

**ACTS  
OF THE  
GENERAL ASSEMBLY**



**2017 REGULAR SESSION**

**VOLUME I**

**VOLUME II**

**VOLUME III**



**ACTS**  
**OF THE**  
**GENERAL ASSEMBLY**

**OF THE**  
**COMMONWEALTH OF VIRGINIA**

**2017 REGULAR SESSION**

**which met at the State Capitol, Richmond**

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**CHAPTERS 1-693**

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**RICHMOND**  
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**Senate of Virginia,**  
**Division of Legislative Services,**  
**and**  
**Division of Legislative Automated Systems**

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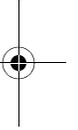
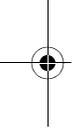
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# ACTS OF THE GENERAL ASSEMBLY

## 2017 REGULAR SESSION

### CHAPTER 1

*An Act to amend and reenact § 58.1-301 of the Code of Virginia, relating to conformity of the Commonwealth's taxation system with the Internal Revenue Code.*

[H 1521]

Approved February 3, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 58.1-301 of the Code of Virginia is amended and reenacted as follows:**

**§ 58.1-301. Conformity to Internal Revenue Code.**

A. Any term used in this chapter shall have the same meaning as when used in a comparable context in the laws of the United States relating to federal income taxes, unless a different meaning is clearly required.

B. Any reference in this chapter to the laws of the United States relating to federal income taxes shall mean the provisions of the Internal Revenue Code of 1954, and amendments thereto, and other provisions of the laws of the United States relating to federal income taxes, as they existed on December 31, ~~2015~~ 2016, except for:

1. The special depreciation allowance for certain property provided for under §§ 168(k), 168(l), 168(m), 1400L, and 1400N of the Internal Revenue Code;

2. The carry-back of certain net operating losses for five years under § 172(b)(1)(H) of the Internal Revenue Code;

3. The original issue discount on applicable high yield discount obligations under § 163(e)(5)(F) of the Internal Revenue Code;

4. The deferral of certain income under § 108(i) of the Internal Revenue Code. For Virginia income tax purposes, income from the discharge of indebtedness in connection with the reacquisition of an "applicable debt instrument" (as defined under § 108(i) of the Internal Revenue Code) reacquired in the taxable year shall be fully included in the taxpayer's Virginia taxable income for the taxable year, unless the taxpayer elects to include such income in the taxpayer's Virginia taxable income ratably over a three-taxable-year period beginning with taxable year 2009 for transactions completed in taxable year 2009, or over a three-taxable-year period beginning with taxable year 2010 for transactions completed in taxable year 2010 on or before April 21, 2010. For purposes of such election, all other provisions of § 108(i) of the Internal Revenue Code shall apply mutatis mutandis. No other deferral shall be allowed for income from the discharge of indebtedness in connection with the reacquisition of an "applicable debt instrument"; and

5. The amount of the deduction allowed for domestic production activities pursuant to § 199 of the Internal Revenue Code for taxable years beginning on or after January 1, 2010. For Virginia income tax purposes, two-thirds of the amount deducted pursuant to § 199 of the Internal Revenue Code for federal income tax purposes during the taxable year may be deducted for Virginia income tax purposes for taxable years beginning on and after January 1, 2010. For taxable years beginning on and after January 1, 2013, the entire amount of the deduction allowed for domestic production activities pursuant to § 199 of the Internal Revenue Code may be deducted for Virginia income tax purposes.

The Department of Taxation is hereby authorized to develop procedures or guidelines for implementation of the provisions of this section, which procedures or guidelines shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

**2. That an emergency exists and this act is in force from its passage.**

### CHAPTER 2

*An Act to amend and reenact § 58.1-301 of the Code of Virginia, relating to conformity of the Commonwealth's taxation system with the Internal Revenue Code.*

[S 977]

Approved February 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 58.1-301 of the Code of Virginia is amended and reenacted as follows:**

**§ 58.1-301. Conformity to Internal Revenue Code.**

A. Any term used in this chapter shall have the same meaning as when used in a comparable context in the laws of the United States relating to federal income taxes, unless a different meaning is clearly required.

B. Any reference in this chapter to the laws of the United States relating to federal income taxes shall mean the provisions of the Internal Revenue Code of 1954, and amendments thereto, and other provisions of the laws of the United States relating to federal income taxes, as they existed on December 31, ~~2015~~ 2016, except for:

1. The special depreciation allowance for certain property provided for under §§ 168(k), 168(l), 168(m), 1400L, and 1400N of the Internal Revenue Code;

2. The carry-back of certain net operating losses for five years under § 172(b)(1)(H) of the Internal Revenue Code;

3. The original issue discount on applicable high yield discount obligations under § 163(e)(5)(F) of the Internal Revenue Code;

4. The deferral of certain income under § 108(i) of the Internal Revenue Code. For Virginia income tax purposes, income from the discharge of indebtedness in connection with the reacquisition of an "applicable debt instrument" (as defined under § 108(i) of the Internal Revenue Code) reacquired in the taxable year shall be fully included in the taxpayer's Virginia taxable income for the taxable year, unless the taxpayer elects to include such income in the taxpayer's Virginia taxable income ratably over a three-taxable-year period beginning with taxable year 2009 for transactions completed in taxable year 2009, or over a three-taxable-year period beginning with taxable year 2010 for transactions completed in taxable year 2010 on or before April 21, 2010. For purposes of such election, all other provisions of § 108(i) of the Internal Revenue Code shall apply mutatis mutandis. No other deferral shall be allowed for income from the discharge of indebtedness in connection with the reacquisition of an "applicable debt instrument"; and

5. The amount of the deduction allowed for domestic production activities pursuant to § 199 of the Internal Revenue Code for taxable years beginning on or after January 1, 2010. For Virginia income tax purposes, two-thirds of the amount deducted pursuant to § 199 of the Internal Revenue Code for federal income tax purposes during the taxable year may be deducted for Virginia income tax purposes for taxable years beginning on and after January 1, 2010. For taxable years beginning on and after January 1, 2013, the entire amount of the deduction allowed for domestic production activities pursuant to § 199 of the Internal Revenue Code may be deducted for Virginia income tax purposes.

The Department of Taxation is hereby authorized to develop procedures or guidelines for implementation of the provisions of this section, which procedures or guidelines shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

**2. That an emergency exists and this act is in force from its passage.**

### CHAPTER 3

*An Act to amend and reenact § 54.1-3408 of the Code of Virginia, relating to the administering of naloxone.*

[S 1031]

Approved February 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 54.1-3408 of the Code of Virginia is amended and reenacted as follows:**

**§ 54.1-3408. Professional use by practitioners.**

A. A practitioner of medicine, osteopathy, podiatry, dentistry, or veterinary medicine or a licensed nurse practitioner pursuant to § 54.1-2957.01, a licensed physician assistant pursuant to § 54.1-2952.1, or a TPA-certified optometrist pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32 shall only prescribe, dispense, or administer controlled substances in good faith for medicinal or therapeutic purposes within the course of his professional practice.

B. The prescribing practitioner's order may be on a written prescription or pursuant to an oral prescription as authorized by this chapter. The prescriber may administer drugs and devices, or he may cause drugs or devices to be administered by:

1. A nurse, physician assistant, or intern under his direction and supervision;

2. Persons trained to administer drugs and devices to patients in state-owned or state-operated hospitals or facilities licensed as hospitals by the Board of Health or psychiatric hospitals licensed by the Department of Behavioral Health and Developmental Services who administer drugs under the control and supervision of the prescriber or a pharmacist;

3. Emergency medical services personnel certified and authorized to administer drugs and devices pursuant to regulations of the Board of Health who act within the scope of such certification and pursuant to an oral or written order or standing protocol; or

4. A licensed respiratory therapist as defined in § 54.1-2954 who administers by inhalation controlled substances used in inhalation or respiratory therapy.

C. Pursuant to an oral or written order or standing protocol, the prescriber, who is authorized by state or federal law to possess and administer radiopharmaceuticals in the scope of his practice, may authorize a nuclear medicine technologist to administer, under his supervision, radiopharmaceuticals used in the diagnosis or treatment of disease.

D. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize registered nurses and licensed practical nurses to possess (i) epinephrine and oxygen for administration in treatment of emergency medical conditions and (ii) heparin and sterile normal saline to use for the maintenance of intravenous access lines.

Pursuant to the regulations of the Board of Health, certain emergency medical services technicians may possess and administer epinephrine in emergency cases of anaphylactic shock.

Pursuant to an order or standing protocol issued by the prescriber within the course of his professional practice, any school nurse, school board employee, employee of a local governing body, or employee of a local health department who is authorized by a prescriber and trained in the administration of epinephrine may possess and administer epinephrine.

Pursuant to an order or a standing protocol issued by the prescriber within the course of his professional practice, any employee of a school for students with disabilities, as defined in § 22.1-319 and licensed by the Board of Education, or any employee of a private school that is accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education who is authorized by a prescriber and trained in the administration of epinephrine may possess and administer epinephrine.

Pursuant to an order issued by the prescriber within the course of his professional practice, an employee of a provider licensed by the Department of Behavioral Health and Developmental Services or a person providing services pursuant to a contract with a provider licensed by the Department of Behavioral Health and Developmental Services may possess and administer epinephrine, provided such person is authorized and trained in the administration of epinephrine.

Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize pharmacists to possess epinephrine and oxygen for administration in treatment of emergency medical conditions.

E. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize licensed physical therapists to possess and administer topical corticosteroids, topical lidocaine, and any other Schedule VI topical drug.

F. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize licensed athletic trainers to possess and administer topical corticosteroids, topical lidocaine, or other Schedule VI topical drugs; oxygen for use in emergency situations; and epinephrine for use in emergency cases of anaphylactic shock.

G. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, and in accordance with policies and guidelines established by the Department of Health pursuant to § 32.1-50.2, such prescriber may authorize registered nurses or licensed practical nurses under the immediate and direct supervision of a registered nurse to possess and administer tuberculin purified protein derivative (PPD) in the absence of a prescriber. The Department of Health's policies and guidelines shall be consistent with applicable guidelines developed by the Centers for Disease Control and Prevention for preventing transmission of mycobacterium tuberculosis and shall be updated to incorporate any subsequently implemented standards of the Occupational Safety and Health Administration and the Department of Labor and Industry to the extent that they are inconsistent with the Department of Health's policies and guidelines. Such standing protocols shall explicitly describe the categories of persons to whom the tuberculin test is to be administered and shall provide for appropriate medical evaluation of those in whom the test is positive. The prescriber shall ensure that the nurse implementing such standing protocols has received adequate training in the practice and principles underlying tuberculin screening.

The Health Commissioner or his designee may authorize registered nurses, acting as agents of the Department of Health, to possess and administer, at the nurse's discretion, tuberculin purified protein derivative (PPD) to those persons in whom tuberculin skin testing is indicated based on protocols and policies established by the Department of Health.

H. Pursuant to a written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize, with the consent of the parents as defined in § 22.1-1, an employee of (i) a school board, (ii) a school for students with disabilities as defined in § 22.1-319 licensed by the Board of Education, or (iii) a private school accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education who is trained in the administration of insulin and glucagon to assist with the administration of insulin or administer glucagon to a student diagnosed as having diabetes and who requires insulin injections during the school day or for whom glucagon has been prescribed for the emergency treatment of hypoglycemia. Such authorization shall only be effective when a licensed nurse, nurse practitioner, physician, or physician assistant is not present to perform the administration of the medication.

Pursuant to a written order issued by the prescriber within the course of his professional practice, such prescriber may authorize an employee of a provider licensed by the Department of Behavioral Health and Developmental Services or a person providing services pursuant to a contract with a provider licensed by the Department of Behavioral Health and Developmental Services to assist with the administration of insulin or to administer glucagon to a person diagnosed as having diabetes and who requires insulin injections or for whom glucagon has been prescribed for the emergency treatment of hypoglycemia, provided such employee or person providing services has been trained in the administration of insulin and glucagon.

I. A prescriber may authorize, pursuant to a protocol approved by the Board of Nursing, the administration of vaccines to adults for immunization, when a practitioner with prescriptive authority is not physically present, by (i) licensed pharmacists, (ii) registered nurses, or (iii) licensed practical nurses under the immediate and direct supervision of a registered nurse. A prescriber acting on behalf of and in accordance with established protocols of the Department of Health may authorize the administration of vaccines to any person by a pharmacist, nurse, or designated emergency medical services provider who holds an advanced life support certificate issued by the Commissioner of Health under the direction

of an operational medical director when the prescriber is not physically present. The emergency medical services provider shall provide documentation of the vaccines to be recorded in the Virginia Immunization Information System.

J. A dentist may cause Schedule VI topical drugs to be administered under his direction and supervision by either a dental hygienist or by an authorized agent of the dentist.

Further, pursuant to a written order and in accordance with a standing protocol issued by the dentist in the course of his professional practice, a dentist may authorize a dental hygienist under his general supervision, as defined in § 54.1-2722, to possess and administer topical oral fluorides, topical oral anesthetics, topical and directly applied antimicrobial agents for treatment of periodontal pocket lesions, as well as any other Schedule VI topical drug approved by the Board of Dentistry.

In addition, a dentist may authorize a dental hygienist under his direction to administer Schedule VI nitrous oxide and oxygen inhalation analgesia and, to persons 18 years of age or older, Schedule VI local anesthesia.

K. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize registered professional nurses certified as sexual assault nurse examiners-A (SANE-A) under his supervision and when he is not physically present to possess and administer preventive medications for victims of sexual assault as recommended by the Centers for Disease Control and Prevention.

L. This section shall not prevent the administration of drugs by a person who has satisfactorily completed a training program for this purpose approved by the Board of Nursing and who administers such drugs in accordance with a prescriber's instructions pertaining to dosage, frequency, and manner of administration, and in accordance with regulations promulgated by the Board of Pharmacy relating to security and record keeping, when the drugs administered would be normally self-administered by (i) an individual receiving services in a program licensed by the Department of Behavioral Health and Developmental Services; (ii) a resident of the Virginia Rehabilitation Center for the Blind and Vision Impaired; (iii) a resident of a facility approved by the Board or Department of Juvenile Justice for the placement of children in need of services or delinquent or alleged delinquent youth; (iv) a program participant of an adult day-care center licensed by the Department of Social Services; (v) a resident of any facility authorized or operated by a state or local government whose primary purpose is not to provide health care services; (vi) a resident of a private children's residential facility, as defined in § 63.2-100 and licensed by the Department of Social Services, Department of Education, or Department of Behavioral Health and Developmental Services; or (vii) a student in a school for students with disabilities, as defined in § 22.1-319 and licensed by the Board of Education.

In addition, this section shall not prevent a person who has successfully completed a training program for the administration of drugs via percutaneous gastrostomy tube approved by the Board of Nursing and been evaluated by a registered nurse as having demonstrated competency in administration of drugs via percutaneous gastrostomy tube from administering drugs to a person receiving services from a program licensed by the Department of Behavioral Health and Developmental Services to such person via percutaneous gastrostomy tube. The continued competency of a person to administer drugs via percutaneous gastrostomy tube shall be evaluated semiannually by a registered nurse.

M. Medication aides registered by the Board of Nursing pursuant to Article 7 (§ 54.1-3041 et seq.) of Chapter 30 may administer drugs that would otherwise be self-administered to residents of any assisted living facility licensed by the Department of Social Services. A registered medication aide shall administer drugs pursuant to this section in accordance with the prescriber's instructions pertaining to dosage, frequency, and manner of administration; in accordance with regulations promulgated by the Board of Pharmacy relating to security and recordkeeping; in accordance with the assisted living facility's Medication Management Plan; and in accordance with such other regulations governing their practice promulgated by the Board of Nursing.

N. In addition, this section shall not prevent the administration of drugs by a person who administers such drugs in accordance with a physician's instructions pertaining to dosage, frequency, and manner of administration and with written authorization of a parent, and in accordance with school board regulations relating to training, security and record keeping, when the drugs administered would be normally self-administered by a student of a Virginia public school. Training for such persons shall be accomplished through a program approved by the local school boards, in consultation with the local departments of health.

O. In addition, this section shall not prevent the administration of drugs by a person to (i) a child in a child day program as defined in § 63.2-100 and regulated by the State Board of Social Services or a local government pursuant to § 15.2-914, or (ii) a student of a private school that is accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education, provided such person (a) has satisfactorily completed a training program for this purpose approved by the Board of Nursing and taught by a registered nurse, licensed practical nurse, nurse practitioner, physician assistant, doctor of medicine or osteopathic medicine, or pharmacist; (b) has obtained written authorization from a parent or guardian; (c) administers drugs only to the child identified on the prescription label in accordance with the prescriber's instructions pertaining to dosage, frequency, and manner of administration; and (d) administers only those drugs that were dispensed from a pharmacy and maintained in the original, labeled container that would normally be self-administered by the child or student, or administered by a parent or guardian to the child or student.

P. In addition, this section shall not prevent the administration or dispensing of drugs and devices by persons if they are authorized by the State Health Commissioner in accordance with protocols established by the State Health Commissioner pursuant to § 32.1-42.1 when (i) the Governor has declared a disaster or a state of emergency or the United States Secretary of Health and Human Services has issued a declaration of an actual or potential bioterrorism incident or other actual or potential public health emergency; (ii) it is necessary to permit the provision of needed drugs or devices; and (iii) such

persons have received the training necessary to safely administer or dispense the needed drugs or devices. Such persons shall administer or dispense all drugs or devices under the direction, control, and supervision of the State Health Commissioner.

Q. Nothing in this title shall prohibit the administration of normally self-administered drugs by unlicensed individuals to a person in his private residence.

R. This section shall not interfere with any prescriber issuing prescriptions in compliance with his authority and scope of practice and the provisions of this section to a Board agent for use pursuant to subsection G of § 18.2-258.1. Such prescriptions issued by such prescriber shall be deemed to be valid prescriptions.

S. Nothing in this title shall prevent or interfere with dialysis care technicians or dialysis patient care technicians who are certified by an organization approved by the Board of Health Professions or persons authorized for provisional practice pursuant to Chapter 27.01 (§ 54.1-2729.1 et seq.), in the ordinary course of their duties in a Medicare-certified renal dialysis facility, from administering heparin, topical needle site anesthetics, dialysis solutions, sterile normal saline solution, and blood volumizers, for the purpose of facilitating renal dialysis treatment, when such administration of medications occurs under the orders of a licensed physician, nurse practitioner, or physician assistant and under the immediate and direct supervision of a licensed registered nurse. Nothing in this chapter shall be construed to prohibit a patient care dialysis technician trainee from performing dialysis care as part of and within the scope of the clinical skills instruction segment of a supervised dialysis technician training program, provided such trainee is identified as a "trainee" while working in a renal dialysis facility.

The dialysis care technician or dialysis patient care technician administering the medications shall have demonstrated competency as evidenced by holding current valid certification from an organization approved by the Board of Health Professions pursuant to Chapter 27.01 (§ 54.1-2729.1 et seq.).

T. Persons who are otherwise authorized to administer controlled substances in hospitals shall be authorized to administer influenza or pneumococcal vaccines pursuant to § 32.1-126.4.

U. Pursuant to a specific order for a patient and under his direct and immediate supervision, a prescriber may authorize the administration of controlled substances by personnel who have been properly trained to assist a doctor of medicine or osteopathic medicine, provided the method does not include intravenous, intrathecal, or epidural administration and the prescriber remains responsible for such administration.

V. A physician assistant, nurse or a dental hygienist may possess and administer topical fluoride varnish to the teeth of children aged six months to three years pursuant to an oral or written order or a standing protocol issued by a doctor of medicine, osteopathic medicine, or dentistry that conforms to standards adopted by the Department of Health.

W. A prescriber, acting in accordance with guidelines developed pursuant to § 32.1-46.02, may authorize the administration of influenza vaccine to minors by a licensed pharmacist, registered nurse, licensed practical nurse under the direction and immediate supervision of a registered nurse, or emergency medical services provider who holds an advanced life support certificate issued by the Commissioner of Health when the prescriber is not physically present.

X. Notwithstanding the provisions of § 54.1-3303, pursuant to an oral, written, or standing order issued by a prescriber, and in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health, a pharmacist may dispense naloxone or other opioid antagonist used for overdose reversal and a person may possess and administer naloxone or other opioid antagonist used for overdose reversal to a person who is believed to be experiencing or about to experience a life-threatening opiate overdose. Law-enforcement officers as defined in § 9.1-101, *employees of the Department of Forensic Science, employees of the Office of the Chief Medical Examiner, employees of the Department of General Services Division of Consolidated Laboratory Services*, and firefighters who have completed a training program may also possess and administer naloxone in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health.

**2. That an emergency exists and this act is in force from its passage.**

#### CHAPTER 4

*An Act to amend and reenact §§ 45.1-183, 45.1-185, 45.1-197.8, 45.1-197.10, 45.1-197.14, and 45.1-197.18 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 45.1-186.3 through 45.1-186.8, relating to liens on mineral mining sites.*

[H 1509]

Approved February 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 45.1-183, 45.1-185, 45.1-197.8, 45.1-197.10, 45.1-197.14, and 45.1-197.18 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 45.1-186.3 through 45.1-186.8 as follows:**

**§ 45.1-183. Bond of operator.**

Each operator at the time of filing his application shall furnish bond on a form to be prescribed by the Director payable to the Department and conditioned that the operator shall faithfully perform all of the requirements of this chapter and of the operations plan as approved and directed by the Department. The amount of bond shall be ~~no less than \$200 nor more than~~

~~\$1,000~~ \$3,000 per acre, based upon the number of acres of land which the operator estimates will be affected by mining operations during the next ensuing year. ~~The minimum amount of bond furnished shall be \$1,000, except in areas of five acres or less the bond shall be no less than \$200 nor more than \$1,000 per acre.~~ Such bond shall be executed by the operator and by a corporate surety licensed to do business in this Commonwealth; provided, however, that in lieu of such bond the operator may deposit cash or collateral security acceptable to the Director.

**§ 45.1-185. Additional bond to be posted annually; release of previous bond; report of reclamation work.**

Within ~~ten~~ 10 days following the anniversary date of any permit, the operator shall post additional bond in the amount of ~~no less than \$200 nor more than \$1,000~~ \$3,000 per acre for each acre of land estimated by him to be disturbed during the next year following the anniversary date of the permit. Bond or other security previously posted shall be released for the areas disturbed in the last ~~twelve~~ 12 months if reclamation work has been completed or transferred to additional acres to be disturbed. The approval of the Director to release the bond shall be obtained in accordance with the following:

The operator shall file with the Department a written report on a form to be prescribed by the Department stating under oath that reclamation has been completed on certain lands and submit the following:

~~(a)~~ (i) Identification of the operation; ~~(b)~~ (ii) the county or city in which it is located and its location with reference to the nearest public highway; ~~(c)~~ (iii) a description of the area of land affected by the operation within the period of time covered by such report with sufficient certainty to enable it to be located and distinguished from other lands; ~~(d)~~ and (iv) an accurate map or plan prepared by a licensed land surveyor or licensed engineer or issued by a standard mapping service or in such manner as to be acceptable to the Director showing the boundary lines of the area of land affected by the operation, the number of acres comprising such area, and the methods of access to the area from the nearest public highway.

**§ 45.1-186.3. Commonwealth to have lien for reclamation work.**

The Commonwealth shall have a lien, if perfected as provided in subsection A of § 45.1-186.4, on land owned by the operator and reclaimed by the Director pursuant to this chapter for the amount of the increase in the appraised market value of the land resulting from the reclamation, except that no lien shall attach to or be filed against the property of any person if the Director waives the lien as provided in subsection B of § 45.1-186.4.

**§ 45.1-186.4. Perfection of lien; waiver of lien.**

A. Except as provided in subsection B, the Director shall perfect the lien given under the provisions of § 45.1-186.3 by filing, within six months after completion of the reclamation, in the clerk's office of the court of the county or city in which the land or any part thereof is located, a statement consisting of the names of all owners of record of the property sought to be charged; an itemized account of moneys expended for the reclamation work; notarized copies of appraisals, made by an independent appraiser, of the fair market value of the land both before and upon completion of the reclamation work; and a brief description of the property to which the lien attaches.

B. The Director shall waive a lien if he determines that (i) the direct and indirect costs of filing such lien exceed the increase in fair market value resulting from reclamation or (ii) if reclamation is necessitated by an unforeseen occurrence, the reclamation will not result in a significant increase in the fair market value of the land.

**§ 45.1-186.5. Recordation and indexing of lien; notice.**

It shall be the duty of the clerk in whose office the statement described in § 45.1-186.4 is filed to record the statement in the deed books of such office, and index the statement in the general index of deeds, in the name of the Commonwealth as well as the owner of the property, showing the type of such lien. From the time of such recording and indexing, all persons shall be deemed to have notice thereof.

**§ 45.1-186.6. Priority of lien.**

Liens acquired under this article shall have priority as a lien second only to the lien of real estate taxes imposed upon the land.

**§ 45.1-186.7. Hearing to determine amount of lien.**

Any party having an interest in the real property against which a lien has been filed may, within 60 days of such filing, petition the court of equity having jurisdiction wherein the property or some portion thereof is located to hold a hearing to determine the increase in the fair market value of the land as a result of reclamation. After reasonable notice to the Director, the court shall hold a hearing to determine such increase. If the court determines such increase to be erroneously excessive, it shall determine the proper amount and order that the lien and the record be amended to show this amount.

**§ 45.1-186.8. Satisfaction of lien.**

Liens acquired under this article shall be satisfied to the extent of the value of the consideration received at the time of transfer of ownership. Any unsatisfied portion shall remain as a lien on the property and shall be satisfied in accordance with this section. If an owner fails to satisfy a lien as provided herein, the Director may proceed to enforce the lien by a bill filed in a court of equity having jurisdiction wherein the property or some portion thereof is located.

**§ 45.1-197.8. Creation of Fund.**

There is hereby created in the State Treasurer's office state treasury a special nonreverting fund to be known as the Minerals Reclamation Fund, hereinafter referred to in this section as "the Fund," which shall be under the supervision of the Department. The Fund shall consist of all payments made into the Fund by operators in accordance with the provisions of this article. The Fund shall be established on the books of the Comptroller. All payments made by operators in accordance with the provisions of this article shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund

shall be used solely for the reclamation of mining operations pursuant to § 45.1-197.12. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Director.

**§ 45.1-197.10. Release of bonds and other securities.**

~~When the size of the Fund shall have reached \$400,000, the~~ All bonds and other securities previously posted, pursuant to § 45.1-183, by all members issued pursuant to § 45.1-183 or 45.1-185 shall be released upon acceptance in the Fund and payment of required fees.

**§ 45.1-197.14. Decreases in size of Fund.**

Whenever the size of the Fund ~~shall decrease~~ decreases to less than ~~\$250,000~~ \$2 million, the Director shall suspend the return of payments pursuant to § 45.1-197.11 and shall assess all members an equal amount for each affected acre, for a total amount sufficient to raise the Fund to ~~\$250,000~~ \$2 million. In lieu of such an assessment, all members shall at the request of the Director post bonds or other securities, within six months after the Director so notifies the members. Failure to post bond or other surety or to pay the required assessment shall result in the revocation of the permit of the member and the forfeiture of the member's payments in accordance with § 45.1-197.12.

**§ 45.1-197.18. Reclamation funding.**

An amount equal to the average interest rate earned for all funds in the state treasury as applied to the Fund shall be paid annually to the Department to be used only for the reclamation of orphaned lands pursuant to Article 3 (§ 45.1-197.3 et seq.) ~~of this chapter~~ and is hereby allocated for such purposes. *Funds paid to the Department pursuant to this section shall not revert to the general fund.*

**CHAPTER 5**

*An Act to amend and reenact § 3.2-3501 of the Code of Virginia and to repeal § 3.2-206 of the Code of Virginia, relating to farmers' markets; reports; farm and forest land conversion; plans.*

[H 1781]

Approved February 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 3.2-3501 of the Code of Virginia is amended and reenacted as follows:**

**§ 3.2-3501. Commissioner to manage farmers market operations.**

A. In order to establish, operate and maintain a system of state-owned farmers market facilities within the Commonwealth, the Commissioner may carry out the provisions of this chapter, including the power to:

1. Cooperate with various state agencies and other organizations contributing to the development of the farmers market system;
2. Develop and implement policy for the management of state-owned farmers market facilities, including:
  - a. Guidelines for fees to be charged at the markets;
  - b. Standards for evaluating market operations;
  - c. Criteria for the expansion of existing state-owned farmers market facilities and the establishment of new markets in the future;
  - d. Changes in management of markets; and
  - e. Guidelines for the award of contracts for market management.
3. Employ such personnel as necessary to operate the system of markets in accordance with the Virginia Personnel Act (§ 2.2-2900 et seq.);
4. Receive and dispense funds;
5. Develop and manage a program budget for the farmers market system;
6. Provide marketing and promotional services for the farmers market system;
7. Develop detailed technical plans for, acquire or build, and manage the farmers market system;
8. Conduct such studies as are necessary to ensure the success of the farmers market system;
9. Make contracts and agreements and execute other instruments necessary for the operation of the farmers market system;
10. Enter into agreements with and accept grants from any governmental agency in furtherance of this chapter;
11. Enter into joint ventures with cities, towns, counties or combinations thereof in developing wholesale, shipping point, and retail farmers markets; and
12. Rent or purchase land and facilities as deemed necessary to establish markets or to enhance farmers market development.

B. If a market in the network is operated pursuant to a contract between the Commissioner and the market operator, such contract shall require that the operator annually submit to the Commissioner a plan for, and a report on, the operation of the market. The plan shall describe the operator's goals for the coming year as to the acreage to be served by the market, the types of crops to be sold at the market, and the number of brokers, buyers, and producers to utilize the market. The report shall describe the extent to which the goals for the previous year were met. ~~The Commissioner shall submit an annual report on or before February 1 summarizing the market operators' reports and plans to the Chairmen of the House~~

~~Committee on Agriculture, Chesapeake, and Natural Resources, the Senate Committee on Agriculture, Conservation and Natural Resources, the House Committee on Appropriations, and the Senate Committee on Finance:~~

~~C. The Commissioner shall report annually to the Board regarding the receipt and expenditure of funds as well as the policies, programs, and activities of the market operators in the state-owned farmers market facilities.~~

**2. That § 3.2-206 of the Code of Virginia is repealed.**

**CHAPTER 6**

*An Act to amend and reenact § 10.1-1142 of the Code of Virginia, relating to burn ban; exception for freeze protection of orchard or vineyard.*

[H 1793]

Approved February 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 10.1-1142 of the Code of Virginia is amended and reenacted as follows:**

**§ 10.1-1142. Regulating the burning of woods, brush, etc.; penalties.**

A. It shall be unlawful for any owner or lessee of land to set fire to, or to procure another to set fire to, any woods, brush, logs, leaves, grass, debris, or other inflammable material upon such land unless he previously has taken all reasonable care and precaution, by having cut and piled the same or carefully cleared around the same, to prevent the spread of such fire to lands other than those owned or leased by him. It shall also be unlawful for any employee of any such owner or lessee of land to set fire to or to procure another to set fire to any woods, brush, logs, leaves, grass, debris, or other inflammable material, upon such land unless he has taken similar precautions to prevent the spread of such fire to any other land.

B. Except as provided in subsection C, during the period February 15 through April 30 of each year, even though the precautions required by the foregoing subsection have been taken, it shall be unlawful, in any county or city or portion thereof organized for forest fire control under the direction of the State Forester, for any person to set fire to, or to procure another to set fire to, any brush, leaves, grass, debris or field containing dry grass or other inflammable material capable of spreading fire, located in or within 300 feet of any woodland, brushland, or field containing dry grass or other inflammable material, except between the hours of 4:00 p.m. and 12:00 midnight.

The provisions of this subsection shall not apply to any fires which may be set *to prevent damage to orchards or vineyards by frost or freezing temperatures or be set on federal lands.*

C. Subsection B shall not apply to any fire set during the period beginning February 15 through April 30 of each year, if:

1. The fire is set for "prescribed burning" that is conducted in accordance with a "prescription" and managed by a "certified prescribed burn manager" as those terms are defined in § 10.1-1150.1;
2. The burn is conducted in accordance with § 10.1-1150.4;
3. The State Forester has, prior to February 1, approved the prescription for the burn; and
4. The burn is being conducted for one of the following purposes: (i) control of exotic and invasive plant species that cannot be accomplished at other times of the year; (ii) wildlife habitat establishment and maintenance that cannot be accomplished at other times of the year; or, (iii) management necessary for natural heritage resources.

The State Forester may on the day of any burn planned to be conducted pursuant to this subsection revoke his approval of the prescription for the burn if hazardous fire conditions exist. The State Forester may revoke the certification of any certified prescribed burn manager who violates any provision of this subsection.

D. Any person who builds a fire in the open air, or uses a fire built by another in the open air, within 150 feet of any woodland, brushland or field containing dry grass or other inflammable material, shall totally extinguish the fire before leaving the area and shall not leave the fire unattended.

E. Any person violating any provisions of this section shall be guilty of a Class 3 misdemeanor for each separate offense. If any forest fire originates as a result of the violation by any person of any provision of this section, such person shall, in addition to the above penalty, be liable to the Commonwealth for the full amount of all expenses incurred by the Commonwealth in suppressing such fire. Such amounts shall be recoverable by action brought by the State Forester in the name of the Commonwealth on behalf of the Commonwealth and credited to the Forestry Operations Fund.

**CHAPTER 7**

*An Act to repeal the second enactment of Chapter 111 and the second enactment of Chapter 135 of the Acts of Assembly of 2014, relating to Coal Surface Mining Reclamation Fund; assessment of reclamation tax revenues.*

[H 2200]

Approved February 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That the second enactment of Chapter 111 and the second enactment of Chapter 135 of the Acts of Assembly of 2014 are repealed.**

## CHAPTER 8

*An Act to amend and reenact §§ 3.2-1105, 3.2-1106, 3.2-2401, 3.2-2405 through 3.2-2407.1, and 3.2-2410 of the Code of Virginia and to repeal §§ 3.2-2403 and 3.2-2404 of the Code of Virginia, relating to commodity boards; Tobacco Board.*

[H 2254]

Approved February 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 3.2-1105, 3.2-1106, 3.2-2401, 3.2-2405 through 3.2-2407.1, and 3.2-2410 of the Code of Virginia are amended and reenacted as follows:**

**§ 3.2-1105. Commodity boards; appointment terms; quorum.**

The following provisions apply to each commodity board established pursuant to the provisions of Chapter 12 (§ 3.2-1200 et seq.), Chapter 13 (§ 3.2-1300 et seq.), Chapters 16 (§ 3.2-1600 et seq.) through 19 (§ 3.2-1900 et seq.), ~~or Chapter 21 (§ 3.2-2100 et seq.), or Chapter 24 (§ 3.2-2400 et seq.):~~

1. The term for each appointment to a commodity board shall be for four years, with the exception of an appointment to fill a vacancy, which shall be for the unexpired term, unless otherwise authorized in this subtitle; and

2. A majority of the members of a commodity board shall constitute a quorum of that commodity board unless otherwise authorized in this subtitle.

**§ 3.2-1106. Commodity board officers and reimbursement of expenses.**

The following provisions apply to each commodity board established pursuant to the provisions of Chapter 12 (§ 3.2-1200 et seq.), Chapter 13 (§ 3.2-1300 et seq.), Chapters 15 (§ 3.2-1500 et seq.) through 19 (§ 3.2-1900 et seq.), ~~or Chapter 21 (§ 3.2-2100 et seq.), or Chapter 24 (§ 3.2-2400 et seq.):~~

1. The members of a commodity board shall elect one board member as chairman and such other officers as deemed appropriate unless otherwise authorized in this subtitle; and

2. Each appointed member of a commodity board shall serve without compensation. Such commodity board may reimburse any of its members for actual expenses incurred in the performance of his duties unless otherwise authorized in this subtitle. Such reimbursements shall be made from the special funds established pursuant to the provisions of Chapter 12 (§ 3.2-1200 et seq.), Chapter 13 (§ 3.2-1300 et seq.), Chapters 15 (§ 3.2-1500 et seq.) through 19 (§ 3.2-1900 et seq.), ~~or Chapter 21 (§ 3.2-2100 et seq.), or Chapter 24 (§ 3.2-2400 et seq.):~~

**§ 3.2-2401. Tobacco Board; composition and appointment of members.**

The Tobacco Board is hereby established within the Department. The Tobacco Board shall consist of nine members. Each of the six production areas of flue-cured tobacco set out in § 3.2-2402 shall have a representative on the Tobacco Board, and three members shall represent, as nearly as possible, each important type 21 dark-fired tobacco-producing section in the Commonwealth. The Governor shall appoint members from nominations made by the Virginia Farm Bureau Federation and other ~~tobacco grower organizations existing~~ *organizations representing bright flue-cured tobacco growers or type 21 dark-fired tobacco growers* in tobacco-producing counties. Each member shall be a citizen of the Commonwealth and engaged in producing tobacco in the Commonwealth. ~~Each organization shall submit two or more nominations for each available position at least 90 days before the expiration of the member's term for which the nomination is being provided.~~ If the organizations fail to provide the nominations ~~at least 90 days before the expiration date pursuant to this section,~~ the Governor may appoint other nominees that meet the foregoing criteria.

**§ 3.2-2405. Powers and duties of the Tobacco Board.**

A. All funds levied and collected under this chapter shall be administered by the Tobacco Board.

B. The Tobacco Board shall plan and conduct campaigns of education, advertising, publicity, sales promotion, and research to increase the demand for, and the consumption of, bright flue-cured and type 21 dark-fired tobaccos.

C. The Tobacco Board may make contracts, expend moneys of the Bright Flue-Cured Tobacco Promotion Fund and the Dark-Fired Tobacco Promotion Fund, and do whatever else may be necessary to effectuate the purposes of this chapter.

D. The Tobacco Board may cooperate with other state, regional, and national agricultural organizations in research, advertising, publicity, education, and other means of promoting the sale, use, and exportation of ~~bright flue-cured~~ *bright flue-cured* and type 21 dark-fired tobaccos, and expend moneys of the Bright Flue-Cured Tobacco Promotion Fund and the Dark-Fired Tobacco Promotion Fund for such purposes.

E. ~~The Tobacco Board may appoint a secretary and such other employees as may be necessary, at salaries to be fixed by the Tobacco Board, subject to the provisions of Chapter 29 (§ 2.2-2900 et seq.) of Title 2.2. All employees handling money under this chapter shall be required to furnish surety bonds.~~

F. The Chairman shall make a report at the annual meeting of the Tobacco Board and furnish members with a statement of the total receipts and disbursements for the year. He shall file a copy of such report and the audit required by § 3.2-2407 with the Commissioner.

**§ 3.2-2406. Collection of assessment.**

~~An excise tax of 20 cents (\$0.20) assessment of 40 cents (\$0.40) per 100 pounds is levied shall be collected~~ on all bright flue-cured and type 21 dark-fired tobaccos that are harvested in the Commonwealth and sold by the grower and shall be payable by the grower.

**§ 3.2-2407. Bright Flue-Cured Tobacco Promotion Fund established.**

There is hereby created in the state treasury a special nonreverting fund to be known as the Bright Flue-Cured Tobacco Promotion Fund, hereafter referred to as "the Fund." The Fund shall be established on the books of the Comptroller. All moneys levied and collected under this chapter on all bright flue-cured tobacco shall be paid into the state treasury and credited to the Fund.

Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of carrying out the administration and enforcement of this chapter with respect to bright flue-cured tobacco, including the collection of ~~taxes~~ *assessments*, the payment of personal services and expenses of ~~employees and~~ agents of the Tobacco Board, and the payment of rent, services, materials, and supplies necessary to effectuate the purposes of this chapter. Expenditures and disbursements from the Fund shall be made by the Tobacco Board on warrants issued by the Comptroller upon written request signed by a duly authorized officer of the Tobacco Board.

The Auditor of Public Accounts shall audit all the accounts of the Tobacco Board as is provided for in § 30-133.

**§ 3.2-2407.1. Dark-Fired Tobacco Promotion Fund established.**

There is hereby created in the state treasury a special nonreverting fund to be known as the Dark-Fired Tobacco Promotion Fund, hereafter referred to as "the Fund." The Fund shall be established on the books of the Comptroller. All moneys levied and collected under this chapter on type 21 dark-fired tobacco shall be paid into the state treasury and credited to the Fund.

Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of carrying out the administration and enforcement of this chapter with respect to type 21 dark-fired tobacco, including the collection of ~~taxes~~ *assessments*, the payment of personal services and expenses of ~~employees and~~ agents of the Tobacco Board, and the payment of rent, services, materials, and supplies necessary to effectuate the purposes of this chapter. Expenditures and disbursements from the Fund shall be made by the Tobacco Board on warrants issued by the Comptroller upon written request signed by a duly authorized officer of the Tobacco Board.

The Auditor of Public Accounts shall audit all the accounts of the Tobacco Board as is provided for in § 30-133.

**§ 3.2-2410. Collection of unpaid assessment and interest thereon.**

If the ~~tax~~ *assessment* imposed by this chapter is not paid when due or any funds collected by a warehouse or handler are not remitted to the Tobacco Board as required in this chapter, the amount due shall bear interest at the rate of one percent per month from the due date until payment.

If any person defaults in any payment of the ~~tax~~ *assessment* or interest thereon, or fails to remit any funds collected to the Tobacco Board, the amount shall be collected by civil action in the name of the Commonwealth at the relation of the Tobacco Board, and the person adjudged in default shall pay the cost of such action. The Attorney General, at the request of the Tobacco Board, shall institute action for the collection of the amount of any ~~tax~~ *assessment* past due under this chapter, including interest thereon.

*The Tobacco Board, in its discretion, may waive or remit such interest, or a portion thereof, for good cause shown. In determining whether to waive interest charges or request a civil action, the Board shall consider any history of previous violations, the seriousness of the violation, and the good faith demonstrated in any attempt to achieve compliance with the chapter after notice of the violation.*

**2. That §§ 3.2-2403 and 3.2-2404 of the Code of Virginia are repealed.**

**CHAPTER 9**

*An Act to amend and reenact § 62.1-44.19:14 of the Code of Virginia, relating to watershed general permit for nutrients.*

[H 1619]

Approved February 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 62.1-44.19:14 of the Code of Virginia is amended and reenacted as follows:**

**§ 62.1-44.19:14. Watershed general permit for nutrients.**

A. By January 1, 2006, or as soon thereafter as possible, the Board shall issue a Watershed General Virginia Pollutant Discharge Elimination System Permit, hereafter referred to as the general permit, authorizing point source discharges of total nitrogen and total phosphorus to the waters of the Chesapeake Bay and its tributaries. Except as otherwise provided in this article, the general permit shall control in lieu of technology-based, water quality-based, and best professional judgment, interim or final effluent limitations for total nitrogen and total phosphorus in individual Virginia Pollutant Discharge Elimination System permits for facilities covered by the general permit where the effluent limitations for total nitrogen and total phosphorus in the individual permits are based upon standards, criteria, waste load allocations, policy, or guidance established to restore or protect the water quality and beneficial uses of the Chesapeake Bay or its tidal tributaries.

B. This section shall not be construed to limit or otherwise affect the Board's authority to establish and enforce more stringent water quality-based effluent limitations for total nitrogen or total phosphorus in individual permits where those limitations are necessary to protect local water quality. The exchange or acquisition of credits pursuant to this article shall not affect any requirement to comply with such local water quality-based limitations.

C. The general permit shall contain the following:

1. Waste load allocations for total nitrogen and total phosphorus for each permitted facility expressed as annual mass loads. The allocations for each permitted facility shall reflect the applicable individual water quality-based total nitrogen and total phosphorus waste load allocations. An owner or operator of two or more facilities located in the same tributary may apply for and receive an aggregated waste load allocation for total nitrogen and an aggregated waste load allocation for total phosphorus for multiple facilities reflecting the total of the water quality-based total nitrogen and total phosphorus waste load allocations established for such facilities individually;

2. A schedule requiring compliance with the combined waste load allocations for each tributary as soon as possible taking into account (i) opportunities to minimize costs to the public or facility owners by phasing in the implementation of multiple projects; (ii) the availability of required services and skilled labor; (iii) the availability of funding from the Virginia Water Quality Improvement Fund as established in § 10.1-2128, the Virginia Water Facilities Revolving Fund as established in § 62.1-225, and other financing mechanisms; (iv) water quality conditions; and (v) other relevant factors. Following receipt of the compliance plans required by subdivision C 3, the Board shall reevaluate the schedule taking into account the information in the compliance plans and the factors in this subdivision, and may modify the schedule as appropriate;

3. A requirement that within nine months after the initial effective date of the general permit, the permittees shall either individually or through the Association submit compliance plans to the Department for approval. The compliance plans shall contain, at a minimum, any capital projects and implementation schedules needed to achieve total nitrogen and phosphorus reductions sufficient to comply with the individual and combined waste load allocations of all the permittees in the tributary. The compliance plans may rely on the exchange of point source credits in accordance with this article, but not the acquisition of credits through payments authorized by § 62.1-44.19:18, to achieve compliance with the individual and combined waste load allocations in each tributary. The compliance plans shall be updated annually and submitted to the Department no later than February 1 of each year;

4. Such monitoring and reporting requirements as the Board deems necessary to carry out the provisions of this article;

5. A procedure that requires every owner or operator of a facility authorized by a Virginia Pollutant Discharge Elimination System permit to discharge 100,000 gallons or more per day, or an equivalent load, directly into tidal waters, or 500,000 gallons or more per day, or an equivalent load, directly into nontidal waters, to secure general permit coverage by filing a registration statement with the Department within a specified period after each effective date of the general permit. The procedure shall also require any owner or operator of a facility authorized by a Virginia Pollutant Discharge Elimination System permit to discharge 40,000 gallons or more per day, or an equivalent load, directly into tidal or nontidal waters to secure general permit coverage by filing a registration statement with the Department at the time he makes application with the Department for a new discharge or expansion that is subject to an offset or technology-based requirement in § 62.1-44.19:15, and thereafter within a specified period of time after each effective date of the general permit. The procedure shall also require any owner or operator of a facility with a discharge that is subject to an offset requirement in subdivision A 5 of § 62.1-44.19:15 to secure general permit coverage by filing a registration statement with the Department prior to commencing the discharge and thereafter within a specified period of time after each effective date of the general permit. The general permit shall provide that any facility authorized by a Virginia Pollutant Discharge Elimination System permit and not required by this subdivision to file a registration statement shall be deemed to be covered under the general permit at the time it is issued, and shall file a registration statement with the Department when required by this section. Owners or operators of facilities that are deemed to be permitted under this section shall have no other obligation under the general permit prior to filing a registration statement and securing coverage under the general permit based upon such registration statement;

6. A procedure for efficiently modifying the lists of facilities covered by the general permit where the modification does not change or otherwise alter any waste load allocation or delivery factor adopted pursuant to the Water Quality Management Planning Regulation (~~9VAC25-270~~) (9VAC25-720) or its successor, or an applicable total maximum daily load. The procedure shall also provide for modifying or incorporating new waste load allocations or delivery factors, including the opportunity for public notice and comment on such modifications or incorporations; and

7. Such other conditions as the Board deems necessary to carry out the provisions of this chapter and Section 402 of the federal Clean Water Act (33 U.S.C. § 1342).

D. 1. *The Board shall (i) review during the year 2020 and every 10 years thereafter the basis for allocations granted in the Water Quality Management Planning Regulation (9VAC25-720) and (ii) as a result of such decennial reviews propose for inclusion in the Water Quality Management Planning Regulation (9VAC25-720) either the reallocation of unneeded allocations to other facilities registered under the general permit or the reservation of such allocations for future use.*

2. *For each decennial review, the Board shall determine whether a permitted facility has:*

*a. Changed the use of the facility in such a way as to make discharges unnecessary, ceased the discharge of nutrients, and become unlikely to resume such discharges in the foreseeable future; or*

*b. Changed the production processes employed in the facility in such a way as to render impossible, or significantly to diminish the likelihood of, the resumption of previous nutrient discharges.*

3. Beginning in 2030, each review also shall consider the following factors for municipal wastewater facilities:
- a. Substantial changes in the size or population of a service area;
  - b. Significant changes in land use resulting from adopted changes to zoning ordinances or comprehensive plans within a service area;
  - c. Significant establishment of conservation easements or other perpetual instruments that are associated with a deed and that restrict growth or development;
  - d. Constructed treatment facility capacity;
  - e. Significant changes in the understanding of the water chemistry or biology of receiving waters that would reasonably result in unused nutrient discharge allocations over an extended period of time;
  - f. Significant changes in treatment technologies that would reasonably result in unused nutrient discharge allocations over an extended period of time;
  - g. The ability of the permitted facility to accommodate projected growth under existing nutrient waste load allocations; and
  - h. Other similarly significant factors that the Board determines reasonably to affect the allocations granted.
- The Board shall not reduce allocations based solely on voluntary improvements in nutrient removal technology.
- E. The Board shall maintain and make available to the public a current listing, by tributary, of all permittees and permitted facilities under the general permit, together with each permitted facility's total nitrogen and total phosphorus waste load allocations, and total nitrogen and total phosphorus delivery factors.
- ~~E. F.~~ Except as otherwise provided in this article, in the event that there are conflicting or duplicative conditions contained in the general permit and an individual Virginia Pollutant Discharge Elimination System permit, the conditions in the general permit shall control.

## CHAPTER 10

An Act to amend and reenact § 62.1-44.15:28, as it is currently effective and as it shall become effective, of the Code of Virginia, relating to stormwater management programs; regulations.

[H 2076]

Approved February 13, 2017

### Be it enacted by the General Assembly of Virginia:

1. That § 62.1-44.15:28, as it is currently effective and as it shall become effective, of the Code of Virginia is amended and reenacted as follows:

#### § 62.1-44.15:28. (For expiration date, see Acts 2016, cc. 68 & 758) Development of regulations.

A. The Board is authorized to adopt regulations that specify minimum technical criteria and administrative procedures for Virginia Stormwater Management Programs. The regulations shall:

1. Establish standards and procedures for administering a VSMP;
2. Establish minimum design criteria for measures to control nonpoint source pollution and localized flooding, and incorporate the stormwater management regulations adopted pursuant to the Erosion and Sediment Control Law (§ 62.1-44.15:51 et seq.), as they relate to the prevention of stream channel erosion. These criteria shall be periodically modified as required in order to reflect current engineering methods;
3. Require the provision of long-term responsibility for and maintenance of stormwater management control devices and other techniques specified to manage the quality and quantity of runoff;
4. Require as a minimum the inclusion in VSMPs of certain administrative procedures that include, but are not limited to, specifying the time period within which a VSMP authority shall grant land-disturbing activity approval, the conditions and processes under which approval shall be granted, the procedures for communicating disapproval, the conditions under which an approval may be changed, and requirements for inspection of approved projects;
5. Establish by regulations a statewide permit fee schedule to cover all costs associated with the implementation of a VSMP related to land-disturbing activities of one acre or greater. Such fee attributes include the costs associated with plan review, VSMP registration statement review, permit issuance, state-coverage verification, inspections, reporting, and compliance activities associated with the land-disturbing activities as well as program oversight costs. The fee schedule shall also include a provision for a reduced fee for land-disturbing activities between 2,500 square feet and up to one acre in Chesapeake Bay Preservation Act (§ 62.1-44.15:67 et seq.) localities. The fee schedule shall be governed by the following:
  - a. The revenue generated from the statewide stormwater permit fee shall be collected utilizing, where practicable, an online payment system, and the Department's portion shall be remitted to the State Treasurer for deposit in the Virginia Stormwater Management Fund established pursuant to § 62.1-44.15:29. However, whenever the Board has approved a VSMP, no more than 30 percent of the total revenue generated by the statewide stormwater permit fees collected shall be remitted to the State Treasurer for deposit in the Virginia Stormwater Management Fund, with the balance going to the VSMP authority.
  - b. Fees collected pursuant to this section shall be in addition to any general fund appropriation made to the Department or other supporting revenue from a VSMP; however, the fees shall be set at a level sufficient for the Department and the VSMP to fully carry out their responsibilities under this article and its attendant regulations and local ordinances or

standards and specifications where applicable. When establishing a VSMP, the VSMP authority shall assess the statewide fee schedule and shall have the authority to reduce or increase such fees, and to consolidate such fees with other program-related charges, but in no case shall such fee changes affect the amount established in the regulations as available to the Department for program oversight responsibilities pursuant to subdivision 5 a. A VSMP's portion of the fees shall be used solely to carry out the VSMP's responsibilities under this article and its attendant regulations, ordinances, or annual standards and specifications.

c. Until July 1, 2014, the fee for coverage under the General Permit for Discharges of Stormwater from Construction Activities issued by the Board, or where the Board has issued an individual permit or coverage under the General Permit for Discharges of Stormwater from Construction Activities for an entity for which it has approved annual standards and specifications, shall be \$750 for each large construction activity with sites or common plans of development equal to or greater than five acres and \$450 for each small construction activity with sites or common plans of development equal to or greater than one acre and less than five acres. On and after July 1, 2014, such fees shall only apply where coverage has been issued under the Board's General Permit for Discharges of Stormwater from Construction Activities to a state agency or federal entity for which it has approved annual standards and specifications. After establishment, such fees may be modified in the future through regulatory actions.

d. Until July 1, 2014, the Department is authorized to assess a \$125 reinspection fee for each visit to a project site that was necessary to check on the status of project site items noted to be in noncompliance and documented as such on a prior project inspection.

e. In establishing the fee schedule under this subdivision, the Department shall ensure that the VSMP authority portion of the statewide permit fee for coverage under the General Permit for Discharges of Stormwater from Construction Activities for small construction activity involving a single family detached residential structure with a site or area, within or outside a common plan of development or sale, that is equal to or greater than one acre but less than five acres shall be no greater than the VSMP authority portion of the fee for coverage of sites or areas with a land-disturbance acreage of less than one acre within a common plan of development or sale.

f. When any fees are collected pursuant to this section by credit cards, business transaction costs associated with processing such payments may be additionally assessed;

6. Establish statewide standards for stormwater management from land-disturbing activities of one acre or greater, except as specified otherwise within this article, and allow for the consolidation in the permit of a comprehensive approach to addressing stormwater management and erosion and sediment control, consistent with the provisions of the Erosion and Sediment Control Law (§ 62.1-44.15:51 et seq.) and this article. However, such standards shall also apply to land-disturbing activity exceeding an area of 2,500 square feet in all areas of the jurisdictions designated as subject to the Chesapeake Bay Preservation Area Designation and Management Regulations;

7. Establish a procedure by which a stormwater management plan that is approved for a residential, commercial, or industrial subdivision shall govern the development of the individual parcels, including those parcels developed under subsequent owners;

8. Notwithstanding the provisions of subdivision A 5, establish a procedure by which neither a registration statement nor payment of the Department's portion of the statewide permit fee established pursuant to that subdivision shall be required for coverage under the General Permit for Discharges of Stormwater from Construction Activities for construction activity involving a single-family detached residential structure, within or outside a common plan of development or sale;

9. Provide for reciprocity with programs in other states for the certification of proprietary best management practices;

10. Require that VSMPs maintain after-development runoff rate of flow and characteristics that replicate, as nearly as practicable, the existing predevelopment runoff characteristics and site hydrology, or improve upon the contributing share of the existing predevelopment runoff characteristics and site hydrology if stream channel erosion or localized flooding is an existing predevelopment condition. Except where more stringent requirements are necessary to address total maximum daily load requirements or to protect exceptional state waters, any land-disturbing activity that provides for stormwater management shall satisfy the conditions of this subsection if the practices are designed to (i) detain the water quality volume and to release it over 48 hours; (ii) detain and release over a 24-hour period the expected rainfall resulting from the one year, 24-hour storm; and (iii) reduce the allowable peak flow rate resulting from the 1.5-year, two-year, and 10-year, 24-hour storms to a level that is less than or equal to the peak flow rate from the site assuming it was in a good forested condition, achieved through multiplication of the forested peak flow rate by a reduction factor that is equal to the runoff volume from the site when it was in a good forested condition divided by the runoff volume from the site in its proposed condition, and shall be exempt from any flow rate capacity and velocity requirements for natural or man-made channels as defined in any regulations promulgated pursuant to this section or any ordinances adopted pursuant to § 62.1-44.15:27 or 62.1-44.15:33;

11. Encourage low-impact development designs, regional and watershed approaches, and nonstructural means for controlling stormwater;

12. Promote the reclamation and reuse of stormwater for uses other than potable water in order to protect state waters and the public health and to minimize the direct discharge of pollutants into state waters;

13. Establish procedures to be followed when a locality that operates a VSMP wishes to transfer administration of the VSMP to the Department;

14. Establish a statewide permit fee schedule for stormwater management related to municipal separate storm sewer system permits; ~~and~~

15. Provide for the evaluation and potential inclusion of emerging or innovative stormwater control technologies that may prove effective in reducing nonpoint source pollution; *and*

16. *Require that all final plan elements, specifications, or calculations whose preparation requires a license under Chapter 4 (§ 54.1-400 et seq.) or 22 (§ 54.1-2200 et seq.) of Title 54.1 be appropriately signed and sealed by a professional who is licensed to engage in practice in the Commonwealth. Nothing in this subdivision shall authorize any person to engage in practice outside his area of professional competence.*

B. The Board may integrate and consolidate components of the regulations implementing the Erosion and Sediment Control program and the Chesapeake Bay Preservation Area Designation and Management program with the regulations governing the Virginia Stormwater Management Program (VSMP) Permit program or repeal components so that these programs may be implemented in a consolidated manner that provides greater consistency, understanding, and efficiency for those regulated by and administering a VSMP.

**§ 62.1-44.15:28. (For effective date, see Acts 2016, cc. 68 & 758) Development of regulations.**

The Board is authorized to adopt regulations that establish requirements for the effective control of soil erosion, sediment deposition, and stormwater, including nonagricultural runoff, that shall be met in any VESMP to prevent the unreasonable degradation of properties, stream channels, waters, and other natural resources, and that specify minimum technical criteria and administrative procedures for VESMPs. The regulations shall:

1. Establish standards and procedures for administering a VESMP;
2. Establish minimum standards of effectiveness of the VESMP and criteria and procedures for reviewing and evaluating its effectiveness. The minimum standards of program effectiveness established by the Board shall provide that (i) no soil erosion control and stormwater management plan shall be approved until it is reviewed by a plan reviewer certified pursuant to § 62.1-44.15:30, (ii) each inspection of a land-disturbing activity shall be conducted by an inspector certified pursuant to § 62.1-44.15:30, and (iii) each VESMP shall contain a program administrator, a plan reviewer, and an inspector, each of whom is certified pursuant to § 62.1-44.15:30 and all of whom may be the same person;
3. Be based upon relevant physical and developmental information concerning the watersheds and drainage basins of the Commonwealth, including data relating to land use, soils, hydrology, geology, size of land area being disturbed, proximate water bodies and their characteristics, transportation, and public facilities and services;
4. Include any survey of lands and waters as the Board deems appropriate or as any applicable law requires to identify areas, including multijurisdictional and watershed areas, with critical soil erosion and sediment problems;
5. Contain conservation standards for various types of soils and land uses, which shall include criteria, techniques, and methods for the control of soil erosion and sediment resulting from land-disturbing activities;
6. Establish water quality and water quantity technical criteria. These criteria shall be periodically modified as required in order to reflect current engineering methods;
7. Require the provision of long-term responsibility for and maintenance of stormwater management control devices and other techniques specified to manage the quality and quantity of runoff;
8. Require as a minimum the inclusion in VESMPs of certain administrative procedures that include, but are not limited to, specifying the time period within which a VESMP authority shall grant land-disturbance approval, the conditions and processes under which such approval shall be granted, the procedures for communicating disapproval, the conditions under which an approval may be changed, and requirements for inspection of approved projects;
9. Establish a statewide fee schedule to cover all costs associated with the implementation of a VESMP related to land-disturbing activities where permit coverage is required, and for land-disturbing activities where the Board serves as a VESMP authority or VSMP authority. Such fee attributes include the costs associated with plan review, permit registration statement review, permit issuance, permit coverage verification, inspections, reporting, and compliance activities associated with the land-disturbing activities as well as program oversight costs. The fee schedule shall also include a provision for a reduced fee for a land-disturbing activity that disturbs 2,500 square feet or more but less than one acre in an area of a locality designated as a Chesapeake Bay Preservation Area pursuant to the Chesapeake Bay Preservation Act (§ 62.1-44.15:67 et seq.). The fee schedule shall be governed by the following:
  - a. The revenue generated from the statewide fee shall be collected utilizing, where practicable, an online payment system, and the Department's portion shall be remitted to the State Treasurer for deposit in the Virginia Stormwater Management Fund established pursuant to § 62.1-44.15:29. However, whenever the Board has approved a VESMP, no more than 30 percent of the total revenue generated by the statewide fees collected shall be remitted to the State Treasurer for deposit in the Virginia Stormwater Management Fund, with the balance going to the VESMP authority;
  - b. Fees collected pursuant to this section shall be in addition to any general fund appropriation made to the Department or other supporting revenue from a VESMP; however, the fees shall be set at a level sufficient for the Department, the Board, and the VESMP to fully carry out their responsibilities under this article and local ordinances or standards and specifications where applicable. When establishing a VESMP, the VESMP authority shall assess the statewide fees pursuant to the schedule and shall have the authority to reduce or increase such fees, and to consolidate such fees with other program-related charges, but in no case shall such fee changes affect the amount established in the regulations as available to the Department for program oversight responsibilities pursuant to subdivision a. A VESMP's portion of the fees shall be used solely to carry out the VESMP's responsibilities under this article and associated ordinances;
  - c. In establishing the fee schedule under this subdivision, the Department shall ensure that the VESMP authority portion of the statewide fee for coverage under the General Permit for Discharges of Stormwater from Construction

Activities for small construction activity involving a single-family detached residential structure with a site or area, within or outside a common plan of development or sale, that is equal to or greater than one acre but less than five acres shall be no greater than the VESMP authority portion of the fee for coverage of sites or areas with a land-disturbance acreage of less than one acre within a common plan of development or sale;

d. When any fees are collected pursuant to this section by credit cards, business transaction costs associated with processing such payments may be additionally assessed;

e. Notwithstanding the other provisions of this subdivision 9, establish a procedure by which neither a registration statement nor payment of the Department's portion of the statewide fee established pursuant to this subdivision 9 shall be required for coverage under the General Permit for Discharges of Stormwater from Construction Activities for construction activity involving a single-family detached residential structure, within or outside a common plan of development or sale;

10. Establish statewide standards for soil erosion control and stormwater management from land-disturbing activities;

11. Establish a procedure by which a soil erosion control and stormwater management plan or stormwater management plan that is approved for a residential, commercial, or industrial subdivision shall govern the development of the individual parcels, including those parcels developed under subsequent owners;

12. Provide for reciprocity with programs in other states for the certification of proprietary best management practices;

13. Require that VESMPs maintain after-development runoff rate of flow and characteristics that replicate, as nearly as practicable, the existing predevelopment runoff characteristics and site hydrology, or improve upon the contributing share of the existing predevelopment runoff characteristics and site hydrology if stream channel erosion or localized flooding is an existing predevelopment condition.

a. Except where more stringent requirements are necessary to address total maximum daily load requirements or to protect exceptional state waters, any land-disturbing activity that was subject to the water quantity requirements that were in effect pursuant to this article prior to July 1, 2014, shall be deemed to satisfy the conditions of this subsection if the practices are designed to (i) detain the water volume equal to the first one-half inch of runoff multiplied by the impervious surface of the land development project and to release it over 48 hours; (ii) detain and release over a 24-hour period the expected rainfall resulting from the one year, 24-hour storm; and (iii) reduce the allowable peak flow rate resulting from the 1.5-year, two-year, and 10-year, 24-hour storms to a level that is less than or equal to the peak flow rate from the site assuming it was in a good forested condition, achieved through multiplication of the forested peak flow rate by a reduction factor that is equal to the runoff volume from the site when it was in a good forested condition divided by the runoff volume from the site in its proposed condition. Any land-disturbing activity that complies with these requirements shall be exempt from any flow rate capacity and velocity requirements for natural or man-made channels as defined in any regulations promulgated pursuant to this section or any ordinances adopted pursuant to § 62.1-44.15:27 or 62.1-44.15:33;

b. Any stream restoration or relocation project that incorporates natural channel design concepts is not a man-made channel and shall be exempt from any flow rate capacity and velocity requirements for natural or man-made channels as defined in any regulations promulgated pursuant to this article;

14. Encourage low-impact development designs, regional and watershed approaches, and nonstructural means for controlling stormwater;

15. Promote the reclamation and reuse of stormwater for uses other than potable water in order to protect state waters and the public health and to minimize the direct discharge of pollutants into state waters;

16. Establish procedures to be followed when a locality chooses to change the type of program it administers pursuant to subsection D of § 62.1-44.15:27;

17. Establish a statewide permit fee schedule for stormwater management related to MS4 permits; ~~and~~

18. Provide for the evaluation and potential inclusion of emerging or innovative stormwater control technologies that may prove effective in reducing nonpoint source pollution; *and*

19. *Require that all final plan elements, specifications, or calculations whose preparation requires a license under Chapter 4 (§ 54.1-400 et seq.) or 22 (§ 54.1-2200 et seq.) of Title 54.1 be appropriately signed and sealed by a professional who is licensed to engage in practice in the Commonwealth. Nothing in this subdivision shall authorize any person to engage in practice outside his area of professional competence.*

**2. That the State Water Control Board (the Board) shall adopt regulations to implement the requirements of this act to be effective no later than July 1, 2018. The adoption of such regulations shall be exempt from the requirements of Article 2 (§ 2.2-4006 et seq.) of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia). However, the Department shall (i) provide a Notice of Intended Regulatory Action and (ii) provide for a 60-day public comment period prior to the Board's adoption of the regulations.**

## CHAPTER 11

*An Act to amend and reenact § 59.1-200 of the Code of Virginia, relating to the Virginia Consumer Protection Act; prohibited practices.*

[H 1422]

Approved February 17, 2017

**Be it enacted by the General Assembly of Virginia:****1. That § 59.1-200 of the Code of Virginia is amended and reenacted as follows:****§ 59.1-200. Prohibited practices.**

A. The following fraudulent acts or practices committed by a supplier in connection with a consumer transaction are hereby declared unlawful:

1. Misrepresenting goods or services as those of another;
2. Misrepresenting the source, sponsorship, approval, or certification of goods or services;
3. Misrepresenting the affiliation, connection, or association of the supplier, or of the goods or services, with another;
4. Misrepresenting geographic origin in connection with goods or services;
5. Misrepresenting that goods or services have certain quantities, characteristics, ingredients, uses, or benefits;
6. Misrepresenting that goods or services are of a particular standard, quality, grade, style, or model;
7. Advertising or offering for sale goods that are used, secondhand, repossessed, defective, blemished, deteriorated, or reconditioned, or that are "seconds, " irregulars, imperfects, or "not first class, " without clearly and unequivocally indicating in the advertisement or offer for sale that the goods are used, secondhand, repossessed, defective, blemished, deteriorated, reconditioned, or are "seconds, " irregulars, imperfects or "not first class";
8. Advertising goods or services with intent not to sell them as advertised, or with intent not to sell at the price or upon the terms advertised.

In any action brought under this subdivision, the refusal by any person, or any employee, agent, or servant thereof, to sell any goods or services advertised or offered for sale at the price or upon the terms advertised or offered, shall be prima facie evidence of a violation of this subdivision. This paragraph shall not apply when it is clearly and conspicuously stated in the advertisement or offer by which such goods or services are advertised or offered for sale, that the supplier or offeror has a limited quantity or amount of such goods or services for sale, and the supplier or offeror at the time of such advertisement or offer did in fact have or reasonably expected to have at least such quantity or amount for sale;

9. Making false or misleading statements of fact concerning the reasons for, existence of, or amounts of price reductions;
10. Misrepresenting that repairs, alterations, modifications, or services have been performed or parts installed;
11. Misrepresenting by the use of any written or documentary material that appears to be an invoice or bill for merchandise or services previously ordered;
12. Notwithstanding any other provision of law, using in any manner the words "wholesale, " "wholesaler, " "factory, " or "manufacturer" in the supplier's name, or to describe the nature of the supplier's business, unless the supplier is actually engaged primarily in selling at wholesale or in manufacturing the goods or services advertised or offered for sale;
13. Using in any contract or lease any liquidated damage clause, penalty clause, or waiver of defense, or attempting to collect any liquidated damages or penalties under any clause, waiver, damages, or penalties that are void or unenforceable under any otherwise applicable laws of the Commonwealth, or under federal statutes or regulations;
- 13a. Failing to provide to a consumer, or failing to use or include in any written document or material provided to or executed by a consumer, in connection with a consumer transaction any statement, disclosure, notice, or other information however characterized when the supplier is required by 16 C.F.R. Part 433 to so provide, use, or include the statement, disclosure, notice, or other information in connection with the consumer transaction;
14. Using any other deception, fraud, false pretense, false promise, or misrepresentation in connection with a consumer transaction;
15. Violating any provision of § 3.2-6512, 3.2-6513, or 3.2-6516, relating to the sale of certain animals by pet dealers which is described in such sections, is a violation of this chapter;
16. Failing to disclose all conditions, charges, or fees relating to:
  - a. The return of goods for refund, exchange, or credit. Such disclosure shall be by means of a sign attached to the goods, or placed in a conspicuous public area of the premises of the supplier, so as to be readily noticeable and readable by the person obtaining the goods from the supplier. If the supplier does not permit a refund, exchange, or credit for return, he shall so state on a similar sign. The provisions of this subdivision shall not apply to any retail merchant who has a policy of providing, for a period of not less than 20 days after date of purchase, a cash refund or credit to the purchaser's credit card account for the return of defective, unused, or undamaged merchandise upon presentation of proof of purchase. In the case of merchandise paid for by check, the purchase shall be treated as a cash purchase and any refund may be delayed for a period of 10 banking days to allow for the check to clear. This subdivision does not apply to sale merchandise that is obviously distressed, out of date, post season, or otherwise reduced for clearance; nor does this subdivision apply to special order purchases where the purchaser has requested the supplier to order merchandise of a specific or unusual size, color, or brand not ordinarily carried in the store or the store's catalog; nor shall this subdivision apply in connection with a transaction for the sale or lease of motor vehicles, farm tractors, or motorcycles as defined in § 46.2-100;

b. A layaway agreement. Such disclosure shall be furnished to the consumer (i) in writing at the time of the layaway agreement, or (ii) by means of a sign placed in a conspicuous public area of the premises of the supplier, so as to be readily noticeable and readable by the consumer, or (iii) on the bill of sale. Disclosure shall include the conditions, charges, or fees in the event that a consumer breaches the agreement;

16a. Failing to provide written notice to a consumer of an existing open-end credit balance in excess of \$5 (i) on an account maintained by the supplier and (ii) resulting from such consumer's overpayment on such account. Suppliers shall

give consumers written notice of such credit balances within 60 days of receiving overpayments. If the credit balance information is incorporated into statements of account furnished consumers by suppliers within such 60-day period, no separate or additional notice is required;

17. If a supplier enters into a written agreement with a consumer to resolve a dispute that arises in connection with a consumer transaction, failing to adhere to the terms and conditions of such an agreement;

18. Violating any provision of the Virginia Health Club Act, Chapter 24 (§ 59.1-294 et seq.) ~~of this title~~;

19. Violating any provision of the Virginia Home Solicitation Sales Act, Chapter 2.1 (§ 59.1-21.1 et seq.) ~~of this title~~;

20. Violating any provision of the Automobile Repair Facilities Act, Chapter 17.1 (§ 59.1-207.1 et seq.) ~~of this title~~;

21. Violating any provision of the Virginia Lease-Purchase Agreement Act, Chapter 17.4 (§ 59.1-207.17 et seq.) ~~of this title~~;

22. Violating any provision of the Prizes and Gifts Act, Chapter 31 (§ 59.1-415 et seq.) ~~of this title~~;

23. Violating any provision of the Virginia Public Telephone Information Act, Chapter 32 (§ 59.1-424 et seq.) ~~of this title~~;

24. Violating any provision of § 54.1-1505;

25. Violating any provision of the Motor Vehicle Manufacturers' Warranty Adjustment Act, Chapter 17.6 (§ 59.1-207.34 et seq.) ~~of this title~~;

26. Violating any provision of § 3.2-5627, relating to the pricing of merchandise;

27. Violating any provision of the Pay-Per-Call Services Act, Chapter 33 (§ 59.1-429 et seq.) ~~of this title~~;

28. Violating any provision of the Extended Service Contract Act, Chapter 34 (§ 59.1-435 et seq.) ~~of this title~~;

29. Violating any provision of the Virginia Membership Camping Act, Chapter 25 (§ 59.1-311 et seq.) ~~of this title~~;

30. Violating any provision of the Comparison Price Advertising Act, Chapter 17.7 (§ 59.1-207.40 et seq.) ~~of this title~~;

31. Violating any provision of the Virginia Travel Club Act, Chapter 36 (§ 59.1-445 et seq.) ~~of this title~~;

32. Violating any provision of §§ 46.2-1231 and 46.2-1233.1;

33. Violating any provision of Chapter 40 (§ 54.1-4000 et seq.) of Title 54.1;

34. Violating any provision of Chapter 10.1 (§ 58.1-1031 et seq.) of Title 58.1;

35. Using the consumer's social security number as the consumer's account number with the supplier, if the consumer has requested in writing that the supplier use an alternate number not associated with the consumer's social security number;

36. Violating any provision of Chapter 18 (§ 6.2-1800 et seq.) of Title 6.2;

37. Violating any provision of § 8.01-40.2;

38. Violating any provision of Article 7 (§ 32.1-212 et seq.) of Chapter 6 of Title 32.1;

39. Violating any provision of Chapter 34.1 (§ 59.1-441.1 et seq.) ~~of this title~~;

40. Violating any provision of Chapter 20 (§ 6.2-2000 et seq.) of Title 6.2;

41. Violating any provision of the Virginia Post-Disaster Anti-Price Gouging Act, Chapter 46 (§ 59.1-525 et seq.) ~~of this title~~;

42. Violating any provision of Chapter 47 (§ 59.1-530 et seq.) ~~of this title~~;

43. Violating any provision of § 59.1-443.2;

44. Violating any provision of Chapter 48 (§ 59.1-533 et seq.) ~~of this title~~;

45. Violating any provision of Chapter 25 (§ 6.2-2500 et seq.) of Title 6.2;

46. Violating the provisions of clause (i) of subsection B of § 54.1-1115;

47. Violating any provision of § 18.2-239;

48. Violating any provision of Chapter 26 (§ 59.1-336 et seq.);

49. Selling, offering for sale, or manufacturing for sale a children's product the supplier knows or has reason to know was recalled by the U.S. Consumer Product Safety Commission. There is a rebuttable presumption that a supplier has reason to know a children's product was recalled if notice of the recall has been posted continuously at least 30 days before the sale, offer for sale, or manufacturing for sale on the website of the U.S. Consumer Product Safety Commission. This prohibition does not apply to children's products that are used, secondhand or "seconds";

50. Violating any provision of Chapter 44.1 (§ 59.1-518.1 et seq.) ~~of this title~~;

51. Violating any provision of Chapter 22 (§ 6.2-2200 et seq.) of Title 6.2;

52. Violating any provision of § 8.2-317.1;

53. Violating subsection A of § 9.1-149.1; ~~and~~

54. Selling, offering for sale, or using in the construction, remodeling, or repair of any residential dwelling in the Commonwealth, any drywall that the supplier knows or has reason to know is defective drywall. This subdivision shall not apply to the sale or offering for sale of any building or structure in which defective drywall has been permanently installed or affixed; *and*

55. *Engaging in fraudulent or improper or dishonest conduct as defined in § 54.1-1118 while engaged in a transaction that was initiated (i) during a declared state of emergency as defined in § 44-146.16 or (ii) to repair damage resulting from the event that prompted the declaration of a state of emergency, regardless of whether the supplier is licensed as a contractor in the Commonwealth pursuant to Chapter 11 (§ 54.1-1100 et seq.) of Title 54.1.*

B. Nothing in this section shall be construed to invalidate or make unenforceable any contract or lease solely by reason of the failure of such contract or lease to comply with any other law of the Commonwealth or any federal statute or

regulation, to the extent such other law, statute, or regulation provides that a violation of such law, statute, or regulation shall not invalidate or make unenforceable such contract or lease.

## CHAPTER 12

*An Act to amend and reenact §§ 54.1-2322 and 54.1-2324 of the Code of Virginia, relating to perpetual care trust funds; method of distribution.*

[H 1505]

Approved February 17, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 54.1-2322 and 54.1-2324 of the Code of Virginia are amended and reenacted as follows:**

**§ 54.1-2322. Use of income from perpetual care trust fund; distributions.**

A. The income from the perpetual care trust fund shall be used solely and exclusively for the general care, maintenance, administration, and embellishment of the cemetery. Unless prior approval has been obtained from the Board or a court of competent jurisdiction, the principal of the perpetual care trust fund shall only be used for investment purposes.

B. A cemetery company may request the trustee of a perpetual care trust fund to elect the distribution of either of the following from the perpetual care trust fund:

1. All net income, which for purposes of this section means the collected dividends, interest, and other income of the perpetual care trust fund less any taxes on income, fees, commissions, and costs. A distribution made under this subdivision shall be referred to as a "net income distribution method"; or

2. An amount not to exceed five percent of the fair market value of the perpetual care trust fund at the close of its fiscal year preceding the distribution year. A distribution made under this subdivision shall be referred to as a "total return distribution method."

C. A cemetery company may request the trustee of a perpetual care trust fund to convert from a net income distribution method to a total return distribution method by delivering written or electronic notice to the trustee. Notice of such conversions shall be provided to the Board at least 90 days prior to implementation of the total return distribution method. Such notices may be written or electronic and shall include a copy of the trust instrument, election of distribution method, and an investment and distribution policy pursuant to subdivision D 1. In the event that a distribution method is not elected, distributions shall be limited to the net income distribution method.

D. The trustee of a perpetual care trust fund may reject a cemetery company's request to elect a total return distribution method. If a trustee determines that election of a total return distribution method is proper, he shall:

1. Prior to implementation of the total return distribution method, adopt a written investment and distribution policy under which the amounts of future distributions from the perpetual care trust fund will be calculated under the total return distribution method rather than net income distribution method. The investment goals and objectives of such policy shall be tailored to achieve (i) principal growth through equity investment; (ii) current income through income investment, as necessary; and (iii) an appropriate balance between (a) maintaining purchasing power through principal appreciation and (b) generating income to support the cemetery company's care and maintenance. A copy of such policy shall be sent to the Board with the notice required in subsection C;

2. Ensure that asset allocation under the perpetual care trust fund includes a diversified portfolio and that investment decisions are made in accordance with all other applicable laws of the Commonwealth;

3. Determine the fair market value of the perpetual care trust fund at least annually using generally accepted valuation methods and such valuation date or dates or averages of valuation dates as are readily ascertainable;

4. Make distributions from the perpetual care trust fund on a monthly, quarterly, semi-annual, or annual basis, as agreed upon by the cemetery company and the trustee;

5. Require that both of the following tests be met each fiscal year prior to allowing any distribution from the perpetual care trust fund to the cemetery company: (i) the fair market value of the perpetual care trust fund after the distribution will be greater than the aggregate of 80 percent of the fair market value of the perpetual care trust fund at the close of the preceding fiscal year plus the total contributions made to the trust principal from such date to the date that the method of distribution is elected and (ii) beginning with the third year of using a total return distribution method, a three-year analysis of investment returns and distribution practices indicates that such practices will result in sufficient protection of the trust principal. If either test is not met, distributions for that fiscal year shall be limited to the net income distribution method;

6. In the event that the taxes and fees paid by the perpetual care trust fund are greater than two and one-half percent of the fair market value of the trust at the close of the preceding fiscal year, reduce the distribution by the amount exceeding two and one-half percent; and

7. Maintain records documenting the fair market value of the assets held in the perpetual care trust fund at the end of the accounting period immediately prior to conversion to the total return distribution method.

E. In addition to filing an annual perpetual care trust fund financial report with the Board pursuant to § 54.1-2324, a cemetery company that has elected a total return distribution method shall also file a copy of such financial report at the close of each fiscal year with the commissioner of accounts in a jurisdiction in the Commonwealth in which the cemetery company owns a cemetery. The commissioner of accounts shall review the financial report and forward his finalized

accounting to the Board, with all reasonable fees and costs for such filing and review borne by the cemetery company. A trustee shall not make any distribution from a perpetual care trust fund under a total return distribution method until the review by the commissioner of accounts has been finalized. A review shall be deemed finalized if the commissioner of accounts has not responded or communicated any deficiencies within 60 days of the submission of the financial report.

F. The Board shall review all notices of conversion or reversion of perpetual care trust fund distribution method for compliance with this section. The Board may engage the services of a professional to review notices of conversion or reversion to a total return distribution method, with all reasonable costs of such review borne by the cemetery company that submitted such notice.

The Board may limit or prohibit conversion from a net income distribution method to a total return distribution method if the trustee or any investment manager is not able to demonstrate sufficient knowledge and expertise regarding effective implementation of the total return distribution method. The Board may prohibit a reversion from the total return distribution method to the net income distribution method if the trust principal is less than it was at the time the cemetery company converted to the total return distribution method, as adjusted for inflation.

If a conversion to the total return distribution method has already been made, the Board may limit or prohibit distributions from the perpetual care trust fund if the trustee or any investment manager is not able to demonstrate sufficient knowledge and expertise regarding the distribution of trust income for the maintenance of the cemetery using the total return distribution method. In deciding whether a distribution should be limited or prohibited, the Board shall consider the presence and stated value of trust assets that do not have an active market and are not traded on a regular basis, the frequency of appraisals and evaluations of such assets, the asset allocation of the trust, and whether trust principal, as adjusted for inflation, is less than it was at the time the cemetery company converted to the total return distribution method.

The Board may require a cemetery company to restore a distribution to the perpetual care trust fund if (i) the distribution and all other aspects of the trust were not in compliance with the requirements of this section at the time such distribution was made or (ii) the cemetery company has committed fraud against the trust.

G. If a total return distribution method has been elected, the perpetual care trust fund may not be reverted to a net income distribution method absent approval by the Board. A failure by a cemetery company to file a perpetual care trust fund financial report annually with the Board as required by § 54.1-2324 shall automatically prohibit a conversion to or continuation of a total return distribution method pending further action by the Board.

~~B.~~ H. No portion of the perpetual care trust fund shall be used to pay any personal obligation or debt of any officer or owner of the cemetery or any tax obligation incurred by the cemetery or for any purpose other than that expressly described in this section. Nothing in this section shall be construed to limit the ability of the perpetual care trust fund trustee from paying normal operating expenses and income taxes of the trust itself, the trust being a separate legal entity.

**§ 54.1-2324. Financial report and report of independent certified public accountant required for perpetual care trust funds.**

A. Within four months after the close of its fiscal year, the cemetery company shall report the following information to the Board, on forms prescribed by the Board:

1. The total amount of principal in the perpetual care trust fund;
2. The securities in which the perpetual care trust fund is invested and the amount of cash on hand as of the close of the fiscal year;
3. The income received from the perpetual care trust fund, and the sources of such income, during the preceding fiscal year;
4. The method of distribution used for distributions from the perpetual care trust fund and, if a total return distribution method was used, a schedule to verify compliance with the requirements of § 54.1-2322;
5. An affidavit executed by the compliance agent that all applicable provisions of this chapter relating to perpetual care trust funds have been complied with;
- ~~5.~~ 6. The total receipts subject to the 10 percent trust requirement;
- ~~6.~~ 7. All expenditures from the perpetual care trust fund;
- ~~7.~~ 8. If the trustee is other than a Virginia trust company or trust subsidiary or a federally insured bank or savings institution doing business in the Commonwealth, proof that the required fidelity bond has been secured and that it is in effect; and
- ~~8.~~ 9. A separate total of expenses incurred for general care and maintenance, embellishment and administration of its cemeteries.

B. The cemetery company shall (i) engage an independent certified public accountant to apply agreed-upon procedures as specified by the Board to the total of all receipts subject to § 54.1-2319, in accordance with standards established by the American Institute of Certified Public Accountants or any successor standard authorities, and (ii) provide to the Board the independent certified public accountant's report on the agreed-upon procedures. The information provided by the cemetery company shall provide full disclosure of any transactions between the perpetual care trust fund and any directors, officers, stockholders, or employees of the cemetery company, or relatives of the cemetery company's employees, and shall include a description of the transactions, the parties involved, the dates and amounts of the transactions, and the reasons for the transactions.

C. The information required to be filed hereunder with the Board shall be exempt from the Government Data Collection and Dissemination Practices Act (§ 2.2-3800 et seq.).

## CHAPTER 13

*An Act to amend and reenact § 2.2-2238 of the Code of Virginia, relating to the Virginia Economic Development Partnership Authority; site and building assessment program; minimum size of industrial sites.*

[H 1591]

Approved February 17, 2017

**Be it enacted by the General Assembly of Virginia:****1. That § 2.2-2238 of the Code of Virginia is amended and reenacted as follows:****§ 2.2-2238. Economic development services.**

A. It shall be the duty of the Authority to encourage, stimulate, and support the development and expansion of the economy of the Commonwealth. The Authority is charged with the following duties and responsibilities to:

1. See that there are prepared and carried out effective economic development marketing and promotional programs;
2. Make available, in conjunction and cooperation with localities, chambers of commerce, industrial authorities, and other public and private groups, to prospective new businesses basic information and pertinent factors of interest and concern to such businesses;
3. Formulate, promulgate, and advance programs throughout the Commonwealth for encouraging the location of new businesses in the Commonwealth and the retention and growth of existing businesses;
4. Encourage and solicit private sector involvement, support, and funding for economic development in the Commonwealth;
5. Encourage the coordination of the economic development efforts of public institutions, regions, communities, and private industry and collect and maintain data on the development and utilization of economic development capabilities;
6. Establish such offices within and without the Commonwealth that are necessary to the expansion and development of industries and trade;
7. Encourage the export of products and services from the Commonwealth to international markets;
8. Advise, upon request, the State Board for Community Colleges in designating technical training programs in Virginia's comprehensive community colleges for the Community College Incentive Scholarship Program pursuant to former § 23-220.4; and
9. Offer a program for the issuance of export documentation for companies located in Virginia exporting goods and services if no federal agency or other regulatory body or issuing entity will provide export documentation in a form deemed necessary for international commerce.

B. The Authority shall prepare a specific plan annually that shall serve as the basis for marketing high unemployment areas of Virginia. This plan shall be submitted to the Governor and General Assembly annually on or before November 1 of each year. The report shall contain the plan and activities conducted by the Authority to market these high unemployment areas. The annual report shall be part of the report required by § 2.2-2242.

C. The Authority may develop a site and building assessment program to identify and assess the Commonwealth's industrial sites of at least ~~250~~ 100 acres. In developing such a program, the Authority shall establish assessment guidelines and procedures for identification of industrial sites, ~~resource~~ resource requirements, and development oversight. The Authority shall invite participation by regional and industry stakeholders to assess potential sites, identify product shortfalls, and make recommendations to the Governor and General Assembly for marketing such sites, in alignment with the goals outlined in the Governor's economic development plan.

D. The Authority may encourage the import of products and services from international markets to the Commonwealth.

## CHAPTER 14

*An Act to amend and reenact §§ 21-113 through 21-116, 21-117, 21-117.1, 21-118, 21-118.4, and 21-119 of the Code of Virginia, relating to sanitary districts; authority to create or expand.*

[H 1740]

Approved February 17, 2017

**Be it enacted by the General Assembly of Virginia:****1. That §§ 21-113 through 21-116, 21-117, 21-117.1, 21-118, 21-118.4, and 21-119 of the Code of Virginia are amended and reenacted as follows:****§ 21-113. Creation; inclusion of town in new or enlarged district.**

The ~~circuit court~~ governing body of ~~any~~ a county in ~~this~~ the Commonwealth, or the judge of such court in vacation, upon the petition of 50 qualified voters of a proposed district; or, if the proposed district contains less than 100 qualified voters, upon petition of ~~fifty~~ 50 percent of the qualified voters of the proposed district, may ~~make an order creating, by ordinance, create~~ a sanitary district or districts in and for the county, which ~~order ordinance~~ shall prescribe the metes and bounds of the district.

With the approval of the board of supervisors of a county and the council of any town therein, such town or any part thereof may be included within a sanitary district created or enlarged under the provisions of this chapter.

**§ 21-114. Hearing and notice thereof.**

Upon the filing of the petition, the ~~court~~ *governing body of a county* shall fix a day for a hearing on the question of the proposed sanitary district, which hearing shall embrace a ~~consideration finding of fact~~ of whether ~~the property embraced in the proposed district will or will not be benefited by the establishment thereof; all creation of the proposed district or enlargement of the existing district is necessary, practical, fiscally responsible, and supported by at least 50 percent of persons who own real property in (i) the proposed district or (ii) in cases of enlargement, the area proposed to be included in an existing district. All interested persons;~~ who reside in or who own real property in ~~(i) a proposed district or (ii) an existing district in cases of enlargement;~~ shall have the right to appear and show cause why the property under consideration should or should not be included in the proposed district or enlargement of same at such hearings. *Such hearing shall be subject to minimum standards regarding timeliness;* notice of such hearing shall be given by publication once a week for three consecutive weeks in some newspaper of general circulation within the county to be designated by the ~~court or the judge thereof in vacation~~ *governing body*. At least ~~ten~~ 10 days shall intervene between the completion of the publication and the date set for the hearing, and such publication shall be considered complete on the twenty-first day after the first publication, and no such district shall be created until the notice has been given and the hearing had.

**§ 21-115. Answer and defense.**

Any person interested may answer the petition and make defense thereto; and if upon such hearing the ~~court, or the judge thereof in vacation, as the case may be,~~ *governing body of a county* be of opinion that any property embraced within the limits of such proposed district will not be benefited by the establishment of such district, then such property shall not be embraced therein.

**§ 21-116. Enlargement of sanitary districts.**

The ~~circuit court, or the judge of such court in vacation~~ *governing body of a county*, upon the petition of the ~~governing body of the county and of twenty-five~~ 25 percent of the qualified voters, if any, residing within the limits of the territory proposed to be added, may ~~make an order extending, by ordinance, extend the boundaries and enlarging enlarge~~ any sanitary district created under the provisions of this article, which ~~order ordinance~~ shall prescribe the metes and bounds of the territory so added.

Upon the filing of the petition a hearing shall be had as provided in §§ 21-114 and 21-115, and the notice of such hearing may require all interested persons to appear and show cause why any special tax levied or to be levied in the sanitary district for special sanitary district purposes may not be likewise levied and collected in the territory proposed to be added to such district, and to appear and show cause why the net operating revenue derived in the added territory from the operation of any system or systems established under the provisions of § 21-118 may not be set apart to pay the interest on and retire at maturity the principal of any bonds theretofore issued in connection with such system or systems. Nothing in such ~~order ordinance~~ enlarging a sanitary district as provided herein shall be construed to limit or adversely affect the rights and interests of any holder of bonds issued by the district, and such ~~order ordinance~~ shall expressly preserve and protect such rights and interests. All interested persons; who reside in or who own real property in (i) a proposed district or (ii) an existing district in cases of enlargement; shall have the right to appear and show cause why the property under consideration should or should not be included in the proposed district or enlargement of same at such hearing.

**§ 21-117. Merger of sanitary districts.**

Any two or more sanitary districts heretofore or hereafter created in any county under the provisions of this article; may be merged into a single district by ~~an order entered by the circuit court of such county, or the judge thereof in vacation~~ *the governing body of the county, by ordinance*, upon the petition of not less than ~~fifty~~ 50 qualified voters residing within the boundaries of each of the districts desiring to be so merged, which ~~order ordinance~~ shall prescribe the metes and bounds and the name or other designation of the single district created by such merger. From and after the ~~entry of such order adoption of such ordinance~~, the governing body of such county shall, as to the single districts so created, have all the powers and duties, and be subject to all the conditions and limitations prescribed by § 21-118; and all funds then on hand to the credit of each of the districts so merged shall be merged into a single fund for the use and benefit of the consolidated district, unless otherwise ordered by the ~~court or judge~~ *governing body of the county* upon the hearing next herein provided for.

Upon the filing of the petition, a hearing shall be had before the ~~court or judge~~ *governing body of the county*, after notice as provided by § 21-114, which notice shall require all interested parties to appear and show cause, if any they can, ~~(1) (i) why the funds then on hand to the credit of each of the merged districts should not be merged into a single fund for the purpose above mentioned; (2) and (ii) why a special tax should not be levied on all the property within the limits of the consolidated district, subject to local taxation, sufficient to pay the interest and create a sinking fund for payment of the principal at maturity; of any then outstanding bonds theretofore issued by any one or more of the districts so merged.~~

Upon the hearing, such ~~order ordinance~~ shall be ~~made and entered~~ *adopted* as to the ~~court or judge~~ *governing body of the county* may seem equitable and proper, concerning the combination of the funds on hand to the credit of each of the districts so merged; and the levying of a special tax on all the taxable property within the limits of the consolidated district, for the purposes hereinabove mentioned; provided that such ~~order ordinance~~ shall preserve and protect the rights of the holders of any such outstanding bonds, whose rights; and interests shall not be limited or affected by any of the provisions of this section.

**§ 21-117.1. Abolishing sanitary districts.**

Any sanitary district heretofore or hereafter created in any county under the provisions of the preceding sections of this article; may be abolished by ~~an order entered~~ *ordinance adopted* by the ~~circuit court governing body~~ of such county, ~~or the judge thereof in vacation;~~ upon the petition of ~~the governing body of the county and~~ of no less than 50 qualified voters residing within the boundaries of the district desired to be abolished; or, if the district contains less than 100 qualified voters, upon petition of ~~the governing body of the county and~~ *fifty* 50 percent of the qualified voters residing within the boundaries of such district.

Upon filing of the petition, the ~~court governing body of the county~~ shall fix a day for a hearing on the question of abolishing the sanitary district, which hearing shall embrace a consideration of whether the property in the sanitary district will or will not be benefited by the abolition thereof, and the ~~court governing body of the county~~ shall be fully informed as to the obligations and functions of the sanitary district. Notice of such hearing shall be given by publication once a week for three consecutive weeks in some newspaper of general circulation within the county to be designated by the ~~court or the judge thereof in vacation~~ *governing body of the county*. At least ~~ten~~ 10 days shall intervene between the completion of the publication and the date set for hearing, and such publication shall be considered complete on the twenty-first day after the first publication, and no such district shall be abolished until the notice has been given and the hearing had.

Any interested parties may appear and be heard on any matters pertaining to the subject of the hearing.

Upon the hearing, such ~~order ordinance~~ shall be ~~made and entered~~ *adopted* as to the ~~court or judge governing body of the county~~ may seem equitable and proper, concerning the abolition of the district and as to the funds on hand to the credit of the district: ~~Provided, provided,~~ however, that no such ~~order ordinance~~ shall be ~~made adopted~~ abolishing the sanitary district unless any bonds of the sanitary district ~~which that~~ have theretofore been issued have been redeemed and the purposes for which the sanitary district was created have been completed, or; unless all obligations and functions of the sanitary district have been taken over by the county as a whole, or; unless the purposes for which the sanitary district was created are impractical or impossible of accomplishment and no obligations have been incurred by said sanitary district.

#### § 21-118. Powers and duties of governing body.

After the ~~entry adoption~~ of such ~~order ordinance~~ creating a sanitary district in such county, the governing body thereof shall have the following powers and duties, subject to the conditions and limitations hereinafter prescribed:

1. To construct, maintain and operate water supply, sewerage, garbage removal and disposal, heat, light, fire-fighting equipment and power and gas systems and sidewalks for the use and benefit of the public in such sanitary districts.

2. To acquire by gift, condemnation, purchase, lease, or otherwise, and to maintain and operate any such water supply, sewerage, garbage removal and disposal, heat, light, fire-fighting equipment and power and gas systems and sidewalks in such district and to acquire by gift, condemnation, purchase, lease, or otherwise, rights, title, interest, or easements therefor in and to real estate in such district; and to sell, lease as lessor, transfer or dispose of any part of any such property, real, personal or mixed, so acquired in such manner and upon such terms as the governing body of the district may determine to be in the best interests of the district; provided a public hearing is first held with respect to such disposition at which inhabitants of the district shall have an opportunity to be heard. At least ten days' notice of the time and place of such hearing and a brief description of the property to be disposed shall be published in a newspaper of general circulation in the district. Such public hearing may be adjourned from time to time.

3. To contract with any person, firm, corporation or municipality to construct, establish, maintain and operate any such water supply, sewerage, garbage removal and disposal, heat, light, fire-fighting equipment and power and gas systems and sidewalks in such district.

4. To require owners or tenants of any property in the district to connect with any such system or systems, and to contract with the owners or tenants for such connections. The owners or tenants shall have the right of appeal to the circuit court or the judge thereof in vacation within 10 days from action by the governing body.

5. To fix and prescribe or change the rates of charge for the use of any such system or systems after a public hearing upon notice as provided in § 21-118.4 (d), and to provide for the collection of such charges. In fixing such rates the sanitary district may seek the advice of the State Corporation Commission.

6. To levy and collect an annual tax upon all the property in such sanitary district subject to local taxation to pay, either in whole or in part, the expenses and charges incident to constructing, maintaining and operating water supply, sewerage, garbage removal and disposal, heat, light, fire-fighting equipment and power and gas systems and sidewalks for the use and benefit of the public in such sanitary district. Any locality imposing a tax pursuant to this subdivision may base the tax on the full assessed value of the taxable property within the district, notwithstanding any special use value assessment of property within the sanitary district for land preservation pursuant to Article 4 (§ 58.1-3229 et seq.) of Chapter 32 of Title 58.1, provided the owner of such property has given written consent.

7. To employ and fix the compensation of any technical, clerical or other force and help which from time to time, in their judgment, may be deemed necessary for the construction, operation or maintenance of any such system or systems and sidewalks.

8. To negotiate and contract with any person, firm, corporation or municipality with regard to the connections of any such system or systems with any other system or systems now in operation or hereafter established, and with regard to any other matter necessary and proper for the construction or operation and maintenance of any such system within the sanitary district.

9. The governing body shall have the same power and authority for the abatement of nuisances in such sanitary district as is vested by law in councils of cities and towns for the abatement of nuisances therein, and it shall be the duty of the governing body to exercise such power when any such nuisance shall be shown to exist.

10. Proceedings for the acquisition of rights, title, interest or easements in and to real estate, by such sanitary districts in all cases in which they now have or may hereafter be given the right of eminent domain, may be instituted and conducted in the name of such sanitary district. If the property proposed to be condemned is:

a. For a waterworks system, the procedure shall be in the manner and under the restrictions prescribed by Chapter 19.1 (§ 15.2-1908 et seq.) of Title 15.2, and by Chapter 2 (§ 25.1-200 et seq.) of Title 25.1;

b. For the purpose of constructing water or sewer lines, the proceedings shall be instituted and conducted in accordance with the procedures prescribed either by Chapter 2 of Title 25.1 or in Chapter 3 (§ 25.1-300 et seq.) of Title 25.1; or

c. For the purpose of constructing water and sewage treatment plants and facilities and improvements reasonably necessary to the construction and operation thereof, the proceedings shall be instituted and conducted in accordance with the procedures provided for the condemnation of land in Chapter 3 of Title 25.1.

11. To appoint, employ and compensate out of the funds of the district as many persons as special policemen as may be deemed necessary to maintain order and enforce the criminal and police laws of the Commonwealth and of the county within such district. Such special policemen shall have, within such district and within one-half mile thereof, all of the powers vested in policemen appointed under the provisions of Article 1 (§ 15.2-1700 et seq.) of Chapter 17 of Title 15.2.

**§ 21-118.4. Certain additional powers of governing body.**

Notwithstanding any other provisions of law, when an ~~order has been entered~~ ordinance has been adopted creating a sanitary district in such county, the board of supervisors or other governing body hereinafter referred to as "board of supervisors;" shall have the following powers and duties, in addition to such powers and duties created by any law, subject to the conditions and limitations hereinafter prescribed:

(a) To construct, reconstruct, maintain, alter, improve, add to, and operate dams, motor vehicle parking lots, water supply, drainage, sewerage, garbage disposal, heat, light, power, gas, sidewalks, curbs, gutters, streets and street name signs, and fire-fighting systems, for the use and benefit of the public in such sanitary district and as to such motor vehicle parking lots systems to make such charges for the use of such facilities as may be prescribed by said board or body;

(a1) To acquire, construct, maintain, and operate, or to contract for such acquisition, construction, maintenance, and operation, within such sanitary district, such community buildings, community centers, other recreational facilities, and advisory community planning councils as the board may deem expedient or advisable, and to make such charges for the use of such facilities as may be prescribed by the board;

(b) To acquire by gift, condemnation, purchase, lease, or otherwise, and to maintain and operate any such dams, motor vehicle parking lots, water supply, drainage, sewerage, garbage disposal, heat, light, power, gas, sidewalks, curbs, gutters, streets and street name signs, and fire-fighting systems in such district;

(c) To contract with any person, firm, corporation, municipality, county, authority, or the federal government or any agency thereof to acquire, construct, reconstruct, maintain, alter, improve, add to, and operate any such dams, motor vehicle parking lots, water supply, drainage, sewerage, garbage removal and disposal, heat, light, power, gas, sidewalks, curbs, gutters, streets and street name signs, and fire-fighting systems in such district, and to accept the funds of, or to reimburse from any available source, such person, firm, corporation, municipality, county, authority, or the federal government or any agency thereof for either the whole or any part of the costs, expenses, and charges incident to the acquisition, construction, reconstruction, maintenance, alteration, improvement, addition to, and operation of any such system or systems;

(d) To require owners or tenants of any property in the district to connect with any such system or systems, and to contract with the owners or tenants for such connections. In order to require owners or tenants of any property in the district to connect with any such system or systems, the board of supervisors shall have power and authority to adopt ordinances so requiring owners or tenants to connect with such systems, and to use the same, and the board of supervisors shall have power to provide for a punishment in the ordinance of not exceeding a \$50 fine for each failure and refusal to so connect with such systems, or to use the same. Before adopting any such ordinance the board of supervisors shall give public notice of the intention to propose the same for passage by posting handbill notices of such proposal in three or more public places in the sanitary district at least 10 days prior to the time the ordinance shall be proposed for passage. The ordinance shall not become effective after its passage until 10 days' like notice has been given by posting copies of such ordinance in three or more public places in the district. The board of supervisors, in lieu of giving notice in such manner, may cause notice to be published in the manner provided in § 15.2-1427 for imposing or increasing any tax or levy. Violations of such ordinances shall be tried before the county court of the county as is provided for trial of misdemeanors, and with like right of appeal;

(e) To fix and prescribe or change the rates of charge for the use of any such system or systems, the rate of charge for connection to any such system or systems, a late charge not to exceed 10 percent of the amount due or \$10, whichever is the greater, and interest on outstanding bills at the rate provided for in § 58.1-3918, after a public hearing upon notice as provided in subdivision (d) and to provide for the collection of such charges. In fixing such rates the sanitary district may seek the advice of the State Corporation Commission. The Commission may charge the district a reasonable fee for any advice given pursuant to this section. The board of supervisors may provide for the exemption from, deferral of or reduction of the rates of charge for the use of any garbage disposal system or systems by persons at least 65 years of age or persons permanently and totally disabled as defined in § 58.1-3217. Any such exemptions, deferrals or reductions may be conditioned upon only the income criteria as provided by § 58.1-3211 as in effect on December 31, 2010. And to enable the

board to enforce the collection of charges for the use of any such system against the person or persons, firm or corporation using the same, the charges when made for the use of any such system shall be collectible by distress, levy, garnishment, attachment or otherwise without recourse to court procedure, except so far as the selected procedure may require the same. And the board shall have power to designate as its agent for the purpose of collection such officer or officers; *or* person or persons as it may determine, and the officer or officers; *or* person or persons shall be vested with the same power and authority as a sheriff or constable may have in like procedure.

Water and sewer connection fees established by any county, city, town, or sanitary district shall be fair and reasonable. Such fees shall be reviewed by the county, city, town or sanitary district periodically and shall be adjusted, if necessary, to assure that they continue to be fair and reasonable. Nothing herein shall affect existing contracts with bondholders which are in conflict with any of the foregoing provisions.

If any rates, fees or charges for the use of and for the services furnished by any system acquired or constructed by the sanitary district under the provisions of this chapter shall not be paid within 30 days after the same shall become due and payable, and the person who incurred the debt is the occupant of such premises, the board may at the expiration of such 30-day period disconnect the premises from the water and/or sewer system, or otherwise suspend services, and the board may proceed to recover the amount of any such delinquent rates, fees or charges, with interest, in a civil action.

If any rates, fees, or charges for the use and services of any water or sewer system acquired or constructed by the sanitary district under the provisions of this chapter shall not be paid within 30 days after the same becomes due and payable, the occupant-debtor of such premises shall cease to dispose of sewage or industrial wastes originating from or on such premises by discharge thereof directly or indirectly into the sewer system until such rates, fees, or charges with interest shall be paid. If such occupant-debtor does not cease such disposal at the expiration of such 30-day period, the political subdivision or district or other public corporation, board, or body supplying water to or selling water for use on such premises may, within five days after the receipt of notice of such delinquency, cease to supply water to or to sell water to such occupant-debtor. If such political subdivision or district or public corporation, board, or body shall not, at the expiration of such five-day period, cease supplying water to or selling water for use by such occupant-debtor, then the governing body within whose geographical boundaries such sanitary district lies may shut off the supply of water to such person.

The water supply to or for any occupant-debtor shall not be shut off or stopped under the provisions of this section, if the State Health Commissioner, upon application of the local board of health or health officer of the county, city or town wherein such water is supplied or such real estate is located, shall have found and shall certify to the authorities charged with the responsibility of ceasing to supply or sell such water, or to shut off the supply of such water, that ceasing to supply or shutting off such water supply will endanger the health of such person or the health of others in such county, city or town.

Any unpaid charge shall become a lien superior to the interest of any owner, lessee or tenant, and next in succession to county taxes, on the real property on which the use of any such system was made and for which the charge was imposed. However, such lien shall not bind or affect a subsequent bona fide purchaser of such real estate for valuable consideration without actual notice of such lien, except and until from the time that the amount of such charge is entered in the Judgment Lien Docket kept in the office where deeds may be recorded in the political subdivision wherein the real estate or a part thereof is located. It shall be the duty of the clerk in whose office deeds may be recorded to keep and preserve and hold available for public inspection such Judgment Lien Docket and to cause entries to be made and indexed therein from time to time upon certification by the board for which he shall be entitled to a fee of five dollars per entry to be paid by the board and added to the amount of the lien.

No such lien shall be placed by the board unless the board or its billing and collection agent (i) shall have advised the owner of such real estate at the time of initiating service to a lessee or tenant of such real estate that a lien will be placed on such real estate if the lessee or tenant fails to pay any fees, rents or other charges when due for services rendered to such lessee or tenant; (ii) shall have mailed to the owner of such real estate a duplicate copy of the final bill rendered to such lessee or tenant at the time of rendering the final bill to such lessee or tenant; and (iii) shall employ the same collection efforts and practices to collect amounts due the board from a lessee or a tenant as are employed with respect to collection of such amounts due from customers who are owners of the real estate for which service is provided.

Such lien on any real estate may be discharged by the payment to the board of the total amount of such lien, and interest accrued thereon to the date of such payment, and the entry fee of two dollars, and it shall be the duty of the board to deliver a certificate thereof to the person paying the same, and upon presentation thereof and the payment of the further fee of one dollar by such person, the clerk having the record of such lien shall mark the entry of such lien satisfied.

Jurisdiction to enforce any such lien shall be in equity and the court may decree the real estate subject to the lien, or any part thereof, to be sold and the proceeds applied to the payment of such lien and the interest which may accrue to the date of such payment.

Nothing contained herein shall be construed to prejudice the right of the board to recover the amount of such lien, or of the charge, and the interest which may accrue, by action at law or otherwise, which relief shall be cumulative and not alternative;

(f) To employ and fix the compensation of any technical, clerical, or other force and help which from time to time, in their judgment, may be deemed necessary for the construction, operation, or maintenance of any such system or systems;

(g) To negotiate and contract with any person, firm, corporation, county, authority, or municipality with regard to the connection of any system or systems with any other system or systems now in operation or hereafter to be established, and

with regard to any other matter necessary and proper for the construction or operation and maintenance of any such system within the sanitary district;

(h) To contract for the extension of any such system into territory outside of the district, and for the use thereof, upon such terms and conditions as the board may from time to time determine upon;

(i) With respect to the maintenance and operation of said motor vehicle parking lots system, the board is authorized to purchase, install, maintain, and operate, and to fix and charge parking meter fees for the use of, such parking lot or lots;

(j) Insofar as is permitted by Article VIII, Section 5 and Article VIII, Section 7 of the Constitution of Virginia to construct or contract to construct within such sanitary district, at the request of the school board and subject to all provisions of law applicable to the construction of school buildings, and additions thereto;

(k) To borrow not earlier than January 1 of any year, or the first day of the fiscal year of the district, for the purpose of meeting casual deficits in the revenue of the district or creating a debt in anticipation of the collection of the revenue of the district, a sum of money not to exceed one-half of the amount reasonably anticipated to be produced by the revenues of the district, including taxes levied pursuant to § 21-119, for the year in which the loan is negotiated; provided, there shall be excluded from the amount reasonably anticipated to be produced by the revenue of the district any anticipated tax revenues of the district which have not actually been levied and assessed against property within the district.

Notwithstanding any provisions of law to the contrary, any sanitary district is empowered to borrow in advance of grants and reimbursements due the district from the federal and state governments for the purpose of meeting appropriations for the then current fiscal year. "Grants" and "reimbursements" as used herein shall mean grants which the district has been formally advised in writing it will receive, and reimbursements on moneys which the federal or state governments are obligated to pay the district on account of expenditures made in anticipation of receiving such payment from the federal or state government. The district may borrow the full amount of the grant or reimbursement that the federal or state government is obligated to pay at the time the loan is issued. The loan shall be repaid within 60 days of the time the grant or reimbursement is received, but in any event, the loan shall be repaid within one year from the date of its issue.

Such temporary loans shall be evidenced by notes or bonds, negotiable or nonnegotiable as the board of supervisors may determine; shall bear interest at a rate as provided in § 2.2-5000; and shall be repaid not later than either December 15 of the year in which they are borrowed or 15 days before the last day of the fiscal year of the district. No extension of any such loan shall be valid. No additional loan under this subsection shall be made until all temporary loans of preceding years shall have been paid. No election shall be required for the issuance of any bond pursuant to the provisions of this subsection. Except as this subsection otherwise provides, any bonds issued pursuant to this subsection may be issued in accordance with the provisions of §§ 21-130 through 21-136;

(l) Notwithstanding any other provision of this chapter to the contrary, where the use of any water or sewer systems described in this section is contracted for by an occupant who is not the owner of the premises and where such occupant's premises are separately metered for service, the owner of any such premises shall be liable only for the payment of delinquent rates or charges applicable to three delinquent billing periods but not to exceed a period of 90 days for such delinquency. No board shall refuse to service other premises of the owner not occupied by an occupant who is delinquent in the payment of such rates or charges on account of such delinquency provided that such owner has paid in full any delinquent charges for which he would be responsible for paying. No board shall refuse to service or unreasonably delay reinstatement of service to premises where such occupant who is delinquent has vacated the premises and a new party has applied for service provided such owner has paid in full such delinquent charges as he would be responsible for paying.

**§ 21-119. Sanitary districts are special taxing districts; nature of improvements; jurisdiction of governing bodies, etc., not affected.**

A. Each sanitary district created or purported to be created by ~~an order of the circuit court of any county of the Commonwealth, or a judge thereof~~ *the governing body of a county*, heretofore or hereafter made and ~~entered~~ *adopted* pursuant to any general law of the Commonwealth, is hereby determined to be and is hereby made, from and after the date of such creation or purported creation, a special taxing district for the purposes for which created; and any improvements heretofore or hereafter made by or for any such district are hereby determined to be general tax improvements and of general benefit to all of the property within the sanitary district, as distinct from peculiar or special benefits to some or all of the property within the sanitary district.

B. Neither the creation of the sanitary districts as special taxing districts nor any other provision in this chapter shall in any wise affect the authority, power and jurisdiction of the respective county governing bodies, sheriffs, treasurers, commissioners of the revenue, circuit courts, clerks, judges, magistrates or any other county, district or state officer over the area embraced in any such district, nor shall the same restrict or affect in any way any county, or the governing body of any county, from imposing on and collecting from abutting landowners, or other landowners receiving special or peculiar benefits, in any such district, taxes or assessments for local public improvements as permitted by the Constitution and by other statutes of the Commonwealth.

C. Notwithstanding subsections A and B ~~of this section~~, the board of supervisors of Buckingham County, Nottoway County, or Westmoreland County may impose on, and collect from, landowners abutting a street being improved by the sanitary district a user fee for such service. Such fee may be enforced as provided in § 21-118.4.

## CHAPTER 15

*An Act to amend and reenact § 1-510 of the Code of Virginia, relating to official emblems and designations; "Song of the Mountains"; state television series.*

[H 1927]

Approved February 17, 2017

Whereas, the "Song of the Mountains" is the first nationwide television program featuring the Bluegrass music of Appalachia; and

Whereas, the "Song of the Mountains" was founded in 2003 as a monthly stage concert series hosted by the Lincoln Theatre in Marion, Virginia; and

Whereas, in the 13 years since its founding, the "Song of the Mountains" series has produced 11 broadcast seasons equaling 228 hours of broadcast content; and

Whereas, the program is broadcast on 151 stations on the Public Broadcast System (PBS) in 29 states reaching 75 different television markets with a potential audience of 93 million viewers; and

Whereas, the program promotes and preserves the music, heritage, and culture of the Southwest region of Virginia; and

Whereas, "Song of the Mountains" continues to consistently present to the nation the unique musical and cultural heritage of not only the Southwest region of the state but the entire Commonwealth; now, therefore,

**Be it enacted by the General Assembly of Virginia:**

**1. That § 1-510 of the Code of Virginia is amended and reenacted as follows:**

**§ 1-510. Official emblems and designations.**

The following are hereby designated official emblems and designations of the Commonwealth:

Artisan Center — "Virginia Artisans Center," located in the City of Waynesboro.

Bat — Virginia Big-eared bat (*Corynorhinus townsendii virginianus*).

Beverage — Milk.

Bird — Northern Cardinal (*Cardinalis cardinalis*).

Blue Ridge Folklore State Center — Blue Ridge Institute located in the village of Ferrum.

Boat — "Chesapeake Bay Deadrise."

Cabin Capital of Virginia — Page County.

Coal Miners' Memorial — The Richlands Coal Miners' Memorial located in Tazewell County.

Covered Bridge Capital of the Commonwealth — Patrick County.

Covered Bridge Festival — Virginia Covered Bridge Festival held in Patrick County.

Dog — American Foxhound.

Fish (Freshwater) — Brook Trout.

Fish (Saltwater) — Striped Bass.

Fleet — Replicas of the three ships, Susan Constant, Godspeed, and Discovery, which comprised the Commonwealth's founding fleet that brought the first permanent English settlers to Jamestown in 1607, and which are exhibited at the Jamestown Settlement in Williamsburg.

Flower — American Dogwood (*Cornus florida*).

Folk dance — Square dancing, the American folk dance that traces its ancestry to the English Country Dance and the French Ballroom Dance, and is called, cued, or prompted to the dancers, and includes squares, rounds, clogging, contra, line, the Virginia Reel, and heritage dances.

Fossil — Chesapeake *jeffersonius*.

Gold mining interpretive center — Monroe Park, located in the County of Fauquier.

Insect — Tiger Swallowtail Butterfly (*Papilio glaucus* Linne).

Maple Festival — The Highland County Maple Festival.

Motor sports museum — "Wood Brothers Racing Museum and Virginia Motor Sports Hall of Fame," located in Patrick County.

Outdoor drama — "The Trail of the Lonesome Pine Outdoor Drama," adapted for the stage by Clara Lou Kelly and performed in the Town of Big Stone Gap.

Outdoor drama, historical — "The Long Way Home" based on the life of Mary Draper Ingles, adapted for the stage by Earl Hobson Smith, and performed in the City of Radford.

Rock — Nelsonite.

Shakespeare festival — The Virginia Shakespeare Festival held in the City of Williamsburg.

Shell — Oyster shell (*Crassostrea virginica*).

Snake — Eastern Garter Snake (*Thamnophis sirtalis sirtalis*).

Song emeritus — "Carry Me Back to Old Virginny," by James A. Bland, as set out in the House Joint Resolution 10, adopted by the General Assembly of Virginia at the Session of 1940.

Song (Popular) — "Sweet Virginia Breeze," by Robbin Thompson and Steve Bassett.

Song (Traditional) — "Our Great Virginia," lyrics by Mike Greenly and arranged by Jim Papoulis with music from the original American folk song "Oh Shenandoah."

Sports hall of fame — "Virginia Sports Hall of Fame," located in the City of Portsmouth.  
 Television series — "Song of the Mountains."  
 Tree — American Dogwood (*Cornus florida*).  
 War memorial museum — "Virginia War Museum," (formerly known as the War Memorial Museum of Virginia), located in the City of Newport News.

CHAPTER 16

*An Act to amend and reenact § 59.1-200 of the Code of Virginia, relating to the Virginia Consumer Protection Act; prohibited practices.*

[S 839]

Approved February 17, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 59.1-200 of the Code of Virginia is amended and reenacted as follows:**

**§ 59.1-200. Prohibited practices.**

A. The following fraudulent acts or practices committed by a supplier in connection with a consumer transaction are hereby declared unlawful:

1. Misrepresenting goods or services as those of another;
2. Misrepresenting the source, sponsorship, approval, or certification of goods or services;
3. Misrepresenting the affiliation, connection, or association of the supplier, or of the goods or services, with another;
4. Misrepresenting geographic origin in connection with goods or services;
5. Misrepresenting that goods or services have certain quantities, characteristics, ingredients, uses, or benefits;
6. Misrepresenting that goods or services are of a particular standard, quality, grade, style, or model;
7. Advertising or offering for sale goods that are used, secondhand, repossessed, defective, blemished, deteriorated, or reconditioned, or that are "seconds," irregulars, imperfects, or "not first class," without clearly and unequivocally indicating in the advertisement or offer for sale that the goods are used, secondhand, repossessed, defective, blemished, deteriorated, reconditioned, or are "seconds," irregulars, imperfects or "not first class";

8. Advertising goods or services with intent not to sell them as advertised, or with intent not to sell at the price or upon the terms advertised.

In any action brought under this subdivision, the refusal by any person, or any employee, agent, or servant thereof, to sell any goods or services advertised or offered for sale at the price or upon the terms advertised or offered, shall be prima facie evidence of a violation of this subdivision. This paragraph shall not apply when it is clearly and conspicuously stated in the advertisement or offer by which such goods or services are advertised or offered for sale, that the supplier or offeror has a limited quantity or amount of such goods or services for sale, and the supplier or offeror at the time of such advertisement or offer did in fact have or reasonably expected to have at least such quantity or amount for sale;

9. Making false or misleading statements of fact concerning the reasons for, existence of, or amounts of price reductions;

10. Misrepresenting that repairs, alterations, modifications, or services have been performed or parts installed;

11. Misrepresenting by the use of any written or documentary material that appears to be an invoice or bill for merchandise or services previously ordered;

12. Notwithstanding any other provision of law, using in any manner the words "wholesale," "wholesaler," "factory," or "manufacturer" in the supplier's name, or to describe the nature of the supplier's business, unless the supplier is actually engaged primarily in selling at wholesale or in manufacturing the goods or services advertised or offered for sale;

13. Using in any contract or lease any liquidated damage clause, penalty clause, or waiver of defense, or attempting to collect any liquidated damages or penalties under any clause, waiver, damages, or penalties that are void or unenforceable under any otherwise applicable laws of the Commonwealth, or under federal statutes or regulations;

13a. Failing to provide to a consumer, or failing to use or include in any written document or material provided to or executed by a consumer, in connection with a consumer transaction any statement, disclosure, notice, or other information however characterized when the supplier is required by 16 C.F.R. Part 433 to so provide, use, or include the statement, disclosure, notice, or other information in connection with the consumer transaction;

14. Using any other deception, fraud, false pretense, false promise, or misrepresentation in connection with a consumer transaction;

15. Violating any provision of § 3.2-6512, 3.2-6513, or 3.2-6516, relating to the sale of certain animals by pet dealers which is described in such sections, is a violation of this chapter;

16. Failing to disclose all conditions, charges, or fees relating to:

- a. The return of goods for refund, exchange, or credit. Such disclosure shall be by means of a sign attached to the goods, or placed in a conspicuous public area of the premises of the supplier, so as to be readily noticeable and readable by the person obtaining the goods from the supplier. If the supplier does not permit a refund, exchange, or credit for return, he shall so state on a similar sign. The provisions of this subdivision shall not apply to any retail merchant who has a policy of providing, for a period of not less than 20 days after date of purchase, a cash refund or credit to the purchaser's credit card

account for the return of defective, unused, or undamaged merchandise upon presentation of proof of purchase. In the case of merchandise paid for by check, the purchase shall be treated as a cash purchase and any refund may be delayed for a period of 10 banking days to allow for the check to clear. This subdivision does not apply to sale merchandise that is obviously distressed, out of date, post season, or otherwise reduced for clearance; nor does this subdivision apply to special order purchases where the purchaser has requested the supplier to order merchandise of a specific or unusual size, color, or brand not ordinarily carried in the store or the store's catalog; nor shall this subdivision apply in connection with a transaction for the sale or lease of motor vehicles, farm tractors, or motorcycles as defined in § 46.2-100;

b. A layaway agreement. Such disclosure shall be furnished to the consumer (i) in writing at the time of the layaway agreement, or (ii) by means of a sign placed in a conspicuous public area of the premises of the supplier, so as to be readily noticeable and readable by the consumer, or (iii) on the bill of sale. Disclosure shall include the conditions, charges, or fees in the event that a consumer breaches the agreement;

16a. Failing to provide written notice to a consumer of an existing open-end credit balance in excess of \$5 (i) on an account maintained by the supplier and (ii) resulting from such consumer's overpayment on such account. Suppliers shall give consumers written notice of such credit balances within 60 days of receiving overpayments. If the credit balance information is incorporated into statements of account furnished consumers by suppliers within such 60-day period, no separate or additional notice is required;

17. If a supplier enters into a written agreement with a consumer to resolve a dispute that arises in connection with a consumer transaction, failing to adhere to the terms and conditions of such an agreement;

18. Violating any provision of the Virginia Health Club Act, Chapter 24 (§ 59.1-294 et seq.) of this title;

19. Violating any provision of the Virginia Home Solicitation Sales Act, Chapter 2.1 (§ 59.1-21.1 et seq.) of this title;

20. Violating any provision of the Automobile Repair Facilities Act, Chapter 17.1 (§ 59.1-207.1 et seq.) of this title;

21. Violating any provision of the Virginia Lease-Purchase Agreement Act, Chapter 17.4 (§ 59.1-207.17 et seq.) of this title;

22. Violating any provision of the Prizes and Gifts Act, Chapter 31 (§ 59.1-415 et seq.) of this title;

23. Violating any provision of the Virginia Public Telephone Information Act, Chapter 32 (§ 59.1-424 et seq.) of this title;

24. Violating any provision of § 54.1-1505;

25. Violating any provision of the Motor Vehicle Manufacturers' Warranty Adjustment Act, Chapter 17.6 (§ 59.1-207.34 et seq.) of this title;

26. Violating any provision of § 3.2-5627, relating to the pricing of merchandise;

27. Violating any provision of the Pay-Per-Call Services Act, Chapter 33 (§ 59.1-429 et seq.) of this title;

28. Violating any provision of the Extended Service Contract Act, Chapter 34 (§ 59.1-435 et seq.) of this title;

29. Violating any provision of the Virginia Membership Camping Act, Chapter 25 (§ 59.1-311 et seq.) of this title;

30. Violating any provision of the Comparison Price Advertising Act, Chapter 17.7 (§ 59.1-207.40 et seq.) of this title;

31. Violating any provision of the Virginia Travel Club Act, Chapter 36 (§ 59.1-445 et seq.) of this title;

32. Violating any provision of §§ 46.2-1231 and 46.2-1233.1;

33. Violating any provision of Chapter 40 (§ 54.1-4000 et seq.) of Title 54.1;

34. Violating any provision of Chapter 10.1 (§ 58.1-1031 et seq.) of Title 58.1;

35. Using the consumer's social security number as the consumer's account number with the supplier, if the consumer has requested in writing that the supplier use an alternate number not associated with the consumer's social security number;

36. Violating any provision of Chapter 18 (§ 6.2-1800 et seq.) of Title 6.2;

37. Violating any provision of § 8.01-40.2;

38. Violating any provision of Article 7 (§ 32.1-212 et seq.) of Chapter 6 of Title 32.1;

39. Violating any provision of Chapter 34.1 (§ 59.1-441.1 et seq.) of this title;

40. Violating any provision of Chapter 20 (§ 6.2-2000 et seq.) of Title 6.2;

41. Violating any provision of the Virginia Post-Disaster Anti-Price Gouging Act, Chapter 46 (§ 59.1-525 et seq.) of this title;

42. Violating any provision of Chapter 47 (§ 59.1-530 et seq.) of this title;

43. Violating any provision of § 59.1-443.2;

44. Violating any provision of Chapter 48 (§ 59.1-533 et seq.) of this title;

45. Violating any provision of Chapter 25 (§ 6.2-2500 et seq.) of Title 6.2;

46. Violating the provisions of clause (i) of subsection B of § 54.1-1115;

47. Violating any provision of § 18.2-239;

48. Violating any provision of Chapter 26 (§ 59.1-336 et seq.);

49. Selling, offering for sale, or manufacturing for sale a children's product the supplier knows or has reason to know was recalled by the U.S. Consumer Product Safety Commission. There is a rebuttable presumption that a supplier has reason to know a children's product was recalled if notice of the recall has been posted continuously at least 30 days before the sale, offer for sale, or manufacturing for sale on the website of the U.S. Consumer Product Safety Commission. This prohibition does not apply to children's products that are used, secondhand or "seconds";

50. Violating any provision of Chapter 44.1 (§ 59.1-518.1 et seq.) of this title;

51. Violating any provision of Chapter 22 (§ 6.2-2200 et seq.) of Title 6.2;

- 52. Violating any provision of § 8.2-317.1;
- 53. Violating subsection A of § 9.1-149.1; ~~and~~
- 54. Selling, offering for sale, or using in the construction, remodeling, or repair of any residential dwelling in the Commonwealth, any drywall that the supplier knows or has reason to know is defective drywall. This subdivision shall not apply to the sale or offering for sale of any building or structure in which defective drywall has been permanently installed or affixed; *and*

55. *Engaging in fraudulent or improper or dishonest conduct as defined in § 54.1-1118 while engaged in a transaction that was initiated (i) during a declared state of emergency as defined in § 44-146.16 or (ii) to repair damage resulting from the event that prompted the declaration of a state of emergency, regardless of whether the supplier is licensed as a contractor in the Commonwealth pursuant to Chapter 11 (§ 54.1-1100 et seq.) of Title 54.1.*

B. Nothing in this section shall be construed to invalidate or make unenforceable any contract or lease solely by reason of the failure of such contract or lease to comply with any other law of the Commonwealth or any federal statute or regulation, to the extent such other law, statute, or regulation provides that a violation of such law, statute, or regulation shall not invalidate or make unenforceable such contract or lease.

**CHAPTER 17**

*An Act to amend and reenact §§ 45.1-361.43 and 45.1-361.44 of the Code of Virginia, relating to gas and oil drilling; groundwater.*

[S 910]

Approved February 17, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 45.1-361.43 and 45.1-361.44 of the Code of Virginia are amended and reenacted as follows:**

**§ 45.1-361.43. Operator's right to sample water and quality.**

An operator shall have the right to enter upon surface land at reasonable times and in a reasonable manner to obtain samples of water from water wells that are (i) located within ~~750~~ 1,320 feet of a proposed or existing gas well and (ii) actually being utilized by the surface owner or occupant for domestic use. If the surface owner or occupant refuses to allow *the operator to sample* or causes the operator to be prevented from sampling any such water well, the operator shall promptly notify the Department of such refusal or prevention. The Department shall maintain a record of such notifications. In the event of such a refusal or prevention, the surface owner shall not be entitled to the remedies set forth in § 45.1-361.44.

**§ 45.1-361.44. Replacement of water supply.**

If any water supply of a surface owner who obtains all or part of his supply of water for domestic use from a water well has been materially affected by contamination or partial or complete interruption proximately resulting from a gas well operation within ~~750~~ 1,320 feet of the water well, the operator of such gas well shall promptly provide a replacement water supply which shall be capable of meeting the uses such water supply met prior to the contamination or partial or complete interruption.

**CHAPTER 18**

*An Act to amend and reenact § 45.1-361.40 of the Code of Virginia, relating to Orphaned Well Fund.*

[S 911]

Approved February 17, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 45.1-361.40 of the Code of Virginia is amended and reenacted as follows:**

**§ 45.1-361.40. Orphaned Well Fund; orphaned wells.**

A. The Orphaned Well Fund, *referred to in this section as "the Fund,"* is hereby established in the state treasury as a special non-lapsing revolving fund to be administered by the Department pursuant to the provisions of this section. ~~The Orphaned Well Fund shall consist of such moneys as are appropriated to it by the General Assembly and such surcharges as are collected pursuant to subsection D. Interest earned on the Orphaned Well Fund shall remain in the Fund and be credited to the Orphaned Well Fund it.~~ The Orphaned Well Fund shall be established on the books of the Comptroller and any funds remaining in ~~it~~ *the Fund, including interest thereon,* at the end of ~~the biennium~~ *each fiscal year* shall not revert to the general fund but shall remain in the Orphaned Well Fund. In the event of a discontinuance of the Orphaned Well Fund, any amounts remaining in it shall be placed in the Gas and Oil Plugging Restoration Fund. Moneys from the Orphaned Well Fund shall be used only for purposes of restoration and plugging of orphaned wells. *Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Director or his designee.*

B. The Director shall conduct a survey to determine the condition and location of orphaned wells in the Commonwealth. He shall establish priorities for the plugging and restoration of the identified orphaned wells. The plugging and restoration of orphan well sites ~~which~~ *that* pose an imminent danger to public safety shall have the highest priority.

C. In performing his duties under this section, the Director shall make every reasonable effort to identify and obtain the permission of a surface owner prior to entering onto the surface owner's land. In all cases, the Director shall as soon as practicable cause to be published in a newspaper of general circulation in the county or city wherein an orphaned well is located a notice of the proposed plugging and restoration work to be conducted on the property.

D. Each operator who applies for a new permit for any activity other than geophysical operations shall pay a ~~forty~~ ~~dollar~~ \$200 surcharge per permit into the ~~Orphaned Well~~ Fund. Such surcharge shall continue until the Director determines all orphaned wells in the Commonwealth are properly plugged and their sites are properly stabilized.

## CHAPTER 19

*An Act to amend and reenact § 2.2-2238 of the Code of Virginia, relating to the Virginia Economic Development Partnership Authority; site and building assessment program; minimum size of industrial sites.*

[S 976]

Approved February 17, 2017

### Be it enacted by the General Assembly of Virginia:

#### 1. That § 2.2-2238 of the Code of Virginia is amended and reenacted as follows:

##### § 2.2-2238. Economic development services.

A. It shall be the duty of the Authority to encourage, stimulate, and support the development and expansion of the economy of the Commonwealth. The Authority is charged with the following duties and responsibilities to:

1. See that there are prepared and carried out effective economic development marketing and promotional programs;
2. Make available, in conjunction and cooperation with localities, chambers of commerce, industrial authorities, and other public and private groups, to prospective new businesses basic information and pertinent factors of interest and concern to such businesses;
3. Formulate, promulgate, and advance programs throughout the Commonwealth for encouraging the location of new businesses in the Commonwealth and the retention and growth of existing businesses;
4. Encourage and solicit private sector involvement, support, and funding for economic development in the Commonwealth;
5. Encourage the coordination of the economic development efforts of public institutions, regions, communities, and private industry and collect and maintain data on the development and utilization of economic development capabilities;
6. Establish such offices within and without the Commonwealth that are necessary to the expansion and development of industries and trade;
7. Encourage the export of products and services from the Commonwealth to international markets;
8. Advise, upon request, the State Board for Community Colleges in designating technical training programs in Virginia's comprehensive community colleges for the Community College Incentive Scholarship Program pursuant to former § 23-220.4; and
9. Offer a program for the issuance of export documentation for companies located in Virginia exporting goods and services if no federal agency or other regulatory body or issuing entity will provide export documentation in a form deemed necessary for international commerce.

B. The Authority shall prepare a specific plan annually that shall serve as the basis for marketing high unemployment areas of Virginia. This plan shall be submitted to the Governor and General Assembly annually on or before November 1 of each year. The report shall contain the plan and activities conducted by the Authority to market these high unemployment areas. The annual report shall be part of the report required by § 2.2-2242.

C. The Authority may develop a site and building assessment program to identify and assess the Commonwealth's industrial sites of at least ~~250~~ 100 acres. In developing such a program, the Authority shall establish assessment guidelines and procedures for identification of industrial sites, ~~esource~~ resource requirements, and development oversight. The Authority shall invite participation by regional and industry stakeholders to assess potential sites, identify product shortfalls, and make recommendations to the Governor and General Assembly for marketing such sites, in alignment with the goals outlined in the Governor's economic development plan.

D. The Authority may encourage the import of products and services from international markets to the Commonwealth.

## CHAPTER 20

*An Act to amend and reenact § 60.2-113 of the Code of Virginia, relating to the Virginia Employment Commission; duties related to employment stabilization; preparation of population projections.*

[S 988]

Approved February 17, 2017

### Be it enacted by the General Assembly of Virginia:

#### 1. That § 60.2-113 of the Code of Virginia is amended and reenacted as follows:

**§ 60.2-113. Employment stabilization.**

The Commission shall take all necessary steps through its appropriate divisions and with the advice of such advisory boards and committees as it may have to:

1. Establish a viable labor exchange system to promote maximum employment for the Commonwealth of Virginia with priority given to those workers drawing unemployment benefits;
2. Provide Virginia State Job Service services, as described in this title, according to the provisions of the Wagner-Peyser Act (29 U.S.C. 49f), as amended by the Workforce Innovation and Opportunity Act;
3. Maintain a solvent trust fund financed through equitable employer taxes that provide temporary partial income replacement to involuntarily unemployed covered workers;
4. Coordinate and conduct labor market information research studies, programs and operations, including the development, storage, retrieval and dissemination of information on the social and economic aspects of the Commonwealth and publish data needed by employers, economic development, education and training entities, government and other users in the public and private sectors;
5. Determine and publish a list of jobs, trades, and professions for which a high demand of qualified workers exists or is projected by the Commission. The Commission shall consult with the Virginia Board of Workforce Development in making such determination. Such information shall be published biennially and disseminated to employers; education and training entities, including public two-year and four-year institutions of higher education; government agencies, including the Department of Education and public libraries; and other users in the public and private sectors;
6. ~~Prepare official short and long range population projections for the Commonwealth for use by the General Assembly and state agencies with programs which involve or necessitate population projections;~~
7. Encourage and assist in the adoption of practical methods of vocational guidance, training and retraining; and
- 8: 7. Establish the Interagency Migrant Worker Policy Committee, comprised of representatives from appropriate state agencies, including the Virginia Workers' Compensation Commission, whose services and jurisdictions involve migrant and seasonal farmworkers and their employees. All agencies of the Commonwealth shall be required to cooperate with the Committee upon request.

**CHAPTER 21**

*An Act to amend the Code of Virginia by adding a section numbered 23.1-2907.1, relating to comprehensive community colleges; policies; academic credit for apprenticeship.*

[S 999]

Approved February 17, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding a section numbered 23.1-2907.1 as follows:**

**§ 23.1-2907.1. Policy for award of academic credit for apprenticeship credentials.**

*The State Board shall require each comprehensive community college to develop policies and procedures for the award of academic credit to any student enrolled in a comprehensive community college who has successfully completed a state-approved registered apprenticeship credential in a field that is aligned with a credit-bearing program of study at the comprehensive community college in which the student is enrolled. Such policies shall ensure that academic credit is awarded only to students who have achieved the same outcomes and with the same academic rigor as in the equivalent courses offered by the institution.*

**CHAPTER 22**

*An Act to amend and reenact § 56-484.17 of the Code of Virginia, relating to the Wireless E-911 Fund; distribution percentages.*

[S 1003]

Approved February 17, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 56-484.17 of the Code of Virginia is amended and reenacted as follows:**

**§ 56-484.17. Wireless E-911 Fund; uses of Fund; enforcement; audit required.**

A. There is hereby created in the state treasury a special nonreverting fund to be known as the Wireless E-911 Fund (the Fund). The Fund shall be established on the books of the Comptroller. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Except as provided in § 2.2-2031, moneys in the Fund shall be used for the purposes stated in subsections C through D. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Tax Commissioner or the Chief Information Officer of the Commonwealth.

B. Each CMRS provider and each CMRS reseller shall collect a wireless E-911 surcharge from each of its customers whose place of primary use is within the Commonwealth. However, no surcharge shall be imposed on federal, state and local government agencies. A payment equal to all wireless E-911 surcharges shall be remitted within 30 days to the Department of Taxation. The Department of Taxation, after subtracting its direct costs of administration, shall deposit all remitted wireless E-911 surcharges into the state treasury. The Comptroller shall as soon as practicable deposit such moneys into the Fund. Each CMRS provider and CMRS reseller may retain an amount equal to three percent of the wireless E-911 surcharges collected to defray the costs of collecting the surcharges. State and local taxes shall not apply to any wireless E-911 surcharge collected from customers. Surcharges collected from customers shall be subject to the provisions of the federal Mobile Telecommunications Sourcing Act (4 U.S.C. § 116 et seq., as amended).

The CMRS provider and CMRS reseller shall collect the surcharge through regular periodic billing.

C. Beginning July 1, 2012, 60 percent of the Wireless E-911 Fund shall be distributed on a monthly basis to the PSAPs according to each PSAP's average pro rata distribution from the Wireless E-911 Fund for fiscal years 2007-2012, taking into account any funding adjustments made pursuant to subsection E. On or before July 1, ~~2017~~ 2018, and every five years thereafter, the Department of Taxation shall recalculate the distribution percentage for each PSAP based on the cost and call load data of the PSAP for the previous five fiscal years, which data shall continue to be received by the Board and then reported to the Department of Taxation. The distribution from the Wireless E-911 Fund shall be made on a monthly basis to the PSAPs according to such distribution percentage beginning July 1 of such fiscal year.

D. Using 30 percent of the Wireless E-911 Fund, the Board shall provide payment to CMRS providers of wireless E-911 CMRS costs. For these purposes each CMRS provider shall submit to the Board on or before December 31 of each year an estimate of wireless E-911 CMRS costs it expects to incur during the next fiscal year of counties and municipalities in whose jurisdiction it operates. The Board shall review such estimates and advise each CMRS provider on or before the following March 1 whether its estimate qualifies for payment hereunder and whether the Wireless E-911 Fund is expected to be sufficient for such payment during said fiscal year. A CMRS provider with an approved estimate of costs shall submit its request for payment of such costs no later than four months after the end of the fiscal year in which the cost was incurred. If the portion of the Fund designated for CMRS provider cost payments is insufficient to provide full payment to each CMRS provider for its costs, no unpaid cost shall be paid in the following fiscal year. The remaining 10 percent of the Fund and any remaining funds for the previous fiscal year from the 30 percent for CMRS providers shall be distributed to PSAPs or on behalf of PSAPs based on grant requests received by the Board each fiscal year. The Board shall establish criteria for receiving and making grants from the Fund, including procedures for determining the amount of a grant and payment schedule; however, the grants must be to the benefit of wireless E-911. Any grant funding that has not been committed by the Board by the end of the fiscal year shall be distributed to the PSAPs based on the same distribution percentage used during the fiscal year in which the funding was collected; however, the Board may retain some or all of this uncommitted funding for an identified funding need in the next fiscal year or for a reserve balance pursuant to a reserve balance policy adopted by the Board.

E. After the end of each fiscal year, on a schedule adopted by the Board, the Board shall audit the grant funding received by all recipients to ensure it was utilized in accordance with the grant requirements. For the fiscal year ending June 30, 2005, the Board shall determine whether qualifying payments to PSAP operators and CMRS providers during the preceding fiscal year exceeded or were less than the actual wireless E-911 PSAP costs or wireless E-911 CMRS costs of any PSAP operator or CMRS provider. Each funding recipient shall provide such verification of such costs as may be requested by the Board. Any overpayment shall be refunded to the Board or credited to payments during the then current fiscal year, on such schedule as the Board shall determine. If payments are less than the actual costs reported, the Board may include the additional funding in the then current fiscal year.

F. The Auditor of Public Accounts, or his legally authorized representatives, shall annually audit the Wireless E-911 Fund. The cost of such audit shall be borne by the Board and be payable from the Wireless E-911 Fund, as appropriate. The Board shall furnish copies of the audits to the Governor, the Public Safety Subcommittees of the Senate Committee on Finance and the House Committee on Appropriations, and the Virginia State Crime Commission.

G. The special tax authorized by § 58.1-1730 shall not be imposed on consumers of CMRS.

## CHAPTER 23

*An Act to amend and reenact § 58.1-3819 of the Code of Virginia, relating to local transient occupancy tax; Goochland County, Powhatan County, and Warren County.*

[H 1415]

Approved February 17, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 58.1-3819 of the Code of Virginia is amended and reenacted as follows:**

**§ 58.1-3819. Transient occupancy tax.**

A. Any county, by duly adopted ordinance, may levy a transient occupancy tax on hotels, motels, boarding houses, travel campgrounds, and other facilities offering guest rooms rented out for continuous occupancy for fewer than 30 consecutive days. Such tax shall be in such amount and on such terms as the governing body may, by ordinance, prescribe.

Such tax shall not exceed two percent of the amount of charge for the occupancy of any room or space occupied; however, Accomack County, Albemarle County, Alleghany County, Amherst County, Augusta County, Bedford County, Bland County, Botetourt County, Brunswick County, Campbell County, Caroline County, Carroll County, Craig County, Cumberland County, Dickenson County, Dinwiddie County, Floyd County, Franklin County, Frederick County, Giles County, Gloucester County, *Goochland County*, Grayson County, Greene County, Greensville County, Halifax County, Highland County, Isle of Wight County, James City County, King George County, Loudoun County, Madison County, Mecklenburg County, Montgomery County, Nelson County, Northampton County, Page County, Patrick County, *Powhatan County*, Prince Edward County, Prince George County, Prince William County, Pulaski County, Rockbridge County, Russell County, Smyth County, Spotsylvania County, Stafford County, Tazewell County, *Warren County*, Washington County, Wise County, Wythe County, and York County may levy a transient occupancy tax not to exceed five percent, and any excess over two percent shall be designated and spent solely for tourism and travel, marketing of tourism or initiatives that, as determined after consultation with the local tourism industry organizations, including representatives of lodging properties located in the county, attract travelers to the locality, increase occupancy at lodging properties, and generate tourism revenues in the locality. If any locality has enacted an additional transient occupancy tax pursuant to subsection C of § 58.1-3823, then the governing body of the locality shall be deemed to have complied with the requirement that it consult with local tourism industry organizations, including lodging properties. If there are no local tourism industry organizations in the locality, the governing body shall hold a public hearing prior to making any determination relating to how to attract travelers to the locality and generate tourism revenues in the locality.

B. The tax imposed hereunder shall not apply to rooms or spaces rented and continuously occupied by the same individual or same group of individuals for 30 or more days in hotels, motels, boarding houses, travel campgrounds, and other facilities offering guest rooms. In addition, that portion of any tax imposed hereunder in excess of two percent shall not apply to travel campgrounds in Stafford County.

C. Nothing herein contained shall affect any authority heretofore granted to any county, city or town to levy such a transient occupancy tax. The county tax limitations imposed pursuant to § 58.1-3711 shall apply to any tax levied under this section, *mutatis mutandis*.

D. Any county, city or town that requires local hotel and motel businesses, or any class thereof, to collect, account for and remit to such locality a local tax imposed on the consumer may allow such businesses a commission for such service in the form of a deduction from the tax remitted. Such commission shall be provided for by ordinance, which shall set the rate thereof at no less than three percent and not to exceed five percent of the amount of tax due and accounted for. No commission shall be allowed if the amount due was delinquent.

E. All transient occupancy tax collections shall be deemed to be held in trust for the county, city or town imposing the tax.

## CHAPTER 24

*An Act to amend and reenact § 58.1-3221 of the Code of Virginia, relating to real property tax; partial exemption for certain commercial and industrial structures.*

[H 1455]

Approved February 17, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 58.1-3221 of the Code of Virginia is amended and reenacted as follows:**

**§ 58.1-3221. Partial exemption for certain rehabilitated, renovated or replacement commercial or industrial structures.**

A. The governing body of any county, city or town may, by ordinance, provide for the partial exemption from taxation of real estate on which any structure or other improvement no less than ~~twenty~~ 20 years of age, or ~~fifteen~~ 15 years of age if the structure is located in an area designated as an enterprise zone by the Commonwealth *or as a technology zone by any county, city or town pursuant to § 58.1-3850*, has undergone substantial rehabilitation, renovation or replacement for commercial or industrial use, subject to such conditions as the ordinance may prescribe. The ordinance may, in addition to any other restrictions hereinafter provided, restrict such exemptions to real property located within described zones or districts whose boundaries shall be determined by the governing body. The governing body of a county, city or town may establish criteria for determining whether real estate qualifies for the partial exemption authorized by this provision and may require the structure to be older than ~~twenty~~ 20 years of age, or ~~fifteen~~ 15 years of age if the structure is located in an area designated as an enterprise zone by the Commonwealth, *or as a technology zone by any county, city or town pursuant to § 58.1-3850* or place such other restrictions and conditions on such property as may be prescribed by ordinance. Such ordinance may also provide for the partial exemption from taxation of real estate ~~which~~ *that* has been substantially rehabilitated by complete replacement for commercial and industrial use.

B. The partial exemption provided by the local governing body may not exceed an amount equal to the increase in assessed value resulting from the rehabilitation, renovation or replacement of the commercial or industrial structure as determined by the commissioner of revenue or other local assessing officer or an amount up to ~~fifty~~ 50 percent of the cost of rehabilitation, renovation or replacement as determined by ordinance. The exemption may commence upon completion of the rehabilitation, renovation or replacement, or on January 1 of the year following completion of the rehabilitation,

renovation or replacement and shall run with the real estate for a period of no longer than ~~fifteen~~ 15 years. The governing body of a county, city or town may place a shorter time limitation on the length of such exemption, or reduce the amount of the exemption in annual steps over the entire period or a portion thereof, in such manner as the ordinance may prescribe.

C. Nothing in this section shall be construed as to permit the commissioner of the revenue to list upon the land book any reduced value due to the exemption provided in subsection B.

D. The governing body of any county, city or town may assess a fee not to exceed ~~one hundred twenty-five dollars~~ \$125 for residential properties, or ~~two hundred fifty dollars~~ \$250 for commercial, industrial, and/or apartment properties of six units or more, for processing an application requesting the exemption provided by this section. No property shall be eligible for such exemption unless the appropriate building permits have been acquired and the commissioner of the revenue or assessing officer has verified that the rehabilitation, renovation or replacement indicated on the application has been completed.

E. Where rehabilitation is achieved through demolition and replacement of an existing structure, the exemption provided in subsection A shall not apply when any structure demolished is a registered Virginia landmark or is determined by the Department of Historic Resources to contribute to the significance of a registered historic landmark.

## CHAPTER 25

*An Act to amend and reenact § 58.1-3234 of the Code of Virginia, relating to real property tax; special assessment for land preservation.*

[H 1476]

Approved February 17, 2017

### **Be it enacted by the General Assembly of Virginia:**

#### **1. That § 58.1-3234 of the Code of Virginia is amended and reenacted as follows:**

##### **§ 58.1-3234. Application by property owners for assessment, etc., under ordinance; continuation of assessment, etc.**

Property owners must submit an application for taxation on the basis of a use assessment to the local assessing officer:

1. At least sixty days preceding the tax year for which such taxation is sought; or
2. In any year in which a general reassessment is being made, the property owner may submit such application until thirty days have elapsed after his notice of increase in assessment is mailed in accordance with § 58.1-3330, or sixty days preceding the tax year, whichever is later; or
3. In any locality which has adopted a fiscal tax year under Chapter 30 (§ 58.1-3000 et seq.) of this Subtitle III, but continues to assess as of January 1, such application must be submitted for any year at least sixty days preceding the effective date of the assessment for such year.

The governing body, by ordinance, may permit applications to be filed within no more than sixty days after the filing deadline specified herein, upon the payment of a late filing fee to be established by the governing body. In addition, a locality may, by ordinance, permit a further extension of the filing deadline specified herein, upon payment of an extension fee to be established by the governing body in an amount not to exceed the late filing fee, to a date not later than thirty days after notices of assessments are mailed. An individual who is owner of an undivided interest in a parcel may apply on behalf of himself and the other owners of such parcel upon submitting an affidavit that such other owners are minors or cannot be located. An application shall be submitted whenever the use or acreage of such land previously approved changes; however, no application fee may be required when a change in acreage occurs solely as a result of a conveyance necessitated by governmental action or condemnation of a portion of any land previously approved for taxation on the basis of use assessment. The governing body of any county, city or town may, however, require any such property owner to revalidate annually with such locality, on or before the date on which the last installment of property tax prior to the effective date of the assessment is due, on forms prepared by the locality, any applications previously approved. Each locality which has adopted an ordinance hereunder may provide for the imposition of a revalidation fee every sixth year. Such revalidation fee shall not, however, exceed the application fee currently charged by the locality. The governing body may also provide for late filing of revalidation forms on or before the effective date of the assessment, on payment of a late filing fee. Forms shall be prepared by the State Tax Commissioner and supplied to the locality for use of the applicants and applications shall be submitted on such forms. An application fee may be required to accompany all such applications.

In the event of a material misstatement of facts in the application or a material change in such facts prior to the date of assessment, such application for taxation based on use assessment granted thereunder shall be void and the tax for such year extended on the basis of value determined under § 58.1-3236 D. Except as provided by local ordinance, no application for assessment based on use shall be accepted or approved if, at the time the application is filed, the tax on the land affected is delinquent. Upon the payment of all delinquent taxes, including penalties and interest, the application shall be treated in accordance with the provisions of this section.

Continuation of valuation, assessment and taxation under an ordinance adopted pursuant to this article shall depend on continuance of the real estate in a qualifying use, continued payment of taxes as referred to in § 58.1-3235, and compliance with the other requirements of this article and the ordinance and not upon continuance in the same owner of title to the land.

In the event that the locality provides for a sliding scale under an ordinance, the property owner and the locality shall execute a written agreement which sets forth the period of time that the property shall remain within the classes of real estate set forth in § 58.1-3230. The term of the written agreement shall be for a period not exceeding twenty years, and the instrument shall be recorded in the office of the clerk of the circuit court for the locality in which the subject property is located.

*No locality shall require any applicant who is a lessor of the property or a portion of the property that is the subject of an application submitted pursuant to this section to provide the lease agreement governing the property for the purpose of determining whether the property is eligible for special assessment and taxation pursuant to this article.*

## CHAPTER 26

*An Act to amend and reenact § 58.1-611.2 of the Code of Virginia, and to amend and reenact the second enactment of Chapters 176 and 817 of the Acts of Assembly of 2007, as amended by Chapter 597 of the Acts of Assembly of 2012, and the third enactment of Chapter 608 of the Acts of Assembly of 2007, as amended by Chapter 597 of the Acts of Assembly of 2012, relating to temporary exemption periods from retail sales and use taxes for qualifying items; sunset dates.*

[H 1529]

Approved February 17, 2017

### Be it enacted by the General Assembly of Virginia:

#### 1. That § 58.1-611.2 of the Code of Virginia is amended and reenacted as follows:

##### § 58.1-611.2. Limited exemption for certain school supplies, clothing, and footwear.

Beginning in 2015, and ending July 1, ~~2017~~ 2022, for a three-day period that begins each year on the first Friday in August and ends at 11:59 p.m. on the following Sunday, the tax imposed by this chapter or pursuant to the authority granted in § 58.1-605 or 58.1-606 shall not apply to certain (i) school supplies, including, but not limited to, dictionaries, notebooks, pens, pencils, notebook paper, and calculators, and (ii) clothing and footwear designed to be worn on or about the human body. The tax exemption shall apply to each article of school supplies with a selling price of \$20 or less, and each article of clothing or footwear with a selling price of \$100 or less. Any discount, coupon, or other credit offered either by the retailer or by a vendor of the retailer to reduce the final price to the customer shall be taken into account in determining the selling price for purposes of this exemption.

The Department shall develop guidelines that describe the items of merchandise that qualify for the exemption and make such guidelines available, both electronically and in hard copy, no later than July 15 of each year.

#### 2. That the second enactment of Chapters 176 and 817 of the Acts of Assembly of 2007, as amended by Chapter 597 of the Acts of Assembly of 2012, is amended and reenacted as follows:

##### 2. That the provisions of this act shall expire on July 1, ~~2017~~ 2022.

#### 3. That the third enactment of Chapter 608 of the Acts of Assembly of 2007, as amended by Chapter 597 of the Acts of Assembly of 2012, is amended and reenacted as follows:

##### 3. That the provisions of this act shall expire on July 1, ~~2017~~ 2022.

## CHAPTER 27

*An Act to amend and reenact § 58.1-3245.12 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 38 of Title 58.1 an article numbered 13, consisting of a section numbered 58.1-3854, relating to local fees, taxes, and regulations; green development zones.*

[H 1565]

Approved February 17, 2017

### Be it enacted by the General Assembly of Virginia:

#### 1. That § 58.1-3245.12 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Chapter 38 of Title 58.1 an article numbered 13, consisting of a section numbered 58.1-3854, as follows:

##### § 58.1-3245.12. Local enterprise zone program for technology, defense, or green development zones.

The governing body of any county, city, or town may also adopt a local enterprise zone development taxation program for a technology zone, as described in § 58.1-3850, ~~or~~ a defense production and support services zone, as described in § 58.1-3853, ~~or a green development zone, as described in § 58.1-3854,~~ located within its boundaries, regardless of whether such technology zone ~~or~~ defense production and support services zone, ~~or green development zone~~ has been designated by the Governor as an enterprise zone pursuant to Chapter 49 (§ 59.1-538 et seq.) of Title 59.1. Such program for a technology zone ~~or~~ defense production and support services zone, ~~or green development zone~~ shall be adopted by local ordinance. All other provisions in this article as they relate to a local enterprise zone development taxation program for enterprise zones shall apply to such program for technology ~~or~~ defense production and support services, ~~or green development zones zone.~~

##### Article 13.

##### Local Green Development Zone.

**§ 58.1-3854. Creation of local green development zones.**

A. As used in this section, unless the context requires a different meaning:

"Energy-efficient building" means a building that (i) exceeds the energy efficiency standards prescribed in the Virginia Uniform Statewide Building Code by at least 30 percent as determined by any qualified architect, professional engineer, or licensed contractor who is not related to the taxpayer and who shall certify to the taxpayer that he has qualifications to provide the certification; (ii) is certified to meet or exceed performance standards of the Green Globes Green Building Rating System of the Green Building Initiative; (iii) is certified to meet or exceed performance standards of the Leadership in Energy and Environmental Design (LEED) Green Building Rating System of the U.S. Green Building Council; or (iv) is certified to meet or exceed performance standards or guidelines under the EarthCraft House Program. Energy-efficient building certification for purposes of clause (ii), (iii), or (iv) shall be determined by (a) the granting of a certification under one of the programs in clauses (i) through (iv) that certifies that the building meets or exceeds the performance standards or guidelines of the program or (b) a qualified architect or professional engineer designated by the county, city, or town, who shall determine whether the building meets or exceeds the performance standards or guidelines under any program described in clauses (i) through (iv).

"Green development business" means a business engaged primarily in the design, development, or production of materials, components, or equipment used to reduce negative impact on the environment.

B. Any county, city, or town may establish, by ordinance, one or more green development zones. Each locality may grant tax incentives and provide certain regulatory flexibility to green development businesses located in a green development zone or to businesses operating in an energy-efficient building located in a green development zone.

C. The tax incentives may be provided for up to 10 years and may include, but not be limited to, (i) reduction of permit fees, (ii) reduction of user fees, and (iii) reduction of any type of gross receipts tax. The extent and duration of such incentive proposals shall conform to the requirements of the United States Constitution and the Constitution of Virginia.

D. The governing body may also provide for regulatory flexibility in such green technology zone, which may include, but not be limited to, (i) special zoning for the district, (ii) permit process reform, (iii) exemption from ordinances, and (iv) any other incentive adopted by ordinance, which shall be binding upon the locality for a period of up to 10 years.

E. Each locality establishing a green development zone pursuant to this section may also adopt a local enterprise zone development taxation program for the green development zone as provided in § 58.1-3245.12.

F. The establishment of a green development zone shall not preclude the area from also being designated as an enterprise zone.

**CHAPTER 28**

An Act to amend and reenact § 58.1-3717 of the Code of Virginia, relating to license tax on peddlers and itinerant merchants; adhesive license display.

[H 1626]

Approved February 17, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 58.1-3717 of the Code of Virginia is amended and reenacted as follows:**

**§ 58.1-3717. Peddlers; itinerant merchants.**

A. For the purpose of license taxation pursuant to § 58.1-3703, any person who shall carry from place to place any goods, wares or merchandise and offer to sell or barter the same, or actually sell or barter the same, shall be deemed to be a peddler.

B. For the purpose of license taxation pursuant to § 58.1-3703, the term "itinerant merchant" means any person who engages in, does, or transacts any temporary or transient business in any ~~county, city or town~~ locality and who, for the purpose of carrying on such business, occupies any location for a period of less than one year.

C. Any tax imposed pursuant to § 58.1-3703 on peddlers and itinerant merchants shall not exceed \$500 per year. Dealers in precious metals shall be taxed at rates provided in § 58.1-3706.

D. This section shall not apply to a peddler at wholesale or to those who sell or offer for sale in person or by their employees ice, wood, charcoal, meats, milk, butter, eggs, poultry, game, vegetables, fruits or other family supplies of a perishable nature or farm products grown or produced by them and not purchased by them for sale. A dairyman who uses upon the streets of any city one or more vehicles may sell and deliver from his vehicles, milk, butter, cream and eggs in such city without procuring a peddler's license.

E. The local governing body imposing such tax may by ordinance designate the streets or other public places on or in which all licensed peddlers or itinerant merchants may sell or offer for sale their goods, wares or merchandise.

F. Any locality that requires a peddler or itinerant merchant to display its license at its vehicle or temporary place of business shall provide to the peddler or itinerant merchant a decal, sticker, or other adhesive label that satisfies such requirement.

## CHAPTER 29

*An Act to amend and reenact § 18.2-57 of the Code of Virginia, relating to battery on a health care provider; penalty.*

[H 1921]

Approved February 17, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 18.2-57 of the Code of Virginia is amended and reenacted as follows:**

**§ 18.2-57. Assault and battery; penalty.**

A. Any person who commits a simple assault or assault and battery is guilty of a Class 1 misdemeanor, and if the person intentionally selects the person against whom a simple assault is committed because of his race, religious conviction, color or national origin, the penalty upon conviction shall include a term of confinement of at least six months, 30 days of which shall be a mandatory minimum term of confinement.

B. However, if a person intentionally selects the person against whom an assault and battery resulting in bodily injury is committed because of his race, religious conviction, color or national origin, the person is guilty of a Class 6 felony, and the penalty upon conviction shall include a term of confinement of at least six months, 30 days of which shall be a mandatory minimum term of confinement.

C. In addition, if any person commits an assault or an assault and battery against another knowing or having reason to know that such other person is a judge, a magistrate, a law-enforcement officer as defined in subsection F, a correctional officer as defined in § 53.1-1, a person directly involved in the care, treatment, or supervision of inmates in the custody of the Department of Corrections or an employee of a local or regional correctional facility directly involved in the care, treatment, or supervision of inmates in the custody of the facility, a person directly involved in the care, treatment, or supervision of persons in the custody of or under the supervision of the Department of Juvenile Justice, an employee or other individual who provides control, care, or treatment of sexually violent predators committed to the custody of the Department of Behavioral Health and Developmental Services, a firefighter as defined in § 65.2-102, or a volunteer firefighter or any emergency medical services personnel member who is employed by or is a volunteer of an emergency medical services agency or as a member of a bona fide volunteer fire department or volunteer emergency medical services agency, regardless of whether a resolution has been adopted by the governing body of a political subdivision recognizing such firefighters or emergency medical services personnel as employees, engaged in the performance of his public duties anywhere in the Commonwealth, such person is guilty of a Class 6 felony, and, upon conviction, the sentence of such person shall include a mandatory minimum term of confinement of six months.

Nothing in this subsection shall be construed to affect the right of any person charged with a violation of this section from asserting and presenting evidence in support of any defenses to the charge that may be available under common law.

D. In addition, if any person commits a battery against another knowing or having reason to know that such other person is a full-time or part-time employee of any public or private elementary or secondary school and is engaged in the performance of his duties as such, he is guilty of a Class 1 misdemeanor and the sentence of such person upon conviction shall include a sentence of 15 days in jail, two days of which shall be a mandatory minimum term of confinement. However, if the offense is committed by use of a firearm or other weapon prohibited on school property pursuant to § 18.2-308.1, the person shall serve a mandatory minimum sentence of confinement of six months.

E. In addition, any person who commits a battery against another knowing or having reason to know that such individual is a health care provider as defined in § 8.01-581.1 who is engaged in the performance of his duties ~~as an emergency health care provider in an emergency room~~ of a hospital or ~~clinic~~ or in an emergency room on the premises of any *clinic* or other facility rendering emergency medical care is guilty of a Class 1 misdemeanor. The sentence of such person, upon conviction, shall include a term of confinement of 15 days in jail, two days of which shall be a mandatory minimum term of confinement.

F. As used in this section:

"Hospital" means a public or private institution licensed pursuant to Chapter 5 (§ 32.1-123 et seq.) of Title 32.1 or Article 2 (§ 37.2-403 et seq.) of Chapter 4 of Title 37.2.

"Judge" means any justice or judge of a court of record of the Commonwealth including a judge designated under § 17.1-105, a judge under temporary recall under § 17.1-106, or a judge pro tempore under § 17.1-109, any member of the State Corporation Commission, or of the Virginia Workers' Compensation Commission, and any judge of a district court of the Commonwealth or any substitute judge of such district court.

(Effective until July 1, 2018) "Law-enforcement officer" means any full-time or part-time employee of a police department or sheriff's office that is part of or administered by the Commonwealth or any political subdivision thereof who is responsible for the prevention or detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth, any conservation officer of the Department of Conservation and Recreation commissioned pursuant to § 10.1-115, any special agent of the Department of Alcoholic Beverage Control, conservation police officers appointed pursuant to § 29.1-200, full-time sworn members of the enforcement division of the Department of Motor Vehicles appointed pursuant to § 46.2-217, and any employee with internal investigations authority designated by the Department of Corrections pursuant to subdivision 11 of § 53.1-10, and such officer also includes jail officers in local and regional correctional facilities, all deputy sheriffs, whether assigned to law-enforcement duties, court services or local jail

responsibilities, auxiliary police officers appointed or provided for pursuant to §§ 15.2-1731 and 15.2-1733, auxiliary deputy sheriffs appointed pursuant to § 15.2-1603, police officers of the Metropolitan Washington Airports Authority pursuant to § 5.1-158, and fire marshals appointed pursuant to § 27-30 when such fire marshals have police powers as set out in §§ 27-34.2 and 27-34.2:1.

(Effective July 1, 2018) "Law-enforcement officer" means any full-time or part-time employee of a police department or sheriff's office that is part of or administered by the Commonwealth or any political subdivision thereof who is responsible for the prevention or detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth, any conservation officer of the Department of Conservation and Recreation commissioned pursuant to § 10.1-115, any special agent of the Virginia Alcoholic Beverage Control Authority, conservation police officers appointed pursuant to § 29.1-200, full-time sworn members of the enforcement division of the Department of Motor Vehicles appointed pursuant to § 46.2-217, and any employee with internal investigations authority designated by the Department of Corrections pursuant to subdivision 11 of § 53.1-10, and such officer also includes jail officers in local and regional correctional facilities, all deputy sheriffs, whether assigned to law-enforcement duties, court services or local jail responsibilities, auxiliary police officers appointed or provided for pursuant to §§ 15.2-1731 and 15.2-1733, auxiliary deputy sheriffs appointed pursuant to § 15.2-1603, police officers of the Metropolitan Washington Airports Authority pursuant to § 5.1-158, and fire marshals appointed pursuant to § 27-30 when such fire marshals have police powers as set out in §§ 27-34.2 and 27-34.2:1.

"School security officer" means an individual who is employed by the local school board for the purpose of maintaining order and discipline, preventing crime, investigating violations of school board policies and detaining persons violating the law or school board policies on school property, a school bus or at a school-sponsored activity and who is responsible solely for ensuring the safety, security and welfare of all students, faculty and staff in the assigned school.

G. "Simple assault" or "assault and battery" shall not be construed to include the use of, by any school security officer or full-time or part-time employee of any public or private elementary or secondary school while acting in the course and scope of his official capacity, any of the following: (i) incidental, minor or reasonable physical contact or other actions designed to maintain order and control; (ii) reasonable and necessary force to quell a disturbance or remove a student from the scene of a disturbance that threatens physical injury to persons or damage to property; (iii) reasonable and necessary force to prevent a student from inflicting physical harm on himself; (iv) reasonable and necessary force for self-defense or the defense of others; or (v) reasonable and necessary force to obtain possession of weapons or other dangerous objects or controlled substances or associated paraphernalia that are upon the person of the student or within his control.

In determining whether a person was acting within the exceptions provided in this subsection, due deference shall be given to reasonable judgments that were made by a school security officer or full-time or part-time employee of any public or private elementary or secondary school at the time of the event.

**2. That the Department of Health shall work with stakeholders to develop guidelines regarding (i) the publication of penalties for a battery on a health care provider who is engaged in the performance of his duties in a hospital or in an emergency room clinic or other facility that provides emergency medical care and (ii) the training of health care professionals and health care providers in violence prevention programs.**

## CHAPTER 30

*An Act to amend and reenact §§ 2.2-204 and 2.2-211 of the Code of Virginia, relating to the Virginia Resources Authority.*

[H 2151]

Approved February 17, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 2.2-204 and 2.2-211 of the Code of Virginia are amended and reenacted as follows:**

**§ 2.2-204. Position established; agencies for which responsible; additional duties.**

The position of Secretary of Commerce and Trade (the Secretary) is created. The Secretary shall be responsible to the Governor for the following agencies: Virginia Economic Development Partnership Authority, Virginia International Trade Corporation, Virginia Tourism Authority, Department of Labor and Industry, Department of Mines, Minerals and Energy, Virginia Employment Commission, Department of Professional and Occupational Regulation, Department of Housing and Community Development, Department of Small Business and Supplier Diversity, Virginia Housing Development Authority, ~~Virginia Resources Authority~~, Tobacco Region Revitalization Commission, and Board of Accountancy. The Governor, by executive order, may assign any state executive agency to the Secretary, or reassign any agency listed in this section to another Secretary.

The Secretary shall implement the provisions of the Virginia Biotechnology Research Act (§ 2.2-5500 et seq.).

**§ 2.2-211. Position established; agencies for which responsible; additional powers.**

A. The position of Secretary of Finance (the Secretary) is created. The Secretary shall be responsible for the following agencies: Department of Accounts, Department of Planning and Budget, Department of Taxation, ~~and~~ Department of the Treasury, *and Virginia Resources Authority*. The Governor, by executive order, may assign any other state executive agency to the Secretary of Finance, or reassign any agency listed.

B. To the greatest extent practicable, the agencies assigned to the Secretary shall pay all amounts due and owing by the Commonwealth through electronic transfers of funds from the general fund or appropriate special fund to the bank account of the payee or a party identified by law to receive funds on behalf of the payee. All wire transfer costs associated with the electronic transfer shall be paid by the payee subject to exemptions authorized by the State Treasurer affecting the investment, debt, and intergovernmental transactions of the Commonwealth and its agencies, institutions, boards, and authorities.

**CHAPTER 31**

*An Act to amend and reenact §§ 2.2-204 and 2.2-211 of the Code of Virginia, relating to the Virginia Resources Authority.*

[S 1042]

Approved February 17, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 2.2-204 and 2.2-211 of the Code of Virginia are amended and reenacted as follows:**

**§ 2.2-204. Position established; agencies for which responsible; additional duties.**

The position of Secretary of Commerce and Trade (the Secretary) is created. The Secretary shall be responsible to the Governor for the following agencies: Virginia Economic Development Partnership Authority, Virginia International Trade Corporation, Virginia Tourism Authority, Department of Labor and Industry, Department of Mines, Minerals and Energy, Virginia Employment Commission, Department of Professional and Occupational Regulation, Department of Housing and Community Development, Department of Small Business and Supplier Diversity, Virginia Housing Development Authority, ~~Virginia Resources Authority~~, Tobacco Region Revitalization Commission, and Board of Accountancy. The Governor, by executive order, may assign any state executive agency to the Secretary, or reassign any agency listed in this section to another Secretary.

The Secretary shall implement the provisions of the Virginia Biotechnology Research Act (§ 2.2-5500 et seq.).

**§ 2.2-211. Position established; agencies for which responsible; additional powers.**

A. The position of Secretary of Finance (the Secretary) is created. The Secretary shall be responsible for the following agencies: Department of Accounts, Department of Planning and Budget, Department of Taxation, ~~and~~ Department of the Treasury, *and Virginia Resources Authority*. The Governor, by executive order, may assign any other state executive agency to the Secretary of Finance, or reassign any agency listed.

B. To the greatest extent practicable, the agencies assigned to the Secretary shall pay all amounts due and owing by the Commonwealth through electronic transfers of funds from the general fund or appropriate special fund to the bank account of the payee or a party identified by law to receive funds on behalf of the payee. All wire transfer costs associated with the electronic transfer shall be paid by the payee subject to exemptions authorized by the State Treasurer affecting the investment, debt, and intergovernmental transactions of the Commonwealth and its agencies, institutions, boards, and authorities.

**CHAPTER 32**

*An Act to amend and reenact § 64.2-311 of the Code of Virginia, relating to surviving spouse's elective share; homestead allowance benefit; emergency.*

[H 1516]

Approved February 17, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 64.2-311 of the Code of Virginia is amended and reenacted as follows:**

**§ 64.2-311. Homestead allowance.**

A. In addition to any other right or allowance under this article, a surviving spouse of a decedent who was domiciled in the Commonwealth is entitled to a homestead allowance of \$20,000. If there is no surviving spouse, each minor child of the decedent is entitled to a homestead allowance amounting to \$20,000, divided by the number of minor children.

B. The homestead allowance has priority over all claims against the estate, except the family allowance and the right to exempt property.

C. The homestead allowance is in lieu of any share passing to the surviving spouse or minor children by the decedent's will or by intestate succession; provided, however, if the amount passing to the surviving spouse and minor children by the decedent's will or by intestate succession is less than \$20,000, then the surviving spouse or minor children are entitled to a homestead allowance in an amount that when added to the property passing to the surviving spouse and minor children by the decedent's will or by intestate succession, equals the sum of \$20,000.

D. If the surviving spouse claims and receives an elective share of the decedent's estate under §§ 64.2-302 through 64.2-307 ~~or Article 1.1 (§ 64.2-308.1 et seq.)~~, as applicable, the surviving spouse shall not have the benefit of any homestead allowance. *If the surviving spouse claims and receives an elective share of the decedent's estate under Article 1.1*

(§ 64.2-308.1 et seq.), the homestead allowance shall be in addition to any benefit or share passing to the surviving spouse by way of elective share.

**2. That the provisions of this act apply to the elective share of a surviving spouse of a decedent dying on or after January 1, 2017.**

**3. That an emergency exists and this act is in force from its passage.**

### CHAPTER 33

An Act to amend and reenact § 64.2-1622 of the Code of Virginia; to amend the Code of Virginia by adding in Chapter 1 of Title 64.2 an article numbered 3.1, consisting of sections numbered 64.2-116 through 64.2-132; and to repeal Article 3 (§§ 64.2-109 through 64.2-115) of Chapter 1 of Title 64.2 of the Code of Virginia, relating to creation of the Uniform Fiduciary Access to Digital Assets Act.

[H 1608]

Approved February 17, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 64.2-1622 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Chapter 1 of Title 64.2 an article numbered 3.1, consisting of sections numbered 64.2-116 through 64.2-132, as follows:**

#### Article 3.1.

#### Uniform Fiduciary Access to Digital Assets Act.

##### § 64.2-116. Definitions.

As used in this article, unless the context requires otherwise:

"Account" means an arrangement under a terms-of-service agreement in which a custodian carries, maintains, processes, receives, or stores a digital asset of the user or provides goods or services to the user.

"Agent" means a person granted authority to act for a principal under a power of attorney, whether denominated an agent, attorney-in-fact, or otherwise. "Agent" includes an original agent, a coagent, a successor agent, and a person to which an agent's authority is delegated.

"Carries" means engages in the transmission of an electronic communication.

"Catalog of electronic communications" means information that identifies each person with which a user has had an electronic communication, the time and date of the communication, and the electronic address of the person.

"Conservator" means a person appointed by a court to manage the estate of a living individual. "Conservator" includes a limited conservator.

"Content of an electronic communication" means information concerning the substance or meaning of the communication that (i) has been sent or received by a user; (ii) is in electronic storage by a custodian providing an electronic communication service to the public or is carried or maintained by a custodian providing a remote computing service to the public; and (iii) is not readily accessible to the public.

"Court" means the circuit court for the county or city having jurisdiction over the fiduciary in matters relating to the content of this article.

"Custodian" means a person who carries, maintains, processes, receives, or stores a digital asset of a user.

"Designated recipient" means a person chosen by a user using an online tool to administer digital assets of the user.

"Digital asset" means an electronic record in which an individual has a right or interest. "Digital asset" does not include an underlying asset or liability unless the asset or liability is itself an electronic record.

"Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

"Electronic communication" has the same meaning as the definition provided in 18 U.S.C. § 2510(12).

"Electronic communication service" means a custodian that provides to a user the ability to send or receive an electronic communication.

"Fiduciary" means an original, additional, or successor personal representative, conservator, guardian, agent, or trustee.

"Guardian" means a person appointed by a court to manage the person of a living individual adult pursuant to Chapter 20 (§ 64.2-2000 et seq.) or a person appointed by a court to manage the estate of a minor pursuant to Chapter 17 (§ 64.2-1700 et seq.). "Guardian" includes a limited guardian.

"Information" means data, text, images, videos, sounds, codes, computer programs, software, databases, or something that is substantially similar.

"Online tool" means an electronic service provided by a custodian that allows the user, in an agreement distinct from the terms-of-service agreement between the custodian and user, to provide directions for disclosure or nondisclosure of digital assets to a third person.

"Person" means an individual; estate; business or nonprofit entity; public corporation; government or governmental subdivision, agency, or instrumentality; or other legal entity.

"Personal representative" means an executor, administrator, curator, designated successor or successor under the Virginia Small Estate Act (§ 64.2-600 et seq.), or person that performs substantially the same function under the laws of the Commonwealth other than this article.

"Power of attorney" means a record that grants an agent authority to act in the place of a principal.

"Principal" means an individual who grants authority to an agent in a power of attorney.

"Protected person" means an individual for whom a conservator or guardian has been appointed. "Protected person" includes an individual for whom an application for the appointment of a conservator or guardian is pending.

"Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

"Remote computing service" means a custodian that provides to a user computer-processing services or the storage of digital assets by means of an electronic communications system, as defined in 18 U.S.C. § 2510(14).

"Terms-of-service agreement" means an agreement that controls the relationship between a user and a custodian.

"Trustee" means a fiduciary with legal title to property under an agreement or declaration that creates a beneficial interest in another. "Trustee" includes a successor trustee.

"User" means a person that has an account with a custodian.

"Will" includes a codicil, testamentary instrument that only appoints an executor, and instrument that revokes or revises a testamentary instrument.

**§ 64.2-117. Applicability.**

A. This article applies to:

1. A fiduciary acting under a will or power of attorney executed before, on, or after July 1, 2017;
2. A personal representative acting for a decedent who died before, on, or after July 1, 2017;
3. A conservatorship proceeding commenced before, on, or after July 1, 2017;
4. A guardianship proceeding commenced before, on, or after July 1, 2017; and
5. A trustee acting under a trust created before, on, or after July 1, 2017.

B. This article applies to a custodian if the user resides in the Commonwealth or resided in the Commonwealth at the time of the user's death.

C. This article does not apply to a digital asset of an employer used by an employee in the ordinary course of the employer's business.

**§ 64.2-118. User direction for disclosure of digital assets.**

A. A user may use an online tool to direct the custodian to disclose to a designated recipient or not to disclose some or all of the user's digital assets, including the content of electronic communications. If the online tool allows the user to modify or delete a direction at all times, a direction regarding disclosure using an online tool overrides a contrary direction by the user in a will, trust, power of attorney, or other record.

B. If a user has not used an online tool to give direction under subsection A or if the custodian has not provided an online tool, the user may allow or prohibit in a will, trust, power of attorney, or other record disclosure to a fiduciary of some or all of the user's digital assets, including the content of electronic communications sent or received by the user.

C. A user's direction under subsection A or B overrides a contrary provision in a terms-of-service agreement that does not require the user to act affirmatively and distinctly from the user's assent to the terms of service.

**§ 64.2-119. Terms-of-service agreement.**

A. This article does not change or impair a right of a custodian or a user under a terms-of-service agreement to access and use digital assets of the user.

B. This article does not give a fiduciary or a designated recipient any new or expanded rights other than those held by the user for whom, or for whose estate, the fiduciary or designated recipient acts or represents.

C. A fiduciary's or designated recipient's access to digital assets may be modified or eliminated by a user, by federal law, or by a terms-of-service agreement if the user has not provided direction under § 64.2-118.

**§ 64.2-120. Procedure for disclosing digital assets.**

A. When disclosing digital assets of a user under this article, the custodian may, at its sole discretion:

1. Grant a fiduciary or designated recipient full access to the user's account;
2. Grant a fiduciary or designated recipient partial access to the user's account sufficient to perform the tasks with which the fiduciary or designated recipient is charged; or
3. Provide a fiduciary or designated recipient a copy in a record of any digital asset that, on the date the custodian received the request for disclosure, the user could have accessed if the user were alive and had full capacity and access to the account.

B. A custodian may assess a reasonable administrative charge for the cost of disclosing digital assets under this article.

C. A custodian need not disclose under this article a digital asset deleted by a user.

D. If a user directs or a fiduciary requests a custodian to disclose under this article some, but not all, of the user's digital assets, the custodian need not disclose the assets if segregation of the assets would impose an undue burden on the custodian. If the custodian believes the direction or request imposes an undue burden, the custodian or fiduciary may seek an order from the court to disclose:

1. A subset limited by date of the user's digital assets;

2. All of the user's digital assets to the fiduciary or designated recipient;
3. None of the user's digital assets; or
4. All of the user's digital assets to the court for review in camera.

**§ 64.2-121. Disclosure of content of electronic communications of deceased user.**

If a deceased user consented to or a court directs disclosure of the contents of electronic communications of the user, the custodian shall disclose to the personal representative of the estate of the user the content of electronic communications sent or received by the user if the representative gives the custodian:

1. A written request for disclosure in physical or electronic form;
2. A certified copy of the death certificate of the user;
3. A certified copy of the letter of appointment of the representative or a small-estate affidavit or court order;
4. Unless the user provided direction using an online tool, a copy of the user's will, trust, power of attorney, or other record evidencing the user's consent to disclosure of the content of electronic communications; and
5. If requested by the custodian:
  - a. A number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the user's account;
  - b. Evidence linking the account to the user; or
  - c. A finding by the court that (i) the user had a specific account with the custodian, identifiable by the information specified in subdivision a; (ii) disclosure of the content of electronic communications of the user would not violate 18 U.S.C. § 2701 et seq., 47 U.S.C. § 222, or other applicable law; (iii) unless the user provided direction using an online tool, the user consented to disclosure of the content of electronic communications; or (iv) disclosure of the content of electronic communications of the user is reasonably necessary for administration of the estate.

**§ 64.2-122. Disclosure of other digital assets of deceased user.**

Unless the user prohibited disclosure of digital assets or the court directs otherwise, a custodian shall disclose to the personal representative of the estate of a deceased user a catalog of electronic communications sent or received by the user and digital assets, other than the content of electronic communications, of the user, if the representative gives the custodian:

1. A written request for disclosure in physical or electronic form;
2. A certified copy of the death certificate of the user;
3. A certified copy of the letter of appointment of the representative or a small-estate affidavit or court order; and
4. If requested by the custodian:
  - a. A number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the user's account;
  - b. Evidence linking the account to the user;
  - c. An affidavit stating that disclosure of the user's digital assets is reasonably necessary for administration of the estate; or
  - d. A finding by the court that (i) the user had a specific account with the custodian, identifiable by the information specified in subdivision a or (ii) disclosure of the user's digital assets is reasonably necessary for administration of the estate.

**§ 64.2-123. Disclosure of content of electronic communications of principal.**

To the extent that a power of attorney expressly grants an agent authority over the content of electronic communications sent or received by the principal and unless directed otherwise by the principal or the court, a custodian shall disclose to the agent the content if the agent gives the custodian:

1. A written request for disclosure in physical or electronic form;
2. An original or copy of the power of attorney expressly granting the agent authority over the content of electronic communications of the principal;
3. A certification by the agent that the power of attorney is in effect; and
4. If requested by the custodian:
  - a. A number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the principal's account; or
  - b. Evidence linking the account to the principal.

**§ 64.2-124. Disclosure of other digital assets of principal.**

Unless otherwise ordered by the court, directed by the principal, or provided by a power of attorney, a custodian shall disclose to an agent with specific authority over digital assets or general authority to act on behalf of a principal a catalog of electronic communications sent or received by the principal and digital assets, other than the content of electronic communications, of the principal if the agent gives the custodian:

1. A written request for disclosure in physical or electronic form;
2. An original or copy of the power of attorney that gives the agent specific authority over digital assets or general authority to act on behalf of the principal;
3. A certification by the agent that the power of attorney is in effect; and
4. If requested by the custodian:
  - a. A number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the principal's account; or

*b. Evidence linking the account to the principal.*

**§ 64.2-125. Disclosure of digital assets held in trust when trustee is original user.**

*Unless otherwise ordered by the court or provided in a trust, a custodian shall disclose to a trustee that is an original user of an account any digital asset of the account held in trust, including a catalog of electronic communications of the trustee and the content of electronic communications.*

**§ 64.2-126. Disclosure of contents of electronic communications held in trust when trustee is not original user.**

*Unless otherwise ordered by the court, directed by the user, or provided in a trust, a custodian shall disclose to a trustee that is not an original user of an account the content of electronic communications sent or received by an original or successor user and carried, maintained, processed, received, or stored by the custodian in the account of the trust if the trustee gives the custodian:*

1. A written request for disclosure in physical or electronic form;
2. A certified copy of the trust instrument, or a certification of the trust under § 64.2-804 that includes consent to disclosure of the content of electronic communications to the trustee;
3. A certification by the trustee that the trust exists and the trustee is a currently acting trustee of the trust; and
4. If requested by the custodian:
  - a. A number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the trust's account; or

*b. Evidence linking the account to the trust.*

**§ 64.2-127. Disclosure of other digital assets held in trust when trustee is not original user.**

*Unless otherwise ordered by the court, directed by the user, or provided in a trust, a custodian shall disclose, to a trustee that is not an original user of an account, a catalog of electronic communications sent or received by an original or successor user and stored, carried, or maintained by the custodian in an account of the trust and any digital assets, other than the content of electronic communications, in which the trust has a right or interest if the trustee gives the custodian:*

1. A written request for disclosure in physical or electronic form;
2. A certified copy of the trust instrument or a certification of the trust under § 64.2-804;
3. A certification by the trustee that the trust exists and the trustee is a currently acting trustee of the trust; and
4. If requested by the custodian:
  - a. A number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the trust's account; or

*b. Evidence linking the account to the trust.*

**§ 64.2-128. Disclosure of digital assets to conservator or guardian of protected person.**

*A. After an opportunity for a hearing under Chapter 20 (§ 64.2-2000 et seq.), the court may grant a conservator or guardian access to the digital assets of a protected person.*

*B. Unless otherwise ordered by the court or directed by the user, a custodian shall disclose to a conservator or guardian the catalog of electronic communications sent or received by a protected person and any digital assets, other than the content of electronic communications, in which the protected person has a right or interest if the conservator or guardian gives the custodian:*

1. A written request for disclosure in physical or electronic form;
  2. A certified copy of the court order that gives the conservator or guardian authority over the digital assets of the protected person; and
  3. If requested by the custodian:
    - a. A number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the account of the protected person; or
- b. Evidence linking the account to the protected person.*

*C. A conservator with general authority to manage the assets of a protected person or a guardian with specific authority granted by the court may request a custodian of the digital assets of the protected person to suspend or terminate an account of the protected person for good cause. A request made under this section shall be accompanied by a certified copy of the court order giving the conservator or guardian authority over the protected person's property.*

**§ 64.2-129. Fiduciary duty and authority.**

*A. The legal duties imposed on a fiduciary charged with managing tangible property apply to the management of digital assets, including:*

1. The duty of care;
2. The duty of loyalty; and
3. The duty of confidentiality.

*B. A fiduciary's or designated recipient's authority with respect to a digital asset of a user:*

1. Except as otherwise provided in § 64.2-118, is subject to the applicable terms-of-service agreement;
2. Is subject to other applicable law, including copyright law;
3. In the case of a fiduciary, is limited by the scope of the fiduciary's duties; and
4. May not be used to impersonate the user.

C. A fiduciary with authority over the property of a decedent, protected person, principal, or settlor has the right to access any digital asset in which the decedent, protected person, principal, or settlor had a right or interest and that is not held by a custodian or subject to a terms-of-service agreement.

D. A fiduciary acting within the scope of the fiduciary's duties is an authorized user of the property of the decedent, protected person, principal, or settlor for the purpose of applicable computer-fraud and unauthorized computer-access laws, including Article 7.1 (§ 18.2-152.1 et seq.) of Chapter 5 of Title 18.2.

E. A fiduciary with authority over the tangible personal property of a decedent, protected person, principal, or settlor:

1. Has the right to access the property and any digital asset stored in it; and
2. Is an authorized user for the purposes of computer-fraud and unauthorized computer-access laws, including Article 7.1 (§ 18.2-152.1 et seq.) of Chapter 5 of Title 18.2.

F. A custodian may disclose information in an account to a fiduciary of the user when the information is required to terminate an account used to access digital assets licensed to the user.

G. A fiduciary of a user may request a custodian to terminate the user's account. A request for termination shall be in writing, in either physical or electronic form, and accompanied by:

1. If the user is deceased, a certified copy of the death certificate of the user;
2. A certified copy of the letter of appointment of the representative or a small-estate affidavit or court order, court order, power of attorney, or trust giving the fiduciary authority over the account; and
3. If requested by the custodian:
  - a. A number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the user's account;
  - b. Evidence linking the account to the user; or
  - c. A finding by the court that the user had a specific account with the custodian, identifiable by the information specified in subdivision a.

**§ 64.2-130. Custodian compliance and immunity.**

A. Not later than 60 days after receipt of the information required under §§ 64.2-121 through 64.2-129, a custodian shall comply with a request under this article from a fiduciary or designated recipient to disclose digital assets or terminate an account. If the custodian fails to comply, the fiduciary or designated recipient may apply to the court for an order directing compliance.

B. An order under subsection A directing compliance shall contain a finding that compliance is not in violation of 18 U.S.C. § 2702.

C. A custodian may notify the user that a request for disclosure or to terminate an account was made under this article.

D. A custodian may deny a request under this article from a fiduciary or designated recipient for disclosure of digital assets or to terminate an account if the custodian is aware of any lawful access to the account following the receipt of the fiduciary's request.

E. This article does not limit a custodian's ability to obtain or require a fiduciary or designated recipient requesting disclosure or termination under this article to obtain a court order that:

1. Specifies that an account belongs to a protected person or principal;
2. Specifies that there is sufficient consent from the protected person or principal to support the requested disclosure; and
3. Contains a finding required by law other than this article.

F. A custodian and its officer, employees, and agents are immune from liability for an act or omission done in good faith in compliance with this article.

**§ 64.2-131. Uniformity of application and construction.**

In applying and construing this article, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

**§ 64.2-132. Relation to Electronic Signatures in Global and National Commerce Act.**

This article modifies, limits, or supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. § 7001 et seq., but does not modify, limit, or supersede § 101(c) of that act, 15 U.S.C. § 7001(c), or authorize electronic delivery of any of the notices described in § 103(b) of that act, 15 U.S.C. § 7003(b).

**§ 64.2-1622. Authority that requires specific grant; grant of general authority.**

A. Subject to the provisions of subsection H, an agent under a power of attorney may do the following on behalf of the principal or with the principal's property only if the power of attorney expressly grants the agent the authority and exercise of the authority is not otherwise prohibited or limited by another statute, agreement, or instrument to which the authority or property is subject:

1. Create, amend, revoke, or terminate an inter vivos trust;
2. Make a gift;
3. Create or change rights of survivorship;
4. Create or change a beneficiary designation;
5. Delegate authority granted under the power of attorney;
6. Waive the principal's right to be a beneficiary of a joint and survivor annuity, including a survivor benefit under a retirement plan; ~~or~~
7. Exercise fiduciary powers that the principal has authority to delegate; or

8. *Have authority over the content of an electronic communication of the principal as provided by § 64.2-123.*

B. Notwithstanding a grant of authority to do an act described in subsection A or H, unless the power of attorney otherwise provides, an agent that is not an ancestor, spouse, or descendant of the principal may not exercise authority under a power of attorney to create in the agent, or in an individual to whom the agent owes a legal obligation of support, an interest in the principal's property, whether by gift, right of survivorship, beneficiary designation, disclaimer, or otherwise.

C. Subject to subsections A, B, D, and E, if a power of attorney grants to an agent authority to do all acts that a principal could do, the agent has the general authority described in § 64.2-124 and §§ 64.2-1625 through 64.2-1637.

D. Unless the power of attorney otherwise provides and subject to subsection H, a grant of authority to make a gift is subject to § 64.2-1638.

E. Subject to subsections A, B, and D, if the subjects over which authority is granted in a power of attorney are similar or overlap, the broadest authority controls.

F. Authority granted in a power of attorney is exercisable with respect to property that the principal has when the power of attorney is executed or acquires later, whether or not the property is located in the Commonwealth and whether or not the authority is exercised or the power of attorney is executed in the Commonwealth.

G. An act performed by an agent pursuant to a power of attorney has the same effect and inures to the benefit of and binds the principal and the principal's successors in interest as if the principal had performed the act.

H. Notwithstanding the provisions of subsection A, if a power of attorney grants to an agent authority to do all acts that a principal could do, the agent shall have the authority to make gifts in any amount of any of the principal's property to any individuals or to organizations described in §§ 170(c) and 2522(a) of the Internal Revenue Code or corresponding future provisions of federal tax law, or both, in accordance with the principal's personal history of making or joining in the making of lifetime gifts. This subsection shall not in any way impair the right or power of any principal, by express words in the power of attorney, to authorize, or limit the authority of, an agent to make gifts of the principal's property.

**2. That Article 3 (§§ 64.2-109 through 64.2-115) of Chapter 1 of Title 64.2 of the Code of Virginia is repealed.**

#### CHAPTER 34

*An Act to amend and reenact § 64.2-531 of the Code of Virginia, relating to nonexoneration of debts on property of decedent; notice to creditor and beneficiaries.*

[H 1618]

Approved February 17, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 64.2-531 of the Code of Virginia is amended and reenacted as follows:**

**§ 64.2-531. Nonexoneration; payment of lien if granted by agent.**

A. Unless a contrary intent is clearly set out in the will or in a transfer on death deed, (i) real or personal property that is the subject of a specific devise or bequest in the will or (ii) real property subject to a transfer on death deed passes, subject to any mortgage, pledge, security interest, or other lien existing at the date of death of the testator, without the right of exoneration. A general directive in the will to pay debts shall not be evidence of a contrary intent that the mortgage, pledge, security interest, or other lien be exonerated prior to passing to the legatee.

B. *The personal representative may give written notice to the creditor holding any debt to which subsection A applies that there is no right of exoneration for such debt pursuant to this section. Such notice shall include a copy of this section. Any such notice shall be sent by certified mail (i) to the address the creditor last provided to the debtor as the address to which notices to the creditor are to be sent; (ii) if the personal representative cannot reasonably determine the address to which notices to the creditor are to be sent, to the address the creditor last provided to the debtor as the address at which payments to the creditor are to be made; or (iii) if the personal representative cannot reasonably determine either the address to which notices to the creditor are to be sent or at which payments to the creditor are to be made, to (a) the address of the creditor's registered agent on file with the Virginia State Corporation Commission or (b) if there is no such registered agent on file, to the creditor's last known address. The creditor holding such debt may file a claim for such debt with the commissioner of accounts pursuant to § 64.2-552 on or before the later of one year after the qualification of the personal representative of the decedent's estate or six months after the personal representative gives such written notice to the creditor. Once the personal representative has given notice to the creditor as provided in this section, unless the creditor files a timely claim against the estate as set forth in this subsection, the liability of a personal representative or his surety for such debt shall not exceed the assets of the decedent remaining in the possession of the personal representative and available for application to the debt pursuant to § 64.2-528 at the time the creditor presents a demand for payment of such debt to the personal representative. Nothing in this section shall affect either the liability of the estate for such debt to the extent of the decedent's assets remaining at the time a claim is filed or the liability of the beneficiaries that receive the decedent's assets to the extent of such receipt.*

*In the event that any such claim is timely filed with the commissioner of accounts, the personal representative shall give the specific beneficiary receiving such real or personal property written notice, within 90 days after such claim is filed, to obtain from the creditor the release of the estate from such claim. The notice to a beneficiary may be made to the personal representative of a deceased beneficiary whose estate is a beneficiary, an attorney-in-fact for a beneficiary, a guardian or*

conservator of an incapacitated beneficiary, a committee of a convict or insane beneficiary, or the duly qualified guardian of a minor or, if none exists, a custodial parent of a minor. If the estate has not been released from such claim after the later of 180 days from such notice or one year from qualification, the personal representative may (a) sell the real or personal property that is the subject of a specific devise or bequest and that is also subject to the claim, (b) apply the proceeds of sale to the satisfaction of the claim, and (c) distribute any excess proceeds from such sale of the specific beneficiary of such property. If the proceeds of such sale are insufficient to satisfy the debt in full, the deficiency shall remain a debt of the estate to be satisfied from the other assets of the estate in accordance with applicable law. If such real property is subject to a transfer on death deed and is also subject to the claim, the personal representative may proceed as provided in § 64.2-634 to enforce the liability for such claim against such property.

C. Subsection A shall not apply to any mortgage, pledge, security interest, or other lien existing at the date of death of the testator against any specifically devised or bequeathed real or personal property, or any real property subject to a transfer on death deed, that was granted by an agent acting within the authority of a durable power of attorney for the testator while the testator was incapacitated. For the purposes of this section, (i) no adjudication of the testator's incapacity is necessary, (ii) the acts of an agent within the authority of a durable power of attorney are rebuttably presumed to be for an incapacitated testator, and (iii) an incapacitated testator is one who is impaired by reason of mental illness, intellectual disability, physical illness or disability, chronic use of drugs, chronic intoxication, or other cause creating a lack of sufficient understanding or capacity to make or communicate responsible decisions. This subsection shall not apply (a) if the mortgage, pledge, security interest, or other lien granted by the agent on the specific property is thereafter ratified by the testator while he is not incapacitated; or (b) if the durable power of attorney was limited to one or more specific purposes and was not general in nature.

~~C.~~ D. Subsection A shall not apply to any mortgage, pledge, security interest, or other lien existing at the date of the death of the testator against any specific devise or bequest of any real or personal property, or any real property subject to a transfer on death deed, that was granted by a conservator, guardian, or committee of the testator. This subsection shall not apply if, after the mortgage, pledge, security interest, or other lien granted by the conservator, guardian, or committee, there is an adjudication that the testator's disability has ceased and the testator survives that adjudication by at least one year.

E. Nothing in this section shall affect the priority of a secured debt with respect to the collateral securing such debt.

## CHAPTER 35

*An Act to amend and reenact §§ 8.01-600, 17.1-124, and 17.1-125 of the Code of Virginia, relating to report of money kept by clerk; money held recorded in civil law book; recording in the order book.*

[H 1630]

Approved February 17, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 8.01-600, 17.1-124, and 17.1-125 of the Code of Virginia are amended and reenacted as follows:**

**§ 8.01-600. How money under control of court deposited; record kept; liability of clerk.**

A. This section pertains only to money held by the clerk of the circuit court, when the court orders moneys to be held by the clerk pursuant to this section. Where judgment is taken in the circuit court, upon motion of a party for good cause shown, the court may enter an order directing the clerk to hold moneys pursuant to this section. The clerk shall have the duty, unless it is otherwise specially ordered, to receive, take charge of, hold or invest in such manner as the court orders and also to pay out or dispose of these moneys as the court orders or decrees. To this end, the clerk is authorized to verify, receive, and give acquittances for all such moneys as the court may direct.

B. Orders creating funds pursuant to this section or § 8.01-582 shall include information necessary to make prudent investment and disbursement decisions. The orders shall include, except when it is unreasonable, the proposed dates of periodic and final disbursements. Prior to the entry of the order, the beneficiary or his representative shall file an affidavit with the court providing the beneficiary's name, date of birth, address and social security number. The affidavit shall be maintained under seal by the clerk unless otherwise ordered by the court, and the information therein shall be used solely for the purposes of financial management and reporting.

Unless otherwise ordered by the court, the provisions of this section shall not apply to:

1. Cash or other money received in lieu of surety on any bond posted in any civil or criminal case, including but not limited to bail bonds, appeal bonds in appeals from a district court or circuit court, bonds posted in connection with the filing of an attachment, detinue seizure or distress, suspending bonds, and performance bonds;
2. Cash or other money paid or deposited in the clerk's office prior to final disposition of the case, including but not limited to interpleaders or eminent domain; or
3. Cash or other money deposited in lieu of surety on any bond posted in the clerk's office which is not posted in connection with any civil or criminal case, including bonds posted by executors or administrators.

C. All deposits under this section shall be secured in accordance with the Virginia Security for Public Deposits Act (§ 2.2-4400 et seq.).

D. Moneys held pursuant to this section shall be invested in certificates of deposit and time deposits, and in accordance with the provisions of Chapter 45 (§ 2.2-4500 et seq.) of Title 2.2 as ordered by the court.

E. Any interest which accrues on the funds, minus allowable fees and bond costs, shall be credited and payable to the person or persons entitled to receive such funds. The court may order the clerk to consolidate for investment purposes money received under this section, with income received hereunder to be apportioned among the several accounts.

F. Except as otherwise ordered by the court, for good cause shown, the clerk shall be liable for any loss of income which results from his (i) failure to invest the money within sixty days of the court order creating the fund or (ii) failure to pay out any money so ordered by the court within sixty days of the court order. He shall be charged with interest from the date of the court order until such investment or payment is made.

G. The clerk shall keep an accurate and particular account of all moneys received, invested, and paid out by him, showing the respective amounts to the credit of each case in the court and designating in the items the judgments, orders or decrees of court under which the respective sums have been received, invested or paid out. At least annually and no later than October 1 of each year, the clerk shall make a report to the court, *which shall include the chief judge of the circuit or the resident judge*, showing the balance to the credit of each case in the court in which money has been received by him, the manner in which money has been received by him, the manner in which it is invested, the amounts received, invested or paid out during the year ending June 30 of the current year, the approximate date on which the moneys held for the beneficiaries will become payable, and the whole amount then invested and subject to the future order of the court. *The clerk shall make a copy of such report available to the Auditor of Public Accounts for purposes of audit.* A copy of this report shall be recorded in the trust fund order book. The clerk shall, at any time when required by the court or the Auditor of Public Accounts to do so, furnish a statement of the amount subject to the order of the court in any case pending therein and any other information required by the court or the Auditor of Public Accounts as to any money or other property under his control before the court. When the clerk receives funds under this section, he shall be entitled to receive fees in accordance with § 17.1-287 in the amounts as specified for general receivers in § 8.01-589.

H. All moneys received under this section are subject to audit by the Auditor of Public Accounts.

**§ 17.1-124. Order books; automated systems.**

Except as otherwise provided herein, each circuit court clerk shall keep order books or, in lieu thereof, an automated system recording all proceedings, orders and judgments of the court in all matters, all decrees, and decretal orders of such court and all matters pertaining to trusts, the appointment and qualification of trustees, committees, administrators, executors, conservators and guardians shall be recorded, except when the same are appointed by the clerk of court, in which event the order appointing such administrators or executors, shall be made and entered in the clerk's order book. In any circuit court, the clerk may, with the approval of the chief judge of the court, by order entered of record, divide the order book into two sections, to be known as the civil order book and the criminal order book. All (i) proceedings, orders, and judgments of the court in all matters at civil law and (ii) *trust fund orders, which shall include money held by a general receiver of the court pursuant to § 8.01-582 or by the clerk of the circuit court pursuant to § 8.01-600*, shall be recorded in the civil order book, and all proceedings, orders and judgments of the court in all matters at criminal law shall be recorded in the criminal order book. In any proceeding brought for the condemnation of property, all proceedings, orders, judgments and decrees of the court shall be recorded in the civil order book of the court. The recordation prior to January 1, 1974, of all proceedings, orders, judgments and decrees in such cases, whether entered in the common-law order book or the chancery order book of any court, is hereby declared a valid and proper recordation of the same. Orders in cases appealed from the juvenile and domestic relations district courts shall be maintained as provided in this section and, to the extent inconsistent with this section, § 16.1-302.

The clerk shall ensure that these order books have been microfilmed or converted to or created in an electronic format. Such microfilm and microphotographic processes and equipment shall meet state microfilm standards, and such electronic format shall follow state electronic records guidelines, pursuant to § 42.1-82. The clerk shall further provide the master reel of any such microfilm for storage in the Library of Virginia and shall provide for the secured, off-site back up of any electronic copies of such records.

**§ 17.1-125. Trust fund order book.**

~~There shall be kept in the office of the clerk of every circuit court an order book to be known as the trust fund order book. The clerk shall record (i) trust fund orders pursuant to §§ 17.1-123 and 17.1-124 and (ii) the annual trust fund report required pursuant to subsection G of § 8.01-600 in a book known as the civil order book, in which shall be recorded all reports, orders, and decrees concerning moneys received or to be received by general receivers pursuant to § 8.01-582 and by clerks pursuant to § 8.01-600. Recording of orders and decrees pursuant to this section shall be in addition to, and not in lieu of, any recording otherwise required by statute.~~

**CHAPTER 36**

*An Act to amend and reenact § 8.01-512.3 of the Code of Virginia, relating to the form of garnishment summons; maximum portion of disposable earnings subject to garnishment.*

[H 1646]

Approved February 17, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 8.01-512.3 of the Code of Virginia is amended and reenacted as follows:**

**§ 8.01-512.3. Form of garnishment summons.**

Any garnishment issued pursuant to § 8.01-511 shall be in the following form:

(a) Front side of summons:

**GARNISHMENT SUMMONS**

(Court Name)

(Name, address and telephone number of judgment creditor except that when the judgment creditor's attorney's name, address and telephone number appear on the summons, only the creditor's name shall be used.)

(Name, address and telephone number of judgment creditor's attorney)

(Name, street address and social security number of judgment debtor)

(Name and street address of garnishee)

\_\_\_\_\_ Hearing Date and Time

This is a garnishment against (check only one of the designations below):

wages, salary, or other compensation.

some other debt due or property of the judgment debtor.

**MAXIMUM PORTION OF DISPOSABLE EARNINGS SUBJECT TO GARNISHMENT**

**STATEMENT**

Support

Judgment Principal

\$ \_\_\_\_\_

50%  55%  60%  65%

Credits

\$ \_\_\_\_\_

(if not specified, then 50%)

Interest

\$ \_\_\_\_\_

state taxes, 100%

Judgment Costs

\$ \_\_\_\_\_

If none of the above is checked, then § 34-29 (a) applies.

Attorney's Fees

\$ \_\_\_\_\_

Garnishment Costs

\$ \_\_\_\_\_

**TOTAL BALANCE DUE**

\$ \_\_\_\_\_

The garnishee shall rely on this amount.

\_\_\_\_\_  
Date of Judgment

**TO ANY AUTHORIZED OFFICER:** You are hereby commanded to serve this summons on the judgment debtor and the garnishee.

**TO THE GARNISHEE:** You are hereby commanded to

(1) File a written answer with this court, or

(2) Deliver payment to this court, or

(3) Appear before this court on the return date and time shown on this summons to answer the Suggestion for Summons in Garnishment of the judgment creditor that, by reason of the lien of writ of fieri facias, there is a liability as shown in the statement upon the garnishee.

As garnishee, you shall withhold from the judgment debtor any sums of money to which the judgment debtor is or may be entitled from you during the period between the date of service of this summons on you and the date for your appearance in court, subject to the following limitations:

(1) The maximum amount which may be garnished is the "TOTAL BALANCE DUE" as shown on this summons.

(2) If the sums of money being garnished are earnings of the judgment debtor, then the provision of "MAXIMUM PORTION OF DISPOSABLE EARNINGS SUBJECT TO GARNISHMENT" shall apply.

If a garnishment summons is served on an employer having 1,000 or more employees, then money to which the judgment debtor is or may be entitled from his or her employer shall be considered those wages, salaries, commissions, or other earnings which, following service on the garnishee-employer, are determined and are payable to the judgment debtor under the garnishee-employer's normal payroll procedure with a reasonable time allowance for making a timely return by mail to this court.

\_\_\_\_\_  
Date of Issuance of Summons

\_\_\_\_\_  
Clerk

\_\_\_\_\_  
Date of delivery of writ of fieri facias to sheriff if different from date of issuance of this summons.

(b) A plain language interpretation of § 34-29 shall appear on the reverse side of the summons as follows:

"The following statement is not the law but is an interpretation of the law which is intended to assist those who must respond to this garnishment. You may rely on this only for general guidance because the law itself is the final word. (Read the law, § 34-29 of the Code of Virginia, for a full explanation. A copy of § 34-29 is available at the clerk's office. If you do not understand the law, call a lawyer for help.)

An employer may take as much as 25 percent of an employee's disposable earnings to satisfy this garnishment. But if an employee makes the minimum wage or less for his week's earnings, the employee will ordinarily get to keep ~~30~~ 40 times the minimum hourly wage."

But an employer may withhold a different amount of money from that above if:

(1) The employee must pay child support or spousal support and was ordered to do so by a court procedure or other legal procedure. No more than 65 percent of an employee's earnings may be withheld for support;

(2) Money is withheld by order of a bankruptcy court; or

(3) Money is withheld for a tax debt.

"Disposable earnings" means the money an employee makes after taxes and after other amounts required by law to be withheld are satisfied. Earnings can be salary, hourly wages, commissions, bonuses, or otherwise, whether paid directly to the employee or not. After those earnings are in the bank for 30 days, they are not considered earnings any more.

If an employee tries to transfer, assign, or in any way give his earnings to another person to avoid the garnishment, it will not be legal; earnings are still earnings.

An employee cannot be fired because he is garnished for one debt.

Financial institutions that receive an employee's paycheck by direct deposit do not have to determine what part of a person's earnings can be garnished.

**2. That the Executive Secretary of the Supreme Court of Virginia shall update the form of garnishment summons in accordance with this act and subdivision (a) (2) of § 34-29 of the Code of Virginia.**

CHAPTER 37

*An Act to amend and reenact § 16.1-69.35 of the Code of Virginia, relating to City of Richmond general district court; concurrent criminal jurisdiction.*

[H 1652]

Approved February 17, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 16.1-69.35 of the Code of Virginia is amended and reenacted as follows:**

**§ 16.1-69.35. Administrative duties of chief district judge.**

The chief judge of each district shall have the following administrative duties and authority with respect to his district:

1. When any district court judge is under any disability or for any other cause is unable to hold court and the chief judge determines that assistance is needed:

a. The chief district judge shall designate a judge within the district or a judge of another district court within the Commonwealth, if one is reasonably available, to hear and dispose of any action or actions properly coming before such district court for disposition;

b. If unable to designate a judge as provided in subdivision 1 a, the chief district judge may designate a retired district judge eligible for recall pursuant to § 16.1-69.22:1 for such hearing and disposition if such judge consents; or

c. If unable to assign a retired district court judge, the chief district judge may designate a retired circuit court judge eligible for recall pursuant to § 17.1-106 if such judge consents or the chief district judge may request that the Chief Justice of the Supreme Court designate a circuit judge if such judge consents.

If no judges are available under subdivision a, b or c, then a substitute judge shall be designated pursuant to § 16.1-69.21.

While acting, any judge so designated shall have all the authority and power of the judge of the court, and his order or judgment shall, to all intents and purposes, be the judgment of the court. A general district court judge designated pursuant to subdivision 1 a, may, with his consent, substitute for or replace a juvenile and domestic relations district court judge, and vice versa. The names of the judges designated under subdivisions b and c shall be selected from a list provided by the Executive Secretary and approved by the Chief Justice of the Supreme Court.

2. The chief general district court judge of a district may designate any juvenile and domestic relations district court judge of the district, with the judge's consent, for an individual case or to sit and hear cases for a period of not more than one year, in any of the general district courts within the district. The chief juvenile and domestic relations district court judge of a district may designate any general district court judge of the district, with the judge's consent, for an individual case or to sit and hear cases for a period of not more than one year, in any of the juvenile and domestic relations district courts within the district. Every judge so designated shall have the same powers and jurisdiction and be authorized to perform the same duties as any judge of the district for which he is designated to assist, and, while so acting, his order or judgment shall be, for all purposes, the judgment of the court to which he is assigned.

3. If on account of congestion in the work of any district court or when in his opinion the administration of justice so requires, the Chief Justice of the Supreme Court may, upon his own initiative or upon written application of the chief district court judge desiring assistance, designate a judge from another district or any circuit court judge, if such circuit court judge consents, or a retired judge eligible for recall, to provide judicial assistance to such district. Every judge so designated shall have the same powers and jurisdiction and be authorized to perform the same duties as any judge of the district for which he

is designated to assist and while so acting his order or judgment shall be, to all intents and purposes, the judgment of the court to which he is assigned.

4. Subject to such rules as may be established pursuant to § 16.1-69.32, the chief judge may establish special divisions of any general district court when the work of the court may be more efficiently handled thereby such as through the establishment of special civil, criminal or traffic divisions, and he may assign the judges of the general district court with respect to serving such special divisions. In the City of Richmond the general district court shall, in addition to any specialized divisions, maintain a separate division of such court in that part of Richmond south of the James River with concurrent jurisdiction in civil matters whenever one or more of the defendants reside or the cause of action or any part thereof arises in that part of the city, concurrent jurisdiction over all traffic matters arising in that part of the city and ~~exclusive~~ concurrent jurisdiction over all other criminal matters arising in that part of the city.

5. Subject to such rules as may be established pursuant to § 16.1-69.32, the chief judge shall determine when the district courts or divisions of such courts shall be open for the transaction of business. The chief judge or presiding judge of any district court may authorize the clerk's office to close on any date when the chief judge or presiding judge determines that operation of the clerk's office, under prevailing conditions, would constitute a threat to the health or safety of the clerk's office personnel or the general public. Closing of the clerk's office pursuant to this subsection shall have the same effect as provided in subsection B of § 1-210. In determining whether to close because of a threat to the health or safety of the general public, the chief judge or the presiding judge of the district court shall coordinate with the chief judge or presiding judge of the circuit court so that, where possible and appropriate, both the circuit and district courts take the same action. He shall determine the times each such court shall be held for the trial of civil, criminal or traffic matters and cases. He shall determine whether, in the case of district courts in counties, court shall be held at any place or places in addition to the county seat. He shall determine the office hours and arrange a vacation schedule of the judges within his district, in order to ensure the availability of a judge or judges to the public at normal times of business. A schedule of the times and places at which court is held shall be filed with the Executive Secretary of the Supreme Court and kept posted at the courthouse, and in any county also at any such other place or places where court may be held, and the clerk shall make such schedules available to the public upon request. Any matter may, in the discretion of the judge, or by direction of the chief district judge, be removed from any one of such designated places to another, or to or from the county seat, in order to serve the convenience of the parties or to expedite the administration of justice; however, any town having a population of over 15,000 as of July 1, 1972, having court facilities and a court with both general criminal and civil jurisdiction prior to July 1, 1972, shall be designated by the chief judge as a place to hold court.

6. Subject to the provisions of § 16.1-69.38, the chief judge of a general district court or the chief judge of a juvenile and domestic relations district court may establish a voluntary civil mediation program for the alternate resolution of disputes. The costs of the program shall be paid by the local governing bodies within the district or by the parties who voluntarily participate in the program.

## CHAPTER 38

*An Act to amend and reenact § 55-20.2 of the Code of Virginia, relating to severance of tenancy by the entirety by written instrument.*

[H 2050]

Approved February 17, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 55-20.2 of the Code of Virginia is amended and reenacted as follows:**

**§ 55-20.2. Tenants by the entirety in real and personal property; certain trusts.**

A. Any husband and wife may own real or personal property as tenants by the entirety *for as long as they are married*. Personal property may be owned as tenants by the entirety whether or not the personal property represents the proceeds of the sale of real property. An intent that the part of the one dying should belong to the other shall be manifest from a designation of a husband and wife as "tenants by the entirety" or "tenants by the entirety."

B. *Except as otherwise provided by statute, no interest in real property held as tenants by the entirety shall be severed by written instrument unless the instrument is a deed signed by both spouses as grantors.*

C. Notwithstanding any contrary provision of § 64.2-747, any property of a husband and wife that is held by them as tenants by the entirety and conveyed to their joint revocable or irrevocable trusts, or to their separate revocable or irrevocable trusts, and any proceeds of the sale or disposition of such property, shall have the same immunity from the claims of their separate creditors as it would if it had remained a tenancy by the entirety, so long as (i) they remain husband and wife, (ii) it continues to be held in the trust or trusts, and (iii) it continues to be their property, including where both spouses are current beneficiaries of one trust that holds the entire property or each spouse is a current beneficiary of a separate trust and the two separate trusts together hold the entire property, whether or not other persons are also current or future beneficiaries of the trust or trusts. The immunity from the claims of separate creditors under this subsection may be waived as to any specific creditor, including any separate creditor of either spouse, or any specifically described property, including any former tenancy by the entirety property conveyed into trust, by the trustee acting under the express provision of a trust instrument or with the written consent of both the husband and the wife.

## CHAPTER 39

*An Act to amend and reenact §§ 38.2-403 and 38.2-4809.1 of the Code of Virginia, relating to insurance; refunds of assessments.*

[S 994]

Approved February 17, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 38.2-403 and 38.2-4809.1 of the Code of Virginia are amended and reenacted as follows:**

**§ 38.2-403. Assessment for expenses.**

The Commission shall assess each company annually for its just share of expenses. The assessment shall be in proportion to direct gross premium income for the year immediately preceding that for which the assessment is made. The Commission shall give the companies notice of the assessment which shall be paid to the Commission on or before March 1 of each year for deposit into the state treasury as provided in subsection B of § 38.2-400. Any company that fails to pay the assessment on or before the date herein prescribed shall be subject to a penalty imposed by the Commission. The penalty shall be ten percent of the assessment and interest shall be charged at a rate pursuant to § 58.1-1812 for the period between the due date and the date of full payment. If a payment is made in an amount later found to be in error, the Commission shall, (i) if an additional amount is due, notify the company of the additional amount and the company shall pay the additional amount within fourteen days of the date of the notice or, (ii) if an overpayment is made, ~~order process~~ a refund.

**§ 38.2-4809.1. Licensees to pay assessments on insurers.**

Every licensed surplus lines broker or any person required to be licensed as a surplus lines broker shall be subject to the annual maintenance fund assessment, penalties, and other provisions of §§ 38.2-400, 38.2-403, and 38.2-406. If any person overpays the assessment, the Commission shall ~~order process~~ a refund of the amount of the overpayment to the person. ~~The overpayment shall be refunded out of the state treasury on the order of the Commission upon the Comptroller.~~

## CHAPTER 40

*An Act to amend and reenact § 54.1-3935 of the Code of Virginia, relating to attorney discipline; procedures.*

[H 1479]

Approved February 17, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 54.1-3935 of the Code of Virginia is amended and reenacted as follows:**

**§ 54.1-3935. Procedure for disciplining attorneys by three-judge circuit court.**

~~A. If the Supreme Court, the Court of Appeals, or any circuit court of this Commonwealth observes, or if a complaint, verified by affidavit is made by any person to such court, that any attorney has been convicted of a misdemeanor involving moral turpitude or a felony or has violated the Virginia Code of Professional Responsibility, the court may assign the matter to the Virginia State Bar for investigation. Upon receipt of the report of the Virginia State Bar, the court may issue a rule against such attorney to show cause why his license to practice law shall not be revoked. If the complaint, verified by affidavit, is made by a district committee of the Virginia State Bar, the court shall issue a rule against the attorney to show cause why his license to practice law shall not be revoked.~~

~~B. If the rule is issued by the Supreme Court or the Court of Appeals, the rule shall be returnable to the Circuit Court of the City of Richmond. Any attorney who is the subject of a disciplinary proceeding or the Virginia State Bar may elect to terminate the proceeding before the Bar Disciplinary Board or a district committee and demand that further proceedings be conducted by a three-judge circuit court. Such demand shall be made in accordance with the rules and procedures set forth in Part Six, Section IV, Paragraph 13 of the Rules of Supreme Court of Virginia. Upon receipt of a demand for a three-judge circuit court, the Virginia State Bar shall file a complaint in a circuit court where venue is proper and the chief judge of the circuit court shall issue a rule against the attorney to show cause why the attorney shall not be disciplined. At the time the rule is issued by the Supreme Court, the Chief Justice shall designate three circuit court judges to hear and decide the case. If the rule is issued by the Court of Appeals or a circuit court, the issuing court shall certify the fact of such issuance and the time and place of the hearing thereon; to the Chief Justice of the Supreme Court, who shall designate the three-judge circuit court, which shall consist of three circuit court judges of circuits other than the circuit in which the case is pending, to hear and decide the case. In proceedings under this section, the court shall adopt the Rules and Procedures described The rules and procedures set forth in Part Six, Section IV, Paragraph 13 of the Rules of Supreme Court of Virginia shall govern any attorney disciplinary proceeding before a three-judge circuit court.~~

~~C. B. Bar Counsel of the Virginia State Bar shall prosecute the case. Special counsel may be appointed to prosecute the case pursuant to § 2.2-510.~~

~~D. Upon the hearing, if the attorney is found guilty by the court, his license to practice law in this Commonwealth shall be revoked or suspended for such time as the court may prescribe. In lieu of revocation or suspension, the C. The three-judge circuit court hearing the case may dismiss the case or impose any other sanction authorized by Part Six, Section IV, Paragraph 13 of the Rules of Supreme Court of Virginia. In any case in which the attorney is found guilty of~~

~~engaging to have engaged~~ in any criminal activity that violates the Virginia Rules of Professional Conduct and results in the loss of property of one or more of the attorney's clients, the *three-judge circuit* court shall also require, in instances where the attorney is allowed to retain his license, or is permitted to have his license reinstated or restored, that such attorney maintain professional malpractice insurance during the time for which he is licensed to practice law in the Commonwealth. The Virginia State Bar shall establish standards setting forth the minimum amount of coverage that the attorney shall maintain in order to meet the requirements of this subsection. ~~The~~ *Before resuming the practice of law in the Commonwealth, the attorney shall certify to the Virginia State Bar that he has the required insurance and shall provide the name of the insurance carrier and the policy number.*

~~E. D.~~ The attorney, may, as of right, appeal from the judgment of the *three-judge circuit* court to the Supreme Court pursuant to the procedure for filing an appeal from a trial court, as set forth in Part 5 of the Rules of *Supreme Court of Virginia*. In any such appeal, the Supreme Court may, upon petition of the attorney, stay the effect of an order of *revocation or suspension* during the pendency of the appeal. Any ~~order of reprimand~~ *other sanction imposed by a three-judge circuit court* shall be automatically stayed prior to or during the pendency of ~~an~~ *the* appeal ~~therefrom~~. ~~No stay shall be granted in cases where the attorney's license to practice law has been revoked.~~

~~F. In any proceeding to revoke the license of an attorney, the attorney shall be entitled to representation by counsel.~~

~~G. E.~~ Nothing in this section shall affect the right of a court to require from an attorney security for ~~his~~ good behavior, or to fine ~~him~~ *the attorney* for contempt of court.

## CHAPTER 41

*An Act to amend and reenact § 18.2-191 of the Code of Virginia, relating to the definition of sales draft; credit card offenses; penalty.*

[H 1493]

Approved February 17, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 18.2-191 of the Code of Virginia is amended and reenacted as follows:**

### **§ 18.2-191. Definitions.**

The following words and phrases as used in this article, unless a different meaning is plainly required by the context, shall have the following meanings:

"Acquirer" means a business organization, financial institution or an agent of a business organization or financial institution that authorizes a merchant to accept payment by credit card or credit card number for money, goods, services or anything else of value.

"Cardholder" means the person or organization named on the face of a credit card to whom or for whose benefit the credit card is issued by an issuer.

"Credit card" means any instrument or device, whether known as a credit card, credit plate, payment device number, or by any other name, issued with or without fee by an issuer for the use of the cardholder in obtaining money, goods, services or anything else of value on credit. For the purpose of this article, "credit card" shall also include a similar device, whether known as a debit card, or any other name, issued with or without fee by an issuer for the use of the cardholder in obtaining money, goods, services or anything else of value by charging the account of the cardholder with a bank or any other person even though no credit is thereby extended.

"Expired credit card" means a credit card which is no longer valid because the term shown on it has elapsed.

"Issuer" means the business organization or financial institution or its duly authorized agent which issues a credit card.

"Payment device number" means any code, account number or other means of account access, other than a check, draft or similar paper instrument, that can be used to obtain money, goods, services or anything else of value, or to initiate a transfer of funds. "Payment device number" does not include an encoded or truncated credit card number or payment device number.

"Receives" or "receiving" means acquiring possession or control of the credit card number or payment device number or accepting the same as security for a loan.

"Revoked credit card" means a credit card which is no longer valid because permission to use it has been suspended or terminated by the issuer.

"Sales draft" means a paper *or electronic* form evidencing a purchase of goods, services or anything else of value from a merchant through the use of a credit card.

"Cash advance/withdrawal draft" means a paper form evidencing a cash advance or withdrawal from a bank or other financial institution through the use of a credit card.

**2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is \$0 for periods of imprisonment in state adult correctional facilities and is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.**

## CHAPTER 42

*An Act to amend and reenact §§ 58.1-3303, 58.1-3360.1, 58.1-3361, and 64.2-510 of the Code of Virginia, relating to electronic transfer of certain documents from circuit court clerks.*

[H 1515]

Approved February 17, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 58.1-3303, 58.1-3360.1, 58.1-3361, and 64.2-510 of the Code of Virginia are amended and reenacted as follows:**

**§ 58.1-3303. Clerks to forward copies of certain receipts and make certain reports regarding deeds and property transfers to local commissioners and Department.**

The clerk of every circuit court shall, before the fifteenth of each month, forward to the commissioner of revenue for his county or city and to the Department a copy of the recordation receipt for all deeds for the partition and conveyance of land, other than deeds of trust and mortgages, made to secure the payment of debts, which have been admitted to record in the clerk's office of such court within the month next preceding. In lieu of a printed paper copy of the recordation receipt, the Department shall accept the monthly electronic transfer of the recordation receipt copy on magnetic tape or other media acceptable to the Department. The receipt shall state the date of the deed, when admitted to record, the name of the grantor and grantee, the address of the grantee, given pursuant to § 17.1-223, and the description, quantity and specified value of land conveyed. Such clerk shall, at the same time, forward to the commissioner and the Department a list of all lands acquired in fee simple by the Commonwealth, through condemnation proceedings, and shall give the names of the persons from whom acquired, the dates of confirmation of the commissioners' reports in such proceedings, the quantity of land acquired in each case, the value thereof as specified in the reports and a description of each such tract. *In lieu of a printed paper copy of such list, the clerk may provide an electronic list or secure remote electronic access to such list to the commissioner for his county or city and to the Department.*

The commissioner shall, upon receipt of any such receipt, promptly and carefully check the same against the records in the office of the clerk who furnished the same and, if he finds any errors in the receipt or list, he shall make proper correction thereof.

**§ 58.1-3360.1. Clerk to furnish certificate of land acquired; contents of certificate; certificate as authority to receive and prorate taxes.**

The clerk of the court of the county or city in which is recorded the transfer of title to such property shall furnish a certificate to the county or city treasurer showing the quantity of land so taken or acquired, and whether by the Commonwealth or any political subdivision thereof; a church or religious body that is exempt from taxation by Article X, Section 6 of the Constitution of Virginia; a surviving spouse of a member of the armed forces of the United States who was killed in action for that portion of the property that is exempt from taxation pursuant to § 58.1-3219.9; or a disabled veteran for that portion of the property that is exempt from taxation pursuant to § 58.1-3219.5, the name of the former owner and a description of the property and the district or ward in which the property is situated, also the date of the recordation of the deed or order by which such property was taken or acquired by the Commonwealth or any political subdivision thereof or any such church or religious body, as shown by the records in his office. Such certificate shall be sufficient evidence to the county and city treasurers to authorize them to receive and prorate the taxes and levies as herein authorized. *In lieu of a printed paper copy of such certificate, the clerk may provide an electronic certificate or secure remote electronic access to such certificate to his county or city treasurer.*

**§ 58.1-3361. Clerk to furnish lists of such lands.**

The clerk of the court of the county or city in which the lands described in § 58.1-3360 lie shall furnish a certificate to the Comptroller and to the county or city treasurer, showing the quantity of land taken or acquired by the government or religious body, the name of the former owner and a description of the date of the recordation of the deed by which such lands were so taken or acquired as shown by the records in his office. Such certificate shall be sufficient evidence to county and city treasurers and city collectors to authorize them to receive and prorate the taxes and levies as herein authorized. *In lieu of a printed paper copy of such certificate, the clerk may provide an electronic certificate or secure remote electronic access to such certificate to the Comptroller and his county or city treasurer.*

**§ 64.2-510. Affidavit relating to real estate of intestate decedent.**

A. Any person having an interest in real estate that is part of an intestate decedent's estate, including a personal representative who has qualified, may execute an affidavit, on a form provided to each clerk of the court by the Office of the Executive Secretary of the Supreme Court or a computer-generated facsimile thereof, setting forth briefly (i) a description of the real estate owned by the decedent at the time of his death situated within the jurisdiction where the affidavit is to be recorded; (ii) that the decedent died intestate; and (iii) the names and last known addresses of the decedent's heirs at law. The clerk of the circuit court of the jurisdiction where such real estate or any part thereof is located shall record and index the affidavit as wills are recorded and indexed in the name of the decedent and the heirs.

B. The clerk of the circuit court of the jurisdiction where the affidavit is recorded shall transmit an abstract of the affidavit to the commissioner of the revenue of such jurisdiction. *In lieu of a printed paper copy of such abstract, the clerk may provide*

*an electronic abstract or secure remote electronic access to such abstract to the commissioner. Upon receipt of the affidavit, the commissioner may transfer the real estate upon the land books and assess the real estate in accordance therewith.*

### CHAPTER 43

*An Act to amend and reenact § 64.2-520 of the Code of Virginia and to amend the Code of Virginia by adding in Article 3 of Chapter 5 of Title 64.2 a section numbered 64.2-520.1, relating to legal malpractice; estate planning.*

[H 1617]

Approved February 17, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 64.2-520 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Article 3 of Chapter 5 of Title 64.2 a section numbered 64.2-520.1 as follows:**

**§ 64.2-520. Action for goods carried away, or for waste, destruction of, or damage to estate of decedent.**

A. Any action for damages for the taking or carrying away of any goods, or for the waste, destruction of, or damage to any estate of or by the decedent, whether such damage be direct or indirect, may be maintained by or against the decedent's personal representative.

~~B. An action for damages, including future tax liability, to the grantor, his estate or his trust, resulting from legal malpractice concerning an irrevocable trust shall accrue upon completion of the representation in which the malpractice occurred. The action may be maintained pursuant to § 8.01-281 by the grantor or by the grantor's personal representative or the trustee if such damages are incurred after the grantor's death. An action for damages pursuant to this section in which a written contract for legal services existed between the grantor and the defendant shall be brought within five years after the cause of action accrues. An action for damages pursuant to this section in which an unwritten contract for legal services existed between the grantor and the defendant shall be brought within three years after the cause of action accrues. Notwithstanding this section, no such action shall be based upon damages that may reasonably be avoided or that result from a change of law subsequent to the representation upon which the action is based.~~

~~C. Any action pursuant to this section shall survive pursuant to § 8.01-25.~~

**§ 64.2-520.1. Action for damages from legal malpractice concerning estate planning.**

A. An action for damages to an individual or an individual's estate, including future tax liability, resulting from legal malpractice concerning the individual's estate planning, including the provision of legal advice or the preparation of legal documents, regardless of when executed, shall accrue upon completion of the representation during which the malpractice occurred.

B. Notwithstanding § 55-22, but subject to any written agreement between the individual and the defendant that expressly grants standing to a person who is not a party to the representation by specific reference to this subsection, the action may be maintained only by the individual or by the individual's personal representative.

C. An action for damages pursuant to this section in which a written contract for legal services existed between the individual and the defendant shall be brought within five years after the cause of action accrues as provided in this section. An action for damages pursuant to this section in which an unwritten contract for legal services existed between the individual and the defendant shall be brought within three years after the cause of action accrues as provided in this section.

D. Notwithstanding the provisions of this section, no such action shall be based upon damages that may reasonably be avoided or that result from a change of law subsequent to the representation upon which the action is based.

E. Any action pursuant to this section shall survive pursuant to § 8.01-25.

**2. That no provision of this act shall affect any suit, action, or other judicial proceeding commenced prior to July 1, 2017, and such proceeding shall proceed under the law applicable at the time the proceeding was commenced.**

**3. That if a cause of action for legal malpractice covered by this act accrued prior to July 1, 2017, and is barred because of the provisions of this act as of July 1, 2017, such cause of action shall be commenced on or before the earlier of either July 1, 2018, or the expiration of the applicable limitation period under the law in effect prior to the enactment of this act.**

### CHAPTER 44

*An Act to amend the Code of Virginia by adding a section numbered 8.01-417.01, relating to disclosure of homeowners insurance or personal injury liability insurance policy limits; personal injury and wrongful death actions.*

[H 1641]

Approved February 17, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding a section numbered 8.01-417.01 as follows:**

**§ 8.01-417.01. Disclosure of certain homeowners insurance and personal injury liability insurance policy limits.**

A. After written notice of representation by an attorney of an individual injured at the residence of another, such attorney, or an individual injured at the residence of another if such individual is not represented by counsel, may, prior to the filing of a civil action for personal injuries sustained at the residence of another, request in writing that the insurer of the residence disclose the limits of liability of any homeowners insurance policy or any personal injury liability insurance policy that may be applicable to the claim. The requesting party shall provide the insurer with the date the injury was sustained; the address of the residence at which the injury was sustained; the name of the owner of the residence; and the claim number, if available. The requesting party shall also submit to the insurer the injured person's medical records, medical bills, and wage-loss documentation, if applicable, pertaining to the claimed injury. If the total of the medical bills and wage losses submitted equals or exceeds \$12,500, the insurer shall respond in writing within 30 days of receipt of the request and shall disclose the limits of liability at the time the injury was sustained of all such policies, regardless of whether the insurer contests the applicability of the policy to the injured person's claim. Disclosure of the policy limits under this section shall not constitute an admission that the alleged injury or damage is subject to the policy. Information concerning the insurance policy is not by reason of disclosure pursuant to this subsection admissible as evidence at trial.

B. After written notice of representation by an attorney of the personal representative of the estate of a decedent who died as a result of an injury sustained at the residence of another, such attorney, or the personal representative of the estate of a decedent who died as a result of an injury sustained at the residence of another if such personal representative is not represented by counsel, may, prior to the filing of a civil action for wrongful death as a result of an injury sustained at the residence of another, request in writing that the insurer of the residence disclose the limits of liability of any homeowners insurance policy or any personal injury liability insurance policy that may be applicable to the claim. The requesting party shall provide the insurer with the date the injury was sustained; the address of the residence at which the injury was sustained; the name of the owner of the residence; and the claim number, if available. The requesting party shall also submit to the insurer the death certificate of the decedent; the certificate of qualification of the personal representative of the decedent's estate; the names and relationships of the statutory beneficiaries of the decedent; medical bills, if any, supporting a claim for damages under subdivision 3 of § 8.01-52; and, if at the time the request is made a claim for damages under clause (i) of subdivision 2 of § 8.01-52 is anticipated, a description of the source, amount, and payment history of the claimed income loss for each beneficiary. The insurer shall respond in writing within 30 days of receipt of the request and shall disclose the limits of liability at the time the injury was sustained of all such policies, regardless of whether the insurer contests the applicability of the policy to the personal representative's claim. Disclosure of the policy limits under this section shall not constitute an admission that the alleged death or other damage is subject to the policy. Information concerning the insurance policy is not by reason of disclosure pursuant to this subsection admissible as evidence at trial.

C. As used in subsections A and B, "insurer" does not include the insurance agency or the insurance agent representing the homeowner as the authorized representative or agent with respect to any homeowners insurance policy or any personal injury liability insurance policy.

## CHAPTER 45

An Act to amend and reenact § 19.2-299 of the Code of Virginia, relating to presentence report; waiver by defendant.

[H 1647]

Approved February 17, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 19.2-299 of the Code of Virginia is amended and reenacted as follows:**

**§ 19.2-299. Investigations and reports by probation officers in certain cases.**

A. When a person is tried in a circuit court (i) upon a charge of assault and battery in violation of § 18.2-57 or 18.2-57.2, stalking in violation of § 18.2-60.3, sexual battery in violation of § 18.2-67.4, attempted sexual battery in violation of § 18.2-67.5, or driving while intoxicated in violation of § 18.2-266, and is adjudged guilty of such charge, unless waived by the court and the defendant and the attorney for the Commonwealth, the court may, or on motion of the defendant shall; or (ii) upon a felony charge not set forth in subdivision (iii) below, the court may when there is a plea agreement between the defendant and the Commonwealth and shall, *unless waived by the defendant and the attorney for the Commonwealth*, when the defendant pleads guilty or *nolo contendere* without a plea agreement or is found guilty by the court after a plea of not guilty or *nolo contendere*; or (iii) the court shall when a person is charged and adjudged guilty of a felony violation, or conspiracy to commit or attempt to commit a felony violation, of § 18.2-46.2, 18.2-46.3, 18.2-48, clause (2) or (3) of § 18.2-49, § 18.2-61, 18.2-63, 18.2-64.1, 18.2-64.2, 18.2-67.1, 18.2-67.2, 18.2-67.3, 18.2-67.4:1, 18.2-67.5, 18.2-67.5:1, 18.2-355, 18.2-356, 18.2-357, 18.2-361, 18.2-362, 18.2-366, 18.2-368, 18.2-370, 18.2-370.1, or 18.2-370.2, or any attempt to commit or conspiracy to commit any felony violation of § 18.2-67.5, 18.2-67.5:2, or 18.2-67.5:3, direct a probation officer of such court to thoroughly investigate and report upon the history of the accused, including a report of the accused's criminal record as an adult and available juvenile court records, any information regarding the accused's participation or membership in a criminal street gang as defined in § 18.2-46.1, and all other relevant facts, to fully advise the court so the court may determine the appropriate sentence to be imposed. Unless the defendant or the attorney for the Commonwealth objects, the court may order that the report contain no more than the defendant's criminal history, any history of substance abuse, any physical or health-related problems as may be pertinent, and any applicable sentencing

guideline worksheets. This expedited report shall be subject to all the same procedures as all other sentencing reports and sentencing guidelines worksheets. The probation officer, after having furnished a copy of this report at least five days prior to sentencing to counsel for the accused and the attorney for the Commonwealth for their permanent use, shall submit his report in advance of the sentencing hearing to the judge in chambers, who shall keep such report confidential. Counsel for the accused may provide the accused with a copy of the presentence report. The probation officer shall be available to testify from this report in open court in the presence of the accused, who shall have been provided with a copy of the presentence report by his counsel or advised of its contents and be given the right to cross-examine the investigating officer as to any matter contained therein and to present any additional facts bearing upon the matter. The report of the investigating officer shall at all times be kept confidential by each recipient, and shall be filed as a part of the record in the case. Any report so filed shall be made available only by court order and shall be sealed upon final order by the court, except that such reports or copies thereof shall be available at any time to any criminal justice agency, as defined in § 9.1-101, of this or any other state or of the United States; to any agency where the accused is referred for treatment by the court or by probation and parole services; and to counsel for any person who has been indicted jointly for the same felony as the person subject to the report. Subject to the limitations set forth in § 37.2-901, any report prepared pursuant to the provisions hereof shall without court order be made available to counsel for the person who is the subject of the report if that person (i) is charged with a felony subsequent to the time of the preparation of the report or (ii) has been convicted of the crime or crimes for which the report was prepared and is pursuing a post-conviction remedy. The presentence report shall be in a form prescribed by the Department of Corrections. In all cases where such report is not ordered, a simplified report shall be prepared on a form prescribed by the Department of Corrections. For the purposes of this subsection, information regarding the accused's participation or membership in a criminal street gang may include the characteristics, specific rivalries, common practices, social customs and behavior, terminology, and types of crimes that are likely to be committed by that criminal street gang.

B. As a part of any presentence investigation conducted pursuant to subsection A when the offense for which the defendant was convicted was a felony, the court probation officer shall advise any victim of such offense in writing that he may submit to the Virginia Parole Board a written request (i) to be given the opportunity to submit to the Board a written statement in advance of any parole hearing describing the impact of the offense upon him and his opinion regarding the defendant's release and (ii) to receive copies of such other notifications pertaining to the defendant as the Board may provide pursuant to subsection B of § 53.1-155.

C. As part of any presentence investigation conducted pursuant to subsection A when the offense for which the defendant was convicted was a felony drug offense set forth in Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, the presentence report shall include any known association of the defendant with illicit drug operations or markets.

D. As a part of any presentence investigation conducted pursuant to subsection A, when the offense for which the defendant was convicted was a felony, not a capital offense, committed on or after January 1, 2000, the defendant shall be required to undergo a substance abuse screening pursuant to § 18.2-251.01.

## CHAPTER 46

*An Act to amend and reenact §§ 16.1-278.15 and 20-124.2 of the Code of Virginia, relating to custody and visitation orders; parenting time.*

[H 1456]

Approved February 17, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 16.1-278.15 and 20-124.2 of the Code of Virginia are amended and reenacted as follows:**

**§ 16.1-278.15. Custody or visitation, child or spousal support generally.**

A. In cases involving the custody, visitation or support of a child pursuant to subdivision A 3 of § 16.1-241, the court may make any order of disposition to protect the welfare of the child and family as may be made by the circuit court. The parties to any petition where a child whose custody, visitation, or support is contested shall show proof that they have attended within the 12 months prior to their court appearance or that they shall attend within 45 days thereafter an educational seminar or other like program conducted by a qualified person or organization approved by the court. The court may require the parties to attend such seminar or program in uncontested cases only if the court finds good cause. The seminar or other program shall be a minimum of four hours in length and shall address the effects of separation or divorce on children, parenting responsibilities, options for conflict resolution and financial responsibilities. Once a party has completed one educational seminar or other like program, the required completion of additional programs shall be at the court's discretion. Parties under this section shall include natural or adoptive parents of the child, or any person with a legitimate interest as defined in § 20-124.1. The fee charged a party for participation in such program shall be based on the party's ability to pay; however, no fee in excess of \$50 may be charged. Whenever possible, before participating in mediation or alternative dispute resolution to address custody, visitation or support, each party shall have attended the educational seminar or other like program. The court may grant an exemption from attendance of such program for good cause shown or if there is no program reasonably available. Other than statements or admissions by a party admitting criminal activity or child abuse or neglect, no statement or admission by a party in such seminar or program shall be admissible into evidence in any subsequent proceeding. If support is ordered for a child, the order shall also provide that

support will continue to be paid for a child over the age of 18 who is (i) a full-time high school student, (ii) not self-supporting, and (iii) living in the home of the parent seeking or receiving child support, until the child reaches the age of 19 or graduates from high school, whichever occurs first. The court may also order that support be paid or continue to be paid for any child over the age of 18 who is (a) severely and permanently mentally or physically disabled, and such disability existed prior to the child reaching the age of 18 or the age of 19 if the child met the requirements of clauses (i), (ii), and (iii); (b) unable to live independently and support himself; and (c) residing in the home of the parent seeking or receiving child support.

B. In any case involving the custody or visitation of a child, the court may award custody upon petition to any party with a legitimate interest therein, including, but not limited to, grandparents, stepparents, former stepparents, blood relatives and family members. The term "legitimate interest" shall be broadly construed to accommodate the best interest of the child. The authority of the juvenile court to consider a petition involving the custody of a child shall not be proscribed or limited where the custody of the child has previously been awarded to a local board of social services.

C. In any determination of support obligation under this section, the support obligation as it becomes due and unpaid creates a judgment by operation of law. Such judgment becomes a lien against real estate only when docketed in the county or city where such real estate is located. Nothing herein shall be construed to alter or amend the process of attachment of any lien on personal property.

D. Orders entered prior to July 1, 2008, shall not be deemed void or voidable solely because the petition or motion that resulted in the order was completed, signed and filed by a nonattorney employee of the Department of Social Services.

E. In cases involving charges for desertion, abandonment or failure to provide support by any person in violation of law, disposition shall be made in accordance with Chapter 5 (§ 20-61 et seq.) of Title 20.

F. In cases involving a spouse who seeks spousal support after having separated from his spouse, the court may enter any appropriate order to protect the welfare of the spouse seeking support.

G. In any case or proceeding involving the custody or visitation of a child, the court shall consider the best interest of the child, including the considerations for determining custody and visitation set forth in Chapter 6.1 (§ 20-124.1 et seq.) of Title 20.

*G1. In any case or proceeding involving the custody or visitation of a child, as to a parent, the court may, in its discretion, use the phrase "parenting time" to be synonymous with the term "visitation."*

H. In any proceeding before the court for custody or visitation of a child, the court may order a custody or a psychological evaluation of any parent, guardian, legal custodian or person standing in loco parentis to the child, if the court finds such evaluation would assist it in its determination. The court may enter such orders as it deems appropriate for the payment of the costs of the evaluation by the parties.

I. When deemed appropriate by the court in any custody or visitation matter, the court may order drug testing of any parent, guardian, legal custodian or person standing in loco parentis to the child. The court may enter such orders as it deems appropriate for the payment of the costs of the testing by the parties.

#### **§ 20-124.2. Court-ordered custody and visitation arrangements.**

A. In any case in which custody or visitation of minor children is at issue, whether in a circuit or district court, the court shall provide prompt adjudication, upon due consideration of all the facts, of custody and visitation arrangements, including support and maintenance for the children, prior to other considerations arising in the matter. The court may enter an order pending the suit as provided in § 20-103. The procedures for determining custody and visitation arrangements shall insofar as practical, and consistent with the ends of justice, preserve the dignity and resources of family members. Mediation shall be used as an alternative to litigation where appropriate. When mediation is used in custody and visitation matters, the goals may include development of a proposal addressing the child's residential schedule and care arrangements, and how disputes between the parents will be handled in the future.

B. In determining custody, the court shall give primary consideration to the best interests of the child. The court shall assure minor children of frequent and continuing contact with both parents, when appropriate, and encourage parents to share in the responsibilities of rearing their children. As between the parents, there shall be no presumption or inference of law in favor of either. The court shall give due regard to the primacy of the parent-child relationship but may upon a showing by clear and convincing evidence that the best interest of the child would be served thereby award custody or visitation to any other person with a legitimate interest. The court may award joint custody or sole custody.

*B1. In any case or proceeding involving the custody or visitation of a child, as to a parent, the court may, in its discretion, use the phrase "parenting time" to be synonymous with the term "visitation."*

C. The court may order that support be paid for any child of the parties. The court shall also order that support will continue to be paid for any child over the age of 18 who is (i) a full-time high school student, (ii) not self-supporting, and (iii) living in the home of the party seeking or receiving child support until such child reaches the age of 19 or graduates from high school, whichever first occurs. The court may also order that support be paid or continue to be paid for any child over the age of 18 who is (a) severely and permanently mentally or physically disabled, and such disability existed prior to the child reaching the age of 18 or the age of 19 if the child met the requirements of clauses (i), (ii), and (iii); (b) unable to live independently and support himself; and (c) residing in the home of the parent seeking or receiving child support. In addition, the court may confirm a stipulation or agreement of the parties which extends a support obligation beyond when it would otherwise terminate as provided by law. The court shall have no authority to decree support of children payable by the estate

of a deceased party. The court may make such further decree as it shall deem expedient concerning support of the minor children, including an order that either party or both parties provide health care coverage or cash medical support, or both.

D. In any case in which custody or visitation of minor children is at issue, whether in a circuit or district court, the court may order an independent mental health or psychological evaluation to assist the court in its determination of the best interests of the child. The court may enter such order as it deems appropriate for the payment of the costs of the evaluation by the parties.

E. The court shall have the continuing authority and jurisdiction to make any additional orders necessary to effectuate and enforce any order entered pursuant to this section or § 20-103 including the authority to punish as contempt of court any willful failure of a party to comply with the provisions of the order. A parent or other person having legal custody of a child may petition the court to enjoin and the court may enter an order to enjoin a parent of the child from filing a petition relating to custody and visitation of that child for any period of time up to 10 years if doing so is in the best interests of the child and such parent has been convicted of an offense under the laws of the Commonwealth or a substantially similar law of another state, the United States, or any foreign jurisdiction which constitutes (i) murder or voluntary manslaughter, or a felony attempt, conspiracy or solicitation to commit any such offense, if the victim of the offense was a child of the parent, a child with whom the parent resided at the time the offense occurred, or the other parent of the child, or (ii) felony assault resulting in serious bodily injury, felony bodily wounding resulting in serious bodily injury, or felony sexual assault, if the victim of the offense was a child of the parent or a child with whom the parent resided at the time of the offense. When such a petition to enjoin the filing of a petition for custody and visitation is filed, the court shall appoint a guardian ad litem for the child pursuant to § 16.1-266.

## CHAPTER 47

*An Act to amend and reenact § 18.2-308.04 of the Code of Virginia, relating to concealed handgun permit; permit requirements.*

[H 1849]

Approved February 17, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 18.2-308.04 of the Code of Virginia is amended and reenacted as follows:**

**§ 18.2-308.04. Processing of the application and issuance of a concealed handgun permit.**

A. The clerk of court shall enter on the application the date on which the application and all other information required to be submitted by the applicant is received.

B. Upon receipt of the completed application, the court shall consult with either the sheriff or police department of the county or city and receive a report from the Central Criminal Records Exchange.

C. The court shall issue the permit via United States mail and notify the State Police of the issuance of the permit within 45 days of receipt of the completed application unless it is determined that the applicant is disqualified. Any order denying issuance of the permit shall be in accordance with § 18.2-308.08. If the applicant is later found by the court to be disqualified after a five-year permit has been issued, the permit shall be revoked.

D. A court may authorize the clerk to issue concealed handgun permits, without judicial review, to applicants who have submitted complete applications, for whom the criminal history records check does not indicate a disqualification and, after consulting with either the sheriff or police department of the county or city, about which application there are no outstanding questions or issues. The court clerk shall be immune from suit arising from any acts or omissions relating to the issuance of concealed handgun permits without judicial review pursuant to this section unless the clerk was grossly negligent or engaged in willful misconduct. This section shall not be construed to limit, withdraw, or overturn any defense or immunity already existing in statutory or common law, or to affect any cause of action accruing prior to July 1, 2010.

E. The permit to carry a concealed handgun shall specify only the following information: name, address, date of birth, gender, height, weight, color of hair, color of eyes, and signature of the permittee; the signature of the judge issuing the permit, of the clerk of court who has been authorized to sign such permits by the issuing judge, or of the clerk of court who has been authorized to issue such permits pursuant to subsection D; the date of issuance; and the expiration date. The permit to carry a concealed handgun shall be ~~no larger than two inches wide by three and one-fourth inches long~~ of a size comparable to a Virginia driver's license, may be laminated or use a similar process to protect the permit, and shall otherwise be of a uniform style prescribed by the Department of State Police.

## CHAPTER 48

*An Act to amend and reenact § 58.1-609.1 of the Code of Virginia, relating to sales and use tax exemption; legal tender coins.*

[H 1668]

Approved February 20, 2017

**Be it enacted by the General Assembly of Virginia:****1. That § 58.1-609.1 of the Code of Virginia is amended and reenacted as follows:****§ 58.1-609.1. Governmental and commodities exemptions.**

The tax imposed by this chapter or pursuant to the authority granted in §§ 58.1-605 and 58.1-606 shall not apply to the following:

1. Fuels which are subject to the tax imposed by Chapter 22 (§ 58.1-2200 et seq.). Persons who are refunded any such fuel tax shall, however, be subject to the tax imposed by this chapter, unless such taxes would be specifically exempted pursuant to any provision of this section.

2. Motor vehicles, trailers, semitrailers, mobile homes and travel trailers.

3. Gas, electricity, or water when delivered to consumers through mains, lines, or pipes.

4. Tangible personal property for use or consumption by the Commonwealth, any political subdivision of the Commonwealth, or the United States. This exclusion shall not apply to sales and leases to privately owned financial and other privately owned corporations chartered by the United States. Further, this exemption shall not apply to tangible personal property which is acquired by the Commonwealth or any of its political subdivisions and then transferred to private businesses for their use in a facility or real property improvement to be used by a private entity or for nongovernmental purposes other than tangible personal property acquired by the Herbert H. Bateman Advanced Shipbuilding and Carrier Integration Center and transferred to a Qualified Shipbuilder as defined in the third enactment of Chapter 790 of the 1998 Acts of the General Assembly.

5. Aircraft subject to tax under Chapter 15 (§ 58.1-1500 et seq.).

6. a. Motor fuels and alternative fuels for use in a commercial watercraft, as defined in § 58.1-2201, upon which a fuel tax is refunded pursuant to § 58.1-2259.

b. Fuels transactions upon which a fuel tax is refunded pursuant to subdivision A 22 of § 58.1-2259.

7. Sales by a government agency of the official flags of the United States, the Commonwealth of Virginia, or of any county, city or town.

8. Materials furnished by the State Board of Elections pursuant to §§ 24.2-404 through 24.2-407.

9. Watercraft as defined in § 58.1-1401.

10. Tangible personal property used in and about a marine terminal under the supervision of the Virginia Port Authority for handling cargo, merchandise, freight and equipment. This exemption shall apply to agents, lessees, sublessees or users of tangible personal property owned by or leased to the Virginia Port Authority and to property acquired or used by the Authority or by a nonstock, nonprofit corporation that operates a marine terminal or terminals on behalf of the Authority.

11. Sales by prisoners confined in state correctional facilities of artistic products personally made by the prisoners as authorized by § 53.1-46.

12. Tangible personal property for use or consumption by the Virginia Department for the Blind and Vision Impaired or any nominee, as defined in § 51.5-60, of such Department.

13. [Expired.]

14. Tangible personal property sold to residents and patients of the Virginia Veterans Care Center at a canteen operated by the Department of Veterans Services.

15. Tangible personal property for use or consumption by any nonprofit organization whose members include the Commonwealth and other states and which is organized for the purpose of fostering interstate cooperation and excellence in government.

16. Tangible personal property purchased for use or consumption by any soil and conservation district which is organized in accordance with the provisions of Article 3 (§ 10.1-506 et seq.) of Chapter 5 of Title 10.1.

17. Tangible personal property sold or leased to Alexandria Transit Company, Greater Lynchburg Transit Company, GRTC Transit System, or Greater Roanoke Transit Company, or to any other transit company that is owned, operated, or controlled by any county, city, or town, or any combination thereof, that provides public transportation services, and/or tangible personal property sold or leased to any county, city, or town, or any combination thereof, that is transferred to any of the companies set forth in this subdivision owned, operated, or controlled by any county, city, or town, or any combination thereof, that provides public transportation services.

18. (Effective until July 1, 2017) Qualified products designated as Energy Star or WaterSense with a sales price of \$2,500 or less per product purchased for noncommercial home or personal use. The exemption provided by this subdivision shall apply only to sales occurring during the three-day period that begins each year on the first Friday in August and ends at 11:59 p.m. on the following Sunday.

For the purposes of this exemption, an Energy Star qualified product is any dishwasher, clothes washer, air conditioner, ceiling fan, light bulb, dehumidifier, programmable thermostat, or refrigerator, the energy efficiency of which has been designated by the United States Environmental Protection Agency and the United States Department of Energy as meeting or exceeding each such agency's requirements under the Energy Star program. For the purposes of this exemption, WaterSense qualified products are those that have been recognized as being water efficient by the WaterSense program sponsored by the U.S. Environmental Protection Agency as indicated by a WaterSense label.

19. ~~On or after July 1, 2015, but before January 1, 2019~~ *Effective through June 30, 2022*, gold, silver, or platinum bullion or legal tender coins whose sales price exceeds \$1,000. Each piece of gold, silver, or platinum or legal tender coin need not exceed \$1,000, provided that the sales price of one entire transaction of such pieces exceeds \$1,000. "Gold, silver,

or platinum bullion" means gold, silver, or platinum, and any combination thereof, that has gone through a refining process and is in a state or condition such that its value depends on its mass and purity and not on its form, numismatic value, or other value. Gold, silver, or platinum bullion may contain other metals or substances, provided that the other substances by themselves have minimal value compared with the value of the gold, silver, or platinum. "Legal tender coins" means coins of any metal content issued by a government as a medium of exchange or payment of debts. "Gold, silver, or platinum bullion" does and "legal tender coins" do not include jewelry or works of art.

20. Tangible personal property sold by a sheriff at a correctional facility pursuant to § 53.1-127.1 and sales of prepared food within such correctional facility.

**2. That the provisions of this act shall become effective on January 1, 2018.**

**CHAPTER 49**

*An Act to amend the Code of Virginia by adding a section numbered 58.1-623.01, relating to sales and use tax; online access to dealers' certificate of registration numbers.*

[H 1810]

Approved February 20, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding a section numbered 58.1-623.01 as follows:**

**§ 58.1-623.01. Online access to dealers' certificate of registration numbers.**

*The Department shall provide online access by registered dealers to the names and certificate of registration numbers of dealers who are currently registered for the retail sales and use tax.*

**CHAPTER 50**

*An Act to require the Department of Taxation to promulgate regulations that clarify the methodology for determining deductible gross receipts attributable to business conducted in another state or a foreign country.*

[H 1961]

Approved February 20, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. § 1.** *The Department of Taxation shall promulgate regulations that clarify its interpretation of subdivision B 2 of § 58.1-3732 of the Code of Virginia regarding the methodology for determining deductible gross receipts attributable to business conducted in another state or a foreign country. The regulations shall be based on previous Rulings of the Tax Commissioner regarding subdivision B 2 of § 58.1-3732 and the decision of the Supreme Court of Virginia in The Nielsen Company, LLC v. County Board of Arlington County, 289 Va. 79 (2015).*

**CHAPTER 51**

*An Act to amend and reenact § 58.1-612 of the Code of Virginia, relating to sales and use tax; nexus to require certain businesses to collect and remit sales and use tax.*

[H 2058]

Approved February 20, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 58.1-612 of the Code of Virginia is amended and reenacted as follows:**

**§ 58.1-612. Tax collectible from dealers; "dealer" defined; jurisdiction.**

A. The tax levied by §§ 58.1-603 and 58.1-604 shall be collectible from all persons who are dealers, as hereinafter defined, and who have sufficient contact with the Commonwealth to qualify under subsections (i) B and C or (ii) B and D.

B. The term "dealer," as used in this chapter, shall include every person who:

1. Manufactures or produces tangible personal property for sale at retail, for use, consumption, or distribution, or for storage to be used or consumed in this Commonwealth;

2. Imports or causes to be imported into this Commonwealth tangible personal property from any state or foreign country, for sale at retail, for use, consumption, or distribution, or for storage to be used or consumed in this Commonwealth;

3. Sells at retail, or who offers for sale at retail, or who has in his possession for sale at retail, or for use, consumption, or distribution, or for storage to be used or consumed in this Commonwealth, tangible personal property;

4. Has sold at retail, used, consumed, distributed, or stored for use or consumption in this Commonwealth, tangible personal property and who cannot prove that the tax levied by this chapter has been paid on the sale at retail, the use, consumption, distribution, or storage of such tangible personal property;

5. Leases or rents tangible personal property for a consideration, permitting the use or possession of such property without transferring title thereto;

6. Is the lessee or rentee of tangible personal property and who pays to the owner of such property a consideration for the use or possession of such property without acquiring title thereto;

7. As a representative, agent, or solicitor, of an out-of-state principal, solicits, receives and accepts orders from persons in this Commonwealth for future delivery and whose principal refuses to register as a dealer under § 58.1-613; or

8. Becomes liable to and owes this Commonwealth any amount of tax imposed by this chapter, whether he holds, or is required to hold, a certificate of registration under § 58.1-613.

C. A dealer shall be deemed to have sufficient activity within the Commonwealth to require registration under § 58.1-613 if he:

1. Maintains or has within this Commonwealth, directly or through an agent or subsidiary, an office, warehouse, or place of business of any nature;

2. Solicits business in this Commonwealth by employees, independent contractors, agents or other representatives;

3. Advertises in newspapers or other periodicals printed and published within this Commonwealth, on billboards or posters located in this Commonwealth, or through materials distributed in this Commonwealth by means other than the United States mail;

4. Makes regular deliveries of tangible personal property within this Commonwealth by means other than common carrier. A person shall be deemed to be making regular deliveries hereunder if vehicles other than those operated by a common carrier enter this Commonwealth more than 12 times during a calendar year to deliver goods sold by him;

5. Solicits business in this Commonwealth on a continuous, regular, seasonal, or systematic basis by means of advertising that is broadcast or relayed from a transmitter within this Commonwealth or distributed from a location within this Commonwealth;

6. Solicits business in this Commonwealth by mail, if the solicitations are continuous, regular, seasonal, or systematic and if the dealer benefits from any banking, financing, debt collection, or marketing activities occurring in this Commonwealth or benefits from the location in this Commonwealth of authorized installation, servicing, or repair facilities;

7. Is owned or controlled by the same interests which own or control a business located within this Commonwealth;

8. Has a franchisee or licensee operating under the same trade name in this Commonwealth if the franchisee or licensee is required to obtain a certificate of registration under § 58.1-613; or

9. Owns tangible personal property that is *for sale located in this Commonwealth, or that is* rented or leased to a consumer in this Commonwealth, or offers tangible personal property, on approval, to consumers in this Commonwealth.

D. A dealer is presumed to have sufficient activity within the Commonwealth to require registration under § 58.1-613 (unless the presumption is rebutted as provided herein) if any commonly controlled person maintains a distribution center, warehouse, fulfillment center, office, or similar location within the Commonwealth that facilitates the delivery of tangible personal property sold by the dealer to its customers. The presumption in this subsection may be rebutted by demonstrating that the activities conducted by the commonly controlled person in the Commonwealth are not significantly associated with the dealer's ability to establish or maintain a market in the Commonwealth for the dealer's sales. For purposes of this subsection, a "commonly controlled person" means any person that is a member of the same "controlled group of corporations," as defined in § 1563(a) of the Internal Revenue Code of 1954, as amended or renumbered, as the dealer or any other entity that, notwithstanding its form of organization, bears the same ownership relationship to the dealer as a corporation that is a member of the same "controlled group of corporations," as defined in § 1563(a) of the Internal Revenue Code of 1954, as amended or renumbered.

E. Notwithstanding any other provision of this section, the following shall not be considered to determine whether a person who has contracted with a commercial printer for printing in the Commonwealth is a "dealer" and whether such person has sufficient contact with the Commonwealth to be required to register under § 58.1-613:

1. The ownership or leasing by that person of tangible or intangible property located at the Virginia premises of the commercial printer which is used solely in connection with the printing contract with the person;

2. The sale by that person of property of any kind printed at and shipped or distributed from the Virginia premises of the commercial printer;

3. Activities in connection with the printing contract with the person performed by or on behalf of that person at the Virginia premises of the commercial printer; and

4. Activities in connection with the printing contract with the person performed by the commercial printer within Virginia for or on behalf of that person.

F. In addition to the jurisdictional standards contained in subsections C and D, nothing contained herein (other than subsection E) shall limit any authority which this Commonwealth may enjoy under the provisions of federal law or an opinion of the United States Supreme Court to require the collection of sales and use taxes by any dealer who regularly or systematically solicits sales within this Commonwealth. Furthermore, nothing contained in subsection C shall require any broadcaster, printer, outdoor advertising firm, advertising distributor, or publisher which broadcasts, publishes, or displays or distributes paid commercial advertising in this Commonwealth which is intended to be disseminated primarily to consumers located in this Commonwealth to report or impose any liability to pay any tax imposed under this chapter solely because such broadcaster, printer, outdoor advertising firm, advertising distributor, or publisher accepted such advertising contracts from out-of-state advertisers or sellers.

G. (Contingent effective date) Pursuant to any federal legislation that grants states the authority to require remote sellers to collect sales and use tax, the Commonwealth is authorized, as permitted by such federal legislation, to require collection of sales and use tax by any remote seller, or a single or consolidated provider acting on behalf of a remote seller. If the federal legislation has an exemption for sellers whose sales are less than a minimum amount, then in determining such amount, the sales made by all persons related within the meanings of subsections (b) and (c) of § 267 or § 707(b)(1) of the Internal Revenue Code of 1986 shall be aggregated.

## CHAPTER 52

*An Act to amend and reenact § 58.1-3713 of the Code of Virginia, relating to local gas severance tax; extension of sunset date.*

[H 2169]

Approved February 20, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 58.1-3713 of the Code of Virginia is amended and reenacted as follows:**

**§ 58.1-3713. Local gas road improvement and Virginia Coalfield Economic Development Authority tax.**

A. In addition to the taxes authorized under § 58.1-3712, any county or city may adopt a license tax on every person engaging in the business of severing gases from the earth. The rate of such tax shall not exceed one percent. The provisions of § 58.1-3712 as they relate to measurement of gross receipts, filing of reports and record keeping shall be applicable to the tax imposed under this section.

The moneys collected for each county or city from the taxes imposed under authority of this section and subsection B of § 58.1-3741 shall be paid into a special fund of such county or city to be called the Coal and Gas Road Improvement Fund of such county or city, and shall be spent for such improvements to public roads as the coal and gas road improvement advisory committee and the governing body of such county or city may determine as provided in subsection B of this section. The county may also, in its discretion, elect to improve city or town roads with its funds if consent of the city or town council is obtained. Such funds shall be in addition to those allocated to such counties from state highway funds which allocations shall not be reduced as a result of any revenues received from the tax imposed hereunder. In those localities that comprise the Virginia Coalfield Economic Development Authority, the tax imposed under this section or subsection B of § 58.1-3741 shall be paid as follows: (i) three-fourths of the revenue shall be paid to the Coal and Gas Road Improvement Fund and used for the purposes set forth herein; however, one-fourth of such revenue may be used to fund the construction of new water or sewer systems and lines and the repair or enhancement of existing water or sewer systems and lines in areas with natural water supplies that are insufficient from the standpoint of quality or quantity, or the construction of natural gas service lines as authorized by § 15.2-2109.3, and (ii) one-fourth of the revenue shall be paid to the Virginia Coalfield Economic Development Fund. Furthermore, with regard to the portion paid to the Coal and Gas Road Improvement Fund, a county or city may provide for an additional one-fourth allocation for the construction of new systems or lines for water, sewer, or natural gas as authorized by § 15.2-2109.3, or the repair or enhancement of existing water, sewer, or natural gas systems or lines in areas with natural water supplies or existing natural gas services that are insufficient from the standpoint of quality or quantity; however, if this option is initiated by a county or city, it must satisfy the requirements set forth in § 58.1-3713.01. Notwithstanding the foregoing limitations regarding revenues used for water systems, sewer systems, or natural gas systems, such revenues designated for water and water systems, sewer systems, or natural gas systems shall be distributed directly to the local public service authority for such purposes instead of the local governing body. Funds in the Coal and Gas Road Improvement Fund used to construct, repair, or enhance natural gas service lines or systems shall not exceed one-fourth of the revenue paid to the Coal and Gas Road Improvement Fund collected from the severance tax imposed upon the severance of natural gas pursuant to this section and may be so used only upon passage of a local ordinance or resolution of the governing body of the applicable county or city providing for the same.

B. Any county or city imposing the tax authorized in this section or in subsection B of § 58.1-3741 shall establish a Coal and Gas Road Improvement Advisory Committee, to be composed of four members: (i) a member of the governing body of such county or city, appointed by the governing body, (ii) a representative of the Department of Transportation, and (iii) two citizens of such county or city connected with the coal and gas industry, appointed for a term of four years, initially commencing July 1, 1989, by the chief judge of the circuit court.

Such committee shall develop on or before July 1 of each year a plan for improvement of roads during the following fiscal year. Such plan shall have the approval of three members of the committee and shall be submitted to the governing body of the county or city for approval. The governing body may approve or disapprove such plan, but may make no changes without the approval of three members of the committee.

C. No tax shall be imposed under this section on or after January 1, ~~2018~~ 2020.

## CHAPTER 53

*An Act to amend the Code of Virginia by adding in Article 3 of Chapter 18 of Title 58.1 a section numbered 58.1-1840.2, relating to Virginia Tax Amnesty Program.*

[H 2246]

Approved February 20, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding in Article 3 of Chapter 18 of Title 58.1 a section numbered 58.1-1840.2 as follows:**

**§ 58.1-1840.2. Virginia Tax Amnesty Program.**

A. There is hereby established the Virginia Tax Amnesty Program (the Program).

B. The Virginia Tax Amnesty Program shall be administered by the Department. Any taxpayer required to file a return or to pay any tax administered or collected by the Department shall be eligible to participate in the Program, subject to the requirements in this section and guidelines established by the Tax Commissioner. The Tax Commissioner may require participants in the Program to complete an amnesty application and such other forms as he may prescribe and to furnish any additional information he deems necessary to make a determination regarding the validity of such amnesty application.

C. The Tax Commissioner shall establish guidelines and rules for the procedures for participation and any other rules that are deemed necessary by the Tax Commissioner. The guidelines and rules issued by the Tax Commissioner regarding the Program shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq.).

D. The Program shall have the following features:

1. The Program shall be conducted during the period July 1, 2017, through June 30, 2018, and shall not last less than 60 nor more than 75 days. The exact dates of the Program shall be established by the Tax Commissioner.

2. All civil or criminal penalties assessed or assessable, as provided in this title, including the addition to tax under §§ 58.1-492 and 58.1-504, and one-half of the interest assessed or assessable, as provided in this title, which are the result of nonpayment, underpayment, nonreporting, or underreporting of tax liabilities, shall be waived upon receipt of the payment of the amount of taxes and interest owed, with the following exceptions:

a. No taxpayer currently under investigation or prosecution for filing a fraudulent return or failing to file a return with the intent to evade tax shall be eligible to participate in the Program.

b. No taxpayer shall be eligible to participate in the Program with respect to any assessment outstanding for which the date of assessment is less than 90 days prior to the first day of the Program or with respect to any liability arising from the failure to file a return for which the due date of the return is less than 90 days prior to the first day of the Program.

c. No taxpayer shall be eligible to participate in the Program with respect to any tax liability from the income taxes imposed by §§ 58.1-320, 58.1-360, and 58.1-400, if the tax liability is attributable to taxable years beginning on and after January 1, 2016.

E. For the purpose of computing the outstanding balance due because of the nonpayment, underpayment, nonreporting, or underreporting of any tax liability that has not been assessed prior to the first day of the Program, the rate of interest specified for omitted taxes and assessments under § 58.1-15 shall not be applicable. Instead, the Tax Commissioner shall establish one interest rate to be used for each taxable year that approximates the average "underpayment rate" specified under § 58.1-15 for the five-year period immediately preceding the Program.

F. 1. If any taxpayer eligible for amnesty under this section and under the rules and guidelines established by the Tax Commissioner retains any outstanding balance after the close of the Program because of the nonpayment, underpayment, nonreporting, or underreporting of any tax liability eligible for relief under the Program, then such balance shall be subject to a 20 percent penalty on the unpaid tax. This penalty is in addition to all other penalties that may apply to the taxpayer.

2. Any taxpayer who defaults upon any agreement to pay tax and interest arising out of a grant of amnesty is subject to reinstatement of the penalty and interest forgiven and the imposition of the penalty under this section as though the taxpayer retained the original outstanding balance at the close of the Program.

G. For the purpose of implementing the Program, the Department is exempt from subsection B of § 2.2-2016.1 and §§ 2.2-2018.1, 2.2-2020, and 2.2-2021 pertaining to the Virginia Information Technologies Agency's project management and procurement oversight.

## CHAPTER 54

*An Act to amend and reenact § 58.1-609.6 of the Code of Virginia, relating to sales and use tax exemption; certain textbooks and other educational materials.*

[H 2377]

Approved February 20, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 58.1-609.6 of the Code of Virginia is amended and reenacted as follows:**

**§ 58.1-609.6. Media-related exemptions.**

The tax imposed by this chapter or pursuant to the authority granted in §§ 58.1-605 and 58.1-606 shall not apply to the following:

1. Leasing, renting or licensing of copyright audio or video tapes, and films for public exhibition at motion picture theaters or by licensed radio and television stations.

2. Broadcasting equipment and parts and accessories thereto and towers used or to be used by commercial radio and television companies, wired or land based wireless cable television systems, common carriers or video programmers using an open video system or other video platform provided by telephone common carriers, or concerns which are under the regulation and supervision of the Federal Communications Commission and amplification, transmission and distribution equipment used or to be used by wired or land based wireless cable television systems, or open video systems or other video systems provided by telephone common carriers.

3. Any publication issued daily, or regularly at average intervals not exceeding three months, and advertising supplements and any other printed matter ultimately distributed with or as part of such publications; however, newsstand sales of the same are taxable. As used in this subdivision, the term "newsstand sales" shall not include sales of back copies of publications by the publisher or his agent.

4. Catalogs, letters, brochures, reports, and similar printed materials, except administrative supplies, the envelopes, containers and labels used for packaging and mailing same, and paper furnished to a printer for fabrication into such printed materials, when stored for 12 months or less in the Commonwealth and distributed for use without the Commonwealth. As used in this subdivision, "administrative supplies" includes, but is not limited to, letterhead, envelopes, and other stationery; and invoices, billing forms, payroll forms, price lists, time cards, computer cards, and similar supplies. Notwithstanding the provisions of subdivision 5 or the definition of "advertising" contained in § 58.1-602, (i) any advertising business located outside the Commonwealth which purchases printing from a printer within the Commonwealth shall not be deemed the user or consumer of the printed materials when such purchases would have been exempt under this subdivision, and (ii) from July 1, 1995, through June 30, 2002, and beginning July 1, 2002, and ending July 1, 2017, any advertising business which purchases printing from a printer within the Commonwealth shall not be deemed the user or consumer of the printed materials when such purchases would have been exempt under subdivision 3 or this subdivision, provided that the advertising agency shall certify to the Tax Commissioner, upon request, that such printed material was distributed outside the Commonwealth and such certification shall be retained as a part of the transaction record and shall be subject to further review by the Tax Commissioner.

5. Advertising as defined in § 58.1-602.

6. Beginning July 1, 1995, and ending July 1, 2019:

a. (i) The lease, rental, license, sale, other transfer, or use of any audio or video tape, film or other audiovisual work where the transferee or user acquires or has acquired the work for the purpose of licensing, distributing, broadcasting, commercially exhibiting or reproducing the work or using or incorporating the work into another such work; (ii) the provision of production services or fabrication in connection with the production of any portion of such audiovisual work, including, but not limited to, scriptwriting, photography, sound, musical composition, special effects, animation, adaptation, dubbing, mixing, editing, cutting and provision of production facilities or equipment; or (iii) the transfer or use of tangible personal property, including, but not limited to, scripts, musical scores, storyboards, artwork, film, tapes and other media, incident to the performance of such services or fabrication; however, audiovisual works and incidental tangible personal property described in clauses (i) and (iii) shall be subject to tax as otherwise provided in this chapter to the extent of the value of their tangible components prior to their use in the production of any audiovisual work and prior to their enhancement by any production service; and

b. Equipment and parts and accessories thereto used or to be used in the production of such audiovisual works.

7. Beginning July 1, 1998, and ending July 1, ~~2017~~ 2022, textbooks and other educational materials withdrawn from inventory at book-publishing distribution facilities for free distribution to professors and other individuals who have an educational focus.

## CHAPTER 55

*An Act to amend and reenact §§ 8.01-225 and 54.1-3408 of the Code of Virginia, relating to dispensing of naloxone.*

[S 848]

Approved February 20, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 8.01-225 and 54.1-3408 of the Code of Virginia are amended and reenacted as follows:**

**§ 8.01-225. Persons rendering emergency care, obstetrical services exempt from liability.**

A. Any person who:

1. In good faith, renders emergency care or assistance, without compensation, to any ill or injured person (i) at the scene of an accident, fire, or any life-threatening emergency; (ii) at a location for screening or stabilization of an emergency medical condition arising from an accident, fire, or any life-threatening emergency; or (iii) en route to any hospital, medical clinic, or doctor's office, shall not be liable for any civil damages for acts or omissions resulting from the rendering of such care or assistance. For purposes of this subdivision, emergency care or assistance includes the forcible entry of a motor

vehicle in order to remove an unattended minor at risk of serious bodily injury or death, provided the person has attempted to contact a law-enforcement officer, as defined in § 9.1-101, a firefighter, as defined in § 65.2-102, emergency medical services personnel, as defined in § 32.1-111.1, or an emergency 911 system, if feasible under the circumstances.

2. In the absence of gross negligence, renders emergency obstetrical care or assistance to a female in active labor who has not previously been cared for in connection with the pregnancy by such person or by another professionally associated with such person and whose medical records are not reasonably available to such person shall not be liable for any civil damages for acts or omissions resulting from the rendering of such emergency care or assistance. The immunity herein granted shall apply only to the emergency medical care provided.

3. In good faith and without compensation, including any emergency medical services provider who holds a valid certificate issued by the Commissioner of Health, administers epinephrine in an emergency to an individual shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment if such person has reason to believe that the individual receiving the injection is suffering or is about to suffer a life-threatening anaphylactic reaction.

4. Provides assistance upon request of any police agency, fire department, emergency medical services agency, or governmental agency in the event of an accident or other emergency involving the use, handling, transportation, transmission, or storage of liquefied petroleum gas, liquefied natural gas, hazardous material, or hazardous waste as defined in § 10.1-1400 or regulations of the Virginia Waste Management Board shall not be liable for any civil damages resulting from any act of commission or omission on his part in the course of his rendering such assistance in good faith.

5. Is an emergency medical services provider possessing a valid certificate issued by authority of the State Board of Health who in good faith renders emergency care or assistance, whether in person or by telephone or other means of communication, without compensation, to any injured or ill person, whether at the scene of an accident, fire, or any other place, or while transporting such injured or ill person to, from, or between any hospital, medical facility, medical clinic, doctor's office, or other similar or related medical facility, shall not be liable for any civil damages for acts or omissions resulting from the rendering of such emergency care, treatment, or assistance, including but in no way limited to acts or omissions which involve violations of State Department of Health regulations or any other state regulations in the rendering of such emergency care or assistance.

6. In good faith and without compensation, renders or administers emergency cardiopulmonary resuscitation (CPR); cardiac defibrillation, including, but not limited to, the use of an automated external defibrillator (AED); or other emergency life-sustaining or resuscitative treatments or procedures which have been approved by the State Board of Health to any sick or injured person, whether at the scene of a fire, an accident, or any other place, or while transporting such person to or from any hospital, clinic, doctor's office, or other medical facility, shall be deemed qualified to administer such emergency treatments and procedures and shall not be liable for acts or omissions resulting from the rendering of such emergency resuscitative treatments or procedures.

7. Operates an AED at the scene of an emergency, trains individuals to be operators of AEDs, or orders AEDs, shall be immune from civil liability for any personal injury that results from any act or omission in the use of an AED in an emergency where the person performing the defibrillation acts as an ordinary, reasonably prudent person would have acted under the same or similar circumstances, unless such personal injury results from gross negligence or willful or wanton misconduct of the person rendering such emergency care.

8. Maintains an AED located on real property owned or controlled by such person shall be immune from civil liability for any personal injury that results from any act or omission in the use in an emergency of an AED located on such property unless such personal injury results from gross negligence or willful or wanton misconduct of the person who maintains the AED or his agent or employee.

9. Is an employee of a school board or of a local health department approved by the local governing body to provide health services pursuant to § 22.1-274 who, while on school property or at a school-sponsored event, (i) renders emergency care or assistance to any sick or injured person; (ii) renders or administers emergency cardiopulmonary resuscitation (CPR); cardiac defibrillation, including, but not limited to, the use of an automated external defibrillator (AED); or other emergency life-sustaining or resuscitative treatments or procedures that have been approved by the State Board of Health to any sick or injured person; (iii) operates an AED, trains individuals to be operators of AEDs, or orders AEDs; or (iv) maintains an AED, shall not be liable for civil damages for ordinary negligence in acts or omissions on the part of such employee while engaged in the acts described in this subdivision.

10. Is a volunteer in good standing and certified to render emergency care by the National Ski Patrol System, Inc., who, in good faith and without compensation, renders emergency care or assistance to any injured or ill person, whether at the scene of a ski resort rescue, outdoor emergency rescue, or any other place or while transporting such injured or ill person to a place accessible for transfer to any available emergency medical system unit, or any resort owner voluntarily providing a ski patroller employed by him to engage in rescue or recovery work at a resort not owned or operated by him, shall not be liable for any civil damages for acts or omissions resulting from the rendering of such emergency care, treatment, or assistance, including but not limited to acts or omissions which involve violations of any state regulation or any standard of the National Ski Patrol System, Inc., in the rendering of such emergency care or assistance, unless such act or omission was the result of gross negligence or willful misconduct.

11. Is an employee of (i) a school board, (ii) a school for students with disabilities as defined in § 22.1-319 licensed by the Board of Education, or (iii) a private school accredited pursuant to § 22.1-19 as administered by the Virginia Council for

Private Education and is authorized by a prescriber and trained in the administration of insulin and glucagon, who, upon the written request of the parents as defined in § 22.1-1, assists with the administration of insulin or administers glucagon to a student diagnosed as having diabetes who requires insulin injections during the school day or for whom glucagon has been prescribed for the emergency treatment of hypoglycemia shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment if the insulin is administered according to the child's medication schedule or such employee has reason to believe that the individual receiving the glucagon is suffering or is about to suffer life-threatening hypoglycemia. Whenever any such employee is covered by the immunity granted herein, the school board or school employing him shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such insulin or glucagon treatment.

12. Is a school nurse, an employee of a school board, an employee of a local governing body, or an employee of a local health department who is authorized by a prescriber and trained in the administration of epinephrine and who provides, administers, or assists in the administration of epinephrine to a student believed in good faith to be having an anaphylactic reaction, or is the prescriber of the epinephrine, shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment.

13. Is an employee of a school for students with disabilities, as defined in § 22.1-319 and licensed by the Board of Education, or an employee of a private school that is accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education who is authorized by a prescriber and trained in the administration of epinephrine and who administers or assists in the administration of epinephrine to a student believed in good faith to be having an anaphylactic reaction, or is the prescriber of the epinephrine, shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment. Whenever any employee is covered by the immunity granted in this subdivision, the school shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from such administration or assistance.

14. Is an employee of a provider licensed by the Department of Behavioral Health and Developmental Services, or provides services pursuant to a contract with a provider licensed by the Department of Behavioral Health and Developmental Services, who has been trained in the administration of insulin and glucagon and who administers or assists with the administration of insulin or administers glucagon to a person diagnosed as having diabetes who requires insulin injections or for whom glucagon has been prescribed for the emergency treatment of hypoglycemia in accordance with § 54.1-3408 shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment if the insulin is administered in accordance with the prescriber's instructions or such person has reason to believe that the individual receiving the glucagon is suffering or is about to suffer life-threatening hypoglycemia. Whenever any employee of a provider licensed by the Department of Behavioral Health and Developmental Services or a person who provides services pursuant to a contract with a provider licensed by the Department of Behavioral Health and Developmental Services is covered by the immunity granted herein, the provider shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such insulin or glucagon treatment.

15. Is an employee of a provider licensed by the Department of Behavioral Health and Developmental Services, or provides services pursuant to a contract with a provider licensed by the Department of Behavioral Health and Developmental Services, who has been trained in the administration of epinephrine and who administers or assists in the administration of epinephrine to a person believed in good faith to be having an anaphylactic reaction in accordance with the prescriber's instructions shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment.

16. In good faith prescribes, dispenses, or administers naloxone or other opioid antagonist used for overdose reversal in an emergency to an individual who is believed to be experiencing or about to experience a life-threatening opiate overdose shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment if acting in accordance with the provisions of subsection X or Y of § 54.1-3408 or in his role as a member of an emergency medical services agency.

B. Any licensed physician serving without compensation as the operational medical director for an emergency medical services agency that holds a valid license as an emergency medical services agency issued by the Commissioner of Health shall not be liable for any civil damages for any act or omission resulting from the rendering of emergency medical services in good faith by the personnel of such licensed agency unless such act or omission was the result of such physician's gross negligence or willful misconduct.

Any person serving without compensation as a dispatcher for any licensed public or nonprofit emergency medical services agency in the Commonwealth shall not be liable for any civil damages for any act or omission resulting from the rendering of emergency services in good faith by the personnel of such licensed agency unless such act or omission was the result of such dispatcher's gross negligence or willful misconduct.

Any individual, certified by the State Office of Emergency Medical Services as an emergency medical services instructor and pursuant to a written agreement with such office, who, in good faith and in the performance of his duties, provides instruction to persons for certification or recertification as a certified basic life support or advanced life support emergency medical services provider shall not be liable for any civil damages for acts or omissions on his part directly relating to his activities on behalf of such office unless such act or omission was the result of such emergency medical services instructor's gross negligence or willful misconduct.

Any licensed physician serving without compensation as a medical advisor to an E-911 system in the Commonwealth shall not be liable for any civil damages for any act or omission resulting from rendering medical advice in good faith to establish protocols to be used by the personnel of the E-911 service, as defined in § 58.1-1730, when answering emergency calls unless such act or omission was the result of such physician's gross negligence or willful misconduct.

Any licensed physician who directs the provision of emergency medical services, as authorized by the State Board of Health, through a communications device shall not be liable for any civil damages for any act or omission resulting from the rendering of such emergency medical services unless such act or omission was the result of such physician's gross negligence or willful misconduct.

Any licensed physician serving without compensation as a supervisor of an AED in the Commonwealth shall not be liable for any civil damages for any act or omission resulting from rendering medical advice in good faith to the owner of the AED relating to personnel training, local emergency medical services coordination, protocol approval, AED deployment strategies, and equipment maintenance plans and records unless such act or omission was the result of such physician's gross negligence or willful misconduct.

C. Any communications services provider, as defined in § 58.1-647, including mobile service, and any provider of Voice-over-Internet Protocol service, in the Commonwealth shall not be liable for any civil damages for any act or omission resulting from rendering such service with or without charge related to emergency calls unless such act or omission was the result of such service provider's gross negligence or willful misconduct.

Any volunteer engaging in rescue or recovery work at a mine, or any mine operator voluntarily providing personnel to engage in rescue or recovery work at a mine not owned or operated by such operator, shall not be liable for civil damages for acts or omissions resulting from the rendering of such rescue or recovery work in good faith unless such act or omission was the result of gross negligence or willful misconduct. For purposes of this subsection, "Voice-over-Internet Protocol service" or "VoIP service" means any Internet protocol-enabled services utilizing a broadband connection, actually originating or terminating in Internet Protocol from either or both ends of a channel of communication offering real time, multidirectional voice functionality, including, but not limited to, services similar to traditional telephone service.

D. Nothing contained in this section shall be construed to provide immunity from liability arising out of the operation of a motor vehicle.

E. For the purposes of this section, "compensation" shall not be construed to include (i) the salaries of police, fire, or other public officials or personnel who render such emergency assistance; (ii) the salaries or wages of employees of a coal producer engaging in emergency medical services or first aid services pursuant to the provisions of § 45.1-161.38, 45.1-161.101, 45.1-161.199, or 45.1-161.263; (iii) complimentary lift tickets, food, lodging, or other gifts provided as a gratuity to volunteer members of the National Ski Patrol System, Inc., by any resort, group, or agency; (iv) the salary of any person who (a) owns an AED for the use at the scene of an emergency, (b) trains individuals, in courses approved by the Board of Health, to operate AEDs at the scene of emergencies, (c) orders AEDs for use at the scene of emergencies, or (d) operates an AED at the scene of an emergency; or (v) expenses reimbursed to any person providing care or assistance pursuant to this section.

For the purposes of this section, "emergency medical services provider" shall include a person licensed or certified as such or its equivalent by any other state when he is performing services that he is licensed or certified to perform by such other state in caring for a patient in transit in the Commonwealth, which care originated in such other state.

Further, the public shall be urged to receive training on how to use CPR and an AED in order to acquire the skills and confidence to respond to emergencies using both CPR and an AED.

#### § 54.1-3408. Professional use by practitioners.

A. A practitioner of medicine, osteopathy, podiatry, dentistry, or veterinary medicine or a licensed nurse practitioner pursuant to § 54.1-2957.01, a licensed physician assistant pursuant to § 54.1-2952.1, or a TPA-certified optometrist pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32 shall only prescribe, dispense, or administer controlled substances in good faith for medicinal or therapeutic purposes within the course of his professional practice.

B. The prescribing practitioner's order may be on a written prescription or pursuant to an oral prescription as authorized by this chapter. The prescriber may administer drugs and devices, or he may cause drugs or devices to be administered by:

1. A nurse, physician assistant, or intern under his direction and supervision;
2. Persons trained to administer drugs and devices to patients in state-owned or state-operated hospitals or facilities licensed as hospitals by the Board of Health or psychiatric hospitals licensed by the Department of Behavioral Health and Developmental Services who administer drugs under the control and supervision of the prescriber or a pharmacist;
3. Emergency medical services personnel certified and authorized to administer drugs and devices pursuant to regulations of the Board of Health who act within the scope of such certification and pursuant to an oral or written order or standing protocol; or
4. A licensed respiratory therapist as defined in § 54.1-2954 who administers by inhalation controlled substances used in inhalation or respiratory therapy.

C. Pursuant to an oral or written order or standing protocol, the prescriber, who is authorized by state or federal law to possess and administer radiopharmaceuticals in the scope of his practice, may authorize a nuclear medicine technologist to administer, under his supervision, radiopharmaceuticals used in the diagnosis or treatment of disease.

D. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize registered nurses and licensed practical nurses to possess (i) epinephrine and oxygen for administration in treatment of emergency medical conditions and (ii) heparin and sterile normal saline to use for the maintenance of intravenous access lines.

Pursuant to the regulations of the Board of Health, certain emergency medical services technicians may possess and administer epinephrine in emergency cases of anaphylactic shock.

Pursuant to an order or standing protocol issued by the prescriber within the course of his professional practice, any school nurse, school board employee, employee of a local governing body, or employee of a local health department who is authorized by a prescriber and trained in the administration of epinephrine may possess and administer epinephrine.

Pursuant to an order or a standing protocol issued by the prescriber within the course of his professional practice, any employee of a school for students with disabilities, as defined in § 22.1-319 and licensed by the Board of Education, or any employee of a private school that is accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education who is authorized by a prescriber and trained in the administration of epinephrine may possess and administer epinephrine.

Pursuant to an order issued by the prescriber within the course of his professional practice, an employee of a provider licensed by the Department of Behavioral Health and Developmental Services or a person providing services pursuant to a contract with a provider licensed by the Department of Behavioral Health and Developmental Services may possess and administer epinephrine, provided such person is authorized and trained in the administration of epinephrine.

Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize pharmacists to possess epinephrine and oxygen for administration in treatment of emergency medical conditions.

E. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize licensed physical therapists to possess and administer topical corticosteroids, topical lidocaine, and any other Schedule VI topical drug.

F. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize licensed athletic trainers to possess and administer topical corticosteroids, topical lidocaine, or other Schedule VI topical drugs; oxygen for use in emergency situations; and epinephrine for use in emergency cases of anaphylactic shock.

G. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, and in accordance with policies and guidelines established by the Department of Health pursuant to § 32.1-50.2, such prescriber may authorize registered nurses or licensed practical nurses under the immediate and direct supervision of a registered nurse to possess and administer tuberculin purified protein derivative (PPD) in the absence of a prescriber. The Department of Health's policies and guidelines shall be consistent with applicable guidelines developed by the Centers for Disease Control and Prevention for preventing transmission of mycobacterium tuberculosis and shall be updated to incorporate any subsequently implemented standards of the Occupational Safety and Health Administration and the Department of Labor and Industry to the extent that they are inconsistent with the Department of Health's policies and guidelines. Such standing protocols shall explicitly describe the categories of persons to whom the tuberculin test is to be administered and shall provide for appropriate medical evaluation of those in whom the test is positive. The prescriber shall ensure that the nurse implementing such standing protocols has received adequate training in the practice and principles underlying tuberculin screening.

The Health Commissioner or his designee may authorize registered nurses, acting as agents of the Department of Health, to possess and administer, at the nurse's discretion, tuberculin purified protein derivative (PPD) to those persons in whom tuberculin skin testing is indicated based on protocols and policies established by the Department of Health.

H. Pursuant to a written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize, with the consent of the parents as defined in § 22.1-1, an employee of (i) a school board, (ii) a school for students with disabilities as defined in § 22.1-319 licensed by the Board of Education, or (iii) a private school accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education who is trained in the administration of insulin and glucagon to assist with the administration of insulin or administer glucagon to a student diagnosed as having diabetes and who requires insulin injections during the school day or for whom glucagon has been prescribed for the emergency treatment of hypoglycemia. Such authorization shall only be effective when a licensed nurse, nurse practitioner, physician, or physician assistant is not present to perform the administration of the medication.

Pursuant to a written order issued by the prescriber within the course of his professional practice, such prescriber may authorize an employee of a provider licensed by the Department of Behavioral Health and Developmental Services or a person providing services pursuant to a contract with a provider licensed by the Department of Behavioral Health and Developmental Services to assist with the administration of insulin or to administer glucagon to a person diagnosed as having diabetes and who requires insulin injections or for whom glucagon has been prescribed for the emergency treatment of hypoglycemia, provided such employee or person providing services has been trained in the administration of insulin and glucagon.

I. A prescriber may authorize, pursuant to a protocol approved by the Board of Nursing, the administration of vaccines to adults for immunization, when a practitioner with prescriptive authority is not physically present, by (i) licensed pharmacists, (ii) registered nurses, or (iii) licensed practical nurses under the immediate and direct supervision of a

registered nurse. A prescriber acting on behalf of and in accordance with established protocols of the Department of Health may authorize the administration of vaccines to any person by a pharmacist, nurse, or designated emergency medical services provider who holds an advanced life support certificate issued by the Commissioner of Health under the direction of an operational medical director when the prescriber is not physically present. The emergency medical services provider shall provide documentation of the vaccines to be recorded in the Virginia Immunization Information System.

J. A dentist may cause Schedule VI topical drugs to be administered under his direction and supervision by either a dental hygienist or by an authorized agent of the dentist.

Further, pursuant to a written order and in accordance with a standing protocol issued by the dentist in the course of his professional practice, a dentist may authorize a dental hygienist under his general supervision, as defined in § 54.1-2722, to possess and administer topical oral fluorides, topical oral anesthetics, topical and directly applied antimicrobial agents for treatment of periodontal pocket lesions, as well as any other Schedule VI topical drug approved by the Board of Dentistry.

In addition, a dentist may authorize a dental hygienist under his direction to administer Schedule VI nitrous oxide and oxygen inhalation analgesia and, to persons 18 years of age or older, Schedule VI local anesthesia.

K. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize registered professional nurses certified as sexual assault nurse examiners-A (SANE-A) under his supervision and when he is not physically present to possess and administer preventive medications for victims of sexual assault as recommended by the Centers for Disease Control and Prevention.

L. This section shall not prevent the administration of drugs by a person who has satisfactorily completed a training program for this purpose approved by the Board of Nursing and who administers such drugs in accordance with a prescriber's instructions pertaining to dosage, frequency, and manner of administration, and in accordance with regulations promulgated by the Board of Pharmacy relating to security and record keeping, when the drugs administered would be normally self-administered by (i) an individual receiving services in a program licensed by the Department of Behavioral Health and Developmental Services; (ii) a resident of the Virginia Rehabilitation Center for the Blind and Vision Impaired; (iii) a resident of a facility approved by the Board or Department of Juvenile Justice for the placement of children in need of services or delinquent or alleged delinquent youth; (iv) a program participant of an adult day-care center licensed by the Department of Social Services; (v) a resident of any facility authorized or operated by a state or local government whose primary purpose is not to provide health care services; (vi) a resident of a private children's residential facility, as defined in § 63.2-100 and licensed by the Department of Social Services, Department of Education, or Department of Behavioral Health and Developmental Services; or (vii) a student in a school for students with disabilities, as defined in § 22.1-319 and licensed by the Board of Education.

In addition, this section shall not prevent a person who has successfully completed a training program for the administration of drugs via percutaneous gastrostomy tube approved by the Board of Nursing and been evaluated by a registered nurse as having demonstrated competency in administration of drugs via percutaneous gastrostomy tube from administering drugs to a person receiving services from a program licensed by the Department of Behavioral Health and Developmental Services to such person via percutaneous gastrostomy tube. The continued competency of a person to administer drugs via percutaneous gastrostomy tube shall be evaluated semiannually by a registered nurse.

M. Medication aides registered by the Board of Nursing pursuant to Article 7 (§ 54.1-3041 et seq.) of Chapter 30 may administer drugs that would otherwise be self-administered to residents of any assisted living facility licensed by the Department of Social Services. A registered medication aide shall administer drugs pursuant to this section in accordance with the prescriber's instructions pertaining to dosage, frequency, and manner of administration; in accordance with regulations promulgated by the Board of Pharmacy relating to security and recordkeeping; in accordance with the assisted living facility's Medication Management Plan; and in accordance with such other regulations governing their practice promulgated by the Board of Nursing.

N. In addition, this section shall not prevent the administration of drugs by a person who administers such drugs in accordance with a physician's instructions pertaining to dosage, frequency, and manner of administration and with written authorization of a parent, and in accordance with school board regulations relating to training, security and record keeping, when the drugs administered would be normally self-administered by a student of a Virginia public school. Training for such persons shall be accomplished through a program approved by the local school boards, in consultation with the local departments of health.

O. In addition, this section shall not prevent the administration of drugs by a person to (i) a child in a child day program as defined in § 63.2-100 and regulated by the State Board of Social Services or a local government pursuant to § 15.2-914, or (ii) a student of a private school that is accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education, provided such person (a) has satisfactorily completed a training program for this purpose approved by the Board of Nursing and taught by a registered nurse, licensed practical nurse, nurse practitioner, physician assistant, doctor of medicine or osteopathic medicine, or pharmacist; (b) has obtained written authorization from a parent or guardian; (c) administers drugs only to the child identified on the prescription label in accordance with the prescriber's instructions pertaining to dosage, frequency, and manner of administration; and (d) administers only those drugs that were dispensed from a pharmacy and maintained in the original, labeled container that would normally be self-administered by the child or student, or administered by a parent or guardian to the child or student.

P. In addition, this section shall not prevent the administration or dispensing of drugs and devices by persons if they are authorized by the State Health Commissioner in accordance with protocols established by the State Health Commissioner

pursuant to § 32.1-42.1 when (i) the Governor has declared a disaster or a state of emergency or the United States Secretary of Health and Human Services has issued a declaration of an actual or potential bioterrorism incident or other actual or potential public health emergency; (ii) it is necessary to permit the provision of needed drugs or devices; and (iii) such persons have received the training necessary to safely administer or dispense the needed drugs or devices. Such persons shall administer or dispense all drugs or devices under the direction, control, and supervision of the State Health Commissioner.

Q. Nothing in this title shall prohibit the administration of normally self-administered drugs by unlicensed individuals to a person in his private residence.

R. This section shall not interfere with any prescriber issuing prescriptions in compliance with his authority and scope of practice and the provisions of this section to a Board agent for use pursuant to subsection G of § 18.2-258.1. Such prescriptions issued by such prescriber shall be deemed to be valid prescriptions.

S. Nothing in this title shall prevent or interfere with dialysis care technicians or dialysis patient care technicians who are certified by an organization approved by the Board of Health Professions or persons authorized for provisional practice pursuant to Chapter 27.01 (§ 54.1-2729.1 et seq.), in the ordinary course of their duties in a Medicare-certified renal dialysis facility, from administering heparin, topical needle site anesthetics, dialysis solutions, sterile normal saline solution, and blood volumizers, for the purpose of facilitating renal dialysis treatment, when such administration of medications occurs under the orders of a licensed physician, nurse practitioner, or physician assistant and under the immediate and direct supervision of a licensed registered nurse. Nothing in this chapter shall be construed to prohibit a patient care dialysis technician trainee from performing dialysis care as part of and within the scope of the clinical skills instruction segment of a supervised dialysis technician training program, provided such trainee is identified as a "trainee" while working in a renal dialysis facility.

The dialysis care technician or dialysis patient care technician administering the medications shall have demonstrated competency as evidenced by holding current valid certification from an organization approved by the Board of Health Professions pursuant to Chapter 27.01 (§ 54.1-2729.1 et seq.).

T. Persons who are otherwise authorized to administer controlled substances in hospitals shall be authorized to administer influenza or pneumococcal vaccines pursuant to § 32.1-126.4.

U. Pursuant to a specific order for a patient and under his direct and immediate supervision, a prescriber may authorize the administration of controlled substances by personnel who have been properly trained to assist a doctor of medicine or osteopathic medicine, provided the method does not include intravenous, intrathecal, or epidural administration and the prescriber remains responsible for such administration.

V. A physician assistant, nurse or a dental hygienist may possess and administer topical fluoride varnish to the teeth of children aged six months to three years pursuant to an oral or written order or a standing protocol issued by a doctor of medicine, osteopathic medicine, or dentistry that conforms to standards adopted by the Department of Health.

W. A prescriber, acting in accordance with guidelines developed pursuant to § 32.1-46.02, may authorize the administration of influenza vaccine to minors by a licensed pharmacist, registered nurse, licensed practical nurse under the direction and immediate supervision of a registered nurse, or emergency medical services provider who holds an advanced life support certificate issued by the Commissioner of Health when the prescriber is not physically present.

X. Notwithstanding the provisions of § 54.1-3303, pursuant to an oral, written, or standing order issued by a prescriber, and in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health, a pharmacist may dispense naloxone or other opioid antagonist used for overdose reversal and a person may possess and administer naloxone or other opioid antagonist used for overdose reversal to a person who is believed to be experiencing or about to experience a life-threatening ~~opiate~~ opioid overdose. Law-enforcement officers as defined in § 9.1-101 and firefighters who have completed a training program may also possess and administer naloxone in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health.

*Y. Notwithstanding any other law or regulation to the contrary, a person who is authorized by the Department of Behavioral Health and Developmental Services to train individuals on the administration of naloxone for use in opioid overdose reversal and who is acting on behalf of an organization that provides services to individuals at risk of experiencing an opioid overdose or training in the administration of naloxone for overdose reversal and that has obtained a controlled substances registration from the Board of Pharmacy pursuant to § 54.1-3423 may dispense naloxone to a person who has completed a training program on the administration of naloxone for opioid overdose reversal approved by the Department of Behavioral Health and Developmental Services, provided that such dispensing is (i) pursuant to a standing order issued by a prescriber; (ii) in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health, and (iii) without charge or compensation. The dispensing may occur at a site other than that of the controlled substance registration provided the entity possessing the controlled substances registration maintains records in accordance with regulations of the Board of Pharmacy. A person to whom naloxone has been dispensed pursuant to this subsection may possess naloxone and may administer naloxone to a person who is believed to be experiencing or about to experience a life-threatening opioid overdose.*

**2. That an emergency exists and this act is in force from its passage.**

**3. That the Board of Pharmacy shall promulgate regulations to implement the provisions of this act to be effective within 280 days of its enactment.**

## CHAPTER 56

*An Act to amend and reenact § 18.2-57 of the Code of Virginia, relating to battery on a health care provider; penalty.*

[S 973]

Approved February 20, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 18.2-57 of the Code of Virginia is amended and reenacted as follows:**

**§ 18.2-57. Assault and battery; penalty.**

A. Any person who commits a simple assault or assault and battery is guilty of a Class 1 misdemeanor, and if the person intentionally selects the person against whom a simple assault is committed because of his race, religious conviction, color or national origin, the penalty upon conviction shall include a term of confinement of at least six months, 30 days of which shall be a mandatory minimum term of confinement.

B. However, if a person intentionally selects the person against whom an assault and battery resulting in bodily injury is committed because of his race, religious conviction, color or national origin, the person is guilty of a Class 6 felony, and the penalty upon conviction shall include a term of confinement of at least six months, 30 days of which shall be a mandatory minimum term of confinement.

C. In addition, if any person commits an assault or an assault and battery against another knowing or having reason to know that such other person is a judge, a magistrate, a law-enforcement officer as defined in subsection F, a correctional officer as defined in § 53.1-1, a person directly involved in the care, treatment, or supervision of inmates in the custody of the Department of Corrections or an employee of a local or regional correctional facility directly involved in the care, treatment, or supervision of inmates in the custody of the facility, a person directly involved in the care, treatment, or supervision of persons in the custody of or under the supervision of the Department of Juvenile Justice, an employee or other individual who provides control, care, or treatment of sexually violent predators committed to the custody of the Department of Behavioral Health and Developmental Services, a firefighter as defined in § 65.2-102, or a volunteer firefighter or any emergency medical services personnel member who is employed by or is a volunteer of an emergency medical services agency or as a member of a bona fide volunteer fire department or volunteer emergency medical services agency, regardless of whether a resolution has been adopted by the governing body of a political subdivision recognizing such firefighters or emergency medical services personnel as employees, engaged in the performance of his public duties anywhere in the Commonwealth, such person is guilty of a Class 6 felony, and, upon conviction, the sentence of such person shall include a mandatory minimum term of confinement of six months.

Nothing in this subsection shall be construed to affect the right of any person charged with a violation of this section from asserting and presenting evidence in support of any defenses to the charge that may be available under common law.

D. In addition, if any person commits a battery against another knowing or having reason to know that such other person is a full-time or part-time employee of any public or private elementary or secondary school and is engaged in the performance of his duties as such, he is guilty of a Class 1 misdemeanor and the sentence of such person upon conviction shall include a sentence of 15 days in jail, two days of which shall be a mandatory minimum term of confinement. However, if the offense is committed by use of a firearm or other weapon prohibited on school property pursuant to § 18.2-308.1, the person shall serve a mandatory minimum sentence of confinement of six months.

E. In addition, any person who commits a battery against another knowing or having reason to know that such individual is a health care provider as defined in § 8.01-581.1 who is engaged in the performance of his duties ~~as an emergency health care provider in an emergency room of a hospital or clinic or in an emergency room~~ on the premises of any *clinic* or other facility rendering emergency medical care is guilty of a Class 1 misdemeanor. The sentence of such person, upon conviction, shall include a term of confinement of 15 days in jail, two days of which shall be a mandatory minimum term of confinement.

F. As used in this section:

"Hospital" means a public or private institution licensed pursuant to Chapter 5 (§ 32.1-123 et seq.) of Title 32.1 or Article 2 (§ 37.2-403 et seq.) of Chapter 4 of Title 37.2.

"Judge" means any justice or judge of a court of record of the Commonwealth including a judge designated under § 17.1-105, a judge under temporary recall under § 17.1-106, or a judge pro tempore under § 17.1-109, any member of the State Corporation Commission, or of the Virginia Workers' Compensation Commission, and any judge of a district court of the Commonwealth or any substitute judge of such district court.

(Effective until July 1, 2018) "Law-enforcement officer" means any full-time or part-time employee of a police department or sheriff's office that is part of or administered by the Commonwealth or any political subdivision thereof who is responsible for the prevention or detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth, any conservation officer of the Department of Conservation and Recreation commissioned pursuant to § 10.1-115, any special agent of the Department of Alcoholic Beverage Control, conservation police officers appointed pursuant to § 29.1-200, full-time sworn members of the enforcement division of the Department of Motor Vehicles appointed pursuant to § 46.2-217, and any employee with internal investigations authority designated by the Department of Corrections pursuant to subdivision 11 of § 53.1-10, and such officer also includes jail officers in local and regional correctional facilities, all deputy sheriffs, whether assigned to law-enforcement duties, court services or local jail

responsibilities, auxiliary police officers appointed or provided for pursuant to §§ 15.2-1731 and 15.2-1733, auxiliary deputy sheriffs appointed pursuant to § 15.2-1603, police officers of the Metropolitan Washington Airports Authority pursuant to § 5.1-158, and fire marshals appointed pursuant to § 27-30 when such fire marshals have police powers as set out in §§ 27-34.2 and 27-34.2:1.

(Effective July 1, 2018) "Law-enforcement officer" means any full-time or part-time employee of a police department or sheriff's office that is part of or administered by the Commonwealth or any political subdivision thereof who is responsible for the prevention or detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth, any conservation officer of the Department of Conservation and Recreation commissioned pursuant to § 10.1-115, any special agent of the Virginia Alcoholic Beverage Control Authority, conservation police officers appointed pursuant to § 29.1-200, full-time sworn members of the enforcement division of the Department of Motor Vehicles appointed pursuant to § 46.2-217, and any employee with internal investigations authority designated by the Department of Corrections pursuant to subdivision 11 of § 53.1-10, and such officer also includes jail officers in local and regional correctional facilities, all deputy sheriffs, whether assigned to law-enforcement duties, court services or local jail responsibilities, auxiliary police officers appointed or provided for pursuant to §§ 15.2-1731 and 15.2-1733, auxiliary deputy sheriffs appointed pursuant to § 15.2-1603, police officers of the Metropolitan Washington Airports Authority pursuant to § 5.1-158, and fire marshals appointed pursuant to § 27-30 when such fire marshals have police powers as set out in §§ 27-34.2 and 27-34.2:1.

"School security officer" means an individual who is employed by the local school board for the purpose of maintaining order and discipline, preventing crime, investigating violations of school board policies and detaining persons violating the law or school board policies on school property, a school bus or at a school-sponsored activity and who is responsible solely for ensuring the safety, security and welfare of all students, faculty and staff in the assigned school.

G. "Simple assault" or "assault and battery" shall not be construed to include the use of, by any school security officer or full-time or part-time employee of any public or private elementary or secondary school while acting in the course and scope of his official capacity, any of the following: (i) incidental, minor or reasonable physical contact or other actions designed to maintain order and control; (ii) reasonable and necessary force to quell a disturbance or remove a student from the scene of a disturbance that threatens physical injury to persons or damage to property; (iii) reasonable and necessary force to prevent a student from inflicting physical harm on himself; (iv) reasonable and necessary force for self-defense or the defense of others; or (v) reasonable and necessary force to obtain possession of weapons or other dangerous objects or controlled substances or associated paraphernalia that are upon the person of the student or within his control.

In determining whether a person was acting within the exceptions provided in this subsection, due deference shall be given to reasonable judgments that were made by a school security officer or full-time or part-time employee of any public or private elementary or secondary school at the time of the event.

**2. That the Department of Health shall work with stakeholders to develop guidelines regarding (i) the publication of penalties for a battery on a health care provider who is engaged in the performance of his duties in a hospital or in an emergency room clinic or other facility that provides emergency medical care and (ii) the training of health care professionals and health care providers in violence prevention programs.**

## CHAPTER 57

*An Act to amend and reenact § 54.1-106 of the Code of Virginia, relating to charity health care services; liability protection for administrators.*

[S 981]

Approved February 20, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 54.1-106 of the Code of Virginia is amended and reenacted as follows:**

**§ 54.1-106. Health care professionals rendering services to patients of certain clinics and administrators of such services exempt from liability.**

A. No person who is licensed or certified by the Boards of/for Audiology and Speech-Language Pathology; Counseling; Dentistry; Medicine; Nursing; Optometry; Opticians; Pharmacy; Hearing Aid Specialists; Psychology; or Social Work or who holds a multistate licensure privilege to practice nursing issued by the Board of Nursing who renders at any site any health care services within the limits of his license, certification or licensure privilege, voluntarily and without compensation, to any patient of any clinic which is organized in whole or in part for the delivery of health care services without charge or any clinic for the indigent and uninsured that is organized for the delivery of primary health care services as a federally qualified health center designated by the Centers for Medicare & Medicaid Services, shall be liable for any civil damages for any act or omission resulting from the rendering of such services unless the act or omission was the result of his gross negligence or willful misconduct. *Additionally, no person who administers, organizes, arranges, or promotes such services shall be liable to patients of clinics described in this section for any civil damages for any act or omission resulting from the rendering of such services unless the act or omission was the result of his or the clinic's gross negligence or willful misconduct.*

For purposes of this section, any commissioned or contract medical officers or dentists serving on active duty in the United States armed services and assigned to duty as practicing commissioned or contract medical officers or dentists at any military hospital or medical facility owned and operated by the United States government shall be deemed to be licensed pursuant to this title.

B. For the purposes of Article 5 (§ 2.2-1832 et seq.) of Chapter 18 of Title 2.2, any person rendering such health care services who (i) is registered with the Division of Risk Management and (ii) has no legal or financial interest in the clinic from which the patient is referred shall be deemed an agent of the Commonwealth and to be acting in an authorized governmental capacity with respect to delivery of such health care services. The premium for coverage of such person under the Risk Management Plan shall be paid by the Department of Health.

C. For the purposes of this section and Article 5 (§ 2.2-1832 et seq.) of Chapter 18 of Title 2.2, "delivery of health care services without charge" shall be deemed to include the delivery of dental, medical or other health services when a reasonable minimum fee is charged to cover administrative costs.

## CHAPTER 58

*An Act to amend and reenact §§ 54.1-3303 and 54.1-3423 of the Code of Virginia, relating to practice of telemedicine; prescribing.*

[S 1009]

Approved February 20, 2017

### **Be it enacted by the General Assembly of Virginia:**

#### **1. That §§ 54.1-3303 and 54.1-3423 of the Code of Virginia are amended and reenacted as follows:**

##### **§ 54.1-3303. Prescriptions to be issued and drugs to be dispensed for medical or therapeutic purposes only.**

A. A prescription for a controlled substance may be issued only by a practitioner of medicine, osteopathy, podiatry, dentistry or veterinary medicine who is authorized to prescribe controlled substances, or by a licensed nurse practitioner pursuant to § 54.1-2957.01, a licensed physician assistant pursuant to § 54.1-2952.1, or a TPA-certified optometrist pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32. The prescription shall be issued for a medicinal or therapeutic purpose and may be issued only to persons or animals with whom the practitioner has a bona fide practitioner-patient relationship.

For purposes of this section, a bona fide practitioner-patient-pharmacist relationship is one in which a practitioner prescribes, and a pharmacist dispenses, controlled substances in good faith to his patient for a medicinal or therapeutic purpose within the course of his professional practice. In addition, a bona fide practitioner-patient relationship means that the practitioner shall (i) ensure that a medical or drug history is obtained; (ii) provide information to the patient about the benefits and risks of the drug being prescribed; (iii) perform or have performed an appropriate examination of the patient, either physically or by the use of instrumentation and diagnostic equipment through which images and medical records may be transmitted electronically; except for medical emergencies, the examination of the patient shall have been performed by the practitioner himself, within the group in which he practices, or by a consulting practitioner prior to issuing a prescription; and (iv) initiate additional interventions and follow-up care, if necessary, especially if a prescribed drug may have serious side effects. *A practitioner who performs or has performed an appropriate examination of the patient required pursuant to clause (iii), either physically or by the use of instrumentation and diagnostic equipment through which images and medical records may be transmitted electronically, for the purpose of establishing a bona fide practitioner-patient relationship, may prescribe Schedule II through VI controlled substances to the patient, provided that the prescribing of such Schedule II through V controlled substance is in compliance with federal requirements for the practice of telemedicine.*

For the purpose of prescribing a Schedule VI controlled substance to a patient via telemedicine services as defined in § 38.2-3418.16, a prescriber may establish a bona fide practitioner-patient relationship by an examination through face-to-face interactive, two-way, real-time communications services or store-and-forward technologies when all of the following conditions are met: (a) the patient has provided a medical history that is available for review by the prescriber; (b) the prescriber obtains an updated medical history at the time of prescribing; (c) the prescriber makes a diagnosis at the time of prescribing; (d) the prescriber conforms to the standard of care expected of in-person care as appropriate to the patient's age and presenting condition, including when the standard of care requires the use of diagnostic testing and performance of a physical examination, which may be carried out through the use of peripheral devices appropriate to the patient's condition; (e) the prescriber is actively licensed in the Commonwealth and authorized to prescribe; (f) if the patient is a member or enrollee of a health plan or carrier, the prescriber has been credentialed by the health plan or carrier as a participating provider and the diagnosing and prescribing meets the qualifications for reimbursement by the health plan or carrier pursuant to § 38.2-3418.16; and (g) upon request, the prescriber provides patient records in a timely manner in accordance with the provisions of § 32.1-127.1:03 and all other state and federal laws and regulations. Nothing in this paragraph shall permit a prescriber to establish a bona fide practitioner-patient relationship for the purpose of prescribing a Schedule VI controlled substance when the standard of care dictates that an in-person physical examination is necessary for diagnosis. Nothing in this paragraph shall apply to: (1) a prescriber providing on-call coverage per an agreement with another prescriber or his prescriber's professional entity or employer; (2) a prescriber consulting with another prescriber regarding a patient's care; or (3) orders of prescribers for hospital out-patients or in-patients.

Any practitioner who prescribes any controlled substance with the knowledge that the controlled substance will be used otherwise than medicinally or for therapeutic purposes shall be subject to the criminal penalties provided in § 18.2-248 for violations of the provisions of law relating to the distribution or possession of controlled substances.

B. In order to determine whether a prescription that appears questionable to the pharmacist results from a bona fide practitioner-patient relationship, the pharmacist shall contact the prescribing practitioner or his agent and verify the identity of the patient and name and quantity of the drug prescribed. The person knowingly filling an invalid prescription shall be subject to the criminal penalties provided in § 18.2-248 for violations of the provisions of law relating to the sale, distribution or possession of controlled substances.

No prescription shall be filled unless there is a bona fide practitioner-patient-pharmacist relationship. A prescription not issued in the usual course of treatment or for authorized research is not a valid prescription.

C. Notwithstanding any provision of law to the contrary and consistent with recommendations of the Centers for Disease Control and Prevention or the Department of Health, a practitioner may prescribe Schedule VI antibiotics and antiviral agents to other persons in close contact with a diagnosed patient when (i) the practitioner meets all requirements of a bona fide practitioner-patient relationship, as defined in subsection A, with the diagnosed patient; (ii) in the practitioner's professional judgment, the practitioner deems there is urgency to begin treatment to prevent the transmission of a communicable disease; (iii) the practitioner has met all requirements of a bona fide practitioner-patient relationship, as defined in subsection A, for the close contact except for the physical examination required in clause (iii) of subsection A; and (iv) when such emergency treatment is necessary to prevent imminent risk of death, life-threatening illness, or serious disability.

D. A pharmacist may dispense a controlled substance pursuant to a prescription of an out-of-state practitioner of medicine, osteopathy, podiatry, dentistry, *optometry*, or veterinary medicine, *a nurse practitioner*, or *a physician assistant* authorized to issue such prescription if the prescription complies with the requirements of this chapter and the Drug Control Act (§ 54.1-3400 et seq.).

E. A licensed nurse practitioner who is authorized to prescribe controlled substances pursuant to § 54.1-2957.01 may issue prescriptions or provide manufacturers' professional samples for controlled substances and devices as set forth in the Drug Control Act (§ 54.1-3400 et seq.) in good faith to his patient for a medicinal or therapeutic purpose within the scope of his professional practice.

F. A licensed physician assistant who is authorized to prescribe controlled substances pursuant to § 54.1-2952.1 may issue prescriptions or provide manufacturers' professional samples for controlled substances and devices as set forth in the Drug Control Act (§ 54.1-3400 et seq.) in good faith to his patient for a medicinal or therapeutic purpose within the scope of his professional practice.

G. A TPA-certified optometrist who is authorized to prescribe controlled substances pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32 may issue prescriptions in good faith or provide manufacturers' professional samples to his patients for medicinal or therapeutic purposes within the scope of his professional practice for the drugs specified on the TPA-Formulary, established pursuant to § 54.1-3223, which shall be limited to (i) analgesics included on Schedule II controlled substances as defined in § 54.1-3448 of the Drug Control Act (§ 54.1-3400 et seq.) consisting of hydrocodone in combination with acetaminophen; (ii) oral analgesics included in Schedules III through VI, as defined in §§ 54.1-3450 and 54.1-3455 of the Drug Control Act (§ 54.1-3400 et seq.), which are appropriate to relieve ocular pain; (iii) other oral Schedule VI controlled substances, as defined in § 54.1-3455 of the Drug Control Act, appropriate to treat diseases and abnormal conditions of the human eye and its adnexa; (iv) topically applied Schedule VI drugs, as defined in § 54.1-3455 of the Drug Control Act; and (v) intramuscular administration of epinephrine for treatment of emergency cases of anaphylactic shock.

H. The requirement for a bona fide practitioner-patient relationship shall be deemed to be satisfied by a member or committee of a hospital's medical staff when approving a standing order or protocol for the administration of influenza vaccinations and pneumococcal vaccinations in a hospital in compliance with § 32.1-126.4.

**§ 54.1-3423. Board to issue registration unless inconsistent with public interest; authorization to conduct research; application and fees.**

A. The Board shall register an applicant to manufacture or distribute controlled substances included in Schedules I through V unless it determines that the issuance of that registration would be inconsistent with the public interest. In determining the public interest, the Board shall consider the following factors:

1. Maintenance of effective controls against diversion of controlled substances into other than legitimate medical, scientific, or industrial channels;
2. Compliance with applicable state and local law;
3. Any convictions of the applicant under any federal and state laws relating to any controlled substance;
4. Past experience in the manufacture or distribution of controlled substances, and the existence in the applicant's establishment of effective controls against diversion;
5. Furnishing by the applicant of false or fraudulent material in any application filed under this chapter;
6. Suspension or revocation of the applicant's federal registration to manufacture, distribute, or dispense controlled substances as authorized by federal law; and
7. Any other factors relevant to and consistent with the public health and safety.

B. Registration under subsection A does not entitle a registrant to manufacture and distribute controlled substances in Schedule I or II other than those specified in the registration.

C. Practitioners must be registered to conduct research with controlled substances in Schedules II through VI. Practitioners registered under federal law to conduct research with Schedule I substances may conduct research with Schedule I substances within this Commonwealth upon furnishing the evidence of that federal registration.

D. The Board may register other persons or entities to possess controlled substances listed on Schedules II through VI upon a determination that (i) there is a documented need, (ii) the issuance of the registration is consistent with the public interest, (iii) the possession and subsequent use of the controlled substances complies with applicable state and federal laws and regulations, and (iv) the subsequent storage, use, and recordkeeping of the controlled substances will be under the general supervision of a licensed pharmacist, practitioner of medicine, osteopathy, podiatry, dentistry or veterinary medicine as specified in the Board's regulations. The Board shall consider, at a minimum, the factors listed in subsection A of this section in determining whether the registration shall be issued. Notwithstanding the exceptions listed in § 54.1-3422 A, the Board may mandate a controlled substances registration for sites maintaining certain types and quantities of Schedules II through VI controlled substances as it may specify in its regulations. The Board shall promulgate regulations related to requirements or criteria for the issuance of such controlled substances registration, storage, security, supervision, and recordkeeping.

E. The Board may register a public or private animal shelter as defined in § 3.2-6500 to purchase, possess, and administer certain Schedule II-VI controlled substances approved by the State Veterinarian for the purpose of euthanizing injured, sick, homeless, and unwanted domestic pets and animals; and to purchase, possess, and administer certain Schedule VI controlled substances for the purpose of preventing, controlling, and treating certain communicable diseases that failure to control would result in transmission to the animal population in the shelter. The drugs used for euthanasia shall be administered only in accordance with protocols established by the State Veterinarian and only by persons trained in accordance with instructions by the State Veterinarian. The list of Schedule VI drugs used for treatment and prevention of communicable diseases within the shelter shall be determined by the supervising veterinarian of the shelter and the drugs shall be administered only pursuant to written protocols established or approved by the supervising veterinarian of the shelter and only by persons who have been trained in accordance with instructions established or approved by the supervising veterinarian. The shelter shall maintain a copy of the approved list of drugs, written protocols for administering, and training records of those persons administering drugs on the premises of the shelter.

F. The Board may register a crisis stabilization unit established pursuant to § 37.2-500 or 37.2-601 and licensed by the Department of Behavioral Health and Developmental Services to maintain a stock of Schedule VI controlled substances necessary for immediate treatment of patients admitted to the crisis stabilization unit, which may be accessed and administered by a nurse pursuant to a written or oral order of a prescriber in the absence of a prescriber. Schedule II through Schedule V controlled substances shall only be maintained if so authorized by federal law and Board regulations.

G. *The Board may register an entity at which a patient is treated by the use of instrumentation and diagnostic equipment through which images and medical records may be transmitted electronically for the purpose of establishing a bona fide practitioner-patient relationship and is prescribed Schedule II through VI controlled substances when such prescribing is in compliance with federal requirements for the practice of telemedicine and the patient is not in the physical presence of a practitioner registered with the U.S. Drug Enforcement Administration. In determining whether the registration shall be issued, the Board shall consider (i) the factors listed in subsection A, (ii) whether there is a documented need for such registration, and (iii) whether the issuance of the registration is consistent with the public interest.*

H. Applications for controlled substances registration certificates and renewals thereof shall be made on a form prescribed by the Board and such applications shall be accompanied by a fee in an amount to be determined by the Board.

I. Upon (i) any change in ownership or control of a business, (ii) any change of location of the controlled substances stock, (iii) the termination of authority by or of the person named as the responsible party on a controlled substances registration, or (iv) a change in the supervising practitioner, if applicable, the registrant or responsible party shall immediately surrender the registration. The registrant shall, within 14 days following surrender of a registration, file a new application and, if applicable, name the new responsible party or supervising practitioner.

**2. That an emergency exists and this act is in force from its passage.**

**3. That the Board of Pharmacy shall promulgate regulations to implement the provisions of this act to be effective within 280 days of its enactment.**

## CHAPTER 59

*An Act to amend and reenact § 54.1-2930 of the Code of Virginia and to repeal § 54.1-2935 of the Code of Virginia, relating to Board of Medicine; requirements for licensure.*

[S 1046]

Approved February 20, 2017

**Be it enacted by the General Assembly of Virginia:**

- 1. That § 54.1-2930 of the Code of Virginia is amended and reenacted as follows:  
§ 54.1-2930. Requirements for licensure.**

The Board may issue a license to practice medicine, osteopathy, chiropractic, and podiatric medicine to any candidate who has submitted satisfactory evidence verified by affidavits that he:

1. Is 18 years of age or more;
2. Is of good moral character;
3. Has successfully completed all or such part as may be prescribed by the Board, of an educational course of study of that branch of the healing arts in which he desires a license to practice, which course of study and the educational institution providing that course of study are acceptable to the Board; and
4. Has completed at least 12 months of satisfactory postgraduate training in one program or institution approved by an accrediting agency recognized by the Board for internships or residency training. At the discretion of the Board, the postgraduate training may be waived if an applicant for licensure in podiatry has been in active practice for four continuous years while serving in the military and is a diplomate of the American Board of Podiatric Surgery. Applicants for licensure in chiropractic need not fulfill this requirement.

In determining whether such course of study and institution are acceptable to it, the Board may consider the reputation of the institution and whether it is approved or accredited by regional or national educational or professional associations, including, ~~but not limited to,~~ such organizations as the Accreditation Council for Graduate Medical Education, Liaison Committee on Medical Education, Council on Postgraduate Training of the American Osteopathic Association, Council on Osteopathic College Accreditation, College of Family Physicians of Canada, Committee for the Accreditation of Canadian Medical Schools, Education Commission on Foreign Medical Graduates, Royal College of Physicians and Surgeons of Canada, or their appropriate subsidiary agencies; by any appropriate agency of the United States government; or by any other organization approved by the Board. ~~Supervised clinical training that is received in the United States as part of the curriculum of an international medical school shall be obtained in an approved hospital, institution or school of medicine offering an approved residency program in the specialty area for the relevant clinical training or in a program acceptable to the Board and deemed a substantially equivalent experience. The Board may also consider any other factors that reflect whether that institution and its course of instruction provide training sufficient to prepare practitioners to practice their branch of the healing arts with competency and safety in the Commonwealth.~~

2. That § 54.1-2935 of the Code of Virginia is repealed.

## CHAPTER 60

*An Act to amend and reenact §§ 32.1-355, 32.1-356, 32.1-359, and 32.1-360 of the Code of Virginia, relating to Virginia Foundation for Healthy Youth; purpose.*

[S 1050]

Approved February 20, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 32.1-355, 32.1-356, 32.1-359, and 32.1-360 of the Code of Virginia are amended and reenacted as follows: § 32.1-355. Virginia Foundation for Healthy Youth created; purposes.**

A. The Virginia Foundation for Healthy Youth (VFHY) is hereby created as a body corporate and a political subdivision of the Commonwealth and as such shall have, and is hereby vested with, all of the politic and corporate powers as are set forth in this chapter. The Foundation is established for the purposes of determining the appropriate recipients of moneys in the Virginia Tobacco Settlement Fund and causing distribution of such moneys for the purposes provided in this chapter.

B. The Foundation shall ~~have a division known as the~~ *include the following divisions:*

1. *The Virginia Tobacco Settlement Foundation (VTSF) division, to assist in financing efforts to restrict the use of tobacco products by minors through such means as educational and awareness programs on the health effects of tobacco use on minors and enforcement of laws restricting the distribution of tobacco products to minors. Additionally, a division of the Foundation known as;*

2. *The Virginia Youth Obesity Prevention (VYOP) division, which may use moneys from the Fund to assist in financing efforts to reduce childhood obesity through such means as educational and awareness programs, implementing evidence-based practices, and assisting schools and communities with policies and programs; and*

3. *The Virginia Youth Substance Use Prevention (VYSUP) division, which may use moneys from the Fund to assist in financing efforts to prevent and reduce substance use by youth in the Commonwealth through such means as educational and awareness programs, implementing evidence-based practices, and assisting schools and communities with policies and programs.*

C. The Foundation shall have only those powers enumerated in § 32.1-356.

**§ 32.1-356. Powers of the Foundation.**

The Foundation is hereby granted all powers necessary or appropriate to carry out and effectuate its corporate purposes, including, without limitation, the following:

1. To have official seals and to alter the same at pleasure;
2. To maintain an office at such place or places within this Commonwealth as it may designate;

3. To accept, hold, and administer moneys, grants, securities, or other property transferred, given, or bequeathed to the Foundation, absolutely or in trust, for the purposes for which the Foundation is created;

4. To determine how moneys in the Fund are to be distributed and to authorize distribution of moneys in the Fund to entities whose goal is to discourage, eliminate or prevent the use of tobacco products by minors ~~and to~~, reduce childhood obesity in the Commonwealth, *or prevent and reduce substance use by youth in the Commonwealth*, on such terms and in such amounts as determined by the Board;

5. To deposit moneys from the Fund to the Endowment as determined by the Board;

6. To make and execute contracts and all other instruments and agreements necessary or convenient for the exercise of its powers and functions;

7. To appoint and prescribe the duties of such officers, agents, employees, advisors, and consultants as may be necessary to carry out its functions, and to fix and pay such compensation to them for their services as the Foundation may determine;

8. To adopt and from time to time amend and repeal bylaws, not inconsistent with this chapter, to carry into effect the powers and purposes of the Foundation;

9. To receive and accept aid, grants, contributions and cooperation of any kind from any source for the purposes of this chapter subject to such conditions, acceptable to the Foundation, upon which such aid, grants, contributions and cooperation may be made;

10. To do any lawful act necessary or appropriate to carry out the powers herein granted or reasonably implied, including use of whatever lawful means may be necessary and appropriate to recover any payments wrongfully made from the Fund.

**§ 32.1-359. Duties of the Board.**

The Board shall perform the following duties:

1. Establish specific criteria and procedures governing decisions by the Foundation to cause the moneys obtained from the Master Settlement Agreement in the Fund to be primarily distributed to entities for use in the discouragement, elimination or prevention of the use of tobacco products by minors. Additionally, the Foundation may distribute moneys in the Fund obtained primarily from public grants and private funding sources to reduce childhood obesity *and to prevent and reduce substance use by youth in the Commonwealth*;

2. Establish requirements that every recipient of money distributed from the Fund establish and maintain policies that restrict the use of tobacco products by minors, as provided in § 32.1-361;

3. Evaluate the proposals for the use of the assets of the Fund in accordance with the criteria established by the Board and the provisions of this chapter;

4. Evaluate the implementation and results of all efforts receiving support from the Foundation; and

5. Determine amounts to be deposited from time to time from the Fund to the Endowment.

**§ 32.1-360. Virginia Tobacco Settlement Fund.**

There is hereby created in the state treasury a special nonreverting fund to be known as the Virginia Tobacco Settlement Fund. The Fund shall be established on the books of the Comptroller. Subject to the sale of all or any portion of the Foundation Allocation, 10 percent of the annual amount received by the Commonwealth from the Master Settlement Agreement shall be paid into the state treasury and credited to the Fund. In the event of such sale (i) the Foundation Allocation shall be paid in accordance with the agreement for the period of sale and (ii) the fund shall receive amounts withdrawn from the Endowment in accordance with § 32.1-361.1. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes described in this chapter. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written authorization signed by the chairman of the Board or his designee. Moneys in the Fund shall be used for the purposes of (a) discouraging, eliminating or preventing the use of tobacco products by minors, including but not limited to educational and awareness programs on the health effects of tobacco use on minors and laws restricting the distribution of tobacco products to minors; ~~Moneys may also be used for the purpose of;~~ (b) reducing childhood obesity, including but not limited to educational and awareness programs, implementing evidence-based practices, and assisting schools and communities with related policies and programs; *and (c) preventing and reducing substance use by youth in the Commonwealth, including but not limited to educational and awareness programs, implementing evidence-based practices, and assisting schools and communities with related policies and programs.*

**CHAPTER 61**

*An Act to amend and reenact § 54.1-2400.1 of the Code of Virginia, relating to definition of mental health service provider.*

[S 1062]

Approved February 20, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 54.1-2400.1 of the Code of Virginia is amended and reenacted as follows:**

**§ 54.1-2400.1. Mental health service providers; duty to protect third parties; immunity.**

A. As used in this section:

"Certified substance abuse counselor" means a person certified to provide substance abuse counseling in a state-approved public or private substance abuse program or facility.

"Client" or "patient" means any person who is voluntarily or involuntarily receiving mental health services or substance abuse services from any mental health service provider.

"Clinical psychologist" means a person who practices clinical psychology as defined in § 54.1-3600.

"Clinical social worker" means a person who practices social work as defined in § 54.1-3700.

"Licensed practical nurse" means a person licensed to practice practical nursing as defined in § 54.1-3000.

"Licensed substance abuse treatment practitioner" means any person licensed to engage in the practice of substance abuse treatment as defined in § 54.1-3500.

"Marriage and family therapist" means a person licensed to engage in the practice of marriage and family therapy as defined in § 54.1-3500.

"Mental health professional" means a person who by education and experience is professionally qualified and licensed in Virginia to provide counseling interventions designed to facilitate an individual's achievement of human development goals and remediate mental, emotional, or behavioral disorders and associated distresses which interfere with mental health and development.

"Mental health service provider" or "provider" refers to any of the following: (i) a person who provides professional services as a certified substance abuse counselor, clinical psychologist, clinical social worker, licensed substance abuse treatment practitioner, licensed practical nurse, marriage and family therapist, mental health professional, physician, *physician assistant*, professional counselor, psychologist, registered nurse, school psychologist, or social worker; (ii) a professional corporation, all of whose shareholders or members are so licensed; or (iii) a partnership, all of whose partners are so licensed.

"Professional counselor" means a person who practices counseling as defined in § 54.1-3500.

"Psychologist" means a person who practices psychology as defined in § 54.1-3600.

"Registered nurse" means a person licensed to practice professional nursing as defined in § 54.1-3000.

"School psychologist" means a person who practices school psychology as defined in § 54.1-3600.

"Social worker" means a person who practices social work as defined in § 54.1-3700.

B. A mental health service provider has a duty to take precautions to protect third parties from violent behavior or other serious harm only when the client has orally, in writing, or via sign language, communicated to the provider a specific and immediate threat to cause serious bodily injury or death to an identified or readily identifiable person or persons, if the provider reasonably believes, or should believe according to the standards of his profession, that the client has the intent and ability to carry out that threat immediately or imminently. If the third party is a child, in addition to taking precautions to protect the child from the behaviors in the above types of threats, the provider also has a duty to take precautions to protect the child if the client threatens to engage in behaviors that would constitute physical abuse or sexual abuse as defined in § 18.2-67.10. The duty to protect does not attach unless the threat has been communicated to the provider by the threatening client while the provider is engaged in his professional duties.

C. The duty set forth in subsection B is discharged by a mental health service provider who takes one or more of the following actions:

1. Seeks involuntary admission of the client under Article 16 (§ 16.1-335 et seq.) of Chapter 11 of Title 16.1 or Chapter 8 (§ 37.2-800 et seq.) of Title 37.2.

2. Makes reasonable attempts to warn the potential victims or the parent or guardian of the potential victim if the potential victim is under the age of 18.

3. Makes reasonable efforts to notify a law-enforcement official having jurisdiction in the client's or potential victim's place of residence or place of work, or place of work of the parent or guardian if the potential victim is under age 18, or both.

4. Takes steps reasonably available to the provider to prevent the client from using physical violence or other means of harm to others until the appropriate law-enforcement agency can be summoned and takes custody of the client.

5. Provides therapy or counseling to the client or patient in the session in which the threat has been communicated until the mental health service provider reasonably believes that the client no longer has the intent or the ability to carry out the threat.

D. A mental health service provider shall not be held civilly liable to any person for:

1. Breaching confidentiality with the limited purpose of protecting third parties by communicating the threats described in subsection B made by his clients to potential third party victims or law-enforcement agencies or by taking any of the actions specified in subsection C.

2. Failing to predict, in the absence of a threat described in subsection B, that the client would cause the third party serious physical harm.

3. Failing to take precautions other than those enumerated in subsection C to protect a potential third party victim from the client's violent behavior.

## CHAPTER 62

*An Act to require the Secretary of Health and Human Resources to convene a workgroup to develop educational standards and curricula for training health care providers in the safe and appropriate use of opioids to treat pain while minimizing the risk of addiction and substance abuse.*

[S 1179]

Approved February 20, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. § 1.** *That the Secretary of Health and Human Resources shall convene a workgroup that shall include representatives of the Departments of Behavioral Health and Developmental Services, Health, and Health Professions as well as representatives of the State Council of Higher Education for Virginia and at least one representative of each medical school, dental school, school of pharmacy, physician assistant education program, and nursing education program located in the Commonwealth to develop educational standards and curricula for training health care providers, including physicians, dentists, optometrists, pharmacists, physician assistants, and nurses in the safe and appropriate use of opioids to treat pain while minimizing the risk of addiction and substance abuse. Such educational standards and curricula shall include education and training on pain management, addiction, and the proper prescribing of controlled substances. The workgroup shall report its progress and the outcomes of its activities to the Governor and the General Assembly by December 1, 2017.*

**2. That an emergency exists and this act is in force from its passage.**

## CHAPTER 63

*An Act to amend and reenact §§ 55-225.10 and 55-507 of the Code of Virginia, relating to residential rental property.*

[H 1623]

Approved February 20, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 55-225.10 and 55-507 of the Code of Virginia are amended and reenacted as follows:**

**§ 55-225.10. Notice to tenant in event of foreclosure.**

A. The landlord of a dwelling unit subject to this chapter shall give written notice to the tenant or any prospective tenant of such dwelling unit that the landlord has received a notice of a mortgage default, mortgage acceleration, or foreclosure sale relative to the loan on the dwelling unit within five business days after written notice from the lender is received by the landlord. This requirement shall not apply (i) to any managing agent who does not receive a copy of such written notice from the lender or (ii) if the tenant or prospective tenant provides a copy of the written notice from the lender to the landlord or the managing agent.

B. If the landlord fails to provide the notice required by this section, the tenant shall have the right to terminate the rental agreement upon written notice to the landlord at least five business days prior to the effective date of termination. If the tenant terminates the rental agreement, the landlord shall make disposition of the tenant's security deposit in accordance with law or the provisions of the rental agreement, whichever is applicable.

C. ~~If the dwelling unit is foreclosed upon and there is a tenant lawfully residing in the dwelling unit on the date of foreclosure, the tenant may remain in such dwelling unit as a tenant only pursuant to the Protecting Tenants at Foreclosure Act, P.L. No. 111-22, § 702, 123 Stat. 1632, 1660 (2009), and provided the tenant remains in compliance with all of the terms and conditions of the lease agreement, including payment of rent. If there is in effect at the date of the foreclosure sale a tenant in a residential dwelling unit foreclosed upon, the foreclosure shall act as a termination of the rental agreement by the owner. In such case, the tenant may remain in possession of such dwelling unit as a month-to-month tenant on the terms of the terminated rental agreement until the successor owner gives a notice of termination of such month-to-month tenancy. If the successor owner elects to terminate the month-to-month tenancy, written notice of such termination shall be given in accordance with the rental agreement, or the provisions of § 55-222 or 55-248.6, as applicable.~~

D. ~~Unless or until the successor owner terminates the month-to-month tenancy, the terms of the terminated rental agreement remain in effect except that the tenant shall make rental payments (i) to the successor owner as directed in a written notice to the tenant in this subsection; (ii) to the managing agent of the owner, if any, or successor owner; or (iii) into a court escrow account pursuant to the provisions of § 55-225.12; however, there is no obligation of a tenant to file a tenant's assertion and pay rent into escrow. Where there is not a managing agent designated in the terminated rental agreement, the tenant shall remain obligated for payment of the rent but shall not be held to be delinquent or assessed a late charge until the successor owner provides written notice identifying the name, address, and telephone number of the party to which the rent should be paid.~~

E. ~~The successor owner may enter into a new rental agreement with the tenant in the dwelling unit, in which case, upon the commencement date of the new rental agreement, the month-to-month tenancy shall terminate.~~

**§ 55-507. Transfer of deposits upon purchase.**

The *current* owner of rental property shall transfer any security deposits and any accrued interest on the deposits in his possession to the new owner at the time of the transfer of the rental property. *If the current owner has entered into a written property management agreement with a managing agent in accordance with the provisions of subsection E of § 54.1-2135, the current owner shall give written notice to the managing agent requesting payment of such security deposits to the current owner prior to settlement with the new owner. Upon receipt of the written notice, the managing agent shall transfer the security deposits to the current owner and provide written notice to each tenant that his security deposit has been transferred to the new owner in accordance with this section.*

#### CHAPTER 64

*An Act to amend and reenact § 42.1-36 of the Code of Virginia, relating to local and regional libraries; boards not mandatory.*

[H 1787]

Approved February 20, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 42.1-36 of the Code of Virginia is amended and reenacted as follows:**

**§ 42.1-36. Boards not mandatory.**

The formation, creation, or continued existence of boards shall in nowise be considered or construed in any manner as mandatory upon any city or town with a manager, or upon any county with a county manager, county executive, urban county manager ~~or~~, urban county executive form of government, *or charter*; or upon the Counties of Chesterfield and Shenandoah, by virtue of this chapter.

#### CHAPTER 65

*An Act to amend and reenact §§ 54.1-2322 and 54.1-2324 of the Code of Virginia, relating to perpetual care trust funds; method of distribution.*

[S 891]

Approved February 20, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 54.1-2322 and 54.1-2324 of the Code of Virginia are amended and reenacted as follows:**

**§ 54.1-2322. Use of income from perpetual care trust fund; distributions.**

A. The income from the perpetual care trust fund shall be used solely and exclusively for the general care, maintenance, administration, and embellishment of the cemetery. Unless prior approval has been obtained from the Board or a court of competent jurisdiction, the principal of the perpetual care trust fund shall only be used for investment purposes.

B. A cemetery company may request the trustee of a perpetual care trust fund to elect the distribution of either of the following from the perpetual care trust fund:

1. All net income, which for purposes of this section means the collected dividends, interest, and other income of the perpetual care trust fund less any taxes on income, fees, commissions, and costs. A distribution made under this subdivision shall be referred to as a "net income distribution method"; or

2. An amount not to exceed five percent of the fair market value of the perpetual care trust fund at the close of its fiscal year preceding the distribution year. A distribution made under this subdivision shall be referred to as a "total return distribution method."

C. A cemetery company may request the trustee of a perpetual care trust fund to convert from a net income distribution method to a total return distribution method by delivering written or electronic notice to the trustee. Notice of such conversions shall be provided to the Board at least 90 days prior to implementation of the total return distribution method. Such notices may be written or electronic and shall include a copy of the trust instrument, election of distribution method, and an investment and distribution policy pursuant to subdivision D 1. In the event that a distribution method is not elected, distributions shall be limited to the net income distribution method.

D. The trustee of a perpetual care trust fund may reject a cemetery company's request to elect a total return distribution method. If a trustee determines that election of a total return distribution method is proper, he shall:

1. Prior to implementation of the total return distribution method, adopt a written investment and distribution policy under which the amounts of future distributions from the perpetual care trust fund will be calculated under the total return distribution method rather than net income distribution method. The investment goals and objectives of such policy shall be tailored to achieve (i) principal growth through equity investment; (ii) current income through income investment, as necessary; and (iii) an appropriate balance between (a) maintaining purchasing power through principal appreciation and (b) generating income to support the cemetery company's care and maintenance. A copy of such policy shall be sent to the Board with the notice required in subsection C;

2. Ensure that asset allocation under the perpetual care trust fund includes a diversified portfolio and that investment decisions are made in accordance with all other applicable laws of the Commonwealth;

3. Determine the fair market value of the perpetual care trust fund at least annually using generally accepted valuation methods and such valuation date or dates or averages of valuation dates as are readily ascertainable;

4. Make distributions from the perpetual care trust fund on a monthly, quarterly, semi-annual, or annual basis, as agreed upon by the cemetery company and the trustee;

5. Require that both of the following tests be met each fiscal year prior to allowing any distribution from the perpetual care trust fund to the cemetery company: (i) the fair market value of the perpetual care trust fund after the distribution will be greater than the aggregate of 80 percent of the fair market value of the perpetual care trust fund at the close of the preceding fiscal year plus the total contributions made to the trust principal from such date to the date that the method of distribution is elected and (ii) beginning with the third year of using a total return distribution method, a three-year analysis of investment returns and distribution practices indicates that such practices will result in sufficient protection of the trust principal. If either test is not met, distributions for that fiscal year shall be limited to the net income distribution method;

6. In the event that the taxes and fees paid by the perpetual care trust fund are greater than two and one-half percent of the fair market value of the trust at the close of the preceding fiscal year, reduce the distribution by the amount exceeding two and one-half percent; and

7. Maintain records documenting the fair market value of the assets held in the perpetual care trust fund at the end of the accounting period immediately prior to conversion to the total return distribution method.

E. In addition to filing an annual perpetual care trust fund financial report with the Board pursuant to § 54.1-2324, a cemetery company that has elected a total return distribution method shall also file a copy of such financial report at the close of each fiscal year with the commissioner of accounts in a jurisdiction in the Commonwealth in which the cemetery company owns a cemetery. The commissioner of accounts shall review the financial report and forward his finalized accounting to the Board, with all reasonable fees and costs for such filing and review borne by the cemetery company. A trustee shall not make any distribution from a perpetual care trust fund under a total return distribution method until the review by the commissioner of accounts has been finalized. A review shall be deemed finalized if the commissioner of accounts has not responded or communicated any deficiencies within 60 days of the submission of the financial report.

F. The Board shall review all notices of conversion or reversion of perpetual care trust fund distribution method for compliance with this section. The Board may engage the services of a professional to review notices of conversion or reversion to a total return distribution method, with all reasonable costs of such review borne by the cemetery company that submitted such notice.

The Board may limit or prohibit conversion from a net income distribution method to a total return distribution method if the trustee or any investment manager is not able to demonstrate sufficient knowledge and expertise regarding effective implementation of the total return distribution method. The Board may prohibit a reversion from the total return distribution method to the net income distribution method if the trust principal is less than it was at the time the cemetery company converted to the total return distribution method, as adjusted for inflation.

If a conversion to the total return distribution method has already been made, the Board may limit or prohibit distributions from the perpetual care trust fund if the trustee or any investment manager is not able to demonstrate sufficient knowledge and expertise regarding the distribution of trust income for the maintenance of the cemetery using the total return distribution method. In deciding whether a distribution should be limited or prohibited, the Board shall consider the presence and stated value of trust assets that do not have an active market and are not traded on a regular basis, the frequency of appraisals and evaluations of such assets, the asset allocation of the trust, and whether trust principal, as adjusted for inflation, is less than it was at the time the cemetery company converted to the total return distribution method.

The Board may require a cemetery company to restore a distribution to the perpetual care trust fund if (i) the distribution and all other aspects of the trust were not in compliance with the requirements of this section at the time such distribution was made or (ii) the cemetery company has committed fraud against the trust.

G. If a total return distribution method has been elected, the perpetual care trust fund may not be reverted to a net income distribution method absent approval by the Board. A failure by a cemetery company to file a perpetual care trust fund financial report annually with the Board as required by § 54.1-2324 shall automatically prohibit a conversion to or continuation of a total return distribution method pending further action by the Board.

H. No portion of the perpetual care trust fund shall be used to pay any personal obligation or debt of any officer or owner of the cemetery or any tax obligation incurred by the cemetery or for any purpose other than that expressly described in this section. Nothing in this section shall be construed to limit the ability of the perpetual care trust fund trustee from paying normal operating expenses and income taxes of the trust itself, the trust being a separate legal entity.

**§ 54.1-2324. Financial report and report of independent certified public accountant required for perpetual care trust funds.**

A. Within four months after the close of its fiscal year, the cemetery company shall report the following information to the Board, on forms prescribed by the Board:

1. The total amount of principal in the perpetual care trust fund;
2. The securities in which the perpetual care trust fund is invested and the amount of cash on hand as of the close of the fiscal year;
3. The income received from the perpetual care trust fund, and the sources of such income, during the preceding fiscal year;

4. *The method of distribution used for distributions from the perpetual care trust fund and, if a total return distribution method was used, a schedule to verify compliance with the requirements of § 54.1-2322;*

5. An affidavit executed by the compliance agent that all applicable provisions of this chapter relating to perpetual care trust funds have been complied with;

~~5-~~ 6. The total receipts subject to the 10 percent trust requirement;

~~6-~~ 7. All expenditures from the perpetual care trust fund;

~~7-~~ 8. If the trustee is other than a Virginia trust company or trust subsidiary or a federally insured bank or savings institution doing business in the Commonwealth, proof that the required fidelity bond has been secured and that it is in effect; and

~~8-~~ 9. A separate total of expenses incurred for general care and maintenance, embellishment and administration of its cemeteries.

B. The cemetery company shall (i) engage an independent certified public accountant to apply agreed-upon procedures as specified by the Board to the total of all receipts subject to § 54.1-2319, in accordance with standards established by the American Institute of Certified Public Accountants or any successor standard authorities, and (ii) provide to the Board the independent certified public accountant's report on the agreed-upon procedures. The information provided by the cemetery company shall provide full disclosure of any transactions between the perpetual care trust fund and any directors, officers, stockholders, or employees of the cemetery company, or relatives of the cemetery company's employees, and shall include a description of the transactions, the parties involved, the dates and amounts of the transactions, and the reasons for the transactions.

C. The information required to be filed hereunder with the Board shall be exempt from the Government Data Collection and Dissemination Practices Act (§ 2.2-3800 et seq.).

## CHAPTER 66

*An Act to amend and reenact §§ 3.2-1105, 3.2-1106, 3.2-2401, 3.2-2405 through 3.2-2407.1, and 3.2-2410 of the Code of Virginia and to repeal §§ 3.2-2403 and 3.2-2404 of the Code of Virginia, relating to commodity boards; Tobacco Board.*

[S 948]

Approved February 20, 2017

### Be it enacted by the General Assembly of Virginia:

1. That §§ 3.2-1105, 3.2-1106, 3.2-2401, 3.2-2405 through 3.2-2407.1, and 3.2-2410 of the Code of Virginia are amended and reenacted as follows:

#### § 3.2-1105. Commodity boards; appointment terms; quorum.

The following provisions apply to each commodity board established pursuant to the provisions of Chapter 12 (§ 3.2-1200 et seq.), Chapter 13 (§ 3.2-1300 et seq.), Chapters 16 (§ 3.2-1600 et seq.) through 19 (§ 3.2-1900 et seq.), ~~or Chapter 21 (§ 3.2-2100 et seq.), or Chapter 24 (§ 3.2-2400 et seq.):~~

1. The term for each appointment to a commodity board shall be for four years, with the exception of an appointment to fill a vacancy, which shall be for the unexpired term, unless otherwise authorized in this subtitle; and

2. A majority of the members of a commodity board shall constitute a quorum of that commodity board unless otherwise authorized in this subtitle.

#### § 3.2-1106. Commodity board officers and reimbursement of expenses.

The following provisions apply to each commodity board established pursuant to the provisions of Chapter 12 (§ 3.2-1200 et seq.), Chapter 13 (§ 3.2-1300 et seq.), Chapters 15 (§ 3.2-1500 et seq.) through 19 (§ 3.2-1900 et seq.), ~~or Chapter 21 (§ 3.2-2100 et seq.), or Chapter 24 (§ 3.2-2400 et seq.):~~

1. The members of a commodity board shall elect one board member as chairman and such other officers as deemed appropriate unless otherwise authorized in this subtitle; and

2. Each appointed member of a commodity board shall serve without compensation. Such commodity board may reimburse any of its members for actual expenses incurred in the performance of his duties unless otherwise authorized in this subtitle. Such reimbursements shall be made from the special funds established pursuant to the provisions of Chapter 12 (§ 3.2-1200 et seq.), Chapter 13 (§ 3.2-1300 et seq.), Chapters 15 (§ 3.2-1500 et seq.) through 19 (§ 3.2-1900 et seq.), ~~or Chapter 21 (§ 3.2-2100 et seq.), or Chapter 24 (§ 3.2-2400 et seq.):~~

#### § 3.2-2401. Tobacco Board; composition and appointment of members.

The Tobacco Board is hereby established within the Department. The Tobacco Board shall consist of nine members. Each of the six production areas of flue-cured tobacco set out in § 3.2-2402 shall have a representative on the Tobacco Board, and three members shall represent, as nearly as possible, each important type 21 dark-fired tobacco-producing section in the Commonwealth. The Governor shall appoint members from nominations made by the Virginia Farm Bureau Federation and other ~~tobacco grower organizations existing~~ *organizations representing bright flue-cured tobacco growers or type 21 dark-fired tobacco growers* in tobacco-producing counties. Each member shall be a citizen of the Commonwealth and engaged in producing tobacco in the Commonwealth. ~~Each organization shall submit two or more nominations for each available position at least 90 days before the expiration of the member's term for which the nomination is being provided. If~~

the organizations fail to provide the nominations at least 90 days before the expiration date pursuant to this section, the Governor may appoint other nominees that meet the foregoing criteria.

**§ 3.2-2405. Powers and duties of the Tobacco Board.**

A. All funds levied and collected under this chapter shall be administered by the Tobacco Board.

B. The Tobacco Board shall plan and conduct campaigns of education, advertising, publicity, sales promotion, and research to increase the demand for, and the consumption of, bright flue-cured and type 21 dark-fired tobaccos.

C. The Tobacco Board may make contracts, expend moneys of the Bright Flue-Cured Tobacco Promotion Fund and the Dark-Fired Tobacco Promotion Fund, and do whatever else may be necessary to effectuate the purposes of this chapter.

D. The Tobacco Board may cooperate with other state, regional, and national agricultural organizations in research, advertising, publicity, education, and other means of promoting the sale, use, and exportation of ~~bright flue-cured~~ *bright flue-cured* and type 21 dark-fired tobaccos, and expend moneys of the Bright Flue-Cured Tobacco Promotion Fund and the Dark-Fired Tobacco Promotion Fund for such purposes.

E. ~~The Tobacco Board may appoint a secretary and such other employees as may be necessary, at salaries to be fixed by the Tobacco Board, subject to the provisions of Chapter 29 (§ 2.2-2900 et seq.) of Title 2.2. All employees handling money under this chapter shall be required to furnish surety bonds.~~

F. The Chairman shall make a report at the annual meeting of the Tobacco Board and furnish members with a statement of the total receipts and disbursements for the year. He shall file a copy of such report and the audit required by § 3.2-2407 with the Commissioner.

**§ 3.2-2406. Collection of assessment.**

~~An excise tax of 20 cents (\$0.20) assessment of 40 cents (\$0.40) per 100 pounds is levied shall be collected~~ on all bright flue-cured and type 21 dark-fired tobaccos that are harvested in the Commonwealth and sold by the grower and shall be payable by the grower.

**§ 3.2-2407. Bright Flue-Cured Tobacco Promotion Fund established.**

There is hereby created in the state treasury a special nonreverting fund to be known as the Bright Flue-Cured Tobacco Promotion Fund, hereafter referred to as "the Fund." The Fund shall be established on the books of the Comptroller. All moneys levied and collected under this chapter on all bright flue-cured tobacco shall be paid into the state treasury and credited to the Fund.

Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of carrying out the administration and enforcement of this chapter with respect to bright flue-cured tobacco, including the collection of ~~taxes~~ *assessments*, the payment of personal services and expenses of ~~employees and~~ agents of the Tobacco Board, and the payment of rent, services, materials, and supplies necessary to effectuate the purposes of this chapter. Expenditures and disbursements from the Fund shall be made by the Tobacco Board on warrants issued by the Comptroller upon written request signed by a duly authorized officer of the Tobacco Board.

The Auditor of Public Accounts shall audit all the accounts of the Tobacco Board as is provided for in § 30-133.

**§ 3.2-2407.1. Dark-Fired Tobacco Promotion Fund established.**

There is hereby created in the state treasury a special nonreverting fund to be known as the Dark-Fired Tobacco Promotion Fund, hereafter referred to as "the Fund." The Fund shall be established on the books of the Comptroller. All moneys levied and collected under this chapter on type 21 dark-fired tobacco shall be paid into the state treasury and credited to the Fund.

Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of carrying out the administration and enforcement of this chapter with respect to type 21 dark-fired tobacco, including the collection of ~~taxes~~ *assessments*, the payment of personal services and expenses of ~~employees and~~ agents of the Tobacco Board, and the payment of rent, services, materials, and supplies necessary to effectuate the purposes of this chapter. Expenditures and disbursements from the Fund shall be made by the Tobacco Board on warrants issued by the Comptroller upon written request signed by a duly authorized officer of the Tobacco Board.

The Auditor of Public Accounts shall audit all the accounts of the Tobacco Board as is provided for in § 30-133.

**§ 3.2-2410. Collection of unpaid assessment and interest thereon.**

If the ~~tax~~ *assessment* imposed by this chapter is not paid when due or any funds collected by a warehouse or handler are not remitted to the Tobacco Board as required in this chapter, the amount due shall bear interest at the rate of one percent per month from the due date until payment.

If any person defaults in any payment of the ~~tax~~ *assessment* or interest thereon, or fails to remit any funds collected to the Tobacco Board, the amount shall be collected by civil action in the name of the Commonwealth at the relation of the Tobacco Board, and the person adjudged in default shall pay the cost of such action. The Attorney General, at the request of the Tobacco Board, shall institute action for the collection of the amount of any ~~tax~~ *assessment* past due under this chapter, including interest thereon.

*The Tobacco Board, in its discretion, may waive or remit such interest, or a portion thereof, for good cause shown. In determining whether to waive interest charges or request a civil action, the Board shall consider any history of previous*

*violations, the seriousness of the violation, and the good faith demonstrated in any attempt to achieve compliance with the chapter after notice of the violation.*

**2. That §§ 3.2-2403 and 3.2-2404 of the Code of Virginia are repealed.**

**CHAPTER 67**

*An Act to amend and reenact §§ 54.1-2108.1 and 55-225.12 of the Code of Virginia, relating to residential rental property; foreclosure sale; tenant's assertion.*

[S 966]

Approved February 20, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 54.1-2108.1 and 55-225.12 of the Code of Virginia are amended and reenacted as follows:**

**§ 54.1-2108.1. Protection of escrow funds, etc., held by a real estate broker in the event of foreclosure of real property; required deposits.**

A. Notwithstanding any other provision of law:

1. If a licensed real estate broker or an agent of the licensee is holding escrow funds for the owner of real property and such property is foreclosed upon ~~by a lender~~, the licensee or an agent of the licensee shall have the right to file an interpleader action pursuant to § 16.1-77.

2. If there is in effect at the date of the foreclosure sale, a real estate purchase contract to buy the property foreclosed upon and the real estate purchase contract provides that the earnest money deposit held in escrow by a licensee shall be paid to a party to the contract in the event of a termination of the real estate purchase contract, the foreclosure shall be deemed a termination of the real estate purchase contract and the licensee or an agent of the licensee may, absent any default on the part of the purchaser, disburse the earnest money deposit to the purchaser pursuant to such provisions of the real estate purchase contract without further consent from, or notice to, the parties.

3. If there is in effect at the date of the foreclosure sale, a tenant in a residential dwelling unit foreclosed upon and the landlord is holding a security deposit of the tenant, the landlord shall handle the security deposit in accordance with applicable law, which requires the holder of the landlord's interest in the dwelling unit at the time of termination of tenancy to return any security deposit and any accrued interest that is duly owed to the tenant, whether or not such security deposit is transferred with the landlord's interest by law or equity, and regardless of any contractual agreements between the original landlord and his successors in interest. Nothing herein shall be construed to prevent the landlord from making lawful deductions from the security deposit in accordance with applicable law.

4. *If there is in effect at the date of the foreclosure sale a tenant in a residential dwelling unit foreclosed upon pursuant to § 55-225.10, the foreclosure acts as a termination of the rental agreement by the landlord and the tenant may remain in possession of such dwelling. If the rent is paid to a real estate licensee acting on behalf of the landlord as a managing agent, such property management agreement having been entered into prior to and in effect at the time of the foreclosure sale, the managing agent may collect the rent and shall place it into an escrow account by the end of the fifth business banking day following receipt.*

5. *If there is in effect at the date of the foreclosure sale a written property management agreement between the landlord and a real estate licensee licensed pursuant to the provisions of § 54.1-2106.1, the foreclosure shall convert the property management agreement into a month-to-month agreement between the successor landlord and the real estate licensee acting as a managing agent, except in the event that the terms of the original property management agreement between the landlord and the real estate licensee acting as a managing agent require an earlier termination date. Unless altered by the parties, the terms of the original property management agreement that existed between the landlord and the real estate licensee acting as a managing agent shall govern the agreement between the successor landlord and the real estate licensee acting as a managing agent. The property management agreement may be terminated by either party upon provision of written notice to the other party at least 30 days prior to the intended termination date. Any funds received or held by the real estate licensee acting as a managing agent shall be disbursed only in accordance with the terms of the property management agreement or as otherwise provided by law.*

B. Notwithstanding any other provision of law:

1. Any prepaid rent paid more than one month prior to the rent due date to a real estate licensee acting on behalf of a landlord client in connection with the lease shall be placed in an escrow account by the end of the fifth business banking day following receipt, unless otherwise agreed to in writing by the principals to a lease transaction. Any rent paid less than one month prior to the rent due date shall be current rent and may be deposited into an operating account of the real estate licensee.

2. Any security deposits paid to a real estate licensee acting on behalf of a landlord client in connection with the lease shall be placed in an escrow account by the end of the fifth business banking day following receipt, unless otherwise agreed to in writing by the principals to a lease transaction.

3. Any application deposit as defined by § 55-248.4 paid by a prospective tenant for the purpose of being considered as a tenant for a dwelling unit to a real estate licensee acting on behalf of a landlord client shall be placed in escrow by the end

of the fifth business banking day following approval of the rental application by the landlord, unless otherwise agreed to in writing by the principals to a lease transaction.

4. Such funds shall remain in an escrow account until disbursed in accordance with the terms of the lease, the property management agreement, or the applicable statutory provisions, as applicable.

5. *Except in the event of foreclosure, if a real estate licensee acting on behalf of a landlord client as a managing agent elects to terminate the property management agreement, the licensee may transfer any funds held in escrow by the licensee on behalf of the landlord client to the landlord client without his consent, provided that the real estate licensee provides written notice to each tenant that the funds have been so transferred. In the event of foreclosure, a real estate licensee shall not transfer any funds to a landlord client whose property has been foreclosed upon.*

6. *A real estate licensee acting on behalf of a landlord client as a managing agent who complies with the provisions of this section shall have immunity from any liability for such compliance, in the absence of gross negligence or intentional misconduct.*

**§ 55-225.12. Tenant's assertion; rent escrow; dwelling units.**

A. The tenant may assert that there exists upon the dwelling unit, a condition or conditions which constitute a material noncompliance by the landlord with the rental agreement or with provisions of law, or which if not promptly corrected, will constitute a fire hazard or serious threat to the life, health or safety of occupants thereof, including but not limited to, a lack of heat or hot or cold running water, except if the tenant is responsible for payment of the utility charge and where the lack of such heat or hot or cold running water is the direct result of the tenant's failure to pay the utility charge; or a lack of light, electricity or adequate sewage disposal facilities; or an infestation of rodents; or the existence of paint containing lead pigment on surfaces within the dwelling, provided that the landlord has notice of such paint. The tenant may file such an assertion in a general district court wherein the dwelling unit is located by a declaration setting forth such assertion and asking for one or more forms of relief as provided for in subsection D. *A tenant residing in a dwelling unit that has been foreclosed upon shall be eligible to file an assertion pursuant to this section.*

B. Prior to the granting of any relief, the tenant shall show to the satisfaction of the court that:

1. Prior to the commencement of the action the landlord was served a written notice by the tenant of the conditions described in subsection A, or was notified of such conditions by a violation or condemnation notice from an appropriate state or municipal agency, and that the landlord has refused, or having a reasonable opportunity to do so, has failed to remedy the same. For the purposes of this subsection, what period of time shall be deemed to be unreasonable delay is left to the discretion of the court except that there shall be a rebuttable presumption that a period in excess of 30 days from receipt of the notification by the landlord is unreasonable; and

2. The tenant has paid into court the amount of rent called for under the rental agreement, within five days of the date due thereunder, unless or until such amount is modified by subsequent order of the court under this chapter.

C. It shall be sufficient answer or rejoinder to a declaration pursuant to subsection A if the landlord establishes to the satisfaction of the court that the conditions alleged by the tenant do not in fact exist, or such conditions have been removed or remedied, or such conditions have been caused by the tenant or members of his family or his or their invitees or licensees, or the tenant has unreasonably refused entry to the landlord to the dwelling unit for the purpose of correcting such conditions.

D. Any court shall make findings of fact on the issues before it and shall issue any order that may be required. Such an order may include, but is not limited to, any one or more of the following:

1. Terminating the rental agreement upon the request of the tenant or ordering the dwelling unit surrendered to the landlord if the landlord prevails on a request for possession pursuant to an unlawful detainer properly filed with the court;

2. Ordering all moneys already accumulated in escrow disbursed to the landlord or to the tenant in accordance with this chapter, *or to the successor landlord or the successor landlord's managing agent in accordance with § 54.1-2108.1;*

3. Ordering that the escrow be continued until the conditions causing the complaint are remedied;

4. Ordering that the amount of rent, whether paid into the escrow account or paid to the landlord, be abated as determined by the court in such an amount as may be equitable to represent the existence of the condition or conditions found by the court to exist. In all cases where the court deems that the tenant is entitled to relief under this chapter, the burden shall be upon the landlord to show cause why there should not be an abatement of rent;

5. Ordering any amount of moneys accumulated in escrow disbursed to the tenant where the landlord refuses to make repairs after a reasonable time or to the landlord or to a contractor chosen by the landlord in order to make repairs or to otherwise remedy the condition. In either case, the court shall in its order insure that moneys thus disbursed will be in fact used for the purpose of making repairs or effecting a remedy;

6. Referring any matter before the court to the proper state or municipal agency for investigation and report and granting a continuance of the action or complaint pending receipt of such investigation and report. When such a continuance is granted, the tenant shall deposit with the court rent payments within five days of the date due under the rental agreement, subject to any abatement under this section, which become due during the period of the continuance, to be held by the court pending its further order;

7. In the court's discretion, ordering escrow funds disbursed to pay a mortgage on the property upon which the dwelling unit is located in order to stay a foreclosure; or

8. In the court's discretion, ordering escrow funds disbursed to pay a creditor to prevent or satisfy a bill to enforce a mechanic's or materialman's lien.

Notwithstanding any provision of this subsection, where an escrow account is established by the court and the condition or conditions are not fully remedied within six months of the establishment of such account, and the landlord has not made reasonable attempts to remedy the condition, the court shall award all moneys accumulated in escrow to the tenant. In such event, the escrow shall not be terminated, but shall begin upon a new six-month period with the same result if, at the end thereof, the condition or conditions have not been remedied.

E. The initial hearing on the tenant's assertion filed pursuant to subsection A shall be held within 15 calendar days from the date of service of process on the landlord, except that the court shall order an earlier hearing where emergency conditions are alleged to exist upon the premises, such as failure of heat in winter, lack of adequate sewage facilities or any other condition which constitutes an immediate threat to the health or safety of the inhabitants of the dwelling unit. The court, on motion of either party or on its own motion, may hold hearings subsequent to the initial proceeding in order to further determine the rights and obligations of the parties. Distribution of escrow moneys may only occur by order of the court after a hearing of which both parties are given notice as required by law or upon motion of both the landlord and tenant or upon certification by the appropriate inspector that the work required by the court to be done has been satisfactorily completed.

## CHAPTER 68

*An Act to amend and reenact § 36-19.2 of the Code of Virginia, relating to housing authorities; authorization by locality.*

[S 1237]

Approved February 20, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 36-19.2 of the Code of Virginia is amended and reenacted as follows:**

**§ 36-19.2. Powers limited by necessity for authority from or approval by governing body; public hearing on proposed budget.**

A. Notwithstanding the provisions of § 36-19, no authority ~~heretofore or hereafter~~ permitted to transact business and exercise powers as provided in § 36-4 shall make any contract for the construction of any additional housing not authorized or approved by the governing body on April 1, 1952, or acquire land for, or purchase material for the construction or installation of, any sewerage, streets, sidewalks, lights, power, water, or any other facilities for any additional housing not authorized or approved on such date, unless and until such additional housing ~~shall have~~ *has* been authorized or approved by the governing body of the ~~county or city~~ *locality* in which the authority is authorized to transact business and exercise powers; provided, that this section shall not affect or impair the provisions of § 36-19.1.

B. Before any authority gives final approval to (i) its budget or (ii) any request for funding for submission to the governing body, the authority shall hold at least one public hearing to receive the views of citizens within the area of operation of the authority. The authority shall cause public notice to be given at least 10 days prior to any hearing by publication in a newspaper having a general circulation within the area of operation of the authority.

## CHAPTER 69

*An Act to amend and reenact § 2.2-2319 of the Code of Virginia, relating to the Virginia Tourism Authority; Cooperative Marketing Fund; eligibility.*

[S 1483]

Approved February 20, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 2.2-2319 of the Code of Virginia is amended and reenacted as follows:**

**§ 2.2-2319. Cooperative Marketing Fund.**

A. There is established the Cooperative Marketing Fund (Marketing Fund) for the purpose of encouraging, stimulating, and supporting the tourism segment of the economy of the Commonwealth and the direct and indirect benefits that flow from the success of such industry. To create the public-private partnership envisioned by such Marketing Fund, the Marketing Fund shall be established out of the sums appropriated by the General Assembly for the purpose of matching ~~private eligible~~ funds to be used for the promotion, marketing, and advertising of the Commonwealth's many tourist attractions and locations. *Proposals for new programs as well as existing programs with measurable return on investment* shall be eligible for matching grant funds under this section only if they promote, benefit, market and advertise locations or destinations that are (i) solely within the territorial limits of the Commonwealth or (ii) in both the Commonwealth and any adjoining state, in which instance the matching grant funds should be used to promote locations and destinations located within the territorial limits of the Commonwealth. The funds made available in the appropriations act for the Marketing Fund shall be administered and managed by the Authority.

B. In the event more than one person seeks to take advantage of the benefits conferred by this section and the Marketing Fund is insufficient to accommodate all such requests, the matching formula shall be adjusted, to the extent practicable, to afford each request for which there is a valid public purpose an equitable share.

C. All persons seeking to receive or qualify for such matching funds shall apply to the Authority in January of the year preceding the fiscal year for which funds are sought, and to the extent the Governor concurs in such funding request, it shall be reflected in the Governor's Budget Bill filed pursuant to § 2.2-1509. The application shall set forth the applicant's proposals in detail. The Authority shall develop guidelines setting forth the criteria it will weigh in considering such applications; such guidelines may indicate a preference for proposals submitted by nonprofit organizations *or state agencies*. The guidelines may require that as a condition of receiving any grant or other incentive that is based on employment goals, a recipient company must provide copies of employer quarterly payroll reports provided to the Virginia Employment Commission to verify the employment status of any position included in the employment goal.

## CHAPTER 70

*An Act to amend and reenact § 18.2-160.3 of the Code of Virginia, relating to fare enforcement inspectors.*

[H 1931]

Approved February 20, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 18.2-160.3 of the Code of Virginia is amended and reenacted as follows:**

**§ 18.2-160.3. Fare enforcement inspectors; failure to produce proof of payment of fare; penalty.**

A. For the purposes of this section, "eligible entity" means any transit operation ~~in Planning District 8~~ that is owned or operated directly or indirectly by a political subdivision of the Commonwealth or any governmental entity established by an interstate compact of which Virginia is a signatory.

B. Any eligible entity that either directly or by contract operates any form of mass transit may appoint fare enforcement inspectors and establish the qualifications required for their appointment. Fare enforcement inspectors shall have the power to (i) request patrons at transit boarding locations or on transit vehicles to show proof of payment of the applicable fare; (ii) inspect the proof of payment for validity; (iii) issue a civil summons for violations authorized by this section; (iv) assist with crowd control while on a transit vehicle or at a transit boarding location; and (v) perform such other customer service and safety duties as may be assigned by the eligible entity. The powers of fare enforcement inspectors are limited to those powers enumerated in this section, and fare enforcement inspectors are not required to be law-enforcement officers. The powers of fare enforcement inspectors appointed pursuant to this section shall be exercisable anywhere in the Commonwealth where the appointing eligible entity operates transit service. Fare enforcement inspectors shall report to the department or agency designated by the appointing eligible entity.

C. It shall be unlawful for any person to board or ride a transit operation operated by an eligible entity when he fails or refuses to pay the applicable fare or refuses to produce valid proof of payment of the fare upon request of a fare enforcement inspector. Any person who violates this section shall be liable for a civil penalty of not more than \$100. Any person summoned for a violation may make an appearance in person or in writing by mail to the department of finance or the treasurer of the locality, or the designee of the department of finance or the treasurer, where the violation occurred as specified on the summons prior to the date fixed for trial in court. Any person so appearing may enter a waiver of trial, admit liability, and pay the civil penalty established for the violation charged. Such persons shall be informed of their right to stand trial and that a signature to an admission of liability will have the same force and effect as a judgment of court. If a person charged with a violation does not elect to enter a waiver of trial and admit liability, the violation shall be brought by the eligible entity or the locality in which the violation occurred and tried as a civil case in the general district court in the same manner and with the same right of appeal as provided for by law. In any trial for a violation authorized by this section, it shall be the burden of the eligible entity or locality in which the violation occurred to show the liability of the violator by a preponderance of the evidence. The penalty for failure to pay the established fare on transit properties covered by another provision of law shall be governed by that provision and not by this section.

D. The governing bodies of counties, cities, and towns may adopt ordinances not in conflict with the provisions of this section to appoint fare enforcement inspectors and prescribe their duties in such counties, cities, and towns.

E. The penalty imposed by this section shall not apply to a law-enforcement officer while he is engaged in the performance of his official duties.

## CHAPTER 71

*An Act to designate the State Route 143 bridge in the City of Newport News the "Trooper Chad Phillip Dermeyer Memorial Bridge."*

[S 855]

Approved February 20, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. § 1. That the State Route 143 bridge in the City of Newport News at exit 255 over Interstate 64 is hereby designated the "Trooper Chad Phillip Dermeyer Memorial Bridge." The Department of Transportation shall place and maintain**

*appropriate markers indicating the designation of this bridge. This designation shall not affect any other designation heretofore or hereafter applied to this bridge.*

## CHAPTER 72

*An Act to amend and reenact § 28.2-400.2 of the Code of Virginia, relating to menhaden; total allowable landings.*

[S 909]

Approved February 20, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 28.2-400.2 of the Code of Virginia is amended and reenacted as follows:**

**§ 28.2-400.2. Total allowable landings for menhaden.**

A. Except as provided for in subsections B, C, and D, the total allowable landings for menhaden shall be ~~158,700.12~~ 168,937.75 metric tons per year.

B. If the total allowable landings specified in subsection A are exceeded in any year, the total allowable landings for the subsequent year will be reduced by the amount of the overage. Such overage shall be deducted from the sector of the menhaden fishery that exceeded the allocation specified in § 28.2-400.3.

C. The Commissioner may request a transfer of menhaden landings from any other state that is a member of the Atlantic States Marine Fisheries Commission. If the Commonwealth receives a transfer of menhaden in any year from another state, the total allowable landings for only that year shall increase by the amount of transferred landings. The Commissioner may transfer menhaden to another state only if there are unused landings after December 15.

D. Any portion of the one percent of the coast-wide total allowable catch set aside by the Atlantic States Marine Fisheries Commission for episodic events that is unused as of September 1 of any year shall be returned to Virginia and other states according to allocation guidelines established by the Atlantic States Marine Fisheries Commission. Any such return of this portion of the coast-wide total allowable catch to Virginia shall increase the total allowable landings for that year.

## CHAPTER 73

*An Act to amend and reenact § 46.2-325 of the Code of Virginia, relating to Virginia Driver's Manual course; age requirements.*

[S 1041]

Approved February 20, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 46.2-325 of the Code of Virginia is amended and reenacted as follows:**

**§ 46.2-325. Examination of applicants; waiver of Department's examination under certain circumstances; behind-the-wheel and knowledge examinations.**

A. The Department shall examine every applicant for a driver's license before issuing any license to determine (i) his physical and mental qualifications and his ability to drive a motor vehicle without jeopardizing the safety of persons or property and (ii) if any facts exist which would bar the issuance of a license under §§ 46.2-311 through 46.2-316, 46.2-334, or 46.2-335. The examination, however, shall not include investigation of any facts other than those directly pertaining to the ability of the applicant to drive a motor vehicle with safety, or other than those facts declared to be prerequisite to the issuance of a license under this chapter. No applicant otherwise competent shall be required to demonstrate ability to park any motor vehicle except in an adequate parking space between horizontal markers, and not between flags or sticks simulating parked vehicles. Except as provided for in § 46.2-337, applicants for licensure to drive motor vehicles of the classifications referred to in § 46.2-328 shall submit to examinations which relate to the operation of those vehicles. The motor vehicle to be used by the applicant for the behind-the-wheel examination shall meet the safety and equipment requirements specified in Chapter 10 (§ 46.2-1000 et seq.) and possess a valid inspection sticker as required pursuant to § 46.2-1157. An autocycle shall not be used by the applicant for a behind-the-wheel examination.

Prior to taking the examination, the applicant shall either (a) present evidence that the applicant has completed a state-approved driver education class pursuant to the provisions of § 46.2-324.1 or 46.2-334 or (b) submit to the examiner a behind-the-wheel maneuvers checklist, on a form provided by the Department, that describes the vehicle maneuvers the applicant may be expected to perform while taking the behind-the-wheel examination, that has been signed by a licensed driver, certifying that the applicant has practiced the driving maneuvers contained and described therein, and that has been signed by the applicant certifying that, at all times while holding a learner's permit, the applicant has complied with the provisions of § 46.2-335 while operating a motor vehicle.

Except for applicants subject to § 46.2-312, if the Commissioner is satisfied that an applicant has demonstrated the same proficiency as required by the Department's examination through successful completion of either (1) the driver education course approved by the Department of Education or (2) a driver training course offered by a driver training school

licensed under Chapter 17 (§ 46.2-1700 et seq.), he may waive those parts of the Department's examination provided for in this section that require the applicant to drive and park a motor vehicle.

B. Any person who fails the behind-the-wheel examination for a driver's license administered by the Department shall wait two days before being permitted to take another such examination. No person who fails the behind-the-wheel examination for a driver's license administered by the Department three times shall be permitted to take such examination a fourth time until he successfully completes, subsequent to the third examination failure, the in-vehicle component of driver instruction at a driver training school licensed under Chapter 17 (§ 46.2-1700 et seq.) or a comparable course approved by the Department or the Department of Education. In addition, no person who fails the driver knowledge examination for a driver's license administered by the Department three times shall be permitted to take such examination a fourth time until he successfully completes, subsequent to the third examination failure, the classroom component of driver instruction at a driver training school licensed under Chapter 17 (§ 46.2-1700 et seq.) or a comparable course approved by the Department or the Department of Education or, for (i) persons at least 19 18 years old or (ii) persons less than 19 18 years old who have previously completed the classroom component of driver instruction at a driver training school licensed under Chapter 17 (§ 46.2-1700 et seq.), a course of instruction based on the Virginia Driver's Manual offered by a driver training school licensed under Chapter 17 (§ 46.2-1700 et seq.) and approved by the Department or the Department of Education. All persons required to attend a driver training school complete the in-vehicle component of driver instruction or the classroom component of driver instruction pursuant to this section shall be required after successful completion of the necessary courses to have the applicable examination administered by the Department.

The provisions of this subsection shall not apply to persons placed under medical control by the Department pursuant to § 46.2-322.

CHAPTER 74

An Act to amend and reenact § 46.2-2011.5 of the Code of Virginia, relating to filing and application fees for transportation network companies.

[S 1101]

Approved February 20, 2017

Be it enacted by the General Assembly of Virginia:

1. That § 46.2-2011.5 of the Code of Virginia is amended and reenacted as follows:

§ 46.2-2011.5. Filing and application fees.

A. Unless otherwise provided, every applicant, other than a transportation network company, for an original license, permit, or certificate issued under this chapter and transfer of a license or certificate under the provisions of this chapter shall, upon the filing of an application, deposit with the Department, as a filing fee, a sum in the amount of \$50.

~~The fee to accompany an application for an original of the B. An applicant for a certificate required under § 46.2-2099.45 shall be elect and remit to the Department one of the following fees:~~

1. An annual fee of \$100,000, ~~and the annual fee to accompany an application for a an original certificate or a fee of \$60,000 to accompany an application for renewal thereof shall be \$60,000; or~~
2. A fee of \$20 per report to accompany payment for each driving history research report the applicant obtains from the Department pursuant to subdivision B 2 of § 46.2-2099.49, which fee shall be in addition to any other fees that are authorized for such reports.

A transportation network company may change its election under this subsection when applying for renewal of its certificate.

If the Department does not approve an application for an original of the certificate required under § 46.2-2099.45, the Department shall refund to the applicant \$90,000 of the application fee to the applicant paid under subdivision 1.

C. The Department shall collect a fee of \$3 for the issuance of a duplicate license, permit, or certificate issued under this chapter.

CHAPTER 75

An Act to amend and reenact § 4.1-119, as it is currently effective and as it shall become effective, of the Code of Virginia, relating to alcoholic beverage control; privileges of licensed distillers appointed as agents of the Alcoholic Beverage Control Board.

[S 1448]

Approved February 20, 2017

Be it enacted by the General Assembly of Virginia:

1. That § 4.1-119, as it is currently effective and as it shall become effective, of the Code of Virginia is amended and reenacted as follows:

§ 4.1-119. (Effective until July 1, 2018) Operation of government stores.

A. Subject to the requirements of §§ 4.1-121 and 4.1-122, the Board may establish, maintain, and operate government stores for the sale of alcoholic beverages, other than beer and wine not produced by farm wineries, vermouth, mixers, products used in connection with distilled spirits, including any garnish or garnishment applied to the rim of a glass of distilled spirits, as may be approved by the Board from time to time, and products licensed by the Virginia Tourism Corporation as specified in § 4.1-103 in such counties, cities, and towns considered advisable by the Board. The Board may discontinue any such store.

B. With respect to the sale of wine produced by farm wineries, the Board may give preference to farm wineries that produce 2,500 cases or less of wine per year.

C. The Board shall fix the wholesale and retail prices at which the various classes, varieties and brands of alcoholic beverages and other Board-approved products that are sold in government stores. Differences in the cost of operating stores, and market competition and conditions may be reflected in the sale price of alcoholic beverages sold at government stores. The Board may sell alcoholic beverages to federal instrumentalities (i) authorized and operating under the laws of the United States and regulations of the United States Department of Defense and (ii) located within the boundaries of federal enclaves or reservations over which the United States has acquired jurisdiction, at prices which may be greater or less than the wholesale price charged other authorized purchasers.

D. Alcoholic beverages at government stores shall be sold by employees of the Board, who shall carry out the provisions of this title and Board regulations governing the operation of government stores and the sale of alcoholic beverages, except that the Board may appoint the holder of a distiller's license or its officers and employees as agents of the Board for the sale of spirits, manufactured by or for, or blended by such licensee on the licensed premises, at government stores established by the Board (i) on the distiller's licensed premises or (ii) *at the site of an event licensed by the Board and conducted for the purpose of featuring and educating the consuming public about spirits products.*

Such agents shall sell the spirits in accordance with the provisions of this title, Board regulations, and the terms of the agency agreement between the Board and the licensed distiller.

For the purposes of this subsection, "blended" means the receipt by a licensed distiller of deliveries and shipments of alcoholic beverages, other than wine and beer, in accordance with subdivision 6 of § 4.1-201 to be (i) additionally aged by the receiving distillery in order to increase the quality and flavor of such alcoholic beverages and (ii) bottled by the receiving distillery.

E. No Class 1 neutral grain spirit or alcohol, as defined by federal regulations, that is without distinctive character, aroma, taste or color shall be sold in government stores at a proof greater than 101 except upon permits issued by the Board for industrial, commercial, culinary, or medical use.

F. All alcoholic beverages sold in government stores, except for tasting samples pursuant to subsection G sold in government stores established by the Board on a distiller's licensed premises, shall be in closed containers, sealed and affixed with labels prescribed by the Board.

G. No alcoholic beverages shall be consumed in a government store by any person unless it is part of an organized tasting event conducted by (i) an employee of a manufacturer of distilled spirits or farm winery or (ii) an authorized representative of a manufacturer of distilled spirits or farm winery with a permit issued by the Board pursuant to subdivision A 15 of § 4.1-212, at which the samples of alcoholic beverages provided to any consumer do not exceed the limits for spirits or wine set forth in subdivision A 5 of § 4.1-201.1. No sample may be consumed by any individual to whom alcoholic beverages may not lawfully be sold pursuant to § 4.1-304.

Notwithstanding the provision of this subsection to the contrary, an agent of the Board appointed pursuant to subsection D may give samples of spirits, beer, wine, or cider to persons to whom alcoholic beverages may be lawfully sold for on-premises consumption, provided that (i) the spirits, beer, wine, or cider samples are manufactured within the same licensed premises or on contiguous premises of such agent licensed as a distillery, brewery, or winery; (ii) no single sample shall exceed four ounces of beer, two ounces of wine, or one-half ounce of spirits, unless served as a mixed beverage, in which case a single sample may contain up to one and one-half ounces of spirits; (iii) no more than four total samples of alcoholic beverage products or, in the case of spirits samples, no more than three ounces of spirits shall be given or sold to any person per day; and (iv) in the case of spirits samples, a method is used to track the consumption of each consumer. Nothing in this paragraph shall prohibit such agent from serving samples of spirits as part of a mixed beverage.

The Board shall establish guidelines governing tasting events conducted pursuant to this subsection.

H. With respect to purchases by licensees at government stores, the Board shall (i) accept in payment for any purchase or series of purchases cash, electronic fund transfer, credit or debit card, or check payable to the Board, in the exact amount of any such purchase or series of purchases and (ii) provide notice to licensees on Board policies relating to the assignment of government stores from which licensees may purchase products and any procedure for the licensee to elect to make purchases from an alternative government store.

I. With respect to purchases by consumers at government stores, the Board shall accept cash in payment for any purchase or series of purchases. The Board may adopt regulations which provide for accepting a credit card or debit card as payment. Such regulations may provide for the collection, where appropriate, of related fees, penalties and service charges for the use of a credit card or debit card by any consumer.

**§ 4.1-119. (Effective July 1, 2018) Operation of government stores.**

A. Subject to the requirements of §§ 4.1-121 and 4.1-122, the Board may establish, maintain, and operate government stores for the sale of alcoholic beverages, other than beer and wine not produced by farm wineries, vermouth, mixers,

products used in connection with distilled spirits, including any garnish or garnishment applied to the rim of a glass of distilled spirits, as may be approved by the Board from time to time, and products licensed by the Virginia Tourism Corporation as specified in § 4.1-103 in such counties, cities, and towns considered advisable by the Board. The Board may discontinue any such store.

B. With respect to the sale of wine produced by farm wineries, the Board may give preference to farm wineries that produce 2,500 cases or less of wine per year.

C. The Board shall fix the wholesale and retail prices at which the various classes, varieties and brands of alcoholic beverages and other Board-approved products that are sold in government stores. Differences in the cost of operating stores, and market competition and conditions may be reflected in the sale price of alcoholic beverages sold at government stores. The Board may sell alcoholic beverages to federal instrumentalities (i) authorized and operating under the laws of the United States and regulations of the United States Department of Defense and (ii) located within the boundaries of federal enclaves or reservations over which the United States has acquired jurisdiction, at prices which may be greater or less than the wholesale price charged other authorized purchasers. Nothing in this subsection shall be construed to limit the authority of the Board to fix the retail price of alcoholic beverages sold at government stores, which retail price may include promotional, volume, or other discounts deemed appropriate by the Board.

D. Alcoholic beverages at government stores shall be sold by employees of the Authority who shall carry out the provisions of this title and Board regulations governing the operation of government stores and the sale of alcoholic beverages, except that the Board may appoint the holder of a distiller's license or its officers and employees as agents of the Board for the sale of spirits, manufactured by or for, or blended by such licensee on the licensed premises, at government stores established by the Board (i) on the distiller's licensed premises or (ii) at the site of an event licensed by the Board and conducted for the purpose of featuring and educating the consuming public about spirits products.

Such agents shall sell the spirits in accordance with the provisions of this title, Board regulations, and the terms of the agency agreement between the Authority and the licensed distiller.

For the purposes of this subsection, "blended" means the receipt by a licensed distiller of deliveries and shipments of alcoholic beverages, other than wine and beer, in accordance with subdivision 6 of § 4.1-201 to be (i) additionally aged by the receiving distillery in order to increase the quality and flavor of such alcoholic beverages and (ii) bottled by the receiving distillery.

E. No Class 1 neutral grain spirit or alcohol, as defined by federal regulations, that is without distinctive character, aroma, taste or color shall be sold in government stores at a proof greater than 101 except upon permits issued by the Board for industrial, commercial, culinary, or medical use.

F. All alcoholic beverages sold in government stores, except for tasting samples pursuant to subsection G sold in government stores established by the Board on a distiller's licensed premises, shall be in closed containers, sealed and affixed with labels prescribed by the Board.

G. No alcoholic beverages shall be consumed in a government store by any person unless it is part of an organized tasting event conducted by (i) an employee of a manufacturer of distilled spirits or farm winery or (ii) an authorized representative of a manufacturer of distilled spirits or farm winery with a permit issued by the Board pursuant to subdivision A 15 of § 4.1-212, at which the samples of alcoholic beverages provided to any consumer do not exceed the limits for spirits or wine set forth in subdivision A 5 of § 4.1-201.1. No sample may be consumed by any individual to whom alcoholic beverages may not lawfully be sold pursuant to § 4.1-304.

Notwithstanding the provision of this subsection to the contrary, an agent of the Board appointed pursuant to subsection D may give samples of spirits, beer, wine, or cider to persons to whom alcoholic beverages may be lawfully sold for on-premises consumption, provided that (i) the spirits, beer, wine, or cider samples are manufactured within the same licensed premises or on contiguous premises of such agent licensed as a distillery, brewery, or winery; (ii) no single sample shall exceed four ounces of beer, two ounces of wine, or one-half ounce of spirits, unless served as a mixed beverage, in which case a single sample of spirits may contain up to one and one-half ounces of spirits; (iii) no more than four total samples of alcoholic beverage products or, in the case of spirits samples, no more than three ounces of spirits shall be given or sold to any person per day; and (iv) in the case of spirits samples, a method is used to track the consumption of each consumer. Nothing in this paragraph shall prohibit such agent from serving samples of spirits as part of a mixed beverage.

The Board shall establish guidelines governing tasting events conducted pursuant to this subsection.

H. With respect to purchases by licensees at government stores, the Authority shall (i) accept in payment for any purchase or series of purchases cash, electronic fund transfer, credit or debit card, or check payable to the Authority, in the exact amount of any such purchase or series of purchases and (ii) provide notice to licensees on Board policies relating to the assignment of government stores from which licensees may purchase products and any procedure for the licensee to elect to make purchases from an alternative government store.

I. With respect to purchases by consumers at government stores, the Authority shall accept cash in payment for any purchase or series of purchases. The Board may adopt regulations which provide for accepting a credit card or debit card as payment. Such regulations may provide for the collection, where appropriate, of related fees, penalties and service charges for the use of a credit card or debit card by any consumer.

J. Before the Authority implements any increase in the markup on distilled spirits or any change to the markup formula for distilled spirits pursuant to § 4.1-235 that would result in an increase in the retail price of distilled spirits sold to the public, the Authority shall (i) provide at least 45 days' public notice before such a price increase takes effect; (ii) provide the

opportunity for submission of written comments regarding the proposed price increase; (iii) conduct a public meeting for the purpose of receiving verbal comment regarding the proposed price increase; and (iv) consider any written or verbal comments before implementing such a price increase.

## CHAPTER 76

*An Act to amend and reenact §§ 4.1-208, 4.1-209, and 4.1-210 of the Code of Virginia, relating to alcoholic beverage control; disposable containers.*

[S 1469]

Approved February 20, 2017

### **Be it enacted by the General Assembly of Virginia:**

#### **1. That §§ 4.1-208, 4.1-209, and 4.1-210 of the Code of Virginia are amended and reenacted as follows:**

##### **§ 4.1-208. Beer licenses.**

A. The Board may grant the following licenses relating to beer:

1. Brewery licenses, which shall authorize the licensee to manufacture beer and to sell and deliver or ship the beer so manufactured, in accordance with Board regulations, in closed containers to (i) persons licensed to sell the beer at wholesale; (ii) persons licensed to sell beer at retail for the purpose of resale within a theme or amusement park owned and operated by the brewery or a parent, subsidiary or a company under common control of such brewery, or upon property of such brewery or a parent, subsidiary or a company under common control of such brewery contiguous to such premises, or in a development contiguous to such premises owned and operated by such brewery or a parent, subsidiary or a company under common control of such brewery; and (iii) persons outside the Commonwealth for resale outside the Commonwealth. Such license shall also authorize the licensee to sell at retail the brands of beer that the brewery owns at premises described in the brewery license for on-premises consumption and in closed containers for off-premises consumption.

Such license may also authorize individuals holding a brewery license to (a) operate a facility designed for and utilized exclusively for the education of persons in the manufacture of beer, including sampling by such individuals of beer products, within a theme or amusement park located upon the premises occupied by such brewery, or upon property of such person contiguous to such premises, or in a development contiguous to such premises owned and operated by such person or a wholly owned subsidiary or (b) offer samples of the brewery's products to individuals visiting the licensed premises, provided that such samples shall be provided only to individuals for consumption on the premises of such facility or licensed premises and only to individuals to whom such products may be lawfully sold.

2. Limited brewery licenses, to breweries that manufacture no more than 15,000 barrels of beer per calendar year, provided that (i) the brewery is located on a farm in the Commonwealth on land zoned agricultural and owned or leased by such brewery or its owner and (ii) agricultural products, including barley, other grains, hops, or fruit, used by such brewery in the manufacture of its beer are grown on the farm. The licensed premises shall be limited to the portion of the farm on which agricultural products, including barley, other grains, hops, or fruit, used by such brewery in the manufacture of its beer are grown and that is contiguous to the premises of such brewery where the beer is manufactured, exclusive of any residence and the curtilage thereof. However, the Board may, with notice to the local governing body in accordance with the provisions of § 4.1-230, also approve other portions of the farm to be included as part of the licensed premises. For purposes of this subdivision, "land zoned agricultural" means (a) land zoned as an agricultural district or classification or (b) land otherwise permitted by a locality for limited brewery use. For purposes of this subdivision, "land zoned agricultural" does not include land zoned "residential conservation." Except for the limitation on land zoned "residential conservation," nothing in this definition shall otherwise limit or affect local zoning authority.

Limited brewery licensees shall be treated as breweries for all purposes of this title except as otherwise provided in this subdivision.

3. Bottlers' licenses, which shall authorize the licensee to acquire and receive deliveries and shipments of beer in closed containers and to bottle, sell and deliver or ship it, in accordance with Board regulations to (i) wholesale beer licensees for the purpose of resale, (ii) owners of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state, and (iii) persons outside the Commonwealth for resale outside the Commonwealth.

4. Wholesale beer licenses, which shall authorize the licensee to acquire and receive deliveries and shipments of beer and to sell and deliver or ship the beer from one or more premises identified in the license, in accordance with Board regulations, in closed containers to (i) persons licensed under this chapter to sell such beer at wholesale or retail for the purpose of resale, (ii) owners of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state, and (iii) persons outside the Commonwealth for resale outside the Commonwealth.

No wholesale beer licensee shall purchase beer for resale from a person outside the Commonwealth who does not hold a beer importer's license unless such wholesale beer licensee holds a beer importer's license and purchases beer for resale pursuant to the privileges of such beer importer's license.

5. Beer importers' licenses, which shall authorize persons licensed within or outside the Commonwealth to sell and deliver or ship beer into the Commonwealth, in accordance with Board regulations, in closed containers, to persons in the Commonwealth licensed to sell beer at wholesale for the purpose of resale.

6. Retail on-premises beer licenses to:

a. Hotels, restaurants, and clubs, which shall authorize the licensee to sell beer, either with or without meals, only in dining areas and other designated areas of such restaurants, or in dining areas, private guest rooms, and other designated areas of such hotels or clubs, for consumption only in such rooms and areas. For purposes of this subdivision, "other designated areas" includes outdoor dining areas, whether or not contiguous to the licensed premises, which may have more than one means of ingress and egress to an adjacent public thoroughfare, provided that such outdoor dining areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

b. Persons operating dining cars, buffet cars, and club cars of trains, which shall authorize the licensee to sell beer, either with or without meals, in the dining cars, buffet cars, and club cars so operated by them for on-premises consumption when carrying passengers.

c. Persons operating sight-seeing boats, or special or charter boats, which shall authorize the licensee to sell beer, either with or without meals, on such boats operated by them for on-premises consumption when carrying passengers.

d. Grocery stores located in any town or in a rural area outside the corporate limits of any city or town, which shall authorize the licensee to sell beer for on-premises consumption in such establishments. No license shall be granted unless it appears affirmatively that a substantial public demand for such licensed establishment exists and that public convenience and the purposes of this title will be promoted by granting the license.

e. Persons operating food concessions at coliseums, stadia, or similar facilities, which shall authorize the licensee to sell beer, in paper, plastic, or similar disposable containers *or in single original metal cans*, during the performance of professional sporting exhibitions, events or performances immediately subsequent thereto, to patrons within all seating areas, concourses, walkways, concession areas, and additional locations designated by the Board in such coliseums, stadia, or similar facilities, for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license.

f. Persons operating food concessions at any outdoor performing arts amphitheater, arena or similar facility which has seating for more than 3,500 persons and is located in Albemarle, Augusta, Pittsylvania, Nelson, or Rockingham Counties. Such license shall authorize the licensee to sell beer during the performance of any event, in paper, plastic or similar disposable containers *or in single original metal cans*, to patrons within all seating areas, concourses, walkways, concession areas, or similar facilities, for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license.

g. Persons operating food concessions at exhibition or exposition halls, convention centers or similar facilities located in any county operating under the urban county executive form of government or any city which is completely surrounded by such county, which shall authorize the licensee to sell beer during the event, in paper, plastic or similar disposable containers *or in single original metal cans*, to patrons or attendees within all seating areas, exhibition areas, concourses, walkways, concession areas, and such additional locations designated by the Board in such facilities, for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license. For purposes of this subsection, "exhibition or exposition halls" and "convention centers" mean facilities conducting private or public trade shows or exhibitions in an indoor facility having in excess of 100,000 square feet of floor space.

7. Retail off-premises beer licenses, which shall authorize the licensee to sell beer in closed containers for off-premises consumption.

8. Retail off-premises brewery licenses to persons holding a brewery license which shall authorize the licensee to sell beer at the place of business designated in the brewery license, in closed containers which shall include growlers and other reusable containers, for off-premises consumption.

9. Retail on-and-off premises beer licenses to persons enumerated in subdivisions 6 a and 6 d, which shall accord all the privileges conferred by retail on-premises beer licenses and in addition, shall authorize the licensee to sell beer in closed containers for off-premises consumption.

B. Any farm winery or limited brewery that, prior to July 1, 2016, (i) holds a valid license granted by the Alcoholic Beverage Control Board (the Board) in accordance with this title and (ii) is in compliance with the local zoning ordinance as an agricultural district or classification or as otherwise permitted by a locality for farm winery or limited brewery use shall be allowed to continue such use as provided in § 15.2-2307, notwithstanding (a) the provisions of this section or (b) a subsequent change in ownership of the farm winery or limited brewery on or after July 1, 2016, whether by transfer, acquisition, inheritance, or other means. Any such farm winery or limited brewery located on land zoned residential conservation prior to July 1, 2016 may expand any existing building or structure and the uses thereof so long as specifically approved by the locality by special exception. Any such farm winery or limited brewery located on land zoned residential conservation prior to July 1, 2016 may construct a new building or structure so long as specifically approved by the locality by special exception. All such licensees shall comply with the requirements of this title and Board regulations for renewal of such license or the issuance of a new license in the event of a change in ownership of the farm winery or limited brewery on or after July 1, 2016.

**§ 4.1-209. Wine and beer licenses; advertising.**

A. The Board may grant the following licenses relating to wine and beer:

1. Retail on-premises wine and beer licenses to:

a. Hotels, restaurants and clubs, which shall authorize the licensee to sell wine and beer, either with or without meals, only in dining areas and other designated areas of such restaurants, or in dining areas, private guest rooms, and other designated areas of such hotels or clubs, for consumption only in such rooms and areas. However, with regard to a hotel classified by the Board as (i) a resort complex, the Board may authorize the sale and consumption of alcoholic beverages in all areas within the resort complex deemed appropriate by the Board or (ii) a limited service hotel, the Board may authorize the sale and consumption of alcoholic beverages in dining areas, private guest rooms, and other designated areas to persons to whom overnight lodging is being provided, for on-premises consumption in such rooms or areas, and without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises, provided that at least one meal is provided each day by the hotel to such guests. With regard to facilities registered in accordance with Chapter 49 (§ 38.2-4900 et seq.) of Title 38.2 of the Code of Virginia as continuing care communities that are also licensed by the Board under this subdivision, any resident may, upon authorization of the licensee, keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas covered by the license. For purposes of this subdivision, "other designated areas" includes outdoor dining areas, whether or not contiguous to the licensed premises, which may have more than one means of ingress and egress to an adjacent public thoroughfare, provided that such outdoor dining areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201;

b. Persons operating dining cars, buffet cars, and club cars of trains, which shall authorize the licensee to sell wine and beer, either with or without meals, in the dining cars, buffet cars, and club cars so operated by them, for on-premises consumption when carrying passengers;

c. Persons operating sight-seeing boats, or special or charter boats, which shall authorize the licensee to sell wine and beer, either with or without meals, on such boats operated by them for on-premises consumption when carrying passengers;

d. Persons operating as air carriers of passengers on regular schedules in foreign, interstate or intrastate commerce, which shall authorize the licensee to sell wine and beer for consumption by passengers in such airplanes anywhere in or over the Commonwealth while in transit and in designated rooms of establishments of such carriers at airports in the Commonwealth, § 4.1-129 notwithstanding. For purposes of supplying its airplanes, as well as any airplane of a licensed express carrier flying under the same brand, an air carrier licensee may appoint an authorized representative to load wine and beer onto the same airplanes and to transport and store wine and beer at or in close proximity to the airport where the wine and beer will be delivered onto airplanes of the air carrier and any such licensed express carrier. The air carrier licensee shall (i) designate for purposes of its license all locations where the inventory of wine and beer may be stored and from which the wine and beer will be delivered onto airplanes of the air carrier and any such licensed express carrier and (ii) maintain records of all wine and beer to be transported, stored, and delivered by its authorized representative;

e. Hospitals, which shall authorize the licensee to sell wine and beer in the rooms of patients for their on-premises consumption only in such rooms, provided the consent of the patient's attending physician is first obtained;

f. Persons operating food concessions at coliseums, stadia, racetracks or similar facilities, which shall authorize the licensee to sell wine and beer in paper, plastic or similar disposable containers *or in single original metal cans*, during any event and immediately subsequent thereto, to patrons within all seating areas, concourses, walkways, concession areas and additional locations designated by the Board in such coliseums, stadia, racetracks or similar facilities, for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license;

g. Persons operating food concessions at any outdoor performing arts amphitheater, arena or similar facility which (i) has seating for more than 20,000 persons and is located in Prince William County or the City of Virginia Beach, (ii) has capacity for more than 3,500 persons and is located in the Counties of Albemarle, Augusta, Nelson, Pittsylvania, or Rockingham, or the Cities of Charlottesville, Danville, or Roanoke, or (iii) has capacity for more than 9,500 persons and is located in Henrico County. Such license shall authorize the licensee to sell wine and beer during the performance of any event, in paper, plastic or similar disposable containers *or in single original metal cans*, to patrons within all seating areas, concourses, walkways, concession areas, or similar facilities, for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license;

h. Persons operating food concessions at exhibition or exposition halls, convention centers or similar facilities located in any county operating under the urban county executive form of government or any city which is completely surrounded by such county, which shall authorize the licensee to sell wine and beer during the event, in paper, plastic or similar disposable containers *or in single original metal cans*, to patrons or attendees within all seating areas, exhibition areas, concourses, walkways, concession areas, and such additional locations designated by the Board in such facilities, for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license. For purposes of this subsection, "exhibition or exposition hall" and "convention centers" mean facilities conducting private or public trade shows or exhibitions in an indoor facility having in excess of 100,000 square feet of floor space; and

i. Persons operating a concert and dinner-theater venue on property fronting Natural Bridge School Road in Natural Bridge Station, Virginia, and formerly operated as Natural Bridge High School, which shall authorize the licensee to sell wine and beer during events to patrons or attendees within all seating areas, exhibition areas, concourses, walkways, concession areas, dining areas, and such additional locations designated by the Board in such facilities, for on-premises

consumption. Persons licensed pursuant to this subdivision shall serve food, prepared on or off premises, whenever wine or beer is served.

2. Retail off-premises wine and beer licenses, which shall authorize the licensee to sell wine and beer in closed containers for off-premises consumption.

3. Gourmet shop licenses, which shall authorize the licensee to sell wine and beer in closed containers for off-premises consumption and, the provisions of § 4.1-308 notwithstanding, to give to any person to whom wine or beer may be lawfully sold, (i) a sample of wine, not to exceed two ounces by volume or (ii) a sample of beer not to exceed four ounces by volume, for on-premises consumption. The licensee may also give samples of wine and beer in designated areas at events held by the licensee for the purpose of featuring and educating the consuming public about the alcoholic beverages being tasted. Additionally, with the consent of the licensee, farm wineries, wineries, breweries, and wholesale licensees may participate in tastings held by licensees authorized to conduct tastings, including the pouring of samples to any person to whom alcoholic beverages may be lawfully sold. Notwithstanding Board regulations relating to food sales, the licensee shall maintain each year an average monthly inventory and sales volume of at least \$1,000 in products such as cheeses and gourmet food.

4. Convenience grocery store licenses, which shall authorize the licensee to sell wine and beer in closed containers for off-premises consumption.

5. Retail on-and-off premises wine and beer licenses to persons enumerated in subdivision 1 a, which shall accord all the privileges conferred by retail on-premises wine and beer licenses and in addition, shall authorize the licensee to sell wine and beer in closed containers for off-premises consumption.

6. Banquet licenses to persons in charge of banquets, and to duly organized nonprofit corporations or associations in charge of special events, which shall authorize the licensee to sell or give wine and beer in rooms or areas approved by the Board for the occasion for on-premises consumption in such rooms or areas. Except as provided in § 4.1-215, a separate license shall be required for each day of each banquet or special event. For the purposes of this subdivision, when the location named in the original application for a license is outdoors, the application may also name an alternative location in the event of inclement weather. However, no such license shall be required of any hotel, restaurant, or club holding a retail wine and beer license.

7. Gift shop licenses, which shall authorize the licensee to sell wine and beer only within the interior premises of the gift shop in closed containers for off-premises consumption and, the provisions of § 4.1-308 notwithstanding, to give to any person to whom wine or beer may be lawfully sold (i) a sample of wine not to exceed two ounces by volume or (ii) a sample of beer not to exceed four ounces by volume for on-premises consumption. The licensee may also give samples of wine and beer in designated areas at events held by the licensee for the purpose of featuring and educating the consuming public about the alcoholic beverages being tasted.

8. Gourmet brewing shop licenses, which shall authorize the licensee to sell to any person to whom wine or beer may be lawfully sold, ingredients for making wine or brewing beer, including packaging, and to rent to such persons facilities for manufacturing, fermenting, and bottling such wine or beer, for off-premises consumption in accordance with subdivision 6 of § 4.1-200.

9. Annual banquet licenses, to duly organized private nonprofit fraternal, patriotic or charitable membership organizations that are exempt from state and federal taxation and in charge of banquets conducted exclusively for its members and their guests, which shall authorize the licensee to serve wine and beer in rooms or areas approved by the Board for the occasion for on-premises consumption in such rooms or areas. Such license shall authorize the licensee to conduct no more than 12 banquets per calendar year. For the purposes of this subdivision, when the location named in the original application for a license is outdoors, the application may also name an alternative location in the event of inclement weather. However, no such license shall be required of any hotel, restaurant, or club holding a retail wine and beer license.

10. Fulfillment warehouse licenses, which shall authorize associations as defined in § 13.1-313 with a place of business located in the Commonwealth to (i) receive deliveries and shipments of wine or beer owned by holders of wine or beer shipper's licenses, (ii) store such wine or beer on behalf of the owner, and (iii) pick, pack, and ship such wine or beer as directed by the owner, all in accordance with Board regulations. No wholesale wine or wholesale beer licensee, whether licensed in the Commonwealth or not, or any person under common control of such licensee, shall acquire or hold any financial interest, direct or indirect, in the business for which any fulfillment warehouse license is issued.

11. Marketing portal licenses, which shall authorize agricultural cooperative associations organized under the provisions of the Agricultural Cooperative Association Act (§ 13.1-312 et seq.), with a place of business located in the Commonwealth, in accordance with Board regulations, to solicit and receive orders for wine or beer through the use of the Internet from persons in the Commonwealth to whom wine or beer may be lawfully sold, on behalf of holders of wine or beer shipper's licenses. Upon receipt of an order for wine or beer, the licensee shall forward it to a holder of a wine or beer shipper's license for fulfillment. Marketing portal licensees may also accept payment on behalf of the shipper.

12. Gourmet oyster house licenses, to establishments located on the premises of a commercial marina and permitted by the Department of Health to serve oysters and other fresh seafood for consumption on the premises, where the licensee also offers to the public events for the purpose of featuring and educating the consuming public about local oysters and other seafood products. Such license shall authorize the licensee to (i) give samples of or sell wine and beer in designated rooms and outdoor areas approved by the Board for consumption in such approved areas and (ii) sell wine and beer in closed containers for off-premises consumption. Samples of wine shall not exceed two ounces per person. Samples of beer shall

not exceed four ounces per person. The Board shall establish a minimum monthly food sale requirement of oysters and other seafood for such license. Additionally, with the consent of the licensee, farm wineries, wineries, and breweries may participate in tastings held by licensees authorized to conduct tastings, including the pouring of samples to any person to whom alcoholic beverages may be lawfully sold.

B. Notwithstanding any provision of law to the contrary, persons granted a wine and beer license pursuant to this section may display within their licensed premises point-of-sale advertising materials that incorporate the use of any professional athlete or athletic team, provided that such advertising materials: (i) otherwise comply with the applicable regulations of the Federal Bureau of Alcohol, Tobacco and Firearms; and (ii) do not depict any athlete consuming or about to consume alcohol prior to or while engaged in an athletic activity; do not depict an athlete consuming alcohol while the athlete is operating or about to operate a motor vehicle or other machinery; and do not imply that the alcoholic beverage so advertised enhances athletic prowess.

C. Persons granted retail on-premises and on-and-off-premises wine and beer licenses pursuant to this section or subsection B of § 4.1-210 may conduct wine or beer tastings sponsored by the licensee for its customers for on-premises consumption. Such licensees may sell or give samples of wine and beer in designated areas at events held by the licensee for the purpose of featuring and educating the consuming public about the alcoholic beverages being tasted. Additionally, with the consent of the licensee, farm wineries, wineries, and breweries may participate in tastings held by licensees authorized to conduct tastings, including the pouring of samples to any person to whom alcoholic beverages may be lawfully sold. Samples of wine shall not exceed two ounces per person. Samples of beer shall not exceed four ounces per person.

**§ 4.1-210. Mixed beverages licenses.**

A. Subject to the provisions of § 4.1-124, the Board may grant the following licenses relating to mixed beverages:

1. Mixed beverage restaurant licenses, which shall authorize the licensee to sell and serve mixed beverages for consumption in dining areas and other designated areas of such restaurant. Such license may be granted only to persons (i) who operate a restaurant and (ii) whose gross receipts from the sale of food cooked or prepared, and consumed on the premises and nonalcoholic beverages served on the premises, after issuance of such license, amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food. For the purposes of this subdivision, other designated areas shall include outdoor dining areas, whether or not contiguous to the licensed premises, which outdoor dining areas may have more than one means of ingress and egress to an adjacent public thoroughfare, provided such areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

If the restaurant is located on the premises of a hotel or motel with not less than four permanent bedrooms where food and beverage service is customarily provided by the restaurant in designated areas, bedrooms and other private rooms of such hotel or motel, such licensee may (i) sell and serve mixed beverages for consumption in such designated areas, bedrooms and other private rooms and (ii) sell spirits packaged in original closed containers purchased from the Board for on-premises consumption to registered guests and at scheduled functions of such hotel or motel only in such bedrooms or private rooms. However, with regard to a hotel classified as a resort complex, the Board may authorize the sale and on-premises consumption of alcoholic beverages in all areas within the resort complex deemed appropriate by the Board. Nothing herein shall prohibit any person from keeping and consuming his own lawfully acquired spirits in bedrooms or private rooms.

If the restaurant is located on the premises of and operated by a private, nonprofit or profit club exclusively for its members and their guests, or members of another private, nonprofit or profit club in another city with which it has an agreement for reciprocal dining privileges, such license shall also authorize the licensees to sell and serve mixed beverages for on-premises consumption. Where such club prepares no food in its restaurant but purchases its food requirements from a restaurant licensed by the Board and located on another portion of the premises of the same hotel or motel building, this fact shall not prohibit the granting of a license by the Board to such club qualifying in all other respects. The club's gross receipts from the sale of nonalcoholic beverages consumed on the premises and food resold to its members and guests and consumed on the premises shall amount to at least 45 percent of its gross receipts from the sale of mixed beverages and food. The food sales made by a restaurant to such a club shall be excluded in any consideration of the qualifications of such restaurant for a license from the Board.

2. Mixed beverage caterer's licenses, which may be granted only to a person regularly engaged in the business of providing food and beverages to others for service at private gatherings or at special events, which shall authorize the licensee to sell and serve alcoholic beverages for on-premises consumption. The annual gross receipts from the sale of food cooked and prepared for service and nonalcoholic beverages served at gatherings and events referred to in this subdivision shall amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food.

3. Mixed beverage limited caterer's licenses, which may be granted only to a person regularly engaged in the business of providing food and beverages to others for service at private gatherings or at special events, not to exceed 12 gatherings or events per year, which shall authorize the licensee to sell and serve alcoholic beverages for on-premises consumption. The annual gross receipts from the sale of food cooked and prepared for service and nonalcoholic beverages served at gatherings and events referred to in this subdivision shall amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food.

4. Mixed beverage special events licenses, to a duly organized nonprofit corporation or association in charge of a special event, which shall authorize the licensee to sell and serve mixed beverages for on-premises consumption in areas

approved by the Board on the premises of the place designated in the license. A separate license shall be required for each day of each special event.

5. Annual mixed beverage special events licenses to (i) a duly organized nonprofit corporation or association operating either a performing arts facility or an art education and exhibition facility, (ii) a nonprofit corporation or association chartered by Congress for the preservation of sites, buildings and objects significant in American history and culture, or (iii) persons operating an agricultural event and entertainment park or similar facility that has a minimum of 50,000 square feet of indoor exhibit space and equine and other livestock show areas, which includes barns, pavilions, or other structures equipped with roofs, exterior walls, and open or closed-door access. The operation in all cases shall be upon premises owned by such licensee or occupied under a bona fide lease the original term of which was for more than one year's duration. Such license shall authorize the licensee to sell alcoholic beverages during scheduled events and performances for on-premises consumption in areas upon the licensed premises approved by the Board.

6. Mixed beverage carrier licenses to persons operating a common carrier of passengers by train, boat or airplane, which shall authorize the licensee to sell and serve mixed beverages anywhere in the Commonwealth to passengers while in transit aboard any such common carrier, and in designated rooms of establishments of air carriers at airports in the Commonwealth. For purposes of supplying its airplanes, as well as any airplanes of a licensed express carrier flying under the same brand, an air carrier licensee may appoint an authorized representative to load distilled spirits onto the same airplanes and to transport and store distilled spirits at or in close proximity to the airport where the distilled spirits will be delivered onto airplanes of the air carrier and any such licensed express carrier. The air carrier licensee shall (i) designate for purposes of its license all locations where the inventory of distilled spirits may be stored and from which the distilled spirits will be delivered onto airplanes of the air carrier and any such licensed express carrier and (ii) maintain records of all distilled spirits to be transported, stored, and delivered by its authorized representative.

7. Mixed beverage club events licenses, which shall authorize a club holding a beer or wine and beer club license to sell and serve mixed beverages for on-premises consumption by club members and their guests in areas approved by the Board on the club premises. A separate license shall be required for each day of each club event. No more than 12 such licenses shall be granted to a club in any calendar year.

8. Annual mixed beverage amphitheater licenses to persons operating food concessions at any outdoor performing arts amphitheater, arena or similar facility that has seating for more than 20,000 persons and is located in Prince William County or the City of Virginia Beach. Such license shall authorize the licensee to sell alcoholic beverages during the performance of any event, in paper, plastic or similar disposable containers *or in single original metal cans*, to patrons within all seating areas, concourses, walkways, concession areas, or similar facilities, for on-premises consumption.

9. Annual mixed beverage amphitheater licenses to persons operating food concessions at any outdoor performing arts amphitheater, arena or similar facility that has seating for more than 5,000 persons and is located in the City of Alexandria or the City of Portsmouth. Such license shall authorize the licensee to sell alcoholic beverages during the performance of any event, in paper, plastic or similar disposable containers *or in single original metal cans*, to patrons within all seating areas, concourses, walkways, concession areas, or similar facilities, for on-premises consumption.

10. Annual mixed beverage motor sports facility license to persons operating food concessions at any outdoor motor sports road racing club facility, of which the track surface is 3.27 miles in length, on 1, 200 acres of rural property bordering the Dan River, which shall authorize the licensee to sell mixed beverages, in paper, plastic, or similar disposable containers *or in single original metal cans*, during scheduled events, as well as events or performances immediately subsequent thereto, to patrons in all dining facilities, seating areas, viewing areas, walkways, concession areas or similar facilities, for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license.

11. Annual mixed beverage banquet licenses to duly organized private nonprofit fraternal, patriotic or charitable membership organizations that are exempt from state and federal taxation and in charge of banquets conducted exclusively for its members and their guests, which shall authorize the licensee to serve mixed beverages for on-premises consumption in areas approved by the Board on the premises of the place designated in the license. Such license shall authorize the licensee to conduct no more than 12 banquets per calendar year.

12. Limited mixed beverage restaurant licenses, which shall authorize the licensee to sell and serve dessert wines as defined by Board regulation and no more than six varieties of liqueurs, which liqueurs shall be combined with coffee or other nonalcoholic beverages, for consumption in dining areas of the restaurant. Such license may be granted only to persons who operate a restaurant and in no event shall the sale of such wine or liqueur-based drinks, together with the sale of any other alcoholic beverages, exceed 10 percent of the total annual gross sales of all food and alcoholic beverages.

13. Annual mixed beverage motor sports facility licenses to persons operating concessions at an outdoor motor sports facility that hosts a NASCAR national touring race, which shall authorize the licensee to sell mixed beverages, in paper, plastic, or similar disposable containers *or in single original metal cans*, during scheduled events, as well as events or performances immediately subsequent thereto, to patrons in all dining facilities, seating areas, viewing areas, walkways, concession areas or similar facilities, for on-premises consumption.

14. Annual mixed beverage performing arts facility license to corporations or associations operating a performing arts facility, provided the performing arts facility (i) is owned by a governmental entity; (ii) is occupied by a for-profit entity under a bona fide lease, the original term of which was for more than one year's duration; and (iii) has been rehabilitated in

accordance with historic preservation standards. Such license shall authorize the sale, on the dates of performances or events, of alcoholic beverages for on-premises consumption in areas upon the licensed premises approved by the Board.

15. Annual mixed beverage performing arts facility license to persons operating food concessions at any performing arts facility located in the City of Norfolk or the City of Richmond, provided that the performing arts facility (i) is occupied under a bona fide long-term lease or concession agreement, the original term of which was more than five years; (ii) has a capacity in excess of 1,400 patrons; (iii) has been rehabilitated in accordance with historic preservation standards; and (iv) has monthly gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises that meet or exceed the monthly minimum established by Board regulations for mixed beverage restaurants. Such license shall authorize the sale, on the dates of performances or events, of alcoholic beverages for on-premises consumption in areas upon the licensed premises approved by the Board.

16. Annual mixed beverage performing arts facility license to persons operating food concessions at any performing arts facility located in the City of Waynesboro, provided that the performing arts facility (i) is occupied under a bona fide long-term lease or concession agreement, the original term of which was more than five years; (ii) has a total capacity in excess of 550 patrons; and (iii) has been rehabilitated in accordance with historic preservation standards. Such license shall authorize the sale, on the dates of performances or private or special events, of alcoholic beverages for on-premises consumption in areas upon the licensed premises approved by the Board.

17. A combined mixed beverage restaurant and caterer's license, which may be granted to any restaurant or hotel that meets the qualifications for both a mixed beverage restaurant pursuant to subdivision A 1 and mixed beverage caterer pursuant to subdivision A 2 for the same business location, and which license shall authorize the licensee to operate as both a mixed beverage restaurant and mixed beverage caterer at the same business premises designated in the license, with a common alcoholic beverage inventory for purposes of the restaurant and catering operations. Such licensee shall meet the separate food qualifications established for the mixed beverage restaurant license pursuant to subdivision A 1 and mixed beverage caterer's license pursuant to subdivision A 2.

B. The granting of any license under subdivision A 1, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, or 17 shall automatically include a license to sell and serve wine and beer for on-premises consumption. The licensee shall pay the state and local taxes required by §§ 4.1-231 and 4.1-233.

## CHAPTER 77

*An Act to amend and reenact §§ 19.2-321.1 and 19.2-321.2 of the Code of Virginia, relating to delayed appeals in criminal cases; assignments of error dismissed in part.*

[H 1545]

Approved February 20, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 19.2-321.1 and 19.2-321.2 of the Code of Virginia are amended and reenacted as follows:**

**§ 19.2-321.1. Motion in the Court of Appeals for delayed appeal in criminal cases.**

A. Filing and content of motion. When, due to the error, neglect, or fault of counsel representing the appellant, or of the court reporter, or of the circuit court or an officer or employee thereof, an appeal *in whole or in part* in a criminal case has (i) never been initiated; (ii) been dismissed for failure to adhere to proper form, procedures, or time limits in the perfection of the appeal; or (iii) been denied or the conviction has been affirmed, for failure to file or timely file the indispensable transcript or written statement of facts as required by law or by the Rules of ~~the~~ Supreme Court; then a motion for leave to pursue a delayed appeal may be filed in the Court of Appeals within six months after the appeal has been dismissed or denied, the conviction has been affirmed, or the circuit court judgment sought to be appealed has become final, whichever is later. Such motion shall identify the circuit court and the style, date, and circuit court record number of the judgment sought to be appealed, and, if one was assigned in a prior attempt to appeal the judgment, shall give the Court of Appeals record number in that proceeding, and shall set forth the specific facts establishing the said error, neglect, or fault. If the error, neglect, or fault is alleged to be that of an attorney representing the appellant, the motion shall be accompanied by the affidavit of the attorney whose error, neglect, or fault is alleged, verifying the specific facts alleged in the motion, and certifying that the appellant is not personally responsible, in whole or in part, for the error, neglect, or fault causing loss of the original opportunity for appeal.

B. Service, response, and disposition. Such motion shall be served on the attorney for the Commonwealth or, if a petition for appeal was granted in the original attempt to appeal, upon the Attorney General, in accordance with the Rules of ~~the~~ Supreme Court. If the Commonwealth disputes the facts alleged in the motion, or contends that those facts do not entitle the appellant to a delayed appeal under this section, the motion shall be denied without prejudice to the appellant's right to seek a delayed appeal by means of petition for a writ of habeas corpus. Otherwise, the Court of Appeals shall, if the motion meets the requirements of this section, grant appellant leave to initiate or re-initiate pursuit of the appeal.

C. Time limits when motion granted. If the motion is granted, all computations of time under the Rules of ~~the~~ Supreme Court shall run from the date of the order of the Court of Appeals granting the motion, or if the appellant has been determined to be indigent, from the date of the order by the circuit court appointing counsel to represent the appellant in the delayed appeal, whichever is later.

D. Applicability. The provisions of this section shall not apply to cases in which the appellant is responsible, in whole or in part, for the error, neglect, or fault causing loss of the original opportunity for appeal, nor shall it apply in cases where the claim of error, neglect, or fault has already been alleged and rejected in a prior judicial proceeding.

**§ 19.2-321.2. Motion in the Supreme Court for delayed appeal in criminal cases.**

A. Filing and content of motion. When, due to the error, neglect, or fault of counsel representing the appellant, or of the court reporter, or of the Court of Appeals or the circuit court or an officer or employee of either, an appeal from the Court of Appeals to the Supreme Court in a criminal case has (i) never been initiated; (ii) been dismissed for failure to adhere to proper form, procedures, or time limits in the perfection of the appeal; (iii) *been dismissed in part because at least one assignments of error contained in the petition for appeal did not adhere to proper form or procedures*; or ~~(iii)~~ (iv) been denied or the conviction has been affirmed, for failure to file or timely file the indispensable transcript or written statement of facts as required by law or by the Rules of the Supreme Court; then a motion for leave to pursue a delayed appeal may be filed in the Supreme Court within six months after the appeal has been dismissed or denied, the conviction has been affirmed, or the Court of Appeals judgment sought to be appealed has become final, whichever is later. Such motion shall identify by the style, date, and Court of Appeals record number of the judgment sought to be appealed, and, if one was assigned in a prior attempt to appeal the judgment to the Supreme Court, shall give the record number assigned in the Supreme Court in that proceeding, and shall set forth the specific facts establishing the said error, neglect, or fault. If the error, neglect, or fault is alleged to be that of an attorney representing the appellant, the motion shall be accompanied by the affidavit of the attorney whose error, neglect, or fault is alleged, verifying the specific facts alleged in the motion, and certifying that the appellant is not personally responsible, in whole or in part, for the error, neglect, or fault causing loss of the original opportunity for appeal.

B. Service, response, and disposition. Such motion shall be served on the attorney for the Commonwealth or, if a petition for appeal was granted in the Court of Appeals or in the Supreme Court in the original attempt to appeal, upon the Attorney General, in accordance with Rule 5:4 of the Supreme Court. If the Commonwealth disputes the facts alleged in the motion, or contends that those facts do not entitle the appellant to a delayed appeal under this section, the motion shall be denied without prejudice to the appellant's right to seek a delayed appeal by means of petition for a writ of habeas corpus. Otherwise, the Supreme Court shall, if the motion meets the requirements of this section, grant appellant leave to initiate or re-initiate pursuit of the appeal from the Court of Appeals to the Supreme Court.

C. Time limits when motion granted. If the motion is granted, all computations of time under the Rules of the Supreme Court shall run from the date of the order of the Supreme Court granting the motion, or if the appellant has been determined to be indigent, from the date of the order by the circuit court appointing counsel to represent the appellant in the delayed appeal, whichever is later.

D. Applicability. The provisions of this section shall not apply to cases in which the appellant is responsible, in whole or in part, for the error, neglect, or fault causing loss of the original opportunity for appeal, nor shall it apply in cases where the claim of error, neglect, or fault has already been alleged and rejected in a prior judicial proceeding, nor shall it apply in cases in which a sentence of death has been imposed.

## CHAPTER 78

*An Act to amend and reenact §§ 17.1-293 and 17.1-295 of the Code of Virginia, relating to remote access to nonconfidential court records for date of birth verification.*

[H 1713]

Approved February 20, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 17.1-293 and 17.1-295 of the Code of Virginia are amended and reenacted as follows:**

**§ 17.1-293. Posting and availability of certain information on the Internet; prohibitions.**

A. Notwithstanding Chapter 37 (§ 2.2-3700 et seq.) of Title 2.2 or subsection B, it shall be unlawful for any court clerk to disclose the social security number or other identification numbers appearing on driver's licenses or information on credit cards, debit cards, bank accounts, or other electronic billing and payment systems that was supplied to a court clerk for the purpose of paying fees, fines, taxes, or other charges collected by such court clerk. The prohibition shall not apply where disclosure of such information is required (i) to conduct or complete the transaction for which such information was submitted or (ii) by other law or court order.

B. Beginning January 1, 2004, no court clerk shall post on the Internet any document that contains the following information: (i) an actual signature, (ii) a social security number, (iii) a date of birth identified with a particular person, (iv) the maiden name of a person's parent so as to be identified with a particular person, (v) any financial account number or numbers, or (vi) the name and age of any minor child.

C. Each such clerk shall post notice that includes a list of the documents routinely posted on its website. However, the clerk shall not post information on his website that includes private activity for private financial gain.

D. Nothing in this section shall be construed to prohibit access to any original document as provided by law.

E. This section shall not apply to the following:

1. Providing access to any document among the land records via secure remote access pursuant to § 17.1-294;

2. Postings related to legitimate law-enforcement purposes;
3. Postings of historical, genealogical, interpretive, or educational documents and information about historic persons and events;
4. Postings of instruments and records filed or recorded that are more than 100 years old;
5. Providing secure remote access to any person, his counsel, or staff which counsel directly supervises to documents filed in matters to which such person is a party;
6. Providing official certificates and certified records in digital form of any document maintained by the clerk pursuant to § 17.1-258.3:2; and
7. Providing secure remote access to nonconfidential court records, subject to any fees charged by the clerk, to members in good standing with the Virginia State Bar and their authorized agents, pro hac vice attorneys authorized by the court for purposes of the practice of law, and such governmental agencies as authorized by the clerk.

F. Nothing in this section shall prohibit the Supreme Court or any other court clerk from providing online access to a case management system that may include abstracts of case filings and proceedings in the courts of the Commonwealth, *including online access to subscribers of nonconfidential criminal case information to confirm the complete date of birth of a defendant.*

G. The court clerk shall be immune from suit arising from any acts or omissions relating to providing remote access on the Internet pursuant to this section unless the clerk was grossly negligent or engaged in willful misconduct.

This subsection shall not be construed to limit, withdraw, or overturn any defense or immunity already existing in statutory or common law, or to affect any cause of action accruing prior to July 1, 2005.

H. Nothing in this section shall be construed to permit any data accessed by secure remote access to be sold or posted on any other website or in any way redistributed to any third party, and the clerk, in his discretion, may deny secure remote access to ensure compliance with these provisions. However, the data accessed by secure remote access may be included in products or services provided to a third party of the subscriber provided that (i) such data is not made available to the general public and (ii) the subscriber maintains administrative, technical, and security safeguards to protect the confidentiality, integrity, and limited availability of the data.

#### § 17.1-295. Definitions.

As used in this title:

"Confidential court records" means any civil or criminal record maintained by a clerk of the circuit court designated by this Code as confidential or any such record sealed pursuant to court order.

"Electronic filing of court records" means the networks or systems maintained by a clerk of the circuit court, or the clerk's designated application service providers, for the submittal of instruments for electronic filing of court records in accordance with this title, the Rules of the Supreme Court of Virginia, and the secure remote access standards developed by the Virginia Information Technologies Agency.

"Electronic recording of land records" means the networks or systems maintained by a clerk of the circuit court, or the clerk's designated application service providers, for the submittal of instruments for electronic filing of land records in accordance with the Uniform Real Property Electronic Recording Act (§ 55-142.10 et seq.), the provisions of Article 2.1 (§ 55-66.8 et seq.) of Chapter 4 of Title 55 regarding the satisfaction of mortgages and the provisions of this title.

"Operational expenses" means expenses of the clerk of court used to maintain the clerk's office and includes, but is not limited to, (i) computer support, maintenance, enhancements, upgrades, and replacements and office automation and information technology equipment, including software and conversion services; (ii) preserving, maintaining, and enhancing court records, including, but not limited to, the costs of repairs, maintenance, consulting services, service contracts, redaction of social security numbers from certain records, and system replacements or upgrades; and (iii) improving public access to records maintained by the clerk, including locating technology in an offsite facility for such purposes or for implementation of a disaster recovery plan.

"Public access" means that the clerk of the circuit court has made available to subscribers that are other than governmental agencies, secure remote access to ~~land~~ records maintained by the clerk in accordance with § 17.1-294.

"Secure remote access to court records" means public access by electronic means on a network or system to ~~land~~ court records maintained by the clerk of the circuit court or the clerk's designated application service providers, in compliance with this title, the Rules of the Supreme Court of Virginia, and the secure remote access standards developed by the Virginia Information Technologies Agency.

"Secure remote access to land records" means public access by electronic means on a network or system to land records maintained by the clerk of the circuit court or the clerk's designated application service providers, in compliance with the Secure Remote Access Standards developed by the Virginia Information Technologies Agency.

"Subscriber" means any person who has entered into a subscriber agreement with the clerk of the circuit court authorizing the subscriber to have secure remote access to land records or secure remote access to court records maintained by the clerk or the clerk's designated application service providers. If the subscriber is an entity with more than one person who will use the network or system to access land records maintained by the clerk, or the clerk's designated application service providers, each individual user shall execute a subscriber agreement and obtain a separate "user id" and "password" from the clerk. The subscriber is responsible for the fees due under this title and the proper use of the secure remote access system pursuant to the subscriber agreement, applicable Virginia law, and Secure Remote Access Standards developed by the Virginia Information Technologies Agency.

## CHAPTER 79

*An Act to amend and reenact §§ 19.2-321.1 and 19.2-321.2 of the Code of Virginia, relating to delayed appeals in criminal cases; assignments of error dismissed in part.*

[S 853]

Approved February 20, 2017

**Be it enacted by the General Assembly of Virginia:****1. That §§ 19.2-321.1 and 19.2-321.2 of the Code of Virginia are amended and reenacted as follows:****§ 19.2-321.1. Motion in the Court of Appeals for delayed appeal in criminal cases.**

A. Filing and content of motion. When, due to the error, neglect, or fault of counsel representing the appellant, or of the court reporter, or of the circuit court or an officer or employee thereof, an appeal, *in whole or in part*, in a criminal case has (i) never been initiated; (ii) been dismissed for failure to adhere to proper form, procedures, or time limits in the perfection of the appeal; or (iii) been denied or the conviction has been affirmed, for failure to file or timely file the indispensable transcript or written statement of facts as required by law or by the Rules of ~~the~~ Supreme Court; then a motion for leave to pursue a delayed appeal may be filed in the Court of Appeals within six months after the appeal has been dismissed or denied, the conviction has been affirmed, or the circuit court judgment sought to be appealed has become final, whichever is later. Such motion shall identify the circuit court and the style, date, and circuit court record number of the judgment sought to be appealed, and, if one was assigned in a prior attempt to appeal the judgment, shall give the Court of Appeals record number in that proceeding, and shall set forth the specific facts establishing the said error, neglect, or fault. If the error, neglect, or fault is alleged to be that of an attorney representing the appellant, the motion shall be accompanied by the affidavit of the attorney whose error, neglect, or fault is alleged, verifying the specific facts alleged in the motion, and certifying that the appellant is not personally responsible, in whole or in part, for the error, neglect, or fault causing loss of the original opportunity for appeal.

B. Service, response, and disposition. Such motion shall be served on the attorney for the Commonwealth or, if a petition for appeal was granted in the original attempt to appeal, upon the Attorney General, in accordance with the Rules of ~~the~~ Supreme Court. If the Commonwealth disputes the facts alleged in the motion, or contends that those facts do not entitle the appellant to a delayed appeal under this section, the motion shall be denied without prejudice to the appellant's right to seek a delayed appeal by means of petition for a writ of habeas corpus. Otherwise, the Court of Appeals shall, if the motion meets the requirements of this section, grant appellant leave to initiate or re-initiate pursuit of the appeal.

C. Time limits when motion granted. If the motion is granted, all computations of time under the Rules of ~~the~~ Supreme Court shall run from the date of the order of the Court of Appeals granting the motion, or if the appellant has been determined to be indigent, from the date of the order by the circuit court appointing counsel to represent the appellant in the delayed appeal, whichever is later.

D. Applicability. The provisions of this section shall not apply to cases in which the appellant is responsible, in whole or in part, for the error, neglect, or fault causing loss of the original opportunity for appeal, nor shall it apply in cases where the claim of error, neglect, or fault has already been alleged and rejected in a prior judicial proceeding.

**§ 19.2-321.2. Motion in the Supreme Court for delayed appeal in criminal cases.**

A. Filing and content of motion. When, due to the error, neglect, or fault of counsel representing the appellant, or of the court reporter, or of the Court of Appeals or the circuit court or an officer or employee of either, an appeal from the Court of Appeals to the Supreme Court in a criminal case has (i) never been initiated; (ii) been dismissed for failure to adhere to proper form, procedures, or time limits in the perfection of the appeal; (iii) *been dismissed in part because at least one assignments of error contained in the petition for appeal did not adhere to proper form or procedures*; or ~~(iii)~~ (iv) been denied or the conviction has been affirmed, for failure to file or timely file the indispensable transcript or written statement of facts as required by law or by the Rules of ~~the~~ Supreme Court; then a motion for leave to pursue a delayed appeal may be filed in the Supreme Court within six months after the appeal has been dismissed or denied, the conviction has been affirmed, or the Court of Appeals judgment sought to be appealed has become final, whichever is later. Such motion shall identify by the style, date, and Court of Appeals record number of the judgment sought to be appealed, and, if one was assigned in a prior attempt to appeal the judgment to the Supreme Court, shall give the record number assigned in the Supreme Court in that proceeding, and shall set forth the specific facts establishing the said error, neglect, or fault. If the error, neglect, or fault is alleged to be that of an attorney representing the appellant, the motion shall be accompanied by the affidavit of the attorney whose error, neglect, or fault is alleged, verifying the specific facts alleged in the motion, and certifying that the appellant is not personally responsible, in whole or in part, for the error, neglect, or fault causing loss of the original opportunity for appeal.

B. Service, response, and disposition. Such motion shall be served on the attorney for the Commonwealth or, if a petition for appeal was granted in the Court of Appeals or in the Supreme Court in the original attempt to appeal, upon the Attorney General, in accordance with Rule 5:4 of the Supreme Court. If the Commonwealth disputes the facts alleged in the motion, or contends that those facts do not entitle the appellant to a delayed appeal under this section, the motion shall be denied without prejudice to the appellant's right to seek a delayed appeal by means of petition for a writ of habeas corpus. Otherwise, the Supreme Court shall, if the motion meets the requirements of this section, grant appellant leave to initiate or re-initiate pursuit of the appeal from the Court of Appeals to the Supreme Court.

C. Time limits when motion granted. If the motion is granted, all computations of time under the Rules of the Supreme Court shall run from the date of the order of the Supreme Court granting the motion, or if the appellant has been determined to be indigent, from the date of the order by the circuit court appointing counsel to represent the appellant in the delayed appeal, whichever is later.

D. Applicability. The provisions of this section shall not apply to cases in which the appellant is responsible, in whole or in part, for the error, neglect, or fault causing loss of the original opportunity for appeal, nor shall it apply in cases where the claim of error, neglect, or fault has already been alleged and rejected in a prior judicial proceeding, nor shall it apply in cases in which a sentence of death has been imposed.

## CHAPTER 80

*An Act to amend and reenact § 64.2-1622 of the Code of Virginia; to amend the Code of Virginia by adding in Chapter 1 of Title 64.2 an article numbered 3.1, consisting of sections numbered 64.2-116 through 64.2-132; and to repeal Article 3 (§§ 64.2-109 through 64.2-115) of Chapter 1 of Title 64.2 of the Code of Virginia, relating to creation of the Uniform Fiduciary Access to Digital Assets Act.*

[S 903]

Approved February 20, 2017

### Be it enacted by the General Assembly of Virginia:

**1. That § 64.2-1622 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Chapter 1 of Title 64.2 an article numbered 3.1, consisting of sections numbered 64.2-116 through 64.2-132, as follows:**

#### Article 3.1.

#### *Uniform Fiduciary Access to Digital Assets Act.*

#### **§ 64.2-116. Definitions.**

*As used in this article, unless the context requires otherwise:*

"Account" means an arrangement under a terms-of-service agreement in which a custodian carries, maintains, processes, receives, or stores a digital asset of the user or provides goods or services to the user.

"Agent" means a person granted authority to act for a principal under a power of attorney, whether denominated an agent, attorney-in-fact, or otherwise. "Agent" includes an original agent, a coagent, a successor agent, and a person to which an agent's authority is delegated.

"Carries" means engages in the transmission of an electronic communication.

"Catalog of electronic communications" means information that identifies each person with which a user has had an electronic communication, the time and date of the communication, and the electronic address of the person.

"Conservator" means a person appointed by a court to manage the estate of a living individual. "Conservator" includes a limited conservator.

"Content of an electronic communication" means information concerning the substance or meaning of the communication that (i) has been sent or received by a user; (ii) is in electronic storage by a custodian providing an electronic communication service to the public or is carried or maintained by a custodian providing a remote computing service to the public; and (iii) is not readily accessible to the public.

"Court" means the circuit court for the county or city having jurisdiction over the fiduciary in matters relating to the content of this article.

"Custodian" means a person who carries, maintains, processes, receives, or stores a digital asset of a user.

"Designated recipient" means a person chosen by a user using an online tool to administer digital assets of the user.

"Digital asset" means an electronic record in which an individual has a right or interest. "Digital asset" does not include an underlying asset or liability unless the asset or liability is itself an electronic record.

"Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

"Electronic communication" has the same meaning as the definition provided in 18 U.S.C. § 2510(12).

"Electronic communication service" means a custodian that provides to a user the ability to send or receive an electronic communication.

"Fiduciary" means an original, additional, or successor personal representative, conservator, guardian, agent, or trustee.

"Guardian" means a person appointed by a court to manage the person of a living individual adult pursuant to Chapter 20 (§ 64.2-2000 et seq.) or a person appointed by a court to manage the estate of a minor pursuant to Chapter 17 (§ 64.2-1700 et seq.). "Guardian" includes a limited guardian.

"Information" means data, text, images, videos, sounds, codes, computer programs, software, databases, or something that is substantially similar.

"Online tool" means an electronic service provided by a custodian that allows the user, in an agreement distinct from the terms-of-service agreement between the custodian and user, to provide directions for disclosure or nondisclosure of digital assets to a third person.

"Person" means an individual; estate; business or nonprofit entity; public corporation; government or governmental subdivision, agency, or instrumentality; or other legal entity.

"Personal representative" means an executor, administrator, curator, designated successor or successor under the Virginia Small Estate Act (§ 64.2-600 et seq.), or person that performs substantially the same function under the laws of the Commonwealth other than this article.

"Power of attorney" means a record that grants an agent authority to act in the place of a principal.

"Principal" means an individual who grants authority to an agent in a power of attorney.

"Protected person" means an individual for whom a conservator or guardian has been appointed. "Protected person" includes an individual for whom an application for the appointment of a conservator or guardian is pending.

"Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

"Remote computing service" means a custodian that provides to a user computer-processing services or the storage of digital assets by means of an electronic communications system, as defined in 18 U.S.C. § 2510(14).

"Terms-of-service agreement" means an agreement that controls the relationship between a user and a custodian.

"Trustee" means a fiduciary with legal title to property under an agreement or declaration that creates a beneficial interest in another. "Trustee" includes a successor trustee.

"User" means a person that has an account with a custodian.

"Will" includes a codicil, testamentary instrument that only appoints an executor, and instrument that revokes or revises a testamentary instrument.

**§ 64.2-117. Applicability.**

A. This article applies to:

1. A fiduciary acting under a will or power of attorney executed before, on, or after July 1, 2017;
2. A personal representative acting for a decedent who died before, on, or after July 1, 2017;
3. A conservatorship proceeding commenced before, on, or after July 1, 2017;
4. A guardianship proceeding commenced before, on, or after July 1, 2017; and
5. A trustee acting under a trust created before, on, or after July 1, 2017.

B. This article applies to a custodian if the user resides in the Commonwealth or resided in the Commonwealth at the time of the user's death.

C. This article does not apply to a digital asset of an employer used by an employee in the ordinary course of the employer's business.

**§ 64.2-118. User direction for disclosure of digital assets.**

A. A user may use an online tool to direct the custodian to disclose to a designated recipient or not to disclose some or all of the user's digital assets, including the content of electronic communications. If the online tool allows the user to modify or delete a direction at all times, a direction regarding disclosure using an online tool overrides a contrary direction by the user in a will, trust, power of attorney, or other record.

B. If a user has not used an online tool to give direction under subsection A or if the custodian has not provided an online tool, the user may allow or prohibit in a will, trust, power of attorney, or other record disclosure to a fiduciary of some or all of the user's digital assets, including the content of electronic communications sent or received by the user.

C. A user's direction under subsection A or B overrides a contrary provision in a terms-of-service agreement that does not require the user to act affirmatively and distinctly from the user's assent to the terms of service.

**§ 64.2-119. Terms-of-service agreement.**

A. This article does not change or impair a right of a custodian or a user under a terms-of-service agreement to access and use digital assets of the user.

B. This article does not give a fiduciary or a designated recipient any new or expanded rights other than those held by the user for whom, or for whose estate, the fiduciary or designated recipient acts or represents.

C. A fiduciary's or designated recipient's access to digital assets may be modified or eliminated by a user, by federal law, or by a terms-of-service agreement if the user has not provided direction under § 64.2-118.

**§ 64.2-120. Procedure for disclosing digital assets.**

A. When disclosing digital assets of a user under this article, the custodian may, at its sole discretion:

1. Grant a fiduciary or designated recipient full access to the user's account;
2. Grant a fiduciary or designated recipient partial access to the user's account sufficient to perform the tasks with which the fiduciary or designated recipient is charged; or
3. Provide a fiduciary or designated recipient a copy in a record of any digital asset that, on the date the custodian received the request for disclosure, the user could have accessed if the user were alive and had full capacity and access to the account.

B. A custodian may assess a reasonable administrative charge for the cost of disclosing digital assets under this article.

C. A custodian need not disclose under this article a digital asset deleted by a user.

D. If a user directs or a fiduciary requests a custodian to disclose under this article some, but not all, of the user's digital assets, the custodian need not disclose the assets if segregation of the assets would impose an undue burden on the

custodian. If the custodian believes the direction or request imposes an undue burden, the custodian or fiduciary may seek an order from the court to disclose:

1. A subset limited by date of the user's digital assets;
2. All of the user's digital assets to the fiduciary or designated recipient;
3. None of the user's digital assets; or
4. All of the user's digital assets to the court for review in camera.

**§ 64.2-121. Disclosure of content of electronic communications of deceased user.**

If a deceased user consented to or a court directs disclosure of the contents of electronic communications of the user, the custodian shall disclose to the personal representative of the estate of the user the content of electronic communications sent or received by the user if the representative gives the custodian:

1. A written request for disclosure in physical or electronic form;
2. A certified copy of the death certificate of the user;
3. A certified copy of the letter of appointment of the representative or a small-estate affidavit or court order;
4. Unless the user provided direction using an online tool, a copy of the user's will, trust, power of attorney, or other record evidencing the user's consent to disclosure of the content of electronic communications; and
5. If requested by the custodian:
  - a. A number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the user's account;
  - b. Evidence linking the account to the user; or
  - c. A finding by the court that (i) the user had a specific account with the custodian, identifiable by the information specified in subdivision a; (ii) disclosure of the content of electronic communications of the user would not violate 18 U.S.C. § 2701 et seq., 47 U.S.C. § 222, or other applicable law; (iii) unless the user provided direction using an online tool, the user consented to disclosure of the content of electronic communications; or (iv) disclosure of the content of electronic communications of the user is reasonably necessary for administration of the estate.

**§ 64.2-122. Disclosure of other digital assets of deceased user.**

Unless the user prohibited disclosure of digital assets or the court directs otherwise, a custodian shall disclose to the personal representative of the estate of a deceased user a catalog of electronic communications sent or received by the user and digital assets, other than the content of electronic communications, of the user, if the representative gives the custodian:

1. A written request for disclosure in physical or electronic form;
2. A certified copy of the death certificate of the user;
3. A certified copy of the letter of appointment of the representative or a small-estate affidavit or court order; and
4. If requested by the custodian:
  - a. A number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the user's account;
  - b. Evidence linking the account to the user;
  - c. An affidavit stating that disclosure of the user's digital assets is reasonably necessary for administration of the estate; or
  - d. A finding by the court that (i) the user had a specific account with the custodian, identifiable by the information specified in subdivision a or (ii) disclosure of the user's digital assets is reasonably necessary for administration of the estate.

**§ 64.2-123. Disclosure of content of electronic communications of principal.**

To the extent that a power of attorney expressly grants an agent authority over the content of electronic communications sent or received by the principal and unless directed otherwise by the principal or the court, a custodian shall disclose to the agent the content if the agent gives the custodian:

1. A written request for disclosure in physical or electronic form;
2. An original or copy of the power of attorney expressly granting the agent authority over the content of electronic communications of the principal;
3. A certification by the agent that the power of attorney is in effect; and
4. If requested by the custodian:
  - a. A number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the principal's account; or
  - b. Evidence linking the account to the principal.

**§ 64.2-124. Disclosure of other digital assets of principal.**

Unless otherwise ordered by the court, directed by the principal, or provided by a power of attorney, a custodian shall disclose to an agent with specific authority over digital assets or general authority to act on behalf of a principal a catalog of electronic communications sent or received by the principal and digital assets, other than the content of electronic communications, of the principal if the agent gives the custodian:

1. A written request for disclosure in physical or electronic form;
2. An original or copy of the power of attorney that gives the agent specific authority over digital assets or general authority to act on behalf of the principal;
3. A certification by the agent that the power of attorney is in effect; and

4. If requested by the custodian:

a. A number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the principal's account; or

b. Evidence linking the account to the principal.

**§ 64.2-125. Disclosure of digital assets held in trust when trustee is original user.**

Unless otherwise ordered by the court or provided in a trust, a custodian shall disclose to a trustee that is an original user of an account any digital asset of the account held in trust, including a catalog of electronic communications of the trustee and the content of electronic communications.

**§ 64.2-126. Disclosure of contents of electronic communications held in trust when trustee is not original user.**

Unless otherwise ordered by the court, directed by the user, or provided in a trust, a custodian shall disclose to a trustee that is not an original user of an account the content of electronic communications sent or received by an original or successor user and carried, maintained, processed, received, or stored by the custodian in the account of the trust if the trustee gives the custodian:

1. A written request for disclosure in physical or electronic form;

2. A certified copy of the trust instrument, or a certification of the trust under § 64.2-804 that includes consent to disclosure of the content of electronic communications to the trustee;

3. A certification by the trustee that the trust exists and the trustee is a currently acting trustee of the trust; and

4. If requested by the custodian:

a. A number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the trust's account; or

b. Evidence linking the account to the trust.

**§ 64.2-127. Disclosure of other digital assets held in trust when trustee is not original user.**

Unless otherwise ordered by the court, directed by the user, or provided in a trust, a custodian shall disclose, to a trustee that is not an original user of an account, a catalog of electronic communications sent or received by an original or successor user and stored, carried, or maintained by the custodian in an account of the trust and any digital assets, other than the content of electronic communications, in which the trustee has a right or interest if the trustee gives the custodian:

1. A written request for disclosure in physical or electronic form;

2. A certified copy of the trust instrument or a certification of the trust under § 64.2-804;

3. A certification by the trustee that the trust exists and the trustee is a currently acting trustee of the trust; and

4. If requested by the custodian:

a. A number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the trust's account; or

b. Evidence linking the account to the trust.

**§ 64.2-128. Disclosure of digital assets to conservator or guardian of protected person.**

A. After an opportunity for a hearing under Chapter 20 (§ 64.2-2000 et seq.), the court may grant a conservator or guardian access to the digital assets of a protected person.

B. Unless otherwise ordered by the court or directed by the user, a custodian shall disclose to a conservator or guardian the catalog of electronic communications sent or received by a protected person and any digital assets, other than the content of electronic communications, in which the protected person has a right or interest if the conservator or guardian gives the custodian:

1. A written request for disclosure in physical or electronic form;

2. A certified copy of the court order that gives the conservator or guardian authority over the digital assets of the protected person; and

3. If requested by the custodian:

a. A number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the account of the protected person; or

b. Evidence linking the account to the protected person.

C. A conservator with general authority to manage the assets of a protected person or a guardian with specific authority granted by the court may request a custodian of the digital assets of the protected person to suspend or terminate an account of the protected person for good cause. A request made under this section shall be accompanied by a certified copy of the court order giving the conservator or guardian authority over the protected person's property.

**§ 64.2-129. Fiduciary duty and authority.**

A. The legal duties imposed on a fiduciary charged with managing tangible property apply to the management of digital assets, including:

1. The duty of care;

2. The duty of loyalty; and

3. The duty of confidentiality.

B. A fiduciary's or designated recipient's authority with respect to a digital asset of a user:

1. Except as otherwise provided in § 64.2-118, is subject to the applicable terms-of-service agreement;

2. Is subject to other applicable law, including copyright law;

3. In the case of a fiduciary, is limited by the scope of the fiduciary's duties; and

4. May not be used to impersonate the user.

C. A fiduciary with authority over the property of a decedent, protected person, principal, or settlor has the right to access any digital asset in which the decedent, protected person, principal, or settlor had a right or interest and that is not held by a custodian or subject to a terms-of-service agreement.

D. A fiduciary acting within the scope of the fiduciary's duties is an authorized user of the property of the decedent, protected person, principal, or settlor for the purpose of applicable computer-fraud and unauthorized computer-access laws, including Article 7.1 (§ 18.2-152.1 et seq.) of Chapter 5 of Title 18.2.

E. A fiduciary with authority over the tangible personal property of a decedent, protected person, principal, or settlor:

1. Has the right to access the property and any digital asset stored in it; and

2. Is an authorized user for the purposes of computer-fraud and unauthorized computer-access laws, including Article 7.1 (§ 18.2-152.1 et seq.) of Chapter 5 of Title 18.2.

F. A custodian may disclose information in an account to a fiduciary of the user when the information is required to terminate an account used to access digital assets licensed to the user.

G. A fiduciary of a user may request a custodian to terminate the user's account. A request for termination shall be in writing, in either physical or electronic form, and accompanied by:

1. If the user is deceased, a certified copy of the death certificate of the user;

2. A certified copy of the letter of appointment of the representative or a small-estate affidavit or court order, court order, power of attorney, or trust giving the fiduciary authority over the account; and

3. If requested by the custodian:

a. A number, username, address, or other unique subscriber or account identifier assigned by the custodian to identify the user's account;

b. Evidence linking the account to the user; or

c. A finding by the court that the user had a specific account with the custodian, identifiable by the information specified in subdivision a.

**§ 64.2-130. Custodian compliance and immunity.**

A. Not later than 60 days after receipt of the information required under §§ 64.2-121 through 64.2-129, a custodian shall comply with a request under this article from a fiduciary or designated recipient to disclose digital assets or terminate an account. If the custodian fails to comply, the fiduciary or designated recipient may apply to the court for an order directing compliance.

B. An order under subsection A directing compliance shall contain a finding that compliance is not in violation of 18 U.S.C. § 2702.

C. A custodian may notify the user that a request for disclosure or to terminate an account was made under this article.

D. A custodian may deny a request under this article from a fiduciary or designated recipient for disclosure of digital assets or to terminate an account if the custodian is aware of any lawful access to the account following the receipt of the fiduciary's request.

E. This article does not limit a custodian's ability to obtain or require a fiduciary or designated recipient requesting disclosure or termination under this article to obtain a court order that:

1. Specifies that an account belongs to a protected person or principal;

2. Specifies that there is sufficient consent from the protected person or principal to support the requested disclosure; and

3. Contains a finding required by law other than this article.

F. A custodian and its officer, employees, and agents are immune from liability for an act or omission done in good faith in compliance with this article.

**§ 64.2-131. Uniformity of application and construction.**

In applying and construing this article, consideration shall be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

**§ 64.2-132. Relation to Electronic Signatures in Global and National Commerce Act.**

This article modifies, limits, or supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. § 7001 et seq., but does not modify, limit, or supersede § 101(c) of that act, 15 U.S.C. § 7001(c), or authorize electronic delivery of any of the notices described in § 103(b) of that act, 15 U.S.C. § 7003(b).

**§ 64.2-1622. Authority that requires specific grant; grant of general authority.**

A. Subject to the provisions of subsection H, an agent under a power of attorney may do the following on behalf of the principal or with the principal's property only if the power of attorney expressly grants the agent the authority and exercise of the authority is not otherwise prohibited or limited by another statute, agreement, or instrument to which the authority or property is subject:

1. Create, amend, revoke, or terminate an inter vivos trust;

2. Make a gift;

3. Create or change rights of survivorship;

4. Create or change a beneficiary designation;

5. Delegate authority granted under the power of attorney;

6. Waive the principal's right to be a beneficiary of a joint and survivor annuity, including a survivor benefit under a retirement plan; ~~or~~

7. Exercise fiduciary powers that the principal has authority to delegate; *or*

8. *Have authority over the content of an electronic communication of the principal as provided by § 64.2-123.*

B. Notwithstanding a grant of authority to do an act described in subsection A or H, unless the power of attorney otherwise provides, an agent that is not an ancestor, spouse, or descendant of the principal may not exercise authority under a power of attorney to create in the agent, or in an individual to whom the agent owes a legal obligation of support, an interest in the principal's property, whether by gift, right of survivorship, beneficiary designation, disclaimer, or otherwise.

C. Subject to subsections A, B, D, and E, if a power of attorney grants to an agent authority to do all acts that a principal could do, the agent has the general authority described in § 64.2-124 and §§ 64.2-1625 through 64.2-1637.

D. Unless the power of attorney otherwise provides and subject to subsection H, a grant of authority to make a gift is subject to § 64.2-1638.

E. Subject to subsections A, B, and D, if the subjects over which authority is granted in a power of attorney are similar or overlap, the broadest authority controls.

F. Authority granted in a power of attorney is exercisable with respect to property that the principal has when the power of attorney is executed or acquires later, whether or not the property is located in the Commonwealth and whether or not the authority is exercised or the power of attorney is executed in the Commonwealth.

G. An act performed by an agent pursuant to a power of attorney has the same effect and inures to the benefit of and binds the principal and the principal's successors in interest as if the principal had performed the act.

H. Notwithstanding the provisions of subsection A, if a power of attorney grants to an agent authority to do all acts that a principal could do, the agent shall have the authority to make gifts in any amount of any of the principal's property to any individuals or to organizations described in §§ 170(c) and 2522(a) of the Internal Revenue Code or corresponding future provisions of federal tax law, or both, in accordance with the principal's personal history of making or joining in the making of lifetime gifts. This subsection shall not in any way impair the right or power of any principal, by express words in the power of attorney, to authorize, or limit the authority of, an agent to make gifts of the principal's property.

**2. That Article 3 (§§ 64.2-109 through 64.2-115) of Chapter 1 of Title 64.2 of the Code of Virginia is repealed.**

## CHAPTER 81

*An Act to amend and reenact § 65.2-309 of the Code of Virginia, relating to workers' compensation; lien of employer; notice and approval.*

[S 1175]

Approved February 20, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 65.2-309 of the Code of Virginia is amended and reenacted as follows:**

**§ 65.2-309. Lien against settlement proceeds or verdict in third party suit; subrogation of employer to employee's rights against third parties; evidence; recovery; compromise.**

A. A claim against an employer under this title for injury, occupational disease, or death benefits shall create a lien on behalf of the employer against any verdict or settlement arising from any right to recover damages which the injured employee, his personal representative or other person may have against any other party for such injury, occupational disease, or death, and such employer also shall be subrogated to any such right and may enforce, in his own name or in the name of the injured employee or his personal representative, the legal liability of such other party. The amount of compensation paid by the employer or the amount of compensation to which the injured employee or his dependents are entitled shall not be admissible as evidence in any action brought to recover damages.

B. Any amount collected by the employer under the provisions of this section in excess of the amount paid by the employer or for which he is liable shall be held by the employer for the benefit of the injured employee, his personal representative, or other person entitled thereto, less a proportionate share of such amounts as are paid by the employer for reasonable expenses and attorney's fees as provided in § 65.2-311.

C. No compromise settlement shall be made by the employer in the exercise of such right of subrogation without the approval of the Commission and the injured employee or the personal representative or dependents of the deceased employee being first obtained.

D. If an injured employee, his personal representative, or a person acting on behalf of the injured employee receives the proceeds of the settlement or verdict and the employer's lien pursuant to subsection A has not been satisfied, the employer shall have the right to recover its lien either as a credit against future benefits or through a civil action against the person who received the proceeds.

E. *Any arbitration held by the employer in the exercise of such right of subrogation (i) shall be limited solely to arbitrating the amount and validity of the employer's lien, (ii) shall not affect the employee's rights in any way, and (iii) shall not be held unless:*

*1. Prior to the commencement of such arbitration the employer has provided the injured employee and his attorney, if any, with an itemization of the expenses associated with the lien that is the subject of the arbitration;*

2. Upon receipt of the itemization of the lien, the employee shall have 21 days to provide a written objection to any expenses included in the lien to the employer, and if the employee does not do so any objections to the lien to be arbitrated shall be deemed waived;

3. The employer shall have 14 days after receipt of the written objection to notify the employee of any contested expenses that the employer does not agree to remove from the lien, and if the employer does not do so any itemized expense objected to by the employee shall be deemed withdrawn and not included in the arbitration; and

4. Any contested expenses remaining shall have been submitted to the Commission for a determination of their validity and the Commission has made such determination of validity prior to the commencement of the arbitration.

## CHAPTER 82

*An Act to amend and reenact § 64.2-311 of the Code of Virginia, relating to surviving spouse's elective share; homestead allowance benefit; emergency.*

[S 1177]

Approved February 20, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 64.2-311 of the Code of Virginia is amended and reenacted as follows:**

**§ 64.2-311. Homestead allowance.**

A. In addition to any other right or allowance under this article, a surviving spouse of a decedent who was domiciled in the Commonwealth is entitled to a homestead allowance of \$20,000. If there is no surviving spouse, each minor child of the decedent is entitled to a homestead allowance amounting to \$20,000, divided by the number of minor children.

B. The homestead allowance has priority over all claims against the estate, except the family allowance and the right to exempt property.

C. The homestead allowance is in lieu of any share passing to the surviving spouse or minor children by the decedent's will or by intestate succession; provided, however, if the amount passing to the surviving spouse and minor children by the decedent's will or by intestate succession is less than \$20,000, then the surviving spouse or minor children are entitled to a homestead allowance in an amount that when added to the property passing to the surviving spouse and minor children by the decedent's will or by intestate succession, equals the sum of \$20,000.

D. If the surviving spouse claims and receives an elective share of the decedent's estate under §§ 64.2-302 through 64.2-307 ~~or Article 1.1 (§ 64.2-308.1 et seq.), as applicable~~, the surviving spouse shall not have the benefit of any homestead allowance. *If the surviving spouse claims and receives an elective share of the decedent's estate under Article 1.1 (§ 64.2-308.1 et seq.), the homestead allowance shall be in addition to any benefit or share passing to the surviving spouse by way of elective share.*

**2. That the provisions of this act apply to the elective share of a surviving spouse of a decedent dying on or after January 1, 2017.**

**3. That an emergency exists and this act is in force from its passage.**

## CHAPTER 83

*An Act to amend and reenact §§ 8.3A-118 and 8.3A-118.1 of the Code of Virginia, relating to negotiable instruments; statute of limitations; certificates of deposit.*

[S 1217]

Approved February 20, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 8.3A-118 and 8.3A-118.1 of the Code of Virginia are amended and reenacted as follows:**

**§ 8.3A-118. Statute of limitations.**

(a) Except as provided in subsection (e), an action to enforce the obligation of a party to pay a note payable at a definite time must be commenced within six years after the due date or dates stated in the note or, if a due date is accelerated, within six years after the accelerated due date.

(b) Except as provided in subsection (d) or (e), if demand for payment is made to the maker of a note payable on demand, an action to enforce the obligation of a party to pay the note must be commenced within six years after the demand. If no demand for payment is made to the maker, an action to enforce the note is barred if neither principal nor interest on the note has been paid for a continuous period of ten years.

(c) Except as provided in subsection (d), an action to enforce the obligation of a party to an unaccepted draft to pay the draft must be commenced within three years after dishonor of the draft or ten years after the date of the draft, whichever period expires first.

(d) An action to enforce the obligation of the acceptor of a certified check or the issuer of a teller's check, cashier's check, or traveler's check must be commenced within three years after demand for payment is made to the acceptor or issuer, as the case may be.

(e) An action to enforce the obligation of a party to a certificate of deposit to pay the instrument must be commenced within six years after demand for payment is made to the maker, but if the instrument states a due date and the maker is not required to pay before that date, the six-year period begins when a demand for payment is in effect and the due date has passed.

(f) An action to enforce the obligation of a party to pay an accepted draft, other than a certified check, must be commenced (i) within six years after the due date or dates stated in the draft or acceptance if the obligation of the acceptor is payable at a definite time, or (ii) within six years after the date of the acceptance if the obligation of the acceptor is payable on demand.

(g) Unless governed by other law regarding claims for indemnity or contribution, an action (i) for conversion of an instrument, for money had and received, or like action based on conversion, (ii) for breach of warranty, or (iii) to enforce an obligation, duty, or right arising under this title and not governed by this section must be commenced within three years after the cause of action accrues.

(h) Notwithstanding the provisions of § 8.01-246, this section shall apply to negotiable and non-negotiable notes *and certificates of deposit*.

**§ 8.3A-118.1. Statute of limitations on deposit accounts and certificates of deposit.**

A. An action to enforce the obligations of a bank to pay all or part of the balance of a deposit account or certificate of deposit (collectively, a deposit) must be commenced within six years after the earlier of the following:

(1) If the deposit is a certificate of deposit to which subsection (e) of § 8.3A-118 applies, the date the six-year limitations period begins to run under subsection (e) of § 8.3A-118; or

(2) The later of:

(A) The due date of the deposit indicated in the bank's last written notice of renewal;

(B) The date of the last written communication from the bank recognizing the bank's obligation with respect to the deposit; or

(C) The last day of the taxable year for which the owner of the deposit or the bank last reported interest income earned on the deposit for federal or state income tax purposes.

*B. This section shall apply to negotiable and non-negotiable certificates of deposit.*

**CHAPTER 84**

*An Act to amend and reenact § 19.2-294.2 of the Code of Virginia, relating to procedure when aliens convicted of certain felonies; forms.*

[H 1560]

Approved February 20, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 19.2-294.2 of the Code of Virginia is amended and reenacted as follows:**

**§ 19.2-294.2. Procedure when aliens convicted of certain felonies; duties of probation and parole officer.**

A. Whenever a person is (i) convicted in a circuit court of any felony and (ii) referred to a probation or parole officer for a report pursuant to § 19.2-299, or for probation supervision, the probation or parole officer shall inquire as to the citizenship of such person. If upon inquiry it is determined that the person may be an alien based upon his failure to produce evidence of United States citizenship, the probation or parole officer shall report this determination to the Central Criminal Records Exchange of the Department of State Police ~~on forms provided in a format approved~~ by the Exchange.

B. The inquiry required by this section need not be made if it is apparent that a report on alien status has previously been made to the Central Criminal Records Exchange pursuant to this section.

C. It shall be the responsibility of the Central Criminal Records Exchange of the Department of State Police to review arrest reports submitted by law-enforcement agencies and reports of suspected alien-status inquiries made by probation or parole officers, and to report within sixty days of final disposition to the Law Enforcement Support Center of the United States Immigration and Customs Enforcement the identity of all convicted offenders suspected of being an alien.

**CHAPTER 85**

*An Act to amend and reenact § 9.1-138 of the Code of Virginia, relating to business advertising material; private security services businesses.*

[H 1629]

Approved February 20, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 9.1-138 of the Code of Virginia is amended and reenacted as follows:**

**§ 9.1-138. Definitions.**

In addition to the definitions set forth in § 9.1-101, as used in this article, unless the context requires a different meaning:

"Alarm respondent" means an individual who responds to the signal of an alarm for the purpose of detecting an intrusion of the home, business or property of the end user.

"Armed" means a private security registrant who carries or has immediate access to a firearm in the performance of his duties.

"Armed security officer" means a natural person employed to (i) safeguard and protect persons and property or (ii) deter theft, loss, or concealment of any tangible or intangible personal property on the premises he is contracted to protect, and who carries or has access to a firearm in the performance of his duties.

"Armored car personnel" means persons who transport or offer to transport under armed security from one place to another, money, negotiable instruments or other valuables in a specially equipped motor vehicle with a high degree of security and certainty of delivery.

"Business advertising material" means display advertisements in telephone directories, letterhead, business cards, local newspaper advertising and, contracts, and any electronic medium, including the Internet, social media, and digital advertising.

"Central station dispatcher" means an individual who monitors burglar alarm signal devices, burglar alarms or any other electrical, mechanical or electronic device used (i) to prevent or detect burglary, theft, shoplifting, pilferage or similar losses; (ii) to prevent or detect intrusion; or (iii) primarily to summon aid for other emergencies.

"Certification" means the method of regulation indicating that qualified persons have met the minimum requirements as private security services training schools, private security services instructors, compliance agents, or certified detector canine handler examiners.

"Compliance agent" means an individual who owns or is employed by a licensed private security services business to ensure the compliance of the private security services business with this title.

"Computer or digital forensic services" means the use of highly specialized expertise for the recovery, authentication, and analysis of electronic data or computer usage.

"Courier" means any armed person who transports or offers to transport from one place to another documents or other papers, negotiable or nonnegotiable instruments, or other small items of value that require expeditious services.

"Detector canine" means any dog that detects drugs or explosives.

"Detector canine handler" means any individual who uses a detector canine in the performance of private security duties.

"Detector canine handler examiner" means any individual who examines the proficiency and reliability of detector canines and detector canine handlers in the detection of drugs or explosives.

"Detector canine team" means the detector canine handler and his detector canine performing private security duties.

"Electronic security business" means any person who engages in the business of or undertakes to (i) install, service, maintain, design or consult in the design of any electronic security equipment to an end user; (ii) respond to or cause a response to electronic security equipment for an end user; or (iii) have access to confidential information concerning the design, extent, status, password, contact list, or location of an end user's electronic security equipment.

"Electronic security employee" means an individual who is employed by an electronic security business in any capacity which may give him access to information concerning the design, extent, status, password, contact list, or location of an end user's electronic security equipment.

"Electronic security equipment" means (i) electronic or mechanical alarm signaling devices including burglar alarms or holdup alarms used to safeguard and protect persons and property; or (ii) cameras used to detect intrusions, concealment or theft, to safeguard and protect persons and property. This shall not include tags, labels, and other devices that are attached or affixed to items offered for sale, library books, and other protected articles as part of an electronic article surveillance and theft detection and deterrence system.

"Electronic security sales representative" means an individual who sells electronic security equipment on behalf of an electronic security business to the end user.

"Electronic security technician" means an individual who installs, services, maintains or repairs electronic security equipment.

"Electronic security technician's assistant" means an individual who works as a laborer under the supervision of the electronic security technician in the course of his normal duties, but who may not make connections to any electronic security equipment.

"Employed" means to be in an employer/employee relationship where the employee is providing work in exchange for compensation and the employer directly controls the employee's conduct and pays some taxes on behalf of the employee. The term "employed" shall not be construed to include independent contractors.

"End user" means any person who purchases or leases electronic security equipment for use in that person's home or business.

"Firearms training verification" means the verification of successful completion of either initial or retraining requirements for handgun or shotgun training, or both.

"General public" means individuals who have access to areas open to all and not restricted to any particular class of the community.

"Key cutting" means making duplicate keys from an existing key and includes no other locksmith services.

"License number" means the official number issued to a private security services business licensed by the Department.

"Locksmith" means any individual that performs locksmith services, or advertises or represents to the general public that the individual is a locksmith even if the specific term locksmith is substituted with any other term by which a reasonable person could construe that the individual possesses special skills relating to locks or locking devices, including use of the words lock technician, lockman, safe technician, safeman, boxman, unlocking technician, lock installer, lock opener, physical security technician or similar descriptions.

"Locksmith services" mean selling, servicing, rebuilding, repairing, rekeying, repinning, changing the combination to an electronic or mechanical locking device; programming either keys to a device or the device to accept electronic controlled keys; originating keys for locks or copying keys; adjusting or installing locks or deadbolts, mechanical or electronic locking devices, egress control devices, safes, and vaults; opening, defeating or bypassing locks or latching mechanisms in a manner other than intended by the manufacturer; with or without compensation for the general public or on property not his own nor under his own control or authority.

"Natural person" means an individual person.

"Personal protection specialist" means any individual who engages in the duties of providing close protection from bodily harm to any person.

"Private investigator" means any individual who engages in the business of, or accepts employment to make, investigations to obtain information on (i) crimes or civil wrongs; (ii) the location, disposition, or recovery of stolen property; (iii) the cause of accidents, fires, damages, or injuries to persons or to property; or (iv) evidence to be used before any court, board, officer, or investigative committee.

"Private security services business" means any person engaged in the business of providing, or who undertakes to provide, armored car personnel, security officers, personal protection specialists, private investigators, couriers, security canine handlers, security canine teams, detector canine handlers, detector canine teams, alarm respondents, locksmiths, central station dispatchers, electronic security employees, electronic security sales representatives or electronic security technicians and their assistants to another person under contract, express or implied.

"Private security services instructor" means any individual certified by the Department to provide mandated instruction in private security subjects for a certified private security services training school.

"Private security services registrant" means any qualified individual who has met the requirements under this article to perform the duties of alarm respondent, locksmith, armored car personnel, central station dispatcher, courier, electronic security sales representative, electronic security technician, electronic security technician's assistant, personal protection specialist, private investigator, security canine handler, detector canine handler, unarmed security officer or armed security officer.

"Private security services training school" means any person certified by the Department to provide instruction in private security subjects for the training of private security services business personnel in accordance with this article.

"Registration" means a method of regulation whereby certain personnel employed by a private security services business are required to register with the Department pursuant to this article.

"Registration category" means any one of the following categories: (i) unarmed security officer and armed security officer/courier, (ii) security canine handler, (iii) armored car personnel, (iv) private investigator, (v) personal protection specialist, (vi) alarm respondent, (vii) central station dispatcher, (viii) electronic security sales representative, (ix) electronic security technician, (x) electronic technician's assistant, (xi) detector canine handler, or (xii) locksmith.

"Security canine" means a dog that has attended, completed, and been certified as a security canine by a certified security canine handler instructor in accordance with approved Department procedures and certification guidelines. "Security canines" shall not include detector dogs.

"Security canine handler" means any individual who utilizes his security canine in the performance of private security duties.

"Security canine team" means the security canine handler and his security canine performing private security duties.

"Supervisor" means any individual who directly or indirectly supervises registered or certified private security services business personnel.

"Unarmed security officer" means a natural person who performs the functions of observation, detection, reporting, or notification of appropriate authorities or designated agents regarding persons or property on the premises he is contracted to protect, and who does not carry or have access to a firearm in the performance of his duties.

## CHAPTER 86

*An Act to amend and reenact §§ 8.01-654.2, 18.2-10, 19.2-264.3:1.1, 19.2-264.3:1.2, and 19.2-264.3:3 of the Code of Virginia, relating to capital cases; replacing certain terminology.*

[H 1882]

Approved February 20, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 8.01-654.2, 18.2-10, 19.2-264.3:1.1, 19.2-264.3:1.2, and 19.2-264.3:3 of the Code of Virginia are amended and reenacted as follows:**

**§ 8.01-654.2. Presentation of claim of intellectual disability by person sentenced to death before April 29, 2003.**

Notwithstanding any other provision of law, any person under sentence of death whose sentence became final in the circuit court before April 29, 2003, and who desires to have a claim of his ~~mental retardation~~ *intellectual disability* presented to the Supreme Court, shall do so by one of the following methods: (i) if the person has not commenced a direct appeal, he shall present his claim of ~~mental retardation~~ *intellectual disability* by assignment of error and in his brief in that appeal, or if his direct appeal is pending in the Supreme Court, he shall file a supplemental assignment of error and brief containing his claim of ~~mental retardation~~ *intellectual disability*, or (ii) if the person has not filed a petition for a writ of habeas corpus under subsection C of § 8.01-654, he shall present his claim of ~~mental retardation~~ *intellectual disability* in a petition for a writ of habeas corpus under such subsection, or if such a petition is pending in the Supreme Court, he shall file an amended petition containing his claim of ~~mental retardation~~ *intellectual disability*. A person proceeding under this section shall allege the factual basis for his claim of ~~mental retardation~~ *intellectual disability*. The Supreme Court shall consider a claim raised under this section and if it determines that the claim is not frivolous, it shall remand the claim to the circuit court for a determination of ~~mental retardation~~ *intellectual disability*; otherwise the Supreme Court shall dismiss the petition. The provisions of §§ 19.2-264.3:1.1 and 19.2-264.3:1.2 shall govern a determination of ~~mental retardation~~ *intellectual disability* made pursuant to this section. If the claim is before the Supreme Court on direct appeal and is remanded to the circuit court and the case wherein the sentence of death was imposed was tried by a jury, the circuit court shall empanel a new jury for the sole purpose of making a determination of ~~mental retardation~~ *intellectual disability*.

If the person has completed both a direct appeal and a habeas corpus proceeding under subsection C of § 8.01-654, he shall not be entitled to file any further habeas petitions in the Supreme Court and his sole remedy shall lie in federal court.

**§ 18.2-10. Punishment for conviction of felony; penalty.**

The authorized punishments for conviction of a felony are:

(a) For Class 1 felonies, death, if the person so convicted was 18 years of age or older at the time of the offense and is not determined to be ~~mentally retarded~~ *a person with intellectual disability* pursuant to § 19.2-264.3:1.1, or imprisonment for life and, subject to subdivision (g), a fine of not more than \$100,000. If the person was under 18 years of age at the time of the offense or is determined to be ~~mentally retarded~~ *a person with intellectual disability* pursuant to § 19.2-264.3:1.1, the punishment shall be imprisonment for life and, subject to subdivision (g), a fine of not more than \$100,000.

(b) For Class 2 felonies, imprisonment for life or for any term not less than 20 years and, subject to subdivision (g), a fine of not more than \$100,000.

(c) For Class 3 felonies, a term of imprisonment of not less than five years nor more than 20 years and, subject to subdivision (g), a fine of not more than \$100,000.

(d) For Class 4 felonies, a term of imprisonment of not less than two years nor more than 10 years and, subject to subdivision (g), a fine of not more than \$100,000.

(e) For Class 5 felonies, a term of imprisonment of not less than one year nor more than 10 years, or in the discretion of the jury or the court trying the case without a jury, confinement in jail for not more than 12 months and a fine of not more than \$2,500, either or both.

(f) For Class 6 felonies, a term of imprisonment of not less than one year nor more than five years, or in the discretion of the jury or the court trying the case without a jury, confinement in jail for not more than 12 months and a fine of not more than \$2,500, either or both.

(g) Except as specifically authorized in subdivision (e) or (f), or in Class 1 felonies for which a sentence of death is imposed, the court shall impose either a sentence of imprisonment together with a fine, or imprisonment only. However, if the defendant is not a natural person, the court shall impose only a fine.

For any felony offense committed (i) on or after January 1, 1995, the court may, and (ii) on or after July 1, 2000, shall, except in cases in which the court orders a suspended term of confinement of at least six months, impose an additional term of not less than six months nor more than three years, which shall be suspended conditioned upon successful completion of a period of post-release supervision pursuant to § 19.2-295.2 and compliance with such other terms as the sentencing court may require. However, such additional term may only be imposed when the sentence includes an active term of incarceration in a correctional facility.

For a felony offense prohibiting proximity to children as described in subsection A of § 18.2-370.2, the sentencing court is authorized to impose the punishment set forth in that section in addition to any other penalty provided by law.

**§ 19.2-264.3:1.1. Capital cases; determination of intellectual disability.**

A. As used in this section and § 19.2-264.3:1.2, the following definition applies:

"~~Mentally retarded~~" *"Intellectual disability"* means a disability, originating before the age of 18 years, characterized concurrently by (i) significantly subaverage intellectual functioning as demonstrated by performance on a standardized measure of intellectual functioning administered in conformity with accepted professional practice, that is at least two standard deviations below the mean and (ii) significant limitations in adaptive behavior as expressed in conceptual, social and practical adaptive skills.

B. Assessments of ~~mental retardation~~ *intellectual disability* under this section and § 19.2-264.3:1.2 shall conform to the following requirements:

1. Assessment of intellectual functioning shall include administration of at least one standardized measure generally accepted by the field of psychological testing and appropriate for administration to the particular defendant being assessed, taking into account cultural, linguistic, sensory, motor, behavioral and other individual factors. All such measures shall be reported as a range of scores calculated by adding and subtracting the standard error of measurement identified by the test

publisher to the defendant's earned score. Testing of intellectual functioning shall be carried out in conformity with accepted professional practice, and whenever indicated, the assessment shall include information from multiple sources. The Commissioner of Behavioral Health and Developmental Services shall maintain an exclusive list of standardized measures of intellectual functioning generally accepted by the field of psychological testing.

2. Assessment of adaptive behavior shall be based on multiple sources of information, including clinical interview, psychological testing and educational, correctional and vocational records. The assessment shall include at least one standardized measure generally accepted by the field of psychological testing for assessing adaptive behavior and appropriate for administration to the particular defendant being assessed, unless not feasible. In reaching a clinical judgment regarding whether the defendant exhibits significant limitations in adaptive behavior, the examiner shall give performance on standardized measures whatever weight is clinically appropriate in light of the defendant's history and characteristics and the context of the assessment.

3. Assessment of developmental origin shall be based on multiple sources of information generally accepted by the field of psychological testing and appropriate for the particular defendant being assessed, including, whenever available, educational, social service, medical records, prior disability assessments, parental or caregiver reports, and other collateral data, recognizing that valid clinical assessment conducted during the defendant's childhood may not have conformed to current practice standards.

C. In any case in which the offense may be punishable by death and is tried before a jury, the issue of ~~mental retardation~~ *intellectual disability*, if raised by the defendant in accordance with the notice provisions of subsection E of § 19.2-264.3:1.2, shall be determined by the jury as part of the sentencing proceeding required by § 19.2-264.4.

In any case in which the offense may be punishable by death and is tried before a judge, the issue of ~~mental retardation~~ *intellectual disability*, if raised by the defendant in accordance with the notice provisions of subsection E of § 19.2-264.3:1.2, shall be determined by the judge as part of the sentencing proceeding required by § 19.2-264.4.

The defendant shall bear the burden of proving that he is ~~mentally retarded~~ *a person with intellectual disability* by a preponderance of the evidence.

D. The verdict of the jury, if the issue of ~~mental retardation~~ *intellectual disability* is raised, shall be in writing, and, in addition to the forms specified in § 19.2-264.4, shall include one of the following forms:

(1) "We the jury, on the issue joined, having found the defendant guilty of (here set out the statutory language of the offense charged), and that the defendant has proven by a preponderance of the evidence that he is ~~mentally retarded~~ *a person with intellectual disability*, fix his punishment at (i) imprisonment for life or (ii) imprisonment for life and a fine of \$ \_\_\_\_\_.

Signed \_\_\_\_\_ foreman"

or

(2) "We the jury, on the issue joined, having found the defendant guilty of (here set out the statutory language of the offense charged) find that the defendant has not proven by a preponderance of the evidence that he is ~~mentally retarded~~ *a person with intellectual disability*.

Signed \_\_\_\_\_ foreman"

**§ 19.2-264.3:1.2. Expert assistance when issue of defendant's intellectual disability relevant to capital sentencing.**

A. Upon (i) motion of the attorney for a defendant charged with or convicted of capital murder and (ii) a finding by the court that the defendant is financially unable to pay for expert assistance, the court shall appoint one or more qualified mental health experts to assess whether or not the defendant is ~~mentally retarded~~ *a person with intellectual disability* and to assist the defense in the preparation and presentation of information concerning the defendant's ~~mental retardation~~ *intellectual disability*. The mental health expert appointed pursuant to this section shall be (a) a psychiatrist, a clinical psychologist or an individual with a doctorate degree in clinical psychology, (b) skilled in the administration, scoring and interpretation of intelligence tests and measures of adaptive behavior and (c) qualified by experience and by specialized training, approved by the Commissioner of Behavioral Health and Developmental Services, to perform forensic evaluations. The defendant shall not be entitled to a mental health expert of the defendant's own choosing or to funds to employ such expert.

B. Evaluations performed pursuant to subsection A may be combined with evaluations performed pursuant to § 19.2-169.1, 19.2-169.5, or 19.2-264.3:1.

C. The expert appointed pursuant to subsection A shall submit to the attorney for the defendant a report assessing whether the defendant is ~~mentally retarded~~ *a person with intellectual disability*. The report shall include the expert's opinion as to whether the defendant is ~~mentally retarded~~ *a person with intellectual disability*.

D. The report described in subsection C shall be sent solely to the attorney for the defendant and shall be protected by the attorney-client privilege. However, the Commonwealth shall be given a copy of the report, the results of any other evaluation of the defendant's ~~mental retardation~~ *intellectual disability* and copies of psychiatric, psychological, medical or other records obtained during the course of the evaluation, after the attorney for the defendant gives notice of an intent to present evidence of ~~mental retardation~~ *intellectual disability* pursuant to subsection E.

E. In any case in which a defendant charged with capital murder intends, in the event of conviction, to present testimony of an expert witness to support a claim that he is ~~mentally retarded~~ *a person with intellectual disability*, he or his attorney shall give notice in writing to the attorney for the Commonwealth, at least 21 days before trial, of his intention to

present such testimony. In the event that such notice is not given and the defendant tenders testimony by an expert witness at the sentencing phase of the trial, then the court may, in its discretion, upon objection of the Commonwealth, either allow the Commonwealth a continuance or, under appropriate circumstances, bar the defendant from presenting such evidence.

F. 1. If the attorney for the defendant gives notice pursuant to subsection E and the Commonwealth thereafter seeks an evaluation concerning the existence or absence of the defendant's ~~mental retardation~~ *intellectual disability*, the court shall appoint one or more qualified experts to perform such an evaluation. The court shall order the defendant to submit to such an evaluation, and advise the defendant on the record in court that a refusal to cooperate with the Commonwealth's experts could result in exclusion of the defendant's expert evidence. The qualification of the experts shall be governed by subsection A. The attorney for the Commonwealth shall be responsible for providing the experts the information specified in subsection C of § 19.2-169.5. After performing their evaluation, the experts shall report their findings and opinions and provide copies of psychiatric, psychological, medical or other records obtained during the course of the evaluation to the attorneys for the Commonwealth and the defense.

2. If the court finds, after hearing evidence presented by the parties, out of the presence of the jury, that the defendant has refused to cooperate with an evaluation requested by the Commonwealth, the court may admit evidence of such refusal or, in the discretion of the court, bar the defendant from presenting his expert evidence.

**§ 19.2-264.3:3. Limitations on use of statements or disclosure by defendant during evaluations.**

No statement or disclosure by the defendant made during a competency evaluation performed pursuant to § 19.2-169.1, an evaluation performed pursuant to § 19.2-169.5 to determine sanity at the time of the offense, treatment provided pursuant to § 19.2-169.2 or § 19.2-169.6, a mental condition evaluation performed pursuant to § 19.2-264.3:1 or a ~~mental retardation~~ *an intellectual disability* evaluation performed pursuant to § 19.2-264.3:1.2, and no evidence derived from any such statements or disclosures may be introduced against the defendant at the sentencing phase of a capital murder trial for the purpose of proving the aggravating circumstances specified in § 19.2-264.4. Such statements or disclosures shall be admissible in rebuttal only when relevant to issues in mitigation raised by the defense.

**2. That it is the expressed intent of the General Assembly that the provisions of this act serve only to reflect a change in terminology approved and used by experts in the field to describe the identical phenomenon, as stated by the U.S. Supreme Court in *Hall v. Florida*, 134 S. Ct. 1986 (2014), and do not affect the meaning or applicability of the existing definition or case law utilizing the existing definition.**

## CHAPTER 87

*An Act to amend and reenact § 2.2-4343 of the Code of Virginia, relating to the Virginia Public Procurement Act; exemptions; Department of Juvenile Justice; pre-release and post-commitment services.*

[H 1940]

Approved February 20, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 2.2-4343 of the Code of Virginia is amended and reenacted as follows:**

**§ 2.2-4343. Exemption from operation of chapter for certain transactions.**

A. The provisions of this chapter shall not apply to:

1. The Virginia Port Authority in the exercise of any of its powers in accordance with Chapter 10 (§ 62.1-128 et seq.) of Title 62.1, provided the Authority implements, by policy or regulation adopted by the Board of Commissioners, procedures to ensure fairness and competitiveness in the procurement of goods and services and in the administration of its capital outlay program. This exemption shall be applicable only so long as such policies and procedures meeting the requirements remain in effect.

2. The Virginia Retirement System for selection of services related to the management, purchase or sale of authorized investments, actuarial services, and disability determination services. Selection of these services shall be governed by the standard set forth in § 51.1-124.30.

3. The State Treasurer in the selection of investment management services related to the external management of funds shall be governed by the standard set forth in § 2.2-4514, and shall be subject to competitive guidelines and policies that are set by the Commonwealth Treasury Board and approved by the Department of General Services.

4. The Department of Social Services or local departments of social services for the acquisition of motor vehicles for sale or transfer to Temporary Assistance to Needy Families (TANF) recipients.

5. The College of William and Mary in Virginia, Virginia Commonwealth University, the University of Virginia, and Virginia Polytechnic Institute and State University in the selection of services related to the management and investment of their endowment funds, endowment income, gifts, all other nongeneral fund reserves and balances, or local funds of or held by the College or Universities pursuant to § 23.1-2210, 23.1-2306, 23.1-2604, or 23.1-2803. However, selection of these services shall be governed by the Uniform Prudent Management of Institutional Funds Act (§ 64.2-1100 et seq.) as required by §§ 23.1-2210, 23.1-2306, 23.1-2604, and 23.1-2803.

6. The Board of the Virginia College Savings Plan for the selection of services related to the operation and administration of the Plan, including, but not limited to, contracts or agreements for the management, purchase, or sale of

authorized investments or actuarial, record keeping, or consulting services. However, such selection shall be governed by the standard set forth in § 23.1-706.

7. Public institutions of higher education for the purchase of items for resale at retail bookstores and similar retail outlets operated by such institutions. However, such purchase procedures shall provide for competition where practicable.

8. The purchase of goods and services by agencies of the legislative branch that may be specifically exempted therefrom by the Chairman of the Committee on Rules of either the House of Delegates or the Senate. Nor shall the contract review provisions of § 2.2-2012 apply to such procurements. The exemption shall be in writing and kept on file with the agency's disbursement records.

9. Any town with a population of less than 3,500, except as stipulated in the provisions of §§ 2.2-4305, 2.2-4308, 2.2-4311, 2.2-4315, 2.2-4330, 2.2-4333 through 2.2-4338, 2.2-4343.1, and 2.2-4367 through 2.2-4377.

10. Any county, city or town whose governing body has adopted, by ordinance or resolution, alternative policies and procedures which are (i) based on competitive principles and (ii) generally applicable to procurement of goods and services by such governing body and its agencies, except as stipulated in subdivision 12.

This exemption shall be applicable only so long as such policies and procedures, or other policies and procedures meeting the requirements of § 2.2-4300, remain in effect in such county, city or town. Such policies and standards may provide for incentive contracting that offers a contractor whose bid is accepted the opportunity to share in any cost savings realized by the locality when project costs are reduced by such contractor, without affecting project quality, during construction of the project. The fee, if any, charged by the project engineer or architect for determining such cost savings shall be paid as a separate cost and shall not be calculated as part of any cost savings.

11. Any school division whose school board has adopted, by policy or regulation, alternative policies and procedures that are (i) based on competitive principles and (ii) generally applicable to procurement of goods and services by the school board, except as stipulated in subdivision 12.

This exemption shall be applicable only so long as such policies and procedures, or other policies or procedures meeting the requirements of § 2.2-4300, remain in effect in such school division. This provision shall not exempt any school division from any centralized purchasing ordinance duly adopted by a local governing body.

12. Notwithstanding the exemptions set forth in subdivisions 9 through 11, the provisions of subsections C and D of § 2.2-4303, and §§ 2.2-4305, 2.2-4308, 2.2-4311, 2.2-4315, 2.2-4317, 2.2-4330, 2.2-4333 through 2.2-4338, 2.2-4343.1, and 2.2-4367 through 2.2-4377 shall apply to all counties, cities and school divisions, and to all towns having a population greater than 3,500 in the Commonwealth.

The method for procurement of professional services through competitive negotiation set forth in §§ 2.2-4303.1 and 2.2-4303.2 shall also apply to all counties, cities and school divisions, and to all towns having a population greater than 3,500, where the cost of the professional service is expected to exceed \$60,000 in the aggregate or for the sum of all phases of a contract or project. A school board that makes purchases through its public school foundation or purchases educational technology through its educational technology foundation, either as may be established pursuant to § 22.1-212.2:2 shall be exempt from the provisions of this chapter, except, relative to such purchases, the school board shall comply with the provisions of §§ 2.2-4311 and 2.2-4367 through 2.2-4377.

13. A public body that is also a utility operator may purchase services through or participate in contracts awarded by one or more utility operators that are not public bodies for utility marking services as required by the Underground Utility Damage Prevention Act (§ 56-265.14 et seq.). A purchase of services under this subdivision may deviate from the procurement procedures set forth in this chapter upon a determination made in advance by the public body and set forth in writing that competitive sealed bidding is either not practicable or not fiscally advantageous to the public, and the contract is awarded based on competitive principles.

14. Procurement of any construction or planning and design services for construction by a Virginia nonprofit corporation or organization not otherwise specifically exempted when (i) the planning, design or construction is funded by state appropriations of \$10,000 or less or (ii) the Virginia nonprofit corporation or organization is obligated to conform to procurement procedures that are established by federal statutes or regulations, whether those federal procedures are in conformance with the provisions of this chapter.

15. Purchases, exchanges, gifts or sales by the Citizens' Advisory Council on Furnishing and Interpreting the Executive Mansion.

16. The Eastern Virginia Medical School in the selection of services related to the management and investment of its endowment and other institutional funds. The selection of these services shall, however, be governed by the Uniform Prudent Management of Institutional Funds Act (§ 64.2-1100 et seq.).

17. The Department of Corrections in the selection of pre-release and post-incarceration services *and the Department of Juvenile Justice in the selection of pre-release and post-commitment services.*

18. The University of Virginia Medical Center to the extent provided by subdivision A 3 of § 23.1-2213.

19. The purchase of goods and services by a local governing body or any authority, board, department, instrumentality, institution, agency or other unit of state government when such purchases are made under a remedial plan established by the Governor pursuant to subsection C of § 2.2-4310 or by a chief administrative officer of a county, city or town pursuant to § 15.2-965.1.

20. The contract by community services boards or behavioral health authorities with an administrator or management body pursuant to a joint agreement authorized by § 37.2-512 or 37.2-615.

21. [Expired].

22. The purchase of Virginia-grown food products for use by a public body where the annual cost of the product is not expected to exceed \$100,000.

B. Where a procurement transaction involves the expenditure of federal assistance or contract funds, the receipt of which is conditioned upon compliance with mandatory requirements in federal laws or regulations not in conformance with the provisions of this chapter, a public body may comply with such federal requirements, notwithstanding the provisions of this chapter, only upon the written determination of the Governor, in the case of state agencies, or the governing body, in the case of political subdivisions, that acceptance of the grant or contract funds under the applicable conditions is in the public interest. Such determination shall state the specific provision of this chapter in conflict with the conditions of the grant or contract.

## CHAPTER 88

*An Act to amend and reenact § 63.2-1503 of the Code of Virginia, relating to child-protective services; complaints involving members of the United States Armed Forces.*

[S 1164]

Approved February 20, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 63.2-1503 of the Code of Virginia is amended and reenacted as follows:**

**§ 63.2-1503. Local departments to establish child-protective services; duties.**

A. Each local department shall establish child-protective services under a departmental coordinator within such department or with one or more adjacent local departments that shall be staffed with qualified personnel pursuant to regulations adopted by the Board. The local department shall be the public agency responsible for receiving and responding to complaints and reports, except that (i) in cases where the reports or complaints are to be made to the court and the judge determines that no local department within a reasonable geographic distance can impartially respond to the report, the court shall assign the report to the court services unit for evaluation; and (ii) in cases where an employee at a private or state-operated hospital, institution or other facility, or an employee of a school board is suspected of abusing or neglecting a child in such hospital, institution or other facility, or public school, the local department shall request the Department and the relevant private or state-operated hospital, institution or other facility, or school board to assist in conducting a joint investigation in accordance with regulations adopted by the Board, in consultation with the Departments of Education, Health, Medical Assistance Services, Behavioral Health and Developmental Services, Juvenile Justice and Corrections.

B. The local department shall ensure, through its own personnel or through cooperative arrangements with other local agencies, the capability of receiving reports or complaints and responding to them promptly on a 24-hours-a-day, seven-days-per-week basis.

C. The local department shall widely publicize a telephone number for receiving complaints and reports.

D. The local department shall notify the local attorney for the Commonwealth and the local law-enforcement agency of all complaints of suspected child abuse or neglect involving (i) any death of a child; (ii) any injury or threatened injury to the child in which a felony or Class 1 misdemeanor is also suspected; (iii) any sexual abuse, suspected sexual abuse or other sexual offense involving a child, including but not limited to the use or display of the child in sexually explicit visual material, as defined in § 18.2-374.1; (iv) any abduction of a child; (v) any felony or Class 1 misdemeanor drug offense involving a child; or (vi) contributing to the delinquency of a minor in violation of § 18.2-371, immediately, but in no case more than two hours of receipt of the complaint, and shall provide the attorney for the Commonwealth and the local law-enforcement agency with records and information of the local department, including records related to any complaints of abuse or neglect involving the victim or the alleged perpetrator, related to the investigation of the complaint. The local department shall not allow reports of the death of the victim from other local agencies to substitute for direct reports to the attorney for the Commonwealth and the local law-enforcement agency. The local department shall develop, when practicable, memoranda of understanding for responding to reports of child abuse and neglect with local law enforcement and the attorney for the Commonwealth.

In each case in which the local department notifies the local law-enforcement agency of a complaint pursuant to this subsection, the local department shall, within two business days of delivery of the notification, complete a written report, on a form provided by the Board for such purpose, which shall include (a) the name of the representative of the local department providing notice required by this subsection; (b) the name of the local law-enforcement officer who received such notice; (c) the date and time that notification was made; (d) the identity of the victim; (e) the identity of the person alleged to have abused or neglected the child, if known; (f) the clause or clauses in this subsection that describe the reasons for the notification; and (g) the signatures, which may be electronic signatures, of the representatives of the local department making the notification and the local law-enforcement officer receiving the notification. Such report shall be included in the record of the investigation and may be submitted either in writing or electronically.

E. When abuse or neglect is suspected in any case involving the death of a child, the local department shall report the case immediately to the regional medical examiner and the local law-enforcement agency.

F. The local department shall use reasonable diligence to locate (i) any child for whom a report of suspected abuse or neglect has been received and is under investigation, receiving family assessment, or for whom a founded determination of abuse and neglect has been made and a child-protective services case opened and (ii) persons who are the subject of a report that is under investigation or receiving family assessment, if the whereabouts of the child or such persons are unknown to the local department.

G. When an abused or neglected child and the persons who are the subject of an open child-protective services case have relocated out of the jurisdiction of the local department, the local department shall notify the child-protective services agency in the jurisdiction to which such persons have relocated, whether inside or outside of the Commonwealth, and forward to such agency relevant portions of the case record. The receiving local department shall arrange protective and rehabilitative services as required by this section.

H. When a child for whom a report of suspected abuse or neglect has been received and is under investigation or receiving family assessment and the child and the child's parents or other persons responsible for the child's care who are the subject of the report that is under investigation or family assessment have relocated out of the jurisdiction of the local department, the local department shall notify the child-protective services agency in the jurisdiction to which the child and such persons have relocated, whether inside or outside of the Commonwealth, and complete such investigation or family assessment by requesting such agency's assistance in completing the investigation or family assessment. The local department that completes the investigation or family assessment shall forward to the receiving agency relevant portions of the case record in order for the receiving agency to arrange protective and rehabilitative services as required by this section.

I. Upon receipt of a report of child abuse or neglect, the local department shall determine the validity of such report and shall make a determination to conduct an investigation pursuant to § 63.2-1505 or, if designated as a child-protective services differential response agency by the Department according to § 63.2-1504, a family assessment pursuant to § 63.2-1506.

J. The local department shall foster, when practicable, the creation, maintenance and coordination of hospital and community-based multidisciplinary teams that shall include where possible, but not be limited to, members of the medical, mental health, social work, nursing, education, legal and law-enforcement professions. Such teams shall assist the local departments in identifying abused and neglected children; coordinating medical, social, and legal services for the children and their families; developing innovative programs for detection and prevention of child abuse; promoting community concern and action in the area of child abuse and neglect; and disseminating information to the general public with respect to the problem of child abuse and neglect and the facilities and prevention and treatment methods available to combat child abuse and neglect. These teams may be the family assessment and planning teams established pursuant to § 2.2-5207. Multidisciplinary teams may develop agreements regarding the exchange of information among the parties for the purposes of the investigation and disposition of complaints of child abuse and neglect, delivery of services and child protection. Any information exchanged in accordance with the agreement shall not be considered to be a violation of the provisions of § 63.2-102, 63.2-104, or 63.2-105.

The local department shall also coordinate its efforts in the provision of these services for abused and neglected children with the judge and staff of the court.

K. The local department may develop multidisciplinary teams to provide consultation to the local department during the investigation of selected cases involving child abuse or neglect, and to make recommendations regarding the prosecution of such cases. These teams may include, but are not limited to, members of the medical, mental health, legal and law-enforcement professions, including the attorney for the Commonwealth or his designee; a local child-protective services representative; and the guardian ad litem or other court-appointed advocate for the child. Any information exchanged for the purpose of such consultation shall not be considered a violation of § 63.2-102, 63.2-104, or 63.2-105.

L. The local department shall report annually on its activities concerning abused and neglected children to the court and to the Child-Protective Services Unit in the Department on forms provided by the Department.

M. Statements, or any evidence derived therefrom, made to local department child-protective services personnel, or to any person performing the duties of such personnel, by any person accused of the abuse, injury, neglect or death of a child after the arrest of such person, shall not be used in evidence in the case-in-chief against such person in the criminal proceeding on the question of guilt or innocence over the objection of the accused, unless the statement was made after such person was fully advised (i) of his right to remain silent, (ii) that anything he says may be used against him in a court of law, (iii) that he has a right to the presence of an attorney during any interviews, and (iv) that if he cannot afford an attorney, one will be appointed for him prior to any questioning.

N. Notwithstanding any other provision of law, the local department, in accordance with Board regulations, shall transmit information ~~regarding founded complaints or family assessments and may transmit other information~~ regarding reports, complaints, family assessments, and investigations involving *children of active duty military personnel members of the United States Armed Forces* or members of their household to family advocacy representatives of the United States Armed Forces.

O. The local department shall notify the custodial parent and make reasonable efforts to notify the noncustodial parent as those terms are defined in § 63.2-1900 of a report of suspected abuse or neglect of a child who is the subject of an investigation or is receiving family assessment, in those cases in which such custodial or noncustodial parent is not the subject of the investigation.

P. The local department shall notify the Superintendent of Public Instruction when an individual holding a license issued by the Board of Education is the subject of a founded complaint of child abuse or neglect and shall transmit identifying information regarding such individual if the local department knows the person holds a license issued by the Board of Education and after all rights to any appeal provided by § 63.2-1526 have been exhausted. Any information exchanged for the purpose of this subsection shall not be considered a violation of § 63.2-102, 63.2-104, or 63.2-105.

## CHAPTER 89

*An Act to amend and reenact § 2.2-2452 of the Code of Virginia, relating to Board of Veterans Services; membership; duties.*

[S 1182]

Approved February 20, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 2.2-2452 of the Code of Virginia is amended and reenacted as follows:**

**§ 2.2-2452. Board of Veterans Services; membership; terms; quorum; compensation; staff.**

A. The Board of Veterans Services (the Board) is established as a policy board, within the meaning of § 2.2-2100, in the executive branch of state government. The Board shall have a total membership of 22 members ~~that shall consist of, including~~ five legislative members, 14 nonlegislative citizen members, and three ex officio members. Members shall be appointed as follows: three members of the House of Delegates to be appointed by the Speaker of the House of Delegates in accordance with the principles of proportional representation contained in the Rules of the House of Delegates; two members of the Senate to be appointed by the Senate Committee on Rules; and 14 nonlegislative citizen members to be appointed by the Governor. The Commissioner of the Department of Veterans Services, the Chairman of the Board of Trustees of the Veterans Services Foundation, and the Chairman of the Joint Leadership Council of Veterans Service Organizations, or their designees, shall serve ex officio with full voting privileges. Nonlegislative citizen members of the Board shall be citizens of the Commonwealth.

In making appointments, the Governor shall endeavor to ensure a balanced geographical representation on the Board, while at the same time selecting appointees of such qualifications and experience as will allow them to ~~provide expertise and insight into:~~

- ~~1. Best practices in benefits claims services, medical and health care management, or cemetery operations;~~
- ~~2. Performance measurements and general management principles; and~~
- ~~3. Nonprofit volunteer operations and management.~~

~~Each of the three areas of expertise shall be represented on the Board by at least two different appointees per area of expertise in order to allow for the Board to be capable of developing~~ *develop* reasonable and effective policy recommendations related to the services provided to veterans of the ~~armed forces~~ *Armed Forces* of the United States and their eligible spouses, orphans, and dependents by the Department of Veterans Services.

Legislative members and the Commissioner of the Department of Veterans Services shall serve terms coincident with their terms of office. Nonlegislative citizen members shall be appointed for a term of four years. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. All members may be reappointed. However, no House member shall serve more than ~~four six~~ consecutive two-year terms, *and* no Senate member shall serve more than ~~two three~~ consecutive four-year terms; ~~and no.~~ *No* nonlegislative citizen member shall serve more than two consecutive four-year terms; *however, a nonlegislative citizen member appointed to serve an unexpired term is eligible to serve two consecutive four-year terms immediately succeeding such unexpired term.*

The remainder of any term to which a member is appointed to fill a vacancy shall not constitute a term in determining the member's eligibility for reappointment. Vacancies shall be filled in the same manner as the original appointments.

B. The Board shall select a chairman *and vice-chairman* from its membership ~~and, pursuant to rules adopted by it, may elect one of its members as vice chairman.~~ The Commissioner of the Department of Veterans Services shall not be eligible to serve as chairman. ~~The Board shall also elect one of its members as secretary.~~ The Board shall meet at least three times a year at such times as it deems appropriate or on call of the chairman. A majority of the members of the Board shall constitute a quorum.

C. The Board shall ~~be organized with at least three standing committees that shall be responsible for (i) veterans benefits, (ii) veterans care services, and (iii) veterans cemeteries~~ *organize itself in such a way as to allow it to fulfill its powers and duties.*

D. The Department of Veterans Services shall provide staff to *assist* the Board *in its administrative, planning, and procedural duties.*

## CHAPTER 90

*An Act to amend and reenact § 17.1-258.3:1 of the Code of Virginia, relating to electronic filing of land records; fee for paper filing.*

[S 870]

Approved February 20, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 17.1-258.3:1 of the Code of Virginia is amended and reenacted as follows:**

**§ 17.1-258.3:1. Electronic filing of land records; paper form.**

A. A clerk of a circuit court may provide a network or system for electronic filing of land records in accordance with the Uniform Real Property Electronic Recording Act (§ 55-142.10 et seq.) and the provisions of Article 2.1 (§ 55-66.8 et seq.) of Chapter 4 of Title 55 regarding the satisfaction of mortgages. ~~The clerk may charge a fee to be assessed for each instrument recorded electronically in an amount not to exceed \$5 per document. The fee shall be paid to the clerk's office and deposited by the clerk into the clerk's nonreverting local fund to be used to cover operational expenses as defined in § 17.1-295.~~ The clerk may require each filer to provide proof of identity to the clerk. The clerk shall enter into an electronic filing agreement with each filer in accordance with Virginia Real Property Electronic Recording Standards established by the Virginia Information Technologies Agency. Nothing herein shall be construed to prevent the clerk from entering into agreements with designated application service providers to provide all or part of the network or system for electronic filing of land records as provided herein. Further, nothing herein shall be construed to require the electronic filing of any land record, and such records may continue to be filed in paper form.

B. ~~Any clerk of a circuit court with an electronic filing system established in accordance with this section may charge a fee not to exceed \$5 per instrument for every land record filed by paper. The fee shall be paid to the clerk's office and deposited by the clerk into the clerk's nonreverting local fund to be used exclusively to cover the operational expenses as defined in § 17.1-295.~~

C. (Effective July 1, 2017) The clerk shall maintain a disaster plan, as defined in § 42.1-77, for recovery of any land record in possession of the clerk that is maintained as an electronic record.

## CHAPTER 91

*An Act to amend and reenact § 54.1-3935 of the Code of Virginia, relating to attorney discipline; procedures.*

[S 874]

Approved February 20, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 54.1-3935 of the Code of Virginia is amended and reenacted as follows:**

**§ 54.1-3935. Procedure for disciplining attorneys by three-judge circuit court.**

A. ~~If the Supreme Court, the Court of Appeals, or any circuit court of this Commonwealth observes, or if a complaint, verified by affidavit is made by any person to such court, that any attorney has been convicted of a misdemeanor involving moral turpitude or a felony or has violated the Virginia Code of Professional Responsibility, the court may assign the matter to the Virginia State Bar for investigation. Upon receipt of the report of the Virginia State Bar, the court may issue a rule against such attorney to show cause why his license to practice law shall not be revoked. If the complaint, verified by affidavit, is made by a district committee of the Virginia State Bar, the court shall issue a rule against the attorney to show cause why his license to practice law shall not be revoked.~~

B. ~~If the rule is issued by the Supreme Court or the Court of Appeals, the rule shall be returnable to the Circuit Court of the City of Richmond. Any attorney who is the subject of a disciplinary proceeding or the Virginia State Bar may elect to terminate the proceeding before the Bar Disciplinary Board or a district committee and demand that further proceedings be conducted by a three-judge circuit court. Such demand shall be made in accordance with the rules and procedures set forth in Part Six, Section IV, Paragraph 13 of the Rules of Supreme Court of Virginia. Upon receipt of a demand for a three-judge circuit court, the Virginia State Bar shall file a complaint in a circuit court where venue is proper and the chief judge of the circuit court shall issue a rule against the attorney to show cause why the attorney shall not be disciplined. At the time the rule is issued by the Supreme Court, the Chief Justice shall designate three circuit court judges to hear and decide the case. If the rule is issued by the Court of Appeals or a circuit court, the issuing court shall certify the fact of such issuance and the time and place of the hearing thereon; to the Chief Justice of the Supreme Court, who shall designate the three-judge circuit court, which shall consist of three circuit court judges of circuits other than the circuit in which the case is pending, to hear and decide the case. In proceedings under this section, the court shall adopt the Rules and Procedures described. The rules and procedures set forth in Part Six, Section IV, Paragraph 13 of the Rules of Supreme Court of Virginia shall govern any attorney disciplinary proceeding before a three-judge circuit court.~~

C. B. Bar Counsel of the Virginia State Bar shall prosecute the case. Special counsel may be appointed to prosecute the case pursuant to § 2.2-510.

~~D. Upon the hearing, if the attorney is found guilty by the court, his license to practice law in this Commonwealth shall be revoked or suspended for such time as the court may prescribe. In lieu of revocation or suspension, the C. The three-judge circuit court hearing the case may dismiss the case or impose any other sanction authorized by Part Six, Section IV, Paragraph 13 of the Rules of Supreme Court of Virginia. In any case in which the attorney is found guilty of engaging to have engaged in any criminal activity that violates the Virginia Rules of Professional Conduct and results in the loss of property of one or more of the attorney's clients, the three-judge circuit court shall also require, in instances where the attorney is allowed to retain his license, or is permitted to have his license reinstated or restored, that such attorney maintain professional malpractice insurance during the time for which he is licensed to practice law in the Commonwealth. The Virginia State Bar shall establish standards setting forth the minimum amount of coverage that the attorney shall maintain in order to meet the requirements of this subsection. The Before resuming the practice of law in the Commonwealth, the attorney shall certify to the Virginia State Bar that he has the required insurance and shall provide the name of the insurance carrier and the policy number.~~

~~E. D. The attorney, may, as of right, appeal from the judgment of the three-judge circuit court to the Supreme Court pursuant to the procedure for filing an appeal from a trial court, as set forth in Part 5 of the Rules of Supreme Court of Virginia. In any such appeal, the Supreme Court may, upon petition of the attorney, stay the effect of an order of revocation or suspension during the pendency of the appeal. Any order of reprimand other sanction imposed by a three-judge circuit court shall be automatically stayed prior to or during the pendency of an the appeal therefrom. No stay shall be granted in cases where the attorney's license to practice law has been revoked.~~

~~F. In any proceeding to revoke the license of an attorney, the attorney shall be entitled to representation by counsel.~~

~~G. E. Nothing in this section shall affect the right of a court to require from an attorney security for his good behavior, or to fine him the attorney for contempt of court.~~

## CHAPTER 92

*An Act to amend and reenact §§ 17.1-293 and 17.1-295 of the Code of Virginia, relating to remote access to nonconfidential court records for date of birth verification.*

[S 1044]

Approved February 20, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 17.1-293 and 17.1-295 of the Code of Virginia are amended and reenacted as follows:**

**§ 17.1-293. Posting and availability of certain information on the Internet; prohibitions.**

A. Notwithstanding Chapter 37 (§ 2.2-3700 et seq.) of Title 2.2 or subsection B, it shall be unlawful for any court clerk to disclose the social security number or other identification numbers appearing on driver's licenses or information on credit cards, debit cards, bank accounts, or other electronic billing and payment systems that was supplied to a court clerk for the purpose of paying fees, fines, taxes, or other charges collected by such court clerk. The prohibition shall not apply where disclosure of such information is required (i) to conduct or complete the transaction for which such information was submitted or (ii) by other law or court order.

B. Beginning January 1, 2004, no court clerk shall post on the Internet any document that contains the following information: (i) an actual signature, (ii) a social security number, (iii) a date of birth identified with a particular person, (iv) the maiden name of a person's parent so as to be identified with a particular person, (v) any financial account number or numbers, or (vi) the name and age of any minor child.

C. Each such clerk shall post notice that includes a list of the documents routinely posted on its website. However, the clerk shall not post information on his website that includes private activity for private financial gain.

D. Nothing in this section shall be construed to prohibit access to any original document as provided by law.

E. This section shall not apply to the following:

1. Providing access to any document among the land records via secure remote access pursuant to § 17.1-294;
2. Postings related to legitimate law-enforcement purposes;
3. Postings of historical, genealogical, interpretive, or educational documents and information about historic persons and events;
4. Postings of instruments and records filed or recorded that are more than 100 years old;
5. Providing secure remote access to any person, his counsel, or staff which counsel directly supervises to documents filed in matters to which such person is a party;
6. Providing official certificates and certified records in digital form of any document maintained by the clerk pursuant to § 17.1-258.3:2; and
7. Providing secure remote access to nonconfidential court records, subject to any fees charged by the clerk, to members in good standing with the Virginia State Bar and their authorized agents, pro hac vice attorneys authorized by the court for purposes of the practice of law, and such governmental agencies as authorized by the clerk.

F. Nothing in this section shall prohibit the Supreme Court or any other court clerk from providing online access to a case management system that may include abstracts of case filings and proceedings in the courts of the Commonwealth,

*including online access to subscribers of nonconfidential criminal case information to confirm the complete date of birth of a defendant.*

G. The court clerk shall be immune from suit arising from any acts or omissions relating to providing remote access on the Internet pursuant to this section unless the clerk was grossly negligent or engaged in willful misconduct.

This subsection shall not be construed to limit, withdraw, or overturn any defense or immunity already existing in statutory or common law, or to affect any cause of action accruing prior to July 1, 2005.

H. Nothing in this section shall be construed to permit any data accessed by secure remote access to be sold or posted on any other website or in any way redistributed to any third party, and the clerk, in his discretion, may deny secure remote access to ensure compliance with these provisions. However, the data accessed by secure remote access may be included in products or services provided to a third party of the subscriber provided that (i) such data is not made available to the general public and (ii) the subscriber maintains administrative, technical, and security safeguards to protect the confidentiality, integrity, and limited availability of the data.

#### **§ 17.1-295. Definitions.**

As used in this title:

"Confidential court records" means any civil or criminal record maintained by a clerk of the circuit court designated by this Code as confidential or any such record sealed pursuant to court order.

"Electronic filing of court records" means the networks or systems maintained by a clerk of the circuit court, or the clerk's designated application service providers, for the submittal of instruments for electronic filing of court records in accordance with this title, the Rules of the Supreme Court of Virginia, and the secure remote access standards developed by the Virginia Information Technologies Agency.

"Electronic recording of land records" means the networks or systems maintained by a clerk of the circuit court, or the clerk's designated application service providers, for the submittal of instruments for electronic filing of land records in accordance with the Uniform Real Property Electronic Recording Act (§ 55-142.10 et seq.), the provisions of Article 2.1 (§ 55-66.8 et seq.) of Chapter 4 of Title 55 regarding the satisfaction of mortgages and the provisions of this title.

"Operational expenses" means expenses of the clerk of court used to maintain the clerk's office and includes, but is not limited to, (i) computer support, maintenance, enhancements, upgrades, and replacements and office automation and information technology equipment, including software and conversion services; (ii) preserving, maintaining, and enhancing court records, including, but not limited to, the costs of repairs, maintenance, consulting services, service contracts, redaction of social security numbers from certain records, and system replacements or upgrades; and (iii) improving public access to records maintained by the clerk, including locating technology in an offsite facility for such purposes or for implementation of a disaster recovery plan.

"Public access" means that the clerk of the circuit court has made available to subscribers that are other than governmental agencies, secure remote access to ~~land~~ records maintained by the clerk in accordance with § 17.1-294.

"Secure remote access to court records" means public access by electronic means on a network or system to ~~land~~ court records maintained by the clerk of the circuit court or the clerk's designated application service providers, in compliance with this title, the Rules of the Supreme Court of Virginia, and the secure remote access standards developed by the Virginia Information Technologies Agency.

"Secure remote access to land records" means public access by electronic means on a network or system to land records maintained by the clerk of the circuit court or the clerk's designated application service providers, in compliance with the Secure Remote Access Standards developed by the Virginia Information Technologies Agency.

"Subscriber" means any person who has entered into a subscriber agreement with the clerk of the circuit court authorizing the subscriber to have secure remote access to land records or secure remote access to court records maintained by the clerk or the clerk's designated application service providers. If the subscriber is an entity with more than one person who will use the network or system to access land records maintained by the clerk, or the clerk's designated application service providers, each individual user shall execute a subscriber agreement and obtain a separate "user id" and "password" from the clerk. The subscriber is responsible for the fees due under this title and the proper use of the secure remote access system pursuant to the subscriber agreement, applicable Virginia law, and Secure Remote Access Standards developed by the Virginia Information Technologies Agency.

## **CHAPTER 93**

*An Act to amend and reenact § 64.2-520 of the Code of Virginia and to amend the Code of Virginia by adding in Article 3 of Chapter 5 of Title 64.2 a section numbered 64.2-520.1, relating to legal malpractice; estate planning.*

[S 1140]

Approved February 20, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 64.2-520 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Article 3 of Chapter 5 of Title 64.2 a section numbered 64.2-520.1 as follows:**

**§ 64.2-520. Action for goods carried away, or for waste, destruction of, or damage to estate of decedent.**

A. Any action for damages for the taking or carrying away of any goods, or for the waste, destruction of, or damage to any estate of or by the decedent, whether such damage be direct or indirect, may be maintained by or against the decedent's personal representative.

~~B. An action for damages, including future tax liability, to the grantor, his estate or his trust, resulting from legal malpractice concerning an irrevocable trust shall accrue upon completion of the representation in which the malpractice occurred. The action may be maintained pursuant to § 8.01-281 by the grantor or by the grantor's personal representative or the trustee if such damages are incurred after the grantor's death. An action for damages pursuant to this section in which a written contract for legal services existed between the grantor and the defendant shall be brought within five years after the cause of action accrues. An action for damages pursuant to this section in which an unwritten contract for legal services existed between the grantor and the defendant shall be brought within three years after the cause of action accrues. Notwithstanding this section, no such action shall be based upon damages that may reasonably be avoided or that result from a change of law subsequent to the representation upon which the action is based.~~

~~C. Any action pursuant to this section shall survive pursuant to § 8.01-25.~~

**§ 64.2-520.1. Action for damages from legal malpractice concerning estate planning.**

A. An action for damages to an individual or an individual's estate, including future tax liability, resulting from legal malpractice concerning the individual's estate planning, including the provision of legal advice or the preparation of legal documents, regardless of when executed, shall accrue upon completion of the representation during which the malpractice occurred.

B. Notwithstanding § 55-22, but subject to any written agreement between the individual and the defendant that expressly grants standing to a person who is not a party to the representation by specific reference to this subsection, the action may be maintained only by the individual or by the individual's personal representative.

C. An action for damages pursuant to this section in which a written contract for legal services existed between the individual and the defendant shall be brought within five years after the cause of action accrues as provided in this section. An action for damages pursuant to this section in which an unwritten contract for legal services existed between the individual and the defendant shall be brought within three years after the cause of action accrues as provided in this section.

D. Notwithstanding the provisions of this section, no such action shall be based upon damages that may reasonably be avoided or that result from a change of law subsequent to the representation upon which the action is based.

E. Any action pursuant to this section shall survive pursuant to § 8.01-25.

**2. That no provision of this act shall affect any suit, action, or other judicial proceeding commenced prior to July 1, 2017, and such proceeding shall proceed under the law applicable at the time the proceeding was commenced.**

**3. That if a cause of action for legal malpractice covered by this act accrued prior to July 1, 2017, and is barred because of the provisions of this act as of July 1, 2017, such cause of action shall be commenced on or before the earlier of either July 1, 2018, or the expiration of the applicable limitation period under the law in effect prior to the enactment of this act.**

## CHAPTER 94

*An Act to direct the Commissioner of Behavioral Health and Developmental Services and the Director of Criminal Justice Services to develop a comprehensive model for the use of alternative transportation providers to provide safe and efficient transportation of individuals involved in the emergency custody or involuntary admission process.*

[H 1426]

Approved February 20, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. § 1. The Commissioner of Behavioral Health and Developmental Services (the Commissioner) and the Director of Criminal Justice Services (the Director) shall, in conjunction with the relevant stakeholders, including the Virginia Association of Community Services Boards, the National Alliance on Mental Illness - Virginia, the Department of Medical Assistance Services, the Office of Emergency Medical Services, Mental Health America of Virginia, VOCAL, Inc., the Virginia Hospital and Healthcare Association, the Virginia Association of Health Plans, the Office of the Executive Secretary of the Supreme Court of Virginia, the Virginia Association of Chiefs of Police, the Virginia Sheriffs' Association, the Virginia Association of Regional Jails, and the University of Virginia Institute of Law, Psychiatry, and Public Policy, develop a model for the use of alternative transportation providers to provide safe and efficient transportation of individuals involved in the emergency custody or involuntary admission process as an alternative to transportation by law enforcement.**

*The model shall include criteria for the certification of alternative transportation providers, including the development of a training curriculum required to achieve such certification, and shall identify the appropriate agency responsible for providing such training and such certification. Further, the Commissioner and the Director shall identify any barriers to the use of alternative transportation in the Commonwealth and detail the costs associated with the implementation of such a model, along with the cost savings and benefits associated with the successful implementation of such a model.*

*The model shall be completed by October 1, 2017, and reported to the Joint Subcommittee to Study Mental Health Services in the Commonwealth in the 21st Century, the House Committee for Courts of Justice, and the Senate Committee for Courts of Justice. The report on such model shall also be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports no later than the first day of the 2018 Regular Session of the General Assembly and shall be posted on the General Assembly's website.*

## CHAPTER 95

*An Act to amend and reenact §§ 16.1-278.15 and 20-124.2 of the Code of Virginia, relating to child support orders; special needs trust; ABLE savings trust account.*

[H 1492]

Approved February 20, 2017

### **Be it enacted by the General Assembly of Virginia:**

#### **1. That §§ 16.1-278.15 and 20-124.2 of the Code of Virginia are amended and reenacted as follows:**

##### **§ 16.1-278.15. Custody or visitation, child or spousal support generally.**

A. In cases involving the custody, visitation or support of a child pursuant to subdivision A 3 of § 16.1-241, the court may make any order of disposition to protect the welfare of the child and family as may be made by the circuit court. The parties to any petition where a child whose custody, visitation, or support is contested shall show proof that they have attended within the 12 months prior to their court appearance or that they shall attend within 45 days thereafter an educational seminar or other like program conducted by a qualified person or organization approved by the court. The court may require the parties to attend such seminar or program in uncontested cases only if the court finds good cause. The seminar or other program shall be a minimum of four hours in length and shall address the effects of separation or divorce on children, parenting responsibilities, options for conflict resolution and financial responsibilities. Once a party has completed one educational seminar or other like program, the required completion of additional programs shall be at the court's discretion. Parties under this section shall include natural or adoptive parents of the child, or any person with a legitimate interest as defined in § 20-124.1. The fee charged a party for participation in such program shall be based on the party's ability to pay; however, no fee in excess of \$50 may be charged. Whenever possible, before participating in mediation or alternative dispute resolution to address custody, visitation or support, each party shall have attended the educational seminar or other like program. The court may grant an exemption from attendance of such program for good cause shown or if there is no program reasonably available. Other than statements or admissions by a party admitting criminal activity or child abuse or neglect, no statement or admission by a party in such seminar or program shall be admissible into evidence in any subsequent proceeding. If support is ordered for a child, the order shall also provide that support will continue to be paid for a child over the age of 18 who is (i) a full-time high school student, (ii) not self-supporting, and (iii) living in the home of the parent seeking or receiving child support, until the child reaches the age of 19 or graduates from high school, whichever occurs first. The court may also order that support be paid or continue to be paid for any child over the age of 18 who is (a) severely and permanently mentally or physically disabled, and such disability existed prior to the child reaching the age of 18 or the age of 19 if the child met the requirements of clauses (i), (ii), and (iii); (b) unable to live independently and support himself; and (c) residing in the home of the parent seeking or receiving child support. *Upon request of either party, the court may also order that support payments be made to a special needs trust or an ABLE savings trust account as defined in § 23.1-700.*

B. In any case involving the custody or visitation of a child, the court may award custody upon petition to any party with a legitimate interest therein, including, but not limited to, grandparents, stepparents, former stepparents, blood relatives and family members. The term "legitimate interest" shall be broadly construed to accommodate the best interest of the child. The authority of the juvenile court to consider a petition involving the custody of a child shall not be proscribed or limited where the custody of the child has previously been awarded to a local board of social services.

C. In any determination of support obligation under this section, the support obligation as it becomes due and unpaid creates a judgment by operation of law. Such judgment becomes a lien against real estate only when docketed in the county or city where such real estate is located. Nothing herein shall be construed to alter or amend the process of attachment of any lien on personal property.

D. Orders entered prior to July 1, 2008, shall not be deemed void or voidable solely because the petition or motion that resulted in the order was completed, signed and filed by a nonattorney employee of the Department of Social Services.

E. In cases involving charges for desertion, abandonment or failure to provide support by any person in violation of law, disposition shall be made in accordance with Chapter 5 (§ 20-61 et seq.) of Title 20.

F. In cases involving a spouse who seeks spousal support after having separated from his spouse, the court may enter any appropriate order to protect the welfare of the spouse seeking support.

G. In any case or proceeding involving the custody or visitation of a child, the court shall consider the best interest of the child, including the considerations for determining custody and visitation set forth in Chapter 6.1 (§ 20-124.1 et seq.) of Title 20.

H. In any proceeding before the court for custody or visitation of a child, the court may order a custody or a psychological evaluation of any parent, guardian, legal custodian or person standing in loco parentis to the child, if the court

finds such evaluation would assist it in its determination. The court may enter such orders as it deems appropriate for the payment of the costs of the evaluation by the parties.

I. When deemed appropriate by the court in any custody or visitation matter, the court may order drug testing of any parent, guardian, legal custodian or person standing in loco parentis to the child. The court may enter such orders as it deems appropriate for the payment of the costs of the testing by the parties.

**§ 20-124.2. Court-ordered custody and visitation arrangements.**

A. In any case in which custody or visitation of minor children is at issue, whether in a circuit or district court, the court shall provide prompt adjudication, upon due consideration of all the facts, of custody and visitation arrangements, including support and maintenance for the children, prior to other considerations arising in the matter. The court may enter an order pending the suit as provided in § 20-103. The procedures for determining custody and visitation arrangements shall insofar as practical, and consistent with the ends of justice, preserve the dignity and resources of family members. Mediation shall be used as an alternative to litigation where appropriate. When mediation is used in custody and visitation matters, the goals may include development of a proposal addressing the child's residential schedule and care arrangements, and how disputes between the parents will be handled in the future.

B. In determining custody, the court shall give primary consideration to the best interests of the child. The court shall assure minor children of frequent and continuing contact with both parents, when appropriate, and encourage parents to share in the responsibilities of rearing their children. As between the parents, there shall be no presumption or inference of law in favor of either. The court shall give due regard to the primacy of the parent-child relationship but may upon a showing by clear and convincing evidence that the best interest of the child would be served thereby award custody or visitation to any other person with a legitimate interest. The court may award joint custody or sole custody.

C. The court may order that support be paid for any child of the parties. *Upon request of either party, the court may order that such support payments be made to a special needs trust or an ABLE savings trust account as defined in § 23.1-700.* The court shall also order that support will continue to be paid for any child over the age of 18 who is (i) a full-time high school student, (ii) not self-supporting, and (iii) living in the home of the party seeking or receiving child support until such child reaches the age of 19 or graduates from high school, whichever first occurs. The court may also order that support be paid or continue to be paid for any child over the age of 18 who is (a) severely and permanently mentally or physically disabled, and such disability existed prior to the child reaching the age of 18 or the age of 19 if the child met the requirements of clauses (i), (ii), and (iii); (b) unable to live independently and support himself; and (c) residing in the home of the parent seeking or receiving child support. In addition, the court may confirm a stipulation or agreement of the parties which extends a support obligation beyond when it would otherwise terminate as provided by law. The court shall have no authority to decree support of children payable by the estate of a deceased party. The court may make such further decree as it shall deem expedient concerning support of the minor children, including an order that either party or both parties provide health care coverage or cash medical support, or both.

D. In any case in which custody or visitation of minor children is at issue, whether in a circuit or district court, the court may order an independent mental health or psychological evaluation to assist the court in its determination of the best interests of the child. The court may enter such order as it deems appropriate for the payment of the costs of the evaluation by the parties.

E. The court shall have the continuing authority and jurisdiction to make any additional orders necessary to effectuate and enforce any order entered pursuant to this section or § 20-103 including the authority to punish as contempt of court any willful failure of a party to comply with the provisions of the order. A parent or other person having legal custody of a child may petition the court to enjoin and the court may enter an order to enjoin a parent of the child from filing a petition relating to custody and visitation of that child for any period of time up to 10 years if doing so is in the best interests of the child and such parent has been convicted of an offense under the laws of the Commonwealth or a substantially similar law of another state, the United States, or any foreign jurisdiction which constitutes (i) murder or voluntary manslaughter, or a felony attempt, conspiracy or solicitation to commit any such offense, if the victim of the offense was a child of the parent, a child with whom the parent resided at the time the offense occurred, or the other parent of the child, or (ii) felony assault resulting in serious bodily injury, felony bodily wounding resulting in serious bodily injury, or felony sexual assault, if the victim of the offense was a child of the parent or a child with whom the parent resided at the time of the offense. When such a petition to enjoin the filing of a petition for custody and visitation is filed, the court shall appoint a guardian ad litem for the child pursuant to § 16.1-266.

## CHAPTER 96

*An Act to amend and reenact § 18.2-374.1:1 of the Code of Virginia, relating to possession of child pornography by employees of the Department of Social Services.*

[H 1580]

Approved February 20, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 18.2-374.1:1 of the Code of Virginia is amended and reenacted as follows:**

**§ 18.2-374.1:1. Possession, reproduction, distribution, solicitation, and facilitation of child pornography; penalty.**

A. Any person who knowingly possesses child pornography is guilty of a Class 6 felony.

B. Any person who commits a second or subsequent violation of subsection A is guilty of a Class 5 felony.

C. Any person who knowingly (i) reproduces by any means, including by computer, sells, gives away, distributes, electronically transmits, displays, purchases, or possesses with intent to sell, give away, distribute, transmit, or display child pornography or (ii) commands, entreats, or otherwise attempts to persuade another person to send, submit, transfer or provide to him any child pornography in order to gain entry into a group, association, or assembly of persons engaged in trading or sharing child pornography shall be punished by not less than five years nor more than 20 years in a state correctional facility. Any person who commits a second or subsequent violation under this subsection shall be punished by a term of imprisonment of not less than five years nor more than 20 years in a state correctional facility, five years of which shall be a mandatory minimum term of imprisonment. The mandatory minimum terms of imprisonment prescribed for violations of this section shall be served consecutively with any other sentence.

D. Any person who intentionally operates an Internet website for the purpose of facilitating the payment for access to child pornography is guilty of a Class 4 felony.

E. All child pornography shall be subject to lawful seizure and forfeiture pursuant to § 19.2-386.31.

F. For purposes of this section it may be inferred by text, title or appearance that a person who is depicted as or presents the appearance of being less than 18 years of age in sexually explicit visual material is less than 18 years of age.

G. Venue for a prosecution under this section may lie in the jurisdiction where the unlawful act occurs or where any child pornography is produced, reproduced, found, stored, received, or possessed in violation of this section.

H. The provisions of this section shall not apply to any such material that is possessed for a bona fide medical, scientific, governmental, law-enforcement, or judicial purpose by a physician, psychologist, scientist, attorney, *employee of the Department of Social Services or a local department of social services*, employee of a law-enforcement agency, judge, or clerk ~~who~~ and such person possesses such material in the course of conducting his professional duties as such.

## CHAPTER 97

*An Act to direct the Commissioner of Behavioral Health and Developmental Services and the Director of Criminal Justice Services to develop a comprehensive model for the use of alternative transportation providers to provide safe and efficient transportation of individuals involved in the emergency custody or involuntary admission process.*

[S 1221]

Approved February 20, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. § 1.** *The Commissioner of Behavioral Health and Developmental Services (the Commissioner) and the Director of Criminal Justice Services (the Director) shall, in conjunction with the relevant stakeholders, including the Virginia Association of Community Services Boards, the National Alliance on Mental Illness - Virginia, the Department of Medical Assistance Services, the Office of Emergency Medical Services, Mental Health America of Virginia, VOCAL, Inc., the Virginia Hospital and Healthcare Association, the Virginia Association of Health Plans, the Office of the Executive Secretary of the Supreme Court of Virginia, the Virginia Association of Chiefs of Police, the Virginia Sheriffs' Association, the Virginia Association of Regional Jails, and the University of Virginia Institute of Law, Psychiatry, and Public Policy, develop a model for the use of alternative transportation providers to provide safe and efficient transportation of individuals involved in the emergency custody or involuntary admission process as an alternative to transportation by law enforcement.*

*The model shall include criteria for the certification of alternative transportation providers, including the development of a training curriculum required to achieve such certification, and shall identify the appropriate agency responsible for providing such training and such certification. Further, the Commissioner and the Director shall identify any barriers to the use of alternative transportation in the Commonwealth and detail the costs associated with the implementation of such a model, along with the cost savings and benefits associated with the successful implementation of such a model.*

*The model shall be completed by October 1, 2017, and reported to the Joint Subcommittee to Study Mental Health Services in the Commonwealth in the 21st Century, the House Committee for Courts of Justice, and the Senate Committee for Courts of Justice. The report on such model shall also be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports no later than the first day of the 2018 Regular Session of the General Assembly and shall be posted on the General Assembly's website.*

## CHAPTER 98

*An Act to amend and reenact §§ 15.2-1716.1 and 18.2-212 of the Code of Virginia, relating to malicious activation of fire alarms; reimbursement of expenses; penalty.*

[H 1404]

Approved February 20, 2017

**Be it enacted by the General Assembly of Virginia:****1. That §§ 15.2-1716.1 and 18.2-212 of the Code of Virginia are amended and reenacted as follows:****§ 15.2-1716.1. Reimbursement of expenses incurred in responding to terrorism hoax incident, bomb threat, or malicious activation of fire alarm.**

Any locality may provide by ordinance that any person who is convicted of a violation of subsection B or C of § 18.2-46.6 ~~or of~~ a felony violation of § 18.2-83 or 18.2-84, *or a violation of § 18.2-212*, when his violation of such section is the proximate cause of any incident resulting in an appropriate emergency response, shall be liable at the time of sentencing or in a separate civil action to the locality or to any volunteer emergency medical services agency, or both, which may provide such emergency response for the reasonable expense thereof, in an amount not to exceed ~~\$1,000~~ \$2,500 in the aggregate for a particular incident occurring in such locality. In determining the "reasonable expense," a locality may bill a flat fee of \$250 or a minute-by-minute accounting of the actual costs incurred. As used in this section, "appropriate emergency response" includes all costs of providing law-enforcement, firefighting, and emergency medical services. The provisions of this section shall not preempt or limit any remedy available to the Commonwealth, to the locality, or to any volunteer emergency medical services agency to recover the reasonable expenses of an emergency response to an incident not involving a terroristic hoax or an act undertaken in violation of § 18.2-83 ~~or~~, 18.2-84, *or 18.2-212* as set forth herein.

**§ 18.2-212. Calling or summoning emergency medical services vehicle or firefighting apparatus without just cause; maliciously activating fire alarms; venue.**

A. Any person who without just cause therefor calls or summons, by telephone or otherwise, any emergency medical services vehicle or firefighting apparatus, or any person who maliciously activates a manual or automatic fire alarm in any building ~~used for public assembly or for other public use, including, but not limited to, schools, theaters, stores, office buildings, shopping centers and malls, coliseums, and arenas~~, regardless of whether an emergency medical services vehicle or fire apparatus responds or not, is guilty of a Class 1 misdemeanor.

B. A violation of this section may be prosecuted either in the jurisdiction from which the call or summons was made or in the jurisdiction where the call or summons was received.

## CHAPTER 99

*An Act to amend and reenact §§ 18.2-308.02 and 18.2-308.010 of the Code of Virginia, relating to renewal of concealed handgun permits; notice.*

[H 1466]

Approved February 20, 2017

**Be it enacted by the General Assembly of Virginia:****1. That §§ 18.2-308.02 and 18.2-308.010 of the Code of Virginia are amended and reenacted as follows:****§ 18.2-308.02. Application for a concealed handgun permit; Virginia resident or domiciliary.**

A. Any person 21 years of age or older may apply in writing to the clerk of the circuit court of the county or city in which he resides, or if he is a member of the United States ~~armed forces~~ *Armed Forces*, the county or city in which he is domiciled, for a five-year permit to carry a concealed handgun. There shall be no requirement regarding the length of time an applicant has been a resident or domiciliary of the county or city. The application shall be made under oath before a notary or other person qualified to take oaths and shall be made only on a form prescribed by the Department of State Police, in consultation with the Supreme Court, requiring only that information necessary to determine eligibility for the permit. *Additionally, the application shall request but not require that the applicant provide an email or other electronic address where a notice of permit expiration can be sent pursuant to subsection C of § 18.2-308.010.* No information or documentation other than that which is allowed on the application in accordance with this section may be requested or required by the clerk or the court.

B. The court shall require proof that the applicant has demonstrated competence with a handgun and the applicant may demonstrate such competence by one of the following, but no applicant shall be required to submit to any additional demonstration of competence, nor shall any proof of demonstrated competence expire:

1. Completing any hunter education or hunter safety course approved by the Department of Game and Inland Fisheries or a similar agency of another state;
2. Completing any National Rifle Association firearms safety or training course;
3. Completing any firearms safety or training course or class available to the general public offered by a law-enforcement agency, junior college, college, or private or public institution or organization or firearms training school utilizing instructors certified by the National Rifle Association or the Department of Criminal Justice Services;

4. Completing any law-enforcement firearms safety or training course or class offered for security guards, investigators, special deputies, or any division or subdivision of law enforcement or security enforcement;

5. Presenting evidence of equivalent experience with a firearm through participation in organized shooting competition or current military service or proof of an honorable discharge from any branch of the armed services;

6. Obtaining or previously having held a license to carry a firearm in the Commonwealth or a locality thereof, unless such license has been revoked for cause;

7. Completing any firearms training or safety course or class, including an electronic, video, or online course, conducted by a state-certified or National Rifle Association-certified firearms instructor;

8. Completing any governmental police agency firearms training course and qualifying to carry a firearm in the course of normal police duties; or

9. Completing any other firearms training which the court deems adequate.

A photocopy of a certificate of completion of any of the courses or classes; an affidavit from the instructor, school, club, organization, or group that conducted or taught such course or class attesting to the completion of the course or class by the applicant; or a copy of any document that shows completion of the course or class or evidences participation in firearms competition shall constitute evidence of qualification under this subsection.

C. The making of a materially false statement in an application under this article shall constitute perjury, punishable as provided in § 18.2-434.

D. The clerk of court shall withhold from public disclosure the applicant's name and any other information contained in a permit application or any order issuing a concealed handgun permit, except that such information shall not be withheld from any law-enforcement officer acting in the performance of his official duties or from the applicant with respect to his own information. The prohibition on public disclosure of information under this subsection shall not apply to any reference to the issuance of a concealed handgun permit in any order book before July 1, 2008; however, any other concealed handgun records maintained by the clerk shall be withheld from public disclosure.

E. An application is deemed complete when all information required to be furnished by the applicant, including the fee for a concealed handgun permit as set forth in § 18.2-308.03, is delivered to and received by the clerk of court before or concomitant with the conduct of a state or national criminal history records check.

**§ 18.2-308.010. Renewal of concealed handgun permit.**

A. 1. Persons who previously have held a concealed handgun permit shall be issued, upon application as provided in § 18.2-308.02, a new five-year permit unless it is found that the applicant is subject to any of the disqualifications set forth in § 18.2-308.09. Persons who previously have been issued a concealed handgun permit pursuant to this article shall not be required to appear in person to apply for a new five-year permit pursuant to this section, and the application for the new permit may be submitted via the United States mail. The circuit court that receives the application shall promptly notify an applicant if the application is incomplete or if the fee submitted for the permit pursuant to § 18.2-308.03 is incorrect.

2. If a new five-year permit is issued while an existing permit remains valid, the new five-year permit shall become effective upon the expiration date of the existing permit, provided that the application is received by the court at least 90 days but no more than 180 days prior to the expiration of the existing permit.

3. Any order denying issuance of the new permit shall be in accordance with subsection A of § 18.2-308.08.

B. If a permit holder is a member of the Virginia National Guard, ~~armed forces~~ *Armed Forces* of the United States, or the Armed Forces Reserves of the United States, and his five-year permit expires during an active-duty military deployment outside of the permittee's county or city of residence, such permit shall remain valid for 90 days after the end date of the deployment. In order to establish proof of continued validity of the permit, such a permittee shall carry with him and display, upon request of a law-enforcement officer, a copy of the permittee's deployment orders or other documentation from the permittee's commanding officer that order the permittee to travel outside of his county or city of residence and that indicate the start and end date of such deployment.

C. *If the clerk has an electronic system for, and issuance of, concealed handgun permits and such system has the capability of sending electronic notices to permit holders and if a permit holder requests such notice on the concealed handgun application form, the clerk that issued the permit shall notify the permit holder by electronic mail at least 90 days prior to the permit expiration date that the permit will expire. The failure of a clerk to send the notice required by this subsection or the failure of the permit holder to receive such notice shall not extend the validity of the existing permit beyond its expiration date.*

**CHAPTER 100**

*An Act to amend and reenact § 22.1-253.13:1 of the Code of Virginia, relating to local school boards; student and parent notification; career and technical education programs; career readiness certificates.*

[H 1552]

Approved February 20, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 22.1-253.13:1 of the Code of Virginia is amended and reenacted as follows:**

**§ 22.1-253.13:1. Standard 1. Instructional programs supporting the Standards of Learning and other educational objectives.**

A. The General Assembly and the Board of Education believe that the fundamental goal of the public schools of the Commonwealth must be to enable each student to develop the skills that are necessary for success in school, preparation for life, and reaching their full potential. The General Assembly and the Board of Education find that the quality of education is dependent upon the provision of (i) the appropriate working environment, benefits, and salaries necessary to ensure the availability of high-quality instructional personnel; (ii) the appropriate learning environment designed to promote student achievement; (iii) quality instruction that enables each student to become a productive and educated citizen of Virginia and the United States of America; and (iv) the adequate commitment of other resources. In keeping with this goal, the General Assembly shall provide for the support of public education as set forth in Article VIII, Section 1 of the Constitution of Virginia.

B. The Board of Education shall establish educational objectives known as the Standards of Learning, which shall form the core of Virginia's educational program, and other educational objectives, which together are designed to ensure the development of the skills that are necessary for success in school and for preparation for life in the years beyond. At a minimum, the Board shall establish Standards of Learning for English, mathematics, science, and history and social science. The Standards of Learning shall not be construed to be regulations as defined in § 2.2-4001.

The Board shall seek to ensure that the Standards of Learning are consistent with a high-quality foundation educational program. The Standards of Learning shall include, but not be limited to, the basic skills of communication (listening, speaking, reading, and writing); computation and critical reasoning, including problem solving and decision making; proficiency in the use of computers and related technology; computer science and computational thinking, including computer coding; and the skills to manage personal finances and to make sound financial decisions.

The English Standards of Learning for reading in kindergarten through grade three shall be based on components of effective reading instruction, to include, at a minimum, phonemic awareness, phonics, fluency, vocabulary development, and text comprehension.

The Standards of Learning in all subject areas shall be subject to regular review and revision to maintain rigor and to reflect a balance between content knowledge and the application of knowledge in preparation for eventual employment and lifelong learning. The Board of Education shall establish a regular schedule, in a manner it deems appropriate, for the review, and revision as may be necessary, of the Standards of Learning in all subject areas. Such review of each subject area shall occur at least once every seven years. Nothing in this section shall be construed to prohibit the Board from conducting such review and revision on a more frequent basis.

To provide appropriate opportunity for input from the general public, teachers, and local school boards, the Board of Education shall conduct public hearings prior to establishing revised Standards of Learning. Thirty days prior to conducting such hearings, the Board shall give notice of the date, time, and place of the hearings to all local school boards and any other persons requesting to be notified of the hearings and publish notice of its intention to revise the Standards of Learning in the Virginia Register of Regulations. Interested parties shall be given reasonable opportunity to be heard and present information prior to final adoption of any revisions of the Standards of Learning.

In addition, the Department of Education shall make available and maintain a website, either separately or through an existing website utilized by the Department of Education, enabling public elementary, middle, and high school educators to submit recommendations for improvements relating to the Standards of Learning, when under review by the Board according to its established schedule, and related assessments required by the Standards of Quality pursuant to this chapter. Such website shall facilitate the submission of recommendations by educators.

School boards shall implement the Standards of Learning or objectives specifically designed for their school divisions that are equivalent to or exceed the Board's requirements. Students shall be expected to achieve the educational objectives established by the school division at appropriate age or grade levels. The curriculum adopted by the local school division shall be aligned to the Standards of Learning.

The Board of Education shall include in the Standards of Learning for history and social science the study of contributions to society of diverse people. For the purposes of this subsection, "diverse" includes consideration of disability, ethnicity, race, and gender.

The Board of Education shall include in the Standards of Learning for health instruction in emergency first aid, cardiopulmonary resuscitation, and the use of an automated external defibrillator, including hands-on practice of the skills necessary to perform cardiopulmonary resuscitation. Such instruction shall be based on the current national evidence-based emergency cardiovascular care guidelines for cardiopulmonary resuscitation and the use of an automated external defibrillator, such as a program developed by the American Heart Association or the American Red Cross. No teacher who is in compliance with subdivision D 5 of § 22.1-298.1 shall be required to be certified as a trainer of cardiopulmonary resuscitation to provide instruction for non-certification.

With such funds as are made available for this purpose, the Board shall regularly review and revise the competencies for career and technical education programs to require the full integration of English, mathematics, science, and history and social science Standards of Learning. Career and technical education programs shall be aligned with industry and professional standard certifications, where they exist.

C. Local school boards shall develop and implement a program of instruction for grades K through 12 that is aligned to the Standards of Learning and meets or exceeds the requirements of the Board of Education. The program of instruction

shall emphasize reading, writing, speaking, mathematical concepts and computations, proficiency in the use of computers and related technology, computer science and computational thinking, including computer coding, and scientific concepts and processes; essential skills and concepts of citizenship, including knowledge of Virginia history and world and United States history, economics, government, foreign languages, international cultures, health and physical education, environmental issues, and geography necessary for responsible participation in American society and in the international community; fine arts, which may include, but need not be limited to, music and art, and practical arts; knowledge and skills needed to qualify for further education, gainful employment, or training in a career or technical field; and development of the ability to apply such skills and knowledge in preparation for eventual employment and lifelong learning and to achieve economic self-sufficiency.

Local school boards shall also develop and implement programs of prevention, intervention, or remediation for students who are educationally at risk including, but not limited to, those who fail to achieve a passing score on any Standards of Learning assessment in grades three through eight or who fail an end-of-course test required for the award of a verified unit of credit. Such programs shall include components that are research-based.

Any student who achieves a passing score on one or more, but not all, of the Standards of Learning assessments for the relevant grade level in grades three through eight may be required to attend a remediation program.

Any student who fails to achieve a passing score on all of the Standards of Learning assessments for the relevant grade level in grades three through eight or who fails an end-of-course test required for the award of a verified unit of credit shall be required to attend a remediation program or to participate in another form of remediation. Division superintendents shall require such students to take special programs of prevention, intervention, or remediation, which may include attendance in public summer school programs, in accordance with clause (ii) of subsection A of § 22.1-254 and § 22.1-254.01.

Remediation programs shall include, when applicable, a procedure for early identification of students who are at risk of failing the Standards of Learning assessments in grades three through eight or who fail an end-of-course test required for the award of a verified unit of credit. Such programs may also include summer school for all elementary and middle school grades and for all high school academic courses, as defined by regulations promulgated by the Board of Education, or other forms of remediation. Summer school remediation programs or other forms of remediation shall be chosen by the division superintendent to be appropriate to the academic needs of the student. Students who are required to attend such summer school programs or to participate in another form of remediation shall not be charged tuition by the school division.

The requirement for remediation may, however, be satisfied by the student's attendance in a program of prevention, intervention or remediation that has been selected by his parent, in consultation with the division superintendent or his designee, and is either (i) conducted by an accredited private school or (ii) a special program that has been determined to be comparable to the required public school remediation program by the division superintendent. The costs of such private school remediation program or other special remediation program shall be borne by the student's parent.

The Board of Education shall establish standards for full funding of summer remedial programs that shall include, but not be limited to, the minimum number of instructional hours or the equivalent thereof required for full funding and an assessment system designed to evaluate program effectiveness. Based on the number of students attending and the Commonwealth's share of the per pupil instructional costs, state funds shall be provided for the full cost of summer and other remediation programs as set forth in the appropriation act, provided such programs comply with such standards as shall be established by the Board, pursuant to § 22.1-199.2.

D. Local school boards shall also implement the following:

1. Programs in grades K through three that emphasize developmentally appropriate learning to enhance success.
2. Programs based on prevention, intervention, or remediation designed to increase the number of students who earn a high school diploma and to prevent students from dropping out of school. Such programs shall include components that are research-based.
3. Career and technical education programs incorporated into the K through 12 curricula that include:
  - a. Knowledge of careers and all types of employment opportunities, including, but not limited to, apprenticeships, entrepreneurship and small business ownership, the military, and the teaching profession, and emphasize the advantages of completing school with marketable skills;
  - b. Career exploration opportunities in the middle school grades;
  - c. Competency-based career and technical education programs that integrate academic outcomes, career guidance, and job-seeking skills for all secondary students. Programs shall be based upon labor market needs and student interest. Career guidance shall include counseling about available employment opportunities and placement services for students exiting school. Each school board shall develop and implement a plan to ensure compliance with the provisions of this subdivision. Such plan shall be developed with the input of area business and industry representatives and local community colleges and shall be submitted to the Superintendent of Public Instruction in accordance with the timelines established by federal law; and
  - d. Annual notice on its website to enrolled high school students and their parents of (i) the availability of the postsecondary education and employment data published by the State Council of Higher Education on its website pursuant to § 23.1-204 and (ii) the opportunity for such students to obtain a nationally recognized career readiness certificate at a local public high school, comprehensive community college, or workforce center.
4. Educational objectives in middle and high school that emphasize economic education and financial literacy pursuant to § 22.1-200.03.

5. Early identification of students with disabilities and enrollment of such students in appropriate instructional programs consistent with state and federal law.

6. Early identification of gifted students and enrollment of such students in appropriately differentiated instructional programs.

7. Educational alternatives for students whose needs are not met in programs prescribed elsewhere in these standards. Such students shall be counted in average daily membership (ADM) in accordance with the regulations of the Board of Education.

8. Adult education programs for individuals functioning below the high school completion level. Such programs may be conducted by the school board as the primary agency or through a collaborative arrangement between the school board and other agencies.

9. A plan to make achievements for students who are educationally at risk a divisionwide priority that shall include procedures for measuring the progress of such students.

10. An agreement for postsecondary degree attainment with a community college in the Commonwealth specifying the options for students to complete an associate's degree or a one-year Uniform Certificate of General Studies from a community college concurrent with a high school diploma. Such agreement shall specify the credit available for dual enrollment courses and Advanced Placement courses with qualifying exam scores of three or higher.

11. A plan to notify students and their parents of the availability of dual enrollment and advanced placement classes, *career and technical education programs*, the International Baccalaureate Program, and Academic Year Governor's School Programs, the qualifications for enrolling in such classes and programs, and the availability of financial assistance to low-income and needy students to take the advanced placement and International Baccalaureate examinations. This plan shall include notification to students and parents of the agreement with a community college in the Commonwealth to enable students to complete an associate's degree or a one-year Uniform Certificate of General Studies concurrent with a high school diploma.

12. Identification of students with limited English proficiency and enrollment of such students in appropriate instructional programs.

13. Early identification, diagnosis, and assistance for students with reading and mathematics problems and provision of instructional strategies and reading and mathematics practices that benefit the development of reading and mathematics skills for all students.

Local school divisions shall provide reading intervention services to students in kindergarten through grade three who demonstrate deficiencies based on their individual performance on the Standards of Learning reading test or any reading diagnostic test that meets criteria established by the Department of Education. Local school divisions shall report the results of the diagnostic tests to the Department of Education on an annual basis, at a time to be determined by the Superintendent of Public Instruction. Each student who receives early intervention reading services will be assessed again at the end of that school year. The local school division, in its discretion, shall provide such reading intervention services prior to promoting a student from grade three to grade four. Reading intervention services may include the use of: special reading teachers; trained aides; volunteer tutors under the supervision of a certified teacher; computer-based reading tutorial programs; aides to instruct in-class groups while the teacher provides direct instruction to the students who need extra assistance; and extended instructional time in the school day or school year for these students. Funds appropriated for prevention, intervention, and remediation; summer school remediation; at-risk; or early intervention reading may be used to meet the requirements of this subdivision.

Local school divisions shall provide algebra readiness intervention services to students in grades six through nine who are at risk of failing the Algebra I end-of-course test, as demonstrated by their individual performance on any diagnostic test that has been approved by the Department of Education. Local school divisions shall report the results of the diagnostic tests to the Department of Education on an annual basis, at a time to be determined by the Superintendent of Public Instruction. Each student who receives algebra readiness intervention services will be assessed again at the end of that school year. Funds appropriated for prevention, intervention, and remediation; summer school remediation; at-risk; or algebra readiness intervention services may be used to meet the requirements of this subdivision.

14. Incorporation of art, music, and physical education as a part of the instructional program at the elementary school level.

15. (Applicable to school years before the 2018-2019 school year) A program of physical fitness available to all students with a goal of at least 150 minutes per week on average during the regular school year. Such program may include any combination of (i) physical education classes, (ii) extracurricular athletics, or (iii) other programs and physical activities deemed appropriate by the local school board. Each local school board shall incorporate into its local wellness policy a goal for the implementation of such program during the regular school year.

15. (Applicable beginning with the 2018-2019 school year) A program of physical activity available to all students in grades kindergarten through five consisting of at least 20 minutes per day or an average of 100 minutes per week during the regular school year and available to all students in grades six through 12 with a goal of at least 150 minutes per week on average during the regular school year. Such program may include any combination of (i) physical education classes, (ii) extracurricular athletics, (iii) recess, or (iv) other programs and physical activities deemed appropriate by the local school board. Each local school board shall implement such program during the regular school year.

16. A program of student services for kindergarten through grade 12 that shall be designed to aid students in their educational, social, and career development.

17. The collection and analysis of data and the use of the results to evaluate and make decisions about the instructional program.

18. A program of instruction in the high school Virginia and U.S. Government course on all information and concepts contained in the civics portion of the U.S. Naturalization Test.

E. From such funds as may be appropriated or otherwise received for such purpose, there shall be established within the Department of Education a unit to (i) conduct evaluative studies; (ii) provide the resources and technical assistance to increase the capacity for school divisions to deliver quality instruction; and (iii) assist school divisions in implementing those programs and practices that will enhance pupil academic performance and improve family and community involvement in the public schools. Such unit shall identify and analyze effective instructional programs and practices and professional development initiatives; evaluate the success of programs encouraging parental and family involvement; assess changes in student outcomes prompted by family involvement; and collect and disseminate among school divisions information regarding effective instructional programs and practices, initiatives promoting family and community involvement, and potential funding and support sources. Such unit may also provide resources supporting professional development for administrators and teachers. In providing such information, resources, and other services to school divisions, the unit shall give priority to those divisions demonstrating a less than 70 percent passing rate on the Standards of Learning assessments.

F. Each local school board may enter into agreements for postsecondary credential, certification, or license attainment with community colleges or other public institutions of higher education or educational institutions established pursuant to Title 23.1 that offer a career and technical education curriculum. Such agreements shall specify (i) the options for students to take courses as part of the career and technical education curriculum that lead to an industry-recognized credential, certification, or license concurrent with a high school diploma and (ii) the credentials, certifications, or licenses available for such courses.

## CHAPTER 101

*An Act to amend and reenact § 18.2-308.016, as it is currently effective and as it shall become effective, of the Code of Virginia, relating to carrying a concealed handgun; retired conservation officers.*

[H 2308]

Approved February 20, 2017

### **Be it enacted by the General Assembly of Virginia:**

#### **1. That § 18.2-308.016 of the Code of Virginia is amended and reenacted as follows:**

##### **§ 18.2-308.016. (Effective until July 1, 2018) Retired law-enforcement officers; carrying a concealed handgun.**

A. Except as provided in subsection A of § 18.2-308.012, § 18.2-308 shall not apply to:

1. Any State Police officer retired from the Department of State Police, any officer retired from the Division of Capitol Police, any local law-enforcement officer, auxiliary police officer or animal control officer retired from a police department or sheriff's office within the Commonwealth, any special agent retired from the State Corporation Commission or the Virginia Alcoholic Beverage Control Board, any employee with internal investigations authority designated by the Department of Corrections pursuant to subdivision 11 of § 53.1-10 retired from the Department of Corrections, any conservation police officer retired from the Department of Game and Inland Fisheries, *any conservation officer retired from the Department of Conservation and Recreation*, any Virginia Marine Police officer retired from the Law Enforcement Division of the Virginia Marine Resources Commission, any campus police officer appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1 retired from a campus police department, any retired member of the enforcement division of the Department of Motor Vehicles appointed pursuant to § 46.2-217, and any retired investigator of the security division of the Virginia Lottery, other than an officer or agent terminated for cause, (i) with a service-related disability; (ii) following at least 10 years of service with any such law-enforcement agency, commission, board, or any combination thereof; (iii) who has reached 55 years of age; or (iv) who is on long-term leave from such law-enforcement agency or board due to a service-related injury, provided such officer carries with him written proof of consultation with and favorable review of the need to carry a concealed handgun issued by the chief law-enforcement officer of the last such agency from which the officer retired or the agency that employs the officer or, in the case of special agents, issued by the State Corporation Commission or the Virginia Alcoholic Beverage Control Board. A copy of the proof of consultation and favorable review shall be forwarded by the chief, Commission, or Board to the Department of State Police for entry into the Virginia Criminal Information Network. The chief law-enforcement officer shall not without cause withhold such written proof if the retired law-enforcement officer otherwise meets the requirements of this section. An officer set forth in clause (iv) who receives written proof of consultation to carry a concealed handgun shall surrender such proof of consultation upon return to work or upon termination of employment with the law-enforcement agency. Notice of the surrender shall be forwarded to the Department of State Police for entry into the Virginia Criminal Information Network. However, if such officer retires on disability because of the service-related injury, and would be eligible under clause (i) for written proof of consultation to carry a concealed handgun, he may retain the previously issued written proof of consultation.

2. Any person who is eligible for retirement with at least 20 years of service with a law-enforcement agency, commission, or board mentioned in subdivision 1 who has resigned in good standing from such law-enforcement agency, commission, or board to accept a position covered by a retirement system that is authorized under Title 51.1, provided such person carries with him written proof of consultation with and favorable review of the need to carry a concealed handgun issued by the chief law-enforcement officer of the agency from which he resigned or, in the case of special agents, issued by the State Corporation Commission or the Virginia Alcoholic Beverage Control Board. A copy of the proof of consultation and favorable review shall be forwarded by the chief, Commission, or Board to the Department of State Police for entry into the Virginia Criminal Information Network. The chief law-enforcement officer shall not without cause withhold such written proof if the law-enforcement officer otherwise meets the requirements of this section.

3. Any State Police officer who is a member of the organized reserve forces of any of the Armed Services of the United States or National Guard, while such officer is called to active military duty, provided such officer carries with him written proof of consultation with and favorable review of the need to carry a concealed handgun issued by the Superintendent of State Police. The proof of consultation and favorable review shall be valid as long as the officer is on active military duty and shall expire when the officer returns to active law-enforcement duty. The issuance of the proof of consultation and favorable review shall be entered into the Virginia Criminal Information Network. The Superintendent of State Police shall not without cause withhold such written proof if the officer is in good standing and is qualified to carry a weapon while on active law-enforcement duty.

B. For purposes of complying with the federal Law Enforcement Officers Safety Act of 2004, a retired or resigned law-enforcement officer who receives proof of consultation and review pursuant to this section shall have the opportunity to annually participate, at the retired or resigned law-enforcement officer's expense, in the same training and testing to carry firearms as is required of active law-enforcement officers in the Commonwealth. If such retired or resigned law-enforcement officer meets the training and qualification standards, the chief law-enforcement officer shall issue the retired or resigned officer certification, valid one year from the date of issuance, indicating that the retired or resigned officer has met the standards of the agency to carry a firearm.

C. A retired or resigned law-enforcement officer who receives proof of consultation and review pursuant to this section may annually participate and meet the training and qualification standards to carry firearms as is required of active law-enforcement officers in the Commonwealth. If such retired or resigned law-enforcement officer meets the training and qualification standards, the chief law-enforcement officer shall issue the retired or resigned officer certification, valid one year from the date of issuance, indicating that the retired or resigned officer has met the standards of the Commonwealth to carry a firearm. A copy of the certification indicating that the retired or resigned officer has met the standards of the Commonwealth to carry a firearm shall be forwarded by the chief, Commission, or Board to the Department of State Police for entry into the Virginia Criminal Information Network.

D. For all purposes, including for the purpose of applying the reciprocity provisions of § 18.2-308.014, any person granted the privilege to carry a concealed handgun pursuant to this section, while carrying the proof of consultation and favorable review required, shall be deemed to have been issued a concealed handgun permit.

**§ 18.2-308.016. (Effective July 1, 2018) Retired law-enforcement officers; carrying a concealed handgun.**

A. Except as provided in subsection A of § 18.2-308.012, § 18.2-308 shall not apply to:

1. Any State Police officer retired from the Department of State Police, any officer retired from the Division of Capitol Police, any local law-enforcement officer, auxiliary police officer or animal control officer retired from a police department or sheriff's office within the Commonwealth, any special agent retired from the State Corporation Commission or the Virginia Alcoholic Beverage Control Authority, any employee with internal investigations authority designated by the Department of Corrections pursuant to subdivision 11 of § 53.1-10 retired from the Department of Corrections, any conservation police officer retired from the Department of Game and Inland Fisheries, *any conservation officer retired from the Department of Conservation and Recreation*, any Virginia Marine Police officer retired from the Law Enforcement Division of the Virginia Marine Resources Commission, any campus police officer appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1 retired from a campus police department, any retired member of the enforcement division of the Department of Motor Vehicles appointed pursuant to § 46.2-217, and any retired investigator of the security division of the Virginia Lottery, other than an officer or agent terminated for cause, (i) with a service-related disability; (ii) following at least 10 years of service with any such law-enforcement agency, commission, board, or any combination thereof; (iii) who has reached 55 years of age; or (iv) who is on long-term leave from such law-enforcement agency or board due to a service-related injury, provided such officer carries with him written proof of consultation with and favorable review of the need to carry a concealed handgun issued by the chief law-enforcement officer of the last such agency from which the officer retired or the agency that employs the officer or, in the case of special agents, issued by the State Corporation Commission or the Virginia Alcoholic Beverage Control Authority. A copy of the proof of consultation and favorable review shall be forwarded by the chief, Commission, or Board to the Department of State Police for entry into the Virginia Criminal Information Network. The chief law-enforcement officer shall not without cause withhold such written proof if the retired law-enforcement officer otherwise meets the requirements of this section. An officer set forth in clause (iv) who receives written proof of consultation to carry a concealed handgun shall surrender such proof of consultation upon return to work or upon termination of employment with the law-enforcement agency. Notice of the surrender shall be forwarded to the Department of State Police for entry into the Virginia Criminal Information Network. However, if such officer retires on

disability because of the service-related injury, and would be eligible under clause (i) for written proof of consultation to carry a concealed handgun, he may retain the previously issued written proof of consultation.

2. Any person who is eligible for retirement with at least 20 years of service with a law-enforcement agency, commission, or board mentioned in subdivision 1 who has resigned in good standing from such law-enforcement agency, commission, or board to accept a position covered by a retirement system that is authorized under Title 51.1, provided such person carries with him written proof of consultation with and favorable review of the need to carry a concealed handgun issued by the chief law-enforcement officer of the agency from which he resigned or, in the case of special agents, issued by the State Corporation Commission or the Virginia Alcoholic Beverage Control Authority. A copy of the proof of consultation and favorable review shall be forwarded by the chief, Commission, or Board to the Department of State Police for entry into the Virginia Criminal Information Network. The chief law-enforcement officer shall not without cause withhold such written proof if the law-enforcement officer otherwise meets the requirements of this section.

3. Any State Police officer who is a member of the organized reserve forces of any of the Armed Services of the United States or National Guard, while such officer is called to active military duty, provided such officer carries with him written proof of consultation with and favorable review of the need to carry a concealed handgun issued by the Superintendent of State Police. The proof of consultation and favorable review shall be valid as long as the officer is on active military duty and shall expire when the officer returns to active law-enforcement duty. The issuance of the proof of consultation and favorable review shall be entered into the Virginia Criminal Information Network. The Superintendent of State Police shall not without cause withhold such written proof if the officer is in good standing and is qualified to carry a weapon while on active law-enforcement duty.

B. For purposes of complying with the federal Law Enforcement Officers Safety Act of 2004, a retired or resigned law-enforcement officer who receives proof of consultation and review pursuant to this section shall have the opportunity to annually participate, at the retired or resigned law-enforcement officer's expense, in the same training and testing to carry firearms as is required of active law-enforcement officers in the Commonwealth. If such retired or resigned law-enforcement officer meets the training and qualification standards, the chief law-enforcement officer shall issue the retired or resigned officer certification, valid one year from the date of issuance, indicating that the retired or resigned officer has met the standards of the agency to carry a firearm.

C. A retired or resigned law-enforcement officer who receives proof of consultation and review pursuant to this section may annually participate and meet the training and qualification standards to carry firearms as is required of active law-enforcement officers in the Commonwealth. If such retired or resigned law-enforcement officer meets the training and qualification standards, the chief law-enforcement officer shall issue the retired or resigned officer certification, valid one year from the date of issuance, indicating that the retired or resigned officer has met the standards of the Commonwealth to carry a firearm. A copy of the certification indicating that the retired or resigned officer has met the standards of the Commonwealth to carry a firearm shall be forwarded by the chief, Commission, or Board to the Department of State Police for entry into the Virginia Criminal Information Network.

D. For all purposes, including for the purpose of applying the reciprocity provisions of § 18.2-308.014, any person granted the privilege to carry a concealed handgun pursuant to this section, while carrying the proof of consultation and favorable review required, shall be deemed to have been issued a concealed handgun permit.

## CHAPTER 102

*An Act to amend and reenact § 23.1-624 of the Code of Virginia, relating to the Two-Year College Transfer Grant Program; Expected Family Contribution.*

[S 1026]

Approved February 20, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 23.1-624 of the Code of Virginia is amended and reenacted as follows:**

**§ 23.1-624. Eligibility criteria.**

A. Grants shall be made under the Program to or on behalf of Virginia students who (i) maintained a cumulative grade point average of at least 3.0 on a scale of 4.0 or its equivalent while enrolled in an associate degree program at an associate-degree-granting public institution of higher education, (ii) have received an associate degree at an associate-degree-granting public institution of higher education, (iii) have enrolled in an eligible institution by the fall or spring following the award of such associate degree, (iv) have applied for financial aid, and (v) have demonstrated financial need, defined as an Expected Family Contribution (EFC) of no more than ~~\$8,000~~ \$12,000 as calculated by the federal government using the family's financial information reported on the Free Application for Federal Student Aid (FAFSA) form.

B. Eligibility for a grant under the Program is limited to three academic years. Grants under the Program shall be used only for undergraduate coursework in educational programs other than those providing religious training or theological education.

C. To remain eligible for a grant under the Program, a student shall continue to demonstrate financial need as defined in subsection A, maintain a cumulative grade point average of at least 3.0 on a scale of 4.0 or its equivalent, and make satisfactory academic progress toward a degree.

D. Individuals who have failed to meet the federal requirement to register for the Selective Service are not eligible to receive grants pursuant to this article. However, an individual who has failed to register for the Selective Service shall not be denied a right, privilege, or benefit under this section if (i) the requirement to so register has terminated or become inapplicable to the individual and (ii) the individual shows by a preponderance of the evidence that the failure to register was not a knowing and willful failure to register.

### CHAPTER 103

*An Act to amend and reenact § 58.1-811, as it is currently effective and as it may become effective, of the Code of Virginia, relating to recordation tax; exemption.*

[H 1478]

Approved February 21, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 58.1-811, as it is currently effective and as it may become effective, of the Code of Virginia is amended and reenacted as follows:**

**§ 58.1-811. (Contingent expiration date) Exemptions.**

A. The taxes imposed by §§ 58.1-801 and 58.1-807 shall not apply to any deed conveying real estate or lease of real estate:

1. To an incorporated college or other incorporated institution of learning not conducted for profit, where such real estate is intended to be used for educational purposes and not as a source of revenue or profit;
2. To an incorporated church or religious body or to the trustee or trustees of any church or religious body, or a corporation mentioned in § 57-16.1, where such real estate is intended to be used exclusively for religious purposes, or for the residence of the minister of any such church or religious body;
3. To the United States, the Commonwealth, or to any county, city, town, district, or other political subdivision of the Commonwealth;
4. To the Virginia Division of the United Daughters of the Confederacy;
5. To any nonstock corporation organized exclusively for the purpose of owning or operating a hospital or hospitals not for pecuniary profit;
6. To a corporation upon its organization by persons in control of the corporation in a transaction which qualifies for nonrecognition of gain or loss pursuant to § 351 of the Internal Revenue Code as it exists at the time of the conveyance;
7. From a corporation to its stockholders upon complete or partial liquidation of the corporation in a transaction which qualifies for income tax treatment pursuant to § 331, 332, 333, or 337 of the Internal Revenue Code as it exists at the time of liquidation;
8. To the surviving or new corporation, partnership, limited partnership, business trust, or limited liability company upon a merger or consolidation to which two or more such entities are parties, or in a reorganization within the meaning of § 368(a)(1)(C) and (F) of the Internal Revenue Code as amended;
9. To a subsidiary corporation from its parent corporation, or from a subsidiary corporation to a parent corporation, if the transaction qualifies for nonrecognition of gain or loss under the Internal Revenue Code as amended;
10. To a partnership or limited liability company, when the grantors are entitled to receive not less than 50 percent of the profits and surplus of such partnership or limited liability company, provided that the transfer to a limited liability company is not a precursor to a transfer of control of the assets of the company to avoid recordation taxes;
11. From a partnership or limited liability company, when the grantees are entitled to receive not less than 50 percent of the profits and surplus of such partnership or limited liability company, provided that the transfer from a limited liability company is not subsequent to a transfer of control of the assets of the company to avoid recordation taxes;
12. To trustees of a revocable inter vivos trust, when the grantors in the deed and the beneficiaries of the trust are the same persons, regardless of whether other beneficiaries may also be named in the trust instrument, when no consideration has passed between the grantor and the beneficiaries; and to the original beneficiaries of a trust from the trustees holding title under a deed in trust;
13. When the grantor is the personal representative of a decedent's estate or trustee under a will or inter vivos trust of which the decedent was the settlor, other than a deed of trust conveying property to secure the payment of money or the performance of an obligation, and the sole purpose of such transfer is to comply with a devise or bequest in the decedent's will or to transfer title to one or more beneficiaries after the death of the settlor in accordance with a dispositive provision in the trust instrument;
14. When the grantor is an organization exempt from taxation under § 501(c)(3) of the Internal Revenue Code that is organized and operated primarily to acquire land and purchase materials to erect or rehabilitate low-cost homes on such land, which homes are sold at cost to persons who otherwise would be unable to afford to buy a home through conventional means;

15. When it is a deed of partition, or any combination of deeds simultaneously executed and having the effect of a deed of partition, among joint tenants, tenants in common, or coparceners; or

16. When it is a deed transferring property pursuant to a decree of divorce or of separate maintenance or pursuant to a written instrument incident to such divorce or separation.

B. The taxes imposed by §§ 58.1-803 and 58.1-804 shall not apply to any deed of trust or mortgage:

1. Given by an incorporated college or other incorporated institution of learning not conducted for profit;

2. Given by the trustee or trustees of a church or religious body or given by an incorporated church or religious body, or given by a corporation mentioned in § 57-16.1;

3. Given by any nonstock corporation organized exclusively for the purpose of owning and/or operating a hospital or hospitals not for pecuniary profit;

4. Given by any local governmental entity or political subdivision of the Commonwealth to secure a debt payable to any other local governmental entity or political subdivision;

5. Securing a loan made by an organization described in subdivision A 14; ~~or~~

6. Securing a loan made by a county, city, or town, or an agency of such a locality, to a borrower whose household income does not exceed 80 percent of the area median household income established by the U.S. Department of Housing and Urban Development, for the purpose of erecting or rehabilitating a home for such borrower, including the purchase of land for such home; *or*

7. *Given by any entity organized pursuant to Chapter 9.1 (§ 56-231.15 et seq.) of Title 56.*

C. The tax imposed by § 58.1-802 and the fee imposed by § 58.1-802.2 shall not apply to any:

1. Transaction described in subdivisions A 6 through 13, 15, and 16;

2. Instrument or writing given to secure a debt;

3. Deed conveying real estate from an incorporated college or other incorporated institution of learning not conducted for profit;

4. Deed conveying real estate from the United States, the Commonwealth or any county, city, town, district, or other political subdivision thereof;

5. Conveyance of real estate to the Commonwealth or any county, city, town, district, or other political subdivision thereof, if such political unit is required by law to reimburse the parties taxable pursuant to § 58.1-802 or subject to the fee under § 58.1-802.2; or

6. Deed conveying real estate from the trustee or trustees of a church or religious body or from an incorporated church or religious body, or from a corporation mentioned in § 57-16.1.

D. No recordation tax shall be required for the recordation of any deed of gift between a grantor or grantors and a grantee or grantees when no consideration has passed between the parties. Such deed shall state therein that it is a deed of gift.

E. The tax imposed by § 58.1-807 shall not apply to any lease to the United States, the Commonwealth, or any county, city, town, district, or other political subdivision of the Commonwealth.

F. The taxes and fees imposed by §§ 58.1-801, 58.1-802, 58.1-802.2, 58.1-807, 58.1-808, and 58.1-814 shall not apply to (i) any deed of gift conveying real estate or any interest therein to The Nature Conservancy or (ii) any lease of real property or any interest therein to The Nature Conservancy, where such deed of gift or lease of real estate is intended to be used exclusively for the purpose of preserving wilderness, natural, or open space areas.

G. The words "trustee" or "trustees," as used in subdivisions A 2, B 2, and C 6, include the trustees mentioned in § 57-8 and the ecclesiastical officers mentioned in § 57-16.

H. No recordation tax levied pursuant to this chapter shall be levied on the release of a contractual right, if the release is contained within a single deed that performs more than one function, and at least one of the other functions performed by the deed is subject to the recordation tax.

I. No recordation tax levied pursuant to this chapter shall be levied on a deed, lease, easement, release, or other document recorded in connection with a concession pursuant to the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) or similar federal law.

J. No recordation tax shall be required for the recordation of any transfer on death deed or any revocation of transfer on death deed made pursuant to the Uniform Real Property Transfer on Death Act (§ 64.2-621 et seq.) when no consideration has passed between the parties.

**§ 58.1-811. (Contingent effective date) Exemptions.**

A. The taxes imposed by §§ 58.1-801 and 58.1-807 shall not apply to any deed conveying real estate or lease of real estate:

1. To an incorporated college or other incorporated institution of learning not conducted for profit, where such real estate is intended to be used for educational purposes and not as a source of revenue or profit;

2. To an incorporated church or religious body or to the trustee or trustees of any church or religious body, or a corporation mentioned in § 57-16.1, where such real estate is intended to be used exclusively for religious purposes, or for the residence of the minister of any such church or religious body;

3. To the United States, the Commonwealth, or to any county, city, town, district, or other political subdivision of the Commonwealth;

4. To the Virginia Division of the United Daughters of the Confederacy;

5. To any nonstock corporation organized exclusively for the purpose of owning or operating a hospital or hospitals not for pecuniary profit;

6. To a corporation upon its organization by persons in control of the corporation in a transaction which qualifies for nonrecognition of gain or loss pursuant to § 351 of the Internal Revenue Code as it exists at the time of the conveyance;

7. From a corporation to its stockholders upon complete or partial liquidation of the corporation in a transaction which qualifies for income tax treatment pursuant to § 331, 332, 333, or 337 of the Internal Revenue Code as it exists at the time of liquidation;

8. To the surviving or new corporation, partnership, limited partnership, business trust, or limited liability company upon a merger or consolidation to which two or more such entities are parties, or in a reorganization within the meaning of § 368(a)(1)(C) and (F) of the Internal Revenue Code as amended;

9. To a subsidiary corporation from its parent corporation, or from a subsidiary corporation to a parent corporation, if the transaction qualifies for nonrecognition of gain or loss under the Internal Revenue Code as amended;

10. To a partnership or limited liability company, when the grantors are entitled to receive not less than 50 percent of the profits and surplus of such partnership or limited liability company, provided that the transfer to a limited liability company is not a precursor to a transfer of control of the assets of the company to avoid recordation taxes;

11. From a partnership or limited liability company, when the grantees are entitled to receive not less than 50 percent of the profits and surplus of such partnership or limited liability company, provided that the transfer from a limited liability company is not subsequent to a transfer of control of the assets of the company to avoid recordation taxes;

12. To trustees of a revocable inter vivos trust, when the grantors in the deed and the beneficiaries of the trust are the same persons, regardless of whether other beneficiaries may also be named in the trust instrument, when no consideration has passed between the grantor and the beneficiaries; and to the original beneficiaries of a trust from the trustees holding title under a deed in trust;

13. When the grantor is the personal representative of a decedent's estate or trustee under a will or inter vivos trust of which the decedent was the settlor, other than a deed of trust conveying property to secure the payment of money or the performance of an obligation, and the sole purpose of such transfer is to comply with a devise or bequest in the decedent's will or to transfer title to one or more beneficiaries after the death of the settlor in accordance with a dispositive provision in the trust instrument;

14. When the grantor is an organization exempt from taxation under § 501(c)(3) of the Internal Revenue Code that is organized and operated primarily to acquire land and purchase materials to erect or rehabilitate low-cost homes on such land, which homes are sold at cost to persons who otherwise would be unable to afford to buy a home through conventional means;

15. Pursuant to any deed of partition, or any combination of deeds simultaneously executed and having the effect of a deed of partition, among joint tenants, tenants in common, or coparceners; or

16. Pursuant to any deed transferring property pursuant to a decree of divorce or of separate maintenance or pursuant to a written instrument incident to such divorce or separation.

B. The taxes imposed by §§ 58.1-803 and 58.1-804 shall not apply to any deed of trust or mortgage:

1. Given by an incorporated college or other incorporated institution of learning not conducted for profit;

2. Given by the trustee or trustees of a church or religious body or given by an incorporated church or religious body, or given by a corporation mentioned in § 57-16.1;

3. Given by any nonstock corporation organized exclusively for the purpose of owning and/or operating a hospital or hospitals not for pecuniary profit;

4. Given by any local governmental entity or political subdivision of the Commonwealth to secure a debt payable to any other local governmental entity or political subdivision;

5. Securing a loan made by an organization described in subdivision A 14; ~~or~~

6. Securing a loan made by a county, city, or town, or an agency of such a locality, to a borrower whose household income does not exceed 80 percent of the area median household income established by the U.S. Department of Housing and Urban Development, for the purpose of erecting or rehabilitating a home for such borrower, including the purchase of land for such home; *or*

7. *Given by any entity organized pursuant to Chapter 9.1 (§ 56-231.15 et seq.) of Title 56.*

C. The tax imposed by § 58.1-802 shall not apply to any:

1. Transaction described in subdivisions A 6 through 13, 15, and 16;

2. Instrument or writing given to secure a debt;

3. Deed conveying real estate from an incorporated college or other incorporated institution of learning not conducted for profit;

4. Deed conveying real estate from the United States, the Commonwealth or any county, city, town, district, or other political subdivision thereof;

5. Conveyance of real estate to the Commonwealth or any county, city, town, district, or other political subdivision thereof, if such political unit is required by law to reimburse the parties taxable pursuant to § 58.1-802; or

6. Deed conveying real estate from the trustee or trustees of a church or religious body or from an incorporated church or religious body, or from a corporation mentioned in § 57-16.1.

D. No recordation tax shall be required for the recordation of any deed of gift between a grantor or grantors and a grantee or grantees when no consideration has passed between the parties. Such deed shall state therein that it is a deed of gift.

E. The tax imposed by § 58.1-807 shall not apply to any lease to the United States, the Commonwealth, or any county, city, town, district, or other political subdivision of the Commonwealth.

F. The taxes and fees imposed by §§ 58.1-801, 58.1-802, 58.1-807, 58.1-808, and 58.1-814 shall not apply to (i) any deed of gift conveying real estate or any interest therein to The Nature Conservancy or (ii) any lease of real property or any interest therein to The Nature Conservancy, where such deed of gift or lease of real estate is intended to be used exclusively for the purpose of preserving wilderness, natural, or open space areas.

G. The words "trustee" or "trustees," as used in subdivisions A 2, B 2, and C 6, include the trustees mentioned in § 57-8 and the ecclesiastical officers mentioned in § 57-16.

H. No recordation tax levied pursuant to this chapter shall be levied on the release of a contractual right, if the release is contained within a single deed that performs more than one function, and at least one of the other functions performed by the deed is subject to the recordation tax.

I. No recordation tax levied pursuant to this chapter shall be levied on a deed, lease, easement, release, or other document recorded in connection with a concession pursuant to the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) or similar federal law.

J. No recordation tax shall be required for the recordation of any transfer on death deed or any revocation of transfer on death deed made pursuant to the Uniform Real Property Transfer on Death Act (§ 64.2-621 et seq.) when no consideration has passed between the parties.

## CHAPTER 104

*An Act to amend and reenact § 58.1-602, as it is currently effective and as it may become effective, of the Code of Virginia, relating to sales and use tax; supplies used in automobile repairs.*

[H 1518]

Approved February 21, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 58.1-602, as it is currently effective and as it may become effective, of the Code of Virginia is amended and reenacted as follows:**

**§ 58.1-602. (Contingent expiration date) Definitions.**

As used in this chapter, unless the context clearly shows otherwise, the term or phrase:

"Advertising" means the planning, creating, or placing of advertising in newspapers, magazines, billboards, broadcasting and other media, including, without limitation, the providing of concept, writing, graphic design, mechanical art, photography and production supervision. Any person providing advertising as defined herein shall be deemed to be the user or consumer of all tangible personal property purchased for use in such advertising.

"Amplification, transmission and distribution equipment" means, but is not limited to, production, distribution, and other equipment used to provide Internet-access services, such as computer and communications equipment and software used for storing, processing and retrieving end-user subscribers' requests.

"Business" includes any activity engaged in by any person, or caused to be engaged in by him, with the object of gain, benefit or advantage, either directly or indirectly.

"Cost price" means the actual cost of an item or article of tangible personal property computed in the same manner as the sales price as defined in this section without any deductions therefrom on account of the cost of materials used, labor, or service costs, transportation charges, or any expenses whatsoever.

"Custom program" means a computer program which is specifically designed and developed only for one customer. The combining of two or more prewritten programs does not constitute a custom computer program. A prewritten program that is modified to any degree remains a prewritten program and does not become custom.

"Distribution" means the transfer or delivery of tangible personal property for use, consumption, or storage by the distributee, and the use, consumption, or storage of tangible personal property by a person who has processed, manufactured, refined, or converted such property, but does not include the transfer or delivery of tangible personal property for resale or any use, consumption, or storage otherwise exempt under this chapter.

"Gross proceeds" means the charges made or voluntary contributions received for the lease or rental of tangible personal property or for furnishing services, computed with the same deductions, where applicable, as for sales price as defined in this section over the term of the lease, rental, service, or use, but not less frequently than monthly. "Gross proceeds" does not include finance charges, carrying charges, service charges, or interest from credit extended on the lease or rental of tangible personal property under conditional lease or rental contracts or other conditional contracts providing for the deferred payments of the lease or rental price.

"Gross sales" means the sum total of all retail sales of tangible personal property or services as defined in this chapter, without any deduction, except as provided in this chapter. "Gross sales" shall not include the federal retailers' excise tax or

the federal diesel fuel excise tax imposed in § 4091 of the Internal Revenue Code if the excise tax is billed to the purchaser separately from the selling price of the article, or the Virginia retail sales or use tax, or any sales or use tax imposed by any county or city under § 58.1-605 or 58.1-606.

"Import" and "imported" are words applicable to tangible personal property imported into the Commonwealth from other states as well as from foreign countries, and "export" and "exported" are words applicable to tangible personal property exported from the Commonwealth to other states as well as to foreign countries.

"In this Commonwealth" or "in the Commonwealth" means within the limits of the Commonwealth of Virginia and includes all territory within these limits owned by or ceded to the United States of America.

"Integrated process," when used in relation to semiconductor manufacturing, means a process that begins with the research or development of semiconductor products, equipment, or processes, includes the handling and storage of raw materials at a plant site, and continues to the point that the product is packaged for final sale and either shipped or conveyed to a warehouse. Without limiting the foregoing, any semiconductor equipment, fuel, power, energy, supplies, or other tangible personal property shall be deemed used as part of the integrated process if its use contributes, before, during, or after production, to higher product quality, production yields, or process efficiencies. Except as otherwise provided by law, such term shall not mean general maintenance or administration.

"Internet" means collectively, the myriad of computer and telecommunications facilities, which comprise the interconnected world-wide network of computer networks.

"Internet service" means a service that enables users to access proprietary and other content, information electronic mail, and the Internet as part of a package of services sold to end-user subscribers.

"Lease or rental" means the leasing or renting of tangible personal property and the possession or use thereof by the lessee or renter for a consideration, without transfer of the title to such property.

"Manufacturing, processing, refining, or conversion" includes the production line of the plant starting with the handling and storage of raw materials at the plant site and continuing through the last step of production where the product is finished or completed for sale and conveyed to a warehouse at the production site, and also includes equipment and supplies used for production line testing and quality control. The term "manufacturing" shall also include the necessary ancillary activities of newspaper and magazine printing when such activities are performed by the publisher of any newspaper or magazine for sale daily or regularly at average intervals not exceeding three months.

The determination whether any manufacturing, mining, processing, refining or conversion activity is industrial in nature shall be made without regard to plant size, existence or size of finished product inventory, degree of mechanization, amount of capital investment, number of employees or other factors relating principally to the size of the business. Further, "industrial in nature" shall include, but not be limited to, those businesses classified in codes 10 through 14 and 20 through 39 published in the Standard Industrial Classification Manual for 1972 and any supplements issued thereafter.

"Modular building" means, but shall not be limited to, single and multifamily houses, apartment units, commercial buildings, and permanent additions thereof, comprised of one or more sections that are intended to become real property, primarily constructed at a location other than the permanent site, built to comply with the Virginia Industrialized Building Safety Law (§ 36-70 et seq.) as regulated by the Virginia Department of Housing and Community Development, and shipped with most permanent components in place to the site of final assembly. For purposes of this chapter, a modular building shall not include a mobile office as defined in § 58.1-2401 or any manufactured building subject to and certified under the provisions of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. § 5401 et seq.).

"Modular building manufacturer" means a person or corporation who owns or operates a manufacturing facility and is engaged in the fabrication, construction and assembling of building supplies and materials into modular buildings, as defined in this section, at a location other than at the site where the modular building will be assembled on the permanent foundation and may or may not be engaged in the process of affixing the modules to the foundation at the permanent site.

"Modular building retailer" means any person who purchases or acquires a modular building from a modular building manufacturer, or from another person, for subsequent sale to a customer residing within or outside of the Commonwealth, with or without installation of the modular building to the foundation at the permanent site.

"Motor vehicle" means a "motor vehicle" as defined in § 58.1-2401, taxable under the provisions of the Virginia Motor Vehicles Sales and Use Tax Act (§ 58.1-2400 et seq.) and upon the sale of which all applicable motor vehicle sales and use taxes have been paid. "Motor vehicle" does not include any all-terrain vehicle, moped, or off-road motorcycle all as defined in § 46.2-100. The taxes under this chapter or pursuant to the authority granted under this chapter shall apply to such all-terrain vehicles, mopeds, and off-road motorcycles.

"Occasional sale" means a sale of tangible personal property not held or used by a seller in the course of an activity for which he is required to hold a certificate of registration, including the sale or exchange of all or substantially all the assets of any business and the reorganization or liquidation of any business, provided such sale or exchange is not one of a series of sales and exchanges sufficient in number, scope and character to constitute an activity requiring the holding of a certificate of registration.

"Open video system" means an open video system authorized pursuant to 47 U.S.C. § 573 and, for purposes of this chapter only, shall also include Internet service regardless of whether the provider of such service is also a telephone common carrier.

"Person" includes any individual, firm, copartnership, cooperative, nonprofit membership corporation, joint venture, association, corporation, estate, trust, business trust, trustee in bankruptcy, receiver, auctioneer, syndicate, assignee, club, society, or other group or combination acting as a unit, body politic or political subdivision, whether public or private, or quasi-public, and the plural of such term shall mean the same as the singular.

"Prewritten program" means a computer program that is prepared, held or existing for general or repeated sale or lease, including a computer program developed for in-house use and subsequently sold or leased to unrelated third parties.

"Railroad rolling stock" means locomotives, of whatever motive power, autocars, railroad cars of every kind and description, and all other equipment determined by the Tax Commissioner to constitute railroad rolling stock.

"Retail sale" or a "sale at retail" means a sale to any person for any purpose other than for resale in the form of tangible personal property or services taxable under this chapter, and shall include any such transaction as the Tax Commissioner upon investigation finds to be in lieu of a sale. All sales for resale must be made in strict compliance with regulations applicable to this chapter. Any dealer making a sale for resale which is not in strict compliance with such regulations shall be personally liable for payment of the tax.

The terms "retail sale" and a "sale at retail" shall specifically include the following: (i) the sale or charges for any room or rooms, lodgings, or accommodations furnished to transients for less than 90 continuous days by any hotel, motel, inn, tourist camp, tourist cabin, camping grounds, club, or any other place in which rooms, lodging, space, or accommodations are regularly furnished to transients for a consideration; (ii) sales of tangible personal property to persons for resale when because of the operation of the business, or its very nature, or the lack of a place of business in which to display a certificate of registration, or the lack of a place of business in which to keep records, or the lack of adequate records, or because such persons are minors or transients, or because such persons are engaged in essentially service businesses, or for any other reason there is likelihood that the Commonwealth will lose tax funds due to the difficulty of policing such business operations; (iii) the separately stated charge made for automotive refinish repair materials that are permanently applied to or affixed to a motor vehicle during its repair; and (iv) the separately stated charge for equipment available for lease or purchase by a provider of satellite television programming to the customer of such programming. Equipment sold to a provider of satellite television programming for subsequent lease or purchase by the customer of such programming shall be deemed a sale for resale. The Tax Commissioner is authorized to promulgate regulations requiring vendors of or sellers to such persons to collect the tax imposed by this chapter on the cost price of such tangible personal property to such persons and may refuse to issue certificates of registration to such persons. *The terms "retail sale" and a "sale at retail" also shall specifically include the separately stated charge made for supplies used during automotive repairs whether or not there is transfer of title or possession of the supplies and whether or not the supplies are attached to the automobile. The purchase of such supplies by an automotive repairer for sale to the customer of such repair services shall be deemed a sale for resale.*

The term "transient" shall not include a purchaser of camping memberships, time-shares, condominiums, or other similar contracts or interests that permit the use of, or constitute an interest in, real estate, however created or sold and whether registered with the Commonwealth or not. Further, a purchaser of a right or license which entitles the purchaser to use the amenities and facilities of a specific real estate project on an ongoing basis throughout its term shall not be deemed a transient; provided, however, that the term or time period involved is for seven years or more.

The terms "retail sale" and "sale at retail" shall not include a transfer of title to tangible personal property after its use as tools, tooling, machinery or equipment, including dies, molds, and patterns, if (i) at the time of purchase, the purchaser is obligated, under the terms of a written contract, to make the transfer and (ii) the transfer is made for the same or a greater consideration to the person for whom the purchaser manufactures goods.

"Retailer" means every person engaged in the business of making sales at retail, or for distribution, use, consumption, or storage to be used or consumed in the Commonwealth.

"Sale" means any transfer of title or possession, or both, exchange, barter, lease or rental, conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property and any rendition of a taxable service for a consideration, and includes the fabrication of tangible personal property for consumers who furnish, either directly or indirectly, the materials used in fabrication, and the furnishing, preparing, or serving for a consideration of any tangible personal property consumed on the premises of the person furnishing, preparing, or serving such tangible personal property. A transaction whereby the possession of property is transferred but the seller retains title as security for the payment of the price shall be deemed a sale.

"Sales price" means the total amount for which tangible personal property or services are sold, including any services that are a part of the sale, valued in money, whether paid in money or otherwise, and includes any amount for which credit is given to the purchaser, consumer, or lessee by the dealer, without any deduction therefrom on account of the cost of the property sold, the cost of materials used, labor or service costs, losses or any other expenses whatsoever. "Sales price" shall not include (i) any cash discount allowed and taken; (ii) finance charges, carrying charges, service charges or interest from credit extended on sales of tangible personal property under conditional sale contracts or other conditional contracts providing for deferred payments of the purchase price; (iii) separately stated local property taxes collected; (iv) that portion of the amount paid by the purchaser as a discretionary gratuity added to the price of a meal; or (v) that portion of the amount paid by the purchaser as a mandatory gratuity or service charge added by a restaurant to the price of a meal, but only to the extent that such mandatory gratuity or service charge does not exceed 20% of the price of the meal. Where used articles are taken in trade, or in a series of trades as a credit or part payment on the sale of new or used articles, the tax levied by this

chapter shall be paid on the net difference between the sales price of the new or used articles and the credit for the used articles.

"Semiconductor cleanrooms" means the integrated systems, fixtures, piping, partitions, flooring, lighting, equipment, and all other property used to reduce contamination or to control airflow, temperature, humidity, vibration, or other environmental conditions required for the integrated process of semiconductor manufacturing.

"Semiconductor equipment" means (i) machinery or tools or repair parts or replacements thereof; (ii) the related accessories, components, pedestals, bases, or foundations used in connection with the operation of the equipment, without regard to the proximity to the equipment, the method of attachment, or whether the equipment or accessories are affixed to the realty; (iii) semiconductor wafers and other property or supplies used to install, test, calibrate or recalibrate, characterize, condition, measure, or maintain the equipment and settings thereof; and (iv) equipment and supplies used for quality control testing of product, materials, equipment, or processes; or the measurement of equipment performance or production parameters regardless of where or when the quality control, testing, or measuring activity takes place, how the activity affects the operation of equipment, or whether the equipment and supplies come into contact with the product.

"Storage" means any keeping or retention of tangible personal property for use, consumption or distribution in the Commonwealth, or for any purpose other than sale at retail in the regular course of business.

"Tangible personal property" means personal property which may be seen, weighed, measured, felt, or touched, or is in any other manner perceptible to the senses. The term "tangible personal property" shall not include stocks, bonds, notes, insurance or other obligations or securities. The term "tangible personal property" shall include (i) telephone calling cards upon their initial sale, which shall be exempt from all other state and local utility taxes, and (ii) manufactured signs.

"Use" means the exercise of any right or power over tangible personal property incident to the ownership thereof, except that it does not include the sale at retail of that property in the regular course of business. The term does not include the exercise of any right or power, including use, distribution, or storage, over any tangible personal property sold to a nonresident donor for delivery outside of the Commonwealth to a nonresident recipient pursuant to an order placed by the donor from outside the Commonwealth via mail or telephone. The term does not include any sale determined to be a gift transaction, subject to tax under § 58.1-604.6.

"Use tax" refers to the tax imposed upon the use, consumption, distribution, and storage as herein defined.

"Used directly," when used in relation to manufacturing, processing, refining, or conversion, refers to those activities which are an integral part of the production of a product, including all steps of an integrated manufacturing or mining process, but not including ancillary activities such as general maintenance or administration. When used in relation to mining, it shall refer to the activities specified above, and in addition, any reclamation activity of the land previously mined by the mining company required by state or federal law.

"Video programmer" means a person or entity that provides video programming to end-user subscribers.

"Video programming" means video and/or information programming provided by or generally considered comparable to programming provided by a cable operator including, but not limited to, Internet service.

**§ 58.1-602. (Contingent effective date) Definitions.**

A. As used in this chapter, unless the context clearly shows otherwise:

"Advertising" means the planning, creating, or placing of advertising in newspapers, magazines, billboards, broadcasting and other media, including, without limitation, the providing of concept, writing, graphic design, mechanical art, photography and production supervision. Any person providing advertising as defined herein shall be deemed to be the user or consumer of all tangible personal property purchased for use in such advertising.

"Amplification, transmission and distribution equipment" means, but is not limited to, production, distribution, and other equipment used to provide Internet-access services, such as computer and communications equipment and software used for storing, processing and retrieving end-user subscribers' requests.

"Business" includes any activity engaged in by any person, or caused to be engaged in by him, with the object of gain, benefit or advantage, either directly or indirectly.

"Cost price" means the actual cost of an item or article of tangible personal property computed in the same manner as the sales price as defined in this section without any deductions therefrom on account of the cost of materials used, labor, or service costs, transportation charges, or any expenses whatsoever.

"Custom program" means a computer program which is specifically designed and developed only for one customer. The combining of two or more prewritten programs does not constitute a custom computer program. A prewritten program that is modified to any degree remains a prewritten program and does not become custom.

"Distribution" means the transfer or delivery of tangible personal property for use, consumption, or storage by the distributee, and the use, consumption, or storage of tangible personal property by a person who has processed, manufactured, refined, or converted such property, but does not include the transfer or delivery of tangible personal property for resale or any use, consumption, or storage otherwise exempt under this chapter.

"Gross proceeds" means the charges made or voluntary contributions received for the lease or rental of tangible personal property or for furnishing services, computed with the same deductions, where applicable, as for sales price as defined in this section over the term of the lease, rental, service, or use, but not less frequently than monthly. "Gross proceeds" does not include finance charges, carrying charges, service charges, or interest from credit extended on the lease or rental of tangible personal property under conditional lease or rental contracts or other conditional contracts providing for the deferred payments of the lease or rental price.

"Gross sales" means the sum total of all retail sales of tangible personal property or services as defined in this chapter, without any deduction, except as provided in this chapter. "Gross sales" shall not include the federal retailers' excise tax or the federal diesel fuel excise tax imposed in § 4091 of the Internal Revenue Code if the excise tax is billed to the purchaser separately from the selling price of the article, or the Virginia retail sales or use tax, or any sales or use tax imposed by any county or city under § 58.1-605 or 58.1-606.

"Import" and "imported" are words applicable to tangible personal property imported into the Commonwealth from other states as well as from foreign countries, and "export" and "exported" are words applicable to tangible personal property exported from the Commonwealth to other states as well as to foreign countries.

"In this Commonwealth" or "in the Commonwealth" means within the limits of the Commonwealth of Virginia and includes all territory within these limits owned by or ceded to the United States of America.

"Integrated process," when used in relation to semiconductor manufacturing, means a process that begins with the research or development of semiconductor products, equipment, or processes, includes the handling and storage of raw materials at a plant site, and continues to the point that the product is packaged for final sale and either shipped or conveyed to a warehouse. Without limiting the foregoing, any semiconductor equipment, fuel, power, energy, supplies, or other tangible personal property shall be deemed used as part of the integrated process if its use contributes, before, during, or after production, to higher product quality, production yields, or process efficiencies. Except as otherwise provided by law, such term shall not mean general maintenance or administration.

"Internet" means collectively, the myriad of computer and telecommunications facilities, which comprise the interconnected world-wide network of computer networks.

"Internet service" means a service that enables users to access proprietary and other content, information electronic mail, and the Internet as part of a package of services sold to end-user subscribers.

"Lease or rental" means the leasing or renting of tangible personal property and the possession or use thereof by the lessee or renter for a consideration, without transfer of the title to such property.

"Manufacturing, processing, refining, or conversion" includes the production line of the plant starting with the handling and storage of raw materials at the plant site and continuing through the last step of production where the product is finished or completed for sale and conveyed to a warehouse at the production site, and also includes equipment and supplies used for production line testing and quality control. The term "manufacturing" shall also include the necessary ancillary activities of newspaper and magazine printing when such activities are performed by the publisher of any newspaper or magazine for sale daily or regularly at average intervals not exceeding three months.

The determination whether any manufacturing, mining, processing, refining or conversion activity is industrial in nature shall be made without regard to plant size, existence or size of finished product inventory, degree of mechanization, amount of capital investment, number of employees or other factors relating principally to the size of the business. Further, "industrial in nature" shall include, but not be limited to, those businesses classified in codes 10 through 14 and 20 through 39 published in the Standard Industrial Classification Manual for 1972 and any supplements issued thereafter.

"Modular building" means, but shall not be limited to, single and multifamily houses, apartment units, commercial buildings, and permanent additions thereof, comprised of one or more sections that are intended to become real property, primarily constructed at a location other than the permanent site, built to comply with the Virginia Industrialized Building Safety Law (§ 36-70 et seq.) as regulated by the Virginia Department of Housing and Community Development, and shipped with most permanent components in place to the site of final assembly. For purposes of this chapter, a modular building shall not include a mobile office as defined in § 58.1-2401 or any manufactured building subject to and certified under the provisions of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. § 5401 et seq.).

"Modular building manufacturer" means a person or corporation who owns or operates a manufacturing facility and is engaged in the fabrication, construction and assembling of building supplies and materials into modular buildings, as defined in this section, at a location other than at the site where the modular building will be assembled on the permanent foundation and may or may not be engaged in the process of affixing the modules to the foundation at the permanent site.

"Modular building retailer" means any person who purchases or acquires a modular building from a modular building manufacturer, or from another person, for subsequent sale to a customer residing within or outside of the Commonwealth, with or without installation of the modular building to the foundation at the permanent site.

"Motor vehicle" means a "motor vehicle" as defined in § 58.1-2401, taxable under the provisions of the Virginia Motor Vehicles Sales and Use Tax Act (§ 58.1-2400 et seq.) and upon the sale of which all applicable motor vehicle sales and use taxes have been paid. "Motor vehicle" does not include any all-terrain vehicle, moped, or off-road motorcycle all as defined in § 46.2-100. The taxes under this chapter or pursuant to the authority granted under this chapter shall apply to such all-terrain vehicles, mopeds, and off-road motorcycles.

"Occasional sale" means a sale of tangible personal property not held or used by a seller in the course of an activity for which he is required to hold a certificate of registration, including the sale or exchange of all or substantially all the assets of any business and the reorganization or liquidation of any business, provided such sale or exchange is not one of a series of sales and exchanges sufficient in number, scope and character to constitute an activity requiring the holding of a certificate of registration.

"Open video system" means an open video system authorized pursuant to 47 U.S.C. § 573 and, for purposes of this chapter only, shall also include Internet service regardless of whether the provider of such service is also a telephone common carrier.

"Person" includes any individual, firm, copartnership, cooperative, nonprofit membership corporation, joint venture, association, corporation, estate, trust, business trust, trustee in bankruptcy, receiver, auctioneer, syndicate, assignee, club, society, or other group or combination acting as a unit, body politic or political subdivision, whether public or private, or quasi-public, and the plural of such term shall mean the same as the singular.

"Prewritten program" means a computer program that is prepared, held or existing for general or repeated sale or lease, including a computer program developed for in-house use and subsequently sold or leased to unrelated third parties.

"Railroad rolling stock" means locomotives, of whatever motive power, autocars, railroad cars of every kind and description, and all other equipment determined by the Tax Commissioner to constitute railroad rolling stock.

"Retail sale" or a "sale at retail" means a sale to any person for any purpose other than for resale in the form of tangible personal property or services taxable under this chapter, and shall include any such transaction as the Tax Commissioner upon investigation finds to be in lieu of a sale. All sales for resale must be made in strict compliance with regulations applicable to this chapter. Any dealer making a sale for resale which is not in strict compliance with such regulations shall be personally liable for payment of the tax.

The terms "retail sale" and a "sale at retail" shall specifically include the following: (i) the sale or charges for any room or rooms, lodgings, or accommodations furnished to transients for less than 90 continuous days by any hotel, motel, inn, tourist camp, tourist cabin, camping grounds, club, or any other place in which rooms, lodging, space, or accommodations are regularly furnished to transients for a consideration; (ii) sales of tangible personal property to persons for resale when because of the operation of the business, or its very nature, or the lack of a place of business in which to display a certificate of registration, or the lack of a place of business in which to keep records, or the lack of adequate records, or because such persons are minors or transients, or because such persons are engaged in essentially service businesses, or for any other reason there is likelihood that the Commonwealth will lose tax funds due to the difficulty of policing such business operations; (iii) the separately stated charge made for automotive refinish repair materials that are permanently applied to or affixed to a motor vehicle during its repair; and (iv) the separately stated charge for equipment available for lease or purchase by a provider of satellite television programming to the customer of such programming. Equipment sold to a provider of satellite television programming for subsequent lease or purchase by the customer of such programming shall be deemed a sale for resale. The Tax Commissioner is authorized to promulgate regulations requiring vendors of or sellers to such persons to collect the tax imposed by this chapter on the cost price of such tangible personal property to such persons and may refuse to issue certificates of registration to such persons. *The terms "retail sale" and a "sale at retail" also shall specifically include the separately stated charge made for supplies used during automotive repairs whether or not there is transfer of title or possession of the supplies and whether or not the supplies are attached to the automobile. The purchase of such supplies by an automotive repairer for sale to the customer of such repair services shall be deemed a sale for resale.*

The term "transient" shall not include a purchaser of camping memberships, time-shares, condominiums, or other similar contracts or interests that permit the use of, or constitute an interest in, real estate, however created or sold and whether registered with the Commonwealth or not. Further, a purchaser of a right or license which entitles the purchaser to use the amenities and facilities of a specific real estate project on an ongoing basis throughout its term shall not be deemed a transient; provided, however, that the term or time period involved is for seven years or more.

The terms "retail sale" and "sale at retail" shall not include a transfer of title to tangible personal property after its use as tools, tooling, machinery or equipment, including dies, molds, and patterns, if (i) at the time of purchase, the purchaser is obligated, under the terms of a written contract, to make the transfer and (ii) the transfer is made for the same or a greater consideration to the person for whom the purchaser manufactures goods.

"Retailer" means every person engaged in the business of making sales at retail, or for distribution, use, consumption, or storage to be used or consumed in the Commonwealth.

"Sale" means any transfer of title or possession, or both, exchange, barter, lease or rental, conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property and any rendition of a taxable service for a consideration, and includes the fabrication of tangible personal property for consumers who furnish, either directly or indirectly, the materials used in fabrication, and the furnishing, preparing, or serving for a consideration of any tangible personal property consumed on the premises of the person furnishing, preparing, or serving such tangible personal property. A transaction whereby the possession of property is transferred but the seller retains title as security for the payment of the price shall be deemed a sale.

"Sales price" means the total amount for which tangible personal property or services are sold, including any services that are a part of the sale, valued in money, whether paid in money or otherwise, and includes any amount for which credit is given to the purchaser, consumer, or lessee by the dealer, without any deduction therefrom on account of the cost of the property sold, the cost of materials used, labor or service costs, losses or any other expenses whatsoever. "Sales price" shall not include (i) any cash discount allowed and taken; (ii) finance charges, carrying charges, service charges or interest from credit extended on sales of tangible personal property under conditional sale contracts or other conditional contracts providing for deferred payments of the purchase price; (iii) separately stated local property taxes collected; (iv) that portion of the amount paid by the purchaser as a discretionary gratuity added to the price of a meal; or (v) that portion of the amount paid by the purchaser as a mandatory gratuity or service charge added by a restaurant to the price of a meal, but only to the

extent that such mandatory gratuity or service charge does not exceed 20 percent of the price of the meal. Where used articles are taken in trade, or in a series of trades as a credit or part payment on the sale of new or used articles, the tax levied by this chapter shall be paid on the net difference between the sales price of the new or used articles and the credit for the used articles.

"Semiconductor cleanrooms" means the integrated systems, fixtures, piping, partitions, flooring, lighting, equipment, and all other property used to reduce contamination or to control airflow, temperature, humidity, vibration, or other environmental conditions required for the integrated process of semiconductor manufacturing.

"Semiconductor equipment" means (i) machinery or tools or repair parts or replacements thereof; (ii) the related accessories, components, pedestals, bases, or foundations used in connection with the operation of the equipment, without regard to the proximity to the equipment, the method of attachment, or whether the equipment or accessories are affixed to the realty; (iii) semiconductor wafers and other property or supplies used to install, test, calibrate or recalibrate, characterize, condition, measure, or maintain the equipment and settings thereof; and (iv) equipment and supplies used for quality control testing of product, materials, equipment, or processes; or the measurement of equipment performance or production parameters regardless of where or when the quality control, testing, or measuring activity takes place, how the activity affects the operation of equipment, or whether the equipment and supplies come into contact with the product.

"Storage" means any keeping or retention of tangible personal property for use, consumption or distribution in the Commonwealth, or for any purpose other than sale at retail in the regular course of business.

"Tangible personal property" means personal property which may be seen, weighed, measured, felt, or touched, or is in any other manner perceptible to the senses. The term "tangible personal property" shall not include stocks, bonds, notes, insurance or other obligations or securities. The term "tangible personal property" shall include (i) telephone calling cards upon their initial sale, which shall be exempt from all other state and local utility taxes, and (ii) manufactured signs.

"Use" means the exercise of any right or power over tangible personal property incident to the ownership thereof, except that it does not include the sale at retail of that property in the regular course of business. The term does not include the exercise of any right or power, including use, distribution, or storage, over any tangible personal property sold to a nonresident donor for delivery outside of the Commonwealth to a nonresident recipient pursuant to an order placed by the donor from outside the Commonwealth via mail or telephone. The term does not include any sale determined to be a gift transaction, subject to tax under § 58.1-604.6.

"Use tax" refers to the tax imposed upon the use, consumption, distribution, and storage as herein defined.

"Used directly," when used in relation to manufacturing, processing, refining, or conversion, refers to those activities which are an integral part of the production of a product, including all steps of an integrated manufacturing or mining process, but not including ancillary activities such as general maintenance or administration. When used in relation to mining, it shall refer to the activities specified above, and in addition, any reclamation activity of the land previously mined by the mining company required by state or federal law.

"Video programmer" means a person or entity that provides video programming to end-user subscribers.

"Video programming" means video and/or information programming provided by or generally considered comparable to programming provided by a cable operator including, but not limited to, Internet service.

B. Notwithstanding the definitions in subsection A, to the extent that conformity to any remote collection authority legislation enacted by the Congress of the United States shall so require, the words and terms used in this chapter related to the minimum simplification requirements shall have the same meaning as provided in such federal legislation.

## CHAPTER 105

*An Act to amend and reenact § 54.1-3005 of the Code of Virginia, relating to the Board of Nursing; powers and duties.*

[H 1541]

Approved February 21, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 54.1-3005 of the Code of Virginia is amended and reenacted as follows:**

**§ 54.1-3005. Specific powers and duties of Board.**

In addition to the general powers and duties conferred in this title, the Board shall have the following specific powers and duties:

1. To prescribe minimum standards and approve curricula for educational programs preparing persons for licensure or certification under this chapter;
2. To approve programs that meet the requirements of this chapter and of the Board;
3. To provide consultation service for educational programs as requested;
4. To provide for periodic surveys of educational programs;
5. To deny or withdraw approval from educational *or training* programs for failure to meet prescribed standards;
6. To provide consultation regarding nursing practice for institutions and agencies as requested and investigate illegal nursing practices;
7. To keep a record of all its proceedings;

8. To certify and maintain a registry of all certified nurse aides and to promulgate regulations consistent with federal law and regulation. The Board shall require all schools to demonstrate their compliance with § 54.1-3006.2 upon application for approval or reapproval, during an on-site visit, or in response to a complaint or a report of noncompliance. The Board may impose a fee pursuant to § 54.1-2401 for any violation thereof. Such regulations may include standards for the authority of licensed practical nurses to teach nurse aides;

9. To maintain a registry of clinical nurse specialists and to promulgate regulations governing clinical nurse specialists;

10. To license and maintain a registry of all licensed massage therapists and to promulgate regulations governing the criteria for licensure as a massage therapist and the standards of professional conduct for licensed massage therapists;

11. To promulgate regulations for the delegation of certain nursing tasks and procedures not involving assessment, evaluation or nursing judgment to an appropriately trained unlicensed person by and under the supervision of a registered nurse, who retains responsibility and accountability for such delegation;

12. To develop and revise as may be necessary, in coordination with the Boards of Medicine and Education, guidelines for the training of employees of a school board in the administration of insulin and glucagon for the purpose of assisting with routine insulin injections and providing emergency treatment for life-threatening hypoglycemia. The first set of such guidelines shall be finalized by September 1, 1999, and shall be made available to local school boards for a fee not to exceed the costs of publication;

13. To enter into the Nurse Licensure Compact as set forth in this chapter and to promulgate regulations for its implementation;

14. To collect, store and make available nursing workforce information regarding the various categories of nurses certified, licensed or registered pursuant to § 54.1-3012.1;

15. To expedite application processing, to the extent possible, for an applicant for licensure or certification by the Board upon submission of evidence that the applicant, who is licensed or certified in another state, is relocating to the Commonwealth pursuant to a spouse's official military orders;

16. To register medication aides and promulgate regulations governing the criteria for such registration and standards of conduct for medication aides;

17. To approve training programs for medication aides to include requirements for instructional personnel, curriculum, continuing education, and a competency evaluation;

18. To set guidelines for the collection of data by all approved nursing education programs and to compile this data in an annual report. The data shall include but not be limited to enrollment, graduation rate, attrition rate, and number of qualified applicants who are denied admission;

19. To develop, in consultation with the Board of Pharmacy, guidelines for the training of employees of child day programs as defined in § 63.2-100 and regulated by the State Board of Social Services in the administration of prescription drugs as defined in the Drug Control Act (§ 54.1-3400 et seq.). Such training programs shall be taught by a registered nurse, licensed practical nurse, doctor of medicine or osteopathic medicine, or pharmacist;

20. In order to protect the privacy and security of health professionals licensed, registered or certified under this chapter, to promulgate regulations permitting use on identification badges of first name and first letter only of last name and appropriate title when practicing in hospital emergency departments, in psychiatric and mental health units and programs, or in health care facility units offering treatment for patients in custody of state or local law-enforcement agencies;

21. To revise, as may be necessary, guidelines for seizure management, in coordination with the Board of Medicine, including the list of rescue medications for students with epilepsy and other seizure disorders in the public schools. The revised guidelines shall be finalized and made available to the Board of Education by August 1, 2010. The guidelines shall then be posted on the Department of Education's website; and

22. To promulgate, together with the Board of Medicine, regulations governing the licensure of nurse practitioners pursuant to § 54.1-2957.

## CHAPTER 106

*An Act to amend and reenact §§ 32.1-325 and 63.2-501 of the Code of Virginia, relating to Medicaid applications; information about advance directives.*

[H 1567]

Approved February 21, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 32.1-325 and 63.2-501 of the Code of Virginia are amended and reenacted as follows:**

**§ 32.1-325. Board to submit plan for medical assistance services to U.S. Secretary of Health and Human Services pursuant to federal law; administration of plan; contracts with health care providers.**

A. The Board, subject to the approval of the Governor, is authorized to prepare, amend from time to time, and submit to the U.S. Secretary of Health and Human Services a state plan for medical assistance services pursuant to Title XIX of the United States Social Security Act and any amendments thereto. The Board shall include in such plan:

1. A provision for payment of medical assistance on behalf of individuals, up to the age of 21, placed in foster homes or private institutions by private, nonprofit agencies licensed as child-placing agencies by the Department of Social Services or placed through state and local subsidized adoptions to the extent permitted under federal statute;

2. A provision for determining eligibility for benefits for medically needy individuals which disregards from countable resources an amount not in excess of \$3,500 for the individual and an amount not in excess of \$3,500 for his spouse when such resources have been set aside to meet the burial expenses of the individual or his spouse. The amount disregarded shall be reduced by (i) the face value of life insurance on the life of an individual owned by the individual or his spouse if the cash surrender value of such policies has been excluded from countable resources and (ii) the amount of any other revocable or irrevocable trust, contract, or other arrangement specifically designated for the purpose of meeting the individual's or his spouse's burial expenses;

3. A requirement that, in determining eligibility, a home shall be disregarded. For those medically needy persons whose eligibility for medical assistance is required by federal law to be dependent on the budget methodology for Aid to Families with Dependent Children, a home means the house and lot used as the principal residence and all contiguous property. For all other persons, a home shall mean the house and lot used as the principal residence, as well as all contiguous property, as long as the value of the land, exclusive of the lot occupied by the house, does not exceed \$5,000. In any case in which the definition of home as provided here is more restrictive than that provided in the state plan for medical assistance services in Virginia as it was in effect on January 1, 1972, then a home means the house and lot used as the principal residence and all contiguous property essential to the operation of the home regardless of value;

4. A provision for payment of medical assistance on behalf of individuals up to the age of 21, who are Medicaid eligible, for medically necessary stays in acute care facilities in excess of 21 days per admission;

5. A provision for deducting from an institutionalized recipient's income an amount for the maintenance of the individual's spouse at home;

6. A provision for payment of medical assistance on behalf of pregnant women which provides for payment for inpatient postpartum treatment in accordance with the medical criteria outlined in the most current version of or an official update to the "Guidelines for Perinatal Care" prepared by the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists or the "Standards for Obstetric-Gynecologic Services" prepared by the American College of Obstetricians and Gynecologists. Payment shall be made for any postpartum home visit or visits for the mothers and the children which are within the time periods recommended by the attending physicians in accordance with and as indicated by such Guidelines or Standards. For the purposes of this subdivision, such Guidelines or Standards shall include any changes thereto within six months of the publication of such Guidelines or Standards or any official amendment thereto;

7. A provision for the payment for family planning services on behalf of women who were Medicaid-eligible for prenatal care and delivery as provided in this section at the time of delivery. Such family planning services shall begin with delivery and continue for a period of 24 months, if the woman continues to meet the financial eligibility requirements for a pregnant woman under Medicaid. For the purposes of this section, family planning services shall not cover payment for abortion services and no funds shall be used to perform, assist, encourage or make direct referrals for abortions;

8. A provision for payment of medical assistance for high-dose chemotherapy and bone marrow transplants on behalf of individuals over the age of 21 who have been diagnosed with lymphoma, breast cancer, myeloma, or leukemia and have been determined by the treating health care provider to have a performance status sufficient to proceed with such high-dose chemotherapy and bone marrow transplant. Appeals of these cases shall be handled in accordance with the Department's expedited appeals process;

9. A provision identifying entities approved by the Board to receive applications and to determine eligibility for medical assistance, which shall include a requirement that such entities (i) obtain accurate contact information, including the best available address and telephone number, from each applicant for medical assistance, to the extent required by federal law and regulations, and (ii) provide each applicant for medical assistance with information about advance directives pursuant to Article 8 (§ 54.1-2981 et seq.) of Chapter 29 of Title 54.1, including information about the purpose and benefits of advance directives and how the applicant may make an advance directive;

10. A provision for breast reconstructive surgery following the medically necessary removal of a breast for any medical reason. Breast reductions shall be covered, if prior authorization has been obtained, for all medically necessary indications. Such procedures shall be considered noncosmetic;

11. A provision for payment of medical assistance for annual pap smears;

12. A provision for payment of medical assistance services for prostheses following the medically necessary complete or partial removal of a breast for any medical reason;

13. A provision for payment of medical assistance which provides for payment for 48 hours of inpatient treatment for a patient following a radical or modified radical mastectomy and 24 hours of inpatient care following a total mastectomy or a partial mastectomy with lymph node dissection for treatment of disease or trauma of the breast. Nothing in this subdivision shall be construed as requiring the provision of inpatient coverage where the attending physician in consultation with the patient determines that a shorter period of hospital stay is appropriate;

14. A requirement that certificates of medical necessity for durable medical equipment and any supporting verifiable documentation shall be signed, dated, and returned by the physician, physician assistant, or nurse practitioner and in the durable medical equipment provider's possession within 60 days from the time the ordered durable medical equipment and supplies are first furnished by the durable medical equipment provider;

15. A provision for payment of medical assistance to (i) persons age 50 and over and (ii) persons age 40 and over who are at high risk for prostate cancer, according to the most recent published guidelines of the American Cancer Society, for one PSA test in a 12-month period and digital rectal examinations, all in accordance with American Cancer Society guidelines. For the purpose of this subdivision, "PSA testing" means the analysis of a blood sample to determine the level of prostate specific antigen;

16. A provision for payment of medical assistance for low-dose screening mammograms for determining the presence of occult breast cancer. Such coverage shall make available one screening mammogram to persons age 35 through 39, one such mammogram biennially to persons age 40 through 49, and one such mammogram annually to persons age 50 and over. The term "mammogram" means an X-ray examination of the breast using equipment dedicated specifically for mammography, including but not limited to the X-ray tube, filter, compression device, screens, film and cassettes, with an average radiation exposure of less than one rad mid-breast, two views of each breast;

17. A provision, when in compliance with federal law and regulation and approved by the Centers for Medicare & Medicaid Services (CMS), for payment of medical assistance services delivered to Medicaid-eligible students when such services qualify for reimbursement by the Virginia Medicaid program and may be provided by school divisions;

18. A provision for payment of medical assistance services for liver, heart and lung transplantation procedures for individuals over the age of 21 years when (i) there is no effective alternative medical or surgical therapy available with outcomes that are at least comparable; (ii) the transplant procedure and application of the procedure in treatment of the specific condition have been clearly demonstrated to be medically effective and not experimental or investigational; (iii) prior authorization by the Department of Medical Assistance Services has been obtained; (iv) the patient selection criteria of the specific transplant center where the surgery is proposed to be performed have been used by the transplant team or program to determine the appropriateness of the patient for the procedure; (v) current medical therapy has failed and the patient has failed to respond to appropriate therapeutic management; (vi) the patient is not in an irreversible terminal state; and (vii) the transplant is likely to prolong the patient's life and restore a range of physical and social functioning in the activities of daily living;

19. A provision for payment of medical assistance for colorectal cancer screening, specifically screening with an annual fecal occult blood test, flexible sigmoidoscopy or colonoscopy, or in appropriate circumstances radiologic imaging, in accordance with the most recently published recommendations established by the American College of Gastroenterology, in consultation with the American Cancer Society, for the ages, family histories, and frequencies referenced in such recommendations;

20. A provision for payment of medical assistance for custom ocular prostheses;

21. A provision for payment for medical assistance for infant hearing screenings and all necessary audiological examinations provided pursuant to § 32.1-64.1 using any technology approved by the United States Food and Drug Administration, and as recommended by the national Joint Committee on Infant Hearing in its most current position statement addressing early hearing detection and intervention programs. Such provision shall include payment for medical assistance for follow-up audiological examinations as recommended by a physician, physician assistant, nurse practitioner, or audiologist and performed by a licensed audiologist to confirm the existence or absence of hearing loss;

22. A provision for payment of medical assistance, pursuant to the Breast and Cervical Cancer Prevention and Treatment Act of 2000 (P.L. 106-354), for certain women with breast or cervical cancer when such women (i) have been screened for breast or cervical cancer under the Centers for Disease Control and Prevention (CDC) Breast and Cervical Cancer Early Detection Program established under Title XV of the Public Health Service Act; (ii) need treatment for breast or cervical cancer, including treatment for a precancerous condition of the breast or cervix; (iii) are not otherwise covered under creditable coverage, as defined in § 2701 (c) of the Public Health Service Act; (iv) are not otherwise eligible for medical assistance services under any mandatory categorically needy eligibility group; and (v) have not attained age 65. This provision shall include an expedited eligibility determination for such women;

23. A provision for the coordinated administration, including outreach, enrollment, re-enrollment and services delivery, of medical assistance services provided to medically indigent children pursuant to this chapter, which shall be called Family Access to Medical Insurance Security (FAMIS) Plus and the FAMIS Plan program in § 32.1-351. A single application form shall be used to determine eligibility for both programs;

24. A provision, when authorized by and in compliance with federal law, to establish a public-private long-term care partnership program between the Commonwealth of Virginia and private insurance companies that shall be established through the filing of an amendment to the state plan for medical assistance services by the Department of Medical Assistance Services. The purpose of the program shall be to reduce Medicaid costs for long-term care by delaying or eliminating dependence on Medicaid for such services through encouraging the purchase of private long-term care insurance policies that have been designated as qualified state long-term care insurance partnerships and may be used as the first source of benefits for the participant's long-term care. Components of the program, including the treatment of assets for Medicaid eligibility and estate recovery, shall be structured in accordance with federal law and applicable federal guidelines; and

25. A provision for the payment of medical assistance for otherwise eligible pregnant women during the first five years of lawful residence in the United States, pursuant to § 214 of the Children's Health Insurance Program Reauthorization Act of 2009 (P.L. 111-3).

B. In preparing the plan, the Board shall:

1. Work cooperatively with the State Board of Health to ensure that quality patient care is provided and that the health, safety, security, rights and welfare of patients are ensured.

2. Initiate such cost containment or other measures as are set forth in the appropriation act.

3. Make, adopt, promulgate and enforce such regulations as may be necessary to carry out the provisions of this chapter.

4. Examine, before acting on a regulation to be published in the Virginia Register of Regulations pursuant to § 2.2-4007.05, the potential fiscal impact of such regulation on local boards of social services. For regulations with potential fiscal impact, the Board shall share copies of the fiscal impact analysis with local boards of social services prior to submission to the Registrar. The fiscal impact analysis shall include the projected costs/savings to the local boards of social services to implement or comply with such regulation and, where applicable, sources of potential funds to implement or comply with such regulation.

5. Incorporate sanctions and remedies for certified nursing facilities established by state law, in accordance with 42 C.F.R. § 488.400 et seq. "Enforcement of Compliance for Long-Term Care Facilities With Deficiencies."

6. On and after July 1, 2002, require that a prescription benefit card, health insurance benefit card, or other technology that complies with the requirements set forth in § 38.2-3407.4:2 be issued to each recipient of medical assistance services, and shall upon any changes in the required data elements set forth in subsection A of § 38.2-3407.4:2, either reissue the card or provide recipients such corrective information as may be required to electronically process a prescription claim.

C. In order to enable the Commonwealth to continue to receive federal grants or reimbursement for medical assistance or related services, the Board, subject to the approval of the Governor, may adopt, regardless of any other provision of this chapter, such amendments to the state plan for medical assistance services as may be necessary to conform such plan with amendments to the United States Social Security Act or other relevant federal law and their implementing regulations or constructions of these laws and regulations by courts of competent jurisdiction or the United States Secretary of Health and Human Services.

In the event conforming amendments to the state plan for medical assistance services are adopted, the Board shall not be required to comply with the requirements of Article 2 (§ 2.2-4006 et seq.) of Chapter 40 of Title 2.2. However, the Board shall, pursuant to the requirements of § 2.2-4002, (i) notify the Registrar of Regulations that such amendment is necessary to meet the requirements of federal law or regulations or because of the order of any state or federal court, or (ii) certify to the Governor that the regulations are necessitated by an emergency situation. Any such amendments that are in conflict with the Code of Virginia shall only remain in effect until July 1 following adjournment of the next regular session of the General Assembly unless enacted into law.

D. The Director of Medical Assistance Services is authorized to:

1. Administer such state plan and receive and expend federal funds therefor in accordance with applicable federal and state laws and regulations; and enter into all contracts necessary or incidental to the performance of the Department's duties and the execution of its powers as provided by law.

2. Enter into agreements and contracts with medical care facilities, physicians, dentists and other health care providers where necessary to carry out the provisions of such state plan. Any such agreement or contract shall terminate upon conviction of the provider of a felony. In the event such conviction is reversed upon appeal, the provider may apply to the Director of Medical Assistance Services for a new agreement or contract. Such provider may also apply to the Director for reconsideration of the agreement or contract termination if the conviction is not appealed, or if it is not reversed upon appeal.

3. Refuse to enter into or renew an agreement or contract, or elect to terminate an existing agreement or contract, with any provider who has been convicted of or otherwise pled guilty to a felony, or pursuant to Subparts A, B, and C of 42 C.F.R. Part 1002, and upon notice of such action to the provider as required by 42 C.F.R. § 1002.212.

4. Refuse to enter into or renew an agreement or contract, or elect to terminate an existing agreement or contract, with a provider who is or has been a principal in a professional or other corporation when such corporation has been convicted of or otherwise pled guilty to any violation of § 32.1-314, 32.1-315, 32.1-316, or 32.1-317, or any other felony or has been excluded from participation in any federal program pursuant to 42 C.F.R. Part 1002.

5. Terminate or suspend a provider agreement with a home care organization pursuant to subsection E of § 32.1-162.13.

6. (Expires January 1, 2020) Provide payments or transfers pursuant to § 457 of the Internal Revenue Code to the deferred compensation plan described in § 51.1-602 on behalf of an individual who is a dentist or an oral and maxillofacial surgeon providing services as an independent contractor pursuant to a Medicaid agreement or contract under this section. Notwithstanding the provisions of § 51.1-600, an "employee" for purposes of Chapter 6 (§ 51.1-600 et seq.) of Title 51.1 shall include an independent contractor as described in this subdivision.

For the purposes of this subsection, "provider" may refer to an individual or an entity.

E. In any case in which a Medicaid agreement or contract is terminated or denied to a provider pursuant to subsection D, the provider shall be entitled to appeal the decision pursuant to 42 C.F.R. § 1002.213 and to a post-determination or post-denial hearing in accordance with the Administrative Process Act (§ 2.2-4000 et seq.). All such requests shall be in writing and be received within 15 days of the date of receipt of the notice.

The Director may consider aggravating and mitigating factors including the nature and extent of any adverse impact the agreement or contract denial or termination may have on the medical care provided to Virginia Medicaid recipients. In

cases in which an agreement or contract is terminated pursuant to subsection D, the Director may determine the period of exclusion and may consider aggravating and mitigating factors to lengthen or shorten the period of exclusion, and may reinstate the provider pursuant to 42 C.F.R. § 1002.215.

F. When the services provided for by such plan are services which a marriage and family therapist, clinical psychologist, clinical social worker, professional counselor, or clinical nurse specialist is licensed to render in Virginia, the Director shall contract with any duly licensed marriage and family therapist, duly licensed clinical psychologist, licensed clinical social worker, licensed professional counselor or licensed clinical nurse specialist who makes application to be a provider of such services, and thereafter shall pay for covered services as provided in the state plan. The Board shall promulgate regulations which reimburse licensed marriage and family therapists, licensed clinical psychologists, licensed clinical social workers, licensed professional counselors and licensed clinical nurse specialists at rates based upon reasonable criteria, including the professional credentials required for licensure.

G. The Board shall prepare and submit to the Secretary of the United States Department of Health and Human Services such amendments to the state plan for medical assistance services as may be permitted by federal law to establish a program of family assistance whereby children over the age of 18 years shall make reasonable contributions, as determined by regulations of the Board, toward the cost of providing medical assistance under the plan to their parents.

H. The Department of Medical Assistance Services shall:

1. Include in its provider networks and all of its health maintenance organization contracts a provision for the payment of medical assistance on behalf of individuals up to the age of 21 who have special needs and who are Medicaid eligible, including individuals who have been victims of child abuse and neglect, for medically necessary assessment and treatment services, when such services are delivered by a provider which specializes solely in the diagnosis and treatment of child abuse and neglect, or a provider with comparable expertise, as determined by the Director.

2. Amend the Medallion II waiver and its implementing regulations to develop and implement an exception, with procedural requirements, to mandatory enrollment for certain children between birth and age three certified by the Department of Behavioral Health and Developmental Services as eligible for services pursuant to Part C of the Individuals with Disabilities Education Act (20 U.S.C. § 1471 et seq.).

3. Utilize, to the extent practicable, electronic funds transfer technology for reimbursement to contractors and enrolled providers for the provision of health care services under Medicaid and the Family Access to Medical Insurance Security Plan established under § 32.1-351.

I. The Director is authorized to negotiate and enter into agreements for services rendered to eligible recipients with special needs. The Board shall promulgate regulations regarding these special needs patients, to include persons with AIDS, ventilator-dependent patients, and other recipients with special needs as defined by the Board.

J. Except as provided in subdivision A 1 of § 2.2-4345, the provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq.) shall not apply to the activities of the Director authorized by subsection I of this section. Agreements made pursuant to this subsection shall comply with federal law and regulation.

#### **§ 63.2-501. Application for assistance.**

A. Except as provided for in the state plan for medical assistance services pursuant to § 32.1-325, application for public assistance shall be made to the local department and filed with the local director of the county or city in which the applicant resides; however, when necessary to overcome backlogs in the application and renewal process, the Commissioner may temporarily utilize other entities to receive and process applications, conduct periodic eligibility renewals, and perform other tasks associated with eligibility determinations. Such entities shall be subject to the confidentiality requirements set forth in § 63.2-501.1. Applications and renewals processed by other entities pursuant to this subsection shall be subject to appeals pursuant to § 63.2-517. Such application may be made either electronically or in writing on forms prescribed by the Commissioner and shall be signed by the applicant or otherwise attested to in a manner prescribed by the Commissioner under penalty of perjury in accordance with § 63.2-502.

If the condition of the applicant for public assistance precludes his signing or otherwise attesting to the accuracy of information contained in an application for public assistance, the application may be made on his behalf by his guardian or conservator. If no guardian or conservator has been appointed for the applicant, the application may be made by any competent adult person having sufficient knowledge of the applicant's circumstances to provide the necessary information, until such time as a guardian or conservator is appointed by a court.

B. Local departments or the Commissioner shall provide each applicant for public assistance with information regarding his rights and responsibilities related to eligibility for and continued receipt of public assistance. Such information shall be provided in an electronic or written format approved by the Board that is easily understandable and shall also be provided orally to the applicant by an employee of the local department, except in the case of energy assistance. The local department shall require each applicant to acknowledge, in a format approved by the Board, that the information required by this subsection has been provided and shall maintain such acknowledgment together with information regarding the application for public assistance.

C. *Local departments or the Commissioner shall provide each applicant for Medicaid with information regarding advance directives pursuant to Article 8 (§ 54.1-2981 et seq.) of Chapter 29 of Title 54.1, including information about the purpose and benefits of advance directives and how the applicant may make an advance directive.*

## CHAPTER 107

*An Act to amend and reenact § 54.1-3408 of the Code of Virginia, relating to the administering of naloxone.*

[H 1642]

Approved February 21, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 54.1-3408 of the Code of Virginia is amended and reenacted as follows:**

**§ 54.1-3408. Professional use by practitioners.**

A. A practitioner of medicine, osteopathy, podiatry, dentistry, or veterinary medicine or a licensed nurse practitioner pursuant to § 54.1-2957.01, a licensed physician assistant pursuant to § 54.1-2952.1, or a TPA-certified optometrist pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32 shall only prescribe, dispense, or administer controlled substances in good faith for medicinal or therapeutic purposes within the course of his professional practice.

B. The prescribing practitioner's order may be on a written prescription or pursuant to an oral prescription as authorized by this chapter. The prescriber may administer drugs and devices, or he may cause drugs or devices to be administered by:

1. A nurse, physician assistant, or intern under his direction and supervision;
2. Persons trained to administer drugs and devices to patients in state-owned or state-operated hospitals or facilities licensed as hospitals by the Board of Health or psychiatric hospitals licensed by the Department of Behavioral Health and Developmental Services who administer drugs under the control and supervision of the prescriber or a pharmacist;
3. Emergency medical services personnel certified and authorized to administer drugs and devices pursuant to regulations of the Board of Health who act within the scope of such certification and pursuant to an oral or written order or standing protocol; or
4. A licensed respiratory therapist as defined in § 54.1-2954 who administers by inhalation controlled substances used in inhalation or respiratory therapy.

C. Pursuant to an oral or written order or standing protocol, the prescriber, who is authorized by state or federal law to possess and administer radiopharmaceuticals in the scope of his practice, may authorize a nuclear medicine technologist to administer, under his supervision, radiopharmaceuticals used in the diagnosis or treatment of disease.

D. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize registered nurses and licensed practical nurses to possess (i) epinephrine and oxygen for administration in treatment of emergency medical conditions and (ii) heparin and sterile normal saline to use for the maintenance of intravenous access lines.

Pursuant to the regulations of the Board of Health, certain emergency medical services technicians may possess and administer epinephrine in emergency cases of anaphylactic shock.

Pursuant to an order or standing protocol issued by the prescriber within the course of his professional practice, any school nurse, school board employee, employee of a local governing body, or employee of a local health department who is authorized by a prescriber and trained in the administration of epinephrine may possess and administer epinephrine.

Pursuant to an order or a standing protocol issued by the prescriber within the course of his professional practice, any employee of a school for students with disabilities, as defined in § 22.1-319 and licensed by the Board of Education, or any employee of a private school that is accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education who is authorized by a prescriber and trained in the administration of epinephrine may possess and administer epinephrine.

Pursuant to an order issued by the prescriber within the course of his professional practice, an employee of a provider licensed by the Department of Behavioral Health and Developmental Services or a person providing services pursuant to a contract with a provider licensed by the Department of Behavioral Health and Developmental Services may possess and administer epinephrine, provided such person is authorized and trained in the administration of epinephrine.

Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize pharmacists to possess epinephrine and oxygen for administration in treatment of emergency medical conditions.

E. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize licensed physical therapists to possess and administer topical corticosteroids, topical lidocaine, and any other Schedule VI topical drug.

F. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize licensed athletic trainers to possess and administer topical corticosteroids, topical lidocaine, or other Schedule VI topical drugs; oxygen for use in emergency situations; and epinephrine for use in emergency cases of anaphylactic shock.

G. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, and in accordance with policies and guidelines established by the Department of Health pursuant to § 32.1-50.2, such prescriber may authorize registered nurses or licensed practical nurses under the immediate and direct supervision of a registered nurse to possess and administer tuberculin purified protein derivative (PPD) in the absence of a prescriber. The Department of Health's policies and guidelines shall be consistent with applicable guidelines developed by

the Centers for Disease Control and Prevention for preventing transmission of mycobacterium tuberculosis and shall be updated to incorporate any subsequently implemented standards of the Occupational Safety and Health Administration and the Department of Labor and Industry to the extent that they are inconsistent with the Department of Health's policies and guidelines. Such standing protocols shall explicitly describe the categories of persons to whom the tuberculin test is to be administered and shall provide for appropriate medical evaluation of those in whom the test is positive. The prescriber shall ensure that the nurse implementing such standing protocols has received adequate training in the practice and principles underlying tuberculin screening.

The Health Commissioner or his designee may authorize registered nurses, acting as agents of the Department of Health, to possess and administer, at the nurse's discretion, tuberculin purified protein derivative (PPD) to those persons in whom tuberculin skin testing is indicated based on protocols and policies established by the Department of Health.

H. Pursuant to a written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize, with the consent of the parents as defined in § 22.1-1, an employee of (i) a school board, (ii) a school for students with disabilities as defined in § 22.1-319 licensed by the Board of Education, or (iii) a private school accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education who is trained in the administration of insulin and glucagon to assist with the administration of insulin or administer glucagon to a student diagnosed as having diabetes and who requires insulin injections during the school day or for whom glucagon has been prescribed for the emergency treatment of hypoglycemia. Such authorization shall only be effective when a licensed nurse, nurse practitioner, physician, or physician assistant is not present to perform the administration of the medication.

Pursuant to a written order issued by the prescriber within the course of his professional practice, such prescriber may authorize an employee of a provider licensed by the Department of Behavioral Health and Developmental Services or a person providing services pursuant to a contract with a provider licensed by the Department of Behavioral Health and Developmental Services to assist with the administration of insulin or to administer glucagon to a person diagnosed as having diabetes and who requires insulin injections or for whom glucagon has been prescribed for the emergency treatment of hypoglycemia, provided such employee or person providing services has been trained in the administration of insulin and glucagon.

I. A prescriber may authorize, pursuant to a protocol approved by the Board of Nursing, the administration of vaccines to adults for immunization, when a practitioner with prescriptive authority is not physically present, by (i) licensed pharmacists, (ii) registered nurses, or (iii) licensed practical nurses under the immediate and direct supervision of a registered nurse. A prescriber acting on behalf of and in accordance with established protocols of the Department of Health may authorize the administration of vaccines to any person by a pharmacist, nurse, or designated emergency medical services provider who holds an advanced life support certificate issued by the Commissioner of Health under the direction of an operational medical director when the prescriber is not physically present. The emergency medical services provider shall provide documentation of the vaccines to be recorded in the Virginia Immunization Information System.

J. A dentist may cause Schedule VI topical drugs to be administered under his direction and supervision by either a dental hygienist or by an authorized agent of the dentist.

Further, pursuant to a written order and in accordance with a standing protocol issued by the dentist in the course of his professional practice, a dentist may authorize a dental hygienist under his general supervision, as defined in § 54.1-2722, to possess and administer topical oral fluorides, topical oral anesthetics, topical and directly applied antimicrobial agents for treatment of periodontal pocket lesions, as well as any other Schedule VI topical drug approved by the Board of Dentistry.

In addition, a dentist may authorize a dental hygienist under his direction to administer Schedule VI nitrous oxide and oxygen inhalation analgesia and, to persons 18 years of age or older, Schedule VI local anesthesia.

K. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize registered professional nurses certified as sexual assault nurse examiners-A (SANE-A) under his supervision and when he is not physically present to possess and administer preventive medications for victims of sexual assault as recommended by the Centers for Disease Control and Prevention.

L. This section shall not prevent the administration of drugs by a person who has satisfactorily completed a training program for this purpose approved by the Board of Nursing and who administers such drugs in accordance with a prescriber's instructions pertaining to dosage, frequency, and manner of administration, and in accordance with regulations promulgated by the Board of Pharmacy relating to security and record keeping, when the drugs administered would be normally self-administered by (i) an individual receiving services in a program licensed by the Department of Behavioral Health and Developmental Services; (ii) a resident of the Virginia Rehabilitation Center for the Blind and Vision Impaired; (iii) a resident of a facility approved by the Board or Department of Juvenile Justice for the placement of children in need of services or delinquent or alleged delinquent youth; (iv) a program participant of an adult day-care center licensed by the Department of Social Services; (v) a resident of any facility authorized or operated by a state or local government whose primary purpose is not to provide health care services; (vi) a resident of a private children's residential facility, as defined in § 63.2-100 and licensed by the Department of Social Services, Department of Education, or Department of Behavioral Health and Developmental Services; or (vii) a student in a school for students with disabilities, as defined in § 22.1-319 and licensed by the Board of Education.

In addition, this section shall not prevent a person who has successfully completed a training program for the administration of drugs via percutaneous gastrostomy tube approved by the Board of Nursing and been evaluated by a registered nurse as having demonstrated competency in administration of drugs via percutaneous gastrostomy tube from

administering drugs to a person receiving services from a program licensed by the Department of Behavioral Health and Developmental Services to such person via percutaneous gastrostomy tube. The continued competency of a person to administer drugs via percutaneous gastrostomy tube shall be evaluated semiannually by a registered nurse.

M. Medication aides registered by the Board of Nursing pursuant to Article 7 (§ 54.1-3041 et seq.) of Chapter 30 may administer drugs that would otherwise be self-administered to residents of any assisted living facility licensed by the Department of Social Services. A registered medication aide shall administer drugs pursuant to this section in accordance with the prescriber's instructions pertaining to dosage, frequency, and manner of administration; in accordance with regulations promulgated by the Board of Pharmacy relating to security and recordkeeping; in accordance with the assisted living facility's Medication Management Plan; and in accordance with such other regulations governing their practice promulgated by the Board of Nursing.

N. In addition, this section shall not prevent the administration of drugs by a person who administers such drugs in accordance with a physician's instructions pertaining to dosage, frequency, and manner of administration and with written authorization of a parent, and in accordance with school board regulations relating to training, security and record keeping, when the drugs administered would be normally self-administered by a student of a Virginia public school. Training for such persons shall be accomplished through a program approved by the local school boards, in consultation with the local departments of health.

O. In addition, this section shall not prevent the administration of drugs by a person to (i) a child in a child day program as defined in § 63.2-100 and regulated by the State Board of Social Services or a local government pursuant to § 15.2-914, or (ii) a student of a private school that is accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education, provided such person (a) has satisfactorily completed a training program for this purpose approved by the Board of Nursing and taught by a registered nurse, licensed practical nurse, nurse practitioner, physician assistant, doctor of medicine or osteopathic medicine, or pharmacist; (b) has obtained written authorization from a parent or guardian; (c) administers drugs only to the child identified on the prescription label in accordance with the prescriber's instructions pertaining to dosage, frequency, and manner of administration; and (d) administers only those drugs that were dispensed from a pharmacy and maintained in the original, labeled container that would normally be self-administered by the child or student, or administered by a parent or guardian to the child or student.

P. In addition, this section shall not prevent the administration or dispensing of drugs and devices by persons if they are authorized by the State Health Commissioner in accordance with protocols established by the State Health Commissioner pursuant to § 32.1-42.1 when (i) the Governor has declared a disaster or a state of emergency or the United States Secretary of Health and Human Services has issued a declaration of an actual or potential bioterrorism incident or other actual or potential public health emergency; (ii) it is necessary to permit the provision of needed drugs or devices; and (iii) such persons have received the training necessary to safely administer or dispense the needed drugs or devices. Such persons shall administer or dispense all drugs or devices under the direction, control, and supervision of the State Health Commissioner.

Q. Nothing in this title shall prohibit the administration of normally self-administered drugs by unlicensed individuals to a person in his private residence.

R. This section shall not interfere with any prescriber issuing prescriptions in compliance with his authority and scope of practice and the provisions of this section to a Board agent for use pursuant to subsection G of § 18.2-258.1. Such prescriptions issued by such prescriber shall be deemed to be valid prescriptions.

S. Nothing in this title shall prevent or interfere with dialysis care technicians or dialysis patient care technicians who are certified by an organization approved by the Board of Health Professions or persons authorized for provisional practice pursuant to Chapter 27.01 (§ 54.1-2729.1 et seq.), in the ordinary course of their duties in a Medicare-certified renal dialysis facility, from administering heparin, topical needle site anesthetics, dialysis solutions, sterile normal saline solution, and blood volumizers, for the purpose of facilitating renal dialysis treatment, when such administration of medications occurs under the orders of a licensed physician, nurse practitioner, or physician assistant and under the immediate and direct supervision of a licensed registered nurse. Nothing in this chapter shall be construed to prohibit a patient care dialysis technician trainee from performing dialysis care as part of and within the scope of the clinical skills instruction segment of a supervised dialysis technician training program, provided such trainee is identified as a "trainee" while working in a renal dialysis facility.

The dialysis care technician or dialysis patient care technician administering the medications shall have demonstrated competency as evidenced by holding current valid certification from an organization approved by the Board of Health Professions pursuant to Chapter 27.01 (§ 54.1-2729.1 et seq.).

T. Persons who are otherwise authorized to administer controlled substances in hospitals shall be authorized to administer influenza or pneumococcal vaccines pursuant to § 32.1-126.4.

U. Pursuant to a specific order for a patient and under his direct and immediate supervision, a prescriber may authorize the administration of controlled substances by personnel who have been properly trained to assist a doctor of medicine or osteopathic medicine, provided the method does not include intravenous, intrathecal, or epidural administration and the prescriber remains responsible for such administration.

V. A physician assistant, nurse or a dental hygienist may possess and administer topical fluoride varnish to the teeth of children aged six months to three years pursuant to an oral or written order or a standing protocol issued by a doctor of medicine, osteopathic medicine, or dentistry that conforms to standards adopted by the Department of Health.

W. A prescriber, acting in accordance with guidelines developed pursuant to § 32.1-46.02, may authorize the administration of influenza vaccine to minors by a licensed pharmacist, registered nurse, licensed practical nurse under the direction and immediate supervision of a registered nurse, or emergency medical services provider who holds an advanced life support certificate issued by the Commissioner of Health when the prescriber is not physically present.

X. Notwithstanding the provisions of § 54.1-3303, pursuant to an oral, written, or standing order issued by a prescriber, and in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health, a pharmacist may dispense naloxone or other opioid antagonist used for overdose reversal and a person may possess and administer naloxone or other opioid antagonist used for overdose reversal to a person who is believed to be experiencing or about to experience a life-threatening opiate overdose. Law-enforcement officers as defined in § 9.1-101, *employees of the Department of Forensic Science, employees of the Office of the Chief Medical Examiner, employees of the Department of General Services Division of Consolidated Laboratory Services*, and firefighters who have completed a training program may also possess and administer naloxone in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health.

**2. That an emergency exists and this act is in force from its passage.**

### CHAPTER 108

*An Act to amend and reenact § 58.1-439.12:03 of the Code of Virginia, relating to motion picture production tax credit.*

[H 1665]

Approved February 21, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 58.1-439.12:03 of the Code of Virginia is amended and reenacted as follows:**

**§ 58.1-439.12:03. Motion picture production tax credit.**

A. For taxable years beginning on and after January 1, 2011, but prior to January 1, ~~2019~~ 2022, any motion picture production company with qualifying expenses of at least \$250,000 with respect to a motion picture production filmed in Virginia shall be allowed a refundable credit against the taxes imposed by § 58.1-320 or 58.1-400 in an amount equal to 15 percent of the production company's qualifying expenses or 20 percent of such expenses if the production is filmed in an economically distressed area of the Commonwealth. The Virginia Economic Development Partnership Authority shall designate which areas of the Commonwealth are deemed to be economically distressed areas. The credit shall be computed based on all of the taxpayer's qualifying expenses incurred with respect to the production, not just the qualifying expenses incurred during the taxable year. The refundable tax credits allowed under this section are for one tax year only. Where a motion picture production continues for more than one year, a separate application for each tax year the production continues must be made. The grant of a refundable tax credit for a motion picture film production does not create a presumption that the production will receive a refundable tax credit for subsequent tax years. Effective on January 1, 2013, for purposes of eligibility for refundable tax credits, a motion picture film production shall include digital interactive media production.

"Qualifying expenses" means the sum of the following amounts spent in the Commonwealth by a production company in connection with the production of a motion picture filmed in the Commonwealth:

1. Goods and services leased or purchased. For goods with a purchase price of \$25,000 or more, the amount included in qualifying expenses is the purchase price less the fair market value of the good at the time the production is completed.

2. Compensation and wages, except in the case of each individual who directly or indirectly receives compensation in excess of \$1 million for personal services with respect to a single production. In such a case, only the first \$1 million of salary shall be considered a qualifying expense. An individual is deemed to receive compensation indirectly when a production company pays a personal service company or an employee leasing company that pays the individual.

B. 1. In addition to the refundable credit authorized under subsection A, such production company shall be allowed an additional refundable credit equal to 10 percent of the total aggregate payroll for Virginia residents employed in connection with the production of a film in the Commonwealth when total production costs in the Commonwealth are at least \$250,000 but not more than \$1 million. This additional credit shall be equal to 20 percent of the total aggregate payroll for Virginia residents employed in connection with such production when total production costs in the Commonwealth exceed \$1 million.

2. In addition to the credits authorized under subsection A and subdivision B 1, such production company shall be allowed an additional refundable credit equal to 10 percent of the total aggregate payroll for Virginia residents employed for the first time as actors or members of a production crew in connection with the production of a film in the Commonwealth.

C. 1. For purposes of this section, in the case of an episodic television series, an entire season of episodes shall be deemed to be one production.

2. No credit shall be allowed under this section for any production that (i) is political advertising, (ii) is a television production of a news program or live sporting event, (iii) contains obscene material, or (iv) is a reality television production.

D. 1. The issuance of refundable tax credits under this section shall be in accordance with procedures, qualifying criteria, and deadlines established by the Department and the Virginia Film Office. The qualifying criteria established by the Virginia Film Office shall take into account whether the production involves physical production within the Commonwealth

of Virginia, the number of residents of Virginia that will be employed in the production and the level of compensation they will be paid, the extent to which the production will contribute to the support and expansion of existing production companies in Virginia, the extent to which the production will impact existing local businesses and the local economy, the extent to which the production will involve existing and new companies located in Virginia, and other relevant considerations. The taxpayer shall apply for a credit by submitting such forms as prescribed by the Virginia Film Office, prior to the start of production in Virginia.

2. Any taxpayer seeking credits under this section must enter into a memorandum of understanding with the Virginia Film Office that at a minimum provides the requirements that the taxpayer must meet in order to receive the credits, including but not limited to the estimated amount of money to be spent in Virginia, the timeline for completing production in Virginia, and the maximum amount of credits allocated to the taxpayer.

3. Once the taxpayer has satisfied all of the requirements in the memorandum of understanding to the satisfaction of the Virginia Film Office and completed production in Virginia, the taxpayer may claim the applicable amount of credits up to the amount that has been allocated by the Virginia Film Office on a return filed for the taxable year in which the Virginia production activities are completed. The return must state the name of the production, provide a description of the production, and include a detailed accounting of the qualifying expenses with respect to which a credit is claimed.

E. A taxpayer allowed a credit under this section must maintain and make available for inspection any information or records required by the Tax Commissioner. The taxpayer has the burden of proving eligibility for a credit and the amount of the credit. The Tax Commissioner shall consult with the Virginia Film Office in order to determine the amount of qualifying expenses.

F. For purposes of this section, the amount of any credit attributable to a partnership, electing small business corporation (S corporation), or limited liability company may be allocated to the individual partners, shareholders, or members, respectively, in proportion to their ownership or interest in such business entities.

G. The total amount of credits allocated to all taxpayers under this section shall not exceed \$2.5 million in the 2010-2012 biennium, \$5 million in the 2012-2014 biennium, and \$6.5 million in fiscal year 2015 and each fiscal year thereafter.

H. The Department of Taxation, in consultation with the Virginia Film Office, must publish by November 1 of each year for the 12-month period ending the preceding December 31 the following information:

1. Location of sites used in a production for which a credit was claimed;
2. Qualifying expenses for which a credit was claimed, classified by whether the expenses were for goods, services, or compensation paid by the production company;
3. Number of people employed in the Commonwealth with respect to credits claimed; and
4. Total cost to the Commonwealth's general fund of the credits claimed.

Notwithstanding any provision of § 58.1-3 or any other law, such information shall be published by the Department, even if such information is not classified, so as to prevent the identification of particular taxpayers, reports, or returns and items.

I. The Tax Commissioner shall develop guidelines implementing the provisions of this section, including but not limited to the definition of "qualifying expenses" and setting forth the recordkeeping requirements applicable to production companies claiming this credit. Such guidelines shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

**CHAPTER 109**

*An Act to amend and reenact §§ 32.1-355, 32.1-356, 32.1-359, and 32.1-360 of the Code of Virginia, relating to Virginia Foundation for Healthy Youth; purpose.*

[H 1751]

Approved February 21, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 32.1-355, 32.1-356, 32.1-359, and 32.1-360 of the Code of Virginia are amended and reenacted as follows: § 32.1-355. Virginia Foundation for Healthy Youth created; purposes.**

A. The Virginia Foundation for Healthy Youth (VFHY) is hereby created as a body corporate and a political subdivision of the Commonwealth and as such shall have, and is hereby vested with, all of the politic and corporate powers as are set forth in this chapter. The Foundation is established for the purposes of determining the appropriate recipients of moneys in the Virginia Tobacco Settlement Fund and causing distribution of such moneys for the purposes provided in this chapter.

B. The Foundation shall ~~have a division known as the~~ *include the following divisions:*

1. *The Virginia Tobacco Settlement Foundation (VTSF) division, to assist in financing efforts to restrict the use of tobacco products by minors through such means as educational and awareness programs on the health effects of tobacco use on minors and enforcement of laws restricting the distribution of tobacco products to minors. Additionally, a division of the Foundation known as;*

2. *The Virginia Youth Obesity Prevention (VYOP) division, which may use moneys from the Fund to assist in financing efforts to reduce childhood obesity through such means as educational and awareness programs, implementing evidence-based practices, and assisting schools and communities with policies and programs; and*

3. *The Virginia Youth Substance Use Prevention (VYSUP) division, which may use moneys from the Fund to assist in financing efforts to prevent and reduce substance use by youth in the Commonwealth through such means as educational and awareness programs, implementing evidence-based practices, and assisting schools and communities with policies and programs.*

C. The Foundation shall have only those powers enumerated in § 32.1-356.

**§ 32.1-356. Powers of the Foundation.**

The Foundation is hereby granted all powers necessary or appropriate to carry out and effectuate its corporate purposes, including, without limitation, the following:

1. To have official seals and to alter the same at pleasure;
2. To maintain an office at such place or places within this Commonwealth as it may designate;
3. To accept, hold, and administer moneys, grants, securities, or other property transferred, given, or bequeathed to the Foundation, absolutely or in trust, for the purposes for which the Foundation is created;
4. To determine how moneys in the Fund are to be distributed and to authorize distribution of moneys in the Fund to entities whose goal is to discourage, eliminate or prevent the use of tobacco products by minors ~~and to~~, reduce childhood obesity in the Commonwealth, *or prevent and reduce substance use by youth in the Commonwealth*, on such terms and in such amounts as determined by the Board;
5. To deposit moneys from the Fund to the Endowment as determined by the Board;
6. To make and execute contracts and all other instruments and agreements necessary or convenient for the exercise of its powers and functions;
7. To appoint and prescribe the duties of such officers, agents, employees, advisors, and consultants as may be necessary to carry out its functions, and to fix and pay such compensation to them for their services as the Foundation may determine;
8. To adopt and from time to time amend and repeal bylaws, not inconsistent with this chapter, to carry into effect the powers and purposes of the Foundation;
9. To receive and accept aid, grants, contributions and cooperation of any kind from any source for the purposes of this chapter subject to such conditions, acceptable to the Foundation, upon which such aid, grants, contributions and cooperation may be made;
10. To do any lawful act necessary or appropriate to carry out the powers herein granted or reasonably implied, including use of whatever lawful means may be necessary and appropriate to recover any payments wrongfully made from the Fund.

**§ 32.1-359. Duties of the Board.**

The Board shall perform the following duties:

1. Establish specific criteria and procedures governing decisions by the Foundation to cause the moneys obtained from the Master Settlement Agreement in the Fund to be primarily distributed to entities for use in the discouragement, elimination or prevention of the use of tobacco products by minors. Additionally, the Foundation may distribute moneys in the Fund obtained primarily from public grants and private funding sources to reduce childhood obesity *and to prevent and reduce substance use by youth in the Commonwealth*;
2. Establish requirements that every recipient of money distributed from the Fund establish and maintain policies that restrict the use of tobacco products by minors, as provided in § 32.1-361;
3. Evaluate the proposals for the use of the assets of the Fund in accordance with the criteria established by the Board and the provisions of this chapter;
4. Evaluate the implementation and results of all efforts receiving support from the Foundation; and
5. Determine amounts to be deposited from time to time from the Fund to the Endowment.

**§ 32.1-360. Virginia Tobacco Settlement Fund.**

There is hereby created in the state treasury a special nonreverting fund to be known as the Virginia Tobacco Settlement Fund. The Fund shall be established on the books of the Comptroller. Subject to the sale of all or any portion of the Foundation Allocation, 10 percent of the annual amount received by the Commonwealth from the Master Settlement Agreement shall be paid into the state treasury and credited to the Fund. In the event of such sale (i) the Foundation Allocation shall be paid in accordance with the agreement for the period of sale and (ii) the fund shall receive amounts withdrawn from the Endowment in accordance with § 32.1-361.1. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes described in this chapter. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written authorization signed by the chairman of the Board or his designee. Moneys in the Fund shall be used for the purposes of (a) discouraging, eliminating or preventing the use of tobacco products by minors, including but not limited to educational and awareness programs on the health effects of tobacco use on minors and laws restricting the distribution of tobacco products to minors. ~~Moneys may also be used for the purpose of;~~ (b) reducing childhood obesity, including but not limited to educational and awareness programs, implementing evidence-based

practices, and assisting schools and communities with related policies and programs; and (c) preventing and reducing substance use by youth in the Commonwealth, including but not limited to, educational and awareness programs, implementing evidence-based practices, and assisting schools and communities with related policies and programs.

### CHAPTER 110

*An Act to amend and reenact §§ 54.1-3303 and 54.1-3423 of the Code of Virginia, relating to practice of telemedicine; prescribing.*

[H 1767]

Approved February 21, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 54.1-3303 and 54.1-3423 of the Code of Virginia are amended and reenacted as follows:**

**§ 54.1-3303. Prescriptions to be issued and drugs to be dispensed for medical or therapeutic purposes only.**

A. A prescription for a controlled substance may be issued only by a practitioner of medicine, osteopathy, podiatry, dentistry or veterinary medicine who is authorized to prescribe controlled substances, or by a licensed nurse practitioner pursuant to § 54.1-2957.01, a licensed physician assistant pursuant to § 54.1-2952.1, or a TPA-certified optometrist pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32. The prescription shall be issued for a medicinal or therapeutic purpose and may be issued only to persons or animals with whom the practitioner has a bona fide practitioner-patient relationship.

For purposes of this section, a bona fide practitioner-patient-pharmacist relationship is one in which a practitioner prescribes, and a pharmacist dispenses, controlled substances in good faith to his patient for a medicinal or therapeutic purpose within the course of his professional practice. In addition, a bona fide practitioner-patient relationship means that the practitioner shall (i) ensure that a medical or drug history is obtained; (ii) provide information to the patient about the benefits and risks of the drug being prescribed; (iii) perform or have performed an appropriate examination of the patient, either physically or by the use of instrumentation and diagnostic equipment through which images and medical records may be transmitted electronically; except for medical emergencies, the examination of the patient shall have been performed by the practitioner himself, within the group in which he practices, or by a consulting practitioner prior to issuing a prescription; and (iv) initiate additional interventions and follow-up care, if necessary, especially if a prescribed drug may have serious side effects. *A practitioner who performs or has performed an appropriate examination of the patient required pursuant to clause (iii), either physically or by the use of instrumentation and diagnostic equipment through which images and medical records may be transmitted electronically, for the purpose of establishing a bona fide practitioner-patient relationship, may prescribe Schedule II through VI controlled substances to the patient, provided that the prescribing of such Schedule II through V controlled substance is in compliance with federal requirements for the practice of telemedicine.*

For the purpose of prescribing a Schedule VI controlled substance to a patient via telemedicine services as defined in § 38.2-3418.16, a prescriber may establish a bona fide practitioner-patient relationship by an examination through face-to-face interactive, two-way, real-time communications services or store-and-forward technologies when all of the following conditions are met: (a) the patient has provided a medical history that is available for review by the prescriber; (b) the prescriber obtains an updated medical history at the time of prescribing; (c) the prescriber makes a diagnosis at the time of prescribing; (d) the prescriber conforms to the standard of care expected of in-person care as appropriate to the patient's age and presenting condition, including when the standard of care requires the use of diagnostic testing and performance of a physical examination, which may be carried out through the use of peripheral devices appropriate to the patient's condition; (e) the prescriber is actively licensed in the Commonwealth and authorized to prescribe; (f) if the patient is a member or enrollee of a health plan or carrier, the prescriber has been credentialed by the health plan or carrier as a participating provider and the diagnosing and prescribing meets the qualifications for reimbursement by the health plan or carrier pursuant to § 38.2-3418.16; and (g) upon request, the prescriber provides patient records in a timely manner in accordance with the provisions of § 32.1-127.1:03 and all other state and federal laws and regulations. Nothing in this paragraph shall permit a prescriber to establish a bona fide practitioner-patient relationship for the purpose of prescribing a Schedule VI controlled substance when the standard of care dictates that an in-person physical examination is necessary for diagnosis. Nothing in this paragraph shall apply to: (1) a prescriber providing on-call coverage per an agreement with another prescriber or his prescriber's professional entity or employer; (2) a prescriber consulting with another prescriber regarding a patient's care; or (3) orders of prescribers for hospital out-patients or in-patients.

Any practitioner who prescribes any controlled substance with the knowledge that the controlled substance will be used otherwise than medically or for therapeutic purposes shall be subject to the criminal penalties provided in § 18.2-248 for violations of the provisions of law relating to the distribution or possession of controlled substances.

B. In order to determine whether a prescription that appears questionable to the pharmacist results from a bona fide practitioner-patient relationship, the pharmacist shall contact the prescribing practitioner or his agent and verify the identity of the patient and name and quantity of the drug prescribed. The person knowingly filling an invalid prescription shall be subject to the criminal penalties provided in § 18.2-248 for violations of the provisions of law relating to the sale, distribution or possession of controlled substances.

No prescription shall be filled unless there is a bona fide practitioner-patient-pharmacist relationship. A prescription not issued in the usual course of treatment or for authorized research is not a valid prescription.

C. Notwithstanding any provision of law to the contrary and consistent with recommendations of the Centers for Disease Control and Prevention or the Department of Health, a practitioner may prescribe Schedule VI antibiotics and antiviral agents to other persons in close contact with a diagnosed patient when (i) the practitioner meets all requirements of a bona fide practitioner-patient relationship, as defined in subsection A, with the diagnosed patient; (ii) in the practitioner's professional judgment, the practitioner deems there is urgency to begin treatment to prevent the transmission of a communicable disease; (iii) the practitioner has met all requirements of a bona fide practitioner-patient relationship, as defined in subsection A, for the close contact except for the physical examination required in clause (iii) of subsection A; and (iv) when such emergency treatment is necessary to prevent imminent risk of death, life-threatening illness, or serious disability.

D. A pharmacist may dispense a controlled substance pursuant to a prescription of an out-of-state practitioner of medicine, osteopathy, podiatry, dentistry, *optometry*, or veterinary medicine, a *nurse practitioner*, or a *physician assistant* authorized to issue such prescription if the prescription complies with the requirements of this chapter and the Drug Control Act (§ 54.1-3400 et seq.).

E. A licensed nurse practitioner who is authorized to prescribe controlled substances pursuant to § 54.1-2957.01 may issue prescriptions or provide manufacturers' professional samples for controlled substances and devices as set forth in the Drug Control Act (§ 54.1-3400 et seq.) in good faith to his patient for a medicinal or therapeutic purpose within the scope of his professional practice.

F. A licensed physician assistant who is authorized to prescribe controlled substances pursuant to § 54.1-2952.1 may issue prescriptions or provide manufacturers' professional samples for controlled substances and devices as set forth in the Drug Control Act (§ 54.1-3400 et seq.) in good faith to his patient for a medicinal or therapeutic purpose within the scope of his professional practice.

G. A TPA-certified optometrist who is authorized to prescribe controlled substances pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32 may issue prescriptions in good faith or provide manufacturers' professional samples to his patients for medicinal or therapeutic purposes within the scope of his professional practice for the drugs specified on the TPA-Formulary, established pursuant to § 54.1-3223, which shall be limited to (i) analgesics included on Schedule II controlled substances as defined in § 54.1-3448 of the Drug Control Act (§ 54.1-3400 et seq.) consisting of hydrocodone in combination with acetaminophen; (ii) oral analgesics included in Schedules III through VI, as defined in §§ 54.1-3450 and 54.1-3455 of the Drug Control Act (§ 54.1-3400 et seq.), which are appropriate to relieve ocular pain; (iii) other oral Schedule VI controlled substances, as defined in § 54.1-3455 of the Drug Control Act, appropriate to treat diseases and abnormal conditions of the human eye and its adnexa; (iv) topically applied Schedule VI drugs, as defined in § 54.1-3455 of the Drug Control Act; and (v) intramuscular administration of epinephrine for treatment of emergency cases of anaphylactic shock.

H. The requirement for a bona fide practitioner-patient relationship shall be deemed to be satisfied by a member or committee of a hospital's medical staff when approving a standing order or protocol for the administration of influenza vaccinations and pneumococcal vaccinations in a hospital in compliance with § 32.1-126.4.

**§ 54.1-3423. Board to issue registration unless inconsistent with public interest; authorization to conduct research; application and fees.**

A. The Board shall register an applicant to manufacture or distribute controlled substances included in Schedules I through V unless it determines that the issuance of that registration would be inconsistent with the public interest. In determining the public interest, the Board shall consider the following factors:

1. Maintenance of effective controls against diversion of controlled substances into other than legitimate medical, scientific, or industrial channels;
2. Compliance with applicable state and local law;
3. Any convictions of the applicant under any federal and state laws relating to any controlled substance;
4. Past experience in the manufacture or distribution of controlled substances, and the existence in the applicant's establishment of effective controls against diversion;
5. Furnishing by the applicant of false or fraudulent material in any application filed under this chapter;
6. Suspension or revocation of the applicant's federal registration to manufacture, distribute, or dispense controlled substances as authorized by federal law; and
7. Any other factors relevant to and consistent with the public health and safety.

B. Registration under subsection A does not entitle a registrant to manufacture and distribute controlled substances in Schedule I or II other than those specified in the registration.

C. Practitioners must be registered to conduct research with controlled substances in Schedules II through VI. Practitioners registered under federal law to conduct research with Schedule I substances may conduct research with Schedule I substances within this Commonwealth upon furnishing the evidence of that federal registration.

D. The Board may register other persons or entities to possess controlled substances listed on Schedules II through VI upon a determination that (i) there is a documented need, (ii) the issuance of the registration is consistent with the public interest, (iii) the possession and subsequent use of the controlled substances complies with applicable state and federal laws and regulations, and (iv) the subsequent storage, use, and recordkeeping of the controlled substances will be under the

general supervision of a licensed pharmacist, practitioner of medicine, osteopathy, podiatry, dentistry, optometry, or veterinary medicine as specified in the Board's regulations. The Board shall consider, at a minimum, the factors listed in subsection A of this section in determining whether the registration shall be issued. Notwithstanding the exceptions listed in § 54.1-3422 A, the Board may mandate a controlled substances registration for sites maintaining certain types and quantities of Schedules II through VI controlled substances as it may specify in its regulations. The Board shall promulgate regulations related to requirements or criteria for the issuance of such controlled substances registration, storage, security, supervision, and recordkeeping.

E. The Board may register a public or private animal shelter as defined in § 3.2-6500 to purchase, possess, and administer certain Schedule II-VI controlled substances approved by the State Veterinarian for the purpose of euthanizing injured, sick, homeless, and unwanted domestic pets and animals; and to purchase, possess, and administer certain Schedule VI controlled substances for the purpose of preventing, controlling, and treating certain communicable diseases that failure to control would result in transmission to the animal population in the shelter. The drugs used for euthanasia shall be administered only in accordance with protocols established by the State Veterinarian and only by persons trained in accordance with instructions by the State Veterinarian. The list of Schedule VI drugs used for treatment and prevention of communicable diseases within the shelter shall be determined by the supervising veterinarian of the shelter and the drugs shall be administered only pursuant to written protocols established or approved by the supervising veterinarian of the shelter and only by persons who have been trained in accordance with instructions established or approved by the supervising veterinarian. The shelter shall maintain a copy of the approved list of drugs, written protocols for administering, and training records of those persons administering drugs on the premises of the shelter.

F. The Board may register a crisis stabilization unit established pursuant to § 37.2-500 or 37.2-601 and licensed by the Department of Behavioral Health and Developmental Services to maintain a stock of Schedule VI controlled substances necessary for immediate treatment of patients admitted to the crisis stabilization unit, which may be accessed and administered by a nurse pursuant to a written or oral order of a prescriber in the absence of a prescriber. Schedule II through Schedule V controlled substances shall only be maintained if so authorized by federal law and Board regulations.

G. *The Board may register an entity at which a patient is treated by the use of instrumentation and diagnostic equipment through which images and medical records may be transmitted electronically for the purpose of establishing a bona fide practitioner-patient relationship and is prescribed Schedule II through VI controlled substances when such prescribing is in compliance with federal requirements for the practice of telemedicine and the patient is not in the physical presence of a practitioner registered with the U.S. Drug Enforcement Administration. In determining whether the registration shall be issued, the Board shall consider (i) the factors listed in subsection A, (ii) whether there is a documented need for such registration, and (iii) whether the issuance of the registration is consistent with the public interest.*

H. Applications for controlled substances registration certificates and renewals thereof shall be made on a form prescribed by the Board and such applications shall be accompanied by a fee in an amount to be determined by the Board.

H. I. Upon (i) any change in ownership or control of a business, (ii) any change of location of the controlled substances stock, (iii) the termination of authority by or of the person named as the responsible party on a controlled substances registration, or (iv) a change in the supervising practitioner, if applicable, the registrant or responsible party shall immediately surrender the registration. The registrant shall, within 14 days following surrender of a registration, file a new application and, if applicable, name the new responsible party or supervising practitioner.

**2. That an emergency exists and this act is in force from its passage.**

**3. That the Board of Pharmacy shall promulgate regulations to implement the provisions of this act to be effective within 280 days of its enactment.**

## CHAPTER 111

*An Act to amend and reenact §§ 58.1-3700.1 and 58.1-3703 of the Code of Virginia, relating to local license taxes; exemption for certain defense production businesses.*

[H 1889]

Approved February 21, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 58.1-3700.1 and 58.1-3703 of the Code of Virginia are amended and reenacted as follows:**

**§ 58.1-3700.1. Definitions.**

For the purposes of this chapter and any local ordinances adopted pursuant to this chapter, unless otherwise required by the context:

"Affiliated group" means:

1. One or more chains of corporations subject to inclusion connected through stock ownership with a common parent corporation which is a corporation subject to inclusion if:

a. Stock possessing at least eighty percent of the voting power of all classes of stock and at least eighty percent of each class of the nonvoting stock of each of the corporations subject to inclusion, except the common parent corporation, is owned directly by one or more of the other corporations subject to inclusion; and

b. The common parent corporation directly owns stock possessing at least eighty percent of the voting power of all classes of stock and at least eighty percent of each class of the nonvoting stock of at least one of the other subject to inclusion corporations. As used in this subdivision, the term "stock" does not include nonvoting stock which is limited and preferred as to dividends; the phrase "corporation subject to inclusion" means any corporation within the affiliated group irrespective of the state or country of its incorporation; and the term "receipts" includes gross receipts and gross income.

2. Two or more corporations if five or fewer persons who are individuals, estates or trusts own stock possessing:

a. At least eighty percent of the total combined voting power of all classes of stock entitled to vote or at least eighty percent of the total value of shares of all classes of the stock of each corporation; and

b. More than fifty percent of the total combined voting power of all classes of stock entitled to vote or more than fifty percent of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each such person only to the extent such stock ownership is identical with respect to each such corporation.

When one or more of the corporations subject to inclusion, including the common parent corporation, is a nonstock corporation, the term "stock" as used in this subdivision shall refer to the nonstock corporation membership or membership voting rights, as is appropriate to the context.

3. Two or more entities if such entities satisfy the requirements in subdivision 1 or 2 of this definition as if they were corporations and the ownership interests therein were stock.

"Assessment" means a determination as to the proper rate of tax, the measure to which the tax rate is applied, and ultimately the amount of tax, including additional or omitted tax, that is due. An assessment shall include a written assessment made pursuant to notice by the assessing official or a self-assessment made by a taxpayer upon the filing of a return or otherwise not pursuant to notice. Assessments shall be deemed made by an assessing official when a written notice of assessment is delivered to the taxpayer by the assessing official or an employee of the assessing official, or mailed to the taxpayer at his last known address. Self-assessments shall be deemed made when a return is filed, or if no return is required, when the tax is paid. A return filed or tax paid before the last day prescribed by ordinance for the filing or payment thereof shall be deemed to be filed or paid on the last day specified for the filing of a return or the payment of tax, as the case may be.

"Base year" means the calendar year preceding the license year, except for contractors subject to the provisions of § 58.1-3715 or unless the local ordinance provides for a different period for measuring the gross receipts of a business, such as for beginning businesses or to allow an option to use the same fiscal year as for federal income tax purposes.

"Business" means a course of dealing which requires the time, attention and labor of the person so engaged for the purpose of earning a livelihood or profit. It implies a continuous and regular course of dealing, rather than an irregular or isolated transaction. A person may be engaged in more than one business. The following acts shall create a rebuttable presumption that a person is engaged in a business: (i) advertising or otherwise holding oneself out to the public as being engaged in a particular business or (ii) filing tax returns, schedules and documents that are required only of persons engaged in a trade or business.

*"Defense production business" means a business engaged in the design, development, or production of materials, components, or equipment required to meet the needs of national defense.*

"Definite place of business" means an office or a location at which occurs a regular and continuous course of dealing for thirty consecutive days or more. A definite place of business for a person engaged in business may include a location leased or otherwise obtained from another person on a temporary or seasonal basis and real property leased to another. A person's residence shall be deemed to be a definite place of business if there is no definite place of business maintained elsewhere and the person is not subject to licensure as a peddler or itinerant merchant.

"Entity" means a business organization, other than a sole proprietorship, that is a corporation, limited liability company, limited partnership, or limited liability partnership duly organized under the laws of the Commonwealth or another state.

"Financial services" means the buying, selling, handling, managing, investing, and providing of advice regarding money, credit, securities, or other investments.

"Fuel sale" or "fuel sales" shall mean retail sales of alternative fuel, blended fuel, diesel fuel, gasohol, or gasoline, as such terms are defined in § 58.1-2201.

"Gas retailer" means a person or entity engaged in business as a retailer offering to sell at retail on a daily basis alternative fuel, blended fuel, diesel fuel, gasohol, or gasoline, as such terms are defined in § 58.1-2201.

"Gross receipts" means the whole, entire, total receipts, without deduction.

"Independent registered representative" means an independent contractor registered with the United States Securities and Exchange Commission.

"License year" means the calendar year for which a license is issued for the privilege of engaging in business.

"Professional services" means services performed by architects, attorneys-at-law, certified public accountants, dentists, engineers, land surveyors, surgeons, veterinarians, and practitioners of the healing arts (the arts and sciences dealing with the prevention, diagnosis, treatment and cure or alleviation of human physical or mental ailments, conditions, diseases, pain or infirmities) and such occupations, and no others, as the Department of Taxation may list in the BPOL guidelines promulgated pursuant to § 58.1-3701. The Department shall identify and list each occupation or vocation in which a professed knowledge of some department of science or learning, gained by a prolonged course of specialized instruction and study, is used in its practical application to the affairs of others, either advising, guiding, or teaching them, and in serving

their interests or welfare in the practice of an art or science founded on it. The word "profession" implies attainments in professional knowledge as distinguished from mere skill, and the application of knowledge to uses for others rather than for personal profit.

"Purchases" means all goods, wares and merchandise received for sale at each definite place of business of a wholesale merchant. The term shall also include the cost of manufacture of all goods, wares and merchandise manufactured by any wholesale merchant and sold or offered for sale. A wholesale merchant may elect to report the gross receipts from the sale of manufactured goods, wares and merchandise if it cannot determine the cost of manufacture or chooses not to disclose the cost of manufacture.

"Real estate services" means providing a service with respect to the purchase, sale, lease, rental, or appraisal of real property.

"Security broker" means a "broker" as such term is defined under the Securities Exchange Act of 1934 (15 U.S.C. § 78a et seq.), or any successor law to the Securities Exchange Act of 1934, who is registered with the United States Securities and Exchange Commission.

"Security dealer" means a "dealer" as such term is defined under the Securities Exchange Act of 1934 (15 U.S.C. § 78a et seq.), or any successor law to the Securities Exchange Act of 1934, who is registered with the United States Securities and Exchange Commission.

**§ 58.1-3703. Counties, cities and towns may impose local license taxes and fees; limitation of authority.**

A. The governing body of any county, city or town may charge a fee for issuing a license in an amount not to exceed \$100 for any locality with a population greater than 50,000, \$50 for any locality with a population of 25,000 but no more than 50,000 and \$30 for any locality with a population smaller than 25,000. For purposes of this section, population may be based on the most current final population estimates of the Weldon Cooper Center for Public Service of the University of Virginia. Such governing body may levy and provide for the assessment and collection of county, city or town license taxes on businesses, trades, professions, occupations and callings and upon the persons, firms and corporations engaged therein within the county, city or town subject to the limitations in (i) subsection C and (ii) subsection A of § 58.1-3706, provided such tax shall not be assessed and collected on any amount of gross receipts of each business upon which a license fee is charged. Any county, city or town with a population greater than 50,000 shall reduce the fee to an amount not to exceed \$50 by January 1, 2000. The ordinance imposing such license fees and levying such license taxes shall include the provisions of § 58.1-3703.1.

B. Any county, city or town by ordinance may exempt in whole or in part from the license tax (i) the design, development or other creation of computer software for lease, sale or license and (ii) private businesses and industries entering into agreements for the establishment, installation, renovation, remodeling, or construction of satellite classrooms for grades kindergarten through three on a site owned by the business or industry and leased to the school board at no costs pursuant to § 22.1-26.1.

C. No county, city, or town shall impose a license fee or levy any license tax:

1. On any public service corporation or any motor carrier, common carrier, or other carrier of passengers or property formerly certified by the Interstate Commerce Commission or presently registered for insurance purposes with the Surface Transportation Board of the United States Department of Transportation, Federal Highway Administration, except as provided in § 58.1-3731 or as permitted by other provisions of law;

2. For selling farm or domestic products or nursery products, ornamental or otherwise, or for the planting of nursery products, as an incident to the sale thereof, outside of the regular market houses and sheds of such county, city or town, provided such products are grown or produced by the person offering them for sale;

3. Upon the privilege or right of printing or publishing any newspaper, magazine, newsletter or other publication issued daily or regularly at average intervals not exceeding three months, provided the publication's subscription sales are exempt from state sales tax, or for the privilege or right of operating or conducting any radio or television broadcasting station or service;

4. On a manufacturer for the privilege of manufacturing and selling goods, wares and merchandise at wholesale at the place of manufacture. *For purposes of this subdivision, this shall include a manufacturer that is also a defense production business selling manufacturing, rebuilding, repair, and maintenance services at the place of manufacture (i) to the United States or (ii) for which consent of the United States is required;*

5. On a person engaged in the business of severing minerals from the earth for the privilege of selling the severed mineral at wholesale at the place of severance, except as provided in §§ 58.1-3712 and 58.1-3713;

6. Upon a wholesaler for the privilege of selling goods, wares and merchandise to other persons for resale unless such wholesaler has a definite place of business or store in such county, city or town. This subdivision shall not be construed as prohibiting any county, city or town from imposing a local license tax on a peddler at wholesale pursuant to § 58.1-3718;

7. Upon any person, firm or corporation for engaging in the business of renting, as the owner of such property, real property other than hotels, motels, motor lodges, auto courts, tourist courts, travel trailer parks, campgrounds, bed and breakfast establishments, lodging houses, rooming houses, and boardinghouses; however, any county, city or town imposing such a license tax on January 1, 1974, shall not be precluded from the levy of such tax by the provisions of this subdivision;

8. [Repealed.]

9. On or measured by receipts for management, accounting, or administrative services provided on a group basis under a nonprofit cost-sharing agreement by a corporation which is an agricultural cooperative association under the provisions of

Article 2 (§ 13.1-312 et seq.) of Chapter 3 of Title 13.1, or a member or subsidiary or affiliated association thereof, to other members of the same group. This exemption shall not exempt any such corporation from such license or other tax measured by receipts from outside the group;

10. On or measured by receipts or purchases by an entity which is a member of an affiliated group of entities from other members of the same affiliated group. This exclusion shall not exempt affiliated entities from such license or other tax measured by receipts or purchases from outside the affiliated group. This exclusion also shall not preclude a locality from levying a wholesale merchant's license tax on an affiliated entity on those sales by the affiliated entity to a nonaffiliated entity, notwithstanding the fact that the wholesale merchant's license tax would be based upon purchases from an affiliated entity. Such tax shall be based on the purchase price of the goods sold to the nonaffiliated entity. As used in this subdivision, the term "sales by the affiliated entity to a nonaffiliated entity" means sales by the affiliated entity to a nonaffiliated entity where goods sold by the affiliated entity or its agent are manufactured or stored in the Commonwealth prior to their delivery to the nonaffiliated entity;

11. On any insurance company subject to taxation under Chapter 25 (§ 58.1-2500 et seq.) of this title or on any agent of such company;

12. On any bank or trust company subject to taxation in Chapter 12 (§ 58.1-1200 et seq.) of this title;

13. Upon a taxicab driver, if the locality has imposed a license tax upon the taxicab company for which the taxicab driver operates;

14. On any blind person operating a vending stand or other business enterprise under the jurisdiction of the Department for the Blind and Vision Impaired, or a nominee of the Department, as set forth in § 51.5-98;

15. [Expired.]

16. [Repealed.]

17. On an accredited religious practitioner in the practice of the religious tenets of any church or religious denomination. "Accredited religious practitioner" shall be defined as one who is engaged solely in praying for others upon accreditation by such church or religious denomination;

18. a. On or measured by receipts of a nonprofit organization described in Internal Revenue Code § 501(c)(3) or 501(c)(19) except to the extent the organization has receipts from an unrelated trade or business the income of which is taxable under Internal Revenue Code § 511 et seq. For the purpose of this subdivision, "nonprofit organization" means an organization that is described in Internal Revenue Code § 501(c)(3) or 501(c)(19), and to which contributions are deductible by the contributor under Internal Revenue Code § 170, except that educational institutions exempt from federal income tax under Internal Revenue Code § 501(c)(3) shall be limited to schools, colleges, and other similar institutions of learning.

b. On or measured by gifts, contributions, and membership dues of a nonprofit organization. Activities conducted for consideration that are similar to activities conducted for consideration by for-profit businesses shall be presumed to be activities that are part of a business subject to licensure. For the purpose of this subdivision, "nonprofit organization" means an organization exempt from federal income tax under Internal Revenue Code § 501 other than the nonprofit organizations described in subdivision a;

19. On any venture capital fund or other investment fund, except commissions and fees of such funds. Gross receipts from the sale and rental of real estate and buildings remain taxable by the locality in which the real estate is located provided the locality is otherwise authorized to tax such businesses and rental of real estate;

20. On total assessments paid by condominium unit owners for common expenses. "Common expenses" and "unit owner" have the same meanings as in § 55-79.41; or

21. On or measured by receipts of a qualifying transportation facility directly or indirectly owned or title to which is held by the Commonwealth or any political subdivision thereof or by the United States as described in § 58.1-3606.1 and developed and/or operated pursuant to a concession under the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) or similar federal law.

D. Any county, city or town may establish by ordinance a business license incentive program for "qualifying businesses." For purposes of this subsection, a "qualifying business" is a business that locates for the first time in the locality adopting such ordinance. A business shall not be deemed to locate in such locality for the first time based on merger, acquisition, similar business combination, name change, or a change in business form. Any incentive established pursuant to this subsection may extend for a period not to exceed two years from the date the business locates in such locality. The business license incentive program may include (i) an exemption, in whole or in part, of license taxes for any qualifying business; (ii) a refund or rebate, in whole or in part, of license taxes paid by a qualifying business; or (iii) other relief from license taxes for a qualifying business not prohibited by state or federal law.

E. For taxable years beginning on or after January 1, 2012, any locality may exempt, by ordinance, license fees or license taxes on any business that does not have an after-tax profit for the taxable year and offers the income tax return of the business as proof to the local commissioner of the revenue. Eligibility for this exemption shall be determined annually and it shall be the obligation of the business owner to submit the applicable income tax return to the local commissioner of the revenue.

## CHAPTER 112

*An Act to amend and reenact §§ 58.1-623, 58.1-1000, and 58.1-1017.3 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 58.1-623.2 and by adding in Article 1 of Chapter 10 of Title 58.1 a section numbered 58.1-1017.4, relating to the purchase of cigarettes for resale; penalties.*

[H 1913]

Approved February 21, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 58.1-623, 58.1-1000, and 58.1-1017.3 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 58.1-623.2 and by adding in Article 1 of Chapter 10 of Title 58.1 a section numbered 58.1-1017.4 as follows:**

**§ 58.1-623. Sales or leases presumed subject to tax; exemption certificates.**

A. All sales or leases are subject to the tax until the contrary is established. The burden of proving that a sale, distribution, lease, or storage of tangible personal property is not taxable is upon the dealer unless he takes from the taxpayer a certificate to the effect that the property is exempt under this chapter. *However, the sale or distribution of cigarettes shall be subject to the provisions of § 58.1-623.2 and require a cigarette exemption certificate issued pursuant to § 58.1-623.2.*

B. The certificate mentioned in this section shall relieve the person who takes such certificate from any liability for the payment or collection of the tax, except upon notice from the Tax Commissioner that such certificate is no longer acceptable. Such certificate shall be signed by and bear the name and address of the taxpayer; shall indicate the number of the certificate of registration, if any, issued to the taxpayer; shall indicate the general character of the tangible personal property sold, distributed, leased, or stored, or to be sold, distributed, leased, or stored under a blanket exemption certificate; and shall be substantially in such form as the Tax Commissioner may prescribe. If an exemption pertains to a nonprofit organization, other than a nonprofit church, that has qualified for a sales and use tax exemption under § 58.1-609.11, the exemption certificate shall be valid until the scheduled expiration date stated on the exemption certificate.

C. If a taxpayer who gives a certificate under this section makes any use of the property other than an exempt use or retention, demonstration, or display while holding the property for resale, distribution, or lease in the regular course of business, such use shall be deemed a taxable sale by the taxpayer as of the time the property or service is first used by him, and the cost of the property to him shall be deemed the sales price of such retail sale. If the sole use of the property other than retention, demonstration, or display in the regular course of business is the rental of the property while holding it for sale, distribution, or lease, the taxpayer may elect to pay the tax on the amount of the rental charged, rather than the cost of the property to him.

D. If a taxpayer gives a certificate under this section with respect to the purchase of fungible goods and thereafter commingles these goods with other fungible goods not so purchased, but of such similarity that the identity of the constituent goods in the commingled mass cannot be determined, sales or distributions from the mass of commingled goods shall be deemed to be sales or distributions of the goods so purchased until a quantity of commingled goods equal to the quantity of purchased goods so commingled has been sold or distributed.

E. If a taxpayer fails to give the dealer at the time of purchase an exemption certificate previously issued by the Department, no interest shall be paid on a subsequent refund claim for any period prior to the date the taxpayer makes a complete refund claim with the Department. This subsection shall not apply to transactions exempted under self-executing certificates of exemption not issued to a specific taxpayer by the Department.

**§ 58.1-623.2. Cigarette exemption certificate.**

A. *1. Notwithstanding any other provision of law, all sales of cigarettes, as defined in § 58.1-1031, bearing Virginia revenue stamps in the Commonwealth shall be subject to the tax until the contrary is established. The burden of proving that a sale is not taxable is upon the dealer unless he takes from the taxpayer a cigarette exemption certificate issued by the Department to the taxpayer to the effect that the cigarettes are exempt under this chapter for the purposes of resale in the Commonwealth.*

*2. The cigarette exemption certificate mentioned in this section shall relieve the person who takes such certificate from any liability for the payment or collection of the tax on the sale of cigarettes, except upon notice from the Tax Commissioner or the taxpayer that such certificate is no longer acceptable.*

*3. If a taxpayer who gives a cigarette exemption certificate under this section makes any use of the property other than an exempt use or retention, demonstration, or display while holding the property for resale or distribution in the regular course of business, such use shall be deemed a taxable sale by the taxpayer as of the time the property or service is first used by him, and the cost of the property to him shall be deemed the sales price of such retail sale.*

*B. 1. Prior to issuing a cigarette exemption certificate under this section, the Department shall conduct a background investigation on the taxpayer for the certificate. The Department shall not issue a cigarette exemption certificate until at least 30 days have passed from the receipt of the application, unless the taxpayer qualifies for the expedited process set forth in subdivision 3, or any other expedited process set forth in guidelines issued pursuant to subsection L. If the taxpayer does not qualify for the expedited process, the Department shall inspect each location listed in the application and verify that any location that resells cigarettes meets the requirements prescribed in subsection E.*

2. A taxpayer shall be required to pay an application fee, not to exceed \$50, to the Department for a cigarette exemption certificate.

3. A taxpayer shall be eligible for an expedited process to receive a cigarette exemption certificate if the taxpayer possesses, at the time of filing an application for a cigarette exemption certificate, (i) an active license, in good standing, issued by the Department of Alcoholic Beverage Control pursuant to Title 4.1, as verified by electronic or other means by the Department, or (ii) an active tobacco products tax distributor's license, in good standing, issued by the Department pursuant to § 58.1-1021.04:1. The Department may identify other categories of taxpayers who qualify for an expedited process through guidelines issued pursuant to subsection L. Taxpayers that qualify for an expedited process shall not be subject to the background check or the waiting period set forth in subdivision 1, nor shall such taxpayers be required to pay the application fee set forth in subdivision 2.

4. If a taxpayer has been denied a cigarette exemption certificate, or has been issued a cigarette exemption certificate that has subsequently been suspended or revoked, the Department shall not consider an application from the taxpayer for a new cigarette exemption certificate for six months from the date of the denial, suspension, or revocation.

C. The Department shall deny an application for a cigarette exemption certificate, or suspend or revoke a cigarette exemption certificate previously issued to a taxpayer, if the Department determines that:

1. The taxpayer is a person who is not 18 years of age or older;
2. The taxpayer is a person who is physically unable to carry on the business for which the application for a cigarette exemption certificate is filed, or has been adjudicated incapacitated;
3. The taxpayer has not resided in the Commonwealth for at least one year immediately preceding the application, unless in the opinion of the Department, good cause exists for the taxpayer to have not resided in the Commonwealth for the immediately preceding year;
4. The taxpayer has not established a physical place of business in the Commonwealth, as described in subsection E;
5. A court or administrative body having jurisdiction has found that the physical place of business occupied by the taxpayer, as described in subsection E, does not conform to the sanitation, health, construction, or equipment requirements of the governing body of the county, city, or town in which such physical place is located, or to similar requirements established pursuant to the laws of the Commonwealth;
6. The physical place of business occupied by the taxpayer, as described in subsection E, is not constructed, arranged, or illuminated so as to allow access to and reasonable observation of, any room or area in which cigarettes are to be sold;
7. The taxpayer is not an authorized representative of the business;
8. The taxpayer made a material misstatement or material omission in the application;
9. The taxpayer has defrauded, or attempted to defraud, the Department, or any federal, state, or local government or governmental agency or authority, by making or filing any report, document, or tax return required by statute or regulation that is fraudulent or contains a false representation of material fact, or the taxpayer has willfully deceived or attempted to deceive the Department, or any federal, state, or local government or governmental agency or authority, by making or maintaining business records required by statute or regulation that are false or fraudulent;
10. The Tax Commissioner has determined that the taxpayer has misused the certificate;
11. The taxpayer has knowingly and willfully allowed any individual, other than an authorized representative, to use the certificate;
12. The taxpayer has failed to comply with or has been convicted under any of the provisions of this chapter or Chapter 10 (§ 58.1-1000 et seq.) or any of the rules of the Department adopted or promulgated under the authority of this chapter or Chapter 10; however, no certificate shall be denied, suspended, or revoked on the basis of a failure to file a retail sales and use tax return or remit retail sales and use tax unless the taxpayer is more than 30 days delinquent in any filing or payment and has not entered into an installment agreement pursuant to § 58.1-1817; or
13. The taxpayer has been convicted under the laws of any state or of the United States of (i) any robbery, extortion, burglary, larceny, embezzlement, gambling, perjury, bribery, treason, racketeering, money laundering, other crime involving fraud under Chapter 6 (§ 18.2-168 et seq.) of Title 18.2, or crime that has the same elements of the offenses set forth in § 58.1-1017 or 58.1-1017.1, or (ii) a felony.

D. The provisions of § 58.1-623.1 shall apply to the suspension and revocation of exemption certificates issued pursuant to this section, *mutatis mutandis*.

E. A cigarette exemption certificate shall only be issued to a taxpayer who:

1. Has a physical place of business in the Commonwealth, owned or leased by him, where a substantial portion of the sales activity of the retail cigarette sales activity of the business is routinely conducted and that (i) satisfies all local zoning regulations; (ii) has sales and office space of at least 250 square feet in a permanent, enclosed building not used as a house, apartment, storage unit, garage, or other building other than a building zoned for retail business; (iii) houses all records required to be maintained pursuant to § 58.1-1007; (iv) is equipped with office equipment, including but not limited to, a desk, a chair, a Point of Sale System, filing space, a working telephone listed in the name of the taxpayer or his business, working utilities, including electricity and provisions for space heating, and an Internet connection and email address; (v) displays a sign and business hours and is open to the public during the listed business hours; and (vi) does not occupy the same physical place of business of any other taxpayer who has been issued a cigarette exemption certificate;

2. Possesses a copy of the (i) corporate charter and articles of incorporation in the case of a corporation, (ii) partnership agreement in the case of a partnership, or (iii) organizational registration from the Virginia State Corporation Commission in the case of an LLC; and

3. Possesses a local business license, if such local business license is required by the locality where the taxpayer's physical place of business is located.

F. A taxpayer with more than one physical place of business shall be required to complete only one application for a cigarette exemption certificate but shall list on the application every physical place of business in the Commonwealth where cigarettes are purchased, stored, or resold by the taxpayer or his affiliate. Upon approval of the application, the Department shall issue a cigarette exemption certificate to the taxpayer. The taxpayer shall be authorized to resell cigarettes only at the locations listed on the application. No cigarette exemption certificate shall be transferrable. For purposes of this subsection, a taxpayer shall be considered to have more than one physical place of business if the taxpayer owns or leases two or more physical locations in the Commonwealth where cigarettes are purchased, stored, or resold.

G. A cigarette exemption certificate issued to a taxpayer shall bear the address of the physical place of business occupied or to be occupied by the taxpayer in conducting the business of purchasing cigarettes in the Commonwealth. In the event that a taxpayer intends to move the physical place of business listed on a certificate to a new location, he shall provide written notice to the Department at least 30 days in advance of the move. A successful inspection of the new physical place of business shall be required by the Department prior to the issuance of a new cigarette exemption certificate bearing the updated address. If the taxpayer intends to change any of the required information relating to the physical places of business contained in the application for the cigarette exemption certificate submitted pursuant to subsection F, the taxpayer shall file an amendment to the application at least 30 days in advance of such change. The certificate with the original address shall become invalid upon the issuance of the new certificate, or 30 days after notice of the move is provided to the Department, whichever occurs sooner. A taxpayer shall not be required to pay a fee to the Department for the issuance of a new cigarette exemption certificate pursuant to this subsection.

H. The privilege of a taxpayer issued a cigarette exemption certificate to purchase cigarettes shall extend to any authorized representative of such taxpayer. The taxpayer issued a cigarette exemption certificate may be held liable for any violation of this chapter, Chapter 10 (§ 58.1-1000 et seq.), Chapter 10.1 (§ 58.1-1031 et seq.), or any related Department guidelines by such authorized representative.

I. A taxpayer issued a cigarette exemption certificate shall comply with the recordkeeping requirements prescribed in § 58.1-1007 and shall make such records available for audit and inspection as provided therein. A taxpayer issued a cigarette exemption certificate who fails to comply with such requirements shall be subject to the penalties provided in § 58.1-1007.

J. A cigarette exemption certificate granted by the Department shall be valid for five years from the date of issuance. At the end of the five-year period, the cigarette exemption certificate of a taxpayer who qualifies for the expedited application process set forth in subdivision B 3 shall be automatically renewed and no fee shall be required. If a taxpayer does not qualify for the expedited application process, then such taxpayer shall apply to the Department to renew the new cigarette exemption certificate as set forth in subdivision B 1 and shall pay an application fee not to exceed \$50 as set forth in subdivision B 2; however, the 30-day waiting period set forth in subdivision B 1 shall not apply.

K. No taxpayer issued a cigarette exemption certificate shall display the certificate, or a copy thereof, in the physical place of business where a substantial portion of the retail cigarette sales activity of the business is routinely conducted.

L. The Tax Commissioner shall develop guidelines implementing the provisions of this section, including but not limited to (i) defining categories of taxpayers who qualify for the expedited process, (ii) prescribing the form of the application for the cigarette exemption certificate, (iii) prescribing the form of the application for the expedited cigarette exemption certificate, (iv) establishing procedures for suspending and revoking the cigarette exemption certificate, and (v) establishing procedures for renewing the cigarette exemption certificate. Such guidelines shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

M. For the purposes of this section:

"Authorized representative" means an individual who has an ownership interest in or is a current employee of the taxpayer who possesses a valid cigarette exemption certificate pursuant to this section.

**§ 58.1-1000. Definitions.**

As used in this chapter, unless the context clearly shows otherwise, the term or phrase:

"Authorized holder" means (i) a manufacturer; (ii) a wholesale dealer who is not duly qualified as a wholesale dealer stamping agent, but who possesses, or whose affiliate possesses, a valid cigarette exemption certificate issued pursuant to § 58.1-623.2; (iii) a stamping agent; (iv) a retail dealer who possesses, or whose affiliate possesses, a valid cigarette exemption certificate issued pursuant to § 58.1-623.2; (v) an exclusive distributor; (vi) an officer, employee, or other agent of the United States or a state, or any department, agency, or instrumentality of the United States, a state, or a political subdivision of a state, having possession of cigarettes in connection with the performance of official duties; (vii) a person properly holding cigarettes that do not require stamps or tax payment pursuant to § 58.1-1010; or (viii) a common or contract carrier transporting cigarettes under a proper bill of lading or other documentation indicating the true name and address of the consignor or seller and the consignee or purchaser of the brands and the quantities being transported. Any person convicted of (a) a violation of § 58.1-1017 or 58.1-1017.1 any criminal offense under this chapter; (b) any offense involving the forgery of any documents, forms, invoices, or receipts related to the purchase or sale of cigarettes or the

purchase or sale of tobacco products as defined in § 58.1-1021.01; (c) any offense involving evasion or failure to pay a cigarette or tobacco product excise tax; or (d) any similar violation of an ordinance of any county, city, or town in the Commonwealth or the laws of any other state or of the United States is ineligible to be an authorized holder. *For the purposes of this definition, "affiliate" means any entity that is a member of the same affiliated group, as such term is defined in § 58.1-3700.1.*

"Carton" means 10 packs of cigarettes, each containing 20 cigarettes or eight packs, each containing 25 cigarettes.

"Cigarette" means any product that contains nicotine, is intended to be burned or heated under ordinary conditions of use, and consists of or contains (i) any roll of tobacco wrapped in paper or in any substance not containing tobacco; (ii) tobacco, in any form, that is functional in the product, which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette; or (iii) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in clause (i) of this definition. The term "cigarette" includes "roll-your-own" tobacco, which means any tobacco which, because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes. For purposes of this definition of "cigarette," 0.09 ounces of "roll-your-own" tobacco shall constitute one individual "cigarette."

"Exclusive distributor" means any individual, corporation, limited liability company, or limited liability partnership with its principal place of business in the Commonwealth that has the sole and exclusive rights to sell to wholesale dealers in the Commonwealth a brand family of cigarettes manufactured by a tobacco product manufacturer as defined in § 3.2-4200.

"Manufacturer" means any tobacco product manufacturer as defined in § 3.2-4200.

"Pack" means a package containing either 20 or 25 cigarettes.

"Retail dealer" includes every person other than a wholesale dealer, as defined in this section, who sells or offers for sale any cigarettes and who is properly registered as a retail trade with the Commonwealth in accordance with the Virginia Department of Taxation Business Registration Application (Form R-1).

"Retail sale" or "sale at retail" includes all sales except sales by wholesale dealers to retail dealers or other wholesale dealers for resale.

"Stamping agent" ~~shall have~~ has the same meaning as provided in § 3.2-4204. For the purposes of provisions relating to "roll-your-own" tobacco, "stamping agent" ~~shall include~~ includes "distributor" as that term is defined in § 58.1-1021.01.

"Stamps" means the stamp or stamps by the use of which the tax levied under this chapter is paid and shall be officially designated as Virginia revenue stamps. The Department is hereby authorized to provide for the use of any type of stamp ~~which~~ that will effectuate the purposes of this chapter, including but not limited to decalcomania and metering devices.

"Storage" means any keeping or retention in the Commonwealth of cigarettes for any purpose except sale in the regular course of business or subsequent use solely outside the Commonwealth.

"Tax-paid cigarettes" means cigarettes that (i) bear valid Virginia stamps to evidence payment of excise taxes or (ii) were purchased outside of the Commonwealth and either (a) bear a valid tax stamp for the state in which the cigarettes were purchased or (b) when no tax stamp is required by the state, proper evidence can be provided to establish that applicable excise taxes have been paid.

"Use" means the exercise of any right or power over cigarettes incident to the ownership thereof or by any transaction where possession is given, except that it ~~shall~~ does not include the sale of cigarettes in the regular course of business.

"Wholesale dealer" includes persons who are properly registered as tobacco product merchant wholesalers with the Commonwealth in accordance with the Virginia Department of Taxation Business Registration Application (Form R-1) and who (i) sell cigarettes at wholesale only to retail dealers for the purpose of resale only or (ii) sell at wholesale to institutional, commercial, or industrial users. "Wholesale dealer" also includes chain store distribution centers or houses ~~which~~ that distribute cigarettes to their stores for sale at retail.

#### **§ 58.1-1017.3. Fraudulent purchase of cigarettes; penalties.**

Any person who purchases 5,000 (25 cartons) cigarettes or fewer using a forged business license, a business license obtained under false pretenses, a forged or invalid Virginia sales and use tax exemption certificate, *a forged or invalid Virginia cigarette exemption certificate*, or a Virginia sales and use tax exemption certificate obtained under false pretenses is guilty of a Class 1 misdemeanor for a first offense and a Class 6 felony for a second or subsequent offense. Any person who purchases more than 5,000 (25 cartons) cigarettes using a forged business license, a business license obtained under false pretenses, a forged or invalid Virginia sales and use tax exemption certificate, *a forged or invalid Virginia cigarette exemption certificate*, or a Virginia sales and use tax exemption certificate obtained under false pretenses is guilty of a Class 6 felony for a first offense and a Class 5 felony for a second or subsequent offense. Additionally, any person who violates the provisions of this section shall be assessed a civil penalty of (i) \$2.50 per pack, but no less than \$5,000, for a first offense; (ii) \$5 per pack, but no less than \$10,000, for a second such offense committed within a 36-month period; and (iii) \$10 per pack, but no less than \$50,000, for a third or subsequent such offense committed within a 36-month period. The civil penalties shall be assessed and collected by the Department as other taxes are collected.

The provisions of this section shall not preclude prosecution under any other statute.

#### **§ 58.1-1017.4. Documents to be provided at purchase.**

A. Any person, except as provided in subsection B, who ships, sells, or distributes any quantity of cigarettes in excess of 10,000 sticks or 50 cartons, or with a value greater than \$10,000 in any single transaction or multiple related transactions, shall maintain such information about the shipment, receipt, sale, and distribution of such cigarettes on a form prescribed by the Office of the Attorney General. Such form may be in electronic format in a manner prescribed by the Office of the Attorney General. Such form shall be transmitted to the Office of the Attorney General upon request, as determined by the Office of the Attorney General.

B. The provisions of this section shall not apply to a stamping agent when delivering cigarettes to the purchaser's physical place of business.

C. Prior to completing the sale, the purchaser shall complete the form for the seller and present a valid photo identification issued by a state or federal government agency. The purchaser shall sign the form acknowledging an understanding of the applicable sales limit and that providing false statements or misrepresentations may subject the purchaser to criminal penalties.

D. Prior to completing the sale, the seller shall verify that the identity of the purchaser listed on the form matches the identity on the photo identification provided pursuant to subsection C and that the form is completed in its entirety.

E. The records required to be completed by this section shall be preserved for three years at the location where the purchase was made and shall be available for audit and inspection as described in § 58.1-1007. A violation of these requirements shall be punished under the provisions of § 58.1-1007.

F. The Department, the Department of Alcoholic Beverage Control, the Office of the Attorney General, a local cigarette tax administrative or enforcement official, or any other law-enforcement agency of the Commonwealth or any federal law-enforcement agency conducting a criminal investigation involving the trafficking of cigarettes may access these records required to be completed and preserved by this section at any time. Failure to supply the records upon request shall be punished under the provisions of § 58.1-1007. Copies of the records required to be completed and preserved by this section shall be provided to such officials or agencies upon request. Any court, investigatory grand jury, or special grand jury that has been impaneled in accordance with the provisions of Chapter 13 (§ 19.2-191 et seq.) of Title 19.2 may access such information if relevant to any proceedings therein.

G. The records required to be completed and preserved by this section shall be exempt from disclosure under the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

**2. That the Code of Virginia is amended by adding in Article 1 of Chapter 10 of Title 58.1 a section numbered 58.1-1017.4 as follows:**

**§ 58.1-1017.4. Documents to be provided at purchase.**

A. Any person, except as provided in subsection C, who ships, sells, or distributes any quantity of cigarettes in excess of 10,000 sticks or 50 cartons, or with a value greater than \$10,000 in any single transaction or multiple related transactions, shall (i) obtain a copy of the cigarette exemption certificate issued to the purchaser pursuant to § 58.1-623.2 and (ii) maintain such information about the shipment, receipt, sale, and distribution of such cigarettes on a form prescribed by the Office of the Attorney General. Such form may be in electronic format in a manner prescribed by the Office of the Attorney General. Such form shall be transmitted to the Office of the Attorney General upon request, as determined by the Office of the Attorney General.

B. For purposes of complying with subsection A, the seller may maintain an electronic copy of the purchaser's cigarette exemption certificate.

C. The provisions of this section shall not apply to a stamping agent when delivering cigarettes to the purchaser's physical place of business.

D. Prior to completing the sale, the purchaser shall complete the form for the seller and present a valid photo identification issued by a state or federal government agency. The purchaser shall sign the form acknowledging an understanding of the applicable sales limit and that providing false statements or misrepresentations may subject the purchaser to criminal penalties.

E. Prior to completing the sale, the seller shall verify that the identity of the purchaser listed on the form matches the identity on the photo identification provided pursuant to subsection D and that the form is completed in its entirety.

F. The records required to be completed by this section shall be preserved for three years at the location where the purchase was made and shall be available for audit and inspection as described in § 58.1-1007. A violation of these requirements shall be punished under the provisions of § 58.1-1007.

G. The Department, the Department of Alcoholic Beverage Control, the Office of the Attorney General, a local cigarette tax administrative or enforcement official, or any other law-enforcement agency of the Commonwealth or any federal law-enforcement agency conducting a criminal investigation involving the trafficking of cigarettes may access these records required to be completed and preserved by this section at any time. Failure to supply the records upon request shall be punished under the provisions of § 58.1-1007. Copies of the records required to be completed and preserved by this section shall be provided to such officials or agencies upon request. Any court, investigatory grand jury, or special grand jury that has been impaneled in accordance with the provisions of Chapter 13 (§ 19.2-191 et seq.) of Title 19.2 may access such information if relevant to any proceedings therein.

H. The records required to be completed and preserved by this section shall be exempt from disclosure under the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

3. That the provisions of §§ 58.1-623, 58.1-1000, and 58.1-1017.3 of the Code of Virginia as amended by this act, subsection A of § 58.1-623.2 as created by this act, and the second enactment of this act shall become effective on January 1, 2018.

4. That the Department of Taxation shall complete the process for issuing cigarette exemption certificates no later than December 31, 2017. The Department of Taxation shall ensure that any taxpayer who qualifies under the expedited process prior to December 1, 2017, or applies for a cigarette exemption certificate prior to December 1, 2017, shall be issued or denied the cigarette exemption certificate prior to January 1, 2018.

5. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 780 of the Acts of Assembly of 2016 requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.

### CHAPTER 113

*An Act to amend and reenact § 58.1-3832 of the Code of Virginia, relating to local cigarette taxes; refund of returned tax stamps.*

[H 1950]

Approved February 21, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 58.1-3832 of the Code of Virginia is amended and reenacted as follows:**

**§ 58.1-3832. Local ordinances to administer and enforce local taxes on sale or use of cigarettes.**

Any county, city or town having a tax upon the sale or use of cigarettes may by ordinance, provide for the administration and enforcement of any such cigarette tax. Such local ordinance may:

1. Provide for the registration of any distributor, wholesaler, vendor, retailer or other person selling, storing or possessing cigarettes within or transporting cigarettes within or into such taxing jurisdiction for sale or use. Such registration may be conditioned upon the filing of a bond with a surety company authorized to do business in Virginia as surety, which bond shall not exceed one and one-half times the average monthly liability of such taxpayer. The county, city or town may revoke registration if such bond is impaired, but for no other reason. Any such distributor, wholesaler, retailer or other person whose business and residence is outside the taxing jurisdiction, who shall sell, store or possess in the taxing jurisdiction therein any cigarettes shall, by virtue of such sale, storage or possession submit himself to its legal jurisdiction and appoint as his attorney for any service of lawful process such officer or person as may be designated in the local ordinance for that purpose. A copy of any such process served on the said officer or person shall be sent forthwith by registered mail to the distributor, wholesaler or retailer.

2. Provide for the use of a tax stamp or meter impression as evidence of payment of the tax or other method or system of reporting payment and collection of such tax. Any local tax stamp or meter impression required to be used to evidence payment of the tax shall be of the same stamp technology that is used or required by the Commonwealth for the state cigarette tax stamp pursuant to Chapter 10 (§ 58.1-1000 et seq.). *The purchase price of any tax stamps purchased under this section shall be refunded, without penalties or additional fees, upon verification by the county, city, or town imposing the tax that the stamps have been returned to such county, city, or town.*

3. Provide that tobacco products found in quantities of more than six cartons within the taxing jurisdiction shall be conclusively presumed for sale or use within the jurisdiction and may be seized and confiscated if:

a. They are in transit, and are not accompanied by a bill of lading or other document indicating the true name and address of the consignor or seller and of the consignee or purchaser, and the brands and quantity of cigarettes so transported, or are in transit and accompanied by a bill of lading or other document which is false or fraudulent, in whole or in part; or

b. They are in transit and are accompanied by a bill of lading or other document indicating:

(1) A consignee or purchaser in another state or the District of Columbia who is not authorized by the law of such other jurisdiction to receive or possess such tobacco products on which the taxes imposed by such other jurisdiction have not been paid, unless the tax of the state or District of destination has been paid and the said products bear the tax stamps of that state or District; or

(2) A consignee or purchaser in the Commonwealth of Virginia but outside the taxing jurisdiction who does not possess a Virginia sales and use tax certificate, a Virginia retail cigarette license and, where applicable, both a business license and retail cigarette license issued by the local jurisdiction of destination; or

c. They are not in transit and the tax has not been paid, nor have approved arrangements for payment been made, provided that this subparagraph shall not apply to cigarettes in the possession of distributors or public warehouses which have filed notice and appropriate proof with the taxing jurisdiction that those cigarettes are temporarily within the taxing jurisdiction and will be sent to consignees or purchasers outside the jurisdiction in the normal course of business.

4. Provide that cigarettes and other property, other than motor vehicles, used in the furtherance of any illegal evasion of the tax so seized and confiscated may be disposed of by sale or other method deemed appropriate by the local taxing authority. No credit from any sale or other disposition shall be allowed toward any tax or penalties owed.

5. Provide that persons violating any provision thereof shall be deemed guilty of a Class 1 misdemeanor, and require the payment of penalties for late payment not to exceed 10 percent per month, penalties for fraud or evasion of the tax not to exceed 50 percent, and interest not to exceed three quarters of one percent per month, upon any tax found to be overdue and unpaid. The mere possession of untaxed cigarettes in quantities of not more than six cartons shall not be a violation of any such ordinance.

6. Provide for the forfeiture and sale of any property seized; provided, however, that proper notice of such seizure shall be given to the known holders of property interests in such property and shall include procedures for administrative appeal as well as affirmative defenses which may be asserted by such holders which procedures must be set forth in reasonable detail.

7. Provide that any coin-operated vending machine, in which any cigarettes are found, stored or possessed bearing a counterfeit or bogus cigarette tax stamp or impression or any unstamped tobacco products, or any cigarettes upon which the tax has not been paid, may be declared contraband property and shall be subject to confiscation and sale as provided in subsection 6. When any such vending machine is found containing such cigarettes it shall be presumed that such cigarettes were intended for distribution, sale or use therefrom. In lieu of immediate seizure and confiscation of any vending machines used in an illegal evasion of the tax it may be sealed by appropriate enforcement authorities to prevent continued illegal sale or removal of any cigarettes, and may be left unremoved until other civil and criminal penalties are imposed or waived. Notice requirements shall be the same as if the machine had been seized. Such seal may be removed and the machine declared eligible for operation only by authorized enforcement authorities. Nothing in this section shall prevent seizure and confiscation of a vending machine at any time after it is sealed.

8. Provide that any counterfeit stamps or counterfeit impression devices may also be seized and confiscated.

9. Any county, city or town may enact an ordinance which would delegate its administrative and enforcement authority under its cigarette tax ordinance to one agency or authority pursuant to the provisions of § 15.2-1300. Such agency or authority may promulgate rules and regulations governing the display of cigarette stamps in vending machines, tax liens against property of taxpayers hereunder, extend varying discount rates and establish different classes of taxpayers or those required to collect and remit the tax, requirements concerning keeping and production of records, administrative and jeopardy assessment of tax where reasonably justified, required notice to authorities of sale of taxpayer's business, audit requirements and authority, and criteria for authority of distributors and others to possess untaxed cigarettes and any other provisions consistent with the powers granted by this section or necessarily implied therefrom. Such ordinance may further provide that such agency or authority created may issue a common revenue stamp, employ legal counsel, bring appropriate court action, in its own name where necessary to enforce payment of the cigarette taxes or penalties owed any member jurisdiction and provide cigarette tax agents, and the necessary enforcement supplies and equipment needed to effectively enforce the cigarette tax ordinance promulgated by each such county, city or town. Any cigarette tax agents shall meet such requirements of training or experience as may be promulgated from time to time by the enforcement authority when performing their duties and shall be required to carry proper identification and may be armed for their own protection and for the enforcement of such ordinance. Any such agent shall have the power of arrest upon reasonable and probable cause that a violation of any tobacco tax ordinance has been committed. Any common revenue stamp issued by such agency or authority shall be of the same stamp technology that is used or required by the Commonwealth for the state cigarette tax stamp pursuant to Chapter 10 (§ 58.1-1000 et seq.).

## CHAPTER 114

*An Act to require the Board of Pharmacy to develop guidelines for the provision of counseling and information regarding disposal of unused drugs.*

[H 2046]

Approved February 21, 2017

### **Be it enacted by the General Assembly of Virginia:**

**1.** § 1. *That the Board of Pharmacy shall develop guidelines for the provision of counseling and information regarding proper disposal of unused dispensed drugs, including information about pharmacy drug disposal programs in which the pharmacy participates pursuant to § 54.1-3411.2, by pharmacists to patients for whom a prescription is dispensed.*

## CHAPTER 115

*An Act to amend and reenact §§ 54.1-3401, 54.1-3408.02, and 54.1-3410 of the Code of Virginia, relating to prescriptions for controlled substances containing opiates; electronic prescription.*

[H 2165]

Approved February 21, 2017

**Be it enacted by the General Assembly of Virginia:****1. That §§ 54.1-3401, 54.1-3408.02, and 54.1-3410 of the Code of Virginia are amended and reenacted as follows:****§ 54.1-3401. Definitions.**

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

"Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by (i) a practitioner or by his authorized agent and under his direction or (ii) the patient or research subject at the direction and in the presence of the practitioner.

"Advertisement" means all representations disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of drugs or devices.

"Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. It does not include a common or contract carrier, public warehouseman, or employee of the carrier or warehouseman.

"Anabolic steroid" means any drug or hormonal substance, chemically and pharmacologically related to testosterone, other than estrogens, progestins, corticosteroids, and dehydroepiandrosterone.

"Animal" means any nonhuman animate being endowed with the power of voluntary action.

"Automated drug dispensing system" means a mechanical or electronic system that performs operations or activities, other than compounding or administration, relating to pharmacy services, including the storage, dispensing, or distribution of drugs and the collection, control, and maintenance of all transaction information, to provide security and accountability for such drugs.

"Biological product" means a virus, therapeutic serum, toxin, antitoxin, vaccine, blood, blood component or derivative, allergenic product, protein other than a chemically synthesized polypeptide, or analogous product, or arsphenamine or any derivative of arsphenamine or any other trivalent organic arsenic compound, applicable to the prevention, treatment, or cure of a disease or condition of human beings.

"Biosimilar" means a biological product that is highly similar to a specific reference biological product, notwithstanding minor differences in clinically inactive compounds, such that there are no clinically meaningful differences between the reference biological product and the biological product that has been licensed as a biosimilar pursuant to 42 U.S.C. § 262(k) in terms of safety, purity, and potency of the product.

"Board" means the Board of Pharmacy.

"Bulk drug substance" means any substance that is represented for use, and that, when used in the compounding, manufacturing, processing, or packaging of a drug, becomes an active ingredient or a finished dosage form of the drug; however, "bulk drug substance" shall not include intermediates that are used in the synthesis of such substances.

"Change of ownership" of an existing entity permitted, registered, or licensed by the Board means (i) the sale or transfer of all or substantially all of the assets of the entity or of any corporation that owns or controls the entity; (ii) the creation of a partnership by a sole proprietor, the dissolution of a partnership, or change in partnership composition; (iii) the acquisition or disposal of 50 percent or more of the outstanding shares of voting stock of a corporation owning the entity or of the parent corporation of a wholly owned subsidiary owning the entity, except that this shall not apply to any corporation the voting stock of which is actively traded on any securities exchange or in any over-the-counter market; (iv) the merger of a corporation owning the entity or of the parent corporation of a wholly-owned subsidiary owning the entity with another business or corporation; or (v) the expiration or forfeiture of a corporation's charter.

"Co-licensed partner" means a person who, with at least one other person, has the right to engage in the manufacturing or marketing of a prescription drug, consistent with state and federal law.

"Compounding" means the combining of two or more ingredients to fabricate such ingredients into a single preparation and includes the mixing, assembling, packaging, or labeling of a drug or device (i) by a pharmacist, or within a permitted pharmacy, pursuant to a valid prescription issued for a medicinal or therapeutic purpose in the context of a bona fide practitioner-patient-pharmacist relationship, or in expectation of receiving a valid prescription based on observed historical patterns of prescribing and dispensing; (ii) by a practitioner of medicine, osteopathy, podiatry, dentistry, or veterinary medicine as an incident to his administering or dispensing, if authorized to dispense, a controlled substance in the course of his professional practice; or (iii) for the purpose of, or as incident to, research, teaching, or chemical analysis and not for sale or for dispensing. The mixing, diluting, or reconstituting of a manufacturer's product drugs for the purpose of administration to a patient, when performed by a practitioner of medicine or osteopathy licensed under Chapter 29 (§ 54.1-2900 et seq.), a person supervised by such practitioner pursuant to subdivision A 6 or 19 of § 54.1-2901, or a person supervised by such practitioner or a licensed nurse practitioner or physician assistant pursuant to subdivision A 4 of § 54.1-2901 shall not be considered compounding.

"Controlled substance" means a drug, substance, or immediate precursor in Schedules I through VI of this chapter. The term shall not include distilled spirits, wine, malt beverages, or tobacco as those terms are defined or used in Title 3.2 or Title 4.1. The term "controlled substance" includes a controlled substance analog that has been placed into Schedule I or II by the Board pursuant to the regulatory authority in subsection D of § 54.1-3443.

"Controlled substance analog" means a substance the chemical structure of which is substantially similar to the chemical structure of a controlled substance in Schedule I or II and either (i) which has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II or (ii) with respect to a

particular person, which such person represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II. "Controlled substance analog" does not include (a) any substance for which there is an approved new drug application as defined under § 505 of the federal Food, Drug, and Cosmetic Act (21 U.S.C. § 355) or that is generally recognized as safe and effective pursuant to §§ 501, 502, and 503 of the federal Food, Drug, and Cosmetic Act (21 U.S.C. §§ 351, 352, and 353) and 21 C.F.R. Part 330; (b) with respect to a particular person, any substance for which an exemption is in effect for investigational use for that person under § 505 of the federal Food, Drug, and Cosmetic Act to the extent that the conduct with respect to that substance is pursuant to such exemption; or (c) any substance to the extent not intended for human consumption before such an exemption takes effect with respect to that substance.

"DEA" means the Drug Enforcement Administration, U.S. Department of Justice, or its successor agency.

"Deliver" or "delivery" means the actual, constructive, or attempted transfer of any item regulated by this chapter, whether or not there exists an agency relationship.

"Device" means instruments, apparatus, and contrivances, including their components, parts, and accessories, intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or animals or to affect the structure or any function of the body of man or animals.

"Dialysis care technician" or "dialysis patient care technician" means an individual who is certified by an organization approved by the Board of Health Professions pursuant to Chapter 27.01 (§ 54.1-2729.1 et seq.) and who, under the supervision of a licensed physician, nurse practitioner, physician assistant, or a registered nurse, assists in the care of patients undergoing renal dialysis treatments in a Medicare-certified renal dialysis facility.

"Dialysis solution" means either the commercially available, unopened, sterile solutions whose purpose is to be instilled into the peritoneal cavity during the medical procedure known as peritoneal dialysis, or commercially available solutions whose purpose is to be used in the performance of hemodialysis not to include any solutions administered to the patient intravenously.

"Dispense" means to deliver a drug to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing and administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery. However, dispensing shall not include the transportation of drugs mixed, diluted, or reconstituted in accordance with this chapter to other sites operated by such practitioner or that practitioner's medical practice for the purpose of administration of such drugs to patients of the practitioner or that practitioner's medical practice at such other sites. For practitioners of medicine or osteopathy, "dispense" shall only include the provision of drugs by a practitioner to patients to take with them away from the practitioner's place of practice.

"Dispenser" means a practitioner who dispenses.

"Distribute" means to deliver other than by administering or dispensing a controlled substance.

"Distributor" means a person who distributes.

"Drug" means (i) articles or substances recognized in the official United States Pharmacopoeia National Formulary or official Homeopathic Pharmacopoeia of the United States, or any supplement to any of them; (ii) articles or substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or animals; (iii) articles or substances, other than food, intended to affect the structure or any function of the body of man or animals; (iv) articles or substances intended for use as a component of any article specified in clause (i), (ii), or (iii); or (v) a biological product. "Drug" does not include devices or their components, parts, or accessories.

"Drug product" means a specific drug in dosage form from a known source of manufacture, whether by brand or therapeutically equivalent drug product name.

"Electronic transmission prescription" means ~~any prescription, other than an oral or written prescription or a prescription transmitted by facsimile machine, that is electronically transmitted directly to a pharmacy without interception or intervention from a third party from a practitioner authorized to prescribe or from one pharmacy to another pharmacy a written prescription that is generated on an electronic application and is transmitted to a pharmacy as an electronic data file; Schedule II through V prescriptions shall be transmitted in accordance with 21 C.F.R. Part 1300.~~

"Facsimile (FAX) prescription" means a written prescription or order that is transmitted by an electronic device over telephone lines that sends the exact image to the receiving pharmacy in hard copy form.

"FDA" means the U.S. Food and Drug Administration.

"Hashish oil" means any oily extract containing one or more cannabinoids, but shall not include any such extract with a tetrahydrocannabinol content of less than 12 percent by weight.

"Immediate precursor" means a substance which the Board of Pharmacy has found to be and by regulation designates as being the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail, or limit manufacture.

"Interchangeable" means a biosimilar that meets safety standards for determining interchangeability pursuant to 42 U.S.C. § 262(k)(4).

"Label" means a display of written, printed, or graphic matter upon the immediate container of any article. A requirement made by or under authority of this chapter that any word, statement, or other information appear on the label

shall not be considered to be complied with unless such word, statement, or other information also appears on the outside container or wrapper, if any, of the retail package of such article or is easily legible through the outside container or wrapper.

"Labeling" means all labels and other written, printed, or graphic matter on an article or any of its containers or wrappers, or accompanying such article.

"Manufacture" means the production, preparation, propagation, conversion, or processing of any item regulated by this chapter, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container. This term does not include compounding.

"Manufacturer" means every person who manufactures, a manufacturer's co-licensed partner, or a repackager.

"Marijuana" means any part of a plant of the genus *Cannabis* whether growing or not, its seeds, or its resin; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, or its resin. Marijuana shall not include any oily extract containing one or more cannabinoids unless such extract contains less than 12 percent of tetrahydrocannabinol by weight, nor shall marijuana include the mature stalks of such plant, fiber produced from such stalk, or oil or cake made from the seeds of such plant, unless such stalks, fiber, oil, or cake is combined with other parts of plants of the genus *Cannabis*. Marijuana shall not include industrial hemp as defined in § 3.2-4112 that is possessed, cultivated, or manufactured by a grower licensed pursuant to § 3.2-4115.

"Medical equipment supplier" means any person, as defined in § 1-230, engaged in the delivery to the ultimate consumer, pursuant to the lawful order of a practitioner, of hypodermic syringes and needles, medicinal oxygen, Schedule VI controlled devices, those Schedule VI controlled substances with no medicinal properties that are used for the operation and cleaning of medical equipment, solutions for peritoneal dialysis, and sterile water or saline for irrigation.

"Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis: (i) opium, opiates, and any salt, compound, derivative, or preparation of opium or opiates; (ii) any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in clause (i), but not including the isoquinoline alkaloids of opium; (iii) opium poppy and poppy straw; (iv) coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extraction of coca leaves which do not contain cocaine or ecgonine.

"New drug" means (i) any drug, except a new animal drug or an animal feed bearing or containing a new animal drug, the composition of which is such that such drug is not generally recognized, among experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs, as safe and effective for use under the conditions prescribed, recommended, or suggested in the labeling, except that such a drug not so recognized shall not be deemed to be a "new drug" if at any time prior to the enactment of this chapter it was subject to the Food and Drugs Act of June 30, 1906, as amended, and if at such time its labeling contained the same representations concerning the conditions of its use, or (ii) any drug, except a new animal drug or an animal feed bearing or containing a new animal drug, the composition of which is such that such drug, as a result of investigations to determine its safety and effectiveness for use under such conditions, has become so recognized, but which has not, otherwise than in such investigations, been used to a material extent or for a material time under such conditions.

"Nuclear medicine technologist" means an individual who holds a current certification with the American Registry of Radiological Technologists or the Nuclear Medicine Technology Certification Board.

"Official compendium" means the official United States Pharmacopoeia National Formulary, official Homeopathic Pharmacopoeia of the United States, or any supplement to any of them.

"Official written order" means an order written on a form provided for that purpose by the U.S. Drug Enforcement Administration, under any laws of the United States making provision therefor, if such order forms are authorized and required by federal law, and if no such order form is provided then on an official form provided for that purpose by the Board of Pharmacy.

"Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having such addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under Article 4 (§ 54.1-3437 et seq.), the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms.

"Opium poppy" means the plant of the species *Papaver somniferum* L., except the seeds thereof.

"Original package" means the unbroken container or wrapping in which any drug or medicine is enclosed together with label and labeling, put up by or for the manufacturer, wholesaler, or distributor for use in the delivery or display of such article.

"Outsourcing facility" means a facility that is engaged in the compounding of sterile drugs and is currently registered as an outsourcing facility with the U.S. Secretary of Health and Human Services and that complies with all applicable requirements of federal and state law, including the Federal Food, Drug, and Cosmetic Act.

"Person" means both the plural and singular, as the case demands, and includes an individual, partnership, corporation, association, governmental agency, trust, or other institution or entity.

"Pharmacist-in-charge" means the person who, being licensed as a pharmacist, signs the application for a pharmacy permit and assumes full legal responsibility for the operation of the relevant pharmacy in a manner complying with the laws

and regulations for the practice of pharmacy and the sale and dispensing of controlled substances; the "pharmacist-in-charge" shall personally supervise the pharmacy and the pharmacy's personnel as required by § 54.1-3432.

"Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

"Practitioner" means a physician, dentist, licensed nurse practitioner pursuant to § 54.1-2957.01, licensed physician assistant pursuant to § 54.1-2952.1, pharmacist pursuant to § 54.1-3300, TPA-certified optometrist pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32, veterinarian, scientific investigator, or other person licensed, registered, or otherwise permitted to distribute, dispense, prescribe and administer, or conduct research with respect to a controlled substance in the course of professional practice or research in the Commonwealth.

"Prescriber" means a practitioner who is authorized pursuant to §§ 54.1-3303 and 54.1-3408 to issue a prescription.

"Prescription" means an order for drugs or medical supplies, written or signed or transmitted by word of mouth, telephone, telegraph, or other means of communication to a pharmacist by a duly licensed physician, dentist, veterinarian, or other practitioner authorized by law to prescribe and administer such drugs or medical supplies.

"Prescription drug" means any drug required by federal law or regulation to be dispensed only pursuant to a prescription, including finished dosage forms and active ingredients subject to § 503(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. § 353(b)).

"Production" or "produce" includes the manufacture, planting, cultivation, growing, or harvesting of a controlled substance or marijuana.

"Proprietary medicine" means a completely compounded nonprescription drug in its unbroken, original package which does not contain any controlled substance or marijuana as defined in this chapter and is not in itself poisonous, and which is sold, offered, promoted, or advertised directly to the general public by or under the authority of the manufacturer or primary distributor, under a trademark, trade name, or other trade symbol privately owned, and the labeling of which conforms to the requirements of this chapter and applicable federal law. However, this definition shall not include a drug that is only advertised or promoted professionally to licensed practitioners, a narcotic or drug containing a narcotic, a drug that may be dispensed only upon prescription or the label of which bears substantially the statement "Warning — may be habit-forming," or a drug intended for injection.

"Radiopharmaceutical" means any drug that exhibits spontaneous disintegration of unstable nuclei with the emission of nuclear particles or photons and includes any non-radioactive reagent kit or radionuclide generator that is intended to be used in the preparation of any such substance, but does not include drugs such as carbon-containing compounds or potassium-containing salts that include trace quantities of naturally occurring radionuclides. The term also includes any biological product that is labeled with a radionuclide or intended solely to be labeled with a radionuclide.

"Reference biological product" means the single biological product licensed pursuant to 42 U.S.C. § 262(a) against which a biological product is evaluated in an application submitted to the U.S. Food and Drug Administration for licensure of biological products as biosimilar or interchangeable pursuant to 42 U.S.C. § 262(k).

"Sale" includes barter, exchange, or gift, or offer therefor, and each such transaction made by any person, whether as an individual, proprietor, agent, servant, or employee.

"Therapeutically equivalent drug products" means drug products that contain the same active ingredients and are identical in strength or concentration, dosage form, and route of administration and that are classified as being therapeutically equivalent by the U.S. Food and Drug Administration pursuant to the definition of "therapeutically equivalent drug products" set forth in the most recent edition of the Approved Drug Products with Therapeutic Equivalence Evaluations, otherwise known as the "Orange Book."

"Third-party logistics provider" means a person that provides or coordinates warehousing of or other logistics services for a drug or device in interstate commerce on behalf of a manufacturer, wholesale distributor, or dispenser of the drug or device but does not take ownership of the product or have responsibility for directing the sale or disposition of the product.

"USP-NF" means the current edition of the United States Pharmacopeia-National Formulary.

"Warehouser" means any person, other than a wholesale distributor, manufacturer, or third-party logistics provider, engaged in the business of selling or otherwise distributing prescription drugs or devices to any person who is not the ultimate user or consumer. No person shall be subject to any state or local tax by reason of this definition.

"Wholesale distribution" means distribution of prescription drugs to persons other than consumers or patients, subject to the exemptions set forth in the federal Drug Supply Chain Security Act.

"Wholesale distributor" means any person other than a manufacturer, a manufacturer's co-licensed partner, a third-party logistics provider, or a repackager that engages in wholesale distribution.

The words "drugs" and "devices" as used in Chapter 33 (§ 54.1-3300 et seq.) and in this chapter shall not include surgical or dental instruments, physical therapy equipment, X-ray apparatus, or glasses or lenses for the eyes.

The terms "pharmacist," "pharmacy," and "practice of pharmacy" as used in this chapter shall be defined as provided in Chapter 33 (§ 54.1-3300 et seq.) unless the context requires a different meaning.

#### **§ 54.1-3408.02. Transmission of prescriptions.**

A. Consistent with federal law and in accordance with regulations promulgated by the Board, prescriptions may be transmitted to a pharmacy by *as an* electronic ~~transmission~~ *prescription* or by facsimile machine and shall be treated as valid original prescriptions.

B. *Any prescription for a controlled substance that contains an opiate shall be issued as an electronic prescription.*

#### **§ 54.1-3410. When pharmacist may sell and dispense drugs.**

A. A pharmacist, acting in good faith, may sell and dispense drugs and devices to any person pursuant to a prescription of a prescriber as follows:

1. A drug listed in Schedule II shall be dispensed only upon receipt of a written prescription that is properly executed, dated and signed by the person prescribing on the day when issued and bearing the full name and address of the patient for whom, or of the owner of the animal for which, the drug is dispensed, and the full name, address, and registry number under the federal laws of the person prescribing, if he is required by those laws to be so registered. If the prescription is for an animal, it shall state the species of animal for which the drug is prescribed;

2. In emergency situations, Schedule II drugs may be dispensed pursuant to an oral prescription in accordance with the Board's regulations;

3. Whenever a pharmacist dispenses any drug listed within Schedule II on a prescription issued by a prescriber, he shall affix to the container in which such drug is dispensed, a label showing the prescription serial number or name of the drug; the date of initial filling; his name and address, or the name and address of the pharmacy; the name of the patient or, if the patient is an animal, the name of the owner of the animal and the species of the animal; the name of the prescriber by whom the prescription was written, except for those drugs dispensed to a patient in a hospital pursuant to a chart order; and such directions as may be stated on the prescription.

B. A drug controlled by Schedules III through VI or a device controlled by Schedule VI shall be dispensed upon receipt of a written or oral prescription as follows:

1. If the prescription is written, it shall be properly executed, dated and signed by the person prescribing on the day when issued and bear the full name and address of the patient for whom, or of the owner of the animal for which, the drug is dispensed, and the full name and address of the person prescribing. If the prescription is for an animal, it shall state the species of animal for which the drug is prescribed.

2. If the prescription is oral, the prescriber shall furnish the pharmacist with the same information as is required by law in the case of a written prescription for drugs and devices, except for the signature of the prescriber.

A pharmacist who dispenses a Schedule III through VI drug or device shall label the drug or device as required in subdivision A 3 of this section.

C. A drug controlled by Schedule VI may be refilled without authorization from the prescriber if, after reasonable effort has been made to contact him, the pharmacist ascertains that he is not available and the patient's health would be in imminent danger without the benefits of the drug. The refill shall be made in compliance with the provisions of § 54.1-3411.

If the written or oral prescription is for a Schedule VI drug or device and does not contain the address or registry number of the prescriber, or the address of the patient, the pharmacist need not reduce such information to writing if such information is readily retrievable within the pharmacy.

D. Pursuant to authorization of the prescriber, an agent of the prescriber on his behalf may orally transmit a prescription for a drug classified in Schedules III through VI if, in such cases, the written record of the prescription required by this subsection specifies the full name of the agent of the prescriber transmitting the prescription.

*E. No pharmacist shall dispense a controlled substance that contains an opiate unless the prescription for such controlled substance is issued as an electronic prescription.*

**2. That the provisions of the first enactment of this act shall become effective on July 1, 2020.**

**3. That the Secretary of Health and Human Resources shall convene a work group of interested stakeholders, including the Medical Society of Virginia, the Virginia Hospital and Healthcare Association, the Virginia Dental Association, the Virginia Association of Health Plans, and the Virginia Pharmacy Association to review actions necessary for the implementation of the provisions of this act and shall make an interim progress report to the Chairmen of the House Committee on Health, Welfare and Institutions and the Senate Committee on Education and Health by November 1, 2017 and shall make a final report to such Chairmen by November 1, 2018. In addition, the work group shall evaluate hardships on prescribers, the inability of prescribers to comply with the deadline for electronic prescribing and make recommendations to the General Assembly for any extension or exemption processes relative to compliance or disruptions due to natural or manmade disasters or technology gaps, failures or interruptions of services.**

## CHAPTER 116

*An Act to amend and reenact § 58.1-3506 of the Code of Virginia, relating to personal property tax; valuation of certain property used in a business.*

[H 2193]

Approved February 21, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 58.1-3506 of the Code of Virginia is amended and reenacted as follows:**

**§ 58.1-3506. Other classifications of tangible personal property for taxation.**

A. The items of property set forth below are each declared to be a separate class of property and shall constitute a classification for local taxation separate from other classifications of tangible personal property provided in this chapter:

1. a. Boats or watercraft weighing five tons or more, not used solely for business purposes;

- b. Boats or watercraft weighing less than five tons, not used solely for business purposes;
2. Aircraft having a maximum passenger seating capacity of no more than 50 that are owned and operated by scheduled air carriers operating under certificates of public convenience and necessity issued by the State Corporation Commission or the Civil Aeronautics Board;
3. Aircraft having a registered empty gross weight equal to or greater than 20,000 pounds that are not owned or operated by scheduled air carriers recognized under federal law, but not including any aircraft described in subdivision 4;
4. Aircraft that are (i) considered Warbirds, manufactured and intended for military use, excluding those manufactured after 1954, and (ii) used only for (a) exhibit or display to the general public and otherwise used for educational purposes (including such flights as are necessary for testing, maintaining, or preparing such aircraft for safe operation), or (b) airshow and flight demonstrations (including such flights necessary for testing, maintaining, or preparing such aircraft for safe operation), shall constitute a new class of property. Such class of property shall not include any aircraft used for commercial purposes, including transportation and other services for a fee;
5. All other aircraft not included in subdivisions A 2, A 3, or A 4 and flight simulators;
6. Antique motor vehicles as defined in § 46.2-100 which may be used for general transportation purposes as provided in subsection C of § 46.2-730;
7. Tangible personal property used in a research and development business;
8. Heavy construction machinery not used for business purposes, including land movers, bulldozers, front-end loaders, graders, packers, power shovels, cranes, pile drivers, forest harvesting and silvicultural activity equipment and ditch and other types of diggers;
9. Generating equipment purchased after December 31, 1974, for the purpose of changing the energy source of a manufacturing plant from oil or natural gas to coal, wood, wood bark, wood residue, or any other alternative energy source for use in manufacturing and any cogeneration equipment purchased to achieve more efficient use of any energy source. Such generating equipment and cogeneration equipment shall include, without limitation, such equipment purchased by firms engaged in the business of generating electricity or steam, or both;
10. Vehicles without motive power, used or designed to be used as manufactured homes as defined in § 36-85.3;
11. Computer hardware used by businesses primarily engaged in providing data processing services to other nonrelated or nonaffiliated businesses;
12. Privately owned pleasure boats and watercraft, 18 feet and over, used for recreational purposes only;
13. Privately owned vans with a seating capacity of not less than seven nor more than 15 persons, including the driver, used exclusively pursuant to a ridesharing arrangement as defined in § 46.2-1400;
14. Motor vehicles specially equipped to provide transportation for physically handicapped individuals;
15. Motor vehicles (i) owned by members of a volunteer emergency medical services agency or a member of a volunteer fire department or (ii) leased by volunteer emergency medical services personnel or a member of a volunteer fire department if the volunteer is obligated by the terms of the lease to pay tangible personal property tax on the motor vehicle. One motor vehicle that is owned by each volunteer member who meets the definition of "emergency medical services personnel" in § 32.1-111.1 or volunteer fire department member, or leased by each volunteer member who meets the definition of "emergency medical services personnel" in § 32.1-111.1 or volunteer fire department member if the volunteer is obligated by the terms of the lease to pay tangible personal property tax on the motor vehicle, may be specially classified under this section, provided the volunteer regularly responds to emergency calls. The volunteer shall furnish the commissioner of revenue, or other assessing officer, with a certification by the chief of the volunteer emergency medical services agency or volunteer fire department, that the volunteer is an individual who meets the definition of "emergency medical services personnel" in § 32.1-111.1 or a member of the volunteer fire department who regularly responds to calls or regularly performs other duties for the emergency medical services agency or fire department, and the motor vehicle owned or leased by the volunteer is identified. The certification shall be submitted by January 31 of each year to the commissioner of revenue or other assessing officer; however, the commissioner of revenue or other assessing officer shall be authorized, in his discretion, and for good cause shown and without fault on the part of the volunteer, to accept a certification after the January 31 deadline. In any county that prorates the assessment of tangible personal property pursuant to § 58.1-3516, a replacement vehicle may be certified and classified pursuant to this subsection when the vehicle certified as of the immediately prior January date is transferred during the tax year;
16. Motor vehicles (i) owned by auxiliary members of a volunteer emergency medical services agency or volunteer fire department or (ii) leased by auxiliary members of a volunteer emergency medical services agency or volunteer fire department if the auxiliary member is obligated by the terms of the lease to pay tangible personal property tax on the motor vehicle. One motor vehicle that is regularly used by each auxiliary volunteer fire department or emergency medical services agency member may be specially classified under this section. The auxiliary member shall furnish the commissioner of revenue, or other assessing officer, with a certification by the chief of the volunteer emergency medical services agency or volunteer fire department, that the volunteer is an auxiliary member of the volunteer emergency medical services agency or fire department who regularly performs duties for the emergency medical services agency or fire department, and the motor vehicle is identified as regularly used for such purpose; however, if a volunteer meets the definition of "emergency medical services personnel" in § 32.1-111.1 or volunteer fire department member and an auxiliary member are members of the same household, that household shall be allowed no more than two special classifications under this subdivision or subdivision 15. The certification shall be submitted by January 31 of each year to the commissioner of revenue or other assessing

officer; however, the commissioner of revenue or other assessing officer shall be authorized, in his discretion, and for good cause shown and without fault on the part of the auxiliary member, to accept a certification after the January 31 deadline;

17. Motor vehicles owned by a nonprofit organization and used to deliver meals to homebound persons or provide transportation to senior or handicapped citizens in the community to carry out the purposes of the nonprofit organization;

18. Privately owned camping trailers as defined in § 46.2-100, and privately owned travel trailers as defined in § 46.2-1500, which are used for recreational purposes only, and privately owned trailers as defined in § 46.2-100, which are designed and used for the transportation of horses except those trailers described in subdivision A 11 of § 58.1-3505;

19. One motor vehicle owned and regularly used by a veteran who has either lost, or lost the use of, one or both legs, or an arm or a hand, or who is blind or who is permanently and totally disabled as certified by the Department of Veterans Services. In order to qualify, the veteran shall provide a written statement to the commissioner of revenue or other assessing officer from the Department of Veterans Services that the veteran has been so designated or classified by the Department of Veterans Services as to meet the requirements of this section, and that his disability is service-connected. For purposes of this section, a person is blind if he meets the provisions of § 46.2-100;

20. Motor vehicles (i) owned by persons who have been appointed to serve as auxiliary police officers pursuant to Article 3 (§ 15.2-1731 et seq.) of Chapter 17 of Title 15.2 or (ii) leased by persons who have been so appointed to serve as auxiliary police officers if the person is obligated by the terms of the lease to pay tangible personal property tax on the motor vehicle. One motor vehicle that is regularly used by each auxiliary police officer to respond to auxiliary police duties may be specially classified under this section. In order to qualify for such classification, any auxiliary police officer who applies for such classification shall identify the vehicle for which this classification is sought, and shall furnish the commissioner of revenue or other assessing officer with a certification from the governing body that has appointed such auxiliary police officer or from the official who has appointed such auxiliary officers. That certification shall state that the applicant is an auxiliary police officer who regularly uses a motor vehicle to respond to auxiliary police duties, and it shall state that the vehicle for which the classification is sought is the vehicle that is regularly used for that purpose. The certification shall be submitted by January 31 of each year to the commissioner of revenue or other assessing officer; however, the commissioner of revenue or other assessing officer shall be authorized, in his discretion, and for good cause shown and without fault on the part of the member, to accept a certification after the January 31 deadline;

21. Until the first to occur of June 30, 2019, or the date that a special improvements tax is no longer levied under § 15.2-4607 on property within a Multicounty Transportation Improvement District created pursuant to Chapter 46 (§ 15.2-4600 et seq.) of Title 15.2, tangible personal property that is used in manufacturing, testing, or operating satellites within a Multicounty Transportation Improvement District, provided that such business personal property is put into service within the District on or after July 1, 1999;

22. Motor vehicles which use clean special fuels as defined in § 46.2-749.3, which shall not include any vehicle described in subdivision 38 or 40;

23. Wild or exotic animals kept for public exhibition in an indoor or outdoor facility that is properly licensed by the federal government, the Commonwealth, or both, and that is properly zoned for such use. "Wild animals" means any animals that are found in the wild, or in a wild state, within the boundaries of the United States, its territories or possessions. "Exotic animals" means any animals that are found in the wild, or in a wild state, and are native to a foreign country;

24. Furniture, office, and maintenance equipment, exclusive of motor vehicles, that are owned and used by an organization whose real property is assessed in accordance with § 58.1-3284.1 and that is used by that organization for the purpose of maintaining or using the open or common space within a residential development;

25. Motor vehicles, trailers, and semitrailers with a gross vehicle weight of 10,000 pounds or more used to transport property for hire by a motor carrier engaged in interstate commerce;

26. All tangible personal property employed in a trade or business other than that described in subdivisions A 1 through A 19, except for subdivision A 17, of § 58.1-3503;

27. Programmable computer equipment and peripherals employed in a trade or business;

28. Privately owned pleasure boats and watercraft, motorized and under 18 feet, used for recreational purposes only;

29. Privately owned pleasure boats and watercraft, nonmotorized and under 18 feet, used for recreational purposes only;

30. Privately owned motor homes as defined in § 46.2-100 that are used for recreational purposes only;

31. Tangible personal property used in the provision of Internet services. For purposes of this subdivision, "Internet service" means a service, including an Internet Web-hosting service, that enables users to access content, information, electronic mail, and the Internet as part of a package of services sold to customers;

32. Motor vehicles (i) owned by persons who serve as auxiliary, reserve, volunteer, or special deputy sheriffs or (ii) leased by persons who serve as auxiliary, reserve, volunteer, or special deputy sheriffs if the person is obligated by the terms of the lease to pay tangible personal property tax on the motor vehicle. For purposes of this subdivision, the term "auxiliary deputy sheriff" means auxiliary, reserve, volunteer, or special deputy sheriff. One motor vehicle that is regularly used by each auxiliary deputy sheriff to respond to auxiliary deputy sheriff duties may be specially classified under this section. In order to qualify for such classification, any auxiliary deputy sheriff who applies for such classification shall identify the vehicle for which this classification is sought, and shall furnish the commissioner of revenue or other assessing officer with a certification from the governing body that has appointed such auxiliary deputy sheriff or from the official who has appointed such auxiliary deputy sheriff. That certification shall state that the applicant is an auxiliary deputy sheriff who

regularly uses a motor vehicle to respond to such auxiliary duties, and it shall state that the vehicle for which the classification is sought is the vehicle that is regularly used for that purpose. The certification shall be submitted by January 31 of each year to the commissioner of revenue or other assessing officer; however, the commissioner of revenue or other assessing officer shall be authorized, in his discretion, and for good cause shown and without fault on the part of the member, to accept a certification after the January 31 deadline;

33. Forest harvesting and silvicultural activity equipment;

34. Equipment used primarily for research, development, production, or provision of biotechnology for the purpose of developing or providing products or processes for specific commercial or public purposes, including medical, pharmaceutical, nutritional, and other health-related purposes; agricultural purposes; or environmental purposes but not for human cloning purposes as defined in § 32.1-162.21 or for products or purposes related to human embryo stem cells. For purposes of this section, biotechnology equipment means equipment directly used in activities associated with the science of living things;

35. Boats or watercraft weighing less than five tons, used for business purposes only;

36. Boats or watercraft weighing five tons or more, used for business purposes only;

37. Tangible personal property which is owned and operated by a service provider who is not a CMRS provider and is not licensed by the FCC used to provide, for a fee, wireless broadband Internet service. For purposes of this subdivision, "wireless broadband Internet service" means a service that enables customers to access, through a wireless connection at an upload or download bit rate of more than one megabyte per second, Internet service, as defined in § 58.1-602, as part of a package of services sold to customers;

38. Low-speed vehicles as defined in § 46.2-100;

39. Motor vehicles with a seating capacity of not less than 30 persons, including the driver;

40. Motor vehicles powered solely by electricity;

41. Tangible personal property designed and used primarily for the purpose of manufacturing a product from renewable energy as defined in § 56-576;

42. Motor vehicles leased by a county, city, town, or constitutional officer if the locality or constitutional officer is obligated by the terms of the lease to pay tangible personal property tax on the motor vehicle;

43. Computer equipment and peripherals used in a data center. For purposes of this subdivision, "data center" means a facility whose primary services are the storage, management, and processing of digital data and is used to house (i) computer and network systems, including associated components such as servers, network equipment and appliances, telecommunications, and data storage systems; (ii) systems for monitoring and managing infrastructure performance; (iii) equipment used for the transformation, transmission, distribution, or management of at least one megawatt of capacity of electrical power and cooling, including substations, uninterruptible power supply systems, all electrical plant equipment, and associated air handlers; (iv) Internet-related equipment and services; (v) data communications connections; (vi) environmental controls; (vii) fire protection systems; and (viii) security systems and services;

44. Motor vehicles (i) owned by persons who serve as uniformed members of the Virginia Defense Force pursuant to Article 4.2 (§ 44-54.4 et seq.) of Chapter 1 of Title 44 or (ii) leased by persons who serve as uniformed members of the Virginia Defense Force pursuant to Article 4.2 (§ 44-54.4 et seq.) of Chapter 1 of Title 44 if the person is obligated by the terms of the lease to pay tangible personal property tax on the motor vehicle. One motor vehicle that is regularly used by a uniformed member of the Virginia Defense Force to respond to his official duties may be specially classified under this section. In order to qualify for such classification, any person who applies for such classification shall identify the vehicle for which the classification is sought and shall furnish to the commissioner of the revenue or other assessing officer a certification from the Adjutant General of the Department of Military Affairs under § 44-11. That certification shall state that (a) the applicant is a uniformed member of the Virginia Defense Force who regularly uses a motor vehicle to respond to his official duties, and (b) the vehicle for which the classification is sought is the vehicle that is regularly used for that purpose. The certification shall be submitted by January 31 of each year to the commissioner of the revenue or other assessing officer; however, the commissioner of revenue or other assessing officer shall be authorized, in his discretion, and for good cause shown and without fault on the part of the member, to accept a certification after the January 31 deadline;

45. If a locality has adopted an ordinance pursuant to subsection D of § 58.1-3703, tangible personal property of a business that qualifies under such ordinance for the first two tax years in which the business is subject to tax upon its personal property pursuant to this chapter. If a locality has not adopted such ordinance, this classification shall apply to the tangible personal property for such first two tax years of a business that otherwise meets the requirements of subsection D of § 58.1-3703; and

46. Miscellaneous and incidental tangible personal property employed in a trade or business that is not classified as machinery and tools pursuant to Article 2 (§ 58.1-3507 et seq.), merchants' capital pursuant to Article 3 (§ 58.1-3509 et seq.), or short-term rental property pursuant to Article 3.1 (§ 58.1-3510.4 et seq.), and has an original cost of less than ~~\$250~~ \$500. A county, city, or town ~~may~~ shall allow a taxpayer to provide an aggregate estimate of the total cost of all such property owned by the taxpayer that qualifies under this subdivision, in lieu of a specific, itemized list.

B. The governing body of any county, city or town may levy a tax on the property enumerated in subsection A at different rates from the tax levied on other tangible personal property. The rates of tax and the rates of assessment shall (i) for purposes of subdivisions A 1, 2, 3, 4, 5, 6, 8, 11 through 20, 22 through 24, and 26 through 46, not exceed that applicable to the general class of tangible personal property, (ii) for purposes of subdivisions A 7, 9, 21, and 25, not exceed

that applicable to machinery and tools, and (iii) for purposes of subdivision A 10, equal that applicable to real property. If an item of personal property is included in multiple classifications under subsection A, then the rate of tax shall be the lowest rate assigned to such classifications.

C. Notwithstanding any other provision of this section, for any qualifying vehicle, as such term is defined in § 58.1-3523, (i) included in any separate class of property in subsection A and (ii) assessed for tangible personal property taxes by a county, city, or town receiving a payment from the Commonwealth under Chapter 35.1 (§ 58.1-3523 et seq.) for providing tangible personal property tax relief, the county, city, or town may levy the tangible personal property tax on such qualifying vehicle at a rate not to exceed the rates of tax and rates of assessment required under such chapter.

**CHAPTER 117**

*An Act to amend and reenact § 54.1-2930 of the Code of Virginia and to repeal § 54.1-2935 of the Code of Virginia, relating to licensure of doctors of medicine, osteopathy, chiropractic, and podiatry; requirements.*

[H 2277]

Approved February 21, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 54.1-2930 of the Code of Virginia is amended and reenacted as follows:**

**§ 54.1-2930. Requirements for licensure.**

The Board may issue a license to practice medicine, osteopathy, chiropractic, and podiatric medicine to any candidate who has submitted satisfactory evidence verified by affidavits that he:

1. Is 18 years of age or more;
2. Is of good moral character;
3. Has successfully completed all or such part as may be prescribed by the Board, of an educational course of study of that branch of the healing arts in which he desires a license to practice, which course of study and the educational institution providing that course of study are acceptable to the Board; and
4. Has completed at least 12 months of satisfactory postgraduate training in one program or institution approved by an accrediting agency recognized by the Board for internships or residency training. At the discretion of the Board, the postgraduate training may be waived if an applicant for licensure in podiatry has been in active practice for four continuous years while serving in the military and is a diplomate of the American Board of Podiatric Surgery. Applicants for licensure in chiropractic need not fulfill this requirement.

In determining whether such course of study and institution are acceptable to it, the Board may consider the reputation of the institution and whether it is approved or accredited by regional or national educational or professional associations including, but not limited to, such organizations as the Accreditation Council for Graduate Medical Education, Liaison Committee on Medical Education, Council on Postgraduate Training of the American Osteopathic Association, Council on Osteopathic College Accreditation, College of Family Physicians of Canada, Committee for the Accreditation of Canadian Medical Schools, Education Commission on Foreign Medical Graduates, Royal College of Physicians and Surgeons of Canada, or their appropriate subsidiary agencies; by any appropriate agency of the United States government; or by any other organization approved by the Board. ~~Supervised clinical training that is received in the United States as part of the curriculum of an international medical school shall be obtained in an approved hospital, institution or school of medicine offering an approved residency program in the specialty area for the relevant clinical training or in a program acceptable to the Board and deemed a substantially equivalent experience. The Board may also consider any other factors that reflect whether that institution and its course of instruction provide training sufficient to prepare practitioners to practice their branch of the healing arts with competency and safety in the Commonwealth.~~

**2. That § 54.1-2935 of the Code of Virginia is repealed.**

**CHAPTER 118**

*An Act to amend and reenact §§ 15.2-901, 15.2-906, 15.2-907, 15.2-908, 15.2-908.1, and 15.2-1115 of the Code of Virginia, relating to lien priority.*

[S 920]

Approved February 21, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 15.2-901, 15.2-906, 15.2-907, 15.2-908, 15.2-908.1, and 15.2-1115 of the Code of Virginia are amended and reenacted as follows:**

**§ 15.2-901. Locality may provide for removal or disposal of trash, cutting of grass and weeds; penalty in certain counties; penalty.**

A. Any locality may, by ordinance, provide that:

1. The owners of property therein shall, at such time or times as the governing body may prescribe, remove therefrom any and all trash, garbage, refuse, litter and other substances which might endanger the health or safety of other residents of

such locality; or may, whenever the governing body deems it necessary, after reasonable notice, have such trash, garbage, refuse, litter and other like substances which might endanger the health of other residents of the locality, removed by its own agents or employees, in which event the cost or expenses thereof shall be chargeable to and paid by the owners of such property and may be collected by the locality as taxes are collected;

2. Trash, garbage, refuse, litter and other debris shall be disposed of in personally owned or privately owned receptacles that are provided for such use and for the use of the persons disposing of such matter or in authorized facilities provided for such purpose and in no other manner not authorized by law;

3. The owners of occupied or vacant developed or undeveloped property therein, including such property upon which buildings or other improvements are located, shall cut the grass, weeds and other foreign growth on such property or any part thereof at such time or times as the governing body shall prescribe; or may, whenever the governing body deems it necessary, after reasonable notice as determined by the locality, have such grass, weeds or other foreign growth cut by its agents or employees, in which event the cost and expenses thereof shall be chargeable to and paid by the owner of such property and may be collected by the locality as taxes are collected. For purposes of this provision, one written notice per growing season to the owner of record of the subject property shall be considered reasonable notice. No such ordinance adopted by any county shall have any force and effect within the corporate limits of any town. No such ordinance adopted by any county having a density of population of less than 500 per square mile shall have any force or effect except within the boundaries of platted subdivisions or any other areas zoned for residential, business, commercial or industrial use. No such ordinance shall be applicable to land zoned for or in active farming operation.

B. Every charge authorized by this section with which the owner of any such property shall have been assessed and which remains unpaid shall constitute a lien against such property ranking on a parity with liens for unpaid local *real estate* taxes and enforceable in the same manner as provided in Articles 3 (§ 58.1-3940 et seq.) and 4 (§ 58.1-3965 et seq.) of Chapter 39 of Title 58.1. A locality may waive such liens in order to facilitate the sale of the property. Such liens may be waived only as to a purchaser who is unrelated by blood or marriage to the owner and who has no business association with the owner. All such liens shall remain a personal obligation of the owner of the property at the time the liens were imposed.

C. The governing body of any locality may by ordinance provide that violations of this section shall be subject to a civil penalty, not to exceed \$50 for the first violation, or violations arising from the same set of operative facts. The civil penalty for subsequent violations not arising from the same set of operative facts within 12 months of the first violation shall not exceed \$200. Each business day during which the same violation is found to have existed shall constitute a separate offense. In no event shall a series of specified violations arising from the same set of operative facts result in civil penalties that exceed a total of \$3,000 in a 12-month period.

D. Except as provided in this subsection, adoption of an ordinance pursuant to subsection C shall be in lieu of criminal penalties and shall preclude prosecution of such violation as a misdemeanor. The governing body of any locality may, however, by ordinance provide that such violations shall be a Class 3 misdemeanor in the event three civil penalties have previously been imposed on the same defendant for the same or similar violation, not arising from the same set of operative facts, within a 24-month period. Classifying such subsequent violations as criminal offenses shall preclude the imposition of civil penalties for the same violation.

**§ 15.2-906. Authority to require removal, repair, etc., of buildings and other structures.**

Any locality may, by ordinance, provide that:

1. The owners of property therein, shall at such time or times as the governing body may prescribe, remove, repair or secure any building, wall or any other structure that might endanger the public health or safety of other residents of such locality;

2. The locality through its own agents or employees may remove, repair or secure any building, wall or any other structure that might endanger the public health or safety of other residents of such locality, if the owner and lienholder of such property, after reasonable notice and a reasonable time to do so, has failed to remove, repair, or secure the building, wall or other structure. For purposes of this section, repair may include maintenance work to the exterior of a building to prevent deterioration of the building or adjacent buildings. For purposes of this section, reasonable notice includes a written notice (i) mailed by certified or registered mail, return receipt requested, sent to the last known address of the property owner and (ii) published once a week for two successive weeks in a newspaper having general circulation in the locality. No action shall be taken by the locality to remove, repair, or secure any building, wall, or other structure for at least 30 days following the later of the return of the receipt or newspaper publication, except that the locality may take action to prevent unauthorized access to the building within seven days of such notice if the structure is deemed to pose a significant threat to public safety and such fact is stated in the notice;

3. In the event the locality, through its own agents or employees, removes, repairs, or secures any building, wall, or any other structure after complying with the notice provisions of this section, the cost or expenses thereof shall be chargeable to and paid by the owners of such property and may be collected by the locality as taxes are collected;

4. Every charge authorized by this section or § 15.2-900 with which the owner of any such property has been assessed and that remains unpaid shall constitute a lien against such property ranking on a parity with liens for unpaid local *real estate* taxes and enforceable in the same manner as provided in Articles 3 (§ 58.1-3940 et seq.) and 4 (§ 58.1-3965 et seq.) of Chapter 39 of Title 58.1. A locality may waive such liens in order to facilitate the sale of the property. Such liens may be waived only as to a purchaser who is unrelated by blood or marriage to the owner and who has no business association with the owner. All such liens shall remain a personal obligation of the owner of the property at the time the liens were imposed;

5. Notwithstanding the foregoing, with the written consent of the property owner, a locality may, through its agents or employees, demolish or remove a derelict nonresidential building or structure provided that such building or structure is neither located within or determined to be a contributing property within a state or local historic district nor individually designated in the Virginia Landmarks Register. The property owner's written consent shall identify whether the property is subject to a first lien evidenced by a recorded deed of trust or mortgage and, if so, shall document the property owner's best reasonable efforts to obtain the consent of the first lienholder or the first lienholder's authorized agent. The costs of such demolition or removal shall constitute a lien against such property. In the event the consent of the first lienholder or the first lienholder's authorized agent is obtained, such lien shall rank on a parity with liens for unpaid local taxes and be enforceable in the same manner as provided in subdivision 4. In the event the consent of the first lienholder or the first lienholder's authorized agent is not obtained, such lien shall be subordinate to that first lien but shall otherwise be subject to subdivision 4; and

6. A locality may prescribe civil penalties, not to exceed a total of \$1,000, for violations of any ordinance adopted pursuant to this section.

**§ 15.2-907. Authority to require removal, repair, etc., of buildings and other structures harboring illegal drug use.**

A. As used in this section:

"Affidavit" means the affidavit prepared by a locality in accordance with subdivision B 1 a hereof.

"Controlled substance" means illegally obtained controlled substances or marijuana, as defined in § 54.1-3401.

"Corrective action" means the taking of steps which are reasonably expected to be effective to abate drug blight on real property, such as removal, repair or securing of any building, wall or other structure.

"Drug blight" means a condition existing on real property which tends to endanger the public health or safety of residents of a locality and is caused by the regular presence on the property of persons under the influence of controlled substances or the regular use of the property for the purpose of illegally possessing, manufacturing or distributing controlled substances.

"Owner" means the record owner of real property.

"Property" means real property.

B. Any locality may, by ordinance, provide that:

1. The locality may undertake corrective action with respect to property in accordance with the procedures described herein:

a. The locality shall execute an affidavit, citing this section, to the effect that (i) drug blight exists on the property and in the manner described therein; (ii) the locality has used diligence without effect to abate the drug blight; and (iii) the drug blight constitutes a present threat to the public's health, safety or welfare.

b. The locality shall then send a notice to the owner of the property, to be sent by regular mail to the last address listed for the owner on the locality's assessment records for the property, together with a copy of such affidavit, advising that (i) the owner has up to 30 days from the date thereof to undertake corrective action to abate the drug blight described in such affidavit and (ii) the locality will, if requested to do so, assist the owner in determining and coordinating the appropriate corrective action to abate the drug blight described in such affidavit.

c. If no corrective action is undertaken during such 30-day period, the locality shall send by regular mail an additional notice to the owner of the property, at the address stated in the preceding subdivision, stating the date on which the locality may commence corrective action to abate the drug blight on the property, which date shall be no earlier than 15 days after the date of mailing of the notice. Such additional notice shall also reasonably describe the corrective action contemplated to be taken by the locality. Upon receipt of such notice, the owner shall have a right, upon reasonable notice to the locality, to seek equitable relief, and the locality shall initiate no corrective action while a proper petition for relief is pending before a court of competent jurisdiction.

2. If the locality undertakes corrective action with respect to the property after complying with the provisions of subdivision B 1, the costs and expenses thereof shall be chargeable to and paid by the owner of such property and may be collected by the locality as taxes are collected.

3. Every charge authorized by this section with which the owner of any such property has been assessed and which remains unpaid shall constitute a lien against such property with the same priority as liens for unpaid local *real estate* taxes and enforceable in the same manner as provided in Articles 3 (§ 58.1-3940 et seq.) and 4 (§ 58.1-3965 et seq.) of Chapter 39 of Title 58.1.

C. If the owner of such property takes timely corrective action pursuant to such ordinance, the locality shall deem the drug blight abated, shall close the proceeding without any charge or cost to the owner and shall promptly provide written notice to the owner that the proceeding has been terminated satisfactorily. The closing of a proceeding shall not bar the locality from initiating a subsequent proceeding if the drug blight recurs.

D. Nothing in this section shall be construed to abridge or waive any rights or remedies of an owner of property at law or in equity.

**§ 15.2-908. Authority of localities to remove or repair the defacement of buildings, walls, fences and other structures.**

A. Any locality may by ordinance undertake or contract for the removal or repair of the defacement of any public building, wall, fence or other structure or any private building, wall, fence or other structure where such defacement is visible from any public right-of-way. The ordinance may provide that whenever the property owner, after reasonable notice,

fails to remove or repair the defacement, the locality may have such defacement removed or repaired by its agents or employees. Such agents or employees shall have any and all immunity normally provided to an employee of the locality. For purposes of this section, the term "defacement" means the unauthorized application by any means of any writing, painting, drawing, etching, scratching, or marking of an inscription, word, mark, figure, or design of any type.

If the defacement occurs on a public or private building, wall, fence, or other structure located on an unoccupied property, and the locality, through its own agents or employees, removes or repairs the defacement after complying with the notice provisions of this section, the actual cost or expenses thereof shall be chargeable to and paid by the owners of such property and may be collected by the locality as taxes are collected. No lien shall be chargeable to the owners of such property unless the locality shall have given a minimum of 15 days notice to the property owner prior to the removal of the defacement.

Every charge authorized by this section with which the owner of any such property shall have been assessed and that remains unpaid shall constitute a lien against such property, ranking on a parity with liens for unpaid local *real estate* taxes and enforceable in the same manner as provided in Articles 3 (§ 58.1-3940 et seq.) and 4 (§ 58.1-3965 et seq.) of Chapter 39 of Title 58.1. A locality may waive and release such liens in order to facilitate the sale of the property. Such liens may be waived only as to a purchaser who is unrelated by blood or marriage to the owner and who has no business association with the owner. All such liens shall remain a personal obligation of the owner of the property at the time the liens were imposed.

B. The court may order any person convicted of unlawfully defacing property described in subsection A to pay full or partial restitution to the locality for costs incurred by the locality in removing or repairing the defacement if the locality has adopted an ordinance pursuant to this section.

C. An order of restitution pursuant to this section shall be docketed as provided in § 8.01-446 when so ordered by the court or upon written request of the locality and may be enforced by the locality in the same manner as a judgment in a civil action.

**§ 15.2-908.1. Authority to require removal, repair, etc., of buildings and other structures harboring a bawdy place.**

A. As used in this section:

"Affidavit" means the affidavit prepared by a locality in accordance with subdivision B 1 a hereof.

"Bawdy place" means the same as that term is defined in § 18.2-347.

"Corrective action" means the taking of steps which are reasonably expected to be effective to abate a bawdy place on real property, such as removal, repair or securing of any building, wall or other structure.

"Owner" means the record owner of real property.

"Property" means real property.

B. The governing body of any locality may, by ordinance, provide that:

1. The locality may undertake corrective action with respect to property in accordance with the procedures described herein:

a. The locality shall execute an affidavit, citing this section, to the effect that (i) a bawdy place exists on the property and in the manner described therein; (ii) the locality has used diligence without effect to abate the bawdy place; and (iii) the bawdy place constitutes a present threat to the public's health, safety or welfare.

b. The locality shall then send a notice to the owner of the property, to be sent by regular mail to the last address listed for the owner on the locality's assessment records for the property, together with a copy of such affidavit, advising that (i) the owner has up to thirty days from the date thereof to undertake corrective action to abate the bawdy place described in such affidavit and (ii) the locality will, if requested to do so, assist the owner in determining and coordinating the appropriate corrective action to abate the bawdy place described in such affidavit.

c. If no corrective action is undertaken during such thirty-day period, the locality shall send by regular mail an additional notice to the owner of the property, at the address stated in the preceding subdivision, stating the date on which the locality may commence corrective action to abate the bawdy place on the property, which date shall be no earlier than fifteen days after the date of mailing of the notice. Such additional notice shall also reasonably describe the corrective action contemplated to be taken by the locality. Upon receipt of such notice, the owner shall have a right, upon reasonable notice to the locality, to seek equitable relief, and the locality shall initiate no corrective action while a proper petition for relief is pending before a court of competent jurisdiction.

2. If the locality undertakes corrective action with respect to the property after complying with the provisions of subdivision B 1, the costs and expenses thereof shall be chargeable to and paid by the owner of such property and may be collected by the locality as taxes and levies are collected.

3. Every charge authorized by this section with which the owner of any such property has been assessed and which remains unpaid shall constitute a lien against such property with the same priority as liens for unpaid local *real estate* taxes and enforceable in the same manner as provided in Articles 3 (§ 58.1-3940 et seq.) and 4 (§ 58.1-3965 et seq.) of Chapter 39 of Title 58.1.

C. If the owner of such property takes timely corrective action pursuant to such ordinance, the locality shall deem the bawdy place abated, shall close the proceeding without any charge or cost to the owner and shall promptly provide written notice to the owner that the proceeding has been terminated satisfactorily. The closing of a proceeding shall not bar the locality from initiating a subsequent proceeding if the bawdy place recurs.

D. Nothing in this section shall be construed to abridge or waive any rights or remedies of an owner of property at law or in equity.

**§ 15.2-1115. Abatement or removal of nuisances.**

A. A municipal corporation may compel the abatement or removal of all nuisances, including but not limited to the removal of weeds from private and public property and snow from sidewalks; the covering or removal of offensive, unwholesome, unsanitary or unhealthy substances allowed to accumulate in or on any place or premises; the filling in to the street level, fencing or protection by other means, of the portion of any lot adjacent to a street where the difference in level between the lot and the street constitutes a danger to life and limb; the raising or draining of grounds subject to be covered by stagnant water; and the razing or repair of all unsafe, dangerous or unsanitary public or private buildings, walls or structures which constitute a menace to the health and safety of the occupants thereof or the public. If after such reasonable notice as the municipal corporation may prescribe the owner or owners, occupant or occupants of the property or premises affected by the provisions of this section shall fail to abate or obviate the condition or nuisance, the municipal corporation may do so and charge and collect the cost thereof from the owner or owners, occupant or occupants of the property affected in any manner provided by law for the collection of state or local taxes.

B. Every charge authorized by this section in excess of \$200 which has been assessed against the owner of any such property and which remains unpaid shall constitute a lien against such property. Such liens shall have the same priority as *liens* for other unpaid local *real estate* taxes and shall be enforceable in the same manner as provided in Articles 3 (§ 58.1-3940 et seq.) and 4 (§ 58.1-3965 et seq.) of Chapter 39 of Title 58.1. A locality may waive such liens in order to facilitate the sale of the property. Such liens may be waived only as to a purchaser who is unrelated by blood or marriage to the owner and who has no business association with the owner. All such liens shall remain a personal obligation of the owner of the property at the time the liens were imposed.

## CHAPTER 119

*An Act to amend and reenact § 46.2-752 of the Code of Virginia, relating to collection of local motor vehicle taxes and license fees.*

[S 1211]

Approved February 21, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 46.2-752 of the Code of Virginia is amended and reenacted as follows:**

**§ 46.2-752. Taxes and license fees imposed by counties, cities, and towns; limitations on amounts; disposition of revenues; requiring evidence of payment of personal property taxes and certain fines; prohibiting display of licenses after expiration; failure to display valid local license required by other localities; penalty.**

A. Except as provided in § 46.2-755, counties, cities, and towns may levy and assess taxes and charge license fees on motor vehicles, trailers, and semitrailers. However, none of these taxes and license fees shall be assessed or charged by any county on vehicles owned by residents of any town located in the county when such town constitutes a separate school district if the vehicles are already subject to town license fees and taxes, nor shall a town charge a license fee to any new resident of the town, previously a resident of a county within which all or part of the town is situated, who has previously paid a license fee for the same tax year to such county. The amount of the license fee or tax imposed by any county, city, or town on any motor vehicle, trailer, or semitrailer shall not be greater than the annual or one-year fee imposed by the Commonwealth on the motor vehicle, trailer, or semitrailer. The license fees and taxes shall be imposed in such manner, on such basis, for such periods, and subject to proration for fractional periods of years, as the proper local authorities may determine.

Owners or lessees of motor vehicles, trailers, and semitrailers who have served outside of the United States in the armed services of the United States shall have a 90-day grace period, beginning on the date they are no longer serving outside the United States, in which to comply with the requirements of this section. For purposes of this section, "the armed services of the United States" includes active duty service with the regular Armed Forces of the United States or the National Guard or other reserve component.

Local licenses may be issued free of charge for any or all of the following:

1. Vehicles powered by clean special fuels as defined in § 46.2-749.3, including dual-fuel and bi-fuel vehicles,
2. Vehicles owned by volunteer emergency medical services agencies,
3. Vehicles owned by volunteer fire departments,
4. Vehicles owned or leased by active members or active auxiliary members of volunteer emergency medical services agencies,
5. Vehicles owned or leased by active members or active auxiliary members of volunteer fire departments,
6. Vehicles owned or leased by auxiliary police officers,
7. Vehicles owned or leased by volunteer police chaplains,
8. Vehicles owned by surviving spouses of persons qualified to receive special license plates under § 46.2-739,
9. Vehicles owned or leased by auxiliary deputy sheriffs or volunteer deputy sheriffs,
10. Vehicles owned by persons qualified to receive special license plates under § 46.2-739,

11. Vehicles owned by any of the following who served at least 10 years in the locality: former members of volunteer emergency medical services agencies, former members of volunteer fire departments, former auxiliary police officers, members and former members of authorized police volunteer citizen support units, members and former members of authorized sheriff's volunteer citizen support units, former volunteer police chaplains, and former volunteer special police officers appointed under former § 15.2-1737. In the case of active members of volunteer emergency medical services agencies and active members of volunteer fire departments, applications for such licenses shall be accompanied by written evidence, in a form acceptable to the locality, of their active affiliation or membership, and no member of an emergency medical services agency or member of a volunteer fire department shall be issued more than one such license free of charge,

12. All vehicles having a situs for the imposition of licensing fees under this section in the locality,

13. Vehicles owned or leased by deputy sheriffs; however, no deputy sheriff shall be issued more than one such license free of charge,

14. Vehicles owned or leased by police officers; however, no police officer shall be issued more than one such license free of charge,

15. Vehicles owned or leased by officers of the State Police; however, no officer of the State Police shall be issued more than one such license free of charge,

16. Vehicles owned or leased by salaried firefighters; however, no salaried firefighter shall be issued more than one such license free of charge,

17. Vehicles owned or leased by salaried emergency medical services personnel; however, no salaried emergency medical services personnel shall be issued more than one such license free of charge,

18. Vehicles with a gross weight exceeding 10,000 pounds owned by museums officially designated by the Commonwealth,

19. Vehicles owned by persons, or their surviving spouses, qualified to receive special license plates under subsection A of § 46.2-743, and

20. Vehicles owned or leased by members of the Virginia Defense Force; however, no member of the Virginia Defense Force shall be issued more than one such license free of charge.

The governing body of any county, city, or town issuing licenses under this section may by ordinance provide for a 50 percent reduction in the fee charged for the issuance of any such license issued for any vehicle owned or leased by any person who is 65 years old or older. No such discount, however, shall be available for more than one vehicle owned or leased by the same person.

The governing body of any county, city, or town issuing licenses free of charge under this subsection may by ordinance provide for (i) the limitation, restriction, or denial of such free issuance to an otherwise qualified applicant, including without limitation the denial of free issuance to a taxpayer who has failed to timely pay personal property taxes due with respect to the vehicle and (ii) the grounds for such limitation, restriction, or denial.

The situs for the imposition of licensing fees under this section shall in all cases, except as hereinafter provided, be the county, city, or town in which the motor vehicle, trailer, or semitrailer is normally garaged, stored, or parked. If it cannot be determined where the personal property is normally garaged, stored, or parked, the situs shall be the domicile of its owner. In the event the owner of the motor vehicle is a full-time student attending an institution of higher education, the situs shall be the domicile of such student, provided the student has presented sufficient evidence that he has paid a personal property tax on the motor vehicle in his domicile.

B. The revenue derived from all county, city, or town taxes and license fees imposed on motor vehicles, trailers, or semitrailers shall be applied to general county, city, or town purposes.

C. A county, city, or town may require that no motor vehicle, trailer, or semitrailer shall be locally licensed until the applicant has produced satisfactory evidence that all personal property taxes on the motor vehicle, trailer, or semitrailer to be licensed have been paid and satisfactory evidence that any delinquent motor vehicle, trailer, or semitrailer personal property taxes owing have been paid which have been properly assessed or are assessable against the applicant by the county, city, or town. A county, city, or town may also provide that no motor vehicle license shall be issued unless the tangible personal property taxes properly assessed or assessable by that locality on any tangible personal property used or usable as a dwelling titled by the Department of Motor Vehicles and owned by the taxpayer have been paid. Any county and any town within any such county may by agreement require that all personal property taxes assessed by either the county or the town on any vehicle be paid before licensure of such vehicle by either the county or the town.

C1. The Counties of Dinwiddie, Lee, and Wise may, by ordinance or resolution adopted after public notice and hearing and, with the consent of the treasurer, require that no license may be issued under this section unless the applicant has produced satisfactory evidence that all fees, including delinquent fees, payable to such county or local solid waste authority, for the disposal of solid waste pursuant to the Virginia Water and Waste Authorities Act (§ 15.2-5100 et seq.), or pursuant to § 15.2-2159, have been paid in full. For purposes of this subsection, all fees, including delinquent fees, payable to a county for waste disposal services described herein, shall be paid to the treasurer of such county; however, in Wise County, the fee shall be paid to the county or its agent.

D. The Counties of Arlington, Fairfax, Loudoun, and Prince William and towns within them and any city may require that no motor vehicle, trailer, or semitrailer shall be licensed by that jurisdiction unless all fines owed to the jurisdiction by the owner of the vehicle, trailer, or semitrailer for violation of the jurisdiction's ordinances governing parking of vehicles

have been paid. The provisions of this subsection shall not apply to vehicles owned by firms or companies in the business of renting motor vehicles.

E. If in any county imposing license fees and taxes under this section, a town therein imposes like fees and taxes on vehicles of owners resident in the town, the owner of any vehicle subject to the fees or taxes shall be entitled, on the owner's displaying evidence that he has paid the fees or taxes, to receive a credit on the fees or taxes imposed by the county to the extent of the fees or taxes he has paid to the town. Nothing in this section shall deprive any town now imposing these licenses and taxes from increasing them or deprive any town not now imposing them from hereafter doing so, but subject to the limitations provided in subsection D. The governing body of any county and the governing body of any town in that county wherein each imposes the license tax herein provided may provide mutual agreements so that not more than one license plate or decal in addition to the state plate shall be required.

F. Notwithstanding the provisions of subsection E, in a consolidated county wherein a tier-city exists, the tier-city may, in accordance with the provisions of the agreement or plan of consolidation, impose license fees and taxes under this section in addition to those fees and taxes imposed by the county, provided that the combined county and tier-city rates do not exceed the maximum provided in subsection A. No credit shall be allowed on the fees or taxes imposed by the county for fees or taxes paid to the tier-city, except as may be provided by the consolidation agreement or plan. The governing body of any county and the governing body of any tier-city in such county wherein each imposes the license tax herein may provide by mutual agreement that no more than one license plate or decal in addition to the state license plate shall be required.

G. Any county, city, or town may by ordinance provide that it shall be unlawful for any owner or operator of a motor vehicle, trailer, or semitrailer (i) to fail to obtain and, if any required by such ordinance, to display the local license required by any ordinance of the county, city or town in which the vehicle is registered, or (ii) to display upon a motor vehicle, trailer, or semitrailer any such local license, required by ordinance to be displayed, after its expiration date. The ordinance may provide that a violation shall constitute a misdemeanor the penalty for which shall not exceed that of a Class 4 misdemeanor and may, in the case of a motor vehicle registered to a resident of the locality where such vehicle is registered, authorize the issuance by local law-enforcement officers of citations, summonses, parking tickets, or uniform traffic summonses for violations. Any such ordinance may also provide that a violation of the ordinance by the registered owner of the vehicle may not be discharged by payment of a fine except upon presentation of satisfactory evidence that the required license has been obtained. Nothing in this section shall be construed to require a county, city, or town to issue a decal or any other tangible evidence of a local license to be displayed on the licensed vehicle if the county's, city's, or town's ordinance does not require display of a decal or other evidence of payment. No ordinance adopted pursuant to this section shall require the display of any local license, decal, or sticker on any vehicle owned by a public service company, as defined in § 56-76, having a fleet of at least 2,500 vehicles garaged in the Commonwealth.

H. Except as provided by subsections E and F, no vehicle shall be subject to taxation under the provisions of this section in more than one jurisdiction. Furthermore, no person who has purchased a local vehicle license, decal, or sticker for a vehicle in one county, city, or town and then moves to and garages his vehicle in another county, city, or town shall be required to purchase another local license, decal, or sticker from the county, city, or town to which he has moved and wherein his vehicle is now garaged until the expiration date of the local license, decal, or sticker issued by the county, city, or town from which he moved.

I. Purchasers of new or used motor vehicles shall be allowed at least a 10-day grace period, beginning with the date of purchase, during which to pay license fees charged by local governments under authority of this section.

J. The treasurer or director of finance of any county, city, or town may enter into an agreement with the Commissioner whereby the Commissioner will refuse to issue or renew any vehicle registration of any applicant therefor who owes to such county, city or town any local vehicle license fees or delinquent tangible personal property tax or parking citations. Before being issued any vehicle registration or renewal of such license or registration by the Commissioner, the applicant shall first satisfy all such local vehicle license fees and delinquent taxes or parking citations and present evidence satisfactory to the Commissioner that all such local vehicle license fees and delinquent taxes or parking citations have been paid in full. The Commissioner shall charge a reasonable fee to cover the costs of such enforcement action, and the treasurer or director of finance may add the cost of this fee to the delinquent tax bill or the amount of the parking citation. The treasurer or director of finance of any county, city, or town seeking to collect delinquent taxes or parking citations through the withholding of registration or renewal thereof by the Commissioner as provided for in this subsection shall notify the Commissioner in the manner provided for in his agreement with the Commissioner and supply to the Commissioner information necessary to identify the debtor whose registration or renewal is to be denied. Any agreement entered into pursuant to the provisions of this subsection shall provide the debtor notice of the intent to deny renewal of registration at least 30 days prior to the expiration date of a current vehicle registration. For the purposes of this subsection, notice by first-class mail to the registrant's address as maintained in the records of the Department of Motor Vehicles shall be deemed sufficient. In the case of parking violations, the Commissioner shall only refuse to issue or renew the vehicle registration of any applicant therefor pursuant to this subsection for the vehicle that incurred the parking violations. The provisions of this subsection shall not apply to vehicles owned by firms or companies in the business of renting motor vehicles.

K. The governing bodies of any two or more counties, cities, or towns may enter into compacts for the regional enforcement of local motor vehicle license requirements. The governing body of each participating jurisdiction may by ordinance require the owner or operator of any motor vehicle, trailer, or semitrailer to display on his vehicle a valid local license issued by another county, city, or town that is a party to the regional compact, provided that the owner or operator is

required by the jurisdiction of situs, as provided in § 58.1-3511, to obtain and display such license. The ordinance may also provide that no motor vehicle, trailer, or semitrailer shall be locally licensed until the applicant has produced satisfactory evidence that (i) all personal property taxes on the motor vehicle, trailer, or semitrailer to be licensed have been paid to all participating jurisdictions and (ii) any delinquent motor vehicle, trailer, or semitrailer personal property taxes that have been properly assessed or are assessable by any participating jurisdiction against the applicant have been paid. Any city and any county having the urban county executive form of government, the counties adjacent to such county and towns within them may require that no motor vehicle, trailer, or semitrailer shall be licensed by that jurisdiction or any other jurisdiction in the compact unless all fines owed to any participating jurisdiction by the owner of the vehicle for violation of any participating jurisdiction's ordinances governing parking of vehicles have been paid. The ordinance may further provide that a violation shall constitute a misdemeanor the penalty for which shall not exceed that of a Class 4 misdemeanor. Any such ordinance may also provide that a violation of the ordinance by the owner of the vehicle may not be discharged by payment of a fine and applicable court costs except upon presentation of satisfactory evidence that the required license has been obtained. The provisions of this subsection shall not apply to vehicles owned by firms or companies in the business of renting motor vehicles.

L. In addition to the taxes and license fees permitted in subsection A, counties, cities, and towns may charge a license fee of no more than \$1 per motor vehicle, trailer, and semitrailer. Except for the provisions of subsection B, such fee shall be subject to all other provisions of this section. All funds collected pursuant to this subsection shall be paid pursuant to § 51.1-1204 to the Volunteer Firefighters' and Rescue Squad Workers' Service Award Fund to the accounts of all members of the Fund who are volunteers for fire departments or emergency medical services agencies within the jurisdiction of the particular county, city, or town.

M. In any county, the county treasurer or comparable officer and the treasurer of any town located wholly or partially within such county may enter into a reciprocal agreement, with the approval of the respective local governing bodies, that provides for the town treasurer to collect ~~current, non-delinquent~~ license fees or taxes on any motor vehicle, trailer, or semitrailer owed to the county *that are non-delinquent, delinquent, or both* or for the county treasurer to collect ~~current, license fees or taxes on any motor vehicle, trailer, or semitrailer owed to the town that are non-delinquent license fees or taxes owed to the town, delinquent, or both~~. A treasurer or comparable officer collecting any such license fee or tax pursuant to an agreement entered into under this subsection shall account for and pay over such amounts to the locality owed such license fee or tax in the same manner as provided by law. As used in this subsection, with regard to towns, "treasurer" means the town officer or employee vested with authority by the charter, statute, or governing body to collect local taxes.

## CHAPTER 120

*An Act to amend and reenact § 46.2-204 of the Code of Virginia, relating to examination of drivers believed incompetent.*

[H 1494]

Approved February 21, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 46.2-204 of the Code of Virginia is amended and reenacted as follows:**

**§ 46.2-204. Medical Advisory Board.**

For the purpose of enabling the Department of Motor Vehicles to comply with its responsibilities under this title, there is hereby created a Medical Advisory Board for the Department. The Board shall consist of seven licensed physicians currently practicing medicine in Virginia appointed by the Governor. Appointments to the Board shall be for four-year terms and vacancies shall be filled by appointment for the unexpired portion of a term. The Governor shall designate the chairman of the Board.

The Commissioner may refer to the Board for an advisory opinion the case of any person applying for a driver's license or renewal thereof, or of any person whose license has been suspended or revoked, or of any person being examined under the provisions of § 46.2-322, when he has cause to believe that such person suffers from a physical or mental disability or disease which will prevent his exercising reasonable and ordinary control over a motor vehicle while driving it on the highways. *The Medical Advisory Board shall provide guidance and recommendations to the Department regarding any case of a person examined under the provisions of § 46.2-322 who appeals the outcome of the examination pursuant to § 46.2-321 if the basis for such appeal is related to the medical evidence in the case. However, appeals related to the examinee's (i) failure to follow procedures, (ii) failure to pass knowledge or behind-the-wheel tests, or (iii) evaluation by a driver rehabilitation specialist are not required to be referred to the Board. The Board shall submit to the Department its recommendations for consideration prior to the scheduled appeal proceedings.* In addition, the Board shall assist the Commissioner through the development of medical and health standards for use in the issuance of driver's licenses by the Department to avoid the issuance of licenses to persons suffering from any physical or mental disability or disease that will prevent their exercising reasonable and ordinary control over a motor vehicle while driving it on the highways.

The Board shall meet at the pleasure of the Commissioner. Each member shall serve without compensation but shall be reimbursed for his necessary expenses from funds appropriated to the Department of Motor Vehicles.

## CHAPTER 121

*An Act to amend and reenact § 46.2-311 of the Code of Virginia, relating to issuance of a driver's license or learner's permit; minimum standards for vision tests.*

[H 1504]

Approved February 21, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 46.2-311 of the Code of Virginia is amended and reenacted as follows:**

**§ 46.2-311. Persons having defective vision; minimum standards of visual acuity and field of vision; tests of vision.**

A. The Department shall not issue a driver's license or learner's permit (i) to any person unless he demonstrates a visual acuity of at least 20/40 in one or both eyes with or without corrective lenses or (ii) to any such person unless he demonstrates at least a field of ~~100~~ 110 degrees of horizontal vision in one or both eyes or a comparable measurement that demonstrates a visual field within this range. However, a license permitting the driving of motor vehicles during a period beginning one-half hour after sunrise and ending one-half hour before sunset, may be issued to a person who demonstrates a visual acuity of at least 20/70 in one or both eyes without or with corrective lenses provided he demonstrates at least a field of 70 degrees of horizontal vision or a comparable measurement that demonstrates a visual field within this range, and further provided that if such person has vision in one eye only, he demonstrates at least a field of 40 degrees temporal and 30 degrees nasal horizontal vision or a comparable measurement that demonstrates a visual field within this range.

B. The Department shall not issue a driver's license or learner's permit to any person authorizing the driving of a commercial motor vehicle as defined in the Virginia Commercial Driver's License Act (§ 46.2-341.1 et seq.) unless he demonstrates a visual acuity of at least 20/40 in each eye and at least a field of 140 degrees of horizontal vision or a comparable measurement that demonstrates a visual field within this range.

C. Every person applying to renew a driver's license and required to be reexamined as a prerequisite to the renewal of the license, shall:

1. Appear before a license examiner of the Department to demonstrate his visual acuity and horizontal field of vision, or
2. Accompany his application with a report of such examination made within 90 days prior thereto by an ophthalmologist or optometrist.

D. The test of horizontal visual fields made by license examiners of the Department shall be performed at thirty-three and one-third centimeters with a 10 millimeter round white test object or may, at the discretion of the Commissioner, be performed with electronic or other devices designed for the purpose of testing visual acuity and horizontal field of vision. The report of examination of visual acuity and horizontal field of vision made by an ophthalmologist or optometrist shall have precedence over an examination made by a license examiner of the Department in administrative determination as to the issuance of a license to drive. Any such report may, in the discretion of the Commissioner, be referred to a medical advisory board or to the State Health Commissioner for evaluation.

E. Notwithstanding the provisions of subsection B of this section, any person who is licensed to drive any motor vehicle may, on special application to the Department, be licensed to drive any vehicle, provided the operation of the vehicle would not unduly endanger the public safety, as determined by the Commissioner.

The Commissioner may waive the vision requirements of subsection B for any commercial driver's license applicant who either (i) is subject to the Federal Motor Carrier Safety Regulations but is exempt from the vision standards of 49 C.F.R. Part 391 or (ii) is not required to meet the vision standards specified in 49 C.F.R. § 391.41 of the regulations.

In order to determine whether such a waiver would unduly endanger the public safety, the Commissioner shall require such commercial driver's license applicant to submit a special waiver application and to provide all medical information relating to his vision that may be requested by the Department. The Department may require such commercial driver's license applicant to take a road test administered by the Department before determining whether to grant a waiver. If a waiver is granted, the Department may subject the applicant's use of a commercial motor vehicle to reasonable restrictions, which shall be noted on the commercial driver's license. If a waiver is granted, the Department may also limit the validity period of the commercial driver's license, and the expiration date shall be noted on the commercial driver's license.

## CHAPTER 122

*An Act to amend and reenact §§ 46.2-333.1 and 46.2-345 of the Code of Virginia, relating to renewal of special identification cards.*

[H 1559]

Approved February 21, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 46.2-333.1 and 46.2-345 of the Code of Virginia are amended and reenacted as follows:**

**§ 46.2-333.1. Surcharges on certain fees of Department; disposition of proceeds.**

Notwithstanding any contrary provision of this chapter, ~~beginning May 1, 2003,~~ there are hereby imposed, in addition to other fees imposed by this chapter, the following surcharges in the following amounts:

1. For the issuance of any driver's license other than a commercial driver's license, \$1.60 per year of validity of the license;
2. For the issuance of any commercial driver's license, \$1 per year of validity of the license;
3. For the reissuance or replacement of any driver's license, \$5; *and*
4. ~~For the issuance of any special identification card, \$5; and~~
5. For the reinstatement of any driver's license, \$15.

All surcharges collected by the Department under this section shall be paid into the state treasury and shall be set aside as a special fund to be used to support the operation and activities of the Department's customer service centers.

**§ 46.2-345. Issuance of special identification cards; fee; confidentiality; penalties.**

A. On the application of any person who is a resident of the Commonwealth or the parent or legal guardian of any such person who is under the age of 15, the Department shall issue a special identification card to the person provided:

1. Application is made on a form prescribed by the Department and includes the applicant's full legal name; year, month, and date of birth; social security number; sex; and residence address;
2. The applicant presents, when required by the Department, proof of identity, legal presence, residency, and social security number or non-work authorized status;
3. The Department is satisfied that the applicant needs an identification card or the applicant shows he has a bona fide need for such a card; and
4. The applicant does not hold a driver's license, commercial driver's license, temporary driver's permit, learner's permit, or motorcycle learner's permit.

Persons 70 years of age or older may exchange a valid Virginia driver's license for a special identification card at no fee. Special identification cards subsequently issued to such persons shall be subject to the regular fees for special identification cards.

B. The fee for the issuance of an original, *duplicate, reissue,* or renewal special identification card is ~~\$5~~ \$2 per year, with a \$10 minimum fee. ~~The fee for the issuance of a duplicate or reissue of a special identification card is \$5.~~ Persons 21 years old or older may be issued a scenic special identification card for an additional fee of \$5.

C. Every special identification card shall expire on the ~~last day of the month of birth of the applicant in years in which the applicant attains an age exactly divisible by five~~ applicant's birthday at the end of the period of years for which a special identification card has been issued. At no time shall any special identification card be issued for less than three nor more than ~~seven~~ eight years, except under the provisions of subsection B of § 46.2-328.1 and except that those cards issued to children under the age of 15 shall expire on the child's sixteenth birthday; ~~thereafter the special identification card may be renewed on or before the last day of the month of birth of the applicant and shall be valid for five years, expiring in the next year in which the applicant's age is exactly divisible by five, except under the provisions of subsection B of § 46.2-328.1.~~ Notwithstanding these limitations, the Commissioner may extend the validity period of an expiring card if (i) the Department is unable to process an application for renewal due to circumstances beyond its control, (ii) the extension has been authorized under a directive from the Governor, and (iii) the card was not issued as a temporary special identification card under the provisions of subsection B of § 46.2-328.1. However, in no event shall the validity period be extended more than 90 days per occurrence of such conditions. *Any special identification card issued to a person required to register pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1 shall expire on the applicant's birthday in years which the applicant attains an age equally divisible by five. For each person required to register pursuant to Chapter 9 of Title 9.1, the Department may not waive the requirement that each such person shall appear for each renewal or the requirement to obtain a photograph in accordance with subsection C of § 46.2-323.*

D. A special identification card issued under this section may be similar in size, shape, and design to a driver's license, and include a photograph of its holder, but the card shall be readily distinguishable from a driver's license and shall clearly state that it does not authorize the person to whom it is issued to drive a motor vehicle. Every applicant for a special identification card shall appear in person before the Department to apply for a renewal, duplicate or reissue unless specifically permitted by the Department to apply in another manner.

E. Special identification cards, for persons at least 15 years old but less than 21 years old, shall be immediately and readily distinguishable from those issued to persons 21 years old or older. Distinguishing characteristics shall include unique design elements of the document and descriptors within the photograph area to identify persons who are at least 15 years old but less than 21 years old. These descriptors shall include the month, day, and year when the person will become 21 years old.

F. Special identification cards for persons under age 15 shall bear a full face photograph. The special identification card issued to persons under age 15 shall be readily distinguishable from a driver's license and from other special identification cards issued by the Department. Such cards shall clearly indicate that it does not authorize the person to whom it is issued to drive a motor vehicle.

G. Unless otherwise prohibited by law, a valid Virginia driver's license may be surrendered for a special identification card without the applicant's having to present proof of legal presence as required by § 46.2-328.1 if the Virginia driver's license is unexpired and it has not been revoked, suspended, or cancelled. The special identification card shall be considered a reissue and the expiration date shall be the last day of the month of the surrendered driver's license's month of expiration.

H. Any personal information, as identified in § 2.2-3801, which is retained by the Department from an application for the issuance of a special identification card is confidential and shall not be divulged to any person, association, corporation, or organization, public or private, except to the legal guardian or the attorney of the applicant or to a person, association, corporation, or organization nominated in writing by the applicant, his legal guardian, or his attorney. This subsection shall not prevent the Department from furnishing the application or any information thereon to any law-enforcement agency.

I. Any person who uses a false or fictitious name or gives a false or fictitious address in any application for an identification card or knowingly makes a false statement or conceals a material fact or otherwise commits a fraud in any such application shall be guilty of a Class 2 misdemeanor. However, where the name or address is given, or false statement is made, or fact is concealed, or fraud committed, with the intent to purchase a firearm or where the identification card is obtained for the purpose of committing any offense punishable as a felony, a violation of this section shall constitute a Class 4 felony.

J. The Department may promulgate regulations necessary for the effective implementation of the provisions of this section.

K. The Department shall utilize the various communications media throughout the Commonwealth to inform Virginia residents of the provisions of this section and to promote and encourage the public to take advantage of its provisions.

L. The Department shall electronically transmit application information to the Department of State Police, in a format approved by the State Police, for comparison with information contained in the Virginia Criminal Information Network and National Crime Information Center Convicted Sexual Offender Registry Files, at the time of issuance of a special identification card. Whenever it appears from the records of the State Police that a person has failed to comply with the duty to register or reregister pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1, the State Police shall promptly investigate and, if there is probable cause to believe a violation has occurred, obtain a warrant or assist in obtaining an indictment charging a violation of § 18.2-472.1 in the jurisdiction in which the person made application for the special identification card.

M. When requested by the applicant, the applicant's parent if the applicant is a minor, or the applicant's guardian, and upon presentation of a signed statement by a licensed physician confirming the applicant's condition, the Department shall indicate on the applicant's special identification card that the applicant has any condition listed in subsection K of § 46.2-342.

### CHAPTER 123

*An Act to authorize the issuance of special license plates for supporters of the Virginia Nurses Foundation, relating to issuance of special license plates for supporters of the Virginia Nurses Foundation; fees.*

[H 1732]

Approved February 21, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. § 1. Special license plates for supporters of the Virginia Nurses Foundation; fees.**

*A. On receipt of an application and payment of the fee prescribed by this section, and following the provisions of § 46.2-725 of the Code of Virginia other than those relating to the fee for the plates and its disposition, the Commissioner of the Department of Motor Vehicles shall issue to the applicant special license plates for supporters of the Virginia Nurses Foundation.*

*B. The annual fee for plates issued pursuant to this section shall be \$25 in addition to the prescribed fee for state license plates. For each such \$25 fee collected in excess of 1,000 registrations pursuant to this section, \$15 shall be paid into the state treasury and credited to a special nonreverting fund known as the Virginia Nurses Foundation Fund, established within the Department of Accounts. These funds shall be paid annually to the Virginia Nurses Foundation and used to assist in its programs, activities, and operations in Virginia. All other fees imposed under the provisions of this section shall be paid to, and received by, the Commissioner of the Department of Motor Vehicles and paid by him into the state treasury and set aside as a special fund to be used to meet the necessary expenses incurred by the Department of Motor Vehicles.*

### CHAPTER 124

*An Act to designate the Virginia Route 114 bridge between Montgomery and Pulaski Counties the "Vietnam Veterans Memorial Bridge."*

[H 1741]

Approved February 21, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. § 1. The Virginia Route 114 bridge between Montgomery and Pulaski Counties is hereby designated the "Vietnam Veterans Memorial Bridge." The Department of Transportation shall place and maintain appropriate markers indicating the designation of this bridge. This designation shall not affect any other designation heretofore or hereafter applied to this bridge.**

## CHAPTER 125

*An Act to amend and reenact § 4.1-119, as it is currently effective and as it shall become effective, of the Code of Virginia, relating to alcoholic beverage control; privileges of licensed distillers appointed as agents of the Alcoholic Beverage Control Board.*

[H 2029]

Approved February 21, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 4.1-119, as it is currently effective and as it shall become effective, of the Code of Virginia is amended and reenacted as follows:**

**§ 4.1-119. (Effective until July 1, 2018) Operation of government stores.**

A. Subject to the requirements of §§ 4.1-121 and 4.1-122, the Board may establish, maintain, and operate government stores for the sale of alcoholic beverages, other than beer and wine not produced by farm wineries, vermouth, mixers, products used in connection with distilled spirits, including any garnish or garnishment applied to the rim of a glass of distilled spirits, as may be approved by the Board from time to time, and products licensed by the Virginia Tourism Corporation as specified in § 4.1-103 in such counties, cities, and towns considered advisable by the Board. The Board may discontinue any such store.

B. With respect to the sale of wine produced by farm wineries, the Board may give preference to farm wineries that produce 2,500 cases or less of wine per year.

C. The Board shall fix the wholesale and retail prices at which the various classes, varieties and brands of alcoholic beverages and other Board-approved products that are sold in government stores. Differences in the cost of operating stores, and market competition and conditions may be reflected in the sale price of alcoholic beverages sold at government stores. The Board may sell alcoholic beverages to federal instrumentalities (i) authorized and operating under the laws of the United States and regulations of the United States Department of Defense and (ii) located within the boundaries of federal enclaves or reservations over which the United States has acquired jurisdiction, at prices which may be greater or less than the wholesale price charged other authorized purchasers.

D. Alcoholic beverages at government stores shall be sold by employees of the Board, who shall carry out the provisions of this title and Board regulations governing the operation of government stores and the sale of alcoholic beverages, except that the Board may appoint the holder of a distiller's license or its officers and employees as agents of the Board for the sale of spirits, manufactured by or for, or blended by such licensee on the licensed premises, at government stores established by the Board (i) on the distiller's licensed premises or (ii) at the site of an event licensed by the Board and conducted for the purpose of featuring and educating the consuming public about spirits products.

Such agents shall sell the spirits in accordance with the provisions of this title, Board regulations, and the terms of the agency agreement between the Board and the licensed distiller.

For the purposes of this subsection, "blended" means the receipt by a licensed distiller of deliveries and shipments of alcoholic beverages, other than wine and beer, in accordance with subdivision 6 of § 4.1-201 to be (i) additionally aged by the receiving distillery in order to increase the quality and flavor of such alcoholic beverages and (ii) bottled by the receiving distillery.

E. No Class 1 neutral grain spirit or alcohol, as defined by federal regulations, that is without distinctive character, aroma, taste or color shall be sold in government stores at a proof greater than 101 except upon permits issued by the Board for industrial, commercial, culinary, or medical use.

F. All alcoholic beverages sold in government stores, except for tasting samples pursuant to subsection G sold in government stores established by the Board on a distiller's licensed premises, shall be in closed containers, sealed and affixed with labels prescribed by the Board.

G. No alcoholic beverages shall be consumed in a government store by any person unless it is part of an organized tasting event conducted by (i) an employee of a manufacturer of distilled spirits or farm winery or (ii) an authorized representative of a manufacturer of distilled spirits or farm winery with a permit issued by the Board pursuant to subdivision A 15 of § 4.1-212, at which the samples of alcoholic beverages provided to any consumer do not exceed the limits for spirits or wine set forth in subdivision A 5 of § 4.1-201.1. No sample may be consumed by any individual to whom alcoholic beverages may not lawfully be sold pursuant to § 4.1-304.

Notwithstanding the provision of this subsection to the contrary, an agent of the Board appointed pursuant to subsection D may give samples of spirits, beer, wine, or cider to persons to whom alcoholic beverages may be lawfully sold for on-premises consumption, provided that (i) the spirits, beer, wine, or cider samples are manufactured within the same licensed premises or on contiguous premises of such agent licensed as a distillery, brewery, or winery; (ii) no single sample shall exceed four ounces of beer, two ounces of wine, or one-half ounce of spirits, unless served as a mixed beverage, in which case a single sample may contain up to one and one-half ounces of spirits; (iii) no more than four total samples of alcoholic beverage products or, in the case of spirits samples, no more than three ounces of spirits shall be given or sold to any person per day; and (iv) in the case of spirits samples, a method is used to track the consumption of each consumer. Nothing in this paragraph shall prohibit such agent from serving samples of spirits as part of a mixed beverage.

The Board shall establish guidelines governing tasting events conducted pursuant to this subsection.

H. With respect to purchases by licensees at government stores, the Board shall (i) accept in payment for any purchase or series of purchases cash, electronic fund transfer, credit or debit card, or check payable to the Board, in the exact amount of any such purchase or series of purchases and (ii) provide notice to licensees on Board policies relating to the assignment of government stores from which licensees may purchase products and any procedure for the licensee to elect to make purchases from an alternative government store.

I. With respect to purchases by consumers at government stores, the Board shall accept cash in payment for any purchase or series of purchases. The Board may adopt regulations which provide for accepting a credit card or debit card as payment. Such regulations may provide for the collection, where appropriate, of related fees, penalties and service charges for the use of a credit card or debit card by any consumer.

**§ 4.1-119. (Effective July 1, 2018) Operation of government stores.**

A. Subject to the requirements of §§ 4.1-121 and 4.1-122, the Board may establish, maintain, and operate government stores for the sale of alcoholic beverages, other than beer and wine not produced by farm wineries, vermouth, mixers, products used in connection with distilled spirits, including any garnish or garnishment applied to the rim of a glass of distilled spirits, as may be approved by the Board from time to time, and products licensed by the Virginia Tourism Corporation as specified in § 4.1-103 in such counties, cities, and towns considered advisable by the Board. The Board may discontinue any such store.

B. With respect to the sale of wine produced by farm wineries, the Board may give preference to farm wineries that produce 2,500 cases or less of wine per year.

C. The Board shall fix the wholesale and retail prices at which the various classes, varieties and brands of alcoholic beverages and other Board-approved products that are sold in government stores. Differences in the cost of operating stores, and market competition and conditions may be reflected in the sale price of alcoholic beverages sold at government stores. The Board may sell alcoholic beverages to federal instrumentalities (i) authorized and operating under the laws of the United States and regulations of the United States Department of Defense and (ii) located within the boundaries of federal enclaves or reservations over which the United States has acquired jurisdiction, at prices which may be greater or less than the wholesale price charged other authorized purchasers. Nothing in this subsection shall be construed to limit the authority of the Board to fix the retail price of alcoholic beverages sold at government stores, which retail price may include promotional, volume, or other discounts deemed appropriate by the Board.

D. Alcoholic beverages at government stores shall be sold by employees of the Authority who shall carry out the provisions of this title and Board regulations governing the operation of government stores and the sale of alcoholic beverages, except that the Board may appoint the holder of a distiller's license or its officers and employees as agents of the Board for the sale of spirits, manufactured by or for, or blended by such licensee on the licensed premises, at government stores established by the Board (i) on the distiller's licensed premises or (ii) *at the site of an event licensed by the Board and conducted for the purpose of featuring and educating the consuming public about spirits products.*

Such agents shall sell the spirits in accordance with the provisions of this title, Board regulations, and the terms of the agency agreement between the Authority and the licensed distiller.

For the purposes of this subsection, "blended" means the receipt by a licensed distiller of deliveries and shipments of alcoholic beverages, other than wine and beer, in accordance with subdivision 6 of § 4.1-201 to be (i) additionally aged by the receiving distillery in order to increase the quality and flavor of such alcoholic beverages and (ii) bottled by the receiving distillery.

E. No Class 1 neutral grain spirit or alcohol, as defined by federal regulations, that is without distinctive character, aroma, taste or color shall be sold in government stores at a proof greater than 101 except upon permits issued by the Board for industrial, commercial, culinary, or medical use.

F. All alcoholic beverages sold in government stores, except for tasting samples pursuant to subsection G sold in government stores established by the Board on a distiller's licensed premises, shall be in closed containers, sealed and affixed with labels prescribed by the Board.

G. No alcoholic beverages shall be consumed in a government store by any person unless it is part of an organized tasting event conducted by (i) an employee of a manufacturer of distilled spirits or farm winery or (ii) an authorized representative of a manufacturer of distilled spirits or farm winery with a permit issued by the Board pursuant to subdivision A 15 of § 4.1-212, at which the samples of alcoholic beverages provided to any consumer do not exceed the limits for spirits or wine set forth in subdivision A 5 of § 4.1-201.1. No sample may be consumed by any individual to whom alcoholic beverages may not lawfully be sold pursuant to § 4.1-304.

Notwithstanding the provision of this subsection to the contrary, an agent of the Board appointed pursuant to subsection D may give samples of spirits, beer, wine, or cider to persons to whom alcoholic beverages may be lawfully sold for on-premises consumption, provided that (i) the spirits, beer, wine, or cider samples are manufactured within the same licensed premises or on contiguous premises of such agent licensed as a distillery, brewery, or winery; (ii) no single sample shall exceed four ounces of beer, two ounces of wine, or one-half ounce of spirits, unless served as a mixed beverage, in which case a single sample of spirits may contain up to one and one-half ounces of spirits; (iii) no more than four total samples of alcoholic beverage products or, in the case of spirits samples, no more than three ounces of spirits shall be given or sold to any person per day; and (iv) in the case of spirits samples, a method is used to track the consumption of each consumer. Nothing in this paragraph shall prohibit such agent from serving samples of spirits as part of a mixed beverage.

The Board shall establish guidelines governing tasting events conducted pursuant to this subsection.

H. With respect to purchases by licensees at government stores, the Authority shall (i) accept in payment for any purchase or series of purchases cash, electronic fund transfer, credit or debit card, or check payable to the Authority, in the exact amount of any such purchase or series of purchases and (ii) provide notice to licensees on Board policies relating to the assignment of government stores from which licensees may purchase products and any procedure for the licensee to elect to make purchases from an alternative government store.

I. With respect to purchases by consumers at government stores, the Authority shall accept cash in payment for any purchase or series of purchases. The Board may adopt regulations which provide for accepting a credit card or debit card as payment. Such regulations may provide for the collection, where appropriate, of related fees, penalties and service charges for the use of a credit card or debit card by any consumer.

J. Before the Authority implements any increase in the markup on distilled spirits or any change to the markup formula for distilled spirits pursuant to § 4.1-235 that would result in an increase in the retail price of distilled spirits sold to the public, the Authority shall (i) provide at least 45 days' public notice before such a price increase takes effect; (ii) provide the opportunity for submission of written comments regarding the proposed price increase; (iii) conduct a public meeting for the purpose of receiving verbal comment regarding the proposed price increase; and (iv) consider any written or verbal comments before implementing such a price increase.

**CHAPTER 126**

*An Act to amend and reenact § 46.2-2011.5 of the Code of Virginia, relating to filing and application fees for transportation network companies.*

[H 2032]

Approved February 21, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 46.2-2011.5 of the Code of Virginia is amended and reenacted as follows:**

**§ 46.2-2011.5. Filing and application fees.**

A. Unless otherwise provided, every applicant, other than a transportation network company, for an original license, permit, or certificate issued under this chapter and transfer of a license or certificate under the provisions of this chapter shall, upon the filing of an application, deposit with the Department, as a filing fee, a sum in the amount of \$50.

~~The fee to accompany an application for an original of the B. An applicant for a certificate required under § 46.2-2099.45 shall be elect and remit to the Department one of the following fees:~~

~~1. An annual fee of \$100,000; and the annual fee to accompany an application for a an original certificate or a fee of \$60,000 to accompany an application for renewal thereof shall be \$60,000; or~~

~~2. A fee of \$20 per report to accompany payment for each driving history research report the applicant obtains from the Department pursuant to subdivision B 2 of § 46.2-2099.49, which fee shall be in addition to any other fees that are authorized for such reports.~~

~~A transportation network company may change its election under this subsection when applying for renewal of its certificate.~~

~~If the Department does not approve an application for an original of the certificate required under § 46.2-2099.45, the Department shall refund to the applicant \$90,000 of the application fee to the applicant paid under subdivision 1.~~

~~C. The Department shall collect a fee of \$3 for the issuance of a duplicate license, permit, or certificate issued under this chapter.~~

**CHAPTER 127**

*An Act to authorize the Department of Transportation to enter into a use agreement with the Rector and Visitors of the University of Virginia to permit the Department of Transportation use of the Shelburne Building located on the University of Virginia Charlottesville campus.*

[H 2214]

Approved February 21, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. § 1. The Department of Transportation, with the recommendation of the Department of General Services to the Governor and the approval of the Governor as required by subsection A of § 2.2-1155 of the Code of Virginia, is hereby authorized to enter into a use agreement with the Rector and Visitors of the University of Virginia to permit the Department of Transportation to use the Shelburne Building located on the University of Virginia Charlottesville campus for a period not to exceed 50 years.**

**§ 2. The appropriate officials of the Commonwealth are hereby authorized to prepare, execute, and deliver such documents as may be necessary to complete the use agreement.**

**CHAPTER 128**

*An Act to repeal Chapter 6.1 (§§ 62.1-79.1 and 62.1-79.2) of Title 62.1 of the Code of Virginia, relating to the Ohio River Basin Commission.*

[S 1270]

Approved February 21, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That Chapter 6.1 (§§ 62.1-79.1 and 62.1-79.2) of Title 62.1 of the Code of Virginia is repealed.**

**CHAPTER 129**

*An Act to designate the bridge on Virginia State Route 155 in New Kent County the "F.W. 'Wakie' Howard, Jr., Bridge."*

[S 1367]

Approved February 21, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. § 1. That the bridge on State Route 155 in New Kent County is hereby designated the "F.W. 'Wakie' Howard, Jr., Bridge." The Department of Transportation shall place and maintain appropriate markers indicating the designation of this bridge. This designation shall not affect any other designation heretofore or hereafter applied to this bridge.**

**CHAPTER 130**

*An Act to amend the Code of Virginia by adding a section numbered 23.1-2907.1, relating to comprehensive community colleges; policies; academic credit for apprenticeship.*

[H 1592]

Approved February 21, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding a section numbered 23.1-2907.1 as follows:**

**§ 23.1-2907.1. Policy for award of academic credit for apprenticeship credentials.**

*The State Board shall require each comprehensive community college to develop policies and procedures for the award of academic credit to any student enrolled in a comprehensive community college who has successfully completed a state-approved registered apprenticeship credential in a field that is aligned with a credit-bearing program of study at the comprehensive community college in which the student is enrolled. Such policies shall ensure that academic credit is awarded only to students who have achieved the same outcomes and with the same academic rigor as in the equivalent courses offered by the institution.*

**CHAPTER 131**

*An Act to establish a pilot project in the City of Danville regarding recordation of deeds subject to liens for unpaid taxes.*

[H 1699]

Approved February 21, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. § 1. The City of Danville is hereby authorized to establish a pilot project regarding recordation of deeds subject to liens for unpaid taxes in accordance with the provisions of this act. Such pilot project may only be established by ordinance adopted by the city council after a public hearing.**

**§ 2. Such ordinance may provide that no deed conveying a parcel of real property that has an assessed value for taxation of \$50,000 or less located in the City of Danville shall be recorded by the clerk unless the city director of finance or his designee has certified on the face of such deed that there are no liens against such real property for unpaid local taxes or for other fines or charges assessed by the city that rank on a parity with liens for unpaid taxes and are enforceable in the same manner.**

**§ 3. The provisions of this act shall not apply to (i) any deeds of trust; (ii) any deeds of easement; (iii) any deeds in which a public service company, railroad, or cable system operator is either a grantor or grantee; (iv) any deeds prepared under the supervision of the Office of the Attorney General of Virginia; (v) any deeds conveying property to the Danville Redevelopment and Housing Authority as grantee; and (vi) any deeds conveying a parcel of real property pursuant to Chapter 39 (§ 58.1-3900 et seq.) of Title 58.1 of the Code of Virginia.**

**§ 4. The clerk shall be immune from suit arising from any acts or omissions relating to the pilot project pursuant to this act unless the clerk was grossly negligent or engaged in willful misconduct.**

**2. That if such pilot project is established, the City of Danville shall make a written report to the Virginia Housing Commission on or before May 31, 2020.**

**3. That the provisions of this act shall expire on July 1, 2021.**

**CHAPTER 132**

*An Act to amend and reenact § 54.1-1101 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 54.1-1115.01, relating to the Board for Contractors; exemptions; responsibility for contracting with unlicensed persons.*

[H 1979]

Approved February 21, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 54.1-1101 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 54.1-1115.01 as follows:**

**§ 54.1-1101. Exemptions; failure to obtain certificate of occupancy; penalties.**

- A. The provisions of this chapter shall not apply to:
    - 1. Any governmental agency performing work with its own forces;
    - 2. Work bid upon or undertaken for the armed services of the United States under the Armed Services Procurement Act;
    - 3. Work bid upon or undertaken for the United States government on land under the exclusive jurisdiction of the federal government either by statute or deed of cession;
    - 4. Work bid upon or undertaken for the Department of Transportation on the construction, reconstruction, repair or improvement of any highway or bridge;
    - 5. Any other persons who may be specifically excluded by other laws but only to such an extent as such laws provide;
    - 6. Any material supplier who renders advice concerning use of products sold and who does not provide construction or installation services;
    - 7. Any person who performs or supervises the construction, removal, repair or improvement of no more than one primary residence owned by him and for his own use during any 24-month period;
    - 8. Any person who performs or supervises the construction, removal, repair or improvement of a house upon his own real property as a bona fide gift to a member of his immediate family provided such member lives in the house. For purposes of this section, "immediate family" includes one's mother, father, son, daughter, brother, sister, grandchild, grandparent, mother-in-law and father-in-law;
    - 9. Any person who performs or supervises the repair or improvement of industrial or manufacturing facilities, or a commercial or retail building, for his own use;
    - 10. Any person who performs or supervises the repair or improvement of residential dwelling units owned by him that are subject to the Virginia Residential Landlord and Tenant Act (§ 55-248.2 et seq.);
    - 11. Any owner-developer, provided that any ~~third party~~ *third-party* purchaser is made a ~~third party~~ *third-party* beneficiary to the contract between the owner-developer and a licensed contractor whereby the contractor's obligation to perform the contract extends to both the owner-developer and the third party;
    - 12. Work undertaken by students as part of a career and technical education project as defined in § 22.1-228 established by any school board in accordance with Article 5 (§ 22.1-228 et seq.) of Chapter 13 of Title 22.1 for the construction of portable classrooms or single family homes; ~~and~~
    - 13. Any person who performs the removal of building detritus or provides janitorial, cleaning, or sanitizing services incidental to the construction, removal, repair, or improvement of real property; *and*
    - 14. *Work undertaken by a person providing construction, remodeling, repair, improvement, removal, or demolition valued at \$2,500 or less per project on behalf of a properly licensed contractor, provided that such contractor holds a valid license in the residential or commercial building contractor classification. However, any construction services that require an individual license or certification shall be rendered only by an individual licensed or certified in accordance with this chapter.*
- All other contractors performing work for any government or for any governmental agency are subject to the provisions of this chapter and are required to be licensed as provided herein.
- B. Any person who is exempt from the provisions of this chapter as a result of subdivision A 7, 10, 11, or 12 ~~of subsection A~~ shall obtain a certificate of occupancy for any building constructed, repaired or improved by him prior to conveying such property to a ~~third party~~ *third-party* purchaser, unless such purchaser has acknowledged in writing that no certificate of occupancy has been issued and that such purchaser consents to acquire the property without a certificate of occupancy.
  - C. Any person who is exempt from the provisions of this chapter as a result of subdivision 7, 8, 9, 10, 11, or 12 of subsection A shall comply with the provisions of the Uniform Statewide Building Code (§ 36-97 et seq.).
  - D. Any person who violates the provisions of ~~subsections~~ *subsection* B or C shall be guilty of a Class 1 misdemeanor. The ~~third or any subsequent~~ conviction of violating ~~subsections~~ *subsection* B or C during a 36-month period shall constitute a Class 6 felony.

**§ 54.1-1115.01. Responsibility for contracting with persons lacking the proper credential.**

*Any contractor that directly employs or otherwise contracts with a person who is not credentialed by the Board for work requiring a credential under this chapter shall be solely responsible for any monetary penalty or other sanction resulting from the act of employing or contracting with a person who lacks the proper credential based upon such person's failure to obtain or maintain the required credential.*

**CHAPTER 133**

*An Act to amend and reenact § 3, as amended, and § 6 of Chapter 571 of the Acts of Assembly of 1997, which provided a charter for the Town of Grottoes in Rockingham County, relating to vice-mayor.*

[S 786]

Approved February 21, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 3, as amended, and § 6 of Chapter 571 of the Acts of Assembly of 1997 are amended and reenacted as follows:**

§ 3. Election of the mayor and council persons; vacancies; time of meeting; *appointment of vice-mayor.*

A. Notwithstanding the provisions of § 24.2-222 of the Code of Virginia, on the first Tuesday in November in each even-numbered year, there shall be elected a mayor and three council persons from the town at large, as well as council persons to fill vacancies, if any, whose terms of office shall begin on the first day of January following such election, but in cases of filling vacancies, the term shall begin immediately, and they shall serve until their successors shall be duly elected and qualify. In order to transition from a May to November election date, any mayor or council person elected in 1996 for a four-year term, or in 1998 for a two-year term, shall hold office until his successor has qualified. His successor shall be elected on the Tuesday after the first Monday in November 2000 and shall take office on the January 1 following his election. Any council person elected in 1998 for a four-year term shall hold office until his successor has qualified. His successor shall be elected on the Tuesday after the first Monday in November 2002 and shall take office on the January 1 following his election.

B. The mayor shall be elected for a term of two years; council persons shall serve for terms of four years each.

C. The council shall be a continuing body, and no measure pending before such body shall abate or be discontinued by reason of expiration of the term of office of the council persons or any member. Vacancies in the council shall be filled for the unexpired terms by a majority vote of the remaining members until the next ensuing regularly scheduled general election for the office; or, if the vacancy occurs within 120 days of such regularly scheduled general election, at the second such ensuing election. The present mayor and council persons shall continue in office until the expiration of the term for which they were respectively elected.

D. The council shall, by ordinance, fix the time for the regular meetings. Special meetings shall be called by the clerk of the council upon request of the mayor or any three council persons; reasonable notice of each special meeting shall be given each member of the council; no business shall be transacted at a special meeting except that for which the special meeting is called, unless the council is unanimous.

*E. The council may, by ordinance, appoint one of its members to serve as vice-mayor during his or her term of office.*

§ 6. Powers and duties of the mayor *and vice-mayor.*

The mayor shall preside at the meetings of the council and perform such other duties as may be prescribed by this charter and by general law and such as may be imposed by the council consistent with the office. The mayor shall be entitled to vote upon measures pending before the council only in the event that the other members voting are equally divided for and against such measure. *The vice-mayor shall possess all the powers and discharge the duties of the mayor in the event of the mayor's absence or inability to act. During such temporary service, the vice-mayor shall retain his or her right to vote as a council person and shall not be deemed to have vacated his or her council office.*

**CHAPTER 134**

*An Act to amend and reenact §§ 28 and 35 of Chapters 143 and 156 of the Acts of Assembly of 2009, which provided a charter for the City of Williamsburg, relating to the redevelopment and housing authority.*

[S 1134]

Approved February 21, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 28 and 35 of Chapters 143 and 156 of the Acts of Assembly of 2009 are amended and reenacted as follows:**

§ 28. Power and authority of council members generally.

All powers of the city as a body politic and corporate shall be vested in the council except as otherwise provided in this charter. The council shall be the policy-determining body of the city and shall be vested with all the rights and powers conferred on councils of cities, not inconsistent with this charter. In addition to the foregoing, the council shall have the following powers:

1. To inquire into the official conduct of any office or officer under its control, and investigate the accounts, receipts, disbursements and expenses of any city employee that are required to be maintained in the normal course of the city's business; for these purposes the council may subpoena witnesses, administer oaths and require the production of books, papers and other evidence maintained in the normal course of business; subpoenas issued by the council shall be enforced by the circuit court of the city in the manner provided by general law.

2. To provide for the performance of all governmental functions of the city; and to that end, provide for and set up all departments and agencies of government that shall be necessary. Whenever it is not designated by law or by ordinance what officer or employee of the city shall exercise any power or perform any duty conferred upon or required of the city, or any officer thereof, then any such power shall be exercised or duty performed by that officer or employee of the city so designated by the city manager. Any activity that is not assigned by the provisions of this charter to specific departments or agencies of the city government shall be assigned by the council to the appropriate department or agency. The council may further create, abolish, reassign, transfer or combine any city functions, activities or departments.

3. To order an independent audit of the accounts, books, records and financial transactions of the city by the Auditor of Public Accounts of the Commonwealth of Virginia, or by a firm of independent certified public accountants to be selected by council after the close of each fiscal year. The report of the audit shall be filed within such time as the council shall specify and one copy of the report shall be always available for public inspection in the office of the city manager during regular business hours. Either the council or the city manager may at any time order an examination or audit of the accounts of any officer or department of the city government. Upon the death, resignation, removal or expiration of the term of any officer of the city, the director of finance shall cause an audit and investigation of the accounts of such officer to be made and shall report the results to the city manager and the council. If, as a result of any such audit, an officer is found to be indebted to the city, the council shall proceed immediately to collect such indebtedness.

4. To fix a schedule of compensation for all city officers and employees that shall provide uniform compensation for like service. The council may define certain classes of city officers and employees whose salaries shall be set by the city manager, except that this provision shall not apply to the constitutional officers, the heads of city departments and judges.

5. To prescribe the amount and condition of surety bonds required of such officers and employees of the city as the council may prescribe.

~~6. To appoint a duly elected member of the city council to serve as one of the commissioners of any redevelopment and housing authority for the city created pursuant to Title 36 of the Code of Virginia. The term of the appointee shall be for two years, but shall not extend beyond the expiration of the appointee's current term on council. While serving on city council, such appointee shall not receive compensation for serving as an authority commissioner. The above notwithstanding, however, city council may by ordinance enacted in accordance with § 35 of this charter remove all currently serving commissioners of the authority and appoint the members of the council as the commissioners of the authority. City council may by ordinance enacted in accordance with § 35 herein below remove some or all currently serving commissioners of the city's redevelopment and housing authority and appoint one or more of themselves to serve as commissioners of the authority in the place and stead of the commissioners so removed.~~

7. Designate one or more areas within the city as underground utility districts if, in the opinion of city council, after holding a duly advertised public hearing pursuant to the petition of at least three-fourths of the landowners within the proposed district, the undergrounding of existing lines for the distribution of one or more of electricity, telephone or cable television within the proposed district is in the best interests of the city and of the residents of the district. After defining the boundaries thereof, and notwithstanding any provision to the contrary in § 15.2-2404 of the Code of Virginia, to impose, without unanimous consent of the property owners in the district, taxes and assessments upon all parcels of real property within the bounds of such district in an amount not exceeding three-fourths of the total cost of the undergrounding of overhead utility lines located in such district for the provision of one or more of electricity, telephone and cable television services within the district. Except as here modified, all other provisions of Article 2 (§ 15.2-2404 et seq.) of Chapter 24 of Title 15.2 of the Code of Virginia shall apply.

8. Make and enforce all ordinances, rules and regulations necessary or expedient for the purpose of carrying into effect the powers conferred by this charter or by any general law, and to provide and impose suitable penalties for the violation of such ordinances, rules and regulations.

9. Do all things whatsoever necessary or expedient for promoting or maintaining the general welfare, comfort, education, morals, peace, government, health, trade, commerce or industries of the city and its inhabitants. Among such powers, and not in limitation thereof, shall be the power to compel the abatement and removal of all nuisances within the city or upon property owned by or lying adjacent to property owned by the city beyond its limits at the expense of the person or persons causing the same, or of the owner or occupant of the ground or premises whereon the same may be.

§ 35. Redevelopment and housing authority.

Notwithstanding any provision of law to the contrary, there shall be ~~five not more than seven~~ commissioners of the Williamsburg Redevelopment and Housing Authority, *all of whom must be residents of the city and not more than five of whom may be members of Williamsburg City Council*. Commissioners, *other than commissioners who are also members of City Council*, shall hold their offices at the pleasure of the council for a term not to exceed four years; provided, however, ~~the council may at any time, and from time to time, adopt an ordinance terminating the term of all the commissioners and designating the council members as the commissioners of the authority. In that event, notwithstanding the provisions of § 36-11 of the Code of Virginia to the contrary, a council member shall receive no compensation for serving as a~~

~~commissioner nor shall the council member continue to serve as a commissioner upon ceasing to be a member of council. The council may at any time repeal such ordinance designating the council members as the commissioners and appoint residents of the city to serve as the commissioners. that unless sooner terminated, the term of each commissioner who is also a council member shall coincide with his or her term as a member of the council. A council member shall receive no compensation for serving as a commissioner.~~ The establishment and organization of the Williamsburg Redevelopment and Housing Authority heretofore established under the provisions of this charter, together with all proceedings, acts and things heretofore undertaken are hereby validated, ratified and confirmed.

### CHAPTER 135

*An Act to amend and reenact § 54.1-1101 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 54.1-1115.01, relating to the Board for Contractors; exemptions; responsibility for contracting with unlicensed persons.*

[S 1193]

Approved February 21, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 54.1-1101 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 54.1-1115.01 as follows:**

**§ 54.1-1101. Exemptions; failure to obtain certificate of occupancy; penalties.**

A. The provisions of this chapter shall not apply to:

1. Any governmental agency performing work with its own forces;
2. Work bid upon or undertaken for the armed services of the United States under the Armed Services Procurement Act;
3. Work bid upon or undertaken for the United States government on land under the exclusive jurisdiction of the federal government either by statute or deed of cession;
4. Work bid upon or undertaken for the Department of Transportation on the construction, reconstruction, repair or improvement of any highway or bridge;
5. Any other persons who may be specifically excluded by other laws but only to such an extent as such laws provide;
6. Any material supplier who renders advice concerning use of products sold and who does not provide construction or installation services;
7. Any person who performs or supervises the construction, removal, repair or improvement of no more than one primary residence owned by him and for his own use during any 24-month period;
8. Any person who performs or supervises the construction, removal, repair or improvement of a house upon his own real property as a bona fide gift to a member of his immediate family provided such member lives in the house. For purposes of this section, "immediate family" includes one's mother, father, son, daughter, brother, sister, grandchild, grandparent, mother-in-law and father-in-law;
9. Any person who performs or supervises the repair or improvement of industrial or manufacturing facilities, or a commercial or retail building, for his own use;
10. Any person who performs or supervises the repair or improvement of residential dwelling units owned by him that are subject to the Virginia Residential Landlord and Tenant Act (§ 55-248.2 et seq.);
11. Any owner-developer, provided that any ~~third party~~ *third-party* purchaser is made a ~~third party~~ *third-party* beneficiary to the contract between the owner-developer and a licensed contractor whereby the contractor's obligation to perform the contract extends to both the owner-developer and the third party;
12. Work undertaken by students as part of a career and technical education project as defined in § 22.1-228 established by any school board in accordance with Article 5 (§ 22.1-228 et seq.) of Chapter 13 of Title 22.1 for the construction of portable classrooms or single family homes; ~~and~~
13. Any person who performs the removal of building detritus or provides janitorial, cleaning, or sanitizing services incidental to the construction, removal, repair, or improvement of real property; *and*
14. *Work undertaken by a person providing construction, remodeling, repair, improvement, removal, or demolition valued at \$2,500 or less per project on behalf of a properly licensed contractor, provided that such contractor holds a valid license in the residential or commercial building contractor classification. However, any construction services that require an individual license or certification shall be rendered only by an individual licensed or certified in accordance with this chapter.*

All other contractors performing work for any government or for any governmental agency are subject to the provisions of this chapter and are required to be licensed as provided herein.

B. Any person who is exempt from the provisions of this chapter as a result of subdivision A 7, 10, 11, or 12 ~~of subsection A~~ shall obtain a certificate of occupancy for any building constructed, repaired or improved by him prior to conveying such property to a ~~third party~~ *third-party* purchaser, unless such purchaser has acknowledged in writing that no certificate of occupancy has been issued and that such purchaser consents to acquire the property without a certificate of occupancy.

C. Any person who is exempt from the provisions of this chapter as a result of subdivision 7, 8, 9, 10, 11, or 12 of subsection A shall comply with the provisions of the Uniform Statewide Building Code (§ 36-97 et seq.).

D. Any person who violates the provisions of ~~subsections~~ subsection B or C shall be guilty of a Class 1 misdemeanor. The third or any subsequent conviction of violating ~~subsections~~ subsection B or C during a 36-month period shall constitute a Class 6 felony.

**§ 54.1-1115.01. Responsibility for contracting with persons lacking the proper credential.**

*Any contractor that directly employs or otherwise contracts with a person who is not credentialed by the Board for work requiring a credential under this chapter shall be solely responsible for any monetary penalty or other sanction resulting from the act of employing or contracting with a person who lacks the proper credential based upon such person's failure to obtain or maintain the required credential.*

**CHAPTER 136**

*An Act to require the State Board of Behavioral Health and Developmental Services to amend regulations governing licensure of providers to include certain definitions.*

[H 1483]

Approved February 21, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. § 1.** *That the State Board of Behavioral Health and Developmental Services (the Board) shall amend 12VAC35-105-20 of the Virginia Administrative Code to include (i) occupational therapists in the definitions of Qualified Mental Health Professional-Adult, Qualified Mental Health Professional-Child, and Qualified Mental Retardation Professional and (ii) occupational therapy assistants in the definition of Qualified Paraprofessional in Mental Health. In amending these definitions, the Board shall require educational and clinical experience for occupational therapists and occupational therapy assistants that is substantially equivalent to comparable professionals listed in current regulations.*

**2. That the State Board of Behavioral Health and Developmental Services shall promulgate regulations to implement the provisions of this act to be effective within 280 days of its enactment.**

**CHAPTER 137**

*An Act to direct the Commissioner of Behavioral Health and Developmental Services to develop a comprehensive plan for provision of forensic discharge planning services at local and regional correctional facilities.*

[S 941]

Approved February 21, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. § 1.** *The Commissioner of Behavioral Health and Developmental Services (the Commissioner) shall, in conjunction with the relevant stakeholders, review the availability of forensic discharge planning services at local and regional correctional facilities for persons who have serious mental illnesses who are to be released from such facilities. The Commissioner shall develop a comprehensive plan for the provision of forensic discharge planning services for such persons at local or regional correctional facilities, which shall include the requirement that each facility have access to a discharge planner, and shall detail the cost considerations associated with the implementation of such a plan as well as any cost savings and benefits associated with the successful implementation of such a plan.*

*The plan shall be completed by November 1, 2017, and reported to the Chairmen of the Joint Subcommittee to Study Mental Health Services in the Commonwealth in the 21st Century, the House Committee for Courts of Justice, and the Senate Committee for Courts of Justice. The report on such plan shall also be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports no later than the first day of the 2018 Regular Session of the General Assembly and shall be posted on the General Assembly's website.*

**CHAPTER 138**

*An Act to amend and reenact § 63.2-1709.2 of the Code of Virginia, relating to assisted living facilities; cap on civil penalties.*

[S 1191]

Approved February 21, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 63.2-1709.2 of the Code of Virginia is amended and reenacted as follows:**

**§ 63.2-1709.2. Enforcement and sanctions; special orders; civil penalties.**

A. Notwithstanding any other provision of law, following a proceeding as provided in § 2.2-4019, the Commissioner may issue a special order (i) for violation of any of the provisions of this subtitle, § 54.1-3408, or any regulation adopted

under any provision of this subtitle which violation adversely affects, or is an imminent and substantial threat to, the health, safety, or welfare of the person cared for therein, or (ii) for permitting, aiding, or abetting the commission of any illegal act in an assisted living facility, adult day care center, or child welfare agency. Notice of the Commissioner's intent to take any of the actions enumerated in subdivisions B 1 through B 7 shall be provided by the Department and a copy of such notice shall be posted in a prominent place at each public entrance of the licensed premises to advise consumers of serious or persistent violations. The issuance of a special order shall be considered a case decision as defined in § 2.2-4001. The Commissioner shall not delegate his authority to impose civil penalties in conjunction with the issuance of special orders.

B. The Commissioner may take the following actions regarding assisted living facilities, adult day care centers, and child welfare agencies through the issuance of a special order and may require a copy of the special order provided by the Department to be posted in a prominent place at each public entrance of the licensed premises to advise consumers of serious or persistent violations:

1. Place a licensee on probation upon finding that the licensee is substantially out of compliance with the terms of its license and that the health and safety of residents, participants, or children are at risk;
2. Reduce licensed capacity or prohibit new admissions when the Commissioner concludes that the licensee cannot make necessary corrections to achieve compliance with regulations except by a temporary restriction of its scope of service;
3. Mandate training for the licensee or licensee's employees, with any costs to be borne by the licensee, when the Commissioner concludes that the lack of such training has led directly to violations of regulations;
4. Assess civil penalties for each day the assisted living facility is or was out of compliance with the terms of its license and the health, safety, and welfare of residents are at risk, which shall be paid into the state treasury and credited to the Assisted Living Facility Education, Training, and Technical Assistance Fund created pursuant to § 63.2-1803.1. The aggregate amount of such civil penalties shall not exceed \$10,000 for assisted living facilities in any ~~24-month~~ 12-month period. Criteria for imposition of civil penalties and amounts, expressed in ranges, shall be developed by the Board, and shall be based upon the severity, pervasiveness, duration, and degree of risk to the health, safety, or welfare of residents. Such civil penalties shall be applied by the Commissioner in a consistent manner. Such criteria shall also provide that (i) the Commissioner may accept a plan of correction, including a schedule of compliance, from an assisted living facility prior to setting a civil penalty, and (ii) the Commissioner may reduce or abate the penalty amount if the facility complies with the plan of correction within its terms.

A single act, omission, or incident shall not give rise to imposition of multiple civil penalties even though such act, omission, or incident may violate more than one statute or regulation. A civil penalty that is not appealed becomes due on the first day after the appeal period expires. The license of an assisted living facility that has failed to pay a civil penalty due under this section shall not be renewed until the civil penalty has been paid in full, with interest, provided that the Commissioner may renew a license when an unpaid civil penalty is the subject of a pending appeal;

5. Assess civil penalties of not more than \$500 per inspection upon finding that the adult day care center or child welfare agency is substantially out of compliance with the terms of its license and the health and safety of residents, participants, or children are at risk;
6. Require licensees to contact parents, guardians, or other responsible persons in writing regarding health and safety violations; and
7. Prevent licensees who are substantially out of compliance with the licensure terms or in violation of the regulations from receiving public funds.

C. The Board shall adopt regulations to implement the provisions of this section.

### CHAPTER 139

*An Act to amend and reenact § 64.2-531 of the Code of Virginia, relating to nonexoneration of debts on property of decedent; notice to creditor and beneficiaries.*

[S 1176]

Approved February 21, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 64.2-531 of the Code of Virginia is amended and reenacted as follows:**

**§ 64.2-531. Nonexoneration; payment of lien if granted by agent.**

A. Unless a contrary intent is clearly set out in the will or in a transfer on death deed, (i) real or personal property that is the subject of a specific devise or bequest in the will or (ii) real property subject to a transfer on death deed passes, subject to any mortgage, pledge, security interest, or other lien existing at the date of death of the testator, without the right of exoneration. A general directive in the will to pay debts shall not be evidence of a contrary intent that the mortgage, pledge, security interest, or other lien be exonerated prior to passing to the legatee.

B. *The personal representative may give written notice to the creditor holding any debt to which subsection A applies that there is no right of exoneration for such debt pursuant to this section. Such notice shall include a copy of this section. Any such notice shall be sent by certified mail (i) to the address the creditor last provided to the debtor as the address to which notices to the creditor are to be sent; (ii) if the personal representative cannot reasonably determine the address to which notices to the creditor are to be sent, to the address the creditor last provided to the debtor as the address at which*

payments to the creditor are to be made; or (iii) if the personal representative cannot reasonably determine either the address to which notices to the creditor are to be sent or at which payments to the creditor are to be made, to (a) the address of the creditor's registered agent on file with the Virginia State Corporation Commission or (b) if there is no such registered agent on file, to the creditor's last known address. The creditor holding such debt may file a claim for such debt with the commissioner of accounts pursuant to § 64.2-552 on or before the later of one year after the qualification of the personal representative of the decedent's estate or six months after the personal representative gives such written notice to the creditor. Once the personal representative has given notice to the creditor as provided in this section, unless the creditor files a timely claim against the estate as set forth in this subsection, the liability of a personal representative or his surety for such debt shall not exceed the assets of the decedent remaining in the possession of the personal representative and available for application to the debt pursuant to § 64.2-528 at the time the creditor presents a demand for payment of such debt to the personal representative. Nothing in this section shall affect either the liability of the estate for such debt to the extent of the decedent's assets remaining at the time a claim is filed or the liability of the beneficiaries that receive the decedent's assets to the extent of such receipt.

In the event that any such claim is timely filed with the commissioner of accounts, the personal representative shall give the specific beneficiary receiving such real or personal property written notice, within 90 days after such claim is filed, to obtain from the creditor the release of the estate from such claim. The notice to a beneficiary may be made to the personal representative of a deceased beneficiary whose estate is a beneficiary, an attorney-in-fact for a beneficiary, a guardian or conservator of an incapacitated beneficiary, a committee of a convict or insane beneficiary, or the duly qualified guardian of a minor or, if none exists, a custodial parent of a minor. If the estate has not been released from such claim after the later of 180 days from such notice or one year from qualification, the personal representative may (a) sell the real or personal property that is the subject of a specific devise or bequest and that is also subject to the claim, (b) apply the proceeds of sale to the satisfaction of the claim, and (c) distribute any excess proceeds from such sale of the specific beneficiary of such property. If the proceeds of such sale are insufficient to satisfy the debt in full, the deficiency shall remain a debt of the estate to be satisfied from the other assets of the estate in accordance with applicable law. If such real property is subject to a transfer on death deed and is also subject to the claim, the personal representative may proceed as provided in § 64.2-634 to enforce the liability for such claim against such property.

C. Subsection A shall not apply to any mortgage, pledge, security interest, or other lien existing at the date of death of the testator against any specifically devised or bequeathed real or personal property, or any real property subject to a transfer on death deed, that was granted by an agent acting within the authority of a durable power of attorney for the testator while the testator was incapacitated. For the purposes of this section, (i) no adjudication of the testator's incapacity is necessary, (ii) the acts of an agent within the authority of a durable power of attorney are rebuttably presumed to be for an incapacitated testator, and (iii) an incapacitated testator is one who is impaired by reason of mental illness, intellectual disability, physical illness or disability, chronic use of drugs, chronic intoxication, or other cause creating a lack of sufficient understanding or capacity to make or communicate responsible decisions. This subsection shall not apply (a) if the mortgage, pledge, security interest, or other lien granted by the agent on the specific property is thereafter ratified by the testator while he is not incapacitated; or (b) if the durable power of attorney was limited to one or more specific purposes and was not general in nature.

~~C.~~ D. Subsection A shall not apply to any mortgage, pledge, security interest, or other lien existing at the date of the death of the testator against any specific devise or bequest of any real or personal property, or any real property subject to a transfer on death deed, that was granted by a conservator, guardian, or committee of the testator. This subsection shall not apply if, after the mortgage, pledge, security interest, or other lien granted by the conservator, guardian, or committee, there is an adjudication that the testator's disability has ceased and the testator survives that adjudication by at least one year.

E. Nothing in this section shall affect the priority of a secured debt with respect to the collateral securing such debt.

## CHAPTER 140

An Act to amend and reenact § 2.2-3705.1 of the Code of Virginia, relating to the Virginia Freedom of Information Act; record exclusion for personal contact information; limitation.

[S 1040]

Approved February 21, 2017

**Be it enacted by the General Assembly of Virginia:**

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

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

The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01.

1. Personnel information concerning identifiable individuals, except that access shall not be denied to the person who is the subject thereof. Any person who is the subject of such information and who is 18 years of age or older may waive, in writing, the protections afforded by this subdivision. If the protections are so waived, such information shall be disclosed.

Nothing in this subdivision shall be construed to authorize the withholding of any resumes or applications submitted by persons who are appointed by the Governor pursuant to § 2.2-106 or 2.2-107.

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

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

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

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

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

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

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

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

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

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

10. Personal *contact* information, ~~as defined in § 2.2-3801, including electronic mail addresses~~, furnished to a public body for the purpose of receiving electronic mail from the public body, provided that the electronic mail recipient has requested that the public body not disclose such information. However, access shall not be denied to the person who is the subject of the record. *As used in this subdivision, "personal contact information" means the information provided to the public body for the purpose of receiving electronic mail from the public body and includes home or business (i) address, (ii) email address, or (iii) telephone number or comparable number assigned to any other electronic communication device.*

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

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

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

## CHAPTER 141

*An Act to amend and reenact § 30-178 of the Code of Virginia, relating to the Virginia Freedom of Information Advisory Council; terms of nonlegislative citizen members.*

[H 1932]

Approved February 21, 2017

**Be it enacted by the General Assembly of Virginia:****1. That § 30-178 of the Code of Virginia is amended and reenacted as follows:****§ 30-178. Virginia Freedom of Information Advisory Council; membership; terms; quorum; expenses.**

A. The Virginia Freedom of Information Advisory Council (the Council) is hereby created as an advisory council in the legislative branch to encourage and facilitate compliance with the Freedom of Information Act.

B. The Council shall consist of 12 members as follows: the Attorney General or his designee; the Librarian of Virginia or his designee; the Director of the Division of Legislative Services or his designee; four members appointed by the Speaker of the House of Delegates, one of whom shall be a member of the House of Delegates, and three nonlegislative citizen members, at least one of whom shall be or have been a representative of the news media; three members appointed by the Senate Committee on Rules, one of whom shall be a member of the Senate, one of whom shall be or have been an officer of local government, and one nonlegislative citizen at-large member; and two nonlegislative citizen members appointed by the Governor, one of whom shall not be a state employee. The local government representative may be selected from a list recommended by the Virginia Association of Counties and the Virginia Municipal League, after due consideration of such list by the Senate Committee on Rules. The citizen members may be selected from a list recommended by the Virginia Press Association, the Virginia Association of Broadcasters, and the Virginia Coalition for Open Government, after due consideration of such list by the appointing authorities.

C. All appointments following the initial staggering of terms shall be for terms of four years, except that appointments to fill vacancies shall be for the unexpired terms in the same manner as the original appointment. No nonlegislative citizen member shall be eligible to serve for more than two successive four-year terms. *At the end of a term, a nonlegislative citizen member shall continue to serve until a successor is appointed.* However, after the expiration of a term of three years or less, or after the expiration of the remainder of a term to which appointed to fill a vacancy, two additional terms may be served by such member if appointed thereto. Legislative members and other state government officials shall serve terms coincident with their terms of office. Legislative members may be reappointed for successive terms.

D. The members of the Council shall elect from among their membership a chairman and a vice-chairman for two-year terms. The chairman and vice-chairman may not succeed themselves to the same position. The Council shall hold meetings quarterly or upon the call of the chairman. A majority of the Council shall constitute a quorum.

E. Members of the Council shall receive no compensation for their services but shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813, 2.2-2825 and 30-19.12, as appropriate. Funding for expenses of the members shall be provided from existing appropriations to the Council.

**CHAPTER 142**

*An Act to amend and reenact § 63.2-1503 of the Code of Virginia, relating to child-protective services; complaints involving members of the United States Armed Forces.*

[H 2279]

Approved February 21, 2017

**Be it enacted by the General Assembly of Virginia:****1. That § 63.2-1503 of the Code of Virginia is amended and reenacted as follows:****§ 63.2-1503. Local departments to establish child-protective services; duties.**

A. Each local department shall establish child-protective services under a departmental coordinator within such department or with one or more adjacent local departments that shall be staffed with qualified personnel pursuant to regulations adopted by the Board. The local department shall be the public agency responsible for receiving and responding to complaints and reports, except that (i) in cases where the reports or complaints are to be made to the court and the judge determines that no local department within a reasonable geographic distance can impartially respond to the report, the court shall assign the report to the court services unit for evaluation; and (ii) in cases where an employee at a private or state-operated hospital, institution or other facility, or an employee of a school board is suspected of abusing or neglecting a child in such hospital, institution or other facility, or public school, the local department shall request the Department and the relevant private or state-operated hospital, institution or other facility, or school board to assist in conducting a joint investigation in accordance with regulations adopted by the Board, in consultation with the Departments of Education, Health, Medical Assistance Services, Behavioral Health and Developmental Services, Juvenile Justice and Corrections.

B. The local department shall ensure, through its own personnel or through cooperative arrangements with other local agencies, the capability of receiving reports or complaints and responding to them promptly on a 24-hours-a-day, seven-days-per-week basis.

C. The local department shall widely publicize a telephone number for receiving complaints and reports.

D. The local department shall notify the local attorney for the Commonwealth and the local law-enforcement agency of all complaints of suspected child abuse or neglect involving (i) any death of a child; (ii) any injury or threatened injury to the child in which a felony or Class 1 misdemeanor is also suspected; (iii) any sexual abuse, suspected sexual abuse or other sexual offense involving a child, including but not limited to the use or display of the child in sexually explicit visual material, as defined in § 18.2-374.1; (iv) any abduction of a child; (v) any felony or Class 1 misdemeanor drug offense involving a child; or (vi) contributing to the delinquency of a minor in violation of § 18.2-371, immediately, but in no case

more than two hours of receipt of the complaint, and shall provide the attorney for the Commonwealth and the local law-enforcement agency with records and information of the local department, including records related to any complaints of abuse or neglect involving the victim or the alleged perpetrator, related to the investigation of the complaint. The local department shall not allow reports of the death of the victim from other local agencies to substitute for direct reports to the attorney for the Commonwealth and the local law-enforcement agency. The local department shall develop, when practicable, memoranda of understanding for responding to reports of child abuse and neglect with local law enforcement and the attorney for the Commonwealth.

In each case in which the local department notifies the local law-enforcement agency of a complaint pursuant to this subsection, the local department shall, within two business days of delivery of the notification, complete a written report, on a form provided by the Board for such purpose, which shall include (a) the name of the representative of the local department providing notice required by this subsection; (b) the name of the local law-enforcement officer who received such notice; (c) the date and time that notification was made; (d) the identity of the victim; (e) the identity of the person alleged to have abused or neglected the child, if known; (f) the clause or clauses in this subsection that describe the reasons for the notification; and (g) the signatures, which may be electronic signatures, of the representatives of the local department making the notification and the local law-enforcement officer receiving the notification. Such report shall be included in the record of the investigation and may be submitted either in writing or electronically.

E. When abuse or neglect is suspected in any case involving the death of a child, the local department shall report the case immediately to the regional medical examiner and the local law-enforcement agency.

F. The local department shall use reasonable diligence to locate (i) any child for whom a report of suspected abuse or neglect has been received and is under investigation, receiving family assessment, or for whom a founded determination of abuse and neglect has been made and a child-protective services case opened and (ii) persons who are the subject of a report that is under investigation or receiving family assessment, if the whereabouts of the child or such persons are unknown to the local department.

G. When an abused or neglected child and the persons who are the subject of an open child-protective services case have relocated out of the jurisdiction of the local department, the local department shall notify the child-protective services agency in the jurisdiction to which such persons have relocated, whether inside or outside of the Commonwealth, and forward to such agency relevant portions of the case record. The receiving local department shall arrange protective and rehabilitative services as required by this section.

H. When a child for whom a report of suspected abuse or neglect has been received and is under investigation or receiving family assessment and the child and the child's parents or other persons responsible for the child's care who are the subject of the report that is under investigation or family assessment have relocated out of the jurisdiction of the local department, the local department shall notify the child-protective services agency in the jurisdiction to which the child and such persons have relocated, whether inside or outside of the Commonwealth, and complete such investigation or family assessment by requesting such agency's assistance in completing the investigation or family assessment. The local department that completes the investigation or family assessment shall forward to the receiving agency relevant portions of the case record in order for the receiving agency to arrange protective and rehabilitative services as required by this section.

I. Upon receipt of a report of child abuse or neglect, the local department shall determine the validity of such report and shall make a determination to conduct an investigation pursuant to § 63.2-1505 or, if designated as a child-protective services differential response agency by the Department according to § 63.2-1504, a family assessment pursuant to § 63.2-1506.

J. The local department shall foster, when practicable, the creation, maintenance and coordination of hospital and community-based multidisciplinary teams that shall include where possible, but not be limited to, members of the medical, mental health, social work, nursing, education, legal and law-enforcement professions. Such teams shall assist the local departments in identifying abused and neglected children; coordinating medical, social, and legal services for the children and their families; developing innovative programs for detection and prevention of child abuse; promoting community concern and action in the area of child abuse and neglect; and disseminating information to the general public with respect to the problem of child abuse and neglect and the facilities and prevention and treatment methods available to combat child abuse and neglect. These teams may be the family assessment and planning teams established pursuant to § 2.2-5207. Multidisciplinary teams may develop agreements regarding the exchange of information among the parties for the purposes of the investigation and disposition of complaints of child abuse and neglect, delivery of services and child protection. Any information exchanged in accordance with the agreement shall not be considered to be a violation of the provisions of § 63.2-102, 63.2-104, or 63.2-105.

The local department shall also coordinate its efforts in the provision of these services for abused and neglected children with the judge and staff of the court.

K. The local department may develop multidisciplinary teams to provide consultation to the local department during the investigation of selected cases involving child abuse or neglect, and to make recommendations regarding the prosecution of such cases. These teams may include, but are not limited to, members of the medical, mental health, legal and law-enforcement professions, including the attorney for the Commonwealth or his designee; a local child-protective services representative; and the guardian ad litem or other court-appointed advocate for the child. Any information exchanged for the purpose of such consultation shall not be considered a violation of § 63.2-102, 63.2-104, or 63.2-105.

L. The local department shall report annually on its activities concerning abused and neglected children to the court and to the Child-Protective Services Unit in the Department on forms provided by the Department.

M. Statements, or any evidence derived therefrom, made to local department child-protective services personnel, or to any person performing the duties of such personnel, by any person accused of the abuse, injury, neglect or death of a child after the arrest of such person, shall not be used in evidence in the case-in-chief against such person in the criminal proceeding on the question of guilt or innocence over the objection of the accused, unless the statement was made after such person was fully advised (i) of his right to remain silent, (ii) that anything he says may be used against him in a court of law, (iii) that he has a right to the presence of an attorney during any interviews, and (iv) that if he cannot afford an attorney, one will be appointed for him prior to any questioning.

N. Notwithstanding any other provision of law, the local department, in accordance with Board regulations, shall transmit information regarding founded complaints or family assessments and may transmit other information regarding reports, complaints, family assessments, and investigations involving children of active duty military personnel members of the United States Armed Forces or members of their household to family advocacy representatives of the United States Armed Forces.

O. The local department shall notify the custodial parent and make reasonable efforts to notify the noncustodial parent as those terms are defined in § 63.2-1900 of a report of suspected abuse or neglect of a child who is the subject of an investigation or is receiving family assessment, in those cases in which such custodial or noncustodial parent is not the subject of the investigation.

P. The local department shall notify the Superintendent of Public Instruction when an individual holding a license issued by the Board of Education is the subject of a founded complaint of child abuse or neglect and shall transmit identifying information regarding such individual if the local department knows the person holds a license issued by the Board of Education and after all rights to any appeal provided by § 63.2-1526 have been exhausted. Any information exchanged for the purpose of this subsection shall not be considered a violation of § 63.2-102, 63.2-104, or 63.2-105.

CHAPTER 143

An Act to amend and reenact § 8.01-512.3 of the Code of Virginia, relating to the form of garnishment summons; maximum portion of disposable earnings subject to garnishment.

[S 1333]

Approved February 21, 2017

Be it enacted by the General Assembly of Virginia:

1. That § 8.01-512.3 of the Code of Virginia is amended and reenacted as follows:

§ 8.01-512.3. Form of garnishment summons.

Any garnishment issued pursuant to § 8.01-511 shall be in the following form:

(a) Front side of summons:

GARNISHMENT SUMMONS

(Court Name)

(Name, address and telephone number of judgment creditor except that when the judgment creditor's attorney's name, address and telephone number appear on the summons, only the creditor's name shall be used.)

(Name, address and telephone number of judgment creditor's attorney)

(Name, street address and social security number of judgment debtor)

(Name and street address of garnishee)

Hearing Date and Time

This is a garnishment against (check only one of the designations below):

wages, salary, or other compensation.

some other debt due or property of the judgment debtor.

MAXIMUM PORTION OF DISPOSABLE EARNINGS SUBJECT TO GARNISHMENT

STATEMENT

Support

Judgment Principal \$ \_\_\_\_\_

50%  55%  60%  65%

Credits \$ \_\_\_\_\_

(if not specified, then 50%)

Interest \$ \_\_\_\_\_

state taxes, 100%

Judgment Costs \$ \_\_\_\_\_

If none of the above is checked, then § 34-29 (a)

Attorney's Fees \$ \_\_\_\_\_

applies.

Garnishment Costs \$ \_\_\_\_\_

TOTAL BALANCE DUE \$ \_\_\_\_\_

The garnishee shall rely on this amount.

Date of Judgment

TO ANY AUTHORIZED OFFICER: You are hereby commanded to serve this summons on the judgment debtor and the garnishee.

TO THE GARNISHEE: You are hereby commanded to

- (1) File a written answer with this court, or
- (2) Deliver payment to this court, or
- (3) Appear before this court on the return date and time shown on this summons to answer the Suggestion for Summons in Garnishment of the judgment creditor that, by reason of the lien of writ of fieri facias, there is a liability as shown in the statement upon the garnishee.

As garnishee, you shall withhold from the judgment debtor any sums of money to which the judgment debtor is or may be entitled from you during the period between the date of service of this summons on you and the date for your appearance in court, subject to the following limitations:

- (1) The maximum amount which may be garnished is the "TOTAL BALANCE DUE" as shown on this summons.
- (2) If the sums of money being garnished are earnings of the judgment debtor, then the provision of "MAXIMUM PORTION OF DISPOSABLE EARNINGS SUBJECT TO GARNISHMENT" shall apply.

If a garnishment summons is served on an employer having 1,000 or more employees, then money to which the judgment debtor is or may be entitled from his or her employer shall be considered those wages, salaries, commissions, or other earnings which, following service on the garnishee-employer, are determined and are payable to the judgment debtor under the garnishee-employer's normal payroll procedure with a reasonable time allowance for making a timely return by mail to this court.

Date of Issuance of Summons

Clerk

Date of delivery of writ of fieri facias to sheriff if different from date of issuance of this summons.

(b) A plain language interpretation of § 34-29 shall appear on the reverse side of the summons as follows:

"The following statement is not the law but is an interpretation of the law which is intended to assist those who must respond to this garnishment. You may rely on this only for general guidance because the law itself is the final word. (Read the law, § 34-29 of the Code of Virginia, for a full explanation. A copy of § 34-29 is available at the clerk's office. If you do not understand the law, call a lawyer for help.)

An employer may take as much as 25 percent of an employee's disposable earnings to satisfy this garnishment. But if an employee makes the minimum wage or less for his week's earnings, the employee will ordinarily get to keep ~~30~~ 40 times the minimum hourly wage."

But an employer may withhold a different amount of money from that above if:

- (1) The employee must pay child support or spousal support and was ordered to do so by a court procedure or other legal procedure. No more than 65 percent of an employee's earnings may be withheld for support;
- (2) Money is withheld by order of a bankruptcy court; or
- (3) Money is withheld for a tax debt.

"Disposable earnings" means the money an employee makes after taxes and after other amounts required by law to be withheld are satisfied. Earnings can be salary, hourly wages, commissions, bonuses, or otherwise, whether paid directly to the employee or not. After those earnings are in the bank for 30 days, they are not considered earnings any more.

If an employee tries to transfer, assign, or in any way give his earnings to another person to avoid the garnishment, it will not be legal; earnings are still earnings.

An employee cannot be fired because he is garnished for one debt.

Financial institutions that receive an employee's paycheck by direct deposit do not have to determine what part of a person's earnings can be garnished.

**2. That the Executive Secretary of the Supreme Court of Virginia shall update the form of garnishment summons in accordance with this act and subdivision (a) (2) of § 34-29 of the Code of Virginia.**

**CHAPTER 144**

*An Act to amend and reenact § 46.2-1702 of the Code of Virginia, relating to certification of driver education courses; requirements.*

[H 1705]

Approved February 21, 2017

**Be it enacted by the General Assembly of Virginia:**

- 1. That § 46.2-1702 of the Code of Virginia is amended and reenacted as follows:  
§ 46.2-1702. Certification of driver education courses by Commissioner.**

Notwithstanding any other provision of law, the Commissioner shall have the authority to approve as a driver education course satisfying the requirements of § 46.2-334 any course which is offered by any driver training school licensed under the provisions of this chapter if he finds that the course is of comparable content and quality to that offered in the Commonwealth's public schools. In making such finding, the Commissioner shall not require that the instructors of any driver training school meet the certification requirements of teachers in the Commonwealth's public schools.

Any community college within the Virginia Community College System shall have the authority to offer the courses required by the Virginia Board of Education to become a certified driver education instructor in Virginia on a not-for-credit basis so long as the courses include the same content and curriculum required by the Department of Education, enabling individuals who complete those courses to then teach driver's education in Virginia driver education training schools upon official certification by the Department of Motor Vehicles. The Virginia Department of Education shall provide the curriculum, content, and other information regarding the courses required to become certified driver education instructors in Virginia to any community college within the Virginia Community College System. The content of each course must be accurate and rigorous and must meet the requirements for the Department of Education's Curriculum and Administrative Guide for Driver's Education, which includes the Board of Education's standards of learning.

Except for schools in the Commonwealth's public school system and providers of correspondence courses approved by the Board of Education pursuant to subsection F of § 22.1-205, only those driver training schools that are licensed as computer-based driver education providers shall be authorized to administer computer-based driver education courses. The content and quality of such computer-based driver education courses shall be comparable to that of courses offered in the Commonwealth's public schools. The Commissioner may establish minimum standards for testing students who have enrolled in computer-based driver education courses. Such standards may include (i) requirements for the test site; (ii) verification that the person taking the test is the person enrolled in the course; (iii) verification of the identity of the student using photo identification approved by the Commissioner; and (iv) maintenance of a log containing the name and title of the licensed instructor monitoring the test, the test date, the name of the student taking the test, and the student's time-in and time-out of the test site. Computer-based driver education providers shall not issue a certificate of completion to a student in Planning District 8 prior to receiving proof of completion of the additional minimum 90-minute parent/student driver education component pursuant to § 22.1-205.

*Any driver training school licensed under the provisions of this chapter shall be authorized to provide the 90-minute parent/student driver education component in Planning District 8. Completion of such education component shall satisfy the requirement for the additional 90-minute parent/student driver education component pursuant to § 22.1-205, so long as there is participation of the student's parent or guardian and the content provided is comparable to that which is offered in the Commonwealth's public schools and emphasizes (i) parental responsibilities regarding juvenile driver behavior, (ii) juvenile driving restrictions pursuant to this Code, and (iii) the dangers of driving while intoxicated and underage consumption of alcohol.*

The Commissioner shall have authority to approve any driver education course offered by any Class A licensee if he finds the course meets the requirements for such courses as set forth in this chapter and as otherwise established by the Department. Class A licensees shall not be permitted to administer knowledge or behind-the-wheel examinations. Driver education courses offered by any Class B licensee shall be based on the driver education curriculum currently approved by the Department of Education and the Department.

The Commissioner may accept 20 years' service with the Virginia Department of State Police by a person who retired or resigned while in good standing from such Department in lieu of requirements established by the Department of Education for instructor qualification.

**CHAPTER 145**

*An Act to amend and reenact §§ 30-348, 30-351, 30-352, and 30-354 of the Code of Virginia, relating to the Commission on Civics Education; name; sunset.*

[H 1718]

Approved February 21, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 30-348, 30-351, 30-352, and 30-354 of the Code of Virginia are amended and reenacted as follows:**

TITLE 30.

CHAPTER 55.

COMMISSION ON ~~CIVICS~~ CIVIC EDUCATION.

**§ 30-348. (Expires July 1, 2017) Commission on Civic Education; purpose; membership; terms.**

The Commission on ~~Civics~~ Civic Education (the Commission) is established in the legislative branch of state government. The purposes of the Commission are to (i) educate students on the importance of citizen involvement in a constitutional republic, (ii) promote the study of state and local government among the Commonwealth's citizenry, and (iii) enhance communication and collaboration among organizations in the Commonwealth that conduct ~~civics~~ civic education.

The Commission shall have a total membership of 15 members that shall consist of eight legislative members, six nonlegislative citizen members, and one ex officio member. Members shall be appointed as follows: five members of the House of Delegates, to be appointed by the Speaker of the House of Delegates in accordance with the principles of proportional representation contained in the Rules of the House of Delegates; three members of the Senate, to be appointed by the Senate Committee on Rules; three nonlegislative citizen members, one of whom shall have a background in curriculum development, interactive learning, and multimedia technology, one of whom shall be a current or retired school civics teacher, and one of whom shall be a representative of an organization that promotes civic learning, to be appointed by the Speaker of the House of Delegates; and three nonlegislative citizen members, one of whom shall be a retired school civics teacher, one of whom shall be a representative of a public policy center of a public institution of higher education in the Commonwealth, and one of whom shall be a representative of the Virginia Press Association, to be appointed by the Senate Committee on Rules. The Superintendent of Public Instruction or his designee shall serve ex officio with voting privileges. Nonlegislative citizen members of the Commission shall be citizens of the Commonwealth. Unless otherwise approved in writing by the chairman of the Commission, the Clerk of the House of Delegates, and the Clerk of the Senate, nonlegislative citizen members shall only be reimbursed for travel originating and ending within the Commonwealth for the purpose of attending meetings.

Legislative members and the ex officio member of the Commission shall serve terms coincident with their terms of office. Nonlegislative citizen members shall be appointed for a term of two years. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. Legislative members and nonlegislative citizen members may be reappointed. However, no nonlegislative citizen member shall serve more than four consecutive two-year terms. The remainder of any term to which a member is appointed to fill a vacancy shall not constitute a term in determining the member's eligibility for reappointment. Vacancies shall be filled in the same manner as the original appointments.

The Commission shall elect a chairman and vice-chairman from among its membership, who shall be members of the General Assembly.

**§ 30-351. (Expires July 1, 2017) Powers and duties; report.**

The Commission shall have the following powers and duties:

1. To develop and coordinate outreach programs in collaboration with schools to educate students on the importance of understanding that (i) a constitutional republic is a form of government dependent on reasoned debate and good faith negotiation; (ii) individual involvement is a critical factor in community success; and (iii) consideration of and respect for others is essential to deliberating, negotiating, and advocating positions on public concerns.
2. To identify ~~civics~~ civic education projects in the Commonwealth and provide technical assistance as may be needed to such programs.
3. To build a network of ~~civics~~ civic education professionals to share information and strengthen partnerships.
4. To develop, in consultation with entities represented on the Commission and others as determined by the Commission, a clearinghouse that shall be accessible on the Department of Education's website. The electronic clearinghouse shall include, among other things, (i) a database of ~~civics~~ civic education resources, lesson plans, and other programs of best practices in ~~civics~~ civic education; (ii) a bulletin board to promote discussion and exchange of ideas relative to ~~civics~~ civic education; (iii) an events calendar; and (iv) links to ~~civics~~ civic education research.
5. To make recommendations to the Board of Education regarding revisions to the Standards of Learning for civics and government.
6. To seek, receive, and expend gifts, grants, donations, bequests, or other funds from any source to support the work of the Commission and facilitate the objectives of this chapter.
7. To submit to the Governor and the General Assembly an annual report. The chairman shall submit to the Governor and the General Assembly an annual executive summary of the interim activity and work of the Commission no later than the first day of each regular session of the General Assembly. The executive summary shall be submitted for publication as a report document as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.

**§ 30-352. (Expires July 1, 2017) Commission on Civic Education Fund.**

There is hereby created in the state treasury a special nonreverting fund to be known as the Commission on ~~Civics~~ Civic Education Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller and shall consist of gifts, grants, donations, bequests, or other funds from any source as may be received by the Commission for its work. Moneys shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used for the purpose of enabling the Commission to perform its duties. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the chairman of the Commission.

**§ 30-354. (Expires July 1, 2017) Sunset.**

This chapter shall expire on July 1, ~~2017~~ 2019.

## CHAPTER 146

*An Act to amend and reenact § 2.2-3119 of the Code of Virginia, relating to the State and Local Government Conflict of Interests Act; school boards and school board employees.*

[H 1727]

Approved February 21, 2017

**Be it enacted by the General Assembly of Virginia:****1. That § 2.2-3119 of the Code of Virginia is amended and reenacted as follows:****§ 2.2-3119. Additional provisions applicable to school boards and employees of school boards; exceptions.**

A. Notwithstanding any other provision of this chapter, it shall be unlawful for the school board of any county or city or of any town constituting a separate school division to employ or pay any teacher or other school board employee from the public funds, federal, state or local, or for a division superintendent to recommend to the school board the employment of any teacher or other employee, if the teacher or other employee is the father, mother, brother, sister, spouse, son, daughter, son-in-law, daughter-in-law, sister-in-law or brother-in-law of the superintendent, or of any member of the school board.

This section shall apply to any person employed by any school board in the operation of the public free school system, adult education programs or any other program maintained and operated by a local county, city or town school board.

B. This section shall not be construed to prohibit the employment, promotion, or transfer within a school division of any person within a relationship described in subsection A when such person:

1. Has been employed pursuant to a written contract with a school board or employed as a substitute teacher or teacher's aide by a school board prior to the taking of office of any member of such board or division superintendent of schools; or

2. Has been employed pursuant to a written contract with a school board or employed as a substitute teacher or teacher's aide by a school board prior to the inception of such relationship; or

3. Was employed by a school board at any time prior to June 10, 1994, and had been employed at any time as a teacher or other employee of any Virginia school board prior to the taking of office of any member of such school board or division superintendent of schools.

C. A person employed as a substitute teacher may not be employed to any greater extent than he was employed by the school board in the last full school year prior to the taking of office of such board member or division superintendent or to the inception of such relationship. The exceptions in subdivisions B 1, B 2, and B 3 shall apply only if the prior employment has been in the same school divisions where the employee and the superintendent or school board member now seek to serve simultaneously.

D. If any member of the school board or any division superintendent knowingly violates these provisions, he shall be personally liable to refund to the local treasury any amounts paid in violation of this law, and the funds shall be recovered from the individual by action or suit in the name of the Commonwealth on the petition of the attorney for the Commonwealth. Recovered funds shall be paid into the local treasury for the use of the public schools.

E. The provisions of this section shall not apply to employment by a school district located in Planning Districts 3, 11, 12, ~~and~~ 13, and 17 of the father, mother, brother, sister, spouse, son, daughter, son-in-law, daughter-in-law, sister-in-law, or brother-in-law of any member of the school board provided (i) the member certifies that he had no involvement with the hiring decision and (ii) the superintendent certifies to the remaining members of the governing body in writing that the employment is based upon merit and fitness and the competitive rating of the qualifications of the individual and that no member of the board had any involvement with the hiring decision.

## CHAPTER 147

*An Act to amend and reenact § 58.1-439.20 of the Code of Virginia, relating to Neighborhood Assistance Act Tax Credit; allocation to organizations that did not receive any credit in the preceding year.*

[H 1433]

Approved February 23, 2017

**Be it enacted by the General Assembly of Virginia:****1. That § 58.1-439.20 of the Code of Virginia is amended and reenacted as follows:****§ 58.1-439.20. Proposals; regulations; tax credits authorized; amount for programs.**

A. Any neighborhood organization may submit a proposal, other than education proposals, to the Commissioner of Social Services requesting an allocation of tax credits for use by business firms making donations to the neighborhood organization. Neighborhood organizations may submit education proposals to the Superintendent of Public Instruction requesting an allocation of tax credits for use by business firms making donations to the neighborhood organization.

The proposal shall set forth the program to be conducted by the neighborhood organization, the low-income persons or eligible students with disabilities to be assisted, the estimated amount to be donated to the program, and the plans for implementing the program.

B. 1. The State Board of Social Services and the Department of Education are hereby authorized to adopt regulations (or, alternatively, guidelines in the case of the Department of Education) for the approval or disapproval of such proposals by neighborhood organizations and for determining the value of the donations. Such regulations or guidelines shall contain a requirement that a neighborhood organization shall have been in existence for at least one year. Also, such regulations or guidelines shall contain a requirement that as a prerequisite for approval, neighborhood organizations with total revenues (including the value of all donations) (i) in excess of \$100,000 for the organization's most recent year ended provide to the State Board of Social Services or the Department of Education, as applicable, an audit or review for such year performed by an independent certified public accountant or (ii) of \$100,000 or less for the organization's most recent year ended provide to the State Board of Social Services or the Department of Education, as applicable, a compilation for such year performed by an independent certified public accountant. No proposal for an allocation of tax credits shall be untimely filed solely because such audit, review, or compilation was not submitted by the neighborhood organization by the proposal filing deadline, provided that the audit, review, or compilation is submitted to the State Board of Social Services or the Department of Education, as applicable, within the 30-day period immediately following such deadline.

Such regulations or guidelines by the Department of Education shall provide that at least 50 percent of the persons served by the neighborhood organization be low-income persons or eligible students with disabilities and that at least 50 percent of the neighborhood organization's revenues be used to provide services to low-income persons or to eligible students with disabilities. Such regulations by the State Board of Social Services shall provide that at least 50 percent of the persons served by the neighborhood organization be low-income persons as defined in § 58.1-439.18.

In order for a proposal to be approved, the applicant neighborhood organization and any of its affiliates shall meet the requirements of the application regulations or guidelines.

2. The requirements for proposals submitted to the Superintendent of Public Instruction that (i) at least 50 percent of the persons served by the neighborhood organization and each of its affiliates be low-income persons or eligible students with disabilities and (ii) at least 50 percent of the revenues of the neighborhood organization and each of its affiliates be used to provide services to such persons shall not apply to any neighborhood organization for tax credit allocations beginning for fiscal year 2014-2015 and ending with tax credit allocations for fiscal year 2019-2020, provided that (a) the neighborhood organization received an allocation of tax credits for fiscal year 2011-2012 allocations, (b) at least 50 percent of the persons served by the neighborhood organization are low-income persons or eligible students with disabilities, (c) at least 50 percent of the neighborhood organization's revenues are used to provide services to such persons, and (d) none of the affiliates of the neighborhood organization receives an allocation of tax credits for the program year of such five-year period.

3. Beginning with tax credit allocations for fiscal year 2016-2017 and thereafter, the requirements for a proposal submitted by a neighborhood organization to the Commissioner of Social Services that (i) at least 50 percent of the persons served by each affiliate of the neighborhood organization be low-income persons, (ii) at least 50 percent of the revenues of each affiliate of the neighborhood organization be used to provide services to such persons, (iii) each affiliate also meet the definition of "neighborhood organization" under § 58.1-439.18, and (iv) an audit, review, or compilation for each affiliate be furnished to the Commissioner of Social Services shall not apply in determining the eligibility of the neighborhood organization submitting a proposal, provided that (a) the neighborhood organization otherwise meets all statutory requirements and regulations, (b) the neighborhood organization received a fiscal year 2013-2014 allocation of neighborhood assistance tax credits, and (c) no affiliate of the neighborhood organization submits a proposal for or receives an allocation of tax credits pursuant to this article for the program year for which the neighborhood organization has submitted its proposal.

4. The regulations or guidelines shall provide for the equitable allocation of the available amount of tax credits among the approved proposals submitted by neighborhood organizations. The regulations or guidelines shall also provide that ~~at least 10 percent of~~ *in any year in which the available amount of tax credits each year exceeds the previous year's available amount, at least 10 percent of the excess amount shall be allocated to qualified programs proposed by neighborhood organizations not receiving that did not receive any allocations in the preceding year; however, if* the amount of tax credits ~~for qualified programs~~ requested by such neighborhood organizations is less than 10 percent of the ~~available excess amount of tax credits~~, the unallocated portion of such 10 percent ~~of the available amount of tax credits~~ shall be allocated to qualified programs proposed by other neighborhood organizations.

C. If the Commissioner of Social Services or the Superintendent of Public Instruction approves a proposal submitted by a neighborhood organization, the organization shall make the allocated tax credit amounts available to business firms making donations to the approved program. A neighborhood organization shall not assign or transfer an allocation of tax credits to another neighborhood organization without the approval of the Commissioner of Social Services or the Superintendent of Public Instruction, as applicable.

Notwithstanding any other provision of law, (i) no more than an aggregate of \$0.825 million in tax credits shall be approved in a fiscal year to a neighborhood organization or to a grouping of neighborhood organization affiliates for all education proposals, and (ii) no more than an aggregate of \$0.5 million in tax credits shall be approved in a fiscal year to a neighborhood organization or to a grouping of neighborhood organization affiliates for all other proposals combined. However, if the State Department of Social Services or the Department of Education after the initial allocation of tax credits to approved proposals has a balance of tax credits remaining for the fiscal year that can be used or allocated by a neighborhood organization for a proposal that had been approved for tax credits during the initial allocation by the State

Department of Social Services or the Department of Education, then (a) the Commissioner of Social Services or the Superintendent of Public Instruction, as applicable, shall reallocate the remaining balance of tax credits to such previously approved proposals to the extent that a neighborhood organization can use or allocate additional tax credits for the previously approved proposal and (b) the \$0.825 and \$0.5 million annual limitations for tax credits approved to a grouping of neighborhood organization affiliates shall be inapplicable to the extent of any balance of tax credits reallocated under clause (a). The balance of tax credits remaining for reallocation shall include the amount of any tax credits that have been granted for a proposal approved during the initial allocation but for which the Commissioner of Social Services or the Superintendent of Public Instruction has been provided notice by the neighborhood organization that it will not be able to use or allocate such amount for the approved proposal.

D. The total amount of tax credits granted for programs approved under this article for each fiscal year shall not exceed the following: for education proposals for approval by the Superintendent of Public Instruction, \$8 million for fiscal year 2013-2014, \$8.5 million for fiscal year 2014-2015, and \$9 million for fiscal year 2015-2016 and each fiscal year thereafter; and for all other proposals for approval by the Commissioner of Social Services, \$7 million for fiscal year 2013-2014, \$7.5 million for fiscal year 2014-2015, and \$8 million for fiscal year 2015-2016 and each fiscal year thereafter.

The Superintendent of Public Instruction and the Commissioner of Social Services shall work cooperatively for purposes of ensuring that neighborhood organization proposals are submitted to the proper state agency. The Superintendent of Public Instruction and the Commissioner of Social Services may request the assistance of the Department of Taxation for purposes of determining whether or not anticipated donations for which tax credits are requested by a neighborhood organization likely qualify as a charitable donation under federal tax laws and regulations.

E. Actions of (i) the State Department of Social Services, or the Commissioner of the same, or (ii) the Superintendent of Public Instruction or the Department of Education relating to the review of neighborhood organization proposals and the allocation of tax credits to proposals shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.). Decisions of (a) the State Department of Social Services, or the Commissioner of the same, or (b) the Superintendent of Public Instruction or the Department of Education shall be final and not subject to review or appeal.

F. Notwithstanding the provisions of § 30-19.1:11, the issuance of tax credits under this article shall expire on July 1, 2028.

**2. That an emergency exists and this act is in force from its passage.**

**CHAPTER 148**

*An Act to designate the State Route 143 bridge in the City of Newport News the "Trooper Chad Phillip Dermyer Memorial Bridge."*

[H 1405]

Approved February 23, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. § 1.** *That the State Route 143 bridge in the City of Newport News at exit 255 over Interstate 64 is hereby designated the "Trooper Chad Phillip Dermyer Memorial Bridge." The Department of Transportation shall place and maintain appropriate markers indicating the designation of this bridge. This designation shall not affect any other designation heretofore or hereafter applied to this bridge.*

**CHAPTER 149**

*An Act to amend and reenact § 10.1-413 of the Code of Virginia, relating to James River State Scenic River.*

[H 1454]

Approved February 23, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 10.1-413 of the Code of Virginia is amended and reenacted as follows:**

**§ 10.1-413. James River State Scenic River.**

A. That portion of the James River in Botetourt County, ~~from a point two miles southeast of the point where Route 43 (old Route 220) crosses the James River at Eagle Rock and Rockbridge Counties, including the Towns of Buchanan and Glasgow, from its origination at the confluence of the Jackson and Cowpasture Rivers running approximately 14.59 miles southeastward to the point where Route 630 crosses the James River at Springwood~~ Rockbridge-Amherst-Bedford County line is hereby designated a component of the Virginia Scenic Rivers System.

B. No dam or other structure that impedes the natural flow of the James River in Botetourt or Rockbridge County shall be constructed, operated, or maintained within the section of the James River designated as a scenic river by this statute unless specifically authorized by an act of the General Assembly.

## CHAPTER 150

*An Act to amend and reenact § 2.2-3110 of the Code of Virginia, relating to State and Local Government Conflict of Interests Act; prohibited contracts; exceptions for certain contracts entered into by officer or employee or immediate family member of officer or employee of soil and water conservation district.*

[H 1472]

Approved February 23, 2017

**Be it enacted by the General Assembly of Virginia:****1. That § 2.2-3110 of the Code of Virginia is amended and reenacted as follows:****§ 2.2-3110. Further exceptions.**

A. The provisions of Article 3 (§ 2.2-3106 et seq.) shall not apply to:

1. The sale, lease or exchange of real property between an officer or employee and a governmental agency, provided the officer or employee does not participate in any way as such officer or employee in such sale, lease or exchange, and this fact is set forth as a matter of public record by the governing body of the governmental agency or by the administrative head thereof;

2. The publication of official notices;

3. Contracts between the government or school board of a town or city with a population of less than 10,000 and an officer or employee of that town or city government or school board when the total of such contracts between the town or city government or school board and the officer or employee of that town or city government or school board or a business controlled by him does not exceed \$10,000 per year or such amount exceeds \$10,000 and is less than \$25,000 but results from contracts arising from awards made on a sealed bid basis, and such officer or employee has made disclosure as provided for in § 2.2-3115;

4. An officer or employee whose sole personal interest in a contract with the governmental agency is by reason of income from the contracting firm or governmental agency in excess of \$10,000 per year, provided the officer or employee or a member of his immediate family does not participate and has no authority to participate in the procurement or letting of such contract on behalf of the contracting firm and the officer or employee either does not have authority to participate in the procurement or letting of the contract on behalf of his governmental agency or he disqualifies himself as a matter of public record and does not participate on behalf of his governmental agency in negotiating the contract or in approving the contract;

5. When the governmental agency is a public institution of higher education, an officer or employee whose personal interest in a contract with the institution is by reason of an ownership in the contracting firm in excess of three percent of the contracting firm's equity or such ownership interest and income from the contracting firm is in excess of \$10,000 per year, provided that (i) the officer or employee's ownership interest, or ownership and income interest, and that of any immediate family member in the contracting firm is disclosed in writing to the president of the institution, which writing certifies that the officer or employee has not and will not participate in the contract negotiations on behalf of the contracting firm or the institution, (ii) the president of the institution makes a written finding as a matter of public record that the contract is in the best interests of the institution, (iii) the officer or employee either does not have authority to participate in the procurement or letting of the contract on behalf of the institution or disqualifies himself as a matter of public record, and (iv) does not participate on behalf of the institution in negotiating the contract or approving the contract;

6. Except when the governmental agency is the Virginia Retirement System, contracts between an officer's or employee's governmental agency and a public service corporation, financial institution, or company furnishing public utilities in which the officer or employee has a personal interest, provided the officer or employee disqualifies himself as a matter of public record and does not participate on behalf of his governmental agency in negotiating the contract or in approving the contract;

7. Contracts for the purchase of goods or services when the contract does not exceed \$500;

8. Grants or other payment under any program wherein uniform rates for, or the amounts paid to, all qualified applicants are established solely by the administering governmental agency;

9. An officer or employee whose sole personal interest in a contract with his own governmental agency is by reason of his marriage to his spouse who is employed by the same agency, if the spouse was employed by such agency for five or more years prior to marrying such officer or employee; or

10. Contracts entered into by an officer or employee *or immediate family member of an officer or employee* of a soil and water conservation district created pursuant to Article 3 (§ 10.1-506 et seq.) of Chapter 5 of Title 10.1 to participate in the Virginia Agricultural Best Management Practices Cost-Share Program (the Program) established in accordance with § 10.1-546.1 *or to participate in other cost-share programs for the installation of best management practices to improve water quality*. This subdivision shall not apply to subcontracts or other agreements entered into by an officer or employee of a soil and water conservation district to provide services for implementation of a cost-share contract established under the Program *or such other cost-share programs*.

B. Neither the provisions of this chapter nor, unless expressly provided otherwise, any amendments thereto shall apply to those employment contracts or renewals thereof or to any other contracts entered into prior to August 1, 1987, which were in compliance with either the former Virginia Conflict of Interests Act, Chapter 22 (§ 2.1-347 et seq.) or the former

Comprehensive Conflict of Interests Act, Chapter 40 (§ 2.1-599 et seq.) of Title 2.1 at the time of their formation and thereafter. Those contracts shall continue to be governed by the provisions of the appropriate prior Act. Notwithstanding the provisions of subdivision (f)(4) of § 2.1-348 of Title 2.1 in effect prior to July 1, 1983, the employment by the same governmental agency of an officer or employee and spouse or any other relative residing in the same household shall not be deemed to create a material financial interest except when one of such persons is employed in a direct supervisory or administrative position, or both, with respect to such spouse or other relative residing in his household and the annual salary of such subordinate is \$35,000 or more.

**2. That the provisions of this act shall apply to contracts entered into on and after July 1, 2017, and to any contract entered into by an officer or employee or an immediate family member of such officer or employee with a soil and water conservation district to participate in a cost-share program for the installation of best management practices to improve water quality prior to the effective date of this act.**

## CHAPTER 151

*An Act to amend and reenact § 4.1-209 of the Code of Virginia, relating to alcoholic beverage control; nonprofit banquet licensees; sale of wine for off-premises consumption.*

[H 1694]

Approved February 23, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 4.1-209 of the Code of Virginia is amended and reenacted as follows:**

**§ 4.1-209. Wine and beer licenses; advertising.**

A. The Board may grant the following licenses relating to wine and beer:

1. Retail on-premises wine and beer licenses to:

a. Hotels, restaurants and clubs, which shall authorize the licensee to sell wine and beer, either with or without meals, only in dining areas and other designated areas of such restaurants, or in dining areas, private guest rooms, and other designated areas of such hotels or clubs, for consumption only in such rooms and areas. However, with regard to a hotel classified by the Board as (i) a resort complex, the Board may authorize the sale and consumption of alcoholic beverages in all areas within the resort complex deemed appropriate by the Board or (ii) a limited service hotel, the Board may authorize the sale and consumption of alcoholic beverages in dining areas, private guest rooms, and other designated areas to persons to whom overnight lodging is being provided, for on-premises consumption in such rooms or areas, and without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises, provided that at least one meal is provided each day by the hotel to such guests. With regard to facilities registered in accordance with Chapter 49 (§ 38.2-4900 et seq.) of Title 38.2 of the Code of Virginia as continuing care communities that are also licensed by the Board under this subdivision, any resident may, upon authorization of the licensee, keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas covered by the license. For purposes of this subdivision, "other designated areas" includes outdoor dining areas, whether or not contiguous to the licensed premises, which may have more than one means of ingress and egress to an adjacent public thoroughfare, provided that such outdoor dining areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201;

b. Persons operating dining cars, buffet cars, and club cars of trains, which shall authorize the licensee to sell wine and beer, either with or without meals, in the dining cars, buffet cars, and club cars so operated by them, for on-premises consumption when carrying passengers;

c. Persons operating sight-seeing boats, or special or charter boats, which shall authorize the licensee to sell wine and beer, either with or without meals, on such boats operated by them for on-premises consumption when carrying passengers;

d. Persons operating as air carriers of passengers on regular schedules in foreign, interstate or intrastate commerce, which shall authorize the licensee to sell wine and beer for consumption by passengers in such airplanes anywhere in or over the Commonwealth while in transit and in designated rooms of establishments of such carriers at airports in the Commonwealth, § 4.1-129 notwithstanding. For purposes of supplying its airplanes, as well as any airplane of a licensed express carrier flying under the same brand, an air carrier licensee may appoint an authorized representative to load wine and beer onto the same airplanes and to transport and store wine and beer at or in close proximity to the airport where the wine and beer will be delivered onto airplanes of the air carrier and any such licensed express carrier. The air carrier licensee shall (i) designate for purposes of its license all locations where the inventory of wine and beer may be stored and from which the wine and beer will be delivered onto airplanes of the air carrier and any such licensed express carrier and (ii) maintain records of all wine and beer to be transported, stored, and delivered by its authorized representative;

e. Hospitals, which shall authorize the licensee to sell wine and beer in the rooms of patients for their on-premises consumption only in such rooms, provided the consent of the patient's attending physician is first obtained;

f. Persons operating food concessions at coliseums, stadia, racetracks or similar facilities, which shall authorize the licensee to sell wine and beer in paper, plastic or similar disposable containers, during any event and immediately subsequent thereto, to patrons within all seating areas, concourses, walkways, concession areas and additional locations designated by the Board in such coliseums, stadia, racetracks or similar facilities, for on-premises consumption. Upon

authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license;

g. Persons operating food concessions at any outdoor performing arts amphitheater, arena or similar facility which (i) has seating for more than 20,000 persons and is located in Prince William County or the City of Virginia Beach, (ii) has capacity for more than 3,500 persons and is located in the Counties of Albemarle, Augusta, Nelson, Pittsylvania, or Rockingham, or the Cities of Charlottesville, Danville, or Roanoke, or (iii) has capacity for more than 9,500 persons and is located in Henrico County. Such license shall authorize the licensee to sell wine and beer during the performance of any event, in paper, plastic or similar disposable containers to patrons within all seating areas, concourses, walkways, concession areas, or similar facilities, for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license;

h. Persons operating food concessions at exhibition or exposition halls, convention centers or similar facilities located in any county operating under the urban county executive form of government or any city which is completely surrounded by such county, which shall authorize the licensee to sell wine and beer during the event, in paper, plastic or similar disposable containers to patrons or attendees within all seating areas, exhibition areas, concourses, walkways, concession areas, and such additional locations designated by the Board in such facilities, for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license. For purposes of this subsection, "exhibition or exposition hall" and "convention centers" mean facilities conducting private or public trade shows or exhibitions in an indoor facility having in excess of 100,000 square feet of floor space; and

i. Persons operating a concert and dinner-theater venue on property fronting Natural Bridge School Road in Natural Bridge Station, Virginia, and formerly operated as Natural Bridge High School, which shall authorize the licensee to sell wine and beer during events to patrons or attendees within all seating areas, exhibition areas, concourses, walkways, concession areas, dining areas, and such additional locations designated by the Board in such facilities, for on-premises consumption. Persons licensed pursuant to this subdivision shall serve food, prepared on or off premises, whenever wine or beer is served.

2. Retail off-premises wine and beer licenses, which shall authorize the licensee to sell wine and beer in closed containers for off-premises consumption.

3. Gourmet shop licenses, which shall authorize the licensee to sell wine and beer in closed containers for off-premises consumption and, the provisions of § 4.1-308 notwithstanding, to give to any person to whom wine or beer may be lawfully sold, (i) a sample of wine, not to exceed two ounces by volume or (ii) a sample of beer not to exceed four ounces by volume, for on-premises consumption. The licensee may also give samples of wine and beer in designated areas at events held by the licensee for the purpose of featuring and educating the consuming public about the alcoholic beverages being tasted. Additionally, with the consent of the licensee, farm wineries, wineries, breweries, and wholesale licensees may participate in tastings held by licensees authorized to conduct tastings, including the pouring of samples to any person to whom alcoholic beverages may be lawfully sold. Notwithstanding Board regulations relating to food sales, the licensee shall maintain each year an average monthly inventory and sales volume of at least \$1,000 in products such as cheeses and gourmet food.

4. Convenience grocery store licenses, which shall authorize the licensee to sell wine and beer in closed containers for off-premises consumption.

5. Retail on-and-off premises wine and beer licenses to persons enumerated in subdivision 1 a, which shall accord all the privileges conferred by retail on-premises wine and beer licenses and in addition, shall authorize the licensee to sell wine and beer in closed containers for off-premises consumption.

6. Banquet licenses to persons in charge of banquets, and to duly organized nonprofit corporations or associations in charge of special events, which shall authorize the licensee to sell or give wine and beer in rooms or areas approved by the Board for the occasion for on-premises consumption in such rooms or areas. *Licensees who are nonprofit corporations or associations conducting fundraisers (i) shall also be authorized to sell wine, as part of any fundraising activity, in closed containers for off-premises consumption to persons to whom wine may be lawfully sold and (ii) shall be limited to no more than one such fundraiser per year.* Except as provided in § 4.1-215, a separate license shall be required for each day of each banquet or special event. For the purposes of this subdivision, when the location named in the original application for a license is outdoors, the application may also name an alternative location in the event of inclement weather. However, no such license shall be required of any hotel, restaurant, or club holding a retail wine and beer license.

7. Gift shop licenses, which shall authorize the licensee to sell wine and beer only within the interior premises of the gift shop in closed containers for off-premises consumption and, the provisions of § 4.1-308 notwithstanding, to give to any person to whom wine or beer may be lawfully sold (i) a sample of wine not to exceed two ounces by volume or (ii) a sample of beer not to exceed four ounces by volume for on-premises consumption. The licensee may also give samples of wine and beer in designated areas at events held by the licensee for the purpose of featuring and educating the consuming public about the alcoholic beverages being tasted.

8. Gourmet brewing shop licenses, which shall authorize the licensee to sell to any person to whom wine or beer may be lawfully sold, ingredients for making wine or brewing beer, including packaging, and to rent to such persons facilities for

manufacturing, fermenting, and bottling such wine or beer, for off-premises consumption in accordance with subdivision 6 of § 4.1-200.

9. Annual banquet licenses, to duly organized private nonprofit fraternal, patriotic or charitable membership organizations that are exempt from state and federal taxation and in charge of banquets conducted exclusively for its members and their guests, which shall authorize the licensee to serve wine and beer in rooms or areas approved by the Board for the occasion for on-premises consumption in such rooms or areas. Such license shall authorize the licensee to conduct no more than 12 banquets per calendar year. For the purposes of this subdivision, when the location named in the original application for a license is outdoors, the application may also name an alternative location in the event of inclement weather. However, no such license shall be required of any hotel, restaurant, or club holding a retail wine and beer license.

10. Fulfillment warehouse licenses, which shall authorize associations as defined in § 13.1-313 with a place of business located in the Commonwealth to (i) receive deliveries and shipments of wine or beer owned by holders of wine or beer shipper's licenses, (ii) store such wine or beer on behalf of the owner, and (iii) pick, pack, and ship such wine or beer as directed by the owner, all in accordance with Board regulations. No wholesale wine or wholesale beer licensee, whether licensed in the Commonwealth or not, or any person under common control of such licensee, shall acquire or hold any financial interest, direct or indirect, in the business for which any fulfillment warehouse license is issued.

11. Marketing portal licenses, which shall authorize agricultural cooperative associations organized under the provisions of the Agricultural Cooperative Association Act (§ 13.1-312 et seq.), with a place of business located in the Commonwealth, in accordance with Board regulations, to solicit and receive orders for wine or beer through the use of the Internet from persons in the Commonwealth to whom wine or beer may be lawfully sold, on behalf of holders of wine or beer shipper's licenses. Upon receipt of an order for wine or beer, the licensee shall forward it to a holder of a wine or beer shipper's license for fulfillment. Marketing portal licensees may also accept payment on behalf of the shipper.

12. Gourmet oyster house licenses, to establishments located on the premises of a commercial marina and permitted by the Department of Health to serve oysters and other fresh seafood for consumption on the premises, where the licensee also offers to the public events for the purpose of featuring and educating the consuming public about local oysters and other seafood products. Such license shall authorize the licensee to (i) give samples of or sell wine and beer in designated rooms and outdoor areas approved by the Board for consumption in such approved areas and (ii) sell wine and beer in closed containers for off-premises consumption. Samples of wine shall not exceed two ounces per person. Samples of beer shall not exceed four ounces per person. The Board shall establish a minimum monthly food sale requirement of oysters and other seafood for such license. Additionally, with the consent of the licensee, farm wineries, wineries, and breweries may participate in tastings held by licensees authorized to conduct tastings, including the pouring of samples to any person to whom alcoholic beverages may be lawfully sold.

B. Notwithstanding any provision of law to the contrary, persons granted a wine and beer license pursuant to this section may display within their licensed premises point-of-sale advertising materials that incorporate the use of any professional athlete or athletic team, provided that such advertising materials: (i) otherwise comply with the applicable regulations of the Federal Bureau of Alcohol, Tobacco and Firearms; and (ii) do not depict any athlete consuming or about to consume alcohol prior to or while engaged in an athletic activity; do not depict an athlete consuming alcohol while the athlete is operating or about to operate a motor vehicle or other machinery; and do not imply that the alcoholic beverage so advertised enhances athletic prowess.

C. Persons granted retail on-premises and on-and-off-premises wine and beer licenses pursuant to this section or subsection B of § 4.1-210 may conduct wine or beer tastings sponsored by the licensee for its customers for on-premises consumption. Such licensees may sell or give samples of wine and beer in designated areas at events held by the licensee for the purpose of featuring and educating the consuming public about the alcoholic beverages being tasted. Additionally, with the consent of the licensee, farm wineries, wineries, and breweries may participate in tastings held by licensees authorized to conduct tastings, including the pouring of samples to any person to whom alcoholic beverages may be lawfully sold. Samples of wine shall not exceed two ounces per person. Samples of beer shall not exceed four ounces per person.

## CHAPTER 152

*An Act to amend and reenact §§ 4.1-100, as it is currently effective and as it shall become effective, 4.1-209, 4.1-231, and 4.1-233 of the Code of Virginia, relating to alcoholic beverage control; retail on-premises license for nonprofit historic cinema houses.*

[H 1743]

Approved February 23, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 4.1-100, as it is currently effective and as it shall become effective, 4.1-209, 4.1-231, and 4.1-233 of the Code of Virginia are amended and reenacted as follows:**

**§ 4.1-100. (Effective until July 1, 2018) Definitions.**

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

"Alcohol" means the product known as ethyl or grain alcohol obtained by distillation of any fermented liquor, rectified either once or more often, whatever the origin, and shall include synthetic ethyl alcohol, but shall not include methyl alcohol and alcohol completely denatured in accordance with formulas approved by the government of the United States.

"Alcohol vaporizing device" means any device, machine, or process that mixes any alcoholic beverages with pure oxygen or other gas to produce a vaporized product for the purpose of consumption by inhalation.

"Alcoholic beverages" includes alcohol, spirits, wine, and beer, and any one or more of such varieties containing one-half of one percent or more of alcohol by volume, including mixed alcoholic beverages, and every liquid or solid, powder or crystal, patented or not, containing alcohol, spirits, wine, or beer and capable of being consumed by a human being. Any liquid or solid containing more than one of the four varieties shall be considered as belonging to that variety which has the higher percentage of alcohol, however obtained, according to the order in which they are set forth in this definition; except that beer may be manufactured to include flavoring materials and other nonbeverage ingredients containing alcohol, as long as no more than 49 percent of the overall alcohol content of the finished product is derived from the addition of flavors and other nonbeverage ingredients containing alcohol for products with an alcohol content of no more than six percent by volume; or, in the case of products with an alcohol content of more than six percent by volume, as long as no more than one and one-half percent of the volume of the finished product consists of alcohol derived from added flavors and other nonbeverage ingredients containing alcohol.

"Art instruction studio" means any commercial establishment that provides to its customers all required supplies and step-by-step instruction in creating a painting or other work of art during a studio instructional session.

"Arts venue" means a commercial or nonprofit establishment that is open to the public and in which works of art are sold or displayed.

"Barrel" means any container or vessel having a capacity of more than 43 ounces.

"Bed and breakfast establishment" means any establishment (i) having no more than 15 bedrooms; (ii) offering to the public, for compensation, transitory lodging or sleeping accommodations; and (iii) offering at least one meal per day, which may but need not be breakfast, to each person to whom overnight lodging is provided.

"Beer" means any alcoholic beverage obtained by the fermentation or decoction of barley, malt, and hops or of any similar products in drinkable water and containing one-half of one percent or more of alcohol by volume.

"Board" means the Virginia Alcoholic Beverage Control Board.

"Bottle" means any vessel intended to contain liquids and having a capacity of not more than 43 ounces.

"Canal boat operator" means any nonprofit organization that operates tourism-oriented canal boats for recreational purposes on waterways declared nonnavigable by the United States Congress pursuant to 33 U.S.C. § 59ii.

"Club" means any private nonprofit corporation or association which is the owner, lessee, or occupant of an establishment operated solely for a national, social, patriotic, political, athletic, or other like purpose, but not for pecuniary gain, the advantages of which belong to all of the members. It also means the establishment so operated. A corporation or association shall not lose its status as a club because of the conduct of charitable gaming conducted pursuant to Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2 in which nonmembers participate frequently or in large numbers, provided that no alcoholic beverages are served or consumed in the room where such charitable gaming is being conducted while such gaming is being conducted and that no alcoholic beverages are made available upon the premises to any person who is neither a member nor a bona fide guest of a member.

Any such corporation or association which has been declared exempt from federal and state income taxes as one which is not organized and operated for pecuniary gain or profit shall be deemed a nonprofit corporation or association.

"Container" means any barrel, bottle, carton, keg, vessel or other receptacle used for holding alcoholic beverages.

"Contract winemaking facility" means the premises of a licensed winery or farm winery that obtains grapes, fruits, and other agricultural products from a person holding a farm winery license and crushes, processes, ferments, bottles, or provides any combination of such services pursuant to an agreement with the farm winery licensee. For all purposes of this title, wine produced by a contract winemaking facility for a farm winery shall be considered to be wine owned and produced by the farm winery that supplied the grapes, fruits, or other agricultural products used in the production of the wine. The contract winemaking facility shall have no right to sell the wine so produced, unless the terms of payment have not been fulfilled in accordance with the contract. The contract winemaking facility may charge the farm winery for its services.

"Convenience grocery store" means an establishment which (i) has an enclosed room in a permanent structure where stock is displayed and offered for sale and (ii) maintains an inventory of edible items intended for human consumption consisting of a variety of such items of the types normally sold in grocery stores.

"Day spa" means any commercial establishment that offers to the public both massage therapy, performed by persons licensed in accordance with § 54.1-3029, and barbering or cosmetology services performed by persons licensed in accordance with Chapter 7 (§ 54.1-700 et seq.) of Title 54.1.

"Designated area" means a room or area approved by the Board for on-premises licensees.

"Dining area" means a public room or area in which meals are regularly served.

"Establishment" means any place where alcoholic beverages of one or more varieties are lawfully manufactured, sold, or used.

"Farm winery" means (i) an establishment (a) located on a farm in the Commonwealth on land zoned agricultural with a producing vineyard, orchard, or similar growing area and with facilities for fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains not more than 21 percent alcohol by volume or (b) located in the

Commonwealth on land zoned agricultural with a producing vineyard, orchard, or similar growing area or agreements for purchasing grapes or other fruits from agricultural growers within the Commonwealth and with facilities for fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains not more than 21 percent alcohol by volume or (ii) an accredited public or private institution of higher education, provided that (a) no wine manufactured by the institution shall be sold, (b) the wine manufactured by the institution shall be used solely for research and educational purposes, (c) the wine manufactured by the institution shall be stored on the premises of such farm winery that shall be separate and apart from all other facilities of the institution, and (d) such farm winery is operated in strict conformance with the requirements of this clause (ii) and Board regulations. As used in this definition, the terms "owner" and "lessee" shall include a cooperative formed by an association of individuals for the purpose of manufacturing wine. In the event that such cooperative is licensed as a farm winery, the term "farm" as used in this definition includes all of the land owned or leased by the individual members of the cooperative as long as such land is located in the Commonwealth. For purposes of this definition, "land zoned agricultural" means (1) land zoned as an agricultural district or classification or (2) land otherwise permitted by a locality for farm winery use. For purposes of this definition, "land zoned agricultural" does not include land zoned "residential conservation." Except for the limitation on land zoned "residential conservation," nothing in the definition of "land zoned agricultural" shall otherwise limit or affect local zoning authority.

"Gift shop" means any bona fide retail store selling, predominantly, gifts, books, souvenirs, specialty items relating to history, original and handmade arts and products, collectibles, crafts, and floral arrangements, which is open to the public on a regular basis. Such shop shall be a permanent structure where stock is displayed and offered for sale and which has facilities to properly secure any stock of wine or beer. Such shop may be located (i) on the premises or grounds of a government registered national, state or local historic building or site or (ii) within the premises of a museum. The Board shall consider the purpose, characteristics, nature, and operation of the shop in determining whether it shall be considered a gift shop.

"Gourmet brewing shop" means an establishment which sells to persons to whom wine or beer may lawfully be sold, ingredients for making wine or brewing beer, including packaging, and rents to such persons facilities for manufacturing, fermenting and bottling such wine or beer.

"Gourmet shop" means an establishment provided with adequate inventory, shelving, and storage facilities, where, in consideration of payment, substantial amounts of domestic and imported wines and beers of various types and sizes and related products such as cheeses and gourmet foods are habitually furnished to persons.

"Government store" means a store established by the Board for the sale of alcoholic beverages.

*"Historic cinema house" means a nonprofit establishment exempt from taxation under § 501(c)(3) of the Internal Revenue Code that was built prior to 1970 and that exists for the primary purpose of showing motion pictures to the public.*

"Hotel" means any duly licensed establishment, provided with special space and accommodation, where, in consideration of payment, food and lodging are habitually furnished to persons, and which has four or more bedrooms. It shall also mean the person who operates such hotel.

"Interdicted person" means a person to whom the sale of alcoholic beverages is prohibited by order pursuant to this title.

"Internet wine retailer" means a person who owns or operates an establishment with adequate inventory, shelving, and storage facilities, where, in consideration of payment, internet or telephone orders are taken and shipped directly to consumers and which establishment is not a retail store open to the public.

"Intoxicated" means a condition in which a person has drunk enough alcoholic beverages to observably affect his manner, disposition, speech, muscular movement, general appearance or behavior.

"Licensed" means the holding of a valid license issued by the Board.

"Licensee" means any person to whom a license has been granted by the Board.

"Liqueur" means any of a class of highly flavored alcoholic beverages that do not exceed an alcohol content of 25 percent by volume.

"Low alcohol beverage cooler" means a drink containing one-half of one percent or more of alcohol by volume, but not more than seven and one-half percent alcohol by volume, and consisting of spirits mixed with nonalcoholic beverages or flavoring or coloring materials; it may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, preservatives or other similar products manufactured by fermenting fruit or fruit juices. Low alcohol beverage coolers shall be treated as wine for all purposes of this title; except that low alcohol beverage coolers shall not be sold in localities that have not approved the sale of mixed beverages pursuant to § 4.1-124. In addition, low alcohol beverage coolers shall not be sold for on-premises consumption other than by mixed beverage licensees.

"Meal-assembly kitchen" means any commercial establishment that offers its customers, for off-premises consumption, ingredients for the preparation of meals and entrees in professional kitchen facilities located at the establishment.

"Meals" means, for a mixed beverage license, an assortment of foods commonly ordered in bona fide, full-service restaurants as principal meals of the day. Such restaurants shall include establishments specializing in full course meals with a single substantial entree.

"Member of a club" means (i) a person who maintains his membership in the club by the payment of monthly, quarterly, or annual dues in the manner established by the rules and regulations thereof or (ii) a person who is a member of a bona fide auxiliary, local chapter, or squadron composed of direct lineal descendants of a bona fide member, whether alive or deceased, of a national or international organization to which an individual lodge holding a club license is an authorized

member in the same locality. It shall also mean a lifetime member whose financial contribution is not less than 10 times the annual dues of resident members of the club, the full amount of such contribution being paid in advance in a lump sum.

"Mixed beverage" or "mixed alcoholic beverage" means a drink composed in whole or in part of spirits.

"Mixer" means any prepackaged ingredients containing beverages or flavoring or coloring materials, and which may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives which are not commonly consumed unless combined with alcoholic beverages, whether or not such ingredients contain alcohol. Such specialty beverage product shall be manufactured or distributed by a Virginia corporation.

"Place or premises" means the real estate, together with any buildings or other improvements thereon, designated in the application for a license as the place at which the manufacture, bottling, distribution, use or sale of alcoholic beverages shall be performed, except that portion of any such building or other improvement actually and exclusively used as a private residence.

"Public place" means any place, building, or conveyance to which the public has, or is permitted to have, access, including restaurants, soda fountains, hotel dining areas, lobbies and corridors of hotels, and any park, place of public resort or amusement, highway, street, lane, or sidewalk adjoining any highway, street, or lane.

The term shall not include (i) hotel or restaurant dining areas or ballrooms while in use for private meetings or private parties limited in attendance to members and guests of a particular group, association or organization; (ii) restaurants licensed by the Board in office buildings or industrial or similar facilities while such restaurant is closed to the public and in use for private meetings or parties limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such building or facility; (iii) offices, office buildings or industrial facilities while closed to the public and in use for private meetings or parties limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such building or facility; or (iv) private recreational or chartered boats which are not licensed by the Board and on which alcoholic beverages are not sold.

"Residence" means any building or part of a building or structure where a person resides, but does not include any part of a building which is not actually and exclusively used as a private residence, nor any part of a hotel or club other than a private guest room thereof.

"Resort complex" means a facility (i) with a hotel owning year-round sports and recreational facilities located contiguously on the same property or (ii) owned by a nonstock, nonprofit, taxable corporation with voluntary membership which, as its primary function, makes available golf, ski and other recreational facilities both to its members and the general public. The hotel or corporation shall have a minimum of 140 private guest rooms or dwelling units contained on not less than 50 acres. The Board may consider the purpose, characteristics, and operation of the applicant establishment in determining whether it shall be considered as a resort complex. All other pertinent qualifications established by the Board for a hotel operation shall be observed by such licensee.

"Restaurant" means, for a beer, or wine and beer license or a limited mixed beverage restaurant license, any establishment provided with special space and accommodation, where, in consideration of payment, meals or other foods prepared on the premises are regularly sold.

"Restaurant" means, for a mixed beverage license other than a limited mixed beverage restaurant license, an established place of business (i) where meals with substantial entrees are regularly sold and (ii) which has adequate facilities and sufficient employees for cooking, preparing, and serving such meals for consumption at tables in dining areas on the premises, and includes establishments specializing in full course meals with a single substantial entree.

"Sale" and "sell" includes soliciting or receiving an order for; keeping, offering or exposing for sale; peddling, exchanging or bartering; or delivering otherwise than gratuitously, by any means, alcoholic beverages.

"Sangria" means a drink consisting of red or white wine mixed with some combination of sweeteners, fruit, fruit juice, soda, or soda water that may also be mixed with brandy, triple sec, or other similar spirits.

"Special agent" means an employee of the Department of Alcoholic Beverage Control whom the Board has designated as a law-enforcement officer pursuant to § 4.1-105.

"Special event" means an event sponsored by a duly organized nonprofit corporation or association and conducted for an athletic, charitable, civic, educational, political, or religious purpose.

"Spirits" means any beverage which contains alcohol obtained by distillation mixed with drinkable water and other substances, in solution, and includes, among other things, brandy, rum, whiskey, and gin, or any one or more of the last four named ingredients; but shall not include any such liquors completely denatured in accordance with formulas approved by the United States government.

"Wine" means any alcoholic beverage obtained by the fermentation of the natural sugar content of fruits or other agricultural products containing (i) sugar, including honey and milk, either with or without additional sugar; (ii) one-half of one percent or more of alcohol by volume; and (iii) no product of distillation. The term includes any wine to which wine spirits have been added, as provided in the Internal Revenue Code, to make products commonly known as "fortified wine" which do not exceed an alcohol content of 21 percent by volume.

"Wine cooler" means a drink containing one-half of one percent or more of alcohol by volume, and not more than three and two-tenths percent of alcohol by weight or four percent by volume consisting of wine mixed with nonalcoholic beverages or flavoring or coloring materials, and which may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives and shall include other similar products manufactured by fermenting fruit or fruit juices. Wine

coolers and similar fermented fruit juice beverages shall be treated as wine for all purposes except for taxation under § 4.1-236.

"With or without meals" means the selling and serving of alcoholic beverages by retail licensees for on-premises consumption whether or not accompanied by food so long as the total food-beverage ratio required by § 4.1-210, or the monthly food sale requirement established by Board regulation, is met by such retail licensee.

**§ 4.1-100. (Effective July 1, 2018) Definitions.**

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

"Alcohol" means the product known as ethyl or grain alcohol obtained by distillation of any fermented liquor, rectified either once or more often, whatever the origin, and shall include synthetic ethyl alcohol, but shall not include methyl alcohol and alcohol completely denatured in accordance with formulas approved by the government of the United States.

"Alcohol vaporizing device" means any device, machine, or process that mixes any alcoholic beverages with pure oxygen or other gas to produce a vaporized product for the purpose of consumption by inhalation.

"Alcoholic beverages" includes alcohol, spirits, wine, and beer, and any one or more of such varieties containing one-half of one percent or more of alcohol by volume, including mixed alcoholic beverages, and every liquid or solid, powder or crystal, patented or not, containing alcohol, spirits, wine, or beer and capable of being consumed by a human being. Any liquid or solid containing more than one of the four varieties shall be considered as belonging to that variety which has the higher percentage of alcohol, however obtained, according to the order in which they are set forth in this definition; except that beer may be manufactured to include flavoring materials and other nonbeverage ingredients containing alcohol, as long as no more than 49 percent of the overall alcohol content of the finished product is derived from the addition of flavors and other nonbeverage ingredients containing alcohol for products with an alcohol content of no more than six percent by volume; or, in the case of products with an alcohol content of more than six percent by volume, as long as no more than one and one-half percent of the volume of the finished product consists of alcohol derived from added flavors and other nonbeverage ingredients containing alcohol.

"Art instruction studio" means any commercial establishment that provides to its customers all required supplies and step-by-step instruction in creating a painting or other work of art during a studio instructional session.

"Arts venue" means a commercial or nonprofit establishment that is open to the public and in which works of art are sold or displayed.

"Authority" means the Virginia Alcoholic Beverage Control Authority created pursuant to this title.

"Barrel" means any container or vessel having a capacity of more than 43 ounces.

"Bed and breakfast establishment" means any establishment (i) having no more than 15 bedrooms; (ii) offering to the public, for compensation, transitory lodging or sleeping accommodations; and (iii) offering at least one meal per day, which may but need not be breakfast, to each person to whom overnight lodging is provided.

"Beer" means any alcoholic beverage obtained by the fermentation of an infusion or decoction of barley, malt, and hops or of any similar products in drinkable water and containing one-half of one percent or more of alcohol by volume.

"Board" means the Board of Directors of the Virginia Alcoholic Beverage Control Authority.

"Bottle" means any vessel intended to contain liquids and having a capacity of not more than 43 ounces.

"Canal boat operator" means any nonprofit organization that operates tourism-oriented canal boats for recreational purposes on waterways declared nonnavigable by the United States Congress pursuant to 33 U.S.C. § 59ii.

"Club" means any private nonprofit corporation or association which is the owner, lessee, or occupant of an establishment operated solely for a national, social, patriotic, political, athletic, or other like purpose, but not for pecuniary gain, the advantages of which belong to all of the members. It also means the establishment so operated. A corporation or association shall not lose its status as a club because of the conduct of charitable gaming conducted pursuant to Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2 in which nonmembers participate frequently or in large numbers, provided that no alcoholic beverages are served or consumed in the room where such charitable gaming is being conducted while such gaming is being conducted and that no alcoholic beverages are made available upon the premises to any person who is neither a member nor a bona fide guest of a member.

Any such corporation or association which has been declared exempt from federal and state income taxes as one which is not organized and operated for pecuniary gain or profit shall be deemed a nonprofit corporation or association.

"Container" means any barrel, bottle, carton, keg, vessel or other receptacle used for holding alcoholic beverages.

"Contract winemaking facility" means the premises of a licensed winery or farm winery that obtains grapes, fruits, and other agricultural products from a person holding a farm winery license and crushes, processes, ferments, bottles, or provides any combination of such services pursuant to an agreement with the farm winery licensee. For all purposes of this title, wine produced by a contract winemaking facility for a farm winery shall be considered to be wine owned and produced by the farm winery that supplied the grapes, fruits, or other agricultural products used in the production of the wine. The contract winemaking facility shall have no right to sell the wine so produced, unless the terms of payment have not been fulfilled in accordance with the contract. The contract winemaking facility may charge the farm winery for its services.

"Convenience grocery store" means an establishment which (i) has an enclosed room in a permanent structure where stock is displayed and offered for sale and (ii) maintains an inventory of edible items intended for human consumption consisting of a variety of such items of the types normally sold in grocery stores.

"Day spa" means any commercial establishment that offers to the public both massage therapy, performed by persons licensed in accordance with § 54.1-3029, and barbering or cosmetology services performed by persons licensed in accordance with Chapter 7 (§ 54.1-700 et seq.) of Title 54.1.

"Designated area" means a room or area approved by the Board for on-premises licensees.

"Dining area" means a public room or area in which meals are regularly served.

"Establishment" means any place where alcoholic beverages of one or more varieties are lawfully manufactured, sold, or used.

"Farm winery" means (i) an establishment (a) located on a farm in the Commonwealth on land zoned agricultural with a producing vineyard, orchard, or similar growing area and with facilities for fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains not more than 21 percent alcohol by volume or (b) located in the Commonwealth on land zoned agricultural with a producing vineyard, orchard, or similar growing area or agreements for purchasing grapes or other fruits from agricultural growers within the Commonwealth and with facilities for fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains not more than 21 percent alcohol by volume or (ii) an accredited public or private institution of higher education, provided that (a) no wine manufactured by the institution shall be sold, (b) the wine manufactured by the institution shall be used solely for research and educational purposes, (c) the wine manufactured by the institution shall be stored on the premises of such farm winery that shall be separate and apart from all other facilities of the institution, and (d) such farm winery is operated in strict conformance with the requirements of this clause (ii) and Board regulations. As used in this definition, the terms "owner" and "lessee" shall include a cooperative formed by an association of individuals for the purpose of manufacturing wine. In the event that such cooperative is licensed as a farm winery, the term "farm" as used in this definition includes all of the land owned or leased by the individual members of the cooperative as long as such land is located in the Commonwealth. For purposes of this definition, "land zoned agricultural" means (1) land zoned as an agricultural district or classification or (2) land otherwise permitted by a locality for farm winery use. For purposes of this definition, "land zoned agricultural" does not include land zoned "residential conservation." Except for the limitation on land zoned "residential conservation," nothing in the definition of "land zoned agricultural" shall otherwise limit or affect local zoning authority.

"Gift shop" means any bona fide retail store selling, predominantly, gifts, books, souvenirs, specialty items relating to history, original and handmade arts and products, collectibles, crafts, and floral arrangements, which is open to the public on a regular basis. Such shop shall be a permanent structure where stock is displayed and offered for sale and which has facilities to properly secure any stock of wine or beer. Such shop may be located (i) on the premises or grounds of a government registered national, state or local historic building or site or (ii) within the premises of a museum. The Board shall consider the purpose, characteristics, nature, and operation of the shop in determining whether it shall be considered a gift shop.

"Gourmet brewing shop" means an establishment which sells to persons to whom wine or beer may lawfully be sold, ingredients for making wine or brewing beer, including packaging, and rents to such persons facilities for manufacturing, fermenting and bottling such wine or beer.

"Gourmet shop" means an establishment provided with adequate inventory, shelving, and storage facilities, where, in consideration of payment, substantial amounts of domestic and imported wines and beers of various types and sizes and related products such as cheeses and gourmet foods are habitually furnished to persons.

"Government store" means a store established by the Authority for the sale of alcoholic beverages.

*"Historic cinema house" means a nonprofit establishment exempt from taxation under § 501(c)(3) of the Internal Revenue Code that was built prior to 1970 and that exists for the primary purpose of showing motion pictures to the public.*

"Hotel" means any duly licensed establishment, provided with special space and accommodation, where, in consideration of payment, food and lodging are habitually furnished to persons, and which has four or more bedrooms. It shall also mean the person who operates such hotel.

"Interdicted person" means a person to whom the sale of alcoholic beverages is prohibited by order pursuant to this title.

"Internet wine retailer" means a person who owns or operates an establishment with adequate inventory, shelving, and storage facilities, where, in consideration of payment, internet or telephone orders are taken and shipped directly to consumers and which establishment is not a retail store open to the public.

"Intoxicated" means a condition in which a person has drunk enough alcoholic beverages to observably affect his manner, disposition, speech, muscular movement, general appearance or behavior.

"Licensed" means the holding of a valid license granted by the Authority.

"Licensee" means any person to whom a license has been granted by the Authority.

"Liqueur" means any of a class of highly flavored alcoholic beverages that do not exceed an alcohol content of 25 percent by volume.

"Low alcohol beverage cooler" means a drink containing one-half of one percent or more of alcohol by volume, but not more than seven and one-half percent alcohol by volume, and consisting of spirits mixed with nonalcoholic beverages or flavoring or coloring materials; it may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, preservatives or other similar products manufactured by fermenting fruit or fruit juices. Low alcohol beverage coolers shall be treated as wine for all purposes of this title; except that low alcohol beverage coolers shall not be sold in localities that have not approved the sale of mixed beverages pursuant to § 4.1-124. In addition, low alcohol beverage coolers shall not be sold for on-premises consumption other than by mixed beverage licensees.

"Meal-assembly kitchen" means any commercial establishment that offers its customers, for off-premises consumption, ingredients for the preparation of meals and entrees in professional kitchen facilities located at the establishment.

"Meals" means, for a mixed beverage license, an assortment of foods commonly ordered in bona fide, full-service restaurants as principal meals of the day. Such restaurants shall include establishments specializing in full course meals with a single substantial entree.

"Member of a club" means (i) a person who maintains his membership in the club by the payment of monthly, quarterly, or annual dues in the manner established by the rules and regulations thereof or (ii) a person who is a member of a bona fide auxiliary, local chapter, or squadron composed of direct lineal descendants of a bona fide member, whether alive or deceased, of a national or international organization to which an individual lodge holding a club license is an authorized member in the same locality. It shall also mean a lifetime member whose financial contribution is not less than 10 times the annual dues of resident members of the club, the full amount of such contribution being paid in advance in a lump sum.

"Mixed beverage" or "mixed alcoholic beverage" means a drink composed in whole or in part of spirits.

"Mixer" means any prepackaged ingredients containing beverages or flavoring or coloring materials, and which may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives which are not commonly consumed unless combined with alcoholic beverages, whether or not such ingredients contain alcohol. Such specialty beverage product shall be manufactured or distributed by a Virginia corporation.

"Place or premises" means the real estate, together with any buildings or other improvements thereon, designated in the application for a license as the place at which the manufacture, bottling, distribution, use or sale of alcoholic beverages shall be performed, except that portion of any such building or other improvement actually and exclusively used as a private residence.

"Principal stockholder" means any person who individually or in concert with his spouse and immediate family members beneficially owns or controls, directly or indirectly, five percent or more of the equity ownership of any person that is a licensee of the Authority, or who in concert with his spouse and immediate family members has the power to vote or cause the vote of five percent or more of any such equity ownership. "Principal stockholder" does not include a broker-dealer registered under the Securities Exchange Act of 1934, as amended, that holds in inventory shares for sale on the financial markets for a publicly traded corporation holding, directly or indirectly, a license from the Authority.

"Public place" means any place, building, or conveyance to which the public has, or is permitted to have, access, including restaurants, soda fountains, hotel dining areas, lobbies and corridors of hotels, and any park, place of public resort or amusement, highway, street, lane, or sidewalk adjoining any highway, street, or lane.

The term shall not include (i) hotel or restaurant dining areas or ballrooms while in use for private meetings or private parties limited in attendance to members and guests of a particular group, association or organization; (ii) restaurants licensed by the Authority in office buildings or industrial or similar facilities while such restaurant is closed to the public and in use for private meetings or parties limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such building or facility; (iii) offices, office buildings or industrial facilities while closed to the public and in use for private meetings or parties limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such building or facility; or (iv) private recreational or chartered boats which are not licensed by the Board and on which alcoholic beverages are not sold.

"Residence" means any building or part of a building or structure where a person resides, but does not include any part of a building which is not actually and exclusively used as a private residence, nor any part of a hotel or club other than a private guest room thereof.

"Resort complex" means a facility (i) with a hotel owning year-round sports and recreational facilities located contiguously on the same property or (ii) owned by a nonstock, nonprofit, taxable corporation with voluntary membership which, as its primary function, makes available golf, ski and other recreational facilities both to its members and the general public. The hotel or corporation shall have a minimum of 140 private guest rooms or dwelling units contained on not less than 50 acres. The Authority may consider the purpose, characteristics, and operation of the applicant establishment in determining whether it shall be considered as a resort complex. All other pertinent qualifications established by the Board for a hotel operation shall be observed by such licensee.

"Restaurant" means, for a beer, or wine and beer license or a limited mixed beverage restaurant license, any establishment provided with special space and accommodation, where, in consideration of payment, meals or other foods prepared on the premises are regularly sold.

"Restaurant" means, for a mixed beverage license other than a limited mixed beverage restaurant license, an established place of business (i) where meals with substantial entrees are regularly sold and (ii) which has adequate facilities and sufficient employees for cooking, preparing, and serving such meals for consumption at tables in dining areas on the premises, and includes establishments specializing in full course meals with a single substantial entree.

"Sale" and "sell" includes soliciting or receiving an order for; keeping, offering or exposing for sale; peddling, exchanging or bartering; or delivering otherwise than gratuitously, by any means, alcoholic beverages.

"Sangria" means a drink consisting of red or white wine mixed with some combination of sweeteners, fruit, fruit juice, soda, or soda water that may also be mixed with brandy, triple sec, or other similar spirits.

"Special agent" means an employee of the Virginia Alcoholic Beverage Control Authority whom the Board has designated as a law-enforcement officer pursuant to § 4.1-105.

"Special event" means an event sponsored by a duly organized nonprofit corporation or association and conducted for an athletic, charitable, civic, educational, political, or religious purpose.

"Spirits" means any beverage which contains alcohol obtained by distillation mixed with drinkable water and other substances, in solution, and includes, among other things, brandy, rum, whiskey, and gin, or any one or more of the last four named ingredients; but shall not include any such liquors completely denatured in accordance with formulas approved by the United States government.

"Wine" means any alcoholic beverage obtained by the fermentation of the natural sugar content of fruits or other agricultural products containing (i) sugar, including honey and milk, either with or without additional sugar; (ii) one-half of one percent or more of alcohol by volume; and (iii) no product of distillation. The term includes any wine to which wine spirits have been added, as provided in the Internal Revenue Code, to make products commonly known as "fortified wine" which do not exceed an alcohol content of 21 percent by volume.

"Wine cooler" means a drink containing one-half of one percent or more of alcohol by volume, and not more than three and two-tenths percent of alcohol by weight or four percent by volume consisting of wine mixed with nonalcoholic beverages or flavoring or coloring materials, and which may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives and shall include other similar products manufactured by fermenting fruit or fruit juices. Wine coolers and similar fermented fruit juice beverages shall be treated as wine for all purposes except for taxation under § 4.1-236.

"With or without meals" means the selling and serving of alcoholic beverages by retail licensees for on-premises consumption whether or not accompanied by food so long as the total food-beverage ratio required by § 4.1-210, or the monthly food sale requirement established by Board regulation, is met by such retail licensee.

**§ 4.1-209. Wine and beer licenses; advertising.**

A. The Board may grant the following licenses relating to wine and beer:

1. Retail on-premises wine and beer licenses to:

a. Hotels, restaurants and clubs, which shall authorize the licensee to sell wine and beer, either with or without meals, only in dining areas and other designated areas of such restaurants, or in dining areas, private guest rooms, and other designated areas of such hotels or clubs, for consumption only in such rooms and areas. However, with regard to a hotel classified by the Board as (i) a resort complex, the Board may authorize the sale and consumption of alcoholic beverages in all areas within the resort complex deemed appropriate by the Board or (ii) a limited service hotel, the Board may authorize the sale and consumption of alcoholic beverages in dining areas, private guest rooms, and other designated areas to persons to whom overnight lodging is being provided, for on-premises consumption in such rooms or areas, and without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises, provided that at least one meal is provided each day by the hotel to such guests. With regard to facilities registered in accordance with Chapter 49 (§ 38.2-4900 et seq.) of Title 38.2 of the Code of Virginia as continuing care communities that are also licensed by the Board under this subdivision, any resident may, upon authorization of the licensee, keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas covered by the license. For purposes of this subdivision, "other designated areas" includes outdoor dining areas, whether or not contiguous to the licensed premises, which may have more than one means of ingress and egress to an adjacent public thoroughfare, provided that such outdoor dining areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201;

b. Persons operating dining cars, buffet cars, and club cars of trains, which shall authorize the licensee to sell wine and beer, either with or without meals, in the dining cars, buffet cars, and club cars so operated by them, for on-premises consumption when carrying passengers;

c. Persons operating sight-seeing boats, or special or charter boats, which shall authorize the licensee to sell wine and beer, either with or without meals, on such boats operated by them for on-premises consumption when carrying passengers;

d. Persons operating as air carriers of passengers on regular schedules in foreign, interstate or intrastate commerce, which shall authorize the licensee to sell wine and beer for consumption by passengers in such airplanes anywhere in or over the Commonwealth while in transit and in designated rooms of establishments of such carriers at airports in the Commonwealth, § 4.1-129 notwithstanding. For purposes of supplying its airplanes, as well as any airplane of a licensed express carrier flying under the same brand, an air carrier licensee may appoint an authorized representative to load wine and beer onto the same airplanes and to transport and store wine and beer at or in close proximity to the airport where the wine and beer will be delivered onto airplanes of the air carrier and any such licensed express carrier. The air carrier licensee shall (i) designate for purposes of its license all locations where the inventory of wine and beer may be stored and from which the wine and beer will be delivered onto airplanes of the air carrier and any such licensed express carrier and (ii) maintain records of all wine and beer to be transported, stored, and delivered by its authorized representative;

e. Hospitals, which shall authorize the licensee to sell wine and beer in the rooms of patients for their on-premises consumption only in such rooms, provided the consent of the patient's attending physician is first obtained;

f. Persons operating food concessions at coliseums, stadia, racetracks or similar facilities, which shall authorize the licensee to sell wine and beer in paper, plastic or similar disposable containers, during any event and immediately subsequent thereto, to patrons within all seating areas, concourses, walkways, concession areas and additional locations designated by the Board in such coliseums, stadia, racetracks or similar facilities, for on-premises consumption. Upon

authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license;

g. Persons operating food concessions at any outdoor performing arts amphitheater, arena or similar facility which (i) has seating for more than 20,000 persons and is located in Prince William County or the City of Virginia Beach, (ii) has capacity for more than 3,500 persons and is located in the Counties of Albemarle, Augusta, Nelson, Pittsylvania, or Rockingham, or the Cities of Charlottesville, Danville, or Roanoke, or (iii) has capacity for more than 9,500 persons and is located in Henrico County. Such license shall authorize the licensee to sell wine and beer during the performance of any event, in paper, plastic or similar disposable containers to patrons within all seating areas, concourses, walkways, concession areas, or similar facilities, for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license;

h. Persons operating food concessions at exhibition or exposition halls, convention centers or similar facilities located in any county operating under the urban county executive form of government or any city which is completely surrounded by such county, which shall authorize the licensee to sell wine and beer during the event, in paper, plastic or similar disposable containers to patrons or attendees within all seating areas, exhibition areas, concourses, walkways, concession areas, and such additional locations designated by the Board in such facilities, for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license. For purposes of this subsection, "exhibition or exposition hall" and "convention centers" mean facilities conducting private or public trade shows or exhibitions in an indoor facility having in excess of 100,000 square feet of floor space; ~~and~~

i. Persons operating a concert and dinner-theater venue on property fronting Natural Bridge School Road in Natural Bridge Station, Virginia, and formerly operated as Natural Bridge High School, which shall authorize the licensee to sell wine and beer during events to patrons or attendees within all seating areas, exhibition areas, concourses, walkways, concession areas, dining areas, and such additional locations designated by the Board in such facilities, for on-premises consumption. Persons licensed pursuant to this subdivision shall serve food, prepared on or off premises, whenever wine or beer is served; *and*

*j. Historic cinema houses, which shall authorize the licensee to sell wine and beer, either with or without meals, during any showing of a motion picture to patrons to whom alcoholic beverages may be lawfully sold, for on-premises consumption. The privileges of this license shall be limited to the premises of the historic cinema house regularly occupied and utilized as such.*

2. Retail off-premises wine and beer licenses, which shall authorize the licensee to sell wine and beer in closed containers for off-premises consumption.

3. Gourmet shop licenses, which shall authorize the licensee to sell wine and beer in closed containers for off-premises consumption and, the provisions of § 4.1-308 notwithstanding, to give to any person to whom wine or beer may be lawfully sold, (i) a sample of wine, not to exceed two ounces by volume or (ii) a sample of beer not to exceed four ounces by volume, for on-premises consumption. The licensee may also give samples of wine and beer in designated areas at events held by the licensee for the purpose of featuring and educating the consuming public about the alcoholic beverages being tasted. Additionally, with the consent of the licensee, farm wineries, wineries, breweries, and wholesale licensees may participate in tastings held by licensees authorized to conduct tastings, including the pouring of samples to any person to whom alcoholic beverages may be lawfully sold. Notwithstanding Board regulations relating to food sales, the licensee shall maintain each year an average monthly inventory and sales volume of at least \$1,000 in products such as cheeses and gourmet food.

4. Convenience grocery store licenses, which shall authorize the licensee to sell wine and beer in closed containers for off-premises consumption.

5. Retail on-and-off premises wine and beer licenses to persons enumerated in subdivision 1 a, which shall accord all the privileges conferred by retail on-premises wine and beer licenses and in addition, shall authorize the licensee to sell wine and beer in closed containers for off-premises consumption.

6. Banquet licenses to persons in charge of banquets, and to duly organized nonprofit corporations or associations in charge of special events, which shall authorize the licensee to sell or give wine and beer in rooms or areas approved by the Board for the occasion for on-premises consumption in such rooms or areas. Except as provided in § 4.1-215, a separate license shall be required for each day of each banquet or special event. For the purposes of this subdivision, when the location named in the original application for a license is outdoors, the application may also name an alternative location in the event of inclement weather. However, no such license shall be required of any hotel, restaurant, or club holding a retail wine and beer license.

7. Gift shop licenses, which shall authorize the licensee to sell wine and beer only within the interior premises of the gift shop in closed containers for off-premises consumption and, the provisions of § 4.1-308 notwithstanding, to give to any person to whom wine or beer may be lawfully sold (i) a sample of wine not to exceed two ounces by volume or (ii) a sample of beer not to exceed four ounces by volume for on-premises consumption. The licensee may also give samples of wine and beer in designated areas at events held by the licensee for the purpose of featuring and educating the consuming public about the alcoholic beverages being tasted.

8. Gourmet brewing shop licenses, which shall authorize the licensee to sell to any person to whom wine or beer may be lawfully sold, ingredients for making wine or brewing beer, including packaging, and to rent to such persons facilities for manufacturing, fermenting, and bottling such wine or beer, for off-premises consumption in accordance with subdivision 6 of § 4.1-200.

9. Annual banquet licenses, to duly organized private nonprofit fraternal, patriotic or charitable membership organizations that are exempt from state and federal taxation and in charge of banquets conducted exclusively for its members and their guests, which shall authorize the licensee to serve wine and beer in rooms or areas approved by the Board for the occasion for on-premises consumption in such rooms or areas. Such license shall authorize the licensee to conduct no more than 12 banquets per calendar year. For the purposes of this subdivision, when the location named in the original application for a license is outdoors, the application may also name an alternative location in the event of inclement weather. However, no such license shall be required of any hotel, restaurant, or club holding a retail wine and beer license.

10. Fulfillment warehouse licenses, which shall authorize associations as defined in § 13.1-313 with a place of business located in the Commonwealth to (i) receive deliveries and shipments of wine or beer owned by holders of wine or beer shipper's licenses, (ii) store such wine or beer on behalf of the owner, and (iii) pick, pack, and ship such wine or beer as directed by the owner, all in accordance with Board regulations. No wholesale wine or wholesale beer licensee, whether licensed in the Commonwealth or not, or any person under common control of such licensee, shall acquire or hold any financial interest, direct or indirect, in the business for which any fulfillment warehouse license is issued.

11. Marketing portal licenses, which shall authorize agricultural cooperative associations organized under the provisions of the Agricultural Cooperative Association Act (§ 13.1-312 et seq.), with a place of business located in the Commonwealth, in accordance with Board regulations, to solicit and receive orders for wine or beer through the use of the Internet from persons in the Commonwealth to whom wine or beer may be lawfully sold, on behalf of holders of wine or beer shipper's licenses. Upon receipt of an order for wine or beer, the licensee shall forward it to a holder of a wine or beer shipper's license for fulfillment. Marketing portal licensees may also accept payment on behalf of the shipper.

12. Gourmet oyster house licenses, to establishments located on the premises of a commercial marina and permitted by the Department of Health to serve oysters and other fresh seafood for consumption on the premises, where the licensee also offers to the public events for the purpose of featuring and educating the consuming public about local oysters and other seafood products. Such license shall authorize the licensee to (i) give samples of or sell wine and beer in designated rooms and outdoor areas approved by the Board for consumption in such approved areas and (ii) sell wine and beer in closed containers for off-premises consumption. Samples of wine shall not exceed two ounces per person. Samples of beer shall not exceed four ounces per person. The Board shall establish a minimum monthly food sale requirement of oysters and other seafood for such license. Additionally, with the consent of the licensee, farm wineries, wineries, and breweries may participate in tastings held by licensees authorized to conduct tastings, including the pouring of samples to any person to whom alcoholic beverages may be lawfully sold.

B. Notwithstanding any provision of law to the contrary, persons granted a wine and beer license pursuant to this section may display within their licensed premises point-of-sale advertising materials that incorporate the use of any professional athlete or athletic team, provided that such advertising materials: (i) otherwise comply with the applicable regulations of the Federal Bureau of Alcohol, Tobacco and Firearms; and (ii) do not depict any athlete consuming or about to consume alcohol prior to or while engaged in an athletic activity; do not depict an athlete consuming alcohol while the athlete is operating or about to operate a motor vehicle or other machinery; and do not imply that the alcoholic beverage so advertised enhances athletic prowess.

C. Persons granted retail on-premises and on-and-off-premises wine and beer licenses pursuant to this section or subsection B of § 4.1-210 may conduct wine or beer tastings sponsored by the licensee for its customers for on-premises consumption. Such licensees may sell or give samples of wine and beer in designated areas at events held by the licensee for the purpose of featuring and educating the consuming public about the alcoholic beverages being tasted. Additionally, with the consent of the licensee, farm wineries, wineries, and breweries may participate in tastings held by licensees authorized to conduct tastings, including the pouring of samples to any person to whom alcoholic beverages may be lawfully sold. Samples of wine shall not exceed two ounces per person. Samples of beer shall not exceed four ounces per person.

**§ 4.1-231. Taxes on state licenses.**

A. The annual fees on state licenses shall be as follows:

1. Alcoholic beverage licenses. For each:
  - a. Distiller's license, if not more than 5,000 gallons of alcohol or spirits, or both, manufactured during the year in which the license is granted, \$450; if more than 5,000 gallons but not more than 36,000 gallons manufactured during such year, \$2,500; and if more than 36,000 gallons manufactured during such year, \$3,725;
  - b. Fruit distiller's license, \$3,725;
  - c. Banquet facility license or museum license, \$190;
  - d. Bed and breakfast establishment license, \$35;
  - e. Tasting license, \$40 per license granted;
  - f. Equine sporting event license, \$130;
  - g. Motor car sporting event facility license, \$130;
  - h. Day spa license, \$100;
  - i. Delivery permit, \$120 if the permittee holds no other license under this title;

- j. Meal-assembly kitchen license, \$100;
- k. Canal boat operator license, \$100;
- l. Annual arts venue event license, \$100; and
- m. Art instruction studio license, \$100.
- 2. Wine licenses. For each:
  - a. Winery license, if not more than 5,000 gallons of wine manufactured during the year in which the license is granted, \$189, and if more than 5,000 gallons manufactured during such year, \$3,725;
  - b. (1) Wholesale wine license, \$185 for any wholesaler who sells 30,000 gallons of wine or less per year, \$930 for any wholesaler who sells more than 30,000 gallons per year but not more than 150,000 gallons of wine per year, \$1,430 for any wholesaler who sells more than 150,000 but not more than 300,000 gallons of wine per year, and, \$1,860 for any wholesaler who sells more than 300,000 gallons of wine per year;
  - (2) Wholesale wine license, including that granted pursuant to § 4.1-207.1, applicable to two or more premises, the annual state license tax shall be the amount set forth in subdivision b (1), multiplied by the number of separate locations covered by the license;
  - c. Wine importer's license, \$370;
  - d. Retail off-premises winery license, \$145, which shall include a delivery permit;
  - e. Farm winery license, \$190 for any Class A license and \$3,725 for any Class B license, each of which shall include a delivery permit;
  - f. Wine shipper's license, \$95; and
  - g. Internet wine retailer license, \$150.
- 3. Beer licenses. For each:
  - a. Brewery license, if not more than 500 barrels of beer manufactured during the year in which the license is granted, \$350; if not more than 10,000 barrels of beer manufactured during the year in which the license is granted, \$2,150; and if more than 10,000 barrels manufactured during such year, \$4,300;
  - b. Bottler's license, \$1,430;
  - c. (1) Wholesale beer license, \$930 for any wholesaler who sells 300,000 cases of beer a year or less, and \$1,430 for any wholesaler who sells more than 300,000 but not more than 600,000 cases of beer a year, and \$1,860 for any wholesaler who sells more than 600,000 cases of beer a year;
  - (2) Wholesale beer license applicable to two or more premises, the annual state license tax shall be the amount set forth in subdivision c (1), multiplied by the number of separate locations covered by the license;
  - d. Beer importer's license, \$370;
  - e. Retail on-premises beer license to a hotel, restaurant, club or other person, except a common carrier of passengers by train or boat, \$145; for each such license to a common carrier of passengers by train or boat, \$145 per annum for each of the average number of boats, dining cars, buffet cars or club cars operated daily in the Commonwealth;
  - f. Retail off-premises beer license, \$120, which shall include a delivery permit;
  - g. Retail on-and-off premises beer license to a hotel, restaurant, club or grocery store located in a town or in a rural area outside the corporate limits of any city or town, \$300, which shall include a delivery permit;
  - h. Beer shipper's license, \$95; and
  - i. Retail off-premises brewery license, \$120, which shall include a delivery permit.
- 4. Wine and beer licenses. For each:
  - a. Retail on-premises wine and beer license to a hotel, restaurant, club or other person, except a common carrier of passengers by train, boat or airplane, \$300; for each such license to a common carrier of passengers by train or boat, \$300 per annum for each of the average number of boats, dining cars, buffet cars or club cars operated daily in the Commonwealth, and for each such license granted to a common carrier of passengers by airplane, \$750;
  - b. Retail on-premises wine and beer license to a hospital, \$145;
  - c. *Retail on-premises wine and beer license to a historic cinema house, \$200;*
  - d. Retail off-premises wine and beer license, including each gift shop, gourmet shop and convenience grocery store license, \$230, which shall include a delivery permit;
  - ~~e.~~ Retail on-and-off premises wine and beer license to a hotel, restaurant or club, \$600, which shall include a delivery permit;
  - ~~e.~~ f. Banquet license, \$40 per license granted by the Board, except for banquet licenses granted by the Board pursuant to subsection A of § 4.1-215 for events occurring on more than one day, which shall be \$100 per license;
  - ~~f.~~ g. Gourmet brewing shop license, \$230;
  - ~~g.~~ h. Wine and beer shipper's license, \$95;
  - ~~h.~~ i. Annual banquet license, \$150;
  - ~~i.~~ j. Fulfillment warehouse license, \$120;
  - ~~j.~~ k. Marketing portal license, \$150; and
  - ~~k.~~ l. Gourmet oyster house license, \$230.
- 5. Mixed beverage licenses. For each:
  - a. Mixed beverage restaurant license granted to persons operating restaurants, including restaurants located on premises of and operated by hotels or motels, or other persons:

- (i) With a seating capacity at tables for up to 100 persons, \$560;
- (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$975; and
- (iii) With a seating capacity at tables for more than 150 persons, \$1,430.

b. Mixed beverage restaurant license for restaurants located on the premises of and operated by private, nonprofit clubs:

- (i) With an average yearly membership of not more than 200 resident members, \$750;
- (ii) With an average yearly membership of more than 200 but not more than 500 resident members, \$1,860; and
- (iii) With an average yearly membership of more than 500 resident members, \$2,765.

c. Mixed beverage caterer's license, \$1,860;

d. Mixed beverage limited caterer's license, \$500;

e. Mixed beverage special events license, \$45 for each day of each event;

f. Mixed beverage club events licenses, \$35 for each day of each event;

g. Annual mixed beverage special events license, \$560;

h. Mixed beverage carrier license:

(i) \$190 for each of the average number of dining cars, buffet cars or club cars operated daily in the Commonwealth by a common carrier of passengers by train;

(ii) \$560 for each common carrier of passengers by boat;

(iii) \$1,475 for each license granted to a common carrier of passengers by airplane.

i. Annual mixed beverage amphitheater license, \$560;

j. Annual mixed beverage motor sports race track license, \$560;

k. Annual mixed beverage banquet license, \$500;

l. Limited mixed beverage restaurant license:

(i) With a seating capacity at tables for up to 100 persons, \$460;

(ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$875;

(iii) With a seating capacity at tables for more than 150 persons, \$1,330;

m. Annual mixed beverage motor sports facility license, \$560; and

n. Annual mixed beverage performing arts facility license, \$560.

6. Temporary licenses. For each temporary license authorized by § 4.1-211, one-half of the tax imposed by this section on the license for which the applicant applied.

B. The tax on each such license, except banquet and mixed beverage special events licenses, shall be subject to proration to the following extent: If the license is granted in the second quarter of any year, the tax shall be decreased by one-fourth; if granted in the third quarter of any year, the tax shall be decreased by one-half; and if granted in the fourth quarter of any year, the tax shall be decreased by three-fourths.

If the license on which the tax is prorated is a distiller's license to manufacture not more than 5,000 gallons of alcohol or spirits, or both, during the year in which the license is granted, or a winery license to manufacture not more than 5,000 gallons of wine during the year in which the license is granted, the number of gallons permitted to be manufactured shall be prorated in the same manner.

Should the holder of a distiller's license or a winery license to manufacture not more than 5,000 gallons of alcohol or spirits, or both, or wine, apply during the license year for an unlimited distiller's or winery license, such person shall pay for such unlimited license a license tax equal to the amount that would have been charged had such license been applied for at the time that the license to manufacture less than 5,000 gallons of alcohol or spirits or wine, as the case may be, was granted, and such person shall be entitled to a refund of the amount of license tax previously paid on the limited license.

Notwithstanding the foregoing, the tax on each license granted or reissued for a period other than 12, 24, or 36 months shall be equal to one-twelfth of the taxes required by subsection A computed to the nearest cent, multiplied by the number of months in the license period, and then increased by five percent. Such tax shall not be refundable, except as provided in § 4.1-232.

C. Nothing in this chapter shall exempt any licensee from any state merchants' license or state restaurant license or any other state tax. Every licensee, in addition to the taxes imposed by this chapter, shall be liable to state merchants' license taxation and state restaurant license taxation and other state taxation the same as if the alcoholic beverages were nonalcoholic. In ascertaining the liability of a beer wholesaler to merchants' license taxation, however, and in computing the wholesale merchants' license tax on a beer wholesaler, the first \$163,800 of beer purchases shall be disregarded; and in ascertaining the liability of a wholesale wine distributor to merchants' license taxation, and in computing the wholesale merchants' license tax on a wholesale wine distributor, the first \$163,800 of wine purchases shall be disregarded.

D. In addition to the taxes set forth in this section, a fee of \$5 may be imposed on any license purchased in person from the Board if such license is available for purchase online.

#### § 4.1-233. Taxes on local licenses.

A. In addition to the state license taxes, the annual local license taxes which may be collected shall not exceed the following sums:

- 1. Alcoholic beverages. — For each:

a. Distiller's license, if more than 5,000 gallons but not more than 36,000 gallons manufactured during such year, \$750; if more than 36,000 gallons manufactured during such year, \$1,000; and no local license shall be required for any person who manufactures not more than 5,000 gallons of alcohol or spirits, or both, during such license year;

- b. Fruit distiller's license, \$1,500;
- c. Bed and breakfast establishment license, \$40;
- d. Museum license, \$10;
- e. Tasting license, \$5 per license granted;
- f. Equine sporting event license, \$10;
- g. Day spa license, \$20;
- h. Motor car sporting event facility license, \$10;
- i. Meal-assembly kitchen license, \$20;
- j. Canal boat operator license, \$20;
- k. Annual arts venue event license, \$20; and
- l. Art instruction studio license, \$20.

2. Beer. — For each:

a. Brewery license, if not more than 500 barrels of beer manufactured during the year in which the license is granted, \$250, and if more than 500 barrels of beer manufactured during the year in which the license is granted, \$1,000;

- b. Bottler's license, \$500;
- c. Wholesale beer license, in a city, \$250, and in a county or town, \$75;
- d. Retail on-premises beer license for a hotel, restaurant or club and for each retail off-premises beer license in a city, \$100, and in a county or town, \$25; and
- e. Beer shipper's license, \$10.

3. Wine. — For each:

- a. Winery license, \$50;
- b. Wholesale wine license, \$50;
- c. Farm winery license, \$50; and
- d. Wine shipper's license, \$10.

4. Wine and beer. — For each:

a. Retail on-premises wine and beer license for a hotel, restaurant or club; and for each retail off-premises wine and beer license, including each gift shop, gourmet shop and convenience grocery store license, in a city, \$150, and in a county or town, \$37.50;

- b. Hospital license, \$10;
- c. *Historic cinema house license*, \$20;

d. Banquet license, \$5 for each license granted, except for banquet licenses granted by the Board pursuant to subsection A of § 4.1-215 for events occurring on more than one day, which shall be \$20 per license;

~~e.~~ e. Gourmet brewing shop license, \$150;

~~e.~~ f. Wine and beer shipper's license, \$10;

~~f.~~ g. Annual banquet license, \$15; and

~~g.~~ h. Gourmet oyster house license, in a city, \$150, and in a county or town, \$37.50.

5. Mixed beverages. — For each:

a. Mixed beverage restaurant license, including restaurants located on the premises of and operated by hotels or motels, or other persons:

- (i) With a seating capacity at tables for up to 100 persons, \$200;
- (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$350; and
- (iii) With a seating capacity at tables for more than 150 persons, \$500.

b. Private, nonprofit club operating a restaurant located on the premises of such club, \$350;

c. Mixed beverage caterer's license, \$500;

d. Mixed beverage limited caterer's license, \$100;

e. Mixed beverage special events licenses, \$10 for each day of each event;

f. Mixed beverage club events licenses, \$10 for each day of each event;

g. Annual mixed beverage amphitheater license, \$300;

h. Annual mixed beverage motor sports race track license, \$300;

i. Annual mixed beverage banquet license, \$75;

j. Limited mixed beverage restaurant license:

(i) With a seating capacity at tables for up to 100 persons, \$100;

(ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$250;

(iii) With a seating capacity at tables for more than 150 persons, \$400;

k. Annual mixed beverage motor sports facility license, \$300; and

l. Annual mixed beverage performing arts facility license, \$300.

B. Common carriers. — No local license tax shall be either charged or collected for the privilege of selling alcoholic beverages in (i) passenger trains, boats or airplanes and (ii) rooms designated by the Board of establishments of air carriers of passengers at airports in the Commonwealth for on-premises consumption only.

C. Merchants' and restaurants' license taxes. — The governing body of each county, city or town in the Commonwealth, in imposing local wholesale merchants' license taxes measured by purchases, local retail merchants' license taxes measured by sales, and local restaurant license taxes measured by sales, may include alcoholic beverages in the base for measuring such local license taxes the same as if the alcoholic beverages were nonalcoholic. No local alcoholic beverage license authorized by this chapter shall exempt any licensee from any local merchants' or local restaurant license tax, but such local merchants' and local restaurant license taxes may be in addition to the local alcoholic beverage license taxes authorized by this chapter.

The governing body of any county, city or town, in adopting an ordinance under this section, shall provide that in ascertaining the liability of (i) a beer wholesaler to local merchants' license taxation under the ordinance, and in computing the local wholesale merchants' license tax on such beer wholesaler, purchases of beer up to a stated amount shall be disregarded, which stated amount shall be the amount of beer purchases which would be necessary to produce a local wholesale merchants' license tax equal to the local wholesale beer license tax paid by such wholesaler and (ii) a wholesale wine licensee to local merchants' license taxation under the ordinance, and in computing the local wholesale merchants' license tax on such wholesale wine licensee, purchases of wine up to a stated amount shall be disregarded, which stated amount shall be the amount of wine purchases which would be necessary to produce a local wholesale merchants' license tax equal to the local wholesale wine licensee license tax paid by such wholesale wine licensee.

D. Delivery. — No county, city or town shall impose any local alcoholic beverages license tax on any wholesaler for the privilege of delivering alcoholic beverages in the county, city or town when such wholesaler maintains no place of business in such county, city or town.

E. Application of county tax within town. — Any county license tax imposed under this section shall not apply within the limits of any town located in such county, where such town now, or hereafter, imposes a town license tax on the same privilege.

### CHAPTER 153

*An Act to amend and reenact §§ 4.1-208, 4.1-209, and 4.1-210 of the Code of Virginia, relating to alcoholic beverage control; disposable containers.*

[H 1744]

Approved February 23, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 4.1-208, 4.1-209, and 4.1-210 of the Code of Virginia are amended and reenacted as follows:**

**§ 4.1-208. Beer licenses.**

A. The Board may grant the following licenses relating to beer:

1. Brewery licenses, which shall authorize the licensee to manufacture beer and to sell and deliver or ship the beer so manufactured, in accordance with Board regulations, in closed containers to (i) persons licensed to sell the beer at wholesale; (ii) persons licensed to sell beer at retail for the purpose of resale within a theme or amusement park owned and operated by the brewery or a parent, subsidiary or a company under common control of such brewery, or upon property of such brewery or a parent, subsidiary or a company under common control of such brewery contiguous to such premises, or in a development contiguous to such premises owned and operated by such brewery or a parent, subsidiary or a company under common control of such brewery; and (iii) persons outside the Commonwealth for resale outside the Commonwealth. Such license shall also authorize the licensee to sell at retail the brands of beer that the brewery owns at premises described in the brewery license for on-premises consumption and in closed containers for off-premises consumption.

Such license may also authorize individuals holding a brewery license to (a) operate a facility designed for and utilized exclusively for the education of persons in the manufacture of beer, including sampling by such individuals of beer products, within a theme or amusement park located upon the premises occupied by such brewery, or upon property of such person contiguous to such premises, or in a development contiguous to such premises owned and operated by such person or a wholly owned subsidiary or (b) offer samples of the brewery's products to individuals visiting the licensed premises, provided that such samples shall be provided only to individuals for consumption on the premises of such facility or licensed premises and only to individuals to whom such products may be lawfully sold.

2. Limited brewery licenses, to breweries that manufacture no more than 15,000 barrels of beer per calendar year, provided that (i) the brewery is located on a farm in the Commonwealth on land zoned agricultural and owned or leased by such brewery or its owner and (ii) agricultural products, including barley, other grains, hops, or fruit, used by such brewery in the manufacture of its beer are grown on the farm. The licensed premises shall be limited to the portion of the farm on which agricultural products, including barley, other grains, hops, or fruit, used by such brewery in the manufacture of its beer are grown and that is contiguous to the premises of such brewery where the beer is manufactured, exclusive of any residence and the curtilage thereof. However, the Board may, with notice to the local governing body in accordance with the provisions of § 4.1-230, also approve other portions of the farm to be included as part of the licensed premises. For purposes

of this subdivision, "land zoned agricultural" means (a) land zoned as an agricultural district or classification or (b) land otherwise permitted by a locality for limited brewery use. For purposes of this subdivision, "land zoned agricultural" does not include land zoned "residential conservation." Except for the limitation on land zoned "residential conservation," nothing in this definition shall otherwise limit or affect local zoning authority.

Limited brewery licensees shall be treated as breweries for all purposes of this title except as otherwise provided in this subdivision.

3. Bottlers' licenses, which shall authorize the licensee to acquire and receive deliveries and shipments of beer in closed containers and to bottle, sell and deliver or ship it, in accordance with Board regulations to (i) wholesale beer licensees for the purpose of resale, (ii) owners of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state, and (iii) persons outside the Commonwealth for resale outside the Commonwealth.

4. Wholesale beer licenses, which shall authorize the licensee to acquire and receive deliveries and shipments of beer and to sell and deliver or ship the beer from one or more premises identified in the license, in accordance with Board regulations, in closed containers to (i) persons licensed under this chapter to sell such beer at wholesale or retail for the purpose of resale, (ii) owners of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state, and (iii) persons outside the Commonwealth for resale outside the Commonwealth.

No wholesale beer licensee shall purchase beer for resale from a person outside the Commonwealth who does not hold a beer importer's license unless such wholesale beer licensee holds a beer importer's license and purchases beer for resale pursuant to the privileges of such beer importer's license.

5. Beer importers' licenses, which shall authorize persons licensed within or outside the Commonwealth to sell and deliver or ship beer into the Commonwealth, in accordance with Board regulations, in closed containers, to persons in the Commonwealth licensed to sell beer at wholesale for the purpose of resale.

6. Retail on-premises beer licenses to:

a. Hotels, restaurants, and clubs, which shall authorize the licensee to sell beer, either with or without meals, only in dining areas and other designated areas of such restaurants, or in dining areas, private guest rooms, and other designated areas of such hotels or clubs, for consumption only in such rooms and areas. For purposes of this subdivision, "other designated areas" includes outdoor dining areas, whether or not contiguous to the licensed premises, which may have more than one means of ingress and egress to an adjacent public thoroughfare, provided that such outdoor dining areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

b. Persons operating dining cars, buffet cars, and club cars of trains, which shall authorize the licensee to sell beer, either with or without meals, in the dining cars, buffet cars, and club cars so operated by them for on-premises consumption when carrying passengers.

c. Persons operating sight-seeing boats, or special or charter boats, which shall authorize the licensee to sell beer, either with or without meals, on such boats operated by them for on-premises consumption when carrying passengers.

d. Grocery stores located in any town or in a rural area outside the corporate limits of any city or town, which shall authorize the licensee to sell beer for on-premises consumption in such establishments. No license shall be granted unless it appears affirmatively that a substantial public demand for such licensed establishment exists and that public convenience and the purposes of this title will be promoted by granting the license.

e. Persons operating food concessions at coliseums, stadia, or similar facilities, which shall authorize the licensee to sell beer, in paper, plastic, or similar disposable containers *or in single original metal cans*, during the performance of professional sporting exhibitions, events or performances immediately subsequent thereto, to patrons within all seating areas, concourses, walkways, concession areas, and additional locations designated by the Board in such coliseums, stadia, or similar facilities, for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license.

f. Persons operating food concessions at any outdoor performing arts amphitheater, arena or similar facility which has seating for more than 3,500 persons and is located in Albemarle, Augusta, Pittsylvania, Nelson, or Rockingham Counties. Such license shall authorize the licensee to sell beer during the performance of any event, in paper, plastic or similar disposable containers *or in single original metal cans*, to patrons within all seating areas, concourses, walkways, concession areas, or similar facilities, for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license.

g. Persons operating food concessions at exhibition or exposition halls, convention centers or similar facilities located in any county operating under the urban county executive form of government or any city which is completely surrounded by such county, which shall authorize the licensee to sell beer during the event, in paper, plastic or similar disposable containers *or in single original metal cans*, to patrons or attendees within all seating areas, exhibition areas, concourses, walkways, concession areas, and such additional locations designated by the Board in such facilities, for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license. For purposes of this subsection, "exhibition or exposition halls" and "convention centers" mean facilities conducting private or public trade shows or exhibitions in an indoor facility having in excess of 100,000 square feet of floor space.

7. Retail off-premises beer licenses, which shall authorize the licensee to sell beer in closed containers for off-premises consumption.

8. Retail off-premises brewery licenses to persons holding a brewery license which shall authorize the licensee to sell beer at the place of business designated in the brewery license, in closed containers which shall include growlers and other reusable containers, for off-premises consumption.

9. Retail on-and-off premises beer licenses to persons enumerated in subdivisions 6 a and 6 d, which shall accord all the privileges conferred by retail on-premises beer licenses and in addition, shall authorize the licensee to sell beer in closed containers for off-premises consumption.

B. Any farm winery or limited brewery that, prior to July 1, 2016, (i) holds a valid license granted by the Alcoholic Beverage Control Board (the Board) in accordance with this title and (ii) is in compliance with the local zoning ordinance as an agricultural district or classification or as otherwise permitted by a locality for farm winery or limited brewery use shall be allowed to continue such use as provided in § 15.2-2307, notwithstanding (a) the provisions of this section or (b) a subsequent change in ownership of the farm winery or limited brewery on or after July 1, 2016, whether by transfer, acquisition, inheritance, or other means. Any such farm winery or limited brewery located on land zoned residential conservation prior to July 1, 2016 may expand any existing building or structure and the uses thereof so long as specifically approved by the locality by special exception. Any such farm winery or limited brewery located on land zoned residential conservation prior to July 1, 2016 may construct a new building or structure so long as specifically approved by the locality by special exception. All such licensees shall comply with the requirements of this title and Board regulations for renewal of such license or the issuance of a new license in the event of a change in ownership of the farm winery or limited brewery on or after July 1, 2016.

**§ 4.1-209. Wine and beer licenses; advertising.**

A. The Board may grant the following licenses relating to wine and beer:

1. Retail on-premises wine and beer licenses to:

a. Hotels, restaurants and clubs, which shall authorize the licensee to sell wine and beer, either with or without meals, only in dining areas and other designated areas of such restaurants, or in dining areas, private guest rooms, and other designated areas of such hotels or clubs, for consumption only in such rooms and areas. However, with regard to a hotel classified by the Board as (i) a resort complex, the Board may authorize the sale and consumption of alcoholic beverages in all areas within the resort complex deemed appropriate by the Board or (ii) a limited service hotel, the Board may authorize the sale and consumption of alcoholic beverages in dining areas, private guest rooms, and other designated areas to persons to whom overnight lodging is being provided, for on-premises consumption in such rooms or areas, and without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises, provided that at least one meal is provided each day by the hotel to such guests. With regard to facilities registered in accordance with Chapter 49 (§ 38.2-4900 et seq.) of Title 38.2 of the Code of Virginia as continuing care communities that are also licensed by the Board under this subdivision, any resident may, upon authorization of the licensee, keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas covered by the license. For purposes of this subdivision, "other designated areas" includes outdoor dining areas, whether or not contiguous to the licensed premises, which may have more than one means of ingress and egress to an adjacent public thoroughfare, provided that such outdoor dining areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201;

b. Persons operating dining cars, buffet cars, and club cars of trains, which shall authorize the licensee to sell wine and beer, either with or without meals, in the dining cars, buffet cars, and club cars so operated by them, for on-premises consumption when carrying passengers;

c. Persons operating sight-seeing boats, or special or charter boats, which shall authorize the licensee to sell wine and beer, either with or without meals, on such boats operated by them for on-premises consumption when carrying passengers;

d. Persons operating as air carriers of passengers on regular schedules in foreign, interstate or intrastate commerce, which shall authorize the licensee to sell wine and beer for consumption by passengers in such airplanes anywhere in or over the Commonwealth while in transit and in designated rooms of establishments of such carriers at airports in the Commonwealth, § 4.1-129 notwithstanding. For purposes of supplying its airplanes, as well as any airplane of a licensed express carrier flying under the same brand, an air carrier licensee may appoint an authorized representative to load wine and beer onto the same airplanes and to transport and store wine and beer at or in close proximity to the airport where the wine and beer will be delivered onto airplanes of the air carrier and any such licensed express carrier. The air carrier licensee shall (i) designate for purposes of its license all locations where the inventory of wine and beer may be stored and from which the wine and beer will be delivered onto airplanes of the air carrier and any such licensed express carrier and (ii) maintain records of all wine and beer to be transported, stored, and delivered by its authorized representative;

e. Hospitals, which shall authorize the licensee to sell wine and beer in the rooms of patients for their on-premises consumption only in such rooms, provided the consent of the patient's attending physician is first obtained;

f. Persons operating food concessions at coliseums, stadia, racetracks or similar facilities, which shall authorize the licensee to sell wine and beer in paper, plastic or similar disposable containers *or in single original metal cans*, during any event and immediately subsequent thereto, to patrons within all seating areas, concourses, walkways, concession areas and additional locations designated by the Board in such coliseums, stadia, racetracks or similar facilities, for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license;

g. Persons operating food concessions at any outdoor performing arts amphitheater, arena or similar facility which (i) has seating for more than 20,000 persons and is located in Prince William County or the City of Virginia Beach, (ii) has capacity for more than 3,500 persons and is located in the Counties of Albemarle, Augusta, Nelson, Pittsylvania, or Rockingham, or the Cities of Charlottesville, Danville, or Roanoke, or (iii) has capacity for more than 9,500 persons and is located in Henrico County. Such license shall authorize the licensee to sell wine and beer during the performance of any event, in paper, plastic or similar disposable containers *or in single original metal cans*, to patrons within all seating areas, concourses, walkways, concession areas, or similar facilities, for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license;

h. Persons operating food concessions at exhibition or exposition halls, convention centers or similar facilities located in any county operating under the urban county executive form of government or any city which is completely surrounded by such county, which shall authorize the licensee to sell wine and beer during the event, in paper, plastic or similar disposable containers *or in single original metal cans*, to patrons or attendees within all seating areas, exhibition areas, concourses, walkways, concession areas, and such additional locations designated by the Board in such facilities, for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license. For purposes of this subsection, "exhibition or exposition hall" and "convention centers" mean facilities conducting private or public trade shows or exhibitions in an indoor facility having in excess of 100,000 square feet of floor space; and

i. Persons operating a concert and dinner-theater venue on property fronting Natural Bridge School Road in Natural Bridge Station, Virginia, and formerly operated as Natural Bridge High School, which shall authorize the licensee to sell wine and beer during events to patrons or attendees within all seating areas, exhibition areas, concourses, walkways, concession areas, dining areas, and such additional locations designated by the Board in such facilities, for on-premises consumption. Persons licensed pursuant to this subdivision shall serve food, prepared on or off premises, whenever wine or beer is served.

2. Retail off-premises wine and beer licenses, which shall authorize the licensee to sell wine and beer in closed containers for off-premises consumption.

3. Gourmet shop licenses, which shall authorize the licensee to sell wine and beer in closed containers for off-premises consumption and, the provisions of § 4.1-308 notwithstanding, to give to any person to whom wine or beer may be lawfully sold, (i) a sample of wine, not to exceed two ounces by volume or (ii) a sample of beer not to exceed four ounces by volume, for on-premises consumption. The licensee may also give samples of wine and beer in designated areas at events held by the licensee for the purpose of featuring and educating the consuming public about the alcoholic beverages being tasted. Additionally, with the consent of the licensee, farm wineries, wineries, breweries, and wholesale licensees may participate in tastings held by licensees authorized to conduct tastings, including the pouring of samples to any person to whom alcoholic beverages may be lawfully sold. Notwithstanding Board regulations relating to food sales, the licensee shall maintain each year an average monthly inventory and sales volume of at least \$1,000 in products such as cheeses and gourmet food.

4. Convenience grocery store licenses, which shall authorize the licensee to sell wine and beer in closed containers for off-premises consumption.

5. Retail on-and-off premises wine and beer licenses to persons enumerated in subdivision 1 a, which shall accord all the privileges conferred by retail on-premises wine and beer licenses and in addition, shall authorize the licensee to sell wine and beer in closed containers for off-premises consumption.

6. Banquet licenses to persons in charge of banquets, and to duly organized nonprofit corporations or associations in charge of special events, which shall authorize the licensee to sell or give wine and beer in rooms or areas approved by the Board for the occasion for on-premises consumption in such rooms or areas. Except as provided in § 4.1-215, a separate license shall be required for each day of each banquet or special event. For the purposes of this subdivision, when the location named in the original application for a license is outdoors, the application may also name an alternative location in the event of inclement weather. However, no such license shall be required of any hotel, restaurant, or club holding a retail wine and beer license.

7. Gift shop licenses, which shall authorize the licensee to sell wine and beer only within the interior premises of the gift shop in closed containers for off-premises consumption and, the provisions of § 4.1-308 notwithstanding, to give to any person to whom wine or beer may be lawfully sold (i) a sample of wine not to exceed two ounces by volume or (ii) a sample of beer not to exceed four ounces by volume for on-premises consumption. The licensee may also give samples of wine and beer in designated areas at events held by the licensee for the purpose of featuring and educating the consuming public about the alcoholic beverages being tasted.

8. Gourmet brewing shop licenses, which shall authorize the licensee to sell to any person to whom wine or beer may be lawfully sold, ingredients for making wine or brewing beer, including packaging, and to rent to such persons facilities for manufacturing, fermenting, and bottling such wine or beer, for off-premises consumption in accordance with subdivision 6 of § 4.1-200.

9. Annual banquet licenses, to duly organized private nonprofit fraternal, patriotic or charitable membership organizations that are exempt from state and federal taxation and in charge of banquets conducted exclusively for its members and their guests, which shall authorize the licensee to serve wine and beer in rooms or areas approved by the

Board for the occasion for on-premises consumption in such rooms or areas. Such license shall authorize the licensee to conduct no more than 12 banquets per calendar year. For the purposes of this subdivision, when the location named in the original application for a license is outdoors, the application may also name an alternative location in the event of inclement weather. However, no such license shall be required of any hotel, restaurant, or club holding a retail wine and beer license.

10. Fulfillment warehouse licenses, which shall authorize associations as defined in § 13.1-313 with a place of business located in the Commonwealth to (i) receive deliveries and shipments of wine or beer owned by holders of wine or beer shipper's licenses, (ii) store such wine or beer on behalf of the owner, and (iii) pick, pack, and ship such wine or beer as directed by the owner, all in accordance with Board regulations. No wholesale wine or wholesale beer licensee, whether licensed in the Commonwealth or not, or any person under common control of such licensee, shall acquire or hold any financial interest, direct or indirect, in the business for which any fulfillment warehouse license is issued.

11. Marketing portal licenses, which shall authorize agricultural cooperative associations organized under the provisions of the Agricultural Cooperative Association Act (§ 13.1-312 et seq.), with a place of business located in the Commonwealth, in accordance with Board regulations, to solicit and receive orders for wine or beer through the use of the Internet from persons in the Commonwealth to whom wine or beer may be lawfully sold, on behalf of holders of wine or beer shipper's licenses. Upon receipt of an order for wine or beer, the licensee shall forward it to a holder of a wine or beer shipper's license for fulfillment. Marketing portal licensees may also accept payment on behalf of the shipper.

12. Gourmet oyster house licenses, to establishments located on the premises of a commercial marina and permitted by the Department of Health to serve oysters and other fresh seafood for consumption on the premises, where the licensee also offers to the public events for the purpose of featuring and educating the consuming public about local oysters and other seafood products. Such license shall authorize the licensee to (i) give samples of or sell wine and beer in designated rooms and outdoor areas approved by the Board for consumption in such approved areas and (ii) sell wine and beer in closed containers for off-premises consumption. Samples of wine shall not exceed two ounces per person. Samples of beer shall not exceed four ounces per person. The Board shall establish a minimum monthly food sale requirement of oysters and other seafood for such license. Additionally, with the consent of the licensee, farm wineries, wineries, and breweries may participate in tastings held by licensees authorized to conduct tastings, including the pouring of samples to any person to whom alcoholic beverages may be lawfully sold.

B. Notwithstanding any provision of law to the contrary, persons granted a wine and beer license pursuant to this section may display within their licensed premises point-of-sale advertising materials that incorporate the use of any professional athlete or athletic team, provided that such advertising materials: (i) otherwise comply with the applicable regulations of the Federal Bureau of Alcohol, Tobacco and Firearms; and (ii) do not depict any athlete consuming or about to consume alcohol prior to or while engaged in an athletic activity; do not depict an athlete consuming alcohol while the athlete is operating or about to operate a motor vehicle or other machinery; and do not imply that the alcoholic beverage so advertised enhances athletic prowess.

C. Persons granted retail on-premises and on-and-off-premises wine and beer licenses pursuant to this section or subsection B of § 4.1-210 may conduct wine or beer tastings sponsored by the licensee for its customers for on-premises consumption. Such licensees may sell or give samples of wine and beer in designated areas at events held by the licensee for the purpose of featuring and educating the consuming public about the alcoholic beverages being tasted. Additionally, with the consent of the licensee, farm wineries, wineries, and breweries may participate in tastings held by licensees authorized to conduct tastings, including the pouring of samples to any person to whom alcoholic beverages may be lawfully sold. Samples of wine shall not exceed two ounces per person. Samples of beer shall not exceed four ounces per person.

#### § 4.1-210. Mixed beverages licenses.

A. Subject to the provisions of § 4.1-124, the Board may grant the following licenses relating to mixed beverages:

1. Mixed beverage restaurant licenses, which shall authorize the licensee to sell and serve mixed beverages for consumption in dining areas and other designated areas of such restaurant. Such license may be granted only to persons (i) who operate a restaurant and (ii) whose gross receipts from the sale of food cooked or prepared, and consumed on the premises and nonalcoholic beverages served on the premises, after issuance of such license, amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food. For the purposes of this subdivision, other designated areas shall include outdoor dining areas, whether or not contiguous to the licensed premises, which outdoor dining areas may have more than one means of ingress and egress to an adjacent public thoroughfare, provided such areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

If the restaurant is located on the premises of a hotel or motel with not less than four permanent bedrooms where food and beverage service is customarily provided by the restaurant in designated areas, bedrooms and other private rooms of such hotel or motel, such licensee may (i) sell and serve mixed beverages for consumption in such designated areas, bedrooms and other private rooms and (ii) sell spirits packaged in original closed containers purchased from the Board for on-premises consumption to registered guests and at scheduled functions of such hotel or motel only in such bedrooms or private rooms. However, with regard to a hotel classified as a resort complex, the Board may authorize the sale and on-premises consumption of alcoholic beverages in all areas within the resort complex deemed appropriate by the Board. Nothing herein shall prohibit any person from keeping and consuming his own lawfully acquired spirits in bedrooms or private rooms.

If the restaurant is located on the premises of and operated by a private, nonprofit or profit club exclusively for its members and their guests, or members of another private, nonprofit or profit club in another city with which it has an agreement for reciprocal dining privileges, such license shall also authorize the licensee to sell and serve mixed beverages for on-premises consumption. Where such club prepares no food in its restaurant but purchases its food requirements from a restaurant licensed by the Board and located on another portion of the premises of the same hotel or motel building, this fact shall not prohibit the granting of a license by the Board to such club qualifying in all other respects. The club's gross receipts from the sale of nonalcoholic beverages consumed on the premises and food resold to its members and guests and consumed on the premises shall amount to at least 45 percent of its gross receipts from the sale of mixed beverages and food. The food sales made by a restaurant to such a club shall be excluded in any consideration of the qualifications of such restaurant for a license from the Board.

2. Mixed beverage caterer's licenses, which may be granted only to a person regularly engaged in the business of providing food and beverages to others for service at private gatherings or at special events, which shall authorize the licensee to sell and serve alcoholic beverages for on-premises consumption. The annual gross receipts from the sale of food cooked and prepared for service and nonalcoholic beverages served at gatherings and events referred to in this subdivision shall amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food.

3. Mixed beverage limited caterer's licenses, which may be granted only to a person regularly engaged in the business of providing food and beverages to others for service at private gatherings or at special events, not to exceed 12 gatherings or events per year, which shall authorize the licensee to sell and serve alcoholic beverages for on-premises consumption. The annual gross receipts from the sale of food cooked and prepared for service and nonalcoholic beverages served at gatherings and events referred to in this subdivision shall amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food.

4. Mixed beverage special events licenses, to a duly organized nonprofit corporation or association in charge of a special event, which shall authorize the licensee to sell and serve mixed beverages for on-premises consumption in areas approved by the Board on the premises of the place designated in the license. A separate license shall be required for each day of each special event.

5. Annual mixed beverage special events licenses to (i) a duly organized nonprofit corporation or association operating either a performing arts facility or an art education and exhibition facility, (ii) a nonprofit corporation or association chartered by Congress for the preservation of sites, buildings and objects significant in American history and culture, or (iii) persons operating an agricultural event and entertainment park or similar facility that has a minimum of 50,000 square feet of indoor exhibit space and equine and other livestock show areas, which includes barns, pavilions, or other structures equipped with roofs, exterior walls, and open or closed-door access. The operation in all cases shall be upon premises owned by such licensee or occupied under a bona fide lease the original term of which was for more than one year's duration. Such license shall authorize the licensee to sell alcoholic beverages during scheduled events and performances for on-premises consumption in areas upon the licensed premises approved by the Board.

6. Mixed beverage carrier licenses to persons operating a common carrier of passengers by train, boat or airplane, which shall authorize the licensee to sell and serve mixed beverages anywhere in the Commonwealth to passengers while in transit aboard any such common carrier, and in designated rooms of establishments of air carriers at airports in the Commonwealth. For purposes of supplying its airplanes, as well as any airplanes of a licensed express carrier flying under the same brand, an air carrier licensee may appoint an authorized representative to load distilled spirits onto the same airplanes and to transport and store distilled spirits at or in close proximity to the airport where the distilled spirits will be delivered onto airplanes of the air carrier and any such licensed express carrier. The air carrier licensee shall (i) designate for purposes of its license all locations where the inventory of distilled spirits may be stored and from which the distilled spirits will be delivered onto airplanes of the air carrier and any such licensed express carrier and (ii) maintain records of all distilled spirits to be transported, stored, and delivered by its authorized representative.

7. Mixed beverage club events licenses, which shall authorize a club holding a beer or wine and beer club license to sell and serve mixed beverages for on-premises consumption by club members and their guests in areas approved by the Board on the club premises. A separate license shall be required for each day of each club event. No more than 12 such licenses shall be granted to a club in any calendar year.

8. Annual mixed beverage amphitheater licenses to persons operating food concessions at any outdoor performing arts amphitheater, arena or similar facility that has seating for more than 20,000 persons and is located in Prince William County or the City of Virginia Beach. Such license shall authorize the licensee to sell alcoholic beverages during the performance of any event, in paper, plastic or similar disposable containers *or in single original metal cans*, to patrons within all seating areas, concourses, walkways, concession areas, or similar facilities, for on-premises consumption.

9. Annual mixed beverage amphitheater licenses to persons operating food concessions at any outdoor performing arts amphitheater, arena or similar facility that has seating for more than 5,000 persons and is located in the City of Alexandria or the City of Portsmouth. Such license shall authorize the licensee to sell alcoholic beverages during the performance of any event, in paper, plastic or similar disposable containers *or in single original metal cans*, to patrons within all seating areas, concourses, walkways, concession areas, or similar facilities, for on-premises consumption.

10. Annual mixed beverage motor sports facility license to persons operating food concessions at any outdoor motor sports road racing club facility, of which the track surface is 3.27 miles in length, on 1, 200 acres of rural property bordering the Dan River, which shall authorize the licensee to sell mixed beverages, in paper, plastic, or similar disposable containers

*or in single original metal cans*, during scheduled events, as well as events or performances immediately subsequent thereto, to patrons in all dining facilities, seating areas, viewing areas, walkways, concession areas or similar facilities, for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license.

11. Annual mixed beverage banquet licenses to duly organized private nonprofit fraternal, patriotic or charitable membership organizations that are exempt from state and federal taxation and in charge of banquets conducted exclusively for its members and their guests, which shall authorize the licensee to serve mixed beverages for on-premises consumption in areas approved by the Board on the premises of the place designated in the license. Such license shall authorize the licensee to conduct no more than 12 banquets per calendar year.

12. Limited mixed beverage restaurant licenses, which shall authorize the licensee to sell and serve dessert wines as defined by Board regulation and no more than six varieties of liqueurs, which liqueurs shall be combined with coffee or other nonalcoholic beverages, for consumption in dining areas of the restaurant. Such license may be granted only to persons who operate a restaurant and in no event shall the sale of such wine or liqueur-based drinks, together with the sale of any other alcoholic beverages, exceed 10 percent of the total annual gross sales of all food and alcoholic beverages.

13. Annual mixed beverage motor sports facility licenses to persons operating concessions at an outdoor motor sports facility that hosts a NASCAR national touring race, which shall authorize the licensee to sell mixed beverages, in paper, plastic, or similar disposable containers *or in single original metal cans*, during scheduled events, as well as events or performances immediately subsequent thereto, to patrons in all dining facilities, seating areas, viewing areas, walkways, concession areas or similar facilities, for on-premises consumption.

14. Annual mixed beverage performing arts facility license to corporations or associations operating a performing arts facility, provided the performing arts facility (i) is owned by a governmental entity; (ii) is occupied by a for-profit entity under a bona fide lease, the original term of which was for more than one year's duration; and (iii) has been rehabilitated in accordance with historic preservation standards. Such license shall authorize the sale, on the dates of performances or events, of alcoholic beverages for on-premises consumption in areas upon the licensed premises approved by the Board.

15. Annual mixed beverage performing arts facility license to persons operating food concessions at any performing arts facility located in the City of Norfolk or the City of Richmond, provided that the performing arts facility (i) is occupied under a bona fide long-term lease or concession agreement, the original term of which was more than five years; (ii) has a capacity in excess of 1,400 patrons; (iii) has been rehabilitated in accordance with historic preservation standards; and (iv) has monthly gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises that meet or exceed the monthly minimum established by Board regulations for mixed beverage restaurants. Such license shall authorize the sale, on the dates of performances or events, of alcoholic beverages for on-premises consumption in areas upon the licensed premises approved by the Board.

16. Annual mixed beverage performing arts facility license to persons operating food concessions at any performing arts facility located in the City of Waynesboro, provided that the performing arts facility (i) is occupied under a bona fide long-term lease or concession agreement, the original term of which was more than five years; (ii) has a total capacity in excess of 550 patrons; and (iii) has been rehabilitated in accordance with historic preservation standards. Such license shall authorize the sale, on the dates of performances or private or special events, of alcoholic beverages for on-premises consumption in areas upon the licensed premises approved by the Board.

17. A combined mixed beverage restaurant and caterer's license, which may be granted to any restaurant or hotel that meets the qualifications for both a mixed beverage restaurant pursuant to subdivision A 1 and mixed beverage caterer pursuant to subdivision A 2 for the same business location, and which license shall authorize the licensee to operate as both a mixed beverage restaurant and mixed beverage caterer at the same business premises designated in the license, with a common alcoholic beverage inventory for purposes of the restaurant and catering operations. Such licensee shall meet the separate food qualifications established for the mixed beverage restaurant license pursuant to subdivision A 1 and mixed beverage caterer's license pursuant to subdivision A 2.

B. The granting of any license under subdivision A 1, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, or 17 shall automatically include a license to sell and serve wine and beer for on-premises consumption. The licensee shall pay the state and local taxes required by §§ 4.1-231 and 4.1-233.

#### CHAPTER 154

*An Act to amend and reenact §§ 4.1-209, 4.1-325, as it is currently effective and as it shall become effective, and 4.1-325.2 of the Code of Virginia, relating to alcoholic beverage control; delivery privilege of persons holding a wine and beer license.*

[H 1801]

Approved February 23, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 4.1-209, 4.1-325, as it is currently effective and as it shall become effective, and 4.1-325.2 of the Code of Virginia are amended and reenacted as follows:**

**§ 4.1-209. Wine and beer licenses; advertising.**

A. The Board may grant the following licenses relating to wine and beer:

1. Retail on-premises wine and beer licenses to:

a. Hotels, restaurants and clubs, which shall authorize the licensee to sell wine and beer, either with or without meals, only in dining areas and other designated areas of such restaurants, or in dining areas, private guest rooms, and other designated areas of such hotels or clubs, for consumption only in such rooms and areas. However, with regard to a hotel classified by the Board as (i) a resort complex, the Board may authorize the sale and consumption of alcoholic beverages in all areas within the resort complex deemed appropriate by the Board or (ii) a limited service hotel, the Board may authorize the sale and consumption of alcoholic beverages in dining areas, private guest rooms, and other designated areas to persons to whom overnight lodging is being provided, for on-premises consumption in such rooms or areas, and without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises, provided that at least one meal is provided each day by the hotel to such guests. With regard to facilities registered in accordance with Chapter 49 (§ 38.2-4900 et seq.) of Title 38.2 of the Code of Virginia as continuing care communities that are also licensed by the Board under this subdivision, any resident may, upon authorization of the licensee, keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas covered by the license. For purposes of this subdivision, "other designated areas" includes outdoor dining areas, whether or not contiguous to the licensed premises, which may have more than one means of ingress and egress to an adjacent public thoroughfare, provided that such outdoor dining areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201;

b. Persons operating dining cars, buffet cars, and club cars of trains, which shall authorize the licensee to sell wine and beer, either with or without meals, in the dining cars, buffet cars, and club cars so operated by them, for on-premises consumption when carrying passengers;

c. Persons operating sight-seeing boats, or special or charter boats, which shall authorize the licensee to sell wine and beer, either with or without meals, on such boats operated by them for on-premises consumption when carrying passengers;

d. Persons operating as air carriers of passengers on regular schedules in foreign, interstate or intrastate commerce, which shall authorize the licensee to sell wine and beer for consumption by passengers in such airplanes anywhere in or over the Commonwealth while in transit and in designated rooms of establishments of such carriers at airports in the Commonwealth, § 4.1-129 notwithstanding. For purposes of supplying its airplanes, as well as any airplane of a licensed express carrier flying under the same brand, an air carrier licensee may appoint an authorized representative to load wine and beer onto the same airplanes and to transport and store wine and beer at or in close proximity to the airport where the wine and beer will be delivered onto airplanes of the air carrier and any such licensed express carrier. The air carrier licensee shall (i) designate for purposes of its license all locations where the inventory of wine and beer may be stored and from which the wine and beer will be delivered onto airplanes of the air carrier and any such licensed express carrier and (ii) maintain records of all wine and beer to be transported, stored, and delivered by its authorized representative;

e. Hospitals, which shall authorize the licensee to sell wine and beer in the rooms of patients for their on-premises consumption only in such rooms, provided the consent of the patient's attending physician is first obtained;

f. Persons operating food concessions at coliseums, stadia, racetracks or similar facilities, which shall authorize the licensee to sell wine and beer in paper, plastic or similar disposable containers, during any event and immediately subsequent thereto, to patrons within all seating areas, concourses, walkways, concession areas and additional locations designated by the Board in such coliseums, stadia, racetracks or similar facilities, for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license;

g. Persons operating food concessions at any outdoor performing arts amphitheater, arena or similar facility which (i) has seating for more than 20,000 persons and is located in Prince William County or the City of Virginia Beach, (ii) has capacity for more than 3,500 persons and is located in the Counties of Albemarle, Augusta, Nelson, Pittsylvania, or Rockingham, or the Cities of Charlottesville, Danville, or Roanoke, or (iii) has capacity for more than 9,500 persons and is located in Henrico County. Such license shall authorize the licensee to sell wine and beer during the performance of any event, in paper, plastic or similar disposable containers to patrons within all seating areas, concourses, walkways, concession areas, or similar facilities, for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license;

h. Persons operating food concessions at exhibition or exposition halls, convention centers or similar facilities located in any county operating under the urban county executive form of government or any city which is completely surrounded by such county, which shall authorize the licensee to sell wine and beer during the event, in paper, plastic or similar disposable containers to patrons or attendees within all seating areas, exhibition areas, concourses, walkways, concession areas, and such additional locations designated by the Board in such facilities, for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license. For purposes of this subsection, "exhibition or exposition hall" and "convention centers" mean facilities conducting private or public trade shows or exhibitions in an indoor facility having in excess of 100,000 square feet of floor space; and

i. Persons operating a concert and dinner-theater venue on property fronting Natural Bridge School Road in Natural Bridge Station, Virginia, and formerly operated as Natural Bridge High School, which shall authorize the licensee to sell

wine and beer during events to patrons or attendees within all seating areas, exhibition areas, concourses, walkways, concession areas, dining areas, and such additional locations designated by the Board in such facilities, for on-premises consumption. Persons licensed pursuant to this subdivision shall serve food, prepared on or off premises, whenever wine or beer is served.

2. Retail off-premises wine and beer licenses, which shall authorize the licensee to sell wine and beer in closed containers for off-premises consumption.

3. Gourmet shop licenses, which shall authorize the licensee to sell wine and beer in closed containers for off-premises consumption and, the provisions of § 4.1-308 notwithstanding, to give to any person to whom wine or beer may be lawfully sold, (i) a sample of wine, not to exceed two ounces by volume or (ii) a sample of beer not to exceed four ounces by volume, for on-premises consumption. The licensee may also give samples of wine and beer in designated areas at events held by the licensee for the purpose of featuring and educating the consuming public about the alcoholic beverages being tasted. Additionally, with the consent of the licensee, farm wineries, wineries, breweries, and wholesale licensees may participate in tastings held by licensees authorized to conduct tastings, including the pouring of samples to any person to whom alcoholic beverages may be lawfully sold. Notwithstanding Board regulations relating to food sales, the licensee shall maintain each year an average monthly inventory and sales volume of at least \$1,000 in products such as cheeses and gourmet food.

4. Convenience grocery store licenses, which shall authorize the licensee to sell wine and beer in closed containers for off-premises consumption.

5. Retail on-and-off premises wine and beer licenses to persons enumerated in subdivision 1 a, which shall accord all the privileges conferred by retail on-premises wine and beer licenses and in addition, shall authorize the licensee to sell wine and beer in closed containers for off-premises consumption.

6. Banquet licenses to persons in charge of banquets, and to duly organized nonprofit corporations or associations in charge of special events, which shall authorize the licensee to sell or give wine and beer in rooms or areas approved by the Board for the occasion for on-premises consumption in such rooms or areas. Except as provided in § 4.1-215, a separate license shall be required for each day of each banquet or special event. For the purposes of this subdivision, when the location named in the original application for a license is outdoors, the application may also name an alternative location in the event of inclement weather. However, no such license shall be required of any hotel, restaurant, or club holding a retail wine and beer license.

7. Gift shop licenses, which shall authorize the licensee to sell wine and beer only within the interior premises of the gift shop in closed containers for off-premises consumption and, the provisions of § 4.1-308 notwithstanding, to give to any person to whom wine or beer may be lawfully sold (i) a sample of wine not to exceed two ounces by volume or (ii) a sample of beer not to exceed four ounces by volume for on-premises consumption. The licensee may also give samples of wine and beer in designated areas at events held by the licensee for the purpose of featuring and educating the consuming public about the alcoholic beverages being tasted.

8. Gourmet brewing shop licenses, which shall authorize the licensee to sell to any person to whom wine or beer may be lawfully sold, ingredients for making wine or brewing beer, including packaging, and to rent to such persons facilities for manufacturing, fermenting, and bottling such wine or beer, for off-premises consumption in accordance with subdivision 6 of § 4.1-200.

9. Annual banquet licenses, to duly organized private nonprofit fraternal, patriotic or charitable membership organizations that are exempt from state and federal taxation and in charge of banquets conducted exclusively for its members and their guests, which shall authorize the licensee to serve wine and beer in rooms or areas approved by the Board for the occasion for on-premises consumption in such rooms or areas. Such license shall authorize the licensee to conduct no more than 12 banquets per calendar year. For the purposes of this subdivision, when the location named in the original application for a license is outdoors, the application may also name an alternative location in the event of inclement weather. However, no such license shall be required of any hotel, restaurant, or club holding a retail wine and beer license.

10. Fulfillment warehouse licenses, which shall authorize associations as defined in § 13.1-313 with a place of business located in the Commonwealth to (i) receive deliveries and shipments of wine or beer owned by holders of wine or beer shipper's licenses, (ii) store such wine or beer on behalf of the owner, and (iii) pick, pack, and ship such wine or beer as directed by the owner, all in accordance with Board regulations. No wholesale wine or wholesale beer licensee, whether licensed in the Commonwealth or not, or any person under common control of such licensee, shall acquire or hold any financial interest, direct or indirect, in the business for which any fulfillment warehouse license is issued.

11. Marketing portal licenses, which shall authorize agricultural cooperative associations organized under the provisions of the Agricultural Cooperative Association Act (§ 13.1-312 et seq.), with a place of business located in the Commonwealth, in accordance with Board regulations, to solicit and receive orders for wine or beer through the use of the Internet from persons in the Commonwealth to whom wine or beer may be lawfully sold, on behalf of holders of wine or beer shipper's licenses. Upon receipt of an order for wine or beer, the licensee shall forward it to a holder of a wine or beer shipper's license for fulfillment. Marketing portal licensees may also accept payment on behalf of the shipper.

12. Gourmet oyster house licenses, to establishments located on the premises of a commercial marina and permitted by the Department of Health to serve oysters and other fresh seafood for consumption on the premises, where the licensee also offers to the public events for the purpose of featuring and educating the consuming public about local oysters and other seafood products. Such license shall authorize the licensee to (i) give samples of or sell wine and beer in designated rooms

and outdoor areas approved by the Board for consumption in such approved areas and (ii) sell wine and beer in closed containers for off-premises consumption. Samples of wine shall not exceed two ounces per person. Samples of beer shall not exceed four ounces per person. The Board shall establish a minimum monthly food sale requirement of oysters and other seafood for such license. Additionally, with the consent of the licensee, farm wineries, wineries, and breweries may participate in tastings held by licensees authorized to conduct tastings, including the pouring of samples to any person to whom alcoholic beverages may be lawfully sold.

B. Notwithstanding any provision of law to the contrary, persons granted a wine and beer license pursuant to this section may display within their licensed premises point-of-sale advertising materials that incorporate the use of any professional athlete or athletic team, provided that such advertising materials: (i) otherwise comply with the applicable regulations of the Federal Bureau of Alcohol, Tobacco and Firearms; and (ii) do not depict any athlete consuming or about to consume alcohol prior to or while engaged in an athletic activity; do not depict an athlete consuming alcohol while the athlete is operating or about to operate a motor vehicle or other machinery; and do not imply that the alcoholic beverage so advertised enhances athletic prowess.

C. *Notwithstanding any provision of law to the contrary, persons granted a wine and beer license pursuant to this section may deliver such wine or beer in closed containers for off-premises consumption to such person's vehicle if located in a designated parking area of the retailer's premises where such person has electronically ordered wine or beer in advance of the delivery or (ii) if the licensee holds a delivery permit issued pursuant to § 4.1-212.1, to such other locations as may be permitted by Board regulation.*

D. Persons granted retail on-premises and on-and-off-premises wine and beer licenses pursuant to this section or subsection B of § 4.1-210 may conduct wine or beer tastings sponsored by the licensee for its customers for on-premises consumption. Such licensees may sell or give samples of wine and beer in designated areas at events held by the licensee for the purpose of featuring and educating the consuming public about the alcoholic beverages being tasted. Additionally, with the consent of the licensee, farm wineries, wineries, and breweries may participate in tastings held by licensees authorized to conduct tastings, including the pouring of samples to any person to whom alcoholic beverages may be lawfully sold. Samples of wine shall not exceed two ounces per person. Samples of beer shall not exceed four ounces per person.

**§ 4.1-325. (Effective until July 1, 2018) Prohibited acts by mixed beverage licensees; penalty.**

A. In addition to § 4.1-324, no mixed beverage licensee nor any agent or employee of such licensee shall:

1. Sell or serve any alcoholic beverage other than as authorized by law;
2. Sell any authorized alcoholic beverage to any person or at any place except as authorized by law;
3. Allow at the place described in his license the consumption of alcoholic beverages in violation of this title;
4. Keep at the place described in his license any alcoholic beverage other than that which he is licensed to sell;
5. Misrepresent the brand of any alcoholic beverage sold or offered for sale;
6. Keep any alcoholic beverage other than in the bottle or container in which it was purchased by him except (i) for a frozen alcoholic beverage, which may include alcoholic beverages in a frozen drink dispenser of a type approved by the Board; (ii) in the case of wine, in containers of a type approved by the Board pending automatic dispensing and sale of such wine; and (iii) as otherwise provided by Board regulation. Neither this subdivision nor any Board regulation shall prohibit any mixed beverage licensee from premixing containers of sangria, to which spirits may be added, to be served and sold for consumption on the licensed premises;
7. Refill or partly refill any bottle or container of alcoholic beverage or dilute or otherwise tamper with the contents of any bottle or container of alcoholic beverage, except as provided by Board regulation adopted pursuant to § 4.1-111 B 11;
8. Sell or serve any brand of alcoholic beverage which is not the same as that ordered by the purchaser without first advising such purchaser of the difference;
9. Remove or obliterate any label, mark or stamp affixed to any container of alcoholic beverages offered for sale;
10. Deliver or sell the contents of any container if the label, mark or stamp has been removed or obliterated;
11. Allow any obscene conduct, language, literature, pictures, performance or materials on the licensed premises;
12. Allow any striptease act on the licensed premises;
13. Allow persons connected with the licensed business to appear nude or partially nude;
14. Consume or allow the consumption by an employee of any alcoholic beverages while on duty and in a position that is involved in the selling or serving of alcoholic beverages to customers.

The provisions of this subdivision shall not prohibit any retail licensee or his designated employee from (i) consuming product samples or sample servings of (a) beer or wine provided by a representative of a licensed beer or wine wholesaler or manufacturer or (b) a distilled spirit provided by a permittee of the Board who represents a distiller, if such samples are provided in accordance with Board regulations and the retail licensee or his designated employee does not violate the provisions of subdivision 1 f of § 4.1-225 or (ii) tasting an alcoholic beverage that has been or will be delivered to a customer for quality control purposes;

15. Deliver to a consumer an original bottle of an alcoholic beverage purchased under such license whether the closure is broken or unbroken except in accordance with § 4.1-210.

The provisions of this subdivision shall not apply to the delivery of:

- a. "Soju." For the purposes of this clause, "soju" means a traditional Korean alcoholic beverage distilled from rice, barley or sweet potatoes; or

b. Spirits, provided (i) the original container is no larger than 375 milliliters, (ii) the alcohol content is no greater than 15 percent by volume, and (iii) the contents of the container are carbonated and perishable;

16. Be intoxicated while on duty or employ an intoxicated person on the licensed premises;

17. Conceal any sale or consumption of any alcoholic beverages;

18. Fail or refuse to make samples of any alcoholic beverages available to the Board upon request or obstruct special agents of the Board in the discharge of their duties;

19. Store alcoholic beverages purchased under the license in any unauthorized place or remove any such alcoholic beverages from the premises;

20. Knowingly employ in the licensed business any person who has the general reputation as a prostitute, panderer, habitual law violator, person of ill repute, user or peddler of narcotics, or person who drinks to excess or engages in illegal gambling;

21. Keep on the licensed premises a slot machine or any prohibited gambling or gaming device, machine or apparatus;

22. Make any gift of an alcoholic beverage, other than as a gift made (i) to a personal friend, as a matter of normal social intercourse, so long as the gift is in no way a shift or device to evade the restriction set forth in this subdivision; (ii) to a person responsible for the planning, preparation or conduct on any conference, convention, trade show or event held or to be held on the premises of the licensee, when such gift is made in the course of usual and customary business entertainment and is in no way a shift or device to evade the restriction set forth in this subdivision; (iii) pursuant to subsection *C D* of § 4.1-209; (iv) pursuant to subdivision A 11 of § 4.1-201; or (v) pursuant to any Board regulation. Any gift permitted by this subdivision shall be subject to the taxes imposed by this title on sales of alcoholic beverages. The licensee shall keep complete and accurate records of gifts given in accordance with this subdivision; or

23. Establish any normal or customary pricing of its alcoholic beverages that is intended as a shift or device to evade any "happy hour" regulations adopted by the Board; however, a licensee may increase the volume of an alcoholic beverage sold to a customer if there is a commensurate increase in the normal or customary price charged for the same alcoholic beverage.

B. Any person convicted of a violation of this section shall be guilty of a Class 1 misdemeanor.

C. The provisions of subdivisions A 12 and A 13 shall not apply to persons operating theaters, concert halls, art centers, museums, or similar establishments that are devoted primarily to the arts or theatrical performances, when the performances that are presented are expressing matters of serious literary, artistic, scientific, or political value.

**§ 4.1-325. (Effective July 1, 2018) Prohibited acts by mixed beverage licensees; penalty.**

A. In addition to § 4.1-324, no mixed beverage licensee nor any agent or employee of such licensee shall:

1. Sell or serve any alcoholic beverage other than as authorized by law;

2. Sell any authorized alcoholic beverage to any person or at any place except as authorized by law;

3. Allow at the place described in his license the consumption of alcoholic beverages in violation of this title;

4. Keep at the place described in his license any alcoholic beverage other than that which he is licensed to sell;

5. Misrepresent the brand of any alcoholic beverage sold or offered for sale;

6. Keep any alcoholic beverage other than in the bottle or container in which it was purchased by him except (i) for a frozen alcoholic beverage, which may include alcoholic beverages in a frozen drink dispenser of a type approved by the Board; (ii) in the case of wine, in containers of a type approved by the Board pending automatic dispensing and sale of such wine; and (iii) as otherwise provided by Board regulation. Neither this subdivision nor any Board regulation shall prohibit any mixed beverage licensee from premixing containers of sangria, to which spirits may be added, to be served and sold for consumption on the licensed premises;

7. Refill or partly refill any bottle or container of alcoholic beverage or dilute or otherwise tamper with the contents of any bottle or container of alcoholic beverage, except as provided by Board regulation adopted pursuant to subdivision B 11 of § 4.1-111;

8. Sell or serve any brand of alcoholic beverage which is not the same as that ordered by the purchaser without first advising such purchaser of the difference;

9. Remove or obliterate any label, mark or stamp affixed to any container of alcoholic beverages offered for sale;

10. Deliver or sell the contents of any container if the label, mark or stamp has been removed or obliterated;

11. Allow any obscene conduct, language, literature, pictures, performance or materials on the licensed premises;

12. Allow any striptease act on the licensed premises;

13. Allow persons connected with the licensed business to appear nude or partially nude;

14. Consume or allow the consumption by an employee of any alcoholic beverages while on duty and in a position that is involved in the selling or serving of alcoholic beverages to customers.

The provisions of this subdivision shall not prohibit any retail licensee or his designated employee from (i) consuming product samples or sample servings of (a) beer or wine provided by a representative of a licensed beer or wine wholesaler or manufacturer or (b) a distilled spirit provided by a permittee of the Board who represents a distiller, if such samples are provided in accordance with Board regulations and the retail licensee or his designated employee does not violate the provisions of subdivision 1 f of § 4.1-225 or (ii) tasting an alcoholic beverage that has been or will be delivered to a customer for quality control purposes;

15. Deliver to a consumer an original bottle of an alcoholic beverage purchased under such license whether the closure is broken or unbroken except in accordance with § 4.1-210.

The provisions of this subdivision shall not apply to the delivery of:

- a. "Soju." For the purposes of this subdivision, "soju" means a traditional Korean alcoholic beverage distilled from rice, barley or sweet potatoes; or
- b. Spirits, provided (i) the original container is no larger than 375 milliliters, (ii) the alcohol content is no greater than 15 percent by volume, and (iii) the contents of the container are carbonated and perishable;
16. Be intoxicated while on duty or employ an intoxicated person on the licensed premises;
17. Conceal any sale or consumption of any alcoholic beverages;
18. Fail or refuse to make samples of any alcoholic beverages available to the Board upon request or obstruct special agents of the Board in the discharge of their duties;
19. Store alcoholic beverages purchased under the license in any unauthorized place or remove any such alcoholic beverages from the premises;
20. Knowingly employ in the licensed business any person who has the general reputation as a prostitute, panderer, habitual law violator, person of ill repute, user or peddler of narcotics, or person who drinks to excess or engages in illegal gambling;
21. Keep on the licensed premises a slot machine or any prohibited gambling or gaming device, machine or apparatus;
22. Make any gift of an alcoholic beverage, other than as a gift made (i) to a personal friend, as a matter of normal social intercourse, so long as the gift is in no way a shift or device to evade the restriction set forth in this subdivision; (ii) to a person responsible for the planning, preparation or conduct on any conference, convention, trade show or event held or to be held on the premises of the licensee, when such gift is made in the course of usual and customary business entertainment and is in no way a shift or device to evade the restriction set forth in this subdivision; (iii) pursuant to subsection *E D* of § 4.1-209; (iv) pursuant to subdivision A 11 of § 4.1-201; or (v) pursuant to any Board regulation. Any gift permitted by this subdivision shall be subject to the taxes imposed by this title on sales of alcoholic beverages. The licensee shall keep complete and accurate records of gifts given in accordance with this subdivision; or
23. Establish any normal or customary pricing of its alcoholic beverages that is intended as a shift or device to evade any "happy hour" regulations adopted by the Board; however, a licensee may increase the volume of an alcoholic beverage sold to a customer if there is a commensurate increase in the normal or customary price charged for the same alcoholic beverage.

B. Any person convicted of a violation of this section shall be guilty of a Class 1 misdemeanor.

C. The provisions of subdivisions A 12 and A 13 shall not apply to persons operating theaters, concert halls, art centers, museums, or similar establishments that are devoted primarily to the arts or theatrical performances, when the performances that are presented are expressing matters of serious literary, artistic, scientific, or political value.

**§ 4.1-325.2. Prohibited acts by employees of wine or beer licensees; penalty.**

A. In addition to the provisions of § 4.1-324, no retail wine or beer licensee or his agent or employee shall consume any alcoholic beverages while on duty and in a position that is involved in the selling or serving of alcoholic beverages to customers.

The provisions of this subsection shall not prohibit any retail licensee or his designated employee from (i) consuming product samples or sample servings of beer or wine provided by a representative of a licensed beer or wine wholesaler or manufacturer, if such samples are provided in accordance with Board regulations and the retail licensee or his designated employee does not violate the provisions of subdivision 1 f of § 4.1-225 or (ii) tasting an alcoholic beverage that has been or will be delivered to a customer for quality control purposes.

B. For the purposes of subsection A, a wine or beer wholesaler or farm winery licensee or its employees that participate in a wine or beer tasting sponsored by a retail wine or beer licensee shall not be deemed to be agents of the retail wine or beer licensee.

C. No retail wine or beer licensee, or his agent or employee shall make any gift of an alcoholic beverage, other than as a gift made (i) to a personal friend, as a matter of normal social intercourse, so long as the gift is in no way a shift or device to evade the restriction set forth in this subsection; (ii) to a person responsible for the planning, preparation or conduct on any conference, convention, trade show or event held or to be held on the premises of the licensee, when such gift is made in the course of usual and customary business entertainment and is in no way a shift or device to evade the restriction set forth in this subsection; (iii) pursuant to subsection *E D* of § 4.1-209; (iv) pursuant to subdivision A 11 of § 4.1-201; or (v) pursuant to any Board regulation. Any gift permitted by this subsection shall be subject to the taxes imposed by this title on sales of alcoholic beverages. The licensee shall keep complete and accurate records of gifts given in accordance with this subsection.

D. Any person convicted of a violation of this section shall be subject to a civil penalty in an amount not to exceed \$500.

**CHAPTER 155**

*An Act to amend and reenact § 4.1-119, as it is currently effective and as it shall become effective, of the Code of Virginia, relating to alcoholic beverage control; neutral grain spirits or alcohol sold at government stores; proof.*

[H 1842]

Approved February 23, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 4.1-119, as it is currently effective and as it shall become effective, of the Code of Virginia is amended and reenacted as follows:**

**§ 4.1-119. (Effective until July 1, 2018) Operation of government stores.**

A. Subject to the requirements of §§ 4.1-121 and 4.1-122, the Board may establish, maintain, and operate government stores for the sale of alcoholic beverages, other than beer and wine not produced by farm wineries, vermouth, mixers, products used in connection with distilled spirits, including any garnish or garnishment applied to the rim of a glass of distilled spirits, as may be approved by the Board from time to time, and products licensed by the Virginia Tourism Corporation as specified in § 4.1-103 in such counties, cities, and towns considered advisable by the Board. The Board may discontinue any such store.

B. With respect to the sale of wine produced by farm wineries, the Board may give preference to farm wineries that produce 2,500 cases or less of wine per year.

C. The Board shall fix the wholesale and retail prices at which the various classes, varieties and brands of alcoholic beverages and other Board-approved products that are sold in government stores. Differences in the cost of operating stores, and market competition and conditions may be reflected in the sale price of alcoholic beverages sold at government stores. The Board may sell alcoholic beverages to federal instrumentalities (i) authorized and operating under the laws of the United States and regulations of the United States Department of Defense and (ii) located within the boundaries of federal enclaves or reservations over which the United States has acquired jurisdiction, at prices which may be greater or less than the wholesale price charged other authorized purchasers.

D. Alcoholic beverages at government stores shall be sold by employees of the Board, who shall carry out the provisions of this title and Board regulations governing the operation of government stores and the sale of alcoholic beverages, except that the Board may appoint the holder of a distiller's license or its officers and employees as agents of the Board for the sale of spirits, manufactured by or for, or blended by such licensee on the licensed premises, at government stores established by the Board on the distiller's licensed premises.

Such agents shall sell the spirits in accordance with the provisions of this title, Board regulations, and the terms of the agency agreement between the Board and the licensed distiller.

For the purposes of this subsection, "blended" means the receipt by a licensed distiller of deliveries and shipments of alcoholic beverages, other than wine and beer, in accordance with subdivision 6 of § 4.1-201 to be (i) additionally aged by the receiving distillery in order to increase the quality and flavor of such alcoholic beverages and (ii) bottled by the receiving distillery.

E. No Class 1 neutral grain spirit or alcohol, as defined by federal regulations, that is without distinctive character, aroma, taste or color shall be sold in government stores at a proof greater than ~~104~~ 151 except upon permits issued by the Board for industrial, commercial, culinary, or medical use.

F. All alcoholic beverages sold in government stores, except for tasting samples pursuant to subsection G sold in government stores established by the Board on a distiller's licensed premises, shall be in closed containers, sealed and affixed with labels prescribed by the Board.

G. No alcoholic beverages shall be consumed in a government store by any person unless it is part of an organized tasting event conducted by (i) an employee of a manufacturer of distilled spirits or farm winery or (ii) an authorized representative of a manufacturer of distilled spirits or farm winery with a permit issued by the Board pursuant to subdivision A 15 of § 4.1-212, at which the samples of alcoholic beverages provided to any consumer do not exceed the limits for spirits or wine set forth in subdivision A 5 of § 4.1-201.1. No sample may be consumed by any individual to whom alcoholic beverages may not lawfully be sold pursuant to § 4.1-304.

Notwithstanding the provision of this subsection to the contrary, an agent of the Board appointed pursuant to subsection D may give samples of spirits, beer, wine, or cider to persons to whom alcoholic beverages may be lawfully sold for on-premises consumption, provided that (i) the spirits, beer, wine, or cider samples are manufactured within the same licensed premises or on contiguous premises of such agent licensed as a distillery, brewery, or winery; (ii) no single sample shall exceed four ounces of beer, two ounces of wine, or one-half ounce of spirits, unless served as a mixed beverage, in which case a single sample may contain up to one and one-half ounces of spirits; (iii) no more than four total samples of alcoholic beverage products or, in the case of spirits samples, no more than three ounces of spirits shall be given or sold to any person per day; and (iv) in the case of spirits samples, a method is used to track the consumption of each consumer. Nothing in this paragraph shall prohibit such agent from serving samples of spirits as part of a mixed beverage.

The Board shall establish guidelines governing tasting events conducted pursuant to this subsection.

H. With respect to purchases by licensees at government stores, the Board shall (i) accept in payment for any purchase or series of purchases cash, electronic fund transfer, credit or debit card, or check payable to the Board, in the exact amount of any such purchase or series of purchases and (ii) provide notice to licensees on Board policies relating to the assignment of government stores from which licensees may purchase products and any procedure for the licensee to elect to make purchases from an alternative government store.

I. With respect to purchases by consumers at government stores, the Board shall accept cash in payment for any purchase or series of purchases. The Board may adopt regulations which provide for accepting a credit card or debit card as payment. Such regulations may provide for the collection, where appropriate, of related fees, penalties and service charges for the use of a credit card or debit card by any consumer.

**§ 4.1-119. (Effective July 1, 2018) Operation of government stores.**

A. Subject to the requirements of §§ 4.1-121 and 4.1-122, the Board may establish, maintain, and operate government stores for the sale of alcoholic beverages, other than beer and wine not produced by farm wineries, vermouth, mixers, products used in connection with distilled spirits, including any garnish or garnishment applied to the rim of a glass of distilled spirits, as may be approved by the Board from time to time, and products licensed by the Virginia Tourism Corporation as specified in § 4.1-103 in such counties, cities, and towns considered advisable by the Board. The Board may discontinue any such store.

B. With respect to the sale of wine produced by farm wineries, the Board may give preference to farm wineries that produce 2,500 cases or less of wine per year.

C. The Board shall fix the wholesale and retail prices at which the various classes, varieties and brands of alcoholic beverages and other Board-approved products that are sold in government stores. Differences in the cost of operating stores, and market competition and conditions may be reflected in the sale price of alcoholic beverages sold at government stores. The Board may sell alcoholic beverages to federal instrumentalities (i) authorized and operating under the laws of the United States and regulations of the United States Department of Defense and (ii) located within the boundaries of federal enclaves or reservations over which the United States has acquired jurisdiction, at prices which may be greater or less than the wholesale price charged other authorized purchasers. Nothing in this subsection shall be construed to limit the authority of the Board to fix the retail price of alcoholic beverages sold at government stores, which retail price may include promotional, volume, or other discounts deemed appropriate by the Board.

D. Alcoholic beverages at government stores shall be sold by employees of the Authority who shall carry out the provisions of this title and Board regulations governing the operation of government stores and the sale of alcoholic beverages, except that the Board may appoint the holder of a distiller's license or its officers and employees as agents of the Board for the sale of spirits, manufactured by or for, or blended by such licensee on the licensed premises, at government stores established by the Board on the distiller's licensed premises.

Such agents shall sell the spirits in accordance with the provisions of this title, Board regulations, and the terms of the agency agreement between the Authority and the licensed distiller.

For the purposes of this subsection, "blended" means the receipt by a licensed distiller of deliveries and shipments of alcoholic beverages, other than wine and beer, in accordance with subdivision 6 of § 4.1-201 to be (i) additionally aged by the receiving distillery in order to increase the quality and flavor of such alcoholic beverages and (ii) bottled by the receiving distillery.

E. No Class 1 neutral grain spirit or alcohol, as defined by federal regulations, that is without distinctive character, aroma, taste or color shall be sold in government stores at a proof greater than ~~40+~~ 151 except upon permits issued by the Board for industrial, commercial, culinary, or medical use.

F. All alcoholic beverages sold in government stores, except for tasting samples pursuant to subsection G sold in government stores established by the Board on a distiller's licensed premises, shall be in closed containers, sealed and affixed with labels prescribed by the Board.

G. No alcoholic beverages shall be consumed in a government store by any person unless it is part of an organized tasting event conducted by (i) an employee of a manufacturer of distilled spirits or farm winery or (ii) an authorized representative of a manufacturer of distilled spirits or farm winery with a permit issued by the Board pursuant to subdivision A 15 of § 4.1-212, at which the samples of alcoholic beverages provided to any consumer do not exceed the limits for spirits or wine set forth in subdivision A 5 of § 4.1-201.1. No sample may be consumed by any individual to whom alcoholic beverages may not lawfully be sold pursuant to § 4.1-304.

Notwithstanding the provision of this subsection to the contrary, an agent of the Board appointed pursuant to subsection D may give samples of spirits, beer, wine, or cider to persons to whom alcoholic beverages may be lawfully sold for on-premises consumption, provided that (i) the spirits, beer, wine, or cider samples are manufactured within the same licensed premises or on contiguous premises of such agent licensed as a distillery, brewery, or winery; (ii) no single sample shall exceed four ounces of beer, two ounces of wine, or one-half ounce of spirits, unless served as a mixed beverage, in which case a single sample of spirits may contain up to one and one-half ounces of spirits; (iii) no more than four total samples of alcoholic beverage products or, in the case of spirits samples, no more than three ounces of spirits shall be given or sold to any person per day; and (iv) in the case of spirits samples, a method is used to track the consumption of each consumer. Nothing in this paragraph shall prohibit such agent from serving samples of spirits as part of a mixed beverage.

The Board shall establish guidelines governing tasting events conducted pursuant to this subsection.

H. With respect to purchases by licensees at government stores, the Authority shall (i) accept in payment for any purchase or series of purchases cash, electronic fund transfer, credit or debit card, or check payable to the Authority, in the exact amount of any such purchase or series of purchases and (ii) provide notice to licensees on Board policies relating to the assignment of government stores from which licensees may purchase products and any procedure for the licensee to elect to make purchases from an alternative government store.

I. With respect to purchases by consumers at government stores, the Authority shall accept cash in payment for any purchase or series of purchases. The Board may adopt regulations which provide for accepting a credit card or debit card as payment. Such regulations may provide for the collection, where appropriate, of related fees, penalties and service charges for the use of a credit card or debit card by any consumer.

J. Before the Authority implements any increase in the markup on distilled spirits or any change to the markup formula for distilled spirits pursuant to § 4.1-235 that would result in an increase in the retail price of distilled spirits sold to the public, the Authority shall (i) provide at least 45 days' public notice before such a price increase takes effect; (ii) provide the opportunity for submission of written comments regarding the proposed price increase; (iii) conduct a public meeting for the purpose of receiving verbal comment regarding the proposed price increase; and (iv) consider any written or verbal comments before implementing such a price increase.

**2. That the provisions of this act shall expire on July 1, 2022.**

## CHAPTER 156

*An Act to amend and reenact § 46.2-400 of the Code of Virginia and to repeal § 46.2-314 of the Code of Virginia, relating to suspension of license of person not competent to drive; notice.*

[H 1878]

Approved February 23, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 46.2-400 of the Code of Virginia is amended and reenacted as follows:**

**§ 46.2-400. Suspension of license of person not competent to drive; restoration of license; duty of clerk of the court.**

A. The Commissioner, on receipt of notice ~~that~~ from a court, shall suspend the license of any person who has been legally adjudged to be incapacitated in accordance with Article 1 (§ 64.2-2000 et seq.) of Chapter 20 of Title 64.2 ~~or that~~. No driver's license shall be issued to any applicant who has previously been adjudged incapacitated and not competent to drive unless, at the time of such application, (i) the applicant has been adjudged restored to capacity by judicial decree or has a court order restoring or retaining the privilege to drive and (ii) the Department is satisfied that the applicant is competent to drive a motor vehicle with safety to persons and property pursuant to § 46.2-322 or 46.2-325. The clerk of the court in which the adjudication is made shall send a certified copy or abstract of such adjudication to the Commissioner.

B. The Commissioner shall not suspend the license or prior privilege to drive of any person legally adjudged to be incapacitated in accordance with Article 1 (§ 64.2-2000 et seq.) of Chapter 20 of Title 64.2, where the court order specifically permits such person to retain his driver's license or the privilege to drive or to apply for such license. In such case, the clerk of the court in which the adjudication is made shall not send a copy of the order to the Commissioner. However, a court may order any person adjudicated legally incapacitated to submit to an examination pursuant to § 46.2-322 or 46.2-325. In such case, the clerk of the court shall forward a copy of the order requiring an examination to the Department. Upon completion of the examination, the Department shall take whatever action may be appropriate and may (i) suspend the license or privilege to drive a motor vehicle in the Commonwealth, (ii) permit the examinee to retain his license or privilege to drive a motor vehicle in the Commonwealth, or (iii) issue a license subject to the restrictions authorized by § 46.2-329.

C. Upon receipt of notice that a person has been discharged from a facility operated or licensed by the Department of Behavioral Health and Developmental Services and is, in the opinion of the authorities of the facility, not competent because of mental illness, intellectual disability, alcoholism, or drug addiction to drive a motor vehicle with safety to persons or property, the Commissioner shall forthwith suspend his license; ~~but~~ however he shall not suspend the license if the person has been adjudged competent by judicial order or decree. The Commissioner shall require any person whose license has been suspended pursuant to this subsection to submit to an examination pursuant to § 46.2-322 or 46.2-325.

In any case in which the person's license has been suspended prior to his discharge, it shall not be returned to him unless the Commissioner is satisfied, after an examination ~~such as is required of applicants by~~ pursuant to § 46.2-322 or 46.2-325, that the person is competent to drive a motor vehicle with safety to persons and property.

~~The clerk of the court in which the adjudication is made shall forthwith send a certified copy or abstract of such adjudication to the Commissioner.~~

*The facility operated or licensed by the Department of Behavioral Health and Developmental Services shall send the necessary information to the Commissioner to initiate the examination process pursuant to § 46.2-322 or 46.2-325.*

D. Notwithstanding any other provision of law, the Department reserves the right to examine any licensed driver, any person applying for a driver's license or renewal thereof, or any person whose license has been suspended or revoked to determine his fitness to drive a motor vehicle pursuant to § 46.2-322 or 46.2-325.

**2. That § 46.2-314 of the Code of Virginia is repealed.**

**3. That an emergency exists and this act is in force from its passage.**

## CHAPTER 157

*An Act to amend and reenact §§ 4.1-100 and 4.1-128, as they are currently effective and as they shall become effective, 4.1-206, 4.1-231, 4.1-233, and 4.1-308 of the Code of Virginia, relating to alcoholic beverage control; new license for certain commercial lifestyle centers.*

[H 1987]

Approved February 23, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 4.1-100 and 4.1-128, as they are currently effective and as they shall become effective, 4.1-206, 4.1-231, 4.1-233, and 4.1-308 of the Code of Virginia are amended and reenacted as follows:**

**§ 4.1-100. (Effective until July 1, 2018) Definitions.**

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

"Alcohol" means the product known as ethyl or grain alcohol obtained by distillation of any fermented liquor, rectified either once or more often, whatever the origin, and shall include synthetic ethyl alcohol, but shall not include methyl alcohol and alcohol completely denatured in accordance with formulas approved by the government of the United States.

"Alcohol vaporizing device" means any device, machine, or process that mixes any alcoholic beverages with pure oxygen or other gas to produce a vaporized product for the purpose of consumption by inhalation.

"Alcoholic beverages" includes alcohol, spirits, wine, and beer, and any one or more of such varieties containing one-half of one percent or more of alcohol by volume, including mixed alcoholic beverages, and every liquid or solid, powder or crystal, patented or not, containing alcohol, spirits, wine, or beer and capable of being consumed by a human being. Any liquid or solid containing more than one of the four varieties shall be considered as belonging to that variety which has the higher percentage of alcohol, however obtained, according to the order in which they are set forth in this definition; except that beer may be manufactured to include flavoring materials and other nonbeverage ingredients containing alcohol, as long as no more than 49 percent of the overall alcohol content of the finished product is derived from the addition of flavors and other nonbeverage ingredients containing alcohol for products with an alcohol content of no more than six percent by volume; or, in the case of products with an alcohol content of more than six percent by volume, as long as no more than one and one-half percent of the volume of the finished product consists of alcohol derived from added flavors and other nonbeverage ingredients containing alcohol.

"Art instruction studio" means any commercial establishment that provides to its customers all required supplies and step-by-step instruction in creating a painting or other work of art during a studio instructional session.

"Arts venue" means a commercial or nonprofit establishment that is open to the public and in which works of art are sold or displayed.

"Barrel" means any container or vessel having a capacity of more than 43 ounces.

"Bed and breakfast establishment" means any establishment (i) having no more than 15 bedrooms; (ii) offering to the public, for compensation, transitory lodging or sleeping accommodations; and (iii) offering at least one meal per day, which may but need not be breakfast, to each person to whom overnight lodging is provided.

"Beer" means any alcoholic beverage obtained by the fermentation of an infusion or decoction of barley, malt, and hops or of any similar products in drinkable water and containing one-half of one percent or more of alcohol by volume.

"Board" means the Virginia Alcoholic Beverage Control Board.

"Bottle" means any vessel intended to contain liquids and having a capacity of not more than 43 ounces.

"Canal boat operator" means any nonprofit organization that operates tourism-oriented canal boats for recreational purposes on waterways declared nonnavigable by the United States Congress pursuant to 33 U.S.C. § 59ii.

"Club" means any private nonprofit corporation or association which is the owner, lessee, or occupant of an establishment operated solely for a national, social, patriotic, political, athletic, or other like purpose, but not for pecuniary gain, the advantages of which belong to all of the members. It also means the establishment so operated. A corporation or association shall not lose its status as a club because of the conduct of charitable gaming conducted pursuant to Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2 in which nonmembers participate frequently or in large numbers, provided that no alcoholic beverages are served or consumed in the room where such charitable gaming is being conducted while such gaming is being conducted and that no alcoholic beverages are made available upon the premises to any person who is neither a member nor a bona fide guest of a member.

Any such corporation or association which has been declared exempt from federal and state income taxes as one which is not organized and operated for pecuniary gain or profit shall be deemed a nonprofit corporation or association.

*"Commercial lifestyle center" means a mixed-use commercial development covering a minimum of 25 acres of land and having at least 100,000 square feet of retail space featuring national specialty chain stores and a combination of dining, entertainment, office, residential, or hotel establishments located in a physically integrated outdoor setting that is pedestrian friendly and that is governed by a commercial owners' association that is responsible for the management, maintenance, and operation of the common areas thereof.*

"Container" means any barrel, bottle, carton, keg, vessel or other receptacle used for holding alcoholic beverages.

"Contract winemaking facility" means the premises of a licensed winery or farm winery that obtains grapes, fruits, and other agricultural products from a person holding a farm winery license and crushes, processes, ferments, bottles, or

provides any combination of such services pursuant to an agreement with the farm winery licensee. For all purposes of this title, wine produced by a contract winemaking facility for a farm winery shall be considered to be wine owned and produced by the farm winery that supplied the grapes, fruits, or other agricultural products used in the production of the wine. The contract winemaking facility shall have no right to sell the wine so produced, unless the terms of payment have not been fulfilled in accordance with the contract. The contract winemaking facility may charge the farm winery for its services.

"Convenience grocery store" means an establishment which (i) has an enclosed room in a permanent structure where stock is displayed and offered for sale and (ii) maintains an inventory of edible items intended for human consumption consisting of a variety of such items of the types normally sold in grocery stores.

"Day spa" means any commercial establishment that offers to the public both massage therapy, performed by persons licensed in accordance with § 54.1-3029, and barbering or cosmetology services performed by persons licensed in accordance with Chapter 7 (§ 54.1-700 et seq.) of Title 54.1.

"Designated area" means a room or area approved by the Board for on-premises licensees.

"Dining area" means a public room or area in which meals are regularly served.

"Establishment" means any place where alcoholic beverages of one or more varieties are lawfully manufactured, sold, or used.

"Farm winery" means (i) an establishment (a) located on a farm in the Commonwealth on land zoned agricultural with a producing vineyard, orchard, or similar growing area and with facilities for fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains not more than 21 percent alcohol by volume or (b) located in the Commonwealth on land zoned agricultural with a producing vineyard, orchard, or similar growing area or agreements for purchasing grapes or other fruits from agricultural growers within the Commonwealth and with facilities for fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains not more than 21 percent alcohol by volume or (ii) an accredited public or private institution of higher education, provided that (a) no wine manufactured by the institution shall be sold, (b) the wine manufactured by the institution shall be used solely for research and educational purposes, (c) the wine manufactured by the institution shall be stored on the premises of such farm winery that shall be separate and apart from all other facilities of the institution, and (d) such farm winery is operated in strict conformance with the requirements of this clause (ii) and Board regulations. As used in this definition, the terms "owner" and "lessee" shall include a cooperative formed by an association of individuals for the purpose of manufacturing wine. In the event that such cooperative is licensed as a farm winery, the term "farm" as used in this definition includes all of the land owned or leased by the individual members of the cooperative as long as such land is located in the Commonwealth. For purposes of this definition, "land zoned agricultural" means (1) land zoned as an agricultural district or classification or (2) land otherwise permitted by a locality for farm winery use. For purposes of this definition, "land zoned agricultural" does not include land zoned "residential conservation." Except for the limitation on land zoned "residential conservation," nothing in the definition of "land zoned agricultural" shall otherwise limit or affect local zoning authority.

"Gift shop" means any bona fide retail store selling, predominantly, gifts, books, souvenirs, specialty items relating to history, original and handmade arts and products, collectibles, crafts, and floral arrangements, which is open to the public on a regular basis. Such shop shall be a permanent structure where stock is displayed and offered for sale and which has facilities to properly secure any stock of wine or beer. Such shop may be located (i) on the premises or grounds of a government registered national, state or local historic building or site or (ii) within the premises of a museum. The Board shall consider the purpose, characteristics, nature, and operation of the shop in determining whether it shall be considered a gift shop.

"Gourmet brewing shop" means an establishment which sells to persons to whom wine or beer may lawfully be sold, ingredients for making wine or brewing beer, including packaging, and rents to such persons facilities for manufacturing, fermenting and bottling such wine or beer.

"Gourmet shop" means an establishment provided with adequate inventory, shelving, and storage facilities, where, in consideration of payment, substantial amounts of domestic and imported wines and beers of various types and sizes and related products such as cheeses and gourmet foods are habitually furnished to persons.

"Government store" means a store established by the Board for the sale of alcoholic beverages.

"Hotel" means any duly licensed establishment, provided with special space and accommodation, where, in consideration of payment, food and lodging are habitually furnished to persons, and which has four or more bedrooms. It shall also mean the person who operates such hotel.

"Interdicted person" means a person to whom the sale of alcoholic beverages is prohibited by order pursuant to this title.

"Internet wine retailer" means a person who owns or operates an establishment with adequate inventory, shelving, and storage facilities, where, in consideration of payment, internet or telephone orders are taken and shipped directly to consumers and which establishment is not a retail store open to the public.

"Intoxicated" means a condition in which a person has drunk enough alcoholic beverages to observably affect his manner, disposition, speech, muscular movement, general appearance or behavior.

"Licensed" means the holding of a valid license issued by the Board.

"Licensee" means any person to whom a license has been granted by the Board.

"Liqueur" means any of a class of highly flavored alcoholic beverages that do not exceed an alcohol content of 25 percent by volume.

"Low alcohol beverage cooler" means a drink containing one-half of one percent or more of alcohol by volume, but not more than seven and one-half percent alcohol by volume, and consisting of spirits mixed with nonalcoholic beverages or flavoring or coloring materials; it may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, preservatives or other similar products manufactured by fermenting fruit or fruit juices. Low alcohol beverage coolers shall be treated as wine for all purposes of this title; except that low alcohol beverage coolers shall not be sold in localities that have not approved the sale of mixed beverages pursuant to § 4.1-124. In addition, low alcohol beverage coolers shall not be sold for on-premises consumption other than by mixed beverage licensees.

"Meal-assembly kitchen" means any commercial establishment that offers its customers, for off-premises consumption, ingredients for the preparation of meals and entrees in professional kitchen facilities located at the establishment.

"Meals" means, for a mixed beverage license, an assortment of foods commonly ordered in bona fide, full-service restaurants as principal meals of the day. Such restaurants shall include establishments specializing in full course meals with a single substantial entree.

"Member of a club" means (i) a person who maintains his membership in the club by the payment of monthly, quarterly, or annual dues in the manner established by the rules and regulations thereof or (ii) a person who is a member of a bona fide auxiliary, local chapter, or squadron composed of direct lineal descendants of a bona fide member, whether alive or deceased, of a national or international organization to which an individual lodge holding a club license is an authorized member in the same locality. It shall also mean a lifetime member whose financial contribution is not less than 10 times the annual dues of resident members of the club, the full amount of such contribution being paid in advance in a lump sum.

"Mixed beverage" or "mixed alcoholic beverage" means a drink composed in whole or in part of spirits.

"Mixer" means any prepackaged ingredients containing beverages or flavoring or coloring materials, and which may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives which are not commonly consumed unless combined with alcoholic beverages, whether or not such ingredients contain alcohol. Such specialty beverage product shall be manufactured or distributed by a Virginia corporation.

"Place or premises" means the real estate, together with any buildings or other improvements thereon, designated in the application for a license as the place at which the manufacture, bottling, distribution, use or sale of alcoholic beverages shall be performed, except that portion of any such building or other improvement actually and exclusively used as a private residence.

"Public place" means any place, building, or conveyance to which the public has, or is permitted to have, access, including restaurants, soda fountains, hotel dining areas, lobbies and corridors of hotels, and any park, place of public resort or amusement, highway, street, lane, or sidewalk adjoining any highway, street, or lane.

The term shall not include (i) hotel or restaurant dining areas or ballrooms while in use for private meetings or private parties limited in attendance to members and guests of a particular group, association or organization; (ii) restaurants licensed by the Board in office buildings or industrial or similar facilities while such restaurant is closed to the public and in use for private meetings or parties limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such building or facility; (iii) offices, office buildings or industrial facilities while closed to the public and in use for private meetings or parties limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such building or facility; or (iv) private recreational or chartered boats which are not licensed by the Board and on which alcoholic beverages are not sold.

"Residence" means any building or part of a building or structure where a person resides, but does not include any part of a building which is not actually and exclusively used as a private residence, nor any part of a hotel or club other than a private guest room thereof.

"Resort complex" means a facility (i) with a hotel owning year-round sports and recreational facilities located contiguously on the same property or (ii) owned by a nonstock, nonprofit, taxable corporation with voluntary membership which, as its primary function, makes available golf, ski and other recreational facilities both to its members and the general public. The hotel or corporation shall have a minimum of 140 private guest rooms or dwelling units contained on not less than 50 acres. The Board may consider the purpose, characteristics, and operation of the applicant establishment in determining whether it shall be considered as a resort complex. All other pertinent qualifications established by the Board for a hotel operation shall be observed by such licensee.

"Restaurant" means, for a beer, or wine and beer license or a limited mixed beverage restaurant license, any establishment provided with special space and accommodation, where, in consideration of payment, meals or other foods prepared on the premises are regularly sold.

"Restaurant" means, for a mixed beverage license other than a limited mixed beverage restaurant license, an established place of business (i) where meals with substantial entrees are regularly sold and (ii) which has adequate facilities and sufficient employees for cooking, preparing, and serving such meals for consumption at tables in dining areas on the premises, and includes establishments specializing in full course meals with a single substantial entree.

"Sale" and "sell" includes soliciting or receiving an order for; keeping, offering or exposing for sale; peddling, exchanging or bartering; or delivering otherwise than gratuitously, by any means, alcoholic beverages.

"Sangria" means a drink consisting of red or white wine mixed with some combination of sweeteners, fruit, fruit juice, soda, or soda water that may also be mixed with brandy, triple sec, or other similar spirits.

"Special agent" means an employee of the Department of Alcoholic Beverage Control whom the Board has designated as a law-enforcement officer pursuant to § 4.1-105.

"Special event" means an event sponsored by a duly organized nonprofit corporation or association and conducted for an athletic, charitable, civic, educational, political, or religious purpose.

"Spirits" means any beverage which contains alcohol obtained by distillation mixed with drinkable water and other substances, in solution, and includes, among other things, brandy, rum, whiskey, and gin, or any one or more of the last four named ingredients; but shall not include any such liquors completely denatured in accordance with formulas approved by the United States government.

"Wine" means any alcoholic beverage obtained by the fermentation of the natural sugar content of fruits or other agricultural products containing (i) sugar, including honey and milk, either with or without additional sugar; (ii) one-half of one percent or more of alcohol by volume; and (iii) no product of distillation. The term includes any wine to which wine spirits have been added, as provided in the Internal Revenue Code, to make products commonly known as "fortified wine" which do not exceed an alcohol content of 21 percent by volume.

"Wine cooler" means a drink containing one-half of one percent or more of alcohol by volume, and not more than three and two-tenths percent of alcohol by weight or four percent by volume consisting of wine mixed with nonalcoholic beverages or flavoring or coloring materials, and which may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives and shall include other similar products manufactured by fermenting fruit or fruit juices. Wine coolers and similar fermented fruit juice beverages shall be treated as wine for all purposes except for taxation under § 4.1-236.

"With or without meals" means the selling and serving of alcoholic beverages by retail licensees for on-premises consumption whether or not accompanied by food so long as the total food-beverage ratio required by § 4.1-210, or the monthly food sale requirement established by Board regulation, is met by such retail licensee.

**§ 4.1-100. (Effective July 1, 2018) Definitions.**

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

"Alcohol" means the product known as ethyl or grain alcohol obtained by distillation of any fermented liquor, rectified either once or more often, whatever the origin, and shall include synthetic ethyl alcohol, but shall not include methyl alcohol and alcohol completely denatured in accordance with formulas approved by the government of the United States.

"Alcohol vaporizing device" means any device, machine, or process that mixes any alcoholic beverages with pure oxygen or other gas to produce a vaporized product for the purpose of consumption by inhalation.

"Alcoholic beverages" includes alcohol, spirits, wine, and beer, and any one or more of such varieties containing one-half of one percent or more of alcohol by volume, including mixed alcoholic beverages, and every liquid or solid, powder or crystal, patented or not, containing alcohol, spirits, wine, or beer and capable of being consumed by a human being. Any liquid or solid containing more than one of the four varieties shall be considered as belonging to that variety which has the higher percentage of alcohol, however obtained, according to the order in which they are set forth in this definition; except that beer may be manufactured to include flavoring materials and other nonbeverage ingredients containing alcohol, as long as no more than 49 percent of the overall alcohol content of the finished product is derived from the addition of flavors and other nonbeverage ingredients containing alcohol for products with an alcohol content of no more than six percent by volume; or, in the case of products with an alcohol content of more than six percent by volume, as long as no more than one and one-half percent of the volume of the finished product consists of alcohol derived from added flavors and other nonbeverage ingredients containing alcohol.

"Art instruction studio" means any commercial establishment that provides to its customers all required supplies and step-by-step instruction in creating a painting or other work of art during a studio instructional session.

"Arts venue" means a commercial or nonprofit establishment that is open to the public and in which works of art are sold or displayed.

"Authority" means the Virginia Alcoholic Beverage Control Authority created pursuant to this title.

"Barrel" means any container or vessel having a capacity of more than 43 ounces.

"Bed and breakfast establishment" means any establishment (i) having no more than 15 bedrooms; (ii) offering to the public, for compensation, transitory lodging or sleeping accommodations; and (iii) offering at least one meal per day, which may but need not be breakfast, to each person to whom overnight lodging is provided.

"Beer" means any alcoholic beverage obtained by the fermentation of an infusion or decoction of barley, malt, and hops or of any similar products in drinkable water and containing one-half of one percent or more of alcohol by volume.

"Board" means the Board of Directors of the Virginia Alcoholic Beverage Control Authority.

"Bottle" means any vessel intended to contain liquids and having a capacity of not more than 43 ounces.

"Canal boat operator" means any nonprofit organization that operates tourism-oriented canal boats for recreational purposes on waterways declared nonnavigable by the United States Congress pursuant to 33 U.S.C. § 59ii.

"Club" means any private nonprofit corporation or association which is the owner, lessee, or occupant of an establishment operated solely for a national, social, patriotic, political, athletic, or other like purpose, but not for pecuniary gain, the advantages of which belong to all of the members. It also means the establishment so operated. A corporation or association shall not lose its status as a club because of the conduct of charitable gaming conducted pursuant to Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2 in which nonmembers participate frequently or in large numbers, provided that no alcoholic beverages are served or consumed in the room where such charitable gaming is being conducted while

such gaming is being conducted and that no alcoholic beverages are made available upon the premises to any person who is neither a member nor a bona fide guest of a member.

Any such corporation or association which has been declared exempt from federal and state income taxes as one which is not organized and operated for pecuniary gain or profit shall be deemed a nonprofit corporation or association.

*"Commercial lifestyle center" means a mixed-use commercial development covering a minimum of 25 acres of land and having at least 100,000 square feet of retail space featuring national specialty chain stores and a combination of dining, entertainment, office, residential, or hotel establishments located in a physically integrated outdoor setting that is pedestrian friendly and that is governed by a commercial owners' association that is responsible for the management, maintenance, and operation of the common areas thereof.*

"Container" means any barrel, bottle, carton, keg, vessel or other receptacle used for holding alcoholic beverages.

"Contract winemaking facility" means the premises of a licensed winery or farm winery that obtains grapes, fruits, and other agricultural products from a person holding a farm winery license and crushes, processes, ferments, bottles, or provides any combination of such services pursuant to an agreement with the farm winery licensee. For all purposes of this title, wine produced by a contract winemaking facility for a farm winery shall be considered to be wine owned and produced by the farm winery that supplied the grapes, fruits, or other agricultural products used in the production of the wine. The contract winemaking facility shall have no right to sell the wine so produced, unless the terms of payment have not been fulfilled in accordance with the contract. The contract winemaking facility may charge the farm winery for its services.

"Convenience grocery store" means an establishment which (i) has an enclosed room in a permanent structure where stock is displayed and offered for sale and (ii) maintains an inventory of edible items intended for human consumption consisting of a variety of such items of the types normally sold in grocery stores.

"Day spa" means any commercial establishment that offers to the public both massage therapy, performed by persons licensed in accordance with § 54.1-3029, and barbering or cosmetology services performed by persons licensed in accordance with Chapter 7 (§ 54.1-700 et seq.) of Title 54.1.

"Designated area" means a room or area approved by the Board for on-premises licensees.

"Dining area" means a public room or area in which meals are regularly served.

"Establishment" means any place where alcoholic beverages of one or more varieties are lawfully manufactured, sold, or used.

"Farm winery" means (i) an establishment (a) located on a farm in the Commonwealth on land zoned agricultural with a producing vineyard, orchard, or similar growing area and with facilities for fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains not more than 21 percent alcohol by volume or (b) located in the Commonwealth on land zoned agricultural with a producing vineyard, orchard, or similar growing area or agreements for purchasing grapes or other fruits from agricultural growers within the Commonwealth and with facilities for fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains not more than 21 percent alcohol by volume or (ii) an accredited public or private institution of higher education, provided that (a) no wine manufactured by the institution shall be sold, (b) the wine manufactured by the institution shall be used solely for research and educational purposes, (c) the wine manufactured by the institution shall be stored on the premises of such farm winery that shall be separate and apart from all other facilities of the institution, and (d) such farm winery is operated in strict conformance with the requirements of this clause (ii) and Board regulations. As used in this definition, the terms "owner" and "lessee" shall include a cooperative formed by an association of individuals for the purpose of manufacturing wine. In the event that such cooperative is licensed as a farm winery, the term "farm" as used in this definition includes all of the land owned or leased by the individual members of the cooperative as long as such land is located in the Commonwealth. For purposes of this definition, "land zoned agricultural" means (1) land zoned as an agricultural district or classification or (2) land otherwise permitted by a locality for farm winery use. For purposes of this definition, "land zoned agricultural" does not include land zoned "residential conservation." Except for the limitation on land zoned "residential conservation," nothing in the definition of "land zoned agricultural" shall otherwise limit or affect local zoning authority.

"Gift shop" means any bona fide retail store selling, predominantly, gifts, books, souvenirs, specialty items relating to history, original and handmade arts and products, collectibles, crafts, and floral arrangements, which is open to the public on a regular basis. Such shop shall be a permanent structure where stock is displayed and offered for sale and which has facilities to properly secure any stock of wine or beer. Such shop may be located (i) on the premises or grounds of a government registered national, state or local historic building or site or (ii) within the premises of a museum. The Board shall consider the purpose, characteristics, nature, and operation of the shop in determining whether it shall be considered a gift shop.

"Gourmet brewing shop" means an establishment which sells to persons to whom wine or beer may lawfully be sold, ingredients for making wine or brewing beer, including packaging, and rents to such persons facilities for manufacturing, fermenting and bottling such wine or beer.

"Gourmet shop" means an establishment provided with adequate inventory, shelving, and storage facilities, where, in consideration of payment, substantial amounts of domestic and imported wines and beers of various types and sizes and related products such as cheeses and gourmet foods are habitually furnished to persons.

"Government store" means a store established by the Authority for the sale of alcoholic beverages.

"Hotel" means any duly licensed establishment, provided with special space and accommodation, where, in consideration of payment, food and lodging are habitually furnished to persons, and which has four or more bedrooms. It shall also mean the person who operates such hotel.

"Interdicted person" means a person to whom the sale of alcoholic beverages is prohibited by order pursuant to this title.

"Internet wine retailer" means a person who owns or operates an establishment with adequate inventory, shelving, and storage facilities, where, in consideration of payment, internet or telephone orders are taken and shipped directly to consumers and which establishment is not a retail store open to the public.

"Intoxicated" means a condition in which a person has drunk enough alcoholic beverages to observably affect his manner, disposition, speech, muscular movement, general appearance or behavior.

"Licensed" means the holding of a valid license granted by the Authority.

"Licensee" means any person to whom a license has been granted by the Authority.

"Liqueur" means any of a class of highly flavored alcoholic beverages that do not exceed an alcohol content of 25 percent by volume.

"Low alcohol beverage cooler" means a drink containing one-half of one percent or more of alcohol by volume, but not more than seven and one-half percent alcohol by volume, and consisting of spirits mixed with nonalcoholic beverages or flavoring or coloring materials; it may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, preservatives or other similar products manufactured by fermenting fruit or fruit juices. Low alcohol beverage coolers shall be treated as wine for all purposes of this title; except that low alcohol beverage coolers shall not be sold in localities that have not approved the sale of mixed beverages pursuant to § 4.1-124. In addition, low alcohol beverage coolers shall not be sold for on-premises consumption other than by mixed beverage licensees.

"Meal-assembly kitchen" means any commercial establishment that offers its customers, for off-premises consumption, ingredients for the preparation of meals and entrees in professional kitchen facilities located at the establishment.

"Meals" means, for a mixed beverage license, an assortment of foods commonly ordered in bona fide, full-service restaurants as principal meals of the day. Such restaurants shall include establishments specializing in full course meals with a single substantial entree.

"Member of a club" means (i) a person who maintains his membership in the club by the payment of monthly, quarterly, or annual dues in the manner established by the rules and regulations thereof or (ii) a person who is a member of a bona fide auxiliary, local chapter, or squadron composed of direct lineal descendants of a bona fide member, whether alive or deceased, of a national or international organization to which an individual lodge holding a club license is an authorized member in the same locality. It shall also mean a lifetime member whose financial contribution is not less than 10 times the annual dues of resident members of the club, the full amount of such contribution being paid in advance in a lump sum.

"Mixed beverage" or "mixed alcoholic beverage" means a drink composed in whole or in part of spirits.

"Mixer" means any prepackaged ingredients containing beverages or flavoring or coloring materials, and which may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives which are not commonly consumed unless combined with alcoholic beverages, whether or not such ingredients contain alcohol. Such specialty beverage product shall be manufactured or distributed by a Virginia corporation.

"Place or premises" means the real estate, together with any buildings or other improvements thereon, designated in the application for a license as the place at which the manufacture, bottling, distribution, use or sale of alcoholic beverages shall be performed, except that portion of any such building or other improvement actually and exclusively used as a private residence.

"Principal stockholder" means any person who individually or in concert with his spouse and immediate family members beneficially owns or controls, directly or indirectly, five percent or more of the equity ownership of any person that is a licensee of the Authority, or who in concert with his spouse and immediate family members has the power to vote or cause the vote of five percent or more of any such equity ownership. "Principal stockholder" does not include a broker-dealer registered under the Securities Exchange Act of 1934, as amended, that holds in inventory shares for sale on the financial markets for a publicly traded corporation holding, directly or indirectly, a license from the Authority.

"Public place" means any place, building, or conveyance to which the public has, or is permitted to have, access, including restaurants, soda fountains, hotel dining areas, lobbies and corridors of hotels, and any park, place of public resort or amusement, highway, street, lane, or sidewalk adjoining any highway, street, or lane.

The term shall not include (i) hotel or restaurant dining areas or ballrooms while in use for private meetings or private parties limited in attendance to members and guests of a particular group, association or organization; (ii) restaurants licensed by the Authority in office buildings or industrial or similar facilities while such restaurant is closed to the public and in use for private meetings or parties limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such building or facility; (iii) offices, office buildings or industrial facilities while closed to the public and in use for private meetings or parties limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such building or facility; or (iv) private recreational or chartered boats which are not licensed by the Board and on which alcoholic beverages are not sold.

"Residence" means any building or part of a building or structure where a person resides, but does not include any part of a building which is not actually and exclusively used as a private residence, nor any part of a hotel or club other than a private guest room thereof.

"Resort complex" means a facility (i) with a hotel owning year-round sports and recreational facilities located contiguously on the same property or (ii) owned by a nonstock, nonprofit, taxable corporation with voluntary membership which, as its primary function, makes available golf, ski and other recreational facilities both to its members and the general public. The hotel or corporation shall have a minimum of 140 private guest rooms or dwelling units contained on not less than 50 acres. The Authority may consider the purpose, characteristics, and operation of the applicant establishment in determining whether it shall be considered as a resort complex. All other pertinent qualifications established by the Board for a hotel operation shall be observed by such licensee.

"Restaurant" means, for a beer, or wine and beer license or a limited mixed beverage restaurant license, any establishment provided with special space and accommodation, where, in consideration of payment, meals or other foods prepared on the premises are regularly sold.

"Restaurant" means, for a mixed beverage license other than a limited mixed beverage restaurant license, an established place of business (i) where meals with substantial entrees are regularly sold and (ii) which has adequate facilities and sufficient employees for cooking, preparing, and serving such meals for consumption at tables in dining areas on the premises, and includes establishments specializing in full course meals with a single substantial entree.

"Sale" and "sell" includes soliciting or receiving an order for; keeping, offering or exposing for sale; peddling, exchanging or bartering; or delivering otherwise than gratuitously, by any means, alcoholic beverages.

"Sangria" means a drink consisting of red or white wine mixed with some combination of sweeteners, fruit, fruit juice, soda, or soda water that may also be mixed with brandy, triple sec, or other similar spirits.

"Special agent" means an employee of the Virginia Alcoholic Beverage Control Authority whom the Board has designated as a law-enforcement officer pursuant to § 4.1-105.

"Special event" means an event sponsored by a duly organized nonprofit corporation or association and conducted for an athletic, charitable, civic, educational, political, or religious purpose.

"Spirits" means any beverage which contains alcohol obtained by distillation mixed with drinkable water and other substances, in solution, and includes, among other things, brandy, rum, whiskey, and gin, or any one or more of the last four named ingredients; but shall not include any such liquors completely denatured in accordance with formulas approved by the United States government.

"Wine" means any alcoholic beverage obtained by the fermentation of the natural sugar content of fruits or other agricultural products containing (i) sugar, including honey and milk, either with or without additional sugar; (ii) one-half of one percent or more of alcohol by volume; and (iii) no product of distillation. The term includes any wine to which wine spirits have been added, as provided in the Internal Revenue Code, to make products commonly known as "fortified wine" which do not exceed an alcohol content of 21 percent by volume.

"Wine cooler" means a drink containing one-half of one percent or more of alcohol by volume, and not more than three and two-tenths percent of alcohol by weight or four percent by volume consisting of wine mixed with nonalcoholic beverages or flavoring or coloring materials, and which may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives and shall include other similar products manufactured by fermenting fruit or fruit juices. Wine coolers and similar fermented fruit juice beverages shall be treated as wine for all purposes except for taxation under § 4.1-236.

"With or without meals" means the selling and serving of alcoholic beverages by retail licensees for on-premises consumption whether or not accompanied by food so long as the total food-beverage ratio required by § 4.1-210, or the monthly food sale requirement established by Board regulation, is met by such retail licensee.

**§ 4.1-128. (Effective until July 1, 2018) Local ordinances or resolutions regulating or taxing alcoholic beverages.**

A. No county, city, or town shall, except as provided in § 4.1-205 or § 4.1-129, adopt any ordinance or resolution which regulates or prohibits the manufacture, bottling, possession, sale, wholesale distribution, handling, transportation, drinking, use, advertising or dispensing of alcoholic beverages in the Commonwealth. Nor shall any county, city, or town adopt an ordinance or resolution that prohibits or regulates the storage, warehousing, and wholesaling of wine in accordance with Title 4.1, regulations of the Alcoholic Beverage Control Board, and federal law at a licensed farm winery.

No provision of law, general or special, shall be construed to authorize any county, city or town to adopt any ordinance or resolution that imposes a sales or excise tax on alcoholic beverages, other than the taxes authorized by §§ 58.1-605, 58.1-3833 or § 58.1-3840. The foregoing limitation shall not affect the authority of any county, city or town to impose a license or privilege tax or fee on a business engaged in whole or in part in the sale of alcoholic beverages if the license or privilege tax or fee (i) is based on an annual or per event flat fee specifically authorized by general law or (ii) is an annual license or privilege tax specifically authorized by general law, which includes alcoholic beverages in its taxable measure and treats alcoholic beverages the same as if they were nonalcoholic beverages.

B. However, the governing body of any county, city, or town may adopt an ordinance ~~which~~ that (i) prohibits the acts described in subsection A of § 4.1-308 subject to the provisions of ~~subsection~~ subsections B and E of § 4.1-308, or the acts described in § 4.1-309, and may provide a penalty for violation thereof and (ii) subject to subsection C of § 4.1-308, regulates or prohibits the possession of opened alcoholic beverage containers in its local public parks, playgrounds, public streets, and any sidewalk adjoining any public street.

C. Except as provided in this section, all local acts, including charter provisions and ordinances of cities and towns, inconsistent with any of the provisions of this title, are repealed to the extent of such inconsistency.

**§ 4.1-128. (Effective July 1, 2018) Local ordinances or resolutions regulating or taxing alcoholic beverages.**

A. No county, city, or town shall, except as provided in § 4.1-205 or 4.1-129, adopt any ordinance or resolution which regulates or prohibits the manufacture, bottling, possession, sale, wholesale distribution, handling, transportation, drinking, use, advertising or dispensing of alcoholic beverages in the Commonwealth. Nor shall any county, city, or town adopt an ordinance or resolution that prohibits or regulates the storage, warehousing, and wholesaling of wine in accordance with Title 4.1, regulations of the Board, and federal law at a licensed farm winery.

No provision of law, general or special, shall be construed to authorize any county, city or town to adopt any ordinance or resolution that imposes a sales or excise tax on alcoholic beverages, other than the taxes authorized by § 58.1-605, 58.1-3833 or 58.1-3840. The foregoing limitation shall not affect the authority of any county, city or town to impose a license or privilege tax or fee on a business engaged in whole or in part in the sale of alcoholic beverages if the license or privilege tax or fee (i) is based on an annual or per event flat fee specifically authorized by general law or (ii) is an annual license or privilege tax specifically authorized by general law, which includes alcoholic beverages in its taxable measure and treats alcoholic beverages the same as if they were nonalcoholic beverages.

B. However, the governing body of any county, city, or town may adopt an ordinance ~~which that~~ (i) prohibits the acts described in subsection A of § 4.1-308 subject to the provisions of ~~subsection~~ *subsections B and E* of § 4.1-308, or the acts described in § 4.1-309, and may provide a penalty for violation thereof and (ii) subject to subsection C of § 4.1-308, regulates or prohibits the possession of opened alcoholic beverage containers in its local public parks, playgrounds, public streets, and any sidewalk adjoining any public street.

C. Except as provided in this section, all local acts, including charter provisions and ordinances of cities and towns, inconsistent with any of the provisions of this title, are repealed to the extent of such inconsistency.

**§ 4.1-206. Alcoholic beverage licenses.**

A. The Board may grant the following licenses relating to alcoholic beverages generally:

1. Distillers' licenses, which shall authorize the licensee to manufacture alcoholic beverages other than wine and beer, and to sell and deliver or ship the same, in accordance with Board regulations, in closed containers, to the Board and to persons outside the Commonwealth for resale outside the Commonwealth. When the Board has established a government store on the distiller's licensed premises pursuant to subsection D of § 4.1-119, such license shall also authorize the licensee to make a charge to consumers to participate in an organized tasting event conducted in accordance with subsection G of § 4.1-119 and Board regulations.

2. Limited distiller's licenses, to distilleries that manufacture not more than 36,000 gallons of alcoholic beverages other than wine or beer per calendar year, provided (i) the distillery is located on a farm in the Commonwealth on land zoned agricultural and owned or leased by such distillery or its owner and (ii) agricultural products used by such distillery in the manufacture of its alcoholic beverages are grown on the farm. Limited distiller's licensees shall be treated as distillers for all purposes of this title except as otherwise provided in this subdivision. For purposes of this subdivision, "land zoned agricultural" means (a) land zoned as an agricultural district or classification or (b) land otherwise permitted by a locality for limited distillery use. For purposes of this subdivision, "land zoned agricultural" does not include land zoned "residential conservation." Except for the limitation on land zoned "residential conservation," nothing in this definition shall otherwise limit or affect local zoning authority.

3. Fruit distillers' licenses, which shall authorize the licensee to manufacture any alcoholic beverages made from fruit or fruit juices, and to sell and deliver or ship the same, in accordance with Board regulations, in closed containers, to the Board and to persons outside the Commonwealth for resale outside the Commonwealth.

4. Banquet facility licenses to volunteer fire departments and volunteer emergency medical services agencies, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any person, and bona fide members and guests thereof, otherwise eligible for a banquet license. However, lawfully acquired alcoholic beverages shall not be purchased or sold by the licensee or sold or charged for in any way by the person permitted to use the premises. Such premises shall be a volunteer fire or volunteer emergency medical services agency station or both, regularly occupied as such and recognized by the governing body of the county, city, or town in which it is located. Under conditions as specified by Board regulation, such premises may be other than a volunteer fire or volunteer emergency medical services agency station, provided such other premises are occupied and under the control of the volunteer fire department or volunteer emergency medical services agency while the privileges of its license are being exercised.

5. Bed and breakfast licenses, which shall authorize the licensee to (i) serve alcoholic beverages in dining areas, private guest rooms and other designated areas to persons to whom overnight lodging is being provided, with or without meals, for on-premises consumption only in such rooms and areas, and without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises and (ii) permit the consumption of lawfully acquired alcoholic beverages by persons to whom overnight lodging is being provided in (a) bedrooms or private guest rooms or (b) other designated areas of the bed and breakfast establishment. For purposes of this subdivision, "other designated areas" includes outdoor dining areas, whether or not contiguous to the licensed premises, which may have more than one means of ingress and egress to an adjacent public thoroughfare, provided that such outdoor dining areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

6. Tasting licenses, which shall authorize the licensee to sell or give samples of alcoholic beverages of the type specified in the license in designated areas at events held by the licensee. A tasting license shall be issued for the purpose of

featuring and educating the consuming public about the alcoholic beverages being tasted. A separate license shall be required for each day of each tasting event. No tasting license shall be required for conduct authorized by § 4.1-201.1.

7. Museum licenses, which may be issued to nonprofit museums exempt from taxation under § 501(c)(3) of the Internal Revenue Code, which shall authorize the licensee to (i) permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any bona fide member and guests thereof and (ii) serve alcoholic beverages on the premises of the licensee to any bona fide member and guests thereof. However, alcoholic beverages shall not be sold or charged for in any way by the licensee. The privileges of this license shall be limited to the premises of the museum, regularly occupied and utilized as such.

8. Equine sporting event licenses, which may be issued to organizations holding equestrian, hunt and steeplechase events, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by patrons thereof during such event. However, alcoholic beverages shall not be sold or charged for in any way by the licensee. The privileges of this license shall be (i) limited to the premises of the licensee, regularly occupied and utilized for equestrian, hunt and steeplechase events and (ii) exercised on no more than four calendar days per year.

9. Day spa licenses, which shall authorize the licensee to (i) permit the consumption of lawfully acquired wine or beer on the premises of the licensee by any bona fide customer of the day spa and (ii) serve wine or beer on the premises of the licensee to any such bona fide customer; however, the licensee shall not give more than two five-ounce glasses of wine or one 12-ounce glass of beer to any such customer, nor shall it sell or otherwise charge a fee to such customer for the wine or beer served or consumed. The privileges of this license shall be limited to the premises of the day spa regularly occupied and utilized as such.

10. Motor car sporting event facility licenses, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by patrons thereof during such events. However, alcoholic beverages shall not be sold or charged for in any way, directly or indirectly, by the licensee. The privileges of this license shall be limited to those areas of the licensee's premises designated by the Board that are regularly occupied and utilized for motor car sporting events.

11. Meal-assembly kitchen license, which shall authorize the licensee to serve wine or beer on the premises of the licensee to any such bona fide customer attending either a private gathering or a special event; however, the licensee shall not give more than two five-ounce glasses of wine or two 12-ounce glasses of beer to any such customer, nor shall it sell or otherwise charge a fee to such customer for the wine or beer served or consumed. The privileges of this license shall be limited to the premises of the meal-assembly kitchen regularly occupied and utilized as such.

12. Canal boat operator license, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any bona fide customer attending either a private gathering or a special event; however, the licensee shall not sell or otherwise charge a fee to such customer for the alcoholic beverages so consumed. The privileges of this license shall be limited to the premises of the licensee, including the canal, the canal boats while in operation, and any pathways adjacent thereto. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license.

13. Annual arts venue event licenses, to persons operating an arts venue, which shall authorize the licensee participating in a community art walk that is open to the public to serve lawfully acquired wine or beer on the premises of the licensee to adult patrons thereof during such events. However, alcoholic beverages shall not be sold or charged for in any way, directly or indirectly, by the licensee, and the licensee shall not give more than two five-ounce glasses of wine or one 12-ounce glass of beer to any one adult patron. The privileges of this license shall be (i) limited to the premises of the arts venue regularly occupied and used as such and (ii) exercised on no more than 12 calendar days per year.

14. Art instruction studio licenses, which shall authorize the licensee to serve wine or beer on the premises of the licensee to any such bona fide customer; however, the licensee shall not give more than two five-ounce glasses of wine or one 12-ounce glass of beer to any such customer, nor shall it sell or otherwise charge a fee to such customer for the wine or beer served or consumed. The privileges of this license shall be limited to the premises of the art instruction studio regularly occupied and utilized as such.

15. *Commercial lifestyle center license, which may be issued only to a commercial owners' association governing a commercial lifestyle center, which shall authorize any retail on-premises restaurant licensee that is a tenant of the commercial lifestyle center to sell alcoholic beverages to any bona fide customer to whom alcoholic beverages may be lawfully sold for consumption on that portion of the licensed premises of the commercial lifestyle center designated by the Board, including (i) plazas, seating areas, concourses, walkways, or such other similar areas and (ii) the premises of any tenant location of the commercial lifestyle center that is not a retail licensee of the Board, upon approval of such tenant, but excluding any parking areas. Only alcoholic beverages purchased from such retail on-premises restaurant licensees may be consumed on the licensed premises of the commercial lifestyle center, and such alcoholic beverages shall be contained in paper, plastic, or similar disposable containers with the name or logo of the restaurant licensee that sold the alcoholic beverage clearly displayed. Alcoholic beverages shall not be sold or charged for in any way by the commercial lifestyle center licensee. The licensee shall post appropriate signage clearly demarcating for the public the boundaries of the licensed premises; however, no physical barriers shall be required for this purpose. The licensee shall provide adequate security for the licensed premises to ensure compliance with the applicable provisions of this title and Board regulations.*

B. Any limited distillery that, prior to July 1, 2016, (i) holds a valid license granted by the Alcoholic Beverage Control Board (the Board) in accordance with this title and (ii) is in compliance with the local zoning ordinance as an agricultural district or classification or as otherwise permitted by a locality for limited distillery use shall be allowed to continue such use as provided in § 15.2-2307, notwithstanding (a) the provisions of this section or (b) a subsequent change in ownership of the limited distillery on or after July 1, 2016, whether by transfer, acquisition, inheritance, or other means. Any such limited distillery located on land zoned residential conservation prior to July 1, 2016, may expand any existing building or structure and the uses thereof so long as specifically approved by the locality by special exception. Any such limited distillery located on land zoned residential conservation prior to July 1, 2016, may construct a new building or structure so long as specifically approved by the locality by special exception. All such licensees shall comply with the requirements of this title and Board regulations for renewal of such license or the issuance of a new license in the event of a change in ownership of the limited distillery on or after July 1, 2016.

**§ 4.1-231. Taxes on state licenses.**

A. The annual fees on state licenses shall be as follows:

1. Alcoholic beverage licenses. For each:

a. Distiller's license, if not more than 5,000 gallons of alcohol or spirits, or both, manufactured during the year in which the license is granted, \$450; if more than 5,000 gallons but not more than 36,000 gallons manufactured during such year, \$2,500; and if more than 36,000 gallons manufactured during such year, \$3,725;

b. Fruit distiller's license, \$3,725;

c. Banquet facility license or museum license, \$190;

d. Bed and breakfast establishment license, \$35;

e. Tasting license, \$40 per license granted;

f. Equine sporting event license, \$130;

g. Motor car sporting event facility license, \$130;

h. Day spa license, \$100;

i. Delivery permit, \$120 if the permittee holds no other license under this title;

j. Meal-assembly kitchen license, \$100;

k. Canal boat operator license, \$100;

l. Annual arts venue event license, \$100; ~~and~~

m. Art instruction studio license, \$100; *and*

n. *Commercial lifestyle center license, \$300.*

2. Wine licenses. For each:

a. Winery license, if not more than 5,000 gallons of wine manufactured during the year in which the license is granted, \$189, and if more than 5,000 gallons manufactured during such year, \$3,725;

b. (1) Wholesale wine license, \$185 for any wholesaler who sells 30,000 gallons of wine or less per year, \$930 for any wholesaler who sells more than 30,000 gallons per year but not more than 150,000 gallons of wine per year, \$1,430 for any wholesaler who sells more than 150,000 but not more than 300,000 gallons of wine per year, and, \$1,860 for any wholesaler who sells more than 300,000 gallons of wine per year;

(2) Wholesale wine license, including that granted pursuant to § 4.1-207.1, applicable to two or more premises, the annual state license tax shall be the amount set forth in subdivision b (1), multiplied by the number of separate locations covered by the license;

c. Wine importer's license, \$370;

d. Retail off-premises winery license, \$145, which shall include a delivery permit;

e. Farm winery license, \$190 for any Class A license and \$3,725 for any Class B license, each of which shall include a delivery permit;

f. Wine shipper's license, \$95; and

g. Internet wine retailer license, \$150.

3. Beer licenses. For each:

a. Brewery license, if not more than 500 barrels of beer manufactured during the year in which the license is granted, \$350; if not more than 10,000 barrels of beer manufactured during the year in which the license is granted, \$2,150; and if more than 10,000 barrels manufactured during such year, \$4,300;

b. Bottler's license, \$1,430;

c. (1) Wholesale beer license, \$930 for any wholesaler who sells 300,000 cases of beer a year or less, and \$1,430 for any wholesaler who sells more than 300,000 but not more than 600,000 cases of beer a year, and \$1,860 for any wholesaler who sells more than 600,000 cases of beer a year;

(2) Wholesale beer license applicable to two or more premises, the annual state license tax shall be the amount set forth in subdivision c (1), multiplied by the number of separate locations covered by the license;

d. Beer importer's license, \$370;

e. Retail on-premises beer license to a hotel, restaurant, club or other person, except a common carrier of passengers by train or boat, \$145; for each such license to a common carrier of passengers by train or boat, \$145 per annum for each of the average number of boats, dining cars, buffet cars or club cars operated daily in the Commonwealth;

f. Retail off-premises beer license, \$120, which shall include a delivery permit;

- g. Retail on-and-off premises beer license to a hotel, restaurant, club or grocery store located in a town or in a rural area outside the corporate limits of any city or town, \$300, which shall include a delivery permit;
  - h. Beer shipper's license, \$95; and
  - i. Retail off-premises brewery license, \$120, which shall include a delivery permit.
4. Wine and beer licenses. For each:
- a. Retail on-premises wine and beer license to a hotel, restaurant, club or other person, except a common carrier of passengers by train, boat or airplane, \$300; for each such license to a common carrier of passengers by train or boat, \$300 per annum for each of the average number of boats, dining cars, buffet cars or club cars operated daily in the Commonwealth, and for each such license granted to a common carrier of passengers by airplane, \$750;
  - b. Retail on-premises wine and beer license to a hospital, \$145;
  - c. Retail off-premises wine and beer license, including each gift shop, gourmet shop and convenience grocery store license, \$230, which shall include a delivery permit;
  - d. Retail on-and-off premises wine and beer license to a hotel, restaurant or club, \$600, which shall include a delivery permit;
  - e. Banquet license, \$40 per license granted by the Board, except for banquet licenses granted by the Board pursuant to subsection A of § 4.1-215 for events occurring on more than one day, which shall be \$100 per license;
  - f. Gourmet brewing shop license, \$230;
  - g. Wine and beer shipper's license, \$95;
  - h. Annual banquet license, \$150;
  - i. Fulfillment warehouse license, \$120;
  - j. Marketing portal license, \$150; and
  - k. Gourmet oyster house license, \$230.
5. Mixed beverage licenses. For each:
- a. Mixed beverage restaurant license granted to persons operating restaurants, including restaurants located on premises of and operated by hotels or motels, or other persons:
    - (i) With a seating capacity at tables for up to 100 persons, \$560;
    - (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$975; and
    - (iii) With a seating capacity at tables for more than 150 persons, \$1,430.
  - b. Mixed beverage restaurant license for restaurants located on the premises of and operated by private, nonprofit clubs:
    - (i) With an average yearly membership of not more than 200 resident members, \$750;
    - (ii) With an average yearly membership of more than 200 but not more than 500 resident members, \$1,860; and
    - (iii) With an average yearly membership of more than 500 resident members, \$2,765.
  - c. Mixed beverage caterer's license, \$1,860;
  - d. Mixed beverage limited caterer's license, \$500;
  - e. Mixed beverage special events license, \$45 for each day of each event;
  - f. Mixed beverage club events licenses, \$35 for each day of each event;
  - g. Annual mixed beverage special events license, \$560;
  - h. Mixed beverage carrier license:
    - (i) \$190 for each of the average number of dining cars, buffet cars or club cars operated daily in the Commonwealth by a common carrier of passengers by train;
    - (ii) \$560 for each common carrier of passengers by boat;
    - (iii) \$1,475 for each license granted to a common carrier of passengers by airplane.
  - i. Annual mixed beverage amphitheater license, \$560;
  - j. Annual mixed beverage motor sports race track license, \$560;
  - k. Annual mixed beverage banquet license, \$500;
  - l. Limited mixed beverage restaurant license:
    - (i) With a seating capacity at tables for up to 100 persons, \$460;
    - (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$875;
    - (iii) With a seating capacity at tables for more than 150 persons, \$1,330;
  - m. Annual mixed beverage motor sports facility license, \$560; and
  - n. Annual mixed beverage performing arts facility license, \$560.
6. Temporary licenses. For each temporary license authorized by § 4.1-211, one-half of the tax imposed by this section on the license for which the applicant applied.
- B. The tax on each such license, except banquet and mixed beverage special events licenses, shall be subject to proration to the following extent: If the license is granted in the second quarter of any year, the tax shall be decreased by one-fourth; if granted in the third quarter of any year, the tax shall be decreased by one-half; and if granted in the fourth quarter of any year, the tax shall be decreased by three-fourths.
- If the license on which the tax is prorated is a distiller's license to manufacture not more than 5,000 gallons of alcohol or spirits, or both, during the year in which the license is granted, or a winery license to manufacture not more than

5,000 gallons of wine during the year in which the license is granted, the number of gallons permitted to be manufactured shall be prorated in the same manner.

Should the holder of a distiller's license or a winery license to manufacture not more than 5,000 gallons of alcohol or spirits, or both, or wine, apply during the license year for an unlimited distiller's or winery license, such person shall pay for such unlimited license a license tax equal to the amount that would have been charged had such license been applied for at the time that the license to manufacture less than 5,000 gallons of alcohol or spirits or wine, as the case may be, was granted, and such person shall be entitled to a refund of the amount of license tax previously paid on the limited license.

Notwithstanding the foregoing, the tax on each license granted or reissued for a period other than 12, 24, or 36 months shall be equal to one-twelfth of the taxes required by subsection A computed to the nearest cent, multiplied by the number of months in the license period, and then increased by five percent. Such tax shall not be refundable, except as provided in § 4.1-232.

C. Nothing in this chapter shall exempt any licensee from any state merchants' license or state restaurant license or any other state tax. Every licensee, in addition to the taxes imposed by this chapter, shall be liable to state merchants' license taxation and state restaurant license taxation and other state taxation the same as if the alcoholic beverages were nonalcoholic. In ascertaining the liability of a beer wholesaler to merchants' license taxation, however, and in computing the wholesale merchants' license tax on a beer wholesaler, the first \$163,800 of beer purchases shall be disregarded; and in ascertaining the liability of a wholesale wine distributor to merchants' license taxation, and in computing the wholesale merchants' license tax on a wholesale wine distributor, the first \$163,800 of wine purchases shall be disregarded.

D. In addition to the taxes set forth in this section, a fee of \$5 may be imposed on any license purchased in person from the Board if such license is available for purchase online.

**§ 4.1-233. Taxes on local licenses.**

A. In addition to the state license taxes, the annual local license taxes which may be collected shall not exceed the following sums:

1. Alcoholic beverages. — For each:

a. Distiller's license, if more than 5,000 gallons but not more than 36,000 gallons manufactured during such year, \$750; if more than 36,000 gallons manufactured during such year, \$1,000; and no local license shall be required for any person who manufactures not more than 5,000 gallons of alcohol or spirits, or both, during such license year;

b. Fruit distiller's license, \$1,500;

c. Bed and breakfast establishment license, \$40;

d. Museum license, \$10;

e. Tasting license, \$5 per license granted;

f. Equine sporting event license, \$10;

g. Day spa license, \$20;

h. Motor car sporting event facility license, \$10;

i. Meal-assembly kitchen license, \$20;

j. Canal boat operator license, \$20;

k. Annual arts venue event license, \$20; ~~and~~

l. Art instruction studio license, \$20; *and*

m. *Commercial lifestyle center license, \$60.*

2. Beer. — For each:

a. Brewery license, if not more than 500 barrels of beer manufactured during the year in which the license is granted, \$250, and if more than 500 barrels of beer manufactured during the year in which the license is granted, \$1,000;

b. Bottler's license, \$500;

c. Wholesale beer license, in a city, \$250, and in a county or town, \$75;

d. Retail on-premises beer license for a hotel, restaurant or club and for each retail off-premises beer license in a city, \$100, and in a county or town, \$25; and

e. Beer shipper's license, \$10.

3. Wine. — For each:

a. Winery license, \$50;

b. Wholesale wine license, \$50;

c. Farm winery license, \$50; and

d. Wine shipper's license, \$10.

4. Wine and beer. — For each:

a. Retail on-premises wine and beer license for a hotel, restaurant or club; and for each retail off-premises wine and beer license, including each gift shop, gourmet shop and convenience grocery store license, in a city, \$150, and in a county or town, \$37.50;

b. Hospital license, \$10;

c. Banquet license, \$5 for each license granted, except for banquet licenses granted by the Board pursuant to subsection A of § 4.1-215 for events occurring on more than one day, which shall be \$20 per license;

d. Gourmet brewing shop license, \$150;

e. Wine and beer shipper's license, \$10;

- f. Annual banquet license, \$15; and
- g. Gourmet oyster house license, in a city, \$150, and in a county or town, \$37.50.
- 5. Mixed beverages. — For each:
  - a. Mixed beverage restaurant license, including restaurants located on the premises of and operated by hotels or motels, or other persons:
    - (i) With a seating capacity at tables for up to 100 persons, \$200;
    - (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$350; and
    - (iii) With a seating capacity at tables for more than 150 persons, \$500.
  - b. Private, nonprofit club operating a restaurant located on the premises of such club, \$350;
  - c. Mixed beverage caterer's license, \$500;
  - d. Mixed beverage limited caterer's license, \$100;
  - e. Mixed beverage special events licenses, \$10 for each day of each event;
  - f. Mixed beverage club events licenses, \$10 for each day of each event;
  - g. Annual mixed beverage amphitheater license, \$300;
  - h. Annual mixed beverage motor sports race track license, \$300;
  - i. Annual mixed beverage banquet license, \$75;
  - j. Limited mixed beverage restaurant license:
    - (i) With a seating capacity at tables for up to 100 persons, \$100;
    - (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$250;
    - (iii) With a seating capacity at tables for more than 150 persons, \$400;
  - k. Annual mixed beverage motor sports facility license, \$300; and
  - l. Annual mixed beverage performing arts facility license, \$300.
- B. Common carriers. — No local license tax shall be either charged or collected for the privilege of selling alcoholic beverages in (i) passenger trains, boats or airplanes and (ii) rooms designated by the Board of establishments of air carriers of passengers at airports in the Commonwealth for on-premises consumption only.

C. Merchants' and restaurants' license taxes. — The governing body of each county, city or town in the Commonwealth, in imposing local wholesale merchants' license taxes measured by purchases, local retail merchants' license taxes measured by sales, and local restaurant license taxes measured by sales, may include alcoholic beverages in the base for measuring such local license taxes the same as if the alcoholic beverages were nonalcoholic. No local alcoholic beverage license authorized by this chapter shall exempt any licensee from any local merchants' or local restaurant license tax, but such local merchants' and local restaurant license taxes may be in addition to the local alcoholic beverage license taxes authorized by this chapter.

The governing body of any county, city or town, in adopting an ordinance under this section, shall provide that in ascertaining the liability of (i) a beer wholesaler to local merchants' license taxation under the ordinance, and in computing the local wholesale merchants' license tax on such beer wholesaler, purchases of beer up to a stated amount shall be disregarded, which stated amount shall be the amount of beer purchases which would be necessary to produce a local wholesale merchants' license tax equal to the local wholesale beer license tax paid by such wholesaler and (ii) a wholesale wine licensee to local merchants' license taxation under the ordinance, and in computing the local wholesale merchants' license tax on such wholesale wine licensee, purchases of wine up to a stated amount shall be disregarded, which stated amount shall be the amount of wine purchases which would be necessary to produce a local wholesale merchants' license tax equal to the local wholesale wine licensee license tax paid by such wholesale wine licensee.

D. Delivery. — No county, city or town shall impose any local alcoholic beverages license tax on any wholesaler for the privilege of delivering alcoholic beverages in the county, city or town when such wholesaler maintains no place of business in such county, city or town.

E. Application of county tax within town. — Any county license tax imposed under this section shall not apply within the limits of any town located in such county, where such town now, or hereafter, imposes a town license tax on the same privilege.

**§ 4.1-308. Drinking alcoholic beverages, or offering to another, in public place; penalty; exceptions.**

A. If any person takes a drink of alcoholic beverages or offers a drink thereof to another, whether accepted or not, at or in any public place, he ~~shall be~~ *is* guilty of a Class 4 misdemeanor.

B. This section shall not prevent any person from drinking alcoholic beverages or offering a drink thereof to another in any rooms or areas approved by the Board in a licensed establishment, provided such establishment or the person who operates the same is licensed to sell alcoholic beverages at retail for on-premises consumption and the alcoholic beverages drunk or offered were purchased therein.

C. This section shall not prevent any person from drinking alcoholic beverages or offering a drink thereof to another in any room or area approved by the Board at an event for which a banquet license or mixed beverage special events license has been granted. Nor shall this section prevent, upon authorization of the licensee, any person from drinking his own lawfully acquired alcoholic beverages or offering a drink thereof to another in approved areas and locations at events for which a coliseum or stadium license has been granted.

D. This section shall not prevent any person from drinking alcoholic beverages or offering a drink thereof to another on a chartered boat being used for the transportation of passengers for compensation which is not licensed by the Board and which does not sell alcoholic beverages.

E. *This section shall not prevent any person from drinking alcoholic beverages or offering a drink thereof to another in any areas approved by the Board in a licensed commercial lifestyle center.*

## CHAPTER 158

*An Act to amend and reenact § 4.1-210 of the Code of Virginia, relating to alcoholic beverage control; mixed beverage performing arts facility license.*

[H 2078]

Approved February 23, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 4.1-210 of the Code of Virginia is amended and reenacted as follows:**

**§ 4.1-210. Mixed beverages licenses.**

A. Subject to the provisions of § 4.1-124, the Board may grant the following licenses relating to mixed beverages:

1. Mixed beverage restaurant licenses, which shall authorize the licensee to sell and serve mixed beverages for consumption in dining areas and other designated areas of such restaurant. Such license may be granted only to persons (i) who operate a restaurant and (ii) whose gross receipts from the sale of food cooked or prepared, and consumed on the premises and nonalcoholic beverages served on the premises, after issuance of such license, amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food. For the purposes of this subdivision, other designated areas shall include outdoor dining areas, whether or not contiguous to the licensed premises, which outdoor dining areas may have more than one means of ingress and egress to an adjacent public thoroughfare, provided such areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

If the restaurant is located on the premises of a hotel or motel with not less than four permanent bedrooms where food and beverage service is customarily provided by the restaurant in designated areas, bedrooms and other private rooms of such hotel or motel, such licensee may (i) sell and serve mixed beverages for consumption in such designated areas, bedrooms and other private rooms and (ii) sell spirits packaged in original closed containers purchased from the Board for on-premises consumption to registered guests and at scheduled functions of such hotel or motel only in such bedrooms or private rooms. However, with regard to a hotel classified as a resort complex, the Board may authorize the sale and on-premises consumption of alcoholic beverages in all areas within the resort complex deemed appropriate by the Board. Nothing herein shall prohibit any person from keeping and consuming his own lawfully acquired spirits in bedrooms or private rooms.

If the restaurant is located on the premises of and operated by a private, nonprofit or profit club exclusively for its members and their guests, or members of another private, nonprofit or profit club in another city with which it has an agreement for reciprocal dining privileges, such license shall also authorize the licensees to sell and serve mixed beverages for on-premises consumption. Where such club prepares no food in its restaurant but purchases its food requirements from a restaurant licensed by the Board and located on another portion of the premises of the same hotel or motel building, this fact shall not prohibit the granting of a license by the Board to such club qualifying in all other respects. The club's gross receipts from the sale of nonalcoholic beverages consumed on the premises and food resold to its members and guests and consumed on the premises shall amount to at least 45 percent of its gross receipts from the sale of mixed beverages and food. The food sales made by a restaurant to such a club shall be excluded in any consideration of the qualifications of such restaurant for a license from the Board.

2. Mixed beverage caterer's licenses, which may be granted only to a person regularly engaged in the business of providing food and beverages to others for service at private gatherings or at special events, which shall authorize the licensee to sell and serve alcoholic beverages for on-premises consumption. The annual gross receipts from the sale of food cooked and prepared for service and nonalcoholic beverages served at gatherings and events referred to in this subdivision shall amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food.

3. Mixed beverage limited caterer's licenses, which may be granted only to a person regularly engaged in the business of providing food and beverages to others for service at private gatherings or at special events, not to exceed 12 gatherings or events per year, which shall authorize the licensee to sell and serve alcoholic beverages for on-premises consumption. The annual gross receipts from the sale of food cooked and prepared for service and nonalcoholic beverages served at gatherings and events referred to in this subdivision shall amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food.

4. Mixed beverage special events licenses, to a duly organized nonprofit corporation or association in charge of a special event, which shall authorize the licensee to sell and serve mixed beverages for on-premises consumption in areas approved by the Board on the premises of the place designated in the license. A separate license shall be required for each day of each special event.

5. Annual mixed beverage special events licenses to (i) a duly organized nonprofit corporation or association operating either a performing arts facility or an art education and exhibition facility, (ii) a nonprofit corporation or association chartered by Congress for the preservation of sites, buildings and objects significant in American history and culture, or (iii) persons operating an agricultural event and entertainment park or similar facility that has a minimum of 50,000 square feet of indoor exhibit space and equine and other livestock show areas, which includes barns, pavilions, or other structures equipped with roofs, exterior walls, and open or closed-door access. The operation in all cases shall be upon premises owned by such licensee or occupied under a bona fide lease the original term of which was for more than one year's duration. Such license shall authorize the licensee to sell alcoholic beverages during scheduled events and performances for on-premises consumption in areas upon the licensed premises approved by the Board.

6. Mixed beverage carrier licenses to persons operating a common carrier of passengers by train, boat or airplane, which shall authorize the licensee to sell and serve mixed beverages anywhere in the Commonwealth to passengers while in transit aboard any such common carrier, and in designated rooms of establishments of air carriers at airports in the Commonwealth. For purposes of supplying its airplanes, as well as any airplanes of a licensed express carrier flying under the same brand, an air carrier licensee may appoint an authorized representative to load distilled spirits onto the same airplanes and to transport and store distilled spirits at or in close proximity to the airport where the distilled spirits will be delivered onto airplanes of the air carrier and any such licensed express carrier. The air carrier licensee shall (i) designate for purposes of its license all locations where the inventory of distilled spirits may be stored and from which the distilled spirits will be delivered onto airplanes of the air carrier and any such licensed express carrier and (ii) maintain records of all distilled spirits to be transported, stored, and delivered by its authorized representative.

7. Mixed beverage club events licenses, which shall authorize a club holding a beer or wine and beer club license to sell and serve mixed beverages for on-premises consumption by club members and their guests in areas approved by the Board on the club premises. A separate license shall be required for each day of each club event. No more than 12 such licenses shall be granted to a club in any calendar year.

8. Annual mixed beverage amphitheater licenses to persons operating food concessions at any outdoor performing arts amphitheater, arena or similar facility that has seating for more than 20,000 persons and is located in Prince William County or the City of Virginia Beach. Such license shall authorize the licensee to sell alcoholic beverages during the performance of any event, in paper, plastic or similar disposable containers to patrons within all seating areas, concourses, walkways, concession areas, or similar facilities, for on-premises consumption.

9. Annual mixed beverage amphitheater licenses to persons operating food concessions at any outdoor performing arts amphitheater, arena or similar facility that has seating for more than 5,000 persons and is located in the City of Alexandria or the City of Portsmouth. Such license shall authorize the licensee to sell alcoholic beverages during the performance of any event, in paper, plastic or similar disposable containers to patrons within all seating areas, concourses, walkways, concession areas, or similar facilities, for on-premises consumption.

10. Annual mixed beverage motor sports facility license to persons operating food concessions at any outdoor motor sports road racing club facility, of which the track surface is 3.27 miles in length, on 1, 200 acres of rural property bordering the Dan River, which shall authorize the licensee to sell mixed beverages, in paper, plastic, or similar disposable containers during scheduled events, as well as events or performances immediately subsequent thereto, to patrons in all dining facilities, seating areas, viewing areas, walkways, concession areas or similar facilities, for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license.

11. Annual mixed beverage banquet licenses to duly organized private nonprofit fraternal, patriotic or charitable membership organizations that are exempt from state and federal taxation and in charge of banquets conducted exclusively for its members and their guests, which shall authorize the licensee to serve mixed beverages for on-premises consumption in areas approved by the Board on the premises of the place designated in the license. Such license shall authorize the licensee to conduct no more than 12 banquets per calendar year.

12. Limited mixed beverage restaurant licenses, which shall authorize the licensee to sell and serve dessert wines as defined by Board regulation and no more than six varieties of liqueurs, which liqueurs shall be combined with coffee or other nonalcoholic beverages, for consumption in dining areas of the restaurant. Such license may be granted only to persons who operate a restaurant and in no event shall the sale of such wine or liqueur-based drinks, together with the sale of any other alcoholic beverages, exceed 10 percent of the total annual gross sales of all food and alcoholic beverages.

13. Annual mixed beverage motor sports facility licenses to persons operating concessions at an outdoor motor sports facility that hosts a NASCAR national touring race, which shall authorize the licensee to sell mixed beverages, in paper, plastic, or similar disposable containers during scheduled events, as well as events or performances immediately subsequent thereto, to patrons in all dining facilities, seating areas, viewing areas, walkways, concession areas or similar facilities, for on-premises consumption.

14. Annual mixed beverage performing arts facility license to corporations or associations operating a performing arts facility, provided the performing arts facility (i) is owned by a governmental entity; (ii) is occupied by a for-profit entity under a bona fide lease, the original term of which was for more than one year's duration; and (iii) has been rehabilitated in accordance with historic preservation standards. Such license shall authorize the sale, on the dates of performances or events, of alcoholic beverages for on-premises consumption in areas upon the licensed premises approved by the Board.

15. Annual mixed beverage performing arts facility license to persons operating food concessions at any performing arts facility located in the City of Norfolk or the City of Richmond, provided that the performing arts facility (i) is occupied under a bona fide long-term lease or concession agreement, the original term of which was more than five years; (ii) has a capacity in excess of 1,400 patrons; (iii) has been rehabilitated in accordance with historic preservation standards; and (iv) has monthly gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises that meet or exceed the monthly minimum established by Board regulations for mixed beverage restaurants. Such license shall authorize the sale, on the dates of performances or events, of alcoholic beverages for on-premises consumption in areas upon the licensed premises approved by the Board.

16. Annual mixed beverage performing arts facility license to persons operating food concessions at any performing arts facility located in the City of Waynesboro, provided that the performing arts facility (i) is occupied under a bona fide long-term lease or concession agreement, the original term of which was more than five years; (ii) has a total capacity in excess of 550 patrons; and (iii) has been rehabilitated in accordance with historic preservation standards. Such license shall authorize the sale, on the dates of performances or private or special events, of alcoholic beverages for on-premises consumption in areas upon the licensed premises approved by the Board.

17. *Annual mixed beverage performing arts facility license to persons operating food concessions at any performing arts facility located in the arts and cultural district of the City of Harrisonburg, provided that the performing arts facility (i) is occupied under a bona fide long-term lease or concession agreement, the original term of which was more than five years; (ii) has been rehabilitated in accordance with historic preservation standards; (iii) has monthly gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises that meet or exceed the monthly minimum established by Board regulations for mixed beverage restaurants; and (iv) has a total capacity in excess of 900 patrons. Such license shall authorize the sale, on the dates of performances or private or special events, of alcoholic beverages for on-premises consumption in areas upon the licensed premises approved by the Board.*

18. A combined mixed beverage restaurant and caterer's license, which may be granted to any restaurant or hotel that meets the qualifications for both a mixed beverage restaurant pursuant to subdivision A 1 and mixed beverage caterer pursuant to subdivision A 2 for the same business location, and which license shall authorize the licensee to operate as both a mixed beverage restaurant and mixed beverage caterer at the same business premises designated in the license, with a common alcoholic beverage inventory for purposes of the restaurant and catering operations. Such licensee shall meet the separate food qualifications established for the mixed beverage restaurant license pursuant to subdivision A 1 and mixed beverage caterer's license pursuant to subdivision A 2.

B. The granting of any license under subdivision A 1, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, ~~or~~ 17, or 18 shall automatically include a license to sell and serve wine and beer for on-premises consumption. The licensee shall pay the state and local taxes required by §§ 4.1-231 and 4.1-233.

## CHAPTER 159

*An Act to amend and reenact §§ 4.1-215, 4.1-231, and 4.1-233 of the Code of Virginia, relating to alcoholic beverage control; banquet licenses for breweries.*

[H 2418]

Approved February 23, 2017

### Be it enacted by the General Assembly of Virginia:

#### 1. That §§ 4.1-215, 4.1-231, and 4.1-233 of the Code of Virginia are amended and reenacted as follows:

##### § 4.1-215. Limitation on manufacturers, bottlers and wholesalers; exemptions.

A.1. Unless exempted pursuant to subsection B, no retail license for the sale of alcoholic beverages shall be granted to any (i) manufacturer, bottler or wholesaler of alcoholic beverages, whether licensed in the Commonwealth or not; (ii) officer or director of any such manufacturer, bottler or wholesaler; (iii) partnership or corporation, where any partner or stockholder is an officer or director of any such manufacturer, bottler or wholesaler; (iv) corporation which is a subsidiary of a corporation which owns or has interest in another subsidiary corporation which is a manufacturer, bottler or wholesaler of alcoholic beverages; or (v) manufacturer, bottler or wholesaler of alcoholic beverages who has a financial interest in a corporation which has a retail license as a result of a holding company, which owns or has an interest in such manufacturer, bottler or wholesaler of alcoholic beverages. Nor shall such licenses be granted in any instances where such manufacturer, bottler or wholesaler and such retailer are under common control, by stock ownership or otherwise.

##### 2. Notwithstanding any other provision of this title, a:

a. A manufacturer of malt beverages ~~or wine~~, whether licensed in the Commonwealth or not, may obtain a banquet license ~~for a special event~~ as provided in § 4.1-209 upon application to the Board, provided that ~~such the event for which a banquet license is obtained is~~ (a) at a place approved by the Board and (b) conducted for the purposes of featuring and educating the consuming public about malt beverage ~~or wine~~ products. Such manufacturer shall be limited to ~~no more than four~~ ~~eight~~ banquet licenses for such ~~special~~ events per year *without regard to the number of breweries owned or operated by such manufacturer or by any parent, subsidiary, or company under common control with such manufacturer.* Where the event occurs on no more than three consecutive days, a manufacturer need only obtain one such license for the event; or

*b. A manufacturer of wine, whether licensed in the Commonwealth or not, may obtain a banquet license as provided in § 4.1-209 upon application to the Board, provided that the event for which a banquet license is obtained is (i) at a place approved by the Board and (ii) conducted for the purposes of featuring and educating the consuming public about wine products. Such manufacturer shall be limited to eight banquet licenses for such events per year without regard to the number of wineries owned or operated by such manufacturer or by any parent, subsidiary, or company under common control with such manufacturer. Where the event occurs on no more than three consecutive days, a manufacturer need only obtain one such license for the event.*

3. Notwithstanding any other provision of this title, a manufacturer of distilled spirits, whether licensed in the Commonwealth or not, may obtain a banquet license for a special event as provided in subdivision A 4 of § 4.1-210 upon application to the Board, provided that such event is (1) at a place approved by the Board and (2) conducted for the purposes of featuring and educating the consuming public about the manufacturer's spirits products. Such manufacturer shall be limited to no more than four banquet licenses for such special events per year. Where the event occurs on no more than three consecutive days, a manufacturer need only obtain one such license for the event. Such banquet license shall authorize the manufacturer to give samples of spirits to any person to whom alcoholic beverages may be lawfully sold in designated areas at the special event, provided that (A) no single sample shall exceed one-half ounce per spirits product offered, unless served as a mixed beverage, in which case a single sample may contain up to one and one-half ounces of spirits, and (B) no more than three ounces of spirits may be offered to any patron. Nothing in this paragraph shall prohibit such manufacturer from serving such samples as part of a mixed beverage.

B. This section shall not apply to:

1. Corporations operating dining cars, buffet cars, club cars or boats;
2. Brewery, distillery, or winery licensees engaging in conduct authorized by subdivision A 5 of § 4.1-201;
3. Farm winery licensees engaging in conduct authorized by subdivision 5 of § 4.1-207;
4. Manufacturers, bottlers or wholesalers of alcoholic beverages who do not (i) sell or otherwise furnish, directly or indirectly, alcoholic beverages or other merchandise to persons holding a retail license or banquet license as described in subsection A and (ii) require, by agreement or otherwise, such person to exclude from sale at his establishment alcoholic beverages of other manufacturers, bottlers or wholesalers;
5. Wineries, farm wineries, or breweries engaging in conduct authorized by § 4.1-209.1 or 4.1-212.1; or
6. One out-of-state winery, not under common control or ownership with any other winery, that is under common ownership or control with one restaurant licensed to sell wine at retail in Virginia, so long as any wine produced by that winery is purchased from a Virginia wholesale wine licensee by the restaurant before it is offered for sale to consumers.

C. The General Assembly finds that it is necessary and proper to require a separation between manufacturing interests, wholesale interests and retail interests in the production and distribution of alcoholic beverages in order to prevent suppliers from dominating local markets through vertical integration and to prevent excessive sales of alcoholic beverages caused by overly aggressive marketing techniques. The exceptions established by this section to the general prohibition against tied interests shall be limited to their express terms so as not to undermine the general prohibition and shall therefore be construed accordingly.

**§ 4.1-231. Taxes on state licenses.**

A. The annual fees on state licenses shall be as follows:

1. Alcoholic beverage licenses. For each:
  - a. Distiller's license, if not more than 5,000 gallons of alcohol or spirits, or both, manufactured during the year in which the license is granted, \$450; if more than 5,000 gallons but not more than 36,000 gallons manufactured during such year, \$2,500; and if more than 36,000 gallons manufactured during such year, \$3,725;
  - b. Fruit distiller's license, \$3,725;
  - c. Banquet facility license or museum license, \$190;
  - d. Bed and breakfast establishment license, \$35;
  - e. Tasting license, \$40 per license granted;
  - f. Equine sporting event license, \$130;
  - g. Motor car sporting event facility license, \$130;
  - h. Day spa license, \$100;
  - i. Delivery permit, \$120 if the permittee holds no other license under this title;
  - j. Meal-assembly kitchen license, \$100;
  - k. Canal boat operator license, \$100;
  - l. Annual arts venue event license, \$100; and
  - m. Art instruction studio license, \$100.
2. Wine licenses. For each:
  - a. Winery license, if not more than 5,000 gallons of wine manufactured during the year in which the license is granted, \$189, and if more than 5,000 gallons manufactured during such year, \$3,725;
  - b. (1) Wholesale wine license, \$185 for any wholesaler who sells 30,000 gallons of wine or less per year, \$930 for any wholesaler who sells more than 30,000 gallons per year but not more than 150,000 gallons of wine per year, \$1,430 for any wholesaler who sells more than 150,000 but not more than 300,000 gallons of wine per year, and, \$1,860 for any wholesaler who sells more than 300,000 gallons of wine per year;

(2) Wholesale wine license, including that granted pursuant to § 4.1-207.1, applicable to two or more premises, the annual state license tax shall be the amount set forth in subdivision b (1), multiplied by the number of separate locations covered by the license;

c. Wine importer's license, \$370;

d. Retail off-premises winery license, \$145, which shall include a delivery permit;

e. Farm winery license, \$190 for any Class A license and \$3,725 for any Class B license, each of which shall include a delivery permit;

f. Wine shipper's license, \$95; and

g. Internet wine retailer license, \$150.

3. Beer licenses. For each:

a. Brewery license, if not more than 500 barrels of beer manufactured during the year in which the license is granted, \$350; if not more than 10,000 barrels of beer manufactured during the year in which the license is granted, \$2,150; and if more than 10,000 barrels manufactured during such year, \$4,300;

b. Bottler's license, \$1,430;

c. (1) Wholesale beer license, \$930 for any wholesaler who sells 300,000 cases of beer a year or less, and \$1,430 for any wholesaler who sells more than 300,000 but not more than 600,000 cases of beer a year, and \$1,860 for any wholesaler who sells more than 600,000 cases of beer a year;

(2) Wholesale beer license applicable to two or more premises, the annual state license tax shall be the amount set forth in subdivision c (1), multiplied by the number of separate locations covered by the license;

d. Beer importer's license, \$370;

e. Retail on-premises beer license to a hotel, restaurant, club or other person, except a common carrier of passengers by train or boat, \$145; for each such license to a common carrier of passengers by train or boat, \$145 per annum for each of the average number of boats, dining cars, buffet cars or club cars operated daily in the Commonwealth;

f. Retail off-premises beer license, \$120, which shall include a delivery permit;

g. Retail on-and-off premises beer license to a hotel, restaurant, club or grocery store located in a town or in a rural area outside the corporate limits of any city or town, \$300, which shall include a delivery permit;

h. Beer shipper's license, \$95; and

i. Retail off-premises brewery license, \$120, which shall include a delivery permit.

4. Wine and beer licenses. For each:

a. Retail on-premises wine and beer license to a hotel, restaurant, club or other person, except a common carrier of passengers by train, boat or airplane, \$300; for each such license to a common carrier of passengers by train or boat, \$300 per annum for each of the average number of boats, dining cars, buffet cars or club cars operated daily in the Commonwealth, and for each such license granted to a common carrier of passengers by airplane, \$750;

b. Retail on-premises wine and beer license to a hospital, \$145;

c. Retail off-premises wine and beer license, including each gift shop, gourmet shop and convenience grocery store license, \$230, which shall include a delivery permit;

d. Retail on-and-off premises wine and beer license to a hotel, restaurant or club, \$600, which shall include a delivery permit;

e. Banquet license, \$40 per license granted by the Board, except for banquet licenses granted by the Board pursuant to subsection A of § 4.1-215 for events occurring on more than one day, which shall be \$100 per license;

f. Gourmet brewing shop license, \$230;

g. Wine and beer shipper's license, \$95;

h. Annual banquet license, \$150;

i. Fulfillment warehouse license, \$120;

j. Marketing portal license, \$150; and

k. Gourmet oyster house license, \$230.

5. Mixed beverage licenses. For each:

a. Mixed beverage restaurant license granted to persons operating restaurants, including restaurants located on premises of and operated by hotels or motels, or other persons:

(i) With a seating capacity at tables for up to 100 persons, \$560;

(ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$975; and

(iii) With a seating capacity at tables for more than 150 persons, \$1,430.

b. Mixed beverage restaurant license for restaurants located on the premises of and operated by private, nonprofit clubs:

(i) With an average yearly membership of not more than 200 resident members, \$750;

(ii) With an average yearly membership of more than 200 but not more than 500 resident members, \$1,860; and

(iii) With an average yearly membership of more than 500 resident members, \$2,765.

c. Mixed beverage caterer's license, \$1,860;

d. Mixed beverage limited caterer's license, \$500;

e. Mixed beverage special events license, \$45 for each day of each event;

f. Mixed beverage club events licenses, \$35 for each day of each event;

- g. Annual mixed beverage special events license, \$560;
  - h. Mixed beverage carrier license:
    - (i) \$190 for each of the average number of dining cars, buffet cars or club cars operated daily in the Commonwealth by a common carrier of passengers by train;
    - (ii) \$560 for each common carrier of passengers by boat;
    - (iii) \$1,475 for each license granted to a common carrier of passengers by airplane.
  - i. Annual mixed beverage amphitheater license, \$560;
  - j. Annual mixed beverage motor sports race track license, \$560;
  - k. Annual mixed beverage banquet license, \$500;
  - l. Limited mixed beverage restaurant license:
    - (i) With a seating capacity at tables for up to 100 persons, \$460;
    - (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$875;
    - (iii) With a seating capacity at tables for more than 150 persons, \$1,330;
  - m. Annual mixed beverage motor sports facility license, \$560; and
  - n. Annual mixed beverage performing arts facility license, \$560.
6. Temporary licenses. For each temporary license authorized by § 4.1-211, one-half of the tax imposed by this section on the license for which the applicant applied.

B. The tax on each such license, except banquet and mixed beverage special events licenses, shall be subject to proration to the following extent: If the license is granted in the second quarter of any year, the tax shall be decreased by one-fourth; if granted in the third quarter of any year, the tax shall be decreased by one-half; and if granted in the fourth quarter of any year, the tax shall be decreased by three-fourths.

If the license on which the tax is prorated is a distiller's license to manufacture not more than 5,000 gallons of alcohol or spirits, or both, during the year in which the license is granted, or a winery license to manufacture not more than 5,000 gallons of wine during the year in which the license is granted, the number of gallons permitted to be manufactured shall be prorated in the same manner.

Should the holder of a distiller's license or a winery license to manufacture not more than 5,000 gallons of alcohol or spirits, or both, or wine, apply during the license year for an unlimited distiller's or winery license, such person shall pay for such unlimited license a license tax equal to the amount that would have been charged had such license been applied for at the time that the license to manufacture less than 5,000 gallons of alcohol or spirits or wine, as the case may be, was granted, and such person shall be entitled to a refund of the amount of license tax previously paid on the limited license.

Notwithstanding the foregoing, the tax on each license granted or reissued for a period other than 12, 24, or 36 months shall be equal to one-twelfth of the taxes required by subsection A computed to the nearest cent, multiplied by the number of months in the license period, and then increased by five percent. Such tax shall not be refundable, except as provided in § 4.1-232.

C. Nothing in this chapter shall exempt any licensee from any state merchants' license or state restaurant license or any other state tax. Every licensee, in addition to the taxes imposed by this chapter, shall be liable to state merchants' license taxation and state restaurant license taxation and other state taxation the same as if the alcoholic beverages were nonalcoholic. In ascertaining the liability of a beer wholesaler to merchants' license taxation, however, and in computing the wholesale merchants' license tax on a beer wholesaler, the first \$163,800 of beer purchases shall be disregarded; and in ascertaining the liability of a wholesale wine distributor to merchants' license taxation, and in computing the wholesale merchants' license tax on a wholesale wine distributor, the first \$163,800 of wine purchases shall be disregarded.

D. In addition to the taxes set forth in this section, a fee of \$5 may be imposed on any license purchased in person from the Board if such license is available for purchase online.

#### § 4.1-233. Taxes on local licenses.

A. In addition to the state license taxes, the annual local license taxes which may be collected shall not exceed the following sums:

- 1. Alcoholic beverages. — For each:
  - a. Distiller's license, if more than 5,000 gallons but not more than 36,000 gallons manufactured during such year, \$750; if more than 36,000 gallons manufactured during such year, \$1,000; and no local license shall be required for any person who manufactures not more than 5,000 gallons of alcohol or spirits, or both, during such license year;
  - b. Fruit distiller's license, \$1,500;
  - c. Bed and breakfast establishment license, \$40;
  - d. Museum license, \$10;
  - e. Tasting license, \$5 per license granted;
  - f. Equine sporting event license, \$10;
  - g. Day spa license, \$20;
  - h. Motor car sporting event facility license, \$10;
  - i. Meal-assembly kitchen license, \$20;
  - j. Canal boat operator license, \$20;
  - k. Annual arts venue event license, \$20; and
  - l. Art instruction studio license, \$20.

2. Beer. — For each:
- a. Brewery license, if not more than 500 barrels of beer manufactured during the year in which the license is granted, \$250, and if more than 500 barrels of beer manufactured during the year in which the license is granted, \$1,000;
  - b. Bottler's license, \$500;
  - c. Wholesale beer license, in a city, \$250, and in a county or town, \$75;
  - d. Retail on-premises beer license for a hotel, restaurant or club and for each retail off-premises beer license in a city, \$100, and in a county or town, \$25; and
  - e. Beer shipper's license, \$10.
3. Wine. — For each:
- a. Winery license, \$50;
  - b. Wholesale wine license, \$50;
  - c. Farm winery license, \$50; and
  - d. Wine shipper's license, \$10.
4. Wine and beer. — For each:
- a. Retail on-premises wine and beer license for a hotel, restaurant or club; and for each retail off-premises wine and beer license, including each gift shop, gourmet shop and convenience grocery store license, in a city, \$150, and in a county or town, \$37.50;
  - b. Hospital license, \$10;
  - c. Banquet license, \$5 for each license granted, except for banquet licenses granted by the Board pursuant to subsection A of § 4.1-215 for events occurring on more than one day, which shall be \$20 per license;
  - d. Gourmet brewing shop license, \$150;
  - e. Wine and beer shipper's license, \$10;
  - f. Annual banquet license, \$15; and
  - g. Gourmet oyster house license, in a city, \$150, and in a county or town, \$37.50.
5. Mixed beverages. — For each:
- a. Mixed beverage restaurant license, including restaurants located on the premises of and operated by hotels or motels, or other persons:
    - (i) With a seating capacity at tables for up to 100 persons, \$200;
    - (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$350; and
    - (iii) With a seating capacity at tables for more than 150 persons, \$500.
  - b. Private, nonprofit club operating a restaurant located on the premises of such club, \$350;
  - c. Mixed beverage caterer's license, \$500;
  - d. Mixed beverage limited caterer's license, \$100;
  - e. Mixed beverage special events licenses, \$10 for each day of each event;
  - f. Mixed beverage club events licenses, \$10 for each day of each event;
  - g. Annual mixed beverage amphitheater license, \$300;
  - h. Annual mixed beverage motor sports race track license, \$300;
  - i. Annual mixed beverage banquet license, \$75;
  - j. Limited mixed beverage restaurant license:
    - (i) With a seating capacity at tables for up to 100 persons, \$100;
    - (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$250;
    - (iii) With a seating capacity at tables for more than 150 persons, \$400;
  - k. Annual mixed beverage motor sports facility license, \$300; and
  - l. Annual mixed beverage performing arts facility license, \$300.

B. Common carriers. — No local license tax shall be either charged or collected for the privilege of selling alcoholic beverages in (i) passenger trains, boats or airplanes and (ii) rooms designated by the Board of establishments of air carriers of passengers at airports in the Commonwealth for on-premises consumption only.

C. Merchants' and restaurants' license taxes. — The governing body of each county, city or town in the Commonwealth, in imposing local wholesale merchants' license taxes measured by purchases, local retail merchants' license taxes measured by sales, and local restaurant license taxes measured by sales, may include alcoholic beverages in the base for measuring such local license taxes the same as if the alcoholic beverages were nonalcoholic. No local alcoholic beverage license authorized by this chapter shall exempt any licensee from any local merchants' or local restaurant license tax, but such local merchants' and local restaurant license taxes may be in addition to the local alcoholic beverage license taxes authorized by this chapter.

The governing body of any county, city or town, in adopting an ordinance under this section, shall provide that in ascertaining the liability of (i) a beer wholesaler to local merchants' license taxation under the ordinance, and in computing the local wholesale merchants' license tax on such beer wholesaler, purchases of beer up to a stated amount shall be disregarded, which stated amount shall be the amount of beer purchases which would be necessary to produce a local wholesale merchants' license tax equal to the local wholesale beer license tax paid by such wholesaler and (ii) a wholesale wine licensee to local merchants' license taxation under the ordinance, and in computing the local wholesale merchants' license tax on such wholesale wine licensee, purchases of wine up to a stated amount shall be disregarded, which stated

amount shall be the amount of wine purchases which would be necessary to produce a local wholesale merchants' license tax equal to the local wholesale wine licensee license tax paid by such wholesale wine licensee.

D. Delivery. — No county, city or town shall impose any local alcoholic beverages license tax on any wholesaler for the privilege of delivering alcoholic beverages in the county, city or town when such wholesaler maintains no place of business in such county, city or town.

E. Application of county tax within town. — Any county license tax imposed under this section shall not apply within the limits of any town located in such county, where such town now, or hereafter, imposes a town license tax on the same privilege.

## CHAPTER 160

*An Act to amend and reenact §§ 4.1-100, as it is currently effective and as it shall become effective, 4.1-111, 4.1-119, as it is currently effective and as it shall become effective, 4.1-213, and 4.1-214 of the Code of Virginia, relating to alcoholic beverage control; cider.*

[H 2433]

Approved February 23, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 4.1-100, as it is currently effective and as it shall become effective, 4.1-111, 4.1-119, as it is currently effective and as it shall become effective, 4.1-213, and 4.1-214 of the Code of Virginia are amended and reenacted as follows:**

**§ 4.1-100. (Effective until July 1, 2018) Definitions.**

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

"Alcohol" means the product known as ethyl or grain alcohol obtained by distillation of any fermented liquor, rectified either once or more often, whatever the origin, and shall include synthetic ethyl alcohol, but shall not include methyl alcohol and alcohol completely denatured in accordance with formulas approved by the government of the United States.

"Alcohol vaporizing device" means any device, machine, or process that mixes any alcoholic beverages with pure oxygen or other gas to produce a vaporized product for the purpose of consumption by inhalation.

"Alcoholic beverages" includes alcohol, spirits, wine, and beer, and any one or more of such varieties containing one-half of one percent or more of alcohol by volume, including mixed alcoholic beverages, and every liquid or solid, powder or crystal, patented or not, containing alcohol, spirits, wine, or beer and capable of being consumed by a human being. Any liquid or solid containing more than one of the four varieties shall be considered as belonging to that variety which has the higher percentage of alcohol, however obtained, according to the order in which they are set forth in this definition; except that beer may be manufactured to include flavoring materials and other nonbeverage ingredients containing alcohol, as long as no more than 49 percent of the overall alcohol content of the finished product is derived from the addition of flavors and other nonbeverage ingredients containing alcohol for products with an alcohol content of no more than six percent by volume; or, in the case of products with an alcohol content of more than six percent by volume, as long as no more than one and one-half percent of the volume of the finished product consists of alcohol derived from added flavors and other nonbeverage ingredients containing alcohol.

"Art instruction studio" means any commercial establishment that provides to its customers all required supplies and step-by-step instruction in creating a painting or other work of art during a studio instructional session.

"Arts venue" means a commercial or nonprofit establishment that is open to the public and in which works of art are sold or displayed.

"Barrel" means any container or vessel having a capacity of more than 43 ounces.

"Bed and breakfast establishment" means any establishment (i) having no more than 15 bedrooms; (ii) offering to the public, for compensation, transitory lodging or sleeping accommodations; and (iii) offering at least one meal per day, which may but need not be breakfast, to each person to whom overnight lodging is provided.

"Beer" means any alcoholic beverage obtained by the fermentation of an infusion or decoction of barley, malt, and hops or of any similar products in drinkable water and containing one-half of one percent or more of alcohol by volume.

"Board" means the Virginia Alcoholic Beverage Control Board.

"Bottle" means any vessel intended to contain liquids and having a capacity of not more than 43 ounces.

"Canal boat operator" means any nonprofit organization that operates tourism-oriented canal boats for recreational purposes on waterways declared nonnavigable by the United States Congress pursuant to 33 U.S.C. § 59ii.

"Club" means any private nonprofit corporation or association which is the owner, lessee, or occupant of an establishment operated solely for a national, social, patriotic, political, athletic, or other like purpose, but not for pecuniary gain, the advantages of which belong to all of the members. It also means the establishment so operated. A corporation or association shall not lose its status as a club because of the conduct of charitable gaming conducted pursuant to Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2 in which nonmembers participate frequently or in large numbers, provided that no alcoholic beverages are served or consumed in the room where such charitable gaming is being conducted while such gaming is being conducted and that no alcoholic beverages are made available upon the premises to any person who is neither a member nor a bona fide guest of a member.

Any such corporation or association which has been declared exempt from federal and state income taxes as one which is not organized and operated for pecuniary gain or profit shall be deemed a nonprofit corporation or association.

"Container" means any barrel, bottle, carton, keg, vessel or other receptacle used for holding alcoholic beverages.

"Contract winemaking facility" means the premises of a licensed winery or farm winery that obtains grapes, fruits, and other agricultural products from a person holding a farm winery license and crushes, processes, ferments, bottles, or provides any combination of such services pursuant to an agreement with the farm winery licensee. For all purposes of this title, wine produced by a contract winemaking facility for a farm winery shall be considered to be wine owned and produced by the farm winery that supplied the grapes, fruits, or other agricultural products used in the production of the wine. The contract winemaking facility shall have no right to sell the wine so produced, unless the terms of payment have not been fulfilled in accordance with the contract. The contract winemaking facility may charge the farm winery for its services.

"Convenience grocery store" means an establishment which (i) has an enclosed room in a permanent structure where stock is displayed and offered for sale and (ii) maintains an inventory of edible items intended for human consumption consisting of a variety of such items of the types normally sold in grocery stores.

"Day spa" means any commercial establishment that offers to the public both massage therapy, performed by persons licensed in accordance with § 54.1-3029, and barbering or cosmetology services performed by persons licensed in accordance with Chapter 7 (§ 54.1-700 et seq.) of Title 54.1.

"Designated area" means a room or area approved by the Board for on-premises licensees.

"Dining area" means a public room or area in which meals are regularly served.

"Establishment" means any place where alcoholic beverages of one or more varieties are lawfully manufactured, sold, or used.

"Farm winery" means (i) an establishment (a) located on a farm in the Commonwealth on land zoned agricultural with a producing vineyard, orchard, or similar growing area and with facilities for fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains not more than 21 percent alcohol by volume or (b) located in the Commonwealth on land zoned agricultural with a producing vineyard, orchard, or similar growing area or agreements for purchasing grapes or other fruits from agricultural growers within the Commonwealth and with facilities for fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains not more than 21 percent alcohol by volume or (ii) an accredited public or private institution of higher education, provided that (a) no wine manufactured by the institution shall be sold, (b) the wine manufactured by the institution shall be used solely for research and educational purposes, (c) the wine manufactured by the institution shall be stored on the premises of such farm winery that shall be separate and apart from all other facilities of the institution, and (d) such farm winery is operated in strict conformance with the requirements of this clause (ii) and Board regulations. As used in this definition, the terms "owner" and "lessee" shall include a cooperative formed by an association of individuals for the purpose of manufacturing wine. In the event that such cooperative is licensed as a farm winery, the term "farm" as used in this definition includes all of the land owned or leased by the individual members of the cooperative as long as such land is located in the Commonwealth. For purposes of this definition, "land zoned agricultural" means (1) land zoned as an agricultural district or classification or (2) land otherwise permitted by a locality for farm winery use. For purposes of this definition, "land zoned agricultural" does not include land zoned "residential conservation." Except for the limitation on land zoned "residential conservation," nothing in the definition of "land zoned agricultural" shall otherwise limit or affect local zoning authority.

"Gift shop" means any bona fide retail store selling, predominantly, gifts, books, souvenirs, specialty items relating to history, original and handmade arts and products, collectibles, crafts, and floral arrangements, which is open to the public on a regular basis. Such shop shall be a permanent structure where stock is displayed and offered for sale and which has facilities to properly secure any stock of wine or beer. Such shop may be located (i) on the premises or grounds of a government registered national, state or local historic building or site or (ii) within the premises of a museum. The Board shall consider the purpose, characteristics, nature, and operation of the shop in determining whether it shall be considered a gift shop.

"Gourmet brewing shop" means an establishment which sells to persons to whom wine or beer may lawfully be sold, ingredients for making wine or brewing beer, including packaging, and rents to such persons facilities for manufacturing, fermenting and bottling such wine or beer.

"Gourmet shop" means an establishment provided with adequate inventory, shelving, and storage facilities, where, in consideration of payment, substantial amounts of domestic and imported wines and beers of various types and sizes and related products such as cheeses and gourmet foods are habitually furnished to persons.

"Government store" means a store established by the Board for the sale of alcoholic beverages.

"Hotel" means any duly licensed establishment, provided with special space and accommodation, where, in consideration of payment, food and lodging are habitually furnished to persons, and which has four or more bedrooms. It shall also mean the person who operates such hotel.

"Interdicted person" means a person to whom the sale of alcoholic beverages is prohibited by order pursuant to this title.

"Internet wine retailer" means a person who owns or operates an establishment with adequate inventory, shelving, and storage facilities, where, in consideration of payment, internet or telephone orders are taken and shipped directly to consumers and which establishment is not a retail store open to the public.

"Intoxicated" means a condition in which a person has drunk enough alcoholic beverages to observably affect his manner, disposition, speech, muscular movement, general appearance or behavior.

"Licensed" means the holding of a valid license issued by the Board.

"Licensee" means any person to whom a license has been granted by the Board.

"Liqueur" means any of a class of highly flavored alcoholic beverages that do not exceed an alcohol content of 25 percent by volume.

"Low alcohol beverage cooler" means a drink containing one-half of one percent or more of alcohol by volume, but not more than seven and one-half percent alcohol by volume, and consisting of spirits mixed with nonalcoholic beverages or flavoring or coloring materials; it may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, preservatives or other similar products manufactured by fermenting fruit or fruit juices. Low alcohol beverage coolers shall be treated as wine for all purposes of this title; except that low alcohol beverage coolers shall not be sold in localities that have not approved the sale of mixed beverages pursuant to § 4.1-124. In addition, low alcohol beverage coolers shall not be sold for on-premises consumption other than by mixed beverage licensees.

"Meal-assembly kitchen" means any commercial establishment that offers its customers, for off-premises consumption, ingredients for the preparation of meals and entrees in professional kitchen facilities located at the establishment.

"Meals" means, for a mixed beverage license, an assortment of foods commonly ordered in bona fide, full-service restaurants as principal meals of the day. Such restaurants shall include establishments specializing in full course meals with a single substantial entree.

"Member of a club" means (i) a person who maintains his membership in the club by the payment of monthly, quarterly, or annual dues in the manner established by the rules and regulations thereof or (ii) a person who is a member of a bona fide auxiliary, local chapter, or squadron composed of direct lineal descendants of a bona fide member, whether alive or deceased, of a national or international organization to which an individual lodge holding a club license is an authorized member in the same locality. It shall also mean a lifetime member whose financial contribution is not less than 10 times the annual dues of resident members of the club, the full amount of such contribution being paid in advance in a lump sum.

"Mixed beverage" or "mixed alcoholic beverage" means a drink composed in whole or in part of spirits.

"Mixer" means any prepackaged ingredients containing beverages or flavoring or coloring materials, and which may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives which are not commonly consumed unless combined with alcoholic beverages, whether or not such ingredients contain alcohol. Such specialty beverage product shall be manufactured or distributed by a Virginia corporation.

"Place or premises" means the real estate, together with any buildings or other improvements thereon, designated in the application for a license as the place at which the manufacture, bottling, distribution, use or sale of alcoholic beverages shall be performed, except that portion of any such building or other improvement actually and exclusively used as a private residence.

"Public place" means any place, building, or conveyance to which the public has, or is permitted to have, access, including restaurants, soda fountains, hotel dining areas, lobbies and corridors of hotels, and any park, place of public resort or amusement, highway, street, lane, or sidewalk adjoining any highway, street, or lane.

The term shall not include (i) hotel or restaurant dining areas or ballrooms while in use for private meetings or private parties limited in attendance to members and guests of a particular group, association or organization; (ii) restaurants licensed by the Board in office buildings or industrial or similar facilities while such restaurant is closed to the public and in use for private meetings or parties limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such building or facility; (iii) offices, office buildings or industrial facilities while closed to the public and in use for private meetings or parties limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such building or facility; or (iv) private recreational or chartered boats which are not licensed by the Board and on which alcoholic beverages are not sold.

"Residence" means any building or part of a building or structure where a person resides, but does not include any part of a building which is not actually and exclusively used as a private residence, nor any part of a hotel or club other than a private guest room thereof.

"Resort complex" means a facility (i) with a hotel owning year-round sports and recreational facilities located contiguously on the same property or (ii) owned by a nonstock, nonprofit, taxable corporation with voluntary membership which, as its primary function, makes available golf, ski and other recreational facilities both to its members and the general public. The hotel or corporation shall have a minimum of 140 private guest rooms or dwelling units contained on not less than 50 acres. The Board may consider the purpose, characteristics, and operation of the applicant establishment in determining whether it shall be considered as a resort complex. All other pertinent qualifications established by the Board for a hotel operation shall be observed by such licensee.

"Restaurant" means, for a beer, or wine and beer license or a limited mixed beverage restaurant license, any establishment provided with special space and accommodation, where, in consideration of payment, meals or other foods prepared on the premises are regularly sold.

"Restaurant" means, for a mixed beverage license other than a limited mixed beverage restaurant license, an established place of business (i) where meals with substantial entrees are regularly sold and (ii) which has adequate facilities and sufficient employees for cooking, preparing, and serving such meals for consumption at tables in dining areas on the premises, and includes establishments specializing in full course meals with a single substantial entree.

"Sale" and "sell" includes soliciting or receiving an order for; keeping, offering or exposing for sale; peddling, exchanging or bartering; or delivering otherwise than gratuitously, by any means, alcoholic beverages.

"Sangria" means a drink consisting of red or white wine mixed with some combination of sweeteners, fruit, fruit juice, soda, or soda water that may also be mixed with brandy, triple sec, or other similar spirits.

"Special agent" means an employee of the Department of Alcoholic Beverage Control whom the Board has designated as a law-enforcement officer pursuant to § 4.1-105.

"Special event" means an event sponsored by a duly organized nonprofit corporation or association and conducted for an athletic, charitable, civic, educational, political, or religious purpose.

"Spirits" means any beverage which contains alcohol obtained by distillation mixed with drinkable water and other substances, in solution, and includes, among other things, brandy, rum, whiskey, and gin, or any one or more of the last four named ingredients; but shall not include any such liquors completely denatured in accordance with formulas approved by the United States government.

"Wine" means any alcoholic beverage, *including cider*, obtained by the fermentation of the natural sugar content of fruits or other agricultural products containing (i) sugar, including honey and milk, either with or without additional sugar; (ii) one-half of one percent or more of alcohol by volume; and (iii) no product of distillation. The term includes any wine to which wine spirits have been added, as provided in the Internal Revenue Code, to make products commonly known as "fortified wine" which do not exceed an alcohol content of 21 percent by volume.

"Wine cooler" means a drink containing one-half of one percent or more of alcohol by volume, and not more than three and two-tenths percent of alcohol by weight or four percent by volume consisting of wine mixed with nonalcoholic beverages or coloring materials, and which may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives and shall include other similar products manufactured by fermenting fruit or fruit juices. Wine coolers and similar fermented fruit juice beverages shall be treated as wine for all purposes except for taxation under § 4.1-236.

"With or without meals" means the selling and serving of alcoholic beverages by retail licensees for on-premises consumption whether or not accompanied by food so long as the total food-beverage ratio required by § 4.1-210, or the monthly food sale requirement established by Board regulation, is met by such retail licensee.

**§ 4.1-100. (Effective July 1, 2018) Definitions.**

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

"Alcohol" means the product known as ethyl or grain alcohol obtained by distillation of any fermented liquor, rectified either once or more often, whatever the origin, and shall include synthetic ethyl alcohol, but shall not include methyl alcohol and alcohol completely denatured in accordance with formulas approved by the government of the United States.

"Alcohol vaporizing device" means any device, machine, or process that mixes any alcoholic beverages with pure oxygen or other gas to produce a vaporized product for the purpose of consumption by inhalation.

"Alcoholic beverages" includes alcohol, spirits, wine, and beer, and any one or more of such varieties containing one-half of one percent or more of alcohol by volume, including mixed alcoholic beverages, and every liquid or solid, powder or crystal, patented or not, containing alcohol, spirits, wine, or beer and capable of being consumed by a human being. Any liquid or solid containing more than one of the four varieties shall be considered as belonging to that variety which has the higher percentage of alcohol, however obtained, according to the order in which they are set forth in this definition; except that beer may be manufactured to include flavoring materials and other nonbeverage ingredients containing alcohol, as long as no more than 49 percent of the overall alcohol content of the finished product is derived from the addition of flavors and other nonbeverage ingredients containing alcohol for products with an alcohol content of no more than six percent by volume; or, in the case of products with an alcohol content of more than six percent by volume, as long as no more than one and one-half percent of the volume of the finished product consists of alcohol derived from added flavors and other nonbeverage ingredients containing alcohol.

"Art instruction studio" means any commercial establishment that provides to its customers all required supplies and step-by-step instruction in creating a painting or other work of art during a studio instructional session.

"Arts venue" means a commercial or nonprofit establishment that is open to the public and in which works of art are sold or displayed.

"Authority" means the Virginia Alcoholic Beverage Control Authority created pursuant to this title.

"Barrel" means any container or vessel having a capacity of more than 43 ounces.

"Bed and breakfast establishment" means any establishment (i) having no more than 15 bedrooms; (ii) offering to the public, for compensation, transitory lodging or sleeping accommodations; and (iii) offering at least one meal per day, which may but need not be breakfast, to each person to whom overnight lodging is provided.

"Beer" means any alcoholic beverage obtained by the fermentation of an infusion or decoction of barley, malt, and hops or of any similar products in drinkable water and containing one-half of one percent or more of alcohol by volume.

"Board" means the Board of Directors of the Virginia Alcoholic Beverage Control Authority.

"Bottle" means any vessel intended to contain liquids and having a capacity of not more than 43 ounces.

"Canal boat operator" means any nonprofit organization that operates tourism-oriented canal boats for recreational purposes on waterways declared nonnavigable by the United States Congress pursuant to 33 U.S.C. § 59ii.

"Club" means any private nonprofit corporation or association which is the owner, lessee, or occupant of an establishment operated solely for a national, social, patriotic, political, athletic, or other like purpose, but not for pecuniary

gain, the advantages of which belong to all of the members. It also means the establishment so operated. A corporation or association shall not lose its status as a club because of the conduct of charitable gaming conducted pursuant to Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2 in which nonmembers participate frequently or in large numbers, provided that no alcoholic beverages are served or consumed in the room where such charitable gaming is being conducted while such gaming is being conducted and that no alcoholic beverages are made available upon the premises to any person who is neither a member nor a bona fide guest of a member.

Any such corporation or association which has been declared exempt from federal and state income taxes as one which is not organized and operated for pecuniary gain or profit shall be deemed a nonprofit corporation or association.

"Container" means any barrel, bottle, carton, keg, vessel or other receptacle used for holding alcoholic beverages.

"Contract winemaking facility" means the premises of a licensed winery or farm winery that obtains grapes, fruits, and other agricultural products from a person holding a farm winery license and crushes, processes, ferments, bottles, or provides any combination of such services pursuant to an agreement with the farm winery licensee. For all purposes of this title, wine produced by a contract winemaking facility for a farm winery shall be considered to be wine owned and produced by the farm winery that supplied the grapes, fruits, or other agricultural products used in the production of the wine. The contract winemaking facility shall have no right to sell the wine so produced, unless the terms of payment have not been fulfilled in accordance with the contract. The contract winemaking facility may charge the farm winery for its services.

"Convenience grocery store" means an establishment which (i) has an enclosed room in a permanent structure where stock is displayed and offered for sale and (ii) maintains an inventory of edible items intended for human consumption consisting of a variety of such items of the types normally sold in grocery stores.

"Day spa" means any commercial establishment that offers to the public both massage therapy, performed by persons licensed in accordance with § 54.1-3029, and barbering or cosmetology services performed by persons licensed in accordance with Chapter 7 (§ 54.1-700 et seq.) of Title 54.1.

"Designated area" means a room or area approved by the Board for on-premises licensees.

"Dining area" means a public room or area in which meals are regularly served.

"Establishment" means any place where alcoholic beverages of one or more varieties are lawfully manufactured, sold, or used.

"Farm winery" means (i) an establishment (a) located on a farm in the Commonwealth on land zoned agricultural with a producing vineyard, orchard, or similar growing area and with facilities for fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains not more than 21 percent alcohol by volume or (b) located in the Commonwealth on land zoned agricultural with a producing vineyard, orchard, or similar growing area or agreements for purchasing grapes or other fruits from agricultural growers within the Commonwealth and with facilities for fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains not more than 21 percent alcohol by volume or (ii) an accredited public or private institution of higher education, provided that (a) no wine manufactured by the institution shall be sold, (b) the wine manufactured by the institution shall be used solely for research and educational purposes, (c) the wine manufactured by the institution shall be stored on the premises of such farm winery that shall be separate and apart from all other facilities of the institution, and (d) such farm winery is operated in strict conformance with the requirements of this clause (ii) and Board regulations. As used in this definition, the terms "owner" and "lessee" shall include a cooperative formed by an association of individuals for the purpose of manufacturing wine. In the event that such cooperative is licensed as a farm winery, the term "farm" as used in this definition includes all of the land owned or leased by the individual members of the cooperative as long as such land is located in the Commonwealth. For purposes of this definition, "land zoned agricultural" means (1) land zoned as an agricultural district or classification or (2) land otherwise permitted by a locality for farm winery use. For purposes of this definition, "land zoned agricultural" does not include land zoned "residential conservation." Except for the limitation on land zoned "residential conservation," nothing in the definition of "land zoned agricultural" shall otherwise limit or affect local zoning authority.

"Gift shop" means any bona fide retail store selling, predominantly, gifts, books, souvenirs, specialty items relating to history, original and handmade arts and products, collectibles, crafts, and floral arrangements, which is open to the public on a regular basis. Such shop shall be a permanent structure where stock is displayed and offered for sale and which has facilities to properly secure any stock of wine or beer. Such shop may be located (i) on the premises or grounds of a government registered national, state or local historic building or site or (ii) within the premises of a museum. The Board shall consider the purpose, characteristics, nature, and operation of the shop in determining whether it shall be considered a gift shop.

"Gourmet brewing shop" means an establishment which sells to persons to whom wine or beer may lawfully be sold, ingredients for making wine or brewing beer, including packaging, and rents to such persons facilities for manufacturing, fermenting and bottling such wine or beer.

"Gourmet shop" means an establishment provided with adequate inventory, shelving, and storage facilities, where, in consideration of payment, substantial amounts of domestic and imported wines and beers of various types and sizes and related products such as cheeses and gourmet foods are habitually furnished to persons.

"Government store" means a store established by the Authority for the sale of alcoholic beverages.

"Hotel" means any duly licensed establishment, provided with special space and accommodation, where, in consideration of payment, food and lodging are habitually furnished to persons, and which has four or more bedrooms. It shall also mean the person who operates such hotel.

"Interdicted person" means a person to whom the sale of alcoholic beverages is prohibited by order pursuant to this title.

"Internet wine retailer" means a person who owns or operates an establishment with adequate inventory, shelving, and storage facilities, where, in consideration of payment, internet or telephone orders are taken and shipped directly to consumers and which establishment is not a retail store open to the public.

"Intoxicated" means a condition in which a person has drunk enough alcoholic beverages to observably affect his manner, disposition, speech, muscular movement, general appearance or behavior.

"Licensed" means the holding of a valid license granted by the Authority.

"Licensee" means any person to whom a license has been granted by the Authority.

"Liqueur" means any of a class of highly flavored alcoholic beverages that do not exceed an alcohol content of 25 percent by volume.

"Low alcohol beverage cooler" means a drink containing one-half of one percent or more of alcohol by volume, but not more than seven and one-half percent alcohol by volume, and consisting of spirits mixed with nonalcoholic beverages or flavoring or coloring materials; it may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, preservatives or other similar products manufactured by fermenting fruit or fruit juices. Low alcohol beverage coolers shall be treated as wine for all purposes of this title; except that low alcohol beverage coolers shall not be sold in localities that have not approved the sale of mixed beverages pursuant to § 4.1-124. In addition, low alcohol beverage coolers shall not be sold for on-premises consumption other than by mixed beverage licensees.

"Meal-assembly kitchen" means any commercial establishment that offers its customers, for off-premises consumption, ingredients for the preparation of meals and entrees in professional kitchen facilities located at the establishment.

"Meals" means, for a mixed beverage license, an assortment of foods commonly ordered in bona fide, full-service restaurants as principal meals of the day. Such restaurants shall include establishments specializing in full course meals with a single substantial entree.

"Member of a club" means (i) a person who maintains his membership in the club by the payment of monthly, quarterly, or annual dues in the manner established by the rules and regulations thereof or (ii) a person who is a member of a bona fide auxiliary, local chapter, or squadron composed of direct lineal descendants of a bona fide member, whether alive or deceased, of a national or international organization to which an individual lodge holding a club license is an authorized member in the same locality. It shall also mean a lifetime member whose financial contribution is not less than 10 times the annual dues of resident members of the club, the full amount of such contribution being paid in advance in a lump sum.

"Mixed beverage" or "mixed alcoholic beverage" means a drink composed in whole or in part of spirits.

"Mixer" means any prepackaged ingredients containing beverages or flavoring or coloring materials, and which may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives which are not commonly consumed unless combined with alcoholic beverages, whether or not such ingredients contain alcohol. Such specialty beverage product shall be manufactured or distributed by a Virginia corporation.

"Place or premises" means the real estate, together with any buildings or other improvements thereon, designated in the application for a license as the place at which the manufacture, bottling, distribution, use or sale of alcoholic beverages shall be performed, except that portion of any such building or other improvement actually and exclusively used as a private residence.

"Principal stockholder" means any person who individually or in concert with his spouse and immediate family members beneficially owns or controls, directly or indirectly, five percent or more of the equity ownership of any person that is a licensee of the Authority, or who in concert with his spouse and immediate family members has the power to vote or cause the vote of five percent or more of any such equity ownership. "Principal stockholder" does not include a broker-dealer registered under the Securities Exchange Act of 1934, as amended, that holds in inventory shares for sale on the financial markets for a publicly traded corporation holding, directly or indirectly, a license from the Authority.

"Public place" means any place, building, or conveyance to which the public has, or is permitted to have, access, including restaurants, soda fountains, hotel dining areas, lobbies and corridors of hotels, and any park, place of public resort or amusement, highway, street, lane, or sidewalk adjoining any highway, street, or lane.

The term shall not include (i) hotel or restaurant dining areas or ballrooms while in use for private meetings or private parties limited in attendance to members and guests of a particular group, association or organization; (ii) restaurants licensed by the Authority in office buildings or industrial or similar facilities while such restaurant is closed to the public and in use for private meetings or parties limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such building or facility; (iii) offices, office buildings or industrial facilities while closed to the public and in use for private meetings or parties limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such building or facility; or (iv) private recreational or chartered boats which are not licensed by the Board and on which alcoholic beverages are not sold.

"Residence" means any building or part of a building or structure where a person resides, but does not include any part of a building which is not actually and exclusively used as a private residence, nor any part of a hotel or club other than a private guest room thereof.

"Resort complex" means a facility (i) with a hotel owning year-round sports and recreational facilities located contiguously on the same property or (ii) owned by a nonstock, nonprofit, taxable corporation with voluntary membership which, as its primary function, makes available golf, ski and other recreational facilities both to its members and the general

public. The hotel or corporation shall have a minimum of 140 private guest rooms or dwelling units contained on not less than 50 acres. The Authority may consider the purpose, characteristics, and operation of the applicant establishment in determining whether it shall be considered as a resort complex. All other pertinent qualifications established by the Board for a hotel operation shall be observed by such licensee.

"Restaurant" means, for a beer, or wine and beer license or a limited mixed beverage restaurant license, any establishment provided with special space and accommodation, where, in consideration of payment, meals or other foods prepared on the premises are regularly sold.

"Restaurant" means, for a mixed beverage license other than a limited mixed beverage restaurant license, an established place of business (i) where meals with substantial entrees are regularly sold and (ii) which has adequate facilities and sufficient employees for cooking, preparing, and serving such meals for consumption at tables in dining areas on the premises, and includes establishments specializing in full course meals with a single substantial entree.

"Sale" and "sell" includes soliciting or receiving an order for; keeping, offering or exposing for sale; peddling, exchanging or bartering; or delivering otherwise than gratuitously, by any means, alcoholic beverages.

"Sangria" means a drink consisting of red or white wine mixed with some combination of sweeteners, fruit, fruit juice, soda, or soda water that may also be mixed with brandy, triple sec, or other similar spirits.

"Special agent" means an employee of the Virginia Alcoholic Beverage Control Authority whom the Board has designated as a law-enforcement officer pursuant to § 4.1-105.

"Special event" means an event sponsored by a duly organized nonprofit corporation or association and conducted for an athletic, charitable, civic, educational, political, or religious purpose.

"Spirits" means any beverage which contains alcohol obtained by distillation mixed with drinkable water and other substances, in solution, and includes, among other things, brandy, rum, whiskey, and gin, or any one or more of the last four named ingredients; but shall not include any such liquors completely denatured in accordance with formulas approved by the United States government.

"Wine" means any alcoholic beverage, *including cider*, obtained by the fermentation of the natural sugar content of fruits or other agricultural products containing (i) sugar, including honey and milk, either with or without additional sugar; (ii) one-half of one percent or more of alcohol by volume; and (iii) no product of distillation. The term includes any wine to which wine spirits have been added, as provided in the Internal Revenue Code, to make products commonly known as "fortified wine" which do not exceed an alcohol content of 21 percent by volume.

"Wine cooler" means a drink containing one-half of one percent or more of alcohol by volume, and not more than three and two-tenths percent of alcohol by weight or four percent by volume consisting of wine mixed with nonalcoholic beverages or flavoring or coloring materials, and which may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives and shall include other similar products manufactured by fermenting fruit or fruit juices. Wine coolers and similar fermented fruit juice beverages shall be treated as wine for all purposes except for taxation under § 4.1-236.

"With or without meals" means the selling and serving of alcoholic beverages by retail licensees for on-premises consumption whether or not accompanied by food so long as the total food-beverage ratio required by § 4.1-210, or the monthly food sale requirement established by Board regulation, is met by such retail licensee.

#### § 4.1-111. Regulations of Board.

A. The Board may promulgate reasonable regulations, not inconsistent with this title or the general laws of the Commonwealth, which it deems necessary to carry out the provisions of this title and to prevent the illegal manufacture, bottling, sale, distribution and transportation of alcoholic beverages. The Board may amend or repeal such regulations. Such regulations shall be promulgated, amended or repealed in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) and shall have the effect of law.

B. The Board shall promulgate regulations that:

1. Prescribe what hours and on what days alcoholic beverages shall not be sold by licensees or consumed on any licensed premises, including a provision that mixed beverages may be sold only at such times as wine and beer may be sold.

2. Require mixed beverage caterer licensees to notify the Board in advance of any event to be served by such licensee.

3. Maintain the reasonable separation of retailer interests from those of the manufacturers, bottlers, brokers, importers and wholesalers in accordance with § 4.1-216 and in consideration of the established trade customs, quantity and value of the articles or services involved; prevent undue competitive domination of any person by any other person engaged in the manufacture, distribution and sale at retail or wholesale of alcoholic beverages in the Commonwealth; and promote reasonable accommodation of arm's length business transactions.

4. Establish requirements for the form, content, and retention of all records and accounts, including the (i) reporting and collection of taxes required by § 4.1-236 and (ii) the sale of alcoholic beverages in kegs, by all licensees.

5. Require retail licensees to file an appeal from any hearing decision rendered by a hearing officer within 30 days of the date the notice of the decision is sent. The notice shall be sent to the licensee at the address on record with the Board by certified mail, return receipt requested, and by regular mail.

6. Prescribe the terms and conditions under which persons who collect or trade designer or vintage spirit bottles may sell such bottles at auction, provided that (i) the auction is conducted in accordance with the provisions of Chapter 6 (§ 54.1-600 et seq.) of Title 54.1 and (ii) the bottles are unopened and the manufacturers' seals, marks, or stamps affixed to the bottles are intact.

7. Prescribe the terms and conditions under which credit or debit cards may be accepted from licensees for purchases at government stores, including provision for the collection, where appropriate, of related fees, penalties, and service charges.

8. Require that banquet licensees in charge of public events as defined by Board regulations report to the Board the income and expenses associated with the public event on a form prescribed by the Board when the banquet licensee engages another person to organize, conduct or operate the event on behalf of the banquet licensee. Such regulations shall be applicable only to public events where alcoholic beverages are being sold.

9. Provide alternative methods for licensees to maintain and store business records that are subject to Board inspection, including methods for Board-approved electronic and off-site storage.

10. Require off-premises retail licensees to place any premixed alcoholic energy drinks containing one-half of one percent or more of alcohol by volume in the same location where wine and beer are available for sale within the licensed premises.

11. Prescribe the terms and conditions under which mixed beverage licensees may infuse, store, and sell flavored distilled spirits, including a provision that limits infusion containers to a maximum of 20 liters.

12. Prescribe the schedule of proration for refunded license taxes to licensees who qualify pursuant to subsection C of § 4.1-232.

13. Establish reasonable time, place, and manner restrictions on outdoor advertising of alcoholic beverages, not inconsistent with the provisions of this title, so that such advertising does not encourage or otherwise promote the consumption of alcoholic beverages by persons to whom alcoholic beverages may not be lawfully sold. Such regulations shall:

a. Restrict outdoor advertising of alcoholic beverages in publicly visible locations consistent with (i) the general prohibition against tied interests between retail licensees and manufacturers or wholesale licensees as provided in §§ 4.1-215 and 4.1-216; (ii) the prohibition against manufacturer control of wholesale licensees as set forth in § 4.1-223 and Board regulations adopted pursuant thereto; and (iii) the general prohibition against cooperative advertising between manufacturers, wholesalers, or importers and retail licensees as set forth in Board regulation; and

b. Permit (i) any outdoor signage or advertising not otherwise prohibited by this title and (ii) the display of outdoor alcoholic beverage advertising on lawfully erected billboard signs regulated under Chapter 12 (§ 33.2-1200 et seq.) of Title 33.2 where such signs are located on commercial real estate as defined in § 55-526, but only in accordance with this title.

14. Prescribe the terms and conditions under which a licensed brewery may manufacture beer pursuant to an agreement with a brand owner not under common control with the manufacturing brewery and sell and deliver the beer so manufactured to the brand owner. The regulations shall require that (i) the brand owner be an entity appropriately licensed as a brewery or beer wholesaler, (ii) a written agreement be entered into by the parties, and (iii) records as deemed appropriate by the Board are maintained by the parties.

15. Prescribe the terms for any "happy hour" conducted by on-premises licensees. Such regulations shall permit on-premises licensees to advertise any alcoholic beverage products featured during a happy hour but prohibit the advertising of any pricing related to such happy hour.

16. Permit retail on-premises licensees to give a gift of one alcoholic beverage to a patron or one bottle of wine to a group of two or more patrons, provided that (i) such gifts only are made to individuals to whom such products may lawfully be sold and (ii) only one such gift is given during any 24-hour period and subject to any Board limitations on the frequency of such gifts.

17. Permit the sale of beer and cider for off-premises consumption in resealable growlers made of glass, ceramic, metal, or other materials approved by the Board, or other resealable containers approved by the Board, with a maximum capacity of 128 fluid ounces or, for metric-sized containers, four liters.

18. Permit the sale of wine for off-premises consumption in resealable growlers made of glass, ceramic, metal, or other materials approved by the Board, or other resealable containers approved by the Board, with a maximum capacity of 64 fluid ounces or, for metric-sized containers, two liters. Wine growlers may be used only by persons licensed to sell wine for both on-premises and off-premises consumption or by gourmet shop licensees. Growlers sold by gourmet shop licensees shall be labeled with (i) the manufacturer's name or trade name, (ii) the place of production, (iii) the net contents in fluid ounces, and (iv) the name and address of the retailer.

19. Permit the sale of wine, *cider*, and beer by retailers licensed to sell beer and wine for both on-premises and off-premises consumption, or by gourmet shop licensees for off-premises consumption in sealed containers made of metal or other materials approved by the Board with a maximum capacity of 32 fluid ounces or, for metric-sized containers, one liter, provided that the alcoholic beverage is placed in the container following an order from the consumer.

20. Permit mixed beverage licensees to premix containers of sangria and other mixed alcoholic beverages and to serve such alcoholic beverages in pitchers, subject to size and quantity limitations established by the Board.

C. The Board may promulgate regulations that:

1. Provide for the waiver of the license tax for an applicant for a banquet license, such waiver to be based on (i) the amount of alcoholic beverages to be provided by the applicant, (ii) the not-for-profit status of the applicant, and (iii) the condition that no profits are to be generated from the event. For the purposes of clause (ii), the applicant shall submit with the application, an affidavit certifying its not-for-profit status. The granting of such waiver shall be limited to two events per year for each applicant.

2. Establish limitations on the quantity and value of any gifts of alcoholic beverages made in the course of any business entertainment pursuant to subdivision A 22 of § 4.1-325 or subsection C of § 4.1-325.2.

3. Provide incentives to licensees with a proven history of compliance with state and federal laws and regulations to encourage licensees to conduct their business and related activities in a manner that is beneficial to the Commonwealth.

D. Board regulations shall be uniform in their application, except those relating to hours of sale for licensees.

E. Courts shall take judicial notice of Board regulations.

F. The Board's power to regulate shall be broadly construed.

**§ 4.1-119. (Effective until July 1, 2018) Operation of government stores.**

A. Subject to the requirements of §§ 4.1-121 and 4.1-122, the Board may establish, maintain, and operate government stores for the sale of alcoholic beverages, other than beer and wine not produced by farm wineries, vermouth, mixers, products used in connection with distilled spirits, including any garnish or garnishment applied to the rim of a glass of distilled spirits, as may be approved by the Board from time to time, and products licensed by the Virginia Tourism Corporation as specified in § 4.1-103 in such counties, cities, and towns considered advisable by the Board. The Board may discontinue any such store.

B. With respect to the sale of wine *or cider* produced by farm wineries, the Board may give preference to farm wineries that produce 2,500 cases or less of wine *or cider* per year.

C. The Board shall fix the wholesale and retail prices at which the various classes, varieties and brands of alcoholic beverages and other Board-approved products that are sold in government stores. Differences in the cost of operating stores, and market competition and conditions may be reflected in the sale price of alcoholic beverages sold at government stores. The Board may sell alcoholic beverages to federal instrumentalities (i) authorized and operating under the laws of the United States and regulations of the United States Department of Defense and (ii) located within the boundaries of federal enclaves or reservations over which the United States has acquired jurisdiction, at prices which may be greater or less than the wholesale price charged other authorized purchasers.

D. Alcoholic beverages at government stores shall be sold by employees of the Board, who shall carry out the provisions of this title and Board regulations governing the operation of government stores and the sale of alcoholic beverages, except that the Board may appoint the holder of a distiller's license or its officers and employees as agents of the Board for the sale of spirits, manufactured by or for, or blended by such licensee on the licensed premises, at government stores established by the Board on the distiller's licensed premises.

Such agents shall sell the spirits in accordance with the provisions of this title, Board regulations, and the terms of the agency agreement between the Board and the licensed distiller.

For the purposes of this subsection, "blended" means the receipt by a licensed distiller of deliveries and shipments of alcoholic beverages, other than wine and beer, in accordance with subdivision 6 of § 4.1-201 to be (i) additionally aged by the receiving distillery in order to increase the quality and flavor of such alcoholic beverages and (ii) bottled by the receiving distillery.

E. No Class 1 neutral grain spirit or alcohol, as defined by federal regulations, that is without distinctive character, aroma, taste or color shall be sold in government stores at a proof greater than 101 except upon permits issued by the Board for industrial, commercial, culinary, or medical use.

F. All alcoholic beverages sold in government stores, except for tasting samples pursuant to subsection G sold in government stores established by the Board on a distiller's licensed premises, shall be in closed containers, sealed and affixed with labels prescribed by the Board.

G. No alcoholic beverages shall be consumed in a government store by any person unless it is part of an organized tasting event conducted by (i) an employee of a manufacturer of distilled spirits or farm winery or (ii) an authorized representative of a manufacturer of distilled spirits or farm winery with a permit issued by the Board pursuant to subdivision A 15 of § 4.1-212, at which the samples of alcoholic beverages provided to any consumer do not exceed the limits for spirits or wine set forth in subdivision A 5 of § 4.1-201.1. No sample may be consumed by any individual to whom alcoholic beverages may not lawfully be sold pursuant to § 4.1-304.

Notwithstanding the provision of this subsection to the contrary, an agent of the Board appointed pursuant to subsection D may give samples of spirits, beer, wine, or cider to persons to whom alcoholic beverages may be lawfully sold for on-premises consumption, provided that (i) the spirits, beer, wine, or cider samples are manufactured within the same licensed premises or on contiguous premises of such agent licensed as a distillery, brewery, or winery; (ii) no single sample shall exceed four ounces of beer, two ounces of wine *or cider*, or one-half ounce of spirits, unless served as a mixed beverage, in which case a single sample may contain up to one and one-half ounces of spirits; (iii) no more than four total samples of alcoholic beverage products or, in the case of spirits samples, no more than three ounces of spirits shall be given or sold to any person per day; and (iv) in the case of spirits samples, a method is used to track the consumption of each consumer. Nothing in this paragraph shall prohibit such agent from serving samples of spirits as part of a mixed beverage.

The Board shall establish guidelines governing tasting events conducted pursuant to this subsection.

H. With respect to purchases by licensees at government stores, the Board shall (i) accept in payment for any purchase or series of purchases cash, electronic fund transfer, credit or debit card, or check payable to the Board, in the exact amount of any such purchase or series of purchases and (ii) provide notice to licensees on Board policies relating to the assignment of government stores from which licensees may purchase products and any procedure for the licensee to elect to make purchases from an alternative government store.

I. With respect to purchases by consumers at government stores, the Board shall accept cash in payment for any purchase or series of purchases. The Board may adopt regulations which provide for accepting a credit card or debit card as payment. Such regulations may provide for the collection, where appropriate, of related fees, penalties and service charges for the use of a credit card or debit card by any consumer.

**§ 4.1-119. (Effective July 1, 2018) Operation of government stores.**

A. Subject to the requirements of §§ 4.1-121 and 4.1-122, the Board may establish, maintain, and operate government stores for the sale of alcoholic beverages, other than beer and wine not produced by farm wineries, vermouth, mixers, products used in connection with distilled spirits, including any garnish or garnishment applied to the rim of a glass of distilled spirits, as may be approved by the Board from time to time, and products licensed by the Virginia Tourism Corporation as specified in § 4.1-103 in such counties, cities, and towns considered advisable by the Board. The Board may discontinue any such store.

B. With respect to the sale of wine *or* cider produced by farm wineries, the Board may give preference to farm wineries that produce 2,500 cases or less of wine *or* cider per year.

C. The Board shall fix the wholesale and retail prices at which the various classes, varieties and brands of alcoholic beverages and other Board-approved products that are sold in government stores. Differences in the cost of operating stores, and market competition and conditions may be reflected in the sale price of alcoholic beverages sold at government stores. The Board may sell alcoholic beverages to federal instrumentalities (i) authorized and operating under the laws of the United States and regulations of the United States Department of Defense and (ii) located within the boundaries of federal enclaves or reservations over which the United States has acquired jurisdiction, at prices which may be greater or less than the wholesale price charged other authorized purchasers. Nothing in this subsection shall be construed to limit the authority of the Board to fix the retail price of alcoholic beverages sold at government stores, which retail price may include promotional, volume, or other discounts deemed appropriate by the Board.

D. Alcoholic beverages at government stores shall be sold by employees of the Authority who shall carry out the provisions of this title and Board regulations governing the operation of government stores and the sale of alcoholic beverages, except that the Board may appoint the holder of a distiller's license or its officers and employees as agents of the Board for the sale of spirits, manufactured by or for, or blended by such licensee on the licensed premises, at government stores established by the Board on the distiller's licensed premises.

Such agents shall sell the spirits in accordance with the provisions of this title, Board regulations, and the terms of the agency agreement between the Authority and the licensed distiller.

For the purposes of this subsection, "blended" means the receipt by a licensed distiller of deliveries and shipments of alcoholic beverages, other than wine and beer, in accordance with subdivision 6 of § 4.1-201 to be (i) additionally aged by the receiving distillery in order to increase the quality and flavor of such alcoholic beverages and (ii) bottled by the receiving distillery.

E. No Class 1 neutral grain spirit or alcohol, as defined by federal regulations, that is without distinctive character, aroma, taste or color shall be sold in government stores at a proof greater than 101 except upon permits issued by the Board for industrial, commercial, culinary, or medical use.

F. All alcoholic beverages sold in government stores, except for tasting samples pursuant to subsection G sold in government stores established by the Board on a distiller's licensed premises, shall be in closed containers, sealed and affixed with labels prescribed by the Board.

G. No alcoholic beverages shall be consumed in a government store by any person unless it is part of an organized tasting event conducted by (i) an employee of a manufacturer of distilled spirits or farm winery or (ii) an authorized representative of a manufacturer of distilled spirits or farm winery with a permit issued by the Board pursuant to subdivision A 15 of § 4.1-212, at which the samples of alcoholic beverages provided to any consumer do not exceed the limits for spirits or wine set forth in subdivision A 5 of § 4.1-201.1. No sample may be consumed by any individual to whom alcoholic beverages may not lawfully be sold pursuant to § 4.1-304.

Notwithstanding the provision of this subsection to the contrary, an agent of the Board appointed pursuant to subsection D may give samples of spirits, beer, wine, or cider to persons to whom alcoholic beverages may be lawfully sold for on-premises consumption, provided that (i) the spirits, beer, wine, or cider samples are manufactured within the same licensed premises or on contiguous premises of such agent licensed as a distillery, brewery, or winery; (ii) no single sample shall exceed four ounces of beer, two ounces of wine *or* cider, or one-half ounce of spirits, unless served as a mixed beverage, in which case a single sample of spirits may contain up to one and one-half ounces of spirits; (iii) no more than four total samples of alcoholic beverage products or, in the case of spirits samples, no more than three ounces of spirits shall be given or sold to any person per day; and (iv) in the case of spirits samples, a method is used to track the consumption of each consumer. Nothing in this paragraph shall prohibit such agent from serving samples of spirits as part of a mixed beverage.

The Board shall establish guidelines governing tasting events conducted pursuant to this subsection.

H. With respect to purchases by licensees at government stores, the Authority shall (i) accept in payment for any purchase or series of purchases cash, electronic fund transfer, credit or debit card, or check payable to the Authority, in the exact amount of any such purchase or series of purchases and (ii) provide notice to licensees on Board policies relating to the assignment of government stores from which licensees may purchase products and any procedure for the licensee to elect to make purchases from an alternative government store.

I. With respect to purchases by consumers at government stores, the Authority shall accept cash in payment for any purchase or series of purchases. The Board may adopt regulations which provide for accepting a credit card or debit card as payment. Such regulations may provide for the collection, where appropriate, of related fees, penalties and service charges for the use of a credit card or debit card by any consumer.

J. Before the Authority implements any increase in the markup on distilled spirits or any change to the markup formula for distilled spirits pursuant to § 4.1-235 that would result in an increase in the retail price of distilled spirits sold to the public, the Authority shall (i) provide at least 45 days' public notice before such a price increase takes effect; (ii) provide the opportunity for submission of written comments regarding the proposed price increase; (iii) conduct a public meeting for the purpose of receiving verbal comment regarding the proposed price increase; and (iv) consider any written or verbal comments before implementing such a price increase.

**§ 4.1-213. Manufacture and sale of cider.**

A. Any winery licensee or farm winery licensee may manufacture and sell cider to (i) the Board, (ii) any wholesale wine licensee, and (iii) persons outside the Commonwealth.

B. Any wholesale wine licensee may acquire and receive shipments of cider, and sell and deliver and ship the cider in accordance with Board regulations to (i) the Board, (ii) any wholesale wine licensee, (iii) any retail licensee approved by the Board for the purpose of selling cider, and (iv) persons outside the Commonwealth for resale outside the Commonwealth.

C. Any licensee authorized to sell alcoholic beverages at retail may sell cider in the same manner and to the same persons, and subject to the same limitations and conditions, as such license authorizes him to sell other alcoholic beverages.

D. Cider containing less than seven percent of alcohol by volume may be sold in any containers that comply with federal regulations for wine or beer, provided such containers are labeled in accordance with Board regulations. Cider containing seven percent or more of alcohol by volume may be sold in any containers that comply with federal regulations for wine, provided such containers are labeled in accordance with Board regulations.

E. No additional license fees shall be charged for the privilege of handling cider.

F. The Board shall collect such markup as it deems appropriate on all cider manufactured or sold, or both, in the Commonwealth.

G. The Board shall adopt regulations relating to the manufacture, possession, transportation and sale of cider as it deems necessary to prevent any unlawful manufacture, possession, transportation or sale of cider and to ensure that the markup required to be paid will be collected.

H. For the purposes of this section:

"Chaptalization" means a method of increasing the alcohol in a wine by adding sugar to the must before or during fermentation.

"Cider" means any beverage, carbonated or otherwise, obtained by the fermentation of the natural sugar content of apples or pears (i) containing not more than 10 percent of alcohol by volume without chaptalization or (ii) containing not more than seven percent of alcohol by volume regardless of chaptalization. *Cider shall be treated as wine for all purposes of this title, except as otherwise provided in this title or Board regulations.*

I. This section shall not limit the privileges set forth in subdivision A 8 of § 4.1-200, nor shall any person be denied the privilege of manufacturing and selling sweet cider.

**§ 4.1-214. Limitations on licenses; sale outside the Commonwealth.**

No deliveries or shipments of alcoholic beverages ~~or cider as defined in § 4.1-213~~ to persons outside the Commonwealth for resale outside the Commonwealth authorized by this chapter shall be made into any state the laws of which prohibit the consignee from receiving or selling the same.

**CHAPTER 161**

*An Act to amend and reenact § 29.1-100 of the Code of Virginia, relating to muzzleloader firearms.*

[S 953]

Approved February 23, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 29.1-100 of the Code of Virginia is amended and reenacted as follows:**

**§ 29.1-100. Definitions.**

As used in and for the purposes of this title only, or in any of the regulations of the Board, unless the context clearly requires a different meaning:

"Bag or creel limit" means the quantity of game, fish or fur-bearing animals that may be taken, caught, or possessed during a period fixed by the Board.

"Board" means the Board of Game and Inland Fisheries.

"Closed season" means that period of time fixed by the Board during which wild animals, birds or fish may not be taken, captured, killed, pursued, hunted, trapped or possessed.

"Conservation police officers" means supervising officers, and regular and special conservation police officers.

"Department" means the Department of Game and Inland Fisheries.

"Director" means the Director of the Department of Game and Inland Fisheries.

"Firearm" means any weapon that will or is designed to or may readily be converted to expel single or multiple projectiles by the action of an explosion of a combustible material.

"Fishing" means taking, capturing, killing, or attempting to take, capture or kill any fish in and upon the inland waters of this Commonwealth.

"Fur-bearing animals" includes beaver, bobcat, fisher, fox, mink, muskrat, opossum, otter, raccoon, skunk, and weasel.

"Game" means wild animals and wild birds that are commonly hunted for sport or food.

"Game animals" means deer (including all Cervidae), bear, rabbit, fox, squirrel, bobcat and raccoon.

"Game fish" means trout (including all Salmonidae), all of the sunfish family (including largemouth bass, smallmouth bass and spotted bass, rock bass, bream, bluegill and crappie), walleye or pike perch, white bass, chain pickerel or jackfish, muskellunge, and northern pike, wherever such fish are found in the waters of this Commonwealth and rockfish or striped bass where found above tidewaters or in streams which are blocked from access from tidewaters by dams.

"Hunting and trapping" includes the act of or the attempted act of taking, hunting, trapping, pursuing, chasing, shooting, snaring or netting birds or animals, and assisting any person who is hunting, trapping or attempting to do so regardless of whether birds or animals are actually taken; however, when hunting and trapping are allowed, reference is made to such acts as being conducted by lawful means and in a lawful manner. The Board of Game and Inland Fisheries may authorize by regulation the pursuing or chasing of wild birds or wild animals during any closed hunting season where persons have no intent to take such birds or animals.

"Lawful," "by law," or "law" means the statutes of this Commonwealth or regulations adopted by the Board which the Director is empowered to enforce.

"Migratory game birds" means doves, ducks, brant, geese, swan, coot, gallinules, sora and other rails, snipe, woodcock and other species of birds on which open hunting seasons are set by federal regulations.

"Muzzleloader" means any firearm described in subdivision 3 of the definition of antique firearm in § 18.2-308.2:2.

"Muzzleloading pistol" means a ~~firearm~~ muzzleloader originally designed, made or intended to fire a projectile (bullet) from one or more barrels when held in one hand and that is loaded from the muzzle or forward end of the cylinder.

"Muzzleloading rifle" means a ~~firearm~~ muzzleloader firing a single projectile that is loaded along with the propellant from the muzzle of the gun.

"Muzzleloading shotgun" means a ~~firearm~~ muzzleloader with a smooth bore firing multiple projectiles that are loaded along with the propellant from the muzzle of the gun.

"Nonmigratory game birds" means grouse, bobwhite quail, turkey and all species of birds introduced into the Commonwealth by the Board.

"Nuisance species" means blackbirds, coyotes, crows, cowbirds, feral swine, grackles, English sparrows, starlings, or those species designated as such by regulations of the Board, and those species found committing or about to commit depredation upon ornamental or shade trees, agricultural crops, wildlife, livestock or other property or when concentrated in numbers and manners as to constitute a health hazard or other nuisance. However, the term nuisance does not include (i) animals designated as endangered or threatened pursuant to §§ 29.1-563, 29.1-564, and 29.1-566, (ii) animals classified as game or fur-bearing animals, and (iii) those species protected by state or federal law.

"Open season" means that period of time fixed by the Board during which wild animals, wild birds and fish may be taken, captured, killed, pursued, trapped or possessed.

"Pistol" means a weapon originally designed, made, and intended to fire a projectile (bullet) from one or more barrels when held in one hand, and having one or more chambers as an integral part of or permanently aligned with the bore and a short stock at an angle to and extending below the line of the bore that is designed to be gripped by one hand.

"Possession" means the exercise of control of any wild animal, wild bird, fish or fur-bearing animal, or any part of the carcass thereof.

"Properly licensed person" means a person who, while engaged in hunting, fishing or trapping, or in any other activity permitted under this title, in and upon the lands and inland waters of this Commonwealth, has upon his person all the licenses, permits and stamps required by law.

"Regulation" means a regulation duly adopted by the Board pursuant to the authority vested by the provisions of this title.

"Revolver" means a projectile weapon of the pistol type, having a breechloading chambered cylinder arranged so that the cocking of the hammer or movement of the trigger rotates it and brings the next cartridge in line with the barrel for firing.

"Rifle" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder, and designed or redesigned and made or remade to use the energy of the explosive in a fixed metallic cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger.

"Shotgun" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder, and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore or rifled shotgun barrel either a number of ball shot or a single projectile for each single pull of the trigger.

"Transportation" means the transportation, either upon the person or by any other means, of any wild animal or wild bird or fish.

"Wildlife" means all species of wild animals, wild birds and freshwater fish in the public waters of this Commonwealth.

## CHAPTER 162

*An Act to amend and reenact § 1 of Chapter 397 of the Acts of Assembly of 1987, relating to the Chesapeake Port Authority; City of Chesapeake Economic Development Authority.*

[S 967]

Approved February 23, 2017

**Be it enacted by the General Assembly of Virginia:****1. That § 1 of Chapter 397 of the Acts of Assembly of 1987 is amended and reenacted as follows:****§ 1. Creation of Authority.**

There is hereby created in the City of Chesapeake a political subdivision of the Commonwealth, with the public and corporate powers hereinafter set forth, to be known as the "Chesapeake Port Authority." *The City Council of Chesapeake may by ordinance transfer any right, power, or privilege granted to the Chesapeake Port Authority by the creation of this act to the Chesapeake Economic Development Authority created pursuant to Article VII of Chapter 2 of the Code of Ordinances of the City of Chesapeake at which time the Chesapeake Port Authority shall be dissolved.*

## CHAPTER 163

*An Act to amend and reenact § 62.1-44.15:28, as it is currently effective and as it shall become effective, of the Code of Virginia, relating to stormwater management programs; regulations.*

[S 1127]

Approved February 23, 2017

**Be it enacted by the General Assembly of Virginia:****1. That § 62.1-44.15:28, as it is currently effective and as it shall become effective, of the Code of Virginia is amended and reenacted as follows:****§ 62.1-44.15:28. (For expiration date, see Acts 2016, cc. 68 & 758) Development of regulations.**

A. The Board is authorized to adopt regulations that specify minimum technical criteria and administrative procedures for Virginia Stormwater Management Programs. The regulations shall:

1. Establish standards and procedures for administering a VSMP;
2. Establish minimum design criteria for measures to control nonpoint source pollution and localized flooding, and incorporate the stormwater management regulations adopted pursuant to the Erosion and Sediment Control Law (§ 62.1-44.15:51 et seq.), as they relate to the prevention of stream channel erosion. These criteria shall be periodically modified as required in order to reflect current engineering methods;
3. Require the provision of long-term responsibility for and maintenance of stormwater management control devices and other techniques specified to manage the quality and quantity of runoff;
4. Require as a minimum the inclusion in VSMPs of certain administrative procedures that include, but are not limited to, specifying the time period within which a VSMP authority shall grant land-disturbing activity approval, the conditions and processes under which approval shall be granted, the procedures for communicating disapproval, the conditions under which an approval may be changed, and requirements for inspection of approved projects;
5. Establish by regulations a statewide permit fee schedule to cover all costs associated with the implementation of a VSMP related to land-disturbing activities of one acre or greater. Such fee attributes include the costs associated with plan review, VSMP registration statement review, permit issuance, state-coverage verification, inspections, reporting, and compliance activities associated with the land-disturbing activities as well as program oversight costs. The fee schedule shall also include a provision for a reduced fee for land-disturbing activities between 2,500 square feet and up to one acre in Chesapeake Bay Preservation Act (§ 62.1-44.15:67 et seq.) localities. The fee schedule shall be governed by the following:

a. The revenue generated from the statewide stormwater permit fee shall be collected utilizing, where practicable, an online payment system, and the Department's portion shall be remitted to the State Treasurer for deposit in the Virginia Stormwater Management Fund established pursuant to § 62.1-44.15:29. However, whenever the Board has approved a VSMP, no more than 30 percent of the total revenue generated by the statewide stormwater permit fees collected shall be remitted to the State Treasurer for deposit in the Virginia Stormwater Management Fund, with the balance going to the VSMP authority.

b. Fees collected pursuant to this section shall be in addition to any general fund appropriation made to the Department or other supporting revenue from a VSMP; however, the fees shall be set at a level sufficient for the Department and the VSMP to fully carry out their responsibilities under this article and its attendant regulations and local ordinances or standards and specifications where applicable. When establishing a VSMP, the VSMP authority shall assess the statewide fee schedule and shall have the authority to reduce or increase such fees, and to consolidate such fees with other program-related charges, but in no case shall such fee changes affect the amount established in the regulations as available to the Department for program oversight responsibilities pursuant to subdivision 5 a. A VSMP's portion of the fees shall be used solely to carry out the VSMP's responsibilities under this article and its attendant regulations, ordinances, or annual standards and specifications.

c. Until July 1, 2014, the fee for coverage under the General Permit for Discharges of Stormwater from Construction Activities issued by the Board, or where the Board has issued an individual permit or coverage under the General Permit for Discharges of Stormwater from Construction Activities for an entity for which it has approved annual standards and specifications, shall be \$750 for each large construction activity with sites or common plans of development equal to or greater than five acres and \$450 for each small construction activity with sites or common plans of development equal to or greater than one acre and less than five acres. On and after July 1, 2014, such fees shall only apply where coverage has been issued under the Board's General Permit for Discharges of Stormwater from Construction Activities to a state agency or federal entity for which it has approved annual standards and specifications. After establishment, such fees may be modified in the future through regulatory actions.

d. Until July 1, 2014, the Department is authorized to assess a \$125 reinspection fee for each visit to a project site that was necessary to check on the status of project site items noted to be in noncompliance and documented as such on a prior project inspection.

e. In establishing the fee schedule under this subdivision, the Department shall ensure that the VSMP authority portion of the statewide permit fee for coverage under the General Permit for Discharges of Stormwater from Construction Activities for small construction activity involving a single family detached residential structure with a site or area, within or outside a common plan of development or sale, that is equal to or greater than one acre but less than five acres shall be no greater than the VSMP authority portion of the fee for coverage of sites or areas with a land-disturbance acreage of less than one acre within a common plan of development or sale.

f. When any fees are collected pursuant to this section by credit cards, business transaction costs associated with processing such payments may be additionally assessed;

6. Establish statewide standards for stormwater management from land-disturbing activities of one acre or greater, except as specified otherwise within this article, and allow for the consolidation in the permit of a comprehensive approach to addressing stormwater management and erosion and sediment control, consistent with the provisions of the Erosion and Sediment Control Law (§ 62.1-44.15:51 et seq.) and this article. However, such standards shall also apply to land-disturbing activity exceeding an area of 2,500 square feet in all areas of the jurisdictions designated as subject to the Chesapeake Bay Preservation Area Designation and Management Regulations;

7. Establish a procedure by which a stormwater management plan that is approved for a residential, commercial, or industrial subdivision shall govern the development of the individual parcels, including those parcels developed under subsequent owners;

8. Notwithstanding the provisions of subdivision A 5, establish a procedure by which neither a registration statement nor payment of the Department's portion of the statewide permit fee established pursuant to that subdivision shall be required for coverage under the General Permit for Discharges of Stormwater from Construction Activities for construction activity involving a single-family detached residential structure, within or outside a common plan of development or sale;

9. Provide for reciprocity with programs in other states for the certification of proprietary best management practices;

10. Require that VSMPs maintain after-development runoff rate of flow and characteristics that replicate, as nearly as practicable, the existing predevelopment runoff characteristics and site hydrology, or improve upon the contributing share of the existing predevelopment runoff characteristics and site hydrology if stream channel erosion or localized flooding is an existing predevelopment condition. Except where more stringent requirements are necessary to address total maximum daily load requirements or to protect exceptional state waters, any land-disturbing activity that provides for stormwater management shall satisfy the conditions of this subsection if the practices are designed to (i) detain the water quality volume and to release it over 48 hours; (ii) detain and release over a 24-hour period the expected rainfall resulting from the one year, 24-hour storm; and (iii) reduce the allowable peak flow rate resulting from the 1.5-year, two-year, and 10-year, 24-hour storms to a level that is less than or equal to the peak flow rate from the site assuming it was in a good forested condition, achieved through multiplication of the forested peak flow rate by a reduction factor that is equal to the runoff volume from the site when it was in a good forested condition divided by the runoff volume from the site in its proposed condition, and shall be exempt from any flow rate capacity and velocity requirements for natural or man-made channels as defined in any regulations promulgated pursuant to this section or any ordinances adopted pursuant to § 62.1-44.15:27 or 62.1-44.15:33;

11. Encourage low-impact development designs, regional and watershed approaches, and nonstructural means for controlling stormwater;

12. Promote the reclamation and reuse of stormwater for uses other than potable water in order to protect state waters and the public health and to minimize the direct discharge of pollutants into state waters;

13. Establish procedures to be followed when a locality that operates a VSMP wishes to transfer administration of the VSMP to the Department;

14. Establish a statewide permit fee schedule for stormwater management related to municipal separate storm sewer system permits; ~~and~~

15. Provide for the evaluation and potential inclusion of emerging or innovative stormwater control technologies that may prove effective in reducing nonpoint source pollution; *and*

16. *Require that all final plan elements, specifications, or calculations whose preparation requires a license under Chapter 4 (§ 54.1-400 et seq.) or 22 (§ 54.1-2200 et seq.) of Title 54.1 be appropriately signed and sealed by a professional who is licensed to engage in practice in the Commonwealth. Nothing in this subdivision shall authorize any person to engage in practice outside his area of professional competence.*

B. The Board may integrate and consolidate components of the regulations implementing the Erosion and Sediment Control program and the Chesapeake Bay Preservation Area Designation and Management program with the regulations governing the Virginia Stormwater Management Program (VSMP) Permit program or repeal components so that these programs may be implemented in a consolidated manner that provides greater consistency, understanding, and efficiency for those regulated by and administering a VSMP.

**§ 62.1-44.15:28. (For effective date, see Acts 2016, cc. 68 & 758) Development of regulations.**

The Board is authorized to adopt regulations that establish requirements for the effective control of soil erosion, sediment deposition, and stormwater, including nonagricultural runoff, that shall be met in any VESMP to prevent the unreasonable degradation of properties, stream channels, waters, and other natural resources, and that specify minimum technical criteria and administrative procedures for VESMPs. The regulations shall:

1. Establish standards and procedures for administering a VESMP;
2. Establish minimum standards of effectiveness of the VESMP and criteria and procedures for reviewing and evaluating its effectiveness. The minimum standards of program effectiveness established by the Board shall provide that (i) no soil erosion control and stormwater management plan shall be approved until it is reviewed by a plan reviewer certified pursuant to § 62.1-44.15:30, (ii) each inspection of a land-disturbing activity shall be conducted by an inspector certified pursuant to § 62.1-44.15:30, and (iii) each VESMP shall contain a program administrator, a plan reviewer, and an inspector, each of whom is certified pursuant to § 62.1-44.15:30 and all of whom may be the same person;
3. Be based upon relevant physical and developmental information concerning the watersheds and drainage basins of the Commonwealth, including data relating to land use, soils, hydrology, geology, size of land area being disturbed, proximate water bodies and their characteristics, transportation, and public facilities and services;
4. Include any survey of lands and waters as the Board deems appropriate or as any applicable law requires to identify areas, including multijurisdictional and watershed areas, with critical soil erosion and sediment problems;
5. Contain conservation standards for various types of soils and land uses, which shall include criteria, techniques, and methods for the control of soil erosion and sediment resulting from land-disturbing activities;
6. Establish water quality and water quantity technical criteria. These criteria shall be periodically modified as required in order to reflect current engineering methods;
7. Require the provision of long-term responsibility for and maintenance of stormwater management control devices and other techniques specified to manage the quality and quantity of runoff;
8. Require as a minimum the inclusion in VESMPs of certain administrative procedures that include, but are not limited to, specifying the time period within which a VESMP authority shall grant land-disturbance approval, the conditions and processes under which such approval shall be granted, the procedures for communicating disapproval, the conditions under which an approval may be changed, and requirements for inspection of approved projects;
9. Establish a statewide fee schedule to cover all costs associated with the implementation of a VESMP related to land-disturbing activities where permit coverage is required, and for land-disturbing activities where the Board serves as a VESMP authority or VSMP authority. Such fee attributes include the costs associated with plan review, permit registration statement review, permit issuance, permit coverage verification, inspections, reporting, and compliance activities associated with the land-disturbing activities as well as program oversight costs. The fee schedule shall also include a provision for a reduced fee for a land-disturbing activity that disturbs 2,500 square feet or more but less than one acre in an area of a locality designated as a Chesapeake Bay Preservation Area pursuant to the Chesapeake Bay Preservation Act (§ 62.1-44.15:67 et seq.). The fee schedule shall be governed by the following:
  - a. The revenue generated from the statewide fee shall be collected utilizing, where practicable, an online payment system, and the Department's portion shall be remitted to the State Treasurer for deposit in the Virginia Stormwater Management Fund established pursuant to § 62.1-44.15:29. However, whenever the Board has approved a VESMP, no more than 30 percent of the total revenue generated by the statewide fees collected shall be remitted to the State Treasurer for deposit in the Virginia Stormwater Management Fund, with the balance going to the VESMP authority;
  - b. Fees collected pursuant to this section shall be in addition to any general fund appropriation made to the Department or other supporting revenue from a VESMP; however, the fees shall be set at a level sufficient for the Department, the Board, and the VESMP to fully carry out their responsibilities under this article and local ordinances or standards and specifications where applicable. When establishing a VESMP, the VESMP authority shall assess the statewide fees pursuant to the schedule and shall have the authority to reduce or increase such fees, and to consolidate such fees with other program-related charges, but in no case shall such fee changes affect the amount established in the regulations as available to the Department for program oversight responsibilities pursuant to subdivision a. A VESMP's portion of the fees shall be used solely to carry out the VESMP's responsibilities under this article and associated ordinances;
  - c. In establishing the fee schedule under this subdivision, the Department shall ensure that the VESMP authority portion of the statewide fee for coverage under the General Permit for Discharges of Stormwater from Construction Activities for small construction activity involving a single-family detached residential structure with a site or area, within or outside a common plan of development or sale, that is equal to or greater than one acre but less than five acres shall be no greater than the VESMP authority portion of the fee for coverage of sites or areas with a land-disturbance acreage of less than one acre within a common plan of development or sale;
  - d. When any fees are collected pursuant to this section by credit cards, business transaction costs associated with processing such payments may be additionally assessed;

e. Notwithstanding the other provisions of this subdivision 9, establish a procedure by which neither a registration statement nor payment of the Department's portion of the statewide fee established pursuant to this subdivision 9 shall be required for coverage under the General Permit for Discharges of Stormwater from Construction Activities for construction activity involving a single-family detached residential structure, within or outside a common plan of development or sale;

10. Establish statewide standards for soil erosion control and stormwater management from land-disturbing activities;

11. Establish a procedure by which a soil erosion control and stormwater management plan or stormwater management plan that is approved for a residential, commercial, or industrial subdivision shall govern the development of the individual parcels, including those parcels developed under subsequent owners;

12. Provide for reciprocity with programs in other states for the certification of proprietary best management practices;

13. Require that VESMPs maintain after-development runoff rate of flow and characteristics that replicate, as nearly as practicable, the existing predevelopment runoff characteristics and site hydrology, or improve upon the contributing share of the existing predevelopment runoff characteristics and site hydrology if stream channel erosion or localized flooding is an existing predevelopment condition.

a. Except where more stringent requirements are necessary to address total maximum daily load requirements or to protect exceptional state waters, any land-disturbing activity that was subject to the water quantity requirements that were in effect pursuant to this article prior to July 1, 2014, shall be deemed to satisfy the conditions of this subsection if the practices are designed to (i) detain the water volume equal to the first one-half inch of runoff multiplied by the impervious surface of the land development project and to release it over 48 hours; (ii) detain and release over a 24-hour period the expected rainfall resulting from the one year, 24-hour storm; and (iii) reduce the allowable peak flow rate resulting from the 1.5-year, two-year, and 10-year, 24-hour storms to a level that is less than or equal to the peak flow rate from the site assuming it was in a good forested condition, achieved through multiplication of the forested peak flow rate by a reduction factor that is equal to the runoff volume from the site when it was in a good forested condition divided by the runoff volume from the site in its proposed condition. Any land-disturbing activity that complies with these requirements shall be exempt from any flow rate capacity and velocity requirements for natural or man-made channels as defined in any regulations promulgated pursuant to this section or any ordinances adopted pursuant to § 62.1-44.15:27 or 62.1-44.15:33;

b. Any stream restoration or relocation project that incorporates natural channel design concepts is not a man-made channel and shall be exempt from any flow rate capacity and velocity requirements for natural or man-made channels as defined in any regulations promulgated pursuant to this article;

14. Encourage low-impact development designs, regional and watershed approaches, and nonstructural means for controlling stormwater;

15. Promote the reclamation and reuse of stormwater for uses other than potable water in order to protect state waters and the public health and to minimize the direct discharge of pollutants into state waters;

16. Establish procedures to be followed when a locality chooses to change the type of program it administers pursuant to subsection D of § 62.1-44.15:27;

17. Establish a statewide permit fee schedule for stormwater management related to MS4 permits; ~~and~~

18. Provide for the evaluation and potential inclusion of emerging or innovative stormwater control technologies that may prove effective in reducing nonpoint source pollution; *and*

19. *Require that all final plan elements, specifications, or calculations whose preparation requires a license under Chapter 4 (§ 54.1-400 et seq.) or 22 (§ 54.1-2200 et seq.) of Title 54.1 be appropriately signed and sealed by a professional who is licensed to engage in practice in the Commonwealth. Nothing in this subdivision shall authorize any person to engage in practice outside his area of professional competence.*

**2. That the State Water Control Board (the Board) shall adopt regulations to implement the requirements of this act to be effective no later than July 1, 2018. The adoption of such regulations shall be exempt from the requirements of Article 2 (§ 2.2-4006 et seq.) of the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia). However, the Department shall (i) provide a Notice of Intended Regulatory Action and (ii) provide for a 60-day public comment period prior to the Board's adoption of the regulations.**

## CHAPTER 164

*An Act to amend and reenact §§ 46.2-945 and 46.2-946 of the Code of Virginia, to amend the Code of Virginia by adding sections numbered 46.2-944.1 and 46.2-944.2, and to repeal § 46.2-944 of the Code of Virginia, relating to the Nonresident Violator Compact of 1977.*

[S 1272]

Approved February 23, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 46.2-945 and 46.2-946 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 46.2-944.1 and 46.2-944.2 as follows:**

**§ 46.2-944.1. Compact entered into law; terms.**

*The Nonresident Violator Compact of 1977 is hereby enacted into law and entered into with all other jurisdictions legally joining therein in the form substantially as follows:*

## NONRESIDENT VIOLATOR COMPACT of 1977

## Article I

## Findings, Declaration of Policy and Purpose

(a) The party jurisdictions find that:

(1) In most instances, a motorist who is cited for a traffic violation in a jurisdiction other than his home jurisdiction:

(i) Must post collateral or bond to secure appearance for trial at a later date; or

(ii) If unable to post collateral or bond, is taken into custody until the collateral or bond is posted; or

(iii) Is taken directly to court for the trial to be held.

(2) In some instance, the motorist's driver's license may be deposited as collateral to be returned after he has complied with the terms of the citation.

(3) The purpose of the practices described in paragraphs (1) and (2) above is to ensure compliance with the terms of a traffic citation by the motorist who, if permitted to continue on his way after receiving the traffic citation, could return to his home jurisdiction and disregard his duty under the terms of the traffic citation.

(4) A motorist receiving a traffic citation in his home jurisdiction is permitted, except for certain violations, to accept the citation from the officer at the scene of the violation and to immediately continue on his way after promising or being instructed to comply with the terms of the citation.

(5) The practice described in paragraph (1) above causes unnecessary inconvenience and, at times, a hardship for the motorist who is unable at the time to post collateral, furnish a bond, stand trial, or pay the fine, and thus is compelled to remain in custody until some arrangement can be made.

(6) The deposit of a driver's license as a bail bond, as directed in paragraph (2) is viewed with disfavor.

(7) The practices described herein consume an undue amount of law enforcement time.

(b) It is the policy of the party jurisdictions to:

(1) Seek compliance with the laws, ordinances, and administrative rules and regulations relating to the operation of motor vehicles in each of the jurisdictions.

(2) Allow motorists to accept a traffic citation for certain violations and proceed on their way without delay whether or not the motorist is a resident of the jurisdiction in which the citation was issued.

(3) Extend cooperation to its fullest extent among the jurisdictions for obtaining compliance with the terms of a traffic citation issued in one jurisdiction to a resident of another jurisdiction.

(4) Maximize effective utilization of law enforcement personnel and assist court systems in the efficient disposition of traffic violations.

(c) The purpose of the compact is to:

(1) Provide a means through which the party jurisdictions may participate in a reciprocal program to effectuate the policies enumerated in paragraph (b) above in a uniform and orderly manner.

(2) Provide for the fair and impartial treatment of traffic violators operating within party jurisdictions in recognition of the motorist's right of due process and the sovereign status of a party jurisdiction.

## Article II

## Definitions

(a) In the Nonresident Violator Compact, the following words have the meaning indicated, unless the context requires otherwise.

(b) Definitions.

(1) "Citation" means any summons, ticket, or other official document issued by a police officer for a traffic violation containing an order which requires the motorist to respond.

(2) "Collateral" means any cash or other security deposited to secure an appearance for trial, following the issuance by a police officer of a citation for a traffic violation.

(3) "Compliance"\* means the act of answering a citation, summons or subpoena through appearance at court, a tribunal, and/or payment of fines and costs.

(4) "Court" means a court of law or traffic tribunal.

(5) "Driver's License" means any license or privilege to operate a motor vehicle issued under the laws of the home jurisdiction.

(6) "Home Jurisdiction" means the jurisdiction that issued the driver's license of the traffic violator.

(7) "Issuing Jurisdiction" means the jurisdiction in which the traffic citation was issued to the motorist.

(8) "Jurisdiction" means a state, territory, or possession of the United States, the District of Columbia, Commonwealth of Puerto Rico, Provinces of Canada, or other countries.

(9) "Motorist" means driver of a motor vehicle operating in a party jurisdiction other than the home jurisdiction.

(10) "Personal Recognizance" means an agreement by a motorist made at the time of issuance of the traffic citation that he will comply with the terms of that traffic citation.

(11) "Police Officer" means any individual authorized by the party jurisdiction to issue a citation for a traffic violation.

(12) "Terms of the Citation" means those options expressly stated upon the citation.

\* For purposes of the Nonresident Violator Compact the posting of collateral or bail has not been considered in this definition.

### Article III

#### Procedure for Issuing Jurisdiction

(a) When issuing a citation for a traffic violation, a police officer shall issue the citation to a motorist who possesses a driver's license issued by a party jurisdiction and shall not, subject to the exceptions noted in paragraph (b) of this article, require the motorist to post collateral to secure appearance, if the officer receives the motorist's personal recognizance that he or she will comply with the terms of the citation.

(b) Personal recognizance is acceptable only if not prohibited by law. If mandatory appearance is required, it should take place immediately following issuance of the citation.

(c) Upon failure of a motorist to comply with the terms of a traffic citation, the appropriate official shall report the failure to comply to the licensing authority of the jurisdiction in which the traffic citation was issued. The report shall be made in accordance with procedures specified by the issuing jurisdiction and shall contain information as specified in the Compact Manual as minimum requirements for effective processing by the home jurisdiction.

(d) Upon receipt of the report, the licensing authority of the issuing jurisdiction shall transmit to the licensing authority in the home jurisdiction of the motorist, the information in a form and content as contained in the Compact Manual.

(e) The licensing authority of the issuing jurisdiction need not suspend the privilege of a motorist for whom a report has been transmitted.

(f) The licensing authority of the issuing jurisdiction shall not transmit a report on any violation if the date of transmission is more than six months after the date on which the traffic citation was issued.

(g) The licensing authority of the issuing jurisdiction shall not transmit a report on any violation where the date of issuance of the citation predates the most recent of the effective dates of entry for the two jurisdictions affected.

### Article IV

#### Procedure for Home Jurisdiction

(a) Upon receipt of a report of a failure to comply from the licensing authority of the issuing jurisdiction, the licensing authority of the home jurisdiction shall notify the motorist and initiate a suspension action in accordance with the home jurisdiction's procedures, to suspend the motorist's driver's license until satisfactory evidence of compliance with the terms of the traffic citation has been furnished to the home jurisdiction licensing authority. Due process safeguards will be accorded.

(b) The licensing authority of the home jurisdiction shall maintain a record of actions taken and make reports to issuing jurisdictions as provided in the Compact Manual.

### Article V

#### Applicability of Other Laws

Except as expressly required by provisions of this compact, nothing contained herein shall be construed to affect the right of any party jurisdiction to apply any of its other laws relating to license to drive to any person or circumstance, or to invalidate or prevent any driver license agreement or other cooperative arrangements between a party jurisdiction and a nonparty jurisdiction.

### Article VI

#### Compact Administrator Procedures

(a) For the purpose of administering the provisions of this compact and to serve as a governing body for the resolution of all matters relating to the operation of this compact, a Board of Compact Administrators is established. The board shall be composed of one representative from each party jurisdiction to be known as the compact administrator. The compact administrator shall be appointed by the jurisdiction executive and will serve and be subject to removal in accordance with the laws of the jurisdiction he represents. A compact administrator may provide for the discharge of his duties and the performance of his functions as a board member by an alternate. An alternate may not be entitled to serve unless written notification of his identity has been given to the board.

(b) Each member of the Board of Compact Administrators shall be entitled to one vote. No action of the board shall be binding unless taken at a meeting at which a majority of the total number of votes on the board are cast in favor. Action by the board shall be only at a meeting at which a majority of the party jurisdictions are represented.

(c) The board shall elect annually, from its membership, a chairman and vice chairman.

(d) The board shall adopt bylaws, not inconsistent with the provisions of this compact or the laws of a party jurisdiction, for the conduct of its business and shall have the power to amend and rescind its bylaws.

(e) The board may accept for any of its purposes and functions under this compact any and all donations, and grants of money, equipment, supplies, materials, and services, conditional or otherwise, from any jurisdiction, the United States, or any other governmental agency, and may receive, utilize, and dispose of the same.

(f) The board may contract with, or accept services or personnel from any governmental or intergovernmental agency, person, firm, or corporation, or any private nonprofit organization or institution.

(g) The board shall formulate all necessary procedures and develop uniform forms and documents for administering the provisions of this compact. All procedures and forms adopted pursuant to board action shall be contained in the Compact Manual.

### Article VII

#### Entry into Compact and Withdrawal

(a) This compact shall become effective when it has been adopted by at least two jurisdictions.

(b) (1) Entry into the compact shall be made by a Resolution of Ratification executed by the authorized officials of the applying jurisdiction and submitted to the chairman of the board.

(2) The resolution shall be in a form and content as provided in the Compact Manual and shall include statements that in substance are as follows:

(i) A citation of the authority by which the jurisdiction is empowered to become a party to this compact.

(ii) Agreement to comply with the terms and provisions of the compact.

(iii) That compact entry is with all jurisdiction then party to the compact and with any jurisdiction that legally becomes a party to the compact.

(3) The effective date of entry shall be specified by the applying jurisdiction, but it shall not be less than 60 days after notice has been given by the chairman of the Board of Compact Administrators or by the secretariat of the board to each party jurisdiction that the resolution from the applying jurisdiction has been received.

(c) A party jurisdiction may withdraw from this compact by official written notice to the other party jurisdictions, but a withdrawal shall not take effect until 90 days after notice of withdrawal is given. The notice shall be directed to the compact administrator of each member jurisdiction. No withdrawal shall affect the validity of this compact as to the remaining party jurisdictions.

Article VIII

Exceptions

The provisions of this compact shall not apply to parking or standing violations, highway weight limit violations, and violations of law governing the transportation of hazardous materials.

Article IX

Amendments to the Compact

(a) This compact may be amended from time to time. Amendments shall be presented in resolution form to the chairman of the Board of Compact Administrators and may be initiated by one or more party jurisdictions.

(b) Adoption of an amendment shall require endorsement of all party jurisdictions and shall become effective 30 days after the date of the last endorsement.

(c) Failure of a party jurisdiction to respond to the compact chairman within 120 days after receipt of the proposed amendment shall constitute endorsement.

Article X

Construction and Severability

This compact shall be liberally construed so as to effectuate the purposes stated herein. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the construction of any party jurisdiction or of the United States or the applicability thereof to any government agency, person, or circumstance, the compact shall not be affected thereby. If this compact shall be held contrary to the constitution of any jurisdiction party thereto, the compact shall remain in full force and effect as to the remaining jurisdictions and in full force and effect as to the jurisdiction affected as to all severable matters.

Article XI

Title

This compact shall be known as the Nonresident Violator Compact of 1977.

**§ 46.2-944.2. Department of Motor Vehicles to be "licensing authority" within meaning of compact; duties of Department.**

As used in the Nonresident Violator Compact of 1977, which shall apply only to traffic infractions as defined in § 46.2-100, "licensing authority," with reference to the Commonwealth, means the Department of Motor Vehicles. The Department shall furnish to the appropriate authorities of any other party state any information or documents reasonably necessary to facilitate the administration of Articles III and IV of the compact.

**§ 46.2-945. Issuance of citation to motorist; party jurisdiction; police officer to report noncompliance with citation.**

A. When issuing a citation for a traffic violation, a police officer shall issue the citation to a motorist who is a resident of or holds a driver's license issued by a party jurisdiction and shall not, subject to the exceptions noted in subsection C of this section, require such motorist to post collateral or bond to secure appearance for trial, but shall accept such motorist's written promise that he will comply with the terms of such citation; in accordance with Article III of the Nonresident Violator Compact, provided, however, that the motorist shall have the right upon his request to post collateral or bond in a manner provided by law and, in such case, the provisions of this article shall not apply.

B. In the absence of the motorist's written promise personal recognizance, the officer shall proceed according to the provisions of § 46.2-940.

C. No motorist shall be entitled to receive a citation under the terms of subsection A of this section this article, nor shall any police officer issue such citation under the same, in the event that the offense for which the citation is issued shall be one of the following: (i) an offense for which the issuance of a citation in lieu of a hearing or the posting of collateral or bond is prohibited by the laws of this the Commonwealth; or (ii) an offense; the conviction of or the forfeiture of collateral for which requires the revocation of the motorist's license.

D. Upon the failure of any motorist to comply with the terms of a traffic citation, the police officer or the appropriate official shall report this fact to the Department of Motor Vehicles. Such The report required by subsection (c) of Article III of

*the Nonresident Violator Compact* shall clearly identify the motorist; describe the violation, specifying the section of the statute, code, or ordinance violated; ~~shall~~ indicate the location of the offense; give a description of vehicle involved; and show the registration or license number of the vehicle. Such report shall be signed by the police officer or appropriate official.

**§ 46.2-946. Department to transmit officer's report to party jurisdiction; suspension of resident's license for noncompliance with citation issued by party jurisdiction.**

Upon receipt of the report as described in § 46.2-945, the Department of Motor Vehicles shall transmit a certified copy of such report to the official in charge of the issuance of driver's licenses in the home jurisdiction in which the motorist resides or by which he is licensed.

Upon receipt from the issuing jurisdiction of a certification of noncompliance with a citation by a motorist holding a driver's license issued by this Commonwealth, the Commissioner of the Department of Motor Vehicles forthwith shall suspend such motorist's driver's license. The order of suspension authorized by subsection (a) of Article IV of the *Nonresident Violator Compact* shall indicate the reason for the order; and shall notify the motorist that his license shall remain suspended until he has furnished evidence satisfactory to the Commissioner that he has fully complied with the terms of the citation which that was the basis for the suspension order.

The licensing authority of the issuing jurisdiction may suspend the privilege of a motorist for whom a report has been transmitted.

It shall be the duty of the Commissioner of Motor Vehicles to ascertain and remain informed as to which jurisdictions are party jurisdictions hereunder and, accordingly, to maintain a current listing of such jurisdictions, which listing he shall from time to time cause to be disseminated among the appropriate departments, divisions, bureaus, and agencies of this the Commonwealth; the principal executive officers of the several counties, cities, and towns of this the Commonwealth; and the licensing authorities in all other jurisdictions which that are, have been, or claim to be a party jurisdiction pursuant hereto.

Consistent with the terms of the applicable *Nonresident Violator Compact*, the home jurisdiction shall take no action regarding any report transmitted by the issuing jurisdiction, which is transmitted more than six months after the date on which the traffic citation was issued.

Consistent with the terms of the applicable *Nonresident Violator Compact*, the home jurisdiction shall take no action regarding any report on any violation where the date of issuance of the citation predates the entry into the compact for the two party jurisdictions affected.

2. That § 46.2-944 of the Code of Virginia is repealed.

## CHAPTER 165

*An Act to amend Chapter 402 of the Acts of Assembly of 2016 by adding a second enactment, relating to local option for timing of municipal elections; effective date.*

[S 1304]

Approved February 23, 2017

**Be it enacted by the General Assembly of Virginia:**

1. That Chapter 402 of the Acts of Assembly of 2016 is amended by adding a second enactment as follows:
2. That the provisions of this act shall be retroactively effective beginning on July 1, 2000.

## CHAPTER 166

*An Act to amend and reenact §§ 2.2-229, 33.2-214.1, 33.2-222, and 33.2-256 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 33.2-214.2, relating to Department of Transportation; Office of Intermodal Planning and Investment of the Secretary of Transportation; responsibilities.*

[S 1331]

Approved February 23, 2017

**Be it enacted by the General Assembly of Virginia:**

1. That §§ 2.2-229, 33.2-214.1, 33.2-222, and 33.2-256 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 33.2-214.2 as follows:

**§ 2.2-229. Office of Intermodal Planning and Investment of the Secretary of Transportation.**

A. There is hereby established the Office of Intermodal Planning and Investment of the Secretary of Transportation (*the Office*), consisting of a director, appointed by the Secretary of Transportation, and such additional transportation professionals as the Secretary of Transportation shall determine. ~~The goals of the Office are to provide solutions that link existing systems; promote the coordination of transportation investments and land use planning; reduce congestion; improve safety, mobility, and accessibility; and provide for greater travel options.~~ It shall be the duty of the director of the office ~~to~~ *Office to support and advise the Secretary, the Virginia Aviation Board, the Virginia Port Authority Board, and the*

~~Commonwealth Transportation Board on intermodal issues, generally in his role as chairman of the Commonwealth Transportation Board.~~

*B. The goals of the Office shall be:*

*1. To promote transparency and accountability of the programming of transportation funds, including the development of the Six-Year Improvement Program pursuant to § 33.2-214 and the statewide prioritization process pursuant to § 33.2-214.1;*

*2. To ensure that the Commonwealth has a multimodal transportation system that promotes economic development and all transportation modes, intermodal connectivity, environmental quality, accessibility for people and freight, and transportation safety;*

*3. To encourage the use of innovation and best practices to improve the efficiency of the Commonwealth's surface transportation network and to enhance the efficacy of strategies to improve such efficiency; and*

*4. To promote the coordination between transportation investments and land use planning.*

*C. The responsibilities of the Office shall be:*

*1. To ~~identify transportation solutions to promote economic development and all transportation modes, intermodal connectivity, environmental quality, accessibility for people and freight, and transportation safety~~ oversee and coordinate with the Department of Transportation and the Department of Rail and Public Transportation the development of the Six-Year Improvement Program pursuant to § 33.2-214 for the Commonwealth Transportation Board;*

*2. To implement the statewide prioritization process developed by the Commonwealth Transportation Board pursuant to § 33.2-214.1 in coordination with the Department of Transportation and the Department of Rail and Public Transportation;*

*3. To ~~assist develop for the Commonwealth Transportation Board in the development of Board's approval~~ the Statewide Transportation Plan pursuant to § 33.2-353;*

*4. To develop measures and targets related to the performance of the Commonwealth's surface transportation network for the Commonwealth Transportation Board's approval and report annually on progress made to achieve such targets in coordination with the Department of Transportation and the Department of Rail and Public Transportation and to develop in coordination with applicable regional organizations quantifiable and achievable goals pursuant to § 33.2-353;*

~~*5. To undertake, identify, coordinate, and oversee studies of potential highway, transit, rail, and other improvements or strategies, to help address mobility and accessibility within corridors of statewide significance and regional networks, and promote commuter choice inclusion in the six-year improvement program needs identified in the Statewide Transportation Plan pursuant to § 33.2-353;*~~

*4. To work with and coordinate action of the Virginia Department of Transportation, the Virginia Department of Rail and Public Transportation, the Virginia Port Authority, and the Virginia Department of Aviation to promote intermodal and multimodal solutions in each agency's strategic and long-range plans;*

*5. To work with and review plans of regional transportation agencies and authorities to promote intermodal and multimodal solutions;*

*6. To work with and coordinate actions of the agencies of the transportation Secretariat to assess freight movements and promote intermodal and multimodal solutions to address freight needs, including assessment of intermodal facilities;*

~~*7. To assess and coordinate transportation safety needs related to passenger and freight movements by all transportation modes;*~~

~~*8. To coordinate the adequate accommodation of pedestrian, bicycle, and other forms of nonmotorized transportation in the six-year improvement program and other state and regional transportation plans;*~~

*9. 6. To work with and coordinate actions of the agencies of the transportation Secretariat to ~~implement~~ assist the Commonwealth Transportation Board in the development of a comprehensive, multimodal transportation policy, which may be developed as part of the Statewide Transportation Plan pursuant to § 33.2-353; and*

~~*10. To develop quantifiable and achievable goals pursuant to § 33.2-353 and transportation and land use performance measures and prepare an annual performance report on state and regional efforts. The Office of Intermodal Planning and Investment shall work with applicable regional organizations to develop such goals;*~~

~~*11. To identify and facilitate public and private partnerships to achieve the goals of state and regional plans;*~~

~~*12. 7. To provide technical assistance to local governments and regional entities, including assistance to establish and promote urban development areas pursuant to § 15.2-2223.1; and*~~

~~*13. To establish standards for the coordination of transportation investments and land use planning to promote commuter choice and transportation system efficiency.*~~

**§ 33.2-214.1. Statewide prioritization process for project selection.**

A. The General Assembly declares it to be in the public interest that a prioritization process for projects funded by the Commonwealth Transportation Board be developed and implemented to improve the efficiency and effectiveness of the state's transportation system, transportation safety, transportation accessibility for people and freight, environmental quality, and economic development in the Commonwealth.

B. Subject to the limitations in subsection C, the Commonwealth Transportation Board shall develop, in accordance with federal transportation requirements, and in cooperation with metropolitan planning organizations wholly within the Commonwealth and with the Northern Virginia Transportation Authority, a statewide prioritization process for the use of funds allocated pursuant to §§ 33.2-358, 33.2-370, and 33.2-371 or apportioned pursuant to 23 U.S.C. § 104. Such

prioritization process shall be used for the development of the Six-Year Improvement Program pursuant to § 33.2-214 and shall consider, at a minimum, highway, transit, rail, roadway, technology operational improvements, and transportation demand management strategies.

1. The prioritization process shall be based on an objective and quantifiable analysis that considers, at a minimum, the following factors relative to the cost of the project or strategy: congestion mitigation, economic development, accessibility, safety, and environmental quality.

2. Prior to the analysis in subdivision 1, candidate projects and strategies shall be screened by the Commonwealth Transportation Board to determine whether they are consistent with the assessment of capacity needs for all for corridors of statewide significance, regional networks, and improvements to promote urban development areas established pursuant to § 15.2-2223.1, undertaken in the Statewide Transportation Plan in accordance with § 33.2-353.

3. The Commonwealth Transportation Board shall weight the factors used in subdivision 1 for each of the state's highway construction districts. The Commonwealth Transportation Board may assign different weights to the factors, within each highway construction district, based on the unique needs and qualities of each highway construction district.

4. The Commonwealth Transportation Board shall solicit input from localities, metropolitan planning organizations, transit authorities, transportation authorities, and other stakeholders in its development of the prioritization process pursuant to this section. Further, the Board shall explicitly consider input provided by an applicable metropolitan planning organization or the Northern Virginia Transportation Authority when developing the weighting of factors pursuant to subdivision 3 for a metropolitan planning area with a population over 200,000 individuals.

C. The prioritization process developed under subsection B shall not apply to the following: projects or activities undertaken pursuant to § 33.2-352; projects funded by the Congestion Mitigation Air Quality funds apportioned to the state pursuant to 23 U.S.C. § 104(b)(4) and state matching funds; projects funded by the Highway Safety Improvement Program funds apportioned to the state pursuant to 23 U.S.C. § 104(b)(3) and state matching funds; projects funded by the Transportation Alternatives funds set-aside pursuant to 23 U.S.C. § 213 and state matching funds; projects funded by the revenue-sharing program pursuant to § 33.2-357; and projects funded by federal programs established by the federal government after June 30, 2014, with specific rules that restrict the types of projects that may be funded, excluding restrictions on the location of projects with regard to highway functional classification. The Commonwealth Transportation Board may, at its discretion, develop a prioritization process for any of the funds covered by this subsection, subject to planning and funding requirements of federal law.

~~D. The Commonwealth Transportation Board shall make public, in an accessible format, the results of the screening and analysis of candidate projects and strategies under subsection B, including the weighting of factors and the criteria used to determine the value of each factor, no later than 30 days prior to a vote on such projects or strategies.~~

**§ 33.2-214.2. Transparency in the development of the Six-Year Improvement Program, statewide prioritization process, and state of good repair program.**

A. *The Board shall develop the Six-Year Improvement Program pursuant to § 33.2-214 in a transparent manner that provides to the public, elected officials, and other stakeholders the opportunity to engage and comment in a meaningful manner prior to the adoption of such program.*

B. *No later than 150 days prior to a vote to include projects or strategies evaluated pursuant to § 33.2-214.1 in the Six-Year Improvement Program, the Office of Intermodal Planning and Investment shall make public, in an accessible format, (i) a recommended list of projects and strategies for inclusion in the Six-Year Improvement Program based on the results of such evaluation, (ii) the results of the screening of candidate projects and strategies, and (iii) the results of the evaluation of candidate projects and strategies, including the weighting of factors and the criteria used to determine the value of each factor.*

C. *The Department shall make public a recommended list of projects eligible for funds under the state of good repair program pursuant to § 33.2-369 from the listing of prioritized pavement and bridge needs published in the Commissioner's annual report pursuant to § 33.2-232 at least 150 days prior to the adoption of a Six-Year Improvement Program that includes new projects with funding from such program.*

D. *The Board may modify the recommended list of projects in subsection B or C through formal action.*

**§ 33.2-222. Commissioner of Highways.**

The Commissioner of Highways shall be the chief executive officer of the Department of Transportation. The Commissioner of Highways shall be an experienced administrator able to direct and guide the Department in the establishment and achievement of the ~~Commonwealth's long-range highway~~ *Department's core mission as provided in subsection B of § 33.2-256* and other transportation objectives *determined by the Commonwealth Transportation Board.*

The Commissioner of Highways shall devote his entire time and attention to his duties as chief executive officer of the Department and shall receive such compensation as shall be fixed by law. He shall also be reimbursed for his actual travel expenses while engaged in the discharge of his duties.

In the event of a vacancy due to the death, temporary disability, retirement, resignation, or removal of the Commissioner of Highways, the Governor may appoint and thereafter remove at his pleasure an "Acting Commissioner of Highways" until such time as the vacancy may be filled as provided in § 33.2-200. Such "Acting Commissioner of Highways" shall have all powers and perform all duties of the Commissioner of Highways as provided by law and shall receive such compensation as may be fixed by the Governor. In the event of the temporary disability for any reason of the Commissioner of Highways, full effect shall be given to the provisions of § 2.2-605.

**§ 33.2-256. Department of Transportation established.**

A. There is hereby created a Department of Transportation within the executive branch, which shall be under the supervision and management of the Commissioner of Highways and responsible to the Secretary of Transportation.

B. *The core mission of the Department shall be as follows:*

1. *To maintain and operate the system of state highways;*
2. *To develop, oversee, and manage highway projects included in the Six-Year Improvement Program pursuant to § 33.2-214 based on guidance from the Commonwealth Transportation Board or funded pursuant to § 33.2-1524; and*
3. *To ensure the safety of the traveling public on the system of state highways.*

*Nothing in this subsection shall be construed to limit or restrict the powers otherwise granted to the Department or Commissioner.*

**CHAPTER 167**

*An Act to amend and reenact § 24.2-612 of the Code of Virginia, relating to ballots; number ordered to be printed.*

[S 1552]

Approved February 23, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 24.2-612 of the Code of Virginia is amended and reenacted as follows:**

**§ 24.2-612. List of offices and candidates filed with Department of Elections and checked for accuracy; when ballots printed; number required.**

Immediately after the expiration of the time provided by law for a candidate for any office to qualify to have his name printed on the official ballot and prior to printing the ballots for an election, each general registrar shall forward to the Department of Elections a list of the county, city, or town offices to be filled at the election and the names of all candidates who have filed for each office. In addition, each general registrar shall forward the name of any candidate who failed to qualify with the reason for his disqualification. On that same day, the general registrar shall also provide a copy of the notice to each disqualified candidate. The notice shall be sent by email or regular mail to the address on the candidate's certificate of candidate qualification, and such notice shall be deemed sufficient. The Department of Elections shall promptly advise the general registrar of the accuracy of the list. The failure of any general registrar to send the list to the Department of Elections for verification shall not invalidate any election.

Each general registrar shall have printed the number of ballots he determines will be sufficient to conduct the election. Such determination shall be *based on the number of active registered voters and historical election data, including voter turnout, and shall be* subject to the approval by the electoral board.

Notwithstanding any other provisions of this title, the Department of Elections may print or otherwise provide one statewide paper ballot style for each paper ballot style in use for presidential and vice-presidential electors for use only by persons eligible to vote for those offices only under § 24.2-402 or only for federal elections under § 24.2-453. The Department of Elections may apportion or authorize the printer or vendor to apportion the costs for these ballots among the localities based on the number of ballots ordered. Any printer employed by the Department of Elections shall execute the statement required by § 24.2-616. The Department of Elections shall designate a representative to be present at the printing of such ballots and deliver them to the appropriate general registrars pursuant to § 24.2-617. Upon receipt of such paper ballots, the electoral board or the general registrar shall affix the seal of the electoral board. Thereafter, such ballots shall be handled and accounted for, and the votes counted as the Department of Elections shall specifically direct.

The general registrar shall make printed ballots available for absentee voting not later than 45 days prior to any election or within three business days of the receipt of a properly completed absentee ballot application, whichever is later. In the case of a special election, excluding for federal offices, if time is insufficient to meet the applicable deadline established herein, then the general registrar shall make printed ballots available as soon after the deadline as possible. For the purposes of this chapter, making printed ballots available includes mailing of such ballots or electronic transmission of such ballots pursuant to § 24.2-706 to a qualified absentee voter who is eligible for an absentee ballot under subdivision 2 of § 24.2-700. Not later than five days after absentee ballots are made available, each general registrar shall report to the Department of Elections, in writing on a form approved by the Department of Elections, whether he has complied with the applicable deadline.

Only the names of candidates for offices to be voted on in a particular election district shall be printed on the ballots for that election district.

The general registrar shall send to the Department of Elections a statement of the number of ballots ordered to be printed, proofs of each printed ballot for verification, and copies of each final ballot. If the Department of Elections finds that, in its opinion, the number of ballots ordered to be printed by any general registrar is not sufficient, it may direct the general registrar to order the printing of a reasonable number of additional ballots.

## CHAPTER 168

*An Act to amend and reenact §§ 8.01-225 and 54.1-3408 of the Code of Virginia, relating to dispensing of naloxone.*

[H 1453]

Approved February 23, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 8.01-225 and 54.1-3408 of the Code of Virginia are amended and reenacted as follows:**

**§ 8.01-225. Persons rendering emergency care, obstetrical services exempt from liability.**

A. Any person who:

1. In good faith, renders emergency care or assistance, without compensation, to any ill or injured person (i) at the scene of an accident, fire, or any life-threatening emergency; (ii) at a location for screening or stabilization of an emergency medical condition arising from an accident, fire, or any life-threatening emergency; or (iii) en route to any hospital, medical clinic, or doctor's office, shall not be liable for any civil damages for acts or omissions resulting from the rendering of such care or assistance. For purposes of this subdivision, emergency care or assistance includes the forcible entry of a motor vehicle in order to remove an unattended minor at risk of serious bodily injury or death, provided the person has attempted to contact a law-enforcement officer, as defined in § 9.1-101, a firefighter, as defined in § 65.2-102, emergency medical services personnel, as defined in § 32.1-111.1, or an emergency 911 system, if feasible under the circumstances.

2. In the absence of gross negligence, renders emergency obstetrical care or assistance to a female in active labor who has not previously been cared for in connection with the pregnancy by such person or by another professionally associated with such person and whose medical records are not reasonably available to such person shall not be liable for any civil damages for acts or omissions resulting from the rendering of such emergency care or assistance. The immunity herein granted shall apply only to the emergency medical care provided.

3. In good faith and without compensation, including any emergency medical services provider who holds a valid certificate issued by the Commissioner of Health, administers epinephrine in an emergency to an individual shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment if such person has reason to believe that the individual receiving the injection is suffering or is about to suffer a life-threatening anaphylactic reaction.

4. Provides assistance upon request of any police agency, fire department, emergency medical services agency, or governmental agency in the event of an accident or other emergency involving the use, handling, transportation, transmission, or storage of liquefied petroleum gas, liquefied natural gas, hazardous material, or hazardous waste as defined in § 10.1-1400 or regulations of the Virginia Waste Management Board shall not be liable for any civil damages resulting from any act of commission or omission on his part in the course of his rendering such assistance in good faith.

5. Is an emergency medical services provider possessing a valid certificate issued by authority of the State Board of Health who in good faith renders emergency care or assistance, whether in person or by telephone or other means of communication, without compensation, to any injured or ill person, whether at the scene of an accident, fire, or any other place, or while transporting such injured or ill person to, from, or between any hospital, medical facility, medical clinic, doctor's office, or other similar or related medical facility, shall not be liable for any civil damages for acts or omissions resulting from the rendering of such emergency care, treatment, or assistance, including but in no way limited to acts or omissions which involve violations of State Department of Health regulations or any other state regulations in the rendering of such emergency care or assistance.

6. In good faith and without compensation, renders or administers emergency cardiopulmonary resuscitation (CPR); cardiac defibrillation, including, but not limited to, the use of an automated external defibrillator (AED); or other emergency life-sustaining or resuscitative treatments or procedures which have been approved by the State Board of Health to any sick or injured person, whether at the scene of a fire, an accident, or any other place, or while transporting such person to or from any hospital, clinic, doctor's office, or other medical facility, shall be deemed qualified to administer such emergency treatments and procedures and shall not be liable for acts or omissions resulting from the rendering of such emergency resuscitative treatments or procedures.

7. Operates an AED at the scene of an emergency, trains individuals to be operators of AEDs, or orders AEDs, shall be immune from civil liability for any personal injury that results from any act or omission in the use of an AED in an emergency where the person performing the defibrillation acts as an ordinary, reasonably prudent person would have acted under the same or similar circumstances, unless such personal injury results from gross negligence or willful or wanton misconduct of the person rendering such emergency care.

8. Maintains an AED located on real property owned or controlled by such person shall be immune from civil liability for any personal injury that results from any act or omission in the use in an emergency of an AED located on such property unless such personal injury results from gross negligence or willful or wanton misconduct of the person who maintains the AED or his agent or employee.

9. Is an employee of a school board or of a local health department approved by the local governing body to provide health services pursuant to § 22.1-274 who, while on school property or at a school-sponsored event, (i) renders emergency care or assistance to any sick or injured person; (ii) renders or administers emergency cardiopulmonary resuscitation (CPR); cardiac defibrillation, including, but not limited to, the use of an automated external defibrillator (AED); or other emergency

life-sustaining or resuscitative treatments or procedures that have been approved by the State Board of Health to any sick or injured person; (iii) operates an AED, trains individuals to be operators of AEDs, or orders AEDs; or (iv) maintains an AED, shall not be liable for civil damages for ordinary negligence in acts or omissions on the part of such employee while engaged in the acts described in this subdivision.

10. Is a volunteer in good standing and certified to render emergency care by the National Ski Patrol System, Inc., who, in good faith and without compensation, renders emergency care or assistance to any injured or ill person, whether at the scene of a ski resort rescue, outdoor emergency rescue, or any other place or while transporting such injured or ill person to a place accessible for transfer to any available emergency medical system unit, or any resort owner voluntarily providing a ski patroller employed by him to engage in rescue or recovery work at a resort not owned or operated by him, shall not be liable for any civil damages for acts or omissions resulting from the rendering of such emergency care, treatment, or assistance, including but not limited to acts or omissions which involve violations of any state regulation or any standard of the National Ski Patrol System, Inc., in the rendering of such emergency care or assistance, unless such act or omission was the result of gross negligence or willful misconduct.

11. Is an employee of (i) a school board, (ii) a school for students with disabilities as defined in § 22.1-319 licensed by the Board of Education, or (iii) a private school accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education and is authorized by a prescriber and trained in the administration of insulin and glucagon, who, upon the written request of the parents as defined in § 22.1-1, assists with the administration of insulin or administers glucagon to a student diagnosed as having diabetes who requires insulin injections during the school day or for whom glucagon has been prescribed for the emergency treatment of hypoglycemia shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment if the insulin is administered according to the child's medication schedule or such employee has reason to believe that the individual receiving the glucagon is suffering or is about to suffer life-threatening hypoglycemia. Whenever any such employee is covered by the immunity granted herein, the school board or school employing him shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such insulin or glucagon treatment.

12. Is a school nurse, an employee of a school board, an employee of a local governing body, or an employee of a local health department who is authorized by a prescriber and trained in the administration of epinephrine and who provides, administers, or assists in the administration of epinephrine to a student believed in good faith to be having an anaphylactic reaction, or is the prescriber of the epinephrine, shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment.

13. Is an employee of a school for students with disabilities, as defined in § 22.1-319 and licensed by the Board of Education, or an employee of a private school that is accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education who is authorized by a prescriber and trained in the administration of epinephrine and who administers or assists in the administration of epinephrine to a student believed in good faith to be having an anaphylactic reaction, or is the prescriber of the epinephrine, shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment. Whenever any employee is covered by the immunity granted in this subdivision, the school shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from such administration or assistance.

14. Is an employee of a provider licensed by the Department of Behavioral Health and Developmental Services, or provides services pursuant to a contract with a provider licensed by the Department of Behavioral Health and Developmental Services, who has been trained in the administration of insulin and glucagon and who administers or assists with the administration of insulin or administers glucagon to a person diagnosed as having diabetes who requires insulin injections or for whom glucagon has been prescribed for the emergency treatment of hypoglycemia in accordance with § 54.1-3408 shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment if the insulin is administered in accordance with the prescriber's instructions or such person has reason to believe that the individual receiving the glucagon is suffering or is about to suffer life-threatening hypoglycemia. Whenever any employee of a provider licensed by the Department of Behavioral Health and Developmental Services or a person who provides services pursuant to a contract with a provider licensed by the Department of Behavioral Health and Developmental Services is covered by the immunity granted herein, the provider shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such insulin or glucagon treatment.

15. Is an employee of a provider licensed by the Department of Behavioral Health and Developmental Services, or provides services pursuant to a contract with a provider licensed by the Department of Behavioral Health and Developmental Services, who has been trained in the administration of epinephrine and who administers or assists in the administration of epinephrine to a person believed in good faith to be having an anaphylactic reaction in accordance with the prescriber's instructions shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment.

16. In good faith prescribes, dispenses, or administers naloxone or other opioid antagonist used for overdose reversal in an emergency to an individual who is believed to be experiencing or about to experience a life-threatening opiate overdose shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment if acting in accordance with the provisions of subsection X or Y of § 54.1-3408 or in his role as a member of an emergency medical services agency.

B. Any licensed physician serving without compensation as the operational medical director for an emergency medical services agency that holds a valid license as an emergency medical services agency issued by the Commissioner of Health shall not be liable for any civil damages for any act or omission resulting from the rendering of emergency medical services in good faith by the personnel of such licensed agency unless such act or omission was the result of such physician's gross negligence or willful misconduct.

Any person serving without compensation as a dispatcher for any licensed public or nonprofit emergency medical services agency in the Commonwealth shall not be liable for any civil damages for any act or omission resulting from the rendering of emergency services in good faith by the personnel of such licensed agency unless such act or omission was the result of such dispatcher's gross negligence or willful misconduct.

Any individual, certified by the State Office of Emergency Medical Services as an emergency medical services instructor and pursuant to a written agreement with such office, who, in good faith and in the performance of his duties, provides instruction to persons for certification or recertification as a certified basic life support or advanced life support emergency medical services provider shall not be liable for any civil damages for acts or omissions on his part directly relating to his activities on behalf of such office unless such act or omission was the result of such emergency medical services instructor's gross negligence or willful misconduct.

Any licensed physician serving without compensation as a medical advisor to an E-911 system in the Commonwealth shall not be liable for any civil damages for any act or omission resulting from rendering medical advice in good faith to establish protocols to be used by the personnel of the E-911 service, as defined in § 58.1-1730, when answering emergency calls unless such act or omission was the result of such physician's gross negligence or willful misconduct.

Any licensed physician who directs the provision of emergency medical services, as authorized by the State Board of Health, through a communications device shall not be liable for any civil damages for any act or omission resulting from the rendering of such emergency medical services unless such act or omission was the result of such physician's gross negligence or willful misconduct.

Any licensed physician serving without compensation as a supervisor of an AED in the Commonwealth shall not be liable for any civil damages for any act or omission resulting from rendering medical advice in good faith to the owner of the AED relating to personnel training, local emergency medical services coordination, protocol approval, AED deployment strategies, and equipment maintenance plans and records unless such act or omission was the result of such physician's gross negligence or willful misconduct.

C. Any communications services provider, as defined in § 58.1-647, including mobile service, and any provider of Voice-over-Internet Protocol service, in the Commonwealth shall not be liable for any civil damages for any act or omission resulting from rendering such service with or without charge related to emergency calls unless such act or omission was the result of such service provider's gross negligence or willful misconduct.

Any volunteer engaging in rescue or recovery work at a mine, or any mine operator voluntarily providing personnel to engage in rescue or recovery work at a mine not owned or operated by such operator, shall not be liable for civil damages for acts or omissions resulting from the rendering of such rescue or recovery work in good faith unless such act or omission was the result of gross negligence or willful misconduct. For purposes of this subsection, "Voice-over-Internet Protocol service" or "VoIP service" means any Internet protocol-enabled services utilizing a broadband connection, actually originating or terminating in Internet Protocol from either or both ends of a channel of communication offering real time, multidirectional voice functionality, including, but not limited to, services similar to traditional telephone service.

D. Nothing contained in this section shall be construed to provide immunity from liability arising out of the operation of a motor vehicle.

E. For the purposes of this section, "compensation" shall not be construed to include (i) the salaries of police, fire, or other public officials or personnel who render such emergency assistance; (ii) the salaries or wages of employees of a coal producer engaging in emergency medical services or first aid services pursuant to the provisions of § 45.1-161.38, 45.1-161.101, 45.1-161.199, or 45.1-161.263; (iii) complimentary lift tickets, food, lodging, or other gifts provided as a gratuity to volunteer members of the National Ski Patrol System, Inc., by any resort, group, or agency; (iv) the salary of any person who (a) owns an AED for the use at the scene of an emergency, (b) trains individuals, in courses approved by the Board of Health, to operate AEDs at the scene of emergencies, (c) orders AEDs for use at the scene of emergencies, or (d) operates an AED at the scene of an emergency; or (v) expenses reimbursed to any person providing care or assistance pursuant to this section.

For the purposes of this section, "emergency medical services provider" shall include a person licensed or certified as such or its equivalent by any other state when he is performing services that he is licensed or certified to perform by such other state in caring for a patient in transit in the Commonwealth, which care originated in such other state.

Further, the public shall be urged to receive training on how to use CPR and an AED in order to acquire the skills and confidence to respond to emergencies using both CPR and an AED.

**§ 54.1-3408. Professional use by practitioners.**

A. A practitioner of medicine, osteopathy, podiatry, dentistry, or veterinary medicine or a licensed nurse practitioner pursuant to § 54.1-2957.01, a licensed physician assistant pursuant to § 54.1-2952.1, or a TPA-certified optometrist pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32 shall only prescribe, dispense, or administer controlled substances in good faith for medicinal or therapeutic purposes within the course of his professional practice.

B. The prescribing practitioner's order may be on a written prescription or pursuant to an oral prescription as authorized by this chapter. The prescriber may administer drugs and devices, or he may cause drugs or devices to be administered by:

1. A nurse, physician assistant, or intern under his direction and supervision;
2. Persons trained to administer drugs and devices to patients in state-owned or state-operated hospitals or facilities licensed as hospitals by the Board of Health or psychiatric hospitals licensed by the Department of Behavioral Health and Developmental Services who administer drugs under the control and supervision of the prescriber or a pharmacist;
3. Emergency medical services personnel certified and authorized to administer drugs and devices pursuant to regulations of the Board of Health who act within the scope of such certification and pursuant to an oral or written order or standing protocol; or
4. A licensed respiratory therapist as defined in § 54.1-2954 who administers by inhalation controlled substances used in inhalation or respiratory therapy.

C. Pursuant to an oral or written order or standing protocol, the prescriber, who is authorized by state or federal law to possess and administer radiopharmaceuticals in the scope of his practice, may authorize a nuclear medicine technologist to administer, under his supervision, radiopharmaceuticals used in the diagnosis or treatment of disease.

D. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize registered nurses and licensed practical nurses to possess (i) epinephrine and oxygen for administration in treatment of emergency medical conditions and (ii) heparin and sterile normal saline to use for the maintenance of intravenous access lines.

Pursuant to the regulations of the Board of Health, certain emergency medical services technicians may possess and administer epinephrine in emergency cases of anaphylactic shock.

Pursuant to an order or standing protocol issued by the prescriber within the course of his professional practice, any school nurse, school board employee, employee of a local governing body, or employee of a local health department who is authorized by a prescriber and trained in the administration of epinephrine may possess and administer epinephrine.

Pursuant to an order or a standing protocol issued by the prescriber within the course of his professional practice, any employee of a school for students with disabilities, as defined in § 22.1-319 and licensed by the Board of Education, or any employee of a private school that is accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education who is authorized by a prescriber and trained in the administration of epinephrine may possess and administer epinephrine.

Pursuant to an order issued by the prescriber within the course of his professional practice, an employee of a provider licensed by the Department of Behavioral Health and Developmental Services or a person providing services pursuant to a contract with a provider licensed by the Department of Behavioral Health and Developmental Services may possess and administer epinephrine, provided such person is authorized and trained in the administration of epinephrine.

Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize pharmacists to possess epinephrine and oxygen for administration in treatment of emergency medical conditions.

E. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize licensed physical therapists to possess and administer topical corticosteroids, topical lidocaine, and any other Schedule VI topical drug.

F. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize licensed athletic trainers to possess and administer topical corticosteroids, topical lidocaine, or other Schedule VI topical drugs; oxygen for use in emergency situations; and epinephrine for use in emergency cases of anaphylactic shock.

G. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, and in accordance with policies and guidelines established by the Department of Health pursuant to § 32.1-50.2, such prescriber may authorize registered nurses or licensed practical nurses under the immediate and direct supervision of a registered nurse to possess and administer tuberculin purified protein derivative (PPD) in the absence of a prescriber. The Department of Health's policies and guidelines shall be consistent with applicable guidelines developed by the Centers for Disease Control and Prevention for preventing transmission of mycobacterium tuberculosis and shall be updated to incorporate any subsequently implemented standards of the Occupational Safety and Health Administration and the Department of Labor and Industry to the extent that they are inconsistent with the Department of Health's policies and guidelines. Such standing protocols shall explicitly describe the categories of persons to whom the tuberculin test is to be administered and shall provide for appropriate medical evaluation of those in whom the test is positive. The prescriber shall ensure that the nurse implementing such standing protocols has received adequate training in the practice and principles underlying tuberculin screening.

The Health Commissioner or his designee may authorize registered nurses, acting as agents of the Department of Health, to possess and administer, at the nurse's discretion, tuberculin purified protein derivative (PPD) to those persons in whom tuberculin skin testing is indicated based on protocols and policies established by the Department of Health.

H. Pursuant to a written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize, with the consent of the parents as defined in § 22.1-1, an employee of (i) a school board, (ii) a school for students with disabilities as defined in § 22.1-319 licensed by the Board of Education, or (iii) a

private school accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education who is trained in the administration of insulin and glucagon to assist with the administration of insulin or administer glucagon to a student diagnosed as having diabetes and who requires insulin injections during the school day or for whom glucagon has been prescribed for the emergency treatment of hypoglycemia. Such authorization shall only be effective when a licensed nurse, nurse practitioner, physician, or physician assistant is not present to perform the administration of the medication.

Pursuant to a written order issued by the prescriber within the course of his professional practice, such prescriber may authorize an employee of a provider licensed by the Department of Behavioral Health and Developmental Services or a person providing services pursuant to a contract with a provider licensed by the Department of Behavioral Health and Developmental Services to assist with the administration of insulin or to administer glucagon to a person diagnosed as having diabetes and who requires insulin injections or for whom glucagon has been prescribed for the emergency treatment of hypoglycemia, provided such employee or person providing services has been trained in the administration of insulin and glucagon.

I. A prescriber may authorize, pursuant to a protocol approved by the Board of Nursing, the administration of vaccines to adults for immunization, when a practitioner with prescriptive authority is not physically present, by (i) licensed pharmacists, (ii) registered nurses, or (iii) licensed practical nurses under the immediate and direct supervision of a registered nurse. A prescriber acting on behalf of and in accordance with established protocols of the Department of Health may authorize the administration of vaccines to any person by a pharmacist, nurse, or designated emergency medical services provider who holds an advanced life support certificate issued by the Commissioner of Health under the direction of an operational medical director when the prescriber is not physically present. The emergency medical services provider shall provide documentation of the vaccines to be recorded in the Virginia Immunization Information System.

J. A dentist may cause Schedule VI topical drugs to be administered under his direction and supervision by either a dental hygienist or by an authorized agent of the dentist.

Further, pursuant to a written order and in accordance with a standing protocol issued by the dentist in the course of his professional practice, a dentist may authorize a dental hygienist under his general supervision, as defined in § 54.1-2722, to possess and administer topical oral fluorides, topical oral anesthetics, topical and directly applied antimicrobial agents for treatment of periodontal pocket lesions, as well as any other Schedule VI topical drug approved by the Board of Dentistry.

In addition, a dentist may authorize a dental hygienist under his direction to administer Schedule VI nitrous oxide and oxygen inhalation analgesia and, to persons 18 years of age or older, Schedule VI local anesthesia.

K. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize registered professional nurses certified as sexual assault nurse examiners-A (SANE-A) under his supervision and when he is not physically present to possess and administer preventive medications for victims of sexual assault as recommended by the Centers for Disease Control and Prevention.

L. This section shall not prevent the administration of drugs by a person who has satisfactorily completed a training program for this purpose approved by the Board of Nursing and who administers such drugs in accordance with a prescriber's instructions pertaining to dosage, frequency, and manner of administration, and in accordance with regulations promulgated by the Board of Pharmacy relating to security and record keeping, when the drugs administered would be normally self-administered by (i) an individual receiving services in a program licensed by the Department of Behavioral Health and Developmental Services; (ii) a resident of the Virginia Rehabilitation Center for the Blind and Vision Impaired; (iii) a resident of a facility approved by the Board or Department of Juvenile Justice for the placement of children in need of services or delinquent or alleged delinquent youth; (iv) a program participant of an adult day-care center licensed by the Department of Social Services; (v) a resident of any facility authorized or operated by a state or local government whose primary purpose is not to provide health care services; (vi) a resident of a private children's residential facility, as defined in § 63.2-100 and licensed by the Department of Social Services, Department of Education, or Department of Behavioral Health and Developmental Services; or (vii) a student in a school for students with disabilities, as defined in § 22.1-319 and licensed by the Board of Education.

In addition, this section shall not prevent a person who has successfully completed a training program for the administration of drugs via percutaneous gastrostomy tube approved by the Board of Nursing and been evaluated by a registered nurse as having demonstrated competency in administration of drugs via percutaneous gastrostomy tube from administering drugs to a person receiving services from a program licensed by the Department of Behavioral Health and Developmental Services to such person via percutaneous gastrostomy tube. The continued competency of a person to administer drugs via percutaneous gastrostomy tube shall be evaluated semiannually by a registered nurse.

M. Medication aides registered by the Board of Nursing pursuant to Article 7 (§ 54.1-3041 et seq.) of Chapter 30 may administer drugs that would otherwise be self-administered to residents of any assisted living facility licensed by the Department of Social Services. A registered medication aide shall administer drugs pursuant to this section in accordance with the prescriber's instructions pertaining to dosage, frequency, and manner of administration; in accordance with regulations promulgated by the Board of Pharmacy relating to security and recordkeeping; in accordance with the assisted living facility's Medication Management Plan; and in accordance with such other regulations governing their practice promulgated by the Board of Nursing.

N. In addition, this section shall not prevent the administration of drugs by a person who administers such drugs in accordance with a physician's instructions pertaining to dosage, frequency, and manner of administration and with written authorization of a parent, and in accordance with school board regulations relating to training, security and record keeping,

when the drugs administered would be normally self-administered by a student of a Virginia public school. Training for such persons shall be accomplished through a program approved by the local school boards, in consultation with the local departments of health.

O. In addition, this section shall not prevent the administration of drugs by a person to (i) a child in a child day program as defined in § 63.2-100 and regulated by the State Board of Social Services or a local government pursuant to § 15.2-914, or (ii) a student of a private school that is accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education, provided such person (a) has satisfactorily completed a training program for this purpose approved by the Board of Nursing and taught by a registered nurse, licensed practical nurse, nurse practitioner, physician assistant, doctor of medicine or osteopathic medicine, or pharmacist; (b) has obtained written authorization from a parent or guardian; (c) administers drugs only to the child identified on the prescription label in accordance with the prescriber's instructions pertaining to dosage, frequency, and manner of administration; and (d) administers only those drugs that were dispensed from a pharmacy and maintained in the original, labeled container that would normally be self-administered by the child or student, or administered by a parent or guardian to the child or student.

P. In addition, this section shall not prevent the administration or dispensing of drugs and devices by persons if they are authorized by the State Health Commissioner in accordance with protocols established by the State Health Commissioner pursuant to § 32.1-42.1 when (i) the Governor has declared a disaster or a state of emergency or the United States Secretary of Health and Human Services has issued a declaration of an actual or potential bioterrorism incident or other actual or potential public health emergency; (ii) it is necessary to permit the provision of needed drugs or devices; and (iii) such persons have received the training necessary to safely administer or dispense the needed drugs or devices. Such persons shall administer or dispense all drugs or devices under the direction, control, and supervision of the State Health Commissioner.

Q. Nothing in this title shall prohibit the administration of normally self-administered drugs by unlicensed individuals to a person in his private residence.

R. This section shall not interfere with any prescriber issuing prescriptions in compliance with his authority and scope of practice and the provisions of this section to a Board agent for use pursuant to subsection G of § 18.2-258.1. Such prescriptions issued by such prescriber shall be deemed to be valid prescriptions.

S. Nothing in this title shall prevent or interfere with dialysis care technicians or dialysis patient care technicians who are certified by an organization approved by the Board of Health Professions or persons authorized for provisional practice pursuant to Chapter 27.01 (§ 54.1-2729.1 et seq.), in the ordinary course of their duties in a Medicare-certified renal dialysis facility, from administering heparin, topical needle site anesthetics, dialysis solutions, sterile normal saline solution, and blood volumizers, for the purpose of facilitating renal dialysis treatment, when such administration of medications occurs under the orders of a licensed physician, nurse practitioner, or physician assistant and under the immediate and direct supervision of a licensed registered nurse. Nothing in this chapter shall be construed to prohibit a patient care dialysis technician trainee from performing dialysis care as part of and within the scope of the clinical skills instruction segment of a supervised dialysis technician training program, provided such trainee is identified as a "trainee" while working in a renal dialysis facility.

The dialysis care technician or dialysis patient care technician administering the medications shall have demonstrated competency as evidenced by holding current valid certification from an organization approved by the Board of Health Professions pursuant to Chapter 27.01 (§ 54.1-2729.1 et seq.).

T. Persons who are otherwise authorized to administer controlled substances in hospitals shall be authorized to administer influenza or pneumococcal vaccines pursuant to § 32.1-126.4.

U. Pursuant to a specific order for a patient and under his direct and immediate supervision, a prescriber may authorize the administration of controlled substances by personnel who have been properly trained to assist a doctor of medicine or osteopathic medicine, provided the method does not include intravenous, intrathecal, or epidural administration and the prescriber remains responsible for such administration.

V. A physician assistant, nurse or a dental hygienist may possess and administer topical fluoride varnish to the teeth of children aged six months to three years pursuant to an oral or written order or a standing protocol issued by a doctor of medicine, osteopathic medicine, or dentistry that conforms to standards adopted by the Department of Health.

W. A prescriber, acting in accordance with guidelines developed pursuant to § 32.1-46.02, may authorize the administration of influenza vaccine to minors by a licensed pharmacist, registered nurse, licensed practical nurse under the direction and immediate supervision of a registered nurse, or emergency medical services provider who holds an advanced life support certificate issued by the Commissioner of Health when the prescriber is not physically present.

X. Notwithstanding the provisions of § 54.1-3303, pursuant to an oral, written, or standing order issued by a prescriber, and in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health, a pharmacist may dispense naloxone or other opioid antagonist used for overdose reversal and a person may possess and administer naloxone or other opioid antagonist used for overdose reversal to a person who is believed to be experiencing or about to experience a life-threatening ~~opiate~~ *opioid* overdose. Law-enforcement officers as defined in § 9.1-101 and firefighters who have completed a training program may also possess and administer naloxone in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health.

*Y. Notwithstanding any other law or regulation to the contrary, a person who is authorized by the Department of Behavioral Health and Developmental Services to train individuals on the administration of naloxone for use in opioid overdose reversal and who is acting on behalf of an organization that provides services to individuals at risk of experiencing an opioid overdose or training in the administration of naloxone for overdose reversal and that has obtained a controlled substances registration from the Board of Pharmacy pursuant to § 54.1-3423 may dispense naloxone to a person who has completed a training program on the administration of naloxone for opioid overdose reversal approved by the Department of Behavioral Health and Developmental Services, provided that such dispensing is (i) pursuant to a standing order issued by a prescriber; (ii) in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health, and (iii) without charge or compensation. The dispensing may occur at a site other than that of the controlled substance registration provided the entity possessing the controlled substances registration maintains records in accordance with regulations of the Board of Pharmacy. A person to whom naloxone has been dispensed pursuant to this subsection may possess naloxone and may administer naloxone to a person who is believed to be experiencing or about to experience a life-threatening opioid overdose.*

**2. That an emergency exists and this act is in force from its passage.**

**3. That the Board of Pharmacy shall promulgate regulations to implement the provisions of this act to be effective within 280 days of its enactment.**

### CHAPTER 169

*An Act to amend the Code of Virginia by adding a section numbered 54.1-2400.01:2, relating to requirements for ophthalmic prescriptions.*

[H 1497]

Approved February 23, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding a section numbered 54.1-2400.01:2 as follows:**

**§ 54.1-2400.01:2. Ophthalmic prescription defined; who may provide ophthalmic prescriptions.**

A. As used in this section:

*"Contact lens" means any lens that is placed directly on the surface of the eye, whether or not the lens is intended to correct a visual defect, including any cosmetic, therapeutic, or corrective contact lens.*

*"Ophthalmic prescription" means a handwritten or electronic order of a provider that includes (i) in the case of contact lenses, all information required by the Fairness to Contact Lens Consumers Act, 15 U.S.C. §§ 7601 et seq., (ii) in the case of prescription eyeglasses, all information required by the Ophthalmic Practice Rule, also known as the Eyeglass Rule, 16 C.F.R. Part 456, and (iii) necessary and appropriate information for the dispensing of prescription eyeglasses or contact lenses for a patient, including the provider's name, physical address at which the provider practices, and telephone number.*

*"Provider" means an ophthalmologist licensed by the Board of Medicine pursuant to Chapter 29 (§ 54.1-2900 et seq.) or an optometrist licensed by the Board of Optometry pursuant to Chapter 32 (§ 54.1-3200 et seq.).*

*B. For the purpose of a provider prescribing spectacles, eyeglasses, lenses, or contact lenses to a patient, a provider shall establish a bona fide provider-patient relationship by an examination (i) in person, (ii) through face-to-face interactive, two-way, real-time communication, or (iii) store-and-forward technologies when all of the following conditions are met: (a) the provider obtains an updated medical history at the time of prescribing; (b) the provider makes a diagnosis at the time of prescribing; (c) the provider conforms to the standard of care expected of in-person care as appropriate to the patient's age and presenting condition, including when the standard of care requires the use of diagnostic testing and performance of a physical examination, which may be carried out through the use of peripheral devices appropriate to the patient's condition; (d) the ophthalmic prescription is not determined solely by use of an online questionnaire; (e) the provider is actively licensed in the Commonwealth and authorized to prescribe; and (f) upon request, the prescriber provides patient records in a timely manner in accordance with the provisions of § 32.1-127.1:03 and all other state and federal laws and regulations.*

*C. The requirements of this section shall not apply to (i) the sale of eyeglasses not designed to correct or enhance vision by addressing the visual needs of the individual wearer and that may be known as over-the-counter eyeglasses or readers or (ii) a licensed optician providing services in accordance with § 54.1-1509.*

*D. The provisions of this section shall not apply to ophthalmic prescriptions written prior to July 1, 2017.*

### CHAPTER 170

*An Act to amend and reenact § 32.1-282 of the Code of Virginia, relating to the Chief Medical Examiner; appointment, terms, and authority of medical examiners.*

[H 1615]

Approved February 23, 2017

**Be it enacted by the General Assembly of Virginia:****1. That § 32.1-282 of the Code of Virginia is amended and reenacted as follows:****§ 32.1-282. Medical examiners.**

A. The Chief Medical Examiner ~~shall~~ *may* appoint for each county and city one or more medical examiners, who shall be licensed as a doctor of medicine or osteopathic medicine, a physician assistant, or a nurse practitioner in the Commonwealth and appointed as agents of the Commonwealth, to assist the Office of the Chief Medical Examiner with medicolegal death investigations. A physician assistant appointed as a medical examiner shall have a practice agreement with and be under the continuous supervision of a physician medical examiner in accordance with § 54.1-2952. A nurse practitioner appointed as a medical examiner shall have a practice agreement with and practice in collaboration with a physician medical examiner in accordance with § 54.1-2957.

B. *At the request of the Chief Medical Examiner, the Assistant Chief Medical Examiner, or their designees, medical examiners may assist the Office of the Chief Medical Examiner with cases requiring medicolegal death investigations in accordance with § 32.1-283.*

~~Each~~ C. *The term of each medical examiner appointed pursuant to subsection A, other than an appointment to fill a vacancy, shall take office begin on the first day of October of the year of appointment. The term of each medical examiner so appointed shall be three years; however, an appointment to fill a vacancy shall be for the unexpired term.*

~~C. The Chief Medical Examiner shall fill any medical examiner vacancy for the unexpired term and shall make any necessary temporary appointments.~~

**CHAPTER 171**

*An Act to amend and reenact §§ 54.1-2900 and 54.1-2915 of the Code of Virginia, relating to practice of chiropractic; certain medical evaluations.*

[H 1688]

Approved February 23, 2017

**Be it enacted by the General Assembly of Virginia:****1. That §§ 54.1-2900 and 54.1-2915 of the Code of Virginia are amended and reenacted as follows:****§ 54.1-2900. Definitions.**

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

"Acupuncturist" means an individual approved by the Board to practice acupuncture. This is limited to "licensed acupuncturist" which means an individual other than a doctor of medicine, osteopathy, chiropractic or podiatry who has successfully completed the requirements for licensure established by the Board (approved titles are limited to: Licensed Acupuncturist, Lic.Ac., and L.Ac.).

"Auricular acupuncture" means the subcutaneous insertion of sterile, disposable acupuncture needles in predetermined, bilateral locations in the outer ear when used exclusively and specifically in the context of a chemical dependency treatment program.

"Board" means the Board of Medicine.

"Certified nurse midwife" means an advanced practice registered nurse who is certified in the specialty of nurse midwifery and who is jointly licensed by the Boards of Medicine and Nursing as a nurse practitioner pursuant to § 54.1-2957.

"Certified registered nurse anesthetist" means an advanced practice registered nurse who is certified in the specialty of nurse anesthesia, who is jointly licensed by the Boards of Medicine and Nursing as a nurse practitioner pursuant to § 54.1-2957, and who practices under the supervision of a doctor of medicine, osteopathy, podiatry, or dentistry but is not subject to the practice agreement requirement described in § 54.1-2957.

"Genetic counselor" means a person licensed by the Board to engage in the practice of genetic counseling.

"Healing arts" means the arts and sciences dealing with the prevention, diagnosis, treatment and cure or alleviation of human physical or mental ailments, conditions, diseases, pain or infirmities.

"Medical malpractice judgment" means any final order of any court entering judgment against a licensee of the Board that arises out of any tort action or breach of contract action for personal injuries or wrongful death, based on health care or professional services rendered, or that should have been rendered, by a health care provider, to a patient.

"Medical malpractice settlement" means any written agreement and release entered into by or on behalf of a licensee of the Board in response to a written claim for money damages that arises out of any personal injuries or wrongful death, based on health care or professional services rendered, or that should have been rendered, by a health care provider, to a patient.

"Nurse practitioner" means an advanced practice registered nurse who is jointly licensed by the Boards of Medicine and Nursing pursuant to § 54.1-2957.

"Occupational therapy assistant" means an individual who has met the requirements of the Board for licensure and who works under the supervision of a licensed occupational therapist to assist in the practice of occupational therapy.

"Patient care team" means a multidisciplinary team of health care providers actively functioning as a unit with the management and leadership of one or more patient care team physicians for the purpose of providing and delivering health care to a patient or group of patients.

"Patient care team physician" means a physician who is actively licensed to practice medicine in the Commonwealth, who regularly practices medicine in the Commonwealth, and who provides management and leadership in the care of patients as part of a patient care team.

"Physician assistant" means an individual who has met the requirements of the Board for licensure and who works under the supervision of a licensed doctor of medicine, osteopathy, or podiatry.

"Practice of acupuncture" means the stimulation of certain points on or near the surface of the body by the insertion of needles to prevent or modify the perception of pain or to normalize physiological functions, including pain control, for the treatment of certain ailments or conditions of the body and includes the techniques of electroacupuncture, cupping and moxibustion. The practice of acupuncture does not include the use of physical therapy, chiropractic, or osteopathic manipulative techniques; the use or prescribing of any drugs, medications, serums or vaccines; or the procedure of auricular acupuncture as exempted in § 54.1-2901 when used in the context of a chemical dependency treatment program for patients eligible for federal, state or local public funds by an employee of the program who is trained and approved by the National Acupuncture Detoxification Association or an equivalent certifying body.

"Practice of athletic training" means the prevention, recognition, evaluation, and treatment of injuries or conditions related to athletic or recreational activity that requires physical skill and utilizes strength, power, endurance, speed, flexibility, range of motion or agility or a substantially similar injury or condition resulting from occupational activity immediately upon the onset of such injury or condition; and subsequent treatment and rehabilitation of such injuries or conditions under the direction of the patient's physician or under the direction of any doctor of medicine, osteopathy, chiropractic, podiatry, or dentistry, while using heat, light, sound, cold, electricity, exercise or mechanical or other devices.

"Practice of behavior analysis" means the design, implementation, and evaluation of environmental modifications, using behavioral stimuli and consequences, to produce socially significant improvement in human behavior, including the use of direct observation, measurement, and functional analysis of the relationship between environment and behavior.

"Practice of chiropractic" means the adjustment of the 24 movable vertebrae of the spinal column, and assisting nature for the purpose of normalizing the transmission of nerve energy, but does not include the use of surgery, obstetrics, osteopathy or the administration or prescribing of any drugs, medicines, serums or vaccines. *"Practice of chiropractic" shall include performing the physical examination of an applicant for a commercial driver's license or commercial learner's permit pursuant to § 46.2-341.12 if the practitioner has (i) applied for and received certification as a medical examiner pursuant to 49 C.F.R. Part 390, Subpart D and (ii) registered with the National Registry of Certified Medical Examiners.*

"Practice of genetic counseling" means (i) obtaining and evaluating individual and family medical histories to assess the risk of genetic medical conditions and diseases in a patient, his offspring, and other family members; (ii) discussing the features, history, diagnosis, environmental factors, and risk management of genetic medical conditions and diseases; (iii) ordering genetic laboratory tests and other diagnostic studies necessary for genetic assessment; (iv) integrating the results with personal and family medical history to assess and communicate risk factors for genetic medical conditions and diseases; (v) evaluating the patient's and family's responses to the medical condition or risk of recurrence and providing client-centered counseling and anticipatory guidance; (vi) identifying and utilizing community resources that provide medical, educational, financial, and psychosocial support and advocacy; and (vii) providing written documentation of medical, genetic, and counseling information for families and health care professionals.

"Practice of medicine or osteopathic medicine" means the prevention, diagnosis and treatment of human physical or mental ailments, conditions, diseases, pain or infirmities by any means or method.

"Practice of occupational therapy" means the therapeutic use of occupations for habilitation and rehabilitation to enhance physical health, mental health, and cognitive functioning and includes the evaluation, analysis, assessment, and delivery of education and training in basic and instrumental activities of daily living; the design, fabrication, and application of orthoses (splints); the design, selection, and use of adaptive equipment and assistive technologies; therapeutic activities to enhance functional performance; vocational evaluation and training; and consultation concerning the adaptation of physical, sensory, and social environments.

"Practice of podiatry" means the prevention, diagnosis, treatment, and cure or alleviation of physical conditions, diseases, pain, or infirmities of the human foot and ankle, including the medical, mechanical and surgical treatment of the ailments of the human foot and ankle, but does not include amputation of the foot proximal to the transmetatarsal level through the metatarsal shafts. Amputations proximal to the metatarsal-phalangeal joints may only be performed in a hospital or ambulatory surgery facility accredited by an organization listed in § 54.1-2939. The practice includes the diagnosis and treatment of lower extremity ulcers; however, the treatment of severe lower extremity ulcers proximal to the foot and ankle may only be performed by appropriately trained, credentialed podiatrists in an approved hospital or ambulatory surgery center at which the podiatrist has privileges, as described in § 54.1-2939. The Board of Medicine shall determine whether a specific type of treatment of the foot and ankle is within the scope of practice of podiatry.

"Practice of radiologic technology" means the application of ionizing radiation to human beings for diagnostic or therapeutic purposes.

"Practice of respiratory care" means the (i) administration of pharmacological, diagnostic, and therapeutic agents related to respiratory care procedures necessary to implement a treatment, disease prevention, pulmonary rehabilitative, or diagnostic regimen prescribed by a practitioner of medicine or osteopathic medicine; (ii) transcription and implementation of the written or verbal orders of a practitioner of medicine or osteopathic medicine pertaining to the practice of respiratory care; (iii) observation and monitoring of signs and symptoms, general behavior, general physical response to respiratory

care treatment and diagnostic testing, including determination of whether such signs, symptoms, reactions, behavior or general physical response exhibit abnormal characteristics; and (iv) implementation of respiratory care procedures, based on observed abnormalities, or appropriate reporting, referral, respiratory care protocols or changes in treatment pursuant to the written or verbal orders by a licensed practitioner of medicine or osteopathic medicine or the initiation of emergency procedures, pursuant to the Board's regulations or as otherwise authorized by law. The practice of respiratory care may be performed in any clinic, hospital, skilled nursing facility, private dwelling or other place deemed appropriate by the Board in accordance with the written or verbal order of a practitioner of medicine or osteopathic medicine, and shall be performed under qualified medical direction.

"Qualified medical direction" means, in the context of the practice of respiratory care, having readily accessible to the respiratory therapist a licensed practitioner of medicine or osteopathic medicine who has specialty training or experience in the management of acute and chronic respiratory disorders and who is responsible for the quality, safety, and appropriateness of the respiratory services provided by the respiratory therapist.

"Radiologic technologist" means an individual, other than a licensed doctor of medicine, osteopathy, podiatry, or chiropractic or a dentist licensed pursuant to Chapter 27 (§ 54.1-2700 et seq.), who (i) performs, may be called upon to perform, or is licensed to perform a comprehensive scope of diagnostic or therapeutic radiologic procedures employing ionizing radiation and (ii) is delegated or exercises responsibility for the operation of radiation-generating equipment, the shielding of patient and staff from unnecessary radiation, the appropriate exposure of radiographs, the administration of radioactive chemical compounds under the direction of an authorized user as specified by regulations of the Department of Health, or other procedures that contribute to any significant extent to the site or dosage of ionizing radiation to which a patient is exposed.

"Radiologic technologist, limited" means an individual, other than a licensed radiologic technologist, dental hygienist, or person who is otherwise authorized by the Board of Dentistry under Chapter 27 (§ 54.1-2700 et seq.) and the regulations pursuant thereto, who performs diagnostic radiographic procedures employing equipment that emits ionizing radiation that is limited to specific areas of the human body.

"Radiologist assistant" means an individual who has met the requirements of the Board for licensure as an advanced-level radiologic technologist and who, under the direct supervision of a licensed doctor of medicine or osteopathy specializing in the field of radiology, is authorized to (i) assess and evaluate the physiological and psychological responsiveness of patients undergoing radiologic procedures; (ii) evaluate image quality, make initial observations, and communicate observations to the supervising radiologist; (iii) administer contrast media or other medications prescribed by the supervising radiologist; and (iv) perform, or assist the supervising radiologist to perform, any other procedure consistent with the guidelines adopted by the American College of Radiology, the American Society of Radiologic Technologists, and the American Registry of Radiologic Technologists.

"Respiratory care" means the practice of the allied health profession responsible for the direct and indirect services, including inhalation therapy and respiratory therapy, in the treatment, management, diagnostic testing, control, and care of patients with deficiencies and abnormalities associated with the cardiopulmonary system under qualified medical direction.

**§ 54.1-2915. Unprofessional conduct; grounds for refusal or disciplinary action.**

A. The Board may refuse to issue a certificate or license to any applicant; reprimand any person; place any person on probation for such time as it may designate; impose a monetary penalty or terms as it may designate on any person; suspend any license for a stated period of time or indefinitely; or revoke any license for any of the following acts of unprofessional conduct:

1. False statements or representations or fraud or deceit in obtaining admission to the practice, or fraud or deceit in the practice of any branch of the healing arts;
2. Substance abuse rendering him unfit for the performance of his professional obligations and duties;
3. Intentional or negligent conduct in the practice of any branch of the healing arts that causes or is likely to cause injury to a patient or patients;
4. Mental or physical incapacity or incompetence to practice his profession with safety to his patients and the public;
5. Restriction of a license to practice a branch of the healing arts in another state, the District of Columbia, a United States possession or territory, or a foreign jurisdiction, or for an entity of the federal government;
6. Undertaking in any manner or by any means whatsoever to procure or perform or aid or abet in procuring or performing a criminal abortion;
7. Engaging in the practice of any of the healing arts under a false or assumed name, or impersonating another practitioner of a like, similar, or different name;
8. Prescribing or dispensing any controlled substance with intent or knowledge that it will be used otherwise than medicinally, or for accepted therapeutic purposes, or with intent to evade any law with respect to the sale, use, or disposition of such drug;
9. Violating provisions of this chapter on division of fees or practicing any branch of the healing arts in violation of the provisions of this chapter;
10. Knowingly and willfully committing an act that is a felony under the laws of the Commonwealth or the United States, or any act that is a misdemeanor under such laws and involves moral turpitude;
11. Aiding or abetting, having professional connection with, or lending his name to any person known to him to be practicing illegally any of the healing arts;

- 12. Conducting his practice in a manner contrary to the standards of ethics of his branch of the healing arts;
- 13. Conducting his practice in such a manner as to be a danger to the health and welfare of his patients or to the public;
- 14. Inability to practice with reasonable skill or safety because of illness or substance abuse;
- 15. Publishing in any manner an advertisement relating to his professional practice that contains a claim of superiority or violates Board regulations governing advertising;
- 16. Performing any act likely to deceive, defraud, or harm the public;
- 17. Violating any provision of statute or regulation, state or federal, relating to the manufacture, distribution, dispensing, or administration of drugs;
- 18. Violating or cooperating with others in violating any of the provisions of Chapters 1 (§ 54.1-100 et seq.), 24 (§ 54.1-2400 et seq.) and this chapter or regulations of the Board;
- 19. Engaging in sexual contact with a patient concurrent with and by virtue of the practitioner and patient relationship or otherwise engaging at any time during the course of the practitioner and patient relationship in conduct of a sexual nature that a reasonable patient would consider lewd and offensive;
- 20. Conviction in any state, territory, or country of any felony or of any crime involving moral turpitude; ~~or~~
- 21. Adjudication of legal incompetence or incapacity in any state if such adjudication is in effect and the person has not been declared restored to competence or capacity; *or*
- 22. *Performing the services of a medical examiner as defined in 49 C.F.R. § 390.5 if, at the time such services are performed, the person performing such services is not listed on the National Registry of Certified Medical Examiners as provided in 49 C.F.R. § 390.109 or fails to meet the requirements for continuing to be listed on the National Registry of Certified Medical Examiners as provided in 49 C.F.R. § 390.111.*

B. The commission or conviction of an offense in another state, territory, or country, which if committed in Virginia would be a felony, shall be treated as a felony conviction or commission under this section regardless of its designation in the other state, territory, or country.

C. The Board shall refuse to issue a certificate or license to any applicant if the candidate or applicant has had his certificate or license to practice a branch of the healing arts revoked or suspended, and has not had his certificate or license to so practice reinstated, in another state, the District of Columbia, a United States possession or territory, or a foreign jurisdiction.

**CHAPTER 172**

*An Act to require the Department of Health to review the rules governing dispatch and use of air transportation services providers in emergency medical situations.*

[H 1728]

Approved February 23, 2017

**Be it enacted by the General Assembly of Virginia:**

1. *§ 1. That the Department of Health (the Department) shall convene a work group composed of stakeholders, including representatives of law enforcement, emergency medical services providers, health insurance providers, the Medevac Committee of the Emergency Medical Services Advisory Board, emergency physicians, and other interested stakeholders, to review the rules, regulations, and protocols governing use of air transportation services, also known as air ambulances, in emergency medical situations. The Department shall also review the rules, regulations, and protocols governing dispatch of air transportation services providers in response to emergency medical situations and develop recommendations for changes to such rules, regulations, and protocols that will address differences in procedures governing dispatch of air transportation services providers in emergency medical situations, differences in billing that may affect individuals involved in emergency medical situations during which air transportation services providers are dispatched for the provision of air transportation, and other issues related to the use of air transportation services in emergency medical situations. The Department shall report its findings and recommendations to the Governor and the General Assembly by December 1, 2017.*

**CHAPTER 173**

*An Act to amend and reenact § 30-170 of the Code of Virginia, relating to the Joint Commission on Health Care; sunset.*

[H 1736]

Approved February 23, 2017

**Be it enacted by the General Assembly of Virginia:**

1. **That § 30-170 of the Code of Virginia is amended and reenacted as follows:**

**§ 30-170. (Expires July 1, 2018) Sunset.**

The provisions of this chapter shall expire on July 1, ~~2018~~ 2022.

## CHAPTER 174

*An Act to amend and reenact § 54.1-3408 of the Code of Virginia, relating to dispensing of naloxone; patient-specific order not required.*

[H 1750]

Approved February 23, 2017

**Be it enacted by the General Assembly of Virginia:****1. That § 54.1-3408 of the Code of Virginia is amended and reenacted as follows:****§ 54.1-3408. Professional use by practitioners.**

A. A practitioner of medicine, osteopathy, podiatry, dentistry, or veterinary medicine or a licensed nurse practitioner pursuant to § 54.1-2957.01, a licensed physician assistant pursuant to § 54.1-2952.1, or a TPA-certified optometrist pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32 shall only prescribe, dispense, or administer controlled substances in good faith for medicinal or therapeutic purposes within the course of his professional practice.

B. The prescribing practitioner's order may be on a written prescription or pursuant to an oral prescription as authorized by this chapter. The prescriber may administer drugs and devices, or he may cause drugs or devices to be administered by:

1. A nurse, physician assistant, or intern under his direction and supervision;
2. Persons trained to administer drugs and devices to patients in state-owned or state-operated hospitals or facilities licensed as hospitals by the Board of Health or psychiatric hospitals licensed by the Department of Behavioral Health and Developmental Services who administer drugs under the control and supervision of the prescriber or a pharmacist;
3. Emergency medical services personnel certified and authorized to administer drugs and devices pursuant to regulations of the Board of Health who act within the scope of such certification and pursuant to an oral or written order or standing protocol; or
4. A licensed respiratory therapist as defined in § 54.1-2954 who administers by inhalation controlled substances used in inhalation or respiratory therapy.

C. Pursuant to an oral or written order or standing protocol, the prescriber, who is authorized by state or federal law to possess and administer radiopharmaceuticals in the scope of his practice, may authorize a nuclear medicine technologist to administer, under his supervision, radiopharmaceuticals used in the diagnosis or treatment of disease.

D. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize registered nurses and licensed practical nurses to possess (i) epinephrine and oxygen for administration in treatment of emergency medical conditions and (ii) heparin and sterile normal saline to use for the maintenance of intravenous access lines.

Pursuant to the regulations of the Board of Health, certain emergency medical services technicians may possess and administer epinephrine in emergency cases of anaphylactic shock.

Pursuant to an order or standing protocol issued by the prescriber within the course of his professional practice, any school nurse, school board employee, employee of a local governing body, or employee of a local health department who is authorized by a prescriber and trained in the administration of epinephrine may possess and administer epinephrine.

Pursuant to an order or a standing protocol issued by the prescriber within the course of his professional practice, any employee of a school for students with disabilities, as defined in § 22.1-319 and licensed by the Board of Education, or any employee of a private school that is accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education who is authorized by a prescriber and trained in the administration of epinephrine may possess and administer epinephrine.

Pursuant to an order issued by the prescriber within the course of his professional practice, an employee of a provider licensed by the Department of Behavioral Health and Developmental Services or a person providing services pursuant to a contract with a provider licensed by the Department of Behavioral Health and Developmental Services may possess and administer epinephrine, provided such person is authorized and trained in the administration of epinephrine.

Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize pharmacists to possess epinephrine and oxygen for administration in treatment of emergency medical conditions.

E. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize licensed physical therapists to possess and administer topical corticosteroids, topical lidocaine, and any other Schedule VI topical drug.

F. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize licensed athletic trainers to possess and administer topical corticosteroids, topical lidocaine, or other Schedule VI topical drugs; oxygen for use in emergency situations; and epinephrine for use in emergency cases of anaphylactic shock.

G. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, and in accordance with policies and guidelines established by the Department of Health pursuant to § 32.1-50.2, such prescriber may authorize registered nurses or licensed practical nurses under the immediate and direct supervision of a registered nurse to possess and administer tuberculin purified protein derivative (PPD) in the absence of a

prescriber. The Department of Health's policies and guidelines shall be consistent with applicable guidelines developed by the Centers for Disease Control and Prevention for preventing transmission of mycobacterium tuberculosis and shall be updated to incorporate any subsequently implemented standards of the Occupational Safety and Health Administration and the Department of Labor and Industry to the extent that they are inconsistent with the Department of Health's policies and guidelines. Such standing protocols shall explicitly describe the categories of persons to whom the tuberculin test is to be administered and shall provide for appropriate medical evaluation of those in whom the test is positive. The prescriber shall ensure that the nurse implementing such standing protocols has received adequate training in the practice and principles underlying tuberculin screening.

The Health Commissioner or his designee may authorize registered nurses, acting as agents of the Department of Health, to possess and administer, at the nurse's discretion, tuberculin purified protein derivative (PPD) to those persons in whom tuberculin skin testing is indicated based on protocols and policies established by the Department of Health.

H. Pursuant to a written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize, with the consent of the parents as defined in § 22.1-1, an employee of (i) a school board, (ii) a school for students with disabilities as defined in § 22.1-319 licensed by the Board of Education, or (iii) a private school accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education who is trained in the administration of insulin and glucagon to assist with the administration of insulin or administer glucagon to a student diagnosed as having diabetes and who requires insulin injections during the school day or for whom glucagon has been prescribed for the emergency treatment of hypoglycemia. Such authorization shall only be effective when a licensed nurse, nurse practitioner, physician, or physician assistant is not present to perform the administration of the medication.

Pursuant to a written order issued by the prescriber within the course of his professional practice, such prescriber may authorize an employee of a provider licensed by the Department of Behavioral Health and Developmental Services or a person providing services pursuant to a contract with a provider licensed by the Department of Behavioral Health and Developmental Services to assist with the administration of insulin or to administer glucagon to a person diagnosed as having diabetes and who requires insulin injections or for whom glucagon has been prescribed for the emergency treatment of hypoglycemia, provided such employee or person providing services has been trained in the administration of insulin and glucagon.

I. A prescriber may authorize, pursuant to a protocol approved by the Board of Nursing, the administration of vaccines to adults for immunization, when a practitioner with prescriptive authority is not physically present, by (i) licensed pharmacists, (ii) registered nurses, or (iii) licensed practical nurses under the immediate and direct supervision of a registered nurse. A prescriber acting on behalf of and in accordance with established protocols of the Department of Health may authorize the administration of vaccines to any person by a pharmacist, nurse, or designated emergency medical services provider who holds an advanced life support certificate issued by the Commissioner of Health under the direction of an operational medical director when the prescriber is not physically present. The emergency medical services provider shall provide documentation of the vaccines to be recorded in the Virginia Immunization Information System.

J. A dentist may cause Schedule VI topical drugs to be administered under his direction and supervision by either a dental hygienist or by an authorized agent of the dentist.

Further, pursuant to a written order and in accordance with a standing protocol issued by the dentist in the course of his professional practice, a dentist may authorize a dental hygienist under his general supervision, as defined in § 54.1-2722, to possess and administer topical oral fluorides, topical oral anesthetics, topical and directly applied antimicrobial agents for treatment of periodontal pocket lesions, as well as any other Schedule VI topical drug approved by the Board of Dentistry.

In addition, a dentist may authorize a dental hygienist under his direction to administer Schedule VI nitrous oxide and oxygen inhalation analgesia and, to persons 18 years of age or older, Schedule VI local anesthesia.

K. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize registered professional nurses certified as sexual assault nurse examiners-A (SANE-A) under his supervision and when he is not physically present to possess and administer preventive medications for victims of sexual assault as recommended by the Centers for Disease Control and Prevention.

L. This section shall not prevent the administration of drugs by a person who has satisfactorily completed a training program for this purpose approved by the Board of Nursing and who administers such drugs in accordance with a prescriber's instructions pertaining to dosage, frequency, and manner of administration, and in accordance with regulations promulgated by the Board of Pharmacy relating to security and record keeping, when the drugs administered would be normally self-administered by (i) an individual receiving services in a program licensed by the Department of Behavioral Health and Developmental Services; (ii) a resident of the Virginia Rehabilitation Center for the Blind and Vision Impaired; (iii) a resident of a facility approved by the Board or Department of Juvenile Justice for the placement of children in need of services or delinquent or alleged delinquent youth; (iv) a program participant of an adult day-care center licensed by the Department of Social Services; (v) a resident of any facility authorized or operated by a state or local government whose primary purpose is not to provide health care services; (vi) a resident of a private children's residential facility, as defined in § 63.2-100 and licensed by the Department of Social Services, Department of Education, or Department of Behavioral Health and Developmental Services; or (vii) a student in a school for students with disabilities, as defined in § 22.1-319 and licensed by the Board of Education.

In addition, this section shall not prevent a person who has successfully completed a training program for the administration of drugs via percutaneous gastrostomy tube approved by the Board of Nursing and been evaluated by a

registered nurse as having demonstrated competency in administration of drugs via percutaneous gastrostomy tube from administering drugs to a person receiving services from a program licensed by the Department of Behavioral Health and Developmental Services to such person via percutaneous gastrostomy tube. The continued competency of a person to administer drugs via percutaneous gastrostomy tube shall be evaluated semiannually by a registered nurse.

M. Medication aides registered by the Board of Nursing pursuant to Article 7 (§ 54.1-3041 et seq.) of Chapter 30 may administer drugs that would otherwise be self-administered to residents of any assisted living facility licensed by the Department of Social Services. A registered medication aide shall administer drugs pursuant to this section in accordance with the prescriber's instructions pertaining to dosage, frequency, and manner of administration; in accordance with regulations promulgated by the Board of Pharmacy relating to security and recordkeeping; in accordance with the assisted living facility's Medication Management Plan; and in accordance with such other regulations governing their practice promulgated by the Board of Nursing.

N. In addition, this section shall not prevent the administration of drugs by a person who administers such drugs in accordance with a physician's instructions pertaining to dosage, frequency, and manner of administration and with written authorization of a parent, and in accordance with school board regulations relating to training, security and record keeping, when the drugs administered would be normally self-administered by a student of a Virginia public school. Training for such persons shall be accomplished through a program approved by the local school boards, in consultation with the local departments of health.

O. In addition, this section shall not prevent the administration of drugs by a person to (i) a child in a child day program as defined in § 63.2-100 and regulated by the State Board of Social Services or a local government pursuant to § 15.2-914, or (ii) a student of a private school that is accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education, provided such person (a) has satisfactorily completed a training program for this purpose approved by the Board of Nursing and taught by a registered nurse, licensed practical nurse, nurse practitioner, physician assistant, doctor of medicine or osteopathic medicine, or pharmacist; (b) has obtained written authorization from a parent or guardian; (c) administers drugs only to the child identified on the prescription label in accordance with the prescriber's instructions pertaining to dosage, frequency, and manner of administration; and (d) administers only those drugs that were dispensed from a pharmacy and maintained in the original, labeled container that would normally be self-administered by the child or student, or administered by a parent or guardian to the child or student.

P. In addition, this section shall not prevent the administration or dispensing of drugs and devices by persons if they are authorized by the State Health Commissioner in accordance with protocols established by the State Health Commissioner pursuant to § 32.1-42.1 when (i) the Governor has declared a disaster or a state of emergency or the United States Secretary of Health and Human Services has issued a declaration of an actual or potential bioterrorism incident or other actual or potential public health emergency; (ii) it is necessary to permit the provision of needed drugs or devices; and (iii) such persons have received the training necessary to safely administer or dispense the needed drugs or devices. Such persons shall administer or dispense all drugs or devices under the direction, control, and supervision of the State Health Commissioner.

Q. Nothing in this title shall prohibit the administration of normally self-administered drugs by unlicensed individuals to a person in his private residence.

R. This section shall not interfere with any prescriber issuing prescriptions in compliance with his authority and scope of practice and the provisions of this section to a Board agent for use pursuant to subsection G of § 18.2-258.1. Such prescriptions issued by such prescriber shall be deemed to be valid prescriptions.

S. Nothing in this title shall prevent or interfere with dialysis care technicians or dialysis patient care technicians who are certified by an organization approved by the Board of Health Professions or persons authorized for provisional practice pursuant to Chapter 27.01 (§ 54.1-2729.1 et seq.), in the ordinary course of their duties in a Medicare-certified renal dialysis facility, from administering heparin, topical needle site anesthetics, dialysis solutions, sterile normal saline solution, and blood volumizers, for the purpose of facilitating renal dialysis treatment, when such administration of medications occurs under the orders of a licensed physician, nurse practitioner, or physician assistant and under the immediate and direct supervision of a licensed registered nurse. Nothing in this chapter shall be construed to prohibit a patient care dialysis technician trainee from performing dialysis care as part of and within the scope of the clinical skills instruction segment of a supervised dialysis technician training program, provided such trainee is identified as a "trainee" while working in a renal dialysis facility.

The dialysis care technician or dialysis patient care technician administering the medications shall have demonstrated competency as evidenced by holding current valid certification from an organization approved by the Board of Health Professions pursuant to Chapter 27.01 (§ 54.1-2729.1 et seq.).

T. Persons who are otherwise authorized to administer controlled substances in hospitals shall be authorized to administer influenza or pneumococcal vaccines pursuant to § 32.1-126.4.

U. Pursuant to a specific order for a patient and under his direct and immediate supervision, a prescriber may authorize the administration of controlled substances by personnel who have been properly trained to assist a doctor of medicine or osteopathic medicine, provided the method does not include intravenous, intrathecal, or epidural administration and the prescriber remains responsible for such administration.

V. A physician assistant, nurse or a dental hygienist may possess and administer topical fluoride varnish to the teeth of children aged six months to three years pursuant to an oral or written order or a standing protocol issued by a doctor of medicine, osteopathic medicine, or dentistry that conforms to standards adopted by the Department of Health.

W. A prescriber, acting in accordance with guidelines developed pursuant to § 32.1-46.02, may authorize the administration of influenza vaccine to minors by a licensed pharmacist, registered nurse, licensed practical nurse under the direction and immediate supervision of a registered nurse, or emergency medical services provider who holds an advanced life support certificate issued by the Commissioner of Health when the prescriber is not physically present.

X. Notwithstanding the provisions of § 54.1-3303, pursuant to an oral, written, or standing order issued by a prescriber *or a standing order issued by the Commissioner of Health or his designee authorizing the dispensing of naloxone or other opioid antagonist used for overdose reversal in the absence of an oral or written order for a specific patient issued by a prescriber*, and in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health, a pharmacist may dispense naloxone or other opioid antagonist used for overdose reversal and a person may possess and administer naloxone or other opioid antagonist used for overdose reversal to a person who is believed to be experiencing or about to experience a life-threatening opiate overdose. Law-enforcement officers as defined in § 9.1-101 and firefighters who have completed a training program may also possess and administer naloxone in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health.

## CHAPTER 175

*An Act to amend and reenact § 32.1-127 of the Code of Virginia, relating to hospitals providing psychiatric services; denials of admission.*

[H 1777]

Approved February 23, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 32.1-127 of the Code of Virginia is amended and reenacted as follows:**

**§ 32.1-127. Regulations.**

A. The regulations promulgated by the Board to carry out the provisions of this article shall be in substantial conformity to the standards of health, hygiene, sanitation, construction and safety as established and recognized by medical and health care professionals and by specialists in matters of public health and safety, including health and safety standards established under provisions of Title XVIII and Title XIX of the Social Security Act, and to the provisions of Article 2 (§ 32.1-138 et seq.).

B. Such regulations:

1. Shall include minimum standards for (i) the construction and maintenance of hospitals, nursing homes and certified nursing facilities to ensure the environmental protection and the life safety of its patients, employees, and the public; (ii) the operation, staffing and equipping of hospitals, nursing homes and certified nursing facilities; (iii) qualifications and training of staff of hospitals, nursing homes and certified nursing facilities, except those professionals licensed or certified by the Department of Health Professions; (iv) conditions under which a hospital or nursing home may provide medical and nursing services to patients in their places of residence; and (v) policies related to infection prevention, disaster preparedness, and facility security of hospitals, nursing homes, and certified nursing facilities. For purposes of this paragraph, facilities in which five or more first trimester abortions per month are performed shall be classified as a category of "hospital";

2. Shall provide that at least one physician who is licensed to practice medicine in this Commonwealth shall be on call at all times, though not necessarily physically present on the premises, at each hospital which operates or holds itself out as operating an emergency service;

3. May classify hospitals and nursing homes by type of specialty or service and may provide for licensing hospitals and nursing homes by bed capacity and by type of specialty or service;

4. Shall also require that each hospital establish a protocol for organ donation, in compliance with federal law and the regulations of the Centers for Medicare and Medicaid Services (CMS), particularly 42 C.F.R. § 482.45. Each hospital shall have an agreement with an organ procurement organization designated in CMS regulations for routine contact, whereby the provider's designated organ procurement organization certified by CMS (i) is notified in a timely manner of all deaths or imminent deaths of patients in the hospital and (ii) is authorized to determine the suitability of the decedent or patient for organ donation and, in the absence of a similar arrangement with any eye bank or tissue bank in Virginia certified by the Eye Bank Association of America or the American Association of Tissue Banks, the suitability for tissue and eye donation. The hospital shall also have an agreement with at least one tissue bank and at least one eye bank to cooperate in the retrieval, processing, preservation, storage, and distribution of tissues and eyes to ensure that all usable tissues and eyes are obtained from potential donors and to avoid interference with organ procurement. The protocol shall ensure that the hospital collaborates with the designated organ procurement organization to inform the family of each potential donor of the option to donate organs, tissues, or eyes or to decline to donate. The individual making contact with the family shall have completed a course in the methodology for approaching potential donor families and requesting organ or tissue donation that (a) is offered or approved by the organ procurement organization and designed in conjunction with the tissue and eye

bank community and (b) encourages discretion and sensitivity according to the specific circumstances, views, and beliefs of the relevant family. In addition, the hospital shall work cooperatively with the designated organ procurement organization in educating the staff responsible for contacting the organ procurement organization's personnel on donation issues, the proper review of death records to improve identification of potential donors, and the proper procedures for maintaining potential donors while necessary testing and placement of potential donated organs, tissues, and eyes takes place. This process shall be followed, without exception, unless the family of the relevant decedent or patient has expressed opposition to organ donation, the chief administrative officer of the hospital or his designee knows of such opposition, and no donor card or other relevant document, such as an advance directive, can be found;

5. Shall require that each hospital that provides obstetrical services establish a protocol for admission or transfer of any pregnant woman who presents herself while in labor;

6. Shall also require that each licensed hospital develop and implement a protocol requiring written discharge plans for identified, substance-abusing, postpartum women and their infants. The protocol shall require that the discharge plan be discussed with the patient and that appropriate referrals for the mother and the infant be made and documented. Appropriate referrals may include, but need not be limited to, treatment services, comprehensive early intervention services for infants and toddlers with disabilities and their families pursuant to Part H of the Individuals with Disabilities Education Act, 20 U.S.C. § 1471 et seq., and family-oriented prevention services. The discharge planning process shall involve, to the extent possible, the father of the infant and any members of the patient's extended family who may participate in the follow-up care for the mother and the infant. Immediately upon identification, pursuant to § 54.1-2403.1, of any substance-abusing, postpartum woman, the hospital shall notify, subject to federal law restrictions, the community services board of the jurisdiction in which the woman resides to appoint a discharge plan manager. The community services board shall implement and manage the discharge plan;

7. Shall require that each nursing home and certified nursing facility fully disclose to the applicant for admission the home's or facility's admissions policies, including any preferences given;

8. Shall require that each licensed hospital establish a protocol relating to the rights and responsibilities of patients which shall include a process reasonably designed to inform patients of such rights and responsibilities. Such rights and responsibilities of patients, a copy of which shall be given to patients on admission, shall be consistent with applicable federal law and regulations of the Centers for Medicare and Medicaid Services;

9. Shall establish standards and maintain a process for designation of levels or categories of care in neonatal services according to an applicable national or state-developed evaluation system. Such standards may be differentiated for various levels or categories of care and may include, but need not be limited to, requirements for staffing credentials, staff/patient ratios, equipment, and medical protocols;

10. Shall require that each nursing home and certified nursing facility train all employees who are mandated to report adult abuse, neglect, or exploitation pursuant to § 63.2-1606 on such reporting procedures and the consequences for failing to make a required report;

11. Shall permit hospital personnel, as designated in medical staff bylaws, rules and regulations, or hospital policies and procedures, to accept emergency telephone and other verbal orders for medication or treatment for hospital patients from physicians, and other persons lawfully authorized by state statute to give patient orders, subject to a requirement that such verbal order be signed, within a reasonable period of time not to exceed 72 hours as specified in the hospital's medical staff bylaws, rules and regulations or hospital policies and procedures, by the person giving the order, or, when such person is not available within the period of time specified, co-signed by another physician or other person authorized to give the order;

12. Shall require, unless the vaccination is medically contraindicated or the resident declines the offer of the vaccination, that each certified nursing facility and nursing home provide or arrange for the administration to its residents of (i) an annual vaccination against influenza and (ii) a pneumococcal vaccination, in accordance with the most recent recommendations of the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention;

13. Shall require that each nursing home and certified nursing facility register with the Department of State Police to receive notice of the registration or reregistration of any sex offender within the same or a contiguous zip code area in which the home or facility is located, pursuant to § 9.1-914;

14. Shall require that each nursing home and certified nursing facility ascertain, prior to admission, whether a potential patient is a registered sex offender, if the home or facility anticipates the potential patient will have a length of stay greater than three days or in fact stays longer than three days;

15. Shall require that each licensed hospital include in its visitation policy a provision allowing each adult patient to receive visits from any individual from whom the patient desires to receive visits, subject to other restrictions contained in the visitation policy including, but not limited to, those related to the patient's medical condition and the number of visitors permitted in the patient's room simultaneously;

16. Shall require that each nursing home and certified nursing facility shall, upon the request of the facility's family council, send notices and information about the family council mutually developed by the family council and the administration of the nursing home or certified nursing facility, and provided to the facility for such purpose, to the listed responsible party or a contact person of the resident's choice up to six times per year. Such notices may be included together

with a monthly billing statement or other regular communication. Notices and information shall also be posted in a designated location within the nursing home or certified nursing facility;

17. Shall require that each nursing home and certified nursing facility maintain liability insurance coverage in a minimum amount of \$1 million, and professional liability coverage in an amount at least equal to the recovery limit set forth in § 8.01-581.15, to compensate patients or individuals for injuries and losses resulting from the negligent or criminal acts of the facility. Failure to maintain such minimum insurance shall result in revocation of the facility's license;

18. Shall require each hospital that provides obstetrical services to establish policies to follow when a stillbirth, as defined in § 32.1-69.1, occurs that meet the guidelines pertaining to counseling patients and their families and other aspects of managing stillbirths as may be specified by the Board in its regulations; ~~and~~

19. Shall require each nursing home to provide a full refund of any unexpended patient funds on deposit with the facility following the discharge or death of a patient, other than entrance-related fees paid to a continuing care provider as defined in § 38.2-4900, within 30 days of a written request for such funds by the discharged patient or, in the case of the death of a patient, the person administering the person's estate in accordance with the Virginia Small Estates Act (§ 64.2-600 et seq.); *and*

20. *Shall require that each hospital that provides inpatient psychiatric services establish a protocol that (i) requires, for any refusal to admit a medically stable patient referred to its psychiatric unit, direct verbal communication between the on-call physician in the psychiatric unit and the referring physician, if requested by such referring physician, and (ii) prohibits on-call physicians or other hospital staff from refusing a request for such direct verbal communication by a referring physician.*

C. Upon obtaining the appropriate license, if applicable, licensed hospitals, nursing homes, and certified nursing facilities may operate adult day care centers.

D. All facilities licensed by the Board pursuant to this article which provide treatment or care for hemophiliacs and, in the course of such treatment, stock clotting factors, shall maintain records of all lot numbers or other unique identifiers for such clotting factors in order that, in the event the lot is found to be contaminated with an infectious agent, those hemophiliacs who have received units of this contaminated clotting factor may be apprised of this contamination. Facilities which have identified a lot which is known to be contaminated shall notify the recipient's attending physician and request that he notify the recipient of the contamination. If the physician is unavailable, the facility shall notify by mail, return receipt requested, each recipient who received treatment from a known contaminated lot at the individual's last known address.

## CHAPTER 176

*An Act to amend and reenact §§ 63.2-1505, 63.2-1506, and 63.2-1509 of the Code of Virginia, relating to in utero exposure to a controlled substance.*

[H 1786]

Approved February 23, 2017

### **Be it enacted by the General Assembly of Virginia:**

#### **1. That §§ 63.2-1505, 63.2-1506, and 63.2-1509 of the Code of Virginia are amended and reenacted as follows:**

##### **§ 63.2-1505. Investigations by local departments.**

A. An investigation requires the collection of information necessary to determine:

1. The immediate safety needs of the child;
2. The protective and rehabilitative services needs of the child and family that will deter abuse or neglect;
3. Risk of future harm to the child;
4. Alternative plans for the child's safety if protective and rehabilitative services are indicated and the family is unable or unwilling to participate in services;
5. Whether abuse or neglect has occurred;
6. If abuse or neglect has occurred, who abused or neglected the child; and
7. A finding of either founded or unfounded based on the facts collected during the investigation.

B. If the local department responds to the report or complaint by conducting an investigation, the local department shall:

1. Make immediate investigation and, if the report or complaint was based upon one of the factors specified in subsection B of § 63.2-1509, the local department may file a petition pursuant to § 16.1-241.3;
2. Complete a report and ~~transmit it forthwith to the Department, except that no such report shall be transmitted in cases in which the cause to suspect abuse or neglect is one of the factors specified in subsection B of § 63.2-1509 and the mother sought substance abuse counseling or treatment prior to the child's birth~~ *enter it into the statewide automation system maintained by the Department;*
3. Consult with the family to arrange for necessary protective and rehabilitative services to be provided to the child and his family;
4. Petition the court for services deemed necessary including, but not limited to, removal of the child or his siblings from their home;
5. Determine within 45 days if a report of abuse or neglect is founded or unfounded and transmit a report to such effect to the Department and to the person who is the subject of the investigation. However, upon written justification by the local

department, the time for such determination may be extended not to exceed a total of 60 days or, in the event that the investigation is being conducted in cooperation with a law-enforcement agency and both parties agree that circumstances so warrant, as stated in the written justification, the time for such determination may be extended not to exceed 90 days. If through the exercise of reasonable diligence the local department is unable to find the child who is the subject of the report, the time the child cannot be found shall not be computed as part of the total time period allowed for the investigation and determination and documentation of such reasonable diligence shall be placed in the record. In cases involving the death of a child or alleged sexual abuse of a child who is the subject of the report, the time during which records necessary for the investigation of the complaint but not created by the local department, including autopsy or medical or forensic records or reports, are not available to the local department due to circumstances beyond the local department's control shall not be computed as part of the total time period allowed for the investigation and determination, and documentation of the circumstances that resulted in the delay shall be placed in the record. In cases in which the subject of the investigation is a full-time, part-time, permanent, or temporary employee of a school division who is suspected of abusing or neglecting a child in the course of his educational employment, the time period for determining whether a report is founded or unfounded and transmitting a report to that effect to the Department and the person who is the subject of the investigation shall be mandatory, and every local department shall make the required determination and report within the specified time period without delay;

6. If a report of abuse or neglect is unfounded, transmit a report to such effect to the complainant and parent or guardian and the person responsible for the care of the child in those cases where such person was suspected of abuse or neglect; and

7. If a report of child abuse and neglect is founded, and the subject of the report is a full-time, part-time, permanent, or temporary employee of a school division located within the Commonwealth, notify the relevant school board of the founded complaint.

Any information exchanged for the purposes of this subsection shall not be considered a violation of § 63.2-102, 63.2-104, or 63.2-105.

C. Each local board may obtain and consider, in accordance with regulations adopted by the Board, statewide criminal history record information from the Central Criminal Records Exchange and results of a search of the child abuse and neglect central registry of any individual who is the subject of a child abuse or neglect investigation conducted under this section when there is evidence of child abuse or neglect and the local board is evaluating the safety of the home and whether removal will protect a child from harm. The local board also may obtain such a criminal records or registry search on all adult household members residing in the home where the individual who is the subject of the investigation resides and the child resides or visits. If a child abuse or neglect petition is filed in connection with such removal, a court may admit such information as evidence. Where the individual who is the subject of such information contests its accuracy through testimony under oath in hearing before the court, no court shall receive or consider the contested criminal history record information without certified copies of conviction. Further dissemination of the information provided to the local board is prohibited, except as authorized by law.

D. A person who has not previously participated in the investigation of complaints of child abuse or neglect in accordance with this chapter shall not participate in the investigation of any case involving a complaint of alleged sexual abuse of a child unless he (i) has completed a Board-approved training program for the investigation of complaints involving alleged sexual abuse of a child or (ii) is under the direct supervision of a person who has completed a Board-approved training program for the investigation of complaints involving alleged sexual abuse of a child. No individual may make a determination of whether a case involving a complaint of alleged sexual abuse of a child is founded or unfounded unless he has completed a Board-approved training program for the investigation of complaints involving alleged sexual abuse of a child.

**§ 63.2-1506. Family assessments by local departments.**

A. A family assessment requires the collection of information necessary to determine:

1. The immediate safety needs of the child;
2. The protective and rehabilitative services needs of the child and family that will deter abuse or neglect;
3. Risk of future harm to the child; ~~and~~
4. *Whether the mother of a child who was exposed in utero to a controlled substance sought substance abuse counseling or treatment prior to the child's birth; and*
5. Alternative plans for the child's safety if protective and rehabilitative services are indicated and the family is unable or unwilling to participate in services.

B. When a local department has been designated as a child-protective services differential response system participant by the Department pursuant to § 63.2-1504 and responds to the report or complaint by conducting a family assessment, the local department shall:

1. Conduct an immediate family assessment and, if the report or complaint was based upon one of the factors specified in subsection B of § 63.2-1509, the local department may file a petition pursuant to § 16.1-241.3;
2. Immediately contact the subject of the report and the family of the child alleged to have been abused or neglected and give each a written and an oral explanation of the family assessment procedure. The family assessment shall be in writing and shall be completed in accordance with Board regulation;

3. Complete the family assessment within ~~forty five~~ 45 days and transmit a report to such effect to the Department and to the person who is the subject of the family assessment. However, upon written justification by the local department, the family assessment may be extended, not to exceed a total of ~~sixty~~ 60 days;

4. Consult with the family to arrange for necessary protective and rehabilitative services to be provided to the child and his family. Families have the option of declining the services offered as a result of the family assessment. If the family declines the services, the case shall be closed unless the local department determines that sufficient cause exists to redetermine the case as one that needs to be investigated. In no instance shall a case be redetermined as an investigation solely because the family declines services;

5. Petition the court for services deemed necessary;

6. Make no disposition of founded or unfounded for reports in which a family assessment is completed. Reports in which a family assessment is completed shall not be entered into the central registry contained in § 63.2-1515; and

7. Commence an immediate investigation, if at any time during the completion of the family assessment, the local department determines that an investigation is required.

C. When a local department has been designated as a child-protective services differential response agency by the Department, the local department may investigate any report of child abuse or neglect, but the following valid reports of child abuse or neglect shall be investigated: (i) sexual abuse, (ii) child fatality, (iii) abuse or neglect resulting in serious injury as defined in § 18.2-371.1, (iv) child has been taken into the custody of the local department, or (v) cases involving a caretaker at a state-licensed child day center, religiously exempt child day center, licensed, registered or approved family day home, private or public school, hospital or any institution. *If a report or complaint is based upon one of the factors specified in subsection B of § 63.2-1509, the local department shall (a) conduct a family assessment, unless an investigation is required pursuant to this subsection or other provision of law or is necessary to protect the safety of the child, and (b) develop a plan of safe care in accordance with federal law, regardless of whether the local department makes a finding of abuse or neglect.*

**§ 63.2-1509. Requirement that certain injuries to children be reported by physicians, nurses, teachers, etc.; penalty for failure to report.**

A. The following persons who, in their professional or official capacity, have reason to suspect that a child is an abused or neglected child, shall report the matter immediately to the local department of the county or city wherein the child resides or wherein the abuse or neglect is believed to have occurred or to the Department's toll-free child abuse and neglect hotline:

1. Any person licensed to practice medicine or any of the healing arts;
2. Any hospital resident or intern, and any person employed in the nursing profession;
3. Any person employed as a social worker or family-services specialist;
4. Any probation officer;
5. Any teacher or other person employed in a public or private school, kindergarten or nursery school;
6. Any person providing full-time or part-time child care for pay on a regularly planned basis;
7. Any mental health professional;
8. Any law-enforcement officer or animal control officer;
9. Any mediator eligible to receive court referrals pursuant to § 8.01-576.8;
10. Any professional staff person, not previously enumerated, employed by a private or state-operated hospital, institution or facility to which children have been committed or where children have been placed for care and treatment;
11. Any person 18 years of age or older associated with or employed by any public or private organization responsible for the care, custody or control of children;
12. Any person who is designated a court-appointed special advocate pursuant to Article 5 (§ 9.1-151 et seq.) of Chapter 1 of Title 9.1;
13. Any person 18 years of age or older who has received training approved by the Department of Social Services for the purposes of recognizing and reporting child abuse and neglect;
14. Any person employed by a local department as defined in § 63.2-100 who determines eligibility for public assistance;
15. Any emergency medical services provider certified by the Board of Health pursuant to § 32.1-111.5, unless such provider immediately reports the matter directly to the attending physician at the hospital to which the child is transported, who shall make such report forthwith;
16. Any athletic coach, director or other person 18 years of age or older employed by or volunteering with a private sports organization or team;
17. Administrators or employees 18 years of age or older of public or private day camps, youth centers and youth recreation programs; and
18. Any person employed by a public or private institution of higher education other than an attorney who is employed by a public or private institution of higher education as it relates to information gained in the course of providing legal representation to a client.

This subsection shall not apply to any regular minister, priest, rabbi, imam, or duly accredited practitioner of any religious organization or denomination usually referred to as a church as it relates to (i) information required by the doctrine of the religious organization or denomination to be kept in a confidential manner or (ii) information that would be subject to § 8.01-400 or 19.2-271.3 if offered as evidence in court.

If neither the locality in which the child resides nor where the abuse or neglect is believed to have occurred is known, then such report shall be made to the local department of the county or city where the abuse or neglect was discovered or to the Department's toll-free child abuse and neglect hotline.

If an employee of the local department is suspected of abusing or neglecting a child, the report shall be made to the court of the county or city where the abuse or neglect was discovered. Upon receipt of such a report by the court, the judge shall assign the report to a local department that is not the employer of the suspected employee for investigation or family assessment. The judge may consult with the Department in selecting a local department to respond to the report or the complaint.

If the information is received by a teacher, staff member, resident, intern or nurse in the course of professional services in a hospital, school or similar institution, such person may, in place of said report, immediately notify the person in charge of the institution or department, or his designee, who shall make such report forthwith. If the initial report of suspected abuse or neglect is made to the person in charge of the institution or department, or his designee, pursuant to this subsection, such person shall notify the teacher, staff member, resident, intern or nurse who made the initial report when the report of suspected child abuse or neglect is made to the local department or to the Department's toll-free child abuse and neglect hotline, and of the name of the individual receiving the report, and shall forward any communication resulting from the report, including any information about any actions taken regarding the report, to the person who made the initial report.

The initial report may be an oral report but such report shall be reduced to writing by the child abuse coordinator of the local department on a form prescribed by the Board. Any person required to make the report pursuant to this subsection shall disclose all information that is the basis for his suspicion of abuse or neglect of the child and, upon request, shall make available to the child-protective services coordinator and the local department, which is the agency of jurisdiction, any information, records, or reports that document the basis for the report. All persons required by this subsection to report suspected abuse or neglect who maintain a record of a child who is the subject of such a report shall cooperate with the investigating agency and shall make related information, records and reports available to the investigating agency unless such disclosure violates the federal Family Educational Rights and Privacy Act (20 U.S.C. § 1232g). Provision of such information, records, and reports by a health care provider shall not be prohibited by § 8.01-399. Criminal investigative reports received from law-enforcement agencies shall not be further disseminated by the investigating agency nor shall they be subject to public disclosure.

B. For purposes of subsection A, "reason to suspect that a child is abused or neglected" shall include (i) ~~a finding made by a health care provider within six weeks of the birth of a child that the results of toxicology studies of the child indicate the presence of a controlled substance not prescribed for the mother by a physician;~~ (ii) a finding made by a health care provider within six weeks of the birth of a child that the child was born ~~dependent on a controlled substance which was not prescribed by a physician for the mother and has demonstrated~~ affected by substance abuse or experiencing withdrawal symptoms ~~resulting from in utero drug exposure;~~ (iii) (ii) a diagnosis made by a health care provider ~~at any time within four years~~ following a child's birth that the child has an illness, disease, or condition ~~which that, to a reasonable degree of medical certainty, is attributable to in utero exposure to maternal abuse of a controlled substance which was not prescribed by a physician for the mother or the child during pregnancy;~~ or (iv) (iii) a diagnosis made by a health care provider ~~at any time within four years~~ following a child's birth that the child has a fetal alcohol spectrum disorder attributable to in utero exposure to alcohol. When "reason to suspect" is based upon this subsection, such fact shall be included in the report along with the facts relied upon by the person making the report.

C. Any person who makes a report or provides records or information pursuant to subsection A or who testifies in any judicial proceeding arising from such report, records, or information shall be immune from any civil or criminal liability or administrative penalty or sanction on account of such report, records, information, or testimony, unless such person acted in bad faith or with malicious purpose.

D. Any person required to file a report pursuant to this section who fails to do so as soon as possible, but not longer than 24 hours after having reason to suspect a reportable offense of child abuse or neglect, shall be fined not more than \$500 for the first failure and for any subsequent failures not less than \$1,000. In cases evidencing acts of rape, sodomy, or object sexual penetration as defined in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, a person who knowingly and intentionally fails to make the report required pursuant to this section shall be guilty of a Class 1 misdemeanor.

E. No person shall be required to make a report pursuant to this section if the person has actual knowledge that the same matter has already been reported to the local department or the Department's toll-free child abuse and neglect hotline.

**2. That the State Board of Social Services shall promulgate regulations to implement the provisions of this act.**

## CHAPTER 177

*An Act to amend and reenact §§ 58.1-439.6 and 58.1-439.12:07 of the Code of Virginia, relating to tax credits for worker retraining and telework expenses.*

[H 1814]

Approved February 23, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 58.1-439.6 and 58.1-439.12:07 of the Code of Virginia are amended and reenacted as follows:**

**§ 58.1-439.6. Worker retraining tax credit.**

A. As used in this section, unless the context clearly requires otherwise:

"Eligible worker retraining" means retraining of a qualified employee that promotes economic development in the form of (i) noncredit courses at any of the Commonwealth's community colleges or a private school or (ii) worker retraining programs undertaken through an apprenticeship agreement approved by the Commissioner of Labor and Industry.

"Qualified employee" means an employee of an employer eligible for a credit under this section in a full-time position requiring a minimum of 1,680 hours in the entire normal year of the employer's operations if the standard fringe benefits are paid by the employer for the employee. Employees in seasonal or temporary positions shall not qualify as qualified employees. A qualified employee (i) shall not be a relative of any owner or the employer claiming the credit and (ii) shall not own, directly or indirectly, more than five percent in value of the outstanding stock of a corporation claiming the credit. As used herein, "relative" means a spouse, child, grandchild, parent or sibling of an owner or employer, and "owner" means, in the case of a corporation, any person who owns five percent or more of the corporation's stock.

"STEM or STEAM discipline" means a science, technology, engineering, mathematics, or applied mathematics related discipline as determined by the ~~Department of Small Business and Supplier Diversity~~ *Virginia Economic Development Partnership Authority* in consultation with the Superintendent of Public Instruction. The term shall include a health care-related discipline.

B. For taxable years beginning on and after January 1, 1999, but prior to January 1, ~~2018~~ 2022, an employer shall be allowed a credit against the taxes imposed by Articles 2 (§ 58.1-320 et seq.), 6 (§ 58.1-360 et seq.), and 10 (§ 58.1-400 et seq.) of Chapter 3; Chapter 12 (§ 58.1-1200 et seq.); Article 1 (§ 58.1-2500 et seq.) of Chapter 25; or Article 2 (§ 58.1-2620 et seq.) of Chapter 26 in an amount equal to 30 percent of all expenditures paid or incurred by the employer during the taxable year for eligible worker retraining. However, for taxable years beginning prior to January 1, 2013, if the eligible worker retraining consists of courses conducted at a private school, the credit shall be in an amount equal to the cost per qualified employee, but the amount of the credit shall not exceed \$100 per qualified employee annually. For taxable years beginning on or after January 1, 2013, if the eligible worker retraining consists of courses conducted at a private school, the credit shall be in an amount equal to the cost per qualified employee, but the amount of the credit shall not exceed \$200 per qualified employee annually, or \$300 per qualified employee annually if the eligible worker retraining includes retraining in a STEM or STEAM discipline, including but not limited to industry-recognized credentials, certificates, and certifications. The total amount of tax credits granted to employers under this section for each fiscal year shall not exceed \$2,500,000.

C. For purposes of this section, the amount of any credit attributable to a partnership, electing small business corporation (S corporation), or limited liability company shall be allocated to the individual partners, shareholders, or members, respectively, in proportion to their ownership or interest in such business entities.

D. An employer shall be entitled to the credit granted under this section only for those courses at a community college or a private school for which courses have been certified as eligible worker retraining to the Department of Taxation by the ~~Department of Small Business and Supplier Diversity~~ *Virginia Economic Development Partnership Authority*. The Tax Commissioner shall promulgate regulations, in accordance with the Administrative Process Act (§ 2.2-4000 et seq.), (i) establishing procedures for claiming the credit provided by this section, (ii) defining eligible worker retraining, which shall include only those courses and programs that are substantially related to the duties of a qualified employee or that enhance the qualified employee's job-related skills, and that promote economic development, and (iii) providing for the allocation of credits among employers requesting credits in the event that the amount of credits for which requests are made exceeds the available amount of credits in any year. The ~~Department of Small Business and Supplier Diversity~~ *Virginia Economic Development Partnership Authority* shall review requests for certification submitted by employers and shall advise the Tax Commissioner whether a course or program qualifies as eligible worker retraining and, if it qualifies, whether the course or program is in a STEM or STEAM discipline.

E. Any credit not usable for the taxable year may be carried over for the next three taxable years. The amount of credit allowed pursuant to this section shall not exceed the tax imposed for such taxable year. No credit shall be carried back to a preceding taxable year. If an employer that is subject to the tax limitation imposed pursuant to this subsection is allowed another credit pursuant to any other section of this Code, or has a credit carryover from a preceding taxable year, such employer shall be considered to have first utilized any credit allowed which does not have a carryover provision, and then any credit which is carried forward from a preceding taxable year, prior to the utilization of any credit allowed pursuant to this section.

F. No employer shall be eligible to claim a credit under this section for worker retraining undertaken by any program operated, administered, or paid for by the Commonwealth.

G. The ~~Director of the Department of Small Business and Supplier Diversity~~ *Virginia Economic Development Partnership Authority* shall report annually to the ~~chairmen~~ *Chairmen* of the House Finance and Senate Finance Committees on the status and implementation of the credit established by this section, including certifications for eligible worker retraining.

**§ 58.1-439.12:07. Telework expenses tax credit.**

A. As used in this section, unless the context requires a different meaning:

"Eligible telework expenses" means expenses incurred during the taxable year pursuant to a telework agreement, in an amount up to \$1,200 for each participating employee, that enable a participating employee to begin to telework, which

expenses are not otherwise the subject of a deduction from income claimed by the employer in any tax year. Such expenses include, but are not limited to, expenses paid or incurred to purchase computers, computer-related hardware and software, modems, data processing equipment, telecommunications equipment, high-speed Internet connectivity equipment, computer security software and devices, and all related delivery, installation, and maintenance fees. Such expenses do not include replacement costs for computers, computer-related hardware and software, modems, data processing equipment, telecommunications equipment, or computer security software and devices at the principal place of business when that equipment is relocated to the telework site. Eligible telework expenses may also include up to a maximum of \$20,000 for conducting a telework assessment on or after January 1, 2012. Such costs shall be ineligible for this credit if they are otherwise taken as a deduction by the employer from income in any taxable year. The costs included and allowed to be taken as a credit include program planning costs, which may include direct program development and training costs, raw labor costs, and professional consulting fees. Such costs shall not include those for which a credit is claimed under any other provision of this chapter. The credit for conducting a telework assessment shall be allowed once for each employer meeting the requirements herein.

"Employer" means any employer subject to the income tax imposed by this chapter.

"Participating employee" means an employee who has entered into a telework agreement with his employer on or after July 1, 2012, in accordance with policies set by the Virginia Department of Rail and Public Transportation. The term shall not include an individual who is self-employed or an individual who ordinarily spends a majority of the workday at a location other than the place where his duties are normally performed.

"Telework" means the performance of normal and regular work functions on a workday at a location different from the place where work functions are normally performed and that is within or closer to the participating employee's residence. The term shall not include home-based businesses, extensions of the workday, or work performed on a weekend or holiday.

"Telework agreement" means an agreement signed by the employer and the participating employee, on or after July 1, 2012, but before January 1, ~~2017~~ 2022, that defines the terms of a telework arrangement, including the number of days per month the participating employee will telework in order to qualify for the credit, and any restrictions on the location from which the employee will telework.

"Telework assessment" means an optional assessment leading to the development of policies and procedures necessary to implement a formal telework program that would qualify the employer for the credit provided in this section, including but not limited to a workforce profile; a telework program business case and plan; a detailed accounting of the purpose, goals, and operating procedures of the telework program; methodologies for measuring telework program activities and success; and a deployment schedule for increasing telework activity.

B. For taxable years beginning on or after January 1, 2012, but before January 1, ~~2017~~ 2022, an employer shall be allowed a credit against the taxes imposed pursuant to Articles 2 (§ 58.1-320 et seq.) and 10 (§ 58.1-400 et seq.) of this chapter for eligible telework expenses incurred during the calendar year that ends during the taxable year. The amount of the credit shall not exceed \$50,000 per employer for each calendar year.

Such expenses may be incurred (i) only once per participating employee and (ii) directly by the employer on behalf of the participating employee or directly by the participating employee and reimbursed by the employer.

C. For purposes of this section, the amount of any credit attributable to a partnership, electing small business corporation (S corporation), or limited liability company shall be allocated to the individual partners, shareholders, or members, respectively, in proportion to their ownership or interest in such business entities.

D. The amount of tax credits available to any employer under this section in any taxable year shall not exceed the employer's tax liability. No unused tax credit shall be carried forward or carried back against the employer's tax liability. An employer shall be ineligible for a tax credit pursuant to this section if such employer claims a credit based on the jobs, wages, or other expenses for the same employee under any other provision of this chapter.

E. An employer seeking to claim a tax credit provided herein shall submit a reservation application to the Tax Commissioner for tentative approval of the credit between September 1 and October 31 of the year preceding the calendar year in which the eligible telework expenses will be incurred. The Tax Commissioner shall establish policies and procedures for the reservation of tax credits by eligible employers. Such policies and procedures shall provide (i) requirements for applying for reservations of tax credits; (ii) a system for allocating the available amount of tax credits among eligible employers; and (iii) a procedure for the cancellation and reallocation of tax credit reservations allocated to eligible employers that, after reserving tax credits, have been determined to be ineligible for all or a portion of the tax credits reserved. Such application shall certify that the employer would not have incurred the eligible telework expenses for which the credit is sought but for the availability of such credit. The Tax Commissioner shall provide tentative approval of the applications no later than December 31 of the year in which the applications are received. When the application and amount of tax credits have been approved and the employer applicant notified, such employer may make purchases approved for the tax credits during the immediately following taxable year or lose the right to such credits.

F. In no event shall the aggregate amount of tax credits approved by the Tax Commissioner exceed \$1 million annually. In the event the credit amounts on the applications filed with the Tax Commissioner exceed the maximum aggregate amount of tax credits, then the tax credits shall be allocated on a pro rata basis based on the amounts allowed by subsection B among the eligible employers who filed timely applications.

G. Actions of the Tax Commissioner relating to the approval or denial of applications for reservations of tax credits pursuant to this section shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

## CHAPTER 178

*An Act to amend and reenact § 32.1-36.1 of the Code of Virginia, relating to confidentiality of tests for human immunodeficiency virus; release of information.*

[H 1840]

Approved February 23, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 32.1-36.1 of the Code of Virginia is amended and reenacted as follows:**

**§ 32.1-36.1. Confidentiality of test for human immunodeficiency virus; civil penalty; individual action for damages or penalty.**

A. The results of every test to determine infection with human immunodeficiency virus shall be confidential. Such information may ~~only~~ be released *only* to the following persons:

- ~~1. The subject of the test or his legally authorized representative.~~
- ~~2. Any person designated in a release signed by the subject of the test or his legally authorized representative.~~
- ~~3. The Department of Health.~~
- ~~4. Health care providers for purposes of consultation or providing care and treatment to the person who was the subject of the test or providing care and treatment to a child of a woman who, at the time of such child's birth, was known to be infected with human immunodeficiency virus.~~
- ~~5. Health care facility staff committees which monitor, evaluate, or review programs or services.~~
- ~~6. Medical or epidemiological researchers for use as statistical data only.~~
- ~~7. Any person allowed access to such information by a court order.~~
- ~~8. Any facility which procures, processes, distributes or uses blood, other body fluids, tissues or organs.~~
- ~~9. Any person authorized by law to receive such information.~~
- ~~10. The parents or other legal custodian of the subject of the test if the subject is a minor.~~
- ~~11. The spouse of the subject of the test.~~
- ~~12. Departments of health located outside the Commonwealth by the Virginia Department of Health for the purposes of disease surveillance and investigation persons or entities permitted or authorized to obtain protected health information under any applicable federal or state law.~~

B. In any action brought under this section, if the court finds that a person has willfully or through gross negligence made an unauthorized disclosure in violation of this section, the Attorney General, any attorney for the Commonwealth, or any attorney for the county, city or town in which the violation occurred may recover for the Literary Fund, upon petition to the court, a civil penalty of not more than \$5,000 per violation.

C. Any person who is the subject of an unauthorized disclosure pursuant to this section shall be entitled to initiate an action to recover actual damages, if any, or \$100, whichever is greater. In addition, such person may also be awarded reasonable attorney's fees and court costs.

D. This section shall not be deemed to create any duty on the part of any person who receives such test results, where none exists otherwise, to release the results to a person listed herein as authorized to receive them.

## CHAPTER 179

*An Act to amend and reenact § 54.1-2987.1 of the Code of Virginia, relating to Durable Do Not Resuscitate Orders; reciprocity.*

[H 2153]

Approved February 23, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 54.1-2987.1 of the Code of Virginia is amended and reenacted as follows:**

**§ 54.1-2987.1. Durable Do Not Resuscitate Orders.**

A. As used in this section:

*"Health care provider" includes, but is not limited to, qualified emergency medical services personnel.*

*"Person authorized to consent on the patient's behalf" means any person authorized by law to consent on behalf of the patient incapable of making an informed decision or, in the case of a minor child, the parent or parents having custody of the child or the child's legal guardian or as otherwise provided by law.*

B. A Durable Do Not Resuscitate Order may be issued by a physician for his patient with whom he has a bona fide physician/patient relationship as defined in the guidelines of the Board of Medicine, and only with the consent of the patient or, if the patient is a minor or is otherwise incapable of making an informed decision regarding consent for such an order, upon the request of and with the consent of the person authorized to consent on the patient's behalf.

~~B.~~ C. A Durable Do Not Resuscitate Order or other order regarding life-prolonging procedures executed in accordance with the laws of another state in which such order was executed shall be deemed to be valid for purposes of this article and shall be given effect as provided in this article.

D. If a patient is able to, and does, express to a health care provider or practitioner the desire to be resuscitated in the event of cardiac or respiratory arrest, such expression shall revoke the provider's or practitioner's authority to follow a Durable Do Not Resuscitate Order. In no case shall any person other than the patient have authority to revoke a Durable Do Not Resuscitate Order executed upon the request of and with the consent of the patient himself.

If the patient is a minor or is otherwise incapable of making an informed decision and the Durable Do Not Resuscitate Order was issued upon the request of and with the consent of the person authorized to consent on the patient's behalf, then the expression by said authorized person to a health care provider or practitioner of the desire that the patient be resuscitated shall so revoke the provider's or practitioner's authority to follow a Durable Do Not Resuscitate Order.

When a Durable Do Not Resuscitate Order has been revoked as provided in this section, a new Order may be issued upon consent of the patient or the person authorized to consent on the patient's behalf.

~~E.~~ E. Durable Do Not Resuscitate Orders issued in accordance with this section *or deemed valid in accordance with subsection C* shall remain valid and in effect until revoked as provided in subsection ~~B~~ D or until rescinded, in accordance with accepted medical practice, by the provider who issued the Durable Do Not Resuscitate Order. In accordance with this section and regulations promulgated by the Board of Health, (i) qualified emergency medical services personnel as defined in § 32.1-111.1; (ii) licensed health care practitioners in any facility, program or organization operated or licensed by the Board of Health, the Department of Social Services, or the Department of Behavioral Health and Developmental Services or operated, licensed or owned by another state agency; and (iii) licensed health care practitioners at any continuing care retirement community registered with the State Corporation Commission pursuant to Chapter 49 (§ 38.2-4900 et seq.) of Title 38.2 are authorized to follow Durable Do Not Resuscitate Orders that are available to them in a form approved by the Board of Health *or deemed valid in accordance with subsection C*.

~~D.~~ F. The provisions of this section shall not authorize any qualified emergency medical services personnel or licensed health care provider or practitioner who is attending the patient at the time of cardiac or respiratory arrest to provide, continue, withhold or withdraw health care if such provider or practitioner knows that taking such action is protested by the patient incapable of making an informed decision. No person shall authorize providing, continuing, withholding or withdrawing health care pursuant to this section that such person knows, or upon reasonable inquiry ought to know, is contrary to the religious beliefs or basic values of a patient incapable of making an informed decision or the wishes of such patient fairly expressed when the patient was capable of making an informed decision. Further, this section shall not authorize the withholding of other medical interventions, such as intravenous fluids, oxygen or other therapies deemed necessary to provide comfort care or to alleviate pain.

~~E.~~ For the purposes of this section:

"Health care provider" includes, but is not limited to, qualified emergency medical services personnel.

"Person authorized to consent on the patient's behalf" means any person authorized by law to consent on behalf of the patient incapable of making an informed decision or, in the case of a minor child, the parent or parents having custody of the child or the child's legal guardian or as otherwise provided by law.

~~F.~~ G. This section shall not prevent, prohibit or limit a physician from issuing a written order, other than a Durable Do Not Resuscitate Order, not to resuscitate a patient in the event of cardiac or respiratory arrest in accordance with accepted medical practice.

~~G.~~ H. Valid Do Not Resuscitate Orders or Emergency Medical Services Do Not Resuscitate Orders issued before July 1, 1999, pursuant to the then-current law, shall remain valid and shall be given effect as provided in this article.

CHAPTER 180

*An Act to require the Secretary of Health and Human Resources to convene a workgroup to develop educational standards and curricula for training health care providers in the safe and appropriate use of opioids to treat pain while minimizing the risk of addiction and substance abuse.*

[H 2161]

Approved February 23, 2017

**Be it enacted by the General Assembly of Virginia:**

1. § 1. *That the Secretary of Health and Human Resources shall convene a workgroup that shall include representatives of the Departments of Behavioral Health and Developmental Services, Health, and Health Professions as well as representatives of the State Council of Higher Education for Virginia and at least one representative of each medical school, dental school, school of pharmacy, physician assistant education program, and nursing education program located in the Commonwealth to develop educational standards and curricula for training health care providers, including physicians, dentists, optometrists, pharmacists, physician assistants, and nurses in the safe and appropriate use of opioids to treat pain while minimizing the risk of addiction and substance abuse. Such educational standards and curricula shall include education and training on pain management, addiction, and the proper prescribing of controlled substances. The workgroup shall report its progress and the outcomes of its activities to the Governor and the General Assembly by December 1, 2017.*

2. **That an emergency exists and this act is in force from its passage.**

CHAPTER 181

*An Act to amend and reenact § 54.1-3456.1 of the Code of Virginia, relating to drugs of concern; gabapentin.*

[H 2164]

Approved February 23, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 54.1-3456.1 of the Code of Virginia is amended and reenacted as follows:**

**§ 54.1-3456.1. Drugs of concern.**

A. The Board may promulgate regulations designating specific drugs and substances, including any controlled substance or other drug or substance where there has been or there is the actual or relative potential for abuse, as drugs of concern. Drugs or substances designated as drugs of concern shall be reported to the Department of Health Professions and shall be subject to reporting requirements for the Prescription Monitoring Program established pursuant to Chapter 25.2 (§ 54.1-2519 et seq.).

B. Drugs and substances designated as drugs of concern shall include any material, compound, mixture, or preparation that contains any quantity of the substance ~~Tramadol~~ *tramadol* or *gabapentin*, including its salts. Drugs and substances designated as drugs of concern shall not include any ~~non-narcotic~~ *nonnarcotic* drug that may be lawfully sold over the counter or behind the counter without a prescription.

**2. That an emergency exists and this act is in force from its passage.**

CHAPTER 182

*An Act to amend and reenact § 54.1-3408 of the Code of Virginia, relating to licensed practical nurses; administration of vaccines.*

[H 2301]

Approved February 23, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 54.1-3408 of the Code of Virginia is amended and reenacted as follows:**

**§ 54.1-3408. Professional use by practitioners.**

A. A practitioner of medicine, osteopathy, podiatry, dentistry, or veterinary medicine or a licensed nurse practitioner pursuant to § 54.1-2957.01, a licensed physician assistant pursuant to § 54.1-2952.1, or a TPA-certified optometrist pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32 shall only prescribe, dispense, or administer controlled substances in good faith for medicinal or therapeutic purposes within the course of his professional practice.

B. The prescribing practitioner's order may be on a written prescription or pursuant to an oral prescription as authorized by this chapter. The prescriber may administer drugs and devices, or he may cause drugs or devices to be administered by:

1. A nurse, physician assistant, or intern under his direction and supervision;
2. Persons trained to administer drugs and devices to patients in state-owned or state-operated hospitals or facilities licensed as hospitals by the Board of Health or psychiatric hospitals licensed by the Department of Behavioral Health and Developmental Services who administer drugs under the control and supervision of the prescriber or a pharmacist;
3. Emergency medical services personnel certified and authorized to administer drugs and devices pursuant to regulations of the Board of Health who act within the scope of such certification and pursuant to an oral or written order or standing protocol; or
4. A licensed respiratory therapist as defined in § 54.1-2954 who administers by inhalation controlled substances used in inhalation or respiratory therapy.

C. Pursuant to an oral or written order or standing protocol, the prescriber, who is authorized by state or federal law to possess and administer radiopharmaceuticals in the scope of his practice, may authorize a nuclear medicine technologist to administer, under his supervision, radiopharmaceuticals used in the diagnosis or treatment of disease.

D. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize registered nurses and licensed practical nurses to possess (i) epinephrine and oxygen for administration in treatment of emergency medical conditions and (ii) heparin and sterile normal saline to use for the maintenance of intravenous access lines.

Pursuant to the regulations of the Board of Health, certain emergency medical services technicians may possess and administer epinephrine in emergency cases of anaphylactic shock.

Pursuant to an order or standing protocol issued by the prescriber within the course of his professional practice, any school nurse, school board employee, employee of a local governing body, or employee of a local health department who is authorized by a prescriber and trained in the administration of epinephrine may possess and administer epinephrine.

Pursuant to an order or a standing protocol issued by the prescriber within the course of his professional practice, any employee of a school for students with disabilities, as defined in § 22.1-319 and licensed by the Board of Education, or any employee of a private school that is accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private

Education who is authorized by a prescriber and trained in the administration of epinephrine may possess and administer epinephrine.

Pursuant to an order issued by the prescriber within the course of his professional practice, an employee of a provider licensed by the Department of Behavioral Health and Developmental Services or a person providing services pursuant to a contract with a provider licensed by the Department of Behavioral Health and Developmental Services may possess and administer epinephrine, provided such person is authorized and trained in the administration of epinephrine.

Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize pharmacists to possess epinephrine and oxygen for administration in treatment of emergency medical conditions.

E. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize licensed physical therapists to possess and administer topical corticosteroids, topical lidocaine, and any other Schedule VI topical drug.

F. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize licensed athletic trainers to possess and administer topical corticosteroids, topical lidocaine, or other Schedule VI topical drugs; oxygen for use in emergency situations; and epinephrine for use in emergency cases of anaphylactic shock.

G. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, and in accordance with policies and guidelines established by the Department of Health pursuant to § 32.1-50.2, such prescriber may authorize registered nurses or licensed practical nurses under the ~~immediate and direct~~ supervision of a registered nurse to possess and administer tuberculin purified protein derivative (PPD) in the absence of a prescriber. The Department of Health's policies and guidelines shall be consistent with applicable guidelines developed by the Centers for Disease Control and Prevention for preventing transmission of mycobacterium tuberculosis and shall be updated to incorporate any subsequently implemented standards of the Occupational Safety and Health Administration and the Department of Labor and Industry to the extent that they are inconsistent with the Department of Health's policies and guidelines. Such standing protocols shall explicitly describe the categories of persons to whom the tuberculin test is to be administered and shall provide for appropriate medical evaluation of those in whom the test is positive. The prescriber shall ensure that the nurse implementing such standing protocols has received adequate training in the practice and principles underlying tuberculin screening.

The Health Commissioner or his designee may authorize registered nurses, acting as agents of the Department of Health, to possess and administer, at the nurse's discretion, tuberculin purified protein derivative (PPD) to those persons in whom tuberculin skin testing is indicated based on protocols and policies established by the Department of Health.

H. Pursuant to a written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize, with the consent of the parents as defined in § 22.1-1, an employee of (i) a school board, (ii) a school for students with disabilities as defined in § 22.1-319 licensed by the Board of Education, or (iii) a private school accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education who is trained in the administration of insulin and glucagon to assist with the administration of insulin or administer glucagon to a student diagnosed as having diabetes and who requires insulin injections during the school day or for whom glucagon has been prescribed for the emergency treatment of hypoglycemia. Such authorization shall only be effective when a licensed nurse, nurse practitioner, physician, or physician assistant is not present to perform the administration of the medication.

Pursuant to a written order issued by the prescriber within the course of his professional practice, such prescriber may authorize an employee of a provider licensed by the Department of Behavioral Health and Developmental Services or a person providing services pursuant to a contract with a provider licensed by the Department of Behavioral Health and Developmental Services to assist with the administration of insulin or to administer glucagon to a person diagnosed as having diabetes and who requires insulin injections or for whom glucagon has been prescribed for the emergency treatment of hypoglycemia, provided such employee or person providing services has been trained in the administration of insulin and glucagon.

I. A prescriber may authorize, pursuant to a protocol approved by the Board of Nursing, the administration of vaccines to adults for immunization, when a practitioner with prescriptive authority is not physically present, by (i) licensed pharmacists, (ii) registered nurses, or (iii) licensed practical nurses under the ~~immediate and direct~~ supervision of a registered nurse. A prescriber acting on behalf of and in accordance with established protocols of the Department of Health may authorize the administration of vaccines to any person by a pharmacist, nurse, or designated emergency medical services provider who holds an advanced life support certificate issued by the Commissioner of Health under the direction of an operational medical director when the prescriber is not physically present. The emergency medical services provider shall provide documentation of the vaccines to be recorded in the Virginia Immunization Information System.

J. A dentist may cause Schedule VI topical drugs to be administered under his direction and supervision by either a dental hygienist or by an authorized agent of the dentist.

Further, pursuant to a written order and in accordance with a standing protocol issued by the dentist in the course of his professional practice, a dentist may authorize a dental hygienist under his general supervision, as defined in § 54.1-2722, to possess and administer topical oral fluorides, topical oral anesthetics, topical and directly applied antimicrobial agents for treatment of periodontal pocket lesions, as well as any other Schedule VI topical drug approved by the Board of Dentistry.

In addition, a dentist may authorize a dental hygienist under his direction to administer Schedule VI nitrous oxide and oxygen inhalation analgesia and, to persons 18 years of age or older, Schedule VI local anesthesia.

K. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize registered professional nurses certified as sexual assault nurse examiners-A (SANE-A) under his supervision and when he is not physically present to possess and administer preventive medications for victims of sexual assault as recommended by the Centers for Disease Control and Prevention.

L. This section shall not prevent the administration of drugs by a person who has satisfactorily completed a training program for this purpose approved by the Board of Nursing and who administers such drugs in accordance with a prescriber's instructions pertaining to dosage, frequency, and manner of administration, and in accordance with regulations promulgated by the Board of Pharmacy relating to security and record keeping, when the drugs administered would be normally self-administered by (i) an individual receiving services in a program licensed by the Department of Behavioral Health and Developmental Services; (ii) a resident of the Virginia Rehabilitation Center for the Blind and Vision Impaired; (iii) a resident of a facility approved by the Board or Department of Juvenile Justice for the placement of children in need of services or delinquent or alleged delinquent youth; (iv) a program participant of an adult day-care center licensed by the Department of Social Services; (v) a resident of any facility authorized or operated by a state or local government whose primary purpose is not to provide health care services; (vi) a resident of a private children's residential facility, as defined in § 63.2-100 and licensed by the Department of Social Services, Department of Education, or Department of Behavioral Health and Developmental Services; or (vii) a student in a school for students with disabilities, as defined in § 22.1-319 and licensed by the Board of Education.

In addition, this section shall not prevent a person who has successfully completed a training program for the administration of drugs via percutaneous gastrostomy tube approved by the Board of Nursing and been evaluated by a registered nurse as having demonstrated competency in administration of drugs via percutaneous gastrostomy tube from administering drugs to a person receiving services from a program licensed by the Department of Behavioral Health and Developmental Services to such person via percutaneous gastrostomy tube. The continued competency of a person to administer drugs via percutaneous gastrostomy tube shall be evaluated semiannually by a registered nurse.

M. Medication aides registered by the Board of Nursing pursuant to Article 7 (§ 54.1-3041 et seq.) of Chapter 30 may administer drugs that would otherwise be self-administered to residents of any assisted living facility licensed by the Department of Social Services. A registered medication aide shall administer drugs pursuant to this section in accordance with the prescriber's instructions pertaining to dosage, frequency, and manner of administration; in accordance with regulations promulgated by the Board of Pharmacy relating to security and recordkeeping; in accordance with the assisted living facility's Medication Management Plan; and in accordance with such other regulations governing their practice promulgated by the Board of Nursing.

N. In addition, this section shall not prevent the administration of drugs by a person who administers such drugs in accordance with a physician's instructions pertaining to dosage, frequency, and manner of administration and with written authorization of a parent, and in accordance with school board regulations relating to training, security and record keeping, when the drugs administered would be normally self-administered by a student of a Virginia public school. Training for such persons shall be accomplished through a program approved by the local school boards, in consultation with the local departments of health.

O. In addition, this section shall not prevent the administration of drugs by a person to (i) a child in a child day program as defined in § 63.2-100 and regulated by the State Board of Social Services or a local government pursuant to § 15.2-914, or (ii) a student of a private school that is accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education, provided such person (a) has satisfactorily completed a training program for this purpose approved by the Board of Nursing and taught by a registered nurse, licensed practical nurse, nurse practitioner, physician assistant, doctor of medicine or osteopathic medicine, or pharmacist; (b) has obtained written authorization from a parent or guardian; (c) administers drugs only to the child identified on the prescription label in accordance with the prescriber's instructions pertaining to dosage, frequency, and manner of administration; and (d) administers only those drugs that were dispensed from a pharmacy and maintained in the original, labeled container that would normally be self-administered by the child or student, or administered by a parent or guardian to the child or student.

P. In addition, this section shall not prevent the administration or dispensing of drugs and devices by persons if they are authorized by the State Health Commissioner in accordance with protocols established by the State Health Commissioner pursuant to § 32.1-42.1 when (i) the Governor has declared a disaster or a state of emergency or the United States Secretary of Health and Human Services has issued a declaration of an actual or potential bioterrorism incident or other actual or potential public health emergency; (ii) it is necessary to permit the provision of needed drugs or devices; and (iii) such persons have received the training necessary to safely administer or dispense the needed drugs or devices. Such persons shall administer or dispense all drugs or devices under the direction, control, and supervision of the State Health Commissioner.

Q. Nothing in this title shall prohibit the administration of normally self-administered drugs by unlicensed individuals to a person in his private residence.

R. This section shall not interfere with any prescriber issuing prescriptions in compliance with his authority and scope of practice and the provisions of this section to a Board agent for use pursuant to subsection G of § 18.2-258.1. Such prescriptions issued by such prescriber shall be deemed to be valid prescriptions.

S. Nothing in this title shall prevent or interfere with dialysis care technicians or dialysis patient care technicians who are certified by an organization approved by the Board of Health Professions or persons authorized for provisional practice pursuant to Chapter 27.01 (§ 54.1-2729.1 et seq.), in the ordinary course of their duties in a Medicare-certified renal dialysis facility, from administering heparin, topical needle site anesthetics, dialysis solutions, sterile normal saline solution, and blood volumizers, for the purpose of facilitating renal dialysis treatment, when such administration of medications occurs under the orders of a licensed physician, nurse practitioner, or physician assistant and under the immediate and direct supervision of a licensed registered nurse. Nothing in this chapter shall be construed to prohibit a patient care dialysis technician trainee from performing dialysis care as part of and within the scope of the clinical skills instruction segment of a supervised dialysis technician training program, provided such trainee is identified as a "trainee" while working in a renal dialysis facility.

The dialysis care technician or dialysis patient care technician administering the medications shall have demonstrated competency as evidenced by holding current valid certification from an organization approved by the Board of Health Professions pursuant to Chapter 27.01 (§ 54.1-2729.1 et seq.).

T. Persons who are otherwise authorized to administer controlled substances in hospitals shall be authorized to administer influenza or pneumococcal vaccines pursuant to § 32.1-126.4.

U. Pursuant to a specific order for a patient and under his direct and immediate supervision, a prescriber may authorize the administration of controlled substances by personnel who have been properly trained to assist a doctor of medicine or osteopathic medicine, provided the method does not include intravenous, intrathecal, or epidural administration and the prescriber remains responsible for such administration.

V. A physician assistant, nurse or a dental hygienist may possess and administer topical fluoride varnish to the teeth of children aged six months to three years pursuant to an oral or written order or a standing protocol issued by a doctor of medicine, osteopathic medicine, or dentistry that conforms to standards adopted by the Department of Health.

W. A prescriber, acting in accordance with guidelines developed pursuant to § 32.1-46.02, may authorize the administration of influenza vaccine to minors by a licensed pharmacist, registered nurse, licensed practical nurse under the direction and immediate supervision of a registered nurse, or emergency medical services provider who holds an advanced life support certificate issued by the Commissioner of Health when the prescriber is not physically present.

X. Notwithstanding the provisions of § 54.1-3303, pursuant to an oral, written, or standing order issued by a prescriber, and in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health, a pharmacist may dispense naloxone or other opioid antagonist used for overdose reversal and a person may possess and administer naloxone or other opioid antagonist used for overdose reversal to a person who is believed to be experiencing or about to experience a life-threatening opiate overdose. Law-enforcement officers as defined in § 9.1-101 and firefighters who have completed a training program may also possess and administer naloxone in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health.

## CHAPTER 183

*An Act to amend and reenact § 54.1-3467 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 32.1-45.4, relating to harm reduction programs; public health emergency; dispensing and distributing needles and syringes.*

[H 2317]

Approved February 23, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 54.1-3467 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 32.1-45.4 as follows:**

**§ 32.1-45.4. Comprehensive harm reduction programs.**

A. The Commissioner may establish and operate local or regional comprehensive harm reduction programs during a declared public health emergency that include the provision of sterile hypodermic needles and syringes and disposal of used hypodermic needles and syringes. The objectives of such programs shall be to reduce the spread of HIV, viral hepatitis, and other blood-borne diseases in Virginia; reduce the transmission of blood-borne diseases through needlestick injuries to law-enforcement and other emergency personnel; and provide information to individuals who inject drugs regarding addiction recovery treatment services. Such programs shall be located in communities where data indicate, in accordance with criteria established pursuant to subsection B, a risk of transmission of, or increases in the transmission of, HIV, viral hepatitis, or other blood-borne disease as a result of injection drug use. Such programs shall be operated by local health departments or affiliated organizations with which the Department contracts.

B. The Department shall establish criteria to determine the level of risk and the level of readiness for comprehensive harm reduction of a community. Such criteria shall address the extent to which unsafe injection of drugs is occurring, socioeconomic factors, and readiness for comprehensive harm reduction and shall utilize data that address, at a minimum, (i) HIV and hepatitis disease morbidity, (ii) drug overdose deaths, (iii) poverty level, (iv) unemployment rate, (v) prescription opioid volume, (vi) potential to provide medication-assisted treatment, (vii) prevalence of treatment for

drug overdose, (viii) emergency medical services utilization for drug overdose, (ix) administration of naloxone, (x) substance-use disorder admissions to behavioral health facilities, (xi) arrests for drug possession or sales or other drug related crime, (xii) the support of the local governing body, (xiii) the support of law enforcement, (xiv) the existence of a local entity with programmatic administrative capacity, and (xv) access to health care and behavioral health care services.

C. Comprehensive harm reduction programs established pursuant to this section shall be administered pursuant to standards and protocols established by the Commissioner after the declaration of a public health emergency and approved by the Secretary of Health and Human Resources and the Secretary of Public Safety and Homeland Security. Such standards and protocols shall address (i) the disposal of used hypodermic needles and syringes; (ii) the provision of hypodermic needles and syringes and other injection supplies at no cost and in quantities sufficient to ensure that needles, hypodermic syringes, and other injection supplies are not shared or reused; (iii) reasonable and adequate security of program sites, equipment, and personnel; (iv) the provision of educational materials concerning prevention and treatment; (v) access to overdose prevention kits; (vi) individual harm reduction counseling; and (vii) verification that a hypodermic needle or syringe or other injection supplies were obtained from a comprehensive harm reduction program established pursuant to this section.

D. The Commissioner may authorize persons who are not otherwise authorized by law to dispense or distribute hypodermic needles and syringes to dispense or distribute hypodermic needles and syringes as part of a comprehensive harm reduction program during a declared public health emergency and in accordance with standards and protocols established pursuant to subsection C. The provisions of §§ 18.2-250, 18.2-265.3, and 54.1-3466 shall not apply to such authorized persons who are acting in accordance with the standards and protocols of a comprehensive harm reduction program for the duration of the declared public health emergency.

**§ 54.1-3467. Distribution of hypodermic needles or syringes, gelatin capsules, quinine or any of its salts.**

A. Distribution by any method, of any hypodermic needles or syringes, gelatin capsules, quinine or any of its salts, in excess of one-fourth ounce shall be restricted to licensed pharmacists or to others who have received a license or a permit from the Board.

B. Nothing in this section shall prohibit the dispensing or distributing of hypodermic needles and syringes by persons authorized by the State Health Commissioner pursuant to a comprehensive harm reduction program established pursuant to § 32.1-45.4 who are acting in accordance with the standards and protocols of such program for the duration of the declared public health emergency.

**2. That the Virginia Department of Health shall submit, to the Governor and to the General Assembly, a progress report concerning any program established pursuant to this act by October 1, 2018, and a report evaluating the effectiveness of any program established pursuant to this act by October 1, 2019.**

**3. That the provisions of this act shall expire on July 1, 2020.**

## CHAPTER 184

An Act to amend the Code of Virginia by adding a section numbered 54.1-2400.01:2, relating to requirements for ophthalmic prescriptions.

[S 1321]

Approved February 23, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding a section numbered 54.1-2400.01:2 as follows:**

**§ 54.1-2400.01:2. Ophthalmic prescription defined; who may provide ophthalmic prescriptions.**

A. As used in this section:

"Contact lens" means any lens that is placed directly on the surface of the eye, whether or not the lens is intended to correct a visual defect, including any cosmetic, therapeutic, or corrective contact lens.

"Ophthalmic prescription" means a handwritten or electronic order of a provider that includes (i) in the case of contact lenses, all information required by the Fairness to Contact Lens Consumers Act, 15 U.S.C. §§ 7601 et seq., (ii) in the case of prescription eyeglasses, all information required by the Ophthalmic Practice Rule, also known as the Eyeglass Rule, 16 C.F.R. Part 456, and (iii) necessary and appropriate information for the dispensing of prescription eyeglasses or contact lenses for a patient, including the provider's name, physical address at which the provider practices, and telephone number.

"Provider" means an ophthalmologist licensed by the Board of Medicine pursuant to Chapter 29 (§ 54.1-2900 et seq.) or an optometrist licensed by the Board of Optometry pursuant to Chapter 32 (§ 54.1-3200 et seq.).

B. For the purpose of a provider prescribing spectacles, eyeglasses, lenses, or contact lenses to a patient, a provider shall establish a bona fide provider-patient relationship by an examination (i) in person, (ii) through face-to-face interactive, two-way, real-time communication, or (iii) store-and-forward technologies when all of the following conditions are met: (a) the provider obtains an updated medical history at the time of prescribing; (b) the provider makes a diagnosis at the time of prescribing; (c) the provider conforms to the standard of care expected of in-person care as appropriate to the patient's age and presenting condition, including when the standard of care requires the use of diagnostic testing and performance of a physical examination, which may be carried out through the use of peripheral devices appropriate to the

*patient's condition; (d) the ophthalmic prescription is not determined solely by use of an online questionnaire; (e) the provider is actively licensed in the Commonwealth and authorized to prescribe; and (f) upon request, the prescriber provides patient records in a timely manner in accordance with the provisions of § 32.1-127.1:03 and all other state and federal laws and regulations.*

*C. The requirements of this section shall not apply to (i) the sale of eyeglasses not designed to correct or enhance vision by addressing the visual needs of the individual wearer and that may be known as over-the-counter eyeglasses or readers or (ii) a licensed optician providing services in accordance with § 54.1-1509.*

*D. The provisions of this section shall not apply to ophthalmic prescriptions written prior to July 1, 2017.*

**CHAPTER 185**

*An Act to require the Board of Health to adopt regulations to include neonatal abstinence syndrome on the list of reportable diseases.*

[S 1323]

Approved February 23, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. § 1.** *That the Board of Health shall adopt regulations to include neonatal abstinence syndrome on the list of diseases that shall be required to be reported in accordance with § 32.1-35 of the Code of Virginia.*

**CHAPTER 186**

*An Act to amend and reenact § 54.1-2523 of the Code of Virginia, relating to the Prescription Monitoring Program; disclosures and authority to access.*

[S 1484]

Approved February 23, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 54.1-2523 of the Code of Virginia is amended and reenacted as follows:**

**§ 54.1-2523. Confidentiality of data; disclosure of information; discretionary authority of Director.**

A. All data, records, and reports relating to the prescribing and dispensing of covered substances to recipients and any abstracts from such data, records, and reports that are in the possession of the Prescription Monitoring Program pursuant to this chapter and any material relating to the operation or security of the program shall be confidential and shall be exempt from the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) pursuant to subdivision 15 of § 2.2-3705.5. Records in possession of the Prescription Monitoring Program shall not be available for civil subpoena, nor shall such records be disclosed, discoverable, or compelled to be produced in any civil proceeding, nor shall such records be deemed admissible as evidence in any civil proceeding for any reason. Further, the Director shall only have discretion to disclose any such information as provided in subsections B and C.

B. Upon receiving a request for information in accordance with the Department's regulations and in compliance with applicable federal law and regulations, the Director shall disclose the following:

1. Information relevant to a specific investigation of a specific recipient or of a specific dispenser or prescriber to an agent who has completed the Virginia State Police Drug Diversion School designated by the superintendent of the Department of State Police or designated by the chief law-enforcement officer of any county, city, or town or campus police department to conduct drug diversion investigations pursuant to § 54.1-3405.

2. Information relevant to an investigation or inspection of or allegation of misconduct by a specific person licensed, certified, or registered by or an applicant for licensure, certification, or registration by a health regulatory board; information relevant to a disciplinary proceeding before a health regulatory board or in any subsequent trial or appeal of an action or board order to designated employees of the Department of Health Professions; or to designated persons operating the Health Practitioners' Monitoring Program pursuant to Chapter 25.1 (§ 54.1-2515 et seq.).

3. Information relevant to the proceedings of any investigatory grand jury or special grand jury that has been properly impaneled in accordance with the provisions of Chapter 13 (§ 19.2-191 et seq.) of Title 19.2.

4. Information relevant to a specific investigation of a specific recipient, dispenser, or prescriber to an agent of a federal law-enforcement agency with authority to conduct drug diversion investigations.

5. Information relevant to a specific investigation, supervision, or monitoring of a specific recipient for purposes of the administration of criminal justice pursuant to Chapter 1 (§ 9.1-100 et seq.) of Title 9.1 to a probation or parole officer as described in Article 2 (§ 53.1-141 et seq.) of Chapter 4 of Title 53.1 or a local community-based probation officer as described in § 9.1-176.1 who has completed the Virginia State Police Drug Diversion School designated by the Director of the Department of Corrections or his designee.

C. In accordance with the Department's regulations and applicable federal law and regulations, the Director may, in his discretion, disclose:

1. Information in the possession of the program concerning a recipient who is over the age of 18 to that recipient. The information shall be mailed to the street or mailing address indicated on the recipient request form.

2. Information on a specific recipient to a prescriber, as defined in this chapter, for the purpose of establishing the treatment history of the specific recipient when such recipient is either under care and treatment by the prescriber or the prescriber is consulting on or initiating treatment of such recipient. In a manner specified by the Director in regulation, notice shall be given to patients that information may be requested by the prescriber from the Prescription Monitoring Program.

3. Information on a specific recipient to a dispenser for the purpose of establishing a prescription history to assist the dispenser in (i) determining the validity of a prescription in accordance with § 54.1-3303 or (ii) providing clinical consultation on the care and treatment of the recipient. In a manner specified by the Director in regulation, notice shall be given to patients that information may be requested by the dispenser from the Prescription Monitoring Program.

4. Information relevant to an investigation or regulatory proceeding of a specific dispenser or prescriber to other regulatory authorities concerned with granting, limiting or denying licenses, certificates or registrations to practice a health profession when such regulatory authority licenses such dispenser or prescriber or such dispenser or prescriber is seeking licensure by such other regulatory authority.

5. Information relevant to an investigation relating to a specific dispenser or prescriber who is a participating provider in the Virginia Medicaid program or information relevant to an investigation relating to a specific recipient who is currently eligible for and receiving or who has been eligible for and has received medical assistance services to the Medicaid Fraud Control Unit of the Office of the Attorney General or to designated employees of the Department of Medical Assistance Services, as appropriate.

6. Information relevant to determination of the cause of death of a specific recipient to the designated employees of the Office of the Chief Medical Examiner.

7. Information for the purpose of bona fide research or education to qualified personnel; however, data elements that would reasonably identify a specific recipient, prescriber, or dispenser shall be deleted or redacted from such information prior to disclosure. Further, release of the information shall only be made pursuant to a written agreement between such qualified personnel and the Director in order to ensure compliance with this subdivision.

8. Information relating to prescriptions for covered substances issued by a specific prescriber, which have been dispensed and reported to the Program, to that prescriber.

9. Information about a specific recipient who is a member of a Virginia Medicaid managed care program to a physician or pharmacist licensed in the Commonwealth and employed by the Virginia Medicaid managed care program *or to his clinical designee who holds a multistate licensure privilege to practice nursing or a license issued by a health regulatory board within the Department of Health Professions and is employed by the Virginia Medicaid managed care program*. Such information shall only be used to determine eligibility for and to manage the care of the specific recipient in a Patient Utilization Management Safety or similar program. Notice shall be given to recipients that information may be requested by a licensed physician or pharmacist employed by the Virginia Medicaid managed care program from the Prescription Monitoring Program.

10. (Expires July 1, 2022) Information to the Board of Medicine about prescribers who meet a certain threshold for prescribing covered substances for the purpose of requiring relevant continuing education. The threshold shall be determined by the Board of Medicine in consultation with the Program.

D. The Director may enter into agreements for mutual exchange of information among prescription monitoring programs in other jurisdictions, which shall only use the information for purposes allowed by this chapter.

E. This section shall not be construed to supersede the provisions of § 54.1-3406 concerning the divulging of confidential records relating to investigative information.

F. Confidential information that has been received, maintained or developed by any board or disclosed by the board pursuant to subsection A shall not, under any circumstances, be available for discovery or court subpoena or introduced into evidence in any medical malpractice suit or other action for damages arising out of the provision of or failure to provide services. However, this subsection shall not be construed to inhibit any investigation or prosecution conducted pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2.

## CHAPTER 187

*An Act to direct the Department of Social Services to develop a survey to gather feedback from children aging out of foster care.*

[H 1451]

Approved February 23, 2017

### **Be it enacted by the General Assembly of Virginia:**

**1. § 1.** *That the Department of Social Services shall, in coordination with the Commission on Youth, develop a process and standardized survey to gather feedback from children aging out of foster care. The survey shall include requests for information regarding the child's experience with and opinion of the Commonwealth's foster care services,*

*recommendations for improvement of such services, the amount of time the child spent in the foster care system, and any other information deemed relevant by the Department of Social Services or the Commission on Youth.*

## CHAPTER 188

*An Act to amend and reenact § 2.2-3705.5 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 37.2-308.01, relating to commitment hearings for involuntary admissions; data sharing.*

[H 1551]

Approved February 23, 2017

### **Be it enacted by the General Assembly of Virginia:**

**1. That § 2.2-3705.5 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 37.2-308.01 as follows:**

#### **§ 2.2-3705.5. Exclusions to application of chapter; health and social services records.**

The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01.

1. Health records, except that such records may be personally reviewed by the individual who is the subject of such records, as provided in subsection F of § 32.1-127.1:03.

Where the person who is the subject of health records is confined in a state or local correctional facility, the administrator or chief medical officer of such facility may assert such confined person's right of access to the health records if the administrator or chief medical officer has reasonable cause to believe that such confined person has an infectious disease or other medical condition from which other persons so confined need to be protected. Health records shall only be reviewed and shall not be copied by such administrator or chief medical officer. The information in the health records of a person so confined shall continue to be confidential and shall not be disclosed by the administrator or chief medical officer of the facility to any person except the subject or except as provided by law.

Where the person who is the subject of health records is under the age of 18, his right of access may be asserted only by his guardian or his parent, including a noncustodial parent, unless such parent's parental rights have been terminated, a court of competent jurisdiction has restricted or denied such access, or a parent has been denied access to the health record in accordance with § 20-124.6. In instances where the person who is the subject thereof is an emancipated minor, a student in a public institution of higher education, or is a minor who has consented to his own treatment as authorized by § 16.1-338 or 54.1-2969, the right of access may be asserted by the subject person.

For the purposes of this chapter, statistical summaries of incidents and statistical data concerning abuse of individuals receiving services compiled by the Commissioner of Behavioral Health and Developmental Services shall be disclosed. No such summaries or data shall include any information that identifies specific individuals receiving services.

2. Applications for admission to examinations or for licensure and scoring records maintained by the Department of Health Professions or any board in that department on individual licensees or applicants. However, such material may be made available during normal working hours for copying, at the requester's expense, by the individual who is the subject thereof, in the offices of the Department of Health Professions or in the offices of any health regulatory board, whichever may possess the material.

3. Reports, documentary evidence and other information as specified in §§ 51.5-122, 51.5-141, and 63.2-104.

4. Investigative notes; proprietary information not published, copyrighted or patented; information obtained from employee personnel records; personally identifiable information regarding residents, clients or other recipients of services; other correspondence and information furnished in confidence to the Department of Social Services in connection with an active investigation of an applicant or licensee pursuant to Chapters 17 (§ 63.2-1700 et seq.) and 18 (§ 63.2-1800 et seq.) of Title 63.2; and information furnished to the Office of the Attorney General in connection with an investigation or litigation pursuant to Article 19.1 (§ 8.01-216.1 et seq.) of Chapter 3 of Title 8.01 and Chapter 9 (§ 32.1-310 et seq.) of Title 32.1. Information from the records of completed investigations shall be disclosed in a form that does not reveal the identity of complainants, persons supplying information, or other individuals involved in the investigation.

5. Information collected for the designation and verification of trauma centers and other specialty care centers within the Statewide Emergency Medical Services System and Services pursuant to Article 2.1 (§ 32.1-111.1 et seq.) of Chapter 4 of Title 32.1.

6. Reports and court documents relating to involuntary admission required to be kept confidential pursuant to § 37.2-818.

7. Data formerly required to be submitted to the Commissioner of Health relating to the establishment of new or the expansion of existing clinical health services, acquisition of major medical equipment, or certain projects requiring capital expenditures pursuant to former § 32.1-102.3:4.

8. Information required to be provided to the Department of Health Professions by certain licensees pursuant to § 54.1-2506.1.

9. Information acquired (i) during a review of any child death conducted by the State Child Fatality Review team established pursuant to § 32.1-283.1 or by a local or regional child fatality review team to the extent that such information is made confidential by § 32.1-283.2; (ii) during a review of any death conducted by a family violence fatality review team to the extent that such information is made confidential by § 32.1-283.3; or (iii) during a review of any adult death conducted by the Adult Fatality Review Team to the extent made confidential by § 32.1-283.5 or by a local or regional adult fatality review team to the extent that such information is made confidential by § 32.1-283.6.

10. Patient level data collected by the Board of Health and not yet processed, verified, and released, pursuant to § 32.1-276.9, to the Board by the nonprofit organization with which the Commissioner of Health has contracted pursuant to § 32.1-276.4.

11. Information held by the Health Practitioners' Monitoring Program Committee within the Department of Health Professions that may identify any practitioner who may be, or who is actually, impaired and disclosure of such information is prohibited by § 54.1-2517.

12. Information relating to a grant application, or accompanying a grant application, submitted to the Commonwealth Neurotrauma Initiative Advisory Board pursuant to Article 12 (§ 51.5-178 et seq.) of Chapter 14 of Title 51.5 that would (i) reveal (a) medical or mental health records or other data identifying individual patients or (b) proprietary business or research-related information produced or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of the applicant.

13. Any information copied, recorded, or received by the Commissioner of Health in the course of an examination, investigation, or review of a managed care health insurance plan licensee pursuant to §§ 32.1-137.4 and 32.1-137.5, including books, records, files, accounts, papers, documents, and any or all computer or other recordings.

14. Information and statistical registries required to be kept confidential pursuant to §§ 63.2-102 and 63.2-104.

15. Information relating to the prescribing and dispensing of covered substances to recipients and any abstracts from such information that are in the possession of the Prescription Monitoring Program pursuant to Chapter 25.2 (§ 54.1-2519 et seq.) of Title 54.1 and any material relating to the operation or security of the Program.

16. Records of the Virginia Birth-Related Neurological Injury Compensation Program required to be kept confidential pursuant to § 38.2-5002.2.

17. Information held by the State Health Commissioner relating to the health of any person subject to an order of quarantine or an order of isolation pursuant to Article 3.02 (§ 32.1-48.05 et seq.) of Chapter 2 of Title 32.1. However, nothing in this subdivision shall be construed to authorize the withholding of statistical summaries, abstracts, or other information in aggregate form.

18. The names and addresses or other contact information of persons receiving transportation services from a state or local public body or its designee under Title II of the Americans with Disabilities Act, (42 U.S.C. § 12131 et seq.) or funded by Temporary Assistance for Needy Families (TANF) created under § 63.2-600.

19. Information held by certain health care committees and entities that may be withheld from discovery as privileged communications pursuant to § 8.01-581.17.

20. *Data and information specified in § 37.2-308.01 relating to proceedings provided for in Article 16 (§ 16.1-335 et seq.) of Chapter 11 of Title 16.1 and Chapter 8 (§ 37.2-800 et seq.) of Title 37.2.*

**§ 37.2-308.01. Commitment hearings for involuntary admissions; data sharing.**

*Notwithstanding the provisions of §§ 16.1-305 and 37.2-818, at the request of the Department and as provided in this section, the Office of the Executive Secretary shall provide to the Department electronic data, including individually identifiable information, on the proceedings provided for in Article 16 (§ 16.1-335 et seq.) of Chapter 11 of Title 16.1 and Chapter 8 (§ 37.2-800 et seq.). For the purposes of this section, "individually identifiable information" shall include the name and date of birth of the individual who is the subject of the proceeding and the last four digits of the individual's social security number.*

*Electronic data collected by the Department pursuant to this section may be used by the Department for the purposes of developing and maintaining statistical archives, conducting research on the outcome of proceedings provided for in Article 16 (§ 16.1-335 et seq.) of Chapter 11 of Title 16.1 and Chapter 8 (§ 37.2-800 et seq.), and preparing analyses and reports for use by the Department.*

*The Department shall take all necessary steps to protect the security and privacy of the electronic data to the same extent required by state and federal law and regulations governing health information privacy. Such electronic data shall not be subject to the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).*

## CHAPTER 189

*An Act to amend and reenact §§ 63.2-1720 through 63.2-1721.1, as they shall become effective, 63.2-1722, 63.2-1724, and 63.2-1725 of the Code of Virginia, relating to child care providers; criminal history background check; penalty.*

[H 1568]

Approved February 23, 2017

Be it enacted by the General Assembly of Virginia:

1. That §§ 63.2-1720 through 63.2-1721.1, as they shall become effective, 63.2-1722, 63.2-1724, and 63.2-1725 of the Code of Virginia are amended and reenacted as follows:

§ 63.2-1720. (Effective July 1, 2017) Assisted living facilities, adult day care centers, child-placing agencies, and independent foster homes; employment for compensation of persons or use of volunteers convicted of certain offenses prohibited; background check required; penalty.

A. No assisted living facility, adult day care center, child-placing agency, or independent foster home; ~~or family day system licensed in accordance with the provisions of this chapter; or registered family day homes or family day homes approved by family day systems;~~ shall hire for compensated employment or continue to employ persons who have an offense as defined in § 63.2-1719. All applicants for employment shall undergo background checks pursuant to subsection C.

B. A licensed assisted living facility or adult day care center may hire an applicant convicted of one misdemeanor barrier crime not involving abuse or neglect, if five years have elapsed following the conviction.

C. Background checks pursuant to subsection A require:

1. A sworn statement or affirmation disclosing whether the person has a criminal conviction or is the subject of any pending criminal charges within or outside the Commonwealth and, in the case of licensed child-placing agencies; ~~and independent foster homes; and family day systems; registered family day homes, and family day homes approved by family day systems,~~ whether or not the person has been the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth;

2. A criminal history records check through the Central Criminal Records Exchange pursuant to § 19.2-389; and

3. In the case of licensed child-placing agencies; ~~and independent foster homes; and family day systems; registered family day homes; and family day homes approved by family day systems,~~ a search of the central registry maintained pursuant to § 63.2-1515 for any founded complaint of child abuse and neglect.

D. Any person making a materially false statement regarding the sworn statement or affirmation provided pursuant to subdivision C 1 is guilty of a Class 1 misdemeanor.

E. A licensed assisted living facility, licensed adult day care center, licensed child-placing agency, or licensed independent foster home; ~~licensed family day system; registered family day home; or family day home approved by a family day system~~ shall obtain for any compensated employees within 30 days of employment (i) an original criminal record clearance with respect to convictions for offenses specified in § 63.2-1719 or an original criminal history record from the Central Criminal Records Exchange and (ii) in the case of licensed child-placing agencies; ~~and independent foster homes; and family day systems; registered family day homes; and family day homes approved by family day systems,~~ a copy of the information from the central registry for any compensated employee within 30 days of employment. However, no employee shall be permitted to work in a position that involves direct contact with a person or child receiving services until an original criminal record clearance or original criminal history record has been received, unless such person works under the direct supervision of another employee for whom a background check has been completed in accordance with the requirements of this section. If an applicant is denied employment because of information from the central registry or convictions appearing on his criminal history record, the licensed assisted living facility, adult day care center, child-placing agency, or independent foster home; ~~or family day system; registered family day home; or family day home approved by a family day system~~ shall provide a copy of the information obtained from the central registry or the Central Criminal Records Exchange or both to the applicant.

F. No volunteer who has an offense as defined in § 63.2-1719 shall be permitted to serve in a licensed child-placing agency; ~~or independent foster home; or family day system; registered family day home; or family day home approved by a family day system.~~ Any person desiring to volunteer at a licensed child-placing agency; ~~or independent foster home; or family day system; registered family day home; or family day home approved by a family day system~~ shall provide the agency; ~~system;~~ or home with a sworn statement or affirmation pursuant to subdivision C 1. Such licensed child-placing agency; ~~or independent foster home; or family day system; registered family day home; or family day home approved by a family day system~~ shall obtain for any volunteers, within 30 days of commencement of volunteer service, a copy of (i) the information from the central registry and (ii) an original criminal record clearance with respect to offenses specified in § 63.2-1719 or an original criminal history record from the Central Criminal Records Exchange. Any person making a materially false statement regarding the sworn statement or affirmation provided pursuant to subdivision C 1 is guilty of a Class 1 misdemeanor. If a volunteer is denied service because of information from the central registry or convictions appearing on his criminal history record, such licensed child-placing agency; ~~or independent foster home; or family day system; registered family day home; or family day home approved by a family day system~~ shall provide a copy of the information obtained from the central registry or the Central Criminal Records Exchange or both to the volunteer. The provisions of this subsection shall apply only to volunteers who will be alone with any child in the performance of their duties and shall not apply to a parent-volunteer of a child attending a licensed child-placing agency; ~~or independent foster home; or family day system; registered family day home; or family day home approved by a family day system,~~ whether or not such parent-volunteer will be alone with any child in the performance of his duties. A parent-volunteer is someone supervising, without pay, a group of children that includes the parent-volunteer's own child in a program that operates no more than four hours per day, provided that the parent-volunteer works under the direct supervision of a person who has received a clearance pursuant to this section.

G. No volunteer shall be permitted to serve in a licensed assisted living facility or licensed adult day care center without the permission or under the supervision of a person who has received a clearance pursuant to this section.

H. Further dissemination of the background check information is prohibited other than to the Commissioner's representative or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination.

I. A licensed assisted living facility shall notify and provide all students a copy of the provisions of this article prior to or upon enrollment in a certified nurse aide program operated by such assisted living facility.

J. A person who complies in good faith with the provisions of this section shall not be liable for any civil damages for any act or omission in the performance of duties under this section unless the act or omission was the result of gross negligence or willful misconduct.

**§ 63.2-1720.1. (Effective July 1, 2017) Child day centers, family day homes, and family day systems; employment for compensation or use as volunteers of persons convicted of or found to have committed certain offenses prohibited; national background check required; penalty.**

A. No child day center ~~or~~, family day home, or family day system licensed in accordance with the provisions of this chapter, *child day center exempt from licensure pursuant to § 63.2-1716, registered family day home, family day home approved by a family day system, or child day center, family day home, or child day program that enters into a contract with the Department or a local department to provide child care services funded by the Child Care and Development Block Grant* shall hire for compensated employment, continue to employ, or permit to serve as a volunteer ~~in a position that is involved in the day-to-day operations of the child day center or family day home or in which the employee or volunteer who will be alone with, in control of, or supervising children~~ any person who has an offense as defined in § 63.2-1719. All applicants for employment ~~or~~, employees, applicants to serve as volunteers, and volunteers shall undergo a background check in accordance with subsection B prior to employment or beginning to serve as a volunteer and every five years thereafter.

B. Any ~~applicant~~ individual required to undergo a background check in accordance with subsection A shall:

1. Provide a sworn statement or affirmation disclosing whether he has ever been convicted of or is the subject of pending charges for any offense within or outside the Commonwealth and whether he has been the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth;

2. Submit to fingerprinting and provide personal descriptive information described in subdivision B 2 of § 19.2-392.02; and

3. Authorize the child day center ~~or~~, family day home, or family day system described in subsection A to obtain a copy of ~~information from the results of a search of the central registry maintained pursuant to § 63.2-1515 on any investigation of child abuse or neglect undertaken on him and any child abuse and neglect registry or equivalent registry maintained by any other state in which the individual has resided in the preceding five years for any founded complaint of child abuse or neglect against him.~~

The ~~applicant's~~ individual's fingerprints and personal descriptive information obtained pursuant to subdivision 2 shall be forwarded through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining national criminal history record information regarding such ~~applicant~~ individual. Upon receipt of ~~an applicant's~~ the individual's record or notification that no record exists, the Central Criminal Records Exchange shall forward the information to the Department, and the Department shall report to the child day center ~~or~~, family day home, or family day system described in subsection A as to whether the ~~applicant~~ individual is eligible to have responsibility for the safety and well-being of children. In cases in which the record forwarded to the Department is lacking disposition data, the Department shall conduct research in whatever state and local recordkeeping systems are available in order to obtain complete data before reporting to the child day center ~~or~~, family day home, or family day system.

C. The child day center ~~or~~, family day home, or family day system described in subsection A shall inform every ~~applicant for compensated employment or to serve as a volunteer~~ individual required to undergo a background check pursuant to this section that he is entitled to obtain a copy of any background check report and to challenge the accuracy and completeness of any such report and obtain a prompt resolution before a final determination is made of the ~~applicant's~~ individual's eligibility to have responsibility for the safety and well-being of children.

D. Any person making a materially false statement regarding the sworn statement or affirmation provided pursuant to subdivision B 1 is guilty of a Class 1 misdemeanor.

E. Further dissemination of the background check information is prohibited other than to the Commissioner's representative or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination.

F. A person who complies in good faith with the provisions of this section shall not be liable for any civil damages for any act or omission in the performance of duties under this section unless the act or omission was the result of gross negligence or willful misconduct.

G. Notwithstanding the provisions of subsection A, a child day center may hire for compensated employment persons who have been convicted of not more than one misdemeanor offense under § 18.2-57 if 10 years have elapsed following the conviction, unless the person committed such offense while employed in a child day center or the object of the offense was a minor.

H. Fees charged for the processing and administration of background checks pursuant to this section shall not exceed the actual cost to the state of such processing and administration.

I. ~~Any person employed for compensation at a licensed child day center or family day home or permitted to serve as a volunteer at a licensed child day center or family day home in a position that is involved in the day-to-day operations of the child day center or family day home or in which he will be alone with, in control of, or supervising children individual required to undergo a background check pursuant to subsection A who is (i) convicted of an offense as defined in § 63.2-1719 within or outside of the Commonwealth or (ii) found to be the subject of a founded complaint of child abuse or neglect within or outside of the Commonwealth shall notify the child day center or, family day home, or family day system described in subsection A of such conviction or finding.~~

**§ 63.2-1721. (Effective July 1, 2017) Background check upon application for licensure as a child-placing agency or independent foster home; penalty.**

A. ~~Upon application for licensure as a child-placing agency, or independent foster home, or family day system or registration as a family day home, all (i) all applicants; and (ii) agents at the time of application who are or will be involved in the day-to-day operations of the child-placing agency, or independent foster home, family day system, or family day home or who are or will be alone with, in control of, or supervising one or more of the children; and (iii) any other adult living in the home of an applicant for registration as a family day home shall undergo a background check pursuant to subsection B. Upon application for licensure as an assisted living facility, all applicants shall undergo a background check pursuant to subsection B. In addition, foster or adoptive parents requesting approval by child-placing agencies and operators of family day homes requesting approval by family day systems, and any other adult residing in the family day home or existing employee or volunteer of the family day home, shall undergo background checks pursuant to subsection B prior to their approval.~~

B. Background checks pursuant to subsection A require:

1. A sworn statement or affirmation disclosing whether the person has a criminal conviction or is the subject of any pending criminal charges within or outside the Commonwealth and whether or not the person has been the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth;
2. A criminal history records check through the Central Criminal Records Exchange pursuant to § 19.2-389; and
3. In the case of child-placing agencies, independent foster homes, ~~family day systems, and family day homes~~, or adoptive or foster parents, a search of the central registry maintained pursuant to § 63.2-1515 for any founded complaint of child abuse and neglect.

C. The person required to have a background check pursuant to subsection A shall submit the background check information required in subsection B to the Commissioner's representative prior to issuance of a license, ~~registration~~ or approval. The applicant shall provide an original criminal record clearance with respect to offenses specified in § 63.2-1719 or an original criminal history record from the Central Criminal Records Exchange. Any person making a materially false statement regarding the sworn statement or affirmation provided pursuant to subdivision B 1 is guilty of a Class 1 misdemeanor. If any person specified in subsection A required to have a background check has any offense as defined in § 63.2-1719, and such person has not been granted a waiver by the Commissioner pursuant to § 63.2-1723 or is not subject to an exception in subsection E, F, G, or H, (i) the Commissioner shall not issue a license to a child-placing agency, ~~or independent foster home, or family day system or a registration to a family day home~~; (ii) the Commissioner shall not issue a license to an assisted living facility; ~~or (iii) a child-placing agency shall not approve an adoptive or foster home; or (iv) a family day system shall not approve a family day home.~~

D. ~~No person specified in subsection A shall be involved in the day-to-day operations of a licensed child-placing agency, or independent foster home, or family day system or a registered family day home; be alone with, in control of, or supervising one or more children receiving services from a licensed child-placing agency, or independent foster home, or family day system or a registered family day home; or be permitted to work in a position that involves direct contact with a person receiving services without first having completed background checks pursuant to subsection B unless such person is directly supervised by another person for whom a background check has been completed in accordance with the requirements of this section.~~

E. Notwithstanding any provision to the contrary contained in this section, a child-placing agency may approve as an adoptive or foster parent an applicant convicted of not more than one misdemeanor as set out in § 18.2-57 not involving abuse, neglect, moral turpitude, or a minor, provided that 10 years have elapsed following the conviction.

F. Notwithstanding any provision to the contrary contained in this section, a child-placing agency may approve as a foster parent an applicant convicted of statutory burglary for breaking and entering a dwelling home or other structure with intent to commit larceny, who has had his civil rights restored by the Governor, provided that 25 years have elapsed following the conviction.

G. Notwithstanding any provision to the contrary contained in this section, a child-placing agency may approve as an adoptive or foster parent an applicant convicted of felony possession of drugs, who has had his civil rights restored by the Governor, provided that 10 years have elapsed following the conviction.

H. Notwithstanding any provision to the contrary contained in this section, a child-placing agency may approve as an adoptive or foster parent an applicant convicted of felony possession of drugs with intent to distribute who has had his civil rights restored by the Governor, provided 20 years have elapsed following the conviction.

I. If an applicant is denied licensure, ~~registration~~ or approval because of information from the central registry or convictions appearing on his criminal history record, the Commissioner shall provide a copy of the information obtained from the central registry or the Central Criminal Records Exchange or both to the applicant.

J. Further dissemination of the background check information is prohibited other than to the Commissioner's representative or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination.

**§ 63.2-1721.1. (Effective July 1, 2017) Background check upon application for licensure, registration, or approval as child day center, family day home, or family day system; penalty.**

A. Every (i) applicant for licensure as a child day center ~~or~~, family day home, *or family day system, registration as a family day home, or approval as a family day home by a family day system*; (ii) agent of an applicant for licensure as a child day center ~~or~~, family day home, *or family day system, registration as a family day home, or approval as a family day home by a family day system* at the time of application who is or will be involved in the day-to-day operations of the child day center ~~or~~, family day home, *or family day system* or who is or will be alone with, in control of, or supervising one or more of the children; and (iii) adult living in ~~the such child day center or family day home~~ shall undergo a background check in accordance with subsection B prior to issuance of a license as a child day center ~~or~~, family day home, *or family day system, registration as a family day home, or approval as a family day home by a family day system and every five years thereafter.*

B. Every person required to undergo a background check pursuant to subsection A shall:

1. Provide a sworn statement or affirmation disclosing whether he has ever been convicted of or is the subject of any pending criminal charges for any offense within or outside the Commonwealth and whether or not he has been the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth;

2. Submit to fingerprinting and provide personal descriptive information described in subdivision B 2 of § 19.2-392.02; and

3. Authorize the ~~Department~~ *child day center, family day home, or family day system specified in subsection A* to obtain a copy of ~~information from the results of a search of the central registry maintained pursuant to § 63.2-1515 or any investigation of child abuse or neglect undertaken on him and any child abuse and neglect registry or equivalent registry maintained by any other state in which the individual has resided in the preceding five years for any founded complaint of child abuse or neglect against him.~~

Fingerprints and personal descriptive information obtained pursuant to subdivision 2 shall be forwarded through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining national criminal history record information regarding the individual. Upon receipt of an ~~applicant's~~ *individual's* record or notification that no record exists, the Central Criminal Records Exchange shall forward the information to the Department. *The Department shall report to the child day center, family day home, or family day system described in subsection A as to whether the individual is eligible to have responsibility for the safety and well-being of children.* In cases in which the record forwarded to the Department is lacking disposition data, the Department shall conduct research in whatever state and local recordkeeping systems are available in order to obtain complete data.

C. If any person specified in subsection A required to have a background check has an offense as defined in § 63.2-1719, and such person has not been granted a waiver by the Commissioner pursuant to § 63.2-1723, no license as a child day center ~~or~~, family day home, *or family day system or registration as a family day home shall be granted by the Commissioner and no approval as a family day home shall be granted by the family day system.*

D. Information from a search of the central registry maintained pursuant to § 63.2-1515 *and any child abuse and neglect registry or equivalent registry maintained by any other state in which the applicant, agent, or adult has resided in the preceding five years*, authorized in accordance with subdivision B 3, shall be obtained prior to issuance of a license as a child day center ~~or~~, family day home, *or family day system, registration as a family day home, or approval as a family day home by a family day system.*

E. No person specified in subsection A shall be involved in the day-to-day operations of the child day center ~~or~~, family day home, *or family day system*, or shall be alone with, in control of, or supervising one or more children, without first having completed any required background check pursuant to subsection B.

F. Any person making a materially false statement regarding the sworn statement or affirmation provided pursuant to subdivision B 1 is guilty of a Class 1 misdemeanor.

G. If an ~~applicant~~ *individual* is denied licensure, *registration, or approval* because of information from the central registry *or any child abuse and neglect registry or equivalent registry maintained by any other state*, or convictions appearing on his criminal history record, the Commissioner shall provide a copy of the information obtained from the central registry, *any child abuse and neglect registry or equivalent registry maintained by any other state*, or the Central Criminal Records Exchange ~~or both~~ *to the applicant individual.*

H. Further dissemination of the background check information is prohibited other than to the Commissioner's representative or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination.

I. Fees charged for the processing and administration of background checks pursuant to this section shall not exceed the actual cost to the state of such processing and administration.

**§ 63.2-1722. Revocation or denial of renewal based on background checks; failure to obtain background check.**

A. The Commissioner may revoke or deny renewal of a license or registration of a child welfare agency, assisted living facility, or adult day care center; a child-placing agency may revoke the approval of a foster home; and a family day system may revoke the approval of a family day home if the assisted living facility, adult day care center, child welfare agency, foster home, or approved family day home has knowledge that a person specified in § 63.2-1720, 63.2-1720.1, 63.2-1721, or 63.2-1721.1 required to have a background check has an offense as defined in § 63.2-1719, and such person has not been granted a waiver by the Commissioner pursuant to § 63.2-1723 or is not subject to the exceptions in subsection B of § 63.2-1720, subsection G of § 63.2-1720.1, or subsection E, F, ~~or G~~, or H of § ~~63.2-1721.1~~ 63.2-1721, and the facility, center, *home*, or agency refuses to separate such person from employment or service *or allows the household member to continue to reside in the home*.

B. Failure to obtain background checks pursuant to §§ 63.2-1720, 63.2-1720.1, 63.2-1721, and 63.2-1721.1 shall be grounds for denial ~~or~~, revocation, *or termination* of a license, registration, or approval *or any contract with the Department or a local department to provide child care services to clients of the Department or local department*. No violation shall occur if the assisted living facility, adult day care center, child-placing agency, independent foster home, family day system, family day home, or child day center has applied for the background check timely and it has not been obtained due to administrative delay. The provisions of this section shall be enforced by the Department.

**§ 63.2-1724. Records check by unlicensed child day center; penalty.**

Any child day center that is exempt from licensure pursuant to § 63.2-1716 shall require ~~a prospective employee or volunteer or all applicants for employment, employees, applicants to serve as volunteers, and volunteers and~~ any other person who is expected to be alone with one or more children enrolled in the child day center to obtain ~~within 30 days of employment or commencement of volunteer service, a search of the central registry maintained pursuant to § 63.2-1515 on any founded complaint of child abuse or neglect and a criminal records check as provided in subdivision A 11 of § 19.2-389. However, no employee shall be permitted to work in a position that involves direct contact with a child until an original criminal record clearance or original criminal history record has been received, unless such person works under the direct supervision of another employee for whom a background check has been completed in accordance with the requirements of this section a background check in accordance with § 63.2-1720.1.~~ A child day center that is exempt from licensure pursuant to § 63.2-1716 shall refuse employment or service to any person who has any offense defined in § 63.2-1719. Such center shall also require a prospective employee or volunteer or any other person who is expected to be alone with one or more children in the child day center to provide a sworn statement or affirmation disclosing whether or not the applicant has ever been (i) the subject of a founded complaint of child abuse or neglect, or (ii) convicted of a crime or is the subject of pending criminal charges for any offense within the Commonwealth or any equivalent offense outside the Commonwealth. The foregoing provisions shall not apply to a parent or guardian who may be left alone with his or her own child. For purposes of this section, convictions shall include prior adult convictions and juvenile convictions or adjudications of delinquency based on a crime that would have been a felony if committed by an adult within or outside the Commonwealth. Any person making a materially false statement regarding any such offense shall be guilty of a Class 4 misdemeanor. If an applicant is denied employment or service because of information from the central registry or convictions appearing on his criminal history record, the child day center shall provide a copy of the information obtained from the central registry or Central Criminal Records Exchange or both to the applicant. Further dissemination of the information provided to the facility is prohibited.

The provisions of this section referring to volunteers shall apply only to volunteers who will be alone with any child in the performance of their duties and shall not apply to a parent volunteer of a child attending the child day center whether or not such parent volunteer will be alone with any child in the performance of his duties. A parent volunteer is someone supervising, without pay, a group of children which includes the parent volunteer's own child, in a program which operates no more than four hours per day, where the parent volunteer works under the direct supervision of a person who has received a clearance pursuant to this section.

**§ 63.2-1725. Child day centers or family day homes receiving federal, state, or local child care funds; eligibility requirements.**

A. Whenever any child day center ~~or~~, family day home, *or child day program* that has not met the requirements of §§ ~~63.2-1720, 63.2-1721~~ 63.2-1720.1, 63.2-1721.1, and 63.2-1724 applies to enter into a contract with the Department or a local department to provide child care services to clients of the Department or local department, the Department or local department shall require a ~~criminal records check pursuant to subdivision A 43 of § 19.2-389, as well as a search of the central registry maintained pursuant to § 63.2-1515, on any child abuse or neglect investigation background check, at the time of application to enter into a contract and every five years thereafter, of (i) the applicant; any employee; prospective employee; volunteers; any agents involved in the day-to-day operation; all agents who are alone with, in control of, or supervising one or more of the children; and any other adult living in a child day center or family day home pursuant to § 63.2-1721.1; and (ii) all applicants for employment, employees, applicants to serve as volunteers, and volunteers pursuant to § 63.2-1720.1. The applicant shall provide the Department or local department with copies of these records checks.~~ The child day center ~~or~~, family day home, *or child day program* shall not be permitted to enter into a contract with the Department or a local department for child care services when an applicant; any employee; a prospective employee; a volunteer, an agent involved in the day-to-day operation; an agent alone with, in control of, or supervising one or more children; or any other adult living in a family day home has any offense as defined in § 63.2-1719. ~~The child day center or family day home shall also require the above individuals to provide a sworn statement or affirmation disclosing whether or~~

not the person has ever been (i) the subject of a founded case of child abuse or neglect or (ii) convicted of a crime or is the subject of any pending criminal charges within the Commonwealth or any equivalent offense outside the Commonwealth. Any person making a materially false statement regarding any such offense shall be guilty of a Class 1 misdemeanor. If a person is denied employment or work because of information from the central registry or convictions appearing on his criminal history record, the child day center or family day program shall provide a copy of such information obtained from the central registry or Central Criminal Records Exchange or both to the person. Further dissemination of the information provided to the facility, beyond dissemination to the Department, agents of the Department, or the local department, is prohibited.

B. Every child day center or, family day home, or child day program that enters into a contract with the Department or a local department to provide child care services to clients of the Department or local departments that is funded, in whole or in part, by the Child Care and Development Block Grant, shall comply with all requirements established by federal law and regulations.

2. That every person who is employed by or permitted to serve as a volunteer who will be alone with, in control of, or supervising children at a child day center, family day home, or family day system licensed in accordance with the provisions of Chapter 17 (§ 63.2-1700 et seq.) of Title 63.2 of the Code of Virginia, child day center exempt from licensure pursuant to § 63.2-1716 of the Code of Virginia, registered family day home, family day home approved by a family day system, or child day center, family day home, or child day program that enters into a contract with the Department of Social Services or a local department of social services to provide child care services funded by the Child Care and Development Block Grant shall undergo a background check described in § 63.2-1720.1 of the Code of Virginia, to be completed by September 30, 2017, or by the date specified on any federal waiver obtained by the Commonwealth.

3. That every (i) person who is licensed as a child day center, family day home, or family day system, registered as a family day home, or approved as a family day home by a family day system; (ii) agent of a person who is licensed as a child day center, family day home, or family day system, registered as a family day home, or approved as a family day home by a family day system or who will be involved in the day-to-day operations of the child day center, family day home, or family day system or who is or will be alone with, in control of, or supervising one or more children in a child day center, family day home, or family day system; and (iii) adult living in a licensed child day center or family day home, registered family day home, or family day home approved by a family day system shall undergo a background check described in § 63.2-1721.1 of the Code of Virginia, to be completed by September 30, 2017, or by the date specified on any federal waiver obtained by the Commonwealth.

4. That the provisions of this act shall expire on July 1, 2018.

5. That if any provision of the federal Child Care and Development Block Grant Act of 2014 establishing requirements for national fingerprint-based criminal history background checks for (i) employees, applicants for employment, volunteers at or applicants to serve as volunteers at any licensed family day system, registered family day home, family day home approved by a family day system, child day center exempt from licensure pursuant to § 63.2-1716 of the Code of Virginia; (ii) applicants for licensure as a family day system, registration as a family day home or approval as a family day home by a family day system, agents of such applicants, and adults living in such family day homes; and (iii) individuals who apply for or enter into a contract with the Department of Social Services under which a child day center, family day home, or child day program will provide child care services funded by the Child Care and Development Block Grant Act is repealed prior to July 1, 2018, the provisions of this act enacting such requirement shall expire upon the date such provision is repealed.

## CHAPTER 190

*An Act to amend and reenact §§ 16.1-251, 16.1-252, 16.1-278.2, 16.1-278.4, and 16.1-282.1 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 63.2-910.2, relating to foster care; reasonable efforts to prevent removal of child.*

[H 1604]

Approved February 23, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 16.1-251, 16.1-252, 16.1-278.2, 16.1-278.4, and 16.1-282.1 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 63.2-910.2 as follows:**

**§ 16.1-251. Emergency removal order.**

A. A child may be taken into immediate custody and placed in shelter care pursuant to an emergency removal order in cases in which the child is alleged to have been abused or neglected. Such order may be issued ex parte by the court upon a petition supported by an affidavit or by sworn testimony in person before the judge or intake officer which establishes that:

1. The child would be subjected to an imminent threat to life or health to the extent that severe or irremediable injury would be likely to result if the child were returned to or left in the custody of his parents, guardian, legal custodian or other person standing in loco parentis pending a final hearing on the petition.

2. Reasonable efforts have been made to prevent removal of the child from his home and there are no alternatives less drastic than removal of the child from his home which could reasonably protect the child's life or health pending a final hearing on the petition. The alternatives less drastic than removal may include but not be limited to the provision of medical, educational, psychiatric, psychological, homemaking or other similar services to the child or family or the issuance of a preliminary protective order pursuant to § 16.1-253.

If the petitioner fails to obtain an emergency removal order within four hours of taking custody of the child, the affidavit or sworn testimony before the judge or intake officer shall state the reasons therefor.

When a child is removed from his home and there is no reasonable opportunity to provide preventive services, reasonable efforts to prevent removal shall be deemed to have been made.

*The petitioner shall not be required by the court to make reasonable efforts to prevent removal of the child from his home if the court finds that (i) the residual parental rights of the parent regarding a sibling of the child have previously been involuntarily terminated; (ii) the parent has been convicted of an offense under the laws of the Commonwealth or a substantially similar law of any other state, the United States, or any foreign jurisdiction that constitutes murder or voluntary manslaughter, or a felony attempt, conspiracy, or solicitation to commit any such offense, if the victim of the offense was a child of the parent, a child with whom the parent resided at the time such offense occurred, or the other parent of the child; (iii) the parent has been convicted of an offense under the laws of the Commonwealth or a substantially similar law of any other state, the United States, or any foreign jurisdiction that constitutes felony assault resulting in serious bodily injury or felony bodily wounding resulting in serious bodily injury or felony sexual assault, if the victim of the offense was a child of the parent or a child with whom the parent resided at the time of such offense; or (iv) on the basis of clear and convincing evidence, the parent has subjected any child to aggravated circumstances or abandoned a child under circumstances that would justify the termination of residual parental rights pursuant to subsection D of § 16.1-283.*

*As used in this section:*

*"Aggravated circumstances" means torture, chronic or severe abuse, or chronic or severe sexual abuse, if the victim of such conduct was a child of the parent or child with whom the parent resided at the time such conduct occurred, including the failure to protect such a child from such conduct, which conduct or failure to protect (i) evinces a wanton or depraved indifference to human life or (ii) has resulted in the death of such a child or in serious bodily injury to such a child.*

*"Chronic abuse" or "chronic sexual abuse" means recurring acts of physical abuse that place the child's health, safety and well-being at risk.*

*"Serious bodily injury" means bodily injury that involves substantial risk of death, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ or mental faculty.*

*"Severe abuse" or "severe sexual abuse" may include an act or omission that occurred only once but otherwise meets the definition of "aggravated circumstances."*

B. Whenever a child is taken into immediate custody pursuant to an emergency removal order, a hearing shall be held in accordance with § 16.1-252 as soon as practicable, but in no event later than five business days after the removal of the child.

C. In the emergency removal order the court shall give consideration to temporary placement of the child with a relative or other interested individual, including grandparents, under the supervision of the local department of social services, until such time as the hearing in accordance with § 16.1-252 is held.

D. The local department of social services having "legal custody" of a child as defined in § 16.1-228 (i) shall not be required to comply with the requirements of this section in order to redetermine where and with whom the child shall live, notwithstanding that the child had been placed with a natural parent.

#### **§ 16.1-252. Preliminary removal order; hearing.**

A. A preliminary removal order in cases in which a child is alleged to have been abused or neglected may be issued by the court after a hearing wherein the court finds that reasonable efforts have been made to prevent removal of the child from his home. The hearing shall be in the nature of a preliminary hearing rather than a final determination of custody.

B. Prior to the removal hearing, notice of the hearing shall be given at least 24 hours in advance of the hearing to the guardian ad litem for the child, to the parents, guardian, legal custodian or other person standing in loco parentis of the child and to the child if he or she is 12 years of age or older. If notice to the parents, guardian, legal custodian or other person standing in loco parentis cannot be given despite diligent efforts to do so, the hearing shall be held nonetheless, and the parents, guardian, legal custodian or other person standing in loco parentis shall be afforded a later hearing on their motion regarding a continuation of the summary removal order. The notice provided herein shall include (i) the time, date and place for the hearing; (ii) a specific statement of the factual circumstances which allegedly necessitate removal of the child; and (iii) notice that child support will be considered if a determination is made that the child must be removed from the home.

C. All parties to the hearing shall be informed of their right to counsel pursuant to § 16.1-266.

D. At the removal hearing the child and his parent, guardian, legal custodian or other person standing in loco parentis shall have the right to confront and cross-examine all adverse witnesses and evidence and to present evidence on their own behalf. If the child was 14 years of age or under on the date of the alleged offense and is 16 or under at the time of the hearing, the child's attorney or guardian ad litem, or if the child has been committed to the custody of the Department of Social Services, the local department of social services, may apply for an order from the court that the child's testimony be taken in a room outside the courtroom and be televised by two-way closed-circuit television. The provisions of § 63.2-1521 shall apply, mutatis mutandis, to the use of two-way closed-circuit television except that the person seeking the order shall

apply for the order at least 48 hours before the hearing, unless the court for good cause shown allows the application to be made at a later time.

E. In order for a preliminary order to issue or for an existing order to be continued, the petitioning party or agency must prove:

1. The child would be subjected to an imminent threat to life or health to the extent that severe or irreparable injury would be likely to result if the child were returned to or left in the custody of his parents, guardian, legal custodian or other person standing in loco parentis pending a final hearing on the petition; and

2. Reasonable efforts have been made to prevent removal of the child from his home and there are no alternatives less drastic than removal of the child from his home which could reasonably and adequately protect the child's life or health pending a final hearing on the petition. The alternatives less drastic than removal may include but not be limited to the provision of medical, educational, psychiatric, psychological, homemaking or other similar services to the child or family or the issuance of a preliminary protective order pursuant to § 16.1-253.

When a child is removed from his home and there is no reasonable opportunity to provide preventive services, reasonable efforts to prevent removal shall be deemed to have been made.

*The petitioner shall not be required by the court to make reasonable efforts to prevent removal of the child from his home if the court finds that (i) the residual parental rights of the parent regarding a sibling of the child have previously been involuntarily terminated; (ii) the parent has been convicted of an offense under the laws of the Commonwealth or a substantially similar law of any other state, the United States, or any foreign jurisdiction that constitutes murder or voluntary manslaughter, or a felony attempt, conspiracy, or solicitation to commit any such offense, if the victim of the offense was a child of the parent, a child with whom the parent resided at the time such offense occurred, or the other parent of the child; (iii) the parent has been convicted of an offense under the laws of the Commonwealth or a substantially similar law of any other state, the United States, or any foreign jurisdiction that constitutes felony assault resulting in serious bodily injury or felony bodily wounding resulting in serious bodily injury or felony sexual assault, if the victim of the offense was a child of the parent or a child with whom the parent resided at the time of such offense; or (iv) on the basis of clear and convincing evidence, the parent has subjected any child to aggravated circumstances, or abandoned a child under circumstances that would justify the termination of residual parental rights pursuant to subsection D of § 16.1-283.*

*As used in this section:*

*"Aggravated circumstances" means torture, chronic or severe abuse, or chronic or severe sexual abuse, if the victim of such conduct was a child of the parent or child with whom the parent resided at the time such conduct occurred, including the failure to protect such a child from such conduct, which conduct or failure to protect (i) evinces a wanton or depraved indifference to human life or (ii) has resulted in the death of such a child or in serious bodily injury to such a child.*

*"Chronic abuse" or "chronic sexual abuse" means recurring acts of physical abuse that place the child's health, safety and well-being at risk.*

*"Serious bodily injury" means bodily injury that involves substantial risk of death, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ or mental faculty.*

*"Severe abuse" or "severe sexual abuse" may include an act or omission that occurred only once but otherwise meets the definition of "aggravated circumstances."*

F. If the court determines that pursuant to subsection E hereof the removal of the child is proper, the court shall:

1. Order that the child be placed in the temporary care and custody of a suitable person, subject to the provisions of subsection F1 of this section and under the supervision of the local department of social services, with consideration being given to placement in the temporary care and custody of a relative or other interested individual, including grandparents, until such time as the court enters an order of disposition pursuant to § 16.1-278.2, or, if such placement is not available, in the care and custody of a suitable agency;

2. Order that reasonable visitation be allowed between the child and his parents, guardian, legal custodian or other person standing in loco parentis, and between the child and his siblings, if such visitation would not endanger the child's life or health; and

3. Order that the parent or other legally obligated person pay child support pursuant to § 16.1-290.

In addition, the court may enter a preliminary protective order pursuant to § 16.1-253 imposing requirements and conditions as specified in that section which the court deems appropriate for protection of the welfare of the child.

F1. Prior to the entry of an order pursuant to subsection F of this section transferring temporary custody of the child to a relative or other interested individual, including grandparents, the court shall consider whether the relative or other interested individual is one who (i) is willing and qualified to receive and care for the child; (ii) is willing to have a positive, continuous relationship with the child; and (iii) is willing and has the ability to protect the child from abuse and neglect. The court's order transferring temporary custody to a relative or other interested individual should provide for compliance with any preliminary protective order entered on behalf of the child in accordance with the provisions of § 16.1-253; initiation and completion of the investigation as directed by the court and court review of the child's placement required in accordance with the provisions of § 16.1-278.2; and, as appropriate, ongoing provision of social services to the child and the temporary custodian.

G. At the conclusion of the preliminary removal order hearing, the court shall determine whether the allegations of abuse or neglect have been proven by a preponderance of the evidence. Any finding of abuse or neglect shall be stated in the court order. However, if, before such a finding is made, a person responsible for the care and custody of the child, the child's

guardian ad litem or the local department of social services objects to a finding being made at the hearing, the court shall schedule an adjudicatory hearing to be held within 30 days of the date of the initial preliminary removal hearing. The adjudicatory hearing shall be held to determine whether the allegations of abuse and neglect have been proven by a preponderance of the evidence. Parties who are present at the preliminary removal order hearing shall be given notice of the date set for the adjudicatory hearing and parties who are not present shall be summoned as provided in § 16.1-263. The hearing shall be held and an order may be entered, although a party to the preliminary removal order hearing fails to appear and is not represented by counsel, provided personal or substituted service was made on the person, or the court determines that such person cannot be found, after reasonable effort, or in the case of a person who is without the Commonwealth, the person cannot be found or his post office address cannot be ascertained after reasonable effort.

The preliminary removal order and any preliminary protective order issued shall remain in full force and effect pending the adjudicatory hearing.

H. If the preliminary removal order includes a finding of abuse or neglect and the child is removed from his home or a preliminary protective order is issued, a dispositional hearing shall be held pursuant to § 16.1-278.2. The dispositional hearing shall be scheduled at the time of the preliminary removal order hearing and shall be held within 60 days of the preliminary removal order hearing. If an adjudicatory hearing is requested pursuant to subsection G, the dispositional hearing shall nonetheless be scheduled at the initial preliminary removal order hearing. All parties present at the preliminary removal order hearing shall be given notice of the date scheduled for the dispositional hearing; parties who are not present shall be summoned to appear as provided in § 16.1-263.

I. The local department of social services having "legal custody" of a child as defined in § 16.1-228 (i) shall not be required to comply with the requirements of this section in order to redetermine where and with whom the child shall live, notwithstanding that the child had been placed with a natural parent.

J. Violation of any order issued pursuant to this section shall constitute contempt of court.

**§ 16.1-278.2. Abused, neglected, or abandoned children or children without parental care.**

A. Within 60 days of a preliminary removal order hearing held pursuant to § 16.1-252 or a hearing on a preliminary protective order held pursuant to § 16.1-253, a dispositional hearing shall be held if the court found abuse or neglect and (i) removed the child from his home or (ii) entered a preliminary protective order. Notice of the dispositional hearing shall be provided to the child's parent, guardian, legal custodian, or other person standing in loco parentis in accordance with § 16.1-263. The hearing shall be held and a dispositional order may be entered, although a parent, guardian, legal custodian, or person standing in loco parentis fails to appear and is not represented by counsel, provided personal or substituted service was made on the person, or the court determines that such person cannot be found, after reasonable effort, or in the case of a person who is without the Commonwealth, the person cannot be found or his post office address cannot be ascertained after reasonable effort. Notice shall also be provided to the local department of social services, the guardian ad litem and, if appointed, the court-appointed special advocate.

If a child is found to be (a) abused or neglected; (b) at risk of being abused or neglected by a parent or custodian who has been adjudicated as having abused or neglected another child in his care; or (c) abandoned by his parent or other custodian, or without parental care and guardianship because of his parent's absence or physical or mental incapacity, the juvenile court or the circuit court may make any of the following orders of disposition to protect the welfare of the child:

1. Enter an order pursuant to the provisions of § 16.1-278;
2. Permit the child to remain with his parent, subject to such conditions and limitations as the court may order with respect to such child and his parent or other adult occupant of the same dwelling;
3. Prohibit or limit contact as the court deems appropriate between the child and his parent or other adult occupant of the same dwelling whose presence tends to endanger the child's life, health or normal development. The prohibition may exclude any such individual from the home under such conditions as the court may prescribe for a period to be determined by the court but in no event for longer than 180 days from the date of such determination. A hearing shall be held within 150 days to determine further disposition of the matter that may include limiting or prohibiting contact for another 180 days;
4. Permit the local board of social services or a public agency designated by the community policy and management team to place the child, subject to the provisions of § 16.1-281, in suitable family homes, child-caring institutions, residential facilities, or independent living arrangements with legal custody remaining with the parents or guardians. The local board or public agency and the parents or guardians shall enter into an agreement which shall specify the responsibilities of each for the care and control of the child. The board or public agency that places the child shall have the final authority to determine the appropriate placement for the child.

Any order allowing a local board or public agency to place a child where legal custody remains with the parents or guardians as provided in this section shall be entered only upon a finding by the court that reasonable efforts have been made to prevent placement out of the home and that continued placement in the home would be contrary to the welfare of the child; and the order shall so state.

5. After a finding that there is no less drastic alternative, transfer legal custody, subject to the provisions of § 16.1-281, to any of the following:

- a. A relative or other interested individual subject to the provisions of subsection A1 of this section;
- b. A child welfare agency, private organization or facility that is licensed or otherwise authorized by law to receive and provide care for such child; however, a court shall not transfer legal custody of an abused or neglected child to an agency, organization or facility out of the Commonwealth without the approval of the Commissioner of Social Services; or

c. The local board of social services of the county or city in which the court has jurisdiction or, at the discretion of the court, to the local board of the county or city in which the child has residence if other than the county or city in which the court has jurisdiction. The local board shall accept the child for care and custody, provided that it has been given reasonable notice of the pendency of the case and an opportunity to be heard. However, in an emergency in the county or city in which the court has jurisdiction, the local board may be required to accept a child for a period not to exceed 14 days without prior notice or an opportunity to be heard if the judge entering the placement order describes the emergency and the need for such temporary placement in the order. Nothing in this section shall prohibit the commitment of a child to any local board of social services in the Commonwealth when the local board consents to the commitment. The board to which the child is committed shall have the final authority to determine the appropriate placement for the child.

Any order authorizing removal from the home and transferring legal custody of a child to a local board of social services as provided in this section shall be entered only upon a finding by the court that reasonable efforts have been made to prevent removal and that continued placement in the home would be contrary to the welfare of the child; and the order shall so state.

*A finding by the court that reasonable efforts were made to prevent removal of the child from his home shall not be required if the court finds that (i) the residual parental rights of the parent regarding a sibling of the child have previously been involuntarily terminated; (ii) the parent has been convicted of an offense under the laws of the Commonwealth or a substantially similar law of any other state, the United States, or any foreign jurisdiction that constitutes murder or voluntary manslaughter, or a felony attempt, conspiracy, or solicitation to commit any such offense, if the victim of the offense was a child of the parent, a child with whom the parent resided at the time such offense occurred, or the other parent of the child; (iii) the parent has been convicted of an offense under the laws of the Commonwealth or a substantially similar law of any other state, the United States, or any foreign jurisdiction that constitutes felony assault resulting in serious bodily injury or felony bodily wounding resulting in serious bodily injury or felony sexual assault, if the victim of the offense was a child of the parent or a child with whom the parent resided at the time of such offense; or (iv) on the basis of clear and convincing evidence, the parent has subjected any child to aggravated circumstances, or abandoned a child under circumstances that would justify the termination of residual parental rights pursuant to subsection D of § 16.1-283.*

*As used in this section:*

*"Aggravated circumstances" means torture, chronic or severe abuse, or chronic or severe sexual abuse, if the victim of such conduct was a child of the parent or child with whom the parent resided at the time such conduct occurred, including the failure to protect such a child from such conduct, which conduct or failure to protect (i) evinces a wanton or depraved indifference to human life or (ii) has resulted in the death of such a child or in serious bodily injury to such a child.*

*"Chronic abuse" or "chronic sexual abuse" means recurring acts of physical abuse that place the child's health, safety and well-being at risk.*

*"Serious bodily injury" means bodily injury that involves substantial risk of death, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ or mental faculty.*

*"Severe abuse" or "severe sexual abuse" may include an act or omission that occurred only once but otherwise meets the definition of "aggravated circumstances."*

6. Transfer legal custody pursuant to subdivision 5 of this section and order the parent to participate in such services and programs or to refrain from such conduct as the court may prescribe; or

7. Terminate the rights of the parent pursuant to § 16.1-283.

A1. Any order transferring custody of the child to a relative or other interested individual pursuant to subdivision A 5 shall be entered only upon a finding, based upon a preponderance of the evidence, that the relative or other interested individual is one who, after an investigation as directed by the court, (i) is found by the court to be willing and qualified to receive and care for the child; (ii) is willing to have a positive, continuous relationship with the child; (iii) is committed to providing a permanent, suitable home for the child; and (iv) is willing and has the ability to protect the child from abuse and neglect; and the order shall so state. The court's order transferring custody to a relative or other interested individual should further provide for, as appropriate, any terms or conditions which would promote the child's interest and welfare; ongoing provision of social services to the child and the child's custodian; and court review of the child's placement.

B. If the child has been placed in foster care, at the dispositional hearing the court shall review the foster care plan for the child filed in accordance with § 16.1-281 by the local department of social services, a public agency designated by the community policy and management team which places a child through an agreement with the parents or guardians where legal custody remains with the parents or guardians, or child welfare agency.

C. Any preliminary protective orders entered on behalf of the child shall be reviewed at the dispositional hearing and may be incorporated, as appropriate, in the dispositional order.

D. A dispositional order entered pursuant to this section is a final order from which an appeal may be taken in accordance with § 16.1-296.

**§ 16.1-278.4. Children in need of services.**

If a child is found to be in need of services or a status offender, the juvenile court or the circuit court may make any of the following orders of disposition for the supervision, care and rehabilitation of the child:

1. Enter an order pursuant to the provisions of § 16.1-278.

2. Permit the child to remain with his parent subject to such conditions and limitations as the court may order with respect to such child and his parent.

3. Order the parent with whom the child is living to participate in such programs, cooperate in such treatment or be subject to such conditions and limitations as the court may order and as are designed for the rehabilitation of the child and his parent.

4. Beginning July 1, 1992, in the case of any child fourteen years of age or older, where the court finds that the child is not able to benefit appreciably from further schooling, the court may excuse the child from further compliance with any legal requirement of compulsory school attendance as provided under § 22.1-254 or authorize the child, notwithstanding the provisions of any other law, to be employed in any occupation which is not legally declared hazardous for children under the age of eighteen.

5. Permit the local board of social services or a public agency designated by the community policy and management team to place the child, subject to the provisions of § 16.1-281, in suitable family homes, child caring-institutions, residential facilities, or independent living arrangements with legal custody remaining with the parents or guardians. The local board or public agency and the parents or guardians shall enter into an agreement which shall specify the responsibilities of each for the care and control of the child. The board or public agency that places the child shall have the final authority to determine the appropriate placement for the child.

Any order allowing a local board or public agency to place a child where legal custody remains with the parents or guardians as provided in this section shall be entered only upon a finding by the court that reasonable efforts have been made to prevent placement out of the home and that continued placement in the home would be contrary to the welfare of the child, and the order shall so state.

6. Transfer legal custody to any of the following:

- a. A relative or other individual who, after study, is found by the court to be qualified to receive and care for the child;
- b. A child welfare agency, private organization or facility that is licensed or otherwise authorized by law to receive and provide care for such child. The court shall not transfer legal custody of a child in need of services to an agency, organization or facility out of the Commonwealth without the approval of the Commissioner of Social Services; or
- c. The local board of social services of the county or city in which the court has jurisdiction or, at the discretion of the court, to the local board of the county or city in which the child has residence if other than the county or city in which the court has jurisdiction. The local board shall accept the child for care and custody, provided that it has been given reasonable notice of the pendency of the case and an opportunity to be heard. However, in an emergency in the county or city in which the court has jurisdiction, the local board may be required to accept a child for a period not to exceed fourteen days without prior notice or an opportunity to be heard if the judge entering the placement order describes the emergency and the need for such temporary placement in the order. Nothing in this subdivision shall prohibit the commitment of a child to any local board of social services in the Commonwealth when the local board consents to the commitment. The board to which the child is committed shall have the final authority to determine the appropriate placement for the child.

Any order authorizing removal from the home and transferring legal custody of a child to a local board of social services as provided in this subdivision shall be entered only upon a finding by the court that reasonable efforts have been made to prevent removal and that continued placement in the home would be contrary to the welfare of the child, and the order shall so state.

*A finding by the court that reasonable efforts were made to prevent removal of the child from his home shall not be required if the court finds that (i) the residual parental rights of the parent regarding a sibling of the child have previously been involuntarily terminated; (ii) the parent has been convicted of an offense under the laws of the Commonwealth or a substantially similar law of any other state, the United States, or any foreign jurisdiction that constitutes murder or voluntary manslaughter, or a felony attempt, conspiracy, or solicitation to commit any such offense, if the victim of the offense was a child of the parent, a child with whom the parent resided at the time such offense occurred, or the other parent of the child; (iii) the parent has been convicted of an offense under the laws of the Commonwealth or a substantially similar law of any other state, the United States, or any foreign jurisdiction that constitutes felony assault resulting in serious bodily injury or felony bodily wounding resulting in serious bodily injury or felony sexual assault, if the victim of the offense was a child of the parent or a child with whom the parent resided at the time of such offense; or (iv) on the basis of clear and convincing evidence, the parent has subjected any child to aggravated circumstances, or abandoned a child under circumstances that would justify the termination of residual parental rights pursuant to subsection D of § 16.1-283.*

*As used in this section:*

*"Aggravated circumstances" means torture, chronic or severe abuse, or chronic or severe sexual abuse, if the victim of such conduct was a child of the parent or child with whom the parent resided at the time such conduct occurred, including the failure to protect such a child from such conduct, which conduct or failure to protect (i) evinces a wanton or depraved indifference to human life or (ii) has resulted in the death of such a child or in serious bodily injury to such a child.*

*"Chronic abuse" or "chronic sexual abuse" means recurring acts of physical abuse that place the child's health, safety and well-being at risk.*

*"Serious bodily injury" means bodily injury that involves substantial risk of death, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ or mental faculty.*

*"Severe abuse" or "severe sexual abuse" may include an act or omission that occurred only once but otherwise meets the definition of "aggravated circumstances."*

7. Require the child to participate in a public service project under such conditions as the court prescribes.

**§ 16.1-282.1. Permanency planning hearing for children in foster care.**

A. In the case of a child who was the subject of a foster care plan filed with the court pursuant to § 16.1-281, a permanency planning hearing shall be held within 10 months of the dispositional hearing at which the foster care plan pursuant to § 16.1-281 was reviewed if the child (a) was placed through an agreement between the parents or guardians and the local board of social services where legal custody remains with the parents or guardians and such agreement has not been dissolved by court order; or (b) is under the legal custody of a local board of social services or a child welfare agency and has not had a petition to terminate parental rights filed on the child's behalf, has not been placed in permanent foster care, or is age 16 or over and the plan for the child is not independent living. The board or child welfare agency shall file a petition for a permanency planning hearing 30 days prior to the date of the permanency planning hearing scheduled by the court. The purpose of this hearing is to establish a permanent goal for the child and either to achieve the permanent goal or to defer such action through the approval of an interim plan for the child.

To achieve the permanent goal, the petition for a permanency planning hearing shall seek to (i) transfer the custody of the child to his prior family, or dissolve the board's placement agreement and return the child to his prior family; (ii) transfer custody of the child to a relative other than the child's prior family, subject to the provisions of subsection A1; (iii) terminate residual parental rights pursuant to § 16.1-277.01 or 16.1-283; (iv) place a child who is 16 years of age or older in permanent foster care pursuant to § 63.2-908; (v) if the child has been admitted to the United States as a refugee or asylee and has attained the age of 16 years or older and the plan is independent living, direct the board or agency to provide the child with services to transition from foster care; or (vi) place a child who is 16 years of age or older in another planned permanent living arrangement in accordance with the provisions of subsection A2. In cases in which a foster care plan approved prior to July 1, 2011, includes independent living as the goal for a child who is not admitted to the United States as an asylee or refugee, the petition shall direct the board or agency to provide the child with services to transition from foster care.

For approval of an interim plan, the petition for a permanency planning hearing shall seek to continue custody with the board or agency, or continue placement with the board through a parental agreement; or transfer custody to the board or child welfare agency from the parents or guardian of a child who has been in foster care through an agreement where the parents or guardian retains custody.

Upon receipt of the petition, if a permanency planning hearing has not already been scheduled, the court shall schedule such a hearing to be held within 30 days. The permanency planning hearing shall be held within 10 months of the dispositional hearing at which the foster care plan was reviewed pursuant to § 16.1-281. The provisions of subsection B of § 16.1-282 shall apply to this petition. The procedures of subsection C of § 16.1-282 and the provisions of subsection E of § 16.1-282 shall apply to the scheduling and notice of proceedings under this section.

A1. The following requirements shall apply to the transfer of custody of the child to a relative other than the child's prior family in accordance with the provisions of (ii) of subsection A of this section. Any order transferring custody of the child to a relative other than the child's prior family shall be entered only upon a finding, based upon a preponderance of the evidence, that the relative is one who, after an investigation as directed by the court, (i) is found by the court to be willing and qualified to receive and care for the child; (ii) is willing to have a positive, continuous relationship with the child; (iii) is committed to providing a permanent, suitable home for the child; and (iv) is willing and has the ability to protect the child from abuse and neglect; and the order shall so state. The court's order transferring custody to a relative should further provide, as appropriate, for any terms or conditions which would promote the child's interest and welfare.

A2. The following requirements shall apply to the selection and approval of placement in another planned permanent living arrangement as the permanent goal for the child in accordance with clause (vi) of subsection A of this section:

1. The board or child welfare agency shall petition for alternative (vi) of subsection A only if the child has a severe and chronic emotional, physical or neurological disabling condition for which the child requires long-term residential treatment; and the board or child welfare agency has thoroughly investigated the feasibility of the alternatives listed in clauses (i) through (v) of subsection A and determined that none of those alternatives is in the best interests of the child. In a foster care plan filed with the petition pursuant to this section, the board or agency shall document the following: (i) the investigation conducted of the placement alternatives listed in clauses (i) through (v) of subsection A and why each of these is not currently in the best interest of the child; (ii) at least one compelling reason why none of the alternatives listed in clauses (i) through (v) is achievable for the child at the time placement in another planned permanent living arrangement is selected as the permanent goal for the child; (iii) the identity of the long-term residential treatment service provider; (iv) the nature of the child's disability; (v) the anticipated length of time required for the child's treatment; and (vi) the status of the child's eligibility for admission and long-term treatment. The court shall ensure that the local department has documentation of the intensive, ongoing, and, as of the date of the hearing, unsuccessful efforts made to return the child home or secure a placement for the child with a fit and willing relative, including adult siblings, or an adoptive parent, including through efforts that utilize search technology, including social media, to find the child's biological family members. The court shall ask the child about the child's desired permanency outcome and make a judicial determination, accompanied by an explanation of the reasons that the alternatives listed in clauses (i) through (iii) of subsection A continue to not be in the best interest of the child.

2. Before approving alternative (vi) of subsection A as the plan for the child, the court shall find (i) that the child has a severe and chronic emotional, physical or neurological disabling condition; (ii) that the child requires long-term residential treatment for the disabling condition; and (iii) that none of the alternatives listed in clauses (i) through (v) of subsection A is achievable for the child at the time placement in another planned permanent living arrangement is approved as the

permanent goal for the child. If the board or agency petitions for alternative (vi), alternative (vi) may be approved by the court for a period of six months at a time.

3. At the conclusion of the permanency planning hearing, if alternative (vi) of subsection A is the permanent plan, the court shall schedule a hearing to be held within six months to review the child's placement in another planned permanent living arrangement in accordance with subdivision 4 of subsection A2. All parties present at the hearing at which clause (vi) of subsection A is approved as the permanent plan for the child shall be given notice of the date scheduled for the foster care review hearing. Parties not present shall be summoned to appear as provided in § 16.1-263. Otherwise, this subsection A2 shall govern the scheduling and notice for such hearings.

4. The court shall review a foster care plan for any child who is placed in another planned permanent living arrangement every six months from the date of the permanency planning hearing held pursuant to this subsection, so long as the child remains in the legal custody of the board or child welfare agency. The board or child welfare agency shall file such petitions for review pursuant to the provisions of § 16.1-282 and shall, in addition, include in the petition the information required by subdivision 1 of subsection A2 of this section. The petition for foster care review shall be filed no later than 30 days prior to the hearing scheduled in accordance with subdivision 3 of subsection A2. At the conclusion of the foster care review hearing, if alternative (vi) of subsection A remains the permanent plan, the court shall enter an order that states whether reasonable efforts have been made to place the child in a timely manner in accordance with the permanency plan and to monitor the child's status in another planned permanent living arrangement.

However, if at any time during the six-month approval periods permitted by this subsection, a determination is made by treatment providers that the child's need for long-term residential treatment for the child's disabling condition is eliminated, the board or agency shall immediately begin to plan for post-discharge services and shall, within 30 days of making such a determination, file a petition for a permanency planning hearing pursuant to subsection A of this section. Upon receipt of the petition, the court shall schedule a permanency planning hearing to be held within 30 days. The provisions of subsection B of § 16.1-282 shall apply to this petition. The procedures of subsection C of § 16.1-282 and the provisions of subsection E of § 16.1-282 shall apply to proceedings under this section.

A3. The following requirements shall apply to the selection and approval of permanent foster care pursuant to clause (iv) of subsection A:

1. The court shall ensure that the local department has documentation of the intensive, ongoing, and, as of the date of the hearing, unsuccessful efforts made to return the child home or secure a placement for the child with a fit and willing relative, including adult siblings, or an adoptive parent, including through efforts that utilize search technology, including social media, to find the child's biological family members.

2. The court shall ask the child about the child's desired permanency outcome and make a judicial determination, accompanied by an explanation of the reasons that the alternatives listed in clauses (i) through (iii) of subsection A continue to not be in the best interest of the child.

B. The following requirements shall apply to the selection and approval of an interim plan for the child in accordance with subsection A:

1. The board or child welfare agency shall petition for approval of an interim plan only if the board or child welfare agency has thoroughly investigated the feasibility of the alternatives listed in clauses (i) through (v) of subsection A and determined that none of those alternatives is in the best interest of the child. If the board or agency petitions for approval of an interim plan, such plan may be approved by the court for a maximum period of six months. The board or agency shall also file a foster care plan that (i) identifies a permanent goal for the child that corresponds with one of the alternatives specified in clauses (i) through (v) of subsection A; (ii) includes provisions for accomplishing the permanent goal within six months; and (iii) summarizes the investigation conducted of the alternatives listed in clauses (i) through (v) of subsection A and why achieving each of these is not in the best interest of the child at this time. *The foster care plan shall describe the child's placement, including the in-state and out-of-state placement options and whether the child's placement is in state or out of state. If the child's placement is out of state, the foster care plan shall provide the reason why the out-of-state placement is appropriate and in the best interests of the child.*

2. Before approving an interim plan for the child, the court shall find:

a. When returning home remains the plan for the child, that the parent has made marked progress toward reunification with the child, the parent has maintained a close and positive relationship with the child, and the child is likely to return home within the near future, although it is premature to set an exact date for return at the time of this hearing; or

b. When returning home is not the plan for the child, that marked progress is being made to achieve the permanent goal identified by the board or child welfare agency and that it is premature to set an exact date for accomplishing the goal at the time of this hearing. *The court shall consider the in-state and out-of-state placement options, and if the child has been placed out of state, determine whether the out-of-state placement is appropriate and in the best interests of the child.*

3. Upon approval of an interim plan, the court shall schedule a hearing to be held within six months to determine that the permanent goal is accomplished and to enter an order consistent with alternative (i), (ii), (iii), (iv), or (v) of subsection A. All parties present at the initial permanency planning hearing shall be given notice of the date scheduled for the second permanency planning hearing. Parties not present shall be summoned to appear as provided in § 16.1-263. Otherwise, subsection A shall govern the scheduling and notice for such hearings.

C. In each permanency planning hearing and in any hearing regarding the transition of the child from foster care to independent living, the court shall consult with the child in an age-appropriate manner regarding the proposed permanency plan or transition plan for the child, unless the court finds that such consultation is not in the best interests of the child.

D. At the conclusion of the permanency planning hearing held pursuant to this section, whether action is taken or deferred to achieve the permanent goal for the child, the court shall enter an order that states whether reasonable efforts have been made to reunite the child with the child's prior family, if returning home is the permanent goal for the child; or whether reasonable efforts have been made to achieve the permanent goal identified by the board or agency, if the goal is other than returning the child home.

In making this determination, the court shall give consideration to whether the board or agency has placed the child in a timely manner in accordance with the foster care plan and completed the steps necessary to finalize the permanent placement of the child.

**§ 63.2-910.2. Petition to terminate parental rights.**

A. If a child has been in foster care under the responsibility of a local board for 15 of the most recent 22 months or if the parent of a child in foster care has been convicted of an offense under the laws of the Commonwealth or a substantially similar law of any other state, the United States, or any foreign jurisdiction that constitutes (i) murder or voluntary manslaughter, or a felony attempt, conspiracy, or solicitation to commit any such offense, if the victim of the offense was a child of the parent, a child with whom the parent resided at the time such offense occurred, or the other parent of the child; or (ii) felony assault resulting in serious bodily injury or felony bodily wounding resulting in serious bodily injury or felony sexual assault, if the victim of the offense was a child of the parent or a child with whom the parent resided at the time of such offense, the local board shall file a petition to terminate the parental rights of the child's parents and concurrently identify, recruit, process, and approve a qualified family for adoption of the child, unless:

1. At the option of the local board, the child is being cared for by a relative;

2. The local board has determined that the filing of such a petition would not be in the best interests of the child and has documented a compelling reason for such determination in the child's foster care plan; or

3. The local board has not provided to the family of the child, within the time period established in the child's foster care plan, services deemed necessary for the child's safe return home or has not otherwise made reasonable efforts to return the child home, if required under § 473(a)(15)(B)(ii) of Title IV-E of the Social Security Act (42 U.S.C. § 673).

B. As used in this section, "serious bodily injury" means bodily injury that involves substantial risk of death, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

## CHAPTER 191

An Act to amend and reenact § 51.5-154 of the Code of Virginia, relating to Alzheimer's Disease and Related Disorders Commission; sunset.

[H 1716]

Approved February 23, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 51.5-154 of the Code of Virginia is amended and reenacted as follows:**

**§ 51.5-154. (Expires July 1, 2017) Alzheimer's Disease and Related Disorders Commission; report.**

A. The Alzheimer's Disease and Related Disorders Commission (the Commission) is established as an advisory commission in the executive branch of state government. The purpose of the entity is to assist people with Alzheimer's disease and related disorders and their caregivers.

B. The Commission shall consist of 15 nonlegislative citizen members. Members shall be appointed as follows: three members to be appointed by the Speaker of the House of Delegates; two members to be appointed by the Senate Committee on Rules; and 10 members to be appointed by the Governor, of whom seven shall be from among the boards, staffs, and volunteers of the Virginia chapters of the Alzheimer's Disease and Related Disorders Association and three shall be from the public at large.

Nonlegislative citizen members shall be appointed for a term of four years. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. All members may be reappointed. However, no nonlegislative citizen member shall serve more than two consecutive four-year terms. The remainder of any term to which a member is appointed to fill a vacancy shall not constitute a term in determining the member's eligibility for reappointment. Vacancies shall be filled in the same manner as the original appointments.

The Commission shall elect a chairman and vice-chairman from among its membership. A majority of the voting members shall constitute a quorum. The Commission shall meet at least four times each year. The meetings of the Commission shall be held at the call of the chairman or whenever the majority of the voting members so request.

C. Members shall receive such compensation for the discharge of their duties as provided in § 2.2-2813. All members shall be reimbursed for reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. Funding for the costs of compensation and expenses of the members shall be provided by the Department.

- D. The Commission shall have the power and duty to:
1. Examine the needs of persons with Alzheimer's disease and related disorders, as well as the needs of their caregivers, and ways that state government can most effectively and efficiently assist in meeting those needs;
  2. Develop and promote strategies to encourage brain health and reduce cognitive decline;
  3. Advise the Governor and General Assembly on policy, funding, regulatory, and other issues related to persons suffering from Alzheimer's disease and related disorders and their caregivers;
  4. Develop the Commonwealth's plan for meeting the needs of patients with Alzheimer's disease and related disorders and their caregivers, and advocate for such plan;
  5. Submit to the Governor, General Assembly, and Department by October 1 of each year an electronic report regarding the activities and recommendations of the Commission, which shall be *submitted for publication as a report document as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website and the Department's website*; and
  6. Establish priorities for programs among state agencies related to Alzheimer's disease and related disorders and criteria to evaluate these programs.
- E. The Department shall provide staff support to the Commission. All agencies of the Commonwealth shall provide assistance to the Commission, upon request.
- F. The Commission may apply for and expend such grants, gifts, or bequests from any source as may become available in connection with its duties under this section and may comply with such conditions and requirements as may be imposed in connections therewith.
- G. This section shall expire on July 1, ~~2017~~ 2020.

**CHAPTER 192**

*An Act to direct the Commissioner of Behavioral Health and Developmental Services to develop a comprehensive plan for provision of forensic discharge planning services at local and regional correctional facilities.*

[H 1784]

Approved February 23, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. § 1.** *The Commissioner of Behavioral Health and Developmental Services (the Commissioner) shall, in conjunction with the relevant stakeholders, review the availability of forensic discharge planning services at local and regional correctional facilities for persons who have serious mental illnesses who are to be released from such facilities. The Commissioner shall develop a comprehensive plan for the provision of forensic discharge planning services for such persons at local or regional correctional facilities, which shall include the requirement that each facility have access to a discharge planner, and shall detail the cost considerations associated with the implementation of such a plan as well as any cost savings and benefits associated with the successful implementation of such a plan.*

*The plan shall be completed by November 1, 2017, and reported to the Chairmen of the Joint Subcommittee to Study Mental Health Services in the Commonwealth in the 21st Century, the House Committee for Courts of Justice, and the Senate Committee for Courts of Justice. The report on such plan shall also be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports no later than the first day of the 2018 Regular Session of the General Assembly and shall be posted on the General Assembly's website.*

**CHAPTER 193**

*An Act to amend and reenact §§ 63.2-900, 63.2-904, 63.2-1231, and 63.2-1232 of the Code of Virginia, relating to Adoption and Foster Care placements; Mutual Family Assessment home study.*

[H 1795]

Approved February 23, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 63.2-900, 63.2-904, 63.2-1231, and 63.2-1232 of the Code of Virginia are amended and reenacted as follows:**

**§ 63.2-900. Accepting children for placement in homes, facilities, etc., by local boards.**

A. Pursuant to § 63.2-319, a local board shall have the right to accept for placement in suitable family homes, children's residential facilities or independent living arrangements, subject to the supervision of the Commissioner and in accordance with regulations adopted by the Board, such persons under 18 years of age as may be entrusted to it by the parent, parents or guardian, committed by any court of competent jurisdiction, or placed through an agreement between it and the parent, parents or guardians where legal custody remains with the parent, parents, or guardians.

The Board shall adopt regulations for the provision of foster care services by local boards, which shall be directed toward the prevention of unnecessary foster care placements and towards the immediate care of and permanent planning for children in the custody of or placed by local boards and that shall achieve, as quickly as practicable, permanent placements

for such children. The local board shall first seek out kinship care options to keep children out of foster care and as a placement option for those children in foster care, if it is in the child's best interests, pursuant to § 63.2-900.1. In cases in which a child cannot be returned to his prior family or placed for adoption and kinship care is not currently in the best interests of the child, the local board shall consider the placement and services that afford the best alternative for protecting the child's welfare. Placements may include but are not limited to family foster care, treatment foster care and residential care. Services may include but are not limited to assessment and stabilization, diligent family search, intensive in-home, intensive wraparound, respite, mentoring, family mentoring, adoption support, supported adoption, crisis stabilization or other community-based services. The Board shall also approve in foster care policy the language of the agreement required in § 63.2-902. The agreement shall include at a minimum a Code of Ethics and mutual responsibilities for all parties to the agreement.

Within 30 days of accepting for foster care placement a person under 18 years of age whose father is unknown, the local board shall request a search of the Putative Father Registry established pursuant to Article 7 (§ 63.2-1249 et seq.) of Chapter 12 to determine whether any man has registered as the putative father of the child. If the search results indicate that a man has registered as the putative father of the child, the local board shall contact the man to begin the process to determine paternity.

The local board shall, in accordance with the regulations adopted by the Board and in accordance with the entrustment agreement or other order by which such person is entrusted or committed to its care, have custody and control of the person so entrusted or committed to it until he is lawfully discharged, has been adopted or has attained his majority.

Whenever a local board places a child where legal custody remains with the parent, parents or guardians, the board shall enter into an agreement with the parent, parents or guardians. The agreement shall specify the responsibilities of each for the care and control of the child.

The local board shall have authority to place for adoption, and to consent to the adoption of, any child properly committed or entrusted to its care when the order of commitment or entrustment agreement between the parent or parents and the agency provides for the termination of all parental rights and responsibilities with respect to the child for the purpose of placing and consenting to the adoption of the child.

The local board shall also have the right to accept temporary custody of any person under 18 years of age taken into custody pursuant to subdivision B of § 16.1-246 or § 63.2-1517. The placement of a child in a foster home, whether within or without the Commonwealth, shall not be for the purpose of adoption unless the placement agreement between the foster parents and the local board specifically so stipulates.

B. Prior to the approval of any family for placement of a child, a home study shall be completed and the prospective foster or adoptive parents shall be informed that information about shaken baby syndrome, its effects, and resources for help and support for caretakers is available on a website maintained by the Department as prescribed in regulations adopted by the Board. *Home studies by local boards shall be conducted in accordance with the Mutual Family Assessment home study template and any addenda thereto developed by the Department.*

C. Prior to placing any such child in any foster home or children's residential facility, the local board shall enter into a written agreement with the foster parents, pursuant to § 63.2-902, or other appropriate custodian setting forth therein the conditions under which the child is so placed pursuant to § 63.2-902. However, if a child is placed in a children's residential facility licensed as a temporary emergency shelter, and a verbal agreement for placement is secured within eight hours of the child's arrival at the facility, the written agreement does not need to be entered into prior to placement, but shall be completed and signed by the local board and the facility representative within 24 hours of the child's arrival or by the end of the next business day after the child's arrival.

D. Within 72 hours of placing a child of school age in a foster care placement, as defined in § 63.2-100, the local social services agency making such placement shall, in writing, (i) notify the principal of the school in which the student is to be enrolled and the superintendent of the relevant school division or his designee of such placement, and (ii) inform the principal of the status of the parental rights.

If the documents required for enrollment of the foster child pursuant to § 22.1-3.1, 22.1-270 or 22.1-271.2, are not immediately available upon taking the child into custody, the placing social services agency shall obtain and produce or otherwise ensure compliance with such requirements for the foster child within 30 days after the child's enrollment.

**§ 63.2-904. Investigation, visitation, and supervision of foster homes or independent living arrangement; removal of child.**

A. Before placing or arranging for the placement of any such child in a foster home or independent living arrangement, a local board or licensed child-placing agency shall cause a careful study to be made to determine the suitability of such home or independent living arrangement, and after placement shall cause such home or independent living arrangement and child to be visited as often as necessary to protect the interests of such child. *Home studies by local boards shall be conducted in accordance with the Mutual Family Assessment home study template and any addenda thereto developed by the Department.*

B. Every local board or licensed child-placing agency that places a child in a foster home or independent living arrangement shall maintain such supervision over such home or independent living arrangement as shall be required by the standards and policies established by the Board.

C. Whenever any child placed by a local board or licensed child-placing agency and still under its control or supervision is subject, in the home in which he is placed, to unwholesome influences or to neglect or mistreatment, or

whenever the Commissioner shall so order, such local board or agency shall cause the child to be removed from such home and shall make for him such arrangements as may be approved by the Commissioner.

D. Consistent with the reasonable and prudent parent standard defined in 42 U.S.C. § 675(10)(A), caregivers for children in foster care shall support normalcy for such children. The Board shall adopt regulations to assist local boards and licensed child-placing agencies in carrying out practices that support careful and sensible parental decisions that maintain the health, safety, and best interest of the child while at the same time encouraging his emotional and developmental growth.

**§ 63.2-1231. Home study; meeting required; exception.**

A. Prior to the consent hearing in the juvenile and domestic relations district court, a home study of the adoptive parent(s) shall be completed by a licensed or duly authorized child-placing agency and the prospective adoptive parents shall be informed that information about shaken baby syndrome, its effects, and resources for help and support for caretakers is available on a website maintained by the Department in accordance with regulations adopted by the Board. ~~The Home studies by local boards shall be conducted in accordance with the Mutual Family Assessment home study template and any addenda thereto developed by the Department. All home study studies conducted pursuant to this section, whether by a local board or a child-placing agency,~~ shall make inquiry as to (i) whether the prospective adoptive parents are financially able, morally suitable, and in satisfactory physical and mental health to enable them to care for the child; (ii) the physical and mental condition of the child, if known; (iii) the circumstances under which the child came to live, or will be living, in the home of the prospective adoptive family, as applicable; (iv) what fees have been paid by the prospective adoptive family or in their behalf in the placement and adoption of the child; (v) whether the requirements of subdivisions A 1, A 2, A 3, and A 5 of § 63.2-1232 have been met; and (vi) any other matters specified by the circuit court. In the course of the home study, the agency social worker, family-services specialist, or other qualified equivalent worker shall meet at least once with the birth parent(s) and at least once with the prospective adoptive parents. Upon agreement of both parties, such meetings may occur simultaneously or separately.

B. Any home study conducted pursuant to this section for the purpose of parental placement or agency placement shall be valid for a period of 36 months from the date of completion of the study. However, the Board may, by regulation, require an additional state criminal background check before finalizing an adoption if more than 18 months have passed from the completion of the home study.

**§ 63.2-1232. Requirements of a parental placement adoption; exception.**

A. The juvenile and domestic relations district court shall not accept consent until it determines that:

1. The birth parent(s) are aware of alternatives to adoption, adoption procedures, and opportunities for placement with other adoptive families, and that the birth parents' consent is informed and uncoerced.

2. A licensed or duly authorized child-placing agency has counseled the prospective adoptive parents with regard to alternatives to adoption, adoption procedures, including the need to address the parental rights of birth parents, the procedures for terminating such rights, and opportunities for adoption of other children; that the prospective adoptive parents' decision is informed and uncoerced; and that they intend to file an adoption petition and proceed toward a final order of adoption.

3. The birth parent(s) and adoptive parents have exchanged identifying information including but not limited to full names, addresses, physical, mental, social and psychological information and any other information necessary to promote the welfare of the child, unless both parties agree in writing to waive the disclosure of full names and addresses.

4. Any financial agreement or exchange of property among the parties and any fees charged or paid for services related to the placement or adoption of the child have been disclosed to the court and that all parties understand that no binding contract regarding placement or adoption of the child exists.

5. There has been no violation of the provisions of § 63.2-1218 in connection with the placement; however, if it appears there has been such violation, the court shall not reject consent of the birth parent to the adoption for that reason alone but shall report the alleged violation as required by § 63.2-1219.

6. A licensed or duly authorized child-placing agency has conducted a home study of the prospective adoptive home in accordance with regulations established by the Board *and, in the case of home studies by local boards, in accordance with the Mutual Family Assessment home study template and any addenda thereto developed by the Department*, and has provided to the court a report of such home study, which shall contain the agency's recommendation regarding the suitability of the placement. A married couple or an unmarried individual shall be eligible to receive placement of a child for adoption.

7. The birth parent(s) have been informed of their opportunity to be represented by legal counsel.

B. The juvenile and domestic relations district court shall not accept the consent if the requirements of subsection A have not been met. In such cases, it shall refer the birth parent to a licensed or duly authorized child-placing agency for investigation and recommendation in accordance with §§ 63.2-1208 and 63.2-1238. If the juvenile and domestic relations district court determines that any of the parties is financially unable to obtain the required services, it shall refer the matter to the local director.

C. In cases in which a birth parent who resides in the Commonwealth places his child for adoption with adoptive parents in another state and the laws of that receiving state govern the proceeding for adoption, the birth parent may elect to waive the execution of consent pursuant to § 63.2-1233 and instead execute consent to the adoption pursuant to the laws of the receiving state. Any waiver of consent made pursuant to this subsection shall be made under oath and in writing, and shall expressly state that the birth parent has received independent legal counsel from an attorney licensed in the

Commonwealth of Virginia advising him of the laws of the Commonwealth, the laws of the receiving state pursuant to which he elects to consent to the adoption, and the effects of his waiver of consent pursuant to § 63.2-1233 and election to consent pursuant to the laws of the receiving state. Any waiver of consent and election to consent pursuant to the laws of a receiving state shall include the name, address, and telephone number of such legal counsel. Failure to comply with this section shall render a waiver of consent pursuant to § 63.2-1233 and election to consent pursuant to the laws of the receiving state as authorized by this subsection invalid.

D. When consent to a parental placement adoption is sought pursuant to this article and the prospective adoptive parent(s) have had continuous physical and legal custody of the child for five or more years, the juvenile and domestic relations district court may, in its discretion, accept consent without (i) a home study as required by subsection A of § 63.2-1231 and subdivision A 6 of this section and (ii) the meeting and counseling requirements, as they relate to the prospective adoptive parent(s), listed in subsection A of § 63.2-1231 and subdivision A 2 of this section. All other provisions of the parental placement adoption statutes shall apply.

**2. That the Department of Social Services is authorized to amend or update its Mutual Family Assessment home study template and any addenda thereto when necessary to improve the process of adoptive and foster placements, provided such amendments or updates do not lessen the requirements of the home study process.**

### CHAPTER 194

*An Act to amend and reenact § 63.2-901.1 of the Code of Virginia, relating to Fostering Futures program; background check.*

[H 1942]

Approved February 23, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 63.2-901.1 of the Code of Virginia is amended and reenacted as follows:**

**§ 63.2-901.1. Criminal history and central registry check for placements of children.**

A. Each local board and licensed child-placing agency shall obtain, in accordance with regulations adopted by the Board, criminal history record information from the Central Criminal Records Exchange and the Federal Bureau of Investigation through the Central Criminal Records Exchange and the results of a search of the child abuse and neglect central registry of any individual with whom the local board or licensed child-placing agency is considering placing a child on an emergency, temporary or permanent basis, including the birth parent of a child in foster care placement, unless the birth parent has revoked an entrustment agreement pursuant to § 63.2-1223 or 63.2-1817 or a local board or birth parent revokes a placement agreement while legal custody remains with the parent, parents, or guardians pursuant to § 63.2-900. The local board or licensed child-placing agency shall also obtain such background checks on all adult household members residing in the home of the individual with whom the child is to be placed pursuant to subsection B. Such state criminal records or registry search shall be at no cost to the individual. The local board or licensed child-placing agency shall pay for the national fingerprint criminal history record check or may require such individual to pay the cost of the fingerprinting or the national fingerprinting criminal history record check or both. In addition to the fees assessed by the Federal Bureau of Investigation, the designated state agency may assess a fee for responding to requests required by this section.

B. Background checks pursuant to this section require the following:

1. A sworn statement or affirmation disclosing whether or not the individual has a criminal conviction or is the subject of any pending criminal charges within or outside the Commonwealth and whether or not the individual has been the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth;

2. That the individual submit to fingerprinting and provide personal descriptive information to be forwarded along with the individual's fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information. The local board or licensed child-placing agency shall inform the individual that he is entitled to obtain a copy of any background check report and to challenge the accuracy and completeness of any such report and obtain a prompt resolution before a final decision is made of the individual's fitness to have responsibility for the safety and well-being of children.

The Central Criminal Records Exchange, upon receipt of an individual's record or notification that no record exists, shall forward it to the designated state agency. The state agency shall, upon receipt of an individual's record lacking disposition data, conduct research in whatever state and local recordkeeping systems are available in order to obtain complete data. The state agency shall report to the local board or licensed child-placing agency whether the individual meets the criteria for having responsibility for the safety and well-being of children based on whether or not the individual has ever been convicted of or is the subject of pending charges set forth in § 63.2-1719 or an equivalent set forth in another state. Copies of any information received by a local board or licensed child-placing agency pursuant to this section shall be available to the state agency that regulates or operates such a child-placing agency but shall not be disseminated further; and

3. A search of the central registry maintained pursuant to § 63.2-1515 for any founded complaint of child abuse or neglect. In addition, a search of the child abuse and neglect registry maintained by any other state pursuant to the Adam Walsh Child Protection and Safety Act of 2006, Pub. L. 109-248, in which a prospective parent or other adult in the home has resided in the preceding five years.

C. In emergency circumstances, each local board may obtain, from a criminal justice agency, criminal history record information from the Central Criminal Records Exchange and the Federal Bureau of Investigation through the Virginia Criminal Information Network (VCIN) for the criminal records search authorized by this section. Within three days of placing a child, the local board shall require the individual for whom a criminal history record information check was requested to submit to fingerprinting and provide personal descriptive information to be forwarded along with the fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal record history information, pursuant to subsection B. The child shall be removed from the home immediately if any adult resident fails to provide such fingerprints and written permission to perform a criminal history record check when requested.

D. Any individual with whom the local board is considering placing a child on an emergency basis shall submit to a search of the central registry maintained pursuant to § 63.2-1515 and the Adam Walsh Child Protection and Safety Act of 2006, Pub. L. 109-248 for any founded complaint of child abuse or neglect. The search of the central registry must occur prior to emergency placement. Such central registry search shall be at no cost to the individual. Prior to emergency placement, the individual shall provide a written statement of affirmation disclosing whether he has ever been the subject of a founded case of child abuse or neglect within or outside the Commonwealth. Child-placing agencies shall not approve individuals with a founded complaint of child abuse as foster or adoptive parents.

E. The child-placing agency shall not approve a foster or adoptive home if any individual has a record of an offense defined in § 63.2-1719 or a founded complaint of abuse or neglect as maintained in registries pursuant to § 63.2-1515 and 42 U.S.C.S. 16901 et seq. A child-placing agency may approve as a foster parent an applicant convicted of not more than one misdemeanor as set out in § 18.2-57, not involving the abuse, neglect, or moral turpitude of a minor, provided 10 years have elapsed following the conviction.

F. A local board or child-placing agency may approve as a kinship foster care parent an applicant convicted of the following offenses, provided that 10 years have elapsed from the date of the conviction and the local board or child-placing agency makes a specific finding that approving the kinship foster care placement would not adversely affect the safety and well-being of the child: (i) a felony conviction for possession of drugs as set out in Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, but not including a felony conviction for possession of drugs with the intent to distribute; (ii) a misdemeanor conviction for arson as set out in Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2; or (iii) an equivalent offense in another state.

G. *Any individual participating in the Fostering Futures program, which allows local departments to continue to provide foster care services to individuals who are 18 years of age or older but have not reached 21 years of age, who is placed in a foster home shall be subject to the background check requirements set forth in subsection B. The results of such background check shall be used for the sole purpose of determining whether other children should be placed or remain in the same foster home as the individual subject to the background check. The results of the background check shall not be used to terminate or suspend the approval of the foster home pursuant to subsection E. For purposes of this subsection, "individual participating in the Fostering Futures program" means a person who is 18 years of age or older but has not reached 21 years of age and is receiving foster care services through the Fostering Futures program.*

## CHAPTER 195

*An Act to amend and reenact §§ 63.2-100 and 63.2-1606 of the Code of Virginia, relating to adult exploitation.*

[H 1945]

Approved February 23, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 63.2-100 and 63.2-1606 of the Code of Virginia are amended and reenacted as follows:**

**§ 63.2-100. Definitions.**

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

"Abused or neglected child" means any child less than 18 years of age:

1. Whose parents or other person responsible for his care creates or inflicts, threatens to create or inflict, or allows to be created or inflicted upon such child a physical or mental injury by other than accidental means, or creates a substantial risk of death, disfigurement, or impairment of bodily or mental functions, including, but not limited to, a child who is with his parent or other person responsible for his care either (i) during the manufacture or attempted manufacture of a Schedule I or II controlled substance, or (ii) during the unlawful sale of such substance by that child's parents or other person responsible for his care, where such manufacture, or attempted manufacture or unlawful sale would constitute a felony violation of § 18.2-248;

2. Whose parents or other person responsible for his care neglects or refuses to provide care necessary for his health. However, no child who in good faith is under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination shall for that reason alone be considered to be an abused or neglected child. Further, a decision by parents who have legal authority for the child or, in the absence of parents with legal authority for the child, any person with legal authority for the child, who refuses a particular medical treatment for a child with a life-threatening condition shall not be deemed a refusal to provide necessary care if (i) such decision is

made jointly by the parents or other person with legal authority and the child; (ii) the child has reached 14 years of age and is sufficiently mature to have an informed opinion on the subject of his medical treatment; (iii) the parents or other person with legal authority and the child have considered alternative treatment options; and (iv) the parents or other person with legal authority and the child believe in good faith that such decision is in the child's best interest. Nothing in this subdivision shall be construed to limit the provisions of § 16.1-278.4;

3. Whose parents or other person responsible for his care abandons such child;

4. Whose parents or other person responsible for his care commits or allows to be committed any act of sexual exploitation or any sexual act upon a child in violation of the law;

5. Who is without parental care or guardianship caused by the unreasonable absence or the mental or physical incapacity of the child's parent, guardian, legal custodian or other person standing in loco parentis;

6. Whose parents or other person responsible for his care creates a substantial risk of physical or mental injury by knowingly leaving the child alone in the same dwelling, including an apartment as defined in § 55-79.2, with a person to whom the child is not related by blood or marriage and who the parent or other person responsible for his care knows has been convicted of an offense against a minor for which registration is required as a violent sexual offender pursuant to § 9.1-902; or

7. Who has been identified as a victim of sex trafficking or severe forms of trafficking as defined in the Trafficking Victims Protection Act of 2000, 22 U.S.C § 7102 et seq., and in the Justice for Victims of Trafficking Act of 2015, 42 U.S.C. § 5101 et seq.

If a civil proceeding under this title is based solely on the parent having left the child at a hospital or emergency medical services agency, it shall be an affirmative defense that such parent safely delivered the child to a hospital that provides 24-hour emergency services or to an attended emergency medical services agency that employs emergency medical services providers, within 14 days of the child's birth. For purposes of terminating parental rights pursuant to § 16.1-283 and placement for adoption, the court may find such a child is a neglected child upon the ground of abandonment.

"Adoptive home" means any family home selected and approved by a parent, local board or a licensed child-placing agency for the placement of a child with the intent of adoption.

"Adoptive placement" means arranging for the care of a child who is in the custody of a child-placing agency in an approved home for the purpose of adoption.

"Adult abuse" means the willful infliction of physical pain, injury or mental anguish or unreasonable confinement of an adult *as defined in § 63.2-1603*.

"Adult day care center" means any facility that is either operated for profit or that desires licensure and that provides supplementary care and protection during only a part of the day to four or more aged, infirm or disabled adults who reside elsewhere, except (i) a facility or portion of a facility licensed by the State Board of Health or the Department of Behavioral Health and Developmental Services, and (ii) the home or residence of an individual who cares for only persons related to him by blood or marriage. Included in this definition are any two or more places, establishments or institutions owned, operated or controlled by a single entity and providing such supplementary care and protection to a combined total of four or more aged, infirm or disabled adults.

"Adult exploitation" means the illegal, *unauthorized, improper, or fraudulent* use of an ~~incapacitated~~ adult *as defined in § 63.2-1603* or his *funds, property, benefits, resources, or other assets* for another's profit, *benefit, or advantage, including a caregiver or person serving in a fiduciary capacity, or that deprives the adult of his rightful use of or access to such funds, property, benefits, resources, or other assets*. "Adult exploitation" includes (i) an intentional breach of a fiduciary obligation to an adult to his detriment or an intentional failure to use the financial resources of an adult in a manner that results in neglect of such adult; (ii) the acquisition, possession, or control of an adult's financial resources or property through the use of undue influence, coercion, or duress; and (iii) forcing or coercing an adult to pay for goods or services or perform services against his will for another's profit, benefit, or advantage if the adult did not agree, or was tricked, misled, or defrauded into agreeing, to pay for such goods or services or to perform such services.

"Adult foster care" means room and board, supervision, and special services to an adult who has a physical or mental condition. Adult foster care may be provided by a single provider for up to three adults.

"Adult neglect" means that an adult *as defined in § 63.2-1603* is living under such circumstances that he is not able to provide for himself or is not being provided services necessary to maintain his physical and mental health and that the failure to receive such necessary services impairs or threatens to impair his well-being. However, no adult shall be considered neglected solely on the basis that such adult is receiving religious nonmedical treatment or religious nonmedical nursing care in lieu of medical care, provided that such treatment or care is performed in good faith and in accordance with the religious practices of the adult and there is a written or oral expression of consent by that adult.

"Adult protective services" means services provided by the local department that are necessary to protect an adult *as defined in § 63.2-1603* from abuse, neglect or exploitation.

"Assisted living care" means a level of service provided by an assisted living facility for adults who may have physical or mental impairments and require at least a moderate level of assistance with activities of daily living.

"Assisted living facility" means any congregate residential setting that provides or coordinates personal and health care services, 24-hour supervision, and assistance (scheduled and unscheduled) for the maintenance or care of four or more adults who are aged, infirm or disabled and who are cared for in a primarily residential setting, except (i) a facility or portion

of a facility licensed by the State Board of Health or the Department of Behavioral Health and Developmental Services, but including any portion of such facility not so licensed; (ii) the home or residence of an individual who cares for or maintains only persons related to him by blood or marriage; (iii) a facility or portion of a facility serving infirm or disabled persons between the ages of 18 and 21, or 22 if enrolled in an educational program for the handicapped pursuant to § 22.1-214, when such facility is licensed by the Department as a children's residential facility under Chapter 17 (§ 63.2-1700 et seq.), but including any portion of the facility not so licensed; and (iv) any housing project for persons 62 years of age or older or the disabled that provides no more than basic coordination of care services and is funded by the U.S. Department of Housing and Urban Development, by the U.S. Department of Agriculture, or by the Virginia Housing Development Authority. Included in this definition are any two or more places, establishments or institutions owned or operated by a single entity and providing maintenance or care to a combined total of four or more aged, infirm or disabled adults. Maintenance or care means the protection, general supervision and oversight of the physical and mental well-being of an aged, infirm or disabled individual.

"Auxiliary grants" means cash payments made to certain aged, blind or disabled individuals who receive benefits under Title XVI of the Social Security Act, as amended, or would be eligible to receive these benefits except for excess income.

"Birth family" or "birth sibling" means the child's biological family or biological sibling.

"Birth parent" means the child's biological parent and, for purposes of adoptive placement, means parent(s) by previous adoption.

"Board" means the State Board of Social Services.

"Child" means any natural person under 18 years of age.

"Child day center" means a child day program offered to (i) two or more children under the age of 13 in a facility that is not the residence of the provider or of any of the children in care or (ii) 13 or more children at any location.

"Child day program" means a regularly operating service arrangement for children where, during the absence of a parent or guardian, a person or organization has agreed to assume responsibility for the supervision, protection, and well-being of a child under the age of 13 for less than a 24-hour period.

"Child-placing agency" means any person who places children in foster homes, adoptive homes or independent living arrangements pursuant to § 63.2-1819 or a local board that places children in foster homes or adoptive homes pursuant to §§ 63.2-900, 63.2-903, and 63.2-1221. Officers, employees, or agents of the Commonwealth, or any locality acting within the scope of their authority as such, who serve as or maintain a child-placing agency, shall not be required to be licensed.

"Child-protective services" means the identification, receipt and immediate response to complaints and reports of alleged child abuse or neglect for children under 18 years of age. It also includes assessment, and arranging for and providing necessary protective and rehabilitative services for a child and his family when the child has been found to have been abused or neglected or is at risk of being abused or neglected.

"Child support services" means any civil, criminal or administrative action taken by the Division of Child Support Enforcement to locate parents; establish paternity; and establish, modify, enforce, or collect child support, or child and spousal support.

"Child-welfare agency" means a child day center, child-placing agency, children's residential facility, family day home, family day system, or independent foster home.

"Children's residential facility" means any facility, child-caring institution, or group home that is maintained for the purpose of receiving children separated from their parents or guardians for full-time care, maintenance, protection and guidance, or for the purpose of providing independent living services to persons between 18 and 21 years of age who are in the process of transitioning out of foster care. Children's residential facility shall not include:

1. A licensed or accredited educational institution whose pupils, in the ordinary course of events, return annually to the homes of their parents or guardians for not less than two months of summer vacation;
2. An establishment required to be licensed as a summer camp by § 35.1-18; and
3. A licensed or accredited hospital legally maintained as such.

"Commissioner" means the Commissioner of the Department, his designee or authorized representative.

"Department" means the State Department of Social Services.

"Department of Health and Human Services" means the Department of Health and Human Services of the United States government or any department or agency thereof that may hereafter be designated as the agency to administer the Social Security Act, as amended.

"Disposable income" means that part of the income due and payable of any individual remaining after the deduction of any amount required by law to be withheld.

"Energy assistance" means benefits to assist low-income households with their home heating and cooling needs, including, but not limited to, purchase of materials or substances used for home heating, repair or replacement of heating equipment, emergency intervention in no-heat situations, purchase or repair of cooling equipment, and payment of electric bills to operate cooling equipment, in accordance with § 63.2-805, or provided under the Virginia Energy Assistance Program established pursuant to the Low-Income Home Energy Assistance Act of 1981 (Title XXVI of Public Law 97-35), as amended.

"Family day home" means a child day program offered in the residence of the provider or the home of any of the children in care for one through 12 children under the age of 13, exclusive of the provider's own children and any children who reside in the home, when at least one child receives care for compensation. The provider of a licensed or registered

family day home shall disclose to the parents or guardians of children in their care the percentage of time per week that persons other than the provider will care for the children. Family day homes serving five through 12 children, exclusive of the provider's own children and any children who reside in the home, shall be licensed. However, no family day home shall care for more than four children under the age of two, including the provider's own children and any children who reside in the home, unless the family day home is licensed or voluntarily registered. However, a family day home where the children in care are all related to the provider by blood or marriage shall not be required to be licensed.

"Family day system" means any person who approves family day homes as members of its system; who refers children to available family day homes in that system; and who, through contractual arrangement, may provide central administrative functions including, but not limited to, training of operators of member homes; technical assistance and consultation to operators of member homes; inspection, supervision, monitoring, and evaluation of member homes; and referral of children to available health and social services.

"Foster care placement" means placement of a child through (i) an agreement between the parents or guardians and the local board where legal custody remains with the parents or guardians or (ii) an entrustment or commitment of the child to the local board or licensed child-placing agency.

"Foster home" means the place of residence of any natural person in which any child, other than a child by birth or adoption of such person, resides as a member of the household.

"General relief" means money payments and other forms of relief made to those persons mentioned in § 63.2-802 in accordance with the regulations of the Board and reimbursable in accordance with § 63.2-401.

"Independent foster home" means a private family home in which any child, other than a child by birth or adoption of such person, resides as a member of the household and has been placed therein independently of a child-placing agency except (i) a home in which are received only children related by birth or adoption of the person who maintains such home and children of personal friends of such person and (ii) a home in which is received a child or children committed under the provisions of subdivision A 4 of § 16.1-278.2, subdivision 6 of § 16.1-278.4, or subdivision A 13 of § 16.1-278.8.

"Independent living" means a planned program of services designed to assist a child age 16 and over and persons who are former foster care children between the ages of 18 and 21 in transitioning to self-sufficiency.

"Independent living arrangement" means placement of a child at least 16 years of age who is in the custody of a local board or licensed child-placing agency and has been placed by the local board or licensed child-placing agency in a living arrangement in which he does not have daily substitute parental supervision.

"Independent living services" means services and activities provided to a child in foster care 14 years of age or older who was committed or entrusted to a local board of social services, child welfare agency, or private child-placing agency. "Independent living services" may also mean services and activities provided to a person who (i) was in foster care on his 18th birthday and has not yet reached the age of 21 years or (ii) is at least 18 years of age but who has not yet reached 21 years of age and who, immediately prior to his commitment to the Department of Juvenile Justice, was in the custody of a local board of social services. Such services shall include counseling, education, housing, employment, and money management skills development, access to essential documents, and other appropriate services to help children or persons prepare for self-sufficiency.

"Independent physician" means a physician who is chosen by the resident of the assisted living facility and who has no financial interest in the assisted living facility, directly or indirectly, as an owner, officer, or employee or as an independent contractor with the residence.

"Intercountry placement" means the arrangement for the care of a child in an adoptive home or foster care placement into or out of the Commonwealth by a licensed child-placing agency, court, or other entity authorized to make such placements in accordance with the laws of the foreign country under which it operates.

"Interstate placement" means the arrangement for the care of a child in an adoptive home, foster care placement or in the home of the child's parent or with a relative or nonagency guardian, into or out of the Commonwealth, by a child-placing agency or court when the full legal right of the child's parent or nonagency guardian to plan for the child has been voluntarily terminated or limited or severed by the action of any court.

"Kinship care" means the full-time care, nurturing, and protection of children by relatives.

"Local board" means the local board of social services representing one or more counties or cities.

"Local department" means the local department of social services of any county or city in this Commonwealth.

"Local director" means the director or his designated representative of the local department of the city or county.

"Merit system plan" means those regulations adopted by the Board in the development and operation of a system of personnel administration meeting requirements of the federal Office of Personnel Management.

"Parental placement" means locating or effecting the placement of a child or the placing of a child in a family home by the child's parent or legal guardian for the purpose of foster care or adoption.

"Public assistance" means Temporary Assistance for Needy Families (TANF); auxiliary grants to the aged, blind and disabled; medical assistance; energy assistance; food stamps; employment services; child care; and general relief.

"Qualified assessor" means an entity contracting with the Department of Medical Assistance Services to perform nursing facility pre-admission screening or to complete the uniform assessment instrument for a home and community-based waiver program, including an independent physician contracting with the Department of Medical Assistance Services to complete the uniform assessment instrument for residents of assisted living facilities, or any hospital

that has contracted with the Department of Medical Assistance Services to perform nursing facility pre-admission screenings.

"Registered family day home" means any family day home that has met the standards for voluntary registration for such homes pursuant to regulations adopted by the Board and that has obtained a certificate of registration from the Commissioner.

"Residential living care" means a level of service provided by an assisted living facility for adults who may have physical or mental impairments and require only minimal assistance with the activities of daily living. The definition of "residential living care" includes the services provided by independent living facilities that voluntarily become licensed.

"Sibling" means each of two or more children having one or more parents in common.

"Social services" means foster care, adoption, adoption assistance, child-protective services, domestic violence services, or any other services program implemented in accordance with regulations adopted by the Board. Social services also includes adult services pursuant to Article 4 (§ 51.5-144 et seq.) of Chapter 14 of Title 51.5 and adult protective services pursuant to Article 5 (§ 51.5-148) of Chapter 14 of Title 51.5 provided by local departments of social services in accordance with regulations and under the supervision of the Commissioner for Aging and Rehabilitative Services.

"Special order" means an order imposing an administrative sanction issued to any party licensed pursuant to this title by the Commissioner that has a stated duration of not more than 12 months. A special order shall be considered a case decision as defined in § 2.2-4001.

"Temporary Assistance for Needy Families" or "TANF" means the program administered by the Department through which a relative can receive monthly cash assistance for the support of his eligible children.

"Temporary Assistance for Needy Families-Unemployed Parent" or "TANF-UP" means the Temporary Assistance for Needy Families program for families in which both natural or adoptive parents of a child reside in the home and neither parent is exempt from the Virginia Initiative for Employment Not Welfare (VIEW) participation under § 63.2-609.

"Title IV-E Foster Care" means a federal program authorized under §§ 472 and 473 of the Social Security Act, as amended, and administered by the Department through which foster care is provided on behalf of qualifying children.

**§ 63.2-1606. Protection of aged or incapacitated adults; mandated and voluntary reporting.**

A. Matters giving reason to suspect the abuse, neglect or exploitation of adults shall be reported immediately upon the reporting person's determination that there is such reason to suspect. Medical facilities inspectors of the Department of Health are exempt from reporting suspected abuse immediately while conducting federal inspection surveys in accordance with § 1864 of Title XVIII and Title XIX of the Social Security Act, as amended, of certified nursing facilities as defined in § 32.1-123. Reports shall be made to the local department or the adult protective services hotline in accordance with requirements of this section by the following persons acting in their professional capacity:

1. Any person licensed, certified, or registered by health regulatory boards listed in § 54.1-2503, with the exception of persons licensed by the Board of Veterinary Medicine;
2. Any mental health services provider as defined in § 54.1-2400.1;
3. Any emergency medical services provider certified by the Board of Health pursuant to § 32.1-111.5, unless such provider immediately reports the suspected abuse, neglect or exploitation directly to the attending physician at the hospital to which the adult is transported, who shall make such report forthwith;
4. Any guardian or conservator of an adult;
5. Any person employed by or contracted with a public or private agency or facility and working with adults in an administrative, supportive or direct care capacity;
6. Any person providing full, intermittent or occasional care to an adult for compensation, including, but not limited to, companion, chore, homemaker, and personal care workers; and
7. Any law-enforcement officer.

B. The report shall be made in accordance with subsection A to the local department of the county or city wherein the adult resides or wherein the adult abuse, neglect or exploitation is believed to have occurred or to the adult protective services hotline. Nothing in this section shall be construed to eliminate or supersede any other obligation to report as required by law. If a person required to report under this section receives information regarding abuse, neglect or exploitation while providing professional services in a hospital, nursing facility or similar institution, then he may, in lieu of reporting, notify the person in charge of the institution or his designee, who shall report such information, in accordance with the institution's policies and procedures for reporting such matters, immediately upon his determination that there is reason to suspect abuse, neglect or exploitation. Any person required to make the report or notification required by this subsection shall do so either orally or in writing and shall disclose all information that is the basis for the suspicion of adult abuse, neglect or exploitation. Upon request, any person required to make the report shall make available to the adult protective services worker and the local department investigating the reported case of adult abuse, neglect or exploitation any information, records or reports which document the basis for the report. All persons required to report suspected adult abuse, neglect or exploitation shall cooperate with the investigating adult protective services worker of a local department and shall make information, records and reports which are relevant to the investigation available to such worker to the extent permitted by state and federal law. Criminal investigative reports received from law-enforcement agencies shall not be further disseminated by the investigating agency nor shall they be subject to public disclosure; such reports may, however, be disclosed to the Adult Fatality Review Team as provided in § 32.1-283.5 or to a local or regional adult fatality

review team as provided in § 32.1-283.6 and, if reviewed by the Team or a local or regional adult fatality review team, shall be subject to applicable confidentiality requirements of the Team or a local or regional adult fatality review team.

C. Any financial institution staff who suspects that an adult has been exploited financially may report such suspected exploitation to the local department of the county or city wherein the adult resides or wherein the exploitation is believed to have occurred or to the adult protective services hotline. For purposes of this section, "financial institution staff" means any employee, agent, qualified individual, or representative of a bank, trust company, savings institution, loan association, consumer finance company, credit union, investment company, investment advisor, securities firm, accounting firm, or insurance company.

D. Any person other than those specified in subsection A who suspects that an adult is an abused, neglected or exploited adult may report the matter to the local department of the county or city wherein the adult resides or wherein the abuse, neglect or exploitation is believed to have occurred or to the adult protective services hotline.

E. Any person who makes a report or provides records or information pursuant to subsection A, C, or D, or who testifies in any judicial proceeding arising from such report, records or information, or who takes or causes to be taken with the adult's or the adult's legal representative's informed consent photographs, video recordings, or appropriate medical imaging of the adult who is subject of a report shall be immune from any civil or criminal liability on account of such report, records, information, photographs, video recordings, appropriate medical imaging or testimony, unless such person acted in bad faith or with a malicious purpose.

F. An employer of a mandated reporter shall not prohibit a mandated reporter from reporting directly to the local department or to the adult protective services hotline. Employers whose employees are mandated reporters shall notify employees upon hiring of the requirement to report.

G. Any person 14 years of age or older who makes or causes to be made a report of adult abuse, neglect, or exploitation that he knows to be false shall be guilty of a Class 4 misdemeanor. Any subsequent conviction of this provision shall be a Class 2 misdemeanor.

H. Any person who fails to make a required report or notification pursuant to subsection A shall be subject to a civil penalty of not more than \$500 for the first failure and not less than \$100 nor more than \$1,000 for any subsequent failures. Civil penalties under subdivision A 7 shall be determined by a court of competent jurisdiction, in its discretion. All other civil penalties under this section shall be determined by the Commissioner for Aging and Rehabilitative Services or his designee. The Commissioner for Aging and Rehabilitative Services shall establish by regulation a process for imposing and collecting civil penalties, and a process for appeal of the imposition of such penalty pursuant to § 2.2-4026 of the Administrative Process Act.

I. Any mandated reporter who has reasonable cause to suspect that an adult died as a result of abuse or neglect shall immediately report such suspicion to the appropriate medical examiner and to the appropriate law-enforcement agency, notwithstanding the existence of a death certificate signed by a licensed physician. The medical examiner and the law-enforcement agency shall receive the report and determine if an investigation is warranted. The medical examiner may order an autopsy. If an autopsy is conducted, the medical examiner shall report the findings to law enforcement, as appropriate, and to the local department or to the adult protective services hotline.

J. No person or entity shall be obligated to report any matter if the person or entity has actual knowledge that the same matter has already been reported to the local department or to the adult protective services hotline.

K. All law-enforcement departments and other state and local departments, agencies, authorities and institutions shall cooperate with each adult protective services worker of a local department in the detection, investigation and prevention of adult abuse, neglect and exploitation.

## CHAPTER 196

*An Act to amend and reenact § 63.2-1701 of the Code of Virginia, relating to licensure of child welfare agencies operated by agencies of the Commonwealth.*

[H 2156]

Approved February 23, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 63.2-1701 of the Code of Virginia is amended and reenacted as follows:**

**§ 63.2-1701. Licenses required; issuance, expiration, and renewal; maximum number of residents, participants or children; posting of licenses.**

A. *As used in this section, "person who operates or maintains a child welfare agency" means any individual; corporation; partnership; association; limited liability company; local government; state agency, including any department, institution, authority, instrumentality, board, or other administrative agency of the Commonwealth; or other legal or commercial entity that operates or maintains a child welfare agency.*

B. Every person who constitutes, or who operates or maintains, an assisted living facility, adult day care center, or child welfare agency shall obtain the appropriate license from the Commissioner, which may be renewed. However, no license shall be required for an adult day care center that provides services only to individuals enrolled in a Programs of All-Inclusive Care for the Elderly program operated in accordance with an agreement between the provider, the Department

of Medical Assistance Services and the Centers for Medicare and Medicaid Services. The Commissioner, upon request, shall consult with, advise, and assist any person interested in securing and maintaining any such license. Each application for a license shall be made to the Commissioner, in such form as he may prescribe. It shall contain the name and address of the applicant and, if the applicant is an association, partnership, limited liability company, or corporation, the names and addresses of its officers and agents. The application shall also contain a description of the activities proposed to be engaged in and the facilities and services to be employed, together with other pertinent information as the Commissioner may require.

~~B~~. C. The licenses shall be issued on forms prescribed by the Commissioner. Any two or more licenses may be issued for concurrent operation of more than one assisted living facility, adult day care center, or child welfare agency, but each license shall be issued upon a separate form. Each license and renewals thereof for an assisted living facility, adult day care center, or child welfare agency may be issued for periods of up to three successive years, unless sooner revoked or surrendered. Licenses issued to child day centers under this chapter shall have a duration of two years from date of issuance.

~~C~~. D. The length of each license or renewal thereof for an assisted living facility shall be based on the judgment of the Commissioner regarding the compliance history of the facility and the extent to which it meets or exceeds state licensing standards. On the basis of this judgment, the Commissioner may issue licenses or renewals thereof for periods of six months, one year, two years, or three years.

~~D~~. E. The Commissioner may extend or shorten the duration of licensure periods for a child welfare agency whenever, in his sole discretion, it is administratively necessary to redistribute the workload for greater efficiency in staff utilization.

~~E~~. F. Each license shall indicate the maximum number of persons who may be cared for in the assisted living facility, adult day care center, or child welfare agency for which it is issued.

~~F~~. G. The license and any other documents required by the Commissioner shall be posted in a conspicuous place on the licensed premises.

~~G~~. H. Every person issued a license that has not been suspended or revoked shall renew such license prior to its expiration.

## CHAPTER 197

*An Act to require the Secretary of Health and Human Resources to convene a work group to study barriers to treatment of substance-exposed infants in the Commonwealth.*

[H 2162]

Approved February 23, 2017

### **Be it enacted by the General Assembly of Virginia:**

**1. § 1.** *That the Secretary of Health and Human Resources shall convene a work group to study barriers to treatment of substance-exposed infants in the Commonwealth. Such work group shall include representatives of the Departments of Behavioral Health and Developmental Services and Health and Social Services and such other stakeholders as the Secretary of Health and Human Resources may deem appropriate and shall (i) review current policies and practices governing the identification and treatment of substance-exposed infants in the Commonwealth; (ii) identify barriers to treatment of substance-exposed infants in the Commonwealth, including barriers related to identification and reporting of such infants, data collection, interagency coordination and collaboration, service planning, service availability, and funding; and (iii) develop legislative, budgetary, and policy recommendations for the elimination of barriers to treatment of substance-exposed infants in the Commonwealth. The Secretary shall report his findings to the Governor and the General Assembly by December 1, 2017.*

**2. That an emergency exists and this act is in force from its passage.**

## CHAPTER 198

*An Act to require the Department of Medical Assistance Services to convene a work group to identify and develop processes for streamlining the application and enrollment process for Medicaid and FAMIS for incarcerated individuals.*

[H 2183]

Approved February 23, 2017

### **Be it enacted by the General Assembly of Virginia:**

**1. § 1.** *That the Department of Medical Assistance Services shall convene a work group to identify and develop processes for streamlining the application and enrollment process for the Commonwealth's program of medical assistance services provided pursuant to the state plan for medical assistance, also known as Medicaid, and services provided through the Family Access to Medical Insurance Security (FAMIS) Plan for eligible incarcerated individuals so that applicable services shall be available to such individuals immediately upon release from the correctional facility. Such work group shall include representatives of the Departments of Social Services, Behavioral Health and Developmental Services, Corrections, and Juvenile Justice; the Virginia Sheriffs' Association; the Virginia Association of Regional Jails; the Virginia Juvenile Detention Association; the Virginia Chapter of the National Alliance on Mental Illness; the Virginia Association of*

Community Services Boards; the Virginia League of Social Services Executives; and other relevant stakeholders. The work group shall identify and take such steps as may be feasible to implement an efficient and cost-effective process for (i) determining eligibility for Medicaid and FAMIS at the time of incarceration or detention and (ii) processing applications for eligible individuals incarcerated in state, local, or regional correctional facilities in order to ensure a seamless provision of appropriate Medicaid and FAMIS services upon release and reentry into society. The work group shall consider (a) how the Department of Medical Assistance Services' Central Processing Unit may be leveraged to benefit this process and (b) how the process may also be utilized to ensure appropriate coverage for inpatient hospitalization of inmates eligible for Medicaid services. The Department of Medical Assistance Services shall report its findings and recommendations, including information on any process improvements that have been implemented, any cost savings that have been identified, and any additional funding that may be necessary to fully implement the work group's recommendations, to the Chairmen of the House Health, Welfare and Institutions Committee, Senate Education and Health Committee, House Appropriations Committee, and Senate Finance Committee by November 30, 2017.

## CHAPTER 199

An Act to amend and reenact §§ 63.2-1300 through 63.2-1303 of the Code of Virginia, relating to adoption assistance for children with special needs.

[H 2215]

Approved February 23, 2017

### Be it enacted by the General Assembly of Virginia:

#### 1. That §§ 63.2-1300 through 63.2-1303 of the Code of Virginia are amended and reenacted as follows:

##### § 63.2-1300. Purpose and intent of adoption assistance; eligibility.

A. The purpose of adoption assistance is to facilitate adoptive placements and ensure permanency for children with special needs. ~~Adoption assistance may include Title IV-E maintenance payments, state-funded maintenance payments, state special services payments and nonrecurring expense payments made pursuant to requirements set forth in this chapter.~~

~~A B. In accordance with § 473 of Title IV-E of the Social Security Act (42 U.S.C. § 673), a child with special needs is a child who is a citizen or legal resident of the United States who is unlikely to be adopted within a reasonable period of time due to one or more of the following factors:~~

1. Physical, mental or emotional condition existing prior to adoption;
2. Hereditary tendency, congenital problem or birth injury leading to substantial risk of future disability; or
3. Individual circumstances of the child related to age, racial or ethnic background or close relationship with one or more siblings.

~~C. A child with special needs will be eligible for adoption assistance if (i) the child is a citizen or legal resident of the United States; (ii) the child cannot or should not be returned to the home of his parents; and (iii) reasonable efforts to place the child in an appropriate adoptive home without the provision of adoption assistance have been unsuccessful. An exception may be made to the requirement that efforts be made to place the child in an adoptive home without the provision of adoption assistance when it is in the best interest of the child has developed due to factors such as the development of significant emotional ties with his foster parents while in their care and that the foster parents wish to adopt the child.~~

##### § 63.2-1301. Types of adoption assistance payments.

A. Title IV-E maintenance payments shall be made to the adoptive parents on behalf of an adopted child placed if it is determined that the child is a child with special needs *as set forth in § 63.2-1300* and the child meets the requirements set forth in § 473 of Title IV-E of the Social Security Act (42 U.S.C. § 673).

B. State-funded maintenance payments ~~shall~~ *may* be made to the adoptive parents on behalf of an adopted child if it is determined that the child does not meet the requirements set forth in § 473 of Title IV-E of the Social Security Act (42 U.S.C. § 673) but the child is a child with special needs *as set forth in § 63.2-1300*. ~~For this purpose of state-funded maintenance payments only, a~~ A child with special needs ~~may include~~ *shall receive state-funded maintenance payments if he:*

1. ~~A child for whom~~ *Was in the custody of a local board or a licensed child-placing agency at the time of the adoptive placement;*
2. *Was in the custody of a local board or a licensed child-placing agency at the time of the adoptive placement and met the factors set forth in subdivision B 1 or 2 of § 63.2-1300 are present at the time of adoption but are such factors were not diagnosed until after the final order of adoption; when and no more than one year has elapsed from the date of diagnosis; or*
3. ~~A child who has lived~~ *Lived with his foster parents for at least 12 months and has developed significant emotional ties with his foster parents while in their care; when and the foster parents wish to adopt the child and state-funded maintenance payments are necessary to enable the adoption.*

C. ~~State special~~ *Special* services payments ~~shall~~ *may* be made to the adoptive parents and other persons on behalf of a child in the custody of the local board or in the custody of a licensed child-placing agency and placed for adoption, pursuant to this chapter, if it is determined that for the provision of services to the child that are not covered by insurance, Medicaid, or otherwise. Special services include (i) medical, surgical, and dental care; (ii) hospitalization; (iii) individual remedial education services; (iv) psychological and psychiatric treatment; (v) speech and physical therapy; and (vi) special equipment, treatment, and training for physical and mental handicaps. A child is eligible for special services payments if:

1. The child is a child with special needs *as set forth in § 63.2-1300*; ~~and~~
2. *The child is receiving adoption assistance payments pursuant to subsection A or B; and*
3. The adoptive parents are capable of providing the permanent family relationships needed by the child in all respects except financial.

D. Nonrecurring expense payments shall be made to the adoptive parents for expenses related to the adoption, including reasonable and necessary adoption fees, court costs, attorney fees and other legal service fees, as well as any other expenses that are directly related to the legal adoption of a child with special needs, including costs related to the adoption study, any health and psychological examinations, supervision of the placement prior to adoption and any transportation costs and reasonable costs of lodging and food for the child and the adoptive parents when necessary to complete the placement or adoption process for which the adoptive parents carry ultimate liability for payment and that have not been reimbursed from any other source, as set forth in 45 C.F.R. § 1356.41. However, the total amount of nonrecurring expense payments made to adoptive parents for the adoption of a child shall not exceed \$2,000 or an amount established by federal law.

**§ 63.2-1302. Adoption assistance payments; maintenance; special needs; payment agreements; continuation of payments when adoptive parents move to another jurisdiction; procedural requirements.**

A. Adoption assistance payments may include:

~~1. Title IV-E or state-funded maintenance payments that shall be payable monthly to provide for the support and care of the child; however, Title IV-E or state-funded maintenance such payments shall not exceed the foster care payment that would otherwise be made for the child at the time the adoption assistance agreement is signed; and~~

~~2. State special services payments to provide special services to the child that the adoptive parents cannot afford and that are not covered by insurance or otherwise, including, but not limited to:~~

~~a. Medical, surgical and dental care;~~

~~b. Hospitalization;~~

~~c. Individual remedial educational services;~~

~~d. Psychological and psychiatric treatment;~~

~~e. Speech and physical therapy; and~~

~~f. Special services, equipment, treatment and training for physical and mental handicaps.~~

~~State special services payments may be paid to the vendor of the goods or services directly or to the adoptive parents.~~

B. Adoption assistance payments shall cease when the child with special needs reaches ~~the age of 18 years of age.~~

*However, assistance payments may continue until the child reaches 21 years of age under the following circumstances:*

~~If it is determined~~ 1. *The local department determines on or within six months prior to the child's eighteenth birthday that the child has a mental or physical handicap, or an educational delay resulting from such handicap, warranting the continuation of assistance; adoption assistance payments may be made until the child reaches the age of 21 years; or*

2. *The initial adoption assistance agreement became effective on or after the child's sixteenth birthday and the child is (i) completing secondary education or an equivalent thereof; (ii) enrolled in an institution that provides postsecondary or vocational education; (iii) employed for at least 80 hours per month; (iv) participating in a program or activity designed to promote employment or remove barriers to employment; or (v) incapable of doing any of the activities set forth in clauses (i) through (iv) due to a medical condition.*

C. Adoption assistance payments shall be made on the basis of an adoption assistance agreement entered into by the local board and the adoptive parents or, in cases in which the child is in the custody of a licensed child-placing agency, an agreement between the local board, the licensed child-placing agency and the adoptive parents. *A representative of the Department shall negotiate all adoption assistance agreements with both existing and prospective adoptive parents on behalf of local departments.*

Prior to entering into an adoption assistance agreement, the local board or licensed child-placing agency shall ensure that adoptive parents have received information about their child's eligibility for adoption assistance; about their child's special needs and, to the extent possible, the current and potential impact of those special needs. The local board or licensed child-placing agency shall also ensure that adoptive parents receive information about the process for appeal in the event of a disagreement between the adoptive parent and the local board or the adoptive parent and the child-placing agency and information about the procedures for ~~revising~~ *renegotiating* the adoption assistance agreement.

Adoptive parents shall submit annually to the local board within ~~thirty~~ 30 days of the anniversary date of the approved agreement an affidavit which certifies that (i) the child on whose behalf they are receiving adoption assistance payments remains in their care, (ii) the child's condition requiring adoption assistance continues to exist, and (iii) whether or not changes to the adoption assistance agreement are requested.

Title IV-E ~~and state-funded~~ maintenance payments made pursuant to this section shall be changed only in accordance with the provisions of § 473 of Title IV-E of the Social Security Act (42 U.S.C. § 673).

D. Responsibility for adoption assistance payments for a child placed for adoption shall be continued by the local board that initiated the agreement in the event that the adoptive parents live in or move to another jurisdiction.

E. Payments may be made under this chapter from appropriations for foster care services for the maintenance and medical or other services for children who have special needs in accordance with § 63.2-1301. Within the limitations of the appropriations to the Department, the Commissioner shall reimburse any agency making payments under this chapter. Any such agency may seek and accept funds from other sources, including federal, state, local, and private sources, to carry out the purposes of this chapter.

**§ 63.2-1303. Application for adoption assistance payments.**

~~Qualification~~ *Eligibility* for adoption assistance payments shall be determined by the local board in response to an application for adoption assistance submitted in accordance with regulations adopted by the Board.

**CHAPTER 200**

*An Act to amend and reenact §§ 16.1-277.01, 17.1-275, 20-88.35, 63.2-900, 63.2-1201, 63.2-1202, 63.2-1222, 63.2-1224, 63.2-1233, 63.2-1249, 63.2-1250, 63.2-1252, and 63.2-1253 of the Code of Virginia, relating to Putative Father Registry.*

[H 2216]

Approved February 23, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 16.1-277.01, 17.1-275, 20-88.35, 63.2-900, 63.2-1201, 63.2-1202, 63.2-1222, 63.2-1224, 63.2-1233, 63.2-1249, 63.2-1250, 63.2-1252, and 63.2-1253 of the Code of Virginia are amended and reenacted as follows:**

**§ 16.1-277.01. Approval of entrustment agreement.**

A. In any case in which a child has been entrusted pursuant to § 63.2-903 or 63.2-1817 to the local board of social services or to a child welfare agency, a petition for approval of the entrustment agreement by the board or agency:

1. Shall be filed within a reasonable period of time, no later than 89 days after the execution of an entrustment agreement for less than 90 days, if the child is not returned to the caretaker from whom he was entrusted within that period;
2. Shall be filed within a reasonable period of time, not to exceed 30 days after the execution of an entrustment agreement for 90 days or longer or for an unspecified period of time, if such entrustment agreement does not provide for the termination of all parental rights and responsibilities with respect to the child; and
3. May be filed in the case of a permanent entrustment agreement which provides for the termination of all parental rights and responsibilities with respect to the child.

The board or agency shall file a foster care plan pursuant to § 16.1-281 to be heard with any petition for approval of an entrustment agreement.

B. Upon the filing of a petition for approval of an entrustment agreement pursuant to subsection A of § 16.1-241, the court shall appoint a guardian ad litem to represent the child in accordance with the provisions of § 16.1-266, and shall schedule the matter for a hearing to be held as follows: within 45 days of the filing of a petition pursuant to subdivision A 1, A 2 or A 3, except where an order of publication has been ordered by the court, in which case the hearing shall be held within 75 days of the filing of the petition. The court shall provide notice of the hearing and a copy of the petition to the following, each of whom shall be a party entitled to participate in the proceeding:

1. The local board of social services or child welfare agency;
2. The child, if he is 12 years of age or older;
3. The guardian ad litem for the child; and
4. The child's parents, guardian, legal custodian or other person standing in loco parentis to the child. No such notification shall be required, however, if the judge certifies on the record that the identity of the parent or guardian is not reasonably ascertainable. A birth father shall be given notice of the proceedings if he is an acknowledged father pursuant to § 20-49.1, adjudicated pursuant to § 20-49.8, or presumed pursuant to § 63.2-1202, or has registered with the ~~Putative Virginia Birth~~ *Putative Virginia Birth* Father Registry pursuant to Article 7 (§ 63.2-1249 et seq.). An affidavit of the mother that the identity of the father is not reasonably ascertainable shall be sufficient evidence of this fact, provided there is no other evidence before the court which would refute such an affidavit. Failure to register with the ~~Putative Virginia Birth~~ *Putative Virginia Birth* Father Registry pursuant to Article 7 (§ 63.2-1249 et seq.) of Chapter 12 of Title 63.2 shall be evidence that the identity of the father is not reasonably ascertainable. The hearing shall be held and an order may be entered, although a parent, guardian, legal custodian or person standing in loco parentis fails to appear and is not represented by counsel, provided personal or substituted service was made on the person, or the court determines that such person cannot be found, after reasonable effort, or in the case of a person who is without the Commonwealth, the person cannot be found or his post office address cannot be ascertained after reasonable effort. However, when a petition seeks approval of a permanent entrustment agreement which provides for the termination of all parental rights and responsibilities with respect to the child, a summons shall be served upon the parent or parents and the other parties specified in § 16.1-263. The summons or notice of hearing shall clearly state the consequences of a termination of residual parental rights. Service shall be made pursuant to § 16.1-264. The remaining parent's parental rights may be terminated even though that parent has not entered into an entrustment agreement if the court finds, based upon clear and convincing evidence, that it is in the best interest of the child and that (i) the identity of the parent is not reasonably ascertainable; (ii) the identity and whereabouts of the parent are known or reasonably ascertainable, and the parent is personally served with notice of the termination proceeding pursuant to § 8.01-296 or 8.01-320; (iii) the whereabouts of the parent are not reasonably ascertainable and the parent is given notice of the termination proceedings by certified or registered mail to the last known address and such parent fails to object to the proceedings within 15 days of the mailing of such notice; or (iv) the whereabouts of the parent are not reasonably ascertainable and the parent is given notice of the termination proceedings through an order of publication pursuant to §§ 8.01-316 and 8.01-317, and such parent fails to object to the proceedings.

C. At the hearing held pursuant to this section, the court shall hear evidence on the petition filed and shall review the foster care plan for the child filed by the local board or child welfare agency in accordance with § 16.1-281.

D. At the conclusion of the hearing, the court shall make a finding, based upon a preponderance of the evidence, whether approval of the entrustment agreement is in the best interest of the child. However, if the petition seeks approval of a permanent entrustment agreement which provides for the termination of all parental rights and responsibilities with respect to the child, the court shall make a finding, based upon clear and convincing evidence, whether termination of parental rights is in the best interest of the child. If the court makes either of these findings, the court may make any of the orders of disposition permitted in a case involving an abused or neglected child pursuant to § 16.1-278.2. Any such order transferring legal custody of the child shall be made in accordance with the provisions of subdivision A 5 of § 16.1-278.2 and shall be subject to the provisions of subsection D1. This order shall include, but need not be limited to, the following findings: (i) that there is no less drastic alternative to granting the requested relief; and (ii) that reasonable efforts have been made to prevent removal and that continued placement in the home would be contrary to the welfare of the child, if the order transfers legal custody of the child to a local board of social services. At any time subsequent to the transfer of legal custody of the child pursuant to this section, a birth parent or parents of the child and the pre-adoptive parent or parents may enter into a written post-adoption contact and communication agreement in accordance with the provisions of § 16.1-283.1 and Article 1.1 (§ 63.2-1220.2 et seq.) of Chapter 12 of Title 63.2. The court shall not require a written post-adoption contact and communication agreement as a precondition to entry of an order in any case involving the child.

The effect of the court's order approving a permanent entrustment agreement is to terminate an entrusting parent's residual parental rights. Any order terminating parental rights shall be accompanied by an order (i) continuing or granting custody to a local board of social services or to a licensed child-placing agency or (ii) granting custody or guardianship to a relative or other interested individual. Such an order continuing or granting custody to a local board of social services or to a licensed child-placing agency shall indicate whether that board or agency shall have the authority to place the child for adoption and consent thereto. A final order terminating parental rights pursuant to this section renders the approved entrustment agreement irrevocable. Such order may be appealed in accordance with the provisions of § 16.1-296.

D1. Any order transferring custody of the child to a relative or other interested individual pursuant to subsection D shall be entered only upon a finding, based upon a preponderance of the evidence, that the relative or other interested individual is one who (i) after an investigation as directed by the court, is found by the court to be willing and qualified to receive and care for the child; (ii) is willing to have a positive, continuous relationship with the child; (iii) is committed to providing a permanent, suitable home for the child; and (iv) is willing and has the ability to protect the child from abuse and neglect; and the order shall so state. The court's order transferring custody to a relative or other interested individual should further provide for, as appropriate, any terms and conditions which would promote the child's interest and welfare; ongoing provision of social services to the child and the child's custodian; and court review of the child's placement.

E. The local board or licensed child-placing agency to which authority is given to place the child for adoption and consent thereto after an order terminating parental rights is entered pursuant to this section shall file a written Adoption Progress Report with the juvenile court on the progress being made to place the child in an adoptive home. The report shall be filed with the court every six months from the date of the final order terminating parental rights until a final order of adoption is entered on behalf of the child in the circuit court. At the conclusion of the hearing at which termination of parental rights is ordered and authority is given to the local board or licensed child-placing agency to place the child for adoption, the juvenile court shall schedule a date by which the board or agency shall file the first Adoption Progress Report required by this section. A copy of the Adoption Progress Report shall be sent by the court to the guardian ad litem for the child. The court may schedule a hearing on the report with or without the request of a party.

**§ 17.1-275. Fees collected by clerks of circuit courts; generally.**

A. A clerk of a circuit court shall, for services performed by virtue of his office, charge the following fees:

1. [Repealed.]

2. For recording and indexing in the proper book any writing and all matters therewith, or for recording and indexing anything not otherwise provided for, \$16 for an instrument or document consisting of 10 or fewer pages or sheets; \$30 for an instrument or document consisting of 11 to 30 pages or sheets; and \$50 for an instrument or document consisting of 31 or more pages or sheets. Whenever any writing to be recorded includes plat or map sheets no larger than eight and one-half inches by 14 inches, such plat or map sheets shall be counted as ordinary pages for the purpose of computing the recording fee due pursuant to this section. A fee of \$15 per page or sheet shall be charged with respect to plat or map sheets larger than eight and one-half inches by 14 inches. Only a single fee as authorized by this subdivision shall be charged for recording a certificate of satisfaction that releases the original deed of trust and any corrected or revised deeds of trust. One dollar and fifty cents of the fee collected for recording and indexing shall be designated for use in preserving the permanent records of the circuit courts. The sum collected for this purpose shall be administered by The Library of Virginia in cooperation with the circuit court clerks.

3. For appointing and qualifying any personal representative, committee, trustee, guardian, or other fiduciary, in addition to any fees for recording allowed by this section, \$20 for estates not exceeding \$50,000, \$25 for estates not exceeding \$100,000 and \$30 for estates exceeding \$100,000. No fee shall be charged for estates of \$5,000 or less.

4. For entering and granting and for issuing any license, other than a marriage license or a hunting and fishing license, and administering an oath when necessary, \$10.

5. For issuing a marriage license, attaching certificate, administering or receiving all necessary oaths or affidavits, indexing and recording, \$10. For recording an order to celebrate the rites of marriage pursuant to § 20-25, \$25 to be paid by the petitioner.

6. For making out any bond, other than those under § 17.1-267 or subdivision A 4, administering all necessary oaths and writing proper affidavits, \$3.

7. For all services rendered by the clerk in any garnishment or attachment proceeding, the clerk's fee shall be \$15 in cases not exceeding \$500 and \$25 in all other cases.

8. For making out a copy of any paper, record, or electronic record to go out of the office, which is not otherwise specifically provided for herein, a fee of \$0.50 for each page or, if an electronic record, each image. From such fees, the clerk shall reimburse the locality the costs of making out the copies and pay the remaining fees directly to the Commonwealth. The funds to recoup the cost of making out the copies shall be deposited with the county or city treasurer or Director of Finance, and the governing body shall budget and appropriate such funds to be used to support the cost of copies pursuant to this subdivision. For purposes of this section, the costs of making out the copies authorized under this section shall include costs included in the lease and maintenance agreements for the equipment and the technology needed to operate electronic systems in the clerk's office used to make out the copies, but shall not include salaries or related benefits. The costs of copies shall otherwise be determined in accordance with § 2.2-3704. However, there shall be no charge to the recipient of a final order or decree to send an attested copy to such party.

9. For annexing the seal of the court to any paper, writing the certificate of the clerk accompanying it, the clerk shall charge \$2 and for attaching the certificate of the judge, if the clerk is requested to do so, the clerk shall charge an additional \$0.50.

10. In any case in which a person is convicted of a violation of any provision of Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2 or is subject to a disposition under § 18.2-251, the clerk shall assess a fee of \$150 for each felony conviction and each felony disposition under § 18.2-251 which shall be taxed as costs to the defendant and shall be paid into the Drug Offender Assessment and Treatment Fund.

11. In any case in which a person is convicted of a violation of any provision of Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2 or is subject to a disposition under § 18.2-251, the clerk shall assess a fee for each misdemeanor conviction and each misdemeanor disposition under § 18.2-251, which shall be taxed as costs to the defendant and shall be paid into the Drug Offender Assessment and Treatment Fund as provided in § 17.1-275.8.

12. Upon the defendant's being required to successfully complete traffic school, a mature driver motor vehicle crash prevention course, or a driver improvement clinic in lieu of a finding of guilty, the court shall charge the defendant fees and costs as if he had been convicted.

13. In all civil actions that include one or more claims for the award of monetary damages the clerk's fee chargeable to the plaintiff shall be \$100 in cases seeking recovery not exceeding \$49,999; \$200 in cases seeking recovery exceeding \$49,999, but not exceeding \$100,000; \$250 in cases seeking recovery exceeding \$100,000, but not exceeding \$500,000; and \$300 in cases seeking recovery exceeding \$500,000. Ten dollars of each such fee shall be apportioned to the Courts Technology Fund established under § 17.1-132. A fee of \$25 shall be paid by the plaintiff at the time of instituting a condemnation case, in lieu of any other fees. There shall be no fee charged for the filing of a cross-claim or setoff in any pending action. However, the fees prescribed by this subdivision shall be charged upon the filing of a counterclaim or a claim impleading a third-party defendant. The fees prescribed above shall be collected upon the filing of papers for the commencement of civil actions. This subdivision shall not be applicable to cases filed in the Supreme Court of Virginia.

13a. For the filing of any petition seeking court approval of a settlement where no action has yet been filed, the clerk's fee, chargeable to the petitioner, shall be \$50, to be paid by the petitioner at the time of filing the petition.

14. In addition to the fees chargeable for civil actions, for the costs of proceedings for judgments by confession under §§ 8.01-432 through 8.01-440, the clerk shall tax as costs (i) the cost of registered or certified mail; (ii) the statutory writ tax, in the amount required by law to be paid on a suit for the amount of the confessed judgment; (iii) for the sheriff for serving each copy of the order entering judgment, \$12; and (iv) for docketing the judgment and issuing executions thereon, the same fees as prescribed in subdivision A 17.

15. For qualifying notaries public, including the making out of the bond and any copies thereof, administering the necessary oaths, and entering the order, \$10.

16. For each habeas corpus proceeding, the clerk shall receive \$10 for all services required thereunder. This subdivision shall not be applicable to such suits filed in the Supreme Court of Virginia.

17. For docketing and indexing a judgment from any other court of the Commonwealth, for docketing and indexing a judgment in the new name of a judgment debtor pursuant to the provisions of § 8.01-451, but not when incident to a divorce, for noting and filing the assignment of a judgment pursuant to § 8.01-452, a fee of \$5; and for issuing an abstract of any recorded judgment, when proper to do so, a fee of \$5; and for filing, docketing, indexing and mailing notice of a foreign judgment, a fee of \$20.

18. For all services rendered by the clerk in any court proceeding for which no specific fee is provided by law, the clerk shall charge \$10, to be paid by the party filing said papers at the time of filing; however, this subdivision shall not be applicable in a divorce cause prior to and including the entry of a decree of divorce from the bond of matrimony.

19, 20. [Repealed.]

21. For making the endorsements on a forthcoming bond and recording the matters relating to such bond pursuant to the provisions of § 8.01-529, \$1.

22. For all services rendered by the clerk in any proceeding pursuant to § 57-8 or 57-15, \$10.

23. For preparation and issuance of a subpoena duces tecum, \$5.

24. For all services rendered by the clerk in matters under § 8.01-217 relating to change of name, \$20; however, this subdivision shall not be applicable in cases where the change of name is incident to a divorce.

25. For providing court records or documents on microfilm, per frame, \$0.50.

26. In all divorce and separate maintenance proceedings, and all civil actions that do not include one or more claims for the award of monetary damages, the clerk's fee chargeable to the plaintiff shall be \$60, \$10 of which shall be apportioned to the Courts Technology Fund established under § 17.1-132 to be paid by the plaintiff at the time of instituting the suit, which shall include the furnishing of a duly certified copy of the final decree. The fees prescribed by this subdivision shall be charged upon the filing of a counterclaim or a claim impleading a third-party defendant. However, no fee shall be charged for (i) the filing of a cross-claim or setoff in any pending suit or (ii) the filing of a counterclaim or any other responsive pleading in any annulment, divorce, or separate maintenance proceeding. In divorce cases, when there is a merger of a divorce of separation a mensa et thoro into a decree of divorce a vinculo, the above mentioned fee shall include the furnishing of a duly certified copy of both such decrees.

27. For the acceptance of credit or debit cards in lieu of money to collect and secure all fees, including filing fees, fines, restitution, forfeiture, penalties and costs, the clerk shall collect from the person presenting such credit or debit card a reasonable convenience fee for the processing of such credit or debit card. Such convenience fee shall not exceed four percent of the amount paid for the transaction or a flat fee of \$2 per transaction. The clerk may set a lower convenience fee for electronic filing of civil or criminal proceedings pursuant to § 17.1-258.3. Nothing herein shall be construed to prohibit the clerk from outsourcing the processing of credit and debit card transactions to a third-party private vendor engaged by the clerk. Convenience fees shall be used to cover operational expenses as defined in § 17.1-295.

28. For the return of any check unpaid by the financial institution on which it was drawn or notice is received from the credit or debit card issuer that payment will not be made for any reason, the clerk may collect a fee of \$50 or 10 percent of the amount of the payment, whichever is greater.

29. For all services rendered, except in cases in which costs are assessed pursuant to § 17.1-275.1, 17.1-275.2, 17.1-275.3, or 17.1-275.4, in an adoption proceeding, a fee of \$20, in addition to the fee imposed under § 63.2-1246, to be paid by the petitioner or petitioners. For each petition for adoption filed pursuant to § 63.2-1201, except those filed pursuant to subdivisions 5 and 6 of § 63.2-1210, an additional \$50 filing fee as required under § 63.2-1201 shall be deposited in the ~~Putative~~ *Putative Virginia Birth* Father Registry Fund pursuant to § 63.2-1249.

30. For issuing a duplicate license for one lost or destroyed as provided in § 29.1-334, a fee in the same amount as the fee for the original license.

31. For the filing of any petition as provided in §§ 33.2-1023, 33.2-1024, and 33.2-1027, a fee of \$5 to be paid by the petitioner; and for the recordation of a certificate or copy thereof, as provided for in § 33.2-1021, as well as for any order of the court relating thereto, the clerk shall charge the same fee as for recording a deed as provided for in this section, to be paid by the party upon whose request such certificate is recorded or order is entered.

32. For making up, certifying and transmitting original record pursuant to the Rules of the Supreme Court, including all papers necessary to be copied and other services rendered, except in cases in which costs are assessed pursuant to § 17.1-275.1, 17.1-275.2, 17.1-275.3, 17.1-275.4, 17.1-275.7, 17.1-275.8, or 17.1-275.9, a fee of \$20.

33. [Repealed.]

34. For filings, etc., under the Uniform Federal Lien Registration Act (§ 55-142.1 et seq.), the fees shall be as prescribed in that Act.

35. For filing the appointment of a resident agent for a nonresident property owner in accordance with § 55-218.1, a fee of \$10.

36. [Repealed.]

37. For recordation of certificate and registration of names of nonresident owners in accordance with § 59.1-74, a fee of \$10.

38. For maintaining the information required under the Overhead High Voltage Line Safety Act (§ 59.1-406 et seq.), the fee as prescribed in § 59.1-411.

39. For lodging, indexing and preserving a will in accordance with § 64.2-409, a fee of \$2.

40. For filing a financing statement in accordance with § 8.9A-505, the fee shall be as prescribed under § 8.9A-525.

41. For filing a termination statement in accordance with § 8.9A-513, the fee shall be as prescribed under § 8.9A-525.

42. For filing assignment of security interest in accordance with § 8.9A-514, the fee shall be as prescribed under § 8.9A-525.

43. For filing a petition as provided in §§ 64.2-2001 and 64.2-2013, the fee shall be \$10.

44. For issuing any execution, and recording the return thereof, a fee of \$1.50.

45. For the preparation and issuance of a summons for interrogation by an execution creditor, a fee of \$5. If there is no outstanding execution, and one is requested herewith, the clerk shall be allowed an additional fee of \$1.50, in accordance with subdivision A 44.

B. In accordance with § 17.1-281, the clerk shall collect fees under subdivisions A 7, A 13, A 16, A 18 if applicable, A 20, A 22, A 24, A 26, A 29, and A 31 to be designated for courthouse construction, renovation or maintenance.

C. In accordance with § 17.1-278, the clerk shall collect fees under subdivisions A 7, A 13, A 16, A 18 if applicable, A 20, A 22, A 24, A 26, A 29, and A 31 to be designated for services provided for the poor, without charge, by a nonprofit legal aid program.

D. In accordance with § 42.1-70, the clerk shall collect fees under subdivisions A 7, A 13, A 16, A 18 if applicable, A 20, A 22, A 24, A 26, A 29, and A 31 to be designated for public law libraries.

E. All fees collected pursuant to subdivision A 27 and § 17.1-276 shall be deposited by the clerk into a special revenue fund held by the clerk, which will restrict the funds to their statutory purpose.

F. The provisions of this section shall control the fees charged by clerks of circuit courts for the services above described.

**§ 20-88.35. Bases for jurisdiction over nonresident.**

In a proceeding to establish or enforce a support order or to determine parentage of a child, a tribunal of the Commonwealth may exercise personal jurisdiction over a nonresident individual or the individual's guardian or conservator if:

1. The individual is personally served with process within the Commonwealth;
2. The individual submits to the jurisdiction of the Commonwealth by consent, by entering a general appearance, or by filing a responsive document having the effect of waiving any contest to personal jurisdiction;
3. The individual resided with the child in the Commonwealth;
4. The individual resided in the Commonwealth and paid prenatal expenses or provided support for the child;
5. The child resides in the Commonwealth as a result of the acts or directives of the individual;
6. The individual engaged in sexual intercourse in the Commonwealth and the child may have been conceived by the act of intercourse;
7. The individual asserted parentage of a child in the ~~putative father registry~~ *Virginia Birth Father Registry* maintained in the Commonwealth by the Department of Social Services;
8. The exercise of personal jurisdiction is authorized under subdivision A 8 of § 8.01-328.1; or
9. There is any other basis consistent with the constitutions of the Commonwealth and the United States for the exercise of personal jurisdiction.

The bases of personal jurisdiction set forth in this section or any other law of the Commonwealth may not be used to acquire personal jurisdiction for a tribunal of the Commonwealth to modify a child support order issued by a tribunal of another state unless the requirements of § 20-88.76 or 20-88.77:3 are met.

**§ 63.2-900. Accepting children for placement in homes, facilities, etc., by local boards.**

A. Pursuant to § 63.2-319, a local board shall have the right to accept for placement in suitable family homes, children's residential facilities or independent living arrangements, subject to the supervision of the Commissioner and in accordance with regulations adopted by the Board, such persons under 18 years of age as may be entrusted to it by the parent, parents or guardian, committed by any court of competent jurisdiction, or placed through an agreement between it and the parent, parents or guardians where legal custody remains with the parent, parents, or guardians.

The Board shall adopt regulations for the provision of foster care services by local boards, which shall be directed toward the prevention of unnecessary foster care placements and towards the immediate care of and permanent planning for children in the custody of or placed by local boards and that shall achieve, as quickly as practicable, permanent placements for such children. The local board shall first seek out kinship care options to keep children out of foster care and as a placement option for those children in foster care, if it is in the child's best interests, pursuant to § 63.2-900.1. In cases in which a child cannot be returned to his prior family or placed for adoption and kinship care is not currently in the best interests of the child, the local board shall consider the placement and services that afford the best alternative for protecting the child's welfare. Placements may include but are not limited to family foster care, treatment foster care and residential care. Services may include but are not limited to assessment and stabilization, diligent family search, intensive in-home, intensive wraparound, respite, mentoring, family mentoring, adoption support, supported adoption, crisis stabilization or other community-based services. The Board shall also approve in foster care policy the language of the agreement required in § 63.2-902. The agreement shall include at a minimum a Code of Ethics and mutual responsibilities for all parties to the agreement.

Within 30 days of accepting for foster care placement a person under 18 years of age whose father is unknown, the local board shall request a search of the ~~Putative~~ *Virginia Birth Father Registry* established pursuant to Article 7 (§ 63.2-1249 et seq.) of Chapter 12 to determine whether any man has registered as the putative father of the child. If the search results indicate that a man has registered as the putative father of the child, the local board shall contact the man to begin the process to determine paternity.

The local board shall, in accordance with the regulations adopted by the Board and in accordance with the entrustment agreement or other order by which such person is entrusted or committed to its care, have custody and control of the person so entrusted or committed to it until he is lawfully discharged, has been adopted or has attained his majority.

Whenever a local board places a child where legal custody remains with the parent, parents or guardians, the board shall enter into an agreement with the parent, parents or guardians. The agreement shall specify the responsibilities of each for the care and control of the child.

The local board shall have authority to place for adoption, and to consent to the adoption of, any child properly committed or entrusted to its care when the order of commitment or entrustment agreement between the parent or parents and the agency provides for the termination of all parental rights and responsibilities with respect to the child for the purpose of placing and consenting to the adoption of the child.

The local board shall also have the right to accept temporary custody of any person under 18 years of age taken into custody pursuant to subdivision B of § 16.1-246 or § 63.2-1517. The placement of a child in a foster home, whether within or without the Commonwealth, shall not be for the purpose of adoption unless the placement agreement between the foster parents and the local board specifically so stipulates.

B. Prior to the approval of any family for placement of a child, a home study shall be completed and the prospective foster or adoptive parents shall be informed that information about shaken baby syndrome, its effects, and resources for help and support for caretakers is available on a website maintained by the Department as prescribed in regulations adopted by the Board.

C. Prior to placing any such child in any foster home or children's residential facility, the local board shall enter into a written agreement with the foster parents, pursuant to § 63.2-902, or other appropriate custodian setting forth therein the conditions under which the child is so placed pursuant to § 63.2-902. However, if a child is placed in a children's residential facility licensed as a temporary emergency shelter, and a verbal agreement for placement is secured within eight hours of the child's arrival at the facility, the written agreement does not need to be entered into prior to placement, but shall be completed and signed by the local board and the facility representative within 24 hours of the child's arrival or by the end of the next business day after the child's arrival.

D. Within 72 hours of placing a child of school age in a foster care placement, as defined in § 63.2-100, the local social services agency making such placement shall, in writing, (i) notify the principal of the school in which the student is to be enrolled and the superintendent of the relevant school division or his designee of such placement, and (ii) inform the principal of the status of the parental rights.

If the documents required for enrollment of the foster child pursuant to § 22.1-3.1, 22.1-270 or 22.1-271.2, are not immediately available upon taking the child into custody, the placing social services agency shall obtain and produce or otherwise ensure compliance with such requirements for the foster child within 30 days after the child's enrollment.

**§ 63.2-1201. Filing of petition for adoption; venue; jurisdiction; and proceedings.**

Proceedings for the adoption of a minor child and for a change of name of such child shall be instituted only by petition to a circuit court in the county or city in which the petitioner resides, in the county or city in which the child-placing agency that placed the child is located, or in the county or city in which a birth parent executed a consent pursuant to § 63.2-1233. Such petition may be filed by any natural person who resides in the Commonwealth, or who has custody of a child placed by a child-placing agency of the Commonwealth, or by an adopting parent of a child who was subject to a consent proceeding held pursuant to § 63.2-1233, or by intended parents who are parties to a surrogacy contract. The petition shall ask leave to adopt a minor child not legally the petitioner's by birth and, if it is so desired by the petitioner, also to change the name of such child. In the case of married persons, or persons who were previously married who are permitted to adopt a child under § 63.2-1201.1, the petition shall be the joint petition of the husband and wife or former spouses but, in the event the child to be adopted is legally the child by birth or adoption of one of the petitioners, such petitioner shall unite in the petition for the purpose of indicating consent to the prayer thereof only. If any procedural provision of this chapter applies to only one of the adoptive parents, then the court may waive the application of the procedural provision for the spouse of the adoptive parent to whom the provision applies. The petition shall contain a full disclosure of the circumstances under which the child came to live, and is living, in the home of the petitioner. Each petition for adoption shall be signed by the petitioner as well as by counsel of record, if any. In any case in which the petition seeks the entry of an adoption order without referral for investigation, the petition shall be under oath.

A single petition for adoption under the provisions of this section shall be sufficient for the concurrent adoption by the same petitioners of two or more children who have the same birth parent or parents, and nothing in this section shall be construed as having heretofore required a separate petition for each of such children.

The petition for adoption, except those filed pursuant to subdivisions 5 and 6 of § 63.2-1210, shall include an additional \$50 filing fee that shall be used to fund the ~~Putative~~ *Putative Virginia Birth* Father Registry established in Article 7 (§ 63.2-1249 et seq.) of this chapter.

A petition filed while the child is under 18 years of age shall not become invalid because the child reaches 18 years of age prior to the entry of a final order of adoption. Any final order of adoption entered pursuant to § 63.2-1213 after a child reaches 18 years of age, where the petition was filed prior to the child turning 18 years of age, shall have the same effect as if the child was under 18 years of age at the time the order was entered by the circuit court provided the court has obtained the consent of the adoptee.

**§ 63.2-1202. Parental, or agency, consent required; exceptions.**

A. No petition for adoption shall be granted, except as hereinafter provided in this section, unless written consent to the proposed adoption is filed with the petition. Such consent shall be in writing, signed under oath and acknowledged before an officer authorized by law to take acknowledgments. The consent of a birth parent for the adoption of his child placed directly by the birth parent shall be executed as provided in § 63.2-1233, and the circuit court may accept a certified copy of an order entered pursuant to § 63.2-1233 in satisfaction of all requirements of this section, provided the order clearly evidences compliance with the applicable notice and consent requirements of § 63.2-1233.

B. A birth parent who has not reached the age of 18 shall have legal capacity to give consent to adoption and perform all acts related to adoption, and shall be as fully bound thereby as if the birth parent had attained the age of 18 years.

C. Consent shall be executed:

1. By the birth mother and by any man who:

a. Is an acknowledged father under § 20-49.1;

b. Is an adjudicated father under § 20-49.8;

c. Is a presumed father under subsection D; or

d. Has registered with the ~~Putative Virginia Birth~~ *Putative Virginia Birth* Father Registry pursuant to Article 7 (§ 63.2-1249 et seq.).

Verification of compliance with the notice provisions of the ~~Putative Virginia Birth~~ *Putative Virginia Birth* Father Registry shall be provided to the court.

2. By the child-placing agency or the local board having custody of the child, with right to place him for adoption, through court commitment or parental agreement as provided in § 63.2-900, 63.2-903, or 63.2-1221; or an agency outside the Commonwealth that is licensed or otherwise duly authorized to place children for adoption by virtue of the laws under which it operates; and

3. By the child if he is 14 years of age or older, unless the circuit court finds that the best interests of the child will be served by not requiring such consent.

D. A man shall be presumed to be the father of a child if:

1. He and the mother of the child are married to each other and the child is born during the marriage;

2. He and the mother of the child were married to each other and the child is born within 300 days of their date of separation, as evidenced by a written agreement or decree of separation, or within 300 days after the marriage is terminated by death, annulment, declaration of invalidity, or divorce; or

3. Before the birth of the child, he and the mother of the child married each other in apparent compliance with the law, even if the attempted marriage is or could be declared invalid, and the child is born during the invalid marriage or within 300 days of their date of separation, as evidenced by a written agreement or decree of separation, or within 300 days after its termination by death, annulment, declaration of invalidity, or divorce.

Such presumption may be rebutted by sufficient evidence that would establish by a preponderance of the evidence the paternity of another man or the impossibility or improbability of cohabitation with the birth mother for a period of at least 300 days prior to the birth of the child.

E. No consent shall be required of a birth father if he denies under oath and in writing the paternity of the child. Such denial of paternity may be withdrawn no more than 10 days after it is executed. Once the child is 10 days old, any executed denial of paternity is final and constitutes a waiver of all rights with respect to the adoption of the child and cannot be withdrawn.

F. No consent shall be required of the birth father of a child when the birth father is convicted of a violation of subsection A of § 18.2-61, § 18.2-63, subsection B of § 18.2-366, or an equivalent offense of another state, the United States, or any foreign jurisdiction, and the child was conceived as a result of such violation.

G. No notice or consent shall be required of any person whose parental rights have been terminated by a court of competent jurisdiction, including foreign courts that have competent jurisdiction. No notice or consent is required of any birth parent of a child for whom a guardianship order was granted when the child was approved by the United States Citizenship and Immigration Services for purposes of adoption.

H. No consent shall be required of a birth parent who, without just cause, has neither visited nor contacted the child for a period of six months immediately prior to the filing of the petition for adoption or the filing of a petition to accept consent to an adoption. The prospective adoptive parent(s) shall establish by clear and convincing evidence that the birth parent(s), without just cause, has neither visited nor contacted the child for a period of six months immediately prior to the filing of the petition for adoption or the filing of a petition to accept consent to an adoption. This provision shall not infringe upon the birth parent's right to be noticed and heard on the allegation of abandonment. For purposes of this section, the payment of child support, in the absence of other contact with the child, shall not be considered contact.

I. A birth father of the child may consent to the termination of all of his parental rights prior to the birth of the child.

J. The failure of the nonconsenting party to appear at any scheduled hearing, either in person or by counsel, after proper notice has been given to said party, shall constitute a waiver of any objection and right to consent to the adoption.

K. If a birth parent, legal guardian, or prospective adoptee, executing a consent, entrustment, or other documents related to the adoption, cannot provide the identification required pursuant to § 47.1-14, the birth parent, legal guardian, or prospective adoptee may execute a self-authenticating affidavit as to his identity subject to the penalties contained in § 63.2-1217.

**§ 63.2-1222. Execution of entrustment agreement by birth parent(s); exceptions; notice and objection to entrustment; copy required to be furnished; requirement for agencies outside the Commonwealth.**

A. For the purposes of this section, a birth parent who is less than 18 years of age shall be deemed fully competent and shall have legal capacity to execute a valid entrustment agreement, including an agreement that provides for the termination of all parental rights and responsibilities, and perform all acts related to adoption and shall be as fully bound thereby as if such birth parent had attained the age of 18 years.

B. An entrustment agreement for the termination of all parental rights and responsibilities with respect to the child shall be valid notwithstanding that it is not signed by the birth father of a child born out of wedlock if the identity of the birth

father is not reasonably ascertainable or such birth father did not register with the ~~Putative~~ *Virginia Birth* Father Registry pursuant to Article 7 (§ 63.2-1249 et seq.) or the birth father named by the birth mother denies under oath and in writing the paternity of the child. An affidavit signed by the birth mother stating that the identity of the birth father is unknown may be filed with the court alleging that the identity of the birth father is not known or reasonably ascertainable. A birth father shall be given notice of the entrustment if he is an acknowledged father pursuant to § 20-49.1, an adjudicated father pursuant to § 20-49.8, a presumed father pursuant to § 63.2-1202, or a putative father who has registered with ~~Putative~~ *the Virginia Birth* Father Registry pursuant to Article 7 (§ 63.2-1249 et seq.). If the putative father's identity is reasonably ascertainable, he shall be given notice pursuant to the requirements of § 63.2-1250.

C. When a birth father is required to be given notice, he may be given notice of the entrustment by registered or certified mail to his last known address. If he fails to object to the entrustment within 15 days of the mailing of such notice, his entrustment shall not be required. An objection to an entrustment agreement shall be in writing, signed by the objecting party or counsel of record for the objecting party and filed with the agency that mailed the notice of entrustment within the time period specified in § 63.2-1223.

D. The execution of an entrustment agreement shall be required of a presumed father except under the following circumstances: (i) if he denies paternity under oath and in writing in accordance with § 63.2-1202; (ii) if the presumption is rebutted by sufficient evidence, satisfactory to the circuit court, which would establish by a preponderance of the evidence the paternity of another man or the impossibility or improbability of cohabitation of the birth mother and her husband for a period of at least 300 days preceding the birth of the child; (iii) if another man admits, in writing and under oath, that he is the biological father; or (iv) if an adoptive placement has been determined to be in the best interests of the child pursuant to § 63.2-1205.

E. When none of the provisions of subsections C and D apply, notice of the entrustment shall be given to the presumed father pursuant to the requirements of § 16.1-277.01.

F. An entrustment agreement for the termination of all parental rights and responsibilities with respect to the child shall be valid notwithstanding that it is not signed by the birth father of a child when the birth father has been convicted of a violation of subsection A of § 18.2-61, § 18.2-63, subsection B of § 18.2-366, or an equivalent offense of another state, the United States, or any foreign jurisdiction, and the child was conceived as a result of such violation.

G. A birth father may execute an entrustment agreement for the termination of all of his parental rights prior to the birth of the child. Such entrustment shall be subject to the revocation provisions of § 63.2-1223.

H. No entrustment shall be required of a birth father if he denies under oath and in writing the paternity of the child. Such denial of paternity may be withdrawn no more than 10 days after it is executed. Once the child is 10 days old, any executed denial of paternity is final and constitutes a waiver of all rights with respect to the adoption of the child and cannot be withdrawn.

I. A copy of the entrustment agreement shall be furnished to all parties signing such agreement.

J. When any agency outside the Commonwealth, or its agent, that is licensed or otherwise duly authorized to place children for adoption by virtue of the laws under which it operates executes an entrustment agreement in the Commonwealth with a birth parent for the termination of all parental rights and responsibilities with respect to the child, the requirements of §§ 63.2-1221 through 63.2-1224 shall apply. The birth parent may expressly waive, under oath and in writing, the execution of the entrustment under the requirements of §§ 63.2-1221 through 63.2-1224 in favor of the execution of an entrustment or relinquishment under the laws of another state if the birth parent is represented by independent legal counsel. Such written waiver shall expressly state that the birth parent has received independent legal counsel advising of the laws of Virginia and of the other state and that Virginia law is expressly being waived. The waiver also shall include the name, address, and telephone number of such legal counsel. Any entrustment agreement that fails to comply with such requirements shall be void.

**§ 63.2-1224. Explanation of process, legal effects of adoption required.**

Prior to the placement of a child for adoption, the licensed child-placing agency or local board having custody of the child shall provide an explanation of the adoption process to the birth mother and, if reasonably available, the man who is an acknowledged father pursuant to § 20-49.1, an adjudicated father pursuant to § 20-49.8, a presumed father pursuant to § 63.2-1202, or a putative father who has registered with the ~~Putative~~ *Virginia Birth* Father Registry pursuant to Article 7 (§ 63.2-1249 et seq.) of this chapter.

**§ 63.2-1233. Consent to be executed in juvenile and domestic relations district court; exceptions.**

When the juvenile and domestic relations district court is satisfied that all requirements of § 63.2-1232 have been met with respect to at least one birth parent and the adoptive child is at least in the third calendar day of life, that birth parent or both birth parents, as the case may be, shall execute consent to the proposed adoption in compliance with the provisions of § 63.2-1202 while before the juvenile and domestic relations district court in person and in the presence of the prospective adoptive parents. The juvenile and domestic relations district court shall accept the consent of the birth parent(s) and transfer custody of the child to the prospective adoptive parents, pending notification to any nonconsenting birth parent, as described hereinafter.

1. a. The execution of consent before the juvenile and domestic relations district court shall not be required of a birth father if the birth father consents under oath and in writing to the adoption.

b. The consent of a birth father who is not married to the mother of the child at the time of the child's conception or birth shall not be required if the putative father named by the birth mother denies under oath and in writing the paternity of

the child or if the putative father did not register with the ~~Putative~~ *Virginia Birth* Father Registry pursuant to Article 7 (§ 63.2-1249 et seq.) of this chapter. If the identity of the birth father is reasonably ascertainable, but the whereabouts of the birth father are not reasonably ascertainable, verification of compliance with the ~~Putative~~ *Virginia Birth* Father Registry shall be provided to the court.

c. When a birth father is required to be given notice, he may be given notice of the adoption by registered or certified mail to his last known address and if he fails to object to the adoption within 15 days of the mailing of such notice, his consent shall not be required. An objection shall be in writing, signed by the objecting party or counsel of record for the objecting party and shall be filed with the clerk of the juvenile and domestic relations district court in which the petition was filed during the business day of the court, within the time period specified in this section. When no timely objection is filed, no hearing on this issue is required. Failure of the objecting party to appear at any scheduled hearing, either in person or by counsel, shall constitute a waiver of such objection.

d. The juvenile and domestic relations district court may accept the written consent of the birth father at the time of the child's conception or birth, provided that his identifying information required in § 63.2-1232 is filed in writing with the juvenile and domestic relations district court of jurisdiction. Such consent shall advise the birth father of his opportunity for legal representation, shall identify the court in which the case was or is intended to be filed, and shall be presented to the juvenile and domestic relations district court for acceptance. The consent may waive further notice of the adoption proceedings and shall contain the name, address and telephone number of the birth father's legal counsel or an acknowledgment that he was informed of his opportunity to be represented by legal counsel and declined such representation. For good cause shown, the court may dispense with the requirements regarding the filing of the birth father's identifying information pursuant to this subdivision 1. d.

e. In the event that the birth mother's consent is not executed in the juvenile and domestic relations district court, the consent of the birth father shall be executed in the juvenile and domestic relations district court.

f. A child born to a married birth mother shall be presumed to be the child of her husband and his consent shall be required, unless the court finds that the father's consent is withheld contrary to the best interests of the child as provided in § 63.2-1205 or if his consent is unobtainable. The consent of such presumed father shall be under oath and in writing and may be executed in or out of court. The presumption that the husband is the father of the child may be rebutted by sufficient evidence, satisfactory to the juvenile and domestic relations district court, which would establish by a preponderance of the evidence the paternity of another man or the impossibility or improbability of cohabitation of the birth mother and her husband for a period of at least 300 days preceding the birth of the child, in which case the husband's consent shall not be required. The executed denial of paternity by the putative father shall be sufficient to rebut the presumption that he is the father of the child. If the court is satisfied that the presumption has been rebutted, notice of the adoption shall not be required to be given to the presumed father.

2. After the application of the provisions of subdivision 1, if a birth parent is entitled to a hearing, the birth parent shall be given notice of the date and location of the hearing and be given the opportunity to appear before the juvenile and domestic relations district court. Such hearing may occur subsequent to the proceeding wherein the consenting birth parent appeared but may not be held until 15 days after personal service of notice on the nonconsenting birth parent, or if personal service is unobtainable, 10 days after the completion of the execution of an order of publication against such birth parent. The juvenile and domestic relations district court may appoint counsel for the birth parent(s). If the juvenile and domestic relations district court finds that consent is withheld contrary to the best interests of the child, as set forth in § 63.2-1205, or is unobtainable, it may grant the petition without such consent and enter an order waiving the requirement of consent of the nonconsenting birth parent and transferring custody of the child to the prospective adoptive parents. No further consent or notice shall be required of a birth parent who fails to appear at any scheduled hearing, either in person or by counsel. If the juvenile and domestic relations district court denies the petition, the juvenile and domestic relations district court shall order that any consent given for the purpose of such placement shall be void and, if necessary, the court shall determine custody of the child as between the birth parents.

3. Except as provided in subdivisions 4 and 5, if consent cannot be obtained from at least one birth parent, the juvenile and domestic relations district court shall deny the petition and determine custody of the child pursuant to § 16.1-278.2.

4. If a child has been under the physical care and custody of the prospective adoptive parents and if both birth parents have failed, without good cause, to appear at a hearing to execute consent under this section for which they were given proper notice pursuant to § 16.1-264, the juvenile and domestic relations district court may grant the petition without the consent of either birth parent and enter an order waiving consent and transferring custody of the child to the prospective adoptive parents. Prior to the entry of such an order, the juvenile and domestic relations district court may appoint legal counsel for the birth parents and shall find by clear and convincing evidence (i) that the birth parents were given proper notice of the hearing(s) to execute consent and of the hearing to proceed without their consent; (ii) that the birth parents failed to show good cause for their failure to appear at such hearing(s); and (iii) that pursuant to § 63.2-1205, the consent of the birth parents is withheld contrary to the best interests of the child or is unobtainable. Under this subdivision, the court or the parties may waive the requirement of the simultaneous meeting under § 63.2-1231 and the requirements of subdivisions A 1, A 3, and A 7 of § 63.2-1232 where the opportunity for compliance is not reasonably available under the applicable circumstances.

5. If both birth parents are deceased, the juvenile and domestic relations district court, after hearing evidence to that effect, may grant the petition without the filing of any consent.

6. No consent shall be required from the birth father of a child placed pursuant to this section when such father is convicted of a violation of subsection A of § 18.2-61, § 18.2-63, subsection B of § 18.2-366, or an equivalent offense of another state, the United States, or any foreign jurisdiction, and the child was conceived as a result of such violation, nor shall the birth father be entitled to notice of any of the proceedings under this section.

7. No consent shall be required of a birth father if he denies under oath and in writing the paternity of the child. Such denial of paternity may be withdrawn no more than 10 days after it is executed. Once the child is 10 days old, any executed denial of paternity is final and constitutes a waiver of all rights with the respect to the adoption of the child and cannot be withdrawn.

8. A birth father may consent to the adoption prior to the birth of the child.

9. The juvenile and domestic relations district court shall review each order entered under this section at least annually until such time as the final order of adoption is entered.

10. When there has been an interstate transfer of the child in a parental placement adoption in compliance with Chapter 10 (§ 63.2-1000 et seq.) of this title, all matters relating to the adoption of the child including, but not limited to, custody and parentage shall be determined in the court of appropriate jurisdiction in the state that was approved for finalization of the adoption by the interstate compact authorities.

**§ 63.2-1249. Establishment of Registry.**

A. A ~~Putative~~ Virginia Birth Father Registry is hereby established in the Department of Social Services.

B. There is hereby created in the state treasury a special nonreverting fund to be known as the ~~Putative~~ Virginia Birth Father Registry Fund, hereafter referred to as "the Fund." The Fund shall be established on the books of the Comptroller. All moneys collected under § 63.2-1201 shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of administration of the ~~Putative~~ Virginia Birth Father Registry. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Commissioner or his designee.

**§ 63.2-1250. Registration; notice; form.**

A. ~~Except as otherwise provided in subsection C,~~ *Any man who has engaged in sexual intercourse with a woman is deemed to be on legal notice that a child may be conceived and that the man is entitled to all legal rights and obligations resulting therefrom. Lack of knowledge of the pregnancy does not excuse failure to timely register with the Virginia Birth Father Registry.*

B. A man who desires to be notified of a placement of a child by a local board pursuant to § 63.2-900, a proceeding for adoption, or a proceeding for termination of parental rights regarding a child that he may have fathered shall register with the ~~Putative~~ Virginia Birth Father Registry ~~before the birth of the child or within 10 days after the birth.~~ *A registrant shall promptly notify the registry of any change in the information registered including but not limited to change of address. The Department shall incorporate all new information received into its records but is not required to obtain current information for incorporation in the registry.*

C. ~~Failure to timely register with the Virginia Birth Father Registry shall waive all rights of a man who is not acknowledged to be, presumed to be, or adjudicated the father to withhold consent to an adoption proceeding unless the man was led to believe through the birth mother's misrepresentation that (i) the pregnancy was terminated or the mother miscarried when in fact the baby was born or (ii) the child died when in fact the child is alive. Upon discovery of the misrepresentation, the man shall register with the Virginia Birth Father Registry within 10 days.~~

~~B.~~ D. A man will not prejudice any rights by failing to register if:

1. A father-child relationship between the man and the child has been established pursuant to § 20-49.1, 20-49.8, or if the man is a presumed father as defined in § 63.2-1202; or

2. The man commences a proceeding to adjudicate his paternity before a petition to accept consent or waive adoption consent is filed in the juvenile and domestic relations district court, or *before* a petition for adoption or a petition for the termination of his parental rights is filed with the court.

~~C. Failure to register pursuant to subsection A shall waive all rights of a man who is not an acknowledged, presumed, or adjudicated father to withhold consent to an adoption proceeding unless the man was led to believe through the birth mother's fraud that (i) the pregnancy was terminated or the mother miscarried when in fact the baby was born or (ii) that the child died when in fact the child is alive. Upon the discovery of the fraud, the man shall register with the Putative Father Registry within 10 days.~~

*E. Registration is timely if it is received by the Department within (i) 10 days of the child's birth or (ii) the time specified in subsection C or F. Registration is complete when the signed registration form is first received by the Department. The signed registration form shall be submitted in the manner prescribed by the Department.*

*F. In the event that the identity and whereabouts of the birth father are reasonably ascertainable, the child-placing agency or adoptive parents shall give written notice to the birth father of the existence of an adoption plan and the availability of registration with the Virginia Birth Father Registry. Such written notice shall be provided by personal service or by certified mailing to the birth father's last known address. Registration is timely if the signed registration form is received by the Department within 10 days of personal service of the written notice or within 13 days of the certified mailing date of the written notice. The personal service or certified mailing may be completed either prior to or after the birth of the child.*

~~D. G.~~ The child-placing agency or adoptive parent(s) shall give notice to a registrant who has timely registered of a placement of a child by a local board pursuant to § 63.2-900, a proceeding for adoption, or a proceeding for termination of parental rights regarding a child to a registrant who has timely registered pursuant to subsection A. Notice shall be given pursuant to the requirements of this chapter or § 16.1-277.01 for the appropriate adoption proceeding.

~~E.~~ Any man who has engaged in sexual intercourse with a woman is deemed to be on legal notice that a child may be conceived and the man is entitled to all legal rights and obligations resulting therefrom. Lack of knowledge of the pregnancy does not excuse failure to timely register. In the event that the identity and whereabouts of the birth father are reasonably ascertainable, written notice of the existence of an adoption plan and the availability of registration with the Putative Father Registry shall be provided by personal service or by certified mailing to the man's last known address. The man shall have no more than 10 days from the date of such personal service or certified mailing to register. The personal service or certified mailing may be done either prior to or after the birth of the child.

~~F. H. 1.~~ The Department shall prepare a form for registering with the agency that shall require (i) the registrant's name, date of birth and social security number; (ii) the registrant's driver's license number and state of issuance; (iii) the registrant's home address, telephone number, and employer; (iv) the name, date of birth, ethnicity, address, and telephone number of the putative mother, if known; (v) the state of conception; (vi) the place and date of birth of the child, if known; (vii) the name and gender of the child, if known; and (viii) the signature of the registrant. No form for registering with the Putative Virginia Birth Father Registry pursuant to this subsection shall be complete unless signed by the registrant and the signed registration form is received by the Department in the manner prescribed by the Department.

~~G. 2.~~ The form shall also state that (i) timely registration entitles the registrant to notice of a proceeding for adoption of the child or termination of the registrant's parental rights, (ii) registration does not commence a proceeding to establish paternity, (iii) the information disclosed on the form may be used against the registrant to establish paternity, (iv) services to assist in establishing paternity are available to the registrant through the Department, (v) the registrant should also register in another state if conception or birth of the child occurred in another state, (vi) information on registries of other states may be available from the Department, (vii) the form is signed under penalty of perjury, and (viii) procedures exist to rescind the registration of a claim of paternity.

~~3.~~ A registrant shall promptly notify the Virginia Birth Father Registry of any change in information, including change of address. The Department shall incorporate all updated information received into its records but is not required to request or otherwise pursue current or updated information for incorporation in the registry.

#### § 63.2-1252. Search of registry.

A. If no father-child relationship has been established pursuant to § 20-49.1, a petitioner for adoption shall obtain from the Department a certificate that a search of the Putative Virginia Birth Father Registry was performed. If the conception or birth of the child occurred in another state, a petitioner for adoption shall obtain a certificate from that state indicating that a search of the putative father registry was performed, if that state has a putative father registry.

B. The Department shall furnish to the requester a certificate of search of the registry upon the request of an individual, court, or agency listed in § 63.2-1251. Any such certificate shall be signed on behalf of the Department and state that a search has been made of the registry and a registration containing the information required to identify the registrant has been found and is attached to the certificate of search or has not been found. Within four business days from the receipt of the request, the Department shall mail the certificate to the requestor by United States mail. Upon request of the requestor and payment of any additional costs, the Department shall have the certificate delivered to the requestor by overnight mail, in person, by messenger, by facsimile or other electronic communication. The Department's certificate or an appropriate certificate from another state shall be sufficient proof the registry was searched.

C. A petitioner shall file the certificate of search with the court before a proceeding for adoption of, or termination of parental rights regarding, a child may be concluded.

D. A certificate of search of the Putative Virginia Birth Father Registry is admissible in a proceeding for adoption of, or termination of parental rights regarding, a child and, if relevant, in other legal proceedings.

#### § 63.2-1253. Duty to publicize registry.

A. The Department shall produce and distribute a pamphlet or other publication informing the public about the Putative Virginia Birth Father Registry including (i) the procedures for voluntary acknowledgement of paternity, (ii) the consequences of acknowledgement and failure to acknowledge paternity pursuant to § 20-49.1, (iii) a description of the Putative Virginia Birth Father Registry including to whom and under what circumstances it applies, (iv) the time limits and responsibilities for filing, (v) paternal rights and associated responsibilities, and (vi) other appropriate provisions of this article.

B. Such pamphlet or publication shall include a detachable form that meets the requirements of subsection ~~F H~~ of § 63.2-1250, is suitable for United States mail, and is addressed to the Putative Virginia Birth Father Registry. Such pamphlet or publication shall be made available for distribution at all offices of the Department of Health and all local departments of social services. The Department shall also provide such pamphlets or publications to hospitals, libraries, medical clinics, schools, universities, and other providers of child-related services upon request.

C. The Department shall provide information to the public at large by way of general public service announcements, or other ways to deliver information to the public about the Putative Virginia Birth Father Registry and its services.

## CHAPTER 201

*An Act to amend and reenact § 63.2-1720, as it is currently effective and as it shall become effective, of the Code of Virginia, relating to assisted living facilities and adult day care centers; background checks.*

[S 1434]

Approved February 23, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 63.2-1720, as it is currently effective and as it shall become effective, of the Code of Virginia is amended and reenacted as follows:**

**§ 63.2-1720. (Effective until July 1, 2017) Employment for compensation of persons or use of volunteers convicted of certain offenses prohibited; background check required; penalty.**

A. An assisted living facility, adult day care center or child welfare agency licensed or registered in accordance with the provisions of this chapter, or family day homes approved by family day systems, shall not hire for compensated employment or continue to employ persons who have an offense as defined in § 63.2-1719. Such employees shall undergo background checks pursuant to subsection D. In the case of child welfare agencies, the provisions of this section shall apply to employees who are involved in the day-to-day operations of such agency or who are alone with, in control of, or supervising one or more children.

B. A licensed assisted living facility or adult day care center may hire an applicant *or continue to employ a person* convicted of one misdemeanor barrier crime not involving abuse or neglect, if five years have elapsed following the conviction.

C. Notwithstanding the provisions of subsection A, a child day center may hire for compensated employment persons who have been convicted of not more than one misdemeanor offense under § 18.2-57 if 10 years have elapsed following the conviction, unless the person committed such offense while employed in a child day center or the object of the offense was a minor.

D. Background checks pursuant to this section require:

1. A sworn statement or affirmation disclosing whether the person has a criminal conviction or is the subject of any pending criminal charges within or outside the Commonwealth and, in the case of child welfare agencies, whether or not the person has been the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth;

2. A criminal history record check through the Central Criminal Records Exchange pursuant to § 19.2-389; and

3. In the case of child welfare agencies, a search of the central registry maintained pursuant to § 63.2-1515 for any founded complaint of child abuse and neglect.

E. Any person desiring to work as a compensated employee at a licensed assisted living facility, licensed adult day care center, a licensed or registered child welfare agency, or a family day home approved by a family day system shall provide the hiring or approving facility, center or agency with a sworn statement or affirmation pursuant to subdivision D 1. Any person making a materially false statement regarding the sworn statement or affirmation provided pursuant to subdivision D 1 shall be guilty of a Class 1 misdemeanor.

F. A licensed assisted living facility, licensed adult day care center, a licensed or registered child welfare agency, or a family day home approved by a family day system shall obtain for any compensated employees within 30 days of employment (i) an original criminal record clearance with respect to convictions for offenses specified in § 63.2-1719 or an original criminal history record from the Central Criminal Records Exchange and (ii) in the case of licensed or registered child welfare agencies or family day homes approved by family day systems, a copy of the information from the central registry. However, no employee shall be permitted to work in a position that involves direct contact with a person or child receiving services until an original criminal record clearance or original criminal history record has been received, unless such person works under the direct supervision of another employee for whom a background check has been completed in accordance with the requirements of this section. If an applicant is denied employment because of information from the central registry or convictions appearing on his criminal history record, the assisted living facility, adult day care center or child welfare agency shall provide a copy of the information obtained from the central registry or the Central Criminal Records Exchange or both to the applicant.

G. No volunteer who has an offense as defined in § 63.2-1719 shall be permitted to serve in a licensed or registered child welfare agency or a family day home approved by a family day system. Any person desiring to volunteer at such a child welfare agency shall provide the agency with a sworn statement or affirmation pursuant to subdivision D 1. Such child welfare agency shall obtain for any volunteers, within 30 days of commencement of volunteer service, a copy of (i) the information from the central registry and (ii) an original criminal record clearance with respect to offenses specified in § 63.2-1719 or an original criminal history record from the Central Criminal Records Exchange. Any person making a materially false statement regarding the sworn statement or affirmation provided pursuant to subdivision D 1 shall be guilty of a Class 1 misdemeanor. If a volunteer is denied service because of information from the central registry or convictions appearing on his criminal history record, such child welfare agency shall provide a copy of the information obtained from the central registry or the Central Criminal Records Exchange or both to the volunteer. The provisions of this subsection shall apply only to volunteers who will be alone with any child in the performance of their duties and shall not apply to a parent-volunteer of a child attending a licensed or registered child welfare agency, or a family day home approved by a

family day system, whether or not such parent-volunteer will be alone with any child in the performance of his duties. A parent-volunteer is someone supervising, without pay, a group of children that includes the parent-volunteer's own child in a program that operates no more than four hours per day, provided that the parent-volunteer works under the direct supervision of a person who has received a clearance pursuant to this section.

H. No volunteer shall be permitted to serve in a licensed assisted living facility or licensed adult day care center without the permission or under the supervision of a person who has received a clearance pursuant to this section.

I. Further dissemination of the background check information is prohibited other than to the Commissioner's representative or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination.

J. A licensed assisted living facility shall notify and provide all students a copy of the provisions of this article prior to or upon enrollment in a certified nurse aide program operated by such assisted living facility.

K. The provisions of this section shall not apply to any children's residential facility licensed pursuant to § 63.2-1701, which instead shall comply with the background investigation requirements contained in § 63.2-1726.

L. A person who complies in good faith with the provisions of this section shall not be liable for any civil damages for any act or omission in the performance of duties under this section unless the act or omission was the result of gross negligence or willful misconduct.

**§ 63.2-1720. (Effective July 1, 2017) Assisted living facilities and adult day care centers; employment for compensation of persons or use of volunteers convicted of certain offenses prohibited; background check required; penalty.**

A. No assisted living facility, adult day care center, child-placing agency, independent foster home, or family day system licensed in accordance with the provisions of this chapter, or registered family day homes or family day homes approved by family day systems, shall hire for compensated employment or continue to employ persons who have an offense as defined in § 63.2-1719. All applicants for employment shall undergo background checks pursuant to subsection C.

B. A licensed assisted living facility or adult day care center may hire an applicant *or continue to employ a person* convicted of one misdemeanor barrier crime not involving abuse or neglect, if five years have elapsed following the conviction.

C. Background checks pursuant to subsection A require:

1. A sworn statement or affirmation disclosing whether the person has a criminal conviction or is the subject of any pending criminal charges within or outside the Commonwealth and, in the case of licensed child-placing agencies, independent foster homes, and family day systems, registered family day homes, and family day homes approved by family day systems, whether or not the person has been the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth;

2. A criminal history records check through the Central Criminal Records Exchange pursuant to § 19.2-389; and

3. In the case of licensed child-placing agencies, independent foster homes, and family day systems, registered family day homes, and family day homes approved by family day systems, a search of the central registry maintained pursuant to § 63.2-1515 for any founded complaint of child abuse and neglect.

D. Any person making a materially false statement regarding the sworn statement or affirmation provided pursuant to subdivision C 1 is guilty of a Class 1 misdemeanor.

E. A licensed assisted living facility, licensed adult day care center, licensed child-placing agency, licensed independent foster home, licensed family day system, registered family day home, or family day home approved by a family day system shall obtain for any compensated employees within 30 days of employment (i) an original criminal record clearance with respect to convictions for offenses specified in § 63.2-1719 or an original criminal history record from the Central Criminal Records Exchange and (ii) in the case of licensed child-placing agencies, independent foster homes, and family day systems, registered family day homes, and family day homes approved by family day systems, a copy of the information from the central registry for any compensated employee within 30 days of employment. However, no employee shall be permitted to work in a position that involves direct contact with a person or child receiving services until an original criminal record clearance or original criminal history record has been received, unless such person works under the direct supervision of another employee for whom a background check has been completed in accordance with the requirements of this section. If an applicant is denied employment because of information from the central registry or convictions appearing on his criminal history record, the licensed assisted living facility, adult day care center, child-placing agency, independent foster home, or family day system, registered family day home, or family day home approved by a family day system shall provide a copy of the information obtained from the central registry or the Central Criminal Records Exchange or both to the applicant.

F. No volunteer who has an offense as defined in § 63.2-1719 shall be permitted to serve in a licensed child-placing agency, independent foster home, or family day system, registered family day home, or family day home approved by a family day system. Any person desiring to volunteer at a licensed child-placing agency, independent foster home, or family day system, registered family day home, or family day home approved by a family day system shall provide the agency, system, or home with a sworn statement or affirmation pursuant to subdivision C 1. Such licensed child-placing agency, independent foster home, or family day system, registered family day home, or family day home approved by a family day system shall obtain for any volunteers, within 30 days of commencement of volunteer service, a copy of (i) the information from the central registry and (ii) an original criminal record clearance with respect to offenses specified in § 63.2-1719 or an

original criminal history record from the Central Criminal Records Exchange. Any person making a materially false statement regarding the sworn statement or affirmation provided pursuant to subdivision C 1 is guilty of a Class 1 misdemeanor. If a volunteer is denied service because of information from the central registry or convictions appearing on his criminal history record, such licensed child-placing agency, independent foster home, or family day system, registered family day home, or family day home approved by a family day system shall provide a copy of the information obtained from the central registry or the Central Criminal Records Exchange or both to the volunteer. The provisions of this subsection shall apply only to volunteers who will be alone with any child in the performance of their duties and shall not apply to a parent-volunteer of a child attending a licensed child-placing agency, independent foster home, or family day system, registered family day home, or family day home approved by a family day system, whether or not such parent-volunteer will be alone with any child in the performance of his duties. A parent-volunteer is someone supervising, without pay, a group of children that includes the parent-volunteer's own child in a program that operates no more than four hours per day, provided that the parent-volunteer works under the direct supervision of a person who has received a clearance pursuant to this section.

G. No volunteer shall be permitted to serve in a licensed assisted living facility or licensed adult day care center without the permission or under the supervision of a person who has received a clearance pursuant to this section.

H. Further dissemination of the background check information is prohibited other than to the Commissioner's representative or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination.

I. A licensed assisted living facility shall notify and provide all students a copy of the provisions of this article prior to or upon enrollment in a certified nurse aide program operated by such assisted living facility.

J. A person who complies in good faith with the provisions of this section shall not be liable for any civil damages for any act or omission in the performance of duties under this section unless the act or omission was the result of gross negligence or willful misconduct.

## CHAPTER 202

*An Act to amend and reenact § 51.5-128 of the Code of Virginia, relating to Commonwealth Council on Aging; duties.*

[S 1437]

Approved February 23, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 51.5-128 of the Code of Virginia is amended and reenacted as follows:**

**§ 51.5-128. Duties of the Commonwealth Council on Aging.**

A. The Commonwealth Council on Aging shall have the following duties:

1. Examine the needs of older Virginians and their caregivers and ways in which state government can most effectively and efficiently assist in meeting those needs;
2. Advise the Governor and General Assembly on aging issues and aging policy for the Commonwealth;
3. Advise the Governor on any proposed regulations deemed by the Director of the Department of Planning and Budget to have a substantial and distinct impact on older Virginians and their caregivers. Such advice shall be provided in addition to other regulatory reviews required by the Administrative Process Act (§ 2.2-4000 et seq.);
4. Advocate for and assist in developing the Commonwealth's planning for meeting the needs of the growing number of older Virginians and their caregivers; ~~and~~
5. Assist and advise the Department with the development and ongoing review of the Virginia Respite Care Grant Program pursuant to Article 8 (§ 51.5-155 et seq.); *and*
6. *Assist and advise the Department regarding strategies to improve nutritional health, alleviate hunger, and prevent malnutrition among older adults.*

B. The Commonwealth Council on Aging may apply for and expend such grants, gifts, or bequests from any source as may become available in connection with its duties under this section, and may comply with such conditions and requirements as may be imposed in connection therewith.

## CHAPTER 203

*An Act to amend the Code of Virginia by adding a section numbered 63.2-905.4, relating to foster care; enrollment in the Commonwealth's program of medical assistance.*

[S 1461]

Approved February 23, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding a section numbered 63.2-905.4 as follows:**

**§ 63.2-905.4. Individuals in foster care on eighteenth birthday; enrollment in Commonwealth's program of medical assistance.**

*Local departments shall ensure that any individual who was in foster care on his eighteenth birthday is enrolled, unless the individual objects, in the Commonwealth's program of medical assistance established pursuant to § 32.1-325, provided that such individual is eligible to receive health care services under the Commonwealth's program of medical assistance and was enrolled in such program on his eighteenth birthday. Prior to enrollment, local departments shall provide such individuals with basic information about health care services provided under the state plan for medical assistance services and inform such individuals that, if eligible, they will be enrolled in the Commonwealth's program of medical assistance unless they object.*

**2. That the State Board of Social Services shall promulgate regulations to implement the provisions of this act.**

#### CHAPTER 204

*An Act to amend and reenact § 46.2-613 of the Code of Virginia, relating to farm use vehicles; exemption from registration requirements.*

[H 1440]

Approved February 23, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 46.2-613 of the Code of Virginia is amended and reenacted as follows:**

**§ 46.2-613. Offenses relating to registration, licensing, and certificates of title; penalties.**

No person shall:

1. Operate or permit the operation of a motor vehicle, trailer, or semitrailer owned, leased, or otherwise controlled by him to be operated on a highway unless (i) it is registered, (ii) a certificate of title therefor has been issued, and (iii) it has displayed on it the license plate or plates and decal or decals, if any, assigned to it by the Department for the current registration period, subject to the exemptions mentioned in Article 5 (§ 46.2-655 et seq.) and Article 6 (§ 46.2-662 et seq.) ~~of this chapter~~. The provisions of this subdivision shall apply to the registration, licensing, and titling of mopeds on or after July 1, 2014.

2. Display, cause or permit to be displayed, any registration card, certificate of title, or license plate or decal which he knows is fictitious or which he knows has been cancelled, revoked, suspended, or altered; or display or cause or permit to be displayed on any motor vehicle, trailer, or semitrailer any license plate or decal that he knows is currently issued for another vehicle. Violation of this subdivision shall constitute a Class 2 misdemeanor.

3. Possess or lend or knowingly permit the use of any registration card, license plate, or decal by anyone not entitled to it.

4. Fail or refuse to surrender to the Department or the Department of State Police, on demand, any certificate of title, registration card, or license plate or decal which has been suspended, cancelled, or revoked. Violation of this subdivision shall constitute a Class 2 misdemeanor.

5. Use a false name or address in any application for the registration of any motor vehicle, trailer, or semitrailer or for a certificate of title or for any renewal or duplicate certificate, or knowingly to make a false statement of a material fact or to conceal a material fact or otherwise commit a fraud in any registration application. Violation of this subdivision shall constitute a Class 1 misdemeanor.

6. *Willfully and intentionally violate the limitations imposed under §§ 46.2-665, 46.2-666, and 46.2-670 while operating an unregistered vehicle pursuant to the agricultural and horticultural exemptions allowed under those sections. A first violation of this subdivision shall constitute a traffic infraction punishable by a fine of not more than \$250, and a second or subsequent violation of this subdivision shall constitute a traffic infraction punishable by a fine of \$250.*

#### CHAPTER 205

*An Act to amend and reenact § 53.1-43.1 of the Code of Virginia, relating to inmate trust accounts; exemption.*

[H 1651]

Approved February 23, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 53.1-43.1 of the Code of Virginia is amended and reenacted as follows:**

**§ 53.1-43.1. Inmate trust accounts.**

In addition to any other account established to hold funds for inmates, the Department shall establish for each inmate a personal trust account. Unless an inmate has been sentenced to be executed, ~~or~~ is serving a sentence of life without the possibility of parole, *or is sentenced to a term that makes him ineligible for release, excluding the conditional release of geriatric prisoners pursuant to § 53.1-40.01, prior to 75 years of age*, 10 percent of any funds received by an inmate from any source shall be deposited by the Department in the inmate's personal trust account until the account has a balance of \$1,000. When the inmate's personal trust account reaches \$1,000, any funds received by the inmate shall be deposited in the inmate's other account.

An inmate may direct the Department at any time to deposit a portion or all of any funds received by him in the inmate's personal trust account. After the balance of a personal trust account has exceeded \$1,000, an inmate may direct the

Department to transfer funds from his personal trust account to any other account maintained for him; provided, however, that the balance of the personal trust account shall not fall below \$1,000.

Funds in an inmate's personal trust account shall be paid to the inmate upon parole or final discharge.

## CHAPTER 206

*An Act to amend and reenact §§ 9.1-108 and 9.1-112 of the Code of Virginia, relating to citizen membership on the Criminal Justice Services Board and its Committee on Training.*

[H 1951]

Approved February 23, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 9.1-108 and 9.1-112 of the Code of Virginia are amended and reenacted as follows:**

**§ 9.1-108. Criminal Justice Services Board membership; terms; vacancies; members not disqualified from holding other offices; designation of chairmen; meetings; compensation.**

A. The Criminal Justice Services Board is established as a policy board within the meaning of § 2.2-2100, in the executive branch of state government. The Board shall consist of ~~28~~ 29 members as follows: the Chief Justice of the Supreme Court of Virginia, or his designee; the Attorney General or his designee; the Superintendent of the Department of State Police; the Director of the Department of Corrections; the Director of the Department of Juvenile Justice; the Chairman of the Parole Board; the Executive Director of the Virginia Indigent Defense Commission or his designee; and the Executive Secretary of the Supreme Court of Virginia. In those instances in which the Executive Secretary of the Supreme Court of Virginia, the Superintendent of the Department of State Police, the Director of the Department of Corrections, the Director of the Department of Juvenile Justice, or the Chairman of the Parole Board will be absent from a Board meeting, he may appoint a member of his staff to represent him at the meeting.

~~Sixteen~~ Seventeen members shall be appointed by the Governor from among citizens of the Commonwealth. At least one shall be a representative of a crime victims' organization or a victim of crime as defined in subsection B of § 19.2-11.01, and one shall represent community interests. The remainder shall be representative of the broad categories of state and local governments, criminal justice systems, and law-enforcement agencies, including but not limited to, police officials, sheriffs, attorneys for the Commonwealth, defense counsel, the judiciary, correctional and rehabilitative activities, and other locally elected and appointed administrative and legislative officials. Among these members there shall be two sheriffs representing the Virginia Sheriffs' Association selected from among names submitted by the Association; one member who is an active duty law-enforcement officer appointed after consideration of the names, if any, submitted by police or fraternal associations that have memberships of at least 1,000; two representatives of the Virginia Association of Chiefs of Police appointed after consideration of the names submitted by the Association, if any; one attorney for the Commonwealth appointed after consideration of the names submitted by the Virginia Association of Commonwealth's Attorneys, if any; one person who is a mayor, city or town manager, or member of a city or town council representing the Virginia Municipal League appointed after consideration of the names submitted by the League, if any; one person who is a county executive, manager, or member of a county board of supervisors representing the Virginia Association of Counties appointed after consideration of the names submitted by the Association, if any; one member representing the Virginia Crime Prevention Association of Campus Law Enforcement Administrators appointed after consideration of the names submitted by the Association, if any; one member of the Private Security Services Advisory Board; and one representative of the Virginia Association of Regional Jails appointed after consideration of the names submitted by the Association, if any.

Four members of the Board shall be members of the General Assembly appointed as follows: one member of the House Committee on Appropriations appointed by the Speaker of House of Delegates after consideration of the recommendation by the committee's chairman; one member of the House Committee for Courts of Justice appointed by the Speaker of the House of Delegates after consideration of the recommendation by the committee's chairman; one member of the Senate Committee on Finance appointed by the Senate Committee on Rules after consideration of the recommendation of the chairman of the Senate Committee on Finance; and one member of the Senate Committee for Courts of Justice appointed by the Senate Committee on Rules after consideration of the recommendation of the chairman of the Senate Committee for Courts of Justice. The legislative members shall serve for terms coincident with their terms of office and shall serve as ex officio, nonvoting members. Legislative members may be reappointed for successive terms.

B. The members of the Board appointed by the Governor shall serve for terms of four years, provided that no member shall serve beyond the time when he holds the office or employment by reason of which he was initially eligible for appointment. Gubernatorial appointed members of the Board shall not be eligible to serve for more than two consecutive full terms. Three or more years within a four-year period shall be deemed a full term. Any vacancy on the Board shall be filled in the same manner as the original appointment, but for the unexpired term.

C. The Governor shall appoint a chairman of the Board for a two-year term. No member shall be eligible to serve more than two consecutive terms as chairman. The Board shall designate one or more vice-chairmen from among its members, who shall serve at the pleasure of the Board.

D. Notwithstanding any provision of any statute, ordinance, local law, or charter provision to the contrary, membership on the Board shall not disqualify any member from holding any other public office or employment, or cause the forfeiture thereof.

E. The Board shall hold no less than four regular meetings a year. Subject to the requirements of this subsection, the chairman shall fix the times and places of meetings, either on his own motion or upon written request of any five members of the Board.

F. The Board may adopt bylaws for its operation.

G. Legislative members of the Board shall receive such compensation as provided in § 30-19.12 and nonlegislative citizen members shall receive such compensation as provided in § 2.2-2813 for the performance of their duties. All members shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. Funding for the costs of compensation and expenses of the members shall be provided by the Department of Criminal Justice Services.

**§ 9.1-112. Committee on Training; membership.**

There is created a permanent Committee on Training under the Board that shall be the policy-making body responsible to the Board for effecting the provisions of subdivisions 2 through 17 of § 9.1-102. The Committee on Training shall be composed of ~~15~~ 16 members of the Board as follows: the Superintendent of the Department of State Police; the Director of the Department of Corrections; the Director of the Department of Juvenile Justice; a member of the Private Security Services Advisory Board; the Executive Secretary of the Supreme Court of Virginia; two sheriffs representing the Virginia State Sheriffs Association; two representatives of the Chiefs of Police Association; the active-duty law-enforcement officer representing police and fraternal associations; the attorney for the Commonwealth representing the Association of Commonwealth's Attorneys; a representative of the Virginia Municipal League; a representative of the Virginia Association of Counties; a regional jail superintendent representing the Virginia Association of Regional Jails; *one citizen representing community interests*; and one member designated by the chairman of the Board from among the other appointments made by the Governor.

The Committee on Training shall annually elect its chairman from among its members.

**2. That the Secretary of Public Safety and Homeland Security shall, in consultation with the Governor, review the current composition of the Criminal Justice Services Board and develop a plan for the restructuring of the Board in order to improve its efficiency in carrying out its duties. The Secretary of Public Safety and Homeland Security shall submit the plan by December 1, 2017, to the Chairmen of the House and Senate Committees for Courts of Justice.**

## CHAPTER 207

*An Act to amend and reenact § 16.1-300 of the Code of Virginia, relating to confidentiality of Department of Juvenile Justice records; community gang task forces.*

[H 2287]

Approved February 23, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 16.1-300 of the Code of Virginia is amended and reenacted as follows:**

**§ 16.1-300. Confidentiality of Department records.**

A. The social, medical, psychiatric and psychological reports and records of children who are or have been (i) before the court, (ii) under supervision, or (iii) receiving services from a court service unit or who are committed to the Department of Juvenile Justice shall be confidential and shall be open for inspection only to the following:

1. The judge, prosecuting attorney, probation officers and professional staff assigned to serve a court having the child currently before it in any proceeding;
2. Any public agency, child welfare agency, private organization, facility or person who is treating or providing services to the child pursuant to a contract with the Department or pursuant to the Virginia Juvenile Community Crime Control Act as set out in Article 12.1 (§ 16.1-309.2 et seq.);
3. The child's parent, guardian, legal custodian or other person standing in loco parentis and the child's attorney;
4. Any person who has reached the age of majority and requests access to his own records or reports;
5. Any state agency providing funds to the Department of Juvenile Justice and required by the federal government to monitor or audit the effectiveness of programs for the benefit of juveniles which are financed in whole or in part by federal funds;
6. Any other person, agency or institution, including any law-enforcement agency, school administration, or probation office by order of the court, having a legitimate interest in the case, the juvenile, or in the work of the court;
7. Any person, agency, or institution, in any state, having a legitimate interest (i) when release of the confidential information is for the provision of treatment or rehabilitation services for the juvenile who is the subject of the information, (ii) when the requesting party has custody or is providing supervision for a juvenile and the release of the confidential information is in the interest of maintaining security in a secure facility, as defined by § 16.1-228 if the facility is located in Virginia, or as similarly defined by the law of the state in which such facility is located if it is not located in Virginia, or (iii) when release of the confidential information is for consideration of admission to any group home, residential facility, or

postdispositional facility, and copies of the records in the custody of such home or facility shall be destroyed if the child is not admitted to the home or facility;

8. Any attorney for the Commonwealth, any pretrial services officer, local community-based probation officer and adult probation and parole officer for the purpose of preparing pretrial investigation, including risk assessment instruments, presentence reports, including those provided in § 19.2-299, discretionary sentencing guidelines worksheets, including related risk assessment instruments, as directed by the court pursuant to subsection C of § 19.2-298.01 or any court-ordered post-sentence investigation report;

9. Any person, agency, organization or institution outside the Department that, at the Department's request, is conducting research or evaluation on the work of the Department or any of its divisions; or any state criminal justice agency that is conducting research, provided that the agency agrees that all information received shall be kept confidential, or released or published only in aggregate form;

10. With the exception of medical, psychiatric, and psychological records and reports, any full-time or part-time employee of the Department of State Police or of a police department or sheriff's office that is a part of or ~~administered~~ *administered* by the Commonwealth or any political subdivision thereof, and who is responsible for the enforcement of the penal, traffic, or motor vehicle laws of the Commonwealth, is entitled to any information related to a criminal street gang, including that a person is a member of a criminal street gang as defined in § 18.2-46.1. Information shall be provided by the Department to law enforcement without their request to aid in initiating an investigation or assist in an ongoing investigation of a criminal street gang as defined in § 18.2-46.1. *This information may also be disclosed, at the Department's discretion, to a gang task force, provided that the membership (i) consists of only representatives of state or local government or (ii) includes a law-enforcement officer who is present at the time of the disclosure of the information.* The Department shall not release the identifying information of a juvenile not affiliated with or involved in a criminal street gang unless that information relates to a specific criminal act. No person who obtains information pursuant to this subdivision shall divulge such information except in connection with *gang-activity intervention and prevention*, a criminal investigation regarding a criminal street gang as defined in § 18.2-46.1 that is authorized by the Attorney General or by the attorney for the Commonwealth, or in connection with a prosecution or proceeding in court;

11. The Commonwealth's Attorneys' Services Council and any attorney for the Commonwealth, as permitted under subsection B of § 66-3.2;

12. Any state or local correctional facility as defined in § 53.1-1 when such facility has custody of or is providing supervision for a person convicted as an adult who is the subject of the reports and records. The reports and records shall remain confidential and shall be open for inspection only in accordance with this section; and

13. The Office of the Attorney General, for all criminal justice activities otherwise permitted and for purposes of performing duties required by Chapter 9 (§ 37.2-900 et seq.) of Title 37.2.

A designated individual treating or responsible for the treatment of a person may inspect such reports and records as are kept by the Department on such person or receive copies thereof, when the person who is the subject of the reports and records or his parent, guardian, legal custodian or other person standing in loco parentis if the person is under the age of 18, provides written authorization to the Department prior to the release of such reports and records for inspection or copying to the designated individual.

B. The Department may withhold from inspection by a child's parent, guardian, legal custodian or other person standing in loco parentis that portion of the records referred to in subsection A ~~hereof~~, when the staff of the Department determines, in its discretion, that disclosure of such information would be detrimental to the child or to a third party, provided that the juvenile and domestic relations district court (i) having jurisdiction over the facility where the child is currently placed or (ii) that last had jurisdiction over the child if such child is no longer in the custody or under the supervision of the Department shall concur in such determination.

If any person authorized under subsection A to inspect Department records requests to inspect the reports and records and if the Department withholds from inspection any portion of such record or report pursuant to the preceding provisions, the Department shall (i) inform the individual making the request of the action taken to withhold any information and the reasons for such action; (ii) provide such individual with as much information as is deemed appropriate under the circumstances; and (iii) notify the individual in writing at the time of the request of his right to request judicial review of the Department's decision. The circuit court (a) having jurisdiction over the facility where the child is currently placed or (b) that had jurisdiction over the original proceeding or over an appeal of the juvenile and domestic relations district court final order of disposition concerning the child if such child is no longer in the custody or under the supervision of the Department shall have jurisdiction over petitions filed for review of the Department's decision to withhold reports or records as provided herein.

## CHAPTER 208

*An Act to amend and reenact § 19.2-81, as it is currently effective and as it shall become effective, of the Code of Virginia, relating to Division of Capitol Police; arrest without warrant.*

[H 2329]

Approved February 23, 2017

**Be it enacted by the General Assembly of Virginia:****1. That § 19.2-81, as it is currently effective and as it shall become effective, of the Code of Virginia is amended and reenacted as follows:****§ 19.2-81. (Effective until July 1, 2018) Arrest without warrant authorized in certain cases.**

A. The following officers shall have the powers of arrest as provided in this section:

1. Members of the State Police force of the Commonwealth;
2. Sheriffs of the various counties and cities, and their deputies;
3. Members of any county police force or any duly constituted police force of any city or town of the Commonwealth;
4. The Commissioner, members and employees of the Marine Resources Commission granted the power of arrest pursuant to § 28.2-900;
5. Regular conservation police officers appointed pursuant to § 29.1-200;
6. United States Coast Guard and United States Coast Guard Reserve commissioned, warrant, and petty officers authorized under § 29.1-205 to make arrests;
7. Conservation officers appointed pursuant to § 10.1-115;
8. Full-time sworn members of the enforcement division of the Department of Motor Vehicles appointed pursuant to § 46.2-217;
9. Special agents of the Department of Alcoholic Beverage Control; ~~and~~
10. Campus police officers appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; *and*

***II. Members of the Division of Capitol Police.***

B. Such officers may arrest without a warrant any person who commits any crime in the presence of the officer and any person whom he has reasonable grounds or probable cause to suspect of having committed a felony not in his presence.

Such officers may arrest without a warrant any person whom the officer has probable cause to suspect of operating any watercraft or motorboat while (i) intoxicated in violation of subsection B of § 29.1-738 or a substantially similar ordinance of any county, city, or town in the Commonwealth or (ii) in violation of an order issued pursuant to § 29.1-738.4 and may thereafter transfer custody of the person arrested to another officer, who may obtain a warrant based upon statements made to him by the arresting officer.

C. Any such officer may, at the scene of any accident involving a motor vehicle, watercraft as defined in § 29.1-733.2 or motorboat, or at any hospital or medical facility to which any person involved in such accident has been transported, or in the apprehension of any person charged with the theft of any motor vehicle, on any of the highways or waters of the Commonwealth, upon reasonable grounds to believe, based upon personal investigation, including information obtained from eyewitnesses, that a crime has been committed by any person then and there present, apprehend such person without a warrant of arrest. For purposes of this section, "the scene of any accident " shall include a reasonable location where a vehicle or person involved in an accident has been moved at the direction of a law-enforcement officer to facilitate the clearing of the highway or to ensure the safety of the motoring public.

D. Such officers may, within three hours of the alleged offense, arrest without a warrant at any location any person whom the officer has probable cause to suspect of driving or operating a motor vehicle, watercraft or motorboat while intoxicated in violation of § 18.2-266, 18.2-266.1, 46.2-341.24, or subsection B of § 29.1-738; or a substantially similar ordinance of any county, city, or town in the Commonwealth, whether or not the offense was committed in such officer's presence. Such officers may, within three hours of the alleged offense, arrest without a warrant at any location any person whom the officer has probable cause to suspect of operating a watercraft or motorboat in violation of an order issued pursuant to § 29.1-738.4, whether or not the offense was committed in such officer's presence.

E. Such officers may arrest, without a warrant or a *capias*, persons duly charged with a crime in another jurisdiction upon receipt of a photocopy of a warrant or a *capias*, telegram, computer printout, facsimile printout, a radio, telephone or teletype message, in which photocopy of a warrant, telegram, computer printout, facsimile printout, radio, telephone or teletype message shall be given the name or a reasonably accurate description of such person wanted and the crime alleged.

F. Such officers may arrest, without a warrant or a *capias*, for an alleged misdemeanor not committed in his presence when the officer receives a radio message from his department or other law-enforcement agency within the Commonwealth that a warrant or *capias* for such offense is on file.

G. Such officers may also arrest without a warrant for an alleged misdemeanor not committed in their presence involving (i) shoplifting in violation of § 18.2-96 or 18.2-103 or a similar local ordinance, (ii) carrying a weapon on school property in violation of § 18.2-308.1, (iii) assault and battery, (iv) brandishing a firearm in violation of § 18.2-282, or (v) destruction of property in violation of § 18.2-137, when such property is located on premises used for business or commercial purposes, or a similar local ordinance, when any such arrest is based on probable cause upon reasonable complaint of the person who observed the alleged offense. The arresting officer may issue a summons to any person arrested under this section for a misdemeanor violation involving shoplifting.

**§ 19.2-81. (Effective July 1, 2018) Arrest without warrant authorized in certain cases.**

A. The following officers shall have the powers of arrest as provided in this section:

1. Members of the State Police force of the Commonwealth;
2. Sheriffs of the various counties and cities, and their deputies;
3. Members of any county police force or any duly constituted police force of any city or town of the Commonwealth;

- 4. The Commissioner, members and employees of the Marine Resources Commission granted the power of arrest pursuant to § 28.2-900;
- 5. Regular conservation police officers appointed pursuant to § 29.1-200;
- 6. United States Coast Guard and United States Coast Guard Reserve commissioned, warrant, and petty officers authorized under § 29.1-205 to make arrests;
- 7. Conservation officers appointed pursuant to § 10.1-115;
- 8. Full-time sworn members of the enforcement division of the Department of Motor Vehicles appointed pursuant to § 46.2-217;
- 9. Special agents of the Virginia Alcoholic Beverage Control Authority; ~~and~~
- 10. Campus police officers appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; and
- 11. *Members of the Division of Capitol Police.*

B. Such officers may arrest without a warrant any person who commits any crime in the presence of the officer and any person whom he has reasonable grounds or probable cause to suspect of having committed a felony not in his presence.

Such officers may arrest without a warrant any person whom the officer has probable cause to suspect of operating any watercraft or motorboat while (i) intoxicated in violation of subsection B of § 29.1-738 or a substantially similar ordinance of any county, city, or town in the Commonwealth or (ii) in violation of an order issued pursuant to § 29.1-738.4 and may thereafter transfer custody of the person arrested to another officer, who may obtain a warrant based upon statements made to him by the arresting officer.

C. Any such officer may, at the scene of any accident involving a motor vehicle, watercraft as defined in § 29.1-733.2 or motorboat, or at any hospital or medical facility to which any person involved in such accident has been transported, or in the apprehension of any person charged with the theft of any motor vehicle, on any of the highways or waters of the Commonwealth, upon reasonable grounds to believe, based upon personal investigation, including information obtained from eyewitnesses, that a crime has been committed by any person then and there present, apprehend such person without a warrant of arrest. For purposes of this section, "the scene of any accident " shall include a reasonable location where a vehicle or person involved in an accident has been moved at the direction of a law-enforcement officer to facilitate the clearing of the highway or to ensure the safety of the motoring public.

D. Such officers may, within three hours of the alleged offense, arrest without a warrant at any location any person whom the officer has probable cause to suspect of driving or operating a motor vehicle, watercraft or motorboat while intoxicated in violation of § 18.2-266, 18.2-266.1, 46.2-341.24, or subsection B of § 29.1-738; or a substantially similar ordinance of any county, city, or town in the Commonwealth, whether or not the offense was committed in such officer's presence. Such officers may, within three hours of the alleged offense, arrest without a warrant at any location any person whom the officer has probable cause to suspect of operating a watercraft or motorboat in violation of an order issued pursuant to § 29.1-738.4, whether or not the offense was committed in such officer's presence.

E. Such officers may arrest, without a warrant or a *capias*, persons duly charged with a crime in another jurisdiction upon receipt of a photocopy of a warrant or a *capias*, telegram, computer printout, facsimile printout, a radio, telephone or teletype message, in which photocopy of a warrant, telegram, computer printout, facsimile printout, radio, telephone or teletype message shall be given the name or a reasonably accurate description of such person wanted and the crime alleged.

F. Such officers may arrest, without a warrant or a *capias*, for an alleged misdemeanor not committed in his presence when the officer receives a radio message from his department or other law-enforcement agency within the Commonwealth that a warrant or *capias* for such offense is on file.

G. Such officers may also arrest without a warrant for an alleged misdemeanor not committed in their presence involving (i) shoplifting in violation of § 18.2-96 or 18.2-103 or a similar local ordinance, (ii) carrying a weapon on school property in violation of § 18.2-308.1, (iii) assault and battery, (iv) brandishing a firearm in violation of § 18.2-282, or (v) destruction of property in violation of § 18.2-137, when such property is located on premises used for business or commercial purposes, or a similar local ordinance, when any such arrest is based on probable cause upon reasonable complaint of the person who observed the alleged offense. The arresting officer may issue a summons to any person arrested under this section for a misdemeanor violation involving shoplifting.

**CHAPTER 209**

*An Act to amend and reenact § 51.1-1201 of the Code of Virginia, relating to Volunteer Firefighters' and Rescue Squad Workers' Service Award Fund Board; meetings.*

[S 896]

Approved February 23, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 51.1-1201 of the Code of Virginia is amended and reenacted as follows:**

**§ 51.1-1201. Volunteer Firefighters' and Rescue Squad Workers' Service Award Fund Board.**

A. The Volunteer Firefighters' and Rescue Squad Workers' Service Award Fund Board is hereby created and is to be composed of 10 members. The Director of the Virginia Retirement System shall be a member and act as chairman. The Governor shall appoint three members of the Board from a list provided by the Virginia State Firefighters Association and

three members from a list provided by the Virginia Association of Volunteer Rescue Squads. Such appointees shall be confirmed by the General Assembly and shall serve for six-year terms. No Board member appointed by the Governor shall serve more than two full consecutive terms. The Speaker of the House of Delegates shall appoint two members of the House of Delegates and the Senate Committee on Rules shall appoint one member of the Senate. Legislative members shall serve terms coincident with their terms of office.

B. The Director of the Virginia Retirement System with the consent of the Board shall immediately declare the office of any nonlegislative member of the Board vacant when he finds that the member is unable to perform the duties of his office or for any reason does not meet the qualifications of this section. The Governor shall appoint a new member, subject to confirmation by the General Assembly, to serve for a full or unexpired term whenever the office of a nonlegislative member becomes or is declared vacant. In any case where a new appointment is made, the person receiving the appointment shall be a (i) volunteer firefighter representative if his predecessor was a volunteer firefighter representative or (ii) volunteer emergency medical services personnel representative if his predecessor was a volunteer emergency medical services personnel representative.

C. The members of the Board shall serve without compensation; however, the nongovernmental members may be reimbursed for their reasonable expenses incurred in attending meetings of the Board or in acting in an official capacity for the Board.

D. The first Board appointed shall meet as soon as practicable for the purpose of organizing and electing officers. Officers other than the chairman shall be elected for one-year terms. The Board shall adopt a general statement of policy and procedures. The Board shall meet at least ~~quarterly~~ *annually* and at such special meetings as the chairman may call. The chairman may call a special meeting at any time and shall call a special meeting when requested by three or more members of the Board. No meeting shall be deemed a regular or special meeting unless a quorum is present.

E. Members of the Board shall be subject to removal from office only as set forth in Article 7 (§ 24.2-230 et seq.) of Chapter 2 of Title 24.2. The Circuit Court of the City of Richmond shall have exclusive jurisdiction over such removal proceedings.

## CHAPTER 210

*An Act to amend and reenact § 16.1-300 of the Code of Virginia, relating to confidentiality of Department of Juvenile Justice records; community gang task forces.*

[S 1288]

Approved February 23, 2017

### **Be it enacted by the General Assembly of Virginia:**

#### **1. That § 16.1-300 of the Code of Virginia is amended and reenacted as follows:**

##### **§ 16.1-300. Confidentiality of Department records.**

A. The social, medical, psychiatric and psychological reports and records of children who are or have been (i) before the court, (ii) under supervision, or (iii) receiving services from a court service unit or who are committed to the Department of Juvenile Justice shall be confidential and shall be open for inspection only to the following:

1. The judge, prosecuting attorney, probation officers and professional staff assigned to serve a court having the child currently before it in any proceeding;

2. Any public agency, child welfare agency, private organization, facility or person who is treating or providing services to the child pursuant to a contract with the Department or pursuant to the Virginia Juvenile Community Crime Control Act as set out in Article 12.1 (§ 16.1-309.2 et seq.);

3. The child's parent, guardian, legal custodian or other person standing in loco parentis and the child's attorney;

4. Any person who has reached the age of majority and requests access to his own records or reports;

5. Any state agency providing funds to the Department of Juvenile Justice and required by the federal government to monitor or audit the effectiveness of programs for the benefit of juveniles which are financed in whole or in part by federal funds;

6. Any other person, agency or institution, including any law-enforcement agency, school administration, or probation office by order of the court, having a legitimate interest in the case, the juvenile, or in the work of the court;

7. Any person, agency, or institution, in any state, having a legitimate interest (i) when release of the confidential information is for the provision of treatment or rehabilitation services for the juvenile who is the subject of the information, (ii) when the requesting party has custody or is providing supervision for a juvenile and the release of the confidential information is in the interest of maintaining security in a secure facility, as defined by § 16.1-228 if the facility is located in Virginia, or as similarly defined by the law of the state in which such facility is located if it is not located in Virginia, or (iii) when release of the confidential information is for consideration of admission to any group home, residential facility, or postdispositional facility, and copies of the records in the custody of such home or facility shall be destroyed if the child is not admitted to the home or facility;

8. Any attorney for the Commonwealth, any pretrial services officer, local community-based probation officer and adult probation and parole officer for the purpose of preparing pretrial investigation, including risk assessment instruments, presentence reports, including those provided in § 19.2-299, discretionary sentencing guidelines worksheets, including

related risk assessment instruments, as directed by the court pursuant to subsection C of § 19.2-298.01 or any court-ordered post-sentence investigation report;

9. Any person, agency, organization or institution outside the Department that, at the Department's request, is conducting research or evaluation on the work of the Department or any of its divisions; or any state criminal justice agency that is conducting research, provided that the agency agrees that all information received shall be kept confidential, or released or published only in aggregate form;

10. With the exception of medical, psychiatric, and psychological records and reports, any full-time or part-time employee of the Department of State Police or of a police department or sheriff's office that is a part of or ~~administered~~ *administered* by the Commonwealth or any political subdivision thereof, and who is responsible for the enforcement of the penal, traffic, or motor vehicle laws of the Commonwealth, is entitled to any information related to a criminal street gang, including that a person is a member of a criminal street gang as defined in § 18.2-46.1. Information shall be provided by the Department to law enforcement without their request to aid in initiating an investigation or assist in an ongoing investigation of a criminal street gang as defined in § 18.2-46.1. *This information may also be disclosed, at the Department's discretion, to a gang task force, provided that the membership (i) consists of only representatives of state or local government or (ii) includes a law-enforcement officer who is present at the time of the disclosure of the information.* The Department shall not release the identifying information of a juvenile not affiliated with or involved in a criminal street gang unless that information relates to a specific criminal act. No person who obtains information pursuant to this subdivision shall divulge such information except in connection with *gang-activity intervention and prevention*, a criminal investigation regarding a criminal street gang as defined in § 18.2-46.1 that is authorized by the Attorney General or by the attorney for the Commonwealth, or in connection with a prosecution or proceeding in court;

11. The Commonwealth's Attorneys' Services Council and any attorney for the Commonwealth, as permitted under subsection B of § 66-3.2;

12. Any state or local correctional facility as defined in § 53.1-1 when such facility has custody of or is providing supervision for a person convicted as an adult who is the subject of the reports and records. The reports and records shall remain confidential and shall be open for inspection only in accordance with this section; and

13. The Office of the Attorney General, for all criminal justice activities otherwise permitted and for purposes of performing duties required by Chapter 9 (§ 37.2-900 et seq.) of Title 37.2.

A designated individual treating or responsible for the treatment of a person may inspect such reports and records as are kept by the Department on such person or receive copies thereof, when the person who is the subject of the reports and records or his parent, guardian, legal custodian or other person standing in loco parentis if the person is under the age of 18, provides written authorization to the Department prior to the release of such reports and records for inspection or copying to the designated individual.

B. The Department may withhold from inspection by a child's parent, guardian, legal custodian or other person standing in loco parentis that portion of the records referred to in subsection A ~~hereof~~, when the staff of the Department determines, in its discretion, that disclosure of such information would be detrimental to the child or to a third party, provided that the juvenile and domestic relations district court (i) having jurisdiction over the facility where the child is currently placed or (ii) that last had jurisdiction over the child if such child is no longer in the custody or under the supervision of the Department shall concur in such determination.

If any person authorized under subsection A to inspect Department records requests to inspect the reports and records and if the Department withholds from inspection any portion of such record or report pursuant to the preceding provisions, the Department shall (i) inform the individual making the request of the action taken to withhold any information and the reasons for such action; (ii) provide such individual with as much information as is deemed appropriate under the circumstances; and (iii) notify the individual in writing at the time of the request of his right to request judicial review of the Department's decision. The circuit court (a) having jurisdiction over the facility where the child is currently placed or (b) that had jurisdiction over the original proceeding or over an appeal of the juvenile and domestic relations district court final order of disposition concerning the child if such child is no longer in the custody or under the supervision of the Department shall have jurisdiction over petitions filed for review of the Department's decision to withhold reports or records as provided herein.

## CHAPTER 211

*An Act to amend and reenact §§ 53.1-81 and 53.1-82 of the Code of Virginia, relating to reimbursement of capital costs; regional jails; regional contracts for cooperative jailing.*

[S 1313]

Approved February 23, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 53.1-81 and 53.1-82 of the Code of Virginia are amended and reenacted as follows:**

**§ 53.1-81. Construction and operation of regional jail facilities; state reimbursement; agreements with Department.**

A. Three or more cities or counties, or any combination thereof, are authorized, pursuant to approval of the Board, to construct, enlarge or renovate a regional jail facility or to enlarge or renovate an existing jail for the purpose of establishing a regional jail facility. In addition, (i) any regional jail facilities established by three or more cities, counties or towns, or any combination thereof, on or before January 31, 1993, (ii) any existing regional jail facilities established by only two cities, counties or towns on or before June 30, 1982, and (iii) any regional jail facilities established by only two contiguous counties whose boundaries are not contiguous by land with the boundaries of any other county in the Commonwealth, may participate under the provisions of this section. On and after December 1, 1989, subject to the provisions of § 53.1-82.2, the Commonwealth shall reimburse each such locality its pro rata share up to one-half of the capital costs, as defined in § 53.1-82.2, of such construction, enlargement or renovation in accordance with the provisions of this section if the project was approved by the Governor prior to July 1, 2015, or the project is an enlargement or renovation of a regional jail facility created prior to July 1, 2015, and shall reimburse each such locality its pro rata share up to one-fourth of such capital costs if such project is approved by the Governor on or after July 1, 2015, and has been specifically authorized in the general appropriation act. *On or after July 1, 2017, subject to the provisions of § 53.1-82.2, the Commonwealth shall reimburse each such locality its pro rata share up to one-fourth of the capital costs, as defined in § 53.1-82.2, for any construction, enlargement or renovation project in accordance with the provisions of this section if such project is approved by the Governor on or after July 1, 2017, and has been specifically authorized in the general appropriation act.* However, regional jails created by any combination of three or more cities or counties on or after February 1, 1993, shall not be eligible for such reimbursement unless at least three of the participating localities of such combination were each operating a jail on February 1, 1993. The Board shall promulgate regulations, to include criteria which may be used to assess need and establish priorities, to serve as guidelines in evaluating requests for such reimbursement and to ensure the fair and equitable distribution of state funds provided for such purpose. The Department shall apply such regulations in preparing requests for appropriations. No such reimbursement shall be had unless the plans and specifications, including the need for additional personnel, thereof have been submitted to the Governor and the jail project has been approved by him. The Governor shall base his approval in part on the expected operating cost-efficiency of the interior design of the facility. Such reimbursement shall be paid subject to the provisions of § 53.1-82.2.

Such counties, cities, towns, or combination thereof may enter into agreements with the Department of Corrections for the Department to operate such jail or to pay the costs of maintenance, upkeep and other operational costs of the jail. Each city, county or town shall, however, bear the expense of local prisoners from such city, county or town. In such case, the Department shall receive such costs from the funds appropriated in the general appropriation act for criminal costs. The method of operation by the Department shall be in the manner it prescribes, notwithstanding any other provision of law designating sheriffs as the keepers of jails.

In lieu of an agreement by the localities with the Board for construction or operation of jail facilities, the Board may agree to sell land owned by the Commonwealth to the localities. The Governor is hereby authorized, at his discretion and upon the advice of the Board, to execute a conveyance of such land in a form approved by the Attorney General.

B. In the event that a county, city or town requests and receives financial assistance for capital costs of such jail project from the Department of Criminal Justice Services or from other public fund sources outside of the provisions of this section, the total financial assistance and reimbursement shall not exceed the total cost of the project.

**§ 53.1-82. Regional contracts for cooperative jailing of offenders; state reimbursement.**

A. Three or more counties or cities, or any combination thereof, are authorized to contract for services for the detention and confinement of categories of offenders in single or regional jail facilities operated by the contracting jurisdictions. In addition, (i) any three or more counties, cities or towns, or any combination thereof, operating a jail facility pursuant to an agreement for cooperative jailing established on or before January 31, 1993, (ii) any existing regional jail facilities established by only two cities, counties, or towns on or before June 30, 1982, and (iii) any regional jail facilities established by only two contiguous counties whose boundaries are not contiguous by land with the boundaries of any other county in the Commonwealth, may participate under the provisions of this section. The Board shall promulgate regulations specifying the categories of offenders which may be served pursuant to the contracts provided for herein.

The governing bodies of localities participating in an agreement for cooperative jailing shall create a board to advise the locality in which the jail facility is located on matters affecting operation of the facility. Each participating locality shall have at least one representative on the board. The sheriff and any member of the local governing body of each participating locality shall be eligible for appointment to the board; however, when a participating locality appoints more than one representative, the sheriff shall be appointed unless the sheriff is the administrator or superintendent of the jail facility operated pursuant to the agreement for cooperative jailing. A sheriff serving as such administrator or superintendent shall be an ex officio member of the board.

When such contracts are approved by the Board and, for the implementation of the contract, require the construction, enlargement, or renovation of a regional jail facility or the enlargement or renovation of an existing jail, the Commonwealth shall reimburse each such locality its pro rata share, up to one-half, of the capital costs, as defined in § 53.1-82.2, of such jail project in accordance with the provisions of this section and § 53.1-82.2 if the project was approved by the Governor prior to July 1, 2015, or the project is an enlargement or renovation of a regional jail facility created prior to July 1, 2015, and shall reimburse each such locality its pro rata share up to one-fourth of such capital costs if such project is approved by the Governor on or after July 1, 2015, and has been specifically authorized in the general appropriation act. *On or after July 1, 2017, subject to the provisions of § 53.1-82.2, the Commonwealth shall reimburse each such locality its pro rata*

share up to one-fourth of the capital costs, as defined in § 53.1-82.2, for any construction, enlargement or renovation project in accordance with the provisions of this section if such project is approved by the Governor on or after July 1, 2017, and has been specifically authorized in the general appropriation act. Any agreement for cooperative jailing entered into on or after July 1, 1991, which requires the construction, enlargement, or renovation of a single or regional jail facility shall require such counties, cities and towns to participate in the costs of the facility for a minimum period of thirty years.

The Board shall promulgate regulations, to include criteria which may be used to assess need and establish priorities, to serve as guidelines in evaluating requests for such reimbursement and to ensure the fair and equitable distribution of state funds provided for such purpose. The Department shall apply such regulations in preparing requests for appropriations. No such reimbursement shall be had unless the plans and specifications, including the need for additional personnel, thereof have been submitted to the Governor, and the jail project has been approved by him. The Governor shall base his approval in part on the expected operating cost-efficiency of the interior design of the facility. Such reimbursement shall be paid subject to the provisions of § 53.1-82.2.

B. In the event that a county, city or town requests and receives financial assistance for capital costs of a jail project from the Department of Criminal Justice Services or from other public fund sources outside of the provisions of this section, the total financial assistance and reimbursement shall not exceed the total cost of the project.

In addition, no such reimbursement shall be had by localities entering into a contract pursuant to this section on or after February 1, 1993, unless at least three of the participating localities were each operating a jail on February 1, 1993.

## CHAPTER 212

*An Act to amend and reenact §§ 8.01-654.2, 18.2-10, 19.2-264.3:1.1, 19.2-264.3:1.2, and 19.2-264.3:3 of the Code of Virginia, relating to capital cases; replacing certain terminology.*

[S 1352]

Approved February 23, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 8.01-654.2, 18.2-10, 19.2-264.3:1.1, 19.2-264.3:1.2, and 19.2-264.3:3 of the Code of Virginia are amended and reenacted as follows:**

**§ 8.01-654.2. Presentation of claim of intellectual disability by person sentenced to death before April 29, 2003.**

Notwithstanding any other provision of law, any person under sentence of death whose sentence became final in the circuit court before April 29, 2003, and who desires to have a claim of his ~~mental retardation~~ *intellectual disability* presented to the Supreme Court, shall do so by one of the following methods: (i) if the person has not commenced a direct appeal, he shall present his claim of ~~mental retardation~~ *intellectual disability* by assignment of error and in his brief in that appeal, or if his direct appeal is pending in the Supreme Court, he shall file a supplemental assignment of error and brief containing his claim of ~~mental retardation~~ *intellectual disability*, or (ii) if the person has not filed a petition for a writ of habeas corpus under subsection C of § 8.01-654, he shall present his claim of ~~mental retardation~~ *intellectual disability* in a petition for a writ of habeas corpus under such subsection, or if such a petition is pending in the Supreme Court, he shall file an amended petition containing his claim of ~~mental retardation~~ *intellectual disability*. A person proceeding under this section shall allege the factual basis for his claim of ~~mental retardation~~ *intellectual disability*. The Supreme Court shall consider a claim raised under this section and if it determines that the claim is not frivolous, it shall remand the claim to the circuit court for a determination of ~~mental retardation~~ *intellectual disability*; otherwise the Supreme Court shall dismiss the petition. The provisions of §§ 19.2-264.3:1.1 and 19.2-264.3:1.2 shall govern a determination of ~~mental retardation~~ *intellectual disability* made pursuant to this section. If the claim is before the Supreme Court on direct appeal and is remanded to the circuit court and the case wherein the sentence of death was imposed was tried by a jury, the circuit court shall empanel a new jury for the sole purpose of making a determination of ~~mental retardation~~ *intellectual disability*.

If the person has completed both a direct appeal and a habeas corpus proceeding under subsection C of § 8.01-654, he shall not be entitled to file any further habeas petitions in the Supreme Court and his sole remedy shall lie in federal court.

**§ 18.2-10. Punishment for conviction of felony; penalty.**

The authorized punishments for conviction of a felony are:

(a) For Class 1 felonies, death, if the person so convicted was 18 years of age or older at the time of the offense and is not determined to be ~~mentally retarded~~ *a person with intellectual disability* pursuant to § 19.2-264.3:1.1, or imprisonment for life and, subject to subdivision (g), a fine of not more than \$100,000. If the person was under 18 years of age at the time of the offense or is determined to be ~~mentally retarded~~ *a person with intellectual disability* pursuant to § 19.2-264.3:1.1, the punishment shall be imprisonment for life and, subject to subdivision (g), a fine of not more than \$100,000.

(b) For Class 2 felonies, imprisonment for life or for any term not less than 20 years and, subject to subdivision (g), a fine of not more than \$100,000.

(c) For Class 3 felonies, a term of imprisonment of not less than five years nor more than 20 years and, subject to subdivision (g), a fine of not more than \$100,000.

(d) For Class 4 felonies, a term of imprisonment of not less than two years nor more than 10 years and, subject to subdivision (g), a fine of not more than \$100,000.

(e) For Class 5 felonies, a term of imprisonment of not less than one year nor more than 10 years, or in the discretion of the jury or the court trying the case without a jury, confinement in jail for not more than 12 months and a fine of not more than \$2,500, either or both.

(f) For Class 6 felonies, a term of imprisonment of not less than one year nor more than five years, or in the discretion of the jury or the court trying the case without a jury, confinement in jail for not more than 12 months and a fine of not more than \$2,500, either or both.

(g) Except as specifically authorized in subdivision (e) or (f), or in Class 1 felonies for which a sentence of death is imposed, the court shall impose either a sentence of imprisonment together with a fine, or imprisonment only. However, if the defendant is not a natural person, the court shall impose only a fine.

For any felony offense committed (i) on or after January 1, 1995, the court may, and (ii) on or after July 1, 2000, shall, except in cases in which the court orders a suspended term of confinement of at least six months, impose an additional term of not less than six months nor more than three years, which shall be suspended conditioned upon successful completion of a period of post-release supervision pursuant to § 19.2-295.2 and compliance with such other terms as the sentencing court may require. However, such additional term may only be imposed when the sentence includes an active term of incarceration in a correctional facility.

For a felony offense prohibiting proximity to children as described in subsection A of § 18.2-370.2, the sentencing court is authorized to impose the punishment set forth in that section in addition to any other penalty provided by law.

**§ 19.2-264.3:1.1. Capital cases; determination of intellectual disability.**

A. As used in this section and § 19.2-264.3:1.2, the following definition applies:

"~~Mentally retarded~~" *Intellectual disability*" means a disability, originating before the age of 18 years, characterized concurrently by (i) significantly subaverage intellectual functioning as demonstrated by performance on a standardized measure of intellectual functioning administered in conformity with accepted professional practice, that is at least two standard deviations below the mean and (ii) significant limitations in adaptive behavior as expressed in conceptual, social and practical adaptive skills.

B. Assessments of ~~mental retardation~~ *intellectual disability* under this section and § 19.2-264.3:1.2 shall conform to the following requirements:

1. Assessment of intellectual functioning shall include administration of at least one standardized measure generally accepted by the field of psychological testing and appropriate for administration to the particular defendant being assessed, taking into account cultural, linguistic, sensory, motor, behavioral and other individual factors. All such measures shall be reported as a range of scores calculated by adding and subtracting the standard error of measurement identified by the test publisher to the defendant's earned score. Testing of intellectual functioning shall be carried out in conformity with accepted professional practice, and whenever indicated, the assessment shall include information from multiple sources. The Commissioner of Behavioral Health and Developmental Services shall maintain an exclusive list of standardized measures of intellectual functioning generally accepted by the field of psychological testing.

2. Assessment of adaptive behavior shall be based on multiple sources of information, including clinical interview, psychological testing and educational, correctional and vocational records. The assessment shall include at least one standardized measure generally accepted by the field of psychological testing for assessing adaptive behavior and appropriate for administration to the particular defendant being assessed, unless not feasible. In reaching a clinical judgment regarding whether the defendant exhibits significant limitations in adaptive behavior, the examiner shall give performance on standardized measures whatever weight is clinically appropriate in light of the defendant's history and characteristics and the context of the assessment.

3. Assessment of developmental origin shall be based on multiple sources of information generally accepted by the field of psychological testing and appropriate for the particular defendant being assessed, including, whenever available, educational, social service, medical records, prior disability assessments, parental or caregiver reports, and other collateral data, recognizing that valid clinical assessment conducted during the defendant's childhood may not have conformed to current practice standards.

C. In any case in which the offense may be punishable by death and is tried before a jury, the issue of ~~mental retardation~~ *intellectual disability*, if raised by the defendant in accordance with the notice provisions of subsection E of § 19.2-264.3:1.2, shall be determined by the jury as part of the sentencing proceeding required by § 19.2-264.4.

In any case in which the offense may be punishable by death and is tried before a judge, the issue of ~~mental retardation~~ *intellectual disability*, if raised by the defendant in accordance with the notice provisions of subsection E of § 19.2-264.3:1.2, shall be determined by the judge as part of the sentencing proceeding required by § 19.2-264.4.

The defendant shall bear the burden of proving that he is ~~mentally retarded~~ *a person with intellectual disability* by a preponderance of the evidence.

D. The verdict of the jury, if the issue of ~~mental retardation~~ *intellectual disability* is raised, shall be in writing, and, in addition to the forms specified in § 19.2-264.4, shall include one of the following forms:

(+) 1. "We the jury, on the issue joined, having found the defendant guilty of (here set out the statutory language of the offense charged), and that the defendant has proven by a preponderance of the evidence that he is ~~mentally retarded~~ *a*

person with intellectual disability, fix his punishment at (i) imprisonment for life or (ii) imprisonment for life and a fine of \$ \_\_\_\_\_.

Signed \_\_\_\_\_ foreman"

or

(2) 2. "We the jury, on the issue joined, having found the defendant guilty of (here set out the statutory language of the offense charged) find that the defendant has not proven by a preponderance of the evidence that he is ~~mentally retarded~~ a person with intellectual disability.

Signed \_\_\_\_\_ foreman"

**§ 19.2-264.3:1.2. Expert assistance when issue of defendant's intellectual disability relevant to capital sentencing.**

A. Upon (i) motion of the attorney for a defendant charged with or convicted of capital murder and (ii) a finding by the court that the defendant is financially unable to pay for expert assistance, the court shall appoint one or more qualified mental health experts to assess whether or not the defendant is ~~mentally retarded~~ a person with intellectual disability and to assist the defense in the preparation and presentation of information concerning the defendant's ~~mental retardation~~ intellectual disability. The mental health expert appointed pursuant to this section shall be (a) a psychiatrist, a clinical psychologist or an individual with a doctorate degree in clinical psychology, (b) skilled in the administration, scoring and interpretation of intelligence tests and measures of adaptive behavior and (c) qualified by experience and by specialized training, approved by the Commissioner of Behavioral Health and Developmental Services, to perform forensic evaluations. The defendant shall not be entitled to a mental health expert of the defendant's own choosing or to funds to employ such expert.

B. Evaluations performed pursuant to subsection A may be combined with evaluations performed pursuant to § 19.2-169.1, 19.2-169.5, or 19.2-264.3:1.

C. The expert appointed pursuant to subsection A shall submit to the attorney for the defendant a report assessing whether the defendant is ~~mentally retarded~~ a person with intellectual disability. The report shall include the expert's opinion as to whether the defendant is ~~mentally retarded~~ a person with intellectual disability.

D. The report described in subsection C shall be sent solely to the attorney for the defendant and shall be protected by the attorney-client privilege. However, the Commonwealth shall be given a copy of the report, the results of any other evaluation of the defendant's ~~mental retardation~~ intellectual disability and copies of psychiatric, psychological, medical or other records obtained during the course of the evaluation, after the attorney for the defendant gives notice of an intent to present evidence of ~~mental retardation~~ intellectual disability pursuant to subsection E.

E. In any case in which a defendant charged with capital murder intends, in the event of conviction, to present testimony of an expert witness to support a claim that he is ~~mentally retarded~~ a person with intellectual disability, he or his attorney shall give notice in writing to the attorney for the Commonwealth, at least 21 days before trial, of his intention to present such testimony. In the event that such notice is not given and the defendant tenders testimony by an expert witness at the sentencing phase of the trial, then the court may, in its discretion, upon objection of the Commonwealth, either allow the Commonwealth a continuance or, under appropriate circumstances, bar the defendant from presenting such evidence.

F. 1. If the attorney for the defendant gives notice pursuant to subsection E and the Commonwealth thereafter seeks an evaluation concerning the existence or absence of the defendant's ~~mental retardation~~ intellectual disability, the court shall appoint one or more qualified experts to perform such an evaluation. The court shall order the defendant to submit to such an evaluation, and advise the defendant on the record in court that a refusal to cooperate with the Commonwealth's experts could result in exclusion of the defendant's expert evidence. The qualification of the experts shall be governed by subsection A. The attorney for the Commonwealth shall be responsible for providing the experts the information specified in subsection C of § 19.2-169.5. After performing their evaluation, the experts shall report their findings and opinions and provide copies of psychiatric, psychological, medical or other records obtained during the course of the evaluation to the attorneys for the Commonwealth and the defense.

2. If the court finds, after hearing evidence presented by the parties, out of the presence of the jury, that the defendant has refused to cooperate with an evaluation requested by the Commonwealth, the court may admit evidence of such refusal or, in the discretion of the court, bar the defendant from presenting his expert evidence.

**§ 19.2-264.3:3. Limitations on use of statements or disclosure by defendant during evaluations.**

No statement or disclosure by the defendant made during a competency evaluation performed pursuant to § 19.2-169.1, an evaluation performed pursuant to § 19.2-169.5 to determine sanity at the time of the offense, treatment provided pursuant to § 19.2-169.2 or § 19.2-169.6, a mental condition evaluation performed pursuant to § 19.2-264.3:1 or a ~~mental retardation~~ an intellectual disability evaluation performed pursuant to § 19.2-264.3:1.2, and no evidence derived from any such statements or disclosures may be introduced against the defendant at the sentencing phase of a capital murder trial for the purpose of proving the aggravating circumstances specified in § 19.2-264.4. Such statements or disclosures shall be admissible in rebuttal only when relevant to issues in mitigation raised by the defense.

**2. That it is the expressed intent of the General Assembly that the provisions of this act serve only to reflect a change in terminology approved and used by experts in the field to describe the identical phenomenon, as stated by the U.S. Supreme Court in *Hall v. Florida*, 134 S. Ct. 1986 (2014), and do not affect the meaning or applicability of the existing definition or case law utilizing the existing definition.**

## CHAPTER 213

*An Act to amend and reenact § 15.2-901 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 15.2-901.1, relating to running bamboo; local ordinance; civil penalty.*

[S 964]

Approved February 23, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 15.2-901 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 15.2-901.1 as follows:**

**§ 15.2-901. Locality may provide for removal or disposal of trash, cutting of grass, weeds, and running bamboo; penalty in certain counties; penalty.**

A. Any locality may, by ordinance, provide that:

1. The owners of property therein shall, at such time or times as the governing body may prescribe, remove therefrom any and all trash, garbage, refuse, litter and other substances which might endanger the health or safety of other residents of such locality; or may, whenever the governing body deems it necessary, after reasonable notice, have such trash, garbage, refuse, litter and other like substances which might endanger the health of other residents of the locality, removed by its own agents or employees, in which event the cost or expenses thereof shall be chargeable to and paid by the owners of such property and may be collected by the locality as taxes are collected;

2. Trash, garbage, refuse, litter and other debris shall be disposed of in personally owned or privately owned receptacles that are provided for such use and for the use of the persons disposing of such matter or in authorized facilities provided for such purpose and in no other manner not authorized by law;

3. The owners of occupied or vacant developed or undeveloped property therein, including such property upon which buildings or other improvements are located, shall cut the grass, weeds and other foreign growth, *including running bamboo as defined in § 15.2-901.1*, on such property or any part thereof at such time or times as the governing body shall prescribe; or may, whenever the governing body deems it necessary, after reasonable notice as determined by the locality, have such grass, weeds or other foreign growth cut by its agents or employees, in which event the cost and expenses thereof shall be chargeable to and paid by the owner of such property and may be collected by the locality as taxes are collected. For purposes of this provision, one written notice per growing season to the owner of record of the subject property shall be considered reasonable notice. No such ordinance adopted by any county shall have any force and effect within the corporate limits of any town. No such ordinance adopted by any county having a density of population of less than 500 per square mile shall have any force or effect except within the boundaries of platted subdivisions or any other areas zoned for residential, business, commercial or industrial use. No such ordinance shall be applicable to land zoned for or in active farming operation.

B. Every charge authorized by this section with which the owner of any such property shall have been assessed and which remains unpaid shall constitute a lien against such property ranking on a parity with liens for unpaid local taxes and enforceable in the same manner as provided in Articles 3 (§ 58.1-3940 et seq.) and 4 (§ 58.1-3965 et seq.) of Chapter 39 of Title 58.1. A locality may waive such liens in order to facilitate the sale of the property. Such liens may be waived only as to a purchaser who is unrelated by blood or marriage to the owner and who has no business association with the owner. All such liens shall remain a personal obligation of the owner of the property at the time the liens were imposed.

C. The governing body of any locality may by ordinance provide that violations of this section shall be subject to a civil penalty, not to exceed \$50 for the first violation, or violations arising from the same set of operative facts. The civil penalty for subsequent violations not arising from the same set of operative facts within 12 months of the first violation shall not exceed \$200. Each business day during which the same violation is found to have existed shall constitute a separate offense. In no event shall a series of specified violations arising from the same set of operative facts result in civil penalties that exceed a total of \$3,000 in a 12-month period.

D. Except as provided in this subsection, adoption of an ordinance pursuant to subsection C shall be in lieu of criminal penalties and shall preclude prosecution of such violation as a misdemeanor. The governing body of any locality may, however, by ordinance provide that such violations shall be a Class 3 misdemeanor in the event three civil penalties have previously been imposed on the same defendant for the same or similar violation, not arising from the same set of operative facts, within a 24-month period. Classifying such subsequent violations as criminal offenses shall preclude the imposition of civil penalties for the same violation.

**§ 15.2-901.1. Locality may provide for control of running bamboo; civil penalty.**

A. For purposes of this section, "running bamboo" means any bamboo that is characterized by aggressive spreading behavior, including species in the genus *Phyllostachys*.

B. Any locality may, by ordinance, provide that:

1. No landowner shall allow running bamboo to grow without proper upkeep and appropriate containment measures, including barriers or trenching; and

2. No landowner shall allow running bamboo to spread from his property to any public right-of-way or adjoining property not owned by the landowner.

C. A violation of a running bamboo ordinance authorized by this section shall be subject to a civil penalty, not to exceed \$50 for the first violation or violations arising from the same set of operative facts. The civil penalty for subsequent violations not arising from the same set of operative facts within 12 months of the first violation shall not exceed \$200. Each business day during which the same violation is found to have existed shall constitute a separate offense. In no event shall a series of specified violations arising from the same set of operative facts result in civil penalties that exceed a total of \$3,000 in a 12-month period.

D. No violation of a running bamboo ordinance arising from the same set of operative facts shall be subject to a civil penalty under both (i) an ordinance adopted pursuant to this section and (ii) an ordinance adopted pursuant to § 15.2-901.

**2. That the Department of Agriculture and Consumer Services and the Department of Conservation and Recreation shall, by July 1, 2018, together develop a model running bamboo ordinance for use by localities based on § 15.2-901.1 of the Code of Virginia, as created by this act.**

**3. That the Department of Agriculture and Consumer Services (VDACS), the Department of Conservation and Recreation, and the Department of Forestry shall enter into a Memorandum of Understanding that clarifies the roles of the VDACS noxious weeds regulations and the work of the Virginia Invasive Species Working Group.**

**4. That the Department of Agriculture and Consumer Services and the Department of Conservation and Recreation shall examine the eligibility of the plants listed in § 15.2-902 of the Code of Virginia for designation as noxious weeds and shall so designate any such plant determined to be eligible.**

#### CHAPTER 214

*An Act to amend and reenact § 1, as amended, and § 3 of Chapter XXV (A.1) of Chapter 431 of the Acts of Assembly of 1950, which provided a charter for the City of Hopewell, relating to the Hopewell Water Renewal Commission.*

[S 992]

Approved February 23, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 1, as amended, and § 3 of Chapter XXV (A.1) of Chapter 431 of the Acts of Assembly of 1950 are amended and reenacted as follows:**

§ 1. Created; general function; composition; appointment and terms of members.

There shall be a regional wastewater treatment facility commission which shall be known as the Hopewell Water Renewal Commission (hereinafter in this chapter referred to as the "Commission"), which shall act on behalf of the City of Hopewell as hereinafter provided, with respect to a regional wastewater treatment facility ~~to be~~ owned by the City of Hopewell to provide treatment for disposal of sanitary and industrial waste from the City of Hopewell and vicinity. The Commission shall consist of ~~eight up to nine~~ members who need not be residents of the city and who shall be appointed by a majority of city council. ~~Five of such members~~ *Up to six members* shall be from nominees submitted by ~~five~~ manufacturers (each nominating with respect to one membership) which provide assistance in the planning and financing ~~of~~ for the regional wastewater treatment facility or which are or will be users of said facility. *Each new nominating manufacturer, meaning manufacturers or their predecessors having not previously submitted nominations to the Commission, shall provide a capital contribution in an amount determined by the city council upon recommendation by the Commission. Three additional members shall be a city councilor, the city manager, and the city attorney.* Any vacancy in the appointive membership of the Commission, however occurring, shall be promptly filled by the city council for the unexpired term in the same manner and from the same source as the original appointment to the vacated position.

~~Council may provide for additional nominees to the Commission by manufacturers not involved in planning assistance as aforesaid who contract with the city to provide a capital contribution of four per centum or more of the original capital cost of the facility by increasing the Commission membership to provide for one nominee from each such manufacturer.~~

§ 3. Powers and duties.

The Commission shall help and assist in the ~~planning and construction~~ *maintenance and expansion* of the facility. The Commission shall exercise full authority and responsibility in the operation, maintenance, improvement and repair of the facility, subject, however, to overrule of any of its actions by the city council. The Commission shall have such further duties as the city council may from time to time direct.

#### CHAPTER 215

*An Act to amend and reenact § 2.2-2338 of the Code of Virginia, relating to Fort Monroe Authority; Board of Trustees membership.*

[S 1001]

Approved February 23, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 2.2-2338 of the Code of Virginia is amended and reenacted as follows:**

**§ 2.2-2338. Board of Trustees; membership.**

There is hereby created a political subdivision and public body corporate and politic of the Commonwealth of Virginia to be known as the Fort Monroe Authority, to be governed by a Board of Trustees (Board) consisting of ~~12 voting~~ 14 members appointed as follows: the Secretary of Natural Resources and the Secretary of Commerce and Trade, or their successor positions if those positions no longer exist, from the Governor's cabinet; ~~the Lieutenant Governor~~; the member of the Senate of Virginia and the member of the House of Delegates representing the district in which Fort Monroe lies; two members appointed by the Hampton City Council; and ~~five~~ eight nonlegislative citizen members appointed by the Governor, ~~four~~ seven of whom shall have expertise relevant to the implementation of the Fort Monroe Reuse Plan, including but not limited to the fields of historic preservation, tourism, environment, real estate, finance, and education, and one of whom shall be a citizen representative from the Hampton Roads region. *The Secretary of Natural Resources and the Secretary of Commerce and Trade shall serve ex officio without voting privileges and may send their deputies or another cabinet member to meetings in the event that official duties require their presence elsewhere.* Cabinet members, ~~the Lieutenant Governor~~, and elected representatives shall serve terms commensurate with their terms of office. ~~Citizen appointees shall initially be appointed for staggered terms of either one, two, or three years, and thereafter shall serve for four-year terms. Cabinet members shall be entitled to send their deputies or another cabinet member, and legislative~~ Legislative members may send another legislator, to meetings as full voting members in the event that official duties require their presence elsewhere.

The Board so appointed shall enter upon the performance of its duties and shall initially and annually thereafter elect one of its members as chairman and another as vice-chairman. The Board shall also elect annually a secretary, who shall be a member of the Board, and a treasurer, who need not be a member of the Board, or a secretary-treasurer, who need not be a member of the Board. The chairman, or in his absence the vice-chairman, shall preside at all meetings of the Board, and in the absence of both the chairman and vice-chairman, the Board shall elect a chairman pro tempore who shall preside at such meetings. Seven Trustees shall constitute a quorum, and all action by the Board shall require the affirmative vote of a majority of the Trustees present and voting, except that any action to amend or terminate the existing Reuse Plan, or to adopt a new Reuse Plan, shall require the affirmative vote of 75 percent or more of the Trustees present and voting. The members of the Board shall be entitled to reimbursement for expenses incurred in attendance upon meetings of the Board or while otherwise engaged in the discharge of their duties. Such expenses shall be paid out of the treasury of the Authority in such manner as shall be prescribed by the Authority.

**2. That the provisions of this act shall not be construed to affect existing appointments for which the terms have not expired. However, any new appointments made on and after July 1, 2017, shall be made in accordance with this act.**

**3. That the initial appointments of the three nonlegislative citizen members appointed by the Governor in accordance with this act shall be staggered as follows: two nonlegislative citizen members shall be appointed for a term of five years, and one nonlegislative citizen member shall be appointed for a term of two years. Thereafter, all nonlegislative citizen members appointed by the Governor shall serve four-year terms.**

## CHAPTER 216

*An Act to amend and reenact §§ 15.2-2201 and 15.2-2283 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 15.2-2306.1, relating to working waterfront development areas.*

[S 1203]

Approved February 23, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 15.2-2201 and 15.2-2283 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 15.2-2306.1 as follows:**

**§ 15.2-2201. Definitions.**

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

"Affordable housing" means, as a guideline, housing that is affordable to households with incomes at or below the area median income, provided that the occupant pays no more than thirty percent of his gross income for gross housing costs, including utilities. For the purpose of administering affordable dwelling unit ordinances authorized by this chapter, local governments may establish individual definitions of affordable housing and affordable dwelling units including determination of the appropriate percent of area median income and percent of gross income.

"Conditional zoning" means, as part of classifying land within a locality into areas and districts by legislative action, the allowing of reasonable conditions governing the use of such property, such conditions being in addition to, or modification of the regulations provided for a particular zoning district or zone by the overall zoning ordinance.

"Development" means a tract of land developed or to be developed as a unit under single ownership or unified control which is to be used for any business or industrial purpose or is to contain three or more residential dwelling units. The term "development" shall not be construed to include any tract of land which will be principally devoted to agricultural production.

"Historic area" means an area containing one or more buildings or places in which historic events occurred or having special public value because of notable architectural, archaeological or other features relating to the cultural or artistic heritage of the community, of such significance as to warrant conservation and preservation.

"Incentive zoning" means the use of bonuses in the form of increased project density or other benefits to a developer in return for the developer providing certain features, design elements, uses, services, or amenities desired by the locality, including but not limited to, site design incorporating principles of new urbanism and traditional neighborhood development, environmentally sustainable and energy-efficient building design, affordable housing creation and preservation, and historical preservation, as part of the development.

"Local planning commission" means a municipal planning commission or a county planning commission.

"Military installation" means a base, camp, post, station, yard, center, homeport facility for any ship, or other activity under jurisdiction of the U.S. Department of Defense, including any leased facility, or any land or interest in land owned by the Commonwealth and administered by the Adjutant General of Virginia or the Virginia Department of Military Affairs. "Military installation" does not include any facility used primarily for civil works, rivers and harbors projects, or flood control projects.

"Mixed use development" means property that incorporates two or more different uses, and may include a variety of housing types, within a single development.

"Official map" means a map of legally established and proposed public streets, waterways, and public areas adopted by a locality in accordance with the provisions of Article 4 (§ 15.2-2233 et seq.) hereof.

"Planned unit development" means a form of development characterized by unified site design for a variety of housing types and densities, clustering of buildings, common open space, and a mix of building types and land uses in which project planning and density calculation are performed for the entire development rather than on an individual lot basis.

"Planning district commission" means a regional planning agency chartered under the provisions of Chapter 42 (§ 15.2-4200 et seq.) of this title.

"Plat" or "plat of subdivision" means the schematic representation of land divided or to be divided and information in accordance with the provisions of §§ 15.2-2241, 15.2-2242, 15.2-2258, 15.2-2262, and 15.2-2264, and other applicable statutes.

"Preliminary subdivision plat" means the proposed schematic representation of development or subdivision that establishes how the provisions of §§ 15.2-2241 and 15.2-2242, and other applicable statutes will be achieved.

"Resident curator" means a person, firm, or corporation that leases or otherwise contracts to manage, preserve, maintain, operate, or reside in a historic property in accordance with the provisions of § 15.2-2306 and other applicable statutes.

"Site plan" means the proposal for a development or a subdivision including all covenants, grants or easements and other conditions relating to use, location and bulk of buildings, density of development, common open space, public facilities and such other information as required by the subdivision ordinance to which the proposed development or subdivision is subject.

"Special exception" means a special use that is a use not permitted in a particular district except by a special use permit granted under the provisions of this chapter and any zoning ordinances adopted herewith.

"Street" means highway, street, avenue, boulevard, road, lane, alley, or any public way.

"Subdivision," unless otherwise defined in an ordinance adopted pursuant to § 15.2-2240, means the division of a parcel of land into three or more lots or parcels of less than five acres each for the purpose of transfer of ownership or building development, or, if a new street is involved in such division, any division of a parcel of land. The term includes resubdivision and, when appropriate to the context, shall relate to the process of subdividing or to the land subdivided and solely for the purpose of recordation of any single division of land into two lots or parcels, a plat of such division shall be submitted for approval in accordance with § 15.2-2258.

"Variance" means, in the application of a zoning ordinance, a reasonable deviation from those provisions regulating the shape, size, or area of a lot or parcel of land or the size, height, area, bulk, or location of a building or structure when the strict application of the ordinance would unreasonably restrict the utilization of the property, and such need for a variance would not be shared generally by other properties, and provided such variance is not contrary to the purpose of the ordinance. It shall not include a change in use, which change shall be accomplished by a rezoning or by a conditional zoning.

*"Working waterfront" means an area or structure on, over, or adjacent to navigable waters that provides access to the water and is used for water-dependent commercial, industrial, or governmental activities, including commercial and recreational fishing; tourism; aquaculture; boat and ship building, repair, and services; seafood processing and sales; transportation; shipping; marine construction; and military activities.*

*"Working waterfront development area" means an area containing one or more working waterfronts having economic, cultural, or historic public value of such significance as to warrant development and repair.*

"Zoning" or "to zone" means the process of classifying land within a locality into areas and districts, such areas and districts being generally referred to as "zones," by legislative action and the prescribing and application in each area and district of regulations concerning building and structure designs, building and structure placement and uses to which land, buildings and structures within such designated areas and districts may be put.

#### **§ 15.2-2283. Purpose of zoning ordinances.**

Zoning ordinances shall be for the general purpose of promoting the health, safety or general welfare of the public and of further accomplishing the objectives of § 15.2-2200. To these ends, such ordinances shall be designed to give reasonable consideration to each of the following purposes, where applicable: (i) to provide for adequate light, air, convenience of

access, and safety from fire, flood, impounding structure failure, crime and other dangers; (ii) to reduce or prevent congestion in the public streets; (iii) to facilitate the creation of a convenient, attractive and harmonious community; (iv) to facilitate the provision of adequate police and fire protection, disaster evacuation, civil defense, transportation, water, sewerage, flood protection, schools, parks, forests, playgrounds, recreational facilities, airports and other public requirements; (v) to protect against destruction of or encroachment upon historic areas *and working waterfront development areas*; (vi) to protect against one or more of the following: overcrowding of land, undue density of population in relation to the community facilities existing or available, obstruction of light and air, danger and congestion in travel and transportation, or loss of life, health, or property from fire, flood, impounding structure failure, panic or other dangers; (vii) to encourage economic development activities that provide desirable employment and enlarge the tax base; (viii) to provide for the preservation of agricultural and forestal lands and other lands of significance for the protection of the natural environment; (ix) to protect approach slopes and other safety areas of licensed airports, including United States government and military air facilities; (x) to promote the creation and preservation of affordable housing suitable for meeting the current and future needs of the locality as well as a reasonable proportion of the current and future needs of the planning district within which the locality is situated; and (xi) to provide reasonable protection against encroachment upon military bases, military installations, and military airports and their adjacent safety areas, excluding armories operated by the Virginia National Guard. Such ordinance may also include reasonable provisions, not inconsistent with applicable state water quality standards, to protect surface water and ground water as defined in § 62.1-255.

**§ 15.2-2306.1. Creation of working waterfront development areas.**

A. Any locality may establish by ordinance one or more working waterfront development areas for the purpose of providing incentives to private entities to purchase real property and interests in real property to assemble parcels suitable for working waterfront development. Each locality establishing a working waterfront development area may grant such incentives and provide regulatory flexibility. Such zones shall be reasonably compact, shall not encompass the entire locality, and shall constitute one or more tax parcels not commonly owned. Properties that are acquired through the use of eminent domain shall not be eligible for the incentives and regulatory flexibility provided by the ordinance.

B. Incentives granted by a locality pursuant to subsection A may include, but not be limited to, (i) reduction of permit fees, (ii) reduction of user fees, (iii) reduction of any type of gross receipts tax, and (iv) waiver of tax liens to facilitate the sale of property.

C. Incentives granted pursuant to this section may extend for a period of up to 10 years from the date of initial establishment of the working waterfront development area; however, the extent and duration of any incentive shall conform to the requirements of applicable federal and state law.

D. The regulatory flexibility provided in a working waterfront development area may include (i) special zoning for the district, (ii) the use of a special permit process, (iii) exemption from certain specified ordinances, excluding ordinances or provisions of ordinances adopted pursuant to the requirements of the Chesapeake Bay Preservation Act (§ 62.1-44.15:67 et seq.), the Erosion and Sediment Control Law (§ 62.1-44.15:51 et seq.), and the Virginia Stormwater Management Act (§ 62.1-44.15:24 et seq.), and (iv) any other incentives adopted by ordinance, which shall be binding upon the locality for a period of up to 10 years.

E. This section shall not authorize any local government powers that are not expressly granted herein.

F. Prior to adopting or amending any ordinance pursuant to this section, a locality shall provide for notice and public hearing in accordance with subsection A of § 15.2-2204.

## CHAPTER 217

An Act to amend and reenact § 15.2-1129.1 of the Code of Virginia, relating to arts and cultural districts.

[S 1225]

Approved February 23, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 15.2-1129.1 of the Code of Virginia is amended and reenacted as follows:**

**§ 15.2-1129.1. Creation of arts and cultural districts.**

A. Any locality, or combination of localities, may by ordinance, or in the case of multiple localities by substantially similar ordinances, establish within ~~its~~ the boundaries of such localities one or more arts and cultural districts for the purpose of increasing awareness and support for the arts and culture in the locality. The locality may provide incentives for the support and creation of arts and cultural venues in each district. The locality may also grant tax incentives and provide certain regulatory flexibility in each arts and cultural district.

B. The tax incentives for each district may be provided for up to 10 years and may include, but not be limited to: (i) reduction of permit fees; (ii) reduction of user fees; (iii) reduction of any type of gross receipts tax; and (iv) rebate of real estate property taxes. The extent and duration of such incentive proposals shall conform to the requirements of the Constitutions of Virginia and of the United States.

C. Each locality may also provide for regulatory flexibility in each district that may include, but not be limited to: (i) special zoning for the district; (ii) permit process reform; (iii) exemption from ordinances; and (iv) any other incentive adopted by ordinance, which shall be binding upon the locality for a period of up to 10 years.

CHAPTER 218

*An Act to amend and reenact §§ 1 and 2, as amended, of Chapter 66 of the Acts of Assembly of 1960, relating to Hampton Roads Sanitation District; adding territory.*

[S 1311]

Approved February 23, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 1 and 2, as amended, of Chapter 66 of the Acts of Assembly of 1960 are amended and reenacted as follows:**

§ 1. The creation of the Hampton Roads Sanitation District is hereby ratified, validated and confirmed, and said District shall embrace all the territory within the Cities of Chesapeake, Hampton, Newport News, Norfolk, Poquoson, Portsmouth, Suffolk, Virginia Beach, and Williamsburg; the Counties of Gloucester, Isle of Wight, James City, King and Queen, King William, Mathews, Middlesex and York; *the County of Surry, excluding the Town of Claremont*; and the Town of Urbanna. Territory may be added to the District as hereinafter provided in this act.

For the purpose of this section, the territory of a county included within the District shall include all the territory lying within the boundaries of any town in the county *unless otherwise specified*.

Said District shall constitute a political subdivision of Commonwealth established as a governmental instrumentality to provide for the public health and welfare.

§ 2. The functions, affairs and property of the Hampton Roads Sanitation District shall be managed and controlled by a commission, known as the "Hampton Roads Sanitation District Commission," consisting of eight members appointed by the Governor. The Commission and the term of each such member shall continue until his successor shall be duly appointed and qualified. The successor of each such member shall be appointed for a term of four years and until his successor shall be duly appointed and qualified, except that any person appointed to fill a vacancy shall serve only for the unexpired term. Any member of the Commission shall be eligible for reappointment without limitation as to the number of terms that may be served. Members of the Commission may be suspended or removed by the Governor at his pleasure.

At the time of their appointment, one of the members of the Commission, and each of his successors, shall be residents of the territory in the District within the City of Norfolk; one of the members, and each of his successors, shall be residents of the territory in the District within the City of Virginia Beach; one of the members, and each of his successors, shall be residents of the territory in the District within the City of Newport News; one of the members, and each of his successors, shall be residents of the territory in the District within the City of Hampton; one of the members, and each of his successors, shall be residents of the territory in the District within the City of Chesapeake; one of the members, and each of his successors, shall be residents of the territory in the District within the City of Suffolk or Isle of Wight County; *or Surry County*; one of the members, and each of his successors, shall be residents of the territory in the District within the City of Williamsburg or James City County or York County or the City of Poquoson or Gloucester County or King William County or Mathews County or Middlesex County or the Town of Urbanna; or King and Queen County; and one of the members, and each of his successors, shall be residents of the territory in the District within the City of Portsmouth. Any member who shall cease to reside within the territory from which he was appointed shall thereupon be disqualified from holding office as a member of the Commission and the vacancy thus created shall be filled by appointment by the Governor for the balance of the unexpired term.

CHAPTER 219

*An Act to amend and reenact § 2, as amended, of Chapter 161 of the Acts of Assembly of 1906, which provided a charter for the Town of Troutdale, relating to elections.*

[S 1318]

Approved February 23, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 2, as amended, of Chapter 161 of the Acts of Assembly of 1906 is amended and reenacted as follows:**

§ 2. The government of said town shall be vested in a mayor, a sergeant, a recorder, and six councilmen, and such other officers as may be provided for by the mayor and councilmen. ~~Members~~ *The mayor, the recorder, and members of council shall serve for terms of four years.*

CHAPTER 220

*An Act to amend and reenact § 2, as amended, of Chapter 18 of the Acts of Assembly of 1946, which provided a charter for the Town of Wytheville, relating to vacancies in office.*

[S 1319]

Approved February 23, 2017

**Be it enacted by the General Assembly of Virginia:****1. That § 2, as amended, of Chapter 18 of the Acts of Assembly of 1946 is amended and reenacted as follows:**

§ 2. The government of the Town of Wytheville shall be vested in one body to be known as the council of the Town of Wytheville, which body shall consist of five members, one of whom shall also be mayor, to be elected at large and all of whom shall be residents and qualified voters of the town. The council shall be elected, in the manner provided by law, as follows:

At the regular municipal election to be held on the first Tuesday in May, 1976, and every four years thereafter, two councilmen shall be elected each for a term of four years beginning on the first day of July next following their election. At the regular municipal election to be held on the first Tuesday in May, 1978, and every four years thereafter, two councilmen shall be elected each for a term of four years and one additional councilman shall be individually elected to serve for a term of four years as both councilman and mayor of the Town of Wytheville, the term of each of the three beginning on the first day of July next following their election. Each councilman shall serve until his successor shall have been elected and qualified.

Vacancies in the office of mayor or on council shall be filled by majority vote of the remaining members, and the person so elected shall serve the remainder of the unexpired term; ~~or, if the vacancy is subsequently filled for the unexpired term by popular election as hereafter provided, until his successor is elected and has qualified. Notwithstanding any contrary provision of general law, if a vacancy occurs in the office of mayor during the first two years of the term, and more than 120 days prior to the next regular municipal election, a successor shall be elected for the unexpired term at the next regular municipal election and the council shall petition the circuit court for a writ of election for that purpose. If a vacancy occurs in the office of councilman under the same circumstances, then three rather than two members of council shall be elected at the next regular municipal election and the council shall petition the circuit court to so order the election. Those three persons receiving the largest number of votes shall be elected. Of those three, the person receiving the least number of votes shall be elected to serve the unexpired term of the vacancy.~~

The council shall be a continuing body, and no measure pending before such body shall abate or be discontinued by reason of expiration of term of office or removal of any of its members. The council shall, by ordinance, fix the time for their regular meetings. Special meetings shall be called by the clerk of the council upon request of the mayor or any three councilmen; reasonable notice of each special meeting shall be given each member of the council; no business shall be transacted at a special meeting except that for which the special meeting is called, except by a majority vote of all of the members of the council. The council itself shall elect one of its members as vice-mayor, who shall perform the duties and functions of the mayor when the mayor is absent or otherwise unable to perform. In addition to their other duties, the mayor, vice-mayor, town manager and all members of the council shall be ex officio conservators of the peace within the town and within one mile of the corporate limits thereof. The mayor shall preside over the council.

**CHAPTER 221**

*An Act to amend and reenact § 40.1-49.4 of the Code of Virginia, relating to enforcement of occupational safety and health laws; civil penalties.*

[S 1542]

Approved February 23, 2017

**Be it enacted by the General Assembly of Virginia:****1. That § 40.1-49.4 of the Code of Virginia is amended and reenacted as follows:****§ 40.1-49.4. Enforcement of this title and standards, rules or regulations for safety and health; orders of Commissioner; proceedings in circuit court; injunctions; penalties.**

A. 1. If the Commissioner has reasonable cause to believe that an employer has violated any safety or health provision of Title 40.1 or any standard, rule or regulation adopted pursuant thereto, he shall with reasonable promptness issue a citation to the employer. Each citation shall be in writing and shall describe with particularity the nature of the violation or violations, including a reference to the provision of this title or the appropriate standards, rules or regulations adopted pursuant thereto, and shall include an order of abatement fixing a reasonable time for abatement of each violation.

2. The Commissioner may prescribe procedures for calling to the employer's attention de minimis violations which have no direct or immediate relationship to safety and health.

3. No citation may be issued under this section after the expiration of six months following the occurrence of any alleged violation.

4. (a) The Commissioner shall have the authority to propose civil penalties for cited violations in accordance with subsections G, H, I, and J of this section. In determining the amount of any proposed penalty he shall give due consideration to the appropriateness of the penalty with respect to the size of the business of the employer being charged, the gravity of the violation, the good faith of the employer, and the history of previous violations. In addition, the Commissioner shall have authority to assess interest on all past-due penalties and administrative costs incurred in the collection of penalties for such violations consistent with § 2.2-4805.

(b) After, or concurrent with, the issuance of a citation and order of abatement, and within a reasonable time after the termination of an inspection or investigation, the Commissioner shall notify the employer by certified mail or by personal

service of the proposed penalty or that no penalty is being proposed. The proposed penalty shall be deemed to be the final order of the Commissioner and not subject to review by any court or agency unless, within 15 working days from the date of receipt of such notice, the employer notifies the Commissioner in writing that he intends to contest the citation, order of abatement or the proposed penalty or the employee or representative of employees has filed a notice in accordance with subsection B of this section and any such notice of proposed penalty, citation or order of abatement shall so state.

B. Any employee or representative of employees of an employer to whom a citation and order of abatement has been issued may, within 15 working days from the time of the receipt of the citation and order of abatement by the employer, notify the Commissioner, in writing, that they wish to contest the abatement time before the circuit court.

C. If the Commissioner has reasonable cause to believe that an employer has failed to abate a violation for which a citation has been issued within the time period permitted for its abatement, which time shall not begin to run until the entry of a final order in the case of any contest as provided in subsection E of this section initiated by the employer in good faith and not solely for delay or avoidance of penalties, a citation for failure to abate will be issued to the employer in the same manner as prescribed by subsection A of this section. In addition, the Commissioner shall notify the employer by certified mail or by personal service of such failure and of the penalty proposed to be assessed by reason of such failure. If, within 15 working days from the date of receipt of the notice of the proposed penalty, the employer fails to notify the Commissioner that he intends to contest the citation or proposed assessment of penalty, the citation and assessment as proposed shall be deemed a final order of the Commissioner and not subject to review by any court or agency.

D. Civil penalties owed under this section shall be paid to the Commissioner for deposit into the general fund of the Treasurer of the Commonwealth. The Commissioner shall prescribe procedures for the payment of proposed assessments of penalties which are not contested by employers. Such procedures shall include provisions for an employer to consent to abatement of the alleged violation and pay a proposed penalty or a negotiated sum in lieu of such penalty without admission of any civil liability arising from such alleged violation.

Final orders of the Commissioner or the circuit courts may be recorded, enforced and satisfied as orders or decrees of a circuit court upon certification of such orders by the Commissioner or the court as appropriate.

E. Upon receipt of a notice of contest of a citation, proposed penalty, order of abatement or abatement time pursuant to subdivision A 4 (b), subsection B or C of this section, the Commissioner shall immediately notify the attorney for the Commonwealth for the jurisdiction wherein the violation is alleged to have occurred and shall file a civil action with the circuit court. Upon issuance and service of process, the circuit court shall promptly set the matter for hearing without a jury. The circuit court shall thereafter issue a written order, based on findings of fact and conclusions of law, affirming, modifying or vacating the Commissioner's citation or proposed penalty, or directing other appropriate relief, and such order shall become final 21 days after its issuance. The circuit court shall provide affected employees or their representatives and employers an opportunity to participate as parties to hearings under this subsection.

F. 1. In addition to the remedies set forth above, the Commissioner may file a civil action with the clerk of the circuit court having equity jurisdiction over the employer or the place of employment involved asking the court to temporarily or permanently enjoin any conditions or practices in any place of employment which are such that a danger exists which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such danger can be eliminated through the enforcement procedures otherwise provided by this title. Any order issued under this section may require such steps to be taken as may be necessary to avoid, correct or remove such imminent danger and prohibit the employment or presence of any individual in locations or under conditions where such imminent danger exists, except individuals whose presence is necessary to avoid, correct or remove such imminent danger or to maintain the capacity of a continuous process operation to resume normal operations without a complete cessation of operations, or where a cessation of operations is necessary, to permit such to be accomplished in a safe and orderly manner. No order issued without prior notice to the employer shall be effective for more than five working days. Whenever and as soon as the Commissioner concludes that conditions or practices described in this subsection exist in any place of employment and that judicial relief shall be sought, he shall immediately inform the affected employer and employees of such proposed course of action.

2. Any court described in this section shall also have jurisdiction, upon petition of the Commissioner or his authorized representative, to enjoin any violations of this title or the standards, rules or regulations promulgated thereunder.

3. If the Commissioner arbitrarily or capriciously fails to seek relief under subdivision 1 of this subsection, any employee who may be injured by reason of such failure, or the representative of such employee, may bring an action against the Commissioner in a circuit court of competent jurisdiction for a writ of mandamus to compel the Commissioner to seek such an order and for such further relief as may be appropriate.

G. Any employer who has received a citation for a violation of any safety or health provision of this title or any standard, rule or regulation promulgated pursuant thereto and such violation is specifically determined not to be of a serious nature may be assessed a civil penalty of up to ~~\$7,000~~ \$12,471, as such amount may be adjusted as provided in subsection P, for each such violation.

H. Any employer who has received a citation for a violation of any safety or health provision of this title or any standard, rule or regulation promulgated pursuant thereto and such violation is determined to be a serious violation shall be assessed a civil penalty of up to ~~\$7,000~~ \$12,471, as such amount may be adjusted as provided in subsection P, for each such violation.

I. Any employer who fails to abate a violation for which a citation has been issued within the period permitted for its abatement (which period shall not begin to run until the entry of the final order of the circuit court) may be assessed a civil

penalty of not more than ~~\$7,000~~ \$12,471, as such amount may be adjusted as provided in subsection P, for each day during which such violation continues.

J. Any employer who willfully or repeatedly violates any safety or health provision of this title or any standard, rule or regulation promulgated pursuant thereto may be assessed a civil penalty of not more than ~~\$70,000~~ \$124,709, as such amount may be adjusted as provided in subsection P, for each such violation.

K. Any employer who willfully violates any safety or health provisions of this title or standards, rules or regulations adopted pursuant thereto, and that violation causes death to any employee, shall, upon conviction, be punished by a fine of not more than \$70,000 or by imprisonment for not more than six months, or by both such fine and imprisonment. If the conviction is for a violation committed after a first conviction of such person, punishment shall be a fine of not more than \$140,000 or by imprisonment for not more than one year, or by both such fine and imprisonment.

L. In any proceeding before a judge of a circuit court parties may obtain discovery by the methods provided for in the Rules of Supreme Court of Virginia.

M. No fees or costs shall be charged the Commonwealth by a court or any officer for or in connection with the filing of the complaint, pleadings, or other papers in any action authorized by this section or § 40.1-49.5.

N. Every official act of the circuit court shall be entered of record and all hearings and records shall be open to the public, except any information subject to protection under the provisions of § 40.1-51.4:1.

O. The provisions of Chapter 30 (§ 59.1-406 et seq.) of Title 59.1 shall be considered safety and health standards of the Commonwealth and enforced as to employers pursuant to this section by the Commissioner of Labor and Industry.

P. Beginning in 2018, the Commissioner annually shall adjust the maximum civil penalties stated in subsections G through J each year by the percentage increase, if any, in the United States Average Consumer Price Index for all Urban Consumers (CPI-U), as published by the Bureau of Labor Statistics of the United States Department of Labor, from its monthly average for the previous calendar year. The amount of each adjustment to the maximum civil penalties shall be rounded to the nearest whole dollar. The adjustments to the maximum civil penalties shall be effective on each August 1. If the CPI-U is discontinued or revised, such other historical index or computation approved by the Commissioner shall be used for purposes of this section that would obtain substantially the same result as would have been obtained if the CPI-U had not been discontinued or revised.

## CHAPTER 222

An Act to amend and reenact § 1-4, as amended, § 1-5, §§ 2-2.1 and 2-5, as amended, §§ 2-8.1, 3-1, 3-2, 3-5, and 3-13, § 4-1, as amended, and §§ 4-7, 6-2, 7-2, and 7-6 of Chapter 259 of the Acts of Assembly of 1962; to amend and reenact Chapter 259 of the Acts of Assembly of 1962 by adding sections numbered 2-3.2 and 6-1.1; and to repeal § 3-4, § 3-10, as amended, § 3-12, § 3-19, as amended, and §§ 4-4, 4-5, 5-1, 6-1, 7-3, and 7-5 of Chapter 259 of the Acts of Assembly of 1962, which provided a charter for the City of Petersburg, relating to council, city officers, and powers.

[S 1580]

Approved February 23, 2017

### Be it enacted by the General Assembly of Virginia:

**1. That § 1-4, as amended, § 1-5, §§ 2-2.1 and 2-5, as amended, §§ 2-8.1, 3-1, 3-2, 3-5, and 3-13, § 4-1, as amended, and §§ 4-7, 6-2, 7-2, and 7-6 of Chapter 259 of the Acts of Assembly of 1962 are amended and reenacted and that Chapter 259 of the Acts of Assembly of 1962 is amended by adding sections numbered 2-3.2 and 6-1.1 as follows:**

§ 1-4. Penalties for violation of ordinances.

Where, by the provisions of this charter or any amendment thereof, the city council has authority to pass ordinances or regulations on any subject, they may prescribe a penalty not exceeding twelve months imprisonment or fine not exceeding ~~\$1,000~~ \$2,500 (except where penalty is otherwise provided for in this charter or any amendment) for a violation thereof; provided, however, that should there be a statute of the Commonwealth upon the same subject, then the city council may provide the same penalty for violation of state statute. The city council may also provide that any police officer may detect and arrest any person violating any of such ordinances or regulations and bring him to trial at the next sitting of the general district court or as soon thereafter as may be.

§ 1-5. Publication of ordinances; ordinances as evidence.

All ordinances hereafter passed by the city council for violation of which any penalty is imposed, shall be published once, at least, in a newspaper published in the city to be designated by the city council; provided, however, the council may, in its judgment, direct that only the title of an ordinance, describing clearly and fully its subject in general terms and setting forth the penalty for its violation, be published and such publication shall be sufficient compliance with this section. When the latter method of publication is used, the publication shall state that complete copies of the ordinance or code so adopted may be obtained by any interested person at the office of the clerk of the city council. A record or entry made by the clerk of the city council, or a copy of such record or entry, duly certified to by him, shall be prima facie evidence of the publications of any such ordinance, or any amendment thereof; and all laws, regulations and ordinances of the city council may be read in evidence in all courts of justice and in all proceedings before any officer, body or board in which it shall be necessary to refer thereto, either from a copy thereof, certified by the clerk of the city council, or from the volume of ordinances printed by the authority of the council. But the provisions of this section as to publication of ordinances shall not apply to

~~ordinances embodied in any general compilation, codification or revision of ordinances, printed by authority of the council and adopted by the council as a code and all resolutions appropriating funds in excess of \$100,000 shall be adopted by the council on two readings. No such ordinance or resolution shall be adopted on second reading on the same day as its introduction unless five members elected to council have voted to suspend the rules and to place the matter on second reading. The clerk of council shall post all ordinances and applicable resolutions on the public bulletin board of the city, on the first page of the city's website, and on all social media sites used by the city for the public and shall email such notices to all persons who submit an email address for such purpose.~~

§ 2-2.1. Creation and composition; election of councilmen generally; application of general laws of the state; council as continuing body.

There shall be a council of the city which shall be composed of seven members, one from each ward, who shall have been a resident of the ward he seeks to represent thirty days prior to filing his notice of candidacy. The candidates shall be qualified voters of the city. They shall be elected by the qualified voters of such wards and each shall remain a resident of the ward from which elected during his term of office. The candidate receiving the greatest number of votes in his ward shall be declared elected and shall serve for a term of four years or until his successor has been elected and qualified except as hereafter provided.

~~On the first Tuesday in May, 1974, there shall be an election in each ward. Candidates in wards one, three, five, and seven, receiving the greatest number of votes each shall serve a four-year term commencing July 1, 1974, and until their successors have been elected and qualified. Thereafter, beginning in May, 1978, elections shall be held in such wards every fourth year on the first Tuesday in May. Candidates in wards two, four and six, receiving the greatest number of votes each shall serve a two-year term, commencing July 1, 1974, and until their successors have been elected and qualified. Thereafter, beginning in May, 1976, elections shall be held in such wards every fourth year on the first Tuesday in May.~~

Beginning in the year 2008, the election of council members in wards two, four, and six shall be held at the same time as the November general election. Candidates receiving the greatest number of votes from each ward at that time shall each serve a four-year term commencing January 1, 2009, and until their successors have been elected and qualified. Thereafter, elections shall be held in such wards every fourth year on the November general election date. On the November general election date in 2010, there shall be an election in wards one, three, five, and seven. Candidates receiving the greatest number of votes from each ward at that time shall each serve a four-year term commencing January 1, 2011, and until their successors have been elected and qualified. Thereafter, elections shall be held in such wards every fourth year on the November general election date.

The general laws of the Commonwealth relating to the conduct of elections, as far as pertinent, shall apply to the conduct of the general city elections. The council shall be a continuing body and no measures pending before such body shall abate or be discontinued by reason of the expiration of the term of office or removal of the members of said body, or any of them.

§ 2-3.2. Mayor generally.

*At the organizational meeting thereof, the city council shall proceed to choose, by majority vote of all the members thereof, one of their number to be mayor and one to be vice-mayor for the ensuing two years. The mayor shall preside over the meetings of the council and shall have the same right to vote and speak therein as other members and shall have no veto power. He shall be recognized as the head of the city government for all ceremonial purposes and for the purposes of military law and the service of civil process. The vice-mayor shall in the absence or disability of the mayor perform the duties of mayor, and if a vacancy shall occur in the office of mayor shall become mayor for the unexpired portion of the term. In the absence or disability of both the mayor and vice-mayor, the council shall by majority vote of those present choose one of their number to perform the duties of mayor.*

§ 2-5. Power to adopt rules and appoint officers and clerks; discipline of members; journal; open and secret meeting; power to compel attendance of witnesses.

The city council shall have authority to adopt such rules and to appoint such officers and clerks as it may deem proper for the regulation of its proceedings, and for the convenient transaction of business, to compel the attendance of absent members, to expel a member for malfeasance, misfeasance or nonfeasance in office. The city council shall keep a journal of its proceedings, and its meeting shall be open, except when by a recorded vote of a majority of those members present, it shall declare a closed session in accordance with the Virginia Freedom of Information Act. The city council or any of its committees, when authorized by the city council may each, in any investigation before them, respectively, within their respective powers and duties, order the attendance of any person as a witness and the production by any person of all proper books and papers. Any person refusing or failing to attend or to testify, or to produce such books and papers, may be summoned by such investigating body before the municipal judge and upon failure to give a satisfactory excuse, may be fined by him not exceeding twenty dollars, or imprisoned not exceeding thirty days, such person to have the right of appeal, as in case of misdemeanor, to the circuit court of the city. Such witness may be sworn by the officer presiding at such investigation, and shall be liable to prosecution for perjury for any false testimony given at such investigation.

No member of the council shall be eligible, during the term for which he was elected, or for one year thereafter, for any office, position or employment to be filled by the city council or the city manager or by any other city official or employee, *except this restriction shall not apply to the appointment of mayor or vice-mayor.*

§ 2-8.1. Vacancies in office of councilmen.

Vacancies in the office of councilmen ~~from whatever cause arising~~ shall be filled in accordance with the provisions of § 2-2.1 aforesaid by majority vote of the remaining members of council; ~~or, if the council shall fail to fill a vacancy in its membership within thirty days of the occurrence of the vacancy, by appointment by the judge of the circuit court of the city or by the senior judge thereof, in the event there be more than one within 45 days of the seat becoming vacant. The appointee must be a qualified voter in the ward in which the vacancy occurred. If the council cannot agree, the vacancy shall be filled by appointment by the judges of the circuit court of the city. If a majority of the seats on council are vacant, the remaining members shall not make interim appointments and the vacancies shall be filled as provided in § 24.2-227 of the Code of Virginia.~~

*The council shall, within 15 days of the occurrence of the vacancy, petition the circuit court to issue a writ of election to fill the vacancy, pursuant to § 24.2-226 of the Code of Virginia.*

~~When any such vacancy shall occur, the court shall issue a writ of election to fill such vacancy. Such election shall be held at the next ensuing general election. The officer Any council member so elected shall hold the office for the unexpired term of his regularly elected predecessor in office. The person so appointed to fill the vacancy shall hold office until the qualified voters shall fill the same by election and the person so elected shall have qualified. In the event the vacancy occurs within 120 prior to the next ensuing general election, the writ of election shall issue for an election to fill the vacancy at the second ensuing general election.~~

§ 3-1. Oath of city officers generally.

Every officer of the city required by law or by ordinance of the city council, shall, before he enters upon the duties of his office, take and subscribe the oath prescribed by § 49-1 of the Code of Virginia and such other oaths as may be required by the city council. Such oaths, unless otherwise provided, shall be taken before the clerk of the city council. The clerk of the city council shall qualify and take the oath provided by this section before the mayor. A certificate of the oaths provided for in this section, together with the oaths subscribed, shall be filed with the clerk of the city council, who shall preserve the same. *This section shall not apply to officers subject to § 2-4.*

§ 3-2. Filling vacancies; how elections to be held.

In the event of the death, resignation or removal of any officer, whose election or appointment is provided for by this charter, the vacancy in such office shall be filled under and by virtue of the terms of this charter. ~~All elections in the city for the officers of the city and members of the council thereof, shall be held only under and by virtue of the Constitution and laws of this Commonwealth, and the terms of charter.~~

§ 3-5. City manager.

The city council shall employ a person, who may or may not be a resident or qualified voter of the city or of the Commonwealth, to be known as the city manager. The city manager, under the control of the city council, shall have general charge and management of the administrative affairs and work of the city and shall perform such duties as may be required of him by the city council. He shall receive such salary *or compensation* as shall be allowed him by the city council and shall serve at the pleasure of the city council.

§ 3-13. Powers and duties of treasurer.

The city treasurer shall be the custodian of all moneys belonging to the city, shall deposit the same in such bank or banks as the council shall prescribe, shall keep his office in some place designated by the city council, shall keep his books and accounts in such manner as the city council may require, which books and accounts shall always be open to the inspection of the mayor, and any member or committee of the city council, *city manager, and finance director or equivalent officer. He shall pay no money except upon the order of the city council, or upon an order of a committee of the city council, lawfully drawn in pursuance of the ordinances of the city.* He shall report to the city council at the end of each fiscal year, and ~~often more often~~, if required, a full and detailed account of all receipts and expenditures during that year and the state of the treasury. He shall keep as a separate fund any special assessment, and the same shall only be used for the purpose for which it was raised. He shall keep all city moneys separate and distinct from his own moneys, and he is prohibited from using either directly or indirectly the corporation money in his custody and keeping, for his own use and benefit or that of any other person or persons whomsoever and any violation of this provision shall subject him to immediate removal from office.

§ 4-1. Adoption of state law provisions.

The powers set forth in ~~§§ 15.1-837 to 15.1-915, both inclusive, Article 1 (§ 15.2-1100 et seq.) of Chapter 11 of Title 15.2 of the Code of Virginia, as amended,~~ are hereby conferred upon the city.

§ 4-7. Power of city to acquire land or interests therein for exchange with public utility company.

Whenever any public utility company owns any land or any easement, right of way or other interest in land which the city deems necessary and intends to acquire for any public purpose, which land, easement, right of way or other interest in land owned by the public utility company is devoted to a public use, the city may acquire by gift, purchase or by the exercise of the power of eminent domain additional or a like easement, right of way or interest in land adjacent to or approximately adjacent to such land needed and proposed to be acquired by the city and may then convey the same to the public utility company for use by it in lieu of the land, easement, right of way or other interest in land theretofore owned by it but needed by the city. The condemnation of such land, easement, rights of way or other interest in land to be conveyed to any public utility company shall be governed by the same procedure prescribed by this charter and may be carried out at the same time if against the same property owner and if against the same landowner or in the same proceedings in which land is condemned for the city. The city may, with respect to highways, streets and the extension and construction of sewer and water systems, under the same procedure and conditions prescribed by this chapter, with prospective property needed by the

city, enter upon and take possession of such property to be conveyed to any public utility company prior to the acquisition of title thereto in condemnation proceedings and proceed with the relocation of the installations of the public utility company in order that the purposes of the city necessitating such action may be carried out without delay. Nothing in this section shall be construed to authorize the city to exercise the power of eminent domain, except subject to the provisions of ~~§ 25-233~~ 25.1-102 of the Code of Virginia, when the interest sought is held by another corporation having the power of eminent domain.

*§ 6-1.1. Taxation.*

*In order to execute its powers and duties and to meet the wants and purposes of the city, the council is hereby vested with power and authority to levy taxes upon persons, property, real and personal, privileges, businesses, trades, professions, and callings and upon such other subjects of taxation and in such amounts as the council shall deem necessary and proper to provide such sums of money as they shall deem expedient without limitation as to subject, except such as may be expressly provided by general laws or constitutional provision and without limitation as to rate except such as may be provided by the Constitution of Virginia.*

*§ 6-2. Consumer tax for use of public utilities; additional annual taxes.*

In addition to other powers conferred by law, the city council shall have the power to levy, impose and collect, in such manner as it may deem expedient, a consumer or subscriber tax upon the amount paid for the use within the city of water, electricity, gas, telephone, *cable television*, and any other public utility service, or upon the amount paid for any one or more of such public utility services used within the city, and the council may provide that such tax shall be added to, and collected with, bills rendered consumers for such services.

Any such tax heretofore levied, imposed or collected by any ordinance of the city and which became effective on or after December 1, 1947, and all acts done in pursuance of such ordinance or any amendment thereof, be, and they are hereby, ratified and confirmed.

In addition to the other powers conferred by law, the council is hereby empowered to raise annually by taxes and assessments sums of money as the council shall deem necessary for the purposes of the city, in such manner, on such subjects and transactions, and from such sources as council deems expedient, in accordance with the Constitution and laws of the Commonwealth and the United States.

*§ 7-2. Continuation of present offices, etc.*

All officers and employees heretofore elected or appointed shall remain in office and continue in their employment and be vested with the powers and duties heretofore imposed upon them by the council or by operation of law or hereafter imposed upon them under the provisions of this act until their successors are duly elected or appointed as provided by law ~~or until action is taken by the city as set forth in § 15-77.9, Code of Virginia, as in force on January 1, 1962.~~

*§ 7-6. Effective date.*

This ~~act~~ *charter* shall be in force and effect from and after March 1, 1962.

**2. That § 3-4, § 3-10, as amended, § 3-12, § 3-19, as amended, and §§ 4-4, 4-5, 5-1, 6-1, 7-3, and 7-5 of Chapter 259 of the Acts of Assembly of 1962 are repealed.**

## CHAPTER 223

*An Act to amend and reenact § 8.01-390.3 of the Code of Virginia, relating to admissibility of business records; criminal proceedings.*

[H 1903]

Approved February 23, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 8.01-390.3 of the Code of Virginia is amended and reenacted as follows:**

**§ 8.01-390.3. Business records as evidence (Subdivision (6) of Supreme Court Rule 2:902 derived in part from this section).**

A. In any ~~civil~~ proceeding where a business record is material and otherwise admissible, authentication of the record and the foundation required by subdivision (6) of Rule 2:803 of the Rules of Supreme Court of Virginia may be laid by (i) witness testimony, (ii) a certification of the authenticity of and foundation for the record made by the custodian of such record or other qualified witness either by affidavit or by declaration pursuant to § 8.01-4.3, or (iii) a combination of witness testimony and a certification.

B. The proponent of a business record shall (i) give written notice to all other parties if a certification under this section will be relied upon in whole or in part in authenticating and laying the foundation for admission of such record and (ii) provide a copy of the record and the certification to all other parties, so that all parties have a fair opportunity to challenge the record and certification. The notice and copy of the record and certification shall be provided no later than 15 days in advance of the trial or hearing, unless an order of the court specifies a different time. Objections shall be made within five days thereafter, unless an order of the court specifies a different time. If any party timely objects to reliance upon the certification, the authentication and foundation required by subdivision (6) of Rule 2:803 of the Rules of Supreme Court of Virginia shall be made by witness testimony unless the objection is withdrawn.

C. A certified business record that satisfies the requirements of this section shall be self-authenticating and requires no extrinsic evidence of authenticity.

D. A copy of a business record may be offered in lieu of an original upon satisfaction of the requirements of subsection D of § 8.01-391 by witness testimony, a certification, or a combination of testimony and a certification.

## CHAPTER 224

*An Act to amend and reenact § 44-120.2 of the Code of Virginia, relating to Commonwealth's Twenty marksmanship award.* [S 989]

Approved February 23, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 44-120.2 of the Code of Virginia is amended and reenacted as follows:**

**§ 44-120.2. Commonwealth's Twenty marksmanship award.**

There is hereby established the Commonwealth's Twenty marksmanship award to recognize the top 20 competitors in each of the rifle and pistol Excellence in Competition matches at the annual Virginia State Championships conducted by the Virginia Shooting Sports Association (the Association) marksmen in Virginia. These top 20 marksmen shall be chosen from the Virginia state residents who compete at the annual Virginia State Championship matches sanctioned by the Virginia Shooting Sports Association (the Association). The award shall be administered by the Association and shall consist of (i) an enamel metal tab pin with gray background and white lettering, similar in style, shape, and size to the "President's Hundred" pin awarded by the United States Army; (ii) a fabric patch with hook and loop backing with a green background and black letters, similar in style, shape, and size to the "President's Hundred" patch awarded by the United States Army; and (iii) a certificate.

## CHAPTER 225

*An Act to amend and reenact § 16.1-69.35 of the Code of Virginia, relating to City of Richmond general district court; concurrent criminal jurisdiction.*

[S 1273]

Approved February 23, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 16.1-69.35 of the Code of Virginia is amended and reenacted as follows:**

**§ 16.1-69.35. Administrative duties of chief district judge.**

The chief judge of each district shall have the following administrative duties and authority with respect to his district:

1. When any district court judge is under any disability or for any other cause is unable to hold court and the chief judge determines that assistance is needed:

a. The chief district judge shall designate a judge within the district or a judge of another district court within the Commonwealth, if one is reasonably available, to hear and dispose of any action or actions properly coming before such district court for disposition;

b. If unable to designate a judge as provided in subdivision 1 a, the chief district judge may designate a retired district judge eligible for recall pursuant to § 16.1-69.22:1 for such hearing and disposition if such judge consents; or

c. If unable to assign a retired district court judge, the chief district judge may designate a retired circuit court judge eligible for recall pursuant to § 17.1-106 if such judge consents or the chief district judge may request that the Chief Justice of the Supreme Court designate a circuit judge if such judge consents.

If no judges are available under subdivision a, b or c, then a substitute judge shall be designated pursuant to § 16.1-69.21.

While acting, any judge so designated shall have all the authority and power of the judge of the court, and his order or judgment shall, to all intents and purposes, be the judgment of the court. A general district court judge designated pursuant to subdivision 1 a, may, with his consent, substitute for or replace a juvenile and domestic relations district court judge, and vice versa. The names of the judges designated under subdivisions b and c shall be selected from a list provided by the Executive Secretary and approved by the Chief Justice of the Supreme Court.

2. The chief general district court judge of a district may designate any juvenile and domestic relations district court judge of the district, with the judge's consent, for an individual case or to sit and hear cases for a period of not more than one year, in any of the general district courts within the district. The chief juvenile and domestic relations district court judge of a district may designate any general district court judge of the district, with the judge's consent, for an individual case or to sit and hear cases for a period of not more than one year, in any of the juvenile and domestic relations district courts within the district. Every judge so designated shall have the same powers and jurisdiction and be authorized to perform the same duties as any judge of the district for which he is designated to assist, and, while so acting, his order or judgment shall be, for all purposes, the judgment of the court to which he is assigned.

3. If on account of congestion in the work of any district court or when in his opinion the administration of justice so requires, the Chief Justice of the Supreme Court may, upon his own initiative or upon written application of the chief district court judge desiring assistance, designate a judge from another district or any circuit court judge, if such circuit court judge consents, or a retired judge eligible for recall, to provide judicial assistance to such district. Every judge so designated shall have the same powers and jurisdiction and be authorized to perform the same duties as any judge of the district for which he is designated to assist and while so acting his order or judgment shall be, to all intents and purposes, the judgment of the court to which he is assigned.

4. Subject to such rules as may be established pursuant to § 16.1-69.32, the chief judge may establish special divisions of any general district court when the work of the court may be more efficiently handled thereby such as through the establishment of special civil, criminal or traffic divisions, and he may assign the judges of the general district court with respect to serving such special divisions. In the City of Richmond the general district court shall, in addition to any specialized divisions, maintain a separate division of such court in that part of Richmond south of the James River with concurrent jurisdiction in civil matters whenever one or more of the defendants reside or the cause of action or any part thereof arises in that part of the city, concurrent jurisdiction over all traffic matters arising in that part of the city and ~~exclusive~~ concurrent jurisdiction over all other criminal matters arising in that part of the city.

5. Subject to such rules as may be established pursuant to § 16.1-69.32, the chief judge shall determine when the district courts or divisions of such courts shall be open for the transaction of business. The chief judge or presiding judge of any district court may authorize the clerk's office to close on any date when the chief judge or presiding judge determines that operation of the clerk's office, under prevailing conditions, would constitute a threat to the health or safety of the clerk's office personnel or the general public. Closing of the clerk's office pursuant to this subsection shall have the same effect as provided in subsection B of § 1-210. In determining whether to close because of a threat to the health or safety of the general public, the chief judge or the presiding judge of the district court shall coordinate with the chief judge or presiding judge of the circuit court so that, where possible and appropriate, both the circuit and district courts take the same action. He shall determine the times each such court shall be held for the trial of civil, criminal or traffic matters and cases. He shall determine whether, in the case of district courts in counties, court shall be held at any place or places in addition to the county seat. He shall determine the office hours and arrange a vacation schedule of the judges within his district, in order to ensure the availability of a judge or judges to the public at normal times of business. A schedule of the times and places at which court is held shall be filed with the Executive Secretary of the Supreme Court and kept posted at the courthouse, and in any county also at any such other place or places where court may be held, and the clerk shall make such schedules available to the public upon request. Any matter may, in the discretion of the judge, or by direction of the chief district judge, be removed from any one of such designated places to another, or to or from the county seat, in order to serve the convenience of the parties or to expedite the administration of justice; however, any town having a population of over 15,000 as of July 1, 1972, having court facilities and a court with both general criminal and civil jurisdiction prior to July 1, 1972, shall be designated by the chief judge as a place to hold court.

6. Subject to the provisions of § 16.1-69.38, the chief judge of a general district court or the chief judge of a juvenile and domestic relations district court may establish a voluntary civil mediation program for the alternate resolution of disputes. The costs of the program shall be paid by the local governing bodies within the district or by the parties who voluntarily participate in the program.

## CHAPTER 226

*An Act to amend and reenact § 17.1-606 of the Code of Virginia, relating to inability to pay fees or costs on account of poverty; guidelines.*

[S 1305]

Approved February 23, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 17.1-606 of the Code of Virginia is amended and reenacted as follows:**

**§ 17.1-606. Persons allowed services without fees or costs.**

Any person, who is (i) a plaintiff in a civil action in a court of the Commonwealth and a resident of ~~his~~ the Commonwealth or (ii) a defendant in a civil action in a court of the Commonwealth, and who is on account of his poverty ~~is~~ unable to pay fees or costs, may be allowed by a court to sue or defend a suit therein, without paying fees or costs; whereupon he shall have, from any counsel whom the court may assign him, and from all officers, all needful services and process, without any fees, except what may be included in the costs recovered from the opposite party. *In determining a person's inability to pay fees or costs on account of his poverty, the court shall consider the factors set forth in subsection B of § 19.2-159.*

## CHAPTER 227

*An Act to amend and reenact § 17.1-606 of the Code of Virginia, relating to inability to pay fees or costs on account of poverty; guidelines.*

[H 2328]

Approved February 23, 2017

**Be it enacted by the General Assembly of Virginia:****1. That § 17.1-606 of the Code of Virginia is amended and reenacted as follows:****§ 17.1-606. Persons allowed services without fees or costs.**

Any person who is (i) a plaintiff in a civil action in a court of the Commonwealth and a resident of this the Commonwealth or (ii) a defendant in a civil action in a court of the Commonwealth, and who is on account of his poverty is unable to pay fees or costs, may be allowed by a court to sue or defend a suit therein, without paying fees or costs; whereupon he shall have, from any counsel whom the court may assign him, and from all officers, all needful services and process, without any fees, except what may be included in the costs recovered from the opposite party. *In determining a person's inability to pay fees or costs on account of his poverty, the court shall consider the factors set forth in subsection B of § 19.2-159.*

## CHAPTER 228

*An Act to amend and reenact §§ 19.2-54 and 19.2-56 of the Code of Virginia, relating to search warrants.*

[S 1310]

Approved February 23, 2017

**Be it enacted by the General Assembly of Virginia:****1. That §§ 19.2-54 and 19.2-56 of the Code of Virginia are amended and reenacted as follows:****§ 19.2-54. Affidavit preliminary to issuance of search warrant; general search warrant prohibited; effect of failure to file affidavit.**

No search warrant shall be issued until there is filed with the officer authorized to issue the same an affidavit of some person reasonably describing the place, thing, or person to be searched, the things or persons to be searched for thereunder, alleging briefly material facts, constituting the probable cause for the issuance of such warrant and alleging substantially the offense in relation to which such search is to be made and that the object, thing, or person searched for constitutes evidence of the commission of such offense. The affidavit may be filed by electronically transmitted (i) facsimile process or (ii) electronic record as defined in § 59.1-480. Such affidavit shall be certified by the officer who issues such warrant and delivered in person; mailed by certified mail, return receipt requested; or delivered by electronically transmitted facsimile process or by use of filing and security procedures as defined in the Uniform Electronic Transactions Act (§ 59.1-479 et seq.) by transmitting signed documents, by such officer or his designee or agent, to the clerk of the circuit court of the county or city wherein the search is made, ~~with a copy of the affidavit also being delivered to the clerk of the circuit court of the county or city where the warrant is issued, if in a different county or city,~~ within seven days after the issuance of such warrant and shall by such ~~clerk~~ clerk be preserved as a record and shall at all times be subject to inspection by the public after the warrant that is the subject of the affidavit has been executed or 15 days after issuance of the warrant, whichever is earlier; however, such affidavit, any warrant issued pursuant thereto, any return made thereon, and any order sealing the affidavit, warrant, or return may be temporarily sealed for a specific period of time by the appropriate court upon application of the attorney for the Commonwealth for good cause shown in an ex parte hearing. Any individual arrested and claiming to be aggrieved by such search and seizure or any person who claims to be entitled to lawful possession of such property seized may move the appropriate court for the unsealing of such affidavit, warrant, and return. The burden of proof with respect to continued sealing shall be upon the Commonwealth. Each such clerk shall maintain an index of all such affidavits filed in his office in order to facilitate inspection. No such warrant shall be issued on an affidavit omitting such essentials, and no general warrant for the search of a house, place, compartment, vehicle or baggage shall be issued. The term "affidavit" as used in this section, means statements made under oath or affirmation and preserved verbatim.

Failure of the officer issuing such warrant to file the required affidavit shall not invalidate any search made under the warrant unless such failure shall continue for a period of 30 days. If the affidavit is filed prior to the expiration of the 30-day period, nevertheless, evidence obtained in any such search shall not be admissible until a reasonable time after the filing of the required affidavit.

**§ 19.2-56. To whom search warrant directed; what it shall command; warrant to show date and time of issuance; copy of affidavit to be part of warrant and served therewith; warrants not executed within 15 days.**

The judge, magistrate or other official authorized to issue criminal warrants, shall issue a search warrant if he finds from the facts or circumstances recited in the affidavit that there is probable cause for the issuance thereof.

Every search warrant shall be directed to (i) the sheriff, sergeant, or any policeman of the county, city or town in which the place to be searched is located, (ii) any law-enforcement officer or agent employed by the Commonwealth and vested with the powers of sheriffs and police, or (iii) jointly to any such sheriff, sergeant, policeman or law-enforcement officer or

agent and an agent, special agent or officer of the Federal Bureau of Investigation, the Bureau of Alcohol, Tobacco and Firearms of the United States Treasury, the United States Naval Criminal Investigative Service, the United States Department of Homeland Security, any inspector, law-enforcement official or police personnel of the United States Postal Service, or the Drug Enforcement Administration. The warrant shall ~~(i)~~ (a) name the affiant, ~~(ii)~~ (b) recite the offense in relation to which the search is to be made, ~~(iii)~~ (c) name or describe the place to be searched, ~~(iv)~~ (d) describe the property or person to be searched for, and ~~(v)~~ (e) recite that the magistrate has found probable cause to believe that the property or person constitutes evidence of a crime (identified in the warrant) or tends to show that a person (named or described therein) has committed or is committing a crime.

The warrant shall command that the place be forthwith searched, either in day or night, and that the objects or persons described in the warrant, if found there, be seized. An inventory shall be produced before a court having jurisdiction of the offense in relation to which the warrant was issued as provided in § 19.2-57.

Any such warrant as provided in this section shall be executed by the policeman or other law-enforcement officer or agent into whose hands it shall come or be delivered. If the warrant is directed jointly to a sheriff, sergeant, policeman or law-enforcement officer or agent of the Commonwealth and a federal agent or officer as otherwise provided in this section, the warrant may be executed jointly or by the policeman, law-enforcement officer or agent into whose hands it is delivered. No other person may be permitted to be present during or participate in the execution of a warrant to search a place except ~~(i)~~ (1) the owners and occupants of the place to be searched when permitted to be present by the officer in charge of the conduct of the search and ~~(ii)~~ (2) persons designated by the officer in charge of the conduct of the search to assist or provide expertise in the conduct of the search.

Any search warrant for records or other information pertaining to a subscriber to, or customer of, an electronic communication service or remote computing service, whether a domestic corporation or foreign corporation, that is transacting or has transacted any business in the Commonwealth, to be executed upon such service provider may be executed within or without the Commonwealth by hand, United States mail, commercial delivery service, facsimile, or other electronic means upon the service provider. Notwithstanding the provisions of § 19.2-57, the officer executing a warrant pursuant to this paragraph shall endorse the date of execution thereon and shall file the warrant, with the inventory attached (or a notation that no property was seized) and the accompanying affidavit, unless such affidavit was made by voice or videotape recording, within three days after the materials ordered to be produced are received by the officer from the service provider. The return shall be made in the circuit court clerk's office for the jurisdiction wherein the warrant was issued. Saturdays, Sundays, or any federal or state legal holiday shall not be used in computing the three-day filing period.

Electronic communication service or remote computing service providers, whether a foreign or domestic corporation, shall also provide the contents of electronic communications pursuant to a search warrant issued under this section and § 19.2-70.3 using the same process described in the preceding paragraph.

*Notwithstanding the provisions of § 19.2-57, any search warrant for records or other information pertaining to a customer of a financial institution as defined in § 6.2-604, money transmitter as defined in § 6.2-1900, commercial business providing credit history or credit reports, or issuer as defined in § 6.2-424 may be executed within the Commonwealth by hand, United States mail, commercial delivery service, facsimile, or other electronic means upon the financial institution, money transmitter, commercial business providing credit history or credit reports, or issuer. The officer executing such warrant shall endorse the date of execution thereon and shall file the warrant, with the inventory attached (or a notation that no property was seized) and the accompanying affidavit, unless such affidavit was made by voice or videotape recording, within three days after the materials ordered to be produced are received by the officer from the financial institution, money transmitter, commercial business providing credit history or credit reports, or issuer. The return shall be made in the circuit court clerk's office for the jurisdiction wherein the warrant was executed. Saturdays, Sundays, or any federal or state legal holiday shall not be used in computing the three-day filing period. For the purposes of this section, the warrant will be considered executed in the jurisdiction where the entity on which the warrant is served is located.*

Every search warrant shall contain the date and time it was issued. However, the failure of any such search warrant to contain the date and time it was issued shall not render the warrant void, provided that the date and time of issuing of said warrant is established by competent evidence.

The judge, magistrate, or other official authorized to issue criminal warrants shall attach a copy of the affidavit required by § 19.2-54, which shall become a part of the search warrant and served therewith. However, this provision shall not be applicable in any case in which the affidavit is made by means of a voice or videotape recording or where the affidavit has been sealed pursuant to § 19.2-54.

Any search warrant not executed within 15 days after issuance thereof shall be returned to, and voided by, the officer who issued such search warrant.

For the purposes of this section:

"Foreign corporation" means any corporation or other entity, whose primary place of business is located outside of the boundaries of the Commonwealth, that makes a contract or engages in a terms of service agreement with a resident of the Commonwealth to be performed in whole or in part by either party in the Commonwealth, or a corporation that has been issued a certificate of authority pursuant to § 13.1-759 to transact business in the Commonwealth. The making of the contract or terms of service agreement or the issuance of a certificate of authority shall be considered to be the agreement of the foreign corporation or entity that a search warrant or subpoena, which has been properly served on it, has the same legal force and effect as if served personally within the Commonwealth.

"Properly served" means delivery of a search warrant or subpoena by hand, by United States mail, by commercial delivery service, by facsimile or by any other manner to any officer of a corporation or its general manager in the Commonwealth, to any natural person designated by it as agent for the service of process, or if such corporation has designated a corporate agent, to any person named in the latest annual report filed pursuant to § 13.1-775.

### CHAPTER 229

*An Act to express the intent of the General Assembly relating to the Commonwealth's two land-grant universities.*

[H 1569]

Approved February 23, 2017

**Be it enacted by the General Assembly of Virginia:**

**1.** § 1. *It is the intent of the General Assembly that in order to support a strong Commonwealth and to fulfill the principles of the federal Morrill Land-Grant Acts of 1862 and 1890 and Smith-Lever Act of 1914 (7 U.S.C. § 301 et seq.), the Commonwealth's two land-grant universities, Virginia Polytechnic Institute and State University and Virginia State University, shall maintain strong programs of instruction, research, and the extension of knowledge in agriculture, natural resources, family and consumer sciences, community viability, youth development, and such other fields as are necessary to fulfill their respective land-grant missions. Therefore, it is incumbent on these two institutions to ensure that these objectives will be addressed in all strategic plans for the future.*

### CHAPTER 230

*An Act to amend and reenact § 23.1-3207 of the Code of Virginia, relating to the Jamestown-Yorktown Foundation; board of trustees; duties.*

[H 1780]

Approved February 23, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 23.1-3207 of the Code of Virginia is amended and reenacted as follows:**

**§ 23.1-3207. Duties.**

The board shall:

1. Do all things necessary and proper to (i) foster through its living-history museums, Jamestown Settlement and Yorktown Victory Center, an awareness and understanding of the early history, settlement, and development of the United States through the convergence of American Indian, European, and African cultures and the enduring legacies bequeathed to the nation; (ii) commemorate Jamestown as the first permanent English-speaking settlement in the United States and its contributions to the building of the Commonwealth and the nation; (iii) commemorate the winning of American independence on the battlefield at Yorktown; and (iv) enhance our understanding of the making of the United States Constitution and Bill of Rights, including the Commonwealth's role in shaping the fundamental principles of the American constitutional system;
2. Administer, develop, and maintain at Jamestown and Yorktown permanent commemorative shrines and historical museums;
3. Adopt names, flags, seals, and other emblems for use in connection with such shrines and copyright the same in the name of the Commonwealth;
4. Enter into contracts to further the purposes of the Foundation, *including contracts for the use and rental of agency facilities, structures, spaces, and personal property under the control of the Foundation;*
5. Establish nonprofit corporations as instrumentalities to assist in administering the affairs of the Foundation;
6. With the consent of the Governor, acquire by purchase, lease, gift, devise, or condemnation proceedings lands, property, and structures deemed necessary for the purposes of the Foundation. The title to such acquired land and property shall be in the name of the Commonwealth. In the exercise of the power of eminent domain granted under this section, the Foundation may proceed in the manner provided by Chapter 3 (§ 25.1-300 et seq.) of Title 25.1;
7. With the consent of the Governor, convey by lease land to any person, association, firm, or corporation for such terms and on such conditions as the Foundation may determine;
8. Receive and expend gifts, grants, and donations from whatever source derived for the purposes of the Foundation;
9. Employ an executive director and such deputies and assistants as may be required;
10. Elect any past chairman of the board to the honorary position of chairman emeritus. Chairmen emeriti shall serve as honorary members for life. Chairmen emeriti shall be elected in addition to the at-large positions defined in § 23.1-3206;
11. With the consent of the Governor, enter into agreements or contracts with private entities for the promotion of tourism through marketing without participating in competitive sealed bidding or competitive negotiation, provided that a demonstrable cost savings, as reviewed by the Secretary of Education, can be realized by the Foundation and such agreements or contracts are based on competitive principles;

12. Determine which paintings, statuary, works of art, manuscripts, and artifacts shall be acquired by purchase, gift, or loan and exchange or sell such items if not inconsistent with the terms of such purchase, gift, loan, or other acquisition; and

13. Change the form of investment of any funds, securities, or other property, real or personal, provided the form is not inconsistent with the terms of the instrument under which the property was acquired, and sell, grant, or convey any such property, except that any transfers of real property shall be made only with the consent of the Governor.

**CHAPTER 231**

*An Act to direct the Board of Education to establish guidelines for alternatives to suspension.*

[H 1924]

Approved February 23, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. § 1.** *The Board of Education shall establish guidelines for alternatives to short-term and long-term suspension for consideration by local school boards. Such alternatives may include positive behavior incentives, mediation, peer-to-peer counseling, community service, and other intervention alternatives.*

**CHAPTER 232**

*An Act to amend and reenact § 46.2-341.14 of the Code of Virginia, relating to commercial driver's license instruction; comprehensive community colleges.*

[H 2075]

Approved February 23, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 46.2-341.14 of the Code of Virginia is amended and reenacted as follows:**

**§ 46.2-341.14. Testing requirements for commercial driver's license; behind-the-wheel and knowledge examinations.**

A. The Department shall conduct an examination of every applicant for a commercial driver's license, which examination shall comply with the minimum federal standards established pursuant to the federal Commercial Motor Vehicle Safety Act. The examination shall be designed to test the vision, knowledge, and skills required for the safe operation of the class and type of commercial motor vehicle for which the applicant seeks a license.

B. An applicant's skills test shall be conducted in a vehicle that is representative of or meets the description of the class of vehicle for which the applicant seeks to be licensed. In addition, applicants who seek to be licensed to drive vehicles with air brakes, passenger-carrying vehicles, or school buses must take the skills test in a vehicle that is representative of such vehicle type. Such vehicle shall be furnished by the applicant and shall be properly licensed, inspected and insured.

C. The Commissioner may designate such persons as he deems fit, including private or governmental entities, including comprehensive community colleges in the Virginia Community College System, to administer the knowledge and skills tests required of applicants for a commercial driver's license. Any person so designated shall comply with all statutes and regulations with respect to the administration of such tests.

The Commissioner shall require all state and third party test examiners to successfully complete a formal commercial driver's license test examiner training course and examination before certifying them to administer commercial driver's license knowledge and skills tests. All state and third party test examiners shall complete a refresher training course and examination every four years to maintain their commercial driver's license test examiner certification. The refresher training course shall comply with 49 C.F.R. § 384.228. At least once every two years, the Department shall conduct covert and overt monitoring of examinations performed by state and third party commercial driver's license test examiners.

The Commissioner shall require a nationwide criminal background check of all test examiners at the time of hiring or prior to certifying them to administer commercial driver's license testing. The Commissioner shall complete a nationwide criminal background check for any state or third party test examiners who are current examiners and who have not had a nationwide criminal background check.

The Commissioner shall revoke the certification to administer commercial driver's license tests for any test examiner who (i) does not successfully complete the required refresher training every four years or (ii) does not pass the required nationwide criminal background check. Criteria for not passing the criminal background check include but are not limited to having a felony conviction within the past 10 years or any conviction involving fraudulent activities.

D. Every applicant for a commercial driver's license who is required by the Commissioner to take a vision test shall either (i) appear before a license examiner of the Department of Motor Vehicles to demonstrate his visual acuity and horizontal field of vision; or (ii) submit with his application a copy of the vision examination report which was used as the basis for such examination made within 90 days of the application date by an ophthalmologist or optometrist. The Commissioner may, by regulation, determine whether any other visual tests will satisfy the requirements of this title for commercial drivers.

E. No person who fails the behind-the-wheel examination for a commercial driver's license administered by the Department three times shall be permitted to take such examination a fourth time until he successfully completes, subsequent to the third examination failure, the in-vehicle component of driver instruction at a driver training school licensed under Chapter 17 (§ 46.2-1700 et seq.) or a comprehensive community college in the Virginia Community College System, or a comparable course approved by the Department or the Department of Education. In addition, no person who fails the general knowledge examination for a commercial driver's license administered by the Department three times shall be permitted to take such examination a fourth time until he successfully completes, subsequent to the third examination failure, the knowledge component of driver instruction at a driver training school licensed under Chapter 17 (§ 46.2-1700 et seq.) or a comprehensive community college in the Virginia Community College System, or a comparable course approved by the Department or the Department of Education. *All persons required to attend a driver training school, a comprehensive community college, or a comparable course pursuant to this section shall be required, after successful completion of necessary courses, to have the applicable examination administered by the Department.*

*Comprehensive community colleges offering courses pursuant to this section shall meet course curriculum requirements established and made available by the Department and be comparable to the curriculum offered by Class A licensed schools. A course curriculum meeting the established requirements shall be submitted to the Department and shall be approved by the Department prior to the beginning of course instruction.*

*The Department shall provide and update the list of course curriculum requirements from time to time, as deemed appropriate and necessary by the Department. The Department shall notify the affected schools and comprehensive community colleges if new relevant topics are added to the course curriculum. Schools and comprehensive community colleges shall have 45 calendar days after such notice is issued to update their course curriculum and to certify to the Department in a format prescribed by the Department that the school or comprehensive community college has added the new topics to the course curriculum.*

The provisions of this subsection shall not apply to persons placed under medical control pursuant to § 46.2-322.

F. Knowledge tests may be administered in written form, verbally, or in automated format and can be administered in a foreign language, provided no interpreter is used in administering the test.

G. Interpreters are prohibited during the administration of the skills tests. Applicants must be able to understand and respond to verbal commands and instructions in English by a skills test examiner. Neither the applicant nor the examiner may communicate in a language other than English during the skills test.

H. Skills tests may be administered to an applicant who has taken training in the Commonwealth at a driver training school licensed under Chapter 17 (§ 46.2-1700 et seq.) or a comprehensive community college in the Virginia Community College System, or a comparable course approved by the Department or the Department of Education, and is to be licensed in another state. Such test results shall be electronically transmitted directly from the Commonwealth to the licensing state in an efficient and secure manner. The Department may charge a fee of not more than \$85 to any such applicant.

I. The Department shall accept the results of skills tests administered to applicants by any other state in fulfillment of the applicant's testing requirements for commercial licensure in the Commonwealth.

## CHAPTER 233

*An Act to amend and reenact §§ 19.2-53, 19.2-54, and 19.2-56 of the Code of Virginia, relating to search warrants; persons subject to warrant or *capias* for arrest.*

[H 2084]

Approved February 23, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 19.2-53, 19.2-54, and 19.2-56 of the Code of Virginia are amended and reenacted as follows:**

**§ 19.2-53. What may be searched and seized.**

A. Search warrants may be issued for the search of or for specified places, things or persons, and seizure therefrom of the following things as specified in the warrant:

1. Weapons or other objects used in the commission of crime;
2. Articles or things the sale or possession of which is unlawful;
3. Stolen property or the fruits of any crime;
4. Any object, thing, or person, including without limitation, documents, books, papers, records or body fluids, constituting evidence of the commission of crime; or
5. Any person to be arrested for whom a warrant or process for arrest has been issued.

Notwithstanding any other provision in this chapter to the contrary, no search warrant may be issued as a substitute for a witness subpoena.

B. Any search warrant issued for the search and seizure of a computer, computer network, or other device containing electronic or digital information shall be deemed to include the search and seizure of the physical components and the electronic or digital information contained in any such computer, computer network, or other device.

C. Any search, including the search of the contents of any computer, computer network, or other device conducted pursuant to subsection B, may be conducted in any location and is not limited to the location where the evidence was seized.

**§ 19.2-54. Affidavit preliminary to issuance of search warrant; general search warrant prohibited; effect of failure to file affidavit.**

No search warrant shall be issued until there is filed with the officer authorized to issue the same an affidavit of some person reasonably describing the place, thing, or person to be searched, the things or persons to be searched for thereunder, alleging briefly material facts, constituting the probable cause for the issuance of such warrant and alleging substantially the offense *or the identity of the person to be arrested for whom a warrant or process for arrest has been issued* in relation to which such search is to be made and that the object, thing, or person searched for constitutes evidence of the commission of such offense *or is the person to be arrested for whom a warrant or process for arrest has been issued*. The affidavit may be filed by electronically transmitted (i) facsimile process or (ii) electronic record as defined in § 59.1-480. Such affidavit shall be certified by the officer who issues such warrant and delivered in person; mailed by certified mail, return receipt requested; or delivered by electronically transmitted facsimile process or by use of filing and security procedures as defined in the Uniform Electronic Transactions Act (§ 59.1-479 et seq.) for transmitting signed documents, by such officer or his designee or agent, to the clerk of the circuit court of the county or city wherein the search is made, with a copy of the affidavit also being delivered to the clerk of the circuit court of the county or city where the warrant is issued, if in a different county or city, within seven days after the issuance of such warrant and shall by such clerks be preserved as a record and shall at all times be subject to inspection by the public after the warrant that is the subject of the affidavit has been executed or 15 days after issuance of the warrant, whichever is earlier; however, such affidavit, any warrant issued pursuant thereto, any return made thereon, and any order sealing the affidavit, warrant, or return may be temporarily sealed for a specific period of time by the appropriate court upon application of the attorney for the Commonwealth for good cause shown in an ex parte hearing. Any individual arrested and claiming to be aggrieved by such search and seizure or any person who claims to be entitled to lawful possession of such property seized may move the appropriate court for the unsealing of such affidavit, warrant, and return. The burden of proof with respect to continued sealing shall be upon the Commonwealth. Each such clerk shall maintain an index of all such affidavits filed in his office in order to facilitate inspection. No such warrant shall be issued on an affidavit omitting such essentials, and no general warrant for the search of a house, place, compartment, vehicle or baggage shall be issued. The term "affidavit" as used in this section, means statements made under oath or affirmation and preserved verbatim.

Failure of the officer issuing such warrant to file the required affidavit shall not invalidate any search made under the warrant unless such failure shall continue for a period of 30 days. If the affidavit is filed prior to the expiration of the 30-day period, nevertheless, evidence obtained in any such search shall not be admissible until a reasonable time after the filing of the required affidavit.

**§ 19.2-56. To whom search warrant directed; what it shall command; warrant to show date and time of issuance; copy of affidavit to be part of warrant and served therewith; warrants not executed within 15 days.**

The judge, magistrate or other official authorized to issue criminal warrants, shall issue a search warrant if he finds from the facts or circumstances recited in the affidavit that there is probable cause for the issuance thereof.

Every search warrant shall be directed to (i) the sheriff, sergeant, or any policeman of the county, city or town in which the place to be searched is located, (ii) any law-enforcement officer or agent employed by the Commonwealth and vested with the powers of sheriffs and police, or (iii) jointly to any such sheriff, sergeant, policeman or law-enforcement officer or agent and an agent, special agent or officer of the Federal Bureau of Investigation, the Bureau of Alcohol, Tobacco and Firearms of the United States Treasury, the United States Naval Criminal Investigative Service, the United States Department of Homeland Security, any inspector, law-enforcement official or police personnel of the United States Postal Service, or the Drug Enforcement Administration. The warrant shall ~~(i)~~ (a) name the affiant, ~~(ii)~~ (b) recite the offense *or the identity of the person to be arrested for whom a warrant or process for arrest has been issued* in relation to which the search is to be made, ~~(iii)~~ (c) name or describe the place to be searched, ~~(iv)~~ (d) describe the property or person to be searched for, and ~~(v)~~ (e) recite that the magistrate has found probable cause to believe that the property or person constitutes evidence of a crime (identified in the warrant) or tends to show that a person (named or described therein) has committed or is committing a crime *or that the person to be arrested for whom a warrant or process for arrest has been issued is located at the place to be searched*.

The warrant shall command that the place be forthwith searched, either in day or night, and that the objects or persons described in the warrant, if found there, be seized. An inventory shall be produced before a court having jurisdiction of the offense *or over the person to be arrested for whom a warrant or process for arrest has been issued* in relation to which the warrant was issued as provided in § 19.2-57.

Any such warrant as provided in this section shall be executed by the policeman or other law-enforcement officer or agent into whose hands it shall come or be delivered. If the warrant is directed jointly to a sheriff, sergeant, policeman or law-enforcement officer or agent of the Commonwealth and a federal agent or officer as otherwise provided in this section, the warrant may be executed jointly or by the policeman, law-enforcement officer or agent into whose hands it is delivered. No other person may be permitted to be present during or participate in the execution of a warrant to search a place except ~~(i)~~ (1) the owners and occupants of the place to be searched when permitted to be present by the officer in charge of the conduct of the search and ~~(ii)~~ (2) persons designated by the officer in charge of the conduct of the search to assist or provide expertise in the conduct of the search.

Any search warrant for records or other information pertaining to a subscriber to, or customer of, an electronic communication service or remote computing service, whether a domestic corporation or foreign corporation, that is

transacting or has transacted any business in the Commonwealth, to be executed upon such service provider may be executed within or without the Commonwealth by hand, United States mail, commercial delivery service, facsimile, or other electronic means upon the service provider. Notwithstanding the provisions of § 19.2-57, the officer executing a warrant pursuant to this paragraph shall endorse the date of execution thereon and shall file the warrant, with the inventory attached (or a notation that no property was seized) and the accompanying affidavit, unless such affidavit was made by voice or videotape recording, within three days after the materials ordered to be produced are received by the officer from the service provider. The return shall be made in the circuit court clerk's office for the jurisdiction wherein the warrant was issued. Saturdays, Sundays, or any federal or state legal holiday shall not be used in computing the three-day filing period.

Electronic communication service or remote computing service providers, whether a foreign or domestic corporation, shall also provide the contents of electronic communications pursuant to a search warrant issued under this section and § 19.2-70.3 using the same process described in the preceding paragraph.

Every search warrant shall contain the date and time it was issued. However, the failure of any such search warrant to contain the date and time it was issued shall not render the warrant void, provided that the date and time of issuing of said warrant is established by competent evidence.

The judge, magistrate, or other official authorized to issue criminal warrants shall attach a copy of the affidavit required by § 19.2-54, which shall become a part of the search warrant and served therewith. However, this provision shall not be applicable in any case in which the affidavit is made by means of a voice or videotape recording or where the affidavit has been sealed pursuant to § 19.2-54.

Any search warrant not executed within 15 days after issuance thereof shall be returned to, and voided by, the officer who issued such search warrant.

For the purposes of this section:

"Foreign corporation" means any corporation or other entity, whose primary place of business is located outside of the boundaries of the Commonwealth, that makes a contract or engages in a terms of service agreement with a resident of the Commonwealth to be performed in whole or in part by either party in the Commonwealth, or a corporation that has been issued a certificate of authority pursuant to § 13.1-759 to transact business in the Commonwealth. The making of the contract or terms of service agreement or the issuance of a certificate of authority shall be considered to be the agreement of the foreign corporation or entity that a search warrant or subpoena, which has been properly served on it, has the same legal force and effect as if served personally within the Commonwealth.

"Properly served" means delivery of a search warrant or subpoena by hand, by United States mail, by commercial delivery service, by facsimile or by any other manner to any officer of a corporation or its general manager in the Commonwealth, to any natural person designated by it as agent for the service of process, or if such corporation has designated a corporate agent, to any person named in the latest annual report filed pursuant to § 13.1-775.

#### CHAPTER 234

*An Act to require the Department of Education to establish a pilot program, relating to the model exit questionnaire for teachers.*

[H 2140]

Approved February 23, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. § 1.** *The Department of Education (the Department) shall develop and oversee a pilot program to administer across five geographically and demographically diverse school divisions the model exit questionnaire for teachers developed by the Superintendent of Public Instruction (the Superintendent) pursuant to § 22.1-23 of the Code of Virginia, analyze the results of each such questionnaire, and include such results and analysis in the Superintendent's annual report beginning in 2018. The Department shall (i) administer such questionnaire to each teacher who ceases to be employed by the relevant school board for any reason and (ii) collect, maintain, and report on the results of each such questionnaire in a manner that ensures the confidentiality of each teacher's name and other personally identifying information.*

#### CHAPTER 235

*An Act to amend and reenact § 22.1-18 of the Code of Virginia, relating to the Board of Education; report on the condition and needs of public education; local school division reports.*

[H 2141]

Approved February 23, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 22.1-18 of the Code of Virginia is amended and reenacted as follows:**

**§ 22.1-18. Report on education and standards of quality for school divisions; when submitted and effective.**

By December 1 of each year, the Board of Education shall submit to the Governor and the General Assembly a report on the condition and needs of public education in the Commonwealth and shall identify any school divisions and the

specific schools therein that have failed to establish and maintain schools meeting the existing prescribed standards of quality. Such standards of quality shall be subject to revision only by the General Assembly, pursuant to Article VIII, Section 2 of the Constitution of Virginia. Such report shall include:

1. A complete listing of the current standards of quality for the Commonwealth's public schools, together with a justification for each particular standard, how long each such standard has been in its current form, and whether the Board recommends any change or addition to the standards of quality;
2. Information regarding parent and student choice within each school division and any plans of such school divisions to increase school choice;
3. A complete listing of each report that local school divisions are required to submit to the Board or any other state agency, including name, frequency, and an indication of whether the report contains information that the local school division is also required to submit to the federal government; ~~and~~
4. *An explanation of the need to retain or maintain the frequency of any report identified pursuant to subdivision 3; any recommendation for the elimination, reduction in frequency, or consolidation of reports identified pursuant to subdivision 3 when such elimination, reduction in frequency, or consolidation would require an amendment to the laws of the Commonwealth; and a description of any other report identified pursuant to subdivision 3 that the Board has eliminated, reduced in frequency, or consolidated; and*
5. A complete listing of each report pertaining to public education that local school divisions are required to submit to the federal government, including name and frequency.

### CHAPTER 236

*An Act to amend and reenact §§ 23.1-3120, 23.1-3121, and 23.1-3122 of the Code of Virginia, relating to the Southern Virginia Higher Education Center; board of trustees; membership and powers and duties.*

[H 2172]

Approved February 23, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 23.1-3120, 23.1-3121, and 23.1-3122 of the Code of Virginia are amended and reenacted as follows:**

**§ 23.1-3120. Southern Virginia Higher Education Center established; duties.**

The Southern Virginia Higher Education Center (the Center) is established as an educational institution in the Commonwealth. The Center shall:

1. Encourage the expansion of higher education, including adult and continuing education and associate, undergraduate, and graduate degree programs in the region and foster partnerships between the public and private sectors to enhance higher education in the Southside region;
2. ~~Coordinate~~ *Encourage* the development and delivery of continuing education programs ~~offered by~~ *and workforce training in collaboration with* the educational institutions serving the region, *with a focus on critical shortage areas and the needs of industry;*
3. Facilitate the delivery of teacher training programs leading to licensure and graduate degrees;
4. Serve as a resource and referral center by maintaining and disseminating information on existing educational programs and resources; and
5. Develop, in coordination with the Council, specific goals for higher education in Southside Virginia.

**§ 23.1-3121. Board of trustees.**

A. The Center shall be governed by a board of trustees (the board) consisting of 15 members as follows: two members of the House of Delegates to be appointed by the Speaker of the House of Delegates in accordance with the principles of proportional representation contained in the Rules of the House of Delegates; one member of the Senate to be appointed by the Senate Committee on Rules; the Director of the Council or his designee; the Chancellor of the Virginia Community College System or his designee; the presidents of Longwood University, Danville Community College, and Southside Virginia Community College or their designees; ~~the division superintendent of Halifax County Public Schools; and six~~ *seven* nonlegislative citizen members to be appointed by the Governor, including two members of the Southern Virginia Higher Education Foundation, *one superintendent of a local school division located in the Southside region*, and four representatives of business and industry. The Speaker of the House of Delegates may appoint an alternate for one delegate appointed to the board. The alternate shall serve a term coincident with the term of the delegate and has the power to act in his absence. The Senate Committee on Rules may appoint an alternate for the senator appointed to the board. The alternate shall serve a term coincident with the term of the senator and may act in his absence.

Nonlegislative citizen members of the board shall be chosen from among residents of the Southside region of the Commonwealth and shall be citizens of the Commonwealth. *However, an individual who does not reside in the Southside region may serve as a representative of business and industry if he either (i) owns a business headquartered or otherwise operating in the Southside region or (ii) serves as a member of the board of directors or senior management of a business headquartered or otherwise operating in the Southside region.*

B. Legislative members and the representatives of the Council, the System, and the named institutions of higher education shall serve terms coincident with their terms of office. Nonlegislative citizen members shall be appointed for

terms of four years. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. Vacancies shall be filled in the same manner as the original appointments.

No nonlegislative citizen member is eligible to serve more than two consecutive four-year terms; however, a member appointed to serve an unexpired term is eligible to serve two consecutive four-year terms immediately succeeding such unexpired term.

C. Nonlegislative citizen members are not entitled to compensation for their services. Legislative members of the board shall be compensated as provided in § 30-19.12. All members of the board shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties in the work of the Center as provided in §§ 2.2-2813 and 2.2-2825. The funding for the costs of compensation and expenses of the members shall be provided by the Center.

D. The board shall elect a chairman and a vice-chairman from among its membership.

**§ 23.1-3122. Powers of the board.**

A. The board has, in addition to its other powers, all the corporate powers given to corporations by the provisions of Title 13.1, except in those cases where, by the express terms of its provisions, it is confined to corporations created under that title.

B. The board may accept, execute, and administer any trust in which it may have an interest under the terms of the instrument creating the trust.

C. The board may establish and administer agreements with public institutions of higher education and private institutions of higher education for the provision of associate, undergraduate, and graduate degree instructional programs at the Center. *The board shall seek opportunities to collaborate with local comprehensive community colleges to meet specialized noncredit workforce training needs identified by industry. However, if local community colleges are unable to meet identified industry needs, then the board may seek to collaborate with other education providers or may provide Center-delivered specialized noncredit workforce training independent of local comprehensive community colleges.*

D. The board, on behalf of the Center, may apply for, accept, and expend gifts, grants, or donations from public or private sources to enable it to carry out its purposes.

**2. That the provisions of this act shall not affect members of the board of trustees of the Southern Virginia Higher Education Center whose terms have not expired as of July 1, 2017. However, the division superintendent of Halifax County Public Schools shall continue to serve until the Governor appoints a public school superintendent from the Southside region of the Commonwealth. Such individual shall be eligible for such appointment.**

**CHAPTER 237**

*An Act to amend and reenact §§ 18.2-308.02, 18.2-308.06, and 18.2-308.010 of the Code of Virginia, relating to application for a concealed handgun permit; photo-identification.*

[H 2325]

Approved February 23, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 18.2-308.02, 18.2-308.06, and 18.2-308.010 of the Code of Virginia are amended and reenacted as follows:**

**§ 18.2-308.02. Application for a concealed handgun permit; Virginia resident or domiciliary.**

A. Any person 21 years of age or older may apply in writing to the clerk of the circuit court of the county or city in which he resides, or if he is a member of the United States ~~armed forces~~ *Armed Forces*, the county or city in which he is domiciled, for a five-year permit to carry a concealed handgun. There shall be no requirement regarding the length of time an applicant has been a resident or domiciliary of the county or city. The application shall be ~~made under oath before a notary or other person qualified to take oaths and shall be made only~~ on a form prescribed by the Department of State Police, in consultation with the Supreme Court, requiring only that information necessary to determine eligibility for the permit. *The applicant shall present one valid form of photo identification issued by a governmental agency of the Commonwealth or by the U.S. Department of Defense or U.S. State Department (passport).* No information or documentation other than that which is allowed on the application in accordance with this section may be requested or required by the clerk or the court.

B. The court shall require proof that the applicant has demonstrated competence with a handgun and the applicant may demonstrate such competence by one of the following, but no applicant shall be required to submit to any additional demonstration of competence, nor shall any proof of demonstrated competence expire:

1. Completing any hunter education or hunter safety course approved by the Department of Game and Inland Fisheries or a similar agency of another state;
2. Completing any National Rifle Association firearms safety or training course;
3. Completing any firearms safety or training course or class available to the general public offered by a law-enforcement agency, junior college, college, or private or public institution or organization or firearms training school utilizing instructors certified by the National Rifle Association or the Department of Criminal Justice Services;
4. Completing any law-enforcement firearms safety or training course or class offered for security guards, investigators, special deputies, or any division or subdivision of law enforcement or security enforcement;

5. Presenting evidence of equivalent experience with a firearm through participation in organized shooting competition or current military service or proof of an honorable discharge from any branch of the armed services;

6. Obtaining or previously having held a license to carry a firearm in the Commonwealth or a locality thereof, unless such license has been revoked for cause;

7. Completing any firearms training or safety course or class, including an electronic, video, or online course, conducted by a state-certified or National Rifle Association-certified firearms instructor;

8. Completing any governmental police agency firearms training course and qualifying to carry a firearm in the course of normal police duties; or

9. Completing any other firearms training which the court deems adequate.

A photocopy of a certificate of completion of any of the courses or classes; an affidavit from the instructor, school, club, organization, or group that conducted or taught such course or class attesting to the completion of the course or class by the applicant; or a copy of any document that shows completion of the course or class or evidences participation in firearms competition shall constitute evidence of qualification under this subsection.

C. The making of a materially false statement in an application under this article shall constitute perjury, punishable as provided in § 18.2-434.

D. The clerk of court shall withhold from public disclosure the applicant's name and any other information contained in a permit application or any order issuing a concealed handgun permit, except that such information shall not be withheld from any law-enforcement officer acting in the performance of his official duties or from the applicant with respect to his own information. The prohibition on public disclosure of information under this subsection shall not apply to any reference to the issuance of a concealed handgun permit in any order book before July 1, 2008; however, any other concealed handgun records maintained by the clerk shall be withheld from public disclosure.

E. An application is deemed complete when all information required to be furnished by the applicant, including the fee for a concealed handgun permit as set forth in § 18.2-308.03, is delivered to and received by the clerk of court before or concomitant with the conduct of a state or national criminal history records check.

**§ 18.2-308.06. Nonresident concealed handgun permits.**

A. Nonresidents of the Commonwealth 21 years of age or older may apply in writing to the Virginia Department of State Police for a five-year permit to carry a concealed handgun. *The applicant shall submit a photocopy of one valid form of photo identification issued by a governmental agency of the applicant's state of residency or by the U.S. Department of Defense or U.S. State Department (passport).* Every applicant for a nonresident concealed handgun permit shall also submit two photographs of a type and kind specified by the Department of State Police for inclusion on the permit and shall submit fingerprints on a card provided by the Department of State Police for the purpose of obtaining the applicant's state or national criminal history record. As a condition for issuance of a concealed handgun permit, the applicant shall submit to fingerprinting by his local or state law-enforcement agency and provide personal descriptive information to be forwarded with the fingerprints through the Central Criminal Records Exchange to the U.S. Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding the applicant and obtaining fingerprint identification information from federal records pursuant to criminal investigations by state and local law-enforcement agencies. The application shall be ~~made under oath before a notary or other person qualified to take oaths~~ on a form provided by the Department of State Police, requiring only that information necessary to determine eligibility for the permit. If the permittee is later found by the Department of State Police to be disqualified, the permit shall be revoked and the person shall return the permit after being so notified by the Department of State Police. The permit requirement and restriction provisions of subsection C of § 18.2-308.02 and § 18.2-308.09 shall apply, mutatis mutandis, to the provisions of this subsection.

B. The applicant shall demonstrate competence with a handgun by one of the following:

1. Completing a hunter education or hunter safety course approved by the Virginia Department of Game and Inland Fisheries or a similar agency of another state;

2. Completing any National Rifle Association firearms safety or training course;

3. Completing any firearms safety or training course or class available to the general public offered by a law-enforcement agency, junior college, college, or private or public institution or organization or firearms training school utilizing instructors certified by the National Rifle Association or the Department of Criminal Justice Services or a similar agency of another state;

4. Completing any law-enforcement firearms safety or training course or class offered for security guards, investigators, special deputies, or any division or subdivision of law enforcement or security enforcement;

5. Presenting evidence of equivalent experience with a firearm through participation in organized shooting competition approved by the Department of State Police or current military service or proof of an honorable discharge from any branch of the armed services;

6. Obtaining or previously having held a license to carry a firearm in the Commonwealth or a locality thereof, unless such license has been revoked for cause;

7. Completing any firearms training or safety course or class, including an electronic, video, or on-line course, conducted by a state-certified or National Rifle Association-certified firearms instructor;

8. Completing any governmental police agency firearms training course and qualifying to carry a firearm in the course of normal police duties; or

9. Completing any other firearms training that the Virginia Department of State Police deems adequate.

A photocopy of a certificate of completion of any such course or class; an affidavit from the instructor, school, club, organization, or group that conducted or taught such course or class attesting to the completion of the course or class by the applicant; or a copy of any document that shows completion of the course or class or evidences participation in firearms competition shall satisfy the requirement for demonstration of competence with a handgun.

C. The Department of State Police may charge a fee not to exceed \$100 to cover the cost of the background check and issuance of the permit. Any fees collected shall be deposited in a special account to be used to offset the costs of administering the nonresident concealed handgun permit program.

D. The permit to carry a concealed handgun shall contain only the following information: name, address, date of birth, gender, height, weight, color of hair, color of eyes, and photograph of the permittee; the signature of the Superintendent of the Virginia Department of State Police or his designee; the date of issuance; and the expiration date.

E. The Superintendent of the State Police shall promulgate regulations, pursuant to the Administrative Process Act (§ 2.2-4000 et seq.), for the implementation of an application process for obtaining a nonresident concealed handgun permit.

**§ 18.2-308.010. Renewal of concealed handgun permit.**

A. 1. Persons who previously have held a concealed handgun permit shall be issued, upon application as provided in § 18.2-308.02, a new five-year permit unless it is found that the applicant is subject to any of the disqualifications set forth in § 18.2-308.09. Persons who previously have been issued a concealed handgun permit pursuant to this article shall not be required to appear in person to apply for a new five-year permit pursuant to this section, and the application for the new permit, *including a photocopy of the applicant's valid photo identification*, may be submitted via the United States mail. The circuit court that receives the application shall promptly notify an applicant if the application is incomplete or if the fee submitted for the permit pursuant to § 18.2-308.03 is incorrect.

2. If a new five-year permit is issued while an existing permit remains valid, the new five-year permit shall become effective upon the expiration date of the existing permit, provided that the application is received by the court at least 90 days but no more than 180 days prior to the expiration of the existing permit.

3. Any order denying issuance of the new permit shall be in accordance with subsection A of § 18.2-308.08.

B. If a permit holder is a member of the Virginia National Guard, ~~armed forces~~ *Armed Forces* of the United States, or the Armed Forces Reserves of the United States, and his five-year permit expires during an active-duty military deployment outside of the permittee's county or city of residence, such permit shall remain valid for 90 days after the end date of the deployment. In order to establish proof of continued validity of the permit, such a permittee shall carry with him and display, upon request of a law-enforcement officer, a copy of the permittee's deployment orders or other documentation from the permittee's commanding officer that order the permittee to travel outside of his county or city of residence and that indicate the start and end date of such deployment.

**CHAPTER 238**

*An Act to amend and reenact § 18.2-308.011 of the Code of Virginia, relating to concealed handgun permit; change of address.*

[H 2369]

Approved February 23, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 18.2-308.011 of the Code of Virginia is amended and reenacted as follows:**

**§ 18.2-308.011. Replacement permits.**

A. The clerk of a circuit court that issued a valid concealed handgun permit shall, upon presentation *by the permit holder* of the valid permit and ~~proof of a new address of residence by the permit holder~~ *written notice of a change of address on a form provided by the Department of State Police*, issue a replacement permit specifying the permit holder's new address. The clerk of court shall forward the permit holder's new address of residence to the State Police. The State Police may charge a fee not to exceed \$5, and the clerk of court issuing the replacement permit may charge a fee not to exceed \$5. The total amount assessed for processing a replacement permit pursuant to this subsection shall not exceed \$10, with such fees to be paid in one sum to the person who receives the information for the replacement permit.

B. The clerk of a circuit court that issued a valid concealed handgun permit shall, upon submission of a notarized statement by the permit holder that the permit was lost or destroyed or that the permit holder has undergone a legal name change, issue a replacement permit. The replacement permit shall have the same expiration date as the permit that was lost, destroyed, or issued to the permit holder under a previous name. The clerk shall issue the replacement permit within 10 business days of receiving the notarized statement and may charge a fee not to exceed \$5.

## CHAPTER 239

*An Act to amend and reenact §§ 22.1-131, 56-1.2, 56-1.2:1, and 56-232.2:1 of the Code of Virginia, relating to school property; retail fee-based electric vehicle charging stations.*

[H 2431]

Approved February 23, 2017

**Be it enacted by the General Assembly of Virginia:****1. That §§ 22.1-131, 56-1.2, 56-1.2:1, and 56-232.2:1 of the Code of Virginia are amended and reenacted as follows:****§ 22.1-131. Boards may permit use of various school property; general conditions; electric vehicle charging stations.**

A. A school board may permit the use, upon such terms and conditions as it deems proper, of such school property as will not impair the efficiency of the schools. The school board may authorize the division superintendent to permit use of the school property, including buildings, grounds, vehicles, and other property, under such conditions as it deems will not impair the efficiency of the schools and are, therefore, proper. The division superintendent shall report to the school board at the end of each month his actions under this section. Permitted uses of buildings may include, but are not limited to, use as voting places in any primary, regular or special election and operation of a local or regional library pursuant to an agreement between the school board and a library board created as provided in § 42.1-35.

B. *Any school board may locate and operate retail fee-based electric vehicle charging stations on school property, provided that the use of each such station during the school day is restricted to school board employees, students, and authorized visitors and each such station is accompanied by appropriate signage that provides reasonable notice of such restriction.*

**§ 56-1.2. Persons and school boards not designated as public utility, public service corporation, etc.**

The terms public utility, public service corporation, or public service company, as used in Chapters 1 (§ 56-1 et seq.), 10 (§ 56-232 et seq.), 10.1 (§ 56-265.1 et seq.), and 10.2:1 (§ 56-265.13:1 et seq.) of this title, shall not refer to:

1. Any person who owns or operates property and provides electricity, natural gas, water, or sewer service to residents or tenants on the property, provided that (i) the electricity, natural gas, water or sewer service provided to the residents or tenants is purchased by the person from a public utility, public service corporation, public service company, or person licensed by the Commission as a competitive provider of energy services, or a county, city or town, or other publicly regulated political subdivision or public body, (ii) the person or his agent charges to the resident or tenant on the property only that portion of the person's utility charges for the electricity, natural gas, water, or sewer service which is attributable to usage by the resident or tenant on the property, and additional service charges permitted by § 55-226.2, and (iii) the person maintains three years' billing records for such charges; or

2. Any (i) person who is not a public service corporation and who provides electric vehicle charging service at retail or (ii) school board that operates retail fee-based electric vehicle charging stations on school property pursuant to § 22.1-131. The ownership or operation of a facility at which electric vehicle charging service is sold, and the selling of electric vehicle charging service from that facility, does not render ~~the~~ *such person or school board* a public utility, public service corporation, or public service company as used in Chapters 1 (§ 56-1 et seq.), 10 (§ 56-232 et seq.), 10.1 (§ 56-265.1 et seq.), and 10.2:1 (§ 56-265.13:1 et seq.) solely because of that sale, ownership, or operation.

**§ 56-1.2:1. Retail sale of electricity in connection with the provision of electric vehicle charging service.**

A. The provision of electric vehicle charging service by a person ~~who~~ *or school board that* is not a public utility, public service corporation, or public service company shall not constitute the retail sale of electricity if:

1. The electricity furnished in connection with the provision of electric vehicle charging service is used solely for transportation purposes; and

2. The person *or school board* providing the electric vehicle charging service has procured the furnished electricity from the public utility that is authorized by the Commission to engage in the retail sale of electricity within the exclusive service territory in which the electric vehicle charging service is provided.

B. The provision of electric vehicle charging service shall:

1. Be a permitted electric utility activity of a certificated electric utility; and

2. Not affect the status as a public utility of a certificated public utility that provides such service.

**§ 56-232.2:1. Regulation of electric vehicle charging service.**

The Commission shall not regulate or prescribe the rates, charges, and fees for the provision of retail electric vehicle charging service provided by persons *or school boards* other than public service corporations. Sales of electricity by public utilities to persons ~~who~~ *or school boards that* (i) are not public service corporations and (ii) provide electric vehicle charging service shall continue to be regulated by the Commission to the same extent as are other services provided by public utilities. The Commission may adopt regulations implementing this section.

## CHAPTER 240

*An Act to amend and reenact §§ 22.1-298.1 and 22.1-307 of the Code of Virginia, relating to licensure of school personnel; investigation of certain complaints; license revocation.*

[H 2432]

Approved February 23, 2017

**Be it enacted by the General Assembly of Virginia:****1. That §§ 22.1-298.1 and 22.1-307 of the Code of Virginia are amended and reenacted as follows:****§ 22.1-298.1. Regulations governing licensure.**

## A. As used in this section:

"Alternate route to licensure" means a nontraditional route to teacher licensure available to individuals who meet the criteria specified in the regulations issued by the Board of Education.

"Industry certification credential" means an active career and technical education credential that is earned by successfully completing a Board of Education-approved industry certification examination, being issued a professional license in the Commonwealth, or successfully completing an occupational competency examination.

"Licensure by reciprocity" means a process used to issue a license to an individual coming into the Commonwealth from another state when that individual meets certain conditions specified in the Board of Education's regulations.

"Professional teacher's assessment" means those tests mandated for licensure as prescribed by the Board of Education.

"Provisional license" means a nonrenewable license issued by the Board of Education for a specified period of time, not to exceed three years, to an individual who may be employed by a school division in the Commonwealth and who generally meets the requirements specified in the Board of Education's regulations for licensure, but who may need to take additional coursework or pass additional assessments to be fully licensed with a renewable license.

"Renewable license" means a license issued by the Board of Education for five years to an individual who meets the requirements specified in the Board of Education's regulations.

B. The Board of Education shall prescribe, by regulation, the requirements for the licensure of teachers and other school personnel required to hold a license. Such regulations shall include requirements for the denial, suspension, cancellation, revocation, and reinstatement of licensure *and procedures for the immediate and thorough investigation by the division superintendent or his designee of any complaint alleging that a license holder has engaged in conduct that may form the basis for the revocation of his license. At a minimum, such procedures for investigations contained in such regulations shall require (i) the division superintendent to petition for the revocation of the license upon completing such investigation and finding that there is reasonable cause to believe that the license holder has engaged in conduct that forms the basis for revocation of a license; (ii) the school board to proceed to a hearing on such petition for revocation within 90 days of the mailing of a copy of the petition to the license holder, unless the license holder requests the cancellation of his license in accordance with Board regulations; and (iii) the school board to provide a copy of the investigative file and such petition for revocation to the Superintendent of Public Instruction at the time that the hearing is scheduled.* The Board of Education shall revoke the license of any person for whom it has received a notice of dismissal or resignation pursuant to subsection F of § 22.1-313 and, in the case of a person who is the subject of a founded complaint of child abuse or neglect, after all rights to any *administrative* appeal provided by § 63.2-1526 have been exhausted. Regardless of the authority of any other agency of the Commonwealth to approve educational programs, only the Board of Education shall have the authority to license teachers to be regularly employed by school boards, including those teachers employed to provide nursing education.

The Board of Education shall prescribe by regulation the licensure requirements for teachers who teach only online courses, as defined in § 22.1-212.23. Such license shall be valid only for teaching online courses. Teachers who hold a five-year renewable license issued by the Board of Education may teach online courses for which they are properly endorsed.

## C. The Board of Education's regulations shall include requirements that a person seeking initial licensure:

1. Complete professional assessments as prescribed by the Board of Education;
2. Complete study in attention deficit disorder;
3. Complete study in gifted education, including the use of multiple criteria to identify gifted students; and
4. Complete study in methods of improving communication between schools and families and ways of increasing family involvement in student learning at home and at school.

## D. In addition, such regulations shall include requirements that:

1. Every person seeking initial licensure or renewal of a license demonstrate proficiency in the use of educational technology for instruction;
2. Every person seeking initial licensure and persons seeking licensure renewal as teachers who have not completed such study shall complete study in child abuse recognition and intervention in accordance with curriculum guidelines developed by the Board of Education in consultation with the Department of Social Services that are relevant to the specific teacher licensure routes;

3. Every person seeking initial licensure or renewal of a license shall receive professional development in instructional methods tailored to promote student academic progress and effective preparation for the Standards of Learning end-of-course and end-of-grade assessments;

4. Every person seeking renewal of a license shall complete all renewal requirements, including professional development in a manner prescribed by the Board, except that no person seeking renewal of a license shall be required to satisfy any such requirement by completing coursework and earning credit at an institution of higher education;

5. Every person seeking initial licensure or renewal of a license shall provide evidence of completion of certification or training in emergency first aid, cardiopulmonary resuscitation, and the use of automated external defibrillators. The certification or training program shall be based on the current national evidence-based emergency cardiovascular care guidelines for cardiopulmonary resuscitation and the use of an automated external defibrillator, such as a program developed by the American Heart Association or the American Red Cross. The Board shall provide a waiver for this requirement for any person with a disability whose disability prohibits such person from completing the certification or training;

6. Every person seeking licensure with an endorsement as a teacher of the blind and visually impaired shall demonstrate proficiency in reading and writing Braille;

7. Every teacher seeking an initial license in the Commonwealth with an endorsement in the area of career and technical education shall have an industry certification credential in the area in which the teacher seeks endorsement. If a teacher seeking an initial license in the Commonwealth has not attained an industry certification credential in the area in which the teacher seeks endorsement, the Board may, upon request of the employing school division or educational agency, issue the teacher a provisional license to allow time for the teacher to attain such credential; and

8. (Effective July 1, 2017) Every person seeking initial licensure or renewal of a license shall complete awareness training, provided by the Department of Education, on the indicators of dyslexia, as that term is defined by the Board pursuant to regulations, and the evidence-based interventions and accommodations for dyslexia.

E. The Board's regulations shall require that initial licensure for principals and assistant principals be contingent upon passage of an assessment as prescribed by the Board.

F. The Board shall establish criteria in its regulations to effectuate the substitution of experiential learning for coursework for those persons seeking initial licensure through an alternate route as defined in Board regulations.

G. Notwithstanding any provision of law to the contrary, the Board (i) may provide for the issuance of a provisional license, valid for a period not to exceed three years, pursuant to subdivision D 7 or to any person who does not meet the requirements of this section or any other requirement for licensure imposed by law and (ii) shall provide for the issuance of a provisional license, valid for a period not to exceed three years, to any former member of the Armed Forces of the United States or the Virginia National Guard who has received an honorable discharge and has the appropriate level of experience or training but does not meet the requirements for a renewable license.

H. The Board's licensure regulations shall also provide for licensure by reciprocity:

1. With comparable endorsement areas for those individuals holding a valid out-of-state teaching license and national certification from the National Board for Professional Teaching Standards or a nationally recognized certification program approved by the Board of Education. The application for such individuals shall require evidence of such valid licensure and national certification and shall not require official student transcripts;

2. For individuals who have obtained a valid out-of-state license, with full credentials and without deficiencies, that is in force at the time the application for a Virginia license is received by the Department of Education. The individual must establish a file in the Department of Education by submitting a complete application packet, which shall include official student transcripts. An assessment of basic skills as provided in § 22.1-298.2 and service requirements shall not be imposed for these licensed individuals; however, other licensing assessments, as prescribed by the Board of Education, shall be required; and

3. The Board may include other provisions for reciprocity in its regulations.

**§ 22.1-307. Dismissal of teacher; grounds.**

A. Teachers may be dismissed for incompetency, immorality, noncompliance with school laws and regulations, disability as shown by competent medical evidence when in compliance with federal law, conviction of a felony or a crime of moral turpitude, or other good and just cause. A teacher shall be dismissed if such teacher is or becomes the subject of a founded complaint of child abuse and neglect, pursuant to § 63.2-1505, and after all rights to ~~an~~ any administrative appeal provided by § 63.2-1526 have been exhausted. The fact of such finding, after all rights to ~~an~~ any administrative appeal provided by § 63.2-1526 have been exhausted, shall be grounds for the local school division to recommend that the Board of Education revoke such person's license to teach. No teacher shall be dismissed or placed on probation solely on the basis of the teacher's refusal to submit to a polygraph examination requested by the school board.

B. For the purposes of this article, "incompetency" may be construed to include, but shall not be limited to, consistent failure to meet the endorsement requirements for the position or one or more unsatisfactory performance evaluations.

## CHAPTER 241

*An Act to amend and reenact § 18.2-308.03 of the Code of Virginia, relating to concealed handgun permit fees; exemptions; retired probation and parole officers.*

[S 889]

Approved February 23, 2017

**Be it enacted by the General Assembly of Virginia:****1. That § 18.2-308.03 of the Code of Virginia is amended and reenacted as follows:****§ 18.2-308.03. Fees for concealed handgun permits.**

A. The clerk shall charge a fee of \$10 for the processing of an application or issuing of a permit, including his costs associated with the consultation with law-enforcement agencies. The local law-enforcement agency conducting the background investigation may charge a fee not to exceed \$35 to cover the cost of conducting an investigation pursuant to this article. The \$35 fee shall include any amount assessed by the U.S. Federal Bureau of Investigation for providing criminal history record information, and the local law-enforcement agency shall forward the amount assessed by the U.S. Federal Bureau of Investigation to the State Police with the fingerprints taken from any nonresident applicant. The State Police may charge a fee not to exceed \$5 to cover its costs associated with processing the application. The total amount assessed for processing an application for a permit shall not exceed \$50, with such fees to be paid in one sum to the person who receives the application. Payment may be made by any method accepted by that court for payment of other fees or penalties. No payment shall be required until the application is received by the court as a complete application.

B. (Effective until July 1, 2018) No fee shall be charged for the issuance of such permit to a person who has retired from service (i) as a magistrate in the Commonwealth; (ii) as a special agent with the Alcoholic Beverage Control Board or as a law-enforcement officer with the Department of State Police, the Department of Game and Inland Fisheries, or a sheriff or police department, bureau, or force of any political subdivision of the Commonwealth, after completing 15 years of service or after reaching age 55; (iii) as a law-enforcement officer with the U.S. Federal Bureau of Investigation, Bureau of Alcohol, Tobacco and Firearms, Secret Service Agency, Drug Enforcement Administration, United States Citizenship and Immigration Services, U.S. Customs and Border Protection, Department of State Diplomatic Security Service, U.S. Marshals Service, or Naval Criminal Investigative Service, after completing 15 years of service or after reaching age 55; (iv) as a law-enforcement officer with any police or sheriff's department within the United States, the District of Columbia, or any of the territories of the United States, after completing 15 years of service; (v) as a law-enforcement officer with any combination of the agencies listed in clauses (ii) through (iv), after completing 15 years of service; (vi) as a designated boarding team member or boarding officer of the United States Coast Guard, after completing 15 years of service or after reaching age 55; ~~or~~ (vii) as a correctional officer as defined in § 53.1-1, after completing 15 years of service; *or (viii) as a probation and parole officer authorized pursuant to § 53.1-143, after completing 15 years of service.*

B. (Effective July 1, 2018) No fee shall be charged for the issuance of such permit to a person who has retired from service (i) as a magistrate in the Commonwealth; (ii) as a special agent with the Virginia Alcoholic Beverage Control Authority or as a law-enforcement officer with the Department of State Police, the Department of Game and Inland Fisheries, or a sheriff or police department, bureau, or force of any political subdivision of the Commonwealth, after completing 15 years of service or after reaching age 55; (iii) as a law-enforcement officer with the U.S. Federal Bureau of Investigation, Bureau of Alcohol, Tobacco and Firearms, Secret Service Agency, Drug Enforcement Administration, United States Citizenship and Immigration Services, U.S. Customs and Border Protection, Department of State Diplomatic Security Service, U.S. Marshals Service, or Naval Criminal Investigative Service, after completing 15 years of service or after reaching age 55; (iv) as a law-enforcement officer with any police or sheriff's department within the United States, the District of Columbia, or any of the territories of the United States, after completing 15 years of service; (v) as a law-enforcement officer with any combination of the agencies listed in clauses (ii) through (iv), after completing 15 years of service; (vi) as a designated boarding team member or boarding officer of the United States Coast Guard, after completing 15 years of service or after reaching age 55; ~~or~~ (vii) as a correctional officer as defined in § 53.1-1, after completing 15 years of service; *or (viii) as a probation and parole officer authorized pursuant to § 53.1-143, after completing 15 years of service.*

## CHAPTER 242

*An Act to amend and reenact §§ 19.2-53, 19.2-54, and 19.2-56 of the Code of Virginia, relating to search warrants; persons subject to warrant or capias for arrest.*

[S 1260]

Approved February 23, 2017

**Be it enacted by the General Assembly of Virginia:****1. That §§ 19.2-53, 19.2-54, and 19.2-56 of the Code of Virginia are amended and reenacted as follows:****§ 19.2-53. What may be searched and seized.**

A. Search warrants may be issued for the search of or for specified places, things or persons, and seizure therefrom of the following things as specified in the warrant:

1. Weapons or other objects used in the commission of crime;
2. Articles or things the sale or possession of which is unlawful;
3. Stolen property or the fruits of any crime;
4. Any object, thing, or person, including without limitation, documents, books, papers, records or body fluids, constituting evidence of the commission of crime; *or*

5. *Any person to be arrested for whom a warrant or process for arrest has been issued.*

Notwithstanding any other provision in this chapter to the contrary, no search warrant may be issued as a substitute for a witness subpoena.

B. Any search warrant issued for the search and seizure of a computer, computer network, or other device containing electronic or digital information shall be deemed to include the search and seizure of the physical components and the electronic or digital information contained in any such computer, computer network, or other device.

C. Any search, including the search of the contents of any computer, computer network, or other device conducted pursuant to subsection B, may be conducted in any location and is not limited to the location where the evidence was seized.

**§ 19.2-54. Affidavit preliminary to issuance of search warrant; general search warrant prohibited; effect of failure to file affidavit.**

No search warrant shall be issued until there is filed with the officer authorized to issue the same an affidavit of some person reasonably describing the place, thing, or person to be searched, the things or persons to be searched for thereunder, alleging briefly material facts, constituting the probable cause for the issuance of such warrant and alleging substantially the offense *or the identity of the person to be arrested for whom a warrant or process for arrest has been issued* in relation to which such search is to be made and that the object, thing, or person searched for constitutes evidence of the commission of such offense *or is the person to be arrested for whom a warrant or process for arrest has been issued*. The affidavit may be filed by electronically transmitted (i) facsimile process or (ii) electronic record as defined in § 59.1-480. Such affidavit shall be certified by the officer who issues such warrant and delivered in person; mailed by certified mail, return receipt requested; or delivered by electronically transmitted facsimile process or by use of filing and security procedures as defined in the Uniform Electronic Transactions Act (§ 59.1-479 et seq.) for transmitting signed documents, by such officer or his designee or agent, to the clerk of the circuit court of the county or city wherein the search is made, with a copy of the affidavit also being delivered to the clerk of the circuit court of the county or city where the warrant is issued, if in a different county or city, within seven days after the issuance of such warrant and shall by such clerks be preserved as a record and shall at all times be subject to inspection by the public after the warrant that is the subject of the affidavit has been executed or 15 days after issuance of the warrant, whichever is earlier; however, such affidavit, any warrant issued pursuant thereto, any return made thereon, and any order sealing the affidavit, warrant, or return may be temporarily sealed for a specific period of time by the appropriate court upon application of the attorney for the Commonwealth for good cause shown in an ex parte hearing. Any individual arrested and claiming to be aggrieved by such search and seizure or any person who claims to be entitled to lawful possession of such property seized may move the appropriate court for the unsealing of such affidavit, warrant, and return. The burden of proof with respect to continued sealing shall be upon the Commonwealth. Each such clerk shall maintain an index of all such affidavits filed in his office in order to facilitate inspection. No such warrant shall be issued on an affidavit omitting such essentials, and no general warrant for the search of a house, place, compartment, vehicle or baggage shall be issued. The term "affidavit" as used in this section, means statements made under oath or affirmation and preserved verbatim.

Failure of the officer issuing such warrant to file the required affidavit shall not invalidate any search made under the warrant unless such failure shall continue for a period of 30 days. If the affidavit is filed prior to the expiration of the 30-day period, nevertheless, evidence obtained in any such search shall not be admissible until a reasonable time after the filing of the required affidavit.

**§ 19.2-56. To whom search warrant directed; what it shall command; warrant to show date and time of issuance; copy of affidavit to be part of warrant and served therewith; warrants not executed within 15 days.**

The judge, magistrate or other official authorized to issue criminal warrants, shall issue a search warrant if he finds from the facts or circumstances recited in the affidavit that there is probable cause for the issuance thereof.

Every search warrant shall be directed to (i) the sheriff, sergeant, or any policeman of the county, city or town in which the place to be searched is located, (ii) any law-enforcement officer or agent employed by the Commonwealth and vested with the powers of sheriffs and police, or (iii) jointly to any such sheriff, sergeant, policeman or law-enforcement officer or agent and an agent, special agent or officer of the Federal Bureau of Investigation, the Bureau of Alcohol, Tobacco and Firearms of the United States Treasury, the United States Naval Criminal Investigative Service, the United States Department of Homeland Security, any inspector, law-enforcement official or police personnel of the United States Postal Service, or the Drug Enforcement Administration. The warrant shall (i) name the affiant, (ii) recite the offense *or the identity of the person to be arrested for whom a warrant or process for arrest has been issued* in relation to which the search is to be made, (iii) name or describe the place to be searched, (iv) describe the property or person to be searched for, and (v) recite that the magistrate has found probable cause to believe that the property or person constitutes evidence of a crime (identified in the warrant) or tends to show that a person (named or described therein) has committed or is committing a crime *or that the person to be arrested for whom a warrant or process for arrest has been issued is located at the place to be searched*.

The warrant shall command that the place be forthwith searched, either in day or night, and that the objects or persons described in the warrant, if found there, be seized. An inventory shall be produced before a court having jurisdiction of the offense *or over the person to be arrested for whom a warrant or process for arrest has been issued* in relation to which the warrant was issued as provided in § 19.2-57.

Any such warrant as provided in this section shall be executed by the policeman or other law-enforcement officer or agent into whose hands it shall come or be delivered. If the warrant is directed jointly to a sheriff, sergeant, policeman or law-enforcement officer or agent of the Commonwealth and a federal agent or officer as otherwise provided in this section, the warrant may be executed jointly or by the policeman, law-enforcement officer or agent into whose hands it is delivered. No other person may be permitted to be present during or participate in the execution of a warrant to search a place except ~~(†)~~ (1) the owners and occupants of the place to be searched when permitted to be present by the officer in charge of the conduct of the search and ~~(††)~~ (2) persons designated by the officer in charge of the conduct of the search to assist or provide expertise in the conduct of the search.

Any search warrant for records or other information pertaining to a subscriber to, or customer of, an electronic communication service or remote computing service, whether a domestic corporation or foreign corporation, that is transacting or has transacted any business in the Commonwealth, to be executed upon such service provider may be executed within or without the Commonwealth by hand, United States mail, commercial delivery service, facsimile, or other electronic means upon the service provider. Notwithstanding the provisions of § 19.2-57, the officer executing a warrant pursuant to this paragraph shall endorse the date of execution thereon and shall file the warrant, with the inventory attached (or a notation that no property was seized) and the accompanying affidavit, unless such affidavit was made by voice or videotape recording, within three days after the materials ordered to be produced are received by the officer from the service provider. The return shall be made in the circuit court clerk's office for the jurisdiction wherein the warrant was issued. Saturdays, Sundays, or any federal or state legal holiday shall not be used in computing the three-day filing period.

Electronic communication service or remote computing service providers, whether a foreign or domestic corporation, shall also provide the contents of electronic communications pursuant to a search warrant issued under this section and § 19.2-70.3 using the same process described in the preceding paragraph.

Every search warrant shall contain the date and time it was issued. However, the failure of any such search warrant to contain the date and time it was issued shall not render the warrant void, provided that the date and time of issuing of said warrant is established by competent evidence.

The judge, magistrate, or other official authorized to issue criminal warrants shall attach a copy of the affidavit required by § 19.2-54, which shall become a part of the search warrant and served therewith. However, this provision shall not be applicable in any case in which the affidavit is made by means of a voice or videotape recording or where the affidavit has been sealed pursuant to § 19.2-54.

Any search warrant not executed within 15 days after issuance thereof shall be returned to, and voided by, the officer who issued such search warrant.

For the purposes of this section:

"Foreign corporation" means any corporation or other entity, whose primary place of business is located outside of the boundaries of the Commonwealth, that makes a contract or engages in a terms of service agreement with a resident of the Commonwealth to be performed in whole or in part by either party in the Commonwealth, or a corporation that has been issued a certificate of authority pursuant to § 13.1-759 to transact business in the Commonwealth. The making of the contract or terms of service agreement or the issuance of a certificate of authority shall be considered to be the agreement of the foreign corporation or entity that a search warrant or subpoena, which has been properly served on it, has the same legal force and effect as if served personally within the Commonwealth.

"Properly served" means delivery of a search warrant or subpoena by hand, by United States mail, by commercial delivery service, by facsimile or by any other manner to any officer of a corporation or its general manager in the Commonwealth, to any natural person designated by it as agent for the service of process, or if such corporation has designated a corporate agent, to any person named in the latest annual report filed pursuant to § 13.1-775.

## CHAPTER 243

*An Act to amend and reenact § 18.2-308.016, as it is currently effective and as it shall become effective, of the Code of Virginia, relating to retired conservation officers; carrying a concealed handgun.*

[S 1465]

Approved February 23, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 18.2-308.016, as it is currently effective and as it shall become effective, of the Code of Virginia is amended and reenacted as follows:**

**§ 18.2-308.016. (Effective until July 1, 2018) Retired law-enforcement officers; carrying a concealed handgun.**

A. Except as provided in subsection A of § 18.2-308.012, § 18.2-308 shall not apply to:

1. Any State Police officer retired from the Department of State Police, any officer retired from the Division of Capitol Police, any local law-enforcement officer, auxiliary police officer or animal control officer retired from a police department

or sheriff's office within the Commonwealth, any special agent retired from the State Corporation Commission or the Virginia Alcoholic Beverage Control Board, any employee with internal investigations authority designated by the Department of Corrections pursuant to subdivision 11 of § 53.1-10 retired from the Department of Corrections, any conservation police officer retired from the Department of Game and Inland Fisheries, *any conservation officer retired from the Department of Conservation and Recreation*, any Virginia Marine Police officer retired from the Law Enforcement Division of the Virginia Marine Resources Commission, any campus police officer appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1 retired from a campus police department, any retired member of the enforcement division of the Department of Motor Vehicles appointed pursuant to § 46.2-217, and any retired investigator of the security division of the Virginia Lottery, other than an officer or agent terminated for cause, (i) with a service-related disability; (ii) following at least 10 years of service with any such law-enforcement agency, commission, board, or any combination thereof; (iii) who has reached 55 years of age; or (iv) who is on long-term leave from such law-enforcement agency or board due to a service-related injury, provided such officer carries with him written proof of consultation with and favorable review of the need to carry a concealed handgun issued by the chief law-enforcement officer of the last such agency from which the officer retired or the agency that employs the officer or, in the case of special agents, issued by the State Corporation Commission or the Virginia Alcoholic Beverage Control Board. A copy of the proof of consultation and favorable review shall be forwarded by the chief, Commission, or Board to the Department of State Police for entry into the Virginia Criminal Information Network. The chief law-enforcement officer shall not without cause withhold such written proof if the retired law-enforcement officer otherwise meets the requirements of this section. An officer set forth in clause (iv) who receives written proof of consultation to carry a concealed handgun shall surrender such proof of consultation upon return to work or upon termination of employment with the law-enforcement agency. Notice of the surrender shall be forwarded to the Department of State Police for entry into the Virginia Criminal Information Network. However, if such officer retires on disability because of the service-related injury, and would be eligible under clause (i) for written proof of consultation to carry a concealed handgun, he may retain the previously issued written proof of consultation.

2. Any person who is eligible for retirement with at least 20 years of service with a law-enforcement agency, commission, or board mentioned in subdivision 1 who has resigned in good standing from such law-enforcement agency, commission, or board to accept a position covered by a retirement system that is authorized under Title 51.1, provided such person carries with him written proof of consultation with and favorable review of the need to carry a concealed handgun issued by the chief law-enforcement officer of the agency from which he resigned or, in the case of special agents, issued by the State Corporation Commission or the Virginia Alcoholic Beverage Control Board. A copy of the proof of consultation and favorable review shall be forwarded by the chief, Commission, or Board to the Department of State Police for entry into the Virginia Criminal Information Network. The chief law-enforcement officer shall not without cause withhold such written proof if the law-enforcement officer otherwise meets the requirements of this section.

3. Any State Police officer who is a member of the organized reserve forces of any of the Armed Services of the United States or National Guard, while such officer is called to active military duty, provided such officer carries with him written proof of consultation with and favorable review of the need to carry a concealed handgun issued by the Superintendent of State Police. The proof of consultation and favorable review shall be valid as long as the officer is on active military duty and shall expire when the officer returns to active law-enforcement duty. The issuance of the proof of consultation and favorable review shall be entered into the Virginia Criminal Information Network. The Superintendent of State Police shall not without cause withhold such written proof if the officer is in good standing and is qualified to carry a weapon while on active law-enforcement duty.

B. For purposes of complying with the federal Law Enforcement Officers Safety Act of 2004, a retired or resigned law-enforcement officer who receives proof of consultation and review pursuant to this section shall have the opportunity to annually participate, at the retired or resigned law-enforcement officer's expense, in the same training and testing to carry firearms as is required of active law-enforcement officers in the Commonwealth. If such retired or resigned law-enforcement officer meets the training and qualification standards, the chief law-enforcement officer shall issue the retired or resigned officer certification, valid one year from the date of issuance, indicating that the retired or resigned officer has met the standards of the agency to carry a firearm.

C. A retired or resigned law-enforcement officer who receives proof of consultation and review pursuant to this section may annually participate and meet the training and qualification standards to carry firearms as is required of active law-enforcement officers in the Commonwealth. If such retired or resigned law-enforcement officer meets the training and qualification standards, the chief law-enforcement officer shall issue the retired or resigned officer certification, valid one year from the date of issuance, indicating that the retired or resigned officer has met the standards of the Commonwealth to carry a firearm. A copy of the certification indicating that the retired or resigned officer has met the standards of the Commonwealth to carry a firearm shall be forwarded by the chief, Commission, or Board to the Department of State Police for entry into the Virginia Criminal Information Network.

D. For all purposes, including for the purpose of applying the reciprocity provisions of § 18.2-308.014, any person granted the privilege to carry a concealed handgun pursuant to this section, while carrying the proof of consultation and favorable review required, shall be deemed to have been issued a concealed handgun permit.

**§ 18.2-308.016. (Effective July 1, 2018) Retired law-enforcement officers; carrying a concealed handgun.**

A. Except as provided in subsection A of § 18.2-308.012, § 18.2-308 shall not apply to:

1. Any State Police officer retired from the Department of State Police, any officer retired from the Division of Capitol Police, any local law-enforcement officer, auxiliary police officer or animal control officer retired from a police department or sheriff's office within the Commonwealth, any special agent retired from the State Corporation Commission or the Virginia Alcoholic Beverage Control Authority, any employee with internal investigations authority designated by the Department of Corrections pursuant to subdivision 11 of § 53.1-10 retired from the Department of Corrections, any conservation police officer retired from the Department of Game and Inland Fisheries, *any conservation officer retired from the Department of Conservation and Recreation*, any Virginia Marine Police officer retired from the Law Enforcement Division of the Virginia Marine Resources Commission, any campus police officer appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1 retired from a campus police department, any retired member of the enforcement division of the Department of Motor Vehicles appointed pursuant to § 46.2-217, and any retired investigator of the security division of the Virginia Lottery, other than an officer or agent terminated for cause, (i) with a service-related disability; (ii) following at least 10 years of service with any such law-enforcement agency, commission, board, or any combination thereof; (iii) who has reached 55 years of age; or (iv) who is on long-term leave from such law-enforcement agency or board due to a service-related injury, provided such officer carries with him written proof of consultation with and favorable review of the need to carry a concealed handgun issued by the chief law-enforcement officer of the last such agency from which the officer retired or the agency that employs the officer or, in the case of special agents, issued by the State Corporation Commission or the Virginia Alcoholic Beverage Control Authority. A copy of the proof of consultation and favorable review shall be forwarded by the chief, Commission, or Board to the Department of State Police for entry into the Virginia Criminal Information Network. The chief law-enforcement officer shall not without cause withhold such written proof if the retired law-enforcement officer otherwise meets the requirements of this section. An officer set forth in clause (iv) who receives written proof of consultation to carry a concealed handgun shall surrender such proof of consultation upon return to work or upon termination of employment with the law-enforcement agency. Notice of the surrender shall be forwarded to the Department of State Police for entry into the Virginia Criminal Information Network. However, if such officer retires on disability because of the service-related injury, and would be eligible under clause (i) for written proof of consultation to carry a concealed handgun, he may retain the previously issued written proof of consultation.

2. Any person who is eligible for retirement with at least 20 years of service with a law-enforcement agency, commission, or board mentioned in subdivision 1 who has resigned in good standing from such law-enforcement agency, commission, or board to accept a position covered by a retirement system that is authorized under Title 51.1, provided such person carries with him written proof of consultation with and favorable review of the need to carry a concealed handgun issued by the chief law-enforcement officer of the agency from which he resigned or, in the case of special agents, issued by the State Corporation Commission or the Virginia Alcoholic Beverage Control Authority. A copy of the proof of consultation and favorable review shall be forwarded by the chief, Commission, or Board to the Department of State Police for entry into the Virginia Criminal Information Network. The chief law-enforcement officer shall not without cause withhold such written proof if the law-enforcement officer otherwise meets the requirements of this section.

3. Any State Police officer who is a member of the organized reserve forces of any of the Armed Services of the United States or National Guard, while such officer is called to active military duty, provided such officer carries with him written proof of consultation with and favorable review of the need to carry a concealed handgun issued by the Superintendent of State Police. The proof of consultation and favorable review shall be valid as long as the officer is on active military duty and shall expire when the officer returns to active law-enforcement duty. The issuance of the proof of consultation and favorable review shall be entered into the Virginia Criminal Information Network. The Superintendent of State Police shall not without cause withhold such written proof if the officer is in good standing and is qualified to carry a weapon while on active law-enforcement duty.

B. For purposes of complying with the federal Law Enforcement Officers Safety Act of 2004, a retired or resigned law-enforcement officer who receives proof of consultation and review pursuant to this section shall have the opportunity to annually participate, at the retired or resigned law-enforcement officer's expense, in the same training and testing to carry firearms as is required of active law-enforcement officers in the Commonwealth. If such retired or resigned law-enforcement officer meets the training and qualification standards, the chief law-enforcement officer shall issue the retired or resigned officer certification, valid one year from the date of issuance, indicating that the retired or resigned officer has met the standards of the agency to carry a firearm.

C. A retired or resigned law-enforcement officer who receives proof of consultation and review pursuant to this section may annually participate and meet the training and qualification standards to carry firearms as is required of active law-enforcement officers in the Commonwealth. If such retired or resigned law-enforcement officer meets the training and qualification standards, the chief law-enforcement officer shall issue the retired or resigned officer certification, valid one year from the date of issuance, indicating that the retired or resigned officer has met the standards of the Commonwealth to carry a firearm. A copy of the certification indicating that the retired or resigned officer has met the standards of the Commonwealth to carry a firearm shall be forwarded by the chief, Commission, or Board to the Department of State Police for entry into the Virginia Criminal Information Network.

D. For all purposes, including for the purpose of applying the reciprocity provisions of § 18.2-308.014, any person granted the privilege to carry a concealed handgun pursuant to this section, while carrying the proof of consultation and favorable review required, shall be deemed to have been issued a concealed handgun permit.

CHAPTER 244

*An Act to amend and reenact § 46.2-1024 of the Code of Virginia, relating to warning lights on privately owned volunteer emergency vehicles; requirements.*

[H 1785]

Approved February 23, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 46.2-1024 of the Code of Virginia is amended and reenacted as follows:**

**§ 46.2-1024. Flashing or steady-burning red or red and white warning light units.**

Any member of a fire department, volunteer fire company, or volunteer emergency medical services agency and any police chaplain may equip one vehicle owned by him with no more than two flashing or steady-burning red or red and white combination warning ~~lights~~ *light units* of types approved by the Superintendent. Warning ~~lights~~ *light units* permitted by this section shall be lit only when answering emergency calls. A vehicle equipped with ~~lighting devices~~ *warning light units* as authorized in this section shall be operated by a police chaplain only if he has successfully completed a course of training in the safe operation of a motor vehicle under emergency conditions and a certificate attesting to such successful completion, signed by the course instructor, is carried at all times in the vehicle when operated by the police chaplain to whom the certificate applies.

CHAPTER 245

*An Act to amend and reenact § 10.1-603.19 of the Code of Virginia, relating to grants from the Dam Safety, Flood Prevention and Protection Assistance Fund.*

[H 1562]

Approved February 24, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 10.1-603.19 of the Code of Virginia is amended and reenacted as follows:**

**§ 10.1-603.19. Purposes for which Fund is to be used; Authority to set terms and conditions of loans.**

A. The Director may make grants or loans to any local government for the purpose of assisting the local government in the development and implementation of flood prevention or protection projects, or for flood prevention or protection studies.

B. The Director may expend from the Fund up to \$50,000 annually for cost share with federal agencies in flood protection studies of statewide or regional significance.

C. The Director may, in order to protect public safety and welfare, make (i) grants or loans to ~~local governments owning dams and loans to private entities~~ *a local government that owns a dam, to a local government for a dam located within the locality, or to a private entity that owns a dam* for the design, repair, and the safety modifications of ~~dams~~ *such a dam if it is identified in safety reports* a safety report generated pursuant to § 10.1-607 or 10.1-609 and (ii) grants to ~~local governments and private entities~~ *a local government or private entity* for the determination of the hazard classification for impounding structures, dam break analysis, the mapping and digitization of dam break inundation zones, incremental damage analysis, and other engineering requirements such as emergency action plan development.

D. The Director may, in order to reduce dam owner expenses associated with hazard classification, dam break analysis, the mapping and digitization of dam break inundation zones, incremental damage analysis, and other engineering requirements such as emergency action plan development, expend moneys from the Fund to employ staff or to directly contract for these services. The Director may establish a fee to be paid by the dam owner to offset a portion of these services. Such fee shall not exceed 50 percent of the cost incurred by the Department.

E. The Director may, in order to protect people at risk from a dam failure and to assist dam owners, localities, and emergency responders, expend moneys from the Fund to maintain a statewide dam failure early warning system in cooperation with the Department of Emergency Management and the U.S. National Weather Service.

F. The total amount of expenditures for grants in any fiscal year shall not exceed 50 percent of the total noninterest or income deposits made to the Fund during the previous fiscal year, together with the total amount collected in interest or income from the investment of moneys in the Fund from the previous fiscal year as determined at the beginning of the fiscal year.

G. Any grants made from the Fund shall require a 50 percent project match by the applicant. Any loans made from the Fund shall require a minimum of a 10 percent project match by the applicant.

H. Except as otherwise provided in this article, ~~money~~ *moneys* in the Fund shall be used solely to make loans or grants to local governments or private entities to finance or refinance the cost of a project. The local government or private entity to which loans or grants are made, the purposes of the loan or grant, the required match for the specific loan or grant, and the amount of each loan or grant, shall be designated in writing by the Director to the Authority. No loan or grant from the Fund shall exceed the total cost of the project to be financed or the outstanding principal amount of the indebtedness to be refinanced plus reasonable financing expenses. Loans may also be from the Fund, at the Director's discretion, to a local

government that has developed a low-interest loan program to provide loans or other incentives to facilitate the correction of dam or impounding structure deficiencies, as required by the Department, provided that the moneys are to be used only for the program and that the dams or impounding structures to be repaired or upgraded are owned by private entities.

I. Except as otherwise provided in this article, the Authority shall determine the interest rate and terms and conditions of any loan from the Fund, which may vary between different loans and between local governments and private entities to finance or refinance the cost of a project. Each loan shall be evidenced by appropriate bonds or notes of the local government or by the appropriate debt instrument for private entities payable to the Fund. Private entities shall duly authorize an appropriate debt instrument and execute same by their authorized legal representatives. The bonds or notes shall have been duly authorized by the local government and executed by its authorized legal representatives. The Authority may require in connection with any loan from the Fund such documents, instruments, certificates, legal opinions, covenants, conditions, and other information as it may deem necessary or convenient to further the purpose of the loan. In addition to any other terms or conditions that the Authority may establish, the Authority may require, as a condition to making any loan from the Fund, that the local government or private entity receiving the loan covenant to perform any of the following:

1. Establish and collect rents, rates, fees, and charges to produce revenue sufficient to pay all or a specified portion of (i) the costs of operation, maintenance, replacement, renewal, and repairs of the project; (ii) any outstanding indebtedness incurred for the purposes of the project, including the principal of, premium, if any, and interest on the loan from the Fund; and (iii) any amounts necessary to create and maintain any required reserve, including any rate stabilization fund deemed necessary or appropriate by the Authority to offset the need, in whole or part, for future increases in rents, rates, fees, or charges;

2. With respect to local governments, levy and collect ad valorem taxes on all property within the jurisdiction of the local government subject to local taxation sufficient to pay the principal of and premium, if any, and interest on the loan from the Fund to the local government;

3. Create and maintain a special fund or funds for the payment of the principal of, premium, if any, and interest on the loan from the Fund and any other amounts becoming due under any agreement entered into in connection with the loan, or for the operation, maintenance, repair, or replacement of the project or any portions thereof or other property of the borrower, and deposit into any fund or funds amounts sufficient to make any payments on the loan as they become due and payable;

4. Create and maintain other special funds as required by the Authority;

5. Perform other acts otherwise permitted by applicable law to secure payment of the principal of, premium, if any, and interest on the loan from the Fund and to provide for the remedies of the Fund in the event of any default by the borrower in payment of the loan, including, without limitation, any of the following:

a. The conveyance of, or the granting of liens on or security interests in, real and personal property, together with all rights, title and interest therein;

b. The procurement of insurance, guarantees, letters of credit and other forms of collateral, security, liquidity arrangements or credit supports for the loan from any source, public or private, and the payment therefor of premiums, fees, or other charges;

c. The combination of one or more projects, or the combination of one or more projects with one or more other undertakings, facilities, utilities, or systems, for the purpose of operations and financing, and the pledging of the revenues from such combined projects, undertakings, facilities, utilities and systems to secure the loan from the Fund borrower made in connection with such combination or any part or parts thereof;

d. The maintenance, replacement, renewal, and repair of the project; and

e. The procurement of casualty and liability insurance;

6. Obtain a review of the accounting and internal controls from the Auditor of Public Accounts or his legally authorized representatives, as applicable. The Authority may request additional reviews at any time during the term of the loan. In addition, anyone receiving a report in accordance with § 10.1-603.23 may request an additional review as set forth in this section; and

7. Directly offer, pledge, and consent to the Authority to take action pursuant to § 62.1-216.1 to obtain payment of any amounts in default, as applicable.

All local governments or private entities borrowing money from the Fund are authorized to perform any acts, take any action, adopt any proceedings, and make and carry out any contracts that are contemplated by this article. Such contracts need not be identical among all local governments or private entities but may be structured as determined by the Authority according to the needs of the contracting local governments or private entities and the Fund.

Subject to the rights, if any, of the registered owners of any of the bonds of the Authority, the Authority may consent to and approve any modification in the terms of any loan to any local government.

#### CHAPTER 246

*An Act to amend and reenact § 56-585.1 of the Code of Virginia, relating to electric utility regulation; pumped hydroelectricity generation and storage facilities.*

[H 1760]

Approved February 24, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 56-585.1 of the Code of Virginia is amended and reenacted as follows:**

**§ 56-585.1. Generation, distribution, and transmission rates after capped rates terminate or expire.**

A. During the first six months of 2009, the Commission shall, after notice and opportunity for hearing, initiate proceedings to review the rates, terms and conditions for the provision of generation, distribution and transmission services of each investor-owned incumbent electric utility. Such proceedings shall be governed by the provisions of Chapter 10 (§ 56-232 et seq.), except as modified herein. In such proceedings the Commission shall determine fair rates of return on common equity applicable to the generation and distribution services of the utility. In so doing, the Commission may use any methodology to determine such return it finds consistent with the public interest, but such return shall not be set lower than the average of the returns on common equity reported to the Securities and Exchange Commission for the three most recent annual periods for which such data are available by not less than a majority, selected by the Commission as specified in subdivision 2 b, of other investor-owned electric utilities in the peer group of the utility, nor shall the Commission set such return more than 300 basis points higher than such average. The peer group of the utility shall be determined in the manner prescribed in subdivision 2 b. The Commission may increase or decrease such combined rate of return by up to 100 basis points based on the generating plant performance, customer service, and operating efficiency of a utility, as compared to nationally recognized standards determined by the Commission to be appropriate for such purposes. In such a proceeding, the Commission shall determine the rates that the utility may charge until such rates are adjusted. If the Commission finds that the utility's combined rate of return on common equity is more than 50 basis points below the combined rate of return as so determined, it shall be authorized to order increases to the utility's rates necessary to provide the opportunity to fully recover the costs of providing the utility's services and to earn not less than such combined rate of return. If the Commission finds that the utility's combined rate of return on common equity is more than 50 basis points above the combined rate of return as so determined, it shall be authorized either (i) to order reductions to the utility's rates it finds appropriate, provided that the Commission may not order such rate reduction unless it finds that the resulting rates will provide the utility with the opportunity to fully recover its costs of providing its services and to earn not less than the fair rates of return on common equity applicable to the generation and distribution services; or (ii) to direct that 60 percent of the amount of the utility's earnings that were more than 50 basis points above the fair combined rate of return for calendar year 2008 be credited to customers' bills, in which event such credits shall be amortized over a period of six to 12 months, as determined at the discretion of the Commission, following the effective date of the Commission's order and be allocated among customer classes such that the relationship between the specific customer class rates of return to the overall target rate of return will have the same relationship as the last approved allocation of revenues used to design base rates. Commencing in 2011, the Commission, after notice and opportunity for hearing, shall conduct biennial reviews of the rates, terms and conditions for the provision of generation, distribution and transmission services by each investor-owned incumbent electric utility, subject to the following provisions:

1. Rates, terms and conditions for each service shall be reviewed separately on an unbundled basis, and such reviews shall be conducted in a single, combined proceeding. The first such review shall utilize the two successive 12-month test periods ending December 31, 2010. However, the Commission may, in its discretion, elect to stagger its biennial reviews of utilities by utilizing the two successive 12-month test periods ending December 31, 2010, for a Phase I Utility, and utilizing the two successive 12-month test periods ending December 31, 2011, for a Phase II Utility, with subsequent proceedings utilizing the two successive 12-month test periods ending December 31 immediately preceding the year in which such proceeding is conducted. For purposes of this section, a Phase I Utility is an investor-owned incumbent electric utility that was, as of July 1, 1999, not bound by a rate case settlement adopted by the Commission that extended in its application beyond January 1, 2002, and a Phase II Utility is an investor-owned incumbent electric utility that was bound by such a settlement.

2. Subject to the provisions of subdivision 6, fair rates of return on common equity applicable separately to the generation and distribution services of such utility, and for the two such services combined, shall be determined by the Commission during each such biennial review, as follows:

a. The Commission may use any methodology to determine such return it finds consistent with the public interest, but such return shall not be set lower than the average of the returns on common equity reported to the Securities and Exchange Commission for the three most recent annual periods for which such data are available by not less than a majority, selected by the Commission as specified in subdivision 2 b, of other investor-owned electric utilities in the peer group of the utility subject to such biennial review, nor shall the Commission set such return more than 300 basis points higher than such average.

b. In selecting such majority of peer group investor-owned electric utilities, the Commission shall first remove from such group the two utilities within such group that have the lowest reported returns of the group, as well as the two utilities within such group that have the highest reported returns of the group, and the Commission shall then select a majority of the utilities remaining in such peer group. In its final order regarding such biennial review, the Commission shall identify the utilities in such peer group it selected for the calculation of such limitation. For purposes of this subdivision, an investor-owned electric utility shall be deemed part of such peer group if (i) its principal operations are conducted in the southeastern United States east of the Mississippi River in either the states of West Virginia or Kentucky or in those states south of Virginia, excluding the state of Tennessee, (ii) it is a vertically-integrated electric utility providing generation, transmission and distribution services whose facilities and operations are subject to state public utility regulation in the state

where its principal operations are conducted, (iii) it had a long-term bond rating assigned by Moody's Investors Service of at least Baa at the end of the most recent test period subject to such biennial review, and (iv) it is not an affiliate of the utility subject to such biennial review.

c. The Commission may, consistent with its precedent for incumbent electric utilities prior to the enactment of Chapters 888 and 933 of the Acts of Assembly of 2007, increase or decrease the utility's combined rate of return based on the Commission's consideration of the utility's performance.

d. In any Current Proceeding, the Commission shall determine whether the Current Return has increased, on a percentage basis, above the Initial Return by more than the increase, expressed as a percentage, in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics of the United States Department of Labor, since the date on which the Commission determined the Initial Return. If so, the Commission may conduct an additional analysis of whether it is in the public interest to utilize such Current Return for the Current Proceeding then pending. A finding of whether the Current Return justifies such additional analysis shall be made without regard to any enhanced rate of return on common equity awarded pursuant to the provisions of subdivision 6. Such additional analysis shall include, but not be limited to, a consideration of overall economic conditions, the level of interest rates and cost of capital with respect to business and industry, in general, as well as electric utilities, the current level of inflation and the utility's cost of goods and services, the effect on the utility's ability to provide adequate service and to attract capital if less than the Current Return were utilized for the Current Proceeding then pending, and such other factors as the Commission may deem relevant. If, as a result of such analysis, the Commission finds that use of the Current Return for the Current Proceeding then pending would not be in the public interest, then the lower limit imposed by subdivision 2 a on the return to be determined by the Commission for such utility shall be calculated, for that Current Proceeding only, by increasing the Initial Return by a percentage at least equal to the increase, expressed as a percentage, in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics of the United States Department of Labor, since the date on which the Commission determined the Initial Return. For purposes of this subdivision:

"Current Proceeding" means any proceeding conducted under any provisions of this subsection that require or authorize the Commission to determine a fair combined rate of return on common equity for a utility and that will be concluded after the date on which the Commission determined the Initial Return for such utility.

"Current Return" means the minimum fair combined rate of return on common equity required for any Current Proceeding by the limitation regarding a utility's peer group specified in subdivision 2 a.

"Initial Return" means the fair combined rate of return on common equity determined for such utility by the Commission on the first occasion after July 1, 2009, under any provision of this subsection pursuant to the provisions of subdivision 2 a.

e. In addition to other considerations, in setting the return on equity within the range allowed by this section, the Commission shall strive to maintain costs of retail electric energy that are cost competitive with costs of retail electric energy provided by the other peer group investor-owned electric utilities.

f. The determination of such returns shall be made by the Commission on a stand-alone basis, and specifically without regard to any return on common equity or other matters determined with regard to facilities described in subdivision 6.

g. If the combined rate of return on common equity earned by the generation and distribution services is no more than 50 basis points above or below the return as so determined or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, such return is no more than 70 basis points above or below the return as so determined, such combined return shall not be considered either excessive or insufficient, respectively. However, for any test period commencing after December 31, 2012, for a Phase II Utility, and after December 31, 2013, for a Phase I Utility, if the utility has, during the test period or periods under review, earned below the return as so determined, whether or not such combined return is within 70 basis points of the return as so determined, the utility may petition the Commission for approval of an increase in rates in accordance with the provisions of subdivision 8 a as if it had earned more than 70 basis points below a fair combined rate of return, and such proceeding shall otherwise be conducted in accordance with the provisions of this section.

h. Any amount of a utility's earnings directed by the Commission to be credited to customers' bills pursuant to this section shall not be considered for the purpose of determining the utility's earnings in any subsequent biennial review.

3. Each such utility shall make a biennial filing by March 31 of every other year, beginning in 2011, consisting of the schedules contained in the Commission's rules governing utility rate increase applications; however, if the Commission elects to stagger the dates of the biennial reviews of utilities as provided in subdivision 1, then each Phase I Utility shall commence biennial filings in 2011 and each Phase II Utility shall commence biennial filings in 2012. Such filing shall encompass the two successive 12-month test periods ending December 31 immediately preceding the year in which such proceeding is conducted, and in every such case the filing for each year shall be identified separately and shall be segregated from any other year encompassed by the filing. If the Commission determines that rates should be revised or credits be applied to customers' bills pursuant to subdivision 8 or 9, any rate adjustment clauses previously implemented pursuant to subdivision 5 or those related to facilities utilizing simple-cycle combustion turbines described in subdivision 6, shall be combined with the utility's costs, revenues and investments until the amounts that are the subject of such rate adjustment clauses are fully recovered. The Commission shall combine such clauses with the utility's costs, revenues and investments only after it makes its initial determination with regard to necessary rate revisions or credits to customers' bills, and the

amounts thereof, but after such clauses are combined as herein specified, they shall thereafter be considered part of the utility's costs, revenues, and investments for the purposes of future biennial review proceedings. A Phase I Utility shall delay for one year the filing of its biennial review from March 31, 2013, to March 31, 2014, and shall not defer on its books for future recovery any costs incurred during calendar year 2011, other than as provided in subdivision 7 or § 56-249.6, and its subsequent biennial filing shall be made by March 31, 2016, and every two years thereafter.

4. The following costs incurred by the utility shall be deemed reasonable and prudent: (i) costs for transmission services provided to the utility by the regional transmission entity of which the utility is a member, as determined under applicable rates, terms and conditions approved by the Federal Energy Regulatory Commission, and (ii) costs charged to the utility that are associated with demand response programs approved by the Federal Energy Regulatory Commission and administered by the regional transmission entity of which the utility is a member. Upon petition of a utility at any time after the expiration or termination of capped rates, but not more than once in any 12-month period, the Commission shall approve a rate adjustment clause under which such costs, including, without limitation, costs for transmission service, charges for new and existing transmission facilities, administrative charges, and ancillary service charges designed to recover transmission costs, shall be recovered on a timely and current basis from customers. Retail rates to recover these costs shall be designed using the appropriate billing determinants in the retail rate schedules.

5. A utility may at any time, after the expiration or termination of capped rates, but not more than once in any 12-month period, petition the Commission for approval of one or more rate adjustment clauses for the timely and current recovery from customers of the following costs:

a. Incremental costs described in clause (vi) of subsection B of § 56-582 incurred between July 1, 2004, and the expiration or termination of capped rates, if such utility is, as of July 1, 2007, deferring such costs consistent with an order of the Commission entered under clause (vi) of subsection B of § 56-582. The Commission shall approve such a petition allowing the recovery of such costs that comply with the requirements of clause (vi) of subsection B of § 56-582;

b. Projected and actual costs for the utility to design and operate fair and effective peak-shaving programs. The Commission shall approve such a petition if it finds that the program is in the public interest; provided that the Commission shall allow the recovery of such costs as it finds are reasonable;

c. Projected and actual costs for the utility to design, implement, and operate energy efficiency programs, including a margin to be recovered on operating expenses, which margin for the purposes of this section shall be equal to the general rate of return on common equity determined as described in subdivision 2. The Commission shall only approve such a petition if it finds that the program is in the public interest. As part of such cost recovery, the Commission, if requested by the utility, shall allow for the recovery of revenue reductions related to energy efficiency programs. The Commission shall only allow such recovery to the extent that the Commission determines such revenue has not been recovered through margins from incremental off-system sales as defined in § 56-249.6 that are directly attributable to energy efficiency programs.

None of the costs of new energy efficiency programs of an electric utility, including recovery of revenue reductions, shall be assigned to any customer that has a verifiable history of having used more than 10 megawatts of demand from a single meter of delivery. Nor shall any of the costs of new energy efficiency programs of an electric utility, including recovery of revenue reductions, be incurred by any large general service customer as defined herein that has notified the utility of non-participation in such energy efficiency program or programs. A large general service customer is a customer that has a verifiable history of having used more than 500 kilowatts of demand from a single meter of delivery. Non-participation in energy efficiency programs shall be allowed by the Commission if the large general service customer has, at the customer's own expense, implemented energy efficiency programs that have produced or will produce measured and verified results consistent with industry standards and other regulatory criteria stated in this section. The Commission shall, no later than November 15, 2009, promulgate rules and regulations to accommodate the process under which such large general service customers shall file notice for such an exemption and (i) establish the administrative procedures by which eligible customers will notify the utility and (ii) define the standard criteria that must be satisfied by an applicant in order to notify the utility. In promulgating such rules and regulations, the Commission may also specify the timing as to when a utility shall accept and act on such notice, taking into consideration the utility's integrated resource planning process as well as its administration of energy efficiency programs that are approved for cost recovery by the Commission. The notice of non-participation by a large general service customer, to be given by March 1 of a given year, shall be for the duration of the service life of the customer's energy efficiency program. The Commission on its own motion may initiate steps necessary to verify such non-participants' achievement of energy efficiency if the Commission has a body of evidence that the non-participant has knowingly misrepresented its energy efficiency achievement. A utility shall not charge such large general service customer, as defined by the Commission, for the costs of installing energy efficiency equipment beyond what is required to provide electric service and meter such service on the customer's premises if the customer provides, at the customer's expense, equivalent energy efficiency equipment. In all relevant proceedings pursuant to this section, the Commission shall take into consideration the goals of economic development, energy efficiency and environmental protection in the Commonwealth;

d. Projected and actual costs of participation in a renewable energy portfolio standard program pursuant to § 56-585.2 that are not recoverable under subdivision 6. The Commission shall approve such a petition allowing the recovery of such costs as are provided for in a program approved pursuant to § 56-585.2;

e. Projected and actual costs of projects that the Commission finds to be necessary to comply with state or federal environmental laws or regulations applicable to generation facilities used to serve the utility's native load obligations. The Commission shall approve such a petition if it finds that such costs are necessary to comply with such environmental laws or regulations; and

f. Projected and actual costs, not currently in rates, for the utility to design, implement, and operate programs approved by the Commission that accelerate the vegetation management of distribution rights-of-way. No costs shall be allocated to or recovered from customers that are served within the large general service rate classes for a Phase II Utility or that are served at subtransmission or transmission voltage, or take delivery at a substation served from subtransmission or transmission voltage, for a Phase I Utility.

The Commission shall have the authority to determine the duration or amortization period for any adjustment clause approved under this subdivision.

6. To ensure the generation and delivery of a reliable and adequate supply of electricity, to meet the utility's projected native load obligations and to promote economic development, a utility may at any time, after the expiration or termination of capped rates, petition the Commission for approval of a rate adjustment clause for recovery on a timely and current basis from customers of the costs of (i) a coal-fueled generation facility that utilizes Virginia coal and is located in the coalfield region of the Commonwealth, as described in § 15.2-6002, regardless of whether such facility is located within or without the utility's service territory, (ii) one or more other generation facilities, (iii) one or more major unit modifications of generation facilities, ~~or~~ (iv) one or more new underground facilities to replace one or more existing overhead distribution facilities of 69 kilovolts or less located within the Commonwealth, *or (v) one or more pumped hydroelectricity generation and storage facilities that utilize on-site or off-site renewable energy resources as all or a portion of their power source and such facilities and associated resources are located in the coalfield region of the Commonwealth as described in § 15.2-6002, regardless of whether such facility is located within or without the utility's service territory*; however, subject to the provisions of the following sentence, the utility shall not file a petition under clause (iv) more often than annually and, in such petition, shall not seek any annual incremental increase in the level of investments associated with such a petition that exceeds five percent of such utility's distribution rate base, as such rate base was determined for the most recently ended 12-month test period in the utility's latest biennial review proceeding conducted pursuant to subdivision 3 and concluded by final order of the Commission prior to the date of filing of such petition under clause (iv). In all proceedings regarding petitions filed under clause (iv), the level of investments approved for recovery in such proceedings shall be in addition to, and not in lieu of, levels of investments previously approved for recovery in prior proceedings under clause (iv). Such a petition concerning facilities described in clause (ii) that utilize nuclear power, facilities described in clause (ii) that are coal-fueled and will be built by a Phase I Utility, or facilities described in clause (i) may also be filed before the expiration or termination of capped rates. A utility that constructs any such facility, or purchases any facility consisting of at least one megawatt of generating capacity using energy derived from sunlight and located in the Commonwealth and that utilizes goods or services sourced, in whole or in part, from one or more Virginia businesses, shall have the right to recover the costs of the facility, as accrued against income, through its rates, including projected construction work in progress, and any associated allowance for funds used during construction, planning, development and construction or acquisition costs, life-cycle costs, costs related to assessing the feasibility of potential sites for new underground facilities, and costs of infrastructure associated therewith, plus, as an incentive to undertake such projects, an enhanced rate of return on common equity calculated as specified below; however, in determining the amounts recoverable under a rate adjustment clause for new underground facilities, the Commission shall not consider, or increase or reduce such amounts recoverable because of (a) the operation and maintenance costs attributable to either the overhead distribution facilities being replaced or the new underground facilities or (b) any other costs attributable to the overhead distribution facilities being replaced. Notwithstanding the preceding sentence, the costs described in clauses (a) and (b) thereof shall remain eligible for recovery from customers through the utility's base rates for distribution service. A utility filing a petition for approval to construct or purchase a facility consisting of at least one megawatt of generating capacity using energy derived from sunlight and located in the Commonwealth and that utilizes goods or services sourced, in whole or in part, from one or more Virginia businesses may propose a rate adjustment clause based on a market index in lieu of a cost of service model for such facility. A utility seeking approval to construct or purchase a generating facility *described in clauses (i) and (ii)* shall demonstrate that it has considered and weighed alternative options, including third-party market alternatives, in its selection process. The costs of the facility, other than return on projected construction work in progress and allowance for funds used during construction, shall not be recovered prior to the date a facility constructed by the utility and described in clause (i), (ii), or (iii) begins commercial operation, the date the utility becomes the owner of a purchased generation facility consisting of at least one megawatt of generating capacity using energy derived from sunlight and located in the Commonwealth and that utilizes goods or services sourced, in whole or in part, from one or more Virginia businesses, or the date new underground facilities are classified by the utility as plant in service. Such enhanced rate of return on common equity shall be applied to allowance for funds used during construction and to construction work in progress during the construction phase of the facility and shall thereafter be applied to the entire facility during the first portion of the service life of the facility. The first portion of the service life shall be as specified in the table below; however, the Commission shall determine the duration of the first portion of the service life of any facility, within the range specified in the table below, which determination shall be consistent with the public interest and shall reflect the Commission's determinations regarding how critical the facility may be in meeting the energy needs of the citizens of the Commonwealth and the risks involved in the development of the

facility. After the first portion of the service life of the facility is concluded, the utility's general rate of return shall be applied to such facility for the remainder of its service life. As used herein, the service life of the facility shall be deemed to begin on the date a facility constructed by the utility and described in clause (i), (ii), or (iii) begins commercial operation, the date the utility becomes the owner of a purchased generation facility consisting of at least one megawatt of generating capacity using energy derived from sunlight and located in the Commonwealth and that utilizes goods or services sourced, in whole or in part, from one or more Virginia businesses, or the date new underground facilities are classified by the utility as plant in service, and such service life shall be deemed equal in years to the life of that facility as used to calculate the utility's depreciation expense. Such enhanced rate of return on common equity shall be calculated by adding the basis points specified in the table below to the utility's general rate of return, and such enhanced rate of return shall apply only to the facility that is the subject of such rate adjustment clause. Allowance for funds used during construction shall be calculated for any such facility utilizing the utility's actual capital structure and overall cost of capital, including an enhanced rate of return on common equity as determined pursuant to this subdivision, until such construction work in progress is included in rates. The construction of any facility described in clause (i) is in the public interest, and in determining whether to approve such facility, the Commission shall liberally construe the provisions of this title. The construction or purchase by a utility of one or more generation facilities with at least one megawatt of generating capacity, and with an aggregate rated capacity that does not exceed 500 megawatts, that use energy derived from sunlight and are located in the Commonwealth, regardless of whether any of such facilities are located within or without the utility's service territory, is in the public interest, and in determining whether to approve such facility, the Commission shall liberally construe the provisions of this title. A utility may enter into short-term or long-term power purchase contracts for the power derived from sunlight generated by such generation facility prior to purchasing the generation facility. In determining whether to approve petitions for rate adjustment clauses for new underground facilities, and in determining the level of costs to be recovered thereunder, the Commission shall liberally construe the provisions of this title and shall give due consideration to the public policy goals of increased electric service reliability and reduced outage times associated with the replacement of existing overhead distribution facilities with new underground facilities. The basis points to be added to the utility's general rate of return to calculate the enhanced rate of return on common equity, and the first portion of that facility's service life to which such enhanced rate of return shall be applied, shall vary by type of facility, as specified in the following table:

Type of Generation Facility	Basis Points	First Portion of Service Life
Nuclear-powered	200	Between 12 and 25 years
Carbon capture compatible, clean-coal powered	200	Between 10 and 20 years
Renewable powered, other than landfill gas powered	200	Between 5 and 15 years
Coalbed methane gas powered	150	Between 5 and 15 years
Landfill gas powered	200	Between 5 and 15 years
Conventional coal or combined-cycle combustion turbine	100	Between 10 and 20 years

For generating facilities other than those utilizing nuclear power or those utilizing energy derived from offshore wind, as of July 1, 2013, only those facilities as to which a rate adjustment clause under this subdivision has been previously approved by the Commission, or as to which a petition for approval of such rate adjustment clause was filed with the Commission, on or before January 1, 2013, shall be entitled to the enhanced rate of return on common equity as specified in the above table during the construction phase of the facility and the approved first portion of its service life.

For generating facilities within the Commonwealth utilizing nuclear power or those utilizing energy derived from offshore wind projects located in waters off the Commonwealth's Atlantic shoreline, such facilities shall continue to be eligible for an enhanced rate of return on common equity during the construction phase of the facility and the approved first portion of its service life of between 12 and 25 years in the case of a facility utilizing nuclear power and for a service life of between 5 and 15 years in the case of a facility utilizing energy derived from offshore wind, provided, however, that, as of July 1, 2013, the enhanced return for such facilities shall be 100 basis points, which shall be added to the utility's general rate of return as determined under subdivision 2. Thirty percent of all costs of such a facility utilizing nuclear power that the utility incurred between July 1, 2007, and December 31, 2013, and all of such costs incurred after December 31, 2013, may be deferred by the utility and recovered through a rate adjustment clause under this subdivision at such time as the Commission provides in an order approving such a rate adjustment clause. The remaining 70 percent of all costs of such a facility that the utility incurred between July 1, 2007, and December 31, 2013, shall not be deferred for recovery through a rate adjustment clause under this subdivision; however, such remaining 70 percent of all costs shall be recovered ratably through existing base rates as determined by the Commission in the test periods under review in the utility's next biennial review filed after July 1, 2014. Thirty percent of all costs of such a facility utilizing energy derived from offshore wind that the utility incurred between July 1, 2007, and December 31, 2013, and all of such costs incurred after December 31, 2013, may be deferred by the utility and recovered through a rate adjustment clause under this subdivision at such time as the Commission provides in an order approving such a rate adjustment clause. The remaining 70 percent of all costs of such a facility that the utility incurred between July 1, 2007, and December 31, 2013, shall not be deferred for recovery through a rate adjustment clause under this subdivision; however, such remaining 70 percent of all costs shall be recovered ratably

through existing base rates as determined by the Commission in the test periods under review in the utility's next biennial review filed after July 1, 2014.

In connection with planning to meet forecasted demand for electric generation supply and assure the adequate and sufficient reliability of service, consistent with § 56-598, planning and development activities for a new nuclear generation facility or facilities are in the public interest.

In connection with planning to meet forecasted demand for electric generation supply and assure the adequate and sufficient reliability of service, consistent with § 56-598, planning and development activities for a new utility-owned and utility-operated generating facility or facilities utilizing energy derived from sunlight with an aggregate capacity of 500 megawatts, or from offshore wind, are in the public interest.

Neither generation facilities described in clause (ii) that utilize simple-cycle combustion turbines nor new underground facilities shall receive an enhanced rate of return on common equity as described herein, but instead shall receive the utility's general rate of return during the construction phase of the facility and, thereafter, for the entire service life of the facility. No rate adjustment clause for new underground facilities shall allocate costs to, or provide for the recovery of costs from, customers that are served within the large power service rate class for a Phase I Utility and the large general service rate classes for a Phase II Utility. New underground facilities are hereby declared to be ordinary extensions or improvements in the usual course of business under the provisions of § 56-265.2.

As used in this subdivision, a generation facility is (1) "coalbed methane gas powered" if the facility is fired at least 50 percent by coalbed methane gas, as such term is defined in § 45.1-361.1, produced from wells located in the Commonwealth, and (2) "landfill gas powered" if the facility is fired by methane or other combustible gas produced by the anaerobic digestion or decomposition of biodegradable materials in a solid waste management facility licensed by the Waste Management Board. A landfill gas powered facility includes, in addition to the generation facility itself, the equipment used in collecting, drying, treating, and compressing the landfill gas and in transmitting the landfill gas from the solid waste management facility where it is collected to the generation facility where it is combusted.

For purposes of this subdivision, "general rate of return" means the fair combined rate of return on common equity as it is determined by the Commission from time to time for such utility pursuant to subdivision 2. In any proceeding under this subdivision conducted prior to the conclusion of the first biennial review for such utility, the Commission shall determine a general rate of return for such utility in the same manner as it would in a biennial review proceeding.

Notwithstanding any other provision of this subdivision, if the Commission finds during the biennial review conducted for a Phase II Utility in 2018 that such utility has not filed applications for all necessary federal and state regulatory approvals to construct one or more nuclear-powered or coal-fueled generation facilities that would add a total capacity of at least 1500 megawatts to the amount of the utility's generating resources as such resources existed on July 1, 2007, or that, if all such approvals have been received, that the utility has not made reasonable and good faith efforts to construct one or more such facilities that will provide such additional total capacity within a reasonable time after obtaining such approvals, then the Commission, if it finds it in the public interest, may reduce on a prospective basis any enhanced rate of return on common equity previously applied to any such facility to no less than the general rate of return for such utility and may apply no less than the utility's general rate of return to any such facility for which the utility seeks approval in the future under this subdivision.

7. Any petition filed pursuant to subdivision 4, 5, or 6 shall be considered by the Commission on a stand-alone basis without regard to the other costs, revenues, investments, or earnings of the utility. Any costs incurred by a utility prior to the filing of such petition, or during the consideration thereof by the Commission, that are proposed for recovery in such petition and that are related to subdivision 5 a, or that are related to facilities and projects described in clause (i) of subdivision 6, or that are related to new underground facilities described in clause (iv) of subdivision 6, shall be deferred on the books and records of the utility until the Commission's final order in the matter, or until the implementation of any applicable approved rate adjustment clauses, whichever is later. Except as otherwise provided in subdivision 6, any costs prudently incurred on or after July 1, 2007, by a utility prior to the filing of such petition, or during the consideration thereof by the Commission, that are proposed for recovery in such petition and that are related to facilities and projects described in clause (ii) of subdivision 6 that utilize nuclear power, or coal-fueled facilities and projects described in clause (ii) of subdivision 6 if such coal-fueled facilities will be built by a Phase I Utility, shall be deferred on the books and records of the utility until the Commission's final order in the matter, or until the implementation of any applicable approved rate adjustment clauses, whichever is later. Any costs prudently incurred after the expiration or termination of capped rates related to other matters described in subdivision 4, 5, or 6 shall be deferred beginning only upon the expiration or termination of capped rates, provided, however, that no provision of this act shall affect the rights of any parties with respect to the rulings of the Federal Energy Regulatory Commission in PJM Interconnection LLC and Virginia Electric and Power Company, 109 F.E.R.C. P 61, 012 (2004). A utility shall establish a regulatory asset for regulatory accounting and ratemaking purposes under which it shall defer its operation and maintenance costs incurred in connection with (i) the refueling of any nuclear-powered generating plant and (ii) other work at such plant normally performed during a refueling outage. The utility shall amortize such deferred costs over the refueling cycle, but in no case more than 18 months, beginning with the month in which such plant resumes operation after such refueling. The refueling cycle shall be the applicable period of time between planned refueling outages for such plant. As of January 1, 2014, such amortized costs are a component of base rates, recoverable in base rates only ratably over the refueling cycle rather than when such outages occur, and are the only nuclear refueling costs recoverable in base rates. This provision shall apply to any nuclear-powered

generating plant refueling outage commencing after December 31, 2013, and the Commission shall treat the deferred and amortized costs of such regulatory asset as part of the utility's costs for the purpose of proceedings conducted (a) with respect to biennial filings under subdivision 3 made on and after July 1, 2014, and (b) pursuant to § 56-245 or the Commission's rules governing utility rate increase applications as provided in subsection B. This provision shall not be deemed to change or reset base rates.

The Commission's final order regarding any petition filed pursuant to subdivision 4, 5, or 6 shall be entered not more than three months, eight months, and nine months, respectively, after the date of filing of such petition. If such petition is approved, the order shall direct that the applicable rate adjustment clause be applied to customers' bills not more than 60 days after the date of the order, or upon the expiration or termination of capped rates, whichever is later.

8. In any biennial review proceeding, the following utility generation and distribution costs not proposed for recovery under any other subdivision of this subsection, as recorded per books by the utility for financial reporting purposes and accrued against income, shall be attributed to the test periods under review: costs associated with asset impairments related to early retirement determinations made by the utility prior to December 31, 2012, for utility generation plant; costs associated with severe weather events; and costs associated with natural disasters. Such costs shall be deemed to have been recovered from customers through rates for generation and distribution services in effect during the test periods under review unless such costs, individually or in the aggregate, together with the utility's other costs, revenues, and investments to be recovered through rates for generation and distribution services, result in the utility's earned return on its generation and distribution services for the combined test periods under review to fall more than 50 basis points below the fair combined rate of return authorized under subdivision 2 for such periods or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, to fall more than 70 basis points below the fair combined rate of return authorized under subdivision 2 for such periods. In such cases, the Commission shall, in such biennial review proceeding, authorize deferred recovery of such costs and allow the utility to amortize and recover such deferred costs over future periods as determined by the Commission. The aggregate amount of such deferred costs shall not exceed an amount that would, together with the utility's other costs, revenues, and investments to be recovered through rates for generation and distribution services, cause the utility's earned return on its generation and distribution services to exceed the fair rate of return authorized under subdivision 2, less 50 basis points, for the combined test periods under review or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, to exceed the fair rate of return authorized under subdivision 2 less 70 basis points. Nothing in this section shall limit the Commission's authority, pursuant to the provisions of Chapter 10 (§ 56-232 et seq.), including specifically § 56-235.2, following the review of combined test period earnings of the utility in a biennial review, for normalization of nonrecurring test period costs and annualized adjustments for future costs, in determining any appropriate increase or decrease in the utility's rates for generation and distribution services pursuant to subdivision 8 a or 8 c.

If the Commission determines as a result of such biennial review that:

a. The utility has, during the test period or periods under review, considered as a whole, earned more than 50 basis points below a fair combined rate of return on its generation and distribution services or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, more than 70 basis points below a fair combined rate of return on its generation and distribution services, as determined in subdivision 2, without regard to any return on common equity or other matters determined with respect to facilities described in subdivision 6, the Commission shall order increases to the utility's rates necessary to provide the opportunity to fully recover the costs of providing the utility's services and to earn not less than such fair combined rate of return, using the most recently ended 12-month test period as the basis for determining the amount of the rate increase necessary. However, the Commission may not order such rate increase unless it finds that the resulting rates are necessary to provide the utility with the opportunity to fully recover its costs of providing its services and to earn not less than a fair combined rate of return on both its generation and distribution services, as determined in subdivision 2, without regard to any return on common equity or other matters determined with respect to facilities described in subdivision 6, using the most recently ended 12-month test period as the basis for determining the permissibility of any rate increase under the standards of this sentence, and the amount thereof;

b. The utility has, during the test period or test periods under review, considered as a whole, earned more than 50 basis points above a fair combined rate of return on its generation and distribution services or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, more than 70 basis points above a fair combined rate of return on its generation and distribution services, as determined in subdivision 2, without regard to any return on common equity or other matters determined with respect to facilities described in subdivision 6, the Commission shall, subject to the provisions of subdivision 9, direct that 60 percent of the amount of such earnings that were more than 50 basis points, or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, that 70 percent of the amount of such earnings that were more than 70 basis points, above such fair combined rate of return for the test period or periods under review, considered as a whole, shall be credited to customers' bills. Any such credits shall be amortized over a period of six to 12 months, as determined at the discretion of the Commission, following the effective date of the Commission's order, and shall be allocated among customer classes such that the relationship between the specific customer class rates of return to the overall target rate of return will have the same relationship as the last approved allocation of revenues used to design base rates; or

c. Such biennial review is the second consecutive biennial review in which the utility has, during the test period or test periods under review, considered as a whole, earned more than 50 basis points above a fair combined rate of return on its

generation and distribution services or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, more than 70 basis points above a fair combined rate of return on its generation and distribution services, as determined in subdivision 2, without regard to any return on common equity or other matter determined with respect to facilities described in subdivision 6, the Commission shall, subject to the provisions of subdivision 9 and in addition to the actions authorized in subdivision b, also order reductions to the utility's rates it finds appropriate. However, the Commission may not order such rate reduction unless it finds that the resulting rates will provide the utility with the opportunity to fully recover its costs of providing its services and to earn not less than a fair combined rate of return on its generation and distribution services, as determined in subdivision 2, without regard to any return on common equity or other matters determined with respect to facilities described in subdivision 6, using the most recently ended 12-month test period as the basis for determining the permissibility of any rate reduction under the standards of this sentence, and the amount thereof.

The Commission's final order regarding such biennial review shall be entered not more than eight months after the date of filing, and any revisions in rates or credits so ordered shall take effect not more than 60 days after the date of the order. The fair combined rate of return on common equity determined pursuant to subdivision 2 in such biennial review shall apply, for purposes of reviewing the utility's earnings on its rates for generation and distribution services, to the entire two successive 12-month test periods ending December 31 immediately preceding the year of the utility's subsequent biennial review filing under subdivision 3.

9. If, as a result of a biennial review required under this subsection and conducted with respect to any test period or periods under review ending later than December 31, 2010 (or, if the Commission has elected to stagger its biennial reviews of utilities as provided in subdivision 1, under review ending later than December 31, 2010, for a Phase I Utility, or December 31, 2011, for a Phase II Utility), the Commission finds, with respect to such test period or periods considered as a whole, that (i) any utility has, during the test period or periods under review, considered as a whole, earned more than 50 basis points above a fair combined rate of return on its generation and distribution services or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, more than 70 basis points above a fair combined rate of return on its generation and distribution services, as determined in subdivision 2, without regard to any return on common equity or other matters determined with respect to facilities described in subdivision 6, and (ii) the total aggregate regulated rates of such utility at the end of the most recently-ended 12-month test period exceeded the annual increases in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics of the United States Department of Labor, compounded annually, when compared to the total aggregate regulated rates of such utility as determined pursuant to the biennial review conducted for the base period, the Commission shall, unless it finds that such action is not in the public interest or that the provisions of subdivisions 8 b and c are more consistent with the public interest, direct that any or all earnings for such test period or periods under review, considered as a whole that were more than 50 basis points, or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, more than 70 basis points, above such fair combined rate of return shall be credited to customers' bills, in lieu of the provisions of subdivisions 8 b and c. Any such credits shall be amortized and allocated among customer classes in the manner provided by subdivision 8 b. For purposes of this subdivision:

"Base period" means (i) the test period ending December 31, 2010 (or, if the Commission has elected to stagger its biennial reviews of utilities as provided in subdivision 1, the test period ending December 31, 2010, for a Phase I Utility, or December 31, 2011, for a Phase II Utility), or (ii) the most recent test period with respect to which credits have been applied to customers' bills under the provisions of this subdivision, whichever is later.

"Total aggregate regulated rates" shall include: (i) fuel tariffs approved pursuant to § 56-249.6, except for any increases in fuel tariffs deferred by the Commission for recovery in periods after December 31, 2010, pursuant to the provisions of clause (ii) of subsection C of § 56-249.6; (ii) rate adjustment clauses implemented pursuant to subdivision 4 or 5; (iii) revisions to the utility's rates pursuant to subdivision 8 a; (iv) revisions to the utility's rates pursuant to the Commission's rules governing utility rate increase applications, as permitted by subsection B, occurring after July 1, 2009; and (v) base rates in effect as of July 1, 2009.

10. For purposes of this section, the Commission shall regulate the rates, terms and conditions of any utility subject to this section on a stand-alone basis utilizing the actual end-of-test period capital structure and cost of capital of such utility, unless the Commission finds that the debt to equity ratio of such capital structure is unreasonable for such utility, in which case the Commission may utilize a debt to equity ratio that it finds to be reasonable for such utility in determining any rate adjustment pursuant to subdivisions 8 a and c, and without regard to the cost of capital, capital structure, revenues, expenses or investments of any other entity with which such utility may be affiliated. In particular, and without limitation, the Commission shall determine the federal and state income tax costs for any such utility that is part of a publicly traded, consolidated group as follows: (i) such utility's apportioned state income tax costs shall be calculated according to the applicable statutory rate, as if the utility had not filed a consolidated return with its affiliates, and (ii) such utility's federal income tax costs shall be calculated according to the applicable federal income tax rate and shall exclude any consolidated tax liability or benefit adjustments originating from any taxable income or loss of its affiliates.

B. Nothing in this section shall preclude an investor-owned incumbent electric utility from applying for an increase in rates pursuant to § 56-245 or the Commission's rules governing utility rate increase applications; however, in any such

filing, a fair rate of return on common equity shall be determined pursuant to subdivision A 2. Nothing in this section shall preclude such utility's recovery of fuel and purchased power costs as provided in § 56-249.6.

C. Except as otherwise provided in this section, the Commission shall exercise authority over the rates, terms and conditions of investor-owned incumbent electric utilities for the provision of generation, transmission and distribution services to retail customers in the Commonwealth pursuant to the provisions of Chapter 10 (§ 56-232 et seq.), including specifically § 56-235.2.

D. The Commission may determine, during any proceeding authorized or required by this section, the reasonableness or prudence of any cost incurred or projected to be incurred, by a utility in connection with the subject of the proceeding. A determination of the Commission regarding the reasonableness or prudence of any such cost shall be consistent with the Commission's authority to determine the reasonableness or prudence of costs in proceedings pursuant to the provisions of Chapter 10 (§ 56-232 et seq.). In determining the reasonableness or prudence of a utility providing energy and capacity to its customers from renewable energy resources, the Commission shall consider the extent to which such renewable energy resources, whether utility-owned or by contract, further the objectives of the Commonwealth Energy Policy set forth in §§ 67-101 and 67-102, and shall also consider whether the costs of such resources is likely to result in unreasonable increases in rates paid by consumers.

E. The Commission shall promulgate such rules and regulations as may be necessary to implement the provisions of this section.

## CHAPTER 247

*An Act to amend and reenact § 22.1-298.1 of the Code of Virginia, relating to teacher licensure; career and technical education; certain local waivers.*

[H 1770]

Approved February 24, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 22.1-298.1 of the Code of Virginia is amended and reenacted as follows:**

**§ 22.1-298.1. Regulations governing licensure.**

A. As used in this section:

"Alternate route to licensure" means a nontraditional route to teacher licensure available to individuals who meet the criteria specified in the regulations issued by the Board of Education.

"Industry certification credential" means an active career and technical education credential that is earned by successfully completing a Board of Education-approved industry certification examination, being issued a professional license in the Commonwealth, or successfully completing an occupational competency examination.

"Licensure by reciprocity" means a process used to issue a license to an individual coming into the Commonwealth from another state when that individual meets certain conditions specified in the Board of Education's regulations.

"Professional teacher's assessment" means those tests mandated for licensure as prescribed by the Board of Education.

"Provisional license" means a nonrenewable license issued by the Board of Education for a specified period of time, not to exceed three years, to an individual who may be employed by a school division in the Commonwealth and who generally meets the requirements specified in the Board of Education's regulations for licensure, but who may need to take additional coursework or pass additional assessments to be fully licensed with a renewable license.

"Renewable license" means a license issued by the Board of Education for five years to an individual who meets the requirements specified in the Board of Education's regulations.

B. The Board of Education shall prescribe, by regulation, the requirements for the licensure of teachers and other school personnel required to hold a license. Such regulations shall include requirements for the denial, suspension, cancellation, revocation, and reinstatement of licensure. The Board of Education shall revoke the license of any person for whom it has received a notice of dismissal or resignation pursuant to subsection F of § 22.1-313 and, in the case of a person who is the subject of a founded complaint of child abuse or neglect, after all rights to any appeal provided by § 63.2-1526 have been exhausted. Regardless of the authority of any other agency of the Commonwealth to approve educational programs, only the Board of Education shall have the authority to license teachers to be regularly employed by school boards, including those teachers employed to provide nursing education.

The Board of Education shall prescribe by regulation the licensure requirements for teachers who teach only online courses, as defined in § 22.1-212.23. Such license shall be valid only for teaching online courses. Teachers who hold a five-year renewable license issued by the Board of Education may teach online courses for which they are properly endorsed.

C. The Board of Education's regulations shall include requirements that a person seeking initial licensure:

1. Complete professional assessments as prescribed by the Board of Education;
2. Complete study in attention deficit disorder;
3. Complete study in gifted education, including the use of multiple criteria to identify gifted students; and
4. Complete study in methods of improving communication between schools and families and ways of increasing family involvement in student learning at home and at school.

D. In addition, such regulations shall include requirements that:

1. Every person seeking initial licensure or renewal of a license demonstrate proficiency in the use of educational technology for instruction;
2. Every person seeking initial licensure and persons seeking licensure renewal as teachers who have not completed such study shall complete study in child abuse recognition and intervention in accordance with curriculum guidelines developed by the Board of Education in consultation with the Department of Social Services that are relevant to the specific teacher licensure routes;
3. Every person seeking initial licensure or renewal of a license shall receive professional development in instructional methods tailored to promote student academic progress and effective preparation for the Standards of Learning end-of-course and end-of-grade assessments;
4. Every person seeking renewal of a license shall complete all renewal requirements, including professional development in a manner prescribed by the Board, except that no person seeking renewal of a license shall be required to satisfy any such requirement by completing coursework and earning credit at an institution of higher education;
5. Every person seeking initial licensure or renewal of a license shall provide evidence of completion of certification or training in emergency first aid, cardiopulmonary resuscitation, and the use of automated external defibrillators. The certification or training program shall be based on the current national evidence-based emergency cardiovascular care guidelines for cardiopulmonary resuscitation and the use of an automated external defibrillator, such as a program developed by the American Heart Association or the American Red Cross. The Board shall provide a waiver for this requirement for any person with a disability whose disability prohibits such person from completing the certification or training;
6. Every person seeking licensure with an endorsement as a teacher of the blind and visually impaired shall demonstrate proficiency in reading and writing Braille;
7. Every teacher seeking an initial license in the Commonwealth with an endorsement in the area of career and technical education shall have an industry certification credential in the area in which the teacher seeks endorsement. If a teacher seeking an initial license in the Commonwealth has not attained an industry certification credential in the area in which the teacher seeks endorsement, the Board may, upon request of the employing school division or educational agency, issue the teacher a provisional license to allow time for the teacher to attain such credential; and
8. (Effective July 1, 2017) Every person seeking initial licensure or renewal of a license shall complete awareness training, provided by the Department of Education, on the indicators of dyslexia, as that term is defined by the Board pursuant to regulations, and the evidence-based interventions and accommodations for dyslexia.

*E. Each local school board or division superintendent may waive for any individual whom it seeks to employ as a career and technical education teacher and who is also seeking initial licensure or renewal of a license with an endorsement in the area of career and technical education any applicable requirement set forth in subsection C or subdivision D 1, 3, 4, 6, or 8.*

~~F. The Board's regulations shall require that initial licensure for principals and assistant principals be contingent upon passage of an assessment as prescribed by the Board.~~

~~F. G. The Board shall establish criteria in its regulations to effectuate the substitution of experiential learning for coursework for those persons seeking initial licensure through an alternate route as defined in Board regulations.~~

~~G. H. Notwithstanding any provision of law to the contrary, the Board (i) may provide for the issuance of a provisional license, valid for a period not to exceed three years, pursuant to subdivision D 7 or to any person who does not meet the requirements of this section or any other requirement for licensure imposed by law and (ii) shall provide for the issuance of a provisional license, valid for a period not to exceed three years, to any former member of the Armed Forces of the United States or the Virginia National Guard who has received an honorable discharge and has the appropriate level of experience or training but does not meet the requirements for a renewable license.~~

~~H. I. The Board's licensure regulations shall also provide for licensure by reciprocity:~~

~~1. With comparable endorsement areas for those individuals holding a valid out-of-state teaching license and national certification from the National Board for Professional Teaching Standards or a nationally recognized certification program approved by the Board of Education. The application for such individuals shall require evidence of such valid licensure and national certification and shall not require official student transcripts;~~

~~2. For individuals who have obtained a valid out-of-state license, with full credentials and without deficiencies, that is in force at the time the application for a Virginia license is received by the Department of Education. The individual must establish a file in the Department of Education by submitting a complete application packet, which shall include official student transcripts. An assessment of basic skills as provided in § 22.1-298.2 and service requirements shall not be imposed for these licensed individuals; however, other licensing assessments, as prescribed by the Board of Education, shall be required; and~~

~~3. The Board may include other provisions for reciprocity in its regulations.~~

## CHAPTER 248

*An Act to amend the Code of Virginia by adding in Chapter 32 of Title 58.1 an article numbered 2.5, consisting of sections numbered 58.1-3219.13 through 58.1-3219.16, relating to real property tax exemption; certain surviving spouses.*

[H 1884]

Approved February 24, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding in Chapter 32 of Title 58.1 an article numbered 2.5, consisting of sections numbered 58.1-3219.13 through 58.1-3219.16, as follows:**

*Article 2.5.*

*Exemption for Surviving Spouses of Certain Persons Killed in the Line of Duty.*

**§ 58.1-3219.13. Definitions.**

*As used in this article, unless the context requires otherwise:*

*"Covered person" means any person set forth in the definition of "deceased person" in § 9.1-400 whose beneficiary, as defined in § 9.1-400, is entitled to receive benefits under § 9.1-402, as determined by the Comptroller prior to July 1, 2017, or as determined by the Virginia Retirement System on and after July 1, 2017.*

**§ 58.1-3219.14. Exemption from taxes on property of surviving spouses of certain persons killed in the line of duty.**

*A. Pursuant to Article X, Section 6-B of the Constitution of Virginia, for tax years beginning on or after January 1, 2017, any county, city, or town may exempt from taxation the real property described in subsection B of the surviving spouse of any covered person who occupies the real property as his principal place of residence. If the covered person's death occurred on or prior to January 1, 2017, and the surviving spouse has a principal residence on January 1, 2017, eligible for the exemption under this section, then the exemption for the surviving spouse shall begin on January 1, 2017. If the covered person's death occurs after January 1, 2017, and the surviving spouse has a principal residence eligible for the exemption under this section on the date that such covered person dies, then the exemption for the surviving spouse shall begin on the date that such covered person dies. If the surviving spouse acquires the property after January 1, 2017, then the exemption shall begin on the date of acquisition, and the previous owner may be entitled to a refund for a pro rata portion of real property taxes paid pursuant to § 58.1-3360. No county, city, or town shall be liable for any interest on any refund due to the surviving spouse for taxes paid prior to the surviving spouse's filing of the affidavit or written statement required by § 58.1-3219.15.*

*B. Those dwellings, in any locality that provides the exemption pursuant to this article, with assessed values in the most recently ended tax year that are not in excess of the average assessed value for such year of a dwelling situated on property that is zoned as single-family residential shall qualify for a total exemption from real property taxes under this article. If the value of a dwelling is in excess of the average assessed value as described in this subsection, then only that portion of the assessed value in excess of the average assessed value shall be subject to real property taxes, and the portion of the assessed value that is not in excess of the average assessed value shall be exempt from real property taxes. Single-family homes, condominiums, town homes, manufactured homes as defined in § 46.2-100 whether or not the wheels and other equipment previously used for mobility have been removed, and other types of dwellings of surviving spouses, whether or not the land on which the single-family home, condominium, town home, manufactured home, or other type of dwelling of a surviving spouse is located is owned by someone other than the surviving spouse, that (i) meet this requirement and (ii) are occupied by such persons as their principal place of residence shall qualify for the real property tax exemption. If the land on which the single-family home, condominium, town home, manufactured home, or other type of dwelling is located is not owned by the surviving spouse, then the land is not exempt.*

*For purposes of determining whether a dwelling, or a portion of its value, is exempt from county and town real property taxes, the average assessed value shall be such average for all dwellings located within the county that are situated on property zoned as single-family residential.*

*C. The surviving spouse shall qualify for the exemption so long as the surviving spouse does not remarry and continues to occupy the real property as his principal place of residence. The exemption applies without any restriction on the spouse's moving to a different principal place of residence.*

*D. A county, city, or town shall provide for the exemption from real property taxes of (i) the qualifying dwelling, or that portion of the value of such dwelling and land that qualifies for the exemption pursuant to subsection B, and (ii) with the exception of land not owned by the surviving spouse, the land, not exceeding one acre, upon which it is situated. However, if a county, city, or town provides for an exemption from or deferral of real property taxes of more than one acre of land pursuant to Article 2 (§ 58.1-3210 et seq.), then the county, city, or town shall also provide an exemption for the same number of acres pursuant to this section. A real property improvement other than a dwelling, including the land upon which such improvement is situated, made to such one acre or greater number of acres exempt from taxation pursuant to this subsection shall also be exempt from taxation so long as the principal use of the improvement is (a) to house or cover motor vehicles or household goods and personal effects as classified in subdivision A 14 of § 58.1-3503 and as listed in § 58.1-3504 and (b) for other than a business purpose.*

*E. For purposes of this exemption, real property of any surviving spouse of a covered person includes real property (i) held by a surviving spouse as a tenant for life, (ii) held in a revocable inter vivos trust over which the surviving spouse*

holds the power of revocation, or (iii) held in an irrevocable trust under which the surviving spouse possesses a life estate or enjoys a continuing right of use or support. Such real property does not include any interest held under a leasehold or term of years.

F. 1. In the event that (i) a surviving spouse is entitled to an exemption under this section by virtue of holding the property in any of the three ways set forth in subsection E and (ii) one or more other persons have an ownership interest in the property that permits them to occupy the property, then the tax exemption for the property that otherwise would have been provided shall be prorated by multiplying the amount of the exemption by a fraction the numerator of which is 1 and the denominator of which equals the total number of people having an ownership interest that permits them to occupy the property.

2. In the event that the principal residence is jointly owned by two or more individuals including the surviving spouse, and no person is entitled to the exemption under this section by virtue of holding the property in any of the three ways set forth in subsection E, then the exemption shall be prorated by multiplying the amount of the exemption by a fraction the numerator of which is the percentage of ownership interest in the dwelling held by the surviving spouse and the denominator of which is 100.

**§ 58.1-3219.15. Application for exemption.**

A. The surviving spouse claiming the exemption under this article shall file with the commissioner of the revenue of the county, city, or town or such other officer as may be designated by the governing body in which the real property is located, on forms to be supplied by the county, city, or town, an affidavit or written statement (i) setting forth the surviving spouse's name, (ii) indicating any other joint owners of the real property, (iii) certifying that the real property is occupied as the surviving spouse's principal place of residence, and (iv) including evidence of the determination of the Comptroller or the Virginia Retirement System pursuant to subsection A. The surviving spouse shall also provide documentation that he is the surviving spouse of a covered person and of the date that the covered person died.

The surviving spouse shall be required to refile the information required by this section only if the surviving spouse's principal place of residence changes.

B. The surviving spouse shall promptly notify the commissioner of the revenue of any remarriage.

**§ 58.1-3219.16. Absence from residence.**

The fact that surviving spouses who are otherwise qualified for tax exemption pursuant to this article are residing in hospitals, nursing homes, convalescent homes, or other facilities for physical or mental care for extended periods of time shall not be construed to mean that the real estate for which tax exemption is sought does not continue to be the sole dwelling of such persons during such extended periods of other residence, so long as such real estate is not used by or leased to others for consideration.

## CHAPTER 249

An Act to amend and reenact § 54.1-2522.1, as it is currently effective, of the Code of Virginia and to amend and reenact the second enactment of Chapter 113 and the second enactment of Chapter 406 of the Acts of Assembly of 2016, relating to prescription of opioids; limit.

[H 1885]

Approved February 24, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 54.1-2522.1, as it is currently effective, of the Code of Virginia is amended and reenacted as follows:**

**§ 54.1-2522.1. (Effective until July 1, 2019) Requirements of prescribers.**

A. Any prescriber who is licensed in the Commonwealth to treat human patients and is authorized pursuant to §§ 54.1-3303 and 54.1-3408 to issue a prescription for a covered substance shall be registered with the Prescription Monitoring Program by the Department of Health Professions.

B. A prescriber registered with the Prescription Monitoring Program or a person to whom he has delegated authority to access information in the possession of the Prescription Monitoring Program pursuant to § 54.1-2523.2 shall, at the time of initiating a new course of treatment to a human patient that includes the prescribing of opioids anticipated at the onset of treatment to last more than ~~14~~ seven consecutive days, request information from the Director for the purpose of determining what, if any, other covered substances are currently prescribed to the patient. In addition, any prescriber who holds a special identification number from the Drug Enforcement Administration authorizing the prescribing of controlled substances approved for use in opioid addiction therapy shall, prior to or as a part of execution of a treatment agreement with the patient, request information from the Director for the purpose of determining what, if any, other covered substances the patient is currently being prescribed. Nothing in this section shall prohibit prescribers from making additional periodic requests for information from the Director as may be required by routine prescribing practices.

C. A prescriber shall not be required to meet the provisions of subsection B if:

1. The opioid is prescribed to a patient currently receiving hospice or palliative care;
2. The opioid is prescribed to a patient as part of treatment for a surgical or invasive procedure and such prescription is ~~not refillable~~ for no more than 14 consecutive days;
3. The opioid is prescribed to a patient during an inpatient hospital admission or at discharge;

4. The opioid is prescribed to a patient in a nursing home or a patient in an assisted living facility that uses a sole source pharmacy;

5. The Prescription Monitoring Program is not operational or available due to temporary technological or electrical failure or natural disaster; or

6. The prescriber is unable to access the Prescription Monitoring Program due to emergency or disaster and documents such circumstances in the patient's medical record.

**2. That the second enactment of Chapter 113 and the second enactment of Chapter 406 of the Acts of Assembly of 2016 are amended and reenacted as follows:**

**2. That the provisions of this act shall expire on July 1, 2019 2022.**

**3. That the provisions of the first enactment of this act shall expire on July 1, 2022.**

**CHAPTER 250**

*An Act to amend and reenact § 28.2-606 of the Code of Virginia, relating to oyster planting grounds; notice of application.*

[S 1144]

Approved February 24, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 28.2-606 of the Code of Virginia is amended and reenacted as follows:**

**§ 28.2-606. Notice of application.**

A. Notice of the application shall be ~~(i)~~ posted by the Commission for not less than ~~sixty~~ 30 days ~~at the courthouse on its website. The Commission shall provide by registered or certified mail written notice of its receipt of the application to~~ (i) ~~of the county or city in which the ground applied for lies, and in at least two or more prominent places in the vicinity of the ground and~~ (ii) ~~published the mailing address of the holder of a current lease for any oyster planting ground that is contiguous to the ground applied for and~~ (ii) the last known address, as shown on the current real estate tax assessment book or records, of the owner of any riparian property located within 200 feet of the ground applied for. The provision of notice to the governing board of an association for a common interest community as defined in § 55-528 shall be deemed adequate to notify all associated unit owners or lot owners.

B. The Commission shall publish notice of the application at least once a week for ~~four~~ two consecutive weeks in a newspaper of general circulation in ~~that county or city~~ the area in which the ground applied for lies.

C. Notice provided pursuant to this section shall invite and provide information about the submission of written comments on the application. The cost of the notice required by this section shall be borne by the applicant.

**CHAPTER 251**

*An Act to amend and reenact §§ 46.2-100, 46.2-904, 46.2-908, 46.2-908.1, 46.2-1015, and 46.2-2101 of the Code of Virginia and to amend the Code of Virginia by adding in Article 12 of Chapter 8 of Title 46.2 a section numbered 46.2-908.1:1, relating to electric personal delivery devices.*

[S 1207]

Approved February 24, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 46.2-100, 46.2-904, 46.2-908, 46.2-908.1, 46.2-1015, and 46.2-2101 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Article 12 of Chapter 8 of Title 46.2 a section numbered 46.2-908.1:1 as follows:**

**§ 46.2-100. Definitions.**

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

"All-terrain vehicle" means a motor vehicle having three or more wheels that is powered by a motor and is manufactured for off-highway use. "All-terrain vehicle" does not include four-wheeled vehicles commonly known as "go-carts" that have low centers of gravity and are typically used in racing on relatively level surfaces, nor does the term include any riding lawn mower.

"Antique motor vehicle" means every motor vehicle, as defined in this section, which was actually manufactured or designated by the manufacturer as a model manufactured in a calendar year not less than 25 years prior to January 1 of each calendar year and is owned solely as a collector's item.

"Antique trailer" means every trailer or semitrailer, as defined in this section, that was actually manufactured or designated by the manufacturer as a model manufactured in a calendar year not less than 25 years prior to January 1 of each calendar year and is owned solely as a collector's item.

"Autocycle" means a three-wheeled motor vehicle that has a steering wheel and seating that does not require the operator to straddle or sit astride and is manufactured to comply with federal safety requirements for motorcycles. Except as otherwise provided, an autocycle shall not be deemed to be a motorcycle.

"Automobile or watercraft transporters" means any tractor truck, lowboy, vehicle, or combination, including vehicles or combinations that transport motor vehicles or watercraft on their power unit, designed and used exclusively for the transportation of motor vehicles or watercraft.

"Bicycle" means a device propelled solely by human power, upon which a person may ride either on or astride a regular seat attached thereto, having two or more wheels in tandem, including children's bicycles, except a toy vehicle intended for use by young children. For purposes of Chapter 8 (§ 46.2-800 et seq.), a bicycle shall be a vehicle while operated on the highway.

"Bicycle lane" means that portion of a roadway designated by signs and/or pavement markings for the preferential use of bicycles, electric power-assisted bicycles, and mopeds.

"Business district" means the territory contiguous to a highway where 75 percent or more of the property contiguous to a highway, on either side of the highway, for a distance of 300 feet or more along the highway, is occupied by land and buildings actually in use for business purposes.

"Camping trailer" means every vehicle that has collapsible sides and contains sleeping quarters but may or may not contain bathing and cooking facilities and is designed to be drawn by a motor vehicle.

"Cancel" or "cancellation" means that the document or privilege cancelled has been annulled or terminated because of some error, defect, or ineligibility, but the cancellation is without prejudice and reapplication may be made at any time after cancellation.

"Chauffeur" means every person employed for the principal purpose of driving a motor vehicle and every person who drives a motor vehicle while in use as a public or common carrier of persons or property.

"Circular intersection" means an intersection that has an island, generally circular in design, located in the center of the intersection, where all vehicles pass to the right of the island. Circular intersections include roundabouts, rotaries, and traffic circles.

"Commission" means the State Corporation Commission.

"Commissioner" means the Commissioner of the Department of Motor Vehicles of the Commonwealth.

"Converted electric vehicle" means any motor vehicle, other than a motorcycle or auticycle, that has been modified subsequent to its manufacture to replace an internal combustion engine with an electric propulsion system. Such vehicles shall retain their original vehicle identification number, line-make, and model year. A converted electric vehicle shall not be deemed a "reconstructed vehicle" as defined in this section unless it has been materially altered from its original construction by the removal, addition, or substitution of new or used essential parts other than those required for the conversion to electric propulsion.

"Crosswalk" means that part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs or, in the absence of curbs, from the edges of the traversable roadway; or any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

"Decal" means a device to be attached to a license plate that validates the license plate for a predetermined registration period.

"Department" means the Department of Motor Vehicles of the Commonwealth.

"Disabled parking license plate" means a license plate that displays the international symbol of access in the same size as the numbers and letters on the plate and in a color that contrasts with the background.

"Disabled veteran" means a veteran who (i) has either lost, or lost the use of, a leg, arm, or hand; (ii) is blind; or (iii) is permanently and totally disabled as certified by the U.S. Department of Veterans Affairs. A veteran shall be considered blind if he has a permanent impairment of both eyes to the following extent: central visual acuity of 20/200 or less in the better eye, with corrective lenses, or central visual acuity of more than 20/200, if there is a field defect in which the peripheral field has contracted to such an extent that the widest diameter of visual field subtends an angular distance no greater than 20 degrees in the better eye.

"Driver's license" means any license, including a commercial driver's license as defined in the Virginia Commercial Driver's License Act (§ 46.2-341.1 et seq.), issued under the laws of the Commonwealth authorizing the operation of a motor vehicle.

"Electric personal assistive mobility device" means a self-balancing two-nontandem-wheeled device that is designed to transport only one person and powered by an electric propulsion system that limits the device's maximum speed to 15 miles per hour or less. For purposes of Chapter 8 (§ 46.2-800 et seq.), an electric personal assistive mobility device shall be a vehicle when operated on a highway.

*"Electric personal delivery device" means an electrically powered device that (i) is operated on sidewalks, shared-use paths, and crosswalks and intended primarily to transport property; (ii) weighs less than 50 pounds, excluding cargo; (iii) has a maximum speed of 10 miles per hour; and (iv) is equipped with technology to allow for operation of the device with or without the active control or monitoring of a natural person.*

*"Electric personal delivery device operator" means an entity or its agent who exercises direct physical control or monitoring over the navigation system and operation of an electric personal delivery device. For the purposes of this definition, "agent" means a person not less than 16 years of age charged by an entity with the responsibility of navigating and operating an electric personal delivery device. "Electric personal delivery device operator" does not include (i) an*

*entity or person who requests the services of an electric personal delivery device to transport property or (ii) an entity or person who only arranges for and dispatches the requested services of an electric personal delivery device.*

"Electric power-assisted bicycle" means a vehicle that travels on not more than three wheels in contact with the ground and is equipped with (i) pedals that allow propulsion by human power and (ii) an electric motor with an input of no more than 1,000 watts that reduces the pedal effort required of the rider. For the purposes of Chapter 8 (§ 46.2-800 et seq.), an electric power-assisted bicycle shall be a vehicle when operated on a highway.

"Essential parts" means all integral parts and body parts, the removal, alteration, or substitution of which will tend to conceal the identity of a vehicle.

"Farm tractor" means every motor vehicle designed and used as a farm, agricultural, or horticultural implement for drawing plows, mowing machines, and other farm, agricultural, or horticultural machinery and implements, including self-propelled mowers designed and used for mowing lawns.

"Farm utility vehicle" means a vehicle that is powered by a motor and is designed for off-road use and is used as a farm, agricultural, or horticultural service vehicle, generally having four or more wheels, bench seating for the operator and a passenger, a steering wheel for control, and a cargo bed. "Farm utility vehicle" does not include pickup or panel trucks, golf carts, low-speed vehicles, or riding lawn mowers.

"Federal safety requirements" means applicable provisions of 49 U.S.C. § 30101 et seq. and all administrative regulations and policies adopted pursuant thereto.

"Financial responsibility" means the ability to respond in damages for liability thereafter incurred arising out of the ownership, maintenance, use, or operation of a motor vehicle, in the amounts provided for in § 46.2-472.

"Foreign market vehicle" means any motor vehicle originally manufactured outside the United States, which was not manufactured in accordance with 49 U.S.C. § 30101 et seq. and the policies and regulations adopted pursuant to that Act, and for which a Virginia title or registration is sought.

"Foreign vehicle" means every motor vehicle, trailer, or semitrailer that is brought into the Commonwealth otherwise than in the ordinary course of business by or through a manufacturer or dealer and that has not been registered in the Commonwealth.

"Golf cart" means a self-propelled vehicle that is designed to transport persons playing golf and their equipment on a golf course.

"Governing body" means the board of supervisors of a county, council of a city, or council of a town, as context may require.

"Gross weight" means the aggregate weight of a vehicle or combination of vehicles and the load thereon.

"Highway" means the entire width between the boundary lines of every way or place open to the use of the public for purposes of vehicular travel in the Commonwealth, including the streets and alleys, and, for law-enforcement purposes, (i) the entire width between the boundary lines of all private roads or private streets that have been specifically designated "highways" by an ordinance adopted by the governing body of the county, city, or town in which such private roads or streets are located and (ii) the entire width between the boundary lines of every way or place used for purposes of vehicular travel on any property owned, leased, or controlled by the United States government and located in the Commonwealth.

"Intersection" means (i) the area embraced within the prolongation or connection of the lateral curblines or, if none, then the lateral boundary lines of the roadways of two highways that join one another at, or approximately at, right angles, or the area within which vehicles traveling on different highways joining at any other angle may come in conflict; (ii) where a highway includes two roadways 30 feet or more apart, then every crossing of each roadway of such divided highway by an intersecting highway shall be regarded as a separate intersection, in the event such intersecting highway also includes two roadways 30 feet or more apart, then every crossing of two roadways of such highways shall be regarded as a separate intersection; or (iii) for purposes only of authorizing installation of traffic-control devices, every crossing of a highway or street at grade by a pedestrian crosswalk.

"Lane-use control signal" means a signal face displaying indications to permit or prohibit the use of specific lanes of a roadway or to indicate the impending prohibition of such use.

"Law-enforcement officer" means any officer authorized to direct or regulate traffic or to make arrests for violations of this title or local ordinances authorized by law. For the purposes of access to law-enforcement databases regarding motor vehicle registration and ownership only, "law-enforcement officer" also includes city and county commissioners of the revenue and treasurers, together with their duly designated deputies and employees, when such officials are actually engaged in the enforcement of §§ 46.2-752, 46.2-753, and 46.2-754 and local ordinances enacted thereunder.

"License plate" means a device containing letters, numerals, or a combination of both, attached to a motor vehicle, trailer, or semitrailer to indicate that the vehicle is properly registered with the Department.

"Light" means a device for producing illumination or the illumination produced by the device.

"Low-speed vehicle" means any four-wheeled electrically powered or gas-powered vehicle, except a motor vehicle or low-speed vehicle that is used exclusively for agricultural or horticultural purposes or a golf cart, whose maximum speed is greater than 20 miles per hour but not greater than 25 miles per hour and is manufactured to comply with safety standards contained in Title 49 of the Code of Federal Regulations, § 571.500.

"Manufactured home" means a structure subject to federal regulation, transportable in one or more sections, which in the traveling mode is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a

permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein.

"Moped" means every vehicle that travels on not more than three wheels in contact with the ground that (i) has a seat that is no less than 24 inches in height, measured from the middle of the seat perpendicular to the ground; (ii) has a gasoline, electric, or hybrid motor that (a) displaces 50 cubic centimeters or less or (b) has an input of 1500 watts or less; (iii) is power-driven, with or without pedals that allow propulsion by human power; and (iv) is not operated at speeds in excess of 35 miles per hour. For purposes of this title, a moped shall be a motorcycle when operated at speeds in excess of 35 miles per hour. For purposes of Chapter 8 (§ 46.2-800 et seq.), a moped shall be a vehicle while operated on a highway.

"Motor-driven cycle" means every motorcycle that has a gasoline engine that (i) displaces less than 150 cubic centimeters; (ii) has a seat less than 24 inches in height, measured from the middle of the seat perpendicular to the ground; and (iii) has no manufacturer-issued vehicle identification number.

"Motor home" means every private motor vehicle with a normal seating capacity of not more than 10 persons, including the driver, designed primarily for use as living quarters for human beings.

"Motor vehicle" means every vehicle as defined in this section that is self-propelled or designed for self-propulsion except as otherwise provided in this title. Any structure designed, used, or maintained primarily to be loaded on or affixed to a motor vehicle to provide a mobile dwelling, sleeping place, office, or commercial space shall be considered a part of a motor vehicle. Except as otherwise provided, for the purposes of this title, any device herein defined as a bicycle, electric personal assistive mobility device, electric power-assisted bicycle, or moped shall be deemed not to be a motor vehicle.

"Motorcycle" means every motor vehicle designed to travel on not more than three wheels in contact with the ground and is capable of traveling at speeds in excess of 35 miles per hour. "Motorcycle" does not include any "autocycle," "electric personal assistive mobility device," "electric power-assisted bicycle," "farm tractor," "golf cart," "moped," "motorized skateboard or foot-scooter," "utility vehicle," or "wheelchair or wheelchair conveyance" as defined in this section.

"Motorized skateboard or foot-scooter" means every vehicle, regardless of the number of its wheels in contact with the ground, that (i) has no seat, but is designed to be stood upon by the operator, (ii) has no manufacturer-issued vehicle identification number, and (iii) is powered by an electric motor having an input of no more than 1,000 watts or a gasoline engine that displaces less than 36 cubic centimeters. "Motorized skateboard or foot-scooter" includes vehicles with or without handlebars but does not include "electric personal assistive mobility devices."

"Nonresident" means every person who is not domiciled in the Commonwealth, except: (i) any foreign corporation that is authorized to do business in the Commonwealth by the State Corporation Commission shall be a resident of the Commonwealth for the purpose of this title; in the case of corporations incorporated in the Commonwealth but doing business outside the Commonwealth, only such principal place of business or branches located within the Commonwealth shall be dealt with as residents of the Commonwealth; (ii) a person who becomes engaged in a gainful occupation in the Commonwealth for a period exceeding 60 days shall be a resident for the purposes of this title except for the purposes of Chapter 3 (§ 46.2-300 et seq.); (iii) a person, other than (a) a nonresident student as defined in this section or (b) a person who is serving a full-time church service or proselyting mission of not more than 36 months and who is not gainfully employed, who has actually resided in the Commonwealth for a period of six months, whether employed or not, or who has registered a motor vehicle, listing an address in the Commonwealth in the application for registration, shall be deemed a resident for the purposes of this title, except for the purposes of the Virginia Commercial Driver's License Act (§ 46.2-341.1 et seq.).

"Nonresident student" means every nonresident person who is enrolled as a full-time student in an accredited institution of learning in the Commonwealth and who is not gainfully employed.

"Off-road motorcycle" means every motorcycle designed exclusively for off-road use by an individual rider with not more than two wheels in contact with the ground. Except as otherwise provided in this chapter, for the purposes of this chapter off-road motorcycles shall be deemed to be "motorcycles."

"Operation or use for rent or for hire, for the transportation of passengers, or as a property carrier for compensation," and "business of transporting persons or property" mean any owner or operator of any motor vehicle, trailer, or semitrailer operating over the highways in the Commonwealth who accepts or receives compensation for the service, directly or indirectly; but these terms do not mean a "truck lessor" as defined in this section and do not include persons or businesses that receive compensation for delivering a product that they themselves sell or produce, where a separate charge is made for delivery of the product or the cost of delivery is included in the sale price of the product, but where the person or business does not derive all or a substantial portion of its income from the transportation of persons or property except as part of a sales transaction.

"Operator" or "driver" means every person who either (i) drives or is in actual physical control of a motor vehicle on a highway or (ii) is exercising control over or steering a vehicle being towed by a motor vehicle.

"Owner" means a person who holds the legal title to a vehicle; however, if a vehicle is the subject of an agreement for its conditional sale or lease with the right of purchase on performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee or if a mortgagor of a vehicle is entitled to possession, then the conditional vendee or lessee or mortgagor shall be the owner for the purpose of this title. In all such instances when the rent paid by the lessee includes charges for services of any nature or when the lease does not provide that title shall pass to the lessee on payment of the rent stipulated, the lessor shall be regarded as the owner of the vehicle, and the vehicle shall be subject to such requirements of this title as are applicable to vehicles operated for compensation. A

"truck lessor" as defined in this section shall be regarded as the owner, and his vehicles shall be subject to such requirements of this title as are applicable to vehicles of private carriers.

"Passenger car" means every motor vehicle other than a motorcycle or auticycle designed and used primarily for the transportation of no more than 10 persons, including the driver.

"Payment device" means any credit card as defined in 15 U.S.C. § 1602 (k) or any "accepted card or other means of access" set forth in 15 U.S.C. § 1693a (1). For the purposes of this title, this definition shall also include a card that enables a person to pay for transactions through the use of value stored on the card itself.

"Pickup or panel truck" means (i) every motor vehicle designed for the transportation of property and having a registered gross weight of 7,500 pounds or less or (ii) every motor vehicle registered for personal use, designed to transport property on its own structure independent of any other vehicle, and having a registered gross weight in excess of 7,500 pounds but not in excess of 10,000 pounds.

"Private road or driveway" means every way in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

"Reconstructed vehicle" means every vehicle of a type required to be registered under this title materially altered from its original construction by the removal, addition, or substitution of new or used essential parts. Such vehicles, at the discretion of the Department, shall retain their original vehicle identification number, line-make, and model year. Except as otherwise provided in this title, this definition shall not include a "converted electric vehicle" as defined in this section.

"Replica vehicle" means every vehicle of a type required to be registered under this title not fully constructed by a licensed manufacturer but either constructed or assembled from components. Such components may be from a single vehicle, multiple vehicles, a kit, parts, or fabricated components. The kit may be made up of "major components" as defined in § 46.2-1600, a full body, or a full chassis, or a combination of these parts. The vehicle shall resemble a vehicle of distinctive name, line-make, model, or type as produced by a licensed manufacturer or manufacturer no longer in business and is not a reconstructed or specially constructed vehicle as herein defined.

"Residence district" means the territory contiguous to a highway, not comprising a business district, where 75 percent or more of the property abutting such highway, on either side of the highway, for a distance of 300 feet or more along the highway consists of land improved for dwelling purposes, or is occupied by dwellings, or consists of land or buildings in use for business purposes, or consists of territory zoned residential or territory in residential subdivisions created under Chapter 22 (§ 15.2-2200 et seq.) of Title 15.2.

"Revoke" or "revocation" means that the document or privilege revoked is not subject to renewal or restoration except through reapplication after the expiration of the period of revocation.

"Roadway" means that portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of the shoulder. A highway may include two or more roadways if divided by a physical barrier or barriers or an unpaved area.

"Safety zone" means the area officially set apart within a roadway for the exclusive use of pedestrians and that is protected or is so marked or indicated by plainly visible signs.

"School bus" means any motor vehicle, other than a station wagon, automobile, truck, or commercial bus, which is: (i) designed and used primarily for the transportation of pupils to and from public, private or religious schools, or used for the transportation of the mentally or physically handicapped to and from a sheltered workshop; (ii) painted yellow and bears the words "School Bus" in black letters of a specified size on front and rear; and (iii) is equipped with warning devices prescribed in § 46.2-1090. A yellow school bus may have a white roof provided such vehicle is painted in accordance with regulations promulgated by the Department of Education.

"Semitrailer" means every vehicle of the trailer type so designed and used in conjunction with a motor vehicle that some part of its own weight and that of its own load rests on or is carried by another vehicle.

"Shared-use path" means a bikeway that is physically separated from motorized vehicular traffic by an open space or barrier and is located either within the highway right-of-way or within a separate right-of-way. Shared-use paths may also be used by pedestrians, skaters, users of wheel chairs or wheel chair conveyances, joggers, and other nonmotorized users and *electric personal delivery devices*.

"Shoulder" means that part of a highway between the portion regularly traveled by vehicular traffic and the lateral curbline or ditch.

"Sidewalk" means the portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines, intended for use by pedestrians.

"Snowmobile" means a self-propelled vehicle designed to travel on snow or ice, steered by skis or runners, and supported in whole or in part by one or more skis, belts, or cleats.

"Special construction and forestry equipment" means any vehicle which is designed primarily for highway construction, highway maintenance, earth moving, timber harvesting or other construction or forestry work and which is not designed for the transportation of persons or property on a public highway.

"Specially constructed vehicle" means any vehicle that was not originally constructed under a distinctive name, make, model, or type by a generally recognized manufacturer of vehicles and not a reconstructed vehicle as herein defined.

"Stinger-steered automobile or watercraft transporter" means an automobile or watercraft transporter configured as a semitrailer combination wherein the fifth wheel is located on a drop frame behind and below the rearmost axle of the power unit.

"Superintendent" means the Superintendent of the Department of State Police of the Commonwealth.

"Suspend" or "suspension" means that the document or privilege suspended has been temporarily withdrawn, but may be reinstated following the period of suspension unless it has expired prior to the end of the period of suspension.

"Tow truck" means a motor vehicle for hire (i) designed to lift, pull, or carry another vehicle by means of a hoist or other mechanical apparatus and (ii) having a manufacturer's gross vehicle weight rating of at least 10,000 pounds. "Tow truck" also includes vehicles designed with a ramp on wheels and a hydraulic lift with a capacity to haul or tow another vehicle, commonly referred to as "rollbacks." "Tow truck" does not include any "automobile or watercraft transporter," "stinger-steered automobile or watercraft transporter," or "tractor truck" as those terms are defined in this section.

"Towing and recovery operator" means a person engaged in the business of (i) removing disabled vehicles, parts of vehicles, their cargoes, and other objects to facilities for repair or safekeeping and (ii) restoring to the highway or other location where they either can be operated or removed to other locations for repair or safekeeping vehicles that have come to rest in places where they cannot be operated.

"Toy vehicle" means any motorized or propellant-driven device that has no manufacturer-issued vehicle identification number that is designed or used to carry any person or persons, on any number of wheels, bearings, glides, blades, runners, or a cushion of air. "Toy vehicle" does not include electric personal assistive mobility devices, electric power-assisted bicycles, mopeds, or motorcycles, nor does it include any nonmotorized or nonpropellant-driven devices such as bicycles, roller skates, or skateboards.

"Tractor truck" means every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the load and weight of the vehicle attached thereto.

"Traffic control device" means a sign, signal, marking, or other device used to regulate, warn, or guide traffic placed on, over, or adjacent to a street, highway, private road open to public travel, pedestrian facility, or shared-use path by authority of a public agency or official having jurisdiction, or in the case of a private road open to public travel, by authority of the private owner or private official having jurisdiction.

"Traffic infraction" means a violation of law punishable as provided in § 46.2-113, which is neither a felony nor a misdemeanor.

"Traffic lane" or "lane" means that portion of a roadway designed or designated to accommodate the forward movement of a single line of vehicles.

"Trailer" means every vehicle without motive power designed for carrying property or passengers wholly on its own structure and for being drawn by a motor vehicle, including manufactured homes.

"Truck" means every motor vehicle designed to transport property on its own structure independent of any other vehicle and having a registered gross weight in excess of 7,500 pounds. "Truck" does not include any pickup or panel truck.

"Truck lessor" means a person who holds the legal title to any motor vehicle, trailer, or semitrailer that is the subject of a bona fide written lease for a term of one year or more to another person, provided that: (i) neither the lessor nor the lessee is a common carrier by motor vehicle or restricted common carrier by motor vehicle or contract carrier by motor vehicle as defined in § 46.2-2000; (ii) the leased motor vehicle, trailer, or semitrailer is used exclusively for the transportation of property of the lessee; (iii) the lessor is not employed in any capacity by the lessee; (iv) the operator of the leased motor vehicle is a bona fide employee of the lessee and is not employed in any capacity by the lessor; and (v) a true copy of the lease, verified by affidavit of the lessor, is filed with the Commissioner.

"Utility vehicle" means a motor vehicle that is (i) designed for off-road use, (ii) powered by a motor, and (iii) used for general maintenance, security, agricultural, or horticultural purposes. "Utility vehicle" does not include riding lawn mowers.

"Vehicle" means every device in, on or by which any person or property is or may be transported or drawn on a highway, except *electric personal delivery devices* and devices moved by human power or used exclusively on stationary rails or tracks. For the purposes of Chapter 8 (§ 46.2-800 et seq.), bicycles, electric personal assistive mobility devices, electric power-assisted bicycles, and mopeds shall be vehicles while operated on a highway.

"Wheel chair or wheel chair conveyance" means a chair or seat equipped with wheels, typically used to provide mobility for persons who, by reason of physical disability, are otherwise unable to move about as pedestrians. "Wheel chair or wheel chair conveyance" includes both three-wheeled and four-wheeled devices. So long as it is operated only as provided in § 46.2-677, a self-propelled wheel chair or self-propelled wheel chair conveyance shall not be considered a motor vehicle.

**§ 46.2-904. Use of roller skates and skateboards on sidewalks and shared-use paths; operation of bicycles and certain motorized and electric items and devices on sidewalks, crosswalks, and shared-use paths; local ordinances.**

The governing body of any county, city, or town may by ordinance prohibit the use of roller skates ~~and~~, skateboards, *and electric personal delivery devices* and/or the riding of bicycles, electric personal assistive mobility devices, motorized skateboards or foot-scooters, motor-driven cycles, or electric power-assisted bicycles on designated sidewalks or crosswalks, including those of any church, school, recreational facility, or any business property open to the public where such activity is prohibited. Signs indicating such prohibition shall be conspicuously posted in general areas where use of roller skates ~~and~~, skateboards, *and electric personal delivery devices*, and/or bicycle, electric personal assistive mobility devices, motorized skateboards or foot-scooters, motor-driven cycles, or electric power-assisted bicycle riding is prohibited. *Unless otherwise prohibited, electric personal delivery devices may be operated on the sidewalks and shared-use paths and across the roadway on a crosswalk of any locality of the Commonwealth.*

A person riding a bicycle, electric personal assistive mobility device, motorized skateboard or foot-scooter, motor-driven cycle, or ~~an~~ electric power-assisted bicycle on a sidewalk, ~~or~~ shared-use path, ~~or~~ across a roadway on a

crosswalk; shall yield the right-of-way to any pedestrian and shall give an audible signal before overtaking and passing any pedestrian. *An electric personal delivery device operated on a sidewalk or shared-use path or across a roadway on a crosswalk shall yield the right-of-way to any pedestrian.*

No person shall ride a bicycle, electric personal assistive mobility device, motorized skateboard or foot-scooter, motor-driven cycle, or ~~an~~ electric power-assisted bicycle *or operate an electric personal delivery device* on a sidewalk, or across a roadway on a crosswalk, where such use of bicycles, electric personal assistive mobility devices, *electric personal delivery devices*, motorized skateboards or foot-scooters, motor-driven cycles, or electric power-assisted bicycles is prohibited by official traffic control devices.

A person riding a bicycle, electric personal assistive mobility device, motorized skateboard or foot-scooter, motor-driven cycle, or ~~an~~ electric power-assisted bicycle on a sidewalk; *or shared-use path;* or across a roadway on a crosswalk; shall have all the rights and duties of a pedestrian under the same circumstances. *An electric personal delivery device operated on a sidewalk or shared-use path or across a roadway on a crosswalk shall have all the rights and duties of a pedestrian under the same circumstances.*

A violation of any ordinance adopted pursuant to this section shall be punishable by a civil penalty of not more than \$50.

**§ 46.2-908. Registration of bicycle, electric personal assistive mobility device, electric personal delivery device, and electric power-assisted bicycle serial numbers.**

Any person who owns a bicycle, electric personal assistive mobility device, *electric personal delivery device*, or electric power-assisted bicycle may register its serial number with the local law-enforcement agency of the political subdivision in which such person resides.

**§ 46.2-908.1. Electric personal assistive mobility devices, electric personal delivery devices, electrically powered toy vehicles, and electric power-assisted bicycles.**

All electric personal assistive mobility devices, *electric personal delivery devices*, electrically powered toy vehicles, and electric power-assisted bicycles shall be equipped with spill-proof, sealed, or gelled electrolyte batteries. No person shall at any time or at any location (i) drive an electric personal assistive mobility device; or an electric power-assisted bicycle faster than ~~twenty-five~~ 25 miles per hour or (ii) *operate an electric personal delivery device at a speed faster than 10 miles per hour.* No person less than ~~fourteen~~ 14 years old shall drive any electric personal assistive mobility device, motorized skateboard or foot-scooter, or electric power-assisted bicycle unless under the immediate supervision of a person who is at least ~~eighteen~~ 18 years old.

An electric personal assistive mobility device or motorized skateboard or foot-scooter may be operated on any highway with a maximum speed limit of ~~twenty-five~~ 25 miles per hour or less. An electric personal assistive mobility device shall only operate on any highway authorized by this section if a sidewalk is not provided along such highway or if operation of the electric personal assistive mobility device on such sidewalk is prohibited pursuant to § 46.2-904. Nothing in this section shall prohibit the operation of an electric personal assistive mobility device, *electric personal delivery device*, or motorized skateboard or foot-scooter in the crosswalk of any highway where the use of such crosswalk is authorized for pedestrians, bicycles, or electric power-assisted bicycles.

Operation of electric personal assistive mobility devices, electrically powered toy vehicles, bicycles, and electric power-assisted bicycles is prohibited on any Interstate Highway System component except as provided by the section.

The Commonwealth Transportation Board may authorize the use of bicycles on an Interstate Highway System Component provided the operation is limited to bicycle or pedestrian facilities that are barrier separated from the roadway and automobile traffic and such component meets all applicable safety requirements established by federal and state law.

**§ 46.2-908.1:1. Electric personal delivery devices.**

A. *All electric personal delivery devices shall obey all traffic and pedestrian control devices and signs and include a plate or marker that is in a position and size to be clearly visible and identifies the name and contact information of the owner of the electric personal delivery device and a unique identifying device number.*

B. *All electric personal delivery devices shall be equipped with a braking system that, when active or engaged, will enable such electric personal delivery device to come to a controlled stop.*

C. *No electric personal delivery device shall transport hazardous materials, substances, or waste as defined in § 10.1-1400. For the purposes of this subsection, hazardous materials includes ammunition.*

D. *No electric personal delivery device shall be operated on a public highway in the Commonwealth, except to the extent necessary to cross an intersection or crosswalk.*

E. *No electric personal delivery device shall operate on a sidewalk or shared-use path or across a roadway on a crosswalk unless an electric personal delivery device operator is actively controlling or monitoring the navigation and operation of the electric personal delivery device.*

F. *Any entity or person who uses an electric personal delivery device to engage in criminal activity is criminally liable for such activity.*

**§ 46.2-1015. Lights on bicycles, electric personal assistive mobility devices, electric personal delivery devices, electric power-assisted bicycles, and mopeds.**

A. Every bicycle, electric personal assistive mobility device, *electric personal delivery device*, electric power-assisted bicycle, and moped when in use between sunset and sunrise shall be equipped with a headlight on the front emitting a white light visible in clear weather from a distance of at least 500 feet to the front and a red reflector visible from a distance of at

least 600 feet to the rear when directly in front of lawful lower beams of headlights on a motor vehicle. Such lights and reflector shall be of types approved by the Superintendent.

In addition to the foregoing provisions of this section, a bicycle or its rider may be equipped with lights or reflectors. These lights may be steady burning or blinking.

B. Every bicycle, or its rider, shall be equipped with a taillight on the rear emitting a red light plainly visible in clear weather from a distance of at least 500 feet to the rear when in use between sunset and sunrise and operating on any highway with a speed limit of 35 mph or greater. Any such taillight shall be of a type approved by the Superintendent.

**§ 46.2-2101. Exemptions from chapter.**

The following are exempt from this chapter:

1. Motor vehicles owned and operated by the United States, District of Columbia, any state, municipality, or any other political subdivision of the Commonwealth.
2. Transportation of property between any point in this Commonwealth and any point outside this Commonwealth or between any points wholly within the limits of any city or town in the Commonwealth. This exemption shall not apply to the insurance requirement imposed on motor carriers pursuant to § 46.2-2143.1.
3. Motor vehicles controlled and operated by a bona fide cooperative association as defined in the Federal Marketing Act, approved June 15, 1929, as amended, or organized or existing under Article 2 (§ 13.1-312 et seq.) of Chapter 3 of Title 13.1, while used exclusively in the conduct of the business of such association.
4. Motor vehicles while used exclusively in (i) carrying newspapers, water, livestock, poultry, poultry products, buttermilk, fresh milk and cream, meats, butter and cheese produced on a farm, fish (including shellfish), slate, horticultural or agricultural commodities (not including manufactured products thereof), and forest products, including lumber and staves (but not including manufactured products thereof), (ii) transporting farm supplies to a farm or farms, (iii) hauling for the Department of Transportation, (iv) carrying fertilizer to any warehouse or warehouses for subsequent distribution to a local area farm or farms, or (v) collecting and disposing of trash, garbage and other refuse.
5. Motor vehicles used for transporting property by an air carrier or carrier affiliated with a direct air carrier whether or not such property has had or will have a prior or subsequent air movement.
6. Motor carriers exclusively operating vehicles with a registered gross weight of 7,500 pounds or less for the sole purpose of providing courier service.
7. *Electric personal delivery devices as defined in § 46.2-100.*

**CHAPTER 252**

*An Act to amend and reenact § 54.1-2522.1, as it is currently effective, of the Code of Virginia and to amend and reenact the second enactment of Chapter 113 and the second enactment of Chapter 406 of the Acts of Assembly of 2016, relating to prescription of opioids; limit.*

[S 1232]

Approved February 24, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 54.1-2522.1, as it is currently effective, of the Code of Virginia is amended and reenacted as follows:**

**§ 54.1-2522.1. (Effective until July 1, 2019) Requirements of prescribers.**

A. Any prescriber who is licensed in the Commonwealth to treat human patients and is authorized pursuant to §§ 54.1-3303 and 54.1-3408 to issue a prescription for a covered substance shall be registered with the Prescription Monitoring Program by the Department of Health Professions.

B. A prescriber registered with the Prescription Monitoring Program or a person to whom he has delegated authority to access information in the possession of the Prescription Monitoring Program pursuant to § 54.1-2523.2 shall, at the time of initiating a new course of treatment to a human patient that includes the prescribing of opioids anticipated at the onset of treatment to last more than ~~4~~ *seven* consecutive days, request information from the Director for the purpose of determining what, if any, other covered substances are currently prescribed to the patient. In addition, any prescriber who holds a special identification number from the Drug Enforcement Administration authorizing the prescribing of controlled substances approved for use in opioid addiction therapy shall, prior to or as a part of execution of a treatment agreement with the patient, request information from the Director for the purpose of determining what, if any, other covered substances the patient is currently being prescribed. Nothing in this section shall prohibit prescribers from making additional periodic requests for information from the Director as may be required by routine prescribing practices.

C. A prescriber shall not be required to meet the provisions of subsection B if:

1. The opioid is prescribed to a patient currently receiving hospice or palliative care;
2. The opioid is prescribed to a patient as part of treatment for a surgical or invasive procedure and such prescription is ~~not refillable~~ *for no more than 14 consecutive days*;
3. The opioid is prescribed to a patient during an inpatient hospital admission or at discharge;
4. The opioid is prescribed to a patient in a nursing home or a patient in an assisted living facility that uses a sole source pharmacy;

5. The Prescription Monitoring Program is not operational or available due to temporary technological or electrical failure or natural disaster; or

6. The prescriber is unable to access the Prescription Monitoring Program due to emergency or disaster and documents such circumstances in the patient's medical record.

**2. That the second enactment of Chapter 113 and the second enactment of Chapter 406 of the Acts of Assembly of 2016 are amended and reenacted as follows:**

**2. That the provisions of this act shall expire on July 1, 2019 2022.**

**3. That the provisions of the first enactment of this act shall expire on July 1, 2022.**

**CHAPTER 253**

*An Act to amend and reenact § 56-607 of the Code of Virginia, relating to qualified projects of natural gas utilities; investments in eligible infrastructure.*

[S 1289]

Approved February 24, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 56-607 of the Code of Virginia is amended and reenacted as follows:**

**§ 56-607. Application and administration.**

A. A natural gas utility shall account for the actual monthly EIDC incurred on the cumulative investment in eligible infrastructure in excess of any aid to construction contributed by the developer of the project or the person that will occupy the proposed project as a deferred cost until new base rates and charges that incorporate EIDC become effective for the natural gas utility, following a Commission order establishing or confirming customer rates in a rate case using the cost of service methodology set forth in § 56-235.2 or a performance-based regulation plan authorized by § 56-235.6. Such deferred cost shall be accounted for as a regulatory asset and shall not be subject to write-off or write-down by the Commission in an earnings test filing made pursuant to Commission rules governing utility rate increases and annual informational filings.

B. The investment for all qualifying projects of a natural gas utility in any year shall not exceed one percent of the natural gas utility's net plant investment that was utilized in establishing base rates in the natural gas utility's most recent rate case. The provisions of this subsection shall not apply, however, to any natural gas utility serving fewer than ~~1,000~~ 2,000 residential customers and fewer than ~~250~~ 350 commercial and industrial customers in the year in which it makes an investment for qualifying projects.

C. Deferral of costs recovered pursuant to this chapter shall have no effect on the recovery of any other cost by the natural gas utility and shall not be included in any computation relative to a performance-based regulation plan revenue-sharing mechanism.

**CHAPTER 254**

*An Act to amend and reenact § 3.2-3112 of the Code of Virginia, relating to the Virginia Tobacco Region Revolving Fund; definition of project.*

[S 1463]

Approved February 24, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 3.2-3112 of the Code of Virginia is amended and reenacted as follows:**

**§ 3.2-3112. Definitions.**

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

"Authority" means the Virginia Resources Authority created in Chapter 21 (§ 62.1-197 et seq.) of Title 62.1.

"Commission" means the Tobacco Region Revitalization Commission created pursuant to § 3.2-3101.

"Cost," as applied to any project financed under the provisions of this chapter, means the total of all costs incurred by the local government as reasonable and necessary for carrying out all works and undertakings necessary or incident to the accomplishment of any project. It includes, without limitation, all necessary developmental, planning, and feasibility studies, surveys, plans, and specifications; architectural, engineering, financial, legal, or other special services; the cost of acquisition of land and any buildings and improvements thereon, including the discharge of any obligations of the sellers of such land, buildings, or improvements; site preparation and development, including demolition or removal of existing structures; construction and reconstruction; labor; materials, machinery, and equipment; the reasonable costs of financing incurred by the local government in the course of the development of the project; carrying charges incurred before the project is placed in service; interest on funds borrowed to finance the project to a date subsequent to the estimated date the project is to be placed in service; necessary expenses incurred in connection with placing the project in service; the funding of accounts and reserves that the Authority may require; and the cost of other items that the Authority determines to be reasonable and necessary.

"Endowment" means the Tobacco Indemnification and Community Revitalization Endowment as established in § 3.2-3104.

"Equity" means any contribution to a project other than debt financing, including a federal, state, or local grant, except that the grant shall not be a Commission grant.

"Fund" means the Virginia Tobacco Region Revolving Fund created by this chapter.

"Local government" means any county, city, town, municipal corporation, authority, district, commission, or political subdivision created by the General Assembly or pursuant to the Constitution of Virginia or laws of the Commonwealth, or any combination of any two or more of the foregoing, located in any of the tobacco-dependent communities in the Southside and Southwest regions of Virginia.

"Project" means the same as that term is defined in § 62.1-199 and any other proposal recommended for evaluation and disbursement by the Commission and credit approved by the Authority, subject to such conditions and policies as agreed to by the Commission and the Authority. Projects other than those defined in § 62.1-199 shall be eligible to borrow from the Fund only in the event that other funding for the project equal to 25 percent of the total cost of the project is available through equity.

## CHAPTER 255

*An Act to amend and reenact § 22.1-298.1 of the Code of Virginia, relating to teacher licensure; career and technical education; certain local waivers.*

[S 1583]

Approved February 24, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 22.1-298.1 of the Code of Virginia is amended and reenacted as follows:**

**§ 22.1-298.1. Regulations governing licensure.**

A. As used in this section:

"Alternate route to licensure" means a nontraditional route to teacher licensure available to individuals who meet the criteria specified in the regulations issued by the Board of Education.

"Industry certification credential" means an active career and technical education credential that is earned by successfully completing a Board of Education-approved industry certification examination, being issued a professional license in the Commonwealth, or successfully completing an occupational competency examination.

"Licensure by reciprocity" means a process used to issue a license to an individual coming into the Commonwealth from another state when that individual meets certain conditions specified in the Board of Education's regulations.

"Professional teacher's assessment" means those tests mandated for licensure as prescribed by the Board of Education.

"Provisional license" means a nonrenewable license issued by the Board of Education for a specified period of time, not to exceed three years, to an individual who may be employed by a school division in the Commonwealth and who generally meets the requirements specified in the Board of Education's regulations for licensure, but who may need to take additional coursework or pass additional assessments to be fully licensed with a renewable license.

"Renewable license" means a license issued by the Board of Education for five years to an individual who meets the requirements specified in the Board of Education's regulations.

B. The Board of Education shall prescribe, by regulation, the requirements for the licensure of teachers and other school personnel required to hold a license. Such regulations shall include requirements for the denial, suspension, cancellation, revocation, and reinstatement of licensure. The Board of Education shall revoke the license of any person for whom it has received a notice of dismissal or resignation pursuant to subsection F of § 22.1-313 and, in the case of a person who is the subject of a founded complaint of child abuse or neglect, after all rights to any appeal provided by § 63.2-1526 have been exhausted. Regardless of the authority of any other agency of the Commonwealth to approve educational programs, only the Board of Education shall have the authority to license teachers to be regularly employed by school boards, including those teachers employed to provide nursing education.

The Board of Education shall prescribe by regulation the licensure requirements for teachers who teach only online courses, as defined in § 22.1-212.23. Such license shall be valid only for teaching online courses. Teachers who hold a five-year renewable license issued by the Board of Education may teach online courses for which they are properly endorsed.

C. The Board of Education's regulations shall include requirements that a person seeking initial licensure:

1. Complete professional assessments as prescribed by the Board of Education;
2. Complete study in attention deficit disorder;
3. Complete study in gifted education, including the use of multiple criteria to identify gifted students; and
4. Complete study in methods of improving communication between schools and families and ways of increasing family involvement in student learning at home and at school.

D. In addition, such regulations shall include requirements that:

1. Every person seeking initial licensure or renewal of a license demonstrate proficiency in the use of educational technology for instruction;

2. Every person seeking initial licensure and persons seeking licensure renewal as teachers who have not completed such study shall complete study in child abuse recognition and intervention in accordance with curriculum guidelines developed by the Board of Education in consultation with the Department of Social Services that are relevant to the specific teacher licensure routes;

3. Every person seeking initial licensure or renewal of a license shall receive professional development in instructional methods tailored to promote student academic progress and effective preparation for the Standards of Learning end-of-course and end-of-grade assessments;

4. Every person seeking renewal of a license shall complete all renewal requirements, including professional development in a manner prescribed by the Board, except that no person seeking renewal of a license shall be required to satisfy any such requirement by completing coursework and earning credit at an institution of higher education;

5. Every person seeking initial licensure or renewal of a license shall provide evidence of completion of certification or training in emergency first aid, cardiopulmonary resuscitation, and the use of automated external defibrillators. The certification or training program shall be based on the current national evidence-based emergency cardiovascular care guidelines for cardiopulmonary resuscitation and the use of an automated external defibrillator, such as a program developed by the American Heart Association or the American Red Cross. The Board shall provide a waiver for this requirement for any person with a disability whose disability prohibits such person from completing the certification or training;

6. Every person seeking licensure with an endorsement as a teacher of the blind and visually impaired shall demonstrate proficiency in reading and writing Braille;

7. Every teacher seeking an initial license in the Commonwealth with an endorsement in the area of career and technical education shall have an industry certification credential in the area in which the teacher seeks endorsement. If a teacher seeking an initial license in the Commonwealth has not attained an industry certification credential in the area in which the teacher seeks endorsement, the Board may, upon request of the employing school division or educational agency, issue the teacher a provisional license to allow time for the teacher to attain such credential; and

8. (Effective July 1, 2017) Every person seeking initial licensure or renewal of a license shall complete awareness training, provided by the Department of Education, on the indicators of dyslexia, as that term is defined by the Board pursuant to regulations, and the evidence-based interventions and accommodations for dyslexia.

*E. Each local school board or division superintendent may waive for any individual whom it seeks to employ as a career and technical education teacher and who is also seeking initial licensure or renewal of a license with an endorsement in the area of career and technical education any applicable requirement set forth in subsection C or subdivision D 1, 3, 4, 6, or 8.*

*F. The Board's regulations shall require that initial licensure for principals and assistant principals be contingent upon passage of an assessment as prescribed by the Board.*

~~*G.*~~ *G. The Board shall establish criteria in its regulations to effectuate the substitution of experiential learning for coursework for those persons seeking initial licensure through an alternate route as defined in Board regulations.*

~~*H.*~~ *H. Notwithstanding any provision of law to the contrary, the Board (i) may provide for the issuance of a provisional license, valid for a period not to exceed three years, pursuant to subdivision D 7 or to any person who does not meet the requirements of this section or any other requirement for licensure imposed by law and (ii) shall provide for the issuance of a provisional license, valid for a period not to exceed three years, to any former member of the Armed Forces of the United States or the Virginia National Guard who has received an honorable discharge and has the appropriate level of experience or training but does not meet the requirements for a renewable license.*

~~*I.*~~ *I. The Board's licensure regulations shall also provide for licensure by reciprocity:*

1. With comparable endorsement areas for those individuals holding a valid out-of-state teaching license and national certification from the National Board for Professional Teaching Standards or a nationally recognized certification program approved by the Board of Education. The application for such individuals shall require evidence of such valid licensure and national certification and shall not require official student transcripts;

2. For individuals who have obtained a valid out-of-state license, with full credentials and without deficiencies, that is in force at the time the application for a Virginia license is received by the Department of Education. The individual must establish a file in the Department of Education by submitting a complete application packet, which shall include official student transcripts. An assessment of basic skills as provided in § 22.1-298.2 and service requirements shall not be imposed for these licensed individuals; however, other licensing assessments, as prescribed by the Board of Education, shall be required; and

3. The Board may include other provisions for reciprocity in its regulations.

## CHAPTER 256

*An Act to amend and reenact § 6, as amended, and § 7 of Chapter 206 of the Acts of Assembly of 1934 and to repeal §§ 10, 11, and 12 of Chapter 206 of the Acts of Assembly of 1934, which provided a charter for the Town of Quantico, relating to town officers.*

[H 1461]

Approved March 3, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 6, as amended, and § 7 of Chapter 206 of the Acts of Assembly of 1934 are amended and reenacted as follows:**

~~§ 6. The officers of the said town, in addition to the mayor and councilmen, shall be a treasurer, a clerk, and a sergeant. The treasurer, clerk and sergeant may reside within or outside the town boundaries. The council may by ordinance provide for such other officers, agents, and employees as it may deem appropriate, prescribe their duties and fix their compensation. The treasurer, clerk, and sergeant shall be elected by the council for a term of two years coincident with that of the council. The office of treasurer and clerk may be filled by the same person, who may by a vote of two-thirds of all the members of the council, be a member of the council.~~

§ 7. The council shall fix the salaries of the mayor, councilmen, ~~treasurer, clerk, and sergeant~~, and such other officers or agents as it may employ, which shall not be increased or diminished during their term of office of such officer or agent.

**2. That §§ 10, 11, and 12 of Chapter 206 of the Acts of Assembly of 1934 are repealed.**

**CHAPTER 257**

*An Act to amend and reenact § 54.1-2350 of the Code of Virginia, relating to the Common Interest Community Board; information on covenants; association disclosure packets.*

[H 1475]

Approved March 3, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 54.1-2350 of the Code of Virginia is amended and reenacted as follows:**

**§ 54.1-2350. Annual report and disclosure packets.**

In addition to the provisions of § 54.1-2349, the Board shall:

1. Administer the provisions of Chapter 29 (§ 55-528 et seq.) of Title 55;
2. Develop and disseminate an association annual report form for use in accordance with §§ 55-79.93:1, 55-504.1, and 55-516.1; and
3. Develop and disseminate a one-page form to accompany association disclosure packets required pursuant to § 55-509.5, which form shall summarize the unique characteristics of property owners' associations generally and shall make known to prospective purchasers the unusual and material circumstances affecting a lot owner in a property owners' association, including ~~but not limited to~~ (i) the obligation of a lot owner to pay regular annual or special assessments to the association, (ii) the penalty for failure or refusal to pay such assessments, (iii) the purposes for which such assessments may be used, ~~and~~ (iv) the importance the declaration of restrictive covenants and other governing documents play in association living, and (v) that the purchase contract for a lot within an association is a legally binding document once it is signed by the prospective purchaser where the purchaser has not elected to cancel the purchase contract in accordance with law.

**CHAPTER 258**

*An Act to amend and reenact § 54.1-2010 of the Code of Virginia, relating to real estate appraisers; exemptions from licensure.*

[H 1556]

Approved March 3, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 54.1-2010 of the Code of Virginia is amended and reenacted as follows:**

**§ 54.1-2010. Exemptions from licensure.**

A. The provisions of this chapter shall not apply to:

1. A real estate broker or salesperson licensed in the Commonwealth who, in the ordinary course of business, provides a valuation or analysis of real estate for a fee; however, such person shall not hold himself out as a real estate appraiser, and the valuation shall not be referred to as an appraisal and shall not be used in lieu of an appraisal performed by a licensed appraiser.
2. An officer or employee of the United States of America, or of the Commonwealth or a political subdivision thereof, where the employee or officer is performing his official duties, provided that such individual does not furnish advisory service for compensation to the public or act as an independent contracting party in the Commonwealth or any political subdivision thereof in connection with the appraisal of real estate or real property.
3. Any person who, in the ordinary course of business, provides consulting services or consultative brokerage for a fee, which services may include a valuation or analysis of real estate or standing or severed timber; provided such consulting services or consultative brokerage shall not be referred to as an appraisal and shall not be used in connection with obtaining a loan to finance or refinance real property or standing or severed timber or in connection with any federally related transaction.

4. Any person who, in the regular course of business, provides services to his employer, which services may include a valuation or analysis of real estate, provided such services shall not be referred to as an appraisal and shall not be used in lieu of an appraisal performed by an appraiser licensed hereunder.

5. Any person, *including (i) a licensed residential real estate appraiser, certified residential real estate appraiser, or certified general real estate appraiser or (ii) an employee of a financial institution or lender, who provides an evaluation of real estate or real property in connection with a real estate-related financial transaction where an appraisal by a state-certified or state-licensed appraiser is not required by the state or federal financial institution's regulatory agency engaging in, contracting for or regulating such real estate-related financial transaction or regulating the financial institution or lender engaged in or about to engage in such real estate-related financial transaction. The evaluations provided by such persons shall comply with any standards imposed by the state or federal financial institution's or lender's regulatory agencies for evaluations prepared by nonstate-certified or nonstate-licensed appraisers.*

B. Nothing contained herein shall proscribe the powers of a judge to determine who may qualify as an expert witness to testify in any legal proceeding.

## CHAPTER 259

*An Act to amend and reenact § 11-34.3 of the Code of Virginia, relating to energy performance-based contracting; cooperative procurement.*

[H 1712]

Approved March 3, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 11-34.3 of the Code of Virginia is amended and reenacted as follows:**

**§ 11-34.3. Energy Performance-Based Contract Procedures; required contract provisions.**

A. Any contracting entity may enter into an energy performance-based contract with an energy performance contractor to significantly reduce energy costs to a level established by the public body or operating costs of a facility through one or more energy conservation or operational efficiency measures. *For the purposes of this chapter, energy conservation or operational efficiency measures shall not include roof replacement projects.*

B. The energy performance contractor shall be selected through competitive sealed bidding or competitive negotiation as set forth in § 2.2-4302.1 or 2.2-4302.2. The evaluation of the request for proposal shall analyze the estimates of all costs of installation, maintenance, repairs, debt service, post installation project monitoring and reporting. *Notwithstanding any other provision of law, any contracting entity may purchase energy conservation or operational efficiency measures under an energy performance-based contract entered into by another contracting entity pursuant to this chapter even if it did not participate in the request for proposals if the request for proposals specified that the procurement was being conducted on behalf of other contracting entities.*

C. Before entering into a contract for energy conservation measures and facility technology infrastructure upgrades and modernization measures, the contracting entity shall require the performance contractor to provide a payment and performance bond relating to the installation of energy conservation measures and facility technology infrastructure upgrades and modernization measures in the amount the contracting entity finds reasonable and necessary to protect its interests.

D. Prior to the design and installation of the energy conservation measure, the contracting entity shall obtain from the energy performance contractor a report disclosing all costs associated with the energy conservation measure and providing an estimate of the amount of the energy cost savings. After reviewing the report, the contracting entity may enter into an energy performance-based contract if it finds (i) the amount the entity would spend on the energy conservation measures and facility and technology infrastructure upgrades and modernization measures recommended in the report will not exceed the amount to be saved in energy and operation costs more than 20 years from the date of installation, based on life-cycle costing calculations, if the recommendations in the report were followed and (ii) the energy performance contractor provides a written guarantee that the energy and operating cost savings will meet or exceed the costs of the system. The contract may provide for payments over a period of time not to exceed 20 years.

E. The term of any energy performance-based contract shall expire at the end of each fiscal year but may be renewed annually up to 20 years, subject to the contracting entity making sufficient annual appropriations based upon continued realized cost savings. Such contracts shall stipulate that the agreement does not constitute a debt, liability, or obligation of the contracting entity, or a pledge of the faith and credit of the contracting entity. Such contract may also provide capital contributions for the purchase and installation of energy conservation and facility and technology infrastructure upgrades and modernization measures that cannot be totally funded by the energy and operational savings.

F. An energy performance-based contract shall include the following provisions:

1. A guarantee by the energy performance contractor that annual energy and operational cost savings will meet or exceed the amortized cost of energy conservation measures. The guaranteed energy savings contract shall include a written guarantee of the qualified provider that either the energy or operational cost savings, or both, will meet or exceed within 20 years the costs of the energy and operational savings measures. The qualified provider shall reimburse the contracting entity for any shortfall of guaranteed energy savings projected in the contract.

2. A requirement that the energy performance contractor to whom the contract is awarded provide a 100 percent performance guarantee bond to the contracting entity for the installation and faithful performance of the installed energy savings measures as outlined in the contract document.

3. A requirement that the energy performance contractor provide to the contracting entity an annual reconciliation of the guaranteed energy cost savings. The energy performance contractor shall be liable for any annual savings shortfall that may occur.

G. The Department of Mines, Minerals and Energy (the Department) shall make a reasonable effort, as long as workload permits, to:

1. Provide general advice, upon request, to local governments that wish to consider pursuit of an energy performance-based contract pursuant to this section;

2. Annually compile a list of performance-based contracts entered into by local governments of which the Department may become aware.

## CHAPTER 260

*An Act to amend and reenact § 56-484.17 of the Code of Virginia, relating to the Wireless E-911 Fund; distribution percentages.*

[H 1719]

Approved March 3, 2017

### **Be it enacted by the General Assembly of Virginia:**

#### **1. That § 56-484.17 of the Code of Virginia is amended and reenacted as follows:**

##### **§ 56-484.17. Wireless E-911 Fund; uses of Fund; enforcement; audit required.**

A. There is hereby created in the state treasury a special nonreverting fund to be known as the Wireless E-911 Fund (the Fund). The Fund shall be established on the books of the Comptroller. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Except as provided in § 2.2-2031, moneys in the Fund shall be used for the purposes stated in subsections C through D. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Tax Commissioner or the Chief Information Officer of the Commonwealth.

B. Each CMRS provider and each CMRS reseller shall collect a wireless E-911 surcharge from each of its customers whose place of primary use is within the Commonwealth. However, no surcharge shall be imposed on federal, state and local government agencies. A payment equal to all wireless E-911 surcharges shall be remitted within 30 days to the Department of Taxation. The Department of Taxation, after subtracting its direct costs of administration, shall deposit all remitted wireless E-911 surcharges into the state treasury. The Comptroller shall as soon as practicable deposit such moneys into the Fund. Each CMRS provider and CMRS reseller may retain an amount equal to three percent of the wireless E-911 surcharges collected to defray the costs of collecting the surcharges. State and local taxes shall not apply to any wireless E-911 surcharge collected from customers. Surcharges collected from customers shall be subject to the provisions of the federal Mobile Telecommunications Sourcing Act (4 U.S.C. § 116 et seq., as amended).

The CMRS provider and CMRS reseller shall collect the surcharge through regular periodic billing.

C. Beginning July 1, 2012, 60 percent of the Wireless E-911 Fund shall be distributed on a monthly basis to the PSAPs according to each PSAP's average pro rata distribution from the Wireless E-911 Fund for fiscal years 2007-2012, taking into account any funding adjustments made pursuant to subsection E. On or before July 1, ~~2017~~ 2018, and every five years thereafter, the Department of Taxation shall recalculate the distribution percentage for each PSAP based on the cost and call load data of the PSAP for the previous five fiscal years, which data shall continue to be received by the Board and then reported to the Department of Taxation. The distribution from the Wireless E-911 Fund shall be made on a monthly basis to the PSAPs according to such distribution percentage beginning July 1 of such fiscal year.

D. Using 30 percent of the Wireless E-911 Fund, the Board shall provide payment to CMRS providers of wireless E-911 CMRS costs. For these purposes each CMRS provider shall submit to the Board on or before December 31 of each year an estimate of wireless E-911 CMRS costs it expects to incur during the next fiscal year of counties and municipalities in whose jurisdiction it operates. The Board shall review such estimates and advise each CMRS provider on or before the following March 1 whether its estimate qualifies for payment hereunder and whether the Wireless E-911 Fund is expected to be sufficient for such payment during said fiscal year. A CMRS provider with an approved estimate of costs shall submit its request for payment of such costs no later than four months after the end of the fiscal year in which the cost was incurred. If the portion of the Fund designated for CMRS provider cost payments is insufficient to provide full payment to each CMRS provider for its costs, no unpaid cost shall be paid in the following fiscal year. The remaining 10 percent of the Fund and any remaining funds for the previous fiscal year from the 30 percent for CMRS providers shall be distributed to PSAPs or on behalf of PSAPs based on grant requests received by the Board each fiscal year. The Board shall establish criteria for receiving and making grants from the Fund, including procedures for determining the amount of a grant and payment schedule; however, the grants must be to the benefit of wireless E-911. Any grant funding that has not been committed by the Board by the end of the fiscal year shall be distributed to the PSAPs based on the same distribution percentage used

during the fiscal year in which the funding was collected; however, the Board may retain some or all of this uncommitted funding for an identified funding need in the next fiscal year or for a reserve balance pursuant to a reserve balance policy adopted by the Board.

E. After the end of each fiscal year, on a schedule adopted by the Board, the Board shall audit the grant funding received by all recipients to ensure it was utilized in accordance with the grant requirements. For the fiscal year ending June 30, 2005, the Board shall determine whether qualifying payments to PSAP operators and CMRS providers during the preceding fiscal year exceeded or were less than the actual wireless E-911 PSAP costs or wireless E-911 CMRS costs of any PSAP operator or CMRS provider. Each funding recipient shall provide such verification of such costs as may be requested by the Board. Any overpayment shall be refunded to the Board or credited to payments during the then current fiscal year, on such schedule as the Board shall determine. If payments are less than the actual costs reported, the Board may include the additional funding in the then current fiscal year.

F. The Auditor of Public Accounts, or his legally authorized representatives, shall annually audit the Wireless E-911 Fund. The cost of such audit shall be borne by the Board and be payable from the Wireless E-911 Fund, as appropriate. The Board shall furnish copies of the audits to the Governor, the Public Safety Subcommittees of the Senate Committee on Finance and the House Committee on Appropriations, and the Virginia State Crime Commission.

G. The special tax authorized by § 58.1-1730 shall not be imposed on consumers of CMRS.

### CHAPTER 261

*An Act to amend the Code of Virginia by adding in Title 59.1 a chapter numbered 38.2, consisting of sections numbered 59.1-466.5, 59.1-466.6, and 59.1-466.7, relating to limitations on reselling tickets on an Internet ticketing platform; civil penalty.*

[H 1825]

Approved March 3, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding in Title 59.1 a chapter numbered 38.2, consisting of sections numbered 59.1-466.5, 59.1-466.6, and 59.1-466.7, as follows:**

#### CHAPTER 38.2.

#### TICKET RESALE RIGHTS ACT.

##### **§ 59.1-466.5. Definitions.**

*As used in this chapter, "event" means any professional concert, professional sporting event, or professional theatrical production, open to the public for which tickets are ordinarily sold.*

##### **§ 59.1-466.6. Ticket resale limitations; prohibition; exception.**

*A. No person that issues tickets for admission to an event shall issue any such ticket solely through a delivery method that substantially prevents the purchaser of the ticket from lawfully reselling the ticket on the Internet ticketing platform of the ticket purchaser's choice.*

*B. No person shall be discriminated against or denied admission to an event solely on the basis that the person resold a ticket, or purchased a resold ticket, on a specific Internet ticketing platform.*

*C. This section shall not apply to (i) student tickets issued for an event at an auxiliary enterprise facility financed with bonds issued under Article X, Section 9(d) of the Constitution of Virginia and supported in part by student fees or (ii) any concert or theater venue located within or adjacent to a national park that offers yearly memberships that include concert or theater tickets as part of the membership benefit.*

##### **§ 59.1-466.7. Enforcement; penalties.**

*A. The Attorney General may cause an action to be brought in the name of the Commonwealth to enjoin any violation of § 59.1-466.6 by any person and to recover a civil penalty in the amount of not less than \$1,000 nor more than \$5,000 for each such violation. Civil penalties paid pursuant to this section shall be deposited to the Literary Fund.*

*B. In an action brought under this section, the Attorney General may recover damages and such other relief allowed by law, including restitution on behalf of consumers injured by violations of §59.1-466.6.*

*C. In an action brought under this section, the Attorney General may recover reasonable expenses incurred in investigating and preparing the case, and attorneys' fees.*

*D. Whenever the Attorney General has reasonable cause to believe that any person has engaged in, is engaging in, or is about to engage in, any violation of § 59.1-466.6, the Attorney General is empowered to issue a civil investigative demand. The provisions of § 59.1-9.10 shall apply, mutatis mutandis, to civil investigative demands issued pursuant to this section.*

*E. Nothing in this section shall be construed as affecting any private cause of action that may exist under any law of the Commonwealth.*

## CHAPTER 262

*An Act to amend and reenact § 55-248.16 of the Code of Virginia, relating to the Virginia Residential Landlord and Tenant Act; tenant obligations.*

[H 1869]

Approved March 3, 2017

**Be it enacted by the General Assembly of Virginia:****1. That § 55-248.16 of the Code of Virginia is amended and reenacted as follows:****§ 55-248.16. Tenant to maintain dwelling unit.**

A. In addition to the provisions of the rental agreement, the tenant shall:

1. Comply with all obligations primarily imposed upon tenants by applicable provisions of building and housing codes materially affecting health and safety;
  2. Keep that part of the dwelling unit and the part of the premises that he occupies and uses as clean and safe as the condition of the premises permit;
  3. Keep that part of the dwelling unit and the part of the premises that he occupies free from insects and pests, as those terms are defined in § 3.2-3900, and to promptly notify the landlord of the existence of any insects or pests;
  4. Remove from his dwelling unit all ashes, garbage, rubbish and other waste in a clean and safe manner and in the appropriate receptacles provided by the landlord pursuant to § 55-248.13, if such disposal is on the premises;
  5. Keep all plumbing fixtures in the dwelling unit or used by the tenant as clean as their condition permits;
  6. Use in a reasonable manner all utilities and all electrical, plumbing, sanitary, heating, ventilating, air-conditioning and other facilities and appliances including elevators in the premises, and keep all utility services paid for by the tenant to the utility service provider or its agent on at all times during the term of the rental agreement;
  7. Not deliberately or negligently destroy, deface, damage, impair or remove any part of the premises or permit any person to do so whether known by the tenant or not;
  8. Not remove or tamper with a properly functioning smoke detector installed by the landlord, including removing any working batteries, so as to render the detector inoperative and shall maintain the smoke detector in accordance with the uniform set of standards for maintenance of smoke detectors established in the Uniform Statewide Building Code (§ 36-97 et seq.);
  9. Not remove or tamper with a properly functioning carbon monoxide alarm installed by the landlord, including removing any working batteries, so as to render the carbon monoxide detector inoperative and shall maintain the carbon monoxide alarm in accordance with the uniform set of standards for maintenance of carbon monoxide alarms established in the Uniform Statewide Building Code (§ 36-97 et seq.);
  10. Use reasonable efforts to maintain the dwelling unit and any other part of the premises that he occupies in such a condition as to prevent accumulation of moisture and the growth of mold, and to promptly notify the landlord of any moisture accumulation that occurs or of any visible evidence of mold discovered by the tenant;
  11. Not paint or disturb painted surfaces or make alterations in the dwelling unit without the prior written approval of the landlord provided (i) the dwelling unit was constructed prior to 1978 and therefore requires the landlord to provide the tenant with lead-based paint disclosures and (ii) the landlord has provided the tenant with such disclosures and the rental agreement provides that the tenant is required to obtain the landlord's prior written approval before painting, disturbing painted surfaces or making alterations in the dwelling unit;
  12. Be responsible for his conduct and the conduct of other persons on the premises with his consent whether known by the tenant or not, to ensure that his neighbors' peaceful enjoyment of the premises will not be disturbed; ~~and~~
  13. Abide by all reasonable rules and regulations imposed by the landlord pursuant to § 55-248.17; *and*
  14. *Be financially responsible for the added cost of treatment or extermination due to the tenant's unreasonable delay in reporting the existence of any insects or pests and be financially responsible for the cost of treatment or extermination due to the tenant's fault in failing to prevent infestation of any insects or pests in the area occupied.*
- B. If the duty imposed by subdivision 1 of subsection A is greater than any duty imposed by any other subdivision of that subsection, the tenant's duty shall be determined by reference to subdivision 1.

## CHAPTER 263

*An Act to amend and reenact § 40.1-49.4 of the Code of Virginia, relating to enforcement of occupational safety and health laws; civil penalties.*

[H 1883]

Approved March 3, 2017

**Be it enacted by the General Assembly of Virginia:****1. That § 40.1-49.4 of the Code of Virginia is amended and reenacted as follows:**

**§ 40.1-49.4. Enforcement of this title and standards, rules or regulations for safety and health; orders of Commissioner; proceedings in circuit court; injunctions; penalties.**

A. 1. If the Commissioner has reasonable cause to believe that an employer has violated any safety or health provision of Title 40.1 or any standard, rule or regulation adopted pursuant thereto, he shall with reasonable promptness issue a citation to the employer. Each citation shall be in writing and shall describe with particularity the nature of the violation or violations, including a reference to the provision of this title or the appropriate standards, rules or regulations adopted pursuant thereto, and shall include an order of abatement fixing a reasonable time for abatement of each violation.

2. The Commissioner may prescribe procedures for calling to the employer's attention de minimis violations which have no direct or immediate relationship to safety and health.

3. No citation may be issued under this section after the expiration of six months following the occurrence of any alleged violation.

4. (a) The Commissioner shall have the authority to propose civil penalties for cited violations in accordance with subsections G, H, I, and J of this section. In determining the amount of any proposed penalty he shall give due consideration to the appropriateness of the penalty with respect to the size of the business of the employer being charged, the gravity of the violation, the good faith of the employer, and the history of previous violations. In addition, the Commissioner shall have authority to assess interest on all past-due penalties and administrative costs incurred in the collection of penalties for such violations consistent with § 2.2-4805.

(b) After, or concurrent with, the issuance of a citation and order of abatement, and within a reasonable time after the termination of an inspection or investigation, the Commissioner shall notify the employer by certified mail or by personal service of the proposed penalty or that no penalty is being proposed. The proposed penalty shall be deemed to be the final order of the Commissioner and not subject to review by any court or agency unless, within 15 working days from the date of receipt of such notice, the employer notifies the Commissioner in writing that he intends to contest the citation, order of abatement or the proposed penalty or the employee or representative of employees has filed a notice in accordance with subsection B of this section and any such notice of proposed penalty, citation or order of abatement shall so state.

B. Any employee or representative of employees of an employer to whom a citation and order of abatement has been issued may, within 15 working days from the time of the receipt of the citation and order of abatement by the employer, notify the Commissioner, in writing, that they wish to contest the abatement time before the circuit court.

C. If the Commissioner has reasonable cause to believe that an employer has failed to abate a violation for which a citation has been issued within the time period permitted for its abatement, which time shall not begin to run until the entry of a final order in the case of any contest as provided in subsection E of this section initiated by the employer in good faith and not solely for delay or avoidance of penalties, a citation for failure to abate will be issued to the employer in the same manner as prescribed by subsection A of this section. In addition, the Commissioner shall notify the employer by certified mail or by personal service of such failure and of the penalty proposed to be assessed by reason of such failure. If, within 15 working days from the date of receipt of the notice of the proposed penalty, the employer fails to notify the Commissioner that he intends to contest the citation or proposed assessment of penalty, the citation and assessment as proposed shall be deemed a final order of the Commissioner and not subject to review by any court or agency.

D. Civil penalties owed under this section shall be paid to the Commissioner for deposit into the general fund of the Treasurer of the Commonwealth. The Commissioner shall prescribe procedures for the payment of proposed assessments of penalties which are not contested by employers. Such procedures shall include provisions for an employer to consent to abatement of the alleged violation and pay a proposed penalty or a negotiated sum in lieu of such penalty without admission of any civil liability arising from such alleged violation.

Final orders of the Commissioner or the circuit courts may be recorded, enforced and satisfied as orders or decrees of a circuit court upon certification of such orders by the Commissioner or the court as appropriate.

E. Upon receipt of a notice of contest of a citation, proposed penalty, order of abatement or abatement time pursuant to subdivision A 4 (b), subsection B or C of this section, the Commissioner shall immediately notify the attorney for the Commonwealth for the jurisdiction wherein the violation is alleged to have occurred and shall file a civil action with the circuit court. Upon issuance and service of process, the circuit court shall promptly set the matter for hearing without a jury. The circuit court shall thereafter issue a written order, based on findings of fact and conclusions of law, affirming, modifying or vacating the Commissioner's citation or proposed penalty, or directing other appropriate relief, and such order shall become final 21 days after its issuance. The circuit court shall provide affected employees or their representatives and employers an opportunity to participate as parties to hearings under this subsection.

F. 1. In addition to the remedies set forth above, the Commissioner may file a civil action with the clerk of the circuit court having equity jurisdiction over the employer or the place of employment involved asking the court to temporarily or permanently enjoin any conditions or practices in any place of employment which are such that a danger exists which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such danger can be eliminated through the enforcement procedures otherwise provided by this title. Any order issued under this section may require such steps to be taken as may be necessary to avoid, correct or remove such imminent danger and prohibit the employment or presence of any individual in locations or under conditions where such imminent danger exists, except individuals whose presence is necessary to avoid, correct or remove such imminent danger or to maintain the capacity of a continuous process operation to resume normal operations without a complete cessation of operations, or where a cessation of operations is necessary, to permit such to be accomplished in a safe and orderly manner. No order issued without prior notice to the employer shall be effective for more than five working days. Whenever and as soon as the Commissioner

concludes that conditions or practices described in this subsection exist in any place of employment and that judicial relief shall be sought, he shall immediately inform the affected employer and employees of such proposed course of action.

2. Any court described in this section shall also have jurisdiction, upon petition of the Commissioner or his authorized representative, to enjoin any violations of this title or the standards, rules or regulations promulgated thereunder.

3. If the Commissioner arbitrarily or capriciously fails to seek relief under subdivision 1 of this subsection, any employee who may be injured by reason of such failure, or the representative of such employee, may bring an action against the Commissioner in a circuit court of competent jurisdiction for a writ of mandamus to compel the Commissioner to seek such an order and for such further relief as may be appropriate.

G. Any employer who has received a citation for a violation of any safety or health provision of this title or any standard, rule or regulation promulgated pursuant thereto and such violation is specifically determined not to be of a serious nature may be assessed a civil penalty of up to ~~\$7,000~~ \$12,471, as such amount may be adjusted as provided in subsection P, for each such violation.

H. Any employer who has received a citation for a violation of any safety or health provision of this title or any standard, rule or regulation promulgated pursuant thereto and such violation is determined to be a serious violation shall be assessed a civil penalty of up to ~~\$7,000~~ \$12,471, as such amount may be adjusted as provided in subsection P, for each such violation.

I. Any employer who fails to abate a violation for which a citation has been issued within the period permitted for its abatement (which period shall not begin to run until the entry of the final order of the circuit court) may be assessed a civil penalty of not more than ~~\$7,000~~ \$12,471, as such amount may be adjusted as provided in subsection P, for each day during which such violation continues.

J. Any employer who willfully or repeatedly violates any safety or health provision of this title or any standard, rule or regulation promulgated pursuant thereto may be assessed a civil penalty of not more than ~~\$70,000~~ \$124,709, as such amount may be adjusted as provided in subsection P, for each such violation.

K. Any employer who willfully violates any safety or health provisions of this title or standards, rules or regulations adopted pursuant thereto, and that violation causes death to any employee, shall, upon conviction, be punished by a fine of not more than \$70,000 or by imprisonment for not more than six months, or by both such fine and imprisonment. If the conviction is for a violation committed after a first conviction of such person, punishment shall be a fine of not more than \$140,000 or by imprisonment for not more than one year, or by both such fine and imprisonment.

L. In any proceeding before a judge of a circuit court parties may obtain discovery by the methods provided for in the Rules of Supreme Court of Virginia.

M. No fees or costs shall be charged the Commonwealth by a court or any officer for or in connection with the filing of the complaint, pleadings, or other papers in any action authorized by this section or § 40.1-49.5.

N. Every official act of the circuit court shall be entered of record and all hearings and records shall be open to the public, except any information subject to protection under the provisions of § 40.1-51.4:1.

O. The provisions of Chapter 30 (§ 59.1-406 et seq.) of Title 59.1 shall be considered safety and health standards of the Commonwealth and enforced as to employers pursuant to this section by the Commissioner of Labor and Industry.

*P. Beginning in 2018, the Commissioner annually shall adjust the maximum civil penalties stated in subsections G through J each year by the percentage increase, if any, in the United States Average Consumer Price Index for all Urban Consumers (CPI-U), as published by the Bureau of Labor Statistics of the United States Department of Labor, from its monthly average for the previous calendar year. The amount of each adjustment to the maximum civil penalties shall be rounded to the nearest whole dollar. The adjustments to the maximum civil penalties shall be effective on each August 1. If the CPI-U is discontinued or revised, such other historical index or computation approved by the Commissioner shall be used for purposes of this section that would obtain substantially the same result as would have been obtained if the CPI-U had not been discontinued or revised.*

## CHAPTER 264

*An Act to amend and reenact §§ 2.2-1611 and 2.2-1615 of the Code of Virginia, relating to the Small Business Jobs Grant Fund Program.*

[H 1969]

Approved March 3, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 2.2-1611 and 2.2-1615 of the Code of Virginia are amended and reenacted as follows:**

**§ 2.2-1611. Small Business Jobs Grant Fund Program; composition; general qualifications.**

A. There is hereby created the Small Business Jobs Grant Fund Program (the Program) to support private sector job creation by encouraging the expansion of existing Virginia businesses and the start-up of new business operations in Virginia.

B. To be eligible for assistance under the Program, a company shall:

1. Create or sustain employment for the Commonwealth in a basic sector industry or function, which would include businesses or functions that directly or indirectly derive more than ~~50~~ 35 percent of their revenues from out-of-state sources, as determined by the Department;

2. Pay a minimum entry-level wage rate per hour of at least 1.35 times the federal minimum wage. In areas that have an unemployment rate of one and one-half times the statewide average unemployment rate, the wage rate minimum may be waived by the Department. Only full-time positions that qualify for benefits shall be eligible for assistance;

3. Submit copies of employer quarterly payroll reports provided by the company to the Virginia Employment Commission to verify the employment status of each position that has been included in a grant awarded under a component program; and

4. Meet such additional criteria as may be set forth by the Department.

**§ 2.2-1615. Small Business Jobs Grant Fund Program.**

A. As used in this section:

"Base year" means the calendar year immediately preceding the 24-month period in which a small business creates new full-time positions making it eligible for grants under this section.

"Capital investment" means an investment in real property, personal property, or both, at a manufacturing or basic nonmanufacturing facility within the Commonwealth that is or may be capitalized by the company and that establishes or increases the productivity of the manufacturing facility, results in the utilization of a more advanced technology than is in use immediately prior to such investment, or both.

"New full-time position" means employment of a resident of the Commonwealth for an indefinite duration in the Commonwealth at a small business requiring (i) a minimum of 35 hours of an employee's time per week for the entire normal year of the small business's operation, which "normal year" shall consist of at least 48 weeks, or (ii) a minimum of 1,680 hours per year. Seasonal, temporary, or contract positions or positions created when a job function is shifted from an existing location in the Commonwealth shall not qualify as a new full-time position.

"Small business" means an independently owned and operated business that has been organized pursuant to Virginia law or maintains a principal place of business in Virginia and has ~~250~~ 50 or fewer employees in its base year *and average annual gross receipts of \$3 million or less averaged over the previous 24-month period.*

B. The Department shall develop the Small Business Jobs Grant Fund Program to assist Virginia small businesses job creation.

C. In addition to the requirements of subsection B of § 2.2-1611 regarding company eligibility, to be eligible for assistance under the Program a company shall (i) create a minimum of five net new full-time positions and (ii) make a new capital investment of at least ~~\$100,000~~ \$50,000.

The Secretary of Commerce and Trade may waive these requirements, but shall promptly provide written notice of any such waiver to the Chairmen of the Senate Finance and House Appropriations Committees, which notice shall include a justification for any waiver of these requirements.

D. There is hereby created in the state treasury a permanent nonreverting fund to be known as the Small Business Jobs Grant Fund (the Fund). The Fund shall consist of (i) transfers from the Virginia Jobs Investment Program funded in the general appropriation act currently in effect and (ii) any other moneys designated for deposit to the Fund from any source, public or private. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. The Fund shall be managed and administered within the Department.

E. Moneys in the Fund shall be used solely for the purpose of providing grants to small businesses that create at least five new full-time positions within any 24-month period. A small business meeting the conditions of this section shall be eligible to receive a grant from the Fund ranging from \$500 to \$2,000 per each new full-time position that has been created based on criteria established by the Department pursuant to subsection G.

In awarding grants, priority shall be given to small businesses creating new full-time positions in areas with an annual average unemployment rate of more than 125 percent of the statewide average unemployment rate.

F. Grant payments under this section shall be conditional upon the small business substantially retaining (i) the number of full-time positions in its base year plus (ii) the number of new full-time positions for which grants are to be paid. In no case shall the retention period, as determined by the Department, for any new full-time position for which a grant is to be paid be less than 12 months.

No grant shall be awarded or paid for any new full-time position created prior to July 1, 2010. No grant shall be awarded or paid for any new full-time position created solely as a result of a merger, acquisition, or similar business combination or a change in business form unless such new full-time position is moved into the Commonwealth from outside of the Commonwealth.

G. The Department shall establish criteria for determining the amount of the grant to be awarded for each eligible new full-time position created by a small business that will be based on the level of education, training, and experience required for the job. Such criteria shall also (i) prohibit a small business from receiving more than one grant under this section for the same position and (ii) require the employee to be employed in the new full-time position for at least 90 days prior to the award of the grant.

H. The Department shall determine the qualifications, terms, and conditions for the use of the Fund and the accounts thereof. In connection with applications for claims made against the Fund, the Department may require the production of

any document, instrument, certificate, or legal opinion or any other information it deems necessary or convenient. All claims made against the Fund shall be approved by the Department.

### CHAPTER 265

*An Act to amend and reenact §§ 2.2-2471, 2.2-2471.1, and 2.2-2472 of the Code of Virginia, relating to the Virginia Board of Workforce Development.*

[H 2106]

Approved March 3, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 2.2-2471, 2.2-2471.1, and 2.2-2472 of the Code of Virginia are amended and reenacted as follows:**

**§ 2.2-2471. Virginia Board of Workforce Development; purpose; membership; terms; compensation and expenses; staff.**

A. The Virginia Board of Workforce Development (the Board) is established as a policy board, within the meaning of § 2.2-2100, in the executive branch of state government. The purpose of the Board shall be to assist and advise the Governor, the General Assembly, and the Chief Workforce Development Advisor in meeting workforce development needs in the Commonwealth through recommendation of policies and strategies to increase coordination and thus efficiencies of operation between all education and workforce programs with responsibilities and resources for employment, occupational training, and support connected to workforce credential and job attainment.

B. The Board shall consist of the following:

1. Two members of the House of Delegates to be appointed by the Speaker of the House of Delegates and two members of the Senate to be appointed by the Senate Committee on Rules. Legislative members shall serve terms coincident with their terms of office and may be reappointed for successive terms;

2. The Governor or his designee who shall be selected from among the cabinet-level officials appointed to the Board pursuant to subdivision 3;

3. The Secretaries of Commerce and Trade, Education, Health and Human Resources, and Veterans Affairs and Homeland Security, or their designees, each of whom shall serve ex officio;

4. The Chancellor of the Virginia Community College System or his designee, who shall serve ex officio; *and*

5. ~~One local elected official appointed by the Governor;~~

6. ~~Two representatives nominated by state labor federations and appointed by the Governor; and~~

7. ~~Fourteen nonlegislative Additional members appointed by the Governor as are required to ensure that the composition of the Board satisfies the requirements of the WIOA. The additional members shall include:~~

*a. Two local elected officials;*

*b. Eight members who shall be representatives of the workforce, to include (i) three representatives nominated by state labor federations, of which one shall be a representative of a joint-labor apprenticeship program; and (ii) at least one representative of a private career college; and*

*c. Twenty-one nonlegislative citizen members representing the business community appointed by the Governor, to include the presidents of the Virginia Chamber of Commerce and the Virginia Manufacturers Association, one representative of proprietary employment training schools, or their designees and the remaining members who are business owners, chief executive officers, chief operating officers, chief financial officers, senior managers, or other business executives or employers with optimum policy-making or hiring authority who represent life sciences and health care, information technology and cyber security, manufacturing, and other industry sectors that represent the Commonwealth's economic development priorities. Business members shall represent diverse regions of the state, to include urban, suburban, and rural areas, and at least two members shall also be members of local workforce development boards.*

Nonlegislative citizen members may be nonresidents of the Commonwealth. Members appointed in accordance with this subdivision shall serve four-year terms, subject to the pleasure of the Governor, and may be reappointed.

C. The Governor shall select a chairman and vice-chairman, who shall serve two-year terms, from among the 14 nonlegislative citizen members representing the business community appointed in accordance with subdivision B 7.5 c. The Board shall meet at least every three months or upon the call of the chair or the Governor as stipulated by the Board's bylaws. The chairman and the vice-chairman shall select at least five members of the Board to serve as an executive committee of the Board, which shall have the limited purpose of establishing meeting agendas, reviewing bylaws and other documents pertaining to Board governance and operations, approving reports to the Governor, and responding to urgent federal, state, and local issues between scheduled Board meetings.

D. Compensation and reimbursement of expenses of the members shall be as follows:

1. Legislative members appointed in accordance with subdivision B 1 shall receive such compensation and reimbursement of expenses incurred in the performance of their duties as provided in §§ 2.2-2813, 2.2-2825, and 30-19.12.

2. Members of the Board appointed in accordance with subdivision B 2, B 3, or B 4 shall not receive compensation but shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825.

3. Members of the Board appointed in accordance with subdivision B 5; ~~B 6, or B 7~~ shall not receive compensation but shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825.

Funding for the costs of compensation and expenses of the members shall be provided from federal funds received under the WIOA.

**§ 2.2-2471.1. Executive Director; staff support.**

A. Board staffing shall be led by a full-time Executive Director to be supervised by the Chief Workforce Development Advisor. Additional staff support, including staffing of standing committees, may include other directors or coordinators of relevant education and workforce programs as requested by the Chief Workforce Development Advisor and as in-kind support to the Board from agencies administering workforce programs.

B. The Chief Workforce Development Advisor shall enter into a written agreement with agencies administering workforce programs regarding supplemental staff support to Board committees and other logistical support for the Board. Such written agreements shall be provided to members of the Board upon request. Funding for a full-time Executive Director position shall be provided by *Title I of the WIOA*, and such position shall be dedicated to the support of the Board's operations and outcomes and the Board's operational budget as agreed upon and referenced in a written agreement between the Chief Workforce Development Advisor and the agencies administering workforce programs.

**§ 2.2-2472. Powers and duties of the Board; Virginia Workforce System created.**

A. The Board shall implement a Virginia Workforce System that shall undertake the following actions to implement and foster workforce development and training and better align education and workforce programs to meet current and projected skills requirements of an increasingly technological, global workforce:

1. Provide policy advice to the Governor on workforce and workforce development issues in order to create a business-driven system that yields increasing rates of attainment of workforce credentials in demand by business and increasing rates of jobs creation and attainment;

2. Provide policy direction to local workforce development boards;

3. Assist the Governor in the development, implementation, and modification of any combined state plan developed pursuant to the WIOA;

4. Identify current and emerging statewide workforce needs of the business community;

5. Forecast and identify training requirements for the new workforce;

6. Recommend strategies to match trained workers with available jobs to include strategies for increasing business engagement in education and workforce development;

7. Evaluate the extent to which the state's workforce development programs emphasize education and training opportunities that align with employers' workforce needs and labor market statistics and report the findings of this analysis to the Governor every two years;

8. Develop pay-for-performance contract strategy incentives for rapid reemployment services consistent with the WIOA as an alternative model to traditional programs;

9. Conduct a review of budgets, which shall be submitted annually to the Board by each agency conducting federal and state funded career and technical and adult education and workforce development programs, that identify the agency's sources and expenditures of administrative, workforce education and training, and support services for workforce development programs;

10. Review and recommend industry credentials that align with high demand occupations, which credentials shall include ~~the Career Readiness Certificate~~ a credential that determines career readiness;

11. Define the Board's role in certifying WIOA training providers, including those not subject to the authority expressed in Article 3 (§ 23.1-213 et seq.) of Chapter 2 of Title 23.1;

12. Provide an annual report to the Governor concerning its actions and determinations under subdivisions 1 through 11;

13. Create quality standards, guidelines, and directives applicable to local workforce development boards and the operation of one-stops, as necessary and appropriate to carry out the purposes of this article; and

14. Perform any act or function in accordance with the purposes of this article.

B. The Board may establish such committees as it deems necessary including the following:

1. A committee to accomplish the federally mandated requirements of the WIOA;

2. An advanced technology committee to focus on high-technology workforce training needs and skills attainment solutions through sector strategies, career readiness, and career pathways;

3. A performance and accountability committee to coordinate with the Virginia Employment Commission, the State Council of Higher Education for Virginia, the Virginia Community College System, and the Council on Virginia's Future to develop the metrics and measurements for publishing comprehensive workforce score cards and other longitudinal data that will enable the Virginia Workforce System to measure comprehensive accountability and performance; and

4. A military transition assistance committee to focus on workforce development and employment of veterans and on reducing process and qualification barriers to training and employment services.

C. The Board and the Governor's cabinet secretaries shall assist the Governor in complying with the provisions of the WIOA and ensuring the coordination and effectiveness of all federal and state funded career and technical and adult education and workforce development programs and providers within Virginia's Workforce System.

D. The Board shall assist the Governor in the following areas with respect to workforce development: development of any combined state plan developed pursuant to the WIOA; development and continuous improvement of a statewide workforce development system that ensures career readiness and coordinates and aligns career and technical education, adult education, and federal and state workforce programs; development of linkages to ensure coordination and nonduplication among programs and activities; designation of local areas; development of local discretionary allocation formulas; development and continuous improvement of comprehensive state performance measures including, without limitation, performance measures reflecting the degree to which one-stop centers provide comprehensive services with all mandatory partners and the degree to which local workforce development boards have obtained funding from sources other than the WIOA; preparation of the annual report to the U.S. Secretary of Labor; development of a statewide employment statistics system; and development of a statewide system of one-stop centers that provide comprehensive workforce services to employers, employees, and job seekers.

The Board shall share information regarding its meetings and activities with the public.

E. Each local workforce development board shall develop and submit to the Governor and the Board an annual workforce demand plan for its workforce development board area based on a survey of local and regional businesses that reflects the local employers' needs and requirements and the availability of trained workers to meet those needs and requirements. Local boards shall also designate or certify one-stop operators; identify eligible providers of youth activities; develop a budget; conduct local oversight of one-stop operators and training providers in partnership with its local chief elected official; negotiate local performance measures, including incentives for good performance and penalties for inadequate performance; assist in developing statewide employment statistics; coordinate workforce development activities with economic development strategies and the annual demand plan, and develop linkages among them; develop and enter into memoranda of understanding with one-stop partners and implement the terms of such memoranda; promote participation by the private sector; actively seek sources of financing in addition to WIOA funds; report performance statistics to the Board; and certify local training providers in accordance with criteria provided by the Board. Further, a local training provider certified by any workforce development board has reciprocal certification for all workforce development boards.

F. Each workforce development board shall develop and execute a strategic plan designed to combine public and private resources to support sector strategies, career pathways, and career readiness skills development. Such initiatives shall include or address (i) a regional vision for workforce development; (ii) protocols for planning workforce strategies that anticipate industry needs; (iii) the needs of incumbent and underemployed workers in the region; (iv) the development of partners and guidelines for various forms of on-the-job training, such as registered apprenticeships; (v) the setting of standards and metrics for operational delivery; (vi) alignment of monetary and other resources, including private funds and in-kind contributions, to support the workforce development system; and (vii) the generation of new sources of funding to support workforce development in the region.

G. Local workforce development boards are encouraged to implement pay-for-performance contract strategy incentives for rapid reemployment services consistent within the WIOA as an alternative model to traditional programs. Such incentives shall focus on (i) partnerships that lead to placements of eligible job seekers in unsubsidized employment and (ii) placement in unsubsidized employment for hard-to-serve job seekers. At the discretion of the local workforce development board, funds to the extent permissible under §§ 128(b) and 133(b) of the WIOA may be allocated for pay-for-performance partnerships.

H. Each chief local elected official shall consult with the Governor regarding designation of local workforce development areas; appoint members to the local board in accordance with state criteria; serve as the local grant recipient unless another entity is designated in the local plan; negotiate local performance measures with the Governor; ensure that all mandated partners are active participants in the local workforce development board and one-stop center; and collaborate with the local workforce development board on local plans and program oversight.

I. Each local workforce development board shall develop and enter into a memorandum of understanding concerning the operation of the one-stop delivery system in the local area with each entity that carries out any of the following programs or activities:

1. Programs authorized under Title I of the WIOA;
2. Programs authorized under the Wagner-Peyser Act (29 U.S.C. § 49 et seq.);
3. Adult education and literacy activities authorized under Title II of the WIOA;
4. Programs authorized under Title I of the Rehabilitation Act of 1973 (29 U.S.C. § 720 et seq.);
5. Postsecondary career and technical education activities authorized under the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. § 2301 et seq.);
6. Activities authorized under Chapter 2 of Title II of the Trade Act of 1974 (19 U.S.C. § 2271 et seq.);
7. Activities pertaining to employment and training programs for veterans authorized under 38 U.S.C. § 4100 et seq.;
8. Programs authorized under Title 60.2, in accordance with applicable federal law;
9. Workforce development activities or work requirements of the Temporary Assistance to Needy Families (TANF) program known in Virginia as the Virginia Initiative for Employment, Not Welfare (VIEW) program established pursuant to § 63.2-608;
10. Workforce development activities or work programs authorized under the Food Stamp Act of 1977 (7 U.S.C. § 2011 et seq.);

- 11. Other programs or activities as required by the WIOA; and
- 12. Programs authorized under Title I of the WIOA.

J. The quorum for a meeting of a local workforce development board shall consist of a majority of both the private sector and public sector members. Each local workforce development board shall share information regarding its meetings and activities with the public.

K. For the purposes of implementing the WIOA, income from service in the Virginia National Guard shall not disqualify unemployed service members from WIOA-related services.

L. The Chief Workforce Development Advisor shall be responsible for the coordination of the Virginia Workforce System and the implementation of the WIOA.

**2. That the provisions of this act shall not become effective if prior to July 1, 2017, the U.S. Department of Labor grants to the Commonwealth a waiver of the State Board membership composition requirements under § 101(b) of the federal Workforce Innovation and Opportunity Act of 2014 (P.L. 113-128) that permits the membership of the Virginia Board of Workforce Development to continue to be composed as provided in § 2.2-2471 of the Code of Virginia as in effect on January 1, 2017.**

**CHAPTER 266**

*An Act to amend and reenact § 2.2-4002 of the Code of Virginia, relating to the Administrative Process Act; exemption for Charitable Gaming Board.*

[H 2177]

Approved March 3, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 2.2-4002 of the Code of Virginia is amended and reenacted as follows:**

**§ 2.2-4002. Exemptions from chapter generally.**

A. Although required to comply with § 2.2-4103 of the Virginia Register Act (§ 2.2-4100 et seq.), the following agencies shall be exempted from the provisions of this chapter, except to the extent that they are specifically made subject to §§ 2.2-4024, 2.2-4030, and 2.2-4031:

- 1. The General Assembly.
- 2. Courts, any agency of the Supreme Court, and any agency that by the Constitution is expressly granted any of the powers of a court of record.
- 3. The Department of Game and Inland Fisheries in promulgating regulations regarding the management of wildlife and for all case decisions rendered pursuant to any provisions of Chapters 2 (§ 29.1-200 et seq.), 3 (§ 29.1-300 et seq.), 4 (§ 29.1-400 et seq.), 5 (§ 29.1-500 et seq.), and 7 (§ 29.1-700 et seq.) of Title 29.1.
- 4. The Virginia Housing Development Authority.
- 5. Municipal corporations, counties, and all local, regional or multijurisdictional authorities created under this Code, including those with federal authorities.
- 6. Educational institutions operated by the Commonwealth, provided that, with respect to § 2.2-4031, such educational institutions shall be exempt from the publication requirements only with respect to regulations that pertain to (i) their academic affairs, (ii) the selection, tenure, promotion and disciplining of faculty and employees, (iii) the selection of students, and (iv) rules of conduct and disciplining of students.
- 7. The Milk Commission in promulgating regulations regarding (i) producers' licenses and bases, (ii) classification and allocation of milk, computation of sales and shrinkage, and (iii) class prices for producers' milk, time and method of payment, butterfat testing and differential.
- 8. The Virginia Resources Authority.
- 9. Agencies expressly exempted by any other provision of this Code.
- 10. The Department of General Services in promulgating standards for the inspection of buildings for asbestos pursuant to § 2.2-1164.
- 11. The State Council of Higher Education for Virginia, in developing, issuing, and revising guidelines pursuant to § 23.1-207.
- 12. The Commissioner of Agriculture and Consumer Services in adopting regulations pursuant to subsection B of § 3.2-6002 and in adopting regulations pursuant to § 3.2-6023.
- 13. The Commissioner of Agriculture and Consumer Services and the Board of Agriculture and Consumer Services in promulgating regulations pursuant to subsections B and D of § 3.2-3601, subsection B of § 3.2-3701, § 3.2-4002, subsections B and D of § 3.2-4801, §§ 3.2-5121 and 3.2-5206, and subsection A of § 3.2-5406.
- 14. The Board of Optometry when specifying therapeutic pharmaceutical agents, treatment guidelines, and diseases and abnormal conditions of the human eye and its adnexa for TPA-certification of optometrists pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32 of Title 54.1.
- 15. The Commissioner of the Department of Veterans Services in adopting regulations pursuant to § 2.2-2001.3.
- 16. The State Board of Education, in developing, issuing, and revising guidelines pursuant to § 22.1-203.2.

17. The Virginia Racing Commission, (i) when acting by and through its duly appointed stewards or in matters related to any specific race meeting or (ii) in promulgating technical rules regulating actual live horse racing at race meetings licensed by the Commission.

18. The Virginia Small Business Financing Authority.

19. The Virginia Economic Development Partnership Authority.

20. The Board of Agriculture and Consumer Services in adopting, amending or repealing regulations pursuant to subsection A (ii) of § 59.1-156.

21. The Insurance Continuing Education Board pursuant to § 38.2-1867.

22. The Board of Health in promulgating the list of diseases that shall be reported to the Department of Health pursuant to § 32.1-35 and in adopting, amending or repealing regulations pursuant to subsection C of § 35.1-14 that incorporate the Food and Drug Administration's Food Code pertaining to restaurants or food service.

23. The Commissioner of the Marine Resources Commission in setting a date of closure for the Chesapeake Bay purse seine fishery for Atlantic menhaden for reduction purposes pursuant to § 28.2-1000.2.

24. The Board of Pharmacy when specifying special subject requirements for continuing education for pharmacists pursuant to § 54.1-3314.1.

25. The Virginia Department of Veterans Services when promulgating rules and regulations pursuant to § 58.1-3219.7.

26. The Virginia Department of Criminal Justice Services when developing, issuing, or revising any training standards established by the Criminal Justice Services Board under § 9.1-102, provided such actions are authorized by the Governor in the interest of public safety.

B. Agency action relating to the following subjects shall be exempted from the provisions of this chapter:

1. Money or damage claims against the Commonwealth or agencies thereof.

2. The award or denial of state contracts, as well as decisions regarding compliance therewith.

3. The location, design, specifications or construction of public buildings or other facilities.

4. Grants of state or federal funds or property.

5. The chartering of corporations.

6. Customary military, militia, naval or police functions.

7. The selection, tenure, dismissal, direction or control of any officer or employee of an agency of the Commonwealth.

8. The conduct of elections or eligibility to vote.

9. Inmates of prisons or other such facilities or parolees therefrom.

10. The custody of persons in, or sought to be placed in, mental health facilities or penal or other state institutions as well as the treatment, supervision, or discharge of such persons.

11. Traffic signs, markers or control devices.

12. Instructions for application or renewal of a license, certificate, or registration required by law.

13. Content of, or rules for the conduct of, any examination required by law.

14. The administration of pools authorized by Chapter 47 (§ 2.2-4700 et seq.).

15. Any rules for the conduct of specific lottery games, so long as such rules are not inconsistent with duly adopted regulations of the Virginia Lottery Board, and provided that such regulations are published and posted.

16. Orders condemning or closing any shellfish, finfish, or crustacea growing area and the shellfish, finfish or crustacea located thereon pursuant to Article 2 (§ 28.2-803 et seq.) of Chapter 8 of Title 28.2.

17. Any operating procedures for review of child deaths developed by the State Child Fatality Review Team pursuant to § 32.1-283.1 and any operating procedures for review of adult deaths developed by the Adult Fatality Review Team pursuant to § 32.1-283.5.

18. The regulations for the implementation of the Health Practitioners' Monitoring Program and the activities of the Health Practitioners' Monitoring Program Committee pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1.

19. The process of reviewing and ranking grant applications submitted to the Commonwealth Neurotrauma Initiative Advisory Board pursuant to Article 12 (§ 51.5-178 et seq.) of Chapter 14 of Title 51.5.

20. Loans from the Small Business Environmental Compliance Assistance Fund pursuant to Article 4 (§ 10.1-1197.1 et seq.) of Chapter 11.1 of Title 10.1.

21. The Virginia Breeders Fund created pursuant to § 59.1-372.

22. The types of pari-mutuel wagering pools available for live or simulcast horse racing.

23. The administration of medication or other substances foreign to the natural horse.

24. *Any rules adopted by the Charitable Gaming Board for the approval and conduct of game variations for the conduct of raffles, bingo, network bingo, and instant bingo games, provided that such rules are (i) consistent with Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2 and (ii) published and posted.*

C. Minor changes to regulations published in the Virginia Administrative Code under the Virginia Register Act (§ 2.2-4100 et seq.), made by the Virginia Code Commission pursuant to § 30-150, shall be exempt from the provisions of this chapter.

CHAPTER 267

*An Act to amend and reenact § 2.2-2319 of the Code of Virginia, relating to the Virginia Tourism Authority; Cooperative Marketing Fund; eligibility.*

[H 2278]

Approved March 3, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 2.2-2319 of the Code of Virginia is amended and reenacted as follows:**

**§ 2.2-2319. Cooperative Marketing Fund.**

A. There is established the Cooperative Marketing Fund (Marketing Fund) for the purpose of encouraging, stimulating, and supporting the tourism segment of the economy of the Commonwealth and the direct and indirect benefits that flow from the success of such industry. To create the public-private partnership envisioned by such Marketing Fund, the Marketing Fund shall be established out of the sums appropriated by the General Assembly for the purpose of matching ~~private~~ *eligible* funds to be used for the promotion, marketing, and advertising of the Commonwealth's many tourist attractions and locations. *Proposals for new programs as well as existing programs with measurable return on investment* shall be eligible for matching grant funds under this section only if they promote, benefit, market and advertise locations or destinations that are (i) solely within the territorial limits of the Commonwealth or (ii) in both the Commonwealth and any adjoining state, in which instance the matching grant funds should be used to promote locations and destinations located within the territorial limits of the Commonwealth. The funds made available in the appropriations act for the Marketing Fund shall be administered and managed by the Authority.

B. In the event more than one person seeks to take advantage of the benefits conferred by this section and the Marketing Fund is insufficient to accommodate all such requests, the matching formula shall be adjusted, to the extent practicable, to afford each request for which there is a valid public purpose an equitable share.

C. All persons seeking to receive or qualify for such matching funds shall apply to the Authority in January of the year preceding the fiscal year for which funds are sought, and to the extent the Governor concurs in such funding request, it shall be reflected in the Governor's Budget Bill filed pursuant to § 2.2-1509. The application shall set forth the applicant's proposals in detail. The Authority shall develop guidelines setting forth the criteria it will weigh in considering such applications; such guidelines may indicate a preference for proposals submitted by nonprofit organizations *or state agencies*. The guidelines may require that as a condition of receiving any grant or other incentive that is based on employment goals, a recipient company must provide copies of employer quarterly payroll reports provided to the Virginia Employment Commission to verify the employment status of any position included in the employment goal.

CHAPTER 268

*An Act to amend the Code of Virginia by adding in Title 59.1 a chapter numbered 38.2, consisting of sections numbered 59.1-466.5, 59.1-466.6, and 59.1-466.7, relating to limitations on reselling tickets on an Internet ticketing platform; civil penalty.*

[S 1425]

Approved March 3, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding in Title 59.1 a chapter numbered 38.2, consisting of sections numbered 59.1-466.5, 59.1-466.6, and 59.1-466.7, as follows:**

*CHAPTER 38.2.*

*TICKET RESALE RIGHTS ACT.*

**§ 59.1-466.5. Definitions.**

*As used in this chapter, "event" means any professional concert, professional sporting event, or professional theatrical production, open to the public for which tickets are ordinarily sold.*

**§ 59.1-466.6. Ticket resale limitations; prohibition; exception.**

A. *No person that issues tickets for admission to an event shall issue any such ticket solely through a delivery method that substantially prevents the purchaser of the ticket from lawfully reselling the ticket on the Internet ticketing platform of the ticket purchaser's choice.*

B. *No person shall be discriminated against or denied admission to an event solely on the basis that the person resold a ticket, or purchased a resold ticket, on a specific Internet ticketing platform.*

C. *This section shall not apply to (i) student tickets issued for an event at an auxiliary enterprise facility financed with bonds issued under Article X, Section 9(d) of the Constitution of Virginia and supported in part by student fees or (ii) any concert or theater venue located within or adjacent to a national park that offers yearly memberships that include concert or theater tickets as part of the membership benefit.*

**§ 59.1-466.7. Enforcement; penalties.**

A. *The Attorney General may cause an action to be brought in the name of the Commonwealth to enjoin any violation of § 59.1-466.6 by any person and to recover a civil penalty in the amount of not less than \$1,000 nor more than \$5,000 for each such violation. Civil penalties paid pursuant to this section shall be deposited to the Literary Fund.*

B. *In an action brought under this section, the Attorney General may recover damages and such other relief allowed by law, including restitution on behalf of consumers injured by violations of § 59.1-466.6.*

C. *In an action brought under this section, the Attorney General may recover reasonable expenses incurred in investigating and preparing the case, and attorneys' fees.*

D. *Whenever the Attorney General has reasonable cause to believe that any person has engaged in, is engaging in, or is about to engage in, any violation of § 59.1-466.6, the Attorney General is empowered to issue a civil investigative demand. The provisions of § 59.1-9.10 shall apply, mutatis mutandis, to civil investigative demands issued pursuant to this section.*

E. *Nothing in this section shall be construed as affecting any private cause of action that may exist under any law of the Commonwealth.*

## CHAPTER 269

*An Act to amend and reenact § 54.1-2010 of the Code of Virginia, relating to real estate appraisers; exemptions from licensure.*

[S 1535]

Approved March 3, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 54.1-2010 of the Code of Virginia is amended and reenacted as follows:**

**§ 54.1-2010. Exemptions from licensure.**

A. The provisions of this chapter shall not apply to:

1. A real estate broker or salesperson licensed in the Commonwealth who, in the ordinary course of business, provides a valuation or analysis of real estate for a fee; however, such person shall not hold himself out as a real estate appraiser, and the valuation shall not be referred to as an appraisal and shall not be used in lieu of an appraisal performed by a licensed appraiser.

2. An officer or employee of the United States of America, or of the Commonwealth or a political subdivision thereof, where the employee or officer is performing his official duties, provided that such individual does not furnish advisory service for compensation to the public or act as an independent contracting party in the Commonwealth or any political subdivision thereof in connection with the appraisal of real estate or real property.

3. Any person who, in the ordinary course of business, provides consulting services or consultative brokerage for a fee, which services may include a valuation or analysis of real estate or standing or severed timber; provided such consulting services or consultative brokerage shall not be referred to as an appraisal and shall not be used in connection with obtaining a loan to finance or refinance real property or standing or severed timber or in connection with any federally related transaction.

4. Any person who, in the regular course of business, provides services to his employer, which services may include a valuation or analysis of real estate, provided such services shall not be referred to as an appraisal and shall not be used in lieu of an appraisal performed by an appraiser licensed hereunder.

5. Any person, including (i) a licensed residential real estate appraiser, certified residential real estate appraiser, or certified general real estate appraiser or (ii) an employee of a financial institution or lender, who provides an evaluation of real estate or real property in connection with a real estate-related financial transaction where an appraisal by a state-certified or state-licensed appraiser is not required by the state or federal financial institution's regulatory agency engaging in, contracting for or regulating such real estate-related financial transaction or regulating the financial institution or lender engaged in or about to engage in such real estate-related financial transaction. The evaluations provided by such persons shall comply with any standards imposed by the state or federal financial institution's or lender's regulatory agencies for evaluations prepared by nonstate-certified or nonstate-licensed appraisers.

B. Nothing contained herein shall proscribe the powers of a judge to determine who may qualify as an expert witness to testify in any legal proceeding.

## CHAPTER 270

*An Act to amend and reenact § 2.2-1505 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 10.1-2211.2, relating to historical African American cemeteries and graves.*

[H 1547]

Approved March 3, 2017

Be it enacted by the General Assembly of Virginia:

1. That § 2.2-1505 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 10.1-2211.2 as follows:

§ 2.2-1505. Estimates by nonstate agencies of amounts needed.

A. Except as provided in §§ 10.1-2211, 10.1-2211.1, 10.1-2211.2, 10.1-2212, and 10.1-2213, no state funds shall be appropriated or expended for, or to, nonstate agencies unless:

1. A request for state aid is filed by the organization with the Department of Planning and Budget, as required by § 2.2-1504.

2. The nonstate agency certifies to the satisfaction of the Department that matching funds are available in cash from local or private sources in an amount at least equal to the amount of the request. These matching funds shall be concurrent with the purpose for which state funds are requested. Contributions received and spent prior to the state grant shall not be considered in satisfying the requirements of this subdivision.

3. The nonstate agency provides documentation of its tax exempt status under § 501(c)(3) of the United States Internal Revenue Code.

B. (Effective until October 1, 2016) Except as provided in §§ 23-38.11 through 23-38.18, no state funds shall be appropriated to, or expended for, a private institution of higher education or religious organization.

B. (Effective October 1, 2016) Except as provided in §§ 23.1-628 through 23.1-635, no state funds shall be appropriated to, or expended for, a private institution of higher education or religious organization.

C. For the purposes of this section, a "nonstate agency" means any public or private foundation, authority, institute, museum, corporation or similar organization that is not a unit of state government or a political subdivision of the Commonwealth as established by general law or special act. It shall not include any such entity that receives state funds as a subgrantee of a state agency or through a state grant-in-aid program authorized by law.

§ 10.1-2211.2. Disbursement of funds appropriated for caring for historical African American cemeteries and graves.

A. For purposes of this section:

"Historical African American cemetery" means a cemetery that was established prior to January 1, 1900, for interments of African Americans and is owned by a public body or qualified charitable organization.

"Qualified charitable organization" means a charitable corporation, charitable association, or charitable trust that has been granted tax-exempt status under § 501(c)(3) of the Internal Revenue Code and whose primary purpose is the preservation of historical cemeteries and graves.

B. At the direction of the Director, the Comptroller of the Commonwealth shall draw an annual warrant upon the State Treasurer from any sum that may be provided in the general appropriation act in favor of the treasurer of a qualified charitable organization caring for any cemetery set forth in this subsection. Such appropriations shall be allocated on the basis of the number of graves, monuments, and markers in a cemetery of African Americans who lived at any time between January 1, 1800, and January 1, 1900, the dates to be determined by reference to grave markers or, at the discretion of the Director, other historical records. Such number of graves, monuments, and markers, as set forth opposite the cemetery name or as documented by the qualified charitable organization, shall be multiplied by the rate of \$5 or the average actual cost of routine maintenance of a grave, monument, or marker, whichever is greater, to determine the amount of the allocation. The Department shall determine the average actual cost of routine maintenance of a grave, monument, or marker in a biennial survey of at least four properly maintained cemeteries, each located in a different geographical region of the Commonwealth.

IN THE COUNTY OF:	NUMBER:
Henrico	
East End Cemetery	4,875
IN THE CITY OF:	NUMBER:
Richmond	
Evergreen Cemetery	2,100

C. An organization receiving funds shall expend the funds for the routine maintenance of its historical African American cemetery and its graves and the erection of and caring for markers, memorials, and monuments to the memory of such African Americans.

D. Each qualified charitable organization, through its proper officer, shall after July 1 of each year submit to the Director a certified statement that the funds appropriated to the organization during the preceding fiscal year were or will be expended for the purposes set forth in subsection C. No organization that fails to comply with any of the requirements of this section shall receive moneys allocated under this section for any subsequent fiscal year until the organization fully complies with the requirements.

E. In addition to funds that may be provided pursuant to subsection B, any organization set forth in subsection B may apply to the Director for a grant to perform extraordinary maintenance, renovation, repair, or reconstruction of any of its

historical African American cemeteries and graves. Such a grant shall be made from any appropriation made available by the General Assembly for such purpose.

F. No local matching funds shall be required for any grants made pursuant to this section.

#### CHAPTER 271

An Act to amend the Code of Virginia by adding a section numbered 24.2-106.01, relating to description of duties and responsibilities of local electoral boards; Department of Elections to provide annually to certain entities.

[H 1730]

Approved March 3, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding a section numbered 24.2-106.01 as follows:**

**§ 24.2-106.01. Description of duties and responsibilities; required affirmation.**

A. The State Board, with the cooperation of the local electoral boards and general registrars, shall develop a description of the duties and responsibilities of the local electoral boards and update such description as needed. Such description shall include the statutory and regulatory duties and responsibilities of the electoral boards, prohibited activities of the electoral boards and members of electoral boards, and the qualifications and disqualifications of members of electoral boards.

B. The Department shall provide to the clerks of the circuit courts, the chairmen of the state and district political party committees, the general registrars, and the local electoral boards the description developed pursuant to subsection A. Such description shall be provided no later than the first day of December each year.

C. Each person nominated for appointment to a local electoral board shall certify that he has read the description developed pursuant to this section and affirm prior to his appointment pursuant to § 24.2-106 that he will faithfully discharge all duties and responsibilities set forth in that description.

#### CHAPTER 272

An Act to authorize the issuance of special license plates for supporters of highway safety.

[H 1763]

Approved March 3, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. § 1. Special license plates for supporters of highway safety.**

On receipt of an application and following the provisions of § 46.2-725 of the Code of Virginia, the Commissioner of the Department of Motor Vehicles shall issue to the applicant special license plates for supporters of highway safety, including awareness of distracted driving.

The provisions of subdivisions B 1 and 2 of § 46.2-725 shall not apply to license plates issued under this section.

Notwithstanding subdivision B 3 of § 46.2-725, for each set of license plates issued under this section, the Commissioner shall only charge, in addition to the prescribed cost of state license plates, a one-time fee of \$10 at the time the plates are issued.

#### CHAPTER 273

An Act to amend and reenact §§ 2.2-229, 33.2-214.1, 33.2-222, and 33.2-256 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 33.2-214.2, relating to Department of Transportation; Office of Intermodal Planning and Investment of the Secretary of Transportation; responsibilities.

[H 2241]

Approved March 3, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 2.2-229, 33.2-214.1, 33.2-222, and 33.2-256 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 33.2-214.2 as follows:**

**§ 2.2-229. Office of Intermodal Planning and Investment of the Secretary of Transportation.**

A. There is hereby established the Office of Intermodal Planning and Investment of the Secretary of Transportation (*the Office*), consisting of a director, appointed by the Secretary of Transportation, and such additional transportation professionals as the Secretary of Transportation shall determine. ~~The goals of the Office are to provide solutions that link existing systems; promote the coordination of transportation investments and land use planning; reduce congestion; improve safety, mobility, and accessibility; and provide for greater travel options.~~ It shall be the duty of the director of the office ~~to Office to support and advise the Secretary, the Virginia Aviation Board, the Virginia Port Authority Board, and the~~

~~Commonwealth Transportation Board on intermodal issues, generally in his role as chairman of the Commonwealth Transportation Board.~~

*B. The goals of the Office shall be:*

*1. To promote transparency and accountability of the programming of transportation funds, including the development of the Six-Year Improvement Program pursuant to § 33.2-214 and the statewide prioritization process pursuant to § 33.2-214.1;*

*2. To ensure that the Commonwealth has a multimodal transportation system that promotes economic development and all transportation modes, intermodal connectivity, environmental quality, accessibility for people and freight, and transportation safety;*

*3. To encourage the use of innovation and best practices to improve the efficiency of the Commonwealth's surface transportation network and to enhance the efficacy of strategies to improve such efficiency; and*

*4. To promote the coordination between transportation investments and land use planning.*

*C. The responsibilities of the Office shall be:*

*1. To ~~identify transportation solutions to promote economic development and all transportation modes, intermodal connectivity, environmental quality, accessibility for people and freight, and transportation safety~~ oversee and coordinate with the Department of Transportation and the Department of Rail and Public Transportation the development of the Six-Year Improvement Program pursuant to § 33.2-214 for the Commonwealth Transportation Board;*

*2. To implement the statewide prioritization process developed by the Commonwealth Transportation Board pursuant to § 33.2-214.1 in coordination with the Department of Transportation and the Department of Rail and Public Transportation;*

*3. To ~~assist develop for the Commonwealth Transportation Board in the development of Board's approval~~ the Statewide Transportation Plan pursuant to § 33.2-353;*

*4. To develop measures and targets related to the performance of the Commonwealth's surface transportation network for the Commonwealth Transportation Board's approval and report annually on progress made to achieve such targets in coordination with the Department of Transportation and the Department of Rail and Public Transportation and to develop in coordination with applicable regional organizations quantifiable and achievable goals pursuant to § 33.2-353;*

~~*5. To undertake, identify, coordinate, and oversee studies of potential highway, transit, rail, and other improvements or strategies, to help address mobility and accessibility within corridors of statewide significance and regional networks, and promote commuter choice inclusion in the six-year improvement program needs identified in the Statewide Transportation Plan pursuant to § 33.2-353;*~~

*4. To work with and coordinate action of the Virginia Department of Transportation, the Virginia Department of Rail and Public Transportation, the Virginia Port Authority, and the Virginia Department of Aviation to promote intermodal and multimodal solutions in each agency's strategic and long-range plans;*

*5. To work with and review plans of regional transportation agencies and authorities to promote intermodal and multimodal solutions;*

*6. To work with and coordinate actions of the agencies of the transportation Secretariat to assess freight movements and promote intermodal and multimodal solutions to address freight needs, including assessment of intermodal facilities;*

*7. To assess and coordinate transportation safety needs related to passenger and freight movements by all transportation modes;*

*8. To coordinate the adequate accommodation of pedestrian, bicycle, and other forms of nonmotorized transportation in the six-year improvement program and other state and regional transportation plans;*

~~*9. 6. To work with and coordinate actions of the agencies of the transportation Secretariat to implement*~~ *assist the Commonwealth Transportation Board in the development of a comprehensive, multimodal transportation policy, which may be developed as part of the Statewide Transportation Plan pursuant to § 33.2-353; and*

~~*10. To develop quantifiable and achievable goals pursuant to § 33.2-353 and transportation and land use performance measures and prepare an annual performance report on state and regional efforts. The Office of Intermodal Planning and Investment shall work with applicable regional organizations to develop such goals;*~~

~~*11. To identify and facilitate public and private partnerships to achieve the goals of state and regional plans;*~~

~~*12. 7. To provide technical assistance to local governments and regional entities, including assistance to establish and promote urban development areas pursuant to § 15.2-2223.1; and*~~

~~*13. To establish standards for the coordination of transportation investments and land use planning to promote commuter choice and transportation system efficiency.*~~

**§ 33.2-214.1. Statewide prioritization process for project selection.**

A. The General Assembly declares it to be in the public interest that a prioritization process for projects funded by the Commonwealth Transportation Board be developed and implemented to improve the efficiency and effectiveness of the state's transportation system, transportation safety, transportation accessibility for people and freight, environmental quality, and economic development in the Commonwealth.

B. Subject to the limitations in subsection C, the Commonwealth Transportation Board shall develop, in accordance with federal transportation requirements, and in cooperation with metropolitan planning organizations wholly within the Commonwealth and with the Northern Virginia Transportation Authority, a statewide prioritization process for the use of funds allocated pursuant to §§ 33.2-358, 33.2-370, and 33.2-371 or apportioned pursuant to 23 U.S.C. § 104. Such

prioritization process shall be used for the development of the Six-Year Improvement Program pursuant to § 33.2-214 and shall consider, at a minimum, highway, transit, rail, roadway, technology operational improvements, and transportation demand management strategies.

1. The prioritization process shall be based on an objective and quantifiable analysis that considers, at a minimum, the following factors relative to the cost of the project or strategy: congestion mitigation, economic development, accessibility, safety, and environmental quality.

2. Prior to the analysis in subdivision 1, candidate projects and strategies shall be screened by the Commonwealth Transportation Board to determine whether they are consistent with the assessment of capacity needs for all for corridors of statewide significance, regional networks, and improvements to promote urban development areas established pursuant to § 15.2-2223.1, undertaken in the Statewide Transportation Plan in accordance with § 33.2-353.

3. The Commonwealth Transportation Board shall weight the factors used in subdivision 1 for each of the state's highway construction districts. The Commonwealth Transportation Board may assign different weights to the factors, within each highway construction district, based on the unique needs and qualities of each highway construction district.

4. The Commonwealth Transportation Board shall solicit input from localities, metropolitan planning organizations, transit authorities, transportation authorities, and other stakeholders in its development of the prioritization process pursuant to this section. Further, the Board shall explicitly consider input provided by an applicable metropolitan planning organization or the Northern Virginia Transportation Authority when developing the weighting of factors pursuant to subdivision 3 for a metropolitan planning area with a population over 200,000 individuals.

C. The prioritization process developed under subsection B shall not apply to the following: projects or activities undertaken pursuant to § 33.2-352; projects funded by the Congestion Mitigation Air Quality funds apportioned to the state pursuant to 23 U.S.C. § 104(b)(4) and state matching funds; projects funded by the Highway Safety Improvement Program funds apportioned to the state pursuant to 23 U.S.C. § 104(b)(3) and state matching funds; projects funded by the Transportation Alternatives funds set-aside pursuant to 23 U.S.C. § 213 and state matching funds; projects funded by the revenue-sharing program pursuant to § 33.2-357; and projects funded by federal programs established by the federal government after June 30, 2014, with specific rules that restrict the types of projects that may be funded, excluding restrictions on the location of projects with regard to highway functional classification. The Commonwealth Transportation Board may, at its discretion, develop a prioritization process for any of the funds covered by this subsection, subject to planning and funding requirements of federal law.

~~D. The Commonwealth Transportation Board shall make public, in an accessible format, the results of the screening and analysis of candidate projects and strategies under subsection B, including the weighting of factors and the criteria used to determine the value of each factor, no later than 30 days prior to a vote on such projects or strategies.~~

**§ 33.2-214.2. Transparency in the development of the Six-Year Improvement Program, statewide prioritization process, and state of good repair program.**

A. *The Board shall develop the Six-Year Improvement Program pursuant to § 33.2-214 in a transparent manner that provides to the public, elected officials, and other stakeholders the opportunity to engage and comment in a meaningful manner prior to the adoption of such program.*

B. *No later than 150 days prior to a vote to include projects or strategies evaluated pursuant to § 33.2-214.1 in the Six-Year Improvement Program, the Office of Intermodal Planning and Investment shall make public, in an accessible format, (i) a recommended list of projects and strategies for inclusion in the Six-Year Improvement Program based on the results of such evaluation, (ii) the results of the screening of candidate projects and strategies, and (iii) the results of the evaluation of candidate projects and strategies, including the weighting of factors and the criteria used to determine the value of each factor.*

C. *The Department shall make public a recommended list of projects eligible for funds under the state of good repair program pursuant to § 33.2-369 from the listing of prioritized pavement and bridge needs published in the Commissioner's annual report pursuant to § 33.2-232 at least 150 days prior to the adoption of a Six-Year Improvement Program that includes new projects with funding from such program.*

D. *The Board may modify the recommended list of projects in subsection B or C through formal action.*

**§ 33.2-222. Commissioner of Highways.**

The Commissioner of Highways shall be the chief executive officer of the Department of Transportation. The Commissioner of Highways shall be an experienced administrator able to direct and guide the Department in the establishment and achievement of the ~~Commonwealth's long-range highway~~ *Department's core mission as provided in subsection B of § 33.2-256* and other transportation objectives *determined by the Commonwealth Transportation Board.*

The Commissioner of Highways shall devote his entire time and attention to his duties as chief executive officer of the Department and shall receive such compensation as shall be fixed by law. He shall also be reimbursed for his actual travel expenses while engaged in the discharge of his duties.

In the event of a vacancy due to the death, temporary disability, retirement, resignation, or removal of the Commissioner of Highways, the Governor may appoint and thereafter remove at his pleasure an "Acting Commissioner of Highways" until such time as the vacancy may be filled as provided in § 33.2-200. Such "Acting Commissioner of Highways" shall have all powers and perform all duties of the Commissioner of Highways as provided by law and shall receive such compensation as may be fixed by the Governor. In the event of the temporary disability for any reason of the Commissioner of Highways, full effect shall be given to the provisions of § 2.2-605.

**§ 33.2-256. Department of Transportation established.**

A. There is hereby created a Department of Transportation within the executive branch, which shall be under the supervision and management of the Commissioner of Highways and responsible to the Secretary of Transportation.

B. *The core mission of the Department shall be as follows:*

1. *To maintain and operate the system of state highways;*
2. *To develop, oversee, and manage highway projects included in the Six-Year Improvement Program pursuant to § 33.2-214 based on guidance from the Commonwealth Transportation Board or funded pursuant to § 33.2-1524; and*
3. *To ensure the safety of the traveling public on the system of state highways.*

*Nothing in this subsection shall be construed to limit or restrict the powers otherwise granted to the Department or Commissioner.*

**CHAPTER 274**

*An Act to amend the Code of Virginia by adding in Article 7 of Chapter 2 of Title 2.2 a section numbered 2.2-220.4, relating to National Flood Insurance Program; report.*

[H 2319]

Approved March 3, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding in Article 7 of Chapter 2 of Title 2.2 a section numbered 2.2-220.4 as follows:**

**§ 2.2-220.4. National Flood Insurance Program; annual report.**

*The Secretary shall report participation by affected localities in the Community Rating System (CRS) of the National Flood Insurance Program (42 U.S.C. § 4001 et seq.) to the Governor and the General Assembly no later than November 1, 2018. The report shall list any affected locality that does not participate in the CRS, determine the costs and benefits to localities of participation in the CRS, and recommend any legislation necessary to encourage participation.*

**CHAPTER 275**

*An Act to amend and reenact § 24.2-710 of the Code of Virginia, relating to absentee ballots; expediting the counting of absentee ballots returned by mail prior to election day.*

[S 960]

Approved March 3, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 24.2-710 of the Code of Virginia is amended and reenacted as follows:**

**§ 24.2-710. Further duties of electoral board and general registrar; absentee voter applicant lists.**

On receipt of an absentee ballot, the electoral board or general registrar shall mark the date of receipt in the appropriate column opposite the name and address of the voter on the absentee voter applicant list maintained in the general registrar's office. A board member or registrar shall deposit the return envelope and the unopened ballot envelope in an appropriate container provided for the purpose, in which they shall remain until the day of the election, *unless the registrar opts to open sealed ballot envelopes in order to expedite the counting of absentee ballots in accordance with § 24.2-709.1.*

On the day before the election, the general registrar shall (i) make out in triplicate on a form prescribed by the State Board the absentee voter applicant list containing the names of all persons who applied for an absentee ballot through the third day before the election and (ii) by noon on the day before the election, deliver two copies of the list to the electoral board. The general registrar shall make out a supplementary list containing the names of all persons voting absentee in person pursuant to §§ 24.2-705.1 and 24.2-705.2, or applying to vote absentee pursuant to § 24.2-705, for delivery by 5:00 p.m. on the day before the election. The supplementary list shall be deemed part of the absentee voter applicant list and shall be prepared and delivered in accordance with the instructions of the State Board. The general registrar shall maintain one copy of the list in his office for two years as a public record open for inspection upon request during regular office hours.

On the day before the election, the electoral board shall deliver one copy of the list provided to it by the general registrar to the chief officer of election for each precinct. The list shall be attested by the secretary of the electoral board who shall be responsible for the delivery of the attested lists to the chief officer of election for each precinct.

Absentee ballots shall be accepted only from voters whose names appear on the attested list.

Before the polls close on the day of the election, the electoral board shall deliver the absentee ballot containers to, and obtain a receipt from, the officers of election at each appropriate precinct. Any ballot returned to the electoral board or general registrar prior to the closing of the polls, but after the ballot container has been delivered, shall be delivered in an appropriate container to the officers of election at each appropriate precinct. The containers shall be sealed prior to delivery to the officers and shall contain the sealed absentee ballots, the accompanying return envelopes, and a copy of the absentee voter applicant list for each precinct.

If the county or city uses a central absentee voter precinct pursuant to § 24.2-712, the lists and containers shall be delivered, as provided in this section, to the officers of election for the absentee precinct.

Before noon on the day following the election, the general registrar shall deliver all applications for absentee ballots for the election, under seal, to the clerk of the circuit court for the county or city, except that the general registrar may retain all applications for absentee ballots until the electoral board has ascertained the results of the election pursuant to § 24.2-671, and has determined the validity of and counted all provisional ballots pursuant to § 24.2-653, at which point all applications shall then be delivered, under seal, to the clerk of the circuit court for the county or city. The clerk shall retain the sealed applications with the counted ballots.

The secretary of the electoral board shall deliver all absentee ballots received after the election to the clerk of the circuit court.

Upon request, the State Board shall provide an electronic copy of the absentee voter applicant list to any political party or candidate. Such lists shall be used only for campaign and political purposes. In no event shall any list furnished under this section contain (i) any voter's social security number or any part thereof, (ii) any voter's day and month of birth, or (iii) the residence address of any voter who has provided a post office box address to be used on public lists pursuant to § 24.2-418.

### CHAPTER 276

*An Act to amend and reenact § 24.2-711 of the Code of Virginia, relating to absentee voting; processing of rejected absentee ballots.*

[S 961]

Approved March 3, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 24.2-711 of the Code of Virginia is amended and reenacted as follows:**

**§ 24.2-711. Duties of officers of election.**

Before the polls open, the officers of election at each precinct shall mark, for each person on the absentee voter applicant list, the letters "AB" (meaning absentee ballot) in the voting record column on the pollbook. The pollbook may be so marked prior to election day by the general registrar, the secretary of the electoral board, or staff under the direction of the general registrar or the secretary, or when the pollbook is produced by the State Board pursuant to § 24.2-404. If the pollbook has been marked prior to election day, before the polls open the officers of election at each precinct shall check the marks for accuracy and make any additions or corrections required.

The chief officer of election shall keep the copy of the absentee voter applicant list in the polling place as a public record open for inspection upon request at all times while the polls are open.

If a voter, whose name appears on the absentee voter applicant list, has not returned an unused ballot and offers to vote in his precinct, the officers of election in the precinct shall determine the matter pursuant to §§ 24.2-653.1 and 24.2-708.

Immediately after the close of the polls, the container of absentee ballots shall be opened by the officers of election. As each ballot envelope is removed from the container, the name of the voter shall be called and checked as if the voter were voting in person. If the voter is found entitled to vote, an officer shall mark the voter's name on the pollbook with the first or next consecutive number from the voter count form, or shall enter that the voter has voted if the pollbook is in electronic form. The ballot envelope shall then be opened, and the ballot deposited in the ballot container without being unfolded or examined. If the voter is found not entitled to vote, the unopened envelope shall be rejected. An unopened envelope shall not be rejected on the sole basis of a voter's failure to provide in the statement on the back of the unopened envelope his full middle name or his middle initial, unless the voter also failed to provide his full first and last name. An unopened envelope shall not be rejected on the sole basis of a voter's failure to provide the date, or any part of the date, including the year, on which he signed the statement printed on the back of the envelope. ~~A majority of the officers~~ *At least two officers of election, one representing each political party,* shall write and sign a statement of the cause for rejection on the envelope or on an attachment to the envelope.

When all ballots have been accounted for and either voted or rejected, the officers shall place the empty ballot envelopes, the return envelopes, and any rejected ballot envelopes, in one envelope provided for the purpose and seal and deliver it with the ballots cast at the election as provided in this title.

### CHAPTER 277

*An Act to amend and reenact §§ 46.2-1600, 46.2-1603, 46.2-1603.2, 46.2-1604, 46.2-1605, and 46.2-1606 of the Code of Virginia, relating to titling salvage vehicles.*

[S 1069]

Approved March 3, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 46.2-1600, 46.2-1603, 46.2-1603.2, 46.2-1604, 46.2-1605, and 46.2-1606 of the Code of Virginia are amended and reenacted as follows:**

**§ 46.2-1600. Definitions.**

The following words, terms, and phrases when used in this chapter shall have the meaning ascribed to them in this section, except where the context indicates otherwise:

"Actual cash value," as applied to a vehicle, means the retail cash value of the vehicle prior to damage as determined, using recognized evaluation sources, either (i) by an insurance company responsible for paying a claim or (ii) if no insurance company is responsible therefor, by the Department.

"Auto recycler" means any person licensed by the Commonwealth to engage in business as a salvage dealer, rebuilder, demolisher, or scrap metal processor.

"Cosmetic damage," as applied to a vehicle, means damage to custom or performance aftermarket equipment, audio-visual accessories, nonfactory-sized tires and wheels, custom paint, and external hail damage. "Cosmetic damage" does not include (i) damage to original equipment and parts installed by the manufacturer or (ii) damage that requires any repair to enable a vehicle to pass a safety inspection pursuant to § 46.2-1157. The cost for cosmetic damage repair shall not be included in the cost to repair the vehicle when determining the calculation for a nonrepairable vehicle.

"Current salvage value," as applied to a vehicle, means (i) the salvage value of the vehicle, as determined by the insurer responsible for paying the claim, or (ii) if no insurance company is responsible therefor, 25 percent of the actual cash value.

"Demolisher" means any person whose business is to crush, flatten, bale, shred, log, or otherwise reduce a vehicle to a state where it can no longer be considered a vehicle.

"Diminished value compensation" means the amount of compensation that an insurance company pays to a third party vehicle owner, in addition to the cost of repairs, for the reduced value of a vehicle due to damage.

"Independent appraisal firm" means any business providing cost estimates for the repair of damaged motor vehicles for insurance purposes and having all required business licenses and zoning approvals. This term shall not include insurance companies that provide the same service, nor shall any such entity be a rebuilder or affiliated with a rebuilder.

"Late model vehicle" means the current-year model of a vehicle and the five preceding model years, or any vehicle whose actual cash value is determined to have been at least \$10,000 prior to being damaged.

"Licensee" means any person who is licensed or is required to be licensed under this chapter.

"Major component" means any one of the following subassemblies of a motor vehicle: (i) front clip assembly, consisting of the fenders, grille, hood, bumper, and related parts; (ii) engine; (iii) transmission; (iv) rear clip assembly, consisting of the quarter panels, floor panels, trunk lid, bumper, and related parts; (v) frame; (vi) air bags; and (vii) any door that displays a vehicle identification number.

"Nonrepairable certificate" means a document of ownership issued by the Department for any nonrepairable vehicle upon surrender or cancellation of the vehicle's title and registration or salvage certificate.

"Nonrepairable vehicle" means (i) any late model vehicle that has been damaged and whose estimated cost of repair, excluding the cost to repair cosmetic damages, exceeds 90 percent of its actual cash value prior to damage; (ii) any vehicle that has been determined to be nonrepairable by its insurer or owner, and for which a nonrepairable certificate has been issued or applied for; or (iii) any other vehicle that has been damaged, is inoperable, and has no value except for use as parts and scrap metal.

"Rebuilder" means any person who acquires and repairs, for use on the public highways, two or more salvage vehicles within a 12-month period.

"Rebuilt vehicle" means (i) any salvage vehicle that has been repaired for use on the public highways and the estimated cost of repair did not exceed 90 percent of its actual cash value or (ii) any late model vehicle that has been repaired and the estimated cost of repair exceeded 75 percent of its actual cash value, excluding the cost to repair damage to the engine, transmission, or drive axle assembly.

"Repairable vehicle" means a late model vehicle that is not a rebuilt vehicle, but is repaired to its pre-loss condition by an insurance company and is not accepted by the owner of said vehicle immediately prior to its acquisition by said insurance company as part of the claims process.

"Salvage certificate" means a document of ownership issued by the Department for any salvage vehicle upon surrender or cancellation of the vehicle's title and registration.

"Salvage dealer" means any person who acquires any vehicle for the purpose of reselling any parts thereof *or who acquires and sells any salvage vehicle as a unit except as permitted by subdivision B 2 of § 46.2-1602.*

"Salvage pool" means any person providing a storage service for salvage vehicles or nonrepairable vehicles who either displays the vehicles for resale or solicits bids for the sale of salvage vehicles or nonrepairable vehicles, but this definition shall not apply to an insurance company that stores and displays fewer than 100 salvage vehicles and nonrepairable vehicles in one location; however, any two or more insurance companies who display salvage and nonrepairable vehicles for resale, using the same facilities, shall be considered a salvage pool.

"Salvage vehicle" means (i) any late model vehicle that has been (a) acquired by an insurance company as a part of the claims process other than a stolen vehicle or (b) damaged as a result of collision, fire, flood, accident, trespass, or any other occurrence to such an extent that its estimated cost of repair, excluding charges for towing, storage, and temporary replacement/rental vehicle or payment for diminished value compensation, would exceed its actual cash value less its current salvage value; (ii) any recovered stolen vehicle acquired by an insurance company as a part of the claims process, whose estimated cost of repair exceeds 75 percent of its actual cash value; or (iii) any other vehicle that is determined to be

a salvage vehicle by its owner or an insurance company by applying for a salvage certificate for the vehicle, provided that such vehicle is not a nonrepairable vehicle.

"Scrap metal processor" means any person who acquires one or more whole vehicles to process into scrap for remelting purposes who, from a fixed location, utilizes machinery and equipment for processing and manufacturing ferrous and nonferrous metallic scrap into prepared grades, and whose principal product is metallic scrap.

"Vehicle" shall have the meaning ascribed to it in § 46.2-100. A vehicle that has been demolished or declared to be nonrepairable pursuant to this chapter shall no longer be considered a vehicle. For the purposes of this chapter, a major component shall not be considered a vehicle.

"Vehicle removal operator" means any person who acquires a vehicle for the purpose of reselling it to a demolisher, scrap metal processor, or salvage dealer.

**§ 46.2-1603. Obtaining salvage certificate or certificate of title for an unrecovered stolen vehicle.**

A. The owner of any vehicle titled in the Commonwealth may declare such vehicle to be a salvage vehicle and apply to the Department and obtain a salvage certificate for that vehicle.

B. Every insurance company or its authorized agent shall apply to the Department and obtain a salvage certificate for each late model vehicle acquired by the insurance company as the result of the claims process if such vehicle is titled in the Commonwealth and is a salvage vehicle. Whenever the insurance company or its agent makes application for a salvage certificate and is unable to present a certificate of title, the Department may receive the application along with an affidavit indicating that the vehicle was acquired as the result of the claims process and describing the efforts made by the insurance company or its agent to obtain the certificate of title from the previous owner. When the Department is satisfied that the applicant is entitled to the ~~title salvage certificate~~, it may issue a *salvage certificate of title* to the person entitled to it. The Commissioner may charge a fee of \$25 for the expense of processing an application under this subsection that is accompanied by an affidavit. Such fee shall be in addition to any other fees required. All fees collected under the provisions of this subsection shall be paid into the state treasury and set aside as a special fund to be used to meet the expenses of the Department.

C. Every insurance company or its authorized agent shall apply to the Department and obtain a certificate of title for each stolen vehicle acquired by the insurance company as the result of the claims process if such vehicle is titled in the Commonwealth and has not been recovered at the time of application to the Department. For each recovered stolen vehicle, acquired as a result of the claims process, whose estimated cost of repair exceeds ~~seventy-five~~ 75 percent of its actual cash value, the insurance company or its authorized agent shall apply to the Department and obtain a salvage certificate. The application shall be accompanied by the vehicle's title certificate and shall contain a description of the damage to the salvage vehicle and an itemized estimate of the cost of repairs up to the point where a nonrepairable certificate would be issued. Application for the certificate of title shall be made within ~~fifteen~~ 15 days after payment has been made to the owner, lienholder, or both. Application for the salvage certificate shall be made within ~~fifteen~~ 15 days after the stolen vehicle is recovered.

D. Every insurance company or its authorized agent shall notify the Department of each late model vehicle titled in the Commonwealth on which a claim for damage to the vehicle has been paid by the insurance company if (i) the estimated cost of repair exceeds ~~seventy-five~~ 75 percent of actual cash value of the vehicle and (ii) the vehicle is to be retained by its owner. No such notification shall be required for a vehicle when a supplemental claim has been paid for the cost of repairs to the engine, transmission, or drive axle assembly if such components are replaced by components of like kind and quality.

E. Every owner of an uninsured or self-insured late model vehicle ~~titled in the Commonwealth which~~ that sustains damage to such an extent that the estimated cost of repairs exceeds ~~seventy-five~~ 75 percent of the actual cash value of the vehicle prior to being damaged shall similarly apply for and obtain a salvage certificate. If no estimated cost of repairs is available from an insurance company, the owner of the vehicle may provide an estimate from an independent appraisal firm. Any such estimate from an independent appraisal firm shall be verified by the Department in such a manner as may be provided for by Department regulations.

F. The fee for issuance of the salvage certificate shall be \$10. If a salvage vehicle is sold after a salvage certificate has been issued, the owner of the salvage vehicle shall make proper assignment to the purchaser.

G. The Department, upon receipt of an application for a salvage certificate for a vehicle titled in the Commonwealth, or upon receipt of notification from an insurance company or its authorized agent as provided in subsection D of this section, shall cause the title of such vehicle to be cancelled and the appropriate certificate issued to the vehicle's owner.

H. All provisions of this Code applicable to a motor vehicle certificate of title shall apply, mutatis mutandis, to a salvage certificate, except that no registration or license plates shall be issued for the vehicle described in the salvage certificate. A vehicle for which a salvage certificate has been issued may be retitled for use on the highways in accordance with the provisions of § 46.2-1605.

**§ 46.2-1603.2. Owner may declare vehicle nonrepairable; insurance company required to obtain a nonrepairable certificate; applicability of certain other laws to nonrepairable certificates; titling and registration of nonrepairable vehicle prohibited.**

A. The owner of any vehicle titled in the Commonwealth may declare such vehicle to be a nonrepairable vehicle by applying to the Department for a nonrepairable certificate. *The application shall be accompanied by the vehicle's title certificate or salvage certificate.*

B. Every insurance company or its authorized agent shall apply to the Department and obtain a nonrepairable certificate for each vehicle acquired by the insurance company as a result of the claims process if such vehicle is titled in the Commonwealth and is (i) a late model nonrepairable vehicle or (ii) a stolen vehicle that has been recovered and determined to be a nonrepairable vehicle. The application shall be accompanied by the vehicle's title certificate or salvage certificate. Application for the nonrepairable certificate shall be made within 15 days after payment has been made to the owner, lienholder, or both.

C. Every insurance company or its authorized agent shall notify the Department of each late model vehicle titled in the Commonwealth upon which a claim has been paid if such vehicle is a nonrepairable vehicle that is retained by its owner.

D. The Department, upon receipt of an application for a nonrepairable certificate for a vehicle titled in the Commonwealth, or upon receipt of notification from an insurance company or its authorized agent as provided in subsection C of this section that a vehicle registered in the Commonwealth has become a nonrepairable vehicle, shall cause the title of such vehicle to be cancelled and a nonrepairable certificate issued to the vehicle's owner.

There shall be no fee for the issuance of a nonrepairable certificate. All provisions of this Code applicable to a motor vehicle certificate of title shall apply, *mutatis mutandis*, to a nonrepairable certificate, except that no registration or license plates shall be issued for the vehicle described in a nonrepairable certificate. ~~No~~ *Except as otherwise provided in this chapter, no* vehicle for which a nonrepairable certificate has been issued shall ever be titled or registered for use on the highways in the Commonwealth.

E. The Department, upon receipt of a title, salvage certificate, or other ownership document from a licensed salvage dealer or demolisher pursuant to subdivision A 1 of § 46.2-1603.1, shall cause the title, salvage certificate, or other ownership document to such vehicle to be cancelled and a nonrepairable certificate issued to the vehicle's owner.

*F. For purposes of this chapter, any vehicle for which a brand or indicator has been issued by another state as reported to the National Motor Vehicle Title Information System or has been printed or stamped on the vehicle's out-of-state title or other document proving ownership issued by that state identifying such vehicle as "junk," "for destruction," "for parts only," "not to be repaired," or other similar designation shall be deemed to have been issued a nonrepairable certificate by that state.*

**§ 46.2-1604. Rebuilders required to possess certificate of title or salvage certificate.**

Each rebuilder shall have in his possession a certificate of title *or salvage certificate* assigned to him for each vehicle in his inventory for resale. If a rebuilder purchases a salvage vehicle to be used or sold for parts only, he shall conspicuously indicate on the salvage certificate that the vehicle will be sold or used as parts only and immediately forward the salvage certificate to the Department for cancellation. The Department shall issue a nonrepairable certificate for that vehicle.

**§ 46.2-1605. Vehicles rebuilt for highway use; examinations; branding of titles.**

A. Each salvage vehicle that has been rebuilt for use on the highways shall be submitted for a state safety inspection in accordance with § 46.2-1157. The inspection shall be conducted by an inspector wholly unaffiliated with the person requesting the inspection of the vehicle.

B. Upon passage of a state safety inspection, each rebuilt vehicle shall be examined by the Department prior to the issuance of a title for the vehicle. The examination by the Department shall include a review of video or photographic images of the vehicle prior to being rebuilt, if available; all documentation for the parts and labor used for the repair of the salvage vehicle; and verification of the vehicle's identification number, confidential number, odometer reading, and engine, transmission, or electronic modules, if applicable. This inspection shall serve as an antitheft and antifraud measure and shall not certify the safety or roadworthiness of the vehicle. The Commissioner shall ensure that, in scheduling and performing examinations of salvage vehicles under this section, single vehicles owned by private owner-operators are afforded no lower priority than examinations of vehicles owned by motor vehicle dealers, salvage pools, licensed auto recyclers, or vehicle removal operators. The Commissioner may charge a fee of \$125 per vehicle, for the examination of rebuilt vehicles.

C. Any salvage vehicle whose vehicle identification number or confidential number has been altered, is missing, or appears to have been tampered with may be impounded by the Department until completion of an investigation by the Department. The vehicle may not be moved, sold, or tampered with until the completion of this investigation. Upon completion of an investigation by the Department, if the vehicle identification number is found to be missing or altered, a new vehicle identification number may be issued by the Department. If the vehicle is found to be a stolen vehicle and its owner can be determined, the vehicle shall be returned to him. If the owner cannot be determined or located and the person seeking to title the vehicle has been convicted of a violation of § 46.2-1074 or 46.2-1075, the vehicle shall be deemed forfeited to the Commonwealth and said forfeiture shall proceed in accordance with Chapter 22.1 (§ 19.2-386.1 et seq.) of Title 19.2.

D. If the Department's examination of a rebuilt salvage vehicle indicates no irregularities, a title and registration may be issued for the vehicle upon application therefor to the Department by the owner of the salvage vehicle. The title issued by the Department and any subsequent title thereafter issued for the rebuilt vehicle shall be permanently branded to indicate that it is a rebuilt vehicle. All rebuilt vehicles shall be subject to all safety equipment requirements provided by law. ~~No~~ *Except as otherwise provided in this chapter, no* title or registration shall be issued by the Department for any rebuilt vehicle that has not first passed a safety inspection or for any vehicle for which a nonrepairable certificate has ever been issued.

E. If the Department's examination of a rebuilt salvage vehicle reveals irregularities in the required documentation or obvious defects, the Department shall identify to the owner the irregularities and defects that must be corrected before the Department's examination can be completed.

F. ~~When~~ *Notwithstanding § 46.2-1550, a licensed salvage dealer or rebuilder who is also licensed as a motor vehicle dealer pursuant to Chapter 15 (§ 46.2-1500 et seq.) may use dealer's license plates for the sole purpose of transporting a rebuilt salvage vehicle to and from an official safety inspection station. Such dealer's license plates may not be used on any vehicle not owned by the licensed salvage dealer or rebuilder. For all other rebuilt salvage vehicles, when necessary and upon application, the Department shall issue temporary trip permits in accordance with § 46.2-651 for the this purpose of transporting the rebuilt salvage vehicle to and from an official Virginia safety inspection station.*

**§ 46.2-1606. Certificates of title issued by other states; nonnegotiable titles.**

A. The Commissioner may accept certificates of titles for salvage vehicles or other documents deemed appropriate by the Department issued by other states indicating a vehicle has been declared salvage, and shall carry forward all appropriate brands or indicators. If the vehicle has not been rebuilt and the requirements of § 46.2-1605 have not been met, the Department shall issue a salvage certificate for the vehicle.

B. *The Department shall issue a nonnegotiable title for a vehicle that has been rebuilt, titled, and registered out of state when (i) an application for title has been received for a vehicle for which the National Motor Vehicle Title Information System or the vehicle's current out-of-state title or other document proving ownership issued by another state indicates that a brand or indicator has been issued by another state identifying such vehicle as "junk," "for destruction," "for parts only," "not to be repaired," or other similar designation and (ii) documentation to show such repairs accompanies the application. Any negotiable security interests in the vehicle shall be shown on the face of the nonnegotiable title. The provisions of §§ 46.2-636, 46.2-636.1, 46.2-637, 46.2-638, 46.2-639, 46.2-640, 46.2-640.1, 46.2-641, 46.2-642, and 46.2-643 shall apply to nonnegotiable titles. However, no negotiable title shall ever be issued for such vehicle. At any time, the vehicle owner may declare a vehicle titled under this subsection to be nonrepairable, in accordance with § 46.2-1603.2.*

*A nonnegotiable title issued under this subsection shall not be transferred except as provided in §§ 46.2-633, 46.2-633.2, or 46.2-634 or when the vehicle is acquired by an insurance company as the result of the claims process. The transferee may not add as a co-owner an individual not entitled to possession of the vehicle under §§ 46.2-633, 46.2-633.2, or 46.2-634. If the vehicle will not be registered for use by the transferee, the transferee shall declare the vehicle to be nonrepairable by applying for a nonrepairable certificate in accordance with § 46.2-1603.2.*

*Any vehicle for which a nonnegotiable title has been issued pursuant to this section may be registered for use on the highways in the Commonwealth.*

## CHAPTER 278

*An Act to amend and reenact § 33.2-226 of the Code of Virginia, relating to authority of the Commissioner of Highways to lease or convey airspace.*

[S 1148]

Approved March 3, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 33.2-226 of the Code of Virginia is amended and reenacted as follows:**

**§ 33.2-226. Authority to lease or convey airspace.**

The Commissioner of Highways may lease or sell and convey the airspace superjacent or subjacent to any highway in the Commonwealth that is within his jurisdiction and in which the Commonwealth owns fee simple title after satisfying itself that use of the airspace will not impair the full use and safety of the highway or otherwise interfere with the free flow of traffic thereon and it cannot be reasonably foreseen as needed in the future for highway and other transit uses and purposes. The Commissioner of Highways may provide in such leases and conveyances of airspace for columns of support, in fee or otherwise, ingress, egress, and utilities.

No lease or conveyance shall be entered into by the Commissioner of Highways ~~until after the time~~ *unless* the locality, by action of its governing body by majority recorded vote, approves the projected use ~~and has zoned~~ *of* the airspace in question ~~or has otherwise and has taken such steps as it deems proper to regulate the type and use of the improvements to be erected in such airspace by appropriate zoning or other method of land use control.~~

All leases and conveyances shall contain those terms deemed necessary by the Commissioner of Highways to protect the interests of the Commonwealth and the public ~~and shall not be entered into until after public advertising for bids for such airspace.~~ The Commissioner of Highways ~~shall advertise for bids at least 14 days prior to the execution of a lease or a conveyance.~~ ~~The advertisement shall state the place where bidders may examine a map of the airspace, the general terms of the lease or conveyance and the time and place when bids will be opened by the Commissioner of Highways. The highest bid from a responsible bidder, in the sole discretion of the Commissioner of Highways, shall be accepted; however, the Commissioner of Highways may reject all bids and advertise the property again may utilize any competitive procurement process authorized by law, including (i) competitive sealed bidding, (ii) competitive negotiation, (iii) best value procurements as defined in § 2.2-4301, and (iv) public-private partnerships pursuant to the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.), as determined by the Commissioner of Highways, in his sole discretion, to be appropriate and the method most likely to achieve the identified goals of the proposed lease or sale and conveyance of airspace. The Commissioner of Highways may reject any bid or offer that he believes is not in the best interest of the Commonwealth.~~

Compensation paid for such leases and conveyances shall be credited to the Transportation Trust Fund established pursuant to § 33.2-1524.

## CHAPTER 279

*An Act to amend and reenact § 46.2-311 of the Code of Virginia, relating to issuance of a driver's license or learner's permit; minimum standards for vision tests.*

[S 1229]

Approved March 3, 2017

**Be it enacted by the General Assembly of Virginia:****1. That § 46.2-311 of the Code of Virginia is amended and reenacted as follows:****§ 46.2-311. Persons having defective vision; minimum standards of visual acuity and field of vision; tests of vision.**

A. The Department shall not issue a driver's license or learner's permit (i) to any person unless he demonstrates a visual acuity of at least 20/40 in one or both eyes with or without corrective lenses or (ii) to any such person unless he demonstrates at least a field of ~~100~~ 110 degrees of horizontal vision in one or both eyes or a comparable measurement that demonstrates a visual field within this range. However, a license permitting the driving of motor vehicles during a period beginning one-half hour after sunrise and ending one-half hour before sunset, may be issued to a person who demonstrates a visual acuity of at least 20/70 in one or both eyes without or with corrective lenses provided he demonstrates at least a field of 70 degrees of horizontal vision or a comparable measurement that demonstrates a visual field within this range, and further provided that if such person has vision in one eye only, he demonstrates at least a field of 40 degrees temporal and 30 degrees nasal horizontal vision or a comparable measurement that demonstrates a visual field within this range.

B. The Department shall not issue a driver's license or learner's permit to any person authorizing the driving of a commercial motor vehicle as defined in the Virginia Commercial Driver's License Act (§ 46.2-341.1 et seq.) unless he demonstrates a visual acuity of at least 20/40 in each eye and at least a field of 140 degrees of horizontal vision or a comparable measurement that demonstrates a visual field within this range.

C. Every person applying to renew a driver's license and required to be reexamined as a prerequisite to the renewal of the license, shall:

1. Appear before a license examiner of the Department to demonstrate his visual acuity and horizontal field of vision, or
2. Accompany his application with a report of such examination made within 90 days prior thereto by an ophthalmologist or optometrist.

D. The test of horizontal visual fields made by license examiners of the Department shall be performed at thirty-three and one-third centimeters with a 10 millimeter round white test object or may, at the discretion of the Commissioner, be performed with electronic or other devices designed for the purpose of testing visual acuity and horizontal field of vision. The report of examination of visual acuity and horizontal field of vision made by an ophthalmologist or optometrist shall have precedence over an examination made by a license examiner of the Department in administrative determination as to the issuance of a license to drive. Any such report may, in the discretion of the Commissioner, be referred to a medical advisory board or to the State Health Commissioner for evaluation.

E. Notwithstanding the provisions of subsection B of this section, any person who is licensed to drive any motor vehicle may, on special application to the Department, be licensed to drive any vehicle, provided the operation of the vehicle would not unduly endanger the public safety, as determined by the Commissioner.

The Commissioner may waive the vision requirements of subsection B for any commercial driver's license applicant who either (i) is subject to the Federal Motor Carrier Safety Regulations but is exempt from the vision standards of 49 C.F.R. Part 391 or (ii) is not required to meet the vision standards specified in 49 C.F.R. § 391.41 of the regulations.

In order to determine whether such a waiver would unduly endanger the public safety, the Commissioner shall require such commercial driver's license applicant to submit a special waiver application and to provide all medical information relating to his vision that may be requested by the Department. The Department may require such commercial driver's license applicant to take a road test administered by the Department before determining whether to grant a waiver. If a waiver is granted, the Department may subject the applicant's use of a commercial motor vehicle to reasonable restrictions, which shall be noted on the commercial driver's license. If a waiver is granted, the Department may also limit the validity period of the commercial driver's license, and the expiration date shall be noted on the commercial driver's license.

## CHAPTER 280

*An Act to require the Board of Health to adopt regulations to include neonatal abstinence syndrome on the list of reportable diseases.*

[H 1467]

Approved March 3, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. § 1. That the Board of Health shall adopt regulations to include neonatal abstinence syndrome on the list of diseases that shall be required to be reported in accordance with § 32.1-35 of the Code of Virginia.**

## CHAPTER 281

*An Act to amend and reenact § 35.1-21 of the Code of Virginia, relating to mobile food units; licenses.*

[H 1625]

Approved March 3, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 35.1-21 of the Code of Virginia is amended and reenacted as follows:**

**§ 35.1-21. Display of restaurant and summer camp licenses.**

A. *As used in this section, "mobile food unit" means a restaurant that is mounted on wheels and readily moveable from place to place at all times during operation.*

B. The license of each hotel, restaurant, summer camp, and campground issued pursuant to this chapter shall be prominently displayed.

C. *The Department shall issue a license in the form of a sticker to a restaurant that is a mobile food unit that meets the requirements of this chapter, which license shall be prominently displayed on the mobile food unit.*

## CHAPTER 282

*An Act to amend and reenact § 32.1-289.2 of the Code of Virginia, relating to donation of organs by persons infected with human immunodeficiency virus.*

[H 1798]

Approved March 3, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 32.1-289.2 of the Code of Virginia is amended and reenacted as follows:**

**§ 32.1-289.2. Donation or sale of blood, body fluids, organs and tissues by persons infected with human immunodeficiency virus.**

A. Any person who donates or sells, who attempts to donate or sell, or who consents to the donation or sale of blood, other body fluids, organs, and tissues, knowing that the donor is, or was, infected with human immunodeficiency virus, and who has been instructed that such blood, body fluids, organs, or tissues may transmit the infection, shall be guilty, upon conviction, of a Class 6 felony.

B. This section shall not be construed to prohibit the donation of infected blood, other body fluids, organs and tissues for use in medical or scientific research.

C. *Notwithstanding the provisions of subsection A, this section shall not prohibit the donation or acquisition of organs for transplantation, provided that (i) the recipient of such organ is informed that such organ is infected with human immunodeficiency virus and, following such notice, consents to the receipt of such organ and (ii) acquisition and transplantation of such organ is in compliance with the provisions of the HIV Organ Policy Equity Act, 42 U.S.C. § 274f-5.*

## CHAPTER 283

*An Act to amend and reenact § 63.2-1709.2 of the Code of Virginia, relating to assisted living facilities; cap on civil penalties.*

[H 1919]

Approved March 3, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 63.2-1709.2 of the Code of Virginia is amended and reenacted as follows:**

**§ 63.2-1709.2. Enforcement and sanctions; special orders; civil penalties.**

A. Notwithstanding any other provision of law, following a proceeding as provided in § 2.2-4019, the Commissioner may issue a special order (i) for violation of any of the provisions of this subtitle, § 54.1-3408, or any regulation adopted under any provision of this subtitle which violation adversely affects, or is an imminent and substantial threat to, the health, safety, or welfare of the person cared for therein, or (ii) for permitting, aiding, or abetting the commission of any illegal act in an assisted living facility, adult day care center, or child welfare agency. Notice of the Commissioner's intent to take any of the actions enumerated in subdivisions B 1 through B 7 shall be provided by the Department and a copy of such notice shall be posted in a prominent place at each public entrance of the licensed premises to advise consumers of serious or persistent violations. The issuance of a special order shall be considered a case decision as defined in § 2.2-4001. The Commissioner shall not delegate his authority to impose civil penalties in conjunction with the issuance of special orders.

B. The Commissioner may take the following actions regarding assisted living facilities, adult day care centers, and child welfare agencies through the issuance of a special order and may require a copy of the special order provided by the Department to be posted in a prominent place at each public entrance of the licensed premises to advise consumers of serious or persistent violations:

1. Place a licensee on probation upon finding that the licensee is substantially out of compliance with the terms of its license and that the health and safety of residents, participants, or children are at risk;

2. Reduce licensed capacity or prohibit new admissions when the Commissioner concludes that the licensee cannot make necessary corrections to achieve compliance with regulations except by a temporary restriction of its scope of service;

3. Mandate training for the licensee or licensee's employees, with any costs to be borne by the licensee, when the Commissioner concludes that the lack of such training has led directly to violations of regulations;

4. Assess civil penalties for each day the assisted living facility is or was out of compliance with the terms of its license and the health, safety, and welfare of residents are at risk, which shall be paid into the state treasury and credited to the Assisted Living Facility Education, Training, and Technical Assistance Fund created pursuant to § 63.2-1803.1. The aggregate amount of such civil penalties shall not exceed \$10,000 for assisted living facilities in any ~~24-month~~ 12-month period. Criteria for imposition of civil penalties and amounts, expressed in ranges, shall be developed by the Board, and shall be based upon the severity, pervasiveness, duration, and degree of risk to the health, safety, or welfare of residents. Such civil penalties shall be applied by the Commissioner in a consistent manner. Such criteria shall also provide that (i) the Commissioner may accept a plan of correction, including a schedule of compliance, from an assisted living facility prior to setting a civil penalty, and (ii) the Commissioner may reduce or abate the penalty amount if the facility complies with the plan of correction within its terms.

A single act, omission, or incident shall not give rise to imposition of multiple civil penalties even though such act, omission, or incident may violate more than one statute or regulation. A civil penalty that is not appealed becomes due on the first day after the appeal period expires. The license of an assisted living facility that has failed to pay a civil penalty due under this section shall not be renewed until the civil penalty has been paid in full, with interest, provided that the Commissioner may renew a license when an unpaid civil penalty is the subject of a pending appeal;

5. Assess civil penalties of not more than \$500 per inspection upon finding that the adult day care center or child welfare agency is substantially out of compliance with the terms of its license and the health and safety of residents, participants, or children are at risk;

6. Require licensees to contact parents, guardians, or other responsible persons in writing regarding health and safety violations; and

7. Prevent licensees who are substantially out of compliance with the licensure terms or in violation of the regulations from receiving public funds.

C. The Board shall adopt regulations to implement the provisions of this section.

## CHAPTER 284

*An Act to amend and reenact § 32.1-269.1 of the Code of Virginia, relating to death certificate; amendments.*

[H 2276]

Approved March 3, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 32.1-269.1 of the Code of Virginia is amended and reenacted as follows:**

**§ 32.1-269.1. Amending death certificates; change and correction of demographic information by affidavit or court order.**

A. Notwithstanding § 32.1-276, a death certificate registered under this chapter may be amended only in accordance with this section and such regulations as may be adopted by the Board to protect the integrity and accuracy of such death certificate. Such regulations shall specify the minimum evidence required for a change in any such death certificate.

B. A death certificate that is amended under this section shall be marked "amended," and the date of amendment and a summary description of the evidence submitted in support of the amendment shall be endorsed on or made a part of the death certificate. The Board shall prescribe by regulation the conditions under which omissions or errors on death certificates may be corrected.

~~C. Upon receipt of a certified copy of a court order changing the name of the deceased, the deceased's parent or spouse, or the informant; the marital status of the deceased; or the place of residence of the deceased, when the place of residence is changed to a jurisdiction outside the Commonwealth, the State Registrar shall amend such death certificate to reflect the new information and evidence.~~

~~D. Upon receipt of an affidavit and supporting evidence testifying to corrected information on a death certificate, including the correct spelling of the name of the deceased, the deceased's parent or spouse, or the informant; the sex, age, race, date of birth, place of birth, citizenship, social security number, education, occupation or kind or type of business, military status, or date of death of the deceased; the place of residence of the deceased, if located within the Commonwealth; the name of the institution; the county, city, or town where the death occurred; or the street or place where the death occurred, the State Registrar shall amend such death certificate to reflect the new information and evidence.~~

*D. For death certificate amendments other than the correction of information by the State Registrar pursuant to subsection C, the surviving spouse or immediate family, as defined by the regulations of the Board, of the deceased; attending funeral service licensee; or other reporting source may file a petition with the circuit court of the county or city in which the decedent resided as of the date of his death, or the Circuit Court of the City of Richmond, requesting an order to*

amend a death certificate, along with an affidavit sworn to under oath that supports such request. A copy of the petition shall be served upon (i) the State Registrar pursuant to Chapter 8 (§ 8.01-285 et seq.) of Title 8.01 and (ii) any person listed as an informant on the death certificate, unless such person provides an affidavit in support of such petition. The clerk shall submit such petition and any evidence received with the petition to the judge for entry of an order without the necessity of a hearing, unless the judge decides a hearing is necessary. The clerk shall transmit a certified copy of the court's order to the State Registrar, who shall amend such death certificate in accordance with the order. The matters for which a petition may be filed include changing the name of the deceased, the deceased's parent or spouse, or the informant; the marital status of the deceased; or the place of residence of the deceased, when the place of residence is outside the Commonwealth.

E. When an applicant, as defined by the regulations of the Board, does not submit the minimum documentation required by regulation to amend a death certificate or when the State Registrar finds reason to question the validity or sufficiency of the evidence, the death certificate shall not be amended and the State Registrar shall so advise the applicant. An aggrieved applicant may petition the circuit court of the county or city in which he resides, or the Circuit Court of the City of Richmond, ~~Division 1~~ for an order compelling the State Registrar to amend the death certificate; an aggrieved applicant who is currently residing out of state may petition any circuit court in the Commonwealth for such an order. A copy of the petition shall be served upon (i) the State Registrar pursuant to Chapter 8 (§ 8.01-285 et seq.) of Title 8.01 and (ii) any person listed as an informant on the death certificate, unless such person provides an affidavit in support of such petition. The clerk shall submit such petition and any evidence received with the petition to the judge for entry of an order without the necessity of a hearing, unless the judge decides a hearing is necessary. The State Registrar or his authorized representative may appear and testify in such proceeding. The clerk shall transmit a certified copy of the court's order to the State Registrar, who shall amend such death certificate in accordance with the order.

## CHAPTER 285

An Act to amend and reenact § 32.1-269.1 of the Code of Virginia, relating to death certificate; amendments.

[S 1048]

Approved March 3, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 32.1-269.1 of the Code of Virginia is amended and reenacted as follows:**

**§ 32.1-269.1. Amending death certificates; change and correction of demographic information by affidavit or court order.**

A. Notwithstanding § 32.1-276, a death certificate registered under this chapter may be amended only in accordance with this section and such regulations as may be adopted by the Board to protect the integrity and accuracy of such death certificate. Such regulations shall specify the minimum evidence required for a change in any such death certificate.

B. A death certificate that is amended under this section shall be marked "amended," and the date of amendment and a summary description of the evidence submitted in support of the amendment shall be endorsed on or made a part of the death certificate. The Board shall prescribe by regulation the conditions under which omissions or errors on death certificates may be corrected.

~~C. Upon receipt of a certified copy of a court order changing the name of the deceased, the deceased's parent or spouse, or the informant; the marital status of the deceased; or the place of residence of the deceased, when the place of residence is changed to a jurisdiction outside the Commonwealth, the State Registrar shall amend such death certificate to reflect the new information and evidence.~~

~~D. Upon The State Registrar, upon receipt of an affidavit and supporting evidence testifying to corrected information on a death certificate, including the correct spelling of the name of the deceased, the deceased's parent or spouse, or the informant; the sex, age, race, date of birth, place of birth, citizenship, social security number, education, occupation or kind or type of business, military status, or date of death of the deceased; the place of residence of the deceased, if located within the Commonwealth; the name of the institution; the county, city, or town where the death occurred; or the street or place where the death occurred, the State Registrar shall amend such death certificate to reflect the new information and evidence.~~

D. For death certificate amendments other than the correction of information by the State Registrar pursuant to subsection C, the surviving spouse or immediate family, as defined by the regulations of the Board, of the deceased; attending funeral service licensee; or other reporting source may file a petition with the circuit court of the county or city in which the decedent resided as of the date of his death, or the Circuit Court of the City of Richmond, requesting an order to amend a death certificate, along with an affidavit sworn to under oath that supports such request. A copy of the petition shall be served upon (i) the State Registrar pursuant to Chapter 8 (§ 8.01-285 et seq.) of Title 8.01 and (ii) any person listed as an informant on the death certificate, unless such person provides an affidavit in support of such petition. The clerk shall submit such petition and any evidence received with the petition to the judge for entry of an order without the necessity of a hearing, unless the judge decides a hearing is necessary. The clerk shall transmit a certified copy of the court's order to the State Registrar, who shall amend such death certificate in accordance with the order. The matters for which a petition may be filed include changing the name of the deceased, the deceased's parent or spouse, or the informant; the marital status of the deceased; or the place of residence of the deceased, when the place of residence is outside the Commonwealth.

E. When an applicant, *as defined by the regulations of the Board*, does not submit the minimum documentation required by regulation to amend a death certificate or when the State Registrar finds reason to question the validity or sufficiency of the evidence, the death certificate shall not be amended and the State Registrar shall so advise the applicant. An aggrieved applicant may petition the circuit court of the county or city in which he resides, or the Circuit Court of the City of Richmond, ~~Division I,~~ for an order compelling the State Registrar to amend the death certificate; an aggrieved applicant who is currently residing out of state may petition any circuit court in the Commonwealth for such an order. *A copy of the petition shall be served upon (i) the State Registrar pursuant to Chapter 8 (§ 8.01-285 et seq.) of Title 8.01 and (ii) any person listed as an informant on the death certificate, unless such person provides an affidavit in support of such petition. The clerk shall submit such petition and any evidence received with the petition to the judge for entry of an order without the necessity of a hearing, unless the judge decides a hearing is necessary.* The State Registrar or his authorized representative may appear and testify in such proceeding. *The clerk shall transmit a certified copy of the court's order to the State Registrar, who shall amend such death certificate in accordance with the order.*

## CHAPTER 286

*An Act to amend and reenact § 46.2-341.28 of the Code of Virginia, relating to driving commercial vehicle while intoxicated; penalties.*

[H 1622]

Approved March 3, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 46.2-341.28 of the Code of Virginia is amended and reenacted as follows:**

**§ 46.2-341.28. Penalty for driving commercial motor vehicle while intoxicated; subsequent offense; prior conviction.**

~~Any A. Except as otherwise provided herein, any person violating any provision of subsection A of § 46.2-341.24 shall be is~~ guilty of a Class 1 misdemeanor with a mandatory minimum fine of \$250. *If the person's blood alcohol level as indicated by the chemical test as provided in this article or by any other scientifically reliable chemical test performed on whole blood under circumstances reliably establishing the identity of the person who is the source of the blood and accuracy of the results (i) was at least 0.15, but not more than 0.20, he shall be confined in jail for an additional mandatory minimum period of five days or (ii) was more than 0.20, he shall be confined in jail for an additional mandatory minimum period of 10 days.*

~~B. 1.~~ Any person convicted of a second offense committed within less than five years after a ~~first~~ prior offense under subsection A of § 46.2-341.24 shall ~~upon conviction of the second offense be punishable~~ punished by a mandatory minimum fine of ~~not less than \$200 nor more than \$2,500~~ \$500 and by confinement in jail for not less than one month nor more than one year. ~~Five~~ Twenty days of such confinement shall be a mandatory minimum sentence.

2. Any person convicted of a second offense committed within a period of five to 10 years of a ~~first~~ prior offense under subsection A of § 46.2-341.24 shall ~~upon conviction of the second offense be punishable~~ punished by a mandatory minimum fine of ~~not less than \$200 nor more than \$2,500~~ \$500 and by confinement in jail for not less than one month ~~nor more than one year~~. Ten days of such confinement shall be a mandatory minimum sentence.

3. Upon conviction of a second offense within 10 years of a prior offense, if the person's blood alcohol level as indicated by the chemical test administered as provided in this article or by any other scientifically reliable chemical test performed on whole blood under circumstances reliably establishing the identity of the person who is the source of the blood and the accuracy of the results (i) was at least 0.15, but not more than 0.20, he shall be confined in jail for an additional mandatory minimum period of 10 days or (ii) was more than 0.20, he shall be confined for an additional mandatory minimum period of 20 days. In addition, such person shall be fined a mandatory minimum fine of \$500.

~~C. 1.~~ Any person convicted of a ~~third offense or subsequent offense committed within 10 years of an offense~~ three offenses under subsection A of § 46.2-341.24 shall be ~~punishable~~ by a fine of ~~not less than \$500 nor more than \$2,500~~ and by ~~confinement in jail for not less than two months nor more than one year~~. Thirty days of such confinement within a 10-year period is upon conviction of the third offense guilty of a Class 6 felony. The sentence of any person convicted of three offenses under subsection A of § 46.2-341.24 shall ~~be include~~ include a mandatory minimum sentence if the ~~third or subsequent offense occurs within less than five years~~. Ten days of such confinement shall be a of 90 days, unless the three offenses were committed within a five-year period, in which case the sentence shall include a mandatory minimum sentence if the ~~third or subsequent offense occurs within a period of five to 10 years of a first offense~~ of confinement for six months. In addition, such person shall be fined a mandatory minimum fine of \$1,000.

2. Any person who has been convicted of a violation of § 18.2-36.1, 18.2-36.2, 18.2-51.4, or 18.2-51.5 or a felony violation under subsection A of § 46.2-341.24 is upon conviction of a subsequent violation under subsection A of § 46.2-341.24 guilty of a Class 6 felony. The punishment of any person convicted of such a subsequent violation under subsection A of § 46.2-341.24 shall include a mandatory minimum term of imprisonment of one year and a mandatory minimum fine of \$1,000.

3. The punishment of any person convicted of a fourth or subsequent offense under subsection A of § 46.2-341.24 committed within a 10-year period shall, upon conviction, include a mandatory minimum term of imprisonment of one year. In addition, such person shall be fined a mandatory minimum fine of \$1,000.

D. In addition to the penalty otherwise authorized by this section, any person convicted of a violation of subsection A of § 46.2-341.24 committed while transporting a person 17 years of age or younger shall be (i) fined an additional minimum of \$500 and not more than \$1,000 and (ii) sentenced to a mandatory minimum period of confinement of five days.

E. For the purposes purpose of determining the number of offenses committed by, and the punishment appropriate for, a person under this section, a conviction of any person or finding of not innocent in the case of a juvenile under the following shall be considered a conviction under subsection A of § 46.2-341.24: (i) § 18.2-36.1, 18.2-51.4, or § 18.2-266, former § 18.1-54 (formerly § 18-75), or subsection A of § 46.2-341.24; (ii) the ordinance of any county, city, or town in this the Commonwealth substantially similar to the provisions of ~~§ 18.2-51.4 or § 18.2-266~~; any offense listed in clause (i); or (iii) ~~subsection A of § 46.2-341.24~~, or (iv) the laws of any other state or of the United States substantially similar to the provisions of ~~§§ 18.2-51.4, 18.2-266 or subsection A of § 46.2-341.24~~, shall be considered a prior conviction any offense listed in clause (i).

F. Mandatory minimum punishments imposed pursuant to this section shall be cumulative, and mandatory minimum terms of confinement shall be served consecutively. However, in no case shall punishment imposed hereunder exceed the applicable statutory maximum Class 1 misdemeanor term of confinement or fine upon conviction of a first or second offense, or Class 6 felony term of confinement or fine upon conviction of a third or subsequent offense.

**2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is \$0 for periods of imprisonment in state adult correctional facilities and cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.**

## CHAPTER 287

An Act to amend the Code of Virginia by adding a section numbered 38.2-3407.14:1, relating to health insurance; proton radiation therapy; standard of clinical evidence for benefit coverage decisions.

[H 1656]

Approved March 3, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding a section numbered 38.2-3407.14:1 as follows:**

**§ 38.2-3407.14:1. Standard of clinical evidence for decisions on coverage for proton radiation therapy.**

A. As used in this section, unless the context requires a different meaning:

"Carrier" means an insurer proposing to issue individual or group accident and sickness insurance policies providing hospital, medical and surgical, or major medical coverage on an expense-incurred basis; a corporation providing individual or group accident and sickness subscription contracts; or a health maintenance organization providing a health care plan for health care services.

"Proton radiation therapy" means the advanced form of radiation therapy treatment that utilizes protons as an alternative radiation delivery method for the treatment of tumors.

"Radiation therapy treatment" means a cancer treatment through which a dose of radiation to induce tumor cell death is delivered by means of proton radiation therapy, intensity modulated radiation therapy, brachytherapy, stereotactic body radiation therapy, three-dimensional conformal radiation therapy, or other forms of therapy using radiation.

B. Notwithstanding the provisions of § 38.2-3419, each policy, contract, or plan issued or provided by a carrier that provides coverage for cancer therapy shall not hold proton radiation therapy to a higher standard of clinical evidence for decisions regarding coverage under the policy, contract, or plan than is applied for decisions regarding coverage of other types of radiation therapy treatment.

C. Nothing in this section shall be construed to mandate the coverage of proton radiation therapy under any policy, contract, or plan issued or provided by a carrier.

D. The requirements of this section shall apply to all insurance policies, subscription contracts, and health care plans delivered, issued for delivery, reissued, or extended in the Commonwealth on and after January 1, 2018, or at any time thereafter when any term of the policy, contract, or plan is changed or any premium adjustment is made.

E. This section shall not apply to policies or contracts designed for issuance to persons eligible for coverage under Title XVIII of the Social Security Act, known as Medicare, or any other similar coverage under state or federal governmental plans.

**2. That an emergency exists and this act is in force from its passage.**

## CHAPTER 288

*An Act to amend and reenact § 65.2-309 of the Code of Virginia, relating to workers' compensation; lien of employer; notice and approval.*

[H 1659]

Approved March 3, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 65.2-309 of the Code of Virginia is amended and reenacted as follows:**

**§ 65.2-309. Lien against settlement proceeds or verdict in third party suit; subrogation of employer to employee's rights against third parties; evidence; recovery; compromise.**

A. A claim against an employer under this title for injury, occupational disease, or death benefits shall create a lien on behalf of the employer against any verdict or settlement arising from any right to recover damages which the injured employee, his personal representative or other person may have against any other party for such injury, occupational disease, or death, and such employer also shall be subrogated to any such right and may enforce, in his own name or in the name of the injured employee or his personal representative, the legal liability of such other party. The amount of compensation paid by the employer or the amount of compensation to which the injured employee or his dependents are entitled shall not be admissible as evidence in any action brought to recover damages.

B. Any amount collected by the employer under the provisions of this section in excess of the amount paid by the employer or for which he is liable shall be held by the employer for the benefit of the injured employee, his personal representative, or other person entitled thereto, less a proportionate share of such amounts as are paid by the employer for reasonable expenses and attorney's fees as provided in § 65.2-311.

C. No compromise settlement shall be made by the employer in the exercise of such right of subrogation without the approval of the Commission and the injured employee or the personal representative or dependents of the deceased employee being first obtained.

D. If an injured employee, his personal representative, or a person acting on behalf of the injured employee receives the proceeds of the settlement or verdict and the employer's lien pursuant to subsection A has not been satisfied, the employer shall have the right to recover its lien either as a credit against future benefits or through a civil action against the person who received the proceeds.

*E. Any arbitration held by the employer in the exercise of such right of subrogation (i) shall be limited solely to arbitrating the amount and validity of the employer's lien, (ii) shall not affect the employee's rights in any way, and (iii) shall not be held unless:*

*1. Prior to the commencement of such arbitration the employer has provided the injured employee and his attorney, if any, with an itemization of the expenses associated with the lien that is the subject of the arbitration;*

*2. Upon receipt of the itemization of the lien, the employee shall have 21 days to provide a written objection to any expenses included in the lien to the employer, and if the employee does not do so any objections to the lien to be arbitrated shall be deemed waived;*

*3. The employer shall have 14 days after receipt of the written objection to notify the employee of any contested expenses that the employer does not agree to remove from the lien, and if the employer does not do so any itemized expense objected to by the employee shall be deemed withdrawn and not included in the arbitration; and*

*4. Any contested expenses remaining shall have been submitted to the Commission for a determination of their validity and the Commission has made such determination of validity prior to the commencement of the arbitration.*

## CHAPTER 289

*An Act to amend and reenact § 17.1-258.3:1 of the Code of Virginia, relating to electronic filing of land records; fee for paper filing.*

[H 2035]

Approved March 3, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 17.1-258.3:1 of the Code of Virginia is amended and reenacted as follows:**

**§ 17.1-258.3:1. Electronic filing of land records; paper form.**

A. A clerk of a circuit court may provide a network or system for electronic filing of land records in accordance with the Uniform Real Property Electronic Recording Act (§ 55-142.10 et seq.) and the provisions of Article 2.1 (§ 55-66.8 et seq.) of Chapter 4 of Title 55 regarding the satisfaction of mortgages. ~~The clerk may charge a fee to be assessed for each instrument recorded electronically in an amount not to exceed \$5 per document. The fee shall be paid to the clerk's office and deposited by the clerk into the clerk's nonreverting local fund to be used to cover operational expenses as defined in § 17.1-295.~~ The clerk may require each filer to provide proof of identity to the clerk. The clerk shall enter into an electronic filing agreement with each filer in accordance with Virginia Real Property Electronic Recording Standards established by the Virginia Information Technologies Agency. Nothing herein shall be construed to prevent the clerk from entering into

agreements with designated application service providers to provide all or part of the network or system for electronic filing of land records as provided herein. Further, nothing herein shall be construed to require the electronic filing of any land record, and such records may continue to be filed in paper form.

B. Any clerk of a circuit court with an electronic filing system established in accordance with this section may charge a fee not to exceed \$5 per instrument for every land record filed by paper. The fee shall be paid to the clerk's office and deposited by the clerk into the clerk's nonreverting local fund to be used exclusively to cover the operational expenses as defined in § 17.1-295.

C. (Effective July 1, 2017) The clerk shall maintain a disaster plan, as defined in § 42.1-77, for recovery of any land record in possession of the clerk that is maintained as an electronic record.

## CHAPTER 290

*An Act to amend and reenact § 2.2-3704.2 of the Code of Virginia, relating to the Virginia Freedom of Information Act; training approved by the Virginia Freedom of Information Advisory Council.*

[H 2143]

Approved March 3, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 2.2-3704.2 of the Code of Virginia is amended and reenacted as follows:**

**§ 2.2-3704.2. Public bodies to designate FOIA officer.**

A. All state public bodies, including state authorities, that are subject to the provisions of this chapter and all local public bodies that are subject to the provisions of this chapter, shall designate and publicly identify one or more Freedom of Information Act officers (FOIA officer) whose responsibility is to serve as a point of contact for members of the public in requesting public records and to coordinate the public body's compliance with the provisions of this chapter.

B. For such state public bodies, the name and contact information of the public body's FOIA officer to whom members of the public may direct requests for public records and who will oversee the public body's compliance with the provisions of this chapter shall be made available to the public upon request and be posted on the respective public body's website at the time of designation and maintained thereafter on such website for the duration of the designation.

C. For such local public bodies, the name and contact information of the public body's FOIA officer to whom members of the public may direct requests for public records and who will oversee the public body's compliance with the provisions of this chapter shall be made available in a way reasonably calculated to provide notice to the public, including posting at the public body's place of business, posting on its website, or including such information in its publications.

D. For the purposes of this section, local public bodies shall include constitutional officers.

E. Any such FOIA officer shall possess specific knowledge of the provisions of this chapter and be trained at least annually by legal counsel for the public body or the Virginia Freedom of Information Advisory Council (*the Council*) or through an online course offered by the Council. Any such training shall document that the training required by this subsection has been fulfilled.

F. The name and contact information of a FOIA officer trained by legal counsel of a public body shall be (i) submitted to the Council by July 1 of each year on a form developed by the Council for that purpose and (ii) updated in a timely manner in the event of any changes to such information.

G. The Council shall maintain on its website a listing of all FOIA officers, including name, contact information, and the name of the public body such FOIA officers serve.

## CHAPTER 291

*An Act to amend the Code of Virginia by adding in Article 1 of Chapter 27 of Title 54.1 a section numbered 54.1-2708.4 and by adding in Article 2 of Chapter 29 of Title 54.1 a section numbered 54.1-2928.2, relating to Board of Dentistry and Medicine; regulations for the prescribing of opioids and buprenorphine.*

[H 2167]

Approved March 3, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding in Article 1 of Chapter 27 of Title 54.1 a section numbered 54.1-2708.4 and by adding in Article 2 of Chapter 29 of Title 54.1 a section numbered 54.1-2928.2 as follows:**

**§ 54.1-2708.4. Board to adopt regulations related to prescribing of opioids.**

*The Board shall adopt regulations for the prescribing of opioids, which shall include guidelines for:*

1. *The treatment of acute pain, which shall include (i) requirements for an appropriate patient history and evaluation, (ii) limitations on dosages or day supply of drugs prescribed, (iii) requirements for appropriate documentation in the patient's health record, and (iv) a requirement that the prescriber request and review information contained in the Prescription Monitoring Program in accordance with § 54.1-2522.1;*

2. *The treatment of chronic pain, which shall include, in addition to the requirements for treatment of acute pain set forth in subdivision 1, requirements for (i) development of a treatment plan for the patient, (ii) an agreement for treatment signed by the provider and the patient that includes permission to obtain urine drug screens, and (iii) periodic review of the treatment provided at specific intervals to determine the continued appropriateness of such treatment; and*

3. *Referral of patients to whom opioids are prescribed for substance abuse counseling or treatment, as appropriate.*

**§ 54.1-2928.2. Board to adopt regulations related to prescribing of opioids and buprenorphine.**

*The Board shall adopt regulations for the prescribing of opioids and products containing buprenorphine. Such regulations shall include guidelines for:*

1. *The treatment of acute pain, which shall include (i) requirements for an appropriate patient history and evaluation, (ii) limitations on dosages or day supply of drugs prescribed, (iii) requirements for appropriate documentation in the patient's health record, and (iv) a requirement that the prescriber request and review information contained in the Prescription Monitoring Program in accordance with § 54.1-2522.1;*

2. *The treatment of chronic pain, which shall include, in addition to the requirements for treatment of acute pain set forth in subdivision 1, requirements for (i) development of a treatment plan for the patient, (ii) an agreement for treatment signed by the provider and the patient that includes permission to obtain urine drug screens, and (iii) periodic review of the treatment provided at specific intervals to determine the continued appropriateness of such treatment; and*

3. *The use of buprenorphine in the treatment of addiction, including a requirement for referral to or consultation with a provider of substance abuse counseling in conjunction with treatment of opioid dependency with products containing buprenorphine.*

**2. That an emergency exists and this act is in force from its passage.**

**3. That the Prescription Monitoring Program at the Department of Health Professions shall annually provide a report to the Joint Commission on Health Care on the prescribing of opioids and benzodiazepines in the Commonwealth that includes data on reporting of unusual patterns of prescribing or dispensing of a covered substance by an individual prescriber or dispenser or on potential misuse of a covered substance by a recipient, pursuant to § 54.1-2523.1.**

**CHAPTER 292**

*An Act to amend and reenact § 23.1-905 of the Code of Virginia, relating to public institutions of higher education; academic credit for American Sign Language.*

[H 1512]

Approved March 3, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 23.1-905 of the Code of Virginia is amended and reenacted as follows:**

**§ 23.1-905. Academic credit for American Sign Language.**

A. *Each public institution of higher education shall ~~count~~ develop policies for counting credit received for successful completion of foreign language courses, including American Sign Language courses, either in a secondary school or another institution of higher education toward satisfaction of the foreign language entrance, placement, and course credit requirements of the public institution of higher education that are uniform across each foreign language program offered by the institution.*

B. *Each public institution of higher education shall count credit received for successful completion of American Sign Language courses at the institution toward satisfaction of its foreign language course credit requirements.*

**CHAPTER 293**

*An Act to amend and reenact § 44-102.1 of the Code of Virginia, relating to active duty service; contract termination.*

[H 1537]

Approved March 3, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 44-102.1 of the Code of Virginia is amended and reenacted as follows:**

**§ 44-102.1. Rights, benefits, and protections upon call to active duty; contract termination.**

A. *Any right, benefit, or protection that may accrue to a member of the Virginia National Guard under the federal Servicemembers Civil Relief Act (50 U.S.C. § 3901 et seq.), as a result of a call to federal active duty service under Title 10 of the United States Code shall be extended to a member of the Virginia National Guard called to active duty service under Title 32 of the United States Code, or to state active duty by the Governor, if the active duty orders are for a period of 30 consecutive days or more. In addition, if a member of the Virginia National Guard is called to state active duty by the Governor, the employer shall ensure that the member has the option of continuing, at the member's expense, his health care coverage, life insurance, or long-term care insurance.*

*B. Any member of the United States Armed Forces or Virginia National Guard who receives permanent change of station orders or has received temporary duty orders in excess of three months' duration, his spouse, or his dependent may, at any time prior to the conclusion of his period of service, terminate without penalty a contract for the following services:*

- 1. Telecommunication services;*
- 2. Internet services;*
- 3. Television services;*
- 4. Athletic club or gym memberships;*
- 5. Satellite radio services; or*
- 6. Service for an alarm system as defined in § 15.2-911.*

*It shall be a violation of the Virginia Consumer Protection Act (§ 59.1-196 et seq.) for a service provider to fail to comply with the provisions of this subsection.*

## CHAPTER 294

*An Act to amend and reenact §§ 8.01-225 and 54.1-3408 of the Code of Virginia, relating to epinephrine, insulin, and glucagon; possession and administration by certain employees of public or private institution of higher education.*

[H 1746]

Approved March 3, 2017

### **Be it enacted by the General Assembly of Virginia:**

#### **1. That §§ 8.01-225 and 54.1-3408 of the Code of Virginia are amended and reenacted as follows:**

##### **§ 8.01-225. Persons rendering emergency care, obstetrical services exempt from liability.**

###### **A. Any person who:**

1. In good faith, renders emergency care or assistance, without compensation, to any ill or injured person (i) at the scene of an accident, fire, or any life-threatening emergency; (ii) at a location for screening or stabilization of an emergency medical condition arising from an accident, fire, or any life-threatening emergency; or (iii) en route to any hospital, medical clinic, or doctor's office, shall not be liable for any civil damages for acts or omissions resulting from the rendering of such care or assistance. For purposes of this subdivision, emergency care or assistance includes the forcible entry of a motor vehicle in order to remove an unattended minor at risk of serious bodily injury or death, provided the person has attempted to contact a law-enforcement officer, as defined in § 9.1-101, a firefighter, as defined in § 65.2-102, emergency medical services personnel, as defined in § 32.1-111.1, or an emergency 911 system, if feasible under the circumstances.

2. In the absence of gross negligence, renders emergency obstetrical care or assistance to a female in active labor who has not previously been cared for in connection with the pregnancy by such person or by another professionally associated with such person and whose medical records are not reasonably available to such person shall not be liable for any civil damages for acts or omissions resulting from the rendering of such emergency care or assistance. The immunity herein granted shall apply only to the emergency medical care provided.

3. In good faith and without compensation, including any emergency medical services provider who holds a valid certificate issued by the Commissioner of Health, administers epinephrine in an emergency to an individual shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment if such person has reason to believe that the individual receiving the injection is suffering or is about to suffer a life-threatening anaphylactic reaction.

4. Provides assistance upon request of any police agency, fire department, emergency medical services agency, or governmental agency in the event of an accident or other emergency involving the use, handling, transportation, transmission, or storage of liquefied petroleum gas, liquefied natural gas, hazardous material, or hazardous waste as defined in § 10.1-1400 or regulations of the Virginia Waste Management Board shall not be liable for any civil damages resulting from any act of commission or omission on his part in the course of his rendering such assistance in good faith.

5. Is an emergency medical services provider possessing a valid certificate issued by authority of the State Board of Health who in good faith renders emergency care or assistance, whether in person or by telephone or other means of communication, without compensation, to any injured or ill person, whether at the scene of an accident, fire, or any other place, or while transporting such injured or ill person to, from, or between any hospital, medical facility, medical clinic, doctor's office, or other similar or related medical facility, shall not be liable for any civil damages for acts or omissions resulting from the rendering of such emergency care, treatment, or assistance, including but in no way limited to acts or omissions which involve violations of State Department of Health regulations or any other state regulations in the rendering of such emergency care or assistance.

6. In good faith and without compensation, renders or administers emergency cardiopulmonary resuscitation (CPR); cardiac defibrillation, including, but not limited to, the use of an automated external defibrillator (AED); or other emergency life-sustaining or resuscitative treatments or procedures which have been approved by the State Board of Health to any sick or injured person, whether at the scene of a fire, an accident, or any other place, or while transporting such person to or from any hospital, clinic, doctor's office, or other medical facility, shall be deemed qualified to administer such emergency treatments and procedures and shall not be liable for acts or omissions resulting from the rendering of such emergency resuscitative treatments or procedures.

7. Operates an AED at the scene of an emergency, trains individuals to be operators of AEDs, or orders AEDs, shall be immune from civil liability for any personal injury that results from any act or omission in the use of an AED in an emergency where the person performing the defibrillation acts as an ordinary, reasonably prudent person would have acted under the same or similar circumstances, unless such personal injury results from gross negligence or willful or wanton misconduct of the person rendering such emergency care.

8. Maintains an AED located on real property owned or controlled by such person shall be immune from civil liability for any personal injury that results from any act or omission in the use in an emergency of an AED located on such property unless such personal injury results from gross negligence or willful or wanton misconduct of the person who maintains the AED or his agent or employee.

9. Is an employee of a school board or of a local health department approved by the local governing body to provide health services pursuant to § 22.1-274 who, while on school property or at a school-sponsored event, (i) renders emergency care or assistance to any sick or injured person; (ii) renders or administers emergency cardiopulmonary resuscitation (CPR); cardiac defibrillation, including, but not limited to, the use of an automated external defibrillator (AED); or other emergency life-sustaining or resuscitative treatments or procedures that have been approved by the State Board of Health to any sick or injured person; (iii) operates an AED, trains individuals to be operators of AEDs, or orders AEDs; or (iv) maintains an AED, shall not be liable for civil damages for ordinary negligence in acts or omissions on the part of such employee while engaged in the acts described in this subdivision.

10. Is a volunteer in good standing and certified to render emergency care by the National Ski Patrol System, Inc., who, in good faith and without compensation, renders emergency care or assistance to any injured or ill person, whether at the scene of a ski resort rescue, outdoor emergency rescue, or any other place or while transporting such injured or ill person to a place accessible for transfer to any available emergency medical system unit, or any resort owner voluntarily providing a ski patroller employed by him to engage in rescue or recovery work at a resort not owned or operated by him, shall not be liable for any civil damages for acts or omissions resulting from the rendering of such emergency care, treatment, or assistance, including but not limited to acts or omissions which involve violations of any state regulation or any standard of the National Ski Patrol System, Inc., in the rendering of such emergency care or assistance, unless such act or omission was the result of gross negligence or willful misconduct.

11. Is an employee of (i) a school board, (ii) a school for students with disabilities as defined in § 22.1-319 licensed by the Board of Education, or (iii) a private school accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education and is authorized by a prescriber and trained in the administration of insulin and glucagon, who, upon the written request of the parents as defined in § 22.1-1, assists with the administration of insulin or administers glucagon to a student diagnosed as having diabetes who requires insulin injections during the school day or for whom glucagon has been prescribed for the emergency treatment of hypoglycemia shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment if the insulin is administered according to the child's medication schedule or such employee has reason to believe that the individual receiving the glucagon is suffering or is about to suffer life-threatening hypoglycemia. Whenever any such employee is covered by the immunity granted herein, the school board or school employing him shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such insulin or glucagon treatment.

12. *Is an employee of a public institution of higher education or a private institution of higher education who is authorized by a prescriber and trained in the administration of insulin and glucagon, who assists with the administration of insulin or administers glucagon to a student diagnosed as having diabetes who requires insulin injections or for whom glucagon has been prescribed for the emergency treatment of hypoglycemia shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment if the insulin is administered according to the student's medication schedule or such employee has reason to believe that the individual receiving the glucagon is suffering or is about to suffer life-threatening hypoglycemia. Whenever any employee is covered by the immunity granted in this subdivision, the institution shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such insulin or glucagon treatment.*

13. Is a school nurse, an employee of a school board, an employee of a local governing body, or an employee of a local health department who is authorized by a prescriber and trained in the administration of epinephrine and who provides, administers, or assists in the administration of epinephrine to a student believed in good faith to be having an anaphylactic reaction, or is the prescriber of the epinephrine, shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment.

~~13.~~ 14. Is an employee of a school for students with disabilities, as defined in § 22.1-319 and licensed by the Board of Education, or an employee of a private school that is accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education who is authorized by a prescriber and trained in the administration of epinephrine and who administers or assists in the administration of epinephrine to a student believed in good faith to be having an anaphylactic reaction, or is the prescriber of the epinephrine, shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment. Whenever any employee is covered by the immunity granted in this subdivision, the school shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from such administration or assistance.

~~14.~~ 15. *Is an employee of a public institution of higher education or a private institution of higher education who is authorized by a prescriber and trained in the administration of epinephrine and who administers or assists in the*

*administration of epinephrine to a student believed in good faith to be having an anaphylactic reaction, or is the prescriber of the epinephrine, shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment. Whenever any employee is covered by the immunity granted in this subdivision, the institution shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from such administration or assistance.*

16. Is an employee of a provider licensed by the Department of Behavioral Health and Developmental Services, or provides services pursuant to a contract with a provider licensed by the Department of Behavioral Health and Developmental Services, who has been trained in the administration of insulin and glucagon and who administers or assists with the administration of insulin or administers glucagon to a person diagnosed as having diabetes who requires insulin injections or for whom glucagon has been prescribed for the emergency treatment of hypoglycemia in accordance with § 54.1-3408 shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment if the insulin is administered in accordance with the prescriber's instructions or such person has reason to believe that the individual receiving the glucagon is suffering or is about to suffer life-threatening hypoglycemia. Whenever any employee of a provider licensed by the Department of Behavioral Health and Developmental Services or a person who provides services pursuant to a contract with a provider licensed by the Department of Behavioral Health and Developmental Services is covered by the immunity granted herein, the provider shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such insulin or glucagon treatment.

~~15-~~ 17. Is an employee of a provider licensed by the Department of Behavioral Health and Developmental Services, or provides services pursuant to a contract with a provider licensed by the Department of Behavioral Health and Developmental Services, who has been trained in the administration of epinephrine and who administers or assists in the administration of epinephrine to a person believed in good faith to be having an anaphylactic reaction in accordance with the prescriber's instructions shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment.

~~16-~~ 18. In good faith prescribes, dispenses, or administers naloxone or other opioid antagonist used for overdose reversal in an emergency to an individual who is believed to be experiencing or about to experience a life-threatening opiate overdose shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment if acting in accordance with the provisions of subsection X of § 54.1-3408 or in his role as a member of an emergency medical services agency.

B. Any licensed physician serving without compensation as the operational medical director for an emergency medical services agency that holds a valid license as an emergency medical services agency issued by the Commissioner of Health shall not be liable for any civil damages for any act or omission resulting from the rendering of emergency medical services in good faith by the personnel of such licensed agency unless such act or omission was the result of such physician's gross negligence or willful misconduct.

Any person serving without compensation as a dispatcher for any licensed public or nonprofit emergency medical services agency in the Commonwealth shall not be liable for any civil damages for any act or omission resulting from the rendering of emergency services in good faith by the personnel of such licensed agency unless such act or omission was the result of such dispatcher's gross negligence or willful misconduct.

Any individual, certified by the State Office of Emergency Medical Services as an emergency medical services instructor and pursuant to a written agreement with such office, who, in good faith and in the performance of his duties, provides instruction to persons for certification or recertification as a certified basic life support or advanced life support emergency medical services provider shall not be liable for any civil damages for acts or omissions on his part directly relating to his activities on behalf of such office unless such act or omission was the result of such emergency medical services instructor's gross negligence or willful misconduct.

Any licensed physician serving without compensation as a medical advisor to an E-911 system in the Commonwealth shall not be liable for any civil damages for any act or omission resulting from rendering medical advice in good faith to establish protocols to be used by the personnel of the E-911 service, as defined in § 58.1-1730, when answering emergency calls unless such act or omission was the result of such physician's gross negligence or willful misconduct.

Any licensed physician who directs the provision of emergency medical services, as authorized by the State Board of Health, through a communications device shall not be liable for any civil damages for any act or omission resulting from the rendering of such emergency medical services unless such act or omission was the result of such physician's gross negligence or willful misconduct.

Any licensed physician serving without compensation as a supervisor of an AED in the Commonwealth shall not be liable for any civil damages for any act or omission resulting from rendering medical advice in good faith to the owner of the AED relating to personnel training, local emergency medical services coordination, protocol approval, AED deployment strategies, and equipment maintenance plans and records unless such act or omission was the result of such physician's gross negligence or willful misconduct.

C. Any communications services provider, as defined in § 58.1-647, including mobile service, and any provider of Voice-over-Internet Protocol service, in the Commonwealth shall not be liable for any civil damages for any act or omission resulting from rendering such service with or without charge related to emergency calls unless such act or omission was the result of such service provider's gross negligence or willful misconduct.

Any volunteer engaging in rescue or recovery work at a mine, or any mine operator voluntarily providing personnel to engage in rescue or recovery work at a mine not owned or operated by such operator, shall not be liable for civil damages for acts or omissions resulting from the rendering of such rescue or recovery work in good faith unless such act or omission was the result of gross negligence or willful misconduct. For purposes of this subsection, "Voice-over-Internet Protocol service" or "VoIP service" means any Internet protocol-enabled services utilizing a broadband connection, actually originating or terminating in Internet Protocol from either or both ends of a channel of communication offering real time, multidirectional voice functionality, including, but not limited to, services similar to traditional telephone service.

D. Nothing contained in this section shall be construed to provide immunity from liability arising out of the operation of a motor vehicle.

E. For the purposes of this section, "compensation" shall not be construed to include (i) the salaries of police, fire, or other public officials or personnel who render such emergency assistance; (ii) the salaries or wages of employees of a coal producer engaging in emergency medical services or first aid services pursuant to the provisions of § 45.1-161.38, 45.1-161.101, 45.1-161.199, or 45.1-161.263; (iii) complimentary lift tickets, food, lodging, or other gifts provided as a gratuity to volunteer members of the National Ski Patrol System, Inc., by any resort, group, or agency; (iv) the salary of any person who (a) owns an AED for the use at the scene of an emergency, (b) trains individuals, in courses approved by the Board of Health, to operate AEDs at the scene of emergencies, (c) orders AEDs for use at the scene of emergencies, or (d) operates an AED at the scene of an emergency; or (v) expenses reimbursed to any person providing care or assistance pursuant to this section.

For the purposes of this section, "emergency medical services provider" shall include a person licensed or certified as such or its equivalent by any other state when he is performing services that he is licensed or certified to perform by such other state in caring for a patient in transit in the Commonwealth, which care originated in such other state.

Further, the public shall be urged to receive training on how to use CPR and an AED in order to acquire the skills and confidence to respond to emergencies using both CPR and an AED.

**§ 54.1-3408. Professional use by practitioners.**

A. A practitioner of medicine, osteopathy, podiatry, dentistry, or veterinary medicine or a licensed nurse practitioner pursuant to § 54.1-2957.01, a licensed physician assistant pursuant to § 54.1-2952.1, or a TPA-certified optometrist pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32 shall only prescribe, dispense, or administer controlled substances in good faith for medicinal or therapeutic purposes within the course of his professional practice.

B. The prescribing practitioner's order may be on a written prescription or pursuant to an oral prescription as authorized by this chapter. The prescriber may administer drugs and devices, or he may cause drugs or devices to be administered by:

1. A nurse, physician assistant, or intern under his direction and supervision;
2. Persons trained to administer drugs and devices to patients in state-owned or state-operated hospitals or facilities licensed as hospitals by the Board of Health or psychiatric hospitals licensed by the Department of Behavioral Health and Developmental Services who administer drugs under the control and supervision of the prescriber or a pharmacist;
3. Emergency medical services personnel certified and authorized to administer drugs and devices pursuant to regulations of the Board of Health who act within the scope of such certification and pursuant to an oral or written order or standing protocol; or
4. A licensed respiratory therapist as defined in § 54.1-2954 who administers by inhalation controlled substances used in inhalation or respiratory therapy.

C. Pursuant to an oral or written order or standing protocol, the prescriber, who is authorized by state or federal law to possess and administer radiopharmaceuticals in the scope of his practice, may authorize a nuclear medicine technologist to administer, under his supervision, radiopharmaceuticals used in the diagnosis or treatment of disease.

D. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize registered nurses and licensed practical nurses to possess (i) epinephrine and oxygen for administration in treatment of emergency medical conditions and (ii) heparin and sterile normal saline to use for the maintenance of intravenous access lines.

Pursuant to the regulations of the Board of Health, certain emergency medical services technicians may possess and administer epinephrine in emergency cases of anaphylactic shock.

Pursuant to an order or standing protocol issued by the prescriber within the course of his professional practice, any school nurse, school board employee, employee of a local governing body, or employee of a local health department who is authorized by a prescriber and trained in the administration of epinephrine may possess and administer epinephrine.

Pursuant to an order or a standing protocol issued by the prescriber within the course of his professional practice, any employee of a school for students with disabilities, as defined in § 22.1-319 and licensed by the Board of Education, or any employee of a private school that is accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education who is authorized by a prescriber and trained in the administration of epinephrine may possess and administer epinephrine.

*Pursuant to an order or a standing protocol issued by the prescriber within the course of his professional practice, any employee of a public institution of higher education or a private institution of higher education who is authorized by a prescriber and trained in the administration of epinephrine may possess and administer epinephrine.*

Pursuant to an order issued by the prescriber within the course of his professional practice, an employee of a provider licensed by the Department of Behavioral Health and Developmental Services or a person providing services pursuant to a contract with a provider licensed by the Department of Behavioral Health and Developmental Services may possess and administer epinephrine, provided such person is authorized and trained in the administration of epinephrine.

Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize pharmacists to possess epinephrine and oxygen for administration in treatment of emergency medical conditions.

E. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize licensed physical therapists to possess and administer topical corticosteroids, topical lidocaine, and any other Schedule VI topical drug.

F. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize licensed athletic trainers to possess and administer topical corticosteroids, topical lidocaine, or other Schedule VI topical drugs; oxygen for use in emergency situations; and epinephrine for use in emergency cases of anaphylactic shock.

G. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, and in accordance with policies and guidelines established by the Department of Health pursuant to § 32.1-50.2, such prescriber may authorize registered nurses or licensed practical nurses under the immediate and direct supervision of a registered nurse to possess and administer tuberculin purified protein derivative (PPD) in the absence of a prescriber. The Department of Health's policies and guidelines shall be consistent with applicable guidelines developed by the Centers for Disease Control and Prevention for preventing transmission of mycobacterium tuberculosis and shall be updated to incorporate any subsequently implemented standards of the Occupational Safety and Health Administration and the Department of Labor and Industry to the extent that they are inconsistent with the Department of Health's policies and guidelines. Such standing protocols shall explicitly describe the categories of persons to whom the tuberculin test is to be administered and shall provide for appropriate medical evaluation of those in whom the test is positive. The prescriber shall ensure that the nurse implementing such standing protocols has received adequate training in the practice and principles underlying tuberculin screening.

The Health Commissioner or his designee may authorize registered nurses, acting as agents of the Department of Health, to possess and administer, at the nurse's discretion, tuberculin purified protein derivative (PPD) to those persons in whom tuberculin skin testing is indicated based on protocols and policies established by the Department of Health.

H. Pursuant to a written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize, with the consent of the parents as defined in § 22.1-1, an employee of (i) a school board, (ii) a school for students with disabilities as defined in § 22.1-319 licensed by the Board of Education, or (iii) a private school accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education who is trained in the administration of insulin and glucagon to assist with the administration of insulin or administer glucagon to a student diagnosed as having diabetes and who requires insulin injections during the school day or for whom glucagon has been prescribed for the emergency treatment of hypoglycemia. Such authorization shall only be effective when a licensed nurse, nurse practitioner, physician, or physician assistant is not present to perform the administration of the medication.

*Pursuant to a written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize an employee of a public institution of higher education or a private institution of higher education who is trained in the administration of insulin and glucagon to assist with the administration of insulin or administration of glucagon to a student diagnosed as having diabetes and who requires insulin injections or for whom glucagon has been prescribed for the emergency treatment of hypoglycemia. Such authorization shall only be effective when a licensed nurse, nurse practitioner, physician, or physician assistant is not present to perform the administration of the medication.*

Pursuant to a written order issued by the prescriber within the course of his professional practice, such prescriber may authorize an employee of a provider licensed by the Department of Behavioral Health and Developmental Services or a person providing services pursuant to a contract with a provider licensed by the Department of Behavioral Health and Developmental Services to assist with the administration of insulin or to administer glucagon to a person diagnosed as having diabetes and who requires insulin injections or for whom glucagon has been prescribed for the emergency treatment of hypoglycemia, provided such employee or person providing services has been trained in the administration of insulin and glucagon.

I. A prescriber may authorize, pursuant to a protocol approved by the Board of Nursing, the administration of vaccines to adults for immunization, when a practitioner with prescriptive authority is not physically present, by (i) licensed pharmacists, (ii) registered nurses, or (iii) licensed practical nurses under the immediate and direct supervision of a registered nurse. A prescriber acting on behalf of and in accordance with established protocols of the Department of Health may authorize the administration of vaccines to any person by a pharmacist, nurse, or designated emergency medical services provider who holds an advanced life support certificate issued by the Commissioner of Health under the direction of an operational medical director when the prescriber is not physically present. The emergency medical services provider shall provide documentation of the vaccines to be recorded in the Virginia Immunization Information System.

J. A dentist may cause Schedule VI topical drugs to be administered under his direction and supervision by either a dental hygienist or by an authorized agent of the dentist.

Further, pursuant to a written order and in accordance with a standing protocol issued by the dentist in the course of his professional practice, a dentist may authorize a dental hygienist under his general supervision, as defined in § 54.1-2722, to possess and administer topical oral fluorides, topical oral anesthetics, topical and directly applied antimicrobial agents for treatment of periodontal pocket lesions, as well as any other Schedule VI topical drug approved by the Board of Dentistry.

In addition, a dentist may authorize a dental hygienist under his direction to administer Schedule VI nitrous oxide and oxygen inhalation analgesia and, to persons 18 years of age or older, Schedule VI local anesthesia.

K. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize registered professional nurses certified as sexual assault nurse examiners-A (SANE-A) under his supervision and when he is not physically present to possess and administer preventive medications for victims of sexual assault as recommended by the Centers for Disease Control and Prevention.

L. This section shall not prevent the administration of drugs by a person who has satisfactorily completed a training program for this purpose approved by the Board of Nursing and who administers such drugs in accordance with a prescriber's instructions pertaining to dosage, frequency, and manner of administration, and in accordance with regulations promulgated by the Board of Pharmacy relating to security and record keeping, when the drugs administered would be normally self-administered by (i) an individual receiving services in a program licensed by the Department of Behavioral Health and Developmental Services; (ii) a resident of the Virginia Rehabilitation Center for the Blind and Vision Impaired; (iii) a resident of a facility approved by the Board or Department of Juvenile Justice for the placement of children in need of services or delinquent or alleged delinquent youth; (iv) a program participant of an adult day-care center licensed by the Department of Social Services; (v) a resident of any facility authorized or operated by a state or local government whose primary purpose is not to provide health care services; (vi) a resident of a private children's residential facility, as defined in § 63.2-100 and licensed by the Department of Social Services, Department of Education, or Department of Behavioral Health and Developmental Services; or (vii) a student in a school for students with disabilities, as defined in § 22.1-319 and licensed by the Board of Education.

In addition, this section shall not prevent a person who has successfully completed a training program for the administration of drugs via percutaneous gastrostomy tube approved by the Board of Nursing and been evaluated by a registered nurse as having demonstrated competency in administration of drugs via percutaneous gastrostomy tube from administering drugs to a person receiving services from a program licensed by the Department of Behavioral Health and Developmental Services to such person via percutaneous gastrostomy tube. The continued competency of a person to administer drugs via percutaneous gastrostomy tube shall be evaluated semiannually by a registered nurse.

M. Medication aides registered by the Board of Nursing pursuant to Article 7 (§ 54.1-3041 et seq.) of Chapter 30 may administer drugs that would otherwise be self-administered to residents of any assisted living facility licensed by the Department of Social Services. A registered medication aide shall administer drugs pursuant to this section in accordance with the prescriber's instructions pertaining to dosage, frequency, and manner of administration; in accordance with regulations promulgated by the Board of Pharmacy relating to security and recordkeeping; in accordance with the assisted living facility's Medication Management Plan; and in accordance with such other regulations governing their practice promulgated by the Board of Nursing.

N. In addition, this section shall not prevent the administration of drugs by a person who administers such drugs in accordance with a physician's instructions pertaining to dosage, frequency, and manner of administration and with written authorization of a parent, and in accordance with school board regulations relating to training, security and record keeping, when the drugs administered would be normally self-administered by a student of a Virginia public school. Training for such persons shall be accomplished through a program approved by the local school boards, in consultation with the local departments of health.

O. In addition, this section shall not prevent the administration of drugs by a person to (i) a child in a child day program as defined in § 63.2-100 and regulated by the State Board of Social Services or a local government pursuant to § 15.2-914, or (ii) a student of a private school that is accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education, provided such person (a) has satisfactorily completed a training program for this purpose approved by the Board of Nursing and taught by a registered nurse, licensed practical nurse, nurse practitioner, physician assistant, doctor of medicine or osteopathic medicine, or pharmacist; (b) has obtained written authorization from a parent or guardian; (c) administers drugs only to the child identified on the prescription label in accordance with the prescriber's instructions pertaining to dosage, frequency, and manner of administration; and (d) administers only those drugs that were dispensed from a pharmacy and maintained in the original, labeled container that would normally be self-administered by the child or student, or administered by a parent or guardian to the child or student.

P. In addition, this section shall not prevent the administration or dispensing of drugs and devices by persons if they are authorized by the State Health Commissioner in accordance with protocols established by the State Health Commissioner pursuant to § 32.1-42.1 when (i) the Governor has declared a disaster or a state of emergency or the United States Secretary of Health and Human Services has issued a declaration of an actual or potential bioterrorism incident or other actual or potential public health emergency; (ii) it is necessary to permit the provision of needed drugs or devices; and (iii) such persons have received the training necessary to safely administer or dispense the needed drugs or devices. Such persons shall administer or dispense all drugs or devices under the direction, control, and supervision of the State Health Commissioner.

Q. Nothing in this title shall prohibit the administration of normally self-administered drugs by unlicensed individuals to a person in his private residence.

R. This section shall not interfere with any prescriber issuing prescriptions in compliance with his authority and scope of practice and the provisions of this section to a Board agent for use pursuant to subsection G of § 18.2-258.1. Such prescriptions issued by such prescriber shall be deemed to be valid prescriptions.

S. Nothing in this title shall prevent or interfere with dialysis care technicians or dialysis patient care technicians who are certified by an organization approved by the Board of Health Professions or persons authorized for provisional practice pursuant to Chapter 27.01 (§ 54.1-2729.1 et seq.), in the ordinary course of their duties in a Medicare-certified renal dialysis facility, from administering heparin, topical needle site anesthetics, dialysis solutions, sterile normal saline solution, and blood volumizers, for the purpose of facilitating renal dialysis treatment, when such administration of medications occurs under the orders of a licensed physician, nurse practitioner, or physician assistant and under the immediate and direct supervision of a licensed registered nurse. Nothing in this chapter shall be construed to prohibit a patient care dialysis technician trainee from performing dialysis care as part of and within the scope of the clinical skills instruction segment of a supervised dialysis technician training program, provided such trainee is identified as a "trainee" while working in a renal dialysis facility.

The dialysis care technician or dialysis patient care technician administering the medications shall have demonstrated competency as evidenced by holding current valid certification from an organization approved by the Board of Health Professions pursuant to Chapter 27.01 (§ 54.1-2729.1 et seq.).

T. Persons who are otherwise authorized to administer controlled substances in hospitals shall be authorized to administer influenza or pneumococcal vaccines pursuant to § 32.1-126.4.

U. Pursuant to a specific order for a patient and under his direct and immediate supervision, a prescriber may authorize the administration of controlled substances by personnel who have been properly trained to assist a doctor of medicine or osteopathic medicine, provided the method does not include intravenous, intrathecal, or epidural administration and the prescriber remains responsible for such administration.

V. A physician assistant, nurse or a dental hygienist may possess and administer topical fluoride varnish to the teeth of children aged six months to three years pursuant to an oral or written order or a standing protocol issued by a doctor of medicine, osteopathic medicine, or dentistry that conforms to standards adopted by the Department of Health.

W. A prescriber, acting in accordance with guidelines developed pursuant to § 32.1-46.02, may authorize the administration of influenza vaccine to minors by a licensed pharmacist, registered nurse, licensed practical nurse under the direction and immediate supervision of a registered nurse, or emergency medical services provider who holds an advanced life support certificate issued by the Commissioner of Health when the prescriber is not physically present.

X. Notwithstanding the provisions of § 54.1-3303, pursuant to an oral, written, or standing order issued by a prescriber, and in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health, a pharmacist may dispense naloxone or other opioid antagonist used for overdose reversal and a person may possess and administer naloxone or other opioid antagonist used for overdose reversal to a person who is believed to be experiencing or about to experience a life-threatening opiate overdose. Law-enforcement officers as defined in § 9.1-101 and firefighters who have completed a training program may also possess and administer naloxone in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health.

## CHAPTER 295

*An Act to amend and reenact § 46.2-919.1 of the Code of Virginia, relating to use of wireless telecommunications devices by persons driving school buses.*

[H 1888]

Approved March 3, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 46.2-919.1 of the Code of Virginia is amended and reenacted as follows:**

**§ 46.2-919.1. Use of wireless telecommunications devices by persons driving school buses.**

No person shall use any wireless telecommunications device, whether handheld or otherwise, while driving a school bus, except in case of an emergency, or when the vehicle is lawfully parked and for the purposes of dispatching. Nothing in this section shall be construed to prohibit the use of (i) two-way radio devices or (ii) wireless telecommunications devices that are used hands free to allow live communication between the driver and school or public safety officials ~~authorized by the owner of the school bus.~~

## CHAPTER 296

*An Act to amend and reenact § 23.1-802 of the Code of Virginia, relating to public institutions of higher education; resident assistants; mental health first aid training.*

[H 1911]

Approved March 3, 2017

**Be it enacted by the General Assembly of Virginia:****1. That § 23.1-802 of the Code of Virginia is amended and reenacted as follows:****§ 23.1-802. Student mental health; policies; website resource; training.**

A. The governing board of each public institution of higher education shall develop and implement policies that (i) advise students, faculty, and staff, including residence hall staff, of the proper procedures for identifying and addressing the needs of students exhibiting suicidal tendencies or behavior and (ii) provide for training where appropriate. Such policies shall require procedures for notifying the institution's student health or counseling center for the purposes set forth in subdivision B 4 of § 23.1-1303 when a student exhibits suicidal tendencies or behavior.

B. The board of visitors of each baccalaureate public institution of higher education shall establish a written memorandum of understanding with its local community services board or behavioral health authority and with local hospitals and other local mental health facilities in order to expand the scope of services available to students seeking treatment. The memorandum shall designate a contact person to be notified, to the extent allowable under state and federal privacy laws, when a student is involuntarily committed, or when a student is discharged from a facility. The memorandum shall provide for the inclusion of the institution in the post-discharge planning of a student who has been committed and intends to return to campus, to the extent allowable under state and federal privacy laws.

C. Each baccalaureate public institution of higher education shall create and feature on its website a page with information dedicated solely to the mental health resources available to students at the institution.

*D. Each resident assistant in a student housing facility at a public institution of higher education shall participate in Mental Health First Aid training or a similar program prior to the commencement of his duties.*

**CHAPTER 297**

*An Act to amend and reenact § 23.1-624 of the Code of Virginia, relating to the Two-Year College Transfer Grant Program; Expected Family Contribution.*

[H 1965]

Approved March 3, 2017

**Be it enacted by the General Assembly of Virginia:****1. That § 23.1-624 of the Code of Virginia is amended and reenacted as follows:****§ 23.1-624. Eligibility criteria.**

A. Grants shall be made under the Program to or on behalf of Virginia students who (i) maintained a cumulative grade point average of at least 3.0 on a scale of 4.0 or its equivalent while enrolled in an associate degree program at an associate-degree-granting public institution of higher education, (ii) have received an associate degree at an associate-degree-granting public institution of higher education, (iii) have enrolled in an eligible institution by the fall or spring following the award of such associate degree, (iv) have applied for financial aid, and (v) have demonstrated financial need, defined as an Expected Family Contribution (EFC) of no more than ~~\$8,000~~ \$12,000 as calculated by the federal government using the family's financial information reported on the Free Application for Federal Student Aid (FAFSA) form.

B. Eligibility for a grant under the Program is limited to three academic years. Grants under the Program shall be used only for undergraduate coursework in educational programs other than those providing religious training or theological education.

C. To remain eligible for a grant under the Program, a student shall continue to demonstrate financial need as defined in subsection A, maintain a cumulative grade point average of at least 3.0 on a scale of 4.0 or its equivalent, and make satisfactory academic progress toward a degree.

D. Individuals who have failed to meet the federal requirement to register for the Selective Service are not eligible to receive grants pursuant to this article. However, an individual who has failed to register for the Selective Service shall not be denied a right, privilege, or benefit under this section if (i) the requirement to so register has terminated or become inapplicable to the individual and (ii) the individual shows by a preponderance of the evidence that the failure to register was not a knowing and willful failure to register.

**CHAPTER 298**

*An Act to amend the Code of Virginia by adding in Article 3 of Chapter 2 of Title 23.1 a section numbered 23.1-230, relating to State Council of Higher Education for Virginia; postsecondary schools; enrollment agreement.*

[H 2040]

Approved March 3, 2017

**Be it enacted by the General Assembly of Virginia:****1. That the Code of Virginia is amended by adding in Article 3 of Chapter 2 of Title 23.1 a section numbered 23.1-230 as follows:****§ 23.1-230. Enrollment agreements required.**

*No postsecondary school that is required to be certified by the Council shall enroll students without entering into an enrollment agreement with each student. Such enrollment agreement shall be signed by the student and an authorized representative of the school and shall contain all disclosures prescribed by the Council.*

### CHAPTER 299

*An Act to amend and reenact § 22.1-207.1:1 of the Code of Virginia, relating to high school family life education curricula; elements of effective and evidence-based programs on consent.*

[H 2257]

Approved March 3, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 22.1-207.1:1 of the Code of Virginia is amended and reenacted as follows:**

**§ 22.1-207.1:1. Family life education; certain curricula and standards of learning.**

A. Any family life education curriculum offered by a local school division shall require the Standards of Learning objectives related to dating violence and the characteristics of abusive relationships to be taught at least once in middle school and at least twice in high school, as described in the Board of Education's family life education guidelines.

B. Any high school family life education curriculum offered by a local school division shall incorporate age-appropriate elements of effective and evidence-based programs on the prevention of dating violence, domestic abuse, sexual harassment, and sexual violence *and may incorporate age-appropriate elements of effective and evidence-based programs on the law and meaning of consent.*

### CHAPTER 300

*An Act to amend and reenact § 22.1-205 of the Code of Virginia, relating to driver education programs; instruction concerning traffic stops.*

[H 2290]

Approved March 3, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 22.1-205 of the Code of Virginia is amended and reenacted as follows:**

**§ 22.1-205. Driver education programs.**

A. The Board of Education shall establish for the public school system a standardized program of driver education in the safe operation of motor vehicles. Such program shall consist of classroom training and behind-the-wheel driver training. However, any student who participates in such a program of driver education shall meet the academic requirements established by the Board, and no student in a course shall be permitted to operate a motor vehicle without a license or permit to do so issued by the Department of Motor Vehicles. The program shall include (i) instruction concerning ~~(i)~~ (a) alcohol and drug abuse; ~~(ii)~~ (b) aggressive driving; ~~(iii)~~ (c) distracted driving; ~~(iv)~~ (d) motorcycle awareness; ~~(v)~~ (e) organ and tissue donor awareness; ~~(vi)~~ (f) fuel-efficient driving practices; and (g) traffic stops, including law-enforcement procedures for traffic stops, appropriate actions to be taken by drivers during traffic stops, and appropriate interactions with law-enforcement officers who initiate traffic stops, and ~~(vii)~~ (ii) in Planning District 8, for any student completing a driver education program beginning in academic year 2010-2011, an additional minimum 90-minute parent/student driver education component ~~included~~ as part of the in-classroom portion of the driver education curriculum, requiring the participation of the student's parent or guardian and emphasizing parental responsibilities regarding juvenile driver behavior, juvenile driving restrictions pursuant to the Code of Virginia, and the dangers of driving while intoxicated and underage consumption of alcohol. Such instruction shall be developed by the Department in cooperation with the Virginia Alcohol Safety Action Program, the Department of Health, and the Department of Behavioral Health and Developmental Services, as appropriate. Such program shall require a minimum number of miles driven during the behind-the-wheel driver training.

B. The Board shall assist school divisions by preparation, publication and distribution of competent driver education instructional materials to ensure a more complete understanding of the responsibilities and duties of motor vehicle operators.

C. Each school board shall determine whether to offer the program of driver education in the safe operation of motor vehicles and, if offered, whether such program shall be an elective or a required course. In addition to the fee approved by the Board of Education pursuant to the appropriation act that allows local school boards to charge a per pupil fee for behind-the-wheel driver education, the Board of Education may authorize a local school board's request to assess a surcharge in order to further recover program costs that exceed state funds distributed through basic aid to school divisions offering driver education programs. Each school board may waive the fee or the surcharge in total or in part for those students it determines cannot pay the fee or surcharge. Only school divisions complying with the standardized program and regulations established by the Board of Education and the provisions of § 46.2-335 shall be entitled to participate in the distribution of state funds appropriated for driver education.

School boards in Planning District 8 shall make the 90-minute parent/student driver education component available to all students and their parents or guardians who are in compliance with § 22.1-254.

D. The actual initial driving instruction shall be conducted, with motor vehicles equipped as may be required by regulation of the Board of Education, on private or public property removed from public highways if practicable; if impracticable, then, at the request of the school board, the Commissioner of Highways shall designate a suitable section of road near the school to be used for such instruction. Such section of road shall be marked with signs, which the Commissioner of Highways shall supply, giving notice of its use for driving instruction. Such signs shall be removed at the close of the instruction period. No vehicle other than those used for driver training shall be operated between such signs at a speed in excess of 25 miles per hour. Violation of this limit shall be a Class 4 misdemeanor.

E. The Board of Education may, in its discretion, promulgate regulations for the use and certification of paraprofessionals as teaching assistants in the driver education programs of school divisions.

F. The Board of Education shall approve correspondence courses for the classroom training component of driver education. These correspondence courses shall be consistent in quality with instructional programs developed by the Board for classroom training in the public schools. Students completing the correspondence courses for classroom training, who are eligible to take behind-the-wheel driver training, may receive behind-the-wheel driver training (i) from a public school, upon payment of the required fee, if the school division offers behind-the-wheel driver training and space is available, (ii) from a driver training school licensed by the Department of Motor Vehicles, or (iii) in the case of a home schooling parent or guardian instructing his own child who meets the requirements for home school instruction under § 22.1-254.1 or subdivision B 1 of § 22.1-254, from a behind-the-wheel training course approved by the Board. Nothing herein shall be construed to require any school division to provide behind-the-wheel driver training to nonpublic school students.

**2. That the Board of Education shall collaborate with the Department of State Police to implement the provisions of this act.**

### CHAPTER 301

*An Act to amend and reenact § 22.1-289.1 of the Code of Virginia, relating to public schools; average teacher salary.*

[H 2332]

Approved March 3, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 22.1-289.1 of the Code of Virginia is amended and reenacted as follows:**

**§ 22.1-289.1. Teacher compensation; biennial review required.**

It is a goal of the Commonwealth that its public school teachers be compensated at a rate that is competitive in order to attract and keep highly qualified teachers. *As used in this section, "competitive" means, at a minimum, at or above the national average teacher salary.* The Director of Human Resource Management shall conduct a biennial review of the compensation of teachers and other occupations requiring similar education and training and shall consider the Commonwealth's compensation for teachers relative to member states in the Southern Regional Education Board. The results of these reviews shall be reported to the Governor, the General Assembly, and the Board of Education by June 1 of each odd-numbered year.

### CHAPTER 302

*An Act to amend and reenact § 22.1-254.1 of the Code of Virginia, relating to students receiving home instruction; participation in Advanced Placement and Preliminary SAT/National Merit Scholarship Qualifying Test examinations.*

[H 2355]

Approved March 3, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 22.1-254.1 of the Code of Virginia is amended and reenacted as follows:**

**§ 22.1-254.1. Declaration of policy; requirements for home instruction of children.**

A. When the requirements of this section have been satisfied, instruction of children by their parents is an acceptable alternative form of education under the policy of the Commonwealth of Virginia. Any parent of any child who will have reached the fifth birthday on or before September 30 of any school year and who has not passed the eighteenth birthday may elect to provide home instruction in lieu of school attendance if he (i) holds a high school diploma; or (ii) is a teacher of qualifications prescribed by the Board of Education; or (iii) provides a program of study or curriculum which may be delivered through a correspondence course or distance learning program or in any other manner; or (iv) provides evidence that he is able to provide an adequate education for the child.

B. Any parent who elects to provide home instruction in lieu of school attendance shall annually notify the division superintendent in August of his intention to so instruct the child and provide a description of the curriculum, limited to a list of subjects to be studied during the coming year, and evidence of having met one of the criteria for providing home instruction as required by subsection A. Effective July 1, 2000, parents electing to provide home instruction shall provide

such annual notice no later than August 15. Any parent who moves into a school division or begins home instruction after the school year has begun shall notify the division superintendent of his intention to provide home instruction as soon as practicable and shall thereafter comply with the requirements of this section within 30 days of such notice. The division superintendent shall notify the Superintendent of Public Instruction of the number of students in the school division receiving home instruction.

C. The parent who elects to provide home instruction shall provide the division superintendent by August 1 following the school year in which the child has received home instruction with either (i) evidence that the child has attained a composite score in or above the fourth stanine on any nationally normed standardized achievement test, or an equivalent score on the ACT, SAT, or PSAT test or (ii) an evaluation or assessment which the division superintendent determines to indicate that the child is achieving an adequate level of educational growth and progress, including but not limited to: (a) an evaluation letter from a person licensed to teach in any state, or a person with a master's degree or higher in an academic discipline, having knowledge of the child's academic progress, stating that the child is achieving an adequate level of educational growth and progress; or (b) a report card or transcript from a community college or college, college distance learning program, or home-education correspondence school.

In the event that evidence of progress as required in this subsection is not provided by the parent, the home instruction program for that child may be placed on probation for one year. Parents shall file with the division superintendent evidence of their ability to provide an adequate education for their child in compliance with subsection A and a remediation plan for the probationary year which indicates their program is designed to address any educational deficiency. Upon acceptance of such evidence and plan by the division superintendent, the home instruction may continue for one probationary year. If the remediation plan and evidence are not accepted or the required evidence of progress is not provided by August 1 following the probationary year, home instruction shall cease and the parent shall make other arrangements for the education of the child which comply with § 22.1-254. The requirements of subsection C shall not apply to children who are under the age of six as of September 30 of the school year.

D. Nothing in this section shall prohibit a pupil and his parents from obtaining an excuse from school attendance by reason of bona fide religious training or belief pursuant to subdivision B 1 of § 22.1-254.

E. Any party aggrieved by a decision of the division superintendent may appeal his decision within 30 days to an independent hearing officer. The independent hearing officer shall be chosen from the list maintained by the Executive Secretary of the Supreme Court for hearing appeals of the placements of children with disabilities. The costs of the hearing shall be apportioned among the parties by the hearing officer in a manner consistent with his findings.

F. ~~School boards shall implement a plan to notify students receiving home instruction pursuant to this section and their parents of the availability of Advanced Placement (AP) and Preliminary SAT (PSAT) examinations and the availability of financial assistance to low-income and needy students to take these examinations.~~ School boards shall ~~implement a plan to make these~~ *Advanced Placement (AP), Preliminary SAT/National Merit Scholarship Qualifying Test (PSAT/NMSQT), and PreACT examinations available to students receiving home instruction pursuant to this section. School boards shall adopt written policies that specify the date by which such students shall register to participate in such examinations. School boards shall notify such students and their parents of such registration deadline and the availability of financial assistance to low-income and needy students to take such examinations.*

G. No division superintendent or local school board shall disclose to the Department of Education or any other person or entity outside of the local school division information that is provided by a parent or student to satisfy the requirements of this section or subdivision B 1 of § 22.1-254. However, a division superintendent or local school board may disclose, with the written consent of a student's parent, such information to the extent provided by the parent's consent. Nothing in this subsection shall prohibit a division superintendent from notifying the Superintendent of Public Instruction of the number of students in the school division receiving home instruction as required by subsection B.

### CHAPTER 303

*An Act to direct the Board of Education to establish guidelines for alternatives to suspension.*

[S 829]

Approved March 3, 2017

#### **Be it enacted by the General Assembly of Virginia:**

**1. § 1.** *The Board of Education shall establish guidelines for alternatives to short-term and long-term suspension for consideration by local school boards. Such alternatives may include positive behavior incentives, mediation, peer-to-peer counseling, community service, and other intervention alternatives.*

## CHAPTER 304

*An Act to amend and reenact §§ 8.01-225 and 54.1-3408 of the Code of Virginia, relating to epinephrine, insulin, and glucagon; possession and administration by certain employees of public or private institution of higher education.*

[S 944]

Approved March 3, 2017

**Be it enacted by the General Assembly of Virginia:****1. That §§ 8.01-225 and 54.1-3408 of the Code of Virginia are amended and reenacted as follows:****§ 8.01-225. Persons rendering emergency care, obstetrical services exempt from liability.**

## A. Any person who:

1. In good faith, renders emergency care or assistance, without compensation, to any ill or injured person (i) at the scene of an accident, fire, or any life-threatening emergency; (ii) at a location for screening or stabilization of an emergency medical condition arising from an accident, fire, or any life-threatening emergency; or (iii) en route to any hospital, medical clinic, or doctor's office, shall not be liable for any civil damages for acts or omissions resulting from the rendering of such care or assistance. For purposes of this subdivision, emergency care or assistance includes the forcible entry of a motor vehicle in order to remove an unattended minor at risk of serious bodily injury or death, provided the person has attempted to contact a law-enforcement officer, as defined in § 9.1-101, a firefighter, as defined in § 65.2-102, emergency medical services personnel, as defined in § 32.1-111.1, or an emergency 911 system, if feasible under the circumstances.

2. In the absence of gross negligence, renders emergency obstetrical care or assistance to a female in active labor who has not previously been cared for in connection with the pregnancy by such person or by another professionally associated with such person and whose medical records are not reasonably available to such person shall not be liable for any civil damages for acts or omissions resulting from the rendering of such emergency care or assistance. The immunity herein granted shall apply only to the emergency medical care provided.

3. In good faith and without compensation, including any emergency medical services provider who holds a valid certificate issued by the Commissioner of Health, administers epinephrine in an emergency to an individual shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment if such person has reason to believe that the individual receiving the injection is suffering or is about to suffer a life-threatening anaphylactic reaction.

4. Provides assistance upon request of any police agency, fire department, emergency medical services agency, or governmental agency in the event of an accident or other emergency involving the use, handling, transportation, transmission, or storage of liquefied petroleum gas, liquefied natural gas, hazardous material, or hazardous waste as defined in § 10.1-1400 or regulations of the Virginia Waste Management Board shall not be liable for any civil damages resulting from any act of commission or omission on his part in the course of his rendering such assistance in good faith.

5. Is an emergency medical services provider possessing a valid certificate issued by authority of the State Board of Health who in good faith renders emergency care or assistance, whether in person or by telephone or other means of communication, without compensation, to any injured or ill person, whether at the scene of an accident, fire, or any other place, or while transporting such injured or ill person to, from, or between any hospital, medical facility, medical clinic, doctor's office, or other similar or related medical facility, shall not be liable for any civil damages for acts or omissions resulting from the rendering of such emergency care, treatment, or assistance, including but in no way limited to acts or omissions which involve violations of State Department of Health regulations or any other state regulations in the rendering of such emergency care or assistance.

6. In good faith and without compensation, renders or administers emergency cardiopulmonary resuscitation (CPR); cardiac defibrillation, including, but not limited to, the use of an automated external defibrillator (AED); or other emergency life-sustaining or resuscitative treatments or procedures which have been approved by the State Board of Health to any sick or injured person, whether at the scene of a fire, an accident, or any other place, or while transporting such person to or from any hospital, clinic, doctor's office, or other medical facility, shall be deemed qualified to administer such emergency treatments and procedures and shall not be liable for acts or omissions resulting from the rendering of such emergency resuscitative treatments or procedures.

7. Operates an AED at the scene of an emergency, trains individuals to be operators of AEDs, or orders AEDs, shall be immune from civil liability for any personal injury that results from any act or omission in the use of an AED in an emergency where the person performing the defibrillation acts as an ordinary, reasonably prudent person would have acted under the same or similar circumstances, unless such personal injury results from gross negligence or willful or wanton misconduct of the person rendering such emergency care.

8. Maintains an AED located on real property owned or controlled by such person shall be immune from civil liability for any personal injury that results from any act or omission in the use in an emergency of an AED located on such property unless such personal injury results from gross negligence or willful or wanton misconduct of the person who maintains the AED or his agent or employee.

9. Is an employee of a school board or of a local health department approved by the local governing body to provide health services pursuant to § 22.1-274 who, while on school property or at a school-sponsored event, (i) renders emergency care or assistance to any sick or injured person; (ii) renders or administers emergency cardiopulmonary resuscitation (CPR);

cardiac defibrillation, including, but not limited to, the use of an automated external defibrillator (AED); or other emergency life-sustaining or resuscitative treatments or procedures that have been approved by the State Board of Health to any sick or injured person; (iii) operates an AED, trains individuals to be operators of AEDs, or orders AEDs; or (iv) maintains an AED, shall not be liable for civil damages for ordinary negligence in acts or omissions on the part of such employee while engaged in the acts described in this subdivision.

10. Is a volunteer in good standing and certified to render emergency care by the National Ski Patrol System, Inc., who, in good faith and without compensation, renders emergency care or assistance to any injured or ill person, whether at the scene of a ski resort rescue, outdoor emergency rescue, or any other place or while transporting such injured or ill person to a place accessible for transfer to any available emergency medical system unit, or any resort owner voluntarily providing a ski patroller employed by him to engage in rescue or recovery work at a resort not owned or operated by him, shall not be liable for any civil damages for acts or omissions resulting from the rendering of such emergency care, treatment, or assistance, including but not limited to acts or omissions which involve violations of any state regulation or any standard of the National Ski Patrol System, Inc., in the rendering of such emergency care or assistance, unless such act or omission was the result of gross negligence or willful misconduct.

11. Is an employee of (i) a school board, (ii) a school for students with disabilities as defined in § 22.1-319 licensed by the Board of Education, or (iii) a private school accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education and is authorized by a prescriber and trained in the administration of insulin and glucagon, who, upon the written request of the parents as defined in § 22.1-1, assists with the administration of insulin or administers glucagon to a student diagnosed as having diabetes who requires insulin injections during the school day or for whom glucagon has been prescribed for the emergency treatment of hypoglycemia shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment if the insulin is administered according to the child's medication schedule or such employee has reason to believe that the individual receiving the glucagon is suffering or is about to suffer life-threatening hypoglycemia. Whenever any such employee is covered by the immunity granted herein, the school board or school employing him shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such insulin or glucagon treatment.

12. *Is an employee of a public institution of higher education or a private institution of higher education who is authorized by a prescriber and trained in the administration of insulin and glucagon, who assists with the administration of insulin or administers glucagon to a student diagnosed as having diabetes who requires insulin injections or for whom glucagon has been prescribed for the emergency treatment of hypoglycemia shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment if the insulin is administered according to the student's medication schedule or such employee has reason to believe that the individual receiving the glucagon is suffering or is about to suffer life-threatening hypoglycemia. Whenever any employee is covered by the immunity granted in this subdivision, the institution shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such insulin or glucagon treatment.*

13. Is a school nurse, an employee of a school board, an employee of a local governing body, or an employee of a local health department who is authorized by a prescriber and trained in the administration of epinephrine and who provides, administers, or assists in the administration of epinephrine to a student believed in good faith to be having an anaphylactic reaction, or is the prescriber of the epinephrine, shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment.

~~13.~~ 14. Is an employee of a school for students with disabilities, as defined in § 22.1-319 and licensed by the Board of Education, or an employee of a private school that is accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education who is authorized by a prescriber and trained in the administration of epinephrine and who administers or assists in the administration of epinephrine to a student believed in good faith to be having an anaphylactic reaction, or is the prescriber of the epinephrine, shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment. Whenever any employee is covered by the immunity granted in this subdivision, the school shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from such administration or assistance.

~~14.~~ 15. *Is an employee of a public institution of higher education or a private institution of higher education who is authorized by a prescriber and trained in the administration of epinephrine and who administers or assists in the administration of epinephrine to a student believed in good faith to be having an anaphylactic reaction, or is the prescriber of the epinephrine, shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment. Whenever any employee is covered by the immunity granted in this subdivision, the institution shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from such administration or assistance.*

16. Is an employee of a provider licensed by the Department of Behavioral Health and Developmental Services, or provides services pursuant to a contract with a provider licensed by the Department of Behavioral Health and Developmental Services, who has been trained in the administration of insulin and glucagon and who administers or assists with the administration of insulin or administers glucagon to a person diagnosed as having diabetes who requires insulin injections or for whom glucagon has been prescribed for the emergency treatment of hypoglycemia in accordance with § 54.1-3408 shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment if the insulin is administered in accordance with the prescriber's instructions or such person has

reason to believe that the individual receiving the glucagon is suffering or is about to suffer life-threatening hypoglycemia. Whenever any employee of a provider licensed by the Department of Behavioral Health and Developmental Services or a person who provides services pursuant to a contract with a provider licensed by the Department of Behavioral Health and Developmental Services is covered by the immunity granted herein, the provider shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such insulin or glucagon treatment.

~~15.~~ 17. Is an employee of a provider licensed by the Department of Behavioral Health and Developmental Services, or provides services pursuant to a contract with a provider licensed by the Department of Behavioral Health and Developmental Services, who has been trained in the administration of epinephrine and who administers or assists in the administration of epinephrine to a person believed in good faith to be having an anaphylactic reaction in accordance with the prescriber's instructions shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment.

~~16.~~ 18. In good faith prescribes, dispenses, or administers naloxone or other opioid antagonist used for overdose reversal in an emergency to an individual who is believed to be experiencing or about to experience a life-threatening opiate overdose shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment if acting in accordance with the provisions of subsection X of § 54.1-3408 or in his role as a member of an emergency medical services agency.

B. Any licensed physician serving without compensation as the operational medical director for an emergency medical services agency that holds a valid license as an emergency medical services agency issued by the Commissioner of Health shall not be liable for any civil damages for any act or omission resulting from the rendering of emergency medical services in good faith by the personnel of such licensed agency unless such act or omission was the result of such physician's gross negligence or willful misconduct.

Any person serving without compensation as a dispatcher for any licensed public or nonprofit emergency medical services agency in the Commonwealth shall not be liable for any civil damages for any act or omission resulting from the rendering of emergency services in good faith by the personnel of such licensed agency unless such act or omission was the result of such dispatcher's gross negligence or willful misconduct.

Any individual, certified by the State Office of Emergency Medical Services as an emergency medical services instructor and pursuant to a written agreement with such office, who, in good faith and in the performance of his duties, provides instruction to persons for certification or recertification as a certified basic life support or advanced life support emergency medical services provider shall not be liable for any civil damages for acts or omissions on his part directly relating to his activities on behalf of such office unless such act or omission was the result of such emergency medical services instructor's gross negligence or willful misconduct.

Any licensed physician serving without compensation as a medical advisor to an E-911 system in the Commonwealth shall not be liable for any civil damages for any act or omission resulting from rendering medical advice in good faith to establish protocols to be used by the personnel of the E-911 service, as defined in § 58.1-1730, when answering emergency calls unless such act or omission was the result of such physician's gross negligence or willful misconduct.

Any licensed physician who directs the provision of emergency medical services, as authorized by the State Board of Health, through a communications device shall not be liable for any civil damages for any act or omission resulting from the rendering of such emergency medical services unless such act or omission was the result of such physician's gross negligence or willful misconduct.

Any licensed physician serving without compensation as a supervisor of an AED in the Commonwealth shall not be liable for any civil damages for any act or omission resulting from rendering medical advice in good faith to the owner of the AED relating to personnel training, local emergency medical services coordination, protocol approval, AED deployment strategies, and equipment maintenance plans and records unless such act or omission was the result of such physician's gross negligence or willful misconduct.

C. Any communications services provider, as defined in § 58.1-647, including mobile service, and any provider of Voice-over-Internet Protocol service, in the Commonwealth shall not be liable for any civil damages for any act or omission resulting from rendering such service with or without charge related to emergency calls unless such act or omission was the result of such service provider's gross negligence or willful misconduct.

Any volunteer engaging in rescue or recovery work at a mine, or any mine operator voluntarily providing personnel to engage in rescue or recovery work at a mine not owned or operated by such operator, shall not be liable for civil damages for acts or omissions resulting from the rendering of such rescue or recovery work in good faith unless such act or omission was the result of gross negligence or willful misconduct. For purposes of this subsection, "Voice-over-Internet Protocol service" or "VoIP service" means any Internet protocol-enabled services utilizing a broadband connection, actually originating or terminating in Internet Protocol from either or both ends of a channel of communication offering real time, multidirectional voice functionality, including, but not limited to, services similar to traditional telephone service.

D. Nothing contained in this section shall be construed to provide immunity from liability arising out of the operation of a motor vehicle.

E. For the purposes of this section, "compensation" shall not be construed to include (i) the salaries of police, fire, or other public officials or personnel who render such emergency assistance; (ii) the salaries or wages of employees of a coal producer engaging in emergency medical services or first aid services pursuant to the provisions of § 45.1-161.38, 45.1-161.101, 45.1-161.199, or 45.1-161.263; (iii) complimentary lift tickets, food, lodging, or other gifts provided as a

gratuity to volunteer members of the National Ski Patrol System, Inc., by any resort, group, or agency; (iv) the salary of any person who (a) owns an AED for the use at the scene of an emergency, (b) trains individuals, in courses approved by the Board of Health, to operate AEDs at the scene of emergencies, (c) orders AEDs for use at the scene of emergencies, or (d) operates an AED at the scene of an emergency; or (v) expenses reimbursed to any person providing care or assistance pursuant to this section.

For the purposes of this section, "emergency medical services provider" shall include a person licensed or certified as such or its equivalent by any other state when he is performing services that he is licensed or certified to perform by such other state in caring for a patient in transit in the Commonwealth, which care originated in such other state.

Further, the public shall be urged to receive training on how to use CPR and an AED in order to acquire the skills and confidence to respond to emergencies using both CPR and an AED.

**§ 54.1-3408. Professional use by practitioners.**

A. A practitioner of medicine, osteopathy, podiatry, dentistry, or veterinary medicine or a licensed nurse practitioner pursuant to § 54.1-2957.01, a licensed physician assistant pursuant to § 54.1-2952.1, or a TPA-certified optometrist pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32 shall only prescribe, dispense, or administer controlled substances in good faith for medicinal or therapeutic purposes within the course of his professional practice.

B. The prescribing practitioner's order may be on a written prescription or pursuant to an oral prescription as authorized by this chapter. The prescriber may administer drugs and devices, or he may cause drugs or devices to be administered by:

1. A nurse, physician assistant, or intern under his direction and supervision;
2. Persons trained to administer drugs and devices to patients in state-owned or state-operated hospitals or facilities licensed as hospitals by the Board of Health or psychiatric hospitals licensed by the Department of Behavioral Health and Developmental Services who administer drugs under the control and supervision of the prescriber or a pharmacist;
3. Emergency medical services personnel certified and authorized to administer drugs and devices pursuant to regulations of the Board of Health who act within the scope of such certification and pursuant to an oral or written order or standing protocol; or
4. A licensed respiratory therapist as defined in § 54.1-2954 who administers by inhalation controlled substances used in inhalation or respiratory therapy.

C. Pursuant to an oral or written order or standing protocol, the prescriber, who is authorized by state or federal law to possess and administer radiopharmaceuticals in the scope of his practice, may authorize a nuclear medicine technologist to administer, under his supervision, radiopharmaceuticals used in the diagnosis or treatment of disease.

D. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize registered nurses and licensed practical nurses to possess (i) epinephrine and oxygen for administration in treatment of emergency medical conditions and (ii) heparin and sterile normal saline to use for the maintenance of intravenous access lines.

Pursuant to the regulations of the Board of Health, certain emergency medical services technicians may possess and administer epinephrine in emergency cases of anaphylactic shock.

Pursuant to an order or standing protocol issued by the prescriber within the course of his professional practice, any school nurse, school board employee, employee of a local governing body, or employee of a local health department who is authorized by a prescriber and trained in the administration of epinephrine may possess and administer epinephrine.

Pursuant to an order or a standing protocol issued by the prescriber within the course of his professional practice, any employee of a school for students with disabilities, as defined in § 22.1-319 and licensed by the Board of Education, or any employee of a private school that is accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education who is authorized by a prescriber and trained in the administration of epinephrine may possess and administer epinephrine.

*Pursuant to an order or a standing protocol issued by the prescriber within the course of his professional practice, any employee of a public institution of higher education or a private institution of higher education who is authorized by a prescriber and trained in the administration of epinephrine may possess and administer epinephrine.*

Pursuant to an order issued by the prescriber within the course of his professional practice, an employee of a provider licensed by the Department of Behavioral Health and Developmental Services or a person providing services pursuant to a contract with a provider licensed by the Department of Behavioral Health and Developmental Services may possess and administer epinephrine, provided such person is authorized and trained in the administration of epinephrine.

Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize pharmacists to possess epinephrine and oxygen for administration in treatment of emergency medical conditions.

E. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize licensed physical therapists to possess and administer topical corticosteroids, topical lidocaine, and any other Schedule VI topical drug.

F. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize licensed athletic trainers to possess and administer topical corticosteroids, topical lidocaine, or other Schedule VI topical drugs; oxygen for use in emergency situations; and epinephrine for use in emergency cases of anaphylactic shock.

G. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, and in accordance with policies and guidelines established by the Department of Health pursuant to § 32.1-50.2, such prescriber may authorize registered nurses or licensed practical nurses under the immediate and direct supervision of a registered nurse to possess and administer tuberculin purified protein derivative (PPD) in the absence of a prescriber. The Department of Health's policies and guidelines shall be consistent with applicable guidelines developed by the Centers for Disease Control and Prevention for preventing transmission of mycobacterium tuberculosis and shall be updated to incorporate any subsequently implemented standards of the Occupational Safety and Health Administration and the Department of Labor and Industry to the extent that they are inconsistent with the Department of Health's policies and guidelines. Such standing protocols shall explicitly describe the categories of persons to whom the tuberculin test is to be administered and shall provide for appropriate medical evaluation of those in whom the test is positive. The prescriber shall ensure that the nurse implementing such standing protocols has received adequate training in the practice and principles underlying tuberculin screening.

The Health Commissioner or his designee may authorize registered nurses, acting as agents of the Department of Health, to possess and administer, at the nurse's discretion, tuberculin purified protein derivative (PPD) to those persons in whom tuberculin skin testing is indicated based on protocols and policies established by the Department of Health.

H. Pursuant to a written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize, with the consent of the parents as defined in § 22.1-1, an employee of (i) a school board, (ii) a school for students with disabilities as defined in § 22.1-319 licensed by the Board of Education, or (iii) a private school accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education who is trained in the administration of insulin and glucagon to assist with the administration of insulin or administer glucagon to a student diagnosed as having diabetes and who requires insulin injections during the school day or for whom glucagon has been prescribed for the emergency treatment of hypoglycemia. Such authorization shall only be effective when a licensed nurse, nurse practitioner, physician, or physician assistant is not present to perform the administration of the medication.

*Pursuant to a written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize an employee of a public institution of higher education or a private institution of higher education who is trained in the administration of insulin and glucagon to assist with the administration of insulin or administration of glucagon to a student diagnosed as having diabetes and who requires insulin injections or for whom glucagon has been prescribed for the emergency treatment of hypoglycemia. Such authorization shall only be effective when a licensed nurse, nurse practitioner, physician, or physician assistant is not present to perform the administration of the medication.*

Pursuant to a written order issued by the prescriber within the course of his professional practice, such prescriber may authorize an employee of a provider licensed by the Department of Behavioral Health and Developmental Services or a person providing services pursuant to a contract with a provider licensed by the Department of Behavioral Health and Developmental Services to assist with the administration of insulin or to administer glucagon to a person diagnosed as having diabetes and who requires insulin injections or for whom glucagon has been prescribed for the emergency treatment of hypoglycemia, provided such employee or person providing services has been trained in the administration of insulin and glucagon.

I. A prescriber may authorize, pursuant to a protocol approved by the Board of Nursing, the administration of vaccines to adults for immunization, when a practitioner with prescriptive authority is not physically present, by (i) licensed pharmacists, (ii) registered nurses, or (iii) licensed practical nurses under the immediate and direct supervision of a registered nurse. A prescriber acting on behalf of and in accordance with established protocols of the Department of Health may authorize the administration of vaccines to any person by a pharmacist, nurse, or designated emergency medical services provider who holds an advanced life support certificate issued by the Commissioner of Health under the direction of an operational medical director when the prescriber is not physically present. The emergency medical services provider shall provide documentation of the vaccines to be recorded in the Virginia Immunization Information System.

J. A dentist may cause Schedule VI topical drugs to be administered under his direction and supervision by either a dental hygienist or by an authorized agent of the dentist.

Further, pursuant to a written order and in accordance with a standing protocol issued by the dentist in the course of his professional practice, a dentist may authorize a dental hygienist under his general supervision, as defined in § 54.1-2722, to possess and administer topical oral fluorides, topical oral anesthetics, topical and directly applied antimicrobial agents for treatment of periodontal pocket lesions, as well as any other Schedule VI topical drug approved by the Board of Dentistry.

In addition, a dentist may authorize a dental hygienist under his direction to administer Schedule VI nitrous oxide and oxygen inhalation analgesia and, to persons 18 years of age or older, Schedule VI local anesthesia.

K. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize registered professional nurses certified as sexual assault nurse examiners-A (SANE-A) under his supervision and when he is not physically present to possess and administer preventive medications for victims of sexual assault as recommended by the Centers for Disease Control and Prevention.

L. This section shall not prevent the administration of drugs by a person who has satisfactorily completed a training program for this purpose approved by the Board of Nursing and who administers such drugs in accordance with a prescriber's instructions pertaining to dosage, frequency, and manner of administration, and in accordance with regulations promulgated by the Board of Pharmacy relating to security and record keeping, when the drugs administered would be

normally self-administered by (i) an individual receiving services in a program licensed by the Department of Behavioral Health and Developmental Services; (ii) a resident of the Virginia Rehabilitation Center for the Blind and Vision Impaired; (iii) a resident of a facility approved by the Board or Department of Juvenile Justice for the placement of children in need of services or delinquent or alleged delinquent youth; (iv) a program participant of an adult day-care center licensed by the Department of Social Services; (v) a resident of any facility authorized or operated by a state or local government whose primary purpose is not to provide health care services; (vi) a resident of a private children's residential facility, as defined in § 63.2-100 and licensed by the Department of Social Services, Department of Education, or Department of Behavioral Health and Developmental Services; or (vii) a student in a school for students with disabilities, as defined in § 22.1-319 and licensed by the Board of Education.

In addition, this section shall not prevent a person who has successfully completed a training program for the administration of drugs via percutaneous gastrostomy tube approved by the Board of Nursing and been evaluated by a registered nurse as having demonstrated competency in administration of drugs via percutaneous gastrostomy tube from administering drugs to a person receiving services from a program licensed by the Department of Behavioral Health and Developmental Services to such person via percutaneous gastrostomy tube. The continued competency of a person to administer drugs via percutaneous gastrostomy tube shall be evaluated semiannually by a registered nurse.

M. Medication aides registered by the Board of Nursing pursuant to Article 7 (§ 54.1-3041 et seq.) of Chapter 30 may administer drugs that would otherwise be self-administered to residents of any assisted living facility licensed by the Department of Social Services. A registered medication aide shall administer drugs pursuant to this section in accordance with the prescriber's instructions pertaining to dosage, frequency, and manner of administration; in accordance with regulations promulgated by the Board of Pharmacy relating to security and recordkeeping; in accordance with the assisted living facility's Medication Management Plan; and in accordance with such other regulations governing their practice promulgated by the Board of Nursing.

N. In addition, this section shall not prevent the administration of drugs by a person who administers such drugs in accordance with a physician's instructions pertaining to dosage, frequency, and manner of administration and with written authorization of a parent, and in accordance with school board regulations relating to training, security and record keeping, when the drugs administered would be normally self-administered by a student of a Virginia public school. Training for such persons shall be accomplished through a program approved by the local school boards, in consultation with the local departments of health.

O. In addition, this section shall not prevent the administration of drugs by a person to (i) a child in a child day program as defined in § 63.2-100 and regulated by the State Board of Social Services or a local government pursuant to § 15.2-914, or (ii) a student of a private school that is accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education, provided such person (a) has satisfactorily completed a training program for this purpose approved by the Board of Nursing and taught by a registered nurse, licensed practical nurse, nurse practitioner, physician assistant, doctor of medicine or osteopathic medicine, or pharmacist; (b) has obtained written authorization from a parent or guardian; (c) administers drugs only to the child identified on the prescription label in accordance with the prescriber's instructions pertaining to dosage, frequency, and manner of administration; and (d) administers only those drugs that were dispensed from a pharmacy and maintained in the original, labeled container that would normally be self-administered by the child or student, or administered by a parent or guardian to the child or student.

P. In addition, this section shall not prevent the administration or dispensing of drugs and devices by persons if they are authorized by the State Health Commissioner in accordance with protocols established by the State Health Commissioner pursuant to § 32.1-42.1 when (i) the Governor has declared a disaster or a state of emergency or the United States Secretary of Health and Human Services has issued a declaration of an actual or potential bioterrorism incident or other actual or potential public health emergency; (ii) it is necessary to permit the provision of needed drugs or devices; and (iii) such persons have received the training necessary to safely administer or dispense the needed drugs or devices. Such persons shall administer or dispense all drugs or devices under the direction, control, and supervision of the State Health Commissioner.

Q. Nothing in this title shall prohibit the administration of normally self-administered drugs by unlicensed individuals to a person in his private residence.

R. This section shall not interfere with any prescriber issuing prescriptions in compliance with his authority and scope of practice and the provisions of this section to a Board agent for use pursuant to subsection G of § 18.2-258.1. Such prescriptions issued by such prescriber shall be deemed to be valid prescriptions.

S. Nothing in this title shall prevent or interfere with dialysis care technicians or dialysis patient care technicians who are certified by an organization approved by the Board of Health Professions or persons authorized for provisional practice pursuant to Chapter 27.01 (§ 54.1-2729.1 et seq.), in the ordinary course of their duties in a Medicare-certified renal dialysis facility, from administering heparin, topical needle site anesthetics, dialysis solutions, sterile normal saline solution, and blood volumizers, for the purpose of facilitating renal dialysis treatment, when such administration of medications occurs under the orders of a licensed physician, nurse practitioner, or physician assistant and under the immediate and direct supervision of a licensed registered nurse. Nothing in this chapter shall be construed to prohibit a patient care dialysis technician trainee from performing dialysis care as part of and within the scope of the clinical skills instruction segment of a supervised dialysis technician training program, provided such trainee is identified as a "trainee" while working in a renal dialysis facility.

The dialysis care technician or dialysis patient care technician administering the medications shall have demonstrated competency as evidenced by holding current valid certification from an organization approved by the Board of Health Professions pursuant to Chapter 27.01 (§ 54.1-2729.1 et seq.).

T. Persons who are otherwise authorized to administer controlled substances in hospitals shall be authorized to administer influenza or pneumococcal vaccines pursuant to § 32.1-126.4.

U. Pursuant to a specific order for a patient and under his direct and immediate supervision, a prescriber may authorize the administration of controlled substances by personnel who have been properly trained to assist a doctor of medicine or osteopathic medicine, provided the method does not include intravenous, intrathecal, or epidural administration and the prescriber remains responsible for such administration.

V. A physician assistant, nurse or a dental hygienist may possess and administer topical fluoride varnish to the teeth of children aged six months to three years pursuant to an oral or written order or a standing protocol issued by a doctor of medicine, osteopathic medicine, or dentistry that conforms to standards adopted by the Department of Health.

W. A prescriber, acting in accordance with guidelines developed pursuant to § 32.1-46.02, may authorize the administration of influenza vaccine to minors by a licensed pharmacist, registered nurse, licensed practical nurse under the direction and immediate supervision of a registered nurse, or emergency medical services provider who holds an advanced life support certificate issued by the Commissioner of Health when the prescriber is not physically present.

X. Notwithstanding the provisions of § 54.1-3303, pursuant to an oral, written, or standing order issued by a prescriber, and in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health, a pharmacist may dispense naloxone or other opioid antagonist used for overdose reversal and a person may possess and administer naloxone or other opioid antagonist used for overdose reversal to a person who is believed to be experiencing or about to experience a life-threatening opiate overdose. Law-enforcement officers as defined in § 9.1-101 and firefighters who have completed a training program may also possess and administer naloxone in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health.

CHAPTER 305

*An Act to amend and reenact §§ 23.1-3120, 23.1-3121, and 23.1-3122 of the Code of Virginia, relating to the Southern Virginia Higher Education Center; board of trustees; membership and powers and duties.*

[S 949]

Approved March 3, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 23.1-3120, 23.1-3121, and 23.1-3122 of the Code of Virginia are amended and reenacted as follows:**

**§ 23.1-3120. Southern Virginia Higher Education Center established; duties.**

The Southern Virginia Higher Education Center (the Center) is established as an educational institution in the Commonwealth. The Center shall:

1. Encourage the expansion of higher education, including adult and continuing education and associate, undergraduate, and graduate degree programs in the region and foster partnerships between the public and private sectors to enhance higher education in the Southside region;
2. ~~Coordinate~~ Encourage the development and delivery of continuing education programs ~~offered by~~ and workforce training in collaboration with the educational institutions serving the region, with a focus on critical shortage areas and the needs of industry;
3. Facilitate the delivery of teacher training programs leading to licensure and graduate degrees;
4. Serve as a resource and referral center by maintaining and disseminating information on existing educational programs and resources; and
5. Develop, in coordination with the Council, specific goals for higher education in Southside Virginia.

**§ 23.1-3121. Board of trustees.**

A. The Center shall be governed by a board of trustees (the board) consisting of 15 members as follows: two members of the House of Delegates to be appointed by the Speaker of the House of Delegates in accordance with the principles of proportional representation contained in the Rules of the House of Delegates; one member of the Senate to be appointed by the Senate Committee on Rules; the Director of the Council or his designee; the Chancellor of the Virginia Community College System or his designee; the presidents of Longwood University, Danville Community College, and Southside Virginia Community College or their designees; ~~the division superintendent of Halifax County Public Schools;~~ and ~~six~~ seven nonlegislative citizen members to be appointed by the Governor, including two members of the Southern Virginia Higher Education Foundation, *one superintendent of a local school division located in the Southside region*, and four representatives of business and industry. The Speaker of the House of Delegates may appoint an alternate for one delegate appointed to the board. The alternate shall serve a term coincident with the term of the delegate and has the power to act in his absence. The Senate Committee on Rules may appoint an alternate for the senator appointed to the board. The alternate shall serve a term coincident with the term of the senator and may act in his absence.

Nonlegislative citizen members of the board shall be chosen from among residents of the Southside region of the Commonwealth and shall be citizens of the Commonwealth. *However, an individual who does not reside in the Southside region may serve as a representative of business and industry if he either (i) owns a business headquartered or otherwise operating in the Southside region or (ii) serves as a member of the board of directors or senior management of a business headquartered or otherwise operating in the Southside region.*

B. Legislative members and the representatives of the Council, the System, and the named institutions of higher education shall serve terms coincident with their terms of office. Nonlegislative citizen members shall be appointed for terms of four years. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. Vacancies shall be filled in the same manner as the original appointments.

No nonlegislative citizen member is eligible to serve more than two consecutive four-year terms; however, a member appointed to serve an unexpired term is eligible to serve two consecutive four-year terms immediately succeeding such unexpired term.

C. Nonlegislative citizen members are not entitled to compensation for their services. Legislative members of the board shall be compensated as provided in § 30-19.12. All members of the board shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties in the work of the Center as provided in §§ 2.2-2813 and 2.2-2825. The funding for the costs of compensation and expenses of the members shall be provided by the Center.

D. The board shall elect a chairman and a vice-chairman from among its membership.

**§ 23.1-3122. Powers of the board.**

A. The board has, in addition to its other powers, all the corporate powers given to corporations by the provisions of Title 13.1, except in those cases where, by the express terms of its provisions, it is confined to corporations created under that title.

B. The board may accept, execute, and administer any trust in which it may have an interest under the terms of the instrument creating the trust.

C. The board may establish and administer agreements with public institutions of higher education and private institutions of higher education for the provision of associate, undergraduate, and graduate degree instructional programs at the Center. *The board shall seek opportunities to collaborate with local comprehensive community colleges to meet specialized noncredit workforce training needs identified by industry. However, if local community colleges are unable to meet identified industry needs, then the board may seek to collaborate with other education providers or may provide Center-delivered specialized noncredit workforce training independent of local comprehensive community colleges.*

D. The board, on behalf of the Center, may apply for, accept, and expend gifts, grants, or donations from public or private sources to enable it to carry out its purposes.

**2. That the provisions of this act shall not affect members of the board of trustees of the Southern Virginia Higher Education Center whose terms have not expired as of July 1, 2017. However, the division superintendent of Halifax County Public Schools shall continue to serve until the Governor appoints a public school superintendent from the Southside region of the Commonwealth. Such individual shall be eligible for such appointment.**

**CHAPTER 306**

*An Act to amend and reenact § 23.1-601 of the Code of Virginia, relating to comprehensive community colleges; grants for certain individuals.*

[S 1032]

Approved March 3, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 23.1-601 of the Code of Virginia is amended and reenacted as follows:**

**§ 23.1-601. Comprehensive community colleges; grants for tuition and fees for certain individuals.**

A. Each comprehensive community college shall provide a grant for the payment of tuition or fees, except fees established for the purpose of paying for course materials such as laboratory fees, for any Virginia student who:

1. a. Has received a high school diploma or has passed a high school equivalency examination approved by the Board of Education and was in foster care or in the custody of the Department of Social Services or is considered a special needs adoption at the time such diploma or certificate was awarded; or

b. Was in foster care when he turned 18 and subsequently received a high school diploma or passed a high school equivalency examination approved by the Board of Education;

2. Is enrolled or has been accepted for enrollment as a full-time or part-time student, taking a minimum of six credit hours per semester, in a degree or certificate program of at least one academic year in length or in a noncredit workforce credential program in a comprehensive community college;

3. Has not been enrolled in postsecondary education as a full-time student for more than five years or does not have a bachelor's degree;

4. Maintains the required grade point average established by the State Board;

5. Has submitted *complete* applications for federal student financial aid programs for which he may be eligible;

6. Demonstrates financial need; and

7. Meets any additional financial need requirements established by the State Board for the purposes of such grant.

B. The State Board, in consultation with the Council and the Department of Social Services, shall establish regulations governing such grants. The regulations shall include provisions addressing renewals of grants, financial need, the calculation of grant amounts after consideration of any additional financial resources or aid the student holds, the minimum grade point average required to retain such grant, and procedures for the repayment of tuition and fees for failure to meet the requirements imposed by this section.

**CHAPTER 307**

*An Act to amend and reenact § 23.1-3117 of the Code of Virginia, relating to the Roanoke Higher Education Authority; board of trustees.*

[S 1447]

Approved March 3, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 23.1-3117 of the Code of Virginia is amended and reenacted as follows:**

**§ 23.1-3117. Board of trustees.**

A. The Authority shall be governed by a ~~22-member~~ 21-member board of trustees (the board) as follows: two members of the House of Delegates, to be appointed by the Speaker of the House of Delegates in accordance with the principles of proportional representation contained in the Rules of the House of Delegates; one member of the Senate, to be appointed by the Senate Committee on Rules; the Director of the Council or his designee; the Chancellor of the Virginia Community College System or his designee; the presidents of Averett University, ~~Bluefield College~~, Hollins University, James Madison University, Mary Baldwin College, Old Dominion University, Radford University, Roanoke College, the University of Virginia, Virginia Polytechnic Institute and State University, and Virginia Western Community College or their designees; the Director of Total Action for Progress (TAP) This Valley Works; and five nonlegislative citizen members representing business and industry in the Roanoke Valley to be appointed by the Governor. Nonlegislative citizen members of the board shall be citizens of the Commonwealth and residents of the Roanoke region.

B. The legislative members, the Director of the Council, the Chancellor of the Virginia Community College System, the Director of TAP This Valley Works, and the presidents of the named institutions of higher education or their designees shall serve terms coincident with their terms of office. Nonlegislative citizen members shall be appointed for terms of four years. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. Vacancies shall be filled in the same manner as the original appointments.

No nonlegislative citizen member shall serve more than two consecutive four-year terms; however, a member appointed to serve an unexpired term is eligible to serve two consecutive four-year terms immediately succeeding such unexpired term.

C. Nonlegislative citizen members are not entitled to compensation for their services. Legislative members of the board shall receive such compensation as provided in § 30-19.12. All members shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties in the work of the Authority as provided in §§ 2.2-2813 and 2.2-2825. Funding for the costs of compensation and expenses of the members shall be provided by the Authority.

D. The board shall elect a chairman and a vice-chairman from among its membership and may establish bylaws as necessary.

**CHAPTER 308**

*An Act to require the Department of Education to establish a pilot program, relating to the model exit questionnaire for teachers.*

[S 1523]

Approved March 3, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. § 1. The Department of Education (the Department) shall develop and oversee a pilot program to administer across five geographically and demographically diverse school divisions the model exit questionnaire for teachers developed by the Superintendent of Public Instruction (the Superintendent) pursuant to § 22.1-23 of the Code of Virginia, analyze the results of each such questionnaire, and include such results and analysis in the Superintendent's annual report beginning in 2018. The Department shall (i) administer such questionnaire to each teacher who ceases to be employed by the relevant school board for any reason and (ii) collect, maintain, and report on the results of each such questionnaire in a manner that ensures the confidentiality of each teacher's name and other personally identifying information.**

## CHAPTER 309

*An Act to amend the Code of Virginia by adding a section numbered 23.1-905.1, relating to public institutions of higher education; general education course credit; dual enrollment courses.*

[S 1534]

Approved March 3, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding a section numbered 23.1-905.1 as follows:**

**§ 23.1-905.1. General education course credit; dual enrollment courses.**

A. *The Council, in consultation with each public institution of higher education, shall establish a policy for granting undergraduate general education course credit to any entering student who has successfully completed a dual enrollment course. The policy shall:*

1. *Outline the conditions necessary for each public institution of higher education to grant general education course credit for the successful completion of a dual enrollment course;*
2. *Identify the general education course credit or other academic requirements of each public institution of higher education that the student satisfies by successfully completing a dual enrollment course; and*
3. *Ensure, to the extent possible, that the grant of general education course credit is consistent across each public institution of higher education and each such dual enrollment course.*

B. *The Council and each public institution of higher education shall make the policy available to the public on their websites.*

C. *The Council shall annually report to the House Committee on Education and the Senate Committee on Education and Health on the implementation of the course credit policy by each public institution of higher education.*

## CHAPTER 310

*An Act to amend and reenact § 23.1-3207 of the Code of Virginia, relating to the Jamestown-Yorktown Foundation; board of trustees; duties.*

[S 1555]

Approved March 3, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 23.1-3207 of the Code of Virginia is amended and reenacted as follows:**

**§ 23.1-3207. Duties.**

The board shall:

1. Do all things necessary and proper to (i) foster through its living-history museums, Jamestown Settlement and Yorktown Victory Center, an awareness and understanding of the early history, settlement, and development of the United States through the convergence of American Indian, European, and African cultures and the enduring legacies bequeathed to the nation; (ii) commemorate Jamestown as the first permanent English-speaking settlement in the United States and its contributions to the building of the Commonwealth and the nation; (iii) commemorate the winning of American independence on the battlefield at Yorktown; and (iv) enhance our understanding of the making of the United States Constitution and Bill of Rights, including the Commonwealth's role in shaping the fundamental principles of the American constitutional system;
2. Administer, develop, and maintain at Jamestown and Yorktown permanent commemorative shrines and historical museums;
3. Adopt names, flags, seals, and other emblems for use in connection with such shrines and copyright the same in the name of the Commonwealth;
4. Enter into contracts to further the purposes of the Foundation, *including contracts for the use and rental of agency facilities, structures, spaces, and personal property under the control of the Foundation;*
5. Establish nonprofit corporations as instrumentalities to assist in administering the affairs of the Foundation;
6. With the consent of the Governor, acquire by purchase, lease, gift, devise, or condemnation proceedings lands, property, and structures deemed necessary for the purposes of the Foundation. The title to such acquired land and property shall be in the name of the Commonwealth. In the exercise of the power of eminent domain granted under this section, the Foundation may proceed in the manner provided by Chapter 3 (§ 25.1-300 et seq.) of Title 25.1;
7. With the consent of the Governor, convey by lease land to any person, association, firm, or corporation for such terms and on such conditions as the Foundation may determine;
8. Receive and expend gifts, grants, and donations from whatever source derived for the purposes of the Foundation;
9. Employ an executive director and such deputies and assistants as may be required;
10. Elect any past chairman of the board to the honorary position of chairman emeritus. Chairmen emeriti shall serve as honorary members for life. Chairmen emeriti shall be elected in addition to the at-large positions defined in § 23.1-3206;

11. With the consent of the Governor, enter into agreements or contracts with private entities for the promotion of tourism through marketing without participating in competitive sealed bidding or competitive negotiation, provided that a demonstrable cost savings, as reviewed by the Secretary of Education, can be realized by the Foundation and such agreements or contracts are based on competitive principles;

12. Determine which paintings, statuary, works of art, manuscripts, and artifacts shall be acquired by purchase, gift, or loan and exchange or sell such items if not inconsistent with the terms of such purchase, gift, loan, or other acquisition; and

13. Change the form of investment of any funds, securities, or other property, real or personal, provided the form is not inconsistent with the terms of the instrument under which the property was acquired, and sell, grant, or convey any such property, except that any transfers of real property shall be made only with the consent of the Governor.

### CHAPTER 311

*An Act to amend and reenact §§ 9.1-102, 18.2-308.1, and 22.1-280.2:1 of the Code of Virginia, relating to school security officers; carrying a firearm in performance of duties.*

[H 1392]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 9.1-102, 18.2-308.1, and 22.1-280.2:1 of the Code of Virginia are amended and reenacted as follows:**

**§ 9.1-102. Powers and duties of the Board and the Department.**

The Department, under the direction of the Board, which shall be the policy-making body for carrying out the duties and powers hereunder, shall have the power and duty to:

1. Adopt regulations, pursuant to the Administrative Process Act (§ 2.2-4000 et seq.), for the administration of this chapter including the authority to require the submission of reports and information by law-enforcement officers within the Commonwealth. Any proposed regulations concerning the privacy, confidentiality, and security of criminal justice information shall be submitted for review and comment to any board, commission, or committee or other body which may be established by the General Assembly to regulate the privacy, confidentiality, and security of information collected and maintained by the Commonwealth or any political subdivision thereof;

2. Establish compulsory minimum training standards subsequent to employment as a law-enforcement officer in (i) permanent positions, and (ii) temporary or probationary status, and establish the time required for completion of such training;

3. Establish minimum training standards and qualifications for certification and recertification for law-enforcement officers serving as field training officers;

4. Establish compulsory minimum curriculum requirements for in-service and advanced courses and programs for schools, whether located in or outside the Commonwealth, which are operated for the specific purpose of training law-enforcement officers;

5. Establish (i) compulsory minimum training standards for law-enforcement officers who utilize radar or an electrical or microcomputer device to measure the speed of motor vehicles as provided in § 46.2-882 and establish the time required for completion of the training and (ii) compulsory minimum qualifications for certification and recertification of instructors who provide such training;

6. [Repealed];

7. Establish compulsory minimum entry-level, in-service and advanced training standards for those persons designated to provide courthouse and courtroom security pursuant to the provisions of § 53.1-120, and to establish the time required for completion of such training;

8. Establish compulsory minimum entry-level, in-service and advanced training standards for deputy sheriffs designated to serve process pursuant to the provisions of § 8.01-293, and establish the time required for the completion of such training;

9. Establish compulsory minimum entry-level, in-service, and advanced training standards, as well as the time required for completion of such training, for persons employed as deputy sheriffs and jail officers by local criminal justice agencies, correctional officers employed by the Department of Corrections under the provisions of Title 53.1, and juvenile correctional officers employed at a juvenile correctional facility as the term is defined in § 66-25.3;

10. Establish compulsory minimum training standards for all dispatchers employed by or in any local or state government agency, whose duties include the dispatching of law-enforcement personnel. Such training standards shall apply only to dispatchers hired on or after July 1, 1988;

11. Establish compulsory minimum training standards for all auxiliary police officers employed by or in any local or state government agency. Such training shall be graduated and based on the type of duties to be performed by the auxiliary police officers. Such training standards shall not apply to auxiliary police officers exempt pursuant to § 15.2-1731;

12. Consult and cooperate with counties, municipalities, agencies of the Commonwealth, other state and federal governmental agencies, and with universities, colleges, community colleges, and other institutions, whether located in or outside the Commonwealth, concerning the development of police training schools and programs or courses of instruction;

13. Approve institutions, curricula and facilities, whether located in or outside the Commonwealth, for school operation for the specific purpose of training law-enforcement officers; but this shall not prevent the holding of any such school whether approved or not;

14. Establish and maintain police training programs through such agencies and institutions as the Board deems appropriate;

15. Establish compulsory minimum qualifications of certification and recertification for instructors in criminal justice training schools approved by the Department;

16. Conduct and stimulate research by public and private agencies which shall be designed to improve police administration and law enforcement;

17. Make recommendations concerning any matter within its purview pursuant to this chapter;

18. Coordinate its activities with those of any interstate system for the exchange of criminal history record information, nominate one or more of its members to serve upon the council or committee of any such system, and participate when and as deemed appropriate in any such system's activities and programs;

19. Conduct inquiries and investigations it deems appropriate to carry out its functions under this chapter and, in conducting such inquiries and investigations, may require any criminal justice agency to submit information, reports, and statistical data with respect to its policy and operation of information systems or with respect to its collection, storage, dissemination, and usage of criminal history record information and correctional status information, and such criminal justice agencies shall submit such information, reports, and data as are reasonably required;

20. Conduct audits as required by § 9.1-131;

21. Conduct a continuing study and review of questions of individual privacy and confidentiality of criminal history record information and correctional status information;

22. Advise criminal justice agencies and initiate educational programs for such agencies with respect to matters of privacy, confidentiality, and security as they pertain to criminal history record information and correctional status information;

23. Maintain a liaison with any board, commission, committee, or other body which may be established by law, executive order, or resolution to regulate the privacy and security of information collected by the Commonwealth or any political subdivision thereof;

24. Adopt regulations establishing guidelines and standards for the collection, storage, and dissemination of criminal history record information and correctional status information, and the privacy, confidentiality, and security thereof necessary to implement state and federal statutes, regulations, and court orders;

25. Operate a statewide criminal justice research center, which shall maintain an integrated criminal justice information system, produce reports, provide technical assistance to state and local criminal justice data system users, and provide analysis and interpretation of criminal justice statistical information;

26. Develop a comprehensive, statewide, long-range plan for strengthening and improving law enforcement and the administration of criminal justice throughout the Commonwealth, and periodically update that plan;

27. Cooperate with, and advise and assist, all agencies, departments, boards and institutions of the Commonwealth, and units of general local government, or combinations thereof, including planning district commissions, in planning, developing, and administering programs, projects, comprehensive plans, and other activities for improving law enforcement and the administration of criminal justice throughout the Commonwealth, including allocating and subgranting funds for these purposes;

28. Define, develop, organize, encourage, conduct, coordinate, and administer programs, projects and activities for the Commonwealth and units of general local government, or combinations thereof, in the Commonwealth, designed to strengthen and improve law enforcement and the administration of criminal justice at every level throughout the Commonwealth;

29. Review and evaluate programs, projects, and activities, and recommend, where necessary, revisions or alterations to such programs, projects, and activities for the purpose of improving law enforcement and the administration of criminal justice;

30. Coordinate the activities and projects of the state departments, agencies, and boards of the Commonwealth and of the units of general local government, or combination thereof, including planning district commissions, relating to the preparation, adoption, administration, and implementation of comprehensive plans to strengthen and improve law enforcement and the administration of criminal justice;

31. Do all things necessary on behalf of the Commonwealth and its units of general local government, to determine and secure benefits available under the Omnibus Crime Control and Safe Streets Act of 1968 (P.L. 90-351, 82 Stat. 197), as amended, and under any other federal acts and programs for strengthening and improving law enforcement, the administration of criminal justice, and delinquency prevention and control;

32. Receive, administer, and expend all funds and other assistance available to the Board and the Department for carrying out the purposes of this chapter and the Omnibus Crime Control and Safe Streets Act of 1968, as amended;

33. Apply for and accept grants from the United States government or any other source in carrying out the purposes of this chapter and accept any and all donations both real and personal, and grants of money from any governmental unit or public agency, or from any institution, person, firm or corporation, and may receive, utilize and dispose of the same. Any arrangements pursuant to this section shall be detailed in the annual report of the Board. Such report shall include the

identity of the donor, the nature of the transaction, and the conditions, if any. Any moneys received pursuant to this section shall be deposited in the state treasury to the account of the Department. To these ends, the Board shall have the power to comply with conditions and execute such agreements as may be necessary;

34. Make and enter into all contracts and agreements necessary or incidental to the performance of its duties and execution of its powers under this chapter, including but not limited to, contracts with the United States, units of general local government or combinations thereof, in Virginia or other states, and with agencies and departments of the Commonwealth;

35. Adopt and administer reasonable regulations for the planning and implementation of programs and activities and for the allocation, expenditure and subgranting of funds available to the Commonwealth and to units of general local government, and for carrying out the purposes of this chapter and the powers and duties set forth herein;

36. Certify and decertify law-enforcement officers in accordance with §§ 15.2-1706 and 15.2-1707;

37. Establish training standards and publish and periodically update model policies for law-enforcement personnel in the following subjects:

a. The handling of family abuse, domestic violence, sexual assault, and stalking cases, including standards for determining the predominant physical aggressor in accordance with § 19.2-81.3. The Department shall provide technical support and assistance to law-enforcement agencies in carrying out the requirements set forth in subsection A of § 9.1-1301;

b. Communication with and facilitation of the safe return of individuals diagnosed with Alzheimer's disease;

c. Sensitivity to and awareness of cultural diversity and the potential for biased policing;

d. Protocols for local and regional sexual assault response teams;

e. Communication of death notifications;

f. (Effective until July 1, 2018) The questioning of individuals suspected of driving while intoxicated concerning the physical location of such individual's last consumption of an alcoholic beverage and the communication of such information to the Alcoholic Beverage Control Board;

f. (Effective July 1, 2018) The questioning of individuals suspected of driving while intoxicated concerning the physical location of such individual's last consumption of an alcoholic beverage and the communication of such information to the Virginia Alcoholic Beverage Control Authority;

g. Vehicle patrol duties that embody current best practices for pursuits and for responding to emergency calls;

h. Criminal investigations that embody current best practices for conducting photographic and live lineups;

i. Sensitivity to and awareness of human trafficking offenses and the identification of victims of human trafficking offenses for personnel involved in criminal investigations or assigned to vehicle or street patrol duties; and

j. Missing children, missing adults, and search and rescue protocol;

38. Establish compulsory training standards for basic training and the recertification of law-enforcement officers to ensure sensitivity to and awareness of cultural diversity and the potential for biased policing;

39. Review and evaluate community-policing programs in the Commonwealth, and recommend where necessary statewide operating procedures, guidelines, and standards which strengthen and improve such programs, including sensitivity to and awareness of cultural diversity and the potential for biased policing;

40. Establish a Virginia Law-Enforcement Accreditation Center. The Center may, in cooperation with Virginia law-enforcement agencies, provide technical assistance and administrative support, including staffing, for the establishment of voluntary state law-enforcement accreditation standards. The Center may provide accreditation assistance and training, resource material, and research into methods and procedures that will assist the Virginia law-enforcement community efforts to obtain Virginia accreditation status;

41. Promote community policing philosophy and practice throughout the Commonwealth by providing community policing training and technical assistance statewide to all law-enforcement agencies, community groups, public and private organizations and citizens; developing and distributing innovative policing curricula and training tools on general community policing philosophy and practice and contemporary critical issues facing Virginia communities; serving as a consultant to Virginia organizations with specific community policing needs; facilitating continued development and implementation of community policing programs statewide through discussion forums for community policing leaders, development of law-enforcement instructors; promoting a statewide community policing initiative; and serving as a statewide information source on the subject of community policing including, but not limited to periodic newsletters, a website and an accessible lending library;

42. Establish, in consultation with the Department of Education and the Virginia State Crime Commission, compulsory minimum standards for employment and job-entry and in-service training curricula and certification requirements for school security officers, which training and certification shall be administered by the Virginia Center for School and Campus Safety (VCSCS) pursuant to § 9.1-184. Such training standards shall include, but shall not be limited to, the role and responsibility of school security officers, relevant state and federal laws, school and personal liability issues, security awareness in the school environment, mediation and conflict resolution, disaster and emergency response, and student behavioral dynamics. The Department shall establish an advisory committee consisting of local school board representatives, principals, superintendents, and school security personnel to assist in the development of ~~these~~ the standards and certification requirements *in this subdivision. The Department shall require any school security officer who carries a firearm in the performance of his duties to provide proof that he has completed a training course provided by a*

*federal, state, or local law-enforcement agency that includes training in active shooter emergency response, emergency evacuation procedure, and threat assessment;*

43. License and regulate property bail bondsmen and surety bail bondsmen in accordance with Article 11 (§ 9.1-185 et seq.);

44. License and regulate bail enforcement agents in accordance with Article 12 (§ 9.1-186 et seq.);

45. In conjunction with the Virginia State Police and the State Compensation Board, advise criminal justice agencies regarding the investigation, registration, and dissemination of information requirements as they pertain to the Sex Offender and Crimes Against Minors Registry Act (§ 9.1-900 et seq.);

46. Establish minimum standards for (i) employment, (ii) job-entry and in-service training curricula, and (iii) certification requirements for campus security officers. Such training standards shall include, but not be limited to, the role and responsibility of campus security officers, relevant state and federal laws, school and personal liability issues, security awareness in the campus environment, and disaster and emergency response. The Department shall provide technical support and assistance to campus police departments and campus security departments on the establishment and implementation of policies and procedures, including but not limited to: the management of such departments, investigatory procedures, judicial referrals, the establishment and management of databases for campus safety and security information sharing, and development of uniform record keeping for disciplinary records and statistics, such as campus crime logs, judicial referrals and Clery Act statistics. The Department shall establish an advisory committee consisting of college administrators, college police chiefs, college security department chiefs, and local law-enforcement officials to assist in the development of the standards and certification requirements and training pursuant to this subdivision;

47. Assess and report, in accordance with § 9.1-190, the crisis intervention team programs established pursuant to § 9.1-187;

48. In conjunction with the Office of the Attorney General, advise law-enforcement agencies and attorneys for the Commonwealth regarding the identification, investigation, and prosecution of human trafficking offenses using the common law and existing criminal statutes in the Code of Virginia;

49. Register tow truck drivers in accordance with § 46.2-116 and carry out the provisions of § 46.2-117;

50. Administer the activities of the Virginia Sexual and Domestic Violence Program Professional Standards Committee by providing technical assistance and administrative support, including staffing, for the Committee;

51. (Effective July 1, 2017) In accordance with § 9.1-102.1, design and approve the issuance of photo-identification cards to private security services registrants registered pursuant to Article 4 (§ 9.1-138 et seq.);

52. In consultation with the State Council of Higher Education for Virginia and the Virginia Association of Campus Law Enforcement Administrators, develop multidisciplinary curricula on trauma-informed sexual assault investigation; and

53. Perform such other acts as may be necessary or convenient for the effective performance of its duties.

**§ 18.2-308.1. Possession of firearm, stun weapon, or other weapon on school property prohibited; penalty.**

A. If any person knowingly possesses any (i) stun weapon as defined in this section; (ii) knife, except a pocket knife having a folding metal blade of less than three inches; or (iii) weapon, including a weapon of like kind, designated in subsection A of § 18.2-308, other than a firearm; upon (a) the property of any public, private or religious elementary, middle or high school, including buildings and grounds; (b) that portion of any property open to the public and then exclusively used for school-sponsored functions or extracurricular activities while such functions or activities are taking place; or (c) any school bus owned or operated by any such school, he ~~shall be~~ *is* guilty of a Class 1 misdemeanor.

B. If any person knowingly possesses any firearm designed or intended to expel a projectile by action of an explosion of a combustible material while such person is upon (i) any public, private or religious elementary, middle or high school, including buildings and grounds; (ii) that portion of any property open to the public and then exclusively used for school-sponsored functions or extracurricular activities while such functions or activities are taking place; or (iii) any school bus owned or operated by any such school, he ~~shall be~~ *is* guilty of a Class 6 felony.

C. If any person knowingly possesses any firearm designed or intended to expel a projectile by action of an explosion of a combustible material within a public, private or religious elementary, middle or high school building and intends to use, or attempts to use, such firearm, or displays such weapon in a threatening manner, such person ~~shall be~~ *is* guilty of a Class 6 felony and sentenced to a mandatory minimum term of imprisonment of five years to be served consecutively with any other sentence.

The exemptions set out in §§ 18.2-308 and 18.2-308.016 shall apply, mutatis mutandis, to the provisions of this section. The provisions of this section shall not apply to (i) persons who possess such weapon or weapons as a part of the school's curriculum or activities; (ii) a person possessing a knife customarily used for food preparation or service and using it for such purpose; (iii) persons who possess such weapon or weapons as a part of any program sponsored or facilitated by either the school or any organization authorized by the school to conduct its programs either on or off the school premises; (iv) any law-enforcement officer, or retired law-enforcement officer qualified pursuant to subsection C of § 18.2-308.016; (v) any person who possesses a knife or blade which he uses customarily in his trade; (vi) a person who possesses an unloaded firearm that is in a closed container, or a knife having a metal blade, in or upon a motor vehicle, or an unloaded shotgun or rifle in a firearms rack in or upon a motor vehicle; (vii) a person who has a valid concealed handgun permit and possesses a concealed handgun while in a motor vehicle in a parking lot, traffic circle, or other means of vehicular ingress or egress to the school; ~~or~~ (viii) a school security officer authorized to carry a firearm pursuant to § 22.1-280.2:1; or (ix) an armed security officer, licensed pursuant to Article 4 (§ 9.1-138 et seq.) of Chapter 1 of Title 9.1, hired by a private or

religious school for the protection of students and employees as authorized by such school. For the purposes of this paragraph, "weapon" includes a knife having a metal blade of three inches or longer and "closed container" includes a locked vehicle trunk.

As used in this section:

"Stun weapon" means any device that emits a momentary or pulsed output, which is electrical, audible, optical or electromagnetic in nature and which is designed to temporarily incapacitate a person.

**§ 22.1-280.2:1. Employment of school security officers.**

Local school boards may employ school security officers, as defined in § 9.1-101 for the purposes set forth therein. *Such school security officer may carry a firearm in the performance of his duties if (i) within 10 years immediately prior to being hired by the local school board he was an active law-enforcement officer as defined in § 9.1-101 in the Commonwealth; (ii) he retired or resigned from his position as a law-enforcement officer in good standing; (iii) he meets the training and qualifications described in subsection C of § 18.2-308.016; (iv) he has provided proof of completion of a training course that includes training in active shooter emergency response, emergency evacuation procedure, and threat assessment to the Department of Criminal Justice Services pursuant to subdivision 42 of § 9.1-102, provided that if he received such training from a local law-enforcement agency he received the training in the locality in which he is employed; (v) the local school board solicits input from the chief law-enforcement officer of the locality regarding the qualifications of the school security officer and receives verification from such chief law-enforcement officer that the school security officer is not prohibited by state or federal law from possessing, purchasing, or transporting a firearm; and (vi) the local school board grants him the authority to carry a firearm in the performance of his duties.*

## CHAPTER 312

*An Act to amend and reenact § 22.1-273 of the Code of Virginia, relating to student vision screenings.*

[H 1408]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 22.1-273 of the Code of Virginia is amended and reenacted as follows:**

**§ 22.1-273. Vision and hearing of student to be tested.**

A. *As used in this section:*

*"Comprehensive vision program" means a program that incorporates the following quality-controlled requirements:*

*1. Program staff who perform vision screenings and administer and maintain student paperwork and data related to such screenings are credentialed pursuant to a credentialing process that includes training and certification on vision screening equipment; documentation of negative tuberculosis risk assessment or screening, as required by local school boards; and documentation from the employing qualified nonprofit vision health organization certifying completion of a search of the registry of founded complaints of child abuse and neglect maintained by the Department of Social Services pursuant to § 63.2-1515 and a search of the Central Criminal Records Exchange through the Federal Bureau of Investigation based on fingerprints and personal descriptive information for the purpose of obtaining criminal history record information;*

*2. The vision screening program is based on best practices as determined by scientific research and program performance and is evaluated by an advisory council consisting of (i) representatives of the ophthalmology and optometry fields and (ii) members from elementary and secondary education and school health to support the implementation of best practices and administrative policies to ensure compliance with Department of Education requirements;*

*3. Vision screening results are communicated to parents in a relevant and informative format that is designed to increase parental awareness and encourage parental action;*

*4. Parents receive information on the difference between vision screenings and eye examinations, the importance of taking action on a referral for an eye examination by taking their child to a licensed optometrist or ophthalmologist, the identification of potential vision problems beyond the results or scope of the vision screening, and the importance of vision to a child's education and success;*

*5. Parents are provided with information regarding follow-up resources related to eye examinations and eyeglasses; and*

*6. Vision screening results are managed for the purposes of reporting, outcome measurement, and program analysis.*

*"Qualified nonprofit vision health organization" means a nonprofit organization that is exempt from taxation under § 501(c)(3) or 501(c)(4) of the Internal Revenue Code, has at least 10 years of direct experience in the delivery of vision and vision education services, and does not directly or indirectly derive profit from the sale of vision equipment, insurance, medication, merchandise, or vision-related products.*

B. The Superintendent of Public Instruction shall prepare or cause to be prepared, with the advice and approval of the State Health Commissioner, suitable ~~test cards, blanks, record books, and other~~ appliances for testing the sight and hearing of the ~~pupils~~ students in the public schools and necessary instructions for the use thereof. The State Department of Education shall furnish the same free of expense to all schools in a school division upon request of the school board of such division accompanied by a resolution of the school board directing the use of such ~~test cards, blanks, record books and other~~ appliances in the schools of the school division.

C. Within the time periods and at the grades provided in regulations promulgated by the Board of Education, the principal of each such school shall cause the ~~sight and~~ hearing of the relevant ~~pupils~~ *students* in the school to be tested, unless such students are ~~pupils~~ *students* admitted for the first time to a public ~~kindergarten or~~ elementary school who have been so tested as part of the comprehensive physical examination required by § 22.1-270 or the parents or guardians of such students object on religious grounds and the students show no obvious evidence of any defect or disease of the ~~eyes or~~ ears. The principal shall keep a record of such examinations in accordance with instructions furnished. Whenever a ~~pupil~~ *student* is found to have any defect of ~~vision or~~ hearing or a disease of the ~~eyes or~~ ears, the principal shall forthwith notify the parent or guardian, in writing, of such defect or disease. Copies of the report shall be preserved for the use of the Superintendent of Public Instruction as he may require.

D. *The principal of each public elementary school shall cause the vision of students enrolled in kindergarten and students enrolled in grade two or grade three to be tested, unless such students are students admitted for the first time to a public elementary school and produce a written record of a comprehensive eye examination performed within the preceding 24 months or the parents or guardians of such students object on religious grounds. Any such screening may be conducted by a qualified nonprofit vision health organization that uses a digital photoscreening method pursuant to a comprehensive vision program or other methods that comply with Department of Education requirements. Notwithstanding any other provision of law, such screenings may be conducted at any time during the school year; however, the scheduling of such screenings shall be completed no later than the sixtieth administrative working day of the school year. The principal shall keep a record of such screenings in accordance with instructions furnished. Whenever a student does not receive a passing result on such screening and requires referral to an optometrist or ophthalmologist for a comprehensive eye examination, the principal shall cause the parent or guardian to be notified in writing. Copies of the report shall be preserved for the use of the Superintendent of Public Instruction as he may require.*

E. *The principal of each public middle school and high school shall cause the vision of students enrolled in grade seven and grade 10 to be tested, unless such students produce a written record of a comprehensive eye examination performed within the preceding 24 months or the parents or guardians of such students object on religious grounds. Any such screening may be conducted by a qualified nonprofit vision health organization that uses a digital photoscreening method pursuant to a comprehensive vision program or other methods that comply with Department of Education requirements. Notwithstanding any other provision of law, such screenings may be conducted at any time during the school year; however, the scheduling of such screenings shall be completed no later than the sixtieth administrative working day of the school year. The principal shall keep a record of such screenings in accordance with instructions furnished. Whenever a student does not receive a passing result on such screening and requires referral to an optometrist or ophthalmologist for a comprehensive eye examination, the principal shall cause the parent or guardian to be notified in writing. Copies of the report shall be preserved for the use of the Superintendent of Public Instruction as he may require.*

F. *School boards may enter into contracts with qualified nonprofit vision health organizations for the purpose of conducting screenings pursuant to subsections D and E.*

### CHAPTER 313

*An Act to require the Department of Education to review multipart Standards of Learning assessment questions.*

[H 1414]

Approved March 13, 2017

#### **Be it enacted by the General Assembly of Virginia:**

1. § 1. *The Department of Education shall collaborate with the existing educational advisory committees in the Commonwealth that advise on student assessments to review multipart Standards of Learning assessment questions and determine the feasibility of awarding students partial credit for correct answers on one or more parts of such questions. The Department shall report its determination to the Chairmen of the House Committee on Education and the Senate Committee on Education and Health by November 1, 2017. The Department shall not take action regarding the awarding of partial credit prior to the 2018 Session of the General Assembly.*

### CHAPTER 314

*An Act to amend and reenact §§ 13.1-543, 13.1-1102, 23.1-107, 23.1-200, 23.1-201, 23.1-203, 23.1-210, 23.1-227, 23.1-301, 23.1-308, 23.1-634, 23.1-712, 23.1-1004, 23.1-1014, 23.1-1026, 23.1-1211, 23.1-1225, 23.1-1300, 23.1-1303, 23.1-1305, 23.1-2308, 23.1-2404, 23.1-2408, 23.1-2409, 23.1-2413, 23.1-2415, 23.1-2607, 23.1-2631, 23.1-2702, 23.1-2903, 23.1-3131, 23.1-3133, 23.1-3208, 23.1-3216, 23.1-3217, and 25.1-100 of the Code of Virginia, relating to higher education.*

[H 1538]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 13.1-543, 13.1-1102, 23.1-107, 23.1-200, 23.1-201, 23.1-203, 23.1-210, 23.1-227, 23.1-301, 23.1-308, 23.1-634, 23.1-712, 23.1-1004, 23.1-1014, 23.1-1026, 23.1-1211, 23.1-1225, 23.1-1300, 23.1-1303, 23.1-1305, 23.1-2308, 23.1-2404, 23.1-2408, 23.1-2409, 23.1-2413, 23.1-2415, 23.1-2607, 23.1-2631, 23.1-2702, 23.1-2903, 23.1-3131, 23.1-3133, 23.1-3208, 23.1-3216, 23.1-3217, and 25.1-100 of the Code of Virginia are amended and reenacted as follows:**

**§ 13.1-543. Definitions.**

A. As used in this chapter:

"Eligible employee stock ownership plan" means an employee stock ownership plan as such term is defined in § 4975(e)(7) of the Internal Revenue Code of 1986, as amended, sponsored by a professional corporation and with respect to which:

1. All of the trustees of the employee stock ownership plan are individuals who are duly licensed or otherwise legally authorized to render the professional services for which the professional corporation is organized under this chapter; however, if a conflict of interest exists for one or more trustees with respect to a specific issue or transaction, such trustees may appoint a special independent trustee or special fiduciary, who is not duly licensed or otherwise legally authorized to render the professional services for which the professional corporation is organized under this chapter, which special independent trustee shall be authorized to make decisions only with respect to the specific issue or transaction that is the subject of the conflict;

2. The employee stock ownership plan provides that no shares, fractional shares, or rights or options to purchase shares of the professional corporation shall at any time be issued, sold, or otherwise transferred directly to anyone other than an individual duly licensed or otherwise legally authorized to render the professional services for which the professional corporation is organized under this chapter, unless such shares are transferred as a plan distribution to a plan beneficiary and subject to immediate repurchase by the professional corporation, the employee stock ownership plan or another person authorized to hold such shares; however:

a. With respect to a professional corporation rendering the professional services of public accounting or certified public accounting:

(1) The employee stock ownership plan may permit individuals who are not duly licensed or otherwise legally authorized to render these services to participate in such plan, provided such individuals are employees of the corporation and hold less than a majority of the beneficial interests in such plan; and

(2) At least ~~54%~~ *51 percent* of the total of allocated and unallocated equity interests in the corporation sponsoring such employee stock ownership plan are held (i) by the trustees of such employee stock ownership plan for the benefit of persons holding a valid CPA certificate as defined in § 54.1-4400, with unallocated shares allocated for these purposes pursuant to § 409(p) of the Internal Revenue Code of 1986, as amended, or (ii) by individual employees holding a valid CPA certificate separate from any interests held by such employee stock ownership plan; and

b. With respect to a professional corporation rendering the professional services of architects, professional engineers, land surveyors, landscape architects, or certified interior designers, the employee stock ownership plan may permit individuals who are not duly licensed to render the services of architects, professional engineers, land surveyors, or landscape architects, or individuals legally authorized to use the title of certified interior designers to participate in such plan, provided such individuals are employees of the corporation and together hold not more than one-third of the beneficial interests in such plan, and that the total of the shares (i) held by individuals who are employees but not duly licensed to render such services or legally authorized to use a title and (ii) held by the trustees of such employee stock ownership plan for the benefit of individuals who are employees but not duly licensed to render such services or legally authorized to use a title, shall not exceed one-third of the shares of the corporation; and

3. The professional corporation, the trustees of the employee stock ownership plan, and the other shareholders of the professional corporation comply with the foregoing provisions of the plan.

"Professional business entity" means any entity as defined in § 13.1-603 that is duly licensed or otherwise legally authorized under the laws of the Commonwealth or the laws of the jurisdiction under whose laws the entity is formed to render the same professional service as that for which a professional corporation or professional limited liability company may be organized, including, but not limited to, (i) a professional limited liability company as defined in § 13.1-1102, (ii) a professional corporation as defined in this subsection, or (iii) a partnership that is registered as a registered limited liability partnership registered under § 50-73.132, all of the partners of which are duly licensed or otherwise legally authorized to render the same professional services as those for which the partnership was organized.

"Professional corporation" means a corporation whose articles of incorporation set forth a sole and specific purpose permitted by this chapter and that is either (i) organized under this chapter for the sole and specific purpose of rendering professional service other than that of architects, professional engineers, land surveyors, or landscape architects, or using a title other than that of certified interior designers and, except as expressly otherwise permitted by this chapter, that has as its shareholders or members only individuals or professional business entities that are duly licensed or otherwise legally authorized to render the same professional service as the corporation, including the trustees of an eligible employee stock ownership plan or (ii) organized under this chapter for the sole and specific purpose of rendering the professional services of architects, professional engineers, land surveyors, or landscape architects, or using the title of certified interior designers, or any combination thereof, and at least two-thirds of whose shares are held by persons duly licensed within the Commonwealth to perform the services of an architect, professional engineer, land surveyor, or landscape architect,

including the trustees of an eligible employee stock ownership plan, or by persons legally authorized within the Commonwealth to use the title of certified interior designer; or (iii) organized under this chapter or under Chapter 10 (§ 13.1-801 et seq.) of this title for the sole and specific purpose of rendering the professional services of one or more practitioners of the healing arts, licensed under the provisions of Chapter 29 (§ 54.1-2900 et seq.) of Title 54.1, or one or more nurse practitioners, licensed under Chapter 29 (§ 54.1-2900 et seq.) of Title 54.1, or one or more optometrists licensed under the provisions of Chapter 32 (§ 54.1-3200 et seq.) of Title 54.1, or one or more physical therapists and physical therapist assistants licensed under the provisions of Chapter 34.1 (§ 54.1-3473 et seq.) of Title 54.1, or one or more practitioners of the behavioral science professions, licensed under the provisions of Chapter 35 (§ 54.1-3500 et seq.), 36 (§ 54.1-3600 et seq.) or 37 (§ 54.1-3700 et seq.) of Title 54.1, or one or more practitioners of audiology or speech pathology, licensed under the provisions of Chapter 26 (§ 54.1-2600 et seq.) of Title 54.1, or one or more clinical nurse specialists who render mental health services licensed under Chapter 30 (§ 54.1-3000 et seq.) of Title 54.1 and registered with the Board of Nursing, or any combination of practitioners of the healing arts, optometry, physical therapy, the behavioral science professions, audiology or speech pathology, and all of whose shares are held by or all of whose members are individuals or professional business entities duly licensed or otherwise legally authorized to perform the services of a practitioner of the healing arts, nurse practitioners, optometry, physical therapy, the behavioral science professions, audiology or speech pathology or of a clinical nurse specialist who renders mental health services, including the trustees of an eligible employee stock ownership plan; however, nothing herein shall be construed so as to allow any member of the healing arts, optometry, physical therapy, the behavioral science professions, audiology or speech pathology or a nurse practitioner or clinical nurse specialist to conduct his practice in a manner contrary to the standards of ethics of his branch of the healing arts, optometry, physical therapy, the behavioral science professions, audiology or speech pathology, or nursing, as the case may be.

"Professional service" means any type of personal service to the public that requires as a condition precedent to the rendering of such service or use of such title the obtaining of a license, certification, or other legal authorization and shall be limited to the personal services rendered by pharmacists, optometrists, physical therapists and physical therapist assistants, practitioners of the healing arts, nurse practitioners, practitioners of the behavioral science professions, veterinarians, surgeons, dentists, architects, professional engineers, land surveyors, landscape architects, certified interior designers, public accountants, certified public accountants, attorneys-at-law, insurance consultants, audiologists or speech pathologists, and clinical nurse specialists. For the purposes of this chapter, the following shall be deemed to be rendering the same professional service:

1. Architects, professional engineers, and land surveyors; and
2. Practitioners of the healing arts, licensed under the provisions of Chapter 29 (§ 54.1-2900 et seq.) of Title 54.1; nurse practitioners, licensed under the provisions of Chapter 29 (§ 54.1-2900 et seq.) of Title 54.1; optometrists, licensed under the provisions of Chapter 32 (§ 54.1-3200 et seq.) of Title 54.1; physical therapists and physical therapist assistants, licensed under the provisions of Chapter 34.1 (§ 54.1-3473 et seq.) of Title 54.1; practitioners of the behavioral science professions, licensed under the provisions of Chapters 35 (§ 54.1-3500 et seq.), 36 (§ 54.1-3600 et seq.), and 37 (§ 54.1-3700 et seq.) of Title 54.1; and one or more clinical nurse specialists who render mental health services, licensed under Chapter 30 (§ 54.1-3000 et seq.) of Title 54.1 and are registered with the Board of Nursing.

B. Persons who practice the healing art of performing professional clinical laboratory services within a hospital pathology laboratory shall be legally authorized to do so for purposes of this chapter if such persons (i) hold a doctorate degree in the biological sciences or a board certification in the clinical laboratory sciences and (ii) are tenured faculty members of an accredited medical college or university school that is an "educational institution" within the meaning of as that term is defined in § ~~23.1-1101~~ 23.1-1100.

#### § 13.1-1102. Definitions.

A. As used in this chapter:

"Professional business entity" means any entity as defined in § 13.1-603 that is duly licensed or otherwise legally authorized under the laws of the Commonwealth or the laws of the jurisdiction under whose laws the entity is formed to render the same professional service as that for which a professional corporation or professional limited liability company may be organized, including, but not limited to, (i) a professional limited liability company as defined in this subsection, (ii) a professional corporation as defined in subsection A of § 13.1-543, or (iii) a partnership that is registered as a registered limited liability partnership under § 50-73.132, all of the partners of which are duly licensed or otherwise legally authorized to render the same professional services as those for which the partnership was organized.

"Professional limited liability company" means a limited liability company whose articles of organization set forth a sole and specific purpose permitted by this chapter and that is either (i) organized under this chapter for the sole and specific purpose of rendering professional service other than that of architects, professional engineers, land surveyors, or landscape architects, or using a title other than that of certified interior designers and, except as expressly otherwise permitted by this chapter, that has as its members only individuals or professional business entities that are duly licensed or otherwise legally authorized to render the same professional service as the professional limited liability company or (ii) organized under this chapter for the sole and specific purpose of rendering professional service of architects, professional engineers, land surveyors, or landscape architects or using the title of certified interior designers, or any combination thereof, and at least two-thirds of whose membership interests are held by persons duly licensed within the Commonwealth to perform the services of an architect, professional engineer, land surveyor, or landscape architect, or by persons legally authorized within

the Commonwealth to use the title of certified interior designer; or (iii) organized under this chapter for the sole and specific purpose of rendering the professional services of one or more practitioners of the healing arts, licensed under the provisions of Chapter 29 (§ 54.1-2900 et seq.) of Title 54.1, or one or more nurse practitioners, licensed under Chapter 29 (§ 54.1-2900 et seq.) of Title 54.1, or one or more optometrists licensed under the provisions of Chapter 32 (§ 54.1-3200 et seq.) of Title 54.1, or one or more physical therapists and physical therapist assistants licensed under the provisions of Chapter 34.1 (§ 54.1-3473 et seq.) of Title 54.1, or one or more practitioners of the behavioral science professions, licensed under the provisions of Chapter 35 (§ 54.1-3500 et seq.), 36 (§ 54.1-3600 et seq.) or 37 (§ 54.1-3700 et seq.) of Title 54.1, or one or more practitioners of audiology or speech pathology, licensed under the provisions of Chapter 26 (§ 54.1-2600 et seq.) of Title 54.1, or one or more clinical nurse specialists who render mental health services licensed under Chapter 30 (§ 54.1-3000 et seq.) of Title 54.1 and registered with the Board of Nursing, or any combination of practitioners of the healing arts, of optometry, physical therapy, the behavioral science professions, and audiology or speech pathology and all of whose members are individuals or professional business entities duly licensed or otherwise legally authorized to perform the services of a practitioner of the healing arts, nurse practitioners, optometry, physical therapy, the behavioral science professions, audiology or speech pathology or of a clinical nurse specialist who renders mental health services; however, nothing herein shall be construed so as to allow any member of the healing arts, optometry, physical therapy, the behavioral science professions, audiology or speech pathology or a nurse practitioner or clinical nurse specialist to conduct that person's practice in a manner contrary to the standards of ethics of that person's branch of the healing arts, optometry, physical therapy, the behavioral science professions, or audiology or speech pathology, or nursing as the case may be.

"Professional services" means any type of personal service to the public that requires as a condition precedent to the rendering of that service or the use of that title the obtaining of a license, certification, or other legal authorization and shall be limited to the personal services rendered by pharmacists, optometrists, physical therapists and physical therapist assistants, practitioners of the healing arts, nurse practitioners, practitioners of the behavioral science professions, veterinarians, surgeons, dentists, architects, professional engineers, land surveyors, landscape architects, certified interior designers, public accountants, certified public accountants, attorneys at law, insurance consultants, audiologists or speech pathologists and clinical nurse specialists. For the purposes of this chapter, the following shall be deemed to be rendering the same professional services:

1. Architects, professional engineers, and land surveyors; and
2. Practitioners of the healing arts, licensed under the provisions of Chapter 29 (§ 54.1-2900 et seq.) of Title 54.1, nurse practitioners, licensed under Chapter 29 (§ 54.1-2900 et seq.) of Title 54.1, optometrists, licensed under the provisions of Chapter 32 (§ 54.1-3200 et seq.) of Title 54.1, physical therapists, licensed under the provisions of Chapter 34.1 (§ 54.1-3473 et seq.) of Title 54.1, practitioners of the behavioral science professions, licensed under the provisions of Chapters 35 (§ 54.1-3500 et seq.), 36 (§ 54.1-3600 et seq.), and 37 (§ 54.1-3700 et seq.) of Title 54.1, and clinical nurse specialists who render mental health services licensed under Chapter 30 (§ 54.1-3000 et seq.) of Title 54.1 and registered with the Board of Nursing.

B. Persons who practice the healing art of performing professional clinical laboratory services within a hospital pathology laboratory shall be legally authorized to do so for purposes of this chapter if such persons (i) hold a doctorate degree in the biological sciences or a board certification in the clinical laboratory sciences and (ii) are tenured faculty members of an accredited medical college or university school that is an educational institution within the meaning of as that term is defined in § ~~23.1-1101~~ 23.1-1100.

C. Except as expressly otherwise provided, all terms defined in § 13.1-1002 shall have the same meanings for purposes of this chapter.

**§ 23.1-107. Private institutions of higher education; human research review committees.**

The human research review committee at each ~~proprietary private institution of higher education and nonprofit private institution of higher education~~ that conducts human research, as that term is defined in § 32.1-162.16, shall submit to the Governor, the General Assembly, and the president of the institution or his designee at least annually a report on the human research projects reviewed and approved by the committee and any significant deviations from approved proposals.

**§ 23.1-200. State Council of Higher Education for Virginia established; purpose; membership; terms; officers.**

A. The State Council of Higher Education for Virginia is established to advocate for and promote the development and operation of an educationally and economically sound, vigorous, progressive, and coordinated system of higher education in the Commonwealth and lead state-level strategic planning and policy development and implementation based on research and analysis and in accordance with § 23.1-301 and subsection A of § 23.1-1002. The Council shall seek to facilitate collaboration among institutions of higher education that will enhance quality and create operational efficiencies and work with institutions of higher education and their governing boards on board development.

B. The Council shall be composed of individuals selected from the Commonwealth at large without regard to political affiliation but with due consideration of geographical representation. Nonlegislative citizen members shall have demonstrated experience, knowledge, and understanding of higher education and workforce needs. Nonlegislative citizen members shall be selected for their ability and all appointments shall be of such nature as to aid the work of the Council and inspire the highest degree of cooperation and confidence. No officer, employee, trustee, or member of the governing board of any institution of higher education, employee of the Commonwealth, member of the General Assembly, or member of the Board of Education is eligible for appointment to the Council except as specified in this section. All members of the Council

are members at large who shall serve the best interests of the whole Commonwealth. No member shall act as the representative of any particular region or of any particular institution of higher education.

C. The Council shall consist of 13 members: 12 nonlegislative citizen members appointed by the Governor and one ex officio member. At least one nonlegislative citizen member shall have served as a ~~president~~ or chief executive officer of a public institution of higher education. At least one nonlegislative citizen member shall be a division superintendent or the Superintendent of Public Instruction. The President of the Virginia Economic Development Partnership Authority shall serve ex officio with voting privileges.

D. All terms shall begin July 1.

E. Nonlegislative citizen members shall serve for terms of four years. Vacancies occurring other than by expiration of a term shall be filled for the unexpired term. No nonlegislative citizen member shall serve for more than two consecutive terms; however, a nonlegislative citizen member appointed to serve an unexpired term is eligible to serve two consecutive four-year terms. No nonlegislative citizen member who has served two consecutive four-year terms is eligible to serve on the Council until at least two years have passed since the end of his second consecutive four-year term. All appointments are subject to confirmation by the General Assembly. Nonlegislative citizen members shall continue to hold office until their successors have been appointed and confirmed. Ex officio members shall serve terms coincident with their terms of office.

F. The Council shall elect a chairman and a vice-chairman from its membership. The Council shall appoint a secretary and such other officers as it deems necessary and prescribe their duties and terms of office.

G. At each meeting, the Council shall involve the chief executive officer of each public institution of higher education in its agenda. The chief executive officers shall present information and comment on issues of common interest and choose presenters to the Council from among themselves who reflect the diversity of the institutions.

H. At each meeting, the Council may involve other groups, including the presidents of private institutions of higher education, in its agenda.

**§ 23.1-201. Student advisory committee.**

A. The Council shall appoint a student advisory committee consisting of students enrolled in public *institutions of higher education* and accredited private institutions of higher education whose primary purpose is to provide collegiate or graduate education and not to provide religious training. Appointments shall be made in a manner to ensure broad student representation from among such institutions.

B. Members shall serve for terms of one year. Vacancies occurring other than by expiration of a term shall be filled for the unexpired term. Members may be reappointed to serve subsequent or consecutive terms.

C. The Council shall ensure that at least one member of the student advisory committee is reappointed each year. The student advisory committee shall elect a chairman from among its members.

D. The student advisory committee shall meet at least twice annually and advise the Council regarding such matters as may come before it.

**§ 23.1-203. Duties of Council.**

The Council shall:

1. Develop a statewide strategic plan that (i) reflects the goals set forth in subsection A of § 23.1-1002 or (ii) once adopted, reflects the goals and objectives developed pursuant to subdivision B 5 of § 23.1-309 for higher education in the Commonwealth, identifies a coordinated approach to such state and regional goals, and emphasizes the future needs for higher education in the Commonwealth at both the undergraduate and the graduate levels and the mission, programs, facilities, and location of each of the existing institutions of higher education, each public institution's six-year plan, and such other matters as the Council deems appropriate. The Council shall revise such plan at least once every six years and shall submit such recommendations as are necessary for the implementation of the plan to the Governor and the General Assembly.

2. Review and approve or disapprove any proposed change in the statement of mission of any public institution of higher education and define the mission of all newly created public institutions of higher education. The Council shall report such approvals, disapprovals, and definitions to the Governor and the General Assembly at least once every six years. No such actions shall become effective until 30 days after adjournment of the session of the General Assembly next following the filing of such a report. Nothing in this subdivision shall be construed to authorize the Council to modify any mission statement adopted by the General Assembly or empower the Council to affect, either directly or indirectly, the selection of faculty or the standards and criteria for admission of any public institution of higher education, whether relating to academic standards, residence, or other criteria. Faculty selection and student admission policies shall remain a function of the individual public institutions of higher education.

3. Study any proposed escalation of any public institution of higher education to a degree-granting level higher than that level to which it is presently restricted and submit a report and recommendation to the Governor and the General Assembly relating to the proposal. The study shall include the need for and benefits or detriments to be derived from the escalation. No such institution shall implement any such proposed escalation until the Council's report and recommendation have been submitted to the General Assembly and the General Assembly approves the institution's proposal.

4. Review and approve or disapprove all enrollment projections proposed by each public institution of higher education. The Council's projections shall be organized numerically by level of enrollment and shall be used solely for budgetary, fiscal, and strategic planning purposes. The Council shall develop estimates of the number of degrees to be awarded by each public institution of higher education and include those estimates in its reports of enrollment projections.

The student admissions policies for such institutions and their specific programs shall remain the sole responsibility of the individual governing boards but all baccalaureate public institutions of higher education shall adopt dual admissions policies with comprehensive community colleges as required by § 23.1-907.

5. Review and approve or disapprove all new undergraduate or graduate academic programs that any public institution of higher education proposes.

6. Review and require the discontinuance of any undergraduate or graduate academic program that is presently offered by any public institution of higher education when the Council determines that such academic program is (i) nonproductive in terms of the number of degrees granted, the number of students served by the program, the program's effectiveness, and budgetary considerations or (ii) supported by state funds and unnecessarily duplicative of academic programs offered at other public institutions of higher education. The Council shall make a report to the Governor and the General Assembly with respect to the discontinuance of any such academic program. No such discontinuance shall become effective until 30 days after the adjournment of the session of the General Assembly next following the filing of such report.

7. Review and approve or disapprove the establishment of any department, school, college, branch, division, or extension of any public institution of higher education that such institution proposes to establish, whether located on or off the main campus of such institution. If any organizational change is determined by the Council to be proposed solely for the purpose of internal management and the institution's curricular offerings remain constant, the Council shall approve the proposed change. Nothing in this subdivision shall be construed to authorize the Council to disapprove the establishment of any such department, school, college, branch, division, or extension established by the General Assembly.

8. Review the proposed closure of any academic program in a high demand or critical shortage area, as defined by the Council, by any public institution of higher education and assist in the development of an orderly closure plan, when needed.

9. Develop a uniform, comprehensive data information system designed to gather all information necessary to the performance of the Council's duties. The system shall include information on admissions, enrollment, self-identified students with documented disabilities, personnel, programs, financing, space inventory, facilities, and such other areas as the Council deems appropriate. When consistent with the Government Data Collection and Dissemination Practices Act (§ 2.2-3800 et seq.), the Virginia Unemployment Compensation Act (§ 60.2-100 et seq.), and applicable federal law, the Council, acting solely or in partnership with the Virginia Department of Education or the Virginia Employment Commission, may contract with private entities to create de-identified student records in which all personally identifiable information has been removed for the purpose of assessing the performance of institutions and specific programs relative to the workforce needs of the Commonwealth.

10. In cooperation with public institutions of higher education, develop guidelines for the assessment of student achievement. Each such institution shall use an approved program that complies with the guidelines of the Council and is consistent with the institution's mission and educational objectives in the development of such assessment. The Council shall report each institution's assessment of student achievement in the revisions to the Commonwealth's statewide strategic plan for higher education.

11. In cooperation with the appropriate state financial and accounting officials, develop and establish uniform standards and systems of accounting, recordkeeping, and statistical reporting for public institutions of higher education.

12. Review biennially and approve or disapprove all changes in the inventory of educational and general space that any public institution of higher education proposes and report such approvals and disapprovals to the Governor and the General Assembly. No such change shall become effective until 30 days after the adjournment of the session of the General Assembly next following the filing of such report.

13. Visit and study the operations of each public institution of higher education at such times as the Council deems appropriate and conduct such other studies in the field of higher education as the Council deems appropriate or as may be requested by the Governor or the General Assembly.

14. Provide advisory services to each accredited nonprofit private institution of higher education whose primary purpose is to provide collegiate or graduate education and not to provide religious training or theological education on academic, administrative, financial, and space utilization matters. The Council may review and advise on joint activities, including contracts for services between public *institutions of higher education* and such private institutions of higher education or between such private institutions of higher education and any agency or political subdivision of the Commonwealth.

15. Adopt such policies and regulations as the Council deems necessary to implement its duties established by state law. Each public institution of higher education shall comply with such policies and regulations.

16. Issue guidelines consistent with the provisions of the federal Family Educational Rights and Privacy Act (20 U.S.C. § 1232g), requiring public institutions of higher education to release a student's academic and disciplinary record to a student's parent.

17. Require each institution of higher education formed, chartered, or established in the Commonwealth after July 1, 1980, to ensure the preservation of student transcripts in the event of institutional closure or revocation of approval to operate in the Commonwealth. An institution may ensure the preservation of student transcripts by binding agreement with another institution of higher education with which it is not corporately connected or in such other way as the Council may authorize by regulation. In the event that an institution closes or has its approval to operate in the Commonwealth revoked, the Council, through its director, may take such action as is necessary to secure and preserve the student transcripts

until such time as an appropriate institution accepts all or some of the transcripts. Nothing in this subdivision shall be deemed to interfere with the right of a student to his own transcripts or authorize disclosure of student records except as may otherwise be authorized by law.

18. Require the development and submission of articulation, dual admissions, and guaranteed admissions agreements between associate-degree-granting and baccalaureate public institutions of higher education.

19. Provide periodic updates of base adequacy funding guidelines adopted by the Joint Subcommittee Studying Higher Education Funding Policies for each public institution of higher education.

20. In consultation with each public institution of higher education, develop a one-year uniform certificate of general studies program to be offered at each comprehensive community college. Such program shall ensure that a comprehensive community college student who completes the one-year certificate program is eligible to transfer all credits earned in academic subject coursework to a baccalaureate public institution of higher education upon acceptance to such baccalaureate institution.

21. Cooperate with the Board of Education in matters of interest to both public elementary and secondary schools and public institutions of higher education, particularly in connection with coordination of the college admission requirements, coordination of teacher training programs with the public school programs, and the ~~Board's~~ *Board of Education's* Six-Year Educational Technology Plan for Virginia. The Council shall encourage public institutions of higher education to design programs that include the skills necessary for the successful implementation of such Plan.

22. Advise and provide technical assistance to the Brown v. Board of Education Scholarship Committee in the implementation and administration of the Brown v. Board of Education Scholarship Program pursuant to Chapter 34.1 (§ 30-231.01 et seq.) of Title 30.

23. Insofar as possible, seek the cooperation and utilize the facilities of existing state departments, institutions, and agencies in carrying out its duties.

24. Serve as the coordinating council for public institutions of higher education.

25. Serve as the planning and coordinating agency for all postsecondary educational programs for all health professions and occupations and make recommendations, including those relating to financing, for providing adequate and coordinated educational programs to produce an appropriate supply of properly trained personnel. The Council may conduct such studies as it deems appropriate in furtherance of the requirements of this subdivision. All state departments and agencies shall cooperate with the Council in the execution of its responsibilities under this subdivision.

26. Carry out such duties as the Governor may assign to it in response to agency designations requested by the federal government.

27. Insofar as practicable, preserve the individuality, traditions, and sense of responsibility of each public institution of higher education in carrying out its duties.

28. Insofar as practicable, seek the assistance and advice of each public institution of higher education in fulfilling its duties and responsibilities.

29. Assist the Virginia Research Investment Committee with the administration of the Virginia Research Investment Fund consistent with the provisions of Article 8 (§ 23.1-3130 et seq.) of Chapter 31.

**§ 23.1-210. Advisory services to accredited nonprofit private institutions of higher education; Private College Advisory Board.**

A. The Council shall provide advisory services to accredited nonprofit private institutions of higher education on academic and administrative matters. The Council may review and advise on joint activities, including contracts for services, between nonprofit private *institutions of higher education* and public institutions of higher education and between nonprofit private institutions of higher education and any agency or political subdivision of the Commonwealth. The Council may collect and analyze such data as may be pertinent to such activities.

B. The Council shall seek the advice of the Private College Advisory Board, and the Advisory Board shall assist the Council in the performance of its duties as required by subsection A. The Private College Advisory Board shall be composed of representatives of nonprofit private institutions of higher education and such other members as the Council may select and shall be broadly representative of nonprofit private institutions of higher education.

C. The Private College Advisory Board shall meet at least once each year.

**§ 23.1-227. Laws of the Commonwealth to apply to contracts.**

The laws of the Commonwealth shall govern any agreement, contract, or instrument of indebtedness executed between a postsecondary school and any person ~~enrolling~~ *who enrolls* in any course or program offered or to be offered by such school in the Commonwealth or any person *who is* employed or offered employment by such school in the Commonwealth.

**§ 23.1-301. Short title; objective; purposes.**

A. This chapter may be cited as the "Preparing for the Top Jobs of the 21st Century: The Virginia Higher Education Opportunity Act of 2011," the "Top Jobs Act," or "TJ21."

B. The objective of this chapter is to fuel strong economic growth in the Commonwealth and prepare Virginians for the top job opportunities in the knowledge-driven economy of the 21st century by establishing a long-term commitment, policy, and framework for sustained investment and innovation that will (i) enable the Commonwealth to build upon the strengths of its excellent higher education system and achieve national and international leadership in college degree attainment and personal income and (ii) ensure that these educational and economic opportunities are accessible and affordable for all capable and committed Virginia students.

C. In furtherance of the objective set forth in subsection B, the following purposes shall inform the development and implementation of funding policies, performance criteria, economic opportunity metrics, and recommendations required by this chapter:

1. To ensure an educated workforce in the Commonwealth through a public-private higher education system whose hallmarks are instructional excellence, affordable access, economic impact, institutional diversity and managerial autonomy, cost-efficient operation, technological and pedagogical innovation, and reform-based investment;

2. To take optimal advantage of the demonstrated correlation between higher education and economic growth by investing in higher education in a manner that will generate economic growth, job creation, personal income growth, and revenues generated for state and local government in the Commonwealth;

3. To (i) place the Commonwealth among the most highly educated states and countries by conferring approximately 100,000 cumulative additional undergraduate degrees on Virginians between 2011 and 2025, accompanied by a comparable percentage increase in privately conferred undergraduate degrees in the Commonwealth over the same period and (ii) achieve this purpose by expanding enrollment of Virginians at public institutions of higher education and private institutions of higher education, improving undergraduate graduation and retention rates in the higher education system in the Commonwealth, and increasing degree completion by Virginians with partial credit toward a college degree, including students with ongoing job and family commitments who require access to nontraditional college-level educational opportunities;

4. To enhance personal opportunity and earning power for individual Virginians by (i) increasing college degree attainment in the Commonwealth, especially in high-demand, high-income fields such as STEM and health care fields and (ii) providing information about the economic value and impact of individual degree programs by institution;

5. To promote university-based research that produces outside investment in the Commonwealth, fuels economic advances, triggers commercialization of new products and processes, fosters the formation of new businesses, leads businesses to bring their facilities and jobs to the Commonwealth, and in other ways helps place the Commonwealth on the cutting edge of the knowledge-driven economy;

6. To support the national effort to enhance the security and economic competitiveness of the United States and secure a leading economic position for the Commonwealth through increased research and instruction in STEM and related fields that require qualified faculty, appropriate research facilities and equipment, public-private and intergovernmental collaboration, and sustained state support;

7. To preserve and enhance the excellence and cost-efficiency of the Commonwealth's higher education system through reform-based investment that promotes innovative instructional models and pathways to degree attainment, including optimal use of physical facilities and instructional resources throughout the year, technology-enhanced instruction, sharing of instructional resources between colleges, universities, and other degree-granting entities in the Commonwealth, increased online learning opportunities for nontraditional students, improved rate and pace of degree completion, expanded availability of dual enrollment and advanced placement options and early college commitment programs, expanded comprehensive community college transfer options leading to bachelor's degree completion, and enhanced college readiness before matriculation;

8. To realize the potential for enhanced benefits from the Restructured Higher Education Financial and Administrative Operations Act (§ 23.1-1000 et seq.) through a sustained commitment to the principles of autonomy, accountability, affordable access, and mutual trust and obligation underlying the restructuring initiative;

9. To establish a higher education funding framework and policy that promotes stable, predictable, equitable, and adequate funding, facilitates effective planning at the institutional and state levels, provides incentives for increased enrollment of Virginia students at public ~~or~~ *institutions of higher education and* nonprofit private institutions of higher education, provides need-based financial aid for low-income and middle-income students and families, relieves the upward pressure on tuition associated with loss of state support due to economic downturns or other causes, and provides financial incentives to promote innovation and enhanced economic opportunity in furtherance of the objective of this chapter set forth in subsection A; and

10. To recognize that the unique mission and contributions of each public institution of higher education and private institution of higher education is consistent with the desire to build upon the strengths of the Commonwealth's excellent system of higher education, afford these unique missions and contributions appropriate safeguards, and allow these attributes to inform the development and implementation of funding policies, performance criteria, economic opportunity metrics, and recommendations in the furtherance of the objective of this chapter set forth in subsection B.

**§ 23.1-308. STEM public-private partnership established; duties.**

A. To (i) increase the number of students completing degrees in the high-demand, high-impact STEM fields and other high-demand, anticipated-shortage fields such as the health care-related professions and (ii) help develop and guide the implementation of a comprehensive plan for higher degree attainment in these fields, the Secretaries of Education and Finance, in cooperation with the House Committees on Appropriations and Education and the Senate Committees on Finance and on Education and Health, shall form a public-private partnership comprised of private-sector leaders, distinguished representatives from the scientific community, including retired military personnel, government scientists, and researchers, educational experts, relevant state and local government officials, and such other individuals as they deem appropriate.

B. The partnership shall advise on, and may collaborate with public and private entities to develop and implement strategies to address, such priority issues as (i) determining the need for additional high-demand degree enrollment,

capacity, and resources at public institutions of higher education and private institutions of higher education; (ii) incentivizing greater coordination, innovation, and private collaboration in kindergarten through secondary school STEM and other high-demand degree initiatives; (iii) determining and refining best practices in STEM instruction and leveraging those best practices to promote STEM education in both the Commonwealth's institutions of higher education and its elementary and secondary schools; (iv) enhancing teacher education and professional development in STEM disciplines; (v) strengthening mathematics readiness in secondary schools through earlier diagnosis and remediation of deficiencies; (vi) providing financial incentives to increase STEM enrollment and degree production at the Commonwealth's institutions of higher education; (vii) providing assistance to public institutions of higher education and private institutions of higher education in the acquisition and improvement of STEM-related facilities and equipment; (viii) providing STEM incentives in early pathway programs at institutions of higher education and in the ~~comprehensive community college transfer grant program~~ *Two-Year College Transfer Grant Program*; (ix) assessing degree programs using such economic opportunity metrics as marketplace demand, earning potential, and employer satisfaction and other indicators of the historical and projected economic value and impact of degrees to provide useful information on degrees to students as they make career choices and to state policy makers and university decision makers as they decide how to allocate scarce resources; (x) aligning state higher education efforts with marketplace demands; and (xi) determining such other issues as the partnership deems relevant to increasing the number of students completing degrees in STEM and other high-demand fields at institutions of higher education.

**§ 23.1-634. Prompt crediting and expeditious refunding of funds.**

Each eligible institution acting as an agent for students receiving ~~awards~~ *grants* under the Program shall promptly credit disbursed funds to student accounts following the institution's verification of student eligibility and expeditiously distribute any refunds due recipients.

**§ 23.1-712. Payroll deductions.**

The Commonwealth, the agencies and localities of the Commonwealth and their subdivisions, and any employer in the Commonwealth ~~are authorized to~~ *may* agree, by contract or otherwise, to remit payments or contributions on behalf of an employee toward prepaid tuition contracts or savings trust accounts through payroll deductions.

**§ 23.1-1004. Management agreement; eligibility and application.**

A. The governing *board* and administration of each public ~~institutions~~ *institution* of higher education that meets the state goals set forth in subsection A of § 23.1-1002 and meets the requirements of this article to demonstrate the ability to manage successfully the administrative and financial operations of the institution without jeopardizing the financial integrity and stability of the institution may negotiate with the Governor to develop a management agreement with the Commonwealth to exercise restructured financial and administrative authority.

B. No public institution of higher education shall enter into a management agreement unless:

1. a. Its most current and unenhanced bond rating received from Moody's Investors Service, Inc., Standard & Poor's, Inc., or Fitch Investor's Services, Inc., is at least AA- (i.e., AA minus) or its equivalent, provided that such bond rating has been received within the last three years of the date that the initial management agreement is entered into; or

b. The institution has participated in decentralization pilot programs in the areas of finance and capital outlay, demonstrated management competency in those two areas as evidenced by a written certification from the Cabinet Secretary designated by the Governor, received restructured operational authority under a memorandum of understanding pursuant to Article 3 (§ 23.1-1003 et seq.) in at least one functional area, and demonstrated management competency in that area for a period of at least two years;

2. At least an absolute two-thirds of the institution's governing board has voted in the affirmative for a resolution in support of a request for restructured operational authority under a management agreement;

3. The institution submits to the Governor a written request for his approval of the management agreement that contains evidence that (i) the institution possesses the necessary administrative infrastructure, experience, and expertise to perform successfully its public educational mission as a covered institution; (ii) the institution is financially able to operate as a covered institution without jeopardizing the financial integrity and stability of the institution; (iii) the institution consistently meets the financial and administrative management standards pursuant to § 23.1-1001; and (iv) the institution's governing board has adopted performance and accountability standards, in addition to any institutional performance benchmarks included in the general appropriation act and developed pursuant to § 23.1-206, against which its implementation of the restructured operational authority under the management agreement can be measured;

4. The institution provides a copy of the written request to the Chairmen of the House Committee on Appropriations, the House Committee on Education, the Senate Committee on Finance, and the Senate Committee on Education and Health;

5. The institution agrees to reimburse the Commonwealth for any additional costs that the Commonwealth incurs to provide health or other group insurance benefits to employees and undertake any risk management program that are attributable to the institution's exercise of restructured operational authority. The Secretary of Finance and the Secretary of Administration, in consultation with the Virginia Retirement System and the affected institutions, shall establish procedures for determining any amounts to be paid by each institution and a mechanism for transferring the appropriate amounts directly and solely to the affected programs;

6. The institution considers potential future impacts of tuition increases on the Virginia College Savings Plan and discusses such potential impacts with parties participating in the development of the management agreement. The chief

executive officer of the Virginia College Savings Plan shall provide to the institution and such parties the Plan's assumptions underlying the contract pricing of the program; and

7. The Governor transmits a draft of any management agreement that affects insurance or benefit programs administered by the Virginia Retirement System to the Board of Trustees of the Virginia Retirement System, which shall review the relevant provisions of the management agreement to ensure compliance with the applicable provisions of Title 51.1, administrative policies and procedures, and federal regulations governing retirement plans and advise the Governor and appropriate Cabinet Secretaries of any conflicts.

**§ 23.1-1014. Covered institutions; operational authority; financial operations; financing and indebtedness.**

A. Each covered institution may:

1. Borrow money and issue bonds, notes, or other obligations as provided in this article and purchase such bonds, notes, or other obligations;

2. Seek financing from, incur, or assume indebtedness to, and enter into contractual commitments with, the Virginia Public Building Authority and the Virginia College Building Authority, which authorities ~~are authorized to~~ may borrow money and make and issue negotiable notes, bonds, notes, or other obligations to provide such financing relating to facilities or any project; and

3. Seek financing from, incur or assume indebtedness to, and enter into contractual commitments with, the Commonwealth as otherwise provided by law relating to the institution's facilities or any project.

B. Notwithstanding the provisions of this chapter, no covered institution is exempt from any requirement or covenant contained in any outstanding bonds, notes, or other obligations.

**§ 23.1-1026. Covered institutions; operational authority; human resources; severance policies.**

A. Each covered institution shall adopt a severance policy for its eligible participating covered employees that is applicable to voluntary and involuntary separations, including reductions in workforce. The provisions of the Workforce Transition Act (§ 2.2-3200 et seq.) shall not apply to participating covered employees.

B. The terms and conditions of a covered institution's severance policy for eligible participating covered employees shall be determined by the institution's governing board. The covered institution and the Board of the Virginia Retirement System shall negotiate a formula according to which cash severance benefits may be converted to years of age or creditable service for participating covered employees who participate in the Virginia Retirement System.

C. Covered employees who (i) were employees of a covered institution and were covered by the provisions of Chapter 29 (§ 2.2-2900 et seq.) of Title 2.2 prior to the effective date of the initial management agreement, (ii) would otherwise be eligible for severance benefits under the Workforce Transition Act (§ 2.2-3200 et seq.), and (iii) are separated by a covered institution because of a reduction in workforce have the same preferential hiring rights with state agencies and other executive branch institutions as other state employees have under § 2.2-3201. A covered institution shall recognize the hiring preference conferred by § 2.2-3201 on state employees who were (a) hired by a state agency or executive branch institution before the covered institution's effective date of the initial management agreement and (b) separated after that date by that state agency or executive branch institution because of a reduction in workforce. If a covered institution has adopted a classification system pursuant to § 23.1-1021 that differs from the classification system administered by the Department of Human Resource Management, the covered institution shall classify the separated employee according to its classification system and shall place the separated employee appropriately. Any such separated employee who is hired by a covered institution is a participating covered employee for purposes of this article. Classification decisions that are made pursuant to this subsection and apply to employees transferring between state agencies, between other executive branch institutions and covered institutions, and between covered institutions as a result of a reduction in ~~force~~ workforce and with the preferential hiring rights provided in this subsection and in § 2.2-3201 are presumed appropriate, and a separated employee who grieves the classification decision bears the burden of demonstrating that the classification violates the separated employee's preferential hiring rights.

D. An employee's transition from being an employee of a public institution of higher education to being a covered employee of a covered institution on the effective date of a covered institution's initial management agreement shall not, in and of itself, constitute a severance of that employee or a reduction in ~~force~~ workforce that would make either the covered institution's severance policy adopted pursuant to subsection A or the Workforce Transition Act (§ 2.2-3200 et seq.) applicable to that employee.

**§ 23.1-1211. Default on payments.**

A. Whenever it appears to the Governor from an affidavit filed with him by the paying agent for the bonds issued by the Authority that an eligible institution has defaulted on the payment of the principal of or premium, if any, or interest on its bonds pursuant to this article, the Governor shall immediately make a summary investigation into the facts set forth in the affidavit. If it is established to the satisfaction of the Governor that the eligible institution is in default in the payment of the principal of or premium, if any, or interest on its bonds, the Governor immediately shall make an order directing the State Comptroller to make payment immediately to the owners or paying agent of the bonds in default on behalf of the eligible institution from any appropriation available to the eligible institution in the amount due and remaining unpaid by the eligible institution on its bonds.

B. Any payment so made by the State Comptroller to the owners or paying agent of the bonds in default shall be credited as if made directly by the eligible institution and charged by the State Comptroller against the appropriations of the eligible institution. The owners or paying agent of the bonds in default at the time of payment shall deliver to the State

Comptroller, in a form satisfactory to the State Comptroller, a receipt for payment of the principal, premium, or interest satisfied by the payment. The State Comptroller shall report each payment made to the governing ~~body~~ board of the defaulting eligible institution under the provisions of this section.

C. The Governor shall direct the State Comptroller to (i) charge against the appropriations available to any eligible institution that has defaulted on its bonds pursuant to this section all future payments of principal of and interest on the eligible institution's bonds when due and payable and (ii) make such payments to the owners or paying agent of the bonds on behalf of the eligible institution to ensure that no future default will occur on such bonds. The charge and payment shall be made upon receipt of documentation that the State Comptroller deems to be satisfactory evidence of the claim. The owners or paying agent of the bonds at the time of each payment shall deliver to the State Comptroller, in a form satisfactory to the State Comptroller, a receipt for payment of the principal or interest satisfied by the payment.

D. Nothing in this section shall be construed to create any obligation on the part of the State Comptroller or the Commonwealth to make any payment on behalf of the defaulting eligible institution other than from funds appropriated to the defaulting eligible institution.

**§ 23.1-1225. Powers; acquisition of property.**

The Authority may, directly or through a participating institution as its agent, acquire by (i) purchase solely from funds provided under the ~~authority~~ provisions of this article, (ii) gift, or (iii) devise, such lands, structures, property, real or personal, rights, rights-of-way, air rights, franchises, easements, and other interests in lands, including lands lying under water and riparian rights, that are located within the Commonwealth as it may deem necessary or convenient for the acquisition, construction, or operation of a project, upon such terms and at such prices as it deems reasonable and can be agreed upon between it and the owner of the property and take title to the property in the name of the Authority or any participating institution as its agent.

**§ 23.1-1300. Members of governing boards; removal; terms; nonvoting, advisory representatives.**

A. Members appointed by the Governor to the governing boards of public institutions of higher education shall serve for terms of four years. Vacancies occurring other than by expiration of a term shall be filled for the unexpired term. No member appointed by the Governor to such a governing board shall serve for more than two consecutive four-year terms; however, a member appointed by the Governor to serve an unexpired term is eligible to serve two consecutive four-year terms immediately succeeding such unexpired term. Except as otherwise provided in § 23.1-2601, all appointments are subject to confirmation by the General Assembly. Members appointed by the Governor to the governing board of a public institution of higher education shall continue to hold office until their successors have been appointed and ~~confirmed~~ *qualified*. Ex officio members shall serve a term coincident with their term of office.

B. No member appointed by the Governor to the governing board of a public institution of higher education who has served two consecutive four-year terms on such board is eligible to serve on the same board until at least four years have passed since the end of his second consecutive four-year term.

C. Notwithstanding the provisions of subsection E or any other provision of law, the Governor may remove from office for malfeasance, misfeasance, incompetence, or gross neglect of duty any member of the board of any public institution of higher education and fill the vacancy resulting from the removal.

D. The Governor shall set forth in a written public statement his reasons for removing any member pursuant to subsection C at the time the removal occurs. The Governor is the sole judge of the sufficiency of the cause for removal as set forth in subsection C.

E. If any member of the governing board of a public institution of higher education fails to attend (i) the meetings of the board for one year without sufficient cause, as determined by a majority vote of the board, or (ii) the educational programs required by § 23.1-1304 in his first two years of membership without sufficient cause, as determined by a majority vote of the board, the remaining members of the board shall record such failure in the minutes at its next meeting and notify the Governor, and the office of such member shall be vacated. No member of the board of visitors of a ~~four-year~~ *baccalaureate* public institution of higher education or the State Board for Community Colleges who fails to attend the educational programs required by § 23.1-1304 during his first four-year term is eligible for reappointment to such board.

F. The governing board of each public institution of higher education shall adopt in its bylaws policies (i) for removing members pursuant to subsection E and (ii) referencing the Governor's power to remove members described in subsection C.

G. The governing board of each public institution of higher education and each local community college board may appoint one or more nonvoting, advisory faculty representatives to its respective board. In the case of local community college boards and boards of visitors, such representatives shall be chosen from individuals elected by the faculty or the institution's faculty senate or its equivalent. In the case of the State Board, such representatives shall be chosen from individuals elected by the Chancellor's Faculty Advisory Committee. Such representatives shall be appointed to serve (i) at least one term of at least 12 months, which shall be coterminous with the institution's fiscal year or (ii) for such terms as may be mutually agreed to by the State Board and the Chancellor's Faculty Advisory Committee, or by the local community college board or the board of visitors, and the institution's faculty senate or its equivalent.

H. The board of visitors of any baccalaureate public institution of higher education shall appoint one or more students as nonvoting, advisory representatives. Such representatives shall be appointed under such circumstances and serve for such terms as the board of visitors of the institution shall prescribe.

I. Nothing in subsections G and H shall prohibit the governing board of any public institution of higher education or any local community college board from excluding such nonvoting, advisory faculty or student representatives from discussions of faculty grievances, faculty or staff disciplinary matters or salaries, or any other matter.

**§ 23.1-1303. Governing boards; duties.**

A. For purposes of this section, "intellectual property" means (i) a potentially patentable machine, article of manufacture, composition of matter, process, or improvement in any of those; (ii) an issued patent; (iii) a legal right that inheres in a patent; or (iv) anything that is copyrightable.

B. The governing board of each public institution of higher education shall:

1. Adopt and post conspicuously on its website bylaws for its own governance, including provisions that (i) establish the requirement of transparency, to the extent required by law, in all board actions; (ii) describe the board's obligations under the Virginia Freedom of Information Act (§ 2.2-3700 et seq.), as set forth in subdivision B 10 of § 23.1-1301, including the requirements that (a) the board record minutes of each open meeting and post the minutes on the board's website, in accordance with subsection I of § 2.2-3707 and § 2.2-3707.1, (b) discussions and actions on any topic not specifically exempted by § 2.2-3711 be held in an open meeting, (c) the board give public notice of all meetings, in accordance with subsection C of § 2.2-3707, and (d) any action taken in a closed meeting be approved in an open meeting before it can have any force or effect, in accordance with subsection B of § 2.2-3711; and (iii) require that the board invite the Attorney General's appointee or representative to all meetings of the board, executive committee, and board committees;

2. Establish regulations or institution policies for the acceptance and assistance of students that include provisions (i) that specify that individuals who have knowingly and willfully failed to meet the federal requirement to register for the selective service are not eligible to receive any state direct student assistance, (ii) that specify that the accreditation status of a public high school in the Commonwealth shall not be considered in making admissions determinations for students who have earned a diploma pursuant to the requirements established by the Board of Education, and (iii) relating to the admission of certain graduates of comprehensive community colleges as set forth in § 23.1-907;

3. Assist the Council in enforcing the provisions relating to eligibility for financial aid;

4. Notwithstanding any other provision of state law, establish policies and procedures requiring the notification of the parent of a dependent student when such student receives mental health treatment at the institution's student health or counseling center and such treatment becomes part of the student's educational record in accordance with the federal Health Insurance Portability and Accountability Act (42 U.S.C. § 1320d et seq.) and may be disclosed without prior consent as authorized by the federal Family Educational Rights and Privacy Act (20 U.S.C. § 1232g) and related regulations (34 C.F.R. Part 99). Such notification shall only be required if it is determined that there exists a substantial likelihood that, as a result of mental illness the student will, in the near future, (i) cause serious physical harm to himself or others as evidenced by recent behavior or any other relevant information or (ii) suffer serious harm due to his lack of capacity to protect himself from harm or to provide for his basic human needs. However, notification may be withheld if any person licensed to diagnose and treat mental, emotional, or behavioral disorders by a health regulatory board within the Department of Health Professions who is treating the student has made a part of the student's record a written statement that, in the exercise of his professional judgment, the notification would be reasonably likely to cause substantial harm to the student or another person. No public institution of higher education or employee of a public institution of higher education making a disclosure pursuant to this subsection is civilly liable for any harm resulting from such disclosure unless such disclosure constitutes gross negligence or willful misconduct by the institution or its employees;

5. Establish policies and procedures requiring the release of the educational record of a dependent student, as defined by the federal Family Educational Rights and Privacy Act (20 U.S.C. § 1232g), to a parent at his request;

6. Establish programs to seek to ensure that all graduates have the technology skills necessary to compete in the twenty-first century and that all students matriculating in teacher-training programs receive instruction in the effective use of educational technology;

7. Establish policies for the discipline of students who participate in varsity intercollegiate athletics, including a provision requiring an annual report by the administration of the institution to the governing board regarding enforcement actions taken pursuant to such policies;

8. In addition to all meetings prescribed in Chapters 14 (§ 23.1-1400 et seq.) through 29 (§ 23.1-2900 et seq.), meet with the chief executive officer of the institution at least once annually, in a closed meeting pursuant to subdivision A 1 of § 2.2-3711 and deliver an evaluation of the chief executive officer's performance. Any change to the chief executive officer's employment contract during any such meeting or any other meeting of the board shall be made only by a vote of the majority of the board's members;

9. If human research, as defined in § 32.1-162.16, is conducted at the institution, adopt regulations pursuant to the Administrative Process Act (§ 2.2-4000 et seq.) to effectuate the provisions of Chapter 5.1 (§ 32.1-162.16 et seq.) of Title 32.1 for human research. Such regulations shall require the human research committee to submit to the Governor, the General Assembly, and the chief executive officer of the institution or his designee at least annually a report on the human research projects reviewed and approved by the committee and require the committee to report any significant deviations from approved proposals;

10. Submit the annual financial statements for the fiscal year ending the preceding June 30 and the accounts and status of any ongoing capital projects to the Auditor of Public Accounts for the audit of such statements pursuant to § 30-133;

11. Submit to the General Assembly and the Governor an annual executive summary of its interim activity and work no later than the first day of each regular session of the General Assembly. The executive summary shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website;

12. Make available to any interested party upon request a copy of the portion of the most recent report of the Uniform Crime Reporting Section of the Department of State Police entitled "Crime in Virginia" pertaining to institutions of higher education;

13. Adopt policies or institution regulations regarding the ownership, protection, assignment, and use of intellectual property and provide a copy of such policies *or institution regulations* to the Governor and the Joint Commission on Technology and Science. All employees, including student employees, of public institutions of higher education are bound by the intellectual property policies *or institution regulations* of the institution employing them; and

14. Adopt policies that are supportive of the intellectual property rights of matriculated students who are not employed by such institution.

**§ 23.1-1305. Governing boards; student accounts; collections.**

No governing board shall refer a student account to collections for nonpayment before *such referral is* required by the provisions of § 2.2-4806. This section shall not apply to public institutions of higher education that have entered into management agreements with the Commonwealth pursuant to the Restructured Higher Education Financial and Administrative Operations Act (§ 23.1-1000 et seq.).

**§ 23.1-2308. The Medical College of Virginia, Health Sciences Schools of the University.**

The colleges, schools, and divisions previously existing as The Medical College of Virginia are designated the *Medical College of Virginia, Health Sciences Schools of the University*.

**§ 23.1-2404. Powers of the Authority.**

A. The Authority has all the powers necessary or convenient to carry out the purposes and provisions of this chapter, including the power to:

1. Sue and be sued in its own name;
2. Have and alter an official seal;
3. Have perpetual duration and succession in its name;
4. Locate and maintain offices at such places as it may designate;
5. Make and execute contracts, guarantees, or any other instruments and agreements necessary or convenient for the exercise of its powers and functions, including contracts with hospitals or health care businesses to operate and manage any or all of the hospital facilities or operations, and incur liabilities and secure the obligations of any entity or individual;
6. Conduct or engage in any lawful business, activity, effort, or project consistent with the Authority's purposes or necessary or convenient to exercise its powers;
7. Exercise, in addition to its other powers, all powers that are (i) granted to corporations by the provisions of Title 13.1 or similar provisions of any successor law, except in those cases in which the power is confined to corporations created under such title, and (ii) not inconsistent with the purposes and intent of this chapter or the limitations included in this chapter;
8. Accept, hold, and enjoy any gift, devise, or bequest to the Authority or its predecessors to be held for the uses and purposes designated by the donor, if any, or if not so designated, for the general purposes of the Authority, whether given directly or indirectly, and accept, execute, and administer any trust or endowment fund in which it has or may have an interest under the terms of the instrument creating the trust or endowment fund;
9. Borrow money and issue bonds as provided in this chapter and purchase such bonds;
10. Seek financing from, incur or assume indebtedness to, and enter into contractual commitments with the Virginia Public Building Authority and the Virginia College Building Authority, which authorities ~~are authorized to~~ *may* borrow money and make and issue negotiable notes, bonds, and other evidences of indebtedness to provide such financing relating to the hospital facilities or any project;
11. Seek financing from, incur or assume indebtedness to, and enter into contractual commitments with the Commonwealth as otherwise provided by law relating to the hospital facilities or any project;
12. Procure such insurance, participate in such insurance plans, or provide such self-insurance as it deems necessary or convenient to carry out the purposes and provisions of this chapter. The purchase of insurance, participation in an insurance plan, or creation of a self-insurance plan by the Authority is not a waiver or relinquishment of any sovereign immunity to which the Authority or its officers, directors, employees, or agents are otherwise entitled;
13. Develop policies and procedures generally applicable to the procurement of goods, services, and construction based upon competitive principles;
14. Except as to those hospital facilities or any part of such facilities that are leased to the Authority by the University, the control and disposition of which shall be determined by such lease instruments:
  - a. Own, hold, improve, use, and otherwise deal with real or personal property, tangible or intangible, or any right, easement, estate, or interest in such property, acquired by purchase, exchange, gift, assignment, transfer, foreclosure, lease, bequest, devise, operation of law, or other means on such terms and conditions and in such manner as it may deem proper;

b. Sell, assign, lease, encumber, mortgage, or otherwise dispose of any project, any other real or personal property, tangible or intangible, any right, easement, estate, or interest in such property, or any deed of trust or mortgage lien interest that it owns, that is under its control or custody or in its possession;

c. Release or relinquish any right, title, claim, lien, interest, easement, or demand however acquired, including any equity or right of redemption in property foreclosed by it; and

d. Take any action pursuant to subdivision 14 by public or private sale or with or without public bidding, notwithstanding the provisions of any other law;

15. Accept loans, grants, contributions, or other assistance from the federal government, the Commonwealth, any political subdivision of the Commonwealth, or any other public or private source to carry out any of the purposes of this chapter and enter into any agreement or contract regarding the acceptance, use, or repayment of any such loan, grant, contribution, or assistance in furtherance of the purposes of this chapter;

16. Exercise the power of eminent domain pursuant to the provisions of Chapter 2 (§ 25.1-200 et seq.) of Title 25.1 to acquire by condemnation any real property, including fixtures and improvements, that it may deem necessary to carry out the purposes of this chapter, upon (i) its adoption of a resolution declaring that the acquisition of such property is in the public interest and necessary for public use and (ii) the approval of the Governor. The Authority may acquire property already devoted to a public use, provided that no property belonging to any locality, religious corporation, unincorporated church, or charitable corporation may be acquired without its consent;

17. Fix, revise, charge, and collect rates, rentals, fees, and other charges for the services or facilities furnished by or on behalf of the Authority and establish policies, procedures, and regulations regarding any such service rendered or the use, occupancy or operation of any such facility. Such charges and policies, procedures, and regulations are not subject to supervision or regulation by any commission, board, bureau, or agency of the Commonwealth except as otherwise provided by law for the providers of health care;

18. Consistent with § 23.1-2407, create, assist in the creation of, own in whole or in part, control, participate in or with any public or private entity, purchase, receive, subscribe for, own, hold, vote, use, employ, sell, mortgage, lend, pledge, or otherwise acquire or dispose of any (i) shares or obligations of, or other interests in, any entities organized for any purpose within or outside the Commonwealth and (ii) obligations of any person or corporation;

19. Participate in joint ventures with individuals, corporations, governmental bodies or agencies, partnerships, associations, insurers, or other entities to facilitate any activities or programs consistent with the public purposes and intent of this chapter;

20. Create a nonprofit entity for the purpose of soliciting, accepting, and administering grants, outright gifts and bequests, endowment gifts and bequests, and gifts and bequests in trust. Such entity shall not engage in trust business or duplicate such activities by the University or its related foundations;

21. Provide appropriate assistance, including making loans and providing time of employees, to corporations, partnerships, associations, joint ventures, or other entities whether such entities are owned or controlled in whole or in part or directly or indirectly by the Authority;

22. Provide, promote, support, and sponsor education and scientific research in medicine, public health, and related fields and promote public knowledge in medicine, public health, and related fields;

23. Administer programs to assist in the delivery of medical and related services to the citizens of the Commonwealth and others;

24. Participate in and administer federal, state, and local programs affecting, supporting, or carrying out any of its purposes; and

25. Exercise independently the powers conferred by this chapter in furtherance of its corporate and public purposes.

B. The exercise of the powers permitted by this chapter shall be deemed the performance of essential governmental functions and matters of public necessity for the entire Commonwealth in the provision of health care, medical and health sciences education, and research for which public moneys may be borrowed, loaned, spent, or otherwise utilized and private property may be utilized or acquired.

**§ 23.1-2408. Moneys of the Authority.**

A. All moneys of the Authority derived from any source shall be paid to the treasurer of the Authority. Such moneys shall be deposited in the first instance by the treasurer in one or more banks or trust companies, in one or more special accounts. All banks and trust companies ~~are authorized to~~ may give security for such deposits, if required by the Authority. The moneys in such accounts shall be paid out on the warrant or other orders of the treasurer of the Authority or such other person as the Authority may authorize to execute such warrants or orders.

B. Notwithstanding any provision of law to the contrary, the Authority may invest its operating funds in any obligations or securities that are considered legal investments for public funds in accordance with the Investment of Public Funds Act (§ 2.2-4500 et seq.). The board shall adopt written investment guidelines and retain an independent investment advisory firm or consultant to review at least every five years the suitability of the Authority's investments and the consistency of such investments with the investment guidelines.

**§ 23.1-2409. Grants and loans from localities.**

Localities ~~are authorized to~~ may lend or donate money or other property to the Authority for any of the Authority's purposes. The local governing body making the grant or loan may restrict the use of such grants or loans to a specific project within or outside that locality.

**§ 23.1-2413. Capital projects.**

A. All capital projects of the Authority shall be approved by the board. Within 30 days after approval of any capital project in excess of \$5 million, the board shall notify the House Appropriations and Senate Finance Committees of the scope, cost, and construction schedule of the proposed capital project. The board may undertake the project unless either Committee raises objections within 30 days of the notification, in which case the Authority shall not undertake the project until such objections are resolved.

B. Before the Authority materially increases the size or materially changes the scope of any capital project for which construction has commenced, such project shall be approved again by the board in accordance with subsection A and, in the case of any capital project in excess of \$5 million, presented again to the House Appropriations and Senate Finance Committees in accordance with subsection A.

C. Notwithstanding any provision of law to the contrary, the Authority is not subject to any further process or procedure that requires the submission, review, or approval of any capital project; however, the Authority shall ensure that ~~BOCA Building Officials and Code Administrators (BOCA) Code or any successor code~~ and fire safety inspections are conducted for any capital project and that such projects are inspected by the State Fire Marshal or his designee prior to certification for building occupancy.

**§ 23.1-2415. Employees of the Authority.**

A. Employees of the Authority shall be employed on such terms and conditions as established by the Authority. The board shall develop and adopt policies and procedures that afford its employees grievance rights, ensure that employment decisions are based upon the merit and fitness of applicants, and prohibit discrimination on the basis of race, religion, color, sex, or national origin.

B. The Authority shall issue a written notice to all individuals whose employment is transferred to the Authority. The date upon which such written notice is issued is referred to in this section as the "Option Date." Each individual whose employment is transferred to the Authority may, by written request made within 180 days of the Option Date, elect not to become employed by the Authority. Any employee of MCV Hospitals who (i) elects not to become employed by the Authority; (ii) is not reemployed by any department, institution, board, commission, or agency of the Commonwealth; (iii) is not offered alternative employment by the Authority; (iv) is not offered a position with the Authority for which the employee is qualified; or (v) is offered a position by the Authority that requires relocation or a reduction in salary is eligible for the severance benefits conferred by the provisions of the Workforce Transition Act (§ 2.2-3200 et seq.). Any employee who accepts employment with the Authority has voluntarily separated from state employment and is not eligible for the severance benefits conferred by the provisions of the Workforce Transition Act.

C. Without limiting its power generally with respect to employees, the Authority may employ any University employee utilized in the operation of the hospital facilities and assume obligations under any employment agreement for such employee, and the University may assign any such contract to the Authority.

D. The Authority and the University may enter into agreements providing for the purchase of services of University employees utilized in the operation of the hospital facilities by paying agreed-upon amounts to cover all or part of the salaries and other costs of such employees.

E. Notwithstanding any other provision of law to the contrary, any employee whose employment is transferred to the Authority as a result of this chapter and who is a member of any plan for providing health insurance coverage pursuant to Chapter 28 (§ 2.2-2800 et seq.) of Title 2.2 shall continue to be a member of such health insurance plan under the same terms and conditions of such plan.

F. Notwithstanding subsection A of § 2.2-2818, the costs of providing health insurance coverage to employees who elect to continue to be members of the state employees' health insurance plan shall be paid by the Authority.

G. Any employee of the Authority may elect to become a member of any health insurance plan established by the Authority. The Authority may (i) establish a health insurance plan for the benefit of its employees, residents, and interns and (ii) enter into an agreement with the Department of Human Resource Management providing for the coverage of its employees, interns, and residents under the state employees' health insurance plan, provided that such agreement requires the Authority to pay the costs of providing health insurance coverage under such plan.

H. Notwithstanding any other provision of law to the contrary, any employee whose employment is transferred to the Authority as a result of this chapter and who is a member of the Virginia Retirement System or another retirement plan as authorized by Article 4 (§ 51.1-125 et seq.) of Chapter 1 of Title 51.1 shall continue to be a member of the Virginia Retirement System or such other authorized retirement plan under the same terms and conditions of such plan. Any such employee and any employee employed by the Authority between July 1, 1997, and June 30, 1998, who elected to be covered by the Virginia Retirement System may elect, during an open enrollment period from April 1, 2001, through April 30, 2001, to become a member of the retirement ~~program~~ plan established by the Authority for the benefit of its employees pursuant to § 23.1-2416 by transferring assets equal to the actuarially determined present value of the accrued basic benefit as of the transfer date. The Authority shall reimburse the Virginia Retirement System for the actual cost of actuarial services necessary to determine the present value of the accrued basic benefit of employees who elect to transfer to the Authority's retirement plan. The following rules shall apply to such transfers:

I. With respect to any transferred employee who elects to remain a member of the Virginia Retirement System or another authorized retirement plan, the Authority shall collect and pay all employee and employer contributions to the

Virginia Retirement System or such other authorized retirement plan for retirement in accordance with the provisions of Chapter 1 (§ 51.1-124.1 et seq.) of Title 51.1 for such transferred employees.

2. Transferred employees who elect to become members of the retirement ~~program~~ *plan* established by the Authority for the benefit of its employees shall be given full credit for their creditable service as defined in § 51.1-124.3, vesting and benefit accrual under the retirement ~~program~~ *plan* established by the Authority. For any such employee, employment with the Authority shall be treated as employment with any nonparticipating employer for purposes of the Virginia Retirement System or other retirement plan as authorized by Article 4 (§ 51.1-125 et seq.) of Chapter 1 of Title 51.1.

3. For transferred employees who elect to become members of the retirement ~~program~~ *plan* established by the Authority, the Virginia Retirement System or other such authorized plan shall transfer to the retirement plan established by the Authority assets equal to the actuarially determined present value of the accrued basic benefit as of the transfer date. For the purposes of such calculation, the basic benefit is the benefit accrued under the Virginia Retirement System or another authorized retirement plan based on creditable service and average final compensation as defined in § 51.1-124.3 and determined as of the transfer date. The actuarial present value shall be determined on the same basis, using the same actuarial factors and assumptions used in determining the funding needs of the Virginia Retirement System or such other authorized retirement plan so that the transfer of assets to the retirement plan established by the Authority has no effect on the funded status and financial stability of the Virginia Retirement System or other such authorized retirement plan.

**§ 23.1-2607. Purchase of electric power and energy.**

A. For purposes of this section:

"Other party" means any other entity, including any (i) municipality, public institution of higher education, or political subdivision, public authority, agency, or instrumentality of the Commonwealth, ~~or another~~ state, or the United States or (ii) partnership, limited liability company, nonprofit corporation, electric cooperative, or investor-owned utility, whether created, incorporated, or otherwise organized and existing under the laws of the Commonwealth ~~or another~~ state, or the United States.

"Project" means any (i) system or facilities for the generation, transmission, transformation, or supply of electrical power and energy by any means whatsoever, including fuel, fuel transportation, and fuel supply resources; (ii) electric generating unit situated at a particular site in the continental United States; (iii) interest in such system, facilities, or unit, whether an undivided interest as a tenant in common or otherwise; or (iv) right to the output, capacity, or services of such system, facilities, or unit.

B. The University may contract with any other party to buy power and energy to meet its present or future requirements. Any such contract may provide that (i) the source of such power and energy is limited to a specified project; (ii) replacement power and energy shall be provided; or (iii) the University shall be obligated to make payments required by the contract whether the project is completed, operable, or operating and notwithstanding the suspension, interruption, interference, reduction, or curtailment of the output of a project or the amount of power and energy contracted for; (iv) payments required by the contract (a) are not subject to any reduction, whether by offset or otherwise, (b) are not conditioned upon the performance or nonperformance of any other party, (c) shall be made solely from the revenues derived by the University from the ownership and operation of the electric system of the University, (d) may be secured by a pledge of and lien upon the electric system of the University, and (e) shall constitute an operating expense of the electric system of the University; (v) in the event of default by the University or any other party to the contract in the performance of its obligations for any project, the University or any other party to the contract for such project shall succeed to the rights and interests and assume the obligations of the defaulting party, either pro rata or as may be otherwise agreed upon in the contract; or (vi) no other party shall be obligated to provide power and energy in the event that (a) the project is inoperable, (b) the output of the project is subject to suspension, interference, reduction, or curtailment, or (c) a force majeure occurs.

C. Notwithstanding any other charter or provision of law to the contrary, no such contract, with respect to the sale or purchase of capacity, output, power, or energy from a project, shall exceed 50 years from the date that the project is estimated to be placed in normal continuous operation.

D. The execution and effectiveness of any such contract are not subject to any authorizations and approvals by the Commonwealth or any agency, commission, instrumentality, or political subdivision of the Commonwealth except as specifically required by law.

E. No obligation under any such contract shall constitute a legal or equitable pledge, charge, lien, or encumbrance upon any property of the University or upon any of its income, receipts, or revenues, except the revenues of its electric system, and the faith and credit of the University shall not be pledged for the payment of any obligation under any such contract.

F. The University shall fix, charge, and collect rents, rates, fees, and charges for electric power and energy and other services, facilities, and commodities sold, furnished, or supplied through its electric system sufficient to provide revenues adequate to meet its obligations under any such contract and to pay any and all other amounts payable from or constituting a charge and lien upon such revenues, including amounts sufficient to pay the principal of and interest on bonds of the University issued for purposes relating to its electric system. Any pledge made by the University pursuant to this subsection is governed by the laws of the Commonwealth.

**§ 23.1-2631. Executive director.**

A. The principal administrative officer of the Water Center shall be an executive director who shall be appointed by the president of the University, subject to the approval of the board. The executive director shall be under the supervision of the president of the University.

B. The executive director shall exercise all powers imposed upon him by law, carry out the specific duties imposed upon him by the president of the University, and develop appropriate policies and procedures, with the advice of the Virginia Water Resources Research Center Statewide Advisory Board, for (i) identifying priority research problems; (ii) collaborating with the General Assembly; federal, state, and local governmental agencies; and water user groups in the formulation of its research programs; (iii) selecting projects to be funded; and (iv) disseminating information and transferring technology designed to help resolve water and related land problems of the Commonwealth. ~~He~~ *The executive director* shall employ such personnel and secure such services as may be required to carry out the purposes of this article and expend appropriated funds and accept moneys for cost-sharing on projects funded with federal and private funds.

**§ 23.1-2702. Powers and duties.**

A. The board shall appoint all professors, teachers, and agents; *and* fix their salaries; and generally direct the affairs of the University.

B. The board may confer degrees.

**§ 23.1-2903. State Board; officers, meetings, and regulations.**

A. The State Board shall elect a chairman from its membership and may provide for the election of one of its members as vice-chairman.

B. The State Board shall meet at least four times annually and on the call of the chairman when in his opinion additional meetings are expedient or necessary.

C. Eight members of the State Board shall constitute a quorum for all purposes.

D. The main office of the State Board shall be in the Commonwealth.

E. The State Board is ~~authorized to~~ *may* adopt necessary regulations for carrying out the purposes of this chapter.

**§ 23.1-3131. Virginia Research Investment Fund.**

A. There is hereby created in the state treasury a special nonreverting revolving fund to be known as the Virginia Research Investment Fund. The Fund shall be established on the books of the Comptroller. All moneys appropriated by the General Assembly for the Fund, and from any other sources public or private, shall be paid into the state treasury and credited to the Fund. Interest and other income earned on the Fund shall be credited to the Fund. Any moneys remaining in the Fund, including interest and other income thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund.

B. 1. Notwithstanding any other provision of law, the General Assembly may specifically designate that certain moneys appropriated to the Fund be invested, reinvested, and managed by the Board of the Virginia Retirement System as provided in § 51.1-124.38. The State Treasurer shall not be held liable for losses suffered by the Virginia Retirement System on investments made under the authority of this subsection.

2. No more than \$4 million of moneys so invested, net of any administrative fee assessed pursuant to subsection E of § 51.1-124.38, may be awarded through grants or loans in a fiscal year for any purpose permitted by this article. At the direction of the Committee, the State Comptroller may annually request a disbursement of \$4 million from the moneys invested by the Board of the Virginia Retirement System, to be held with other moneys in the Fund not subject to such investment. At the end of each fiscal year, if less than \$4 million of such annual allocation is awarded as grants or loans in a calendar year, the Comptroller shall return the remainder of the annual \$4 million allocation to the Board of the Virginia Retirement System for reinvestment pursuant to § 51.1-124.38.

3. Any loans awarded pursuant to this article shall be paid by the Comptroller from the \$4 million annual allocation set forth in subdivision 2. The recipient of a loan shall repay the loan pursuant to the terms set forth by the Committee. At the end of each fiscal year, the Comptroller shall return any repayments received from loan recipients to the Board of the Virginia Retirement System for reinvestment pursuant to § 51.1-124.38.

C. Moneys in the Fund shall be used solely for grants and loans to (i) promote research and development excellence in the Commonwealth; (ii) foster innovative and collaborative research, development, and commercialization efforts in the Commonwealth in projects and programs with a high potential for economic development and job creation opportunities; (iii) position the Commonwealth as a national leader in science-based and technology-based research, development, and commercialization; (iv) attract and effectively recruit and retain eminent researchers to enhance research superiority at public institutions of higher education; and (v) encourage cooperation and collaboration among higher education research institutions, and with the private sector, in areas and with activities that foster economic development and job creation in the Commonwealth. Areas of focus for awards shall be those areas identified in the Commonwealth Research and Technology Strategic Roadmap, and shall include ~~but not be limited to~~ the biosciences, personalized medicine, cybersecurity, data analytics, and other areas designated in the general appropriation act.

D. The disbursement of grants and loans from the Fund shall be made by the State Comptroller at the written request of the Committee.

**§ 23.1-3133. Award from Virginia Research Investment Fund.**

A. The Council, in consultation with the Committee, shall establish guidelines, procedures, and objective criteria for the application for and award of grants and loans from the Fund. Such guidelines, procedures, and criteria, and any updates thereto, shall be submitted to the House Committee on Appropriations and the Senate Committee on Finance. The criteria for the award of grants and loans shall consider other grants, awards, loans, or funds awarded to the proposed program or project by the Commonwealth and shall require an applicant to indicate other applications for state grants, awards, loans, or funds currently pending at the time of the application for an award from the Fund. The criteria shall consider the potential of

the program or project for which a grant or loan is sought to (i) culminate in the commercialization of research; (ii) culminate in the formation or spin-off of viable bioscience, biotechnology, cybersecurity, genomics, or similar companies; (iii) promote the build-out of scientific areas of expertise in science and technology; (iv) promote applied research and development; (v) provide modern facilities or infrastructure for research and development; (vi) result in significant capital investment and job creation; or (vii) promote collaboration among the public institutions of higher education ~~in the Commonwealth~~. Such criteria shall also require that the program or project for which a grant or loan is sought be related to an area identified in the Commonwealth Research Technology Strategic Roadmap.

B. Grants and loans may be awarded to public institutions of higher education ~~in the Commonwealth~~ or collaborations between public institutions of higher education ~~in the Commonwealth~~ and private entities. Any award from the Fund shall require a match of funds at least equal to the amount of the award.

C. Applications for grants and loans from the Fund shall be received by the Council in accordance with the procedures developed pursuant to subsection A. Upon confirmation that an application is complete, the Council shall forward the application to an entity with recognized science and technology expertise for a review and certification of the scientific merits of the proposal, including a scoring or prioritization of applicant programs and projects deemed viable by the reviewing entity. Such entities include, ~~but are not limited to~~, the Virginia Biosciences Health Research Corporation, the Innovation and Entrepreneurship Investment Authority, the Virginia Academy of Science, Engineering and Medicine, or any other entity deemed appropriate by the Council, including a scientific advisory committee created by the Council for the sole purpose of reviewing one or more applications received pursuant to this article.

D. Any proposal receiving a favorable evaluation pursuant to subsection C shall be forwarded, along with the scoring or prioritization, to the Committee for further review and a decision whether to award the proposal a grant or loan from the Fund. The award of a grant or loan from the Fund shall be subject to any terms and conditions set forth by the Committee for the award. All decisions by the Committee shall be final and not subject to further review or appeal. The Governor may announce any award approved by the Committee.

**§ 23.1-3208. Regulations.**

A. The board or its executive committee may adopt regulations concerning the use and visitation of properties under the control of the Jamestown-Yorktown Foundation to protect and secure such properties and the public enjoyment of such properties.

B. Any person who knowingly violates a regulation of the Foundation may be requested by an agent or employee of the Foundation to leave the property and upon the failure of such person ~~to do so~~ is guilty of trespass as provided in § 18.2-119.

**§ 23.1-3216. Virginia Museum of Fine Arts established.**

The Virginia Museum of Fine Arts (*the Museum*) is established as an educational institution in the Commonwealth and a public body and instrumentality for the dissemination of education.

**§ 23.1-3217. Board of trustees.**

A. The management and control of the Virginia Museum of Fine Arts (~~the Museum~~) and its building, contents, furnishings, grounds, and other properties is vested in a board of trustees (the board) composed of (i) the Governor, the Speaker of the House of Delegates, and the mayor of the City of Richmond, who shall serve ex officio, and (ii) at least 25 but not more than 35 nonlegislative citizen members. Nonlegislative citizen members shall be appointed by the Governor after consideration of a list of nominees from the Museum submitted at least 60 days before the expiration of the member's term for which the nominations are being made.

B. Nonlegislative citizen members shall be appointed for terms of five years. No nonlegislative citizen member is eligible to serve more than two consecutive five-year terms; however, a member appointed to serve an unexpired term is eligible to serve two consecutive five-year terms immediately succeeding such unexpired term.

C. Nine members shall constitute a quorum at any meeting and a majority vote of those members present shall control in all matters.

D. The board shall adopt bylaws governing its organization and procedure and may alter and amend the bylaws.

E. The board shall elect one of its members president of the Museum.

F. The board may provide for an executive committee composed of at least three members that may exercise the powers vested in it and perform the duties imposed upon it by the board.

**§ 25.1-100. Definitions.**

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

"Appraisal" means a written statement independently and impartially prepared by a qualified appraiser setting forth an opinion of defined value of an adequately described property as of a specific date, supported by the presentation and analysis of relevant market information.

"Body determining just compensation" means a panel of commissioners empaneled pursuant to § 25.1-227.2, jury selected pursuant to § 25.1-229, or the court if neither a panel of commissioners nor a jury is appointed or empaneled.

"Court" means the court having jurisdiction as provided in § 25.1-201.

"Date of valuation" means the time of the lawful taking by the petitioner, or the date of the filing of the petition pursuant to § 25.1-205, whichever occurs first.

"Freeholder" means any person owning an interest in land in fee, including a person owning a condominium unit.

"Land" means real estate and all rights and appurtenances thereto, together with the structures and other improvements thereon, and any right, title, interest, estate or claim in or to real estate.

"Locality" or "local government" means a county, city, or town, as the context may require.

"Lost access" means a material impairment of direct access to property, a portion of which has been taken or damaged as set out in subsection B of § 25.1-230.1. This definition of the term "lost access" shall not diminish any existing right or remedy, and shall not create any new right or remedy other than to allow the body determining just compensation to consider a change in access in awarding just compensation.

"Lost profits" means a loss of business profits, as defined in § 25.1-230.1, subject to adjustment using generally accepted accounting principles consistently applied, from a business or farm operation for a period not to exceed (i) three years from the date of valuation if less than the entire parcel of property is taken or (ii) one year from the date of valuation if the entire parcel of property is taken that is suffered as a result of a taking of the property on which the business or farm operation is located, provided (a) the business is owned by the owner of the property taken, or by a tenant whose leasehold interest grants the tenant exclusive possession of substantially all the property taken, or (b) the farm operation is operated by the owner of the property taken, or by a tenant using for a farm operation the property taken, to the extent that the loss is determined and proven pursuant to subsection C of § 25.1-230.1. This definition of the term "lost profits" shall not create any new right or remedy or diminish any existing right or remedy other than to allow the body determining just compensation to consider lost profits in awarding just compensation if a person asserts a right to lost profits in a claim for compensation.

"Owner" means any person who owns property, provided that the person's ownership of the property is of record in the land records of the clerk's office of the circuit court of the county or city where the property is located. The term "owner" shall not include trustees or beneficiaries under a deed of trust, any person with a security interest in the property, or any person with a judgment or lien against the property. This definition of the term "owner" shall not affect in any way the valuation of property.

"Person" means any individual; firm; cooperative; association; corporation; limited liability company; trust; business trust; syndicate; partnership; limited liability partnership; joint venture; receiver; trustee in bankruptcy or any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise; club, society or other group or combination acting as a unit; the Commonwealth or any department, agency or instrumentality thereof; any city, county, town, or other political subdivision or any department, agency or instrumentality thereof; or any interstate body to which the Commonwealth is a party.

"Petitioner" or "condemnor" means any person who possesses the power to exercise the right of eminent domain and who seeks to exercise such power. The term "petitioner" or "condemnor" includes a state agency.

"Property" means land and personal property, and any right, title, interest, estate or claim in or to such property.

"State agency" means any (i) department, agency or instrumentality of the Commonwealth; (ii) public authority, municipal corporation, local governmental unit or political subdivision of the Commonwealth or any department, agency or instrumentality thereof; (iii) person who has the authority to acquire property by eminent domain under state law; or (iv) two or more of the aforementioned that carry out projects that cause persons to be displaced.

"State institution" means any (i) educational institution enumerated in § 23.1-1100 or (ii) state hospital or state training center operated by the Department of Behavioral Health and Developmental Services.

**2. That the provisions of this act shall be effective retroactively to October 1, 2016.**

## CHAPTER 315

*An Act to amend and reenact § 8.01-226 of the Code of Virginia, relating to duty of care to law-enforcement officers and firefighters; the fireman's rule.*

[H 1590]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 8.01-226 of the Code of Virginia is amended and reenacted as follows:**

**§ 8.01-226. Duty of care to law-enforcement officers, firefighters, etc.**

A. An owner or occupant of real property containing premises normally open to the public shall, with respect to such premises, owe to firefighters, Department of Emergency Management hazardous materials officers, nonfirefighter regional hazardous materials emergency response team members, and law-enforcement officers who in the performance of their duties come upon that portion of the premises normally open to the public the duty to maintain the same in a reasonably safe condition or to warn of dangers thereon of which he knows or has reason to know, whether or not such premises are at the time open to the public.

An owner or occupant of real property containing premises not normally open to the public shall, with respect to such premises, owe the same duty to firefighters, Department of Emergency Management hazardous materials officers, nonfirefighter regional hazardous materials emergency response team members, and law-enforcement officers who he knows or has reason to know are upon, about to come upon, or imminently likely to come upon that portion of the premises not normally open to the public.

While otherwise engaged in the performance of his duties, a law-enforcement officer, Department of Emergency Management hazardous materials officer, nonfirefighter regional hazardous materials emergency response team member, or firefighter shall be owed a duty of ordinary care.

*The common-law doctrine known as the fireman's rule, a doctrine that limits a defendant's liability for otherwise culpable conduct resulting in property damage and injuries to the public officials named in this section, shall not be a defense to claims (i) against third parties whose negligent acts did not give rise to the emergency to which such public official is responding and who were not occupiers of the premises where such emergency arose and injuries occurred; (ii) arising out of further acts of negligence separate and apart from the negligent acts that gave rise to the emergency to which such public official is responding; (iii) based upon a violation of a statutory duty created for the express benefit of such public official; or (iv) against parties whose conduct qualifies as an intentional tort, gross negligence, or willful or wanton misconduct.*

B. For purposes of this section, ~~the term "law-enforcement officers" shall mean~~ *means* only police officers, sheriffs, and deputy sheriffs and ~~the term "firefighter"~~ *"firefighters"* includes (i) emergency medical personnel and (ii) special forest wardens designated pursuant to § 10.1-1135.

### CHAPTER 316

*An Act to amend the Code of Virginia by adding a section numbered 23.1-905.1, relating to public institutions of higher education; general education course credit; dual enrollment courses.*

[H 1662]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding a section numbered 23.1-905.1 as follows:**

**§ 23.1-905.1. General education course credit; dual enrollment courses.**

A. *The Council, in consultation with each public institution of higher education, shall establish a policy for granting undergraduate general education course credit to any entering student who has successfully completed a dual enrollment course. The policy shall:*

*1. Outline the conditions necessary for each public institution of higher education to grant general education course credit for the successful completion of a dual enrollment course;*

*2. Identify the general education course credit or other academic requirements of each public institution of higher education that the student satisfies by successfully completing a dual enrollment course; and*

*3. Ensure, to the extent possible, that the grant of general education course credit is consistent across each public institution of higher education and each such dual enrollment course.*

B. *The Council and each public institution of higher education shall make the policy available to the public on their websites.*

C. *The Council shall annually report to the House Committee on Education and the Senate Committee on Education and Health on the implementation of the course credit policy by each public institution of higher education.*

### CHAPTER 317

*An Act to require certain neighborhood organization proposals for the Neighborhood Assistance Tax Credit to provide information; report.*

[H 1838]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. § 1. That any neighborhood organization, as that term is defined in § 58.1-439.18 of the Code of Virginia, submitting a proposal to the Superintendent of Public Instruction for an allocation of tax credits pursuant to § 58.1-439.20 of the Code of Virginia for the program year beginning July 1, 2017, shall include with its proposal a list of all localities in the Commonwealth in which the neighborhood organization provided services during the program year beginning July 1, 2016. The Department of Education shall aggregate the information received pursuant to this act and submit it to the Chairmen of the House Committee on Appropriations, the House Committee on Finance, the Senate Committee on Finance, and the Joint Subcommittee to Evaluate Tax Preferences no later than December 1, 2017.**

CHAPTER 318

*An Act to amend and reenact § 23.1-601 of the Code of Virginia, relating to comprehensive community colleges; grants for certain individuals.*

[H 1848]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 23.1-601 of the Code of Virginia is amended and reenacted as follows:**

**§ 23.1-601. Comprehensive community colleges; grants for tuition and fees for certain individuals.**

A. Each comprehensive community college shall provide a grant for the payment of tuition or fees, except fees established for the purpose of paying for course materials such as laboratory fees, for any Virginia student who:

1. a. Has received a high school diploma or has passed a high school equivalency examination approved by the Board of Education and was in foster care or in the custody of the Department of Social Services or is considered a special needs adoption at the time such diploma or certificate was awarded; or

b. Was in foster care when he turned 18 and subsequently received a high school diploma or passed a high school equivalency examination approved by the Board of Education;

2. Is enrolled or has been accepted for enrollment as a full-time or part-time student, taking a minimum of six credit hours per semester, in a degree or certificate program of at least one academic year in length *or in a noncredit workforce credential program* in a comprehensive community college;

3. Has not been enrolled in postsecondary education as a full-time student for more than five years or does not have a bachelor's degree;

4. Maintains the required grade point average established by the State Board;

5. Has submitted *complete* applications for federal student financial aid programs for which he may be eligible;

6. Demonstrates financial need; and

7. Meets any additional financial need requirements established by the State Board for the purposes of such grant.

B. The State Board, in consultation with the Council and the Department of Social Services, shall establish regulations governing such grants. The regulations shall include provisions addressing renewals of grants, financial need, the calculation of grant amounts after consideration of any additional financial resources or aid the student holds, the minimum grade point average required to retain such grant, and procedures for the repayment of tuition and fees for failure to meet the requirements imposed by this section.

CHAPTER 319

*An Act to amend the Code of Virginia by adding a section numbered 19.2-387.2, relating to National Crime Prevention and Privacy Compact of 1998.*

[H 2066]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding a section numbered 19.2-387.2 as follows:**

**§ 19.2-387.2. National Crime Prevention and Privacy Compact of 1998.**

*The National Crime Prevention and Privacy Compact of 1998 is hereby enacted and entered into with all other jurisdictions legally joining therein in the form substantially as follows:*

**NATIONAL CRIME PREVENTION AND PRIVACY COMPACT.**

*The Contracting Parties agree to the following:*

*Overview.*

A. *In general. This Compact organizes an electronic information sharing system among the Federal Government and the States to exchange criminal history records for noncriminal justice purposes authorized by Federal or State law, such as background checks for governmental licensing and employment.*

B. *Obligations of parties. Under this Compact, the FBI and the Party States agree to maintain detailed databases of their respective criminal history records, including arrests and dispositions, and to make them available to the Federal Government and to Party States for authorized purposes. The FBI shall also manage the Federal data facilities that provide a significant part of the infrastructure for the system.*

**ARTICLE I.  
DEFINITIONS.**

*In this Compact:*

*"Attorney General" means the Attorney General of the United States.*

*"Compact officer" means:*

1. *With respect to the Federal Government, an official so designated by the Director of the FBI; and*

2. With respect to a Party State, the chief administrator of the State's criminal history record repository or a designee of the chief administrator who is a regular full-time employee of the repository.

"Council" means the Compact Council established under Article VI.

"Criminal history records" means information collected by criminal justice agencies on individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, or other formal criminal charges, and any disposition arising therefrom, including acquittal, sentencing, correctional supervision, or release. "Criminal history records" does not include identification information such as fingerprint records if such information does not indicate involvement of the individual with the criminal justice system.

"Criminal history record repository" means the State agency designated by the Governor or other appropriate executive official or the legislature of a State to perform centralized recordkeeping functions for criminal history records and services in the State.

"Criminal justice" includes activities relating to the detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders. The administration of criminal justice includes criminal identification activities and the collection, storage, and dissemination of criminal history records.

"Criminal justice agency" means (i) courts; and (ii) a governmental agency or any subunit thereof that (a) performs the administration of criminal justice pursuant to a statute or Executive order; (b) allocates a substantial part of its annual budget to the administration of criminal justice; and (c) includes Federal and State inspectors general offices.

"Criminal justice services" means services provided by the FBI to criminal justice agencies in response to a request for information about a particular individual or as an update to information previously provided for criminal justice purposes.

"Criterion offense" means any felony or misdemeanor offense not included on the list of nonserious offenses published periodically by the FBI.

"Direct access" means access to the National Identification Index by computer terminal or other automated means not requiring the assistance of or intervention by any other party or agency.

"Executive order" means an order of the President of the United States or the chief executive officer of a State that has the force of law and that is promulgated in accordance with applicable law.

"FBI" means the Federal Bureau of Investigation.

"Interstate Identification Index System" or "III System" means the cooperative Federal-State system for the exchange of criminal history records and includes the National Identification Index, the National Fingerprint File and, to the extent of their participation in such system, the criminal history record repositories of the States and the FBI.

"National Fingerprint File" means a database of fingerprints, or other uniquely personal identifying information, relating to an arrested or charged individual maintained by the FBI to provide positive identification of record subjects indexed in the III System.

"National Identification Index" means an index maintained by the FBI consisting of names, identifying numbers, and other descriptive information relating to record subjects about whom there are criminal history records in the III System.

"National indices" means the National Identification Index and the National Fingerprint File.

"Noncriminal justice purposes" means uses of criminal history records for purposes authorized by Federal or State law other than purposes relating to criminal justice activities, including employment suitability, licensing determinations, immigration and naturalization matters, and national security clearances.

"Nonparty State" means a State that has not ratified this Compact.

"Party State" means a State that has ratified this Compact.

"Positive identification" means a determination, based upon a comparison of fingerprints or other equally reliable biometric identification techniques, that the subject of a record search is the same person as the subject of a criminal history record or records indexed in the III System. Identifications based solely upon a comparison of subjects' names or other nonunique identification characteristics or numbers, or combinations thereof, shall not constitute positive identification.

"Sealed record information" means:

1. With respect to adults, that portion of a record that is (i) not available for criminal justice uses; (ii) not supported by fingerprints or other accepted means of positive identification; or (iii) subject to restrictions on dissemination for noncriminal justice purposes pursuant to a court order related to a particular subject or pursuant to a Federal or State statute that requires action on a sealing petition filed by a particular record subject; and

2. With respect to juveniles, whatever each State determines is a sealed record under its own law and procedure.

"State" means any State, territory, or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

## ARTICLE II. PURPOSES.

The purposes of this Compact are to:

1. Provide a legal framework for the establishment of a cooperative Federal-State system for the interstate and Federal-State exchange of criminal history records for noncriminal justice uses;

2. Require the FBI to permit use of the National Identification Index and the National Fingerprint File by each Party State, and to provide, in a timely fashion, Federal and State criminal history records to requesting States, in accordance with the terms of this Compact and with rules, procedures, and standards established by the Council under Article VI;

3. Require Party States to provide information and records for the National Identification Index and the National Fingerprint File and to provide criminal history records, in a timely fashion, to criminal history record repositories of other States and the Federal Government for noncriminal justice purposes, in accordance with the terms of this Compact and with rules, procedures, and standards established by the Council under Article VI;

4. Provide for the establishment of a Council to monitor III System operations and to prescribe system rules and procedures for the effective and proper operation of the III System for noncriminal justice purposes; and

5. Require the FBI and each Party State to adhere to III System standards concerning record dissemination and use, response times, system security, data quality, and other duly established standards, including those that enhance the accuracy and privacy of such records.

#### ARTICLE III.

##### RESPONSIBILITIES OF COMPACT PARTIES.

A. FBI responsibilities. The Director of the FBI shall:

1. Appoint an FBI Compact officer who shall:

a. Administer this Compact within the Department of Justice and among Federal agencies and other agencies and organizations that submit search requests to the FBI pursuant to subsection C of Article V;

b. Ensure that Compact provisions and rules, procedures, and standards prescribed by the Council under Article VI are complied with by the Department of Justice and the Federal agencies and other agencies and organizations referred to in subdivision A 1 a; and

c. Regulate the use of records received by means of the III System from Party States when such records are supplied by the FBI directly to other Federal agencies;

2. Provide to Federal agencies and to State criminal history record repositories, criminal history records maintained in its database for the noncriminal justice purposes described in Article IV, including:

a. Information from Nonparty States; and

b. Information from Party States that is available from the FBI through the III System, but is not available from the Party State through the III System;

3. Provide a telecommunications network and maintain centralized facilities for the exchange of criminal history records for both criminal justice purposes and the noncriminal justice purposes described in Article IV, and ensure that the exchange of such records for criminal justice purposes has priority over exchange for noncriminal justice purposes; and

4. Modify or enter into user agreements with Nonparty State criminal history record repositories to require them to establish record request procedures conforming to those prescribed in Article V.

B. State responsibilities. Each Party State shall:

1. Appoint a Compact officer who shall:

a. Administer this Compact within that State;

b. Ensure that Compact provisions and rules, procedures, and standards established by the Council under Article VI are complied with in the State; and

c. Regulate the in-State use of records received by means of the III System from the FBI or from other Party States;

2. Establish and maintain a criminal history record repository, which shall provide:

a. Information and records for the National Identification Index and the National Fingerprint File; and

b. The State's III System-indexed criminal history records for noncriminal justice purposes described in Article IV;

3. Participate in the National Fingerprint File; and

4. Provide and maintain telecommunications links and related equipment necessary to support the services set forth in this Compact.

C. Compliance with III System standards. In carrying out their responsibilities under this Compact, the FBI and each Party State shall comply with III System rules, procedures, and standards duly established by the Council concerning record dissemination and use, response times, data quality, system security, accuracy, privacy protection, and other aspects of III System operation.

D. Maintenance of record services.

1. Use of the III System for noncriminal justice purposes authorized in this Compact shall be managed so as not to diminish the level of services provided in support of criminal justice purposes.

2. Administration of Compact provisions shall not reduce the level of service available to authorized noncriminal justice users on the effective date of this Compact.

#### ARTICLE IV.

##### AUTHORIZED RECORD DISCLOSURES.

A. State criminal history record repositories. To the extent authorized by 5 U.S.C. § 552a (commonly known as the "Privacy Act of 1974"), the FBI shall provide on request criminal history records (excluding sealed records) to State criminal history record repositories for noncriminal justice purposes allowed by Federal statute, Federal Executive order, or a State statute that has been approved by the Attorney General and that authorizes national indices checks.

B. Criminal justice agencies and other governmental or nongovernmental agencies. The FBI, to the extent authorized by 5 U.S.C. § 552a (commonly known as the "Privacy Act of 1974"), and State criminal history record repositories shall provide criminal history records (excluding sealed records) to criminal justice agencies and other governmental or

nongovernmental agencies for noncriminal justice purposes allowed by Federal statute, Federal Executive order, or a State statute that has been approved by the Attorney General, that authorizes national indices checks.

C. *Procedures.* Any record obtained under this Compact may be used only for the official purposes for which the record was requested. Each Compact officer shall establish procedures, consistent with this Compact, and with rules, procedures, and standards established by the Council under Article VI, which procedures shall protect the accuracy and privacy of the records, and shall:

1. Ensure that records obtained under this Compact are used only by authorized officials for authorized purposes;
2. Require that subsequent record checks are requested to obtain current information whenever a new need arises; and
3. Ensure that record entries that may not legally be used for a particular noncriminal justice purpose are deleted from the response and, if no information authorized for release remains, an appropriate "no record" response is communicated to the requesting official.

#### ARTICLE V. RECORD REQUEST PROCEDURES.

A. *Positive identification.* Subject fingerprints or other approved forms of positive identification shall be submitted with all requests for criminal history record checks for noncriminal justice purposes.

B. *Submission of State requests.* Each request for a criminal history record check utilizing the national indices made under any approved State statute shall be submitted through that State's criminal history record repository. A State criminal history record repository shall process an interstate request for noncriminal justice purposes through the national indices only if such request is transmitted through another State criminal history record repository or the FBI.

C. *Submission of Federal requests.* Each request for criminal history record checks utilizing the national indices made under Federal authority shall be submitted through the FBI or, if the State criminal history record repository consents to process fingerprint submissions, through the criminal history record repository in the State in which such request originated. Direct access to the National Identification Index by entities other than the FBI and State criminal history records repositories shall not be permitted for noncriminal justice purposes.

D. *Fees.* A State criminal history record repository or the FBI:

1. May charge a fee, in accordance with applicable law, for handling a request involving fingerprint processing for noncriminal justice purposes; and
2. May not charge a fee for providing criminal history records in response to an electronic request for a record that does not involve a request to process fingerprints.

E. *Additional search.*

1. If a State criminal history record repository cannot positively identify the subject of a record request made for noncriminal justice purposes, the request, together with fingerprints or other approved identifying information, shall be forwarded to the FBI for a search of the national indices.

2. If, with respect to a request forwarded by a State criminal history record repository under subdivision 1, the FBI positively identifies the subject as having a III System-indexed record or records:

- a. The FBI shall so advise the State criminal history record repository; and
- b. The State criminal history record repository shall be entitled to obtain the additional criminal history record information from the FBI or other State criminal history record repositories.

#### ARTICLE VI. ESTABLISHMENT OF COMPACT COUNCIL.

A. *Establishment.*

1. In general. There is established a council to be known as the "Compact Council," which shall have the authority to promulgate rules and procedures governing the use of the III System for noncriminal justice purposes, not to conflict with FBI administration of the III System for criminal justice purposes.

2. *Organization.* The Council shall:

- a. Continue in existence as long as this Compact remains in effect;
- b. Be located, for administrative purposes, within the FBI; and
- c. Be organized and hold its first meeting as soon as practicable after the effective date of this Compact.

B. *Membership.* The Council shall be composed of 15 members, each of whom shall be appointed by the Attorney General, as follows:

1. Nine members, each of whom shall serve a two-year term, who shall be selected from among the Compact officers of Party States based on the recommendation of the Compact officers of all Party States, except that, in the absence of the requisite number of Compact officers available to serve, the chief administrators of the criminal history record repositories of Nonparty States shall be eligible to serve on an interim basis.

2. Two at-large members, nominated by the Director of the FBI, each of whom shall serve a three-year term, of whom:

- a. One shall be a representative of the criminal justice agencies of the Federal Government and may not be an employee of the FBI; and
- b. One shall be a representative of the noncriminal justice agencies of the Federal Government.

3. Two at-large members, nominated by the Chairman of the Council, once the Chairman is elected pursuant to subsection C, each of whom shall serve a three-year term, of whom:

- a. One shall be a representative of State or local criminal justice agencies; and

*b. One shall be a representative of State or local noncriminal justice agencies.*

*4. One member, who shall serve a three-year term, and who shall simultaneously be a member of the FBI's advisory policy board on criminal justice information services, nominated by the membership of that policy board.*

*5. One member, nominated by the Director of the FBI, who shall serve a three-year term, and who shall be an employee of the FBI.*

*C. Chairman and Vice Chairman.*

*1. In general. From its membership, the Council shall elect a Chairman and a Vice Chairman of the Council, respectively. Both the Chairman and Vice Chairman of the Council:*

*a. Shall be a Compact officer, unless there is no Compact officer on the Council who is willing to serve, in which case the Chairman may be an at-large member; and*

*b. Shall serve a two-year term and may be reelected to only one additional two-year term.*

*2. Duties of Vice Chairman. The Vice Chairman of the Council shall serve as the Chairman of the Council in the absence of the Chairman.*

*D. Meetings.*

*1. In general. The Council shall meet at least once each year at the call of the Chairman. Each meeting of the Council shall be open to the public. The Council shall provide prior public notice in the Federal Register of each meeting of the Council, including the matters to be addressed at such meeting.*

*2. Quorum. A majority of the Council or any committee of the Council shall constitute a quorum of the Council or of such committee, respectively, for the conduct of business. A lesser number may meet to hold hearings, take testimony, or conduct any business not requiring a vote.*

*E. Rules, procedures, and standards. The Council shall make available for public inspection and copying at the Council office within the FBI, and shall publish in the Federal Register, any rules, procedures, or standards established by the Council.*

*F. Assistance from FBI. The Council may request from the FBI such reports, studies, statistics, or other information or materials as the Council determines to be necessary to enable the Council to perform its duties under this Compact. The FBI, to the extent authorized by law, may provide such assistance or information upon such a request.*

*G. Committees. The Chairman may establish committees as necessary to carry out this Compact and may prescribe their membership, responsibilities, and duration.*

#### ARTICLE VII.

##### RATIFICATION OF COMPACT.

*This Compact shall take effect upon being entered into by two or more States as between those States and the Federal Government. Upon subsequent entering into this Compact by additional States, it shall become effective among those States and the Federal Government and each Party State that has previously ratified it. When ratified, this Compact shall have the full force and effect of law within the ratifying jurisdictions. The form of ratification shall be in accordance with the laws of the executing State.*

#### ARTICLE VIII.

##### MISCELLANEOUS PROVISIONS.

*A. Relation of Compact to certain FBI activities. Administration of this Compact shall not interfere with the management and control of the Director of the FBI over the FBI's collection and dissemination of criminal history records and the advisory function of the FBI's advisory policy board chartered under the Federal Advisory Committee Act (5 U.S.C. App.) for all purposes other than noncriminal justice.*

*B. No authority for nonappropriated expenditures. Nothing in this Compact shall require the FBI to obligate or expend funds beyond those appropriated to the FBI.*

*C. Relating to Public Law 92-544. Nothing in this Compact shall diminish or lessen the obligations, responsibilities, and authorities of any State, whether a Party State or a Nonparty State, or of any criminal history record repository or other subdivision or component thereof, under the Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1973 (Public Law 92-544), or regulations and guidelines promulgated thereunder, including the rules and procedures promulgated by the Council under subsection A of Article VI, regarding the use and dissemination of criminal history records and information.*

#### ARTICLE IX.

##### RENUNCIATION.

*A. In general. This Compact shall bind each Party State until renounced by the Party State.*

*B. Effect. Any renunciation of this Compact by a Party State shall:*

*1. Be effected in the same manner by which the Party State ratified this Compact; and*

*2. Become effective 180 days after written notice of renunciation is provided by the Party State to each other Party State and to the Federal Government.*

#### ARTICLE X.

##### SEVERABILITY.

*The provisions of this Compact shall be severable, and if any phrase, clause, sentence, or provision of this Compact is declared to be contrary to the constitution of any participating State, or to the Constitution of the United States, or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this*

*Compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If a portion of this Compact is held contrary to the constitution of any Party State, all other portions of this Compact shall remain in full force and effect as to the remaining Party States and in full force and effect as to the Party State affected, as to all other provisions.*

ARTICLE XI.  
ADJUDICATION OF DISPUTES.

- A. *In general. The Council shall:*
1. *Have initial authority to make determinations with respect to any dispute regarding:*
    - a. *Interpretation of this Compact;*
    - b. *Any rule or standard established by the Council pursuant to Article V; and*
    - c. *Any dispute or controversy between any parties to this Compact; and*
  2. *Hold a hearing concerning any dispute described in subdivision 1 at a regularly scheduled meeting of the Council and only render a decision based upon a majority vote of the members of the Council. Such decision shall be published pursuant to the requirements of subsection E of Article VI.*
- B. *Duties of FBI. The FBI shall exercise immediate and necessary action to preserve the integrity of the III System, maintain system policy and standards, protect the accuracy and privacy of records, and to prevent abuses, until the Council holds a hearing on such matters.*
- C. *Right of appeal. The FBI or a Party State may appeal any decision of the Council to the Attorney General, and thereafter may file suit in the appropriate district court of the United States, which shall have original jurisdiction of all cases or controversies arising under this Compact. Any suit arising under this Compact and initiated in a State court shall be removed to the appropriate district court of the United States in the manner provided by 28 U.S.C. § 1446, or other statutory authority.*

CHAPTER 320

*An Act to amend and reenact §§ 2.2-2233.1 and 23.1-1303 of the Code of Virginia, relating to governing boards of public institutions of higher education; annual report; investments.*

[H 2171]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

- 1. That §§ 2.2-2233.1 and 23.1-1303 of the Code of Virginia are amended and reenacted as follows:**
- § 2.2-2233.1. Commonwealth Research Commercialization Fund; continued; purposes; report.**

A. For purposes of this section:

"Guidelines" means guidelines developed in consultation with the Secretary of Technology and published by the Authority regarding the administration of the Commonwealth Research Commercialization Fund.

"Qualified research and technologies" means research programs or technologies identified in the Commonwealth Research and Technology Strategic Roadmap as areas of focus for technology investment in the Commonwealth, which may include but are not limited to the fields of energy, conservation, environment, microelectronics, robotics and unmanned vehicle systems, advanced shipbuilding, or lifespan biology and medicine.

"Qualifying institution" means (i) a public or private institution of higher education in the Commonwealth or its associated intellectual property foundation that adopts a policy regarding the ownership, protection, assignment, and use of intellectual property pursuant to subdivision B ~~43~~ 14 of § 23.1-1303 or (ii) a federal research facility located in the Commonwealth.

"SBIR" means the Small Business Innovation Research Program authorized under 15 U.S.C. § 638.

"STTR" means the Small Business Technology Transfer Program authorized under 15 U.S.C. § 638.

B. From such funds as may be appropriated by the General Assembly and any gifts, grants, or donations from public or private sources, there is created in the state treasury a special nonreverting, permanent fund, to be known as the Commonwealth Research Commercialization Fund (the Fund), to be administered by the Authority pursuant to the guidelines. The Fund shall be established on the books of the Comptroller. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund at the end of each fiscal year, including interest thereon, shall not revert to the general fund but shall remain in the Fund. Expenditures and disbursements from the Fund, which may consist of grants or loans, shall be made by the State Treasurer on warrants issued by the Comptroller upon written request bearing the signature of the chairman or the vice-chairman of the Authority, or, if so authorized by the Authority, bearing his facsimile signature, and the official seal of the Authority.

C. Awards from the Fund shall be made by the Authority, pursuant to the guidelines and upon the recommendation of the Research and Technology Investment Advisory Committee. Awards from the Fund shall only be made to applications that further the goals set forth in the Commonwealth Research and Technology Strategic Roadmap.

D. Awards from the Fund may be granted for the following programs:

1. For fiscal years beginning with a Fund balance of less than \$7 million, an SBIR matching funds program for Virginia-based technology businesses. Businesses meeting the following criteria shall be eligible to apply for an award:

a. The applicant has received a Phase I SBIR award from the National Institute of Health targeted at the development of qualified research or technologies;

b. The applicant employs fewer than 12 full-time employees;

c. At least 51 percent of the applicant's employees reside in Virginia; and

d. At least 51 percent of the applicant's property is located in Virginia.

The length of time that a business has been incorporated shall have no bearing on an applicant's eligibility for an award. Applicants shall be eligible for matching grants of up to \$50,000 of the Phase I award. All applicants shall be required to submit a commercialization plan with their application.

2. For fiscal years beginning with a Fund balance of \$7 million or greater, an SBIR and STTR matching funds program for Virginia-based technology businesses. Businesses meeting the following criteria shall be eligible to apply for an award:

a. The applicant has received an SBIR or STTR award targeted at the development of qualified research or technologies;

b. The applicant employs fewer than 12 full-time employees;

c. At least 51 percent of the applicant's employees reside in Virginia; and

d. At least 51 percent of the applicant's property is located in Virginia.

The length of time that a business has been incorporated shall have no bearing on an applicant's eligibility for an award. Applicants shall be eligible for matching grants of up to \$100,000 for Phase I awards and up to \$500,000 for Phase II awards. All applicants shall be required to submit a commercialization plan with their application.

3. A matching funds program to assist qualifying institutions and other research institutions in leveraging federal and private funds designated for the commercialization of qualified research or technologies. The chairman of the Authority is authorized to issue letters of financial commitment to assist applicants in leveraging federal and private funds.

4. A commercialization program to incentivize the commercialization of a product or service related to a qualifying technology. An eligible applicant shall have operations in the Commonwealth, and the project proposed by the applicant shall:

a. Commercialize a product or service related to a qualifying technology;

b. Have a demonstrable economic development benefit to the Commonwealth;

c. Match the award, on at least a one-to-one basis, from other available funds, including funds from an institution of higher education collaborating on the project; and

d. Have a reasonable probability of enhancing the Commonwealth's national and global competitiveness.

Priority shall be given to those applications that propose projects that (i) are collaborative between private and nonprofit entities, public or private agencies, and qualifying institutions or research institutions; (ii) project a short time to commercialization, although transformative projects with a longer projected time to commercialization shall not be discounted; (iii) have active third-party equity holders; (iv) have technology and management in place that are likely to successfully bring the product or service to the marketplace; or (v) are from applicants who have a history of successful projects funded by the Fund. The length of time that a business has been incorporated shall have no bearing on an applicant's eligibility for an award.

5. An eminent researcher recruitment program to acquire and enhance research superiority at public qualifying institutions. For purposes of applications pursuant to this subdivision, the applicant shall be a state institution of higher education. In order to qualify for an award, the applicant shall:

a. Demonstrate that the researcher being recruited would create research superiority at the institution;

b. Demonstrate that the institution making the application has sufficient technology transfer processes and other research capabilities in place to meet the needs of the researcher being recruited;

c. Involve a private sector partner with business operations in the Commonwealth;

d. Demonstrate that the research conducted by the researcher is in a qualifying technology; and

e. Match the award, on at least a one-to-one basis, with 50 percent of the match from the applicant and 50 percent of the match from the private sector partner.

E. Any application for an award from the Fund shall include a strategic plan that, at a minimum, identifies (i) how the proposed project fits into the Commonwealth Research and Technology Strategic Roadmap, (ii) other funds that may be reasonably expected from other sources as a result of an award from the Fund, (iii) the potential for commercialization of the research or technology underlying the application, and (iv) opportunities for public and private collaboration.

F. No award shall be made from the Fund until a performance agreement or memorandum of understanding is agreed to by the Authority and the recipient of the award memorializing the terms and conditions of the award. Such agreement or memorandum of understanding shall set forth any conditions for receipt of the award, any dates certain for the completion of certain acts by the recipient, and provisions for the repayment of any award, including the rate of interest to be charged if any, if the recipient does not meet the terms of the agreement. In the event that an award is to be made over a multi-year period, the performance agreement or memorandum of understanding shall establish certain benchmarks or performance standards against which to measure the interim success of the project before additional funds are disbursed from the Fund.

G. The chairman of the Authority shall provide the Governor and the General Assembly with an annual report to include a detailed list of awards and loans committed, the amount of each approved award or loan, a description of the approved proposals, and the amount of federal or private matching funds anticipated where applicable, a statement concerning how the approved proposals further the goals of the Commonwealth Research and Technology Strategic Roadmap, and an assessment of the effectiveness of the Fund.

H. Administrative expenses related to implementing the guidelines and review process may be reimbursed from the Fund.

**§ 23.1-1303. Governing boards; duties.**

A. For purposes of this section, "intellectual property" means (i) a potentially patentable machine, article of manufacture, composition of matter, process, or improvement in any of those; (ii) an issued patent; (iii) a legal right that inheres in a patent; or (iv) anything that is copyrightable.

B. The governing board of each public institution of higher education shall:

1. Adopt and post conspicuously on its website bylaws for its own governance, including provisions that (i) establish the requirement of transparency, to the extent required by law, in all board actions; (ii) describe the board's obligations under the Virginia Freedom of Information Act (§ 2.2-3700 et seq.), as set forth in subdivision B 10 of § 23.1-1301, including the requirements that (a) the board record minutes of each open meeting and post the minutes on the board's website, in accordance with subsection I of § 2.2-3707 and § 2.2-3707.1, (b) discussions and actions on any topic not specifically exempted by § 2.2-3711 be held in an open meeting, (c) the board give public notice of all meetings, in accordance with subsection C of § 2.2-3707, and (d) any action taken in a closed meeting be approved in an open meeting before it can have any force or effect, in accordance with subsection B of § 2.2-3711; and (iii) require that the board invite the Attorney General's appointee or representative to all meetings of the board, executive committee, and board committees;

2. Establish regulations or institution policies for the acceptance and assistance of students that include provisions (i) that specify that individuals who have knowingly and willfully failed to meet the federal requirement to register for the selective service are not eligible to receive any state direct student assistance, (ii) that specify that the accreditation status of a public high school in the Commonwealth shall not be considered in making admissions determinations for students who have earned a diploma pursuant to the requirements established by the Board of Education, and (iii) relating to the admission of certain graduates of comprehensive community colleges as set forth in § 23.1-907;

3. Assist the Council in enforcing the provisions relating to eligibility for financial aid;

4. Notwithstanding any other provision of state law, establish policies and procedures requiring the notification of the parent of a dependent student when such student receives mental health treatment at the institution's student health or counseling center and such treatment becomes part of the student's educational record in accordance with the federal Health Insurance Portability and Accountability Act (42 U.S.C. § 1320d et seq.) and may be disclosed without prior consent as authorized by the federal Family Educational Rights and Privacy Act (20 U.S.C. § 1232g) and related regulations (34 C.F.R. Part 99). Such notification shall only be required if it is determined that there exists a substantial likelihood that, as a result of mental illness the student will, in the near future, (i) cause serious physical harm to himself or others as evidenced by recent behavior or any other relevant information or (ii) suffer serious harm due to his lack of capacity to protect himself from harm or to provide for his basic human needs. However, notification may be withheld if any person licensed to diagnose and treat mental, emotional, or behavioral disorders by a health regulatory board within the Department of Health Professions who is treating the student has made a part of the student's record a written statement that, in the exercise of his professional judgment, the notification would be reasonably likely to cause substantial harm to the student or another person. No public institution of higher education or employee of a public institution of higher education making a disclosure pursuant to this subsection is civilly liable for any harm resulting from such disclosure unless such disclosure constitutes gross negligence or willful misconduct by the institution or its employees;

5. Establish policies and procedures requiring the release of the educational record of a dependent student, as defined by the federal Family Educational Rights and Privacy Act (20 U.S.C. § 1232g), to a parent at his request;

6. Establish programs to seek to ensure that all graduates have the technology skills necessary to compete in the twenty-first century and that all students matriculating in teacher-training programs receive instruction in the effective use of educational technology;

7. Establish policies for the discipline of students who participate in varsity intercollegiate athletics, including a provision requiring an annual report by the administration of the institution to the governing board regarding enforcement actions taken pursuant to such policies;

8. In addition to all meetings prescribed in Chapters 14 (§ 23.1-1400 et seq.) through 29 (§ 23.1-2900 et seq.), meet with the chief executive officer of the institution at least once annually, in a closed meeting pursuant to subdivision A 1 of § 2.2-3711 and deliver an evaluation of the chief executive officer's performance. Any change to the chief executive officer's employment contract during any such meeting or any other meeting of the board shall be made only by a vote of the majority of the board's members;

9. If human research, as defined in § 32.1-162.16, is conducted at the institution, adopt regulations pursuant to the Administrative Process Act (§ 2.2-4000 et seq.) to effectuate the provisions of Chapter 5.1 (§ 32.1-162.16 et seq.) of Title 32.1 for human research. Such regulations shall require the human research committee to submit to the Governor, the General Assembly, and the chief executive officer of the institution or his designee at least annually a report on the human research projects reviewed and approved by the committee and require the committee to report any significant deviations from approved proposals;

10. Submit the annual financial statements for the fiscal year ending the preceding June 30 and the accounts and status of any ongoing capital projects to the Auditor of Public Accounts for the audit of such statements pursuant to § 30-133;

11. *No later than December 1 of each year, report to the Council (i) the value of investments as reflected on the Statement of Net Position as of June 30 of the previous fiscal year, excluding any funds derived from endowment donations,*

endowment income, or other private philanthropy; (ii) the cash earnings on such balances in the previous fiscal year; and (iii) the use of the cash earnings on such balances. In the event that the commitment of any such investment earnings spans more than one fiscal year, the report shall reflect the commitments made in each future fiscal year. The reports of the Boards of Visitors of Virginia Commonwealth University and the University of Virginia shall exclude the value of and earnings on any investments held by the Virginia Commonwealth University Health System Authority and the University of Virginia Medical Center, respectively. As used in this subdivision, "investments" includes all short-term, long-term, liquid, and illiquid Statement of Net Position accounts, and subaccounts thereof, in which moneys have been invested in securities.

12. Submit to the General Assembly and the Governor an annual executive summary of its interim activity and work no later than the first day of each regular session of the General Assembly. The executive summary shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website;

~~12-~~ 13. Make available to any interested party upon request a copy of the portion of the most recent report of the Uniform Crime Reporting Section of the Department of State Police entitled "Crime in Virginia" pertaining to institutions of higher education;

~~13-~~ 14. Adopt policies or institution regulations regarding the ownership, protection, assignment, and use of intellectual property and provide a copy of such policies to the Governor and the Joint Commission on Technology and Science. All employees, including student employees, of public institutions of higher education are bound by the intellectual property policies of the institution employing them; and

~~14-~~ 15. Adopt policies that are supportive of the intellectual property rights of matriculated students who are not employed by such institution.

## CHAPTER 321

*An Act to amend and reenact § 22.1-253.13:2 of the Code of Virginia, relating to school boards; pupil/teacher ratios; class size limits; public report.*

[H 2174]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 22.1-253.13:2 of the Code of Virginia is amended and reenacted as follows:**

**§ 22.1-253.13:2. Standard 2. Instructional, administrative, and support personnel.**

A. The Board shall establish requirements for the licensing of teachers, principals, superintendents, and other professional personnel.

B. School boards shall employ licensed instructional personnel qualified in the relevant subject areas.

C. Each school board shall assign licensed instructional personnel in a manner that produces divisionwide ratios of students in average daily membership to full-time equivalent teaching positions, excluding special education teachers, principals, assistant principals, counselors, and librarians, that are not greater than the following ratios: (i) 24 to one in kindergarten with no class being larger than 29 students; if the average daily membership in any kindergarten class exceeds 24 pupils, a full-time teacher's aide shall be assigned to the class; (ii) 24 to one in grades one, two, and three with no class being larger than 30 students; (iii) 25 to one in grades four through six with no class being larger than 35 students; and (iv) 24 to one in English classes in grades six through 12. After September 30 of any school year, anytime the number of students in a class exceeds the class size limit established by this subsection, the local school division shall notify the parent of each student in such class of such fact no later than 10 days after the date on which the class exceeded the class size limit. Such notification shall state the reason that the class size exceeds the class size limit and describe the measures that the local school division will take to reduce the class size to comply with this subsection.

Within its regulations governing special education programs, the Board shall seek to set pupil/teacher ratios for pupils with intellectual disability that do not exceed the pupil/teacher ratios for self-contained classes for pupils with specific learning disabilities.

Further, school boards shall assign instructional personnel in a manner that produces schoolwide ratios of students in average daily memberships to full-time equivalent teaching positions of 21 to one in middle schools and high schools. School divisions shall provide all middle and high school teachers with one planning period per day or the equivalent, unencumbered of any teaching or supervisory duties.

D. Each local school board shall employ with state and local basic, special education, gifted, and career and technical education funds a minimum number of licensed, full-time equivalent instructional personnel for each 1,000 students in average daily membership (ADM) as set forth in the appropriation act. Calculations of kindergarten positions shall be based on full-day kindergarten programs. Beginning with the March 31 report of average daily membership, those school divisions offering half-day kindergarten with pupil/teacher ratios that exceed 30 to one shall adjust their average daily membership for kindergarten to reflect 85 percent of the total kindergarten average daily memberships, as provided in the appropriation act.

E. In addition to the positions supported by basic aid and in support of regular school year programs of prevention, intervention, and remediation, state funding, pursuant to the appropriation act, shall be provided to fund certain full-time

equivalent instructional positions for each 1,000 students in grades K through 12 who are identified as needing prevention, intervention, and remediation services. State funding for prevention, intervention, and remediation programs provided pursuant to this subsection and the appropriation act may be used to support programs for educationally at-risk students as identified by the local school boards.

To provide algebra readiness intervention services required by § 22.1-253.13:1, school divisions may employ mathematics teacher specialists to provide the required algebra readiness intervention services. School divisions using the Standards of Learning Algebra Readiness Initiative funding in this manner shall only employ instructional personnel licensed by the Board of Education.

F. In addition to the positions supported by basic aid and those in support of regular school year programs of prevention, intervention, and remediation, state funding, pursuant to the appropriation act, shall be provided to support 17 full-time equivalent instructional positions for each 1,000 students identified as having limited English proficiency.

To provide flexibility in the instruction of English language learners who have limited English proficiency and who are at risk of not meeting state accountability standards, school divisions may use state and local funds from the Standards of Quality Prevention, Intervention, and Remediation account to employ additional English language learner teachers to provide instruction to identified limited English proficiency students. Using these funds in this manner is intended to supplement the instructional services provided in this section. School divisions using the SOQ Prevention, Intervention, and Remediation funds in this manner shall employ only instructional personnel licensed by the Board of Education.

G. In addition to the full-time equivalent positions required elsewhere in this section, each local school board shall employ the following reading specialists in elementary schools, one full-time in each elementary school at the discretion of the local school board.

To provide reading intervention services required by § 22.1-253.13:1, school divisions may employ reading specialists to provide the required reading intervention services. School divisions using the Early Reading Intervention Initiative funds in this manner shall employ only instructional personnel licensed by the Board of Education.

H. Each local school board shall employ, at a minimum, the following full-time equivalent positions for any school that reports fall membership, according to the type of school and student enrollment:

1. Principals in elementary schools, one half-time to 299 students, one full-time at 300 students; principals in middle schools, one full-time, to be employed on a 12-month basis; principals in high schools, one full-time, to be employed on a 12-month basis;

2. Assistant principals in elementary schools, one half-time at 600 students, one full-time at 900 students; assistant principals in middle schools, one full-time for each 600 students; assistant principals in high schools, one full-time for each 600 students; and school divisions that employ a sufficient number of assistant principals to meet this staffing requirement may assign assistant principals to schools within the division according to the area of greatest need, regardless of whether such schools are elementary, middle, or secondary;

3. Librarians in elementary schools, one part-time to 299 students, one full-time at 300 students; librarians in middle schools, one-half time to 299 students, one full-time at 300 students, two full-time at 1,000 students; librarians in high schools, one half-time to 299 students, one full-time at 300 students, two full-time at 1,000 students. Local school divisions that employ a sufficient number of librarians to meet this staffing requirement may assign librarians to schools within the division according to the area of greatest need, regardless of whether such schools are elementary, middle, or secondary; and

4. Guidance counselors in elementary schools, one hour per day per 100 students, one full-time at 500 students, one hour per day additional time per 100 students or major fraction thereof; guidance counselors in middle schools, one period per 80 students, one full-time at 400 students, one additional period per 80 students or major fraction thereof; guidance counselors in high schools, one period per 70 students, one full-time at 350 students, one additional period per 70 students or major fraction thereof. Local school divisions that employ a sufficient number of guidance counselors to meet this staffing requirement may assign guidance counselors to schools within the division according to the area of greatest need, regardless of whether such schools are elementary, middle, or secondary.

I. Local school boards shall employ five full-time equivalent positions per 1,000 students in grades kindergarten through five to serve as elementary resource teachers in art, music, and physical education.

J. Local school boards shall employ two full-time equivalent positions per 1,000 students in grades kindergarten through 12, one to provide technology support and one to serve as an instructional technology resource teacher.

To provide flexibility, school divisions may use the state and local funds for instructional technology resource teachers to employ a data coordinator position, an instructional technology resource teacher position, or a data coordinator/instructional resource teacher blended position. The data coordinator position is intended to serve as a resource to principals and classroom teachers in the area of data analysis and interpretation for instructional and school improvement purposes, as well as for overall data management and administration of state assessments. School divisions using these funds in this manner shall employ only instructional personnel licensed by the Board of Education.

K. Local school boards may employ additional positions that exceed these minimal staffing requirements. These additional positions may include, but are not limited to, those funded through the state's incentive and categorical programs as set forth in the appropriation act.

L. A combined school, such as kindergarten through 12, shall meet at all grade levels the staffing requirements for the highest grade level in that school; this requirement shall apply to all staff, except for guidance counselors, and shall be based on the school's total enrollment; guidance counselor staff requirements shall, however, be based on the enrollment at the

various school organization levels, i.e., elementary, middle, or high school. The Board of Education may grant waivers from these staffing levels upon request from local school boards seeking to implement experimental or innovative programs that are not consistent with these staffing levels.

M. School boards shall, however, annually, on or before ~~January 1~~ *December 31*, report to the public (i) the actual pupil/teacher ratios in elementary school classrooms *in the local school division* by school for the current school year; and (ii) *the actual pupil/teacher ratios in middle school and high school in the local school division by school for the current school year.* ~~Such actual~~ *Actual* pupil/teacher ratios shall include only the teachers who teach the grade and class on a full-time basis and shall exclude resource personnel. School boards shall report pupil/teacher ratios that include resource teachers in the same annual report. Any classes funded through the voluntary kindergarten through third grade class size reduction program shall be identified as such classes. Any classes having waivers to exceed the requirements of this subsection shall also be identified. Schools shall be identified; however, the data shall be compiled in a manner to ensure the confidentiality of all teacher and pupil identities.

N. Students enrolled in a public school on a less than full-time basis shall be counted in ADM in the relevant school division. Students who are either (i) enrolled in a nonpublic school or (ii) receiving home instruction pursuant to § 22.1-254.1, and who are enrolled in public school on a less than full-time basis in any mathematics, science, English, history, social science, career and technical education, fine arts, foreign language, or health education or physical education course shall be counted in the ADM in the relevant school division on a pro rata basis as provided in the appropriation act. Each such course enrollment by such students shall be counted as 0.25 in the ADM; however, no such nonpublic or home school student shall be counted as more than one-half a student for purposes of such pro rata calculation. Such calculation shall not include enrollments of such students in any other public school courses.

O. Each local school board shall provide those support services that are necessary for the efficient and cost-effective operation and maintenance of its public schools.

For the purposes of this title, unless the context otherwise requires, "support services positions" shall include the following:

1. Executive policy and leadership positions, including school board members, superintendents and assistant superintendents;
2. Fiscal and human resources positions, including fiscal and audit operations;
3. Student support positions, including (i) social workers and social work administrative positions; (ii) guidance administrative positions not included in subdivision H 4; (iii) homebound administrative positions supporting instruction; (iv) attendance support positions related to truancy and dropout prevention; and (v) health and behavioral positions, including school nurses and school psychologists;
4. Instructional personnel support, including professional development positions and library and media positions not included in subdivision H 3;
5. Technology professional positions not included in subsection J;
6. Operation and maintenance positions, including facilities; pupil transportation positions; operation and maintenance professional and service positions; and security service, trade, and laborer positions;
7. Technical and clerical positions for fiscal and human resources, student support, instructional personnel support, operation and maintenance, administration, and technology; and
8. School-based clerical personnel in elementary schools; part-time to 299 students, one full-time at 300 students; clerical personnel in middle schools; one full-time and one additional full-time for each 600 students beyond 200 students and one full-time for the library at 750 students; clerical personnel in high schools; one full-time and one additional full-time for each 600 students beyond 200 students and one full-time for the library at 750 students. Local school divisions that employ a sufficient number of school-based clerical personnel to meet this staffing requirement may assign the clerical personnel to schools within the division according to the area of greatest need, regardless of whether such schools are elementary, middle, or secondary.

Pursuant to the appropriation act, support services shall be funded from basic school aid.

School divisions may use the state and local funds for support services to provide additional instructional services.

P. Notwithstanding the provisions of this section, when determining the assignment of instructional and other licensed personnel in subsections C through J, a local school board shall not be required to include full-time students of approved virtual school programs.

## CHAPTER 322

*An Act to amend and reenact § 46.2-1163 of the Code of Virginia, relating to motor vehicle safety inspection data.*

[H 2269]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 46.2-1163 of the Code of Virginia is amended and reenacted as follows:**

**§ 46.2-1163. Official inspection stations; safety inspection approval stickers; actions of Superintendent subject to the Administrative Process Act.**

The Superintendent may designate, furnish instructions to, and supervise official inspection stations for the inspection of motor vehicles, trailers, and semitrailers and for adjusting and correcting equipment enumerated in this chapter in such a manner as to conform to specifications hereinbefore set forth. The Superintendent shall adopt and furnish to such official inspection stations regulations governing the making of inspections required by this chapter. The Superintendent may at any time, after five days' written notice, revoke the designation of any official inspection station designated by him.

If no defects are discovered or when the equipment has been corrected in accordance with this title, the official inspection station shall issue to the operator or owner of the vehicle, on forms furnished by the Department of State Police, a duplicate of which is retained by such station, a certificate showing the date of correction, registration number of the vehicle, and the official designation of such station. On or before December 1, 2010, any information an official inspection station is required to provide to the Department of State Police shall be accepted by the Department in electronic form. There also shall be placed on the windshield of the vehicle at a place to be designated by the Superintendent an approval sticker furnished by the Department of State Police. If any vehicle is not equipped with a windshield, the approval sticker shall be placed on the vehicle in a location designated by the Superintendent. If the vehicle is a motorcycle, the approval sticker may be placed on a plate securely fastened to the motorcycle for the purpose of displaying the sticker or in any other location designated by the Superintendent. This sticker shall be displayed on the windshield of such vehicle or at such other designated place upon the vehicle at all times when it is operated or parked on the highways in the Commonwealth and until such time as a new inspection period shall be designated and a new inspection sticker issued. Common carriers, operating under certificate from the State Corporation Commission or the Department of Motor Vehicles, who desire to do so may use with the approval of the Superintendent private inspection stations for the inspection and correction of their equipment.

*The Superintendent shall provide motor vehicle safety inspection information upon the written request of an individual or corporate entity or such entity's agent. Any information provided shall not include personal information. The Superintendent may make a reasonable charge for furnishing information under this section but no fee shall be charged to any official of the Commonwealth, including court and police officials; officials of counties, cities, or towns; local government self-insurance pools; or the court, police, or licensing officials of other states or of the federal government, provided that the information requested is for official use and such officials do not charge the Commonwealth a fee for the provision of the same or substantially similar information. Vehicle information, including all descriptive vehicle data, submitted to or received from the Department of State Police related to such a request shall not be considered a public record for the purposes of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.). The fees received by the Superintendent pursuant to this section shall be paid into the state treasury and shall be set aside as a special fund to be used to meet the expenses of the Department of State Police's motor vehicle safety inspection program.*

Actions of the Superintendent relating to official inspection stations shall be governed by the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

### CHAPTER 323

*An Act to amend and reenact § 22.1-32 of the Code of Virginia, relating to the Arlington County School Board; maximum salary of members.*

[H 2306]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 22.1-32 of the Code of Virginia is amended and reenacted as follows:**

**§ 22.1-32. Salary of members.**

A. Any elected school board may pay each of its members an annual salary that is consistent with the salary procedures and no more than the salary limits provided for local governments in Article 1.1 (§ 15.2-1414.1 et seq.) of Chapter 14 of Title 15.2 or as provided by charter. ~~However, any elected school board of a school division comprised of a county having the county manager plan of government, as provided in § 15.2-702-1 may, after a public hearing pursuant to notice in the manner provided in subdivision 8 of § 22.1-79, set the annual salary of its members at no more than \$25,000, except that the annual salary of the chairman, vice chairman, or both, may exceed \$25,000.~~

B. The appointed school board of the following counties may pay each of its members an annual salary not to exceed the limits hereinafter set forth:

Accomack — \$3,000.00;  
 Alleghany — \$1,500.00;  
 Amherst — \$2,200.00;  
 Brunswick — \$1,800.00;  
 Cumberland — \$3,600.00;  
 Essex — \$1,800.00;  
 Greensville — \$1,800.00;  
 Hanover — \$8,000.00;  
 Isle of Wight — \$4,000.00;  
 Northampton — \$3,000.00;

Prince Edward — \$2,400.00;  
 Richmond — \$5,000.00;  
 Southampton — \$5,300.00.

C. The appointed school board of the following cities and towns may pay each of its members an annual salary not to exceed the limits hereinafter set forth:

Charlottesville — \$3,000.00;  
 Covington — \$1,500.00;  
 Danville — \$600.00;  
 Emporia — \$240.00;  
 Fries — \$240.00;  
 Hopewell — \$3,600.00;  
 Lexington — \$600.00;  
 Lynchburg — \$2,400.00;  
 Manassas Park — \$3,000.00;  
 Martinsville — \$2,400.00;  
 Norfolk — \$3,000.00;  
 Poquoson — \$3,000.00;  
 Roanoke — \$4,200.00;  
 Salem — \$4,800.00;  
 South Boston — \$600.00.

D. Any school board may, in its discretion, pay the chairman of the school board an additional salary not exceeding \$2,000 per year upon passage of an appropriate resolution by (i) the school board whose membership is elected in whole or in part or (ii) the governing body of the appropriate county, city, or town whose school board is comprised solely of appointed members.

E. Any school board may in its discretion pay each of its members mileage for use of a private vehicle in attending meetings of the school board and in conducting other official business of the school board. Its members may be reimbursed for private transportation at a rate not to exceed that which is authorized for persons traveling on state business in accordance with § 2.2-2825. Whatever rate is paid, however, shall be the same for school board members and employees of the board.

F. No appointed school board shall request the General Assembly's consideration of an increase in its annual salary limit as established in subsections B and C unless such school board has taken an affirmative vote on the requested increase. Further, no elected school board shall be awarded a salary increase, unless, upon an affirmative vote by such school board, a specific salary increase shall be approved. Local school boards shall adopt such increases according to the following procedures:

1. A local school board representing a county may establish a salary increase prior to July 1 of any year in which members are to be elected or appointed, or, if such school board is elected or appointed for staggered terms, prior to July 1 of any year in which at least 40 percent of such members are to be elected or appointed. However, a school board serving a county having the county manager plan of government and whose membership totals five may establish a salary increase prior to July 1 in any year in which two of the five members are to be elected or appointed. Such increase shall become effective on January 1 of the following year.

2. A local school board representing a city or town may establish a salary increase prior to December 31 in any year preceding a year in which members are to be elected or appointed. Such increase shall become effective on July 1 of the year in which the election or appointment occurs if the election or appointment occurs prior to July 1 and shall become effective January 1 of the following year if the election or appointment occurs after June 30.

No salary increase may become effective during an incumbent member's term of office; however, this restriction shall not apply if the school board members are elected or appointed for staggered terms.

## CHAPTER 324

*An Act to amend and reenact § 23.1-3117 of the Code of Virginia, relating to the Roanoke Higher Education Authority; board of trustees.*

[H 2379]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 23.1-3117 of the Code of Virginia is amended and reenacted as follows:**

**§ 23.1-3117. Board of trustees.**

A. The Authority shall be governed by a ~~22-member~~ 21-member board of trustees (the board) as follows: two members of the House of Delegates, to be appointed by the Speaker of the House of Delegates in accordance with the principles of proportional representation contained in the Rules of the House of Delegates; one member of the Senate, to be appointed by the Senate Committee on Rules; the Director of the Council or his designee; the Chancellor of the Virginia Community

College System or his designee; the presidents of Averett University, ~~Bluefield College~~, Hollins University, James Madison University, Mary Baldwin College, Old Dominion University, Radford University, Roanoke College, the University of Virginia, Virginia Polytechnic Institute and State University, and Virginia Western Community College or their designees; the Director of Total Action for Progress (TAP) This Valley Works; and five nonlegislative citizen members representing business and industry in the Roanoke Valley to be appointed by the Governor. Nonlegislative citizen members of the board shall be citizens of the Commonwealth and residents of the Roanoke region.

B. The legislative members, the Director of the Council, the Chancellor of the Virginia Community College System, the Director of TAP This Valley Works, and the presidents of the named institutions of higher education or their designees shall serve terms coincident with their terms of office. Nonlegislative citizen members shall be appointed for terms of four years. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. Vacancies shall be filled in the same manner as the original appointments.

No nonlegislative citizen member shall serve more than two consecutive four-year terms; however, a member appointed to serve an unexpired term is eligible to serve two consecutive four-year terms immediately succeeding such unexpired term.

C. Nonlegislative citizen members are not entitled to compensation for their services. Legislative members of the board shall receive such compensation as provided in § 30-19.12. All members shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties in the work of the Authority as provided in §§ 2.2-2813 and 2.2-2825. Funding for the costs of compensation and expenses of the members shall be provided by the Authority.

D. The board shall elect a chairman and a vice-chairman from among its membership and may establish bylaws as necessary.

## CHAPTER 325

*An Act to amend and reenact § 23.1-638 of the Code of Virginia, relating to Virginia Guaranteed Assistance Program grants.*

[H 2427]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 23.1-638 of the Code of Virginia is amended and reenacted as follows:**

**§ 23.1-638. Eligibility; amount of grants; renewals.**

A. Only students who (i) are accepted for *full-time* enrollment as ~~dependent students~~ at a public institution of higher education; (ii) are not receiving a Virginia Commonwealth Award; (iii) demonstrate financial need as determined by the Council ~~according to the congressional methodology for determining financial need and eligibility for financial aid~~; and (iv) are either (a) Virginia students who graduated from a high school in the Commonwealth with a cumulative grade point average of at least 2.5 on a scale of 4.0 or its equivalent or (b) ~~are~~ dependent children of active duty military personnel residing outside the Commonwealth pursuant to military orders, claiming Virginia on their State of Legal Residence Certificate, and satisfying the domicile requirements for such active duty military personnel pursuant to §§ 23.1-502 and 23.1-504 and *who* graduated from a high school within or outside the Commonwealth with a cumulative grade point average of at least 2.5 on a scale of 4.0 or its equivalent are eligible to receive such grants.

B. *Each eligible student shall receive such a grant from the institution's appropriations for undergraduate student financial assistance before Commonwealth Award grants are awarded to students with equivalent remaining need.*

C. *Each eligible student shall receive a grant in an amount greater than Commonwealth Award grants awarded to students with equivalent remaining need.*

D. *Beginning with first-time students enrolled in the fall semester in 2018, each eligible student shall receive a grant in an amount greater than the grant of each eligible student with equivalent remaining need in the next-lowest class level.*

E. *The amount of each grant shall vary according to each student's remaining need and the total of tuition, fees, and other necessary charges, including books. The actual amount of each grant shall be determined by the proportionate award schedule adopted by each institution.*

F. All grants shall be awarded for one award year and may be renewed annually for no more than three subsequent award years, *and students shall not receive subsequent grants until they have satisfied the requirements to move to the next class level. Each recipient may receive a maximum of one year of support per class level for a maximum total of four years of support at a baccalaureate public institution of higher education and a maximum total of two years of support at an associate-degree-granting public institution of higher education, provided that in no case shall a recipient receive more than a combined total of four years of support*, if the recipient:

1. Maintains a cumulative grade point average of at least 2.0 on a scale of 4.0 or its equivalent;
2. Demonstrates continued financial need;
3. Makes satisfactory academic progress toward a degree; ~~earning not less than the minimum number of hours of credit required for full-time standing in each academic period during enrollment at a public institution of higher education~~; and
4. Maintains continuous *full-time* enrollment for not less than two semesters or three quarters in each successive award year unless the Council grants the recipient an exception for cause.

## CHAPTER 326

*An Act to amend and reenact § 46.2-1025 of the Code of Virginia, relating to flashing amber lights; amateur radio operators.*

[H 2453]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:****1. That § 46.2-1025 of the Code of Virginia is amended and reenacted as follows:****§ 46.2-1025. Flashing amber, purple, or green warning lights.**

A. The following vehicles may be equipped with flashing, blinking, or alternating amber warning lights of types approved by the Superintendent:

1. Vehicles used for the principal purpose of towing or servicing disabled vehicles;
2. Vehicles used in constructing, maintaining, and repairing highways or utilities on or along public highways, or in assisting with the management of roadside and traffic incidents, or performing traffic management services along public highways;
3. Vehicles used for the principal purpose of removing hazardous or polluting substances from state waters and drainage areas on or along public highways, or state vehicles used to perform other state-required environmental activities, provided that the amber lights are not lit while the vehicle is in motion;
4. Vehicles used for servicing automatic teller machines, provided the amber lights are not lit while the vehicle is in motion;
5. Vehicles used in refuse collection, provided the amber lights are lit only when the vehicles are engaged in refuse collection operations;
6. Vehicles used by individuals for emergency snow-removal purposes;
7. Hi-rail vehicles, provided the amber lights are lit only when the vehicles are operated on railroad rails;
8. Fire apparatus and emergency medical services vehicles, provided the amber lights are used in addition to lights permitted under § 46.2-1023 and are so mounted or installed as to be visible from behind the vehicle;
9. Vehicles owned and used by businesses providing security services, provided the amber lights are not lit while the vehicle is being operated on a public highway;
10. Vehicles used to collect and deliver the United States mail, provided the amber lights are lit only when the vehicle is actually engaged in such collection or delivery;
11. Vehicles used to transport petroleum or propane products, provided the amber light is mounted on the rear of the vehicle and is lit when parked while making a delivery of petroleum or propane products, or when the vehicle's back-up lights are lit and its device producing an audible signal when the vehicle is operated in reverse gear, as provided for in § 46.2-1175.1, is in operation;
12. Vehicles used by law-enforcement agency personnel in the enforcement of laws governing motor vehicle parking;
13. Government-owned law-enforcement vehicles, provided the lights are used for the purpose of giving directional warning to vehicular traffic to move one direction or another and are not lit while the vehicle is in motion;
14. Chase vehicles when used to unload a hot air balloon or used to load a hot air balloon after landing, provided the amber lights are not lit while the vehicle is in motion;
15. Vehicles used for farm, agricultural, or horticultural purposes, or any farm tractor;
16. Vehicles owned and used by construction companies operating under Virginia contractors licenses;
17. Vehicles used to lead or provide escorts for bicycle races authorized by the Department of Transportation or the locality in which the race is being conducted;
18. Vehicles used by radio or television stations for remote broadcasts, provided that the amber lights are not lit while the vehicle is in motion;
19. Vehicles used by municipal safety officers in the performance of their official duties. For the purpose of this subdivision, "municipal safety officers" means municipal employees responsible for managing municipal safety programs and ensuring municipal compliance with safety and environmental regulatory mandates;
20. Vehicles used as pace cars, security vehicles, or firefighting vehicles by any speedway or motor vehicle race track, provided that the amber lights are not lit while the vehicle is being operated on a public highway;
21. Vehicles used in patrol work by members of neighborhood watch groups approved by the chief law-enforcement officer of the locality in their assigned neighborhood watch program area, provided that the vehicles are clearly identified as neighborhood watch vehicles, and the amber lights are not lit while the vehicle is in motion;
22. Vehicles that are not tow trucks as defined in § 46.2-100, but are owned or controlled by a towing and recovery business, provided that the amber lights are lit only when the vehicle is being used at a towing and recovery site; ~~and~~
23. *Vehicles used or operated by federally licensed amateur radio operators, provided that the amber lights are not lit while the vehicle is in motion, (i) while participating in emergency communications or drills on behalf of federal, state, or local authorities or (ii) while providing communications services to localities for public service events authorized by the Department of Transportation where the event is being conducted; and*
24. Publicly owned or operated transit buses.

B. Except as otherwise provided in this section, such amber lights shall be lit only when performing the functions which qualify them to be equipped with such lights.

C. Vehicles used to lead or provide escorts for funeral processions may use either amber warning lights or purple warning lights, but amber warning lights and purple warning lights shall not simultaneously be used on the same vehicle. The Superintendent of State Police shall develop standards and specifications for purple lights authorized in this subsection.

D. Vehicles used by police, firefighting, or emergency medical services personnel as command centers at the scene of incidents may be equipped with and use green warning lights of a type approved by the Superintendent. Such lights shall not be activated while the vehicle is operating upon the highway.

## CHAPTER 327

*An Act to amend and reenact §§ 30-348, 30-351, 30-352, and 30-354 of the Code of Virginia, relating to the Commission on Civics Education; name; sunset.*

[S 840]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 30-348, 30-351, 30-352, and 30-354 of the Code of Virginia are amended and reenacted as follows:**

TITLE 30.

CHAPTER 55.

COMMISSION ON CIVICS CIVIC EDUCATION.

**§ 30-348. (Expires July 1, 2017) Commission on Civic Education; purpose; membership; terms.**

The Commission on ~~Civics~~ Civic Education (the Commission) is established in the legislative branch of state government. The purposes of the Commission are to (i) educate students on the importance of citizen involvement in a constitutional republic, (ii) promote the study of state and local government among the Commonwealth's citizenry, and (iii) enhance communication and collaboration among organizations in the Commonwealth that conduct ~~civics~~ civic education.

The Commission shall have a total membership of 15 members that shall consist of eight legislative members, six nonlegislative citizen members, and one ex officio member. Members shall be appointed as follows: five members of the House of Delegates, to be appointed by the Speaker of the House of Delegates in accordance with the principles of proportional representation contained in the Rules of the House of Delegates; three members of the Senate, to be appointed by the Senate Committee on Rules; three nonlegislative citizen members, one of whom shall have a background in curriculum development, interactive learning, and multimedia technology, one of whom shall be a current or retired school civics teacher, and one of whom shall be a representative of an organization that promotes civic learning, to be appointed by the Speaker of the House of Delegates; and three nonlegislative citizen members, one of whom shall be a retired school civics teacher, one of whom shall be a representative of a public policy center of a public institution of higher education in the Commonwealth, and one of whom shall be a representative of the Virginia Press Association, to be appointed by the Senate Committee on Rules. The Superintendent of Public Instruction or his designee shall serve ex officio with voting privileges. Nonlegislative citizen members of the Commission shall be citizens of the Commonwealth. Unless otherwise approved in writing by the chairman of the Commission, the Clerk of the House of Delegates, and the Clerk of the Senate, nonlegislative citizen members shall only be reimbursed for travel originating and ending within the Commonwealth for the purpose of attending meetings.

Legislative members and the ex officio member of the Commission shall serve terms coincident with their terms of office. Nonlegislative citizen members shall be appointed for a term of two years. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. Legislative members and nonlegislative citizen members may be reappointed. However, no nonlegislative citizen member shall serve more than four consecutive two-year terms. The remainder of any term to which a member is appointed to fill a vacancy shall not constitute a term in determining the member's eligibility for reappointment. Vacancies shall be filled in the same manner as the original appointments.

The Commission shall elect a chairman and vice-chairman from among its membership, who shall be members of the General Assembly.

**§ 30-351. (Expires July 1, 2017) Powers and duties; report.**

The Commission shall have the following powers and duties:

1. To develop and coordinate outreach programs in collaboration with schools to educate students on the importance of understanding that (i) a constitutional republic is a form of government dependent on reasoned debate and good faith negotiation; (ii) individual involvement is a critical factor in community success; and (iii) consideration of and respect for others is essential to deliberating, negotiating, and advocating positions on public concerns.

2. To identify ~~civics~~ civic education projects in the Commonwealth and provide technical assistance as may be needed to such programs.

3. To build a network of ~~civics~~ civic education professionals to share information and strengthen partnerships.

4. To develop, in consultation with entities represented on the Commission and others as determined by the Commission, a clearinghouse that shall be accessible on the Department of Education's website. The electronic

clearinghouse shall include, among other things, (i) a database of civics civic education resources, lesson plans, and other programs of best practices in civics civic education; (ii) a bulletin board to promote discussion and exchange of ideas relative to civics civic education; (iii) an events calendar; and (iv) links to civics civic education research.

5. To make recommendations to the Board of Education regarding revisions to the Standards of Learning for civics and government.

6. To seek, receive, and expend gifts, grants, donations, bequests, or other funds from any source to support the work of the Commission and facilitate the objectives of this chapter.

7. To submit to the Governor and the General Assembly an annual report. The chairman shall submit to the Governor and the General Assembly an annual executive summary of the interim activity and work of the Commission no later than the first day of each regular session of the General Assembly. The executive summary shall be submitted for publication as a report document as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.

**§ 30-352. (Expires July 1, 2017) Commission on Civic Education Fund.**

There is hereby created in the state treasury a special nonreverting fund to be known as the Commission on Civics Civic Education Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller and shall consist of gifts, grants, donations, bequests, or other funds from any source as may be received by the Commission for its work. Moneys shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used for the purpose of enabling the Commission to perform its duties. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the chairman of the Commission.

**§ 30-354. (Expires July 1, 2017) Sunset.**

This chapter shall expire on July 1, 2017.

## CHAPTER 328

*An Act to amend and reenact § 22.1-253.13:3 of the Code of Virginia, relating to the Standards of Quality; standards for accreditation.*

[S 1098]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 22.1-253.13:3 of the Code of Virginia is amended and reenacted as follows:**

**§ 22.1-253.13:3. Standard 3. Accreditation, other standards, assessments, and releases from state regulations.**

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

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

*The Board's regulations establishing standards for accreditation shall ensure that the accreditation process is transparent and based on objective measurements and that any appeal of the accreditation status of a school is heard and decided by the Board.*

The Board shall review annually the accreditation status of all schools in the Commonwealth. The Board shall review the accreditation status of a school once every three years if the school has been fully accredited for three consecutive years. Upon such triennial review, the Board shall review the accreditation status of the school for each individual year within that triennial review period. If the Board finds that the school would have been accredited every year of that triennial review period the Board shall accredit the school for another three years. The Board may review the accreditation status of any other school once every two years or once every three years, provided that any school that receives a multiyear accreditation status other than full accreditation shall be covered by a Board-approved multiyear corrective action plan for the duration of the period of accreditation. Such multiyear corrective action plan shall include annual written progress updates to the Board. A multiyear accreditation status shall not relieve any school or division of annual reporting requirements.

Each local school board shall maintain schools that are fully accredited pursuant to the standards for accreditation as prescribed by the Board of Education. Each local school board shall report the accreditation status of all schools in the local school division annually in public session. Within the time specified by the Board of Education, each school board shall submit corrective action plans for any schools within its school division that have been designated as not meeting the standards as approved by the Board.

When the Board of Education determines through the school academic review process that the failure of schools within a division to achieve full accreditation status is related to division-level failure to implement the Standards of Quality or other division-level action or inaction, the Board may require a division-level academic review. After the conduct of such review and within the time specified by the Board of Education, each school board shall submit to the Board for approval a corrective action plan, consistent with criteria established by the Board setting forth specific actions and a schedule designed to ensure that schools within its school division achieve full accreditation status. If the Board determines that the proposed corrective action plan is not sufficient to enable all schools within the division to achieve full accreditation, the Board may return the plan to the local school board with directions to submit an amended plan pursuant to Board guidance. Such corrective action plans shall be part of the relevant school division's comprehensive plan pursuant to § 22.1-253.13:6.

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

B. The Superintendent of Public Instruction shall develop and the Board of Education shall approve criteria for determining and recognizing educational performance in the Commonwealth's public school divisions and schools. Such criteria, when approved, shall become an integral part of the accreditation process and shall include student outcome measurements. The Superintendent of Public Instruction shall annually report to the Board on the accreditation status of all school divisions and schools. Such report shall include an analysis of the strengths and weaknesses of public education programs in the various school divisions in Virginia and recommendations to the General Assembly for further enhancing student learning uniformly across the Commonwealth. In recognizing educational performance in the school divisions, the Board shall include consideration of special school division accomplishments, such as numbers of dual enrollments and students in Advanced Placement and International Baccalaureate courses, and participation in academic year Governor's Schools.

The Superintendent of Public Instruction shall assist local school boards in the implementation of action plans for increasing educational performance in those school divisions and schools that are identified as not meeting the approved criteria. The Superintendent of Public Instruction shall monitor the implementation of and report to the Board of Education on the effectiveness of the corrective actions taken to improve the educational performance in such school divisions and schools.

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

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

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

The Board shall include in the student outcome measures that are required by the Standards for Accreditation end-of-course or end-of-grade assessments for various grade levels and classes, including the completion of the alternative assessments implemented by each local school board, in accordance with the Standards of Learning. These assessments shall include end-of-course or end-of-grade tests for English, mathematics, science, and history and social science and may be integrated to include multiple subject areas.

The Board shall prescribe alternative methods of Standards of Learning assessment administration for children with disabilities, as that term is defined in § 22.1-213, who meet criteria established by the Board to demonstrate achievement of the Standards of Learning. An eligible student's Individual Education Program team shall make the final determination as to whether an alternative method of administration is appropriate for the student.

The Standards of Learning assessments administered to students in grades three through eight shall not exceed (a) reading and mathematics in grades three and four; (b) reading, mathematics, and science in grade five; (c) reading and mathematics in grades six and seven; (d) reading, writing, and mathematics in grade eight; (e) science after the student receives instruction in the grade six science, life science, and physical science Standards of Learning and before the student completes grade eight; and (f) Virginia Studies and Civics and Economics once each at the grade levels deemed appropriate by each local school board.

Each school board shall annually certify that it has provided instruction and administered an alternative assessment, consistent with Board guidelines, to students in grades three through eight in each Standards of Learning subject area in which a Standards of Learning assessment was not administered during the school year. Such guidelines shall

(1) incorporate options for age-appropriate, authentic performance assessments and portfolios with rubrics and other methodologies designed to ensure that students are making adequate academic progress in the subject area and that the Standards of Learning content is being taught; (2) permit and encourage integrated assessments that include multiple subject areas; and (3) emphasize collaboration between teachers to administer and substantiate the assessments and the professional development of teachers to enable them to make the best use of alternative assessments.

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

The Department of Education shall award recovery credit to any student in grades three through eight who fails a Standards of Learning assessment in English reading or mathematics, receives remediation, and subsequently retakes and passes such an assessment, including any such student who subsequently retakes such an assessment on an expedited basis.

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

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

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

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

The Board of Education shall not include in its calculation of the passage rate of a Standards of Learning assessment for the purposes of state accountability any student whose parent has decided to not have his child take such Standards of Learning assessment, unless such exclusions would result in the school's not meeting any required state or federal participation rate.

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

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

Records and other information furnished to or prepared by the Board during the conduct of a review or investigation may be withheld pursuant to subdivision 11 of § 2.2-3705.3. However, this section shall not prohibit the disclosure of records to (i) a local school board or division superintendent for the purpose of permitting such board or superintendent to consider or to take personnel action with regard to an employee or (ii) any requester, after the conclusion of a review or investigation, in a form that (a) does not reveal the identity of any person making a complaint or supplying information to the Board on a confidential basis and (b) does not compromise the security of any test mandated by the Board. Any local school board or division superintendent receiving such records or other information shall, upon taking personnel action against a relevant employee, place copies of such records or information relating to the specific employee in such person's personnel file.

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

E. With such funds as may be appropriated, the Board of Education may provide, through an agreement with vendors having the technical capacity and expertise to provide computerized tests and assessments, and test construction, analysis, and security, for (i) web-based computerized tests and assessments, including computer-adaptive Standards of Learning

assessments, for the evaluation of student progress during and after remediation and (ii) the development of a remediation item bank directly related to the Standards of Learning.

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

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

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

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

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

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

## CHAPTER 329

*An Act to amend and reenact § 23.1-627.7 of the Code of Virginia, relating to the New Economy Workforce Credential Grant Program; reporting.*

[S 1100]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 23.1-627.7 of the Code of Virginia is amended and reenacted as follows:**

**§ 23.1-627.7. Eligible institutions and the Council; reporting.**

A. No later than January 1 of each year, each eligible institution shall submit to the Council a report with data from the previous fiscal year on noncredit workforce training program completion and noncredit workforce credential attainment by eligible students participating in the Program that includes:

1. A list of the noncredit workforce credentials offered, by name and certification entity;

2. The number of eligible students who enrolled in noncredit workforce credentials programs;
  3. The number of eligible students who completed noncredit workforce credentials programs;
  4. The number of eligible students who attained noncredit workforce credentials after completing noncredit workforce training programs, by credential name and relevant industry sector; and
  5. The average cost per noncredit workforce credential attained, by credential name and relevant industry sector.
- B. The Council shall compile the data provided pursuant to subsection A and *annually* report such data, in the aggregate and by eligible institution, to the Board and the General Assembly. *Such report shall also include information on the wages, including average wage and other relevant information, of students who have completed noncredit workforce training programs by credential name and relevant industry sector.*

### CHAPTER 330

*An Act to amend and reenact §§ 22.1-253.13:4 and 22.1-254 of the Code of Virginia, relating to public schools; career and technical education credential.*

[S 1159]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 22.1-253.13:4 and 22.1-254 of the Code of Virginia are amended and reenacted as follows:**

**§ 22.1-253.13:4. Standard 4. Student achievement and graduation requirements.**

A. Each local school board shall award diplomas to all secondary school students, including students who transfer from nonpublic schools or from home instruction, who meet the requirements prescribed by the Board of Education and meet such other requirements as may be prescribed by the local school board and approved by the Board of Education. Provisions shall be made to facilitate the transfer and appropriate grade placement of students from other public secondary schools, from nonpublic schools, or from home instruction as outlined in the standards for accreditation. The standards for accreditation shall include provisions relating to the completion of graduation requirements through Virtual Virginia. Further, reasonable accommodation to meet the requirements for diplomas shall be provided for otherwise qualified students with disabilities as needed.

In addition, each local school board may devise, vis-a-vis the award of diplomas to secondary school students, a mechanism for calculating class rankings that takes into consideration whether the student has taken a required class more than one time and has had any prior earned grade for such required class expunged.

Each local school board shall notify the parents of rising eleventh and twelfth grade students of (i) the requirements for graduation pursuant to the standards for accreditation and (ii) the requirements that have yet to be completed by the individual student.

B. Students identified as disabled who complete the requirements of their individualized education programs and meet certain requirements prescribed by the Board pursuant to regulations but do not meet the requirements for any named diploma shall be awarded Applied Studies diplomas by local school boards.

Each local school board shall notify the parent of such students with disabilities who have an individualized education program and who fail to meet the graduation requirements of the student's right to a free and appropriate education to age 21, inclusive, pursuant to Article 2 (§ 22.1-213 et seq.) of Chapter 13.

C. Students who have completed a prescribed course of study as defined by the local school board shall be awarded certificates of program completion by local school boards if they are not eligible to receive a Board of Education-approved diploma.

Each local school board shall provide notification of the right to a free public education for students who have not reached 20 years of age on or before August 1 of the school year, pursuant to Chapter 1 (§ 22.1-1 et seq.), to the parent of students who fail to graduate or who have failed to achieve graduation requirements as provided in the standards for accreditation. If such student who does not graduate or complete such requirements is a student for whom English is a second language, the local school board shall notify the parent of the student's opportunity for a free public education in accordance with § 22.1-5.

D. (From Acts 2016, cc. 720 & 750: The graduation requirements established by the Board of Education pursuant to the provisions of subdivisions D 1, 2, and 3 shall apply to each student who enrolls in high school as (i) a freshman after July 1, 2018; (ii) a sophomore after July 1, 2019; (iii) a junior after July 1, 2020; or (iv) a senior after July 1, 2021) In establishing graduation requirements, the Board shall:

1. Develop and implement, in consultation with stakeholders representing elementary and secondary education, higher education, and business and industry in the Commonwealth and including parents, policymakers, and community leaders in the Commonwealth, a Profile of a Virginia Graduate that identifies the knowledge and skills that students should attain during high school in order to be successful contributors to the economy of the Commonwealth, giving due consideration to critical thinking, creative thinking, collaboration, communication, and citizenship.

2. Emphasize the development of core skill sets in the early years of high school.

3. Establish multiple paths toward college and career readiness for students to follow in the later years of high school. Each such pathway shall include opportunities for internships, externships, and credentialing.

4. Provide for the selection of integrated learning courses meeting the Standards of Learning and approved by the Board to satisfy graduation requirements, which shall include Standards of Learning testing, as necessary.

5. Require students to complete at least one course in fine or performing arts or career and technical education, one course in United States and Virginia history, and two sequential elective courses chosen from a concentration of courses selected from a variety of options that may be planned to ensure the completion of a focused sequence of elective courses that provides a foundation for further education or training or preparation for employment.

6. Graduation requirements shall include a requirement that students either (i) complete an Advanced Placement, honors, or International Baccalaureate course or (ii) earn a career and technical education credential that has been approved by the Board, except when a career and technical education credential in a particular subject area is not readily available or appropriate or does not adequately measure student competency, in which case the student shall receive satisfactory competency-based instruction in the subject area to earn credit. The career and technical education credential, when required, could include the successful completion of an industry certification, a state licensure examination, a national occupational competency assessment, the *Armed Services Vocational Aptitude Battery*, or the Virginia workplace readiness skills assessment.

7. Beginning with first-time ninth grade students in the 2016-2017 school year, require students to be trained in emergency first aid, cardiopulmonary resuscitation, and the use of automated external defibrillators, including hands-on practice of the skills necessary to perform cardiopulmonary resuscitation.

8. Make provision in its regulations for students with disabilities to earn a diploma.

9. Require students to complete one virtual course, which may be a noncredit-bearing course.

10. Provide that students who complete elective classes into which the Standards of Learning for any required course have been integrated and achieve a passing score on the relevant Standards of Learning test for the relevant required course receive credit for such elective class.

11. Establish a procedure to facilitate the acceleration of students that allows qualified students, with the recommendation of the division superintendent, without completing the 140-hour class, to obtain credit for such class upon demonstrating mastery of the course content and objectives and receiving a passing score on the relevant Standards of Learning assessment. Nothing in this section shall preclude relevant school division personnel from enforcing compulsory attendance in public schools.

12. Provide for the award of credit for passing scores on industry certifications, state licensure examinations, and national occupational competency assessments approved by the Board of Education.

School boards shall report annually to the Board of Education the number of Board-approved industry certifications obtained, state licensure examinations passed, national occupational competency assessments passed, *Armed Services Vocational Aptitude Battery assessments passed*, and Virginia workplace readiness skills assessments passed, and the number of career and technical education completers who graduated. These numbers shall be reported as separate categories on the School Performance Report Card.

For the purposes of this subdivision, "career and technical education completer" means a student who has met the requirements for a career and technical concentration or specialization and all requirements for high school graduation or an approved alternative education program.

In addition, the Board may:

a. For the purpose of awarding credit, approve the use of additional or substitute tests for the correlated Standards of Learning assessment, such as academic achievement tests, industry certifications or state licensure examinations; and

b. Permit students completing career and technical education programs designed to enable such students to pass such industry certification examinations or state licensure examinations to be awarded, upon obtaining satisfactory scores on such industry certification or licensure examinations, appropriate credit for one or more career and technical education classes into which relevant Standards of Learning for various classes taught at the same level have been integrated. Such industry certification and state licensure examinations may cover relevant Standards of Learning for various required classes and may, at the discretion of the Board, address some Standards of Learning for several required classes.

13. Provide for the waiver of certain graduation requirements (i) upon the Board's initiative or (ii) at the request of a local school board. Such waivers shall be granted only for good cause and shall be considered on a case-by-case basis.

14. Consider all computer science course credits earned by students to be science course credits, mathematics course credits, or career and technical education credits. The Board of Education shall develop guidelines addressing how computer science courses can satisfy graduation requirements.

15. Permit local school divisions to waive the requirement for students to receive 140 clock hours of instruction upon providing the Board with satisfactory proof, based on Board guidelines, that the students for whom such requirements are waived have learned the content and skills included in the relevant Standards of Learning.

E. In the exercise of its authority to recognize exemplary performance by providing for diploma seals:

1. The Board shall develop criteria for recognizing exemplary performance in career and technical education programs by students who have completed the requirements for a Board of Education-approved diploma and shall award seals on the diplomas of students meeting such criteria.

2. The Board shall establish criteria for awarding a diploma seal for advanced mathematics and technology for the Board of Education-approved diplomas. The Board shall consider including criteria for (i) technology courses; (ii) technical

writing, reading, and oral communication skills; (iii) technology-related training; and (iv) industry, professional, and trade association national certifications.

3. The Board shall establish criteria for awarding a diploma seal for excellence in civics education and understanding of our state and federal constitutions and the democratic model of government for the Board of Education-approved diplomas. The Board shall consider including criteria for (i) successful completion of history, government, and civics courses, including courses that incorporate character education; (ii) voluntary participation in community service or extracurricular activities that includes the types of activities that shall qualify as community service and the number of hours required; and (iii) related requirements as it deems appropriate.

4. The Board shall establish criteria for awarding a diploma seal of biliteracy to any student who demonstrates proficiency in English and at least one other language for the Board of Education-approved diplomas. The Board shall consider criteria including the student's (i) score on a College Board Advanced Placement foreign language examination, (ii) score on an SAT II Subject Test in a foreign language, (iii) proficiency level on an ACTFL Assessment of Performance toward Proficiency in Languages (AAPPL) measure or another nationally or internationally recognized language proficiency test, or (iv) cumulative grade point average in a sequence of foreign language courses approved by the Board.

F. The Board shall establish, by regulation, requirements for the award of a general achievement adult high school diploma for those persons who are not subject to the compulsory school attendance requirements of § 22.1-254 and have (i) achieved a passing score on a high school equivalency examination approved by the Board of Education; (ii) successfully completed an education and training program designated by the Board of Education; (iii) earned a Board of Education-approved career and technical education credential such as the successful completion of an industry certification, a state licensure examination, a national occupational competency assessment, *the Armed Services Vocational Aptitude Battery*, or the Virginia workplace readiness skills assessment; and (iv) satisfied other requirements as may be established by the Board for the award of such diploma.

G. To ensure the uniform assessment of high school graduation rates, the Board shall collect, analyze, report, and make available to the public high school graduation and dropout data using a formula prescribed by the Board.

H. The Board shall also collect, analyze, report, and make available to the public high school graduation and dropout data using a formula that excludes any student who fails to graduate because such student is in the custody of the Department of Corrections, the Department of Juvenile Justice, or local law enforcement. For the purposes of the Standards of Accreditation, the Board shall use the graduation rate required by this subsection.

I. The Board may promulgate such regulations as may be necessary and appropriate for the collection, analysis, and reporting of such data required by subsections G and H.

**§ 22.1-254. Compulsory attendance required; excuses and waivers; alternative education program attendance; exemptions from article.**

A. Except as otherwise provided in this article, every parent, guardian, or other person in the Commonwealth having control or charge of any child who will have reached the fifth birthday on or before September 30 of any school year and who has not passed the eighteenth birthday shall, during the period of each year the public schools are in session and for the same number of days and hours per day as the public schools, send such child to a public school or to a private, denominational, or parochial school or have such child taught by a tutor or teacher of qualifications prescribed by the Board of Education and approved by the division superintendent, or provide for home instruction of such child as described in § 22.1-254.1.

As prescribed in the regulations of the Board of Education, the requirements of this section may also be satisfied by sending a child to an alternative program of study or work/study offered by a public, private, denominational, or parochial school or by a public or private degree-granting institution of higher education. Further, in the case of any five-year-old child who is subject to the provisions of this subsection, the requirements of this section may be alternatively satisfied by sending the child to any public educational pre-kindergarten program, including a Head Start program, or in a private, denominational, or parochial educational pre-kindergarten program.

Instruction in the home of a child or children by the parent, guardian, or other person having control or charge of such child or children shall not be classified or defined as a private, denominational or parochial school.

The requirements of this section shall apply to (i) any child in the custody of the Department of Juvenile Justice or the Department of Corrections who has not passed his eighteenth birthday and (ii) any child whom the division superintendent has required to take a special program of prevention, intervention, or remediation as provided in subsection C of § 22.1-253.13:1 and in § 22.1-254.01. The requirements of this section shall not apply to (a) any person 16 through 18 years of age who is housed in an adult correctional facility when such person is actively pursuing the achievement of a passing score on a high school equivalency examination approved by the Board of Education but is not enrolled in an individual student alternative education plan pursuant to subsection E, and (b) any child who has obtained a high school diploma or its equivalent, a certificate of completion, or has achieved a passing score on a high school equivalency examination approved by the Board of Education, or who has otherwise complied with compulsory school attendance requirements as set forth in this article.

B. A school board shall excuse from attendance at school:

1. Any pupil who, together with his parents, by reason of bona fide religious training or belief is conscientiously opposed to attendance at school. For purposes of this subdivision, "bona fide religious training or belief" does not include essentially political, sociological or philosophical views or a merely personal moral code; and

2. On the recommendation of the juvenile and domestic relations district court of the county or city in which the pupil resides and for such period of time as the court deems appropriate, any pupil who, together with his parents, is opposed to attendance at a school by reason of concern for such pupil's health, as verified by competent medical evidence, or by reason of such pupil's reasonable apprehension for personal safety when such concern or apprehension in that pupil's specific case is determined by the court, upon consideration of the recommendation of the principal and division superintendent, to be justified.

C. Each local school board shall develop policies for excusing students who are absent by reason of observance of a religious holiday. Such policies shall ensure that a student shall not be deprived of any award or of eligibility or opportunity to compete for any award, or of the right to take an alternate test or examination, for any which he missed by reason of such absence, if the absence is verified in a manner acceptable to the school board.

D. A school board may excuse from attendance at school:

1. On recommendation of the principal and the division superintendent and with the written consent of the parent or guardian, any pupil who the school board determines, in accordance with regulations of the Board of Education, cannot benefit from education at such school; or

2. On recommendation of the juvenile and domestic relations district court of the county or city in which the pupil resides, any pupil who, in the judgment of such court, cannot benefit from education at such school.

E. Local school boards may allow the requirements of subsection A to be met under the following conditions:

For a student who is at least 16 years of age, there shall be a meeting of the student, the student's parents, and the principal or his designee of the school in which the student is enrolled in which an individual student alternative education plan shall be developed in conformity with guidelines prescribed by the Board, which plan must include:

a. Career guidance counseling;

b. Mandatory enrollment and attendance in a preparatory program for passing a high school equivalency examination approved by the Board of Education or other alternative education program approved by the local school board with attendance requirements that provide for reporting of student attendance by the chief administrator of such preparatory program or approved alternative education program to such principal or his designee;

c. Mandatory enrollment in a program to earn a Board of Education-approved career and technical education credential, such as the successful completion of an industry certification, a state licensure examination, a national occupational competency assessment, *the Armed Services Vocational Aptitude Battery*, or the Virginia workplace readiness skills assessment;

d. Successful completion of the course in economics and personal finance required to earn a Board of Education-approved high school diploma;

e. Counseling on the economic impact of failing to complete high school; and

f. Procedures for reenrollment to comply with the requirements of subsection A.

A student for whom an individual student alternative education plan has been granted pursuant to this subsection and who fails to comply with the conditions of such plan shall be in violation of the compulsory school attendance law, and the division superintendent or attendance officer of the school division in which such student was last enrolled shall seek immediate compliance with the compulsory school attendance law as set forth in this article.

Students enrolled with an individual student alternative education plan shall be counted in the average daily membership of the school division.

F. A school board may, in accordance with the procedures set forth in Article 3 (§ 22.1-276.01 et seq.) of Chapter 14 and upon a finding that a school-age child has been (i) charged with an offense relating to the Commonwealth's laws, or with a violation of school board policies, on weapons, alcohol or drugs, or intentional injury to another person; (ii) found guilty or not innocent of a crime that resulted in or could have resulted in injury to others, or of an offense that is required to be disclosed to the superintendent of the school division pursuant to subsection G of § 16.1-260; (iii) suspended pursuant to § 22.1-277.05; or (iv) expelled from school attendance pursuant to § 22.1-277.06 or 22.1-277.07 or subsection B of § 22.1-277, require the child to attend an alternative education program as provided in § 22.1-209.1:2 or 22.1-277.2:1.

G. Whenever a court orders any pupil into an alternative education program, including a program preparing students for a high school equivalency examination approved by the Board of Education, offered in the public schools, the local school board of the school division in which the program is offered shall determine the appropriate alternative education placement of the pupil, regardless of whether the pupil attends the public schools it supervises or resides within its school division.

The juvenile and domestic relations district court of the county or city in which a pupil resides or in which charges are pending against a pupil, or any court in which charges are pending against a pupil, may require the pupil who has been charged with (i) a crime that resulted in or could have resulted in injury to others, (ii) a violation of Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2, or (iii) any offense related to possession or distribution of any Schedule I, II, or III controlled substances to attend an alternative education program, including, but not limited to, night school, adult education, or any other education program designed to offer instruction to students for whom the regular program of instruction may be inappropriate.

This subsection shall not be construed to limit the authority of school boards to expel, suspend, or exclude students, as provided in §§ 22.1-277.04, 22.1-277.05, 22.1-277.06, 22.1-277.07, and 22.1-277.2. As used in this subsection, the term "charged" means that a petition or warrant has been filed or is pending against a pupil.

H. Within one calendar month of the opening of school, each school board shall send to the parents or guardian of each student enrolled in the division a copy of the compulsory school attendance law and the enforcement procedures and policies established by the school board.

I. The provisions of this article shall not apply to:

1. Children suffering from contagious or infectious diseases while suffering from such diseases;
2. Children whose immunizations against communicable diseases have not been completed as provided in § 22.1-271.2;
3. Children under 10 years of age who live more than two miles from a public school unless public transportation is provided within one mile of the place where such children live;
4. Children between the ages of 10 and 17, inclusive, who live more than 2.5 miles from a public school unless public transportation is provided within 1.5 miles of the place where such children live; and
5. Children excused pursuant to subsections B and D.

Further, any child who will not have reached his sixth birthday on or before September 30 of each school year whose parent or guardian notifies the appropriate school board that he does not wish the child to attend school until the following year because the child, in the opinion of the parent or guardian, is not mentally, physically, or emotionally prepared to attend school, may delay the child's attendance for one year.

The distances specified in subdivisions 3 and 4 of this subsection shall be measured or determined from the child's residence to the entrance to the school grounds or to the school bus stop nearest the entrance to the residence of such children by the nearest practical routes which are usable for walking or riding. Disease shall be established by the certificate of a reputable practicing physician in accordance with regulations adopted by the Board of Education.

### CHAPTER 331

*An Act to amend and reenact §§ 2.2-2101, as it is currently effective and as it shall become effective, and 22.1-305.2 of the Code of Virginia, relating to the Advisory Board on Teacher Education and Licensure; membership.*

[S 1160]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 2.2-2101, as it is currently effective and as it shall become effective, and 22.1-305.2 of the Code of Virginia are amended and reenacted as follows:**

**§ 2.2-2101. (Effective until July 1, 2017) Prohibition against service by legislators on boards, commissions, and councils within the executive branch; exceptions.**

Members of the General Assembly shall be ineligible to serve on boards, commissions, and councils within the executive branch of state government who are responsible for administering programs established by the General Assembly. Such prohibition shall not extend to boards, commissions, and councils engaged solely in policy studies or commemorative activities. If any law directs the appointment of any member of the General Assembly to a board, commission, or council in the executive branch of state government that is responsible for administering programs established by the General Assembly, such portion of such law shall be void, and the Governor shall appoint another person from the Commonwealth at large to fill such a position.

The provisions of this section shall not apply to members of the Board for Branch Pilots, who shall be appointed as provided for in § 54.1-901; to members of the Board of Trustees of the Southwest Virginia Higher Education Center, who shall be appointed as provided for in § 23.1-3126; to members of the Board of Trustees of the Southern Virginia Higher Education Center, who shall be appointed as provided for in § 23.1-3121; to members of the Board of Directors of the New College Institute, who shall be appointed as provided for in § 23.1-3112; to members of the Advisory Board on Teacher Education and Licensure, who shall be appointed as provided for in § 22.1-305.2; to members of the Virginia Interagency Coordinating Council, who shall be appointed as provided for in § 2.2-5204; to members of the Board of Veterans Services, who shall be appointed as provided for in § 2.2-2452; to members appointed to the Board of Trustees of the Roanoke Higher Education Authority pursuant to § 23.1-3117; to members of the Virginia Geographic Information Network Advisory Board, who shall be appointed as provided for in § 2.2-2423; to members of the Standards of Learning Innovation Committee, who shall be appointed as provided for in § 22.1-253.13:10; to members of the Board of Visitors of the Virginia School for the Deaf and the Blind, who shall be appointed as provided for in § 22.1-346.2; to members of the Substance Abuse Services Council, who shall be appointed as provided for in § 2.2-2696; to members of the Criminal Justice Services Board, who shall be appointed as provided for in § 9.1-108; to members of the Council on Virginia's Future, who shall be appointed as provided for in § 2.2-2685; to members of the State Executive Council for Children's Services, who shall be appointed as provided for in § 2.2-2648; to members of the Virginia Board of Workforce Development, who shall be appointed as provided for in § 2.2-2471; to members of the Volunteer Firefighters' and Rescue Squad Workers' Service Award Fund Board, who shall be appointed as provided for in § 51.1-1201; to members of the Secure Commonwealth Panel, who shall be appointed as provided for in § 2.2-222.3; to members of the Forensic Science Board, who shall be appointed as provided for in § 9.1-1109; to members of the Southwest Virginia Cultural Heritage Foundation, who shall be appointed as provided for in § 2.2-2735; or to members of the Virginia Growth and Opportunity Board, who shall be appointed as provided for in § 2.2-2485.

**§ 2.2-2101. (Effective July 1, 2017) Prohibition against service by legislators on boards, commissions, and councils within the executive branch; exceptions.**

Members of the General Assembly shall be ineligible to serve on boards, commissions, and councils within the executive branch of state government who are responsible for administering programs established by the General Assembly. Such prohibition shall not extend to boards, commissions, and councils engaged solely in policy studies or commemorative activities. If any law directs the appointment of any member of the General Assembly to a board, commission, or council in the executive branch of state government that is responsible for administering programs established by the General Assembly, such portion of such law shall be void, and the Governor shall appoint another person from the Commonwealth at large to fill such a position.

The provisions of this section shall not apply to members of the Board for Branch Pilots, who shall be appointed as provided for in § 54.1-901; to members of the Board of Trustees of the Southwest Virginia Higher Education Center, who shall be appointed as provided for in § 23.1-3126; to members of the Board of Trustees of the Southern Virginia Higher Education Center, who shall be appointed as provided for in § 23.1-3121; to members of the Board of Directors of the New College Institute, who shall be appointed as provided for in § 23.1-3112; to members of the *Advisory Board on Teacher Education and Licensure*, who shall be appointed as provided for in § 22.1-305.2; to members of the Virginia Interagency Coordinating Council, who shall be appointed as provided for in § 2.2-5204; to members of the Board of Veterans Services, who shall be appointed as provided for in § 2.2-2452; to members appointed to the Board of Trustees of the Roanoke Higher Education Authority pursuant to § 23.1-3117; to members of the Virginia Geographic Information Network Advisory Board, who shall be appointed as provided for in § 2.2-2423; to members of the Standards of Learning Innovation Committee, who shall be appointed as provided for in § 22.1-253.13:10; to members of the Board of Visitors of the Virginia School for the Deaf and the Blind, who shall be appointed as provided for in § 22.1-346.2; to members of the Substance Abuse Services Council, who shall be appointed as provided for in § 2.2-2696; to members of the Criminal Justice Services Board, who shall be appointed as provided for in § 9.1-108; to members of the State Executive Council for Children's Services, who shall be appointed as provided for in § 2.2-2648; to members of the Virginia Board of Workforce Development, who shall be appointed as provided for in § 2.2-2471; to members of the Volunteer Firefighters' and Rescue Squad Workers' Service Award Fund Board, who shall be appointed as provided for in § 51.1-1201; to members of the Secure Commonwealth Panel, who shall be appointed as provided for in § 2.2-222.3; to members of the Forensic Science Board, who shall be appointed as provided for in § 9.1-1109; to members of the Southwest Virginia Cultural Heritage Foundation, who shall be appointed as provided for in § 2.2-2735; or to members of the Virginia Growth and Opportunity Board, who shall be appointed as provided for in § 2.2-2485.

**§ 22.1-305.2. Advisory Board on Teacher Education and Licensure.**

There is hereby established the Advisory Board on Teacher Education and Licensure, which shall consist of *three legislative members to be appointed as follows: Two members of the House of Delegates to be appointed by the Speaker of the House of Delegates, one member of the Senate to be appointed by the Senate Committee on Rules, and 21 nonlegislative citizen members to be appointed by the Board of Education.* Ten *nonlegislative citizen* members of the Advisory Board shall be classroom teachers, with at least the following representation: three elementary school teachers, three middle school teachers, and three high school teachers. Three *nonlegislative citizen* members of the Advisory Board shall be school administrators, one of whom shall be a school principal, one of whom shall be a division superintendent, and one of whom shall be a school personnel administrator. Four *nonlegislative citizen* members of the Advisory Board shall be faculty members in teacher preparation programs in public or private institutions of higher education, who may represent the arts and sciences. One *nonlegislative citizen* member of the Advisory Board shall be a member of a school board. One *nonlegislative citizen* member of the Advisory Board shall be a member of a parent-teacher association. One *nonlegislative citizen* member of the Advisory Board shall be a representative of the business community, and one *nonlegislative citizen* member shall be a citizen at large. The Superintendent of Public Instruction or his designee and the Director of the State Council of Higher Education or his designee and the Chancellor of the Virginia Community College System or his designee shall serve as nonvoting ex officio members of the Advisory Board.

The Superintendent of Public Instruction shall designate a staff liaison to coordinate the activities of the Advisory Board. The Advisory Board shall meet five times per year or upon the request of its chairman or the Board of Education. The Advisory Board shall annually elect a chairman from its membership. ~~The members of the Advisory Board shall serve without compensation; however, the necessary expenses incurred in the performance of their duties as members of the Advisory Board shall be reimbursed by the Department of Education.~~ *Nonlegislative citizen members are not entitled to compensation for their services. Legislative members of the Advisory Board shall be compensated as provided in § 30-19.12. All members shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as members of the Advisory Board as provided in §§ 2.2-2813 and 2.2-2825. The funding for the costs of compensation and expenses of the members shall be provided by the Department of Education.*

The *nonlegislative citizen* members of the Advisory Board shall be appointed for three-year terms. ~~However, the incumbent members of the Teacher Education Advisory Board serving on July 1, 1990, shall be appointed to serve as initial members of the Advisory Board on Teacher Education and Licensure for the duration of the terms for which they were originally appointed. Upon the expiration of the terms of these incumbent members, the members appointed to replace them shall serve for three-year terms.~~ *Legislative members shall serve terms coincident with their terms of office. No person may be appointed to serve for more than two consecutive terms. Those serving as incumbent members on July 1, 1990, shall be*

~~eligible to be reappointed to serve for one additional term.~~ Members shall hold office after expiration of their terms until their successors are duly appointed. *Appointments to fill vacancies of members, other than by expiration of a term, shall be for the unexpired terms. Such vacancies shall be filled in the same manner as the original appointments.*

The Advisory Board on Teacher Education and Licensure shall advise the Board of Education and submit recommendations on policies applicable to the qualifications, examination, licensure, and regulation of school personnel including revocation, suspension, denial, cancellation, reinstatement, and renewals of licensure, fees for processing applications, standards for the approval of preparation programs, reciprocal approval of preparation programs, and other related matters as the Board of Education may request or the Advisory Board may deem necessary. The final authority for licensure of school personnel shall remain with the Board of Education.

### CHAPTER 332

*An Act to amend and reenact § 46.2-1163 of the Code of Virginia, relating to motor vehicle safety inspection data.*

[S 1250]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 46.2-1163 of the Code of Virginia is amended and reenacted as follows:**

**§ 46.2-1163. Official inspection stations; safety inspection approval stickers; actions of Superintendent subject to the Administrative Process Act.**

The Superintendent may designate, furnish instructions to, and supervise official inspection stations for the inspection of motor vehicles, trailers, and semitrailers and for adjusting and correcting equipment enumerated in this chapter in such a manner as to conform to specifications hereinbefore set forth. The Superintendent shall adopt and furnish to such official inspection stations regulations governing the making of inspections required by this chapter. The Superintendent may at any time, after five days' written notice, revoke the designation of any official inspection station designated by him.

If no defects are discovered or when the equipment has been corrected in accordance with this title, the official inspection station shall issue to the operator or owner of the vehicle, on forms furnished by the Department of State Police, a duplicate of which is retained by such station, a certificate showing the date of correction, registration number of the vehicle, and the official designation of such station. On or before December 1, 2010, any information an official inspection station is required to provide to the Department of State Police shall be accepted by the Department in electronic form. There also shall be placed on the windshield of the vehicle at a place to be designated by the Superintendent an approval sticker furnished by the Department of State Police. If any vehicle is not equipped with a windshield, the approval sticker shall be placed on the vehicle in a location designated by the Superintendent. If the vehicle is a motorcycle, the approval sticker may be placed on a plate securely fastened to the motorcycle for the purpose of displaying the sticker or in any other location designated by the Superintendent. This sticker shall be displayed on the windshield of such vehicle or at such other designated place upon the vehicle at all times when it is operated or parked on the highways in the Commonwealth and until such time as a new inspection period shall be designated and a new inspection sticker issued. Common carriers, operating under certificate from the State Corporation Commission or the Department of Motor Vehicles, who desire to do so may use with the approval of the Superintendent private inspection stations for the inspection and correction of their equipment.

*The Superintendent shall provide motor vehicle safety inspection information upon the written request of an individual or corporate entity or such entity's agent. Any information provided shall not include personal information. The Superintendent may make a reasonable charge for furnishing information under this section but no fee shall be charged to any official of the Commonwealth, including court and police officials; officials of counties, cities, or towns; local government self-insurance pools; or the court, police, or licensing officials of other states or of the federal government, provided that the information requested is for official use and such officials do not charge the Commonwealth a fee for the provision of the same or substantially similar information. Vehicle information, including all descriptive vehicle data, submitted to or received from the Department of State Police related to such a request shall not be considered a public record for the purposes of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.). The fees received by the Superintendent pursuant to this section shall be paid into the state treasury and shall be set aside as a special fund to be used to meet the expenses of the Department of State Police's motor vehicle safety inspection program.*

Actions of the Superintendent relating to official inspection stations shall be governed by the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

### CHAPTER 333

*An Act to amend and reenact § 46.2-1025 of the Code of Virginia, relating to flashing amber lights on vehicles.*

[S 1279]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 46.2-1025 of the Code of Virginia is amended and reenacted as follows:**

**§ 46.2-1025. Flashing amber, purple, or green warning lights.**

A. The following vehicles may be equipped with flashing, blinking, or alternating amber warning lights of types approved by the Superintendent:

1. Vehicles used for the principal purpose of towing or servicing disabled vehicles;
  2. Vehicles used in constructing, maintaining, and repairing highways or utilities on or along public highways, or in assisting with the management of roadside and traffic incidents, or performing traffic management services along public highways;
  3. Vehicles used for the principal purpose of removing hazardous or polluting substances from state waters and drainage areas on or along public highways, or state vehicles used to perform other state-required environmental activities, provided that the amber lights are not lit while the vehicle is in motion;
  4. Vehicles used for servicing automatic teller machines, provided the amber lights are not lit while the vehicle is in motion;
  5. Vehicles used in refuse collection, provided the amber lights are lit only when the vehicles are engaged in refuse collection operations;
  6. Vehicles used by individuals for emergency snow-removal purposes;
  7. Hi-rail vehicles, provided the amber lights are lit only when the vehicles are operated on railroad rails;
  8. Fire apparatus and emergency medical services vehicles, provided the amber lights are used in addition to lights permitted under § 46.2-1023 and are so mounted or installed as to be visible from behind the vehicle;
  9. Vehicles owned and used by businesses providing security services, provided the amber lights are not lit while the vehicle is being operated on a public highway;
  10. Vehicles used to collect and deliver the United States mail, provided the amber lights are lit only when the vehicle is actually engaged in such collection or delivery;
  11. *Vehicles used to collect and deliver packages weighing less than 150 pounds by a national package delivery company that delivers such packages in all 50 states, provided that the amber lights are lit only when the vehicle is stopped and its operator is engaged in such collection and delivery;*
  - ~~12.~~ 12. Vehicles used to transport petroleum or propane products, provided the amber light is mounted on the rear of the vehicle and is lit when parked while making a delivery of petroleum or propane products, or when the vehicle's back-up lights are lit and its device producing an audible signal when the vehicle is operated in reverse gear, as provided for in § 46.2-1175.1, is in operation;
  - ~~13.~~ 13. Vehicles used by law-enforcement agency personnel in the enforcement of laws governing motor vehicle parking;
  - ~~14.~~ 14. Government-owned law-enforcement vehicles, provided the lights are used for the purpose of giving directional warning to vehicular traffic to move one direction or another and are not lit while the vehicle is in motion;
  - ~~15.~~ 15. Chase vehicles when used to unload a hot air balloon or used to load a hot air balloon after landing, provided the amber lights are not lit while the vehicle is in motion;
  - ~~16.~~ 16. Vehicles used for farm, agricultural, or horticultural purposes, or any farm tractor;
  - ~~17.~~ 17. Vehicles owned and used by construction companies operating under Virginia contractors licenses;
  - ~~18.~~ 18. Vehicles used to lead or provide escorts for bicycle races authorized by the Department of Transportation or the locality in which the race is being conducted;
  - ~~19.~~ 19. Vehicles used by radio or television stations for remote broadcasts, provided that the amber lights are not lit while the vehicle is in motion;
  - ~~20.~~ 20. Vehicles used by municipal safety officers in the performance of their official duties. For the purpose of this subdivision, "municipal safety officers" means municipal employees responsible for managing municipal safety programs and ensuring municipal compliance with safety and environmental regulatory mandates;
  - ~~21.~~ 21. Vehicles used as pace cars, security vehicles, or firefighting vehicles by any speedway or motor vehicle race track, provided that the amber lights are not lit while the vehicle is being operated on a public highway;
  - ~~22.~~ 22. Vehicles used in patrol work by members of neighborhood watch groups approved by the chief law-enforcement officer of the locality in their assigned neighborhood watch program area, provided that the vehicles are clearly identified as neighborhood watch vehicles, and the amber lights are not lit while the vehicle is in motion;
  - ~~23.~~ 23. Vehicles that are not tow trucks as defined in § 46.2-100, but are owned or controlled by a towing and recovery business, provided that the amber lights are lit only when the vehicle is being used at a towing and recovery site; and
  - ~~24.~~ 24. Publicly owned or operated transit buses.
- B. Except as otherwise provided in this section, such amber lights shall be lit only when performing the functions which qualify them to be equipped with such lights.

C. Vehicles used to lead or provide escorts for funeral processions may use either amber warning lights or purple warning lights, but amber warning lights and purple warning lights shall not simultaneously be used on the same vehicle. The Superintendent of State Police shall develop standards and specifications for purple lights authorized in this subsection.

D. Vehicles used by police, firefighting, or emergency medical services personnel as command centers at the scene of incidents may be equipped with and use green warning lights of a type approved by the Superintendent. Such lights shall not be activated while the vehicle is operating upon the highway.

## CHAPTER 334

*An Act to amend and reenact § 22.1-254.1 of the Code of Virginia, relating to students receiving home instruction; participation in Advanced Placement and Preliminary SAT/National Merit Scholarship Qualifying Test examinations.*

[S 1414]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:****1. That § 22.1-254.1 of the Code of Virginia is amended and reenacted as follows:****§ 22.1-254.1. Declaration of policy; requirements for home instruction of children.**

A. When the requirements of this section have been satisfied, instruction of children by their parents is an acceptable alternative form of education under the policy of the Commonwealth of Virginia. Any parent of any child who will have reached the fifth birthday on or before September 30 of any school year and who has not passed the eighteenth birthday may elect to provide home instruction in lieu of school attendance if he (i) holds a high school diploma; or (ii) is a teacher of qualifications prescribed by the Board of Education; or (iii) provides a program of study or curriculum which may be delivered through a correspondence course or distance learning program or in any other manner; or (iv) provides evidence that he is able to provide an adequate education for the child.

B. Any parent who elects to provide home instruction in lieu of school attendance shall annually notify the division superintendent in August of his intention to so instruct the child and provide a description of the curriculum, limited to a list of subjects to be studied during the coming year, and evidence of having met one of the criteria for providing home instruction as required by subsection A. Effective July 1, 2000, parents electing to provide home instruction shall provide such annual notice no later than August 15. Any parent who moves into a school division or begins home instruction after the school year has begun shall notify the division superintendent of his intention to provide home instruction as soon as practicable and shall thereafter comply with the requirements of this section within 30 days of such notice. The division superintendent shall notify the Superintendent of Public Instruction of the number of students in the school division receiving home instruction.

C. The parent who elects to provide home instruction shall provide the division superintendent by August 1 following the school year in which the child has received home instruction with either (i) evidence that the child has attained a composite score in or above the fourth stanine on any nationally normed standardized achievement test, or an equivalent score on the ACT, SAT, or PSAT test or (ii) an evaluation or assessment which the division superintendent determines to indicate that the child is achieving an adequate level of educational growth and progress, including but not limited to: (a) an evaluation letter from a person licensed to teach in any state, or a person with a master's degree or higher in an academic discipline, having knowledge of the child's academic progress, stating that the child is achieving an adequate level of educational growth and progress; or (b) a report card or transcript from a community college or college, college distance learning program, or home-education correspondence school.

In the event that evidence of progress as required in this subsection is not provided by the parent, the home instruction program for that child may be placed on probation for one year. Parents shall file with the division superintendent evidence of their ability to provide an adequate education for their child in compliance with subsection A and a remediation plan for the probationary year which indicates their program is designed to address any educational deficiency. Upon acceptance of such evidence and plan by the division superintendent, the home instruction may continue for one probationary year. If the remediation plan and evidence are not accepted or the required evidence of progress is not provided by August 1 following the probationary year, home instruction shall cease and the parent shall make other arrangements for the education of the child which comply with § 22.1-254. The requirements of subsection C shall not apply to children who are under the age of six as of September 30 of the school year.

D. Nothing in this section shall prohibit a pupil and his parents from obtaining an excuse from school attendance by reason of bona fide religious training or belief pursuant to subdivision B 1 of § 22.1-254.

E. Any party aggrieved by a decision of the division superintendent may appeal his decision within 30 days to an independent hearing officer. The independent hearing officer shall be chosen from the list maintained by the Executive Secretary of the Supreme Court for hearing appeals of the placements of children with disabilities. The costs of the hearing shall be apportioned among the parties by the hearing officer in a manner consistent with his findings.

~~F. School boards shall implement a plan to notify students receiving home instruction pursuant to this section and their parents of the availability of Advanced Placement (AP) and Preliminary SAT (PSAT) examinations and the availability of financial assistance to low-income and needy students to take these examinations.~~ School boards shall implement a plan to make these Advanced Placement (AP), Preliminary SAT/National Merit Scholarship Qualifying Test (PSAT/NMSQT), and PreACT examinations available to students receiving home instruction pursuant to this section. School boards shall adopt written policies that specify the date by which such students shall register to participate in such examinations. School boards shall notify such students and their parents of such registration deadline and the availability of financial assistance to low-income and needy students to take such examinations.

G. No division superintendent or local school board shall disclose to the Department of Education or any other person or entity outside of the local school division information that is provided by a parent or student to satisfy the requirements of this section or subdivision B 1 of § 22.1-254. However, a division superintendent or local school board may disclose, with

the written consent of a student's parent, such information to the extent provided by the parent's consent. Nothing in this subsection shall prohibit a division superintendent from notifying the Superintendent of Public Instruction of the number of students in the school division receiving home instruction as required by subsection B.

### CHAPTER 335

*An Act to amend and reenact § 23.1-638 of the Code of Virginia, relating to Virginia Guaranteed Assistance Program; grants.*

[S 1527]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 23.1-638 of the Code of Virginia is amended and reenacted as follows:**

**§ 23.1-638. Eligibility; amount of grants; renewals.**

A. Only students who (i) are accepted for *full-time* enrollment as ~~dependent students~~ at a public institution of higher education; (ii) are not receiving a Virginia Commonwealth Award; (iii) demonstrate financial need as determined by the Council ~~according to the congressional methodology for determining financial need and eligibility for financial aid~~; and (iv) are either (a) Virginia students who graduated from a high school in the Commonwealth with a cumulative grade point average of at least 2.5 on a scale of 4.0 or its equivalent or (b) ~~are~~ dependent children of active duty military personnel residing outside the Commonwealth pursuant to military orders, claiming Virginia on their State of Legal Residence Certificate, and satisfying the domicile requirements for such active duty military personnel pursuant to §§ 23.1-502 and 23.1-504 and *who* graduated from a high school within or outside the Commonwealth with a cumulative grade point average of at least 2.5 on a scale of 4.0 or its equivalent are eligible to receive such grants.

B. *Each eligible student shall receive such a grant from the institution's appropriations for undergraduate student financial assistance before Commonwealth Award grants are awarded to students with equivalent remaining need.*

C. *Each eligible student shall receive a grant in an amount greater than Commonwealth Award grants awarded to students with equivalent remaining need.*

D. *Beginning with first-time students enrolled in the fall semester in 2018, each eligible student shall receive a grant in an amount greater than the grant of each eligible student with equivalent remaining need in the next-lowest class level.*

E. *The amount of each grant shall vary according to each student's remaining need and the total of tuition, fees, and other necessary charges, including books. The actual amount of each grant shall be determined by the proportionate award schedule adopted by each institution.*

F. All grants shall be awarded for one award year and may be renewed annually for no more than three subsequent award years, *and students shall not receive subsequent grants until they have satisfied the requirements to move to the next class level. Each recipient may receive a maximum of one year of support per class level for a maximum total of four years of support at a baccalaureate public institution of higher education and a maximum total of two years of support at an associate-degree-granting public institution of higher education, provided that in no case shall a recipient receive more than a combined total of four years of support, if the recipient:*

1. Maintains a cumulative grade point average of at least 2.0 on a scale of 4.0 or its equivalent;
2. Demonstrates continued financial need;
3. Makes satisfactory academic progress toward a degree; ~~earning not less than the minimum number of hours of credit required for full-time standing in each academic period during enrollment at a public institution of higher education;~~ and
4. Maintains continuous *full-time* enrollment for not less than two semesters or three quarters in each successive award year unless the Council grants the recipient an exception for cause.

### CHAPTER 336

*An Act to amend and reenact § 24.2-416.6 of the Code of Virginia, relating to voter registration drives; compensation prohibitions.*

[H 1431]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 24.2-416.6 of the Code of Virginia is amended and reenacted as follows:**

**§ 24.2-416.6. Registration by and instructions for voter registration drives; compensation prohibitions.**

Whenever the Department of Elections, local electoral board, or general registrar's office furnishes individuals or groups multiple copies of the voter registration application, it shall provide accompanying instructions that contain a copy and explanation of § 24.2-1002.01 and the penalty for destruction of, or failure to mail or deliver, voter registration applications that have been signed. Any like instructions furnished to the public by whatever means shall contain a copy and explanation of § 24.2-1002.01 and the penalty for destruction of, or failure to mail or deliver, voter registration applications. When obtaining 25 or more voter registration applications, such individuals or groups shall be required to register with and

provide to the Department, local electoral board, or general registrar's office such information as required by the Department. Such individuals or agents representing a group shall be required to receive training as approved by the State Board and sign a sworn affidavit on a form prescribed by the State Board attesting that such individuals or organizations will abide by all Virginia laws and rules regarding the registration of voters.

*No individual or group shall compensate its volunteers or employees on the basis of the number of completed voter registration applications the volunteer or employee collects. No volunteer or employee of an individual or group shall accept compensation based on the number of completed voter registration applications he collects.*

### CHAPTER 337

*An Act to amend and reenact § 15.2-1609.9 of the Code of Virginia, relating to compensation of part time deputies.*

[H 1457]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 15.2-1609.9 of the Code of Virginia is amended and reenacted as follows:**

**§ 15.2-1609.9. Compensation of part-time deputies.**

The part-time deputies of sheriffs shall not receive fixed salaries, but shall be entitled to receive reasonable compensation for their services and allowances for their expenses, to be determined and paid as hereinafter provided. Each such part-time deputy shall keep a record of all services performed by him as such, which shall be reported to the sheriff whose deputy he is. The sheriff shall likewise keep a record of all services performed by each part-time deputy. Each sheriff shall file a monthly report with the board of supervisors or other governing body of the county or city council, as the case may be, on or before the fifth day of the month next succeeding that in which such services are performed, showing in detail all services and hours of service rendered by part-time deputies. The board of supervisors or other governing body or the city council shall recommend to the Compensation Board what in its judgment is a fair compensation to pay each individual part-time deputy of a sheriff on the basis of such reports, except that the limit for compensation per hour of service shall not exceed the hourly equivalent of the minimum annual salary paid a full-time deputy sheriff *of like rank and experience* who performs like services in the same county or city. In addition, mileage and other expenses for rendering the services shall be paid. If in the judgment of the governing body such limit would work a hardship on a particular part-time deputy sheriff, each sum may be increased with the written approval of the judge of the circuit court of the county or city for which such officer is appointed.

### CHAPTER 338

*An Act to amend and reenact § 28.2-1408.2 of the Code of Virginia, relating to general permit for sand management in the City of Norfolk and the Sandbridge Beach Subdivision.*

[H 1517]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 28.2-1408.2 of the Code of Virginia is amended and reenacted as follows:**

**§ 28.2-1408.2. Exemptions.**

A. Notwithstanding the requirements of § 28.2-1408 or any other provision of this Code, the Virginia Beach Wetlands Board (~~Board~~) shall make an ongoing determination in the Sandbridge Beach Subdivision to determine which structures or properties are in clear and imminent danger from erosion and storm damage due to severe wave action or storm surge. The owners of such structures or properties shall not be prohibited from erecting and maintaining protective bulkheads or other equivalent structural improvements of the type, size, and configuration as approved by the *Virginia Beach Wetlands Board*. As used in this section, the "Sandbridge Beach Subdivision" means the area that is bounded on the north by Dam Neck Naval Base, on the west by Sandpiper Road, and on the south by Little Island Park.

The *Virginia Beach Wetlands Board* shall not impose arbitrary or unreasonable conditions upon its approval of any such bulkhead or other structural improvement. The *Virginia Beach Wetlands Board* shall maintain a continuing responsibility to ensure that each bulkhead or structural improvement constructed under the authority of this section is maintained in a condition that is safe, structurally sound, and otherwise in conformity with the conditions imposed by the *Virginia Beach Wetlands Board*.

Upon submission of an application to the *Virginia Beach Wetlands Board* pursuant to this section, as a requirement for approval, the applicant must consent in writing to any subsequent construction approved by the *Virginia Beach Wetlands Board* whereby an adjacent property owner desires to tie in a bulkhead at no additional cost with the bulkhead proposed by the applicant. Such consent shall constitute a waiver of property line defenses relating to the bulkhead line.

*B. 1. The Virginia Beach Wetlands Board may develop and adopt, after holding a public hearing, a General Permit for Sand Management and Placement Profiles for properties in the Sandbridge Beach Subdivision. The Virginia Beach*

*Wetlands Board shall publish notice of each hearing at least once a week for two consecutive weeks prior to such hearing in a newspaper having general circulation in Virginia Beach.*

*2. The Norfolk Wetlands Board may develop and adopt, after holding a public hearing, a General Permit for Sand Management and Placement Profiles for properties in the City of Norfolk. The Norfolk Wetlands Board shall publish notice of each hearing at least once a week for two consecutive weeks prior to such hearing in a newspaper having general circulation in the City of Norfolk.*

*C. Any General Permit for Sand Management and Placement Profiles adopted by a wetlands board pursuant to subsection B shall set forth sand management practices that require owners of real property in the permit area to undertake responsible, cost-effective sand management practices that (i) protect and enhance the value and use of their property and (ii) preserve and protect coastal primary sand dunes and public beaches and prevent their despoliation and destruction. The General Permit for Sand Management and Placement Profiles shall specify all permissible sand management practices, including the manner in which sand removed from these properties shall be transported to and placed upon an appropriate sand placement and spreading zone as may be designated in the Placement Profiles adopted by the wetlands board. The sand shall be in the condition of clean beach sand prior to such transport and placement. A wetlands board may from time to time revise such General Permit for Sand Management and Placement Profiles as appropriate, in accordance with this subsection and subsections B and D.*

*D. Following adoption of the General Permit for Sand Management and Placement Profiles, the owner of real property in the permit area, or the designee of such owner, may apply for coverage under the applicable General Permit for Sand Management and Placement Profile by submitting a registration statement to the local wetlands board on a form to be developed by the wetlands board requiring the following information: (i) owner's name; (ii) owner's address; (iii) owner's telephone number and email address; (iv) address of property or properties; (v) designee's name, if any; (vi) designee's address; (vii) designee's telephone number and email address; (viii) identification of the applicable Placement Profile for the property; (ix) signature of owner or designee; and (x) date of application. The wetlands board may impose a reasonable fee in connection with processing the registration statement.*

*The wetlands board shall, within 30 days of receipt of a registration statement, notify the owner or his designee in writing whether the registration statement is approved or disapproved. The wetlands board's written notice of approval or disapproval may be delivered to the applicant via email at the email address stated in the registration statement or it may be delivered via United States mail at the address stated in the registration statement, or both. If the wetlands board fails to notify the applicant in writing within 30 days of receipt of a registration statement, then the registration statement is deemed approved. If the registration statement is disapproved, the wetlands board shall provide in its notification to the applicant a complete statement of the reason for the disapproval. Notwithstanding the requirements of § 28.2-1408 or any other provision of law, if the registration statement is approved, then the applicant is authorized to manage sand in accordance with the applicable General Permit for Sand Management for a period of three years from the date of the application. The approval or disapproval of a registration statement submitted by an applicant is a decision of the wetlands board that is reviewable pursuant to § 28.2-1411.*

## CHAPTER 339

*An Act to amend and reenact § 28.2-241 of the Code of Virginia, relating to Marine Resources Commission; registration as commercial fisherman.*

[H 1572]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 28.2-241 of the Code of Virginia is amended and reenacted as follows:**

**§ 28.2-241. Registration of commercial fishermen required; exemption; penalty.**

A. On and after January 1, 1993, holders of gear licenses, except those issued pursuant to § 28.2-402, issued January 1, 1992, through December 31, 1992, shall register as commercial fishermen as provided for in regulation.

B. [Repealed.]

C. On and after January 1, 1993, fishermen not registered as commercial fishermen but who desire to sell their catch shall apply to the Commission for registration as commercial fishermen. The effective date of status as a commercial fisherman shall be two years from the date the application is approved by the Commission. A person whose registration as a commercial fisherman is not effective shall not sell, trade, or barter his catch or give his catch to another in order that it may be sold, traded, or bartered. *The Commission shall grant a preference, on a one-in, one-out basis, for an exemption from the two-year waiting period for an immediate family member or documented employee of a commercial fisherman who is retiring from the commercial fishery.*

D. For purposes of this section and §§ 28.2-242, 28.2-243, and 28.2-244, "commercial fisherman" means any person who fishes in tidal waters using any gear and who sells, trades, or barter his catch or gives his catch to another in order that it may be sold, traded, or bartered. The Commission shall provide, by regulation, for exemptions from the definition of "commercial fisherman" those persons who independently sell, trade, or barter minnows and who are not part of, hired by, or engaged in a continuing business enterprise as may be defined by the Commission. Such regulation may include, but is

not limited to, limits on the quantity of minnows that may be sold, traded, or bartered by a person that may be exempted from the definition of commercial fisherman.

E. The cost of registration as a commercial fisherman shall be \$150 annually, due no later than the effective date of registration; however, the cost of registration for a person ~~seventy~~ 70 years of age or older shall be ~~seventy-five dollars~~ \$75. All fees collected from the registration of commercial fishermen shall be deposited in the state treasury and credited to the Marine Fishing Improvement Fund as established in § 28.2-208. The Commission may subsequently revise the cost of licenses in this section pursuant to § 28.2-201.

F. Registrations of commercial fishermen shall not be transferable.

G. Whenever a court finds that a defendant has violated any of the provisions of this section, the court shall assess a civil penalty of \$500. All civil penalties assessed pursuant to this section shall be paid into the Marine Fishing Improvement Fund as established in § 28.2-208.

H. Only commercial fishermen with valid registrations may purchase licenses pursuant to §§ 28.2-301, 28.2-501, and 28.2-702.

I. Persons who have obtained a recreational gear license pursuant to § 28.2-226.1 or § 28.2-302.1 are exempt from the provisions of this section.

### CHAPTER 340

*An Act to amend and reenact § 28.2-511 of the Code of Virginia, relating to Marine Resources Commission; oysters; culling.*

[H 1574]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 28.2-511 of the Code of Virginia is amended and reenacted as follows:**

**§ 28.2-511. Culling oysters; penalty.**

A. 1. In addition to any other penalty prescribed by law, any person charged with violating any regulation governing the culling of oysters shall be required, by the officer making the charge, to scatter the entire cargo of oysters on the public rocks under the supervision of the officer and at the expense of the person charged with the violation. *No portion of the cargo of oysters shall be scattered anywhere other than on the public rocks.*

2. In lieu of throwing the cargo overboard, the person charged with the violation may post a bond by credit card, check, or cash ~~bond~~ with the officer in an amount approximately equal to the value of the entire load as determined by the officer. *If the person charged posts a bond by credit card, the Commission may collect such actual credit card service charges as apply.*

3. The refusal to either dump the oysters overboard or post a ~~cash~~ bond is a distinct and separate offense from any other violation. A person who has posted a ~~cash~~ bond and is acquitted shall be refunded the ~~cash~~ bond. If the person is found guilty, the ~~cash~~ bond shall be forfeited and deposited to the credit of the Oyster Replenishment Fund.

4. Any person charged with ~~such~~ a violation of a regulation who posts ~~cash~~ bond shall properly cull the entire cargo of oysters immediately after the officer has found ~~them~~ the oysters to be in violation of such regulation and before they can be sold, planted, or disposed of by him or by any other person.

B. The requirement to scatter the entire cargo of oysters on the public rocks shall only apply to a cargo of oysters taken by any catcher from the public oyster grounds and shall not apply to oysters which have been purchased by and are in the possession of a buyer.

A violation of any provision of this section is a Class 3 misdemeanor.

### CHAPTER 341

*An Act to direct coordination regarding landfill odor reduction at landfill in Campbell County.*

[H 1600]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. § 1. That the Department of Environmental Quality (the Department) and the Region 2000 Services Authority (the Authority) shall continue to work together to reduce the odor issues at the landfill operated by the Authority in Campbell County, and the Department and the Authority shall report to the Chairman of the House Committee on Agriculture, Chesapeake and Natural Resources no later than November 1, 2017, on such efforts. The Authority shall connect Phases IV and V of its landfill gas collection system to the gas collection system that was installed in Phase III of the current landfill operated by the Authority in Campbell County at such time as the Authority's engineers advise the Authority that the connections will operate efficiently.**

## CHAPTER 342

*An Act to amend and reenact § 46.2-1600 of the Code of Virginia, relating to nonrepairable and rebuilt vehicles.*

[H 1687]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:****1. That § 46.2-1600 of the Code of Virginia is amended and reenacted as follows:****§ 46.2-1600. Definitions.**

The following words, terms, and phrases when used in this chapter shall have the meaning ascribed to them in this section, except where the context indicates otherwise:

"Actual cash value," as applied to a vehicle, means the retail cash value of the vehicle prior to damage as determined, using recognized evaluation sources, either (i) by an insurance company responsible for paying a claim or (ii) if no insurance company is responsible therefor, by the Department.

"Auto recycler" means any person licensed by the Commonwealth to engage in business as a salvage dealer, rebuilder, demolisher, or scrap metal processor.

~~"Cosmetic damage," as applied to a vehicle, means damage to custom or performance aftermarket equipment, audio-visual accessories, nonfactory-sized tires and wheels, custom paint, and external hail damage. "Cosmetic damage" does not include (i) damage to original equipment and parts installed by the manufacturer or (ii) damage that requires any repair to enable a vehicle to pass a safety inspection pursuant to § 46.2-1157. The cost for cosmetic damage repair shall not be included in the cost to repair the vehicle when determining the calculation for a nonrepairable vehicle.~~

"Current salvage value," as applied to a vehicle, means (i) the salvage value of the vehicle, as determined by the insurer responsible for paying the claim, or (ii) if no insurance company is responsible therefor, 25 percent of the actual cash value.

"Demolisher" means any person whose business is to crush, flatten, bale, shred, log, or otherwise reduce a vehicle to a state where it can no longer be considered a vehicle.

"Diminished value compensation" means the amount of compensation that an insurance company pays to a third party vehicle owner, in addition to the cost of repairs, for the reduced value of a vehicle due to damage.

"Independent appraisal firm" means any business providing cost estimates for the repair of damaged motor vehicles for insurance purposes and having all required business licenses and zoning approvals. This term shall not include insurance companies that provide the same service, nor shall any such entity be a rebuilder or affiliated with a rebuilder.

"Late model vehicle" means the current-year model of a vehicle and the five preceding model years, or any vehicle whose actual cash value is determined to have been at least \$10,000 prior to being damaged.

"Licensee" means any person who is licensed or is required to be licensed under this chapter.

"Major component" means any one of the following subassemblies of a motor vehicle: (i) front clip assembly, consisting of the fenders, grille, hood, bumper, and related parts; (ii) engine; (iii) transmission; (iv) rear clip assembly, consisting of the quarter panels, floor panels, trunk lid, bumper, and related parts; (v) frame; (vi) air bags; and (vii) any door that displays a vehicle identification number.

"Nonrepairable certificate" means a document of ownership issued by the Department for any nonrepairable vehicle upon surrender or cancellation of the vehicle's title and registration or salvage certificate.

~~"Nonrepairable vehicle" means (i) any late model vehicle that has been damaged and whose estimated cost of repair, excluding the cost to repair cosmetic damages, exceeds 90 percent of its actual cash value prior to damage; (ii) any vehicle that has been determined to be nonrepairable by its insurer or owner, and for which a nonrepairable certificate has been issued or applied for; or (iii) any other vehicle that has been damaged, is inoperable, and has to have no value except for use as parts and scrap metal or for which a nonrepairable certificate has been issued or applied for.~~

"Rebuilder" means any person who acquires and repairs, for use on the public highways, two or more salvage vehicles within a 12-month period.

~~"Rebuilt vehicle" means (i) any salvage vehicle that has been repaired for use on the public highways and the estimated cost of repair did not exceed 90 percent of its actual cash value or (ii) any late model vehicle that has been repaired and the estimated cost of repair exceeded 75 percent of its actual cash value, excluding the cost to repair damage to the engine, transmission, or drive axle assembly.~~

"Repairable vehicle" means a late model vehicle that is not a rebuilt vehicle, but is repaired to its pre-loss condition by an insurance company and is not accepted by the owner of said vehicle immediately prior to its acquisition by said insurance company as part of the claims process.

"Salvage certificate" means a document of ownership issued by the Department for any salvage vehicle upon surrender or cancellation of the vehicle's title and registration.

"Salvage dealer" means any person who acquires any vehicle for the purpose of reselling any parts thereof.

"Salvage pool" means any person providing a storage service for salvage vehicles or nonrepairable vehicles who either displays the vehicles for resale or solicits bids for the sale of salvage vehicles or nonrepairable vehicles, but this definition shall not apply to an insurance company that stores and displays fewer than 100 salvage vehicles and nonrepairable vehicles in one location; however, any two or more insurance companies who display salvage and nonrepairable vehicles for resale, using the same facilities, shall be considered a salvage pool.

"Salvage vehicle" means (i) any late model vehicle that has been (a) acquired by an insurance company as a part of the claims process other than a stolen vehicle or (b) damaged as a result of collision, fire, flood, accident, trespass, or any other occurrence to such an extent that its estimated cost of repair, excluding charges for towing, storage, and temporary replacement/rental vehicle or payment for diminished value compensation, would exceed its actual cash value less its current salvage value; (ii) any recovered stolen vehicle acquired by an insurance company as a part of the claims process, whose estimated cost of repair exceeds 75 percent of its actual cash value; or (iii) any other vehicle that is determined to be a salvage vehicle by its owner or an insurance company by applying for a salvage certificate for the vehicle, provided that such vehicle is not a nonrepairable vehicle.

"Scrap metal processor" means any person who acquires one or more whole vehicles to process into scrap for remelting purposes who, from a fixed location, utilizes machinery and equipment for processing and manufacturing ferrous and nonferrous metallic scrap into prepared grades, and whose principal product is metallic scrap.

"Vehicle" shall have the meaning ascribed to it in § 46.2-100. A vehicle that has been demolished or declared to be nonrepairable pursuant to this chapter shall no longer be considered a vehicle. For the purposes of this chapter, a major component shall not be considered a vehicle.

"Vehicle removal operator" means any person who acquires a vehicle for the purpose of reselling it to a demolisher, scrap metal processor, or salvage dealer.

**2. That the provisions of this act shall expire on July 1, 2021.**

**3. That the Department of Motor Vehicles shall compile a report delineating the number of salvage and nonrepairable certificates issued in the Commonwealth of Virginia for the fiscal years from July 2, 2014, through June 30, 2017, and the number of salvage and nonrepairable certificates issued in the Commonwealth of Virginia for the fiscal years July 1, 2017, through June 30, 2020, to determine whether there is any impact on the number of nonrepairable vehicles. Such report shall include any other available data. The Department shall submit the report to the Chairmen of the House and Senate Committees on Transportation no later than December 1, 2020.**

#### CHAPTER 343

*An Act to amend and reenact § 2.2-4303.1 of the Code of Virginia, relating to the Virginia Public Procurement Act; contracts for architectural and engineering services relating to multiple construction projects; maximum fee for any single project.*

[H 1693]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 2.2-4303.1 of the Code of Virginia is amended and reenacted as follows:**

**§ 2.2-4303.1. Architectural and professional engineering term contracting; limitations.**

A. A contract for architectural or professional engineering services relating to multiple construction projects may be awarded by a public body, provided (i) the projects require similar experience and expertise, (ii) the nature of the projects is clearly identified in the Request for Proposal, and (iii) the contract is limited to a term of one year or when the cumulative total project fees reach the maximum authorized in this section, whichever occurs first.

Such contracts may be renewable for four additional one-year terms at the option of the public body. The fair and reasonable prices as negotiated shall be used in determining the cost of each project performed.

B. The sum of all projects performed in a one-year contract term shall not exceed \$500,000, except that for:

1. A state agency, as defined in § 2.2-4347, the sum of all projects performed in a one-year contract term shall not exceed \$1 million;

2. Any locality with a population in excess of 78,000, or any authority, sanitation district, metropolitan planning organization, transportation district commission, or planning district commission, or any city within Planning District 8, the sum of all projects performed in a one-year contract term shall not exceed \$6 million and those awarded for any airport as defined in § 5.1-1 and aviation transportation projects, the sum of all such projects shall not exceed \$1.5 million;

3. Architectural and engineering services for rail and public transportation projects by the Director of the Department of Rail and Public Transportation, the sum of all projects in a one-year contract term shall not exceed \$2 million. Such contract may be renewable for two additional one-year terms at the option of the Director; and

4. Environmental location, design, and inspection work regarding highways and bridges by the Commissioner of Highways, the initial contract term shall be limited to two years or when the cumulative total project fees reach \$5 million, whichever occurs first. Such contract may be renewable for two additional one-year terms at the option of the Commissioner, and the sum of all projects in each one-year contract term shall not exceed \$5 million.

C. Competitive negotiations for such architectural or professional engineering services contracts may result in awards to more than one offeror, provided (i) the Request for Proposal so states and (ii) the public body has established procedures for distributing multiple projects among the selected contractors during the contract term. Such procedures shall prohibit requiring the selected contractors to compete for individual projects based on price.

D. The fee for any single project shall not exceed ~~\$100,000~~ \$150,000; however, for architectural or engineering services for airports as defined in § 5.1-1 and aviation transportation projects, the project fee of any single project shall not exceed \$500,000, except that for:

1. A state agency as defined in § 2.2-4347, the project fee shall not exceed \$200,000, as may be determined by the Director of the Department of General Services or as otherwise provided by the Restructured Higher Education Financial and Administrative Operations Act (§ 23.1-1000 et seq.); and

2. Any locality with a population in excess of 78,000, or any authority, transportation district commission, or sanitation district, or any city within Planning District 8, the project fee shall not exceed \$2.5 million.

The limitations imposed upon single-project fees pursuant to this subsection shall not apply to environmental, location, design, and inspection work regarding highways and bridges by the Commissioner of Highways or architectural and engineering services for rail and public transportation projects by the Director of the Department of Rail and Public Transportation.

E. For the purposes of subsection B, any unused amounts from one contract term shall not be carried forward to any additional term, except as otherwise provided by the Restructured Higher Education Financial and Administrative Operations Act (§ 23.1-1000 et seq.).

**CHAPTER 344**

*An Act to amend and reenact § 18.2-488.1 of the Code of Virginia, relating to flag at half staff or mast; public safety personnel.*

[H 1720]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 18.2-488.1 of the Code of Virginia is amended and reenacted as follows:**

**§ 18.2-488.1. Flag at half staff or mast for certain public safety personnel killed in the line of duty.**

A. As used in this section, unless the context requires a different meaning:

"Emergency medical services provider" means the same as that term is defined in § 32.1-111.1 and any member of a volunteer emergency medical services agency.

"Firefighter" means the same as that term is defined in § 9.1-300, and any member of a volunteer fire department.

"Police officer" means any full-time or part-time employee of a police department or sheriff's office which is a part of or administered by the Commonwealth or any political subdivision thereof and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic, or highway laws of the Commonwealth *and a state correctional officer of the Department of Corrections.*

"Service member" means a member of the United States armed forces, Virginia National Guard, or Virginia Defense Force.

B. Whenever a service member, police officer, firefighter, or emergency medical services provider who is a resident of Virginia is killed in the line of duty, all flags, state and local, flown at any building owned and operated by the Commonwealth *or any political subdivision thereof* shall be flown at half staff or mast for one day to honor and acknowledge respect for those who made the supreme sacrifice.

C. The Department of General Services shall develop procedures to effectuate the purposes of this section.

**CHAPTER 345**

*An Act to amend and reenact the tenth enactments of Chapters 68 and 758 of the Acts of Assembly of 2016 and to direct the Commonwealth Center for Recurrent Flooding Resiliency to convene a work group relating to stormwater and erosion control; local rural development growth areas; volume credit program; regional stormwater best management practices banks.*

[H 1774]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. § 1. That the Commonwealth Center for Recurrent Flooding Resiliency shall convene a work group to examine opportunities to improve stormwater management in rural localities that are located in Tidewater Virginia, as defined in § 62.1-44.15:68 of the Code of Virginia. The work group shall review and consider alternative methods that could be used in such localities to meet or exceed the level of water quality protection and water quantity control provided by the Virginia Stormwater Management Program (VSMP) Regulation, 9VAC25-870, including (i) the creation of rural development growth areas within such localities, in which stormwater management could be administered by the localities using different approaches than those set forth in the VSMP Regulation; (ii) the development of a volume credit program to fulfill water quantity requirements; (iii) the payment of fees to support regional stormwater best management practices; and (iv) the**

allowance of the use of the stormwater in the networks of ditches that line the highways within such localities to generate volume credits.

§ 2. That the work group created by this act shall be facilitated by the Virginia Coastal Policy Center at William and Mary Law School and shall include representatives of the Virginia Institute of Marine Science, Old Dominion University, the Virginia Department of Transportation, the Virginia Department of Environmental Quality, the Chesapeake Bay Commission, local governments, environmental interests, private mitigation providers, the agriculture industry, the engineering and development communities, and other stakeholders as determined necessary.

§ 3. That in order to support the efforts of the work group created by this act, the Commonwealth Center for Recurrent Flooding Resiliency shall provide comprehensive analysis of the appropriate regulatory sections, and alternatives developed by the work group, with the goal of determining the difference in water quality benefits provided.

§ 4. That the Commonwealth Center for Recurrent Flooding Resiliency shall report the results of the examination conducted by the work group created by this act, including recommendations for any legislative or regulatory measures needed to improve the administration of stormwater management by rural localities, to the Governor, the Chairman of the House Committee on Agriculture, Chesapeake and Natural Resources, and the Chairman of the Senate Committee on Agriculture, Conservation and Natural Resources no later than January 1, 2018.

**2. That the tenth enactments of Chapters 68 and 758 of the Acts of Assembly of 2016 are amended and reenacted as follows:**

**10. That the provisions of this act shall become effective July 1, ~~2017~~ 2018, or 30 days after the adoption by the State Water Control Board of the regulations required by the ninth enactment of this act, whichever occurs later.**

**3. That the provisions of the first enactment of this act shall expire on January 1, 2018.**

**CHAPTER 346**

*An Act to amend and reenact § 24.2-612.1 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 24.2-612.2, relating to candidate withdrawal; notice of withdrawal; information to voters.*

[H 1933]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 24.2-612.1 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 24.2-612.2 as follows:**

**§ 24.2-612.1. Ballots; death, withdrawal, or disqualification of candidates.**

In the case of the death, withdrawal, or disqualification of any candidate, other than a party nominee, who has qualified to have his name printed on the ballot for any election other than a presidential or primary election, the ~~State Board~~ Department of Elections shall take into account the time available before the election and the status of the ballots for the election and shall have authority to direct the electoral boards on how to proceed to print the ballot without the candidate's name, correct the ballot to delete the candidate's name, or provide notice to voters of the death, withdrawal, or disqualification of the candidate. *If ballots are not corrected to delete the candidate's name, the general registrar shall provide a list of candidates who have withdrawn to be posted in each polling place and to be available to the public. If election information is posted on the official website for the county or city, notice of the candidate's withdrawal shall also be posted on that website.*

The ~~State Board~~ Department shall have like authority in the case of the death, withdrawal, or disqualification of a party nominee subject to the provisions of Article 5 (§ 24.2-539 et seq.) of Chapter 5 of this title.

**§ 24.2-612.2. Notice of withdrawal of candidates.**

*A candidate who has qualified to have his name printed on the ballot for an election shall not be deemed to have withdrawn from such election until he has submitted a signed written notice declaring his intent to withdraw from such election and that notice has been received by the general registrar. Such notice shall be provided to the general registrar of the county or city in which he resides. In the case of an election held in more than one county or city, the recipient general registrar shall notify the appropriate general registrars of the candidate's withdrawal.*

*The Department shall include in its candidate guidance documents the requirements and process for candidate withdrawal.*

**CHAPTER 347**

*An Act to amend and reenact § 29.1-530.1 of the Code of Virginia, relating to hunting apparel; blaze pink.*

[H 1939]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 29.1-530.1 of the Code of Virginia is amended and reenacted as follows:**

**§ 29.1-530.1. Blaze orange or blaze pink clothing required at certain times.**

A. During any firearms deer season, except during the special season for hunting deer with a muzzle-loading rifle only, in counties and cities designated by the Board, every hunter and every person accompanying a hunter shall (i) wear a blaze orange *or blaze pink* hat, except that the bill or brim of the hat may be a color or design other than solid blaze orange *or blaze pink*, or blaze orange *or blaze pink* upper body clothing; that is visible from 360 degrees or (ii) display at least 100 square inches of solid blaze orange *or blaze pink* material at shoulder level within body reach visible from 360 degrees.

B. During the special season for hunting deer with a muzzle-loading rifle only, in counties and cities designated by the Board, every muzzleloader deer hunter and every person accompanying a muzzleloader deer hunter shall (i) wear a blaze orange *or blaze pink* hat, except that the bill or brim of the hat may be a color or design other than solid blaze orange *or blaze pink*, or (ii) blaze orange *or blaze pink* upper body clothing; ~~that is either of which shall be~~ visible from 360 degrees, ~~except when any~~ unless such person is physically located in a tree stand or other stationary hunting location.

C. Any person violating the provisions of this section shall, upon conviction, pay a fine of \$25.

D. Violations of this section shall not be admissible in any civil action for personal injury or death as evidence of negligence, contributory negligence, or assumption of the risk.

E. This section shall not apply when (i) hunting waterfowl from stationary or floating blinds, (ii) hunting waterfowl over decoys, (iii) hunting waterfowl in wetlands as defined in § 28.2-1300, (iv) hunting waterfowl from a boat or other floating conveyance, (v) hunting doves, (vi) participating in hunting dog field trials permitted by the Board of Game and Inland Fisheries, (vii) on horseback while hunting foxes with hounds but without firearms, or (viii) hunting with a bow and arrow in areas where the discharge of firearms is prohibited by state law or local ordinance.

## CHAPTER 348

*An Act to amend and reenact § 2.2-1149 of the Code of Virginia, relating to the Department of General Services; review of proposed acquisitions of real property; exceptions.*

[H 1952]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 2.2-1149 of the Code of Virginia is amended and reenacted as follows:**

**§ 2.2-1149. Department to review proposed acquisitions of real property; approval by the Governor; exceptions.**

Notwithstanding any provision of law to the contrary, no state department, agency or institution shall acquire real property by gift, lease, purchase or any other means or use or occupy real property without following the guidelines adopted by the Department and obtaining the prior approval of the Governor. The Department shall review every proposed acquisition of real property by gift, lease, purchase or any other means and every proposed use or occupancy of real property by any department, agency or institution of the Commonwealth and recommend either approval or disapproval of the transactions to the Governor based on cost, demonstrated need, and compliance with the Department's guidelines.

The provisions of this section shall not apply to the:

1. Acquisition of real property for open space preservations pursuant to the purposes of § 10.1-1800 and subdivision A 4 of § 10.1-2204, if it does not require as a condition of acceptance, an appropriation of any state funds for the continued maintenance of such property;

2. Acquisition of easements pursuant to the purposes of §§ 10.1-1020 and 10.1-1021 or §§ 10.1-1700, 10.1-1702, and 10.1-1702;

3. Acquisition through the temporary lease or donation of real property for a period of six months or less duration;

4. Acquisition of easements by public institutions of higher education provided that the particular institution meets the conditions prescribed in subsection A of § 23.1-1002;

5. Entering into an operating/income lease or a capital lease by a public institution of higher education, for real property to be used for academic purposes, or for real property owned by the institution or a foundation related to the institution to be used for non-academic purposes, in accordance with the institution's land use plan pursuant to § 2.2-1153 provided that (i) the capital lease does not constitute tax-supported debt of the Commonwealth, (ii) the institution meets the conditions prescribed in subsection A of § 23.1-1002, and (iii) for purposes of entering into a capital lease, the institution shall have in effect a signed memorandum of understanding with the Secretary of Administration regarding participation in the nongeneral fund decentralization program as set forth in the appropriation act. For the purposes of this subdivision, an operating/income lease or a capital lease shall be determined using generally accepted accounting principles;

6. Acquisition of real property for the construction, improvement or maintenance of highways and transportation facilities and purposes incidental thereto by the Department of Transportation; however, acquisitions of real property by the Department of Transportation for office space, district offices, residencies, area headquarters, or correctional facilities shall be subject to the Department's review and the Governor's approval; ~~or~~

7. Acquisition of real estate or rights-of-way for the construction, improvement, or maintenance of railway lines or rail or public transportation facilities or the retention of rail corridors for public purposes associated with the efforts of the Department of Rail and Public Transportation; however, acquisitions of real estate or rights-of-way by the Department of Rail and Public Transportation for office space or district offices shall be subject to review by the Department and the approval of the Governor; *or*

8. Acquisition of real property to be held in trust for the benefit of a state-recognized Indian tribe, provided that such property is (i) annexed into the existing reservation of such tribe and (ii) located within a one-mile radius of the boundary of such reservation. However, these acquisitions of real estate shall be subject to the review of the Office of the Attorney General and the approval by the Governor.

### CHAPTER 349

An Act to amend and reenact § 62.1-44.15:27, as it is currently effective and as it shall become effective, of the Code of Virginia, relating to stormwater and erosion management; administration of program by third party.

[H 2009]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 62.1-44.15:27, as it is currently effective and as it shall become effective, of the Code of Virginia is amended and reenacted as follows:**

**§ 62.1-44.15:27. (For expiration date, see Acts 2016, cc. 68 and 758) Establishment of Virginia Stormwater Management Programs.**

A. Any locality that operates a regulated MS4 or that notifies the Department of its decision to participate in the establishment of a VSMP shall be required to adopt a VSMP for land-disturbing activities consistent with the provisions of this article according to a schedule set by the Department. Such schedule shall require implementation no later than July 1, 2014. Thereafter, the Department shall provide an annual schedule by which localities can submit applications to implement a VSMP. Localities subject to this subsection are authorized to coordinate plan review and inspections with other entities in accordance with subsection H. The Department shall operate a VSMP on behalf of any locality that does not operate a regulated MS4 and that does not notify the Department, according to a schedule set by the Department, of its decision to participate in the establishment of a VSMP. A locality that decides not to establish a VSMP shall still comply with the requirements set forth in this article and attendant regulations as required to satisfy the stormwater flow rate capacity and velocity requirements set forth in the Erosion and Sediment Control Law (§ 62.1-44.15:51 et seq.). A locality that is subject to the provisions of the Chesapeake Bay Preservation Act (§ 62.1-44.15:67 et seq.) also shall adopt requirements set forth in this article and attendant regulations as required to regulate Chesapeake Bay Preservation Act land-disturbing activities in accordance with § 62.1-44.15:28.

Notwithstanding any other provision of this subsection, any county that operates an MS4 that became a regulated MS4 on or after January 1, 2014 may elect, on a schedule set by the Department, to defer the implementation of the county's VSMP until no later than January 1, 2015. During this deferral period, when such county thus lacks the legal authority to operate a VSMP, the Department shall operate a VSMP on behalf of the county and address post-construction stormwater runoff and the required design criteria for stormwater runoff controls. Any such county electing to defer the establishment of its VSMP shall still comply with the requirements set forth in this article and attendant regulations as required to satisfy the stormwater flow rate capacity and velocity requirements set forth in the Erosion and Sediment Control Law (§ 62.1-44.15:51 et seq.).

B. Any town, including a town that operates a regulated MS4, lying within a county that has adopted a VSMP in accordance with subsection A may decide, but shall not be required, to become subject to the county's VSMP. Any town lying within a county that operates an MS4 that became a regulated MS4 on or after January 1, 2014 may elect to become subject to the county's VSMP according to the deferred schedule established in subsection A. During the county's deferral period, the Department shall operate a VSMP on behalf of the town and address post-construction stormwater runoff and the required design criteria for stormwater runoff controls for the town as provided in subsection A. If a town lies within the boundaries of more than one county, the town shall be considered to be wholly within the county in which the larger portion of the town lies. Towns shall inform the Department of their decision according to a schedule established by the Department. Thereafter, the Department shall provide an annual schedule by which towns can submit applications to adopt a VSMP.

C. In support of VSMP authorities, the Department shall:

1. Provide assistance grants to localities not currently operating a local stormwater management program to help the localities to establish their VSMP.

2. Provide technical assistance and training.

3. Provide qualified services in specified geographic areas to a VSMP to assist localities in the administration of components of their programs. The Department shall actively assist localities in the establishment of their programs and in the selection of a contractor or other entity that may provide support to the locality or regional support to several localities.

D. The Department shall develop a model ordinance for establishing a VSMP consistent with this article and its associated regulations, including the Virginia Stormwater Management Program (VSMP) General Permit for Discharges of Stormwater from Construction Activities.

E. Each locality that administers an approved VSMP shall, by ordinance, establish a VSMP that shall be administered in conjunction with a local MS4 program and a local erosion and sediment control program if required pursuant to the Erosion and Sediment Control Law (§ 62.1-44.15:51 et seq.), and which shall include the following:

1. Consistency with regulations adopted in accordance with provisions of this article;  
 2. Provisions for long-term responsibility for and maintenance of stormwater management control devices and other techniques specified to manage the quality and quantity of runoff; and

3. Provisions for the integration of the VSMP with local erosion and sediment control, flood insurance, flood plain management, and other programs requiring compliance prior to authorizing construction in order to make the submission and approval of plans, issuance of permits, payment of fees, and coordination of inspection and enforcement activities more convenient and efficient both for the local governments and those responsible for compliance with the programs.

F. The Board may approve a state entity, including the Department, federal entity, or, for linear projects subject to annual standards and specifications, electric, natural gas, and telephone utility companies, interstate and intrastate natural gas pipeline companies, railroad companies, or authorities created pursuant to § 15.2-5102 to operate a Virginia Stormwater Management Program consistent with the requirements of this article and its associated regulations and the VSMP authority's Department-approved annual standards and specifications. For these programs, enforcement shall be administered by the Department and the Board where applicable in accordance with the provisions of this article.

G. The Board shall approve a VSMP when it deems a program consistent with this article and associated regulations, including the Virginia Stormwater Management Program (VSMP) General Permit for Discharges of Stormwater from Construction Activities.

H. A VSMP authority may enter into agreements or contracts with soil and water conservation districts, adjacent localities, or other public or private entities to carry out or assist with the responsibilities of this article. *A VSMP authority may enter into contracts with third-party professionals who hold certificates of competence in the appropriate subject areas, as provided in subsection A of § 62.1-44.15:30, to carry out any or all of the responsibilities that this article requires of a VSMP authority, including plan review and inspection but not including enforcement.*

I. If a locality establishes a VSMP, it shall issue a consolidated stormwater management and erosion and sediment control permit that is consistent with the provisions of the Erosion and Sediment Control Law (§ 62.1-44.15:51 et seq.). When available in accordance with subsection J, such permit, where applicable, shall also include a copy of or reference to state VSMP permit coverage authorization to discharge.

J. Upon the development of an online reporting system by the Department, but no later than July 1, 2014, a VSMP authority shall then be required to obtain evidence of state VSMP permit coverage where it is required prior to providing approval to begin land disturbance.

K. Any VSMP adopted pursuant to and consistent with this article shall be considered to meet the stormwater management requirements under the Chesapeake Bay Preservation Act (§ 62.1-44.15:67 et seq.) and attendant regulations, and effective July 1, 2014, shall not be subject to local program review under the stormwater management provisions of the Chesapeake Bay Preservation Act.

L. All VSMP authorities shall comply with the provisions of this article and the stormwater management provisions of the Erosion and Sediment Control Law (§ 62.1-44.15:51 et seq.) and related regulations. The VSMP authority responsible for regulating the land-disturbing activity shall require compliance with the issued permit, permit conditions, and plan specifications. The state shall enforce state permits.

**§ 62.1-44.15:27. (For effective date, see Acts 2016, cc. 68 and 758) Virginia Programs for Erosion Control and Stormwater Management.**

A. Any locality that operates a regulated MS4 or that administers a Virginia Stormwater Management Program (VSMP) as of July 1, 2017, shall be required to adopt and administer a VESMP consistent with the provisions of this article that regulates any land-disturbing activity that (i) disturbs 10,000 square feet or more or (ii) disturbs 2,500 square feet or more in an area of a locality designated as a Chesapeake Bay Preservation Area pursuant to the Chesapeake Bay Preservation Act (§ 62.1-44.15:67 et seq.). The VESMP shall be adopted according to a process established by the Department.

B. Any locality that does not operate a regulated MS4 and for which the Department administers a VSMP as of July 1, 2017, shall choose one of the following options and shall notify the Department of its choice according to a process established by the Department:

1. Adopt and administer a VESMP consistent with the provisions of this article that regulates any land-disturbing activity that (i) disturbs 10,000 square feet or more or (ii) disturbs 2,500 square feet or more in an area of a locality designated as a Chesapeake Bay Preservation Area pursuant to the Chesapeake Bay Preservation Act (§ 62.1-44.15:67 et seq.);

2. Adopt and administer a VESMP consistent with the provisions of this article that regulates any land-disturbing activity that (i) disturbs 10,000 square feet or more or (ii) disturbs 2,500 square feet or more in an area of a locality designated as a Chesapeake Bay Preservation Area pursuant to the Chesapeake Bay Preservation Act (§ 62.1-44.15:67 et seq.), except that the Department shall provide the locality with review of the plan required by § 62.1-44.15:34 and provide a recommendation to the locality on the plan's compliance with the water quality and water quantity technical criteria; or

3. Adopt and administer a VESCP pursuant to Article 2.4 (§ 62.1-44.15:51 et seq.) that regulates any land-disturbing activity that (i) disturbs 10,000 square feet or more or (ii) disturbs 2,500 square feet or more in an area of a locality designated as a Chesapeake Bay Preservation Area pursuant to the Chesapeake Bay Preservation Act (§ 62.1-44.15:67 et seq.). For such a land-disturbing activity in a Chesapeake Bay Preservation Area, the VESCP authority also shall adopt

requirements set forth in this article and attendant regulations as required to regulate those activities in accordance with §§ 62.1-44.15:28 and 62.1-44.15:34.

The Board shall administer a VSMP on behalf of each VESCP authority for any land-disturbing activity that (a) disturbs one acre or more of land or (b) disturbs less than one acre of land and is part of a larger common plan of development or sale that results in one acre or greater of land disturbance.

C. Any town that is required to or elects to adopt and administer a VSMP or VESCP, as applicable, may choose one of the following options and shall notify the Department of its choice according to a process established by the Department:

1. Any town, including a town that operates a regulated MS4, lying within a county may enter into an agreement with the county to become subject to the county's VSMP. If a town lies within the boundaries of more than one county, it may enter into an agreement with any of those counties that operates a VSMP.

2. Any town that chooses not to adopt and administer a VSMP pursuant to subdivision B 3 and that lies within a county may enter into an agreement with the county to become subject to the county's VSMP or VESCP, as applicable. If a town lies within the boundaries of more than one county, it may enter into an agreement with any of those counties.

3. Any town that is subject to the provisions of the Chesapeake Bay Preservation Act (§ 62.1-44.15:67 et seq.) may enter into an agreement with a county pursuant to subdivision C 1 or 2 only if the county administers a VSMP for land-disturbing activities that disturb 2,500 square feet or more.

D. Any locality that chooses not to implement a VSMP pursuant to subdivision B 3 may notify the Department at any time that it has chosen to implement a VSMP pursuant to subdivision B 1 or 2. Any locality that chooses to implement a VSMP pursuant to subdivision B 2 may notify the Department at any time that it has chosen to implement a VSMP pursuant to subdivision B 1. A locality may petition the Board at any time for approval to change from fully administering a VSMP pursuant to subdivision B 1 to administering a VSMP in coordination with the Department pursuant to subdivision B 2 due to a significant change in economic conditions or other fiscal emergency in the locality. The provisions of the Administrative Process Act (§ 2.2-4000 et seq.) shall govern any appeal of the Board's decision.

E. In support of VSMP authorities, the Department shall provide technical assistance and training and general assistance to localities in the establishment and administration of their individual or regional programs.

F. The Department shall develop a model ordinance for establishing a VSMP consistent with this article.

G. Each locality that operates a regulated MS4 or that chooses to administer a VSMP shall, by ordinance, establish a VSMP that shall be administered in conjunction with a local MS4 management program, if applicable, and which shall include the following:

1. Ordinances, policies, and technical materials consistent with regulations adopted in accordance with this article;

2. Requirements for land-disturbance approvals;

3. Requirements for plan review, inspection, and enforcement consistent with the requirements of this article, including provisions requiring periodic inspections of the installation of stormwater management measures. A VSMP authority may require monitoring and reports from the person responsible for meeting the permit conditions to ensure compliance with the permit and to determine whether the measures required in the permit provide effective stormwater management;

4. Provisions charging each applicant a reasonable fee to defray the cost of program administration for a regulated land-disturbing activity that does not require permit coverage. Such fee may be in addition to any fee charged pursuant to the statewide fee schedule established in accordance with subdivision 9 of § 62.1-44.15:28, although payment of fees may be consolidated in order to provide greater convenience and efficiency for those responsible for compliance with the program. A VSMP authority shall hold a public hearing prior to establishing such fees. The fee shall not exceed an amount commensurate with the services rendered, taking into consideration the time, skill, and the VSMP authority's expense involved;

5. Provisions for long-term responsibility for and maintenance of stormwater management control devices and other techniques specified to manage the quality and quantity of runoff; and

6. Provisions for the coordination of the VSMP with flood insurance, flood plain management, and other programs requiring compliance prior to authorizing land disturbance in order to make the submission and approval of plans, issuance of land-disturbance approvals, payment of fees, and coordination of inspection and enforcement activities more convenient and efficient both for the local governments and those responsible for compliance with the programs.

H. The Board shall approve a VSMP when it deems a program consistent with this article and associated regulations.

I. A VSMP authority may enter into agreements or contracts with the Department, soil and water conservation districts, adjacent localities, planning district commissions, or other public or private entities to carry out or assist with plan review and inspections. *A VSMP authority may enter into contracts with third-party professionals who hold certifications in the appropriate subject areas, as provided in subsection A of § 62.1-44.15:30, to carry out any or all of the responsibilities that this article requires of a VSMP authority, including plan review and inspection but not including enforcement.*

J. A VSMP authority shall be required to obtain evidence of permit coverage from the Department's online reporting system, where such coverage is required, prior to providing land-disturbance approval.

K. The VSMP authority responsible for regulating the land-disturbing activity shall require compliance with its applicable ordinances and the conditions of its land-disturbance approval and plan specifications. The Board shall enforce permits and require compliance with its applicable regulations, including when serving as a VSMP authority in a locality that chose not to adopt a VSMP in accordance with subdivision B 3.

## CHAPTER 350

*An Act to amend and reenact §§ 46.2-808.1, 46.2-888, 46.2-920.1, 46.2-1210, and 46.2-1212.1 of the Code of Virginia, relating to Department of Transportation; traffic incident response and management.*

[H 2022]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 46.2-808.1, 46.2-888, 46.2-920.1, 46.2-1210, and 46.2-1212.1 of the Code of Virginia are amended and reenacted as follows:**

**§ 46.2-808.1. Use of crossovers on controlled access highways; penalty.**

It ~~shall be~~ *is* unlawful for the driver of any vehicle other than an authorized vehicle to use or attempt to use any crossover posted for authorized vehicles only on any controlled access highway.

For the purposes of this section, "authorized vehicle" means (i) Department of Transportation vehicles; (ii) law-enforcement vehicles; (iii) emergency vehicles as defined in § 46.2-920; (iv) towing and recovery vehicles operating under the direction of a law-enforcement agency; *or the Department of Transportation*; (v) vehicles for which permits authorizing use of such crossovers have been issued by the Department of Transportation; (vi) *vehicles operated pursuant to a Department of Transportation safety service patrol program as defined in subsection B of § 46.2-920.1 when engaged in providing services under such program*; (vii) *vehicles operated pursuant to a contract with the Department of Transportation for, or that includes, traffic incident management services as defined in subsection B of § 46.2-920.1 when providing such traffic incident management services*; and ~~(vi)~~ (viii) other vehicles operating in medical emergency situations.

Violation of any provision of this section shall constitute a traffic infraction punishable by a fine of no more than \$250.

**§ 46.2-888. Stopping on highways; general rule.**

No person shall stop a vehicle in such manner as to impede or render dangerous the use of the highway by others, except in the case of an emergency, an accident, or a mechanical breakdown. In the event of such an emergency, accident, or breakdown, the emergency flashing lights of such vehicle shall be turned on if the vehicle is equipped with such lights and such lights are in working order. If the driver is capable of safely doing so ~~and~~, the vehicle is movable, *and there are no injuries or deaths resulting from the emergency, accident, or breakdown*, the driver ~~may~~ *shall* move the vehicle from the roadway to prevent obstructing the regular flow of traffic; provided, however, that the movement of the vehicle to prevent the obstruction of traffic shall not relieve the law-enforcement officer of his duty pursuant to § 46.2-373. A report of the vehicle's location shall be made to the nearest law-enforcement officer as soon as practicable, and the vehicle shall be moved from the roadway to the shoulder as soon as possible and removed from the shoulder without unnecessary delay. If the vehicle is not promptly removed, such removal may be ordered by a law-enforcement officer at the expense of the owner if the disabled vehicle creates a traffic hazard.

**§ 46.2-920.1. Operation of tow trucks or vehicles owned or controlled by the Department of Transportation under certain circumstances; incident management.**

A. When operating at or en route to or from the scene of a traffic accident or similar emergency and when specifically directed by a law-enforcement officer present at the scene of a motor vehicle crash or similar incident, tow truck operators or vehicles owned or controlled by the ~~Virginia~~ Department of Transportation may:

1. Operate on a highway in a direction opposite that otherwise permitted for traffic;
2. Cross medians of divided highways;
3. Use cross-overs and turn-arounds otherwise reserved for use only by authorized vehicles;
4. Drive on a portion of the highway other than the roadway;
5. Stop or stand on any portion of the highway; and
6. Operate in any other manner as directed by a law-enforcement officer at the scene.

B. When operating at, en route to, or from the scene of a traffic accident or similar emergency, a vehicle operated pursuant to a ~~Virginia~~ Department of Transportation safety service patrol program *or pursuant to a contract with the Department of Transportation for, or that includes, traffic incident management services as defined in this subsection*, with due regard to the safety of persons and property and without direction of law enforcement, may overtake and pass stopped or slow-moving vehicles by going off the paved or main traveled portion of the highway on the right or on the left. For purposes of this ~~subsection~~ *chapter and Chapter 12 (§ 46.2-1200 et seq.)*, "safety service patrol program" means a program *or service* sponsored or operated by the ~~Virginia~~ Department of Transportation that assists stranded motorists and provides traffic control during traffic incidents, including traffic accidents and road work, *and "traffic incident management services" means services provided in response to any event or situation on or affecting the Department of Transportation right-of-way that impedes traffic or creates a temporary safety hazard.*

C. Nothing in this section, however, shall (i) immunize the driver of any such vehicle from criminal prosecution for conduct constituting reckless disregard of the safety of persons and property or (ii) release the driver of any such vehicle from any civil liability for failure to use reasonable care in operations permitted in this section. However, drivers of vehicles owned or operated by the ~~Virginia~~ Department of Transportation and employees of the Commonwealth of ~~Virginia~~ are immune from acts of simple negligence for claims of civil liability arising from the operation of such vehicles pursuant to this section.

**§ 46.2-1210. Motor vehicles immobilized by weather conditions, accidents, or emergencies.**

Whenever any motor vehicle, trailer, semitrailer, or combination or part of a motor vehicle, trailer, or semitrailer is immobilized on any roadway by weather conditions, *due to an accident that does not result in injury or death*, or by other emergency situations, the Department of Transportation, *individuals, or entities acting on behalf of a Department of Transportation safety service patrol program as defined in subsection B of § 46.2-920.1 or individuals or entities acting pursuant to a contract with the Department of Transportation for, or that includes, traffic incident management services as defined in subsection B of § 46.2-920.1* may move or have the vehicle removed to some reasonably accessible portion of the adjacent right-of-way off the roadway. Disposition thereafter shall be effected as provided by § 46.2-1209.

**§ 46.2-1212.1. Authority to provide for removal and disposition of vehicles and cargoes of vehicles involved in accidents.**

A. As a result of a motor vehicle accident or incident, the Department of State Police and/or local law-enforcement agency in conjunction with other public safety agencies may, without the consent of the owner or carrier, remove:

1. A vehicle, cargo, or other personal property that has been (i) damaged or spilled within the right-of-way or any portion of a roadway in the primary state highway system and (ii) is blocking the roadway or may otherwise be endangering public safety; or

2. Cargo or personal property that the Department of Transportation, the Department of Emergency Management, or the fire officer in charge has reason to believe is a hazardous material, hazardous waste, or regulated substance as defined by the Virginia Waste Management Act (§ 10.1-1400 et seq.), the Hazardous Materials Transportation Act (49 U.S.C. § 1808 et seq.), or the State Water Control Law (§ 62.1-44.2 et seq.), if the Department of Transportation or applicable person complies with the applicable procedures and instructions defined either by the Department of Emergency Management or the fire officer in charge.

B. The Department of Transportation, *individuals or entities acting on behalf of a Department of Transportation safety service patrol program as defined in subsection B of § 46.2-920.1, individuals or entities acting pursuant to a contract with the Department of Transportation for, or that includes, traffic incident management services as defined in subsection B of § 46.2-920.1, the Department of State Police, the Department of Emergency Management, local law-enforcement agency agencies* and other local public safety agencies and their officers, employees, and agents, and towing and recovery operators operating under the lawful direction of a law-enforcement officer or the Department of Transportation shall not be held responsible for any damages or claims that may result from the failure to exercise any authority granted under this section provided they are acting in good faith.

C. The owner and carrier, if any, of the vehicle, cargo, or personal property removed or disposed of under the authority of this section shall reimburse the Department of Transportation, *individuals or entities acting on behalf of a Department of Transportation safety service patrol program as defined in subsection B of § 46.2-920.1, individuals or entities acting pursuant to a contract with the Department of Transportation for, or that includes, traffic incident management services as defined in 46.2-920.1, the Department of State Police, the Department of Emergency Management, local law-enforcement agency agencies*, and local public safety agencies for all costs incurred in the removal and subsequent disposition of such property.

**CHAPTER 351**

*An Act to amend and reenact § 33.2-2508 of the Code of Virginia, relating to the Northern Virginia Transportation Authority; regional transportation plan.*

[H 2137]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:****1. That § 33.2-2508 of the Code of Virginia is amended and reenacted as follows:****§ 33.2-2508. Responsibilities of Authority for long-range transportation planning.**

In fulfilling the requirements of subdivision 1 of § 33.2-2500, the Authority shall be responsible for long-range transportation planning for regional transportation projects in Northern Virginia. In carrying out this responsibility, the Authority shall, on the basis of a regional consensus whenever possible, set regional transportation policies and priorities for regional transportation projects and, *at least once every five years, shall consider for revision and revise as necessary the regional transportation plan.* The policies and priorities shall have reducing congestion in Planning District 8 as their primary objective to the greatest extent practicable and shall be guided by performance-based criteria such as the ability to improve travel times, reduce delays, connect regional activity centers, improve safety, improve air quality, and move the most people in the most cost-effective manner. *Any obstacles to achieving this objective shall be specified in writing, including any reason relating to the need for cooperation by any locality embraced by (i) the Authority, (ii) the District of Columbia, (iii) the State of Maryland, or (iv) any other regional entity in the metropolitan Washington area.* Each locality embraced by the Authority shall annually inform the Authority about *and the Authority shall annually publish on its website* any land use or transportation elements of its comprehensive plan that are not consistent with the plan required by subdivision 1 of § 33.2-2500. No change in such comprehensive plan shall compel the Authority to alter the plan prepared according to this section.

**2. That the provisions of this act shall become effective on July 1, 2018.****CHAPTER 352**

*An Act to amend and reenact § 24.2-613 of the Code of Virginia, relating to form of ballot; order of independent candidates.*  
[H 2179]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:****1. That § 24.2-613 of the Code of Virginia is amended and reenacted as follows:****§ 24.2-613. Form of ballot.**

A. The ballots shall comply with the requirements of this title and the standards prescribed by the State Board.

B. For elections for federal, statewide, and General Assembly offices only, each candidate who has been nominated by a political party or in a primary election shall be identified by the name of his political party. Independent candidates shall be identified by the term "Independent." For the purpose of this section, any Independent candidate may, by producing sufficient and appropriate evidence of nomination by a "recognized political party" to the State Board, have the term "Independent" on the ballot converted to that of a "recognized political party" on the ballot and be treated on the ballot in a manner consistent with the candidates nominated by political parties. For the purpose of this section, a "recognized political party" is defined as an organization that, for at least six months preceding the filing of its nominee for the office, has had in continual existence a state central committee composed of registered voters residing in each congressional district of the Commonwealth, a party plan and bylaws, and a duly elected state chairman and secretary. A letter from the state chairman of a recognized political party certifying that a candidate is the nominee of that party and also signed by such candidate accepting that nomination shall constitute sufficient and appropriate evidence of nomination by a recognized political party. The name of the political party, the name of the "recognized political party," or term "Independent" may be shown by an initial or abbreviation to meet ballot requirements.

C. Except as provided for primary elections, the State Board shall determine by lot the order of the political parties, and the names of all candidates for a particular office shall appear together in the order determined for their parties. In an election district in which more than one person is nominated by one political party for the same office, the candidates' names shall appear alphabetically in their party groups under the name of the office, with sufficient space between party groups to indicate them as such. For the purpose of this section, except as provided for presidential elections in § 24.2-614, "recognized political parties" shall be treated as a class; the order of the recognized political parties within the class shall be determined by lot by the State Board; and the class shall follow the political parties as defined by § 24.2-101 and precede the independent class. Independent candidates shall be treated as a class under "Independent", and their names shall be placed on the ballot after the political parties and recognized political parties. Where there is more than one independent candidate for an office, their names shall appear ~~alphabetically, except that the names of candidates for school boards elected pursuant to § 22.1-57.3 shall appear~~ on the ballot in an order determined by the priority of time of filing *all required paperwork* for the office. In the event two or more candidates file simultaneously, the order of filing shall then be determined by lot by the electoral board as in the case of a tie vote for the office.

No individual's name shall appear on the ballot more than once for the same office.

D. In preparing the printed ballots for general, special, and primary elections, the State Board and electoral boards shall cause to be printed in not less than 10-point type, immediately below the title of any office, a statement of the number of candidates for whom votes may be cast for that office. For any office to which only one candidate can be elected, the following language shall be used: "Vote for only one." For any office to which more than one candidate can be elected, the following language shall be used: "Vote for not more than \_\_\_\_."

E. Any locality that uses machine-readable ballots at one or more precincts, including any central absentee precinct, may, with the approval of the State Board, use a printed reproduction of the machine-readable ballot in lieu of the official machine-readable ballot. Such reproductions shall be printed and otherwise handled in accordance with all laws and procedures that apply to official paper ballots.

In every county and city using voting systems requiring printed ballots, the electoral board shall furnish a sufficient number of ballots printed on plain white paper, of such form and size as will fit in the ballot frames.

**CHAPTER 353**

*An Act to amend the Code of Virginia by adding a section numbered 29.1-303.2:1, relating to bear hunting; youth resident license.*

[H 2255]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:****1. That the Code of Virginia is amended by adding a section numbered 29.1-303.2:1 as follows:**

**§ 29.1-303.2:1. State junior resident bear hunting license; fee.**

*The Board may create a separate state youth resident license for hunting bear that may be obtained by any resident under the age of 16. The fee for the state youth resident license for hunting bear shall be \$5.50. The license fees established by this section may be revised by the Board pursuant to § 29.1-103.*

*The state youth resident license to hunt bear may be obtained from the clerk or agent of any county or city whose duty it is to sell licenses.*

#### CHAPTER 354

*An Act to amend and reenact § 24.2-236 of the Code of Virginia, relating to officers; automatic suspension upon conviction of felony.*

[H 2364]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 24.2-236 of the Code of Virginia is amended and reenacted as follows:**

**§ 24.2-236. Suspension from office pending hearing and appeal.**

In the event of a judicial proceeding under §§ 24.2-231, 24.2-232, 24.2-233, or 24.2-234, the circuit court may enter an order suspending the officer pending the hearing. *Any officer convicted of a felony under the laws of any state or the United States shall be automatically suspended upon such conviction, regardless of any appeals, pleadings, delays, or motions.* The court may, in its discretion, continue the suspension until the matter is finally disposed of in the Supreme Court or otherwise. During the suspension the court may appoint some suitable person to act in the officer's place. The officer's compensation shall be withheld and kept in a separate account and paid to him if and when the judicial proceedings result in his favor. Otherwise, it shall be paid back to the county, city, town, or State Treasurer who paid it.

**2. That an emergency exists and this act is in force from its passage.**

#### CHAPTER 355

*An Act to amend and reenact §§ 24.2-506 and 24.2-521 of the Code of Virginia, relating to petition signature requirements for candidates in certain towns.*

[H 2397]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 24.2-506 and 24.2-521 of the Code of Virginia are amended and reenacted as follows:**

**§ 24.2-506. Petition of qualified voters required; number of signatures required; certain towns excepted.**

A. The name of any candidate for any office, other than a party nominee, shall not be printed upon any official ballots provided for the election unless he shall file along with his declaration of candidacy a petition therefor, on a form prescribed by the State Board, signed by the number of qualified voters specified ~~below~~ *in this subsection* after January 1 of the year in which the election is held and listing the residence address of each such voter. Each signature on the petition shall have been witnessed by a person who is himself a legal resident of the Commonwealth and who is not a minor or a felon whose voting rights have not been restored and whose affidavit to that effect appears on each page of the petition.

Each voter signing the petition may provide on the petition the last four digits of his social security number, if any; however, noncompliance with this requirement shall not be cause to invalidate the voter's signature on the petition.

The minimum number of signatures of qualified voters required for candidate petitions shall be as follows:

1. For a candidate for the United States Senate, Governor, Lieutenant Governor, or Attorney General, 10,000 signatures, including the signatures of at least 400 qualified voters from each congressional district in the Commonwealth;

2. For a candidate for the United States House of Representatives, 1,000 signatures;

3. For a candidate for the Senate of Virginia, 250 signatures;

4. For a candidate for the House of Delegates or for a constitutional office, 125 signatures;

5. For a candidate for membership on the governing body or elected school board of any county or city, 125 signatures; or if from an election district not at large containing 1,000 or fewer registered voters, 50 signatures;

6. For a candidate for membership on the governing body or elected school board of any town ~~which~~ *that* has more than ~~1,500~~ 3,500 registered voters, 125 signatures; or if from a ward or other district not at large, 25 signatures;

7. *For a candidate for membership on the governing body or elected school board of any town that has at least 1,500 but not more than 3,500 registered voters, 50 signatures; or if from a ward or other district not at large, 25 signatures;*

8. *For a candidate for membership on the governing body or elected school board of any town ~~which~~ that has fewer than 1,500 or fewer registered voters, no petition shall be required;*

~~8.~~ 9. For a candidate for director of a soil and water conservation district created pursuant to Article 3 (§ 10.1-506 et seq.) of Chapter 5 of Title 10.1, 25 signatures; and

~~9.~~ 10. For any other candidate, 50 signatures.

B. The State Board shall approve uniform standards by which petitions filed by a candidate for office, other than a party nominee, are reviewed to determine if the petitions contain sufficient signatures of qualified voters as required in subsection A.

C. If a candidate, other than a party nominee, does not qualify to have his name appear on the ballot by reason of the candidate's filed petition not containing the minimum number of signatures of qualified voters for the office sought, the candidate may appeal that determination within five calendar days of the issuance of the notice of disqualification pursuant to § 24.2-612 or notice from the State Board that the candidate did not meet the requirements to have his name appear on the ballot.

Appeals made by candidates for a county, city, or town office shall be filed with the electoral board. Appeals made by candidates for all other offices shall be filed with the State Board. The appeal shall be heard by the State Board or the electoral board, as appropriate, within five business days of its filing. The electoral board shall notify the State Board of any appeal that is filed with the electoral board.

The State Board shall develop procedures for the conduct of such an appeal. The consideration on appeal shall be limited to whether or not the signatures on the petitions that were filed were reasonably rejected according to the requirements of this title and the uniform standards approved by the State Board for the review of petitions. Immediately after the conclusion of the appeal hearing, the entity conducting the appeal shall notify the candidate and, if applicable, the State Board, of its decision in writing. The decision on appeal shall be final and not subject to further appeal.

**§ 24.2-521. Petition required to accompany declaration; number of signatures required.**

A candidate for nomination by primary for any office shall be required to file with his declaration of candidacy a petition for his name to be printed on the official primary ballot, on a form prescribed by the State Board, signed by the number of qualified voters specified ~~below in this section~~ after January 1 of the year in which the election is held or before or after said date in the case of a March primary, and listing the residence address of each such voter. Each signature on the petition shall have been witnessed by a person who is himself a legal resident of the Commonwealth and who is not a minor or a felon whose voting rights have not been restored and whose affidavit to that effect appears on each page of the petition.

Each voter signing the petition may provide on the petition the last four digits of his social security number, if any; however, noncompliance with this requirement shall not be cause to invalidate the voter's signature on the petition.

The minimum number of signatures of qualified voters required for primary candidate petitions shall be as follows:

1. For a candidate for the United States Senate, Governor, Lieutenant Governor, or Attorney General, 10,000 signatures, including the signatures of at least 400 qualified voters from each congressional district in the Commonwealth;
2. For a candidate for the United States House of Representatives, 1,000 signatures;
3. For a candidate for the Senate of Virginia, 250 signatures;
4. For a candidate for the House of Delegates or for a constitutional office, 125 signatures;
5. For a candidate for membership on the governing body of any county or city, 125 signatures; or if from an election district not at large containing 1,000 or fewer registered voters, 50 signatures;
6. For a candidate for membership on the governing body of any town ~~which~~ that has more than ~~4,500~~ 3,500 registered voters, 125 signatures; or if from a ward or other district not at large, 25 signatures;
7. For a candidate for membership on the governing body of any town that has at least 1,500 but not more than 3,500 registered voters, 50 signatures; or if from a ward or other district not at large, 25 signatures;
8. For a candidate for membership on the governing body of any town ~~which~~ that has fewer than 1,500 ~~or fewer~~ registered voters, no petition shall be required; and
- ~~8.~~ 9. For any other candidate, 50 signatures.

**CHAPTER 356**

*An Act to amend and reenact § 24.2-612 of the Code of Virginia, relating to ballots; number ordered to be printed.*

[H 2415]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 24.2-612 of the Code of Virginia is amended and reenacted as follows:**

**§ 24.2-612. List of offices and candidates filed with Department of Elections and checked for accuracy; when ballots printed; number required.**

Immediately after the expiration of the time provided by law for a candidate for any office to qualify to have his name printed on the official ballot and prior to printing the ballots for an election, each general registrar shall forward to the Department of Elections a list of the county, city, or town offices to be filled at the election and the names of all candidates who have filed for each office. In addition, each general registrar shall forward the name of any candidate who failed to qualify with the reason for his disqualification. On that same day, the general registrar shall also provide a copy of the notice to each disqualified candidate. The notice shall be sent by email or regular mail to the address on the candidate's certificate of candidate qualification, and such notice shall be deemed sufficient. The Department of Elections shall promptly advise

the general registrar of the accuracy of the list. The failure of any general registrar to send the list to the Department of Elections for verification shall not invalidate any election.

Each general registrar shall have printed the number of ballots he determines will be sufficient to conduct the election. Such determination shall be *based on the number of active registered voters and historical election data, including voter turnout, and shall be* subject to the approval by the electoral board.

Notwithstanding any other provisions of this title, the Department of Elections may print or otherwise provide one statewide paper ballot style for each paper ballot style in use for presidential and vice-presidential electors for use only by persons eligible to vote for those offices only under § 24.2-402 or only for federal elections under § 24.2-453. The Department of Elections may apportion or authorize the printer or vendor to apportion the costs for these ballots among the localities based on the number of ballots ordered. Any printer employed by the Department of Elections shall execute the statement required by § 24.2-616. The Department of Elections shall designate a representative to be present at the printing of such ballots and deliver them to the appropriate general registrars pursuant to § 24.2-617. Upon receipt of such paper ballots, the electoral board or the general registrar shall affix the seal of the electoral board. Thereafter, such ballots shall be handled and accounted for, and the votes counted as the Department of Elections shall specifically direct.

The general registrar shall make printed ballots available for absentee voting not later than 45 days prior to any election or within three business days of the receipt of a properly completed absentee ballot application, whichever is later. In the case of a special election, excluding for federal offices, if time is insufficient to meet the applicable deadline established herein, then the general registrar shall make printed ballots available as soon after the deadline as possible. For the purposes of this chapter, making printed ballots available includes mailing of such ballots or electronic transmission of such ballots pursuant to § 24.2-706 to a qualified absentee voter who is eligible for an absentee ballot under subdivision 2 of § 24.2-700. Not later than five days after absentee ballots are made available, each general registrar shall report to the Department of Elections, in writing on a form approved by the Department of Elections, whether he has complied with the applicable deadline.

Only the names of candidates for offices to be voted on in a particular election district shall be printed on the ballots for that election district.

The general registrar shall send to the Department of Elections a statement of the number of ballots ordered to be printed, proofs of each printed ballot for verification, and copies of each final ballot. If the Department of Elections finds that, in its opinion, the number of ballots ordered to be printed by any general registrar is not sufficient, it may direct the general registrar to order the printing of a reasonable number of additional ballots.

## CHAPTER 357

*An Act to amend and reenact § 46.2-916.2 of the Code of Virginia, relating to golf carts on public highways; exceptions.*

[H 2423]

Approved March 13, 2017

### **Be it enacted by the General Assembly of Virginia:**

#### **1. That § 46.2-916.2 of the Code of Virginia is amended and reenacted as follows:**

##### **§ 46.2-916.2. Designation of public highways for golf cart and utility vehicle operations.**

A. No portion of the public highways may be designated for use by golf carts and utility vehicles unless the governing body of the county, city, or town in which that portion of the highway is located has reviewed and approved such highway usage.

B. The governing body of any county, city or town may by ordinance authorize the operation of golf carts and utility vehicles on designated public highways within its boundaries after (i) considering the speed, volume, and character of motor vehicle traffic using such highways and (ii) determining that golf cart and utility vehicle operation on particular highways is compatible with state and local transportation plans and consistent with the Commonwealth's Statewide Pedestrian Policy provided for in § 33.2-354.

C. Notwithstanding the other provisions of this section, no town that has not established its own police department, as defined in § 9.1-165, may authorize the operation of golf carts or utility vehicles. The provision of this subsection shall not apply to the Towns of Claremont, Clifton, Irvington, Jarratt, Saxis, Urbanna, or Wachapreague.

D. No public highway shall be designated for use by golf carts and utility vehicles if such golf cart and utility vehicle operations will impede the safe and efficient flow of motor vehicle traffic.

E. The county, city or town that has authorized the operation of golf carts or utility vehicles shall be responsible for the installation and continuing maintenance of any signs pertaining to the operation of golf carts or utility vehicles. Such county, city or town may include in its ordinance for designating highways the ability to recover its costs of the signs and maintenance pertaining thereto from organizations, individuals or entities requesting the designations. The cost of installation and continuing maintenance of any signs pertaining to the operation of golf carts or utility vehicles shall not be paid by the Virginia Department of Transportation.

F. Notwithstanding the other provisions of this section, employees of the Department of Conservation and Recreation may operate golf carts and utility vehicles on those portions of public highways located within Department of Conservation and Recreation property and on Virginia Department of Transportation-maintained highways that are adjacent to

Department of Conservation and Recreation property, provided the golf cart or utility vehicle is being operated on highways with speed limits of no more than 35 miles per hour.

### CHAPTER 358

*An Act to amend the Code of Virginia by adding in Article 2 of Chapter 2 of Title 2.2 a section numbered 2.2-203.2:3, relating to the Secretary of Administration; policy of the Commonwealth regarding state employment of individuals with disabilities; report.*

[H 2425]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding in Article 2 of Chapter 2 of Title 2.2 a section numbered 2.2-203.2:3 as follows:**

**§ 2.2-203.2:3. Policy of the Commonwealth regarding the employment of individuals with disabilities; responsibilities of state agencies; report.**

A. As used in this section, "state agency" means any agency, institution, board, bureau, commission, council, or instrumentality of state government in the executive branch.

B. It shall be the policy of the Commonwealth to promote and increase the employment of individuals with disabilities directly employed at all levels and occupations by state agencies, institutions, boards, and authorities of the Commonwealth. To assist in achieving this policy, it shall be the goal of the Commonwealth to increase by five percent the level of employment of individuals with disabilities by the state by fiscal year 2023. The Secretary shall coordinate and lead efforts to achieve the goals of the Commonwealth established by this section.

C. To further this goal, the Commonwealth shall:

1. Use available hiring authorities, consistent with statutes, regulations, and prior executive orders;
2. Increase efforts to accommodate individuals with disabilities within state government employment by increasing the retention and return to work of individuals with disabilities;
3. Expand existing efforts for the recruitment, accommodation, retention, and advancement of individuals with disabilities for positions available in state government;
4. Designate senior-level staff within each state agency to be responsible for increasing the employment of individuals with disabilities within the state agency; and
5. Require state agencies to prepare a plan to increase employment opportunities at the agencies for individuals with disabilities.

D. Each state agency shall submit a plan to increase employment opportunities for individuals with disabilities to the Secretary no later than December 31, 2017, and each July 1 thereafter. The Secretary shall (i) establish guidelines regarding the development and content of state agency plans and (ii) establish a reporting system for tracking and reporting the progress of state agencies toward meeting the employment goals of the Commonwealth established by this section.

E. All state agencies shall examine existing policies relating to the employment of individuals with disabilities, including a review of recruitment efforts, interviewing criteria, testing procedures, and resources to accommodate applicants and workers with disabilities.

F. Nothing in this section shall be construed to require (i) the creation of new positions or the changing of existing qualification standards for any position or (ii) any state employee or applicant for state employment to disclose his disability status involuntarily.

G. The Secretary, in collaboration with the Department of Human Resource Management, shall develop an annual report on the number of individuals with disabilities directly employed by the state agencies. The information shall be included in the annual demographic report of the Department of Human Resource Management.

H. The Secretary shall report on the progress of state agencies toward meeting the employment goals of the Commonwealth to the Governor and the Chairmen of the House Committee on Appropriations and the Senate Committee on Finance by July 1 of each year.

### CHAPTER 359

*An Act to amend and reenact § 2.2-3202 of the Code of Virginia, relating to the Workforce Transition Act; eligibility.*

[H 2428]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 2.2-3202 of the Code of Virginia is amended and reenacted as follows:**

**§ 2.2-3202. Eligibility for transitional severance benefit.**

A. Any full-time employee of the Commonwealth (i) whose position is covered by the Virginia Personnel Act (§ 2.2-2900 et seq.), (ii) whose position is exempt from the Virginia Personnel Act pursuant to subdivisions 2, 4 (except

those persons specified in subsection C of this section), 7, 15 or 16 of § 2.2-2905, (iii) who is employed by the State Corporation Commission, (iv) who is employed by the Virginia Workers' Compensation Commission, (v) who is employed by the Virginia Retirement System, (vi) who is employed by the Virginia Lottery, (vii) who is employed by the Medical College of Virginia Hospitals or the University of Virginia Medical Center, (viii) who is employed at a state educational institution as faculty (including, but not limited to, presidents and teaching and research faculty) as defined in the Consolidated Salary Authorization for Faculty Positions in Institutions of Higher Education, 1994-95, or (ix) whose position is exempt from the Virginia Personnel Act pursuant to subdivision 3 ~~or~~, 20, or 23 of § 2.2-2905; and (a) for whom reemployment with the Commonwealth is not possible because there is no available position for which the employee is qualified or the position offered to the employee requires relocation or a reduction in salary and (b) whose involuntary separation was due to causes other than job performance or misconduct, shall be eligible, under the conditions specified, for the transitional severance benefit conferred by this chapter. The date of involuntary separation shall mean the date an employee was terminated from employment or placed on leave without pay-layoff or equivalent status.

B. An otherwise eligible employee whose position is contingent upon project grants as defined in the Catalogue of Federal Domestic Assistance, shall not be eligible for the transitional severance benefit conferred by this chapter unless the funding source had agreed to assume all financial responsibility therefor in its written contract with the Commonwealth.

C. Members of the Judicial Retirement System (§ 51.1-300 et seq.) and officers elected by popular vote shall not be eligible for the transitional severance benefit conferred by this chapter.

D. Eligibility shall commence on the date of involuntary separation.

E. Persons authorized by § 2.2-106 or 51.1-124.22 to appoint a chief administrative officer or the administrative head of an agency shall adhere to the same criteria for eligibility for transitional severance benefits as is required for gubernatorial appointees pursuant to subsection A.

### CHAPTER 360

*An Act to amend and reenact § 29.1-735.2 of the Code of Virginia, relating to boating safety education; database.*

[S 866]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 29.1-735.2. of the Code of Virginia is amended and reenacted as follows:**

**§ 29.1-735.2. Boating safety education required; Board to promulgate regulations.**

A. No person shall operate a motorboat with a motor of 10 horsepower or greater or personal watercraft on the public waters of the Commonwealth, unless the operator has met the requirements for boating safety education in accordance with the age provisions established in subsection D.

B. A person shall be considered in compliance with the requirements for boating safety education if the person meets one of the following:

1. Completes and passes a boating safety course approved by the National Association of State Boating Law Administrators (NASBLA) and accepted by the Department;
2. Passes a proctored equivalency examination that tests the knowledge of information included in the curriculum of an approved course;
3. Possesses a valid license to operate a vessel issued to maritime personnel by the United States Coast Guard or a marine certificate issued by the Canadian government;
4. Possesses a state-approved nonrenewable temporary operator's certificate to operate a motorboat for 90 days that was issued with the certificate of number for the motorboat, if the boat is new or was sold with a transfer of ownership;
5. Possesses a rental or lease agreement from a motorboat rental or leasing business, which lists the person as the authorized operator of the motorboat;
6. Operates the motorboat under onboard direct supervision of a person who meets the requirements of this section;
7. Demonstrates that he is not a resident, is temporarily using the waters of Virginia for a period not to exceed 90 days, and meets any applicable boating safety education requirements of the state of residency, or possesses a Canadian Pleasure Craft Operator's Card;
8. Has assumed operation of the motorboat due to the illness or physical impairment of the initial operator, and is returning the motorboat to shore in order to provide assistance or care for the operator;
9. Is registered as a commercial fisherman pursuant to § 28.2-241 or a person who is under the onboard direct supervision of the commercial fisherman while operating the commercial fisherman's boat;
10. Provides documentation that he is serving or has qualified as a surface warfare officer or enlisted surface warfare specialist in the United States Navy; or
11. Provides documentation that he is serving or has qualified as an Officer of the Deck Underway, boat coxswain, boat officer, boat operator, watercraft operator, or Marine Deck Officer in any branch of the Armed Forces of the United States, United States Coast Guard, or Merchant Marine.

C. The Board shall promulgate regulations by July 1, 2008, to implement a boating safety education program for all motorboat and personal watercraft operators to meet boating safety education requirements.

D. Such regulations shall include provisions that phase-in the requirements for boating safety education according to the following:

1. Personal watercraft operators 20 years of age or younger to meet the requirements by July 1, 2009;
2. Personal watercraft operators 35 years of age or younger to meet the requirements by July 1, 2010;
3. Personal watercraft operators 50 years of age or younger to meet the requirements by July 1, 2011;
4. All personal watercraft operators, regardless of age, to meet the requirements by July 1, 2012;
5. Motorboat operators 20 years of age or younger to meet the requirements by July 1, 2011;
6. Motorboat operators 30 years of age or younger to meet the requirements by July 1, 2012;
7. Motorboat operators 40 years of age or younger to meet the requirements by July 1, 2013;
8. Motorboat operators 45 years of age or younger to meet the requirements by July 1, 2014;
9. Motorboat operators 50 years of age or younger to meet the requirements by July 1, 2015; and
10. All motorboat operators, regardless of age, to meet the requirements by July 1, 2016.

E. Such regulations may include, but not be limited to, provisions for compliance, statewide availability of NASBLA-approved courses including through the Internet, the issuance of certificates to document successful course completion, duplicate certificates, recordkeeping, requirements for course providers, instructor certification, student name and address changes, equivalency exam criteria, provisions for an open-book test for classroom based courses, requirements for motorboat rental and leasing businesses, issuance of a temporary operator's certificate, and the establishment of fees (not to exceed the cost of giving such instruction for each person participating in and receiving the instruction) for boating safety courses and certificates.

F. The Board shall consult and coordinate with the boating public, professional organizations for recreational boating safety, and the boating retail, leasing, and dealer business community in the promulgation of such regulations.

G. *The Department shall, by July 1, 2018, establish and thereafter shall maintain a database listing every person who, at any time prior to that date, has completed and passed a boating safety course pursuant to subdivision B 1. The database shall list each person's full name and date of birth and the date on which he passed the safety course, and it shall allow any person who completes and passes the course after July 1, 2018, to add his own information. The Department shall make the database available to law-enforcement officers and, to the extent possible or appropriate, shall maintain the confidentiality of information in the database.*

H. Any person who operates a motorboat on the waters of the Commonwealth shall, upon the request of a law-enforcement officer, present to the officer evidence in physical or electronic form that he has complied with subsection B. *The law-enforcement officer shall not issue a citation until he has checked the boating safety course passage database created pursuant to subsection G. The listing of the operator in such database shall constitute satisfactory evidence that he has complied with subsection B.*

H. I. Any person who violates any provision of this section or any regulation promulgated hereunder shall be subject to a civil penalty of \$100. All civil penalties assessed under this section shall be deposited in the Motorboat and Water Safety Fund of the Game Protection Fund and used as provided for in § 29.1-701.

J. The provisions of this section shall not apply to law-enforcement officers while they are engaged in the performance of their official duties.

**CHAPTER 361**

*An Act to amend and reenact § 18.2-313.2 of the Code of Virginia, relating to the introduction of snakehead fish; penalty.*

[S 906]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 18.2-313.2 of the Code of Virginia is amended and reenacted as follows:**

**§ 18.2-313.2. Introduction of snakehead fish or zebra mussel; penalty.**

Any person who knowingly introduces into ~~the Commonwealth~~ *state waters* any snakehead fish of the family Channidae, or knowingly places or causes to be placed into state waters any zebra mussel (*Dreissena polymorpha*) or the larvae thereof, without a permit from the Director of Game and Inland Fisheries issued pursuant to § 29.1-575 is guilty of a Class 1 misdemeanor.

**CHAPTER 362**

*An Act to amend and reenact § 46.2-1600 of the Code of Virginia, relating to nonrepairable and rebuilt vehicles.*

[S 950]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 46.2-1600 of the Code of Virginia is amended and reenacted as follows:**

**§ 46.2-1600. Definitions.**

The following words, terms, and phrases when used in this chapter shall have the meaning ascribed to them in this section, except where the context indicates otherwise:

"Actual cash value," as applied to a vehicle, means the retail cash value of the vehicle prior to damage as determined, using recognized evaluation sources, either (i) by an insurance company responsible for paying a claim or (ii) if no insurance company is responsible therefor, by the Department.

"Auto recycler" means any person licensed by the Commonwealth to engage in business as a salvage dealer, rebuilder, demolisher, or scrap metal processor.

~~"Cosmetic damage," as applied to a vehicle, means damage to custom or performance aftermarket equipment, audio-visual accessories, nonfactory-sized tires and wheels, custom paint, and external hail damage. "Cosmetic damage" does not include (i) damage to original equipment and parts installed by the manufacturer or (ii) damage that requires any repair to enable a vehicle to pass a safety inspection pursuant to § 46.2-1157. The cost for cosmetic damage repair shall not be included in the cost to repair the vehicle when determining the calculation for a nonrepairable vehicle.~~

"Current salvage value," as applied to a vehicle, means (i) the salvage value of the vehicle, as determined by the insurer responsible for paying the claim, or (ii) if no insurance company is responsible therefor, 25 percent of the actual cash value.

"Demolisher" means any person whose business is to crush, flatten, bale, shred, log, or otherwise reduce a vehicle to a state where it can no longer be considered a vehicle.

"Diminished value compensation" means the amount of compensation that an insurance company pays to a third party vehicle owner, in addition to the cost of repairs, for the reduced value of a vehicle due to damage.

"Independent appraisal firm" means any business providing cost estimates for the repair of damaged motor vehicles for insurance purposes and having all required business licenses and zoning approvals. This term shall not include insurance companies that provide the same service, nor shall any such entity be a rebuilder or affiliated with a rebuilder.

"Late model vehicle" means the current-year model of a vehicle and the five preceding model years, or any vehicle whose actual cash value is determined to have been at least \$10,000 prior to being damaged.

"Licensee" means any person who is licensed or is required to be licensed under this chapter.

"Major component" means any one of the following subassemblies of a motor vehicle: (i) front clip assembly, consisting of the fenders, grille, hood, bumper, and related parts; (ii) engine; (iii) transmission; (iv) rear clip assembly, consisting of the quarter panels, floor panels, trunk lid, bumper, and related parts; (v) frame; (vi) air bags; and (vii) any door that displays a vehicle identification number.

"Nonrepairable certificate" means a document of ownership issued by the Department for any nonrepairable vehicle upon surrender or cancellation of the vehicle's title and registration or salvage certificate.

~~"Nonrepairable vehicle" means (i) any late model vehicle that has been damaged and whose estimated cost of repair, excluding the cost to repair cosmetic damages, exceeds 90 percent of its actual cash value prior to damage; (ii) any vehicle that has been determined to be nonrepairable by its insurer or owner, and for which a nonrepairable certificate has been issued or applied for; or (iii) any other vehicle that has been damaged, is inoperable, and has to have no value except for use as parts and scrap metal or for which a nonrepairable certificate has been issued or applied for.~~

"Rebuilder" means any person who acquires and repairs, for use on the public highways, two or more salvage vehicles within a 12-month period.

~~"Rebuilt vehicle" means (i) any salvage vehicle that has been repaired for use on the public highways and the estimated cost of repair did not exceed 90 percent of its actual cash value or (ii) any late model vehicle that has been repaired and the estimated cost of repair exceeded 75 percent of its actual cash value, excluding the cost to repair damage to the engine, transmission, or drive axle assembly.~~

"Repairable vehicle" means a late model vehicle that is not a rebuilt vehicle, but is repaired to its pre-loss condition by an insurance company and is not accepted by the owner of said vehicle immediately prior to its acquisition by said insurance company as part of the claims process.

"Salvage certificate" means a document of ownership issued by the Department for any salvage vehicle upon surrender or cancellation of the vehicle's title and registration.

"Salvage dealer" means any person who acquires any vehicle for the purpose of reselling any parts thereof.

"Salvage pool" means any person providing a storage service for salvage vehicles or nonrepairable vehicles who either displays the vehicles for resale or solicits bids for the sale of salvage vehicles or nonrepairable vehicles, but this definition shall not apply to an insurance company that stores and displays fewer than 100 salvage vehicles and nonrepairable vehicles in one location; however, any two or more insurance companies who display salvage and nonrepairable vehicles for resale, using the same facilities, shall be considered a salvage pool.

"Salvage vehicle" means (i) any late model vehicle that has been (a) acquired by an insurance company as a part of the claims process other than a stolen vehicle or (b) damaged as a result of collision, fire, flood, accident, trespass, or any other occurrence to such an extent that its estimated cost of repair, excluding charges for towing, storage, and temporary replacement/rental vehicle or payment for diminished value compensation, would exceed its actual cash value less its current salvage value; (ii) any recovered stolen vehicle acquired by an insurance company as a part of the claims process, whose estimated cost of repair exceeds 75 percent of its actual cash value; or (iii) any other vehicle that is determined to be a salvage vehicle by its owner or an insurance company by applying for a salvage certificate for the vehicle, provided that such vehicle is not a nonrepairable vehicle.

"Scrap metal processor" means any person who acquires one or more whole vehicles to process into scrap for remelting purposes who, from a fixed location, utilizes machinery and equipment for processing and manufacturing ferrous and nonferrous metallic scrap into prepared grades, and whose principal product is metallic scrap.

"Vehicle" shall have the meaning ascribed to it in § 46.2-100. A vehicle that has been demolished or declared to be nonrepairable pursuant to this chapter shall no longer be considered a vehicle. For the purposes of this chapter, a major component shall not be considered a vehicle.

"Vehicle removal operator" means any person who acquires a vehicle for the purpose of reselling it to a demolisher, scrap metal processor, or salvage dealer.

**2. That the Department of Motor Vehicles shall compile a report delineating the number of salvage and nonrepairable certificates issued in the Commonwealth of Virginia for the fiscal years from July 2, 2014, through June 30, 2017, and the number of salvage and nonrepairable certificates issued in the Commonwealth of Virginia for fiscal years July 1, 2017, through June 30, 2020, to determine whether there is any impact on the number of nonrepairable vehicles. Such report shall include any other available data. The Department shall submit the report to the Chairmen of the House and Senate Committees on Transportation no later than December 1, 2020.**

**3. That the provisions of this act shall expire on July 1, 2021.**

**CHAPTER 363**

*An Act to amend and reenact § 29.1-336 of the Code of Virginia, relating to bear, deer, and turkey hunting license; electronic carry.*

[S 968]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 29.1-336 of the Code of Virginia is amended and reenacted as follows:**

**§ 29.1-336. Carrying licenses and certificates; penalty.**

A. Every person who is issued a hunting, trapping, or fishing license shall carry the license on his person while hunting, trapping, or fishing. Persons who have been issued such licenses and fail to carry them when required shall be guilty of a Class 4 misdemeanor.

B. Any person who is 16 years of age or older and who is (i) required to present a certificate of completion in hunter education to obtain a hunting license pursuant to § 29.1-300.1, and (ii) issued a hunting license by telephone, the Internet, or other electronic or computerized means, shall also carry such certificate on his person while hunting.

C. Any person who is 12 years of age through 15 years of age, and is issued a hunting license by telephone, the Internet, or other electronic or computerized means, shall carry his certificate of completion in hunter education on his person while hunting, unless he is accompanied and directly supervised by an adult who has, on his person, a valid Virginia hunting license and certificate if required under subsection B.

D. For purposes of this section and § 29.1-337, "carry" means possess a hard copy or electronic copy of the license or certificate; ~~except that any license for bear, deer, or turkey required by § 29.1-305 shall be possessed in hard copy.~~

**CHAPTER 364**

*An Act to amend and reenact § 24.2-613 of the Code of Virginia, relating to form of ballot; order of independent candidates.*

[S 1104]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 24.2-613 of the Code of Virginia is amended and reenacted as follows:**

**§ 24.2-613. Form of ballot.**

A. The ballots shall comply with the requirements of this title and the standards prescribed by the State Board.

B. For elections for federal, statewide, and General Assembly offices only, each candidate who has been nominated by a political party or in a primary election shall be identified by the name of his political party. Independent candidates shall be identified by the term "Independent." For the purpose of this section, any Independent candidate may, by producing sufficient and appropriate evidence of nomination by a "recognized political party" to the State Board, have the term "Independent" on the ballot converted to that of a "recognized political party" on the ballot and be treated on the ballot in a manner consistent with the candidates nominated by political parties. For the purpose of this section, a "recognized political party" is defined as an organization that, for at least six months preceding the filing of its nominee for the office, has had in continual existence a state central committee composed of registered voters residing in each congressional district of the Commonwealth, a party plan and bylaws, and a duly elected state chairman and secretary. A letter from the state chairman of a recognized political party certifying that a candidate is the nominee of that party and also signed by such candidate accepting that nomination shall constitute sufficient and appropriate evidence of nomination by a recognized political party.

The name of the political party, the name of the "recognized political party," or term "Independent" may be shown by an initial or abbreviation to meet ballot requirements.

C. Except as provided for primary elections, the State Board shall determine by lot the order of the political parties, and the names of all candidates for a particular office shall appear together in the order determined for their parties. In an election district in which more than one person is nominated by one political party for the same office, the candidates' names shall appear alphabetically in their party groups under the name of the office, with sufficient space between party groups to indicate them as such. For the purpose of this section, except as provided for presidential elections in § 24.2-614, "recognized political parties" shall be treated as a class; the order of the recognized political parties within the class shall be determined by lot by the State Board; and the class shall follow the political parties as defined by § 24.2-101 and precede the independent class. Independent candidates shall be treated as a class under "Independent", and their names shall be placed on the ballot after the political parties and recognized political parties. Where there is more than one independent candidate for an office, their names shall appear ~~alphabetically, except that the names of candidates for school boards elected pursuant to § 22.1-57.3 shall appear~~ on the ballot in an order determined by the priority of time of filing *all required paperwork* for the office. In the event two or more candidates file simultaneously, the order of filing shall then be determined by lot by the electoral board as in the case of a tie vote for the office.

No individual's name shall appear on the ballot more than once for the same office.

D. In preparing the printed ballots for general, special, and primary elections, the State Board and electoral boards shall cause to be printed in not less than 10-point type, immediately below the title of any office, a statement of the number of candidates for whom votes may be cast for that office. For any office to which only one candidate can be elected, the following language shall be used: "Vote for only one." For any office to which more than one candidate can be elected, the following language shall be used: "Vote for not more than \_\_\_\_."

E. Any locality that uses machine-readable ballots at one or more precincts, including any central absentee precinct, may, with the approval of the State Board, use a printed reproduction of the machine-readable ballot in lieu of the official machine-readable ballot. Such reproductions shall be printed and otherwise handled in accordance with all laws and procedures that apply to official paper ballots.

In every county and city using voting systems requiring printed ballots, the electoral board shall furnish a sufficient number of ballots printed on plain white paper, of such form and size as will fit in the ballot frames.

## CHAPTER 365

*An Act to amend and reenact § 28.2-618 of the Code of Virginia, relating to oyster grounds; dredging projects.*

[S 1143]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 28.2-618 of the Code of Virginia is amended and reenacted as follows:**

**§ 28.2-618. Commonwealth guarantees rights of renter subject to right of fishing.**

The Commonwealth shall guarantee to any person who has complied with ground assignment requirements the absolute right to continue to use and occupy the ground for the term of the lease, subject to:

1. Section 28.2-613;
2. Riparian rights;
3. The right of fishing in waters above the bottoms, provided (i) that no person exercising the right of fishing shall use any device which is fixed to the bottom, or which, in any way, interferes with the renter's rights or damages the bottoms, or the oysters planted thereon, and (ii) that crab pots and gill nets which are not staked to the bottom shall not be considered devices which are fixed to the bottom unless the crab pots and gill nets are used over planted oyster beds in waters of less than four feet at mean low water on the seaside of Northampton and Accomack Counties; ~~and~~
4. Established fishing stands, but only if the fishing stand license fee is timely received from the existing licensee of the fishing stand and no new applicant shall have priority over the oyster lease. However, a fishing stand location assigned prior to the lease of the oyster ground is a vested interest, a chattel real, and an inheritable right which may be transferred or assigned whenever the current licensee complies with all existing laws; *and*

*5. Municipal dredging projects located in the Lynnhaven River or its creeks and tributaries, including dredging projects to restore existing navigation channels in areas approved by the Commission. Such projects shall be limited to grounds that are condemned, restricted, or otherwise nonproductive. The locality shall compensate the lessee for the use of the ground, and if the parties cannot agree on a compensation amount, a court of competent jurisdiction shall determine the value of the ground as of the date it is first disturbed.*

**2. That the provisions of this act shall expire on July 1, 2019.**

## CHAPTER 366

An Act to amend and reenact § 29.1-509 of the Code of Virginia, relating to landowner liability; recreational access.

[S 1224]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 29.1-509 of the Code of Virginia is amended and reenacted as follows:**

**§ 29.1-509. Duty of care and liability for damages of landowners to hunters, fishermen, sightseers, etc.**

A. For the purpose of this section:

"Fee" means any payment or payments of money to a landowner for use of the premises or in order to engage in any activity described in subsections B and C, but does not include license fees, insurance fees, handling fees, transaction fees, administrative fees, rentals or similar fees received by a landowner from governmental, not-for-profit, or private sources, or payments received by a landowner for rights of ingress and egress or from incidental sales of forest products to an individual for his personal use, or any action taken by another to improve the land or access to the land for the purposes set forth in subsections B and C or remedying damage caused by such uses.

"Land" or "premises" means real property or right-of-way, whether rural or urban, waters, boats, private ways, natural growth, trees, railroad property, railroad right-of-way, utility corridor, and any building or structure which might be located on such real property, waters, boats, private ways and natural growth.

"Landowner" means the legal title holder, any easement holder, lessee, occupant or any other person in control of land or premises, including railroad rights-of-way.

"Low-head dam" means a dam that is built across a river or stream for the purpose of impounding water where the impoundment, at normal flow levels, is completely within the banks, and all flow passes directly over the entire dam structure within the banks, excluding abutments, to a natural channel downstream.

B. A landowner shall owe no duty of care to keep land or premises safe for entry or use by others for hunting, fishing, trapping, camping, participation in water sports, boating, hiking, rock climbing, sightseeing, hang gliding, skydiving, horseback riding, foxhunting, racing, bicycle riding or collecting, gathering, cutting or removing firewood, for any other recreational use, for ingress and egress over such premises to permit passage to other property used for recreational purposes or for use of an easement granted to the Commonwealth or any agency thereof or any not-for-profit organization granted tax-exempt status under § 501(c)(3) of the Internal Revenue Code to permit public passage across such land for access to a public park, historic site, or other public recreational area. No landowner shall be required to give any warning of hazardous conditions or uses of, structures on, or activities on such land or premises to any person entering on the land or premises for such purposes, except as provided in subsection D. The provisions of this subsection apply without regard to whether the landowner has given permission to a person to use their land for recreational purposes.

C. Any landowner who gives permission, express or implied, to another person to hunt, fish, launch and retrieve boats, swim, ride, foxhunt, trap, camp, hike, bicycle, rock climb, hang glide, skydive, sightsee, engage in races, to collect, gather, cut or remove forest products upon land or premises for the personal use of such person, or for the use of an easement or license as set forth in subsection B does not thereby:

1. Impliedly or expressly represent that the premises are safe for such purposes; or
2. Constitute the person to whom such permission has been granted an invitee or licensee to whom a duty of care is owed; or
3. Assume responsibility for or incur liability for any intentional or negligent acts of such person or any other person, except as provided in subsection D.

D. Nothing contained in this section, except as provided in subsection E, shall limit the liability of a landowner which may otherwise arise or exist by reason of his gross negligence or willful or malicious failure to guard or warn against a dangerous condition, use, structure, or activity. The provisions of this section shall not limit the liability of a landowner which may otherwise arise or exist when the landowner receives a fee for use of the premises or to engage in any activity described in subsections B and C. Nothing contained in this section shall relieve any sponsor or operator of any sporting event or competition including but not limited to a race or triathlon of the duty to exercise ordinary care in such events. Nothing contained in this section shall limit the liability of an owner of a low-head dam who fails to implement safety measures described in subsection F.

E. For purposes of this section, whenever any ~~person enters~~ *landowner has entered* into an agreement with, or grants an easement or license to, the Commonwealth or any agency thereof, any locality, any not-for-profit organization granted tax-exempt status under § 501(c)(3) of the Internal Revenue Code, or any local or regional authority created by law for public park, historic site, or recreational purposes, concerning the use of, or access over, his land by the public for any of the purposes enumerated in subsections B and C, *such landowner shall be immune from liability to any member of the public arising out of such member's use of such land for any such purpose, and* the government, agency locality, not-for-profit organization, or authority with which the agreement is made shall indemnify and hold the landowner harmless from all liability and be responsible for providing, or for paying the cost of, all reasonable legal services required by any person entitled to the benefit of this section as the result of a claim or suit attempting to impose liability. Any action against the Commonwealth, or any agency thereof, ~~for negligence arising out of a use of land or railroad rights-of-way covered by this~~

~~section~~ shall be subject to the provisions of the Virginia Tort Claims Act (§ 8.01-195.1 et seq.). Any provisions in a lease or other agreement which purports to waive the benefits of this section shall be invalid, and any action against any county, city, town, or local or regional authority shall be subject to the provisions of § 15.2-1809, where applicable.

F. Any owner of a low-head dam may mark the areas above and below the dam and on the banks immediately adjacent to the dam with signs and buoys of a design and content, in accordance with the regulations of the Board, to warn the swimming, fishing, and boating public of the hazards posed by the dam. Any owner of a low-head dam who marks a low-head dam in accordance with this subsection shall be deemed to have met the duty of care for warning the public of the hazards posed by the dam. Any owner of a low-head dam who fails to mark a low-head dam in accordance with this subsection shall be presumed not to have met the duty of care for warning the public of the hazards posed by the dam.

### CHAPTER 367

*An Act to amend and reenact § 24.2-671.1 of the Code of Virginia, relating to annual audit of ballot scanner machines.*

[S 1254]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 24.2-671.1 of the Code of Virginia is amended and reenacted as follows:**

**§ 24.2-671.1. Audits of ballot scanner machines.**

A. ~~The State Board Department of Elections shall be authorized to conduct~~ *coordinate* a post-election risk-limiting audit ~~annually of one or more~~ ballot scanner machines ~~in one or more precincts in one or more localities with respect to an election in which the margin between the top two candidates for each office on the ballot exceeds 10 percent, with the consent of the electoral board of the locality, notwithstanding any other provision of law to the contrary in use in the Commonwealth. The localities selected for the audit shall be chosen at random with every locality participating in the Department's annual audit at least once during a five-year period.~~ The ~~purposes~~ purpose of the audits shall be to study the accuracy of ballot scanner machines.

B. No audit *conducted pursuant to this section* shall commence until after the election has been certified and the period to initiate a recount has expired without the initiation of a recount; ~~unless such audit is being conducted as part of a voting system certification.~~ An audit shall have no effect on the election results.

C. All audits *conducted pursuant to this section* shall be performed *by the local electoral boards and general registrars* in accordance with the procedures prescribed by the ~~State Board Department~~ *under the supervision of the local electoral board*. The procedures established by the ~~State Board Department~~ shall include its procedures for conducting hand counts of ballots. Candidates and political parties may have representatives observe the audits.

D. *The local electoral boards shall report the results of the audit of the ballot scanner machines in their jurisdiction to the Department.* At the conclusion of each audit, the ~~local electoral board Department~~ shall ~~announce publicly the results of the audit of the machines in its jurisdiction~~ *submit a report to the State Board.* The ~~announcement~~ report shall include a comparison of the audited election results and the initial tally for each machine audited; and an analysis of any detected discrepancies.

**2. That the provisions of this act shall become effective on July 1, 2018.**

### CHAPTER 368

*An Act to amend and reenact §§ 10.1-1197.5, 10.1-1197.6, and 10.1-1197.8 of the Code of Virginia, relating to small renewable energy projects; environmental permit by rule process.*

[S 1395]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 10.1-1197.5, 10.1-1197.6, and 10.1-1197.8 of the Code of Virginia are amended and reenacted as follows:**

**§ 10.1-1197.5. Definitions.**

As used in this article, "small renewable energy project" means (i) an electrical generation facility with a rated capacity not exceeding ~~400~~ 150 megawatts that generates electricity only from sunlight; or wind; (ii) *an electrical generation facility with a rated capacity not exceeding 100 megawatts that generates electricity only from falling water, wave motion, tides, or geothermal power;* or ~~(ii)~~ (iii) an electrical generation facility with a rated capacity not exceeding 20 megawatts that generates electricity only from biomass, energy from waste, or municipal solid waste.

**§ 10.1-1197.6. Permit by rule for small renewable energy projects.**

A. Notwithstanding the provisions of § 10.1-1186.2:1, the Department shall develop, by regulations to be effective as soon as practicable, but not later than July 1, 2012, a permit by rule or permits by rule if it is determined by the Department that one or more such permits by rule are necessary for the construction and operation of small renewable energy projects, including such conditions and standards necessary to protect the Commonwealth's natural resources. If the Department determines that more than a single permit by rule is necessary, the Department initially shall develop the permit by rule for

wind energy, which shall be effective as soon as practicable, but not later than January 1, 2011. Subsequent permits by rule regulations shall be effective as soon as practicable.

B. The conditions for issuance of the permit by rule for small renewable energy projects shall include:

1. A notice of intent provided by the applicant, to be published in the Virginia Register, that a person intends to submit the necessary documentation for a permit by rule for a small renewable energy project;

2. A certification by the governing body of the locality or localities wherein the small renewable energy project will be located that the project complies with all applicable land use ordinances;

3. Copies of all interconnection studies undertaken by the regional transmission organization or transmission owner, or both, on behalf of the small renewable energy project;

4. A copy of the final interconnection agreement between the small renewable energy project and the regional transmission organization or transmission owner indicating that the connection of the small renewable energy project will not cause a reliability problem for the system. If the final agreement is not available, the most recent interconnection study shall be sufficient for the purposes of this section. When a final interconnection agreement is complete, it shall be provided to the Department. The Department shall forward a copy of the agreement or study to the State Corporation Commission;

5. A certification signed by a professional engineer licensed in Virginia that the maximum generation capacity of the small renewable energy project by (i) *an electrical generation facility that generates electricity only from sunlight or wind as designed does not exceed 150 megawatts*; (ii) *an electrical generation facility that generates electricity only from sunlight, wind, falling water, wave motion, tides, or geothermal power as designed does not exceed 100 megawatts*; or ~~(ii)~~ (iii) *an electrical generation facility that generates electricity only from biomass, energy from waste, or municipal solid waste as designed does not exceed 20 megawatts*;

6. An analysis of potential environmental impacts of the small renewable energy project's operations on attainment of national ambient air quality standards;

7. Where relevant, an analysis of the beneficial and adverse impacts of the proposed project on natural resources. For wildlife, that analysis shall be based on information on the presence, activity, and migratory behavior of wildlife to be collected at the site for a period of time dictated by the site conditions and biology of the wildlife being studied, not exceeding 12 months;

8. If the Department determines that the information collected pursuant to subdivision B 7 indicates that significant adverse impacts to wildlife or historic resources are likely, the submission of a mitigation plan detailing reasonable actions to be taken by the owner or operator to avoid, minimize, or otherwise mitigate such impacts, and to measure the efficacy of those actions;

9. A certification signed by a professional engineer licensed in Virginia that the small renewable energy project is designed in accordance with all of the standards that are established in the regulations applicable to the permit by rule;

10. An operating plan describing how any standards established in the regulations applicable to the permit by rule will be achieved;

11. A detailed site plan with project location maps that show the location of all components of the small renewable energy project, including any towers. Changes to the site plan that occur after the applicant has submitted an application shall be allowed by the Department without restarting the application process, if the changes were the result of optimizing technical, environmental, and cost considerations, do not materially alter the environmental effects caused by the facility, or do not alter any other environmental permits that the Commonwealth requires the applicant to obtain;

12. A certification signed by the applicant that the small renewable energy project has applied for or obtained all necessary environmental permits;

13. A requirement that the applicant hold a public meeting. The public meeting shall be held in the locality or, if the project is located in more than one locality in a place proximate to the location of the proposed project. Following the public meeting, the applicant shall prepare a report summarizing the issues raised at the meeting, including any written comments received. The report shall be provided to the Department; and

14. A 30-day public review and comment period prior to authorization of the project.

C. The Department's regulations shall establish a schedule of fees, to be payable by the owner or operator of the small renewable energy project regulated under this article, which fees shall be assessed for the purpose of funding the costs of administering and enforcing the provisions of this article associated with such operations including, but not limited to, the inspection and monitoring of such projects to ensure compliance with this article.

D. The owner or operator of a small renewable energy project regulated under this article shall be assessed a permit fee in accordance with the criteria set forth in the Department's regulations. Such fees shall include an additional amount to cover the Department's costs of inspecting such projects.

E. The fees collected pursuant to this article shall be used only for the purposes specified in this article and for funding purposes authorized by this article to abate impairments or impacts on the Commonwealth's natural resources directly caused by small renewable energy projects.

F. There is hereby established a special, nonreverting fund in the state treasury to be known as the Small Renewable Energy Project Fee Fund, hereafter referred to as the Fund. Notwithstanding the provisions of § 2.2-1802, all moneys collected pursuant to this § 10.1-1197.6 shall be paid into the state treasury to the credit of the Fund. Any moneys remaining in the Fund shall not revert to the general fund but shall remain in the Fund. Interest earned on such moneys shall remain in

the Fund and be credited to it. The Fund shall be exempt from statewide indirect costs charged and collected by the Department of Accounts.

G. After the effective date of regulations adopted pursuant to this section, no person shall erect, construct, materially modify or operate a small renewable energy project except in accordance with this article or Title 56 if the small renewable energy project was approved pursuant to Title 56.

H. Any small renewable energy project shall be eligible for permit by rule under this section if the project is proposed, developed, constructed, or purchased by a person that is not a utility regulated pursuant to Title 56.

I. Any small renewable energy project commencing operations after July 1, 2017, shall be eligible for permits by rule under this section and is exempt from State Corporation Commission environmental review or permitting in accordance with subsection B of § 10.1-1197.8 or other applicable law if the project is proposed, developed, constructed, or purchased by:

1. A public utility if the project's costs are not recovered from Virginia jurisdictional customers under base rates, a fuel factor charge under § 56-249.6, or a rate adjustment clause under subdivision A 6 of § 56-585.1; or

2. A utility aggregation cooperative formed under Article 2 (§ 56-231.38 et seq.) of Chapter 9.1 of Title 56.

**§ 10.1-1197.8. Limitation of State Corporation Commission authority.**

A. If the owner or operator of a small renewable energy project to whom for which the Department has authorized a permit by rule pursuant to this article is not a utility regulated pursuant to Title 56, then the State Corporation Commission shall not have jurisdiction to review the small renewable energy project or to condition the construction or operation of a small renewable energy project upon the State Corporation Commission's issuance of any permit or certificate under any provision of Title 56, provided that the State Corporation Commission shall retain jurisdiction to resolve requests for joint use of the rights of way of public service corporations pursuant to § 56-259 and denials of requests for interconnection of facilities pursuant to § 56-578.

B. If the owner or operator of a small renewable energy project to whom for which the Department has authorized a permit by rule pursuant to this article is a utility regulated pursuant to Title 56, such small renewable energy project shall be exempt from any provision of § 56-46.1 and any corresponding provision of subsection D of § 56-580 or Chapter 10.1 (§ 56-265.1 et seq.) of Title 56 that requires environmental review and permitting by the State Corporation Commission. An owner or operator of a small renewable energy project that is a utility regulated pursuant to Title 56 granted a permit by rule pursuant to subsection I of § 10.1-1197.6, shall nonetheless not be required to obtain a certificate of public convenience and necessity pursuant to subsection D of § 56-580 or the Utility Facilities Act (§ 56-265.1 et seq.). Nothing in this section shall affect the jurisdiction of the State Corporation Commission regarding a utility that is not eligible for a permit by rule, or the requirement of such utility to obtain a certificate of public convenience and necessity.

**CHAPTER 369**

An Act to amend and reenact § 24.2-236 of the Code of Virginia, relating to officers; automatic suspension upon conviction of felony.

[S 1487]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 24.2-236 of the Code of Virginia is amended and reenacted as follows:**

**§ 24.2-236. Suspension from office pending hearing and appeal.**

In the event of a judicial proceeding under §§ 24.2-231, 24.2-232, 24.2-233, or 24.2-234, the circuit court may enter an order suspending the officer pending the hearing. Any officer convicted of a felony under the laws of any state or the United States shall be automatically suspended upon such conviction, regardless of any appeals, pleadings, delays, or motions. The court may, in its discretion, continue the suspension until the matter is finally disposed of in the Supreme Court or otherwise. During the suspension the court may appoint some suitable person to act in the officer's place. The officer's compensation shall be withheld and kept in a separate account and paid to him if and when the judicial proceedings result in his favor. Otherwise, it shall be paid back to the county, city, town, or State Treasurer who paid it.

**2. That an emergency exists and this act is in force from its passage.**

**CHAPTER 370**

An Act to amend and reenact § 46.2-100 of the Code of Virginia, relating to manufactured homes; definition.

[S 1497]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 46.2-100 of the Code of Virginia is amended and reenacted as follows:**

**§ 46.2-100. Definitions.**

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

"All-terrain vehicle" means a motor vehicle having three or more wheels that is powered by a motor and is manufactured for off-highway use. "All-terrain vehicle" does not include four-wheeled vehicles commonly known as "go-carts" that have low centers of gravity and are typically used in racing on relatively level surfaces, nor does the term include any riding lawn mower.

"Antique motor vehicle" means every motor vehicle, as defined in this section, which was actually manufactured or designated by the manufacturer as a model manufactured in a calendar year not less than 25 years prior to January 1 of each calendar year and is owned solely as a collector's item.

"Antique trailer" means every trailer or semitrailer, as defined in this section, that was actually manufactured or designated by the manufacturer as a model manufactured in a calendar year not less than 25 years prior to January 1 of each calendar year and is owned solely as a collector's item.

"Autocycle" means a three-wheeled motor vehicle that has a steering wheel and seating that does not require the operator to straddle or sit astride and is manufactured to comply with federal safety requirements for motorcycles. Except as otherwise provided, an autocycle shall not be deemed to be a motorcycle.

"Automobile or watercraft transporters" means any tractor truck, lowboy, vehicle, or combination, including vehicles or combinations that transport motor vehicles or watercraft on their power unit, designed and used exclusively for the transportation of motor vehicles or watercraft.

"Bicycle" means a device propelled solely by human power, upon which a person may ride either on or astride a regular seat attached thereto, having two or more wheels in tandem, including children's bicycles, except a toy vehicle intended for use by young children. For purposes of Chapter 8 (§ 46.2-800 et seq.), a bicycle shall be a vehicle while operated on the highway.

"Bicycle lane" means that portion of a roadway designated by signs and/or pavement markings for the preferential use of bicycles, electric power-assisted bicycles, and mopeds.

"Business district" means the territory contiguous to a highway where 75 percent or more of the property contiguous to a highway, on either side of the highway, for a distance of 300 feet or more along the highway, is occupied by land and buildings actually in use for business purposes.

"Camping trailer" means every vehicle that has collapsible sides and contains sleeping quarters but may or may not contain bathing and cooking facilities and is designed to be drawn by a motor vehicle.

"Cancel" or "cancellation" means that the document or privilege cancelled has been annulled or terminated because of some error, defect, or ineligibility, but the cancellation is without prejudice and reapplication may be made at any time after cancellation.

"Chauffeur" means every person employed for the principal purpose of driving a motor vehicle and every person who drives a motor vehicle while in use as a public or common carrier of persons or property.

"Circular intersection" means an intersection that has an island, generally circular in design, located in the center of the intersection, where all vehicles pass to the right of the island. Circular intersections include roundabouts, rotaries, and traffic circles.

"Commission" means the State Corporation Commission.

"Commissioner" means the Commissioner of the Department of Motor Vehicles of the Commonwealth.

"Converted electric vehicle" means any motor vehicle, other than a motorcycle or autocycle, that has been modified subsequent to its manufacture to replace an internal combustion engine with an electric propulsion system. Such vehicles shall retain their original vehicle identification number, line-make, and model year. A converted electric vehicle shall not be deemed a "reconstructed vehicle" as defined in this section unless it has been materially altered from its original construction by the removal, addition, or substitution of new or used essential parts other than those required for the conversion to electric propulsion.

"Crosswalk" means that part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs or, in the absence of curbs, from the edges of the traversable roadway; or any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

"Decal" means a device to be attached to a license plate that validates the license plate for a predetermined registration period.

"Department" means the Department of Motor Vehicles of the Commonwealth.

"Disabled parking license plate" means a license plate that displays the international symbol of access in the same size as the numbers and letters on the plate and in a color that contrasts with the background.

"Disabled veteran" means a veteran who (i) has either lost, or lost the use of, a leg, arm, or hand; (ii) is blind; or (iii) is permanently and totally disabled as certified by the U.S. Department of Veterans Affairs. A veteran shall be considered blind if he has a permanent impairment of both eyes to the following extent: central visual acuity of 20/200 or less in the better eye, with corrective lenses, or central visual acuity of more than 20/200, if there is a field defect in which the peripheral field has contracted to such an extent that the widest diameter of visual field subtends an angular distance no greater than 20 degrees in the better eye.

"Driver's license" means any license, including a commercial driver's license as defined in the Virginia Commercial Driver's License Act (§ 46.2-341.1 et seq.), issued under the laws of the Commonwealth authorizing the operation of a motor vehicle.

"Electric personal assistive mobility device" means a self-balancing two-nontandem-wheeled device that is designed to transport only one person and powered by an electric propulsion system that limits the device's maximum speed to 15 miles per hour or less. For purposes of Chapter 8 (§ 46.2-800 et seq.), an electric personal assistive mobility device shall be a vehicle when operated on a highway.

"Electric power-assisted bicycle" means a vehicle that travels on not more than three wheels in contact with the ground and is equipped with (i) pedals that allow propulsion by human power and (ii) an electric motor with an input of no more than 1,000 watts that reduces the pedal effort required of the rider. For the purposes of Chapter 8 (§ 46.2-800 et seq.), an electric power-assisted bicycle shall be a vehicle when operated on a highway.

"Essential parts" means all integral parts and body parts, the removal, alteration, or substitution of which will tend to conceal the identity of a vehicle.

"Farm tractor" means every motor vehicle designed and used as a farm, agricultural, or horticultural implement for drawing plows, mowing machines, and other farm, agricultural, or horticultural machinery and implements, including self-propelled mowers designed and used for mowing lawns.

"Farm utility vehicle" means a vehicle that is powered by a motor and is designed for off-road use and is used as a farm, agricultural, or horticultural service vehicle, generally having four or more wheels, bench seating for the operator and a passenger, a steering wheel for control, and a cargo bed. "Farm utility vehicle" does not include pickup or panel trucks, golf carts, low-speed vehicles, or riding lawn mowers.

"Federal safety requirements" means applicable provisions of 49 U.S.C. § 30101 et seq. and all administrative regulations and policies adopted pursuant thereto.

"Financial responsibility" means the ability to respond in damages for liability thereafter incurred arising out of the ownership, maintenance, use, or operation of a motor vehicle, in the amounts provided for in § 46.2-472.

"Foreign market vehicle" means any motor vehicle originally manufactured outside the United States, which was not manufactured in accordance with 49 U.S.C. § 30101 et seq. and the policies and regulations adopted pursuant to that Act, and for which a Virginia title or registration is sought.

"Foreign vehicle" means every motor vehicle, trailer, or semitrailer that is brought into the Commonwealth otherwise than in the ordinary course of business by or through a manufacturer or dealer and that has not been registered in the Commonwealth.

"Golf cart" means a self-propelled vehicle that is designed to transport persons playing golf and their equipment on a golf course.

"Governing body" means the board of supervisors of a county, council of a city, or council of a town, as context may require.

"Gross weight" means the aggregate weight of a vehicle or combination of vehicles and the load thereon.

"Highway" means the entire width between the boundary lines of every way or place open to the use of the public for purposes of vehicular travel in the Commonwealth, including the streets and alleys, and, for law-enforcement purposes, (i) the entire width between the boundary lines of all private roads or private streets that have been specifically designated "highways" by an ordinance adopted by the governing body of the county, city, or town in which such private roads or streets are located and (ii) the entire width between the boundary lines of every way or place used for purposes of vehicular travel on any property owned, leased, or controlled by the United States government and located in the Commonwealth.

"Intersection" means (i) the area embraced within the prolongation or connection of the lateral curblines or, if none, then the lateral boundary lines of the roadways of two highways that join one another at, or approximately at, right angles, or the area within which vehicles traveling on different highways joining at any other angle may come in conflict; (ii) where a highway includes two roadways 30 feet or more apart, then every crossing of each roadway of such divided highway by an intersecting highway shall be regarded as a separate intersection, in the event such intersecting highway also includes two roadways 30 feet or more apart, then every crossing of two roadways of such highways shall be regarded as a separate intersection; or (iii) for purposes only of authorizing installation of traffic-control devices, every crossing of a highway or street at grade by a pedestrian crosswalk.

"Lane-use control signal" means a signal face displaying indications to permit or prohibit the use of specific lanes of a roadway or to indicate the impending prohibition of such use.

"Law-enforcement officer" means any officer authorized to direct or regulate traffic or to make arrests for violations of this title or local ordinances authorized by law. For the purposes of access to law-enforcement databases regarding motor vehicle registration and ownership only, "law-enforcement officer" also includes city and county commissioners of the revenue and treasurers, together with their duly designated deputies and employees, when such officials are actually engaged in the enforcement of §§ 46.2-752, 46.2-753, and 46.2-754 and local ordinances enacted thereunder.

"License plate" means a device containing letters, numerals, or a combination of both, attached to a motor vehicle, trailer, or semitrailer to indicate that the vehicle is properly registered with the Department.

"Light" means a device for producing illumination or the illumination produced by the device.

"Low-speed vehicle" means any four-wheeled electrically powered or gas-powered vehicle, except a motor vehicle or low-speed vehicle that is used exclusively for agricultural or horticultural purposes or a golf cart, whose maximum speed is greater than 20 miles per hour but not greater than 25 miles per hour and is manufactured to comply with safety standards contained in Title 49 of the Code of Federal Regulations, § 571.500.

"Manufactured home" means a structure subject to federal regulation, transportable in one or more sections, which in the traveling mode is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein. *"Manufactured home" does not include a park model recreational vehicle, which is a vehicle that is (i) designed and marketed as temporary living quarters for recreational, camping, travel, or seasonal use; (ii) not permanently affixed to real property for use as a permanent dwelling; (iii) built on a single chassis mounted on wheels; and (iv) certified by the manufacturer as complying with the American National Standards Institute (ANSI) A119.5 Park Model Recreational Vehicle Standard.*

"Moped" means every vehicle that travels on not more than three wheels in contact with the ground that (i) has a seat that is no less than 24 inches in height, measured from the middle of the seat perpendicular to the ground; (ii) has a gasoline, electric, or hybrid motor that (a) displaces 50 cubic centimeters or less or (b) has an input of 1500 watts or less; (iii) is power-driven, with or without pedals that allow propulsion by human power; and (iv) is not operated at speeds in excess of 35 miles per hour. For purposes of this title, a moped shall be a motorcycle when operated at speeds in excess of 35 miles per hour. For purposes of Chapter 8 (§ 46.2-800 et seq.), a moped shall be a vehicle while operated on a highway.

"Motor-driven cycle" means every motorcycle that has a gasoline engine that (i) displaces less than 150 cubic centimeters; (ii) has a seat less than 24 inches in height, measured from the middle of the seat perpendicular to the ground; and (iii) has no manufacturer-issued vehicle identification number.

"Motor home" means every private motor vehicle with a normal seating capacity of not more than 10 persons, including the driver, designed primarily for use as living quarters for human beings.

"Motor vehicle" means every vehicle as defined in this section that is self-propelled or designed for self-propulsion except as otherwise provided in this title. Any structure designed, used, or maintained primarily to be loaded on or affixed to a motor vehicle to provide a mobile dwelling, sleeping place, office, or commercial space shall be considered a part of a motor vehicle. Except as otherwise provided, for the purposes of this title, any device herein defined as a bicycle, electric personal assistive mobility device, electric power-assisted bicycle, or moped shall be deemed not to be a motor vehicle.

"Motorcycle" means every motor vehicle designed to travel on not more than three wheels in contact with the ground and is capable of traveling at speeds in excess of 35 miles per hour. "Motorcycle" does not include any "autocycle," "electric personal assistive mobility device," "electric power-assisted bicycle," "farm tractor," "golf cart," "moped," "motorized skateboard or foot-scooter," "utility vehicle," or "wheelchair or wheelchair conveyance" as defined in this section.

"Motorized skateboard or foot-scooter" means every vehicle, regardless of the number of its wheels in contact with the ground, that (i) has no seat, but is designed to be stood upon by the operator, (ii) has no manufacturer-issued vehicle identification number, and (iii) is powered by an electric motor having an input of no more than 1,000 watts or a gasoline engine that displaces less than 36 cubic centimeters. "Motorized skateboard or foot-scooter" includes vehicles with or without handlebars but does not include "electric personal assistive mobility devices."

"Nonresident" means every person who is not domiciled in the Commonwealth, except: (i) any foreign corporation that is authorized to do business in the Commonwealth by the State Corporation Commission shall be a resident of the Commonwealth for the purpose of this title; in the case of corporations incorporated in the Commonwealth but doing business outside the Commonwealth, only such principal place of business or branches located within the Commonwealth shall be dealt with as residents of the Commonwealth; (ii) a person who becomes engaged in a gainful occupation in the Commonwealth for a period exceeding 60 days shall be a resident for the purposes of this title except for the purposes of Chapter 3 (§ 46.2-300 et seq.); (iii) a person, other than (a) a nonresident student as defined in this section or (b) a person who is serving a full-time church service or proselyting mission of not more than 36 months and who is not gainfully employed, who has actually resided in the Commonwealth for a period of six months, whether employed or not, or who has registered a motor vehicle, listing an address in the Commonwealth in the application for registration, shall be deemed a resident for the purposes of this title, except for the purposes of the Virginia Commercial Driver's License Act (§ 46.2-341.1 et seq.).

"Nonresident student" means every nonresident person who is enrolled as a full-time student in an accredited institution of learning in the Commonwealth and who is not gainfully employed.

"Off-road motorcycle" means every motorcycle designed exclusively for off-road use by an individual rider with not more than two wheels in contact with the ground. Except as otherwise provided in this chapter, for the purposes of this chapter off-road motorcycles shall be deemed to be "motorcycles."

"Operation or use for rent or for hire, for the transportation of passengers, or as a property carrier for compensation," and "business of transporting persons or property" mean any owner or operator of any motor vehicle, trailer, or semitrailer operating over the highways in the Commonwealth who accepts or receives compensation for the service, directly or indirectly; but these terms do not mean a "truck lessor" as defined in this section and do not include persons or businesses that receive compensation for delivering a product that they themselves sell or produce, where a separate charge is made for delivery of the product or the cost of delivery is included in the sale price of the product, but where the person or business does not derive all or a substantial portion of its income from the transportation of persons or property except as part of a sales transaction.

"Operator" or "driver" means every person who either (i) drives or is in actual physical control of a motor vehicle on a highway or (ii) is exercising control over or steering a vehicle being towed by a motor vehicle.

"Owner" means a person who holds the legal title to a vehicle; however, if a vehicle is the subject of an agreement for its conditional sale or lease with the right of purchase on performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee or if a mortgagor of a vehicle is entitled to possession, then the conditional vendee or lessee or mortgagor shall be the owner for the purpose of this title. In all such instances when the rent paid by the lessee includes charges for services of any nature or when the lease does not provide that title shall pass to the lessee on payment of the rent stipulated, the lessor shall be regarded as the owner of the vehicle, and the vehicle shall be subject to such requirements of this title as are applicable to vehicles operated for compensation. A "truck lessor" as defined in this section shall be regarded as the owner, and his vehicles shall be subject to such requirements of this title as are applicable to vehicles of private carriers.

"Passenger car" means every motor vehicle other than a motorcycle or autocycle designed and used primarily for the transportation of no more than 10 persons, including the driver.

"Payment device" means any credit card as defined in 15 U.S.C. § 1602 (k) or any "accepted card or other means of access" set forth in 15 U.S.C. § 1693a (1). For the purposes of this title, this definition shall also include a card that enables a person to pay for transactions through the use of value stored on the card itself.

"Pickup or panel truck" means (i) every motor vehicle designed for the transportation of property and having a registered gross weight of 7,500 pounds or less or (ii) every motor vehicle registered for personal use, designed to transport property on its own structure independent of any other vehicle, and having a registered gross weight in excess of 7,500 pounds but not in excess of 10,000 pounds.

"Private road or driveway" means every way in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

"Reconstructed vehicle" means every vehicle of a type required to be registered under this title materially altered from its original construction by the removal, addition, or substitution of new or used essential parts. Such vehicles, at the discretion of the Department, shall retain their original vehicle identification number, line-make, and model year. Except as otherwise provided in this title, this definition shall not include a "converted electric vehicle" as defined in this section.

"Replica vehicle" means every vehicle of a type required to be registered under this title not fully constructed by a licensed manufacturer but either constructed or assembled from components. Such components may be from a single vehicle, multiple vehicles, a kit, parts, or fabricated components. The kit may be made up of "major components" as defined in § 46.2-1600, a full body, or a full chassis, or a combination of these parts. The vehicle shall resemble a vehicle of distinctive name, line-make, model, or type as produced by a licensed manufacturer or manufacturer no longer in business and is not a reconstructed or specially constructed vehicle as herein defined.

"Residence district" means the territory contiguous to a highway, not comprising a business district, where 75 percent or more of the property abutting such highway, on either side of the highway, for a distance of 300 feet or more along the highway consists of land improved for dwelling purposes, or is occupied by dwellings, or consists of land or buildings in use for business purposes, or consists of territory zoned residential or territory in residential subdivisions created under Chapter 22 (§ 15.2-2200 et seq.) of Title 15.2.

"Revoke" or "revocation" means that the document or privilege revoked is not subject to renewal or restoration except through reapplication after the expiration of the period of revocation.

"Roadway" means that portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of the shoulder. A highway may include two or more roadways if divided by a physical barrier or barriers or an unpaved area.

"Safety zone" means the area officially set apart within a roadway for the exclusive use of pedestrians and that is protected or is so marked or indicated by plainly visible signs.

"School bus" means any motor vehicle, other than a station wagon, automobile, truck, or commercial bus, which is: (i) designed and used primarily for the transportation of pupils to and from public, private or religious schools, or used for the transportation of the mentally or physically handicapped to and from a sheltered workshop; (ii) painted yellow and bears the words "School Bus" in black letters of a specified size on front and rear; and (iii) is equipped with warning devices prescribed in § 46.2-1090. A yellow school bus may have a white roof provided such vehicle is painted in accordance with regulations promulgated by the Department of Education.

"Semitrailer" means every vehicle of the trailer type so designed and used in conjunction with a motor vehicle that some part of its own weight and that of its own load rests on or is carried by another vehicle.

"Shared-use path" means a bikeway that is physically separated from motorized vehicular traffic by an open space or barrier and is located either within the highway right-of-way or within a separate right-of-way. Shared-use paths may also be used by pedestrians, skaters, users of wheel chairs or wheel chair conveyances, joggers, and other nonmotorized users.

"Shoulder" means that part of a highway between the portion regularly traveled by vehicular traffic and the lateral curbline or ditch.

"Sidewalk" means the portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines, intended for use by pedestrians.

"Snowmobile" means a self-propelled vehicle designed to travel on snow or ice, steered by skis or runners, and supported in whole or in part by one or more skis, belts, or cleats.

"Special construction and forestry equipment" means any vehicle which is designed primarily for highway construction, highway maintenance, earth moving, timber harvesting or other construction or forestry work and which is not designed for the transportation of persons or property on a public highway.

"Specially constructed vehicle" means any vehicle that was not originally constructed under a distinctive name, make, model, or type by a generally recognized manufacturer of vehicles and not a reconstructed vehicle as herein defined.

"Stinger-steered automobile or watercraft transporter" means an automobile or watercraft transporter configured as a semitrailer combination wherein the fifth wheel is located on a drop frame behind and below the rearmost axle of the power unit.

"Superintendent" means the Superintendent of the Department of State Police of the Commonwealth.

"Suspend" or "suspension" means that the document or privilege suspended has been temporarily withdrawn, but may be reinstated following the period of suspension unless it has expired prior to the end of the period of suspension.

"Tow truck" means a motor vehicle for hire (i) designed to lift, pull, or carry another vehicle by means of a hoist or other mechanical apparatus and (ii) having a manufacturer's gross vehicle weight rating of at least 10,000 pounds. "Tow truck" also includes vehicles designed with a ramp on wheels and a hydraulic lift with a capacity to haul or tow another vehicle, commonly referred to as "rollback." "Tow truck" does not include any "automobile or watercraft transporter," "stinger-steered automobile or watercraft transporter," or "tractor truck" as those terms are defined in this section.

"Towing and recovery operator" means a person engaged in the business of (i) removing disabled vehicles, parts of vehicles, their cargoes, and other objects to facilities for repair or safekeeping and (ii) restoring to the highway or other location where they either can be operated or removed to other locations for repair or safekeeping vehicles that have come to rest in places where they cannot be operated.

"Toy vehicle" means any motorized or propellant-driven device that has no manufacturer-issued vehicle identification number that is designed or used to carry any person or persons, on any number of wheels, bearings, glides, blades, runners, or a cushion of air. "Toy vehicle" does not include electric personal assistive mobility devices, electric power-assisted bicycles, mopeds, or motorcycles, nor does it include any nonmotorized or nonpropellant-driven devices such as bicycles, roller skates, or skateboards.

"Tractor truck" means every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the load and weight of the vehicle attached thereto.

"Traffic control device" means a sign, signal, marking, or other device used to regulate, warn, or guide traffic placed on, over, or adjacent to a street, highway, private road open to public travel, pedestrian facility, or shared-use path by authority of a public agency or official having jurisdiction, or in the case of a private road open to public travel, by authority of the private owner or private official having jurisdiction.

"Traffic infraction" means a violation of law punishable as provided in § 46.2-113, which is neither a felony nor a misdemeanor.

"Traffic lane" or "lane" means that portion of a roadway designed or designated to accommodate the forward movement of a single line of vehicles.

"Trailer" means every vehicle without motive power designed for carrying property or passengers wholly on its own structure and for being drawn by a motor vehicle, including manufactured homes.

"Truck" means every motor vehicle designed to transport property on its own structure independent of any other vehicle and having a registered gross weight in excess of 7,500 pounds. "Truck" does not include any pickup or panel truck.

"Truck lessor" means a person who holds the legal title to any motor vehicle, trailer, or semitrailer that is the subject of a bona fide written lease for a term of one year or more to another person, provided that: (i) neither the lessor nor the lessee is a common carrier by motor vehicle or restricted common carrier by motor vehicle or contract carrier by motor vehicle as defined in § 46.2-2000; (ii) the leased motor vehicle, trailer, or semitrailer is used exclusively for the transportation of property of the lessee; (iii) the lessor is not employed in any capacity by the lessee; (iv) the operator of the leased motor vehicle is a bona fide employee of the lessee and is not employed in any capacity by the lessor; and (v) a true copy of the lease, verified by affidavit of the lessor, is filed with the Commissioner.

"Utility vehicle" means a motor vehicle that is (i) designed for off-road use, (ii) powered by a motor, and (iii) used for general maintenance, security, agricultural, or horticultural purposes. "Utility vehicle" does not include riding lawn mowers.

"Vehicle" means every device in, on or by which any person or property is or may be transported or drawn on a highway, except devices moved by human power or used exclusively on stationary rails or tracks. For the purposes of Chapter 8 (§ 46.2-800 et seq.), bicycles, electric personal assistive mobility devices, electric power-assisted bicycles, and mopeds shall be vehicles while operated on a highway.

"Wheel chair or wheel chair conveyance" means a chair or seat equipped with wheels, typically used to provide mobility for persons who, by reason of physical disability, are otherwise unable to move about as pedestrians. "Wheel chair or wheel chair conveyance" includes both three-wheeled and four-wheeled devices. So long as it is operated only as provided in § 46.2-677, a self-propelled wheel chair or self-propelled wheel chair conveyance shall not be considered a motor vehicle.

## CHAPTER 371

*An Act to amend the Code of Virginia by adding in Article 2 of Chapter 2 of Title 2.2 a section numbered 2.2-203.2:3, relating to the Secretary of Administration; policy of the Commonwealth regarding state employment of individuals with disabilities; report.*

[S 1530]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding in Article 2 of Chapter 2 of Title 2.2 a section numbered 2.2-203.2:3 as follows:**

**§ 2.2-203.2:3. Policy of the Commonwealth regarding the employment of individuals with disabilities; responsibilities of state agencies; report.**

A. As used in this section, "state agency" means any agency, institution, board, bureau, commission, council, or instrumentality of state government in the executive branch.

B. It shall be the policy of the Commonwealth to promote and increase the employment of individuals with disabilities directly employed at all levels and occupations by state agencies, institutions, boards, and authorities of the Commonwealth. To assist in achieving this policy, it shall be the goal of the Commonwealth to increase by five percent the level of employment of individuals with disabilities by the state by fiscal year 2023. The Secretary shall coordinate and lead efforts to achieve the goals of the Commonwealth established by this section.

C. To further this goal, the Commonwealth shall:

1. Use available hiring authorities, consistent with statutes, regulations, and prior executive orders;
2. Increase efforts to accommodate individuals with disabilities within state government employment by increasing the retention and return to work of individuals with disabilities;
3. Expand existing efforts for the recruitment, accommodation, retention, and advancement of individuals with disabilities for positions available in state government;
4. Designate senior-level staff within each state agency to be responsible for increasing the employment of individuals with disabilities within the state agency; and
5. Require state agencies to prepare a plan to increase employment opportunities at the agencies for individuals with disabilities.

D. Each state agency shall submit a plan to increase employment opportunities for individuals with disabilities to the Secretary no later than December 31, 2017, and each July 1 thereafter. The Secretary shall (i) establish guidelines regarding the development and content of state agency plans and (ii) establish a reporting system for tracking and reporting the progress of state agencies toward meeting the employment goals of the Commonwealth established by this section.

E. All state agencies shall examine existing policies relating to the employment of individuals with disabilities, including a review of recruitment efforts, interviewing criteria, testing procedures, and resources to accommodate applicants and workers with disabilities.

F. Nothing in this section shall be construed to require (i) the creation of new positions or the changing of existing qualification standards for any position or (ii) any state employee or applicant for state employment to disclose his disability status involuntarily.

G. The Secretary, in collaboration with the Department of Human Resource Management, shall develop an annual report on the number of individuals with disabilities directly employed by the state agencies. The information shall be included in the annual demographic report of the Department of Human Resource Management.

H. The Secretary shall report on the progress of state agencies toward meeting the employment goals of the Commonwealth to the Governor and the Chairmen of the House Committee on Appropriations and the Senate Committee on Finance by July 1 of each year.

## CHAPTER 372

*An Act to amend and reenact § 46.2-755 of the Code of Virginia, relating to motor vehicle license fees; exemption of antique vehicles.*

[S 1532]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 46.2-755 of the Code of Virginia is amended and reenacted as follows:**

**§ 46.2-755. Limitations on imposition of motor vehicle license taxes and fees.**

- A. No locality shall impose any motor vehicle license tax or fee on any motor vehicle, trailer, or semitrailer when:
1. A similar tax or fee is imposed by the locality wherein the vehicle is normally garaged, stored, or parked;

2. The vehicle is owned by a nonresident of such locality and is used exclusively for pleasure or personal transportation or as a TNC partner vehicle as defined in § 46.2-2000 and not otherwise for hire or for the conduct of any business or occupation other than that set forth in subdivision 3;

3. The vehicle is (i) owned by a nonresident and (ii) used for transporting into and within the locality, for sale in person or by his employees, wood, meats, poultry, fruits, flowers, vegetables, milk, butter, cream, or eggs produced or grown by him, and not purchased by him for sale;

4. The motor vehicle, trailer, or semitrailer is owned by an officer or employee of the Commonwealth who is a nonresident of such locality and who uses the vehicle in the performance of his duties for the Commonwealth under an agreement for such use;

5. The motor vehicle, trailer, or semitrailer is kept by a dealer or manufacturer for sale or for sales demonstration;

6. The motor vehicle, trailer, or semitrailer is operated by a common carrier of persons or property operating between cities and towns in the Commonwealth and not in intracity transportation or between cities and towns on the one hand and points and places outside cities and towns on the other and not in intracity transportation; ~~or~~

7. The motor vehicle, trailer, or semitrailer is inoperable and unlicensed pursuant to § 46.2-734; *or*

8. *The motor vehicle, trailer, or semitrailer qualifies and is licensed as an antique vehicle pursuant to § 46.2-730.*

B. No locality shall impose a license fee for any one motor vehicle owned and used personally by any veteran who holds a current state motor vehicle registration card establishing that he has received a disabled veteran's exemption from the Department and has been issued a disabled veteran's motor vehicle license plate as prescribed in § 46.2-739.

C. No locality shall impose any license tax or license fee or the requirement of a license tag, sticker or decal upon any daily rental vehicle, as defined in § 58.1-1735, the rental of which is subject to the tax imposed by subdivision A 2 of § 58.1-1736.

D. In the rental agreement between a motor vehicle renting company and a renter, the motor vehicle renting company may separately itemize and charge daily fees or transaction fees to the renter, provided that the amounts of such fees are disclosed at the time of reservation and rental as part of any estimated pricing provided to the renter. Such fees include a vehicle license fee to recover the company's incurred costs in licensing, titling, and registering its rental fleet, concession recovery fees actually charged the company by an airport, or other governmentally owned or operated facility, and consolidated facility charges actually charged by an airport, or other governmentally owned or operated facility for improvements to or construction of facilities at such facility where the motor vehicle rental company operates. The vehicle license fee shall represent the company's good faith estimate of the average per day per vehicle portion of the company's total annual vehicle licensing, titling, and registration costs.

No motor vehicle renting company charging a vehicle license fee, concession recovery fee, or consolidated facility charge may make an advertisement in the Commonwealth that includes a statement of the rental rate for a vehicle available for rent in the Commonwealth unless such advertisement includes a statement that the customer will be required to pay a vehicle license fee, concession recovery fee, or consolidated facility charge. The vehicle license fee, concession recovery fee, or consolidated facility charge shall be shown as a separately itemized charge on the rental agreement. The vehicle license fee shall be described in either the terms and conditions of the rental agreement as the "estimated average per day per vehicle portion of the company's total annual vehicle licensing, titling, and registration costs" or, for renters participating in an extended rental program pursuant to a master rental agreement, by posting such statement on the rental company website.

Any amounts collected by the motor vehicle renting company in excess of the actual amount of its costs incurred relating to its vehicle license fees shall be retained by the motor vehicle renting company and applied toward the recovery of its next calendar year's costs relating to such fees. In such event, the good faith estimate of any vehicle license fee to be charged by the company for the next calendar year shall be reduced to take into account the excess amount collected from the prior year.

E. As used in this section, common carrier of persons or property includes any person who undertakes, whether directly or by lease or any other arrangement, to transport passengers or household goods for the general public by motor vehicle for compensation over the highways of the Commonwealth, whether over regular or irregular routes, that has obtained the required certificate from the Department of Motor Vehicles pursuant to § 46.2-2075 or 46.2-2150.

## CHAPTER 373

*An Act to amend and reenact § 15.2-1129.1 of the Code of Virginia, relating to arts and cultural districts.*

[H 1486]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 15.2-1129.1 of the Code of Virginia is amended and reenacted as follows:**

**§ 15.2-1129.1. Creation of arts and cultural districts.**

A. Any locality, *or combination of localities*, may by ordinance, *or in the case of multiple localities by substantially similar ordinances*, establish within ~~its~~ *the* boundaries of such localities one or more arts and cultural districts for the purpose of increasing awareness and support for the arts and culture in the locality. The locality may provide incentives for

the support and creation of arts and cultural venues in each district. The locality may also grant tax incentives and provide certain regulatory flexibility in each arts and cultural district.

B. The tax incentives for each district may be provided for up to 10 years and may include, but not be limited to: (i) reduction of permit fees; (ii) reduction of user fees; (iii) reduction of any type of gross receipts tax; and (iv) rebate of real estate property taxes. The extent and duration of such incentive proposals shall conform to the requirements of the Constitutions of Virginia and of the United States.

C. Each locality may also provide for regulatory flexibility in each district that may include, but not be limited to: (i) special zoning for the district; (ii) permit process reform; (iii) exemption from ordinances; and (iv) any other incentive adopted by ordinance, which shall be binding upon the locality for a period of up to 10 years.

#### CHAPTER 374

*An Act to amend and reenact § 55-515.1 of the Code of Virginia, relating to the Property Owners' Association Act; amendment of declaration.*

[H 1554]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 55-515.1 of the Code of Virginia is amended and reenacted as follows:**

**§ 55-515.1. Amendment to declaration and bylaws; consent of mortgagee.**

A. In the event that any provision in the declaration requires the written consent of a mortgagee in order to amend the bylaws or the declaration, the association shall be deemed to have received the written consent of a mortgagee if the association sends the text of the proposed amendment by certified mail, return receipt requested, or by regular mail with proof of mailing to the mortgagee at the address supplied by such mortgagee in a written request to the association to receive notice of proposed amendments to the declaration and receives no written objection to the adoption of the amendment from the mortgagee within 60 days of the date that the notice of amendment is sent by the association, unless the declaration expressly provides otherwise. If the mortgagee has not supplied an address to the association, the association shall be deemed to have received the written consent of a mortgagee if the association sends the text of the proposed amendment by certified mail, return receipt requested, to the mortgagee at the address filed in the land records or with the local tax assessor's office, and receives no written objection to the adoption of the amendment from the mortgagee within 60 days of the date that the notice of amendment is sent by the association, unless the declaration expressly provides otherwise.

B. Subsection A shall not apply to amendments which alter the priority of the lien of the mortgagee or which materially impair or affect a lot as collateral or the right of the mortgagee to foreclose on a lot as collateral.

C. Where the declaration is silent on the need for mortgagee consent, no mortgagee consent shall be required if the amendment to the declaration does not specifically affect mortgagee rights.

D. ~~A Except as otherwise provided in the declaration, a declaration may be amended by a two-thirds vote of the owners. This subsection may be applied to an association subject to a declaration recorded prior to July 1, 1999, if the declaration is silent on how it may be amended or upon the amendment of that declaration in accordance with its requirements.~~

E. An action to challenge the validity of an amendment adopted by the association may not be brought more than one year after the amendment is effective.

F. Agreement of the required majority of lot owners to any amendment of the declaration *adopted pursuant to subsection D* shall be evidenced by their execution of the amendment, or ratifications thereof, and the same shall become effective when a copy of the amendment is recorded together with a certification, signed by the principal officer of the association or by such other officer or officers as the declaration may specify, that the requisite majority of the lot owners signed the amendment or ratifications thereof.

*G. Subsections D and F shall not be construed to affect the validity of any amendment recorded prior to July 1, 2017.*

**2. That the provisions of subsections D and F, as amended by this act, shall not apply to any amendment of a declaration adopted prior to July 1, 2017, which was otherwise adopted in compliance with the terms of the declaration.**

#### CHAPTER 375

*An Act to amend and reenact § 15.2-2114 of the Code of Virginia, relating to locality; stormwater management program; fee waiver where no runoff.*

[H 1597]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 15.2-2114 of the Code of Virginia is amended and reenacted as follows:**

**§ 15.2-2114. Regulation of stormwater.**

A. Any locality, by ordinance, may establish a utility or enact a system of service charges to support a local stormwater management program consistent with Article 2.3 (§ 62.1-44.15:24 et seq.) of Chapter 3.1 of Title 62.1 or any other state or federal regulation governing stormwater management. Income derived from a utility or system of charges shall be dedicated special revenue, may not exceed the actual costs incurred by a locality operating under the provisions of this section, and may be used only to pay or recover costs for the following:

1. The acquisition, as permitted by § 15.2-1800, of real and personal property, and interest therein, necessary to construct, operate and maintain stormwater control facilities;
2. The cost of administration of such programs;
3. Planning, design, engineering, construction, and debt retirement for new facilities and enlargement or improvement of existing facilities, including the enlargement or improvement of dams, levees, floodwalls, and pump stations, whether publicly or privately owned, that serve to control stormwater;
4. Facility operation and maintenance, including the maintenance of dams, levees, floodwalls, and pump stations, whether publicly or privately owned, that serve to control stormwater;
5. Monitoring of stormwater control devices and ambient water quality monitoring;
6. Contracts related to stormwater management, including contracts for the financing, construction, operation, or maintenance of stormwater management facilities, regardless of whether such facilities are located on public or private property and, in the case of private property locations, whether the contract is entered into pursuant to a stormwater management private property program under subsection J or otherwise; and
7. Other activities consistent with the state or federal regulations or permits governing stormwater management, including, but not limited to, public education, watershed planning, inspection and enforcement activities, and pollution prevention planning and implementation.

B. The charges may be assessed to property owners or occupants, including condominium unit owners or tenants (when the tenant is the party to whom the water and sewer service is billed), and shall be based upon an analysis that demonstrates the rational relationship between the amount charged and the services provided. Prior to adopting such a system, a public hearing shall be held after giving notice as required by charter or by publishing a descriptive notice once a week for two successive weeks prior to adoption in a newspaper with a general circulation in the locality. The second publication shall not be sooner than one calendar week after the first publication. However, prior to adoption of any ordinance pursuant to this section related to the enlargement, improvement, or maintenance of privately owned dams, a locality shall comply with the notice provisions of § 15.2-1427 and hold a public hearing.

C. A locality adopting such a system shall provide for full waivers of charges to the following:

1. A federal, state, or local government, or public entity, that holds a permit to discharge stormwater from a municipal separate storm sewer system, except that the waiver of charges shall apply only to property covered by any such permit; and
2. Public roads and street rights-of-way that are owned and maintained by state or local agencies, including property rights-of-way acquired through the acquisitions process.

D. A locality adopting such a system shall provide for full or partial waivers of charges to any person who installs, operates, and maintains a stormwater management facility that achieves a permanent reduction in stormwater flow or pollutant loadings *or other such other facility, system, or practice whereby stormwater runoff produced by the property is retained and treated on site in accordance with a stormwater management plan approved pursuant to Chapter 3.1 (§ 62.1-44.2 et seq.) of Title 62.1*. The locality shall base the amount of the waiver in part on the percentage reduction in stormwater flow or pollutant loadings, or both, from pre-installation to post-installation of the facility. No locality shall provide a waiver to any person who does not obtain a stormwater permit from the Department of Environmental Quality when such permit is required by statute or regulation.

E. A locality adopting such a system may provide for full or partial waivers of charges to cemeteries, property owned or operated by the locality administering the program, and public or private entities that implement or participate in strategies, techniques, or programs that reduce stormwater flow or pollutant loadings, or decrease the cost of maintaining or operating the public stormwater management system.

F. Any locality may issue general obligation bonds or revenue bonds in order to finance the cost of infrastructure and equipment for a stormwater control program. Infrastructure and equipment shall include structural and natural stormwater control systems of all types, including, without limitation, retention basins, sewers, conduits, pipelines, pumping and ventilating stations, and other plants, structures, and real and personal property used for support of the system. The procedure for the issuance of any such general obligation bonds or revenue bonds pursuant to this section shall be in conformity with the procedure for issuance of such bonds as set forth in the Public Finance Act (§ 15.2-2600 et seq.).

G. In the event charges are not paid when due, interest thereon shall at that time accrue at the rate, not to exceed the maximum amount allowed by law, determined by the locality until such time as the overdue payment and interest are paid. Charges and interest may be recovered by the locality by action at law or suit in equity and shall constitute a lien against the property, ranking on a parity with liens for unpaid taxes. The locality may combine the billings for stormwater charges with billings for water or sewer charges, real property tax assessments, or other billings; in such cases, the locality may establish the order in which payments will be applied to the different charges. No locality shall combine its billings with those of another locality or political subdivision, including an authority operating pursuant to Chapter 51 (§ 15.2-5100 et seq.) of Title 15.2, unless such locality or political subdivision has given its consent by duly adopted resolution or ordinance.

H. Any two or more localities may enter into cooperative agreements concerning the management of stormwater.

I. For purposes of implementing waivers pursuant to subdivision C 1, for property where two adjoining localities subject to a revenue sharing agreement each hold municipal separate storm sewer permits, the waiver shall also apply to the property of each locality and of its school board that is accounted for in that locality's municipal separate storm sewer program plan, regardless of whether such property is located within the adjoining locality.

J. Any locality that establishes a system of charges pursuant to this section may establish a public-private partnership program, to be known as a stormwater management private property program, in order to promote cost-effectiveness in reducing excessive stormwater flow or pollutant loadings or in making other stormwater improvements authorized pursuant to this section. A locality that opts to establish a stormwater management private property program pursuant to this subsection shall:

1. Promote awareness of the location, quantity, and timing of reductions or other improvements that it determines appropriate under this program;
2. Seek the voluntary participation of property owners;
3. Accept the participation of property owners on both an individual and a group basis by which multiple owners may collaborate on improvements and allocate among the multiple owners any payments made by the locality;
4. Enter into contracts at its discretion to secure improvements on terms and conditions that the locality deems appropriate, including by making payments to property owners in excess of the value of any applicable waivers pursuant to subsections D and E; and
5. Require appropriate operation and maintenance of the contracted improvements.

K. Any locality that establishes a stormwater management private property program pursuant to subsection J may procure reductions and improvements in accordance with the Public-Private Education Facilities and Infrastructure Act (§ 56-575.1 et seq.) or other means, as appropriate. Subsection J shall not be interpreted to limit the authority of a locality to secure reductions of excessive stormwater flow or pollutant loadings or other stormwater improvements by other means.

## CHAPTER 376

*An Act to amend and reenact §§ 2.2-3803 and 23.1-203 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 23.1-204.1, relating to the State Council of Higher Education for Virginia; collection and publication of wage data and the Virginia Longitudinal Data System.*

[H 1664]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 2.2-3803 and 23.1-203 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 23.1-204.1 as follows:**

**§ 2.2-3803. Administration of systems including personal information; Internet privacy policy; exceptions.**

A. Any agency maintaining an information system that includes personal information shall:

1. Collect, maintain, use, and disseminate only that personal information permitted or required by law to be so collected, maintained, used, or disseminated, or necessary to accomplish a proper purpose of the agency;
2. Collect information to the greatest extent feasible from the data subject directly;
3. Establish categories for maintaining personal information to operate in conjunction with confidentiality requirements and access controls;
4. Maintain information in the system with accuracy, completeness, timeliness, and pertinence as necessary to ensure fairness in determinations relating to a data subject;
5. Make no dissemination to another system without (i) specifying requirements for security and usage including limitations on access thereto, and (ii) receiving reasonable assurances that those requirements and limitations will be observed. This subdivision shall not apply, however, to a dissemination made by an agency to an agency in another state, district or territory of the United States where the personal information is requested by the agency of such other state, district or territory in connection with the application of the data subject therein for a service, privilege or right under the laws thereof, nor shall this apply to information transmitted to family advocacy representatives of the United States Armed Forces in accordance with subsection N of § 63.2-1503;
6. Maintain a list of all persons or organizations having regular access to personal information in the information system;
7. Maintain for a period of three years or until such time as the personal information is purged, whichever is shorter, a complete and accurate record, including identity and purpose, of every access to any personal information in a system, including the identity of any persons or organizations not having regular access authority but excluding access by the personnel of the agency wherein data is put to service for the purpose for which it is obtained;
8. Take affirmative action to establish rules of conduct and inform each person involved in the design, development, operation, or maintenance of the system, or the collection or use of any personal information contained therein, about all the requirements of this chapter, the rules and procedures, including penalties for noncompliance, of the agency designed to assure compliance with such requirements;

9. Establish appropriate safeguards to secure the system from any reasonably foreseeable threat to its security; and  
10. Collect no personal information concerning the political or religious beliefs, affiliations, and activities of data subjects that is maintained, used or disseminated in or by any information system operated by any agency unless authorized explicitly by statute or ordinance.

B. Every public body, as defined in § 2.2-3701, that has an Internet website associated with that public body shall develop an Internet privacy policy and an Internet privacy policy statement that explains the policy to the public. The policy shall be consistent with the requirements of this chapter. The statement shall be made available on the public body's website in a conspicuous manner. The Secretary of Technology or his designee shall provide guidelines for developing the policy and the statement, and each public body shall tailor the policy and the statement to reflect the information practices of the individual public body. At minimum, the policy and the statement shall address (i) what information, including personally identifiable information, will be collected, if any; (ii) whether any information will be automatically collected simply by accessing the website and, if so, what information; (iii) whether the website automatically places a computer file, commonly referred to as a "cookie," on the Internet user's computer and, if so, for what purpose; and (iv) how the collected information is being used or will be used.

C. Notwithstanding the provisions of subsection A, the Virginia Retirement System may disseminate information as to the retirement status or benefit eligibility of any employee covered by the Virginia Retirement System, the Judicial Retirement System, the State Police Officers' Retirement System, or the Virginia Law Officers' Retirement System, to the chief executive officer or personnel officers of the state or local agency by which he is employed.

D. Notwithstanding the provisions of subsection A, the Department of Social Services may disseminate client information to the Department of Taxation for the purposes of providing specified tax information as set forth in clause (ii) of subsection C of § 58.1-3.

*E. Notwithstanding the provisions of subsection A, the State Council of Higher Education for Virginia may disseminate student information to agencies acting on behalf or in place of the U.S. government to gain access to data on wages earned outside the Commonwealth or through federal employment, for the purposes of complying with § 23.1-204.1.*

#### **§ 23.1-203. Duties of Council.**

The Council shall:

1. Develop a statewide strategic plan that (i) reflects the goals set forth in subsection A of § 23.1-1002 or (ii) once adopted, reflects the goals and objectives developed pursuant to subdivision B 5 of § 23.1-309 for higher education in the Commonwealth, identifies a coordinated approach to such state and regional goals, and emphasizes the future needs for higher education in the Commonwealth at both the undergraduate and the graduate levels and the mission, programs, facilities, and location of each of the existing institutions of higher education, each public institution's six-year plan, and such other matters as the Council deems appropriate. The Council shall revise such plan at least once every six years and shall submit such recommendations as are necessary for the implementation of the plan to the Governor and the General Assembly.

2. Review and approve or disapprove any proposed change in the statement of mission of any public institution of higher education and define the mission of all newly created public institutions of higher education. The Council shall report such approvals, disapprovals, and definitions to the Governor and the General Assembly at least once every six years. No such actions shall become effective until 30 days after adjournment of the session of the General Assembly next following the filing of such a report. Nothing in this subdivision shall be construed to authorize the Council to modify any mission statement adopted by the General Assembly or empower the Council to affect, either directly or indirectly, the selection of faculty or the standards and criteria for admission of any public institution of higher education, whether relating to academic standards, residence, or other criteria. Faculty selection and student admission policies shall remain a function of the individual public institutions of higher education.

3. Study any proposed escalation of any public institution of higher education to a degree-granting level higher than that level to which it is presently restricted and submit a report and recommendation to the Governor and the General Assembly relating to the proposal. The study shall include the need for and benefits or detriments to be derived from the escalation. No such institution shall implement any such proposed escalation until the Council's report and recommendation have been submitted to the General Assembly and the General Assembly approves the institution's proposal.

4. Review and approve or disapprove all enrollment projections proposed by each public institution of higher education. The Council's projections shall be organized numerically by level of enrollment and shall be used solely for budgetary, fiscal, and strategic planning purposes. The Council shall develop estimates of the number of degrees to be awarded by each public institution of higher education and include those estimates in its reports of enrollment projections. The student admissions policies for such institutions and their specific programs shall remain the sole responsibility of the individual governing boards but all baccalaureate public institutions of higher education shall adopt dual admissions policies with comprehensive community colleges as required by § 23.1-907.

5. Review and approve or disapprove all new undergraduate or graduate academic programs that any public institution of higher education proposes.

6. Review and require the discontinuance of any undergraduate or graduate academic program that is presently offered by any public institution of higher education when the Council determines that such academic program is (i) nonproductive in terms of the number of degrees granted, the number of students served by the program, the program's effectiveness, and budgetary considerations or (ii) supported by state funds and unnecessarily duplicative of academic programs offered at

other public institutions of higher education. The Council shall make a report to the Governor and the General Assembly with respect to the discontinuance of any such academic program. No such discontinuance shall become effective until 30 days after the adjournment of the session of the General Assembly next following the filing of such report.

7. Review and approve or disapprove the establishment of any department, school, college, branch, division, or extension of any public institution of higher education that such institution proposes to establish, whether located on or off the main campus of such institution. If any organizational change is determined by the Council to be proposed solely for the purpose of internal management and the institution's curricular offerings remain constant, the Council shall approve the proposed change. Nothing in this subdivision shall be construed to authorize the Council to disapprove the establishment of any such department, school, college, branch, division, or extension established by the General Assembly.

8. Review the proposed closure of any academic program in a high demand or critical shortage area, as defined by the Council, by any public institution of higher education and assist in the development of an orderly closure plan, when needed.

9. Develop a uniform, comprehensive data information system designed to gather all information necessary to the performance of the Council's duties. The system shall include information on admissions, enrollment, self-identified students with documented disabilities, personnel, programs, financing, space inventory, facilities, and such other areas as the Council deems appropriate. When consistent with the Government Data Collection and Dissemination Practices Act (§ 2.2-3800 et seq.), the Virginia Unemployment Compensation Act (§ 60.2-100 et seq.), and applicable federal law, the Council, acting solely or in partnership with the Virginia Department of Education or the Virginia Employment Commission, may contract with private entities to create de-identified student records in which all personally identifiable information has been removed for the purpose of assessing the performance of institutions and specific programs relative to the workforce needs of the Commonwealth.

10. In cooperation with public institutions of higher education, develop guidelines for the assessment of student achievement. Each such institution shall use an approved program that complies with the guidelines of the Council and is consistent with the institution's mission and educational objectives in the development of such assessment. The Council shall report each institution's assessment of student achievement in the revisions to the Commonwealth's statewide strategic plan for higher education.

11. In cooperation with the appropriate state financial and accounting officials, develop and establish uniform standards and systems of accounting, recordkeeping, and statistical reporting for public institutions of higher education.

12. Review biennially and approve or disapprove all changes in the inventory of educational and general space that any public institution of higher education proposes and report such approvals and disapprovals to the Governor and the General Assembly. No such change shall become effective until 30 days after the adjournment of the session of the General Assembly next following the filing of such report.

13. Visit and study the operations of each public institution of higher education at such times as the Council deems appropriate and conduct such other studies in the field of higher education as the Council deems appropriate or as may be requested by the Governor or the General Assembly.

14. Provide advisory services to each accredited nonprofit private institution of higher education whose primary purpose is to provide collegiate or graduate education and not to provide religious training or theological education on academic, administrative, financial, and space utilization matters. The Council may review and advise on joint activities, including contracts for services between public and such private institutions of higher education or between such private institutions of higher education and any agency or political subdivision of the Commonwealth.

15. Adopt such policies and regulations as the Council deems necessary to implement its duties established by state law. Each public institution of higher education shall comply with such policies and regulations.

16. Issue guidelines consistent with the provisions of the federal Family Educational Rights and Privacy Act (20 U.S.C. § 1232g), requiring public institutions of higher education to release a student's academic and disciplinary record to a student's parent.

17. Require each institution of higher education formed, chartered, or established in the Commonwealth after July 1, 1980, to ensure the preservation of student transcripts in the event of institutional closure or revocation of approval to operate in the Commonwealth. An institution may ensure the preservation of student transcripts by binding agreement with another institution of higher education with which it is not corporately connected or in such other way as the Council may authorize by regulation. In the event that an institution closes or has its approval to operate in the Commonwealth revoked, the Council, through its director, may take such action as is necessary to secure and preserve the student transcripts until such time as an appropriate institution accepts all or some of the transcripts. Nothing in this subdivision shall be deemed to interfere with the right of a student to his own transcripts or authorize disclosure of student records except as may otherwise be authorized by law.

18. Require the development and submission of articulation, dual admissions, and guaranteed admissions agreements between associate-degree-granting and baccalaureate public institutions of higher education.

19. Provide periodic updates of base adequacy funding guidelines adopted by the Joint Subcommittee Studying Higher Education Funding Policies for each public institution of higher education.

20. In consultation with each public institution of higher education, develop a one-year uniform certificate of general studies program to be offered at each comprehensive community college. Such program shall ensure that a comprehensive community college student who completes the one-year certificate program is eligible to transfer all credits earned in

academic subject coursework to a baccalaureate public institution of higher education upon acceptance to such baccalaureate institution.

21. Cooperate with the Board of Education in matters of interest to both public elementary and secondary schools and public institutions of higher education, particularly in connection with coordination of the college admission requirements, coordination of teacher training programs with the public school programs, and the Board's Six-Year Educational Technology Plan for Virginia. The Council shall encourage public institutions of higher education to design programs that include the skills necessary for the successful implementation of such Plan.

22. Advise and provide technical assistance to the Brown v. Board of Education Scholarship Committee in the implementation and administration of the Brown v. Board of Education Scholarship Program pursuant to Chapter 34.1 (§ 30-231.01 et seq.) of Title 30.

23. Insofar as possible, seek the cooperation and utilize the facilities of existing state departments, institutions, and agencies in carrying out its duties.

24. Serve as the coordinating council for public institutions of higher education.

25. Serve as the planning and coordinating agency for all postsecondary educational programs for all health professions and occupations and make recommendations, including those relating to financing, for providing adequate and coordinated educational programs to produce an appropriate supply of properly trained personnel. The Council may conduct such studies as it deems appropriate in furtherance of the requirements of this subdivision. All state departments and agencies shall cooperate with the Council in the execution of its responsibilities under this subdivision.

26. Carry out such duties as the Governor may assign to it in response to agency designations requested by the federal government.

27. Insofar as practicable, preserve the individuality, traditions, and sense of responsibility of each public institution of higher education in carrying out its duties.

28. Insofar as practicable, seek the assistance and advice of each public institution of higher education in fulfilling its duties and responsibilities.

29. Assist the Virginia Research Investment Committee with the administration of the Virginia Research Investment Fund consistent with the provisions of Article 8 (§ 23.1-3130 et seq.) of Chapter 31.

30. *Administer the Virginia Longitudinal Data System as a multiagency partnership for the purposes of developing educational, health, social service, and employment outcome data; improving the efficacy of state services; and aiding decision making.*

**§ 23.1-204.1. Postgraduation employment rates.**

A. *The Council shall annually publish data on its website on the proportion of graduates of each public institution of higher education and each nonprofit private institution of higher education eligible to participate in the Tuition Assistance Grant Program (§ 23.1-628 et seq.) who are employed (i) 18 months after the date of graduation and (ii) five years after the date of graduation. The data shall include the program and the program level, as recognized by the Council, for each degree awarded by each institution; the percentage of graduates known to be employed in the Commonwealth; the average salary and the average higher education-related debt for the graduates on which the data is based; rates of enrollment in remedial coursework for each institution; individual student credit accumulation for each institution; rates of postsecondary degree completion; and any other information that the Council determines is necessary to address adequate preparation for success in postsecondary education and alignment between secondary and postsecondary education. The Council shall disseminate to each public high school and each public institution of higher education and private institution of higher education for which the Council has student-level data a link on its website to the published data. The Council shall provide a notification template that each public high school may use to annually notify students and their parents about the availability of such data. The published data shall be consistent with the Government Data Collection and Dissemination Practices Act (§ 2.2-3800 et seq.) and the federal Family Educational Rights and Privacy Act (20 U.S.C. § 1232g).*

B. *Each such institution of higher education shall provide a link to such published postsecondary education and employment data.*

**CHAPTER 377**

*An Act to amend and reenact §§ 15.2-4202 and 15.2-4203 of the Code of Virginia, relating to planning district commissions; Indian tribes.*

[H 1686]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 15.2-4202 and 15.2-4203 of the Code of Virginia are amended and reenacted as follows:**

**§ 15.2-4202. Definitions.**

For the purposes of this chapter:

"Commission" means a planning district commission. Planning district commissions are composed of the duly appointed representatives of the localities *or Indian tribes* which are parties to the charter agreement.

"Indian tribe" means an Indian tribe or band that is recognized by federal law.

"Planning district" means a contiguous area within the boundaries established by the Department of Housing and Community Development.

"Population," unless a different census is clearly set forth, means the number of inhabitants according to the United States census latest preceding the time at which any provision dependent upon population is being applied, or the time as of which it is being construed, unless there is available an annual estimate of population prepared by the Weldon Cooper Center for Public Service of the University of Virginia, which has been filed with the Department of Housing and Community Development, in which event the estimate shall govern.

**§ 15.2-4203. Organization of planning district commission.**

A. At any time after the establishment of the geographic boundaries of a planning district, the localities or *Indian tribes* embracing at least 45 percent of the population within the district acting by their governing bodies may organize a planning district commission by written agreement. Any locality not a party to such charter agreement shall continue as a part of the planning district, but, until such time as such locality elects to become a part of the planning district commission as hereinafter provided, shall not be represented in the composition of the membership of the planning district commission. *Any Indian tribe (i) whose land is located within the boundaries of the planning district and (ii) that is not a party to such charter agreement may elect to become part of the planning district commission at any time after its formation, and may negotiate the terms of such membership with the planning district commission.* Whenever a planning district is created which contains only two counties, the governing body of either county may organize a planning district commission in accordance with the provisions of this chapter if the governing body of the other county does not agree to organize such a planning district commission.

B. The charter agreement shall set forth:

1. The name of the planning district. An entity organized as a planning district commission under this act may employ the name "regional council" or "regional commission" as a substitute for the name "planning district commission."

2. The locality in which its principal office shall be situated.

3. The effective date of the organization of the planning district commission.

4. The composition of the membership of the planning district commission. At least a majority of its members shall be elected officials of the governing bodies of the localities within the district, or members of the General Assembly, with each county, city and town of more than 3,500 population having at least one representative. In any planning district other than planning district number 23, a town of 3,500 or less population may petition the planning district commission to be represented thereon. The planning district commission may, in its discretion, grant representation to such town by a majority vote of the members of the commission. Other members shall be qualified voters and residents of the district. In planning districts number 4 and 14, the membership may also include representatives of higher education institutions. Should the charter agreement, as adopted, so provide, an alternate may serve in lieu of one of the elected officials of each of the governing bodies of the participating localities.

5. The term of office of the members, their method of selection or removal and the method for the selection and the term of office of a chairman.

6. The voting rights of members. Such voting rights need not be equal and may be weighed on the basis of the population of the locality represented by the member, the aggregation of the voting rights of members representing one locality, or otherwise.

7. The procedure for amendment, for addition of other localities within the planning district which are not parties to the original charter agreement, and the withdrawal from the charter agreement by localities within the planning district electing to do so.

C. The governing body of any locality which is a member of the planning district commission may provide for compensation to be paid by it for its commission members, except for any full-time salaried employees of the locality. The amount of such compensation shall not exceed the amount fixed by the planning district commission.

**CHAPTER 378**

*An Act to amend and reenact §§ 3.1, 3.2, and 3.3 of Chapter 591 of the Acts of Assembly of 1997, which provided a charter for the Town of Port Royal, relating to time of election.*

[H 1729]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 3.1, 3.2, and 3.3 of Chapter 591 of the Acts of Assembly of 1997 are amended and reenacted as follows:**

§ 3.1. Council.

A. The Town shall be governed by a council composed of seven members elected at large.

B. The members of council in office at the time of the passage of this act shall continue until the expiration of the terms for which they were elected, or until their successors are duly elected and qualified.

C. In ~~1998~~ 2018 and every two years thereafter, on the dates specified by general law for ~~municipal~~ *municipal* November elections, all members of the council shall be elected for terms of two years each. The persons so elected shall qualify and

take office on ~~July~~ *January* 1 following their election, and they shall continue to serve until their successors are duly elected, qualify and assume office.

D. Any person qualified to vote in town elections shall be eligible for the office of councilman.

§ 3.2. Mayor.

At its first meeting in ~~July~~ *January* of every ~~even-numbered~~ *odd-numbered* year, the council, by majority vote, shall select from its membership one member to serve as mayor. The mayor shall preside at meetings of the council and shall be recognized as head of the Town government for ceremonial purposes and by the governor for the purposes of military law. He shall have the same powers and duties as other members of the council with a vote, but no veto powers.

§ 3.3. Vice mayor.

At its first meeting in ~~July~~ *January* of every ~~even-numbered~~ *odd-numbered* year, the council, by majority vote, shall select from its membership one member to serve as vice mayor. The vice mayor shall preside over meetings of the council in the absence of the mayor.

**CHAPTER 379**

*An Act to amend and reenact § 15.2-2302 of the Code of Virginia, relating to amendment of proffers; notice.*

[H 1797]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 15.2-2302 of the Code of Virginia is amended and reenacted as follows:**

**§ 15.2-2302. Same; amendments and variations of conditions.**

A. Subject to any applicable public notice or hearing requirement of subsection B but notwithstanding any other provision of law, any landowner subject to conditions proffered pursuant to § 15.2-2297, 15.2-2298, 15.2-2303, or 15.2-2303.1 may apply to the governing body for amendments to or variations of such proffered conditions provided only that written notice of such application be provided in the manner prescribed by subsection ~~H B~~ of § 15.2-2204 ~~to any landowner subject to such existing proffered conditions~~. Further, the approval of such an amendment or variation by the governing body shall not in itself cause the use of any other property to be determined a nonconforming use.

B. There shall be no such amendment or variation of any conditions proffered pursuant to § 15.2-2297, 15.2-2298, 15.2-2303, or 15.2-2303.1 until after a public hearing before the governing body advertised pursuant to the provisions of § 15.2-2204. However, where an amendment to such proffered conditions is requested pursuant to subsection A, and where such amendment does not affect conditions of use or density, a local governing body may waive the requirement for a public hearing (i) under this section and (ii) under any other statute, ordinance, or proffer requiring a public hearing prior to amendment of such proffered conditions.

C. Once amended pursuant to this section, the proffered conditions shall continue to be an amendment to the zoning ordinance and may be enforced by the zoning administrator pursuant to the applicable provisions of this chapter.

D. Notwithstanding any other provision of law, no claim of any right derived from any condition proffered pursuant to § 15.2-2297, 15.2-2298, 15.2-2303, or 15.2-2303.1 shall impair the right of any landowner subject to such a proffered condition to secure amendments to or variations of such proffered conditions.

E. Notwithstanding any other provision of law, the governing body may waive the written notice requirement of subsection A in order to reduce, suspend, or eliminate outstanding cash proffer payments for residential construction calculated on a per-dwelling-unit or per-home basis that have been agreed to, but unpaid, by any landowner.

**CHAPTER 380**

*An Act to amend and reenact § 2.2-1606 of the Code of Virginia, relating to the Department of Small Business and Supplier Diversity; certification of small, women-owned, and minority-owned businesses.*

[H 1858]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 2.2-1606 of the Code of Virginia is amended and reenacted as follows:**

**§ 2.2-1606. Powers of Director.**

As deemed necessary or appropriate to better fulfill the duties of the Department, the Director may:

1. With the participation of other state departments and agencies, develop comprehensive plans and specific program goals for small, women-owned, and minority-owned business programs; establish regular performance monitoring and reporting systems to assure that goals of state agencies and institutions are being achieved; and evaluate the impact of federal and state support in achieving objectives.

2. Employ the necessary personnel or subcontract, according to his discretion, with localities to supplement the functions of business development organizations.

3. Assure the coordinated review of all proposed state training and technical assistance activities in direct support of small, women-owned, and minority-owned business programs to ensure consistency with program goals and to avoid duplication.

4. Convene, for purposes of coordination, meetings of the heads of departments and agencies, or their designees, whose programs and activities may affect or contribute to the purposes of this chapter.

5. Convene business leaders, educators, and other representatives of the private sector who are engaged in assisting the development of small, women-owned, and minority-owned business programs or who could contribute to their development for the purpose of proposing, evaluating, or coordinating governmental and private activities in furtherance of the objectives of this chapter.

6. Provide the managerial and organizational framework through which joint undertakings with state departments or agencies or private organizations can be planned and implemented.

7. Recommend appropriate legislative or executive actions.

8. Adopt regulations to implement certification programs for small, women-owned, and minority-owned businesses and employment services organizations, which regulations shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq.) pursuant to subdivision B 2 of § 2.2-4002. Such certification programs shall allow applications for certification to be submitted by electronic means as authorized by § 59.1-496 and the applicant to affix thereto his electronic signature, as defined in § 59.1-480. Such certification programs shall deny certification to vendors from states that deny like certifications to Virginia-based small, women-owned, or minority-owned businesses and employment services organizations or that provide a preference for small, women-owned, or minority-owned businesses and employment services organizations based in that state that is not available to Virginia-based businesses. The regulations shall (i) establish minimum requirements for certification of small, women-owned, and minority-owned businesses and employment services organizations; (ii) provide a process for evaluating existing local, state, *and* private sector, ~~and federal~~ certification programs that meet the minimum requirements; and (iii) mandate certification, without any additional paperwork, of any ~~prospective state vendor~~ *small, women-owned, or minority-owned business* that has obtained (a) *certification under any federal certification program* or (b) *certification under any other certification program that is determined to meet the minimum requirements established in the regulations, and of any employment services organization that has been approved by the Department for Aging and Rehabilitative Services.*

9. Establish an interdepartmental board in accordance with § 2.2-1608 to supply the Director with information useful in promoting minority business activity.

## CHAPTER 381

*An Act to amend and reenact § 15.2-907.2 of the Code of Virginia, relating to land banks; receivership.*

[H 1936]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 15.2-907.2 of the Code of Virginia is amended and reenacted as follows:**

**§ 15.2-907.2. Authority of locality or land bank entity to be appointed to act as a receiver to repair derelict and blighted buildings in certain limited circumstances.**

A. Any locality that has adopted an ordinance pursuant to § 15.2-907.1 may petition the circuit court for the appointment of the locality *or a land bank entity created pursuant to the Land Bank Entities Act (§ 15.2-7500 et seq.)* to act as a receiver to repair real property that contains residential dwelling units only in accordance with all of the following:

1. The locality has properly declared the subject property to be a derelict building in compliance with the provisions of § 15.2-907.1;

2. The property owners are in noncompliance with the provisions of § 15.2-907.1;

3. The locality has properly declared the subject property to be blighted in compliance with the provisions of § 36-49.1:1 for spot blight abatement, and the subject property is itself blighted;

4. The property owners are in noncompliance with the provisions of § 36-49.1:1 requiring abatement of the blighted condition of the property;

5. The locality has made bona fide efforts to ensure compliance by the property owners of the subject property with the requirements of §§ 15.2-907.1 and 36-49.1:1;

6. The repairs to the subject property are necessary to bring the subject property into compliance with the provisions of the Uniform Statewide Building Code;

7. The repairs to the subject property necessary to satisfy the requirements of subdivision 6 shall not result in a change of use for zoning purposes of the subject property;

8. Upon appointment by the circuit court to serve as a receiver, the locality *or land bank entity* shall have the authority to contract for all reasonable repairs necessary to bring the property into compliance with the provisions of the Uniform Statewide Building Code, subject to all applicable requirements of state and local procurement laws. Such repairs shall be made in a time period established by the court, but in no event shall a receivership exceed two years;

9. Notwithstanding any other provision of law, the provisions of this section are subject to the requirements of the Servicemembers Civil Relief Act (50 U.S.C. § 3901 et seq.); and

10. Notwithstanding any other provisions of law, the subject property shall be eligible for any real estate abatement programs that exist in the locality.

B. A petition by the locality to be appointed, *or to appoint a land bank entity created pursuant to the Land Bank Entities Act (§ 15.2-7500 et seq.)*, to act as a receiver shall include affirmative statements that the locality has satisfied each of the requirements of this section and further state that the locality has recorded a memorandum of lis pendens simultaneously with the filing of said petition. The costs of the receivership, along with reasonable attorney fees, incurred by the locality *or land bank entity* as receiver shall constitute a lien in favor of the locality *or land bank entity* against the subject property in accordance with the provisions of § 58.1-3340, and shall be on par with and collectible in the same manner as delinquent real estate taxes owed to the locality. The judicial proceedings herein shall be held in accordance with the requirements, statutory or arising at common law, relative to effecting the sale of real estate by a creditor's bill in equity to subject real estate to the lien of a judgment creditor.

C. The locality *or land bank entity created pursuant to the Land Bank Entities Act (§ 15.2-7500 et seq.)* appointed to be a receiver may enforce the receiver's lien by a sale of the property at public auction, but only upon application for and entry of an order of sale by the circuit court. The court shall appoint a special commissioner to conduct the sale, and an attorney employed by the locality may serve as special commissioner. Such sale shall be upon order of the court entered after notice as required by the Rules of the Supreme Court of Virginia and following publication of notice of the sale once a week for four consecutive weeks in a newspaper of general circulation. Following such public auction, the special commissioner shall file an accounting with the court and seek confirmation of the sale. Upon confirmation, the special commissioner shall be authorized to execute a deed conveying title, which shall pass free and clear to the purchaser at public auction. Following such sale, the former owner or owners, or any heirs, assignees, devisees, or successors in interest to the property shall be entitled to the surplus received in excess of the receiver's lien, taxes, penalties, interest, reasonable attorney fees, costs, and any recorded liens chargeable against the property. At any time prior to confirmation of the sale provided for herein, the owner shall have the right to redeem the property, as provided for in subsection D. The character of the title acquired by the purchaser of the property at public auction shall be governed by the principles and rules applicable to the titles of purchases at judicial sales of real estate generally.

D. The owner of any property subject to receivership may redeem the property at any time prior to the expiration of the two-year period or prior to confirmation of sale at public auction by paying the receiver's lien in full and the taxes, penalties, interest, reasonable attorney fees, costs, and any recorded liens chargeable against the property. Partial payment shall not be sufficient to redeem the property and shall not operate to suspend the receivership.

E. In lieu of appointment of a receiver, the circuit court shall permit repair by a property owner or a person with an interest in the property secured by a deed of trust properly recorded upon the following conditions:

1. Demonstration of the ability to complete the repair within a reasonable amount of time to be determined by the court; and
2. Entry of a court order setting forth a schedule for such repair.

## CHAPTER 382

*An Act to amend and reenact §§ 2.2, 2.5, 4.1, and 5.2, § 5.4, as amended, § 5.5, § 6.1, as amended, §§ 6.2, 6.3, and 6.4, § 6.7, as amended, §§ 6.9, 6.10, and 6.12, § 7.4, as amended, § 7.5, and §§ 7.6 and 8.1.a, as amended, of Chapter 12 of the Acts of Assembly of 1987 and to repeal § 6.6, as amended, § 6.8, and 8.1, as amended, of Chapter 12 of the Acts of Assembly of 1987, which provided a charter for the County of Chesterfield, relating to powers, departments, and the school board.*

[H 1958]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 2.2, 2.5, 4.1, and 5.2, § 5.4, as amended, § 5.5, § 6.1, as amended, §§ 6.2, 6.3, and 6.4, § 6.7, as amended, §§ 6.9, 6.10, and 6.12, § 7.4, as amended, § 7.5, and §§ 7.6 and 8.1.a, as amended, of Chapter 12 of the Acts of Assembly of 1987 are amended and reenacted as follows:**

§ 2.2. Additional powers.

In addition to the powers granted by other sections of this charter and general law, the county shall have the power to raise annually by taxes and assessments, as permitted by general law, ~~in the county~~ such sums of money as the board shall deem necessary to pay the debts and defray the expenses of the county, in such manner as the board shall deem expedient. In addition to, but not as a limitation upon this general grant of power, the county shall have power to levy and collect ad valorem taxes on real estate and tangible personal property and machinery and tools; to levy and collect taxes on hotel and motel rooms; to levy and collect business taxes, local general retail sales and use tax as provided by law; unless prohibited by general law to require licenses, prohibit the conduct of any business, profession, vocation or calling without such a license, require taxes to be paid on such licenses in respect of all businesses, professions, vocations and callings which

cannot, in the opinion of the board be reached by the ad valorem system; to franchise any business or calling so as to protect the public interest; and to require licenses of all owners of vehicles of all kinds.

In addition to the other powers conferred by law, the County of Chesterfield shall have the power to impose, levy and collect, in such manner as its board may deem expedient, a consumer tax upon the amount paid for the use of water, gas, electricity, ~~telephone, cable television~~ *communications services*, and any other public utility service within the county or upon the amount paid for any one or more of such public utility services, subject to provisions of general law and may provide that such tax shall be added to and collected with bills rendered consumers and subscribers for such services. The county may establish and collect such fees as the board of supervisors may deem reasonable for the rendering of special services.

§ 2.5. Abandonment of road.

The governing body of the county on its own motion may cause any section of the secondary system of highways deemed by it to be no longer necessary for the uses of the secondary system of highways to be abandoned altogether as a public road by complying substantially with the procedure provided for in ~~§ 33.1-151~~ 33.2-909 of the Code of Virginia, including notice of intention to abandon any such road by publication in two or more issues of some newspaper having general circulation in the county. Such notice shall specify the time and place of the hearing at which persons affected may appear and present their view, which shall not be less than six days nor more than twenty-one days after the second newspaper advertisement.

A finding by the governing body, after a public hearing, that a section of the secondary system of highways is no longer necessary for the uses of the secondary system may be made if the following conditions exist:

1. The road is located within a residence district as the latter is defined in § 46.2-100 of the Code of Virginia;
2. Continued operation of the section of road in question constitutes a threat to the public safety and welfare; and
3. Alternate routes for use after abandonment of the road are readily available. Any order of abandonment issued in compliance with this section shall give rise in subsequent proceedings, if any, to a presumption of adequate justification for the abandonment.

Appeals from any order of abandonment may be made as provided for in ~~§ 33.1-152 et seq.~~ 33.2-910 of the Code of Virginia.

§ 4.1. Appointment of county administrator.

The board shall appoint a county administrator who shall be the administrative head of the county government responsible for the proper administration of the government as reflected by the legislative and policy directions of the board and by general law. He shall be chosen solely on the basis of his executive and administrative qualifications. He shall serve at the pleasure of the board and shall enforce the laws of the county and, where applicable, the Commonwealth and shall ~~insure~~ *ensure* the faithful performance of all administrative duties required by the board. The board may enter into an employment agreement with the county administrator defining terms of employment.

§ 5.2. Submission of budget and budget message.

The county administrator shall submit to the board a recommended operating and capital improvement budget and a budget message by March 15th of each year.

The budget message shall contain the recommendation of the county administrator concerning the fiscal policy of the county, a description of the important features of the budget, a five-year capital budget, a three-year projection for revenues and expenditures and an explanation of all significant changes in the budget as to estimated receipts and recommended expenditures as compared with the current and last preceding fiscal years. No later than March 1st of each year, the superintendent of schools shall submit to the county administrator his estimate of projected revenues and expenditures for the next fiscal year in a form requested by the county administrator as well as a five-year capital improvements program. By January 1st of each year the director of social services, the director of mental health ~~and mental retardation~~ *support services*, the extension agent, the circuit court and district court and the constitutional officers shall submit to the county administrator their estimates of projected revenues and expenditures for the next fiscal year in a form requested by the county administrator.

§ 5.4. Adoption of budget.

After the public hearing as required by law the board may make such changes in the budget as it may determine, except that no item of expenditure for debt service shall be reduced or omitted *below what the county is obligated to pay*. The operating budget and capital improvements budget shall be adopted by resolution by the vote of at least a majority of all members of the board not later than May 1st of each year. Appropriations in addition to those contained in the general appropriation ordinance may be made by the board only if there is available in the general fund an unencumbered and unappropriated sum sufficient to meet such appropriations.

§ 5.5. Borrowing.

The board of supervisors may incur indebtedness by issuing bonds, notes or other obligations for the purposes, in the manner and to the extent provided for by the Constitution of Virginia and the Code of Virginia. The term indebtedness shall not include contractual obligations of the county, lease/purchase agreements subject to annual appropriations and revenue bonds payable solely from revenue producing properties *or activities*.

§ 6.1. ~~Creation of departments~~ *Departments and divisions.*

~~The following administrative departments are hereby created:~~

- ~~(1) Department of County Attorney.~~

- ~~(2) Department of Budget and Accounting.~~
- ~~(3) Department of Police.~~
- ~~(4) Department of Fire.~~
- ~~(5) Department of Planning.~~
- ~~(6) Department of Social Services.~~
- ~~(7) Department of Mental Health and Mental Retardation.~~
- ~~(8) Department of Health.~~
- ~~(9) Department of Economic Development.~~

*The departments and divisions of the county in existence on July 1, 2017, shall remain in existence unless changed in accordance with this charter.*

The board of supervisors, *in consultation with the county administrator*, may create ~~new departments or divisions or~~ combine or abolish existing departments ~~and or divisions~~, distribute the functions thereof ~~or~~, and establish temporary departments *or divisions* for special work, provided, however, that neither the county administrator nor the board shall have the power to abolish, transfer or combine the functions of the constitutional officers, ~~or public school functions or the departments created by this section.~~

§ 6.2. Responsibilities of division and department heads.

There shall be a director at the head of each department. The director of each ~~administrative~~ department, except the constitutional officers, *the chief of police* and the county attorney, shall be appointed by the county administrator ~~upon advising and informing in consultation with the board in advance of such proposed appointment and such appointment shall be subject to board veto in accordance with this charter.~~ Such directors shall serve in accordance with applicable personnel policies and may be removed by the county administrator upon advising and informing the board in advance of such decisions. The director of each department shall be chosen on the basis of his executive and administrative ability, experience and education. The ~~superintendent of schools, the director of social services, and the director of mental health and mental retardation, and the director of the health department support services~~ shall be appointed in accordance with this charter.

§ 6.3. Responsibility of division and department directors to the board and county administrator.

The directors of each ~~administrative~~ department, except the constitutional officers and those departments not appointed by the county administrator or board of supervisors, shall be responsible to the county administrator and board for the administration of their respective departments and their advice may be required by the board on all matters affecting their departments. They shall make reports and recommendations concerning their departments, but unless specifically requested, such reports and recommendations shall be made by the county administrator under such rules as the board may prescribe.

§ 6.4. Personnel rules and regulations.

A personnel system shall be established by the board of supervisors for county ~~administrative~~ officials and employees. Such a system shall be based on merit and professional ability without regard to race, national origin, religion, sex or political affiliation. The personnel system shall include a classification plan for service, a staff development plan, a uniform pay plan and a procedure for resolving grievances for employees of the county as provided by general law. Employees of constitutional officers and other agencies may participate in the personnel system at the discretion of the board and upon the concurrence of the constitutional officer.

§ 6.7. Department of police.

The police department shall be composed of a chief of police and such officers, patrolmen and other employees as the board of supervisors may determine. The powers and duties set forth in §§ 15.2-1704 ~~and 15.2-1710~~ of the Code of Virginia shall apply to the police force. The chief of police shall be responsible for the immediate direction and control of the department. The chief shall solely, within his discretion and subject to the other provisions herein, select, employ, promote, and terminate such officers, patrolmen and employees. He shall also select, employ, promote, and terminate the animal warden and his deputies; provided that all other provisions of § ~~3.1-796.104~~ 3.2-6555 of the Code of Virginia shall remain in effect. The chief may adopt rules and regulations for the police department in the same manner as rules and regulations are adopted for other departments.

The chief shall be appointed by the board of supervisors on recommendation of a committee of not more than five persons. The committee shall consist of the county administrator and at least one, but not more than one, of the following: (a) one member of the board of supervisors, (b) one citizen from the community, who is not at the time he serves on the committee an employee of the Chesterfield County department of police, appointed by the chief circuit court judge and (c) one member with police experience appointed by the board. The remaining member, if any, shall be appointed by the board and shall be neither an elected nor an appointed county official. The chief of police can only be dismissed by the board of supervisors for cause.

§ 6.9. Department of social services.

The department of social services shall consist of the director of social services, a social services board, and such officers and employees organized in such manner as may be provided by the director. The department shall be responsible for the duties imposed by the laws of the Commonwealth of Virginia relating to public assistance and relief of the poor and such other powers and duties as may be assigned by the board of supervisors or the social services board. The director of social services shall be appointed by the social services board and he shall have general management and control of the department. The director shall in all ways cooperate with the county administrator so that the provision of social services is

fairly coordinated with the provision of other governmental services. The social services board shall consist of members appointed in the same fashion as existed prior to the adoption of a charter *or modified in accordance with general law*. The social services board shall have such authority as is vested in it by general law and may adopt necessary rules and regulations not in conflict with this charter or general law concerning such department. The social services board and the board of supervisors shall meet jointly at least annually for the purpose of discussing common issues and methods of providing the most efficient services to the public. In addition, at least annually prior to January 1st, the director shall meet with the county administrator to discuss program plans and budgetary needs for the next fiscal year.

§ 6.10. Department of mental health ~~and mental retardation~~ *support services*.

The department of mental health ~~and mental retardation~~ *support services* shall consist of the director of mental health ~~and mental retardation~~ *support services*, a community services board; and such officers and employees organized in such manner as may be provided by the director. The department shall be responsible for the duties imposed by the laws of the Commonwealth of Virginia relating to mental health ~~and mental retardation~~ *support services* and such other powers and duties as may be assigned by the board of supervisors or the community services board. The director of mental health ~~and mental retardation~~ *support services* shall be appointed by the community services board, and he shall have general management and control of the department. The director shall in all ways cooperate with the county administrator so that the provision of mental health ~~and mental retardation~~ *support services* is fairly coordinated with the provision of other governmental services. The community services board shall consist of members appointed in the same fashion as existed prior to the adoption of a charter. The community services board shall have such authority as is vested in it by general law and may adopt necessary rules and regulations not in conflict with this charter or general law concerning such department. The community services board and the board of supervisors shall meet jointly at least annually for the purpose of discussing common issues and methods of providing the most efficient services to the public. In addition, at least annually prior to January 1st, the director shall meet with the county administrator to discuss program plans and budgetary needs for the next fiscal year.

§ 6.12. Internal auditor.

The internal auditor shall be responsible for providing internal accounting and auditing controls to assure compliance with applicable laws, contractual obligations and accepted accounting practices to safeguard against loss or inefficiency. Such internal auditor shall have access to all ~~county~~ records or documents *of the county and the school board of the county* subject to applicable law.

§ 7.4. ~~Planning department~~ *Director of planning*.

~~The planning department shall be composed of a director of planning and such employees as the board of supervisors may determine.~~ The *director of planning department* shall perform such responsibilities as are imposed by general law and as may be assigned by the planning commission and board of supervisors. The director of planning shall have immediate direction and control of the *planning* department, shall be appointed by the county administrator and shall serve subject to the same terms and conditions as are applicable to other department heads. In addition to the authority granted to the board of zoning appeals pursuant to § 15.2-2309 of the Code of Virginia, the board of supervisors by ordinance may authorize the director of planning to grant a variance of not more than two feet from any building setback requirement contained in the county's zoning or subdivision ordinance if he finds in writing: (i) that the strict application of the ordinance would produce undue hardship; (ii) that such hardship is not shared generally by other properties in the same zoning district and the same vicinity; and (iii) that the authorization of such variance will not be of substantial detriment to adjacent property and that the character of the zoning district will not be changed by the granting of the variance.

§ 7.5. ~~Committee~~ *Committees on the future of the county*.

The board of supervisors may appoint a committee on the future of the county consisting of equal representation from each magisterial district. ~~The committee shall meet periodically and shall prepare reports and make recommendations concerning changes in governmental structure, revisions to fiscal and land use planning, and any other matters concerning approaches to meeting the governmental needs of the people of Chesterfield in the future. The committee shall meet at least annually with the board of supervisors and shall prepare a written report detailing its forecast of the condition of the county in the future and means by which the county can cope with future needs or problems that are likely to occur in the future. The committee shall seek to anticipate long-range problems and changes within the county and develop solutions that can be considered by elected officials to lessen any adverse effect on the county of future changes. The scope of the committee's responsibilities shall not be limited by any current categories of perceived long-range issues facing the county. Staff support shall be provided by the planning department and such other county departments as are deemed necessary by the committee. The board of supervisors shall be required to respond in writing to all issues, concerns, or solutions raised in the committee's annual report. The board of supervisors may appoint other committees as the board deems advisable.~~

§ 7.6. Substantial accord review of county facilities.

Any public area, facility or use as defined by § 15.2-2232 of the Code of Virginia, which has been approved by the board of supervisors following a public hearing held pursuant to the county's zoning ordinance shall be exempt from the requirement for submittal to and approval by the county's planning commission or governing body under § 15.2-2232 of the Code of Virginia, so long as such public area, facility or use remains subject to the requirements of the zoning ordinance. *Once a public facility has been determined to be in substantial accord with the county's comprehensive plan or is shown on the public facilities plan, then additional property for such facility may be added without submittal and approval under § 15.2-2232 of the Code of Virginia. In addition, all telecommunications facilities of the nature defined in the county's*

*zoning ordinance as "communication small cell" shall be exempt from the requirements for submittal and approval under § 15.2-2232 if the facilities are located within a zoning district where such use is either permitted by right or permitted with restrictions, provided that all such restrictions are satisfied.*

§ 8.1.a. Election of school board members.

~~Beginning January 1, 1996, and continuing thereafter, the~~ The school board of the county shall consist of five members and shall be elected one from each magisterial district. The terms of the members of the school board shall be the same as the members of the board of supervisors and elections of school board members shall be held simultaneously with the election of board of supervisors. If the size of the board of supervisors is revised, the size and composition of the school board shall be changed so that the number of its members shall be consistent with the new size of the board of supervisors. ~~The initial elected school board shall be elected in the November 1995 general election.~~

**2. That § 6.6, as amended, § 6.8, and § 8.1, as amended, of Chapter 12 of the Acts of Assembly of 1987 are repealed.**

**CHAPTER 383**

*An Act to amend and reenact § 2.2-1616 of the Code of Virginia, relating to Virginia Small Business Financing Authority; administration of Small Business Investment Grant Fund.*

[H 1968]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 2.2-1616 of the Code of Virginia is amended and reenacted as follows:**

**§ 2.2-1616. Creation, administration, and management of the Small Business Investment Grant Fund.**

A. As used in this section:

"Authority" means the Virginia Small Business Financing Authority.

"Eligible investor" means an individual subject to the tax imposed by § 58.1-320 *or a special purpose entity established for the purpose of making investments for an individual.* ~~The term shall "Eligible investor" does not include an individual who engages in the business of making debt or equity investments in private businesses, or to any person that would be allocated a portion of the grant under this section as a partner, shareholder, member, or owner of an entity that engages in such business.~~

"Fund" means the Small Business Investment Grant Fund.

"Pass-through entity" means the same as that term is defined in § 58.1-390.1.

"Qualified investment" means a cash investment in a qualified business in the form of equity or subordinated debt. ~~However, an investment shall not be qualified if the taxpayer who holds such investment, or any of the taxpayer's family members, or any entity affiliated with such taxpayer, receives or has received compensation from the qualified business in exchange for services provided to such business as an employee, officer, director, manager, independent contractor, or otherwise in connection with or within one year before or after the date of such investment. For the purposes hereof, reimbursement of reasonable expenses incurred shall not be deemed to be compensation.~~

"Small business" means a corporation, pass-through entity, or other entity that (i) has annual gross revenues of no more than \$5 million in its most recent fiscal year; (ii) has its principal office or facility in the Commonwealth; (iii) is engaged in business primarily in or does substantially all of its production in the Commonwealth; (iv) has not obtained during its existence more than ~~\$~~ \$5 million in aggregate gross cash proceeds from the issuance of its equity or debt investments, not including commercial loans from national or state-chartered banking or savings and loan institutions; (v) has no more than 50 employees who are employed within the Commonwealth; and (vi) has been designated as such by the Authority pursuant to the provisions of this section.

"Subordinated debt" means indebtedness of a corporation, general or limited partnership, or limited liability company that (i) by its terms required no repayment of principal for the first three years after issuance, (ii) is not guaranteed by any other person or secured by any assets of the issuer or any other person, and (iii) is subordinated to all indebtedness and obligations of the issuer to national or state-chartered banking or savings and loan institutions.

B. From such funds as may be appropriated by the General Assembly and any gifts, grants, or donations from public or private sources, there is hereby created in the state treasury a special nonreverting, permanent fund to be known as the Small Business Investment Grant Fund, to be administered by the Department. The Fund shall be established on the books of the Comptroller. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund at the end of each fiscal year, including interest thereon, shall not revert to the general fund but shall remain in the Fund. Expenditures and disbursements from the Fund, which shall be in the form of grants pursuant to this section, shall be made by the State Treasurer on warrants issued by the Comptroller upon written request bearing the signature of the Director. Grants from the Fund shall only be made to applications pursuant to this section.

C. An eligible investor that makes a qualified investment in a small business on or after July 1, ~~2012~~ 2016, but prior to January 1, 2019, that has been certified by the Authority pursuant to subsection D shall be eligible for a grant in an amount equal to ~~40~~ the lesser of 50 percent of the qualified investment *or \$50,000*. An eligible investor may apply for a grant for each qualified investment that is made to one or more small businesses not to exceed a total grant allocation from the Fund of \$250,000 per eligible investor.

D. A small business shall apply with the Authority to receive qualified investments eligible for the grant pursuant to this section and shall provide to the Authority such information as the Authority deems necessary to demonstrate that it meets the qualifications set forth in subsection A.

E. Any eligible investor applying for a grant pursuant to this section shall submit an application to the Authority. ~~Alternatively, a small business may apply to the Authority on behalf of an eligible investor.~~ The Authority shall determine the amount of the grant allowable to the eligible investor for the year.

F. Unless the eligible investor transfers the equity received in connection with a qualified investment as a result of (i) the liquidation of the small business issuing such equity; (ii) the merger, consolidation, or other acquisition of such business with or by a party not affiliated with such business; or (iii) the death of the eligible investor, any eligible investor that fails to hold such equity for at least two years shall forfeit the grant and shall pay the Authority interest on the total allowed grant at the rate of one percent per month, compounded monthly, from the date the grant was awarded to the taxpayer. The Authority shall deposit any amounts received under this subsection into the general fund of the Commonwealth.

G. Grants shall be issued in the order that each completed eligible application is received by the Authority. In the event that the amount of eligible grants requested in a fiscal year exceeds the funds available in the Fund, such grants shall be paid in the next fiscal year in which funds are available.

H. An eligible investor shall not be awarded a grant pursuant to this section for any investment in a small business for which the eligible investor has been allowed a tax credit pursuant to § 58.1-339.4.

I. The Authority shall establish policies and procedures relating to (i) the certification of small businesses, (ii) the application for grants, and (iii) the recapture of grant awards claimed with interest in the event that the qualified investment is not held for the requisite period set forth in subsection F. Such policies and procedures shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq.).

#### CHAPTER 384

*An Act to amend the Code of Virginia by adding in Article 1 of Chapter 12 of Title 15.2 a section numbered 15.2-1232.2, relating to creation of economic revitalization zones in counties.*

[H 1970]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding in Article 1 of Chapter 12 of Title 15.2 a section numbered 15.2-1232.2 as follows:**

**§ 15.2-1232.2. Creation of local economic revitalization zones.**

A. Any county may establish by ordinance one or more economic revitalization zones for the purpose of providing incentives to private entities to purchase real property and interests in real property to assemble parcels suitable for economic development. Each county establishing an economic revitalization zone may grant incentives and provide regulatory flexibility. Such zones shall be reasonably compact, shall not encompass the entire county, and shall constitute one or more tax parcels not commonly owned. Properties that are acquired through the use of eminent domain shall not be eligible for the incentives and regulatory flexibility provided by the ordinance.

B. The incentives may include, but not be limited to, (i) reduction of permit fees, (ii) reduction of user fees, (iii) reduction of any type of gross receipts tax, and (iv) waiver of tax liens to facilitate the sale of property.

C. Incentives established pursuant to this section may extend for a period of up to 10 years from the date of initial establishment of the economic revitalization zone; however, the extent and duration of any incentive shall conform to the requirements of applicable federal and state law.

D. The regulatory flexibility provided in an economic revitalization zone may include (i) special zoning for the district; (ii) the use of a special permit process; (iii) exemption from certain specified ordinances, excluding ordinances or provisions of ordinances adopted pursuant to the requirements of the Chesapeake Bay Preservation Act (§ 62.1-44.15:67 et seq.), the Erosion and Sediment Control Law (§ 62.1-44.15:51 et seq.), and the Virginia Stormwater Management Act (§ 62.1-44.15:24 et seq.); and (iv) any other incentives adopted by ordinance, which shall be binding upon the county for a period of up to 10 years.

E. The governing body may establish a service district for the provision of additional public services pursuant to Chapter 24 (§ 15.2-2400 et seq.).

F. This section shall not authorize any local government powers that are not expressly granted herein.

G. Prior to adopting or amending any ordinance pursuant to this section, a county shall provide for notice and public hearing in accordance with subsection A of § 15.2-2204.

## CHAPTER 385

*An Act to amend and reenact §§ 28 and 35 of Chapters 143 and 156 of the Acts of Assembly of 2009, which provided a charter for the City of Williamsburg, relating to the redevelopment and housing authority.*

[H 1977]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:****1. That §§ 28 and 35 of Chapters 143 and 156 of the Acts of Assembly of 2009 are amended and reenacted as follows:****§ 28. Power and authority of council members generally.**

All powers of the city as a body politic and corporate shall be vested in the council except as otherwise provided in this charter. The council shall be the policy-determining body of the city and shall be vested with all the rights and powers conferred on councils of cities, not inconsistent with this charter. In addition to the foregoing, the council shall have the following powers:

1. To inquire into the official conduct of any office or officer under its control, and investigate the accounts, receipts, disbursements and expenses of any city employee that are required to be maintained in the normal course of the city's business; for these purposes the council may subpoena witnesses, administer oaths and require the production of books, papers and other evidence maintained in the normal course of business; subpoenas issued by the council shall be enforced by the circuit court of the city in the manner provided by general law.

2. To provide for the performance of all governmental functions of the city; and to that end, provide for and set up all departments and agencies of government that shall be necessary. Whenever it is not designated by law or by ordinance what officer or employee of the city shall exercise any power or perform any duty conferred upon or required of the city, or any officer thereof, then any such power shall be exercised or duty performed by that officer or employee of the city so designated by the city manager. Any activity that is not assigned by the provisions of this charter to specific departments or agencies of the city government shall be assigned by the council to the appropriate department or agency. The council may further create, abolish, reassign, transfer or combine any city functions, activities or departments.

3. To order an independent audit of the accounts, books, records and financial transactions of the city by the Auditor of Public Accounts of the Commonwealth of Virginia, or by a firm of independent certified public accountants to be selected by council after the close of each fiscal year. The report of the audit shall be filed within such time as the council shall specify and one copy of the report shall be always available for public inspection in the office of the city manager during regular business hours. Either the council or the city manager may at any time order an examination or audit of the accounts of any officer or department of the city government. Upon the death, resignation, removal or expiration of the term of any officer of the city, the director of finance shall cause an audit and investigation of the accounts of such officer to be made and shall report the results to the city manager and the council. If, as a result of any such audit, an officer is found to be indebted to the city, the council shall proceed immediately to collect such indebtedness.

4. To fix a schedule of compensation for all city officers and employees that shall provide uniform compensation for like service. The council may define certain classes of city officers and employees whose salaries shall be set by the city manager, except that this provision shall not apply to the constitutional officers, the heads of city departments and judges.

5. To prescribe the amount and condition of surety bonds required of such officers and employees of the city as the council may prescribe.

~~6. To appoint a duly elected member of the city council to serve as one of the commissioners of any redevelopment and housing authority for the city created pursuant to Title 36 of the Code of Virginia. The term of the appointee shall be for two years, but shall not extend beyond the expiration of the appointee's current term on council. While serving on city council, such appointee shall not receive compensation for serving as an authority commissioner. The above notwithstanding, however, city council may by ordinance enacted in accordance with § 35 of this charter remove all currently serving commissioners of the authority and appoint the members of the council as the commissioners of the authority. City council may by ordinance enacted in accordance with § 35 herein below remove some or all currently serving commissioners of the city's redevelopment and housing authority and appoint one or more of themselves to serve as commissioners of the authority in the place and stead of the commissioners so removed.~~

7. Designate one or more areas within the city as underground utility districts if, in the opinion of city council, after holding a duly advertised public hearing pursuant to the petition of at least three-fourths of the landowners within the proposed district, the undergrounding of existing lines for the distribution of one or more of electricity, telephone or cable television within the proposed district is in the best interests of the city and of the residents of the district. After defining the boundaries thereof, and notwithstanding any provision to the contrary in § 15.2-2404 of the Code of Virginia, to impose, without unanimous consent of the property owners in the district, taxes and assessments upon all parcels of real property within the bounds of such district in an amount not exceeding three-fourths of the total cost of the undergrounding of overhead utility lines located in such district for the provision of one or more of electricity, telephone and cable television services within the district. Except as here modified, all other provisions of Article 2 (§ 15.2-2404 et seq.) of Chapter 24 of Title 15.2 of the Code of Virginia shall apply.

8. Make and enforce all ordinances, rules and regulations necessary or expedient for the purpose of carrying into effect the powers conferred by this charter or by any general law, and to provide and impose suitable penalties for the violation of such ordinances, rules and regulations.

9. Do all things whatsoever necessary or expedient for promoting or maintaining the general welfare, comfort, education, morals, peace, government, health, trade, commerce or industries of the city and its inhabitants. Among such powers, and not in limitation thereof, shall be the power to compel the abatement and removal of all nuisances within the city or upon property owned by or lying adjacent to property owned by the city beyond its limits at the expense of the person or persons causing the same, or of the owner or occupant of the ground or premises whereon the same may be.

§ 35. Redevelopment and housing authority.

Notwithstanding any provision of law to the contrary, there shall be ~~five not more than seven~~ commissioners of the Williamsburg Redevelopment and Housing Authority, *all of whom must be residents of the city and not more than five of whom may be members of Williamsburg City Council*. Commissioners, *other than commissioners who are also members of City Council*, shall hold their offices at the pleasure of the council for a term not to exceed four years; provided, however, ~~the council may at any time, and from time to time, adopt an ordinance terminating the term of all the commissioners and designating the council members as the commissioners of the authority. In that event, notwithstanding the provisions of § 36-11 of the Code of Virginia to the contrary, a council member shall receive no compensation for serving as a commissioner nor shall the council member continue to serve as a commissioner upon ceasing to be a member of council. The council may at any time repeal such ordinance designating the council members as the commissioners and appoint residents of the city to serve as the commissioners. that unless sooner terminated, the term of each commissioner who is also a council member shall coincide with his or her term as a member of the council. A council member shall receive no compensation for serving as a commissioner.~~ The establishment and organization of the Williamsburg Redevelopment and Housing Authority heretofore established under the provisions of this charter, together with all proceedings, acts and things heretofore undertaken are hereby validated, ratified and confirmed.

## CHAPTER 386

*An Act to amend and reenact §§ 55-517 through 55-519.2, 55-519.4, 55-520, and 55-524 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 55-517.1 and 55-519.2:1, relating to the Virginia Residential Property Disclosure Act.*

[H 2034]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 55-517 through 55-519.2, 55-519.4, 55-520, and 55-524 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 55-517.1 and 55-519.2:1 as follows:**

**§ 55-517. Applicability.**

The provisions of this chapter apply only with respect to transfers by sale, exchange, installment land sales contract, or lease with option to buy residential real property consisting of not less than one nor more than four dwelling units, whether or not the transaction is with the assistance of a licensed real estate broker or salesperson. ~~For the purposes of this chapter, a "real estate contract" means a contract for the sale, exchange, or lease with the option to buy residential real estate subject to this chapter.~~

**§ 55-517.1. Definitions.**

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

*"Electronic delivery," for purposes of delivery of the disclosures required by this chapter, means sending the required disclosures via the Internet, provided that the sender retains sufficient proof of the electronic delivery, which may be an electronic receipt of delivery, a confirmation that the notice was sent by facsimile, or a certificate of service prepared by the sender confirming the electronic delivery.*

*"Notification" means a statement of the availability of any disclosures required by this chapter on the Real Estate Board's website or delivery of any such disclosures to the purchaser.*

*"Ratification" means the full execution of a real estate purchase contract by all parties.*

*"Real estate contract" means a contract for the sale, exchange, or lease with the option to buy residential real estate subject to this chapter.*

**§ 55-518. Exemptions.**

A. The following are specifically excluded from the provisions of this chapter:

1. Transfers pursuant to court order including, but not limited to, transfers ordered by a court in administration of an estate, transfers pursuant to a writ of execution, transfers by foreclosure sale or by a deed in lieu of a foreclosure, transfers by a trustee in bankruptcy, transfers by eminent domain, and transfers resulting from a decree for specific performance. Also, transfers by an assignment for the benefit of creditors pursuant to Chapter 9 (§ 55-156 et seq.) and transfers pursuant to escheats pursuant to Chapter 9 (§ 55-156 et seq.).

2. Transfers to a beneficiary of a deed of trust pursuant to a foreclosure sale or by a deed in lieu of foreclosure, or transfers by a beneficiary under a deed of trust who has acquired the real property at a sale conducted pursuant to a foreclosure sale under a deed of trust or has acquired the real property by a deed in lieu of foreclosure.

3. Transfers by a fiduciary in the course of the administration of a decedent's estate, guardianship, conservatorship, or trust.

4. Transfers from one or more co-owners solely to one or more other co-owners.

5. Transfers made solely to any combination of a spouse or a person or persons in the lineal line of consanguinity of one or more of the transferors.

6. Transfers between spouses resulting from a decree of divorce or a property settlement stipulation pursuant to the provisions of Title 20.

7. Transfers made by virtue of the record owner's failure to pay any federal, state, or local taxes.

8. Transfers to or from any governmental entity or public or quasi-public housing authority or agency.

9. Transfers involving the first sale of a dwelling; provided, that this exemption shall not apply to the disclosures required by § 55-519.1.

B. Notwithstanding the provisions of subdivision A 9 of this section, the builder of a new dwelling shall disclose in writing to the purchaser thereof all known material defects which would constitute a violation of any applicable building code. In addition, for property that is located wholly or partially in any locality comprising Planning District 15, the builder or owner, if the builder is not the owner of the property, shall disclose in writing whether the builder or owner has any knowledge of (i) whether mining operations have previously been conducted on the property or (ii) the presence of abandoned mines, shafts, or pits, if any. The disclosures required by this subsection shall be made by a builder or owner (i) when selling a completed dwelling, before acceptance ratification of the real estate purchase contract or (ii) when selling a dwelling before or during its construction, after issuance of a certificate of occupancy. Such disclosure shall not abrogate any warranty or any other contractual obligations the builder or owner may have to the purchaser. The disclosure required by this subsection may be made on the disclosure form described in § 55-519. If no defects are known by the builder to exist, no written disclosure is required by this subsection.

**§ 55-519. Required disclosures for buyer to beware; buyer to exercise necessary due diligence.**

A. ~~With regard to transfers described in § 55-517, the~~ The owner of the residential real property shall furnish to a purchaser a residential property disclosure statement ~~in for the buyer to beware of certain matters that may affect the buyer's decision to purchase such real property. Such statement shall be on a form provided by the Real Estate Board stating that the owner makes the following representations as to the real property:~~

1. ~~The owner makes no representations with respect to the matters set forth and described at a website maintained by the Real Estate Board and that the purchaser is advised to consult this website for important information about the real property; and~~

2. ~~The owner represents that there are no pending enforcement actions pursuant to the Uniform Statewide Building Code (§ 36-97 et seq.) that affect the safe, decent, sanitary living conditions of the property of which the owner has been notified in writing by the locality, except as disclosed on the disclosure statement; nor any pending violation of the local zoning ordinance that the violator has not abated or remedied under the zoning ordinance, within a time period set out in the written notice of violation from the locality or established by a court of competent jurisdiction, except as disclosed on the disclosure statement on its website.~~

B. ~~At the website referenced in subdivision A 1, the Real Estate Board shall include language providing notice to the purchaser that by delivering the residential property disclosure statement~~ *The residential property disclosure statement provided by the Real Estate Board on its website shall include the following:*

1. The owner makes no representations or warranties as to the condition of the real property or any improvements thereon, or with regard to any covenants and restrictions as may be recorded among the land records affecting the real property or any improvements thereon, and purchasers are advised to exercise whatever due diligence a particular purchaser deems necessary, including obtaining a home inspection, as defined in § 54.1-500, in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event, prior to settlement pursuant to such contract;

2. The owner makes no representations with respect to any matters that may pertain to parcels adjacent to the subject parcel, including zoning classification or permitted uses of adjacent parcels, and that purchasers are advised to exercise whatever due diligence a particular purchaser deems necessary with respect to adjacent parcels in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event, prior to settlement pursuant to such contract;

3. The owner makes no representations to any matters that pertain to whether the provisions of any historic district ordinance affect the property and purchasers are advised to exercise whatever due diligence a particular purchaser deems necessary with respect to any historic district designated by the locality pursuant to § 15.2-2306, including review of any local ordinance creating such district or any official map adopted by the locality depicting historic districts, in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event, prior to settlement pursuant to such contract;

4. The owner makes no representations with respect to whether the property contains any resource protection areas established in an ordinance implementing the Chesapeake Bay Preservation Act (§ 62.1-44.15:67 et seq.) adopted by the locality where the property is located pursuant to § 62.1-44.15:74 and that purchasers are advised to exercise whatever due

diligence a particular purchaser deems necessary to determine whether the provisions of any such ordinance affect the property, including review of any official map adopted by the locality depicting resource protection areas, in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event, prior to settlement pursuant to such contract;

5. The owner makes no representations with respect to information on any sexual offenders registered under Chapter 23 (§ 19.2-387 et seq.) of Title 19.2 and that purchasers are advised to exercise whatever due diligence they deem necessary with respect to such information, in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event, prior to settlement pursuant to such contract;

6. The owner makes no representations with respect to whether the property is within a dam break inundation zone. Such disclosure statement shall advise purchasers to exercise whatever due diligence they deem necessary with respect to whether the property resides within a dam break inundation zone, including a review of any map adopted by the locality depicting dam break inundation zones;

7. The owner makes no representations with respect to the presence of any stormwater detention facilities located on the property, or any maintenance agreement for such facilities, and purchasers are advised to exercise whatever due diligence they deem necessary to determine the presence of any stormwater detention facilities on the property, or any maintenance agreement for such facilities, in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event, prior to settlement pursuant to such contract;

8. The owner makes no representations with respect to the presence of any wastewater system, including the type or size thereof or associated maintenance responsibilities related thereto, located on the property and purchasers are advised to exercise whatever due diligence they deem necessary to determine the presence of any wastewater system on the property and the costs associated with maintaining, repairing, or inspecting any wastewater system, including any costs or requirements related to the pump-out of septic tanks, in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event, prior to settlement pursuant to such contract;

9. The owner makes no representations with respect to any right to install or use solar energy collection devices on the property; ~~and~~

10. The owner makes no representations with respect to whether the property is located in one or more special flood hazard areas and purchasers are advised to exercise whatever due diligence they deem necessary, including (i) obtaining a flood certification or mortgage lender determination of whether the property is located in one or more special flood hazard areas, (ii) review of any map depicting special flood hazard areas, and (iii) whether flood insurance is required, in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event, prior to settlement pursuant to such contract;

11. *The owner makes no representations with respect to whether the property is subject to one or more conservation or other easements and that purchasers are advised to exercise whatever due diligence a particular purchaser deems necessary in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event, prior to settlement pursuant to such contract; and*

12. *The owner makes no representations with respect to whether the property is subject to a community development authority approved by a local governing body pursuant to Article 6 (§ 15.2-5152 et seq.) of Chapter 51 of Title 15.2 and that purchasers are advised to exercise whatever due diligence a particular purchaser deems necessary in accordance with terms and conditions as may be contained in the real estate purchase contract, including determining whether a copy of the resolution or ordinance has been recorded in the land records of the circuit court for the locality in which the community development authority district is located for each tax parcel included in the district pursuant to § 15.2-5157, but in any event, prior to settlement pursuant to such contract.*

~~C. Any purchaser who is a party to a real estate purchase contract subject to this section may provide in such contract that the disclosures provided on the Real Estate Board website be printed off and provided to such purchaser. The residential property disclosure statement shall be delivered in accordance with § 55-520.~~

**§ 55-519.1. Required disclosures pertaining to a military air installation.**

The owner of residential real property located in any locality in which a military air installation is located shall disclose to the purchaser whether the subject parcel is located in a noise zone or accident potential zone, or both, if so designated on the official zoning map by the locality in which the property is located. *Such disclosure shall be provided to the purchaser on a form provided by the Real Estate Board on its website.* Such disclosure shall state the specific noise zone or accident potential zone, or both, in which the property is located according to the official zoning map.

**§ 55-519.2. Required disclosures; defective drywall.**

Notwithstanding the exemptions in § 55-518, if the owner of a residential dwelling unit has actual knowledge of the existence of defective drywall in such dwelling unit, the owner shall provide to a prospective purchaser a written disclosure that the property has defective drywall. Such disclosure shall be provided to the purchaser on a form provided by the ~~Virginia~~ Real Estate Board *on its website* and otherwise in accordance with this chapter. For purposes of this section, "defective drywall" means all defective drywall as defined in § 36-156.1.

**§ 55-519.2:1. Required disclosures; pending building or zoning violations.**

*Notwithstanding the exemptions in § 55-518, if the owner of a residential dwelling unit has actual knowledge of any pending enforcement actions pursuant to the Uniform Statewide Building Code (§ 36-97 et seq.) that affect the safe, decent, sanitary living conditions of the property of which the owner has been notified in writing by the locality, or any pending*

violation of the local zoning ordinance that the violator has not abated or remedied under the zoning ordinance, within a time period set out in the written notice of violation from the locality or established by a court of competent jurisdiction, the owner shall provide to a prospective purchaser a written disclosure that so states. Such disclosure shall be provided to the purchaser on a form provided by the Real Estate Board on its website and otherwise in accordance with this chapter.

**§ 55-519.4. Required disclosures; property previously used to manufacture methamphetamine.**

Notwithstanding the exemptions in § 55-518, if the owner of a residential dwelling unit has actual knowledge that such residential property was previously used to manufacture methamphetamine and has not been cleaned up in accordance with the guidelines established pursuant to § 32.1-11.7 and the applicable licensing provisions of Chapter 11 (§ 54.1-1100 et seq.) of Title 54.1, the owner shall provide to a prospective purchaser a written disclosure that so states. Such disclosure shall be provided to the purchaser on a form provided by the ~~Virginia~~ Real Estate Board on its website and otherwise in accordance with this chapter.

**§ 55-520. Time for disclosure; termination of contract.**

A. The owner of residential real property subject to this chapter shall ~~deliver~~ provide notification to the purchaser ~~the written disclosure statement of any disclosures required by this chapter prior to the acceptance ratification of a real estate purchase contract or otherwise be subject to the provisions of subsection B of this section. For the purposes of this chapter, "acceptance" means the full execution of a real estate purchase contract by all parties. The residential property disclosure statement may be included in the real estate purchase contract, in an addendum thereto, or in a separate document disclosures required by this chapter shall be on forms provided by the Real Estate Board on its website.~~

B. If the ~~disclosure statement disclosures~~ required by this chapter ~~is~~ are delivered to the purchaser after the ~~acceptance ratification~~ of the real estate purchase contract, the purchaser's sole remedy shall be to terminate the real estate purchase contract at or prior to the earliest of (i) three days after delivery of the disclosure statement in person or by electronic delivery; (ii) five days after the postmark if the disclosure statement is deposited in the United States mail, postage prepaid, and properly addressed to the purchaser; (iii) settlement upon purchase of the property; (iv) occupancy of the property by the purchaser; (v) the purchaser making written application to a lender for a mortgage loan where such application contains a disclosure that the right of termination shall end upon the application for the mortgage loan; or (vi) the execution by the purchaser after receiving the disclosure statement required by this chapter of a written waiver of the purchaser's right of termination under this chapter contained in a writing separate from the real estate purchase contract. In order to terminate a real estate purchase contract when permitted by this chapter, the purchaser must, within the times required by this chapter, give written notice to the owner by one of the following methods:

1. Hand delivery;
2. United States mail, postage prepaid, provided that the sender retains sufficient proof of mailing, which may be ~~either a United States postal certificate of mailing or a certificate of service prepared by the sender confirming such mailing;~~
3. Electronic ~~means provided the sender retains sufficient proof of the electronic delivery, which may be an electronic receipt of delivery, a confirmation that the notice was sent by facsimile, or a certificate of service prepared by the sender confirming the electronic delivery; or~~
4. Overnight delivery using a commercial service or the United States Postal Service.

If the purchaser terminates a real estate purchase contract in compliance with this chapter, the termination shall be without penalty to the purchaser, and any deposit shall be promptly returned to the purchaser.

C. Notwithstanding the provisions of subsection B of § 55-524, no purchaser of residential real property located in a noise zone designated on the official zoning map of the locality as having a day-night average sound level of less than 65 decibels shall have the right to terminate a real estate purchase contract pursuant to this section for failure of the property owner to timely provide any disclosure required by ~~§ 55-519.4~~ this chapter.

**§ 55-524. Actions under this chapter.**

A. Notwithstanding any other provision of this chapter or any other statute or regulation, no cause of action shall arise against an owner or a real estate licensee for failure to disclose ~~that an occupant of the subject real property, whether or not such real property is subject to this chapter, was afflicted with human immunodeficiency virus (HIV) or that the real property was the site of:~~

1. An act or occurrence which had no effect on the physical structure of the real property, its physical environment, or the improvements located thereon; or
2. A homicide, felony, or suicide.

B. The purchaser's remedies hereunder for failure of an owner to comply with the provisions of this chapter are as follows:

1. If the owner fails to provide ~~the disclosure statement~~ any of the applicable disclosures required by this chapter, the contract may be terminated subject to the provisions of subsection B of § 55-520.

2. In the event the owner fails to provide ~~the disclosure~~ any of the applicable disclosures required by ~~§ 55-519.4~~ this chapter, or the owner misrepresents, willfully or otherwise, the information required in such disclosure, except as result of information provided by an officer or employee of the locality in which the property is located, the purchaser may maintain an action to recover his actual damages suffered as the result of such violation. Notwithstanding the provisions of this subdivision, no purchaser of residential real property located in a noise zone designated on the official zoning map of the locality as having a day-night average sound level of less than 65 decibels shall have a right to maintain an action for damages pursuant to this section.

C. Any action brought under this ~~subsection~~ *section* shall be commenced within one year of the date the purchaser received the ~~disclosure statement~~ *applicable disclosures required by this chapter*. If ~~no disclosure statement was the disclosures required by this chapter were not~~ delivered to the purchaser, an action shall be commenced within one year of the date of settlement if by sale, or occupancy if by lease with an option to purchase.

Nothing contained herein shall prevent a purchaser from pursuing any remedies at law or equity otherwise available against an owner in the event of an owner's intentional or willful misrepresentation of the condition of the subject property.

### CHAPTER 387

*An Act to amend and reenact §§ 54.1-2349, 55-509.4, and 55-509.6 of the Code of Virginia, relating to the Property Owners' Association Act; designation of authorized representative by seller; association disclosure packet.*

[H 2045]

Approved March 13, 2017

#### **Be it enacted by the General Assembly of Virginia:**

#### **1. That §§ 54.1-2349, 55-509.4, and 55-509.6 of the Code of Virginia are amended and reenacted as follows:**

##### **§ 54.1-2349. Powers and duties of the Board.**

A. The Board shall administer and enforce the provisions of this chapter. In addition to the provisions of §§ 54.1-201 and 54.1-202, the Board shall:

1. Promulgate regulations necessary to carry out the requirements of this chapter in accordance with the provisions of the Administrative Process Act (§ 2.2-4000 et seq.) to include but not be limited to the prescription of fees, procedures, and qualifications for the issuance and renewal of common interest community manager licenses. The Board shall annually assess each common interest community manager an amount equal to the lesser of (i) \$1,000, or such other amount as the Board may establish by regulation, or (ii) five hundredths of one percent (0.05%) of the gross receipts from common interest community management during the preceding year. For the purposes of clause (ii), no minimum payment shall be less than \$10. The annual payment shall be remitted to the State Treasurer and shall be placed to the credit of the Common Interest Community Management Fund established pursuant to § 55-529;

2. Establish criteria for the licensure of common interest community managers to ensure the appropriate training and educational credentials for the provision of management services to common interest communities. Such criteria may include experiential requirements and shall include designation as an Accredited Association Management Company by the Community Associations Institute. As an additional alternative to such designation, the Board shall have authority, by regulation, to include one of the following: (i) successful completion of another Board-approved training program and certifying examination, or (ii) successful completion of a Virginia testing program to determine the quality of the training and educational credentials for and competence of common interest community managers;

3. Establish criteria for the certification of the employees of common interest community managers who have principal responsibility for management services provided to a common interest community or who have supervisory responsibility for employees who participate directly in the provision of management services to a common interest community to ensure the person possesses the character and minimum skills to engage properly in the provision of management services to a common interest community. Such criteria shall include designation as a Certified Manager of Community Associations by the National Board of Certification for Community Association Managers, designation as an Association Management Specialist by the Community Associations Institute, or designation as a Professional Community Association Manager by the Community Associations Institute. As an additional alternative to such designations, the Board shall have authority, by regulation, to include one of the following: (i) successful completion of another Board-approved training program as developed by the Virginia Association of Realtors or other organization, and certifying examination, or (ii) successful completion of a Virginia testing program to determine the quality of the training and educational credentials for and competence of the employees of common interest community managers who participate directly in the provision of management services to a common interest community. The fee paid to the Board for the issuance of such certificate shall be paid to the Common Interest Community Management Information Fund established pursuant to § 55-529;

4. Approve the criteria for accredited common interest community manager training programs;

5. Approve accredited common interest community manager training programs;

6. Establish, by regulation, standards of conduct for common interest community managers and for employees of common interest community managers certified in accordance with the provisions of this chapter;

7. Establish, by regulation, an education-based certification program for persons who are involved in the business or activity of providing management services for compensation to common interest communities. The Board shall have the authority to approve training courses and instructors in furtherance of the provisions of this chapter; and

8. Develop and publish best practices for the content of declarations consistent with the requirements of the Property Owners' Association Act (§ 55-508 et seq.).

B. 1. The Board shall have the sole responsibility for the administration of this chapter and for the promulgation of regulations to carry out the requirements thereof.

2. The Board shall also be responsible for the enforcement of this chapter, provided that the Real Estate Board shall have the sole responsibility for the enforcement of this chapter with respect to a real estate broker, real estate salesperson, or

real estate brokerage firm licensed in accordance with Chapter 21 (§ 54.1-2100 et seq.) who is also licensed as a common interest community manager.

3. For purposes of enforcement of this chapter or Chapter 4.2 (§ 55-79.39 et seq.), 21 (§ 55-360 et seq.), 24 (§ 55-424 et seq.), or 26 (§ 55-508 et seq.) of Title 55, any requirement for the conduct of a hearing shall be satisfied by an informal fact-finding proceeding convened and conducted pursuant to § 2.2-4019 of the Administrative Process Act (§ 2.2-4000 et seq.).

C. The Board is authorized to obtain criminal history record information from any state or federal law-enforcement agency relating to an applicant for licensure or certification. Any information so obtained is for the exclusive use of the Board and shall not be released to any other person or agency except in furtherance of the investigation of the applicant or with the authorization of the applicant or upon court order.

D. *Notwithstanding the provisions of subsection E of § 55-530, the Board may receive a complaint directly from any person aggrieved by an association's failure to deliver a resale certificate or disclosure packet within the time period required under § 55-79.97, 55-79.97:1, 55-484, 55-509.5, 55-509.6, or 55-509.7.*

**§ 55-509.4. Contract disclosure statement; right of cancellation; use of for sale sign in connection with resale; designation of authorized representative.**

A. Subject to the provisions of subsection A of § 55-509.10, an owner selling a lot shall disclose in the contract that (i) the lot is located within a development that is subject to the Virginia Property Owners' Association Act (§ 55-508 et seq.); (ii) the Act requires the seller to obtain from the property owners' association an association disclosure packet and provide it to the purchaser; (iii) the purchaser may cancel the contract within three days after receiving the association disclosure packet or being notified that the association disclosure packet will not be available; (iv) if the purchaser has received the association disclosure packet, the purchaser has a right to request an update of such disclosure packet in accordance with subsection H of § 55-509.6 or subsection C of § 55-509.7, as appropriate; and (v) the right to receive the association disclosure packet and the right to cancel the contract are waived conclusively if not exercised before settlement.

For purposes of clause (iii), the association disclosure packet shall be deemed not to be available if (a) a current annual report has not been filed by the association with either the State Corporation Commission pursuant to § 13.1-936 or with the Common Interest Community Board pursuant to § 55-516.1, (b) the seller has made a written request to the association that the packet be provided and no such packet has been received within 14 days in accordance with subsection A of § 55-509.5, or (c) written notice has been provided by the association that a packet is not available.

B. If the contract does not contain the disclosure required by subsection A, the purchaser's sole remedy is to cancel the contract prior to settlement.

C. The information contained in the association disclosure packet shall be current as of a date specified on the association disclosure packet prepared in accordance with this section; however, a disclosure packet update or financial update may be requested in accordance with subsection G of § 55-509.6 or subsection C of § 55-509.7, as appropriate. The purchaser may cancel the contract: (i) within three days after the date of the contract, if on or before the date that the purchaser signs the contract, the purchaser receives the association disclosure packet or is notified that the association disclosure packet will not be available; (ii) within three days after receiving the association disclosure packet if the association disclosure packet or notice that the association disclosure packet will not be available is hand delivered, delivered by electronic means, or delivered by a commercial overnight delivery service or the United States Postal Service, and a receipt obtained; or (iii) within six days after the postmark date if the association disclosure packet or notice that the association disclosure packet will not be available is sent to the purchaser by United States mail. The purchaser may also cancel the contract at any time prior to settlement if the purchaser has not been notified that the association disclosure packet will not be available and the association disclosure packet is not delivered to the purchaser.

Notice of cancellation shall be provided to the lot owner or his agent by one of the following methods:

1. Hand delivery;
2. United States mail, postage prepaid, provided the sender retains sufficient proof of mailing, which may be either a United States postal certificate of mailing or a certificate of service prepared by the sender confirming such mailing;
3. Electronic means provided the sender retains sufficient proof of the electronic delivery, which may be an electronic receipt of delivery, a confirmation that the notice was sent by facsimile, or a certificate of service prepared by the sender confirming the electronic delivery; or
4. Overnight delivery using a commercial service or the United States Postal Service.

In the event of a dispute, the sender shall have the burden to demonstrate delivery of the notice of cancellation. Such cancellation shall be without penalty, and the seller shall cause any deposit to be returned promptly to the purchaser.

D. Whenever any contract is canceled based on a failure to comply with subsection A or C or pursuant to subsection B, any deposit or escrowed funds shall be returned within 30 days of the cancellation, unless the parties to the contract specify in writing a shorter period.

E. Any rights of the purchaser to cancel the contract provided by this chapter are waived conclusively if not exercised prior to settlement.

F. Except as expressly provided in this chapter, the provisions of this section and § 55-509.5 may not be varied by agreement, and the rights conferred by this section and § 55-509.5 may not be waived.

G. For purposes of this chapter:

"Delivery" means that the disclosure packet is delivered to the purchaser or purchaser's authorized agent by one of the methods specified in this section.

"Purchaser's authorized agent" means any person designated by such purchaser in a ratified real estate contract for purchase and sale of residential real property or other writing designating such agent.

"Receives, received, or receiving" the disclosure packet means that the purchaser or purchaser's authorized agent has received the disclosure packet by one of the methods specified in this section.

"Seller's authorized agent" means a person designated by such seller in a ratified real estate contract for purchase and sale of residential real property or other writing designating such agent.

H. Unless otherwise provided in the ratified real estate contract or other writing, delivery to the purchaser's authorized agent shall require delivery to such agent and not to a person other than such agent. Delivery of the disclosure packet may be made by the lot owner or the lot owner's authorized agent.

I. If the lot is governed by more than one association, the purchaser's right of cancellation may be exercised within the required time frames following delivery of the last disclosure packet or resale certificate.

J. *Except as expressly authorized in this chapter or in the declaration or as otherwise provided by law, no property owners' association shall:*

1. *Require the use of any for sale sign that is (i) an association sign or (ii) a real estate sign that does not comply with the requirements of the Real Estate Board. An association may, however, prohibit the placement of signs in the common area and establish reasonable rules and regulations that regulate (a) the number of real estate signs to be located on real property upon which the owner has a separate ownership interest or a right of exclusive possession so long as at least one real estate sign is permitted; (b) the geographical location of real estate signs on real property in which the owner has a separate ownership interest or a right of exclusive possession, so long as the location of the real estate signs complies with the requirements of the Real Estate Board; (c) the manner in which real estate signs are affixed to real property; and (d) the period of time after settlement when the real estate signs on such real property shall be removed; or*

2. *Require any lot owner to execute a formal power of attorney if the lot owner designates a person licensed under the provisions of § 54.1-2106.1 as the lot owner's authorized representative, and the association shall recognize such representation without a formal power of attorney, provided that the association is given a written authorization signed by the lot owner designating such representative. Notwithstanding the foregoing, the requirements of § 13.1-849 of the Virginia Nonstock Corporation Act (§ 13.1-801 et seq.) and the association's declaration, bylaws, and articles of incorporation shall be satisfied before any such representative may exercise a vote on behalf of a lot owner as a proxy.*

**§ 55-509.6. Fees for disclosure packet; professionally managed associations.**

A. A professionally managed association or its common interest community manager may charge certain fees as authorized by this section for the inspection of the property, the preparation and issuance of the disclosure packet required by § 55-509.5, and for such other services as set out in this section. The seller or the seller's authorized agent shall specify in writing whether the disclosure packet shall be delivered electronically or in hard copy, at the option of the seller or the seller's authorized agent, and shall specify the complete contact information for the parties to whom the disclosure packet shall be delivered.

B. A reasonable fee may be charged by the preparer as follows for:

1. The inspection of the exterior of the dwelling unit and the lot, as authorized in the declaration and as required to prepare the association disclosure packet, a fee not to exceed \$100;

2. The preparation and delivery of the disclosure packet in (i) paper format, a fee not to exceed \$150 for no more than two hard copies or (ii) electronic format, a fee not to exceed a total of \$125 for an electronic copy to each of the following named in the request: the seller, the seller's authorized agent, the purchaser, the purchaser's authorized agent, and not more than one other person designated by the requester. The preparer of the disclosure packet shall provide the disclosure packet directly to the designated persons. Only one fee shall be charged for the preparation and delivery of the disclosure packet;

3. At the option of the seller or the seller's authorized agent, with the consent of the association or the common interest community manager, expediting the inspection, preparation and delivery of the disclosure packet, an additional expedite fee not to exceed \$50;

4. At the option of the seller or the seller's authorized agent, an additional hard copy of the disclosure packet, a fee not to exceed \$25 per hard copy;

5. At the option of the seller or the seller's authorized agent, a fee not to exceed an amount equal to the actual cost paid to a third-party commercial delivery service for hand delivery or overnight delivery of the association disclosure packet; and

6. A post-closing fee to the purchaser of the property, collected at settlement, for the purpose of establishing the purchaser as the owner of the property in the records of the association, a fee not to exceed \$50.

Except as otherwise provided in subsection E, neither the association nor its common interest community manager shall require cash, check, certified funds or credit card payments at the time the request for the disclosure packet is made. The disclosure packet shall state that all fees and costs for the disclosure packet shall be the personal obligation of the lot owner and shall be an assessment against the lot and collectible as any other assessment in accordance with the provisions of the declaration and § 55-516, if not paid at settlement or within 60 days of the delivery of the disclosure packet, whichever occurs first.

For purposes of this section, an expedite fee shall only be charged if the inspection and preparation of delivery of the disclosure packet are completed within five business days of the request for a disclosure packet.

C. No fees other than those specified in this section, and as limited by this section, shall be charged by the association or its common interest community manager for compliance with the duties and responsibilities of the association under this chapter. No additional fee shall be charged for access to the association's or common interest community manager's website. The association or its common interest community manager shall publish and make available in paper or electronic format, or both, a schedule of the applicable fees so the seller or the seller's authorized agent will know such fees at the time of requesting the packet.

D. Any fees charged pursuant to this section shall be collected at the time of settlement on the sale of the lot and shall be due and payable out of the settlement proceeds in accordance with this section. The settlement agent shall escrow a sum sufficient to pay such costs of the seller at settlement. The seller shall be responsible for all costs associated with the preparation and delivery of the association disclosure packet, except for the costs of any disclosure packet update or financial update, which costs shall be the responsibility of the requester, payable at settlement. Neither the association nor its common interest community manager shall require cash, check, certified funds, or credit card payments at the time of the request is made for the association disclosure packet.

E. If settlement does not occur within 60 days of the delivery of the disclosure packet, or funds are not collected at settlement and disbursed to the association or the common interest community manager, all fees, including those costs that would have otherwise been the responsibility of the purchaser or settlement agent, shall be (i) assessed within one year after delivery of the disclosure packet against the lot owner, (ii) the personal obligation of the lot owner, and (iii) an assessment against the lot and collectible as any other assessment in accordance with the provisions of the declaration and § 55-516. The seller may pay the association by cash, check, certified funds, or credit card, if credit card payment is an option offered by the association. The association shall pay the common interest community manager the amount due from the lot owner within 30 days after invoice.

F. The maximum allowable fees charged in accordance with this section shall adjust every five years, as of January 1 of that year, in an amount equal to the annual increases for that five-year period in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics of the U.S. Department of Labor.

G. If an association disclosure packet has been issued for a lot within the preceding 12-month period, a person specified in the written instructions of the seller or the seller's authorized agent, including the seller or the seller's authorized agent, or the purchaser or his authorized agent may request a disclosure packet update. The requester shall specify whether the disclosure packet update shall be delivered electronically or in hard copy, and shall specify the complete contact information of the parties to whom the update shall be delivered. The disclosure packet update shall be delivered within 10 days of the written request.

H. The settlement agent may request a financial update. The requester shall specify whether the financial update shall be delivered electronically or in hard copy, and shall specify the complete contact information of the parties to whom the update shall be delivered. The financial update shall be delivered within three business days of the written request.

I. A reasonable fee for the disclosure packet update or financial update may be charged by the preparer not to exceed \$50. At the option of the purchaser or the purchaser's authorized agent, the requester may request that the association or the common interest community manager perform an additional inspection of the exterior of the dwelling unit and the lot, as authorized in the declaration, for a fee not to exceed \$100. Any fees charged for the specified update shall be collected at the time settlement occurs on the sale of the property. The settlement agent shall escrow a sum sufficient to pay such costs of the seller at settlement. Neither the association nor its common interest community manager, if any, shall require cash, check, certified funds, or credit card payments at the time the request is made for the disclosure packet update. The requester may request that the specified update be provided in hard copy or in electronic form.

J. No association or common interest community manager may require the requester to request the specified update electronically. The seller or the seller's authorized agent shall continue to have the right to request a hard copy of the specified update in person at the principal place of business of the association. If the requester asks that the specified update be provided in electronic format, neither the association nor its common interest community manager may require the requester to pay any fees to use the provider's electronic network or system. A copy of the specified update shall be provided to the seller or the seller's authorized agent.

K. When an association disclosure packet has been delivered as required by § 55-509.5, the association shall, as to the purchaser, be bound by the statements set forth therein as to the status of the assessment account and the status of the lot with respect to any violation of the declaration, bylaws, rules and regulations, architectural guidelines and articles of incorporation, if any, of the association as of the date of the statement unless the purchaser had actual knowledge that the contents of the disclosure packet were in error.

L. If the association or its common interest community manager has been requested in writing to furnish the association disclosure packet required by § 55-509.5, failure to provide the association disclosure packet substantially in the form provided in this section shall be deemed a waiver of any claim for delinquent assessments or of any violation of the declaration, bylaws, rules and regulations, or architectural guidelines existing as of the date of the request with respect to the subject lot. The preparer of the association disclosure packet shall be liable to the seller in an amount equal to the actual damages sustained by the seller in an amount not to exceed \$1,000. The purchaser shall nevertheless be obligated to abide by the declaration, bylaws, rules and regulations, and architectural guidelines of the association as to all matters arising after the date of the settlement of the sale.

*M. The Common Interest Community Board may assess a monetary penalty for failure to deliver the association disclosure packet within 14 days against any (i) property owners' association pursuant to § 54.1-2351 or (ii) common interest community manager pursuant to § 54.1-2349 and regulations promulgated thereto, and may issue a cease and desist order pursuant to § 54.1-2349 or 54.1-2352, as applicable.*

### CHAPTER 388

*An Act to amend the Code of Virginia by adding in Title 15.2 a chapter numbered 76, consisting of sections numbered 15.2-7600 through 15.2-7607, relating to Rural Coastal Virginia Community Enhancement Authority.*

[H 2055]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding in Title 15.2 a chapter numbered 76, consisting of sections numbered 15.2-7600 through 15.2-7607, as follows:**

#### CHAPTER 76.

#### RURAL COASTAL VIRGINIA COMMUNITY ENHANCEMENT AUTHORITY.

##### **§ 15.2-7600. Authority created; name.**

*The Rural Coastal Virginia Community Enhancement Authority, hereinafter referred to as the Authority, is created as a body politic and corporate, a political subdivision of the Commonwealth. As such it shall have, and is hereby vested with, the powers and duties hereinafter conferred in this chapter. The Authority, if approved by the respective governing bodies, may consist of up to 12 of the counties within the Northern Neck, Middle Peninsula, and Accomack-Norhampton planning districts as follows: Accomack, Essex, Gloucester, King and Queen, King William, Lancaster, Mathews, Middlesex, Northampton, Northumberland, Richmond, and Westmoreland.*

##### **§ 15.2-7601. Purpose.**

*The Authority is created for the purpose of serving as a regional economic development body and represents a partnership of the Commonwealth, the three planning districts, and the 12 counties of the coastal region.*

##### **§ 15.2-7602. Board of Authority; members and officers; staff; annual report.**

*A. All powers, rights, and duties conferred by this chapter, or other provisions of law, upon the Authority shall be exercised by the Board of the Rural Coastal Virginia Community Enhancement Authority, hereinafter referred to as the Board or the Board of the Authority. Initial appointments shall begin July 1, 2017. The Board shall consist of up to 15 members as follows: one member of each of the 12 counties' governing bodies if so appointed by the respective governing bodies and three at-large members, who shall be appointed by the Governor and who shall be residents of the coastal region. In addition, the Secretary of Commerce and Trade or his designee shall serve as a nonvoting ex officio member of the Board. All members shall serve for a term of four years and may be reappointed for one additional term. A position shall be considered vacant if a member's term of office has ended. Vacancies shall be filled for the unexpired term in the same manner as the original appointee. For the initial appointments only, approximately half of the members appointed by the governing bodies shall be appointed for two-year terms, and such initial terms shall not be counted toward the term limitation.*

*B. Each member of the Board shall, before entering upon the discharge of the duties of his office, take and subscribe to the oath prescribed in § 49-1. Members shall serve without compensation but shall be reimbursed for actual expenses incurred in the performance of their duties.*

*C. A majority of the members of the Board shall constitute a quorum, and the affirmative vote of a majority present shall be necessary for any action taken by the Board. No vacancy in the membership of the Board shall impair the right of a quorum to exercise all the rights and perform all the duties of the Board.*

*D. The Board shall elect from its membership a chairman and a vice-chairman for each calendar year.*

*E. Staffing and support for the Authority shall be provided by the counties and the planning district commissions that make up the Authority. Additional staff support may be hired or contracted for by the Authority through funds raised by or provided to it. The Authority is authorized to determine the duties of such staff and fix staff compensation within available resources.*

*F. All agencies of the Commonwealth shall cooperate with the Authority and, upon request, shall assist the Authority in fulfilling its purposes and mission. The Secretary of Commerce and Trade or his designee shall act as the chief liaison between the administrative agencies and the Authority.*

*G. The Board, promptly following the close of the fiscal year, shall submit an annual report of the Authority's activities for the preceding year to the Governor, the General Assembly, and the board of supervisors of each member county. Each such report shall set forth a complete operating and financial statement covering the operation of the Authority during such year.*

##### **§ 15.2-7603. Powers of Authority.**

*The Authority acting through its Board:*

*1. Is vested with the powers of a body corporate, including the power to sue and be sued, plead and be impleaded, make contracts, and adopt and use a common seal and alter the same as may be deemed expedient;*

2. May retain legal counsel to represent the Authority in hearings, controversies, or matters involving the interests of the Authority and the furtherance of its purposes; and

3. May adopt, alter, or repeal its own bylaws and regulations that govern the manner in which its business may be transacted and may provide for the appointment of such committees, and the functions thereof, as the Authority deems necessary to facilitate its business. Each committee shall consist of the number of persons as the Authority deems advisable.

**§ 15.2-7604. Further powers.**

1. The Authority may seek and approve loans and solicit donations, grants, and any other funding from the Commonwealth, the federal government, and regional, local government, and private entities to carry out its purposes, powers, and duties;

2. The Authority will assist the region in obtaining necessary job training or employment-related education, leadership and civic development, and business development, especially entrepreneurship for the coastal region;

3. The Authority will provide special assistance to distressed and underdeveloped counties within the coastal region; and

4. The Authority will fund demonstration projects, and conduct research, evaluations, and assessments of the coastal region's assets and needs.

Agencies of the Commonwealth shall review grant program eligibility requirements, and amend such requirements as appropriate, for purposes of recognizing the unique socioeconomic and demographic challenges faced by rural coastal localities and the inability to qualify for financial assistance.

**§ 15.2-7605. Duties of Authority; governmental functions.**

A. The Authority shall (i) develop comprehensive and coordinated plans and programs, establish priorities, and approve grants for the economic development of the coastal region; (ii) provide for research, demonstration, investigation, assessment, and evaluation of the region's assets and needs; (iii) encourage the formation and capacity of local government and private investment in compatible industries, including natural resources, commercial, industrial, and other economic development projects; and (iv) provide a forum for the consideration of problems and possible solutions of the coastal region.

B. The Authority shall (i) develop a definition for what constitutes "distressed" and annually designate distressed, moderately distressed, and economically strong counties within the region and (ii) allocate at least 50 percent of the grants, loans, and donations made available to the Authority for programs and projects for the distressed counties. Such funds shall not be used within economically strong counties without a two-thirds vote of approval by a quorum of the Board. Nothing herein shall prevent the Authority from applying for and receiving federal, state, or private funds to advance the purpose of the Authority regardless of distressed county status.

**§ 15.2-7606. Duties of planning districts within the coastal region.**

Each member planning district commission of the Authority shall approve annually a development plan for its area within the coastal region. Comprehensive Economic Development Strategy (CEDS) plans shall satisfy this requirement if updated and reaffirmed annually by the planning district commission.

The development plan shall outline factors to be considered by the Authority in considering programs and projects for assistance under this chapter and in establishing priorities among assistance requests.

The Authority shall use the plans developed by the planning district commissions to guide the development of a work program for the Authority.

**§ 15.2-7607. Dissolution of Authority.**

Each member locality of the Authority may withdraw from the Authority only upon dissolution of the Authority as set forth herein. Whenever the Board determines that the purpose for which the Authority was created has been substantially fulfilled or is impractical or impossible to accomplish and that all obligations incurred by the Authority have been paid or that cash or a sufficient amount of United States government securities has been deposited for their payment, or provisions satisfactory for the timely payment of all its outstanding obligations have been arranged, the Board may adopt resolutions declaring and finding that the Authority shall be dissolved. Appropriate attested copies of such resolutions shall be delivered to the Governor so that legislation dissolving the Authority may be introduced in the General Assembly. The dissolution of the Authority shall become effective according to the terms of such legislation. The title to all funds and other property owned by the Authority at the time of such dissolution shall vest in the counties that have contributed to the Authority's resources in proportion to their respective contributions.

## CHAPTER 389

An Act to amend and reenact § 15.2-5431.25 of the Code of Virginia, relating to the Virginia Wireless Services Authority Act; rates and charges.

[H 2108]

Approved March 13, 2017

Be it enacted by the General Assembly of Virginia:

1. That § 15.2-5431.25 of the Code of Virginia is amended and reenacted as follows:

§ 15.2-5431.25. Rates and charges.

A. The authority may fix and revise rates, fees and other charges (which shall include, but not be limited to, a penalty not to exceed 10 percent on delinquent accounts, and interest on the principal), subject to the provisions of this section, for the use of a project or any portion thereof and for the services furnished or to be furnished by the authority, or facilities incident thereto, owned, operated or maintained by the authority, or facilities incident thereto, for which the authority has issued revenue bonds as authorized by this chapter *or received loan funding from other sources*. Such rates, fees and charges shall be so fixed and revised as to provide funds, with other funds available for such purposes, sufficient at all times (i) to pay the cost of maintaining, repairing and operating the project or systems, or facilities incident thereto, for which such bonds were issued *or loans obtained*, including reserves for such purposes and for replacement and depreciation and necessary extensions, (ii) to pay the principal of and the interest on the revenue bonds as they become due and reserves therefor, *or other loan principal and interest*, and (iii) to provide a margin of safety for making such payments. The authority shall charge and collect the rates, fees and charges so fixed or revised. *The authority shall maintain records demonstrating compliance with the requirements of this section concerning the fixing and revision of rates, fees, and charges that shall be made available for inspection and copying by the public pursuant to the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).*

B. No rates, fees or charges shall be fixed under subsection A until after a public hearing at which all of the users of such facilities; the owners, tenants or occupants of property served or to be served thereby; and all others interested have had an opportunity to be heard concerning the proposed rates, fees and charges. After the adoption by the authority of a resolution setting forth the preliminary schedule or schedules fixing and classifying such rates, fees and charges, notice of a public hearing, setting forth the proposed schedule or schedules of rates, fees and charges, shall be given by two publications, at least six days apart, in a newspaper having a general circulation in the area to be served by such systems at least 60 days before the date fixed in such notice for the hearing. The hearing may be adjourned from time to time. A copy of the notice shall be mailed to the governing bodies of all localities in which such systems or any part thereof is located. After the hearing the preliminary schedule or schedules, either as originally adopted or as amended, shall be adopted and put into effect.

C. A copy of the schedule or schedules of the final rates, fees and charges fixed in accordance with subsection B shall be kept on file in the office of the clerk or secretary of the governing body of the locality, and shall be open to inspection by all interested parties. The rates, fees or charges so fixed for any class of users or property served shall be extended to cover any additional properties thereafter served which fall within the same class, without the necessity of a hearing or notice. Any increase in any rates, fees or charges under this section shall be made in the manner provided in subsection B. Any other change or revision of the rates, fees or charges may be made in the same manner as the rates, fees or charges were originally established as provided in subsection B.

D. Connection fees established by any authority shall be fair and reasonable. Such fees shall be reviewed by the authority periodically and shall be adjusted, if necessary, to assure that they continue to be fair and reasonable. Nothing herein shall affect existing contracts with bondholders which are in conflict with any of the foregoing provisions.

## CHAPTER 390

*An Act to amend and reenact § 54.1-700 of the Code of Virginia and to amend the Code of Virginia by adding in Article 6 of Chapter 29 of Title 54.1 a section numbered 54.1-2973.1, relating to the practice of laser hair removal.*

[H 2119]

Approved March 13, 2017

### **Be it enacted by the General Assembly of Virginia:**

**1. That § 54.1-700 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Article 6 of Chapter 29 of Title 54.1 a section numbered 54.1-2973.1 as follows:**

#### **§ 54.1-700. Definitions.**

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

"Barber" means any person who shaves, shapes or trims the beard; cuts, singes, shampoos or dyes the hair or applies lotions thereto; applies, treats or massages the face, neck or scalp with oils, creams, lotions, cosmetics, antiseptics, powders, clays or other preparations in connection with shaving, cutting or trimming the hair or beard, and practices barbering for compensation and when such services are not performed for the treatment of disease.

"Barbering" means any one or any combination of the following acts, when done on the human body for compensation and not for the treatment of disease, shaving, shaping and trimming the beard; cutting, singeing, shampooing or dyeing the hair or applying lotions thereto; applications, treatment or massages of the face, neck or scalp with oils, creams, lotions, cosmetics, antiseptics, powders, clays, or other preparations in connection with shaving, cutting or trimming the hair or a beard. The term "barbering" shall not apply to the acts described hereinabove when performed by any person in his home if such service is not offered to the public.

"Barber instructor" means any person who has been certified by the Board as having completed an approved curriculum and who meets the competency standards of the Board as an instructor of barbering.

"Barbershop" means any establishment or place of business within which the practice of barbering is engaged in or carried on by one or more barbers.

"Board" means the Board for Barbers and Cosmetology.

"Body-piercer" means any person who for remuneration penetrates the skin of a person to make a hole, mark, or scar, generally permanent in nature.

"Body-piercing" means the act of penetrating the skin of a person to make a hole, mark, or scar, generally permanent in nature.

"Body-piercing salon" means any place in which a fee is charged for the act of penetrating the skin of a person to make a hole, mark, or scar, generally permanent in nature.

"Body-piercing school" means a place or establishment licensed by the Board to accept and train students in body-piercing.

"Cosmetologist" means any person who administers cosmetic treatments; manicures or pedicures the nails of any person; arranges, dresses, curls, waves, cleanses, cuts, shapes, singes, waxes, tweezes, shaves, bleaches, colors, relaxes, straightens, or performs similar work, upon human hair, or a wig or hairpiece, by any means, including hands or mechanical or electrical apparatus or appliances unless such acts as adjusting, combing, or brushing prestyled wigs or hairpieces do not alter the prestyled nature of the wig or hairpiece, and practices cosmetology for compensation.

"Cosmetology" includes, but is not limited to, the following practices: administering cosmetic treatments; manicuring or pedicuring the nails of any person; arranging, dressing, curling, waving, cleansing, cutting, shaping, singeing, waxing, tweezing, shaving, bleaching, coloring, relaxing, straightening, or similar work, upon human hair, or a wig or hairpiece, by any means, including hands or mechanical or electrical apparatus or appliances, but shall not include hair braiding or such acts as adjusting, combing, or brushing prestyled wigs or hairpieces when such acts do not alter the prestyled nature of the wig or hairpiece.

"Cosmetology instructor" means a person who has been certified by the Board as having completed an approved curriculum and who meets the competency standards of the Board as an instructor of cosmetology.

"Cosmetology salon" means any commercial establishment, residence, vehicle or other establishment, place or event wherein cosmetology is offered or practiced on a regular basis for compensation and may include the training of apprentices under regulations of the Board.

"Esthetician" means a person who engages in the practice of esthetics for compensation.

"Esthetics" includes, but is not limited to, the following practices of administering cosmetic treatments to enhance or improve the appearance of the skin: cleansing, toning, performing effleurage or other related movements, stimulating, exfoliating, or performing any other similar procedure on the skin of the human body or scalp by means of cosmetic preparations, treatments, *or* any nonlaser device, *whether by* electrical, mechanical, or manual *means*, for care of the skin; applying make-up or eyelashes to any person, tinting or perming eyelashes and eyebrows, and lightening hair on the body except the scalp; and removing unwanted hair from the body of any person by the use of *any nonlaser device, by tweezing, or by use of* chemical, *or* mechanical means. However, "esthetics" is not a healing art and shall not include any practice, activity, or treatment that constitutes the practice of medicine, osteopathic medicine, or chiropractic. The terms "healing arts," "practice of medicine," "practice of osteopathic medicine," and "practice of chiropractic" shall mean the same as those terms are defined in § 54.1-2900.

"Esthetics instructor" means a licensed esthetician who has been certified by the Board as having completed an approved curriculum and who meets the competency standards of the Board as an instructor of esthetics.

"Esthetics spa" means any commercial establishment, residence, vehicle, or other establishment, place, or event wherein esthetics is offered or practiced on a regular basis for compensation under regulations of the Board.

"Master esthetician" means a licensed esthetician who, in addition to the practice of esthetics, offers to the public for compensation, without the use of laser technology, lymphatic drainage, chemical exfoliation, or microdermabrasion, and who has met such additional requirements as determined by the Board to practice lymphatic drainage, chemical exfoliation with products other than Schedules II through VI controlled substances as defined in the Drug Control Act (§ 54.1-3400 et seq.), and microdermabrasion of the epidermis.

"Nail care" means manicuring or pedicuring natural nails or performing artificial nail services.

"Nail salon" means any commercial establishment, residence, vehicle or other establishment, place or event wherein nail care is offered or practiced on a regular basis for compensation and may include the training of apprentices under regulations of the Board.

"Nail school" means a place or establishment licensed by the board to accept and train students in nail care.

"Nail technician" means any person who for compensation manicures or pedicures natural nails, or who performs artificial nail services for compensation, or any combination thereof.

"Nail technician instructor" means a licensed nail technician who has been certified by the Board as having completed an approved curriculum and who meets the competency standards of the Board as an instructor of nail care.

"Physical (wax) depilatory" means the wax depilatory product or substance used to remove superfluous hair.

"School of cosmetology" means a place or establishment licensed by the Board to accept and train students and which offers a cosmetology curriculum approved by the Board.

"School of esthetics" means a place or establishment licensed by the Board to accept and train students and which offers an esthetics curriculum approved by the Board.

"Tattoo parlor" means any place in which tattooing is offered or practiced.

"Tattoo school" means a place or establishment licensed by the Board to accept and train students in tattooing.

"Tattooer" means any person who for remuneration practices tattooing.

"Tattooing" means the placing of designs, letters, scrolls, figures, symbols or any other marks upon or under the skin of any person with ink or any other substance, resulting in the permanent coloration of the skin, including permanent make-up or permanent jewelry, by the aid of needles or any other instrument designed to touch or puncture the skin.

"Wax technician" means any person licensed by the Board who removes hair from the hair follicle using a physical (wax) depilatory or by tweezing.

"Wax technician instructor" means a licensed wax technician who has been certified by the Board as having completed an approved curriculum and who meets the competency standards of the Board as an instructor of waxing.

"Waxing" means the temporary removal of superfluous hair from the hair follicle on any area of the human body through the use of a physical (wax) depilatory or by tweezing.

"Waxing salon" means any commercial establishment, residence, vehicle or other establishment, place or event wherein waxing is offered or practiced on a regular basis for compensation and may include the training of apprentices under regulations of the Board.

"Waxing school" means a place or establishment licensed by the Board to accept and train students in waxing.

**§ 54.1-2973.1. Practice of laser hair removal.**

*The practice of laser hair removal shall be performed by a properly trained person licensed to practice medicine or osteopathic medicine or a physician assistant as authorized pursuant to § 54.1-2952 or a nurse practitioner as authorized pursuant to § 54.1-2957 or by a properly trained person under the direction and supervision of a licensed doctor of medicine or osteopathic medicine or a physician assistant as authorized pursuant to § 54.1-2952 or a nurse practitioner as authorized pursuant to § 54.1-2957 who may delegate such practice in accordance with subdivision A 6 of § 54.1-2901.*

### CHAPTER 391

*An Act to amend and reenact § 1, as amended, and § 3 of Chapter XXV (A.1) of Chapter 431 of the Acts of Assembly of 1950, which provided a charter for the City of Hopewell, relating to the Hopewell Water Renewal Commission.*

[H 2152]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 1, as amended, and § 3 of Chapter XXV (A.1) of Chapter 431 of the Acts of Assembly of 1950 are amended and reenacted as follows:**

§ 1. Created; general function; composition; appointment and terms of members.

There shall be a regional wastewater treatment facility commission which shall be known as the Hopewell Water Renewal Commission (hereinafter in this chapter referred to as the "Commission"), which shall act on behalf of the City of Hopewell as hereinafter provided, with respect to a regional wastewater treatment facility ~~to be~~ owned by the City of Hopewell to provide treatment for disposal of sanitary and industrial waste from the City of Hopewell and vicinity. The Commission shall consist of ~~eight up to nine~~ members who need not be residents of the city and who shall be appointed by a majority of city council. ~~Five of such members~~ *Up to six members* shall be from nominees submitted by ~~five~~ manufacturers (each nominating with respect to one membership) which provide assistance in the planning and financing ~~of~~ for the regional wastewater treatment facility or which are or will be users of said facility. *Each new nominating manufacturer, meaning manufacturers or their predecessors having not previously submitted nominations to the Commission, shall provide a capital contribution in an amount determined by the city council upon recommendation by the Commission. Three additional members shall be a city councilor, the city manager, and the city attorney.* Any vacancy in the appointive membership of the Commission, however occurring, shall be promptly filled by the city council for the unexpired term in the same manner and from the same source as the original appointment to the vacated position.

~~Council may provide for additional nominees to the Commission by manufacturers not involved in planning assistance as aforesaid who contract with the city to provide a capital contribution of four per centum or more of the original capital cost of the facility by increasing the Commission membership to provide for one nominee from each such manufacturer.~~

§ 3. Powers and duties.

The Commission shall help and assist in the ~~planning and construction~~ *maintenance and expansion* of the facility. The Commission shall exercise full authority and responsibility in the operation, maintenance, improvement and repair of the facility, subject, however, to overrule of any of its actions by the city council. The Commission shall have such further duties as the city council may from time to time direct.

### CHAPTER 392

*An Act to amend and reenact § 15.2-901 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 15.2-901.1, relating to running bamboo; local ordinance; civil penalty.*

[H 2154]

Approved March 13, 2017

Be it enacted by the General Assembly of Virginia:

1. That § 15.2-901 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 15.2-901.1 as follows:

**§ 15.2-901. Locality may provide for removal or disposal of trash, cutting of grass, weeds, and running bamboo; penalty in certain counties; penalty.**

A. Any locality may, by ordinance, provide that:

1. The owners of property therein shall, at such time or times as the governing body may prescribe, remove therefrom any and all trash, garbage, refuse, litter and other substances which might endanger the health or safety of other residents of such locality; or may, whenever the governing body deems it necessary, after reasonable notice, have such trash, garbage, refuse, litter and other like substances which might endanger the health of other residents of the locality, removed by its own agents or employees, in which event the cost or expenses thereof shall be chargeable to and paid by the owners of such property and may be collected by the locality as taxes are collected;

2. Trash, garbage, refuse, litter and other debris shall be disposed of in personally owned or privately owned receptacles that are provided for such use and for the use of the persons disposing of such matter or in authorized facilities provided for such purpose and in no other manner not authorized by law;

3. The owners of occupied or vacant developed or undeveloped property therein, including such property upon which buildings or other improvements are located, shall cut the grass, weeds and other foreign growth, *including running bamboo as defined in § 15.2-901.1*, on such property or any part thereof at such time or times as the governing body shall prescribe; or may, whenever the governing body deems it necessary, after reasonable notice as determined by the locality, have such grass, weeds or other foreign growth cut by its agents or employees, in which event the cost and expenses thereof shall be chargeable to and paid by the owner of such property and may be collected by the locality as taxes are collected. For purposes of this provision, one written notice per growing season to the owner of record of the subject property shall be considered reasonable notice. No such ordinance adopted by any county shall have any force and effect within the corporate limits of any town. No such ordinance adopted by any county having a density of population of less than 500 per square mile shall have any force or effect except within the boundaries of platted subdivisions or any other areas zoned for residential, business, commercial or industrial use. No such ordinance shall be applicable to land zoned for or in active farming operation.

B. Every charge authorized by this section with which the owner of any such property shall have been assessed and which remains unpaid shall constitute a lien against such property ranking on a parity with liens for unpaid local taxes and enforceable in the same manner as provided in Articles 3 (§ 58.1-3940 et seq.) and 4 (§ 58.1-3965 et seq.) of Chapter 39 of Title 58.1. A locality may waive such liens in order to facilitate the sale of the property. Such liens may be waived only as to a purchaser who is unrelated by blood or marriage to the owner and who has no business association with the owner. All such liens shall remain a personal obligation of the owner of the property at the time the liens were imposed.

C. The governing body of any locality may by ordinance provide that violations of this section shall be subject to a civil penalty, not to exceed \$50 for the first violation, or violations arising from the same set of operative facts. The civil penalty for subsequent violations not arising from the same set of operative facts within 12 months of the first violation shall not exceed \$200. Each business day during which the same violation is found to have existed shall constitute a separate offense. In no event shall a series of specified violations arising from the same set of operative facts result in civil penalties that exceed a total of \$3,000 in a 12-month period.

D. Except as provided in this subsection, adoption of an ordinance pursuant to subsection C shall be in lieu of criminal penalties and shall preclude prosecution of such violation as a misdemeanor. The governing body of any locality may, however, by ordinance provide that such violations shall be a Class 3 misdemeanor in the event three civil penalties have previously been imposed on the same defendant for the same or similar violation, not arising from the same set of operative facts, within a 24-month period. Classifying such subsequent violations as criminal offenses shall preclude the imposition of civil penalties for the same violation.

**§ 15.2-901.1. Locality may provide for control of running bamboo; civil penalty.**

A. For purposes of this section, "running bamboo" means any bamboo that is characterized by aggressive spreading behavior, including species in the genus *Phyllostachys*.

B. Any locality may, by ordinance, provide that:

1. No landowner shall allow running bamboo to grow without proper upkeep and appropriate containment measures, including barriers or trenching; and

2. No landowner shall allow running bamboo to spread from his property to any public right-of-way or adjoining property not owned by the landowner.

C. A violation of a running bamboo ordinance authorized by this section shall be subject to a civil penalty, not to exceed \$50 for the first violation or violations arising from the same set of operative facts. The civil penalty for subsequent violations not arising from the same set of operative facts within 12 months of the first violation shall not exceed \$200. Each business day during which the same violation is found to have existed shall constitute a separate offense. In no event shall a series of specified violations arising from the same set of operative facts result in civil penalties that exceed a total of \$3,000 in a 12-month period.

D. No violation of a running bamboo ordinance arising from the same set of operative facts shall be subject to a civil penalty under both (i) an ordinance adopted pursuant to this section and (ii) an ordinance adopted pursuant to § 15.2-901.

**2. That the Department of Agriculture and Consumer Services and the Department of Conservation and Recreation shall, by July 1, 2018, together develop a model running bamboo ordinance for use by localities based on § 15.2-901.1 of the Code of Virginia, as created by this act.**

**3. That the Department of Agriculture and Consumer Services (VDACS), the Department of Conservation and Recreation, and the Department of Forestry shall enter into a Memorandum of Understanding that clarifies the roles of the VDACS noxious weeds regulations and the work of the Virginia Invasive Species Working Group.**

**4. That the Department of Agriculture and Consumer Services and the Department of Conservation and Recreation shall examine the eligibility of the plants listed in § 15.2-902 of the Code of Virginia for designation as noxious weeds and shall so designate any such plant determined to be eligible.**

### CHAPTER 393

*An Act to amend and reenact §§ 54.1-2349, 55-79.97, and 55-79.97:1 of the Code of Virginia, relating to the Condominium Act; resale by purchaser; designation of authorized representative.*

[H 2274]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 54.1-2349, 55-79.97, and 55-79.97:1 of the Code of Virginia are amended as follows:**

**§ 54.1-2349. Powers and duties of the Board.**

A. The Board shall administer and enforce the provisions of this chapter. In addition to the provisions of §§ 54.1-201 and 54.1-202, the Board shall:

1. Promulgate regulations necessary to carry out the requirements of this chapter in accordance with the provisions of the Administrative Process Act (§ 2.2-4000 et seq.) to include but not be limited to the prescription of fees, procedures, and qualifications for the issuance and renewal of common interest community manager licenses. The Board shall annually assess each common interest community manager an amount equal to the lesser of (i) \$1,000, or such other amount as the Board may establish by regulation, or (ii) five hundredths of one percent (0.05%) of the gross receipts from common interest community management during the preceding year. For the purposes of clause (ii), no minimum payment shall be less than \$10. The annual payment shall be remitted to the State Treasurer and shall be placed to the credit of the Common Interest Community Management Fund established pursuant to § 55-529;

2. Establish criteria for the licensure of common interest community managers to ensure the appropriate training and educational credentials for the provision of management services to common interest communities. Such criteria may include experiential requirements and shall include designation as an Accredited Association Management Company by the Community Associations Institute. As an additional alternative to such designation, the Board shall have authority, by regulation, to include one of the following: (i) successful completion of another Board-approved training program and certifying examination, or (ii) successful completion of a Virginia testing program to determine the quality of the training and educational credentials for and competence of common interest community managers;

3. Establish criteria for the certification of the employees of common interest community managers who have principal responsibility for management services provided to a common interest community or who have supervisory responsibility for employees who participate directly in the provision of management services to a common interest community to ensure the person possesses the character and minimum skills to engage properly in the provision of management services to a common interest community. Such criteria shall include designation as a Certified Manager of Community Associations by the National Board of Certification for Community Association Managers, designation as an Association Management Specialist by the Community Associations Institute, or designation as a Professional Community Association Manager by the Community Associations Institute. As an additional alternative to such designations, the Board shall have authority, by regulation, to include one of the following: (i) successful completion of another Board-approved training program as developed by the Virginia Association of Realtors or other organization, and certifying examination, or (ii) successful completion of a Virginia testing program to determine the quality of the training and educational credentials for and competence of the employees of common interest community managers who participate directly in the provision of management services to a common interest community. The fee paid to the Board for the issuance of such certificate shall be paid to the Common Interest Community Management Information Fund established pursuant to § 55-529;

4. Approve the criteria for accredited common interest community manager training programs;

5. Approve accredited common interest community manager training programs;

6. Establish, by regulation, standards of conduct for common interest community managers and for employees of common interest community managers certified in accordance with the provisions of this chapter;

7. Establish, by regulation, an education-based certification program for persons who are involved in the business or activity of providing management services for compensation to common interest communities. The Board shall have the authority to approve training courses and instructors in furtherance of the provisions of this chapter; and

8. Develop and publish best practices for the content of declarations consistent with the requirements of the Property Owners' Association Act (§ 55-508 et seq.).

B. 1. The Board shall have the sole responsibility for the administration of this chapter and for the promulgation of regulations to carry out the requirements thereof.

2. The Board shall also be responsible for the enforcement of this chapter, provided that the Real Estate Board shall have the sole responsibility for the enforcement of this chapter with respect to a real estate broker, real estate salesperson, or real estate brokerage firm licensed in accordance with Chapter 21 (§ 54.1-2100 et seq.) who is also licensed as a common interest community manager.

3. For purposes of enforcement of this chapter or Chapter 4.2 (§ 55-79.39 et seq.), 21 (§ 55-360 et seq.), 24 (§ 55-424 et seq.), or 26 (§ 55-508 et seq.) of Title 55, any requirement for the conduct of a hearing shall be satisfied by an informal fact-finding proceeding convened and conducted pursuant to § 2.2-4019 of the Administrative Process Act (§ 2.2-4000 et seq.).

C. The Board is authorized to obtain criminal history record information from any state or federal law-enforcement agency relating to an applicant for licensure or certification. Any information so obtained is for the exclusive use of the Board and shall not be released to any other person or agency except in furtherance of the investigation of the applicant or with the authorization of the applicant or upon court order.

*D. Notwithstanding the provisions of subsection E of § 55-530, the Board may receive a complaint directly from any person aggrieved by an association's failure to deliver a resale certificate or disclosure packet within the time period required under § 55-79.97, 55-79.97:1, 55-484, 55-509.5, 55-509.6, or 55-509.7.*

**§ 55-79.97. Resale by purchaser; resale certificate; use of for sale sign in connection with resale; designation of authorized representative.**

A. In the event of any resale of a condominium unit by a unit owner other than the declarant, and subject to the provisions of subsection F and § 55-79.87 A, the unit owner shall disclose in the contract that (i) the unit is located within a development which is subject to the Condominium Act, (ii) the Act requires the seller to obtain from the unit owners' association a resale certificate and provide it to the purchaser, (iii) the purchaser may cancel the contract within three days after receiving the resale certificate or being notified that the resale certificate will not be available, (iv) if the purchaser has received the resale certificate, the purchaser has a right to request a resale certificate update or financial update in accordance with § 55-79.97:1, as appropriate, and (v) the right to receive the resale certificate and the right to cancel the contract are waived conclusively if not exercised before settlement.

For purposes of clause (iii), the resale certificate shall be deemed not to be available if (a) a current annual report has not been filed by the unit owners' association with either the State Corporation Commission pursuant to § 13.1-936 or the Common Interest Community Board pursuant to § 55-79.93:1, (b) the seller has made a written request to the unit owners' association that the resale certificate be provided and no such resale certificate has been received within 14 days in accordance with subsection C, or (c) written notice has been provided by the unit owners' association that a resale certificate is not available.

B. If the contract does not contain the disclosure required by subsection A, the purchaser's sole remedy is to cancel the contract prior to settlement.

C. The information contained in the resale certificate shall be current as of a date specified on the resale certificate. A resale certificate update or a financial update may be requested as provided in § 55-79.97:1, as appropriate. The purchaser may cancel the contract (i) within three days after the date of the contract, if the purchaser receives the resale certificate or is notified that the resale certificate will not be available on or before the date that the purchaser signs the contract; (ii) within three days after receiving the resale certificate if the resale certificate or notice that the resale certificate will not be available is hand delivered, delivered by electronic means, or delivered by a commercial overnight delivery service or the United States Postal Service, and a receipt obtained; or (iii) within six days after the postmark date if the resale certificate or notice that the resale certificate will not be available is sent to the purchaser by United States mail. *The purchaser may also cancel the contract at any time prior to settlement if the purchaser has not been notified that the resale certificate will not be available and the resale certificate is not delivered to the purchaser.*

Notice of cancellation shall be provided to the unit owner or his agent by one of the following methods:

- a. Hand delivery;
- b. United States mail, postage prepaid, provided the sender retains sufficient proof of mailing, which may be either a United States postal certificate of mailing or a certificate of service prepared by the sender confirming such mailing;
- c. Electronic means provided the sender retains sufficient proof of the electronic delivery, which may be an electronic receipt of delivery, a confirmation that the notice was sent by facsimile, or a certificate of service prepared by the sender confirming the electronic delivery; or
- d. Overnight delivery using a commercial service or the United States Postal Service.

In the event of a dispute, the sender shall have the burden to demonstrate delivery of the notice of cancellation. Such cancellation shall be without penalty, and the unit owner shall cause any deposit to be returned promptly to the purchaser.

A resale certificate shall include the following:

1. An appropriate statement pursuant to subsection H of § 55-79.84 which need not be notarized and, if applicable, an appropriate statement pursuant to § 55-79.85;
2. A statement of any expenditure of funds approved by the unit owners' association or the executive organ which shall require an assessment in addition to the regular assessment during the current or the immediately succeeding fiscal year;

3. A statement, including the amount, of all assessments and any other fees or charges currently imposed by the unit owners' association, together with any known post-closing fee charged by the common interest community manager, if any, and associated with the purchase, disposition and maintenance of the condominium unit and the use of the common elements, and the status of the account;

4. A statement whether there is any other entity or facility to which the unit owner may be liable for fees or other charges;

5. The current reserve study report or a summary thereof, a statement of the status and amount of any reserve or replacement fund and any portion of the fund designated for any specified project by the executive organ;

6. A copy of the unit owners' association's current budget or a summary thereof prepared by the unit owners' association and a copy of the statement of its financial position (balance sheet) for the last fiscal year for which a statement is available, including a statement of the balance due of any outstanding loans of the unit owners' association;

7. A statement of the nature and status of any pending suits or unpaid judgments to which the unit owners' association is a party which either could or would have a material impact on the unit owners' association or the unit owners or which relates to the unit being purchased;

8. A statement setting forth what insurance coverage is provided for all unit owners by the unit owners' association, including the fidelity bond maintained by the unit owners' association, and what additional insurance coverage would normally be secured by each individual unit owner;

9. A statement that any improvements or alterations made to the unit, or the limited common elements assigned thereto, are or are not in violation of the condominium instruments;

10. A copy of the current bylaws, rules and regulations and architectural guidelines adopted by the unit owners' association and the amendments thereto;

11. A statement of whether the condominium or any portion thereof is located within a development subject to the Property Owners' Association Act (§ 55-508 et seq.) of Chapter 26 of this title;

12. A copy of the notice given to the unit owner by the unit owners' association of any current or pending rule or architectural violation;

13. A copy of any approved minutes of the executive organ and unit owners' association meetings for the six calendar months preceding the request for the resale certificate;

14. Certification that the unit owners' association has filed with the Common Interest Community Board the annual report required by § 55-79.93:1; which certification shall indicate the filing number assigned by the Common Interest Community Board and the expiration date of such filing;

15. A statement of any limitation on the number of persons who may occupy a unit as a dwelling;

16. A statement setting forth any restrictions, limitation or prohibition on the right of a unit owner to display the flag of the United States, including, but not limited to reasonable restrictions as to the size, time, place, and manner of placement or display of such flag;

17. A statement setting forth any restriction, limitation, or prohibition on the right of a unit owner to install or use solar energy collection devices on the unit owner's property; and

18. A statement indicating any known project approvals currently in effect issued by secondary mortgage market agencies.

Failure to receive a resale certificate shall not excuse any failure to comply with the provisions of the condominium instruments, articles of incorporation, or rules or regulations.

The resale certificate shall be delivered in accordance with the written request and instructions of the seller or the seller's authorized agent, including whether the resale certificate shall be delivered electronically or in hard copy, at the option of the seller or the seller's authorized agent, and shall specify the complete contact information for the parties to whom the resale certificate shall be delivered. The resale certificate shall be delivered within 14 days of receipt of such request. The resale certificate shall not, in and of itself, be deemed a security within the meaning of § 13.1-501.

D. The seller or the seller's authorized agent may request that the resale certificate be provided in hard copy or in electronic form. A unit owners' association or common interest community manager may provide the resale certificate electronically; however, the seller or the seller's authorized agent shall have the right to request that the resale certificate be provided in hard copy. The seller or the seller's authorized agent shall continue to have the right to request a hard copy of the resale certificate in person at the principal place of business of the unit owners' association. If the seller or the seller's authorized agent requests that the resale certificate be provided in electronic format, neither the unit owners' association nor its common interest community manager may require the seller or the seller's authorized agent to pay any fees to use the provider's electronic network or system. The resale certificate shall not be delivered in hard copy if the requester has requested delivery of such resale certificate electronically. If the resale certificate is provided electronically by a website link, the preparer shall not cause the website link to expire within the subsequent 90-day period. The preparer shall not charge another fee during the subsequent 12-month period, except that the preparer may charge an update fee for a financial update or for an inspection as provided in § 55-79.97:1. If the seller or the seller's authorized agent asks that the resale certificate be provided in electronic format, the seller or the seller's authorized agent may request that an electronic copy be provided to each of the following named in the request: the seller, the seller's authorized agent, the purchaser, the purchaser's authorized agent, and not more than one other person designated by the requester. If so requested, the unit owners' association or its common interest community manager may require the seller or the seller's authorized agent to pay

the fee specified in § 55-79.97:1. Regardless of whether the resale certificate is delivered in paper form or electronically, the preparer of the resale certificate shall provide such resale certificate directly to the persons designated by the requester to the addresses or, if applicable, the email addresses provided by the requester.

E. Subject to the provisions of § 55-79.87, but notwithstanding any other provisions of this chapter, the provisions and requirements of this section shall apply to any such resale of a condominium unit created under the provisions of the Horizontal Property Act (§ 55-79.1 et seq.).

F. The resale certificate required by this section need not be provided in the case of:

1. A disposition of a unit by gift;
2. A disposition of a unit pursuant to court order if the court so directs;
3. A disposition of a unit by foreclosure or deed in lieu of foreclosure; or
4. A disposition of a unit by a sale at auction, when the resale certificate was made available as part of the auction package for prospective purchasers prior to the auction.

G. In any transaction in which a resale certificate is required and a trustee acts as the seller in the sale or resale of a unit, the trustee shall obtain the resale certificate from the unit owners' association and provide the resale certificate to the purchaser.

H. For purposes of this chapter:

"Delivery" means that the resale certificate is delivered to the purchaser or purchaser's authorized agent by one of the methods specified in this section.

"Purchaser's authorized agent" means any person designated by such purchaser in a ratified real estate contract for purchase and sale of residential real property or other writing designating such agent.

"Receives, received, or receiving" the resale certificate means that the purchaser or purchaser's authorized agent has received the resale certificate by one of the methods specified in this section.

"Seller's authorized agent" means a person designated by such seller in a ratified real estate contract for purchase and sale of residential real property or other writing designating such agent.

I. Unless otherwise provided in the ratified real estate contract or other writing, delivery to the purchaser's authorized agent shall require delivery to such agent and not to a person other than such agent. Delivery of the resale certificate may be made by the unit owner or the seller's authorized agent.

J. If the unit is governed by more than one association, the purchaser's right of cancellation may be exercised within the required time frames following delivery of the last resale certificate or disclosure packet.

*K. Except as expressly authorized in this chapter or in the condominium instruments or as otherwise provided by law, no unit owners' association shall:*

*1. Require the use of any for sale sign that is (i) a unit owners' association sign or (ii) a real estate sign that does not comply with the requirements of the Virginia Real Estate Board. A unit owners' association may, however, prohibit the placement of signs in the common elements and establish reasonable rules and regulations that regulate (a) the number of real estate signs to be located on real property upon which the owner has a separate ownership interest or a right of exclusive possession, so long as at least one real estate sign is permitted; (b) the geographical location of real estate signs on real property in which the owner has a separate ownership interest or a right of exclusive possession, so long as the location of the real estate signs complies with the requirements of the Virginia Real Estate Board; (c) the manner in which real estate signs are affixed to real property; and (d) the period of time after settlement when the real estate signs on such real property shall be removed; or*

*2. Require any unit owner to execute a formal power of attorney if the unit owner designates a person licensed under the provisions of § 54.1-2106.1 as the unit owner's authorized representative, and the unit owners' association shall recognize such representation without a formal power of attorney, provided that the unit owners' association is given a written authorization signed by the unit owner designating such representative. Notwithstanding the foregoing, the requirements of § 55-79.77 and the condominium instruments shall be satisfied before any such representative may exercise a vote on behalf of a unit owner as a proxy.*

**§ 55-79.97:1. Fees for resale certificate.**

A. The unit owners' association may charge fees as authorized by this section for the inspection of the property, the preparation and issuance of the resale certificate required by § 55-79.97, and for such other services as are set out in this section. Nothing in this chapter shall be construed to authorize the unit owners' association or common interest community manager to charge an inspection fee for a unit except as provided in this section.

B. A reasonable fee may be charged by the preparer of the resale certificate as follows for:

1. The inspection of the unit, as authorized in the declaration and as required to prepare the resale certificate, a fee not to exceed \$100;

2. The preparation and delivery of the resale certificate in (i) paper format, a fee not to exceed \$150 for no more than two hard copies, or (ii) electronic format, a fee not to exceed a total of \$125, for an electronic copy to each of the following named in the request: the seller, the seller's authorized agent, the purchaser, the purchaser's authorized agent, and not more than one other person designated by the requester. Only one fee shall be charged for the preparation and delivery of the resale certificate;

3. At the option of the seller or the seller's authorized agent, with the consent of the unit owners' association or the common interest community manager, expediting the inspection, preparation, and delivery of the resale certificate, an additional expedite fee not to exceed \$50;

4. At the option of the seller or the seller's authorized agent, an additional hard copy of the resale certificate, a fee not to exceed \$25 per hard copy;

5. At the option of the seller or the seller's authorized agent, a fee not to exceed an amount equal to the actual cost paid to a third-party commercial delivery service for hand delivery or overnight delivery of the resale certificate; and

6. A post-closing fee to the purchaser of the unit, collected at settlement, for the purpose of establishing the purchaser as the owner of the unit in the records of the unit owners' association, a fee not to exceed \$50.

Neither the unit owners' association nor its common interest community manager shall require cash, check, certified funds, or credit card payments at the time the request for the resale certificate is made. The resale certificate shall state that all fees and costs for the resale certificate shall be the personal obligation of the unit owner and shall be an assessment against the unit and collectible as any other assessment in accordance with the provisions of the condominium instruments and § 55-79.83, if not paid at settlement or within 60 days of the delivery of the resale certificate, whichever occurs first.

For purposes of this section, an expedite fee shall only be charged if the inspection and preparation of delivery of the resale certificate are completed within five business days of the request for a resale certificate.

C. No fees other than those specified in this section, and as limited by this section, shall be charged by the unit owners' association or its common interest community manager for compliance with the duties and responsibilities of the unit owners' association under this section. No additional fee shall be charged for access to the unit owners' association's or common interest community manager's website. The unit owners' association or its common interest community manager shall publish and make available in paper or electronic format, or both, a schedule of the applicable fees so that the seller or the seller's authorized agent will know such fees at the time of requesting the resale certificate.

D. Any fees charged pursuant to this section shall be collected at the time settlement occurs on the sale of the unit and shall be due and payable out of the settlement proceeds in accordance with this section. The seller shall be responsible for all costs associated with the preparation and delivery of the resale certificate, except for the costs of any resale certificate update or financial update, which costs shall be the responsibility of the requester, payable at settlement. The settlement agent shall escrow a sum sufficient to pay such costs at settlement. Neither the unit owners' association nor its common interest community manager shall require cash, check, certified funds, or credit card payments at the time the request is made for the resale certificate.

E. If settlement does not occur within 60 days of the delivery of the resale certificate, or funds are not collected at settlement and disbursed to the unit owners' association or the common interest community manager, all fees, including those costs that would have otherwise been the responsibility of the purchaser or settlement agent, shall be (i) assessed within one year after delivery of the resale certificate against the unit owner, (ii) the personal obligation of the unit owner, and (iii) an assessment against the unit and collectible as any other assessment in accordance with the provisions of the condominium instruments and § 55-79.83. The seller may pay the unit owners' association by cash, check, certified funds, or credit card, if credit card payment is an option offered by the unit owners' association. The unit owners' association shall pay the common interest community manager the amount due from the unit owner within 30 days after invoice.

F. The maximum allowable fees charged in accordance with this section shall adjust every five years, as of January 1 of that year, in an amount equal to the annual increases for that five-year period in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics of the U.S. Department of Labor.

G. If a resale certificate has been issued within the preceding 12-month period, a person specified in the written instructions of the seller or the seller's authorized agent, including the seller or the seller's authorized agent or the purchaser or the purchaser's authorized agent, may request a resale certificate update. The requester shall specify whether the resale certificate update shall be delivered electronically or in hard copy and shall specify the complete contact information of the parties to whom the update shall be delivered. The resale certificate update shall be delivered within 10 days of the written request.

H. The settlement agent may request a financial update. The requester shall specify whether the financial update shall be delivered electronically or in hard copy and shall specify the complete contact information of the parties to whom the update shall be delivered. The financial update shall be delivered within three business days of the written request.

I. A reasonable fee for the resale certificate update or financial update may be charged by the preparer, not to exceed \$50. At the option of the purchaser or the purchaser's authorized agent, the requester may request that the unit owners' association or the common interest community manager perform an additional inspection of the unit, as authorized in the declaration, for a fee not to exceed \$100. Any fees charged for the specified update shall be collected at the time settlement occurs on the sale of the property. The settlement agent shall escrow a sum sufficient to pay such costs at settlement. Neither the unit owners' association nor its common interest community manager, if any, shall require cash, check, certified funds, or credit card payments at the time the request is made for the resale certificate update. The requester may request that the specified update be provided in hard copy or in electronic form.

J. No unit owners' association or common interest community manager may require the requester to request the specified update electronically. The seller or the seller's authorized agent shall continue to have the right to request a hard copy of the specified update in person at the principal place of business of the unit owners' association. If the requester asks

that the specified update be provided in electronic format, neither the unit owners' association nor its common interest community manager may require the requester to pay any fees to use the provider's electronic network or system. A copy of the specified update shall be provided to the seller or the seller's authorized agent.

K. When a resale certificate has been delivered as required by § 55-79.97, the unit owners' association shall, as to the purchaser, be bound by the statements set forth therein as to the status of the assessment account and the status of the unit with respect to any violation of the condominium instruments as of the date of the statement unless the purchaser had actual knowledge that the contents of the resale certificate were in error.

L. If the unit owners' association or its common interest community manager has been requested in writing to furnish the resale certificate required by § 55-79.97, failure to provide the resale certificate substantially in the form provided in this section shall be deemed a waiver of any claim for delinquent assessments or of any violation of the declaration, bylaws, rules and regulations, or architectural guidelines existing as of the date of the request with respect to the subject unit. The preparer of the resale certificate shall be liable to the seller in an amount equal to the actual damages sustained by the seller in an amount not to exceed \$1,000. The purchaser shall nevertheless be obligated to abide by the condominium instruments, rules and regulations, and architectural guidelines of the unit owners' association as to all matters arising after the date of the settlement of the sale.

M. *The Common Interest Community Board may assess a monetary penalty for failure to deliver the resale certificate within 14 days against any (i) unit owners' association pursuant to § 54.1-2351 or (ii) common interest community manager pursuant to § 54.1-2349 and regulations promulgated thereto, and may issue a cease and desist order pursuant to § 54.1-2349 or 54.1-2352, as applicable.*

## CHAPTER 394

*An Act to amend and reenact §§ 54.1-2108.1 and 55-225.12 of the Code of Virginia, relating to residential rental property; foreclosure sale; tenant's assertion.*

[H 2281]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 54.1-2108.1 and 55-225.12 of the Code of Virginia are amended and reenacted as follows:**

**§ 54.1-2108.1. Protection of escrow funds, etc., held by a real estate broker in the event of foreclosure of real property; required deposits.**

A. Notwithstanding any other provision of law:

1. If a licensed real estate broker or an agent of the licensee is holding escrow funds for the owner of real property and such property is foreclosed upon by a lender, the licensee or an agent of the licensee shall have the right to file an interpleader action pursuant to § 16.1-77.

2. If there is in effect at the date of the foreclosure sale, a real estate purchase contract to buy the property foreclosed upon and the real estate purchase contract provides that the earnest money deposit held in escrow by a licensee shall be paid to a party to the contract in the event of a termination of the real estate purchase contract, the foreclosure shall be deemed a termination of the real estate purchase contract and the licensee or an agent of the licensee may, absent any default on the part of the purchaser, disburse the earnest money deposit to the purchaser pursuant to such provisions of the real estate purchase contract without further consent from, or notice to, the parties.

3. If there is in effect at the date of the foreclosure sale, a tenant in a residential dwelling unit foreclosed upon and the landlord is holding a security deposit of the tenant, the landlord shall handle the security deposit in accordance with applicable law, which requires the holder of the landlord's interest in the dwelling unit at the time of termination of tenancy to return any security deposit and any accrued interest that is duly owed to the tenant, whether or not such security deposit is transferred with the landlord's interest by law or equity, and regardless of any contractual agreements between the original landlord and his successors in interest. Nothing herein shall be construed to prevent the landlord from making lawful deductions from the security deposit in accordance with applicable law.

4. *If there is in effect at the date of the foreclosure sale a tenant in a residential dwelling unit foreclosed upon pursuant to § 55-225.10, the foreclosure acts as a termination of the rental agreement by the landlord and the tenant may remain in possession of such dwelling. If rent is paid to a real estate licensee acting on behalf of the landlord as a managing agent, such property management agreement having been entered into prior to and in effect at the time of the foreclosure sale, the managing agent may collect the rent and shall place it into an escrow account by the end of the fifth business banking day following receipt.*

5. *If there is in effect at the date of the foreclosure sale a written property management agreement between the landlord and a real estate licensee licensed pursuant to the provisions of § 54.1-2106.1, the foreclosure shall convert the property management agreement into a month-to-month agreement between the successor landlord and the real estate licensee acting as a managing agent, except in the event that the terms of the original property management agreement between the landlord and the real estate licensee acting as a managing agent require an earlier termination date. Unless altered by the parties, the terms of the original property management agreement that existed between the landlord and the real estate licensee acting as a managing agent shall govern the agreement between the successor landlord and the real estate licensee*

*acting as a managing agent. The property management agreement may be terminated by either party upon provision of written notice to the other party at least 30 days prior to the intended termination date. Any funds received or held by the real estate licensee acting as a managing agent shall be disbursed only in accordance with the terms of the property management agreement or as otherwise provided by law.*

B. Notwithstanding any other provision of law:

1. Any prepaid rent paid more than one month prior to the rent due date to a real estate licensee acting on behalf of a landlord client in connection with the lease shall be placed in an escrow account by the end of the fifth business banking day following receipt, unless otherwise agreed to in writing by the principals to a lease transaction. Any rent paid less than one month prior to the rent due date shall be current rent and may be deposited into an operating account of the real estate licensee.

2. Any security deposits paid to a real estate licensee acting on behalf of a landlord client in connection with the lease shall be placed in an escrow account by the end of the fifth business banking day following receipt, unless otherwise agreed to in writing by the principals to a lease transaction.

3. Any application deposit as defined by § 55-248.4 paid by a prospective tenant for the purpose of being considered as a tenant for a dwelling unit to a real estate licensee acting on behalf of a landlord client shall be placed in escrow by the end of the fifth business banking day following approval of the rental application by the landlord, unless otherwise agreed to in writing by the principals to a lease transaction.

4. Such funds shall remain in an escrow account until disbursed in accordance with the terms of the lease, the property management agreement, or the applicable statutory provisions, as applicable.

5. *Except in the event of foreclosure, if a real estate licensee acting on behalf of a landlord client as a managing agent elects to terminate the property management agreement, the licensee may transfer any funds held in escrow by the licensee on behalf of the landlord client to the landlord client without his consent, provided that the real estate licensee provides written notice to each tenant that the funds have been so transferred. In the event of foreclosure, a real estate licensee shall not transfer any funds to a landlord client whose property has been foreclosed upon.*

6. *A real estate licensee acting on behalf of a landlord client as a managing agent who complies with the provisions of this section shall have immunity from any liability for such compliance, in the absence of gross negligence or intentional misconduct.*

**§ 55-225.12. Tenant's assertion; rent escrow; dwelling units.**

A. The tenant may assert that there exists upon the dwelling unit, a condition or conditions which constitute a material noncompliance by the landlord with the rental agreement or with provisions of law, or which if not promptly corrected, will constitute a fire hazard or serious threat to the life, health or safety of occupants thereof, including but not limited to, a lack of heat or hot or cold running water, except if the tenant is responsible for payment of the utility charge and where the lack of such heat or hot or cold running water is the direct result of the tenant's failure to pay the utility charge; or a lack of light, electricity or adequate sewage disposal facilities; or an infestation of rodents; or the existence of paint containing lead pigment on surfaces within the dwelling, provided that the landlord has notice of such paint. The tenant may file such an assertion in a general district court wherein the dwelling unit is located by a declaration setting forth such assertion and asking for one or more forms of relief as provided for in subsection D. *A tenant residing in a dwelling unit that has been foreclosed upon shall be eligible to file an assertion pursuant to this section.*

B. Prior to the granting of any relief, the tenant shall show to the satisfaction of the court that:

1. Prior to the commencement of the action the landlord was served a written notice by the tenant of the conditions described in subsection A, or was notified of such conditions by a violation or condemnation notice from an appropriate state or municipal agency, and that the landlord has refused, or having a reasonable opportunity to do so, has failed to remedy the same. For the purposes of this subsection, what period of time shall be deemed to be unreasonable delay is left to the discretion of the court except that there shall be a rebuttable presumption that a period in excess of 30 days from receipt of the notification by the landlord is unreasonable; and

2. The tenant has paid into court the amount of rent called for under the rental agreement, within five days of the date due thereunder, unless or until such amount is modified by subsequent order of the court under this chapter.

C. It shall be sufficient answer or rejoinder to a declaration pursuant to subsection A if the landlord establishes to the satisfaction of the court that the conditions alleged by the tenant do not in fact exist, or such conditions have been removed or remedied, or such conditions have been caused by the tenant or members of his family or his or their invitees or licensees, or the tenant has unreasonably refused entry to the landlord to the dwelling unit for the purpose of correcting such conditions.

D. Any court shall make findings of fact on the issues before it and shall issue any order that may be required. Such an order may include, but is not limited to, any one or more of the following:

1. Terminating the rental agreement upon the request of the tenant or ordering the dwelling unit surrendered to the landlord if the landlord prevails on a request for possession pursuant to an unlawful detainer properly filed with the court;

2. Ordering all moneys already accumulated in escrow disbursed to the landlord or to the tenant in accordance with this chapter, *or to the successor landlord or the successor landlord's managing agent in accordance with § 54.1-2108.1;*

3. Ordering that the escrow be continued until the conditions causing the complaint are remedied;

4. Ordering that the amount of rent, whether paid into the escrow account or paid to the landlord, be abated as determined by the court in such an amount as may be equitable to represent the existence of the condition or conditions

found by the court to exist. In all cases where the court deems that the tenant is entitled to relief under this chapter, the burden shall be upon the landlord to show cause why there should not be an abatement of rent;

5. Ordering any amount of moneys accumulated in escrow disbursed to the tenant where the landlord refuses to make repairs after a reasonable time or to the landlord or to a contractor chosen by the landlord in order to make repairs or to otherwise remedy the condition. In either case, the court shall in its order insure that moneys thus disbursed will be in fact used for the purpose of making repairs or effecting a remedy;

6. Referring any matter before the court to the proper state or municipal agency for investigation and report and granting a continuance of the action or complaint pending receipt of such investigation and report. When such a continuance is granted, the tenant shall deposit with the court rent payments within five days of the date due under the rental agreement, subject to any abatement under this section, which become due during the period of the continuance, to be held by the court pending its further order;

7. In the court's discretion, ordering escrow funds disbursed to pay a mortgage on the property upon which the dwelling unit is located in order to stay a foreclosure; or

8. In the court's discretion, ordering escrow funds disbursed to pay a creditor to prevent or satisfy a bill to enforce a mechanic's or materialman's lien.

Notwithstanding any provision of this subsection, where an escrow account is established by the court and the condition or conditions are not fully remedied within six months of the establishment of such account, and the landlord has not made reasonable attempts to remedy the condition, the court shall award all moneys accumulated in escrow to the tenant. In such event, the escrow shall not be terminated, but shall begin upon a new six-month period with the same result if, at the end thereof, the condition or conditions have not been remedied.

E. The initial hearing on the tenant's assertion filed pursuant to subsection A shall be held within 15 calendar days from the date of service of process on the landlord, except that the court shall order an earlier hearing where emergency conditions are alleged to exist upon the premises, such as failure of heat in winter, lack of adequate sewage facilities or any other condition which constitutes an immediate threat to the health or safety of the inhabitants of the dwelling unit. The court, on motion of either party or on its own motion, may hold hearings subsequent to the initial proceeding in order to further determine the rights and obligations of the parties. Distribution of escrow moneys may only occur by order of the court after a hearing of which both parties are given notice as required by law or upon motion of both the landlord and tenant or upon certification by the appropriate inspector that the work required by the court to be done has been satisfactorily completed.

## CHAPTER 395

*An Act to amend and reenact §§ 2.2-437, 2.2-2449, and 2.2-2479 of the Code of Virginia, relating to gubernatorial appointments to boards; membership and terms.*

[H 2285]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 2.2-437, 2.2-2449, and 2.2-2479 of the Code of Virginia are amended and reenacted as follows:**

**§ 2.2-437. Identity Management Standards Advisory Council.**

A. The Identity Management Standards Advisory Council (the Advisory Council) is established to advise the Secretary of Technology on the adoption of identity management standards and the creation of guidance documents pursuant to § 2.2-436.

B. ~~1-~~ The Advisory Council shall consist of seven members, to be appointed by *and serve at the pleasure of* the Governor, with expertise in electronic identity management and information technology. Members shall include a representative of the Department of Motor Vehicles, a representative of the Virginia Information Technologies Agency, and five representatives of the business community with appropriate experience and expertise. In addition to the seven appointed members, the Chief Information Officer of the Commonwealth, or his designee, may also serve as an ex officio member of the Advisory Council. *Beginning July 1, 2019, appointments shall be staggered as follows: one member for a term of one year, two members for a term of two years, two members for a term of three years, and two members for a term of four years. After the initial staggering of terms, members shall be appointed for terms of four years. Members may be reappointed.*

~~2-~~ The Advisory Council shall designate one of its members as chairman.

~~3-~~ ~~Members appointed to the Advisory Council shall serve four-year terms, subject to the pleasure of the Governor, and may be reappointed.~~

~~4-~~ Members shall serve without compensation but shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in § 2.2-2825.

~~5-~~ Staff to the Advisory Council shall be provided by the Office of the Secretary of Technology.

C. Proposed guidance documents and general opportunity for oral or written submittals as to those guidance documents shall be posted on the Virginia Regulatory Town Hall and published in the Virginia Register of Regulations as a general notice following the processes and procedures set forth in subsection B of § 2.2-4031 of the Virginia Administrative

Process Act (§ 2.2-4000 et seq.). The Advisory Council shall allow at least 30 days for the submission of written comments following the posting and publication and shall hold at least one meeting dedicated to the receipt of oral comment no less than 15 days after the posting and publication. The Advisory Council shall also develop methods for the identification and notification of interested parties and specific means of seeking input from interested persons and groups. The Advisory Council shall send a copy of such notices, comments, and other background material relative to the development of the recommended guidance documents to the Joint Commission on Administrative Rules.

**§ 2.2-2449. Membership; terms; vacancies; chairman.**

The Board shall consist of 21 members to be appointed by the Governor as follows: 18 citizen members who shall represent business, education, the arts, and government, at least 11 of whom shall be of Asian descent; and the Secretaries of Commerce and Trade, Health and Human Resources, and Education, or their designees to serve as ex officio members of the Board.

Beginning July 1, ~~2012~~ 2017, appointments shall be staggered as follows: ~~seven~~ six members for a term of two years, ~~seven~~ six members for a term of three years, and ~~seven~~ six members for a term of four years. Thereafter, citizen members shall serve for terms of four years. The Secretaries of Commerce and Trade, Health and Human Resources, and Education, or their designees, shall serve terms coincident with their terms of office. Vacancies occurring other than by expiration of term shall be filled for the unexpired term. Any member may be reappointed for successive terms.

The members of the Board shall elect a chairman and vice-chairman annually.

Members shall receive no compensation for their services, but shall be reimbursed for their actual and necessary expenses in accordance with § 2.2-2823.

**§ 2.2-2479. (Expires July 1, 2018) Membership; terms; quorum; meetings.**

A. The Board shall consist of no more than 20 nonlegislative citizen members, to be appointed by the Governor from the Commonwealth at large. Nonlegislative citizen members appointed to the Board shall be selected for their knowledge of, background in, or experience with the community and volunteer services sector and in accordance with guidelines provided in the National and Community Service Trust Act of 1993. The Governor may appoint additional persons, at his discretion, as nonvoting members.

B. After the initial staggering of terms, nonlegislative citizen members shall be appointed for terms of ~~four~~ three years. Appointments to fill vacancies shall be for the unexpired terms. No nonlegislative citizen member shall be eligible to serve more than two successive four-year terms; however, after the expiration of the remainder of a term to which a member was appointed to fill a vacancy, two additional terms may be served by such member if appointed thereto.

C. The voting members of the Board shall elect a chairman and vice-chairman annually from among its membership. A majority of the members of the Board shall constitute a quorum. The Board shall meet no more than six times per year. The meetings of the Board shall be held at the call of the chairman or whenever the majority of the members so request.

**2. That, beginning July 1, 2017, the term of any member appointed to the Latino Advisory Board pursuant to § 2.2-2459 of the Code of Virginia that is set to expire on October 14 shall be shortened to June 30 of that year.**

**3. That, beginning July 1, 2017, the term of any member appointed to the Board of Agriculture and Consumer Services pursuant to § 3.2-109 of the Code of Virginia that is set to expire on February 28 shall be extended to June 30 of that year.**

**4. That, beginning July 1, 2017, the term of any member appointed to the Board of Education pursuant to § 22.1-9 of the Code of Virginia that is set to expire on January 29 shall be extended to June 30 of that year.**

**5. That, beginning July 1, 2017, the term of any member appointed to the Board for Waterworks and Wastewater Works Operators and Onsite Sewage System Professionals pursuant to § 54.1-2301 of the Code of Virginia that is set to expire on December 31 shall be extended to June 30 of the following year.**

**6. That the terms of the licensed alternative onsite sewage system operator, licensed alternative onsite sewage system installer, and licensed onsite soil evaluator to the Board for Waterworks and Wastewater Works Operators and Onsite Sewage System Professionals pursuant to § 54.1-2301 of the Code of Virginia that are set to begin on July 1, 2019, shall be staggered, with one member appointed for a term of one year, one member appointed for a term of two years, and one member appointed for a term of three years. Thereafter, all such appointments shall be for terms of four years.**

## CHAPTER 396

*An Act to amend and reenact § 3.2-6540 of the Code of Virginia, relating to dangerous dogs.*

[H 2381]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 3.2-6540 of the Code of Virginia is amended and reenacted as follows:**

**§ 3.2-6540. Control of dangerous dogs; penalties.**

A. As used in this section:

~~"Dangerous dog" means a~~, "dangerous dog" means:

1. A canine or canine crossbreed that has bitten, attacked, or inflicted injury on a ~~person or~~ companion animal that is a dog or cat; or killed a companion animal that is a dog or cat. ~~When a dog attacks or bites a companion animal that is a dog or cat, the attacking or biting dog shall not be deemed~~ A canine or canine crossbreed is not a dangerous dog if, upon investigation, a law-enforcement officer or animal control officer finds that (i) ~~if~~ no serious physical injury, as determined by a licensed veterinarian, has occurred to the dog or cat as a result of the attack or bite; (ii) ~~if~~ both animals are owned by the same person; or (iii) ~~if~~ such attack ~~occurs~~ occurred on the property of the attacking or biting dog's owner or custodian; or (iv) ~~for other good cause as determined by the court~~

2. A canine or canine crossbreed that has bitten, attacked, or inflicted injury on a person. A canine or canine crossbreed is not a dangerous dog if, upon investigation, a law-enforcement officer or animal control officer finds that the injury inflicted by the canine or canine crossbreed upon a person consists solely of a single nip or bite resulting only in a scratch, abrasion, or other minor injury.

B. No dog shall be found to be a dangerous dog as a result of biting, attacking, or inflicting injury on a dog or cat while engaged with an owner or custodian as part of lawful hunting or participating in an organized, lawful dog handling event. No dog ~~that has bitten, attacked, or inflicted injury on a person~~ shall be found to be a dangerous dog if the court determines, based on the totality of the evidence before it, ~~or for other good cause~~, that the dog is not dangerous or a threat to the community.

~~B.~~ C. Any law-enforcement officer or animal control officer who has reason to believe that a canine or canine crossbreed within his jurisdiction is a dangerous dog ~~shall~~ may apply to a magistrate serving the jurisdiction for the issuance of a summons requiring the owner or custodian, if known, to appear before a general district court at a specified time. The summons shall advise the owner of the nature of the proceeding and the matters at issue. If a law-enforcement officer successfully makes an application for the issuance of a summons, he shall contact the local animal control officer and inform him of the location of the dog and the relevant facts pertaining to his belief that the dog is dangerous. The animal control officer shall confine the animal until such time as evidence shall be heard and a verdict rendered. If the animal control officer determines that the owner or custodian can confine the animal in a manner that protects the public safety, he may permit the owner or custodian to confine the animal until such time as evidence shall be heard and a verdict rendered. The court, through its contempt powers, may compel the owner, custodian, or harbinger of the animal to produce the animal. If, after hearing the evidence, the court finds that the animal is a dangerous dog, the court shall order the animal's owner to comply with the provisions of this section. The court, upon finding the animal to be a dangerous dog, may order the owner, custodian, or harbinger thereof to pay restitution for actual damages to any person injured by the animal or whose companion animal was injured or killed by the animal. The court, in its discretion, may also order the owner to pay all reasonable expenses incurred in caring and providing for such dangerous dog from the time the animal is taken into custody until such time as the animal is disposed of or returned to the owner. The procedure for appeal and trial shall be the same as provided by law for misdemeanors. Trial by jury shall be as provided in Article 4 (§ 19.2-260 et seq.) of Chapter 15 of Title 19.2. The Commonwealth shall be required to prove its case beyond a reasonable doubt.

~~C.~~ D. No canine or canine crossbreed shall be found to be a dangerous dog solely because it is a particular breed, nor is the ownership of a particular breed of canine or canine crossbreed prohibited.

E. No animal shall be found to be a dangerous dog if the threat, injury, or damage was sustained by a person who was (i) committing, at the time, a crime upon the premises occupied by the animal's owner or custodian; (ii) committing, at the time, a willful trespass upon the premises occupied by the animal's owner or custodian; or (iii) provoking, tormenting, or physically abusing the animal, or can be shown to have repeatedly provoked, tormented, abused, or assaulted the animal at other times. No police dog that was engaged in the performance of its duties as such at the time of the acts complained of shall be found to be a dangerous dog. No animal that, at the time of the acts complained of, was responding to pain or injury, or was protecting itself, its kennel, its offspring, a person, or its owner's or custodian's property, shall be found to be a dangerous dog.

~~D.~~ F. If the owner of an animal found to be a dangerous dog is a minor, the custodial parent or legal guardian shall be responsible for complying with all requirements of this section.

~~E.~~ G. The owner of any animal found to be a dangerous dog shall, within ~~45~~ 30 days of such finding, obtain a dangerous dog registration certificate from the local animal control officer or treasurer for a fee of \$150, in addition to other fees that may be authorized by law. The local animal control officer or treasurer shall also provide the owner with a uniformly designed tag that identifies the animal as a dangerous dog. The owner shall affix the tag to the animal's collar and ensure that the animal wears the collar and tag at all times. By January 31 of each year, until such time as the dangerous dog is deceased, all certificates obtained pursuant to this subsection shall be updated and renewed for a fee of \$85 and in the same manner as the initial certificate was obtained. The animal control officer shall post registration information on the Virginia Dangerous Dog Registry.

~~F.~~ H. All dangerous dog registration certificates or renewals thereof required to be obtained under this section shall only be issued to persons 18 years of age or older who present satisfactory evidence (i) of the animal's current rabies vaccination, if applicable; (ii) that the animal has been neutered or spayed; and (iii) that the animal is and will be confined in a proper enclosure or is and will be confined inside the owner's residence or is and will be muzzled and confined in the owner's fenced-in yard until the proper enclosure is constructed. In addition, owners who apply for certificates or renewals thereof under this section shall not be issued a certificate or renewal thereof unless they present satisfactory evidence that (a) their residence is and will continue to be posted with clearly visible signs warning both minors and adults of the presence

of a dangerous dog on the property and (b) the animal has been permanently identified by means of electronic implantation. All certificates or renewals thereof required to be obtained under this section shall only be issued to persons who present satisfactory evidence that the owner has liability insurance coverage, to the value of at least \$100,000, that covers animal bites. The owner may obtain and maintain a bond in surety, in lieu of liability insurance, to the value of at least \$100,000.

~~G. I.~~ While on the property of its owner, an animal found to be a dangerous dog shall be confined indoors or in a securely enclosed and locked structure of sufficient height and design to prevent its escape or direct contact with or entry by minors, adults, or other animals. While so confined within the structure, the animal shall be provided for according to § 3.2-6503. When off its owner's property, an animal found to be a dangerous dog shall be kept on a leash and muzzled in such a manner as not to cause injury to the animal or interfere with the animal's vision or respiration, but so as to prevent it from biting a person or another animal.

~~H. J.~~ The owner shall cause the local animal control officer to be promptly notified of (i) the names, addresses, and telephone numbers of all owners; (ii) all of the means necessary to locate the owner and the dog at any time; (iii) any complaints or incidents of attack by the dog upon any person or cat or dog; (iv) any claims made or lawsuits brought as a result of any attack; (v) chip identification information; (vi) proof of insurance or surety bond; and (vii) the death of the dog.

~~I. K.~~ After an animal has been found to be a dangerous dog, the animal's owner shall immediately, upon learning of same, cause the local animal control authority to be notified if the animal (i) is loose or unconfined; (ii) bites a person or attacks another animal; or (iii) is sold, is given away, or dies. Any owner of a dangerous dog who relocates to a new address shall, within 10 days of relocating, provide written notice to the appropriate local animal control authority for the old address from which the animal has moved and the new address to which the animal has been moved.

~~J. L.~~ Any owner or custodian of a canine or canine crossbreed or other animal is guilty of a:

1. Class 2 misdemeanor if the canine or canine crossbreed previously declared a dangerous dog pursuant to this section, when such declaration arose out of a separate and distinct incident, attacks and injures or kills a cat or dog that is a companion animal belonging to another person;

2. Class 1 misdemeanor if the canine or canine crossbreed previously declared a dangerous dog pursuant to this section, when such declaration arose out of a separate and distinct incident, bites a human being or attacks a human being causing bodily injury; or

3. Class 6 felony if any owner or custodian whose willful act or omission in the care, control, or containment of a canine, canine crossbreed, or other animal is so gross, wanton, and culpable as to show a reckless disregard for human life, and is the proximate cause of such dog or other animal attacking and causing serious bodily injury to any person.

The provisions of this subsection shall not apply to any animal that, at the time of the acts complained of, was responding to pain or injury, or was protecting itself, its kennel, its offspring, a person, or its owner's or custodian's property, or when the animal is a police dog that is engaged in the performance of its duties at the time of the attack.

~~K. M.~~ The owner of any animal that has been found to be a dangerous dog who willfully fails to comply with the requirements of this section is guilty of a Class 1 misdemeanor.

Whenever an owner or custodian of an animal found to be a dangerous dog is charged with a violation of this section, the animal control officer shall confine the dangerous dog until such time as evidence shall be heard and a verdict rendered. The court, through its contempt powers, may compel the owner, custodian, or harbinger of the animal to produce the animal.

Upon conviction, the court may (i) order the dangerous dog to be disposed of by a local governing body pursuant to § 3.2-6562 or (ii) grant the owner up to ~~45~~ 30 days to comply with the requirements of this section, during which time the dangerous dog shall remain in the custody of the animal control officer until compliance has been verified. If the owner fails to achieve compliance within the time specified by the court, the court shall order the dangerous dog to be disposed of by a local governing body pursuant to § 3.2-6562. The court, in its discretion, may order the owner to pay all reasonable expenses incurred in caring and providing for such dangerous dog from the time the animal is taken into custody until such time that the animal is disposed of or returned to the owner.

~~L. N.~~ All fees collected pursuant to this section, less the costs incurred by the animal control authority in producing and distributing the certificates and tags required by this section and fees due to the State Veterinarian for maintenance of the Virginia Dangerous Dog Registry, shall be paid into a special dedicated fund in the treasury of the locality for the purpose of paying the expenses of any training course required under § 3.2-6556.

~~M. O.~~ The governing body of any locality may enact an ordinance parallel to this statute regulating dangerous dogs. No locality may impose a felony penalty for violation of such ordinances.

## CHAPTER 397

*An Act to amend and reenact § 2.2-4310 of the Code of Virginia, relating to the Virginia Public Procurement Act; participation of employment services organizations.*

[H 2396]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 2.2-4310 of the Code of Virginia is amended and reenacted as follows:**

**§ 2.2-4310. Discrimination prohibited; participation of small, women-owned, minority-owned, and service disabled veteran-owned business and employment services organization.**

A. In the solicitation or awarding of contracts, no public body shall discriminate against a bidder or offeror because of race, religion, color, sex, national origin, age, disability, status as a service disabled veteran, or any other basis prohibited by state law relating to discrimination in employment. Whenever solicitations are made, each public body shall include businesses selected from a list made available by the Department of Small Business and Supplier Diversity, which list shall include all companies and organizations certified by the Department.

B. All public bodies shall establish programs consistent with this chapter to facilitate the participation of small businesses, businesses owned by women, minorities, and service disabled veterans, and employment services organizations in procurement transactions. The programs established shall be in writing and shall comply with the provisions of any enhancement or remedial measures authorized by the Governor pursuant to subsection C or, where applicable, by the chief executive of a local governing body pursuant to § 15.2-965.1, and shall include specific plans to achieve any goals established therein. State agencies shall submit annual progress reports on (i) small, women-owned, and minority-owned business procurement, (ii) service disabled veteran-owned business procurement, and (iii) employment services organization procurement to the Department of Small Business and Supplier Diversity in a form specified by the Department of Small Business and Supplier Diversity. Contracts and subcontracts awarded to employment services organizations shall be credited toward a contractor's the small business, women-owned, and minority-owned business contracting and subcontracting goals of state agencies and contractors. The Department of Small Business and Supplier Diversity shall make information on service disabled veteran-owned procurement available to the Department of Veterans Services upon request.

C. Whenever there exists (i) a rational basis for small business or employment services organization enhancement or (ii) a persuasive analysis that documents a statistically significant disparity between the availability and utilization of women-owned and minority-owned businesses, the Governor is authorized and encouraged to require state agencies to implement appropriate enhancement or remedial measures consistent with prevailing law.

D. In awarding a contract for services to a small, women-owned, or minority-owned business that is certified in accordance with § 2.2-1606, or to a business identified by a public body as a service disabled veteran-owned business where the award is being made pursuant to an enhancement or remedial program as provided in subsection C, the public body shall include in every such contract of more than \$10,000 the following:

"If the contractor intends to subcontract work as part of its performance under this contract, the contractor shall include in the proposal a plan to subcontract to small, women-owned, minority-owned, and service disabled veteran-owned businesses."

E. In the solicitation or awarding of contracts, no state agency, department or institution shall discriminate against a bidder or offeror because the bidder or offeror employs ex-offenders unless the state agency, department or institution has made a written determination that employing ex-offenders on the specific contract is not in its best interest.

F. As used in this section:

"Employment services organization" means an organization that provides community-based employment services to individuals with disabilities that is an approved Commission on Accreditation of Rehabilitation Facilities (CARF) accredited vendor of the Department for Aging and Rehabilitative Services.

"Minority individual" means an individual who is a citizen of the United States or a legal resident alien and who satisfies one or more of the following definitions:

1. "African American" means a person having origins in any of the original peoples of Africa and who is regarded as such by the community of which this person claims to be a part.

2. "Asian American" means a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands, including but not limited to Japan, China, Vietnam, Samoa, Laos, Cambodia, Taiwan, Northern Mariana Islands, the Philippines, a U.S. territory of the Pacific, India, Pakistan, Bangladesh, or Sri Lanka and who is regarded as such by the community of which this person claims to be a part.

3. "Hispanic American" means a person having origins in any of the Spanish-speaking peoples of Mexico, South or Central America, or the Caribbean Islands or other Spanish or Portuguese cultures and who is regarded as such by the community of which this person claims to be a part.

4. "Native American" means a person having origins in any of the original peoples of North America and who is regarded as such by the community of which this person claims to be a part or who is recognized by a tribal organization.

"Minority-owned business" means a business that is at least 51 percent owned by one or more minority individuals who are U.S. citizens or legal resident aliens, or in the case of a corporation, partnership, or limited liability company or other entity, at least 51 percent of the equity ownership interest in the corporation, partnership, or limited liability company or other entity is owned by one or more minority individuals who are U.S. citizens or legal resident aliens, and both the management and daily business operations are controlled by one or more minority individuals, or any historically black college or university as defined in § 2.2-1604, regardless of the percentage ownership by minority individuals or, in the case of a corporation, partnership, or limited liability company or other entity, the equity ownership interest in the corporation, partnership, or limited liability company or other entity.

"Service disabled veteran" means a veteran who (i) served on active duty in the United States military ground, naval, or air service, (ii) was discharged or released under conditions other than dishonorable, and (iii) has a service-connected disability rating fixed by the United States Department of Veterans Affairs.

"Service disabled veteran business" means a business that is at least 51 percent owned by one or more service disabled veterans or, in the case of a corporation, partnership, or limited liability company or other entity, at least 51 percent of the equity ownership interest in the corporation, partnership, or limited liability company or other entity is owned by one or more individuals who are service disabled veterans and both the management and daily business operations are controlled by one or more individuals who are service disabled veterans.

"Small business" means a business, independently owned and controlled by one or more individuals who are U.S. citizens or legal resident aliens, and together with affiliates, has 250 or fewer employees, or annual gross receipts of \$10 million or less averaged over the previous three years. One or more of the individual owners shall control both the management and daily business operations of the small business.

"State agency" means any authority, board, department, instrumentality, institution, agency, or other unit of state government. "State agency" shall not include any county, city, or town.

"Women-owned business" means a business that is at least 51 percent owned by one or more women who are U.S. citizens or legal resident aliens, or in the case of a corporation, partnership, or limited liability company or other entity, at least 51 percent of the equity ownership interest is owned by one or more women who are U.S. citizens or legal resident aliens, and both the management and daily business operations are controlled by one or more women.

### CHAPTER 398

*An Act to amend and reenact § 15.2-2286 of the Code of Virginia, relating to zoning; delinquent charges.*

[H 2469]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 15.2-2286 of the Code of Virginia is amended and reenacted as follows:**

**§ 15.2-2286. Permitted provisions in zoning ordinances; amendments; applicant to pay delinquent taxes; penalties.**

A. A zoning ordinance may include, among other things, reasonable regulations and provisions as to any or all of the following matters:

1. For variances or special exceptions, as defined in § 15.2-2201, to the general regulations in any district.
2. For the temporary application of the ordinance to any property coming into the territorial jurisdiction of the governing body by annexation or otherwise, subsequent to the adoption of the zoning ordinance, and pending the orderly amendment of the ordinance.
3. For the granting of special exceptions under suitable regulations and safeguards; notwithstanding any other provisions of this article, the governing body of any locality may reserve unto itself the right to issue such special exceptions. Conditions imposed in connection with residential special use permits, wherein the applicant proposes affordable housing, shall be consistent with the objective of providing affordable housing. When imposing conditions on residential projects specifying materials and methods of construction or specific design features, the approving body shall consider the impact of the conditions upon the affordability of housing.

The governing body or the board of zoning appeals of the City of Norfolk may impose a condition upon any special exception relating to retail alcoholic beverage control licensees which provides that such special exception will automatically expire upon a change of ownership of the property, a change in possession, a change in the operation or management of a facility or upon the passage of a specific period of time.

The governing body of the City of Richmond may impose a condition upon any special use permit issued after July 1, 2000, relating to retail alcoholic beverage licensees which provides that such special use permit shall be subject to an automatic review by the governing body upon a change in possession, a change in the owner of the business, or a transfer of majority control of the business entity. Upon review by the governing body, it may either amend or revoke the special use permit after notice and a public hearing as required by § 15.2-2206.

4. For the administration and enforcement of the ordinance including the appointment or designation of a zoning administrator who may also hold another office in the locality. The zoning administrator shall have all necessary authority on behalf of the governing body to administer and enforce the zoning ordinance. His authority shall include (i) ordering in writing the remedying of any condition found in violation of the ordinance; (ii) insuring compliance with the ordinance, bringing legal action, including injunction, abatement, or other appropriate action or proceeding subject to appeal pursuant to § 15.2-2311; and (iii) in specific cases, making findings of fact and, with concurrence of the attorney for the governing body, conclusions of law regarding determinations of rights accruing under § 15.2-2307 or subsection C of § 15.2-2311.

Whenever the zoning administrator has reasonable cause to believe that any person has engaged in or is engaging in any violation of a zoning ordinance that limits occupancy in a residential dwelling unit, which is subject to a civil penalty that may be imposed in accordance with the provisions of § 15.2-2209, and the zoning administrator, after a good faith effort to obtain the data or information necessary to determine whether a violation has occurred, has been unable to obtain

such information, he may request that the attorney for the locality petition the judge of the general district court for his jurisdiction for a subpoena duces tecum against any such person refusing to produce such data or information. The judge of the court, upon good cause shown, may cause the subpoena to be issued. Any person failing to comply with such subpoena shall be subject to punishment for contempt by the court issuing the subpoena. Any person so subpoenaed may apply to the judge who issued the subpoena to quash it.

Notwithstanding the provisions of § 15.2-2311, a zoning ordinance may prescribe an appeal period of less than 30 days, but not less than 10 days, for a notice of violation involving temporary or seasonal commercial uses, parking of commercial trucks in residential zoning districts, maximum occupancy limitations of a residential dwelling unit, or similar short-term, recurring violations.

Where provided by ordinance, the zoning administrator may be authorized to grant a modification from any provision contained in the zoning ordinance with respect to physical requirements on a lot or parcel of land, including but not limited to size, height, location or features of or related to any building, structure, or improvements, if the administrator finds in writing that: (i) the strict application of the ordinance would produce undue hardship; (ii) such hardship is not shared generally by other properties in the same zoning district and the same vicinity; and (iii) the authorization of the modification will not be of substantial detriment to adjacent property and the character of the zoning district will not be changed by the granting of the modification. Prior to the granting of a modification, the zoning administrator shall give, or require the applicant to give, all adjoining property owners written notice of the request for modification, and an opportunity to respond to the request within 21 days of the date of the notice. The zoning administrator shall make a decision on the application for modification and issue a written decision with a copy provided to the applicant and any adjoining landowner who responded in writing to the notice sent pursuant to this paragraph. The decision of the zoning administrator shall constitute a decision within the purview of § 15.2-2311, and may be appealed to the board of zoning appeals as provided by that section. Decisions of the board of zoning appeals may be appealed to the circuit court as provided by § 15.2-2314.

The zoning administrator shall respond within 90 days of a request for a decision or determination on zoning matters within the scope of his authority unless the requester has agreed to a longer period.

5. For the imposition of penalties upon conviction of any violation of the zoning ordinance. Any such violation shall be a misdemeanor punishable by a fine of not less than \$10 nor more than \$1,000. If the violation is uncorrected at the time of the conviction, the court shall order the violator to abate or remedy the violation in compliance with the zoning ordinance, within a time period established by the court. Failure to remove or abate a zoning violation within the specified time period shall constitute a separate misdemeanor offense punishable by a fine of not less than \$10 nor more than \$1,000, and any such failure during any succeeding 10-day period shall constitute a separate misdemeanor offense for each 10-day period punishable by a fine of not less than \$100 nor more than \$1,500.

However, any conviction resulting from a violation of provisions regulating the number of unrelated persons in single-family residential dwellings shall be punishable by a fine of up to \$2,000. Failure to abate the violation within the specified time period shall be punishable by a fine of up to \$5,000, and any such failure during any succeeding 10-day period shall constitute a separate misdemeanor offense for each 10-day period punishable by a fine of up to \$7,500. However, no such fine shall accrue against an owner or managing agent of a single-family residential dwelling unit during the pendency of any legal action commenced by such owner or managing agent of such dwelling unit against a tenant to eliminate an overcrowding condition in accordance with Chapter 13 or Chapter 13.2 of Title 55, as applicable. A conviction resulting from a violation of provisions regulating the number of unrelated persons in single-family residential dwellings shall not be punishable by a jail term.

6. For the collection of fees to cover the cost of making inspections, issuing permits, advertising of notices and other expenses incident to the administration of a zoning ordinance or to the filing or processing of any appeal or amendment thereto.

7. For the amendment of the regulations or district maps from time to time, or for their repeal. Whenever the public necessity, convenience, general welfare, or good zoning practice requires, the governing body may by ordinance amend, supplement, or change the regulations, district boundaries, or classifications of property. Any such amendment may be initiated (i) by resolution of the governing body; (ii) by motion of the local planning commission; or (iii) by petition of the owner, contract purchaser with the owner's written consent, or the owner's agent therefor, of the property which is the subject of the proposed zoning map amendment, addressed to the governing body or the local planning commission, who shall forward such petition to the governing body; however, the ordinance may provide for the consideration of proposed amendments only at specified intervals of time, and may further provide that substantially the same petition will not be reconsidered within a specific period, not exceeding one year. Any such resolution or motion by such governing body or commission proposing the rezoning shall state the above public purposes therefor.

In any county having adopted such zoning ordinance, all motions, resolutions or petitions for amendment to the zoning ordinance, and/or map shall be acted upon and a decision made within such reasonable time as may be necessary which shall not exceed 12 months unless the applicant requests or consents to action beyond such period or unless the applicant withdraws his motion, resolution or petition for amendment to the zoning ordinance or map, or both. In the event of and upon such withdrawal, processing of the motion, resolution or petition shall cease without further action as otherwise would be required by this subdivision.

8. For the submission and approval of a plan of development prior to the issuance of building permits to assure compliance with regulations contained in such zoning ordinance.

9. For areas and districts designated for mixed use developments or planned unit developments as defined in § 15.2-2201.

10. For the administration of incentive zoning as defined in § 15.2-2201.

11. For provisions allowing the locality to enter into a voluntary agreement with a landowner that would result in the downzoning of the landowner's undeveloped or underdeveloped property in exchange for a tax credit equal to the amount of excess real estate taxes that the landowner has paid due to the higher zoning classification. The locality may establish reasonable guidelines for determining the amount of excess real estate tax collected and the method and duration for applying the tax credit. For purposes of this section, "downzoning" means a zoning action by a locality that results in a reduction in a formerly permitted land use intensity or density.

12. Provisions for requiring and considering Phase I environmental site assessments based on the anticipated use of the property proposed for the subdivision or development that meet generally accepted national standards for such assessments, such as those developed by the American Society for Testing and Materials, and Phase II environmental site assessments, that also meet accepted national standards, such as, but not limited to, those developed by the American Society for Testing and Materials, if the locality deems such to be reasonably necessary, based on findings in the Phase I assessment, and in accordance with regulations of the United States Environmental Protection Agency and the American Society for Testing and Materials. A reasonable fee may be charged for the review of such environmental assessments. Such fees shall not exceed an amount commensurate with the services rendered, taking into consideration the time, skill, and administrative expense involved in such review.

13. Provisions for requiring disclosure and remediation of contamination and other adverse environmental conditions of the property prior to approval of subdivision and development plans.

14. For the enforcement of provisions of the zoning ordinance that regulate the number of persons permitted to occupy a single-family residential dwelling unit, provided such enforcement is in compliance with applicable local, state and federal fair housing laws.

15. For the issuance of inspection warrants by a magistrate or court of competent jurisdiction. The zoning administrator or his agent may make an affidavit under oath before a magistrate or court of competent jurisdiction and, if such affidavit establishes probable cause that a zoning ordinance violation has occurred, request that the magistrate or court grant the zoning administrator or his agent an inspection warrant to enable the zoning administrator or his agent to enter the subject dwelling for the purpose of determining whether violations of the zoning ordinance exist. After issuing a warrant under this section, the magistrate or judge shall file the affidavit in the manner prescribed by § 19.2-54. After executing the warrant, the zoning administrator or his agents shall return the warrant to the clerk of the circuit court of the city or county wherein the inspection was made. The zoning administrator or his agent shall make a reasonable effort to obtain consent from the owner or tenant of the subject dwelling prior to seeking the issuance of an inspection warrant under this section.

B. Prior to the initiation of an application by the owner of the subject property, the owner's agent, or any entity in which the owner holds an ownership interest greater than 50 percent, for a special exception, special use permit, variance, rezoning or other land disturbing permit, including building permits and erosion and sediment control permits, or prior to the issuance of final approval, the authorizing body may require the applicant to produce satisfactory evidence that any delinquent real estate taxes, nuisance charges, stormwater management utility fees, and any other charges that constitute a lien on the subject property, that are owed to the locality and have been properly assessed against the subject property, have been paid, *unless otherwise authorized by the treasurer.*

## CHAPTER 399

*An Act to amend and reenact § 3.2-6511.1 of the Code of Virginia, relating to pet shops; procurement of dogs from unlicensed dealers.*

[S 852]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 3.2-6511.1 of the Code of Virginia is amended and reenacted as follows:**

**§ 3.2-6511.1. Pet shops; procurement of dogs; penalty.**

A. A pet shop shall sell or offer for adoption a dog procured only from a humane society ~~or~~; a private or public animal shelter as those terms are defined in § 3.2-6500 ~~or from~~; or a person who has not received from the U.S. Department of Agriculture, pursuant to enforcement of the federal Animal Welfare Act (7 U.S.C. § 2131 et seq.) or regulations adopted thereunder, (i) a citation for a direct *or critical* violation or citations for three or more indirect *or noncritical* violations for at least two years prior to the procurement of the dog or (ii) two consecutive citations for no access to the facility prior to the procurement of the dog *and who has not knowingly obtained the dog directly or indirectly from a person with such citations.*

B. It shall be unlawful for any *dealer or commercial dog breeder* who is not licensed *or exempted from licensure* by the U.S. Department of Agriculture pursuant to the federal Animal Welfare Act (7 U.S.C. § 2131 et seq.) or regulations adopted thereunder to sell any dog to a pet shop.

C. A pet shop shall retain records verifying compliance with this section for a minimum of two years after the disposition of any dog.

D. Any person violating any provision of this section is guilty of a Class 1 misdemeanor for each dog sold or offered for sale.

### CHAPTER 400

*An Act to amend and reenact § 15.2-906 of the Code of Virginia, relating to removal of blight; building collapse.*

[S 919]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 15.2-906 of the Code of Virginia is amended and reenacted as follows:**

**§ 15.2-906. Authority to require removal, repair, etc., of buildings and other structures.**

Any locality may, by ordinance, provide that:

1. The owners of property therein, shall at such time or times as the governing body may prescribe, remove, repair or secure any building, wall or any other structure that might endanger the public health or safety of other residents of such locality;

2. The locality through its own agents or employees may remove, repair or secure any building, wall or any other structure that might endanger the public health or safety of other residents of such locality, if the owner and lienholder of such property, after reasonable notice and a reasonable time to do so, has failed to remove, repair, or secure the building, wall or other structure. For purposes of this section, repair may include maintenance work to the exterior of a building to prevent deterioration of the building or adjacent buildings. For purposes of this section, reasonable notice includes a written notice (i) mailed by certified or registered mail, return receipt requested, sent to the last known address of the property owner and (ii) published once a week for two successive weeks in a newspaper having general circulation in the locality. No action shall be taken by the locality to remove, repair, or secure any building, wall, or other structure for at least 30 days following the later of the return of the receipt or newspaper publication, except that the locality may take action to prevent unauthorized access to the building within seven days of such notice if the structure is deemed to pose a significant threat to public safety and such fact is stated in the notice;

3. In the event *that* the locality, through its own agents or employees, removes, repairs, or secures any building, wall, or any other structure after complying with the notice provisions of this section *or as otherwise permitted under the Virginia Uniform Statewide Building Code in the event of an emergency*, the cost or expenses thereof shall be chargeable to and paid by the owners of such property and may be collected by the locality as taxes are collected;

4. Every charge authorized by this section or § 15.2-900 with which the owner of any such property has been assessed and that remains unpaid shall constitute a lien against such property ranking on a parity with liens for unpaid local taxes and enforceable in the same manner as provided in Articles 3 (§ 58.1-3940 et seq.) and 4 (§ 58.1-3965 et seq.) of Chapter 39 of Title 58.1. A locality may waive such liens in order to facilitate the sale of the property. Such liens may be waived only as to a purchaser who is unrelated by blood or marriage to the owner and who has no business association with the owner. All such liens shall remain a personal obligation of the owner of the property at the time the liens were imposed;

5. Notwithstanding the foregoing, with the written consent of the property owner, a locality may, through its agents or employees, demolish or remove a derelict nonresidential building or structure provided that such building or structure is neither located within or determined to be a contributing property within a state or local historic district nor individually designated in the Virginia Landmarks Register. The property owner's written consent shall identify whether the property is subject to a first lien evidenced by a recorded deed of trust or mortgage and, if so, shall document the property owner's best reasonable efforts to obtain the consent of the first lienholder or the first lienholder's authorized agent. The costs of such demolition or removal shall constitute a lien against such property. In the event the consent of the first lienholder or the first lienholder's authorized agent is obtained, such lien shall rank on a parity with liens for unpaid local taxes and be enforceable in the same manner as provided in subdivision 4. In the event the consent of the first lienholder or the first lienholder's authorized agent is not obtained, such lien shall be subordinate to that first lien but shall otherwise be subject to subdivision 4; and

6. A locality may prescribe civil penalties, not to exceed a total of \$1,000, for violations of any ordinance adopted pursuant to this section.

### CHAPTER 401

*An Act to amend and reenact § 15.2-1800 of the Code of Virginia, relating to conveyance of utility easements; transportation.*

[S 932]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 15.2-1800 of the Code of Virginia is amended and reenacted as follows:**

**§ 15.2-1800. Purchase, sale, use, etc., of real property.**

A. A locality may acquire by purchase, gift, devise, bequest, exchange, lease as lessee, or otherwise, title to, or any interests in, any real property, whether improved or unimproved, within its jurisdiction, for any public use. Acquisition of any interest in real property by condemnation is governed by Chapter 19 (§ 15.2-1901 et seq.). The acquisition of a leasehold or other interest in a telecommunications tower, owned by a nongovernmental source, for the operation of a locality's wireless radio communications systems shall be governed by this chapter.

B. Subject to any applicable requirements of Article VII, Section 9 of the Constitution, any locality may sell, at public or private sale, exchange, lease as lessor, mortgage, pledge, subordinate interest in or otherwise dispose of its real property, which includes the superjacent airspace (except airspace provided for in § 15.2-2030) which may be subdivided and conveyed separate from the subjacent land surface, provided that no such real property, whether improved or unimproved, shall be disposed of until the governing body has held a public hearing concerning such disposal. However, the holding of a public hearing shall not apply to (i) the leasing of real property to another public body, political subdivision or authority of the Commonwealth or (ii) conveyance of site development easements, *or utility easements related to transportation projects*, across public property, including, but not limited to, easements for ingress, egress, utilities, cable, telecommunications, storm water management, and other similar conveyances, that are consistent with the local capital improvement program, involving improvement of property owned by the locality. The provisions of this section shall not apply to the vacation of public interests in real property under the provisions of Articles 6 (§ 15.2-2240 et seq.) and 7 (§ 15.2-2280 et seq.) of Chapter 22 ~~of this title~~.

C. A city or town may also acquire real property for a public use outside its boundaries; a county may acquire real property for a public use outside its boundaries when expressly authorized by law.

D. A locality may construct, insure, and equip buildings, structures and other improvements on real property owned or leased by it.

E. A locality may operate, maintain, and regulate the use of its real property or may contract with other persons to do so.

Notwithstanding any contrary provision of law, general or special, no locality providing access and opportunity to use its real property, whether improved or unimproved, may deny equal access or a fair opportunity to use such real property to, or otherwise discriminate against, the Boy Scouts of America or the Girl Scouts of the USA. Nothing in this paragraph shall be construed to require any locality to sponsor the Boy Scouts of America or the Girl Scouts of the USA, or to exempt any such groups from local policies governing access to and use of a locality's real property. The provisions of this paragraph applicable to a locality shall also apply equally to any local governmental entity, including a department, agency, or authority.

F. This section shall not be construed to deprive the resident judge or judges of the right to control the use of the courthouse.

G. "Public use" as used in this section shall have the same meaning as in § 1-219.1.

## CHAPTER 402

*An Act to amend and reenact §§ 55-225.10 and 55-507 of the Code of Virginia, relating to residential rental property.*

[S 991]

Approved March 13, 2017

### **Be it enacted by the General Assembly of Virginia:**

#### **1. That §§ 55-225.10 and 55-507 of the Code of Virginia are amended and reenacted as follows:**

##### **§ 55-225.10. Notice to tenant in event of foreclosure.**

A. The landlord of a dwelling unit subject to this chapter shall give written notice to the tenant or any prospective tenant of such dwelling unit that the landlord has received a notice of a mortgage default, mortgage acceleration, or foreclosure sale relative to the loan on the dwelling unit within five business days after written notice from the lender is received by the landlord. This requirement shall not apply (i) to any managing agent who does not receive a copy of such written notice from the lender or (ii) if the tenant or prospective tenant provides a copy of the written notice from the lender to the landlord or the managing agent.

B. If the landlord fails to provide the notice required by this section, the tenant shall have the right to terminate the rental agreement upon written notice to the landlord at least five business days prior to the effective date of termination. If the tenant terminates the rental agreement, the landlord shall make disposition of the tenant's security deposit in accordance with law or the provisions of the rental agreement, whichever is applicable.

C. ~~If the dwelling unit is foreclosed upon and there is a tenant lawfully residing in the dwelling unit on the date of foreclosure, the tenant may remain in such dwelling unit as a tenant only pursuant to the Protecting Tenants at Foreclosure Act, P.L. No. 111-22, § 702, 123 Stat. 1632, 1660 (2009), and provided the tenant remains in compliance with all of the terms and conditions of the lease agreement, including payment of rent. If there is in effect at the date of the foreclosure sale a tenant in a residential dwelling unit foreclosed upon, the foreclosure shall act as a termination of the rental agreement by the owner. In such case, the tenant may remain in possession of such dwelling unit as a month-to-month tenant on the terms of the terminated rental agreement until the successor owner gives a notice of termination of such month-to-month tenancy. If the successor owner elects to terminate the month-to-month tenancy, written notice of such termination shall be given in accordance with the rental agreement, or the provisions of § 55-222 or 55-248.6, as applicable.~~

*D. Unless or until the successor owner terminates the month-to-month tenancy, the terms of the terminated rental agreement remain in effect except that the tenant shall make rental payments (i) to the successor owner as directed in a written notice to the tenant in this subsection; (ii) to the managing agent of the owner, if any, or successor owner; or (iii) into a court escrow account pursuant to the provisions of § 55-225.12; however, there is no obligation of a tenant to file a tenant's assertion and pay rent into escrow. Where there is not a managing agent designated in the terminated rental agreement, the tenant shall remain obligated for payment of the rent but shall not be held to be delinquent or assessed a late charge until the successor owner provides written notice identifying the name, address, and telephone number of the party to which the rent should be paid.*

*E. The successor owner may enter into a new rental agreement with the tenant in the dwelling unit, in which case, upon the commencement date of the new rental agreement, the month-to-month tenancy shall terminate.*

**§ 55-507. Transfer of deposits upon purchase.**

The current owner of rental property shall transfer any security deposits and any accrued interest on the deposits in his possession to the new owner at the time of the transfer of the rental property. *If the current owner has entered into a written property management agreement with a managing agent in accordance with the provisions of subsection E of § 54.1-2135, the current owner shall give written notice to the managing agent requesting payment of such security deposits to the current owner prior to settlement with the new owner. Upon receipt of the written notice, the managing agent shall transfer the security deposits to the current owner and provide written notice to each tenant that his security deposit has been transferred to the new owner in accordance with this section.*

**CHAPTER 403**

*An Act to amend and reenact §§ 54.1-4400, 54.1-4402, 54.1-4403, 54.1-4409.1, 54.1-4409.2, 54.1-4411, 54.1-4412.1, 54.1-4413.2, 54.1-4413.4, and 54.1-4425 of the Code of Virginia, relating to the Board of Accountancy.*

[S 1019]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 54.1-4400, 54.1-4402, 54.1-4403, 54.1-4409.1, 54.1-4409.2, 54.1-4411, 54.1-4412.1, 54.1-4413.2, 54.1-4413.4, and 54.1-4425 of the Code of Virginia are amended and reenacted as follows:**

**§ 54.1-4400. Definitions.**

As used in this chapter, unless the context clearly indicates otherwise:

"Accredited institution" means a degree-granting college or university accredited either by (i) one of the six major regional accrediting organizations—Middle States Association of Colleges and Schools, New England Association of Schools and Colleges, North Central Association of Colleges and Schools, Northwest Commission on Colleges and Universities, Southern Association of Colleges and Schools, and Western Association of Schools and Colleges—or their successors; or (ii) an accrediting organization demonstrating to the Board periodically, as prescribed by the Board, that its accreditation process and standards are substantially equivalent to the accreditation process and standards of the six major regional accrediting organizations.

"Assurance" means any form of expressed or implied opinion or conclusion about the conformity of a financial statement with any recognition, measurement, presentation, or disclosure principles for financial statements.

"Attest services" means audit, review, or other attest services for which standards have been established by the Public Company Accounting Oversight Board, by the Auditing Standards Board or the Accounting and Review Services Committee of the American Institute of Certified Public Accountants, or by any successor standard-setting authorities.

"Board" means the Virginia Board of Accountancy.

"Compilation services" means compiling financial statements in accordance with standards established by the American Institute of Certified Public Accountants or by any successor standard-setting authorities.

"Continuing professional education" means the education that a person obtains after passing the CPA examination and that relates to services provided to *or on behalf of* an employer in academia, government, or industry ~~using the CPA title~~ or to services provided to the public ~~using the CPA title~~.

"CPA" means certified public accountant.

"CPA examination" means the national uniform CPA examination approved and administered by the board of accountancy of a state or by the board's designee.

"CPA wall certificate" means the symbolic document suitable for wall display that is issued by the board of accountancy of a state to a person meeting the requirements to use the CPA title in that state.

"Executive Director" means the Executive Director of the Board.

"Experience" means employment in academia, a firm, government, or industry in any capacity involving the substantial use of accounting, financial, tax, or other skills that are relevant, as determined by the Board, to provide services to *or on behalf of* an employer ~~using the CPA title~~ or to the public ~~using the CPA title~~, *as verified by an active, licensed CPA.*

"Facilitated State Board Access" or "FSBA" means the sponsoring organization's process whereby it provides the Board access to peer review results via a secure website.

"Financial statement" means a presentation of historical or prospective financial information about one or more persons or entities.

"Financial statement preparation services" means financial statement preparation services for which standards have been established by the American Institute of Certified Public Accountants or by any successor standard-setting authorities.

"Firm" means an entity formed by one or more licensees as a sole proprietorship, a partnership, a corporation, a limited liability company, or any other type of entity permitted by law.

"License of another state" means the license that is issued by the board of accountancy of a state other than Virginia that gives a person the privilege of using the CPA title in that state or that gives a firm the privilege of providing attest services, compilation services, and financial statement preparation services to persons and entities located in that state.

"Licensed" means holding a Virginia license or the license of another state.

"Licensee" means a person or firm holding a Virginia license or the license of another state.

"Peer review" means a review of a firm's attest services, compilation services, and financial statements preparation services that is conducted in accordance with the applicable monitoring program of the American Institute of Certified Public Accountants or its successor, or with another monitoring program approved by the Board.

"Practice of public accounting" means the giving of an assurance other than (i) by the person or persons about whom the financial information is presented or (ii) by one or more owners, officers, employees, or members of the governing body of the entity or entities about whom the financial information is presented.

"Providing services to an employer ~~using the CPA title~~" means providing to *or on behalf of* an entity services that require the substantial use of accounting, financial, tax, or other skills that are relevant, as determined by the Board.

"Providing services to the public ~~using the CPA title~~" means providing services that are subject to the guidance of the standard-setting authorities listed in the standards of conduct and practice in subdivisions 5 and 6 of § 54.1-4413.3.

"Sponsoring organization" means a Board-approved professional society or other organization responsible for the facilitation and administration of peer reviews through use of its peer review program and applicable peer review standards.

"State" means any state of the United States, ~~the Commonwealth of the Northern Mariana Islands~~; the District of Columbia, ~~Guam, Puerto Rico, and the U.S. Virgin Islands~~ or any territory of the United States that is a recognized jurisdiction by the National Association of State Boards of Accountancy or its successor.

"Using the CPA title in Virginia" means using "CPA," "Certified Public Accountant," or "public accountant" (i) in any form or manner of verbal communication to persons or entities located in Virginia or (ii) in any form or manner of written communication to persons or entities located in Virginia, including but not limited to the use in any abbreviation, acronym, phrase, or title that appears in business cards, the CPA wall certificate, Internet postings, letterhead, reports, signs, tax returns, or any other document or device. *Holding a Virginia license or the license of another state constitutes using the CPA title.*

"Virginia license" means a license that is issued by the Board giving a person the privilege of using the CPA title in Virginia or a firm the privilege of providing attest services, compilation services, and financial statement preparation services to persons and entities located in Virginia.

**§ 54.1-4402. Board; membership; qualifications; powers and duties.**

A. The Board of Accountancy established under the former § 54.1-2000 and previously operating in the Department of Professional and Occupational Regulation is hereby continued and reestablished as an independent board in the executive branch of state government.

B. The Board shall consist of seven members appointed by the Governor as follows: one member shall be a public member who may be an accountant who is not licensed but otherwise meets the requirements of clauses (i) and (ii) of § 54.1-107; one member shall be an educator in the field of accounting who holds a Virginia license; four members shall be holders of Virginia licenses who have been actively engaged in providing services to the public ~~using the CPA title~~ for at least three years prior to appointment to the Board; and one member shall hold a Virginia license and for at least three years prior to appointment to the Board shall have been actively engaged in providing services to the public ~~using the CPA title~~ or in providing services to *or on behalf of* an employer in government or industry ~~using the CPA title~~.

C. Members of the Board shall serve for terms of four years. The Governor may remove any member as provided in subsection A of § 2.2-108. Any member of the Board whose Virginia license is revoked or suspended shall automatically cease to be a member of the Board.

D. The Board shall restrict the practice of public accounting and the use of the CPA title in Virginia to licensed persons and firms as specified in §§ 54.1-4409.1 and 54.1-4412.1.

E. The Board shall restrict the provision of attest services, compilation services, and financial statement preparation services to persons or entities located in Virginia and as specified in § 54.1-4412.1. However, this shall not affect the privilege of a person who is not licensed to include a statement on financial statements indicating that no assurance is provided on the financial statements, to say that financial statements have been compiled, or to use the compilation language as prescribed by subsections B and C of § 54.1-4401.

F. The Board shall take such actions as may be authorized by this chapter to ensure the continued competence of persons using the CPA title in Virginia and firms providing attest services, compilation services, or financial statement preparation services to persons or entities located in Virginia and to aid the public in determining their qualifications.

G. The Board shall take such actions as may be authorized by this chapter to ensure that persons using the CPA title in Virginia and firms providing attest services, compilation services, or financial statement preparation services to persons or

entities located in Virginia adhere to the standards of conduct and practice in § 54.1-4413.3 and regulations promulgated by the Board.

H. The Board shall have the responsibility of enforcing this chapter and may by regulation establish rules and procedures for the implementation of the provisions of this chapter.

**§ 54.1-4403. General powers and duties of the Board.**

The Board shall have the power and duty to:

1. Establish the qualifications of applicants for licensure, provided that all qualifications shall be necessary to ensure competence and integrity.

2. Examine, or cause to be examined, the qualifications of each applicant for licensure, including the preparation, administration and grading of the CPA examination.

3. Promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) necessary to assure continued competency, to prevent deceptive or misleading practices by licensees, and to effectively administer the regulatory system.

4. Levy and collect fees for the issuance, renewal, or reinstatement of Virginia licenses that are sufficient to cover all expenses of the administration and operation of the Board.

5. Levy on holders of Virginia licenses special assessments necessary to cover expenses of the Board.

6. Initiate or receive complaints concerning the conduct of holders of Virginia licenses or concerning their violation of the provisions of this chapter or regulations promulgated by the Board, and to take appropriate disciplinary action if warranted.

7. Initiate or receive complaints concerning the conduct of persons who use the CPA title in Virginia under the substantial equivalency provisions of § 54.1-4411 or firms that provide attest services, compilation services, or financial statement preparation services to persons or entities located in Virginia under the provisions of subsection C of § 54.1-4412.1, and to take appropriate disciplinary action if warranted.

8. Initiate or receive complaints concerning violations of the provisions of this chapter or regulations promulgated by the Board by persons who use the CPA title in Virginia under the substantial equivalency provisions of § 54.1-4411 or firms that provide attest services, compilation services, or financial statement preparation services to persons or entities located in Virginia under the provisions of subsection C of § 54.1-4412.1, and to take appropriate disciplinary action if warranted.

9. Revoke, suspend, or refuse to *renew or* reinstate a Virginia license for just causes as prescribed by the Board.

10. Revoke or suspend, for just causes as prescribed by the Board, a person's privilege of using the CPA title in Virginia under the substantial equivalency provisions of § 54.1-4411 or a firm's privilege of providing attest services, compilation services, or financial statement preparation services to persons or entities located in Virginia under the provisions of subsection C of § 54.1-4412.1.

11. Establish requirements for peer reviews.

12. Establish continuing professional educational requirements as a condition for issuance, renewal, or reinstatement of a Virginia license.

13. Expand or interpret the standards of conduct and practice in § 54.1-4413.3.

14. Enter into contracts necessary or convenient for carrying out the provisions of this chapter or the functions of the Board.

15. Do all things necessary and convenient for carrying into effect this chapter and regulations promulgated by the Board.

**§ 54.1-4409.1. Licensing requirements for persons.**

A. A person must be licensed in order to use the CPA title in Virginia.

1. The person shall hold a Virginia license if he provides services to the public ~~using the CPA title~~ and the principal place of business in which he provides those services is in Virginia.

2. Other persons shall not be required to hold a Virginia license in order to use the CPA title in Virginia provided that they hold the license of another state and comply with the substantial equivalency provisions of § 54.1-4411.

B. The Board shall prescribe the methods, fees, and continuing professional education requirements for a person to apply for the issuance, renewal, or reinstatement of a Virginia license.

C. The Board has the authority to refuse to grant a person the privilege of using the CPA title in Virginia if, based upon all the information available, the Board finds that the person is unfit or unsuited to use the CPA title in Virginia. The Board shall not refuse to grant a person the privilege of using the CPA title in Virginia solely because of a criminal conviction.

**§ 54.1-4409.2. How a person may obtain a Virginia license.**

A. A person who has not held the license of any state may obtain a Virginia license under this subsection.

1. To be considered for a Virginia license, the person seeking licensure shall:

a. Provide documentation that he has obtained from one or more accredited institutions ~~or from the National College~~ at least 150 semester hours of education, a baccalaureate or higher degree, and an accounting concentration or equivalent, as defined by the Board;

b. Provide documentation that he has passed the CPA examination;

c. Describe his continuing professional education since he passed the CPA examination. The Board shall determine whether his continuing professional education complies with the continuing professional education requirement prescribed by the Board for that period; and

d. Describe his experience. The Board shall determine whether his experience complies with the experience requirement prescribed by the Board.

2. After evaluating information provided by the person, the Board may request additional information and may impose additional requirements for obtaining a Virginia license.

B. A person who does not hold the license of another state but has previously held the license of another state may obtain a Virginia license under this subsection.

1. To be considered for a Virginia license, the person seeking licensure shall:

a. Disclose to the Board each state in which he has held a license;

b. Disclose, for each of those states, why the license is no longer held and provide documentation from the board of accountancy concerning whether he has been found guilty of any violations of the standards of conduct and practice established by statutes of the state or regulations promulgated by the board;

c. Describe the semester hours of education he has obtained from colleges and universities. The Board shall determine whether the education obtained is substantially equivalent to the education that would have been required by the Board when the person passed the CPA examination;

d. Describe his continuing professional education since he last held the license of another state. The Board shall determine whether his continuing professional education complies with requirement prescribed by the Board for reinstatement of a Virginia license; and

e. Describe his experience. The Board shall determine whether his experience complies with the experience requirement prescribed by the Board.

2. After evaluating the information provided by the person, the Board may request additional information and may impose additional requirements for obtaining a Virginia license.

C. A person who holds the license of another state may obtain a Virginia license under this subsection.

1. To be considered for a Virginia license, the person seeking licensure shall:

a. Disclose to the Board each state in which he holds or has held a license;

b. Provide, for each state in which the person holds a license, documentation from the board of accountancy concerning whether he is in good standing with the board, whether there are any pending actions alleging violations of the standards of conduct and practice established by statutes of the state or regulations promulgated by the board, and whether he has been found guilty of any violations of the standards of conduct and practice established by statutes of the state or regulations promulgated by the board;

c. Disclose, for each state in which the person has held a license, why the license is no longer held and provide documentation from the board of accountancy concerning whether he has been found guilty of any violations of the standards of conduct and practice established by statutes of the state or regulations promulgated by the board;

d. Describe the semester hours of education he has obtained from colleges and universities. The Board shall determine whether the education obtained is substantially equivalent to the education that would have been required by the Board when the person passed the CPA examination;

e. Describe his continuing professional education during the most recent reporting period that would be required for the holder of a Virginia license. The Board shall determine whether his continuing professional education complies with the continuing professional education requirement prescribed by the Board for that period; and

f. Describe his experience. The Board shall determine whether his experience complies with the experience requirement prescribed by the Board.

2. After evaluating the information provided by the person, the Board may request additional information and may impose additional requirements for obtaining a Virginia license.

**§ 54.1-4411. Substantial equivalency provisions for persons who hold the license of another state.**

A. A person who holds the license of another state shall be considered to have met requirements that are substantially equivalent to those prescribed by the Board if:

1. The Board has determined that the education, CPA examination, and experience requirements of the state are substantially equivalent to those prescribed by the Board, or

2. The person has demonstrated meeting education, CPA examination, and experience requirements that are substantially equivalent to those prescribed by the Board.

B. A person who holds the license of another state and meets the substantial equivalency provisions of subsection A shall not be required to hold a Virginia license to use the CPA title in Virginia provided that either (i) he provides services to the public using the CPA title and the principal place of business in which he provides those services is in other states or (ii) he does not provide services to the public using the CPA title. However, to use the CPA title in Virginia, the person shall:

1. Consent to be subject to:

a. The provisions of this chapter and regulations promulgated by the Board that apply to the holder of a Virginia license,

b. The jurisdiction of the Board in all disciplinary proceedings arising out of matters related to his use of the CPA title in Virginia, and

c. The Board's authority to revoke or suspend his privilege to use the CPA title in Virginia and to impose penalties for the person's violations of the provisions of this chapter and regulations promulgated by the Board.

2. Consent to the appointment of the executive director of the board of accountancy of the state that issued the license as his agent, upon whom process may be served (i) in any action or proceeding by the Board against him, or (ii) in any civil action in Virginia courts arising out of his using the CPA title in Virginia. In the event he holds a license from more than one state, the Board shall establish which executive director shall serve as his agent.

3. Consent to the personal and subject matter jurisdiction of the courts of Virginia in any civil action arising out of his use of the CPA title in Virginia and agree that the proper venue for such actions is in Virginia.

4. Agree to cease using the CPA title in Virginia if he is no longer licensed.

C. A holder of a Virginia license who is using the CPA title in another state under substantial equivalency provisions of statutes of the state or regulations promulgated by the board of accountancy of the state shall be subject to disciplinary action by the Board for an act or omission committed in that state. The Board may investigate any complaint made to or by the board of accountancy of any state related to the person's use of the CPA title in that state.

D. The Board may cooperate and share information with appropriate authorities in other states in investigations or enforcement matters concerning violations of the provisions of this chapter or regulations promulgated by the Board and comparable statutes or regulations of other states or boards of accountancy.

**§ 54.1-4412.1. Licensing requirements for firms.**

A. Only a firm can provide attest services, compilation services, or financial statement preparation services to persons or entities located in Virginia. However, this shall not affect the privilege of a person who is not licensed to include a statement on financial statements indicating that no assurance is provided on the financial statements, to say that financial statements have been compiled, or to use the compilation language, as prescribed by subsections B and C of § 54.1-4401.

B. A firm that provides attest services, compilation services, or financial statement preparation services to persons or entities located in Virginia shall obtain a Virginia license if the principal place of business in which it provides those services is in Virginia.

C. A firm that is not required to obtain a Virginia license may provide attest services, compilation services, or financial statement preparation services to persons or entities located in Virginia if:

1. The firm can lawfully provide attest services, compilation services, or financial statement preparation services to persons or entities in the state where its principal place of business is located; and

2. The firm complies with subdivisions D 1, 2, 4, 5, 6, and 8 and subsection F; and

3. The firm's personnel working on the engagement either (i) hold a Virginia license or (ii) hold the license of another state and comply with the substantial equivalency provisions of § 54.1-4411; or

4. The firm's personnel working on the engagement are under the supervision of a person who either (i) holds a Virginia license or (ii) holds the license of another state and complies with the substantial equivalency provisions of § 54.1-4411.

D. For a firm to obtain *and hold* a Virginia license:

1. As determined on a firm-wide basis:

a. At least 51 percent of the owners of the firm shall be licensees, trustees of an eligible employee stock ownership plan as defined in § 13.1-543, or a firm that meets this requirement; and

b. At least 51 percent of the voting equity interest in the firm shall be owned by persons who are licensees, by trustees of an eligible employee stock ownership plan as defined in § 13.1-543, or by a firm that meets this requirement.

If the death, retirement, or departure of an owner causes either of these requirements not to be met, the requirement shall be met within one year after the death, retirement, or departure of the owner.

2. The Board shall prescribe requirements concerning the hours that owners who are not licensees work in the firm and may prescribe other requirements for those persons.

3. All attest services, compilation services, and financial statement preparation services provided for persons and entities located in Virginia shall be under the supervision of a person who either (i) holds a Virginia license or (ii) holds the license of another state and complies with the substantial equivalency provisions of § 54.1-4411.

4. Any person who releases or authorizes the release of reports on attest services, compilation services, or financial statement preparation services provided for persons or entities located in Virginia shall:

a. Either (i) hold a Virginia license or (ii) hold the license of another state and comply with the substantial equivalency provisions of § 54.1-4411; and

b. Meet any additional requirements the Board prescribes.

5. The firm shall conduct its attest services, compilation services, and financial statement preparation services in conformity with the standards of conduct and practice in § 54.1-4413.3 and regulations promulgated by the Board.

6. ~~The firm shall be enrolled in the applicable monitoring~~ *If the services provided by the firm are within the scope of the practice-monitoring program of the American Institute of Certified Public Accountants or its successor, the firm shall enroll in the program or in another monitoring practice-monitoring program for attest services, compilation services, and financial statement preparation services that is approved by the Board. In addition, if enrolled the firm shall comply:*

a. *Comply with any requirements prescribed by the Board in response to the results of peer reviews;*

7. ~~The firm shall participate; and~~

b. *Participate in the American Institute of Certified Public Accountants', or sponsoring organizations', Facilitated State Board Access process, or its successor process, for peer reviews.*

~~8.~~ 7. The name of the firm shall not be false, misleading, or deceptive.

E. The Board shall prescribe the methods and fees for a firm to apply for the issuance, renewal, or reinstatement of a Virginia license.

F. An entity may not use the CPA title in Virginia unless it meets the requirements of subdivision D 1.

**§ 54.1-4413.2. Renewal and reinstatement of licenses and lifting the suspension of privileges.**

A. A Virginia license shall provide its holder with a 12-month privilege to use the CPA title in Virginia or provide attest services, compilation services, and financial statement preparation services to persons and entities located in Virginia.

~~B. The person or firm holding the license shall have an additional 12-month period after the expiration of a license to renew the license.~~

~~1. The Board may prescribe renewal fees and requirements that increase based on the amount of time the person or firm allows to elapse before applying for renewal.~~

~~2. During the additional 12-month period, the person or firm shall be considered to hold a Virginia license.~~

~~C. If the license is not renewed by the end of the additional 12-month period, it shall be considered to have expired and the person or firm shall be considered to no longer hold a Virginia license.~~

~~D. C. A person whose Virginia license expired may obtain a new Virginia license under subsection C of § 54.1-4409.2 if he holds the license of another state.~~

~~E. D. The license of a person whose Virginia license expired and who does not hold the license of another state may be reinstated under this subsection. In addition, a person whose privilege of using the CPA title in Virginia was suspended may have the suspension lifted under this subsection.~~

~~1. To be considered for reinstatement of a Virginia license or lifting the suspension of the privilege of using the CPA title in Virginia, a person shall:~~

~~a. The person shall disclose Disclose to the Board why he no longer holds a Virginia license or why his privilege of using the CPA title in Virginia was suspended;~~

~~b. The person shall disclose Disclose to the Board each state in which he holds or has held a license.~~

~~c. For each of the states in which the person holds a license, he shall provide documentation from the board of accountancy about whether he is in good standing with the board, whether there are any pending actions alleging violations of the standards of conduct and practice established by statutes of the state or regulations promulgated by the board, and whether he has been found guilty of any violations of the standards of conduct and practice established by statutes of the state or regulations promulgated by the board.~~

~~d. For each of the states in which the person has held a license, the person shall disclose why he no longer holds a license and provide documentation from the board of accountancy concerning whether he has been found guilty of any violations of the standards of conduct and practice established by statutes of the state or regulations promulgated by the board; and~~

~~e. The person shall describe c. Describe his continuing professional education since his Virginia license expired or was suspended. The Board shall determine whether his continuing professional education complies with the continuing professional education requirement prescribed by the Board for that period.~~

~~2. After evaluating the information provided by the person, the Board may request additional information and may impose additional requirements for reinstatement of the Virginia license or lifting the suspension.~~

~~3. The Board shall communicate to the person its decision and, if the request for reinstatement or lifting the suspension is denied, the reasons for the denial. The request may be resubmitted when the person believes the matters affecting the request have been satisfactorily resolved. The person may request a proceeding in accordance with the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).~~

~~F. E. The license of a firm whose Virginia license expired may be reinstated under this subsection. In addition, a firm whose privilege of providing attest services, compilation services, or financial statement preparation services to persons or entities located in Virginia was suspended may have the suspension lifted under this subsection.~~

~~1. To be considered for reinstatement of a Virginia license or lifting the suspension of the privilege of providing attest services, compilation services, or financial statement preparation services to persons or entities located in Virginia:~~

~~a. The firm shall disclose to the Board why it no longer holds a Virginia license or why its privilege of providing attest services, compilation services, or financial statement preparation services to persons or entities located in Virginia was suspended.~~

~~b. The firm shall disclose to the Board each state in which it holds or has held a license.~~

~~c. For each of the states in which the firm holds a license, ~~it~~ the firm shall provide documentation from the board of accountancy concerning whether it is in good standing with the board, whether there are any pending actions alleging violations of the standards of conduct and practice established by statutes of the state or regulations promulgated by the board, and whether it has been found guilty of any violations of these standards of conduct and practice.~~

~~d. For each of the states in which the firm has held a license, the firm shall disclose why it no longer holds a license and provide documentation from the board of accountancy concerning whether it has been found guilty of any violations of the standards of conduct and practice established by statutes of the state or regulations promulgated by the board.~~

~~2. After evaluating the information provided by the firm, the Board may request additional information and may impose additional requirements for reinstatement of the Virginia license or lifting the suspension.~~

~~3. The Board shall communicate to the firm its decision and, if the request for reinstatement or lifting the suspension is denied, the reasons for the denial. The request may be resubmitted when the firm believes the matters affecting the request~~

have been satisfactorily resolved. The firm may request a proceeding in accordance with the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

~~G. F.~~ The Board shall consider granting the privilege of using the CPA title in Virginia, or the privilege of providing attest services, compilation services, or financial statement preparation services to persons or entities located in Virginia, to persons or firms that have had the privilege revoked only when the person or firm demonstrates to the Board that there are special facts and circumstances that warrant reconsideration by the Board of whether it should allow the person or firm to have the privilege.

**§ 54.1-4413.4. Penalties.**

A. Penalties the Board may impose consist of:

1. Revoking the privilege of using the CPA title in Virginia or providing attest services, compilation services, or financial statement preparation services to persons or entities located in Virginia;
2. Suspending or refusing to *renew or* reinstate the privilege of using the CPA title in Virginia or providing attest services, compilation services, or financial statement preparation services to persons or entities located in Virginia;
3. Reprimanding, censuring, or limiting the scope of practice of any person using the CPA title in Virginia or any firm providing attest services, compilation services, or financial statement preparation services to persons or entities located in Virginia;
4. Placing any person using the CPA title in Virginia or any firm providing attest services, compilation services, or financial statement preparation services to persons or entities located in Virginia on probation, with or without terms, conditions, and limitations;
5. Requiring a firm holding a Virginia license to have an accelerated peer review conducted as the Board may specify or to take other remedial actions;
6. Requiring a person holding a Virginia license to satisfactorily complete additional or specific continuing professional education as the Board may specify; ~~and~~
7. Imposing a monetary penalty up to \$100,000 for each violation of the provisions of this chapter or regulations promulgated by the Board; any monetary penalty may be sued for and recovered in the name of the Commonwealth; *and*
8. *Requiring any person or entity that violates § 54.1-4414 to discontinue any acts in violation of that provision.*

B. The Board may impose penalties on persons using the CPA title in Virginia or firms providing attest services, compilation services, or financial statement preparation services to persons or entities located in Virginia for:

1. Violation of the provisions of this chapter or ~~regulations promulgated by~~ *violation of any regulation, subpoena, or order of the Board;*
2. Fraud or deceit in obtaining, renewing, or applying for reinstatement or lifting the suspension of a Virginia license;
3. Revocation, suspension, or refusal to reinstate the license of another state for disciplinary reasons;
4. Revocation or suspension of the privilege of practicing before any state or federal agency or federal court of law;
5. Dishonesty, fraud, or gross negligence in providing services to *or on behalf of* an employer ~~using the CPA title~~, in providing services to the public ~~using the CPA title~~, or in providing attest services, compilation services, or financial statement preparation services;
6. Dishonesty, fraud, or gross negligence in preparing the person's or firm's own state or federal income tax return or financial statement;
7. Conviction of a felony, or of any crime involving moral turpitude, under the laws of the United States, of Virginia, or of any other state if the acts involved would have constituted a crime under the laws of Virginia; *or*
8. Lack of the competence required to provide services to the public ~~using the CPA title~~ for persons and entities located in Virginia or to provide attest services, compilation services, and financial statement preparation services to persons and entities located in Virginia, as determined by the Board.

C. The Board may also impose penalties on:

1. A person who does not hold a Virginia license, or who does not meet the requirements to use the CPA title in Virginia under the substantial equivalency provisions of § 54.1-4411, and commits any of the acts prohibited by § 54.1-4414; or
2. An entity that does not meet the criteria prescribed by subdivision D 1 of § 54.1-4412.1 and commits any of the acts prohibited by § 54.1-4414.

**§ 54.1-4425. Time for filing complaints against CPAs or CPA firms.**

A. Except as otherwise provided in subsections B and C, any complaint against ~~a CPA or CPA firm~~ *the holder of a Virginia license* for any violation of statutes or regulations pertaining to the Board or any of the programs that may be in another title of the Code for which the Board has enforcement responsibility, in order to be investigated by the Board, shall be made in writing, or otherwise made in accordance with Board procedures, and received by the Board within three years of the act, omission, or occurrence giving rise to the violation. ~~Public information obtained from any source by the Executive Director or agency enforcement staff may serve as the basis for a written complaint against a CPA or CPA firm.~~

B. However, where a ~~CPA or CPA firm~~ *holder of a Virginia license* has materially and willfully misrepresented, concealed, or omitted any information and the information so misrepresented, concealed, or omitted is material to the establishment of the violation, the complaint may be made at any time within two years after discovery of the misrepresentation, concealment, or omission.

C. In cases where criminal charges have been filed involving matters that, if found to be true, would also constitute a violation of the regulations or laws of the regulant's profession enforced by the Board, an investigation may be initiated by the Board at any time within two years following the date such criminal charges are filed.

D. *In order to be investigated by the Board, any complaint against an individual using the CPA title in Virginia under the substantial equivalency provisions of § 54.1-4411 or against a firm providing attest services, compilation services, or financial statement preparation services under subsection C of § 54.4412.1 for any violation of statutes or regulations pertaining to the Board or any of the programs that may be in another title of this Code for which the Board has enforcement responsibility shall be made in writing, or otherwise made in accordance with Board procedures, and received by the Board within five years of the act, omission, or occurrence giving rise to the violation.*

E. *Public information obtained from any source may serve as the basis for a written complaint.* Nothing in this section shall be construed to require the filing of a complaint if the alleged violation of the statute or regulation is discovered during an investigation authorized by law, and the acts, omissions, or conditions constituting the alleged violations are witnessed by a sworn investigator appointed by the Executive Director.

F. Nothing herein shall deny the right of any party to bring a civil cause of action in a court of law.

#### CHAPTER 404

*An Act to amend and reenact § 15.2-2307 of the Code of Virginia, relating to vested property rights.*

[S 1173]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 15.2-2307 of the Code of Virginia is amended and reenacted as follows:**

**§ 15.2-2307. Vested rights not impaired; nonconforming uses.**

A. Nothing in this article shall be construed to authorize the impairment of any vested right. Without limiting the time when rights might otherwise vest, a landowner's rights shall be deemed vested in a land use and such vesting shall not be affected by a subsequent amendment to a zoning ordinance when the landowner (i) obtains or is the beneficiary of a significant affirmative governmental act which remains in effect allowing development of a specific project, (ii) relies in good faith on the significant affirmative governmental act, and (iii) incurs extensive obligations or substantial expenses in diligent pursuit of the specific project in reliance on the significant affirmative governmental act.

B. For purposes of this section and without limitation, the following are deemed to be significant affirmative governmental acts allowing development of a specific project: (i) the governing body has accepted proffers or proffered conditions which specify use related to a zoning amendment; (ii) the governing body has approved an application for a rezoning for a specific use or density; (iii) the governing body or board of zoning appeals has granted a special exception or use permit with conditions; (iv) the board of zoning appeals has approved a variance; (v) the governing body or its designated agent has approved a preliminary subdivision plat, site plan or plan of development for the landowner's property and the applicant diligently pursues approval of the final plat or plan within a reasonable period of time under the circumstances; (vi) the governing body or its designated agent has approved a final subdivision plat, site plan or plan of development for the landowner's property; or (vii) the zoning administrator or other administrative officer has issued a written order, requirement, decision or determination regarding the permissibility of a specific use or density of the landowner's property that is no longer subject to appeal and no longer subject to change, modification or reversal under subsection C of § 15.2-2311.

C. A zoning ordinance may provide that land, buildings, and structures and the uses thereof which do not conform to the zoning prescribed for the district in which they are situated may be continued only so long as the then existing or a more restricted use continues and such use is not discontinued for more than two years, and so long as the buildings or structures are maintained in their then structural condition; and that the uses of such buildings or structures shall conform to such regulations whenever, with respect to the building or structure, the square footage of a building or structure is enlarged, or the building or structure is structurally altered as provided in the Uniform Statewide Building Code (§ 36-97 et seq.). If a use does not conform to the zoning prescribed for the district in which such use is situated, and if (i) a business license was issued by the locality for such use and (ii) the holder of such business license has operated continuously in the same location for at least 15 years and has paid all local taxes related to such use, the locality shall permit the holder of such business license to apply for a rezoning or a special use permit without charge by the locality or any agency affiliated with the locality for fees associated with such filing. Further, a zoning ordinance may provide that no nonconforming use may be expanded, or that no nonconforming building or structure may be moved on the same lot or to any other lot which is not properly zoned to permit such nonconforming use.

D. Notwithstanding any local ordinance to the contrary, if (i) the local government has issued a building permit, the building or structure was thereafter constructed in accordance with the building permit, and upon completion of construction, the local government issued a certificate of occupancy or a use permit therefor, or (ii) the owner of the building or structure has paid taxes to the locality for such building or structure for a period of more than the previous 15 years, a zoning ordinance shall not provide that such building or structure is illegal and subject to removal solely due to such nonconformity. Such building or structure shall be nonconforming. A zoning ordinance may provide that such building

or structure be brought in compliance with the Uniform Statewide Building Code, provided that to do so shall not affect the nonconforming status of such building or structure. If the local government has issued a permit, other than a building permit, that authorized construction of an improvement to real property and the improvement was thereafter constructed in accordance with such permit, the ordinance may provide that the improvements are nonconforming, but not illegal. *If the structure is one that requires no permit, and an authorized local government official informs the property owner that the structure will comply with the zoning ordinance, and the improvement was thereafter constructed, a zoning ordinance may provide that the structure is nonconforming but shall not provide that such structure is illegal and subject to removal solely due to such nonconformity. In any proceeding when the authorized government official is deceased or is otherwise unavailable to testify, uncorroborated testimony of the oral statement of such official shall not be sufficient evidence to prove that the authorized government official made such statement.*

E. A zoning ordinance shall permit the owner of any residential or commercial building damaged or destroyed by a natural disaster or other act of God to repair, rebuild, or replace such building to eliminate or reduce the nonconforming features to the extent possible, without the need to obtain a variance as provided in § 15.2-2310. If such building is damaged greater than 50 percent and cannot be repaired, rebuilt or replaced except to restore it to its original nonconforming condition, the owner shall have the right to do so. The owner shall apply for a building permit and any work done to repair, rebuild or replace such building shall be in compliance with the provisions of the Uniform Statewide Building Code (§ 36-97 et seq.) and any work done to repair, rebuild or replace such building shall be in compliance with the provisions of the local flood plain regulations adopted as a condition of participation in the National Flood Insurance Program. Unless such building is repaired, rebuilt or replaced within two years of the date of the natural disaster or other act of God, such building shall only be repaired, rebuilt or replaced in accordance with the provisions of the zoning ordinance of the locality. However, if the nonconforming building is in an area under a federal disaster declaration and the building has been damaged or destroyed as a direct result of conditions that gave rise to the declaration, then the zoning ordinance shall provide for an additional two years for the building to be repaired, rebuilt or replaced as otherwise provided in this paragraph. For purposes of this section, "act of God" shall include any natural disaster or phenomena including a hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, earthquake or fire caused by lightning or wildfire. For purposes of this section, owners of property damaged by an accidental fire have the same rights to rebuild such property as if it were damaged by an act of God. Nothing herein shall be construed to enable the property owner to commit an arson under § 18.2-77 or 18.2-80, and obtain vested rights under this section.

F. Notwithstanding any local ordinance to the contrary, an owner of real property shall be permitted to replace an existing on-site sewage system for any existing building in the same general location on the property even if a new on-site sewage system would not otherwise be permitted in that location, unless access to a public sanitary sewer is available to the property. If access to a sanitary sewer system is available, then the connection to such system shall be required. Any new on-site system shall be installed in compliance with applicable regulations of the Department of Health in effect at the time of the installation.

G. Nothing in this section shall be construed to prevent a locality, after making a reasonable attempt to notify such property owner, from ordering the removal of a nonconforming sign that has been abandoned. For purposes of this section, a sign shall be considered abandoned if the business for which the sign was erected has not been in operation for a period of at least two years. Any locality may, by ordinance, provide that following the expiration of the two-year period any abandoned nonconforming sign shall be removed by the owner of the property on which the sign is located, if notified by the locality to do so. If, following such two-year period, the locality has made a reasonable attempt to notify the property owner, the locality through its own agents or employees may enter the property upon which the sign is located and remove any such sign whenever the owner has refused to do so. The cost of such removal shall be chargeable to the owner of the property. Nothing herein shall prevent the locality from applying to a court of competent jurisdiction for an order requiring the removal of such abandoned nonconforming sign by the owner by means of injunction or other appropriate remedy.

H. Nothing in this section shall be construed to prevent the land owner or home owner from removing a valid nonconforming manufactured home from a mobile or manufactured home park and replacing that home with another comparable manufactured home that meets the current HUD manufactured housing code. In such mobile or manufactured home park, a single-section home may replace a single-section home and a multi-section home may replace a multi-section home. The owner of a valid nonconforming mobile or manufactured home not located in a mobile or manufactured home park may replace that home with a newer manufactured home, either single- or multi-section, that meets the current HUD manufactured housing code. Any such replacement home shall retain the valid nonconforming status of the prior home.

**2. That the provisions of this act shall not be deemed retroactive.**

## CHAPTER 405

*An Act to amend and reenact §§ 54.1-2349, 55-509.4, and 55-509.6 of the Code of Virginia, relating to the Property Owners' Association Act; designation of authorized representative by seller; association disclosure packet.*

[S 1231]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:****1. That §§ 54.1-2349, 55-509.4, and 55-509.6 of the Code of Virginia are amended and reenacted as follows:****§ 54.1-2349. Powers and duties of the Board.**

A. The Board shall administer and enforce the provisions of this chapter. In addition to the provisions of §§ 54.1-201 and 54.1-202, the Board shall:

1. Promulgate regulations necessary to carry out the requirements of this chapter in accordance with the provisions of the Administrative Process Act (§ 2.2-4000 et seq.) to include but not be limited to the prescription of fees, procedures, and qualifications for the issuance and renewal of common interest community manager licenses. The Board shall annually assess each common interest community manager an amount equal to the lesser of (i) \$1,000, or such other amount as the Board may establish by regulation, or (ii) five hundredths of one percent (0.05%) of the gross receipts from common interest community management during the preceding year. For the purposes of clause (ii), no minimum payment shall be less than \$10. The annual payment shall be remitted to the State Treasurer and shall be placed to the credit of the Common Interest Community Management Fund established pursuant to § 55-529;

2. Establish criteria for the licensure of common interest community managers to ensure the appropriate training and educational credentials for the provision of management services to common interest communities. Such criteria may include experiential requirements and shall include designation as an Accredited Association Management Company by the Community Associations Institute. As an additional alternative to such designation, the Board shall have authority, by regulation, to include one of the following: (i) successful completion of another Board-approved training program and certifying examination, or (ii) successful completion of a Virginia testing program to determine the quality of the training and educational credentials for and competence of common interest community managers;

3. Establish criteria for the certification of the employees of common interest community managers who have principal responsibility for management services provided to a common interest community or who have supervisory responsibility for employees who participate directly in the provision of management services to a common interest community to ensure the person possesses the character and minimum skills to engage properly in the provision of management services to a common interest community. Such criteria shall include designation as a Certified Manager of Community Associations by the National Board of Certification for Community Association Managers, designation as an Association Management Specialist by the Community Associations Institute, or designation as a Professional Community Association Manager by the Community Associations Institute. As an additional alternative to such designations, the Board shall have authority, by regulation, to include one of the following: (i) successful completion of another Board-approved training program as developed by the Virginia Association of Realtors or other organization, and certifying examination, or (ii) successful completion of a Virginia testing program to determine the quality of the training and educational credentials for and competence of the employees of common interest community managers who participate directly in the provision of management services to a common interest community. The fee paid to the Board for the issuance of such certificate shall be paid to the Common Interest Community Management Information Fund established pursuant to § 55-529;

4. Approve the criteria for accredited common interest community manager training programs;

5. Approve accredited common interest community manager training programs;

6. Establish, by regulation, standards of conduct for common interest community managers and for employees of common interest community managers certified in accordance with the provisions of this chapter;

7. Establish, by regulation, an education-based certification program for persons who are involved in the business or activity of providing management services for compensation to common interest communities. The Board shall have the authority to approve training courses and instructors in furtherance of the provisions of this chapter; and

8. Develop and publish best practices for the content of declarations consistent with the requirements of the Property Owners' Association Act (§ 55-508 et seq.).

B. 1. The Board shall have the sole responsibility for the administration of this chapter and for the promulgation of regulations to carry out the requirements thereof.

2. The Board shall also be responsible for the enforcement of this chapter, provided that the Real Estate Board shall have the sole responsibility for the enforcement of this chapter with respect to a real estate broker, real estate salesperson, or real estate brokerage firm licensed in accordance with Chapter 21 (§ 54.1-2100 et seq.) who is also licensed as a common interest community manager.

3. For purposes of enforcement of this chapter or Chapter 4.2 (§ 55-79.39 et seq.), 21 (§ 55-360 et seq.), 24 (§ 55-424 et seq.), or 26 (§ 55-508 et seq.) of Title 55, any requirement for the conduct of a hearing shall be satisfied by an informal fact-finding proceeding convened and conducted pursuant to § 2.2-4019 of the Administrative Process Act (§ 2.2-4000 et seq.).

C. The Board is authorized to obtain criminal history record information from any state or federal law-enforcement agency relating to an applicant for licensure or certification. Any information so obtained is for the exclusive use of the Board and shall not be released to any other person or agency except in furtherance of the investigation of the applicant or with the authorization of the applicant or upon court order.

D. *Notwithstanding the provisions of subsection E of § 55-530, the Board may receive a complaint directly from any person aggrieved by an association's failure to deliver a resale certificate or disclosure packet within the time period required under § 55-79.97, 55-79.97:1, 55-484, 55-509.5, 55-509.6, or 55-509.7.*

**§ 55-509.4. Contract disclosure statement; right of cancellation; use of for sale sign in connection with resale; designation of authorized representative.**

A. Subject to the provisions of subsection A of § 55-509.10, an owner selling a lot shall disclose in the contract that (i) the lot is located within a development that is subject to the Virginia Property Owners' Association Act (§ 55-508 et seq.); (ii) the Act requires the seller to obtain from the property owners' association an association disclosure packet and provide it to the purchaser; (iii) the purchaser may cancel the contract within three days after receiving the association disclosure packet or being notified that the association disclosure packet will not be available; (iv) if the purchaser has received the association disclosure packet, the purchaser has a right to request an update of such disclosure packet in accordance with subsection H of § 55-509.6 or subsection C of § 55-509.7, as appropriate; and (v) the right to receive the association disclosure packet and the right to cancel the contract are waived conclusively if not exercised before settlement.

For purposes of clause (iii), the association disclosure packet shall be deemed not to be available if (a) a current annual report has not been filed by the association with either the State Corporation Commission pursuant to § 13.1-936 or with the Common Interest Community Board pursuant to § 55-516.1, (b) the seller has made a written request to the association that the packet be provided and no such packet has been received within 14 days in accordance with subsection A of § 55-509.5, or (c) written notice has been provided by the association that a packet is not available.

B. If the contract does not contain the disclosure required by subsection A, the purchaser's sole remedy is to cancel the contract prior to settlement.

C. The information contained in the association disclosure packet shall be current as of a date specified on the association disclosure packet prepared in accordance with this section; however, a disclosure packet update or financial update may be requested in accordance with subsection G of § 55-509.6 or subsection C of § 55-509.7, as appropriate. The purchaser may cancel the contract: (i) within three days after the date of the contract, if on or before the date that the purchaser signs the contract, the purchaser receives the association disclosure packet or is notified that the association disclosure packet will not be available; (ii) within three days after receiving the association disclosure packet if the association disclosure packet or notice that the association disclosure packet will not be available is hand delivered, delivered by electronic means, or delivered by a commercial overnight delivery service or the United States Postal Service, and a receipt obtained; or (iii) within six days after the postmark date if the association disclosure packet or notice that the association disclosure packet will not be available is sent to the purchaser by United States mail. The purchaser may also cancel the contract at any time prior to settlement if the purchaser has not been notified that the association disclosure packet will not be available and the association disclosure packet is not delivered to the purchaser.

Notice of cancellation shall be provided to the lot owner or his agent by one of the following methods:

1. Hand delivery;
2. United States mail, postage prepaid, provided the sender retains sufficient proof of mailing, which may be either a United States postal certificate of mailing or a certificate of service prepared by the sender confirming such mailing;
3. Electronic means provided the sender retains sufficient proof of the electronic delivery, which may be an electronic receipt of delivery, a confirmation that the notice was sent by facsimile, or a certificate of service prepared by the sender confirming the electronic delivery; or
4. Overnight delivery using a commercial service or the United States Postal Service.

In the event of a dispute, the sender shall have the burden to demonstrate delivery of the notice of cancellation. Such cancellation shall be without penalty, and the seller shall cause any deposit to be returned promptly to the purchaser.

D. Whenever any contract is canceled based on a failure to comply with subsection A or C or pursuant to subsection B, any deposit or escrowed funds shall be returned within 30 days of the cancellation, unless the parties to the contract specify in writing a shorter period.

E. Any rights of the purchaser to cancel the contract provided by this chapter are waived conclusively if not exercised prior to settlement.

F. Except as expressly provided in this chapter, the provisions of this section and § 55-509.5 may not be varied by agreement, and the rights conferred by this section and § 55-509.5 may not be waived.

G. For purposes of this chapter:

"Delivery" means that the disclosure packet is delivered to the purchaser or purchaser's authorized agent by one of the methods specified in this section.

"Purchaser's authorized agent" means any person designated by such purchaser in a ratified real estate contract for purchase and sale of residential real property or other writing designating such agent.

"Receives, received, or receiving" the disclosure packet means that the purchaser or purchaser's authorized agent has received the disclosure packet by one of the methods specified in this section.

"Seller's authorized agent" means a person designated by such seller in a ratified real estate contract for purchase and sale of residential real property or other writing designating such agent.

H. Unless otherwise provided in the ratified real estate contract or other writing, delivery to the purchaser's authorized agent shall require delivery to such agent and not to a person other than such agent. Delivery of the disclosure packet may be made by the lot owner or the lot owner's authorized agent.

I. If the lot is governed by more than one association, the purchaser's right of cancellation may be exercised within the required time frames following delivery of the last disclosure packet or resale certificate.

*J. Except as expressly authorized in this chapter or in the declaration or as otherwise provided by law, no property owners' association shall:*

*1. Require the use of any for sale sign that is (i) an association sign or (ii) a real estate sign that does not comply with the requirements of the Real Estate Board. An association may, however, prohibit the placement of signs in the common area and establish reasonable rules and regulations that regulate (a) the number of real estate signs to be located on real property upon which the owner has a separate ownership interest or a right of exclusive possession so long as at least one real estate sign is permitted; (b) the geographical location of real estate signs on real property in which the owner has a separate ownership interest or a right of exclusive possession, so long as the location of the real estate signs complies with the requirements of the Real Estate Board; (c) the manner in which real estate signs are affixed to real property; and (d) the period of time after settlement when the real estate signs on such real property shall be removed; or*

*2. Require any lot owner to execute a formal power of attorney if the lot owner designates a person licensed under the provisions of § 54.1-2106.1 as the lot owner's authorized representative, and the association shall recognize such representation without a formal power of attorney, provided that the association is given a written authorization signed by the lot owner designating such representative. Notwithstanding the foregoing, the requirements of § 13.1-849 of the Virginia Nonstock Corporation Act (§ 13.1-801 et seq.) and the association's declaration, bylaws, and articles of incorporation shall be satisfied before any such representative may exercise a vote on behalf of a lot owner as a proxy.*

**§ 55-509.6. Fees for disclosure packet; professionally managed associations.**

A. A professionally managed association or its common interest community manager may charge certain fees as authorized by this section for the inspection of the property, the preparation and issuance of the disclosure packet required by § 55-509.5, and for such other services as set out in this section. The seller or the seller's authorized agent shall specify in writing whether the disclosure packet shall be delivered electronically or in hard copy, at the option of the seller or the seller's authorized agent, and shall specify the complete contact information for the parties to whom the disclosure packet shall be delivered.

B. A reasonable fee may be charged by the preparer as follows for:

1. The inspection of the exterior of the dwelling unit and the lot, as authorized in the declaration and as required to prepare the association disclosure packet, a fee not to exceed \$100;

2. The preparation and delivery of the disclosure packet in (i) paper format, a fee not to exceed \$150 for no more than two hard copies or (ii) electronic format, a fee not to exceed a total of \$125 for an electronic copy to each of the following named in the request: the seller, the seller's authorized agent, the purchaser, the purchaser's authorized agent, and not more than one other person designated by the requester. The preparer of the disclosure packet shall provide the disclosure packet directly to the designated persons. Only one fee shall be charged for the preparation and delivery of the disclosure packet;

3. At the option of the seller or the seller's authorized agent, with the consent of the association or the common interest community manager, expediting the inspection, preparation and delivery of the disclosure packet, an additional expedite fee not to exceed \$50;

4. At the option of the seller or the seller's authorized agent, an additional hard copy of the disclosure packet, a fee not to exceed \$25 per hard copy;

5. At the option of the seller or the seller's authorized agent, a fee not to exceed an amount equal to the actual cost paid to a third-party commercial delivery service for hand delivery or overnight delivery of the association disclosure packet; and

6. A post-closing fee to the purchaser of the property, collected at settlement, for the purpose of establishing the purchaser as the owner of the property in the records of the association, a fee not to exceed \$50.

Except as otherwise provided in subsection E, neither the association nor its common interest community manager shall require cash, check, certified funds or credit card payments at the time the request for the disclosure packet is made. The disclosure packet shall state that all fees and costs for the disclosure packet shall be the personal obligation of the lot owner and shall be an assessment against the lot and collectible as any other assessment in accordance with the provisions of the declaration and § 55-516, if not paid at settlement or within 60 days of the delivery of the disclosure packet, whichever occurs first.

For purposes of this section, an expedite fee shall only be charged if the inspection and preparation of delivery of the disclosure packet are completed within five business days of the request for a disclosure packet.

C. No fees other than those specified in this section, and as limited by this section, shall be charged by the association or its common interest community manager for compliance with the duties and responsibilities of the association under this chapter. No additional fee shall be charged for access to the association's or common interest community manager's website. The association or its common interest community manager shall publish and make available in paper or electronic format, or both, a schedule of the applicable fees so the seller or the seller's authorized agent will know such fees at the time of requesting the packet.

D. Any fees charged pursuant to this section shall be collected at the time of settlement on the sale of the lot and shall be due and payable out of the settlement proceeds in accordance with this section. The settlement agent shall escrow a sum sufficient to pay such costs of the seller at settlement. The seller shall be responsible for all costs associated with the preparation and delivery of the association disclosure packet, except for the costs of any disclosure packet update or financial update, which costs shall be the responsibility of the requester, payable at settlement. Neither the association nor its common interest community manager shall require cash, check, certified funds, or credit card payments at the time of the request is made for the association disclosure packet.

E. If settlement does not occur within 60 days of the delivery of the disclosure packet, or funds are not collected at settlement and disbursed to the association or the common interest community manager, all fees, including those costs that would have otherwise been the responsibility of the purchaser or settlement agent, shall be (i) assessed within one year after delivery of the disclosure packet against the lot owner, (ii) the personal obligation of the lot owner, and (iii) an assessment against the lot and collectible as any other assessment in accordance with the provisions of the declaration and § 55-516. The seller may pay the association by cash, check, certified funds, or credit card, if credit card payment is an option offered by the association. The association shall pay the common interest community manager the amount due from the lot owner within 30 days after invoice.

F. The maximum allowable fees charged in accordance with this section shall adjust every five years, as of January 1 of that year, in an amount equal to the annual increases for that five-year period in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics of the U.S. Department of Labor.

G. If an association disclosure packet has been issued for a lot within the preceding 12-month period, a person specified in the written instructions of the seller or the seller's authorized agent, including the seller or the seller's authorized agent, or the purchaser or his authorized agent may request a disclosure packet update. The requester shall specify whether the disclosure packet update shall be delivered electronically or in hard copy, and shall specify the complete contact information of the parties to whom the update shall be delivered. The disclosure packet update shall be delivered within 10 days of the written request.

H. The settlement agent may request a financial update. The requester shall specify whether the financial update shall be delivered electronically or in hard copy, and shall specify the complete contact information of the parties to whom the update shall be delivered. The financial update shall be delivered within three business days of the written request.

I. A reasonable fee for the disclosure packet update or financial update may be charged by the preparer not to exceed \$50. At the option of the purchaser or the purchaser's authorized agent, the requester may request that the association or the common interest community manager perform an additional inspection of the exterior of the dwelling unit and the lot, as authorized in the declaration, for a fee not to exceed \$100. Any fees charged for the specified update shall be collected at the time settlement occurs on the sale of the property. The settlement agent shall escrow a sum sufficient to pay such costs of the seller at settlement. Neither the association nor its common interest community manager, if any, shall require cash, check, certified funds, or credit card payments at the time the request is made for the disclosure packet update. The requester may request that the specified update be provided in hard copy or in electronic form.

J. No association or common interest community manager may require the requester to request the specified update electronically. The seller or the seller's authorized agent shall continue to have the right to request a hard copy of the specified update in person at the principal place of business of the association. If the requester asks that the specified update be provided in electronic format, neither the association nor its common interest community manager may require the requester to pay any fees to use the provider's electronic network or system. A copy of the specified update shall be provided to the seller or the seller's authorized agent.

K. When an association disclosure packet has been delivered as required by § 55-509.5, the association shall, as to the purchaser, be bound by the statements set forth therein as to the status of the assessment account and the status of the lot with respect to any violation of the declaration, bylaws, rules and regulations, architectural guidelines and articles of incorporation, if any, of the association as of the date of the statement unless the purchaser had actual knowledge that the contents of the disclosure packet were in error.

L. If the association or its common interest community manager has been requested in writing to furnish the association disclosure packet required by § 55-509.5, failure to provide the association disclosure packet substantially in the form provided in this section shall be deemed a waiver of any claim for delinquent assessments or of any violation of the declaration, bylaws, rules and regulations, or architectural guidelines existing as of the date of the request with respect to the subject lot. The preparer of the association disclosure packet shall be liable to the seller in an amount equal to the actual damages sustained by the seller in an amount not to exceed \$1,000. The purchaser shall nevertheless be obligated to abide by the declaration, bylaws, rules and regulations, and architectural guidelines of the association as to all matters arising after the date of the settlement of the sale.

M. *The Common Interest Community Board may assess a monetary penalty for failure to deliver the association disclosure packet within 14 days against any (i) property owners' association pursuant to § 54.1-2351 or (ii) common interest community manager pursuant to § 54.1-2349 and regulations promulgated thereto, and may issue a cease and desist order pursuant to § 54.1-2349 or 54.1-2352, as applicable.*

## CHAPTER 406

*An Act to amend and reenact §§ 54.1-2349, 55-79.97, and 55-79.97:1 of the Code of Virginia, relating to the Condominium Act; resale by purchaser; designation of authorized representative.*

[S 1255]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:****1. That §§ 54.1-2349, 55-79.97, and 55-79.97:1 of the Code of Virginia are amended and reenacted as follows:****§ 54.1-2349. Powers and duties of the Board.**

A. The Board shall administer and enforce the provisions of this chapter. In addition to the provisions of §§ 54.1-201 and 54.1-202, the Board shall:

1. Promulgate regulations necessary to carry out the requirements of this chapter in accordance with the provisions of the Administrative Process Act (§ 2.2-4000 et seq.) to include but not be limited to the prescription of fees, procedures, and qualifications for the issuance and renewal of common interest community manager licenses. The Board shall annually assess each common interest community manager an amount equal to the lesser of (i) \$1,000, or such other amount as the Board may establish by regulation, or (ii) five hundredths of one percent (0.05%) of the gross receipts from common interest community management during the preceding year. For the purposes of clause (ii), no minimum payment shall be less than \$10. The annual payment shall be remitted to the State Treasurer and shall be placed to the credit of the Common Interest Community Management Fund established pursuant to § 55-529;

2. Establish criteria for the licensure of common interest community managers to ensure the appropriate training and educational credentials for the provision of management services to common interest communities. Such criteria may include experiential requirements and shall include designation as an Accredited Association Management Company by the Community Associations Institute. As an additional alternative to such designation, the Board shall have authority, by regulation, to include one of the following: (i) successful completion of another Board-approved training program and certifying examination, or (ii) successful completion of a Virginia testing program to determine the quality of the training and educational credentials for and competence of common interest community managers;

3. Establish criteria for the certification of the employees of common interest community managers who have principal responsibility for management services provided to a common interest community or who have supervisory responsibility for employees who participate directly in the provision of management services to a common interest community to ensure the person possesses the character and minimum skills to engage properly in the provision of management services to a common interest community. Such criteria shall include designation as a Certified Manager of Community Associations by the National Board of Certification for Community Association Managers, designation as an Association Management Specialist by the Community Associations Institute, or designation as a Professional Community Association Manager by the Community Associations Institute. As an additional alternative to such designations, the Board shall have authority, by regulation, to include one of the following: (i) successful completion of another Board-approved training program as developed by the Virginia Association of Realtors or other organization, and certifying examination, or (ii) successful completion of a Virginia testing program to determine the quality of the training and educational credentials for and competence of the employees of common interest community managers who participate directly in the provision of management services to a common interest community. The fee paid to the Board for the issuance of such certificate shall be paid to the Common Interest Community Management Information Fund established pursuant to § 55-529;

4. Approve the criteria for accredited common interest community manager training programs;

5. Approve accredited common interest community manager training programs;

6. Establish, by regulation, standards of conduct for common interest community managers and for employees of common interest community managers certified in accordance with the provisions of this chapter;

7. Establish, by regulation, an education-based certification program for persons who are involved in the business or activity of providing management services for compensation to common interest communities. The Board shall have the authority to approve training courses and instructors in furtherance of the provisions of this chapter; and

8. Develop and publish best practices for the content of declarations consistent with the requirements of the Property Owners' Association Act (§ 55-508 et seq.).

B. 1. The Board shall have the sole responsibility for the administration of this chapter and for the promulgation of regulations to carry out the requirements thereof.

2. The Board shall also be responsible for the enforcement of this chapter, provided that the Real Estate Board shall have the sole responsibility for the enforcement of this chapter with respect to a real estate broker, real estate salesperson, or real estate brokerage firm licensed in accordance with Chapter 21 (§ 54.1-2100 et seq.) who is also licensed as a common interest community manager.

3. For purposes of enforcement of this chapter or Chapter 4.2 (§ 55-79.39 et seq.), 21 (§ 55-360 et seq.), 24 (§ 55-424 et seq.), or 26 (§ 55-508 et seq.) of Title 55, any requirement for the conduct of a hearing shall be satisfied by an informal fact-finding proceeding convened and conducted pursuant to § 2.2-4019 of the Administrative Process Act (§ 2.2-4000 et seq.).

C. The Board is authorized to obtain criminal history record information from any state or federal law-enforcement agency relating to an applicant for licensure or certification. Any information so obtained is for the exclusive use of the Board and shall not be released to any other person or agency except in furtherance of the investigation of the applicant or with the authorization of the applicant or upon court order.

D. *Notwithstanding the provisions of subsection E of § 55-530, the Board may receive a complaint directly from any person aggrieved by an association's failure to deliver a resale certificate or disclosure packet within the time period required under § 55-79.97, 55-79.97:1, 55-484, 55-509.5, 55-509.6, or 55-509.7.*

**§ 55-79.97. Resale by purchaser; resale certificate; use of for sale sign in connection with resale; designation of authorized representative.**

A. In the event of any resale of a condominium unit by a unit owner other than the declarant, and subject to the provisions of subsection F and § 55-79.87 A, the unit owner shall disclose in the contract that (i) the unit is located within a development which is subject to the Condominium Act, (ii) the Act requires the seller to obtain from the unit owners' association a resale certificate and provide it to the purchaser, (iii) the purchaser may cancel the contract within three days after receiving the resale certificate or being notified that the resale certificate will not be available, (iv) if the purchaser has received the resale certificate, the purchaser has a right to request a resale certificate update or financial update in accordance with § 55-79.97:1, as appropriate, and (v) the right to receive the resale certificate and the right to cancel the contract are waived conclusively if not exercised before settlement.

For purposes of clause (iii), the resale certificate shall be deemed not to be available if (a) a current annual report has not been filed by the unit owners' association with either the State Corporation Commission pursuant to § 13.1-936 or the Common Interest Community Board pursuant to § 55-79.93:1, (b) the seller has made a written request to the unit owners' association that the resale certificate be provided and no such resale certificate has been received within 14 days in accordance with subsection C, or (c) written notice has been provided by the unit owners' association that a resale certificate is not available.

B. If the contract does not contain the disclosure required by subsection A, the purchaser's sole remedy is to cancel the contract prior to settlement.

C. The information contained in the resale certificate shall be current as of a date specified on the resale certificate. A resale certificate update or a financial update may be requested as provided in § 55-79.97:1, as appropriate. The purchaser may cancel the contract (i) within three days after the date of the contract, if the purchaser receives the resale certificate or is notified that the resale certificate will not be available on or before the date that the purchaser signs the contract; (ii) within three days after receiving the resale certificate if the resale certificate or notice that the resale certificate will not be available is hand delivered, delivered by electronic means, or delivered by a commercial overnight delivery service or the United States Postal Service, and a receipt obtained; or (iii) within six days after the postmark date if the resale certificate or notice that the resale certificate will not be available is sent to the purchaser by United States mail. *The purchaser may also cancel the contract at any time prior to settlement if the purchaser has not been notified that the resale certificate will not be available and the resale certificate is not delivered to the purchaser.*

Notice of cancellation shall be provided to the unit owner or his agent by one of the following methods:

- a. Hand delivery;
- b. United States mail, postage prepaid, provided the sender retains sufficient proof of mailing, which may be either a United States postal certificate of mailing or a certificate of service prepared by the sender confirming such mailing;
- c. Electronic means provided the sender retains sufficient proof of the electronic delivery, which may be an electronic receipt of delivery, a confirmation that the notice was sent by facsimile, or a certificate of service prepared by the sender confirming the electronic delivery; or
- d. Overnight delivery using a commercial service or the United States Postal Service.

In the event of a dispute, the sender shall have the burden to demonstrate delivery of the notice of cancellation. Such cancellation shall be without penalty, and the unit owner shall cause any deposit to be returned promptly to the purchaser.

A resale certificate shall include the following:

1. An appropriate statement pursuant to subsection H of § 55-79.84 which need not be notarized and, if applicable, an appropriate statement pursuant to § 55-79.85;
2. A statement of any expenditure of funds approved by the unit owners' association or the executive organ which shall require an assessment in addition to the regular assessment during the current or the immediately succeeding fiscal year;
3. A statement, including the amount, of all assessments and any other fees or charges currently imposed by the unit owners' association, together with any known post-closing fee charged by the common interest community manager, if any, and associated with the purchase, disposition and maintenance of the condominium unit and the use of the common elements, and the status of the account;
4. A statement whether there is any other entity or facility to which the unit owner may be liable for fees or other charges;
5. The current reserve study report or a summary thereof, a statement of the status and amount of any reserve or replacement fund and any portion of the fund designated for any specified project by the executive organ;
6. A copy of the unit owners' association's current budget or a summary thereof prepared by the unit owners' association and a copy of the statement of its financial position (balance sheet) for the last fiscal year for which a statement is available, including a statement of the balance due of any outstanding loans of the unit owners' association;
7. A statement of the nature and status of any pending suits or unpaid judgments to which the unit owners' association is a party which either could or would have a material impact on the unit owners' association or the unit owners or which relates to the unit being purchased;
8. A statement setting forth what insurance coverage is provided for all unit owners by the unit owners' association, including the fidelity bond maintained by the unit owners' association, and what additional insurance coverage would normally be secured by each individual unit owner;

9. A statement that any improvements or alterations made to the unit, or the limited common elements assigned thereto, are or are not in violation of the condominium instruments;

10. A copy of the current bylaws, rules and regulations and architectural guidelines adopted by the unit owners' association and the amendments thereto;

11. A statement of whether the condominium or any portion thereof is located within a development subject to the Property Owners' Association Act (§ 55-508 et seq.) of Chapter 26 of this title;

12. A copy of the notice given to the unit owner by the unit owners' association of any current or pending rule or architectural violation;

13. A copy of any approved minutes of the executive organ and unit owners' association meetings for the six calendar months preceding the request for the resale certificate;

14. Certification that the unit owners' association has filed with the Common Interest Community Board the annual report required by § 55-79.93:1; which certification shall indicate the filing number assigned by the Common Interest Community Board and the expiration date of such filing;

15. A statement of any limitation on the number of persons who may occupy a unit as a dwelling;

16. A statement setting forth any restrictions, limitation or prohibition on the right of a unit owner to display the flag of the United States, including, but not limited to reasonable restrictions as to the size, time, place, and manner of placement or display of such flag;

17. A statement setting forth any restriction, limitation, or prohibition on the right of a unit owner to install or use solar energy collection devices on the unit owner's property; and

18. A statement indicating any known project approvals currently in effect issued by secondary mortgage market agencies.

Failure to receive a resale certificate shall not excuse any failure to comply with the provisions of the condominium instruments, articles of incorporation, or rules or regulations.

The resale certificate shall be delivered in accordance with the written request and instructions of the seller or the seller's authorized agent, including whether the resale certificate shall be delivered electronically or in hard copy, at the option of the seller or the seller's authorized agent, and shall specify the complete contact information for the parties to whom the resale certificate shall be delivered. The resale certificate shall be delivered within 14 days of receipt of such request. The resale certificate shall not, in and of itself, be deemed a security within the meaning of § 13.1-501.

D. The seller or the seller's authorized agent may request that the resale certificate be provided in hard copy or in electronic form. A unit owners' association or common interest community manager may provide the resale certificate electronically; however, the seller or the seller's authorized agent shall have the right to request that the resale certificate be provided in hard copy. The seller or the seller's authorized agent shall continue to have the right to request a hard copy of the resale certificate in person at the principal place of business of the unit owners' association. If the seller or the seller's authorized agent requests that the resale certificate be provided in electronic format, neither the unit owners' association nor its common interest community manager may require the seller or the seller's authorized agent to pay any fees to use the provider's electronic network or system. The resale certificate shall not be delivered in hard copy if the requester has requested delivery of such resale certificate electronically. If the resale certificate is provided electronically by a website link, the preparer shall not cause the website link to expire within the subsequent 90-day period. The preparer shall not charge another fee during the subsequent 12-month period, except that the preparer may charge an update fee for a financial update or for an inspection as provided in § 55-79.97:1. If the seller or the seller's authorized agent asks that the resale certificate be provided in electronic format, the seller or the seller's authorized agent may request that an electronic copy be provided to each of the following named in the request: the seller, the seller's authorized agent, the purchaser, the purchaser's authorized agent, and not more than one other person designated by the requester. If so requested, the unit owners' association or its common interest community manager may require the seller or the seller's authorized agent to pay the fee specified in § 55-79.97:1. Regardless of whether the resale certificate is delivered in paper form or electronically, the preparer of the resale certificate shall provide such resale certificate directly to the persons designated by the requester to the addresses or, if applicable, the email addresses provided by the requester.

E. Subject to the provisions of § 55-79.87, but notwithstanding any other provisions of this chapter, the provisions and requirements of this section shall apply to any such resale of a condominium unit created under the provisions of the Horizontal Property Act (§ 55-79.1 et seq.).

F. The resale certificate required by this section need not be provided in the case of:

1. A disposition of a unit by gift;
2. A disposition of a unit pursuant to court order if the court so directs;
3. A disposition of a unit by foreclosure or deed in lieu of foreclosure; or
4. A disposition of a unit by a sale at auction, when the resale certificate was made available as part of the auction package for prospective purchasers prior to the auction.

G. In any transaction in which a resale certificate is required and a trustee acts as the seller in the sale or resale of a unit, the trustee shall obtain the resale certificate from the unit owners' association and provide the resale certificate to the purchaser.

H. For purposes of this chapter:

"Delivery" means that the resale certificate is delivered to the purchaser or purchaser's authorized agent by one of the methods specified in this section.

"Purchaser's authorized agent" means any person designated by such purchaser in a ratified real estate contract for purchase and sale of residential real property or other writing designating such agent.

"Receives, received, or receiving" the resale certificate means that the purchaser or purchaser's authorized agent has received the resale certificate by one of the methods specified in this section.

"Seller's authorized agent" means a person designated by such seller in a ratified real estate contract for purchase and sale of residential real property or other writing designating such agent.

I. Unless otherwise provided in the ratified real estate contract or other writing, delivery to the purchaser's authorized agent shall require delivery to such agent and not to a person other than such agent. Delivery of the resale certificate may be made by the unit owner or the seller's authorized agent.

J. If the unit is governed by more than one association, the purchaser's right of cancellation may be exercised within the required time frames following delivery of the last resale certificate or disclosure packet.

K. *Except as expressly authorized in this chapter or in the condominium instruments or as otherwise provided by law, no unit owners' association shall:*

1. *Require the use of any for sale sign that is (i) a unit owners' association sign or (ii) a real estate sign that does not comply with the requirements of the Virginia Real Estate Board. A unit owners' association may, however, prohibit the placement of signs in the common elements and establish reasonable rules and regulations that regulate (a) the number of real estate signs to be located on real property upon which the owner has a separate ownership interest or a right of exclusive possession, so long as at least one real estate sign is permitted; (b) the geographical location of real estate signs on real property in which the owner has a separate ownership interest or a right of exclusive possession, so long as the location of the real estate signs complies with the requirements of the Virginia Real Estate Board; (c) the manner in which real estate signs are affixed to real property; and (d) the period of time after settlement when the real estate signs on such real property shall be removed; or*

2. *Require any unit owner to execute a formal power of attorney if the unit owner designates a person licensed under the provisions of § 54.1-2106.1 as the unit owner's authorized representative, and the unit owners' association shall recognize such representation without a formal power of attorney, provided that the unit owners' association is given a written authorization signed by the unit owner designating such representative. Notwithstanding the foregoing, the requirements of § 55-79.77 and the condominium instruments shall be satisfied before any such representative may exercise a vote on behalf of a unit owner as a proxy.*

**§ 55-79.97:1. Fees for resale certificate.**

A. The unit owners' association may charge fees as authorized by this section for the inspection of the property, the preparation and issuance of the resale certificate required by § 55-79.97, and for such other services as are set out in this section. Nothing in this chapter shall be construed to authorize the unit owners' association or common interest community manager to charge an inspection fee for a unit except as provided in this section.

B. A reasonable fee may be charged by the preparer of the resale certificate as follows for:

1. The inspection of the unit, as authorized in the declaration and as required to prepare the resale certificate, a fee not to exceed \$100;

2. The preparation and delivery of the resale certificate in (i) paper format, a fee not to exceed \$150 for no more than two hard copies, or (ii) electronic format, a fee not to exceed a total of \$125, for an electronic copy to each of the following named in the request: the seller, the seller's authorized agent, the purchaser, the purchaser's authorized agent, and not more than one other person designated by the requester. Only one fee shall be charged for the preparation and delivery of the resale certificate;

3. At the option of the seller or the seller's authorized agent, with the consent of the unit owners' association or the common interest community manager, expediting the inspection, preparation, and delivery of the resale certificate, an additional expedite fee not to exceed \$50;

4. At the option of the seller or the seller's authorized agent, an additional hard copy of the resale certificate, a fee not to exceed \$25 per hard copy;

5. At the option of the seller or the seller's authorized agent, a fee not to exceed an amount equal to the actual cost paid to a third-party commercial delivery service for hand delivery or overnight delivery of the resale certificate; and

6. A post-closing fee to the purchaser of the unit, collected at settlement, for the purpose of establishing the purchaser as the owner of the unit in the records of the unit owners' association, a fee not to exceed \$50.

Neither the unit owners' association nor its common interest community manager shall require cash, check, certified funds, or credit card payments at the time the request for the resale certificate is made. The resale certificate shall state that all fees and costs for the resale certificate shall be the personal obligation of the unit owner and shall be an assessment against the unit and collectible as any other assessment in accordance with the provisions of the condominium instruments and § 55-79.83, if not paid at settlement or within 60 days of the delivery of the resale certificate, whichever occurs first.

For purposes of this section, an expedite fee shall only be charged if the inspection and preparation of delivery of the resale certificate are completed within five business days of the request for a resale certificate.

C. No fees other than those specified in this section, and as limited by this section, shall be charged by the unit owners' association or its common interest community manager for compliance with the duties and responsibilities of the unit

owners' association under this section. No additional fee shall be charged for access to the unit owners' association's or common interest community manager's website. The unit owners' association or its common interest community manager shall publish and make available in paper or electronic format, or both, a schedule of the applicable fees so that the seller or the seller's authorized agent will know such fees at the time of requesting the resale certificate.

D. Any fees charged pursuant to this section shall be collected at the time settlement occurs on the sale of the unit and shall be due and payable out of the settlement proceeds in accordance with this section. The seller shall be responsible for all costs associated with the preparation and delivery of the resale certificate, except for the costs of any resale certificate update or financial update, which costs shall be the responsibility of the requester, payable at settlement. The settlement agent shall escrow a sum sufficient to pay such costs at settlement. Neither the unit owners' association nor its common interest community manager shall require cash, check, certified funds, or credit card payments at the time the request is made for the resale certificate.

E. If settlement does not occur within 60 days of the delivery of the resale certificate, or funds are not collected at settlement and disbursed to the unit owners' association or the common interest community manager, all fees, including those costs that would have otherwise been the responsibility of the purchaser or settlement agent, shall be (i) assessed within one year after delivery of the resale certificate against the unit owner, (ii) the personal obligation of the unit owner, and (iii) an assessment against the unit and collectible as any other assessment in accordance with the provisions of the condominium instruments and § 55-79.83. The seller may pay the unit owners' association by cash, check, certified funds, or credit card, if credit card payment is an option offered by the unit owners' association. The unit owners' association shall pay the common interest community manager the amount due from the unit owner within 30 days after invoice.

F. The maximum allowable fees charged in accordance with this section shall adjust every five years, as of January 1 of that year, in an amount equal to the annual increases for that five-year period in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics of the U.S. Department of Labor.

G. If a resale certificate has been issued within the preceding 12-month period, a person specified in the written instructions of the seller or the seller's authorized agent, including the seller or the seller's authorized agent or the purchaser or the purchaser's authorized agent, may request a resale certificate update. The requester shall specify whether the resale certificate update shall be delivered electronically or in hard copy and shall specify the complete contact information of the parties to whom the update shall be delivered. The resale certificate update shall be delivered within 10 days of the written request.

H. The settlement agent may request a financial update. The requester shall specify whether the financial update shall be delivered electronically or in hard copy and shall specify the complete contact information of the parties to whom the update shall be delivered. The financial update shall be delivered within three business days of the written request.

I. A reasonable fee for the resale certificate update or financial update may be charged by the preparer, not to exceed \$50. At the option of the purchaser or the purchaser's authorized agent, the requester may request that the unit owners' association or the common interest community manager perform an additional inspection of the unit, as authorized in the declaration, for a fee not to exceed \$100. Any fees charged for the specified update shall be collected at the time settlement occurs on the sale of the property. The settlement agent shall escrow a sum sufficient to pay such costs at settlement. Neither the unit owners' association nor its common interest community manager, if any, shall require cash, check, certified funds, or credit card payments at the time the request is made for the resale certificate update. The requester may request that the specified update be provided in hard copy or in electronic form.

J. No unit owners' association or common interest community manager may require the requester to request the specified update electronically. The seller or the seller's authorized agent shall continue to have the right to request a hard copy of the specified update in person at the principal place of business of the unit owners' association. If the requester asks that the specified update be provided in electronic format, neither the unit owners' association nor its common interest community manager may require the requester to pay any fees to use the provider's electronic network or system. A copy of the specified update shall be provided to the seller or the seller's authorized agent.

K. When a resale certificate has been delivered as required by § 55-79.97, the unit owners' association shall, as to the purchaser, be bound by the statements set forth therein as to the status of the assessment account and the status of the unit with respect to any violation of the condominium instruments as of the date of the statement unless the purchaser had actual knowledge that the contents of the resale certificate were in error.

L. If the unit owners' association or its common interest community manager has been requested in writing to furnish the resale certificate required by § 55-79.97, failure to provide the resale certificate substantially in the form provided in this section shall be deemed a waiver of any claim for delinquent assessments or of any violation of the declaration, bylaws, rules and regulations, or architectural guidelines existing as of the date of the request with respect to the subject unit. The preparer of the resale certificate shall be liable to the seller in an amount equal to the actual damages sustained by the seller in an amount not to exceed \$1,000. The purchaser shall nevertheless be obligated to abide by the condominium instruments, rules and regulations, and architectural guidelines of the unit owners' association as to all matters arising after the date of the settlement of the sale.

M. *The Common Interest Community Board may assess a monetary penalty for failure to deliver the resale certificate within 14 days against any (i) unit owners' association pursuant to § 54.1-2351 or (ii) common interest community manager pursuant to § 54.1-2349 and regulations promulgated thereto, and may issue a cease and desist order pursuant to § 54.1-2349 or 54.1-2352, as applicable.*

## CHAPTER 407

*An Act to amend and reenact § 2.2-4310 of the Code of Virginia, relating to the Virginia Public Procurement Act; participation of employment services organizations.*

[S 1538]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:****1. That § 2.2-4310 of the Code of Virginia is amended and reenacted as follows:****§ 2.2-4310. Discrimination prohibited; participation of small, women-owned, minority-owned, and service disabled veteran-owned business and employment services organization.**

A. In the solicitation or awarding of contracts, no public body shall discriminate against a bidder or offeror because of race, religion, color, sex, national origin, age, disability, status as a service disabled veteran, or any other basis prohibited by state law relating to discrimination in employment. Whenever solicitations are made, each public body shall include businesses selected from a list made available by the Department of Small Business and Supplier Diversity, which list shall include all companies and organizations certified by the Department.

B. All public bodies shall establish programs consistent with this chapter to facilitate the participation of small businesses, businesses owned by women, minorities, and service disabled veterans, and employment services organizations in procurement transactions. The programs established shall be in writing and shall comply with the provisions of any enhancement or remedial measures authorized by the Governor pursuant to subsection C or, where applicable, by the chief executive of a local governing body pursuant to § 15.2-965.1, and shall include specific plans to achieve any goals established therein. State agencies shall submit annual progress reports on (i) small, women-owned, and minority-owned business procurement, (ii) service disabled veteran-owned business procurement, and (iii) employment services organization procurement to the Department of Small Business and Supplier Diversity in a form specified by the Department of Small Business and Supplier Diversity. Contracts and subcontracts awarded to employment services organizations shall be credited toward a contractor's the small business, women-owned, and minority-owned business contracting and subcontracting goals of state agencies and contractors. The Department of Small Business and Supplier Diversity shall make information on service disabled veteran-owned procurement available to the Department of Veterans Services upon request.

C. Whenever there exists (i) a rational basis for small business or employment services organization enhancement or (ii) a persuasive analysis that documents a statistically significant disparity between the availability and utilization of women-owned and minority-owned businesses, the Governor is authorized and encouraged to require state agencies to implement appropriate enhancement or remedial measures consistent with prevailing law.

D. In awarding a contract for services to a small, women-owned, or minority-owned business that is certified in accordance with § 2.2-1606, or to a business identified by a public body as a service disabled veteran-owned business where the award is being made pursuant to an enhancement or remedial program as provided in subsection C, the public body shall include in every such contract of more than \$10,000 the following:

"If the contractor intends to subcontract work as part of its performance under this contract, the contractor shall include in the proposal a plan to subcontract to small, women-owned, minority-owned, and service disabled veteran-owned businesses."

E. In the solicitation or awarding of contracts, no state agency, department or institution shall discriminate against a bidder or offeror because the bidder or offeror employs ex-offenders unless the state agency, department or institution has made a written determination that employing ex-offenders on the specific contract is not in its best interest.

F. As used in this section:

"Employment services organization" means an organization that provides community-based employment services to individuals with disabilities that is an approved Commission on Accreditation of Rehabilitation Facilities (CARF) accredited vendor of the Department for Aging and Rehabilitative Services.

"Minority individual" means an individual who is a citizen of the United States or a legal resident alien and who satisfies one or more of the following definitions:

1. "African American" means a person having origins in any of the original peoples of Africa and who is regarded as such by the community of which this person claims to be a part.

2. "Asian American" means a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands, including but not limited to Japan, China, Vietnam, Samoa, Laos, Cambodia, Taiwan, Northern Mariana Islands, the Philippines, a U.S. territory of the Pacific, India, Pakistan, Bangladesh, or Sri Lanka and who is regarded as such by the community of which this person claims to be a part.

3. "Hispanic American" means a person having origins in any of the Spanish-speaking peoples of Mexico, South or Central America, or the Caribbean Islands or other Spanish or Portuguese cultures and who is regarded as such by the community of which this person claims to be a part.

4. "Native American" means a person having origins in any of the original peoples of North America and who is regarded as such by the community of which this person claims to be a part or who is recognized by a tribal organization.

"Minority-owned business" means a business that is at least 51 percent owned by one or more minority individuals who are U.S. citizens or legal resident aliens, or in the case of a corporation, partnership, or limited liability company or other entity, at least 51 percent of the equity ownership interest in the corporation, partnership, or limited liability company or other entity is owned by one or more minority individuals who are U.S. citizens or legal resident aliens, and both the management and daily business operations are controlled by one or more minority individuals, or any historically black college or university as defined in § 2.2-1604, regardless of the percentage ownership by minority individuals or, in the case of a corporation, partnership, or limited liability company or other entity, the equity ownership interest in the corporation, partnership, or limited liability company or other entity.

"Service disabled veteran" means a veteran who (i) served on active duty in the United States military ground, naval, or air service, (ii) was discharged or released under conditions other than dishonorable, and (iii) has a service-connected disability rating fixed by the United States Department of Veterans Affairs.

"Service disabled veteran business" means a business that is at least 51 percent owned by one or more service disabled veterans or, in the case of a corporation, partnership, or limited liability company or other entity, at least 51 percent of the equity ownership interest in the corporation, partnership, or limited liability company or other entity is owned by one or more individuals who are service disabled veterans and both the management and daily business operations are controlled by one or more individuals who are service disabled veterans.

"Small business" means a business, independently owned and controlled by one or more individuals who are U.S. citizens or legal resident aliens, and together with affiliates, has 250 or fewer employees, or annual gross receipts of \$10 million or less averaged over the previous three years. One or more of the individual owners shall control both the management and daily business operations of the small business.

"State agency" means any authority, board, department, instrumentality, institution, agency, or other unit of state government. "State agency" shall not include any county, city, or town.

"Women-owned business" means a business that is at least 51 percent owned by one or more women who are U.S. citizens or legal resident aliens, or in the case of a corporation, partnership, or limited liability company or other entity, at least 51 percent of the equity ownership interest is owned by one or more women who are U.S. citizens or legal resident aliens, and both the management and daily business operations are controlled by one or more women.

**CHAPTER 408**

*An Act to amend and reenact § 42.1-36 of the Code of Virginia, relating to local and regional libraries; boards not mandatory.*

[S 1586]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 42.1-36 of the Code of Virginia is amended and reenacted as follows:**

**§ 42.1-36. Boards not mandatory.**

The formation, creation, or continued existence of boards shall in nowise be considered or construed in any manner as mandatory upon any city or town with a manager, or upon any county with a county manager, county executive, urban county manager or, urban county executive form of government, or *charter*, or upon the Counties of Chesterfield and Shenandoah, by virtue of this chapter.

**CHAPTER 409**

*An Act to amend and reenact § 58.1-3924 of the Code of Virginia, relating to publication of delinquent taxes by treasurers.*

[H 1463]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 58.1-3924 of the Code of Virginia is amended and reenacted as follows:**

**§ 58.1-3924. Delinquent lists involving local taxes submitted to local governing bodies; publication of lists.**

Upon the request of the governing body of a county, city or town, the treasurer shall furnish a copy of any of the six lists mentioned in § 58.1-3921.

The treasurer may, or shall at the direction of the governing body, certify to the commissioner of the revenue a copy of the list of real estate on the commissioner's land book improperly placed thereon or not ascertainable. The commissioner of the revenue shall correct his land book accordingly. The treasurer shall be given credit for the entire amount of the taxes included in the list and may destroy the tax tickets made out by him for such taxes. The treasurer shall be given credit for all taxes shown on the list mentioned in subdivisions 4, 5, and 6 of § 58.1-3921 and for obligations discharged in bankruptcy as described in § 58.1-3921.

The governing body, or the treasurer, may cause the lists mentioned in subdivisions 2 and 3 of § 58.1-3921, whether or not they are based on information as it exists at the end of the fiscal year, or such parts thereof as deemed advisable by the

treasurer, to be published in a newspaper of general circulation in the county, city, or town or to be made available on any Internet site maintained by or for such county, city, or town.

The costs, if any, of publishing such lists shall be paid for by funds allocated for that purpose by the local governing body, and may be charged ratably to the delinquent taxpayers listed.

### CHAPTER 410

*An Act to amend and reenact § 54.1-2722 of the Code of Virginia, relating to practice of dental hygiene; remote supervision.*  
[H 1474]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 54.1-2722 of the Code of Virginia is amended and reenacted as follows:**

**§ 54.1-2722. License; application; qualifications; practice of dental hygiene.**

A. No person shall practice dental hygiene unless he possesses a current, active, and valid license from the Board of Dentistry. The licensee shall have the right to practice dental hygiene in the Commonwealth for the period of his license as set by the Board, under the direction of any licensed dentist.

B. An application for such license shall be made to the Board in writing and shall be accompanied by satisfactory proof that the applicant (i) is of good moral character, (ii) is a graduate of a dental hygiene program accredited by the Commission on Dental Accreditation and offered by an accredited institution of higher education, (iii) has passed the dental hygiene examination given by the Joint Commission on Dental Examinations, and (iv) has successfully completed a clinical examination acceptable to the Board.

C. The Board may grant a license to practice dental hygiene to an applicant licensed to practice in another jurisdiction if he (i) meets the requirements of subsection B; (ii) holds a current, unrestricted license to practice dental hygiene in another jurisdiction in the United States; (iii) has not committed any act that would constitute grounds for denial as set forth in § 54.1-2706; and (iv) meets other qualifications as determined in regulations promulgated by the Board.

D. A licensed dental hygienist may, under the direction or general supervision of a licensed dentist and subject to the regulations of the Board, perform services that are educational, diagnostic, therapeutic, or preventive. These services shall not include the establishment of a final diagnosis or treatment plan for a dental patient. Pursuant to subsection V of § 54.1-3408, a licensed dental hygienist may administer topical oral fluorides under an oral or written order or a standing protocol issued by a dentist or a doctor of medicine or osteopathic medicine.

A dentist may also authorize a dental hygienist under his direction to administer Schedule VI nitrous oxide and oxygen inhalation analgesia and, to persons 18 years of age or older, Schedule VI local anesthesia. In its regulations, the Board of Dentistry shall establish the education and training requirements for dental hygienists to administer such controlled substances under a dentist's direction.

For the purposes of this section, "general supervision" means that a dentist has evaluated the patient and prescribed authorized services to be provided by a dental hygienist; however, the dentist need not be present in the facility while the authorized services are being provided.

The Board shall provide for an inactive license for those dental hygienists who hold a current, unrestricted license to practice in the Commonwealth at the time of application for an inactive license and who do not wish to practice in Virginia. The Board shall promulgate such regulations as may be necessary to carry out the provisions of this section, including requirements for remedial education to activate a license.

E. For the purposes of this subsection, "remote supervision" means that a public health dentist has regular, periodic communications with a public health dental hygienist regarding patient treatment, but such dentist may not have conducted an initial examination of the patients who are to be seen and treated by the dental hygienist and may not be present with the dental hygienist when dental hygiene services are being provided.

Notwithstanding any provision of law, a dental hygienist employed by the Virginia Department of Health who holds a license issued by the Board of Dentistry may provide educational and preventative dental care in the Commonwealth under the remote supervision of a dentist employed by the Department of Health. A dental hygienist providing such services shall practice pursuant to a protocol adopted by the Commissioner of Health on September 23, 2010, having been developed jointly by (i) the medical directors of the Cumberland Plateau, Southside, and Lenowisco Health Districts; (ii) dental hygienists employed by the Department of Health; (iii) the Director of the Dental Health Division of the Department of Health; (iv) one representative of the Virginia Dental Association; and (v) one representative of the Virginia Dental Hygienists' Association. Such protocol shall be adopted by the Board as regulations.

A report of services provided by dental hygienists pursuant to such protocol, including their impact upon the oral health of the citizens of the Commonwealth, shall be prepared and submitted by the Department of Health to the Virginia Secretary of Health and Human Resources annually. Nothing in this section shall be construed to authorize or establish the independent practice of dental hygiene.

F. For the purposes of this subsection, "remote supervision" means that a *supervising* dentist is accessible and available for communication and consultation with a dental hygienist ~~employed by such dentist~~ during the delivery of dental hygiene

services, but such dentist may not have conducted an initial examination of the patients who are to be seen and treated by the dental hygienist and may not be present with the dental hygienist when dental hygiene services are being provided.

Notwithstanding any other provision of law, a dental hygienist may practice dental hygiene under the remote supervision of a dentist who holds an active, ~~unrestricted~~ license by the Board and who has a dental office practice physically located in the Commonwealth. No dental hygienist shall practice under remote supervision unless he has (i) completed a continuing education course *designed to develop the competencies needed to provide care under remote supervision* offered by an accredited dental education program or from a continuing education provider approved by the Board and (ii) at least two years of clinical experience, consisting of at least 2,500 hours of clinical experience. A dental hygienist practicing under remote supervision shall have professional liability insurance with policy limits acceptable to the supervising dentist. A dental hygienist shall only practice under remote supervision at a ~~community health center, federally qualified health center;~~ charitable safety net facility; free clinic; long-term care facility; elementary or secondary school; Head Start program; or women, infants, and children (WIC) program.

A dental hygienist practicing under remote supervision may (a) obtain a patient's treatment history and consent, (b) perform an oral assessment, (c) perform scaling and polishing, (d) perform all educational and preventative services, (e) take X-rays as ordered by the supervising dentist or consistent with a standing order, (f) maintain appropriate documentation in the patient's chart, (g) administer topical oral fluorides under an oral or written order or a standing protocol issued by a dentist or a doctor of medicine or osteopathic medicine pursuant to subsection V of § 54.1-3408, and (h) perform any other service ordered by the supervising dentist or required by statute or Board regulation. No dental hygienist practicing under remote supervision shall administer local anesthetic or nitrous oxide.

Prior to providing a patient dental hygiene services, a dental hygienist practicing under remote supervision shall obtain (1) the patient's or the patient's legal representative's signature on a statement disclosing that the delivery of dental hygiene services under remote supervision is not a substitute for the need for regular dental examinations by a dentist and (2) ~~verbal or written permission of any dentist who has treated the patient in the previous 12 months and can be identified by confirmation from the patient that he does not have a dentist of record whom he is seeing regularly.~~

After conducting an initial oral assessment of a patient, a dental hygienist practicing under remote supervision ~~shall consult with the supervising dentist prior to providing~~ may provide further dental hygiene services ~~if such patient is medically compromised or has periodontal disease~~ following a written practice protocol developed and provided by the supervising dentist. Such written practice protocol shall consider, at a minimum, the medical complexity of the patient and the presenting signs and symptoms of oral disease.

A dental hygienist practicing under remote supervision shall inform the supervising dentist of all findings for a patient. A dental hygienist practicing under remote supervision may continue to treat a patient for 90 days. After such 90-day period, the supervising dentist, absent emergent circumstances, shall either conduct an examination of the patient or refer the patient to another dentist to conduct an examination. The supervising dentist shall develop a *diagnosis and treatment* plan for the patient, and either the supervising dentist or the dental hygienist shall provide the treatment plan to the patient. The supervising dentist shall review a patient's records at least once every 10 months.

Nothing in this subsection shall prevent a dental hygienist from practicing dental hygiene under general supervision whether as an employee or as a volunteer.

**2. That the Board of Dentistry shall promulgate regulations to implement the provisions of this act to be effective within 280 days of its enactment.**

## CHAPTER 411

*An Act to require the Board of Medicine to amend regulations governing licensure of occupational therapists to specify Type 1 continuous learning activities.*

[H 1484]

Approved March 13, 2017

### **Be it enacted by the General Assembly of Virginia:**

**1. § 1.** *That the Board of Medicine shall amend regulations governing licensure of occupational therapists to provide that Type 1 continuing learning activities that shall be completed by the practitioner prior to renewal of a license shall consist of an organized program of study, classroom experience, or similar educational experience that is related to a licensee's current or anticipated roles and responsibilities in occupational therapy and approved or provided by one of the following organizations or any of its components: the Virginia Occupational Therapy Association; the American Occupational Therapy Association; the National Board for Certification in Occupational Therapy; a local, state, or federal government agency; a regionally accredited college or university; or a health care organization accredited by a national accrediting organization granted authority by the Centers for Medicare and Medicaid Services to assure compliance with Medicare conditions of participation. Such regulations shall also provide that Type 1 continuing learning activities may also include an American Medical Association Category 1 Continuing Medical Education program.*

**§ 2.** *That the Board of Medicine shall not deem maintenance of any certification provided by the Virginia Occupational Therapy Association; the American Occupational Therapy Association; the National Board for Certification in Occupational Therapy; a local, state, or federal government agency; a regionally accredited college or university; or a*

*health care organization accredited by a national accrediting organization granted authority by the Centers for Medicare and Medicaid Services to assure compliance with Medicare conditions of participation as sufficient to fulfill continuing learning requirements for occupational therapists.*

## CHAPTER 412

*An Act to amend and reenact § 58.1-609.6 of the Code of Virginia, relating to sales and use tax; media-related exemptions.*

[H 1543]

Approved March 13, 2017

### **Be it enacted by the General Assembly of Virginia:**

#### **1. That § 58.1-609.6 of the Code of Virginia is amended and reenacted as follows:**

##### **§ 58.1-609.6. Media-related exemptions.**

The tax imposed by this chapter or pursuant to the authority granted in §§ 58.1-605 and 58.1-606 shall not apply to the following:

1. Leasing, renting or licensing of copyright audio or video tapes, and films for public exhibition at motion picture theaters or by licensed radio and television stations.

2. Broadcasting equipment and parts and accessories thereto and towers used or to be used by commercial radio and television companies, wired or land based wireless cable television systems, common carriers or video programmers using an open video system or other video platform provided by telephone common carriers, or concerns which are under the regulation and supervision of the Federal Communications Commission and amplification, transmission and distribution equipment used or to be used by wired or land based wireless cable television systems, or open video systems or other video systems provided by telephone common carriers.

3. Any publication issued daily, or regularly at average intervals not exceeding three months, and advertising supplements and any other printed matter ultimately distributed with or as part of such publications; however, newsstand sales of the same are taxable. As used in this subdivision, the term "newsstand sales" shall not include sales of back copies of publications by the publisher or his agent.

4. Catalogs, letters, brochures, reports, and similar printed materials, except administrative supplies, the envelopes, containers and labels used for packaging and mailing same, and paper furnished to a printer for fabrication into such printed materials, when stored for 12 months or less in the Commonwealth and distributed for use without the Commonwealth. As used in this subdivision, "administrative supplies" includes, but is not limited to, letterhead, envelopes, and other stationery; and invoices, billing forms, payroll forms, price lists, time cards, computer cards, and similar supplies. Notwithstanding the provisions of subdivision 5 or the definition of "advertising" contained in § 58.1-602, (i) any advertising business located outside the Commonwealth which purchases printing from a printer within the Commonwealth shall not be deemed the user or consumer of the printed materials when such purchases would have been exempt under this subdivision, and (ii) from July 1, 1995, through June 30, 2002, and beginning July 1, 2002, and ending July 1, 2017, any advertising business which purchases printing from a printer within the Commonwealth shall not be deemed the user or consumer of the printed materials when such purchases would have been exempt under subdivision 3 or this subdivision, provided that the advertising agency shall certify to the Tax Commissioner, upon request, that such printed material was distributed outside the Commonwealth and such certification shall be retained as a part of the transaction record and shall be subject to further review by the Tax Commissioner.

5. Advertising as defined in § 58.1-602.

6. Beginning July 1, 1995, and ending July 1, ~~2019~~ 2022:

a. (i) The lease, rental, license, sale, other transfer, or use of any audio or video tape, film or other audiovisual work where the transferee or user acquires or has acquired the work for the purpose of licensing, distributing, broadcasting, commercially exhibiting or reproducing the work or using or incorporating the work into another such work; (ii) the provision of production services or fabrication in connection with the production of any portion of such audiovisual work, including, but not limited to, scriptwriting, photography, sound, musical composition, special effects, animation, adaptation, dubbing, mixing, editing, cutting and provision of production facilities or equipment; or (iii) the transfer or use of tangible personal property, including, but not limited to, scripts, musical scores, storyboards, artwork, film, tapes and other media, incident to the performance of such services or fabrication; however, audiovisual works and incidental tangible personal property described in clauses (i) and (iii) shall be subject to tax as otherwise provided in this chapter to the extent of the value of their tangible components prior to their use in the production of any audiovisual work and prior to their enhancement by any production service; and

b. Equipment and parts and accessories thereto used or to be used in the production of such audiovisual works.

7. Beginning July 1, 1998, and ending July 1, 2017, textbooks and other educational materials withdrawn from inventory at book-publishing distribution facilities for free distribution to professors and other individuals who have an educational focus.

## CHAPTER 413

*An Act to amend and reenact § 8.01-401.2 of the Code of Virginia, relating to nurse practitioner as an expert witness; scope of activities.*

[H 1609]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:****1. That § 8.01-401.2 of the Code of Virginia is amended and reenacted as follows:****§ 8.01-401.2. Chiropractor, nurse practitioner, or physician assistant as expert witness.**

A. A doctor of chiropractic, when properly qualified, may testify as an expert witness in a court of law as to etiology, diagnosis, prognosis, treatment, treatment plan, and disability, including anatomical, physiological, and pathological considerations within the scope of the practice of chiropractic as defined in § 54.1-2900.

B. A physician assistant or nurse practitioner, when properly qualified, may testify as an expert witness in a court of law as to etiology, diagnosis, prognosis, treatment, treatment plan, and disability, including anatomical, physiological, and pathological considerations within the scope of his activities as authorized pursuant to § 54.1-2952 or 54.1-2957, respectively. However, no physician assistant or nurse practitioner shall be permitted to testify as an expert witness for or against (i) a defendant doctor of medicine or osteopathic medicine in a medical malpractice action regarding the standard of care of a doctor of medicine or osteopathic medicine or (ii) a defendant health care provider in a medical malpractice action regarding causation.

## CHAPTER 414

*An Act to amend and reenact § 54.1-3446 of the Code of Virginia, relating to Drug Control Act; Schedule I drugs; addition of substances.*

[H 1610]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:****1. That § 54.1-3446 of the Code of Virginia is amended and reenacted as follows:****§ 54.1-3446. Schedule I.**

The controlled substances listed in this section are included in Schedule I:

1. Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation:

*1-(2-phenylethyl)-4-phenyl-4-acetyloxypiperidine (other name: PEPAP);*

*1-methyl-4-phenyl-4-propionoxypiperidine (other name: MPPP);*

*3,4-dichloro-N-[2-(dimethylamino)cyclohexyl]-N-methyl-benzamide (other name: U-47700);*

*3,4-dichloro-N-[1-(dimethylamino)cyclohexyl]methyl]benzamide (other name: AH-7921);*

*Acetyl fentanyl (other name: desmethyl fentanyl);*

Acetylmethadol;

Allylprodine;

Alphacetylmethadol (except levo-alpha-acetylmethadol, also known as levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM);

Alphameprodine;

Alphamethadol;

Benzethidine;

Betacetylmethadol;

Betameprodine;

Betamethadol;

Betaprodine;

Clonitazene;

Dextromoramide;

Diampromide;

Diethylthiambutene;

Difenoxin;

Dimenoxadol;

Dimepheptanol;

Dimethylthiambutene;

Dioxaphetylbutyrate;

Dipipanone;

Ethylmethylthiambutene;  
 Etonitazene;  
 Etoxadine;  
 Furethidine;  
 Hydroxypethidine;  
 Ketobemidone;  
 Levomoramide;  
 Levophenacymorphan;  
 Morpheridine;  
*N*-[1-[1-methyl-2-(2-thienyl)ethyl]-4-piperidyl]-*N*-phenylpropanamide (other name: alpha-methylthiofentanyl);  
*N*-[1-(1-methyl-2-phenylethyl)-4-piperidyl]-*N*-phenylacetamide (other name: acetyl-alpha-methylfentanyl);  
*N*-[1-(2-hydroxy-2-phenyl)ethyl-4-piperidyl]-*N*-phenylpropanamide (other name: beta-hydroxyfentanyl);  
*N*-[1-(alpha-methyl-beta-phenyl)ethyl-4-piperidyl]propionanilide (other names:  
*1*-(1-methyl-2-phenylethyl)-4-(*N*-propanilido) piperidine, alpha-methylfentanyl);  
*N*-(3-fluorophenyl)-*N*-[1-(2-phenylethyl)-4-piperidinyl]-propanamide (other name: 3-fluorofentanyl);  
*N*-[3-methyl-1-(2-hydroxy-2-phenylethyl)-4-piperidyl]-*N*-phenylpropanamide (other name:  
 beta-hydroxy-3-methylfentanyl);  
*N*-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-*N*-phenylpropanamide (other name: 3-methylfentanyl);  
*N*-[3-methyl-1-(2-thienyl)ethyl-4-piperidinyl]-*N*-phenylpropanamide (other name: 3-methylthiofentanyl);  
*N*-(4-fluorophenyl)-*N*-[1-(2-phenylethyl)-4-piperidinyl]-butanamide (other name: para-fluorobutyrylfentanyl);  
*N*-(4-fluorophenyl)-*N*-[1-(2-phenylethyl)-4-piperidinyl]-propanamide (other name: para-fluorofentanyl);  
 Noracymethadol;  
 Norlevorphanol;  
 Normethadone;  
 Norpipanone;  
*N*-phenyl-*N*-[1-(2-phenylethyl)-4-piperidinyl]-2-furancarboxamide (other name: Furanyl fentanyl);  
*N*-phenyl-*N*-[1-(2-phenylethyl)-4-piperidinyl]-butanamide (other name: butyryl fentanyl);  
*N*-phenyl-*N*-[1-(2-phenylethyl)-4-piperidinyl]-pentanamide (other name: Pentanoyl fentanyl);  
*N*-phenyl-*N*-[1-(2-thienyl)ethyl-4-piperidinyl]-propanamide (other name: thiofentanyl);  
 Phenadoxone;  
 Phenampromide;  
 Phenomorphan;  
 Phenoperidine;  
 Piritramide;  
 Proheptazine;  
 Properidine;  
 Propiram;  
 Racemoramide;  
 Tilidine;  
 Trimeperidine.

2. Any of the following opium derivatives, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:

Acetorphine;  
 Acetyldihydrocodeine;  
 Benzylmorphine;  
 Codeine methylbromide;  
 Codeine-N-Oxide;  
 Cyprenorphine;  
 Desomorphine;  
 Dihydromorphine;  
 Drotebanol;  
 Etorphine;  
 Heroin;  
 Hydromorphinol;  
 Methyl-desorphine;  
 Methyl-dihydromorphine;  
 Morphine methylbromide;  
 Morphine methylsulfonate;  
 Morphine-N-Oxide;  
 Myrophine;  
 Nicocodeine;

Nicomorphine;  
 Normorphine;  
 Pholcodine;  
 Thebacon.

3. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation, which contains any quantity of the following hallucinogenic substances, or which contains any of its salts, isomers, and salts of isomers, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation (for purposes of this subdivision only, the term "isomer" includes the optical, position, and geometric isomers):

Alpha-ethyltryptamine (some trade or other names: Monase; a-ethyl-1H-indole-3-ethanamine; 3-2-aminobutyl] indole; a-ET; AET);

4-Bromo-2,5-dimethoxyphenethylamine (some trade or other names:

2-4-bromo-2,5-dimethoxyphenyl]-1-aminoethane; alpha-desmethyl DOB; 2C-B; Nexus);

3,4-methylenedioxy amphetamine;

5-methoxy-3,4-methylenedioxy amphetamine;

3,4,5-trimethoxy amphetamine;

Alpha-methyltryptamine (other name: AMT);

Bufotenine;

Diethyltryptamine;

Dimethyltryptamine;

4-methyl-2,5-dimethoxyamphetamine;

2,5-dimethoxy-4-ethylamphetamine (DOET);

2,5-dimethoxy-4-(n)-propylthiophenethylamine (other name: 2C-T-7);

Ibogaine;

5-methoxy-N, N-diisopropyltryptamine (other name: 5-MeO-DIPT);

Lysergic acid diethylamide;

Mescaline;

Parahexyl (some trade or other names: 3-Hexyl-1-hydroxy-7,8,9,10-tetrahydro-6,6,9-trimethyl-6H-dibenzo -b, d] pyran; Synhexyl);

Peyote;

N-ethyl-3-piperidyl benzilate;

N-methyl-3-piperidyl benzilate;

Psilocybin;

Psilocyn;

Salvinorin A;

Tetrahydrocannabinols, except as present in marijuana and dronabinol in sesame oil and encapsulated in a soft gelatin capsule in a drug product approved by the U.S. Food and Drug Administration;

Hashish oil (some trade or other names: hash oil; liquid marijuana; liquid hashish);

2,5-dimethoxyamphetamine (some trade or other names: 2,5-dimethoxy-a-methylphenethylamine; 2,5-DMA);

3,4-methylenedioxymethamphetamine (MDMA), its optical, positional and geometric isomers, salts and salts of isomers;

3,4-methylenedioxy-N-ethylamphetamine (also known as N-ethyl-alpha-methyl-3,4 (methylenedioxy)phenethylamine, N-ethyl MDA, MDE, MDEA);

N-hydroxy-3,4-methylenedioxyamphetamine (some other names:

N-hydroxy-alpha-methyl-3,4(methylenedioxy)phenethylamine, and N-hydroxy MDA);

4-bromo-2,5-dimethoxyamphetamine (some trade or other names: 4-bromo-2,5-dimethoxy-a-methylphenethylamine; 4-bromo-2,5-DMA);

4-methoxyamphetamine (some trade or other names: 4-methoxy-a-methylphenethylamine; paramethoxyamphetamine; PMA);

Ethylamine analog of phencyclidine (some other names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl) ethylamine, N-(1-phenylcyclohexyl) ethylamine, cyclohexamine, PCE);

Pyrrolidine analog of phencyclidine (some other names: 1-(1-phenylcyclohexyl) -pyrrolidine, PCPy, PHP);

Thiophene analog of phencyclidine (some other names: 1-[1-(2-thienyl) -cyclohexyl]-piperidine, 2-thienyl analog of phencyclidine, TPCP, TCP);

1-1-(2-thienyl)cyclohexyl]pyrrolidine (other name: TCPy);

3,4-methylenedioxypyrovalerone (other name: MDPV);

4-methylmethcathinone (other names: mephedrone, 4-MMC);

3,4-methylenedioxymethcathinone (other name: methylone);

Naphthylpyrovalerone (other name: naphyrone);

4-fluoromethcathinone (other name: flephedrone, 4-FMC);

4-methoxymethcathinone (other names: methedrone; bk-PMMA);

Ethcathinone (other name: N-ethylcathinone);

3,4-methylenedioxyethcathinone (other name: ethylone);  
 Beta-keto-N-methyl-3,4-benzodioxolylbutanamine *benzodioxolylbutanamine* (other name: butylone);  
 N, N-dimethylcathinone (other name: metamfepramone);  
 Alpha-pyrrolidinopropiophenone (other name: alpha-PPP);  
 4-methoxy-alpha-pyrrolidinopropiophenone (other name: MOPPP);  
 3,4-methylenedioxy-alpha-pyrrolidinopropiophenone (other name: MDPPP);  
 Alpha-pyrrolidinovalerophenone (other name: alpha-PVP);  
 6,7-dihydro-5H-indeno-(5,6-d)-1,3-dioxol-6-amine (other name: MDAI);  
 3-fluoromethcathinone (other name: 3-FMC);  
 4-Ethyl-2,5-dimethoxyphenethylamine (other name: 2C-E);  
 4-Iodo-2,5-dimethoxyphenethylamine (other name: 2C-I);  
 4-Methylethcathinone (other name: 4-MEC);  
 4-Ethylmethcathinone (other name: 4-EMC);  
 N, N-diallyl-5-methoxytryptamine (other name: 5-MeO-DALT);  
 Beta-keto-methylbenzodioxolylpentanamine (other name: Pentylone, bk-MBDP);  
 Alpha-methylamino-butyrophenone (other name: Buphedrone);  
 Alpha-methylamino-valerophenone (other name: Pentedrone);  
 3,4-Dimethylmethcathinone (other name: 3.4-DMMC);  
 4-methyl-alpha-pyrrolidinopropiophenone (other name: MPPP);  
 4-Iodo-2,5-dimethoxy-N-[(2-methoxyphenyl)methyl]-benzeneethanamine (other names: 25-I, 25I-NBOMe, 2C-I-NBOMe);  
 Methoxetamine (other names: MXE, 3-MeO-2-Oxo-PCE);  
 4-Fluoromethamphetamine (other name: 4-FMA);  
 4-Fluoroamphetamine (other name: 4-FA);  
 2-(2,5-Dimethoxy-4-methylphenyl)ethanamine (other name: 2C-D);  
 2-(4-Chloro-2,5-dimethoxyphenyl)ethanamine (other name: 2C-C);  
 2-[4-(Ethylthio)-2,5-dimethoxyphenyl]ethanamine (other name: 2C-T-2);  
 2-[4-(Isopropylthio)-2,5-dimethoxyphenyl]ethanamine (other name: 2C-T-4);  
 2-(2,5-Dimethoxyphenyl)ethanamine (other name: 2C-H);  
 2-(2,5-Dimethoxy-4-nitro-phenyl)ethanamine (other name: 2C-N);  
 2-(2,5-Dimethoxy-4-(n)-propylphenyl)ethanamine (other name: 2C-P);  
 (2-aminopropyl)benzofuran (other name: APB);  
 (2-aminopropyl)-2,3-dihydrobenzofuran (other name: APDB);  
 4-chloro-2,5-dimethoxy-N-[(2-methoxyphenyl)methyl]-benzeneethanamine (other names: 2C-C-NBOMe, 25C-NBOMe, 25C);  
 4-bromo-2,5-dimethoxy-N-[(2-methoxyphenyl)methyl]-benzeneethanamine (other names: 2C-B-NBOMe, 25B-NBOMe, 25B);  
 Acetoxydimethyltryptamine (other names: AcO-Psilocin, AcO-DMT, Psilacetin);  
 Benocyclidine (other names: BCP, BTCP);  
 Alpha-pyrrolidinobutiophenone (other name: alpha-PBP);  
 3,4-methylenedioxy-N, N-dimethylcathinone (other names: Dimethylone, bk-MDDMA);  
 4-bromomethcathinone (other name: 4-BMC);  
 4-chloromethcathinone (other name: 4-CMC);  
 4-Iodo-2,5-dimethoxy-N-[(2-hydroxyphenyl)methyl]-benzeneethanamine (other name: 25I-NBOH);  
 Alpha-Pyrrolidinohexiophenone (other name: alpha-PHP);  
 Alpha-Pyrrolidinoheptiophenone (other name: PV8);  
 5-methoxy-N,N-methylisopropyltryptamine (other name: 5-MeO-MIPT);  
 Beta-keto-N,N-dimethylbenzodioxolylbutanamine (other names: Dibutylone, bk-DMBDB);  
 1-(1,3-benzodioxol-5-yl)-2-(ethylamino)-1-pentanone (other name: N-ethylpentylone);  
 1-[1-(3-methoxyphenyl)cyclohexyl]piperidine (other name: 3-methoxy PCP);  
 1-[1-(4-methoxyphenyl)cyclohexyl]piperidine (other name: 4-methoxy PCP);  
 4-Chloroethcathinone (other name: 4-CEC);  
 3-Methoxy-2-(methylamino)-1-(4-methylphenyl)-1-propanone (other name: Mexedrone);  
 1-propionyl lysergic acid diethylamide (other name: 1P-LSD);  
 (2-Methylaminopropyl)benzofuran (other name: MAPB).

4. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers and salts of isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:

*Clonazolam;*  
*Etizolam;*

*Flubromazolam;*

Gamma hydroxybutyric acid (some other names include GHB; gamma hydroxybutyrate; 4-hydroxybutyrate; 4-hydroxybutanoic acid; sodium oxybate; sodium oxybutyrate);

Mecloqualone;

Methaqualone.

~~*Etizolam.*~~

5. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers and salts of isomers:

*2-(3-fluorophenyl)-3-methylmorpholine (other name: 3-fluorophenmetrazine);*

Aminorex (some trade or other names; aminoxaphen; 2-amino-5-phenyl-2-oxazoline;

4,5-dihydro-5-phenyl-2-oxazolamine);

*N-Benzylpiperazine (some other names: BZP, 1-benzylpiperazine);*

*Fenethylamine;*

*Ethylamphetamine;*

Cathinone (some trade or other names: 2-amino-1-phenyl-1-propanone, alpha-aminopropiophenone, 2-aminopropiophenone, norephedrone), and any plant material from which Cathinone may be derived;

*Cis-4-methylaminorex (other name: cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine);*

*Ethylamphetamine;*

*Ethyl phenyl(piperidin-2-yl)acetate (other name: Ethylphenidate);*

*Fenethylamine;*

Methcathinone (some other names: 2-(methylamino)-propiofenone; alpha-(methylamino)-propiofenone; 2-(methylamino)-1-phenylpropan-1-one; alpha-N-methylaminopropiophenone; monomethylpropion; ephedrone; N-methylcathinone; methylcathinone; AL-464; AL-422; AL-463 and UR 1432);

*Cis-4-methylaminorex (other name: cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine);*

*N-Benzylpiperazine (some other names: BZP, 1-benzylpiperazine);*

N, N-dimethylamphetamine (other names: N, N-alpha-trimethyl-benzeneethanamine,

N, N-alpha-trimethylphenethylamine).

6. Any material, compound, mixture or preparation containing any quantity of the following substances:

~~*N-3-methyl-1-(2-phenethyl)-4-piperidyl]-N-phenylpropanamide (other name: 3-methylfentanyl); its optical and geometric isomers, salts, and salts of isomers;*~~

~~*1-methyl-4-phenyl-4-propionoxypiperidine (other name: MPPP); its optical isomers, salts and salts of isomers;*~~

~~*1-(2-phenylethyl)-4-phenyl-4-acetyloxypiperidine (other name: PEPAP); its optical isomers, salts and salts of isomers;*~~

~~*N-1-(alpha-methyl-beta-phenyl)ethyl-4-piperidyl]propionanilide (other names:*~~

~~*1-(1-methyl-2-phenylethyl)-4-(N-propanilido)piperidine; alpha-methylfentanyl);*~~

~~*N-1-(1-methyl-2-phenethyl)-4-piperidyl]-N-phenylacetamide (other name: acetyl-alpha-methylfentanyl); its optical isomers, salts and salts of isomers;*~~

~~*N-1-(1-methyl-2-(2-thienyl)ethyl)-4-piperidyl]-N-phenylpropanamide (other name: alpha-methylthiofentanyl); its optical isomers, salts and salts of isomers;*~~

~~*N-1-benzyl-4-piperidyl]-N-phenylpropanamide (other name: benzylfentanyl); its optical isomers, salts and salts of isomers;*~~

~~*N-1-(2-hydroxy-2-phenyl)ethyl-4-piperidyl]-N-phenylpropanamide (other name: beta-hydroxyfentanyl); its optical isomers, salts and salts of isomers;*~~

~~*N-3-methyl-1-(2-hydroxy-2-phenethyl)-4-piperidyl]-N-phenylpropanamide (other name:*~~

~~*beta-hydroxy-3-methylfentanyl); its optical and geometric isomers, salts and salts of isomers;*~~

~~*N-(3-methyl-1-(2-thienyl)ethyl)-4-piperidyl]-N-phenylpropanamide (other name: 3-methylthiofentanyl); its optical and geometric isomers, salts and salts of isomers;*~~

~~*N-1-(2-thienyl)methyl-4-piperidyl]-N-phenylpropanamide (other name: thienylfentanyl); its optical isomers, salts and salts of isomers;*~~

~~*N-phenyl-N-1-(2-thienyl)ethyl-4-piperidyl]-propanamide (other name: thiofentanyl); its optical isomers, salts and salts of isomers;*~~

~~*N-(4-fluorophenyl)-N-1-(2-phenethyl)-4-piperidyl]-propanamide (other name: para-fluorofentanyl); its optical isomers, salts and salts of isomers;*~~

~~*Acetyl fentanyl (other name: desmethyl fentanyl).*~~

7. Any substance that contains one or more cannabimimetic agents or that contains their salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation, and any preparation, mixture, or substance containing, or mixed or infused with, any detectable amount of one or more cannabimimetic agents.

a. "Cannabimimetic agents" includes any substance that is within any of the following structural classes:

2-(3-hydroxycyclohexyl)phenol with substitution at the 5-position of the phenolic ring by alkyl or alkenyl, whether or not substituted on the cyclohexyl ring to any extent;

3-(1-naphthoyl)indole or 1H-indol-3-yl-(1-naphthyl)methane with substitution at the nitrogen atom of the indole ring, whether or not further substituted on the indole ring to any extent, whether or not substituted on the naphthoyl or naphthyl ring to any extent;

3-(1-naphthoyl)pyrrole with substitution at the nitrogen atom of the pyrrole ring, whether or not further substituted in the pyrrole ring to any extent, whether or not substituted on the naphthoyl ring to any extent;

1-(1-naphthylmethyl)indene with substitution of the 3-position of the indene ring, whether or not further substituted in the indene ring to any extent, whether or not substituted on the naphthyl ring to any extent;

3-phenylacetylindole or 3-benzoylindole with substitution at the nitrogen atom of the indole ring, whether or not further substituted in the indole ring to any extent, whether or not substituted on the phenyl ring to any extent;

3-cyclopropoylindole with substitution at the nitrogen atom of the indole ring, whether or not further substituted on the indole ring to any extent, whether or not substituted on the cyclopropyl ring to any extent;

3-adamantoylindole with substitution at the nitrogen atom of the indole ring, whether or not further substituted on the indole ring to any extent, whether or not substituted on the adamantyl ring to any extent;

N-(adamantyl)-indole-3-carboxamide with substitution at the nitrogen atom of the indole ring, whether or not further substituted on the indole ring to any extent, whether or not substituted on the adamantyl ring to any extent; and

N-(adamantyl)-indazole-3-carboxamide with substitution at a nitrogen atom of the indazole ring, whether or not further substituted on the indazole ring to any extent, whether or not substituted on the adamantyl ring to any extent.

b. The term "cannabimimetic agents" includes:

5-(1,1-Dimethylheptyl)-2-[3-hydroxycyclohexyl]-phenol (other name: CP 47,497);

5-(1,1-Dimethylhexyl)-2-[3-hydroxycyclohexyl]-phenol (other name: CP 47,497 C6 homolog);

5-(1,1-Dimethyloctyl)-2-[3-hydroxycyclohexyl]-phenol (other name: CP 47,497 C8 homolog);

5-(1,1-Dimethylnonyl)-2-[3-hydroxycyclohexyl]-phenol (other name: CP 47,497 C9 homolog);

1-pentyl-3-(1-naphthoyl)indole (other names: JWH-018, AM-678);

1-butyl-3-(1-naphthoyl)indole (other name: JWH-073);

1-pentyl-3-(2-methoxyphenylacetyl)indole (other name: JWH-250);

1-hexyl-3-(naphthalen-1-oyl)indole (other name: JWH-019);

1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole (other name: JWH-200);

(6aR, 10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a, 7,10,10a-tetrahydrobenzo[c]chromen-1-ol (other name: HU-210);

1-pentyl-3-(4-methoxy-1-naphthoyl)indole (other name: JWH-081);

1-pentyl-3-(4-methyl-1-naphthoyl)indole (other name: JWH-122);

1-pentyl-3-(2-chlorophenylacetyl)indole (other name: JWH-203);

1-pentyl-3-(4-ethyl-1-naphthoyl)indole (other name: JWH-210);

1-pentyl-3-(4-chloro-1-naphthoyl)indole (other name: JWH-398);

1-(5-fluoropentyl)-3-(2-iodobenzoyl)indole (other name: AM-694);

1-((N-methylpiperidin-2-yl)methyl)-3-(1-naphthoyl)indole (other name: AM-1220);

1-(5-fluoropentyl)-3-(1-naphthoyl)indole (other name: AM-2201);

1-((N-methylpiperidin-2-yl)methyl)-3-(2-iodobenzoyl)indole (other name: AM-2233);

Pravadoline (4-methoxyphenyl)-[2-methyl-1-(2-(4-morpholinyl)ethyl)indol-3-yl]methanone (other name: WIN 48,098);

1-pentyl-3-(4-methoxybenzoyl)indole (other names: RCS-4, SR-19);

1-(2-cyclohexylethyl)-3-(2-methoxyphenylacetyl)indole (other names: RCS-8, SR-18);

1-pentyl-3-(2,2,3,3-tetramethylcyclopropylmethanone)indole (other name: UR-144);

1-(5-fluoropentyl)-3-(2,2,3,3-tetramethylcyclopropylmethanone)indole (other name names: XLR-11, 5-fluoro-UR-144);

N-adamantyl-1-fluoropentylindole-3-carboxamide (other name: STS-135);

N-adamantyl-1-pentylindazole-3-carboxamide (other name names: AKB48, APINACA);

1-pentyl-3-(1-adamantoyl)indole (other name: AB-001);

(8-quinolinyl)(1-pentylindol-3-yl)carboxylate (other name: PB-22);

(8-quinolinyl)(1-(5-fluoropentyl)indol-3-yl)carboxylate (other name: 5-fluoro-PB-22);

(8-quinolinyl)(1-cyclohexylmethyl-indol-3-yl)carboxylate (other name: BB-22);

N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-pentylindazole-3-carboxamide (other name: AB-PINACA);

N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)indazole-3-carboxamide (other name: AB-FUBINACA);

1-(5-fluoropentyl)-3-(1-naphthoyl)indazole (other name: THJ-2201);

N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentylindazole-3-carboxamide (other name: ADB-PINACA);

N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)indazole-3-carboxamide (other name: AB-CHMINACA);

N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)indazole-3-carboxamide (other name:

5-fluoro-AB-PINACA);

N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)indazole-3-carboxamide (other names:

ADB-CHMINACA, MAB-CHMINACA);

Methyl-2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3-methylbutanoate (other name: 5-fluoro-AMB);  
 1-naphthalenyl 1-(5-fluoropentyl)-1H-indole-3-carboxylate (other name: NM-2201);  
 1-(4-fluorobenzyl)-3-(2,2,3,3-tetramethylcyclopropylmethanone)indole (other name: FUB-144);  
 1-(5-fluoropentyl)-3-(4-methyl-1-naphthoyl)indole (other name MAM-2201);  
*N*-(1-Amino-3,3-dimethyl-1-oxobutan-2-yl)-1-[(4-fluorophenyl)methyl]-1H-indazole-3-carboxamide (other name: ADB-FUBINACA);  
*Methyl 2-[1-[(4-fluorophenyl)methyl]-1H-indazole-3-carboxamido]-3,3-dimethylbutanoate* (other name: MDMB-FUBINACA);  
*Methyl 2-[1-(5-fluoropentyl)-1H-indazole-3-carboxamido]-3,3-dimethylbutanoate* (other names: 5-fluoro-ADB, 5-Fluoro-MDMB-PINACA);  
*Methyl 2-({1-[(4-fluorophenyl)methyl]-1H-indazole-3-carbonyl}amino)-3-methylbutanoate* (other names: AMB-FUBINACA, FUB-AMB);  
*N*-(adamantan-1-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide (other name: FUB-AKB48)  
*N*-(adamantan-1-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide (other name: 5F-AKB48);  
*Naphthalen-1-yl 1-pentyl-1H-indazole-3-carboxylate* (other name: SDB-005);  
*N*-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)indole-3-carboxamide (other name: AB-CHMICA).

#### CHAPTER 415

*An Act to amend and reenact § 54.1-106 of the Code of Virginia, relating to charity health care services; liability protection for administrators.*

[H 1748]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 54.1-106 of the Code of Virginia is amended and reenacted as follows:**

**§ 54.1-106. Health care professionals rendering services to patients of certain clinics and administrators of such services exempt from liability.**

A. No person who is licensed or certified by the Boards of/for Audiology and Speech-Language Pathology; Counseling; Dentistry; Medicine; Nursing; Optometry; Opticians; Pharmacy; Hearing Aid Specialists; Psychology; or Social Work or who holds a multistate licensure privilege to practice nursing issued by the Board of Nursing who renders at any site any health care services within the limits of his license, certification or licensure privilege, voluntarily and without compensation, to any patient of any clinic which is organized in whole or in part for the delivery of health care services without charge or any clinic for the indigent and uninsured that is organized for the delivery of primary health care services as a federally qualified health center designated by the Centers for Medicare & Medicaid Services, shall be liable for any civil damages for any act or omission resulting from the rendering of such services unless the act or omission was the result of his gross negligence or willful misconduct. *Additionally, no person who administers, organizes, arranges, or promotes such services shall be liable to patients of clinics described in this section for any civil damages for any act or omission resulting from the rendering of such services unless the act or omission was the result of his or the clinic's gross negligence or willful misconduct.*

For purposes of this section, any commissioned or contract medical officers or dentists serving on active duty in the United States armed services and assigned to duty as practicing commissioned or contract medical officers or dentists at any military hospital or medical facility owned and operated by the United States government shall be deemed to be licensed pursuant to this title.

B. For the purposes of Article 5 (§ 2.2-1832 et seq.) of Chapter 18 of Title 2.2, any person rendering such health care services who (i) is registered with the Division of Risk Management and (ii) has no legal or financial interest in the clinic from which the patient is referred shall be deemed an agent of the Commonwealth and to be acting in an authorized governmental capacity with respect to delivery of such health care services. The premium for coverage of such person under the Risk Management Plan shall be paid by the Department of Health.

C. For the purposes of this section and Article 5 (§ 2.2-1832 et seq.) of Chapter 18 of Title 2.2, "delivery of health care services without charge" shall be deemed to include the delivery of dental, medical or other health services when a reasonable minimum fee is charged to cover administrative costs.

#### CHAPTER 416

*An Act to amend and reenact §§ 2.2-4006 and 54.1-3443 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 54.1-3408.05, relating to descheduling or rescheduling controlled substances.*

[H 1799]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 2.2-4006 and 54.1-3443 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 54.1-3408.05 as follows:**

**§ 2.2-4006. Exemptions from requirements of this article.**

A. The following agency actions otherwise subject to this chapter and § 2.2-4103 of the Virginia Register Act shall be exempted from the operation of this article:

1. Agency orders or regulations fixing rates or prices.
2. Regulations that establish or prescribe agency organization, internal practice or procedures, including delegations of authority.
3. Regulations that consist only of changes in style or form or corrections of technical errors. Each promulgating agency shall review all references to sections of the Code of Virginia within their regulations each time a new supplement or replacement volume to the Code of Virginia is published to ensure the accuracy of each section or section subdivision identification listed.
4. Regulations that are:
  - a. Necessary to conform to changes in Virginia statutory law or the appropriation act where no agency discretion is involved. However, such regulations shall be filed with the Registrar within 90 days of the law's effective date;
  - b. Required by order of any state or federal court of competent jurisdiction where no agency discretion is involved; or
  - c. Necessary to meet the requirements of federal law or regulations, provided such regulations do not differ materially from those required by federal law or regulation, and the Registrar has so determined in writing. Notice of the proposed adoption of these regulations and the Registrar's determination shall be published in the Virginia Register not less than 30 days prior to the effective date of the regulation.
5. Regulations of the Board of Agriculture and Consumer Services adopted pursuant to subsection B of § 3.2-3929 or clause (v) or (vi) of subsection C of § 3.2-3931 after having been considered at two or more Board meetings and one public hearing.
6. Regulations of the regulatory boards served by (i) the Department of Labor and Industry pursuant to Title 40.1 and (ii) the Department of Professional and Occupational Regulation or the Department of Health Professions pursuant to Title 54.1 that are limited to reducing fees charged to regulants and applicants.
7. The development and issuance of procedural policy relating to risk-based mine inspections by the Department of Mines, Minerals and Energy authorized pursuant to §§ 45.1-161.82 and 45.1-161.292:55.
8. General permits issued by the (a) State Air Pollution Control Board pursuant to Chapter 13 (§ 10.1-1300 et seq.) of Title 10.1 or (b) State Water Control Board pursuant to the State Water Control Law (§ 62.1-44.2 et seq.), Chapter 24 (§ 62.1-242 et seq.) of Title 62.1 and Chapter 25 (§ 62.1-254 et seq.) of Title 62.1, (c) Virginia Soil and Water Conservation Board pursuant to the Dam Safety Act (§ 10.1-604 et seq.), and (d) the development and issuance of general wetlands permits by the Marine Resources Commission pursuant to subsection B of § 28.2-1307, if the respective Board or Commission (i) provides a Notice of Intended Regulatory Action in conformance with the provisions of § 2.2-4007.01, (ii) following the passage of 30 days from the publication of the Notice of Intended Regulatory Action forms a technical advisory committee composed of relevant stakeholders, including potentially affected citizens groups, to assist in the development of the general permit, (iii) provides notice and receives oral and written comment as provided in § 2.2-4007.03, and (iv) conducts at least one public hearing on the proposed general permit.
9. The development and issuance by the Board of Education of guidelines on constitutional rights and restrictions relating to the recitation of the pledge of allegiance to the American flag in public schools pursuant to § 22.1-202.
10. Regulations of the Board of the Virginia College Savings Plan adopted pursuant to § 23.1-704.
11. Regulations of the Marine Resources Commission.
12. Regulations adopted by the Board of Housing and Community Development pursuant to (i) Statewide Fire Prevention Code (§ 27-94 et seq.), (ii) the Industrialized Building Safety Law (§ 36-70 et seq.), (iii) the Uniform Statewide Building Code (§ 36-97 et seq.), and (iv) § 36-98.3, provided the Board (a) provides a Notice of Intended Regulatory Action in conformance with the provisions of § 2.2-4007.01, (b) publishes the proposed regulation and provides an opportunity for oral and written comments as provided in § 2.2-4007.03, and (c) conducts at least one public hearing as provided in §§ 2.2-4009 and 36-100 prior to the publishing of the proposed regulations. Notwithstanding the provisions of this subdivision, any regulations promulgated by the Board shall remain subject to the provisions of § 2.2-4007.06 concerning public petitions, and §§ 2.2-4013 and 2.2-4014 concerning review by the Governor and General Assembly.
13. Amendments to regulations of the Board to schedule a substance in ~~Schedule I or H~~ pursuant to subsection D or E of § 54.1-3443.
14. Waste load allocations adopted, amended, or repealed by the State Water Control Board pursuant to the State Water Control Law (§ 62.1-44.2 et seq.), including but not limited to Article 4.01 (§ 62.1-44.19:4 et seq.) of the State Water Control Law, if the Board (i) provides public notice in the Virginia Register; (ii) if requested by the public during the initial public notice 30-day comment period, forms an advisory group composed of relevant stakeholders; (iii) receives and provides summary response to written comments; and (iv) conducts at least one public meeting. Notwithstanding the provisions of this subdivision, any such waste load allocations adopted, amended, or repealed by the Board shall be subject to the provisions of §§ 2.2-4013 and 2.2-4014 concerning review by the Governor and General Assembly.

15. Regulations of the Workers' Compensation Commission adopted pursuant to § 65.2-605, including regulations that adopt, amend, adjust, or repeal Virginia fee schedules for medical services, provided the Workers' Compensation Commission (i) utilizes a regulatory advisory panel constituted as provided in subdivision F 2 of § 65.2-605 to assist in the development of such regulations and (ii) provides an opportunity for public comment on the regulations prior to adoption.

B. Whenever regulations are adopted under this section, the agency shall state as part thereof that it will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision. The effective date of regulations adopted under this section shall be in accordance with the provisions of § 2.2-4015, except in the case of emergency regulations, which shall become effective as provided in subsection B of § 2.2-4012.

C. A regulation for which an exemption is claimed under this section or § 2.2-4002 or 2.2-4011 and that is placed before a board or commission for consideration shall be provided at least two days in advance of the board or commission meeting to members of the public that request a copy of that regulation. A copy of that regulation shall be made available to the public attending such meeting.

**§ 54.1-3408.05. Use of FDA-approved substance upon publication of final rule.**

*Except as otherwise provided in this chapter, no person shall be prosecuted under Chapter 7 (§ 18.2-247 et seq.) of Title 18.2 for acting in accordance with § 54.1-3421 or for prescribing, administering, dispensing, or possessing pursuant to a valid prescription issued by a prescriber any substance that has been approved as a prescription drug by the U.S. Food and Drug Administration pursuant to 21 U.S.C. § 360bb and 21 U.S.C. § 355 on or after July 1, 2017, in accordance with any final or interim final order or rule issued pursuant to 21 U.S.C. § 811(j). Such immunity from prosecution for a particular substance shall remain in effect until the earlier of (i) nine months as calculated from the latter of the date of the publication in the Federal Register of the interim final order or rule scheduling such substance or the final order or rule scheduling such substance, provided that a final order or rule is issued within nine months of the interim final order or rule, or (ii) such substance being added to a schedule in Article 5 (§ 54.1-3443 et seq.) pursuant to § 54.1-3443 or by enactment into law.*

**§ 54.1-3443. Board to administer article.**

A. The Board shall administer this article and may add substances to or deschedule or reschedule all substances enumerated in the schedules in this article pursuant to the procedures of the Administrative Process Act (§ 2.2-4000 et seq.). In making a determination regarding a substance, the Board shall consider the following:

1. The actual or relative potential for abuse;
2. The scientific evidence of its pharmacological effect, if known;
3. The state of current scientific knowledge regarding the substance;
4. The history and current pattern of abuse;
5. The scope, duration, and significance of abuse;
6. The risk to the public health;
7. The potential of the substance to produce psychic or physical dependence; and
8. Whether the substance is an immediate precursor of a substance already controlled under this article.

B. After considering the factors enumerated in subsection A, the Board shall make findings and issue a regulation controlling the substance if it finds the substance has a potential for abuse.

C. If the Board designates a substance as an immediate precursor, substances which are precursors of the controlled precursor shall not be subject to control solely because they are precursors of the controlled precursor.

D. If the Board, in consultation with the Department of Forensic Science, determines the substance shall be placed into Schedule I or II pursuant to § 54.1-3445 or 54.1-3447, the Board may amend its regulations pursuant to Article 2 (§ 2.2-4006 et seq.) of the Administrative Process Act. Prior to making such amendments, the Board shall conduct a public hearing. At least 30 days prior to conducting such hearing, it shall post notice of the hearing on the Virginia Regulatory Town Hall and shall send notice of the hearing to any persons requesting to be notified of a regulatory action. In the notice, the Board shall include a list of all substances it intends to schedule by regulation. The Board shall notify the House Courts of Justice and Senate Courts of Justice Committees of any new substance added to Schedule I or II pursuant to this subsection. Any substance added to Schedule I or II pursuant to this subsection shall remain on Schedule I or II for a period of 18 months. Upon expiration of such 18-month period, such substance shall be descheduled unless a general law is enacted adding such substance to Schedule I or II. Nothing in this subsection shall preclude the Board from adding substances to or descheduling or rescheduling all substances enumerated in the schedules pursuant to the provisions of subsections A, B, and E.

E. If any substance is designated, rescheduled, or descheduled as a controlled substance under federal law and notice of such action is given to the Board, the Board may similarly control the substance under this chapter after the expiration of ~~120~~ 30 days from publication in the Federal Register of ~~the a final or interim final order or rule~~ designating a substance as a controlled substance or rescheduling or descheduling a substance ~~without following the provisions specified in subsections A and B~~ by amending its regulations in accordance with the requirements of Article 2 (§ 2.2-4006 et seq.) of the Administrative Process Act. Prior to making such amendments, the Board shall post notice of the hearing on the Virginia Regulatory Town Hall and shall send notice of the hearing to any persons requesting to be notified of a regulatory action. The Board shall include a list of all substances it intends to schedule by regulation in such notice.

F. Authority to control under this section does not extend to distilled spirits, wine, malt beverages, or tobacco as those terms are defined or used in Title 4.1.

G. The Board shall exempt any nonnarcotic substance from a schedule if such substance may, under the provisions of the federal Food, Drug, and Cosmetic Act (21 U.S.C. § 301 et seq.) or state law, be lawfully sold over the counter without a prescription.

## CHAPTER 417

*An Act to amend and reenact § 54.1-2400.1 of the Code of Virginia, relating to definition of mental health service provider.*

[H 1910]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 54.1-2400.1 of the Code of Virginia is amended and reenacted as follows:**

**§ 54.1-2400.1. Mental health service providers; duty to protect third parties; immunity.**

A. As used in this section:

"Certified substance abuse counselor" means a person certified to provide substance abuse counseling in a state-approved public or private substance abuse program or facility.

"Client" or "patient" means any person who is voluntarily or involuntarily receiving mental health services or substance abuse services from any mental health service provider.

"Clinical psychologist" means a person who practices clinical psychology as defined in § 54.1-3600.

"Clinical social worker" means a person who practices social work as defined in § 54.1-3700.

"Licensed practical nurse" means a person licensed to practice practical nursing as defined in § 54.1-3000.

"Licensed substance abuse treatment practitioner" means any person licensed to engage in the practice of substance abuse treatment as defined in § 54.1-3500.

"Marriage and family therapist" means a person licensed to engage in the practice of marriage and family therapy as defined in § 54.1-3500.

"Mental health professional" means a person who by education and experience is professionally qualified and licensed in Virginia to provide counseling interventions designed to facilitate an individual's achievement of human development goals and remediate mental, emotional, or behavioral disorders and associated distresses which interfere with mental health and development.

"Mental health service provider" or "provider" refers to any of the following: (i) a person who provides professional services as a certified substance abuse counselor, clinical psychologist, clinical social worker, licensed substance abuse treatment practitioner, licensed practical nurse, marriage and family therapist, mental health professional, physician, *physician assistant*, professional counselor, psychologist, registered nurse, school psychologist, or social worker; (ii) a professional corporation, all of whose shareholders or members are so licensed; or (iii) a partnership, all of whose partners are so licensed.

"Professional counselor" means a person who practices counseling as defined in § 54.1-3500.

"Psychologist" means a person who practices psychology as defined in § 54.1-3600.

"Registered nurse" means a person licensed to practice professional nursing as defined in § 54.1-3000.

"School psychologist" means a person who practices school psychology as defined in § 54.1-3600.

"Social worker" means a person who practices social work as defined in § 54.1-3700.

B. A mental health service provider has a duty to take precautions to protect third parties from violent behavior or other serious harm only when the client has orally, in writing, or via sign language, communicated to the provider a specific and immediate threat to cause serious bodily injury or death to an identified or readily identifiable person or persons, if the provider reasonably believes, or should believe according to the standards of his profession, that the client has the intent and ability to carry out that threat immediately or imminently. If the third party is a child, in addition to taking precautions to protect the child from the behaviors in the above types of threats, the provider also has a duty to take precautions to protect the child if the client threatens to engage in behaviors that would constitute physical abuse or sexual abuse as defined in § 18.2-67.10. The duty to protect does not attach unless the threat has been communicated to the provider by the threatening client while the provider is engaged in his professional duties.

C. The duty set forth in subsection B is discharged by a mental health service provider who takes one or more of the following actions:

1. Seeks involuntary admission of the client under Article 16 (§ 16.1-335 et seq.) of Chapter 11 of Title 16.1 or Chapter 8 (§ 37.2-800 et seq.) of Title 37.2.

2. Makes reasonable attempts to warn the potential victims or the parent or guardian of the potential victim if the potential victim is under the age of 18.

3. Makes reasonable efforts to notify a law-enforcement official having jurisdiction in the client's or potential victim's place of residence or place of work, or place of work of the parent or guardian if the potential victim is under age 18, or both.

4. Takes steps reasonably available to the provider to prevent the client from using physical violence or other means of harm to others until the appropriate law-enforcement agency can be summoned and takes custody of the client.

5. Provides therapy or counseling to the client or patient in the session in which the threat has been communicated until the mental health service provider reasonably believes that the client no longer has the intent or the ability to carry out the threat.

D. A mental health service provider shall not be held civilly liable to any person for:

1. Breaching confidentiality with the limited purpose of protecting third parties by communicating the threats described in subsection B made by his clients to potential third party victims or law-enforcement agencies or by taking any of the actions specified in subsection C.

2. Failing to predict, in the absence of a threat described in subsection B, that the client would cause the third party serious physical harm.

3. Failing to take precautions other than those enumerated in subsection C to protect a potential third party victim from the client's violent behavior.

**CHAPTER 418**

*An Act to amend and reenact §§ 37.2-203, 37.2-304, 54.1-2400.1, 54.1-2400.6, 54.1-3500, 54.1-3505, and 54.1-3506.1 of the Code of Virginia, relating to registration of peer recovery specialists and qualified mental health professionals.*

[H 2095]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 37.2-203, 37.2-304, 54.1-2400.1, 54.1-2400.6, 54.1-3500, 54.1-3505, and 54.1-3506.1 of the Code of Virginia are amended and reenacted as follows:**

**§ 37.2-203. Powers and duties of Board.**

The Board shall have the following powers and duties:

1. To develop and establish programmatic and fiscal policies governing the operation of state hospitals, training centers, community services boards, and behavioral health authorities;

2. To ensure the development of long-range programs and plans for mental health, developmental, and substance abuse services provided by the Department, community services boards, and behavioral health authorities;

3. To review and comment on all budgets and requests for appropriations for the Department prior to their submission to the Governor and on all applications for federal funds;

4. To monitor the activities of the Department and its effectiveness in implementing the policies of the Board;

5. To advise the Governor, Commissioner, and General Assembly on matters relating to mental health, developmental, and substance abuse services;

6. To adopt regulations that may be necessary to carry out the provisions of this title and other laws of the Commonwealth administered by the Commissioner or the Department;

7. To ensure the development of programs to educate citizens about and elicit public support for the activities of the Department, community services boards, and behavioral health authorities;

8. To ensure that the Department assumes the responsibility for providing for education and training of school-age individuals receiving services in state facilities, pursuant to § 37.2-312; ~~and~~

9. To change the names of state facilities; *and*

10. *To adopt regulations that establish the qualifications, education, and experience for registration of peer recovery specialists by the Board of Counseling.*

Prior to the adoption, amendment, or repeal of any regulation regarding substance abuse services, the Board shall, in addition to the procedures set forth in the Administrative Process Act (§ 2.2-4000 et seq.), present the proposed regulation to the Substance Abuse Services Council, established pursuant to § 2.2-2696, at least 30 days prior to the Board's action for the Council's review and comment.

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

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

1. To supervise and manage the Department and its state facilities.

2. To employ the personnel required to carry out the purposes of this title.

3. To make and enter into all contracts and agreements necessary or incidental to the performance of the Department's duties and the execution of its powers under this title, including contracts with the United States, other states, and agencies and governmental subdivisions of the Commonwealth, consistent with policies and regulations of the Board and applicable federal and state statutes and regulations.

4. To accept, hold, and enjoy gifts, donations, and bequests on behalf of the Department from the United States government, agencies and instrumentalities thereof, and any other source, subject to the approval of the Governor. To these ends, the Commissioner shall have the power to comply with conditions and execute agreements that may be necessary, convenient, or desirable, consistent with policies and regulations of the Board.

5. To accept, execute, and administer any trust in which the Department may have an interest, under the terms of the instruments creating the trust, subject to the approval of the Governor.

6. To transfer between state hospitals and training centers school-age individuals who have been identified as appropriate to be placed in public school programs and to negotiate with other school divisions for placements in order to ameliorate the impact on those school divisions located in a jurisdiction in which a state hospital or training center is located.

7. To provide to the Director of the Commonwealth's designated protection and advocacy system, established pursuant to § 51.5-39.13, a written report setting forth the known facts of critical incidents or deaths of individuals receiving services in facilities within 15 working days of the critical incident or death.

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

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

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

~~11. To certify individuals as peer providers in accordance with regulations adopted by the Board.~~

~~12.~~ To establish and maintain the Commonwealth Mental Health First Aid Program pursuant to § 37.2-312.2.

~~13-~~ 12. To submit a report for the preceding fiscal year by December 1 of each year to the Governor and the Chairmen of the House Appropriations and Senate Finances Committees that provides information on the operation of Virginia's publicly funded behavioral health and developmental services system. The report shall include a brief narrative and data on the number of individuals receiving state facility services or community services board services, including purchased inpatient psychiatric services; the types and amounts of services received by these individuals; and state facility and community services board service capacities, staffing, revenues, and expenditures. The annual report shall describe major new initiatives implemented during the past year and shall provide information on the accomplishment of systemic outcome and performance measures during the year.

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

**§ 54.1-2400.1. Mental health service providers; duty to protect third parties; immunity.**

A. As used in this section:

"Certified substance abuse counselor" means a person certified to provide substance abuse counseling in a state-approved public or private substance abuse program or facility.

"Client" or "patient" means any person who is voluntarily or involuntarily receiving mental health services or substance abuse services from any mental health service provider.

"Clinical psychologist" means a person who practices clinical psychology as defined in § 54.1-3600.

"Clinical social worker" means a person who practices social work as defined in § 54.1-3700.

"Licensed practical nurse" means a person licensed to practice practical nursing as defined in § 54.1-3000.

"Licensed substance abuse treatment practitioner" means any person licensed to engage in the practice of substance abuse treatment as defined in § 54.1-3500.

"Marriage and family therapist" means a person licensed to engage in the practice of marriage and family therapy as defined in § 54.1-3500.

"Mental health professional" means a person who by education and experience is professionally qualified and licensed in Virginia to provide counseling interventions designed to facilitate an individual's achievement of human development goals and remediate mental, emotional, or behavioral disorders and associated distresses which interfere with mental health and development.

"Mental health service provider" or "provider" refers to any of the following: (i) a person who provides professional services as a certified substance abuse counselor, clinical psychologist, clinical social worker, licensed substance abuse treatment practitioner, licensed practical nurse, marriage and family therapist, mental health professional, physician, professional counselor, psychologist, *qualified mental health professional*, registered nurse, *registered peer recovery specialist*, school psychologist, or social worker; (ii) a professional corporation, all of whose shareholders or members are so licensed; or (iii) a partnership, all of whose partners are so licensed.

"Professional counselor" means a person who practices counseling as defined in § 54.1-3500.

"Psychologist" means a person who practices psychology as defined in § 54.1-3600.

*"Qualified mental health professional" means a person who by education and experience is professionally qualified and registered by the Board of Counseling to provide collaborative mental health services for adults or children. A qualified mental health professional shall provide such services as an employee or independent contractor of the Department of*

*Behavioral Health and Developmental Services or a provider licensed by the Department of Behavioral Health and Developmental Services.*

"Registered nurse" means a person licensed to practice professional nursing as defined in § 54.1-3000.

"Registered peer recovery specialist" means a person who by education and experience is professionally qualified and registered by the Board of Counseling to provide collaborative services to assist individuals in achieving sustained recovery from the effects of addiction or mental illness, or both. A registered peer recovery specialist shall provide such services as an employee or independent contractor of the Department of Behavioral Health and Developmental Services, a provider licensed by the Department of Behavioral Health and Developmental Services, a practitioner licensed by or holding a permit issued from the Department of Health Professions, or a facility licensed by the Department of Health.

"School psychologist" means a person who practices school psychology as defined in § 54.1-3600.

"Social worker" means a person who practices social work as defined in § 54.1-3700.

B. A mental health service provider has a duty to take precautions to protect third parties from violent behavior or other serious harm only when the client has orally, in writing, or via sign language, communicated to the provider a specific and immediate threat to cause serious bodily injury or death to an identified or readily identifiable person or persons, if the provider reasonably believes, or should believe according to the standards of his profession, that the client has the intent and ability to carry out that threat immediately or imminently. If the third party is a child, in addition to taking precautions to protect the child from the behaviors in the above types of threats, the provider also has a duty to take precautions to protect the child if the client threatens to engage in behaviors that would constitute physical abuse or sexual abuse as defined in § 18.2-67.10. The duty to protect does not attach unless the threat has been communicated to the provider by the threatening client while the provider is engaged in his professional duties.

C. The duty set forth in subsection B is discharged by a mental health service provider who takes one or more of the following actions:

1. Seeks involuntary admission of the client under Article 16 (§ 16.1-335 et seq.) of Chapter 11 of Title 16.1 or Chapter 8 (§ 37.2-800 et seq.) of Title 37.2.
2. Makes reasonable attempts to warn the potential victims or the parent or guardian of the potential victim if the potential victim is under the age of 18.
3. Makes reasonable efforts to notify a law-enforcement official having jurisdiction in the client's or potential victim's place of residence or place of work, or place of work of the parent or guardian if the potential victim is under age 18, or both.
4. Takes steps reasonably available to the provider to prevent the client from using physical violence or other means of harm to others until the appropriate law-enforcement agency can be summoned and takes custody of the client.
5. Provides therapy or counseling to the client or patient in the session in which the threat has been communicated until the mental health service provider reasonably believes that the client no longer has the intent or the ability to carry out the threat.

6. In the case of a registered peer recovery specialist or a qualified mental health professional who is not otherwise licensed by a health regulatory board at the Department of Health Professions, reports immediately to a licensed mental health service provider to take one or more of the actions set forth in this subsection.

D. A mental health service provider shall not be held civilly liable to any person for:

1. Breaching confidentiality with the limited purpose of protecting third parties by communicating the threats described in subsection B made by his clients to potential third party victims or law-enforcement agencies or by taking any of the actions specified in subsection C.
2. Failing to predict, in the absence of a threat described in subsection B, that the client would cause the third party serious physical harm.
3. Failing to take precautions other than those enumerated in subsection C to protect a potential third party victim from the client's violent behavior.

**§ 54.1-2400.6. Hospitals, other health care institutions, home health and hospice organizations, and assisted living facilities required to report disciplinary actions against and certain disorders of health professionals; immunity from liability; failure to report.**

A. The chief executive officer and the chief of staff of every hospital or other health care institution in the Commonwealth, the director of every licensed home health or hospice organization, the director of every accredited home health organization exempt from licensure, ~~and~~ the administrator of every licensed assisted living facility, ~~and the administrator of every provider licensed by the Department of Behavioral Health and Developmental Services~~ in the Commonwealth shall report within 30 days, except as provided in subsection B, to the Director of the Department of Health Professions, or in the case of a director of a home health or hospice organization, to the Office of Licensure and Certification at the Department of Health (the Office), the following information regarding any person (i) licensed, certified, or registered by a health regulatory board or (ii) holding a multistate licensure privilege to practice nursing or an applicant for licensure, certification or registration unless exempted under subsection E:

1. Any information of which he may become aware in his official capacity indicating that such a health professional is in need of treatment or has been committed or admitted as a patient, either at his institution or any other health care institution, for treatment of substance abuse or a psychiatric illness that may render the health professional a danger to himself, the public or his patients.

2. Any information of which he may become aware in his official capacity indicating, after reasonable investigation and consultation as needed with the appropriate internal boards or committees authorized to impose disciplinary action on a health professional, that there is a reasonable probability that such health professional may have engaged in unethical, fraudulent or unprofessional conduct as defined by the pertinent licensing statutes and regulations. The report required under this subdivision shall be submitted within 30 days of the date that the chief executive officer, chief of staff, director, or administrator determines that a reasonable probability exists.

3. Any disciplinary proceeding begun by the institution, organization, ~~or~~ facility, *or provider* as a result of conduct involving (i) intentional or negligent conduct that causes or is likely to cause injury to a patient or patients, (ii) professional ethics, (iii) professional incompetence, (iv) moral turpitude, or (v) substance abuse. The report required under this subdivision shall be submitted within 30 days of the date of written communication to the health professional notifying him of the initiation of a disciplinary proceeding.

4. Any disciplinary action taken during or at the conclusion of disciplinary proceedings or while under investigation, including but not limited to denial or termination of employment, denial or termination of privileges or restriction of privileges that results from conduct involving (i) intentional or negligent conduct that causes or is likely to cause injury to a patient or patients, (ii) professional ethics, (iii) professional incompetence, (iv) moral turpitude, or (v) substance abuse. The report required under this subdivision shall be submitted within 30 days of the date of written communication to the health professional notifying him of any disciplinary action.

5. The voluntary resignation from the staff of the health care institution, home health or hospice organization, ~~or~~ assisted living facility, *or provider*, or voluntary restriction or expiration of privileges at the institution, organization, ~~or~~ facility, *or provider*, of any health professional while such health professional is under investigation or is the subject of disciplinary proceedings taken or begun by the institution, organization, ~~or~~ facility, *or provider* or a committee thereof for any reason related to possible intentional or negligent conduct that causes or is likely to cause injury to a patient or patients, medical incompetence, unprofessional conduct, moral turpitude, mental or physical impairment, or substance abuse.

Any report required by this section shall be in writing directed to the Director of the Department of Health Professions or to the Director of the Office of Licensure and Certification at the Department of Health, shall give the name and address of the person who is the subject of the report and shall fully describe the circumstances surrounding the facts required to be reported. The report shall include the names and contact information of individuals with knowledge about the facts required to be reported and the names and contact information of individuals from whom the hospital or health care institution, organization, ~~or~~ facility, *or provider* sought information to substantiate the facts required to be reported. All relevant medical records shall be attached to the report if patient care or the health professional's health status is at issue. The reporting hospital, health care institution, home health or hospice organization, ~~or~~ assisted living facility, *or provider* shall also provide notice to the Department or the Office that it has submitted a report to the National Practitioner Data Bank under the Health Care Quality Improvement Act (42 U.S.C. § 11101 et seq.). The reporting hospital, health care institution, home health or hospice organization, ~~or~~ assisted living facility, *or provider* shall give the health professional who is the subject of the report an opportunity to review the report. The health professional may submit a separate report if he disagrees with the substance of the report.

This section shall not be construed to require the hospital, health care institution, home health or hospice organization, ~~or~~ assisted living facility, *or provider* to submit any proceedings, minutes, records, or reports that are privileged under § 8.01-581.17, except that the provisions of § 8.01-581.17 shall not bar (i) any report required by this section or (ii) any requested medical records that are necessary to investigate unprofessional conduct reported pursuant to this subtitle or unprofessional conduct that should have been reported pursuant to this subtitle. Under no circumstances shall compliance with this section be construed to waive or limit the privilege provided in § 8.01-581.17. No person or entity shall be obligated to report any matter to the Department or the Office if the person or entity has actual notice that the same matter has already been reported to the Department or the Office.

B. Any report required by this section concerning the commitment or admission of such health professional as a patient shall be made within five days of when the chief executive officer, chief of staff, director, or administrator learns of such commitment or admission.

C. The State Health Commissioner ~~or the~~ Commissioner of the Department of Social Services, *and Commissioner of Behavioral Health and Developmental Services* shall report to the Department any information of which their agencies may become aware in the course of their duties that a health professional may be guilty of fraudulent, unethical, or unprofessional conduct as defined by the pertinent licensing statutes and regulations. However, the State Health Commissioner shall not be required to report information reported to the Director of the Office of Licensure and Certification pursuant to this section to the Department of Health Professions.

D. Any person making a report by this section, providing information pursuant to an investigation or testifying in a judicial or administrative proceeding as a result of such report shall be immune from any civil liability alleged to have resulted therefrom unless such person acted in bad faith or with malicious intent.

E. Medical records or information learned or maintained in connection with an alcohol or drug prevention function that is conducted, regulated, or directly or indirectly assisted by any department or agency of the United States shall be exempt from the reporting requirements of this section to the extent that such reporting is in violation of 42 U.S.C. § 290dd-2 or regulations adopted thereunder.

F. Any person who fails to make a report to the Department as required by this section shall be subject to a civil penalty not to exceed \$25,000 assessed by the Director. The Director shall report the assessment of such civil penalty to the Commissioner of Health ~~or the~~, Commissioner of Social Services, or *Commissioner of Behavioral Health and Developmental Services*, as appropriate. Any person assessed a civil penalty pursuant to this section shall not receive a license or certification or renewal of such unless such penalty has been paid pursuant to § 32.1-125.01. The Medical College of Virginia Hospitals and the University of Virginia Hospitals shall not receive certification pursuant to § 32.1-137 or Article 1.1 (§ 32.1-102.1 et seq.) of Chapter 4 of Title 32.1 unless such penalty has been paid.

**§ 54.1-3500. Definitions.**

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

"Appraisal activities" means the exercise of professional judgment based on observations and objective assessments of a client's behavior to evaluate current functioning, diagnose, and select appropriate treatment required to remediate identified problems or to make appropriate referrals.

"Board" means the Board of Counseling.

"Certified substance abuse counseling assistant" means a person certified by the Board to practice in accordance with the provisions of § 54.1-3507.2.

"Certified substance abuse counselor" means a person certified by the Board to practice in accordance with the provisions of § 54.1-3507.1.

"Counseling" means the application of principles, standards, and methods of the counseling profession in (i) conducting assessments and diagnoses for the purpose of establishing treatment goals and objectives and (ii) planning, implementing, and evaluating treatment plans using treatment interventions to facilitate human development and to identify and remediate mental, emotional, or behavioral disorders and associated distresses that interfere with mental health.

"Licensed substance abuse treatment practitioner" means a person who: (i) is trained in and engages in the practice of substance abuse treatment with individuals or groups of individuals suffering from the effects of substance abuse or dependence, and in the prevention of substance abuse or dependence; and (ii) is licensed to provide advanced substance abuse treatment and independent, direct, and unsupervised treatment to such individuals or groups of individuals, and to plan, evaluate, supervise, and direct substance abuse treatment provided by others.

"Marriage and family therapist" means a person trained in the assessment and treatment of cognitive, affective, or behavioral mental and emotional disorders within the context of marriage and family systems through the application of therapeutic and family systems theories and techniques.

"Marriage and family therapy" means the assessment and treatment of cognitive, affective, or behavioral mental and emotional disorders within the context of marriage and family systems through the application of therapeutic and family systems theories and techniques and delivery of services to individuals, couples, and families, singularly or in groups, for the purpose of treating such disorders.

"Practice of counseling" means rendering or offering to render to individuals, groups, organizations, or the general public any service involving the application of principles, standards, and methods of the counseling profession, which shall include appraisal, counseling, and referral activities.

"Practice of marriage and family therapy" means the assessment and treatment of cognitive, affective, or behavioral mental and emotional disorders within the context of marriage and family systems through the application of therapeutic and family systems theories and techniques, which shall include assessment, treatment, and referral activities.

"Practice of substance abuse treatment" means rendering or offering to render substance abuse treatment to individuals, groups, organizations, or the general public.

"Professional counselor" means a person trained in the application of principles, standards, and methods of the counseling profession, including counseling interventions designed to facilitate an individual's achievement of human development goals and remediating mental, emotional, or behavioral disorders and associated distresses that interfere with mental health and development.

*"Qualified mental health professional" means a person who by education and experience is professionally qualified and registered by the Board to provide collaborative mental health services for adults or children. A qualified mental health professional shall provide such services as an employee or independent contractor of the Department of Behavioral Health and Developmental Services or a provider licensed by the Department of Behavioral Health and Developmental Services.*

"Referral activities" means the evaluation of data to identify problems and to determine advisability of referral to other specialists.

*"Registered peer recovery specialist" means a person who by education and experience is professionally qualified and registered by the Board to provide collaborative services to assist individuals in achieving sustained recovery from the effects of addiction or mental illness, or both. A registered peer recovery specialist shall provide such services as an employee or independent contractor of the Department of Behavioral Health and Developmental Services, a provider licensed by the Department of Behavioral Health and Developmental Services, a practitioner licensed by or holding a permit issued from the Department of Health Professions, or a facility licensed by the Department of Health.*

"Residency" means a post-internship supervised clinical experience registered with the Board.

"Resident" means an individual who has submitted a supervisory contract to the Board and has received Board approval to provide clinical services in professional counseling under supervision.

"Substance abuse" and "substance dependence" mean a maladaptive pattern of substance use leading to clinically significant impairment or distress.

"Substance abuse treatment" means (i) the application of specific knowledge, skills, substance abuse treatment theory, and substance abuse treatment techniques to define goals and develop a treatment plan of action regarding substance abuse or dependence prevention, education, or treatment in the substance abuse or dependence recovery process and (ii) referrals to medical, social services, psychological, psychiatric, or legal resources when such referrals are indicated.

"Supervision" means the ongoing process, performed by a supervisor, of monitoring the performance of the person supervised and providing regular, documented individual or group consultation, guidance, and instruction with respect to the clinical skills and competencies of the person supervised.

**§ 54.1-3505. Specific powers and duties of the Board.**

In addition to the powers granted in § 54.1-2400, the Board shall have the following specific powers and duties:

1. To cooperate with and maintain a close liaison with other professional boards and the community to ensure that regulatory systems stay abreast of community and professional needs.
2. To conduct inspections to ensure that licensees conduct their practices in a competent manner and in conformance with the relevant regulations.
3. To designate specialties within the profession.
4. To administer the certification of rehabilitation providers pursuant to Article 2 (§ 54.1-3510 et seq.) of this chapter, including prescribing fees for application processing, examinations, certification and certification renewal.
5. [Expired.]
6. To promulgate regulations for the qualifications, education, and experience for licensure of marriage and family therapists. The requirements for clinical membership in the American Association for Marriage and Family Therapy (AAMFT), and the professional examination service's national marriage and family therapy examination may be considered by the Board in the promulgation of these regulations. The educational credit hour, clinical experience hour, and clinical supervision hour requirements for marriage and family therapists shall not be less than the educational credit hour, clinical experience hour, and clinical supervision hour requirements for professional counselors.
7. To promulgate, subject to the requirements of Article 1.1 (§ 54.1-3507 et seq.) of this chapter, regulations for the qualifications, education, and experience for licensure of licensed substance abuse treatment practitioners and certification of certified substance abuse counselors and certified substance abuse counseling assistants. The requirements for membership in NAADAC: the Association for Addiction Professionals and its national examination may be considered by the Board in the promulgation of these regulations. The Board also may provide for the consideration and use of the accreditation and examination services offered by the Substance Abuse Certification Alliance of Virginia. The educational credit hour, clinical experience hour, and clinical supervision hour requirements for licensed substance abuse treatment practitioners shall not be less than the educational credit hour, clinical experience hour, and clinical supervision hour requirements for licensed professional counselors. Such regulations also shall establish standards and protocols for the clinical supervision of certified substance abuse counselors and the supervision or direction of certified substance abuse counseling assistants, and reasonable access to the persons providing that supervision or direction in settings other than a licensed facility.
8. To maintain a registry of persons who meet the requirements for supervision of residents. The Board shall make the registry of approved supervisors available to persons seeking residence status.
9. *To promulgate regulations for the registration of qualified mental health professionals, including qualifications, education, and experience necessary for such registration.*
10. *To promulgate regulations for the registration of peer recovery specialists who meet the qualifications, education, and experience requirements established by regulations of the Board of Behavioral Health and Developmental Services pursuant to § 37.2-203.*

**§ 54.1-3506.1. Client notification.**

Any person licensed, *certified*, or *registered* by the Board and operating in a nonhospital setting shall post a copy of his license, *certification*, or *registration* in a conspicuous place. The posting shall also provide clients with (i) the number of the toll-free complaint line at the Department of Health Professions, (ii) the website address of the Department for the purposes of accessing the licensee's, *certificate holder's*, or *registrant's* record, and (iii) notice of the client's right to report to the Department if he believes the licensee, *certificate holder*, or *registrant* may have engaged in unethical, fraudulent, or unprofessional conduct. *If the licensee, certificate holder, or registrant does not operate in a central location at which clients visit, he or his employer shall provide such information on a disclosure form signed by the client and maintained in the client's record.*

**2. That the Board of Behavioral Health and Developmental Services and the Board of Counseling shall promulgate regulations to implement the provisions of this act to be effective within 280 days of its enactment.**

## CHAPTER 419

*An Act to amend and reenact § 18.2-186.6 of the Code of Virginia, relating to a notification requirement for breach of payroll data.*

[H 2113]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:****1. That § 18.2-186.6 of the Code of Virginia is amended and reenacted as follows:****§ 18.2-186.6. Breach of personal information notification.**

A. As used in this section:

"Breach of the security of the system" means the unauthorized access and acquisition of unencrypted and unredacted computerized data that compromises the security or confidentiality of personal information maintained by an individual or entity as part of a database of personal information regarding multiple individuals and that causes, or the individual or entity reasonably believes has caused, or will cause, identity theft or other fraud to any resident of the Commonwealth. Good faith acquisition of personal information by an employee or agent of an individual or entity for the purposes of the individual or entity is not a breach of the security of the system, provided that the personal information is not used for a purpose other than a lawful purpose of the individual or entity or subject to further unauthorized disclosure.

"Encrypted" means the transformation of data through the use of an algorithmic process into a form in which there is a low probability of assigning meaning without the use of a confidential process or key, or the securing of the information by another method that renders the data elements unreadable or unusable.

"Entity" includes corporations, business trusts, estates, partnerships, limited partnerships, limited liability partnerships, limited liability companies, associations, organizations, joint ventures, governments, governmental subdivisions, agencies, or instrumentalities or any other legal entity, whether for profit or not for profit.

"Financial institution" has the meaning given that term in 15 U.S.C. § 6809 (3).

"Individual" means a natural person.

"Notice" means:

1. Written notice to the last known postal address in the records of the individual or entity;
2. Telephone notice;
3. Electronic notice; or
4. Substitute notice, if the individual or the entity required to provide notice demonstrates that the cost of providing notice will exceed \$50,000, the affected class of Virginia residents to be notified exceeds 100,000 residents, or the individual or the entity does not have sufficient contact information or consent to provide notice as described in subdivisions 1, 2, or 3 of this definition. Substitute notice consists of all of the following:
  - a. E-mail notice if the individual or the entity has e-mail addresses for the members of the affected class of residents;
  - b. Conspicuous posting of the notice on the website of the individual or the entity if the individual or the entity maintains a website; and
  - c. Notice to major statewide media.

Notice required by this section shall not be considered a debt communication as defined by the Fair Debt Collection Practices Act in 15 U.S.C. § 1692a.

Notice required by this section shall include a description of the following:

- (1) The incident in general terms;
- (2) The type of personal information that was subject to the unauthorized access and acquisition;
- (3) The general acts of the individual or entity to protect the personal information from further unauthorized access;
- (4) A telephone number that the person may call for further information and assistance, if one exists; and
- (5) Advice that directs the person to remain vigilant by reviewing account statements and monitoring free credit reports.

"Personal information" means the first name or first initial and last name in combination with and linked to any one or more of the following data elements that relate to a resident of the Commonwealth, when the data elements are neither encrypted nor redacted:

1. Social security number;
2. Driver's license number or state identification card number issued in lieu of a driver's license number; or
3. Financial account number, or credit card or debit card number, in combination with any required security code, access code, or password that would permit access to a resident's financial accounts.

The term does not include information that is lawfully obtained from publicly available information, or from federal, state, or local government records lawfully made available to the general public.

"Redact" means alteration or truncation of data such that no more than the following are accessible as part of the personal information:

1. Five digits of a social security number; or
2. The last four digits of a driver's license number, state identification card number, or account number.

B. If unencrypted or unredacted personal information was or is reasonably believed to have been accessed and acquired by an unauthorized person and causes, or the individual or entity reasonably believes has caused or will cause, identity theft or another fraud to any resident of the Commonwealth, an individual or entity that owns or licenses computerized data that includes personal information shall disclose any breach of the security of the system following discovery or notification of the breach of the security of the system to the Office of the Attorney General and any affected resident of the Commonwealth without unreasonable delay. Notice required by this section may be reasonably delayed to allow the individual or entity to determine the scope of the breach of the security of the system and restore the reasonable integrity of the system. Notice required by this section may be delayed if, after the individual or entity notifies a law-enforcement agency, the law-enforcement agency determines and advises the individual or entity that the notice will impede a criminal or civil investigation, or homeland or national security. Notice shall be made without unreasonable delay after the law-enforcement agency determines that the notification will no longer impede the investigation or jeopardize national or homeland security.

C. An individual or entity shall disclose the breach of the security of the system if encrypted information is accessed and acquired in an unencrypted form, or if the security breach involves a person with access to the encryption key and the individual or entity reasonably believes that such a breach has caused or will cause identity theft or other fraud to any resident of the Commonwealth.

D. An individual or entity that maintains computerized data that includes personal information that the individual or entity does not own or license shall notify the owner or licensee of the information of any breach of the security of the system without unreasonable delay following discovery of the breach of the security of the system, if the personal information was accessed and acquired by an unauthorized person or the individual or entity reasonably believes the personal information was accessed and acquired by an unauthorized person.

E. In the event an individual or entity provides notice to more than 1,000 persons at one time pursuant to this section, the individual or entity shall notify, without unreasonable delay, the Office of the Attorney General and all consumer reporting agencies that compile and maintain files on consumers on a nationwide basis, as defined in 15 U.S.C. § 1681a (p), of the timing, distribution, and content of the notice.

F. An entity that maintains its own notification procedures as part of an information privacy or security policy for the treatment of personal information that are consistent with the timing requirements of this section shall be deemed to be in compliance with the notification requirements of this section if it notifies residents of the Commonwealth in accordance with its procedures in the event of a breach of the security of the system.

G. An entity that is subject to Title V of the Gramm-Leach-Bliley Act (15 U.S.C. § 6801 et seq.) and maintains procedures for notification of a breach of the security of the system in accordance with the provision of that Act and any rules, regulations, or guidelines promulgated thereto shall be deemed to be in compliance with this section.

H. An entity that complies with the notification requirements or procedures pursuant to the rules, regulations, procedures, or guidelines established by the entity's primary or functional state or federal regulator shall be in compliance with this section.

I. Except as provided by subsections J and K, pursuant to the enforcement duties and powers of the Office of the Attorney General, the Attorney General may bring an action to address violations of this section. The Office of the Attorney General may impose a civil penalty not to exceed \$150,000 per breach of the security of the system or a series of breaches of a similar nature that are discovered in a single investigation. Nothing in this section shall limit an individual from recovering direct economic damages from a violation of this section.

J. A violation of this section by a state-chartered or licensed financial institution shall be enforceable exclusively by the financial institution's primary state regulator.

K. A violation of this section by an individual or entity regulated by the State Corporation Commission's Bureau of Insurance shall be enforced exclusively by the State Corporation Commission.

L. The provisions of this section shall not apply to criminal intelligence systems subject to the restrictions of 28 C.F.R. Part 23 that are maintained by law-enforcement agencies of the Commonwealth and the organized Criminal Gang File of the Virginia Criminal Information Network (VCIN), established pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52.

*M. Notwithstanding any other provision of this section, any employer or payroll service provider that owns or licenses computerized data relating to income tax withheld pursuant to Article 16 (§ 58.1-460 et seq.) of Chapter 3 of Title 58.1 shall notify the Office of the Attorney General without unreasonable delay after the discovery or notification of unauthorized access and acquisition of unencrypted and unredacted computerized data containing a taxpayer identification number in combination with the income tax withheld for that taxpayer that compromises the confidentiality of such data and that creates a reasonable belief that an unencrypted and unredacted version of such information was accessed and acquired by an unauthorized person, and causes, or the employer or payroll provider reasonably believes has caused or will cause, identity theft or other fraud. With respect to employers, this subsection applies only to information regarding the employer's employees, and does not apply to information regarding the employer's customers or other non-employees.*

*Such employer or payroll service provider shall provide the Office of the Attorney General with the name and federal employer identification number of the employer as defined in § 58.1-460 that may be affected by the compromise in confidentiality. Upon receipt of such notice, the Office of the Attorney General shall notify the Department of Taxation of the compromise in confidentiality. The notification required under this subsection that does not otherwise require notification under this section shall not be subject to any other notification, requirement, exemption, or penalty contained in this section.*

CHAPTER 420

*An Act to amend and reenact § 2 of the first enactment of Chapters 207 and 604 of the Acts of Assembly of 2008, as amended by Chapters 8 and 322 of the Acts of Assembly of 2013, and § 2 of the first enactment of Chapters 11 and 550 of the Acts of Assembly of 2011, relating to modifications to prior revenue bond bills for institutions of higher education; Virginia State University.*

[H 2249]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 2 of the first enactment of Chapter 207 of the Acts of Assembly of 2008, as amended by Chapters 8 and 322 of the Acts of Assembly of 2013, is amended and reenacted as follows:**

§ 2. Authorization of bonds and BANs.

The Treasury Board is hereby authorized, by and with the consent of the Governor, to sell and issue, pursuant to Article X, Section 9(c), Constitution of Virginia, at one time or from time to time, bonds of the Commonwealth, to be designated "Commonwealth of Virginia Higher Educational Institutions Bonds, Series ....." in an aggregate principal amount not exceeding \$350,565,000, plus amounts needed to fund issuance costs, reserve funds, construction period interest and other financing expenses. The Treasury Board is further hereby authorized, by and with the consent of the Governor, to borrow money in anticipation of the issuance of bonds by the issuance of bond anticipation notes (BANs), including BANs issued as commercial paper. The proceeds of such bonds and BANs, excluding amounts needed to fund issuance costs, reserve funds and other financing expenses, shall be used exclusively for the purpose of providing funds, with any other available funds, for paying all or a portion of the costs of acquiring, constructing, renovating, enlarging, improving and equipping revenue-producing capital projects at institutions of higher learning of the Commonwealth as follows:

Institution	Project Title	Project Code	Amount
George Mason University	President's Park Phase II Renovation	17540	\$15,633,000
George Mason University	Smithsonian CRC Housing	17572	17,804,000
George Mason University	Housing VIII	17570	102,460,000
Old Dominion University	Construct Residence Hall, Phase II	17342	34,779,000
Radford University	Renovate Residence Halls	17565	36,000,000
The College of William and Mary in Virginia	Renovate Graduate Student Dormitories	17555	2,500,000
The College of William and Mary in Virginia	Renovate Campus Center and Trinkle Hall	17554	35,000,000
Virginia Polytechnic Institute and State University	Renovate Ambler Johnson Hall	17557	55,000,000
Virginia Polytechnic Institute and State University	Renovate Owens and West End Market Food Courts	17558	5,000,000
Virginia Polytechnic Institute and State University	New Residence Hall	16682	8,047,000
Virginia State University	Demolish Student Village and Dormitories, Construct Gateway 500, Phase II, and Improve Campus Residence Halls	17531	38,342,000
Total			\$350,565,000

**2. That § 2 of the first enactment of Chapter 604 of the Acts of Assembly of 2008, as amended by Chapters 8 and 322 of the Acts of Assembly of 2013, is amended and reenacted as follows:**

§ 2. Authorization of bonds and BANs.

The Treasury Board is hereby authorized, by and with the consent of the Governor, to sell and issue, pursuant to Article X, Section 9(c), Constitution of Virginia, at one time or from time to time, bonds of the Commonwealth, to be designated "Commonwealth of Virginia Higher Educational Institutions Bonds, Series ....." in an aggregate principal amount not exceeding \$350,565,000, plus amounts needed to fund issuance costs, reserve funds, construction period interest and other financing expenses. The Treasury Board is further hereby authorized, by and with the consent of the Governor, to borrow money in anticipation of the issuance of bonds by the issuance of bond anticipation notes (BANs), including BANs issued as commercial paper. The proceeds of such bonds and BANs, excluding amounts needed to fund issuance costs, reserve funds, and other financing expenses, shall be used exclusively for the purpose of providing funds, with any other

available funds, for paying all or a portion of the costs of acquiring, constructing, renovating, enlarging, improving, and equipping revenue-producing capital projects at institutions of higher learning of the Commonwealth as follows:

Institution	Project Title	Project Code	Amount
George Mason University	President's Park Phase II Renovation	17540	\$15,633,000
George Mason University	Smithsonian CRC - Housing	17572	17,804,000
George Mason University	Housing VIII	17570	102,460,000
Old Dominion University	Construct Residence Hall, Phase II	17342	34,779,000
Radford University	Renovate Residence Halls	17565	36,000,000
The College of William and Mary in Virginia	Renovate Graduate Student Dormitories	17555	2,500,000
The College of William and Mary in Virginia	Renovate Campus Center and Trinkle Hall	17554	35,000,000
Virginia Polytechnic Institute and State University	Renovate Ambler Johnson Hall	17557	55,000,000
Virginia Polytechnic Institute and State University	Renovate Owens and West End Market Food Courts	17558	5,000,000
Virginia Polytechnic Institute and State University	New Residence Hall	16682	8,047,000
Virginia State University	Demolish Student Village and Dormitories, Construct Gateway 500, Phase II, and Improve Campus Residence Halls	17531	38,342,000
Total			\$350,565,000

**3. That § 2 of the first enactment of Chapter 11 of the Acts of Assembly of 2011 is amended and reenacted as follows:**

§ 2. Authorization of bonds and BANs.

The Treasury Board is hereby authorized, by and with the consent of the Governor, to sell and issue, pursuant to Article X, Section 9 (c) of the Constitution of Virginia, at one time or from time to time, bonds of the Commonwealth, to be designated "Commonwealth of Virginia Higher Educational Institutions Bonds, Series ....." in an aggregate principal amount not exceeding \$64,579,000, plus amounts needed to fund issuance costs, reserve funds, construction period interest and other financing expenses. The Treasury Board is further hereby authorized, by and with the consent of the Governor, to borrow money in anticipation of the issuance of bonds by the issuance of bond anticipation notes (BANs), including BANs issued as commercial paper. The proceeds of such bonds and BANs, excluding amounts needed to fund issuance costs, reserve funds and other financing expenses, shall be used exclusively for the purpose of providing funds, with any other available funds, for paying all or a portion of the costs of constructing revenue-producing capital projects at institutions of higher learning of the Commonwealth as follows:

Institution	Project Title	Project Code	Amount
Virginia Commonwealth University	Construct West Grace Street Housing North	17896	\$33,763,000
Virginia State University	Construct Quad, Phase II and Improve Campus Residence Halls	17895	\$30,816,000
Total			\$64,579,000

**4. That § 2 of the first enactment of Chapter 550 of the Acts of Assembly of 2011 is amended and reenacted as follows:**

§ 2. Authorization of bonds and BANs.

The Treasury Board is hereby authorized, by and with the consent of the Governor, to sell and issue, pursuant to Article X, Section 9 (c) of the Constitution of Virginia, at one time or from time to time, bonds of the Commonwealth, to be designated "Commonwealth of Virginia Higher Educational Institutions Bonds, Series ....." in an aggregate principal amount not exceeding \$64,579,000, plus amounts needed to fund issuance costs, reserve funds, construction period interest and other financing expenses. The Treasury Board is further hereby authorized, by and with the consent of the Governor, to borrow money in anticipation of the issuance of bonds by the issuance of bond anticipation notes (BANs), including BANs issued as commercial paper. The proceeds of such bonds and BANs, excluding amounts needed to fund issuance costs, reserve funds and other financing expenses, shall be used exclusively for the purpose of providing funds, with any other

available funds, for paying all or a portion of the costs of constructing revenue-producing capital projects at institutions of higher learning of the Commonwealth as follows:

Institution	Project Title	Project Code	Amount
Virginia Commonwealth University	Construct West Grace Street Housing North	17896	\$33,763,000
Virginia State University	Construct Quad, Phase II and Improve Campus Residence Halls	17895	\$30,816,000
Total			\$64,579,000

5. That an emergency exists and this act is in force from its passage.

CHAPTER 421

An Act to amend and reenact §§ 2.2-1201.1 and 19.2-389 of the Code of Virginia, relating to the Department of Human Resources Management; authority to conduct criminal background checks; state agencies positions that are designated as sensitive; agencies to report to the Department.

[H 2391]

Approved March 13, 2017

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-1201.1 and 19.2-389 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-1201.1. Criminal background checks for certain positions.

The Department shall develop a statewide personnel policy for designating positions within each state agency as sensitive. Such policy shall provide for that a state agency to require any employee, contractor, or final candidate for employment in a position that has been designated as sensitive to submit to fingerprinting and to provide personal descriptive information to be forwarded along with the applicant's fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history information regarding such applicant individual.

Each state agency shall continue to record positions designated as sensitive in the Personnel Management Information System (PMIS) to ensure that the Department has a list of all such positions. For purposes of this section, "sensitive positions" shall mean include those positions generally described as directly responsible:

1. Responsible for the health, safety, and welfare of the general populace citizens or the protection of critical infrastructures;
2. That have access to sensitive information, including access to federal tax information in approved exchange agreements with the Internal Revenue Service or Social Security Administration; and
3. That are otherwise required by state or federal law to be designated as sensitive.

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

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

1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for purposes of the administration of criminal justice and the screening of an employment application or review of employment by a criminal justice agency with respect to its own employees or applicants, and dissemination to the Virginia Parole Board, pursuant to this subdivision, of such information on all state-responsible inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2, 3, and 5 of § 53.1-136 shall include collective dissemination by electronic means every 30 days. For purposes of this subdivision, criminal history record information includes information sent to the Central Criminal Records Exchange pursuant to §§ 37.2-819 and 64.2-2014 when disseminated to any full-time or part-time employee of the State Police, a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth for the purposes of the administration of criminal justice;
2. Such other individuals and agencies that require criminal history record information to implement a state or federal statute or executive order of the President of the United States or Governor that expressly refers to criminal conduct and contains requirements or exclusions expressly based upon such conduct, except that information concerning the arrest of an individual may not be disseminated to a noncriminal justice agency or individual if an interval of one year has elapsed from the date of the arrest and no disposition of the charge has been recorded and no active prosecution of the charge is pending;
3. Individuals and agencies pursuant to a specific agreement with a criminal justice agency to provide services required for the administration of criminal justice pursuant to that agreement which shall specifically authorize access to data, limit the use of data to purposes for which given, and ensure the security and confidentiality of the data;
4. Individuals and agencies for the express purpose of research, evaluative, or statistical activities pursuant to an agreement with a criminal justice agency that shall specifically authorize access to data, limit the use of data to research, evaluative, or statistical purposes, and ensure the confidentiality and security of the data;

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

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

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

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

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

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

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

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

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

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

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

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

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

17. (Effective until July 1, 2018) The Alcoholic Beverage Control Board for the conduct of investigations as set forth in § 4.1-103.1;

17. (Effective July 1, 2018) The Virginia Alcoholic Beverage Control Authority for the conduct of investigations as set forth in § 4.1-103.1;

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

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

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

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

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

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

24. Public and nonprofit private colleges and universities for the purpose of screening individuals who are offered or accept employment;

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

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

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

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

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

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

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

32. Heads of state agencies in which positions have been identified as sensitive for the purpose of determining an individual's fitness for employment in positions designated as sensitive under Department of Human Resource Management policies developed pursuant to § 2.2-1201.1-~~Dissemination of criminal history record information to the agencies shall be limited to those positions generally described as directly responsible for the health, safety and welfare of the general populace or protection of critical infrastructures;~~

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

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

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

36. Public agencies when and as required by federal or state law to investigate (i) applicants as providers of adult foster care and home-based services or (ii) any individual with whom the agency is considering placing an adult on an emergency, temporary, or permanent basis pursuant to § 63.2-1601.1, subject to the restriction that the data shall not be further

disseminated by the agency to any party other than a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination, subject to limitations set out in subsection G;

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

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

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

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

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

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

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

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

45. Other entities as otherwise provided by law.

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

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

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

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

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

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

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

G. Criminal history information provided to public agencies pursuant to subdivision A 36 shall be limited to the convictions on file with the Exchange for any offense specified in § 63.2-1719.

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

**2. That an emergency exists and this act is in force from its passage.**

#### CHAPTER 422

*An Act to amend and reenact § 54.1-2957.19 of the Code of Virginia, relating to genetic counselors; licensing; grandfather clause.*

[S 880]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 54.1-2957.19 of the Code of Virginia is amended and reenacted as follows:**

**§ 54.1-2957.19. Genetic counseling; regulation of the practice; license required; licensure; temporary license.**

A. The Board shall adopt regulations governing the practice of genetic counseling, upon consultation with the Advisory Board on Genetic Counseling. The regulations shall (i) set forth the requirements for licensure to practice genetic counseling, (ii) provide for appropriate application and renewal fees, (iii) include requirements for licensure renewal and continuing education, (iv) be consistent with the American Board of Genetic Counseling's current job description for the profession and the standards of practice of the National Society of Genetic Counselors, and (v) allow for independent practice.

B. It shall be unlawful for a person to practice or hold himself out as practicing genetic counseling in the Commonwealth without a valid, unrevoked license issued by the Board. No unlicensed person may use in connection with his name or place of business the title "genetic counselor," "licensed genetic counselor," "gene counselor," "genetic consultant," or "genetic associate" or any words, letters, abbreviations, or insignia indicating or implying a person holds a genetic counseling license.

C. An applicant for licensure as a genetic counselor shall submit evidence satisfactory to the Board that the applicant (i) has earned a master's degree from a genetic counseling training program that is accredited by the Accreditation Council of Genetic Counseling and (ii) holds a current, valid certificate issued by the American Board of Genetic Counseling or American Board of Medical Genetics to practice genetic counseling.

D. The Board shall waive the requirements of a master's degree and American Board of Genetic Counseling or American Board of Medical Genetics certification for license applicants who (i) apply for licensure before ~~July 1, 2016~~ *December 31, 2018, or within 90 days of the effective date of the regulations promulgated by the Board pursuant to subsection A, whichever is later;* (ii) comply with the Board's regulations relating to the National Society of Genetic Counselors Code of Ethics; (iii) have at least 20 years of documented work experience practicing genetic counseling; (iv) submit two letters of recommendation, one from a genetic counselor and another from a physician; and (v) have completed, within the last five years, 25 hours of continuing education approved by the National Society of Genetic Counselors or the American Board of Genetic Counseling.

E. The Board may grant a temporary license to an applicant who has been granted Active Candidate Status by the American Board of Genetic Counseling and has paid the temporary license fee. Temporary licenses shall be valid for a period of up to one year. An applicant shall not be eligible for temporary license renewal upon expiration of Active Candidate Status as defined by the American Board of Genetic Counseling. A person practicing genetic counseling under a temporary license shall be supervised by a licensed genetic counselor or physician.

#### CHAPTER 423

*An Act to amend and reenact §§ 54.1-104, 54.1-105, 54.1-108, 54.1-113, 54.1-2400, 54.1-2401, 54.1-2403, 54.1-2408.2, and 54.1-2409.1 of the Code of Virginia, relating to the Department of Professional and Occupational Regulation, Department of Health Professions, and health regulatory boards; issuance and regulation of licenses, certifications, registrations, and multistate licensure privileges.*

[S 922]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 54.1-104, 54.1-105, 54.1-108, 54.1-113, 54.1-2400, 54.1-2401, 54.1-2403, 54.1-2408.2, and 54.1-2409.1 of the Code of Virginia are amended and reenacted as follows:**

**§ 54.1-104. Suspension of license, certificate, registration, permit, or authority for dishonor of fee payment; reinstatement.**

The Department of Professional and Occupational Regulation and the Department of Health Professions may suspend the license, certificate, registration, *permit*, or authority it has issued any person who submits a check, money draft, or similar instrument for payment of a fee required by statute or regulation which is not honored by the bank or financial institution named. The suspension shall become effective ~~ten~~ 10 days following delivery by certified mail of written notice of the dishonor and the impending suspension to such person's address. Upon notification of suspension, the person may reinstate the license, certificate, registration, *permit*, or authority upon payment of the fee and penalties required under statute or regulation. Suspension under this provision shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq.).

**§ 54.1-105. Majority of board or panel required to suspend or revoke license, certificate, registration, permit, or multistate licensure privilege; imposition of sanctions.**

An affirmative vote of a majority of those serving on a board who are qualified to vote or those serving on a panel of a health regulatory board convened pursuant to § 54.1-2400 shall be required for any action to suspend or revoke a license, certification, registration, *permit*, or multistate licensure privilege to practice nursing or to impose a sanction on a licensee. However, an affirmative vote of a majority of a quorum of the regulatory board shall be sufficient for summary suspension pursuant to specific statutory authority.

**§ 54.1-108. Disclosure of official records.**

Official records of the Department of Professional and Occupational Regulation or the Department of Health Professions or any board named in this title shall be subject to the disclosure provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.), except for the following:

1. Examination questions, papers, booklets, and answer sheets, which may be disclosed at the discretion of the board administering or causing to be administered such examinations.

2. Applications for admission to examinations or for licensure, *certification, registration, or permitting* and the scoring records maintained by any board or by the Departments on ~~individual licensees~~ *individuals* or applicants. However, this material may be made available during normal working hours for copying by the subject individual *or applicant* at his expense at the office of the Department or board ~~which~~ *that* possesses the material.

3. Records of active investigations being conducted by the Departments or any board.

**§ 54.1-113. Regulatory boards to adjust fees; certain transfer of moneys collected on behalf of health regulatory boards prohibited.**

A. Following the close of any biennium, when the account for any regulatory board within the Department of Professional and Occupational Regulation or the Department of Health Professions maintained under § 54.1-308 or § 54.1-2505 shows expenses allocated to it for the past biennium to be more than ~~ten~~ 10 percent greater or less than moneys collected on behalf of the board, it shall revise the fees levied by it for certification ~~or~~, licensure, *registration, or permit* and renewal thereof so that the fees are sufficient but not excessive to cover expenses.

B. Nongeneral funds generated by fees collected on behalf of the health regulatory boards and accounted for and deposited into a special fund by the Director of the Department of Health Professions shall be held exclusively to cover the expenses of the health regulatory boards, the Health Practitioners' Monitoring Program, and the Department and Board of Health Professions and shall not be transferred to any agency other than the Department of Health Professions, except as provided in §§ 54.1-3011.1 and 54.1-3011.2.

**§ 54.1-2400. General powers and duties of health regulatory boards.**

The general powers and duties of health regulatory boards shall be:

1. To establish the qualifications for registration, certification, licensure, *permit*, or the issuance of a multistate licensure privilege in accordance with the applicable law which are necessary to ensure competence and integrity to engage in the regulated professions.

2. To examine or cause to be examined applicants for certification ~~or~~, licensure, *or registration*. Unless otherwise required by law, examinations shall be administered in writing or shall be a demonstration of manual skills.

3. To register, certify, license, or issue a multistate licensure privilege to qualified applicants as practitioners of the particular profession or professions regulated by such board.

4. To establish schedules for renewals of registration, certification, licensure, *permit*, and the issuance of a multistate licensure privilege.

5. To levy and collect fees for application processing, examination, registration, certification, *permitting*, or licensure or the issuance of a multistate licensure privilege and renewal that are sufficient to cover all expenses for the administration and operation of the Department of Health Professions, the Board of Health Professions, and the health regulatory boards.

6. To promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) that are reasonable and necessary to administer effectively the regulatory system, which shall include provisions for the satisfaction of board-required continuing education for individuals registered, certified, licensed, or issued a multistate licensure privilege by a health regulatory board through delivery of health care services, without compensation, to low-income individuals receiving health services through a local health department or a free clinic organized in whole or primarily for the delivery of those health services. Such regulations shall not conflict with the purposes and intent of this chapter or of Chapter 1 (§ 54.1-100 et seq.) and Chapter 25 (§ 54.1-2500 et seq.).

7. To revoke, suspend, restrict, or refuse to issue or renew a registration, certificate, license, *permit*, or multistate licensure privilege which such board has authority to issue for causes enumerated in applicable law and regulations.

8. To appoint designees from their membership or immediate staff to coordinate with the Director and the Health Practitioners' Monitoring Program Committee and to implement, as is necessary, the provisions of Chapter 25.1 (§ 54.1-2515 et seq.) of this title. Each health regulatory board shall appoint one such designee.

9. To take appropriate disciplinary action for violations of applicable law and regulations, and to accept, in their discretion, the surrender of a license, certificate, registration, *permit*, or multistate licensure privilege in lieu of disciplinary action.

10. To appoint a special conference committee, composed of not less than two members of a health regulatory board or, when required for special conference committees of the Board of Medicine, not less than two members of the Board and one member of the relevant advisory board, or, when required for special conference committees of the Board of Nursing, not less than one member of the Board and one member of the relevant advisory board, to act in accordance with § 2.2-4019 upon receipt of information that a practitioner or permit holder of the appropriate board may be subject to disciplinary action or to consider an application for a license, certification, registration, permit or multistate licensure privilege in nursing. The special conference committee may (i) exonerate; (ii) reinstate; (iii) place the practitioner or permit holder on probation with such terms as it may deem appropriate; (iv) reprimand; (v) modify a previous order; (vi) impose a monetary penalty pursuant to § 54.1-2401, (vii) deny or grant an application for licensure, certification, registration, permit, or multistate licensure privilege; and (viii) issue a restricted license, certification, registration, permit or multistate licensure privilege subject to terms and conditions. The order of the special conference committee shall become final 30 days after service of the order unless a written request to the board for a hearing is received within such time. If service of the decision to a party is accomplished by mail, three days shall be added to the 30-day period. Upon receiving a timely written request for a hearing, the board or a panel of the board shall then proceed with a hearing as provided in § 2.2-4020, and the action of the committee shall be vacated. This subdivision shall not be construed to limit the authority of a board to delegate to an appropriately qualified agency subordinate, as defined in § 2.2-4001, the authority to conduct informal fact-finding proceedings in accordance with § 2.2-4019, upon receipt of information that a practitioner may be subject to a disciplinary action. The recommendation of such subordinate may be considered by a panel consisting of at least five board members, or, if a quorum of the board is less than five members, consisting of a quorum of the members, convened for the purpose of issuing a case decision. Criteria for the appointment of an agency subordinate shall be set forth in regulations adopted by the board.

11. To convene, at their discretion, a panel consisting of at least five board members or, if a quorum of the board is less than five members, consisting of a quorum of the members to conduct formal proceedings pursuant to § 2.2-4020, decide the case, and issue a final agency case decision. Any decision rendered by majority vote of such panel shall have the same effect as if made by the full board and shall be subject to court review in accordance with the Administrative Process Act. No member who participates in an informal proceeding conducted in accordance with § 2.2-4019 shall serve on a panel conducting formal proceedings pursuant to § 2.2-4020 to consider the same matter.

12. To issue inactive licenses or certificates and promulgate regulations to carry out such purpose. Such regulations shall include, but not be limited to, the qualifications, renewal fees, and conditions for reactivation of licenses or certificates.

13. To meet by telephone conference call to consider settlement proposals in matters pending before special conference committees convened pursuant to this section, or matters referred for formal proceedings pursuant to § 2.2-4020 to a health regulatory board or a panel of the board or to consider modifications of previously issued board orders when such considerations have been requested by either of the parties.

14. To request and accept from a certified, registered, or licensed practitioner; *a facility holding a license, certification, registration, or permit*; or a person holding a multistate licensure privilege to practice nursing, in lieu of disciplinary action, a confidential consent agreement. A confidential consent agreement shall be subject to the confidentiality provisions of § 54.1-2400.2 and shall not be disclosed by a practitioner *or facility*. A confidential consent agreement shall include findings of fact and may include an admission or a finding of a violation. A confidential consent agreement shall not be considered either a notice or order of any health regulatory board, but it may be considered by a board in future disciplinary proceedings. A confidential consent agreement shall be entered into only in cases involving minor misconduct where there is little or no injury to a patient or the public and little likelihood of repetition by the practitioner *or facility*. A board shall not enter into a confidential consent agreement if there is probable cause to believe the practitioner *or facility* has (i) demonstrated gross negligence or intentional misconduct in the care of patients or (ii) conducted his practice in such a manner as to be a danger to the health and welfare of his patients or the public. A certified, registered, or licensed practitioner, *a facility holding a license, certification, registration, or permit, or a person holding a multistate licensure privilege to practice nursing* who has entered into two confidential consent agreements involving a standard of care violation, within the 10-year period immediately preceding a board's receipt of the most recent report or complaint being considered, shall receive public discipline for any subsequent violation within the 10-year period unless the board finds there are sufficient facts and circumstances to rebut the presumption that the disciplinary action be made public.

15. When a board has probable cause to believe a practitioner is unable to practice with reasonable skill and safety to patients because of excessive use of alcohol or drugs or physical or mental illness, the board, after preliminary investigation by an informal fact-finding proceeding, may direct that the practitioner submit to a mental or physical examination. Failure

to submit to the examination shall constitute grounds for disciplinary action. Any practitioner affected by this subsection shall be afforded reasonable opportunity to demonstrate that he is competent to practice with reasonable skill and safety to patients. For the purposes of this subdivision, "practitioner" shall include any person holding a multistate licensure privilege to practice nursing.

**§ 54.1-2401. Monetary penalty.**

Any person licensed, registered, *permitted*, or certified or issued a multistate licensure privilege by any health regulatory board who violates any provision of statute or regulation pertaining to that board and who is not criminally prosecuted, may be subject to the monetary penalty provided in this section. If the board or any special conference committee determines that a respondent has violated any provision of statute or regulation pertaining to the board, it shall determine the amount of any monetary penalty to be imposed for the violation, which shall not exceed \$5,000 for each violation. The penalty may be sued for and recovered in the name of the Commonwealth. All such monetary penalties shall be deposited in the Literary Fund.

**§ 54.1-2403. Certain advertising prohibited.**

No person licensed, *certified, registered, or permitted* by one of the boards within the Department shall use any form of advertising that contains any false, fraudulent, misleading, or deceptive statement or claim.

**§ 54.1-2408.2. Minimum period for reinstatement after revocation.**

When the certificate, registration, *permit*, or license of any person certified, registered, *permitted*, or licensed by one of the health regulatory boards has been revoked, the board may, after three years and upon the payment of a fee prescribed by the board, consider an application for reinstatement of a certificate, registration, *permit*, or license in the same manner as the original certificates, registrations, *permits*, or licenses are granted; however, if a license has been revoked pursuant to subdivision A 19 of § 54.1-2915, the board shall not consider an application for reinstatement until five years have passed since revocation. A board shall conduct an investigation and review an application for reinstatement after revocation to determine whether there are causes for denial of the application. The burden of proof shall be on the applicant to show by clear and convincing evidence that he is safe and competent to practice. The reinstatement of a certificate, registration, *permit*, or license shall require the affirmative vote of three-fourths of the members at the hearing. In the discretion of the board, such reinstatement may be granted without further examination.

**§ 54.1-2409.1. Criminal penalties for practicing certain professions and occupations without appropriate licensure, certificate, etc.**

Any person who, without holding a current valid license, *certificate, registration, permit*, or multistate licensure privilege, issued by a regulatory board pursuant to this title (i) performs an invasive procedure for which a license or multistate licensure privilege is required; (ii) administers, prescribes, sells, distributes, or dispenses a controlled drug; or (iii) practices a profession or occupation after having his license, *certificate, registration, permit*, or multistate licensure privilege to do so suspended or revoked shall be guilty of a Class 6 felony.

## CHAPTER 424

*An Act to amend and reenact § 58.1-512 of the Code of Virginia, relating to land preservation tax credit; per taxpayer limitation.*

[S 963]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 58.1-512 of the Code of Virginia is amended and reenacted as follows:**

**§ 58.1-512. Land preservation tax credits for individuals and corporations.**

A. For taxable years beginning on or after January 1, 2000, there shall be allowed as a credit against the tax liability imposed by §§ 58.1-320 and 58.1-400, an amount equal to 50 percent of the fair market value of any land or interest in land located in Virginia which is conveyed for the purpose of agricultural and forestal use, open space, natural resource, and/or biodiversity conservation, or land, agricultural, watershed and/or historic preservation, as an unconditional donation by the landowner/taxpayer to a public or private conservation agency eligible to hold such land and interests therein for conservation or preservation purposes. For such conveyances made on or after January 1, 2007, the tax credit shall be 40 percent of the fair market value of the land or interest in land so conveyed.

B. The fair market value of qualified donations made under this section shall be determined in accordance with § 58.1-512.1 and substantiated by a "qualified appraisal" prepared by a "qualified appraiser," as those terms are defined under applicable federal law and regulations governing charitable contributions. The value of the donated interest in land that qualifies for credit under this section, as determined according to appropriate federal law and regulations, shall be subject to the limits established by United States Internal Revenue Code § 170(e). In order to qualify for a tax credit under this section, the qualified appraisal shall be signed by the qualified appraiser, who must be licensed in the Commonwealth of Virginia as provided in § 54.1-2011, and a copy of the appraisal shall be submitted to the Department. In the event that any appraiser falsely or fraudulently overstates the value of the contributed property in an appraisal that the appraiser has signed, the Department may disallow further appraisals signed by the appraiser and shall refer the appraiser to the Real Estate Appraiser Board for appropriate disciplinary action pursuant to § 54.1-2013, which may include, but need not be limited to,

revocation of the appraiser's license. Any appraisal that, upon audit by the Department, is determined to be false or fraudulent, may be disregarded by the Department in determining the fair market value of the property and the amount of tax credit to be allowed under this section.

C. 1. The amount of the credit that may be claimed by each taxpayer, including credit claimed by applying unused credits as provided under subsection C of § 58.1-513, shall not exceed \$50,000 for 2000 taxable years; \$75,000 for 2001 taxable years; \$100,000 for each of 2002 through 2008 taxable years; \$50,000 for each of 2009, 2010, and 2011 taxable years; \$100,000 for each of 2012, 2013, and 2014 taxable years; \$20,000 for each of 2015 ~~and~~, 2016, *and* 2017 taxable years; and \$50,000 for ~~2017~~ 2018 taxable years and for each taxable year thereafter. However, for any fee simple donation of land conveyed to the Commonwealth on or after January 1, 2015, the amount of the credit claimed shall not exceed \$100,000 for each taxable year, provided that no part of the charitable contributions deduction under § 170 of the Internal Revenue Code related to such fee simple donation is allowable by reason of a sale or exchange of property. In addition, for each taxpayer, in any one taxable year the credit used may not exceed the amount of individual, fiduciary or corporate income tax otherwise due. Any portion of the credit that is unused in any one taxable year may be carried over for a maximum of 10 consecutive taxable years following the taxable year in which the credit originated until fully expended. A credit shall not be reduced by the amount of unused credit that could have been claimed in a prior year by the taxpayer but was unclaimed. For taxpayers affected by the credit reduction for taxable years 2009, 2010, 2011, and 2015 and thereafter, any portion of the credit that is unused in any one taxable year may be carried over for a maximum of 13 consecutive taxable years following the taxable year in which the credit originated until fully expended.

2. Qualified donations shall include the conveyance of a fee interest in real property or the conveyance in perpetuity of a less-than-fee interest in real property, such as a conservation restriction, preservation restriction, agricultural preservation restriction, or watershed preservation restriction, provided that such less-than-fee interest qualifies as a charitable deduction under § 170(h) of the United States Internal Revenue Code of 1986, as amended.

The Department of Conservation and Recreation shall compile an annual report on qualified donations of less-than-fee interests accepted by any public or private conservation agency in the respective calendar year and shall submit the report by December 1 of each year to the Chairmen of the House Committee on Appropriations, House Committee on Finance, and the Senate Committee on Finance. In preparing such report, the Department of Conservation and Recreation shall consult and coordinate with the Department of Taxation and the Departments of Forestry and Agriculture and Consumer Services to provide an estimate of the number of acres of land currently being used for "production agriculture and silviculture" as defined in § 3.2-300 that have been protected by qualified donations of less-than-fee interests. This report shall include information, when available, on land qualifying for credits being used for "production agriculture and silviculture" that have onsite operational best management practices, which are designed to reduce the amount of nutrients and sediment entering public waters. In addition, the report shall include information, when available, on riparian buffers, both vegetated/forested buffers and no-plow buffers, required by deed restriction on land qualifying for credits in order to protect water quality. This information shall be reported in summary fashion as appropriate to preserve confidentiality of information. Qualified donations shall not include the conveyance of a fee interest, or a less-than-fee interest, in real property by a charitable organization that (i) meets the definition of "holder" in § 10.1-1009 and (ii) holds one or more conservation easements acquired pursuant to the authority conferred on a "holder" by § 10.1-1010.

3. Any fee interest, or a less-than-fee interest, in real property that has been dedicated as open space within, or as part of, a residential subdivision or any other type of residential or commercial development; dedicated as open space in, or as part of, any real estate development plan; or dedicated for the purpose of fulfilling density requirements to obtain approvals for zoning, subdivision, site plan, or building permits shall not be a qualified donation under this article.

4. Qualified donations shall be eligible for the tax credit herein described if such donations are made to the Commonwealth of Virginia, an instrumentality thereof, or a charitable organization described in § 501(c)(3) of the United States Internal Revenue Code of 1986, as amended, if such charitable organization (i) meets the requirements of § 509(a)(2) or (ii) meets the requirements of § 509(a)(3) and is controlled by an organization described in § 509(a)(2).

5. The preservation, agricultural preservation, historic preservation or similar use and purpose of such property shall be assured in perpetuity. In the case of conveyances of a fee interest to a charitable organization that is a "holder" as defined in § 10.1-1009, the credit shall not be allowed until the charitable organization agrees that subsequent conveyances of the fee interest in the property will be (i) subject to a previous conveyance in perpetuity of a conservation easement, as that term is defined in § 10.1-1009, or subject to the conveyance in perpetuity of an open-space easement, as that term is defined in § 10.1-1700, or (ii) conveyed to the Commonwealth of Virginia or to a federal conservation agency. No credit shall be allowed with respect to any subsequent conveyances by the charitable organization.

D. The issuance of tax credits under this article for donations made on and after January 1, 2007, shall be in accordance with procedures and deadlines established by the Department and shall be administered under the following conditions:

1. The taxpayer shall apply for a credit after completing the donation by submitting a form or forms prescribed by the Department in consultation with the Department of Conservation and Recreation. If the application requests a credit of \$1 million or more or if the donation meets the conditions of subdivision 3 c, then a copy of the application shall also be filed with the Department of Conservation and Recreation by the taxpayer. The application shall include, but not be limited to:

- a. A description of the conservation purpose or purposes being served by the donation;
- b. The fair market value of land being donated in the absence of any easement or other restriction;
- c. The public benefit derived from the donation;

- d. The extent to which water quality best management practices will be implemented on the property; and
- e. Whether the property is fully or partially forested and a forest management plan is included in the terms of the donation.

2. Applications for otherwise qualified donations of a less-than-fee interest shall be accompanied by an affidavit describing how the donated interest in land meets the requirements of § 170(h) of the United States Internal Revenue Code of 1986, as amended, and the regulations adopted thereunder. The application with accompanying affidavit shall be submitted to the Department of Taxation, with a copy also provided to the Department of Conservation and Recreation.

3. a. No credit in the amount of \$1 million or more shall be issued with respect to a donation unless the conservation value of the donation has been verified by the Director of the Department of Conservation and Recreation, based on the criteria adopted by the Virginia Land Conservation Foundation for this purpose. Such criteria and subsequent amendments shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq.), but the Virginia Land Conservation Foundation shall provide for adequate public participation, including adequate notice and opportunity to provide comments on the proposed criteria. The Director shall act on applications within 90 days of his receipt of a complete application and shall notify the taxpayer and the Department of Taxation of his action.

b. For purposes of determining whether a credit requires verification of the conservation value, the credits allowed under this article with respect to donations of any other portion of a recorded parcel of land within the preceding 11 years shall be aggregated with the credit claimed for the current donation. This subdivision shall not apply if (i) all owners of the parcel who have been allowed credit for a qualified donation are not affiliated with the person or entity seeking credit for the current donation of a different portion of the parcel and (ii) in the case of an individual seeking credit, the individual has not previously made a qualified donation for any portion of the parcel and is not an immediate family member of any such owners.

c. If (i) the real property that is the subject of the donation was partitioned from or part of another parcel of land and any other portion of such parcel, or any land partitioned from such parcel of land, has been allowed a tax credit under this article (or an application for tax credit is pending) within three years of such donation and (ii) the tax credit that would otherwise be allowed to the donor for such donation is at least \$250,000, then no credit under this article shall be issued with respect to such donation described in clause (i) unless the conservation value of the donation has been verified by the Director of the Department of Conservation and Recreation. The Director shall act on applications within 90 days of his receipt of a complete application and shall notify the taxpayer and the Department of Taxation of his action. Nothing in this subdivision shall be construed or interpreted (a) as allowing additional tax credit for any land or interest in land previously conveyed for which tax credit has already been allowed under this article or (b) affecting the validity of any tax credit allowed under this article for a prior conveyance of any land or interest in land.

4. a. Tax credits shall be issued on a calendar year basis, and in no case shall the Department issue more than the maximum allowed for the calendar year. The maximum amount of credits that may be issued in a calendar year shall be \$100 million plus any credits previously issued under this article but subsequently disallowed or invalidated by the Department. Credits previously issued but subsequently disallowed or invalidated shall be reissued in a subsequent calendar year. All credits shall be issued in the order that each complete application is filed. For filings by mail or a recognized commercial delivery service, the postmark or confirmation of shipment shall determine the date of filing. If within 30 days after an application for credits has been filed the Tax Commissioner provides written notice to the donor that he has determined that the preparation of a second qualified appraisal is warranted, the application shall not be deemed complete until the fair market value of the donation has been finally determined by the Tax Commissioner. The Tax Commissioner shall make a final determination within 180 days of notifying the donor, unless the donor has filed an appeal. The donor shall have the right to appeal any decision of the Department in accordance with the provisions of Chapter 18 (§ 58.1-1800 et seq.). If more than one complete application is filed at the same time, the credits with respect to those applications shall be issued in the order that the conveyances were recorded in the appropriate circuit court of the Commonwealth. In the event that a credit requires verification of the conservation value by the Department of Conservation and Recreation and such verification has not been received at the time the maximum \$100 million allowed is reached for the calendar year of the donation, such credit shall not be issued for that calendar year but shall be issued in the calendar year that the conservation value of the credit is verified by the Department of Conservation and Recreation.

No credit shall be allowed for any land or interest in land conveyed on or after July 1, 2015, unless a complete application for tax credit with regard to the conveyance has been filed with the Department by December 31 of the year following the calendar year of the conveyance. For filings by mail or a recognized commercial delivery service, the postmark or confirmation of shipment shall determine the date of filing. Solely for purposes of this condition, any application for which the Tax Commissioner has given written notice to the donor that the preparation of a second qualified appraisal is warranted shall be deemed timely filed, provided that the application was otherwise complete as of such filing deadline.

b. Beginning with calendar year 2008, the \$100 million amount contained in subdivision 4 a shall be increased by an amount equal to \$100 million multiplied by the percentage by which the consumer price index for all-urban consumers published by the United States Department of Labor (CPI-U) for the 12-month period ending August 31 of the preceding year exceeds the CPI-U for the 12-month period ending August 31, 2006.

c. Beginning with calendar year 2015, the maximum amount of credits that may be issued in a calendar year shall not exceed \$75 million. In no case shall the Department issue any tax credit for a donation from any allocation or pool of tax credits attributable to a calendar year prior to the year in which the complete tax credit application for the donation was filed.

Beginning with the submission due on or before December 20, 2015, and in each year thereafter, the Governor shall include in "The Budget Bill" submitted pursuant to subsection A of § 2.2-1509 or in his amendments to the general appropriation act in effect submitted pursuant to subsection E of § 2.2-1509 a recommended appropriation from the general fund equal to the difference between the amount calculated pursuant to subdivision b and \$75 million, but not more than \$20 million, to be allocated as follows: 80 percent to the Virginia Land Conservation Fund to be used in accordance with § 10.1-1020, with no less than 50 percent of such appropriation to be used for fee simple acquisitions with public access or acquisitions of easements with public access; 10 percent to the Virginia Battlefield Preservation Fund to be used in accordance with § 10.1-2202.4; and 10 percent to the Virginia Farmland Preservation Fund to be used in accordance with § 3.2-201.

5. a. Any taxpayer that has been issued a tax credit by the Department shall be allowed to use such credit for his or its taxable year that begins in the calendar year for which such credit was issued and for succeeding taxable years in accordance with the 10 consecutive taxable year carryforward provisions of this article, except for any taxpayer affected by the credit limitation for taxable years 2009, 2010, 2011, and 2015 and taxable years thereafter. Such a taxpayer shall be allowed to use such credit for his or its taxable year that begins in the calendar year for which such credit was issued and for succeeding taxable years in accordance with the 13 consecutive taxable year carryforward provisions of this article.

b. Any taxpayer to whom a credit has been transferred may use such credit for the taxable year in which the transfer occurred and unused amounts may be carried forward to succeeding taxable years, but in no event may such transferred credit be used more than 11 years after it was originally issued by the Department or in any taxable year of such taxpayer that ended prior to the date of transfer, except for any taxpayer affected by the credit limitation for taxable years 2009, 2010, 2011, and 2015 and taxable years thereafter. Such a taxpayer may use such credit for the taxable year in which the transfer occurred and unused amounts may be carried forward to succeeding taxable years, but in no event may such transferred credit be used more than 14 years after it was originally issued by the Department or in any taxable year of such taxpayer that ended prior to the date of transfer.

6. Neither the verification of conservation value by the Department of Conservation and Recreation nor the issuance of a credit by the Department of Taxation shall in any way be construed or interpreted as prohibiting the Department of Taxation or the Tax Commissioner from auditing any credit claimed pursuant to the provisions of this article or from assessing tax relating to the claiming of any credit under this article.

E. In any review or appeal before the Tax Commissioner or in any court in the Commonwealth the burden of proof shall be on the taxpayer to show that the fair market value and conservation value at the time of the qualified donation is consistent with this section and that all requirements of this article have been satisfied.

## CHAPTER 425

*An Act to amend and reenact § 58.1-439.12:03 of the Code of Virginia, relating to motion picture production tax credit.*

[S 982]

Approved March 13, 2017

### **Be it enacted by the General Assembly of Virginia:**

#### **1. That § 58.1-439.12:03 of the Code of Virginia is amended and reenacted as follows:**

##### **§ 58.1-439.12:03. Motion picture production tax credit.**

A. For taxable years beginning on and after January 1, 2011, but prior to January 1, ~~2019~~ 2022, any motion picture production company with qualifying expenses of at least \$250,000 with respect to a motion picture production filmed in Virginia shall be allowed a refundable credit against the taxes imposed by § 58.1-320 or 58.1-400 in an amount equal to 15 percent of the production company's qualifying expenses or 20 percent of such expenses if the production is filmed in an economically distressed area of the Commonwealth. The Virginia Economic Development Partnership Authority shall designate which areas of the Commonwealth are deemed to be economically distressed areas. The credit shall be computed based on all of the taxpayer's qualifying expenses incurred with respect to the production, not just the qualifying expenses incurred during the taxable year. The refundable tax credits allowed under this section are for one tax year only. Where a motion picture production continues for more than one year, a separate application for each tax year the production continues must be made. The grant of a refundable tax credit for a motion picture film production does not create a presumption that the production will receive a refundable tax credit for subsequent tax years. Effective on January 1, 2013, for purposes of eligibility for refundable tax credits, a motion picture film production shall include digital interactive media production.

"Qualifying expenses" means the sum of the following amounts spent in the Commonwealth by a production company in connection with the production of a motion picture filmed in the Commonwealth:

1. Goods and services leased or purchased. For goods with a purchase price of \$25,000 or more, the amount included in qualifying expenses is the purchase price less the fair market value of the good at the time the production is completed.

2. Compensation and wages, except in the case of each individual who directly or indirectly receives compensation in excess of \$1 million for personal services with respect to a single production. In such a case, only the first \$1 million of salary shall be considered a qualifying expense. An individual is deemed to receive compensation indirectly when a production company pays a personal service company or an employee leasing company that pays the individual.

B. 1. In addition to the refundable credit authorized under subsection A, such production company shall be allowed an additional refundable credit equal to 10 percent of the total aggregate payroll for Virginia residents employed in connection with the production of a film in the Commonwealth when total production costs in the Commonwealth are at least \$250,000 but not more than \$1 million. This additional credit shall be equal to 20 percent of the total aggregate payroll for Virginia residents employed in connection with such production when total production costs in the Commonwealth exceed \$1 million.

2. In addition to the credits authorized under subsection A and subdivision B 1, such production company shall be allowed an additional refundable credit equal to 10 percent of the total aggregate payroll for Virginia residents employed for the first time as actors or members of a production crew in connection with the production of a film in the Commonwealth.

C. 1. For purposes of this section, in the case of an episodic television series, an entire season of episodes shall be deemed to be one production.

2. No credit shall be allowed under this section for any production that (i) is political advertising, (ii) is a television production of a news program or live sporting event, (iii) contains obscene material, or (iv) is a reality television production.

D. 1. The issuance of refundable tax credits under this section shall be in accordance with procedures, qualifying criteria, and deadlines established by the Department and the Virginia Film Office. The qualifying criteria established by the Virginia Film Office shall take into account whether the production involves physical production within the Commonwealth of Virginia, the number of residents of Virginia that will be employed in the production and the level of compensation they will be paid, the extent to which the production will contribute to the support and expansion of existing production companies in Virginia, the extent to which the production will impact existing local businesses and the local economy, the extent to which the production will involve existing and new companies located in Virginia, and other relevant considerations. The taxpayer shall apply for a credit by submitting such forms as prescribed by the Virginia Film Office, prior to the start of production in Virginia.

2. Any taxpayer seeking credits under this section must enter into a memorandum of understanding with the Virginia Film Office that at a minimum provides the requirements that the taxpayer must meet in order to receive the credits, including but not limited to the estimated amount of money to be spent in Virginia, the timeline for completing production in Virginia, and the maximum amount of credits allocated to the taxpayer.

3. Once the taxpayer has satisfied all of the requirements in the memorandum of understanding to the satisfaction of the Virginia Film Office and completed production in Virginia, the taxpayer may claim the applicable amount of credits up to the amount that has been allocated by the Virginia Film Office on a return filed for the taxable year in which the Virginia production activities are completed. The return must state the name of the production, provide a description of the production, and include a detailed accounting of the qualifying expenses with respect to which a credit is claimed.

E. A taxpayer allowed a credit under this section must maintain and make available for inspection any information or records required by the Tax Commissioner. The taxpayer has the burden of proving eligibility for a credit and the amount of the credit. The Tax Commissioner shall consult with the Virginia Film Office in order to determine the amount of qualifying expenses.

F. For purposes of this section, the amount of any credit attributable to a partnership, electing small business corporation (S corporation), or limited liability company may be allocated to the individual partners, shareholders, or members, respectively, in proportion to their ownership or interest in such business entities.

G. The total amount of credits allocated to all taxpayers under this section shall not exceed \$2.5 million in the 2010-2012 biennium, \$5 million in the 2012-2014 biennium, and \$6.5 million in fiscal year 2015 and each fiscal year thereafter.

H. The Department of Taxation, in consultation with the Virginia Film Office, must publish by November 1 of each year for the 12-month period ending the preceding December 31 the following information:

1. Location of sites used in a production for which a credit was claimed;
2. Qualifying expenses for which a credit was claimed, classified by whether the expenses were for goods, services, or compensation paid by the production company;
3. Number of people employed in the Commonwealth with respect to credits claimed; and
4. Total cost to the Commonwealth's general fund of the credits claimed.

Notwithstanding any provision of § 58.1-3 or any other law, such information shall be published by the Department, even if such information is not classified, so as to prevent the identification of particular taxpayers, reports, or returns and items.

I. The Tax Commissioner shall develop guidelines implementing the provisions of this section, including but not limited to the definition of "qualifying expenses" and setting forth the recordkeeping requirements applicable to production companies claiming this credit. Such guidelines shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

## CHAPTER 426

*An Act to amend and reenact §§ 37.2-203, 37.2-304, 54.1-2400.1, 54.1-2400.6, 54.1-3500, 54.1-3505, and 54.1-3506.1 of the Code of Virginia, relating to registration of peer recovery specialists and qualified mental health professionals.*

[S 1020]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 37.2-203, 37.2-304, 54.1-2400.1, 54.1-2400.6, 54.1-3500, 54.1-3505, and 54.1-3506.1 of the Code of Virginia are amended and reenacted as follows:**

**§ 37.2-203. Powers and duties of Board.**

The Board shall have the following powers and duties:

1. To develop and establish programmatic and fiscal policies governing the operation of state hospitals, training centers, community services boards, and behavioral health authorities;
2. To ensure the development of long-range programs and plans for mental health, developmental, and substance abuse services provided by the Department, community services boards, and behavioral health authorities;
3. To review and comment on all budgets and requests for appropriations for the Department prior to their submission to the Governor and on all applications for federal funds;
4. To monitor the activities of the Department and its effectiveness in implementing the policies of the Board;
5. To advise the Governor, Commissioner, and General Assembly on matters relating to mental health, developmental, and substance abuse services;
6. To adopt regulations that may be necessary to carry out the provisions of this title and other laws of the Commonwealth administered by the Commissioner or the Department;
7. To ensure the development of programs to educate citizens about and elicit public support for the activities of the Department, community services boards, and behavioral health authorities;
8. To ensure that the Department assumes the responsibility for providing for education and training of school-age individuals receiving services in state facilities, pursuant to § 37.2-312; ~~and~~
9. To change the names of state facilities; *and*
10. *To adopt regulations that establish the qualifications, education, and experience for registration of peer recovery specialists by the Board of Counseling.*

Prior to the adoption, amendment, or repeal of any regulation regarding substance abuse services, the Board shall, in addition to the procedures set forth in the Administrative Process Act (§ 2.2-4000 et seq.), present the proposed regulation to the Substance Abuse Services Council, established pursuant to § 2.2-2696, at least 30 days prior to the Board's action for the Council's review and comment.

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

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

1. To supervise and manage the Department and its state facilities.
2. To employ the personnel required to carry out the purposes of this title.
3. To make and enter into all contracts and agreements necessary or incidental to the performance of the Department's duties and the execution of its powers under this title, including contracts with the United States, other states, and agencies and governmental subdivisions of the Commonwealth, consistent with policies and regulations of the Board and applicable federal and state statutes and regulations.
4. To accept, hold, and enjoy gifts, donations, and bequests on behalf of the Department from the United States government, agencies and instrumentalities thereof, and any other source, subject to the approval of the Governor. To these ends, the Commissioner shall have the power to comply with conditions and execute agreements that may be necessary, convenient, or desirable, consistent with policies and regulations of the Board.
5. To accept, execute, and administer any trust in which the Department may have an interest, under the terms of the instruments creating the trust, subject to the approval of the Governor.
6. To transfer between state hospitals and training centers school-age individuals who have been identified as appropriate to be placed in public school programs and to negotiate with other school divisions for placements in order to ameliorate the impact on those school divisions located in a jurisdiction in which a state hospital or training center is located.
7. To provide to the Director of the Commonwealth's designated protection and advocacy system, established pursuant to § 51.5-39.13, a written report setting forth the known facts of critical incidents or deaths of individuals receiving services in facilities within 15 working days of the critical incident or death.
8. To work with the appropriate state and federal entities to ensure that any individual who has received services in a state facility for more than one year has possession of or receives prior to discharge any of the following documents, when they are needed to obtain the services contained in his discharge plan: a Department of Motor Vehicles approved identification card that will expire 90 days from issuance, a copy of his birth certificate if the individual was born in the

Commonwealth, or a social security card from the Social Security Administration. State facility directors, as part of their responsibilities pursuant to § 37.2-837, shall implement this provision when discharging individuals.

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

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

~~11. To certify individuals as peer providers in accordance with regulations adopted by the Board.~~

~~12. To establish and maintain the Commonwealth Mental Health First Aid Program pursuant to § 37.2-312.2.~~

~~13.~~ 12. To submit a report for the preceding fiscal year by December 1 of each year to the Governor and the Chairmen of the House Appropriations and Senate Finances Committees that provides information on the operation of Virginia's publicly funded behavioral health and developmental services system. The report shall include a brief narrative and data on the number of individuals receiving state facility services or community services board services, including purchased inpatient psychiatric services; the types and amounts of services received by these individuals; and state facility and community services board service capacities, staffing, revenues, and expenditures. The annual report shall describe major new initiatives implemented during the past year and shall provide information on the accomplishment of systemic outcome and performance measures during the year.

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

**§ 54.1-2400.1. Mental health service providers; duty to protect third parties; immunity.**

A. As used in this section:

"Certified substance abuse counselor" means a person certified to provide substance abuse counseling in a state-approved public or private substance abuse program or facility.

"Client" or "patient" means any person who is voluntarily or involuntarily receiving mental health services or substance abuse services from any mental health service provider.

"Clinical psychologist" means a person who practices clinical psychology as defined in § 54.1-3600.

"Clinical social worker" means a person who practices social work as defined in § 54.1-3700.

"Licensed practical nurse" means a person licensed to practice practical nursing as defined in § 54.1-3000.

"Licensed substance abuse treatment practitioner" means any person licensed to engage in the practice of substance abuse treatment as defined in § 54.1-3500.

"Marriage and family therapist" means a person licensed to engage in the practice of marriage and family therapy as defined in § 54.1-3500.

"Mental health professional" means a person who by education and experience is professionally qualified and licensed in Virginia to provide counseling interventions designed to facilitate an individual's achievement of human development goals and remediate mental, emotional, or behavioral disorders and associated distresses which interfere with mental health and development.

"Mental health service provider" or "provider" refers to any of the following: (i) a person who provides professional services as a certified substance abuse counselor, clinical psychologist, clinical social worker, licensed substance abuse treatment practitioner, licensed practical nurse, marriage and family therapist, mental health professional, physician, professional counselor, psychologist, *qualified mental health professional*, registered nurse, *registered peer recovery specialist*, school psychologist, or social worker; (ii) a professional corporation, all of whose shareholders or members are so licensed; or (iii) a partnership, all of whose partners are so licensed.

"Professional counselor" means a person who practices counseling as defined in § 54.1-3500.

"Psychologist" means a person who practices psychology as defined in § 54.1-3600.

*"Qualified mental health professional" means a person who by education and experience is professionally qualified and registered by the Board of Counseling to provide collaborative mental health services for adults or children. A qualified mental health professional shall provide such services as an employee or independent contractor of the Department of Behavioral Health and Developmental Services or a provider licensed by the Department of Behavioral Health and Developmental Services.*

"Registered nurse" means a person licensed to practice professional nursing as defined in § 54.1-3000.

*"Registered peer recovery specialist" means a person who by education and experience is professionally qualified and registered by the Board of Counseling to provide collaborative services to assist individuals in achieving sustained recovery from the effects of addiction or mental illness, or both. A registered peer recovery specialist shall provide such services as an employee or independent contractor of the Department of Behavioral Health and Developmental Services, a provider licensed by the Department of Behavioral Health and Developmental Services, a practitioner licensed by or holding a permit issued from the Department of Health Professions, or a facility licensed by the Department of Health.*

"School psychologist" means a person who practices school psychology as defined in § 54.1-3600.

"Social worker" means a person who practices social work as defined in § 54.1-3700.

B. A mental health service provider has a duty to take precautions to protect third parties from violent behavior or other serious harm only when the client has orally, in writing, or via sign language, communicated to the provider a specific and immediate threat to cause serious bodily injury or death to an identified or readily identifiable person or persons, if the provider reasonably believes, or should believe according to the standards of his profession, that the client has the intent and ability to carry out that threat immediately or imminently. If the third party is a child, in addition to taking precautions to protect the child from the behaviors in the above types of threats, the provider also has a duty to take precautions to protect the child if the client threatens to engage in behaviors that would constitute physical abuse or sexual abuse as defined in § 18.2-67.10. The duty to protect does not attach unless the threat has been communicated to the provider by the threatening client while the provider is engaged in his professional duties.

C. The duty set forth in subsection B is discharged by a mental health service provider who takes one or more of the following actions:

1. Seeks involuntary admission of the client under Article 16 (§ 16.1-335 et seq.) of Chapter 11 of Title 16.1 or Chapter 8 (§ 37.2-800 et seq.) of Title 37.2.
2. Makes reasonable attempts to warn the potential victims or the parent or guardian of the potential victim if the potential victim is under the age of 18.
3. Makes reasonable efforts to notify a law-enforcement official having jurisdiction in the client's or potential victim's place of residence or place of work, or place of work of the parent or guardian if the potential victim is under age 18, or both.
4. Takes steps reasonably available to the provider to prevent the client from using physical violence or other means of harm to others until the appropriate law-enforcement agency can be summoned and takes custody of the client.
5. Provides therapy or counseling to the client or patient in the session in which the threat has been communicated until the mental health service provider reasonably believes that the client no longer has the intent or the ability to carry out the threat.
6. *In the case of a registered peer recovery specialist, or a qualified mental health professional who is not otherwise licensed by a health regulatory board at the Department of Health Professions, reports immediately to a licensed mental health service provider to take one or more of the actions set forth in this subsection.*

D. A mental health service provider shall not be held civilly liable to any person for:

1. Breaching confidentiality with the limited purpose of protecting third parties by communicating the threats described in subsection B made by his clients to potential third party victims or law-enforcement agencies or by taking any of the actions specified in subsection C.
2. Failing to predict, in the absence of a threat described in subsection B, that the client would cause the third party serious physical harm.
3. Failing to take precautions other than those enumerated in subsection C to protect a potential third party victim from the client's violent behavior.

**§ 54.1-2400.6. Hospitals, other health care institutions, home health and hospice organizations, and assisted living facilities required to report disciplinary actions against and certain disorders of health professionals; immunity from liability; failure to report.**

A. The chief executive officer and the chief of staff of every hospital or other health care institution in the Commonwealth, the director of every licensed home health or hospice organization, the director of every accredited home health organization exempt from licensure, ~~and~~ the administrator of every licensed assisted living facility, *and the administrator of every provider licensed by the Department of Behavioral Health and Developmental Services* in the Commonwealth shall report within 30 days, except as provided in subsection B, to the Director of the Department of Health Professions, or in the case of a director of a home health or hospice organization, to the Office of Licensure and Certification at the Department of Health (the Office), the following information regarding any person (i) licensed, certified, or registered by a health regulatory board or (ii) holding a multistate licensure privilege to practice nursing or an applicant for licensure, certification or registration unless exempted under subsection E:

1. Any information of which he may become aware in his official capacity indicating that such a health professional is in need of treatment or has been committed or admitted as a patient, either at his institution or any other health care institution, for treatment of substance abuse or a psychiatric illness that may render the health professional a danger to himself, the public or his patients.
2. Any information of which he may become aware in his official capacity indicating, after reasonable investigation and consultation as needed with the appropriate internal boards or committees authorized to impose disciplinary action on a health professional, that there is a reasonable probability that such health professional may have engaged in unethical, fraudulent or unprofessional conduct as defined by the pertinent licensing statutes and regulations. The report required under this subdivision shall be submitted within 30 days of the date that the chief executive officer, chief of staff, director, or administrator determines that a reasonable probability exists.
3. Any disciplinary proceeding begun by the institution, organization, ~~or~~ facility, *or provider* as a result of conduct involving (i) intentional or negligent conduct that causes or is likely to cause injury to a patient or patients, (ii) professional ethics, (iii) professional incompetence, (iv) moral turpitude, or (v) substance abuse. The report required under this subdivision shall be submitted within 30 days of the date of written communication to the health professional notifying him of the initiation of a disciplinary proceeding.

4. Any disciplinary action taken during or at the conclusion of disciplinary proceedings or while under investigation, including but not limited to denial or termination of employment, denial or termination of privileges or restriction of privileges that results from conduct involving (i) intentional or negligent conduct that causes or is likely to cause injury to a patient or patients, (ii) professional ethics, (iii) professional incompetence, (iv) moral turpitude, or (v) substance abuse. The report required under this subdivision shall be submitted within 30 days of the date of written communication to the health professional notifying him of any disciplinary action.

5. The voluntary resignation from the staff of the health care institution, home health or hospice organization, ~~or~~ assisted living facility, *or provider*, or voluntary restriction or expiration of privileges at the institution, organization, ~~or~~ facility, *or provider*, of any health professional while such health professional is under investigation or is the subject of disciplinary proceedings taken or begun by the institution, organization, ~~or~~ facility, *or provider* or a committee thereof for any reason related to possible intentional or negligent conduct that causes or is likely to cause injury to a patient or patients, medical incompetence, unprofessional conduct, moral turpitude, mental or physical impairment, or substance abuse.

Any report required by this section shall be in writing directed to the Director of the Department of Health Professions or to the Director of the Office of Licensure and Certification at the Department of Health, shall give the name and address of the person who is the subject of the report and shall fully describe the circumstances surrounding the facts required to be reported. The report shall include the names and contact information of individuals with knowledge about the facts required to be reported and the names and contact information of individuals from whom the hospital or health care institution, organization, ~~or~~ facility, *or provider* sought information to substantiate the facts required to be reported. All relevant medical records shall be attached to the report if patient care or the health professional's health status is at issue. The reporting hospital, health care institution, home health or hospice organization, ~~or~~ assisted living facility, *or provider* shall also provide notice to the Department or the Office that it has submitted a report to the National Practitioner Data Bank under the Health Care Quality Improvement Act (42 U.S.C. § 11101 et seq.). The reporting hospital, health care institution, home health or hospice organization, ~~or~~ assisted living facility, *or provider* shall give the health professional who is the subject of the report an opportunity to review the report. The health professional may submit a separate report if he disagrees with the substance of the report.

This section shall not be construed to require the hospital, health care institution, home health or hospice organization, ~~or~~ assisted living facility, *or provider* to submit any proceedings, minutes, records, or reports that are privileged under § 8.01-581.17, except that the provisions of § 8.01-581.17 shall not bar (i) any report required by this section or (ii) any requested medical records that are necessary to investigate unprofessional conduct reported pursuant to this subtitle or unprofessional conduct that should have been reported pursuant to this subtitle. Under no circumstances shall compliance with this section be construed to waive or limit the privilege provided in § 8.01-581.17. No person or entity shall be obligated to report any matter to the Department or the Office if the person or entity has actual notice that the same matter has already been reported to the Department or the Office.

B. Any report required by this section concerning the commitment or admission of such health professional as a patient shall be made within five days of when the chief executive officer, chief of staff, director, or administrator learns of such commitment or admission.

C. The State Health Commissioner ~~or the~~ Commissioner of the Department of Social Services, *and Commissioner of Behavioral Health and Developmental Services* shall report to the Department any information of which their agencies may become aware in the course of their duties that a health professional may be guilty of fraudulent, unethical, or unprofessional conduct as defined by the pertinent licensing statutes and regulations. However, the State Health Commissioner shall not be required to report information reported to the Director of the Office of Licensure and Certification pursuant to this section to the Department of Health Professions.

D. Any person making a report by this section, providing information pursuant to an investigation or testifying in a judicial or administrative proceeding as a result of such report shall be immune from any civil liability alleged to have resulted therefrom unless such person acted in bad faith or with malicious intent.

E. Medical records or information learned or maintained in connection with an alcohol or drug prevention function that is conducted, regulated, or directly or indirectly assisted by any department or agency of the United States shall be exempt from the reporting requirements of this section to the extent that such reporting is in violation of 42 U.S.C. § 290dd-2 or regulations adopted thereunder.

F. Any person who fails to make a report to the Department as required by this section shall be subject to a civil penalty not to exceed \$25,000 assessed by the Director. The Director shall report the assessment of such civil penalty to the Commissioner of Health ~~or the~~ Commissioner of Social Services, *or Commissioner of Behavioral Health and Developmental Services*, as appropriate. Any person assessed a civil penalty pursuant to this section shall not receive a license or certification or renewal of such unless such penalty has been paid pursuant to § 32.1-125.01. The Medical College of Virginia Hospitals and the University of Virginia Hospitals shall not receive certification pursuant to § 32.1-137 or Article 1.1 (§ 32.1-102.1 et seq.) of Chapter 4 of Title 32.1 unless such penalty has been paid.

#### § 54.1-3500. Definitions.

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

"Appraisal activities" means the exercise of professional judgment based on observations and objective assessments of a client's behavior to evaluate current functioning, diagnose, and select appropriate treatment required to remediate identified problems or to make appropriate referrals.

"Board" means the Board of Counseling.

"Certified substance abuse counseling assistant" means a person certified by the Board to practice in accordance with the provisions of § 54.1-3507.2.

"Certified substance abuse counselor" means a person certified by the Board to practice in accordance with the provisions of § 54.1-3507.1.

"Counseling" means the application of principles, standards, and methods of the counseling profession in (i) conducting assessments and diagnoses for the purpose of establishing treatment goals and objectives and (ii) planning, implementing, and evaluating treatment plans using treatment interventions to facilitate human development and to identify and remediate mental, emotional, or behavioral disorders and associated distresses that interfere with mental health.

"Licensed substance abuse treatment practitioner" means a person who: (i) is trained in and engages in the practice of substance abuse treatment with individuals or groups of individuals suffering from the effects of substance abuse or dependence, and in the prevention of substance abuse or dependence; and (ii) is licensed to provide advanced substance abuse treatment and independent, direct, and unsupervised treatment to such individuals or groups of individuals, and to plan, evaluate, supervise, and direct substance abuse treatment provided by others.

"Marriage and family therapist" means a person trained in the assessment and treatment of cognitive, affective, or behavioral mental and emotional disorders within the context of marriage and family systems through the application of therapeutic and family systems theories and techniques.

"Marriage and family therapy" means the assessment and treatment of cognitive, affective, or behavioral mental and emotional disorders within the context of marriage and family systems through the application of therapeutic and family systems theories and techniques and delivery of services to individuals, couples, and families, singularly or in groups, for the purpose of treating such disorders.

"Practice of counseling" means rendering or offering to render to individuals, groups, organizations, or the general public any service involving the application of principles, standards, and methods of the counseling profession, which shall include appraisal, counseling, and referral activities.

"Practice of marriage and family therapy" means the assessment and treatment of cognitive, affective, or behavioral mental and emotional disorders within the context of marriage and family systems through the application of therapeutic and family systems theories and techniques, which shall include assessment, treatment, and referral activities.

"Practice of substance abuse treatment" means rendering or offering to render substance abuse treatment to individuals, groups, organizations, or the general public.

"Professional counselor" means a person trained in the application of principles, standards, and methods of the counseling profession, including counseling interventions designed to facilitate an individual's achievement of human development goals and remediating mental, emotional, or behavioral disorders and associated distresses that interfere with mental health and development.

*"Qualified mental health professional" means a person who by education and experience is professionally qualified and registered by the Board to provide collaborative mental health services for adults or children. A qualified mental health professional shall provide such services as an employee or independent contractor of the Department of Behavioral Health and Developmental Services or a provider licensed by the Department of Behavioral Health and Developmental Services.*

"Referral activities" means the evaluation of data to identify problems and to determine advisability of referral to other specialists.

*"Registered peer recovery specialist" means a person who by education and experience is professionally qualified and registered by the Board to provide collaborative services to assist individuals in achieving sustained recovery from the effects of addiction or mental illness, or both. A registered peer recovery specialist shall provide such services as an employee or independent contractor of the Department of Behavioral Health and Developmental Services, a provider licensed by the Department of Behavioral Health and Developmental Services, a practitioner licensed by or holding a permit issued from the Department of Health Professions, or a facility licensed by the Department of Health.*

"Residency" means a post-internship supervised clinical experience registered with the Board.

"Resident" means an individual who has submitted a supervisory contract to the Board and has received Board approval to provide clinical services in professional counseling under supervision.

"Substance abuse" and "substance dependence" mean a maladaptive pattern of substance use leading to clinically significant impairment or distress.

"Substance abuse treatment" means (i) the application of specific knowledge, skills, substance abuse treatment theory, and substance abuse treatment techniques to define goals and develop a treatment plan of action regarding substance abuse or dependence prevention, education, or treatment in the substance abuse or dependence recovery process and (ii) referrals to medical, social services, psychological, psychiatric, or legal resources when such referrals are indicated.

"Supervision" means the ongoing process, performed by a supervisor, of monitoring the performance of the person supervised and providing regular, documented individual or group consultation, guidance, and instruction with respect to the clinical skills and competencies of the person supervised.

**§ 54.1-3505. Specific powers and duties of the Board.**

In addition to the powers granted in § 54.1-2400, the Board shall have the following specific powers and duties:

1. To cooperate with and maintain a close liaison with other professional boards and the community to ensure that regulatory systems stay abreast of community and professional needs.

2. To conduct inspections to ensure that licensees conduct their practices in a competent manner and in conformance with the relevant regulations.

3. To designate specialties within the profession.

4. To administer the certification of rehabilitation providers pursuant to Article 2 (§ 54.1-3510 et seq.) of this chapter, including prescribing fees for application processing, examinations, certification and certification renewal.

5. [Expired.]

6. To promulgate regulations for the qualifications, education, and experience for licensure of marriage and family therapists. The requirements for clinical membership in the American Association for Marriage and Family Therapy (AAMFT), and the professional examination service's national marriage and family therapy examination may be considered by the Board in the promulgation of these regulations. The educational credit hour, clinical experience hour, and clinical supervision hour requirements for marriage and family therapists shall not be less than the educational credit hour, clinical experience hour, and clinical supervision hour requirements for professional counselors.

7. To promulgate, subject to the requirements of Article 1.1 (§ 54.1-3507 et seq.) of this chapter, regulations for the qualifications, education, and experience for licensure of licensed substance abuse treatment practitioners and certification of certified substance abuse counselors and certified substance abuse counseling assistants. The requirements for membership in NAADAC: the Association for Addiction Professionals and its national examination may be considered by the Board in the promulgation of these regulations. The Board also may provide for the consideration and use of the accreditation and examination services offered by the Substance Abuse Certification Alliance of Virginia. The educational credit hour, clinical experience hour, and clinical supervision hour requirements for licensed substance abuse treatment practitioners shall not be less than the educational credit hour, clinical experience hour, and clinical supervision hour requirements for licensed professional counselors. Such regulations also shall establish standards and protocols for the clinical supervision of certified substance abuse counselors and the supervision or direction of certified substance abuse counseling assistants, and reasonable access to the persons providing that supervision or direction in settings other than a licensed facility.

8. To maintain a registry of persons who meet the requirements for supervision of residents. The Board shall make the registry of approved supervisors available to persons seeking residence status.

9. To promulgate regulations for the registration of qualified mental health professionals, including qualifications, education, and experience necessary for such registration.

10. To promulgate regulations for the registration of peer recovery specialists who meet the qualifications, education, and experience requirements established by regulations of the Board of Behavioral Health and Developmental Services pursuant to § 37.2-203.

**§ 54.1-3506.1. Client notification.**

Any person licensed, *certified*, or *registered* by the Board and operating in a nonhospital setting shall post a copy of his license, *certification*, or *registration* in a conspicuous place. The posting shall also provide clients with (i) the number of the toll-free complaint line at the Department of Health Professions, (ii) the website address of the Department for the purposes of accessing the licensee's, *certificate holder's*, or *registrant's* record, and (iii) notice of the client's right to report to the Department if he believes the licensee, *certificate holder*, or *registrant* may have engaged in unethical, fraudulent, or unprofessional conduct. *If the licensee, certificate holder, or registrant does not operate in a central location at which clients visit, he or his employer shall provide such information on a disclosure form signed by the client and maintained in the client's record.*

**2. That the Board of Behavioral Health and Developmental Services and the Board of Counseling shall promulgate regulations to implement the provisions of this act to be effective within 280 days of its enactment.**

**CHAPTER 427**

*An Act to amend and reenact § 18.2-186.6 of the Code of Virginia, relating to a notification requirement for breach of payroll data.*

[S 1033]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 18.2-186.6 of the Code of Virginia is amended and reenacted as follows:**

**§ 18.2-186.6. Breach of personal information notification.**

A. As used in this section:

"Breach of the security of the system" means the unauthorized access and acquisition of unencrypted and unredacted computerized data that compromises the security or confidentiality of personal information maintained by an individual or entity as part of a database of personal information regarding multiple individuals and that causes, or the individual or entity reasonably believes has caused, or will cause, identity theft or other fraud to any resident of the Commonwealth. Good faith acquisition of personal information by an employee or agent of an individual or entity for the purposes of the individual or entity is not a breach of the security of the system, provided that the personal information is not used for a purpose other than a lawful purpose of the individual or entity or subject to further unauthorized disclosure.

"Encrypted" means the transformation of data through the use of an algorithmic process into a form in which there is a low probability of assigning meaning without the use of a confidential process or key, or the securing of the information by another method that renders the data elements unreadable or unusable.

"Entity" includes corporations, business trusts, estates, partnerships, limited partnerships, limited liability partnerships, limited liability companies, associations, organizations, joint ventures, governments, governmental subdivisions, agencies, or instrumentalities or any other legal entity, whether for profit or not for profit.

"Financial institution" has the meaning given that term in 15 U.S.C. § 6809 (3).

"Individual" means a natural person.

"Notice" means:

1. Written notice to the last known postal address in the records of the individual or entity;
2. Telephone notice;
3. Electronic notice; or
4. Substitute notice, if the individual or the entity required to provide notice demonstrates that the cost of providing notice will exceed \$50,000, the affected class of Virginia residents to be notified exceeds 100,000 residents, or the individual or the entity does not have sufficient contact information or consent to provide notice as described in subdivisions 1, 2, or 3 of this definition. Substitute notice consists of all of the following:
  - a. E-mail notice if the individual or the entity has e-mail addresses for the members of the affected class of residents;
  - b. Conspicuous posting of the notice on the website of the individual or the entity if the individual or the entity maintains a website; and
  - c. Notice to major statewide media.

Notice required by this section shall not be considered a debt communication as defined by the Fair Debt Collection Practices Act in 15 U.S.C. § 1692a.

Notice required by this section shall include a description of the following:

- (1) The incident in general terms;
- (2) The type of personal information that was subject to the unauthorized access and acquisition;
- (3) The general acts of the individual or entity to protect the personal information from further unauthorized access;
- (4) A telephone number that the person may call for further information and assistance, if one exists; and
- (5) Advice that directs the person to remain vigilant by reviewing account statements and monitoring free credit reports.

"Personal information" means the first name or first initial and last name in combination with and linked to any one or more of the following data elements that relate to a resident of the Commonwealth, when the data elements are neither encrypted nor redacted:

1. Social security number;
2. Driver's license number or state identification card number issued in lieu of a driver's license number; or
3. Financial account number, or credit card or debit card number, in combination with any required security code, access code, or password that would permit access to a resident's financial accounts.

The term does not include information that is lawfully obtained from publicly available information, or from federal, state, or local government records lawfully made available to the general public.

"Redact" means alteration or truncation of data such that no more than the following are accessible as part of the personal information:

1. Five digits of a social security number; or
2. The last four digits of a driver's license number, state identification card number, or account number.

B. If unencrypted or unredacted personal information was or is reasonably believed to have been accessed and acquired by an unauthorized person and causes, or the individual or entity reasonably believes has caused or will cause, identity theft or another fraud to any resident of the Commonwealth, an individual or entity that owns or licenses computerized data that includes personal information shall disclose any breach of the security of the system following discovery or notification of the breach of the security of the system to the Office of the Attorney General and any affected resident of the Commonwealth without unreasonable delay. Notice required by this section may be reasonably delayed to allow the individual or entity to determine the scope of the breach of the security of the system and restore the reasonable integrity of the system. Notice required by this section may be delayed if, after the individual or entity notifies a law-enforcement agency, the law-enforcement agency determines and advises the individual or entity that the notice will impede a criminal or civil investigation, or homeland or national security. Notice shall be made without unreasonable delay after the law-enforcement agency determines that the notification will no longer impede the investigation or jeopardize national or homeland security.

C. An individual or entity shall disclose the breach of the security of the system if encrypted information is accessed and acquired in an unencrypted form, or if the security breach involves a person with access to the encryption key and the individual or entity reasonably believes that such a breach has caused or will cause identity theft or other fraud to any resident of the Commonwealth.

D. An individual or entity that maintains computerized data that includes personal information that the individual or entity does not own or license shall notify the owner or licensee of the information of any breach of the security of the system without unreasonable delay following discovery of the breach of the security of the system, if the personal

information was accessed and acquired by an unauthorized person or the individual or entity reasonably believes the personal information was accessed and acquired by an unauthorized person.

E. In the event an individual or entity provides notice to more than 1,000 persons at one time pursuant to this section, the individual or entity shall notify, without unreasonable delay, the Office of the Attorney General and all consumer reporting agencies that compile and maintain files on consumers on a nationwide basis, as defined in 15 U.S.C. § 1681a (p), of the timing, distribution, and content of the notice.

F. An entity that maintains its own notification procedures as part of an information privacy or security policy for the treatment of personal information that are consistent with the timing requirements of this section shall be deemed to be in compliance with the notification requirements of this section if it notifies residents of the Commonwealth in accordance with its procedures in the event of a breach of the security of the system.

G. An entity that is subject to Title V of the Gramm-Leach-Bliley Act (15 U.S.C. § 6801 et seq.) and maintains procedures for notification of a breach of the security of the system in accordance with the provision of that Act and any rules, regulations, or guidelines promulgated thereto shall be deemed to be in compliance with this section.

H. An entity that complies with the notification requirements or procedures pursuant to the rules, regulations, procedures, or guidelines established by the entity's primary or functional state or federal regulator shall be in compliance with this section.

I. Except as provided by subsections J and K, pursuant to the enforcement duties and powers of the Office of the Attorney General, the Attorney General may bring an action to address violations of this section. The Office of the Attorney General may impose a civil penalty not to exceed \$150,000 per breach of the security of the system or a series of breaches of a similar nature that are discovered in a single investigation. Nothing in this section shall limit an individual from recovering direct economic damages from a violation of this section.

J. A violation of this section by a state-chartered or licensed financial institution shall be enforceable exclusively by the financial institution's primary state regulator.

K. A violation of this section by an individual or entity regulated by the State Corporation Commission's Bureau of Insurance shall be enforced exclusively by the State Corporation Commission.

L. The provisions of this section shall not apply to criminal intelligence systems subject to the restrictions of 28 C.F.R. Part 23 that are maintained by law-enforcement agencies of the Commonwealth and the organized Criminal Gang File of the Virginia Criminal Information Network (VCIN), established pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52.

*M. Notwithstanding any other provision of this section, any employer or payroll service provider that owns or licenses computerized data relating to income tax withheld pursuant to Article 16 (§ 58.1-460 et seq.) of Chapter 3 of Title 58.1 shall notify the Office of the Attorney General without unreasonable delay after the discovery or notification of unauthorized access and acquisition of unencrypted and unredacted computerized data containing a taxpayer identification number in combination with the income tax withheld for that taxpayer that compromises the confidentiality of such data and that creates a reasonable belief that an unencrypted and unredacted version of such information was accessed and acquired by an unauthorized person, and causes, or the employer or payroll provider reasonably believes has caused or will cause, identity theft or other fraud. With respect to employers, this subsection applies only to information regarding the employer's employees, and does not apply to information regarding the employer's customers or other non-employees.*

*Such employer or payroll service provider shall provide the Office of the Attorney General with the name and federal employer identification number of the employer as defined in § 58.1-460 that may be affected by the compromise in confidentiality. Upon receipt of such notice, the Office of the Attorney General shall notify the Department of Taxation of the compromise in confidentiality. The notification required under this subsection that does not otherwise require notification under this section shall not be subject to any other notification, requirement, exemption, or penalty contained in this section.*

## CHAPTER 428

*An Act to amend and reenact §§ 63.2-1505, 63.2-1506, and 63.2-1509 of the Code of Virginia, relating to in utero exposure to a controlled substance.*

[S 1086]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 63.2-1505, 63.2-1506, and 63.2-1509 of the Code of Virginia are amended and reenacted as follows:**

**§ 63.2-1505. Investigations by local departments.**

- A. An investigation requires the collection of information necessary to determine:
1. The immediate safety needs of the child;
  2. The protective and rehabilitative services needs of the child and family that will deter abuse or neglect;
  3. Risk of future harm to the child;
  4. Alternative plans for the child's safety if protective and rehabilitative services are indicated and the family is unable or unwilling to participate in services;
  5. Whether abuse or neglect has occurred;
  6. If abuse or neglect has occurred, who abused or neglected the child; and

7. A finding of either founded or unfounded based on the facts collected during the investigation.

B. If the local department responds to the report or complaint by conducting an investigation, the local department shall:

1. Make immediate investigation and, if the report or complaint was based upon one of the factors specified in subsection B of § 63.2-1509, the local department may file a petition pursuant to § 16.1-241.3;

2. Complete a report and ~~transmit it forthwith to the Department, except that no such report shall be transmitted in cases in which the cause to suspect abuse or neglect is one of the factors specified in subsection B of § 63.2-1509 and the mother sought substance abuse counseling or treatment prior to the child's birth~~ enter it into the statewide automation system maintained by the Department;

3. Consult with the family to arrange for necessary protective and rehabilitative services to be provided to the child and his family;

4. Petition the court for services deemed necessary including, but not limited to, removal of the child or his siblings from their home;

5. Determine within 45 days if a report of abuse or neglect is founded or unfounded and transmit a report to such effect to the Department and to the person who is the subject of the investigation. However, upon written justification by the local department, the time for such determination may be extended not to exceed a total of 60 days or, in the event that the investigation is being conducted in cooperation with a law-enforcement agency and both parties agree that circumstances so warrant, as stated in the written justification, the time for such determination may be extended not to exceed 90 days. If through the exercise of reasonable diligence the local department is unable to find the child who is the subject of the report, the time the child cannot be found shall not be computed as part of the total time period allowed for the investigation and determination and documentation of such reasonable diligence shall be placed in the record. In cases involving the death of a child or alleged sexual abuse of a child who is the subject of the report, the time during which records necessary for the investigation of the complaint but not created by the local department, including autopsy or medical or forensic records or reports, are not available to the local department due to circumstances beyond the local department's control shall not be computed as part of the total time period allowed for the investigation and determination, and documentation of the circumstances that resulted in the delay shall be placed in the record. In cases in which the subject of the investigation is a full-time, part-time, permanent, or temporary employee of a school division who is suspected of abusing or neglecting a child in the course of his educational employment, the time period for determining whether a report is founded or unfounded and transmitting a report to that effect to the Department and the person who is the subject of the investigation shall be mandatory, and every local department shall make the required determination and report within the specified time period without delay;

6. If a report of abuse or neglect is unfounded, transmit a report to such effect to the complainant and parent or guardian and the person responsible for the care of the child in those cases where such person was suspected of abuse or neglect; and

7. If a report of child abuse and neglect is founded, and the subject of the report is a full-time, part-time, permanent, or temporary employee of a school division located within the Commonwealth, notify the relevant school board of the founded complaint.

Any information exchanged for the purposes of this subsection shall not be considered a violation of § 63.2-102, 63.2-104, or 63.2-105.

C. Each local board may obtain and consider, in accordance with regulations adopted by the Board, statewide criminal history record information from the Central Criminal Records Exchange and results of a search of the child abuse and neglect central registry of any individual who is the subject of a child abuse or neglect investigation conducted under this section when there is evidence of child abuse or neglect and the local board is evaluating the safety of the home and whether removal will protect a child from harm. The local board also may obtain such a criminal records or registry search on all adult household members residing in the home where the individual who is the subject of the investigation resides and the child resides or visits. If a child abuse or neglect petition is filed in connection with such removal, a court may admit such information as evidence. Where the individual who is the subject of such information contests its accuracy through testimony under oath in hearing before the court, no court shall receive or consider the contested criminal history record information without certified copies of conviction. Further dissemination of the information provided to the local board is prohibited, except as authorized by law.

D. A person who has not previously participated in the investigation of complaints of child abuse or neglect in accordance with this chapter shall not participate in the investigation of any case involving a complaint of alleged sexual abuse of a child unless he (i) has completed a Board-approved training program for the investigation of complaints involving alleged sexual abuse of a child or (ii) is under the direct supervision of a person who has completed a Board-approved training program for the investigation of complaints involving alleged sexual abuse of a child. No individual may make a determination of whether a case involving a complaint of alleged sexual abuse of a child is founded or unfounded unless he has completed a Board-approved training program for the investigation of complaints involving alleged sexual abuse of a child.

**§ 63.2-1506. Family assessments by local departments.**

A. A family assessment requires the collection of information necessary to determine:

1. The immediate safety needs of the child;
2. The protective and rehabilitative services needs of the child and family that will deter abuse or neglect;

3. Risk of future harm to the child; ~~and~~
4. *Whether the mother of a child who was exposed in utero to a controlled substance sought substance abuse counseling or treatment prior to the child's birth; and*
5. Alternative plans for the child's safety if protective and rehabilitative services are indicated and the family is unable or unwilling to participate in services.

B. When a local department has been designated as a child-protective services differential response system participant by the Department pursuant to § 63.2-1504 and responds to the report or complaint by conducting a family assessment, the local department shall:

1. Conduct an immediate family assessment and, if the report or complaint was based upon one of the factors specified in subsection B of § 63.2-1509, the local department may file a petition pursuant to § 16.1-241.3;
2. Immediately contact the subject of the report and the family of the child alleged to have been abused or neglected and give each a written and an oral explanation of the family assessment procedure. The family assessment shall be in writing and shall be completed in accordance with Board regulation;
3. Complete the family assessment within ~~forty-five~~ 45 days and transmit a report to such effect to the Department and to the person who is the subject of the family assessment. However, upon written justification by the local department, the family assessment may be extended, not to exceed a total of ~~sixty~~ 60 days;
4. Consult with the family to arrange for necessary protective and rehabilitative services to be provided to the child and his family. Families have the option of declining the services offered as a result of the family assessment. If the family declines the services, the case shall be closed unless the local department determines that sufficient cause exists to redetermine the case as one that needs to be investigated. In no instance shall a case be redetermined as an investigation solely because the family declines services;
5. Petition the court for services deemed necessary;
6. Make no disposition of founded or unfounded for reports in which a family assessment is completed. Reports in which a family assessment is completed shall not be entered into the central registry contained in § 63.2-1515; and
7. Commence an immediate investigation, if at any time during the completion of the family assessment, the local department determines that an investigation is required.

C. When a local department has been designated as a child-protective services differential response agency by the Department, the local department may investigate any report of child abuse or neglect, but the following valid reports of child abuse or neglect shall be investigated: (i) sexual abuse, (ii) child fatality, (iii) abuse or neglect resulting in serious injury as defined in § 18.2-371.1, (iv) child has been taken into the custody of the local department, or (v) cases involving a caretaker at a state-licensed child day center, religiously exempt child day center, licensed, registered or approved family day home, private or public school, hospital or any institution. *If a report or complaint is based upon one of the factors specified in subsection B of § 63.2-1509, the local department shall (a) conduct a family assessment, unless an investigation is required pursuant to this subsection or other provision of law or is necessary to protect the safety of the child, and (b) develop a plan of safe care in accordance with federal law, regardless of whether the local department makes a finding of abuse or neglect.*

**§ 63.2-1509. Requirement that certain injuries to children be reported by physicians, nurses, teachers, etc.; penalty for failure to report.**

A. The following persons who, in their professional or official capacity, have reason to suspect that a child is an abused or neglected child, shall report the matter immediately to the local department of the county or city wherein the child resides or wherein the abuse or neglect is believed to have occurred or to the Department's toll-free child abuse and neglect hotline:

1. Any person licensed to practice medicine or any of the healing arts;
2. Any hospital resident or intern, and any person employed in the nursing profession;
3. Any person employed as a social worker or family-services specialist;
4. Any probation officer;
5. Any teacher or other person employed in a public or private school, kindergarten or nursery school;
6. Any person providing full-time or part-time child care for pay on a regularly planned basis;
7. Any mental health professional;
8. Any law-enforcement officer or animal control officer;
9. Any mediator eligible to receive court referrals pursuant to § 8.01-576.8;
10. Any professional staff person, not previously enumerated, employed by a private or state-operated hospital, institution or facility to which children have been committed or where children have been placed for care and treatment;
11. Any person 18 years of age or older associated with or employed by any public or private organization responsible for the care, custody or control of children;
12. Any person who is designated a court-appointed special advocate pursuant to Article 5 (§ 9.1-151 et seq.) of Chapter 1 of Title 9.1;
13. Any person 18 years of age or older who has received training approved by the Department of Social Services for the purposes of recognizing and reporting child abuse and neglect;
14. Any person employed by a local department as defined in § 63.2-100 who determines eligibility for public assistance;

15. Any emergency medical services provider certified by the Board of Health pursuant to § 32.1-111.5, unless such provider immediately reports the matter directly to the attending physician at the hospital to which the child is transported, who shall make such report forthwith;

16. Any athletic coach, director or other person 18 years of age or older employed by or volunteering with a private sports organization or team;

17. Administrators or employees 18 years of age or older of public or private day camps, youth centers and youth recreation programs; and

18. Any person employed by a public or private institution of higher education other than an attorney who is employed by a public or private institution of higher education as it relates to information gained in the course of providing legal representation to a client.

This subsection shall not apply to any regular minister, priest, rabbi, imam, or duly accredited practitioner of any religious organization or denomination usually referred to as a church as it relates to (i) information required by the doctrine of the religious organization or denomination to be kept in a confidential manner or (ii) information that would be subject to § 8.01-400 or 19.2-271.3 if offered as evidence in court.

If neither the locality in which the child resides nor where the abuse or neglect is believed to have occurred is known, then such report shall be made to the local department of the county or city where the abuse or neglect was discovered or to the Department's toll-free child abuse and neglect hotline.

If an employee of the local department is suspected of abusing or neglecting a child, the report shall be made to the court of the county or city where the abuse or neglect was discovered. Upon receipt of such a report by the court, the judge shall assign the report to a local department that is not the employer of the suspected employee for investigation or family assessment. The judge may consult with the Department in selecting a local department to respond to the report or the complaint.

If the information is received by a teacher, staff member, resident, intern or nurse in the course of professional services in a hospital, school or similar institution, such person may, in place of said report, immediately notify the person in charge of the institution or department, or his designee, who shall make such report forthwith. If the initial report of suspected abuse or neglect is made to the person in charge of the institution or department, or his designee, pursuant to this subsection, such person shall notify the teacher, staff member, resident, intern or nurse who made the initial report when the report of suspected child abuse or neglect is made to the local department or to the Department's toll-free child abuse and neglect hotline, and of the name of the individual receiving the report, and shall forward any communication resulting from the report, including any information about any actions taken regarding the report, to the person who made the initial report.

The initial report may be an oral report but such report shall be reduced to writing by the child abuse coordinator of the local department on a form prescribed by the Board. Any person required to make the report pursuant to this subsection shall disclose all information that is the basis for his suspicion of abuse or neglect of the child and, upon request, shall make available to the child-protective services coordinator and the local department, which is the agency of jurisdiction, any information, records, or reports that document the basis for the report. All persons required by this subsection to report suspected abuse or neglect who maintain a record of a child who is the subject of such a report shall cooperate with the investigating agency and shall make related information, records and reports available to the investigating agency unless such disclosure violates the federal Family Educational Rights and Privacy Act (20 U.S.C. § 1232g). Provision of such information, records, and reports by a health care provider shall not be prohibited by § 8.01-399. Criminal investigative reports received from law-enforcement agencies shall not be further disseminated by the investigating agency nor shall they be subject to public disclosure.

B. For purposes of subsection A, "reason to suspect that a child is abused or neglected" shall include (i) ~~a finding made by a health care provider within six weeks of the birth of a child that the results of toxicology studies of the child indicate the presence of a controlled substance not prescribed for the mother by a physician;~~ (ii) a finding made by a health care provider within six weeks of the birth of a child that the child was born ~~dependent on a controlled substance which was not prescribed by a physician for the mother and has demonstrated~~ *affected by substance abuse or experiencing withdrawal symptoms resulting from in utero drug exposure;* (iii) ~~(ii)~~ a diagnosis made by a health care provider ~~at any time within four years following a child's birth that the child has an illness, disease, or condition which that, to a reasonable degree of medical certainty, is attributable to in utero exposure to maternal abuse of a controlled substance which was not prescribed by a physician for the mother or the child during pregnancy;~~ or (iv) ~~(iii)~~ a diagnosis made by a health care provider ~~at any time within four years following a child's birth that the child has a fetal alcohol spectrum disorder attributable to in utero exposure to alcohol.~~ When "reason to suspect" is based upon this subsection, such fact shall be included in the report along with the facts relied upon by the person making the report.

C. Any person who makes a report or provides records or information pursuant to subsection A or who testifies in any judicial proceeding arising from such report, records, or information shall be immune from any civil or criminal liability or administrative penalty or sanction on account of such report, records, information, or testimony, unless such person acted in bad faith or with malicious purpose.

D. Any person required to file a report pursuant to this section who fails to do so as soon as possible, but not longer than 24 hours after having reason to suspect a reportable offense of child abuse or neglect, shall be fined not more than \$500 for the first failure and for any subsequent failures not less than \$1,000. In cases evidencing acts of rape, sodomy, or object

sexual penetration as defined in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, a person who knowingly and intentionally fails to make the report required pursuant to this section shall be guilty of a Class 1 misdemeanor.

E. No person shall be required to make a report pursuant to this section if the person has actual knowledge that the same matter has already been reported to the local department or the Department's toll-free child abuse and neglect hotline.

**2. That the State Board of Social Services shall promulgate regulations to implement the provisions of this act.**

## CHAPTER 429

*An Act to amend and reenact §§ 54.1-3401, 54.1-3408.02, and 54.1-3410 of the Code of Virginia, relating to prescriptions for controlled substances containing opiates; electronic prescription.*

[S 1230]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 54.1-3401, 54.1-3408.02, and 54.1-3410 of the Code of Virginia are amended and reenacted as follows:**

**§ 54.1-3401. Definitions.**

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

"Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by (i) a practitioner or by his authorized agent and under his direction or (ii) the patient or research subject at the direction and in the presence of the practitioner.

"Advertisement" means all representations disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of drugs or devices.

"Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. It does not include a common or contract carrier, public warehouseman, or employee of the carrier or warehouseman.

"Anabolic steroid" means any drug or hormonal substance, chemically and pharmacologically related to testosterone, other than estrogens, progestins, corticosteroids, and dehydroepiandrosterone.

"Animal" means any nonhuman animate being endowed with the power of voluntary action.

"Automated drug dispensing system" means a mechanical or electronic system that performs operations or activities, other than compounding or administration, relating to pharmacy services, including the storage, dispensing, or distribution of drugs and the collection, control, and maintenance of all transaction information, to provide security and accountability for such drugs.

"Biological product" means a virus, therapeutic serum, toxin, antitoxin, vaccine, blood, blood component or derivative, allergenic product, protein other than a chemically synthesized polypeptide, or analogous product, or arsphenamine or any derivative of arsphenamine or any other trivalent organic arsenic compound, applicable to the prevention, treatment, or cure of a disease or condition of human beings.

"Biosimilar" means a biological product that is highly similar to a specific reference biological product, notwithstanding minor differences in clinically inactive compounds, such that there are no clinically meaningful differences between the reference biological product and the biological product that has been licensed as a biosimilar pursuant to 42 U.S.C. § 262(k) in terms of safety, purity, and potency of the product.

"Board" means the Board of Pharmacy.

"Bulk drug substance" means any substance that is represented for use, and that, when used in the compounding, manufacturing, processing, or packaging of a drug, becomes an active ingredient or a finished dosage form of the drug; however, "bulk drug substance" shall not include intermediates that are used in the synthesis of such substances.

"Change of ownership" of an existing entity permitted, registered, or licensed by the Board means (i) the sale or transfer of all or substantially all of the assets of the entity or of any corporation that owns or controls the entity; (ii) the creation of a partnership by a sole proprietor, the dissolution of a partnership, or change in partnership composition; (iii) the acquisition or disposal of 50 percent or more of the outstanding shares of voting stock of a corporation owning the entity or of the parent corporation of a wholly owned subsidiary owning the entity, except that this shall not apply to any corporation the voting stock of which is actively traded on any securities exchange or in any over-the-counter market; (iv) the merger of a corporation owning the entity or of the parent corporation of a wholly-owned subsidiary owning the entity with another business or corporation; or (v) the expiration or forfeiture of a corporation's charter.

"Co-licensed partner" means a person who, with at least one other person, has the right to engage in the manufacturing or marketing of a prescription drug, consistent with state and federal law.

"Compounding" means the combining of two or more ingredients to fabricate such ingredients into a single preparation and includes the mixing, assembling, packaging, or labeling of a drug or device (i) by a pharmacist, or within a permitted pharmacy, pursuant to a valid prescription issued for a medicinal or therapeutic purpose in the context of a bona fide practitioner-patient-pharmacist relationship, or in expectation of receiving a valid prescription based on observed historical patterns of prescribing and dispensing; (ii) by a practitioner of medicine, osteopathy, podiatry, dentistry, or veterinary medicine as an incident to his administering or dispensing, if authorized to dispense, a controlled substance in the course of his professional practice; or (iii) for the purpose of, or as incident to, research, teaching, or chemical analysis and not for

sale or for dispensing. The mixing, diluting, or reconstituting of a manufacturer's product drugs for the purpose of administration to a patient, when performed by a practitioner of medicine or osteopathy licensed under Chapter 29 (§ 54.1-2900 et seq.), a person supervised by such practitioner pursuant to subdivision A 6 or 19 of § 54.1-2901, or a person supervised by such practitioner or a licensed nurse practitioner or physician assistant pursuant to subdivision A 4 of § 54.1-2901 shall not be considered compounding.

"Controlled substance" means a drug, substance, or immediate precursor in Schedules I through VI of this chapter. The term shall not include distilled spirits, wine, malt beverages, or tobacco as those terms are defined or used in Title 3.2 or Title 4.1. The term "controlled substance" includes a controlled substance analog that has been placed into Schedule I or II by the Board pursuant to the regulatory authority in subsection D of § 54.1-3443.

"Controlled substance analog" means a substance the chemical structure of which is substantially similar to the chemical structure of a controlled substance in Schedule I or II and either (i) which has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II or (ii) with respect to a particular person, which such person represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II. "Controlled substance analog" does not include (a) any substance for which there is an approved new drug application as defined under § 505 of the federal Food, Drug, and Cosmetic Act (21 U.S.C. § 355) or that is generally recognized as safe and effective pursuant to §§ 501, 502, and 503 of the federal Food, Drug, and Cosmetic Act (21 U.S.C. §§ 351, 352, and 353) and 21 C.F.R. Part 330; (b) with respect to a particular person, any substance for which an exemption is in effect for investigational use for that person under § 505 of the federal Food, Drug, and Cosmetic Act to the extent that the conduct with respect to that substance is pursuant to such exemption; or (c) any substance to the extent not intended for human consumption before such an exemption takes effect with respect to that substance.

"DEA" means the Drug Enforcement Administration, U.S. Department of Justice, or its successor agency.

"Deliver" or "delivery" means the actual, constructive, or attempted transfer of any item regulated by this chapter, whether or not there exists an agency relationship.

"Device" means instruments, apparatus, and contrivances, including their components, parts, and accessories, intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or animals or to affect the structure or any function of the body of man or animals.

"Dialysis care technician" or "dialysis patient care technician" means an individual who is certified by an organization approved by the Board of Health Professions pursuant to Chapter 27.01 (§ 54.1-2729.1 et seq.) and who, under the supervision of a licensed physician, nurse practitioner, physician assistant, or a registered nurse, assists in the care of patients undergoing renal dialysis treatments in a Medicare-certified renal dialysis facility.

"Dialysis solution" means either the commercially available, unopened, sterile solutions whose purpose is to be instilled into the peritoneal cavity during the medical procedure known as peritoneal dialysis, or commercially available solutions whose purpose is to be used in the performance of hemodialysis not to include any solutions administered to the patient intravenously.

"Dispense" means to deliver a drug to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the prescribing and administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery. However, dispensing shall not include the transportation of drugs mixed, diluted, or reconstituted in accordance with this chapter to other sites operated by such practitioner or that practitioner's medical practice for the purpose of administration of such drugs to patients of the practitioner or that practitioner's medical practice at such other sites. For practitioners of medicine or osteopathy, "dispense" shall only include the provision of drugs by a practitioner to patients to take with them away from the practitioner's place of practice.

"Dispenser" means a practitioner who dispenses.

"Distribute" means to deliver other than by administering or dispensing a controlled substance.

"Distributor" means a person who distributes.

"Drug" means (i) articles or substances recognized in the official United States Pharmacopoeia National Formulary or official Homeopathic Pharmacopoeia of the United States, or any supplement to any of them; (ii) articles or substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or animals; (iii) articles or substances, other than food, intended to affect the structure or any function of the body of man or animals; (iv) articles or substances intended for use as a component of any article specified in clause (i), (ii), or (iii); or (v) a biological product. "Drug" does not include devices or their components, parts, or accessories.

"Drug product" means a specific drug in dosage form from a known source of manufacture, whether by brand or therapeutically equivalent drug product name.

~~"Electronic transmission prescription" means any prescription, other than an oral or written prescription or a prescription transmitted by facsimile machine, that is electronically transmitted directly to a pharmacy without interception or intervention from a third party from a practitioner authorized to prescribe or from one pharmacy to another pharmacy a written prescription that is generated on an electronic application and is transmitted to a pharmacy as an electronic data file; Schedule II through V prescriptions shall be transmitted in accordance with 21 C.F.R. Part 1300.~~

"Facsimile (FAX) prescription" means a written prescription or order that is transmitted by an electronic device over telephone lines that sends the exact image to the receiving pharmacy in hard copy form.

"FDA" means the U.S. Food and Drug Administration.

"Hashish oil" means any oily extract containing one or more cannabinoids, but shall not include any such extract with a tetrahydrocannabinol content of less than 12 percent by weight.

"Immediate precursor" means a substance which the Board of Pharmacy has found to be and by regulation designates as being the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail, or limit manufacture.

"Interchangeable" means a biosimilar that meets safety standards for determining interchangeability pursuant to 42 U.S.C. § 262(k)(4).

"Label" means a display of written, printed, or graphic matter upon the immediate container of any article. A requirement made by or under authority of this chapter that any word, statement, or other information appear on the label shall not be considered to be complied with unless such word, statement, or other information also appears on the outside container or wrapper, if any, of the retail package of such article or is easily legible through the outside container or wrapper.

"Labeling" means all labels and other written, printed, or graphic matter on an article or any of its containers or wrappers, or accompanying such article.

"Manufacture" means the production, preparation, propagation, conversion, or processing of any item regulated by this chapter, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container. This term does not include compounding.

"Manufacturer" means every person who manufactures, a manufacturer's co-licensed partner, or a repackager.

"Marijuana" means any part of a plant of the genus *Cannabis* whether growing or not, its seeds, or its resin; and every compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, or its resin. Marijuana shall not include any oily extract containing one or more cannabinoids unless such extract contains less than 12 percent of tetrahydrocannabinol by weight, nor shall marijuana include the mature stalks of such plant, fiber produced from such stalk, or oil or cake made from the seeds of such plant, unless such stalks, fiber, oil, or cake is combined with other parts of plants of the genus *Cannabis*. Marijuana shall not include industrial hemp as defined in § 3.2-4112 that is possessed, cultivated, or manufactured by a grower licensed pursuant to § 3.2-4115.

"Medical equipment supplier" means any person, as defined in § 1-230, engaged in the delivery to the ultimate consumer, pursuant to the lawful order of a practitioner, of hypodermic syringes and needles, medicinal oxygen, Schedule VI controlled devices, those Schedule VI controlled substances with no medicinal properties that are used for the operation and cleaning of medical equipment, solutions for peritoneal dialysis, and sterile water or saline for irrigation.

"Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis: (i) opium, opiates, and any salt, compound, derivative, or preparation of opium or opiates; (ii) any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in clause (i), but not including the isoquinoline alkaloids of opium; (iii) opium poppy and poppy straw; (iv) coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extraction of coca leaves which do not contain cocaine or ecgonine.

"New drug" means (i) any drug, except a new animal drug or an animal feed bearing or containing a new animal drug, the composition of which is such that such drug is not generally recognized, among experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs, as safe and effective for use under the conditions prescribed, recommended, or suggested in the labeling, except that such a drug not so recognized shall not be deemed to be a "new drug" if at any time prior to the enactment of this chapter it was subject to the Food and Drugs Act of June 30, 1906, as amended, and if at such time its labeling contained the same representations concerning the conditions of its use, or (ii) any drug, except a new animal drug or an animal feed bearing or containing a new animal drug, the composition of which is such that such drug, as a result of investigations to determine its safety and effectiveness for use under such conditions, has become so recognized, but which has not, otherwise than in such investigations, been used to a material extent or for a material time under such conditions.

"Nuclear medicine technologist" means an individual who holds a current certification with the American Registry of Radiological Technologists or the Nuclear Medicine Technology Certification Board.

"Official compendium" means the official United States Pharmacopoeia National Formulary, official Homeopathic Pharmacopoeia of the United States, or any supplement to any of them.

"Official written order" means an order written on a form provided for that purpose by the U.S. Drug Enforcement Administration, under any laws of the United States making provision therefor, if such order forms are authorized and required by federal law, and if no such order form is provided then on an official form provided for that purpose by the Board of Pharmacy.

"Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having such addiction-forming or addiction-sustaining liability. It does not include,

unless specifically designated as controlled under Article 4 (§ 54.1-3437 et seq.), the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms.

"Opium poppy" means the plant of the species *Papaver somniferum* L., except the seeds thereof.

"Original package" means the unbroken container or wrapping in which any drug or medicine is enclosed together with label and labeling, put up by or for the manufacturer, wholesaler, or distributor for use in the delivery or display of such article.

"Outsourcing facility" means a facility that is engaged in the compounding of sterile drugs and is currently registered as an outsourcing facility with the U.S. Secretary of Health and Human Services and that complies with all applicable requirements of federal and state law, including the Federal Food, Drug, and Cosmetic Act.

"Person" means both the plural and singular, as the case demands, and includes an individual, partnership, corporation, association, governmental agency, trust, or other institution or entity.

"Pharmacist-in-charge" means the person who, being licensed as a pharmacist, signs the application for a pharmacy permit and assumes full legal responsibility for the operation of the relevant pharmacy in a manner complying with the laws and regulations for the practice of pharmacy and the sale and dispensing of controlled substances; the "pharmacist-in-charge" shall personally supervise the pharmacy and the pharmacy's personnel as required by § 54.1-3432.

"Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

"Practitioner" means a physician, dentist, licensed nurse practitioner pursuant to § 54.1-2957.01, licensed physician assistant pursuant to § 54.1-2952.1, pharmacist pursuant to § 54.1-3300, TPA-certified optometrist pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32, veterinarian, scientific investigator, or other person licensed, registered, or otherwise permitted to distribute, dispense, prescribe and administer, or conduct research with respect to a controlled substance in the course of professional practice or research in the Commonwealth.

"Prescriber" means a practitioner who is authorized pursuant to §§ 54.1-3303 and 54.1-3408 to issue a prescription.

"Prescription" means an order for drugs or medical supplies, written or signed or transmitted by word of mouth, telephone, telegraph, or other means of communication to a pharmacist by a duly licensed physician, dentist, veterinarian, or other practitioner authorized by law to prescribe and administer such drugs or medical supplies.

"Prescription drug" means any drug required by federal law or regulation to be dispensed only pursuant to a prescription, including finished dosage forms and active ingredients subject to § 503(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. § 353(b)).

"Production" or "produce" includes the manufacture, planting, cultivation, growing, or harvesting of a controlled substance or marijuana.

"Proprietary medicine" means a completely compounded nonprescription drug in its unbroken, original package which does not contain any controlled substance or marijuana as defined in this chapter and is not in itself poisonous, and which is sold, offered, promoted, or advertised directly to the general public by or under the authority of the manufacturer or primary distributor, under a trademark, trade name, or other trade symbol privately owned, and the labeling of which conforms to the requirements of this chapter and applicable federal law. However, this definition shall not include a drug that is only advertised or promoted professionally to licensed practitioners, a narcotic or drug containing a narcotic, a drug that may be dispensed only upon prescription or the label of which bears substantially the statement "Warning — may be habit-forming," or a drug intended for injection.

"Radiopharmaceutical" means any drug that exhibits spontaneous disintegration of unstable nuclei with the emission of nuclear particles or photons and includes any non-radioactive reagent kit or radionuclide generator that is intended to be used in the preparation of any such substance, but does not include drugs such as carbon-containing compounds or potassium-containing salts that include trace quantities of naturally occurring radionuclides. The term also includes any biological product that is labeled with a radionuclide or intended solely to be labeled with a radionuclide.

"Reference biological product" means the single biological product licensed pursuant to 42 U.S.C. § 262(a) against which a biological product is evaluated in an application submitted to the U.S. Food and Drug Administration for licensure of biological products as biosimilar or interchangeable pursuant to 42 U.S.C. § 262(k).

"Sale" includes barter, exchange, or gift, or offer therefor, and each such transaction made by any person, whether as an individual, proprietor, agent, servant, or employee.

"Therapeutically equivalent drug products" means drug products that contain the same active ingredients and are identical in strength or concentration, dosage form, and route of administration and that are classified as being therapeutically equivalent by the U.S. Food and Drug Administration pursuant to the definition of "therapeutically equivalent drug products" set forth in the most recent edition of the Approved Drug Products with Therapeutic Equivalence Evaluations, otherwise known as the "Orange Book."

"Third-party logistics provider" means a person that provides or coordinates warehousing of or other logistics services for a drug or device in interstate commerce on behalf of a manufacturer, wholesale distributor, or dispenser of the drug or device but does not take ownership of the product or have responsibility for directing the sale or disposition of the product.

"USP-NF" means the current edition of the United States Pharmacopeia-National Formulary.

"Warehouser" means any person, other than a wholesale distributor, manufacturer, or third-party logistics provider, engaged in the business of selling or otherwise distributing prescription drugs or devices to any person who is not the ultimate user or consumer. No person shall be subject to any state or local tax by reason of this definition.

"Wholesale distribution" means distribution of prescription drugs to persons other than consumers or patients, subject to the exemptions set forth in the federal Drug Supply Chain Security Act.

"Wholesale distributor" means any person other than a manufacturer, a manufacturer's co-licensed partner, a third-party logistics provider, or a repackager that engages in wholesale distribution.

The words "drugs" and "devices" as used in Chapter 33 (§ 54.1-3300 et seq.) and in this chapter shall not include surgical or dental instruments, physical therapy equipment, X-ray apparatus, or glasses or lenses for the eyes.

The terms "pharmacist," "pharmacy," and "practice of pharmacy" as used in this chapter shall be defined as provided in Chapter 33 (§ 54.1-3300 et seq.) unless the context requires a different meaning.

**§ 54.1-3408.02. Transmission of prescriptions.**

A. Consistent with federal law and in accordance with regulations promulgated by the Board, prescriptions may be transmitted to a pharmacy ~~by as an electronic transmission~~ *prescription* or by facsimile machine and shall be treated as valid original prescriptions.

*B. Any prescription for a controlled substance that contains an opiate shall be issued as an electronic prescription.*

**§ 54.1-3410. When pharmacist may sell and dispense drugs.**

A. A pharmacist, acting in good faith, may sell and dispense drugs and devices to any person pursuant to a prescription of a prescriber as follows:

1. A drug listed in Schedule II shall be dispensed only upon receipt of a written prescription that is properly executed, dated and signed by the person prescribing on the day when issued and bearing the full name and address of the patient for whom, or of the owner of the animal for which, the drug is dispensed, and the full name, address, and registry number under the federal laws of the person prescribing, if he is required by those laws to be so registered. If the prescription is for an animal, it shall state the species of animal for which the drug is prescribed;

2. In emergency situations, Schedule II drugs may be dispensed pursuant to an oral prescription in accordance with the Board's regulations;

3. Whenever a pharmacist dispenses any drug listed within Schedule II on a prescription issued by a prescriber, he shall affix to the container in which such drug is dispensed, a label showing the prescription serial number or name of the drug; the date of initial filling; his name and address, or the name and address of the pharmacy; the name of the patient or, if the patient is an animal, the name of the owner of the animal and the species of the animal; the name of the prescriber by whom the prescription was written, except for those drugs dispensed to a patient in a hospital pursuant to a chart order; and such directions as may be stated on the prescription.

B. A drug controlled by Schedules III through VI or a device controlled by Schedule VI shall be dispensed upon receipt of a written or oral prescription as follows:

1. If the prescription is written, it shall be properly executed, dated and signed by the person prescribing on the day when issued and bear the full name and address of the patient for whom, or of the owner of the animal for which, the drug is dispensed, and the full name and address of the person prescribing. If the prescription is for an animal, it shall state the species of animal for which the drug is prescribed.

2. If the prescription is oral, the prescriber shall furnish the pharmacist with the same information as is required by law in the case of a written prescription for drugs and devices, except for the signature of the prescriber.

A pharmacist who dispenses a Schedule III through VI drug or device shall label the drug or device as required in subdivision A 3 of this section.

C. A drug controlled by Schedule VI may be refilled without authorization from the prescriber if, after reasonable effort has been made to contact him, the pharmacist ascertains that he is not available and the patient's health would be in imminent danger without the benefits of the drug. The refill shall be made in compliance with the provisions of § 54.1-3411.

If the written or oral prescription is for a Schedule VI drug or device and does not contain the address or registry number of the prescriber, or the address of the patient, the pharmacist need not reduce such information to writing if such information is readily retrievable within the pharmacy.

D. Pursuant to authorization of the prescriber, an agent of the prescriber on his behalf may orally transmit a prescription for a drug classified in Schedules III through VI if, in such cases, the written record of the prescription required by this subsection specifies the full name of the agent of the prescriber transmitting the prescription.

*E. No pharmacist shall dispense a controlled substance that contains an opiate unless the prescription for such controlled substance is issued as an electronic prescription.*

**2. That the provisions of the first enactment of this act shall become effective on July 1, 2020.**

**3. That the Secretary of Health and Human Resources shall convene a work group of interested stakeholders, including the Medical Society of Virginia, the Virginia Hospital and Healthcare Association, the Virginia Dental Association, the Virginia Association of Health Plans, and the Virginia Pharmacy Association to review actions necessary for the implementation of the provisions of this act and shall make an interim progress report to the Chairmen of the House Committee on Health, Welfare and Institutions and the Senate Committee on Education and Health by November 1, 2017, and shall make a final report to such Chairmen by November 1, 2018. In addition, the work group shall evaluate hardships on prescribers, the inability of prescribers to comply with the deadline for electronic prescribing and make recommendations to the General Assembly for any extension or exemption processes relative to compliance or disruptions due to natural or manmade disasters or technology gaps, failures or interruptions of services.**

## CHAPTER 430

*An Act to amend and reenact §§ 58.1-3700.1 and 58.1-3703 of the Code of Virginia, relating to local license taxes; exemption for certain defense production businesses.*

[S 1274]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:****1. That §§ 58.1-3700.1 and 58.1-3703 of the Code of Virginia are amended and reenacted as follows:****§ 58.1-3700.1. Definitions.**

For the purposes of this chapter and any local ordinances adopted pursuant to this chapter, unless otherwise required by the context:

"Affiliated group" means:

1. One or more chains of corporations subject to inclusion connected through stock ownership with a common parent corporation which is a corporation subject to inclusion if:

a. Stock possessing at least eighty percent of the voting power of all classes of stock and at least eighty percent of each class of the nonvoting stock of each of the corporations subject to inclusion, except the common parent corporation, is owned directly by one or more of the other corporations subject to inclusion; and

b. The common parent corporation directly owns stock possessing at least eighty percent of the voting power of all classes of stock and at least eighty percent of each class of the nonvoting stock of at least one of the other subject to inclusion corporations. As used in this subdivision, the term "stock" does not include nonvoting stock which is limited and preferred as to dividends; the phrase "corporation subject to inclusion" means any corporation within the affiliated group irrespective of the state or country of its incorporation; and the term "receipts" includes gross receipts and gross income.

2. Two or more corporations if five or fewer persons who are individuals, estates or trusts own stock possessing:

a. At least eighty percent of the total combined voting power of all classes of stock entitled to vote or at least eighty percent of the total value of shares of all classes of the stock of each corporation; and

b. More than fifty percent of the total combined voting power of all classes of stock entitled to vote or more than fifty percent of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each such person only to the extent such stock ownership is identical with respect to each such corporation.

When one or more of the corporations subject to inclusion, including the common parent corporation, is a nonstock corporation, the term "stock" as used in this subdivision shall refer to the nonstock corporation membership or membership voting rights, as is appropriate to the context.

3. Two or more entities if such entities satisfy the requirements in subdivision 1 or 2 of this definition as if they were corporations and the ownership interests therein were stock.

"Assessment" means a determination as to the proper rate of tax, the measure to which the tax rate is applied, and ultimately the amount of tax, including additional or omitted tax, that is due. An assessment shall include a written assessment made pursuant to notice by the assessing official or a self-assessment made by a taxpayer upon the filing of a return or otherwise not pursuant to notice. Assessments shall be deemed made by an assessing official when a written notice of assessment is delivered to the taxpayer by the assessing official or an employee of the assessing official, or mailed to the taxpayer at his last known address. Self-assessments shall be deemed made when a return is filed, or if no return is required, when the tax is paid. A return filed or tax paid before the last day prescribed by ordinance for the filing or payment thereof shall be deemed to be filed or paid on the last day specified for the filing of a return or the payment of tax, as the case may be.

"Base year" means the calendar year preceding the license year, except for contractors subject to the provisions of § 58.1-3715 or unless the local ordinance provides for a different period for measuring the gross receipts of a business, such as for beginning businesses or to allow an option to use the same fiscal year as for federal income tax purposes.

"Business" means a course of dealing which requires the time, attention and labor of the person so engaged for the purpose of earning a livelihood or profit. It implies a continuous and regular course of dealing, rather than an irregular or isolated transaction. A person may be engaged in more than one business. The following acts shall create a rebuttable presumption that a person is engaged in a business: (i) advertising or otherwise holding oneself out to the public as being engaged in a particular business or (ii) filing tax returns, schedules and documents that are required only of persons engaged in a trade or business.

"Defense production business" means a business engaged in the design, development, or production of materials, components, or equipment required to meet the needs of national defense.

"Definite place of business" means an office or a location at which occurs a regular and continuous course of dealing for thirty consecutive days or more. A definite place of business for a person engaged in business may include a location leased or otherwise obtained from another person on a temporary or seasonal basis and real property leased to another. A person's residence shall be deemed to be a definite place of business if there is no definite place of business maintained elsewhere and the person is not subject to licensure as a peddler or itinerant merchant.

"Entity" means a business organization, other than a sole proprietorship, that is a corporation, limited liability company, limited partnership, or limited liability partnership duly organized under the laws of the Commonwealth or another state.

"Financial services" means the buying, selling, handling, managing, investing, and providing of advice regarding money, credit, securities, or other investments.

"Fuel sale" or "fuel sales" shall mean retail sales of alternative fuel, blended fuel, diesel fuel, gasohol, or gasoline, as such terms are defined in § 58.1-2201.

"Gas retailer" means a person or entity engaged in business as a retailer offering to sell at retail on a daily basis alternative fuel, blended fuel, diesel fuel, gasohol, or gasoline, as such terms are defined in § 58.1-2201.

"Gross receipts" means the whole, entire, total receipts, without deduction.

"Independent registered representative" means an independent contractor registered with the United States Securities and Exchange Commission.

"License year" means the calendar year for which a license is issued for the privilege of engaging in business.

"Professional services" means services performed by architects, attorneys-at-law, certified public accountants, dentists, engineers, land surveyors, surgeons, veterinarians, and practitioners of the healing arts (the arts and sciences dealing with the prevention, diagnosis, treatment and cure or alleviation of human physical or mental ailments, conditions, diseases, pain or infirmities) and such occupations, and no others, as the Department of Taxation may list in the BPOL guidelines promulgated pursuant to § 58.1-3701. The Department shall identify and list each occupation or vocation in which a professed knowledge of some department of science or learning, gained by a prolonged course of specialized instruction and study, is used in its practical application to the affairs of others, either advising, guiding, or teaching them, and in serving their interests or welfare in the practice of an art or science founded on it. The word "profession" implies attainments in professional knowledge as distinguished from mere skill, and the application of knowledge to uses for others rather than for personal profit.

"Purchases" means all goods, wares and merchandise received for sale at each definite place of business of a wholesale merchant. The term shall also include the cost of manufacture of all goods, wares and merchandise manufactured by any wholesale merchant and sold or offered for sale. A wholesale merchant may elect to report the gross receipts from the sale of manufactured goods, wares and merchandise if it cannot determine the cost of manufacture or chooses not to disclose the cost of manufacture.

"Real estate services" means providing a service with respect to the purchase, sale, lease, rental, or appraisal of real property.

"Security broker" means a "broker" as such term is defined under the Securities Exchange Act of 1934 (15 U.S.C. § 78a et seq.), or any successor law to the Securities Exchange Act of 1934, who is registered with the United States Securities and Exchange Commission.

"Security dealer" means a "dealer" as such term is defined under the Securities Exchange Act of 1934 (15 U.S.C. § 78a et seq.), or any successor law to the Securities Exchange Act of 1934, who is registered with the United States Securities and Exchange Commission.

**§ 58.1-3703. Counties, cities and towns may impose local license taxes and fees; limitation of authority.**

A. The governing body of any county, city or town may charge a fee for issuing a license in an amount not to exceed \$100 for any locality with a population greater than 50,000, \$50 for any locality with a population of 25,000 but no more than 50,000 and \$30 for any locality with a population smaller than 25,000. For purposes of this section, population may be based on the most current final population estimates of the Weldon Cooper Center for Public Service of the University of Virginia. Such governing body may levy and provide for the assessment and collection of county, city or town license taxes on businesses, trades, professions, occupations and callings and upon the persons, firms and corporations engaged therein within the county, city or town subject to the limitations in (i) subsection C and (ii) subsection A of § 58.1-3706, provided such tax shall not be assessed and collected on any amount of gross receipts of each business upon which a license fee is charged. Any county, city or town with a population greater than 50,000 shall reduce the fee to an amount not to exceed \$50 by January 1, 2000. The ordinance imposing such license fees and levying such license taxes shall include the provisions of § 58.1-3703.1.

B. Any county, city or town by ordinance may exempt in whole or in part from the license tax (i) the design, development or other creation of computer software for lease, sale or license and (ii) private businesses and industries entering into agreements for the establishment, installation, renovation, remodeling, or construction of satellite classrooms for grades kindergarten through three on a site owned by the business or industry and leased to the school board at no costs pursuant to § 22.1-26.1.

C. No county, city, or town shall impose a license fee or levy any license tax:

1. On any public service corporation or any motor carrier, common carrier, or other carrier of passengers or property formerly certified by the Interstate Commerce Commission or presently registered for insurance purposes with the Surface Transportation Board of the United States Department of Transportation, Federal Highway Administration, except as provided in § 58.1-3731 or as permitted by other provisions of law;

2. For selling farm or domestic products or nursery products, ornamental or otherwise, or for the planting of nursery products, as an incident to the sale thereof, outside of the regular market houses and sheds of such county, city or town, provided such products are grown or produced by the person offering them for sale;

3. Upon the privilege or right of printing or publishing any newspaper, magazine, newsletter or other publication issued daily or regularly at average intervals not exceeding three months, provided the publication's subscription sales are exempt

from state sales tax, or for the privilege or right of operating or conducting any radio or television broadcasting station or service;

4. On a manufacturer for the privilege of manufacturing and selling goods, wares and merchandise at wholesale at the place of manufacture. *For purposes of this subdivision, this shall include a manufacturer that is also a defense production business selling manufacturing, rebuilding, repair, and maintenance services at the place of manufacture (i) to the United States or (ii) for which consent of the United States is required;*

5. On a person engaged in the business of severing minerals from the earth for the privilege of selling the severed mineral at wholesale at the place of severance, except as provided in §§ 58.1-3712 and 58.1-3713;

6. Upon a wholesaler for the privilege of selling goods, wares and merchandise to other persons for resale unless such wholesaler has a definite place of business or store in such county, city or town. This subdivision shall not be construed as prohibiting any county, city or town from imposing a local license tax on a peddler at wholesale pursuant to § 58.1-3718;

7. Upon any person, firm or corporation for engaging in the business of renting, as the owner of such property, real property other than hotels, motels, motor lodges, auto courts, tourist courts, travel trailer parks, campgrounds, bed and breakfast establishments, lodging houses, rooming houses, and boardinghouses; however, any county, city or town imposing such a license tax on January 1, 1974, shall not be precluded from the levy of such tax by the provisions of this subdivision;

8. [Repealed.]

9. On or measured by receipts for management, accounting, or administrative services provided on a group basis under a nonprofit cost-sharing agreement by a corporation which is an agricultural cooperative association under the provisions of Article 2 (§ 13.1-312 et seq.) of Chapter 3 of Title 13.1, or a member or subsidiary or affiliated association thereof, to other members of the same group. This exemption shall not exempt any such corporation from such license or other tax measured by receipts from outside the group;

10. On or measured by receipts or purchases by an entity which is a member of an affiliated group of entities from other members of the same affiliated group. This exclusion shall not exempt affiliated entities from such license or other tax measured by receipts or purchases from outside the affiliated group. This exclusion also shall not preclude a locality from levying a wholesale merchant's license tax on an affiliated entity on those sales by the affiliated entity to a nonaffiliated entity, notwithstanding the fact that the wholesale merchant's license tax would be based upon purchases from an affiliated entity. Such tax shall be based on the purchase price of the goods sold to the nonaffiliated entity. As used in this subdivision, the term "sales by the affiliated entity to a nonaffiliated entity" means sales by the affiliated entity to a nonaffiliated entity where goods sold by the affiliated entity or its agent are manufactured or stored in the Commonwealth prior to their delivery to the nonaffiliated entity;

11. On any insurance company subject to taxation under Chapter 25 (§ 58.1-2500 et seq.) of this title or on any agent of such company;

12. On any bank or trust company subject to taxation in Chapter 12 (§ 58.1-1200 et seq.) of this title;

13. Upon a taxicab driver, if the locality has imposed a license tax upon the taxicab company for which the taxicab driver operates;

14. On any blind person operating a vending stand or other business enterprise under the jurisdiction of the Department for the Blind and Vision Impaired, or a nominee of the Department, as set forth in § 51.5-98;

15. [Expired.]

16. [Repealed.]

17. On an accredited religious practitioner in the practice of the religious tenets of any church or religious denomination. "Accredited religious practitioner" shall be defined as one who is engaged solely in praying for others upon accreditation by such church or religious denomination;

18. a. On or measured by receipts of a nonprofit organization described in Internal Revenue Code § 501(c)(3) or 501(c)(19) except to the extent the organization has receipts from an unrelated trade or business the income of which is taxable under Internal Revenue Code § 511 et seq. For the purpose of this subdivision, "nonprofit organization" means an organization that is described in Internal Revenue Code § 501(c)(3) or 501(c)(19), and to which contributions are deductible by the contributor under Internal Revenue Code § 170, except that educational institutions exempt from federal income tax under Internal Revenue Code § 501(c)(3) shall be limited to schools, colleges, and other similar institutions of learning.

b. On or measured by gifts, contributions, and membership dues of a nonprofit organization. Activities conducted for consideration that are similar to activities conducted for consideration by for-profit businesses shall be presumed to be activities that are part of a business subject to licensure. For the purpose of this subdivision, "nonprofit organization" means an organization exempt from federal income tax under Internal Revenue Code § 501 other than the nonprofit organizations described in subdivision a;

19. On any venture capital fund or other investment fund, except commissions and fees of such funds. Gross receipts from the sale and rental of real estate and buildings remain taxable by the locality in which the real estate is located provided the locality is otherwise authorized to tax such businesses and rental of real estate;

20. On total assessments paid by condominium unit owners for common expenses. "Common expenses" and "unit owner" have the same meanings as in § 55-79.41; or

21. On or measured by receipts of a qualifying transportation facility directly or indirectly owned or title to which is held by the Commonwealth or any political subdivision thereof or by the United States as described in § 58.1-3606.1 and

developed and/or operated pursuant to a concession under the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) or similar federal law.

D. Any county, city or town may establish by ordinance a business license incentive program for "qualifying businesses." For purposes of this subsection, a "qualifying business" is a business that locates for the first time in the locality adopting such ordinance. A business shall not be deemed to locate in such locality for the first time based on merger, acquisition, similar business combination, name change, or a change in business form. Any incentive established pursuant to this subsection may extend for a period not to exceed two years from the date the business locates in such locality. The business license incentive program may include (i) an exemption, in whole or in part, of license taxes for any qualifying business; (ii) a refund or rebate, in whole or in part, of license taxes paid by a qualifying business; or (iii) other relief from license taxes for a qualifying business not prohibited by state or federal law.

E. For taxable years beginning on or after January 1, 2012, any locality may exempt, by ordinance, license fees or license taxes on any business that does not have an after-tax profit for the taxable year and offers the income tax return of the business as proof to the local commissioner of the revenue. Eligibility for this exemption shall be determined annually and it shall be the obligation of the business owner to submit the applicable income tax return to the local commissioner of the revenue.

### CHAPTER 431

*An Act to amend and reenact §§ 2.2-1201.1 and 19.2-389 of the Code of Virginia, relating to the Department of Human Resources Management; authority to conduct criminal background checks; state agencies positions that are designated as sensitive; agencies to report to the Department.*

[S 1293]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 2.2-1201.1 and 19.2-389 of the Code of Virginia are amended and reenacted as follows:**

**§ 2.2-1201.1. Criminal background checks for certain positions.**

The Department shall develop a statewide personnel policy for designating positions within each state agency as sensitive. Such policy shall provide ~~for that~~ a state agency ~~to~~ require any *employee, contractor, or final candidate for employment* in a position that has been designated as sensitive to submit to fingerprinting and to provide personal descriptive information to be forwarded along with the applicant's fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history information regarding such ~~applicant~~ individual.

*Each state agency shall continue to record positions designated as sensitive in the Personnel Management Information System (PMIS) to ensure that the Department has a list of all such positions.* For purposes of this section, "sensitive positions" shall ~~mean include~~ those positions ~~generally described as directly responsible~~.

1. *Responsible for the health, safety, and welfare of ~~the general populace~~ citizens or the protection of critical infrastructures;*
2. *That have access to sensitive information, including access to federal tax information in approved exchange agreements with the Internal Revenue Service or Social Security Administration; and*
3. *That are otherwise required by state or federal law to be designated as sensitive.*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17. (Effective until July 1, 2018) The Alcoholic Beverage Control Board for the conduct of investigations as set forth in § 4.1-103.1;

17. (Effective July 1, 2018) The Virginia Alcoholic Beverage Control Authority for the conduct of investigations as set forth in § 4.1-103.1;

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

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

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

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

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

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

24. Public and nonprofit private colleges and universities for the purpose of screening individuals who are offered or accept employment;

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

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

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

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

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

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

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

32. Heads of state agencies in which positions have been identified as sensitive for the purpose of determining an individual's fitness for employment in positions designated as sensitive under Department of Human Resource Management policies developed pursuant to § 2.2-1201.1: ~~Dissemination of criminal history record information to the agencies shall be limited to those positions generally described as directly responsible for the health, safety and welfare of the general populace or protection of critical infrastructures;~~

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

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

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

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

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

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

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

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

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

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

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

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

45. Other entities as otherwise provided by law.

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

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

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

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

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

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

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

G. Criminal history information provided to public agencies pursuant to subdivision A 36 shall be limited to the convictions on file with the Exchange for any offense specified in § 63.2-1719.

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

**2. That an emergency exists and this act is in force from its passage.**

### CHAPTER 432

*An Act to amend and reenact §§ 2.2-4006 and 54.1-3443 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 54.1-3408.05, relating to descheduling or rescheduling controlled substances.*

[S 1403]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 2.2-4006 and 54.1-3443 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 54.1-3408.05 as follows:**

**§ 2.2-4006. Exemptions from requirements of this article.**

A. The following agency actions otherwise subject to this chapter and § 2.2-4103 of the Virginia Register Act shall be exempted from the operation of this article:

1. Agency orders or regulations fixing rates or prices.
2. Regulations that establish or prescribe agency organization, internal practice or procedures, including delegations of authority.
3. Regulations that consist only of changes in style or form or corrections of technical errors. Each promulgating agency shall review all references to sections of the Code of Virginia within their regulations each time a new supplement or replacement volume to the Code of Virginia is published to ensure the accuracy of each section or section subdivision identification listed.
4. Regulations that are:
  - a. Necessary to conform to changes in Virginia statutory law or the appropriation act where no agency discretion is involved. However, such regulations shall be filed with the Registrar within 90 days of the law's effective date;
  - b. Required by order of any state or federal court of competent jurisdiction where no agency discretion is involved; or
  - c. Necessary to meet the requirements of federal law or regulations, provided such regulations do not differ materially from those required by federal law or regulation, and the Registrar has so determined in writing. Notice of the proposed adoption of these regulations and the Registrar's determination shall be published in the Virginia Register not less than 30 days prior to the effective date of the regulation.
5. Regulations of the Board of Agriculture and Consumer Services adopted pursuant to subsection B of § 3.2-3929 or clause (v) or (vi) of subsection C of § 3.2-3931 after having been considered at two or more Board meetings and one public hearing.
6. Regulations of the regulatory boards served by (i) the Department of Labor and Industry pursuant to Title 40.1 and (ii) the Department of Professional and Occupational Regulation or the Department of Health Professions pursuant to Title 54.1 that are limited to reducing fees charged to regulants and applicants.
7. The development and issuance of procedural policy relating to risk-based mine inspections by the Department of Mines, Minerals and Energy authorized pursuant to §§ 45.1-161.82 and 45.1-161.292:55.
8. General permits issued by the (a) State Air Pollution Control Board pursuant to Chapter 13 (§ 10.1-1300 et seq.) of Title 10.1 or (b) State Water Control Board pursuant to the State Water Control Law (§ 62.1-44.2 et seq.), Chapter 24 (§ 62.1-242 et seq.) of Title 62.1 and Chapter 25 (§ 62.1-254 et seq.) of Title 62.1, (c) Virginia Soil and Water Conservation Board pursuant to the Dam Safety Act (§ 10.1-604 et seq.), and (d) the development and issuance of general wetlands permits by the Marine Resources Commission pursuant to subsection B of § 28.2-1307, if the respective Board or Commission (i) provides a Notice of Intended Regulatory Action in conformance with the provisions of § 2.2-4007.01, (ii) following the passage of 30 days from the publication of the Notice of Intended Regulatory Action forms a technical advisory committee composed of relevant stakeholders, including potentially affected citizens groups, to assist in the development of the general permit, (iii) provides notice and receives oral and written comment as provided in § 2.2-4007.03, and (iv) conducts at least one public hearing on the proposed general permit.
9. The development and issuance by the Board of Education of guidelines on constitutional rights and restrictions relating to the recitation of the pledge of allegiance to the American flag in public schools pursuant to § 22.1-202.
10. Regulations of the Board of the Virginia College Savings Plan adopted pursuant to § 23.1-704.

11. Regulations of the Marine Resources Commission.

12. Regulations adopted by the Board of Housing and Community Development pursuant to (i) Statewide Fire Prevention Code (§ 27-94 et seq.), (ii) the Industrialized Building Safety Law (§ 36-70 et seq.), (iii) the Uniform Statewide Building Code (§ 36-97 et seq.), and (iv) § 36-98.3, provided the Board (a) provides a Notice of Intended Regulatory Action in conformance with the provisions of § 2.2-4007.01, (b) publishes the proposed regulation and provides an opportunity for oral and written comments as provided in § 2.2-4007.03, and (c) conducts at least one public hearing as provided in §§ 2.2-4009 and 36-100 prior to the publishing of the proposed regulations. Notwithstanding the provisions of this subdivision, any regulations promulgated by the Board shall remain subject to the provisions of § 2.2-4007.06 concerning public petitions, and §§ 2.2-4013 and 2.2-4014 concerning review by the Governor and General Assembly.

13. Amendments to regulations of the Board to schedule a substance ~~in Schedule I or II~~ pursuant to subsection D or E of § 54.1-3443.

14. Waste load allocations adopted, amended, or repealed by the State Water Control Board pursuant to the State Water Control Law (§ 62.1-44.2 et seq.), including but not limited to Article 4.01 (§ 62.1-44.19:4 et seq.) of the State Water Control Law, if the Board (i) provides public notice in the Virginia Register; (ii) if requested by the public during the initial public notice 30-day comment period, forms an advisory group composed of relevant stakeholders; (iii) receives and provides summary response to written comments; and (iv) conducts at least one public meeting. Notwithstanding the provisions of this subdivision, any such waste load allocations adopted, amended, or repealed by the Board shall be subject to the provisions of §§ 2.2-4013 and 2.2-4014 concerning review by the Governor and General Assembly.

15. Regulations of the Workers' Compensation Commission adopted pursuant to § 65.2-605, including regulations that adopt, amend, adjust, or repeal Virginia fee schedules for medical services, provided the Workers' Compensation Commission (i) utilizes a regulatory advisory panel constituted as provided in subdivision F 2 of § 65.2-605 to assist in the development of such regulations and (ii) provides an opportunity for public comment on the regulations prior to adoption.

B. Whenever regulations are adopted under this section, the agency shall state as part thereof that it will receive, consider and respond to petitions by any interested person at any time with respect to reconsideration or revision. The effective date of regulations adopted under this section shall be in accordance with the provisions of § 2.2-4015, except in the case of emergency regulations, which shall become effective as provided in subsection B of § 2.2-4012.

C. A regulation for which an exemption is claimed under this section or § 2.2-4002 or 2.2-4011 and that is placed before a board or commission for consideration shall be provided at least two days in advance of the board or commission meeting to members of the public that request a copy of that regulation. A copy of that regulation shall be made available to the public attending such meeting.

**§ 54.1-3408.05. Use of FDA-approved substance upon publication of final rule.**

*Except as otherwise provided in this chapter, no person shall be prosecuted under Chapter 7 (§ 18.2-247 et seq.) of Title 18.2 for acting in accordance with § 54.1-3421 or for prescribing, administering, dispensing, or possessing pursuant to a valid prescription issued by a prescriber any substance that has been approved as a prescription drug by the U.S. Food and Drug Administration pursuant to 21 U.S.C. § 360bb and 21 U.S.C. § 355 on or after July 1, 2017, in accordance with any final or interim final order or rule issued pursuant to 21 U.S.C. § 811(j). Such immunity from prosecution for a particular substance shall remain in effect until the earlier of (i) nine months as calculated from the latter of the date of the publication in the Federal Register of the interim final order or rule scheduling such substance or the final order or rule scheduling such substance, provided that a final order or rule is issued within nine months of the interim final order or rule, or (ii) such substance being added to a schedule in Article 5 (§ 54.1-3443 et seq.) pursuant to § 54.1-3443 or by enactment into law.*

**§ 54.1-3443. Board to administer article.**

A. The Board shall administer this article and may add substances to or deschedule or reschedule all substances enumerated in the schedules in this article pursuant to the procedures of the Administrative Process Act (§ 2.2-4000 et seq.). In making a determination regarding a substance, the Board shall consider the following:

1. The actual or relative potential for abuse;
2. The scientific evidence of its pharmacological effect, if known;
3. The state of current scientific knowledge regarding the substance;
4. The history and current pattern of abuse;
5. The scope, duration, and significance of abuse;
6. The risk to the public health;
7. The potential of the substance to produce psychic or physical dependence; and
8. Whether the substance is an immediate precursor of a substance already controlled under this article.

B. After considering the factors enumerated in subsection A, the Board shall make findings and issue a regulation controlling the substance if it finds the substance has a potential for abuse.

C. If the Board designates a substance as an immediate precursor, substances which are precursors of the controlled precursor shall not be subject to control solely because they are precursors of the controlled precursor.

D. If the Board, in consultation with the Department of Forensic Science, determines the substance shall be placed into Schedule I or II pursuant to § 54.1-3445 or 54.1-3447, the Board may amend its regulations pursuant to Article 2 (§ 2.2-4006 et seq.) of the Administrative Process Act. Prior to making such amendments, the Board shall conduct a public hearing. At least 30 days prior to conducting such hearing, it shall post notice of the hearing on the Virginia Regulatory

Town Hall and shall send notice of the hearing to any persons requesting to be notified of a regulatory action. In the notice, the Board shall include a list of all substances it intends to schedule by regulation. The Board shall notify the House Courts of Justice and Senate Courts of Justice Committees of any new substance added to Schedule I or II pursuant to this subsection. Any substance added to Schedule I or II pursuant to this subsection shall remain on Schedule I or II for a period of 18 months. Upon expiration of such 18-month period, such substance shall be descheduled unless a general law is enacted adding such substance to Schedule I or II. Nothing in this subsection shall preclude the Board from adding substances to or descheduling or rescheduling all substances enumerated in the schedules pursuant to the provisions of subsections A, B, and E.

E. If any substance is designated, rescheduled, or descheduled as a controlled substance under federal law and notice of such action is given to the Board, the Board may similarly control the substance under this chapter after the expiration of ~~120~~ 30 days from publication in the Federal Register of ~~the a final or interim final order or rule~~ designating a substance as a controlled substance or rescheduling or descheduling a substance ~~without following the provisions specified in subsections A and B~~ by amending its regulations in accordance with the requirements of Article 2 (§ 2.2-4006 et seq.) of the Administrative Process Act. Prior to making such amendments, the Board shall post notice of the hearing on the Virginia Regulatory Town Hall and shall send notice of the hearing to any persons requesting to be notified of a regulatory action. The Board shall include a list of all substances it intends to schedule by regulation in such notice.

F. Authority to control under this section does not extend to distilled spirits, wine, malt beverages, or tobacco as those terms are defined or used in Title 4.1.

G. The Board shall exempt any nonnarcotic substance from a schedule if such substance may, under the provisions of the federal Food, Drug, and Cosmetic Act (21 U.S.C. § 301 et seq.) or state law, be lawfully sold over the counter without a prescription.

### CHAPTER 433

*An Act to amend the Code of Virginia by adding in Article 3 of Chapter 18 of Title 58.1 a section numbered 58.1-1840.2, relating to Virginia Tax Amnesty Program.*

[S 1438]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding in Article 3 of Chapter 18 of Title 58.1 a section numbered 58.1-1840.2 as follows:**

**§ 58.1-1840.2. Virginia Tax Amnesty Program.**

*A. There is hereby established the Virginia Tax Amnesty Program (the Program).*

*B. The Virginia Tax Amnesty Program shall be administered by the Department. Any taxpayer required to file a return or to pay any tax administered or collected by the Department shall be eligible to participate in the Program, subject to the requirements in this section and guidelines established by the Tax Commissioner. The Tax Commissioner may require participants in the Program to complete an amnesty application and such other forms as he may prescribe and to furnish any additional information he deems necessary to make a determination regarding the validity of such amnesty application.*

*C. The Tax Commissioner shall establish guidelines and rules for the procedures for participation and any other rules that are deemed necessary by the Tax Commissioner. The guidelines and rules issued by the Tax Commissioner regarding the Program shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq.).*

*D. The Program shall have the following features:*

*1. The Program shall be conducted during the period July 1, 2017, through June 30, 2018, and shall not last less than 60 nor more than 75 days. The exact dates of the Program shall be established by the Tax Commissioner.*

*2. All civil or criminal penalties assessed or assessable, as provided in this title, including the addition to tax under §§ 58.1-492 and 58.1-504, and one-half of the interest assessed or assessable, as provided in this title, which are the result of nonpayment, underpayment, nonreporting, or underreporting of tax liabilities, shall be waived upon receipt of the payment of the amount of taxes and interest owed, with the following exceptions:*

*a. No taxpayer currently under investigation or prosecution for filing a fraudulent return or failing to file a return with the intent to evade tax shall be eligible to participate in the Program.*

*b. No taxpayer shall be eligible to participate in the Program with respect to any assessment outstanding for which the date of assessment is less than 90 days prior to the first day of the Program or with respect to any liability arising from the failure to file a return for which the due date of the return is less than 90 days prior to the first day of the Program.*

*c. No taxpayer shall be eligible to participate in the Program with respect to any tax liability from the income taxes imposed by §§ 58.1-320, 58.1-360, and 58.1-400, if the tax liability is attributable to taxable years beginning on and after January 1, 2016.*

*E. For the purpose of computing the outstanding balance due because of the nonpayment, underpayment, nonreporting, or underreporting of any tax liability that has not been assessed prior to the first day of the Program, the rate of interest specified for omitted taxes and assessments under § 58.1-15 shall not be applicable. Instead, the Tax*

Commissioner shall establish one interest rate to be used for each taxable year that approximates the average "underpayment rate" specified under § 58.1-15 for the five-year period immediately preceding the Program.

F. 1. If any taxpayer eligible for amnesty under this section and under the rules and guidelines established by the Tax Commissioner retains any outstanding balance after the close of the Program because of the nonpayment, underpayment, nonreporting, or underreporting of any tax liability eligible for relief under the Program, then such balance shall be subject to a 20 percent penalty on the unpaid tax. This penalty is in addition to all other penalties that may apply to the taxpayer.

2. Any taxpayer who defaults upon any agreement to pay tax and interest arising out of a grant of amnesty is subject to reinstatement of the penalty and interest forgiven and the imposition of the penalty under this section as though the taxpayer retained the original outstanding balance at the close of the Program.

G. For the purpose of implementing the Program, the Department is exempt from subsection B of § 2.2-2016.1 and §§ 2.2-2018.1, 2.2-2020, and 2.2-2021 pertaining to the Virginia Information Technologies Agency's project management and procurement oversight.

#### CHAPTER 434

An Act to amend and reenact § 54.1-3446 of the Code of Virginia, relating to Drug Control Act; Schedule I drugs; addition of substances.

[S 1546]

Approved March 13, 2017

#### Be it enacted by the General Assembly of Virginia:

#### 1. That § 54.1-3446 of the Code of Virginia is amended and reenacted as follows:

##### § 54.1-3446. Schedule I.

The controlled substances listed in this section are included in Schedule I:

1. Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation:

*1-(2-phenylethyl)-4-phenyl-4-acetyloxypiperidine (other name: PEPAP);*

*1-methyl-4-phenyl-4-propionoxypiperidine (other name: MPPP);*

*3,4-dichloro-N-[2-(dimethylamino)cyclohexyl]-N-methyl-benzamide (other name: U-47700);*

*3,4-dichloro-N-[1-(dimethylamino)cyclohexylmethyl]benzamide (other name: AH-7921);*

*Acetyl fentanyl (other name: desmethyl fentanyl);*

Acetylmethadol;

Allylprodine;

Alphacetylmethadol (except levo-alpha-acetylmethadol, also known as levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM);

Alphameprodine;

Alphamethadol;

Benzethidine;

Betacetylmethadol;

Betameprodine;

Betamethadol;

Betaprodine;

Clonitazene;

Dextromoramide;

Diampromide;

Diethylthiambutene;

Difenoxin;

Dimenoxadol;

Dimepheptanol;

Dimethylthiambutene;

Dioxaphetylbutyrate;

Dipipanone;

Ethylmethylthiambutene;

Etonitazene;

Etoxidine;

Furethidine;

Hydroxypethidine;

Ketobemidone;

Levomoramide;

Levophenacetylmorphan;

Morpheridine;  
*N*-[1-[1-methyl-2-(2-thienyl)ethyl]-4-piperidyl]-*N*-phenylpropanamide (other name: alpha-methylthiofentanyl);  
*N*-[1-(1-methyl-2-phenylethyl)-4-piperidyl]-*N*-phenylacetamide (other name: acetyl-alpha-methylfentanyl);  
*N*-[1-(2-hydroxy-2-phenyl)ethyl-4-piperidyl]-*N*-phenylpropanamide (other name: beta-hydroxyfentanyl);  
*N*-[1-(alpha-methyl-beta-phenyl)ethyl-4-piperidyl]propionanilide (other names:  
1-(1-methyl-2-phenylethyl)-4-(*N*-propanilido) piperidine, alpha-methylfentanyl);  
*N*-(3-fluorophenyl)-*N*-[1-(2-phenylethyl)-4-piperidinyl]-propanamide (other name: 3-fluorofentanyl);  
*N*-[3-methyl-1-(2-hydroxy-2-phenylethyl)-4-piperidyl]-*N*-phenylpropanamide (other name:  
beta-hydroxy-3-methylfentanyl);  
*N*-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-*N*-phenylpropanamide (other name: 3-methylfentanyl);  
*N*-[3-methyl-1-(2-thienyl)ethyl-4-piperidinyl]-*N*-phenylpropanamide (other name: 3-methylthiofentanyl);  
*N*-(4-fluorophenyl)-*N*-[1-(2-phenylethyl)-4-piperidinyl]-butanamide (other name: para-fluorobutyrylfentanyl);  
*N*-(4-fluorophenyl)-*N*-[1-(2-phenylethyl)-4-piperidinyl]-propanamide (other name: para-fluorofentanyl);  
Noracymethadol;  
Norlevorphanol;  
Normethadone;  
Norpipanone;  
*N*-phenyl-*N*-[1-(2-phenylethyl)-4-piperidinyl]-2-furancarboxamide (other name: Furanyl fentanyl);  
*N*-phenyl-*N*-[1-(2-phenylethyl)-4-piperidinyl]-butanamide (other name: butyryl fentanyl);  
*N*-phenyl-*N*-[1-(2-phenylethyl)-4-piperidinyl]-pentanamide (other name: Pentanoyl fentanyl);  
*N*-phenyl-*N*-[1-(2-thienyl)ethyl-4-piperidinyl]-propanamide (other name: thiofentanyl);  
Phenadoxone;  
Phenampramide;  
Phenomorphin;  
Phenoperidine;  
Piritramide;  
Proheptazine;  
Properidine;  
Propiram;  
Racemoramide;  
Tilidine;  
Trimeperidine.

2. Any of the following opium derivatives, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:

Acetorphine;  
Acetyldihydrocodeine;  
Benzylmorphine;  
Codeine methylbromide;  
Codeine-N-Oxide;  
Cyprenorphine;  
Desomorphine;  
Dihydromorphine;  
Drotebanol;  
Etorphine;  
Heroin;  
Hydromorphinol;  
Methyldesorphine;  
Methyldihydromorphine;  
Morphine methylbromide;  
Morphine methylsulfonate;  
Morphine-N-Oxide;  
Myrophine;  
Nicocodeine;  
Nicomorphine;  
Normorphine;  
Pholcodine;  
Thebacon.

3. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation, which contains any quantity of the following hallucinogenic substances, or which contains any of its salts, isomers, and salts of isomers, whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation (for purposes of this subdivision only, the term "isomer" includes the optical, position, and geometric isomers):

Alpha-ethyltryptamine (some trade or other names: Monase; a-ethyl-1H-indole-3-ethanamine; 3-2-aminobutyl] indole; a-ET; AET);

4-Bromo-2,5-dimethoxyphenethylamine (some trade or other names:

2-4-bromo-2,5-dimethoxyphenyl]-1-aminoethane; alpha-desmethyl DOB; 2C-B; Nexus);

3,4-methylenedioxy amphetamine;

5-methoxy-3,4-methylenedioxy amphetamine;

3,4,5-trimethoxy amphetamine;

Alpha-methyltryptamine (other name: AMT);

Bufotenine;

Diethyltryptamine;

Dimethyltryptamine;

4-methyl-2,5-dimethoxyamphetamine;

2,5-dimethoxy-4-ethylamphetamine (DOET);

2,5-dimethoxy-4-(n)-propylthiophenethylamine (other name: 2C-T-7);

Ibogaine;

5-methoxy-N, N-diisopropyltryptamine (other name: 5-MeO-DIPT);

Lysergic acid diethylamide;

Mescaline;

Parahehyl (some trade or other names: 3-Hexyl-1-hydroxy-7,8,9,10-tetrahydro-6,6,9-trimethyl-6H-dibenzo -b, d] pyran; Synhexyl);

Peyote;

N-ethyl-3-piperidyl benzilate;

N-methyl-3-piperidyl benzilate;

Psilocybin;

Psilocyn;

Salvinorin A;

Tetrahydrocannabinols, except as present in marijuana and dronabinol in sesame oil and encapsulated in a soft gelatin capsule in a drug product approved by the U.S. Food and Drug Administration;

Hashish oil (some trade or other names: hash oil; liquid marijuana; liquid hashish);

2,5-dimethoxyamphetamine (some trade or other names: 2,5-dimethoxy-a-methylphenethylamine; 2,5-DMA);

3,4-methylenedioxymethamphetamine (MDMA), its optical, positional and geometric isomers, salts and salts of isomers;

3,4-methylenedioxy-N-ethylamphetamine (also known as N-ethyl-alpha-methyl-3,4 (methylenedioxy)phenethylamine, N-ethyl MDA, MDE, MDEA);

N-hydroxy-3,4-methylenedioxyamphetamine (some other names:

N-hydroxy-alpha-methyl-3,4(methylenedioxy)phenethylamine, and N-hydroxy MDA);

4-bromo-2,5-dimethoxyamphetamine (some trade or other names: 4-bromo-2,5-dimethoxy-a-methylphenethylamine; 4-bromo-2,5-DMA);

4-methoxyamphetamine (some trade or other names: 4-methoxy-a-methylphenethylamine; paramethoxyamphetamine; PMA);

Ethylamine analog of phencyclidine (some other names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl) ethylamine, N-(1-phenylcyclohexyl) ethylamine, cyclohexamine, PCE);

Pyrrolidine analog of phencyclidine (some other names: 1-(1-phenylcyclohexyl) -pyrrolidine, PCPy, PHP);

Thiophene analog of phencyclidine (some other names: 1-[1-(2-thienyl) -cyclohexyl]-piperidine, 2-thienyl analog of phencyclidine, TPCP, TCP);

1-1-(2-thienyl)cyclohexyl]pyrrolidine (other name: TCPy);

3,4-methylenedioxypropylvalerone (other name: MDPV);

4-methylmethcathinone (other names: mephedrone, 4-MMC);

3,4-methylenedioxypropylmethcathinone (other name: methylone);

Naphthylpyrovalerone (other name: naphyrone);

4-fluoromethcathinone (other name: flephedrone, 4-FMC);

4-methoxymethcathinone (other names: methedrone; bk-PMMA);

Ethcathinone (other name: N-ethylcathinone);

3,4-methylenedioxyethcathinone (other name: ethylone);

Beta-keto-N-methyl-3,4-benzodioxolylbutanamine benzodioxolylbutanamine (other name: butylone);

N, N-dimethylcathinone (other name: metamfetramone);

Alpha-pyrrolidinopropiophenone (other name: alpha-PPP);

4-methoxy-alpha-pyrrolidinopropiophenone (other name: MOPPP);

3,4-methylenedioxy-alpha-pyrrolidinopropiophenone (other name: MDPPP);

Alpha-pyrrolidinovalerophenone (other name: alpha-PVP);

6,7-dihydro-5H-indeno-(5,6-d)-1,3-dioxol-6-amine (other name: MDAI);

3-fluoromethcathinone (other name: 3-FMC);  
 4-Ethyl-2,5-dimethoxyphenethylamine (other name: 2C-E);  
 4-Iodo-2,5-dimethoxyphenethylamine (other name: 2C-I);  
 4-Methylethcathinone (other name: 4-MEC);  
 4-Ethylmethcathinone (other name: 4-EMC);  
 N, N-diallyl-5-methoxytryptamine (other name: 5-MeO-DALT);  
 Beta-keto-methylbenzodioxolylpentanamine (other name: Pentylone, bk-MBDP);  
 Alpha-methylamino-butyrophenone (other name: Buphedrone);  
 Alpha-methylamino-valerophenone (other name: Penthedrone);  
 3,4-Dimethylmethcathinone (other name: 3.4-DMMC);  
 4-methyl-alpha-pyrrolidinopropiophenone (other name: MPPP);  
 4-Iodo-2,5-dimethoxy-N-[(2-methoxyphenyl)methyl]-benzeneethanamine (other names: 25-I, 25I-NBOMe, 2C-I-NBOMe);  
 Methoxetamine (other names: MXE, 3-MeO-2-Oxo-PCE);  
 4-Fluoromethamphetamine (other name: 4-FMA);  
 4-Fluoroamphetamine (other name: 4-FA);  
 2-(2,5-Dimethoxy-4-methylphenyl)ethanamine (other name: 2C-D);  
 2-(4-Chloro-2,5-dimethoxyphenyl)ethanamine (other name: 2C-C);  
 2-[4-(Ethylthio)-2,5-dimethoxyphenyl]ethanamine (other name: 2C-T-2);  
 2-[4-(Isopropylthio)-2,5-dimethoxyphenyl]ethanamine (other name: 2C-T-4);  
 2-(2,5-Dimethoxyphenyl)ethanamine (other name: 2C-H);  
 2-(2,5-Dimethoxy-4-nitro-phenyl)ethanamine (other name: 2C-N);  
 2-(2,5-Dimethoxy-4-(n)-propylphenyl)ethanamine (other name: 2C-P);  
 (2-aminopropyl)benzofuran (other name: APB);  
 (2-aminopropyl)-2,3-dihydrobenzofuran (other name: APDB);  
 4-chloro-2,5-dimethoxy-N-[(2-methoxyphenyl)methyl]-benzeneethanamine (other names: 2C-C-NBOMe, 25C-NBOMe, 25C);  
 4-bromo-2,5-dimethoxy-N-[(2-methoxyphenyl)methyl]-benzeneethanamine (other names: 2C-B-NBOMe, 25B-NBOMe, 25B);  
 Acetoxymethyltryptamine (other names: AcO-Psilocin, AcO-DMT, Psilacetin);  
 Benocyclidine (other names: BCP, BTCP);  
 Alpha-pyrrolidinobutiophenone (other name: alpha-PBP);  
 3,4-methylenedioxy-N, N-dimethylcathinone (other names: Dimethylone, bk-MDDMA);  
 4-bromomethcathinone (other name: 4-BMC);  
 4-chloromethcathinone (other name: 4-CMC);  
 4-Iodo-2,5-dimethoxy-N-[(2-hydroxyphenyl)methyl]-benzeneethanamine (other name: 25I-NBOH);  
 Alpha-Pyrrolidinoheptiophenone (other name: alpha-PHP);  
 Alpha-Pyrrolidinoheptiophenone (other name: PV8);  
 5-methoxy-N,N-methylisopropyltryptamine (other name: 5-MeO-MIPT);  
 Beta-keto-N,N-dimethylbenzodioxolylbutanamine (other names: Dibutylone, bk-DMBDB);  
 1-(1,3-benzodioxol-5-yl)-2-(ethylamino)-1-pentanone (other name: N-ethylpentylone);  
 1-[1-(3-methoxyphenyl)cyclohexyl]piperidine (other name: 3-methoxy PCP);  
 1-[1-(4-methoxyphenyl)cyclohexyl]piperidine (other name: 4-methoxy PCP);  
 4-Chloroethcathinone (other name: 4-CEC);  
 3-Methoxy-2-(methylamino)-1-(4-methylphenyl)-1-propanone (other name: Mexedrone);  
 1-propionyl lysergic acid diethylamide (other name: 1P-LSD);  
 (2-Methylaminopropyl)benzofuran (other name: MAPB).

4. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers and salts of isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:

*Clonazolam*;  
*Etizolam*;  
*Flubromazolam*;  
 Gamma hydroxybutyric acid (some other names include GHB; gamma hydroxybutyrate; 4-hydroxybutyrate; 4-hydroxybutanoic acid; sodium oxybate; sodium oxybutyrate);  
 Mecloqualone;  
 Methaqualone.  
~~Etizolam~~

5. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers and salts of isomers:

*2-(3-fluorophenyl)-3-methylmorpholine (other name: 3-fluorophenmetrazine);*

Aminorex (some trade or other names; aminoxaphen; 2-amino-5-phenyl-2-oxazoline;

4,5-dihydro-5-phenyl-2-oxazolamine);

*N-Benzylpiperazine (some other names: BZP, 1-benzylpiperazine);*

*Fenethylamine;*

*Ethylamphetamine;*

Cathinone (some trade or other names: 2-amino-1-phenyl-1-propanone, alpha-aminopropiophenone, 2-aminopropiophenone, norephedrone), and any plant material from which Cathinone may be derived;

*Cis-4-methylaminorex (other name: cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine);*

*Ethylamphetamine;*

*Ethyl phenyl(piperidin-2-yl)acetate (other name: Ethylphenidate);*

*Fenethylamine;*

Methcathinone (some other names: 2-(methylamino)-propiophenone; alpha-(methylamino)-propiophenone; 2-(methylamino)-1-phenylpropan-1-one; alpha-N-methylaminopropiophenone; monomethylpropion; ephedrone; N-methylcathinone; methylcathinone; AL-464; AL-422; AL-463 and UR 1432);

*Cis-4-methylaminorex (other name: cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine);*

*N-Benzylpiperazine (some other names: BZP, 1-benzylpiperazine);*

N, N-dimethylamphetamine (other names: N, N-alpha-trimethyl-benzeneethanamine, N, N-alpha-trimethylphenethylamine).

6. Any material, compound, mixture or preparation containing any quantity of the following substances:

*N-3-methyl-1-(2-phenethyl)-4-piperidyl]-N-phenylpropanamide (other name: 3-methylfentanyl); its optical and geometric isomers, salts, and salts of isomers;*

*1-methyl-4-phenyl-4-propionoxypiperidine (other name: MPPP); its optical isomers, salts and salts of isomers;*

*1-(2-phenylethyl)-4-phenyl-4-acetyloxypiperidine (other name: PEPAP); its optical isomers, salts and salts of isomers;*

*N-1 (alpha-methyl-beta-phenyl) ethyl-4-piperidyl] propionanilide (other names:*

*1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine); alpha-methylfentanyl);*

*N-1 (1-methyl-2-phenethyl)-4-piperidyl]-N-phenylacetamide (other name: acetyl-alpha-methylfentanyl); its optical isomers, salts and salts of isomers;*

*N-1 (1-methyl-2-(2-thienyl)ethyl)-4-piperidyl]-N-phenylpropanamide (other name: alpha-methylthiofentanyl); its optical isomers, salts and salts of isomers;*

*N-1-benzyl-4-piperidyl]-N-phenylpropanamide (other name: benzylfentanyl); its optical isomers, salts and salts of isomers;*

*N-1 (2-hydroxy-2-phenyl) ethyl-4-piperidyl]-N-phenylpropanamide (other name: beta-hydroxyfentanyl); its optical isomers, salts and salts of isomers;*

*N-3-methyl-1-(2-hydroxy-2-phenethyl)-4-piperidyl]-N-phenylpropanamide (other name: beta-hydroxy-3-methylfentanyl); its optical and geometric isomers, salts and salts of isomers;*

*N-(3-methyl-1-(2-thienyl)ethyl)-4-piperidyl]-N-phenylpropanamide (other name: 3-methylthiofentanyl); its optical and geometric isomers, salts and salts of isomers;*

*N-1 (2-thienyl)methyl-4-piperidyl]-N-phenylpropanamide (other name: thienylfentanyl); its optical isomers, salts and salts of isomers;*

*N-phenyl-N-1-(2-thienyl)ethyl-4-piperidyl]-propanamide (other name: thiofentanyl); its optical isomers, salts and salts of isomers;*

*N-(4-fluorophenyl)-N-1-(2-phenethyl)-4-piperidyl]-propanamide (other name: para-fluorofentanyl); its optical isomers, salts and salts of isomers;*

*Acetyl fentanyl (other name: desmethyl fentanyl).*

7. Any substance that contains one or more cannabimimetic agents or that contains their salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation, and any preparation, mixture, or substance containing, or mixed or infused with, any detectable amount of one or more cannabimimetic agents.

a. "Cannabimimetic agents" includes any substance that is within any of the following structural classes:

2-(3-hydroxycyclohexyl)phenol with substitution at the 5-position of the phenolic ring by alkyl or alkenyl, whether or not substituted on the cyclohexyl ring to any extent;

3-(1-naphthoyl)indole or 1H-indol-3-yl-(1-naphthyl)methane with substitution at the nitrogen atom of the indole ring, whether or not further substituted on the indole ring to any extent, whether or not substituted on the naphthoyl or naphthyl ring to any extent;

3-(1-naphthoyl)pyrrole with substitution at the nitrogen atom of the pyrrole ring, whether or not further substituted in the pyrrole ring to any extent, whether or not substituted on the naphthoyl ring to any extent;

1-(1-naphthylmethyl)indene with substitution of the 3-position of the indene ring, whether or not further substituted in the indene ring to any extent, whether or not substituted on the naphthyl ring to any extent;

3-phenylacetylindole or 3-benzoylindole with substitution at the nitrogen atom of the indole ring, whether or not further substituted in the indole ring to any extent, whether or not substituted on the phenyl ring to any extent;

3-cyclopropylindole with substitution at the nitrogen atom of the indole ring, whether or not further substituted on the indole ring to any extent, whether or not substituted on the cyclopropyl ring to any extent;

3-adamantoylindole with substitution at the nitrogen atom of the indole ring, whether or not further substituted on the indole ring to any extent, whether or not substituted on the adamantyl ring to any extent;

N-(adamantyl)-indole-3-carboxamide with substitution at the nitrogen atom of the indole ring, whether or not further substituted on the indole ring to any extent, whether or not substituted on the adamantyl ring to any extent; and

N-(adamantyl)-indazole-3-carboxamide with substitution at a nitrogen atom of the indazole ring, whether or not further substituted on the indazole ring to any extent, whether or not substituted on the adamantyl ring to any extent.

b. The term "cannabimimetic agents" includes:

5-(1,1-Dimethylheptyl)-2-[3-hydroxycyclohexyl]-phenol (other name: CP 47,497);

5-(1,1-Dimethylhexyl)-2-[3-hydroxycyclohexyl]-phenol (other name: CP 47,497 C6 homolog);

5-(1,1-Dimethyloctyl)-2-[3-hydroxycyclohexyl]-phenol (other name: CP 47,497 C8 homolog);

5-(1,1-Dimethylnonyl)-2-[3-hydroxycyclohexyl]-phenol (other name: CP 47,497 C9 homolog);

1-pentyl-3-(1-naphthoyl)indole (other names: JWH-018, AM-678);

1-butyl-3-(1-naphthoyl)indole (other name: JWH-073);

1-pentyl-3-(2-methoxyphenylacetyl)indole (other name: JWH-250);

1-hexyl-3-(naphthalen-1-oyl)indole (other name: JWH-019);

1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole (other name: JWH-200);

(6aR, 10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a, 7,10,10a-tetrahydrobenzo[c]chromen-1-ol (other name: HU-210);

1-pentyl-3-(4-methoxy-1-naphthoyl)indole (other name: JWH-081);

1-pentyl-3-(4-methyl-1-naphthoyl)indole (other name: JWH-122);

1-pentyl-3-(2-chlorophenylacetyl)indole (other name: JWH-203);

1-pentyl-3-(4-ethyl-1-naphthoyl)indole (other name: JWH-210);

1-pentyl-3-(4-chloro-1-naphthoyl)indole (other name: JWH-398);

1-(5-fluoropentyl)-3-(2-iodobenzoyl)indole (other name: AM-694);

1-((N-methylpiperidin-2-yl)methyl)-3-(1-naphthoyl)indole (other name: AM-1220);

1-(5-fluoropentyl)-3-(1-naphthoyl)indole (other name: AM-2201);

1-[(N-methylpiperidin-2-yl)methyl]-3-(2-iodobenzoyl)indole (other name: AM-2233);

Pravadoline (4-methoxyphenyl)-[2-methyl-1-(2-(4-morpholinyl)ethyl)indol-3-yl]methanone (other name: WIN 48,098);

1-pentyl-3-(4-methoxybenzoyl)indole (other names: RCS-4, SR-19);

1-(2-cyclohexylethyl)-3-(2-methoxyphenylacetyl)indole (other names: RCS-8, SR-18);

1-pentyl-3-(2,2,3,3-tetramethylcyclopropylmethanone)indole (other name: UR-144);

1-(5-fluoropentyl)-3-(2,2,3,3-tetramethylcyclopropylmethanone)indole (other name names: XLR-11, 5-fluoro-UR-144);

N-adamantyl-1-fluoropentylindole-3-carboxamide (other name: STS-135);

N-adamantyl-1-pentylindazole-3-carboxamide (other name names: AKB48, APINACA);

1-pentyl-3-(1-adamantoyl)indole (other name: AB-001);

(8-quinolinyl)(1-pentylindol-3-yl)carboxylate (other name: PB-22);

(8-quinolinyl)(1-(5-fluoropentyl)indol-3-yl)carboxylate (other name: 5-fluoro-PB-22);

(8-quinolinyl)(1-cyclohexylmethyl-indol-3-yl)carboxylate (other name: BB-22);

N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-pentylindazole-3-carboxamide (other name: AB-PINACA);

N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl)indazole-3-carboxamide (other name: AB-FUBINACA);

1-(5-fluoropentyl)-3-(1-naphthoyl)indazole (other name: THJ-2201);

N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-pentylindazole-3-carboxamide (other name: ADB-PINACA);

N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)indazole-3-carboxamide (other name:

AB-CHMINACA);

N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)indazole-3-carboxamide (other name:

5-fluoro-AB-PINACA);

N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)indazole-3-carboxamide (other names:

ADB-CHMINACA, MAB-CHMINACA);

Methyl-2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3-methylbutanoate (other name: 5-fluoro-AMB);

1-naphthalenyl 1-(5-fluoropentyl)-1H-indole-3-carboxylate (other name: NM-2201);

1-(4-fluorobenzyl)-3-(2,2,3,3-tetramethylcyclopropylmethanone)indole (other name: FUB-144);

1-(5-fluoropentyl)-3-(4-methyl-1-naphthoyl)indole (other name MAM-2201);

*N-(1-Amino-3,3-dimethyl-1-oxobutan-2-yl)-1-[(4-fluorophenyl)methyl]-1H-indazole-3-carboxamide (other name: ADB-FUBINACA);*

*Methyl 2-[1-[(4-fluorophenyl)methyl]-1H-indazole-3-carboxamido]-3,3-dimethylbutanoate (other name: MDMB-FUBINACA);*

*Methyl 2-[1-(5-fluoropentyl)-1H-indazole-3-carboxamido]-3,3-dimethylbutanoate (other names: 5-fluoro-ADB, 5-Fluoro-MDMB-PINACA);*

*Methyl 2-({1-[(4-fluorophenyl)methyl]-1H-indazole-3-carbonyl}amino)-3-methylbutanoate (other names: AMB-FUBINACA, FUB-AMB);*

*N-(adamantan-1-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide (other name: FUB-AKB48)*

*N-(adamantan-1-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide (other name: 5F-AKB48);*

*Naphthalen-1-yl 1-pentyl-1H-indazole-3-carboxylate (other name: SDB-005);*

*N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)indole-3-carboxamide (other name: AB-CHMICA).*

#### CHAPTER 435

*An Act to amend and reenact §§ 15.2-716 and 15.2-716.1 of the Code of Virginia, relating to real property tax; board of equalization in certain counties.*

[H 1820]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 15.2-716 and 15.2-716.1 of the Code of Virginia are amended and reenacted as follows:**

**§ 15.2-716. Referendum for establishment of department of real estate assessments; board of equalization; general reassessments in county where department established.**

A referendum may be initiated by a petition signed by 200 or more qualified voters of the county filed with the circuit court, asking that a referendum be held on the question of whether the county shall have a department of real estate assessments. The court shall on or before August 1 enter of record an order requiring the county election officials to open the polls at the regular election to be held in November of such year on the question stated in such order. If the petition seeks the holding of a special election on the question, then the petition hereinabove referred to shall be signed by 1,000 or more qualified voters of the county and the court shall within fifteen days of the date such petition is filed enter an order, in accordance with § 24.2-684, requiring the election officials to open the polls on a date fixed in the order and take the sense of the qualified voters of the county. The clerk of the county shall cause a notice of such election to be published in a newspaper having general circulation in the county once a week for three successive weeks, and shall post a copy of such notice at the door of the county courthouse.

If a majority of the voters voting in the referendum vote for the establishment of a department of real estate assessments, the board shall by ordinance establish such department, provide for the compensation of the department head and employees therein, and decide such other matters in relation to the powers and duties of the department, the department head and the employees, as the board deems proper. As used in this section the term "department" refers to the department of real estate assessments and where proper the department head thereof.

Upon the establishment of the department, the county manager shall select the head thereof and provide for such employees and assistants as required. Such department shall be vested with the powers and duties conferred or imposed upon commissioners of the revenue by general law to the extent that such duties and powers are consistent with this section, in relation to the assessment of real estate. All real estate shall be assessed at its fair market value as of January 1 of each year by the department and taxes for each year on such real estate shall be entered on the land book by the department in the name of the owner thereof. Whenever any such assessment is increased over the last assessment made prior to such year, the department shall give written notice to the owner of such real estate or of any interest therein, by mailing such notice to the last known post-office address of such owner. However, the validity of such assessment shall not be affected by any failure to receive such notice.

If a department of real estate assessments is appointed as above provided, ~~the governing body of the county shall annually appoint~~ a board of equalization of real estate assessments; *shall be appointed* pursuant to § 15.2-716.1. Any person aggrieved by any assessment made under the provisions of this section may apply for relief to such board as therein provided.

When a department of real estate assessments is appointed, the county shall not be required to undertake general reassessments of real estate every six years, but the governing body of the county may, but shall not be required to, request the circuit court of such county to order a general reassessment at such times as the governing body deems proper. Such court shall then enter an order directing a reassessment of real estate in the manner provided by law.

The department of real estate assessments may require that the owners of income-producing real estate in the county subject to local taxation, except property producing income solely from the rental of no more than four dwelling units, furnish to the department on or before a time specified by the director of the department statements of the income and expenses attributable over a specified period of time to each such parcel of real estate. If there is a willful failure to furnish statements of income and expenses in a timely manner to the director, the owner of such parcel of real estate shall be

deemed to have waived his right in any proceeding contesting the assessment to utilize such income and expenses as evidence of fair market value. Each such statement shall be certified as to its accuracy by an owner of the real estate for which the statement is furnished, or a duly authorized agent thereof. Any statement required by this section shall be kept confidential as required by § 58.1-3.

**§ 15.2-716.1. Board of Equalization.**

A. ~~The governing body of the county shall appoint~~ a membership of the board of equalization of real estate assessments shall be composed of an odd number of not less than three nor more than 11 members, as determined by the governing body of the county. The circuit court of the county shall appoint a number of members equal to the lowest number that constitutes a majority of members, and the governing body shall appoint the remainder. In making appointments, the circuit court shall consider recommendations from interested entities, including but not limited to the chamber of commerce for the county, and from other representatives of the business community. After the initial appointments, vacancies on the board shall be filled by the appointing authority that appointed the person vacating the position.

The governing body may provide for terms varying in duration not to exceed four years. Such equalization board shall have the powers and duties provided by, and be subject to, the provisions of Article 14 (§ 58.1-3370 et seq.) of Chapter 32 of Title 58.1. Any person aggrieved by any assessment made under the provisions of this section may apply for relief to such board as therein provided. The provisions of this section shall not, however, apply to any real estate assessable under the law by the State Corporation Commission.

B. The board of equalization may sit in panels of at least three members each under the following terms and conditions:

1. The presence of all members of the panel shall be necessary to constitute a quorum.
2. The chairman of the board of equalization shall assign the members to panels and, insofar as practicable, rotate the membership of the panels.
3. The chairman of the board of equalization shall preside over any panel of which he is a member and shall designate the presiding member of the other panels.
4. Each panel shall perform its duties independently of the others.

5. The board of equalization shall sit en banc (i) when there is a dissent in the panel to which the matter was originally assigned and an aggrieved party requests an en banc hearing or (ii) upon its own motion at any time, in any matter in which a majority of the board of equalization determines it is appropriate to do so. The board of equalization sitting en banc shall consider and decide the matter and may affirm, reverse, overrule or modify any previous decision by any panel.

**2. That the circuit court and local governing body shall make initial appointments of members to the board of equalization pursuant to the provisions of this act on or before November 1, 2017. The initial appointments shall be for the remaining portion of the terms of current members. The circuit court and the local governing body shall specify each current member who is replaced by a new member and each current member who may be reappointed. Nothing in this act prohibits the initial appointment of a current member of the board to continue as a member.**

**3. That no provision of this act shall be construed to require a new referendum under § 15.2-716 of the Code of Virginia, as amended by this act, if a referendum was previously held and a majority of the voters authorized a department of real estate assessments.**

## CHAPTER 436

*An Act to amend and reenact § 58.1-610 of the Code of Virginia, relating to collection of sales and use tax.*

[H 1890]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 58.1-610 of the Code of Virginia is amended and reenacted as follows:**

**§ 58.1-610. Contractors.**

A. Any person who contracts orally, in writing, or by purchase order, to perform construction, reconstruction, installation, repair, or any other service with respect to real estate or fixtures thereon, and in connection therewith to furnish tangible personal property, shall be deemed to have purchased such tangible personal property for use or consumption. Any sale, distribution, or lease to or storage for such person shall be deemed a sale, distribution, or lease to or storage for the ultimate consumer and not for resale, and the dealer making the sale, distribution, or lease to or storage for such person shall be obligated to collect the tax to the extent required by this chapter.

B. Any person who contracts to perform services in this Commonwealth and is furnished tangible personal property for use under the contract by the person, or his agent or representative, for whom the contract is performed, and a sales or use tax has not been paid to this Commonwealth by the person supplying the tangible personal property, shall be deemed to be the consumer of the tangible personal property so used, and shall pay a use tax based on the fair market value of the tangible personal property so used, irrespective of whether or not any right, title or interest in the tangible personal property becomes vested in the contractor. This subsection, however, shall not apply to the industrial materials exclusion or the other industrial exclusions set out in § 58.1-609.3, including those set out in subdivisions 2, 3 and 4 thereof; the media-related exemptions set out in subdivision 2 of § 58.1-609.6; the governmental exclusions set out in subdivision 4 of § 58.1-609.1; the agricultural exclusions set forth in subdivision 1 of § 58.1-609.2; or the exclusion for baptistries set forth in § 58.1-609.10.

C. Any person who contracts orally, in writing, or by purchase order to perform any service in the nature of equipment rental, and the principal part of that service is the furnishing of equipment or machinery which will not be under the exclusive control of the contractor, shall be liable for the sales or use tax on the gross proceeds from such contract to the same extent as the lessor of tangible personal property.

D. Tangible personal property incorporated in real property construction which loses its identity as tangible personal property shall be deemed to be tangible personal property used or consumed within the meaning of this section. ~~Any person selling fences, venetian blinds, window shades, awnings, storm windows and doors, locks and locking devices, floor coverings (as distinguished from the floors themselves), cabinets, countertops, kitchen equipment, window air conditioning units or other like or comparable items, shall be deemed to be a retailer of such items and not a using or consuming contractor with respect to them, whether he sells to and installs such items for contractors or other customers and whether or not such retailer fabricates such items.~~

E. Nothing in this section shall be construed to (i) affect or limit the resale exclusion provided for in this chapter, or the industrial materials and other industrial exclusions set out in § 58.1-609.3, the exclusion for baptistries set out in § 58.1-609.10, or the partial exclusion for the sale of modular buildings as set out in § 58.1-610.1, or (ii) impose any sales or use tax with respect to the use in the performance of contracts with the United States, this Commonwealth, or any political subdivision thereof, of tangible personal property owned by a governmental body which actually is not used or consumed in the performance thereof.

F. Notwithstanding the other provisions of this section, any person engaged in the business of furnishing and installing locks and locking devices shall be deemed a retailer of such items and not a using or consuming contractor with respect to them.

G. Notwithstanding the other provisions of this section, any person or entity primarily engaged in the business of furnishing and installing tangible personal property that provides electronic or physical security on real property for the use of a financial institution, shall be deemed a retailer of such personal property, including when such personal property is installed on real property not for the use of a financial institution.

#### CHAPTER 437

*An Act to amend and reenact § 58.1-3975 of the Code of Virginia, relating to real property tax; nonjudicial sale of tax delinquent property.*

[H 1909]

Approved March 13, 2017

#### **Be it enacted by the General Assembly of Virginia:**

#### **1. That § 58.1-3975 of the Code of Virginia is amended and reenacted as follows:**

##### **§ 58.1-3975. Nonjudicial sale of tax delinquent real properties of minimal size and value.**

A. Notwithstanding any other provision of this title, the treasurer or other officer responsible for collecting taxes may sell, at public auction, any unimproved parcel of real property that is assessed at less than ~~\$10,000~~ \$5,000, provided that the taxes on such parcel are delinquent on December 31 following the third anniversary of the date on which such taxes have become due.

B. *The treasurer or other officer responsible for collecting taxes may in addition sell, at public auction, any parcel of real property that is assessed at no less than \$5,000 but less than \$20,000, provided that the taxes on such parcel are delinquent on December 31 following the third anniversary of the date on which such taxes have become due, it is not subject to a recorded mortgage or deed of trust lien, and either such parcel (i):*

1. *Is unimproved and measures less than 4,000 square feet (.0918 acres acre); or (ii):*
2. *Is unimproved and is determined to be unsuitable for building due to the size, shape, zoning or soils, floodway, or other environmental designations of the parcel made by the locality's zoning administrator or other official designated by the locality to administer its zoning ordinance and carry out the duties set forth in subdivision A 4 of § 15.2-2286;*
3. *Has a structure on it that has been condemned by the local building official pursuant to applicable law or ordinance;*
4. *Has been declared by the locality a nuisance as that term is defined in § 15.2-900;*
5. *Contains a derelict building as that term is defined in § 15.2-907.1; or*
6. *Has been declared by the locality to be blighted as that term is defined in § 36-3.*

For purposes of determining the area of any parcel, the area or acreage found in the locality's land book shall be determinative.

~~Prior~~ C. *At least 30 days prior to conducting such a sale under this section, the treasurer or other officer responsible for collecting taxes shall send:*

1. *Send notice by certified or registered mail to the record owner or owners of such property and anyone appearing to have an interest in the property at their last known address as contained in the records of the treasurer or other officer responsible for collecting taxes; and shall post*
2. *Post notice of such sale at the property location, if such property has frontage on any public or private street, and at the circuit courthouse of the locality at least 30 days prior to such sale.*

D. The treasurer or other officer responsible for collecting taxes shall also cause a notice of sale to be published in the legal classified section of a newspaper of general circulation in the locality in which the property is located at least seven days but no more than 21 days prior to the sale; however, if the annual taxes assessed on the property are less than \$500, such notice may be placed, in lieu of publication, on the treasurer's or local government's website beginning at least 21 days prior to sale and through the date of sale. The pro rata costs of posting notice, publication, and mailing shall become a part of the tax and shall be collected if payment is made by the owner in redemption of such real property.

E. The treasurer or other officer responsible for collecting taxes may advertise and sell multiple parcels at the same time and place pursuant to one notice of sale.

F. The treasurer or other officer responsible for collecting taxes may enter into an agreement with the owner of such parcel for payment over time; ~~not to exceed 12 months.~~

G. The owner of any property ~~listed, or other interested party,~~ may redeem it at any time prior to the date of the sale by paying all accumulated taxes, penalties, interest, and costs thereon, including ~~the pro rata costs of publication and mailing reasonable attorney fees.~~ Partial payment of delinquent taxes, penalties, interest, or costs shall be insufficient to redeem the property; and shall not operate to suspend, invalidate, or nullify any sale brought pursuant to this section.

H. At the time of sale, the treasurer or other officer responsible for collecting taxes shall sell to the highest bidder at public auction each parcel that has not been redeemed by the owner. Such sale shall be free and clear of the locality's tax lien, but shall not affect easements or other rights of record recorded prior to the date of sale or liens recorded prior to the date of sale unless the treasurer has given the lienholder written notice of the sale at least 30 days prior to the sale, at the lienholder's address of record and through his registered agent, if any. The treasurer or other officer responsible for collecting taxes shall tender a ~~treasurer's~~ special warranty deed pursuant to this section to effectuate the conveyance of the parcel to the highest bidder.

I. If the sale proceeds are insufficient to pay the taxes amounts owed in full, the ~~remaining delinquent tax amount shall remain the personal liability of the former owner~~ treasurer or other officer responsible for collecting taxes may remove the unpaid taxes from the books and mark the same as satisfied. The sale proceeds shall be applied first to the costs of sale, then to the taxes, penalty, and interest, and fees due on the parcel, and thereafter to any other taxes or other charges owed by the former owner to the jurisdiction.

J. Any excess proceeds shall remain the property of the former owner, subject to claims of creditors, and shall be kept by the treasurer or other officer responsible for collecting taxes in an interest-bearing escrow account. If any petition for excess proceeds is made to the treasurer or other officer responsible for collecting taxes under this section, the treasurer or officer holding the funds shall forward the funds to the locality's circuit court clerk to be impounded along with a copy of the claim for excess proceeds. A copy of such transmission shall be forwarded to the claimant. The burden of scheduling a hearing with the circuit court on the claim shall be that of the claimant and shall be made within two years of the date of the sale of the property that generated the excess funds. In the event that funds remain with the court two years after the date of the sale, the locality may petition to have the funds distributed to the locality's general fund. If no claim for payment of excess proceeds is made by the former owner within two years after the date of sale, the treasurer or other responsible officer shall deposit the excess proceeds in the jurisdiction's general fund.

K. If the sale does not produce a successful bidder, the treasurer or other responsible officer shall add the costs of sale incurred by the jurisdiction to the delinquent real estate account.

## CHAPTER 438

An Act to authorize Stafford County to permit taxpayers to defer payment of a portion of certain real property taxes.

[H 2219]

Approved March 13, 2017

### Be it enacted by the General Assembly of Virginia:

1. § 1. A. In addition to the deferral program pursuant to § 58.1-3219 of the Code of Virginia, Stafford County may adopt, by ordinance, a deferral program for real property taxes including the terms and conditions of the program, in such amount as the ordinance may prescribe, subject to the limitations and conditions of this section.

B. The deferral program pursuant to this section shall apply only to real property owned by and occupied as the sole dwelling of the taxpayer. To qualify, the real property's tax levy for 2016 shall exceed the tax levy for 2015 by at least 25 percent and this increase shall be the result of improvements completed in 2015 made by Stafford County to real property that, together with any adjacent property owned by Stafford County, is adjacent to the taxpayer's real estate as determined by the commissioner of the revenue or other assessing official as provided in subsection C.

C. Whenever the commissioner of the revenue or other assessing official increases the assessed value of real property described in subsection B, he shall notify the taxpayer of his rights under the ordinance. After receipt of the notice, the taxpayer may elect to defer all or any portion of 95 percent of the amount by which the real property tax of the subject property increased from 2015 to 2016 as calculated by the commissioner of the revenue or other assessing official for taxes accruing in 2016 and, subject to the provisions of subsection D, the same amount for taxes accruing in subsequent tax years.

D. The deferred amount shall be subject to simple interest computed at a rate established by the governing body, not to exceed five percent per annum. The accumulated amount of taxes deferred and interest shall be paid to the county, city, or

town by the owner upon the sale or transfer of the property, or from the estate of the decedent within one year after the death of the owner. If the real property is owned jointly and all such owners applied and qualified for the deferral program established by ordinance, the death of one of the joint owners shall not disqualify the survivor or survivors from participating in the deferral program. All accumulated deferred taxes and interest shall be paid within one year of the date of death of the last qualifying owner. The accumulated amount of tax deferred and interest shall constitute a lien upon the real property.

E. All other sections of this article shall apply *mutatis mutandis*, unless the provisions of such sections are inapplicable.

**2. Any real property that was eligible for the deferral of taxes under this act on January 1, 2016, shall be eligible for deferral of taxes accruing in 2016. For real estate covered under this enactment, Stafford County shall, if it enacts an ordinance pursuant to this act, refund any portion of taxes paid, as applicable.**

### CHAPTER 439

An Act to amend and reenact §§ 9.1-400, 9.1-400.1, 9.1-401, 9.1-404, and 9.1-407, as they shall become effective, and 9.1-408 of the Code of Virginia, relating to clarifications to the Line of Duty Act.

[H 2243]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 9.1-400, 9.1-400.1, 9.1-401, 9.1-404, and 9.1-407, as they shall become effective, and 9.1-408 of the Code of Virginia are amended and reenacted as follows:**

**§ 9.1-400. (Effective July 1, 2017) Title of chapter; definitions.**

A. This chapter shall be known and designated as the Line of Duty Act.

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

"Beneficiary" means the spouse of a deceased person and such persons as are entitled to take under the will of a deceased person if testate, or as his heirs at law if intestate.

(Effective until July 1, 2018) "Deceased person" means any individual whose death occurs on or after April 8, 1972, in the line of duty as the direct or proximate result of the performance of his duty, including the presumptions under §§ 27-40.1, 27-40.2, 51.1-813, 65.2-402, and 65.2-402.1 if his position is covered by the applicable statute, as a law-enforcement officer of the Commonwealth or any of its political subdivisions; a correctional officer as defined in § 53.1-1; a jail officer; a regional jail or jail farm superintendent; a sheriff, deputy sheriff, or city sergeant or deputy city sergeant of the City of Richmond; a police chaplain; a member of any fire company or department or emergency medical services agency that has been recognized by an ordinance or a resolution of the governing body of any county, city, or town of the Commonwealth as an integral part of the official safety program of such county, city, or town; a member of any fire company providing fire protection services for facilities of the Virginia National Guard *or the Virginia Air National Guard*; a member of the Virginia National Guard or the Virginia Defense Force while such member is serving in the Virginia National Guard or the Virginia Defense Force on official state duty or federal duty under Title 32 of the United States Code; any special agent of the Virginia Alcoholic Beverage Control Board; any regular or special conservation police officer who receives compensation from a county, city, or town or from the Commonwealth appointed pursuant to the provisions of § 29.1-200; any commissioned forest warden appointed under the provisions of § 10.1-1135; any member or employee of the Virginia Marine Resources Commission granted the power of arrest pursuant to § 28.2-900; any Department of Emergency Management hazardous materials officer; any other employee of the Department of Emergency Management who is performing official duties of the agency, when those duties are related to a major disaster or emergency, as defined in § 44-146.16, that has been or is later declared to exist under the authority of the Governor in accordance with § 44-146.28; any employee of any county, city, or town performing official emergency management or emergency services duties in cooperation with the Department of Emergency Management, when those duties are related to a major disaster or emergency, as defined in § 44-146.16, that has been or is later declared to exist under the authority of the Governor in accordance with § 44-146.28 or a local emergency, as defined in § 44-146.16, declared by a local governing body; any nonfirefighter regional hazardous materials emergency response team member; any conservation officer of the Department of Conservation and Recreation commissioned pursuant to § 10.1-115; or any full-time sworn member of the enforcement division of the Department of Motor Vehicles appointed pursuant to § 46.2-217.

(Effective July 1, 2018) "Deceased person" means any individual whose death occurs on or after April 8, 1972, in the line of duty as the direct or proximate result of the performance of his duty, including the presumptions under §§ 27-40.1, 27-40.2, 51.1-813, 65.2-402, and 65.2-402.1 if his position is covered by the applicable statute, as a law-enforcement officer of the Commonwealth or any of its political subdivisions; a correctional officer as defined in § 53.1-1; a jail officer; a regional jail or jail farm superintendent; a sheriff, deputy sheriff, or city sergeant or deputy city sergeant of the City of Richmond; a police chaplain; a member of any fire company or department or emergency medical services agency that has been recognized by an ordinance or a resolution of the governing body of any county, city, or town of the Commonwealth as an integral part of the official safety program of such county, city, or town; a member of any fire company providing fire protection services for facilities of the Virginia National Guard *or the Virginia Air National Guard*; a member of the

Virginia National Guard or the Virginia Defense Force while such member is serving in the Virginia National Guard or the Virginia Defense Force on official state duty or federal duty under Title 32 of the United States Code; any special agent of the Virginia Alcoholic Beverage Control Authority; any regular or special conservation police officer who receives compensation from a county, city, or town or from the Commonwealth appointed pursuant to the provisions of § 29.1-200; any commissioned forest warden appointed under the provisions of § 10.1-1135; any member or employee of the Virginia Marine Resources Commission granted the power of arrest pursuant to § 28.2-900; any Department of Emergency Management hazardous materials officer; any other employee of the Department of Emergency Management who is performing official duties of the agency, when those duties are related to a major disaster or emergency, as defined in § 44-146.16, that has been or is later declared to exist under the authority of the Governor in accordance with § 44-146.28; any employee of any county, city, or town performing official emergency management or emergency services duties in cooperation with the Department of Emergency Management, when those duties are related to a major disaster or emergency, as defined in § 44-146.16, that has been or is later declared to exist under the authority of the Governor in accordance with § 44-146.28 or a local emergency, as defined in § 44-146.16, declared by a local governing body; any nonfirefighter regional hazardous materials emergency response team member; any conservation officer of the Department of Conservation and Recreation commissioned pursuant to § 10.1-115; or any full-time sworn member of the enforcement division of the Department of Motor Vehicles appointed pursuant to § 46.2-217.

"Disabled person" means any individual who has been determined to be mentally or physically incapacitated so as to prevent the further performance of his duties at the time of his disability where such incapacity is likely to be permanent, and whose incapacity occurs in the line of duty as the direct or proximate result of the performance of his duty, including the presumptions under §§ 27-40.1, 27-40.2, 51.1-813, 65.2-402, and 65.2-402.1 if his position is covered by the applicable statute, in any position listed in the definition of deceased person in this section. "Disabled person" does not include any individual who has been determined to be no longer disabled pursuant to subdivision A 2 of § 9.1-404. ~~Disabled person also does not include any individual during any period in which his health insurance coverage in the LODA Health Benefits Plan is suspended pursuant to subdivision C 4 of § 9.1-401.~~ "Disabled person" includes any state employee included in the definition of a deceased person who was disabled on or after January 1, 1966.

"Eligible dependent" for purposes of continued health insurance pursuant to § 9.1-401 means the natural or adopted child or children of a deceased person or disabled person or of a deceased or disabled person's eligible spouse, ~~including any children born as the result of a pregnancy or adopted pursuant to a preadoptive agreement, either of which occurred provided that any such natural child is born as the result of a pregnancy that occurred prior to the time of the employee's death or disability and that any such adopted child is (i) adopted prior to the time of the employee's death or disability or (ii) adopted after the employee's death or disability if the adoption is pursuant to a preadoptive agreement entered into prior to the death or disability.~~ Eligibility will continue until the end of the year in which the eligible dependent reaches age 26 or when the eligible dependent ceases to be eligible based on the Virginia Administrative Code or administrative guidance as determined by the Department of Human Resource Management.

"Eligible spouse" for purposes of continued health insurance pursuant to § 9.1-401 means the spouse of a deceased person or a disabled person at the time of the death or disability. Eligibility will continue until the eligible spouse dies, ceases to be married to a disabled person, or in the case of the spouse of a deceased person, dies, remarries *on or after July 1, 2017*, or otherwise ceases to be eligible based on the Virginia Administrative Code or administrative guidance as determined by the Department of Human Resource Management.

"Employee" means any person who would be covered or whose spouse, dependents, or beneficiaries would be covered under the benefits of this chapter if the person became a disabled person or a deceased person.

"Employer" means (i) the employer of a person who is a covered employee or (ii) in the case of a volunteer who is a member of any fire company or department or rescue squad described in the definition of "deceased person," the county, city, or town that by ordinance or resolution recognized such fire company or department or rescue squad as an integral part of the official safety program of such locality.

"Fund" means the Line of Duty Death and Health Benefits Trust Fund established pursuant to § 9.1-400.1.

"Line of duty" means any action the deceased or disabled person was obligated or authorized to perform by rule, regulation, condition of employment or service, or law.

"LODA Health Benefits Plans" means the separate health benefits plans established pursuant to § 9.1-401.

"Nonparticipating employer" means any employer that is a political subdivision of the Commonwealth that elected ~~on or before July 1, 2012~~, to directly fund the cost of benefits provided under this chapter and not participate in the Fund.

"Participating employer" means any employer that is a state agency or is a political subdivision of the Commonwealth that did not make an election to become a nonparticipating employer.

"VRS" means the Virginia Retirement System.

**§ 9.1-400.1. (Effective July 1, 2017) Line of Duty Death and Health Benefits Trust Fund.**

A. There is hereby established a permanent and perpetual fund to be known as the Line of Duty Death and Health Benefits Trust Fund, consisting of such moneys as may be appropriated by the General Assembly, contributions or reimbursements from participating and nonparticipating employers, gifts, bequests, endowments, or grants from the United States government or its agencies or instrumentalities, net income from the investment of moneys held in the Fund, and any other available sources of funds, public and private. Any moneys remaining in the Fund at the end of a biennium shall not revert to the general fund but shall remain in the Fund. Interest and income earned from the investment of such

moneys shall remain in the Fund and be credited to it. The moneys in the Fund shall be (i) deemed separate and independent trust funds, (ii) segregated and accounted for separately from all other funds of the Commonwealth, and (iii) administered solely in the interests of the persons who are covered under the benefits provided pursuant to this chapter. Deposits to and assets of the Fund shall not be subject to the claims of creditors.

B. The Virginia Retirement System shall invest, reinvest, and manage the assets of the Fund as provided in § 51.1-124.39 and shall be reimbursed from the Fund for such activities as provided in that section.

C. The Fund shall be used to provide the benefits under this chapter related to disabled persons, deceased persons, eligible dependents, and eligible spouses on behalf of participating employers and to pay related administrative costs.

D. Each participating employer shall make annual contributions to the Fund and provide information as determined by VRS. The amount of the contribution for each participating employer shall be determined on a current disbursement basis in accordance with the provisions of this section. *For purposes of establishing contribution amounts for participating employers, a member of any fire company or department or rescue squad that has been recognized by an ordinance or a resolution of the governing body of any locality of the Commonwealth as an integral part of the official safety program of such locality shall be considered part of the locality served by the company, department, or rescue squad. If a company, department, or rescue squad serves more than one locality, the affected localities shall determine the basis and apportionment of the required covered payroll and contributions for each company, department, or rescue squad.*

If any participating employer fails to remit contributions or other fees or costs associated with the Fund, VRS shall inform the State Comptroller and the affected participating employer of the delinquent amount. In calculating the delinquent amount, VRS may impose an interest rate of one percent per month of delinquency. The State Comptroller shall forthwith transfer such delinquent amount, plus interest, from any moneys otherwise distributable to such participating employer.

**§ 9.1-401. (Effective July 1, 2017) Continued health insurance coverage for disabled persons, eligible spouses, and eligible dependents.**

A. ~~Employees~~ *Disabled persons*, eligible spouses, and eligible dependents shall be afforded continued health insurance coverage as provided in this section, the cost of which shall be paid by the nonparticipating employer to the Department of Human Resource Management or from the Fund on behalf of a participating employer, as applicable. If any disabled person or eligible spouse is receiving the benefits described in this section and would otherwise qualify for the health insurance credit described in Chapter 14 (§ 51.1-1400 et seq.) of Title 51.1, the amount of such credit shall be deposited into the Line of Duty Death and Health Benefits Trust Fund or paid to the nonparticipating employer, as applicable, from the health insurance credit trust fund, in a manner prescribed by VRS.

B. 1. The continued health insurance coverage provided by this section for all disabled persons, eligible spouses, and eligible dependents shall be through separate plans, referred to as the LODA Health Benefits Plans (the Plans), administered by the Department of Human Resource Management. The Plans shall comply with all applicable federal and state laws and shall be modeled upon state employee health benefits program plans. Funding of the Plans' reserves and contingency shall be provided through a line of credit, the amount of which shall be based on an actuarially determined estimate of liabilities. The Department of Human Resource Management shall be reimbursed for health insurance premiums and all reasonable costs incurred and associated, directly and indirectly, in performing the duties pursuant to this section (i) from the Line of Duty Death and Health Benefits Trust Fund for costs related to disabled persons, deceased persons, eligible dependents, and eligible spouses on behalf of participating employers and (ii) from a nonparticipating employer for premiums and costs related to disabled persons, deceased persons, eligible dependents, and eligible spouses for which the nonparticipating employer is responsible. If any nonparticipating employer fails to remit such premiums and costs, the Department of Human Resource Management shall inform the State Comptroller and the affected nonparticipating employer of the delinquent amount. In calculating the delinquent amount, the Department of Human Resource Management may impose an interest rate of one percent per month of delinquency. The State Comptroller shall forthwith transfer such delinquent amount, plus interest, from any moneys otherwise distributable to such nonparticipating employer.

2. In the event that temporary health care insurance coverage is needed for ~~employees~~ *disabled persons*, eligible spouses, and eligible dependents during the period of transition into the LODA Health Benefits Plans, the Department of Human Resource Management is authorized to acquire and provide temporary transitional health insurance coverage. The type and source of the transitional health plans shall be within the sole discretion of the Department of Human Resource Management. Transitional coverage for eligible dependents shall comply with the eligibility criteria of the transitional plans until enrollment in the LODA Health Benefits Plan can be completed.

C. 1. a. Except as provided in subdivision 2 and any other law, continued health insurance coverage in any LODA Health Benefits Plans shall not be provided to any person (i) whose coverage under the Plan is based on a deceased person's death or a disabled person's disability occurring on or after July 1, 2017 and (ii) who is eligible for Medicare due to age.

b. Coverage in the LODA Health Benefits Plans shall also cease for any person upon his death.

2. The provisions of subdivision 1 a shall not apply to any disabled person who is eligible for Medicare due to disability under Social Security Disability Insurance or a Railroad Retirement Board Disability Annuity. The Department of Human Resource Management may provide such disabled person coverage under a LODA Health Benefits Plan that is separate from the plan for other persons.

3. Continued health insurance under this section shall also terminate upon the disabled person's return to full duty in any position listed in the definition of deceased person in § 9.1-400. Such disabled person shall promptly notify the participating or nonparticipating employer, VRS, and the Department of Human Resource Management upon his return to work.

4. Such continued health insurance shall be suspended for the *Plan* year following a calendar year in which the disabled person *whose coverage under the Plan is based on a disability occurring on or after July 1, 2017*, has earned income in an amount equal to or greater than the salary of the position held by the disabled person at the time of disability, indexed annually based upon the annual increases in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics of the U.S. Department of Labor. Such suspension shall cease the *Plan* year following a calendar year in which the disabled person has not earned such amount of income. The disabled person shall notify the participating or nonparticipating employer, VRS, and the Department of Human Resource Management no later than ~~January 15~~ *March 1* of the year following any year in which he earns income of such amount, and notify the participating or nonparticipating employer, VRS, and the Department of Human Resource Management when he no longer is earning such amount. Upon request, a disabled person shall provide VRS and the Department of Human Resource Management with documentation of earned income.

**§ 9.1-404. (Effective July 1, 2017) Order of the Virginia Retirement System.**

A. 1. The Virginia Retirement System shall make an eligibility determination within 45 days of receiving all necessary information for determining eligibility for a claim filed under § 9.1-403. *The Virginia Retirement System may use a medical board pursuant to § 51.1-124.23 in determining eligibility.* If benefits under this chapter are due, VRS shall notify the nonparticipating employer, which shall provide the benefits within 15 days of such notice, or VRS shall pay the benefits from the Fund on behalf of the participating employer within 15 days of the determination, as applicable. The payments shall be retroactive to the first date that the disabled person was no longer eligible for health insurance coverage subsidized by his employer.

2. Two years after an individual has been determined to be a disabled person, VRS may require the disabled person to renew the determination through a process established by VRS. If a disabled person refuses to submit to the determination renewal process described in this subdivision, then benefits under this chapter shall cease for the individual, any eligible dependents, and an eligible spouse until the individual complies. If such individual does not comply within six months from the date of the initial request for a renewed determination, then benefits under this chapter shall permanently cease for the individual, any eligible dependents, and an eligible spouse. If VRS issues a renewed determination that an individual is no longer a disabled person, then benefits under this chapter shall permanently cease for the individual, any eligible dependents, and an eligible spouse. If VRS issues a renewed determination that an individual remains a disabled person, then VRS may require the disabled person to renew the determination five years after such renewed determination through a process established by VRS. The Virginia Retirement System may require the disabled person to renew the determination at any time if VRS has information indicating that the person may no longer be disabled.

B. The Virginia Retirement System shall be reimbursed for all reasonable costs incurred and associated, directly and indirectly, in performing the duties pursuant to this chapter (i) from the Line of Duty Death and Health Benefits Trust Fund for costs related to disabled persons, deceased persons, eligible dependents, and eligible spouses on behalf of participating employers and (ii) from a nonparticipating employer for premiums and costs related to disabled persons, deceased persons, eligible dependents, and eligible spouses for which the nonparticipating employer is responsible.

C. The Virginia Retirement System may develop policies and procedures necessary to carry out the provisions of this chapter.

**§ 9.1-407. (Effective July 1, 2017) Training.**

Any ~~law enforcement or public safety officer~~ *employee* entitled to benefits under this chapter shall receive training within 30 days of his employment, and again every two years thereafter, concerning the benefits available to himself or his beneficiary in case of disability or death in the line of duty. *The Virginia Retirement System and the Department of Human Resource Management, in consultation with the Secretary of Public Safety and Homeland Security, shall develop training information to be distributed to agencies and localities with employees subject to this chapter employers. The agency or locality employer shall be responsible for providing the training. Such training shall not count toward in-service training requirements for law-enforcement officers pursuant to § 9.1-102 and shall include, but not be limited to, the general rules for intestate succession described in § 64.2-200 that may be applicable to the distribution of benefits provided under § 9.1-402.*

**§ 9.1-408. Records of investigation confidential.**

A. Evidence and documents obtained by or created by, and the report of investigation prepared by, the Department of State Police, *the Virginia Retirement System, or the Department of Human Resource Management* in carrying out the provisions of this chapter shall (i) be deemed confidential, (ii) be exempt from disclosure under the Freedom of Information Act (§ 2.2-3700 et seq.), and (iii) not be released in whole or in part by any person to any person except as provided in this chapter. *Notwithstanding the provisions of this section, VRS may release to necessary parties such information, documents, and reports for purposes of administering appeals under this chapter.*

B. *Notwithstanding subsection A, the Department of State Police and the Department of Accounts shall, upon request, share with the Virginia Retirement System and the Department of Human Resource Management any information, evidence, documents, and reports of investigation related to existing and past claims for benefits provided under this Chapter. Such information, evidence, documents, and reports of investigation shall be exempt from disclosure under the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).*

**2. That an emergency exists and § 9.1-408 of the Code of Virginia, as amended by this act, is in force from its passage.**

## CHAPTER 440

*An Act to amend and reenact § 58.1-3921 of the Code of Virginia, relating to personal property tax; list of uncollected taxes for which the treasurer must compile a list.*

[H 2455]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:****1. That § 58.1-3921 of the Code of Virginia is amended and reenacted as follows:****§ 58.1-3921. Treasurer to make out lists of uncollectable taxes and delinquents.**

The treasurer, after ascertaining which of the taxes and levies assessed at any time in his county or city have not been collected, shall, within ~~sixty~~ 60 days of the end of the fiscal year, make out lists as follows:

1. A list of real estate on the commissioner's land book improperly placed thereon or not ascertainable, with the amount of taxes charged thereon.
2. A list of other real estate which is delinquent for the nonpayment of the taxes thereon. This list shall not include any taxes listed under subdivision 4 or 5 of this section.
3. A list of such of the taxes assessed on tangible personal property, machinery and tools and merchants' capital, and other subjects of local taxation, other than real estate, as he was unable to collect which are delinquent. This list shall not include any taxes listed under subdivision 4, 5, or 6 of this section.
4. A list of the uncollected taxes amounting to less than ~~twenty dollars~~ \$20 each for which no bills were sent under § 58.1-3912.
5. A list of uncollected balances of previously billed taxes amounting to less than ~~twenty dollars~~ \$20 each as to which the treasurer has determined that the costs of collecting such balances would exceed the amount recoverable, provided that the treasurer shall not include on such list any balance with respect to which he has reason to believe that the taxpayer has purposely paid less than the amount due and owing.
6. A list of uncollected balances of previously billed tangible personal property taxes on vehicles, *trailers, semitrailers, watercraft, and manufactured homes* that (i) were owned by taxpayers, now deceased, upon whose estates no qualification has been made, or (ii) were transferred to bona fide purchasers for value pursuant to § 29.1-733.20, 46.2-632, 46.2-633, or 46.2-634 without knowledge, on the part of the persons so transferring, of the unpaid taxes.

Notwithstanding any other provision of this title, no tax or levy which has been discharged or otherwise rendered legally uncollectable as to a taxpayer liable upon it in a proceeding under the United States Bankruptcy Code (Title 11 of the United States Code) shall be considered delinquent with respect to that taxpayer on and after the date such obligation is discharged or otherwise rendered legally uncollectable, and the treasurer shall not include any such discharged or uncollectable obligation in any list required to be prepared pursuant to this section. Any such discharged or uncollectable obligation shall be stricken from the books of the treasurer as of the date the obligation is discharged or otherwise rendered uncollectable, and the treasurer thereafter shall have no further duty to collect such tax or levy.

The governing body of any town may, by ordinance, adopt the procedures set forth in this section and § 58.1-3924. If such ordinance is adopted, the town treasurer shall submit such lists to the governing body as provided in § 58.1-3924.

## CHAPTER 441

*An Act to amend and reenact § 58.1-609.6 of the Code of Virginia, relating to retail sales and use tax; media-related exemptions.*

[S 804]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:****1. That § 58.1-609.6 of the Code of Virginia is amended and reenacted as follows:****§ 58.1-609.6. Media-related exemptions.**

The tax imposed by this chapter or pursuant to the authority granted in §§ 58.1-605 and 58.1-606 shall not apply to the following:

1. Leasing, renting or licensing of copyright audio or video tapes, and films for public exhibition at motion picture theaters or by licensed radio and television stations.
2. Broadcasting equipment and parts and accessories thereto and towers used or to be used by commercial radio and television companies, wired or land based wireless cable television systems, common carriers or video programmers using an open video system or other video platform provided by telephone common carriers, or concerns which are under the regulation and supervision of the Federal Communications Commission and amplification, transmission and distribution equipment used or to be used by wired or land based wireless cable television systems, or open video systems or other video systems provided by telephone common carriers.
3. Any publication issued daily, or regularly at average intervals not exceeding three months, and advertising supplements and any other printed matter ultimately distributed with or as part of such publications; however, newsstand

sales of the same are taxable. As used in this subdivision, the term "newsstand sales" shall not include sales of back copies of publications by the publisher or his agent.

4. Catalogs, letters, brochures, reports, and similar printed materials, except administrative supplies, the envelopes, containers and labels used for packaging and mailing same, and paper furnished to a printer for fabrication into such printed materials, when stored for 12 months or less in the Commonwealth and distributed for use without the Commonwealth. As used in this subdivision, "administrative supplies" includes, but is not limited to, letterhead, envelopes, and other stationery; and invoices, billing forms, payroll forms, price lists, time cards, computer cards, and similar supplies. Notwithstanding the provisions of subdivision 5 or the definition of "advertising" contained in § 58.1-602, (i) any advertising business located outside the Commonwealth which purchases printing from a printer within the Commonwealth shall not be deemed the user or consumer of the printed materials when such purchases would have been exempt under this subdivision, and (ii) from July 1, 1995, through June 30, 2002, and beginning July 1, 2002, and ending July 1, ~~2017~~ 2022, any advertising business which purchases printing from a printer within the Commonwealth shall not be deemed the user or consumer of the printed materials when such purchases would have been exempt under subdivision 3 or this subdivision, provided that the advertising agency shall certify to the Tax Commissioner, upon request, that such printed material was distributed outside the Commonwealth and such certification shall be retained as a part of the transaction record and shall be subject to further review by the Tax Commissioner.

5. Advertising as defined in § 58.1-602.

6. Beginning July 1, 1995, and ending July 1, 2019:

a. (i) The lease, rental, license, sale, other transfer, or use of any audio or video tape, film or other audiovisual work where the transferee or user acquires or has acquired the work for the purpose of licensing, distributing, broadcasting, commercially exhibiting or reproducing the work or using or incorporating the work into another such work; (ii) the provision of production services or fabrication in connection with the production of any portion of such audiovisual work, including, but not limited to, scriptwriting, photography, sound, musical composition, special effects, animation, adaptation, dubbing, mixing, editing, cutting and provision of production facilities or equipment; or (iii) the transfer or use of tangible personal property, including, but not limited to, scripts, musical scores, storyboards, artwork, film, tapes and other media, incident to the performance of such services or fabrication; however, audiovisual works and incidental tangible personal property described in clauses (i) and (iii) shall be subject to tax as otherwise provided in this chapter to the extent of the value of their tangible components prior to their use in the production of any audiovisual work and prior to their enhancement by any production service; and

b. Equipment and parts and accessories thereto used or to be used in the production of such audiovisual works.

7. Beginning July 1, 1998, and ending July 1, 2017, textbooks and other educational materials withdrawn from inventory at book-publishing distribution facilities for free distribution to professors and other individuals who have an educational focus.

## CHAPTER 442

*An Act to amend and reenact § 58.1-811, as it is currently effective and as it may become effective, of the Code of Virginia, relating to recordation tax; exemption.*

[S 875]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 58.1-811, as it is currently effective and as it may become effective, of the Code of Virginia is amended and reenacted as follows:**

**§ 58.1-811. (Contingent expiration date) Exemptions.**

A. The taxes imposed by §§ 58.1-801 and 58.1-807 shall not apply to any deed conveying real estate or lease of real estate:

1. To an incorporated college or other incorporated institution of learning not conducted for profit, where such real estate is intended to be used for educational purposes and not as a source of revenue or profit;

2. To an incorporated church or religious body or to the trustee or trustees of any church or religious body, or a corporation mentioned in § 57-16.1, where such real estate is intended to be used exclusively for religious purposes, or for the residence of the minister of any such church or religious body;

3. To the United States, the Commonwealth, or to any county, city, town, district, or other political subdivision of the Commonwealth;

4. To the Virginia Division of the United Daughters of the Confederacy;

5. To any nonstock corporation organized exclusively for the purpose of owning or operating a hospital or hospitals not for pecuniary profit;

6. To a corporation upon its organization by persons in control of the corporation in a transaction which qualifies for nonrecognition of gain or loss pursuant to § 351 of the Internal Revenue Code as it exists at the time of the conveyance;

7. From a corporation to its stockholders upon complete or partial liquidation of the corporation in a transaction which qualifies for income tax treatment pursuant to § 331, 332, 333, or 337 of the Internal Revenue Code as it exists at the time of liquidation;

8. To the surviving or new corporation, partnership, limited partnership, business trust, or limited liability company upon a merger or consolidation to which two or more such entities are parties, or in a reorganization within the meaning of § 368(a)(1)(C) and (F) of the Internal Revenue Code as amended;

9. To a subsidiary corporation from its parent corporation, or from a subsidiary corporation to a parent corporation, if the transaction qualifies for nonrecognition of gain or loss under the Internal Revenue Code as amended;

10. To a partnership or limited liability company, when the grantors are entitled to receive not less than 50 percent of the profits and surplus of such partnership or limited liability company, provided that the transfer to a limited liability company is not a precursor to a transfer of control of the assets of the company to avoid recordation taxes;

11. From a partnership or limited liability company, when the grantees are entitled to receive not less than 50 percent of the profits and surplus of such partnership or limited liability company, provided that the transfer from a limited liability company is not subsequent to a transfer of control of the assets of the company to avoid recordation taxes;

12. To trustees of a revocable inter vivos trust, when the grantors in the deed and the beneficiaries of the trust are the same persons, regardless of whether other beneficiaries may also be named in the trust instrument, when no consideration has passed between the grantor and the beneficiaries; and to the original beneficiaries of a trust from the trustees holding title under a deed in trust;

13. When the grantor is the personal representative of a decedent's estate or trustee under a will or inter vivos trust of which the decedent was the settlor, other than a deed of trust conveying property to secure the payment of money or the performance of an obligation, and the sole purpose of such transfer is to comply with a devise or bequest in the decedent's will or to transfer title to one or more beneficiaries after the death of the settlor in accordance with a dispositive provision in the trust instrument;

14. When the grantor is an organization exempt from taxation under § 501(c)(3) of the Internal Revenue Code that is organized and operated primarily to acquire land and purchase materials to erect or rehabilitate low-cost homes on such land, which homes are sold at cost to persons who otherwise would be unable to afford to buy a home through conventional means;

15. When it is a deed of partition, or any combination of deeds simultaneously executed and having the effect of a deed of partition, among joint tenants, tenants in common, or coparceners; or

16. When it is a deed transferring property pursuant to a decree of divorce or of separate maintenance or pursuant to a written instrument incident to such divorce or separation.

B. The taxes imposed by §§ 58.1-803 and 58.1-804 shall not apply to any deed of trust or mortgage:

1. Given by an incorporated college or other incorporated institution of learning not conducted for profit;

2. Given by the trustee or trustees of a church or religious body or given by an incorporated church or religious body, or given by a corporation mentioned in § 57-16.1;

3. Given by any nonstock corporation organized exclusively for the purpose of owning and/or operating a hospital or hospitals not for pecuniary profit;

4. Given by any local governmental entity or political subdivision of the Commonwealth to secure a debt payable to any other local governmental entity or political subdivision;

5. Securing a loan made by an organization described in subdivision A 14; ~~or~~

6. Securing a loan made by a county, city, or town, or an agency of such a locality, to a borrower whose household income does not exceed 80 percent of the area median household income established by the U.S. Department of Housing and Urban Development, for the purpose of erecting or rehabilitating a home for such borrower, including the purchase of land for such home; *or*

7. *Given by any entity organized pursuant to Chapter 9.1 (§ 56-231.15 et seq.) of Title 56.*

C. The tax imposed by § 58.1-802 and the fee imposed by § 58.1-802.2 shall not apply to any:

1. Transaction described in subdivisions A 6 through 13, 15, and 16;

2. Instrument or writing given to secure a debt;

3. Deed conveying real estate from an incorporated college or other incorporated institution of learning not conducted for profit;

4. Deed conveying real estate from the United States, the Commonwealth or any county, city, town, district, or other political subdivision thereof;

5. Conveyance of real estate to the Commonwealth or any county, city, town, district, or other political subdivision thereof, if such political unit is required by law to reimburse the parties taxable pursuant to § 58.1-802 or subject to the fee under § 58.1-802.2; or

6. Deed conveying real estate from the trustee or trustees of a church or religious body or from an incorporated church or religious body, or from a corporation mentioned in § 57-16.1.

D. No recordation tax shall be required for the recordation of any deed of gift between a grantor or grantors and a grantee or grantees when no consideration has passed between the parties. Such deed shall state therein that it is a deed of gift.

E. The tax imposed by § 58.1-807 shall not apply to any lease to the United States, the Commonwealth, or any county, city, town, district, or other political subdivision of the Commonwealth.

F. The taxes and fees imposed by §§ 58.1-801, 58.1-802, 58.1-802.2, 58.1-807, 58.1-808, and 58.1-814 shall not apply to (i) any deed of gift conveying real estate or any interest therein to The Nature Conservancy or (ii) any lease of real property or any interest therein to The Nature Conservancy, where such deed of gift or lease of real estate is intended to be used exclusively for the purpose of preserving wilderness, natural, or open space areas.

G. The words "trustee" or "trustees," as used in subdivisions A 2, B 2, and C 6, include the trustees mentioned in § 57-8 and the ecclesiastical officers mentioned in § 57-16.

H. No recordation tax levied pursuant to this chapter shall be levied on the release of a contractual right, if the release is contained within a single deed that performs more than one function, and at least one of the other functions performed by the deed is subject to the recordation tax.

I. No recordation tax levied pursuant to this chapter shall be levied on a deed, lease, easement, release, or other document recorded in connection with a concession pursuant to the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) or similar federal law.

J. No recordation tax shall be required for the recordation of any transfer on death deed or any revocation of transfer on death deed made pursuant to the Uniform Real Property Transfer on Death Act (§ 64.2-621 et seq.) when no consideration has passed between the parties.

**§ 58.1-811. (Contingent effective date) Exemptions.**

A. The taxes imposed by §§ 58.1-801 and 58.1-807 shall not apply to any deed conveying real estate or lease of real estate:

1. To an incorporated college or other incorporated institution of learning not conducted for profit, where such real estate is intended to be used for educational purposes and not as a source of revenue or profit;

2. To an incorporated church or religious body or to the trustee or trustees of any church or religious body, or a corporation mentioned in § 57-16.1, where such real estate is intended to be used exclusively for religious purposes, or for the residence of the minister of any such church or religious body;

3. To the United States, the Commonwealth, or to any county, city, town, district, or other political subdivision of the Commonwealth;

4. To the Virginia Division of the United Daughters of the Confederacy;

5. To any nonstock corporation organized exclusively for the purpose of owning or operating a hospital or hospitals not for pecuniary profit;

6. To a corporation upon its organization by persons in control of the corporation in a transaction which qualifies for nonrecognition of gain or loss pursuant to § 351 of the Internal Revenue Code as it exists at the time of the conveyance;

7. From a corporation to its stockholders upon complete or partial liquidation of the corporation in a transaction which qualifies for income tax treatment pursuant to § 331, 332, 333, or 337 of the Internal Revenue Code as it exists at the time of liquidation;

8. To the surviving or new corporation, partnership, limited partnership, business trust, or limited liability company upon a merger or consolidation to which two or more such entities are parties, or in a reorganization within the meaning of § 368(a)(1)(C) and (F) of the Internal Revenue Code as amended;

9. To a subsidiary corporation from its parent corporation, or from a subsidiary corporation to a parent corporation, if the transaction qualifies for nonrecognition of gain or loss under the Internal Revenue Code as amended;

10. To a partnership or limited liability company, when the grantors are entitled to receive not less than 50 percent of the profits and surplus of such partnership or limited liability company, provided that the transfer to a limited liability company is not a precursor to a transfer of control of the assets of the company to avoid recordation taxes;

11. From a partnership or limited liability company, when the grantees are entitled to receive not less than 50 percent of the profits and surplus of such partnership or limited liability company, provided that the transfer from a limited liability company is not subsequent to a transfer of control of the assets of the company to avoid recordation taxes;

12. To trustees of a revocable inter vivos trust, when the grantors in the deed and the beneficiaries of the trust are the same persons, regardless of whether other beneficiaries may also be named in the trust instrument, when no consideration has passed between the grantor and the beneficiaries; and to the original beneficiaries of a trust from the trustees holding title under a deed in trust;

13. When the grantor is the personal representative of a decedent's estate or trustee under a will or inter vivos trust of which the decedent was the settlor, other than a deed of trust conveying property to secure the payment of money or the performance of an obligation, and the sole purpose of such transfer is to comply with a devise or bequest in the decedent's will or to transfer title to one or more beneficiaries after the death of the settlor in accordance with a dispositive provision in the trust instrument;

14. When the grantor is an organization exempt from taxation under § 501(c)(3) of the Internal Revenue Code that is organized and operated primarily to acquire land and purchase materials to erect or rehabilitate low-cost homes on such land, which homes are sold at cost to persons who otherwise would be unable to afford to buy a home through conventional means;

15. Pursuant to any deed of partition, or any combination of deeds simultaneously executed and having the effect of a deed of partition, among joint tenants, tenants in common, or coparceners; or

16. Pursuant to any deed transferring property pursuant to a decree of divorce or of separate maintenance or pursuant to a written instrument incident to such divorce or separation.

- B. The taxes imposed by §§ 58.1-803 and 58.1-804 shall not apply to any deed of trust or mortgage:
1. Given by an incorporated college or other incorporated institution of learning not conducted for profit;
  2. Given by the trustee or trustees of a church or religious body or given by an incorporated church or religious body, or given by a corporation mentioned in § 57-16.1;
  3. Given by any nonstock corporation organized exclusively for the purpose of owning and/or operating a hospital or hospitals not for pecuniary profit;
  4. Given by any local governmental entity or political subdivision of the Commonwealth to secure a debt payable to any other local governmental entity or political subdivision;
  5. Securing a loan made by an organization described in subdivision A 14; ~~or~~
  6. Securing a loan made by a county, city, or town, or an agency of such a locality, to a borrower whose household income does not exceed 80 percent of the area median household income established by the U.S. Department of Housing and Urban Development, for the purpose of erecting or rehabilitating a home for such borrower, including the purchase of land for such home; *or*
  7. *Given by any entity organized pursuant to Chapter 9.1 (§ 56-231.15 et seq.) of Title 56.*
- C. The tax imposed by § 58.1-802 shall not apply to any:
1. Transaction described in subdivisions A 6 through 13, 15, and 16;
  2. Instrument or writing given to secure a debt;
  3. Deed conveying real estate from an incorporated college or other incorporated institution of learning not conducted for profit;
  4. Deed conveying real estate from the United States, the Commonwealth or any county, city, town, district, or other political subdivision thereof;
  5. Conveyance of real estate to the Commonwealth or any county, city, town, district, or other political subdivision thereof, if such political unit is required by law to reimburse the parties taxable pursuant to § 58.1-802; or
  6. Deed conveying real estate from the trustee or trustees of a church or religious body or from an incorporated church or religious body, or from a corporation mentioned in § 57-16.1.
- D. No recordation tax shall be required for the recordation of any deed of gift between a grantor or grantors and a grantee or grantees when no consideration has passed between the parties. Such deed shall state therein that it is a deed of gift.
- E. The tax imposed by § 58.1-807 shall not apply to any lease to the United States, the Commonwealth, or any county, city, town, district, or other political subdivision of the Commonwealth.
- F. The taxes and fees imposed by §§ 58.1-801, 58.1-802, 58.1-807, 58.1-808, and 58.1-814 shall not apply to (i) any deed of gift conveying real estate or any interest therein to The Nature Conservancy or (ii) any lease of real property or any interest therein to The Nature Conservancy, where such deed of gift or lease of real estate is intended to be used exclusively for the purpose of preserving wilderness, natural, or open space areas.
- G. The words "trustee" or "trustees," as used in subdivisions A 2, B 2, and C 6, include the trustees mentioned in § 57-8 and the ecclesiastical officers mentioned in § 57-16.
- H. No recordation tax levied pursuant to this chapter shall be levied on the release of a contractual right, if the release is contained within a single deed that performs more than one function, and at least one of the other functions performed by the deed is subject to the recordation tax.
- I. No recordation tax levied pursuant to this chapter shall be levied on a deed, lease, easement, release, or other document recorded in connection with a concession pursuant to the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) or similar federal law.
- J. No recordation tax shall be required for the recordation of any transfer on death deed or any revocation of transfer on death deed made pursuant to the Uniform Real Property Transfer on Death Act (§ 64.2-621 et seq.) when no consideration has passed between the parties.

#### CHAPTER 443

*An Act to amend and reenact § 58.1-3713 of the Code of Virginia, relating to local gas severance tax; extension of sunset date.*

[S 886]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 58.1-3713 of the Code of Virginia is amended and reenacted as follows:**

**§ 58.1-3713. Local gas road improvement and Virginia Coalfield Economic Development Authority tax.**

A. In addition to the taxes authorized under § 58.1-3712, any county or city may adopt a license tax on every person engaging in the business of severing gases from the earth. The rate of such tax shall not exceed one percent. The provisions of § 58.1-3712 as they relate to measurement of gross receipts, filing of reports and record keeping shall be applicable to the tax imposed under this section.

The moneys collected for each county or city from the taxes imposed under authority of this section and subsection B of § 58.1-3741 shall be paid into a special fund of such county or city to be called the Coal and Gas Road Improvement

Fund of such county or city, and shall be spent for such improvements to public roads as the coal and gas road improvement advisory committee and the governing body of such county or city may determine as provided in subsection B of this section. The county may also, in its discretion, elect to improve city or town roads with its funds if consent of the city or town council is obtained. Such funds shall be in addition to those allocated to such counties from state highway funds which allocations shall not be reduced as a result of any revenues received from the tax imposed hereunder. In those localities that comprise the Virginia Coalfield Economic Development Authority, the tax imposed under this section or subsection B of § 58.1-3741 shall be paid as follows: (i) three-fourths of the revenue shall be paid to the Coal and Gas Road Improvement Fund and used for the purposes set forth herein; however, one-fourth of such revenue may be used to fund the construction of new water or sewer systems and lines and the repair or enhancement of existing water or sewer systems and lines in areas with natural water supplies that are insufficient from the standpoint of quality or quantity, or the construction of natural gas service lines as authorized by § 15.2-2109.3, and (ii) one-fourth of the revenue shall be paid to the Virginia Coalfield Economic Development Fund. Furthermore, with regard to the portion paid to the Coal and Gas Road Improvement Fund, a county or city may provide for an additional one-fourth allocation for the construction of new systems or lines for water, sewer, or natural gas as authorized by § 15.2-2109.3, or the repair or enhancement of existing water, sewer, or natural gas systems or lines in areas with natural water supplies or existing natural gas services that are insufficient from the standpoint of quality or quantity; however, if this option is initiated by a county or city, it must satisfy the requirements set forth in § 58.1-3713.01. Notwithstanding the foregoing limitations regarding revenues used for water systems, sewer systems, or natural gas systems, such revenues designated for water and water systems, sewer systems, or natural gas systems shall be distributed directly to the local public service authority for such purposes instead of the local governing body. Funds in the Coal and Gas Road Improvement Fund used to construct, repair, or enhance natural gas service lines or systems shall not exceed one-fourth of the revenue paid to the Coal and Gas Road Improvement Fund collected from the severance tax imposed upon the severance of natural gas pursuant to this section and may be so used only upon passage of a local ordinance or resolution of the governing body of the applicable county or city providing for the same.

B. Any county or city imposing the tax authorized in this section or in subsection B of § 58.1-3741 shall establish a Coal and Gas Road Improvement Advisory Committee, to be composed of four members: (i) a member of the governing body of such county or city, appointed by the governing body, (ii) a representative of the Department of Transportation, and (iii) two citizens of such county or city connected with the coal and gas industry, appointed for a term of four years, initially commencing July 1, 1989, by the chief judge of the circuit court.

Such committee shall develop on or before July 1 of each year a plan for improvement of roads during the following fiscal year. Such plan shall have the approval of three members of the committee and shall be submitted to the governing body of the county or city for approval. The governing body may approve or disapprove such plan, but may make no changes without the approval of three members of the committee.

C. No tax shall be imposed under this section on or after January 1, ~~2018~~ 2020.

#### CHAPTER 444

*An Act to amend and reenact §§ 55-556, 55-557, 55-558, 58.1-302, 58.1-315, 58.1-321, 58.1-322, 58.1-324, 58.1-339.8, 58.1-362, 58.1-363, 58.1-391, 58.1-490, 58.1-513, and 58.1-1823 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 58.1-322.01 through 58.1-322.04, relating to Virginia taxable income of residents; reorganization of additions, subtractions, deductions, and other modifications.*

[S 912]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 55-556, 55-557, 55-558, 58.1-302, 58.1-315, 58.1-321, 58.1-322, 58.1-324, 58.1-339.8, 58.1-362, 58.1-363, 58.1-391, 58.1-490, 58.1-513, and 58.1-1823 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 58.1-322.01 through 58.1-322.04 as follows:**

**§ 55-556. Claiming first-time home buyer status.**

A. The account holder shall be responsible for the use or application of moneys or funds in an account for which the account holder claims first-time home buyer savings account status.

B. The account holder shall (i) not use moneys or funds held in an account to pay expenses of administering the account, except that a service fee may be deducted from the account by a financial institution; (ii) maintain documentation of the segregation of moneys or funds in separate accounts and documentation of eligible costs for the purchase of a single-family residence in the Commonwealth; such documentation may include the settlement statement; (iii) file, with the account holder's Virginia income tax return, forms developed by the Department of Taxation regarding treatment of the account as a first-time home buyer savings account under this chapter, along with the Form 1099 issued by the financial institution for such account; and (iv) remit to the Department of Taxation the tax on any amounts (a) added to individual income pursuant to subdivision ~~B 40~~ 6 of § ~~58.1-322~~ 58.1-322.01 or (b) recaptured pursuant to subdivision ~~C 36~~ 25 of § ~~58.1-322~~ 58.1-322.02.

C. The Tax Commissioner shall develop guidelines applicable to account holders to implement the provisions of this chapter. Such guidelines shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.). Such

guidelines shall not apply to, or impose administrative, reporting, or other obligations or requirements on, financial institutions-related accounts for which first-time home buyer savings account status is claimed by the account holder.

**§ 55-557. Tax exemption; conditions.**

A. All interest or other income earned attributable to an account shall be excluded from the Virginia taxable income of the account holder as provided under subdivision ~~€ 36 25~~ of § ~~58.1-322~~ 58.1-322.02.

B. There shall be an aggregate limit of \$50,000 per account on the amount of principal for which the account holder may claim first-time home buyer savings account status. Only cash and marketable securities may be contributed to an account.

C. Subject to the aggregate limit on the amount of principal that may be contributed to an account pursuant to subsection B, there shall be a limitation of \$150,000 on the amount of principal and interest or other income on the principal that may be retained within an account.

D. An account holder shall be subject to Virginia income tax pursuant to subdivision ~~B 40 6~~ of § ~~58.1-322~~ 58.1-322.01 to the extent of any loss deducted as a capital loss by the individual for federal income tax purposes attributable to the person's account.

E. Upon being furnished proof of the death of the account holder, a financial institution shall distribute the principal and accumulated interest or other income in the account in accordance with the terms of the contract governing the account.

**§ 55-558. Withdrawal of funds from account for purposes other than eligible costs for first-time home purchase.**

If moneys or funds are withdrawn from an account for any purpose other than the payment of eligible costs by or on behalf of a qualified beneficiary, there shall be imposed a penalty calculated using the Form 1099 showing the amount of income exempted from state income tax and a five percent penalty shall be assessed on the amount of exempted income. The penalty shall be paid to the Department of Taxation. In addition, as provided under subdivision ~~€ 36 25~~ of § ~~58.1-322~~ 58.1-322.02, the account holder shall also be subject to recapture of income that was subtracted pursuant to that subdivision.

Such five percent penalty shall not apply to, and there shall be no recapture of income with regard to, the extent of moneys or funds withdrawn that were (i) withdrawn by reason of the qualified beneficiary's death or disability, (ii) a disbursement of assets of the account pursuant to a filing for protection under the United States Bankruptcy Code, 11 U.S.C. §§ 101 through 1330, or (iii) transferred from an account established pursuant to this chapter into another account established pursuant to this chapter for the benefit of another qualified beneficiary.

**§ 58.1-302. Definitions.**

For the purpose of this chapter and unless otherwise required by the context:

"Affiliated" means two or more corporations subject to Virginia income taxes whose relationship to each other is such that (i) one corporation owns at least 80 percent of the voting stock of the other or others or (ii) at least 80 percent of the voting stock of two or more corporations is owned by the same interests.

"Compensation" means wages, salaries, commissions and any other form of remuneration paid or accrued to employees for personal services.

"Corporation" includes associations, joint stock companies and insurance companies.

"Domicile" means the permanent place of residence of a taxpayer and the place to which he intends to return even though he may actually reside elsewhere. In determining domicile, consideration may be given to the applicant's expressed intent, conduct, and all attendant circumstances including, but not limited to, financial independence, business pursuits, employment, income sources, residence for federal income tax purposes, marital status, residence of parents, spouse and children, if any, leasehold, sites of personal and real property owned by the applicant, motor vehicle and other personal property registration, residence for purposes of voting as proven by registration to vote, if any, and such other factors as may reasonably be deemed necessary to determine the person's domicile.

"Foreign source income" means:

1. Interest, other than interest derived from sources within the United States;
2. Dividends, other than dividends derived from sources within the United States;
3. Rents, royalties, license, and technical fees from property located or services performed without the United States or from any interest in such property, including rents, royalties, or fees for the use of or the privilege of using without the United States any patents, copyrights, secret processes and formulas, good will, trademarks, trade brands, franchises, and other like properties;
4. Gains, profits, or other income from the sale of intangible or real property located without the United States; and
5. The amount of an individual's share of net income attributable to a foreign source qualified business unit of an electing small business corporation (S corporation). For purposes of this subsection, qualified business unit shall be defined by § 989 of the Internal Revenue Code, and the source of such income shall be determined in accordance with §§ 861, 862 and 987 of the Internal Revenue Code.

In determining the source of "foreign source income," the provisions of §§ 861, 862, and 863 of the Internal Revenue Code shall be applied except as specifically provided in subsection 5 above.

"Income and deductions from Virginia sources" includes:

1. Items of income, gain, loss and deduction attributable to:
  - a. The ownership of any interest in real or tangible personal property in Virginia;
  - b. A business, trade, profession or occupation carried on in Virginia; or

c. Prizes paid by the Virginia Lottery Department, and gambling winnings from wagers placed or paid at a location in Virginia.

2. Income from intangible personal property, including annuities, dividends, interest, royalties and gains from the disposition of intangible personal property to the extent that such income is from property employed by the taxpayer in a business, trade, profession, or occupation carried on in Virginia.

"Income tax return preparer" means any person who prepares for compensation, or who employs one or more persons to prepare for compensation, any return of tax imposed by this chapter or any claim for refund of tax. For purposes of the preceding sentence, the preparation for compensation of any portion of a return or claim for refund shall be treated as if it were the preparation of the return or claim for refund. A person shall not be an "income tax return preparer" merely because the person:

1. Furnishes typing, reproducing, or other mechanical assistance;
2. Prepares a return or claim for refund of the employer (or of an officer or employee of the employer) by whom he is regularly and continuously employed;
3. Prepares as a fiduciary a return or claim for refund for any person; or
4. Prepares an application for correction of an erroneous assessment or a protective claim for refund for a taxpayer in response to any assessment pursuant to § 58.1-1812 issued to the taxpayer or in response to any waiver pursuant to § 58.1-101 or 58.1-220 after the commencement of an audit of the taxpayer or another taxpayer if a determination in such audit of such other taxpayer directly or indirectly affects the tax liability of such taxpayer.

"Individual" means all natural persons whether married or unmarried and fiduciaries acting for natural persons, but not fiduciaries acting for trusts or estates.

"Intangible expenses and costs" means:

1. Expenses, losses and costs for, related to, or in connection directly or indirectly with the direct or indirect acquisition, use, maintenance or management, ownership, sale, exchange, lease, transfer, or any other disposition of intangible property to the extent such amounts are allowed as deductions or costs in determining taxable income;
2. Losses related to or incurred in connection directly or indirectly with factoring transactions or discounting transactions;
3. Royalty, patent, technical and copyright fees;
4. Licensing fees; and
5. Other similar expenses and costs.

"Intangible property" means patents, patent applications, trade names, trademarks, service marks, copyrights and similar types of intangible assets.

"Interest expenses and costs" means amounts directly or indirectly allowed as deductions under § 163 of the Internal Revenue Code for purposes of determining taxable income under the Internal Revenue Code to the extent such expenses and costs are directly or indirectly for, related to, or in connection with the direct or indirect acquisition, use, maintenance, management, ownership, sale, exchange, lease, transfer, or disposition of intangible property.

"Nonresident estate or trust" means an estate or trust which is not a resident estate or trust.

"Related entity" means:

1. A stockholder who is an individual, or a member of the stockholder's family enumerated in § 318 of the Internal Revenue Code, if the stockholder and the members of the stockholder's family own, directly, indirectly, beneficially or constructively, in the aggregate, at least 50 percent of the value of the taxpayer's outstanding stock;
2. A stockholder, or a stockholder's partnership, limited liability company, estate, trust or corporation, if the stockholder and the stockholder's partnerships, limited liability companies, estates, trusts and corporations own directly, indirectly, beneficially or constructively, in the aggregate, at least 50 percent of the value of the taxpayer's outstanding stock; or
3. A corporation, or a party related to the corporation in a manner that would require an attribution of stock from the corporation to the party or from the party to the corporation under the attribution rules of § 318 of the Internal Revenue Code, if the taxpayer owns, directly, indirectly, beneficially or constructively, at least 50 percent of the value of the corporation's outstanding stock. The attribution rules of § 318 of the Internal Revenue Code shall apply for purposes of determining whether the ownership requirements of this subdivision have been met.

"Related member" means a person that, with respect to the taxpayer during all or any portion of the taxable year, is a related entity, a component member as defined in § 1563(b) of the Internal Revenue Code, or is a person to or from whom there is attribution of stock ownership in accordance with § 1563(e) of the Internal Revenue Code.

"Resident" applies only to natural persons and includes, for the purpose of determining liability for the taxes imposed by this chapter upon the income of any taxable year every person domiciled in Virginia at any time during the taxable year and every other person who, for an aggregate of more than 183 days of the taxable year, maintained his place of abode within Virginia, whether domiciled in Virginia or not. The word "resident" shall not include any member of the United States Congress who is domiciled in another state.

"Resident estate or trust" means:

1. The estate of a decedent who at his death was domiciled in the Commonwealth;
2. A trust created by will of a decedent who at his death was domiciled in the Commonwealth;
3. A trust created by or consisting of property of a person domiciled in the Commonwealth; or

4. A trust or estate which is being administered in the Commonwealth.

"Sales" means all gross receipts of the corporation not allocated under § 58.1-407, except the sale or other disposition of intangible property shall include only the net gain realized from the transaction.

"State," means for purposes of Article 10 of this chapter (*§ 58.1-400 et seq.*), means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any foreign country.

"Trust" or "estate" means a trust or estate, or a fiduciary thereof, which is required to file a fiduciary income tax return under the laws of the United States.

"Virginia fiduciary adjustment" means the net amount of the applicable modifications described in ~~§ 58.1-322 §§ 58.1-322.01, 58.1-322.02, and 58.1-322.04~~ (including ~~subsection E thereof subdivision 1 of § 58.1-322.04~~ if the estate or trust is a beneficiary of another estate or trust) which relate to items of income, gain, loss or deduction of an estate or trust. The fiduciary adjustment shall not include the modification in ~~subsection D of § 58.1-322 58.1-322.03~~, except that the amount of state income taxes excluded from federal taxable income shall be included. The fiduciary adjustment shall also include the modification in ~~subsection D subdivision 7 of § 58.1-322, 58.1-322.03~~ regarding the deduction for the purchase of a prepaid tuition contract or contribution to a savings trust account.

**§ 58.1-315. Transitional modifications to Virginia taxable income.**

The modifications of Virginia taxable income to be made in accordance with ~~subsection F subdivision 2 of § 58.1-322 58.1-322.04~~ and subsection D of § 58.1-402, so long as applicable, are as follows:

1. There shall be subtracted from Virginia taxable income the amount necessary to prevent the taxation under this chapter of any annuity or of any other amount of income or gain which was properly included in income or gain and was taxable under Articles 1, 2, 3, 4, 5, 6, or 7 (§§ 58-77 through 58-151) of Chapter 4 of Title 58 to the taxpayer prior to the repeal thereof, or to a decedent by reason of whose death the taxpayer acquires the right to receive the income or gain, or to a trust or estate from which the taxpayer received the income or gain.

2. The carry-back of net operating losses or net capital losses to reduce taxable income of taxable years beginning prior to January 1, 1972, shall not be permitted. Where a taxpayer would have been allowed to deduct an amount as a net operating loss carry-over or net capital loss carry-over in determining taxable income for a taxable year beginning after December 31, 1971, but for the fact that such loss, or a portion of such loss, had been carried back in determining taxable income for a taxable year beginning prior to January 1, 1972, there shall be added to Virginia taxable income any amount which was actually deducted in determining taxable income as a net operating loss carry-over or net capital loss carry-over and there shall be subtracted from Virginia taxable income the amount which could have been deducted as a net operating loss carry-over or net capital loss carry-over in arriving at taxable income but for the fact that such loss, or a portion of such loss, had been carried back for federal purposes.

3. There shall be added to Virginia taxable income the amount necessary to prevent the deduction under this chapter of any item which was properly deductible by the taxpayer in determining a tax under §§ 58-77 through 58-151 prior to the repeal thereof.

4. There shall be subtracted from Virginia taxable income that portion of any accumulation distribution which is allocable, under the laws of the United States relating to federal income taxes, to undistributed net income of a trust for any taxable year beginning on or before December 31, 1971. The rules prescribed by such laws of the United States with reference to any such accumulation distribution shall be applied, mutatis mutandis, to allow for this limitation; and, without limiting the generality of the foregoing, the credit provided by § 58.1-370 in the case of accumulation distributions shall in no instance encompass any part of any tax paid for a taxable year beginning on or before December 31, 1971.

5. As to gain or loss attributable to the sale or exchange of nondepreciable property, Virginia taxable income shall be adjusted to effect a reduction in such gain or increase in such loss by the amount by which the adjusted basis of such property, determined for Virginia income tax purposes at the close of the taxable period immediately preceding the first taxable period to which Articles 7.1 to 7.6 (§ 58-151.01 et seq.) of Title 58 applied prior to repeal thereof exceeds the adjusted basis of such property for federal income tax purposes determined at the close of the same period.

6. There shall be subtracted from the Virginia taxable income of a shareholder of an electing small business corporation any amount included in his taxable income as his share of the undistributed taxable income of such corporation for any year of the corporation beginning before January 1, 1972.

7. There shall be subtracted from federal taxable income amounts which would have been deductible by the corporation in computing federal taxable income but for the election of such corporation of the additional investment tax credit under § 46(a)(2)(B) of the Internal Revenue Code in effect on January 1, 1978.

**§ 58.1-321. Exemptions and exclusions.**

A. No tax levied pursuant to § 58.1-320 is imposed, nor any return required to be filed, by:

1. ~~A single individual where the Virginia adjusted gross income for such taxable year is less than \$5,000 for taxable years beginning on and after January 1, 1987, but before January 1, 2004.~~

~~A single individual where the Virginia adjusted gross income plus the modification specified in subdivision D 5 of § 58.1-322 for such taxable year is less than \$5,000 for taxable years beginning on and after January 1, 2004, but before January 1, 2005.~~

A single individual where the Virginia adjusted gross income plus the modification specified in subdivision D 5 of § 58.1-322 for such taxable year is less than \$7,000 for taxable years beginning on and after January 1, 2005; but before January 1, 2008.

A single individual where the Virginia adjusted gross income plus the modification specified in subdivision D 5 of § 58.1-322 for such taxable year is less than \$11,250 for taxable years beginning on and after January 1, 2008; but before January 1, 2010.

A single individual where the Virginia adjusted gross income plus the modification specified in subdivision D 5 of § 58.1-322 58.1-322.03 for such taxable year is less than \$11,650 for taxable years beginning on and after January 1, 2010, but before January 1, 2012.

A single individual where the Virginia adjusted gross income plus the modification specified in subdivision D 5 of § 58.1-322 58.1-322.03 for such taxable year is less than \$11,950 for taxable years beginning on and after January 1, 2012.

2. An individual and spouse if their combined Virginia adjusted gross income for such taxable year is less than \$8,000 for taxable years beginning on and after January 1, 1987; (or one-half of such amount in the case of a married individual filing a separate return) but before January 1, 2004.

An individual and spouse if their combined Virginia adjusted gross income plus the modification specified in subdivision D 5 of § 58.1-322 58.1-322.03 is less than \$8,000 for taxable years beginning on and after January 1, 2004; (or one-half of such amount in the case of a married individual filing a separate return) but before January 1, 2005; less than \$14,000 for taxable years beginning on and after January 1, 2005; (or one-half of such amount in the case of a married individual filing a separate return) but before January 1, 2008; less than \$22,500 for taxable years beginning on and after January 1, 2008; (or one-half of such amount in the case of a married individual filing a separate return) but before January 1, 2010; less than \$23,300 for taxable years beginning on and after January 1, 2010; (or one-half of such amount in the case of a married individual filing a separate return) but before January 1, 2012; and less than \$23,900 for taxable years beginning on and after January 1, 2012; (or one-half of such amount in the case of a married individual filing a separate return).

For the purposes of this section, "Virginia adjusted gross income" means federal adjusted gross income for the taxable years with the modifications specified in § 58.1-322 B, § 58.1-322 C and the additional deductions allowed under § 58.1-322 D 2 b and D 5 for taxable years beginning before January 1, 2004 §§ 58.1-322.01 and 58.1-322.02. For taxable years beginning on and after January 1, 2004, Virginia adjusted gross income means federal adjusted gross income with the modifications specified in subsections B and C of § 58.1-322.

B. Persons in the ~~armed forces~~ *Armed Forces* of the United States stationed on military or naval reservations within Virginia who are not domiciled in Virginia shall not be held liable to income taxation for compensation received from military or naval service.

#### § 58.1-322. Virginia taxable income of residents.

A. The Virginia taxable income of a resident individual means his federal adjusted gross income for the taxable year, which excludes combat pay for certain members of the Armed Forces of the United States as provided in § 112 of the Internal Revenue Code, as amended, and with the modifications specified in ~~this section~~ §§ 58.1-322.01 through 58.1-322.04.

B. To the extent excluded from federal adjusted gross income, there shall be added:

1. Interest, less related expenses to the extent not deducted in determining federal income, on obligations of any state other than Virginia; or of a political subdivision of any such other state unless created by compact or agreement to which Virginia is a party;

2. Interest or dividends, less related expenses to the extent not deducted in determining federal taxable income, on obligations or securities of any authority, commission or instrumentality of the United States, which the laws of the United States exempt from federal income tax but not from state income taxes;

3. Unrelated business taxable income as defined by § 512 of the Internal Revenue Code;

4. The amount of a lump sum distribution from a qualified retirement plan; less the minimum distribution allowance and any amount excludable for federal income tax purposes that is excluded from federal adjusted gross income solely by virtue of an individual's election to use the averaging provisions under § 402 of the Internal Revenue Code;

5 through 8. [Repealed.]

9. The amount required to be included in income for the purpose of computing the partial tax on an accumulation distribution pursuant to § 667 of the Internal Revenue Code;

10. For taxable years beginning on and after January 1, 2014, any loss for the taxable year that was deducted as a capital loss for federal income tax purposes by an account holder attributable to such person's first-time home buyer savings account established pursuant to Chapter 32 (§ 55-555 et seq.) of Title 55. For purposes of this subdivision, "account holder" and "first-time home buyer savings account" mean the same as those terms are defined in § 55-555; and

11. For taxable years beginning on or after January 1, 2016, to the extent that tax credit is allowed for the same donation pursuant to § 58.1-439.12-12; any amount claimed as a federal income tax deduction for such donation under § 170 of the Internal Revenue Code, as amended or renumbered.

C. To the extent included in federal adjusted gross income, there shall be subtracted:

1. Income derived from obligations; or on the sale or exchange of obligations; of the United States and on obligations or securities of any authority, commission or instrumentality of the United States to the extent exempt from state income

taxes under the laws of the United States including, but not limited to, stocks, bonds, treasury bills, and treasury notes, but not including interest on refunds of federal taxes; interest on equipment purchase contracts; or interest on other normal business transactions:

2. Income derived from obligations; or on the sale or exchange of obligations of this Commonwealth or of any political subdivision or instrumentality of the Commonwealth.

3. [Repealed.]

4. Benefits received under Title II of the Social Security Act and other benefits subject to federal income taxation solely pursuant to § 86 of the Internal Revenue Code.

4a. Through December 31, 2000, the same amount used in computing the federal credit allowed under § 22 of the Internal Revenue Code by a retiree under age 65 who qualified for such retirement on the basis of permanent and total disability and who is a qualified individual as defined in § 22(b)(2) of the Internal Revenue Code; however, any person who claims a deduction under subdivision D 5 may not also claim a subtraction under this subdivision.

4b. For taxable years beginning on or after January 1, 2001, up to \$20,000 of disability income, as defined in § 22(c)(2)(B)(iii) of the Internal Revenue Code; however, any person who claims a deduction under subdivision D 5 may not also claim a subtraction under this subdivision.

5. The amount of any refund or credit for overpayment of income taxes imposed by the Commonwealth or any other taxing jurisdiction.

6. The amount of wages or salaries eligible for the federal Targeted Jobs Credit which was not deducted for federal purposes on account of the provisions of § 280C(a) of the Internal Revenue Code.

7, 8. [Repealed.]

9. [Expired.]

10. Any amount included therein less than \$600 from a prize awarded by the Virginia Lottery.

11. The wages or salaries received by any person for active and inactive service in the National Guard of the Commonwealth of Virginia; not to exceed the amount of income derived from 39 calendar days of such service or \$3,000, whichever amount is less; however, only those persons in the ranks of O3 and below shall be entitled to the deductions specified herein:

12. Amounts received by an individual; not to exceed \$1,000 in any taxable year; as a reward for information provided to a law-enforcement official or agency; or to a nonprofit corporation created exclusively to assist such law-enforcement official or agency; in the apprehension and conviction of perpetrators of crimes. This provision shall not apply to the following: an individual who is an employee of, or under contract with, a law-enforcement agency; a victim or the perpetrator of the crime for which the reward was paid; or any person who is compensated for the investigation of crimes or accidents:

13. [Repealed.]

14. [Expired.]

15, 16. [Repealed.]

17. For taxable years beginning on and after January 1, 1995, the amount of "qualified research expenses" or "basic research expenses" eligible for deduction for federal purposes; but which were not deducted; on account of the provisions of § 280C(e) of the Internal Revenue Code and which shall be available to partners, shareholders of S corporations; and members of limited liability companies to the extent and in the same manner as other deductions may pass through to such partners, shareholders; and members:

18. [Repealed.]

19. For taxable years beginning on and after January 1, 1996, any income received during the taxable year derived from a qualified pension, profit-sharing, or stock bonus plan as described by § 401 of the Internal Revenue Code; an individual retirement account or annuity established under § 408 of the Internal Revenue Code; a deferred compensation plan as defined by § 457 of the Internal Revenue Code; or any federal government retirement program; the contributions to which were deductible from the taxpayer's federal adjusted gross income; but only to the extent the contributions to such plan or program were subject to taxation under the income tax in another state:

20. For taxable years beginning on and after January 1, 1997, any income attributable to a distribution of benefits or a refund from a prepaid tuition contract or savings trust account with the Virginia College Savings Plan, created pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1. The subtraction for any income attributable to a refund shall be limited to income attributable to a refund in the event of a beneficiary's death, disability, or receipt of a scholarship:

21. For taxable years beginning on or after January 1, 1998, all military pay and allowances; to the extent included in federal adjusted gross income and not otherwise subtracted, deducted or exempted under this section; earned by military personnel while serving by order of the President of the United States with the consent of Congress in a combat zone or qualified hazardous duty area which is treated as a combat zone for federal tax purposes pursuant to § 112 of the Internal Revenue Code:

22. For taxable years beginning on or after January 1, 2000, but before January 1, 2015, the gain derived from the sale or exchange of real property or the sale or exchange of an easement to real property which results in the real property or the easement thereto being devoted to open-space use, as that term is defined in § 58.1-3230, for a period of time not less than 30 years. To the extent a subtraction is taken in accordance with this subdivision, no tax credit under this chapter for donating land for its preservation shall be allowed for three years following the year in which the subtraction is taken:

23. Effective for all taxable years beginning on or after January 1, 2000, \$15,000 of military basic pay for military service personnel on extended active duty for periods in excess of 90 days; however, the subtraction amount shall be reduced dollar-for-dollar by the amount which the taxpayer's military basic pay exceeds \$15,000 and shall be reduced to zero if such military basic pay amount is equal to or exceeds \$30,000.

24. Effective for all taxable years beginning on and after January 1, 2000, the first \$15,000 of salary for each federal and state employee whose total annual salary from all employment for the taxable year is \$15,000 or less.

25. Unemployment benefits taxable pursuant to § 85 of the Internal Revenue Code.

26. For taxable years beginning on and after January 1, 2001, any amount received as military retirement income by an individual awarded the Congressional Medal of Honor.

27. Effective for all taxable years beginning on and after January 1, 1999, income received as a result of (i) the "Master Settlement Agreement," as defined in § 3.2-3100; and (ii) the National Tobacco Grower Settlement Trust dated July 19, 1999, by (a) tobacco farmers; (b) any person holding a tobacco marketing quota; or tobacco farm acreage allotment; under the Agricultural Adjustment Act of 1938; or (c) any person having the right to grow tobacco pursuant to such a quota or allotment; but only to the extent that such income has not been subtracted pursuant to subdivision C 18 of § 58.1-402.

28. For taxable years beginning on and after January 1, 2000, items of income attributable to, derived from or in any way related to (i) assets stolen from; hidden from or otherwise lost by an individual who was a victim or target of Nazi persecution or (ii) damages, reparations, or other consideration received by a victim or target of Nazi persecution to compensate such individual for performing labor against his will under the threat of death, during World War II and its prelude and direct aftermath. This subtraction shall not apply to assets acquired with such items of income or with the proceeds from the sale of assets stolen from; hidden from or otherwise lost to, during World War II and its prelude and direct aftermath; a victim or target of Nazi persecution. The provisions of this subdivision shall only apply to an individual who was the first recipient of such items of income and who was a victim or target of Nazi persecution, or a spouse, widow, widower, or child or stepchild of such victim.

"Victim or target of Nazi persecution" means any individual persecuted or targeted for persecution by the Nazi regime who had assets stolen from; hidden from or otherwise lost as a result of any act or omission in any way relating to (i) the Holocaust; (ii) World War II and its prelude and direct aftermath; (iii) transactions with or actions of the Nazi regime; (iv) treatment of refugees fleeing Nazi persecution; or (v) the holding of such assets by entities or persons in the Swiss Confederation during World War II and its prelude and aftermath. A victim or target of Nazi persecution shall also include any individual forced into labor against his will, under the threat of death, during World War II and its prelude and direct aftermath. As used in this subdivision, "Nazi regime" means the country of Nazi Germany, areas occupied by Nazi Germany, those European countries allied with Nazi Germany, or any other neutral European country or area in Europe under the influence or threat of Nazi invasion.

29, 30. [Repealed.]

31. Effective for all taxable years beginning on or after January 1, 2001, the military death gratuity payment made after September 11, 2001, to the survivor of deceased military personnel killed in the line of duty, pursuant to Chapter 75 of Title 10 of the United States Code; however, the subtraction amount shall be reduced dollar-for-dollar by the amount that the survivor may exclude from his federal gross income in accordance with § 134 of the Internal Revenue Code.

32. Effective for all taxable years beginning on or after January 1, 2007, the death benefit payments from an annuity contract that are received by a beneficiary of such contract provided that (i) the death benefit payment is made pursuant to an annuity contract with an insurance company and (ii) the death benefit payment is paid solely by lump sum. The subtraction under this subdivision shall be allowed only for that portion of the death benefit payment that is included in federal adjusted gross income.

33. For taxable years beginning on and after January 1, 2009, any gain recognized from the sale of launch services to space flight participants, as defined in 49 U.S.C. § 70102, or launch services intended to provide individuals the training or experience of a launch, without performing an actual launch. To qualify for a deduction under this subdivision, launch services must be performed in Virginia or originate from an airport or spaceport in Virginia.

34. For taxable years beginning on and after January 1, 2009, any gain recognized as a result of resupply services contracts for delivering payload, as defined in 49 U.S.C. § 70102, entered into with the Commercial Orbital Transportation Services division of the National Aeronautics and Space Administration or other space flight entity, as defined in § 8.01-227.8, and launched from an airport or spaceport in Virginia.

35. For taxable years beginning on or after January 1, 2011, any income taxed as a long-term capital gain for federal income tax purposes; or any income taxed as investment services partnership interest income (otherwise known as investment partnership carried interest income) for federal income tax purposes. To qualify for a subtraction under this subdivision, such income shall be attributable to an investment in a "qualified business," as defined in § 58.1-339.4, or in any other technology business approved by the Secretary of Technology, provided the business has its principal office or facility in the Commonwealth and less than \$3 million in annual revenues in the fiscal year prior to the investment. To qualify for a subtraction under this subdivision, the investment shall be made between the dates of April 1, 2010, and June 30, 2020. No taxpayer who has claimed a tax credit for an investment in a "qualified business" under § 58.1-339.4 shall be eligible for the subtraction under this subdivision for an investment in the same business.

36. For taxable years beginning on and after January 1, 2014, any income of an account holder for the taxable year taxed as (i) a capital gain for federal income tax purposes attributable to such person's first-time home buyer savings

account established pursuant to Chapter 32 (§ 55-555 et seq.) of Title 55 and (ii) interest income or other income for federal income tax purposes attributable to such person's first-time home buyer savings account.

Notwithstanding the statute of limitations on assessments contained in § 58.1-312, any subtraction taken under this subdivision shall be subject to recapture in the taxable year or years in which moneys or funds withdrawn from the first-time home buyer savings account were used for any purpose other than the payment of eligible costs by or on behalf of a qualified beneficiary, as provided under § 55-558. The amount subject to recapture shall be a portion of the amount withdrawn in the taxable year that was used for other than the payment of eligible costs, computed by multiplying the amount withdrawn and used for other than the payment of eligible costs by the ratio of the aggregate earnings in the account at the time of the withdrawal to the total balance in the account at such time.

However, recapture shall not apply to the extent of moneys or funds withdrawn that were (i) withdrawn by reason of the qualified beneficiary's death or disability; (ii) a disbursement of assets of the account pursuant to a filing for protection under the United States Bankruptcy Code, 11 U.S.C. §§ 101 through 1330; or (iii) transferred from an account established pursuant to Chapter 32 (§ 55-555 et seq.) of Title 55 into another account established pursuant to such chapter for the benefit of another qualified beneficiary.

For purposes of this subdivision, "account holder," "eligible costs," "first-time home buyer savings account," and "qualified beneficiary" mean the same as those terms are defined in § 55-555.

37. For taxable years beginning on or after January 1, 2015, any income for the taxable year attributable to the discharge of a student loan solely by reason of the student's death. For purposes of this subdivision, "student loan" means the same as that term is defined under § 108(f) of the Internal Revenue Code.

D. In computing Virginia taxable income there shall be deducted from Virginia adjusted gross income as defined in § 58.1-321:

1. a. The amount allowable for itemized deductions for federal income tax purposes where the taxpayer has elected for the taxable year to itemize deductions on his federal return, but reduced by the amount of income taxes imposed by the Commonwealth or any other taxing jurisdiction and deducted on such federal return and increased by an amount which, when added to the amount deducted under § 170 of the Internal Revenue Code for mileage, results in a mileage deduction at the state level for such purposes at a rate of 18 cents per mile; or

b. Three thousand dollars for single individuals and \$6,000 for married persons (one-half of such amounts in the case of a married individual filing a separate return) for taxable years beginning on and after January 1, 2005; provided that the taxpayer has not itemized deductions for the taxable year on his federal income tax return. For purposes of this section, any person who may be claimed as a dependent on another taxpayer's return for the taxable year may compute the deduction only with respect to earned income.

2. a. A deduction in the amount of \$900 for taxable years beginning on and after January 1, 2005, but before January 1, 2008; and \$930 for taxable years beginning on and after January 1, 2008, for each personal exemption allowable to the taxpayer for federal income tax purposes.

b. For taxable years beginning on and after January 1, 1987, each blind or aged taxpayer as defined under § 63(f) of the Internal Revenue Code shall be entitled to an additional personal exemption in the amount of \$800.

The additional deduction for blind or aged taxpayers allowed under this subdivision shall be allowable regardless of whether the taxpayer itemizes deductions for the taxable year for federal income tax purposes.

3. A deduction equal to the amount of employment-related expenses upon which the federal credit is based under § 21 of the Internal Revenue Code for expenses for household and dependent care services necessary for gainful employment.

4. An additional \$1,000 deduction for each child residing for the entire taxable year in a home under permanent foster care placement as defined in § 63.2-908, provided the taxpayer can also claim the child as a personal exemption under § 151 of the Internal Revenue Code.

5. a. For taxable years beginning on and after January 1, 2004, a deduction in the amount of \$12,000 for individuals born on or before January 1, 1939.

b. For taxable years beginning on and after January 1, 2004, a deduction in the amount of \$12,000 for individuals born after January 1, 1939, who have attained the age of 65. This deduction shall be reduced by \$1 for every \$1 that the taxpayer's adjusted federal adjusted gross income exceeds \$50,000 for single taxpayers or \$75,000 for married taxpayers. For married taxpayers filing separately, the deduction will be reduced by \$1 for every \$1 the total combined adjusted federal adjusted gross income of both spouses exceeds \$75,000.

For the purposes of this subdivision, "adjusted federal adjusted gross income" means federal adjusted gross income minus any benefits received under Title II of the Social Security Act and other benefits subject to federal income taxation solely pursuant to § 86 of the Internal Revenue Code, as amended.

6. For taxable years beginning on and after January 1, 1997, the amount an individual pays as a fee for an initial screening to become a possible bone marrow donor, if (i) the individual is not reimbursed for such fee or (ii) the individual has not claimed a deduction for the payment of such fee on his federal income tax return.

7. a. A deduction shall be allowed to the purchaser or contributor for the amount paid or contributed during the taxable year for a prepaid tuition contract or college savings trust account entered into with the Virginia College Savings Plan, pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1. Except as provided in subdivision 7 c, the amount deducted on any individual income tax return in any taxable year shall be limited to \$4,000 per prepaid tuition contract or college savings trust account. No deduction shall be allowed pursuant to this section if such payments or contributions are deducted on the

purchasee's or contributor's federal income tax return. If the purchase price or annual contribution to a college savings trust account exceeds \$4,000, the remainder may be carried forward and subtracted in future taxable years until the purchase price or college savings trust contribution has been fully deducted; however, except as provided in subdivision 7 e, in no event shall the amount deducted in any taxable year exceed \$4,000 per contract or college savings trust account. Notwithstanding the statute of limitations on assessments contained in § 58.1-312, any deduction taken hereunder shall be subject to recapture in the taxable year or years in which distributions or refunds are made for any reason other than (i) to pay qualified higher education expenses, as defined in § 529 of the Internal Revenue Code or (ii) the beneficiary's death, disability, or receipt of a scholarship. For the purposes of this subdivision, the term "purchasee" or "contributor" means the person shown as such on the records of the Virginia College Savings Plan as of December 31 of the taxable year. In the case of a transfer of ownership of a prepaid tuition contract or college savings trust account, the transferee shall succeed to the transferor's tax attributes associated with a prepaid tuition contract or college savings trust account, including, but not limited to, carryover and recapture of deductions.

b. The amount paid for a prepaid tuition contract during taxable years beginning on or after January 1, 1996, but before January 1, 1998, shall be deducted in taxable years beginning on or after January 1, 1998, and shall be subject to the limitations set out in subdivision 7 a.

e. A purchasee of a prepaid tuition contract or contributor to a college savings trust account who has attained age 70 shall not be subject to the limitation that the amount of the deduction not exceed \$4,000 per prepaid tuition contract or college savings trust account in any taxable year. Such taxpayer shall be allowed a deduction for the full amount paid for the contract or contributed to a college savings trust account, less any amounts previously deducted.

8. For taxable years beginning on and after January 1, 2000, the total amount an individual actually contributed in funds to the Virginia Public School Construction Grants Program and Fund, established in Chapter 11.1 (§ 22.1-175.1 et seq.) of Title 22.1, provided the individual has not claimed a deduction for such amount on his federal income tax return.

9. For taxable years beginning on and after January 1, 1999, an amount equal to 20 percent of the tuition costs incurred by an individual employed as a primary or secondary school teacher licensed pursuant to Chapter 15 (§ 22.1-289.1 et seq.) of Title 22.1 to attend continuing teacher education courses that are required as a condition of employment; however, the deduction provided by this subsection shall be available only if (i) the individual is not reimbursed for such tuition costs and (ii) the individual has not claimed a deduction for the payment of such tuition costs on his federal income tax return.

10. For taxable years beginning on or after January 1, 2000, the amount an individual pays annually in premiums for long-term health care insurance, provided the individual has not claimed a deduction for federal income tax purposes; or, for taxable years beginning before January 1, 2014, a credit under § 58.1-339.11. For taxable years beginning on or after January 1, 2014, no such deduction for long-term health care insurance premiums paid by the individual during the taxable year shall be allowed if the individual has claimed a federal income tax deduction for such taxable year for long-term health care insurance premiums paid by him.

11. For taxable years beginning on and after January 1, 2006, contract payments to a producer of quota tobacco or a tobacco quota holder, or their spouses, as provided under the American Jobs Creation Act of 2004 (P.L. 108-357), but only to the extent that such payments have not been subtracted pursuant to subsection D of § 58.1-402, as follows:

a. If the payment is received in installment payments, then the recognized gain, including any gain recognized in taxable year 2005, may be subtracted in the taxable year immediately following the year in which the installment payment is received.

b. If the payment is received in a single payment, then 10 percent of the recognized gain may be subtracted in the taxable year immediately following the year in which the single payment is received. The taxpayer may then deduct an equal amount in each of the nine succeeding taxable years.

12. For taxable years beginning on and after January 1, 2007, an amount equal to 20 percent of the sum paid by an individual pursuant to Chapter 6 (§ 58.1-600 et seq.), not to exceed \$500 in each taxable year, in purchasing for his own use the following items of tangible personal property: (i) any clothes washers, room air conditioners, dishwashers, and standard size refrigerators that meet or exceed the applicable energy star efficiency requirements developed by the United States Environmental Protection Agency and the United States Department of Energy; (ii) any fuel cell that (a) generates electricity using an electrochemical process, (b) has an electricity-only generation efficiency greater than 35 percent, and (c) has a generating capacity of at least two kilowatts; (iii) any gas heat pump that has a coefficient of performance of at least 1.25 for heating and at least 0.70 for cooling; (iv) any electric heat pump hot water heater that yields an energy factor of at least 1.7; (v) any electric heat pump that has a heating system performance factor of at least 8.0 and a cooling seasonal energy efficiency ratio of at least 13.0; (vi) any central air conditioner that has a cooling seasonal energy efficiency ratio of at least 13.5; (vii) any advanced gas or oil water heater that has an energy factor of at least 0.65; (viii) any advanced oil-fired boiler with a minimum annual fuel-utilization rating of 85; (ix) any advanced oil-fired furnace with a minimum annual fuel-utilization rating of 85; and (x) programmable thermostats.

13. For taxable years beginning on or after January 1, 2007, the lesser of \$5,000 or the amount actually paid by a living donor of an organ or other living tissue for unreimbursed out-of-pocket expenses directly related to the donation that arose within 12 months of such donation, provided the donor has not taken a medical deduction in accordance with the provisions of § 213 of the Internal Revenue Code for such expenses. The deduction may be taken in the taxable year in which the donation is made or the taxable year in which the 12-month period expires.

14. For taxable years beginning on or after January 1, 2013, the amount an individual age 66 or older with earned income of at least \$20,000 for the year and federal adjusted gross income not in excess of \$30,000 for the year pays annually in premiums for (i) a prepaid funeral insurance policy covering the individual or (ii) medical or dental insurance for any person for whom individual tax filers may claim a deduction for such premiums under federal income tax laws. "Earned income" means the same as that term is defined in § 32(c) of the Internal Revenue Code of 1954, as amended or renumbered. The deduction shall not be allowed for any portion of such premiums paid for which the individual has (a) been reimbursed; (b) claimed a deduction for federal income tax purposes; (c) claimed a deduction or subtraction under another provision of this section; or (d) claimed a federal income tax credit or any income tax credit pursuant to this chapter.

E. There shall be added to or subtracted from federal adjusted gross income, as the case may be, the individual's share, as beneficiary of an estate or trust, of the Virginia fiduciary adjustment determined under § 58.1-361.

F. There shall be added or subtracted, as the case may be, the amounts provided in § 58.1-315 as transitional modifications.

G. Effective for all taxable years beginning on or after January 1, 2007, to the extent included in federal adjusted gross income, there shall be (i) subtracted from federal adjusted gross income by a shareholder of an electing small business corporation (S corporation) that is subject to the bank franchise tax imposed under Chapter 12 (§ 58.1-1200 et seq.) for the calendar year in which such taxable year begins, the shareholder's allocable share of the income or gain of such electing small business corporation (S corporation); and (ii) added back to federal adjusted gross income such that, federal adjusted gross income shall be increased, by a shareholder of an electing small business corporation (S corporation) that is subject to the bank franchise tax imposed under Chapter 12 (§ 58.1-1200 et seq.) for the calendar year in which such taxable year begins, the shareholder's allocable share of the losses or deductions of such electing small business corporation (S corporation).

Effective for all taxable years beginning on or after January 1, 2007, to the extent excluded from federal adjusted gross income, there shall be added to federal adjusted gross income by a shareholder of an electing small business corporation (S corporation) that is subject to the bank franchise tax imposed under Chapter 12 (§ 58.1-1200 et seq.) for the calendar year in which such taxable year begins, the value of any distribution paid or distributed to the shareholder by such electing small business corporation (S corporation).

H. Notwithstanding any other provision of law, the income from any disposition of real property which is held by the taxpayer for sale to customers in the ordinary course of the taxpayer's trade or business, as defined in § 453(l)(1)(B) of the Internal Revenue Code, of property made on or after January 1, 2009, may, at the election of the taxpayer, be recognized under the installment method described under § 453 of the Internal Revenue Code, provided that (i) the election relating to the dealer disposition of the property has been made on or before the due date prescribed by law (including extensions) for filing the taxpayer's return of the tax imposed under this chapter for the taxable year in which the disposition occurs; and (ii) the dealer disposition is in accordance with restrictions or conditions established by the Department, which shall be set forth in guidelines developed by the Department. Along with such restrictions or conditions, the guidelines shall also address the recapture of such income under certain circumstances. The development of the guidelines shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq.).

**§ 58.1-322.01. Virginia taxable income; additions.**

In computing Virginia taxable income pursuant to § 58.1-322, to the extent excluded from federal adjusted gross income, there shall be added:

1. Interest, less related expenses to the extent not deducted in determining federal income, on obligations of any state other than Virginia, or of a political subdivision of any such other state unless created by compact or agreement to which Virginia is a party.

2. Interest or dividends, less related expenses to the extent not deducted in determining federal taxable income, on obligations or securities of any authority, commission, or instrumentality of the United States, which the laws of the United States exempt from federal income tax but not from state income taxes.

3. Unrelated business taxable income as defined by § 512 of the Internal Revenue Code.

4. The amount of a lump sum distribution from a qualified retirement plan, less the minimum distribution allowance and any amount excludable for federal income tax purposes that is excluded from federal adjusted gross income solely by virtue of an individual's election to use the averaging provisions under § 402 of the Internal Revenue Code.

5. The amount required to be included in income for the purpose of computing the partial tax on an accumulation distribution pursuant to § 667 of the Internal Revenue Code.

6. For taxable years beginning on and after January 1, 2014, any loss for the taxable year that was deducted as a capital loss for federal income tax purposes by an account holder attributable to such person's first-time home buyer savings account established pursuant to Chapter 32 (§ 55-555 et seq.) of Title 55. For purposes of this subdivision, "account holder" and "first-time home buyer savings account" mean the same as those terms are defined in § 55-555.

7. For taxable years beginning on and after January 1, 2016, to the extent that tax credit is allowed for the same donation pursuant to § 58.1-439.12:12, any amount claimed as a federal income tax deduction for such donation under § 170 of the Internal Revenue Code, as amended or renumbered.

**§ 58.1-322.02. Virginia taxable income; subtractions.**

In computing Virginia taxable income pursuant to § 58.1-322, to the extent included in federal adjusted gross income, there shall be subtracted:

1. *Income derived from obligations, or on the sale or exchange of obligations, of the United States and on obligations or securities of any authority, commission, or instrumentality of the United States to the extent exempt from state income taxes under the laws of the United States, including, but not limited to, stocks, bonds, treasury bills, and treasury notes but not including interest on refunds of federal taxes, interest on equipment purchase contracts, or interest on other normal business transactions.*

2. *Income derived from obligations, or on the sale or exchange of obligations, of the Commonwealth or of any political subdivision or instrumentality of the Commonwealth.*

3. *Benefits received under Title II of the Social Security Act and other benefits subject to federal income taxation solely pursuant to § 86 of the Internal Revenue Code.*

4. *Up to \$20,000 of disability income, as defined in § 22(c)(2)(B)(iii) of the Internal Revenue Code; however, any person who claims a deduction under subdivision 5 of § 58.1-322.03 may not also claim a subtraction under this subdivision.*

5. *The amount of any refund or credit for overpayment of income taxes imposed by the Commonwealth or any other taxing jurisdiction.*

6. *The amount of wages or salaries eligible for the federal Work Opportunity Credit which was not deducted for federal purposes on account of the provisions of § 280C(a) of the Internal Revenue Code.*

7. *Any amount included therein less than \$600 from a prize awarded by the Virginia Lottery.*

8. *The wages or salaries received by any person for active and inactive service in the National Guard of the Commonwealth of Virginia, not to exceed the amount of income derived from 39 calendar days of such service or \$3,000, whichever amount is less; however, only those persons in the ranks of O3 and below shall be entitled to the deductions specified in this subdivision.*

9. *Amounts received by an individual, not to exceed \$1,000 in any taxable year, as a reward for information provided to a law-enforcement official or agency, or to a nonprofit corporation created exclusively to assist such law-enforcement official or agency, in the apprehension and conviction of perpetrators of crimes. This subdivision shall not apply to the following: an individual who is an employee of, or under contract with, a law-enforcement agency, a victim or the perpetrator of the crime for which the reward was paid, or any person who is compensated for the investigation of crimes or accidents.*

10. *The amount of "qualified research expenses" or "basic research expenses" eligible for deduction for federal purposes, but which were not deducted, on account of the provisions of § 280C(c) of the Internal Revenue Code and which shall be available to partners, shareholders of S corporations, and members of limited liability companies to the extent and in the same manner as other deductions may pass through to such partners, shareholders, and members.*

11. *Any income received during the taxable year derived from a qualified pension, profit-sharing, or stock bonus plan as described by § 401 of the Internal Revenue Code, an individual retirement account or annuity established under § 408 of the Internal Revenue Code, a deferred compensation plan as defined by § 457 of the Internal Revenue Code, or any federal government retirement program, the contributions to which were deductible from the taxpayer's federal adjusted gross income, but only to the extent the contributions to such plan or program were subject to taxation under the income tax in another state.*

12. *Any income attributable to a distribution of benefits or a refund from a prepaid tuition contract or savings trust account with the Virginia College Savings Plan, created pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1. The subtraction for any income attributable to a refund shall be limited to income attributable to a refund in the event of a beneficiary's death, disability, or receipt of a scholarship.*

13. *All military pay and allowances, to the extent included in federal adjusted gross income and not otherwise subtracted, deducted, or exempted under this section, earned by military personnel while serving by order of the President of the United States with the consent of Congress in a combat zone or qualified hazardous duty area that is treated as a combat zone for federal tax purposes pursuant to § 112 of the Internal Revenue Code.*

14. *For taxable years beginning before January 1, 2015, the gain derived from the sale or exchange of real property or the sale or exchange of an easement to real property which results in the real property or the easement thereto being devoted to open-space use, as that term is defined in § 58.1-3230, for a period of time not less than 30 years. To the extent that a subtraction is taken in accordance with this subdivision, no tax credit under this chapter for donating land for its preservation shall be allowed for three years following the year in which the subtraction is taken.*

15. *Fifteen thousand dollars of military basic pay for military service personnel on extended active duty for periods in excess of 90 days; however, the subtraction amount shall be reduced dollar-for-dollar by the amount by which the taxpayer's military basic pay exceeds \$15,000 and shall be reduced to zero if such military basic pay amount is equal to or exceeds \$30,000.*

16. *The first \$15,000 of salary for each federal and state employee whose total annual salary from all employment for the taxable year is \$15,000 or less.*

17. *Unemployment benefits taxable pursuant to § 85 of the Internal Revenue Code.*

18. *Any amount received as military retirement income by an individual awarded the Congressional Medal of Honor.*

19. *Items of income attributable to, derived from, or in any way related to (i) assets stolen from, hidden from, or otherwise lost by an individual who was a victim or target of Nazi persecution or (ii) damages, reparations, or other consideration received by a victim or target of Nazi persecution to compensate such individual for performing labor against*

his will under the threat of death, during World War II and its prelude and direct aftermath. This subtraction shall not apply to assets acquired with such items of income or with the proceeds from the sale of assets stolen from, hidden from, or otherwise lost to, during World War II and its prelude and direct aftermath, a victim or target of Nazi persecution. The provisions of this subdivision shall only apply to an individual who was the first recipient of such items of income and who was a victim or target of Nazi persecution, or a spouse, widow, widower, or child or stepchild of such victim.

As used in this subdivision:

"Nazi regime" means the country of Nazi Germany, areas occupied by Nazi Germany, those European countries allied with Nazi Germany, or any other neutral European country or area in Europe under the influence or threat of Nazi invasion.

"Victim or target of Nazi persecution" means any individual persecuted or targeted for persecution by the Nazi regime who had assets stolen from, hidden from, or otherwise lost as a result of any act or omission in any way relating to (i) the Holocaust, (ii) World War II and its prelude and direct aftermath, (iii) transactions with or actions of the Nazi regime, (iv) treatment of refugees fleeing Nazi persecution, or (v) the holding of such assets by entities or persons in the Swiss Confederation during World War II and its prelude and aftermath. A "victim or target of Nazi persecution" also includes any individual forced into labor against his will, under the threat of death, during World War II and its prelude and direct aftermath.

20. The military death gratuity payment made after September 11, 2001, to the survivor of deceased military personnel killed in the line of duty, pursuant to 10 U.S.C. Chapter 75; however, the subtraction amount shall be reduced dollar-for-dollar by the amount that the survivor may exclude from his federal gross income in accordance with § 134 of the Internal Revenue Code.

21. The death benefit payments from an annuity contract that are received by a beneficiary of such contract, provided that (i) the death benefit payment is made pursuant to an annuity contract with an insurance company and (ii) the death benefit payment is paid solely by lump sum. The subtraction under this subdivision shall be allowed only for that portion of the death benefit payment that is included in federal adjusted gross income.

22. Any gain recognized from the sale of launch services to space flight participants, as defined in 49 U.S.C. § 70102, or launch services intended to provide individuals with the training or experience of a launch, without performing an actual launch. To qualify for a deduction under this subdivision, launch services must be performed in Virginia or originate from an airport or spaceport in Virginia.

23. Any gain recognized as a result of resupply services contracts for delivering payload, as defined in 49 U.S.C. § 70102, entered into with the Commercial Orbital Transportation Services division of the National Aeronautics and Space Administration or other space flight entity, as defined in § 8.01-227.8, and launched from an airport or spaceport in Virginia.

24. Any income taxed as a long-term capital gain for federal income tax purposes, or any income taxed as investment services partnership interest income (otherwise known as investment partnership carried interest income) for federal income tax purposes. To qualify for a subtraction under this subdivision, such income shall be attributable to an investment in a "qualified business," as defined in § 58.1-339.4, or in any other technology business approved by the Secretary of Technology, provided that the business has its principal office or facility in the Commonwealth and less than \$3 million in annual revenues in the fiscal year prior to the investment. To qualify for a subtraction under this subdivision, the investment shall be made between the dates of April 1, 2010, and June 30, 2020. No taxpayer who has claimed a tax credit for an investment in a "qualified business" under § 58.1-339.4 shall be eligible for the subtraction under this subdivision for an investment in the same business.

25. For taxable years beginning on and after January 1, 2014, any income of an account holder for the taxable year taxed as (i) a capital gain for federal income tax purposes attributable to such person's first-time home buyer savings account established pursuant to Chapter 32 (§ 55-555 et seq.) of Title 55 and (ii) interest income or other income for federal income tax purposes attributable to such person's first-time home buyer savings account.

Notwithstanding the statute of limitations on assessments contained in § 58.1-312, any subtraction taken under this subdivision shall be subject to recapture in the taxable year or years in which moneys or funds withdrawn from the first-time home buyer savings account were used for any purpose other than the payment of eligible costs by or on behalf of a qualified beneficiary, as provided under § 55-558. The amount subject to recapture shall be a portion of the amount withdrawn in the taxable year that was used for other than the payment of eligible costs, computed by multiplying the amount withdrawn and used for other than the payment of eligible costs by the ratio of the aggregate earnings in the account at the time of the withdrawal to the total balance in the account at such time.

However, recapture shall not apply to the extent of moneys or funds withdrawn that were (i) withdrawn by reason of the qualified beneficiary's death or disability; (ii) a disbursement of assets of the account pursuant to a filing for protection under the United States Bankruptcy Code, 11 U.S.C. §§ 101 through 1330; or (iii) transferred from an account established pursuant to Chapter 32 (§ 55-555 et seq.) of Title 55 into another account established pursuant to such chapter for the benefit of another qualified beneficiary.

For purposes of this subdivision, "account holder," "eligible costs," "first-time home buyer savings account," and "qualified beneficiary" mean the same as those terms are defined in § 55-555.

26. For taxable years beginning on and after January 1, 2015, any income for the taxable year attributable to the discharge of a student loan solely by reason of the student's death. For purposes of this subdivision, "student loan" means the same as that term is defined under § 108(f) of the Internal Revenue Code.

**§ 58.1-322.03. Virginia taxable income; deductions.**

*In computing Virginia taxable income pursuant to § 58.1-322, there shall be deducted from Virginia adjusted gross income as defined in § 58.1-321:*

1. a. *The amount allowable for itemized deductions for federal income tax purposes where the taxpayer has elected for the taxable year to itemize deductions on his federal return, but reduced by the amount of income taxes imposed by the Commonwealth or any other taxing jurisdiction and deducted on such federal return and increased by an amount that, when added to the amount deducted under § 170 of the Internal Revenue Code for mileage, results in a mileage deduction at the state level for such purposes at a rate of 18 cents per mile; or*

b. *Three thousand dollars for single individuals and \$6,000 for married persons (one-half of such amounts in the case of a married individual filing a separate return), provided that the taxpayer has not itemized deductions for the taxable year on his federal income tax return. For purposes of this section, any person who may be claimed as a dependent on another taxpayer's return for the taxable year may compute the deduction only with respect to earned income.*

2. a. *A deduction in the amount of \$930 for each personal exemption allowable to the taxpayer for federal income tax purposes.*

b. *Each blind or aged taxpayer as defined under § 63(f) of the Internal Revenue Code shall be entitled to an additional personal exemption in the amount of \$800.*

*The additional deduction for blind or aged taxpayers allowed under this subdivision shall be allowable regardless of whether the taxpayer itemizes deductions for the taxable year for federal income tax purposes.*

3. *A deduction equal to the amount of employment-related expenses upon which the federal credit is based under § 21 of the Internal Revenue Code for expenses for household and dependent care services necessary for gainful employment.*

4. *An additional \$1,000 deduction for each child residing for the entire taxable year in a home under permanent foster care placement as defined in § 63.2-908, provided that the taxpayer can also claim the child as a personal exemption under § 151 of the Internal Revenue Code.*

5. a. *A deduction in the amount of \$12,000 for individuals born on or before January 1, 1939.*

b. *A deduction in the amount of \$12,000 for individuals born after January 1, 1939, who have attained the age of 65. This deduction shall be reduced by \$1 for every \$1 that the taxpayer's adjusted federal adjusted gross income exceeds \$50,000 for single taxpayers or \$75,000 for married taxpayers. For married taxpayers filing separately, the deduction shall be reduced by \$1 for every \$1 that the total combined adjusted federal adjusted gross income of both spouses exceeds \$75,000.*

*For the purposes of this subdivision, "adjusted federal adjusted gross income" means federal adjusted gross income minus any benefits received under Title II of the Social Security Act and other benefits subject to federal income taxation solely pursuant to § 86 of the Internal Revenue Code, as amended.*

6. *The amount an individual pays as a fee for an initial screening to become a possible bone marrow donor, if (i) the individual is not reimbursed for such fee or (ii) the individual has not claimed a deduction for the payment of such fee on his federal income tax return.*

7. a. *A deduction shall be allowed to the purchaser or contributor for the amount paid or contributed during the taxable year for a prepaid tuition contract or college savings trust account entered into with the Virginia College Savings Plan, pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1. Except as provided in subdivision b, the amount deducted on any individual income tax return in any taxable year shall be limited to \$4,000 per prepaid tuition contract or college savings trust account. No deduction shall be allowed pursuant to this subdivision 7 if such payments or contributions are deducted on the purchaser's or contributor's federal income tax return. If the purchase price or annual contribution to a college savings trust account exceeds \$4,000, the remainder may be carried forward and subtracted in future taxable years until the purchase price or college savings trust contribution has been fully deducted; however, except as provided in subdivision b, in no event shall the amount deducted in any taxable year exceed \$4,000 per contract or college savings trust account. Notwithstanding the statute of limitations on assessments contained in § 58.1-312, any deduction taken hereunder shall be subject to recapture in the taxable year or years in which distributions or refunds are made for any reason other than (i) to pay qualified higher education expenses, as defined in § 529 of the Internal Revenue Code or (ii) the beneficiary's death, disability, or receipt of a scholarship. For the purposes of this subdivision, "purchaser" or "contributor" means the person shown as such on the records of the Virginia College Savings Plan as of December 31 of the taxable year. In the case of a transfer of ownership of a prepaid tuition contract or college savings trust account, the transferee shall succeed to the transferor's tax attributes associated with a prepaid tuition contract or college savings trust account, including, but not limited to, carryover and recapture of deductions.*

b. *A purchaser of a prepaid tuition contract or contributor to a college savings trust account who has attained age 70 shall not be subject to the limitation that the amount of the deduction not exceed \$4,000 per prepaid tuition contract or college savings trust account in any taxable year. Such taxpayer shall be allowed a deduction for the full amount paid for the contract or contributed to a college savings trust account, less any amounts previously deducted.*

8. *The total amount an individual actually contributed in funds to the Virginia Public School Construction Grants Program and Fund, established in Chapter 11.1 (§ 22.1-175.1 et seq.) of Title 22.1, provided that the individual has not claimed a deduction for such amount on his federal income tax return.*

9. *An amount equal to 20 percent of the tuition costs incurred by an individual employed as a primary or secondary school teacher licensed pursuant to Chapter 15 (§ 22.1-289.1 et seq.) of Title 22.1 to attend continuing teacher education*

courses that are required as a condition of employment; however, the deduction provided by this subdivision shall be available only if (i) the individual is not reimbursed for such tuition costs and (ii) the individual has not claimed a deduction for the payment of such tuition costs on his federal income tax return.

10. The amount an individual pays annually in premiums for long-term health care insurance, provided that the individual has not claimed a deduction for federal income tax purposes, or, for taxable years beginning before January 1, 2014, a credit under § 58.1-339.11. For taxable years beginning on and after January 1, 2014, no such deduction for long-term health care insurance premiums paid by the individual during the taxable year shall be allowed if the individual has claimed a federal income tax deduction for such taxable year for long-term health care insurance premiums paid by him.

11. Contract payments to a producer of quota tobacco or a tobacco quota holder, or their spouses, as provided under the American Jobs Creation Act of 2004 (P.L. 108-357), but only to the extent that such payments have not been subtracted pursuant to subsection D of § 58.1-402, as follows:

a. If the payment is received in installment payments, then the recognized gain may be subtracted in the taxable year immediately following the year in which the installment payment is received.

b. If the payment is received in a single payment, then 10 percent of the recognized gain may be subtracted in the taxable year immediately following the year in which the single payment is received. The taxpayer may then deduct an equal amount in each of the nine succeeding taxable years.

12. An amount equal to 20 percent of the sum paid by an individual pursuant to Chapter 6 (§ 58.1-600 et seq.), not to exceed \$500 in each taxable year, in purchasing for his own use the following items of tangible personal property: (i) any clothes washers, room air conditioners, dishwashers, and standard size refrigerators that meet or exceed the applicable energy star efficiency requirements developed by the U.S. Environmental Protection Agency and the U.S. Department of Energy; (ii) any fuel cell that (a) generates electricity using an electrochemical process, (b) has an electricity-only generation efficiency greater than 35 percent, and (c) has a generating capacity of at least two kilowatts; (iii) any gas heat pump that has a coefficient of performance of at least 1.25 for heating and at least 0.70 for cooling; (iv) any electric heat pump hot water heater that yields an energy factor of at least 1.7; (v) any electric heat pump that has a heating system performance factor of at least 8.0 and a cooling seasonal energy efficiency ratio of at least 13.0; (vi) any central air conditioner that has a cooling seasonal energy efficiency ratio of at least 13.5; (vii) any advanced gas or oil water heater that has an energy factor of at least 0.65; (viii) any advanced oil-fired boiler with a minimum annual fuel-utilization rating of 85; (ix) any advanced oil-fired furnace with a minimum annual fuel-utilization rating of 85; and (x) programmable thermostats.

13. The lesser of \$5,000 or the amount actually paid by a living donor of an organ or other living tissue for unreimbursed out-of-pocket expenses directly related to the donation that arose within 12 months of such donation, provided that the donor has not taken a medical deduction in accordance with the provisions of § 213 of the Internal Revenue Code for such expenses. The deduction may be taken in the taxable year in which the donation is made or the taxable year in which the 12-month period expires.

14. For taxable years beginning on and after January 1, 2013, the amount an individual age 66 or older with earned income of at least \$20,000 for the year and federal adjusted gross income not in excess of \$30,000 for the year pays annually in premiums for (i) a prepaid funeral insurance policy covering the individual or (ii) medical or dental insurance for any person for whom individual tax filers may claim a deduction for such premiums under federal income tax laws. As used in this subdivision, "earned income" means the same as that term is defined in § 32(c) of the Internal Revenue Code. The deduction shall not be allowed for any portion of such premiums paid for which the individual has (a) been reimbursed, (b) claimed a deduction for federal income tax purposes, (c) claimed a deduction or subtraction under another provision of this section, or (d) claimed a federal income tax credit or any income tax credit pursuant to this chapter.

**§ 58.1-322.04. Virginia taxable income; additional modifications.**

In calculating Virginia taxable income pursuant to § 58.1-322, the following adjustments shall be made:

1. There shall be added to or subtracted from federal adjusted gross income, as the case may be, the individual's share, as beneficiary of an estate or trust, of the Virginia fiduciary adjustment determined under § 58.1-361.

2. There shall be added or subtracted, as the case may be, the amounts provided in § 58.1-315 as transitional modifications.

3. To the extent included in federal adjusted gross income, there shall be (i) subtracted from federal adjusted gross income, by a shareholder of an electing small business corporation (S corporation) that is subject to the bank franchise tax imposed under Chapter 12 (§ 58.1-1200 et seq.) for the calendar year in which such taxable year begins, the shareholder's allocable share of the income or gain of such electing small business corporation (S corporation) and (ii) added back to federal adjusted gross income, such that federal adjusted gross income shall be increased, by a shareholder of an electing small business corporation (S corporation) that is subject to the bank franchise tax imposed under Chapter 12 (§ 58.1-1200 et seq.) for the calendar year in which such taxable year begins, the shareholder's allocable share of the losses or deductions of such electing small business corporation (S corporation).

To the extent excluded from federal adjusted gross income, there shall be added to federal adjusted gross income, by a shareholder of an electing small business corporation (S corporation) that is subject to the bank franchise tax imposed under Chapter 12 (§ 58.1-1200 et seq.) for the calendar year in which such taxable year begins, the value of any distribution paid or distributed to the shareholder by such electing small business corporation (S corporation).

4. Notwithstanding any other provision of law, the income from any disposition of real property that is held by the taxpayer for sale to customers in the ordinary course of the taxpayer's trade or business, as defined in § 453(l)(1)(B) of the Internal Revenue Code, of property may, at the election of the taxpayer, be recognized under the installment method described under § 453 of the Internal Revenue Code, provided that (i) the election relating to the dealer disposition of the property has been made on or before the due date prescribed by law (including extensions) for filing the taxpayer's return of the tax imposed under this chapter for the taxable year in which the disposition occurs and (ii) the dealer disposition is in accordance with restrictions or conditions established by the Department, which shall be set forth in guidelines developed by the Department. Along with such restrictions or conditions, the guidelines shall also address the recapture of such income under certain circumstances. The development of the guidelines shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq.).

**§ 58.1-324. Husband and wife.**

A. If the federal taxable income of husband or wife is determined on a separate federal return, their Virginia taxable incomes shall be separately determined.

B. If the federal taxable income of husband and wife is determined on a joint federal return, or if neither files a federal return:

1. Their tax shall be determined on their joint Virginia taxable income; or

2. Separate taxes may be determined on their separate Virginia taxable incomes if they so elect.

C. Where husband and wife have not separately reported and claimed items of income, exemptions and deductions for federal income tax purposes, and have not elected to file a joint Virginia income tax return, such items allowable for Virginia income tax purposes shall be allocated and adjusted as follows:

1. Income shall be allocated to the spouse who earned the income or with respect to whose property the income is attributable.

2. Allowable deductions with respect to trade, business, production of income, or employment shall be allocated to the spouse to whom attributable.

3. Nonbusiness deductions, where properly taken for federal income tax purposes, shall be allowable for Virginia income tax purposes, but shall be allocable between husband and wife as they may mutually agree. For this purpose, "nonbusiness deductions" consist of allowable deductions not described in subdivision 2 of this subsection.

4. Where the standard deduction or low income allowance is properly taken pursuant to subdivision ~~D 1~~ a of § ~~58.1-322~~ 58.1-322.03, such deduction or allowance shall be allocable between husband and wife as they may mutually agree.

5. Personal exemptions properly allowable for federal income tax purposes shall be allocated for Virginia income tax purposes as husband and wife may mutually agree; however, exemptions for taxpayer and spouse together with exemptions for old age and blindness must be allocated respectively to the spouse to whom they relate.

D. Where allocations are permitted to be made under subsection C pursuant to agreement between husband and wife, and husband and wife have failed to agree as to those allocations, such allocations shall be made between husband and wife in a manner corresponding to the treatment for federal income tax purposes of the items involved, under regulations prescribed by the Department of Taxation.

**§ 58.1-339.8. Income tax credit for low-income taxpayers.**

A. As used in this section, unless the context requires otherwise:

"Family Virginia adjusted gross income" means the combined Virginia adjusted gross income of an individual, the individual's spouse, and any person claimed as a dependent on the individual's or his spouse's income tax return for the taxable year.

"Poverty guidelines" means the poverty guidelines for the 48 contiguous states and the District of Columbia updated annually in the Federal Register by the U.S. Department of Health and Human Services under the authority of § 673(2) of the Omnibus Budget Reconciliation Act of 1981.

"Virginia adjusted gross income" has the same meaning as the term is defined in § 58.1-321.

B. 1. For taxable years beginning on and after January 1, 2000, any individual or persons filing a joint return whose family Virginia adjusted gross income does not exceed 100 percent of the poverty guideline amount corresponding to a household of an equal number of persons as listed in the poverty guidelines published during such taxable year, shall be allowed a credit against the tax levied pursuant to § 58.1-320 in an amount equal to \$300 each for the individual, the individual's spouse, and any person claimed as a dependent on the individual's or married persons' income tax return for the taxable year. For any taxable year in which a husband and wife file separate Virginia income tax returns, the credit provided under this section shall be allowed against the tax for only one of such two tax returns. Additionally, the credit provided under this section shall not be allowed against such tax of a dependent of the individual or of married persons.

2. For taxable years beginning on and after January 1, 2006, any individual or married persons, eligible for a tax credit pursuant to § 32 of the Internal Revenue Code, may for the taxable year, in lieu of the credit authorized under subdivision B 1, claim a credit against the tax imposed pursuant to § 58.1-320 in an amount equal to 20 percent of the credit claimed by the individual or married persons for federal individual income taxes pursuant to § 32 of the Internal Revenue Code for the taxable year. In no case shall a household be allowed a credit pursuant to this subdivision and subdivision B 1 for the same taxable year.

For purpose of this subdivision, "household" means an individual and in the case of married persons, the individual and his spouse regardless of whether or not the individual and his spouse file combined or separate Virginia individual income tax returns.

C. The amount of the credit provided pursuant to subsection B for any taxable year shall not exceed the individual's or married persons' Virginia income tax liability.

D. Notwithstanding any other provision of this section, no credit shall be allowed pursuant to subsection B in any taxable year in which the individual, the individual's spouse, or both, or any person claimed as a dependent on such individual's or married persons' income tax return, claims one or any combination of the following on his or their income tax return for such taxable year:

1. The subtraction under subdivision ~~C 4~~ 8 of § ~~58.1-322~~ 58.1-322.02;
2. The subtraction under subdivision ~~C 23~~ 15 of § ~~58.1-322~~ 58.1-322.02;
3. The subtraction under subdivision ~~C 24~~ 16 of § ~~58.1-322~~ 58.1-322.02;
4. The deduction for the additional personal exemption for blind or aged taxpayers under subdivision ~~D 2~~ b of § ~~58.1-322~~ 58.1-322.03; or
5. The deduction under subdivision ~~D 5~~ 5 of § ~~58.1-322~~ 58.1-322.03.

**§ 58.1-362. Virginia taxable income of a nonresident estate or trust.**

The Virginia taxable income of a nonresident estate or trust shall be its share of income, gain, loss and deduction attributable to Virginia sources as determined under § 58.1-363 increased or reduced, as the case may be, by:

1. The amount derived from or connected with Virginia sources of any income, gain, loss and deduction recognized for federal income tax purposes but excluded from the computation of distributable net income of the estate or trust; and

2. The net amount of any modifications as provided for in § ~~58.1-322~~ (not including subsection ~~D~~ thereof) §§ 58.1-322.01, 58.1-322.02, and 58.1-322.04 with respect to the income or gain referred to in subdivision 1 of this section.

**§ 58.1-363. Share of a nonresident estate, trust, or beneficiary in income from Virginia sources.**

A. The share of a nonresident estate or trust under § 58.1-362 and the share of a nonresident beneficiary of any estate or trust under provisions otherwise applicable to nonresident individuals in estate or trust income or loss attributable to Virginia sources shall be determined as follows:

1. There shall be determined the items of income, gain, loss and deduction derived from Virginia sources, which enter into the computation of distributable net income of the estate or trust for the taxable year (including such items from another estate or trust of which the first estate or trust is a beneficiary).

2. There shall be added or subtracted (as the case may be) the modifications described in § ~~58.1-322~~ §§ 58.1-322.01, 58.1-322.02, 58.1-322.03, and 58.1-322.04 to the extent relating to items of income, gain, loss and deduction derived from Virginia sources which enter into the computation of distributable net income (including all such items from another estate or trust of which the first estate or trust is a beneficiary). No modification shall be made under this subsection which has the effect of duplicating an item already reflected in the computation of distributable net income.

3. The amounts determined under subdivisions 1 and 2 shall be allocated among the estate or trust and its beneficiaries (including, solely for the purposes of this allocation, resident beneficiaries) in proportion to their respective shares of distributable net income. The amounts so allocated shall have the same character under this article as under the laws of the United States relating to federal income taxes. Where an item entering into the computation of such amounts is not characterized by such laws, it shall have the same character as if realized directly from the source from which realized by the estate or trust, or incurred in the same manner as incurred by the estate or trust.

B. If the estate or trust has no distributable net income for the taxable year, the share of each beneficiary (including, solely for the purpose of such allocation, resident beneficiaries) in the net amount determined under subdivisions A 1 and 2 of subsection A shall be in proportion to his share of the estate or trust income for such year, under local law or the governing instrument, which is required to be distributed currently and any other amounts of such income distributed in such year. Any balance of such net amount shall be allocated to the estate or trust.

**§ 58.1-391. Virginia taxable income of owners of a pass-through entity.**

A. In determining Virginia taxable income of an owner, any modification described in § ~~58.1-322~~ §§ 58.1-322.01, 58.1-322.02, 58.1-322.03, and 58.1-322.04 that relates to an item of pass-through entity income, gain, loss or deduction shall be made in accordance with the owner's distributive share, for federal income tax purposes, of the item to which the modification relates. Where an owner's distributive share of any such item is not included in any category of income, gain, loss or deduction required to be taken into account separately for federal income tax purposes, the owner's distributive share of such item shall be determined in accordance with his distributive share, for federal income tax purposes, of pass-through entity taxable income or loss.

B. Each item of pass-through entity income, gain, loss or deduction shall have the same character for an owner under this chapter as for federal income tax purposes. Where an item is not characterized for federal income tax purposes, it shall have the same character for an owner as if realized directly from the source from which realized by the pass-through entity or incurred in the same manner by the pass-through entity.

C. Where an owner's distributive shares of an item of pass-through entity income, gain, loss or deduction is determined for federal income tax purposes by special provision in the pass-through entity agreement with respect to such item, and where the principal purpose of such provision is the avoidance or evasion of tax under this chapter, the owner's distributive

share of such item, and any modification required with respect thereto, shall be determined as if the pass-through entity agreement made no special provision with respect to such item.

**§ 58.1-490. Declarations of estimated tax.**

A. Every resident and nonresident individual shall make a declaration of his estimated tax for every taxable year, if his Virginia tax liability can reasonably be expected to exceed an amount, to be determined under regulations promulgated by the Tax Commissioner, which takes into account the additions, subtractions, and deductions set forth in ~~§ 58.1-322~~ §§ 58.1-322.01, 58.1-322.02, 58.1-322.03, and 58.1-322.04, the credits set forth in Articles 3 (§ 58.1-332 et seq.) and 13.2 (§ 58.1-439.18 et seq.), and the filing exclusions set forth in § 58.1-321. Every estate with respect to any taxable year ending two or more years after the date of death of the decedent and every trust shall make a declaration of its estimated tax for every taxable year, if its Virginia taxable income can reasonably be expected to exceed the amount specified by regulation for individuals as set forth above.

B. For purposes of this article, "estimated tax" means the amount which an individual estimates to be his income tax under this chapter for the taxable year, less the amount which he estimates to be the sum of any credits allowable against the tax.

C. For purposes of this section, the declaration shall be the first voucher.

D. In the case of a husband and wife, a single declaration under this section may be made by them jointly, in which case the liability with respect to the estimated tax shall be joint and several. No joint declaration may be made if either the husband or the wife is a nonresident of the Commonwealth unless both are required by this chapter to file a return, if they are separated under a decree of divorce or of separate maintenance, or if they have different taxable years. If a joint declaration is made but a joint return is not made for the taxable year, the estimated tax for such year may be treated as the estimated tax of either the husband or the wife, or may be divided between them.

E. A declaration of estimated tax of an individual other than a farmer, fisherman, or merchant seaman shall be filed on or before May 1 of the taxable year, except that if the requirements of subsection A are first met:

1. The declaration shall be filed on or before June 15; or
2. After June 1 and before September 2 of the taxable year, the declaration shall be filed on or before September 15; or
3. After September 1 of the taxable year, the declaration shall be filed on or before January 15 of the succeeding year.

F. A declaration of estimated tax of an individual having an estimated gross income from (i) farming (including oyster farming); (ii) fishing; or (iii) working as a merchant seaman for the taxable year, which is at least two-thirds of his total estimated gross income for the taxable year, may be filed at any time on or before January 15 of the succeeding year, in lieu of the time otherwise prescribed.

G. A declaration of estimated tax of an individual having a total estimated tax for the taxable year of \$40 or less may be filed at any time on or before January 15 of the succeeding year under regulations of the Tax Commissioner.

H. An individual may amend a declaration under regulations of the Tax Commissioner.

I. If on or before March 1 of the succeeding taxable year an individual files his return for the taxable year for which the declaration is required, and pays therewith the full amount of the tax shown to be due on the return:

1. Such return shall be considered as his declaration if no declaration was required to be filed during the taxable year, but is otherwise required to be filed on or before January 15.
2. Such return shall be considered as the amendment permitted by subsection H to be filed on or before January 15 if the tax shown on the return is greater than the estimated tax shown in a declaration previously made.

J. This section shall apply to a taxable year other than a calendar year by the substitution of the months of such fiscal year for the corresponding months specified in this section.

K. An individual having a taxable year of less than 12 months shall make a declaration in accordance with regulations of the Tax Commissioner.

L. The declaration of estimated tax for an individual who is unable to make a declaration by reason of any disability shall be made and filed by his guardian, committee, fiduciary or other person charged with the care of his person or property (other than a receiver in possession of only a part of his property), or by his duly authorized agent.

M. The declaration of estimated tax for a trust or estate shall be made by the fiduciary. For purposes of the estimated tax imposed in this article, any reference to an "individual" shall be deemed to include the fiduciary required to file a declaration for a trust or estate. Any overpayment of estimated tax with respect to any trust or estate shall be refunded to the fiduciary. A beneficiary of a trust or estate shall not be entitled to a credit against the beneficiary's individual income tax for any overpayment of estimated tax by a trust or estate.

**§ 58.1-513. Limitations; transfer of credit; gain or loss from tax credit.**

A. Any taxpayer claiming a tax credit under this article shall not claim a credit under any similar Virginia law for costs related to the same project. To the extent a credit is taken in accordance with this article, no subtraction allowed for the gain on the sale of (i) land dedicated to open-space use or (ii) an easement dedicated to open-space use under ~~subsection C subdivision 14 of § 58.1-322~~ 58.1-322.02 shall be allowed for three years following the year in which the credit is taken. Any building which serves as the basis, in whole or in part, of a tax credit under this article shall not serve as the basis of the tax credit allowed under § 58.1-339.2 for a period of five years following the donation on which the credit is based; and any building which serves as the basis for the tax credit allowed under § 58.1-339.2 shall not serve as the basis, in whole or in part, for a tax credit under this article for a period of five years following the completion of the rehabilitation project on which the credit is based.

B. Any tax credits that arise under this article from the donation of land or an interest in land made by a pass-through tax entity such as a trust, estate, partnership, limited liability company or partnership, limited partnership, subchapter S corporation or other fiduciary shall be used either by such entity if it is the taxpayer on behalf of such entity or by the member, manager, partner, shareholder or beneficiary, as the case may be, in proportion to their interest in such entity in the event that income, deductions and tax liability pass through such entity to such member, manager, partner, shareholder or beneficiary or as set forth in the agreement of said entity. Such tax credits shall not be claimed by both the entity and the member, manager, partner, shareholder or beneficiary for the same donation.

C. 1. Any taxpayer holding a credit under this article may transfer unused but otherwise allowable credit for use by another taxpayer on Virginia income tax returns. A taxpayer who transfers any amount of credit under this article shall file a notification of such transfer to the Department in accordance with procedures and forms prescribed by the Tax Commissioner.

2. A fee of two percent of the value of the donated interest shall be imposed upon any transfer arising from the sale by any taxpayer of credits under this article and upon the distribution of a portion of credits under this article to a member, manager, partner, shareholder or beneficiary pursuant to subsection B. Revenues generated by such fees first shall be used by the Department of Taxation and the Department of Conservation and Recreation for their costs in implementing this article but in no event shall such amount exceed 50 percent of the total revenue generated by the fee on an annual basis. The remainder of such revenues shall be transferred to the Virginia Land Conservation Fund for distribution to the public or private conservation agencies or organizations, excluding federal governmental entities, that are responsible for enforcing the conservation and preservation purposes of the donated interests. Distribution of such revenues shall be made annually by the Virginia Land Conservation Foundation proportionally based on a three-year average of the number of donated interests accepted by the public or private conservation agencies or organizations, excluding federal governmental entities, during the immediately preceding three-year period.

D. To the extent included in and not otherwise subtracted from federal adjusted gross income pursuant to § ~~58.1-322~~ 58.1-322.02 or federal taxable income pursuant to § 58.1-402, there shall be subtracted any amount of gain or income recognized by a taxpayer on the application of a tax credit under this article against a Virginia income tax liability.

E. The transfer of the credit and its application against a tax liability shall not create gain or loss for the transferor or the transferee of such credit.

F. A pass-through tax entity, such as a partnership, limited liability company or Subchapter S corporation, may appoint a tax matters representative, who shall be a general partner, member/manager or shareholder, and register that representative with the Tax Commissioner. The Tax Commissioner shall be entitled to deal with the tax matters representative as representative of the taxpayers to whom credits have been allocated or transferred by the entity under this article with respect to those credits. In the event a pass-through tax entity allocates or transfers tax credits arising under this article to its partners, members or shareholders and the allocated or transferred credits shall be disallowed, in whole or in part, such that an assessment of additional tax against a taxpayer shall be made, the Tax Commissioner shall first make written demand for payment of any additional tax, together with interest and penalties, from the tax matters representative. In the event such payment demand is not satisfied, the Tax Commissioner shall proceed to collection against the taxpayers in accordance with the provisions of Chapter 18 (§ 58.1-1800 et seq.).

**§ 58.1-1823. Reassessment and refund upon the filing of amended return or the payment of an assessment.**

~~A.~~ Any person filing a tax return or paying an assessment required for any tax administered by the Department of ~~Taxation~~ may file an amended return with the Department within the later of: (i) three years from the last day prescribed by law for the timely filing of the return; (ii) one year from the final determination of any change or correction in the liability of the taxpayer for any federal tax upon which the state tax is based, provided that the refund does not exceed the amount of the decrease in Virginia tax attributable to such federal change or correction; (iii) two years from the filing of an amended Virginia return resulting in the payment of additional tax, provided that the amended return raises issues relating solely to such prior amended return and that the refund does not exceed the amount of the payment with such prior amended return; (iv) two years from the payment of an assessment, provided that the amended return raises issues relating solely to such assessment and that the refund does not exceed the amount of such payment; or (v) one year from the final determination of any change or correction in the income tax of the taxpayer for any other state, provided that the refund does not exceed the amount of the decrease in Virginia tax attributable to such change or correction. If the Department is satisfied, by evidence submitted to it or otherwise, that the tax assessed and paid upon the original return exceeds the proper amount, the Department may reassess the taxpayer and order that any amount excessively paid be refunded to him. The Department may reduce such refund by the amount of any taxes, penalties and interest which are due for the period covered by the amended return, or any past-due taxes, penalties and interest which have been assessed within the appropriate period of limitations. Any order of the Department denying such reassessment and refund, or the failure of the Department to act thereon within three months shall, as to matters first raised by the amended return, be deemed an assessment for the purpose of enabling the taxpayer to pursue the remedies allowed under this chapter.

~~B.~~ Notwithstanding the statute of limitations established in this section, any retired employee of a political subdivision of the Commonwealth, established pursuant to Chapter 627 of the 1958 Acts of Assembly, may file an amended individual income tax return until May 1, 1990, for taxable years beginning on and after January 1, 1985, and before January 1, 1986, for taxes paid on retirement income exempt pursuant to § 58.1-322.

C. Notwithstanding the statute of limitations contained in subsection A, any individual who claimed an age subtraction on his 1990 individual income tax return may file an amended individual income tax return on July 1, 1994, for taxable years beginning on and after January 1, 1990, and ending before January 1, 1991, to claim an income deduction as provided in § 58.1-322 D 5 in lieu of the income subtraction originally claimed.

## CHAPTER 445

*An Act to amend and reenact § 58.1-609.1 of the Code of Virginia, relating to sales and use tax exemption; legal tender coins.*

[S 934]

Approved March 13, 2017

### Be it enacted by the General Assembly of Virginia:

#### 1. That § 58.1-609.1 of the Code of Virginia is amended and reenacted as follows:

##### § 58.1-609.1. Governmental and commodities exemptions.

The tax imposed by this chapter or pursuant to the authority granted in §§ 58.1-605 and 58.1-606 shall not apply to the following:

1. Fuels which are subject to the tax imposed by Chapter 22 (§ 58.1-2200 et seq.). Persons who are refunded any such fuel tax shall, however, be subject to the tax imposed by this chapter, unless such taxes would be specifically exempted pursuant to any provision of this section.

2. Motor vehicles, trailers, semitrailers, mobile homes and travel trailers.

3. Gas, electricity, or water when delivered to consumers through mains, lines, or pipes.

4. Tangible personal property for use or consumption by the Commonwealth, any political subdivision of the Commonwealth, or the United States. This exclusion shall not apply to sales and leases to privately owned financial and other privately owned corporations chartered by the United States. Further, this exemption shall not apply to tangible personal property which is acquired by the Commonwealth or any of its political subdivisions and then transferred to private businesses for their use in a facility or real property improvement to be used by a private entity or for nongovernmental purposes other than tangible personal property acquired by the Herbert H. Bateman Advanced Shipbuilding and Carrier Integration Center and transferred to a Qualified Shipbuilder as defined in the third enactment of Chapter 790 of the 1998 Acts of the General Assembly.

5. Aircraft subject to tax under Chapter 15 (§ 58.1-1500 et seq.).

6. a. Motor fuels and alternative fuels for use in a commercial watercraft, as defined in § 58.1-2201, upon which a fuel tax is refunded pursuant to § 58.1-2259.

b. Fuels transactions upon which a fuel tax is refunded pursuant to subdivision A 22 of § 58.1-2259.

7. Sales by a government agency of the official flags of the United States, the Commonwealth of Virginia, or of any county, city or town.

8. Materials furnished by the State Board of Elections pursuant to §§ 24.2-404 through 24.2-407.

9. Watercraft as defined in § 58.1-1401.

10. Tangible personal property used in and about a marine terminal under the supervision of the Virginia Port Authority for handling cargo, merchandise, freight and equipment. This exemption shall apply to agents, lessees, sublessees or users of tangible personal property owned by or leased to the Virginia Port Authority and to property acquired or used by the Authority or by a nonstock, nonprofit corporation that operates a marine terminal or terminals on behalf of the Authority.

11. Sales by prisoners confined in state correctional facilities of artistic products personally made by the prisoners as authorized by § 53.1-46.

12. Tangible personal property for use or consumption by the Virginia Department for the Blind and Vision Impaired or any nominee, as defined in § 51.5-60, of such Department.

13. [Expired.]

14. Tangible personal property sold to residents and patients of the Virginia Veterans Care Center at a canteen operated by the Department of Veterans Services.

15. Tangible personal property for use or consumption by any nonprofit organization whose members include the Commonwealth and other states and which is organized for the purpose of fostering interstate cooperation and excellence in government.

16. Tangible personal property purchased for use or consumption by any soil and conservation district which is organized in accordance with the provisions of Article 3 (§ 10.1-506 et seq.) of Chapter 5 of Title 10.1.

17. Tangible personal property sold or leased to Alexandria Transit Company, Greater Lynchburg Transit Company, GRTC Transit System, or Greater Roanoke Transit Company, or to any other transit company that is owned, operated, or controlled by any county, city, or town, or any combination thereof, that provides public transportation services, and/or tangible personal property sold or leased to any county, city, or town, or any combination thereof, that is transferred to any of the companies set forth in this subdivision owned, operated, or controlled by any county, city, or town, or any combination thereof, that provides public transportation services.

18. (Effective until July 1, 2017) Qualified products designated as Energy Star or WaterSense with a sales price of \$2,500 or less per product purchased for noncommercial home or personal use. The exemption provided by this subdivision shall apply only to sales occurring during the three-day period that begins each year on the first Friday in August and ends at 11:59 p.m. on the following Sunday.

For the purposes of this exemption, an Energy Star qualified product is any dishwasher, clothes washer, air conditioner, ceiling fan, light bulb, dehumidifier, programmable thermostat, or refrigerator, the energy efficiency of which has been designated by the United States Environmental Protection Agency and the United States Department of Energy as meeting or exceeding each such agency's requirements under the Energy Star program. For the purposes of this exemption, WaterSense qualified products are those that have been recognized as being water efficient by the WaterSense program sponsored by the U.S. Environmental Protection Agency as indicated by a WaterSense label.

19. ~~On or after July 1, 2015, but before January 1, 2019~~ *Effective through June 30, 2022*, gold, silver, or platinum bullion *or legal tender coins* whose sales price exceeds \$1,000. Each piece of gold, silver, or platinum *or legal tender coin* need not exceed \$1,000, provided that the sales price of one entire transaction of such pieces exceeds \$1,000. "Gold, silver, or platinum bullion" means gold, silver, or platinum, and any combination thereof, that has gone through a refining process and is in a state or condition such that its value depends on its mass and purity and not on its form, numismatic value, or other value. Gold, silver, or platinum bullion may contain other metals or substances, provided that the other substances by themselves have minimal value compared with the value of the gold, silver, or platinum. "*Legal tender coins*" means *coins of any metal content issued by a government as a medium of exchange or payment of debts*. "Gold, silver, or platinum bullion" ~~does~~ and "*legal tender coins*" do not include jewelry or works of art.

20. Tangible personal property sold by a sheriff at a correctional facility pursuant to § 53.1-127.1 and sales of prepared food within such correctional facility.

**2. That the provisions of this act shall become effective on January 1, 2018.**

#### CHAPTER 446

*An Act to amend and reenact § 58.1-611.2 of the Code of Virginia, and to amend and reenact the second enactment of Chapters 176 and 817 of the Acts of Assembly of 2007, as amended by Chapter 597 of the Acts of Assembly of 2012, and the third enactment of Chapter 608 of the Acts of Assembly of 2007, as amended by Chapter 597 of the Acts of Assembly of 2012, relating to temporary exemption periods from retail sales and use taxes for qualifying items; sunset dates.*

[S 1018]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 58.1-611.2 of the Code of Virginia is amended and reenacted as follows:**

**§ 58.1-611.2. Limited exemption for certain school supplies, clothing, and footwear.**

Beginning in 2015, and ending July 1, ~~2017~~ 2022, for a three-day period that begins each year on the first Friday in August and ends at 11:59 p.m. on the following Sunday, the tax imposed by this chapter or pursuant to the authority granted in § 58.1-605 or 58.1-606 shall not apply to certain (i) school supplies, including, but not limited to, dictionaries, notebooks, pens, pencils, notebook paper, and calculators, and (ii) clothing and footwear designed to be worn on or about the human body. The tax exemption shall apply to each article of school supplies with a selling price of \$20 or less, and each article of clothing or footwear with a selling price of \$100 or less. Any discount, coupon, or other credit offered either by the retailer or by a vendor of the retailer to reduce the final price to the customer shall be taken into account in determining the selling price for purposes of this exemption.

The Department shall develop guidelines that describe the items of merchandise that qualify for the exemption and make such guidelines available, both electronically and in hard copy, no later than July 15 of each year.

**2. That the second enactment of Chapters 176 and 817 of the Acts of Assembly of 2007, as amended by Chapter 597 of the Acts of Assembly of 2012, is amended and reenacted as follows:**

**2. That the provisions of this act shall expire on July 1, ~~2017~~ 2022.**

**3. That the third enactment of Chapter 608 of the Acts of Assembly of 2007, as amended by Chapter 597 of the Acts of Assembly of 2012, is amended and reenacted as follows:**

**3. That the provisions of this act shall expire on July 1, ~~2017~~ 2022.**

#### CHAPTER 447

*An Act to amend and reenact § 58.1-3506 of the Code of Virginia, relating to tangible personal property; commercial fishing vessels.*

[S 1205]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 58.1-3506 of the Code of Virginia is amended and reenacted as follows:**

**§ 58.1-3506. Other classifications of tangible personal property for taxation.**

A. The items of property set forth below are each declared to be a separate class of property and shall constitute a classification for local taxation separate from other classifications of tangible personal property provided in this chapter:

1. a. Boats or watercraft weighing five tons or more, not used solely for business purposes;
- b. Boats or watercraft weighing less than five tons, not used solely for business purposes;
2. Aircraft having a maximum passenger seating capacity of no more than 50 that are owned and operated by scheduled air carriers operating under certificates of public convenience and necessity issued by the State Corporation Commission or the Civil Aeronautics Board;
3. Aircraft having a registered empty gross weight equal to or greater than 20,000 pounds that are not owned or operated by scheduled air carriers recognized under federal law, but not including any aircraft described in subdivision 4;
4. Aircraft that are (i) considered Warbirds, manufactured and intended for military use, excluding those manufactured after 1954, and (ii) used only for (a) exhibit or display to the general public and otherwise used for educational purposes (including such flights as are necessary for testing, maintaining, or preparing such aircraft for safe operation), or (b) airshow and flight demonstrations (including such flights necessary for testing, maintaining, or preparing such aircraft for safe operation), shall constitute a new class of property. Such class of property shall not include any aircraft used for commercial purposes, including transportation and other services for a fee;
5. All other aircraft not included in subdivisions A 2, A 3, or A 4 and flight simulators;
6. Antique motor vehicles as defined in § 46.2-100 which may be used for general transportation purposes as provided in subsection C of § 46.2-730;
7. Tangible personal property used in a research and development business;
8. Heavy construction machinery not used for business purposes, including land movers, bulldozers, front-end loaders, graders, packers, power shovels, cranes, pile drivers, forest harvesting and silvicultural activity equipment and ditch and other types of diggers;
9. Generating equipment purchased after December 31, 1974, for the purpose of changing the energy source of a manufacturing plant from oil or natural gas to coal, wood, wood bark, wood residue, or any other alternative energy source for use in manufacturing and any cogeneration equipment purchased to achieve more efficient use of any energy source. Such generating equipment and cogeneration equipment shall include, without limitation, such equipment purchased by firms engaged in the business of generating electricity or steam, or both;
10. Vehicles without motive power, used or designed to be used as manufactured homes as defined in § 36-85.3;
11. Computer hardware used by businesses primarily engaged in providing data processing services to other nonrelated or nonaffiliated businesses;
12. Privately owned pleasure boats and watercraft, 18 feet and over, used for recreational purposes only;
13. Privately owned vans with a seating capacity of not less than seven nor more than 15 persons, including the driver, used exclusively pursuant to a ridesharing arrangement as defined in § 46.2-1400;
14. Motor vehicles specially equipped to provide transportation for physically handicapped individuals;
15. Motor vehicles (i) owned by members of a volunteer emergency medical services agency or a member of a volunteer fire department or (ii) leased by volunteer emergency medical services personnel or a member of a volunteer fire department if the volunteer is obligated by the terms of the lease to pay tangible personal property tax on the motor vehicle. One motor vehicle that is owned by each volunteer member who meets the definition of "emergency medical services personnel" in § 32.1-111.1 or volunteer fire department member, or leased by each volunteer member who meets the definition of "emergency medical services personnel" in § 32.1-111.1 or volunteer fire department member if the volunteer is obligated by the terms of the lease to pay tangible personal property tax on the motor vehicle, may be specially classified under this section, provided the volunteer regularly responds to emergency calls. The volunteer shall furnish the commissioner of revenue, or other assessing officer, with a certification by the chief of the volunteer emergency medical services agency or volunteer fire department, that the volunteer is an individual who meets the definition of "emergency medical services personnel" in § 32.1-111.1 or a member of the volunteer fire department who regularly responds to calls or regularly performs other duties for the emergency medical services agency or fire department, and the motor vehicle owned or leased by the volunteer is identified. The certification shall be submitted by January 31 of each year to the commissioner of revenue or other assessing officer; however, the commissioner of revenue or other assessing officer shall be authorized, in his discretion, and for good cause shown and without fault on the part of the volunteer, to accept a certification after the January 31 deadline. In any county that prorates the assessment of tangible personal property pursuant to § 58.1-3516, a replacement vehicle may be certified and classified pursuant to this subsection when the vehicle certified as of the immediately prior January date is transferred during the tax year;
16. Motor vehicles (i) owned by auxiliary members of a volunteer emergency medical services agency or volunteer fire department or (ii) leased by auxiliary members of a volunteer emergency medical services agency or volunteer fire department if the auxiliary member is obligated by the terms of the lease to pay tangible personal property tax on the motor vehicle. One motor vehicle that is regularly used by each auxiliary volunteer fire department or emergency medical services agency member may be specially classified under this section. The auxiliary member shall furnish the commissioner of revenue, or other assessing officer, with a certification by the chief of the volunteer emergency medical services agency or

volunteer fire department, that the volunteer is an auxiliary member of the volunteer emergency medical services agency or fire department who regularly performs duties for the emergency medical services agency or fire department, and the motor vehicle is identified as regularly used for such purpose; however, if a volunteer meets the definition of "emergency medical services personnel" in § 32.1-111.1 or volunteer fire department member and an auxiliary member are members of the same household, that household shall be allowed no more than two special classifications under this subdivision or subdivision 15. The certification shall be submitted by January 31 of each year to the commissioner of revenue or other assessing officer; however, the commissioner of revenue or other assessing officer shall be authorized, in his discretion, and for good cause shown and without fault on the part of the auxiliary member, to accept a certification after the January 31 deadline;

17. Motor vehicles owned by a nonprofit organization and used to deliver meals to homebound persons or provide transportation to senior or handicapped citizens in the community to carry out the purposes of the nonprofit organization;

18. Privately owned camping trailers as defined in § 46.2-100, and privately owned travel trailers as defined in § 46.2-1500, which are used for recreational purposes only, and privately owned trailers as defined in § 46.2-100, which are designed and used for the transportation of horses except those trailers described in subdivision A 11 of § 58.1-3505;

19. One motor vehicle owned and regularly used by a veteran who has either lost, or lost the use of, one or both legs, or an arm or a hand, or who is blind or who is permanently and totally disabled as certified by the Department of Veterans Services. In order to qualify, the veteran shall provide a written statement to the commissioner of revenue or other assessing officer from the Department of Veterans Services that the veteran has been so designated or classified by the Department of Veterans Services as to meet the requirements of this section, and that his disability is service-connected. For purposes of this section, a person is blind if he meets the provisions of § 46.2-100;

20. Motor vehicles (i) owned by persons who have been appointed to serve as auxiliary police officers pursuant to Article 3 (§ 15.2-1731 et seq.) of Chapter 17 of Title 15.2 or (ii) leased by persons who have been so appointed to serve as auxiliary police officers if the person is obligated by the terms of the lease to pay tangible personal property tax on the motor vehicle. One motor vehicle that is regularly used by each auxiliary police officer to respond to auxiliary police duties may be specially classified under this section. In order to qualify for such classification, any auxiliary police officer who applies for such classification shall identify the vehicle for which this classification is sought, and shall furnish the commissioner of revenue or other assessing officer with a certification from the governing body that has appointed such auxiliary police officer or from the official who has appointed such auxiliary officers. That certification shall state that the applicant is an auxiliary police officer who regularly uses a motor vehicle to respond to auxiliary police duties, and it shall state that the vehicle for which the classification is sought is the vehicle that is regularly used for that purpose. The certification shall be submitted by January 31 of each year to the commissioner of revenue or other assessing officer; however, the commissioner of revenue or other assessing officer shall be authorized, in his discretion, and for good cause shown and without fault on the part of the member, to accept a certification after the January 31 deadline;

21. Until the first to occur of June 30, 2019, or the date that a special improvements tax is no longer levied under § 15.2-4607 on property within a Multicounty Transportation Improvement District created pursuant to Chapter 46 (§ 15.2-4600 et seq.) of Title 15.2, tangible personal property that is used in manufacturing, testing, or operating satellites within a Multicounty Transportation Improvement District, provided that such business personal property is put into service within the District on or after July 1, 1999;

22. Motor vehicles which use clean special fuels as defined in § 46.2-749.3, which shall not include any vehicle described in subdivision 38 or 40;

23. Wild or exotic animals kept for public exhibition in an indoor or outdoor facility that is properly licensed by the federal government, the Commonwealth, or both, and that is properly zoned for such use. "Wild animals" means any animals that are found in the wild, or in a wild state, within the boundaries of the United States, its territories or possessions. "Exotic animals" means any animals that are found in the wild, or in a wild state, and are native to a foreign country;

24. Furniture, office, and maintenance equipment, exclusive of motor vehicles, that are owned and used by an organization whose real property is assessed in accordance with § 58.1-3284.1 and that is used by that organization for the purpose of maintaining or using the open or common space within a residential development;

25. Motor vehicles, trailers, and semitrailers with a gross vehicle weight of 10,000 pounds or more used to transport property for hire by a motor carrier engaged in interstate commerce;

26. All tangible personal property employed in a trade or business other than that described in subdivisions A 1 through A 19, except for subdivision A 17, of § 58.1-3503;

27. Programmable computer equipment and peripherals employed in a trade or business;

28. Privately owned pleasure boats and watercraft, motorized and under 18 feet, used for recreational purposes only;

29. Privately owned pleasure boats and watercraft, nonmotorized and under 18 feet, used for recreational purposes only;

30. Privately owned motor homes as defined in § 46.2-100 that are used for recreational purposes only;

31. Tangible personal property used in the provision of Internet services. For purposes of this subdivision, "Internet service" means a service, including an Internet Web-hosting service, that enables users to access content, information, electronic mail, and the Internet as part of a package of services sold to customers;

32. Motor vehicles (i) owned by persons who serve as auxiliary, reserve, volunteer, or special deputy sheriffs or (ii) leased by persons who serve as auxiliary, reserve, volunteer, or special deputy sheriffs if the person is obligated by the terms of the lease to pay tangible personal property tax on the motor vehicle. For purposes of this subdivision, the term "auxiliary deputy sheriff" means auxiliary, reserve, volunteer, or special deputy sheriff. One motor vehicle that is regularly

used by each auxiliary deputy sheriff to respond to auxiliary deputy sheriff duties may be specially classified under this section. In order to qualify for such classification, any auxiliary deputy sheriff who applies for such classification shall identify the vehicle for which this classification is sought, and shall furnish the commissioner of revenue or other assessing officer with a certification from the governing body that has appointed such auxiliary deputy sheriff or from the official who has appointed such auxiliary deputy sheriff. That certification shall state that the applicant is an auxiliary deputy sheriff who regularly uses a motor vehicle to respond to such auxiliary duties, and it shall state that the vehicle for which the classification is sought is the vehicle that is regularly used for that purpose. The certification shall be submitted by January 31 of each year to the commissioner of revenue or other assessing officer; however, the commissioner of revenue or other assessing officer shall be authorized, in his discretion, and for good cause shown and without fault on the part of the member, to accept a certification after the January 31 deadline;

33. Forest harvesting and silvicultural activity equipment;

34. Equipment used primarily for research, development, production, or provision of biotechnology for the purpose of developing or providing products or processes for specific commercial or public purposes, including medical, pharmaceutical, nutritional, and other health-related purposes; agricultural purposes; or environmental purposes but not for human cloning purposes as defined in § 32.1-162.21 or for products or purposes related to human embryo stem cells. For purposes of this section, biotechnology equipment means equipment directly used in activities associated with the science of living things;

35. Boats or watercraft weighing less than five tons, used for business purposes only;

36. Boats or watercraft weighing five tons or more, used for business purposes only;

37. Tangible personal property which is owned and operated by a service provider who is not a CMRS provider and is not licensed by the FCC to provide, for a fee, wireless broadband Internet service. For purposes of this subdivision, "wireless broadband Internet service" means a service that enables customers to access, through a wireless connection at an upload or download bit rate of more than one megabyte per second, Internet service, as defined in § 58.1-602, as part of a package of services sold to customers;

38. Low-speed vehicles as defined in § 46.2-100;

39. Motor vehicles with a seating capacity of not less than 30 persons, including the driver;

40. Motor vehicles powered solely by electricity;

41. Tangible personal property designed and used primarily for the purpose of manufacturing a product from renewable energy as defined in § 56-576;

42. Motor vehicles leased by a county, city, town, or constitutional officer if the locality or constitutional officer is obligated by the terms of the lease to pay tangible personal property tax on the motor vehicle;

43. Computer equipment and peripherals used in a data center. For purposes of this subdivision, "data center" means a facility whose primary services are the storage, management, and processing of digital data and is used to house (i) computer and network systems, including associated components such as servers, network equipment and appliances, telecommunications, and data storage systems; (ii) systems for monitoring and managing infrastructure performance; (iii) equipment used for the transformation, transmission, distribution, or management of at least one megawatt of capacity of electrical power and cooling, including substations, uninterruptible power supply systems, all electrical plant equipment, and associated air handlers; (iv) Internet-related equipment and services; (v) data communications connections; (vi) environmental controls; (vii) fire protection systems; and (viii) security systems and services;

44. Motor vehicles (i) owned by persons who serve as uniformed members of the Virginia Defense Force pursuant to Article 4.2 (§ 44-54.4 et seq.) of Chapter 1 of Title 44 or (ii) leased by persons who serve as uniformed members of the Virginia Defense Force pursuant to Article 4.2 (§ 44-54.4 et seq.) of Chapter 1 of Title 44 if the person is obligated by the terms of the lease to pay tangible personal property tax on the motor vehicle. One motor vehicle that is regularly used by a uniformed member of the Virginia Defense Force to respond to his official duties may be specially classified under this section. In order to qualify for such classification, any person who applies for such classification shall identify the vehicle for which the classification is sought and shall furnish to the commissioner of the revenue or other assessing officer a certification from the Adjutant General of the Department of Military Affairs under § 44-11. That certification shall state that (a) the applicant is a uniformed member of the Virginia Defense Force who regularly uses a motor vehicle to respond to his official duties, and (b) the vehicle for which the classification is sought is the vehicle that is regularly used for that purpose. The certification shall be submitted by January 31 of each year to the commissioner of the revenue or other assessing officer; however, the commissioner of revenue or other assessing officer shall be authorized, in his discretion, and for good cause shown and without fault on the part of the member, to accept a certification after the January 31 deadline;

45. If a locality has adopted an ordinance pursuant to subsection D of § 58.1-3703, tangible personal property of a business that qualifies under such ordinance for the first two tax years in which the business is subject to tax upon its personal property pursuant to this chapter. If a locality has not adopted such ordinance, this classification shall apply to the tangible personal property for such first two tax years of a business that otherwise meets the requirements of subsection D of § 58.1-3703; ~~and~~

46. Miscellaneous and incidental tangible personal property employed in a trade or business that is not classified as machinery and tools pursuant to Article 2 (§ 58.1-3507 et seq.), merchants' capital pursuant to Article 3 (§ 58.1-3509 et seq.), or short-term rental property pursuant to Article 3.1 (§ 58.1-3510.4 et seq.), and has an original cost of less than

§250. A county, city, or town may allow a taxpayer to provide an aggregate estimate of the total cost of all such property owned by the taxpayer that qualifies under this subdivision, in lieu of a specific, itemized list; *and*

47. *Commercial fishing vessels and property permanently attached to such vessels.*

B. The governing body of any county, city or town may levy a tax on the property enumerated in subsection A at different rates from the tax levied on other tangible personal property. The rates of tax and the rates of assessment shall (i) for purposes of subdivisions A 1, 2, 3, 4, 5, 6, 8, 11 through 20, 22 through 24, and 26 through 46 47, not exceed that applicable to the general class of tangible personal property, (ii) for purposes of subdivisions A 7, 9, 21, and 25, not exceed that applicable to machinery and tools, and (iii) for purposes of subdivision A 10, equal that applicable to real property. If an item of personal property is included in multiple classifications under subsection A, then the rate of tax shall be the lowest rate assigned to such classifications.

C. Notwithstanding any other provision of this section, for any qualifying vehicle, as such term is defined in § 58.1-3523, (i) included in any separate class of property in subsection A and (ii) assessed for tangible personal property taxes by a county, city, or town receiving a payment from the Commonwealth under Chapter 35.1 (§ 58.1-3523 et seq.) for providing tangible personal property tax relief, the county, city, or town may levy the tangible personal property tax on such qualifying vehicle at a rate not to exceed the rates of tax and rates of assessment required under such chapter.

#### CHAPTER 448

*An Act to authorize Stafford County to permit taxpayers to defer payment of a portion of certain real property taxes.*

[S 1248]

Approved March 13, 2017

##### **Be it enacted by the General Assembly of Virginia:**

1. § 1. A. *In addition to the deferral program pursuant to § 58.1-3219 of the Code of Virginia, Stafford County may adopt, by ordinance, a deferral program for real property taxes including the terms and conditions of the program, in such amount as the ordinance may prescribe, subject to the limitations and conditions of this section.*

B. *The deferral program pursuant to this section shall apply only to real property owned by and occupied as the sole dwelling of the taxpayer. To qualify, the real property's tax levy for 2016 shall exceed the tax levy for 2015 by at least 25 percent and this increase shall be the result of improvements completed in 2015 made by Stafford County to real property that, together with any adjacent property owned by Stafford County, is adjacent to the taxpayer's real estate as determined by the commissioner of the revenue or other assessing official as provided in subsection C.*

C. *Whenever the commissioner of the revenue or other assessing official increases the assessed value of real property described in subsection B, he shall notify the taxpayer of his rights under the ordinance. After receipt of the notice, the taxpayer may elect to defer all or any portion of 95 percent of the amount by which the real property tax of the subject property increased from 2015 to 2016 as calculated by the commissioner of the revenue or other assessing official for taxes accruing in 2016 and, subject to the provisions of subsection D, the same amount for taxes accruing in subsequent tax years.*

D. *The deferred amount shall be subject to simple interest computed at a rate established by the governing body, not to exceed five percent per annum. The accumulated amount of taxes deferred and interest shall be paid to the county, city, or town by the owner upon the sale or transfer of the property, or from the estate of the decedent within one year after the death of the owner. If the real property is owned jointly and all such owners applied and qualified for the deferral program established by ordinance, the death of one of the joint owners shall not disqualify the survivor or survivors from participating in the deferral program. All accumulated deferred taxes and interest shall be paid within one year of the date of death of the last qualifying owner. The accumulated amount of tax deferred and interest shall constitute a lien upon the real property.*

E. *All other sections of this article shall apply mutatis mutandis, unless the provisions of such sections are inapplicable.*

2. **Any real property that was eligible for the deferral of taxes under this act on January 1, 2016, shall be eligible for deferral of taxes accruing in 2016. For real estate covered under this enactment, Stafford County shall, if it enacts an ordinance pursuant to this act, refund any portion of taxes paid, as applicable.**

#### CHAPTER 449

*An Act to amend and reenact § 58.1-610 of the Code of Virginia, relating to collection of sales and use tax.*

[S 1308]

Approved March 13, 2017

##### **Be it enacted by the General Assembly of Virginia:**

1. **That § 58.1-610 of the Code of Virginia is amended and reenacted as follows:**

##### **§ 58.1-610. Contractors.**

A. Any person who contracts orally, in writing, or by purchase order, to perform construction, reconstruction, installation, repair, or any other service with respect to real estate or fixtures thereon, and in connection therewith to furnish

tangible personal property, shall be deemed to have purchased such tangible personal property for use or consumption. Any sale, distribution, or lease to or storage for such person shall be deemed a sale, distribution, or lease to or storage for the ultimate consumer and not for resale, and the dealer making the sale, distribution, or lease to or storage for such person shall be obligated to collect the tax to the extent required by this chapter.

B. Any person who contracts to perform services in this Commonwealth and is furnished tangible personal property for use under the contract by the person, or his agent or representative, for whom the contract is performed, and a sales or use tax has not been paid to this Commonwealth by the person supplying the tangible personal property, shall be deemed to be the consumer of the tangible personal property so used, and shall pay a use tax based on the fair market value of the tangible personal property so used, irrespective of whether or not any right, title or interest in the tangible personal property becomes vested in the contractor. This subsection, however, shall not apply to the industrial materials exclusion or the other industrial exclusions set out in § 58.1-609.3, including those set out in subdivisions 2, 3 and 4 thereof; the media-related exemptions set out in subdivision 2 of § 58.1-609.6; the governmental exclusions set out in subdivision 4 of § 58.1-609.1; the agricultural exclusions set forth in subdivision 1 of § 58.1-609.2; or the exclusion for baptistries set forth in § 58.1-609.10.

C. Any person who contracts orally, in writing, or by purchase order to perform any service in the nature of equipment rental, and the principal part of that service is the furnishing of equipment or machinery which will not be under the exclusive control of the contractor, shall be liable for the sales or use tax on the gross proceeds from such contract to the same extent as the lessor of tangible personal property.

D. Tangible personal property incorporated in real property construction which loses its identity as tangible personal property shall be deemed to be tangible personal property used or consumed within the meaning of this section. ~~Any person selling fences, venetian blinds, window shades, awnings, storm windows and doors, locks and locking devices, floor coverings (as distinguished from the floors themselves), cabinets, countertops, kitchen equipment, window air conditioning units or other like or comparable items, shall be deemed to be a retailer of such items and not a using or consuming contractor with respect to them, whether he sells to and installs such items for contractors or other customers and whether or not such retailer fabricates such items.~~

E. Nothing in this section shall be construed to (i) affect or limit the resale exclusion provided for in this chapter, or the industrial materials and other industrial exclusions set out in § 58.1-609.3, the exclusion for baptistries set out in § 58.1-609.10, or the partial exclusion for the sale of modular buildings as set out in § 58.1-610.1, or (ii) impose any sales or use tax with respect to the use in the performance of contracts with the United States, this Commonwealth, or any political subdivision thereof, of tangible personal property owned by a governmental body which actually is not used or consumed in the performance thereof.

F. Notwithstanding the other provisions of this section, any person engaged in the business of furnishing and installing locks and locking devices shall be deemed a retailer of such items and not a using or consuming contractor with respect to them.

G. Notwithstanding the other provisions of this section, any person or entity primarily engaged in the business of furnishing and installing tangible personal property that provides electronic or physical security on real property for the use of a financial institution, shall be deemed a retailer of such personal property, including when such personal property is installed on real property not for the use of a financial institution.

**CHAPTER 450**

*An Act to amend the Code of Virginia by adding in Article 5 of Chapter 38 of Title 58.1 a section numbered 58.1-3818.03, relating to admissions tax; Washington County.*

[S 1320]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding in Article 5 of Chapter 38 of Title 58.1 a section numbered 58.1-3818.03 as follows:**

**§ 58.1-3818.03. Admissions tax in Washington County.**

*A. Washington County is authorized to impose a tax on admissions to a multi-sports complex and entertainment venue in the county that (i) is located on all or part of a parcel of land or on adjacent parcels of land, containing at least 250 acres and (ii) is in business on or before June 30, 2027. The tax shall not exceed 10 percent of the amount of charge for admission. For purposes of this section, an entertainment venue shall not include a movie theater.*

*B. The provisions of this section shall expire on July 1, 2027, if no such multi-sports complex and entertainment venue is in business in Washington County on or before June 30, 2027.*

## CHAPTER 451

*An Act to amend and reenact §§ 59.1-280.1 and 59.1-548 of the Code of Virginia, relating to enterprise zone grants and tax credits; qualified real property improvement expenditures.*

[S 1328]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:****1. That §§ 59.1-280.1 and 59.1-548 of the Code of Virginia are amended and reenacted as follows:****§ 59.1-280.1. Enterprise zone real property investment tax credit.**

A. As used in this section:

"Large qualified zone resident" means a qualified zone resident making qualified zone investments in excess of \$100 million when such qualified zone investments result in the creation of at least 200 permanent full-time positions.

"Permanent full-time position" means a job of an indefinite duration at a business firm located within an enterprise zone requiring the employee to report for work within the enterprise zone, and requiring either (i) a minimum of 35 hours of an employee's time a week for the entire normal year of the business firm's operations, which "normal year" must consist of at least 48 weeks, (ii) a minimum of 35 hours of an employee's time a week for the portion of the taxable year in which the employee was initially hired for, or transferred to, the business firm, or (iii) a minimum of 1,680 hours per year if the standard fringe benefits are paid by the business firm for the employee. Seasonal or temporary positions, or a position created when a job function is shifted from an existing location in the Commonwealth to a business firm located within an enterprise zone shall not qualify as permanent full-time positions.

"Qualified zone improvements" means the amount ~~properly chargeable to a capital account~~ expended for improvements to rehabilitate or expand depreciable real property placed in service during the taxable year within an enterprise zone, provided that the total amount of such improvements equals or exceeds (i) \$50,000 and (ii) the assessed value of the original facility immediately prior to the rehabilitation or expansion. *"Qualified zone expenditures" includes any such expenditure regardless of whether it is considered properly chargeable to a capital account or deductible as a business expense under federal Treasury Regulations.*

Qualified zone improvements include expenditures associated with any exterior, structural, mechanical, or electrical improvements necessary to expand or rehabilitate a building for commercial or industrial use and excavations, grading, paving, driveways, roads, sidewalks, landscaping, or other land improvements. Qualified zone improvements shall include, but not be limited to, costs associated with demolition, carpentry, sheetrock, plaster, painting, ceilings, fixtures, doors, windows, fire suppression systems, roofing and flashing, exterior repair, cleaning, and cleanup.

Qualified zone improvements shall not include:

1. The cost of acquiring any real property or building; however, the cost of any newly constructed depreciable nonresidential real property (excluding land, land improvements, paving, grading, driveways, and interest) shall be considered to be a qualified zone improvement eligible for the credit if the total amount of such expenditure is at least \$250,000 with respect to a single facility.

2. (i) The cost of furnishings; (ii) any expenditure associated with appraisal, architectural, engineering and interior design fees; (iii) loan fees, points, or capitalized interest; (iv) legal, accounting, realtor, sales and marketing, or other professional fees; (v) closing costs, permits, user fees, zoning fees, impact fees, and inspection fees; (vi) bids, insurance, signage, utilities, bonding, copying, rent loss, or temporary facilities incurred during construction; (vii) utility hook-up or access fees; (viii) outbuildings; or (ix) the cost of any well or septic or sewer system.

3. The basis of any property: (i) for which a credit under this section was previously granted; (ii) which was previously placed in service in Virginia by the taxpayer, a related party as defined by Internal Revenue Code § 267 (b), or a trade or business under common control as defined by Internal Revenue Code § 52 (b); or (iii) which was previously in service in Virginia and has a basis in the hands of the person acquiring it, determined in whole or in part by reference to the basis of such property in the hands of the person from whom acquired or Internal Revenue Code § 1014 (a).

"Qualified zone investments" means the sum of qualified zone improvements and the cost of machinery, tools and equipment used in manufacturing tangible personal property within an enterprise zone. For purposes of this section, machinery, tools and equipment shall only be deemed to include the cost of such property which is placed in service in the enterprise zone on or after July 1, 1995. Machinery, tools and equipment shall not include the basis of any property: (i) for which a credit under this section was previously granted; (ii) which was previously placed in service in Virginia by the taxpayer, a related party as defined by Internal Revenue Code § 267 (b), or a trade or business under common control as defined by Internal Revenue Code § 52 (b); or (iii) which was previously in service in Virginia and has a basis in the hands of the person acquiring it, determined in whole or part by reference to the basis of such property in the hands of the person from whom acquired, or Internal Revenue Code § 1014 (a).

"Qualified zone resident" means an owner or tenant of real property located in an enterprise zone who expands or rehabilitates such real property to facilitate the conduct of a trade or business within the enterprise zone.

"Real property investment tax credit" means a credit against the taxes imposed by Articles 2 (§ 58.1-320 et seq.) and 10 (§ 58.1-400 et seq.) of Chapter 3, Chapter 12 (§ 58.1-1200 et seq.), Article 1 (§ 58.1-2500 et seq.) of Chapter 25, or Article 2 (§ 58.1-2620 et seq.) of Chapter 26 of Title 58.1.

"Small qualified zone resident" means any qualified zone resident other than a large qualified zone resident.

B. For all taxable years beginning on and after July 1, 1995, but before July 1, 2005, a qualified zone resident shall be allowed a real property investment tax credit as set forth in this section.

C. For any small qualified zone resident, a real property investment tax credit shall be allowed in an amount equaling 30 percent of the qualified zone improvements. Any tax credit granted pursuant to this subsection is refundable; however, in no event shall the cumulative credit allowed to a small qualified zone resident pursuant to this subsection exceed \$125,000 in any five-year period.

D. For any large qualified zone resident, a real property investment tax credit shall be allowed in an amount of up to five percent of such qualified zone investments. The percentage amount of the real property investment tax credit granted to a large qualified zone resident shall be determined by agreement between the Department and the large qualified zone resident, provided such percentage amount shall not exceed five percent. The real property investment tax credit provided by this subsection shall not exceed the tax imposed for such taxable year, but any credit not usable for the taxable year generated may be carried over until the full amount of such credit has been utilized.

E. The Department shall certify the nature and amount of qualified zone improvements and qualified zone investments eligible for a real property investment tax credit in any taxable year. Only qualified zone improvements and qualified zone investments that have been properly certified shall be eligible for the credit. Any form filed with the Department of Taxation or State Corporation Commission for the purpose of claiming the credit shall be accompanied by a copy of the certification furnished to the taxpayer by the Department. Any certification by the Department pursuant to this section shall not impair the authority of the Department of Taxation or State Corporation Commission to deny in whole or in part any claimed tax credit if the Department of Taxation or State Corporation Commission determines that the taxpayer is not entitled to such tax credit. The Department of Taxation or State Corporation Commission shall notify the Department in writing upon determining that a taxpayer is ineligible for such tax credit.

F. In the case of a partnership, limited liability company or S corporation, the term "qualified zone resident" as used in this section means the partnership, limited liability company or S corporation. Credits granted to a partnership, limited liability company or S corporation shall be passed through to the partners, members or shareholders, respectively.

G. The Tax Commissioner shall have the authority to issue regulations relating to the computation and carryover of the credit provided under this section.

H. In the first taxable year only, the credit provided in this section shall be prorated equally against the taxpayer's estimated payments made in the third and fourth quarters and the final payment, if such taxpayer is required to make quarterly payments.

I. Tax credits awarded under this section and under § 59.1-280 shall not exceed \$7.5 million annually until the end of fiscal year 2019.

J. The provisions of this section shall apply only as follows:

1. To those large qualified zone residents that have initiated use of enterprise zone tax credits pursuant to this section on or before July 1, 2005;

2. To those large qualified zone residents that have signed agreements with the Commonwealth regarding the use of enterprise zone tax credits in accordance with this section on or before July 1, 2005.

**§ 59.1-548. Enterprise zone real property investment grants.**

A. As used in this section:

"Facility" means a complex of buildings, co-located at a single physical location within an enterprise zone, all of which are necessary to facilitate the conduct of the same trade or business. This definition applies to new construction as well as to the rehabilitation and expansion of existing structures.

"Mixed use" means a building incorporating residential uses in which a minimum of 30 percent of the useable floor space will be devoted to commercial, office or industrial use.

"Qualified real property investment" means the amount ~~properly chargeable to a capital account~~ expended for improvements to rehabilitate, expand or construct depreciable real property placed in service during the calendar year within an enterprise zone provided that the total amount of such improvements equals or exceeds (i) \$100,000 with respect to a single building or a facility in the case of rehabilitation or expansion or (ii) \$500,000 with respect to a single building or a facility in the case of new construction. "Qualified real property investment" includes any such expenditure regardless of whether it is considered properly chargeable to a capital account or deductible as a business expense under federal Treasury Regulations.

Qualified real property investments include expenditures associated with (a) any exterior, interior, structural, mechanical or electrical improvements necessary to construct, expand or rehabilitate a building for commercial, industrial or mixed use; (b) excavations; (c) grading and paving; (d) installing driveways; and (e) landscaping or land improvements. Qualified real property investments shall include, but not be limited to, costs associated with demolition, carpentry, sheetrock, plaster, painting, ceilings, fixtures, doors, windows, fire suppression systems, roofing, flashing, exterior repair, cleaning and cleanup.

Qualified real property investment shall not include:

1. The cost of acquiring any real property or building.
2. Other costs including: (i) the cost of furnishings; (ii) any expenditure associated with appraisal, architectural, engineering, surveying, and interior design fees; (iii) loan fees, points, or capitalized interest; (iv) legal, accounting, realtor,

sales and marketing, or other professional fees; (v) closing costs, permits, user fees, zoning fees, impact fees, and inspection fees; (vi) bids, insurance, signage, utilities, bonding, copying, rent loss, or temporary facilities incurred during construction; (vii) utility connection or access fees; (viii) outbuildings; (ix) the cost of any well or septic or sewer system; and (x) roads.

3. The basis of any property: (i) for which a grant under this section was previously provided; (ii) for which a tax credit under § 59.1-280.1 was previously granted; (iii) which was previously placed in service in Virginia by the qualified zone investor, a related party as defined by Internal Revenue Code § 267 (b), or a trade or business under common control as defined by Internal Revenue Code § 52 (b); or (iv) which was previously in service in Virginia and has a basis in the hands of the person acquiring it, determined in whole or in part by reference to the basis of such property in the hands of the person from whom it was acquired or Internal Revenue Code § 1014 (a).

"Qualified zone investor" means an owner or tenant of real property located within an enterprise zone who expands, rehabilitates or constructs such real property for commercial, industrial or mixed use. In the case of a tenant, the amounts of qualified zone investment specified in this section shall relate to the proportion of the building or facility for which the tenant holds a valid lease. In the case of an owner of an individual unit within a horizontal property regime, the amounts of qualified zone investments specified in this section shall relate to that proportion of the building for which the owner holds title and not to common elements.

B. Grants shall be calculated at a rate of 20 percent of the amount of qualified real property investment in excess of \$500,000 in the case of the construction of a new building or facility. Grants shall be calculated at a rate of 20 percent of the amount of qualified real property investment in excess of \$100,000 in the case of the rehabilitation or expansion of an existing building or facility. For any qualified zone investor making \$5 million or less in qualified real property investment, a real property investment grant shall not exceed \$100,000 within any five-year period for any individual building or facility. For any qualified zone investor making more than \$5 million in qualified real property investment, a real property investment grant shall not exceed \$200,000 within any five-year period for any individual building or facility.

C. A qualified zone investor shall apply for a real property investment grant in the calendar year following the year in which the property was placed in service.

#### CHAPTER 452

*An Act to authorize the Treasury Board to issue bonds pursuant to Article X, Section 9 (c) of the Constitution of Virginia in an amount up to \$13,637,000 plus financing costs to finance the costs of acquiring, constructing, and equipping revenue-producing capital projects at institutions of higher learning of the Commonwealth; to authorize the Treasury Board, by and with the consent of the Governor, to fix the details of such bonds, to provide for the sale of such bonds, and to issue notes to borrow money in anticipation of the issuance of the bonds; to provide for the pledge of the net revenues of such capital projects and the full faith, credit, and taxing power of the Commonwealth for the payment of such bonds; and to provide that the interest income on such bonds and notes shall be exempt from all taxation by the Commonwealth and any political subdivision thereof.*

[S 1369]

Approved March 13, 2017

Whereas, Article X, Section 9 (c) of the Constitution of Virginia provides that the General Assembly may authorize the creation of debt secured by a pledge of net revenues derived from rates, fees, or other charges and the full faith and credit of the Commonwealth of Virginia, provided that such debt is created for specific revenue-producing capital projects, including their enlargement or improvement, at, among others, institutions of higher learning of the Commonwealth; and

Whereas, in accordance with Article X, Section 9 (c) of the Constitution of Virginia, the Governor has certified in writing, filed with the Auditor of Public Accounts, his opinion that the anticipated net revenues of each of the capital projects identified below to be pledged to the payment of the principal of and the interest on that portion of such debt issued for each such project will be sufficient to meet such payments as the same become due and to provide such reserves as may be required by law and that each of the capital projects complies with the requirements of Article X, Section 9 (c) of the Constitution of Virginia now, therefore,

**Be it enacted by the General Assembly of Virginia:**

**1. § 1. Title.**

*This act shall be known and may be cited as the "Commonwealth of Virginia Institutions of Higher Education Bond Act of 2017."*

**§ 2. Authorization of bonds and bond anticipation notes.**

*The Treasury Board is hereby authorized, by and with the consent of the Governor, to sell and issue, pursuant to Article X, Section 9 (c), Constitution of Virginia, at one time or from time to time, bonds of the Commonwealth, to be designated "Commonwealth of Virginia Institutions of Higher Education Bonds, Series ....." in an aggregate principal amount not exceeding \$13,637,000, plus amounts needed to fund issuance costs, reserve funds, construction period interest, and other financing expenses. The Treasury Board is further hereby authorized, by and with the consent of the Governor, to borrow money in anticipation of the issuance of bonds by the issuance of bond anticipation notes (BANs), including BANs issued as commercial paper. The proceeds of such bonds and BANs, excluding amounts needed to fund issuance costs, reserve funds, and other financing expenses, shall be used exclusively for the purpose of providing funds, with any other*

available funds, for paying all or a portion of the costs of acquiring, constructing, renovating, enlarging, improving, and equipping revenue-producing capital projects at institutions of higher learning of the Commonwealth as follows:

Institution	Project Title	Amount
The College of William and Mary in Virginia	Renovate Dormitories	\$13,637,000
Total		\$13,637,000

§ 3. Application of proceeds.

The proceeds, including any premium, of bonds and BANs (except the proceeds of (i) bonds the issuance of which has been anticipated by BANs, (ii) refunding bonds, and (iii) refunding BANs) shall be deposited in a special capital outlay fund in the state treasury and, together with the investment income thereon, shall be disbursed by the State Treasurer for paying costs of acquiring, constructing, renovating, enlarging, improving, and equipping the authorized capital projects, including financing costs. The proceeds of (i) bonds the issuance of which has been anticipated by BANs, (ii) refunding bonds, and (iii) refunding BANs shall be used to pay such BANs, refunded bonds, and refunded BANs.

§ 4. Details, sale of bonds and BANs.

Bonds and BANs shall be dated and may be made redeemable before their maturity or maturities at such price or prices or within such price parameters, all as may be determined by the Treasury Board, by and with the consent of the Governor. Bonds and BANs shall be in such form, shall bear interest at such rate or rates, either at fixed rates or at rates established by formula or other method, and may contain such other provisions, all as determined by the Treasury Board or, when authorized by the Treasury Board, the State Treasurer. The principal of and premium, if any, and the interest on bonds and BANs shall be payable in lawful money of the United States of America. Bonds and BANs may be certificated or uncertificated as determined by the Treasury Board. The Treasury Board may contract for services of such registrars, transfer agents, or other authenticating agents as it deems appropriate to maintain a record of the persons entitled to the bonds and BANs. Bonds and BANs issued in certificated form may be issued under a system of book entry for recording the ownership and transfer of ownership of rights to receive payments on the bonds and BANs. The Treasury Board shall fix the authorized denomination or denominations of the bonds and the place or places of payment of certificated bonds and BANs, which may be at the Office of the State Treasurer or at any bank or trust company within or without the Commonwealth. Bonds shall mature at such time or times not exceeding 30 years from their date or dates, and BANs shall mature at such time or times not exceeding five years from their date or dates.

The Treasury Board may sell bonds and BANs in such manner, by competitive bidding, negotiated sale, or private placement, and for such price or within such price parameters as it may determine, by and with the consent of the Governor, to be in the best interest of the Commonwealth. In the discretion of the Treasury Board, bonds and BANs may be issued at one time or from time to time and may be sold and issued at the same time with other general obligation bonds and BANs, respectively, of the Commonwealth authorized pursuant to Article X, Section 9 (a) (3), (b), and (c) of the Constitution of Virginia, as separate issues or as a combined issue, designated "Commonwealth of Virginia General Obligation Bonds Bond Anticipation Notes, Series ....."

§ 5. Execution of bonds and BANs.

Certificated bonds and BANs shall be signed on behalf of the Commonwealth by the Governor and by the State Treasurer, or shall bear their facsimile signatures, and shall bear the lesser seal of the Commonwealth or a facsimile thereof. If the bonds or BANs bear the facsimile signature of the State Treasurer, they shall be signed by such administrative assistant as the State Treasurer shall determine or by such registrar or paying agent as may be designated to sign them by the Treasury Board. If any officer whose signature or facsimile signature appears on any bonds or BANs ceases to be such officer before delivery, such signature or facsimile signature shall nevertheless be valid and sufficient for all purposes the same as if such officer had remained in office until such delivery, and any bond or BAN may bear the facsimile signature of, or may be signed by, such persons as at the actual time of execution are the proper officers to sign such bond or BAN, although at the date of such bond or BAN such persons may not have been such officers.

§ 6. Sources for payment of expenses.

All expenses incurred under this act shall be paid from the proceeds of bonds or BANs, from payments made by the institutions for which the capital projects were authorized in § 2, or from any other available funds as the Treasury Board shall determine.

§ 7. Revenues.

The institution of higher learning named in § 2 is hereby authorized (i) to fix, revise, charge, and collect rates, fees, and charges for or in connection with the use, occupancy, and services of each capital project named in § 2 or the system of which such capital project is a part and (ii) to pledge to the portion of the bonds or BANs issued for such capital project the net revenues resulting from such rates, fees, and charges and remaining after payment of the expenses of operating the project or system, as the case may be. The institution is further authorized to create debt service and sinking funds for the payments of the principal of, premium, if any, and interest on the bonds and other reserves required by any agency of the United States of America purchasing the bonds or any portion thereof.

§ 8. Investments and contracts.

A. Pending the application of the proceeds of the bonds or BANs (including refunding bonds and BANs) to the purpose for which they have been authorized and the application of funds set aside for the purpose to the payment of bonds or BANs,

they may be invested by the State Treasurer in securities that are legal investments under the laws of the Commonwealth for public funds and sinking funds, as the case may be. Whenever the State Treasurer receives interest from the investment of the proceeds of bonds or any BANs, such interest shall become a part of the principal of the bonds or any BANs and shall be used in the same manner as required for principal of the bonds or BANs.

B. The Commonwealth may enter into any contract or other arrangement that is determined to be necessary or appropriate to place the obligation or investment of the Commonwealth, as represented by bonds, BANs, or investments, in whole or in part, on the interest rate, cash flow, or other basis desired by the Commonwealth. Such contract or other arrangement may include, without limitation, contracts commonly known as interest rate swap agreements and futures or contracts providing for payments based on levels of, or changes in, interest rates. These contracts or arrangements may be entered into by the Commonwealth in connection with, or incidental to, entering into, or maintaining any (i) agreement that secures bonds or BANs or (ii) investment, or contract providing for investment, otherwise authorized by law. These contracts and arrangements may contain such payment, security, default, remedy, and other terms and conditions as determined by the Commonwealth, after giving due consideration to the creditworthiness of the counterparty or other obligated party, including any rating by any nationally recognized rating agency, and any other criteria as may be appropriate. The determinations referred to in this subsection may be made by the Treasury Board or any public funds manager with professional investment capabilities duly authorized by the Treasury Board to make such determinations.

C. Any money set aside and pledged to secure payments of bonds, BANs, or any of the contracts entered into pursuant to this section may be invested in accordance with subsection A and may be pledged to and used to service any of the contracts or other arrangements entered into pursuant to subsection B.

§ 9. Security for bonds and BANs.

The net revenues of the capital projects set forth above and the full faith and credit of the Commonwealth are hereby irrevocably pledged for the payment of the principal of and the interest on bonds and BANs (unless the Treasury Board, by and with the consent of the Governor, shall provide otherwise) issued under this act. The proceeds of (i) bonds the issuance of which has been anticipated by BANs, (ii) refunding bonds, and (iii) refunding BANs are hereby irrevocably pledged for the payment of principal of and interest and any premium on the BANs or bonds to be paid or redeemed thereby. In the event the net revenues pledged to the payment of the bonds or BANs are insufficient in any fiscal year for the timely payment of the principal of, premium, if any, and interest on the bonds or BANs, where the full faith and credit of the Commonwealth have been pledged, the General Assembly shall appropriate a sum sufficient therefor or the Governor shall direct payment therefor from the general fund revenues of the Commonwealth.

§ 10. Exemption of interest from tax.

The bonds and BANs issued under the provisions of this act, their transfer and the income therefrom, including any profit made on the sale thereof, shall at all times be free and exempt from taxation by the Commonwealth and by any county, city, or town or other political subdivision thereof. The Treasury Board is authorized to take or refrain from taking any and all actions and to covenant to such effect, and to require the participating institutions to do and to covenant likewise, to the extent that, in the judgment of the Treasury Board, it is appropriate in order that interest on the bonds and BANs may be exempt from federal income tax. Alternatively, interest on bonds and BANs may be made subject to inclusion in gross income of the holders thereof for federal income tax purposes.

§ 11. Refunding bonds and BANs.

The Treasury Board is authorized, by and with the consent of the Governor, to sell and issue, at one time or from time to time, refunding bonds and BANs of the Commonwealth and to refund any or all of the bonds and BANs, respectively, issued under this act or otherwise authorized pursuant to Article X, Section 9 (c) of the Constitution of Virginia. Refunding bonds and BANs may be issued in a principal amount up to the amount necessary to pay at maturity or redeem the bonds and BANs to be refunded and pay all issuance costs and other financing expenses of the refunding. Such refunding bonds and BANs may be issued whether or not the obligations to be refunded are then subject to redemption.

§ 12. Defeasance.

Any bond or BAN for which cash or direct obligations of the United States of America shall have been set aside in escrow with the State Treasurer or a bank or trust company, within or without the Commonwealth, shall be deemed no longer outstanding under the applicable authorizing instrument, this act, and Article X, Section 9 (c) or (b) of the Constitution of Virginia, as the case may be.

§ 13. Severability.

The provisions of this act or the application thereof to any person or circumstance that are held invalid shall not affect the validity of other provisions or applications of this act which can be given effect without the invalid provisions or applications.

**2. That an emergency exists and this act is in force from its passage.**

## CHAPTER 453

*An Act to amend and reenact §§ 58.1-623, 58.1-1000, and 58.1-1017.3 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 58.1-623.2 and by adding in Article 1 of Chapter 10 of Title 58.1 a section numbered 58.1-1017.4, relating to the purchase of cigarettes for resale; penalties.*

[S 1390]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 58.1-623, 58.1-1000, and 58.1-1017.3 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 58.1-623.2 and by adding in Article 1 of Chapter 10 of Title 58.1 a section numbered 58.1-1017.4 as follows:**

**§ 58.1-623. Sales or leases presumed subject to tax; exemption certificates.**

A. All sales or leases are subject to the tax until the contrary is established. The burden of proving that a sale, distribution, lease, or storage of tangible personal property is not taxable is upon the dealer unless he takes from the taxpayer a certificate to the effect that the property is exempt under this chapter. *However, the sale or distribution of cigarettes shall be subject to the provisions of § 58.1-623.2 and require a cigarette exemption certificate issued pursuant to § 58.1-623.2.*

B. The certificate mentioned in this section shall relieve the person who takes such certificate from any liability for the payment or collection of the tax, except upon notice from the Tax Commissioner that such certificate is no longer acceptable. Such certificate shall be signed by and bear the name and address of the taxpayer; shall indicate the number of the certificate of registration, if any, issued to the taxpayer; shall indicate the general character of the tangible personal property sold, distributed, leased, or stored, or to be sold, distributed, leased, or stored under a blanket exemption certificate; and shall be substantially in such form as the Tax Commissioner may prescribe. If an exemption pertains to a nonprofit organization, other than a nonprofit church, that has qualified for a sales and use tax exemption under § 58.1-609.11, the exemption certificate shall be valid until the scheduled expiration date stated on the exemption certificate.

C. If a taxpayer who gives a certificate under this section makes any use of the property other than an exempt use or retention, demonstration, or display while holding the property for resale, distribution, or lease in the regular course of business, such use shall be deemed a taxable sale by the taxpayer as of the time the property or service is first used by him, and the cost of the property to him shall be deemed the sales price of such retail sale. If the sole use of the property other than retention, demonstration, or display in the regular course of business is the rental of the property while holding it for sale, distribution, or lease, the taxpayer may elect to pay the tax on the amount of the rental charged, rather than the cost of the property to him.

D. If a taxpayer gives a certificate under this section with respect to the purchase of fungible goods and thereafter commingles these goods with other fungible goods not so purchased, but of such similarity that the identity of the constituent goods in the commingled mass cannot be determined, sales or distributions from the mass of commingled goods shall be deemed to be sales or distributions of the goods so purchased until a quantity of commingled goods equal to the quantity of purchased goods so commingled has been sold or distributed.

E. If a taxpayer fails to give the dealer at the time of purchase an exemption certificate previously issued by the Department, no interest shall be paid on a subsequent refund claim for any period prior to the date the taxpayer makes a complete refund claim with the Department. This subsection shall not apply to transactions exempted under self-executing certificates of exemption not issued to a specific taxpayer by the Department.

**§ 58.1-623.2. Cigarette exemption certificate.**

A. 1. *Notwithstanding any other provision of law, all sales of cigarettes, as defined in § 58.1-1031, bearing Virginia revenue stamps in the Commonwealth shall be subject to the tax until the contrary is established. The burden of proving that a sale is not taxable is upon the dealer unless he takes from the taxpayer a cigarette exemption certificate issued by the Department to the taxpayer to the effect that the cigarettes are exempt under this chapter for the purposes of resale in the Commonwealth.*

2. *The cigarette exemption certificate mentioned in this section shall relieve the person who takes such certificate from any liability for the payment or collection of the tax on the sale of cigarettes, except upon notice from the Tax Commissioner or the taxpayer that such certificate is no longer acceptable.*

3. *If a taxpayer who gives a cigarette exemption certificate under this section makes any use of the property other than an exempt use or retention, demonstration, or display while holding the property for resale or distribution in the regular course of business, such use shall be deemed a taxable sale by the taxpayer as of the time the property or service is first used by him, and the cost of the property to him shall be deemed the sales price of such retail sale.*

B. 1. *Prior to issuing a cigarette exemption certificate under this section, the Department shall conduct a background investigation on the taxpayer for the certificate. The Department shall not issue a cigarette exemption certificate until at least 30 days have passed from the receipt of the application, unless the taxpayer qualifies for the expedited process set forth in subdivision 3, or any other expedited process set forth in guidelines issued pursuant to subsection L. If the taxpayer does not qualify for the expedited process, the Department shall inspect each location listed in the application and verify that any location that resells cigarettes meets the requirements prescribed in subsection E.*

2. A taxpayer shall be required to pay an application fee, not to exceed \$50, to the Department for a cigarette exemption certificate.

3. A taxpayer shall be eligible for an expedited process to receive a cigarette exemption certificate if the taxpayer possesses, at the time of filing an application for a cigarette exemption certificate, (i) an active license, in good standing, issued by the Department of Alcoholic Beverage Control pursuant to Title 4.1, as verified by electronic or other means by the Department, or (ii) an active tobacco products tax distributor's license, in good standing, issued by the Department pursuant to § 58.1-1021.04:1. The Department may identify other categories of taxpayers who qualify for an expedited process through guidelines issued pursuant to subsection L. Taxpayers that qualify for an expedited process shall not be subject to the background check or the waiting period set forth in subdivision 1, nor shall such taxpayers be required to pay the application fee set forth in subdivision 2.

4. If a taxpayer has been denied a cigarette exemption certificate, or has been issued a cigarette exemption certificate that has subsequently been suspended or revoked, the Department shall not consider an application from the taxpayer for a new cigarette exemption certificate for six months from the date of the denial, suspension, or revocation.

C. The Department shall deny an application for a cigarette exemption certificate, or suspend or revoke a cigarette exemption certificate previously issued to a taxpayer, if the Department determines that:

1. The taxpayer is a person who is not 18 years of age or older;
2. The taxpayer is a person who is physically unable to carry on the business for which the application for a cigarette exemption certificate is filed, or has been adjudicated incapacitated;
3. The taxpayer has not resided in the Commonwealth for at least one year immediately preceding the application, unless in the opinion of the Department, good cause exists for the taxpayer to have not resided in the Commonwealth for the immediately preceding year;
4. The taxpayer has not established a physical place of business in the Commonwealth, as described in subsection E;
5. A court or administrative body having jurisdiction has found that the physical place of business occupied by the taxpayer, as described in subsection E, does not conform to the sanitation, health, construction, or equipment requirements of the governing body of the county, city, or town in which such physical place is located, or to similar requirements established pursuant to the laws of the Commonwealth;
6. The physical place of business occupied by the taxpayer, as described in subsection E, is not constructed, arranged, or illuminated so as to allow access to and reasonable observation of, any room or area in which cigarettes are to be sold;
7. The taxpayer is not an authorized representative of the business;
8. The taxpayer made a material misstatement or material omission in the application;
9. The taxpayer has defrauded, or attempted to defraud, the Department, or any federal, state, or local government or governmental agency or authority, by making or filing any report, document, or tax return required by statute or regulation that is fraudulent or contains a false representation of material fact, or the taxpayer has willfully deceived or attempted to deceive the Department, or any federal, state, or local government or governmental agency or authority, by making or maintaining business records required by statute or regulation that are false or fraudulent;
10. The Tax Commissioner has determined that the taxpayer has misused the certificate;
11. The taxpayer has knowingly and willfully allowed any individual, other than an authorized representative, to use the certificate;
12. The taxpayer has failed to comply with or has been convicted under any of the provisions of this chapter or Chapter 10 (§ 58.1-1000 et seq.) or any of the rules of the Department adopted or promulgated under the authority of this chapter or Chapter 10; however, no certificate shall be denied, suspended, or revoked on the basis of a failure to file a retail sales and use tax return or remit retail sales and use tax unless the taxpayer is more than 30 days delinquent in any filing or payment and has not entered into an installment agreement pursuant to § 58.1-1817; or
13. The taxpayer has been convicted under the laws of any state or of the United States of (i) any robbery, extortion, burglary, larceny, embezzlement, gambling, perjury, bribery, treason, racketeering, money laundering, other crime involving fraud under Chapter 6 (§ 18.2-168 et seq.) of Title 18.2, or crime that has the same elements of the offenses set forth in § 58.1-1017 or 58.1-1017.1, or (ii) a felony.

D. The provisions of § 58.1-623.1 shall apply to the suspension and revocation of exemption certificates issued pursuant to this section, *mutatis mutandis*.

E. A cigarette exemption certificate shall only be issued to a taxpayer who:

1. Has a physical place of business in the Commonwealth, owned or leased by him, where a substantial portion of the sales activity of the retail cigarette sales activity of the business is routinely conducted and that (i) satisfies all local zoning regulations; (ii) has sales and office space of at least 250 square feet in a permanent, enclosed building not used as a house, apartment, storage unit, garage, or other building other than a building zoned for retail business; (iii) houses all records required to be maintained pursuant to § 58.1-1007; (iv) is equipped with office equipment, including but not limited to, a desk, a chair, a Point of Sale System, filing space, a working telephone listed in the name of the taxpayer or his business, working utilities, including electricity and provisions for space heating, and an Internet connection and email address; (v) displays a sign and business hours and is open to the public during the listed business hours; and (vi) does not occupy the same physical place of business of any other taxpayer who has been issued a cigarette exemption certificate;

2. Possesses a copy of the (i) corporate charter and articles of incorporation in the case of a corporation, (ii) partnership agreement in the case of a partnership, or (iii) organizational registration from the Virginia State Corporation Commission in the case of an LLC; and

3. Possesses a local business license, if such local business license is required by the locality where the taxpayer's physical place of business is located.

F. A taxpayer with more than one physical place of business shall be required to complete only one application for a cigarette exemption certificate but shall list on the application every physical place of business in the Commonwealth where cigarettes are purchased, stored, or resold by the taxpayer or his affiliate. Upon approval of the application, the Department shall issue a cigarette exemption certificate to the taxpayer. The taxpayer shall be authorized to resell cigarettes only at the locations listed on the application. No cigarette exemption certificate shall be transferrable. For purposes of this subsection, a taxpayer shall be considered to have more than one physical place of business if the taxpayer owns or leases two or more physical locations in the Commonwealth where cigarettes are purchased, stored, or resold.

G. A cigarette exemption certificate issued to a taxpayer shall bear the address of the physical place of business occupied or to be occupied by the taxpayer in conducting the business of purchasing cigarettes in the Commonwealth. In the event that a taxpayer intends to move the physical place of business listed on a certificate to a new location, he shall provide written notice to the Department at least 30 days in advance of the move. A successful inspection of the new physical place of business shall be required by the Department prior to the issuance of a new cigarette exemption certificate bearing the updated address. If the taxpayer intends to change any of the required information relating to the physical places of business contained in the application for the cigarette exemption certificate submitted pursuant to subsection F, the taxpayer shall file an amendment to the application at least 30 days in advance of such change. The certificate with the original address shall become invalid upon the issuance of the new certificate, or 30 days after notice of the move is provided to the Department, whichever occurs sooner. A taxpayer shall not be required to pay a fee to the Department for the issuance of a new cigarette exemption certificate pursuant to this subsection.

H. The privilege of a taxpayer issued a cigarette exemption certificate to purchase cigarettes shall extend to any authorized representative of such taxpayer. The taxpayer issued a cigarette exemption certificate may be held liable for any violation of this chapter, Chapter 10 (§ 58.1-1000 et seq.), Chapter 10.1 (§ 58.1-1031 et seq.), or any related Department guidelines by such authorized representative.

I. A taxpayer issued a cigarette exemption certificate shall comply with the recordkeeping requirements prescribed in § 58.1-1007 and shall make such records available for audit and inspection as provided therein. A taxpayer issued a cigarette exemption certificate who fails to comply with such requirements shall be subject to the penalties provided in § 58.1-1007.

J. A cigarette exemption certificate granted by the Department shall be valid for five years from the date of issuance. At the end of the five-year period, the cigarette exemption certificate of a taxpayer who qualifies for the expedited application process set forth in subdivision B 3 shall be automatically renewed and no fee shall be required. If a taxpayer does not qualify for the expedited application process, then such taxpayer shall apply to the Department to renew the new cigarette exemption certificate as set forth in subdivision B 1 and shall pay an application fee not to exceed \$50 as set forth in subdivision B 2; however, the 30-day waiting period set forth in subdivision B 1 shall not apply.

K. No taxpayer issued a cigarette exemption certificate shall display the certificate, or a copy thereof, in the physical place of business where a substantial portion of the retail cigarette sales activity of the business is routinely conducted.

L. The Tax Commissioner shall develop guidelines implementing the provisions of this section, including but not limited to (i) defining categories of taxpayers who qualify for the expedited process, (ii) prescribing the form of the application for the cigarette exemption certificate, (iii) prescribing the form of the application for the expedited cigarette exemption certificate, (iv) establishing procedures for suspending and revoking the cigarette exemption certificate, and (v) establishing procedures for renewing the cigarette exemption certificate. Such guidelines shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

M. For the purposes of this section:

"Authorized representative" means an individual who has an ownership interest in or is a current employee of the taxpayer who possesses a valid cigarette exemption certificate pursuant to this section.

**§ 58.1-1000. Definitions.**

As used in this chapter, unless the context clearly shows otherwise, the term or phrase:

"Authorized holder" means (i) a manufacturer; (ii) a wholesale dealer who is not duly qualified as a wholesale dealer stamping agent, but who possesses, or whose affiliate possesses, a valid cigarette exemption certificate issued pursuant to § 58.1-623.2; (iii) a stamping agent; (iv) a retail dealer who possesses, or whose affiliate possesses, a valid cigarette exemption certificate issued pursuant to § 58.1-623.2; (v) an exclusive distributor; (vi) an officer, employee, or other agent of the United States or a state, or any department, agency, or instrumentality of the United States, a state, or a political subdivision of a state, having possession of cigarettes in connection with the performance of official duties; (vii) a person properly holding cigarettes that do not require stamps or tax payment pursuant to § 58.1-1010; or (viii) a common or contract carrier transporting cigarettes under a proper bill of lading or other documentation indicating the true name and address of the consignor or seller and the consignee or purchaser of the brands and the quantities being transported. Any person convicted of (a) a violation of § 58.1-1017 or 58.1-1017.1 any criminal offense under this chapter; (b) any offense involving the forgery of any documents, forms, invoices, or receipts related to the purchase or sale of cigarettes or the

purchase or sale of tobacco products as defined in § 58.1-1021.01; (c) any offense involving evasion or failure to pay a cigarette or tobacco product excise tax; or (d) any similar violation of an ordinance of any county, city, or town in the Commonwealth or the laws of any other state or of the United States is ineligible to be an authorized holder. *For the purposes of this definition, "affiliate" means any entity that is a member of the same affiliated group, as such term is defined in § 58.1-3700.1.*

"Carton" means 10 packs of cigarettes, each containing 20 cigarettes or eight packs, each containing 25 cigarettes.

"Cigarette" means any product that contains nicotine, is intended to be burned or heated under ordinary conditions of use, and consists of or contains (i) any roll of tobacco wrapped in paper or in any substance not containing tobacco; (ii) tobacco, in any form, that is functional in the product, which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette; or (iii) any roll of tobacco wrapped in any substance containing tobacco which, because of its appearance, the type of tobacco used in the filler, or its packaging and labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in clause (i) of this definition. The term "cigarette" includes "roll-your-own" tobacco, which means any tobacco which, because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered to, or purchased by, consumers as tobacco for making cigarettes. For purposes of this definition of "cigarette," 0.09 ounces of "roll-your-own" tobacco shall constitute one individual "cigarette."

"Exclusive distributor" means any individual, corporation, limited liability company, or limited liability partnership with its principal place of business in the Commonwealth that has the sole and exclusive rights to sell to wholesale dealers in the Commonwealth a brand family of cigarettes manufactured by a tobacco product manufacturer as defined in § 3.2-4200.

"Manufacturer" means any tobacco product manufacturer as defined in § 3.2-4200.

"Pack" means a package containing either 20 or 25 cigarettes.

"Retail dealer" includes every person other than a wholesale dealer, as defined in this section, who sells or offers for sale any cigarettes and who is properly registered as a retail trade with the Commonwealth in accordance with the Virginia Department of Taxation Business Registration Application (Form R-1).

"Retail sale" or "sale at retail" includes all sales except sales by wholesale dealers to retail dealers or other wholesale dealers for resale.

"Stamping agent" ~~shall have~~ has the same meaning as provided in § 3.2-4204. For the purposes of provisions relating to "roll-your-own" tobacco, "stamping agent" ~~shall include~~ includes "distributor" as that term is defined in § 58.1-1021.01.

"Stamps" means the stamp or stamps by the use of which the tax levied under this chapter is paid and shall be officially designated as Virginia revenue stamps. The Department is hereby authorized to provide for the use of any type of stamp ~~which~~ that will effectuate the purposes of this chapter, including but not limited to decalcomania and metering devices.

"Storage" means any keeping or retention in the Commonwealth of cigarettes for any purpose except sale in the regular course of business or subsequent use solely outside the Commonwealth.

"Tax-paid cigarettes" means cigarettes that (i) bear valid Virginia stamps to evidence payment of excise taxes or (ii) were purchased outside of the Commonwealth and either (a) bear a valid tax stamp for the state in which the cigarettes were purchased or (b) when no tax stamp is required by the state, proper evidence can be provided to establish that applicable excise taxes have been paid.

"Use" means the exercise of any right or power over cigarettes incident to the ownership thereof or by any transaction where possession is given, except that it ~~shall~~ does not include the sale of cigarettes in the regular course of business.

"Wholesale dealer" includes persons who are properly registered as tobacco product merchant wholesalers with the Commonwealth in accordance with the Virginia Department of Taxation Business Registration Application (Form R-1) and who (i) sell cigarettes at wholesale only to retail dealers for the purpose of resale only or (ii) sell at wholesale to institutional, commercial, or industrial users. "Wholesale dealer" also includes chain store distribution centers or houses ~~which~~ that distribute cigarettes to their stores for sale at retail.

#### **§ 58.1-1017.3. Fraudulent purchase of cigarettes; penalties.**

Any person who purchases 5,000 (25 cartons) cigarettes or fewer using a forged business license, a business license obtained under false pretenses, a forged or invalid Virginia sales and use tax exemption certificate, a *forged or invalid Virginia cigarette exemption certificate*, or a Virginia sales and use tax exemption certificate obtained under false pretenses is guilty of a Class 1 misdemeanor for a first offense and a Class 6 felony for a second or subsequent offense. Any person who purchases more than 5,000 (25 cartons) cigarettes using a forged business license, a business license obtained under false pretenses, a forged or invalid Virginia sales and use tax exemption certificate, a *forged or invalid Virginia cigarette exemption certificate*, or a Virginia sales and use tax exemption certificate obtained under false pretenses is guilty of a Class 6 felony for a first offense and a Class 5 felony for a second or subsequent offense. Additionally, any person who violates the provisions of this section shall be assessed a civil penalty of (i) \$2.50 per pack, but no less than \$5,000, for a first offense; (ii) \$5 per pack, but no less than \$10,000, for a second such offense committed within a 36-month period; and (iii) \$10 per pack, but no less than \$50,000, for a third or subsequent such offense committed within a 36-month period. The civil penalties shall be assessed and collected by the Department as other taxes are collected.

The provisions of this section shall not preclude prosecution under any other statute.

#### **§ 58.1-1017.4. Documents to be provided at purchase.**

A. Any person, except as provided in subsection B, who ships, sells, or distributes any quantity of cigarettes in excess of 10,000 sticks or 50 cartons, or with a value greater than \$10,000 in any single transaction or multiple related transactions, shall maintain such information about the shipment, receipt, sale, and distribution of such cigarettes on a form prescribed by the Office of the Attorney General. Such form may be in electronic format in a manner prescribed by the Office of the Attorney General. Such form shall be transmitted to the Office of the Attorney General upon request, as determined by the Office of the Attorney General.

B. The provisions of this section shall not apply to a stamping agent when delivering cigarettes to the purchaser's physical place of business.

C. Prior to completing the sale, the purchaser shall complete the form for the seller and present a valid photo identification issued by a state or federal government agency. The purchaser shall sign the form acknowledging an understanding of the applicable sales limit and that providing false statements or misrepresentations may subject the purchaser to criminal penalties.

D. Prior to completing the sale, the seller shall verify that the identity of the purchaser listed on the form matches the identity on the photo identification provided pursuant to subsection C and that the form is completed in its entirety.

E. The records required to be completed by this section shall be preserved for three years at the location where the purchase was made and shall be available for audit and inspection as described in § 58.1-1007. A violation of these requirements shall be punished under the provisions of § 58.1-1007.

F. The Department, the Department of Alcoholic Beverage Control, the Office of the Attorney General, a local cigarette tax administrative or enforcement official, or any other law-enforcement agency of the Commonwealth or any federal law-enforcement agency conducting a criminal investigation involving the trafficking of cigarettes may access these records required to be completed and preserved by this section at any time. Failure to supply the records upon request shall be punished under the provisions of § 58.1-1007. Copies of the records required to be completed and preserved by this section shall be provided to such officials or agencies upon request. Any court, investigatory grand jury, or special grand jury that has been impaneled in accordance with the provisions of Chapter 13 (§ 19.2-191 et seq.) of Title 19.2 may access such information if relevant to any proceedings therein.

G. The records required to be completed and preserved by this section shall be exempt from disclosure under the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

**2. That the Code of Virginia is amended by adding in Article 1 of Chapter 10 of Title 58.1 a section numbered 58.1-1017.4 as follows:**

**§ 58.1-1017.4. Documents to be provided at purchase.**

A. Any person, except as provided in subsection C, who ships, sells, or distributes any quantity of cigarettes in excess of 10,000 sticks or 50 cartons, or with a value greater than \$10,000 in any single transaction or multiple related transactions, shall (i) obtain a copy of the cigarette exemption certificate issued to the purchaser pursuant to § 58.1-623.2 and (ii) maintain such information about the shipment, receipt, sale, and distribution of such cigarettes on a form prescribed by the Office of the Attorney General. Such form may be in electronic format in a manner prescribed by the Office of the Attorney General. Such form shall be transmitted to the Office of the Attorney General upon request, as determined by the Office of the Attorney General.

B. For purposes of complying with subsection A, the seller may maintain an electronic copy of the purchaser's cigarette exemption certificate.

C. The provisions of this section shall not apply to a stamping agent when delivering cigarettes to the purchaser's physical place of business.

D. Prior to completing the sale, the purchaser shall complete the form for the seller and present a valid photo identification issued by a state or federal government agency. The purchaser shall sign the form acknowledging an understanding of the applicable sales limit and that providing false statements or misrepresentations may subject the purchaser to criminal penalties.

E. Prior to completing the sale, the seller shall verify that the identity of the purchaser listed on the form matches the identity on the photo identification provided pursuant to subsection D and that the form is completed in its entirety.

F. The records required to be completed by this section shall be preserved for three years at the location where the purchase was made and shall be available for audit and inspection as described in § 58.1-1007. A violation of these requirements shall be punished under the provisions of § 58.1-1007.

G. The Department, the Department of Alcoholic Beverage Control, the Office of the Attorney General, a local cigarette tax administrative or enforcement official, or any other law-enforcement agency of the Commonwealth or any federal law-enforcement agency conducting a criminal investigation involving the trafficking of cigarettes may access these records required to be completed and preserved by this section at any time. Failure to supply the records upon request shall be punished under the provisions of § 58.1-1007. Copies of the records required to be completed and preserved by this section shall be provided to such officials or agencies upon request. Any court, investigatory grand jury, or special grand jury that has been impaneled in accordance with the provisions of Chapter 13 (§ 19.2-191 et seq.) of Title 19.2 may access such information if relevant to any proceedings therein.

H. The records required to be completed and preserved by this section shall be exempt from disclosure under the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

3. That the provisions of §§ 58.1-623, 58.1-1000, and 58.1-1017.3 of the Code of Virginia as amended by this act, subsection A of § 58.1-623.2 as created by this act, and the second enactment of this act shall become effective on January 1, 2018.

4. That the Department of Taxation shall complete the process for issuing cigarette exemption certificates no later than December 31, 2017. The Department of Taxation shall ensure that any taxpayer who qualifies under the expedited process prior to December 1, 2017, or applies for a cigarette exemption certificate prior to December 1, 2017, shall be issued or denied the cigarette exemption certificate prior to January 1, 2018.

5. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 780 of the Acts of Assembly of 2016 requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.

#### CHAPTER 454

*An Act to amend and reenact §§ 58.1-439.6 and 58.1-439.12:07 of the Code of Virginia, relating to tax credits for worker retraining and telework expenses.*

[S 1576]

Approved March 13, 2017

#### **Be it enacted by the General Assembly of Virginia:**

1. That §§ 58.1-439.6 and 58.1-439.12:07 of the Code of Virginia are amended and reenacted as follows:

#### **§ 58.1-439.6. Worker retraining tax credit.**

A. As used in this section, unless the context clearly requires otherwise:

"Eligible worker retraining" means retraining of a qualified employee that promotes economic development in the form of (i) noncredit courses at any of the Commonwealth's community colleges or a private school or (ii) worker retraining programs undertaken through an apprenticeship agreement approved by the Commissioner of Labor and Industry.

"Qualified employee" means an employee of an employer eligible for a credit under this section in a full-time position requiring a minimum of 1,680 hours in the entire normal year of the employer's operations if the standard fringe benefits are paid by the employer for the employee. Employees in seasonal or temporary positions shall not qualify as qualified employees. A qualified employee (i) shall not be a relative of any owner or the employer claiming the credit and (ii) shall not own, directly or indirectly, more than five percent in value of the outstanding stock of a corporation claiming the credit. As used herein, "relative" means a spouse, child, grandchild, parent or sibling of an owner or employer, and "owner" means, in the case of a corporation, any person who owns five percent or more of the corporation's stock.

"STEM or STEAM discipline" means a science, technology, engineering, mathematics, or applied mathematics related discipline as determined by the ~~Department of Small Business and Supplier Diversity~~ *Virginia Economic Development Partnership Authority* in consultation with the Superintendent of Public Instruction. The term shall include a health care-related discipline.

B. For taxable years beginning on and after January 1, 1999, but prior to January 1, ~~2018~~ 2022, an employer shall be allowed a credit against the taxes imposed by Articles 2 (§ 58.1-320 et seq.), 6 (§ 58.1-360 et seq.), and 10 (§ 58.1-400 et seq.) of Chapter 3; Chapter 12 (§ 58.1-1200 et seq.); Article 1 (§ 58.1-2500 et seq.) of Chapter 25; or Article 2 (§ 58.1-2620 et seq.) of Chapter 26 in an amount equal to 30 percent of all expenditures paid or incurred by the employer during the taxable year for eligible worker retraining. However, for taxable years beginning prior to January 1, 2013, if the eligible worker retraining consists of courses conducted at a private school, the credit shall be in an amount equal to the cost per qualified employee, but the amount of the credit shall not exceed \$100 per qualified employee annually. For taxable years beginning on or after January 1, 2013, if the eligible worker retraining consists of courses conducted at a private school, the credit shall be in an amount equal to the cost per qualified employee, but the amount of the credit shall not exceed \$200 per qualified employee annually, or \$300 per qualified employee annually if the eligible worker retraining includes retraining in a STEM or STEAM discipline including but not limited to industry-recognized credentials, certificates, and certifications. The total amount of tax credits granted to employers under this section for each fiscal year shall not exceed \$2,500,000.

C. For purposes of this section, the amount of any credit attributable to a partnership, electing small business corporation (S corporation), or limited liability company shall be allocated to the individual partners, shareholders, or members, respectively, in proportion to their ownership or interest in such business entities.

D. An employer shall be entitled to the credit granted under this section only for those courses at a community college or a private school which courses have been certified as eligible worker retraining to the Department of Taxation by the ~~Department of Small Business and Supplier Diversity~~ *Virginia Economic Development Partnership Authority*. The Tax Commissioner shall promulgate regulations, in accordance with the Administrative Process Act (§ 2.2-4000 et seq.), (i) establishing procedures for claiming the credit provided by this section, (ii) defining eligible worker retraining, which shall include only those courses and programs that are substantially related to the duties of a qualified employee or that

enhance the qualified employee's job-related skills, and that promote economic development, and (iii) providing for the allocation of credits among employers requesting credits in the event that the amount of credits for which requests are made exceeds the available amount of credits in any year. The ~~Department of Small Business and Supplier Diversity~~ *Virginia Economic Development Partnership Authority* shall review requests for certification submitted by employers and shall advise the Tax Commissioner whether a course or program qualifies as eligible worker retraining and, if it qualifies, whether the course or program is in a STEM or STEAM discipline.

E. Any credit not usable for the taxable year may be carried over for the next three taxable years. The amount of credit allowed pursuant to this section shall not exceed the tax imposed for such taxable year. No credit shall be carried back to a preceding taxable year. If an employer that is subject to the tax limitation imposed pursuant to this subsection is allowed another credit pursuant to any other section of this Code, or has a credit carryover from a preceding taxable year, such employer shall be considered to have first utilized any credit allowed which does not have a carryover provision, and then any credit which is carried forward from a preceding taxable year, prior to the utilization of any credit allowed pursuant to this section.

F. No employer shall be eligible to claim a credit under this section for worker retraining undertaken by any program operated, administered, or paid for by the Commonwealth.

G. The ~~Director of the Department of Small Business and Supplier Diversity~~ *Virginia Economic Development Partnership Authority* shall report annually to the chairmen of the House Finance and Senate Finance Committees on the status and implementation of the credit established by this section, including certifications for eligible worker retraining.

**§ 58.1-439.12:07. Telework expenses tax credit.**

A. As used in this section, unless the context requires a different meaning:

"Eligible telework expenses" means expenses incurred during the taxable year pursuant to a telework agreement, in an amount up to \$1,200 for each participating employee, that enable a participating employee to begin to telework, which expenses are not otherwise the subject of a deduction from income claimed by the employer in any tax year. Such expenses include, but are not limited to, expenses paid or incurred to purchase computers, computer-related hardware and software, modems, data processing equipment, telecommunications equipment, high-speed Internet connectivity equipment, computer security software and devices, and all related delivery, installation, and maintenance fees. Such expenses do not include replacement costs for computers, computer-related hardware and software, modems, data processing equipment, telecommunications equipment, or computer security software and devices at the principal place of business when that equipment is relocated to the telework site. Eligible telework expenses may also include up to a maximum of \$20,000 for conducting a telework assessment on or after January 1, 2012. Such costs shall be ineligible for this credit if they are otherwise taken as a deduction by the employer from income in any taxable year. The costs included and allowed to be taken as a credit include program planning costs, which may include direct program development and training costs, raw labor costs, and professional consulting fees. Such costs shall not include those for which a credit is claimed under any other provision of this chapter. The credit for conducting a telework assessment shall be allowed once for each employer meeting the requirements herein.

"Employer" means any employer subject to the income tax imposed by this chapter.

"Participating employee" means an employee who has entered into a telework agreement with his employer on or after July 1, 2012, in accordance with policies set by the Virginia Department of Rail and Public Transportation. The term shall not include an individual who is self-employed or an individual who ordinarily spends a majority of the workday at a location other than the place where his duties are normally performed.

"Telework" means the performance of normal and regular work functions on a workday at a location different from the place where work functions are normally performed and that is within or closer to the participating employee's residence. The term shall not include home-based businesses, extensions of the workday, or work performed on a weekend or holiday.

"Telework agreement" means an agreement signed by the employer and the participating employee, on or after July 1, 2012, but before January 1, ~~2017~~ 2022, that defines the terms of a telework arrangement, including the number of days per month the participating employee will telework in order to qualify for the credit, and any restrictions on the location from which the employee will telework.

"Telework assessment" means an optional assessment leading to the development of policies and procedures necessary to implement a formal telework program that would qualify the employer for the credit provided in this section, including but not limited to a workforce profile; a telework program business case and plan; a detailed accounting of the purpose, goals, and operating procedures of the telework program; methodologies for measuring telework program activities and success; and a deployment schedule for increasing telework activity.

B. For taxable years beginning on or after January 1, 2012, but before January 1, ~~2017~~ 2022, an employer shall be allowed a credit against the taxes imposed pursuant to Articles 2 (§ 58.1-320 et seq.) and 10 (§ 58.1-400 et seq.) of this chapter for eligible telework expenses incurred during the calendar year that ends during the taxable year. The amount of the credit shall not exceed \$50,000 per employer for each calendar year.

Such expenses may be incurred (i) only once per participating employee and (ii) directly by the employer on behalf of the participating employee or directly by the participating employee and reimbursed by the employer.

C. For purposes of this section, the amount of any credit attributable to a partnership, electing small business corporation (S corporation), or limited liability company shall be allocated to the individual partners, shareholders, or members, respectively, in proportion to their ownership or interest in such business entities.

D. The amount of tax credits available to any employer under this section in any taxable year shall not exceed the employer's tax liability. No unused tax credit shall be carried forward or carried back against the employer's tax liability. An employer shall be ineligible for a tax credit pursuant to this section if such employer claims a credit based on the jobs, wages, or other expenses for the same employee under any other provision of this chapter.

E. An employer seeking to claim a tax credit provided herein shall submit a reservation application to the Tax Commissioner for tentative approval of the credit between September 1 and October 31 of the year preceding the calendar year in which the eligible telework expenses will be incurred. The Tax Commissioner shall establish policies and procedures for the reservation of tax credits by eligible employers. Such policies and procedures shall provide (i) requirements for applying for reservations of tax credits; (ii) a system for allocating the available amount of tax credits among eligible employers; and (iii) a procedure for the cancellation and reallocation of tax credit reservations allocated to eligible employers that, after reserving tax credits, have been determined to be ineligible for all or a portion of the tax credits reserved. Such application shall certify that the employer would not have incurred the eligible telework expenses for which the credit is sought but for the availability of such credit. The Tax Commissioner shall provide tentative approval of the applications no later than December 31 of the year in which the applications are received. When the application and amount of tax credits have been approved and the employer applicant notified, such employer may make purchases approved for the tax credits during the immediately following taxable year or lose the right to such credits.

F. In no event shall the aggregate amount of tax credits approved by the Tax Commissioner exceed \$1 million annually. In the event the credit amounts on the applications filed with the Tax Commissioner exceed the maximum aggregate amount of tax credits, then the tax credits shall be allocated on a pro rata basis based on the amounts allowed by subsection B among the eligible employers who filed timely applications.

G. Actions of the Tax Commissioner relating to the approval or denial of applications for reservations of tax credits pursuant to this section shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

## CHAPTER 455

*An Act to amend and reenact § 37.2-304 of the Code of Virginia, relating to Department of Behavioral Health and Developmental Services; critical incident reports; licensed providers.*

[H 1508]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 37.2-304 of the Code of Virginia is amended and reenacted as follows:**

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

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

1. To supervise and manage the Department and its state facilities.
2. To employ the personnel required to carry out the purposes of this title.
3. To make and enter into all contracts and agreements necessary or incidental to the performance of the Department's duties and the execution of its powers under this title, including contracts with the United States, other states, and agencies and governmental subdivisions of the Commonwealth, consistent with policies and regulations of the Board and applicable federal and state statutes and regulations.
4. To accept, hold, and enjoy gifts, donations, and bequests on behalf of the Department from the United States government, agencies and instrumentalities thereof, and any other source, subject to the approval of the Governor. To these ends, the Commissioner shall have the power to comply with conditions and execute agreements that may be necessary, convenient, or desirable, consistent with policies and regulations of the Board.
5. To accept, execute, and administer any trust in which the Department may have an interest, under the terms of the instruments creating the trust, subject to the approval of the Governor.
6. To transfer between state hospitals and training centers school-age individuals who have been identified as appropriate to be placed in public school programs and to negotiate with other school divisions for placements in order to ameliorate the impact on those school divisions located in a jurisdiction in which a state hospital or training center is located.
7. To provide to the Director of the Commonwealth's designated protection and advocacy system, established pursuant to § 51.5-39.13, a written report setting forth the known facts of (i) critical incidents, *as that term is defined in § 37.2-709.1*, or deaths of individuals receiving services in facilities and (ii) serious injuries, *as that term is defined in regulations adopted by the Board pursuant to § 37.2-400, or deaths of individuals receiving services in programs operated or licensed by the Department* within 15 working days of the critical incident, *serious injury*, or death.
8. To work with the appropriate state and federal entities to ensure that any individual who has received services in a state facility for more than one year has possession of or receives prior to discharge any of the following documents, when they are needed to obtain the services contained in his discharge plan: a Department of Motor Vehicles approved identification card that will expire 90 days from issuance, a copy of his birth certificate if the individual was born in the

Commonwealth, or a social security card from the Social Security Administration. State facility directors, as part of their responsibilities pursuant to § 37.2-837, shall implement this provision when discharging individuals.

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

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

11. To certify individuals as peer providers in accordance with regulations adopted by the Board.

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

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

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

## CHAPTER 456

*An Act to amend and reenact §§ 54.1-2983.2 and 54.1-2986.2 of the Code of Virginia, relating to advance directives.*

[H 1548]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 54.1-2983.2 and 54.1-2986.2 of the Code of Virginia are amended and reenacted as follows:**

**§ 54.1-2983.2. Capacity; required determinations.**

A. Every adult shall be presumed to be capable of making an informed decision unless he is determined to be incapable of making an informed decision in accordance with this article. A determination that a patient is incapable of making an informed decision may apply to a particular health care decision, to a specified set of health care decisions, or to all health care decisions. No person shall be deemed incapable of making an informed decision based solely on a particular clinical diagnosis.

B. ~~Prior~~ *Except as provided in subsection C, prior to providing, continuing, withholding, or withdrawing health care pursuant to an authorization that has been obtained or will be sought pursuant to this article and prior to, or as soon as reasonably practicable after initiating health care for which authorization has been obtained or will be sought pursuant to this article, and no less frequently than every 180 days while the need for health care continues, the attending physician shall certify in writing upon personal examination of the patient that the patient is incapable of making an informed decision regarding health care and shall obtain written certification from a capacity reviewer that, based upon a personal examination of the patient, the patient is incapable of making an informed decision. However, certification by a capacity reviewer shall not be required if the patient is unconscious or experiencing a profound impairment of consciousness due to trauma, stroke, or other acute physiological condition. The capacity reviewer providing written certification that a patient is incapable of making an informed decision, if required, shall not be otherwise currently involved in the treatment of the person assessed, unless an independent capacity reviewer is not reasonably available. The cost of the assessment shall be considered for all purposes a cost of the patient's health care.*

C. *If a person has executed an advance directive granting an agent the authority to consent to the person's admission to a facility as defined in § 37.2-100 for mental health treatment and if the advance directive so authorizes, the person's agent may exercise such authority after a determination that the person is incapable of making an informed decision regarding such admission has been made by (i) the attending physician, (ii) a psychiatrist or licensed clinical psychologist, (iii) a licensed psychiatric nurse practitioner, (iv) a licensed clinical social worker, or (v) a designee of the local community services board as defined in § 37.2-809. Such determination shall be made in writing following an in-person examination of the person and certified by the physician, psychiatrist, licensed clinical psychologist, licensed psychiatric nurse practitioner, licensed clinical social worker, or designee of the local community services board who performed the examination prior to admission or as soon as reasonably practicable thereafter. Admission of a person to a facility as defined in § 37.2-100 for mental health treatment upon the authorization of the person's agent shall be subject to the requirements of § 37.2-805.1. When a person has been admitted to a facility for mental health treatment upon the authorization of an agent following such a determination, such agent may authorize specific health care for the person,*

consistent with the provisions of the person's advance directive, only upon a determination that the person is incapable of making an informed decision regarding such health care in accordance with subsection B.

D. If, at any time, a patient is determined to be incapable of making an informed decision, the patient shall be notified, as soon as practical and to the extent he is capable of receiving such notice, that such determination has been made before providing, continuing, withholding, or withdrawing health care as authorized by this article. Such notice shall also be provided, as soon as practical, to the patient's agent or person authorized by § 54.1-2986 to make health care decisions on his behalf.

~~D.~~ E. A single physician may, at any time, upon personal evaluation, determine that a patient who has previously been determined to be incapable of making an informed decision is now capable of making an informed decision, provided such determination is set forth in writing.

**§ 54.1-2986.2. Health care decisions in the event of patient protest.**

A. Except as provided in subsection B or C, the provisions of this article shall not authorize providing, continuing, withholding or withdrawing health care if the patient's attending physician knows that such action is protested by the patient.

B. A patient's agent may make a health care decision over the protest of a patient who is incapable of making an informed decision if:

1. The patient's advance directive explicitly authorizes the patient's agent to make the health care decision at issue, even over the patient's later protest, and ~~the patient's an attending licensed physician or, a licensed clinical psychologist, a licensed physician assistant, a licensed nurse practitioner, a licensed professional counselor, or a licensed clinical social worker who is familiar with the patient~~ attested in writing at the time the advance directive was made that the patient was capable of making an informed decision and understood the consequences of the provision;

2. The decision does not involve withholding or withdrawing life-prolonging procedures; and

3. The health care that is to be provided, continued, withheld or withdrawn is determined and documented by the patient's attending physician to be medically appropriate and is otherwise permitted by law.

C. In cases in which a patient has not explicitly authorized his agent to make the health care decision at issue over the patient's later protest, a patient's agent or person authorized to make decisions pursuant to § 54.1-2986 may make a decision over the protest of a patient who is incapable of making an informed decision if:

1. The decision does not involve withholding or withdrawing life-prolonging procedures;

2. The decision does not involve (i) admission to a facility as defined in § 37.2-100 or (ii) treatment or care that is subject to regulations adopted pursuant to § 37.2-400;

3. The health care decision is based, to the extent known, on the patient's religious beliefs and basic values and on any preferences previously expressed by the patient in an advance directive or otherwise regarding such health care or, if they are unknown, is in the patient's best interests;

4. The health care that is to be provided, continued, withheld, or withdrawn has been determined and documented by the patient's attending physician to be medically appropriate and is otherwise permitted by law; and

5. The health care that is to be provided, continued, withheld, or withdrawn has been affirmed and documented as being ethically acceptable by the health care facility's patient care consulting committee, if one exists, or otherwise by two physicians not currently involved in the patient's care or in the determination of the patient's capacity to make health care decisions.

D. A patient's protest shall not revoke the patient's advance directive unless it meets the requirements of § 54.1-2985.

E. If a patient protests the authority of a named agent or any person authorized to make health care decisions by § 54.1-2986, except for the patient's guardian, the protested individual shall have no authority under this article to make health care decisions on his behalf unless the patient's advance directive explicitly confers continuing authority on his agent, even over his later protest. If the protested individual is denied authority under this subsection, authority to make health care decisions shall be determined by any other provisions of the patient's advance directive, or in accordance with § 54.1-2986 or in accordance with any other provision of law.

**CHAPTER 457**

*An Act to amend and reenact §§ 8.01-413, 32.1-127.1:03, and 54.1-111 of the Code of Virginia, relating to requests for medical records; fee limits; penalty for failure to provide.*

[H 1689]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 8.01-413, 32.1-127.1:03, and 54.1-111 of the Code of Virginia are amended and reenacted as follows:**

**§ 8.01-413. Certain copies of health care provider's records or papers of patient admissible; right of patient, his attorney and authorized insurer to copies of such records or papers; subpoena; damages, costs and attorney fees.**

A. In any case where the ~~hospital, nursing facility, physician's, or other~~ health care provider's original records or papers of any patient in a hospital or institution for the treatment of physical or mental illness are admissible or would be admissible as evidence, any typewritten copy, photograph, photostatted copy, or microphotograph or printout or other hard

copy generated from computerized or other electronic storage, microfilm, or other photographic, mechanical, electronic, *imaging*, or chemical storage process thereof shall be admissible as evidence in any court of ~~this~~ the Commonwealth in like manner as the original, if the printout or hard copy or microphotograph or photograph is properly authenticated by the employees having authority to release or produce the original records *or papers*.

Any ~~hospital, nursing facility, physician, or other~~ health care provider whose records or papers relating to any such patient are subpoenaed for production as provided by law may comply with the subpoena by a timely mailing to the clerk issuing the subpoena or in whose court the action is pending properly authenticated copies, photographs or microphotographs in lieu of the originals. The court whose clerk issued the subpoena or, in the case of an attorney-issued subpoena, in which the action is pending, may, after notice to such ~~hospital, nursing facility, physician, or other~~ health care provider, enter an order requiring production of the originals, if available, of any stored records or papers whose copies, photographs or microphotographs are not sufficiently legible.

Except as provided in subsection G, the party requesting the subpoena duces tecum or on whose behalf an attorney-issued subpoena duces tecum was issued shall be liable for the reasonable charges of the ~~hospital, nursing facility, physician, or other~~ health care provider for the service of maintaining, retrieving, reviewing, preparing, copying, and mailing the items produced *pursuant to subsections B2, B3, B4, and B6, as applicable*. ~~Except for copies of X-ray photographs, however, such charges shall not exceed \$0.50 for each page up to 50 pages and \$0.25 a page thereafter for copies from paper or other hard copy generated from computerized or other electronic storage, or other photographic, mechanical, electronic, imaging or chemical storage process and \$1 per page for copies from microfilm or other micrographic process, plus all postage and shipping costs and a search and handling fee not to exceed \$10.~~

~~Upon request, a patient's account balance or itemized listing of charges maintained by a health care provider shall be supplied at no cost up to three times every twelve months to either the patient or the patient's attorney.~~

B. Copies of ~~hospital, nursing facility, physician's, or other~~ a health care provider's records or papers shall be furnished within ~~15~~ 30 days of receipt of such request to the patient, his attorney, his executor or administrator, or an authorized insurer upon such patient's, attorney's, executor's, administrator's, or authorized insurer's written request, which request shall comply with the requirements of subsection E of § 32.1-127.1:03. *If a health care provider is unable to provide such records or papers within 30 days of receipt of such request, such provider shall notify the requester of such records or papers in writing of the reason for the delay and shall have no more than 30 days after the date of such written notice to comply with such request.*

However, copies of a patient's records *or papers* shall not be furnished to such patient when the patient's treating physician or clinical psychologist, in the exercise of professional judgment, has made a part of the patient's records *or papers* a written statement that in his opinion the furnishing to or review by the patient of such records *or papers* would be reasonably likely to endanger the life or physical safety of the patient or another person, or that such ~~health~~ records *or papers* make reference to a person, other than a health care provider, and the access requested would be reasonably likely to cause substantial harm to such referenced person. In any such case, if requested by the patient or his attorney or authorized insurer, such records *or papers* shall be furnished within ~~15~~ 30 days of the date of such request to the patient's attorney or authorized insurer, rather than to the patient.

If the records *or papers* are not provided to the patient in accordance with this section, then, if requested by the patient, the ~~hospital, nursing facility, physician, or other~~ health care provider denying the request shall comply with the patient's request to either (i) provide a copy of the records *or papers* to a physician or clinical psychologist of the patient's choice whose licensure, training, and experience, relative to the patient's condition, are at least equivalent to that of the treating physician or clinical psychologist upon whose opinion the denial is based, who shall, at the patient's expense, make a judgment as to whether to make the records *or papers* available to the patient or (ii) designate a physician or clinical psychologist, whose licensure, training, and experience, relative to the patient's condition, are at least equivalent to that of the treating physician or clinical psychologist upon whose opinion the denial is based and who did not participate in the original decision to deny the patient's request for his records *or papers*, who shall, at the expense of the provider denying access to the patient, review the records *or papers* and make a judgment as to whether to make the records *or papers* available to the patient. In either such event, the ~~hospital, nursing facility, physician, or other~~ health care provider denying the request shall comply with the judgment of the reviewing physician or clinical psychologist.

Except as provided in subsection G, a reasonable charge may be made by the ~~hospital, nursing facility, physician or other~~ health care provider maintaining the records *or papers* for the cost of the services relating to the maintenance, retrieval, review, and preparation of the copies of the records *or papers*, *pursuant to subsections B2, B3, B4, and B6, as applicable*. ~~Except for copies of X-ray photographs, however, such charges shall not exceed \$0.50 per page for up to 50 pages and \$0.25 a page thereafter for copies from paper or other hard copy generated from computerized or other electronic storage, or other photographic, mechanical, electronic, imaging or chemical storage process and \$1 per page for copies from microfilm or other micrographic process, a fee for search and handling, not to exceed \$10, and all postage and shipping costs.~~ Any ~~hospital, nursing facility, physician, or other~~ health care provider receiving such a request from a patient's attorney or authorized insurer shall require a writing signed by the patient confirming the attorney's or authorized insurer's authority to make the request, *which shall comply with the requirements of subsection G of § 32.1-127.1:03*, and shall accept a photocopy, facsimile, or other copy of the original signed by the patient as if it were an original.

*B1. A health care provider shall produce the records or papers in either paper, hard copy, or electronic format, as requested by the requester. If the health care provider does not maintain the items being requested in an electronic format*

and does not have the capability to produce such items in an electronic format, such items shall be produced in paper or other hard copy format.

B2. When the records or papers requested pursuant to subsection B1 are produced in paper or hard copy format from records maintained in (i) paper or other hard copy format or (ii) electronic storage, a health care provider may charge the requester a reasonable fee not to exceed \$0.50 per page for up to 50 pages and \$0.25 per page thereafter for such copies, \$1 per page for hard copies from microfilm or other micrographic process, and a fee for search and handling not to exceed \$20, plus all postage and shipping costs.

B3. When the records or papers requested pursuant to subsection B1 are produced in electronic format from records or papers maintained in electronic storage, a health care provider may charge the requester a reasonable fee not to exceed \$0.37 per page for up to 50 pages and \$0.18 per page thereafter for such copies and a fee for search and handling not to exceed \$20, plus all postage and shipping costs. Except as provided in subsection B4, the total amount charged to the requester for records or papers produced in electronic format pursuant to this subsection, including any postage and shipping costs and any search and handling fee, shall not exceed \$150 for any request made on and after July 1, 2017, but prior to July 1, 2021, or \$160 for any request made on or after July 1, 2021.

B4. When any portion of records or papers requested to be produced in electronic format is stored in paper or other hard copy format at the time of the request and not otherwise maintained in electronic storage, a health care provider may charge a fee pursuant to subsection B2 for the production of such portion, and such production of such portion is not subject to any limitations set forth in subsection B3, whether such portion is produced in paper or other hard copy format or converted to electronic format as requested by the requester. Any other portion otherwise maintained in electronic storage shall be produced electronically. The total search and handling fee shall not exceed \$20 for any production made pursuant to this subsection where the production contains both records or papers in electronic format and records or papers in paper or other hard copy format.

B5. Upon request, a patient's account balance or itemized listing of charges maintained by a health care provider shall be supplied at no cost up to three times every ~~twelve~~ 12 months to either the patient or the patient's attorney.

B6. When the record requested is an X-ray series or study or other imaging study and is requested to be produced electronically, a health care provider may charge the requester a reasonable fee, which shall not exceed \$25 per X-ray series or study or other imaging study, and a fee for search and handling, which shall not exceed \$10, plus all postage and shipping costs. When an X-ray series or study or other imaging study is requested to be produced in hard copy format, or when a health care provider does not maintain such X-ray series or study or other imaging study being requested in an electronic format or does not have the capability to produce such X-ray series or study or other imaging study in an electronic format, a health care provider may charge the requester a reasonable fee, which may include a fee for search and handling not to exceed \$10 and the actual cost of supplies for and labor of copying the requested X-ray series or study or other imaging study, plus all postage and shipping costs.

B7. Upon request by the patient, or his attorney, of records or papers as to the cost to produce such records or papers, a health care provider shall inform the patient, or his attorney, of the most cost-effective method to produce such a request pursuant to subsection B2, B3, B4, or B6, as applicable.

B8. Production of records or papers to the patient, or his attorney, requested pursuant to this section shall not be withheld or delayed solely on the grounds of nonpayment for such records or papers.

C. Upon the failure of any ~~hospital, nursing facility, physician, or other~~ health care provider to comply with any written request made in accordance with subsection B within the period of time specified in that subsection and within the manner specified in subsections E and F of § 32.1-127.1:03, the patient, his attorney, his executor or administrator, or authorized insurer may cause a subpoena duces tecum to be issued. The subpoena may be issued (i) upon filing a request therefor with the clerk of the circuit court wherein any eventual suit would be required to be filed, and upon payment of the fees required by subdivision A 18 of § 17.1-275, and fees for service or (ii) by the patient's attorney in a pending civil case in accordance with § 8.01-407 without payment of the fees established in subdivision A 23 of § 17.1-275.

A sheriff shall not be required to serve an attorney-issued subpoena that is not issued at least five business days prior to the date production of the record is desired.

No subpoena duces tecum for records or papers shall set a return date by which the health care provider must comply with such subpoena earlier than 15 days from the date of the subpoena, except by order of a court or administrative agency for good cause shown. When a court or administrative agency orders that records or papers be disclosed pursuant to a subpoena duces tecum earlier than 15 days from the date of the subpoena, a copy of such order shall accompany such subpoena.

As to a subpoena duces tecum issued with at least a 15-day return date, if no motion to quash is filed within 15 days of the issuance of the subpoena, the party requesting the subpoena duces tecum or the party on whose behalf the subpoena was issued shall certify to the subpoenaed health care provider that (a) the time for filing a motion to quash has elapsed and (b) no such motion was filed. Upon receipt of such certification, the subpoenaed health care provider shall comply with the subpoena duces tecum by returning the specified records or papers by either (1) the return date on the subpoena or (2) five days after receipt of such certification, whichever is later.

The subpoena shall be returnable ~~within 20 days of proper service, directing~~ direct the ~~hospital, nursing facility, physician, or other~~ health care provider to produce and furnish copies of the ~~reports and~~ records or papers to the requester or clerk, who shall then make the same available to the patient, his attorney, or his authorized insurer.

If the court finds that a ~~hospital, nursing facility, physician, or other~~ health care provider willfully refused to comply with a written request made in accordance with subsection B, either (A) by ~~willfully or arbitrarily refusing~~ *failing over the previous six-month period to respond to a second or subsequent written request, properly submitted to the health care provider in writing with complete required information, without good cause* or (B) by imposing a charge in excess of the reasonable expense of making the copies and processing the request for records *or papers*, the court may award damages for all expenses incurred by the patient or authorized insurer to obtain such copies, including *a refund of fees if payment has been made for such copies*, court costs, and reasonable ~~attorney's~~ attorney fees.

*If the court further finds that such subpoenaed records or papers, subpoenaed pursuant to this subsection, or requested records or papers, requested pursuant to subsection B, are not produced for a reason other than compliance with § 32.1-127.1:03 or an inability to retrieve or access such records or papers, as communicated in writing to the subpoenaing party or requester within the time period required by subsection B, such subpoenaing party or requester shall be entitled to a rebuttable presumption that expenses and attorney fees related to the failure to produce such records or papers shall be awarded by the court.*

D. The provisions of ~~subsections A, B, and C~~ *hereof* of this section shall apply to any health care provider whose office is located within or ~~without~~ *outside* the Commonwealth if the records pertain to any patient who is a party to a cause of action in any court in the Commonwealth of Virginia, and shall apply only to requests made by the patient, his attorney, his executor or administrator, or any authorized insurer, in anticipation of litigation or in the course of litigation.

E. ~~Health care provider, as~~ *As* used in this section, shall have "health care provider" has the same meaning as provided in § 32.1-127.1:03 and ~~shall also include~~ *includes* an independent medical copy retrieval service contracted to provide the service of retrieving, reviewing, and preparing such copies for distribution.

F. Notwithstanding the authorization to admit as evidence patient records in the form of microphotographs, prescription dispensing records maintained in or on behalf of any pharmacy registered or permitted in ~~Virginia~~ *the Commonwealth* shall only be stored in compliance with §§ 54.1-3410, 54.1-3411 and 54.1-3412.

G. The provisions of this section governing fees that may be charged by a health care provider whose records are subpoenaed or requested pursuant to this section shall not apply in the case of any request by a patient for a copy of his own records, which shall be governed by subsection J of § 32.1-127.1:03. This subsection shall not be construed to affect other provisions of state or federal statute, regulation or any case decision relating to charges by health care providers for copies of records requested by any person other than a patient when requesting his own records pursuant to subsection J of § 32.1-127.1:03.

#### § 32.1-127.1:03. Health records privacy.

A. There is hereby recognized an individual's right of privacy in the content of his health records. Health records are the property of the health care entity maintaining them, and, except when permitted or required by this section or by other provisions of state law, no health care entity, or other person working in a health care setting, may disclose an individual's health records.

Pursuant to this subsection:

1. Health care entities shall disclose health records to the individual who is the subject of the health record, except as provided in subsections E and F and subsection B of § 8.01-413.

2. Health records shall not be removed from the premises where they are maintained without the approval of the health care entity that maintains such health records, except in accordance with a court order or subpoena consistent with subsection C of § 8.01-413 or with this section or in accordance with the regulations relating to change of ownership of health records promulgated by a health regulatory board established in Title 54.1.

3. No person to whom health records are disclosed shall redisclose or otherwise reveal the health records of an individual, beyond the purpose for which such disclosure was made, without first obtaining the individual's specific authorization to such redisclosure. This redisclosure prohibition shall not, however, prevent (i) any health care entity that receives health records from another health care entity from making subsequent disclosures as permitted under this section and the federal Department of Health and Human Services regulations relating to privacy of the electronic transmission of data and protected health information promulgated by the United States Department of Health and Human Services as required by the Health Insurance Portability and Accountability Act (HIPAA)(42 U.S.C. § 1320d et seq.) or (ii) any health care entity from furnishing health records and aggregate or other data, from which individually identifying prescription information has been removed, encoded or encrypted, to qualified researchers, including, but not limited to, pharmaceutical manufacturers and their agents or contractors, for purposes of clinical, pharmaco-epidemiological, pharmaco-economic, or other health services research.

4. Health care entities shall, upon the request of the individual who is the subject of the health record, disclose health records to other health care entities, in any available format of the ~~requester's~~ *requester's* choosing, as provided in subsection E.

B. As used in this section:

"Agent" means a person who has been appointed as an individual's agent under a power of attorney for health care or an advance directive under the Health Care Decisions Act (§ 54.1-2981 et seq.).

"Certification" means a written representation that is delivered by hand, by first-class mail, by overnight delivery service, or by facsimile if the sender obtains a facsimile-machine-generated confirmation reflecting that all facsimile pages were successfully transmitted.

"Guardian" means a court-appointed guardian of the person.

"Health care clearinghouse" means, consistent with the definition set out in 45 C.F.R. § 160.103, a public or private entity, such as a billing service, repricing company, community health management information system or community health information system, and "value-added" networks and switches, that performs either of the following functions: (i) processes or facilitates the processing of health information received from another entity in a nonstandard format or containing nonstandard data content into standard data elements or a standard transaction; or (ii) receives a standard transaction from another entity and processes or facilitates the processing of health information into nonstandard format or nonstandard data content for the receiving entity.

"Health care entity" means any health care provider, health plan or health care clearinghouse.

"Health care provider" means those entities listed in the definition of "health care provider" in § 8.01-581.1, except that state-operated facilities shall also be considered health care providers for the purposes of this section. Health care provider shall also include all persons who are licensed, certified, registered or permitted or who hold a multistate licensure privilege issued by any of the health regulatory boards within the Department of Health Professions, except persons regulated by the Board of Funeral Directors and Embalmers or the Board of Veterinary Medicine.

"Health plan" means an individual or group plan that provides, or pays the cost of, medical care. "Health plan" ~~shall include~~ includes any entity included in such definition as set out in 45 C.F.R. § 160.103.

"Health record" means any written, printed or electronically recorded material maintained by a health care entity in the course of providing health services to an individual concerning the individual and the services provided. "Health record" also includes the substance of any communication made by an individual to a health care entity in confidence during or in connection with the provision of health services or information otherwise acquired by the health care entity about an individual in confidence and in connection with the provision of health services to the individual.

"Health services" means, but shall not be limited to, examination, diagnosis, evaluation, treatment, pharmaceuticals, aftercare, habilitation or rehabilitation and mental health therapy of any kind, as well as payment or reimbursement for any such services.

"Individual" means a patient who is receiving or has received health services from a health care entity.

"Individually identifying prescription information" means all prescriptions, drug orders or any other prescription information that specifically identifies an individual.

"Parent" means a biological, adoptive or foster parent.

"Psychotherapy notes" means comments, recorded in any medium by a health care provider who is a mental health professional, documenting or analyzing the contents of conversation during a private counseling session with an individual or a group, joint, or family counseling session that are separated from the rest of the individual's health record. "Psychotherapy notes" ~~shall~~ does not include annotations relating to medication and prescription monitoring, counseling session start and stop times, treatment modalities and frequencies, clinical test results, or any summary of any symptoms, diagnosis, prognosis, functional status, treatment plan, or the individual's progress to date.

C. The provisions of this section shall not apply to any of the following:

1. The status of and release of information governed by §§ 65.2-604 and 65.2-607 of the Virginia Workers' Compensation Act;

2. Except where specifically provided herein, the health records of minors; or

3. The release of juvenile health records to a secure facility or a shelter care facility pursuant to § 16.1-248.3.

D. Health care entities may, and, when required by other provisions of state law, shall, disclose health records:

1. As set forth in subsection E, pursuant to the written authorization of (i) the individual or (ii) in the case of a minor, (a) his custodial parent, guardian or other person authorized to consent to treatment of minors pursuant to § 54.1-2969 or (b) the minor himself, if he has consented to his own treatment pursuant to § 54.1-2969, or (iii) in emergency cases or situations where it is impractical to obtain an individual's written authorization, pursuant to the individual's oral authorization for a health care provider or health plan to discuss the individual's health records with a third party specified by the individual;

2. In compliance with a subpoena issued in accord with subsection H, pursuant to a search warrant or a grand jury subpoena, pursuant to court order upon good cause shown or in compliance with a subpoena issued pursuant to subsection C of § 8.01-413. Regardless of the manner by which health records relating to an individual are compelled to be disclosed pursuant to this subdivision, nothing in this subdivision shall be construed to prohibit any staff or employee of a health care entity from providing information about such individual to a law-enforcement officer in connection with such subpoena, search warrant, or court order;

3. In accord with subsection F of § 8.01-399 including, but not limited to, situations where disclosure is reasonably necessary to establish or collect a fee or to defend a health care entity or the health care entity's employees or staff against any accusation of wrongful conduct; also as required in the course of an investigation, audit, review or proceedings regarding a health care entity's conduct by a duly authorized law-enforcement, licensure, accreditation, or professional review entity;

4. In testimony in accordance with §§ 8.01-399 and 8.01-400.2;

5. In compliance with the provisions of § 8.01-413;

6. As required or authorized by law relating to public health activities, health oversight activities, serious threats to health or safety, or abuse, neglect or domestic violence, relating to contagious disease, public safety, and suspected child or

adult abuse reporting requirements, including, but not limited to, those contained in §§ 32.1-36, 32.1-36.1, 32.1-40, 32.1-41, 32.1-127.1:04, 32.1-276.5, 32.1-283, 32.1-283.1, 32.1-320, 37.2-710, 37.2-839, 53.1-40.10, 54.1-2400.6, 54.1-2400.7, 54.1-2403.3, 54.1-2506, 54.1-2966, 54.1-2966.1, 54.1-2967, 54.1-2968, 54.1-3408.2, 63.2-1509, and 63.2-1606;

7. Where necessary in connection with the care of the individual;

8. In connection with the health care entity's own health care operations or the health care operations of another health care entity, as specified in 45 C.F.R. § 164.501, or in the normal course of business in accordance with accepted standards of practice within the health services setting; however, the maintenance, storage, and disclosure of the mass of prescription dispensing records maintained in a pharmacy registered or permitted in Virginia shall only be accomplished in compliance with §§ 54.1-3410, 54.1-3411, and 54.1-3412;

9. When the individual has waived his right to the privacy of the health records;

10. When examination and evaluation of an individual are undertaken pursuant to judicial or administrative law order, but only to the extent as required by such order;

11. To the guardian ad litem and any attorney representing the respondent in the course of a guardianship proceeding of an adult patient who is the respondent in a proceeding under Chapter 20 (§ 64.2-2000 et seq.) of Title 64.2;

12. To the guardian ad litem and any attorney appointed by the court to represent an individual who is or has been a patient who is the subject of a commitment proceeding under § 19.2-169.6, Article 5 (§ 37.2-814 et seq.) of Chapter 8 of Title 37.2, Article 16 (§ 16.1-335 et seq.) of Chapter 11 of Title 16.1, or a judicial authorization for treatment proceeding pursuant to Chapter 11 (§ 37.2-1100 et seq.) of Title 37.2;

13. To a magistrate, the court, the evaluator or examiner required under Article 16 (§ 16.1-335 et seq.) of Chapter 11 of Title 16.1 or § 37.2-815, a community services board or behavioral health authority or a designee of a community services board or behavioral health authority, or a law-enforcement officer participating in any proceeding under Article 16 (§ 16.1-335 et seq.) of Chapter 11 of Title 16.1, § 19.2-169.6, or Chapter 8 (§ 37.2-800 et seq.) of Title 37.2 regarding the subject of the proceeding, and to any health care provider evaluating or providing services to the person who is the subject of the proceeding or monitoring the person's adherence to a treatment plan ordered under those provisions. Health records disclosed to a law-enforcement officer shall be limited to information necessary to protect the officer, the person, or the public from physical injury or to address the health care needs of the person. Information disclosed to a law-enforcement officer shall not be used for any other purpose, disclosed to others, or retained;

14. To the attorney and/or guardian ad litem of a minor who represents such minor in any judicial or administrative proceeding, if the court or administrative hearing officer has entered an order granting the attorney or guardian ad litem this right and such attorney or guardian ad litem presents evidence to the health care entity of such order;

15. With regard to the Court-Appointed Special Advocate (CASA) program, a minor's health records in accord with § 9.1-156;

16. To an agent appointed under an individual's power of attorney or to an agent or decision maker designated in an individual's advance directive for health care or for decisions on anatomical gifts and organ, tissue or eye donation or to any other person consistent with the provisions of the Health Care Decisions Act (§ 54.1-2981 et seq.);

17. To third-party payors and their agents for purposes of reimbursement;

18. As is necessary to support an application for receipt of health care benefits from a governmental agency or as required by an authorized governmental agency reviewing such application or reviewing benefits already provided or as necessary to the coordination of prevention and control of disease, injury, or disability and delivery of such health care benefits pursuant to § 32.1-127.1:04;

19. Upon the sale of a medical practice as provided in § 54.1-2405; or upon a change of ownership or closing of a pharmacy pursuant to regulations of the Board of Pharmacy;

20. In accord with subsection B of § 54.1-2400.1, to communicate an individual's specific and immediate threat to cause serious bodily injury or death of an identified or readily identifiable person;

21. Where necessary in connection with the implementation of a hospital's routine contact process for organ donation pursuant to subdivision B 4 of § 32.1-127;

22. In the case of substance abuse records, when permitted by and in conformity with requirements of federal law found in 42 U.S.C. § 290dd-2 and 42 C.F.R. Part 2;

23. In connection with the work of any entity established as set forth in § 8.01-581.16 to evaluate the adequacy or quality of professional services or the competency and qualifications for professional staff privileges;

24. If the health records are those of a deceased or mentally incapacitated individual to the personal representative or executor of the deceased individual or the legal guardian or committee of the incompetent or incapacitated individual or if there is no personal representative, executor, legal guardian or committee appointed, to the following persons in the following order of priority: a spouse, an adult son or daughter, either parent, an adult brother or sister, or any other relative of the deceased individual in order of blood relationship;

25. For the purpose of conducting record reviews of inpatient hospital deaths to promote identification of all potential organ, eye, and tissue donors in conformance with the requirements of applicable federal law and regulations, including 42 C.F.R. § 482.45, (i) to the health care provider's designated organ procurement organization certified by the United States Health Care Financing Administration and (ii) to any eye bank or tissue bank in Virginia certified by the Eye Bank Association of America or the American Association of Tissue Banks;

26. To the Office of the State Inspector General pursuant to Chapter 3.2 (§ 2.2-307 et seq.) of Title 2.2;

27. To an entity participating in the activities of a local health partnership authority established pursuant to Article 6.1 (§ 32.1-122.10:001 et seq.) of Chapter 4, pursuant to subdivision 1;

28. To law-enforcement officials by each licensed emergency medical services agency, (i) when the individual is the victim of a crime or (ii) when the individual has been arrested and has received emergency medical services or has refused emergency medical services and the health records consist of the prehospital patient care report required by § 32.1-116.1;

29. To law-enforcement officials, in response to their request, for the purpose of identifying or locating a suspect, fugitive, person required to register pursuant to § 9.1-901 of the Sex Offender and Crimes Against Minors Registry Act, material witness, or missing person, provided that only the following information may be disclosed: (i) name and address of the person, (ii) date and place of birth of the person, (iii) social security number of the person, (iv) blood type of the person, (v) date and time of treatment received by the person, (vi) date and time of death of the person, where applicable, (vii) description of distinguishing physical characteristics of the person, and (viii) type of injury sustained by the person;

30. To law-enforcement officials regarding the death of an individual for the purpose of alerting law enforcement of the death if the health care entity has a suspicion that such death may have resulted from criminal conduct;

31. To law-enforcement officials if the health care entity believes in good faith that the information disclosed constitutes evidence of a crime that occurred on its premises;

32. To the State Health Commissioner pursuant to § 32.1-48.015 when such records are those of a person or persons who are subject to an order of quarantine or an order of isolation pursuant to Article 3.02 (§ 32.1-48.05 et seq.) of Chapter 2;

33. To the Commissioner of the Department of Labor and Industry or his designee by each licensed emergency medical services agency when the records consist of the prehospital patient care report required by § 32.1-116.1 and the patient has suffered an injury or death on a work site while performing duties or tasks that are within the scope of his employment;

34. To notify a family member or personal representative of an individual who is the subject of a proceeding pursuant to Article 16 (§ 16.1-335 et seq.) of Chapter 11 of Title 16.1 or Chapter 8 (§ 37.2-800 et seq.) of Title 37.2 of information that is directly relevant to such person's involvement with the individual's health care, which may include the individual's location and general condition, when the individual has the capacity to make health care decisions and (i) the individual has agreed to the notification, (ii) the individual has been provided an opportunity to object to the notification and does not express an objection, or (iii) the health care provider can, on the basis of his professional judgment, reasonably infer from the circumstances that the individual does not object to the notification. If the opportunity to agree or object to the notification cannot practicably be provided because of the individual's incapacity or an emergency circumstance, the health care provider may notify a family member or personal representative of the individual of information that is directly relevant to such person's involvement with the individual's health care, which may include the individual's location and general condition if the health care provider, in the exercise of his professional judgment, determines that the notification is in the best interests of the individual. Such notification shall not be made if the provider has actual knowledge the family member or personal representative is currently prohibited by court order from contacting the individual;

~~35. To a threat assessment team established by a local school board pursuant to § 22.1-79.4, by a public institution of higher education pursuant to § 23-9.2:10, or by a private nonprofit institution of higher education; and~~

35. To a threat assessment team established by a local school board pursuant to § 22.1-79.4, by a public institution of higher education pursuant to § 23.1-805, or by a private nonprofit institution of higher education; and

36. To a regional emergency medical services council pursuant to § 32.1-116.1, for purposes limited to monitoring and improving the quality of emergency medical services pursuant to § 32.1-111.3.

Notwithstanding the provisions of subdivisions 1 through 35, a health care entity shall obtain an individual's written authorization for any disclosure of psychotherapy notes, except when disclosure by the health care entity is (i) for its own training programs in which students, trainees, or practitioners in mental health are being taught under supervision to practice or to improve their skills in group, joint, family, or individual counseling; (ii) to defend itself or its employees or staff against any accusation of wrongful conduct; (iii) in the discharge of the duty, in accordance with subsection B of § 54.1-2400.1, to take precautions to protect third parties from violent behavior or other serious harm; (iv) required in the course of an investigation, audit, review, or proceeding regarding a health care entity's conduct by a duly authorized law-enforcement, licensure, accreditation, or professional review entity; or (v) otherwise required by law.

E. Health care records required to be disclosed pursuant to this section shall be made available electronically only to the extent and in the manner authorized by the federal Health Information Technology for Economic and Clinical Health Act (P.L. 111-5) and implementing regulations and the Health Insurance Portability and Accountability Act (42 U.S.C. § 1320d et seq.) and implementing regulations. Notwithstanding any other provision to the contrary, a health care entity shall not be required to provide records in an electronic format requested if (i) the electronic format is not reasonably available without additional cost to the health care entity, (ii) the records would be subject to modification in the format requested, or (iii) the health care entity determines that the integrity of the records could be compromised in the electronic format requested. Requests for copies of or electronic access to health records shall (a) be in writing, dated and signed by the requester; (b) identify the nature of the information requested; and (c) include evidence of the authority of the requester to receive such copies or access such records, and identification of the person to whom the information is to be disclosed; and (d) specify whether the requester would like the records in electronic format, if available, or in paper format. The health care entity shall accept a photocopy, facsimile, or other copy of the original signed by the ~~requester~~ requester as if it were an original. Within ~~15~~ 30 days of receipt of a request for copies of or electronic access to health records, the health care entity shall do one of the following: ~~(A)~~ (1) furnish such copies of or allow electronic access to the requested health records to any

requester authorized to receive them in electronic format if so requested; ~~(B)~~ (2) inform the requester if the information does not exist or cannot be found; ~~(C)~~ (3) if the health care entity does not maintain a record of the information, so inform the requester and provide the name and address, if known, of the health care entity who maintains the record; or ~~(D)~~ (4) deny the request ~~(A)~~ (A) under subsection F, ~~(B)~~ (B) on the grounds that the requester has not established his authority to receive such health records or proof of his identity, or ~~(C)~~ (C) as other provided by law. Procedures set forth in this section shall apply only to requests for health records not specifically governed by other provisions of state law.

F. Except as provided in subsection B of § 8.01-413, copies of or electronic access to an individual's health records shall not be furnished to such individual or anyone authorized to act on the individual's behalf when the individual's treating physician or the individual's treating clinical psychologist has made a part of the individual's record a written statement that, in the exercise of his professional judgment, the furnishing to or review by the individual of such health records would be reasonably likely to endanger the life or physical safety of the individual or another person, or that such health record makes reference to a person other than a health care provider and the access requested would be reasonably likely to cause substantial harm to such referenced person. If any health care entity denies a request for copies of or electronic access to health records based on such statement, the health care entity shall inform the individual of the individual's right to designate, in writing, at his own expense, another reviewing physician or clinical psychologist, whose licensure, training and experience relative to the individual's condition are at least equivalent to that of the physician or clinical psychologist upon whose opinion the denial is based. The designated reviewing physician or clinical psychologist shall make a judgment as to whether to make the health record available to the individual.

The health care entity denying the request shall also inform the individual of the individual's right to request in writing that such health care entity designate, at its own expense, a physician or clinical psychologist, whose licensure, training, and experience relative to the individual's condition are at least equivalent to that of the physician or clinical psychologist upon whose professional judgment the denial is based and who did not participate in the original decision to deny the health records, who shall make a judgment as to whether to make the health record available to the individual. The health care entity shall comply with the judgment of the reviewing physician or clinical psychologist. The health care entity shall permit copying and examination of the health record by such other physician or clinical psychologist designated by either the individual at his own expense or by the health care entity at its expense.

Any health record copied for review by any such designated physician or clinical psychologist shall be accompanied by a statement from the custodian of the health record that the individual's treating physician or clinical psychologist determined that the individual's review of his health record would be reasonably likely to endanger the life or physical safety of the individual or would be reasonably likely to cause substantial harm to a person referenced in the health record who is not a health care provider.

Further, nothing herein shall be construed as giving, or interpreted to bestow the right to receive copies of, or otherwise obtain access to, psychotherapy notes to any individual or any person authorized to act on his behalf.

G. A written authorization to allow release of an individual's health records shall substantially include the following information:

**AUTHORIZATION TO RELEASE CONFIDENTIAL HEALTH RECORDS**

Individual's Name \_\_\_\_\_  
Health Care Entity's Name \_\_\_\_\_  
Person, Agency, or Health Care Entity to whom disclosure is to be made \_\_\_\_\_  
\_\_\_\_\_  
Information or Health Records to be disclosed \_\_\_\_\_  
\_\_\_\_\_  
Purpose of Disclosure or at the Request of the Individual \_\_\_\_\_

As the person signing this authorization, I understand that I am giving my permission to the above-named health care entity for disclosure of confidential health records. I understand that the health care entity may not condition treatment or payment on my willingness to sign this authorization unless the specific circumstances under which such conditioning is permitted by law are applicable and are set forth in this authorization. I also understand that I have the right to revoke this authorization at any time, but that my revocation is not effective until delivered in writing to the person who is in possession of my health records and is not effective as to health records already disclosed under this authorization. A copy of this authorization and a notation concerning the persons or agencies to whom disclosure was made shall be included with my original health records. I understand that health information disclosed under this authorization might be redisclosed by a recipient and may, as a result of such disclosure, no longer be protected to the same extent as such health information was protected by law while solely in the possession of the health care entity.

This authorization expires on (date) or (event) \_\_\_\_\_  
Signature of Individual or Individual's Legal Representative if Individual is Unable to Sign \_\_\_\_\_

Relationship or Authority of Legal Representative \_\_\_\_\_  
\_\_\_\_\_  
Date of Signature \_\_\_\_\_

H. Pursuant to this subsection:

1. Unless excepted from these provisions in subdivision 9, no party to a civil, criminal or administrative action or proceeding shall request the issuance of a subpoena duces tecum for another party's health records or cause a subpoena duces tecum to be issued by an attorney unless a copy of the request for the subpoena or a copy of the attorney-issued subpoena is provided to the other party's counsel or to the other party if pro se, simultaneously with filing the request or issuance of the subpoena. No party to an action or proceeding shall request or cause the issuance of a subpoena duces tecum for the health records of a nonparty witness unless a copy of the request for the subpoena or a copy of the attorney-issued subpoena is provided to the nonparty witness simultaneously with filing the request or issuance of the attorney-issued subpoena.

No subpoena duces tecum for health records shall set a return date earlier than 15 days from the date of the subpoena except by order of a court or administrative agency for good cause shown. When a court or administrative agency directs that health records be disclosed pursuant to a subpoena duces tecum earlier than 15 days from the date of the subpoena, a copy of the order shall accompany the subpoena.

Any party requesting a subpoena duces tecum for health records or on whose behalf the subpoena duces tecum is being issued shall have the duty to determine whether the individual whose health records are being sought is pro se or a nonparty.

In instances where health records being subpoenaed are those of a pro se party or nonparty witness, the party requesting or issuing the subpoena shall deliver to the pro se party or nonparty witness together with the copy of the request for subpoena, or a copy of the subpoena in the case of an attorney-issued subpoena, a statement informing them of their rights and remedies. The statement shall include the following language and the heading shall be in boldface capital letters:

**NOTICE TO INDIVIDUAL**

The attached document means that (insert name of party requesting or causing issuance of the subpoena) has either asked the court or administrative agency to issue a subpoena or a subpoena has been issued by the other party's attorney to your doctor, other health care providers (names of health care providers inserted here) or other health care entity (name of health care entity to be inserted here) requiring them to produce your health records. Your doctor, other health care provider or other health care entity is required to respond by providing a copy of your health records. If you believe your health records should not be disclosed and object to their disclosure, you have the right to file a motion with the clerk of the court or the administrative agency to quash the subpoena. If you elect to file a motion to quash, such motion must be filed within 15 days of the date of the request or of the attorney-issued subpoena. You may contact the clerk's office or the administrative agency to determine the requirements that must be satisfied when filing a motion to quash and you may elect to contact an attorney to represent your interest. If you elect to file a motion to quash, you must notify your doctor, other health care provider(s), or other health care entity, that you are filing the motion so that the health care provider or health care entity knows to send the health records to the clerk of court or administrative agency in a sealed envelope or package for safekeeping while your motion is decided.

2. Any party filing a request for a subpoena duces tecum or causing such a subpoena to be issued for an individual's health records shall include a Notice in the same part of the request in which the recipient of the subpoena duces tecum is directed where and when to return the health records. Such notice shall be in boldface capital letters and shall include the following language:

**NOTICE TO HEALTH CARE ENTITIES**

**A COPY OF THIS SUBPOENA DUCES TECUM HAS BEEN PROVIDED TO THE INDIVIDUAL WHOSE HEALTH RECORDS ARE BEING REQUESTED OR HIS COUNSEL. YOU OR THAT INDIVIDUAL HAS THE RIGHT TO FILE A MOTION TO QUASH (OBJECT TO) THE ATTACHED SUBPOENA. IF YOU ELECT TO FILE A MOTION TO QUASH, YOU MUST FILE THE MOTION WITHIN 15 DAYS OF THE DATE OF THIS SUBPOENA.**

**YOU MUST NOT RESPOND TO THIS SUBPOENA UNTIL YOU HAVE RECEIVED WRITTEN CERTIFICATION FROM THE PARTY ON WHOSE BEHALF THE SUBPOENA WAS ISSUED THAT THE TIME FOR FILING A MOTION TO QUASH HAS ELAPSED AND THAT:**

**NO MOTION TO QUASH WAS FILED; OR**

**ANY MOTION TO QUASH HAS BEEN RESOLVED BY THE COURT OR THE ADMINISTRATIVE AGENCY AND THE DISCLOSURES SOUGHT ARE CONSISTENT WITH SUCH RESOLUTION.**

**IF YOU RECEIVE NOTICE THAT THE INDIVIDUAL WHOSE HEALTH RECORDS ARE BEING REQUESTED HAS FILED A MOTION TO QUASH THIS SUBPOENA, OR IF YOU FILE A MOTION TO QUASH THIS SUBPOENA, YOU MUST SEND THE HEALTH RECORDS ONLY TO THE CLERK OF THE COURT OR ADMINISTRATIVE AGENCY THAT ISSUED THE SUBPOENA OR IN WHICH THE ACTION IS PENDING AS SHOWN ON THE SUBPOENA USING THE FOLLOWING PROCEDURE:**

**PLACE THE HEALTH RECORDS IN A SEALED ENVELOPE AND ATTACH TO THE SEALED ENVELOPE A COVER LETTER TO THE CLERK OF COURT OR ADMINISTRATIVE AGENCY WHICH STATES THAT CONFIDENTIAL HEALTH RECORDS ARE ENCLOSED AND ARE TO BE HELD UNDER SEAL PENDING A RULING ON THE MOTION TO QUASH THE SUBPOENA. THE SEALED ENVELOPE AND THE COVER LETTER SHALL BE PLACED IN AN OUTER ENVELOPE OR PACKAGE FOR TRANSMITTAL TO THE COURT OR ADMINISTRATIVE AGENCY.**

3. Upon receiving a valid subpoena duces tecum for health records, health care entities shall have the duty to respond to the subpoena in accordance with the provisions of subdivisions 4, 5, 6, 7, and 8.

4. Except to deliver to a clerk of the court or administrative agency subpoenaed health records in a sealed envelope as set forth, health care entities shall not respond to a subpoena duces tecum for such health records until they have received a certification as set forth in subdivision 5 or 8 from the party on whose behalf the subpoena duces tecum was issued.

If the health care entity has actual receipt of notice that a motion to quash the subpoena has been filed or if the health care entity files a motion to quash the subpoena for health records, then the health care entity shall produce the health records, in a securely sealed envelope, to the clerk of the court or administrative agency issuing the subpoena or in whose court or administrative agency the action is pending. The court or administrative agency shall place the health records under seal until a determination is made regarding the motion to quash. The securely sealed envelope shall only be opened on order of the judge or administrative agency. In the event the court or administrative agency grants the motion to quash, the health records shall be returned to the health care entity in the same sealed envelope in which they were delivered to the court or administrative agency. In the event that a judge or administrative agency orders the sealed envelope to be opened to review the health records in camera, a copy of the order shall accompany any health records returned to the health care entity. The health records returned to the health care entity shall be in a securely sealed envelope.

5. If no motion to quash is filed within 15 days of the date of the request or of the attorney-issued subpoena, the party on whose behalf the subpoena was issued shall have the duty to certify to the subpoenaed health care entity that the time for filing a motion to quash has elapsed and that no motion to quash was filed. Any health care entity receiving such certification shall have the duty to comply with the subpoena duces tecum by returning the specified health records by either the return date on the subpoena or five days after receipt of the certification, whichever is later.

6. In the event that the individual whose health records are being sought files a motion to quash the subpoena, the court or administrative agency shall decide whether good cause has been shown by the discovering party to compel disclosure of the individual's health records over the individual's objections. In determining whether good cause has been shown, the court or administrative agency shall consider (i) the particular purpose for which the information was collected; (ii) the degree to which the disclosure of the records would embarrass, injure, or invade the privacy of the individual; (iii) the effect of the disclosure on the individual's future health care; (iv) the importance of the information to the lawsuit or proceeding; and (v) any other relevant factor.

7. Concurrent with the court or administrative agency's resolution of a motion to quash, if subpoenaed health records have been submitted by a health care entity to the court or administrative agency in a sealed envelope, the court or administrative agency shall: (i) upon determining that no submitted health records should be disclosed, return all submitted health records to the health care entity in a sealed envelope; (ii) upon determining that all submitted health records should be disclosed, provide all the submitted health records to the party on whose behalf the subpoena was issued; or (iii) upon determining that only a portion of the submitted health records should be disclosed, provide such portion to the party on whose behalf the subpoena was issued and return the remaining health records to the health care entity in a sealed envelope.

8. Following the court or administrative agency's resolution of a motion to quash, the party on whose behalf the subpoena duces tecum was issued shall have the duty to certify in writing to the subpoenaed health care entity a statement of one of the following:

a. All filed motions to quash have been resolved by the court or administrative agency and the disclosures sought in the subpoena duces tecum are consistent with such resolution; and, therefore, the health records previously delivered in a sealed envelope to the clerk of the court or administrative agency will not be returned to the health care entity;

b. All filed motions to quash have been resolved by the court or administrative agency and the disclosures sought in the subpoena duces tecum are consistent with such resolution and that, since no health records have previously been delivered to the court or administrative agency by the health care entity, the health care entity shall comply with the subpoena duces tecum by returning the health records designated in the subpoena by the return date on the subpoena or five days after receipt of certification, whichever is later;

c. All filed motions to quash have been resolved by the court or administrative agency and the disclosures sought in the subpoena duces tecum are not consistent with such resolution; therefore, no health records shall be disclosed and all health records previously delivered in a sealed envelope to the clerk of the court or administrative agency will be returned to the health care entity;

d. All filed motions to quash have been resolved by the court or administrative agency and the disclosures sought in the subpoena duces tecum are not consistent with such resolution and that only limited disclosure has been authorized. The certification shall state that only the portion of the health records as set forth in the certification, consistent with the court or administrative agency's ruling, shall be disclosed. The certification shall also state that health records that were previously delivered to the court or administrative agency for which disclosure has been authorized will not be returned to the health care entity; however, all health records for which disclosure has not been authorized will be returned to the health care entity; or

e. All filed motions to quash have been resolved by the court or administrative agency and the disclosures sought in the subpoena duces tecum are not consistent with such resolution and, since no health records have previously been delivered to the court or administrative agency by the health care entity, the health care entity shall return only those health records specified in the certification, consistent with the court or administrative agency's ruling, by the return date on the subpoena or five days after receipt of the certification, whichever is later.

A copy of the court or administrative agency's ruling shall accompany any certification made pursuant to this subdivision.

9. The provisions of this subsection have no application to subpoenas for health records requested under § 8.01-413, or issued by a duly authorized administrative agency conducting an investigation, audit, review or proceedings regarding a health care entity's conduct.

The provisions of this subsection shall apply to subpoenas for the health records of both minors and adults.

Nothing in this subsection shall have any effect on the existing authority of a court or administrative agency to issue a protective order regarding health records, including, but not limited to, ordering the return of health records to a health care entity, after the period for filing a motion to quash has passed.

A subpoena for substance abuse records must conform to the requirements of federal law found in 42 C.F.R. Part 2, Subpart E.

I. Health care entities may testify about the health records of an individual in compliance with §§ 8.01-399 and 8.01-400.2.

J. If an individual requests a copy of his health record from a health care entity, the health care entity may impose a reasonable cost-based fee, which shall include only the cost of supplies for and labor of copying the requested information, postage when the individual requests that such information be mailed, and preparation of an explanation or summary of such information as agreed to by the individual. For the purposes of this section, "individual" shall subsume a person with authority to act on behalf of the individual who is the subject of the health record in making decisions related to his health care.

K. Nothing in this section shall prohibit a health care provider who prescribes or dispenses a controlled substance required to be reported to the Prescription Monitoring Program established pursuant to Chapter 25.2 (§ 54.1-2519 et seq.) of Title 54.1 to a patient from disclosing information obtained from the Prescription Monitoring Program and contained in a patient's health care record to another health care provider when such disclosure is related to the care or treatment of the patient who is the subject of the record.

**§ 54.1-111. Unlawful acts; prosecution; proceedings in equity; civil penalty.**

A. It shall be unlawful for any person, partnership, corporation or other entity to engage in any of the following acts:

1. Practicing a profession or occupation without holding a valid license as required by statute or regulation.
2. Making use of any designation provided by statute or regulation to denote a standard of professional or occupational competence without being duly certified or licensed.
3. Making use of any titles, words, letters or abbreviations which may reasonably be confused with a designation provided by statute or regulation to denote a standard of professional or occupational competence without being duly certified or licensed.
4. Performing any act or function which is restricted by statute or regulation to persons holding a professional or occupational license or certification, without being duly certified or licensed.
5. Failing to register as a practitioner of a profession or occupation as required by statute or regulation.
6. Materially misrepresenting facts in an application for licensure, certification or registration.
7. Willfully refusing to furnish a regulatory board information or records required or requested pursuant to statute or regulation.
8. Violating any statute or regulation governing the practice of any profession or occupation regulated pursuant to this title.
9. Refusing to process a request, tendered in accordance with the regulations of the relevant health regulatory board or applicable statutory law, for patient records or prescription dispensing records after the closing of a business or professional practice or the transfer of ownership of a business or professional practice.

Any person who willfully engages in any unlawful act enumerated in this section shall be guilty of a Class 1 misdemeanor. The third or any subsequent conviction for violating this section during a 36-month period shall constitute a Class 6 felony. In addition, any person convicted of any unlawful act enumerated in subdivision 1 through 8 of this subsection, for conduct that is within the purview of any regulatory board within the Department of Professional and Occupational Regulation, may be ordered by the court to pay restitution in accordance with §§ 19.2-305 through 19.2-305.4.

B. In addition to the criminal penalties provided for in subsection A, the Department of Professional and Occupational Regulation or the Department of Health Professions, without compliance with the Administrative Process Act (§ 2.2-4000 et seq.), shall have the authority to enforce the provisions of subsection A and may institute proceedings in equity to enjoin any person, partnership, corporation or any other entity from engaging in any unlawful act enumerated in this section and to recover a civil penalty of at least \$200 but not more than \$5,000 per violation, with each unlawful act constituting a separate violation; but in no event shall the civil penalties against any one person, partnership, corporation or other entity exceed \$25,000 per year. Such proceedings shall be brought in the name of the Commonwealth by the appropriate Department in the circuit court or general district court of the city or county in which the unlawful act occurred or in which the defendant resides.

C. This section shall not be construed to prohibit or prevent the owner of patient records from (i) retaining copies of his patient records or prescription dispensing records after the closing of a business or professional practice or the transfer of ownership of a business or professional practice or (ii) charging a reasonable fee, in accordance with subsections ~~A and B~~ *B2, B3, B4, and B6* of § 8.01-413 or subsection J of § 32.1-127.1:03, for copies of patient records, as applicable under the circumstances.

D. Nothing in this section, nor §§ 13.1-543, 13.1-1102, 54.1-2902, and 54.1-2929, shall be construed to prohibit or prevent any entity of a type listed in § 13.1-542.1 or 13.1-1101.1, which employs or contracts with an individual licensed by a health regulatory board, from (i) practicing or engaging in the practice of a profession or occupation for which such individual is licensed, (ii) providing or rendering professional services related thereto through the licensed individual, or (iii) having a legitimate interest in enforcing the terms of employment or its contract with the licensed individual.

E. This section shall apply, mutatis mutandis, to all persons holding a multistate licensure privilege to practice nursing in the Commonwealth of Virginia.

## CHAPTER 458

*An Act to amend and reenact §§ 32.1-102.1, 37.2-100, 37.2-306, 37.2-315, 37.2-403, 37.2-409, 37.2-416, 37.2-500, 37.2-506, 37.2-601, and 66-20 of the Code of Virginia, relating to persons with developmental disabilities; terminology.*

[H 1775]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 32.1-102.1, 37.2-100, 37.2-306, 37.2-315, 37.2-403, 37.2-409, 37.2-416, 37.2-500, 37.2-506, 37.2-601, and 66-20 of the Code of Virginia are amended and reenacted as follows:**

**§ 32.1-102.1. Definitions.**

As used in this article, unless the context indicates otherwise:

"Certificate" means a certificate of public need for a project required by this article.

"Clinical health service" means a single diagnostic, therapeutic, rehabilitative, preventive or palliative procedure or a series of such procedures that may be separately identified for billing and accounting purposes.

"Health planning region" means a contiguous geographical area of the Commonwealth with a population base of at least 500,000 persons which is characterized by the availability of multiple levels of medical care services, reasonable travel time for tertiary care, and congruence with planning districts.

"Medical care facility," as used in this title, means any institution, place, building or agency, whether or not licensed or required to be licensed by the Board or the Department of Behavioral Health and Developmental Services, whether operated for profit or nonprofit and whether privately owned or privately operated or owned or operated by a local governmental unit, (i) by or in which health services are furnished, conducted, operated or offered for the prevention, diagnosis or treatment of human disease, pain, injury, deformity or physical condition, whether medical or surgical, of two or more nonrelated persons who are injured or physically sick or have mental illness, or for the care of two or more nonrelated persons requiring or receiving medical, surgical or nursing attention or services as acute, chronic, convalescent, aged, physically disabled or crippled or (ii) which is the recipient of reimbursements from third-party health insurance programs or prepaid medical service plans. For purposes of this article, only the following medical care facilities shall be subject to review:

1. General hospitals.
2. Sanitariums.
3. Nursing homes.
4. Intermediate care facilities, except those intermediate care facilities established for individuals with intellectual disability (~~ICF/MR~~) (*ICF/IID*) that have no more than 12 beds and are in an area identified as in need of residential services for individuals with intellectual disability in any plan of the Department of Behavioral Health and Developmental Services.
5. Extended care facilities.
6. Mental hospitals.
7. Facilities for individuals with ~~intellectual disability~~ *developmental disabilities*.
8. Psychiatric hospitals and intermediate care facilities established primarily for the medical, psychiatric or psychological treatment and rehabilitation of individuals with substance abuse.
9. Specialized centers or clinics or that portion of a physician's office developed for the provision of outpatient or ambulatory surgery, cardiac catheterization, computed tomographic (CT) scanning, stereotactic radiosurgery, lithotripsy, magnetic resonance imaging (MRI), magnetic source imaging (MSI), positron emission tomographic (PET) scanning, radiation therapy, stereotactic radiotherapy, proton beam therapy, nuclear medicine imaging, except for the purpose of nuclear cardiac imaging, or such other specialty services as may be designated by the Board by regulation.
10. Rehabilitation hospitals.
11. Any facility licensed as a hospital.

The term "medical care facility" does not include any facility of (i) the Department of Behavioral Health and Developmental Services; (ii) any nonhospital substance abuse residential treatment program operated by or contracted primarily for the use of a community services board under the Department of Behavioral Health and Developmental Services' Comprehensive State Plan; (iii) an intermediate care facility for individuals with intellectual disability (~~ICF/MR~~) (*ICF/IID*) that has no more than 12 beds and is in an area identified as in need of residential services for individuals with intellectual disability in any plan of the Department of Behavioral Health and Developmental Services; (iv) a physician's

office, except that portion of a physician's office described in subdivision 9 of the definition of "medical care facility"; (v) the Wilson Workforce and Rehabilitation Center of the Department for Aging and Rehabilitative Services; (vi) the Department of Corrections; or (vii) the Department of Veterans Services. "Medical care facility" shall also not include that portion of a physician's office dedicated to providing nuclear cardiac imaging.

"Project" means:

1. Establishment of a medical care facility;
2. An increase in the total number of beds or operating rooms in an existing medical care facility;
3. Relocation of beds from one existing facility to another, provided that "project" does not include the relocation of up to 10 beds or 10 percent of the beds, whichever is less, (i) from one existing facility to another existing facility at the same site in any two-year period, or (ii) in any three-year period, from one existing nursing home facility to any other existing nursing home facility owned or controlled by the same person that is located either within the same planning district, or within another planning district out of which, during or prior to that three-year period, at least 10 times that number of beds have been authorized by statute to be relocated from one or more facilities located in that other planning district and at least half of those beds have not been replaced, provided further that, however, a hospital shall not be required to obtain a certificate for the use of 10 percent of its beds as nursing home beds as provided in § 32.1-132;
4. Introduction into an existing medical care facility of any new nursing home service, such as intermediate care facility services, extended care facility services, or skilled nursing facility services, regardless of the type of medical care facility in which those services are provided;
5. Introduction into an existing medical care facility of any new cardiac catheterization, computed tomographic (CT) scanning, stereotactic radiosurgery, lithotripsy, magnetic resonance imaging (MRI), magnetic source imaging (MSI), medical rehabilitation, neonatal special care, obstetrical, open heart surgery, positron emission tomographic (PET) scanning, psychiatric, organ or tissue transplant service, radiation therapy, stereotactic radiotherapy, proton beam therapy, nuclear medicine imaging, except for the purpose of nuclear cardiac imaging, substance abuse treatment, or such other specialty clinical services as may be designated by the Board by regulation, which the facility has never provided or has not provided in the previous 12 months;
6. Conversion of beds in an existing medical care facility to medical rehabilitation beds or psychiatric beds;
7. The addition by an existing medical care facility of any medical equipment for the provision of cardiac catheterization, computed tomographic (CT) scanning, stereotactic radiosurgery, lithotripsy, magnetic resonance imaging (MRI), magnetic source imaging (MSI), open heart surgery, positron emission tomographic (PET) scanning, radiation therapy, stereotactic radiotherapy, proton beam therapy, or other specialized service designated by the Board by regulation. Replacement of existing equipment shall not require a certificate of public need;
8. Any capital expenditure of \$15 million or more, not defined as reviewable in subdivisions 1 through 7 of this definition, by or on behalf of a medical care facility other than a general hospital. Capital expenditures of \$5 million or more by a general hospital and capital expenditures between \$5 and \$15 million by a medical care facility other than a general hospital shall be registered with the Commissioner pursuant to regulations developed by the Board. The amounts specified in this subdivision shall be revised effective July 1, 2008, and annually thereafter to reflect inflation using appropriate measures incorporating construction costs and medical inflation. Nothing in this subdivision shall be construed to modify or eliminate the reviewability of any project described in subdivisions 1 through 7 of this definition when undertaken by or on behalf of a general hospital; or
9. Conversion in an existing medical care facility of psychiatric inpatient beds approved pursuant to a Request for Applications (RFA) to nonpsychiatric inpatient beds.

"Regional health planning agency" means the regional agency, including the regional health planning board, its staff and any component thereof, designated by the Virginia Health Planning Board to perform the health planning activities set forth in this chapter within a health planning region.

"State Medical Facilities Plan" means the planning document adopted by the Board of Health which shall include, but not be limited to, (i) methodologies for projecting need for medical care facility beds and services; (ii) statistical information on the availability of medical care facilities and services; and (iii) procedures, criteria and standards for review of applications for projects for medical care facilities and services.

#### § 37.2-100. Definitions.

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

"Abuse" means any act or failure to act by an employee or other person responsible for the care of an individual in a facility or program operated, licensed, or funded by the Department, excluding those operated by the Department of Corrections, that was performed or was failed to be performed knowingly, recklessly, or intentionally, and that caused or might have caused physical or psychological harm, injury, or death to an individual receiving care or treatment for mental illness, ~~intellectual disability~~ *developmental disabilities*, or substance abuse. Examples of abuse include acts such as:

1. Rape, sexual assault, or other criminal sexual behavior;
2. Assault or battery;
3. Use of language that demeans, threatens, intimidates, or humiliates the individual;
4. Misuse or misappropriation of the individual's assets, goods, or property;
5. Use of excessive force when placing an individual in physical or mechanical restraint;

6. Use of physical or mechanical restraints on an individual that is not in compliance with federal and state laws, regulations, and policies, professionally accepted standards of practice, or his individualized services plan; and

7. Use of more restrictive or intensive services or denial of services to punish an individual or that is not consistent with his individualized services plan.

"Administrative policy community services board" or "administrative policy board" means the public body organized in accordance with the provisions of Chapter 5 (§ 37.2-500 et seq.) that is appointed by and accountable to the governing body of each city and county that established it to set policy for and administer the provision of mental health, developmental, and substance abuse services. The "administrative policy community services board" or "administrative policy board" denotes the board, the members of which are appointed pursuant to § 37.2-501 with the powers and duties enumerated in subsection A of § 37.2-504 and § 37.2-505. Mental health, developmental, and substance abuse services are provided through local government staff or through contracts with other organizations and providers.

"Behavioral health authority" or "authority" means a public body and a body corporate and politic organized in accordance with the provisions of Chapter 6 (§ 37.2-600 et seq.) that is appointed by and accountable to the governing body of the city or county that established it for the provision of mental health, developmental, and substance abuse services. "Behavioral health authority" or "authority" also includes the organization that provides these services through its own staff or through contracts with other organizations and providers.

"Behavioral health services" means the full range of mental health and substance abuse services.

"Board" means the State Board of Behavioral Health and Developmental Services.

"Commissioner" means the Commissioner of Behavioral Health and Developmental Services.

"Community services board" means the public body established pursuant to § 37.2-501 that provides mental health, developmental, and substance abuse services within each city and county that established it; the term "community services board" shall include administrative policy community services boards, operating community services boards, and local government departments with policy-advisory community services boards.

"Department" means the Department of Behavioral Health and Developmental Services.

"Developmental disability" means a severe, chronic disability of an individual that (i) is attributable to a mental or physical impairment, or a combination of mental and physical impairments, other than a sole diagnosis of mental illness; (ii) is manifested before the individual reaches 22 years of age; (iii) is likely to continue indefinitely; (iv) results in substantial functional limitations in three or more of the following areas of major life activity: self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, or economic self-sufficiency; and (v) reflects the individual's need for a combination and sequence of special interdisciplinary or generic services, individualized supports, or other forms of assistance that are of lifelong or extended duration and are individually planned and coordinated. An individual from birth to age nine, inclusive, who has a substantial developmental delay or specific congenital or acquired condition may be considered to have a developmental disability without meeting three or more of the criteria described in clauses (i) through (v) if the individual, without services and supports, has a high probability of meeting those criteria later in life.

"Developmental services" means planned, individualized, and person-centered services and supports provided to individuals with ~~intellectual disability~~ *developmental disabilities* for the purpose of enabling these individuals to increase their self-determination and independence, obtain employment, participate fully in all aspects of community life, advocate for themselves, and achieve their fullest potential to the greatest extent possible.

"Facility" means a state or licensed hospital, training center, psychiatric hospital, or other type of residential or outpatient mental health or developmental services facility. When modified by the word "state," "facility" means a state hospital or training center operated by the Department, including the buildings and land associated with it.

"Family member" means an immediate family member of an individual receiving services or the principal caregiver of that individual. A principal caregiver is a person who acts in the place of an immediate family member, including other relatives and foster care providers, but does not have a proprietary interest in the care of the individual receiving services.

"Hospital," when not modified by the words "state" or "licensed," means a state hospital and a licensed hospital that provides care and treatment for persons with mental illness.

"Individual receiving services" or "individual" means a current direct recipient of public or private mental health, developmental, or substance abuse treatment, rehabilitation, or habilitation services and includes the terms "consumer," "patient," "resident," "recipient," or "client."

"Intellectual disability" means a disability, originating before the age of 18 years, characterized concurrently by (i) significant subaverage intellectual functioning as demonstrated by performance on a standardized measure of intellectual functioning, administered in conformity with accepted professional practice, that is at least two standard deviations below the mean and (ii) significant limitations in adaptive behavior as expressed in conceptual, social, and practical adaptive skills.

"Licensed hospital" means a hospital or institution, including a psychiatric unit of a general hospital, that is licensed pursuant to the provisions of this title.

"Mental health services" means planned individualized interventions intended to reduce or ameliorate mental illness or the effects of mental illness through care, treatment, counseling, rehabilitation, medical or psychiatric care, or other supports provided to individuals with mental illness for the purpose of enabling these individuals to increase their self-determination and independence, obtain remunerative employment, participate fully in all aspects of community life, advocate for themselves, and achieve their fullest potential to the greatest extent possible.

"Mental illness" means a disorder of thought, mood, emotion, perception, or orientation that significantly impairs judgment, behavior, capacity to recognize reality, or ability to address basic life necessities and requires care and treatment for the health, safety, or recovery of the individual or for the safety of others.

"Neglect" means failure by a person or a program or facility operated, licensed, or funded by the Department, excluding those operated by the Department of Corrections, responsible for providing services to do so, including nourishment, treatment, care, goods, or services necessary to the health, safety, or welfare of an individual receiving care or treatment for mental illness, ~~intellectual disability~~ *developmental disabilities*, or substance abuse.

"Operating community services board" or "operating board" means the public body organized in accordance with the provisions of Chapter 5 (§ 37.2-500 et seq.) that is appointed by and accountable to the governing body of each city and county that established it for the direct provision of mental health, developmental, and substance abuse services. The "operating community services board" or "operating board" denotes the board, the members of which are appointed pursuant to § 37.2-501 with the powers and duties enumerated in subsection A of § 37.2-504 and § 37.2-505. "Operating community services board" or "operating board" also includes the organization that provides such services, through its own staff or through contracts with other organizations and providers.

"Performance contract" means the annual agreement negotiated and entered into by a community services board or behavioral health authority with the Department through which it provides state and federal funds appropriated for mental health, developmental, and substance abuse services to that community services board or behavioral health authority.

"Policy-advisory community services board" or "policy-advisory board" means the public body organized in accordance with the provisions of Chapter 5 that is appointed by and accountable to the governing body of each city or county that established it to provide advice on policy matters to the local government department that provides mental health, developmental, and substance abuse services pursuant to subsection A of § 37.2-504 and § 37.2-505. The "policy-advisory community services board" or "policy-advisory board" denotes the board, the members of which are appointed pursuant to § 37.2-501 with the powers and duties enumerated in subsection B of § 37.2-504.

"Service area" means the city or county or combination of cities and counties or counties or cities that is served by a community services board or behavioral health authority or the cities and counties that are served by a state facility.

"Special justice" means a person appointed by a chief judge of a judicial circuit for the purpose of performing the duties of a judge pursuant to § 37.2-803.

"State hospital" means a hospital, psychiatric institute, or other institution operated by the Department that provides care and treatment for persons with mental illness.

"Substance abuse" means the use of drugs, enumerated in the Virginia Drug Control Act (§ 54.1-3400 et seq.), without a compelling medical reason or alcohol that (i) results in psychological or physiological dependence or danger to self or others as a function of continued and compulsive use or (ii) results in mental, emotional, or physical impairment that causes socially dysfunctional or socially disordering behavior and (iii), because of such substance abuse, requires care and treatment for the health of the individual. This care and treatment may include counseling, rehabilitation, or medical or psychiatric care.

"Training center" means a facility operated by the Department that provides training, habilitation, or other individually focused supports to persons with intellectual disability.

**§ 37.2-306. Research into causes of mental illness, developmental disabilities, substance abuse, and related subjects.**

The Commissioner is hereby directed to promote research into the causes of mental illness, ~~intellectual disability~~ *developmental disabilities*, and substance abuse throughout the Commonwealth. The Commissioner shall encourage the directors of the state facilities and their staffs in the investigation of all subjects relating to mental illness, ~~intellectual disability~~ *developmental disabilities*, and substance abuse. In these research programs, the Commissioner shall make use, insofar as practicable, of the services and facilities of medical schools and the hospitals allied with them.

**§ 37.2-315. Comprehensive State Plan for Behavioral Health and Developmental Services.**

The Department, in consultation with community services boards, behavioral health authorities, state hospitals and training centers, individuals receiving services, families of individuals receiving services, advocacy organizations, and other interested parties, shall develop and update biennially a six-year Comprehensive State Plan for Behavioral Health and Developmental Services. The Comprehensive State Plan shall identify the needs of and the resource requirements for providing services and supports to persons with mental illness, ~~intellectual disability~~ *developmental disabilities*, or substance abuse across the Commonwealth and shall propose strategies to address these needs. The Comprehensive State Plan shall be used in the development of the Department's biennial budget submission to the Governor.

**§ 37.2-403. Definitions.**

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

"Brain injury" is any injury to the brain that occurs after birth, but before age 65, that is acquired through traumatic or non-traumatic insults. Non-traumatic insults may include, but are not limited to anoxia, hypoxia, aneurysm, toxic exposure, encephalopathy, surgical interventions, tumor and stroke. Brain injury does not include hereditary, congenital or degenerative brain disorders, or injuries induced by birth trauma.

"Conditional license" means a license issued in accordance with the requirements of § 37.2-415 to a provider for a new service for a period of time sufficient to allow the provider to demonstrate compliance with regulations of the Board governing licensure of providers.

"Full license" means a license issued in accordance with the requirements of § 37.2-404 to a provider who demonstrates full compliance with the regulations of the Board governing licensure of providers.

"Provider" means any person, entity, or organization, excluding an agency of the federal government by whatever name or designation, that delivers (i) services to individuals with mental illness, ~~intellectual disability developmental disabilities~~, or substance abuse; ~~or (ii) services to individuals who receive day support, in-home support, or crisis stabilization services funded through the Individual and Families Developmental Disabilities Support Waiver, or~~ (iii) residential services for persons with brain injury. The person, entity, or organization shall include a hospital as defined in § 32.1-123, community services board, behavioral health authority, private provider, and any other similar or related person, entity, or organization. It shall not include any individual practitioner who holds a license issued by a health regulatory board of the Department of Health Professions or who is exempt from licensing pursuant to § 54.1-3501, 54.1-3601, or 54.1-3701.

"Provisional license" means a license issued to a provider previously issued a full license that has demonstrated a temporary inability to maintain compliance with licensing or human rights regulations or that has failed to comply with a previous corrective action plan, and that allows the provider to continue operating for a limited time while addressing the inability or failure to comply with regulations.

"Service or services" means:

1. Planned individualized interventions intended to reduce or ameliorate mental illness, ~~intellectual disability developmental disabilities~~, or substance abuse through care, treatment, training, habilitation, or other supports that are delivered by a provider to persons with mental illness, ~~intellectual disability developmental disabilities~~, or substance abuse. Services include outpatient services, intensive in-home services, opioid treatment services, inpatient psychiatric hospitalization, community gero-psychiatric residential services, assertive community treatment, and other clinical services; day support, day treatment, partial hospitalization, psychosocial rehabilitation, and habilitation services; case management services; and supportive residential, special school, halfway house, *in-home services*, *crisis stabilization*, and other residential services; *and*

2. ~~Day support, in-home support, and crisis stabilization services provided to individuals under the Individual and Families Developmental Disabilities Support Waiver; and~~

3. Planned individualized interventions intended to reduce or ameliorate the effects of brain injury through care, treatment, or other supports provided in residential services for persons with brain injury.

**§ 37.2-409. Intermediate care facilities for individuals with intellectual disability.**

The Board may adopt regulations specifying the maximum number of individuals to be served by any intermediate care facility for individuals with intellectual disability (~~ICF/MR~~) (*ICF/IID*).

**§ 37.2-416. Background checks required.**

A. As used in this section:

"Direct care position" means any position that includes responsibility for (i) treatment, case management, health, safety, development, or well-being of an individual receiving services or (ii) immediately supervising a person in a position with this responsibility.

"Hire for compensated employment" does not include (i) a promotion from one adult substance abuse or adult mental health treatment position to another such position within the same licensee licensed pursuant to this article or (ii) new employment in an adult substance abuse or adult mental health treatment position in another office or program licensed pursuant to this article if the person employed prior to July 1, 1999, in a licensed program had no convictions in the five years prior to the application date for employment. "Hire for compensated employment" includes (a) a promotion or transfer from an adult substance abuse treatment position to any mental health or developmental services direct care position within the same licensee licensed pursuant to this article or (b) new employment in any mental health or developmental services direct care position in another office or program of the same licensee licensed pursuant to this article for which the person has previously worked in an adult substance abuse treatment position.

"Shared living" means an arrangement in which the Commonwealth's program of medical assistance pays a portion of a person's rent, utilities, and food expenses in return for the person residing with and providing companionship, support, and other limited, basic assistance to a person with ~~intellectual or~~ developmental disabilities receiving medical assistance services in accordance with a waiver for whom he has no legal responsibility.

B. Every provider licensed pursuant to this article shall require (i) any applicant who accepts employment in any direct care position, (ii) any applicant for approval as a sponsored residential service provider, (iii) any adult living in the home of an applicant for approval as a sponsored residential service provider, (iv) any person employed by a sponsored residential service provider to provide services in the home, and (v) any person who enters into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver to submit to fingerprinting and provide personal descriptive information to be forwarded through the Central Criminal Records Exchange to the Federal Bureau of Investigation (FBI) for the purpose of obtaining national criminal history record information regarding the applicant. Except as otherwise provided in subsection C, D, or F, no provider licensed pursuant to this article shall (a) hire for compensated employment persons who have been convicted of any offense listed in subsection B of § 37.2-314; (b) approve an applicant as a sponsored residential service provider if the applicant, any adult residing in the home of the applicant, or any person employed by the applicant has been convicted of an offense listed in subsection B of § 37.2-314; or (c) permit to enter into

a shared living arrangement with a person receiving medical assistance services pursuant to a waiver any person who has been convicted of an offense listed in subsection B of § 37.2-314.

The Central Criminal Records Exchange, upon receipt of an applicant's record or notification that no record exists, shall submit a report to the requesting authorized officer or director of a provider licensed pursuant to this article. If any applicant is denied employment because of information appearing on the criminal history record and the applicant disputes the information upon which the denial was based, the Central Criminal Records Exchange shall, upon written request, furnish to the applicant the procedures for obtaining a copy of the criminal history record from the FBI. The information provided to the authorized officer or director of a provider licensed pursuant to this article shall not be disseminated except as provided in this section.

C. Notwithstanding the provisions of subsection B, a provider may hire for compensated employment at adult substance abuse or adult mental health treatment facilities a person who was convicted of a misdemeanor violation relating to (i) unlawful hazing, as set out in § 18.2-56; (ii) reckless handling of a firearm, as set out in § 18.2-56.1; or (iii) assault and battery, as set out in subsection A of § 18.2-57; or any misdemeanor or felony violation related to (a) reckless endangerment of others by throwing objects, as set out in § 18.2-51.3; (b) threat, as set out in § 18.2-60; (c) breaking and entering a dwelling house with intent to commit other misdemeanor, as set out in § 18.2-92; or (d) possession of burglarious tools, as set out in § 18.2-94; or any felony violation relating to the distribution of drugs, as set out in Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, except an offense pursuant to subsections H1 and H2 of § 18.2-248; or an equivalent offense in another state, if the hiring provider determines, based upon a screening assessment, that the criminal behavior was substantially related to the applicant's substance abuse or mental illness and that the person has been successfully rehabilitated and is not a risk to individuals receiving services based on his criminal history background and his substance abuse or mental illness history.

D. Notwithstanding the provisions of subsection B, a provider may hire for compensated employment at adult substance abuse treatment facilities a person who has been convicted of not more than one offense of assault and battery of a law-enforcement officer under § 18.2-57, or an equivalent offense in another state, if (i) the person has been granted a simple pardon if the offense was a felony committed in Virginia, or the equivalent if the offense was committed in another state; (ii) more than 10 years have elapsed since the conviction; and (iii) the hiring provider determines, based upon a screening assessment, that the criminal behavior was substantially related to the applicant's substance abuse and that the person has been successfully rehabilitated and is not a risk to individuals receiving services based on his criminal history background and his substance abuse history.

E. The hiring provider and a screening contractor designated by the Department shall screen applicants who meet the criteria set forth in subsections C and D to assess whether the applicants have been rehabilitated successfully and are not a risk to individuals receiving services based on their criminal history backgrounds and substance abuse or mental illness histories. To be eligible for such screening, the applicant shall have completed all prison or jail terms, shall not be under probation or parole supervision, shall have no pending charges in any locality, shall have paid all fines, restitution, and court costs for any prior convictions, and shall have been free of parole or probation for at least five years for all convictions. In addition to any supplementary information the provider or screening contractor may require or the applicant may wish to present, the applicant shall provide to the screening contractor a statement from his most recent probation or parole officer, if any, outlining his period of supervision and a copy of any pre-sentencing or post-sentencing report in connection with the felony conviction. The cost of this screening shall be paid by the applicant, unless the licensed provider decides to pay the cost.

F. Notwithstanding the provisions of subsection B, a provider may hire for compensated employment persons who have been convicted of not more than one misdemeanor offense under § 18.2-57 or 18.2-57.2, if 10 years have elapsed following the conviction, unless the person committed the offense while employed in a direct care position.

G. Providers licensed pursuant to this article also shall require, as a condition of employment, approval as a sponsored residential service provider, or permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver, written consent and personal information necessary to obtain a search of the registry of founded complaints of child abuse and neglect that is maintained by the Department of Social Services pursuant to § 63.2-1515.

H. The cost of obtaining the criminal history record and search of the child abuse and neglect registry record shall be borne by the applicant, unless the provider licensed pursuant to this article decides to pay the cost.

I. A person who complies in good faith with the provisions of this section shall not be liable for any civil damages for any act or omission in the performance of duties under this section unless the act or omission was the result of gross negligence or willful misconduct.

**§ 37.2-500. Purpose; community services board; services to be provided.**

The Department, for the purposes of establishing, maintaining, and promoting the development of mental health, developmental, and substance abuse services in the Commonwealth, may provide funds to assist any city or county or any combinations of cities or counties or cities and counties in the provision of these services. Every county or city shall establish a community services board by itself or in any combination with other cities and counties, unless it establishes a behavioral health authority pursuant to Chapter 6 (§ 37.2-600 et seq.). Every county or city or any combination of cities and counties that has established a community services board, in consultation with that board, shall designate it as an operating community services board, an administrative policy community services board or a local government department with a policy-advisory community services board. The governing body of each city or county that established the community services board may

change this designation at any time by ordinance. In the case of a community services board established by more than one city or county, the decision to change this designation shall be the unanimous decision of all governing bodies.

The core of services provided by community services boards within the cities and counties that they serve shall include emergency services and, subject to the availability of funds appropriated for them, case management services. ~~The~~ *Subject to the availability of funds appropriated for them, the* core of services may include a comprehensive system of inpatient, outpatient, day support, residential, prevention, early intervention, and other appropriate mental health, developmental, and substance abuse services necessary to provide individualized services and supports to persons with mental illness, ~~intellectual disability~~ *developmental disabilities*, or substance abuse. Community services boards may establish crisis stabilization units that provide residential crisis stabilization services.

In order to provide comprehensive mental health, developmental, and substance abuse services within a continuum of care, the community services board shall function as the single point of entry into publicly funded mental health, developmental, and substance abuse services.

**§ 37.2-506. Background checks required.**

A. As used in this section:

"Direct care position" means any position that includes responsibility for (i) treatment, case management, health, safety, development, or well-being of an individual receiving services or (ii) immediately supervising a person in a position with this responsibility.

"Hire for compensated employment" does not include (i) a promotion from one adult substance abuse or adult mental health treatment position to another such position within the same community services board or (ii) new employment in an adult substance abuse or adult mental health treatment position in another office or program of the same community services board if the person employed prior to July 1, 1999, had no convictions in the five years prior to the application date for employment. "Hire for compensated employment" includes (a) a promotion or transfer from an adult substance abuse treatment position to any mental health or developmental services direct care position within the same community services board or (b) new employment in any mental health or developmental services direct care position in another office or program of the same community services board for which the person has previously worked in an adult substance abuse treatment position.

"Shared living" means an arrangement in which the Commonwealth's program of medical assistance pays a portion of a person's rent, utilities, and food expenses in return for the person residing with and providing companionship, support, and other limited, basic assistance to a person with ~~intellectual or~~ developmental disabilities receiving medical assistance services in accordance with a waiver for whom he has no legal responsibility.

B. Every community services board shall require (i) any applicant who accepts employment in any direct care position with the community services board, (ii) any applicant for approval as a sponsored residential service provider, (iii) any adult living in the home of an applicant for approval as a sponsored residential service provider, (iv) any person employed by a sponsored residential service provider to provide services in the home, and (v) any person who enters into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver to submit to fingerprinting and provide personal descriptive information to be forwarded through the Central Criminal Records Exchange to the Federal Bureau of Investigation (FBI) for the purpose of obtaining national criminal history record information regarding the applicant. Except as otherwise provided in subsection C, D, or F, no community services board shall hire for compensated employment, approve as a sponsored residential service provider, or permit to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver persons who have been convicted of any offense listed in subsection B of § 37.2-314.

The Central Criminal Records Exchange, upon receipt of an applicant's record or notification that no record exists, shall submit a report to the requesting executive director or personnel director of the community services board. If any applicant is denied employment because of information appearing on his criminal history record and the applicant disputes the information upon which the denial was based, the Central Criminal Records Exchange shall, upon written request, furnish to the applicant the procedures for obtaining a copy of the criminal history record from the FBI. The information provided to the executive director or personnel director of any community services board shall not be disseminated except as provided in this section.

C. Notwithstanding the provisions of subsection B, the community services board may hire for compensated employment at adult substance abuse or adult mental health treatment programs a person who was convicted of a misdemeanor violation relating to (i) unlawful hazing, as set out in § 18.2-56; (ii) reckless handling of a firearm, as set out in § 18.2-56.1; (iii) assault and battery, as set out in subsection A of § 18.2-57; or (iv) assault and battery against a family or household member, as set out in subsection A of § 18.2-57.2; or any misdemeanor or felony violation related to (a) reckless endangerment of others by throwing objects, as set out in § 18.2-51.3; (b) threat, as set out in § 18.2-60; (c) breaking and entering a dwelling house with intent to commit other misdemeanor, as set out in § 18.2-92; or (d) possession of burglarious tools, as set out in § 18.2-94; or any felony violation relating to the distribution of drugs, as set out in Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, except an offense pursuant to subsection H1 or H2 of § 18.2-248; or an equivalent offense in another state, if the hiring community services board determines, based upon a screening assessment, that the criminal behavior was substantially related to the applicant's substance abuse or mental illness and that the person has been successfully rehabilitated and is not a risk to individuals receiving services based on his criminal history background and his substance abuse or mental illness history.

D. Notwithstanding the provisions of subsection B, the community services board may hire for compensated employment at adult substance abuse treatment programs a person who has been convicted of not more than one offense of assault and battery of a law-enforcement officer under § 18.2-57, or an equivalent offense in another state, if (i) the person has been granted a simple pardon if the offense was a felony committed in Virginia, or the equivalent if the offense was committed in another state; (ii) more than 10 years have elapsed since the conviction; and (iii) the hiring community services board determines, based upon a screening assessment, that the criminal behavior was substantially related to the applicant's substance abuse and that the person has been successfully rehabilitated and is not a risk to individuals receiving services based on his criminal history background and his substance abuse history.

E. The community services board and a screening contractor designated by the Department shall screen applicants who meet the criteria set forth in subsections C and D to assess whether the applicants have been rehabilitated successfully and are not a risk to individuals receiving services based on their criminal history backgrounds and substance abuse or mental illness histories. To be eligible for such screening, the applicant shall have completed all prison or jail terms, shall not be under probation or parole supervision, shall have no pending charges in any locality, shall have paid all fines, restitution, and court costs for any prior convictions, and shall have been free of parole or probation for at least five years for all convictions. In addition to any supplementary information the community services board or screening contractor may require or the applicant may wish to present, the applicant shall provide to the screening contractor a statement from his most recent probation or parole officer, if any, outlining his period of supervision and a copy of any pre-sentencing or post-sentencing report in connection with the felony conviction. The cost of this screening shall be paid by the applicant, unless the board decides to pay the cost.

F. Notwithstanding the provisions of subsection B, a community services board may hire for compensated employment persons who have been convicted of not more than one misdemeanor offense under § 18.2-57 or 18.2-57.2, if 10 years have elapsed following the conviction, unless the person committed the offense while employed in a direct care position.

G. Community services boards also shall require, as a condition of employment, approval as a sponsored residential service provider, or permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver, written consent and personal information necessary to obtain a search of the registry of founded complaints of child abuse and neglect that is maintained by the Department of Social Services pursuant to § 63.2-1515.

H. The cost of obtaining the criminal history record and search of the child abuse and neglect registry record shall be borne by the applicant, unless the community services board decides to pay the cost.

I. A person who complies in good faith with the provisions of this section shall not be liable for any civil damages for any act or omission in the performance of duties under this section unless the act or omission was the result of gross negligence or willful misconduct.

**§ 37.2-601. Behavioral health authorities; purpose.**

The Department, for the purposes of establishing, maintaining, and promoting the development of behavioral health services in the Commonwealth, may provide funds to assist certain cities or counties in the provision of these services.

The governing body of the Cities of Virginia Beach or Richmond or the County of Chesterfield may establish a behavioral health authority and shall declare its intention to do so by resolution.

The behavioral health services provided by behavioral health authorities within the cities or counties they serve shall include emergency services and, subject to the availability of funds appropriated for them, case management services. ~~The~~ *Subject to the availability of funds appropriated for them, the behavioral health services may include a comprehensive system of inpatient, outpatient, day support, residential, prevention, early intervention, and other appropriate mental health, developmental, and substance abuse services necessary to provide individualized services and supports to persons with mental illness, intellectual disability developmental disabilities, or substance abuse.* Behavioral health authorities may establish crisis stabilization units that provide residential crisis stabilization services.

In order to provide comprehensive mental health, developmental, and substance abuse services within a continuum of care, the behavioral health authority shall function as the single point of entry into publicly funded mental health, developmental, and substance abuse services.

**§ 66-20. Observation and treatment of children with mental illness or developmental disabilities.**

After commitment of any child to the Department, if the Department finds, as a result of psychiatric examinations and case study, that such child has mental illness or ~~intellectual~~ *a developmental disability*, it shall be the duty of the Department to obtain treatment for the child's mental condition. If the Department determines that transfer to a state hospital, training center, or other appropriate treatment facility is required to further diagnose or treat the child's mental condition, the proceedings shall be in accordance with the provisions of § 37.2-806 or §§ 16.1-341 through 16.1-345, except that provisions requiring consent of the child's parent or guardian for treatment shall not apply in such cases. No child transferred to a state hospital pursuant to this section or the provisions of Title 37.2 shall, however, be held or cared for in any maximum security unit where adults determined to be criminally insane reside and such child shall be kept separate and apart from such adults.

## CHAPTER 459

*An Act to amend and reenact § 63.2-1605 of the Code of Virginia, relating to financial exploitation of adults; reporting to local law enforcement and State Police.*

[H 1922]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:****1. That § 63.2-1605 of the Code of Virginia is amended and reenacted as follows:****§ 63.2-1605. Protective services for adults by local departments.**

A. Each local board, to the extent that federal or state matching funds are made available to each locality, shall provide, pursuant to regulations and subject to supervision of the Commissioner for Aging and Rehabilitative Services, adult protective services for adults who are found to be abused, neglected, or exploited and who meet one of the following criteria: (i) the adult is 60 years of age or older or (ii) the adult is 18 years of age or older and is incapacitated. The requirement to provide such services shall not limit the right of any individual to refuse to accept any of the services so offered, except as provided in § 63.2-1608.

B. Upon receipt of the report pursuant to § 63.2-1606, the local department shall determine the validity of such report and shall initiate an investigation within 24 hours of the time the report is received in the local department. Local departments shall consider valid any report meeting all of the following criteria: (i) the subject of the report is an adult as defined in this article, (ii) the report concerns a specific adult and there is enough information to locate the adult, and (iii) the report describes the circumstances of the alleged abuse, neglect, or exploitation.

C. *The local department or the adult protective services hotline shall immediately refer the matter and all relevant documentation to the local law-enforcement agency where the adult resides or where the alleged abuse, neglect, or exploitation took place or, if these places are unknown, where the alleged abuse, neglect, or exploitation was discovered for investigation, upon receipt of an initial report pursuant to § 63.2-1606 involving any of the following or upon determining, during the course of an investigation pursuant to this article, the occurrence of any of the following:*

1. *Sexual abuse as defined in § 18.2-67.10;*
2. *Death that is believed to be the result of abuse or neglect;*
3. *Serious bodily injury or disease as defined in § 18.2-369 that is believed to be the result of abuse or neglect;*
4. *Suspected financial exploitation of an adult; or*
5. *Any other criminal activity involving abuse or neglect that places the adult in imminent danger of death or serious bodily harm.*

*Local law-enforcement agencies shall provide local departments and the adult protective services hotline with a preferred point of contact for referrals.*

D. The local department shall refer any appropriate matter and all relevant documentation, to the appropriate licensing, regulatory, or legal authority for administrative action or criminal investigation.

~~D. E.~~ If a local department is denied access to an adult for whom there is reason to suspect the need for adult protective services, then the local department may petition the circuit court for an order allowing access or entry or both. Upon a showing of good cause supported by an affidavit or testimony in person, the court may enter an order permitting such access or entry.

~~E. F.~~ In any case of suspected adult abuse, neglect, or exploitation, local departments, with the informed consent of the adult or his legal representative, shall take or cause to be taken photographs, video recordings, or appropriate medical imaging of the adult and his environment as long as such measures are relevant to the investigation and do not conflict with § 18.2-386.1. However, if the adult is determined to be incapable of making an informed decision and of giving informed consent and either has no legal representative or the legal representative is the suspected perpetrator of the adult abuse, neglect, or exploitation, consent may be given by an agent appointed under an advance medical directive or medical power of attorney, or by a person authorized, pursuant to § 54.1-2986. In the event no agent or authorized representative is immediately available, then consent shall be deemed to be given.

~~F. G.~~ Local departments shall foster the development, implementation, and coordination of adult protective services to prevent adult abuse, neglect, and exploitation.

~~G. H.~~ Local departments shall not investigate allegations of abuse, neglect, or exploitation of adults incarcerated in state correctional facilities.

~~H. Local departments or the adult protective services hotline, upon receiving the initial report pursuant to § 63.2-1606, shall immediately notify the local law-enforcement agency where the adult resides, or where the alleged abuse, neglect, or exploitation took place, or if these places are unknown, then where the alleged abuse, neglect, or exploitation was discovered, when in receipt of a report describing any of the following:~~

- ~~1. Sexual abuse as defined in § 18.2-67.10;~~
- ~~2. Death, serious bodily injury or disease as defined in § 18.2-369 that is believed to be the result of abuse or neglect; or~~
- ~~3. Any other criminal activity involving abuse or neglect that places the adult in imminent danger of death or serious bodily harm.~~

I. Upon receipt of an initial report pursuant to § 63.2-1606 or during an adult protective services investigation of suspected financial exploitation of an adult in which financial losses to the adult resulting from the exploitation are suspected to be greater than \$50,000, the local department or adult protective services hotline shall immediately refer the matter and all relevant documentation to the local law enforcement agency where the adult resides or where the alleged exploitation took place or, if these places are not known, where the alleged exploitation was discovered, for investigation.

J. I. The report and evidence received by the local department and any written findings, evaluations, records, and recommended actions shall be confidential and shall be exempt from disclosure requirements of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.), except that such information may be disclosed to persons having a legitimate interest in the matter in accordance with §§ 63.2-102 and 63.2-104 and pursuant to official interagency agreements or memoranda of understanding between state agencies.

## CHAPTER 460

An Act to amend and reenact §§ 51.5-140, 51.5-141, and 51.5-142 of the Code of Virginia, relating to the Office of the State Long-Term Care Ombudsman.

[H 1946]

Approved March 13, 2017

Be it enacted by the General Assembly of Virginia:

1. That §§ 51.5-140, 51.5-141, and 51.5-142 of the Code of Virginia are amended and reenacted as follows:

**§ 51.5-140. Access to clients, patients, individuals, providers, and records by Office of the State Long-Term Care Ombudsman; interference, retaliation, and reprisals against complainants.**

A. The entity designated by the Department to operate the programs of the Office of the State Long-Term Care Ombudsman pursuant to the Older Americans Act (42 U.S.C. § 3001 et seq.) shall, in the investigation of complaints referred to the program performance of its functions, responsibilities, and duties, have access to the facilities providing services; the clients, patients, and individuals receiving services; and the records of such clients, patients, and individuals in (i) licensed assisted living facilities and adult day care centers as those terms are defined in § 63.2-100; (ii) home care organizations as defined in § 32.1-162.7; (iii) hospice facilities as defined in § 32.1-162.1; (iv) certified nursing facilities and nursing homes as those terms are defined in § 32.1-123; (v) providers as defined in § 37.2-403; (vi) state hospitals operated by the Department of Behavioral Health and Developmental Services; and (vii) providers of services by an area agency on aging or any private nonprofit or proprietary agency providing services; the clients, patients, and individuals receiving services; and the records of such clients, patients, and individuals whenever the entity Office of the State Long-Term Care Ombudsman has the consent of the client, patient, or individual receiving services or his legal representative. However, if a client, patient, or individual receiving services is unable to consent to the review of his medical and social records and has no legal representative and access to the records is necessary to investigate a complaint, access shall be granted to the extent necessary to conduct the investigation. Further, access shall be granted to the entity Office of the State Long-Term Care Ombudsman if a legal representative of the client, patient, or individual receiving services refuses to give consent and the entity Office of the State Long-Term Care Ombudsman has reasonable cause to believe that the legal representative is not acting in the best interests of the client, patient, or individual receiving services. Notwithstanding the provisions of § 32.1-125.1, the entity designated by the Department to operate the programs of the Office of the State Long-Term Care Ombudsman shall have access to state hospitals in accordance with this section. Access to patients, residents, and individuals receiving services and their records and to facilities and state hospitals providers shall be available during normal working hours except in emergency situations at any time during a provider's regular business or visiting hours and at any other time when access is required by the circumstances to be investigated. Records that are confidential under federal or state law shall be maintained as confidential by the entity Office of the State Long-Term Care Ombudsman and shall not be further disclosed, except as permitted by law. However, notwithstanding the provisions of this section, there shall be no right of access to privileged communications pursuant to § 8.01-581.17.

B. No provider, entity, or person may interfere with, retaliate against, or subject to reprisals a person who in good faith complains or provides information to, or otherwise cooperates with, the Office of the State Long-Term Care Ombudsman or any of its representatives or designees. The Commissioner shall promulgate regulations regarding the investigation of allegations of interference, retaliation, or reprisals and the implementation of sanctions with respect to such interference, retaliation, or reprisals as required under the Older Americans Act (42 U.S.C. § 3001 et seq.).

**§ 51.5-141. Confidentiality of records of Office of the State Long-Term Care Ombudsman.**

All documentary and other evidence received or maintained by the Office of the State Long-Term Care Ombudsman, the Department, or its agents in connection with specific complaints or investigations under any program of the Office of the State Long-Term Care Ombudsman conducted by or under the Commissioner shall be confidential and not subject to the Virginia Freedom of Information Act (§ 2.2-3700 et seq.), except that such information may be released on a confidential basis in compliance with regulations adopted by the Department and consistent with provisions of subdivision 4 of § 2.2-601 and with the requirements of the Older Americans Act (42 U.S.C. § 3001 et seq.).

The Commissioner Office of the State Long-Term Care Ombudsman shall release information concerning completed investigations of complaints made under the programs of the Office of the State Long-Term Care Ombudsman but shall in

no event release the identity of any complainant or ~~resident of individual receiving services from a long-term care facility provider that was the subject of a complaint unless (i) the complainant or resident, or if the complainant is not the individual receiving services, the individual receiving services or his legal representative and the complainant, consents in writing to disclosure or (ii) disclosure is required by court order. The Commissioner Office of the State Long-Term Care Ombudsman shall establish procedures to notify long-term care facilities providers of the nature of complaints and their its findings.~~

**§ 51.5-142. Protection for representatives of the Office of the State Long-Term Care Ombudsman; interference, retaliation, and reprisals.**

A. Any designated representative of the Office of the State Long-Term Care Ombudsman who in good faith with reasonable cause and without malice performs the official duties of ombudsman, including acting to report, investigate, or cause any investigation to be made regarding a long-term care provider, shall be immune from any civil liability that might otherwise be incurred or imposed as the result of making the report or investigation.

B. No provider, entity, or person may interfere with, retaliate against, or subject to reprisals the Office of the State Long-Term Care Ombudsman or any of its representatives or designees for actions taken in fulfillment of its functions, responsibilities, or duties. The Commissioner shall promulgate regulations regarding the investigation of allegations of interference, retaliation, or reprisals and the implementation of sanctions with respect to such interference, retaliation, or reprisals as required under the Older Americans Act (42 U.S.C. § 3001 et seq.).

C. The Department shall put in place mechanisms to ensure that the Office of the State Long-Term Care Ombudsman may (i) analyze, comment on, and monitor the development and implementation of federal, state, and local laws, regulations, and policies and actions related to long-term care services and providers or to the health, safety, welfare, and rights of individuals receiving long-term care services; (ii) recommend changes to such laws, regulations, and policies; and (iii) provide information, recommendations, and the position of the Office of the State Long-Term Care Ombudsman to public and private agencies, legislators, media, and other persons regarding concerns of individuals receiving long-term care services. Any comments, determinations, recommendations, and positions of the Office of the State Long-Term Care Ombudsman shall be clearly labeled as those of the Office of the State Long-Term Care Ombudsman and shall not be binding on the Department.

## CHAPTER 461

*An Act to amend and reenact § 19.2-169.2 of the Code of Virginia, relating to incompetent defendants; psychiatric treatment.*

[H 1996]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 19.2-169.2 of the Code of Virginia is amended and reenacted as follows:**

**§ 19.2-169.2. Disposition when defendant found incompetent.**

A. Upon finding pursuant to subsection E of § 19.2-169.1 that the defendant, including a juvenile transferred pursuant to § 16.1-269.1, is incompetent, the court shall order that the defendant receive treatment to restore his competency on an outpatient basis or, if the court specifically finds that the defendant requires inpatient hospital treatment, at a hospital designated by the Commissioner of Behavioral Health and Developmental Services as appropriate for treatment of persons under criminal charge. *Notwithstanding the provisions of § 19.2-178, if the court orders inpatient hospital treatment, the defendant shall be transferred to and accepted by the hospital designated by the Commissioner as soon as practicable, but no later than 10 days, from the receipt of the court order requiring treatment to restore the defendant's competency. If the 10-day period expires on a Saturday, Sunday, or other legal holiday, the 10 days shall be extended to the next day that is not a Saturday, Sunday, or legal holiday.* Any psychiatric records and other information that have been deemed relevant and submitted by the attorney for the defendant pursuant to subsection C of § 19.2-169.1 and any reports submitted pursuant to subsection D of § 19.2-169.1 shall be made available to the director of the community services board or behavioral health authority or his designee or to the director of the treating inpatient facility or his designee within 96 hours of the issuance of the court order requiring treatment to restore the defendant's competency. If the 96-hour period expires on a Saturday, Sunday, or other legal holiday, the 96 hours shall be extended to the next day that is not a Saturday, Sunday, or legal holiday.

B. If, at any time after the defendant is ordered to undergo treatment under subsection A of this section, the director of the community services board or behavioral health authority or his designee or the director of the treating inpatient facility or his designee believes the defendant's competency is restored, the director or his designee shall immediately send a report to the court as prescribed in subsection D of § 19.2-169.1. The court shall make a ruling on the defendant's competency according to the procedures specified in subsection E of § 19.2-169.1.

C. The clerk of court shall certify and forward forthwith to the Central Criminal Records Exchange, on a form provided by the Exchange, a copy of an order for treatment issued pursuant to subsection A.

## CHAPTER 462

*An Act to amend and reenact § 32.1-127 of the Code of Virginia, relating to nursing home family councils; rights of family members.*

[H 2072]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:****1. That § 32.1-127 of the Code of Virginia is amended and reenacted as follows:****§ 32.1-127. Regulations.**

A. The regulations promulgated by the Board to carry out the provisions of this article shall be in substantial conformity to the standards of health, hygiene, sanitation, construction and safety as established and recognized by medical and health care professionals and by specialists in matters of public health and safety, including health and safety standards established under provisions of Title XVIII and Title XIX of the Social Security Act, and to the provisions of Article 2 (§ 32.1-138 et seq.).

## B. Such regulations:

1. Shall include minimum standards for (i) the construction and maintenance of hospitals, nursing homes and certified nursing facilities to ensure the environmental protection and the life safety of its patients, employees, and the public; (ii) the operation, staffing and equipping of hospitals, nursing homes and certified nursing facilities; (iii) qualifications and training of staff of hospitals, nursing homes and certified nursing facilities, except those professionals licensed or certified by the Department of Health Professions; (iv) conditions under which a hospital or nursing home may provide medical and nursing services to patients in their places of residence; and (v) policies related to infection prevention, disaster preparedness, and facility security of hospitals, nursing homes, and certified nursing facilities. For purposes of this paragraph, facilities in which five or more first trimester abortions per month are performed shall be classified as a category of "hospital";

2. Shall provide that at least one physician who is licensed to practice medicine in this Commonwealth shall be on call at all times, though not necessarily physically present on the premises, at each hospital which operates or holds itself out as operating an emergency service;

3. May classify hospitals and nursing homes by type of specialty or service and may provide for licensing hospitals and nursing homes by bed capacity and by type of specialty or service;

4. Shall also require that each hospital establish a protocol for organ donation, in compliance with federal law and the regulations of the Centers for Medicare and Medicaid Services (CMS), particularly 42 C.F.R. § 482.45. Each hospital shall have an agreement with an organ procurement organization designated in CMS regulations for routine contact, whereby the provider's designated organ procurement organization certified by CMS (i) is notified in a timely manner of all deaths or imminent deaths of patients in the hospital and (ii) is authorized to determine the suitability of the decedent or patient for organ donation and, in the absence of a similar arrangement with any eye bank or tissue bank in Virginia certified by the Eye Bank Association of America or the American Association of Tissue Banks, the suitability for tissue and eye donation. The hospital shall also have an agreement with at least one tissue bank and at least one eye bank to cooperate in the retrieval, processing, preservation, storage, and distribution of tissues and eyes to ensure that all usable tissues and eyes are obtained from potential donors and to avoid interference with organ procurement. The protocol shall ensure that the hospital collaborates with the designated organ procurement organization to inform the family of each potential donor of the option to donate organs, tissues, or eyes or to decline to donate. The individual making contact with the family shall have completed a course in the methodology for approaching potential donor families and requesting organ or tissue donation that (a) is offered or approved by the organ procurement organization and designed in conjunction with the tissue and eye bank community and (b) encourages discretion and sensitivity according to the specific circumstances, views, and beliefs of the relevant family. In addition, the hospital shall work cooperatively with the designated organ procurement organization in educating the staff responsible for contacting the organ procurement organization's personnel on donation issues, the proper review of death records to improve identification of potential donors, and the proper procedures for maintaining potential donors while necessary testing and placement of potential donated organs, tissues, and eyes takes place. This process shall be followed, without exception, unless the family of the relevant decedent or patient has expressed opposition to organ donation, the chief administrative officer of the hospital or his designee knows of such opposition, and no donor card or other relevant document, such as an advance directive, can be found;

5. Shall require that each hospital that provides obstetrical services establish a protocol for admission or transfer of any pregnant woman who presents herself while in labor;

6. Shall also require that each licensed hospital develop and implement a protocol requiring written discharge plans for identified, substance-abusing, postpartum women and their infants. The protocol shall require that the discharge plan be discussed with the patient and that appropriate referrals for the mother and the infant be made and documented. Appropriate referrals may include, but need not be limited to, treatment services, comprehensive early intervention services for infants and toddlers with disabilities and their families pursuant to Part H of the Individuals with Disabilities Education Act, 20 U.S.C. § 1471 et seq., and family-oriented prevention services. The discharge planning process shall involve, to the extent possible, the father of the infant and any members of the patient's extended family who may participate in the follow-up care for the mother and the infant. Immediately upon identification, pursuant to § 54.1-2403.1, of any

substance-abusing, postpartum woman, the hospital shall notify, subject to federal law restrictions, the community services board of the jurisdiction in which the woman resides to appoint a discharge plan manager. The community services board shall implement and manage the discharge plan;

7. Shall require that each nursing home and certified nursing facility fully disclose to the applicant for admission the home's or facility's admissions policies, including any preferences given;

8. Shall require that each licensed hospital establish a protocol relating to the rights and responsibilities of patients which shall include a process reasonably designed to inform patients of such rights and responsibilities. Such rights and responsibilities of patients, a copy of which shall be given to patients on admission, shall be consistent with applicable federal law and regulations of the Centers for Medicare and Medicaid Services;

9. Shall establish standards and maintain a process for designation of levels or categories of care in neonatal services according to an applicable national or state-developed evaluation system. Such standards may be differentiated for various levels or categories of care and may include, but need not be limited to, requirements for staffing credentials, staff/patient ratios, equipment, and medical protocols;

10. Shall require that each nursing home and certified nursing facility train all employees who are mandated to report adult abuse, neglect, or exploitation pursuant to § 63.2-1606 on such reporting procedures and the consequences for failing to make a required report;

11. Shall permit hospital personnel, as designated in medical staff bylaws, rules and regulations, or hospital policies and procedures, to accept emergency telephone and other verbal orders for medication or treatment for hospital patients from physicians, and other persons lawfully authorized by state statute to give patient orders, subject to a requirement that such verbal order be signed, within a reasonable period of time not to exceed 72 hours as specified in the hospital's medical staff bylaws, rules and regulations or hospital policies and procedures, by the person giving the order, or, when such person is not available within the period of time specified, co-signed by another physician or other person authorized to give the order;

12. Shall require, unless the vaccination is medically contraindicated or the resident declines the offer of the vaccination, that each certified nursing facility and nursing home provide or arrange for the administration to its residents of (i) an annual vaccination against influenza and (ii) a pneumococcal vaccination, in accordance with the most recent recommendations of the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention;

13. Shall require that each nursing home and certified nursing facility register with the Department of State Police to receive notice of the registration or reregistration of any sex offender within the same or a contiguous zip code area in which the home or facility is located, pursuant to § 9.1-914;

14. Shall require that each nursing home and certified nursing facility ascertain, prior to admission, whether a potential patient is a registered sex offender, if the home or facility anticipates the potential patient will have a length of stay greater than three days or in fact stays longer than three days;

15. Shall require that each licensed hospital include in its visitation policy a provision allowing each adult patient to receive visits from any individual from whom the patient desires to receive visits, subject to other restrictions contained in the visitation policy including, but not limited to, those related to the patient's medical condition and the number of visitors permitted in the patient's room simultaneously;

16. Shall require that each nursing home and certified nursing facility shall, upon the request of the facility's family council, send notices and information about the family council mutually developed by the family council and the administration of the nursing home or certified nursing facility, and provided to the facility for such purpose, to the listed responsible party or a contact person of the resident's choice up to six times per year. Such notices may be included together with a monthly billing statement or other regular communication. Notices and information shall also be posted in a designated location within the nursing home or certified nursing facility. *No family member of a resident or other resident representative shall be restricted from participating in meetings in the facility with the families or resident representatives of other residents in the facility;*

17. Shall require that each nursing home and certified nursing facility maintain liability insurance coverage in a minimum amount of \$1 million, and professional liability coverage in an amount at least equal to the recovery limit set forth in § 8.01-581.15, to compensate patients or individuals for injuries and losses resulting from the negligent or criminal acts of the facility. Failure to maintain such minimum insurance shall result in revocation of the facility's license;

18. Shall require each hospital that provides obstetrical services to establish policies to follow when a stillbirth, as defined in § 32.1-69.1, occurs that meet the guidelines pertaining to counseling patients and their families and other aspects of managing stillbirths as may be specified by the Board in its regulations; and

19. Shall require each nursing home to provide a full refund of any unexpended patient funds on deposit with the facility following the discharge or death of a patient, other than entrance-related fees paid to a continuing care provider as defined in § 38.2-4900, within 30 days of a written request for such funds by the discharged patient or, in the case of the death of a patient, the person administering the person's estate in accordance with the Virginia Small Estates Act (§ 64.2-600 et seq.).

C. Upon obtaining the appropriate license, if applicable, licensed hospitals, nursing homes, and certified nursing facilities may operate adult day care centers.

D. All facilities licensed by the Board pursuant to this article which provide treatment or care for hemophiliacs and, in the course of such treatment, stock clotting factors, shall maintain records of all lot numbers or other unique identifiers for

such clotting factors in order that, in the event the lot is found to be contaminated with an infectious agent, those hemophiliacs who have received units of this contaminated clotting factor may be apprised of this contamination. Facilities which have identified a lot which is known to be contaminated shall notify the recipient's attending physician and request that he notify the recipient of the contamination. If the physician is unavailable, the facility shall notify by mail, return receipt requested, each recipient who received treatment from a known contaminated lot at the individual's last known address.

### CHAPTER 463

*An Act to amend and reenact § 19.2-169.6 of the Code of Virginia, relating to evaluation of inmate; inpatient psychiatric hospital admission.*

[H 2184]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 19.2-169.6 of the Code of Virginia is amended and reenacted as follows:**

**§ 19.2-169.6. Inpatient psychiatric hospital admission from local correctional facility.**

A. Any inmate of a local correctional facility who is not subject to the provisions of § 19.2-169.2 may be hospitalized for psychiatric treatment at a hospital designated by the Commissioner of Behavioral Health and Developmental Services as appropriate for treatment of persons under criminal charge if:

1. The court with jurisdiction over the inmate's case, if it is still pending, on the petition of the person having custody over an inmate or on its own motion, holds a hearing at which the inmate is represented by counsel and finds by clear and convincing evidence that (i) the inmate has a mental illness; (ii) there exists a substantial likelihood that, as a result of a mental illness, the inmate will, in the near future, (a) cause serious physical harm to himself or others as evidenced by recent behavior causing, attempting, or threatening harm and any other relevant information or (b) suffer serious harm due to his lack of capacity to protect himself from harm as evidenced by recent behavior and any other relevant information; and (iii) the inmate requires treatment in a hospital rather than the local correctional facility. Prior to making this determination, the court shall consider the examination conducted in accordance with § 37.2-815 and the preadmission screening report prepared in accordance with § 37.2-816 and conducted in-person or by means of a two-way electronic video and audio communication system as authorized in § 37.2-804.1 by an employee or designee of the local community services board or behavioral health authority who is skilled in the assessment and treatment of mental illness, who is not providing treatment to the inmate, and who has completed a certification program approved by the Department of Behavioral Health and Developmental Services as provided in § 37.2-809. The examiner appointed pursuant to § 37.2-815, if not physically present at the hearing, shall be available whenever possible for questioning during the hearing through a two-way electronic video and audio or telephonic communication system as authorized in § 37.2-804.1. Any employee or designee of the local community services board or behavioral health authority, as defined in § 37.2-809, representing the board or authority that prepared the preadmission screening report shall attend the hearing in person or, if physical attendance is not practicable, shall participate in the hearing through a two-way electronic video and audio communication system as authorized in § 37.2-804.1. When the hearing is held outside the service area of the community services board or behavioral health authority that prepared the preadmission screening report, and it is not practicable for a representative of the board or authority to attend or participate in the hearing, arrangements shall be made by the board or authority for an employee or designee of the board or authority serving the area in which the hearing is held to attend or participate on behalf of the board or authority that prepared the preadmission screening report; or

2. Upon petition by the person having custody over an inmate, a magistrate finds probable cause to believe that (i) the inmate has a mental illness; (ii) there exists a substantial likelihood that, as a result of a mental illness, the inmate will, in the near future, (a) cause serious physical harm to himself or others as evidenced by recent behavior causing, attempting, or threatening harm and any other relevant information or (b) suffer serious harm due to his lack of capacity to protect himself from harm as evidenced by recent behavior and any other relevant information; and (iii) the inmate requires treatment in a hospital rather than a local correctional facility, and the magistrate issues a temporary detention order for the inmate. Prior to the filing of the petition, the person having custody shall arrange for an evaluation of the inmate conducted in-person or by means of a two-way electronic video and audio communication system as authorized in § 37.2-804.1 by an employee or designee of the local community services board or behavioral health authority who is skilled in the assessment and treatment of mental illness and who has completed a certification program approved by the Department as provided in § 37.2-809. After considering the evaluation of the employee or designee of the local community services board or behavioral health authority, and any other information presented, and finding that probable cause exists to meet the criteria, the magistrate may issue a temporary detention order in accordance with the applicable procedures specified in §§ 37.2-809 through 37.2-813. The person having custody over the inmate shall notify the court having jurisdiction over the inmate's case, if it is still pending, and the inmate's attorney prior to the detention pursuant to a temporary detention order or as soon thereafter as is reasonable.

Upon detention pursuant to this subdivision, a hearing shall be held either before the court having jurisdiction over the inmate's case or before a district court judge or a special justice, as defined in § 37.2-100, in accordance with the provisions of §§ 37.2-815 through 37.2-821, in which case the inmate shall be represented by counsel as specified in § 37.2-814. The

hearing shall be held within 72 hours of execution of the temporary detention order issued pursuant to this subdivision. If the 72-hour period terminates on a Saturday, Sunday, legal holiday, or day on which the court is lawfully closed, the inmate may be detained until the close of business on the next day that is not a Saturday, Sunday, legal holiday, or day on which the court is lawfully closed. Any employee or designee of the local community services board or behavioral health authority, as defined in § 37.2-809, representing the board or authority that prepared the preadmission screening report shall attend the hearing in person or, if physical attendance is not practicable, shall participate in the hearing through a two-way electronic video and audio communication system as authorized in § 37.2-804.1. When the hearing is held outside the service area of the community services board or behavioral health authority that prepared the preadmission screening report, and it is not practicable for a representative of the board or authority to attend or participate in the hearing, arrangements shall be made by the board or authority for an employee or designee of the board or authority serving the area in which the hearing is held to attend or participate on behalf of the board or authority that prepared the preadmission screening report. The judge or special justice conducting the hearing may order the inmate hospitalized if, after considering the examination conducted in accordance with § 37.2-815, the preadmission screening report prepared in accordance with § 37.2-816, and any other available information as specified in subsection C of § 37.2-817, he finds by clear and convincing evidence that (1) the inmate has a mental illness; (2) there exists a substantial likelihood that, as a result of a mental illness, the inmate will, in the near future, (a) cause serious physical harm to himself or others as evidenced by recent behavior causing, attempting, or threatening harm and any other relevant information or (b) suffer serious harm due to his lack of capacity to protect himself from harm as evidenced by recent behavior and any other relevant information; and (3) the inmate requires treatment in a hospital rather than a local correctional facility. The examiner appointed pursuant to § 37.2-815, if not physically present at the hearing, shall be available whenever possible for questioning during the hearing through a two-way electronic video and audio or telephonic communication system as authorized in § 37.2-804.1. The examination and the preadmission screening report shall be admitted into evidence at the hearing.

B. In no event shall an inmate have the right to make application for voluntary admission as may be otherwise provided in § 37.2-805 or 37.2-814 or be subject to an order for mandatory outpatient treatment as provided in § 37.2-817.

C. If an inmate is hospitalized pursuant to this section and his criminal case is still pending, the court having jurisdiction over the inmate's case may order that the admitting hospital evaluate the inmate's competency to stand trial and his mental state at the time of the offense pursuant to §§ 19.2-169.1 and 19.2-169.5.

D. An inmate may not be hospitalized longer than 30 days under subsection A unless the court which has criminal jurisdiction over him or a district court judge or a special justice, as defined in § 37.2-100, holds a hearing and orders the inmate's continued hospitalization in accordance with the provisions of subdivision A 2. If the inmate's hospitalization is continued under this subsection by a court other than the court which has jurisdiction over his criminal case, the facility at which the inmate is hospitalized shall notify the court with jurisdiction over his criminal case and the inmate's attorney in the criminal case, if the case is still pending.

E. Hospitalization may be extended in accordance with subsection D for periods of 60 days for inmates awaiting trial, but in no event may such hospitalization be continued beyond trial, nor shall such hospitalization act to delay trial, as long as the inmate remains competent to stand trial. Hospitalization may be extended in accordance with subsection D for periods of 180 days for an inmate who has been convicted and not yet sentenced, or for an inmate who has been convicted of a crime and is in the custody of a local correctional facility after sentencing, but in no event may such hospitalization be continued beyond the date upon which his sentence would have expired had he received the maximum sentence for the crime charged. Any inmate who has not completed service of his sentence upon discharge from the hospital shall serve the remainder of his sentence.

F. For any inmate who has been convicted and not yet sentenced, or who has been convicted of a crime and is in the custody of a local correctional facility after sentencing, the time the inmate is confined in a hospital for psychiatric treatment shall be deducted from any term for which he may be sentenced to any penal institution, reformatory or elsewhere.

G. Any health care provider, as defined in § 32.1-127.1:03, or other provider rendering services to an inmate who is the subject of a proceeding under this section, upon request, shall disclose to a magistrate, the court, the inmate's attorney, the inmate's guardian ad litem, the examiner appointed pursuant to § 37.2-815, the community service board or behavioral health authority preparing the preadmission screening pursuant to § 37.2-816, or the sheriff or administrator of the local correctional facility any and all information that is necessary and appropriate to enable each of them to perform his duties under this section. These health care providers and other service providers shall disclose to one another health records and information where necessary to provide care and treatment to the inmate and to monitor that care and treatment. Health records disclosed to a sheriff or administrator of the local correctional facility shall be limited to information necessary to protect the sheriff or administrator of the local correctional facility and his employees, the inmate, or the public from physical injury or to address the health care needs of the inmate. Information disclosed to a law-enforcement officer shall not be used for any other purpose, disclosed to others, or retained.

Any health care provider disclosing records pursuant to this section shall be immune from civil liability for any harm resulting from the disclosure, including any liability under the federal Health Insurance Portability and Accountability Act (42 U.S.C. § 1320d et seq.), as amended, unless the person or provider disclosing such records intended the harm or acted in bad faith.

H. Any order entered where an inmate is the subject of proceedings under this section shall provide for the disclosure of medical records pursuant to subsection G. This subsection shall not preclude any other disclosures as required or permitted by law.

I. *If the person having custody over an inmate files a petition pursuant to this section, such person shall ensure that the appropriate community services board or behavioral health authority is advised of the need for a preadmission screening. If the community services board or behavioral health authority does not respond upon being advised of the need for a preadmission screening or fails to complete the preadmission screening, the person having custody over the inmate shall contact the director or other senior management at the community services board or behavioral health authority.*

J. As used in this section, "person having custody over an inmate" means the sheriff or other person in charge of the local correctional facility where the inmate is incarcerated at the time of the filing of a petition for the psychiatric treatment of the inmate.

#### CHAPTER 464

*An Act to require the Department of Behavioral Health and Developmental Services to report on its activities related to suicide prevention.*

[H 2258]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

1. *§ 1. That the Department of Behavioral Health and Developmental Services shall report by December 1, 2017, to the Governor and the General Assembly on its activities related to suicide prevention across the lifespan pursuant to § 37.2-312.1 of the Code of Virginia.*

#### CHAPTER 465

*An Act to amend and reenact §§ 32.1-111.7, 32.1-125.1, 32.1-126, 32.1-162.4, 32.1-162.10, and 35.1-22 of the Code of Virginia, relating to Department of Health; frequency of inspections.*

[H 2300]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

1. **That §§ 32.1-111.7, 32.1-125.1, 32.1-126, 32.1-162.4, 32.1-162.10, and 35.1-22 of the Code of Virginia are amended and reenacted as follows:**

**§ 32.1-111.7. Inspections.**

Each emergency medical services agency for which a license has been issued and emergency medical services vehicle for which a permit has been issued shall be inspected as often as the Commissioner deems necessary and a record thereof shall be maintained. *However, no emergency medical services agency or vehicle shall receive additional inspections until every other emergency medical services agency or vehicle in the Commonwealth has been inspected, unless the additional inspections are (i) necessary to follow up on a preoperational inspection or one or more violations, (ii) required by a uniformly applied risk-based schedule established by the Department, (iii) necessary to investigate a complaint regarding the emergency medical services agency or vehicle, or (iv) otherwise deemed necessary by the Commissioner or his designee to protect the health and safety of the public.* Each such emergency medical services agency or emergency medical services vehicle, its medical supplies and equipment, and the records of its maintenance and operation shall be available at all reasonable times for inspection.

**§ 32.1-125.1. Inspection of hospitals by state agencies generally.**

As used in this section unless the context requires a different meaning, "hospital" means a hospital as defined in § 32.1-123 or 37.2-100.

State agencies shall make or cause to be made only such inspections of hospitals as are necessary to carry out the various obligations imposed on each agency by applicable state and federal laws and regulations. Any on-site inspection by a state agency or a division or unit thereof that substantially complies with the inspection requirements of any other state agency or any other division or unit of the inspecting agency charged with making similar inspections shall be accepted as an equivalent inspection in lieu of an on-site inspection by said agency or by a division or unit of the inspecting agency. A state agency shall coordinate its hospital inspections both internally and with those required by other state agencies so as to ensure that the requirements of this section are met. *No hospital shall receive additional inspections until all other licensed hospitals in the Commonwealth have also been inspected, unless the additional inspections are (i) necessary to follow up on a preoperational inspection or one or more violations, (ii) required by a uniformly applied risk-based schedule established by the Department, (iii) necessary to investigate a complaint regarding the hospital, or (iv) otherwise deemed necessary by the Commissioner or his designee to protect the health and safety of the public.*

Notwithstanding any provision of law to the contrary, all hospitals licensed by the Department of Health or Department of Behavioral Health and Developmental Services that have been certified under the provisions of Title XVIII of the Social

Security Act for hospital or psychiatric services or that have obtained accreditation from a national accrediting organization granted authority by the Centers for Medicare and Medicaid Services to ensure compliance with Medicare conditions of participation pursuant to § 1865 of Title XVIII of the Social Security Act (42 U.S.C. § 1395bb) may be subject to inspections so long as such certification or accreditation is maintained but only to the extent necessary to ensure the public health and safety.

**§ 32.1-126. Commissioner to inspect and to issue licenses to or assure compliance with certification requirements for hospitals, nursing homes and certified nursing facilities; notice of denial of license; consultative advice and assistance; notice to electric utilities.**

A. Pursuant to this article, the Commissioner shall issue licenses to, and assure compliance with certification requirements for hospitals and nursing homes, and assure compliance with certification requirements for facilities owned or operated by agencies of the Commonwealth as defined in subdivision (vi) of § 32.1-124, which after inspection are found to be in compliance with the provisions of this article and with all applicable state and federal regulations. The Commissioner shall notify by certified mail or by overnight express mail any applicant denied a license of the reasons for such denial.

B. The Commissioner shall cause each and every hospital, nursing home, and certified nursing facility to be inspected periodically, but not less often than biennially, in accordance with the provisions of this article and regulations of the Board. *However, except as required by the Centers for Medicare and Medicaid Services, no hospital, nursing home, or certified nursing facility shall receive additional inspections until all other hospitals, nursing homes, or certified nursing facilities in the Commonwealth, respectively, have also been inspected, unless the additional inspections are (i) necessary to follow up on a preoperational inspection or one or more violations; (ii) required by a uniformly applied risk-based schedule established by the Department; (iii) necessary to investigate a complaint regarding the hospital, nursing home, or certified nursing facility; or (iv) otherwise deemed necessary by the Commissioner or his designee to protect the health and safety of the public.*

Unless expressly prohibited by federal statute or regulation, the findings of the Commissioner, with respect to periodic surveys of nursing facilities conducted pursuant to the Survey, Certification, and Enforcement Procedures set forth in 42 C.F.R. Part 488, shall be considered case decisions pursuant to the Administrative Process Act (§ 2.2-4000 et seq.) and shall be subject to the Department's informal dispute resolution procedures, or, at the option of the Department or the nursing facility, the formal fact-finding procedures under § 2.2-4020. The Commonwealth shall be deemed the proponent for purposes of § 2.2-4020. Further, notwithstanding the provisions of clause (iii) of subsection A of § 2.2-4025, such case decisions shall also be subject to the right to court review pursuant to Article 5 (§ 2.2-4025 et seq.) of Chapter 40 of Title 2.2.

C. The Commissioner may, in accordance with regulations of the Board, provide for consultative advice and assistance, with such limitations and restrictions as he deems proper, to any person who intends to apply for a hospital or nursing home license or nursing facility certification.

D. For the purpose of facilitating the prompt restoration of electrical service and prioritization of customers during widespread power outages, the Commissioner shall notify on a quarterly basis all electric utilities serving customers in Virginia as to the location of all nursing homes licensed in the Commonwealth. The requirements of this subsection shall be met if the Commissioner maintains such information on an electronic database accessible by electric utilities serving customers in Virginia.

**§ 32.1-162.4. Inspections.**

The Commissioner may cause each hospice licensed under this article to be periodically inspected at reasonable times. *However, no hospice shall receive additional inspections until all other hospices in the Commonwealth have also been inspected, unless the additional inspections are (i) necessary to follow up on a preoperational inspection or one or more violations, (ii) required by a uniformly applied risk-based schedule established by the Department, (iii) necessary to investigate a complaint regarding the hospice, or (iv) otherwise deemed necessary by the Commissioner or his designee to protect the health and safety of the public.*

Notwithstanding the foregoing or any other provision of this article, any hospice organization that has obtained accreditation as provided in subdivision 2 of § 32.1-162.2, may be subject to inspection so long as such accreditation is maintained but only to the extent necessary to ensure the public health and safety. If any such hospice fails to comply with the provisions of this article or with the regulations of the Board relating to public health and safety, the Commissioner may revoke the exemption from licensure and require such hospice to be relicensed before it can again qualify for an exemption pursuant to § 32.1-162.2.

**§ 32.1-162.10. Inspections; fees.**

State agencies shall make or cause to be made only such inspections of home care organizations as are necessary to carry out the various obligations imposed on each agency by applicable state and federal laws and regulations. *However, no home care organization shall receive additional inspections until all other home care organizations in the Commonwealth have also been inspected, unless the additional inspections are (i) necessary to follow up on a preoperational inspection or one or more violations, (ii) required by a uniformly applied risk-based schedule established by the Department, (iii) necessary to investigate a complaint regarding the home care organization, or (iv) otherwise deemed necessary by the Commissioner or his designee to protect the health and safety of the public.*

Any on-site inspection by a state agency or a division or unit thereof that substantially complies with the inspection requirements of any other state agency or any other division or unit of the inspecting agency charged with making similar inspections shall be accepted as an equivalent inspection in lieu of an on-site inspection by said agency or by a division or

unit of the inspecting agency. A state agency shall coordinate its inspections of home care organizations both internally and with those required by other state agencies so as to ensure that the requirements of this section are met.

Notwithstanding any provision of law to the contrary, all home care organizations licensed by the Department of Health that have been certified under the provisions of Title XVIII of the Social Security Act for home care services or have obtained accreditation by any organization recognized by the Centers for Medicare and Medicaid Services for the purposes of Medicare certification may be subject to inspection so long as such accreditation or certification is maintained but only to the extent necessary to ensure the public health and safety. If any such home care organization fails to comply with the provisions of this article or with the regulations of the Board relating to public health and safety, the Commissioner is authorized to revoke the exemption from licensure and require such organization to be relicensed before it can again qualify for an exemption pursuant to § 32.1-162.8.

**§ 35.1-22. Periodic inspections.**

The Commissioner shall cause each restaurant, summer camp, and campground in the Commonwealth to be inspected at least annually, with no more than 12 months elapsing between each such inspection, in accordance with applicable provisions of this title and the regulations of the Board. *However, no restaurant, summer camp, or campground shall receive additional inspections until all other restaurants, summer camps, or campgrounds in that locality, as defined in § 15.2-102, respectively, have also been inspected, unless the additional inspections are (i) necessary to follow up on a preoperational inspection or one or more violations; (ii) required by a uniformly applied risk-based schedule established by the Department; (iii) necessary to investigate a complaint regarding the restaurant, summer camp, or campground; or (iv) otherwise deemed necessary by the Commissioner or his designee to protect the health and safety of the public.*

The Commissioner, as he deems appropriate, shall cause each hotel in the Commonwealth to be inspected in accordance with applicable provisions of this title and the regulations of the Board. *However, no hotel shall receive additional inspections until all other hotels in that locality, as defined in § 15.2-102, have also been inspected, unless the additional inspections are (a) necessary to follow up on a preoperational inspection or one or more violations, (b) required by a uniformly applied risk-based schedule established by the Department, (c) necessary to investigate a complaint regarding the hotel, or (d) otherwise deemed necessary by the Commissioner or his designee to protect the health and safety of the public.*

If at any time the Commissioner finds that a hotel, restaurant, summer camp, or campground is not in compliance with applicable provisions of this title or regulations of the Board, he may revoke or suspend the license of that hotel, restaurant, summer camp, or campground.

**CHAPTER 466**

*An Act to amend the Code of Virginia by adding in Chapter 2 of Title 32.1 an article numbered 16, consisting of sections numbered 32.1-73.9, 32.1-73.10, and 32.1-73.11, relating to the Advisory Council on Pediatric Autoimmune Neuropsychiatric Disorders Associated with Streptococcal Infections and Pediatric Acute-onset Neuropsychiatric Syndrome.*

[H 2404]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding in Chapter 2 of Title 32.1 an article numbered 16, consisting of sections numbered 32.1-73.9, 32.1-73.10, and 32.1-73.11, as follows:**

*Article 16.*

*Advisory Council on Pediatric Autoimmune Neuropsychiatric Disorders Associated with Streptococcal Infections and Pediatric Acute-onset Neuropsychiatric Syndrome.*

**§ 32.1-73.9. Advisory Council on Pediatric Autoimmune Neuropsychiatric Disorders Associated with Streptococcal Infections and Pediatric Acute-onset Neuropsychiatric Syndrome; membership.**

*A. There is hereby created in the executive branch of state government the Advisory Council on Pediatric Autoimmune Neuropsychiatric Disorders Associated with Streptococcal Infections and Pediatric Acute-onset Neuropsychiatric Syndrome (the Advisory Council), for the purpose of advising the Commissioner of Health on research, diagnosis, treatment, and education relating to pediatric autoimmune neuropsychiatric disorders associated with streptococcal infections and pediatric acute-onset neuropsychiatric syndrome.*

*B. The Advisory Council shall have a total membership of 15 members that shall consist of six legislative members, nine nonlegislative citizen members, and one ex officio member. Members shall be appointed as follows: four members of the House of Delegates to be appointed by the Speaker of the House of Delegates in accordance with the principles of proportional representation contained in the Rules of the House of Delegates; two members of the Senate to be appointed by the Senate Committee on Rules; and the following nine nonlegislative citizen members to be appointed by the Governor: one licensed health care provider who has expertise in treating persons with pediatric autoimmune neuropsychiatric disorders associated with streptococcal infections and pediatric acute-onset neuropsychiatric syndrome and autism; one pediatrician who has experience treating persons with pediatric autoimmune neuropsychiatric disorders associated with streptococcal infections and pediatric acute-onset neuropsychiatric syndrome; one child psychiatrist who has experience*

*treating persons with pediatric autoimmune neuropsychiatric disorders associated with streptococcal infections and pediatric acute-onset neuropsychiatric syndrome; one immunologist with experience in treating persons with pediatric autoimmune neuropsychiatric disorders associated with streptococcal infections and pediatric acute-onset neuropsychiatric syndrome and the use of intravenous immunoglobulin; one medical researcher with experience conducting research concerning pediatric autoimmune neuropsychiatric disorders associated with streptococcal infections and pediatric acute-onset neuropsychiatric syndrome, obsessive-compulsive disorder, tic disorder, and other neurological disorders; one representative of a professional organization for school nurses in the Commonwealth; one representative of an advocacy and support group for individuals affected by pediatric autoimmune neuropsychiatric disorders associated with streptococcal infections and pediatric acute-onset neuropsychiatric syndrome; one representative of an advocacy and support group for individuals affected by autism; and one parent of a child who has been diagnosed with pediatric autoimmune neuropsychiatric disorders associated with streptococcal infections and pediatric acute-onset neuropsychiatric syndrome and autism. The Commissioner of Health or his designee shall serve ex officio without voting privileges. Nonlegislative members shall be citizens of the Commonwealth.*

*Legislative members and the ex officio member of the Advisory Council shall serve terms coincident with their terms of office. Nonlegislative members shall be appointed for terms of two years. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. Vacancies shall be filled in the same manner as the original appointments. All members may be reappointed.*

*C. Legislative members of the Advisory Council shall receive such compensation as provided in § 30-19.12. Nonlegislative members shall serve without compensation or reimbursement.*

*D. The Advisory Council shall elect a chairman and a vice-chairman annually from among its legislative membership. A majority of the members shall constitute a quorum. The Advisory Council shall meet at such times as may be called by the chairman or a majority of the Advisory Council.*

*E. Staff to the Advisory Council shall be provided by the Department of Health. All agencies of the Commonwealth shall provide assistance to the Advisory Council, upon request.*

**§ 32.1-73.10. Advisory Council; report.**

*The Advisory Council shall report to the Governor and the General Assembly, by December 1 of each year, on the Advisory Council's recommendations related to:*

- 1. Practice guidelines for the diagnosis and treatment of pediatric autoimmune neuropsychiatric disorders associated with streptococcal infections and pediatric acute-onset neuropsychiatric syndrome;*
- 2. Mechanisms to increase clinical awareness and education regarding pediatric autoimmune neuropsychiatric disorders associated with streptococcal infections and pediatric acute-onset neuropsychiatric syndrome among physicians, including pediatricians, school-based health centers, and providers of mental health services;*
- 3. Outreach to educators and parents to increase awareness of pediatric autoimmune neuropsychiatric disorders associated with streptococcal infections and pediatric acute-onset neuropsychiatric syndrome; and*
- 4. Development of a network of volunteer experts on the diagnosis and treatment of pediatric autoimmune neuropsychiatric disorders associated with streptococcal infections and pediatric acute-onset neuropsychiatric syndrome to assist in the delivery of education and outreach.*

**§ 32.1-73.11. Sunset.**

*This article shall expire on July 1, 2020.*

## CHAPTER 467

*An Act to amend and reenact § 2.2-212 of the Code of Virginia, relating to Health and Human Resources Secretariat; data sharing.*

[H 2457]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 2.2-212 of the Code of Virginia is amended and reenacted as follows:**

**§ 2.2-212. Position established; agencies for which responsible; additional powers.**

*A. The position of Secretary of Health and Human Resources (the Secretary) is created. The Secretary of Health and Human Resources shall be responsible to the Governor for the following agencies: Department of Health, Department for the Blind and Vision Impaired, Department of Health Professions, Department of Behavioral Health and Developmental Services, Department for Aging and Rehabilitative Services, Department of Social Services, Department of Medical Assistance Services, Virginia Department for the Deaf and Hard-of-Hearing, the Office of Children's Services, and the Assistive Technology Loan Fund Authority. The Governor may, by executive order, assign any other state executive agency to the Secretary of Health and Human Resources, or reassign any agency listed above to another Secretary.*

*B. As requested by the Secretary and to the extent authorized by federal law, the agencies of the Secretariat shall share data, records, and information about applicants for and recipients of services from the agencies of the Secretariat, including individually identifiable health information for the purposes of (i) streamlining administrative processes and reducing*

*administrative burdens on the agencies, (ii) reducing paperwork and administrative burdens on the applicants and recipients, and (iii) improving access to and quality of services provided by the agencies.*

C. Unless the Governor expressly reserves such power to himself, the Secretary shall (i) serve as the lead Secretary for the coordination and implementation of the long-term care policies of the Commonwealth and for the blueprint for livable communities 2025 throughout the Commonwealth, working with the Secretaries of Transportation, Commerce and Trade, and Education, and the Commissioner of Insurance, to facilitate interagency service development and implementation, communication, and cooperation; (ii) serve as the lead Secretary for the Children's Services Act, working with the Secretary of Education and the Secretary of Public Safety and Homeland Security to facilitate interagency service development and implementation, communication, and cooperation; and (iii) coordinate the disease prevention activities of agencies in the Secretariat to ensure efficient, effective delivery of health related services and financing.

**2. That the Secretary of Health and Human Resources shall report to the Governor and the General Assembly on the implementation of the provisions of this act by October 1, 2017.**

#### CHAPTER 468

*An Act to amend and reenact § 19.2-169.6 of the Code of Virginia, relating to inpatient psychiatric hospital admission; defendant found incompetent.*

[H 2462]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 19.2-169.6 of the Code of Virginia is amended and reenacted as follows:**

**§ 19.2-169.6. Inpatient psychiatric hospital admission from local correctional facility.**

A. Any inmate of a local correctional facility ~~who is not subject to the provisions of § 19.2-169.2~~ may be hospitalized for psychiatric treatment at a hospital designated by the Commissioner of Behavioral Health and Developmental Services as appropriate for treatment of persons under criminal charge if:

1. The court with jurisdiction over the inmate's case, if it is still pending, on the petition of the person having custody over an inmate or on its own motion, holds a hearing at which the inmate is represented by counsel and finds by clear and convincing evidence that (i) the inmate has a mental illness; (ii) there exists a substantial likelihood that, as a result of a mental illness, the inmate will, in the near future, (a) cause serious physical harm to himself or others as evidenced by recent behavior causing, attempting, or threatening harm and any other relevant information or (b) suffer serious harm due to his lack of capacity to protect himself from harm as evidenced by recent behavior and any other relevant information; and (iii) the inmate requires treatment in a hospital rather than the local correctional facility. Prior to making this determination, the court shall consider the examination conducted in accordance with § 37.2-815 and the preadmission screening report prepared in accordance with § 37.2-816 and conducted in-person or by means of a two-way electronic video and audio communication system as authorized in § 37.2-804.1 by an employee or designee of the local community services board or behavioral health authority who is skilled in the assessment and treatment of mental illness, who is not providing treatment to the inmate, and who has completed a certification program approved by the Department of Behavioral Health and Developmental Services as provided in § 37.2-809. The examiner appointed pursuant to § 37.2-815, if not physically present at the hearing, shall be available whenever possible for questioning during the hearing through a two-way electronic video and audio or telephonic communication system as authorized in § 37.2-804.1. Any employee or designee of the local community services board or behavioral health authority, as defined in § 37.2-809, representing the board or authority that prepared the preadmission screening report shall attend the hearing in person or, if physical attendance is not practicable, shall participate in the hearing through a two-way electronic video and audio communication system as authorized in § 37.2-804.1. When the hearing is held outside the service area of the community services board or behavioral health authority that prepared the preadmission screening report, and it is not practicable for a representative of the board or authority to attend or participate in the hearing, arrangements shall be made by the board or authority for an employee or designee of the board or authority serving the area in which the hearing is held to attend or participate on behalf of the board or authority that prepared the preadmission screening report; or

2. Upon petition by the person having custody over an inmate, a magistrate finds probable cause to believe that (i) the inmate has a mental illness; (ii) there exists a substantial likelihood that, as a result of a mental illness, the inmate will, in the near future, (a) cause serious physical harm to himself or others as evidenced by recent behavior causing, attempting, or threatening harm and any other relevant information or (b) suffer serious harm due to his lack of capacity to protect himself from harm as evidenced by recent behavior and any other relevant information; and (iii) the inmate requires treatment in a hospital rather than a local correctional facility, and the magistrate issues a temporary detention order for the inmate. Prior to the filing of the petition, the person having custody shall arrange for an evaluation of the inmate conducted in-person or by means of a two-way electronic video and audio communication system as authorized in § 37.2-804.1 by an employee or designee of the local community services board or behavioral health authority who is skilled in the assessment and treatment of mental illness and who has completed a certification program approved by the Department as provided in § 37.2-809. After considering the evaluation of the employee or designee of the local community services board or behavioral health authority, and any other information presented, and finding that probable cause exists to meet the criteria,

the magistrate may issue a temporary detention order in accordance with the applicable procedures specified in §§ 37.2-809 through 37.2-813. The person having custody over the inmate shall notify the court having jurisdiction over the inmate's case, if it is still pending, and the inmate's attorney prior to the detention pursuant to a temporary detention order or as soon thereafter as is reasonable.

Upon detention pursuant to this subdivision, a hearing shall be held either before the court having jurisdiction over the inmate's case or before a district court judge or a special justice, as defined in § 37.2-100, in accordance with the provisions of §§ 37.2-815 through 37.2-821, in which case the inmate shall be represented by counsel as specified in § 37.2-814. The hearing shall be held within 72 hours of execution of the temporary detention order issued pursuant to this subdivision. If the 72-hour period terminates on a Saturday, Sunday, legal holiday, or day on which the court is lawfully closed, the inmate may be detained until the close of business on the next day that is not a Saturday, Sunday, legal holiday, or day on which the court is lawfully closed. Any employee or designee of the local community services board or behavioral health authority, as defined in § 37.2-809, representing the board or authority that prepared the preadmission screening report shall attend the hearing in person or, if physical attendance is not practicable, shall participate in the hearing through a two-way electronic video and audio communication system as authorized in § 37.2-804.1. When the hearing is held outside the service area of the community services board or behavioral health authority that prepared the preadmission screening report, and it is not practicable for a representative of the board or authority to attend or participate in the hearing, arrangements shall be made by the board or authority for an employee or designee of the board or authority serving the area in which the hearing is held to attend or participate on behalf of the board or authority that prepared the preadmission screening report. The judge or special justice conducting the hearing may order the inmate hospitalized if, after considering the examination conducted in accordance with § 37.2-815, the preadmission screening report prepared in accordance with § 37.2-816, and any other available information as specified in subsection C of § 37.2-817, he finds by clear and convincing evidence that (1) the inmate has a mental illness; (2) there exists a substantial likelihood that, as a result of a mental illness, the inmate will, in the near future, (a) cause serious physical harm to himself or others as evidenced by recent behavior causing, attempting, or threatening harm and any other relevant information or (b) suffer serious harm due to his lack of capacity to protect himself from harm as evidenced by recent behavior and any other relevant information; and (3) the inmate requires treatment in a hospital rather than a local correctional facility. The examiner appointed pursuant to § 37.2-815, if not physically present at the hearing, shall be available whenever possible for questioning during the hearing through a two-way electronic video and audio or telephonic communication system as authorized in § 37.2-804.1. The examination and the preadmission screening report shall be admitted into evidence at the hearing.

B. In no event shall an inmate have the right to make application for voluntary admission as may be otherwise provided in § 37.2-805 or 37.2-814 or be subject to an order for mandatory outpatient treatment as provided in § 37.2-817.

C. If an inmate is hospitalized pursuant to this section and his criminal case is still pending, the court having jurisdiction over the inmate's case may order that the admitting hospital evaluate the inmate's competency to stand trial and his mental state at the time of the offense pursuant to §§ 19.2-169.1 and 19.2-169.5.

D. An inmate may not be hospitalized longer than 30 days under subsection A unless the court which has criminal jurisdiction over him or a district court judge or a special justice, as defined in § 37.2-100, holds a hearing and orders the inmate's continued hospitalization in accordance with the provisions of subdivision A 2. If the inmate's hospitalization is continued under this subsection by a court other than the court which has jurisdiction over his criminal case, the facility at which the inmate is hospitalized shall notify the court with jurisdiction over his criminal case and the inmate's attorney in the criminal case, if the case is still pending.

E. Hospitalization may be extended in accordance with subsection D for periods of 60 days for inmates awaiting trial, but in no event may such hospitalization be continued beyond trial, nor shall such hospitalization act to delay trial, as long as the inmate remains competent to stand trial. Hospitalization may be extended in accordance with subsection D for periods of 180 days for an inmate who has been convicted and not yet sentenced, or for an inmate who has been convicted of a crime and is in the custody of a local correctional facility after sentencing, but in no event may such hospitalization be continued beyond the date upon which his sentence would have expired had he received the maximum sentence for the crime charged. Any inmate who has not completed service of his sentence upon discharge from the hospital shall serve the remainder of his sentence.

F. For any inmate who has been convicted and not yet sentenced, or who has been convicted of a crime and is in the custody of a local correctional facility after sentencing, the time the inmate is confined in a hospital for psychiatric treatment shall be deducted from any term for which he may be sentenced to any penal institution, reformatory or elsewhere.

G. Any health care provider, as defined in § 32.1-127.1:03, or other provider rendering services to an inmate who is the subject of a proceeding under this section, upon request, shall disclose to a magistrate, the court, the inmate's attorney, the inmate's guardian ad litem, the examiner appointed pursuant to § 37.2-815, the community service board or behavioral health authority preparing the preadmission screening pursuant to § 37.2-816, or the sheriff or administrator of the local correctional facility any and all information that is necessary and appropriate to enable each of them to perform his duties under this section. These health care providers and other service providers shall disclose to one another health records and information where necessary to provide care and treatment to the inmate and to monitor that care and treatment. Health records disclosed to a sheriff or administrator of the local correctional facility shall be limited to information necessary to protect the sheriff or administrator of the local correctional facility and his employees, the inmate, or the public from

physical injury or to address the health care needs of the inmate. Information disclosed to a law-enforcement officer shall not be used for any other purpose, disclosed to others, or retained.

Any health care provider disclosing records pursuant to this section shall be immune from civil liability for any harm resulting from the disclosure, including any liability under the federal Health Insurance Portability and Accountability Act (42 U.S.C. § 1320d et seq.), as amended, unless the person or provider disclosing such records intended the harm or acted in bad faith.

H. Any order entered where an inmate is the subject of proceedings under this section shall provide for the disclosure of medical records pursuant to subsection G. This subsection shall not preclude any other disclosures as required or permitted by law.

I. As used in this section, "person having custody over an inmate" means the sheriff or other person in charge of the local correctional facility where the inmate is incarcerated at the time of the filing of a petition for the psychiatric treatment of the inmate.

## CHAPTER 469

*An Act to amend and reenact § 51.5-154 of the Code of Virginia, relating to Alzheimer's Disease and Related Disorders Commission; sunset.*

[S 869]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 51.5-154 of the Code of Virginia is amended and reenacted as follows:**

**§ 51.5-154. (Expires July 1, 2017) Alzheimer's Disease and Related Disorders Commission; report.**

A. The Alzheimer's Disease and Related Disorders Commission (the Commission) is established as an advisory commission in the executive branch of state government. The purpose of the entity is to assist people with Alzheimer's disease and related disorders and their caregivers.

B. The Commission shall consist of 15 nonlegislative citizen members. Members shall be appointed as follows: three members to be appointed by the Speaker of the House of Delegates; two members to be appointed by the Senate Committee on Rules; and 10 members to be appointed by the Governor, of whom seven shall be from among the boards, staffs, and volunteers of the Virginia chapters of the Alzheimer's Disease and Related Disorders Association and three shall be from the public at large.

Nonlegislative citizen members shall be appointed for a term of four years. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. All members may be reappointed. However, no nonlegislative citizen member shall serve more than two consecutive four-year terms. The remainder of any term to which a member is appointed to fill a vacancy shall not constitute a term in determining the member's eligibility for reappointment. Vacancies shall be filled in the same manner as the original appointments.

The Commission shall elect a chairman and vice-chairman from among its membership. A majority of the voting members shall constitute a quorum. The Commission shall meet at least four times each year. The meetings of the Commission shall be held at the call of the chairman or whenever the majority of the voting members so request.

C. Members shall receive such compensation for the discharge of their duties as provided in § 2.2-2813. All members shall be reimbursed for reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. Funding for the costs of compensation and expenses of the members shall be provided by the Department.

D. The Commission shall have the power and duty to:

1. Examine the needs of persons with Alzheimer's disease and related disorders, as well as the needs of their caregivers, and ways that state government can most effectively and efficiently assist in meeting those needs;
2. Develop and promote strategies to encourage brain health and reduce cognitive decline;
3. Advise the Governor and General Assembly on policy, funding, regulatory, and other issues related to persons suffering from Alzheimer's disease and related disorders and their caregivers;
4. Develop the Commonwealth's plan for meeting the needs of patients with Alzheimer's disease and related disorders and their caregivers, and advocate for such plan;
5. Submit to the Governor, General Assembly, and Department by October 1 of each year an electronic report regarding the activities and recommendations of the Commission, which shall be *submitted for publication as a report document as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website and the Department's website*; and
6. Establish priorities for programs among state agencies related to Alzheimer's disease and related disorders and criteria to evaluate these programs.

E. The Department shall provide staff support to the Commission. All agencies of the Commonwealth shall provide assistance to the Commission, upon request.

F. The Commission may apply for and expend such grants, gifts, or bequests from any source as may become available in connection with its duties under this section and may comply with such conditions and requirements as may be imposed in connections therewith.

G. This section shall expire on July 1, ~~2017~~ 2020.

## CHAPTER 470

*An Act to amend and reenact § 37.2-304 of the Code of Virginia, relating to Commissioner of Behavioral Health and Developmental Services; reports of critical incidents or deaths.*

[S 894]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 37.2-304 of the Code of Virginia is amended and reenacted as follows:**

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

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

1. To supervise and manage the Department and its state facilities.
2. To employ the personnel required to carry out the purposes of this title.
3. To make and enter into all contracts and agreements necessary or incidental to the performance of the Department's duties and the execution of its powers under this title, including contracts with the United States, other states, and agencies and governmental subdivisions of the Commonwealth, consistent with policies and regulations of the Board and applicable federal and state statutes and regulations.
4. To accept, hold, and enjoy gifts, donations, and bequests on behalf of the Department from the United States government, agencies and instrumentalities thereof, and any other source, subject to the approval of the Governor. To these ends, the Commissioner shall have the power to comply with conditions and execute agreements that may be necessary, convenient, or desirable, consistent with policies and regulations of the Board.
5. To accept, execute, and administer any trust in which the Department may have an interest, under the terms of the instruments creating the trust, subject to the approval of the Governor.
6. To transfer between state hospitals and training centers school-age individuals who have been identified as appropriate to be placed in public school programs and to negotiate with other school divisions for placements in order to ameliorate the impact on those school divisions located in a jurisdiction in which a state hospital or training center is located.
7. To provide to the Director of the Commonwealth's designated protection and advocacy system, established pursuant to § 51.5-39.13, a written report setting forth the known facts of (i) critical incidents, *as that term is defined in § 37.2-709.1*, or deaths of individuals receiving services in facilities and (ii) *serious injuries, as that term is defined in regulations adopted by the Board pursuant to § 37.2-400, or deaths of individuals receiving services in programs operated or licensed by the Department* within 15 working days of the critical incident, *serious injury*, or death.
8. To work with the appropriate state and federal entities to ensure that any individual who has received services in a state facility for more than one year has possession of or receives prior to discharge any of the following documents, when they are needed to obtain the services contained in his discharge plan: a Department of Motor Vehicles approved identification card that will expire 90 days from issuance, a copy of his birth certificate if the individual was born in the Commonwealth, or a social security card from the Social Security Administration. State facility directors, as part of their responsibilities pursuant to § 37.2-837, shall implement this provision when discharging individuals.
9. To work with the Department of Veterans Services and the Department for Aging and Rehabilitative Services to establish a program for mental health and rehabilitative services for Virginia veterans and members of the Virginia National Guard and Virginia residents in the Armed Forces Reserves not in active federal service and their family members pursuant to § 2.2-2001.1.
10. To establish and maintain a pharmaceutical and therapeutics committee composed of representatives of the Department of Medical Assistance Services, state facilities operated by the Department, community services boards, at least one health insurance plan, and at least one individual receiving services to develop a drug formulary for use at all community services boards, state facilities operated by the Department, and providers licensed by the Department.
11. To certify individuals as peer providers in accordance with regulations adopted by the Board.
12. To establish and maintain the Commonwealth Mental Health First Aid Program pursuant to § 37.2-312.2.
13. To submit a report for the preceding fiscal year by December 1 of each year to the Governor and the Chairmen of the House Appropriations and Senate Finances Committees that provides information on the operation of Virginia's publicly funded behavioral health and developmental services system. The report shall include a brief narrative and data on the number of individuals receiving state facility services or community services board services, including purchased inpatient psychiatric services; the types and amounts of services received by these individuals; and state facility and community services board service capacities, staffing, revenues, and expenditures. The annual report shall describe major new

initiatives implemented during the past year and shall provide information on the accomplishment of systemic outcome and performance measures during the year.

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

**CHAPTER 471**

*An Act to require the Department of Health to make information about and resources on palliative care available on its website.*

[S 974]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. § 1.** *That the Department of Health shall make information about and resources on palliative care available to the public, health care providers, and health care facilities on its website. Such information shall include information about the delivery of palliative care in the home and in primary, secondary, and tertiary environments; best practices for the delivery of palliative care; consumer education materials and referral information for palliative care; and continuing education opportunities for health care providers.*

**CHAPTER 472**

*An Act to amend and reenact § 63.2-501.1 of the Code of Virginia, relating to applicants for public assistance; contact information.*

[S 1122]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 63.2-501.1 of the Code of Virginia is amended and reenacted as follows:**

**§ 63.2-501.1. Application for public assistance; accurate contact information; authorized disclosures.**

A. Every local department shall obtain accurate contact information from each applicant for public assistance, which shall include the best available address and telephone number of the applicant. *Local departments shall also obtain alternative contact information, such as the applicant's email address and cell phone number, and the applicant's preferred method of contact, including direct mail, email, text message, or phone call.*

B. To the extent required by federal law and regulations, recipients of public assistance shall notify the local department of any change in address or telephone number within 30 days of such change, and the local department shall update any records maintained by the local department to reflect the change in the recipient's contact information.

C. Contact information received and maintained by local departments shall be confidential and shall not be disclosed except as required pursuant to § 63.2-102. However, information related to any application for or receipt of medical assistance services pursuant to § 32.1-325 may be disclosed for purposes directly connected to administration of the state plan for medical assistance services pursuant to § 1902(a)(7) of the Social Security Act.

**CHAPTER 473**

*An Act to amend and reenact § 63.2-1605 of the Code of Virginia, relating to financial exploitation of adults; reporting to local law enforcement and State Police.*

[S 1462]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 63.2-1605 of the Code of Virginia is amended and reenacted as follows:**

**§ 63.2-1605. Protective services for adults by local departments.**

A. Each local board, to the extent that federal or state matching funds are made available to each locality, shall provide, pursuant to regulations and subject to supervision of the Commissioner for Aging and Rehabilitative Services, adult protective services for adults who are found to be abused, neglected, or exploited and who meet one of the following criteria: (i) the adult is 60 years of age or older or (ii) the adult is 18 years of age or older and is incapacitated. The requirement to provide such services shall not limit the right of any individual to refuse to accept any of the services so offered, except as provided in § 63.2-1608.

B. Upon receipt of the report pursuant to § 63.2-1606, the local department shall determine the validity of such report and shall initiate an investigation within 24 hours of the time the report is received in the local department. Local departments shall consider valid any report meeting all of the following criteria: (i) the subject of the report is an adult as

defined in this article, (ii) the report concerns a specific adult and there is enough information to locate the adult, and (iii) the report describes the circumstances of the alleged abuse, neglect, or exploitation.

C. *The local department or the adult protective services hotline shall immediately refer the matter and all relevant documentation to the local law-enforcement agency where the adult resides or where the alleged abuse, neglect, or exploitation took place or, if these places are unknown, where the alleged abuse, neglect, or exploitation was discovered for investigation, upon receipt of an initial report pursuant to § 63.2-1606 involving any of the following or upon determining, during the course of an investigation pursuant to this article, the occurrence of any of the following:*

1. *Sexual abuse as defined in § 18.2-67.10;*
2. *Death that is believed to be the result of abuse or neglect;*
3. *Serious bodily injury or disease as defined in § 18.2-369 that is believed to be the result of abuse or neglect;*
4. *Suspected financial exploitation of an adult; or*
5. *Any other criminal activity involving abuse or neglect that places the adult in imminent danger of death or serious bodily harm.*

*Local law-enforcement agencies shall provide local departments and the adult protective services hotline with a preferred point of contact for referrals.*

D. The local department shall refer any appropriate matter and all relevant documentation, to the appropriate licensing, regulatory, or legal authority for administrative action or criminal investigation.

~~D. E.~~ If a local department is denied access to an adult for whom there is reason to suspect the need for adult protective services, then the local department may petition the circuit court for an order allowing access or entry or both. Upon a showing of good cause supported by an affidavit or testimony in person, the court may enter an order permitting such access or entry.

~~E. F.~~ In any case of suspected adult abuse, neglect, or exploitation, local departments, with the informed consent of the adult or his legal representative, shall take or cause to be taken photographs, video recordings, or appropriate medical imaging of the adult and his environment as long as such measures are relevant to the investigation and do not conflict with § 18.2-386.1. However, if the adult is determined to be incapable of making an informed decision and of giving informed consent and either has no legal representative or the legal representative is the suspected perpetrator of the adult abuse, neglect, or exploitation, consent may be given by an agent appointed under an advance medical directive or medical power of attorney, or by a person authorized, pursuant to § 54.1-2986. In the event no agent or authorized representative is immediately available, then consent shall be deemed to be given.

~~F. G.~~ Local departments shall foster the development, implementation, and coordination of adult protective services to prevent adult abuse, neglect, and exploitation.

~~G. H.~~ Local departments shall not investigate allegations of abuse, neglect, or exploitation of adults incarcerated in state correctional facilities.

~~H.~~ Local departments or the adult protective services hotline, upon receiving the initial report pursuant to § 63.2-1606, shall immediately notify the local law-enforcement agency where the adult resides, or where the alleged abuse, neglect, or exploitation took place, or if these places are unknown, then where the alleged abuse, neglect, or exploitation was discovered, when in receipt of a report describing any of the following:

1. ~~Sexual abuse as defined in § 18.2-67.10;~~
2. ~~Death, serious bodily injury or disease as defined in § 18.2-369 that is believed to be the result of abuse or neglect; or~~
3. ~~Any other criminal activity involving abuse or neglect that places the adult in imminent danger of death or serious bodily harm.~~

~~I.~~ Upon receipt of an initial report pursuant to § 63.2-1606 or during an adult protective services investigation of suspected financial exploitation of an adult in which financial losses to the adult resulting from the exploitation are suspected to be greater than \$50,000, the local department or adult protective services hotline shall immediately refer the matter and all relevant documentation to the local law-enforcement agency where the adult resides or where the alleged exploitation took place or, if these places are not known, where the alleged exploitation was discovered, for investigation.

~~J. I.~~ The report and evidence received by the local department and any written findings, evaluations, records, and recommended actions shall be confidential and shall be exempt from disclosure requirements of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.), except that such information may be disclosed to persons having a legitimate interest in the matter in accordance with §§ 63.2-102 and 63.2-104 and pursuant to official interagency agreements or memoranda of understanding between state agencies.

## CHAPTER 474

*An Act to amend and reenact §§ 54.1-2983.2 and 54.1-2986.2 of the Code of Virginia, relating to advance directives.*

[S 1511]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

1. That §§ 54.1-2983.2 and 54.1-2986.2 of the Code of Virginia are amended and reenacted as follows:  
§ 54.1-2983.2. Capacity; required determinations.

A. Every adult shall be presumed to be capable of making an informed decision unless he is determined to be incapable of making an informed decision in accordance with this article. A determination that a patient is incapable of making an informed decision may apply to a particular health care decision, to a specified set of health care decisions, or to all health care decisions. No person shall be deemed incapable of making an informed decision based solely on a particular clinical diagnosis.

B. ~~Prior~~ *Except as provided in subsection C, prior to providing, continuing, withholding, or withdrawing health care pursuant to an authorization that has been obtained or will be sought pursuant to this article and prior to, or as soon as reasonably practicable after initiating health care for which authorization has been obtained or will be sought pursuant to this article, and no less frequently than every 180 days while the need for health care continues, the attending physician shall certify in writing upon personal examination of the patient that the patient is incapable of making an informed decision regarding health care and shall obtain written certification from a capacity reviewer that, based upon a personal examination of the patient, the patient is incapable of making an informed decision. However, certification by a capacity reviewer shall not be required if the patient is unconscious or experiencing a profound impairment of consciousness due to trauma, stroke, or other acute physiological condition. The capacity reviewer providing written certification that a patient is incapable of making an informed decision, if required, shall not be otherwise currently involved in the treatment of the person assessed, unless an independent capacity reviewer is not reasonably available. The cost of the assessment shall be considered for all purposes a cost of the patient's health care.*

*C. If a person has executed an advance directive granting an agent the authority to consent to the person's admission to a facility as defined in § 37.2-100 for mental health treatment and if the advance directive so authorizes, the person's agent may exercise such authority after a determination that the person is incapable of making an informed decision regarding such admission has been made by (i) the attending physician, (ii) a psychiatrist or licensed clinical psychologist, (iii) a licensed psychiatric nurse practitioner, (iv) a licensed clinical social worker, or (v) a designee of the local community services board as defined in § 37.2-809. Such determination shall be made in writing following an in-person examination of the person and certified by the physician, psychiatrist, licensed clinical psychologist, licensed psychiatric nurse practitioner, licensed clinical social worker, or designee of the local community services board who performed the examination prior to admission or as soon as reasonably practicable thereafter. Admission of a person to a facility as defined in § 37.2-100 for mental health treatment upon the authorization of the person's agent shall be subject to the requirements of § 37.2-805.1. When a person has been admitted to a facility for mental health treatment upon the authorization of an agent following such a determination, such agent may authorize specific health care for the person, consistent with the provisions of the person's advance directive, only upon a determination that the person is incapable of making an informed decision regarding such health care in accordance with subsection B.*

D. If, at any time, a patient is determined to be incapable of making an informed decision, the patient shall be notified, as soon as practical and to the extent he is capable of receiving such notice, that such determination has been made before providing, continuing, withholding, or withdrawing health care as authorized by this article. Such notice shall also be provided, as soon as practical, to the patient's agent or person authorized by § 54.1-2986 to make health care decisions on his behalf.

~~D.~~ E. A single physician may, at any time, upon personal evaluation, determine that a patient who has previously been determined to be incapable of making an informed decision is now capable of making an informed decision, provided such determination is set forth in writing.

#### **§ 54.1-2986.2. Health care decisions in the event of patient protest.**

A. Except as provided in subsection B or C, the provisions of this article shall not authorize providing, continuing, withholding or withdrawing health care if the patient's attending physician knows that such action is protested by the patient.

B. A patient's agent may make a health care decision over the protest of a patient who is incapable of making an informed decision if:

1. The patient's advance directive explicitly authorizes the patient's agent to make the health care decision at issue, even over the patient's later protest, and ~~the patient's an attending licensed physician or, a licensed clinical psychologist, a licensed physician assistant, a licensed nurse practitioner, a licensed professional counselor, or a licensed clinical social worker who is familiar with the patient~~ attested in writing at the time the advance directive was made that the patient was capable of making an informed decision and understood the consequences of the provision;

2. The decision does not involve withholding or withdrawing life-prolonging procedures; and

3. The health care that is to be provided, continued, withheld or withdrawn is determined and documented by the patient's attending physician to be medically appropriate and is otherwise permitted by law.

C. In cases in which a patient has not explicitly authorized his agent to make the health care decision at issue over the patient's later protest, a patient's agent or person authorized to make decisions pursuant to § 54.1-2986 may make a decision over the protest of a patient who is incapable of making an informed decision if:

1. The decision does not involve withholding or withdrawing life-prolonging procedures;

2. The decision does not involve (i) admission to a facility as defined in § 37.2-100 or (ii) treatment or care that is subject to regulations adopted pursuant to § 37.2-400;

3. The health care decision is based, to the extent known, on the patient's religious beliefs and basic values and on any preferences previously expressed by the patient in an advance directive or otherwise regarding such health care or, if they are unknown, is in the patient's best interests;

4. The health care that is to be provided, continued, withheld, or withdrawn has been determined and documented by the patient's attending physician to be medically appropriate and is otherwise permitted by law; and

5. The health care that is to be provided, continued, withheld, or withdrawn has been affirmed and documented as being ethically acceptable by the health care facility's patient care consulting committee, if one exists, or otherwise by two physicians not currently involved in the patient's care or in the determination of the patient's capacity to make health care decisions.

D. A patient's protest shall not revoke the patient's advance directive unless it meets the requirements of § 54.1-2985.

E. If a patient protests the authority of a named agent or any person authorized to make health care decisions by § 54.1-2986, except for the patient's guardian, the protested individual shall have no authority under this article to make health care decisions on his behalf unless the patient's advance directive explicitly confers continuing authority on his agent, even over his later protest. If the protested individual is denied authority under this subsection, authority to make health care decisions shall be determined by any other provisions of the patient's advance directive, or in accordance with § 54.1-2986 or in accordance with any other provision of law.

## CHAPTER 475

*An Act to amend and reenact § 2.2-3705.5 of the Code of Virginia and to amend the Code of Virginia by adding in Title 32.1 a chapter numbered 19, consisting of a section numbered 32.1-372, relating to Emergency Department Care Coordination Program.*

[S 1561]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 2.2-3705.5 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Title 32.1 a chapter numbered 19, consisting of a section numbered 32.1-372, as follows:**

**§ 2.2-3705.5. Exclusions to application of chapter; health and social services records.**

The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01.

1. Health records, except that such records may be personally reviewed by the individual who is the subject of such records, as provided in subsection F of § 32.1-127.1:03.

Where the person who is the subject of health records is confined in a state or local correctional facility, the administrator or chief medical officer of such facility may assert such confined person's right of access to the health records if the administrator or chief medical officer has reasonable cause to believe that such confined person has an infectious disease or other medical condition from which other persons so confined need to be protected. Health records shall only be reviewed and shall not be copied by such administrator or chief medical officer. The information in the health records of a person so confined shall continue to be confidential and shall not be disclosed by the administrator or chief medical officer of the facility to any person except the subject or except as provided by law.

Where the person who is the subject of health records is under the age of 18, his right of access may be asserted only by his guardian or his parent, including a noncustodial parent, unless such parent's parental rights have been terminated, a court of competent jurisdiction has restricted or denied such access, or a parent has been denied access to the health record in accordance with § 20-124.6. In instances where the person who is the subject thereof is an emancipated minor, a student in a public institution of higher education, or is a minor who has consented to his own treatment as authorized by § 16.1-338 or 54.1-2969, the right of access may be asserted by the subject person.

For the purposes of this chapter, statistical summaries of incidents and statistical data concerning abuse of individuals receiving services compiled by the Commissioner of Behavioral Health and Developmental Services shall be disclosed. No such summaries or data shall include any information that identifies specific individuals receiving services.

2. Applications for admission to examinations or for licensure and scoring records maintained by the Department of Health Professions or any board in that department on individual licensees or applicants. However, such material may be made available during normal working hours for copying, at the requester's expense, by the individual who is the subject thereof, in the offices of the Department of Health Professions or in the offices of any health regulatory board, whichever may possess the material.

3. Reports, documentary evidence and other information as specified in §§ 51.5-122, 51.5-141, and 63.2-104.

4. Investigative notes; proprietary information not published, copyrighted or patented; information obtained from employee personnel records; personally identifiable information regarding residents, clients or other recipients of services; other correspondence and information furnished in confidence to the Department of Social Services in connection with an active investigation of an applicant or licensee pursuant to Chapters 17 (§ 63.2-1700 et seq.) and 18 (§ 63.2-1800 et seq.) of

Title 63.2; and information furnished to the Office of the Attorney General in connection with an investigation or litigation pursuant to Article 19.1 (§ 8.01-216.1 et seq.) of Chapter 3 of Title 8.01 and Chapter 9 (§ 32.1-310 et seq.) of Title 32.1. Information from the records of completed investigations shall be disclosed in a form that does not reveal the identity of complainants, persons supplying information, or other individuals involved in the investigation.

5. Information collected for the designation and verification of trauma centers and other specialty care centers within the Statewide Emergency Medical Services System and Services pursuant to Article 2.1 (§ 32.1-111.1 et seq.) of Chapter 4 of Title 32.1.

6. Reports and court documents relating to involuntary admission required to be kept confidential pursuant to § 37.2-818.

7. Data formerly required to be submitted to the Commissioner of Health relating to the establishment of new or the expansion of existing clinical health services, acquisition of major medical equipment, or certain projects requiring capital expenditures pursuant to former § 32.1-102.3:4.

8. Information required to be provided to the Department of Health Professions by certain licensees pursuant to § 54.1-2506.1.

9. Information acquired (i) during a review of any child death conducted by the State Child Fatality Review team established pursuant to § 32.1-283.1 or by a local or regional child fatality review team to the extent that such information is made confidential by § 32.1-283.2; (ii) during a review of any death conducted by a family violence fatality review team to the extent that such information is made confidential by § 32.1-283.3; or (iii) during a review of any adult death conducted by the Adult Fatality Review Team to the extent made confidential by § 32.1-283.5 or by a local or regional adult fatality review team to the extent that such information is made confidential by § 32.1-283.6.

10. Patient level data collected by the Board of Health and not yet processed, verified, and released, pursuant to § 32.1-276.9, to the Board by the nonprofit organization with which the Commissioner of Health has contracted pursuant to § 32.1-276.4.

11. Information held by the Health Practitioners' Monitoring Program Committee within the Department of Health Professions that may identify any practitioner who may be, or who is actually, impaired and disclosure of such information is prohibited by § 54.1-2517.

12. Information relating to a grant application, or accompanying a grant application, submitted to the Commonwealth Neurotrauma Initiative Advisory Board pursuant to Article 12 (§ 51.5-178 et seq.) of Chapter 14 of Title 51.5 that would (i) reveal (a) medical or mental health records or other data identifying individual patients or (b) proprietary business or research-related information produced or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of the applicant.

13. Any information copied, recorded, or received by the Commissioner of Health in the course of an examination, investigation, or review of a managed care health insurance plan licensee pursuant to §§ 32.1-137.4 and 32.1-137.5, including books, records, files, accounts, papers, documents, and any or all computer or other recordings.

14. Information and statistical registries required to be kept confidential pursuant to §§ 63.2-102 and 63.2-104.

15. Information relating to the prescribing and dispensing of covered substances to recipients and any abstracts from such information that are in the possession of the Prescription Monitoring Program pursuant to Chapter 25.2 (§ 54.1-2519 et seq.) of Title 54.1 and any material relating to the operation or security of the Program.

16. Records of the Virginia Birth-Related Neurological Injury Compensation Program required to be kept confidential pursuant to § 38.2-5002.2.

17. Information held by the State Health Commissioner relating to the health of any person subject to an order of quarantine or an order of isolation pursuant to Article 3.02 (§ 32.1-48.05 et seq.) of Chapter 2 of Title 32.1. However, nothing in this subdivision shall be construed to authorize the withholding of statistical summaries, abstracts, or other information in aggregate form.

18. The names and addresses or other contact information of persons receiving transportation services from a state or local public body or its designee under Title II of the Americans with Disabilities Act, (42 U.S.C. § 12131 et seq.) or funded by Temporary Assistance for Needy Families (TANF) created under § 63.2-600.

19. Information held by certain health care committees and entities that may be withheld from discovery as privileged communications pursuant to § 8.01-581.17.

20. *Records of and information held by the Emergency Department Care Coordination Program required to be kept confidential pursuant to § 32.1-372.*

#### CHAPTER 19.

#### EMERGENCY DEPARTMENT CARE COORDINATION PROGRAM.

#### **§ 32.1-372. Emergency Department Care Coordination Program established; purpose.**

A. *The Emergency Department Care Coordination Program (the Program) is hereby created to provide a single, statewide technology solution that connects all hospital emergency departments in the Commonwealth to facilitate real-time communication and collaboration among physicians, other health care providers, and clinical and care management personnel for patients receiving services in hospital emergency departments, for the purpose of improving the quality of patient care services.*

B. *In developing and implementing the Program, the Commissioner shall ensure that the Program:*

1. *Receives real-time patient visit information from, and shares such information with, every hospital emergency department in the Commonwealth through integrations that enable receiving information from and delivering information into electronic health records systems utilized by such hospital emergency departments;*

2. *Requires that all participants in the Program have fully executed health care data exchange contracts that ensure that the secure and reliable exchange of patient information fully complies with patient privacy and security requirements of applicable state and federal laws and regulations, including the Health Insurance Portability and Accountability Act (42 U.S.C. § 1320d et seq.);*

3. *Allows hospital emergency departments in the Commonwealth to receive real-time alerts triggered by analytics to identify patient-specific risks, to create and share care coordination plans and other care recommendations, and to access other clinically beneficial information related to patients receiving services in hospital emergency departments in the Commonwealth;*

4. *Provides a patient's designated primary care physician and supporting clinical and care management personnel with treatment and care coordination information about a patient receiving services in a hospital emergency department in the Commonwealth, including care plans and hospital admissions, transfers, and discharges;*

5. *Provides a patient's designated managed care organization and supporting clinical and care management personnel with care coordination plans and discharge and other treatment and care coordination information about a member receiving services in a hospital emergency department in the Commonwealth; and*

6. *Is integrated with the Prescription Monitoring Program established pursuant to Chapter 25.2 (§ 54.1-2519 et seq.) of Title 54.1 and the Advance Health Care Directive Registry established pursuant to Article 9 (§ 54.1-2994 et seq.) of Chapter 29 of Title 54.1 to enable automated query and automatic delivery of relevant information from such sources into the existing work flow of health care providers in the emergency department.*

C. *The Commissioner shall enter into a contract with a third party to create, operate, maintain, or administer the Program in accordance with this section, which shall include provisions for the protection of patient privacy and data security pursuant to state and federal law and regulations, including the Health Insurance Portability and Accountability Act (42 U.S.C. § 1320d et seq.). The third-party contractor shall establish an advisory council, which shall consist of representatives of the Department, the Department of Medical Assistance Services, the Department of Health Professions, the Virginia Hospital and Healthcare Association, the Virginia Association of Health Plans, the Medical Society of Virginia, the Virginia College of Emergency Physicians, the Virginia Chapter of the American Academy of Pediatricians, and the Virginia Academy of Family Physicians, to advise the Commissioner and the third-party contractor regarding the establishment and operation of the Program, changes to the Program, and outcome measures for the Program.*

D. *Information submitted to the Program shall be confidential and shall be exempt from disclosure under the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).*

**2. That the provisions of this act shall not become effective unless and until the Commonwealth receives federal HITECH funds to implement its provisions.**

#### CHAPTER 476

*An Act to require the Department of Health to evaluate the need for 180-day biochemical oxygen demand sampling of small alternative onsite sewage systems; report.*

[S 1577]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

1. § 1. *That the Department of Health shall evaluate the need for 180-day biochemical oxygen demand sampling of small alternative onsite sewage systems that serve no more than three attached or detached single-family residences with a combined average flow of less than or equal to 1,000 gallons per day of residential strength sewage, or a structure with an average daily sewage flow of less than or equal to 1,000 gallons per day of residential strength sewage, and shall report its findings to the Chairmen of the House Committee on Health, Welfare and Institutions and the Senate Committee on Education and Health by December 1, 2017.*

#### CHAPTER 477

*An Act to amend and reenact §§ 38.2-1316.1, 38.2-1316.2, 38.2-1316.4, and 38.2-1316.7 of the Code of Virginia, relating to credits allowed for reinsurance.*

[H 1471]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

1. **That §§ 38.2-1316.1, 38.2-1316.2, 38.2-1316.4, and 38.2-1316.7 of the Code of Virginia are amended and reenacted as follows:**

§ 38.2-1316.1. **Definitions.**

As used in this article unless the context requires another meaning:

"Accredited reinsurer" means an assuming insurer accredited pursuant to the provisions of subdivision ~~A~~ C 2 of § 38.2-1316.2.

"Certified reinsurer" means an insurer certified by the Commission pursuant to subsection ~~B~~ D of § 38.2-1316.2.

"Credit" includes any credit for reinsurance (i) allowed as an admitted asset or as a deduction from liability and (ii) used to compute the valuation reserves required by § 38.2-1311, unearned premium reserves required by § 38.2-1312 or 38.2-4610.1, or loss or claim reserves required by § 38.2-1314 or 38.2-4609.

"Qualified United States financial institution," as used in subdivision 2 c of § 38.2-1316.4, means an institution that:

1. Is organized or, in the case of a United States office of a foreign banking organization, is licensed, under the laws of the United States or any state thereof;

2. Is regulated, supervised, and examined by the United States federal or state authorities having regulatory authority over banks and trust companies; and

3. Has been determined by either the Commission or the Securities Valuation Office of the National Association of Insurance Commissioners to meet such standards of financial condition and standing as are considered necessary and appropriate to regulate the quality of financial institutions whose letters of credit will be acceptable to the Commission.

"Qualified United States financial institution" means, for purposes of those provisions of this article specifying those institutions that are eligible to act as a fiduciary of a trust, an institution that:

1. Is organized or, in the case of a United States branch or agency office of a foreign banking organization, is licensed, under the laws of the United States or any state thereof and has been granted authority to operate with fiduciary powers; and

2. Is regulated, supervised and examined by federal or state authorities having regulatory authority over banks and trust companies.

**§ 38.2-1316.2. Credit allowed a domestic ceding insurer.**

A. ~~Except as provided in § 38.2-1316.4, credit~~ *Credit for reinsurance shall be allowed a domestic ceding insurer as either an asset or a reduction from liability on account of reinsurance ceded only when the reinsurer meets the requirements of subsection C or D of § 38.2-1316.4, provided that the Commission may adopt by regulation pursuant to subsection B of § 38.2-1316.7 specific additional requirements relating to or setting forth any one or more of the following: (i) the valuation of assets or reserve credits, (ii) the amount and forms of security supporting reinsurance arrangements described in subsection B of § 38.2-1316.7, and (iii) the circumstances pursuant to which credit will be reduced or eliminated.*

B. *Credit shall be allowed under subdivisions C 1, 2, and 3 only as respects cessions of those kinds or classes of business that the assuming insurer is licensed or otherwise permitted to write or assume in its state of domicile or, in the case of a U.S. branch of an alien assuming insurer, in the state through which it is entered and licensed to transact insurance or reinsurance. Credit shall be allowed under subdivision C 3 or 4 only if the applicable requirements of subsection B of 14 VAC 5-300-150 of the Virginia Administrative Code have been satisfied.*

C. *Credit shall be allowed a domestic ceding insurer for reinsurance ceded only when the assuming insurer meets one of the following criteria:*

1. Credit shall be allowed when the assuming insurer is licensed to transact insurance in this Commonwealth.

2. Credit shall be allowed when the assuming insurer is accredited as a reinsurer in this Commonwealth. An accredited reinsurer is one which:

a. Files with the Commission evidence of its submission to the Commission's jurisdiction;

b. Submits to the Commission's authority to examine its books and records;

c. Is licensed to transact insurance or reinsurance in at least one state or, in the case of a United States branch of an alien assuming insurer, is entered through and licensed to transact insurance or reinsurance in at least one state;

d. Files annually with the Commission a copy of its annual statement filed with the insurance department of its state of domicile or entry and a copy of its most recent audited financial statement; and

e. Demonstrates to the satisfaction of the Commission that it has adequate financial capacity to meet its reinsurance obligations and is otherwise qualified to assume reinsurance from domestic insurers. An assuming insurer is deemed to meet this requirement as of the time of its application if it maintains a surplus as regards policyholders in an amount not less than \$20 million and its accreditation has not been denied by the Commission within 90 days of its initial submission.

3. Credit shall be allowed when the assuming insurer is domiciled and licensed in or, in the case of a United States branch of an alien insurer, is entered through, a state which employs standards regarding credit for reinsurance substantially similar to those applicable under this statute and the assuming insurer or United States branch of an alien assuming insurer:

a. Submits to the authority of the Commission to examine its books and records; and

b. Maintains a surplus as regards policyholders in an amount not less than \$20 million. However, unless specifically required by the Commission, this surplus requirement shall be deemed waived when reinsurance is ceded and assumed pursuant to pooling arrangements among insurers in the same holding company system.

4. Credit shall be allowed when the assuming insurer maintains a trust fund in a qualified United States financial institution for the payment of the valid claims of its United States policyholders and ceding insurers, their assigns and successors in interest. The assuming insurer shall report annually to the Commission information substantially the same as that required to be reported on the National Association of Insurance Commissioners (NAIC) Annual Statement form by licensed insurers to enable the Commission to determine the sufficiency of the trust fund.

a. In the case of a single assuming insurer, the trust shall consist of a trustee account representing the assuming insurer's liabilities attributable to business written in the United States, and in addition, the assuming insurer shall maintain a trustee surplus amount not less than \$20 million, except as provided in subdivision 4 b.

b. At any time after the assuming insurer has permanently discontinued underwriting new business secured by the trust for at least three full years, the commissioner with principal regulatory oversight of the trust may authorize a reduction in the required trustee surplus, but only after a finding, based on an assessment of the risk, that the new required surplus level is adequate for the protection of United States ceding insurers, policyholders, and claimants in light of reasonably foreseeable adverse loss development. The risk assessment may involve an actuarial review, including an independent analysis of reserves and cash flows, and shall consider all material risk factors, including when applicable the lines of business involved, the stability of the incurred loss estimates and the effect of the surplus requirements on the assuming insurer's liquidity or solvency. The minimum required trustee surplus may not be reduced to an amount less than 30 percent of the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers covered by the trust.

c. In the case of an association, including incorporated and individual unincorporated underwriters, the trust shall consist of a trustee account representing the association's liabilities attributable to business written in the United States and in addition, the association shall maintain a trustee surplus of which \$100 million shall be held jointly for the benefit of United States ceding insurers of any member of the association, the incorporated members of which shall not be engaged in any business other than underwriting as a member of the association and shall be subject to the same level of solvency regulation and control by the association's domiciliary regulator as are the unincorporated members; and the association shall make available to the Commission an annual certification of the solvency of each underwriter by the association's domiciliary regulator and its independent public accountants.

d. In the case of an association of incorporated underwriters under common administration that complies with the filing requirements contained in subdivision 4 c, and that has continuously transacted an insurance business outside the United States for at least three years, and submits to the Commission's authority to examine its books and records and bears the expense of the examination, and which has aggregate policyholders' surplus of \$10 billion; the trust shall be in an amount equal to the association's several liabilities attributable to business ceded by United States ceding insurers to any member of the association pursuant to reinsurance contracts issued in the name of such association. In addition, the association shall maintain a joint trustee surplus of which \$100 million shall be held jointly for the benefit of United States ceding insurers of any member of the association as additional security for any such liabilities, and each member of the association shall make available to the Commission an annual certification of the member's solvency by the member's domiciliary regulator and its independent public accountant.

~~B. D.~~ Credit shall be allowed when the reinsurance is ceded to an assuming insurer that has been certified by the Commission as a reinsurer in this Commonwealth and secures its obligations in accordance with the following:

1. In order to be eligible for certification, the assuming insurer shall:

a. Be domiciled and licensed to transact insurance or reinsurance in a qualified jurisdiction, as determined by the Commission pursuant to subdivision 3;

b. Maintain minimum capital and surplus, or its equivalent, in an amount to be determined by the Commission pursuant to regulation;

c. Maintain financial strength ratings from two or more rating agencies deemed acceptable by the Commission pursuant to regulation;

d. Agree to submit to the jurisdiction of the Commonwealth, appoint the Commission as its agent for service of process in the Commonwealth, and agree to provide security for 100 percent of the assuming insurer's liabilities attributable to reinsurance ceded by United States ceding insurers if it resists enforcement of a final United States judgment;

e. Agree to meet applicable information filing requirements as determined by the Commission, both with respect to an initial application for certification and on an ongoing basis; and

f. Satisfy other requirements for certification deemed relevant by the Commission.

2. In order to be eligible for certification as a certified reinsurer, an association including incorporated and individual unincorporated underwriters, in addition to satisfying requirements of subdivision 1, shall satisfy the following requirements:

a. The association shall satisfy its minimum capital and surplus requirements through the capital and surplus equivalents, net of liabilities, of the association and its members, which shall include a joint central fund that may be applied to any unsatisfied obligation of the association or any of its members, in an amount determined by the Commission to provide adequate protection;

b. The incorporated members of the association shall not be engaged in any business other than underwriting as a member of the association and shall be subject to the same level of regulation and solvency control by the association's domiciliary regulator as are the unincorporated members; and

c. Within 90 days after its financial statements are due to be filed with the association's domiciliary regulator, the association shall provide to the Commission an annual certification by the association's domiciliary regulator of the solvency of each underwriter member; or if a certification is unavailable, financial statements prepared by independent public accountants, of each underwriter member of the association.

3. The Commission shall create and publish a list of qualified jurisdictions, under which an assuming insurer licensed and domiciled in such jurisdiction is eligible to be considered for certification by the Commission as a certified reinsurer. With regard to determinations of qualified jurisdictions:

a. In order to determine whether the domiciliary jurisdiction of a non-United States assuming insurer is eligible to be recognized as a qualified jurisdiction, the Commission shall evaluate the appropriateness and effectiveness of the reinsurance supervisory system of the jurisdiction, both initially and on an ongoing basis, and consider the rights, benefits, and the extent of reciprocal recognition afforded by the non-United States jurisdiction to reinsurers licensed and domiciled in the United States. A qualified jurisdiction must agree to share information and cooperate with the Commission with respect to all certified reinsurers domiciled within that jurisdiction. A jurisdiction may not be recognized as a qualified jurisdiction if the Commission has determined that the jurisdiction does not adequately and promptly enforce final United States judgments and arbitration awards. Additional factors may be considered in the discretion of the Commission;

b. A list of qualified jurisdictions shall be published through the NAIC Committee Process. The Commission shall consider this list in determining qualified jurisdictions. If the Commission approves a jurisdiction as qualified that does not appear on the list of qualified jurisdictions, the Commission shall provide thoroughly documented justification in accordance with criteria to be developed under regulations;

c. United States jurisdictions that meet the requirement for accreditation under the NAIC financial standards and accreditation program shall be recognized as qualified jurisdictions; and

d. If a certified reinsurer's domiciliary jurisdiction ceases to be a qualified jurisdiction, the Commission has the discretion to suspend the reinsurer's certification indefinitely, in lieu of revocation.

4. The Commission shall assign a rating to each certified reinsurer, giving due consideration to the financial strength ratings that have been assigned by rating agencies deemed acceptable to the Commission pursuant to regulation. The Commission shall publish a list of all certified reinsurers and their ratings.

5. A certified reinsurer shall secure obligations assumed from United States ceding insurers under this subsection at a level consistent with its rating, as specified in regulations promulgated by the Commission. With regard to securing obligations:

a. In order for a domestic ceding insurer to qualify for full financial statement credit for reinsurance ceded to a certified reinsurer, the certified reinsurer shall maintain security in a form acceptable to the Commission and consistent with the provisions of § 38.2-1316.4, or in a multibeneficiary trust in accordance with subdivision ~~A~~ C 4, except as otherwise provided in this subsection;

b. If a certified reinsurer maintains a trust to fully secure its obligations subject to subdivision ~~A~~ C 4, and chooses to secure its obligations incurred as a certified reinsurer in the form of a multibeneficiary trust, the certified reinsurer shall maintain separate trust accounts for its obligations incurred under reinsurance agreements issued or renewed as a certified reinsurer with reduced security as permitted by this subsection or comparable laws of other United States jurisdictions and for its obligations subject to subdivision ~~A~~ C 4. It shall be a condition to the grant of certification under this section that the certified reinsurer shall have bound itself, by the language of the trust and agreement with the Commissioner with principal regulatory oversight of each such trust account, to fund, upon termination of any such trust account, out of the remaining surplus of such trust any deficiency of any other such trust account;

c. The minimum trustee surplus requirements provided in subdivision ~~A~~ C 4 are not applicable with respect to a multibeneficiary trust maintained by a certified reinsurer for the purpose of securing obligations incurred under this subsection, except that such trust shall maintain a minimum trustee surplus of \$10 million;

d. With respect to obligations incurred by a certified reinsurer under this subsection, if the security is insufficient, the Commission shall reduce the allowable credit by an amount proportionate to the deficiency and has the discretion to impose further reductions in allowable credit upon finding that there is a material risk that the certified reinsurer's obligations will not be paid in full when due; and

e. For purposes of this subsection, a certified reinsurer whose certification has been terminated for any reason shall be treated as a certified reinsurer required to secure 100 percent of its obligations. As used in this subsection, the term "terminated" means revocation, suspension, voluntary surrender, and inactive status. If the Commission continues to assign a higher rating as permitted by other provisions of this section, this requirement does not apply to a certified reinsurer in inactive status or to a reinsurer whose certification has been suspended.

6. If an applicant for certification has been certified as a reinsurer in an NAIC accredited jurisdiction, the Commission has the discretion to defer to that jurisdiction's certification and has the discretion to defer to the rating assigned by that jurisdiction, and such assuming insurer shall be considered to be a certified reinsurer in this Commonwealth.

7. A certified reinsurer that ceases to assume new business in the Commonwealth may request to maintain its certification in inactive status in order to continue to qualify for a reduction in security for its in-force business. An inactive certified reinsurer shall continue to comply with all applicable requirements of this subsection, and the Commission shall assign a rating that takes into account, if relevant, the reasons why the reinsurer is not assuming new business.

~~E~~. If an accredited or certified reinsurer ceases to meet the requirements for accreditation or certification, the Commission may suspend or revoke the reinsurer's accreditation or certification in accordance with the following:

1. The Commission shall give the reinsurer notice and opportunity for hearing. The suspension or revocation may not take effect until after the Commission's order on hearing, unless:

a. The reinsurer waives its right to hearing;

b. The Commission's order is based on regulatory action by the reinsurer's domiciliary jurisdiction or the voluntary surrender or termination of the reinsurer's eligibility to transact insurance or reinsurance business in its domiciliary jurisdiction or in the primary certifying state of the reinsurer under subdivision ~~B~~ D 6; or

c. The Commission finds that an emergency requires immediate action and a court of competent jurisdiction has not stayed the Commission's action.

2. While a reinsurer's accreditation or certification is suspended, no reinsurance contract issued or renewed after the effective date of the suspension qualifies for credit except to the extent that the reinsurer's obligations under the contract are secured in accordance with § 38.2-1316.4. If a reinsurer's accreditation or certification is revoked, no credit for reinsurance may be granted after the effective date of the revocation except to the extent that the reinsurer's obligations under the contract are secured in accordance with subdivision ~~B~~ D 5 or § 38.2-1316.4.

~~D~~ F. A ceding insurer shall take steps to manage its concentration risk and diversify its reinsurance program in the following manner:

1. A ceding insurer shall take steps to manage its reinsurance recoverables proportionate to its own book of business. A domestic ceding insurer shall notify the Commission within 30 days after reinsurance recoverables from any single assuming insurer, or group of affiliated assuming insurers, exceeds 50 percent of the domestic ceding insurer's last reported surplus to policyholders, or after it is determined that reinsurance recoverables from any single assuming insurer, or group of affiliated assuming insurers, is likely to exceed this limit. The notification shall demonstrate that the exposure is safely managed by the domestic ceding insurer.

2. A ceding insurer shall take steps to diversify its reinsurance program. A domestic ceding insurer shall notify the Commission within 30 days after ceding to any single assuming insurer, or group of affiliated assuming insurers, more than 20 percent of the ceding insurer's gross written premium in the prior calendar year, or after it has determined that the reinsurance ceded to any single assuming insurer, or group of affiliated assuming insurers, is likely to exceed this limit. The notification shall demonstrate that the exposure is safely managed by the domestic ceding insurer.

~~E~~ G. The trusts described in subdivision ~~A~~ C 4 shall be established in a form acceptable to the Commission.

1. The trust instrument shall provide that contested claims shall be valid and enforceable upon the final order of any court of competent jurisdiction in the United States.

2. The trust shall vest legal title to its assets in the trustees of the trust for its United States policyholders and ceding insurers, their assigns and successors in interest.

3. The trust and the assuming insurer shall be subject to examination as determined by the Commission.

4. The trust described herein must remain in effect for as long as the assuming insurer shall have outstanding obligations due under the reinsurance agreements subject to the trust.

5. No later than February 28 of each year the trustees of the trust shall report to the Commission in writing setting forth the balance of the trust and listing the trust's investments at the preceding year end and shall certify the date of termination of the trust, if so planned, or certify that the trust shall not expire prior to the next following December 31.

**§ 38.2-1316.4. Credit allowed any ceding insurer.**

Credit shall be allowed any ceding insurer under the following conditions:

1. Credit shall be allowed when reinsurance is ceded to an assuming insurer not meeting the requirements of § 38.2-1316.2 but only with respect to the insurance of risks located in jurisdictions where such reinsurance is required by applicable law or regulation of that jurisdiction.

2. Credit, in the form of a reduction from liability for reinsurance ceded to an assuming insurer not meeting the requirements of § 38.2-1316.2, shall be allowed in an amount not exceeding the liabilities carried by the ceding insurer and attributable to the reinsurance, provided *that the Commission may adopt by regulation pursuant to subsection B of § 38.2-1316.7 specific additional requirements relating to or setting forth any one or more of the following: (i) the valuation of assets or reserve credits, (ii) the amount and forms of security supporting reinsurance arrangements described in subsection B of § 38.2-1316.7, and (iii) the circumstances pursuant to which credit will be reduced or eliminated.* Additionally, such reduction ~~does~~ shall not exceed the amount of funds held by or on behalf of the ceding insurer, including funds held in trust for the ceding insurer, under a reinsurance contract with such assuming insurer as security for the payment of obligations thereunder, if ~~(i)~~ such security is (a) held in the United States subject to withdrawal solely by, and under the exclusive control of, the ceding insurer; or ~~(ii)~~ (b) in the case of a trust, held in a qualified United States financial institution. The required security may be in the form of:

a. Cash.

b. Securities listed by the Securities Valuation Office of the National Association of Insurance Commissioners, including those deemed exempt from filing as defined by the Purposes and Procedures Manual of the Securities Valuation Office, and qualifying as admitted assets with adequate liquidity and readily determinable market value.

c. Clean, irrevocable, unconditional letters of credit issued or confirmed by a qualified United States financial institution, as defined in this article, no later than December 31 in respect of the year for which filing is being made, and in the possession of the ceding insurer on or before the filing date of its annual statement. Letters of credit meeting applicable standards of insurer acceptability as of the dates of their issuance (or confirmation) shall, notwithstanding the issuing (or confirming) institution's subsequent failure to meet applicable standards of insurer acceptability, continue to be acceptable as security until their expiration, extension, renewal, modification or amendment, whichever first occurs.

d. Any other form of security acceptable to the Commission.

**§ 38.2-1316.7. Rules and regulations.**

A. The Commission may adopt rules and regulations implementing the provisions of this article.

B. *The Commission is further authorized to adopt rules and regulations applicable to reinsurance arrangements described in subdivision 1. A regulation adopted pursuant to:*

1. *This subsection shall apply only to reinsurance relating to:*

a. *Life insurance policies with guaranteed nonlevel gross premiums or guaranteed nonlevel benefits;*

b. *Universal life insurance policies with provisions resulting in the ability of a policyholder to keep a policy in force over a secondary guarantee period;*

c. *Variable annuities with guaranteed death or living benefits;*

d. *Long-term care insurance policies; or*

e. *Such other life and health insurance and annuity products as to which the National Association of Insurance Commissioners (NAIC) adopts model regulatory requirements with respect to credit for reinsurance.*

2. *Subdivision 1 a or 1 b shall apply to any treaty containing (i) policies issued on or after January 1, 2015, and (ii) policies issued prior to January 1, 2015, if risk pertaining to such pre-2015 policies is ceded in connection with the treaty, in whole or in part, on or after January 1, 2015.*

3. *This subsection may require the ceding insurer, in calculating the amounts or forms of security required to be held under regulations promulgated under this authority, to use the Valuation Manual adopted by the NAIC under subdivision B 1 of § 38.2-1379, including all amendments adopted by the NAIC and in effect on the date as of which the calculation is made, to the extent applicable.*

4. *This subsection shall not apply to cessions to an assuming insurer that:*

a. *Is certified in the Commonwealth; or*

b. *Maintains at least \$250 million in capital and surplus when determined in accordance with the NAIC Accounting Practices and Procedures Manual, including all amendments thereto adopted by the NAIC, excluding the impact of any permitted or prescribed practices, and is (i) licensed in at least 26 states or (ii) licensed in at least 10 states and licensed or accredited in a total of at least 35 states.*

C. *The authority to adopt regulations pursuant to subsection B does not limit the Commission's general authority to adopt regulations pursuant to subsection A.*

**CHAPTER 478**

*An Act to amend and reenact § 65.2-605 of the Code of Virginia and to amend and reenact the fourth enactments of Chapters 279 and 290 of the Acts of Assembly of 2016, relating to workers' compensation; fees for medical services.*

[H 1571]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 65.2-605 of the Code of Virginia is amended and reenacted as follows:**

**§ 65.2-605. Liability of employer for medical services ordered by Commission; fee schedules for medical services; malpractice; assistants-at-surgery; coding.**

A. As used in this section, unless the context requires a different meaning:

"Burn center" means a treatment facility designated as a burn center pursuant to the verification program jointly administered by the American Burn Association and the American College of Surgeons and verified by the Commonwealth.

"Categories of providers of fee scheduled medical services" means:

1. Physicians exclusive of surgeons;

2. Surgeons;

3. Type One teaching hospitals;

4. Hospitals, exclusive of Type One teaching hospitals;

5. Ambulatory surgical centers;

6. Providers of outpatient medical services not covered by subdivision 1, 2, or 5; and

7. Purveyors of miscellaneous items and any other providers not described in subdivisions 1 through 6, as established by the Commission in regulations adopted pursuant to subsection C.

"Codes" means, as applicable, CPT codes, HCPCS codes, or DRG classifications, or revenue codes.

"CPT codes" means the medical and surgical identifying codes using the Physicians' Current Procedural Terminology published by the American Medical Association.

"Diagnosis related group" or "DRG" means the system of classifying in-patient hospital stays adopted for use with the Inpatient Prospective Payment System.

"Fee scheduled medical service" means a medical service exclusive of a medical service provided in the treatment of a traumatic injury or serious burn.

"Health Care Common Procedure Coding System codes" or "HCPCS codes" means the medical coding system, including all subsets of codes by alphabetical letter, used to report hospital outpatient and certain physician services as

published by the National Uniform Billing Committee, including Temporary National Code (Non-Medicare) S0000-S-9999.

"Level I or Level II trauma center" means a hospital in the Commonwealth designated by the Board of Health as a Level I trauma center or a Level II trauma center pursuant to the Statewide Emergency Medical Services Plan developed in accordance with § 32.1-111.3.

"Medical community" means one of the following six regions of the Commonwealth:

1. Northern region, consisting of the area for which three-digit ZIP code prefixes 201 and 220 through 223 have been assigned by the U.S. Postal Service.

2. Northwest region, consisting of the area for which three-digit ZIP code prefixes 224 through 229 have been assigned by the U.S. Postal Service.

3. Central region, consisting of the area for which three-digit ZIP code prefixes 230, 231, 232, 238, and 239 have been assigned by the U.S. Postal Service.

4. Eastern region, consisting of the area for which three-digit ZIP code prefixes 233 through 237 have been assigned by the U.S. Postal Service.

5. Near Southwest region, consisting of the area for which three-digit ZIP code prefixes 240, 241, 244, and 245 have been assigned by the U.S. Postal Service.

6. Far Southwest region, consisting of the area for which three-digit ZIP code prefixes 242, 243, and 246 have been assigned by the U.S. Postal Service.

"Medical service" means any medical, surgical, or hospital service required to be provided to an injured person pursuant to this title.

*"Medical service provided for the treatment of a serious burn" includes any professional service rendered during the dates of service of the admission or transfer to a burn center.*

*"Medical service provided for the treatment of a traumatic injury" includes any professional service rendered during the dates of service of the admission or transfer to a Level I or Level II trauma center.*

"Miscellaneous items" means medical services provided under this title that are not included within subdivisions 1 through 6 of the definition of categories of providers of fee scheduled medical services. "Miscellaneous items" does not include (i) pharmaceuticals that are dispensed by providers, other than hospitals or Type One teaching hospitals as part of inpatient or outpatient medical services, or dispensed as part of fee scheduled medical services at an ambulatory surgical center or (ii) durable medical equipment dispensed at retail.

*"New type of technology" means an item resulting or derived from an advance in medical technology, including an implantable medical device or an item of medical equipment, that is supplied by a third party, provided that the item has been cleared or approved by the federal Food and Drug Administration (FDA) after the transition date and prior to the date of the provision of the medical service using the item.*

"Physician" means a person licensed to practice medicine or osteopathy in the Commonwealth pursuant to Chapter 29 (§ 54.1-2900 et seq.) of Title 54.1.

*"Professional service" means any medical or surgical service required to be provided to an injured person pursuant to this title that is provided by a physician or any health care practitioner licensed, accredited, or certified to perform the service consistent with state law.*

"Provider" means a person licensed by the Commonwealth to provide a medical service to a claimant under this title.

"Reimbursement objective" means the average of all reimbursements and other amounts paid to providers in the same category of providers of fee scheduled medical services in the same medical community for providing a fee scheduled medical service to a claimant under this title during the most recent period preceding the transition date for which statistically reliable data is available as determined by the Commission.

*"Revenue codes" means a method of coding used by hospitals or health care systems to identify the department in which medical service was rendered to the patient or the type of item or equipment used in the delivery of medical services.*

"Serious burn" means a burn for which admission or transfer to a burn center is medically necessary.

"Transition date" means the date the regulations of the Commission adopting initial Virginia fee schedules for medical services pursuant to subsection C become effective.

"Traumatic injury" means an injury for which admission or transfer to a Level I or Level II trauma center is medically necessary and that is assigned a DRG number of 003, 004, 011, 012, 013, 025 through 029, 082, 085, 453, 454, 455, 459, 460, 463, 464, 465, 474, 475, 483, 500, 507, 510, 515, 516, 570, 856, 857, 862, 901, 904, 907, 908, 955 through 959, 963, 998, or 999. Claimants who die in an emergency room of trauma or burn before admission shall be deemed to be claimants who incurred a traumatic injury.

"Type One teaching hospital" means a hospital that was a state-owned teaching hospital on January 1, 1996.

"Virginia fee schedule" means a schedule of maximum fees for fee scheduled medical services for the medical community where the fee scheduled medical service is provided, as initially adopted by the Commission pursuant to subsection C and as adjusted as provided in subsection D.

B. The pecuniary liability of the employer for a:

1. Medical, surgical, and hospital service herein required when ordered by the Commission that is provided to an injured person prior to the transition date, regardless of the date of injury, shall be limited absent a contract providing

otherwise, to such charges as prevail in the same community for similar treatment when such treatment is paid for by the injured person;

2. Fee scheduled medical service provided on or after the transition date, regardless of the date of injury, shall be limited to:

a. The amount provided for the payment for the fee scheduled medical service as set forth in a contract under which the provider has agreed to accept a specified amount in payment for the service provided, which amount may be less than or exceed the maximum amount for the service as set forth in the applicable Virginia fee schedule;

b. In the absence of a contract described in subdivision 2 a, the lesser of the billing amount or the amount for the fee scheduled medical service as set forth in the applicable Virginia fee schedule that is in effect on the date the service is provided, subject to an increase approved by the Commission pursuant to subsection H; or

c. In the absence of (i) a contract described in subdivision 2 a and (ii) a provision in a Virginia fee schedule that sets forth a maximum amount for the medical service on the date it is provided, the maximum amount determined by the Commission as provided in subsection E; and

3. Medical service provided on or after the transition date ~~is~~ for the treatment of a traumatic injury or serious burn, regardless of the date of injury, shall be limited to:

a. The amount provided for the payment for the medical service provided for the treatment of the traumatic injury or serious burn as set forth in a contract under which the provider has agreed to accept a specified amount in payment for the service provided, which amount may be less than or exceed the maximum amount for the service calculated pursuant to subdivision 3 b; or

b. In the absence of a contract described in subdivision 3 a, an amount equal to 80 percent of the provider's charge for the service based on the provider's charge master or schedule of fees; however, if the compensability under this title of a claim for traumatic injury or serious burn is contested and after a hearing on the claim on its merits or after abandonment of a defense by the employer or insurance carrier, benefits for medical services are awarded and inure to the benefit of a third-party insurance carrier or health care provider and the Commission awards to the claimant's attorney a fee pursuant to subsection B of § 65.2-714, then the pecuniary liability of the employer for the service provided shall be limited to 100 percent of the provider's charge for the service based on the provider's charge master or schedule of fees.

C. The Commission shall adopt regulations establishing initial Virginia fee schedules for fee scheduled medical services as follows:

1. The Commission's regulations that establish the initial Virginia fee schedules shall be effective on January 1, 2018.

2. Separate initial Virginia fee schedules shall be established for fee scheduled medical services (i) provided by each category of providers of fee scheduled medical services and (ii) within each of the medical communities to reflect the variations among the medical communities as provided in subdivision 3, for each category of providers of fee scheduled medical services.

3. The Virginia fee schedules for each medical community shall reflect variations among medical communities in (i) all reimbursements and other amounts paid to providers for fee scheduled medical services among the medical communities and (ii) the extent to which the number of providers within the various medical communities is adequate to meet the needs of injured workers.

4. In establishing the initial Virginia fee schedules for fee scheduled medical services, the Commission shall establish the maximum fee for each fee scheduled medical service at a level that approximates the reimbursement objective for each category of providers of fee scheduled medical services among the medical communities. The Commission shall retain a firm with nationwide experience and actuarial expertise in the development of workers' compensation fee schedules to assist the Commission in establishing the initial Virginia fee schedules. The Commission shall consult with the regulatory advisory panel established pursuant to subdivision F 2 prior to retaining such firm. Such firm shall be retained to assist the Commission in developing the Virginia fee schedules by recommending a methodology that will provide, at reasonable cost to the Commission, statistically valid estimates of the reimbursement objective for fee scheduled medical services within the medical communities, based on available data or, if the necessary data is not available, by recommending the optimal methodology for obtaining the necessary data. The Commission shall consult with the regulatory advisory panel prior to adopting any such methodology. Such methodology may, but is not required to, be based on applicable codes. The estimates of the reimbursement objective for fee scheduled medical services shall be derived from data on all reimbursements and other amounts paid to providers for fee scheduled medical services provided pursuant to this title during 2014 and 2015, to the extent available.

D. The Commission shall review Virginia fee schedules during the year that follows the transition date and biennially thereafter and, if necessary, adjust the Virginia fee schedules in order to address (i) inflation or deflation as reflected in the medical care component of the Consumer Price Index for All Urban Consumers (CPI-U) for the South as published by the Bureau of Labor Statistics of the U.S. Department of Labor; (ii) access to fee scheduled medical services; (iii) errors in calculations made in preparing the Virginia fee schedules; and (iv) incentives for providers. The Commission shall not adjust a Virginia fee schedule in a manner that reduces fees on an existing schedule unless such a reduction is based on deflation or a finding by the Commission that advances in technology or errors in calculations made in preparing the Virginia fee schedules justify a reduction in fees.

E. The maximum pecuniary liability of the employer for a fee scheduled medical service that is not included in a Virginia fee schedule when it is provided shall be determined by the Commission. The Commission's determination of the

employer's maximum pecuniary liability for such fee scheduled medical service shall be effective until the Commission sets a maximum fee for the fee scheduled medical service and incorporates such maximum fee into an adjusted Virginia fee schedule adopted pursuant to subsection D. If the fee scheduled medical service is not included in a Virginia fee schedule because it is:

1. A new type of technology, ~~including an implantable medical device or item of medical equipment, that is supplied by a third party, provided that such technology has been cleared or approved by the federal Food and Drug Administration (FDA) prior to the date of the provision of the medical service;~~ the employer's maximum pecuniary liability shall not exceed 130 percent of the provider's invoiced cost for such device, as evidenced by a copy of the invoice. If the new type of technology has not been cleared or approved by the FDA prior to such date, then the provider shall not be entitled to payment or reimbursement therefor unless the employer or its insurer agree; or

2. A new type of procedure that has not been assigned a billing code, the employer's maximum pecuniary liability shall not exceed 80 percent of the provider's charge for the service based on the provider's charge master or schedule of fees, provided the employer and the provider mutually agree to the provision of such procedure.

F. The Commission shall:

1. Provide public access to information regarding the Virginia fee schedules for medical services, by categories of providers of fee scheduled medical services and for each medical community, through the Commission's website. No information provided on the website shall be provider-specific or disclose or release the identity of any provider; and

2. Utilize a 10-member regulatory advisory panel to assist in the development of regulations adopting initial Virginia fee schedules pursuant to subsection C ~~and~~, in adjusting initial Virginia fee schedules pursuant to subsection D, *and on all matters involving or related to the fee schedule as deemed necessary by the Commission*. One member of the regulatory advisory panel shall be selected by the Commission from each of the following: (i) the American Insurance Association; (ii) the Property and Casualty Insurers Association of America; (iii) the Virginia Self-Insurers Association, Inc.; (iv) the Medical Society of Virginia; (v) the Virginia Hospital and Healthcare Association; (vi) a Type One teaching hospital; (vii) the Virginia Orthopaedic Society; (viii) the Virginia Trial Lawyers Association; (ix) a group self-insurance association representing employers; and (x) a local government group self-insurance pool formed under Chapter 27 (§ 15.2-2700 et seq.) of Title 15.2. The Commission shall meet with the regulatory advisory panel and consider the recommendations of its members in its development of the Virginia fee schedules pursuant to subsections C and D.

G. The Commission's retaining of a firm with nationwide experience and actuarial expertise in the development of workers' compensation fee schedules to assist the Commission in developing the Virginia fee schedules pursuant to subsections C and D shall be exempt from the provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq.), provided the Commission shall issue a request for proposals that requires submission by a bidder of evidence that it satisfies the conditions for eligibility established in this subsection and in subdivision C 4. Records and information relating to payments or reimbursements to providers that is obtained by or furnished to the Commission by such firm or any other person shall (i) be for the exclusive use of the Commission in the course of the Commission's development of fee schedules and related regulations and (ii) shall remain confidential and shall not be subject to the provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

H. When the total charges of a hospital or Type One teaching hospital, based on such provider's charge master, for inpatient hospital services covered by a DRG code exceed the charge outlier threshold, then the Commission shall establish the maximum fee for such scheduled inpatient hospital services at an amount equal to the total of (i) the maximum fee for the service as set forth in the applicable fee schedule and (ii) *initially equal to* 80 percent of the provider's total charges for the service in excess of the charge outlier threshold. The charge outlier threshold for such services initially shall equal ~~450~~ 300 percent of the maximum fee for the service set forth in the applicable fee schedule; however, the Commission, in consultation with the firm retained pursuant to subdivision C 4, is authorized on a biennial basis to ~~decrease~~ *adjust* such percentage if it finds that the number of such claims for which the total charges of the hospital or Type One teaching hospital exceed the charge outlier threshold is less than five percent or to increase such percentage if such number is greater than 10 percent of all such claims.

I. No provider shall use a different charge master or schedule of fees for any medical service provided under this title than the provider uses for health care services provided to patients who are not claimants under this title.

J. The employer shall not be liable in damages for malpractice by a physician or surgeon furnished by him pursuant to the provisions of § 65.2-603, but the consequences of any such malpractice shall be deemed part of the injury resulting from the accident and shall be compensated for as such.

K. The Commission shall determine the number and geographic area of communities across the Commonwealth. In establishing the communities, the Commission shall consider the ability to obtain relevant data based on geographic area and such other criteria as are consistent with the purposes of this title. The Commission shall use the communities established pursuant to this subsection in determining charges that prevail in the same community for treatment provided prior to the transition date.

L. The pecuniary liability of the employer for treatment of a medical service that is rendered on or after July 1, 2014, by:

1. A nurse practitioner or physician assistant serving as an assistant-at-surgery shall be limited to no more than 20 percent of the reimbursement due to the physician performing the surgery; and

2. An assistant surgeon in the same specialty as the primary surgeon shall be limited to no more than 50 percent of the reimbursement due to the primary physician performing the surgery.

M. Multiple procedures completed on a single surgical site associated with a medical service rendered on or after July 1, 2014, shall be coded and billed with appropriate CPT codes and modifiers and paid according to the National Correct Coding Initiative rules and the CPT codes as in effect at the time the health care was provided to the claimant.

N. The CPT code and National Correct Coding Initiative rules, as in effect at the time a medical service was provided to the claimant, shall serve as the basis for processing a health care provider's billing form or itemization for such items as global and comprehensive billing and the unbundling of medical services. Hospital in-patient medical services shall be coded and billed through the International Statistical Classification of Diseases and Related Health Problems as in effect at the time the medical service was provided to the claimant.

**2. That the fourth enactments of Chapters 279 and 290 of the Acts of Assembly of 2016 are amended and reenacted as follows:**

**4. That the Workers' Compensation Commission (Commission) shall select the members of the regulatory advisory panel created pursuant to subdivision F 2 of § 65.2-605 of the Code of Virginia as added by this act prior to August 1, 2016. The regulatory advisory panel shall meet, review, and make recommendations to the Commission prior to July 1, ~~2017~~ 2018, on workers' compensation issues relating to (i) pharmaceutical costs not previously included in the Virginia fee schedules; (ii) durable medical equipment costs not previously included in the Virginia fee schedules; (iii) attorney fees awarded under § 65.2-714; (iv) how to resolve the issues that the peer review committees established under Chapter 13 (§§ 65.2-1300 through 65.2-1310) of Title 65.2 of the Code of Virginia as repealed by this act had been authorized to address; (v) prior authorization for medical services; and (vi) any other issues that the Commission assigns to the regulatory advisory panel.**

**3. That an emergency exists and this act is in force from its passage.**

#### CHAPTER 479

*An Act to amend and reenact § 19.2-240 of the Code of Virginia, relating to transportation order for defendant held in correctional facility.*

[H 1579]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 19.2-240 of the Code of Virginia is amended and reenacted as follows:**

**§ 19.2-240. Clerks shall make out criminal docket; transportation orders.**

Before every term of any court in which criminal cases are to be tried the clerk of the court shall make out a separate docket of criminal cases then pending, in the following order, numbering the same:

1. Felony cases;
2. Misdemeanor cases.

He shall docket all felony cases in the order in which the indictments are found and all misdemeanor cases in the order in which the presentments or indictments are found or informations are filed or appeals are allowed by magistrates and as soon as any presentments or indictments are made at a term of court he shall forthwith docket the same in the order required above. *Upon request of, and receipt of all necessary information from, the attorney for the Commonwealth or counsel for the defendant, the court shall issue all necessary transportation orders for the transport of any defendant incarcerated in a state or local correctional facility to the court. If authorized by the court and upon receipt of all necessary information from the attorney for the Commonwealth or counsel for the defendant, the clerk or deputy clerk may issue these orders on behalf of the court.*

Traffic infractions shall be docketed with misdemeanor cases.

Cases appealed from the juvenile and domestic relations district court shall not be placed on the criminal docket except for cases involving criminal offenses committed by adults as provided in § 16.1-302. Cases transferred to a circuit court from a juvenile and domestic relations district court pursuant to Article 7 (§ 16.1-269.1 et seq.) of Chapter 11 of Title 16.1 shall be docketed as provided in this section upon return of a true bill of indictment by the grand jury.

#### CHAPTER 480

*An Act to amend and reenact §§ 8.01-328.1 and 20-97 of the Code of Virginia, relating to personal jurisdiction over a person; domicile and residential requirements for suits for annulment, affirmance, or divorce; civilian employees and foreign service officers.*

[H 1737]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 8.01-328.1 and 20-97 of the Code of Virginia are amended and reenacted as follows:**

**§ 8.01-328.1. When personal jurisdiction over person may be exercised.**

A. A court may exercise personal jurisdiction over a person, who acts directly or by an agent, as to a cause of action arising from the person's:

1. Transacting any business in this Commonwealth;
2. Contracting to supply services or things in this Commonwealth;
3. Causing tortious injury by an act or omission in this Commonwealth;
4. Causing tortious injury in this Commonwealth by an act or omission outside this Commonwealth if he regularly does or solicits business, or engages in any other persistent course of conduct, or derives substantial revenue from goods used or consumed or services rendered, in this Commonwealth;
5. Causing injury in this Commonwealth to any person by breach of warranty expressly or impliedly made in the sale of goods outside this Commonwealth when he might reasonably have expected such person to use, consume, or be affected by the goods in this Commonwealth, provided that he also regularly does or solicits business, or engages in any other persistent course of conduct, or derives substantial revenue from goods used or consumed or services rendered in this Commonwealth;
6. Having an interest in, using, or possessing real property in this Commonwealth;
7. Contracting to insure any person, property, or risk located within this Commonwealth at the time of contracting;
8. Having (i) executed an agreement in this Commonwealth which obligates the person to pay spousal support or child support to a domiciliary of this Commonwealth, or to a person who has satisfied the residency requirements in suits for annulments or divorce for members of the armed forces or ~~foreign service officers~~ *civilian employees* of the United States, *including foreign service officers*, pursuant to § 20-97, provided that proof of service of process on a nonresident party is made by a law-enforcement officer or other person authorized to serve process in the jurisdiction where the nonresident party is located; (ii) been ordered to pay spousal support or child support pursuant to an order entered by any court of competent jurisdiction in this Commonwealth having in personam jurisdiction over such person; or (iii) shown by personal conduct in this Commonwealth, as alleged by affidavit, that the person conceived or fathered a child in this Commonwealth;
9. Having maintained within this Commonwealth a matrimonial domicile at the time of separation of the parties upon which grounds for divorce or separate maintenance is based, or at the time a cause of action arose for divorce or separate maintenance or at the time of commencement of such suit, if the other party to the matrimonial relationship resides herein; or
10. Having incurred a liability for taxes, fines, penalties, interest, or other charges to any political subdivision of the Commonwealth.

Jurisdiction in subdivision 9 is valid only upon proof of service of process pursuant to § 8.01-296 on the nonresident party by a person authorized under the provisions of § 8.01-320. Jurisdiction under *clause (iii) of subdivision 8 (iii) of this subsection* is valid only upon proof of personal service on a nonresident pursuant to § 8.01-320.

B. Using a computer or computer network located in the Commonwealth shall constitute an act in the Commonwealth. For purposes of this subsection, "use" and "computer network" shall have the same meanings as those contained in § 18.2-152.2.

C. When jurisdiction over a person is based solely upon this section, only a cause of action arising from acts enumerated in this section may be asserted against him; however, nothing contained in this chapter shall limit, restrict, or otherwise affect the jurisdiction of any court of this Commonwealth over foreign corporations ~~which~~ *that* are subject to service of process pursuant to the provisions of any other statute.

**§ 20-97. Domicile and residential requirements for suits for annulment, affirmance, or divorce.**

No suit for annulling a marriage or for divorce shall be maintainable, unless one of the parties was at the time of the filing of the suit and had been for at least six months preceding the filing of the suit an actual bona fide resident and domiciliary of this Commonwealth, nor shall any suit for affirming a marriage be maintainable, unless one of the parties be domiciled in, and is and has been an actual bona fide resident of, this Commonwealth at the time of filing such suit.

For the purposes of this section only:

1. If a member of the armed forces of the United States has been stationed or resided in this Commonwealth and has lived for a period of six months or more in this Commonwealth next preceding the filing of the suit, then such person shall be presumed to be domiciled in and to have been a bona fide resident of this Commonwealth during such period of time.
2. Being stationed or residing in the Commonwealth includes, but is not limited to, a member of the armed forces being stationed or residing upon a ship having its home port in this Commonwealth or at an air, naval, or military base located within this Commonwealth over which the United States enjoys exclusive federal jurisdiction.
3. Any member of the armed forces of the United States or any ~~foreign service officer~~ *civilian employee* of the United States, *including any foreign service officer*, who (i) at the time the suit is filed is, or immediately preceding such suit was, stationed in any territory or foreign country and (ii) was domiciled in the Commonwealth for the six-month period immediately preceding his being stationed in such territory or country; shall be deemed to have been domiciled in and to have been a bona fide resident of the Commonwealth during the six months preceding the filing of a suit for annulment or divorce.
4. Upon separation of the husband and wife, the wife may establish her own and separate domicile, though the separation may have been caused under such circumstances as would entitle the wife to a divorce or annulment.

## CHAPTER 481

*An Act to amend and reenact §§ 8.01-126, 8.01-128, 8.01-129, and 16.1-94.01 of the Code of Virginia, relating to initial hearings on summons for unlawful detainer; amendments of amount requested on summons for unlawful detainer; immediate issuance of writs of possession in certain case judgments; written notice of satisfaction rendered in court not of record.*

[H 1811]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:****1. That §§ 8.01-126, 8.01-128, 8.01-129, and 16.1-94.01 of the Code of Virginia are amended and reenacted as follows:****§ 8.01-126. Summons for unlawful detainer issued by magistrate or clerk or judge of a general district court.**

A. In any case when possession of any house, land or tenement is unlawfully detained by the person in possession thereof, the landlord, his agent, attorney, or other person, entitled to the possession may present to a magistrate or a clerk or judge of a general district court a statement under oath of the facts which authorize the removal of the tenant or other person in possession, describing such premises; and thereupon such magistrate, clerk or judge shall issue his summons against the person or persons named in such affidavit. The process issued upon any such summons issued by a magistrate, clerk or judge may be served as provided in § 8.01-293, 8.01-296, or 8.01-299. When issued by a magistrate it may be returned to and the case heard and determined by the judge of a general district court. If the summons for unlawful detainer is filed to terminate a tenancy pursuant to the Virginia Residential Landlord and Tenant Act (§ 55-248.2 et seq.), the initial hearing on such summons shall occur as soon as practicable, but not more than 21 days from the date of filing. If the case cannot be heard within 21 days from the date of filing, the initial hearing shall be held as soon as practicable. If the plaintiff requests that the initial hearing be set on a date later than 21 days from the date of filing, the initial hearing shall be set on a date the plaintiff is available that is also available for the court. Such summons shall be served at least 10 days before the return day thereof.

B. Notwithstanding any other rule of court or provision of law to the contrary, the plaintiff in an unlawful detainer case may submit into evidence a photocopy of a properly executed paper document or paper printout of an electronically stored document including a copy of the original lease or other documents, provided that the plaintiff provides an affidavit or sworn testimony that the copy of such document is a true and accurate copy of the original lease. An attorney or agent of the landlord or managing agent may present such affidavit into evidence.

C. 1. Notwithstanding any other rule of court or provision of law to the contrary, when the defendant does not make an appearance in court, the plaintiff or the plaintiff's attorney or agent may submit into evidence by an affidavit or sworn testimony a statement of the amount of outstanding rent, late charges, attorney fees, and any other charges or damages due as of the date of the hearing. The plaintiff or the plaintiff's attorney or agent shall advise the court of any payments by the defendant that result in a variance reducing the amount due the plaintiff as of the day of the hearing.

2. If the unlawful detainer summons served upon the defendant requests judgment for all amounts due as of the date of the hearing, the court shall permit amendment of the amount requested on the summons for unlawful detainer filed in court in accordance with the evidence *and in accordance with the amounts contracted for in the rental agreement* and shall enter a judgment for such amount due as of the date of the hearing in addition to entering an order of possession for the premises.

3. In determining the amount due the plaintiff as of the date of the hearing, if the rental agreement or lease provides that rent is due and payable on the first of the month in advance for the entire month, at the request of the plaintiff or the plaintiff's attorney or agent, the amount due as of the date of the hearing shall include the rent due for the entire month in which the hearing is held, and rent shall not be prorated as of the actual court date. Otherwise, the rent shall be prorated as of the date of the hearing. However, nothing herein shall be construed to permit a landlord to collect rent in excess of the amount stated in such rental agreement or lease. If a money judgment has been granted for the amount due for the month of the hearing pursuant to this section and the landlord re-rents such dwelling unit and receives rent from a new tenant prior to the end of such month, the landlord is required to reflect the applicable portion of the judgment as satisfied pursuant to § 16.1-94.01.

**§ 8.01-128. Verdict and judgment; damages.**

A. If it appears that the plaintiff was forcibly or unlawfully turned out of possession, or that it was unlawfully detained from him, the verdict or judgment shall be for the plaintiff for the premises, or such part thereof as may be found to have been so held or detained. The verdict or judgment shall also be for such damages as the plaintiff may prove to have been sustained by him by reason of such forcible or unlawful entry, or unlawful detention, of such premises, and such rent as he may prove to have been owing to him.

B. The plaintiff may, alternatively, receive a final, appealable judgment for possession of the property unlawfully entered or unlawfully detained and be issued a writ of possession; ~~and continue the case for up to 120 days to establish final rent and damages. If the plaintiff elects to proceed under this section, the judge shall hear evidence as to the issue of possession on the initial court date and shall hear evidence on the final rent and damages at the hearing set on the continuance date, unless the plaintiff requests otherwise or the judge rules otherwise at the initial hearing on a summons for unlawful detainer, upon evidence presented by the plaintiff to the court. At the initial hearing, upon request of the plaintiff, the court shall bifurcate the unlawful detainer case and set a continuance date no later than 120 days from the date of the~~

initial hearing to determine final rent and damages. On such continuance date, the court shall permit amendment of the amount requested on the summons for unlawful detainer filed in court in accordance with the (i) notice of hearing to establish final rent and damages mailed to the last known address of the defendant and filed with the court at least 15 days prior to the continuance date as provided herein, (ii) evidence presented to the court, and (iii) amounts contracted for in the rental agreement. Nothing in this ~~section~~ subsection shall preclude a defendant who appears in court at the initial court date from contesting an unlawful detainer action as otherwise provided by law.

If under this section an appeal is taken as to possession, the entire case shall be considered appealed. The plaintiff shall, in the instance of a continuance taken under this section, mail to the defendant at the defendant's last known address at least 15 days prior to the continuance date a notice advising ~~of (i)~~ (a) of the continuance date; ~~(ii)~~ (b) of the amounts of final rent and damages; and ~~(iii)~~ (c) that the plaintiff is seeking judgment for additional sums. A copy of such notice shall be filed with the court.

C. No verdict or judgment rendered under this section shall bar any separate concurrent or future action for any such damages or rent as may not be so claimed.

**§ 8.01-129. Appeal from judgment of general district court.**

A. An appeal shall lie from the judgment of a general district court, in any proceeding under this article, to the circuit court in the same manner and with like effect and upon like security as appeals taken under the provisions of § 16.1-106 et seq. except as specifically provided in this section. The appeal shall be taken within 10 days and the security approved by the court from which the appeal is taken. Notwithstanding the provisions of § 16.1-106 et seq. the bond shall be posted and the writ tax paid within 10 days of the date of the judgment.

B. Unless otherwise specifically provided in the court's order, no writ of execution shall issue on a judgment for possession until the expiration of this 10-day period, except in cases of judgment (i) of default ~~(i)~~; (ii) wherein the case arises out of a trustee's deed following foreclosure; ~~(ii)~~; (iii) for the nonpayment of rent where the writ of execution shall issue immediately upon entry of judgment for possession, if requested by the plaintiff; or ~~(iii)~~ (iv) for immediate nonremediable terminations where the writ of execution shall issue immediately upon entry of judgment for possession, if requested by the plaintiff. *In cases where the court's order permits immediate processing of a writ of execution in order to schedule an eviction date, in no case shall such eviction be executed (a) until expiration of the tenant's 10-day appeal period or (b) if the tenant perfects an appeal pursuant to this section.* When the appeal is taken by the defendant, he shall be required to give security also for all rent which has accrued and may accrue upon the premises, but for not more than one year's rent, and also for all damages that have accrued or may accrue from the unlawful use and occupation of the premises for a period not exceeding three months. Trial by jury shall be had upon application of any party.

**§ 16.1-94.01. When and how satisfaction entered on judgment.**

A. When satisfaction of any judgment rendered in a court not of record is made, the judgment creditor shall by himself, or his agent or attorney, give written notice of such satisfaction, within 30 days of receipt, to the clerk of the court in which the judgment was rendered. Such notice shall include the docket number, the names of the parties, *and the date and amount of the judgment; and the date of the satisfaction.* The clerk of the court shall then mark the judgment satisfied. For any money judgment marked as satisfied pursuant to this section, nothing herein shall satisfy an unexecuted order of possession entered pursuant to § 8.01-126.

B. If the judgment creditor fails to comply with subsection A, the judgment debtor, his heirs or personal representatives, may, on motion, after 10 days' notice thereof to the judgment creditor, or his assignee, his personal representative, or his agent or attorney, apply to the court in which the judgment was rendered to have the judgment marked satisfied. Upon proof that the judgment has been satisfied, the clerk shall mark the judgment satisfied. If the judgment creditor or his legal representatives cannot be reasonably located, the notice may be published and posted as an order of publication is required to be published and posted under §§ 8.01-316 and 8.01-317.

C. The cost of such proceedings, including reasonable attorney fees and the cost of publication, may be ordered to be paid by the judgment creditor.

**CHAPTER 482**

*An Act to amend the Code of Virginia by adding in Article 1 of Chapter 31 of Title 38.2 a section numbered 38.2-3117.01 and by adding in Article 3 of Chapter 28 of Title 54.1 a section numbered 54.1-2818.5, relating to information about a decedent's life insurance policy.*

[H 1835]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding in Article 1 of Chapter 31 of Title 38.2 a section numbered 38.2-3117.01 and by adding in Article 3 of Chapter 28 of Title 54.1 a section numbered 54.1-2818.5 as follows:**

**§ 38.2-3117.01. Provision of life insurance information upon notification of insured's death.**

*Upon receipt of a request for information regarding a deceased person's life insurance policy from a funeral service provider that complies with § 54.1-2818.5, a life insurer doing business in the Commonwealth may provide certain information to the funeral service provider regarding the existence of any life insurance policy issued by the insurer or any*

affiliated insurer insuring the life of the deceased person identified in the request. The information may include the names and contact information, if available, of any beneficiaries on record under any such policy insuring such life. Nothing in this section shall require a life insurer to provide information that is confidential or protected from disclosure under applicable state or federal law. A life insurer may respond to such a request for information in a manner that is consistent with the terms of any applicable life insurance policy and the life insurer's administrative practices and procedures.

**§ 54.1-2818.5. Request for life insurance information; notification of beneficiaries.**

A. In any case in which a funeral service provider licensed pursuant to this chapter believes that a decedent for whom funeral services are being provided is insured under an individual or group life insurance policy, the funeral service provider may request information regarding the deceased person's life insurance policy from the life insurer believed to have issued the policy. Such request for information shall include (i) a copy of the deceased person's death certificate filed in accordance with § 32.1-263; (ii) written authorization for the funeral service provider's submission of the request that is executed by a person designated to make arrangements for the decedent's burial or disposition of his remains pursuant to § 54.1-2825, an agent named in an advance directive pursuant to § 54.1-2984, a guardian appointed pursuant to Chapter 20 (§ 64.2-2000 et seq.) of Title 64.2 who may exercise the powers conferred in the order of appointment or by § 64.2-2019, or the next of kin as defined in § 54.1-2800; and (iii) if the deceased person was covered or is believed to have been covered under a group life insurance policy, the affiliation of the deceased person entitling the deceased to coverage under the group life insurance policy.

B. Upon receipt of the information requested pursuant to subsection A, if the beneficiary of record under the life insurance contract or group life insurance policy is not the estate of the deceased person, the requesting funeral service provider shall make all reasonable efforts to contact all the beneficiaries of record within four calendar days of receiving such information and provide to the beneficiaries all information provided to the funeral service provider by the life insurer. The funeral service provider shall, prior to providing any information to the beneficiaries in accordance with this subsection, inform the beneficiaries that the beneficiary of a life insurance policy has no legal duty or obligation to pay any amounts associated with the provision of funeral services or the debts or obligations of the deceased person.

## CHAPTER 483

An Act to amend and reenact § 2.2-4007.04 of the Code of Virginia, relating to the Administrative Process Act; economic impact analysis; opportunity for comment by affected businesses or other entities.

[H 1943]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 2.2-4007.04 of the Code of Virginia is amended and reenacted as follows:**

**§ 2.2-4007.04. Economic impact analysis.**

A. Before delivering any proposed regulation under consideration to the Registrar as required in § 2.2-4007.05, the agency shall submit on the Virginia Regulatory Town Hall a copy of that regulation to the Department of Planning and Budget. In addition to determining the public benefit, the Department of Planning and Budget in coordination with the agency shall, within 45 days, prepare an economic impact analysis of the proposed regulation, as follows:

1. The economic impact analysis shall include but need not be limited to the projected number of businesses or other entities to ~~whom~~ which the regulation would apply; the identity of any localities and types of businesses or other entities particularly affected by the regulation; the projected number of persons and employment positions to be affected; the impact of the regulation on the use and value of private property, including additional costs related to the development of real estate for commercial or residential purposes; and the projected costs to affected businesses, localities, or entities of implementing or complying with the regulations, including the estimated fiscal impact on such localities and sources of potential funds to implement and comply with such regulation. A copy of the economic impact analysis shall be provided to the Joint Commission on Administrative Rules; *and*

2. If the regulation may have an adverse effect on small businesses, the economic impact analysis shall also include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the regulation. As used in this subdivision, "small business" has the same meaning as provided in subsection A of § 2.2-4007.1; *and*.

~~3. B.~~ In the event the Department cannot complete an economic impact statement within the 45-day period, it shall advise the agency and the Joint Commission on Administrative Rules as to the reasons for the delay. In no event shall the delay exceed 30 days beyond the original 45-day period.

~~B. C.~~ Agencies shall provide the Department with such estimated fiscal impacts on localities and sources of potential funds. The Department may request the assistance of any other agency in preparing the analysis. The Department shall deliver a copy of the analysis to the agency drafting the regulation, which shall comment thereon as provided in § 2.2-4007.05, a copy to the Registrar for publication with the proposed regulation, and an electronic copy to each member

of the General Assembly. No regulation shall be promulgated for consideration pursuant to § 2.2-4007.05 until the impact analysis has been received by the Registrar. For purposes of this section, the term "locality, business, or entity particularly affected" means any locality, business, or entity that bears any identified disproportionate material impact that would not be experienced by other localities, businesses, or entities. The analysis shall represent the Department's best estimate for the purposes of public review and comment on the proposed regulation. The accuracy of the estimate shall in no way affect the validity of the regulation, nor shall any failure to comply with or otherwise follow the procedures set forth in this subsection create any cause of action or provide standing for any person under Article 5 (§ 2.2-4025 et seq.) or otherwise to challenge the actions of the Department hereunder or the action of the agency in adopting the proposed regulation.

*C. D.* In the event the economic impact analysis completed by the Department reveals that the proposed regulation would have an adverse economic impact on businesses or would impose a significant adverse economic impact on a locality, business, or entity particularly affected, the Department shall advise the Joint Commission on Administrative Rules, the House Committee on Appropriations, and the Senate Committee on Finance within the 45-day period. The Joint Commission on Administrative Rules shall review such rule or regulation and issue a statement containing the Commission's findings in accordance with § 30-73.3.

*E.* The Department shall revise and reissue its economic impact analysis within the time limits set forth for the Department's review of regulations at the final stage pursuant to the Governor's executive order for executive branch review if one of the following conditions is present that would materially change the Department's analysis:

1. Public comment timely received at the proposed stage indicates significant errors in the economic impact analysis; or
2. There is significant or material difference between the agency's proposed economic impact analysis and the anticipated negative economic impacts to the business community as indicated by public comment.

The determination of whether a condition is present under this subsection shall be made by the Department and shall not be subject to judicial review.

**2. That an emergency exists and this act is in force from its passage.**

#### CHAPTER 484

*An Act to amend and reenact § 15.2-2510 of the Code of Virginia, relating to comparative report of local government revenues and expenditures.*

[H 2003]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 15.2-2510 of the Code of Virginia is amended and reenacted as follows:**

**§ 15.2-2510. Comparative report of local government revenues and expenditures.**

A. The treasurer or other chief financial officer of each locality shall file annually on or before November 30 with the Auditor of Public Accounts a detailed statement prepared according to the Auditor's specifications showing the amount of revenues, expenditures and fund balances of the locality for the preceding fiscal year, accompanied by the locality's audited financial report. *The submittal to the Auditor of Public Accounts shall include a notarized statement from the chief elected official and the chief administrative officer of the locality that the locality's audited financial report has been presented to the local governing body.*

B. If such annual statement is not filed with the Auditor of Public Accounts, he may perform such work as is necessary to comply with the provisions of this section or hire certified public accountants to do such work. In either event the expenses of such work shall be charged to and paid by the locality failing to supply the required information.

C. The Auditor of Public Accounts shall prepare and publish annually by January 31 a statement showing in detail the total and per capita revenues and expenditures of all localities for the preceding fiscal year. The statement shall contain such analytical tables, explanations and comparisons as may lead to a clear understanding of such information and make the information readily accessible to the readers.

The Auditor of Public Accounts shall mail or deliver by February 1 of each year a copy of the statement to the members of the General Assembly, to the members and clerks of the local governing bodies, and until the supply is exhausted to every citizen who may request a copy.

The provisions of this section shall apply to all counties and cities, to all towns having a population of 3,500 or over, and to all towns constituting a separate school division regardless of their population.

#### CHAPTER 485

*An Act to amend and reenact § 30-343 of the Code of Virginia and to repeal § 30-346 of the Code of Virginia, related to the Health Insurance Reform Commission; Bureau of Insurance assessment; sunset provision.*

[H 2107]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:****1. That § 30-343 of the Code of Virginia is amended and reenacted as follows:****§ 30-343. (Expires July 1, 2017) Standing committees to request Commission assessment.**

A. Whenever a legislative measure containing a mandated health insurance benefit or provider is proposed that is not identical or substantially similar to a legislative measure previously reviewed by the Commission within the three-year period immediately preceding the then-current session of the General Assembly, the Chairman of the House or Senate Committee on Commerce and Labor having jurisdiction over the proposal shall (i) request that the Commission assess the proposal and (ii) send a copy of such request to the Bureau of Insurance of the State Corporation Commission (the Bureau). The Commission shall be given a period of 24 months to complete and submit its assessment. A report summarizing the Commission's assessment shall be forwarded to the Chairman of the standing committee that requested the assessment.

B. Upon receipt of a copy of such a request, ~~the Commission shall request the Bureau of Insurance of the State Corporation Commission (the Bureau) to~~ shall prepare an analysis of the extent to which the proposed mandate is currently available under qualified health plans in the Commonwealth and advise the Commission as to whether, on the basis of that analysis, the applicable agency has determined or would likely determine, in accordance with applicable federal rules, that the proposed mandate exceeds the scope of the essential health benefits. The Bureau's analysis shall be advisory only and not binding upon the Commission, the Bureau, the State Corporation Commission, or any other parties. As used in this section, "applicable agency" means the governmental agency that in accordance with applicable federal rules is responsible for identifying state-mandated benefits that are in addition to the essential health benefits. If the applicable federal rules require an agency of the Commonwealth to identify the state-mandated benefits that are in addition to the essential health benefits but do not identify a specific agency that is responsible for making such identification, the Bureau shall be the applicable agency.

C. Upon request of the Commission, the Bureau and the Joint Legislative Audit and Review Commission shall jointly assess the social and financial impact and the medical efficacy of the proposed mandate, which assessment shall include an estimate of the effects of enactment of the proposed mandate on the costs of health coverage in the Commonwealth, including any estimated additional costs that the Commonwealth may be responsible for pursuant to § 1311(d)(3)(B) of the Patient Protection and Affordable Care Act should the proposed mandate ultimately be determined by the applicable agency to be a benefit that exceeds the scope of the essential health benefits. Upon completion of the assessment by the Bureau and the Joint Legislative Audit and Review Commission, the Commission may make a recommendation regarding its support of or opposition to the enactment of the proposed mandate. The Commission's recommendation may address whether the proposed mandate should be provided under health care plans offered through a health benefit exchange or outside a health benefit exchange.

The Commission shall be given a period of 24 months to complete and submit its assessment. A report summarizing the Commission's study shall be forwarded to the Governor and the General Assembly.

D. Whenever a legislative measure containing a mandated health insurance benefit or provider is identical or substantially similar to a legislative measure previously reviewed by the Commission within the three-year period immediately preceding the then-current session of the General Assembly, the standing committee may request the Commission to study the measure as provided in subsection A.

**2. That § 30-346 of the Code of Virginia is repealed.****CHAPTER 486**

*An Act to amend and reenact §§ 12.1-17, 12.1-21.1, and 12.1-21.2 of the Code of Virginia, relating to the State Corporation Commission; charges for copies.*

[H 2111]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:****1. That §§ 12.1-17, 12.1-21.1, and 12.1-21.2 of the Code of Virginia are amended and reenacted as follows:****§ 12.1-17. Deposits of funds; means of payment; dishonored payments; receipts for payment.**

A. All funds received by the Commission in the course of its duties shall be paid promptly to the State Treasurer or deposited promptly in banks designated by the State Treasurer to the credit of the State Treasurer.

B. The Commission may accept payment of any amount due by any means acceptable to the Commission, including by check, credit card, debit card, and electronic funds transfer. The Commission may add to any amount due a sum, not to exceed the amount charged to the Commission, for acceptance of any payment by a means that incurs a charge to the Commission, or it may absorb a portion or all of the cost of such charge.

C. If any check or other means of payment is dishonored, declined, refused, reversed, charged back to the Commission, returned to the Commission unpaid, or otherwise rejected for any reason by a financial institution or other third party, the amount of the check or other means of payment shall be charged to the person on whose account it was received and his liability and that of his sureties shall be as if payment had never been made. A penalty of \$35 or the amount of any cost incurred by the Commission, whichever is greater, shall be added to such amount. This penalty shall be in addition to any other penalty provided by law, except the penalty imposed by § 58.1-12 shall not apply. Any penalties received by the

Commission under this section shall be set aside and paid into the special fund (i) created under § 13.1-775.1, in the case of penalties received by the clerk's office, or (ii) into which the payment that caused the penalty was to be deposited, in the case of penalties otherwise received by the Commission.

D. The Commission shall issue receipts for all currency received for payments in the course of its duties.

**§ 12.1-21.1. Fees to be charged by clerk for certain information and certificates.**

A. When a request made under subdivision A 3 of § 12.1-19 or under § 12.1-20 relates to the Uniform Commercial Code, or when a request for information is made under Title 8.9A, the clerk of the Commission shall charge and collect, except as otherwise provided in subsection C of § 12.1-21.2, ~~reasonable~~ the fees as are fixed by Commission order or rule.

B. Any response or certificate shall be signed by the clerk or a member of his staff. Any signature may be a facsimile.

C. Any certificate to which the seal of the Commission, or a facsimile thereof, is affixed shall be admitted in evidence in all cases, civil and criminal, as prima facie evidence of the facts contained in it.

D. No action shall be brought against the Commission or any member of its staff claiming damages for alleged errors or omissions in any response or certificate.

E. Notwithstanding the provisions of § 8.9A-525, if the Commission determines that a person was falsely identified as a debtor in a financing statement filed in the office of its clerk, it may waive payment of the fees for that person to file a termination statement pursuant to subdivision (d)(2) of § 8.9A-509 and an information statement pursuant to § 8.9A-518.

**§ 12.1-21.2. Miscellaneous charges.**

A. For making up, certifying and transmitting a record on appeal the clerk shall charge and collect \$50.

B. Except as otherwise provided by law, the Commission ~~shall~~ may charge and collect ~~reasonable~~ the fees as are fixed by order or rule for furnishing and certifying a copy of any document or any information from its records and may charge and collect reasonable fees for providing ~~access to or utilization of its records by computer or other means from an electronic data processing system, computer database, or any other structured collection of data.~~ Such fees, when collected, shall be set aside and paid into the special fund created under § 13.1-775.1.

C. In addition to other fees prescribed by law, the Commission may charge and collect fees for (i) requested expedited or special handling of business entity or Uniform Commercial Code filings processed in its Clerk's Office, (ii) requested expedited provision of copies of records in its Clerk's Office, or (iii) requested expedited provision of services, or the issuance of certificates, pursuant to subdivision A 3 of § 12.1-19, or under § 12.1-20 or § 12.1-21.1. Such fees, when collected, shall be set aside and paid into the special fund created under § 13.1-775.1.

**CHAPTER 487**

*An Act to amend and reenact § 15.2-1644 of the Code of Virginia, relating to removal of courthouse.*

[H 2313]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 15.2-1644 of the Code of Virginia is amended and reenacted as follows:**

**§ 15.2-1644. Petition for removal of county courthouse; writ of election.**

A. Whenever a number of voters equal to at least one third of the voters of a county registered in the county on the January 1 preceding filing of the petition, petition the circuit court of such county, or whenever the governing body of any county by resolution duly adopted requests the circuit court for such county, for an election in such county on the question of the removal of the courthouse to one or more places specified in the petition or resolution, such court shall issue a writ of election in accordance with Article 5 (§ 24.2-681 et seq.) of Chapter 6 of Title 24.2, which shall fix the day of holding such election. Such petition shall also state the amount to be appropriated by the board of supervisors for the purchase of land, unless the land is to be donated, and for the erection of necessary buildings and improvements at the new location.

B. If the courthouse is used before and after removal for any city as well as for the county, then the petition shall be signed by a number of voters equal to at least one-third of the total number of voters registered in the locality on the January 1 preceding filing of the petition. The registered voters of such city shall be eligible to sign the petition. The petition shall state the amounts to be appropriated by both the county and city. The voters of such city shall be eligible to vote in any election on the question of relocating the courthouse. The court shall issue a writ of election to such city the same as issued to and for the county.

The votes of such city voters shall be treated as if they were cast by qualified voters of the county for the purposes of these sections (§§ 15.2-1644 through 15.2-1654).

C. *In the case of the removal of a county courthouse that is not located in a city or town, and is not being relocated to a city or town, such removal shall not require a petition or approval by the voters.*

## CHAPTER 488

*An Act to amend and reenact §§ 2.2-436, 2.2-4001, 2.2-4103, and 58.1-205 of the Code of Virginia, to amend the Code of Virginia by adding a section numbered 2.2-4103.1, and to repeal § 2.2-4008 of the Code of Virginia, relating to the Virginia Register Act; guidance documents.*

[S 916]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 2.2-436, 2.2-4001, 2.2-4103, and 58.1-205 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 2.2-4103.1 as follows:**

**§ 2.2-436. Approval of electronic identity standards.**

A. The Secretary of Technology, in consultation with the Secretary of Transportation, shall review and approve or disapprove, upon the recommendation of the Identity Management Standards Advisory Council pursuant to § 2.2-437, guidance documents that adopt (i) nationally recognized technical and data standards regarding the verification and authentication of identity in digital and online transactions; (ii) the minimum specifications and standards that should be included in an identity trust framework, as defined in § 59.1-550, so as to warrant liability protection pursuant to the Electronic Identity Management Act (§ 59.1-550 et seq.); and (iii) any other related data standards or specifications concerning reliance by third parties on identity credentials, as defined in § 59.1-550.

B. Final guidance documents approved pursuant to subsection A shall be posted on the Virginia Regulatory Town Hall and published in the Virginia Register of Regulations as a general notice. The Secretary of Technology shall send a copy of the final guidance documents to the Joint Commission on Administrative Rules established pursuant to § 30-73.1 at least 90 days prior to the effective date of such guidance documents. The Secretary of Technology shall also annually file a list of available guidance documents developed pursuant to this chapter pursuant to ~~§ 2.2-4008~~ 2.2-4103.1 of the Virginia Administrative Process Act (§ 2.2-4000 et seq.) and shall send a copy of such list to the Joint Commission on Administrative Rules.

**§ 2.2-4001. Definitions.**

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

"Agency" means any authority, instrumentality, officer, board or other unit of the state government empowered by the basic laws to make regulations or decide cases.

"Agency action" means either an agency's regulation or case decision or both, any violation, compliance, or noncompliance with which could be a basis for the imposition of injunctive orders, penal or civil sanctions of any kind, or the grant or denial of relief or of a license, right, or benefit by any agency or court.

"Basic law" or "basic laws" means provisions of the Constitution and statutes of the Commonwealth authorizing an agency to make regulations or decide cases or containing procedural requirements therefor.

"Case" or "case decision" means any agency proceeding or determination that, under laws or regulations at the time, a named party as a matter of past or present fact, or of threatened or contemplated private action, either is, is not, or may or may not be (i) in violation of such law or regulation or (ii) in compliance with any existing requirement for obtaining or retaining a license or other right or benefit.

~~"Guidance document" means any document developed by a state agency or staff that provides information or guidance of general applicability to the staff or public to interpret or implement statutes or the agency's rules or regulations; excluding agency minutes or documents that pertain only to the internal management of agencies. Nothing in this definition shall be construed or interpreted to expand the identification or release of any document otherwise protected by law.~~

"Hearing" means agency processes other than those informational or factual inquiries of an informal nature provided in §§ 2.2-4007.01 and 2.2-4019 and includes only (i) opportunity for private parties to submit factual proofs in formal proceedings as provided in § 2.2-4009 in connection with the making of regulations or (ii) a similar right of private parties or requirement of public agencies as provided in § 2.2-4020 in connection with case decisions.

"Hearing officer" means an attorney selected from a list maintained by the Executive Secretary of the Supreme Court in accordance with § 2.2-4024.

"Public assistance and social services programs" means those programs specified in § 63.2-100.

"Registrar" means the Registrar of Regulations appointed as provided in § 2.2-4102.

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

"Subordinate" means (i) one or more but less than a quorum of the members of a board constituting an agency, (ii) one or more of its staff members or employees, or (iii) any other person or persons designated by the agency to act in its behalf.

"Virginia Register of Regulations" means the publication issued under the provisions of Article 6 (§ 2.2-4031 et seq.).

"Virginia Regulatory Town Hall" means the website operated by the Department of Planning and Budget, which has online public comment forums and displays information about regulatory actions under consideration in the Commonwealth and sends this information to registered public users.

**§ 2.2-4103. Agencies to file regulations with Registrar; other duties; failure to file.**

It shall be the duty of every agency to have on file with the Registrar the full text of all of its currently operative regulations, together with the dates of adoption, revision, publication, or amendment thereof and such additional information requested by the Commission or the Registrar for the purpose of publishing the Virginia Register of Regulations and the Virginia Administrative Code. Thereafter, coincidentally with the issuance thereof, each agency shall from day to day so file, date, and supplement all new regulations and amendments, repeals, or additions to its previously filed regulations. The filed regulations shall (i) indicate the laws they implement or carry out, (ii) designate any prior regulations repealed, modified, or supplemented, (iii) state any special effective or terminal dates, and (iv) be accompanied by a statement or certification, either in original or electronic form, that the regulations are full, true, and correctly dated. No regulation or amendment or repeal thereof shall be effective until filed with the Registrar.

Orders condemning or closing any shellfish, finfish or crustacea growing area and the shellfish, finfish or crustacea located thereon pursuant to Article 2 (§ 28.2-803 et seq.) of Chapter 8, of Title 28.2, which are exempt from the requirements of the Administrative Process Act (§ 2.2-4000 et seq.) as provided in subsection B of § 2.2-4002, shall be effective on the date specified by the promulgating agency. Such orders shall continue to be filed with the Registrar either before or after their effective dates in order to satisfy the need for public availability of information respecting the regulations of state agencies.

An order setting a date of closure for the Chesapeake Bay purse seine fishery for Atlantic menhaden for reduction purposes pursuant to § 28.2-1000.2, which is exempt from the requirements of the Administrative Process Act as provided by subsection A of § 2.2-4002, shall be effective on the date specified. Such orders shall be filed with the Registrar for prompt publication.

In addition, each agency shall itself (i) maintain a complete list of all of its currently operative regulations for public consultation, (ii) make available to public inspection a complete file of the full texts of all such regulations, and (iii) allow public copying thereof or make copies available either without charge, at cost, or on payment of a reasonable fee. Each agency shall also maintain as a public record a complete file of its regulations that have been superseded on and after June 1, 1975.

~~It shall be the duty of every agency to annually file with the Registrar for publication in the Virginia Register of Regulations a list of any guidance documents upon which the agency currently relies. The filing shall be made on or before January 1 of each year in a format to be developed by the Registrar. Each agency shall also (i) maintain a complete list of all of its currently operative guidance documents and make such list available for public inspection; (ii) make available for public inspection the full texts of all such guidance documents to the extent such inspection is permitted by law; and (iii) upon request, make copies of such lists or guidance documents available without charge, at cost, or on payment of a reasonable fee.~~

Where regulations adopt textual matter by reference to publications other than the Federal Register or Code of Federal Regulations, the agency shall (i) file with the Registrar copies of the referenced publications, (ii) state on the face of or as notations to regulations making such adoptions by reference the places where copies of the referred publications may be procured, and (iii) make copies of such referred publications available for public inspection and copying along with its other regulations.

Unless he finds that there are special circumstances requiring otherwise, the Governor, in addition to the exercise of his authority to see that the laws are faithfully executed, may, until compliance with this chapter is achieved, withhold the payment of compensation or expenses of any officer or employee of any agency in whole or part whenever the Commission certifies to him that the agency has failed to comply with this section or this chapter in stated respects, to respond promptly to the requests of the Registrar, or to comply with the regulations of the Commission.

**§ 2.2-4103.1. Guidance documents; duty to file with Registrar.**

*A. For the purposes of this section, "agency" means any authority, instrumentality, officer, board, or other unit of the government of the Commonwealth other than the General Assembly, courts, municipal corporations, counties, other local or regional governmental authorities including sanitary or other districts and joint state-federal, interstate or intermunicipal authorities, the Virginia Resources Authority, the Virginia Code Commission with respect to minor changes made under the provisions of § 30-150, and educational institutions operated by the Commonwealth with respect to regulations that pertain to (i) their academic affairs; (ii) the selection, tenure, promotion, and disciplining of faculty and employees; (iii) the selection of students; and (iv) rules of conduct and disciplining of students.*

*B. It shall be the duty of every agency to annually file with the Registrar for publication in the Virginia Register of Regulations a list of any guidance documents upon which the agency currently relies. The filing shall be made on or before January 1 of each year in a format to be developed by the Registrar. Each agency shall also (i) maintain a complete list of all of its currently operative guidance documents and make the list available for public inspection, (ii) make available for public inspection the full texts of all guidance documents to the extent inspection is permitted by law, and (iii) upon request, make copies of such lists or guidance documents available without charge, at cost, or upon payment of a reasonable fee.*

*C. Nothing in this section is intended to nor shall it confer or impose any regulatory authority upon an agency, nor shall this section create any rights to appeal or challenge a guidance document adopted by an agency.*

**§ 58.1-205. Effect of regulations, rulings, etc., and administrative interpretations.**

In any proceeding relating to the interpretation or enforcement of the tax laws of this Commonwealth, the following rules shall apply:

1. Any assessment of a tax by the Department shall be deemed prima facie correct.

2. Any regulation promulgated as provided by subsection B of § 58.1-203 shall be sustained unless unreasonable or plainly inconsistent with applicable provisions of law.

3. Rulings issued in conformity with § 58.1-203, tax bulletins, guidelines, and other documents published as provided in § 58.1-204, and guidance documents listed in the Virginia Register of Regulations as provided in §§ ~~2.2-4008 and 2.2-4103~~ § 2.2-4103.1 shall be accorded judicial notice.

4. In any proceeding commenced under § 58.1-1821, 58.1-1824 or 58.1-1825, rulings and administrative interpretations other than those described in subdivisions 2 and 3 shall not be admitted into evidence and shall be accorded no weight, except that an assessment made pursuant to any such ruling or interpretation shall be entitled to the presumption of correctness specified in subdivision 1.

**2. That § 2.2-4008 of the Code of Virginia is repealed.**

**CHAPTER 489**

*An Act to amend and reenact § 30-28.18 of the Code of Virginia, relating to legislative drafting requests.*

[S 969]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 30-28.18 of the Code of Virginia is amended and reenacted as follows:**

**§ 30-28.18. Requests for drafting bills or resolutions; bills to conform to request; public access.**

A. All requests for the drafting of bills or resolutions by the Division shall be submitted in person, in writing, or by voice transmission. Each request shall contain a general statement respecting the policies and purposes that the requester desires incorporated in and accomplished by the bill. All written requests shall be signed by the person submitting them. Neither the Director nor any employee of the Division shall reveal to any person outside of the Division, except to the Division of Legislative Automated Systems in fulfilling its duties as provided in § 30-34.14, the contents or nature of any request or statements except with the consent of the person signing such request. Exceptions to this general rule are as follows:

1. When the Director or an employee receives a request that is substantially the same as one previously received, he may, unless specifically directed not to do so by the person first submitting such request, so inform the person submitting the similar request;
2. Unless specifically directed otherwise, the Director or employee may reveal the nature of a request when seeking information from anyone to assist in drafting the bill; and
3. Copies of all floor substitute bills, conference committee reports, and substitute bills accompanying a conference committee report shall be placed in a secure electronic file immediately following the final drafting of the legislation and may be accessed by either the Clerk of the House of Delegates or the Clerk of the Senate or their employee designees after such legislation is offered for introduction in either house.

Bills drafted by the Division shall conform to the statements submitted with the request or any supplementary instructions submitted by the person who originally made the request.

B. All legislative drafting requests and accompanying documents shall be maintained by the Division as permanent records. Each of these separate files shall be considered the property of the requester and no one other than members of the Division staff shall have access to any such file without the specific approval of the requester. ~~However, on the effective date of legislation drafted for the 1989 Session or thereafter, the file for a bill that was enacted, including any amendments in the nature of a substitute or conference reports that were offered for consideration shall become public property.~~

C. All legislative drafting requests from the Governor, a Governor's Secretary, the Lieutenant Governor, the Attorney General, or the head of any judicial, legislative, or independent agency shall be submitted to the Division on or before the same deadline applicable to members of the General Assembly for submitting legislative drafting requests for legislation to be prefiled to the Division, as established by the procedural resolution adopted by the General Assembly, or in default thereof, as adopted by the Joint Rules Committee. Requests from the Governor may also be submitted in accordance with the procedures established by the Rules Committees of the House of Delegates and the Senate for the conduct of business during a legislative session.

**CHAPTER 490**

*An Act to amend and reenact § 46.2-1220 of the Code of Virginia, relating to enforcement of parking, stopping, and standing ordinances or regulations; minimum city population.*

[S 1169]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 46.2-1220 of the Code of Virginia is amended and reenacted as follows:**

**§ 46.2-1220. Parking, stopping, and standing regulations in counties, cities, or towns; parking meters; presumption as to violation of ordinances; penalty.**

The governing body of any county, city, or town may by ordinance provide for the regulation of parking, stopping, and standing of vehicles within its limits, including, but not limited to, the regulation of any vehicle blocking access to and preventing use of curb ramps, fire hydrants, and mailboxes on public or private property. Such ordinances may also include the installation and maintenance of parking meters. The ordinance may require the deposit of a coin of a prescribed denomination, determine the length of time a vehicle may be parked, and designate a department, official, or employee of the local government to administer the provisions of the ordinance. The ordinance may delegate to that department, official, or employee the authority to make and enforce any additional regulations concerning parking that may be required, including, but not limited to, penalties for violations, deadlines for the payment of fines, and late payment penalties for fines not paid when due. In a city having a population of at least ~~90,000~~ 40,000, the ordinance may also provide that a summons or parking ticket for the violation of the ordinance or regulations may be issued by law-enforcement officers, other uniformed city employees, or by uniformed personnel serving under contract with the city. Notwithstanding the foregoing provisions of this section, the governing bodies of Augusta, Bath, and Rockingham Counties may by ordinance provide for the regulation of parking, stopping, and standing of vehicles within their limits, but no such ordinance shall authorize or provide for the installation and maintenance of parking meters.

No ordinance adopted under the provisions of this section shall prohibit the parking of two motorcycles in single parking spaces designated, marked, and sized for four-wheel vehicles. The governing body of any county, city, or town may, by ordinance, permit the parking of three or more motorcycles in single parking spaces designated, marked, and sized for four-wheel vehicles.

If any ordinance regulates parking on an interstate highway or any arterial highway or any extension of an arterial highway, it shall be subject to the approval of the Commissioner of Highways.

In any prosecution charging a violation of the ordinance or regulation, proof that the vehicle described in the complaint, summons, parking ticket citation, or warrant was parked in violation of the ordinance or regulation, together with proof that the defendant was at the time the registered owner of the vehicle, as required by Chapter 6 (§ 46.2-600 et seq.) of this title, shall constitute in evidence a prima facie presumption that the registered owner of the vehicle was the person who committed the violation. Violators of local ordinances adopted by Chesterfield County or James City County pursuant to this section shall be subject to a civil penalty not to exceed \$75, the proceeds from which shall be paid into the locality's general fund.

**CHAPTER 491**

*An Act to amend and reenact § 65.2-603 of the Code of Virginia, relating to workers' compensation; employer's duty when employee incapable of work.*

[S 1201]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 65.2-603 of the Code of Virginia is amended and reenacted as follows:**

**§ 65.2-603. Duty to furnish medical attention, etc., and vocational rehabilitation; effect of refusal of employee to accept.**

A. Pursuant to this section:

1. As long as necessary after an accident, the employer shall furnish or cause to be furnished, free of charge to the injured employee, a physician chosen by the injured employee from a panel of at least three physicians selected by the employer and such other necessary medical attention. Where such accident results in the amputation or loss of use of an arm, hand, leg, or foot or the enucleation of an eye or the loss of any natural teeth or loss of hearing, the employer shall furnish prosthetic or orthotic appliances, as well as wheelchairs, walkers, canes, or crutches, proper fitting and maintenance thereof, and training in the use thereof, as the nature of the injury may require.

In awards entered for incapacity for work, under this title, upon determination by the treating physician and the Commission that the same is medically necessary, the Commission may ~~require:~~

a. Require that the employer either (i) furnish and maintain ~~(+)~~ modifications to or equipment for the employee's automobile or (ii) if there is a loss of function to either or both feet, legs, hands, or arms and if the Commission determines that modifications to or equipment for the employee's automobile pursuant to clause (i) are not technically feasible, will not render the automobile operable by the employee, or will cost more than is available for such purpose after payment for any items provided under subdivision b, order that the balance of funds available under the aggregate cap of \$42,000 be applied towards the purchase by the employee of a suitable automobile or to furnish or maintain modifications to such automobile; and

b. Require that the employer furnish and maintain bedside lifts, adjustable beds, and modification of the employee's principal home consisting of ramps, handrails, or any appliances prescribed by the treating physician and doorway alterations; ~~provided that the~~

The aggregate cost of all such items and modifications required to be furnished pursuant to ~~clauses (i) subdivisions a and (ii) b~~ on account of any one accident shall not exceed \$42,000.

The employee shall accept the attending physician, unless otherwise ordered by the Commission, and in addition, such surgical and hospital service and supplies as may be deemed necessary by the attending physician or the Commission.

2. The employer shall repair, if repairable, or replace dentures, artificial limbs, or other prosthetic or orthotic devices damaged in an accident otherwise compensable under workers' compensation, and furnish proper fitting thereof.

3. The employer shall also furnish or cause to be furnished, at the direction of the Commission, reasonable and necessary vocational rehabilitation services; however, the employer shall not be required to furnish, or cause to be furnished, services under this subdivision to any injured employee not eligible for lawful employment.

Vocational rehabilitation services may include vocational evaluation, counseling, job coaching, job development, job placement, on-the-job training, education, and retraining. Those vocational rehabilitation services that involve the exercise of professional judgment as defined in § 54.1-3510 shall be provided by a certified rehabilitation provider pursuant to Article 2 (§ 54.1-3510 et seq.) of Chapter 35 of Title 54.1 or by a person licensed by the Boards of Counseling; Medicine; Nursing; Optometry; Psychology; or Social Work or, in accordance with subsection B of § 54.1-3513, by a person certified by the Commission on Rehabilitation Counselor Certification (CRCC) as a certified rehabilitation counselor (CRC) or a person certified by the Commission on Certification of Work Adjustment and Vocational Evaluation Specialists (CCWAVES) as a Certified Vocational Evaluation Specialist (CVE).

In the event a dispute arises, any party may request a hearing and seek the approval of the Commission for the proposed services. Such services shall take into account the employee's preinjury job and wage classifications; his age, aptitude, and level of education; the likelihood of success in the new vocation; and the relative costs and benefits to be derived from such services.

B. The unjustified refusal of the employee to accept such medical service or vocational rehabilitation services when provided by the employer shall bar the employee from further compensation until such refusal ceases and no compensation shall at any time be paid for the period of suspension unless, in the opinion of the Commission, the circumstances justified the refusal. In any such case the Commission may order a change in the medical or hospital service or vocational rehabilitation services.

C. If in an emergency or on account of the employer's failure to provide the medical care during the period herein specified, or for other good reasons, a physician other than provided by the employer is called to treat the injured employee, during such period, the reasonable cost of such service shall be paid by the employer if ordered so to do by the Commission.

D. As used in this section and in § 65.2-604, the terms "medical attention," "medical service," "medical care," and "medical report" shall be deemed to include chiropractic service or treatment and, where appropriate, a chiropractic treatment report.

E. Whenever an employer furnishes an employee the names of three physicians pursuant to this section, and the employer also assumes all or part of the cost of providing health care coverage for the employee as a self-insured or under a group health insurance policy, health services plan or health care plan, upon the request of an employee, the employer shall also inform the employee whether each physician named is eligible to receive payment under the employee's health care coverage provided by the employer.

F. If the injured employee has an injury which may be treated within the scope of practice for a chiropractor, then the employer or insurer may include chiropractors on the panel provided the injured employee.

## CHAPTER 492

*An Act to amend and reenact §§ 4.1-100 and 4.1-128, as they are currently effective and as they shall become effective, 4.1-206, 4.1-231, 4.1-233, and 4.1-308 of the Code of Virginia, relating to alcoholic beverage control; new license for certain commercial lifestyle centers.*

[S 1391]

Approved March 13, 2017

### **Be it enacted by the General Assembly of Virginia:**

**1. That §§ 4.1-100 and 4.1-128, as they are currently effective and as they shall become effective, 4.1-206, 4.1-231, 4.1-233, and 4.1-308 of the Code of Virginia are amended and reenacted as follows:**

#### **§ 4.1-100. (Effective until July 1, 2018) Definitions.**

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

"Alcohol" means the product known as ethyl or grain alcohol obtained by distillation of any fermented liquor, rectified either once or more often, whatever the origin, and shall include synthetic ethyl alcohol, but shall not include methyl alcohol and alcohol completely denatured in accordance with formulas approved by the government of the United States.

"Alcohol vaporizing device" means any device, machine, or process that mixes any alcoholic beverages with pure oxygen or other gas to produce a vaporized product for the purpose of consumption by inhalation.

"Alcoholic beverages" includes alcohol, spirits, wine, and beer, and any one or more of such varieties containing one-half of one percent or more of alcohol by volume, including mixed alcoholic beverages, and every liquid or solid, powder or crystal, patented or not, containing alcohol, spirits, wine, or beer and capable of being consumed by a human

being. Any liquid or solid containing more than one of the four varieties shall be considered as belonging to that variety which has the higher percentage of alcohol, however obtained, according to the order in which they are set forth in this definition; except that beer may be manufactured to include flavoring materials and other nonbeverage ingredients containing alcohol, as long as no more than 49 percent of the overall alcohol content of the finished product is derived from the addition of flavors and other nonbeverage ingredients containing alcohol for products with an alcohol content of no more than six percent by volume; or, in the case of products with an alcohol content of more than six percent by volume, as long as no more than one and one-half percent of the volume of the finished product consists of alcohol derived from added flavors and other nonbeverage ingredients containing alcohol.

"Art instruction studio" means any commercial establishment that provides to its customers all required supplies and step-by-step instruction in creating a painting or other work of art during a studio instructional session.

"Arts venue" means a commercial or nonprofit establishment that is open to the public and in which works of art are sold or displayed.

"Barrel" means any container or vessel having a capacity of more than 43 ounces.

"Bed and breakfast establishment" means any establishment (i) having no more than 15 bedrooms; (ii) offering to the public, for compensation, transitory lodging or sleeping accommodations; and (iii) offering at least one meal per day, which may but need not be breakfast, to each person to whom overnight lodging is provided.

"Beer" means any alcoholic beverage obtained by the fermentation of an infusion or decoction of barley, malt, and hops or of any similar products in drinkable water and containing one-half of one percent or more of alcohol by volume.

"Board" means the Virginia Alcoholic Beverage Control Board.

"Bottle" means any vessel intended to contain liquids and having a capacity of not more than 43 ounces.

"Canal boat operator" means any nonprofit organization that operates tourism-oriented canal boats for recreational purposes on waterways declared nonnavigable by the United States Congress pursuant to 33 U.S.C. § 59ii.

"Club" means any private nonprofit corporation or association which is the owner, lessee, or occupant of an establishment operated solely for a national, social, patriotic, political, athletic, or other like purpose, but not for pecuniary gain, the advantages of which belong to all of the members. It also means the establishment so operated. A corporation or association shall not lose its status as a club because of the conduct of charitable gaming conducted pursuant to Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2 in which nonmembers participate frequently or in large numbers, provided that no alcoholic beverages are served or consumed in the room where such charitable gaming is being conducted while such gaming is being conducted and that no alcoholic beverages are made available upon the premises to any person who is neither a member nor a bona fide guest of a member.

Any such corporation or association which has been declared exempt from federal and state income taxes as one which is not organized and operated for pecuniary gain or profit shall be deemed a nonprofit corporation or association.

*"Commercial lifestyle center" means a mixed-use commercial development covering a minimum of 25 acres of land and having at least 100,000 square feet of retail space featuring national specialty chain stores and a combination of dining, entertainment, office, residential, or hotel establishments located in a physically integrated outdoor setting that is pedestrian friendly and that is governed by a commercial owners' association that is responsible for the management, maintenance, and operation of the common areas thereof.*

"Container" means any barrel, bottle, carton, keg, vessel or other receptacle used for holding alcoholic beverages.

"Contract winemaking facility" means the premises of a licensed winery or farm winery that obtains grapes, fruits, and other agricultural products from a person holding a farm winery license and crushes, processes, ferments, bottles, or provides any combination of such services pursuant to an agreement with the farm winery licensee. For all purposes of this title, wine produced by a contract winemaking facility for a farm winery shall be considered to be wine owned and produced by the farm winery that supplied the grapes, fruits, or other agricultural products used in the production of the wine. The contract winemaking facility shall have no right to sell the wine so produced, unless the terms of payment have not been fulfilled in accordance with the contract. The contract winemaking facility may charge the farm winery for its services.

"Convenience grocery store" means an establishment which (i) has an enclosed room in a permanent structure where stock is displayed and offered for sale and (ii) maintains an inventory of edible items intended for human consumption consisting of a variety of such items of the types normally sold in grocery stores.

"Day spa" means any commercial establishment that offers to the public both massage therapy, performed by persons licensed in accordance with § 54.1-3029, and barbering or cosmetology services performed by persons licensed in accordance with Chapter 7 (§ 54.1-700 et seq.) of Title 54.1.

"Designated area" means a room or area approved by the Board for on-premises licensees.

"Dining area" means a public room or area in which meals are regularly served.

"Establishment" means any place where alcoholic beverages of one or more varieties are lawfully manufactured, sold, or used.

"Farm winery" means (i) an establishment (a) located on a farm in the Commonwealth on land zoned agricultural with a producing vineyard, orchard, or similar growing area and with facilities for fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains not more than 21 percent alcohol by volume or (b) located in the Commonwealth on land zoned agricultural with a producing vineyard, orchard, or similar growing area or agreements for purchasing grapes or other fruits from agricultural growers within the Commonwealth and with facilities for fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains not more than 21 percent alcohol

by volume or (ii) an accredited public or private institution of higher education, provided that (a) no wine manufactured by the institution shall be sold, (b) the wine manufactured by the institution shall be used solely for research and educational purposes, (c) the wine manufactured by the institution shall be stored on the premises of such farm winery that shall be separate and apart from all other facilities of the institution, and (d) such farm winery is operated in strict conformance with the requirements of this clause (ii) and Board regulations. As used in this definition, the terms "owner" and "lessee" shall include a cooperative formed by an association of individuals for the purpose of manufacturing wine. In the event that such cooperative is licensed as a farm winery, the term "farm" as used in this definition includes all of the land owned or leased by the individual members of the cooperative as long as such land is located in the Commonwealth. For purposes of this definition, "land zoned agricultural" means (1) land zoned as an agricultural district or classification or (2) land otherwise permitted by a locality for farm winery use. For purposes of this definition, "land zoned agricultural" does not include land zoned "residential conservation." Except for the limitation on land zoned "residential conservation," nothing in the definition of "land zoned agricultural" shall otherwise limit or affect local zoning authority.

"Gift shop" means any bona fide retail store selling, predominantly, gifts, books, souvenirs, specialty items relating to history, original and handmade arts and products, collectibles, crafts, and floral arrangements, which is open to the public on a regular basis. Such shop shall be a permanent structure where stock is displayed and offered for sale and which has facilities to properly secure any stock of wine or beer. Such shop may be located (i) on the premises or grounds of a government registered national, state or local historic building or site or (ii) within the premises of a museum. The Board shall consider the purpose, characteristics, nature, and operation of the shop in determining whether it shall be considered a gift shop.

"Gourmet brewing shop" means an establishment which sells to persons to whom wine or beer may lawfully be sold, ingredients for making wine or brewing beer, including packaging, and rents to such persons facilities for manufacturing, fermenting and bottling such wine or beer.

"Gourmet shop" means an establishment provided with adequate inventory, shelving, and storage facilities, where, in consideration of payment, substantial amounts of domestic and imported wines and beers of various types and sizes and related products such as cheeses and gourmet foods are habitually furnished to persons.

"Government store" means a store established by the Board for the sale of alcoholic beverages.

"Hotel" means any duly licensed establishment, provided with special space and accommodation, where, in consideration of payment, food and lodging are habitually furnished to persons, and which has four or more bedrooms. It shall also mean the person who operates such hotel.

"Interdicted person" means a person to whom the sale of alcoholic beverages is prohibited by order pursuant to this title.

"Internet wine retailer" means a person who owns or operates an establishment with adequate inventory, shelving, and storage facilities, where, in consideration of payment, internet or telephone orders are taken and shipped directly to consumers and which establishment is not a retail store open to the public.

"Intoxicated" means a condition in which a person has drunk enough alcoholic beverages to observably affect his manner, disposition, speech, muscular movement, general appearance or behavior.

"Licensed" means the holding of a valid license issued by the Board.

"Licensee" means any person to whom a license has been granted by the Board.

"Liqueur" means any of a class of highly flavored alcoholic beverages that do not exceed an alcohol content of 25 percent by volume.

"Low alcohol beverage cooler" means a drink containing one-half of one percent or more of alcohol by volume, but not more than seven and one-half percent alcohol by volume, and consisting of spirits mixed with nonalcoholic beverages or flavoring or coloring materials; it may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, preservatives or other similar products manufactured by fermenting fruit or fruit juices. Low alcohol beverage coolers shall be treated as wine for all purposes of this title; except that low alcohol beverage coolers shall not be sold in localities that have not approved the sale of mixed beverages pursuant to § 4.1-124. In addition, low alcohol beverage coolers shall not be sold for on-premises consumption other than by mixed beverage licensees.

"Meal-assembly kitchen" means any commercial establishment that offers its customers, for off-premises consumption, ingredients for the preparation of meals and entrees in professional kitchen facilities located at the establishment.

"Meals" means, for a mixed beverage license, an assortment of foods commonly ordered in bona fide, full-service restaurants as principal meals of the day. Such restaurants shall include establishments specializing in full course meals with a single substantial entree.

"Member of a club" means (i) a person who maintains his membership in the club by the payment of monthly, quarterly, or annual dues in the manner established by the rules and regulations thereof or (ii) a person who is a member of a bona fide auxiliary, local chapter, or squadron composed of direct lineal descendants of a bona fide member, whether alive or deceased, of a national or international organization to which an individual lodge holding a club license is an authorized member in the same locality. It shall also mean a lifetime member whose financial contribution is not less than 10 times the annual dues of resident members of the club, the full amount of such contribution being paid in advance in a lump sum.

"Mixed beverage" or "mixed alcoholic beverage" means a drink composed in whole or in part of spirits.

"Mixer" means any prepackaged ingredients containing beverages or flavoring or coloring materials, and which may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives which are not commonly consumed

unless combined with alcoholic beverages, whether or not such ingredients contain alcohol. Such specialty beverage product shall be manufactured or distributed by a Virginia corporation.

"Place or premises" means the real estate, together with any buildings or other improvements thereon, designated in the application for a license as the place at which the manufacture, bottling, distribution, use or sale of alcoholic beverages shall be performed, except that portion of any such building or other improvement actually and exclusively used as a private residence.

"Public place" means any place, building, or conveyance to which the public has, or is permitted to have, access, including restaurants, soda fountains, hotel dining areas, lobbies and corridors of hotels, and any park, place of public resort or amusement, highway, street, lane, or sidewalk adjoining any highway, street, or lane.

The term shall not include (i) hotel or restaurant dining areas or ballrooms while in use for private meetings or private parties limited in attendance to members and guests of a particular group, association or organization; (ii) restaurants licensed by the Board in office buildings or industrial or similar facilities while such restaurant is closed to the public and in use for private meetings or parties limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such building or facility; (iii) offices, office buildings or industrial facilities while closed to the public and in use for private meetings or parties limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such building or facility; or (iv) private recreational or chartered boats which are not licensed by the Board and on which alcoholic beverages are not sold.

"Residence" means any building or part of a building or structure where a person resides, but does not include any part of a building which is not actually and exclusively used as a private residence, nor any part of a hotel or club other than a private guest room thereof.

"Resort complex" means a facility (i) with a hotel owning year-round sports and recreational facilities located contiguously on the same property or (ii) owned by a nonstock, nonprofit, taxable corporation with voluntary membership which, as its primary function, makes available golf, ski and other recreational facilities both to its members and the general public. The hotel or corporation shall have a minimum of 140 private guest rooms or dwelling units contained on not less than 50 acres. The Board may consider the purpose, characteristics, and operation of the applicant establishment in determining whether it shall be considered as a resort complex. All other pertinent qualifications established by the Board for a hotel operation shall be observed by such licensee.

"Restaurant" means, for a beer, or wine and beer license or a limited mixed beverage restaurant license, any establishment provided with special space and accommodation, where, in consideration of payment, meals or other foods prepared on the premises are regularly sold.

"Restaurant" means, for a mixed beverage license other than a limited mixed beverage restaurant license, an established place of business (i) where meals with substantial entrees are regularly sold and (ii) which has adequate facilities and sufficient employees for cooking, preparing, and serving such meals for consumption at tables in dining areas on the premises, and includes establishments specializing in full course meals with a single substantial entree.

"Sale" and "sell" includes soliciting or receiving an order for; keeping, offering or exposing for sale; peddling, exchanging or bartering; or delivering otherwise than gratuitously, by any means, alcoholic beverages.

"Sangria" means a drink consisting of red or white wine mixed with some combination of sweeteners, fruit, fruit juice, soda, or soda water that may also be mixed with brandy, triple sec, or other similar spirits.

"Special agent" means an employee of the Department of Alcoholic Beverage Control whom the Board has designated as a law-enforcement officer pursuant to § 4.1-105.

"Special event" means an event sponsored by a duly organized nonprofit corporation or association and conducted for an athletic, charitable, civic, educational, political, or religious purpose.

"Spirits" means any beverage which contains alcohol obtained by distillation mixed with drinkable water and other substances, in solution, and includes, among other things, brandy, rum, whiskey, and gin, or any one or more of the last four named ingredients; but shall not include any such liquors completely denatured in accordance with formulas approved by the United States government.

"Wine" means any alcoholic beverage obtained by the fermentation of the natural sugar content of fruits or other agricultural products containing (i) sugar, including honey and milk, either with or without additional sugar; (ii) one-half of one percent or more of alcohol by volume; and (iii) no product of distillation. The term includes any wine to which wine spirits have been added, as provided in the Internal Revenue Code, to make products commonly known as "fortified wine" which do not exceed an alcohol content of 21 percent by volume.

"Wine cooler" means a drink containing one-half of one percent or more of alcohol by volume, and not more than three and two-tenths percent of alcohol by weight or four percent by volume consisting of wine mixed with nonalcoholic beverages or flavoring or coloring materials, and which may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives and shall include other similar products manufactured by fermenting fruit or fruit juices. Wine coolers and similar fermented fruit juice beverages shall be treated as wine for all purposes except for taxation under § 4.1-236.

"With or without meals" means the selling and serving of alcoholic beverages by retail licensees for on-premises consumption whether or not accompanied by food so long as the total food-beverage ratio required by § 4.1-210, or the monthly food sale requirement established by Board regulation, is met by such retail licensee.

**§ 4.1-100. (Effective July 1, 2018) Definitions.**

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

"Alcohol" means the product known as ethyl or grain alcohol obtained by distillation of any fermented liquor, rectified either once or more often, whatever the origin, and shall include synthetic ethyl alcohol, but shall not include methyl alcohol and alcohol completely denatured in accordance with formulas approved by the government of the United States.

"Alcohol vaporizing device" means any device, machine, or process that mixes any alcoholic beverages with pure oxygen or other gas to produce a vaporized product for the purpose of consumption by inhalation.

"Alcoholic beverages" includes alcohol, spirits, wine, and beer, and any one or more of such varieties containing one-half of one percent or more of alcohol by volume, including mixed alcoholic beverages, and every liquid or solid, powder or crystal, patented or not, containing alcohol, spirits, wine, or beer and capable of being consumed by a human being. Any liquid or solid containing more than one of the four varieties shall be considered as belonging to that variety which has the higher percentage of alcohol, however obtained, according to the order in which they are set forth in this definition; except that beer may be manufactured to include flavoring materials and other nonbeverage ingredients containing alcohol, as long as no more than 49 percent of the overall alcohol content of the finished product is derived from the addition of flavors and other nonbeverage ingredients containing alcohol for products with an alcohol content of no more than six percent by volume; or, in the case of products with an alcohol content of more than six percent by volume, as long as no more than one and one-half percent of the volume of the finished product consists of alcohol derived from added flavors and other nonbeverage ingredients containing alcohol.

"Art instruction studio" means any commercial establishment that provides to its customers all required supplies and step-by-step instruction in creating a painting or other work of art during a studio instructional session.

"Arts venue" means a commercial or nonprofit establishment that is open to the public and in which works of art are sold or displayed.

"Authority" means the Virginia Alcoholic Beverage Control Authority created pursuant to this title.

"Barrel" means any container or vessel having a capacity of more than 43 ounces.

"Bed and breakfast establishment" means any establishment (i) having no more than 15 bedrooms; (ii) offering to the public, for compensation, transitory lodging or sleeping accommodations; and (iii) offering at least one meal per day, which may but need not be breakfast, to each person to whom overnight lodging is provided.

"Beer" means any alcoholic beverage obtained by the fermentation of an infusion or decoction of barley, malt, and hops or of any similar products in drinkable water and containing one-half of one percent or more of alcohol by volume.

"Board" means the Board of Directors of the Virginia Alcoholic Beverage Control Authority.

"Bottle" means any vessel intended to contain liquids and having a capacity of not more than 43 ounces.

"Canal boat operator" means any nonprofit organization that operates tourism-oriented canal boats for recreational purposes on waterways declared nonnavigable by the United States Congress pursuant to 33 U.S.C. § 59ii.

"Club" means any private nonprofit corporation or association which is the owner, lessee, or occupant of an establishment operated solely for a national, social, patriotic, political, athletic, or other like purpose, but not for pecuniary gain, the advantages of which belong to all of the members. It also means the establishment so operated. A corporation or association shall not lose its status as a club because of the conduct of charitable gaming conducted pursuant to Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2 in which nonmembers participate frequently or in large numbers, provided that no alcoholic beverages are served or consumed in the room where such charitable gaming is being conducted while such gaming is being conducted and that no alcoholic beverages are made available upon the premises to any person who is neither a member nor a bona fide guest of a member.

Any such corporation or association which has been declared exempt from federal and state income taxes as one which is not organized and operated for pecuniary gain or profit shall be deemed a nonprofit corporation or association.

*"Commercial lifestyle center" means a mixed-use commercial development covering a minimum of 25 acres of land and having at least 100,000 square feet of retail space featuring national specialty chain stores and a combination of dining, entertainment, office, residential, or hotel establishments located in a physically integrated outdoor setting that is pedestrian friendly and that is governed by a commercial owners' association that is responsible for the management, maintenance, and operation of the common areas thereof.*

"Container" means any barrel, bottle, carton, keg, vessel or other receptacle used for holding alcoholic beverages.

"Contract winemaking facility" means the premises of a licensed winery or farm winery that obtains grapes, fruits, and other agricultural products from a person holding a farm winery license and crushes, processes, ferments, bottles, or provides any combination of such services pursuant to an agreement with the farm winery licensee. For all purposes of this title, wine produced by a contract winemaking facility for a farm winery shall be considered to be wine owned and produced by the farm winery that supplied the grapes, fruits, or other agricultural products used in the production of the wine. The contract winemaking facility shall have no right to sell the wine so produced, unless the terms of payment have not been fulfilled in accordance with the contract. The contract winemaking facility may charge the farm winery for its services.

"Convenience grocery store" means an establishment which (i) has an enclosed room in a permanent structure where stock is displayed and offered for sale and (ii) maintains an inventory of edible items intended for human consumption consisting of a variety of such items of the types normally sold in grocery stores.

"Day spa" means any commercial establishment that offers to the public both massage therapy, performed by persons licensed in accordance with § 54.1-3029, and barbering or cosmetology services performed by persons licensed in accordance with Chapter 7 (§ 54.1-700 et seq.) of Title 54.1.

"Designated area" means a room or area approved by the Board for on-premises licensees.

"Dining area" means a public room or area in which meals are regularly served.

"Establishment" means any place where alcoholic beverages of one or more varieties are lawfully manufactured, sold, or used.

"Farm winery" means (i) an establishment (a) located on a farm in the Commonwealth on land zoned agricultural with a producing vineyard, orchard, or similar growing area and with facilities for fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains not more than 21 percent alcohol by volume or (b) located in the Commonwealth on land zoned agricultural with a producing vineyard, orchard, or similar growing area or agreements for purchasing grapes or other fruits from agricultural growers within the Commonwealth and with facilities for fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains not more than 21 percent alcohol by volume or (ii) an accredited public or private institution of higher education, provided that (a) no wine manufactured by the institution shall be sold, (b) the wine manufactured by the institution shall be used solely for research and educational purposes, (c) the wine manufactured by the institution shall be stored on the premises of such farm winery that shall be separate and apart from all other facilities of the institution, and (d) such farm winery is operated in strict conformance with the requirements of this clause (ii) and Board regulations. As used in this definition, the terms "owner" and "lessee" shall include a cooperative formed by an association of individuals for the purpose of manufacturing wine. In the event that such cooperative is licensed as a farm winery, the term "farm" as used in this definition includes all of the land owned or leased by the individual members of the cooperative as long as such land is located in the Commonwealth. For purposes of this definition, "land zoned agricultural" means (1) land zoned as an agricultural district or classification or (2) land otherwise permitted by a locality for farm winery use. For purposes of this definition, "land zoned agricultural" does not include land zoned "residential conservation." Except for the limitation on land zoned "residential conservation," nothing in the definition of "land zoned agricultural" shall otherwise limit or affect local zoning authority.

"Gift shop" means any bona fide retail store selling, predominantly, gifts, books, souvenirs, specialty items relating to history, original and handmade arts and products, collectibles, crafts, and floral arrangements, which is open to the public on a regular basis. Such shop shall be a permanent structure where stock is displayed and offered for sale and which has facilities to properly secure any stock of wine or beer. Such shop may be located (i) on the premises or grounds of a government registered national, state or local historic building or site or (ii) within the premises of a museum. The Board shall consider the purpose, characteristics, nature, and operation of the shop in determining whether it shall be considered a gift shop.

"Gourmet brewing shop" means an establishment which sells to persons to whom wine or beer may lawfully be sold, ingredients for making wine or brewing beer, including packaging, and rents to such persons facilities for manufacturing, fermenting and bottling such wine or beer.

"Gourmet shop" means an establishment provided with adequate inventory, shelving, and storage facilities, where, in consideration of payment, substantial amounts of domestic and imported wines and beers of various types and sizes and related products such as cheeses and gourmet foods are habitually furnished to persons.

"Government store" means a store established by the Authority for the sale of alcoholic beverages.

"Hotel" means any duly licensed establishment, provided with special space and accommodation, where, in consideration of payment, food and lodging are habitually furnished to persons, and which has four or more bedrooms. It shall also mean the person who operates such hotel.

"Interdicted person" means a person to whom the sale of alcoholic beverages is prohibited by order pursuant to this title.

"Internet wine retailer" means a person who owns or operates an establishment with adequate inventory, shelving, and storage facilities, where, in consideration of payment, internet or telephone orders are taken and shipped directly to consumers and which establishment is not a retail store open to the public.

"Intoxicated" means a condition in which a person has drunk enough alcoholic beverages to observably affect his manner, disposition, speech, muscular movement, general appearance or behavior.

"Licensed" means the holding of a valid license granted by the Authority.

"Licensee" means any person to whom a license has been granted by the Authority.

"Liqueur" means any of a class of highly flavored alcoholic beverages that do not exceed an alcohol content of 25 percent by volume.

"Low alcohol beverage cooler" means a drink containing one-half of one percent or more of alcohol by volume, but not more than seven and one-half percent alcohol by volume, and consisting of spirits mixed with nonalcoholic beverages or flavoring or coloring materials; it may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, preservatives or other similar products manufactured by fermenting fruit or fruit juices. Low alcohol beverage coolers shall be treated as wine for all purposes of this title; except that low alcohol beverage coolers shall not be sold in localities that have not approved the sale of mixed beverages pursuant to § 4.1-124. In addition, low alcohol beverage coolers shall not be sold for on-premises consumption other than by mixed beverage licensees.

"Meal-assembly kitchen" means any commercial establishment that offers its customers, for off-premises consumption, ingredients for the preparation of meals and entrees in professional kitchen facilities located at the establishment.

"Meals" means, for a mixed beverage license, an assortment of foods commonly ordered in bona fide, full-service restaurants as principal meals of the day. Such restaurants shall include establishments specializing in full course meals with a single substantial entree.

"Member of a club" means (i) a person who maintains his membership in the club by the payment of monthly, quarterly, or annual dues in the manner established by the rules and regulations thereof or (ii) a person who is a member of a bona fide auxiliary, local chapter, or squadron composed of direct lineal descendants of a bona fide member, whether alive or deceased, of a national or international organization to which an individual lodge holding a club license is an authorized member in the same locality. It shall also mean a lifetime member whose financial contribution is not less than 10 times the annual dues of resident members of the club, the full amount of such contribution being paid in advance in a lump sum.

"Mixed beverage" or "mixed alcoholic beverage" means a drink composed in whole or in part of spirits.

"Mixer" means any prepackaged ingredients containing beverages or flavoring or coloring materials, and which may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives which are not commonly consumed unless combined with alcoholic beverages, whether or not such ingredients contain alcohol. Such specialty beverage product shall be manufactured or distributed by a Virginia corporation.

"Place or premises" means the real estate, together with any buildings or other improvements thereon, designated in the application for a license as the place at which the manufacture, bottling, distribution, use or sale of alcoholic beverages shall be performed, except that portion of any such building or other improvement actually and exclusively used as a private residence.

"Principal stockholder" means any person who individually or in concert with his spouse and immediate family members beneficially owns or controls, directly or indirectly, five percent or more of the equity ownership of any person that is a licensee of the Authority, or who in concert with his spouse and immediate family members has the power to vote or cause the vote of five percent or more of any such equity ownership. "Principal stockholder" does not include a broker-dealer registered under the Securities Exchange Act of 1934, as amended, that holds in inventory shares for sale on the financial markets for a publicly traded corporation holding, directly or indirectly, a license from the Authority.

"Public place" means any place, building, or conveyance to which the public has, or is permitted to have, access, including restaurants, soda fountains, hotel dining areas, lobbies and corridors of hotels, and any park, place of public resort or amusement, highway, street, lane, or sidewalk adjoining any highway, street, or lane.

The term shall not include (i) hotel or restaurant dining areas or ballrooms while in use for private meetings or private parties limited in attendance to members and guests of a particular group, association or organization; (ii) restaurants licensed by the Authority in office buildings or industrial or similar facilities while such restaurant is closed to the public and in use for private meetings or parties limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such building or facility; (iii) offices, office buildings or industrial facilities while closed to the public and in use for private meetings or parties limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such building or facility; or (iv) private recreational or chartered boats which are not licensed by the Board and on which alcoholic beverages are not sold.

"Residence" means any building or part of a building or structure where a person resides, but does not include any part of a building which is not actually and exclusively used as a private residence, nor any part of a hotel or club other than a private guest room thereof.

"Resort complex" means a facility (i) with a hotel owning year-round sports and recreational facilities located contiguously on the same property or (ii) owned by a nonstock, nonprofit, taxable corporation with voluntary membership which, as its primary function, makes available golf, ski and other recreational facilities both to its members and the general public. The hotel or corporation shall have a minimum of 140 private guest rooms or dwelling units contained on not less than 50 acres. The Authority may consider the purpose, characteristics, and operation of the applicant establishment in determining whether it shall be considered as a resort complex. All other pertinent qualifications established by the Board for a hotel operation shall be observed by such licensee.

"Restaurant" means, for a beer, or wine and beer license or a limited mixed beverage restaurant license, any establishment provided with special space and accommodation, where, in consideration of payment, meals or other foods prepared on the premises are regularly sold.

"Restaurant" means, for a mixed beverage license other than a limited mixed beverage restaurant license, an established place of business (i) where meals with substantial entrees are regularly sold and (ii) which has adequate facilities and sufficient employees for cooking, preparing, and serving such meals for consumption at tables in dining areas on the premises, and includes establishments specializing in full course meals with a single substantial entree.

"Sale" and "sell" includes soliciting or receiving an order for; keeping, offering or exposing for sale; peddling, exchanging or bartering; or delivering otherwise than gratuitously, by any means, alcoholic beverages.

"Sangria" means a drink consisting of red or white wine mixed with some combination of sweeteners, fruit, fruit juice, soda, or soda water that may also be mixed with brandy, triple sec, or other similar spirits.

"Special agent" means an employee of the Virginia Alcoholic Beverage Control Authority whom the Board has designated as a law-enforcement officer pursuant to § 4.1-105.

"Special event" means an event sponsored by a duly organized nonprofit corporation or association and conducted for an athletic, charitable, civic, educational, political, or religious purpose.

"Spirits" means any beverage which contains alcohol obtained by distillation mixed with drinkable water and other substances, in solution, and includes, among other things, brandy, rum, whiskey, and gin, or any one or more of the last four named ingredients; but shall not include any such liquors completely denatured in accordance with formulas approved by the United States government.

"Wine" means any alcoholic beverage obtained by the fermentation of the natural sugar content of fruits or other agricultural products containing (i) sugar, including honey and milk, either with or without additional sugar; (ii) one-half of one percent or more of alcohol by volume; and (iii) no product of distillation. The term includes any wine to which wine spirits have been added, as provided in the Internal Revenue Code, to make products commonly known as "fortified wine" which do not exceed an alcohol content of 21 percent by volume.

"Wine cooler" means a drink containing one-half of one percent or more of alcohol by volume, and not more than three and two-tenths percent of alcohol by weight or four percent by volume consisting of wine mixed with nonalcoholic beverages or flavoring or coloring materials, and which may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives and shall include other similar products manufactured by fermenting fruit or fruit juices. Wine coolers and similar fermented fruit juice beverages shall be treated as wine for all purposes except for taxation under § 4.1-236.

"With or without meals" means the selling and serving of alcoholic beverages by retail licensees for on-premises consumption whether or not accompanied by food so long as the total food-beverage ratio required by § 4.1-210, or the monthly food sale requirement established by Board regulation, is met by such retail licensee.

**§ 4.1-128. (Effective until July 1, 2018) Local ordinances or resolutions regulating or taxing alcoholic beverages.**

A. No county, city, or town shall, except as provided in § 4.1-205 or § 4.1-129, adopt any ordinance or resolution which regulates or prohibits the manufacture, bottling, possession, sale, wholesale distribution, handling, transportation, drinking, use, advertising or dispensing of alcoholic beverages in the Commonwealth. Nor shall any county, city, or town adopt an ordinance or resolution that prohibits or regulates the storage, warehousing, and wholesaling of wine in accordance with Title 4.1, regulations of the Alcoholic Beverage Control Board, and federal law at a licensed farm winery.

No provision of law, general or special, shall be construed to authorize any county, city or town to adopt any ordinance or resolution that imposes a sales or excise tax on alcoholic beverages, other than the taxes authorized by §§ 58.1-605, 58.1-3833 or § 58.1-3840. The foregoing limitation shall not affect the authority of any county, city or town to impose a license or privilege tax or fee on a business engaged in whole or in part in the sale of alcoholic beverages if the license or privilege tax or fee (i) is based on an annual or per event flat fee specifically authorized by general law or (ii) is an annual license or privilege tax specifically authorized by general law, which includes alcoholic beverages in its taxable measure and treats alcoholic beverages the same as if they were nonalcoholic beverages.

B. However, the governing body of any county, city, or town may adopt an ordinance ~~which~~ that (i) prohibits the acts described in subsection A of § 4.1-308 subject to the provisions of ~~subsection~~ subsections B and E of § 4.1-308, or the acts described in § 4.1-309, and may provide a penalty for violation thereof and (ii) subject to subsection C of § 4.1-308, regulates or prohibits the possession of opened alcoholic beverage containers in its local public parks, playgrounds, public streets, and any sidewalk adjoining any public street.

C. Except as provided in this section, all local acts, including charter provisions and ordinances of cities and towns, inconsistent with any of the provisions of this title, are repealed to the extent of such inconsistency.

**§ 4.1-128. (Effective July 1, 2018) Local ordinances or resolutions regulating or taxing alcoholic beverages.**

A. No county, city, or town shall, except as provided in § 4.1-205 or 4.1-129, adopt any ordinance or resolution which regulates or prohibits the manufacture, bottling, possession, sale, wholesale distribution, handling, transportation, drinking, use, advertising or dispensing of alcoholic beverages in the Commonwealth. Nor shall any county, city, or town adopt an ordinance or resolution that prohibits or regulates the storage, warehousing, and wholesaling of wine in accordance with Title 4.1, regulations of the Board, and federal law at a licensed farm winery.

No provision of law, general or special, shall be construed to authorize any county, city or town to adopt any ordinance or resolution that imposes a sales or excise tax on alcoholic beverages, other than the taxes authorized by § 58.1-605, 58.1-3833 or 58.1-3840. The foregoing limitation shall not affect the authority of any county, city or town to impose a license or privilege tax or fee on a business engaged in whole or in part in the sale of alcoholic beverages if the license or privilege tax or fee (i) is based on an annual or per event flat fee specifically authorized by general law or (ii) is an annual license or privilege tax specifically authorized by general law, which includes alcoholic beverages in its taxable measure and treats alcoholic beverages the same as if they were nonalcoholic beverages.

B. However, the governing body of any county, city, or town may adopt an ordinance ~~which~~ that (i) prohibits the acts described in subsection A of § 4.1-308 subject to the provisions of ~~subsection~~ subsections B and E of § 4.1-308, or the acts described in § 4.1-309, and may provide a penalty for violation thereof and (ii) subject to subsection C of § 4.1-308, regulates or prohibits the possession of opened alcoholic beverage containers in its local public parks, playgrounds, public streets, and any sidewalk adjoining any public street.

C. Except as provided in this section, all local acts, including charter provisions and ordinances of cities and towns, inconsistent with any of the provisions of this title, are repealed to the extent of such inconsistency.

**§ 4.1-206. Alcoholic beverage licenses.**

A. The Board may grant the following licenses relating to alcoholic beverages generally:

1. Distillers' licenses, which shall authorize the licensee to manufacture alcoholic beverages other than wine and beer, and to sell and deliver or ship the same, in accordance with Board regulations, in closed containers, to the Board and to persons outside the Commonwealth for resale outside the Commonwealth. When the Board has established a government store on the distiller's licensed premises pursuant to subsection D of § 4.1-119, such license shall also authorize the licensee to make a charge to consumers to participate in an organized tasting event conducted in accordance with subsection G of § 4.1-119 and Board regulations.

2. Limited distiller's licenses, to distilleries that manufacture not more than 36,000 gallons of alcoholic beverages other than wine or beer per calendar year, provided (i) the distillery is located on a farm in the Commonwealth on land zoned agricultural and owned or leased by such distillery or its owner and (ii) agricultural products used by such distillery in the manufacture of its alcoholic beverages are grown on the farm. Limited distiller's licensees shall be treated as distillers for all purposes of this title except as otherwise provided in this subdivision. For purposes of this subdivision, "land zoned agricultural" means (a) land zoned as an agricultural district or classification or (b) land otherwise permitted by a locality for limited distillery use. For purposes of this subdivision, "land zoned agricultural" does not include land zoned "residential conservation." Except for the limitation on land zoned "residential conservation," nothing in this definition shall otherwise limit or affect local zoning authority.

3. Fruit distillers' licenses, which shall authorize the licensee to manufacture any alcoholic beverages made from fruit or fruit juices, and to sell and deliver or ship the same, in accordance with Board regulations, in closed containers, to the Board and to persons outside the Commonwealth for resale outside the Commonwealth.

4. Banquet facility licenses to volunteer fire departments and volunteer emergency medical services agencies, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any person, and bona fide members and guests thereof, otherwise eligible for a banquet license. However, lawfully acquired alcoholic beverages shall not be purchased or sold by the licensee or sold or charged for in any way by the person permitted to use the premises. Such premises shall be a volunteer fire or volunteer emergency medical services agency station or both, regularly occupied as such and recognized by the governing body of the county, city, or town in which it is located. Under conditions as specified by Board regulation, such premises may be other than a volunteer fire or volunteer emergency medical services agency station, provided such other premises are occupied and under the control of the volunteer fire department or volunteer emergency medical services agency while the privileges of its license are being exercised.

5. Bed and breakfast licenses, which shall authorize the licensee to (i) serve alcoholic beverages in dining areas, private guest rooms and other designated areas to persons to whom overnight lodging is being provided, with or without meals, for on-premises consumption only in such rooms and areas, and without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises and (ii) permit the consumption of lawfully acquired alcoholic beverages by persons to whom overnight lodging is being provided in (a) bedrooms or private guest rooms or (b) other designated areas of the bed and breakfast establishment. For purposes of this subdivision, "other designated areas" includes outdoor dining areas, whether or not contiguous to the licensed premises, which may have more than one means of ingress and egress to an adjacent public thoroughfare, provided that such outdoor dining areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

6. Tasting licenses, which shall authorize the licensee to sell or give samples of alcoholic beverages of the type specified in the license in designated areas at events held by the licensee. A tasting license shall be issued for the purpose of featuring and educating the consuming public about the alcoholic beverages being tasted. A separate license shall be required for each day of each tasting event. No tasting license shall be required for conduct authorized by § 4.1-201.1.

7. Museum licenses, which may be issued to nonprofit museums exempt from taxation under § 501(c)(3) of the Internal Revenue Code, which shall authorize the licensee to (i) permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any bona fide member and guests thereof and (ii) serve alcoholic beverages on the premises of the licensee to any bona fide member and guests thereof. However, alcoholic beverages shall not be sold or charged for in any way by the licensee. The privileges of this license shall be limited to the premises of the museum, regularly occupied and utilized as such.

8. Equine sporting event licenses, which may be issued to organizations holding equestrian, hunt and steeplechase events, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by patrons thereof during such event. However, alcoholic beverages shall not be sold or charged for in any way by the licensee. The privileges of this license shall be (i) limited to the premises of the licensee, regularly occupied and utilized for equestrian, hunt and steeplechase events and (ii) exercised on no more than four calendar days per year.

9. Day spa licenses, which shall authorize the licensee to (i) permit the consumption of lawfully acquired wine or beer on the premises of the licensee by any bona fide customer of the day spa and (ii) serve wine or beer on the premises of the licensee to any such bona fide customer; however, the licensee shall not give more than two five-ounce glasses of wine or one 12-ounce glass of beer to any such customer, nor shall it sell or otherwise charge a fee to such customer for the wine or beer served or consumed. The privileges of this license shall be limited to the premises of the day spa regularly occupied and utilized as such.

10. Motor car sporting event facility licenses, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by patrons thereof during such events. However, alcoholic

beverages shall not be sold or charged for in any way, directly or indirectly, by the licensee. The privileges of this license shall be limited to those areas of the licensee's premises designated by the Board that are regularly occupied and utilized for motor car sporting events.

11. Meal-assembly kitchen license, which shall authorize the licensee to serve wine or beer on the premises of the licensee to any such bona fide customer attending either a private gathering or a special event; however, the licensee shall not give more than two five-ounce glasses of wine or two 12-ounce glasses of beer to any such customer, nor shall it sell or otherwise charge a fee to such customer for the wine or beer served or consumed. The privileges of this license shall be limited to the premises of the meal-assembly kitchen regularly occupied and utilized as such.

12. Canal boat operator license, which shall authorize the licensee to permit the consumption of lawfully acquired alcoholic beverages on the premises of the licensee by any bona fide customer attending either a private gathering or a special event; however, the licensee shall not sell or otherwise charge a fee to such customer for the alcoholic beverages so consumed. The privileges of this license shall be limited to the premises of the licensee, including the canal, the canal boats while in operation, and any pathways adjacent thereto. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license.

13. Annual arts venue event licenses, to persons operating an arts venue, which shall authorize the licensee participating in a community art walk that is open to the public to serve lawfully acquired wine or beer on the premises of the licensee to adult patrons thereof during such events. However, alcoholic beverages shall not be sold or charged for in any way, directly or indirectly, by the licensee, and the licensee shall not give more than two five-ounce glasses of wine or one 12-ounce glass of beer to any one adult patron. The privileges of this license shall be (i) limited to the premises of the arts venue regularly occupied and used as such and (ii) exercised on no more than 12 calendar days per year.

14. Art instruction studio licenses, which shall authorize the licensee to serve wine or beer on the premises of the licensee to any such bona fide customer; however, the licensee shall not give more than two five-ounce glasses of wine or one 12-ounce glass of beer to any such customer, nor shall it sell or otherwise charge a fee to such customer for the wine or beer served or consumed. The privileges of this license shall be limited to the premises of the art instruction studio regularly occupied and utilized as such.

15. *Commercial lifestyle center license, which may be issued only to a commercial owners' association governing a commercial lifestyle center, which shall authorize any retail on-premises restaurant licensee that is a tenant of the commercial lifestyle center to sell alcoholic beverages to any bona fide customer to whom alcoholic beverages may be lawfully sold for consumption on that portion of the licensed premises of the commercial lifestyle center designated by the Board, including (i) plazas, seating areas, concourses, walkways, or such other similar areas and (ii) the premises of any tenant location of the commercial lifestyle center that is not a retail licensee of the Board, upon approval of such tenant, but excluding any parking areas. Only alcoholic beverages purchased from such retail on-premises restaurant licensees may be consumed on the licensed premises of the commercial lifestyle center, and such alcoholic beverages shall be contained in paper, plastic, or similar disposable containers with the name or logo of the restaurant licensee that sold the alcoholic beverage clearly displayed. Alcoholic beverages shall not be sold or charged for in any way by the commercial lifestyle center licensee. The licensee shall post appropriate signage clearly demarcating for the public the boundaries of the licensed premises; however, no physical barriers shall be required for this purpose. The licensee shall provide adequate security for the licensed premises to ensure compliance with the applicable provisions of this title and Board regulations.*

B. Any limited distillery that, prior to July 1, 2016, (i) holds a valid license granted by the Alcoholic Beverage Control Board (the Board) in accordance with this title and (ii) is in compliance with the local zoning ordinance as an agricultural district or classification or as otherwise permitted by a locality for limited distillery use shall be allowed to continue such use as provided in § 15.2-2307, notwithstanding (a) the provisions of this section or (b) a subsequent change in ownership of the limited distillery on or after July 1, 2016, whether by transfer, acquisition, inheritance, or other means. Any such limited distillery located on land zoned residential conservation prior to July 1, 2016, may expand any existing building or structure and the uses thereof so long as specifically approved by the locality by special exception. Any such limited distillery located on land zoned residential conservation prior to July 1, 2016, may construct a new building or structure so long as specifically approved by the locality by special exception. All such licensees shall comply with the requirements of this title and Board regulations for renewal of such license or the issuance of a new license in the event of a change in ownership of the limited distillery on or after July 1, 2016.

**§ 4.1-231. Taxes on state licenses.**

A. The annual fees on state licenses shall be as follows:

1. Alcoholic beverage licenses. For each:

- a. Distiller's license, if not more than 5,000 gallons of alcohol or spirits, or both, manufactured during the year in which the license is granted, \$450; if more than 5,000 gallons but not more than 36,000 gallons manufactured during such year, \$2,500; and if more than 36,000 gallons manufactured during such year, \$3,725;
- b. Fruit distiller's license, \$3,725;
- c. Banquet facility license or museum license, \$190;
- d. Bed and breakfast establishment license, \$35;
- e. Tasting license, \$40 per license granted;
- f. Equine sporting event license, \$130;
- g. Motor car sporting event facility license, \$130;

- h. Day spa license, \$100;
- i. Delivery permit, \$120 if the permittee holds no other license under this title;
- j. Meal-assembly kitchen license, \$100;
- k. Canal boat operator license, \$100;
- l. Annual arts venue event license, \$100; ~~and~~
- m. Art instruction studio license, \$100; *and*
- n. *Commercial lifestyle center license, \$300.*
- 2. Wine licenses. For each:
  - a. Winery license, if not more than 5,000 gallons of wine manufactured during the year in which the license is granted, \$189, and if more than 5,000 gallons manufactured during such year, \$3,725;
  - b. (1) Wholesale wine license, \$185 for any wholesaler who sells 30,000 gallons of wine or less per year, \$930 for any wholesaler who sells more than 30,000 gallons per year but not more than 150,000 gallons of wine per year, \$1,430 for any wholesaler who sells more than 150,000 but not more than 300,000 gallons of wine per year, and, \$1,860 for any wholesaler who sells more than 300,000 gallons of wine per year;
  - (2) Wholesale wine license, including that granted pursuant to § 4.1-207.1, applicable to two or more premises, the annual state license tax shall be the amount set forth in subdivision b (1), multiplied by the number of separate locations covered by the license;
  - c. Wine importer's license, \$370;
  - d. Retail off-premises winery license, \$145, which shall include a delivery permit;
  - e. Farm winery license, \$190 for any Class A license and \$3,725 for any Class B license, each of which shall include a delivery permit;
  - f. Wine shipper's license, \$95; and
  - g. Internet wine retailer license, \$150.
- 3. Beer licenses. For each:
  - a. Brewery license, if not more than 500 barrels of beer manufactured during the year in which the license is granted, \$350; if not more than 10,000 barrels of beer manufactured during the year in which the license is granted, \$2,150; and if more than 10,000 barrels manufactured during such year, \$4,300;
  - b. Bottler's license, \$1,430;
  - c. (1) Wholesale beer license, \$930 for any wholesaler who sells 300,000 cases of beer a year or less, and \$1,430 for any wholesaler who sells more than 300,000 but not more than 600,000 cases of beer a year, and \$1,860 for any wholesaler who sells more than 600,000 cases of beer a year;
  - (2) Wholesale beer license applicable to two or more premises, the annual state license tax shall be the amount set forth in subdivision c (1), multiplied by the number of separate locations covered by the license;
  - d. Beer importer's license, \$370;
  - e. Retail on-premises beer license to a hotel, restaurant, club or other person, except a common carrier of passengers by train or boat, \$145; for each such license to a common carrier of passengers by train or boat, \$145 per annum for each of the average number of boats, dining cars, buffet cars or club cars operated daily in the Commonwealth;
  - f. Retail off-premises beer license, \$120, which shall include a delivery permit;
  - g. Retail on-and-off premises beer license to a hotel, restaurant, club or grocery store located in a town or in a rural area outside the corporate limits of any city or town, \$300, which shall include a delivery permit;
  - h. Beer shipper's license, \$95; and
  - i. Retail off-premises brewery license, \$120, which shall include a delivery permit.
- 4. Wine and beer licenses. For each:
  - a. Retail on-premises wine and beer license to a hotel, restaurant, club or other person, except a common carrier of passengers by train, boat or airplane, \$300; for each such license to a common carrier of passengers by train or boat, \$300 per annum for each of the average number of boats, dining cars, buffet cars or club cars operated daily in the Commonwealth, and for each such license granted to a common carrier of passengers by airplane, \$750;
  - b. Retail on-premises wine and beer license to a hospital, \$145;
  - c. Retail off-premises wine and beer license, including each gift shop, gourmet shop and convenience grocery store license, \$230, which shall include a delivery permit;
  - d. Retail on-and-off premises wine and beer license to a hotel, restaurant or club, \$600, which shall include a delivery permit;
  - e. Banquet license, \$40 per license granted by the Board, except for banquet licenses granted by the Board pursuant to subsection A of § 4.1-215 for events occurring on more than one day, which shall be \$100 per license;
  - f. Gourmet brewing shop license, \$230;
  - g. Wine and beer shipper's license, \$95;
  - h. Annual banquet license, \$150;
  - i. Fulfillment warehouse license, \$120;
  - j. Marketing portal license, \$150; and
  - k. Gourmet oyster house license, \$230.
- 5. Mixed beverage licenses. For each:

a. Mixed beverage restaurant license granted to persons operating restaurants, including restaurants located on premises of and operated by hotels or motels, or other persons:

- (i) With a seating capacity at tables for up to 100 persons, \$560;
- (ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$975; and
- (iii) With a seating capacity at tables for more than 150 persons, \$1,430.

b. Mixed beverage restaurant license for restaurants located on the premises of and operated by private, nonprofit clubs:

- (i) With an average yearly membership of not more than 200 resident members, \$750;
- (ii) With an average yearly membership of more than 200 but not more than 500 resident members, \$1,860; and
- (iii) With an average yearly membership of more than 500 resident members, \$2,765.

c. Mixed beverage caterer's license, \$1,860;

d. Mixed beverage limited caterer's license, \$500;

e. Mixed beverage special events license, \$45 for each day of each event;

f. Mixed beverage club events licenses, \$35 for each day of each event;

g. Annual mixed beverage special events license, \$560;

h. Mixed beverage carrier license:

(i) \$190 for each of the average number of dining cars, buffet cars or club cars operated daily in the Commonwealth by a common carrier of passengers by train;

(ii) \$560 for each common carrier of passengers by boat;

(iii) \$1,475 for each license granted to a common carrier of passengers by airplane.

i. Annual mixed beverage amphitheater license, \$560;

j. Annual mixed beverage motor sports race track license, \$560;

k. Annual mixed beverage banquet license, \$500;

l. Limited mixed beverage restaurant license:

(i) With a seating capacity at tables for up to 100 persons, \$460;

(ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$875;

(iii) With a seating capacity at tables for more than 150 persons, \$1,330;

m. Annual mixed beverage motor sports facility license, \$560; and

n. Annual mixed beverage performing arts facility license, \$560.

6. Temporary licenses. For each temporary license authorized by § 4.1-211, one-half of the tax imposed by this section on the license for which the applicant applied.

B. The tax on each such license, except banquet and mixed beverage special events licenses, shall be subject to proration to the following extent: If the license is granted in the second quarter of any year, the tax shall be decreased by one-fourth; if granted in the third quarter of any year, the tax shall be decreased by one-half; and if granted in the fourth quarter of any year, the tax shall be decreased by three-fourths.

If the license on which the tax is prorated is a distiller's license to manufacture not more than 5,000 gallons of alcohol or spirits, or both, during the year in which the license is granted, or a winery license to manufacture not more than 5,000 gallons of wine during the year in which the license is granted, the number of gallons permitted to be manufactured shall be prorated in the same manner.

Should the holder of a distiller's license or a winery license to manufacture not more than 5,000 gallons of alcohol or spirits, or both, or wine, apply during the license year for an unlimited distiller's or winery license, such person shall pay for such unlimited license a license tax equal to the amount that would have been charged had such license been applied for at the time that the license to manufacture less than 5,000 gallons of alcohol or spirits or wine, as the case may be, was granted, and such person shall be entitled to a refund of the amount of license tax previously paid on the limited license.

Notwithstanding the foregoing, the tax on each license granted or reissued for a period other than 12, 24, or 36 months shall be equal to one-twelfth of the taxes required by subsection A computed to the nearest cent, multiplied by the number of months in the license period, and then increased by five percent. Such tax shall not be refundable, except as provided in § 4.1-232.

C. Nothing in this chapter shall exempt any licensee from any state merchants' license or state restaurant license or any other state tax. Every licensee, in addition to the taxes imposed by this chapter, shall be liable to state merchants' license taxation and state restaurant license taxation and other state taxation the same as if the alcoholic beverages were nonalcoholic. In ascertaining the liability of a beer wholesaler to merchants' license taxation, however, and in computing the wholesale merchants' license tax on a beer wholesaler, the first \$163,800 of beer purchases shall be disregarded; and in ascertaining the liability of a wholesale wine distributor to merchants' license taxation, and in computing the wholesale merchants' license tax on a wholesale wine distributor, the first \$163,800 of wine purchases shall be disregarded.

D. In addition to the taxes set forth in this section, a fee of \$5 may be imposed on any license purchased in person from the Board if such license is available for purchase online.

**§ 4.1-233. Taxes on local licenses.**

A. In addition to the state license taxes, the annual local license taxes which may be collected shall not exceed the following sums:

- 1. Alcoholic beverages. — For each:

a. Distiller's license, if more than 5,000 gallons but not more than 36,000 gallons manufactured during such year, \$750; if more than 36,000 gallons manufactured during such year, \$1,000; and no local license shall be required for any person who manufactures not more than 5,000 gallons of alcohol or spirits, or both, during such license year;

b. Fruit distiller's license, \$1,500;

c. Bed and breakfast establishment license, \$40;

d. Museum license, \$10;

e. Tasting license, \$5 per license granted;

f. Equine sporting event license, \$10;

g. Day spa license, \$20;

h. Motor car sporting event facility license, \$10;

i. Meal-assembly kitchen license, \$20;

j. Canal boat operator license, \$20;

k. Annual arts venue event license, \$20; ~~and~~

l. Art instruction studio license, \$20; *and*

m. *Commercial lifestyle center license, \$60.*

2. Beer. — For each:

a. Brewery license, if not more than 500 barrels of beer manufactured during the year in which the license is granted, \$250, and if more than 500 barrels of beer manufactured during the year in which the license is granted, \$1,000;

b. Bottler's license, \$500;

c. Wholesale beer license, in a city, \$250, and in a county or town, \$75;

d. Retail on-premises beer license for a hotel, restaurant or club and for each retail off-premises beer license in a city, \$100, and in a county or town, \$25; and

e. Beer shipper's license, \$10.

3. Wine. — For each:

a. Winery license, \$50;

b. Wholesale wine license, \$50;

c. Farm winery license, \$50; and

d. Wine shipper's license, \$10.

4. Wine and beer. — For each:

a. Retail on-premises wine and beer license for a hotel, restaurant or club; and for each retail off-premises wine and beer license, including each gift shop, gourmet shop and convenience grocery store license, in a city, \$150, and in a county or town, \$37.50;

b. Hospital license, \$10;

c. Banquet license, \$5 for each license granted, except for banquet licenses granted by the Board pursuant to subsection A of § 4.1-215 for events occurring on more than one day, which shall be \$20 per license;

d. Gourmet brewing shop license, \$150;

e. Wine and beer shipper's license, \$10;

f. Annual banquet license, \$15; and

g. Gourmet oyster house license, in a city, \$150, and in a county or town, \$37.50.

5. Mixed beverages. — For each:

a. Mixed beverage restaurant license, including restaurants located on the premises of and operated by hotels or motels, or other persons:

(i) With a seating capacity at tables for up to 100 persons, \$200;

(ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$350; and

(iii) With a seating capacity at tables for more than 150 persons, \$500.

b. Private, nonprofit club operating a restaurant located on the premises of such club, \$350;

c. Mixed beverage caterer's license, \$500;

d. Mixed beverage limited caterer's license, \$100;

e. Mixed beverage special events licenses, \$10 for each day of each event;

f. Mixed beverage club events licenses, \$10 for each day of each event;

g. Annual mixed beverage amphitheater license, \$300;

h. Annual mixed beverage motor sports race track license, \$300;

i. Annual mixed beverage banquet license, \$75;

j. Limited mixed beverage restaurant license:

(i) With a seating capacity at tables for up to 100 persons, \$100;

(ii) With a seating capacity at tables for more than 100 but not more than 150 persons, \$250;

(iii) With a seating capacity at tables for more than 150 persons, \$400;

k. Annual mixed beverage motor sports facility license, \$300; and

l. Annual mixed beverage performing arts facility license, \$300.

B. Common carriers. — No local license tax shall be either charged or collected for the privilege of selling alcoholic beverages in (i) passenger trains, boats or airplanes and (ii) rooms designated by the Board of establishments of air carriers of passengers at airports in the Commonwealth for on-premises consumption only.

C. Merchants' and restaurants' license taxes. — The governing body of each county, city or town in the Commonwealth, in imposing local wholesale merchants' license taxes measured by purchases, local retail merchants' license taxes measured by sales, and local restaurant license taxes measured by sales, may include alcoholic beverages in the base for measuring such local license taxes the same as if the alcoholic beverages were nonalcoholic. No local alcoholic beverage license authorized by this chapter shall exempt any licensee from any local merchants' or local restaurant license tax, but such local merchants' and local restaurant license taxes may be in addition to the local alcoholic beverage license taxes authorized by this chapter.

The governing body of any county, city or town, in adopting an ordinance under this section, shall provide that in ascertaining the liability of (i) a beer wholesaler to local merchants' license taxation under the ordinance, and in computing the local wholesale merchants' license tax on such beer wholesaler, purchases of beer up to a stated amount shall be disregarded, which stated amount shall be the amount of beer purchases which would be necessary to produce a local wholesale merchants' license tax equal to the local wholesale beer license tax paid by such wholesaler and (ii) a wholesale wine licensee to local merchants' license taxation under the ordinance, and in computing the local wholesale merchants' license tax on such wholesale wine licensee, purchases of wine up to a stated amount shall be disregarded, which stated amount shall be the amount of wine purchases which would be necessary to produce a local wholesale merchants' license tax equal to the local wholesale wine licensee license tax paid by such wholesale wine licensee.

D. Delivery. — No county, city or town shall impose any local alcoholic beverages license tax on any wholesaler for the privilege of delivering alcoholic beverages in the county, city or town when such wholesaler maintains no place of business in such county, city or town.

E. Application of county tax within town. — Any county license tax imposed under this section shall not apply within the limits of any town located in such county, where such town now, or hereafter, imposes a town license tax on the same privilege.

**§ 4.1-308. Drinking alcoholic beverages, or offering to another, in public place; penalty; exceptions.**

A. If any person takes a drink of alcoholic beverages or offers a drink thereof to another, whether accepted or not, at or in any public place, he ~~shall be~~ *is* guilty of a Class 4 misdemeanor.

B. This section shall not prevent any person from drinking alcoholic beverages or offering a drink thereof to another in any rooms or areas approved by the Board in a licensed establishment, provided such establishment or the person who operates the same is licensed to sell alcoholic beverages at retail for on-premises consumption and the alcoholic beverages drunk or offered were purchased therein.

C. This section shall not prevent any person from drinking alcoholic beverages or offering a drink thereof to another in any room or area approved by the Board at an event for which a banquet license or mixed beverage special events license has been granted. Nor shall this section prevent, upon authorization of the licensee, any person from drinking his own lawfully acquired alcoholic beverages or offering a drink thereof to another in approved areas and locations at events for which a coliseum or stadium license has been granted.

D. This section shall not prevent any person from drinking alcoholic beverages or offering a drink thereof to another on a chartered boat being used for the transportation of passengers for compensation which is not licensed by the Board and which does not sell alcoholic beverages.

E. *This section shall not prevent any person from drinking alcoholic beverages or offering a drink thereof to another in any areas approved by the Board in a licensed commercial lifestyle center.*

**CHAPTER 493**

*An Act to amend and reenact § 2.2-4007.04 of the Code of Virginia, relating to the Administrative Process Act; economic impact analysis; opportunity for comment by affected businesses or other entities.*

[S 1431]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 2.2-4007.04 of the Code of Virginia is amended and reenacted as follows:**

**§ 2.2-4007.04. Economic impact analysis.**

A. Before delivering any proposed regulation under consideration to the Registrar as required in § 2.2-4007.05, the agency shall submit on the Virginia Regulatory Town Hall a copy of that regulation to the Department of Planning and Budget. In addition to determining the public benefit, the Department of Planning and Budget in coordination with the agency shall, within 45 days, prepare an economic impact analysis of the proposed regulation, as follows:

1. The economic impact analysis shall include but need not be limited to the projected number of businesses or other entities to ~~whom~~ *which* the regulation would apply; the identity of any localities and types of businesses or other entities particularly affected by the regulation; the projected number of persons and employment positions to be affected; the impact of the regulation on the use and value of private property, including additional costs related to the development of real estate

for commercial or residential purposes; and the projected costs to affected businesses, localities, or entities of implementing or complying with the regulations, including the estimated fiscal impact on such localities and sources of potential funds to implement and comply with such regulation. A copy of the economic impact analysis shall be provided to the Joint Commission on Administrative Rules; *and*

2. If the regulation may have an adverse effect on small businesses, the economic impact analysis shall also include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the regulation. As used in this subdivision, "small business" has the same meaning as provided in subsection A of § 2.2-4007.1; ~~and~~.

~~3. B.~~ In the event the Department cannot complete an economic impact statement within the 45-day period, it shall advise the agency and the Joint Commission on Administrative Rules as to the reasons for the delay. In no event shall the delay exceed 30 days beyond the original 45-day period.

~~B. C.~~ Agencies shall provide the Department with such estimated fiscal impacts on localities and sources of potential funds. The Department may request the assistance of any other agency in preparing the analysis. The Department shall deliver a copy of the analysis to the agency drafting the regulation, which shall comment thereon as provided in § 2.2-4007.05, a copy to the Registrar for publication with the proposed regulation, and an electronic copy to each member of the General Assembly. No regulation shall be promulgated for consideration pursuant to § 2.2-4007.05 until the impact analysis has been received by the Registrar. For purposes of this section, the term "locality, business, or entity particularly affected" means any locality, business, or entity that bears any identified disproportionate material impact that would not be experienced by other localities, businesses, or entities. The analysis shall represent the Department's best estimate for the purposes of public review and comment on the proposed regulation. The accuracy of the estimate shall in no way affect the validity of the regulation, nor shall any failure to comply with or otherwise follow the procedures set forth in this subsection create any cause of action or provide standing for any person under Article 5 (§ 2.2-4025 et seq.) or otherwise to challenge the actions of the Department hereunder or the action of the agency in adopting the proposed regulation.

~~C. D.~~ In the event the economic impact analysis completed by the Department reveals that the proposed regulation would have an adverse economic impact on businesses or would impose a significant adverse economic impact on a locality, business, or entity particularly affected, the Department shall advise the Joint Commission on Administrative Rules, the House Committee on Appropriations, and the Senate Committee on Finance within the 45-day period. The Joint Commission on Administrative Rules shall review such rule or regulation and issue a statement containing the Commission's findings in accordance with § 30-73.3.

*E. The Department shall revise and reissue its economic impact analysis within the time limits set forth for the Department's review of regulations at the final stage pursuant to the Governor's executive order for executive branch review if one of the following conditions is present that would materially change the Department's analysis:*

1. *Public comment timely received at the proposed stage indicates significant errors in the economic impact analysis; or*
2. *There is significant or material difference between the agency's proposed economic impact analysis and the anticipated negative economic impacts to the business community as indicated by public comment.*

*The determination of whether a condition is present under this subsection shall be made by the Department and shall not be subject to judicial review.*

**2. That an emergency exists and this act is in force from its passage.**

#### CHAPTER 494

*An Act to amend and reenact § 19.2-13 of the Code of Virginia, relating to special conservators of the peace; liability insurance.*

[H 1524]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 19.2-13 of the Code of Virginia is amended and reenacted as follows:**

**§ 19.2-13. Special conservators of the peace; authority; jurisdiction; registration; liability of employers; penalty; report.**

A. Upon the submission of an application, which shall include the results of the background investigation conducted pursuant to subsection C, from (i) any sheriff or chief of police of any county, city, or town; (ii) any corporation authorized to do business in the Commonwealth; (iii) the owner, proprietor, or authorized custodian of any place within the Commonwealth; or (iv) any museum owned and managed by the Commonwealth, a circuit court judge of any county or city shall appoint special conservators of the peace who shall serve as such for such length of time as the court may designate, but not exceeding four years under any one appointment, during which time the court shall retain jurisdiction over the appointment order, upon a showing by the applicant of a necessity for the security of property or the peace and presentation of evidence that the person or persons to be appointed as a special conservator of the peace possess a valid registration issued

by the Department of Criminal Justice Services in accordance with the provisions of subsection C. Upon an application made pursuant to clause (ii), (iii), or (iv), the court shall, prior to entering the order of appointment, transmit a copy of the application to the local attorney for the Commonwealth and the local sheriff or chief of police who may submit to the court a sworn, written statement indicating whether the order of appointment should be granted. However, a judge may deny the appointment for good cause, and shall state the specific reasons for the denial in writing in the order denying the appointment. A judge also may revoke the appointment order for good cause shown, upon the filing of a sworn petition by the attorney for the Commonwealth, sheriff, or chief of police for any locality in which the special conservator of the peace is authorized to serve or by the Department of Criminal Justice Services. Prior to revocation, a hearing shall be set and the special conservator of the peace shall be given notice and the opportunity to be heard. The judge may temporarily suspend the appointment pending the hearing for good cause shown. A hearing on the petition shall be heard by the court as soon as practicable. If the appointment order is suspended or revoked, the clerk of court shall notify the Department of Criminal Justice Services, the Department of State Police, the applicable local law-enforcement agencies in all cities and counties where the special conservator of the peace is authorized to serve, and the employer of the special conservator of the peace.

The order of appointment may provide that a special conservator of the peace shall have all the powers, functions, duties, responsibilities and authority of any other conservator of the peace within such geographical limitations as the court may deem appropriate within the confines of the county, city or town that makes application or on the real property where the corporate applicant is located, or any real property contiguous to such real property, limited, except as provided in subsection F, to the city or county wherein application has been made, whenever such special conservator of the peace is engaged in the performance of his duties as such. The order may provide that the special conservator of the peace shall have the authority to make an arrest outside of such geographical limitations if the arrest results from a close pursuit that was initiated when the special conservator of the peace was within the confines of the area wherein he has been authorized to have the powers and authority of a special conservator of the peace; the order may further delineate a geographical limitation or distance beyond which the special conservator of the peace may not effectuate such an arrest that follows from a close pursuit. The order shall require the special conservator of the peace to comply with the provisions of the United States Constitution and the Constitution of Virginia. The order shall not identify the special conservator of the peace as a law-enforcement officer pursuant to § 9.1-101. The order may provide, however, that the special conservator of the peace is a "law-enforcement officer" for the purposes of Article 4 (§ 37.2-808 et seq.) of Chapter 8 of Title 37.2 or Article 16 (§ 16.1-335 et seq.) of Chapter 11 of Title 16.1, but such designation shall not qualify the special conservator of the peace as a "qualified law-enforcement officer" or "qualified retired law-enforcement officer" within the meaning of the federal Law Enforcement Officer Safety Act, 18 U.S.C. § 926(B) et seq., and the order of appointment shall specifically state this. Upon request and for good cause shown, the order may also provide that the special conservator of the peace is authorized to use the seal of the Commonwealth in a badge or other credential of office as the court may deem appropriate. Upon request and for good cause shown, the order may also provide that the special conservator of the peace may use the title "police" on any badge or uniform worn in the performance of his duties as such. The order may also provide that a special conservator of the peace who has completed the minimum training standards established by the Criminal Justice Services Board, has the authority to affect arrests, using up to the same amount of force as would be allowed to a law-enforcement officer employed by the Commonwealth or any of its political subdivisions when making a lawful arrest. The order shall prohibit blue flashing lights, but upon request and for good cause shown may provide that the special conservator of the peace may use flashing lights and sirens on any vehicle used by the special conservator of the peace when he is in the performance of his duties. Prior to granting an application for appointment, the circuit court shall ensure that the applicant has met the registration requirements established by the Criminal Justice Services Board.

B. All applications and orders for appointments of special conservators of the peace shall be submitted on forms developed by the Office of the Executive Secretary of the Supreme Court of Virginia in consultation with the Department of Criminal Justice Services and shall specify the duties for which the applicant is qualified. The applications and orders shall specify the geographic limitations consistent with subsection A.

C. No person shall seek appointment as a special conservator of the peace from a circuit court judge without possessing a valid registration issued by the Department of Criminal Justice Services, except as provided in this section. Applicants for registration may submit an application on or after January 1, 2004. A temporary registration may be issued in accordance with regulations established by the Criminal Justice Services Board while awaiting the results of a state and national fingerprint search. However, no person shall be issued a valid registration or temporary registration until he has (i) complied with, or been exempted from the compulsory minimum training standards as set forth in this section; (ii) submitted his fingerprints on a form provided by the Department to be used for the conduct of a national criminal records search and a Virginia criminal history records search; (iii) submitted the results of a background investigation, performed by any state or local law-enforcement agency, which may, at its discretion, charge a reasonable fee to the applicant and which shall include a review of the applicant's criminal history records and may include a review of the applicant's school records, employment records, or interviews with persons possessing general knowledge of the applicant's character and fitness for such appointment; and (iv) met all other requirements of this article and Board regulations. No person with a criminal conviction for a misdemeanor involving (a) moral turpitude, (b) assault and battery, (c) damage to real or personal property, (d) controlled substances or imitation controlled substances as defined in Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, (e) prohibited sexual behavior as described in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, or (f) firearms, or any felony, or who is required to register with the Sex Offender and Crimes Against Minors Registry

pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1, or who is prohibited from possessing, transporting, or purchasing a firearm shall be eligible for registration or appointment as a special conservator of the peace. A special conservator of the peace shall report if he is arrested for, charged with, or convicted of any misdemeanor or felony offense or becomes ineligible for registration or appointment as a special conservator of the peace pursuant to this subsection to the Department of Criminal Justice Services and the chief law-enforcement officer of all localities in which he is authorized to serve within three days of such arrest or of becoming ineligible for registration or appointment as a special conservator of the peace. Any appointment for a special conservator of the peace shall be eligible for suspension and revocation after a hearing pursuant to subsection A if the special conservator of the peace is convicted of any offense listed in this subsection or becomes ineligible for registration or appointment as a special conservator of the peace pursuant to this subsection. All appointments for special conservators of the peace shall become void on September 15, 2004, unless they have obtained a valid registration issued by the Department of Criminal Justice Services.

D. Each person registered as or seeking registration as a special conservator of the peace shall be covered by evidence of a policy of (i) *personal injury liability insurance, as defined in § 38.2-117*; (ii) *property damage liability insurance, as defined in § 38.2-118*; and (iii) *miscellaneous casualty insurance, as defined in subsection B of § 38.2-111, which includes professional liability insurance that provides coverage for any activity within the scope of the duties of a special conservator of the peace as set forth in this section, in an amount and with coverage for each as fixed by the Board*, or self-insurance in an amount and with coverage as fixed by the Board. Any person who is aggrieved by the misconduct of any person registered as a special conservator of the peace and recovers a judgment against the registrant, which is unsatisfied in whole or in part, may bring an action in his own name against the insurance policy of the registrant.

E. Effective July 1, 2015, all persons currently appointed or seeking appointment or reappointment as a special conservator of the peace are required to register with the Department of Criminal Justice Services, regardless of any other standing the person may have as a law-enforcement officer or other position requiring registration or licensure by the Department. The employer of any special conservator of the peace shall notify the circuit court, the Department of Criminal Justice Services, the Department of State Police, and the chief law-enforcement officer of all localities in which the special conservator of the peace is authorized to serve within 30 days after the date such individual has left employment and all powers of the special conservator of the peace shall be void. Failure to provide such notification shall be punishable by a fine of \$250 plus an additional \$50 per day for each day such notice is not provided.

F. When the application is made by any sheriff or chief of police, the circuit court shall specify in the order of appointment the name of the applicant authorized under subsection A and the geographic jurisdiction of the special conservator of the peace. Such appointments shall be limited to the city or county wherein application has been made. When the application is made by any corporation authorized to do business in the Commonwealth, any owner, proprietor, or authorized custodian of any place within the Commonwealth, or any museum owned and managed by the Commonwealth, the circuit court shall specify in the order of appointment the name of the applicant authorized under subsection A and the specific real property where the special conservator of the peace is authorized to serve. Such appointments shall be limited to the specific real property within the county, city, or town wherein application has been made. In the case of a corporation or other business, the court appointment may also include, for good cause shown, any real property owned or leased by the corporation or business, including any subsidiaries, in other specifically named cities and counties, but shall provide that the powers of the special conservator of the peace do not extend beyond the boundaries of such real property. The clerk of the appointing circuit court shall transmit to the Department of State Police, the clerk of the circuit court of each locality where the special conservator of the peace is authorized to serve, and the sheriff or chief of police of each such locality a copy of the order of appointment that shall specify the following information: the person's complete name, address, date of birth, social security number, gender, race, height, weight, color of hair, color of eyes, firearm authority or limitation as set forth in subsection G, date of the order, and other information as may be required by the Department of State Police. The Department of State Police shall enter the person's name and other information into the Virginia Criminal Information Network established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52. The Department of State Police may charge a fee not to exceed \$10 to cover its costs associated with processing these orders. Each special conservator of the peace so appointed on application shall present his credentials to the chief of police or sheriff or his designee of all jurisdictions where he has conservator powers. If his powers are limited to certain areas of real property owned or leased by a corporation or business, he shall also provide notice of the exact physical addresses of those areas. Each special conservator shall provide to the circuit court a temporary registration letter issued by the Department of Criminal Justice Services to include the results of the background check prior to seeking an appointment by the circuit court. Once the applicant receives the appointment from the circuit court the applicant shall file the appointment order and a copy of the application with the Department of Criminal Justice Services in order to receive his special conservator of the peace registration document. If the court appointment includes any real property owned or leased by the corporation or business in other specifically named cities and counties not within the city or county wherein application has been made, the clerk of the appointing court shall transmit a copy of the order of appointment to (i) the clerk of the circuit court for each jurisdiction where the special conservator of the peace is authorized to serve and (ii) the sheriff or chief of police of each jurisdiction where the special conservator of the peace is authorized to serve.

If any such special conservator of the peace is the employee, agent or servant of another, his appointment as special conservator of the peace shall not relieve his employer, principal or master from civil liability to another arising out of any wrongful action or conduct committed by such special conservator of the peace while within the scope of his employment.

Effective July 1, 2002, no person employed by a local school board as a school security officer, as defined in § 9.1-101, shall be eligible for appointment as a conservator for purposes of maintaining safety in a public school in the Commonwealth. All appointments of special conservators of the peace granted to school security officers as defined in § 9.1-101 prior to July 1, 2002 are void.

G. The court may limit or prohibit the carrying of weapons by any special conservator of the peace initially appointed on or after July 1, 1996, while the appointee is within the scope of his employment as such.

H. The governing body of any locality or the sheriff of a county where no police department has been established may enter into mutual aid agreements with any entity employing special conservators of the peace that is located in such locality for the use of their joint forces and their equipment and materials to maintain peace and good order. Any law-enforcement officer or special conservator of the peace, while performing his duty under any such agreement, shall have the same authority as lawfully conferred on him within his own jurisdiction.

## CHAPTER 495

*An Act to amend and reenact §§ 9.1-139 and 9.1-144 of the Code of Virginia, relating to private security; compliance agent experience; surety bond.*

[H 1628]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 9.1-139 and 9.1-144 of the Code of Virginia are amended and reenacted as follows:**

**§ 9.1-139. Licensing, certification, and registration required; qualifications; temporary licenses.**

A. No person shall engage in the private security services business or solicit private security business in the Commonwealth without having obtained a license from the Department. No person shall be issued a private security services business license until a compliance agent is designated in writing on forms provided by the Department. The compliance agent shall ensure the compliance of the private security services business with this article and shall meet the qualifications and perform the duties required by the regulations adopted by the Board. ~~A compliance agent shall have either a minimum of (i) three years of managerial or supervisory experience in a private security services business; with a federal, state or local law-enforcement agency; or in a related field or (ii) five years of experience in a private security services business; with a federal, state or local law-enforcement agency; or in a related field.~~

B. No person shall act as a private security services training school or solicit students for private security training in the Commonwealth without being certified by the Department. No person shall be issued a private security services training school certification until a school director is designated in writing on forms provided by the Department. The school director shall ensure the compliance of the school with the provisions of this article and shall meet the qualifications and perform the duties required by the regulations adopted by the Board.

C. No person shall be employed by a licensed private security services business in the Commonwealth as armored car personnel, courier, armed security officer, detector canine handler, unarmed security officer, security canine handler, private investigator, personal protection specialist, alarm respondent, locksmith, central station dispatcher, electronic security sales representative, electronic security technician's assistant, or electronic security technician without possessing a valid registration issued by the Department, except as provided in this article. Notwithstanding any other provision of this article, a licensed private security services business may hire as an independent contractor a personal protection specialist or private investigator who has been issued a registration by the Department.

D. A temporary license may be issued in accordance with Board regulations for the purpose of awaiting the results of the state and national fingerprint search. However, no person shall be issued a temporary license until (i) he has designated a compliance agent who has complied with the compulsory minimum training standards established by the Board pursuant to subsection A of § 9.1-141 for compliance agents, (ii) each principal of the business has submitted his fingerprints for a National Criminal Records search and a Virginia Criminal History Records search, and (iii) he has met all other requirements of this article and Board regulations.

E. No person shall be employed by a licensed private security services business in the Commonwealth unless such person is certified or registered in accordance with this chapter.

F. A temporary registration may be issued in accordance with Board regulations for the purpose of awaiting the results of the state and national fingerprint search. However, no person shall be issued a temporary registration until he has (i) complied with, or been exempted from the compulsory minimum training standards established by the Board, pursuant to subsection A of § 9.1-141, for armored car personnel, couriers, armed security officers, detector canine handlers, unarmed security officers, security canine handlers, private investigators, personal protection specialists, alarm respondents, locksmiths, central station dispatchers, electronic security sales representatives, electronic security technician's assistants, or electronic security technicians, (ii) submitted his fingerprints to be used for the conduct of a National Criminal Records search and a Virginia Criminal History Records search, and (iii) met all other requirements of this article and Board regulations.

G. A temporary certification as a private security instructor or private security training school may be issued in accordance with Board regulations for the purpose of awaiting the results of the state and national fingerprint search.

However, no person shall be issued a temporary certification as a private security services instructor until he has (i) met the education, training and experience requirements established by the Board and (ii) submitted his fingerprints to be used for the conduct of a National Criminal Records search and a Virginia Criminal History Records search. No person shall be issued a temporary certification as a private security services training school until (a) he has designated a training director, (b) each principal of the training school has submitted his fingerprints to be used for the conduct of a National Criminal Records search and a Virginia Criminal History Records search, and (c) he has met all other requirements of this article and Board regulations.

H. A licensed private security services business in the Commonwealth shall not employ as an unarmed security officer, electronic security technician's assistant, unarmed alarm respondent, central station dispatcher, electronic security sales representative, locksmith, or electronic security technician, any person who has not complied with, or been exempted from, the compulsory minimum training standards established by the Board, pursuant to subsection A of § 9.1-141, except that such person may be so employed for not more than 90 days while completing compulsory minimum training standards.

I. No person shall be employed as an electronic security employee, electronic security technician's assistant, unarmed alarm respondent, locksmith, central station dispatcher, electronic security sales representative, electronic security technician or supervisor until he has submitted his fingerprints to the Department to be used for the conduct of a National Criminal Records search and a Virginia Criminal History Records search. The provisions of this subsection shall not apply to an out-of-state central station dispatcher meeting the requirements of subdivision 19 of § 9.1-140.

J. The compliance agent of each licensed private security services business in the Commonwealth shall maintain documentary evidence that each private security registrant and certified employee employed by his private security services business has complied with, or been exempted from, the compulsory minimum training standards required by the Board. Before January 1, 2003, the compliance agent shall ensure that an investigation to determine suitability of each unarmed security officer employee has been conducted, except that any such unarmed security officer, upon initiating a request for such investigation under the provisions of subdivision A 11 of § 19.2-389, may be employed for up to 30 days pending completion of such investigation. After January 1, 2003, no person shall be employed as an unarmed security officer until he has submitted his fingerprints to the Department for the conduct of a National Criminal Records search and a Virginia Criminal History Records search. Any person who was employed as an unarmed security officer prior to January 1, 2003, shall submit his fingerprints to the Department in accordance with subsection B of § 9.1-145.

K. No person with a criminal conviction for a misdemeanor involving (i) moral turpitude, (ii) assault and battery, (iii) damage to real or personal property, (iv) controlled substances or imitation controlled substances as defined in Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, (v) prohibited sexual behavior as described in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, or (vi) firearms, or any felony shall be (a) employed as a registered or certified employee by a private security services business or training school, or (b) issued a private security services registration, certification as an unarmed security officer, electronic security employee or technician's assistant, a private security services training school or instructor certification, compliance agent certification, or a private security services business license, except that, upon written request, the Director of the Department may waive such prohibition. Any grant or denial of such waiver shall be made in writing within 30 days of receipt of the written request and shall state the reasons for such decision.

L. The Department may grant a temporary exemption from the requirement for licensure, certification, or registration for a period of not more than 30 days in a situation deemed an emergency by the Department.

M. All private security services businesses and private security services training schools in the Commonwealth shall include their license or certification number on all business advertising materials.

N. A licensed private security services business in the Commonwealth shall not employ as armored car personnel any person who has not complied with, or been exempted from, the compulsory minimum training standards established by the Board pursuant to subsection A of § 9.1-141, except such person may serve as a driver of an armored car for not more than 90 days while completing compulsory minimum training standards, provided such person does not possess or have access to a firearm while serving as a driver.

**§ 9.1-144. Insurance required.**

~~A. Every~~ *In order for his license or certificate to be operative, any person licensed as a private security services business under subsection A of § 9.1-139 or certified as a private security services training school under subsection B of § 9.1-139 shall; at the time of receiving the license or certification and before the license or certification shall be operative, file with the Department (i) a cash bond or evidence that the licensee or certificate holder is covered by a surety bond, executed by a surety company authorized to do business in the Commonwealth, in a reasonable amount to be fixed by the Department, conditioned upon the faithful and honest conduct of his business or employment; or (ii) evidence of a policy of liability insurance in an amount and with coverage as fixed by the Department. The bond or liability insurance shall be maintained for so long as the licensee or certificate holder is licensed or certified by the Department.*

Every personal protection specialist and private investigator who has been issued a registration by the Department and is hired as an independent contractor by a licensed private security services business shall maintain comprehensive general liability insurance in a reasonable amount to be fixed by the Department, evidence of which shall be provided to the private security services business prior to the hiring of such independent contractor pursuant to subsection C of § 9.1-139.

~~B. If any person aggrieved by the misconduct of any person licensed or certified under subsection A or B of § 9.1-139 recovers judgment against the licensee or certificate holder, which judgment is unsatisfied in whole or in part, such person may bring an action in his own name on the bond of the licensee or certificate holder.~~

**2. That the provisions of this act shall not become effective unless reenacted by the 2018 Session of the General Assembly.**

**CHAPTER 496**

*An Act to amend and reenact § 15.2-1707 of the Code of Virginia, relating to decertification of law-enforcement officers; notification.*

[H 2067]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 15.2-1707 of the Code of Virginia is amended and reenacted as follows:**

**§ 15.2-1707. Decertification of law-enforcement officers.**

A. The sheriff, chief of police, or agency administrator shall notify the Criminal Justice Services Board in writing ~~when~~ *within 48 hours of becoming aware that* any certified law-enforcement or jail officer currently employed by his agency has (i) been convicted of or pled guilty or no contest to a felony or any offense that would be a felony if committed in the Commonwealth, (ii) been convicted of or pled guilty or no contest to a Class 1 misdemeanor involving moral turpitude or any offense that would be any misdemeanor involving moral turpitude, including but not limited to petit larceny under § 18.2-96, or any offense involving moral turpitude that would be a misdemeanor if committed in the Commonwealth, (iii) been convicted of or pled guilty or no contest to any misdemeanor sex offense in the Commonwealth, another state, or the United States, including but not limited to sexual battery under § 18.2-67.4 or consensual sexual intercourse with a minor 15 or older under clause (ii) of § 18.2-371, (iv) been convicted of or pled guilty or no contest to domestic assault under § 18.2-57.2 or any offense that would be domestic assault under the laws of another state or the United States, (v) failed to comply with or maintain compliance with mandated training requirements, or (vi) refused to submit to a drug screening or has produced a positive result on a drug screening reported to the employing agency, where the positive result cannot be explained to the agency administrator's satisfaction. Notification shall also be provided in writing ~~for~~ *within 48 hours of becoming aware that* any employee who resigned or was terminated in advance of being convicted or found guilty of an offense that requires decertification or who resigned or was terminated in advance of a pending drug screening. The notification, where appropriate, shall be accompanied by a copy of the judgment of conviction. Upon receiving such notice from the sheriff, chief of police, or agency administrator, or from an attorney for the Commonwealth, the Criminal Justice Services Board shall *immediately* decertify such law-enforcement or jail officer. Such officer shall not have the right to serve as a law-enforcement officer within the Commonwealth until his certification has been reinstated by the Board.

B. When a conviction has not become final, the Board may decline to decertify the officer until the conviction becomes final, after considering the likelihood of irreparable damage to the officer if such officer is decertified during the pendency of an ultimately successful appeal, the likelihood of injury or damage to the public if the officer is not decertified, and the seriousness of the offense.

C. The Department of Criminal Justice Services is hereby authorized to waive the requirements for decertification as set out in subsection A for good cause shown.

D. The Criminal Justice Services Board may initiate decertification proceedings against any former law-enforcement or jail officer whom the Board has found to have been convicted of an offense that requires decertification or who has failed to comply with or maintain compliance with mandated training requirements.

*E. Any conviction of a misdemeanor that has been appealed to a court of record shall not be considered a conviction for purposes of this section unless a final order of conviction is entered.*

**CHAPTER 497**

*An Act to amend and reenact § 2.2-2001.1 of the Code of Virginia, relating to the Virginia Veteran and Family Support program.*

[H 2206]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 2.2-2001.1 of the Code of Virginia is amended and reenacted as follows:**

**§ 2.2-2001.1. Program for mental health and rehabilitative services.**

A. The Department, in cooperation with the Department of Behavioral Health and Developmental Services and the Department for Aging and Rehabilitative Services, shall establish a program to monitor and coordinate mental health and rehabilitative services support for Virginia veterans and members of the Virginia National Guard and Virginia residents in the Armed Forces Reserves not in active federal service. The program shall also support family members affected by covered military members' service and deployments. The purpose of the program is to ~~ensure that adequate and timely assessment, treatment, and support are available to veterans, service members, and affected family members, in a~~

*cost-effective manner, refer veterans to mental health, physical rehabilitation, and other services as needed to help them achieve individually identified goals and to periodically monitor their progress toward achieving those goals.*

*B. The program shall facilitate support for covered individuals to provide timely assessment and treatment for stress-related injuries and traumatic brain injuries resulting from military service; and, subject to the availability of public and private funds appropriated for them, case management services, outpatient, family support, and other appropriate behavioral health and brain injury services necessary to provide individual services and support such purposes, (i) build awareness of veterans' service needs and the availability of the program through marketing, outreach, training for first responders, service providers, and others; (ii) collaborate with relevant agencies of the Commonwealth, localities, and service providers; (iii) develop and implement a consistent method of determining how many veterans in the Commonwealth are in need of mental health, physical rehabilitation, or other services currently or may be in need of such services in the future; (iv) work with veterans to develop a coordinated resources plan that identifies appropriate service providers to meet the veteran's service needs; (v) refer veterans to appropriate and available providers on the basis of needs identified in the coordinated resources plan; and (vi) monitor progress toward individually identified goals in accordance with the coordinated resource plan.*

*Coordinated resources plans shall be developed and veterans shall be referred to necessary services in a timely manner. The program shall prioritize veterans served on the basis of the immediacy and severity of service needs and the likelihood that those needs are attributable to the veteran's military service or combat experience.*

*C. The program shall cooperate with localities that may establish special treatment procedures for veterans and active military service members such as authorized by §§ 9.1-173 and 9.1-174. To facilitate local involvement and flexibility in responding to the problem of crime in local communities and to effectively treat, counsel, rehabilitate, and supervise veterans and active military service members who are offenders or defendants in the criminal justice system and who need access to proper treatment for mental illness including major depression, alcohol or drug abuse, post traumatic stress disorder, traumatic brain injury or a combination of these, any city, county, or combination thereof, may develop, establish, and maintain policies, procedures, and treatment services for all such offenders who are convicted and sentenced for misdemeanors or felonies that are not felony acts of violence, as defined in § 19.2-297.1. Such policies, procedures, and treatment services shall be designed to provide:*

- 1. Coordination of treatment and counseling services available to the criminal justice system case processing;*
- 2. Enhanced public safety through offender supervision, counseling, and treatment;*
- 3. Prompt identification and placement of eligible participants;*
- 4. Access to a continuum of treatment, rehabilitation, and counseling services in collaboration with such care providers as are willing and able to provide the services needed;*
- 5. Where appropriate, verified participant abstinence through frequent alcohol and other drug testing;*
- 6. Prompt response to participants' noncompliance with program requirements;*
- 7. Ongoing monitoring and evaluation of program effectiveness and efficiency;*
- 8. Ongoing education and training in support of program effectiveness and efficiency;*
- 9. Ongoing collaboration among public agencies, community-based organizations and the U.S. Department of Veterans Affairs health care networks, the Veterans Benefits Administration, volunteer veteran mentors, and veterans and military family support organizations; and*
- 10. The creation of a veterans and military service members' advisory council to provide input on the operations of such programs. The council shall include individuals responsible for the criminal justice procedures program along with veterans and, if available, active military service members.*

*D. The program shall report annually to the Governor and the General Assembly the number of veterans, members of the Virginia National Guard and Virginia residents in the Armed Forces Reserves not in active federal service, and family members affected by covered military members' service and deployments for whom coordinated resources plans are developed and who are referred for services; information about services provided to veterans, members of the Virginia National Guard, members of the Armed Forces Reserves not in active federal service, and family members, including information about the types of services provided and the quality of those services; and the number of veterans, members of the Virginia National Guard, members of the Armed Forces Reserves not in active federal service, and family members identified by the program as in need of services but not referred for services.*

#### CHAPTER 498

*An Act to amend and reenact § 2.2-515.2 of the Code of Virginia, relating to address confidentiality program; victims of sexual violence and human trafficking.*

[H 2217]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 2.2-515.2 of the Code of Virginia is amended and reenacted as follows:**

**§ 2.2-515.2. Address confidentiality program established; victims of domestic violence, stalking, sexual violence, or human trafficking; application; disclosure of records.**

A. As used in this section:

"Address" means a residential street address, school address, or work address of a person as specified on the person's application to be a program participant.

"Applicant" means a person who is a victim of domestic violence ~~or~~, stalking, *or sexual violence* or is a parent or guardian of a minor child or incapacitated person who is the victim of domestic violence ~~or~~, stalking, *or sexual violence*.

"Domestic violence" means an act as defined in § 38.2-508 and includes threat of such acts committed against an individual in a domestic situation, regardless of whether these acts or threats have been reported to law-enforcement officers. Such threat must be a threat of force which would place any person in reasonable apprehension of death or bodily injury.

~~"Domestic violence programs" means public and not-for-profit agencies the primary mission of which is to provide services to victims of sexual or domestic violence or stalking.~~

"Program participant" means a person certified by the Office of the Attorney General as eligible to participate in the Address Confidentiality Program.

*"Sexual or domestic violence programs" means public and not-for-profit agencies the primary mission of which is to provide services to victims of sexual or domestic violence, or stalking. Such programs may also include specialized services for victims of human trafficking.*

*"Sexual violence" means conduct that is prohibited under clause (ii), (iii), (iv), or (v) of § 18.2-48, or § 18.2-61, 18.2-63, 18.2-64.1, 18.2-67.1, 18.2-67.2, 18.2-67.3, 18.2-67.4, 18.2-67.5, 18.2-348, 18.2-349, 18.2-355, 18.2-356, 18.2-357, 18.2-357.1, or 18.2-368, regardless of whether the conduct has been reported to a law-enforcement officer or the assailant has been charged with or convicted of the alleged violation.*

"Stalking" means conduct that is prohibited under § 18.2-60.3, regardless of whether the conduct has been reported to a law-enforcement officer or the assailant has been charged with or convicted for the alleged violation.

B. The Statewide Facilitator for Victims of Domestic Violence shall establish a program to be known as the "Address Confidentiality Program" to protect victims of domestic violence ~~and~~, stalking, *or sexual violence* by authorizing the use of designated addresses for such victims. An individual who is at least 18 years of age, a parent or guardian acting on behalf of a minor, a guardian acting on behalf of an incapacitated person, or an emancipated minor may apply in person; at (i) *sexual or domestic violence programs that provide services where the role of the services provider is (i) to have been accredited by the Virginia Sexual and Domestic Violence Program Professional Standards Committee established pursuant to § 9.1-116.3 and are qualified to* (a) assist the eligible person in determining whether the address confidentiality program should be part of such person's overall safety plan; ~~(ii) to~~, (b) explain the address confidentiality program services and limitations; ~~(iii) to~~, (c) explain the program participant's responsibilities; and ~~(iv) to~~, (d) assist the person eligible for participation with the completion of application materials *or (ii) crime victim and witness assistance programs*. The Office of the Attorney General shall approve an application if it is filed in the manner and on the form prescribed by the Attorney General and if the application contains the following:

1. A sworn statement by the applicant declaring to be true and correct under penalty of perjury that the applicant has good reason to believe that:

- a. The applicant, or the minor or incapacitated individual on whose behalf the application is made, is a victim of domestic violence, *sexual violence*, or stalking;
- b. The applicant fears further ~~violent acts or~~ acts of *violence*, stalking, *retribution, or intimidation* from the applicant's assailant, *abuser, or trafficker*; and
- c. The applicant is not on active parole or probation supervision requirements under federal, state, or local law.

2. A designation of the Office of the Attorney General as agent for the purpose of receiving mail on behalf of the applicant;

3. The applicant's actual address to which mail can be forwarded and a telephone number where the applicant can be called;

4. A listing of any minor children residing at the applicant's actual address, each minor child's date of birth, and each minor child's relationship to the applicant; and

5. The signature of the applicant and any person who assisted in the preparation of the application and the date.

C. Upon approval of a completed application, the Office of the Attorney General shall certify the applicant as a program participant. An applicant shall be certified for ~~one year~~ *three years* following the date of the approval, unless the certification is withdrawn or invalidated before that date. A program participant may apply to be recertified every ~~year~~ *three years*.

D. Upon receipt of first-class mail addressed to a program participant, the Attorney General or his designee shall forward the mail to the actual address of the program participant. The actual address of a program participant shall be available only to the Attorney General and to those employees involved in the operation of the Address Confidentiality Program and to law-enforcement officers. A program participant's actual address may be entered into the Virginia Criminal Information Network (VCIN) system so that it may be made known to law-enforcement officers accessing the VCIN system for law-enforcement purposes.

E. The Office of the Attorney General may cancel a program participant's certification if:

1. The program participant requests withdrawal from the program;
2. The program participant obtains a name change through an order of the court and does not provide notice and a copy of the order to the Office of the Attorney General within seven days after entry of the order;

3. The program participant changes his residence address and does not provide seven days' notice to the Office of the Attorney General prior to the change of address;

4. The mail forwarded by the Office of the Attorney General to the address provided by the program participant is returned as undeliverable;

5. Any information contained in the application is false;

6. The program participant has been placed on parole or probation while a participant in the address confidentiality program; or

7. The applicant is required to register as a sex offender pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1.

For purposes of the address confidentiality program, residents of temporary housing for 30 days or less are not eligible to enroll in the address confidentiality program until a permanent residential address is obtained.

The application form shall contain a statement notifying each applicant of the provisions of this subsection.

F. A program participant may request that any state or local agency use the address designated by the Office of the Attorney General as the program participant's address, except when the program participant is purchasing a firearm from a dealer in firearms. The agency shall accept the address designated by the Office of the Attorney General as a program participant's address, unless the agency has received a written exemption from the Office of the Attorney General demonstrating to the satisfaction of the Attorney General that:

1. The agency has a bona fide statutory basis for requiring the program participant to disclose to it the actual location of the program participant; and

2. The disclosed confidential address of the program participant will be used only for that statutory purpose and will not be disclosed or made available in any way to any other person or agency.

A state agency may request an exemption by providing in writing to the Office of the Attorney General identification of the statute or administrative rule that demonstrates the agency's bona fide requirement and authority for the use of the actual address of an individual. A request for a waiver from an agency may be for an individual program participant, a class of program participants, or all program participants. The denial of an agency's exemption request shall be in writing and include a statement of the specific reasons for the denial. Acceptance or denial of an agency's exemption request shall constitute final agency action.

Any state or local agency that discloses the program participant's confidential address provided by the Office of the Attorney General shall be immune from civil liability unless the agency acted with gross negligence or willful misconduct.

A program participant's actual address shall be disclosed pursuant to a court order.

G. Records submitted to or provided by the Office of the Attorney General in accordance with this section shall be exempt from disclosure under the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) to the extent such records contain information identifying a past or current program participant, including such person's name, actual and designated address, telephone number, and any email address. However, access shall not be denied to the person who is the subject thereof, or the parent or legal guardian of a program participant in cases where the program participant is a minor child or an incapacitated person, except when the parent or legal guardian is named as the program participant's assailant.

H. Neither the Office of the Attorney General, its officers or employees, or others who have a responsibility to a program participant under this section shall have any liability nor shall any cause of action arise against them in their official or personal capacity from the failure of a program participant to receive any first class mail forwarded to him by the Office of the Attorney General pursuant to this section. Nor shall any such liability or cause of action arise from the failure of a program participant to timely receive any first class mail forwarded by the Office of the Attorney General pursuant to this section.

## CHAPTER 499

*An Act to amend and reenact §§ 18.2-270.1 and 18.2-271.1 of the Code of Virginia, relating to ignition interlock; duration; installation.*

[H 2231]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 18.2-270.1 and 18.2-271.1 of the Code of Virginia are amended and reenacted as follows:**

**§ 18.2-270.1. Ignition interlock systems; penalty.**

A. For purposes of this section and § 18.2-270.2:

"Commission" means the Commission on VASAP.

"Department" means the Department of Motor Vehicles.

"Ignition interlock system" means a device that (i) connects a motor vehicle ignition system to an analyzer that measures a driver's blood alcohol content; (ii) prevents a motor vehicle ignition from starting if a driver's blood alcohol content exceeds 0.02 percent; and (iii) is equipped with the ability to perform a rolling retest and to electronically log the blood alcohol content during ignition, attempted ignition and rolling retest.

"Rolling retest" means a test of the vehicle operator's blood alcohol content required at random intervals during operation of the vehicle, which triggers the sounding of the horn and flashing of lights if (i) the test indicates that the operator has a blood alcohol content which exceeds 0.02 percent or (ii) the operator fails to take the test.

B. In addition to any penalty provided by law for a conviction under § 18.2-51.4 or 18.2-266 or a substantially similar ordinance of any county, city or town, any court of proper jurisdiction shall, as a condition of a restricted license, prohibit an offender from operating a motor vehicle that is not equipped with a functioning, certified ignition interlock system for any period of time not to exceed the period of license suspension and restriction, not less than six consecutive months without alcohol-related violations of the interlock requirements. The court shall, for a conviction under § 18.2-51.4, a second or subsequent offense of § 18.2-266 or a substantially similar ordinance of any county, city or town, or as a condition of license restoration pursuant to subsection C of § 18.2-271.1 or § 46.2-391, require that such a system be installed on each motor vehicle, as defined in § 46.2-100, owned by or registered to the offender, in whole or in part, for such period of time. Such condition shall be in addition to any purposes for which a restricted license may be issued pursuant to § 18.2-271.1. The court may order the installation of an ignition interlock system to commence immediately upon conviction. A fee of \$20 to cover court and administrative costs related to the ignition interlock system shall be paid by any such offender to the clerk of the court. The court shall require the offender to install an electronic log device with the ignition interlock system on a vehicle designated by the court to measure the blood alcohol content at each attempted ignition and random rolling retest during operation of the vehicle. The offender shall be enrolled in and supervised by an alcohol safety action program pursuant to § 18.2-271.1 and to conditions established by regulation under § 18.2-270.2 by the Commission during the period for which the court has ordered installation of the ignition interlock system. The offender shall be further required to provide to such program, at least quarterly during the period of court ordered ignition interlock installation, a printout from such electronic log indicating the offender's blood alcohol content during such ignitions, attempted ignitions, and rolling retests, and showing attempts to circumvent or tamper with the equipment. *The period of time during which the offender (i) is prohibited from operating a motor vehicle that is not equipped with an ignition interlock system or (ii) is required to have an ignition interlock system installed on each motor vehicle owned by or registered to the offender, in whole or in part, shall be calculated from the date the offender is issued a restricted license by the court; however, such period of time shall be tolled upon the expiration of the restricted license issued by the court until such time as the person is issued a restricted license by the Department.*

C. In any case in which the court requires the installation of an ignition interlock system, the court shall order the offender not to operate any motor vehicle that is not equipped with such a system for the period of time that the interlock restriction is in effect. The clerk of the court shall file with the Department of Motor Vehicles a copy of the order, which shall become a part of the offender's operator's license record maintained by the Department. The Department shall issue to the offender for the period during which the interlock restriction is imposed a restricted license which shall appropriately set forth the restrictions required by the court under this subsection and any other restrictions imposed upon the offender's driving privilege, and shall also set forth any exception granted by the court under subsection F.

D. The offender shall be ordered to provide the appropriate ASAP program, within 30 days of the effective date of the order of court, proof of the installation of the ignition interlock system. The Program shall require the offender to have the system monitored and calibrated for proper operation at least every 30 days by an entity approved by the Commission under the provisions of § 18.2-270.2 and to demonstrate proof thereof. The offender shall pay the cost of leasing or buying and monitoring and maintaining the ignition interlock system. Absent good cause shown, the court may revoke the offender's driving privilege for failing to (i) timely install such system or (ii) have the system properly monitored and calibrated.

E. No person shall start or attempt to start a motor vehicle equipped with an ignition interlock system for the purpose of providing an operable motor vehicle to a person who is prohibited under this section from operating a motor vehicle that is not equipped with an ignition interlock system. No person shall tamper with, or in any way attempt to circumvent the operation of, an ignition interlock system that has been installed in the motor vehicle of a person under this section. Except as authorized in subsection F, no person shall knowingly furnish a motor vehicle not equipped with a functioning ignition interlock system to any person prohibited under subsection B from operating any motor vehicle which is not equipped with such system. A violation of this subsection is punishable as a Class 1 misdemeanor.

F. Any person prohibited from operating a motor vehicle under subsection B may, solely in the course of his employment, operate a motor vehicle ~~which~~ *that* is owned or provided by his employer without installation of an ignition interlock system, if the court expressly permits such operation as a condition of a restricted license at the request of the employer, ~~but~~; *such person shall not be permitted to operate any other vehicle without a functioning ignition interlock system and, in no event, shall such person may not be permitted to operate a school bus, school vehicle, or a commercial motor vehicle as defined in § 46.2-341.4. This subsection shall not apply if such employer is an entity wholly or partially owned or controlled by the person otherwise prohibited from operating a vehicle without an ignition interlock system.*

G. The Commission shall promulgate such regulations and forms as are necessary to implement the procedures outlined in this section.

**§ 18.2-271.1. Probation, education, and rehabilitation of person charged or convicted; person convicted under law of another state or federal law.**

A. Any person convicted of a first or second offense of § 18.2-266, or any ordinance of a county, city, or town similar to the provisions thereof, or provisions of subsection A of § 46.2-341.24, shall be required by court order, as a condition of probation or otherwise, to enter into and successfully complete an alcohol safety action program in the judicial district in

which such charge is brought or in any other judicial district upon such terms and conditions as the court may set forth. However, upon motion of a person convicted of any such offense following an assessment of the person conducted by an alcohol safety action program, the court, for good cause, may decline to order participation in such a program if the assessment by the alcohol safety action program indicates that intervention is not appropriate for such person. In no event shall such persons be permitted to enter any such program which is not certified as meeting minimum standards and criteria established by the Commission on the Virginia Alcohol Safety Action Program (VASAP) pursuant to this section and to § 18.2-271.2. However, any person charged with a violation of a first or second offense of § 18.2-266, or any ordinance of a county, city, or town similar to the provisions thereof, or provisions of subsection A of § 46.2-341.24, may, at any time prior to trial, enter into an alcohol safety action program in the judicial district in which such charge is brought or in any other judicial district. Any person who enters into such program prior to trial may pre-qualify with the program to have an ignition interlock system installed on any motor vehicle owned or operated by him. However, no ignition interlock company shall install an ignition interlock system on any such vehicle until a court issues to the person a restricted license with the ignition interlock restriction.

B. The court shall require the person entering such program under the provisions of this section to pay a fee of no less than \$250 but no more than \$300. A reasonable portion of such fee, as may be determined by the Commission on VASAP, but not to exceed 10 percent, shall be forwarded monthly to be deposited with the State Treasurer for expenditure by the Commission on VASAP, and the balance shall be held in a separate fund for local administration of driver alcohol rehabilitation programs. Upon a positive finding that the defendant is indigent, the court may reduce or waive the fee. In addition to the costs of the proceeding, fees as may reasonably be required of defendants referred for intervention under any such program may be charged.

C. Upon conviction of a violation of § 18.2-266 or any ordinance of a county, city or town similar to the provisions thereof, or subsection A of § 46.2-341.24, the court shall impose the sentence authorized by § 18.2-270 or 46.2-341.28 and the license revocation as authorized by § 18.2-271. In addition, if the conviction was for a second offense committed within less than 10 years after a first such offense, the court shall order that restoration of the person's license to drive be conditioned upon the installation of an ignition interlock system on each motor vehicle, as defined in § 46.2-100, owned by or registered to the person, in whole or in part, for a period of six months beginning at the end of the three year license revocation, unless such a system has already been installed for six months prior to that time pursuant to a restricted license order under subsection E of this section. Upon a finding that a person so convicted is required to participate in the program described herein, the court shall enter the conviction on the warrant, and shall note that the person so convicted has been referred to such program. The court may then proceed to issue an order in accordance with subsection E of this section, if the court finds that the person so convicted is eligible for a restricted license. If the court finds good cause for a person not to participate in such program or subsequently that such person has violated, without good cause, any of the conditions set forth by the court in entering the program, the court shall dispose of the case as if no program had been entered, in which event the revocation provisions of § 46.2-389 and subsection A of § 46.2-391 shall be applicable to the conviction. The court shall, upon final disposition of the case, send a copy of its order to the Commissioner of the Department of Motor Vehicles. If such order provides for the issuance of a restricted license, the Commissioner of the Department of Motor Vehicles, upon receipt thereof, shall issue a restricted license. *The period of time during which the person (i) is prohibited from operating a motor vehicle that is not equipped with an ignition interlock system or (ii) is required to have an ignition interlock system installed on each motor vehicle owned by or registered to the person, in whole or in part, shall be calculated from the date the person is issued a restricted license by the court; however, such period of time shall be tolled upon the expiration of the restricted license issued by the court until such time as the person is issued a restricted license by the Department of Motor Vehicles.* Appeals from any such disposition shall be allowed as provided by law. The time within which an appeal may be taken shall be calculated from the date of the final disposition of the case or any motion for rehearing, whichever is later.

D. Any person who has been convicted under the law of another state or the United States of an offense substantially similar to the provisions of § 18.2-266 or subsection A of § 46.2-341.24, and whose privilege to operate a motor vehicle in this Commonwealth is subject to revocation under the provisions of § 46.2-389 and subsection A of § 46.2-391, may petition the general district court of the county or city in which he resides that he be given probation and assigned to a program as provided in subsection A of this section and that, upon entry into such program, he be issued an order in accordance with subsection E of this section. If the court finds that such person would have qualified therefor if he had been convicted in this Commonwealth of a violation of § 18.2-266 or subsection A of § 46.2-341.24, the court may grant the petition and may issue an order in accordance with subsection E of this section as to the period of license suspension or revocation imposed pursuant to § 46.2-389 or subsection A of § 46.2-391. The court shall, as a condition of a restricted license, prohibit such person from operating a motor vehicle that is not equipped with a functioning certified ignition interlock system for a period of time not to exceed the period of license suspension and restriction, not less than six consecutive months without alcohol-related violations of interlock requirements. Such order shall be conditioned upon the successful completion of a program by the petitioner. If the court subsequently finds that such person has violated any of the conditions set forth by the court, the court shall dispose of the case as if no program had been entered and shall notify the Commissioner, who shall revoke the person's license in accordance with the provisions of § 46.2-389 or subsection A of § 46.2-391. A copy of the order granting the petition or subsequently revoking or suspending such person's license to operate a motor vehicle shall be forthwith sent to the Commissioner of the Department of Motor Vehicles. *The period of*

*time during which the person is prohibited from operating a motor vehicle that is not equipped with an ignition interlock system shall be calculated from the date the person is issued a restricted license by the court; however, such period of time shall be tolled upon the expiration of the restricted license issued by the court until such time as the person is issued a restricted license by the Department of Motor Vehicles.*

No period of license suspension or revocation shall be imposed pursuant to this subsection which, when considered together with any period of license suspension or revocation previously imposed for the same offense under the law of another state or the United States, results in such person's license being suspended for a period in excess of the maximum periods specified in this subsection.

E. Except as otherwise provided herein, whenever a person enters a certified program pursuant to this section, and such person's license to operate a motor vehicle, engine or train in the Commonwealth has been suspended or revoked, the court may, in its discretion and for good cause shown, provide that such person be issued a restricted permit to operate a motor vehicle for any of the following purposes: (i) travel to and from his place of employment; (ii) travel to and from an alcohol rehabilitation or safety action program; (iii) travel during the hours of such person's employment if the operation of a motor vehicle is a necessary incident of such employment; (iv) travel to and from school if such person is a student, upon proper written verification to the court that such person is enrolled in a continuing program of education; (v) travel for health care services, including medically necessary transportation of an elderly parent or, as designated by the court, any person residing in the person's household with a serious medical problem upon written verification of need by a licensed health professional; (vi) travel necessary to transport a minor child under the care of such person to and from school, day care, and facilities housing medical service providers; (vii) travel to and from court-ordered visitation with a child of such person; (viii) travel to a screening, evaluation and education program entered pursuant to § 18.2-251 or subsection H of § 18.2-258.1; (ix) travel to and from court appearances in which he is a subpoenaed witness or a party and appointments with his probation officer and to and from any programs required by the court or as a condition of probation; (x) travel to and from a place of religious worship one day per week at a specified time and place; (xi) travel to and from appointments approved by the Division of Child Support Enforcement of the Department of Social Services as a requirement of participation in an administrative or court-ordered intensive case monitoring program for child support for which the participant maintains written proof of the appointment, including written proof of the date and time of the appointment, on his person; (xii) travel to and from jail to serve a sentence when such person has been convicted and sentenced to confinement in jail and pursuant to § 53.1-131.1 the time to be served is on weekends or nonconsecutive days; or (xiii) travel to and from the facility that installed or monitors the ignition interlock in the person's vehicle. No restricted license issued pursuant to this subsection shall permit any person to operate a commercial motor vehicle as defined in the Virginia Commercial Driver's License Act (§ 46.2-341.1 et seq.). The court shall order the surrender of such person's license to operate a motor vehicle to be disposed of in accordance with the provisions of § 46.2-398 and shall forward to the Commissioner of the Department of Motor Vehicles a copy of its order entered pursuant to this subsection, which shall specifically enumerate the restrictions imposed and contain such information regarding the person to whom such a permit is issued as is reasonably necessary to identify such person. The court shall also provide a copy of its order to the person so convicted who may operate a motor vehicle on the order until receipt from the Commissioner of the Department of Motor Vehicles of a restricted license, if the order provides for a restricted license for that time period. A copy of such order and, after receipt thereof, the restricted license shall be carried at all times while operating a motor vehicle. Any person who operates a motor vehicle in violation of any restrictions imposed pursuant to this section shall be guilty of a violation of § 18.2-272. Such restricted license shall be conditioned upon enrollment within 15 days in, and successful completion of, a program as described in subsection A of this section. No restricted license shall be issued during the first four months of a revocation imposed pursuant to subsection B of § 18.2-271 or subsection A of § 46.2-391 for a second offense of the type described therein committed within 10 years of a first such offense. No restricted license shall be issued during the first year of a revocation imposed pursuant to subsection B of § 18.2-271 or subsection A of § 46.2-391 for a second offense of the type described therein committed within five years of a first such offense. No restricted license shall be issued during any revocation period imposed pursuant to subsection C of § 18.2-271 or subsection B of § 46.2-391. Notwithstanding the provisions of § 46.2-411, the fee charged pursuant to § 46.2-411 for reinstatement of the driver's license of any person whose privilege or license has been suspended or revoked as a result of a violation of § 18.2-266, subsection A of § 46.2-341.24 or of any ordinance of a county, city or town, or of any federal law or the laws of any other state similar to the provisions of § 18.2-266 or subsection A of § 46.2-341.24 shall be \$105. Forty dollars of such reinstatement fee shall be retained by the Department of Motor Vehicles as provided in § 46.2-411, \$40 shall be transferred to the Commission on VASAP, and \$25 shall be transferred to the Commonwealth Neurotrauma Initiative Trust Fund.

F. The court shall have jurisdiction over any person entering such program under any provision of this section until such time as the case has been disposed of by either successful completion of the program, or revocation due to ineligibility or violation of a condition or conditions imposed by the court, whichever shall first occur. Revocation proceedings shall be commenced by notice to show cause why the court should not revoke the privilege afforded by this section. Such notice shall be made by first-class mail to the last known address of such person, and shall direct such person to appear before the court in response thereto on a date contained in such notice, which shall not be less than 10 days from the date of mailing of the notice. Failure to appear in response to such notice shall of itself be grounds for revocation of such privilege. Notice of revocation under this subsection shall be sent forthwith to the Commissioner of the Department of Motor Vehicles.

G. For the purposes of this section, any court which has convicted a person of a violation of § 18.2-266, subsection A of § 46.2-341.24 or any ordinance of a county, city or town similar to the provisions of § 18.2-266 shall have continuing jurisdiction over such person during any period of license revocation related to that conviction, for the limited purposes of (i) referring such person to a certified alcohol safety action program, (ii) providing for a restricted permit for such person in accordance with the provisions of subsection E, and (iii) imposing terms, conditions and limitations for actions taken pursuant to clauses (i) and (ii), whether or not it took either such action at the time of the conviction. This continuing jurisdiction is subject to the limitations of subsection E that provide that no restricted license shall be issued during a revocation imposed pursuant to subsection C of § 18.2-271 or subsection B of § 46.2-391 or during the first four months or first year, whichever is applicable, of the revocation imposed pursuant to subsection B of § 18.2-271 or subsection A of § 46.2-391. The provisions of this subsection shall apply to a person convicted of a violation of § 18.2-266, subsection A of § 46.2-341.24 or any ordinance of a county, city or town similar to the provisions of § 18.2-266 on, after and at any time prior to July 1, 2003.

H. The State Treasurer, the Commission on VASAP or any city or county is authorized to accept any gifts or bequests of money or property, and any grant, loan, service, payment or property from any source, including the federal government, for the purpose of driver alcohol education. Any such gifts, bequests, grants, loans or payments shall be deposited in the separate fund provided in subsection B.

I. The Commission on VASAP, or any county, city, town, or any combination thereof may establish and, if established, shall operate, in accordance with the standards and criteria required by this subsection, alcohol safety action programs in connection with highway safety. Each such program shall operate under the direction of a local independent policy board chosen in accordance with procedures approved and promulgated by the Commission on VASAP. Local sitting or retired district court judges who regularly hear or heard cases involving driving under the influence and are familiar with their local alcohol safety action programs may serve on such boards. The Commission on VASAP shall establish minimum standards and criteria for the implementation and operation of such programs and shall establish procedures to certify all such programs to ensure that they meet the minimum standards and criteria stipulated by the Commission. The Commission shall also establish criteria for the administration of such programs for public information activities, for accounting procedures, for the auditing requirements of such programs and for the allocation of funds. Funds paid to the Commonwealth hereunder shall be utilized in the discretion of the Commission on VASAP to offset the costs of state programs and local programs run in conjunction with any county, city or town and costs incurred by the Commission. The Commission shall submit an annual report as to actions taken at the close of each calendar year to the Governor and the General Assembly.

J. Notwithstanding any other provisions of this section or of § 18.2-271, nothing in this section shall permit the court to suspend, reduce, limit, or otherwise modify any disqualification from operating a commercial motor vehicle imposed under the provisions of the Virginia Commercial Driver's License Act (§ 46.2-341.1 et seq.).

**2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is \$0 for periods of imprisonment in state adult correctional facilities and is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.**

## CHAPTER 500

*An Act to amend and reenact § 19.2-11.2 of the Code of Virginia, relating to crime victim's right to nondisclosure of certain information; murder.*

[H 2240]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 19.2-11.2 of the Code of Virginia is amended and reenacted as follows:**

**§ 19.2-11.2. Crime victim's right to nondisclosure of certain information; exceptions; testimonial privilege.**

Upon request of any witness in a criminal prosecution under § 18.2-46.2, 18.2-46.3, or 18.2-248 or of any violent felony as defined by subsection C of § 17.1-805, or any crime victim, neither a law-enforcement agency, the attorney for the Commonwealth, the counsel for a defendant, a court nor the Department of Corrections, nor any employee of any of them, may disclose, except among themselves, the residential address, telephone number, or place of employment of the witness or victim or a member of the witness' or victim's family, except to the extent that disclosure is (i) of the site of the crime, (ii) required by law or Rules of the Supreme Court, (iii) necessary for law-enforcement purposes or preparation for court proceedings, or (iv) permitted by the court for good cause.

Except with the written consent of the victim *of any crime involving any sexual assault, sexual abuse, or family abuse or the victim's next of kin if the victim is a minor and the victim's death results from any crime*, a law-enforcement agency may not disclose to the public information ~~which~~ that directly or indirectly identifies the victim of a such crime ~~involving any sexual assault, sexual abuse or family abuse~~, except to the extent that disclosure is ~~(i)~~ (a) of the site of the crime, ~~(ii)~~ (b) required by law, ~~(iii)~~ (c) necessary for law-enforcement purposes, or ~~(iv)~~ (d) permitted by the court for good cause. In addition, at the request of the victim to the Court of Appeals of Virginia or the Supreme Court of Virginia hearing, on or after July 1, 2007, the case of a crime involving any sexual assault or sexual abuse, no appellate decision shall contain the first or last name of the victim.

Nothing herein shall limit the right to examine witnesses in a court of law or otherwise affect the conduct of any criminal proceeding.

### CHAPTER 501

*An Act to amend and reenact § 2.2-2452 of the Code of Virginia, relating to Board of Veterans Services; membership; duties.*

[H 2302]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 2.2-2452 of the Code of Virginia is amended and reenacted as follows:**

**§ 2.2-2452. Board of Veterans Services; membership; terms; quorum; compensation; staff.**

A. The Board of Veterans Services (the Board) is established as a policy board, within the meaning of § 2.2-2100, in the executive branch of state government. The Board shall have a total membership of 22 members ~~that shall consist of, including~~ five legislative members, 14 nonlegislative citizen members, and three ex officio members. Members shall be appointed as follows: three members of the House of Delegates to be appointed by the Speaker of the House of Delegates in accordance with the principles of proportional representation contained in the Rules of the House of Delegates; two members of the Senate to be appointed by the Senate Committee on Rules; and 14 nonlegislative citizen members to be appointed by the Governor. The Commissioner of the Department of Veterans Services, the Chairman of the Board of Trustees of the Veterans Services Foundation, and the Chairman of the Joint Leadership Council of Veterans Service Organizations, or their designees, shall serve ex officio with full voting privileges. Nonlegislative citizen members of the Board shall be citizens of the Commonwealth.

In making appointments, the Governor shall endeavor to ensure a balanced geographical representation on the Board, while at the same time selecting appointees of such qualifications and experience as will allow them to ~~provide expertise and insight into:~~

- ~~1. Best practices in benefits claims services, medical and health care management, or cemetery operations;~~
- ~~2. Performance measurements and general management principles; and~~
- ~~3. Nonprofit volunteer operations and management.~~

~~Each of the three areas of expertise shall be represented on the Board by at least two different appointees per area of expertise in order to allow for the Board to be capable of developing~~ *develop* reasonable and effective policy recommendations related to the services provided to veterans of the ~~armed forces~~ *Armed Forces* of the United States and their eligible spouses, orphans, and dependents by the Department of Veterans Services.

Legislative members and the Commissioner of the Department of Veterans Services shall serve terms coincident with their terms of office. Nonlegislative citizen members shall be appointed for a term of four years. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. All members may be reappointed. However, no House member shall serve more than ~~four~~ *six* consecutive two-year terms, *and* no Senate member shall serve more than ~~two~~ *three* consecutive four-year terms; ~~and no~~. *No* nonlegislative citizen member shall serve more than two consecutive four-year terms; *however, a nonlegislative citizen member appointed to serve an unexpired term is eligible to serve two consecutive four-year terms immediately succeeding such unexpired term.*

The remainder of any term to which a member is appointed to fill a vacancy shall not constitute a term in determining the member's eligibility for reappointment. Vacancies shall be filled in the same manner as the original appointments.

B. The Board shall select a chairman *and vice-chairman* from its membership ~~and, pursuant to rules adopted by it, may elect one of its members as vice-chairman~~. The Commissioner of the Department of Veterans Services shall not be eligible to serve as chairman. ~~The Board shall also elect one of its members as secretary~~. The Board shall meet at least three times a year at such times as it deems appropriate or on call of the chairman. A majority of the members of the Board shall constitute a quorum.

C. The Board shall ~~be organized with at least three standing committees that shall be responsible for (i) veterans benefits, (ii) veterans care services, and (iii) veterans cemeteries~~ *organize itself in such a way as to allow it to fulfill its powers and duties.*

D. The Department of Veterans Services shall provide staff to *assist* the Board *in its administrative, planning, and procedural duties.*

### CHAPTER 502

*An Act to amend the Code of Virginia by adding a section numbered 18.2-130.1, relating to use of electronic device to trespass; peeping into dwelling or occupied building; penalty.*

[H 2350]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:****1. That the Code of Virginia is amended by adding a section numbered 18.2-130.1 as follows:****§ 18.2-130.1. Peeping or spying into dwelling or occupied building by electronic device; penalty.**

*It is unlawful for any person to knowingly and intentionally cause an electronic device to enter the property of another to secretly or furtively peep or spy or attempt to peep or spy into or through a window, door, or other aperture of any building, structure, or other enclosure occupied or intended for occupancy as a dwelling, whether or not such building, structure, or enclosure is permanently situated or transportable and whether or not such occupancy is permanent or temporary, or to do the same, without just cause, upon property owned by him and leased or rented to another under circumstances that would violate the occupant's reasonable expectation of privacy. A violation of this section is a Class 1 misdemeanor. The provisions of this section shall not apply to a lawful criminal investigation.*

**CHAPTER 503**

*An Act to amend and reenact § 46.2-116 of the Code of Virginia, relating to tow truck drivers; temporary registration with Department of Criminal Justice Services.*

[H 2362]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:****1. That § 46.2-116 of the Code of Virginia is amended and reenacted as follows:****§ 46.2-116. Registration with Department of Criminal Justice Services required for tow truck drivers; penalty.**

A. As used in this section and §§ 46.2-117, 46.2-118, and 46.2-119:

"Consumer" means a person who (i) has vested ownership, dominion, or title to the vehicle; (ii) is the authorized agent of the owner as defined in clause (i); or (iii) is an employee, agent, or representative of an insurance company representing any party involved in a collision that resulted in a police-requested tow who represents in writing that the insurance company had obtained the oral or written consent of the title owner or his agent or the lessee of the vehicle to obtain possession of the vehicle.

"Department" means the Department of Criminal Justice Services.

"Tow truck driver" means an individual who drives a tow truck as defined in § 46.2-100.

"Towing and recovery operator" means any person engaging in the business of providing or offering to provide services involving the use of a tow truck and services incidental to use of a tow truck. "Towing and recovery operator" shall not include a franchised motor vehicle dealer as defined in § 46.2-1500 using a tow truck owned by a dealer when transporting a vehicle to or from a repair facility owned by the dealer when the dealer does not receive compensation from the vehicle owner for towing of the vehicle or when transporting a vehicle in which the dealer has an ownership or security interest.

B. On and after January 1, 2013, no tow truck driver shall drive any tow truck without being registered with the Department, except that this requirement shall not apply to any holder of a tow truck driver authorization document issued pursuant to former § 46.2-2814 until the expiration date of such document. *The Department may offer a temporary registration or driver authorization document that is effective upon the submission of an application and that expires upon the issuance or denial of a permanent registration.* Every applicant for an initial registration or renewal of registration pursuant to this section shall submit his registration application, fingerprints, and personal descriptive information to the Department and a nonrefundable application fee of \$100. The Department shall forward the personal descriptive information along with the applicant's fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining a national criminal history record check regarding such applicant. The cost of the fingerprinting and criminal history record check shall be paid by the applicant.

The Central Criminal Records Exchange, upon receipt of an applicant's record or notification that no record exists, shall make a report to the Department. If an applicant is denied registration as a tow truck driver because of the information appearing in his criminal history record, the Department shall notify the applicant that information obtained from the Central Criminal Records Exchange contributed to such denial. The information shall not be disseminated except as provided in this section.

C. No registration shall be issued to any person who (i) is required to register as a sex offender as provided in § 9.1-901 or in a substantially similar law of any other state, the United States, or any foreign jurisdiction; (ii) has been convicted of a violent crime as defined in subsection C of § 17.1-805 unless such person held a valid tow truck driver authorization document on January 1, 2013, issued by the Board of Towing and Recovery Operators pursuant to former Chapter 28 (§ 46.2-2800 et seq.), and has not been convicted of a violent crime as defined in subsection C of § 17.1-805 subsequent to the abolition of the Board; or (iii) has been convicted of any crime involving the driving of a tow truck, including drug or alcohol offenses, but not traffic infraction convictions. Any person registered pursuant to this section shall report to the Department within 10 days of conviction any convictions for felonies or misdemeanors that occur while he is registered with the Department.

D. Any tow truck driver failing to register with the Department as required by this section is guilty of a Class 3 misdemeanor. A tow truck driver registered with the Department shall have such registration in his possession whenever driving a tow truck on the highways.

E. Registrations issued by the Department pursuant to this section shall be valid for a period not to exceed 24 months, unless revoked or suspended by the Department in accordance with § 46.2-117.

### CHAPTER 504

*An Act to amend and reenact §§ 16.1-69.40:1 and 46.2-830.1 of the Code of Virginia, relating to failure to obey highway sign where driver sleeping or resting; prepayable offense.*

[S 1021]

Approved March 13, 2017

#### **Be it enacted by the General Assembly of Virginia:**

#### **1. That §§ 16.1-69.40:1 and 46.2-830.1 of the Code of Virginia are amended and reenacted as follows:**

##### **§ 16.1-69.40:1. Traffic infractions within authority of traffic violations clerk; schedule of fines; prepayment of local ordinances.**

A. The Supreme Court shall by rule, which may from time to time be amended, supplemented or repealed, but which shall be uniform in its application throughout the Commonwealth, designate the traffic infractions for which a pretrial waiver of appearance, plea of guilty and fine payment may be accepted. Such designated infractions shall include violations of §§ 46.2-830.1, 46.2-878.2 and 46.2-1242 or any parallel local ordinances. Notwithstanding any rule of the Supreme Court, a person charged with a traffic offense that is listed as prepayable in the Uniform Fine Schedule may prepay his fines and costs without court appearance whether or not he was involved in an accident. The prepayable fine amount for a violation of § 46.2-878.2 shall be \$200 plus an amount per mile-per-hour in excess of posted speed limits, as authorized in § 46.2-878.3.

Such infractions shall not include:

1. Indictable offenses;
2. [Repealed.]
3. Operation of a motor vehicle while under the influence of intoxicating liquor or a narcotic or habit-producing drug, or permitting another person, who is under the influence of intoxicating liquor or a narcotic or habit-producing drug, to operate a motor vehicle owned by the defendant or in his custody or control;
4. Reckless driving;
5. Leaving the scene of an accident;
6. Driving while under suspension or revocation of driver's license;
7. Driving without being licensed to drive.
8. [Repealed.]

B. An appearance may be made in person or in writing by mail to a clerk of court or in person before a magistrate, prior to any date fixed for trial in court. Any person so appearing may enter a waiver of trial and a plea of guilty and pay the fine and any civil penalties established for the offense charged, with costs. He shall, prior to the plea, waiver, and payment, be informed of his right to stand trial, that his signature to a plea of guilty will have the same force and effect as a judgment of court, and that the record of conviction will be sent to the Commissioner of the Department of Motor Vehicles or the appropriate offices of the State where he received his license to drive.

C. The Supreme Court, upon the recommendation of the Committee on District Courts, shall establish a schedule, within the limits prescribed by law, of the amounts of fines and any civil penalties to be imposed, designating each infraction specifically. The schedule, which may from time to time be amended, supplemented or repealed, shall be uniform in its application throughout the Commonwealth. Such schedule shall not be construed or interpreted so as to limit the discretion of any trial judge trying individual cases at the time fixed for trial. The rule of the Supreme Court establishing the schedule shall be prominently posted in the place where the fines are paid. Fines and costs shall be paid in accordance with the provisions of this Code or any rules or regulations promulgated thereunder.

D. Fines imposed under local traffic infraction ordinances that do not parallel provisions of state law and fulfill the criteria set out in subsection A may be prepayable in the manner set forth in subsection B if such ordinances appear in a schedule entered by order of the local circuit courts. The chief judge of each circuit may establish a schedule of the fines, within the limits prescribed by local ordinances, to be imposed for prepayment of local ordinances designating each offense specifically. Upon the entry of such order it shall be forwarded within 10 days to the Supreme Court of Virginia by the clerk of the local circuit court. The schedule, which from time to time may be amended, supplemented or repealed, shall be uniform in its application throughout the circuit. Such schedule shall not be construed or interpreted so as to limit the discretion of any trial judge trying individual cases at the time fixed for trial. This schedule shall be prominently posted in the place where fines are paid. Fines and costs shall be paid in accordance with the provisions of this Code or any rules or regulations promulgated thereunder.

##### **§ 46.2-830.1. Failure to obey highway sign where driver sleeping or resting.**

~~Upon the trial of a person charged with failure to obey a highway sign in violation of § 46.2-830 where the court finds that the violation resulted from the No driver of a vehicle having been parked or stopped by the driver shall park or stop his vehicle on the shoulder or other portion of the highway not ordinarily used for vehicular traffic in violation of a highway sign in order for the driver to sleep or rest, the court may, in lieu of convicting under § 46.2-830, find the driver guilty of violating this section, which shall be a lesser-included offense of § 46.2-830. No demerit points shall be assigned pursuant to the Uniform Demerit Point System for convictions a violation pursuant to this section. However, the provisions of this section shall not apply if such vehicle is parked or stopped in such manner as to impede or render dangerous the shoulder or other portion of the highway.~~

### CHAPTER 505

*An Act to amend and reenact §§ 2.2-2715, 2.2-2716, and 2.2-2718 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 2.2-2715.1, relating to Veterans Services Foundation; powers and duties; appointment of executive director; report.*

[S 1075]

Approved March 13, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 2.2-2715, 2.2-2716, and 2.2-2718 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 2.2-2715.1 as follows:**

**§ 2.2-2715. Veterans Services Foundation; purpose; report; membership; terms; compensation; staff.**

A. The Veterans Services Foundation (the Foundation) is established as an independent body politic and corporate agency of the Commonwealth supporting the interests of veterans and their families and contributors through the Secretary of Veterans and Defense Affairs and the programs and services of the Department of Veterans Services ~~in the executive branch of state government~~. The Foundation shall be governed and administered by a board of trustees. The membership of the Foundation shall be composed of the board of trustees, supporting staff, donors, volunteers, and other interested parties.

B. The Foundation shall (i) administer the Veterans Services Fund (the Fund), (ii) provide funding for veterans services and programs in the Commonwealth through the Fund, and (iii) accept and raise revenue from all sources, including private source fundraising, to support the Fund. The Foundation shall submit a quarterly report to the Commissioner of Veterans Services on the Foundation's funding levels and services and an annual report to the Secretary of Veterans and Defense Affairs and the General Assembly on or before November 30 of each year. The quarterly report ~~and the annual report~~ shall be submitted electronically. *The annual report to the General Assembly shall be submitted for publication as a report document as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.*

C. The board of trustees of the Foundation shall consist of the ~~Commissioner of Veterans Services~~ Secretary of Veterans and Defense Affairs and the Chairmen of the Board of Veterans Services and the Joint Leadership Council of Veterans Service Organizations or their designees, who shall serve as ex officio voting trustees, and 16 trustees to be appointed as follows: eight nonlegislative citizens appointed by the Governor; five nonlegislative citizens appointed by the Speaker of the House of Delegates; and three nonlegislative citizens appointed by the Senate Committee on Rules. A majority of the appointed trustees shall be active or retired chairmen, chief executive officers, or chief financial officers for large private corporations or nonprofit organizations or individuals who have extensive fundraising experience in the private sector. Trustees appointed shall, insofar as possible, be veterans. Each appointing authority shall endeavor to ensure a balanced representation among the officer and enlisted ranks of the armed services and geographical representation on the board of trustees to facilitate fundraising efforts across the state.

Trustees shall be appointed for a term of four years. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. All trustees may be reappointed. However, no trustee shall serve more than two consecutive four-year terms. The remainder of any term to which a trustee is appointed to fill a vacancy shall not constitute a term in determining the trustee's eligibility for reappointment. Vacancies shall be filled in the same manner as the original appointments. Any trustee may be removed at the pleasure of the appointing authority.

D. Trustees shall be reimbursed for their actual expenses incurred while attending meetings of the trustees or performing other duties. However, such reimbursement shall not exceed the per diem rate established for members of the General Assembly pursuant to § 30-19.12.

E. The Department of Veterans Services shall provide the Foundation with administrative *and staff support* and other services.

F. The trustees shall adopt bylaws governing their organization and procedures and may amend the same. The trustees shall elect from their number a chairman and such other officers as their bylaws may provide. Ex officio trustees shall not be eligible to serve as chairman. The trustees shall meet four times a year at such times as they deem appropriate or on call of the chairman. A majority of the voting trustees of the board of trustees shall constitute a quorum.

G. ~~The Director of Finance for the~~ Department of Veterans Services shall ~~serve as~~ *provide qualified finance and development personnel to perform the duties of the treasurer and secretary of the Foundation in accordance with the Foundation's directives.*

**§ 2.2-2715.1. Executive Director.**

A. The Board may hire an Executive Director of the Foundation, who shall serve at the pleasure of the Board, to direct the day-to-day operations and activities of the Foundation and carry out the powers and duties conferred upon him by the trustees. The Executive Director shall also exercise and perform such other powers and duties as may be lawfully delegated to him and such powers and duties as may be conferred or imposed upon him by law.

B. The Executive Director may employ or retain such agents or employees subordinate to him as necessary to fulfill the duties of the Foundation as conferred upon the Executive Director. Employees of the Foundation, including the Executive Director, shall be eligible for membership in the Virginia Retirement System and participation in all of the health and related insurance and other benefits, including premium conversion and flexible benefits, available to state employees as provided by law.

C. Notwithstanding any law or policy to the contrary, the Board shall exercise personnel authority over the Executive Director and other employees of the Board.

**§ 2.2-2716. Authority of Foundation.**

The Foundation has the authority to:

1. Administer the Veterans Services Fund, request appropriations, and make allocations of revenue from the Fund to the Department of Veterans Services to provide supplemental funding for the Department's services and programs;
2. Accept, hold, and administer gifts and bequests of money, securities, or other property, absolutely or in trust, for the purposes for which the Foundation is created;
3. Enter into contracts and execute all instruments necessary and appropriate to carry out the Foundation's purposes;
4. Take such actions as may be reasonably necessary to seek, promote, and stimulate contributions for the Fund;
5. Develop other possible dedicated revenue sources for the Fund; ~~and~~
6. Perform any lawful acts necessary or appropriate to carry out the purposes of the Foundation; *and*
7. Develop policies and procedures applicable to the management and functioning of the Foundation and the Department of Veterans Services relating to (i) administration of the Fund, (ii) provision of funding for veterans services and programs through the Fund, and (iii) acceptance and fundraising to strengthen the structure of the Fund.

**§ 2.2-2718. Veterans Services Fund.**

A. There is created the Veterans Services Fund, a special nonreverting trust fund on the books of the Comptroller, to be administered by the Foundation.

B. The Fund shall include such funds as may be appropriated by the General Assembly, revenues transferred to the Fund from other state programs established for the Fund's benefits, and designated gifts, contributions, and bequests of money, securities, or other property of whatsoever character.

C. The Fund shall be used solely for the purposes of carrying out the applicable provisions of ~~Article 6 (§ 2.2-2715 et seq.) of Chapter 27 of this title~~ *article*. The unrestricted portion of the Fund may be used for Foundation expenses, subject to approval by the ~~Board of Trustees~~ *board of trustees*. Allocations and expenditures of donated restricted funds shall be in accordance with the provisions of the Uniform Prudent Management of Institutional Funds Act (§ 64.2-1100 et seq.). Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written ~~request~~ *authorization of the Executive Director with the approval of the board of trustees*.

D. All money, securities, or other property designated for the Fund and any interest or income therefrom shall remain in the Fund and shall not revert to the general fund.

**CHAPTER 506**

*An Act to amend the Code of Virginia by adding in Article 1 of Chapter 9 of Title 23.1 a section numbered 23.1-900.1, relating to public institutions of higher education; speech on campus.*

[H 1401]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding in Article 1 of Chapter 9 of Title 23.1 a section numbered 23.1-900.1 as follows:**

**§ 23.1-900.1. Speech on campus.**

*Except as otherwise permitted by the First Amendment to the United States Constitution, no public institution of higher education shall abridge the constitutional freedom of any individual, including enrolled students, faculty and other employees, and invited guests, to speak on campus.*

## CHAPTER 507

*An Act to amend and reenact §§ 18.2-370.2, 18.2-370.3, and 18.2-370.4 of the Code of Virginia, relating to sex offenses prohibiting proximity to children; penalty.*

[H 1485]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:****1. That §§ 18.2-370.2, 18.2-370.3, and 18.2-370.4 of the Code of Virginia are amended and reenacted as follows:****§ 18.2-370.2. Sex offenses prohibiting proximity to children; penalty.**

A. "Offense prohibiting proximity to children" means a violation or an attempt to commit a violation of (i) subsection A of § 18.2-47, clause (ii) or (iii) of § 18.2-48, subsection B of § 18.2-361, or subsection B of § 18.2-366, where the victim of one of the foregoing offenses was a minor, or (ii) subsection A (iii) of § 18.2-61, §§ 18.2-63, 18.2-64.1, subdivision A 1 of § 18.2-67.1, subdivision A 1 of § 18.2-67.2, or subdivision A 1 or A 4 (a) of § 18.2-67.3, or §§ 18.2-370, 18.2-370.1, clause (ii) of § 18.2-371, §§ 18.2-374.1, 18.2-374.1:1 or § 18.2-379. As of July 1, 2006, "offense prohibiting proximity to children" ~~shall include~~ *includes* a violation of § 18.2-472.1, when the offense requiring registration was one of the foregoing offenses.

B. Every adult who is convicted of an offense prohibiting proximity to children when the offense occurred on or after July 1, 2000, shall as part of his sentence be forever prohibited from loitering within 100 feet of the premises of any place he knows or has reason to know is a primary, secondary or high school. In addition, every adult who is convicted of an offense prohibiting proximity to children when the offense occurred on or after July 1, 2006, shall as part of his sentence be forever prohibited from loitering within 100 feet of the premises of any place he knows or has reason to know is a child day program as defined in § 63.2-100.

C. Every adult who is convicted of an offense prohibiting proximity to children, when the offense occurred on or after July 1, 2008, shall as part of his sentence be forever prohibited from going, for the purpose of having any contact whatsoever with children ~~that~~ *who* are not in his custody, within 100 feet of the premises of any place owned or operated by a locality that he knows or should know is a playground, athletic field or facility, or gymnasium.

*D. Any person convicted of an offense under the laws of any foreign country or any political subdivision thereof, or the United States or any political subdivision thereof, similar to any offense set forth in subsection A shall be forever prohibited from loitering within 100 feet of the premises of any place he knows or has reason to know is a primary, secondary, or high school or any place he knows or has reason to know is a child day program as defined in § 63.2-100. In addition, he shall be forever prohibited from going, for the purpose of having any contact whatsoever with children who are not in his custody, within 100 feet of the premises of any place owned or operated by a locality that he knows or has reason to know is a playground, athletic field or facility, or gymnasium.*

A violation of this section is punishable as a Class 6 felony.

**§ 18.2-370.3. Sex offenses prohibiting residing in proximity to children; penalty.**

A. Every adult who is convicted of an offense occurring on or after July 1, 2006, where the offender is more than three years older than the victim, of one of the following qualifying offenses: (i) clause (iii) of subsection A of § 18.2-61, (ii) subdivision A 1 of § 18.2-67.1, ~~or~~ (iii) subdivision A 1 of § 18.2-67.2, *or* (iv) *any similar offense under the laws of any foreign country or any political subdivision thereof, or the United States or any political subdivision thereof*, shall be forever prohibited from residing within 500 feet of the premises of any place he knows or has reason to know is a child day center as defined in § 63.2-100, or a primary, secondary, or high school. A violation of this section is a Class 6 felony. The provisions of this section shall only apply if the qualifying offense was done in the commission of, or as a part of the same course of conduct as, or as part of a common scheme or plan as a violation of ~~(i)~~ (a) subsection A of § 18.2-47 or § 18.2-48, ~~(ii)~~ (b) § 18.2-89, 18.2-90, or 18.2-91, ~~or~~ ~~(iii)~~ (c) § 18.2-51.2, *or* (d) *any similar offense under the laws of any foreign country or any political subdivision thereof, or the United States or any political subdivision thereof.*

B. An adult who is convicted of an offense as specified in subsection A ~~of this section~~ and has established a lawful residence shall not be in violation of this section if a child day center or a primary, secondary, or high school is established within 500 feet of his residence subsequent to his conviction.

C. Every adult who is convicted of an offense occurring on or after July 1, 2008, where the offender is more than three years older than the victim, of one of the following qualifying offenses: (i) clause (iii) of subsection A of § 18.2-61, (ii) subdivision A 1 of § 18.2-67.1, ~~or~~ (iii) subdivision A 1 of § 18.2-67.2, *or* (iv) *any similar offense under the laws of any foreign country or any political subdivision thereof, or the United States or any political subdivision thereof*, shall be forever prohibited from residing within 500 feet of the boundary line of any place he knows is a public park when such park ~~(i)~~ (a) is owned and operated by a county, city, or town, ~~(ii)~~ (b) shares a boundary line with a primary, secondary, or high school, and ~~(iii)~~ (c) is regularly used for school activities. A violation of this section is a Class 6 felony. The provisions of this section shall only apply if the qualifying offense was done in the commission of, or as a part of the same course of conduct as, or as part of a common scheme or plan as a violation of ~~(i)~~ (1) subsection A of § 18.2-47 or § 18.2-48, ~~(ii)~~; (2) § 18.2-89, 18.2-90, or 18.2-91; ~~or~~ ~~(iii)~~; (3) § 18.2-51.2; *or* (4) *any similar offense under the laws of any foreign country or any political subdivision thereof, or the United States or any political subdivision thereof.*

D. An adult who is convicted of an offense as specified in subsection C and has established a lawful residence shall not be in violation of this section if a public park that (i) is owned and operated by a county, city, or town, (ii) shares a boundary line with a primary, secondary, or high school, and (iii) is regularly used for school activities, is established within 500 feet of his residence subsequent to his conviction.

E. *The prohibitions in this section predicated upon an offense similar to any offense set forth in this section under the laws of any foreign country or any political subdivision thereof, or the United States or any political subdivision thereof, shall apply only to residences established on and after July 1, 2017.*

**§ 18.2-370.4. Sex offenses prohibiting working on school property; penalty.**

A. Every adult who has been convicted of an offense occurring on or after July 1, 2006, where the offender is more than three years older than the victim, of one of the following qualifying offenses: (i) clause (iii) of subsection A of § 18.2-61, (ii) subdivision A 1 of § 18.2-67.1, ~~or~~ (iii) subdivision A 1 of § 18.2-67.2, *or (iv) any similar offense under the laws of any foreign country or any political subdivision thereof, or the United States or any political subdivision thereof,* shall be forever prohibited from working or engaging in any volunteer activity on property he knows or has reason to know is a public or private elementary or secondary school or child day center property. A violation of this section is punishable as a Class 6 felony. The provisions of this section shall only apply if the qualifying offense was done in the commission of, or as a part of the same course of conduct of, or as part of a common scheme or plan as a violation of ~~(i)~~ (a) subsection A of § 18.2-47 or 18.2-48, ~~(ii)~~; (b) § 18.2-89, 18.2-90, or 18.2-91, ~~or (iii)~~; (c) § 18.2-51.2; *or (d) any similar offense under the laws of any foreign country or any political subdivision thereof, or the United States or any political subdivision thereof.*

B. An employer of a person who violates this section, or any person who procures volunteer activity by a person who violates this section, and the school or child day center where the violation of this section occurred, are immune from civil liability unless they had actual knowledge that such person had been convicted of an offense listed in subsection A.

**2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 780 of the Acts of Assembly of 2016 requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.**

**CHAPTER 508**

*An Act to amend and reenact § 2.2-2802 of the Code of Virginia, relating to school board members who engage in war service or are called to active duty in the Armed Forces of the United States; appointment of acting school board members.*

[H 1490]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 2.2-2802 of the Code of Virginia is amended and reenacted as follows:**

**§ 2.2-2802. Exception as to public officer or employee who engages in war service or is called to active duty in the Armed Forces of the United States.**

A. No ~~local or state, county or municipal~~ officer or employee shall forfeit his title to office or position or vacate the same by reason of either engaging in the war service of the United States when called forth by the Governor pursuant to the provisions of § 44-75.1; ~~or when being called to active duty in the armed forces~~ *Armed Forces* of the United States. Any such officer or employee who, voluntarily or otherwise, enters upon such war service or is called to ~~service~~ *active duty* may notify the officer or body authorized by law to fill vacancies in his office; ~~of such fact; and thereupon be relieved from the duties of his office or position during the period of such war service or active duty. The~~ *Except as otherwise provided in subsection B, the officer or body authorized to fill vacancies shall designate some suitable person to perform the duties of such office as acting officer during the period the regular officer is engaged in such war service; and during or active duty. During such period, the acting officer shall be vested with all the powers, authority, rights, and duties of the regular officer for whom he is acting.*

B. *In the case of a school board member who is relieved from the duties of his office by reason of engaging in the war service of the United States when called forth by the Governor pursuant to the provisions of § 44-75.1 or being called to active duty in the Armed Forces of the United States, such school board member shall submit to the school board a list of names of suitable persons to perform the duties of such office as acting school board member during the period in which the regular school board member is engaged in such war service or active duty, in which case the school board shall consider appointing and may appoint an acting school board member from such list of names. During such period, the acting school board member shall be vested with all the powers, authority, rights, and duties of the regular school board member for whom he is acting. However if the school board decides not to appoint an acting member from the submitted list, the school board shall notify the submitting school board member in writing of the rationale for the school board's decision not to appoint an acting member from the list.*

## CHAPTER 509

*An Act to amend and reenact §§ 16.1-278.15 and 20-124.2 of the Code of Virginia, relating to court-ordered custody and visitation arrangements; transmission of order to child's school.*

[H 1586]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:****1. That §§ 16.1-278.15 and 20-124.2 of the Code of Virginia are amended and reenacted as follows:****§ 16.1-278.15. Custody or visitation, child or spousal support generally.**

A. In cases involving the custody, visitation or support of a child pursuant to subdivision A 3 of § 16.1-241, the court may make any order of disposition to protect the welfare of the child and family as may be made by the circuit court. The parties to any petition where a child whose custody, visitation, or support is contested shall show proof that they have attended within the 12 months prior to their court appearance or that they shall attend within 45 days thereafter an educational seminar or other like program conducted by a qualified person or organization approved by the court. The court may require the parties to attend such seminar or program in uncontested cases only if the court finds good cause. The seminar or other program shall be a minimum of four hours in length and shall address the effects of separation or divorce on children, parenting responsibilities, options for conflict resolution and financial responsibilities. Once a party has completed one educational seminar or other like program, the required completion of additional programs shall be at the court's discretion. Parties under this section shall include natural or adoptive parents of the child, or any person with a legitimate interest as defined in § 20-124.1. The fee charged a party for participation in such program shall be based on the party's ability to pay; however, no fee in excess of \$50 may be charged. Whenever possible, before participating in mediation or alternative dispute resolution to address custody, visitation or support, each party shall have attended the educational seminar or other like program. The court may grant an exemption from attendance of such program for good cause shown or if there is no program reasonably available. Other than statements or admissions by a party admitting criminal activity or child abuse or neglect, no statement or admission by a party in such seminar or program shall be admissible into evidence in any subsequent proceeding. If support is ordered for a child, the order shall also provide that support will continue to be paid for a child over the age of 18 who is (i) a full-time high school student, (ii) not self-supporting, and (iii) living in the home of the parent seeking or receiving child support, until the child reaches the age of 19 or graduates from high school, whichever occurs first. The court may also order that support be paid or continue to be paid for any child over the age of 18 who is (a) severely and permanently mentally or physically disabled, and such disability existed prior to the child reaching the age of 18 or the age of 19 if the child met the requirements of clauses (i), (ii), and (iii); (b) unable to live independently and support himself; and (c) residing in the home of the parent seeking or receiving child support.

B. In any case involving the custody or visitation of a child, the court may award custody upon petition to any party with a legitimate interest therein, including, but not limited to, grandparents, stepparents, former stepparents, blood relatives and family members. The term "legitimate interest" shall be broadly construed to accommodate the best interest of the child. The authority of the juvenile court to consider a petition involving the custody of a child shall not be proscribed or limited where the custody of the child has previously been awarded to a local board of social services.

C. In any determination of support obligation under this section, the support obligation as it becomes due and unpaid creates a judgment by operation of law. Such judgment becomes a lien against real estate only when docketed in the county or city where such real estate is located. Nothing herein shall be construed to alter or amend the process of attachment of any lien on personal property.

D. Orders entered prior to July 1, 2008, shall not be deemed void or voidable solely because the petition or motion that resulted in the order was completed, signed and filed by a nonattorney employee of the Department of Social Services.

E. In cases involving charges for desertion, abandonment or failure to provide support by any person in violation of law, disposition shall be made in accordance with Chapter 5 (§ 20-61 et seq.) of Title 20.

F. In cases involving a spouse who seeks spousal support after having separated from his spouse, the court may enter any appropriate order to protect the welfare of the spouse seeking support.

G. In any case or proceeding involving the custody or visitation of a child, the court shall consider the best interest of the child, including the considerations for determining custody and visitation set forth in Chapter 6.1 (§ 20-124.1 et seq.) of Title 20.

H. In any proceeding before the court for custody or visitation of a child, the court may order a custody or a psychological evaluation of any parent, guardian, legal custodian or person standing in loco parentis to the child, if the court finds such evaluation would assist it in its determination. The court may enter such orders as it deems appropriate for the payment of the costs of the evaluation by the parties.

I. When deemed appropriate by the court in any custody or visitation matter, the court may order drug testing of any parent, guardian, legal custodian or person standing in loco parentis to the child. The court may enter such orders as it deems appropriate for the payment of the costs of the testing by the parties.

J. In any custody or visitation case or proceeding wherein an order prohibiting a party from picking the child up from school is entered pursuant to this section, the court shall order a party to such case or proceeding to provide a copy of such

*custody or visitation order to the school at which the child is enrolled within three business days of such party's receipt of such custody or visitation order.*

*If a custody determination affects the school enrollment of the child subject to such custody order and prohibits a party from picking the child up from school, the court shall order a party to provide a copy of such custody order to the school at which the child will be enrolled within three business days of such party's receipt of such order. Such order directing a party to provide a copy of such custody or visitation order shall further require such party, upon any subsequent change in the child's school enrollment, to provide a copy of such custody or visitation order to the new school at which the child is subsequently enrolled within three business days of such enrollment.*

*If the court determines that a party is unable to deliver the custody or visitation order to the school, such party shall provide the court with the name of the principal and address of the school, and the court shall cause the order to be mailed by first class mail to such school principal.*

*Nothing in this section shall be construed to require any school staff to interpret or enforce the terms of such custody or visitation order.*

**§ 20-124.2. Court-ordered custody and visitation arrangements.**

A. In any case in which custody or visitation of minor children is at issue, whether in a circuit or district court, the court shall provide prompt adjudication, upon due consideration of all the facts, of custody and visitation arrangements, including support and maintenance for the children, prior to other considerations arising in the matter. The court may enter an order pending the suit as provided in § 20-103. The procedures for determining custody and visitation arrangements shall insofar as practical, and consistent with the ends of justice, preserve the dignity and resources of family members. Mediation shall be used as an alternative to litigation where appropriate. When mediation is used in custody and visitation matters, the goals may include development of a proposal addressing the child's residential schedule and care arrangements, and how disputes between the parents will be handled in the future.

B. In determining custody, the court shall give primary consideration to the best interests of the child. The court shall assure minor children of frequent and continuing contact with both parents, when appropriate, and encourage parents to share in the responsibilities of rearing their children. As between the parents, there shall be no presumption or inference of law in favor of either. The court shall give due regard to the primacy of the parent-child relationship but may upon a showing by clear and convincing evidence that the best interest of the child would be served thereby award custody or visitation to any other person with a legitimate interest. The court may award joint custody or sole custody.

C. The court may order that support be paid for any child of the parties. The court shall also order that support will continue to be paid for any child over the age of 18 who is (i) a full-time high school student, (ii) not self-supporting, and (iii) living in the home of the party seeking or receiving child support until such child reaches the age of 19 or graduates from high school, whichever first occurs. The court may also order that support be paid or continue to be paid for any child over the age of 18 who is (a) severely and permanently mentally or physically disabled, and such disability existed prior to the child reaching the age of 18 or the age of 19 if the child met the requirements of clauses (i), (ii), and (iii); (b) unable to live independently and support himself; and (c) residing in the home of the parent seeking or receiving child support. In addition, the court may confirm a stipulation or agreement of the parties which extends a support obligation beyond when it would otherwise terminate as provided by law. The court shall have no authority to decree support of children payable by the estate of a deceased party. The court may make such further decree as it shall deem expedient concerning support of the minor children, including an order that either party or both parties provide health care coverage or cash medical support, or both.

D. In any case in which custody or visitation of minor children is at issue, whether in a circuit or district court, the court may order an independent mental health or psychological evaluation to assist the court in its determination of the best interests of the child. The court may enter such order as it deems appropriate for the payment of the costs of the evaluation by the parties.

E. The court shall have the continuing authority and jurisdiction to make any additional orders necessary to effectuate and enforce any order entered pursuant to this section or § 20-103 including the authority to punish as contempt of court any willful failure of a party to comply with the provisions of the order. A parent or other person having legal custody of a child may petition the court to enjoin and the court may enter an order to enjoin a parent of the child from filing a petition relating to custody and visitation of that child for any period of time up to 10 years if doing so is in the best interests of the child and such parent has been convicted of an offense under the laws of the Commonwealth or a substantially similar law of another state, the United States, or any foreign jurisdiction which constitutes (i) murder or voluntary manslaughter, or a felony attempt, conspiracy or solicitation to commit any such offense, if the victim of the offense was a child of the parent, a child with whom the parent resided at the time the offense occurred, or the other parent of the child, or (ii) felony assault resulting in serious bodily injury, felony bodily wounding resulting in serious bodily injury, or felony sexual assault, if the victim of the offense was a child of the parent or a child with whom the parent resided at the time of the offense. When such a petition to enjoin the filing of a petition for custody and visitation is filed, the court shall appoint a guardian ad litem for the child pursuant to § 16.1-266.

*F. In any custody or visitation case or proceeding wherein an order prohibiting a party from picking the child up from school is entered pursuant to this section or § 20-103, the court shall order a party to such case or proceeding to provide a copy of such custody or visitation order to the school at which the child is enrolled within three business days of such party's receipt of such custody or visitation order.*

*If a custody determination affects the school enrollment of the child subject to such custody order and prohibits a party from picking the child up from school, the court shall order a party to provide a copy of such custody order to the school at which the child will be enrolled within three business days of such party's receipt of such order. Such order directing a party to provide a copy of such custody or visitation order shall further require such party, upon any subsequent change in the child's school enrollment, to provide a copy of such custody or visitation order to the new school at which the child is subsequently enrolled within three business days of such enrollment.*

*If the court determines that a party is unable to deliver the custody or visitation order to the school, such party shall provide the court with the name of the principal and address of the school, and the court shall cause the order to be mailed by first class mail to such school principal.*

*Nothing in this section shall be construed to require any school staff to interpret or enforce the terms of such custody or visitation order.*

#### CHAPTER 510

*An Act to amend and reenact § 36-105.3 of the Code of Virginia, relating to the Uniform Statewide Building Code; security of certain records.*

[H 1587]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 36-105.3 of the Code of Virginia is amended and reenacted as follows:**

**§ 36-105.3. Security of certain records.**

Building Code officials shall institute procedures to ensure the safe storage and secure handling by local officials having access to or in the possession of engineering and construction drawings and plans containing critical structural components, security equipment and systems, ventilation systems, fire protection equipment, mandatory building emergency equipment or systems, elevators, electrical systems, telecommunications equipment and systems, and other utility equipment and systems submitted for the purpose of complying with the Uniform Statewide Building Code (§ 36-97 et seq.) or the Statewide Fire Prevention Code (§ 27-94 et seq.).

*Further, information contained in engineering and construction drawings and plans for any single-family residential dwelling submitted for the purpose of complying with the Uniform Statewide Building Code (§ 36-97 et seq.) or the Statewide Fire Prevention Code (§ 27-94 et seq.) shall be confidential and shall not be subject to disclosure under the Virginia Freedom of Information Act (§ 2.2-3700 et seq.), except to the applicant or the owner of the property upon the applicant's or owner's request.*

#### CHAPTER 511

*An Act to amend and reenact § 33.2-1808 of the Code of Virginia, relating to Public-Private Transportation Act; comprehensive agreement.*

[H 1929]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 33.2-1808 of the Code of Virginia is amended and reenacted as follows:**

**§ 33.2-1808. Comprehensive agreement.**

A. Prior to developing and/or operating the qualifying transportation facility, the private entity shall enter into a comprehensive agreement with the responsible public entity. The comprehensive agreement shall, as appropriate, provide for:

1. Delivery of performance and payment bonds in connection with the development and/or operation of the qualifying transportation facility, in the forms and amounts satisfactory to the responsible public entity;
2. Review of plans for the development and/or operation of the qualifying transportation facility by the responsible public entity and approval by the responsible public entity if the plans conform to standards acceptable to the responsible public entity;
3. Inspection of construction of or improvements to the qualifying transportation facility by the responsible public entity to ensure that such construction or improvements conform to the standards acceptable to the responsible public entity;
4. Maintenance of a policy or policies of public liability insurance (copies of which shall be filed with the responsible public entity accompanied by proofs of coverage) or self-insurance, each in form and amount satisfactory to the responsible public entity and reasonably sufficient to insure coverage of tort liability to the public and employees and to enable the continued operation of the qualifying transportation facility;
5. Monitoring of the maintenance practices of the private entity by the responsible public entity and the taking of such actions as the responsible public entity finds appropriate to ensure that the qualifying transportation facility is properly maintained;
6. Reimbursement to be paid to the responsible public entity for services provided by the responsible public entity;

7. Filing of appropriate financial statements in a form acceptable to the responsible public entity on a periodic basis;
8. Compensation to the private entity that may include a reasonable development fee, a reasonable maximum rate of return on investment, and/or reimbursement of development expenses in the event of termination for convenience by the responsible public entity as agreed upon between the responsible public entity and the private entity;
9. The date of termination of the private entity's authority and duties under this chapter and dedication to the appropriate public entity; and
10. Guaranteed cost and completion guarantees related to the development and/or operation of the qualified transportation facility and payment of damages for failure to meet the completion guarantee.
- B. The comprehensive agreement shall provide for such user fees as may be established by agreement of the parties. Any user fees shall be set at a level that takes into account any lease payments, service payments, and compensation to the private entity or as specified in the comprehensive agreement. A copy of any service contract shall be filed with the responsible public entity. A schedule of the current user fees shall be made available by the private entity to any member of the public on request. In negotiating user fees under this section, the parties shall establish fees that are the same for persons using the facility under like conditions except as required by agreement between the parties to preserve capacity and prevent congestion on the qualifying transportation facility. The execution of the comprehensive agreement or any amendment thereto shall constitute conclusive evidence that the user fees provided for therein comply with this chapter. User fees established in the comprehensive agreement as a source of revenues may be in addition to or in lieu of service payments.
- C. In the comprehensive agreement, the responsible public entity may agree to make grants or loans for the development and/or operation of the qualifying transportation facility from amounts received from the federal government or any agency or instrumentality thereof.
- D. The comprehensive agreement shall incorporate the duties of the private entity under this chapter and may contain such other terms and conditions that the responsible public entity determines serve the public purpose of this chapter. Without limitation, the comprehensive agreement may contain provisions under which the responsible public entity agrees to provide notice of default and cure rights for the benefit of the private entity and the persons specified therein as providing financing for the qualifying transportation facility. The comprehensive agreement may contain such other lawful terms and conditions to which the private entity and the responsible public entity mutually agree, including provisions regarding unavoidable delays or provisions providing for a loan of public funds for the development and/or operation of one or more qualifying transportation facilities.
- E. The comprehensive agreement shall provide for the distribution of any earnings in excess of the maximum rate of return as negotiated in the comprehensive agreement. Without limitation, excess earnings may be distributed to the Transportation Trust Fund, to the responsible public entity, or to the private entity for debt reduction or they may be shared with appropriate public entities. Any payments under a concession arrangement for which the Commonwealth is the responsible public entity shall be paid into the Transportation Trust Fund.
- F. Any changes in the terms of the comprehensive agreement, as may be agreed upon by the parties, shall be added to the comprehensive agreement by written amendment.
- G. Notwithstanding any contrary provision of this chapter, a responsible public entity may enter into a comprehensive agreement with multiple private entities if the responsible public entity determines in writing that it is in the public interest to do so.
- H. The comprehensive agreement may provide for the development and/or operation of phases or segments of the qualifying transportation facility.
- I. Any comprehensive agreement originally entered into on or after July 1, 2017, shall include, in consultation with the Virginia State Police, a provision requiring funding for adequate staffing by the Virginia State Police for general law enforcement services during both development and operation of the qualifying transportation facility. As used in this subsection, "adequate staffing" means a level of staffing in accordance with the September 2003 report, "A Review of the Patrol Staffing Formula" as developed pursuant to Item 459(g) of Chapter 1042 of the Acts of Assembly of 2003.*

## CHAPTER 512

*An Act to amend and reenact §§ 2.2-222.3 and 44-146.40 of the Code of Virginia, relating to the Secure and Resilient Commonwealth Panel; membership and duties.*

[H 1998]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 2.2-222.3 and 44-146.40 of the Code of Virginia are amended and reenacted as follows:**

**§ 2.2-222.3. Secure and Resilient Commonwealth Panel; membership; duties; compensation; staff.**

A. The Secure and Resilient Commonwealth Panel (the Panel) is established as an advisory board, within the meaning of § 2.2-2100, in the executive branch of state government. The Panel shall consist of ~~34~~ 36 members as follows: three members of the House of Delegates, *one of whom shall be the Chairman of the House Committee on Militia, Police and Public Safety*, and two nonlegislative citizens to be appointed by the Speaker of the House of Delegates; three members of the Senate of Virginia, *one of whom shall be the Chairman of the Senate Committee on General Laws and Technology*, and

two nonlegislative citizens to be appointed by the Senate Committee on Rules; the Lieutenant Governor; the Attorney General; the Executive Secretary of the Supreme Court of Virginia; the Secretaries of Commerce and Trade, Health and Human Resources, Technology, Transportation, Public Safety and Homeland Security, and Veterans and Defense Affairs; *the State Coordinator of Emergency Management; the Superintendent of State Police; the Adjutant General of the Virginia National Guard; and the State Health Commissioner*, or their designees; two local first responders; ~~three~~ two local government representatives; two physicians with knowledge of public health; ~~four~~ five members from the business or industry sector; and ~~four~~ two citizens from the Commonwealth at large. Except for appointments made by the Speaker of the House of Delegates and the Senate Committee on Rules, all appointments shall be made by the Governor. *The Public Safety Subcommittee of the Senate Finance Committee shall appoint one ex officio member who is either a member of such subcommittee or a member of the Senate Finance Committee staff. The Public Safety Subcommittee of the House Appropriations Committee shall appoint one ex officio member who is either a member of such subcommittee or a member of the House Appropriations Committee staff.* Additional ex officio members may be appointed to the Panel by the Governor. Legislative members shall serve terms coincident with their terms of office or until their successors shall qualify. Nonlegislative citizen members shall serve for terms of four years. *Ex officio members shall serve at the pleasure of the person or entity by whom they were appointed.* The Secretary of Public Safety and Homeland Security shall be the chairman of the Panel.

B. The Panel shall *have as its primary focus emergency management and homeland security within the Commonwealth to ensure that prevention, protection, mitigation, response, and recovery programs, initiatives, and activities, both at the state and local levels, are fully integrated, suitable, and effective in addressing risks from man-made and natural disasters. The Panel shall monitor and assess the implementation of statewide prevention, preparedness, response, and recovery initiatives and where necessary review, evaluate, and make recommendations relating to the emergency preparedness of government at all levels in the Commonwealth concerning implementation of such initiatives. The Panel shall also make such recommendations as it deems necessary to enhance or improve the resiliency of public and private critical infrastructure to mitigate against man-made and natural disasters.* ~~The~~

C. The Panel shall carry out the provisions of Title 3, Public Law 99-499. The Panel shall convene at least biennially to discuss (i) changing and persistent risks to the Commonwealth from threats, hazards, vulnerabilities, and consequences and (ii) plans and resources to address those risks.

D. On or before October 1 of each year, the Panel shall ~~make annual reports~~ report to the Governor, the Senate Committee on Finance, the Senate Committee on General Laws and Technology, the House Committee on Appropriations, and the House Committee on Militia, Police and Public Safety concerning the ~~state's~~ state of the Commonwealth's emergency preparedness, response, recovery, and prevention, protection, mitigation, response, and recovery efforts and the resources necessary to implement them. Such report may, with the concurrence of the Governor, include sensitive information, which information is excluded from disclosure in accordance with subdivisions 2, 3, 4, and 6 of § 2.2-3705.2 and which, if revealed publicly, would jeopardize or compromise security plans and procedures in the Commonwealth designed to protect (i) the public or (ii) public or private critical infrastructure. Any sensitive information presented to any committee of the General Assembly shall be discussed in a closed meeting as provided in subdivision 19 of § 2.2-3711.

E. The Panel shall designate an Emergency Management Awareness Group (the Group) consisting of the Secretary of Public Safety and Homeland Security, the Lieutenant Governor, the Attorney General, the Executive Secretary of the Supreme Court of Virginia, and the Chairmen of the House Committee on Militia, Police and Public Safety and the Senate Committee on General Laws and Technology to facilitate communication between the executive, legislative, and judicial branches of state government. The Group shall convene at the call of the Secretary of Public Safety and Homeland Security during a state of emergency to share critical information concerning such situation and the impact on the Commonwealth and its branches of government. The Secretary of Public Safety and Homeland Security shall (i) advise the Panel whenever the Group meets and (ii) facilitate communication between the Group and the Panel. The Secretary of Public Safety and Homeland Security shall assist, to the extent provided by law, in obtaining access to classified information for the Group when such information is necessary to enable the Group to perform its duties.

~~E.~~ F. Members of the Panel shall serve without compensation but shall be reimbursed for all reasonable and necessary expenses incurred in the discharge of their duties as provided in § 2.2-2825.

~~D.~~ G. Staff support for the Panel and funding for the costs of expenses of the members shall be provided by the Secretary of Public Safety and Homeland Security.

~~E.~~ H. The Secretary shall facilitate cabinet-level coordination among the various agencies of state government related to emergency preparedness and shall facilitate private sector preparedness and communication.

**§ 44-146.40. Joint emergency planning committee; certain localities.**

~~A.~~ There is hereby created the Virginia Emergency Response Council to carry out the provisions of Title 3, Public Law 99-499.

~~B.~~ The Virginia Emergency Response Council shall consist of such state agency heads or designated representatives with technical expertise in the emergency response field as the Governor shall appoint. The Governor shall designate a chairman from among its members.

~~C.~~ The Virginia Emergency Response Council, known as the "Virginia Council," shall designate an appropriate state agency to receive funds provided under Title 3, Public Law 99-499.

D. The Virginia Council shall adopt rules and procedures in accordance with the provisions of the Administrative Process Act, Chapter 40 (§ 2.2-4000 et seq.) for the conduct of its business.

E. Any person appointed by the Virginia Emergency Response Council as a member of a local emergency planning committee shall be immune from civil liability for any official act, decision or omission done or made in performance of his duties as a member of such local council, provided that the act, decision or omission was not done or made in bad faith or with malicious intent or does not constitute gross negligence. No member of any emergency planning committee nor any state agency on behalf of such member need make a payment into the state insurance trust fund under § 2.2-1835 for this purpose.

F. Any joint emergency planning committee serving Fairfax County and the City of Fairfax shall have the authority to require any facility within its emergency planning district to submit the information required and participate in the emergency planning provided for in Subtitle A of Title 3 of Public Law 99-499. For the purposes of this ~~subsection~~ section, "facility" shall include any development or installation having an aggregate storage capacity of at least one million gallons of oil as defined in § 62.1-44.34:10, or the potential for a sudden release of 10,000 pounds or more of any other flammable liquid or gas not exempt from the provisions of § 327 of Title 3 of Public Law 99-499. This requirement shall not occur until after public notice and the opportunity to comment. The committee shall notify the facility owner or operator of any requirement to comply with this ~~subsection~~ section.

### CHAPTER 513

*An Act to amend and reenact § 22.1-212.10 of the Code of Virginia, relating to public charter school applications and charter agreements; review by the Board of Education.*

[H 2218]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 22.1-212.10 of the Code of Virginia is amended and reenacted as follows:**

**§ 22.1-212.10. Reconsideration and technical assistance; review by Board.**

A. If a local school board denies a public charter school application, or revokes or fails to renew a charter agreement, it shall provide to the applicant or grantee its reasons, in writing, for such decision, and it shall post such reasons on its website. A public charter school applicant whose application was denied, or a grantee whose charter was revoked or not renewed, shall be entitled to petition the local school board for reconsideration. The petition for reconsideration shall be filed no later than 60 days from the date the public charter school application is denied, *or the charter agreement is revoked, or not fails to be renewed.* Such reconsideration shall be decided within 60 days of the filing of the petition.

B. Each local school board shall establish a process for reviewing petitions of reconsideration, which shall include an opportunity for public comment. The petition of reconsideration may include an amended application based on the reasons given by the local school board for such decision.

C. Prior to seeking reconsideration, an applicant or grantee may seek technical assistance from the Superintendent of Public Instruction to address the reasons for denial, revocation, or non-renewal.

D. Upon reconsideration, the decision of a local school board to grant or deny a public charter school application or to revoke or fail to renew a charter agreement shall be final and not subject to appeal. Following a local school board decision to deny a public charter school application or to revoke or fail to renew a charter agreement, the local school board shall submit documentation to the Board of Education as to the rationale for the local school board's denial *of the public charter school application* or revocation *of or failure to renew the charter school application agreement.*

E. ~~The Board of Education shall have~~ *has* no authority to grant or deny a public charter school application or to revoke or fail to renew a charter agreement *but may communicate any Board finding relating to the rationale for the local school board's denial of the public charter school application or revocation of or failure to renew the charter agreement based on the documentation submitted pursuant to subsection D in any school division in which at least half of the schools receive funding pursuant to Title I, Part A of the Elementary and Secondary Education Act of 1965, P.L. 89-10, as amended.*

F. Nothing in this section shall prohibit an applicant whose application has been denied or a grantee whose charter has been revoked or not renewed from submitting a new application, pursuant to § 22.1-212.9.

### CHAPTER 514

*An Act to direct the Board of Education to develop guidelines for training on the prevention of trafficking of children.*

[H 2282]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. § 1. The Board of Education shall develop guidelines for training school counselors, school nurses, and other relevant school staff on the prevention of trafficking of children.**

## CHAPTER 515

*An Act to amend and reenact § 2.2-3119 of the Code of Virginia, relating to the State and Local Government Conflict of Interests Act; school board employees; school divisions located in Planning District 4.*

[H 2354]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:****1. That § 2.2-3119 of the Code of Virginia is amended and reenacted as follows:****§ 2.2-3119. Additional provisions applicable to school boards and employees of school boards; exceptions.**

A. Notwithstanding any other provision of this chapter, it shall be unlawful for the school board of any county or city or of any town constituting a separate school division to employ or pay any teacher or other school board employee from the public funds, federal, state or local, or for a division superintendent to recommend to the school board the employment of any teacher or other employee, if the teacher or other employee is the father, mother, brother, sister, spouse, son, daughter, son-in-law, daughter-in-law, sister-in-law or brother-in-law of the superintendent, or of any member of the school board.

This section shall apply to any person employed by any school board in the operation of the public free school system, adult education programs or any other program maintained and operated by a local county, city or town school board.

B. This section shall not be construed to prohibit the employment, promotion, or transfer within a school division of any person within a relationship described in subsection A when such person:

1. Has been employed pursuant to a written contract with a school board or employed as a substitute teacher or teacher's aide by a school board prior to the taking of office of any member of such board or division superintendent of schools; or

2. Has been employed pursuant to a written contract with a school board or employed as a substitute teacher or teacher's aide by a school board prior to the inception of such relationship; or

3. Was employed by a school board at any time prior to June 10, 1994, and had been employed at any time as a teacher or other employee of any Virginia school board prior to the taking of office of any member of such school board or division superintendent of schools.

C. A person employed as a substitute teacher may not be employed to any greater extent than he was employed by the school board in the last full school year prior to the taking of office of such board member or division superintendent or to the inception of such relationship. The exceptions in subdivisions B 1, B 2, and B 3 shall apply only if the prior employment has been in the same school divisions where the employee and the superintendent or school board member now seek to serve simultaneously.

D. If any member of the school board or any division superintendent knowingly violates these provisions, he shall be personally liable to refund to the local treasury any amounts paid in violation of this law, and the funds shall be recovered from the individual by action or suit in the name of the Commonwealth on the petition of the attorney for the Commonwealth. Recovered funds shall be paid into the local treasury for the use of the public schools.

E. The provisions of this section shall not apply to employment by a school district located in Planning Districts 3, 4, 11, 12, and 13 of the father, mother, brother, sister, spouse, son, daughter, son-in-law, daughter-in-law, sister-in-law, or brother-in-law of any member of the school board provided (i) the member certifies that he had no involvement with the hiring decision and (ii) the superintendent certifies to the remaining members of the governing body in writing that the employment is based upon merit and fitness and the competitive rating of the qualifications of the individual and that no member of the board had any involvement with the hiring decision.

## CHAPTER 516

*An Act to amend and reenact §§ 18.2-308.1:1, 18.2-308.1:2, and 18.2-308.1:3 of the Code of Virginia, relating to purchase, possession, or transportation of firearms; petition to restore right.*

[H 2429]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:****1. That §§ 18.2-308.1:1, 18.2-308.1:2, and 18.2-308.1:3 of the Code of Virginia are amended and reenacted as follows:****§ 18.2-308.1:1. Purchase, possession, or transportation of firearms by persons acquitted by reason of insanity; penalty.**

A. It shall be unlawful for any person acquitted by reason of insanity and committed to the custody of the Commissioner of Behavioral Health and Developmental Services, pursuant to Chapter 11.1 (§ 19.2-182.2 et seq.) of Title 19.2, on a charge of treason, any felony or any offense punishable as a misdemeanor under Title 54.1 or a Class 1 or Class 2 misdemeanor under this title, except those misdemeanor violations of (i) Article 2 (§ 18.2-266 et seq.) of Chapter 7 of this title, (ii) Article 2 (§ 18.2-415 et seq.) of Chapter 9 of this title, ~~or~~ (iii) § 18.2-119, or (iv) an ordinance of any county, city, or town similar to the offenses specified in *clause* (i), (ii), or (iii), to knowingly and intentionally purchase, possess, or transport any firearm. A violation of this subsection shall be punishable as a Class 1 misdemeanor.

B. Any person so acquitted may, upon discharge from the custody of the Commissioner, petition the general district court in the city or county in which he resides *or, if the person is not a resident of the Commonwealth, the general district court of the city or county in which the most recent of the proceedings described in subsection A occurred* to restore his right to purchase, possess, or transport a firearm. A copy of the petition shall be mailed or delivered to the attorney for the Commonwealth for the jurisdiction where the petition was filed who shall be entitled to respond and represent the interests of the Commonwealth. The court shall conduct a hearing if requested by either party. If the court determines, after receiving and considering evidence concerning the circumstances regarding the disability referred to in subsection A and the person's criminal history, treatment record, and reputation as developed through character witness statements, testimony, or other character evidence, that the person will not be likely to act in a manner dangerous to public safety and that the granting of the relief would not be contrary to the public interest, the court shall grant the petition. Any person denied relief by the general district court may petition the circuit court for a de novo review of the denial. Upon a grant of relief in any court, the court shall enter a written order granting the petition, in which event the provisions of subsection A do not apply. The clerk of court shall certify and forward forthwith to the Central Criminal Records Exchange, on a form provided by the Exchange, a copy of any such order.

C. As used in this section, "treatment record" shall include copies of health records detailing the petitioner's psychiatric history, which shall include the records pertaining to the commitment or adjudication that is the subject of the request for relief pursuant to this section.

**§ 18.2-308.1:2. Purchase, possession, or transportation of firearm by persons adjudicated legally incompetent or mentally incapacitated; penalty.**

A. It shall be unlawful for any person who has been adjudicated (i) legally incompetent pursuant to former § 37.1-128.02 or former § 37.1-134, (ii) mentally incapacitated pursuant to former § 37.1-128.1 or former § 37.1-132, or (iii) incapacitated pursuant to Chapter 20 (§ 64.2-2000 et seq.) of Title 64.2 to purchase, possess, or transport any firearm. A violation of this subsection shall be punishable as a Class 1 misdemeanor.

B. Any person whose competency or capacity has been restored pursuant to former § 37.1-134.1, former § 37.2-1012, or § 64.2-2012 may petition the general district court in the city or county in which he resides *or, if the person is not a resident of the Commonwealth, the general district court of the city or county in which the most recent of the proceedings described in subsection A occurred* to restore his right to purchase, possess or transport a firearm. A copy of the petition shall be mailed or delivered to the attorney for the Commonwealth for the jurisdiction where the petition was filed who shall be entitled to respond and represent the interests of the Commonwealth. The court shall conduct a hearing if requested by either party. If the court determines, after receiving and considering evidence concerning the circumstances regarding the disability referred to in subsection A and the person's criminal history, treatment record, and reputation as developed through character witness statements, testimony, or other character evidence, that the person will not be likely to act in a manner dangerous to public safety and that the granting of the relief would not be contrary to the public interest, the court shall grant the petition. Any person denied relief by the general district court may petition the circuit court for a de novo review of the denial. Upon a grant of relief in any court, the court shall enter a written order granting the petition, in which event the provisions of subsection A do not apply. The clerk of court shall certify and forward forthwith to the Central Criminal Records Exchange, on a form provided by the Exchange, a copy of any such order.

C. As used in this section, "treatment record" shall include copies of health records detailing the petitioner's psychiatric history, which shall include the records pertaining to the commitment or adjudication that is the subject of the request for relief pursuant to this section.

**§ 18.2-308.1:3. Purchase, possession, or transportation of firearm by persons involuntarily admitted or ordered to outpatient treatment; penalty.**

A. It shall be unlawful for any person involuntarily admitted to a facility or ordered to mandatory outpatient treatment pursuant to § 19.2-169.2, involuntarily admitted to a facility or ordered to mandatory outpatient treatment as the result of a commitment hearing pursuant to Article 5 (§ 37.2-814 et seq.) of Chapter 8 of Title 37.2, or who was the subject of a temporary detention order pursuant to § 37.2-809 and subsequently agreed to voluntary admission pursuant to § 37.2-805 to purchase, possess, or transport a firearm. A violation of this subsection shall be punishable as a Class 1 misdemeanor.

B. Any person prohibited from purchasing, possessing or transporting firearms under this section may, at any time following his release from involuntary admission to a facility, his release from an order of mandatory outpatient treatment, or his release from voluntary admission pursuant to § 37.2-805 following the issuance of a temporary detention order, petition the general district court in the city or county in which he resides *or, if the person is not a resident of the Commonwealth, the general district court of the city or county in which the most recent of the proceedings described in subsection A occurred* to restore his right to purchase, possess or transport a firearm. A copy of the petition shall be mailed or delivered to the attorney for the Commonwealth for the jurisdiction where the petition was filed who shall be entitled to respond and represent the interests of the Commonwealth. The court shall conduct a hearing if requested by either party. If the court determines, after receiving and considering evidence concerning the circumstances regarding the disabilities referred to in subsection A and the person's criminal history, treatment record, and reputation as developed through character witness statements, testimony, or other character evidence, that the person will not likely act in a manner dangerous to public safety and that granting the relief would not be contrary to the public interest, the court shall grant the petition. Any person denied relief by the general district court may petition the circuit court for a de novo review of the denial. Upon a grant of relief in any court, the court shall enter a written order granting the petition, in which event the

provisions of subsection A do not apply. The clerk of court shall certify and forward forthwith to the Central Criminal Records Exchange, on a form provided by the Exchange, a copy of any such order.

C. As used in this section, "treatment record" shall include copies of health records detailing the petitioner's psychiatric history, which shall include the records pertaining to the commitment or adjudication that is the subject of the request for relief pursuant to this section.

#### CHAPTER 517

*An Act to amend and reenact § 27-15.1 of the Code of Virginia, relating to the authority of a fire chief over unmanned aircraft at a fire, explosion, or other hazardous situation.*

[S 873]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 27-15.1 of the Code of Virginia is amended and reenacted as follows:**

**§ 27-15.1. Authority of chief or other officer in charge when answering alarm; penalty for refusal to obey orders.**

While any fire department or fire company is in the process of answering an alarm where there is imminent danger or the actual occurrence of fire or explosion or the uncontrolled release of hazardous materials that threaten life or property and returning to the station, the chief or other officer in charge of such fire department or fire company at that time shall have the authority to (i) maintain order at such emergency incident or its vicinity, *including the immediate airspace*; (ii) direct the actions of the firefighters at the incident; (iii) notwithstanding the provisions of §§ 46.2-888 through 46.2-891, keep bystanders or other persons at a safe distance from the incident and emergency equipment; (iv) facilitate the speedy movement and operation of emergency equipment and firefighters; (v) cause an investigation to be made into the origin and cause of the incident; and (vi) until the arrival of a police officer, direct and control traffic in person or by deputy and facilitate the movement of traffic. The fire chief or other officer in charge shall display his firefighter's badge or other proper means of identification. Notwithstanding any other provision of law, this authority shall extend to the activation of traffic control signals designed to facilitate the safe egress and ingress of emergency equipment at a fire station. Any person or persons refusing to obey the orders of the chief or other officer in charge at that time is guilty of a Class 4 misdemeanor. The chief or other officer in charge shall have the power to make arrests for violation of the provisions of this section. The authority granted under the provisions of this section may not be exercised to inhibit or obstruct members of law-enforcement agencies or emergency medical services agencies from performing their normal duties when operating at such emergency incident, nor to conflict with or diminish the lawful authority, duties, and responsibilities of forest wardens, including but not limited to the provisions of Chapter 11 (§ 10.1-1100 et seq.) of Title 10.1. Personnel from the news media, such as the press, radio, and television, when gathering the news may enter at their own risk into the incident area only when the officer in charge has deemed the area safe and only into those areas of the incident that do not, in the opinion of the officer in charge, interfere with the fire department or fire company, firefighters, or emergency medical services personnel dealing with such emergencies, in which case the chief or other officer in charge may order such person from the scene of the emergency incident.

#### CHAPTER 518

*An Act to amend and reenact § 22.1-289.01 of the Code of Virginia, relating to school service providers; student access to collected personal information.*

[S 951]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 22.1-289.01 of the Code of Virginia is amended and reenacted as follows:**

**§ 22.1-289.01. School service providers; school-affiliated entities; student personal information.**

**A. For the purposes of this section:**

"Elementary and secondary school purposes" means purposes that (i) customarily take place at the direction of an elementary or secondary school, elementary or secondary school teacher, or school division; (ii) aid in the administration of school activities, including instruction in the classroom or at home; administrative activities; and collaboration between students, school personnel, or parents; or (iii) are otherwise for the use and benefit of an elementary or secondary school.

"Machine-readable format" means a structured format that can automatically be read and processed by a computer such as comma-separated values (CSV), Javascript Object Notation (JSON), or Extensible Markup Language (XML). "Machine-readable format" does not include portable document format (PDF).

"Personal profile" does not include account information that is collected and retained by a school service provider and remains under control of a student, parent, or elementary or secondary school.

"School-affiliated entity" means any private entity that provides support to a local school division or a public elementary or secondary school in the Commonwealth. "School-affiliated entity" includes alumni associations, booster clubs, parent-teacher associations, parent-teacher-student associations, parent-teacher organizations, public education foundations, public education funds, and scholarship organizations.

"School service" means a website, mobile application, or online service that (i) is designed and marketed primarily for use in elementary or secondary schools; (ii) is used (a) at the direction of teachers or other employees at elementary or secondary schools or (b) by any school-affiliated entity; and (iii) collects and maintains, uses, or shares student personal information. "School service" does not include a website, mobile application, or online service that is (a) used for the purposes of college and career readiness assessment or (b) designed and marketed for use by individuals or entities generally, even if it is also marketed for use in elementary or secondary schools.

"School service provider" means an entity that operates a school service pursuant to a contract with a local school division in the Commonwealth.

"Student personal information" means information collected through a school service that identifies a currently or formerly enrolled individual student or is linked to information that identifies a currently or formerly enrolled individual student.

"Targeted advertising" means advertising that is presented to a student and selected on the basis of information obtained or inferred over time from such student's online behavior, use of applications, or sharing of student personal information. "Targeted advertising" does not include advertising (i) that is presented to a student at an online location (a) on the basis of such student's online behavior, use of applications, or sharing of student personal information during his current visit to that online location or (b) in response to that student's request for information or feedback and (ii) for which a student's online activities or requests are not retained over time for the purpose of subsequent advertising.

B. In operating a school service pursuant to a contract with a local school division, each school service provider shall:

1. Provide clear and easy-to-understand information about the types of student personal information it collects through any school service and how it maintains, uses, or shares such student personal information;

2. Maintain a policy for the privacy of student personal information for each school service and provide prominent notice before making material changes to its policy for the privacy of student personal information for the relevant school service;

3. Maintain a comprehensive information security program that is reasonably designed to protect the security, privacy, confidentiality, and integrity of student personal information and makes use of appropriate administrative, technological, and physical safeguards;

4. Facilitate access to and correction of student personal information by each student whose student personal information has been collected, maintained, used, or shared by the school service provider, or by such student's parent, either directly or through the student's school or teacher;

5. Collect, maintain, use, and share student personal information only with the consent of the student or, if the student is less than 18 years of age, his parent or for the purposes authorized in the contract between the school division and the school service provider;

6. When it collects student personal information directly from the student, obtain the consent of the student or, if the student is less than 18 years of age, his parent before using student personal information in a manner that is inconsistent with its policy for the privacy of student personal information for the relevant school service, and when it collects student personal information from an individual or entity other than the student, obtain the consent of the school division before using student personal information in a manner that is inconsistent with its policy for the privacy of student personal information for the relevant school service;

7. Require any successor entity or third party with whom it contracts to abide by its policy for the privacy of student personal information and comprehensive information security program before accessing student personal information; ~~and~~

8. Upon the request of the school or school division, delete student personal information within a reasonable period of time after such request unless the student or, if the student is less than 18 years of age, his parent consents to the maintenance of the student personal information by the school service provider; *and*

9. *Provide, either directly to the student or his parent or through the school, access to an electronic copy of such student's personal information in a manner consistent with the functionality of the school service. Contracts between local school boards and school service providers may require that such electronic copy be in a machine-readable format.*

C. In operating a school service pursuant to a contract with a local school division, no school service provider shall knowingly:

1. Use or share any student personal information for the purpose of targeted advertising to students;

2. Use or share any student personal information to create a personal profile of a student other than for elementary and secondary school purposes authorized by the school division, with the consent of the student or, if the student is less than 18 years of age, his parent, or as otherwise authorized in the contract between the school division and the school service provider; or

3. Sell student personal information, except to the extent that such student personal information is sold to or acquired by a successor entity that purchases, merges with, or otherwise acquires the school service provider, subject to the provisions of subdivision B 7.

D. Nothing in this section shall be construed to prohibit school service providers from:

1. Using student personal information for purposes of adaptive learning, personalized learning, or customized education;
2. Using student personal information for maintaining, developing, supporting, improving, or diagnosing the school service;
3. Providing recommendations for employment, school, educational, or other learning purposes within a school service when such recommendation is not determined in whole or in part by payment or other consideration from a third party;
4. Disclosing student personal information to (i) ensure legal or regulatory compliance, (ii) protect against liability, or (iii) protect the security or integrity of its school service; or
5. Disclosing student personal information pursuant to a contract with a service provider, provided that the school service provider (i) contractually prohibits the service provider from using any student personal information for any purpose other than providing the contracted service to or on behalf of the school service provider, (ii) contractually prohibits the service provider from disclosing any student personal information provided by the school service provider to any third party unless such disclosure is permitted by subdivision B 7, and (iii) requires the service provider to comply with the requirements set forth in subsection B and prohibitions set forth in subsection C.

E. Nothing in this section shall be construed to:

1. Impose a duty upon a provider of an electronic store, gateway, marketplace, forum, or means for purchasing or downloading software or applications to review or enforce compliance with this section with regard to any school service provider whose school service is available for purchase or download on such electronic store, gateway, marketplace, forum, or means;
2. Impose liability on an interactive computer service, as that term is defined in 47 U.S.C. § 230(f), for content provided by another individual; or
3. Prohibit any student from downloading, exporting, transferring, saving, or maintaining his personal information, data, or documents.

F. No school service provider in operation on June 30, 2016, shall be subject to the provisions of this section until such time as the contract to operate a school service is renewed.

## CHAPTER 519

*An Act to amend and reenact §§ 15.2-1716.1 and 18.2-212 of the Code of Virginia, relating to malicious activation of fire alarms; reimbursement of expenses; penalty.*

[S 1054]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 15.2-1716.1 and 18.2-212 of the Code of Virginia are amended and reenacted as follows:**

**§ 15.2-1716.1. Reimbursement of expenses incurred in responding to terrorism hoax incident, bomb threat, or malicious activation of fire alarm.**

Any locality may provide by ordinance that any person who is convicted of a violation of subsection B or C of § 18.2-46.6 ~~or of~~, a felony violation of § 18.2-83 or 18.2-84, *or a violation of § 18.2-212*, when his violation of such section is the proximate cause of any incident resulting in an appropriate emergency response, shall be liable at the time of sentencing or in a separate civil action to the locality or to any volunteer emergency medical services agency, or both, which may provide such emergency response for the reasonable expense thereof, in an amount not to exceed ~~\$1,000~~ \$2,500 in the aggregate for a particular incident occurring in such locality. In determining the "reasonable expense," a locality may bill a flat fee of \$250 or a minute-by-minute accounting of the actual costs incurred. As used in this section, "appropriate emergency response" includes all costs of providing law-enforcement, firefighting, and emergency medical services. The provisions of this section shall not preempt or limit any remedy available to the Commonwealth, to the locality, or to any volunteer emergency medical services agency to recover the reasonable expenses of an emergency response to an incident not involving a terroristic hoax or an act undertaken in violation of § 18.2-83 ~~or~~, 18.2-84, *or 18.2-212* as set forth herein.

**§ 18.2-212. Calling or summoning emergency medical services vehicle or firefighting apparatus without just cause; maliciously activating fire alarms; venue.**

A. Any person who without just cause therefor calls or summons, by telephone or otherwise, any emergency medical services vehicle or firefighting apparatus, or any person who maliciously activates a manual or automatic fire alarm in any building ~~used for public assembly or for other public use, including, but not limited to, schools, theaters, stores, office buildings, shopping centers and malls, coliseums, and arenas~~, regardless of whether an emergency medical services vehicle or fire apparatus responds or not, is guilty of a Class 1 misdemeanor.

B. A violation of this section may be prosecuted either in the jurisdiction from which the call or summons was made or in the jurisdiction where the call or summons was received.

## CHAPTER 520

*An Act to amend and reenact § 22.1-298.1 of the Code of Virginia, relating to school counselors; licensure.*

[S 1117]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:****1. That § 22.1-298.1 of the Code of Virginia is amended and reenacted as follows:****§ 22.1-298.1. Regulations governing licensure.**

## A. As used in this section:

"Alternate route to licensure" means a nontraditional route to teacher licensure available to individuals who meet the criteria specified in the regulations issued by the Board of Education.

"Industry certification credential" means an active career and technical education credential that is earned by successfully completing a Board of Education-approved industry certification examination, being issued a professional license in the Commonwealth, or successfully completing an occupational competency examination.

"Licensure by reciprocity" means a process used to issue a license to an individual coming into the Commonwealth from another state when that individual meets certain conditions specified in the Board of Education's regulations.

"Professional teacher's assessment" means those tests mandated for licensure as prescribed by the Board of Education.

"Provisional license" means a nonrenewable license issued by the Board of Education for a specified period of time, not to exceed three years, to an individual who may be employed by a school division in the Commonwealth and who generally meets the requirements specified in the Board of Education's regulations for licensure, but who may need to take additional coursework or pass additional assessments to be fully licensed with a renewable license.

"Renewable license" means a license issued by the Board of Education for five years to an individual who meets the requirements specified in the Board of Education's regulations.

B. The Board of Education shall prescribe, by regulation, the requirements for the licensure of teachers and other school personnel required to hold a license. Such regulations shall include requirements for the denial, suspension, cancellation, revocation, and reinstatement of licensure. The Board of Education shall revoke the license of any person for whom it has received a notice of dismissal or resignation pursuant to subsection F of § 22.1-313 and, in the case of a person who is the subject of a founded complaint of child abuse or neglect, after all rights to any appeal provided by § 63.2-1526 have been exhausted. Regardless of the authority of any other agency of the Commonwealth to approve educational programs, only the Board of Education shall have the authority to license teachers to be regularly employed by school boards, including those teachers employed to provide nursing education.

The Board of Education shall prescribe by regulation the licensure requirements for teachers who teach only online courses, as defined in § 22.1-212.23. Such license shall be valid only for teaching online courses. Teachers who hold a five-year renewable license issued by the Board of Education may teach online courses for which they are properly endorsed.

## C. The Board of Education's regulations shall include requirements that a person seeking initial licensure:

1. Complete professional assessments as prescribed by the Board of Education;
2. Complete study in attention deficit disorder;
3. Complete study in gifted education, including the use of multiple criteria to identify gifted students; and
4. Complete study in methods of improving communication between schools and families and ways of increasing family involvement in student learning at home and at school.

## D. In addition, such regulations shall include requirements that:

1. Every person seeking initial licensure or renewal of a license demonstrate proficiency in the use of educational technology for instruction;
2. Every person seeking initial licensure and persons seeking licensure renewal as teachers who have not completed such study shall complete study in child abuse recognition and intervention in accordance with curriculum guidelines developed by the Board of Education in consultation with the Department of Social Services that are relevant to the specific teacher licensure routes;
3. Every person seeking initial licensure or renewal of a license shall receive professional development in instructional methods tailored to promote student academic progress and effective preparation for the Standards of Learning end-of-course and end-of-grade assessments;
4. Every person seeking renewal of a license shall complete all renewal requirements, including professional development in a manner prescribed by the Board, except that no person seeking renewal of a license shall be required to satisfy any such requirement by completing coursework and earning credit at an institution of higher education;
5. Every person seeking initial licensure or renewal of a license shall provide evidence of completion of certification or training in emergency first aid, cardiopulmonary resuscitation, and the use of automated external defibrillators. The certification or training program shall be based on the current national evidence-based emergency cardiovascular care guidelines for cardiopulmonary resuscitation and the use of an automated external defibrillator, such as a program developed by the American Heart Association or the American Red Cross. The Board shall provide a waiver for this

requirement for any person with a disability whose disability prohibits such person from completing the certification or training;

6. Every person seeking licensure with an endorsement as a teacher of the blind and visually impaired shall demonstrate proficiency in reading and writing Braille;

7. Every teacher seeking an initial license in the Commonwealth with an endorsement in the area of career and technical education shall have an industry certification credential in the area in which the teacher seeks endorsement. If a teacher seeking an initial license in the Commonwealth has not attained an industry certification credential in the area in which the teacher seeks endorsement, the Board may, upon request of the employing school division or educational agency, issue the teacher a provisional license to allow time for the teacher to attain such credential; ~~and~~

8. (Effective July 1, 2017) Every person seeking initial licensure or renewal of a license shall complete awareness training, provided by the Department of Education, on the indicators of dyslexia, as that term is defined by the Board pursuant to regulations, and the evidence-based interventions and accommodations for dyslexia; *and*

9. *Every person seeking initial licensure or renewal of a license with an endorsement as a school counselor shall complete training in the recognition of mental health disorder and behavioral distress, including depression, trauma, violence, youth suicide, and substance abuse.*

E. The Board's regulations shall require that initial licensure for principals and assistant principals be contingent upon passage of an assessment as prescribed by the Board.

F. The Board shall establish criteria in its regulations to effectuate the substitution of experiential learning for coursework for those persons seeking initial licensure through an alternate route as defined in Board regulations.

G. Notwithstanding any provision of law to the contrary, the Board (i) may provide for the issuance of a provisional license, valid for a period not to exceed three years, pursuant to subdivision D 7 or to any person who does not meet the requirements of this section or any other requirement for licensure imposed by law and (ii) shall provide for the issuance of a provisional license, valid for a period not to exceed three years, to any former member of the Armed Forces of the United States or the Virginia National Guard who has received an honorable discharge and has the appropriate level of experience or training but does not meet the requirements for a renewable license.

H. The Board's licensure regulations shall also provide for licensure by reciprocity:

1. With comparable endorsement areas for those individuals holding a valid out-of-state teaching license and national certification from the National Board for Professional Teaching Standards or a nationally recognized certification program approved by the Board of Education. The application for such individuals shall require evidence of such valid licensure and national certification and shall not require official student transcripts;

2. For individuals who have obtained a valid out-of-state license, with full credentials and without deficiencies, that is in force at the time the application for a Virginia license is received by the Department of Education. The individual must establish a file in the Department of Education by submitting a complete application packet, which shall include official student transcripts. An assessment of basic skills as provided in § 22.1-298.2 and service requirements shall not be imposed for these licensed individuals; however, other licensing assessments, as prescribed by the Board of Education, shall be required; and

3. The Board may include other provisions for reciprocity in its regulations.

## CHAPTER 521

*An Act to amend and reenact §§ 23.1-907 and 23.1-908 of the Code of Virginia, relating to public institutions of higher education; transferable credits.*

[S 1234]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 23.1-907 and 23.1-908 of the Code of Virginia are amended and reenacted as follows:**

**§ 23.1-907. Articulation, dual admissions, and guaranteed admissions agreements; admission of certain comprehensive community college graduates.**

A. The board of visitors of each baccalaureate public institution of higher education shall develop, consistent with Council guidelines and the institution's six-year plan as set forth in § 23.1-306, articulation, dual admissions, and guaranteed admissions agreements with each associate-degree-granting public institution of higher education.

B. *The Council and each public institution of higher education shall develop a passport credit program, including any necessary guidelines for such program. In developing the program, the Council and each public institution of higher education shall establish competencies and standards for each passport credit course. Any course that does not meet or exceed the standards developed under the program shall not be deemed a passport credit course. Such passport credit program shall require that it is the responsibility of the course provider to ensure that a passport credit course meets the standards of the program. Each passport credit course shall satisfy a lower division general education requirement at any public institution of higher education.*

C. The Council and each public institution of higher education shall develop a one-year uniform certificate of general studies program as set forth in subdivision 20 of § 23.1-203. All credits earned in academic subject coursework by students

attending an associate-degree-granting public institution of higher education who complete the one-year uniform certificate of general studies program are transferrable to a baccalaureate public institution of higher education in accordance with Council guidelines.

~~C. D.~~ The Council shall prepare an annual report on the pertinent aspects of the pipeline of students transferring from comprehensive community colleges to baccalaureate public institutions of higher education.

~~D. E.~~ The Council, consistent with its responsibility to facilitate the development of articulation, dual admissions, and guaranteed admissions agreements set forth in §§ 23.1-203 and 23.1-908, shall develop guidelines for such agreements.

~~E. F.~~ Each comprehensive community college shall develop agreements for postsecondary degree attainment with the public high schools in the school divisions that such comprehensive community college serves specifying the options for students to complete an associate degree or a one-year Uniform Certificate of General Studies concurrent with a high school diploma. Such agreements shall specify the credit available for dual enrollment courses and Advanced Placement courses with qualifying exam scores of three or higher.

**§ 23.1-908. State Transfer Tool.**

A. The Council shall develop, in cooperation with each public institution of higher education, a State Transfer Tool that designates each general education course that is offered in an associate degree program at an associate-degree-granting public institution of higher education and transferable for course credit to a baccalaureate public institution of higher education.

In developing the State Transfer Tool, the Council shall also seek the participation of private institutions of higher education.

B. The Council shall develop guidelines to govern the development and implementation of articulation, dual admissions, and guaranteed admissions agreements between associate-degree-granting public institutions of higher education and baccalaureate public institutions of higher education. Dual admissions agreements shall set forth (i) the obligations of each student accepted to such a program, including grade point average requirements, acceptable associate degree majors, and completion timetables, and (ii) the extent to which each student accepted to such a program may access the privileges of enrollment at both institutions while he is enrolled at either institution. Such agreements are subject to the admissions requirements of the baccalaureate public institutions of higher education.

C. The Council shall develop and make available to the public information identifying all *passport credit courses and other* general education courses offered at associate-degree-granting public institutions of higher education and designating those that are transferable for course credit at baccalaureate public institutions of higher education and baccalaureate private institutions of higher education.

**2. That the State Council of Higher Education for Virginia and each public institution of higher education shall develop a passport credit program as required by this act by July 1, 2020, and each associate-degree-granting public institution of higher education shall offer such program by the 2020-2021 academic year. The Council shall provide, by July 1, 2018, to the Senate Committee on Education and Health and the House Committee on Education an overview of the passport credit course competencies and standards, strategies for implementation of the passport credit program, an analysis of any potential passport credit courses, and a plan for ongoing data analysis and updates to the program.**

**3. That the State Council of Higher Education for Virginia shall develop (i) a listing of general education courses guaranteed to transfer from each associate-degree granting institution to a baccalaureate institution of higher education for undergraduate general education course credit by July 1, 2018 and (ii) a program-specific course list guaranteed to transfer from each associate-degree granting institution to a baccalaureate public institution of higher education by July 1, 2019.**

**CHAPTER 522**

*An Act to amend and reenact § 22.1-200.03 of the Code of Virginia, relating to public education; economics education and financial literacy; economic value of postsecondary studies.*

[S 1245]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 22.1-200.03 of the Code of Virginia is amended and reenacted as follows:**

**§ 22.1-200.03. Economics education and financial literacy required in middle and high school grades; Board of Education to establish objectives for economic education and financial literacy; banking-at-school programs.**

A. ~~By July 1, 2006, instruction~~ *Instruction* in the principles of the American economic system shall be required in the public middle and high schools of the Commonwealth to promote economics education and financial literacy of students and to further the development of knowledge, skills, and attitudes needed for responsible citizenship in a constitutional democracy.

B. The Board of Education shall develop and approve objectives for economics education and financial literacy at the middle and high school levels, that shall be required of all students, and shall provide for the systematic infusion of economic principles in the relevant Standards of Learning, and in career and technical education programs. The objectives

shall include, ~~but not be limited to~~, personal living and finances; personal and business money management skills; opening an account in a financial institution and judging the quality of a financial institution's services; balancing a checkbook; completing a loan application; the implications of an inheritance; the basics of personal insurance policies; consumer rights and responsibilities; dealing with salesmen and merchants; debt management; managing retail and credit card debt; *evaluating the economic value of postsecondary studies, including the net cost of attendance, potential student loan debt, and potential earnings*; state and federal tax computation; local tax assessments; computation of interest rates by various mechanisms; understanding simple contracts; and learning how to contest an incorrect bill.

C. To facilitate the objectives of economics education and financial literacy through practical experiences, the Department shall confer with the State Corporation Commission's Bureau of Financial Institutions, and financial and relevant professional organizations in the development of guidelines for such literacy objectives. The guidelines shall include, ~~but not be limited to~~, (i) rules and policies governing the establishment, operation, and dissolution of school banks and school credit unions; (ii) written agreements between partnering public schools and financial institutions, including the disposition of funds donated or other financial contributions provided by the partnering financial institution; and (iii) such other matters as the Department may deem appropriate.

D. The Board shall not be required to evaluate student achievement concerning economics education and financial literacy objectives in the Standards of Learning assessments required by § 22.1-253.13:3.

E. For the purposes of this section, "at-risk and disadvantaged students" means students having socioeconomic or cultural risk factors that research indicates may negatively influence academic achievement or may hinder an individual in reaching his life goals.

For the purposes of this section, "financial institution" means a bank, savings and loan association, savings bank, or credit union authorized to conduct business in the Commonwealth.

For the purposes of this section, "high school" includes grades nine through 12.

For the purposes of this section, "middle school" includes grades six through eight.

**2. That the Board of Education shall amend its objectives for economics education and financial literacy at the middle and high school levels to include the provisions required by this act by July 1, 2018.**

## CHAPTER 523

*An Act to amend and reenact § 23.1-307 of the Code of Virginia, relating to public institutions of higher education; public notice of proposed tuition increase.*

[S 1376]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 23.1-307 of the Code of Virginia is amended and reenacted as follows:**

**§ 23.1-307. Public institutions of higher education; tuition and fees.**

A. The governing board of each public institution of higher education shall continue to fix, revise, charge, and collect tuition, fees, rates, rentals, and other charges for the services, goods, or facilities furnished by or on behalf of such institution and may adopt policies regarding any such service rendered or the use, occupancy, or operation of any such facility.

B. Except to the extent included in the institution's six-year plan as provided in subsection C, if the total of an institution's tuition and educational and general fees for any fiscal year for Virginia students exceeds the difference for such fiscal year between (i) the institution's cost of education for all students, as calculated pursuant to clause (i) of subsection B of § 23.1-303 and (ii) the sum of the tuition and educational and general fees for non-Virginia students, the state general funds appropriated for its basic operations and instruction pursuant to subsection A of § 23.1-303, and its per student funding provided pursuant to § 23.1-304, the institution shall forgo new state funding at a level above the general funds received by the institution during the 2011-2012 fiscal year, at the discretion of the General Assembly, and shall be obligated to provide increased financial aid to maintain affordability for students from low-income and middle-income families. This limitation shall not apply to any portion of tuition and educational and general fees for Virginia students allocated to student financial aid, an institution's share of state-mandated salary or fringe benefit increases, increases in funds other than state general funds for the improvement of faculty salary competitiveness above the level included in the calculation in clause (i) of subsection B of § 23.1-303, the institution's progress towards achieving any financial incentive pursuant to § 23.1-305, unavoidable cost increases such as operation and maintenance for new facilities and utility rate increases, or other items directly attributable to an institution's unique mission and contributions.

C. Nothing in subsection B shall prohibit an institution from including in its six-year plan required by § 23.1-306 (i) new programs or initiatives including quality improvements or (ii) institution-specific funding based on particular state policies or institution-specific programs, or both, that will cause the total of the institution's tuition and educational and general fees for any fiscal year for Virginia students to exceed the difference for such fiscal year between (a) the institution's cost of education for all students, as calculated pursuant to clause (i) of subsection B of § 23.1-303, and (b) the sum of the tuition and educational and general fees for the institution's non-Virginia students, the state general funds appropriated for

its basic operations and instruction pursuant to subsection A of § 23.1-303, and its per student funding provided pursuant to § 23.1-304.

*D. No governing board of any public institution of higher education shall approve an increase in undergraduate tuition or mandatory fees without providing students and the public a projected range of the planned increase, an explanation of the need for the increase, and notice of the date and location of any vote on such increase at least 30 days prior to such vote.*

## CHAPTER 524

*An Act to amend and reenact § 52-46 of the Code of Virginia, relating to Applicant Fingerprint Database; Federal Bureau of Investigation records.*

[S 1506]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 52-46 of the Code of Virginia is amended and reenacted as follows:**

**§ 52-46. Applicant Fingerprint Database; maintenance; dissemination; penalty.**

A. The Department of State Police shall keep and maintain an Applicant Fingerprint Database separate and apart from all other records maintained by the Department. The purpose of the database shall be to allow those agencies and entities who require a criminal background check as a condition of licensure, certification, employment, or volunteer service to be advised when an individual subject to such screening is arrested for, or convicted of, a criminal offense which would disqualify that individual from licensure, certification, employment or volunteer service with that entity. *The Department is authorized to submit fingerprints and accompanying records to the Federal Bureau of Investigation (FBI) to be advised through the FBI's Next Generation Identification Rap Back service when an individual subject to a criminal background check is arrested for, or convicted of, a criminal offense not reported to the Department which would disqualify that individual from licensure, certification, employment, or volunteer service with that entity.*

B. As used in this section:

"Participating entity" means an agency or organization that requires a fingerprint background check as a condition of licensure, certification, employment, or volunteer service, and that has elected to participate in the database.

"Individual" means any person who has submitted fingerprints to a participating entity in order to be licensed, certified, employed, or to perform volunteer service with that entity.

C. The Department of State Police shall notify forthwith the participating entity that employs, certifies, licenses, or accepts the volunteer services of an individual whose prints are maintained in the database upon receipt of a report that the individual has been arrested for or convicted of an offense that would disqualify that individual from licensure, certification, employment or volunteer service with that entity. The information contained in the notification shall be used by the entity for purposes of determining the eligibility of the continued service of the individual and shall not be further disseminated.

D. Use of the information contained in the database or received from the database for purposes not authorized by this section is prohibited, and a willful violation of this section with the intent to harass or intimidate another shall be punished as a Class 1 misdemeanor.

E. No liability shall be imposed upon any law-enforcement official who disseminates information or fails to disseminate information in good faith compliance with the requirements of this section, but this provision shall not be construed to grant immunity for gross negligence or willful misconduct.

F. The Department of State Police shall promulgate regulations governing the operation and maintenance of the database and the expungement of records on persons who are deceased, or who are no longer employed, licensed, certified, or in volunteer service for the entity that submitted the fingerprints.

G. The Department of State Police may charge an annual fee not to exceed \$10 per individual entered into the database. The fee shall be paid no later than July 15 of each year by the participating entity or entities submitting fingerprints to the database or by the entity or entities requesting notification regarding an individual. An individual whose licensure, certification, employment, or volunteer service moves from one entity to another need not be reprinted. When more than one participating entity licenses, certifies, employs, or accepts the volunteer services of an individual in the database, both entities shall be responsible for paying the full cost for maintenance and notification. Any fees collected shall be deposited in a special account to be used to offset the costs of enhancing and administering the database.

H. The Department of State Police shall make the database available no later than January 1, 2005, unless funds necessary to develop and operate the database are unavailable.

I. No entity authorized to submit fingerprints shall be considered negligent per se in a civil action solely because the entity elected not to submit an individual's fingerprints to the database pursuant to this section.

CHAPTER 525

*An Act to amend and reenact § 46.2-1166 of the Code of Virginia, relating to safety inspection stations; appointments.*

[S 1507]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 46.2-1166 of the Code of Virginia is amended and reenacted as follows:**

**§ 46.2-1166. Minimum standards required for inspection stations; appointments.**

A. The Superintendent shall not designate any person, firm, or corporation as an official inspection station unless and until such person, firm or corporation satisfies the Superintendent, under such regulations as the Superintendent shall prescribe, that such person, firm, or corporation has met and will continue to meet the following standards:

1. The station has sufficient mechanical equipment and skilled and competent mechanics to make a complete inspection in accordance with the provisions of this article;

2. Adequate means are provided by the station to test the brakes, headlights, and steering mechanism of motor vehicles and to ascertain that motor vehicles inspected by the station meet the safety standards prescribed by the Superintendent under the terms of this title;

3. The person making the actual inspection or under whose immediate supervision such inspection is made shall have at least one year's practical experience as an automotive mechanic, or has satisfactorily completed a training program in automotive mechanics approved by the Superintendent of State Police;

4. No person shall be designated by such station to make such inspections unless the person has been approved for that purpose by the Department of State Police;

5. The Superintendent of State Police may, at his discretion, waive the experience and training requirements of this section for inspections of motorcycles and trailers when, in the Superintendent's opinion, the person performing such inspections is otherwise qualified to perform such inspections; and

6. The station has garage liability insurance in the amount of at least \$500,000 with an approved surplus lines carrier or insurance company licensed to write such insurance in this Commonwealth, provided this requirement shall not apply to inspection stations that inspect only their company-owned or leased or government-owned or leased vehicles.

*B. In addition to accepting vehicles on a first-come, first-served basis, any official inspection station consisting of two or more inspection lanes may accept prescheduled appointments for the safety inspection of a motor vehicle pursuant to § 46.2-1157, so long as at least one lane is reserved for the sole purpose of first-come, first-served safety inspections.*

CHAPTER 526

*An Act to seek an exemption from the federal reformulated gasoline program for gasoline sold for farm use.*

[H 1520]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. § 1. That the Department of Environmental Quality be directed to seek from the U.S. Environmental Protection Agency an exemption from the federal reformulated gasoline program for the on-farm sale and delivery of conventional, ethanol-free gasoline for use in farm motor vehicles used exclusively for farm use as defined in § 46.2-698 of the Code of Virginia. No ethanol-free gasoline sold pursuant to such exemption shall be sold or delivered to a non-farm customer or used in any road vehicle.**

CHAPTER 527

*An Act to amend and reenact § 2.2-603 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 12 of Title 2.2 a section numbered 2.2-1209, relating to agency directors; human resources training and succession planning.*

[H 1555]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 2.2-603 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Chapter 12 of Title 2.2 a section numbered 2.2-1209 as follows:**

**§ 2.2-603. Authority of agency directors.**

A. Notwithstanding any provision of law to the contrary, the agency director of each agency in the executive branch of state government shall have the power and duty to (i) supervise and manage the department or agency and (ii) prepare, approve, and submit to the Governor all requests for appropriations and to be responsible for all expenditures pursuant to appropriations.

B. The director of each agency in the executive branch of state government, except those that by law are appointed by their respective boards, shall not proscribe any agency employee from discussing the functions and policies of the agency, without prior approval from his supervisor or superior, with any person unless the information to be discussed is protected from disclosure by the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) or any other provision of state or federal law.

C. Subsection A shall not be construed to restrict any other specific or general powers and duties of executive branch boards granted by law.

D. This section shall not apply to those agency directors that are appointed by their respective boards or by the Board of Education. Directors appointed in this manner shall have the powers and duties assigned by law or by the board.

E. In addition to the requirements of subsection C of § 2.2-619, the director of each agency in any branch of state government shall, at the end of each fiscal year, report to (i) the Secretary of Finance and the Chairmen of the House Committee on Appropriations and the Senate Committee on Finance a listing and general description of any federal contract, grant, or money in excess of ~~\$1,000,000~~ \$1 million for which the agency was eligible, whether or not the agency applied for, accepted, and received such contract, grant, or money, and, if not, the reasons therefore and the dollar amount and corresponding percentage of the agency's total annual budget that was supplied by funds from the federal government and (ii) the Chairmen of the House Committees on Appropriations and Finance, and the Senate Committee on Finance any amounts owed to the agency from any source that are more than six months delinquent, the length of such delinquencies, and the total of all such delinquent amounts in each six-month interval. Clause (i) shall not be required of public institutions of higher education.

F. Notwithstanding subsection D, the director of every agency and department in the executive branch of state government, including those appointed by their respective boards or the Board of Education, shall be responsible for securing the electronic data held by his agency or department and shall comply with the requirements of the Commonwealth's information technology security and risk-management program as set forth in § 2.2-2009.

G. The director of every department in the executive branch of state government shall report to the Chief Information Officer as described in § 2.2-2005, all known incidents that threaten the security of the Commonwealth's databases and data communications resulting in exposure of data protected by federal or state laws, or other incidents compromising the security of the Commonwealth's information technology systems with the potential to cause major disruption to normal agency activities. Such reports shall be made to the Chief Information Officer within 24 hours from when the department discovered or should have discovered their occurrence.

*H. The director of every department in the executive branch of state government shall have the power and duty to comply with the provisions of § 2.2-1209.*

**§ 2.2-1209. Agency director human resource training and agency succession planning.**

*A. The Department shall develop and administer training programs to familiarize the director of each agency in the executive branch of state government with state human resources policies, including general policies, compensation management, benefits administration, employee training, succession planning, and resources available at the Department. The Department shall offer such training programs at least twice per year.*

*B. The director of each agency in the executive branch of state government and the agency's chief human resource officer shall attend a training program offered pursuant to subsection A within six months after the appointment of the director. The agency's chief human resource officer shall provide subsequent training to the director on any distinct companion human resource policies of the agency that are germane to agency programs and operations. Thereafter, the director shall attend a training program offered pursuant to subsection A at least once every four years. The president of a public institution of higher education may send a designee.*

*C. The director of each agency in the executive branch of state government, other than an institution of higher education, shall include in the agency's annual strategic plan its key workforce planning issues. In addition, the director shall submit a succession plan for key personnel, executive positions, and employees nearing retirement to the Cabinet Secretary associated with the director's agency and the Department. The Department shall establish guidelines for the content of such workforce and succession plans. Each public institution of higher education shall prepare a succession plan for presentation to the board of visitors with a copy to the Department.*

**CHAPTER 528**

*An Act to amend and reenact § 46.2-2062 of the Code of Virginia and to repeal § 46.2-2059.1 of the Code of Virginia, relating to regulation of taxicabs.*

[H 1761]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 46.2-2062 of the Code of Virginia is amended and reenacted as follows:**

**§ 46.2-2062. Regulation of taxicab service by localities; rates and charges.**

A. The governing body of any county, city or town in the Commonwealth may by ordinance regulate the rates or charges of any motor vehicles used for the transportation of passengers for a consideration on any highway, street, road, lane or alley in such county, city or town, and may prescribe such reasonable regulations as to filing of schedules of rates,

charges and the general operation of such vehicles; provided that, notwithstanding anything contained in this chapter to the contrary, such ordinances and regulations shall not prescribe the wages or compensation to be paid to any driver or lessor of any such motor vehicle by the owner or lessee thereof.

B. In considering rates or charges pursuant to this section, or financial responsibility as provided by this chapter, the governing body may require the owner or operator to submit such supporting financial data as may be necessary, including federal or state income tax returns for the two years preceding, provided that the governing body shall not require any owner or operator to submit any audit more extensive than that conducted by such owner or operator in the normal course of business. Such financial data shall be used only for consideration of rates or charges, or to determine financial responsibility, and shall be kept confidential by the governing body to which it has been submitted. Nothing in this subsection shall make confidential any certificate of insurance, bond, letter of credit, or other certification that the owner or operator has met the requirements of this chapter or of any local ordinance with regard to financial responsibility.

C. *Notwithstanding the provisions of § 3.2-5620, in the absence of any specifications, tolerances, and regulations for software-based taximeter technology published in the National Institute of Standards and Technology Handbook 44, any county, city, or town that has adopted an ordinance regulating taxicabs as provided in subsection A may authorize the use of software-based devices that utilize GPS or other measurement data in the calculation of time-and-distance fares for taxicab service.*

**2. That § 46.2-2059.1 of the Code of Virginia is repealed.**

**3. That an emergency exists and this act is in force from its passage.**

#### CHAPTER 529

*An Act to amend and reenact § 28.2-618 of the Code of Virginia, relating to oyster grounds; dredging projects.*

[H 1796]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 28.2-618 of the Code of Virginia is amended and reenacted as follows:**

**§ 28.2-618. Commonwealth guarantees rights of renter subject to right of fishing.**

The Commonwealth shall guarantee to any person who has complied with ground assignment requirements the absolute right to continue to use and occupy the ground for the term of the lease, subject to:

1. Section 28.2-613;

2. Riparian rights;

3. The right of fishing in waters above the bottoms, provided (i) that no person exercising the right of fishing shall use any device which is fixed to the bottom, or which, in any way, interferes with the renter's rights or damages the bottoms, or the oysters planted thereon, and (ii) that crab pots and gill nets which are not staked to the bottom shall not be considered devices which are fixed to the bottom unless the crab pots and gill nets are used over planted oyster beds in waters of less than four feet at mean low water on the seaside of Northampton and Accomack Counties; ~~and~~

4. Established fishing stands, but only if the fishing stand license fee is timely received from the existing licensee of the fishing stand and no new applicant shall have priority over the oyster lease. However, a fishing stand location assigned prior to the lease of the oyster ground is a vested interest, a chattel real, and an inheritable right which may be transferred or assigned whenever the current licensee complies with all existing laws; *and*

5. *Municipal dredging projects located in the Lynnhaven River or its creeks and tributaries, including dredging projects to restore existing navigation channels in areas approved by the Commission. Such projects shall be limited to grounds that are condemned, restricted, or otherwise nonproductive. The locality shall compensate the lessee for the use of the ground, and if the parties cannot agree on a compensation amount, a court of competent jurisdiction shall determine the value of the ground as of the date it is first disturbed.*

**2. That the provisions of this act shall expire on July 1, 2019.**

#### CHAPTER 530

*An Act to amend and reenact §§ 15.2-916, 15.2-1209, 18.2-285, 18.2-286, 29.1-303.3, 29.1-306, 29.1-519, 29.1-521, as it is currently effective and as it shall become effective, 29.1-521.2, 29.1-524, 29.1-525, 29.1-528.1, and 29.1-549 of the Code of Virginia, relating to slingbow hunting; license.*

[H 1938]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 15.2-916, 15.2-1209, 18.2-285, 18.2-286, 29.1-303.3, 29.1-306, 29.1-519, 29.1-521, as it is currently effective and as it shall become effective, 29.1-521.2, 29.1-524, 29.1-525, 29.1-528.1, and 29.1-549 of the Code of Virginia are amended and reenacted as follows:**

**§ 15.2-916. Prohibiting shooting of compound bows, slingbows, crossbows, longbows, and recurve bows.**

Any locality may prohibit the shooting of an arrow from a bow in a manner that can be reasonably expected to result in the impact of the arrow upon the property of another without permission from the owner or tenant of such property. For the purposes of this section, "bow" includes all compound bows, crossbows, *slingbows*, longbows, and recurve bows having a peak draw weight of ~~ten~~ 10 pounds or more. The term "bow" does not include bows ~~which~~ *that* have a peak draw *weight* of less than ~~ten~~ 10 pounds or ~~which~~ *that* are designed or intended to be used principally as toys. The term "arrow" means a shaft-like projectile intended to be shot from a bow.

**§ 15.2-1209. Prohibiting outdoor shooting of firearms or arrows from bows in certain areas.**

Any county may prohibit the outdoor shooting of firearms or arrows from bows in any areas of the county which are in the opinion of the governing body so heavily populated as to make such conduct dangerous to the inhabitants thereof.

For purposes of this section, "bow" includes all compound bows, crossbows, *slingbows*, longbows, and recurve bows having a peak draw weight of 10 pounds or more. The term "bow" does not include bows that have a peak draw *weight* of less than 10 pounds or that are designed or intended to be used principally as toys. The term "arrow" means a shaft-like projectile intended to be shot from a bow.

Any county that prohibits the outdoor shooting of firearms or arrows from bows shall provide an exemption for the killing of deer pursuant to § 29.1-529. Such exemption for the shooting of firearms shall apply on land of at least five acres that is zoned for agricultural use. Such exemption for the shooting of arrows from bows shall apply on land of at least two acres that is zoned for agricultural use.

**§ 18.2-285. Hunting with firearms while under influence of intoxicant or narcotic drug; penalty.**

It shall be unlawful for any person to hunt wildlife with a firearm, bow and arrow, *slingbow*, or crossbow in the Commonwealth of Virginia while he is (i) under the influence of alcohol; (ii) under the influence of any narcotic drug or any other self-administered intoxicant or drug of whatsoever nature, or any combination of such drugs, to a degree that impairs his ability to hunt with a firearm, bow and arrow, *slingbow*, or crossbow safely; or (iii) under the combined influence of alcohol and any drug or drugs to a degree that impairs his ability to hunt with a firearm, bow and arrow, *slingbow*, or crossbow safely. Any person who violates the provisions of this section is guilty of a Class 1 misdemeanor. Conservation police officers, sheriffs, and all other law-enforcement officers shall enforce the provisions of this section.

**§ 18.2-286. Shooting in or across road or in street.**

If any person discharges a firearm, crossbow, *slingbow*, or bow and arrow in or across any road, or within the right-of-way thereof, or in a street of any city or town, he shall, for each offense, be guilty of a Class 4 misdemeanor.

The provisions of this section shall not apply to firing ranges or shooting matches maintained, and supervised or approved, by law-enforcement officers and military personnel in performance of their lawful duties.

**§ 29.1-303.3. Youth resident and nonresident combination hunting license established; fee.**

There is hereby established a state youth resident combination hunting license, which may be obtained by any resident under the age of 16 to hunt in all counties and cities of the Commonwealth, and to hunt (i) bear, deer, and turkey; (ii) with a bow and arrow *or slingbow* during the special archery seasons; ~~and~~ (iii) with a crossbow during special archery seasons; and (iv) with a muzzleloader during the special muzzleloading seasons. The fee for this license shall be \$15. The license shall serve in lieu of the state junior resident hunting license; the special license for hunting bear, deer, and turkey; the special archery license; the special crossbow license; and the special muzzleloading license. For a nonresident youth under the age of 16, the fee for such a license shall be \$30. The Board may subsequently revise the cost of licenses set forth in this section pursuant to § 29.1-103.

**§ 29.1-306. Special archery license, slingbow license, and crossbow license.**

There shall be a license for hunting with a bow and arrow, *slingbow*, or crossbow, during the special archery seasons, which shall be in addition to the licenses required to hunt small and big game. The fee for the special license shall be \$17 for a resident and \$30 for a nonresident. The Board may subsequently revise the cost of licenses set forth in this section pursuant to § 29.1-103.

**§ 29.1-519. Guns, pistols, revolvers, etc., which may be used; penalty.**

A. All wild birds and wild animals may be hunted with the following weapons unless shooting is expressly prohibited:

1. A shotgun or muzzleloading shotgun not larger than 10 gauge;
2. An automatic-loading or hand-operated repeating shotgun capable of holding not more than three shells the magazine of which has been cut off or plugged with a one-piece filler incapable of removal through the loading end, so as to reduce the capacity of the gun to not more than three shells at one time in the magazine and chamber combined, unless otherwise allowed by Board regulations;
3. A rifle, a muzzleloading rifle, or an air rifle;
4. A bow and arrow;
5. [Expired.]
6. A crossbow, which is a type of bow and arrow, in accordance with the provisions of § 29.1-306; ~~and~~
7. A slingshot, except when hunting deer, bear, elk, or turkey; *and*
8. A *slingbow*, which is a type of bow and arrow, in accordance with the provisions of § 29.1-306 except when hunting bear or elk.

B. A pistol, muzzleloading pistol, or revolver may be used to hunt nuisance species of birds and animals.

C. In the counties west of the Blue Ridge Mountains, and counties east of the Blue Ridge where rifles of a caliber larger than .22 caliber may be used for hunting wild birds and animals, game birds and animals may be hunted with pistols

or revolvers firing cartridges rated in manufacturers' tables at 350 foot pounds of energy or greater and under the same restrictions and conditions as apply to rifles, provided that no cartridge shall be used with a bullet of less than .23 caliber. In no event shall pistols or revolvers firing cartridges rated in manufacturers' tables at 350 foot pounds of energy or greater be used if rifles of a caliber larger than .22 caliber are not authorized for hunting purposes.

D. The use of muzzleloading pistols and .22 caliber rimfire handguns is permitted for hunting small game where .22 caliber rifles are permitted.

E. The use of muzzleloading pistols of .45 caliber or larger is permitted for hunting big game where and in those seasons when the use of muzzleloading rifles is permitted. The Board may adopt regulations that specify the types of muzzleloading pistols and the projectiles and propellants that shall be permitted.

F. The hunting of wild birds and wild animals with fully automatic firearms, defined as a machine gun in § 18.2-288, is prohibited.

G. The hunting of wild birds or wild animals with (i) weapons other than those authorized by this section or (ii) weapons that have been prohibited by this section is punishable as a Class 3 misdemeanor.

**§ 29.1-521. (Effective until July 1, 2017) Unlawful to hunt, trap, possess, sell, or transport wild birds and wild animals except as permitted; exception; penalty.**

A. The following shall be unlawful:

1. To hunt or kill any wild bird or wild animal, including any nuisance species, with a gun, firearm, or other weapon, or to hunt or kill any deer or bear with a gun, firearm, or other weapon with the aid or assistance of dogs, on Sunday. The provision of this subdivision that prohibits the hunting or killing of any wild bird or wild animal, including nuisance species, on Sunday shall not apply to (i) any person who hunts or kills raccoons, which may be hunted until 2:00 a.m. on Sunday mornings; (ii) any person who hunts or kills birds in the family Rallidae or waterfowl, subject to geographical limitations established by the Director and except within 200 yards of a place of worship or any accessory structure thereof; or (iii) any landowner or member of his family or any person with written permission from the landowner who hunts or kills any wild bird or wild animal, including any nuisance species, on the landowner's property, except within 200 yards of a place of worship or any accessory structure thereof. However, a person lawfully carrying a gun, firearm, or other weapon on Sunday in an area that could be used for hunting shall not be presumed to be hunting on Sunday, absent evidence to the contrary.

2. To destroy or molest the nest, eggs, dens, or young of any wild bird or wild animal, except nuisance species, at any time without a permit as required by law.

3. To hunt or attempt to kill or trap any species of wild bird or wild animal after having obtained the daily bag or season limit during such day or season. However, any properly licensed person, or a person exempt from having to obtain a license, who has obtained such daily bag or season limit while hunting may assist others who are hunting game by calling game, retrieving game, handling dogs, or conducting drives if the weapon in his possession is an unloaded firearm, a bow without a nocked arrow, *an unloaded slingbow*, or an unloaded crossbow. Any properly licensed person, or person exempt from having to obtain a license, who has obtained such season limit prior to commencement of the hunt may assist others who are hunting game by calling game, retrieving game, handling dogs, or conducting drives, provided he does not have a firearm, bow, *slingbow*, or crossbow in his possession.

4. To knowingly occupy any baited blind or other baited place for the purpose of taking or attempting to take any wild bird or wild animal or to put out bait or salt for any wild bird or wild animal for the purpose of taking or killing it. There shall be a rebuttable presumption that a person charged with violating this subdivision knows that he is occupying a baited blind or other baited place for the purpose of taking or attempting to take any wild bird or wild animal. However, this shall not apply to baiting nuisance species of animals and birds, or to baiting traps for the purpose of taking fur-bearing animals that may be lawfully trapped.

5. To kill or capture any wild bird or wild animal adjacent to any area while a field or forest fire is in progress.

6. To shoot or attempt to take any wild bird or wild animal from an automobile or other vehicle, except as provided in § 29.1-521.3.

7. To set a trap of any kind on the lands or waters of another without attaching to the trap: (i) the name and address of the trapper; or (ii) an identification number issued by the Department.

8. To set a trap where it would be likely to injure persons, dogs, stock, or fowl.

9. To fail to visit all traps once each day and remove all animals caught, and immediately report to the landowner as to stock, dogs, or fowl that are caught and the date. However, the Director or his designee may authorize employees of federal, state, and local government agencies, and persons holding a valid Commercial Nuisance Animal Permit issued by the Department, to visit body-gripping traps that are completely submerged at least once every 72 hours, and the Board may adopt regulations permitting trappers to visit traps less frequently under specified conditions. The Board shall adopt regulations permitting trappers to use remote trap-checking technology to check traps under specified conditions.

10. To hunt, trap, take, capture, kill, attempt to take, capture, or kill, possess, deliver for transportation, transport, cause to be transported, by any means whatever, receive for transportation or export, or import, at any time or in any manner, any wild bird or wild animal or the carcass or any part thereof, except as specifically permitted by law and only by the manner or means and within the numbers stated. However, the provisions of this section shall not be construed to prohibit (i) the use or transportation of legally taken turkey carcasses, or portions thereof, for the purposes of making or selling turkey callers or using turkey feathers or toes for making tools or utensils or selling such tools or utensils; (ii) the manufacture or sale of implements, including tools or utensils made from legally harvested deer skeletal parts, including antlers; (iii) the

possession of shed antlers; or (iv) the possession, manufacture, or sale of other parts or implements authorized by regulations adopted by the Board.

11. To offer for sale, sell, offer to purchase, or purchase, at any time or in any manner, any wild bird or wild animal or the carcass or any part thereof, except as specifically permitted by law, including subsection D of § 29.1-553. However, any nonprofit organization exempt from taxation under § 501(c)(3) of the Internal Revenue Code that is (i) organized to provide wild game as food to the hungry and (ii) authorized by the Department to possess, transport, and distribute donated or unclaimed meat to the hungry may pay a processing fee in order to obtain such meat. Such fee shall not exceed the actual cost for processing the meat. In addition, any nonprofit organization exempt from taxation under § 501(c)(3) of the Internal Revenue Code that is (a) organized to support wildlife habitat conservation and (b) approved by the Department shall be allowed to offer wildlife mounts that have undergone the taxidermy process for sale in conjunction with fundraising activities. A violation of this subdivision shall be punishable as provided in § 29.1-553.

B. Notwithstanding any other provision of this article, any American Indian who produces verification that he is an enrolled member of a tribe recognized by the Commonwealth, another state, or the U.S. government, may possess, offer for sale, or sell to another American Indian, or offer to purchase or purchase from another American Indian, parts of legally obtained fur-bearing animals, nonmigratory game birds, and game animals, except bear. Such legally obtained parts shall include antlers, hooves, feathers, claws, and bones.

"Verification" as used in this subsection shall include (i) display of a valid tribal identification card, (ii) confirmation through a central tribal registry, (iii) a letter from a tribal chief or council, or (iv) certification from a tribal office that the person is an enrolled member of the tribe.

C. Notwithstanding any other provision of this chapter, the Department may authorize the use of snake exclusion devices by public utilities at their transmission or distribution facilities and the incidental taking of snakes resulting from the use of such devices.

D. A violation of subdivisions A 1 through 10 shall be punishable as a Class 3 misdemeanor.

**§ 29.1-521. (Effective July 1, 2017) Unlawful to hunt, trap, possess, sell, or transport wild birds and wild animals except as permitted; exception; penalty.**

A. The following shall be unlawful:

1. To hunt or kill any wild bird or wild animal, including any nuisance species, with a gun, firearm, or other weapon, or to hunt or kill any deer or bear with a gun, firearm, or other weapon with the aid or assistance of dogs, on Sunday. The provision of this subdivision that prohibits the hunting or killing of any wild bird or wild animal, including nuisance species, on Sunday shall not apply to (i) any person who hunts or kills raccoons, which may be hunted until 2:00 a.m. on Sunday mornings; (ii) any person who hunts or kills birds in the family Rallidae or waterfowl, subject to geographical limitations established by the Director and except within 200 yards of a place of worship or any accessory structure thereof; or (iii) any landowner or member of his family or any person with written permission from the landowner who hunts or kills any wild bird or wild animal, including any nuisance species, on the landowner's property, except within 200 yards of a place of worship or any accessory structure thereof. However, a person lawfully carrying a gun, firearm, or other weapon on Sunday in an area that could be used for hunting shall not be presumed to be hunting on Sunday, absent evidence to the contrary.

2. To destroy or molest the nest, eggs, dens, or young of any wild bird or wild animal, except nuisance species, at any time without a permit as required by law.

3. To hunt or attempt to kill or trap any species of wild bird or wild animal after having obtained the daily bag or season limit during such day or season. However, any properly licensed person, or a person exempt from having to obtain a license, who has obtained such daily bag or season limit while hunting may assist others who are hunting game by calling game, retrieving game, handling dogs, or conducting drives if the weapon in his possession is an unloaded firearm, a bow without a nocked arrow, an *unloaded slingbow*, or an unloaded crossbow. Any properly licensed person, or person exempt from having to obtain a license, who has obtained such season limit prior to commencement of the hunt may assist others who are hunting game by calling game, retrieving game, handling dogs, or conducting drives, provided he does not have a firearm, bow, *slingbow*, or crossbow in his possession.

4. To knowingly occupy any baited blind or other baited place for the purpose of taking or attempting to take any wild bird or wild animal or to put out bait or salt for any wild bird or wild animal for the purpose of taking or killing it. There shall be a rebuttable presumption that a person charged with violating this subdivision knows that he is occupying a baited blind or other baited place for the purpose of taking or attempting to take any wild bird or wild animal. However, this shall not apply to baiting nuisance species of animals and birds, or to baiting traps for the purpose of taking fur-bearing animals that may be lawfully trapped.

5. To kill or capture any wild bird or wild animal adjacent to any area while a field or forest fire is in progress.

6. To shoot or attempt to take any wild bird or wild animal from an automobile or other vehicle, except as provided in § 29.1-521.3.

7. To set a trap of any kind on the lands or waters of another without attaching to the trap: (i) the name and address of the trapper; or (ii) an identification number issued by the Department.

8. To set a trap where it would be likely to injure persons, dogs, stock, or fowl.

9. To fail to visit all traps once each day and remove all animals caught, and immediately report to the landowner as to stock, dogs, or fowl that are caught and the date. However, the Director or his designee may authorize employees of federal, state, and local government agencies, and persons holding a valid Commercial Nuisance Animal Permit issued by the

Department, to visit body-gripping traps that are completely submerged at least once every 72 hours, and the Board may adopt regulations permitting trappers to visit traps less frequently under specified conditions. The Board shall adopt regulations permitting trappers to use remote trap-checking technology to check traps under specified conditions.

10. To hunt, trap, take, capture, kill, attempt to take, capture, or kill, possess, deliver for transportation, transport, cause to be transported, by any means whatever, receive for transportation or export, or import, at any time or in any manner, any wild bird or wild animal or the carcass or any part thereof, except as specifically permitted by law and only by the manner or means and within the numbers stated. However, the provisions of this section shall not be construed to prohibit the (i) use or transportation of legally taken turkey carcasses, or portions thereof, for the purposes of making or selling turkey callers; (ii) the manufacture or sale of implements, including tools or utensils made from legally harvested deer skeletal parts, including antlers; (iii) the possession of shed antlers; or (iv) the possession, manufacture, or sale of other parts or implements authorized by regulations adopted by the Board.

11. To offer for sale, sell, offer to purchase, or purchase, at any time or in any manner, any wild bird or wild animal or the carcass or any part thereof, except as specifically permitted by law, including subsection D of § 29.1-553. However, any nonprofit organization exempt from taxation under § 501(c)(3) of the Internal Revenue Code that is (i) organized to provide wild game as food to the hungry and (ii) authorized by the Department to possess, transport, and distribute donated or unclaimed meat to the hungry may pay a processing fee in order to obtain such meat. Such fee shall not exceed the actual cost for processing the meat. In addition, any nonprofit organization exempt from taxation under § 501(c)(3) of the Internal Revenue Code that is (a) organized to support wildlife habitat conservation and (b) approved by the Department shall be allowed to offer wildlife mounts that have undergone the taxidermy process for sale in conjunction with fundraising activities. A violation of this subdivision shall be punishable as provided in § 29.1-553.

B. Notwithstanding any other provision of this article, any American Indian who produces verification that he is an enrolled member of a tribe recognized by the Commonwealth, another state, or the U.S. government, may possess, offer for sale, or sell to another American Indian, or offer to purchase or purchase from another American Indian, parts of legally obtained fur-bearing animals, nonmigratory game birds, and game animals, except bear. Such legally obtained parts shall include antlers, hooves, feathers, claws, and bones.

"Verification" as used in this section shall include (i) display of a valid tribal identification card, (ii) confirmation through a central tribal registry, (iii) a letter from a tribal chief or council, or (iv) certification from a tribal office that the person is an enrolled member of the tribe.

C. Notwithstanding any other provision of this chapter, the Department may authorize the use of snake exclusion devices by public utilities at their transmission or distribution facilities and the incidental taking of snakes resulting from the use of such devices.

D. A violation of subdivisions A 1 through 10 shall be punishable as a Class 3 misdemeanor.

**§ 29.1-521.2. Violation of § 18.2-286 while hunting; revocation of license and privileges.**

A. Any firearm, crossbow, *slingbow*, or bow and arrow used by any person to hunt any game bird or game animal in a manner which violates § 18.2-286 may, upon conviction of such person violating § 18.2-286, be forfeited to the Commonwealth by order of the court trying the case. The forfeiture shall be enforced as provided in Chapter 22.1 (§ 19.2-386.1 et seq.) of Title 19.2. The officer or other person seizing the property shall immediately give notice to the attorney for the Commonwealth.

B. The court may revoke the current hunting license and privileges of a person hunting any game bird or game animal in a manner that constitutes a violation of § 18.2-286. The court may prohibit that person from hunting for a period of one to five years. If found hunting during this prohibited period, the person shall be guilty of a Class 2 misdemeanor. Notification of such revocation or prohibition shall be forwarded to the Department pursuant to subsection C of § 18.2-56.1.

**§ 29.1-524. Forfeiture of vehicles and weapons used for killing or attempt to kill.**

Every vehicle, firearm, crossbow, *slingbow*, bow and arrow, or speargun used with the knowledge or consent of the owner or lienholder thereof, in killing or attempting to kill deer between a half hour after sunset and a half hour before sunrise in violation of § 29.1-523, and every vehicle used in the transportation of the carcass, or any part thereof, of a deer so killed shall be forfeited to the Commonwealth. Upon being condemned as forfeited in proceedings under Chapter 22.1 (§ 19.2-386.1 et seq.) of Title 19.2, the proceeds of sale shall be disposed of according to law.

**§ 29.1-525. Employment of lights under certain circumstances upon places used by deer.**

A. Any person in any vehicle and then in possession of any firearm, crossbow, *slingbow*, bow and arrow, or speargun who employs a light attached to the vehicle or a spotlight or flashlight to cast a light beyond the water or surface of the roadway upon any place used by deer shall be guilty of a Class 2 misdemeanor. Every person in or on any such vehicle shall be deemed prima facie a principal in the second degree and subject to the same punishment as a principal in the first degree. This subsection shall not apply to a landowner in possession of a weapon when he is on his own land and is making a bona fide effort to protect his property from damage by deer and not for the purpose of killing deer unless the landowner is in possession of a permit to do so pursuant to the provisions of § 29.1-529.

B. Any person in any motor vehicle who deliberately employs a light attached to such vehicle or a spotlight or flashlight to cast a light beyond the surface of the roadway upon any place used by deer, except upon his own land or upon land on which he has an easement or permission for such purpose, shall be guilty of a Class 4 misdemeanor. Every person in or on any such vehicle shall be deemed prima facie a principal in the second degree and subject to the same punishment as a principal in the first degree.

C. The provisions of subsections A and B shall not apply to activities conducted by a locality pursuant to a permit or written authorization issued by the Department.

D. In addition to the penalties prescribed in subsection A, the court shall revoke the current hunting license and privileges of the person convicted of a violation of subsection A and prohibit the person from hunting for a period of one to five years. In addition to the penalties prescribed in subsection B, the court may revoke the current hunting license and privileges of the person convicted of a violation of subsection B and prohibit that person from hunting for one to five years. If a person convicted of a violation of subsection A or B is found hunting during the prohibited period, the person shall be guilty of a Class 2 misdemeanor. Notification of such revocation or prohibition shall be forwarded to the Department pursuant to subsections C and D of § 18.2-56.1.

**§ 29.1-528.1. Board to develop model ordinances for hunting with bow and arrow; counties or cities may adopt.**

A. The Board shall adopt regulations establishing model ordinances for hunting deer with bow and arrow, *slingbows*, and crossbows in those counties and cities where there is an overabundance of the deer population, which is creating conflicts between humans and deer, including safety hazards to motorists. The model ordinances shall include (i) the times at which such hunting shall commence and end each day and (ii) the number of deer that can be taken based on analysis performed by the Department.

B. No such ordinance shall be enforceable unless the governing body notifies the Director by registered mail prior to May 1 of the year in which the ordinance is to take effect. Any change jurisdictions may seek in the model ordinance shall be approved by the Board prior to its adoption.

C. In adopting an ordinance pursuant to the provisions of this section, the governing body of any locality may provide that any person who violates the provisions of the ordinance shall be guilty of a Class 3 misdemeanor.

**§ 29.1-549. Hunting deer from watercraft.**

A. Any person who kills or attempts to kill any deer while the person is in a boat or other type watercraft shall be guilty of a Class 4 misdemeanor.

B. Every boat or other watercraft and their motors, and any firearm, *slingbow*, crossbow, bow and arrow, or speargun, used with the knowledge or consent of the owner or lienholder thereof; in killing or attempting to kill deer in violation of this section; shall be forfeited to the Commonwealth, and upon being condemned as forfeited in proceedings under Chapter 22.1 (§ 19.2-386.1 et seq.) of Title 19.2 the proceeds of sale shall be disposed of according to law.

## CHAPTER 531

*An Act to impose a 48-month moratorium on the repayment of funds allocated for a bonded project pursuant to the Economic Development Access Program.*

[H 1973]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. § 1. Notwithstanding a resolution adopted by a locality or surety bond issued by a locality guaranteeing repayment within five years of an allocation by the Commonwealth Transportation Board, no locality that has been allocated funds for a bonded project by the Commonwealth Transportation Board pursuant to § 33.2-1509 of the Code of Virginia shall repay such funds within a 48-month period beginning on the effective date of this act, provided that all of the other conditions of the Commonwealth Transportation Board's economic development access policy are met.**

**2. That an emergency exists and this act is in force from its passage.**

## CHAPTER 532

*An Act to amend the Code of Virginia by adding a section numbered 33.2-272.1, relating to interstate pipeline construction; Department of Transportation oversight.*

[H 1993]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding a section numbered 33.2-272.1 as follows:**

**§ 33.2-272.1. Interstate pipelines; Department of Transportation oversight.**

*The Department may enter into agreements with any entity constructing interstate pipelines setting forth a reasonable procedure to identify and remedy damage caused by construction of such pipeline to public highways of the Commonwealth.*

## CHAPTER 533

*An Act to amend the Code of Virginia by adding in Chapter 6 of Title 33.2 a section numbered 33.2-616, relating to the DRIVE SMART Virginia Education Fund.*

[H 2015]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:****1. That the Code of Virginia is amended by adding in Chapter 6 of Title 33.2 a section numbered 33.2-616 as follows:****§ 33.2-616. Electronic toll collection device; DRIVE SMART Virginia Education Fund contribution.**

A. *The Department shall establish a method by which holders of an account for an electronic toll collection device that is the property of the Commonwealth may opt to make a voluntary contribution to the DRIVE SMART Virginia Education Fund through electronic means.*

B. *There is hereby created in the state treasury a special nonreverting fund to be known as the DRIVE SMART Virginia Education Fund, referred to in this section as "the Fund." DRIVE SMART Virginia is a nonprofit organization exempt from taxation under § 501(c)(3) of the Internal Revenue Code. The Fund shall be established on the books of the Comptroller. All funds collected pursuant to subsection A shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund, less costs of administration incurred and withheld by the Department, shall be used solely for the purposes of supporting educational projects in the Commonwealth through DRIVE SMART Virginia's existing network of education, corporate, and community partners in an effort to improve behavior, raise awareness, and educate members of the general public in workplaces, schools, municipalities, and other locations on issues related to safe driving. Such issues shall include work zone safety, sharing the road with bicyclists and pedestrians, teen driver safety, occupant protection, designated driving, distracted road users, and other issues as needed. DRIVE SMART Virginia shall submit an annual report to the Secretary regarding its use of disbursements from the Fund. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Secretary.*

## CHAPTER 534

*An Act to amend and reenact § 33.2-319 of the Code of Virginia and to repeal the second enactment of Chapter 722 of the Acts of Assembly of 2015, relating to maintenance payments to certain cities and towns for moving-lanes converted to bicycle-only lanes.*

[H 2023]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:****1. That § 33.2-319 of the Code of Virginia is amended and reenacted as follows:****§ 33.2-319. Payments to cities and certain towns for maintenance of certain highways.**

A. The Commissioner of Highways, subject to the approval of the Board, shall make payments for maintenance, construction, or reconstruction of highways to all cities and towns eligible for funds under this section. Such payments, however, shall only be made if those highways functionally classified as principal and minor arterial roads are maintained to a standard satisfactory to the Department. Whenever any city or town qualifies under this section for allocation of funds, such qualification shall continue to apply to such city or town regardless of any subsequent change in population and shall cease to apply only when so specifically provided by an act of the General Assembly.

Funds are allocated to urban highways in (i) all towns that have a population of more than 3,500 according to the last preceding United States census; (ii) all towns that, according to evidence satisfactory to the Board, have attained a population of more than 3,500 since the last preceding United States census; (iii) Chase City, Elkton, Grottoes, Narrows, Pearisburg, and Saltville, which, on June 30, 1985, maintained certain streets under former § 33.1-80 as then in effect; (iv) all cities regardless of their populations; and (v) the Towns of Altavista, Lebanon, and Wise.

B. No payments shall be made to any such city or town unless the portion of the highway for which such payment is made either ~~(a)~~ (i) has ~~(1)~~ (a) an unrestricted right-of-way at least 50 feet wide and ~~(2)~~ (b) a hard-surface width of at least 30 feet; ~~(b)~~ (ii) has ~~(1)~~ (a) an unrestricted right-of-way at least 80 feet wide, ~~(2)~~ (b) a hard-surface width of at least 24 feet, and ~~(3)~~ (c) approved engineering plans for the ultimate construction of an additional hard-surface width of at least 24 feet within the same right-of-way; ~~(c)~~ (iii) (a) is a cul-de-sac, ~~(2)~~ (b) has an unrestricted right-of-way at least 40 feet wide, and ~~(3)~~ (c) has a turnaround that meets applicable standards set by the Department; ~~(d)~~ (iv) either ~~(1)~~ (a) has been paved and has constituted part of the primary or secondary state highway system prior to annexation or incorporation or ~~(2)~~ (b) has constituted part of the secondary state highway system prior to annexation or incorporation and is paved to a minimum width of 16 feet subsequent to such annexation or incorporation and with the further exception of streets or portions thereof that have previously been maintained under the provisions of § 33.2-339 or 33.2-340; ~~(e)~~ (v) was eligible for and receiving such payments under the laws of the Commonwealth in effect on June 30, 1985; ~~(f)~~ (vi) is a street established prior to

July 1, 1950, that has an unrestricted right-of-way width of not less than 30 feet and a hard-surface width of not less than 16 feet; ~~(g)~~ (vii) is a street functionally classified as a local street that was constructed on or after January 1, 1996, and that at the time of approval by the city or town met the criteria for pavement width and right-of-way of the then-current design standards for subdivision streets as set forth in regulations adopted by the Board; ~~(h)~~ (viii) is a street previously eligible to receive street payments that is located in the City of Norfolk or the City of Richmond and is closed to public travel, pursuant to legislation enacted by the governing body of the locality in which it is located, for public safety reasons, within the boundaries of a publicly funded housing development owned and operated by the local housing authority; or ~~(i)~~ (ix) is a local street, otherwise eligible, containing one or more physical protuberances placed within the right-of-way for the purpose of controlling the speed of traffic.

However, the Commissioner of Highways may waive the requirements as to hard-surface pavement or right-of-way width for highways where the width modification is at the request of the governing body of the locality and is to protect the quality of the affected locality's drinking water supply or, for highways constructed on or after July 1, 1994, to accommodate some other special circumstance where such action would not compromise the health, safety, or welfare of the public. The modification is subject to such conditions as the Commissioner of Highways may prescribe.

C. For the purpose of calculating allocations and making payments under this section, the Department shall divide affected highways into two categories, which shall be distinct from but based on functional classifications established by the Federal Highway Administration: ~~(A)~~ (i) principal and minor arterial roads and ~~(B)~~ (ii) collector roads and local streets. Payments made to affected localities shall be based on the number of moving-lane-miles of highways or portions thereof available to peak-hour traffic in that locality.

D. Any city converting an existing moving-lane that qualifies for payments under this section to a transit-only lane after July 1, 2014, shall remain eligible for such payments but shall not receive additional funds as a result of such conversion. *Any city or town converting an existing moving-lane that qualifies for payments under this section to a bicycle-only lane after July 1, 2014, shall remain eligible for such payments, provided that (i) the number of moving-lane-miles converted is not more than 50 moving-lane-miles or three percent of the city's or town's total number of moving-lane-miles on July 1, 2014, whichever is less, and (ii) prior to any such conversion, the city or town certifies that the conversion design has been assessed by a professional engineer licensed in the Commonwealth pursuant to Chapter 4 (§ 54.1-400 et seq.) of Title 54.1 and that the assessment has demonstrated that (a) the level of service of the street to be converted will not be reduced or if it will be reduced that the associated roadway network will retain adequate capacity to meet current and future mobility needs of all users and (b) the conversion has been designed in accordance with the National Association of City Transportation Officials' Urban Bikeway Design Guide. Any such city or town shall not receive additional funds as a result of such conversion to a bicycle-only lane and shall annually expend funds on road and street maintenance and operations that are at least equal to funds spent on road and street maintenance and operations in the year prior to such conversion. For purposes of this subsection, "level of service" has the meaning provided in the Transportation Research Board's Highway Capacity Manual.*

E. The Department shall recommend to the Board an annual rate per category to be computed using the base rate of growth planned for the Department's Highway Maintenance and Operations program. The Board shall establish the annual rates of such payments as part of its allocation for such purpose, and the Department shall use those rates to calculate and put into effect annual changes in each qualifying city's or town's payment under this section.

The payments by the Department shall be paid in equal sums in each quarter of the fiscal year, and payments shall not exceed the allocation of the Board.

F. The chief administrative officer of the city or town receiving these funds shall make annual categorical reports of expenditures to the Department, in such form as the Board shall prescribe, accounting for all expenditures, certifying that none of the money received has been expended for other than maintenance, construction, or reconstruction of the streets, and reporting on their performance as specified in subsection B of § 33.2-352. Such reports shall be included in the scope of the annual audit of each municipality conducted by independent certified public accountants.

**2. That the second enactment of Chapter 722 of the Acts of Assembly of 2015 is repealed.**

## CHAPTER 535

*An Act to amend and reenact §§ 19.2-11.01, 19.2-11.6, 19.2-11.8, and 19.2-11.11 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 1.2 of Title 19.2 a section numbered 19.2-11.12, relating to rights of victims of sexual assault; physical evidence recovery kits.*

[H 2127]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 19.2-11.01, 19.2-11.6, 19.2-11.8, and 19.2-11.11 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 1.2 of Title 19.2 a section numbered 19.2-11.12 as follows:**

**§ 19.2-11.01. Crime victim and witness rights.**

A. In recognition of the Commonwealth's concern for the victims and witnesses of crime, it is the purpose of this chapter to ensure that the full impact of crime is brought to the attention of the courts of the Commonwealth; that crime

victims and witnesses are treated with dignity, respect and sensitivity; and that their privacy is protected to the extent permissible under law. It is the further purpose of this chapter to ensure that victims and witnesses are informed of the rights provided to them under the laws of the Commonwealth; that they receive authorized services as appropriate; and that they have the opportunity to be heard by law-enforcement agencies, attorneys for the Commonwealth, corrections agencies and the judiciary at all critical stages of the criminal justice process to the extent permissible under law. Unless otherwise stated and subject to the provisions of § 19.2-11.1, it shall be the responsibility of a locality's crime victim and witness assistance program to provide the information and assistance required by this chapter, including verification that the standardized form listing the specific rights afforded to crime victims has been received by the victim.

As soon as practicable after identifying a victim of a crime, the investigating law-enforcement agency shall provide the victim with a standardized form listing the specific rights afforded to crime victims. The form shall include a telephone number by which the victim can receive further information and assistance in securing the rights afforded crime victims, the name, address and telephone number of the office of the attorney for the Commonwealth, the name, address and telephone number of the investigating law-enforcement agency, and a summary of the victim's rights under § 40.1-28.7:2.

1. Victim and witness protection and law-enforcement contacts.

a. In order that victims and witnesses receive protection from harm and threats of harm arising out of their cooperation with law-enforcement, or prosecution efforts, they shall be provided with information as to the level of protection which may be available pursuant to § 52-35 or to any other federal, state or local program providing protection, and shall be assisted in obtaining this protection from the appropriate authorities.

b. Victims and witnesses shall be provided, where available, a separate waiting area during court proceedings that affords them privacy and protection from intimidation, and that does not place the victim in close proximity to the defendant or the defendant's family.

2. Financial assistance.

a. Victims shall be informed of financial assistance and social services available to them as victims of a crime, including information on their possible right to file a claim for compensation from the Crime Victims' Compensation Fund pursuant to Chapter 21.1 (§ 19.2-368.1 et seq.) of this title and on other available assistance and services.

b. Victims shall be assisted in having any property held by law-enforcement agencies for evidentiary purposes returned promptly in accordance with §§ 19.2-270.1 and 19.2-270.2.

c. Victims shall be advised that restitution is available for damages or loss resulting from an offense and shall be assisted in seeking restitution in accordance with §§ 19.2-305, 19.2-305.1, Chapter 21.1 (§ 19.2-368.1 et seq.) of this title, Article 21 (§ 58.1-520 et seq.) of Chapter 3 of Title 58.1, and other applicable laws of the Commonwealth.

3. Notices.

a. Victims and witnesses shall be (i) provided with appropriate employer intercession services to ensure that employers of victims and witnesses will cooperate with the criminal justice process in order to minimize an employee's loss of pay and other benefits resulting from court appearances and (ii) advised that pursuant to § 18.2-465.1 it is unlawful for an employer to penalize an employee for appearing in court pursuant to a summons or subpoena.

b. Victims shall receive advance notification when practicable from the attorney for the Commonwealth of judicial proceedings relating to their case and shall be notified when practicable of any change in court dates in accordance with § 19.2-265.01 if they have provided their names, current addresses and telephone numbers.

c. Victims shall receive notification, if requested, subject to such reasonable procedures as the Attorney General may require pursuant to § 2.2-511, from the Attorney General of the filing and disposition of any appeal or habeas corpus proceeding involving their case.

d. Victims shall be notified by the Department of Corrections or a sheriff or jail superintendent (i) in whose custody an escape, change of name, transfer, release or discharge of a prisoner occurs pursuant to the provisions of §§ 53.1-133.02 and 53.1-160 or (ii) when an accused is released on bail, if they have provided their names, current addresses and telephone numbers in writing. Such notification may be provided through the Virginia Statewide VINE (Victim Information and Notification Everyday) System or other similar electronic or automated system.

e. Victims shall be advised that, in order to protect their right to receive notices and offer input, all agencies and persons having such duties must have current victim addresses and telephone numbers given by the victims. Victims shall also be advised that any such information given shall be confidential as provided by § 19.2-11.2.

*f. Victims of sexual assault, as defined in § 19.2-11.5, shall be advised of their rights regarding physical evidence recovery kits as provided in Chapter 1.2 (§ 19.2-11.5 et seq.).*

4. Victim input.

a. Victims shall be given the opportunity, pursuant to § 19.2-299.1, to prepare a written victim impact statement prior to sentencing of a defendant and may provide information to any individual or agency charged with investigating the social history of a person or preparing a victim impact statement under the provisions of §§ 16.1-273 and 53.1-155 or any other applicable law.

b. Victims shall have the right to remain in the courtroom during a criminal trial or proceeding pursuant to the provisions of § 19.2-265.01.

c. On motion of the attorney for the Commonwealth, victims shall be given the opportunity, pursuant to §§ 19.2-264.4 and 19.2-295.3, to testify prior to sentencing of a defendant regarding the impact of the offense.

d. In a felony case, the attorney for the Commonwealth, upon the victim's written request, shall consult with the victim either verbally or in writing (i) to inform the victim of the contents of a proposed plea agreement and (ii) to obtain the victim's views about the disposition of the case, including the victim's views concerning dismissal, pleas, plea negotiations and sentencing. However, nothing in this section shall limit the ability of the attorney for the Commonwealth to exercise his discretion on behalf of the citizens of the Commonwealth in the disposition of any criminal case. The court shall not accept the plea agreement unless it finds that, except for good cause shown, the Commonwealth has complied with clauses (i) and (ii). Good cause shown shall include, but not be limited to, the unavailability of the victim due to incarceration, hospitalization, failure to appear at trial when subpoenaed, or change of address without notice.

Upon the victim's written request, the victim shall be notified in accordance with subdivision A 3 b of any proceeding in which the plea agreement will be tendered to the court.

The responsibility to consult with the victim under this subdivision shall not confer upon the defendant any substantive or procedural rights and shall not affect the validity of any plea entered by the defendant.

5. Courtroom assistance.

a. Victims and witnesses shall be informed that their addresses and telephone numbers may not be disclosed, pursuant to the provisions of §§ 19.2-11.2 and 19.2-269.2, except when necessary for the conduct of the criminal proceeding.

b. Victims and witnesses shall be advised that they have the right to the services of an interpreter in accordance with §§ 19.2-164 and 19.2-164.1.

c. Victims and witnesses of certain sexual offenses shall be advised that there may be a closed preliminary hearing in accordance with § 18.2-67.8 and, if a victim was 14 years of age or younger on the date of the offense and is 16 or under at the time of the trial, or a witness to the offense is 14 years of age or younger at the time of the trial, that two-way closed-circuit television may be used in the taking of testimony in accordance with § 18.2-67.9.

6. Post trial assistance.

a. Within 30 days of receipt of a victim's written request after the final trial court proceeding in the case, the attorney for the Commonwealth shall notify the victim in writing, of (i) the disposition of the case, (ii) the crimes of which the defendant was convicted, (iii) the defendant's right to appeal, if known, and (iv) the telephone number of offices to contact in the event of nonpayment of restitution by the defendant.

b. If the defendant has been released on bail pending the outcome of an appeal, the agency that had custody of the defendant immediately prior to his release shall notify the victim as soon as practicable that the defendant has been released.

c. If the defendant's conviction is overturned, and the attorney for the Commonwealth decides to retry the case or the case is remanded for a new trial, the victim shall be entitled to the same rights as if the first trial did not take place.

B. For purposes of this chapter, "victim" means (i) a person who has suffered physical, psychological, or economic harm as a direct result of the commission of (a) a felony, (b) assault and battery in violation of § 18.2-57 or 18.2-57.2, stalking in violation of § 18.2-60.3, a violation of a protective order in violation of § 16.1-253.2 or 18.2-60.4, sexual battery in violation of § 18.2-67.4, attempted sexual battery in violation of § 18.2-67.5, or maiming or driving while intoxicated in violation of § 18.2-51.4 or 18.2-266, or (c) a delinquent act that would be a felony or a misdemeanor violation of any offense enumerated in clause (b) if committed by an adult; (ii) a spouse or child of such a person; (iii) a parent or legal guardian of such a person who is a minor; (iv) for the purposes of subdivision A 4 only, a current or former foster parent or other person who has or has had physical custody of such a person who is a minor, for six months or more or for the majority of the minor's life; or (v) a spouse, parent, sibling, or legal guardian of such a person who is physically or mentally incapacitated or was the victim of a homicide; however, "victim" does not mean a parent, child, spouse, sibling, or legal guardian who commits a felony or other enumerated criminal offense against a victim as defined in clause (i).

C. Officials and employees of the judiciary, including court services units, law-enforcement agencies, the Department of Corrections, attorneys for the Commonwealth and public defenders, shall be provided with copies of this chapter by the Department of Criminal Justice Services or a crime victim and witness assistance program. Each agency, officer or employee who has a responsibility or responsibilities to victims under this chapter or other applicable law shall make reasonable efforts to become informed about these responsibilities and to ensure that victims and witnesses receive such information and services to which they may be entitled under applicable law, provided that no liability or cause of action shall arise from the failure to make such efforts or from the failure of such victims or witnesses to receive any such information or services.

**§ 19.2-11.6. Anonymous physical evidence recovery kits.**

A. When a victim of sexual assault who undergoes a forensic medical examination elects not to report the offense to law enforcement, the health care provider shall inform the victim that the physical evidence recovery kit shall be forwarded to the Division for storage as an anonymous physical evidence recovery kit. The health care provider shall further inform the victim of the length of time the anonymous physical evidence recovery kit will be stored by the Division, *the victim's right to object to the destruction of the anonymous physical evidence recovery kit*, and how the victim can have the anonymous physical evidence recovery kit released to a law-enforcement agency at a later date. The health care provider shall forward the anonymous physical evidence recovery kit to the Division in accordance with the policies and procedures established by the Division.

B. The Division shall store any anonymous physical evidence recovery kit received for a minimum of two years. *The Division shall store the anonymous physical evidence recovery kit for an additional period of 10 years following the receipt of a written objection to the destruction of the anonymous physical evidence recovery kit from the victim.* After the initial

two years or any additional 10-year storage period, the Division, in the absence of the receipt of a written objection from the victim in the most recent 10-year period, may destroy the anonymous physical evidence recovery kit or, in its discretion or upon request of the victim or the law-enforcement agency, may elect to retain the anonymous physical evidence recovery kit for a longer period of time. Upon notification from either the law-enforcement agency or the attorney for the Commonwealth that the victim has elected to report the offense to the law-enforcement agency, the Division shall release the anonymous physical evidence recovery kit to the law-enforcement agency.

**§ 19.2-11.8. Submission of physical evidence recovery kits to the Department.**

A. A law-enforcement agency that receives a physical evidence recovery kit shall submit the physical evidence recovery kit to the Department for analysis within 60 days of receipt, except under the following circumstances: (i) it is an anonymous physical evidence recovery kit that shall be forwarded to the Division for storage; (ii) the physical evidence recovery kit was collected by the Office of the Chief Medical Examiner as part of a routine death investigation, and the medical examiner and the law-enforcement agency agree that analysis is not warranted; (iii) the physical evidence recovery kit is connected to an offense that occurred outside of the Commonwealth; or (iv) the physical evidence recovery kit was determined by the law-enforcement agency not to be connected to a criminal offense.

B. Upon completion of analysis, the Department shall return the physical evidence recovery kit to the submitting law-enforcement agency. Upon receipt of the physical evidence recovery kit from the Department, the law-enforcement agency shall store the physical evidence recovery kit for a period of 10 years or until ~~two~~ 10 years after the victim reaches the age of majority if the victim was a minor at the time of collection, whichever is longer. *The law-enforcement agency shall store the physical evidence recovery kit for a period of 10 years following the receipt of a written objection to the destruction of the kit from the victim.* After the mandatory retention period or any additional 10-year storage period has lapsed, the law-enforcement agency shall, unless the victim has made a written request not to be contacted for this purpose, make a reasonable effort to notify the victim of the intended destruction of the physical evidence recovery kit no less than 60 days prior to the intended date of such destruction. In the absence of a response from the victim, or with the consent of the victim, the law-enforcement agency may destroy the physical evidence recovery kit or, in its discretion, may elect to retain the physical evidence recovery kit for a longer period of time.

C. The DNA profiles developed from physical evidence recovery kits submitted to the Department for analysis pursuant to this section shall be uploaded into any local, state, or national DNA data bank only if eligible as determined by Department procedures and in accordance with state and federal law.

**§ 19.2-11.11. Victim's right to notification of scientific analysis information.**

A. In addition to the rights provided under Chapter 1.1 (§ 19.2-11.01 et seq.), a victim of sexual assault, a parent or guardian of a victim of a sexual assault who was a minor at the time of the offense, or a close relative of a deceased victim of sexual assault shall have the right to request and receive information from the law-enforcement agency regarding (i) the submission of any physical evidence recovery kit for forensic analysis that was collected from the victim during the investigation of the offense; (ii) the status of any analysis being performed on any evidence that was collected during the investigation of the offense; ~~and~~ (iii) the results of any analysis; *and (iv) the time frame for how long the kit will be held in storage and the victim's rights regarding such storage,* unless disclosing this information would interfere with the investigation or prosecution of the offense, in which case the victim, parent, guardian, or relative shall be informed of the estimated date on which the information may be disclosed, if known.

B. The victim, parent, guardian, or relative who requests to be notified under subsection A must provide a current address and telephone number to the attorney for the Commonwealth and to the law-enforcement agency that is investigating the offense and keep such information updated.

**§ 19.2-11.12. Costs of physical evidence recovery kits.**

*No victim of sexual assault shall be charged for the cost of collecting or storing a physical evidence recovery kit or an anonymous physical evidence recovery kit.*

## CHAPTER 536

*An Act to amend and reenact § 15.2-2222.1 of the Code of Virginia, relating to state and local transportation planning.*

[H 2138]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 15.2-2222.1 of the Code of Virginia is amended and reenacted as follows:**

**§ 15.2-2222.1. Coordination of state and local transportation planning.**

A. 1. Prior to adoption of any comprehensive plan pursuant to § 15.2-2223, any part of a comprehensive plan pursuant to § 15.2-2228, or any amendment to any comprehensive plan as described in § 15.2-2229, the locality shall submit such plan or amendment to the Department of Transportation for review and comment if the plan or amendment will substantially affect transportation on state-controlled highways as defined by regulations promulgated by the Department. The Department's comments on the proposed plan or amendment shall relate to plans and capacities for construction of transportation facilities affected by the proposal.

2. If the submitting locality is located within Planning District 8, the Department of Transportation shall also determine the extent to which the proposed plan or amendment will increase traffic congestion or, to the extent feasible, reduce the mobility of citizens in the event of a homeland security emergency and shall include such information as part of its comments on the proposed plan or amendment. *In making such determination, the Department shall specify by name and location any transportation facility within the scope of the review specified in subdivision 1 having a functional classification of minor arterial or higher for which an increase in traffic volume is expected to exceed the capacity of the facility as a result of the proposed plan or amendment.* Such information shall be provided concurrently to the submitting locality and the Northern Virginia Transportation Authority. Further, to the extent that such information is readily available, the Department shall also include in its comments an assessment of the measures and estimate of the costs necessary to mitigate or ameliorate the congestion or reduction in mobility attributable to the proposed plan or amendment.

3. Within 30 days of receipt of such proposed plan or amendment, the Department may request, and the locality shall agree to, a meeting between the Department and the local planning commission or other agent to discuss the plan or amendment, which discussions shall continue as long as the participants may deem them useful. The Department shall make written comments within 90 days after receipt of the plan or amendment, or by such later deadline as may be agreed to by the parties in the discussions.

B. Upon submission to, or initiation by, a locality of a proposed rezoning under § 15.2-2286, 15.2-2297, 15.2-2298, or 15.2-2303, the locality shall submit the proposal to the Department of Transportation within 10 business days of receipt thereof if the proposal will substantially affect transportation on state-controlled highways. Such application shall include a traffic impact statement if required by local ordinance or pursuant to regulations promulgated by the Department. Within 45 days of its receipt of such traffic impact statement, the Department shall either (i) provide written comment on the proposed rezoning to the locality or (ii) schedule a meeting, to be held within 60 days of its receipt of the proposal, with the local planning commission or other agent and the rezoning applicant to discuss potential modifications to the proposal to address any concerns or deficiencies. The Department's comments on the proposed rezoning shall be based upon the comprehensive plan, regulations and guidelines of the Department, engineering and design considerations, any adopted regional or statewide plans, and ~~short short-term and long term~~ long-term traffic impacts on and off site. *If the locality is in Planning District 8, the Department's review shall specify by name and location any transportation facility within the scope of the review specified in subdivision A 1 having a functional classification of minor arterial or higher for which an increase in traffic volume is expected to exceed the capacity of the facility as a result of the proposed plan or amendment.* The Department shall complete its initial review of the rezoning proposal within 45 days, and its final review within 120 days, after it receives the rezoning proposal from the locality. Notwithstanding the foregoing provisions of this subsection, such review by the Department shall be of a more limited nature and scope in cases of rezoning a property consistent with a local comprehensive plan that has already been reviewed by the Department as provided in this section.

C. If a locality has not received written comments within the timeframes specified in subsection B, the locality may assume that the Department has no comments.

D. The review requirements set forth in this section shall be supplemental to, and shall not affect, any requirement for review by the Department of Transportation or the locality under any other provision of law. Nothing in this section shall be deemed to prohibit any additional consultations concerning land development or transportation facilities that may occur between the Department and localities as a result of existing or future administrative practice or procedure, or by mutual agreement.

E. The Department shall impose fees and charges for the review of applications, plans and plats pursuant to subsections A and B, and such fees and charges shall not exceed \$1,000 for each review. However, no fee shall be charged to a locality or other public agency. Furthermore, no fee shall be charged by the Department to a citizens' organization or neighborhood association that proposes comprehensive plan amendments through its local planning commission or local governing body.

## CHAPTER 537

*An Act to amend and reenact § 33.2-232 of the Code of Virginia, relating to Commissioner of Highways; annual report requirements.*

[H 2139]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 33.2-232 of the Code of Virginia is amended and reenacted as follows:**

**§ 33.2-232. Annual report by Commissioner of Highways.**

The Commissioner of Highways shall annually report in writing to the Governor, the General Assembly, the Joint Legislative Audit and Review Commission, and the Board no later than November 30 each year. The Commissioner shall make such report available on the Department's website. The content of such report shall be specified by the Board and shall contain, at a minimum:

1. The condition of existing transportation assets, using asset management methodology pursuant to § 33.2-352;
2. The methodology used to determine maintenance needs, including an explanation of the transparent methodology used for the allocation of funds from the Highway Maintenance and Operating Fund pursuant to subsection A of § 33.2-352;

3. ~~Beginning with the November 2015 report through the November 2019 report, the~~ *The* allocations to the reconstruction and rehabilitation of functionally obsolete or structurally deficient bridges and to the reconstruction of pavements determined to have a combined condition index of less than 60 and beginning with the November 2020 report, the methodology used to determine allocations of construction funds for state of good repair purposes as defined in § 33.2-369 and any waiver of the cap provided for in subsection B of § 33.2-369;

4. The performance targets and outcomes for (i) the current two-year period starting July 1 of even-numbered years and (ii) the following two-year period starting July 1 of the next even-numbered year. The targets and outcomes shall state what is expected to be achieved, based on funding identified for maintenance and state of good repair purposes, over each two-year period;

5. ~~Beginning with the November 2016 report, a~~ A listing of prioritized pavement and bridge needs based on the priority ranking system developed by the Board pursuant to § 33.2-369 and a description of the priority ranking system;

6. The Department's (i) strategies for improving safety and security and (ii) strategies and activities to improve highway operations within the Commonwealth, including the use of funds in the Innovation and Technology Transportation Fund established pursuant to § 33.2-1531 and improved incident management;

7. A review of the Department's collaboration with the private sector in delivering services; ~~and~~

8. Traffic modeling results for all federally funded projects requiring a multi-alternative National Environmental Policy Act analysis;

9. A list of transportation projects approved or modified during the prior fiscal year (i) in each transportation district pursuant to § 33.2-214.1, including project costs, and (ii) in each transportation district not subject to § 33.2-214.1; and

10. A listing, by transportation district for the prior fiscal year, of the total number of lane miles of all primary and secondary roads that (i) have been resurfaced with asphalt or sealant and (ii) based on records of the Department at the close of the fiscal year, reflect a rating of "poor" or "very poor."

CHAPTER 538

An Act to amend and reenact §§ 46.2-665, 46.2-666, and 46.2-670 of the Code of Virginia, relating to registration exemption for certain farm use vehicles; requirements.

[H 2239]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 46.2-665, 46.2-666, and 46.2-670 of the Code of Virginia are amended and reenacted as follows:**

**§ 46.2-665. Vehicles used for agricultural or horticultural purposes.**

A. No person shall be required to obtain the registration certificate, license plates, or decals for or pay a registration fee for any motor vehicle, trailer, or semitrailer used exclusively for agricultural or horticultural purposes on lands owned or leased by the vehicle's owner.

B. This exemption shall only apply to (i) pickup or panel trucks, (ii) sport utility vehicles, (iii) vehicles having a gross vehicle weight rating greater than 7,500 pounds, and (iv) trailers and semitrailers that are not operated on or over any public highway in the Commonwealth for any purpose other than:

1. Crossing a highway;
2. Operating along a highway for a distance of no more than ~~50~~ 75 miles from one part of the owner's land to another, irrespective of whether the tracts adjoin;
3. Taking the vehicle or attached fixtures to and from a repair shop for repairs;
4. Taking another vehicle exempt from registration under any provision of §§ 46.2-664 through 46.2-668 or 46.2-672, or any part or subcomponent of such a vehicle, to or from a repair shop for repairs, including return trips;
5. Operating along a highway to and from a refuse disposal facility for the purpose of disposing of trash and garbage generated on a farm; or
6. Operating along a highway for a distance of no more than ~~50~~ 75 miles for the purpose of obtaining supplies for agricultural or horticultural purposes, seeds, fertilizers, chemicals, or animal feed and returning.

C. Any law-enforcement officer may require any person operating a vehicle, trailer, or semitrailer and claiming the exemption provided pursuant to this section to provide, upon request, the address of the lands owned or leased by the vehicle's owner for agricultural or horticultural purposes. If such address is unavailable or unknown, the law-enforcement officer may require such person to provide the real property parcel identification number of such lands.

**§ 46.2-666. Vehicles used for seasonal transportation of farm produce and livestock.**

No person shall be required to obtain the registration certificate, license plates, or decals for or pay a registration fee prescribed for any motor vehicle, trailer, or semitrailer owned by the owner or lessee of a farm and used by him on a seasonal basis in transporting farm produce and livestock along public highways for a distance of no more than ~~50~~ 75 miles including the distance to the nearest storage house, packing plant, or market. The provisions of this section shall only apply to (i) pickup or panel trucks, (ii) sport utility vehicles, (iii) vehicles having a gross vehicle weight rating greater than 7,500 pounds, and (iv) trailers and semitrailers. Any law-enforcement officer may require any person operating a vehicle, trailer, or semitrailer and claiming the exemption provided pursuant to this section to provide, upon request, the address of

*the farm owned or leased by the vehicle's owner. If such address is unavailable or unknown, the law-enforcement officer may require such person to provide the real property parcel identification number of such lands.*

**§ 46.2-670. Vehicles owned by farmers and used to transport certain wood products.**

No person shall be required to obtain the registration certificate, license plates, or decals for or pay a registration fee for any motor vehicle, trailer, or semitrailer owned by a farm owner when the vehicle is operated or moved along a highway for no more than ~~twenty~~ 75 miles between a sawmill or sawmill site and his farm to transport sawdust, wood shavings, slab wood, and other wood wastes. The provisions of this section shall only apply to (i) pickup or panel trucks, (ii) sport utility vehicles, (iii) vehicles having a gross vehicle weight rating greater than 7,500 pounds, and (iv) trailers and semitrailers. Any law-enforcement officer may require any person operating a vehicle, trailer, or semitrailer and claiming the exemption provided pursuant to this section to provide, upon request, the address of the farm owned by the vehicle's owner. If such address is unavailable or unknown, the law-enforcement officer may require such person to provide the real property parcel identification number of such lands.

**CHAPTER 539**

*An Act to amend and reenact §§ 33.2-1801, 33.2-1803, 33.2-1803.1, 33.2-1803.2, and 33.2-1809 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 33.2-1803.1:1, relating to the Public-Private Transportation Act of 1995.*

[H 2244]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 33.2-1801, 33.2-1803, 33.2-1803.1, 33.2-1803.2, and 33.2-1809 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 33.2-1803.1:1 as follows:**

**§ 33.2-1801. Policy.**

A. The General Assembly finds that:

1. There is a public need for timely development and/or operation of transportation facilities within the Commonwealth that address the needs identified by the appropriate state, regional, or local transportation plan by improving safety, reducing congestion, increasing capacity, enhancing economic efficiency, or any combination thereof and that such public need may not be wholly satisfied by existing methods of procurement in which qualifying transportation facilities are developed and/or operated;

2. Such public need may not be wholly satisfied by existing ways in which transportation facilities are developed and/or operated; and

3. Authorizing private entities to develop and/or operate one or more transportation facilities may result in the development and/or operation of such transportation facilities to the public in a more timely, more efficient, or less costly fashion, thereby serving the public safety and welfare.

~~B. An action, other than the approval of the responsible public entity under § 33.2-1803, shall serve the public purpose of this chapter if such action, including undertaking a concession, facilitates the timely development and/or operation of a qualifying transportation facility. A public-private partnership may be in the best interest of the public only if the requirements of subdivisions C 1 through 5 of § 33.2-1803 have been met.~~

C. It is the intent of this chapter, among other things, to encourage investment in the Commonwealth by private entities that facilitates the development and/or operation of transportation facilities *when such investment is in the best interest of the public*. Accordingly, public and private entities may have the greatest possible flexibility in contracting with each other for the provision of the public services that are the subject of this chapter.

D. This chapter shall be liberally construed in conformity with the purposes hereof.

**§ 33.2-1803. Approval by the responsible public entity.**

A. The private entity may request approval by the responsible public entity. Any such request shall be accompanied by the following material and information unless waived by the responsible public entity in its guidelines or other instructions given, in writing, to the private entity with respect to the transportation facility or facilities that the private entity proposes to develop and/or operate as a qualifying transportation facility:

1. A topographic map (1:2,000 or other appropriate scale) indicating the location of the transportation facility or facilities;

2. A description of the transportation facility or facilities, including the conceptual design of such facility or facilities and all proposed interconnections with other transportation facilities;

3. The proposed date for development and/or operation of the transportation facility or facilities along with an estimate of the life-cycle cost of the transportation facility as proposed;

4. A statement setting forth the method by which the private entity proposes to secure any property interests required for the transportation facility or facilities;

5. Information relating to the current transportation plans, if any, of each affected locality or public entity;

6. A list of all permits and approvals required for developing and/or operating improvements to the transportation facility or facilities from local, state, or federal agencies and a projected schedule for obtaining such permits and approvals;

7. A list of public utility's, locality's, or political subdivision's facilities, if any, that will be crossed by the transportation facility or facilities and a statement of the plans of the private entity to accommodate such crossings;

8. A statement setting forth the private entity's general plans for developing and/or operating the transportation facility or facilities, including identification of any revenue, public or private, or proposed debt or equity investment or concession proposed by the private entity;

9. The names and addresses of the persons who may be contacted for further information concerning the request;

10. Information on how the private entity's proposal will address the needs identified in the appropriate state, regional, or local transportation plan by improving safety, reducing congestion, increasing capacity, enhancing economic efficiency, or any combination thereof;

11. A statement of the risks, liabilities, and responsibilities to be transferred, assigned, or assumed by the private entity for the development and/or operation of the transportation facility, including revenue risk and operations and maintenance; and

12. Such additional material and information as the responsible public entity may reasonably request pursuant to its guidelines or other written instructions.

B. The responsible public entity may request proposals from private entities for the development and/or operation of transportation facilities subject to the following:

1. For transportation facilities where the Department of Transportation or the Department of Rail and Public Transportation is the responsible public entity, the Transportation Public-Private Partnership ~~Advisory Steering~~ Committee established pursuant to § 33.2-1803.2 has determined that moving forward with the development and/or operation of the facility pursuant to this article serves the ~~public~~ *best interest of the public*.

2. A finding of public interest pursuant to § 33.2-1803.1 has been issued by the responsible public entity.

3. The responsible public entity shall not charge a fee to cover the costs of processing, reviewing, and evaluating proposals received in response to such requests.

C. The responsible public entity may grant approval of the development and/or operation of the transportation facility or facilities as a qualifying transportation facility if the responsible public entity determines that it ~~serves the public purpose of this chapter~~ *is in the best interest of the public*. The responsible public entity may determine that the development and/or operation of the transportation facility or facilities as a qualifying transportation facility serves ~~such public purpose~~ *the best interest of the public* if:

1. ~~The private entity can develop and/or operate the transportation facility or facilities with a public contribution amount that is less than the maximum public contribution determined pursuant to subsection A of § 33.2-1803.1:1 for transportation facilities where the Department of Transportation or the Department of Rail and Public Transportation is the responsible public entity;~~

2. There is a public need for the transportation facility or facilities the private entity proposes to develop and/or operate as a qualifying transportation facility ~~and for transportation facilities where the Department of Transportation or the Department of Rail and Public Transportation is the responsible public entity, such facility or facilities meet a need included in the plan developed pursuant to § 33.2-353;~~

~~2. The transportation facility or facilities and the proposed interconnections with existing transportation facilities, and the private entity's plans for development and/or operation of the qualifying transportation facility or facilities, are, in the opinion of the responsible public entity, reasonable and will address the needs identified in the appropriate state, regional, or local transportation plan by improving safety, reducing congestion, increasing capacity, enhancing economic efficiency, or any combination thereof;~~

3. ~~The estimated cost of developing and/or operating plan for the development and/or operation of the transportation facility or facilities is reasonable in relation to similar facilities anticipated to have significant benefits as determined pursuant to subdivision B 1 of § 33.2-1803.1;~~

4. The private entity's plans will result in the timely development and/or operation of the transportation facility or facilities or their more efficient operation; and

5. The risks, liabilities, and responsibilities transferred, assigned, or assumed by the private entity provide sufficient benefits to the public to not proceed with the development and/or operation of the transportation facility through other means of procurement available to the responsible public entity.

In evaluating any request, the responsible public entity may rely upon internal staff reports prepared by personnel familiar with the operation of similar facilities or the advice of outside advisors or consultants having relevant experience.

D. The responsible public entity shall not enter into a comprehensive agreement unless the chief executive officer of the responsible public entity certifies in writing to the Governor and the General Assembly that ~~the~~:

1. ~~The finding of public interest issued pursuant to § 33.2-1803.1 is still valid;~~

2. ~~The transfer, assignment, and assumption of risks, liabilities, and permitting responsibilities or and the mitigation of revenue risk by the private sector enumerated in the finding of public interest issued pursuant to § 33.2-1803.1 have not materially changed since the finding of public interest was issued and the finding of public interest is still valid pursuant to § 33.2-1803.1; and~~

3. ~~The public contribution requested by the private entity does not exceed the maximum public contribution determined pursuant to subsection A of § 33.2-1803.1:1.~~

Changes to the project scope that do not impact the assignment of risks or liabilities or the mitigation of revenue risk shall not be considered material changes to the finding of public interest, provided that such ~~change was~~ *changes were* presented in a public meeting to the Commonwealth Transportation Board, other state board, or the governing body of a locality, as appropriate.

E. The responsible public entity may charge a reasonable fee to cover the costs of processing, reviewing, and evaluating the request submitted by a private entity pursuant to subsection A, including reasonable attorney fees and fees for financial and other necessary advisors or consultants. The responsible public entity shall also develop guidelines that establish the process for the acceptance and review of a proposal from a private entity pursuant to subsections A ~~and~~, B, C, and D. Such guidelines shall establish a specific schedule for review of the proposal by the responsible public entity, a process for alteration of that schedule by the responsible public entity if it deems that changes are necessary because of the scope or complexity of proposals it receives, the process for receipt and review of competing proposals, and the type and amount of information that is necessary for adequate review of proposals in each stage of review. For qualifying transportation facilities that have approved or pending state and federal environmental clearances, have secured significant right-of-way, have previously allocated significant state or federal funding, or exhibit other circumstances that could reasonably reduce the amount of time to develop and/or operate the qualifying transportation facility in accordance with the purpose of this chapter, the guidelines shall provide for a prioritized documentation, review, and selection process.

F. The approval of the responsible public entity shall be subject to the private entity's entering into an interim agreement or a comprehensive agreement with the responsible public entity. For any project with an estimated construction cost of over \$50 million, the responsible public entity also shall require the private entity to pay the costs for an independent audit of any and all traffic and cost estimates associated with the private entity's proposal, as well as a review of all public costs and potential liabilities to which taxpayers could be exposed (including improvements to other transportation facilities that may be needed as a result of the proposal, failure by the private entity to reimburse the responsible public entity for services provided, and potential risk and liability in the event the private entity defaults on the comprehensive agreement or on bonds issued for the project). This independent audit shall be conducted by an independent consultant selected by the responsible public entity, and all such information from such review shall be fully disclosed.

G. In connection with its approval of the development and/or operation of the transportation facility or facilities as a qualifying transportation facility, the responsible public entity shall establish a date for the acquisition of or the beginning of construction of or improvements to the qualifying transportation facility. The responsible public entity may extend such date.

H. The responsible public entity shall take appropriate action, as more specifically set forth in its guidelines, to protect confidential and proprietary information provided by the private entity pursuant to an agreement under subdivision 11 of § 2.2-3705.6.

I. The responsible public entity may also apply for, execute, and/or endorse applications submitted by private entities to obtain federal credit assistance for qualifying projects developed and/or operated pursuant to this chapter.

#### **§ 33.2-1803.1. Finding of public interest.**

A. Prior to the ~~initiation of a procurement pursuant to § 33.2-1803,~~ *meeting of the Committee pursuant to subsection C of § 33.2-1803.2,* the chief executive officer of the responsible public entity shall make a finding of public interest. Such finding shall include information set forth in subsection B. *For transportation facilities where the Department of Transportation or the Department of Rail and Public Transportation is the responsible public entity, the Secretary of Transportation, in his role as chairman of the Board, must concur with the finding of public interest.*

B. At a minimum, a finding of public interest shall contain the following information:

1. *A description of the benefits expected to be realized by the responsible public entity through the development and/or operation of the transportation facility, including person throughput, congestion mitigation, safety, economic development, environmental quality, and land use.*

2. *An analysis of the public contribution necessary for the development and/or operation of the facility or facilities pursuant to subsection A of § 33.2-1803.1:1, including a maximum public contribution that will be allowed under the procurement.*

3. A description of the benefits expected to be realized by the responsible public entity through the use of this chapter compared with the development and/or operation of the transportation facility through other options available to the responsible public entity.

~~2:~~ 4. A statement of the risks, liabilities, and responsibilities to be transferred, assigned, or assumed by the private entity, which shall include the following:

a. A discussion of whether revenue risk will be transferred to the private entity and the degree to which any such transfer may be mitigated through other provisions in the interim or comprehensive agreements;

b. A description of the risks, liabilities, and responsibilities to be retained by the responsible public entity; and

c. Other items determined appropriate by the responsible public entity in the guidelines for this chapter.

~~3:~~ 5. The determination of whether the project has a high, medium, or low level of project delivery risk and a description of how such determination was made. If the qualifying transportation facility is determined to contain high risk, a description of how the public's interest will be protected through the transfer, assignment, or assumption of risks or responsibilities by the private entity in the event that issues arise with the development and/or operation of the qualifying transportation facility.

4- 6. If the responsible public entity proposes to enter into an interim or comprehensive agreement pursuant to subdivision 2 of § 33.2-1819, information and the rationale demonstrating that proceeding in this manner is more beneficial than proceeding pursuant to subdivision 1 of § 33.2-1819.

**§ 33.2-1803.1:1. Public sector analysis and competition.**

A. For any transportation facility under consideration for development and/or operation under this chapter by the Department of Transportation or the Department of Rail and Public Transportation, the responsible public entity shall ensure competition throughout the procurement process by developing a public sector option based on the analysis conducted in subsection B. The public sector option shall identify a maximum public contribution.

B. The responsible public entity shall undertake, in cooperation with the Secretary of Transportation and the Secretary of Finance, a public sector analysis of the cost for the responsible entity to develop and/or operate the transportation facility or facilities being considered for development and/or operation pursuant to this chapter. At a minimum, such analysis shall contain the following information:

1. Any mitigation of risk of user-fee financing through assumptions related to competing facilities, compensation for high usage of the facility by high-occupancy vehicles, or other considerations that may mitigate the risk of user-fee financing.

2. Whether the Department of Transportation or the Department of Rail and Public Transportation intends to maintain and operate the facility, or if the public sector option is based on the transfer of such responsibilities to the private sector.

3. Public contribution, if any, that would still be required to cover all costs necessary for the development and/or operation of the transportation facility in excess of financing available should the General Assembly authorize the use of debt secured by a pledge of net revenues derived from rates, fees, or other charges and the full faith and credit of the Commonwealth pursuant to Article X, Section 9 (c) of the Constitution of Virginia.

4. Funds provided to support nonuser fee generating components of the project that contribute to the benefits expected to be realized from the transportation facility pursuant to subdivision B 1 of § 33.2-1803.1.

**§ 33.2-1803.2. Transportation Public-Private Partnership Steering Committee.**

~~A. Procurement pursuant to § 33.2-1803 shall be initiated by the Department of Transportation or the Department of Rail and Public Transportation only after the~~ There is hereby established the Transportation Public-Private Partnership Advisory Steering Committee (the Committee) has determined that the development and/or operation of the transportation facility or facilities as a qualifying transportation facility serves the public interest pursuant to § 33.2-1803.1. The determination shall be evidenced by an affirmative vote of a majority of the members of the Committee to evaluate and review financing options for the development and/or operation of transportation facility or facilities.

~~B. The Committee is established and~~ shall consist of the following members:

1. Two members of the Commonwealth Transportation Board;
2. The staff director of the House Committee on Appropriations, or his designee, and the staff director of the Senate Committee on Finance, or his designee;
3. A Deputy Secretary of Transportation who shall serve as the chairman;
4. The chief financial officer of either the Department of Transportation or the Department of Rail and Public Transportation, as appropriate; and
5. A nonagency public financial expert, as selected by the Secretary of Transportation.

B. Prior to the initiation of any procurement pursuant to § 33.2-1803 by the Department of Transportation or the Department of Rail and Public Transportation, the Committee shall meet to review the public sector analysis and competition developed pursuant to § 33.2-1803.1:1 and concur that:

1. The assumptions regarding the project scope, benefits, and costs of the public sector option developed pursuant to § 33.2-1803.1:1 were fully and reasonably developed;

2. The assumed financing costs and valuation of both financial and construction risk mitigation included in the public sector option are financially sound and reflect the best interest of the public; and

3. The terms sheet developed for the proposed procurement contains all necessary elements.

C. After receipt of responses to the request for qualifications, but prior to the issuance of the first draft request for proposals, the Committee shall meet to determine that the development and/or operation of the transportation facility or facilities as a qualifying transportation facility serves the public interest pursuant to § 33.2-1803.1. If the Committee makes an affirmative determination, as evidenced by an affirmative vote of a majority of the members of the Committee, the Department of Transportation or the Department of Rail and Public Transportation may proceed with the procurement pursuant to § 33.2-1803.

~~C. D. Meetings of the Committee shall be open to the public, and meetings will be scheduled on an as-needed basis. However, at a minimum, public notice shall be posted at least 30 days prior to a meeting of the Committee the Committee may convene a closed session pursuant to the provisions of subdivisions A 6 and 29 of § 2.2-3711 to allow the Committee to review the public sector analysis and competition and to review proposals received pursuant to a request for qualifications.~~

~~D. E. The Committee shall, within 10 business days of any meeting, report whether or not the projects evaluated at such meeting have been found to serve the public interest on the findings of such meeting. Such report shall be made to the Chairmen of the House and Senate Committees on Transportation, the House Committee on Appropriations, and the Senate Committee on Finance.~~

*F. Within 60 days of the execution of a comprehensive agreement pursuant to § 33.2-1803, the Department of Transportation or the Department of Rail and Public Transportation, as appropriate, shall, in closed session, brief the Committee on the details of the final bids received and the details of the evaluation of such bids.*

**§ 33.2-1809. Interim agreement.**

A. Prior to or in connection with the negotiation of the comprehensive agreement, the responsible public entity may enter into an interim agreement with the private entity proposing the development and/or operation of the facility or facilities. Such interim agreement may (i) permit the private entity to commence activities for which it may be compensated relating to the proposed qualifying transportation facility, including project planning and development, advance right-of-way acquisition, design and engineering, environmental analysis and mitigation, survey, conducting transportation and revenue studies, and ascertaining the availability of financing for the proposed facility or facilities; (ii) establish the process and timing of the negotiation of the comprehensive agreement; and (iii) contain any other provisions related to any aspect of the development and/or operation of a qualifying transportation facility that the parties may deem appropriate.

B. Notwithstanding any provision of this chapter to the contrary, a responsible public entity may enter in to an interim agreement with multiple private entities if the responsible public entity determines in writing that it is in the public interest to do so.

*C. The Department of Transportation and the Department of Rail and Public Transportation shall not enter into an interim agreement for the development of a transportation facility under this chapter that either (i) establishes a process and timing of the negotiations of the comprehensive agreement or (ii) allows for competitive negotiations as set forth in § 2.2-4302.2.*

**2. That the provisions of subsection C of § 33.2-1809 as added by this act shall not apply to any amendment made to any comprehensive agreement originally entered into prior to July 1, 2017.**

**CHAPTER 540**

*An Act to amend and reenact § 10.1-2128.2 of the Code of Virginia, relating to the Nutrient Offset Fund; sale of credits.*

[H 2311]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 10.1-2128.2 of the Code of Virginia is amended and reenacted as follows:**

**§ 10.1-2128.2. Nutrient Offset Fund; purposes.**

A. There is hereby created in the state treasury a special nonreverting fund to be known as the Nutrient Offset Fund, ~~hereafter~~ referred to *in this section* as "the Subfund," which shall be a subfund of the Virginia Water Quality Improvement Fund and administered by the Director of the Department of Environmental Quality. The Subfund shall be established on the books of the Comptroller. All amounts appropriated and such other moneys as may be made available to the Subfund from any other source, public or private, shall be paid into the state treasury and credited to the Subfund. Interest earned on moneys in the Subfund shall remain in the Subfund and be credited to it. Any moneys remaining in the Subfund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Subfund. Moneys in the Subfund shall be used solely for the purposes stated in subsection B. Expenditures and disbursements from the Subfund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request of the Director of the Department of Environmental Quality.

B. The Director of the Department of Environmental Quality shall use moneys in the Subfund only to ~~purchase~~ *acquire* nutrient ~~offsets~~ *credits or allocations from point or nonpoint sources* that achieve equivalent point or nonpoint source reductions in the same tributary beyond those reductions already required by or funded under federal or state law *or the Watershed Implementation Plan prepared for the Chesapeake Bay Total Maximum Daily Load pursuant to § 2.2-218.* The Director of the Department of Environmental Quality may enter into long-term contracts with producers of nutrient ~~offsets~~ *credits* to purchase such ~~offsets~~ *credits* using moneys from the Subfund. ~~Priority shall be given to nutrient offsets produced from facilities that generate electricity from animal waste.~~ *Credits in the Subfund shall be listed in a registry maintained by the Department of Environmental Quality.*

*C. The Department of Environmental Quality shall establish a procedure to govern the distribution of moneys from the Subfund that shall include criteria that address (i) the annualized cost per pound of the reduction, (ii) the reliability of the underlying technology or practice, (iii) the relative durability and permanence of the credits generated, and (iv) other such factors that the Department deems appropriate to ensure that the practices will achieve the necessary reduction in nutrients for the term of credit.*

D. The Director of the Department of Environmental Quality shall make nutrient ~~offsets~~ *credits* ~~purchase~~ *acquired* pursuant to subsection B available for sale to owners or operators of new or expanded facilities pursuant to § 62.1-44.19:15, and to permitted facilities pursuant to § 62.1-44.19:18. *The Director shall consider recommendations of the Secretary of Commerce and Trade consistent with the requirements of the State Water Control Law (§ 62.1-44.2 et seq.) in the sale of nutrient credits to new or expanding private facilities.*

~~D. E.~~ For the purposes of this section, a "nutrient ~~offset~~ credit" means a nutrient reduction certified by the Department of Environmental Quality as a load allocation, point or nonpoint source nitrogen credit, or point or nonpoint source phosphorus credit under the Chesapeake Bay Watershed Nutrient Credit Exchange Program (§ 62.1-44.19:12 et seq.).

### CHAPTER 541

*An Act to amend and reenact §§ 15.2-4904 and 36-11 of the Code of Virginia and to amend and reenact § 3, as amended, of Chapter 133 of the Acts of Assembly of 1966 and § 2, as amended, of Chapter 271 of the Acts of Assembly of 1966, relating to term limits; certain public bodies in City of Chesapeake.*

[H 2449]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 15.2-4904 and 36-11 of the Code of Virginia are amended and reenacted as follows:**

**§ 15.2-4904. Directors; qualifications; terms; vacancies; compensation and expenses; quorum; records; certification and distribution of report concerning bond issuance.**

A. The authority shall be governed by a board of directors in which all powers of the authority shall be vested and which board shall be composed of seven directors, appointed by the governing body of the locality. The seven directors shall be appointed initially for terms of one, two, three and four years; two being appointed for one-year terms; two being appointed for two-year terms; two being appointed for three-year terms and one being appointed for a four-year term. Subsequent appointments shall be for terms of four years, except appointments to fill vacancies which shall be for the unexpired terms. All terms of office shall be deemed to commence upon the date of the initial appointment to the authority, and thereafter, in accordance with the provisions of the immediately preceding sentence. If at the end of any term of office of any director a successor thereto has not been appointed, then the director whose term of office has expired shall continue to hold office until his successor is appointed and qualified.

Notwithstanding the provisions of this subsection, the board of supervisors of Wise County may appoint eight members to serve on the board of the authority, with terms staggered as agreed upon by the board of supervisors, the board of supervisors of Henrico County may appoint 10 members to serve on the board of the authority, two from each magisterial district, with terms staggered as agreed upon by the board of supervisors, the board of supervisors of Roanoke County may appoint 10 members to serve on the board of the authority, two from each magisterial district, with terms staggered as agreed upon by the board of supervisors, the board of supervisors of Mathews County may appoint from five to seven members to serve on the board of the authority, the town council of the Town of Saint Paul may appoint 10 members to serve on the board of the authority, with terms staggered as agreed upon by the town council, however, the town council may at its option return to a seven member board by removing the last three members appointed, the board of supervisors of Russell County may appoint nine members, two of whom shall come from a town that has used its borrowing capacity to borrow \$2 million or more for industrial development, with terms staggered as agreed upon by the board of supervisors and the town council of the Town of South Boston shall appoint two at-large members, Page County may appoint nine members, with one member from each incorporated town, one member from each magisterial district, and one at-large, with terms staggered as agreed upon by the board of supervisors, Halifax County shall appoint five at-large members to serve on the board of the authority jointly created by the Town of South Boston and Halifax County pursuant to § 15.2-4916, with terms staggered as agreed upon by the governing bodies of the Town of South Boston and Halifax County in the concurrent resolutions creating such authority, the town council of the Town of Coeburn may appoint five members to serve on the board of the authority, with terms staggered as agreed upon by the town council, the city council of Suffolk may appoint eight members to serve on the board of the authority, with one member from each of the boroughs, and one at-large member, with terms staggered as agreed upon by the city council, the City of Chesapeake may appoint nine members, with terms staggered as agreed upon by the city council; ~~and the;~~ *however, in the City of Chesapeake, after July 1, 2017, no member shall serve more than two consecutive terms. Any person who has served more than one and one-half terms as a member of the Chesapeake Economic Development Authority as of July 1, 2017, shall not be eligible for reappointment for another consecutive term. A member of the Chesapeake Economic Development Authority shall serve at the pleasure of the city council of the City of Chesapeake. No Chesapeake Economic Development Authority member shall work for the Authority within one year after serving as a member. The city council of the City of Norfolk may appoint 11 members, with terms staggered as agreed upon by the city council.*

A member of the board of directors of the authority may be removed from office by the local governing body without limitation in the event that the board member is absent from any three consecutive meetings of the authority, or is absent from any four meetings of the authority within any 12-month period. In either such event, a successor shall be appointed by the governing body for the unexpired portion of the term of the member who has been removed.

B. Each director shall, upon appointment or reappointment, before entering upon his duties take and subscribe the oath prescribed by § 49-1.

C. No director shall be an officer or employee of the locality except (i) in a town with a population of less than 3,500 where members of the town governing body may serve as directors provided they do not constitute a majority of the board, (ii) in Buchanan County where a constitutional officer who has previously served on the board of directors may serve as a

director provided the governing body of such county approves, and (iii) in Frederick County where the board of supervisors may appoint one of its members to the Economic Development Authority of the County of Frederick, Virginia. Every director shall, at the time of his appointment and thereafter, reside in a locality within which the authority operates or in an adjoining locality. When a director ceases to be a resident of such locality, the director's office shall be vacant and a new director may be appointed for the remainder of the term.

D. The directors shall elect from their membership a chairman, a vice-chairman, and from their membership or not, as they desire, a secretary and a treasurer, or a secretary-treasurer, who shall continue to hold such office until their respective successors are elected. The directors shall receive no salary but may be compensated such amount per regular, special, or committee meeting or per each official representation as may be approved by the appointing authority, not to exceed \$200 per meeting or official representation, and shall be reimbursed for necessary traveling and other expenses incurred in the performance of their duties.

E. Four members of the board of directors shall constitute a quorum of the board for the purposes of conducting its business and exercising its powers and for all other purposes, except that no facilities owned by the authority shall be leased or disposed of in any manner without a majority vote of the members of the board of directors. No vacancy in the membership of the board shall impair the right of a quorum to exercise all the powers and perform all the duties of the board.

F. The board shall keep detailed minutes of its proceedings, which shall be open to public inspection at all times. It shall keep suitable records of its financial transactions and, unless exempted by § 30-140, it shall arrange to have the records audited annually. Copies of each such audit shall be furnished to the governing body of the locality and shall be open to public inspection.

Two copies of the report concerning issuance of bonds required to be filed with the United States Internal Revenue Service shall be certified as true and correct copies by the secretary or assistant secretary of the authority. One copy shall be furnished to the governing body of the locality and the other copy mailed to the Department of Small Business and Supplier Diversity.

**§ 36-11. Appointment and tenure of commissioners; compensation.**

When the need for an authority to be activated in a city or county has been determined in the manner prescribed by law, the governing body of the city or county shall appoint not more than nine or less than five persons as commissioners of the authority created for such city or county. The governing body of the city or county may subsequently increase the number of commissioners of the authority to a maximum of nine. The commissioners who are first appointed shall be designated to serve for terms of one, two, three, four and five years, respectively, from the date of their appointment, but thereafter commissioners shall be appointed as aforesaid for a term of office of four years except that all vacancies shall be filled for the unexpired term. *Notwithstanding any special or general law to the contrary, after July 1, 2017, no member of the Chesapeake Redevelopment and Housing Authority shall serve more than two consecutive terms. Any person who has served more than one and one-half terms as a member of the Chesapeake Redevelopment and Housing Authority as of July 1, 2017, shall not be eligible for reappointment for another consecutive term. A member of the Chesapeake Redevelopment and Housing Authority shall serve at the pleasure of the city council of the City of Chesapeake. No Chesapeake Redevelopment and Housing Authority member shall work for the Authority within one year after serving as a member.* Except as may be otherwise expressly provided in the charter of a city or town specifically pertaining to such authority, no commissioner of any authority may be an officer or employee, of the city or county for which the authority is created. A commissioner shall hold office until his successor has been appointed and has qualified. A certificate of the appointment or reappointment of any commissioner shall be filed with the clerk and such certificate shall be conclusive evidence of the due and proper appointment of such commissioner. A commissioner may receive compensation as may be determined by a locality for each meeting of the authority attended by the commissioner. A commissioner shall be entitled to the necessary expenses, including traveling expenses, incurred in the discharge of his duties.

Any exercise of the powers of an authority by its commissioners after June 30, 1968, otherwise in compliance with applicable law, is hereby declared to be valid and effective in all respects, notwithstanding that the number of commissioners exercising the powers, though not exceeding seven from July 1, 1968, through June 30, 1978, and not exceeding nine thereafter, may have exceeded the number appointed at the time the need for the authority to be activated had been determined in accordance with this section. No suit or action to vacate or set aside any exercise of said powers may be brought on the ground that the number of commissioners, though not exceeding seven from July 1, 1968, through June 30, 1978, and not exceeding nine thereafter, did exceed the number appointed at the time the need for the authority to be activated had been determined.

**2. That § 3, as amended, of Chapter 133 of the Acts of Assembly of 1966 is amended and reenacted as follows:**

**§ 3. "Chesapeake Airport Authority."**

There is hereby created and constituted a political subdivision of the Commonwealth to be known as the "Chesapeake Airport Authority". The exercise by the Authority of the powers conferred by this act in the construction, operation and maintenance of the project authorized by this act shall be deemed and held to be the performance of an essential governmental function.

The Authority shall consist of seven members, all of whom shall be appointed by the council of the city of Chesapeake. Four of the members of the Authority first appointed shall continue in office for terms expiring on June thirty, nineteen hundred sixty-nine, and three for terms expiring on June thirty, nineteen hundred sixty-eight the term of each such member to be designated by said council and to continue until his successor shall be duly appointed and qualified. On and after

July one, nineteen hundred seventy-five, the membership of the Authority shall increase to nine members and there shall be appointed by the city council two additional members, one of whom shall serve until June thirty, nineteen hundred seventy-nine and the other to serve until June thirty, nineteen hundred seventy-eight. The successor of each such member shall be appointed for a term of five years and until his successor shall be duly appointed and qualified, except that any person appointed to fill a vacancy shall serve only for the unexpired term. Any member of the Authority shall be eligible for reappointment; *however, after July 1, 2017, no member shall serve more than two consecutive terms. Any person who has served more than one and one-half terms as a member of the Authority as of July 1, 2017, shall not be eligible for reappointment for another consecutive term. A member of the Authority shall serve at the pleasure of the city council of the City of Chesapeake. No Authority member shall work for the Authority within one year after serving as a member.* Members of the Authority shall be subject to removal from office in like manner as are State, county, town and district officers under the provisions of §§ 15.1-63 to 15.1-66, inclusive, of the Code of Virginia. The Authority shall annually elect one of its members as chairman and another as vice-chairman and shall also elect annually a secretary-treasurer, who may or may not be a member of the Authority.

The secretary-treasurer shall keep a record of the proceedings of the Authority and shall be custodian of all books, documents and papers filed with the Authority and of the minute book or journal of the Authority and of its official seal. He shall have authority to cause copies to be made of all minutes and other records and documents of the Authority and to give certificates under the official seal of the Authority to the effect that such copies are true copies, and all persons dealing with the Authority may rely upon such certificates.

Five members of the Authority shall constitute a quorum and the affirmative vote of five members shall be necessary for any action taken by the Authority. No vacancy in the membership of the Authority shall impair the right of a quorum to exercise all the rights and perform all the duties of the Authority.

Before the issuance of any revenue bonds under the provisions of this act the secretary-treasurer of the Authority shall execute a surety bond in the penal sum of fifty thousand dollars, such surety bond to be conditioned upon the faithful performance of the duties of his office, to be executed by a surety company authorized to transact business in the Commonwealth as surety and to be approved by the Attorney General and filed in the office of the Secretary of the Commonwealth.

The members of the Authority shall be entitled to reimbursement for their expenses incurred in attendance upon the meetings of the Authority or while otherwise engaged in the discharge of their duties. Each member shall also be paid the sum of twenty dollars per day for each day or portion thereof during which he is engaged in the performance of his duties, with the maximum payable to any one member in any one calendar year of fifteen hundred dollars.

**3. That § 2, as amended, of Chapter 271 of the Acts of Assembly of 1966 is amended and reenacted as follows:**

§ 2. The Authority shall be composed of eleven members, two of whom shall be licensed members of the medical profession, all of whom shall be appointed by the city council. The terms of the members shall be four years and staggered so that no more than four members shall be appointed in any one year; provided, however, that for terms which commence in 1999, the council shall appoint four members for four-year terms and two members for five-year terms, and for terms which commence in 2001, the council shall appoint four members for four-year terms and one member for a three-year term. Any member may be reappointed; *however, after July 1, 2017, no member shall serve more than two consecutive terms. Any person who has served more than one and one-half terms as a member of the Authority as of July 1, 2017, shall not be eligible for reappointment for another consecutive term. A member of the Authority shall serve at the pleasure of the city council of the City of Chesapeake. No Authority member shall work for the Authority within one year after serving as a member.* Members shall be compensated for their services in the amount of \$250 per attendance at each meeting, provided, however, that no member shall be compensated for participation in a meeting by electronic means when the member is not physically present at the meeting. The Authority shall adopt as part of its bylaws a definition of "compensable meeting" prior to compensating any member in accordance with this section. Members shall be entitled to reimbursement for necessary traveling and other expenses incurred while engaged in the performance of their duties. Each member shall continue to hold office until the earlier of the effective date of his resignation or the date on which his successor has been appointed and qualified. The council shall have the right to remove any member or officer, for malfeasance or misfeasance, incompetency or gross neglect of duty. Vacancies shall be filled by appointment of the council for unexpired terms, or in the case of an increase in the size of the Authority, filled by appointment of the council, which appointments may be for an initial term less than four years. Members shall take an appropriate oath of office and same shall be filed with the city clerk. Members shall elect on an annual basis one of their number as chairman and another as vice-chairman and shall also elect a secretary and treasurer for terms to be determined by them, who may or may not be one of the members. The same person may serve as both secretary and treasurer. The members shall make such rules, regulations and bylaws for their own government and procedure as they shall determine; they shall meet regularly at least once a month and may hold such special meetings as they deem necessary.

## CHAPTER 542

*An Act to amend and reenact § 33.2-241 of the Code of Virginia, relating to Commissioner of Highways; commercial establishment entrances.*

[H 2463]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 33.2-241 of the Code of Virginia is amended and reenacted as follows:**

**§ 33.2-241. Connections over shoulders of highways for intersecting commercial establishment entrances; penalty.**

The Commissioner of Highways shall permit suitable connections from where commercial establishment entrances are desired to intersect improved highways and over and across the shoulders and unimproved parts of such highways to the paved or otherwise improved parts thereof that comply with the access management standards of the Commissioner of Highways for the location, spacing, and design of entrances, taking into account the operating characteristics and federal functional classification of the highway, to provide the users of such entrances safe and convenient means of ingress and egress with motor vehicles to and from the paved or otherwise improved parts of such highways while minimizing the impact of such ingress and egress on the operation of such highways, provided that any person desiring such an entrance shall:

1. Be required first to obtain a permit therefor from the Commissioner of Highways;
2. Provide the entrance at his expense;
3. If required by the Commissioner of Highways, provide for the joint use of the desired entrance with adjacent property owners or provide evidence of such efforts; and
4. Construct the entrance or have the entrance constructed, including such safety structures as are required by the Commissioner of Highways, pursuant to the Department of Transportation's design standards and applicable Department regulations concerning access management and applicable Board regulations concerning land use permits.

All commercial entrances whether or not constructed under this section shall be maintained by the owner of the premises at all times in a manner satisfactory to the Commissioner of Highways.

Any person violating the provisions of this section is guilty of a misdemeanor punishable by a fine of not less than \$5 nor more than \$100 for each offense. Following a conviction and 15 days for correction, each day during which the violation continues shall constitute a separate and distinct offense and be punishable as such. Such person shall be civilly liable to the Commonwealth for actual damage sustained by the Commonwealth by reason of his wrongful act.

*The Commissioner of Highways shall document and maintain a list of anyone who has requested an onsite meeting with the resident engineer or his staff. Such list shall also include recommendations made pursuant to the Department of Transportation's design standards and applicable Department regulations concerning access management and applicable Board regulations concerning land use permits and any associated cost estimates. Such list shall be provided to a locality upon the request of such locality.*

## CHAPTER 543

*An Act to amend the Code of Virginia by adding in Title 15.2 a chapter numbered 60.01, consisting of sections numbered 15.2-6015.1 through 15.2-6015.5, relating to the creation of the Virginia Coalfields Expressway Authority; report.*

[H 2474]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding in Title 15.2 a chapter numbered 60.01, consisting of sections numbered 15.2-6015.1 through 15.2-6015.5, as follows:**

## CHAPTER 60.01.

## VIRGINIA COALFIELDS EXPRESSWAY AUTHORITY.

**§ 15.2-6015.1. Virginia Coalfields Expressway Authority; purpose.**

*The Virginia Coalfields Expressway Authority (the Authority) is established as a body politic and corporate, a political subdivision of the Commonwealth. The Authority shall have the powers and duties hereinafter conferred in this chapter.*

*The primary purpose of the Authority is to improve the transportation into, from, within, and through Southwest Virginia, assist in regional economic development, and generally enhance highway safety in the affected localities.*

*The Coalfields Expressway, designated as U.S. Route 121 and a Congressional High Priority Corridor, is a proposed four-lane, limited-access highway to provide a modern, safe, and efficient transportation artery through the coalfields region of far Southwest Virginia and southern West Virginia.*

*The proposed expressway is designed to provide safe and rapid access to communities along the corridor, with interchanges connecting citizens of Pound, Clintwood, Clinchco, Haysi, Breaks, Grundy, and Slate.*

*It is hereby further declared that the foregoing is a public purpose and use for which public moneys may be spent and such activity will serve a public purpose in providing jobs to the citizens of the Commonwealth.*

*The exercise of the powers granted by this chapter shall be in all respects for the benefit of the inhabitants of the Commonwealth, particularly the affected localities, for the increase of their commerce and for the promotion of their safety, health, welfare, convenience, and prosperity.*

**§ 15.2-6015.2. Membership; terms; quorum; meetings.**

*The Authority shall have a total membership of 12 members that shall consist of nine nonlegislative citizen members and three ex officio members. Nonlegislative citizen members shall be appointed as follows: six members to be appointed by the Speaker of the House of Delegates, two of whom shall be residents of Buchanan County, two of whom shall be residents of Dickenson County, and two of whom shall be residents of Wise County, and three members to be appointed by the Senate Committee on Rules, one of whom shall be a resident of Buchanan County, one of whom shall be a resident of Dickenson County, and one of whom shall be a resident of Wise County. The chairmen of the boards of supervisors of Buchanan, Dickenson, and Wise Counties or their designees shall serve ex officio with voting privileges. Nonlegislative citizen members of the Authority shall be citizens of the Commonwealth.*

*Ex officio members of the Authority shall serve terms coincident with their terms of office. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. Vacancies shall be filled in the same manner as the original appointments. All members may be reappointed.*

*After the initial staggering of terms, nonlegislative citizen members shall be appointed for a term of four years.*

*The Authority shall elect a chairman and vice-chairman from among its membership. A majority of the members shall constitute a quorum. The meetings of the Authority shall be held at the call of the chairman or whenever the majority of the members so request.*

**§ 15.2-6015.3. Compensation; expenses.**

*Members shall receive such compensation for the performance of their duties as provided in § 2.2-2813. All members shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. Funding for the costs of compensation and expenses of the members shall be provided by the Virginia Coalfields Economic Development Authority.*

**§ 15.2-6015.4. Powers and duties of the Authority; report.**

*The Virginia Coalfields Expressway Authority shall have the following powers and duties:*

*1. Coordinate with counties, municipalities, state and federal agencies, public nonprofit corporations, private corporations, associations, partnerships, and individuals for the purpose of planning, assisting, and establishing recreational, tourism, industrial, economic, and community development of the proposed Coalfields Expressway for the benefit of the Commonwealth.*

*2. Work with surrounding states in developing the Coalfields Expressway in the Commonwealth, in an effort to link Interstates 64 and 77 in West Virginia with Route 23 in Virginia, which links to interstates in Kentucky and Tennessee.*

*3. Submit an annual report to the Governor and the General Assembly for publication as a report document as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports. The chairman shall submit to the Governor and the General Assembly an annual executive summary of the interim activity and work of the Authority no later than the first day of each regular session of the General Assembly. The executive summary shall be submitted as a report document as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.*

**§ 15.2-6015.5. Staffing.**

*The Virginia Coalfield Economic Development Authority shall provide assistance to the Authority, upon request.*

**2. That the initial appointments of nonlegislative citizen members of the Virginia Coalfields Expressway Authority shall be staggered as follows: one nonlegislative citizen member from each of the three represented counties for a term of two years appointed by the Speaker of the House of Delegates; one nonlegislative citizen member from each of the three represented counties for a term of three years appointed by the Senate Committee on Rules; and one nonlegislative citizen member from each of the three represented counties for a term of four years appointed by the Speaker of the House of Delegates.**

## CHAPTER 544

*An Act to amend the Code of Virginia by adding in Title 33.2 a chapter numbered 34, consisting of sections numbered 33.2-3400 and 33.2-3401, and to repeal Chapter 23 (§§ 33.2-2300 and 33.2-2301) of Title 33.2 of the Code of Virginia and the thirteenth enactment of Chapter 766 of the Acts of Assembly of 2013, relating to the Interstate 73 Corridor Development Fund and Program.*

[S 806]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding in Title 33.2 a chapter numbered 34, consisting of sections numbered 33.2-3400 and 33.2-3401, as follows:**

*CHAPTER 34.*

*INTERSTATE 73 CORRIDOR DEVELOPMENT FUND AND PROGRAM.*

**§ 33.2-3400. Interstate 73 Corridor Development Fund.**

There is hereby created in the Department of the Treasury a special nonreverting fund that shall be a part of the Transportation Trust Fund and that shall be known as the Interstate 73 Corridor Development Fund, referred to in this chapter as "the Fund," consisting of the first \$40 million of annual collections of the state recordation taxes imposed by Chapter 8 (§ 58.1-800 et seq.) of Title 58.1, provided, however, that this dedication shall not affect the local recordation taxes under subsection B of § 58.1-802 and § 58.1-814. The Fund shall also include such other funds as may be appropriated by the General Assembly and designated for the Fund and all interest, dividends, and appreciation that may accrue thereto. Any moneys remaining in the Fund at the end of a biennium shall not revert to the general fund but shall remain in the Fund. Allocations from the Fund may be paid to any authority, locality, or commission for the purposes specified in § 33.2-3401.

**§ 33.2-3401. Interstate 73 Corridor Development Program.**

A. The General Assembly declares it to be in the public interest that the economic development needs and economic growth potential of south-central and Southwest Virginia be addressed by the Fund. Moneys contained in the Fund shall be used for the costs of providing an adequate, modern, safe, and efficient highway system, generally along Virginia's southern boundary (the Program), including environmental and engineering studies, rights-of-way acquisition, construction, improvements, and financing costs.

B. Allocations from the Fund shall be made annually by the Commonwealth Transportation Board for the creation and enhancement of a safe, efficient highway system connecting the communities, businesses, places of employment, and residents of the southwestern-most portion of the Commonwealth to the communities, businesses, places of employment, and residents of the southeastern-most portion of the Commonwealth, thereby enhancing the economic development potential, employment opportunities, and mobility along such highway.

C. Allocations from the Fund shall not diminish or replace allocations made or planned to be made from other sources or diminish allocations to which any highway, project, facility, district, system, or locality would be entitled under other provisions of this title, but shall be supplemental to other allocations to the end that highway resource improvements in the Interstate 73 Corridor may be accelerated and augmented. Notwithstanding any contrary provisions of this title, allocations from the Fund may be applied to highway projects in the Interstate System, primary or secondary state highway system, or urban highway system. Allocations under this subsection shall not be limited to projects involving only Interstate 73 but may be made to projects involving other highways, provided that the broader goal of creation of an adequate modern highway system generally along Virginia's southern boundary is served thereby.

D. The Commonwealth Transportation Board may expend such funds from all sources as may be lawfully available to initiate the Program and to support bonds and other obligations referenced in subsection F. Any moneys expended from the Transportation Trust Fund for the Program, other than moneys contained in the Fund, may be reimbursed from the Fund, to the extent permitted by Article X, Section 9 of the Constitution of Virginia.

E. The Commonwealth Transportation Board is encouraged to utilize the existing four-lane divided highways, available rights-of-way acquired for additional four-laning, bypasses, connectors, and alternate routes.

F. To the extent permitted by Article X, Section 9 of the Constitution of Virginia, moneys contained in the Fund may be used to secure payment of bonds or other obligations, and the interest thereon, issued in furtherance of the purposes of this section. In addition, the Commonwealth Transportation Board is authorized to receive, dedicate, or use legally available Transportation Trust Fund revenues and any other available sources of funds to secure the payment of bonds or other obligations, including interest thereon, in furtherance of the Program. No bond or other obligations payable from revenues of the Fund shall be issued unless specifically approved by the General Assembly. No bond or other obligations, secured in whole or in part by revenues of the Fund, shall pledge the full faith and credit of the Commonwealth.

G. Forty million dollars shall be transferred annually to the Interstate 73 Corridor Development Fund. Such transfer shall be made by the issuance of a treasury loan at no interest in the amount of \$40 million to the Fund to ensure that the Fund is fully funded on the first day of the fiscal year. Such treasury loan shall be repaid from the Commonwealth's portion of the state recordation tax imposed by Chapter 8 (§ 58.1-800 et seq.) of Title 58.1 designated for the Fund by § 33.2-3400. For each fiscal year following, the Secretary of Finance is authorized to make additional treasury loans in the amount of \$40 million on July 1 of such fiscal years, and such treasury loans shall be repaid in a like manner as provided in this subsection.

**2. That Chapter 23 (§§ 33.2-2300 and 33.2-2301) of Title 33.2 of the Code of Virginia is repealed.**

**3. That the thirteenth enactment of Chapter 766 of the Acts of Assembly of 2013 is repealed.**

**4. That the provisions of the first, second, and third enactments of this act shall become effective upon the completion of the construction of and payments, including debt service payments, for all parts of the U.S. Route 58 Corridor Development Program. Such completion shall be determined by the Commissioner of Highways.**

**5. That the provisions of this act shall not become effective unless reenacted by the 2018 Session of the General Assembly.**

**CHAPTER 545**

*An Act to seek an exemption from the federal reformulated gasoline program for gasoline sold for farm use.*

[S 899]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. § 1.** *That the Department of Environmental Quality be directed to seek from the U.S. Environmental Protection Agency an exemption from the federal reformulated gasoline program for the on-farm sale and delivery of conventional, ethanol-free gasoline for use in farm motor vehicles used exclusively for farm use as defined in § 46.2-698 of the Code of Virginia. No ethanol-free gasoline sold pursuant to such exemption shall be sold or delivered to a non-farm customer or used in any road vehicle.*

**CHAPTER 546**

*An Act to amend and reenact § 2.2-3110 of the Code of Virginia, relating to State and Local Government Conflict of Interests Act; prohibited contracts; exceptions for certain contracts entered into by officer or employee or immediate family member of officer or employee of soil and water conservation district.*

[S 965]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 2.2-3110 of the Code of Virginia is amended and reenacted as follows:**

**§ 2.2-3110. Further exceptions.**

A. The provisions of Article 3 (§ 2.2-3106 et seq.) shall not apply to:

1. The sale, lease or exchange of real property between an officer or employee and a governmental agency, provided the officer or employee does not participate in any way as such officer or employee in such sale, lease or exchange, and this fact is set forth as a matter of public record by the governing body of the governmental agency or by the administrative head thereof;

2. The publication of official notices;

3. Contracts between the government or school board of a town or city with a population of less than 10,000 and an officer or employee of that town or city government or school board when the total of such contracts between the town or city government or school board and the officer or employee of that town or city government or school board or a business controlled by him does not exceed \$10,000 per year or such amount exceeds \$10,000 and is less than \$25,000 but results from contracts arising from awards made on a sealed bid basis, and such officer or employee has made disclosure as provided for in § 2.2-3115;

4. An officer or employee whose sole personal interest in a contract with the governmental agency is by reason of income from the contracting firm or governmental agency in excess of \$10,000 per year, provided the officer or employee or a member of his immediate family does not participate and has no authority to participate in the procurement or letting of such contract on behalf of the contracting firm and the officer or employee either does not have authority to participate in the procurement or letting of the contract on behalf of his governmental agency or he disqualifies himself as a matter of public record and does not participate on behalf of his governmental agency in negotiating the contract or in approving the contract;

5. When the governmental agency is a public institution of higher education, an officer or employee whose personal interest in a contract with the institution is by reason of an ownership in the contracting firm in excess of three percent of the contracting firm's equity or such ownership interest and income from the contracting firm is in excess of \$10,000 per year, provided that (i) the officer or employee's ownership interest, or ownership and income interest, and that of any immediate family member in the contracting firm is disclosed in writing to the president of the institution, which writing certifies that the officer or employee has not and will not participate in the contract negotiations on behalf of the contracting firm or the institution, (ii) the president of the institution makes a written finding as a matter of public record that the contract is in the best interests of the institution, (iii) the officer or employee either does not have authority to participate in the procurement or letting of the contract on behalf of the institution or disqualifies himself as a matter of public record, and (iv) does not participate on behalf of the institution in negotiating the contract or approving the contract;

6. Except when the governmental agency is the Virginia Retirement System, contracts between an officer's or employee's governmental agency and a public service corporation, financial institution, or company furnishing public utilities in which the officer or employee has a personal interest, provided the officer or employee disqualifies himself as a matter of public record and does not participate on behalf of his governmental agency in negotiating the contract or in approving the contract;

7. Contracts for the purchase of goods or services when the contract does not exceed \$500;

8. Grants or other payment under any program wherein uniform rates for, or the amounts paid to, all qualified applicants are established solely by the administering governmental agency;

9. An officer or employee whose sole personal interest in a contract with his own governmental agency is by reason of his marriage to his spouse who is employed by the same agency, if the spouse was employed by such agency for five or more years prior to marrying such officer or employee; or

10. Contracts entered into by an officer or employee *or immediate family member of an officer or employee* of a soil and water conservation district created pursuant to Article 3 (§ 10.1-506 et seq.) of Chapter 5 of Title 10.1 to participate in the Virginia Agricultural Best Management Practices Cost-Share Program (the Program) established in accordance with § 10.1-546.1 *or to participate in other cost-share programs for the installation of best management practices to improve water quality*. This subdivision shall not apply to subcontracts or other agreements entered into by an officer or employee of a soil and water conservation district to provide services for implementation of a cost-share contract established under the Program *or such other cost-share programs*.

B. Neither the provisions of this chapter nor, unless expressly provided otherwise, any amendments thereto shall apply to those employment contracts or renewals thereof or to any other contracts entered into prior to August 1, 1987, which were in compliance with either the former Virginia Conflict of Interests Act, Chapter 22 (§ 2.1-347 et seq.) or the former Comprehensive Conflict of Interests Act, Chapter 40 (§ 2.1-599 et seq.) of Title 2.1 at the time of their formation and thereafter. Those contracts shall continue to be governed by the provisions of the appropriate prior Act. Notwithstanding the provisions of subdivision (f)(4) of § 2.1-348 of Title 2.1 in effect prior to July 1, 1983, the employment by the same governmental agency of an officer or employee and spouse or any other relative residing in the same household shall not be deemed to create a material financial interest except when one of such persons is employed in a direct supervisory or administrative position, or both, with respect to such spouse or other relative residing in his household and the annual salary of such subordinate is \$35,000 or more.

**2. That the provisions of this act shall apply to contracts entered into on and after July 1, 2017, and to any contract entered into by an officer or employee or an immediate family member of such officer or employee with a soil and water conservation district to participate in a cost-share program for the installation of best management practices to improve water quality prior to the effective date of this act.**

#### CHAPTER 547

*An Act to amend and reenact §§ 46.2-208, 46.2-212.1, 46.2-221.2, and 46.2-332 of the Code of Virginia, relating to Department of Motor Vehicles; expiration and renewal of driver credentials.*

[S 1085]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 46.2-208, 46.2-212.1, 46.2-221.2, and 46.2-332 of the Code of Virginia are amended and reenacted as follows:**

**§ 46.2-208. Records of Department; when open for inspection; release of privileged information.**

A. All records in the office of the Department containing the specific classes of information outlined below shall be considered privileged records:

1. Personal information, including all data defined as "personal information" in § 2.2-3801;
2. Driver information, including all data that relates to driver's license status and driver activity; and
3. Vehicle information, including all descriptive vehicle data and title, registration, and vehicle activity data.

B. The Commissioner shall release such information only under the following conditions:

1. Notwithstanding other provisions of this section, medical data included in personal data shall be released only to a physician, physician assistant, or nurse practitioner as provided in § 46.2-322.

2. Insurance data may be released as specified in §§ 46.2-372, 46.2-380, and 46.2-706.

3. Notwithstanding other provisions of this section, information disclosed or furnished shall be assessed a fee as specified in § 46.2-214.

4. When the person requesting the information is (i) the subject of the information, (ii) the parent or guardian of the subject of the information, (iii) the authorized representative of the subject of the information, or (iv) the owner of the vehicle that is the subject of the information, the Commissioner shall provide him with the requested information and a complete explanation of it. Requests for such information need not be made in writing or in person and may be made orally or by telephone, provided that the Department is satisfied that there is adequate verification of the requester's identity. When so requested in writing by (a) the subject of the information, (b) the parent or guardian of the subject of the information, (c) the authorized representative of the subject of the information, or (d) the owner of the vehicle that is the subject of the information, the Commissioner shall verify and, if necessary, correct the personal information provided and furnish driver and vehicle information in the form of an abstract of the record.

5. On the written request of any insurance carrier, surety, or representative of an insurance carrier or surety, the Commissioner shall furnish such insurance carrier, surety, or representative an abstract of the record of any person subject to the provisions of this title. The abstract shall include any record of any conviction of a violation of any provision of any statute or ordinance relating to the operation or ownership of a motor vehicle or of any injury or damage in which he was involved and a report of which is required by § 46.2-372. No such report of any conviction or accident shall be made after

60 months from the date of the conviction or accident unless the Commissioner or court used the conviction or accident as a reason for the suspension or revocation of a driver's license or driving privilege, in which case the revocation or suspension and any conviction or accident pertaining thereto shall not be reported after 60 months from the date that the driver's license or driving privilege has been reinstated. This abstract shall not be admissible in evidence in any court proceedings.

6. On the written request of any business organization or its agent, in the conduct of its business, the Commissioner shall compare personal information supplied by the business organization or agent with that contained in the Department's records and, when the information supplied by the business organization or agent is different from that contained in the Department's records, provide the business organization or agent with correct information as contained in the Department's records. Personal information provided under this subdivision shall be used solely for the purpose of pursuing remedies that require locating an individual.

7. The Commissioner shall provide vehicle information to any business organization or agent on such business' or agent's written request. Disclosures made under this subdivision shall not include any personal information and shall not be subject to the limitations contained in subdivision 6.

8. On the written request of any motor vehicle rental or leasing company or its designated agent, the Commissioner shall (i) compare personal information supplied by the company or agent with that contained in the Department's records and, when the information supplied by the company or agent is different from that contained in the Department's records, provide the company or agent with correct information as contained in the Department's records and (ii) provide the company or agent with driver information in the form of an abstract of any person subject to the provisions of this title. Such abstract shall include any record of any conviction of a violation of any provision of any statute or ordinance relating to the operation or ownership of a motor vehicle or of any injury or damage in which the subject of the abstract was involved and a report of which is required by § 46.2-372. No such abstract shall include any record of any conviction or accident more than 60 months after the date of such conviction or accident unless the Commissioner or court used the conviction or accident as a reason for the suspension or revocation of a driver's license or driving privilege, in which case the revocation or suspension and any conviction or accident pertaining thereto shall cease to be included in such abstract after 60 months from the date on which the driver's license or driving privilege was reinstated. No abstract released under this subdivision shall be admissible in evidence in any court proceedings.

9. On the request of any federal, state, or local governmental entity, local government group self-insurance pool, law-enforcement officer, attorney for the Commonwealth, court, or the authorized agent of any of the foregoing, the Commissioner shall (i) compare personal information supplied by the governmental entity, local government group self-insurance pool, law-enforcement officer, attorney for the Commonwealth, court, or the authorized agent of any of the foregoing, with that contained in the Department's records and, when the information supplied by the governmental entity, local government group self-insurance pool, law-enforcement officer, attorney for the Commonwealth, court, or the authorized agent of any of the foregoing, is different from that contained in the Department's records, provide the governmental entity, local government group self-insurance pool, law-enforcement officer, attorney for the Commonwealth, court, or the authorized agent of any of the foregoing, with correct information as contained in the Department's records and (ii) provide driver and vehicle information in the form of an abstract of the record showing all convictions, accidents, driver's license suspensions or revocations, and other appropriate information as the governmental entity, local government group self-insurance pool, law-enforcement officer, attorney for the Commonwealth, court, or the authorized agent of any of the foregoing, may require in order to carry out its official functions. The abstract shall be provided free of charge.

10. On request of the driver licensing authority in any other state or foreign country, the Commissioner shall provide whatever classes of information the requesting authority shall require in order to carry out its official functions. The information shall be provided free of charge.

11. On the written request of any employer, prospective employer, or authorized agent of either, and with the written consent of the individual concerned, the Commissioner shall (i) compare personal information supplied by the employer, prospective employer, or agent with that contained in the Department's records and, when the information supplied by the employer, prospective employer, or agent is different from that contained in the Department's records, provide the employer, prospective employer, or agent with correct information as contained in the Department's records and (ii) provide the employer, prospective employer, or agent with driver information in the form of an abstract of an individual's record showing all convictions, accidents, driver's license suspensions or revocations, and any type of driver's license that the individual currently possesses, provided that the individual's position or the position that the individual is being considered for involves the operation of a motor vehicle.

12. On the written request of any member of or applicant for membership in a volunteer fire company or any volunteer emergency medical services personnel or applicant to serve as volunteer emergency medical services personnel, the Commissioner shall (i) compare personal information supplied by the volunteer fire company or volunteer emergency medical services agency with that contained in the Department's records and, when the information supplied by the volunteer fire company or volunteer emergency medical services agency is different from that contained in the Department's records, provide the volunteer fire company or volunteer emergency medical services agency with correct information as contained in the Department's records and (ii) provide driver information in the form of an abstract of the member's, personnel, or applicant's record showing all convictions, accidents, license suspensions or revocations, and any type of driver's license that the individual currently possesses. Such abstract shall be provided free of charge if the request is accompanied by appropriate written evidence that the person is a member of or applicant for membership in a volunteer fire

company or a volunteer emergency medical services agency to serve as a member of a volunteer emergency medical services agency and the abstract is needed by a volunteer fire company or volunteer emergency medical services agency to establish the qualifications of the member, volunteer, or applicant to operate equipment owned by the volunteer fire company or volunteer emergency medical services agency.

13. On the written request of any person who has applied to be a volunteer with a Virginia affiliate of Big Brothers/Big Sisters of America, the Commissioner shall (i) compare personal information supplied by a Virginia affiliate of Big Brothers/Big Sisters of America with that contained in the Department's records and, when the information supplied by a Virginia affiliate of Big Brothers/Big Sisters of America is different from that contained in the Department's records, provide the Virginia affiliate of Big Brothers/Big Sisters of America with correct information as contained in the Department's records and (ii) provide driver information in the form of an abstract of the applicant's record showing all convictions, accidents, license suspensions or revocations, and any type of driver's license that the individual currently possesses. Such abstract shall be provided at a fee that is one-half the normal charge if the request is accompanied by appropriate written evidence that the person has applied to be a volunteer with a Virginia affiliate of Big Brothers/Big Sisters of America.

14. On the written request of any person who has applied to be a volunteer with a court-appointed special advocate program pursuant to § 9.1-153, the Commissioner shall provide an abstract of the applicant's record showing all convictions, accidents, license suspensions or revocations, and any type of driver's license that the individual currently possesses. Such abstract shall be provided free of charge if the request is accompanied by appropriate written evidence that the person has applied to be a volunteer with a court-appointed special advocate program pursuant to § 9.1-153.

15. Upon the request of any employer, prospective employer, or authorized representative of either, the Commissioner shall (i) compare personal information supplied by the employer, prospective employer, or agent with that contained in the Department's records and, when the information supplied by the employer, prospective employer, or agent is different from that contained in the Department's records, provide the employer, prospective employer, or agent with correct information as contained in the Department's records and (ii) provide driver information in the form of an abstract of the driving record of any individual who has been issued a commercial driver's license, provided that the individual's position or the position that the individual is being considered for involves the operation of a commercial motor vehicle. Such abstract shall show all convictions, accidents, license suspensions, revocations, or disqualifications, and any type of driver's license that the individual currently possesses.

16. Upon the receipt of a completed application and payment of applicable processing fees, the Commissioner may enter into an agreement with any governmental authority or business to exchange information specified in this section by electronic or other means.

17. Upon the request of an attorney representing a person in a motor vehicle accident, the Commissioner shall provide vehicle information, including the owner's name and address, to the attorney.

18. Upon the request, in the course of business, of any authorized representative of an insurance company or of any not-for-profit entity organized to prevent and detect insurance fraud, or perform rating and underwriting activities, the Commissioner shall provide to such person (i) all vehicle information, including the owner's name and address, descriptive data and title, registration, and vehicle activity data as requested or (ii) all driver information including name, license number and classification, date of birth, and address information for each driver under the age of 22 licensed in the Commonwealth of Virginia meeting the request criteria designated by such person, with such request criteria consisting of driver's license number or address information. No such information shall be used for solicitation of sales, marketing, or other commercial purposes.

19. Upon the request of an officer authorized to issue criminal warrants, for the purpose of issuing a warrant for arrest for unlawful disposal of trash or refuse in violation of § 33.2-802 the Commissioner shall provide vehicle information, including the owner's name and address.

20. Upon written request of the compliance agent of a private security services business, as defined in § 9.1-138, which is licensed by the Department of Criminal Justice Services, the Commissioner shall provide the name and address of the owner of the vehicle under procedures determined by the Commissioner.

21. Upon the request of the operator of a toll facility or traffic light photo-monitoring system acting on behalf of a government entity, or of the Dulles Access Highway, or an authorized agent or employee of a toll facility operator or traffic light photo-monitoring system operator acting on behalf of a government entity or the Dulles Access Highway, for the purpose of obtaining vehicle owner data under subsection M of § 46.2-819.1 or subsection H of § 15.2-968.1 or subsection N of § 46.2-819.5. Information released pursuant to this subdivision shall be limited to the name and address of the owner of the vehicle having failed to pay a toll or having failed to comply with a traffic light signal or having improperly used the Dulles Access Highway and the vehicle information, including all descriptive vehicle data and title and registration data of the same vehicle.

22. On the written request of any person who has applied to be a volunteer with a Virginia affiliate of Compeer, the Commissioner shall (i) compare personal information supplied by a Virginia affiliate of Compeer with that contained in the Department's records and, when the information supplied by a Virginia affiliate of Compeer is different from that contained in the Department's records, provide the Virginia affiliate of Compeer with correct information as contained in the Department's records and (ii) provide driver information in the form of an abstract of the applicant's record showing all convictions, accidents, license suspensions or revocations, and any type of driver's license that the individual currently

possesses. Such abstract shall be provided at a fee that is one-half the normal charge if the request is accompanied by appropriate written evidence that the person has applied to be a volunteer with a Virginia affiliate of Compeer.

23. Upon the request of the Department of Environmental Quality for the purpose of obtaining vehicle owner data in connection with enforcement actions involving on-road testing of motor vehicles, pursuant to § 46.2-1178.1.

24. On the written request of any person who has applied to be a volunteer vehicle operator with a Virginia chapter of the American Red Cross, the Commissioner shall (i) compare personal information supplied by a Virginia chapter of the American Red Cross with that contained in the Department's records and, when the information supplied by a Virginia chapter of the American Red Cross is different from that contained in the Department's records, provide the Virginia chapter of the American Red Cross with correct information as contained in the Department's records and (ii) provide driver information in the form of an abstract of the applicant's record showing all convictions, accidents, license suspensions or revocations, and any type of driver's license that the individual currently possesses. Such abstract shall be provided at a fee that is one-half the normal charge if the request is accompanied by appropriate written evidence that the person has applied to be a volunteer vehicle operator with a Virginia chapter of the American Red Cross.

25. On the written request of any person who has applied to be a volunteer vehicle operator with a Virginia chapter of the Civil Air Patrol, the Commissioner shall (i) compare personal information supplied by a Virginia chapter of the Civil Air Patrol with that contained in the Department's records and, when the information supplied by a Virginia chapter of the Civil Air Patrol is different from that contained in the Department's records, provide the Virginia chapter of the Civil Air Patrol with correct information as contained in the Department's records and (ii) provide driver information in the form of an abstract of the applicant's record showing all convictions, accidents, license suspensions or revocations, and any type of driver's license that the individual currently possesses. Such abstract shall be provided at a fee that is one-half the normal charge if the request is accompanied by appropriate written evidence that the person has applied to be a volunteer vehicle operator with a Virginia chapter of the Civil Air Patrol.

26. On the written request of any person who has applied to be a volunteer vehicle operator with Faith in Action, the Commissioner shall (i) compare personal information supplied by Faith in Action with that contained in the Department's records and, when the information supplied by Faith in Action is different from that contained in the Department's records, provide Faith in Action with correct information as contained in the Department's records and (ii) provide driver information in the form of an abstract of the applicant's record showing all convictions, accidents, license suspensions or revocations, and any type of driver's license that the individual currently possesses. Such abstract shall be provided at a fee that is one-half the normal charge if the request is accompanied by appropriate written evidence that the person has applied to be a volunteer vehicle operator with Faith in Action.

27. On the written request of the surviving spouse or child of a deceased person or the executor or administrator of a deceased person's estate, the Department shall, if the deceased person had been issued a driver's license or special identification card by the Department, supply the requestor with a hard copy image of any photograph of the deceased person kept in the Department's records.

28. On the written request of any person who has applied to be a volunteer with a Virginia Council of the Girl Scouts of the USA, the Commissioner shall (i) compare personal information supplied by a Virginia Council of the Girl Scouts of the USA with that contained in the Department's records and, when the information supplied by a Virginia Council of the Girl Scouts of the USA is different from that contained in the Department's records, provide a Virginia Council of the Girl Scouts of the USA with correct information as contained in the Department's records and (ii) provide driver information in the form of an abstract of the applicant's record showing all convictions, accidents, license suspensions or revocations, and any type of driver's license that the individual currently possesses. Such abstract shall be provided at a fee that is one-half the normal charge if the request is accompanied by appropriate written evidence that the person has applied to be a volunteer with the Virginia Council of the Girl Scouts of the USA.

29. *Upon written agreement, the Commissioner may digitally verify the authenticity and validity of a driver's license, learner's permit, or special identification card to the American Association of Motor Vehicle Administrators, a motor vehicle dealer as defined in § 46.2-1500, or other organization approved by the Commissioner.*

C. Whenever the Commissioner issues an order to suspend or revoke the driver's license or driving privilege of any individual, he may notify the National Driver Register Service operated by the United States Department of Transportation and any similar national driver information system and provide whatever classes of information the authority may require.

D. Accident reports may be inspected under the provisions of §§ 46.2-379 and 46.2-380.

E. Whenever the Commissioner takes any licensing action pursuant to the provisions of the Virginia Commercial Driver's License Act (§ 46.2-341.1 et seq.), he may provide information to the Commercial Driver License Information System, or any similar national commercial driver information system, regarding such action.

F. In addition to the foregoing provisions of this section, vehicle information may also be inspected under the provisions of §§ 46.2-633, 46.2-644.02, 46.2-644.03, and §§ 46.2-1200.1 through 46.2-1237.

G. The Department may promulgate regulations to govern the means by which personal, vehicle, and driver information is requested and disseminated.

H. Driving records of any person accused of an offense involving the operation of a motor vehicle shall be provided by the Commissioner upon request to any person acting as counsel for the accused. If such counsel is from the public defender's office or has been appointed by the court, such records shall be provided free of charge.

I. The Department shall maintain the records of persons convicted of violations of § 18.2-36.2, subsection B of § 29.1-738, and §§ 29.1-738.02, 29.1-738.2, and 29.1-738.4 which shall be forwarded by every general district court or circuit court or the clerk thereof, pursuant to § 46.2-383. Such records shall be electronically available to any law-enforcement officer as provided for under clause (ii) of subdivision B 9.

J. Whenever the Commissioner issues a certificate of title for a motor vehicle, he may notify the National Motor Vehicle Title Information System, or any other nationally recognized system providing similar information, or any entity contracted to collect information for such system, and may provide whatever classes of information are required by such system.

**§ 46.2-212.1. Payments by payment devices.**

The Commissioner may authorize the acceptance of payment devices in lieu of money for payment of any fees, fines, penalties, and taxes collected by the Department of Motor Vehicles or agents acting on behalf of the Department. The Department may add to such payment an amount of no more than four percent of the payment as a service charge for the acceptance of a payment device.

The Commissioner may authorize a Department transaction receipt to be used with existing Department documents as evidence that the holder has complied with Department payment requirements, provided *that* the transaction is completed before the document's expiration date. *However, a transaction receipt for expired vehicle registrations that are renewed online within 90 days of expiration with the payment of all required fees may serve as evidence that the holder has complied with Department payment requirements.* Any such transaction receipt shall include detailed information as to length of time by which the document's period of validity will be extended and how the transaction receipt is to be verified.

**§ 46.2-221.2. Extension of expiration of driver's licenses issued to certain persons in service to the United States government or for good cause shown.**

A. Notwithstanding ~~any contrary provision of law § 46.2-330,~~ any driver's license that is issued by the Department under Chapter 3 (§ 46.2-300 et seq.) to (i) a person serving outside the Commonwealth in the armed services of the United States, (ii) a person serving outside the Commonwealth as a member of the diplomatic service of the United States appointed under the Foreign Service Act of 1946, (iii) a civilian employee of the United States government or any agency or contractor thereof serving outside the United States on behalf of the United States government, or (iv) a spouse or dependent accompanying any such member of the armed services or diplomatic service serving outside the Commonwealth or civilian employee of the United States government or any agency or contractor thereof serving outside the United States on behalf of the United States government shall be held not to have expired during the period of the licensee's service outside the Commonwealth in the armed services of the United States or as a member of the diplomatic service of the United States appointed under the Foreign Service Act of 1946 or as a civilian employee of the United States government or any agency or contractor thereof serving outside the United States on behalf of the United States government and 180 days thereafter. However, no extension granted under this section shall exceed three years from the date of expiration shown on the individual's driver's license. ~~The Department shall furnish any person whose driver's license is extended under this section documentary or other proof, when operating any motor vehicle, that he is entitled to the benefits of this section.~~

For the purposes of this ~~section~~ subsection, "service in the armed services of the United States" includes active duty service with the regular Armed Forces of the United States or the National Guard or other reserve component.

B. *Notwithstanding § 46.2-330, the Commissioner may, for good cause shown, extend the validity period of a driver's license issued by the Department pursuant to Chapter 3 (§ 46.2-300 et seq.), provided that the license holder requesting the extension (i) contacts the Department prior to expiration of his license, (ii) is temporarily absent from the Commonwealth at the time his driver's license is due for renewal, (iii) provides the Commissioner with verifiable evidence documenting the need for an extension, (iv) provides the Commissioner with the earliest date of return, and (v) is not eligible to renew his license online. No extension granted under this subsection shall exceed one year from the date of expiration shown on the individual's driver's license.*

C. *The Department shall furnish to any person whose driver's license is extended under this section documentary or other proof that he is entitled to the benefits of this section when operating any motor vehicle.*

**§ 46.2-332. Fees.**

On and after January 1, 1990, the fee for each driver's license other than a commercial driver's license shall be \$2.40 per year. If the license is a commercial driver's license or seasonal restricted commercial driver's license, the fee shall be \$6 per year. Persons 21 years old or older may be issued a scenic driver's license, learner's permit, or commercial driver's license for an additional fee of \$5. For any one or more driver's license endorsements or classifications, except a motorcycle classification, there shall be an additional fee of \$1 per year; for a motorcycle classification, there shall be an additional fee of \$2 per year. For any and all driver's license classifications, there shall be an additional fee of \$1 per year. For any revalidation of a seasonal restricted commercial driver's license, the fee shall be \$5. *A fee of \$10 shall be charged to extend the validity period of a driver's license pursuant to subsection B of § 46.2-221.2.*

In addition to any other fee imposed and collected by the Department, the Department shall impose and collect a service charge of \$5 upon each person who carries out the renewal of a driver's license or special identification card in any of the Department's Customer Service Centers if such renewal can be conducted by mail or telephone or by using an electronic medium in a format prescribed by the Commissioner. Such service charge shall not apply if, concurrently with the renewal of the driver's license or special identification card, the person undertakes another transaction at a Customer Service Center that cannot be conducted by mail or telephone or by using an electronic medium in a format prescribed by the

Commissioner. Such service charge shall be paid by the Commissioner into the state treasury and shall be set aside as a special fund to be used to meet the expenses of the Department.

A reexamination fee of \$2 shall be charged for each administration of the knowledge portion of the driver's license examination taken by an applicant who is 18 years of age or older if taken more than once within a 15-day period. The reexamination fee shall be charged each time the examination is administered until the applicant successfully completes the examination, if taken prior to the fifteenth day.

An applicant who is less than 18 years of age who does not successfully complete the knowledge portion of the driver's license examination shall not be permitted to take the knowledge portion more than once in 15 days.

A fee of \$50 shall be charged each time an applicant for a commercial driver's license fails to keep a scheduled skills test appointment, unless such applicant cancels his appointment with the assigned driver's license examiner at least 24 hours in advance of the scheduled appointment. The Commissioner may, on a case-by-case basis, waive such fee for good cause shown. All such fees shall be paid by the Commissioner into the state treasury and set aside as a special fund to be used to meet the necessary expenses incurred by the Department.

If the applicant for a driver's license is an employee of the Commonwealth, or of any county, city, or town who drives a motorcycle or a commercial motor vehicle solely in the line of his duty, he shall be exempt from the additional fee otherwise assessable for a motorcycle classification or a commercial motor vehicle endorsement. The Commissioner may prescribe the forms as may be requisite for completion by persons claiming exemption from additional fees imposed by this section.

No additional fee above \$2.40 per year shall be assessed for the driver's license or commercial driver's license required for the operation of a school bus.

Excluding the \$2 reexamination fee, \$1.50 of all fees collected for each original or renewal driver's license shall be paid into the driver education fund of the state treasury and expended as provided by law. Unexpended funds from the driver education fund shall be retained in the fund and be available for expenditure in ensuing years as provided therein.

All fees for motorcycle classifications shall be distributed as provided in § 46.2-1191.

This section shall supersede conflicting provisions of this chapter.

#### CHAPTER 548

*An Act to amend and reenact § 18.2-160.3 of the Code of Virginia, relating to fare enforcement inspectors.*

[S 1172]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 18.2-160.3 of the Code of Virginia is amended and reenacted as follows:**

**§ 18.2-160.3. Fare enforcement inspectors; failure to produce proof of payment of fare; penalty.**

A. For the purposes of this section, "eligible entity" means any transit operation ~~in Planning District 8~~ that is owned or operated directly or indirectly by a political subdivision of the Commonwealth or any governmental entity established by an interstate compact of which Virginia is a signatory.

B. Any eligible entity that either directly or by contract operates any form of mass transit may appoint fare enforcement inspectors and establish the qualifications required for their appointment. Fare enforcement inspectors shall have the power to (i) request patrons at transit boarding locations or on transit vehicles to show proof of payment of the applicable fare; (ii) inspect the proof of payment for validity; (iii) issue a civil summons for violations authorized by this section; (iv) assist with crowd control while on a transit vehicle or at a transit boarding location; and (v) perform such other customer service and safety duties as may be assigned by the eligible entity. The powers of fare enforcement inspectors are limited to those powers enumerated in this section, and fare enforcement inspectors are not required to be law-enforcement officers. The powers of fare enforcement inspectors appointed pursuant to this section shall be exercisable anywhere in the Commonwealth where the appointing eligible entity operates transit service. Fare enforcement inspectors shall report to the department or agency designated by the appointing eligible entity.

C. It shall be unlawful for any person to board or ride a transit operation operated by an eligible entity when he fails or refuses to pay the applicable fare or refuses to produce valid proof of payment of the fare upon request of a fare enforcement inspector. Any person who violates this section shall be liable for a civil penalty of not more than \$100. Any person summoned for a violation may make an appearance in person or in writing by mail to the department of finance or the treasurer of the locality, or the designee of the department of finance or the treasurer, where the violation occurred as specified on the summons prior to the date fixed for trial in court. Any person so appearing may enter a waiver of trial, admit liability, and pay the civil penalty established for the violation charged. Such persons shall be informed of their right to stand trial and that a signature to an admission of liability will have the same force and effect as a judgment of court. If a person charged with a violation does not elect to enter a waiver of trial and admit liability, the violation shall be brought by the eligible entity or the locality in which the violation occurred and tried as a civil case in the general district court in the same manner and with the same right of appeal as provided for by law. In any trial for a violation authorized by this section, it shall be the burden of the eligible entity or locality in which the violation occurred to show the liability of the violator by a preponderance of the evidence. The penalty for failure to pay the established fare on transit properties covered by another provision of law shall be governed by that provision and not by this section.

D. The governing bodies of counties, cities, and towns may adopt ordinances not in conflict with the provisions of this section to appoint fare enforcement inspectors and prescribe their duties in such counties, cities, and towns.

E. The penalty imposed by this section shall not apply to a law-enforcement officer while he is engaged in the performance of his official duties.

### CHAPTER 549

*An Act to amend and reenact § 10.1-413 of the Code of Virginia, relating to James River State Scenic River.*

[S 1196]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 10.1-413 of the Code of Virginia is amended and reenacted as follows:**

**§ 10.1-413. James River State Scenic River.**

A. That portion of the James River in Botetourt County, ~~from a point two miles southeast of the point where Route 43 (old Route 220) crosses the James River at Eagle Roek and Rockbridge Counties, including the Towns of Buchanan and Glasgow, from its origination at the confluence of the Jackson and Cowpasture Rivers~~ running approximately 14.59 miles southeastward to the ~~point where Route 630 crosses the James River at Springwood~~ Rockbridge-Amherst-Bedford County line is hereby designated a component of the Virginia Scenic Rivers System.

B. No dam or other structure that impedes the natural flow of the James River in Botetourt or Rockbridge County shall be constructed, operated, or maintained within the section of the James River designated as a scenic river by this statute unless specifically authorized by an act of the General Assembly.

### CHAPTER 550

*An Act to amend and reenact § 46.2-1143 of the Code of Virginia, relating to maximum gross weight and overweight permits for trucks hauling asphalt.*

[S 1316]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 46.2-1143 of the Code of Virginia is amended and reenacted as follows:**

**§ 46.2-1143. Overweight permits for coal haulers; trucks hauling gravel, sand, asphalt, crushed stone, or liquids produced from gas or oil wells in certain counties; penalties.**

A. The Commissioner upon written application by the owner or operator of vehicles used exclusively for hauling coal or coal byproducts from a mine or other place of production to a preparation plant, electricity-generation facility, loading dock, or railroad shall issue, without a fee, a permit authorizing those vehicles to operate with gross weights in excess of those established in § 46.2-1126 on the conditions set forth in this section.

B. Vehicles with three axles may have a maximum gross weight, when loaded, of no more than 60,000 pounds, a single axle weight of not more than 24,000 pounds and a tandem axle weight of no more than 45,000 pounds. Vehicles with four axles may have a maximum gross weight, when loaded, of no more than 70,000 pounds, a single axle weight of no more than 24,000 pounds, and a tri-axle weight of no more than 50,000 pounds. Vehicles with five axles having no less than 35 feet of axle space between extreme axles may have a maximum gross weight, when loaded, of no more than 90,000 pounds, a single axle weight of no more than 20,000 pounds, and a tandem axle weight of no more than 40,000 pounds. Vehicles with six axles may have a maximum gross weight, when loaded, of no more than 110,000 pounds, a single axle weight of no more than 24,000 pounds, a tandem axle weight of no more than 44,000 pounds, and a tri-axle weight of no more than 54,500 pounds.

C. No load of any vehicle operating under a permit issued according to this section shall rise above the top of the bed of such vehicle, not including extensions of the bed. Three-axle vehicles shall not carry loads in excess of the maximum bed size in cubic feet for such vehicle which shall be computed by a formula of 60,000 pounds minus the weight of the empty truck divided by the average weight of coal. For the purposes of this section, the average weight of coal shall be 52 pounds per cubic foot. Four-axle vehicles shall not carry loads in excess of the maximum bed size for such vehicle which shall be computed by a formula of 70,000 pounds minus the weight of the truck empty divided by the average weight of coal. Five-axle vehicles shall not carry loads in excess of the maximum bed size for such vehicle, which shall be computed by a formula of 90,000 pounds minus the weight of the truck empty divided by the average weight of coal. Six-axle vehicles shall not carry loads in excess of the maximum bed size for such vehicle, which shall be computed by a formula of 110,000 pounds minus the weight of the truck empty divided by the average weight of coal.

D. For the purposes of this section, "bed" means that part of the vehicle used to haul coal. Bed size shall be based on its interior dimensions, which may be determined by measuring the exterior of the bed, with volume expressed in cubic feet. In order to ensure compliance with this section by visual inspection, if the actual bed size of the vehicle exceeds the maximum as provided above, the owner or operator shall be required to paint a horizontal line two inches wide on the sides of the

outside of the bed of the vehicle, clearly visible to indicate the uppermost limit of the maximum bed size applicable to the vehicle as provided in this section. In addition, one hole two inches high and six inches long on each side of the bed shall be cut in the center of the bed and at the top of the painted line. Any vehicle in violation of this section shall subject the vehicle's owner or operator or both to a penalty of \$250 for a first offense, \$500 for a second offense within a 12-month period, and \$1,000 and revocation of the permit for a third offense within a 12-month period from the first offense.

E. If the bed of any vehicle is enlarged beyond the maximum bed size for which its permit was granted, or if the line or holes required are altered so that the vehicle exceeds the bed size for which its permit was granted, the owner, operator, or both shall be subject to a penalty of \$1,000 for each offense and revocation of the permit. Upon revocation, a permit shall not be reissued for six months. The penalties provided in this section shall be in lieu of those imposed under § 46.2-1135.

F. For any vehicle with a valid permit issued pursuant to the conditions required by this section, when carrying loads which do not rise above the top of the bed or the line indicating the bed's maximum size, if applicable, it shall be, in the absence of proof to the contrary, prima facie evidence that the load is within the applicable weight limits. If any vehicle is stopped by enforcement officials for carrying a load rising above the top of the bed or the line indicating the bed's maximum size, the operator of the vehicle shall be permitted to shift his load within the bed to determine whether the load can be contained in the bed without rising above its top or above the line.

G. No such permit shall be valid for the operation of any such vehicle for a distance of more than 85 miles within the Commonwealth of Virginia from the preparation plant, loading dock, or railroad.

H. In counties that impose a severance tax on gases as authorized by § 58.1-3712 or a severance license tax on coal producers as authorized by § 58.1-3741, the Commissioner, upon written application by the owner or operator of vehicles used exclusively for hauling gravel, sand, *asphalt*, or crushed stone no more than 50 miles from origin to destination, shall issue a permit authorizing those vehicles to operate with the weight limits prescribed in subsection B. Nothing contained in this subsection shall authorize any extension of weight limits provided in § 46.2-1127 for operation on interstate highways. Any weight violation hauling sand, gravel, *asphalt*, or crushed stone under this subsection shall be subject to the penalties authorized by § 46.2-1135.

The fee for a permit issued under this subsection shall be \$70, to be allocated as follows: (i) \$65 to the Highway Maintenance and Operating Fund established pursuant to § 33.2-1530, with a portion equal to the percentage of the Commonwealth's total lane miles represented by the lane miles eligible for maintenance payments pursuant to §§ 33.2-319 and 33.2-366 being redistributed on the basis of lane miles to the applicable localities pursuant to §§ 33.2-319 and 33.2-366, to be used to assist in funding needed highway pavement and bridge maintenance and rehabilitation and (ii) a \$5 administrative fee to the Department.

I. In counties that impose a severance tax on gases as authorized by § 58.1-3712 or a severance license tax on coal producers as authorized by § 58.1-3741, the weight limits prescribed in subsection B shall also apply to motor vehicles hauling liquids produced from a gas or oil well and water used for drilling and completion of a gas or oil well no more than 50 miles from origin to destination. Nothing contained in this subsection shall authorize any extension of weight limits provided in § 46.2-1127 for operation on interstate highways. Any weight violation involving hauling liquids produced from a gas or oil well and water used for drilling and completion of a gas or oil well under this subsection shall be subject to the penalties authorized by § 46.2-1135.

## CHAPTER 551

*An Act to amend and reenact §§ 33.2-1801, 33.2-1803, 33.2-1803.1, 33.2-1803.2, and 33.2-1809 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 33.2-1803.1:1, relating to the Public-Private Transportation Act of 1995.*

[S 1322]

Approved March 16, 2017

### **Be it enacted by the General Assembly of Virginia:**

**1. That §§ 33.2-1801, 33.2-1803, 33.2-1803.1, 33.2-1803.2, and 33.2-1809 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 33.2-1803.1:1 as follows:**

#### **§ 33.2-1801. Policy.**

A. The General Assembly finds that:

1. There is a public need for timely development and/or operation of transportation facilities within the Commonwealth that address the needs identified by the appropriate state, regional, or local transportation plan by improving safety, reducing congestion, increasing capacity, enhancing economic efficiency, or any combination thereof and that such public need may not be wholly satisfied by existing methods of procurement in which qualifying transportation facilities are developed and/or operated;

2. Such public need may not be wholly satisfied by existing ways in which transportation facilities are developed and/or operated; and

3. Authorizing private entities to develop and/or operate one or more transportation facilities may result in the development and/or operation of such transportation facilities to the public in a more timely, more efficient, or less costly fashion, thereby serving the public safety and welfare.

~~B. An action, other than the approval of the responsible public entity under § 33.2-1803, shall serve the public purpose of this chapter if such action, including undertaking a concession, facilitates the timely development and/or operation of a qualifying transportation facility. A public-private partnership may be in the best interest of the public only if the requirements of subdivisions C 1 through 5 of § 33.2-1803 have been met.~~

C. It is the intent of this chapter, among other things, to encourage investment in the Commonwealth by private entities that facilitates the development and/or operation of transportation facilities *when such investment is in the best interest of the public*. Accordingly, public and private entities may have the greatest possible flexibility in contracting with each other for the provision of the public services that are the subject of this chapter.

D. This chapter shall be liberally construed in conformity with the purposes hereof.

**§ 33.2-1803. Approval by the responsible public entity.**

A. The private entity may request approval by the responsible public entity. Any such request shall be accompanied by the following material and information unless waived by the responsible public entity in its guidelines or other instructions given, in writing, to the private entity with respect to the transportation facility or facilities that the private entity proposes to develop and/or operate as a qualifying transportation facility:

1. A topographic map (1:2,000 or other appropriate scale) indicating the location of the transportation facility or facilities;

2. A description of the transportation facility or facilities, including the conceptual design of such facility or facilities and all proposed interconnections with other transportation facilities;

3. The proposed date for development and/or operation of the transportation facility or facilities along with an estimate of the life-cycle cost of the transportation facility as proposed;

4. A statement setting forth the method by which the private entity proposes to secure any property interests required for the transportation facility or facilities;

5. Information relating to the current transportation plans, if any, of each affected locality or public entity;

6. A list of all permits and approvals required for developing and/or operating improvements to the transportation facility or facilities from local, state, or federal agencies and a projected schedule for obtaining such permits and approvals;

7. A list of public utility's, locality's, or political subdivision's facilities, if any, that will be crossed by the transportation facility or facilities and a statement of the plans of the private entity to accommodate such crossings;

8. A statement setting forth the private entity's general plans for developing and/or operating the transportation facility or facilities, including identification of any revenue, public or private, or proposed debt or equity investment or concession proposed by the private entity;

9. The names and addresses of the persons who may be contacted for further information concerning the request;

10. Information on how the private entity's proposal will address the needs identified in the appropriate state, regional, or local transportation plan by improving safety, reducing congestion, increasing capacity, enhancing economic efficiency, or any combination thereof;

11. A statement of the risks, liabilities, and responsibilities to be transferred, assigned, or assumed by the private entity for the development and/or operation of the transportation facility, including revenue risk and operations and maintenance; and

12. Such additional material and information as the responsible public entity may reasonably request pursuant to its guidelines or other written instructions.

B. The responsible public entity may request proposals from private entities for the development and/or operation of transportation facilities subject to the following:

1. For transportation facilities where the Department of Transportation or the Department of Rail and Public Transportation is the responsible public entity, the Transportation Public-Private Partnership ~~Advisory~~ *Steering* Committee established pursuant to § 33.2-1803.2 has determined that moving forward with the development and/or operation of the facility pursuant to this article serves the ~~public~~ *best interest of the public*.

2. A finding of public interest pursuant to § 33.2-1803.1 has been issued by the responsible public entity.

3. The responsible public entity shall not charge a fee to cover the costs of processing, reviewing, and evaluating proposals received in response to such requests.

C. The responsible public entity may grant approval of the development and/or operation of the transportation facility or facilities as a qualifying transportation facility if the responsible public entity determines that it ~~serves the public purpose of this chapter~~ *is in the best interest of the public*. The responsible public entity may determine that the development and/or operation of the transportation facility or facilities as a qualifying transportation facility serves ~~such public purpose~~ *the best interest of the public* if:

1. *The private entity can develop and/or operate the transportation facility or facilities with a public contribution amount that is less than the maximum public contribution determined pursuant to subsection A of § 33.2-1803.1:1 for transportation facilities where the Department of Transportation or the Department of Rail and Public Transportation is the responsible public entity;*

2. *There is a public need for the transportation facility or facilities the private entity proposes to develop and/or operate as a qualifying transportation facility and for transportation facilities where the Department of Transportation or the Department of Rail and Public Transportation is the responsible public entity, such facility or facilities meet a need included in the plan developed pursuant to § 33.2-353;*

2. The transportation facility or facilities and the proposed interconnections with existing transportation facilities; and the private entity's plans for development and/or operation of the qualifying transportation facility or facilities; are, in the opinion of the responsible public entity, reasonable and will address the needs identified in the appropriate state, regional, or local transportation plan by improving safety, reducing congestion, increasing capacity, enhancing economic efficiency, or any combination thereof;

3. The estimated cost of developing and/or operating plan for the development and/or operation of the transportation facility or facilities is reasonable in relation to similar facilities anticipated to have significant benefits as determined pursuant to subdivision B 1 of § 33.2-1803.1;

4. The private entity's plans will result in the timely development and/or operation of the transportation facility or facilities or their more efficient operation; and

5. The risks, liabilities, and responsibilities transferred, assigned, or assumed by the private entity provide sufficient benefits to the public to not proceed with the development and/or operation of the transportation facility through other means of procurement available to the responsible public entity.

In evaluating any request, the responsible public entity may rely upon internal staff reports prepared by personnel familiar with the operation of similar facilities or the advice of outside advisors or consultants having relevant experience.

D. The responsible public entity shall not enter into a comprehensive agreement unless the chief executive officer of the responsible public entity certifies in writing to the Governor and the General Assembly that ~~the~~:

1. *The finding of public interest issued pursuant to § 33.2-1803.1 is still valid;*

2. The transfer, assignment, and assumption of risks, liabilities, and permitting responsibilities ~~or~~ and the mitigation of revenue risk by the private sector ~~enumerated in the finding of public interest issued pursuant to § 33.2-1803.1~~ have not materially changed since the finding of public interest was issued ~~and the finding of public interest is still valid pursuant to § 33.2-1803.1; and~~

3. *The public contribution requested by the private entity does not exceed the maximum public contribution determined pursuant to subsection A of § 33.2-1803.1:1.*

Changes to the project scope that do not impact the assignment of risks or liabilities or the mitigation of revenue risk shall not be considered material changes to the finding of public interest, provided that such ~~change was~~ changes were presented in a public meeting to the Commonwealth Transportation Board, other state board, or the governing body of a locality, as appropriate.

E. The responsible public entity may charge a reasonable fee to cover the costs of processing, reviewing, and evaluating the request submitted by a private entity pursuant to subsection A, including reasonable attorney fees and fees for financial and other necessary advisors or consultants. The responsible public entity shall also develop guidelines that establish the process for the acceptance and review of a proposal from a private entity pursuant to subsections A ~~and~~, B, C, and D. Such guidelines shall establish a specific schedule for review of the proposal by the responsible public entity, a process for alteration of that schedule by the responsible public entity if it deems that changes are necessary because of the scope or complexity of proposals it receives, the process for receipt and review of competing proposals, and the type and amount of information that is necessary for adequate review of proposals in each stage of review. For qualifying transportation facilities that have approved or pending state and federal environmental clearances, have secured significant right-of-way, have previously allocated significant state or federal funding, or exhibit other circumstances that could reasonably reduce the amount of time to develop and/or operate the qualifying transportation facility in accordance with the purpose of this chapter, the guidelines shall provide for a prioritized documentation, review, and selection process.

F. The approval of the responsible public entity shall be subject to the private entity's entering into an interim agreement or a comprehensive agreement with the responsible public entity. For any project with an estimated construction cost of over \$50 million, the responsible public entity also shall require the private entity to pay the costs for an independent audit of any and all traffic and cost estimates associated with the private entity's proposal, as well as a review of all public costs and potential liabilities to which taxpayers could be exposed (including improvements to other transportation facilities that may be needed as a result of the proposal, failure by the private entity to reimburse the responsible public entity for services provided, and potential risk and liability in the event the private entity defaults on the comprehensive agreement or on bonds issued for the project). This independent audit shall be conducted by an independent consultant selected by the responsible public entity, and all such information from such review shall be fully disclosed.

G. In connection with its approval of the development and/or operation of the transportation facility or facilities as a qualifying transportation facility, the responsible public entity shall establish a date for the acquisition of or the beginning of construction of or improvements to the qualifying transportation facility. The responsible public entity may extend such date.

H. The responsible public entity shall take appropriate action, as more specifically set forth in its guidelines, to protect confidential and proprietary information provided by the private entity pursuant to an agreement under subdivision 11 of § 2.2-3705.6.

I. The responsible public entity may also apply for, execute, and/or endorse applications submitted by private entities to obtain federal credit assistance for qualifying projects developed and/or operated pursuant to this chapter.

#### **§ 33.2-1803.1. Finding of public interest.**

A. Prior to the ~~initiation of a procurement pursuant to § 33.2-1803~~, meeting of the Committee pursuant to subsection C of § 33.2-1803.2, the chief executive officer of the responsible public entity shall make a finding of public interest. Such finding shall include information set forth in subsection B. *For transportation facilities where the Department of*

*Transportation or the Department of Rail and Public Transportation is the responsible public entity, the Secretary of Transportation, in his role as chairman of the Board, must concur with the finding of public interest.*

B. At a minimum, a finding of public interest shall contain the following information:

1. A description of the benefits expected to be realized by the responsible public entity through the development and/or operation of the transportation facility, including person throughput, congestion mitigation, safety, economic development, environmental quality, and land use.

2. An analysis of the public contribution necessary for the development and/or operation of the facility or facilities pursuant to subsection A of § 33.2-1803.1:1, including a maximum public contribution that will be allowed under the procurement.

3. A description of the benefits expected to be realized by the responsible public entity through the use of this chapter compared with the development and/or operation of the transportation facility through other options available to the responsible public entity.

~~2-~~ 4. A statement of the risks, liabilities, and responsibilities to be transferred, assigned, or assumed by the private entity, which shall include the following:

a. A discussion of whether revenue risk will be transferred to the private entity and the degree to which any such transfer may be mitigated through other provisions in the interim or comprehensive agreements;

b. A description of the risks, liabilities, and responsibilities to be retained by the responsible public entity; and

c. Other items determined appropriate by the responsible public entity in the guidelines for this chapter.

~~3-~~ 5. The determination of whether the project has a high, medium, or low level of project delivery risk and a description of how such determination was made. If the qualifying transportation facility is determined to contain high risk, a description of how the public's interest will be protected through the transfer, assignment, or assumption of risks or responsibilities by the private entity in the event that issues arise with the development and/or operation of the qualifying transportation facility.

~~4-~~ 6. If the responsible public entity proposes to enter into an interim or comprehensive agreement pursuant to subdivision 2 of § 33.2-1819, information and the rationale demonstrating that proceeding in this manner is more beneficial than proceeding pursuant to subdivision 1 of § 33.2-1819.

**§ 33.2-1803.1:1. Public sector analysis and competition.**

A. For any transportation facility under consideration for development and/or operation under this chapter by the Department of Transportation or the Department of Rail and Public Transportation, the responsible public entity shall ensure competition throughout the procurement process by developing a public sector option based on the analysis conducted in subsection B. The public sector option shall identify a maximum public contribution.

B. The responsible public entity shall undertake, in cooperation with the Secretary of Transportation and the Secretary of Finance, a public sector analysis of the cost for the responsible entity to develop and/or operate the transportation facility or facilities being considered for development and/or operation pursuant to this chapter. At a minimum, such analysis shall contain the following information:

1. Any mitigation of risk of user-fee financing through assumptions related to competing facilities, compensation for high usage of the facility by high-occupancy vehicles, or other considerations that may mitigate the risk of user-fee financing.

2. Whether the Department of Transportation or the Department of Rail and Public Transportation intends to maintain and operate the facility, or if the public sector option is based on the transfer of such responsibilities to the private sector.

3. Public contribution, if any, that would still be required to cover all costs necessary for the development and/or operation of the transportation facility in excess of financing available should the General Assembly authorize the use of debt secured by a pledge of net revenues derived from rates, fees, or other charges and the full faith and credit of the Commonwealth pursuant to Article X, Section 9 (c) of the Constitution of Virginia.

4. Funds provided to support nonuser fee generating components of the project that contribute to the benefits expected to be realized from the transportation facility pursuant to subdivision B 1 of § 33.2-1803.1.

**§ 33.2-1803.2. Transportation Public-Private Partnership Steering Committee.**

A. ~~Procurement pursuant to § 33.2-1803 shall be initiated by the Department of Transportation or the Department of Rail and Public Transportation only after the~~ There is hereby established the Transportation Public-Private Partnership Advisory Steering Committee (the Committee) ~~has determined that the development and/or operation of the transportation facility or facilities as a qualifying transportation facility serves the public interest pursuant to § 33.2-1803.1. The determination shall be evidenced by an affirmative vote of a majority of the members of the Committee to evaluate and review financing options for the development and/or operation of transportation facility or facilities.~~

~~B-~~ The Committee is established and shall consist of the following members:

1. Two members of the Commonwealth Transportation Board;

2. The staff director of the House Committee on Appropriations, or his designee, and the staff director of the Senate Committee on Finance, or his designee;

3. A Deputy Secretary of Transportation *who shall serve as the chairman*;

4. The chief financial officer of either the Department of Transportation or the Department of Rail and Public Transportation, as appropriate; and

5. A nonagency public financial expert, as selected by the Secretary of Transportation.

*B. Prior to the initiation of any procurement pursuant to § 33.2-1803 by the Department of Transportation or the Department of Rail and Public Transportation, the Committee shall meet to review the public sector analysis and competition developed pursuant to § 33.2-1803.1:1 and concur that:*

*1. The assumptions regarding the project scope, benefits, and costs of the public sector option developed pursuant to § 33.2-1803.1:1 were fully and reasonably developed;*

*2. The assumed financing costs and valuation of both financial and construction risk mitigation included in the public sector option are financially sound and reflect the best interest of the public; and*

*3. The terms sheet developed for the proposed procurement contains all necessary elements.*

*C. After receipt of responses to the request for qualifications, but prior to the issuance of the first draft request for proposals, the Committee shall meet to determine that the development and/or operation of the transportation facility or facilities as a qualifying transportation facility serves the public interest pursuant to § 33.2-1803.1. If the Committee makes an affirmative determination, as evidenced by an affirmative vote of a majority of the members of the Committee, the Department of Transportation or the Department of Rail and Public Transportation may proceed with the procurement pursuant to § 33.2-1803.*

~~*D. Meetings of the Committee shall be open to the public, and meetings will be scheduled on an as-needed basis. However, at a minimum, public notice shall be posted at least 30 days prior to a meeting of the Committee the Committee may convene a closed session pursuant to the provisions of subdivisions A 6 and 29 of § 2.2-3711 to allow the Committee to review the public sector analysis and competition and to review proposals received pursuant to a request for qualifications.*~~

~~*E. The Committee shall, within 10 business days of any meeting, report whether or not the projects evaluated at such meeting have been found to serve the public interest on the findings of such meeting. Such report shall be made to the Chairmen of the House and Senate Committees on Transportation, the House Committee on Appropriations, and the Senate Committee on Finance.*~~

*F. Within 60 days of the execution of a comprehensive agreement pursuant to § 33.2-1803, the Department of Transportation or the Department of Rail and Public Transportation, as appropriate, shall, in closed session, brief the Committee on the details of the final bids received and the details of the evaluation of such bids.*

**§ 33.2-1809. Interim agreement.**

*A. Prior to or in connection with the negotiation of the comprehensive agreement, the responsible public entity may enter into an interim agreement with the private entity proposing the development and/or operation of the facility or facilities. Such interim agreement may (i) permit the private entity to commence activities for which it may be compensated relating to the proposed qualifying transportation facility, including project planning and development, advance right-of-way acquisition, design and engineering, environmental analysis and mitigation, survey, conducting transportation and revenue studies, and ascertaining the availability of financing for the proposed facility or facilities; (ii) establish the process and timing of the negotiation of the comprehensive agreement; and (iii) contain any other provisions related to any aspect of the development and/or operation of a qualifying transportation facility that the parties may deem appropriate.*

*B. Notwithstanding any provision of this chapter to the contrary, a responsible public entity may enter in to an interim agreement with multiple private entities if the responsible public entity determines in writing that it is in the public interest to do so.*

*C. The Department of Transportation and the Department of Rail and Public Transportation shall not enter into an interim agreement for the development of a transportation facility under this chapter that either (i) establishes a process and timing of the negotiations of the comprehensive agreement or (ii) allows for competitive negotiations as set forth in § 2.2-4302.2.*

**2. That the provisions of subsection C of § 33.2-1809 as added by this act shall not apply to any amendment made to any comprehensive agreement originally entered into prior to July 1, 2017.**

**CHAPTER 552**

*An Act to amend and reenact §§ 58.1-2403 and 58.1-2423 of the Code of Virginia, relating to motor vehicle sales and use tax; refund.*

[S 1350]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 58.1-2403 and 58.1-2423 of the Code of Virginia are amended and reenacted as follows:**

**§ 58.1-2403. Exemptions.**

No tax shall be imposed as provided in § 58.1-2402 if the vehicle is:

1. Sold to or used by the United States government or any governmental agency thereof;
2. Sold to or used by the Commonwealth of Virginia or any political subdivision thereof;
3. Registered in the name of a volunteer fire department or volunteer emergency medical services agency not operated for profit;
4. Registered to any member of the Mattaponi, Pamunkey, or Chickahominy Indian tribes or any other recognized Indian tribe of the Commonwealth living on the tribal reservation;

5. Transferred incidental to repossession under a recorded lien and ownership is transferred to the lienholder;
6. A manufactured home permanently attached to real estate and included in the sale of real estate;
7. A gift to the spouse, son, daughter, or parent of the transferor. With the exception of a gift to a spouse, this exemption shall not apply to any unpaid obligation assumed by the transferee incidental to the transfer;
8. Transferred from an individual or partnership to a corporation or limited liability company or from a corporation or limited liability company to an individual or partnership if the transfer is incidental to the formation, organization or dissolution of a corporation or limited liability company in which the individual or partnership holds the majority interest;
9. Transferred from a wholly owned subsidiary to the parent corporation or from the parent corporation to a wholly owned subsidiary;
10. Being registered for the first time in the Commonwealth and the applicant holds a valid, assignable title or registration issued to him by another state or a branch of the United States Armed Forces and (i) has owned the vehicle for longer than 12 months or (ii) has owned the vehicle for less than 12 months and provides evidence of a sales tax paid to another state. However, when a vehicle has been purchased by the applicant within the last 12 months and the applicant is unable to provide evidence of a sales tax paid to another state, the applicant shall pay the Virginia sales tax based on the fair market value of the vehicle at the time of registration in Virginia;
  11. a. Titled in a Virginia or non-Virginia motor vehicle dealer's name for resale; or
  - b. Titled in the name of an automotive manufacturer having its headquarters in Virginia, except for any commercially leased vehicle that is not described under subdivision 3 of § 46.2-602.2. For purposes of this subdivision, "automotive manufacturer" and "headquarters" means the same as such terms are defined in § 46.2-602.2;
12. A motor vehicle having seats for more than seven passengers and sold to an urban or suburban bus line the majority of whose passengers use the buses for traveling a distance of less than 40 miles, one way, on the same day;
13. Purchased in the Commonwealth by a nonresident and a Virginia title is issued for the sole purpose of recording a lien against the vehicle if the vehicle will be registered in a state other than Virginia;
14. A motor vehicle designed for the transportation of 10 or more passengers, purchased by and for the use of a church conducted not for profit;
15. Loaned or leased to a private nonprofit institution of learning, for the sole purpose of use in the instruction of driver's education when such education is a part of such school's curriculum for full-time students;
16. Sold to an insurance company or local government group self-insurance pool, created pursuant to § 15.2-2703, for the sole purpose of disposition when such company or pool has paid the registered owner of such vehicle a total loss claim;
17. Owned and used for personal or official purposes by accredited consular or diplomatic officers of foreign governments, their employees or agents, and members of their families, if such persons are nationals of the state by which they are appointed and are not citizens of the United States;
18. A self-contained mobile computerized axial tomography scanner sold to, rented or used by a nonprofit hospital or a cooperative hospital service organization as described in § 501(e) of the United States Internal Revenue Code;
19. A motor vehicle having seats for more than seven passengers and sold to a restricted common carrier or common carrier of passengers;
20. Beginning July 1, 1989, a self-contained mobile unit designed exclusively for human diagnostic or therapeutic service, sold to, rented to, or used by a nonprofit hospital, or a cooperative hospital service organization as described in § 501(e) of the United States Internal Revenue Code, or a nonprofit corporation as defined in § 501(c)(3) of the Internal Revenue Code, established for research in, diagnosis of, or therapy for human ailments;
21. Transferred, as a gift or through a sale to an organization exempt from taxation under § 501(c)(3) of the Internal Revenue Code, provided the motor vehicle is not titled and tagged for use by such organization;
22. A motor vehicle sold to an organization which is exempt from taxation under § 501(c)(3) of the Internal Revenue Code and which is organized for the primary purpose of distributing food, clothing, medicines, and other necessities of life to, and providing shelter for, needy persons in the United States and throughout the world;
23. Transferred to the trustees of a revocable inter vivos trust, when the individual titleholder of a Virginia titled motor vehicle and the beneficiaries of the trust are the same persons, regardless of whether other beneficiaries of the trust may also be named in the trust instrument, when no consideration has passed between the titleholder and the beneficiaries; and transferred to the original titleholder from the trustees holding title to the motor vehicle;
24. Transferred to trustees of a revocable inter vivos trust, when the owners of the vehicle and the beneficiaries of the trust are the same persons, regardless of whether other beneficiaries may also be named in the trust instrument, or transferred by trustees of such a trust to beneficiaries of the trust following the death of the grantor, when no consideration has passed between the grantor and the beneficiaries in either case;
25. Sold by a vehicle's lessor to its lessee upon the expiration of the term of the vehicle's lease, if the lessee is a natural person and this natural person has paid the tax levied pursuant to this chapter with respect to the vehicle when he leased it from the lessor, and if the lessee presents an original copy of the lease upon request of the Department of Motor Vehicles or other evidence that the sales tax has been paid to the Commonwealth by the lessee purchasing the vehicle;
26. Titled in the name of a deceased person and transferred to the spouse or heir, or under the will, of such deceased person;

27. An all-terrain vehicle, moped, or off-road motorcycle all as defined in § 46.2-100. Such all-terrain vehicles, mopeds, or off-road motorcycles shall not be deemed a motor vehicle or other vehicle subject to the tax imposed under this chapter; ~~or~~

28. A motor vehicle that is sold to an organization that is exempt from taxation under § 501(c)(3) of the Internal Revenue Code and that is primarily used by the organization to transport to markets for sale produce that is (i) produced by local farmers and (ii) sold by such farmers to the organization; *or*

29. *Transferred from the purchaser of the vehicle back to the seller of the vehicle who (i) accepted the vehicle pursuant to the Virginia Motor Vehicle Warranty Enforcement Act (§ 59.1-207.9 et seq.) or (ii) otherwise agreed to accept the return of the vehicle due to a mechanical defect or failure and refunded to the purchaser the purchase price of the vehicle. Except when the return of the vehicle is pursuant to the Virginia Motor Vehicle Warranty Enforcement Act, the transfer shall occur within 45 days of the date of purchase.*

**§ 58.1-2423. Refunds generally.**

In the event that it ~~shall appear~~ *appears* to the satisfaction of the Commissioner that any tax imposed by this chapter has been erroneously or illegally collected from any person or paid by any person, the Commissioner shall certify the amount thereof to the Comptroller, who shall thereupon draw his warrant for such certified amount on the State Treasurer. Such refund shall be paid by the State Treasurer. A claimant who pays the tax, either for the claimant or for the benefit of another on whose behalf the tax is paid, shall make a sufficient showing that the tax was erroneously collected by providing an affidavit stating that (i) the vehicle identification information provided on the Application for Certificate of Title and Registration, the certificate of origin, manufacturer's statement of origin, or title, as the case may be, forwarded to the Department of Motor Vehicles by any means generally allowed was incorrect; *or* (ii) the transaction would have been exempt from taxation had the titling documents been correct when submitted to the Department of Motor Vehicles and the tax was paid in error. In the event of such a showing, the refund shall be paid to the claimant.

*In the event that it appears to the satisfaction of the Commissioner that any tax imposed by this chapter has been collected from a person who purchased and returned a vehicle pursuant to the Virginia Motor Vehicle Warranty Enforcement Act (§ 59.1-207.9 et seq.), the Commissioner shall certify the amount thereof to the Comptroller, who shall thereupon draw his warrant for such certified amount on the State Treasurer. Such refund shall be paid by the State Treasurer. A claimant who pays the tax, either for the claimant or for the benefit of another on whose behalf the tax is paid, shall provide a written statement in a manner prescribed by the Commissioner stating that the vehicle was returned under the Virginia Motor Vehicle Warranty Enforcement Act.*

*In the event that it appears to the satisfaction of the Commissioner that any tax imposed by this chapter has been collected from a person who purchased and within 45 days returned a vehicle not subject to the Virginia Motor Vehicle Warranty Enforcement Act (§ 59.1-207.9 et seq.) due to a mechanical defect or failure and received a refund of the purchase price, the Commissioner shall certify the amount thereof to the Comptroller, who shall thereupon draw his warrant for such certified amount on the State Treasurer. Such refund shall be paid by the State Treasurer. A claimant who pays the tax, either for the claimant or for the benefit of another on whose behalf the tax is paid, shall provide an affidavit stating that the vehicle was returned due to a mechanical defect or failure, the purchase price was refunded, the title was properly assigned to the person accepting return of the vehicle, and the purchaser no longer has possession of the vehicle.*

In the event that it ~~shall appear~~ *appears* to the satisfaction of the Commissioner that the tax imposed by this chapter was upon a motor vehicle purchased by a foreign national and that within six months after the date of purchase the motor vehicle has been exported to a foreign country, the Commissioner shall certify the amount to the Comptroller who shall thereupon draw his warrant for such certified amount on the State Treasurer. Such refund shall be paid by the State Treasurer.

No refund shall be made under the provisions of this section unless a written statement is filed with the Commissioner setting forth the reason such refund is claimed. The claim shall be in such form as the Commissioner shall prescribe. It shall be filed with the Commissioner within three years from the date of the payment of the tax.

**CHAPTER 553**

*An Act to require the Secretary of Transportation to convene a task force to study the feasibility of establishing a statewide one-stop online portal for address changes for the purposes of developing a statewide address database; report.*

[S 1363]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. § 1.** *That the Secretary of Transportation or his designee shall convene a task force composed of representatives from the Division of Motor Vehicles, the Department of Elections, the Department of Taxation, the Department of Health, the Department of Medical Assistance Services, the Virginia Information Technologies Agency, the Clerks of Circuit Court and any other agencies deemed appropriate to study the feasibility of establishing a one-stop online portal for citizen address changes in order to develop a single statewide address database for utilization by state entities. The task force shall review issues related to the establishment of a statewide address database, including (i) the benefit to citizens and state entities, (ii) potential problems and possible misuse, (iii) costs related to its development and maintenance, and (iv) database security.*

*§ 2. The task force shall begin its work no later than May 1, 2017. The task force shall submit to the Governor and the General Assembly a report on its findings and recommendations by November 1, 2017.*

**2. That the provisions of this act shall expire on July 1, 2018.**

#### CHAPTER 554

*An Act to amend and reenact §§ 46.2-100, 46.2-1114, 46.2-1129.2, 46.2-1137, 46.2-1139, 46.2-1141, and 46.2-2000 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 46.2-1114.1, 46.2-1117.1, 46.2-1127.1, and 46.2-1151.1, relating to motor carrier size and weight limitations; compliance with federal law.*

[S 1384]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 46.2-100, 46.2-1114, 46.2-1129.2, 46.2-1137, 46.2-1139, 46.2-1141, and 46.2-2000 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 46.2-1114.1, 46.2-1117.1, 46.2-1127.1, and 46.2-1151.1 as follows:**

**§ 46.2-100. Definitions.**

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

"All-terrain vehicle" means a motor vehicle having three or more wheels that is powered by a motor and is manufactured for off-highway use. "All-terrain vehicle" does not include four-wheeled vehicles commonly known as "go-carts" that have low centers of gravity and are typically used in racing on relatively level surfaces, nor does the term include any riding lawn mower.

"Antique motor vehicle" means every motor vehicle, as defined in this section, which was actually manufactured or designated by the manufacturer as a model manufactured in a calendar year not less than 25 years prior to January 1 of each calendar year and is owned solely as a collector's item.

"Antique trailer" means every trailer or semitrailer, as defined in this section, that was actually manufactured or designated by the manufacturer as a model manufactured in a calendar year not less than 25 years prior to January 1 of each calendar year and is owned solely as a collector's item.

"Autocycle" means a three-wheeled motor vehicle that has a steering wheel and seating that does not require the operator to straddle or sit astride and is manufactured to comply with federal safety requirements for motorcycles. Except as otherwise provided, an autocycle shall not be deemed to be a motorcycle.

"Automobile ~~or watercraft transporter~~ transporter" means any tractor truck, lowboy, vehicle, or combination, including vehicles or combinations that transport motor vehicles ~~or watercraft~~ on their power unit, designed and used exclusively for the transportation of motor vehicles ~~or watercraft~~ or used to transport cargo or general freight on a backhaul pursuant to the provisions of 49 U.S.C. § 31111(a)(1).

"Bicycle" means a device propelled solely by human power, upon which a person may ride either on or astride a regular seat attached thereto, having two or more wheels in tandem, including children's bicycles, except a toy vehicle intended for use by young children. For purposes of Chapter 8 (§ 46.2-800 et seq.), a bicycle shall be a vehicle while operated on the highway.

"Bicycle lane" means that portion of a roadway designated by signs and/or pavement markings for the preferential use of bicycles, electric power-assisted bicycles, and mopeds.

"Business district" means the territory contiguous to a highway where 75 percent or more of the property contiguous to a highway, on either side of the highway, for a distance of 300 feet or more along the highway, is occupied by land and buildings actually in use for business purposes.

"Camping trailer" means every vehicle that has collapsible sides and contains sleeping quarters but may or may not contain bathing and cooking facilities and is designed to be drawn by a motor vehicle.

"Cancel" or "cancellation" means that the document or privilege cancelled has been annulled or terminated because of some error, defect, or ineligibility, but the cancellation is without prejudice and reapplication may be made at any time after cancellation.

"Chauffeur" means every person employed for the principal purpose of driving a motor vehicle and every person who drives a motor vehicle while in use as a public or common carrier of persons or property.

"Circular intersection" means an intersection that has an island, generally circular in design, located in the center of the intersection, where all vehicles pass to the right of the island. Circular intersections include roundabouts, rotaries, and traffic circles.

"Commission" means the State Corporation Commission.

"Commissioner" means the Commissioner of the Department of Motor Vehicles of the Commonwealth.

"Converted electric vehicle" means any motor vehicle, other than a motorcycle or autocycle, that has been modified subsequent to its manufacture to replace an internal combustion engine with an electric propulsion system. Such vehicles shall retain their original vehicle identification number, line-make, and model year. A converted electric vehicle shall not be deemed a "reconstructed vehicle" as defined in this section unless it has been materially altered from its original

construction by the removal, addition, or substitution of new or used essential parts other than those required for the conversion to electric propulsion.

"Crosswalk" means that part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs or, in the absence of curbs, from the edges of the traversable roadway; or any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

"Decal" means a device to be attached to a license plate that validates the license plate for a predetermined registration period.

"Department" means the Department of Motor Vehicles of the Commonwealth.

"Disabled parking license plate" means a license plate that displays the international symbol of access in the same size as the numbers and letters on the plate and in a color that contrasts with the background.

"Disabled veteran" means a veteran who (i) has either lost, or lost the use of, a leg, arm, or hand; (ii) is blind; or (iii) is permanently and totally disabled as certified by the U.S. Department of Veterans Affairs. A veteran shall be considered blind if he has a permanent impairment of both eyes to the following extent: central visual acuity of 20/200 or less in the better eye, with corrective lenses, or central visual acuity of more than 20/200, if there is a field defect in which the peripheral field has contracted to such an extent that the widest diameter of visual field subtends an angular distance no greater than 20 degrees in the better eye.

"Driver's license" means any license, including a commercial driver's license as defined in the Virginia Commercial Driver's License Act (§ 46.2-341.1 et seq.), issued under the laws of the Commonwealth authorizing the operation of a motor vehicle.

"Electric personal assistive mobility device" means a self-balancing two-nontandem-wheeled device that is designed to transport only one person and powered by an electric propulsion system that limits the device's maximum speed to 15 miles per hour or less. For purposes of Chapter 8 (§ 46.2-800 et seq.), an electric personal assistive mobility device shall be a vehicle when operated on a highway.

"Electric power-assisted bicycle" means a vehicle that travels on not more than three wheels in contact with the ground and is equipped with (i) pedals that allow propulsion by human power and (ii) an electric motor with an input of no more than 1,000 watts that reduces the pedal effort required of the rider. For the purposes of Chapter 8 (§ 46.2-800 et seq.), an electric power-assisted bicycle shall be a vehicle when operated on a highway.

"Essential parts" means all integral parts and body parts, the removal, alteration, or substitution of which will tend to conceal the identity of a vehicle.

"Farm tractor" means every motor vehicle designed and used as a farm, agricultural, or horticultural implement for drawing plows, mowing machines, and other farm, agricultural, or horticultural machinery and implements, including self-propelled mowers designed and used for mowing lawns.

"Farm utility vehicle" means a vehicle that is powered by a motor and is designed for off-road use and is used as a farm, agricultural, or horticultural service vehicle, generally having four or more wheels, bench seating for the operator and a passenger, a steering wheel for control, and a cargo bed. "Farm utility vehicle" does not include pickup or panel trucks, golf carts, low-speed vehicles, or riding lawn mowers.

"Federal safety requirements" means applicable provisions of 49 U.S.C. § 30101 et seq. and all administrative regulations and policies adopted pursuant thereto.

"Financial responsibility" means the ability to respond in damages for liability thereafter incurred arising out of the ownership, maintenance, use, or operation of a motor vehicle, in the amounts provided for in § 46.2-472.

"Foreign market vehicle" means any motor vehicle originally manufactured outside the United States, which was not manufactured in accordance with 49 U.S.C. § 30101 et seq. and the policies and regulations adopted pursuant to that Act, and for which a Virginia title or registration is sought.

"Foreign vehicle" means every motor vehicle, trailer, or semitrailer that is brought into the Commonwealth otherwise than in the ordinary course of business by or through a manufacturer or dealer and that has not been registered in the Commonwealth.

"Golf cart" means a self-propelled vehicle that is designed to transport persons playing golf and their equipment on a golf course.

"Governing body" means the board of supervisors of a county, council of a city, or council of a town, as context may require.

"Gross weight" means the aggregate weight of a vehicle or combination of vehicles and the load thereon.

"Highway" means the entire width between the boundary lines of every way or place open to the use of the public for purposes of vehicular travel in the Commonwealth, including the streets and alleys, and, for law-enforcement purposes, (i) the entire width between the boundary lines of all private roads or private streets that have been specifically designated "highways" by an ordinance adopted by the governing body of the county, city, or town in which such private roads or streets are located and (ii) the entire width between the boundary lines of every way or place used for purposes of vehicular travel on any property owned, leased, or controlled by the United States government and located in the Commonwealth.

"Intersection" means (i) the area embraced within the prolongation or connection of the lateral curb lines or, if none, then the lateral boundary lines of the roadways of two highways that join one another at, or approximately at, right angles, or the area within which vehicles traveling on different highways joining at any other angle may come in conflict; (ii) where

a highway includes two roadways 30 feet or more apart, then every crossing of each roadway of such divided highway by an intersecting highway shall be regarded as a separate intersection, in the event such intersecting highway also includes two roadways 30 feet or more apart, then every crossing of two roadways of such highways shall be regarded as a separate intersection; or (iii) for purposes only of authorizing installation of traffic-control devices, every crossing of a highway or street at grade by a pedestrian crosswalk.

"Lane-use control signal" means a signal face displaying indications to permit or prohibit the use of specific lanes of a roadway or to indicate the impending prohibition of such use.

"Law-enforcement officer" means any officer authorized to direct or regulate traffic or to make arrests for violations of this title or local ordinances authorized by law. For the purposes of access to law-enforcement databases regarding motor vehicle registration and ownership only, "law-enforcement officer" also includes city and county commissioners of the revenue and treasurers, together with their duly designated deputies and employees, when such officials are actually engaged in the enforcement of §§ 46.2-752, 46.2-753, and 46.2-754 and local ordinances enacted thereunder.

"License plate" means a device containing letters, numerals, or a combination of both, attached to a motor vehicle, trailer, or semitrailer to indicate that the vehicle is properly registered with the Department.

"Light" means a device for producing illumination or the illumination produced by the device.

"Low-speed vehicle" means any four-wheeled electrically powered or gas-powered vehicle, except a motor vehicle or low-speed vehicle that is used exclusively for agricultural or horticultural purposes or a golf cart, whose maximum speed is greater than 20 miles per hour but not greater than 25 miles per hour and is manufactured to comply with safety standards contained in Title 49 of the Code of Federal Regulations, § 571.500.

"Manufactured home" means a structure subject to federal regulation, transportable in one or more sections, which in the traveling mode is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein.

"Moped" means every vehicle that travels on not more than three wheels in contact with the ground that (i) has a seat that is no less than 24 inches in height, measured from the middle of the seat perpendicular to the ground; (ii) has a gasoline, electric, or hybrid motor that (a) displaces 50 cubic centimeters or less or (b) has an input of 1500 watts or less; (iii) is power-driven, with or without pedals that allow propulsion by human power; and (iv) is not operated at speeds in excess of 35 miles per hour. For purposes of this title, a moped shall be a motorcycle when operated at speeds in excess of 35 miles per hour. For purposes of Chapter 8 (§ 46.2-800 et seq.), a moped shall be a vehicle while operated on a highway.

"Motor-driven cycle" means every motorcycle that has a gasoline engine that (i) displaces less than 150 cubic centimeters; (ii) has a seat less than 24 inches in height, measured from the middle of the seat perpendicular to the ground; and (iii) has no manufacturer-issued vehicle identification number.

"Motor home" means every private motor vehicle with a normal seating capacity of not more than 10 persons, including the driver, designed primarily for use as living quarters for human beings.

"Motor vehicle" means every vehicle as defined in this section that is self-propelled or designed for self-propulsion except as otherwise provided in this title. Any structure designed, used, or maintained primarily to be loaded on or affixed to a motor vehicle to provide a mobile dwelling, sleeping place, office, or commercial space shall be considered a part of a motor vehicle. Except as otherwise provided, for the purposes of this title, any device herein defined as a bicycle, electric personal assistive mobility device, electric power-assisted bicycle, or moped shall be deemed not to be a motor vehicle.

"Motorcycle" means every motor vehicle designed to travel on not more than three wheels in contact with the ground and is capable of traveling at speeds in excess of 35 miles per hour. "Motorcycle" does not include any "autocycle," "electric personal assistive mobility device," "electric power-assisted bicycle," "farm tractor," "golf cart," "moped," "motorized skateboard or foot-scooter," "utility vehicle," or "wheelchair or wheelchair conveyance" as defined in this section.

"Motorized skateboard or foot-scooter" means every vehicle, regardless of the number of its wheels in contact with the ground, that (i) has no seat, but is designed to be stood upon by the operator, (ii) has no manufacturer-issued vehicle identification number, and (iii) is powered by an electric motor having an input of no more than 1,000 watts or a gasoline engine that displaces less than 36 cubic centimeters. "Motorized skateboard or foot-scooter" includes vehicles with or without handlebars but does not include "electric personal assistive mobility devices."

"Nonresident" means every person who is not domiciled in the Commonwealth, except: (i) any foreign corporation that is authorized to do business in the Commonwealth by the State Corporation Commission shall be a resident of the Commonwealth for the purpose of this title; in the case of corporations incorporated in the Commonwealth but doing business outside the Commonwealth, only such principal place of business or branches located within the Commonwealth shall be dealt with as residents of the Commonwealth; (ii) a person who becomes engaged in a gainful occupation in the Commonwealth for a period exceeding 60 days shall be a resident for the purposes of this title except for the purposes of Chapter 3 (§ 46.2-300 et seq.); (iii) a person, other than (a) a nonresident student as defined in this section or (b) a person who is serving a full-time church service or proselyting mission of not more than 36 months and who is not gainfully employed, who has actually resided in the Commonwealth for a period of six months, whether employed or not, or who has registered a motor vehicle, listing an address in the Commonwealth in the application for registration, shall be deemed a resident for the purposes of this title, except for the purposes of the Virginia Commercial Driver's License Act (§ 46.2-341.1 et seq.).

"Nonresident student" means every nonresident person who is enrolled as a full-time student in an accredited institution of learning in the Commonwealth and who is not gainfully employed.

"Off-road motorcycle" means every motorcycle designed exclusively for off-road use by an individual rider with not more than two wheels in contact with the ground. Except as otherwise provided in this chapter, for the purposes of this chapter off-road motorcycles shall be deemed to be "motorcycles."

"Operation or use for rent or for hire, for the transportation of passengers, or as a property carrier for compensation," and "business of transporting persons or property" mean any owner or operator of any motor vehicle, trailer, or semitrailer operating over the highways in the Commonwealth who accepts or receives compensation for the service, directly or indirectly; but these terms do not mean a "truck lessor" as defined in this section and do not include persons or businesses that receive compensation for delivering a product that they themselves sell or produce, where a separate charge is made for delivery of the product or the cost of delivery is included in the sale price of the product, but where the person or business does not derive all or a substantial portion of its income from the transportation of persons or property except as part of a sales transaction.

"Operator" or "driver" means every person who either (i) drives or is in actual physical control of a motor vehicle on a highway or (ii) is exercising control over or steering a vehicle being towed by a motor vehicle.

"Owner" means a person who holds the legal title to a vehicle; however, if a vehicle is the subject of an agreement for its conditional sale or lease with the right of purchase on performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee or if a mortgagor of a vehicle is entitled to possession, then the conditional vendee or lessee or mortgagor shall be the owner for the purpose of this title. In all such instances when the rent paid by the lessee includes charges for services of any nature or when the lease does not provide that title shall pass to the lessee on payment of the rent stipulated, the lessor shall be regarded as the owner of the vehicle, and the vehicle shall be subject to such requirements of this title as are applicable to vehicles operated for compensation. A "truck lessor" as defined in this section shall be regarded as the owner, and his vehicles shall be subject to such requirements of this title as are applicable to vehicles of private carriers.

"Passenger car" means every motor vehicle other than a motorcycle or autocyce designed and used primarily for the transportation of no more than 10 persons, including the driver.

"Payment device" means any credit card as defined in 15 U.S.C. § 1602 (k) or any "accepted card or other means of access" set forth in 15 U.S.C. § 1693a (1). For the purposes of this title, this definition shall also include a card that enables a person to pay for transactions through the use of value stored on the card itself.

"Pickup or panel truck" means (i) every motor vehicle designed for the transportation of property and having a registered gross weight of 7,500 pounds or less or (ii) every motor vehicle registered for personal use, designed to transport property on its own structure independent of any other vehicle, and having a registered gross weight in excess of 7,500 pounds but not in excess of 10,000 pounds.

"Private road or driveway" means every way in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

"Reconstructed vehicle" means every vehicle of a type required to be registered under this title materially altered from its original construction by the removal, addition, or substitution of new or used essential parts. Such vehicles, at the discretion of the Department, shall retain their original vehicle identification number, line-make, and model year. Except as otherwise provided in this title, this definition shall not include a "converted electric vehicle" as defined in this section.

"Replica vehicle" means every vehicle of a type required to be registered under this title not fully constructed by a licensed manufacturer but either constructed or assembled from components. Such components may be from a single vehicle, multiple vehicles, a kit, parts, or fabricated components. The kit may be made up of "major components" as defined in § 46.2-1600, a full body, or a full chassis, or a combination of these parts. The vehicle shall resemble a vehicle of distinctive name, line-make, model, or type as produced by a licensed manufacturer or manufacturer no longer in business and is not a reconstructed or specially constructed vehicle as herein defined.

"Residence district" means the territory contiguous to a highway, not comprising a business district, where 75 percent or more of the property abutting such highway, on either side of the highway, for a distance of 300 feet or more along the highway consists of land improved for dwelling purposes, or is occupied by dwellings, or consists of land or buildings in use for business purposes, or consists of territory zoned residential or territory in residential subdivisions created under Chapter 22 (§ 15.2-2200 et seq.) of Title 15.2.

"Revoke" or "revocation" means that the document or privilege revoked is not subject to renewal or restoration except through reapplication after the expiration of the period of revocation.

"Roadway" means that portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of the shoulder. A highway may include two or more roadways if divided by a physical barrier or barriers or an unpaved area.

"Safety zone" means the area officially set apart within a roadway for the exclusive use of pedestrians and that is protected or is so marked or indicated by plainly visible signs.

"School bus" means any motor vehicle, other than a station wagon, automobile, truck, or commercial bus, which is: (i) designed and used primarily for the transportation of pupils to and from public, private or religious schools, or used for the transportation of the mentally or physically handicapped to and from a sheltered workshop; (ii) painted yellow and bears the words "School Bus" in black letters of a specified size on front and rear; and (iii) is equipped with warning devices

prescribed in § 46.2-1090. A yellow school bus may have a white roof provided such vehicle is painted in accordance with regulations promulgated by the Department of Education.

"Semitrailer" means every vehicle of the trailer type so designed and used in conjunction with a motor vehicle that some part of its own weight and that of its own load rests on or is carried by another vehicle.

"Shared-use path" means a bikeway that is physically separated from motorized vehicular traffic by an open space or barrier and is located either within the highway right-of-way or within a separate right-of-way. Shared-use paths may also be used by pedestrians, skaters, users of wheel chairs or wheel chair conveyances, joggers, and other nonmotorized users.

"Shoulder" means that part of a highway between the portion regularly traveled by vehicular traffic and the lateral curbline or ditch.

"Sidewalk" means the portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines, intended for use by pedestrians.

"Snowmobile" means a self-propelled vehicle designed to travel on snow or ice, steered by skis or runners, and supported in whole or in part by one or more skis, belts, or cleats.

"Special construction and forestry equipment" means any vehicle which is designed primarily for highway construction, highway maintenance, earth moving, timber harvesting or other construction or forestry work and which is not designed for the transportation of persons or property on a public highway.

"Specially constructed vehicle" means any vehicle that was not originally constructed under a distinctive name, make, model, or type by a generally recognized manufacturer of vehicles and not a reconstructed vehicle as herein defined.

"Stinger-steered automobile or watercraft transporter" means an automobile or watercraft transporter configured as a semitrailer combination wherein the fifth wheel is located on a drop frame behind and below the rearmost axle of the power unit.

"Superintendent" means the Superintendent of the Department of State Police of the Commonwealth.

"Suspend" or "suspension" means that the document or privilege suspended has been temporarily withdrawn, but may be reinstated following the period of suspension unless it has expired prior to the end of the period of suspension.

"Tow truck" means a motor vehicle for hire (i) designed to lift, pull, or carry another vehicle by means of a hoist or other mechanical apparatus and (ii) having a manufacturer's gross vehicle weight rating of at least 10,000 pounds. "Tow truck" also includes vehicles designed with a ramp on wheels and a hydraulic lift with a capacity to haul or tow another vehicle, commonly referred to as "rollbacks." "Tow truck" does not include any "automobile or watercraft transporter," "stinger-steered automobile or watercraft transporter," or "tractor truck" as those terms are defined in this section.

"Towing and recovery operator" means a person engaged in the business of (i) removing disabled vehicles, parts of vehicles, their cargoes, and other objects to facilities for repair or safekeeping and (ii) restoring to the highway or other location where they either can be operated or removed to other locations for repair or safekeeping vehicles that have come to rest in places where they cannot be operated.

"Toy vehicle" means any motorized or propellant-driven device that has no manufacturer-issued vehicle identification number that is designed or used to carry any person or persons, on any number of wheels, bearings, glides, blades, runners, or a cushion of air. "Toy vehicle" does not include electric personal assistive mobility devices, electric power-assisted bicycles, mopeds, or motorcycles, nor does it include any nonmotorized or nonpropellant-driven devices such as bicycles, roller skates, or skateboards.

"Tractor truck" means every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the load and weight of the vehicle attached thereto.

"Traffic control device" means a sign, signal, marking, or other device used to regulate, warn, or guide traffic placed on, over, or adjacent to a street, highway, private road open to public travel, pedestrian facility, or shared-use path by authority of a public agency or official having jurisdiction, or in the case of a private road open to public travel, by authority of the private owner or private official having jurisdiction.

"Traffic infraction" means a violation of law punishable as provided in § 46.2-113, which is neither a felony nor a misdemeanor.

"Traffic lane" or "lane" means that portion of a roadway designed or designated to accommodate the forward movement of a single line of vehicles.

"Trailer" means every vehicle without motive power designed for carrying property or passengers wholly on its own structure and for being drawn by a motor vehicle, including manufactured homes.

"Truck" means every motor vehicle designed to transport property on its own structure independent of any other vehicle and having a registered gross weight in excess of 7,500 pounds. "Truck" does not include any pickup or panel truck.

"Truck lessor" means a person who holds the legal title to any motor vehicle, trailer, or semitrailer that is the subject of a bona fide written lease for a term of one year or more to another person, provided that: (i) neither the lessor nor the lessee is a common carrier by motor vehicle or restricted common carrier by motor vehicle or contract carrier by motor vehicle as defined in § 46.2-2000; (ii) the leased motor vehicle, trailer, or semitrailer is used exclusively for the transportation of property of the lessee; (iii) the lessor is not employed in any capacity by the lessee; (iv) the operator of the leased motor vehicle is a bona fide employee of the lessee and is not employed in any capacity by the lessor; and (v) a true copy of the lease, verified by affidavit of the lessor, is filed with the Commissioner.

"Utility vehicle" means a motor vehicle that is (i) designed for off-road use, (ii) powered by a motor, and (iii) used for general maintenance, security, agricultural, or horticultural purposes. "Utility vehicle" does not include riding lawn mowers.

"Vehicle" means every device in, on or by which any person or property is or may be transported or drawn on a highway, except devices moved by human power or used exclusively on stationary rails or tracks. For the purposes of Chapter 8 (§ 46.2-800 et seq.), bicycles, electric personal assistive mobility devices, electric power-assisted bicycles, and mopeds shall be vehicles while operated on a highway.

"Watercraft transporter" means any tractor truck, lowboy, vehicle, or combination, including vehicles or combinations that transport watercraft on their power unit, designed and used exclusively for the transportation of watercraft.

"Wheel chair or wheel chair conveyance" means a chair or seat equipped with wheels, typically used to provide mobility for persons who, by reason of physical disability, are otherwise unable to move about as pedestrians. "Wheel chair or wheel chair conveyance" includes both three-wheeled and four-wheeled devices. So long as it is operated only as provided in § 46.2-677, a self-propelled wheel chair or self-propelled wheel chair conveyance shall not be considered a motor vehicle.

**§ 46.2-1114. Length of watercraft transporters; operation on certain highways.**

~~Automobile or watercraft~~ Watercraft transporters shall not exceed a length of 65 feet when operated on any interstate highway or on any highway as designated by the Commonwealth Transportation Board. Stinger-steered ~~automobile or~~ watercraft transporters shall not exceed a length of 75 feet when operated on any interstate highway or on any highway designated by the Commonwealth Transportation Board. In addition, watercraft may be transported on a truck/trailer combination no more than 65 feet long when operated on any interstate highway or on any highway designated by the Commonwealth Transportation Board. Any such vehicle shall display a sign of a size and type approved by the Commissioner of Highways warning that the vehicle is an over-length vehicle. However, an additional three-foot overhang shall be allowed beyond the front and a four-foot overhang shall be allowed beyond the rear of the vehicle. Such combinations shall have reasonable access to terminals, facilities for food, fuel, repairs, and rest as designated by the Commissioner of Highways.

**§ 46.2-1114.1. Length of automobile transporters; operation on certain highways.**

Automobile transporters shall not exceed a length of 65 feet when operated on any interstate highway or on any highway designated by the Commonwealth Transportation Board and stinger-steered automobile transporters shall not exceed a length of 80 feet when operated on the national network of interstate and primary highways as defined in 23 CFR 658.5, as amended. Any such vehicle shall display a sign of a size and type approved by the Commissioner of Highways warning that the vehicle is an over-length vehicle. Notwithstanding the provisions of § 46.2-1120, a four-foot overhang shall be allowed beyond the front and a six-foot overhang shall be allowed beyond the rear of the vehicle. Such combinations shall have reasonable access to terminals, facilities for food, fuel, repairs, and rest as designated by the Commissioner of Highways.

**§ 46.2-1117.1. Commercial delivery of towaway trailers.**

A. For the purposes of this section:

"Towaway trailer transporter combination" means a combination of vehicles consisting of a trailer transporting towing unit and two trailers or semitrailers that carry no property and constitute inventory property of a manufacturer, distributor, or dealer of such trailers or semitrailers.

"Trailer transporting towing unit" means a power unit that is not used to carry property when operating in a towaway trailer transporter combination.

B. Notwithstanding the provisions of §§ 46.2-1116 and 46.2-1117, a towaway trailer transporter combination may operate with a length of not more than 82 feet and a gross weight of not more than 26,000 pounds. When operating on a highway other than an interstate highway, the operator shall comply with flashing high-intensity amber warning light requirements of § 46.2-1026 if such combination exceeds 75 feet long.

**§ 46.2-1127.1. Weight limit exception for certain emergency vehicles using the interstate highways.**

A. For purposes of this section, "emergency vehicle" means a vehicle designed to be used under emergency conditions to (i) transport personnel and equipment and (ii) support the suppression of fires and mitigation of other hazardous situations.

B. An emergency vehicle shall not exceed the following weight limitations when operated on any interstate highway: (i) 24,000 pounds on a single steering axle; (ii) 33,500 pounds on a single drive axle; (iii) 52,000 pounds on a tandem rear drive steer axle; and (iv) 62,000 pounds on a tandem axle that is not a tandem rear drive steer axle. However, the maximum gross weight of such emergency vehicle shall not exceed 86,000 pounds.

**§ 46.2-1129.2. Further extension of weight limits for vehicles fueled by natural gas.**

~~Any~~ A. On any highway other than an interstate highway, any motor vehicle that is fueled, wholly or partially, by natural gas shall be allowed up to an additional 2,000 pounds total in gross, single axle, tandem axle, or bridge formula weight limits.

To be eligible for this exception, the operator of the vehicle must be able to demonstrate that the vehicle is a natural gas vehicle, a bi-fuel vehicle using natural gas, or a vehicle that has been converted to a natural gas vehicle. ~~No such allowance shall authorize any extension of the limitations provided in § 46.2-1127 for Interstate highways.~~

B. On an interstate highway, any motor vehicle that is fueled primarily by natural gas may exceed the weight limits provided in § 46.2-1127 by an amount equal to the difference between (i) the weight of the vehicle attributable to the natural gas tank and fueling system carried by that vehicle and (ii) the weight of a comparable diesel fuel tank and fueling system. However, the gross weight of such vehicle shall not exceed 82,000 pounds.

**§ 46.2-1137. Weighing vehicles; procedure; shifting loads; unloading excess load; weighing fee; certificate as to accuracy of scales admissible in evidence; penalties.**

A. For the purposes of this section, a permanent weighing station includes any location equipped with fixed, permanent scales for weighing motor vehicles.

B. Any officer or size and weight compliance agent authorized to enforce the law under this title, having reason to believe that the weight of a vehicle and load is unlawful, is authorized to weigh the load and the vehicle. If the place where the vehicle is stopped is 10 road miles or less from a permanent weighing station, the officer may, and upon demand of the driver shall, require the vehicle to proceed to such station. If the distance to the nearest permanent weighing station is more than 10 road miles such vehicle may be weighed by wheel load weighers. Any driver who fails or unreasonably refuses to drive his vehicle to such permanent weighing station or such scales or wheel load weighers upon the request and direction of the officer to do so ~~shall be~~ is guilty of a Class 4 misdemeanor. The penalty for such violation shall be in addition to any other penalties prescribed for exceeding the maximum weight permitted or for any other violation.

C. Any person operating a vehicle with a gross vehicle weight or registered gross weight of more than 10,000 pounds shall drive into a permanent weighing station for inspection when directed to do so by highway signs. Any person who fails or refuses to comply with this subsection is guilty of a Class 4 misdemeanor, which shall be in addition to any other penalties prescribed for exceeding the maximum weight permitted or for any other violation.

D. Notwithstanding the provisions of subsection C, a person instructed by a bypass system to bypass a permanent weighing station may do so unless directed to drive onto the scales for weight inspection by an officer or size and weight compliance agent pursuant to the provisions of subsection B. For purposes of this subsection, a "bypass system" means any system approved by the Commissioner that (i) communicates information about a vehicle to a permanent weighing station, (ii) is capable of receiving return communications from the permanent weighing station indicating whether the driver may bypass the weighing station or must drive onto the scales, and (iii) is capable of instructing the driver in accordance with the communication received.

E. In the event of such failure or unreasonable refusal ~~the operator of a vehicle fails or unreasonably refuses to submit a vehicle required to be inspected for an inspection,~~ where the officer has reason to believe the vehicle is overweight, the officer may use whatever reasonable means are available to have the vehicle weighed, including the employment of a tow truck to move the vehicle to the weighing area. He may also use whatever means are necessary to reload the vehicle if the load is intentionally dumped. In such a case, any expenses incurred in having the vehicle weighed may be taxed as costs to be imposed upon the operator who failed or unreasonably refused to ~~drive his vehicle to such weighing area~~ submit his vehicle for inspection, when he has been convicted of such failure or refusal and an overweight violation. In all cases where such failure or refusal or overweight charges are dismissed or the defendant acquitted, payment shall be made from highway funds.

F. Should the officer or size and weight compliance agent find that the weight of any vehicle and its load is greater than that permitted by this title or that the weight of the load carried in or on such vehicle is greater than that which the vehicle is licensed to carry under the provisions of this title, he may require the driver to unload, at the nearest place where the property unloaded may be stored or transferred to another vehicle, such portion of the load as may be necessary to decrease the gross weight of the vehicle to the maximum therefor permitted by this title. Any property so unloaded shall be stored or cared for by the owner or operator of the overweight vehicle at the risk of such owner or operator.

~~However, notwithstanding~~ G. Notwithstanding the provisions of §§ 46.2-1122 through 46.2-1127, should the officer or size and weight compliance agent find that the gross weight of the vehicle and its load is within limits permitted under this title and does not exceed the limit for which the vehicle is registered, but that the axle weight of any axle or axles of the vehicle exceeds that permitted under this title, the driver shall be allowed one hour to shift his load within or on that same vehicle in order to bring the axle weight or axle weights within proper limits. However, liquidated damages shall be assessed under § 46.2-1135 based on the weight prior to shifting the load, unless the load can be successfully shifted to bring the vehicle's axle weight within limits permitted under this title by (i) sliding the axle or axles of the semitrailer or the fifth wheel of the tractor truck, (ii) repositioning the load if the motor vehicle is transporting off-the-road mobile construction equipment, or (iii) adjusting the load if the vehicle is operating on non-interstate highways and qualifies for weight extensions pursuant to § 46.2-1129. Such load shifting shall be performed at the site where the vehicle was weighed and found to exceed allowable axle weight limits. No such load shifting shall be allowed if such load is required to be placarded as defined in § 10.1-1450 and consists of hazardous material as defined in § 10.1-1400.

H. If the driver of an overloaded vehicle is convicted, forfeits bail, or purchases an increased license as a result of such weighing, the court in addition to all other penalties shall assess and collect a weighing fee of two dollars from the owner or operator of the vehicle and shall forward such fee to the State Treasurer. Upon receipt of the fee, the State Treasurer shall allocate the same to the fund appropriated for the administration and maintenance of the Department of State Police.

I. In any court or legal proceedings in which any question arises as to the calibration or accuracy of any such scales at permanent weighing stations or wheel load weighers, a certificate, executed and signed under oath by the inspector calibrating or testing such device as to its accuracy as well as to the accuracy of the test weights used in such test, and stating the date of such test, type of test and results of testing, shall be admissible when attested by one such inspector who executed and signed it as evidence of the facts therein stated and the results of such testing.

**§ 46.2-1139. Permits for excessive size and weight generally; penalty.**

A. The Commissioner and, unless otherwise indicated in this article, local authorities of cities and towns, in their respective jurisdictions, may, upon written application and good cause being shown, and pursuant to the requirements of subsection A1, issue a permit authorizing the applicant to operate on a highway a vehicle of a size or weight exceeding the maximum specified in this title. Any such permit may designate the route to be traversed and contain any other restrictions or conditions deemed necessary by the body granting the permit.

A1. Any city or town, as authorized under subsection A, or any county that has withdrawn its roads from the secondary system of state highways that opts to issue permits under this article shall enter into a memorandum of understanding with the Commissioner that:

1. Allows the Commissioner to issue permits on behalf of that locality; and
2. Provides that the locality shall satisfy the following requirements prior to issuing such permits:
  - a. The locality shall have applications for each permit type available online.
  - b. The locality shall have designated telephone and fax lines to address permit requests and inquiries.
  - c. The locality shall have at least one staff member whose primary function is to issue permits.
  - d. The locality shall have one or more engineers on staff or contracted to perform bridge inspections and provide analysis for overweight vehicles.
  - e. The locality shall maintain maps indicating up-to-date vertical and horizontal clearance locations and limitations.
  - f. The locality shall provide to the Department an emergency contact phone number and assign a staff person who is authorized to issue the permit or authorized to make a decision regarding the permit request at all times (24 hours a day, seven days a week).
  - g. The locality shall process a "standard permit" for a "standard vehicle" by the next business day after receiving the completed permit application. Each locality shall define "standard vehicle" and "standard permit" and provide the Department with those definitions. All other requests for permits shall be processed within 10 business days.
  - h. The locality shall retain for at least 36 months all permit data it collects.
  - i. The locality shall maintain an updated list of all maintenance and construction projects within that locality. The list shall provide starting and ending locations and dates for each project, and shall be updated as those dates change.
  - j. The locality shall maintain a list of restricted streets. This list shall indicate all times of travel restrictions, oversize restrictions, and weight restrictions for streets within the locality's jurisdiction.

If the locality satisfies the requirements in the memorandum of understanding, the locality may issue permits under this article.

B. Except for permits issued under § 46.2-1141 ~~for overweight vehicles transporting containerized freight~~ and permits issued for overweight vehicles transporting irreducible loads, no overweight permit issued by the Commissioner or any local authority under any provision of this article shall be valid for the operation of any vehicle on an interstate highway if the vehicle has:

1. A single axle weight in excess of 20,000 pounds; or
2. A tandem axle weight in excess of 34,000 pounds; or
3. A gross weight, based on axle spacing, greater than that permitted in § 46.2-1127; or
4. A gross weight, regardless of axle spacing, in excess of 80,000 pounds.

C. The Commissioner may issue permits to operate or tow one or more travel trailers as defined in § 46.2-1500 or motor homes when any of such vehicles exceed the maximum width specified by law, provided the movement of the vehicle is prior to its retail sale and it complies with the provisions of § 46.2-1105. A copy of each such permit shall be carried in the vehicle for which it is issued.

D.1. Every permit issued under this article for the operation of oversize or overweight vehicles shall be carried in the vehicle to which it refers and may be inspected by any officer or size and weight compliance agent. Violation of any term of any permit issued under this article shall constitute a Class 1 misdemeanor. Violation of terms and conditions of any permit issued under this article shall not invalidate the weight allowed on such permit unless (i) the permit vehicle is operating off the route listed on the permit, (ii) the vehicle has fewer axles than required by the permit, (iii) the vehicle has less axle spacing than required by the permit when measured longitudinally from the center of the axle to center axle with any fraction of a foot rounded to the next highest foot, or (iv) the vehicle is transporting multiple items not allowed by the permit.

2. Any multi-trip permit authorizing the applicant to operate on a highway a vehicle of a size or weight exceeding the maximum specified in this title may be transferred to another vehicle no more than two times in a 12-month period, provided that the vehicle to which the permit is transferred is subject to all the limitations set forth in the permit as originally issued. The applicant shall pay the Department an administrative fee of \$10 for each transfer.

E. Any permit issued by the Commissioner or local authorities pursuant to state law may be restricted so as to prevent travel on any federal-aid highway if the continuation of travel on such highway would result in a loss of federal-aid funds. Before any such permit is restricted by the Commissioner, or local authority, written notice shall be given to the permittee.

F. When application is made for permits issued by the Commissioner as well as local authorities, any fees imposed therefor by the Commissioner as well as all affected local authorities may be paid by the applicant, at the applicant's option, to the Commissioner, who shall promptly transmit the local portion of the total fee to the appropriate locality or localities.

G. Engineering analysis, performed by the Department of Transportation or local authority, shall be conducted of a proposed routing before the Commissioner or local authority issues any permit under this section when such analysis is

required to promote safety and preserve the capacity and structural integrity of highways and bridges. The Commissioner or local authority shall not issue a permit when the Department of Transportation or local authority determines that the roadway and bridges to be traversed cannot sustain a vehicle's size and weight.

**§ 46.2-1141. Overweight permits for containerized freight and fluid milk.**

Permits to operate on the highways a vehicle exceeding the maximum weight specified in this title shall be granted ~~if the for a vehicle is~~ hauling containerized cargo in a sealed, seagoing container bound to or from a seaport and has been or will be transported by marine shipment ~~and for a tank vehicle hauling fluid milk~~. In order for a vehicle hauling containerized cargo in a sealed, seagoing container bound to or from a seaport to qualify for such a permit, the contents of such seagoing container shall not be changed from the time it is loaded by the consignor or his agents to the time it is delivered to the consignee or his agents. Cargo moving in vehicles conforming to specifications shown in this section shall be considered irreducible and eligible for permits under regulations of the Commissioner.

The fee for a permit issued under this section shall be as provided in § 46.2-1140.1. Only the Commissioner may issue a permit under this section.

*For purposes of this section "tank vehicle" has the same meaning ascribed to it in § 46.2-341.4.*

**§ 46.2-1151.1. Weight limit exception for covered heavy duty tow and recovery vehicles.**

*The provisions of §§ 46.2-1126 and 46.2-1127 shall not apply to a covered heavy duty tow and recovery vehicle when operating on an interstate highway.*

*This section shall not permit the violation of any lawfully established load limit on any bridge. Covered heavy duty tow and recovery vehicles shall have reasonable access to terminals and facilities for food, fuel, repairs, and rest as designated by the Commissioner of Highways.*

*For purposes of this section, "covered heavy duty tow and recovery vehicle" means a vehicle that is transporting a disabled vehicle from the place where the vehicle became disabled to the nearest appropriate repair facility and has a gross vehicle weight that is equal to or exceeds the gross vehicle weight of the disabled vehicle being transported.*

**§ 46.2-2000. Definitions.**

Whenever used in this chapter unless expressly stated otherwise:

"Authorized insurer" means, in the case of an interstate motor carrier whose operations may or may not include intrastate activity, an insurer authorized to transact business in any one state, or, in the case of a solely intrastate motor carrier, an insurer authorized to transact business in the Commonwealth.

"Broker" means any person not included in the term "motor carrier" and not a bona fide employee or agent of any such carrier, who, as principal or agent, sells or offers for sale any transportation subject to this chapter, or negotiates for, or holds himself out by solicitation, advertisement, or otherwise as one who sells, provides, furnishes, contracts, or arranges for such transportation.

"Carrier by motor launch" means a common carrier, which carrier uses one or more motor launches operating on the waters within the Commonwealth to transport passengers.

"Certificate" means a certificate of public convenience and necessity or a certificate of fitness.

"Certificate of fitness" means a certificate issued by the Department to a contract passenger carrier, a sight-seeing carrier, a transportation network company, or a nonemergency medical transportation carrier.

"Certificate of public convenience and necessity" means a certificate issued by the Department of Motor Vehicles to certain common carriers, but nothing contained in this chapter shall be construed to mean that the Department can issue any such certificate authorizing intracity transportation.

"Common carrier" means any person who undertakes, whether directly or by a lease or any other arrangement, to transport passengers for the general public by motor vehicle for compensation over the highways of the Commonwealth, whether over regular or irregular routes, including such motor vehicle operations of carriers by rail or water under this chapter. "Common carrier" does not include nonemergency medical transportation carriers, transportation network companies, or TNC partners as defined in this section.

"Contract passenger carrier" means a motor carrier that transports groups of passengers under a single contract made with one person for an agreed charge for such transportation, regardless of the number of passengers transported, and for which transportation no individual or separate fares are solicited, charged, collected, or received by the carrier. "Contract passenger carrier" does not include a transportation network company or TNC partner as defined in this section.

"Department" means the Department of Motor Vehicles.

"Digital platform" means any online-enabled application, software, website, or system offered or utilized by a transportation network company that enables the prearrangement of rides with TNC partners.

"Employee hauler" means a motor carrier operating for compensation and exclusively transporting only bona fide employees directly to and from the factories, plants, office or other places of like nature where the employees are employed and accustomed to work.

"Excursion train" means any steam-powered train that carries passengers for which the primary purpose of the operation of such train is the passengers' experience and enjoyment of this means of transportation, and does not, in the course of operation, carry (i) freight other than the personal luggage of the passengers or crew or supplies and equipment necessary to serve the needs of the passengers and crew, (ii) passengers who are commuting to work, or (iii) passengers who are traveling to their final destination solely for business or commercial purposes.

"Financial responsibility" means the ability to respond in damages for liability thereafter incurred arising out of the ownership, maintenance, use, or operation of a motor vehicle, in the amounts provided for in this chapter.

"Highway" means every public highway or place of whatever nature open to the use of the public for purposes of vehicular travel in the Commonwealth, including the streets and alleys in towns and cities.

"Identification marker" means a decal or other visible identification issued or required by the Department to show one or more of the following: (i) that the operator of the vehicle has registered with the Department for the payment of the road tax imposed under Chapter 27 (§ 58.1-2700 et seq.) of Title 58.1; (ii) proof of the possession of a certificate or permit issued pursuant to Chapter 20 (§ 46.2-2000 et seq.); (iii) proof that the vehicle has been registered with the Department as a TNC partner vehicle under subsection B of § 46.2-2099.50; (iv) proof that the vehicle has been authorized by a transportation network company to be operated as a TNC partner vehicle, in accordance with subsection C of § 46.2-2099.50; or (v) proof of compliance with the insurance requirements of this chapter.

"Interstate" means transportation of passengers between states.

"Intrastate" means transportation of passengers solely within a state.

"License" means a license issued by the Department to a broker.

"Minibus" means any motor vehicle having a seating capacity of not less than seven nor more than 31 passengers, including the driver, and used in the transportation of passengers.

"Motor carrier" means any person who undertakes, whether directly or by lease, to transport passengers for compensation over the highways of the Commonwealth.

"Motor launch" means a motor vessel that meets the requirements of the U.S. Coast Guard for the carriage of passengers for compensation, with a capacity of six or more passengers, but not in excess of 50 passengers. "Motor launch" does not include sight-seeing vessels, special or charter party vessels within the provisions of this chapter. A carrier by motor launch shall not be regarded as a steamship company.

"Nonemergency medical transportation carrier" means a motor carrier that exclusively provides nonemergency medical transportation and provides such transportation only (i) through the Department of Medical Assistance Services; (ii) through a broker operating under a contract with the Department of Medical Assistance Services; or (iii) as a Medicaid Managed Care Organization *or through a contractor of a Medicaid Managed Care Organization* contracted with the Department of Medical Assistance Services to provide such transportation.

"Nonprofit/tax-exempt passenger carrier" means a bona fide nonprofit corporation organized or existing under Chapter 10 (§ 13.1-801 et seq.) of Title 13.1, or a tax-exempt organization as defined in §§ 501(c)(3) and 501(c)(4) of the Internal Revenue Code, as amended, who undertakes, whether directly or by lease, to control and operate minibuses exclusively in the transportation, for compensation, of members of such organization if it is a membership corporation, or of elderly, disabled, or economically disadvantaged members of the community if it is not a membership corporation.

"Operation" or "operations" includes the operation of all motor vehicles, whether loaded or empty, whether for compensation or not, and whether owned by or leased to the motor carrier who operates them or causes them to be operated.

"Operation of a TNC partner vehicle" means (i) any time a TNC partner is logged into a digital platform and is available to pick up passengers; (ii) any time a passenger is in the TNC partner vehicle; and (iii) any time the TNC partner has accepted a prearranged ride request through the digital platform and is en route to a passenger.

"Operator" means the employer or person actually driving a motor vehicle or combination of vehicles.

"Permit" means a permit issued by the Department to carriers operating as employee haulers or nonprofit/tax-exempt passenger carriers or to operators of taxicabs or other vehicles performing taxicab service under this chapter.

"Person" means any individual, firm, copartnership, corporation, company, association, or joint-stock association, and includes any trustee, receiver, assignee, or personal representative thereof.

"Personal vehicle" means a motor vehicle that is not used to transport passengers for compensation except as a TNC partner vehicle.

"Prearranged ride" means passenger transportation for compensation in a TNC partner vehicle arranged through a digital platform. "Prearranged ride" includes the period of time that begins when a TNC partner accepts a ride requested through a digital platform, continues while the TNC partner transports a passenger in a TNC partner vehicle, and ends when the passenger exits the TNC partner vehicle.

"Restricted common carrier" means any person who undertakes, whether directly or by a lease or other arrangement, to transport passengers for compensation, whereby such transportation service has been restricted. "Restricted common carrier" does not include a transportation network company or TNC partner as defined in this section.

"Route," when used in connection with or with respect to a certificate of public convenience and necessity, means the road or highway, or segment thereof, operated over by the holder of a certificate of public convenience and necessity or proposed to be operated over by an applicant therefor, whether such road or highway is designated by one or more highway numbers.

"Services" and "transportation" include the service of, and all transportation by, all vehicles operated by, for, or in the interest of any motor carrier irrespective of ownership or contract, expressed or implied, together with all facilities and property operated or controlled by any such carrier or carriers and used in the transportation of passengers or the performance of any service in connection therewith.

"Sight-seeing carrier" means a restricted common carrier authorized to transport passengers under the provisions of this chapter, whereby the primary purpose of the operation is the passengers' experience and enjoyment or the promotion of tourism.

"Sight-seeing carrier by boat" means a restricted common carrier, which restricted common carrier uses a boat or boats operating on waters within the Commonwealth to transport passengers, and whereby the primary purpose of the operation is the passengers' experience and enjoyment or the promotion of tourism. Sight-seeing carriers by boat shall not be regarded as steamship companies.

"Single state insurance receipt" means any receipt issued pursuant to 49 C.F.R. Part 367 evidencing that the carrier has the required insurance and paid the requisite fees to the Commonwealth and other qualified jurisdictions.

"Special or charter party carrier by boat" means a restricted common carrier which transports groups of persons under a single contract made with one person for an agreed charge for such movement regardless of the number of persons transported. Special or charter party carriers by boat shall not be regarded as steamship companies.

"Taxicab or other motor vehicle performing a taxicab service" means any motor vehicle having a seating capacity of not more than six passengers, excluding the driver, not operating on a regular route or between fixed terminals used in the transportation of passengers for hire or for compensation, and not a common carrier, restricted common carrier, transportation network company, TNC partner, or nonemergency medical transportation carrier as defined in this chapter.

"TNC insurance" means a motor vehicle liability insurance policy that specifically covers liabilities arising from a TNC partner's operation of a TNC partner vehicle.

"TNC partner" means a person authorized by a transportation network company to use a TNC partner vehicle to provide prearranged rides on an intrastate basis in the Commonwealth.

"TNC partner vehicle" means a personal vehicle authorized by a transportation network company and used by a TNC partner to provide prearranged rides on an intrastate basis in the Commonwealth.

"Trade dress" means a logo, insignia, or emblem attached to or visible from the exterior of a TNC partner vehicle that identifies a transportation network company or digital platform with which the TNC partner vehicle is affiliated.

"Transportation network company" means a person who provides prearranged rides using a digital platform that connects passengers with TNC partners.

## CHAPTER 555

*An Act to amend and reenact § 2.2-4303.1 of the Code of Virginia, relating to the Virginia Public Procurement Act; architectural and professional engineering term contracting; limitations on project fees; certain school divisions.*

[S 1508]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 2.2-4303.1 of the Code of Virginia is amended and reenacted as follows:**

**§ 2.2-4303.1. Architectural and professional engineering term contracting; limitations.**

A. A contract for architectural or professional engineering services relating to multiple construction projects may be awarded by a public body, provided (i) the projects require similar experience and expertise, (ii) the nature of the projects is clearly identified in the Request for Proposal, and (iii) the contract is limited to a term of one year or when the cumulative total project fees reach the maximum authorized in this section, whichever occurs first.

Such contracts may be renewable for four additional one-year terms at the option of the public body. The fair and reasonable prices as negotiated shall be used in determining the cost of each project performed.

B. The sum of all projects performed in a one-year contract term shall not exceed \$500,000, except that for:

1. A state agency, as defined in § 2.2-4347, the sum of all projects performed in a one-year contract term shall not exceed \$1 million;

2. Any locality with a population in excess of 78,000 *or school division within such locality*, or any authority, sanitation district, metropolitan planning organization, transportation district commission, or planning district commission, or any city within Planning District 8, the sum of all projects performed in a one-year contract term shall not exceed \$6 million and those awarded for any airport as defined in § 5.1-1 and aviation transportation projects, the sum of all such projects shall not exceed \$1.5 million;

3. Architectural and engineering services for rail and public transportation projects by the Director of the Department of Rail and Public Transportation, the sum of all projects in a one-year contract term shall not exceed \$2 million. Such contract may be renewable for two additional one-year terms at the option of the Director; and

4. Environmental location, design, and inspection work regarding highways and bridges by the Commissioner of Highways, the initial contract term shall be limited to two years or when the cumulative total project fees reach \$5 million, whichever occurs first. Such contract may be renewable for two additional one-year terms at the option of the Commissioner, and the sum of all projects in each one-year contract term shall not exceed \$5 million.

C. Competitive negotiations for such architectural or professional engineering services contracts may result in awards to more than one offeror, provided (i) the Request for Proposal so states and (ii) the public body has established procedures

for distributing multiple projects among the selected contractors during the contract term. Such procedures shall prohibit requiring the selected contractors to compete for individual projects based on price.

D. The fee for any single project shall not exceed \$100,000; however, for architectural or engineering services for airports as defined in § 5.1-1 and aviation transportation projects, the project fee of any single project shall not exceed \$500,000, except that for:

1. A state agency as defined in § 2.2-4347, the project fee shall not exceed \$200,000, as may be determined by the Director of the Department of General Services or as otherwise provided by the Restructured Higher Education Financial and Administrative Operations Act (§ 23.1-1000 et seq.); and

2. Any locality with a population in excess of 78,000 *or school division within such locality*, or any authority, transportation district commission, or sanitation district, or any city within Planning District 8, the project fee shall not exceed \$2.5 million.

The limitations imposed upon single-project fees pursuant to this subsection shall not apply to environmental, location, design, and inspection work regarding highways and bridges by the Commissioner of Highways or architectural and engineering services for rail and public transportation projects by the Director of the Department of Rail and Public Transportation.

E. For the purposes of subsection B, any unused amounts from one contract term shall not be carried forward to any additional term, except as otherwise provided by the Restructured Higher Education Financial and Administrative Operations Act (§ 23.1-1000 et seq.).

### CHAPTER 556

*An Act to amend and reenact § 46.2-1222.1 of the Code of Virginia, relating to local regulation of parking of certain vehicles.*

[S 1514]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 46.2-1222.1 of the Code of Virginia is amended and reenacted as follows:**

**§ 46.2-1222.1. Regulation or prohibition of parking of certain vehicles in certain counties and towns.**

A. The Counties of Arlington, Fairfax, Hanover, Stafford, and Prince William and the Towns of Blackstone, Clifton, Herndon, *Leesburg*, and Vienna may by ordinance regulate or prohibit the parking on any public highway in such county or town of any or all of the following: (i) watercraft; (ii) boat trailers; (iii) motor homes, as defined in § 46.2-100; and (iv) camping trailers, as defined in § 46.2-100.

B. In addition to commercial vehicles defined in § 46.2-1224, any such county or town may also, by ordinance, regulate or prohibit the parking on any public highway in any residence district as defined in § 46.2-100 any or all of the following: (i) any trailer or semitrailer, regardless of whether such trailer or semitrailer is attached to another vehicle; (ii) any vehicle with three or more axles; (iii) any vehicle that has a gross vehicle weight rating of 12,000 or more pounds; (iv) any vehicle designed to transport 16 or more passengers including the driver; and (v) any vehicle of any size that is being used in the transportation of hazardous materials as defined in § 46.2-341.4. The provisions of any such ordinance shall not apply to (i) any commercial vehicle when taking on or discharging passengers or when temporarily parked pursuant to the performance of work or service at a particular location or (ii) utility generators located on trailers and being used to power network facilities during a loss of commercial power.

### CHAPTER 557

*An Act to amend and reenact §§ 15.2-4904 and 36-11 of the Code of Virginia and to amend and reenact § 3, as amended, of Chapter 133 of the Acts of Assembly of 1966 and § 2, as amended, of Chapter 271 of the Acts of Assembly of 1966, relating to term limits; certain public bodies in City of Chesapeake.*

[S 1553]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 15.2-4904 and 36-11 of the Code of Virginia are amended and reenacted as follows:**

**§ 15.2-4904. Directors; qualifications; terms; vacancies; compensation and expenses; quorum; records; certification and distribution of report concerning bond issuance.**

A. The authority shall be governed by a board of directors in which all powers of the authority shall be vested and which board shall be composed of seven directors, appointed by the governing body of the locality. The seven directors shall be appointed initially for terms of one, two, three and four years; two being appointed for one-year terms; two being appointed for two-year terms; two being appointed for three-year terms and one being appointed for a four-year term. Subsequent appointments shall be for terms of four years, except appointments to fill vacancies which shall be for the unexpired terms. All terms of office shall be deemed to commence upon the date of the initial appointment to the authority,

and thereafter, in accordance with the provisions of the immediately preceding sentence. If at the end of any term of office of any director a successor thereto has not been appointed, then the director whose term of office has expired shall continue to hold office until his successor is appointed and qualified.

Notwithstanding the provisions of this subsection, the board of supervisors of Wise County may appoint eight members to serve on the board of the authority, with terms staggered as agreed upon by the board of supervisors, the board of supervisors of Henrico County may appoint 10 members to serve on the board of the authority, two from each magisterial district, with terms staggered as agreed upon by the board of supervisors, the board of supervisors of Roanoke County may appoint 10 members to serve on the board of the authority, two from each magisterial district, with terms staggered as agreed upon by the board of supervisors, the board of supervisors of Mathews County may appoint from five to seven members to serve on the board of the authority, the town council of the Town of Saint Paul may appoint 10 members to serve on the board of the authority, with terms staggered as agreed upon by the town council, however, the town council may at its option return to a seven member board by removing the last three members appointed, the board of supervisors of Russell County may appoint nine members, two of whom shall come from a town that has used its borrowing capacity to borrow \$2 million or more for industrial development, with terms staggered as agreed upon by the board of supervisors and the town council of the Town of South Boston shall appoint two at-large members, Page County may appoint nine members, with one member from each incorporated town, one member from each magisterial district, and one at-large, with terms staggered as agreed upon by the board of supervisors, Halifax County shall appoint five at-large members to serve on the board of the authority jointly created by the Town of South Boston and Halifax County pursuant to § 15.2-4916, with terms staggered as agreed upon by the governing bodies of the Town of South Boston and Halifax County in the concurrent resolutions creating such authority, the town council of the Town of Coeburn may appoint five members to serve on the board of the authority, with terms staggered as agreed upon by the town council, the city council of Suffolk may appoint eight members to serve on the board of the authority, with one member from each of the boroughs, and one at-large member, with terms staggered as agreed upon by the city council, the City of Chesapeake may appoint nine members, with terms staggered as agreed upon by the city council; ~~and the~~; *however, in the City of Chesapeake, after July 1, 2017, no member shall serve more than two consecutive terms. Any person who has served more than one and one-half terms as a member of the Chesapeake Economic Development Authority as of July 1, 2017, shall not be eligible for reappointment for another consecutive term. A member of the Chesapeake Economic Development Authority shall serve at the pleasure of the city council of the City of Chesapeake. No Chesapeake Economic Development Authority member shall work for the Authority within one year after serving as a member. The city council of the City of Norfolk may appoint 11 members, with terms staggered as agreed upon by the city council.*

A member of the board of directors of the authority may be removed from office by the local governing body without limitation in the event that the board member is absent from any three consecutive meetings of the authority, or is absent from any four meetings of the authority within any 12-month period. In either such event, a successor shall be appointed by the governing body for the unexpired portion of the term of the member who has been removed.

B. Each director shall, upon appointment or reappointment, before entering upon his duties take and subscribe the oath prescribed by § 49-1.

C. No director shall be an officer or employee of the locality except (i) in a town with a population of less than 3,500 where members of the town governing body may serve as directors provided they do not constitute a majority of the board, (ii) in Buchanan County where a constitutional officer who has previously served on the board of directors may serve as a director provided the governing body of such county approves, and (iii) in Frederick County where the board of supervisors may appoint one of its members to the Economic Development Authority of the County of Frederick, Virginia. Every director shall, at the time of his appointment and thereafter, reside in a locality within which the authority operates or in an adjoining locality. When a director ceases to be a resident of such locality, the director's office shall be vacant and a new director may be appointed for the remainder of the term.

D. The directors shall elect from their membership a chairman, a vice-chairman, and from their membership or not, as they desire, a secretary and a treasurer, or a secretary-treasurer, who shall continue to hold such office until their respective successors are elected. The directors shall receive no salary but may be compensated such amount per regular, special, or committee meeting or per each official representation as may be approved by the appointing authority, not to exceed \$200 per meeting or official representation, and shall be reimbursed for necessary traveling and other expenses incurred in the performance of their duties.

E. Four members of the board of directors shall constitute a quorum of the board for the purposes of conducting its business and exercising its powers and for all other purposes, except that no facilities owned by the authority shall be leased or disposed of in any manner without a majority vote of the members of the board of directors. No vacancy in the membership of the board shall impair the right of a quorum to exercise all the powers and perform all the duties of the board.

F. The board shall keep detailed minutes of its proceedings, which shall be open to public inspection at all times. It shall keep suitable records of its financial transactions and, unless exempted by § 30-140, it shall arrange to have the records audited annually. Copies of each such audit shall be furnished to the governing body of the locality and shall be open to public inspection.

Two copies of the report concerning issuance of bonds required to be filed with the United States Internal Revenue Service shall be certified as true and correct copies by the secretary or assistant secretary of the authority. One copy shall be

furnished to the governing body of the locality and the other copy mailed to the Department of Small Business and Supplier Diversity.

**§ 36-11. Appointment and tenure of commissioners; compensation.**

When the need for an authority to be activated in a city or county has been determined in the manner prescribed by law, the governing body of the city or county shall appoint not more than nine or less than five persons as commissioners of the authority created for such city or county. The governing body of the city or county may subsequently increase the number of commissioners of the authority to a maximum of nine. The commissioners who are first appointed shall be designated to serve for terms of one, two, three, four and five years, respectively, from the date of their appointment, but thereafter commissioners shall be appointed as aforesaid for a term of office of four years except that all vacancies shall be filled for the unexpired term. *Notwithstanding any special or general law to the contrary, after July 1, 2017, no member of the Chesapeake Redevelopment and Housing Authority shall serve more than two consecutive terms. Any person who has served more than one and one-half terms as a member of the Chesapeake Redevelopment and Housing Authority as of July 1, 2017, shall not be eligible for reappointment for another consecutive term. A member of the Chesapeake Redevelopment and Housing Authority shall serve at the pleasure of the city council of the City of Chesapeake. No Chesapeake Redevelopment and Housing Authority member shall work for the Authority within one year after serving as a member.* Except as may be otherwise expressly provided in the charter of a city or town specifically pertaining to such authority, no commissioner of any authority may be an officer or employee, of the city or county for which the authority is created. A commissioner shall hold office until his successor has been appointed and has qualified. A certificate of the appointment or reappointment of any commissioner shall be filed with the clerk and such certificate shall be conclusive evidence of the due and proper appointment of such commissioner. A commissioner may receive compensation as may be determined by a locality for each meeting of the authority attended by the commissioner. A commissioner shall be entitled to the necessary expenses, including traveling expenses, incurred in the discharge of his duties.

Any exercise of the powers of an authority by its commissioners after June 30, 1968, otherwise in compliance with applicable law, is hereby declared to be valid and effective in all respects, notwithstanding that the number of commissioners exercising the powers, though not exceeding seven from July 1, 1968, through June 30, 1978, and not exceeding nine thereafter, may have exceeded the number appointed at the time the need for the authority to be activated had been determined in accordance with this section. No suit or action to vacate or set aside any exercise of said powers may be brought on the ground that the number of commissioners, though not exceeding seven from July 1, 1968, through June 30, 1978, and not exceeding nine thereafter, did exceed the number appointed at the time the need for the authority to be activated had been determined.

**2. That § 3, as amended, of Chapter 133 of the Acts of Assembly of 1966 is amended and reenacted as follows:**

**§ 3. "Chesapeake Airport Authority."**

There is hereby created and constituted a political subdivision of the Commonwealth to be known as the "Chesapeake Airport Authority". The exercise by the Authority of the powers conferred by this act in the construction, operation and maintenance of the project authorized by this act shall be deemed and held to be the performance of an essential governmental function.

The Authority shall consist of seven members, all of whom shall be appointed by the council of the city of Chesapeake. Four of the members of the Authority first appointed shall continue in office for terms expiring on June thirty, nineteen hundred sixty-nine, and three for terms expiring on June thirty, nineteen hundred sixty-eight the term of each such member to be designated by said council and to continue until his successor shall be duly appointed and qualified. On and after July one, nineteen hundred seventy-five, the membership of the Authority shall increase to nine members and there shall be appointed by the city council two additional members, one of whom shall serve until June thirty, nineteen hundred seventy-nine and the other to serve until June thirty, nineteen hundred seventy-eight. The successor of each such member shall be appointed for a term of five years and until his successor shall be duly appointed and qualified, except that any person appointed to fill a vacancy shall serve only for the unexpired term. Any member of the Authority shall be eligible for reappointment; *however, after July 1, 2017, no member shall serve more than two consecutive terms. Any person who has served more than one and one-half terms as a member of the Authority as of July 1, 2017, shall not be eligible for reappointment for another consecutive term. A member of the Authority shall serve at the pleasure of the city council of the City of Chesapeake. No Authority member shall work for the Authority within one year after serving as a member.* Members of the Authority shall be subject to removal from office in like manner as are State, county, town and district officers under the provisions of §§ 15.1-63 to 15.1-66, inclusive, of the Code of Virginia. The Authority shall annually elect one of its members as chairman and another as vice-chairman and shall also elect annually a secretary-treasurer, who may or may not be a member of the Authority.

The secretary-treasurer shall keep a record of the proceedings of the Authority and shall be custodian of all books, documents and papers filed with the Authority and of the minute book or journal of the Authority and of its official seal. He shall have authority to cause copies to be made of all minutes and other records and documents of the Authority and to give certificates under the official seal of the Authority to the effect that such copies are true copies, and all persons dealing with the Authority may rely upon such certificates.

Five members of the Authority shall constitute a quorum and the affirmative vote of five members shall be necessary for any action taken by the Authority. No vacancy in the membership of the Authority shall impair the right of a quorum to exercise all the rights and perform all the duties of the Authority.

Before the issuance of any revenue bonds under the provisions of this act the secretary-treasurer of the Authority shall execute a surety bond in the penal sum of fifty thousand dollars, such surety bond to be conditioned upon the faithful performance of the duties of his office, to be executed by a surety company authorized to transact business in the Commonwealth as surety and to be approved by the Attorney General and filed in the office of the Secretary of the Commonwealth.

The members of the Authority shall be entitled to reimbursement for their expenses incurred in attendance upon the meetings of the Authority or while otherwise engaged in the discharge of their duties. Each member shall also be paid the sum of twenty dollars per day for each day or portion thereof during which he is engaged in the performance of his duties, with the maximum payable to any one member in any one calendar year of fifteen hundred dollars.

**3. That § 2, as amended, of Chapter 271 of the Acts of Assembly of 1966 is amended and reenacted as follows:**

§ 2. The Authority shall be composed of eleven members, two of whom shall be licensed members of the medical profession, all of whom shall be appointed by the city council. The terms of the members shall be four years and staggered so that no more than four members shall be appointed in any one year; provided, however, that for terms which commence in 1999, the council shall appoint four members for four-year terms and two members for five-year terms, and for terms which commence in 2001, the council shall appoint four members for four-year terms and one member for a three-year term. Any member may be reappointed; *however, after July 1, 2017, no member shall serve more than two consecutive terms. Any person who has served more than one and one-half terms as a member of the Authority as of July 1, 2017, shall not be eligible for reappointment for another consecutive term. A member of the Authority shall serve at the pleasure of the city council of the City of Chesapeake. No Authority member shall work for the Authority within one year after serving as a member.* Members shall be compensated for their services in the amount of \$250 per attendance at each meeting, provided, however, that no member shall be compensated for participation in a meeting by electronic means when the member is not physically present at the meeting. The Authority shall adopt as part of its bylaws a definition of "compensable meeting" prior to compensating any member in accordance with this section. Members shall be entitled to reimbursement for necessary traveling and other expenses incurred while engaged in the performance of their duties. Each member shall continue to hold office until the earlier of the effective date of his resignation or the date on which his successor has been appointed and qualified. The council shall have the right to remove any member or officer, for malfeasance or misfeasance, incompetency or gross neglect of duty. Vacancies shall be filled by appointment of the council for unexpired terms, or in the case of an increase in the size of the Authority, filled by appointment of the council, which appointments may be for an initial term less than four years. Members shall take an appropriate oath of office and same shall be filed with the city clerk. Members shall elect on an annual basis one of their number as chairman and another as vice-chairman and shall also elect a secretary and treasurer for terms to be determined by them, who may or may not be one of the members. The same person may serve as both secretary and treasurer. The members shall make such rules, regulations and bylaws for their own government and procedure as they shall determine; they shall meet regularly at least once a month and may hold such special meetings as they deem necessary.

**CHAPTER 558**

*An Act to impose a 48-month moratorium on the repayment of funds allocated for a bonded project pursuant to the Economic Development Access Program.*

[S 1591]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. § 1. Notwithstanding a resolution adopted by a locality or surety bond issued by a locality guaranteeing repayment within five years of an allocation by the Commonwealth Transportation Board, no locality that has been allocated funds for a bonded project by the Commonwealth Transportation Board pursuant to § 33.2-1509 of the Code of Virginia shall repay such funds within a 48-month period beginning on the effective date of this act, provided that all of the other conditions of the Commonwealth Transportation Board's economic development access policy are met.**

**2. That an emergency exists and this act is in force from its passage.**

**CHAPTER 559**

*An Act to amend and reenact §§ 3.2-6527, 3.2-6528, 3.2-6530, 3.2-6532, and 18.2-403.3 of the Code of Virginia, relating to dogs and cats; lifetime licenses.*

[H 1477]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 3.2-6527, 3.2-6528, 3.2-6530, 3.2-6532, and 18.2-403.3 of the Code of Virginia are amended and reenacted as follows:**

**§ 3.2-6527. How to obtain license.**

Any person may obtain a dog license or cat license if required by an ordinance adopted pursuant to subsection B of § 3.2-6524, by making oral or written application to the treasurer of the locality where such person resides, accompanied by the amount of license tax and current certificate of vaccination as required by this article or satisfactory evidence that such certificate has been obtained. The treasurer or other officer charged with the duty of issuing dog and cat licenses shall only have authority to license dogs and cats of resident owners or custodians who reside within the boundary limits of his county or city and may require information to this effect from any applicant. Upon receipt of proper application and current certificate of vaccination as required by this article or satisfactory evidence that such certificate has been obtained, the treasurer or other officer charged with the duty of issuing dog and cat licenses shall issue a license receipt for the amount on which he shall record the name and address of the owner or custodian, the date of payment, the ~~year~~ years for which issued, the serial number of the tag, whether dog or cat, whether male or female, whether spayed or neutered, or whether a kennel, and deliver the metal license tags or plates provided for ~~herein~~ in § 3.2-6526. The information thus received shall be retained by the treasurer, open to public inspection, during the period for which such license is valid. The treasurer may establish substations in convenient locations in the county or city and appoint agents for the collection of the license tax and issuance of such licenses.

**§ 3.2-6528. Amount of license tax.**

The governing body of each county or city shall impose by ordinance a license tax on the ownership of dogs within its jurisdiction. The governing body of any locality that has adopted an ordinance pursuant to subsection B of § 3.2-6524 shall impose by ordinance a license tax on the ownership of cats within its jurisdiction. The governing body may establish different rates of taxation for ownership of female dogs, male dogs, spayed or neutered dogs, female cats, male cats, and spayed or neutered cats. The tax for each dog or cat shall not be ~~less than \$1 and not more than \$10~~ for each year *or \$50 for a lifetime license issued pursuant to subsection B of § 3.2-6530*. If the dog or cat has been spayed, the tax shall not exceed the tax provided for a male dog or cat. Any ordinance may provide for ~~a~~ an annual license tax for kennels of 10, 20, 30, 40, or 50 dogs or cats not to exceed \$50 for any one such block of kennels.

No license tax shall be levied on any dog that is trained and serves as a guide dog for a blind person, that is trained and serves as a hearing dog for a deaf or hearing-impaired person, or that is trained and serves as a service dog for a mobility-impaired or otherwise disabled person.

As used in this section, "hearing dog," "mobility-impaired person," "otherwise disabled person," and "service dog" have the same meanings as assigned in § 51.5-40.1.

**§ 3.2-6530. When license tax payable.**

A. The license tax as prescribed in § 3.2-6528 is due not later than 30 days after a dog or cat has reached the age of four months, or not later than 30 days after an owner acquires a dog or cat four months of age or older, and each year thereafter.

~~B.~~ Licensing periods for individual dogs and cats may be equal to and may run concurrently with the rabies vaccination effective period.

*B. The governing body of a county or city may by ordinance provide for a lifetime dog or cat license. Such a license shall be valid only as long as the animal's owner resides in the issuing locality and the animal's rabies vaccination is kept current.*

C. Any kennel license tax prescribed pursuant to § 3.2-6528 shall be due on January 1 and not later than January 31 of each year.

**§ 3.2-6532. Duplicate license tags.**

If a dog or cat license tag is lost, destroyed or stolen, the owner or custodian shall at once apply to the treasurer or his agent who issued the original license for a duplicate license tag, presenting the original license receipt. Upon affidavit of the owner or custodian before the treasurer or his agent that the original license tag has been lost, destroyed or stolen, he shall issue a duplicate license tag that the owner or custodian shall immediately affix to the collar of the dog. The treasurer or his agent shall endorse the number of the duplicate and the date issued on the face of the original license receipt. The fee for a duplicate tag for any dog or cat shall ~~be not exceed~~ \$1.

**§ 18.2-403.3. Offenses involving animals — Class 4 misdemeanors.**

The following unlawful acts and offenses against animals shall constitute and be punished as a Class 4 misdemeanor:

1. Violation of § 3.2-6566 pertaining to interference of agents charged with preventing cruelty to animals.
2. Violation of § 3.2-6573 pertaining to shooting pigeons.
3. Violation of § 3.2-6554 pertaining to disposing of the body of a dead companion animal.
4. Violation of ordinances passed pursuant to §§ 3.2-6522 and 3.2-6525 pertaining to rabid dogs and preventing the spread of rabies and the running at large of vicious dogs.
5. Violation of an ordinance passed pursuant to § 3.2-6539 requiring dogs to be on a leash.
6. Failure by any person to secure and exhibit the permits required by § 29.1-422 pertaining to field trails, night trails and foxhounds.
7. Diseased dogs. — For the owner of any dog with a contagious or infectious disease to permit such dog to stray from his premises if such disease is known to the owner.
8. License application. — For any person to make a false statement in order to secure a dog or cat license to which he is not entitled.

9. License tax. — For any dog or cat owner to fail to pay any license tax required by *subsection A or C of § 3.2-6530 before February 1 for the year in which* within one month after the date when it is due. In addition, the court may order confiscation and the proper disposition of the dog or cat.

10. Concealing a dog or cat. — For any person to conceal or harbor any dog or cat on which any required license tax has not been paid.

11. Removing collar and tag. — For any person, except the owner or custodian, to remove a legally acquired license tag from a dog or cat without the permission of the owner or custodian.

12. Violation of § 3.2-6503 pertaining to care of animals by owner.

CHAPTER 560

*An Act to amend and reenact §§ 15.2-4903 and 15.2-4904 of the Code of Virginia, relating to industrial development authorities; Louisa County airports.*

[H 1570]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 15.2-4903 and 15.2-4904 of the Code of Virginia are amended and reenacted as follows:**

**§ 15.2-4903. Creation of industrial development authorities.**

A. The governing body of any locality in ~~this~~ the Commonwealth is hereby authorized to create by ordinance a political subdivision of the Commonwealth, with such public and corporate powers as are set forth in this chapter. Any such ordinance may limit the type and number of facilities that the authority may otherwise finance under this chapter, which ordinance of limitation may, from time to time, be amended. *Louisa County may, by ordinance, authorize an authority created or established under this chapter to acquire, own, operate, and regulate the use of airports, landing fields, and facilities, and other property incident thereto, including such facilities and property necessary for the servicing of aircraft.* In the absence of any such limitation, an authority shall have all powers granted under this chapter.

B. The name of the authority shall be the Industrial Development Authority of \_\_\_\_\_ (the blank spaces to be filled in with the name of the locality which created the authority, including the proper designation thereof as a county, city or town).

C. Notwithstanding subsection B, for any authority authorized by this section, the name of the authority may be the Economic Development Authority of \_\_\_\_\_ (the blank space to be filled in with the name of the locality that created the authority), if the governing body of such locality so chooses.

D. The authority jointly created by the Town of South Boston and Halifax County pursuant to § 15.2-4916 may be named the Economic Development Authority of Halifax, Virginia, or such other name as the governing bodies of the Town of South Boston and Halifax County shall choose in the concurrent resolutions creating such authority.

**§ 15.2-4904. Directors; qualifications; terms; vacancies; compensation and expenses; quorum; records; certification and distribution of report concerning bond issuance.**

A. The authority shall be governed by a board of directors in which all powers of the authority shall be vested and which board shall be composed of seven directors, appointed by the governing body of the locality. The seven directors shall be appointed initially for terms of one, two, three and four years; two being appointed for one-year terms; two being appointed for two-year terms; two being appointed for three-year terms and one being appointed for a four-year term. Subsequent appointments shall be for terms of four years, except appointments to fill vacancies which shall be for the unexpired terms. All terms of office shall be deemed to commence upon the date of the initial appointment to the authority, and thereafter, in accordance with the provisions of the immediately preceding sentence. If at the end of any term of office of any director a successor thereto has not been appointed, then the director whose term of office has expired shall continue to hold office until his successor is appointed and qualified.

Notwithstanding the provisions of this subsection, the board of supervisors of Wise County may appoint eight members to serve on the board of the authority, with terms staggered as agreed upon by the board of supervisors, the board of supervisors of Henrico County may appoint 10 members to serve on the board of the authority, two from each magisterial district, with terms staggered as agreed upon by the board of supervisors, the board of supervisors of Roanoke County may appoint 10 members to serve on the board of the authority, two from each magisterial district, with terms staggered as agreed upon by the board of supervisors, the board of supervisors of Mathews County may appoint from five to seven members to serve on the board of the authority, the town council of the Town of Saint Paul may appoint 10 members to serve on the board of the authority, with terms staggered as agreed upon by the town council, however, the town council may at its option return to a seven member board by removing the last three members appointed, the board of supervisors of Russell County may appoint nine members, two of whom shall come from a town that has used its borrowing capacity to borrow \$2 million or more for industrial development, with terms staggered as agreed upon by the board of supervisors and the town council of the Town of South Boston shall appoint two at-large members, Page County may appoint nine members, with one member from each incorporated town, one member from each magisterial district, and one at-large, with terms staggered as agreed upon by the board of supervisors, Halifax County shall appoint five at-large members to serve on the board of the authority jointly created by the Town of South Boston and Halifax County pursuant to § 15.2-4916, with terms

staggered as agreed upon by the governing bodies of the Town of South Boston and Halifax County in the concurrent resolutions creating such authority, the town council of the Town of Coeburn may appoint five members to serve on the board of the authority, with terms staggered as agreed upon by the town council, the city council of Suffolk may appoint eight members to serve on the board of the authority, with one member from each of the boroughs, and one at-large member, with terms staggered as agreed upon by the city council, the City of Chesapeake may appoint nine members, with terms staggered as agreed upon by the city council, ~~and~~ the city council of the City of Norfolk may appoint 11 members, with terms staggered as agreed upon by the city council, *and the board of supervisors of Louisa County may appoint directors to serve on the board of the authority for terms coincident with members of the board of supervisors.*

A member of the board of directors of the authority may be removed from office by the local governing body without limitation in the event that the board member is absent from any three consecutive meetings of the authority, or is absent from any four meetings of the authority within any 12-month period *or upon unanimous vote of the board of supervisors.* In ~~either~~ any such event, a successor shall be appointed by the governing body for the unexpired portions of the term of the member who has been removed.

B. Each director shall, upon appointment or reappointment, before entering upon his duties take and subscribe the oath prescribed by § 49-1.

C. No director shall be an officer or employee of the locality except (i) in a town with a population of less than 3,500 where members of the town governing body may serve as directors provided they do not constitute a majority of the board, (ii) in Buchanan County where a constitutional officer who has previously served on the board of directors may serve as a director provided the governing body of such county approves, and (iii) in Frederick County where the board of supervisors may appoint one of its members to the Economic Development Authority of the County of Frederick, Virginia. Every director shall, at the time of his appointment and thereafter, reside in a locality within which the authority operates or in an adjoining locality. When a director ceases to be a resident of such locality, the director's office shall be vacant and a new director may be appointed for the remainder of the term.

D. The directors shall elect from their membership a chairman, a vice-chairman, and from their membership or not, as they desire, a secretary and a treasurer, or a secretary-treasurer, who shall continue to hold such office until their respective successors are elected. The directors shall receive no salary but may be compensated such amount per regular, special, or committee meeting or per each official representation as may be approved by the appointing authority, not to exceed \$200 per meeting or official representation, and shall be reimbursed for necessary traveling and other expenses incurred in the performance of their duties.

E. Four members of the board of directors shall constitute a quorum of the board for the purposes of conducting its business and exercising its powers and for all other purposes, except that no facilities owned by the authority shall be leased or disposed of in any manner without a majority vote of the members of the board of directors. No vacancy in the membership of the board shall impair the right of a quorum to exercise all the powers and perform all the duties of the board.

F. The board shall keep detailed minutes of its proceedings, which shall be open to public inspection at all times. It shall keep suitable records of its financial transactions and, unless exempted by § 30-140, it shall arrange to have the records audited annually. Copies of each such audit shall be furnished to the governing body of the locality and shall be open to public inspection.

Two copies of the report concerning issuance of bonds required to be filed with the United States Internal Revenue Service shall be certified as true and correct copies by the secretary or assistant secretary of the authority. One copy shall be furnished to the governing body of the locality and the other copy mailed to the Department of Small Business and Supplier Diversity.

## CHAPTER 561

*An Act to amend and reenact § 36-19.2 of the Code of Virginia, relating to housing authorities; approval for construction, etc.*

[H 1585]

Approved March 16, 2017

### **Be it enacted by the General Assembly of Virginia:**

#### **1. That § 36-19.2 of the Code of Virginia is amended and reenacted as follows:**

##### **§ 36-19.2. Powers limited by necessity for authority from or approval by governing body; public hearing on proposed budget.**

A. Notwithstanding the provisions of § 36-19, no authority ~~heretofore or hereafter~~ permitted to transact business and exercise powers as provided in § 36-4 shall make any contract for the construction of any additional housing not authorized or approved by the governing body on April 1, 1952, or acquire land for, or purchase material for the construction or installation of, any sewerage, streets, sidewalks, lights, power, water, or any other facilities for any additional housing not authorized or approved on such date, unless and until such additional housing ~~shall have~~ *has* been authorized or approved by the governing body of the ~~county or city~~ *locality* in which the authority is authorized to transact business and exercise powers; provided, that this section shall not affect or impair the provisions of § 36-19.1.

B. Before any authority gives final approval to (i) its budget or (ii) any request for funding for submission to the governing body, the authority shall hold at least one public hearing to receive the views of citizens within the area of operation of the authority. The authority shall cause public notice to be given at least 10 days prior to any hearing by publication in a newspaper having a general circulation within the area of operation of the authority.

### CHAPTER 562

*An Act to amend and reenact § 18.2-152.4 of the Code of Virginia, relating to computer trespass; government computers and public utilities; penalty.*

[H 1815]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 18.2-152.4 of the Code of Virginia is amended and reenacted as follows:**

**§ 18.2-152.4. Computer trespass; penalty.**

A. It shall be unlawful for any person, with malicious intent, to:

1. Temporarily or permanently remove, halt, or otherwise disable any computer data, computer programs or computer software from a computer or computer network;
2. Cause a computer to malfunction, regardless of how long the malfunction persists;
3. Alter, disable, or erase any computer data, computer programs or computer software;
4. Effect the creation or alteration of a financial instrument or of an electronic transfer of funds;
5. Use a computer or computer network to cause physical injury to the property of another;
6. Use a computer or computer network to make or cause to be made an unauthorized copy, in any form, including, but not limited to, any printed or electronic form of computer data, computer programs or computer software residing in, communicated by, or produced by a computer or computer network;
7. [Repealed.]
8. Install or cause to be installed, or collect information through, computer software that records all or a majority of the keystrokes made on the computer of another without the computer owner's authorization; or

9. Install or cause to be installed on the computer of another, computer software for the purpose of (i) taking control of that computer so that it can cause damage to another computer or (ii) disabling or disrupting the ability of the computer to share or transmit instructions or data to other computers or to any related computer equipment or devices, including but not limited to printers, scanners, or fax machines.

B. Any person who violates this section is guilty of computer trespass, which shall be a Class 1 misdemeanor. *Any person who violates this section for the purposes of affecting a computer that is exclusively for the use of, or exclusively used by or for, (i) the Commonwealth or any local government within the Commonwealth or any department or agency thereof or (ii) a provider of telephone, including wireless or voice over Internet protocol, oil, electric, gas, sewer, wastewater, or water service to the public is guilty of a Class 6 felony.* If there is damage to the property of another valued at \$1,000 or more caused by such person's act in violation of this section, the offense shall be a Class 6 felony. If a person installs or causes to be installed computer software in violation of this section on more than five computers of another, the offense shall be a Class 6 felony. If a person violates subdivision A 8, the offense shall be a Class 6 felony.

C. Nothing in this section shall be construed to interfere with or prohibit terms or conditions in a contract or license related to computers, computer data, computer networks, computer operations, computer programs, computer services, or computer software or to create any liability by reason of terms or conditions adopted by, or technical measures implemented by, a Virginia-based electronic mail service provider to prevent the transmission of unsolicited electronic mail in violation of this article. Nothing in this section shall be construed to prohibit the monitoring of computer usage of, the otherwise lawful copying of data of, or the denial of computer or Internet access to a minor by a parent or legal guardian of the minor.

**2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 780 of the Acts of Assembly of 2016 requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.**

### CHAPTER 563

*An Act to amend and reenact §§ 25.1-306 and 33.2-1020 of the Code of Virginia, relating to condemnation powers and proceedings; notice to owner or tenant.*

[H 2024]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:****1. That §§ 25.1-306 and 33.2-1020 of the Code of Virginia are amended and reenacted as follows:****§ 25.1-306. Notice of intent to file certificate.**

The authorized condemnor shall, *between 30 and 45 days prior to the date on which any certificate will be filed or recorded pursuant to this chapter*, give notice to the owner or tenant, *if known*, of the freehold by *certified or registered mail*; ~~if known~~, that a such certificate will be filed or recorded with respect to such person's property. *Additionally, within four business days of the filing or recording of a certificate, the authorized condemnor shall give notice of such filing or recording to the owner or tenant, if known, of the freehold by providing a copy of such certificate by certified or registered mail.*

**§ 33.2-1020. Payment of certificates of deposit; notice to owner.**

A. A certificate of deposit shall be deemed and held for the purpose of this article to be payment into the custody of such court. Payment against any certificate of deposit so issued and countersigned, when ordered by the court named therein, shall be paid by the State Treasurer on warrants of the Comptroller, issued on vouchers signed by the Commissioner of Highways.

B. A duplicate of each certificate of deposit so issued and countersigned shall be kept as a record in the office of the Commissioner of Highways and a copy thereof shall be filed with the State Treasurer.

C. The Commissioner of Highways shall give notice, *between 30 and 45 days prior to the date on which any certificate will be filed or recorded pursuant to this chapter*, to the owner or tenant, *if known*, of the freehold by *certified or registered mail*; ~~if known~~, that a such certificate of deposit will be filed or recorded. *Additionally, within four business days of the filing or recording of a certificate, the Commissioner of Highways shall give notice of such filing or recording to the owner or tenant, if known, of the freehold by providing a copy of such certificate by certified or registered mail.*

**CHAPTER 564**

*An Act to amend and reenact § 56-585.1 of the Code of Virginia, relating to electric utility regulation; recovering costs of modifications to nuclear power generation facilities.*

[H 2291]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:****1. That § 56-585.1 of the Code of Virginia is amended and reenacted as follows:****§ 56-585.1. Generation, distribution, and transmission rates after capped rates terminate or expire.**

A. During the first six months of 2009, the Commission shall, after notice and opportunity for hearing, initiate proceedings to review the rates, terms and conditions for the provision of generation, distribution and transmission services of each investor-owned incumbent electric utility. Such proceedings shall be governed by the provisions of Chapter 10 (§ 56-232 et seq.), except as modified herein. In such proceedings the Commission shall determine fair rates of return on common equity applicable to the generation and distribution services of the utility. In so doing, the Commission may use any methodology to determine such return it finds consistent with the public interest, but such return shall not be set lower than the average of the returns on common equity reported to the Securities and Exchange Commission for the three most recent annual periods for which such data are available by not less than a majority, selected by the Commission as specified in subdivision 2 b, of other investor-owned electric utilities in the peer group of the utility, nor shall the Commission set such return more than 300 basis points higher than such average. The peer group of the utility shall be determined in the manner prescribed in subdivision 2 b. The Commission may increase or decrease such combined rate of return by up to 100 basis points based on the generating plant performance, customer service, and operating efficiency of a utility, as compared to nationally recognized standards determined by the Commission to be appropriate for such purposes. In such a proceeding, the Commission shall determine the rates that the utility may charge until such rates are adjusted. If the Commission finds that the utility's combined rate of return on common equity is more than 50 basis points below the combined rate of return as so determined, it shall be authorized to order increases to the utility's rates necessary to provide the opportunity to fully recover the costs of providing the utility's services and to earn not less than such combined rate of return. If the Commission finds that the utility's combined rate of return on common equity is more than 50 basis points above the combined rate of return as so determined, it shall be authorized either (i) to order reductions to the utility's rates it finds appropriate, provided that the Commission may not order such rate reduction unless it finds that the resulting rates will provide the utility with the opportunity to fully recover its costs of providing its services and to earn not less than the fair rates of return on common equity applicable to the generation and distribution services; or (ii) to direct that 60 percent of the amount of the utility's earnings that were more than 50 basis points above the fair combined rate of return for calendar year 2008 be credited to customers' bills, in which event such credits shall be amortized over a period of six to 12 months, as determined at the discretion of the Commission, following the effective date of the Commission's order and be allocated among customer classes such that the relationship between the specific customer class rates of return to the overall target rate of return will have the same relationship as the last approved allocation of revenues used to design base rates. Commencing in 2011, the Commission, after notice and opportunity for hearing, shall conduct biennial reviews of the rates, terms and conditions for the provision of generation, distribution and transmission services by each investor-owned incumbent electric utility, subject to the following provisions:

1. Rates, terms and conditions for each service shall be reviewed separately on an unbundled basis, and such reviews shall be conducted in a single, combined proceeding. The first such review shall utilize the two successive 12-month test periods ending December 31, 2010. However, the Commission may, in its discretion, elect to stagger its biennial reviews of utilities by utilizing the two successive 12-month test periods ending December 31, 2010, for a Phase I Utility, and utilizing the two successive 12-month test periods ending December 31, 2011, for a Phase II Utility, with subsequent proceedings utilizing the two successive 12-month test periods ending December 31 immediately preceding the year in which such proceeding is conducted. For purposes of this section, a Phase I Utility is an investor-owned incumbent electric utility that was, as of July 1, 1999, not bound by a rate case settlement adopted by the Commission that extended in its application beyond January 1, 2002, and a Phase II Utility is an investor-owned incumbent electric utility that was bound by such a settlement.

2. Subject to the provisions of subdivision 6, fair rates of return on common equity applicable separately to the generation and distribution services of such utility, and for the two such services combined, shall be determined by the Commission during each such biennial review, as follows:

a. The Commission may use any methodology to determine such return it finds consistent with the public interest, but such return shall not be set lower than the average of the returns on common equity reported to the Securities and Exchange Commission for the three most recent annual periods for which such data are available by not less than a majority, selected by the Commission as specified in subdivision 2 b, of other investor-owned electric utilities in the peer group of the utility subject to such biennial review, nor shall the Commission set such return more than 300 basis points higher than such average.

b. In selecting such majority of peer group investor-owned electric utilities, the Commission shall first remove from such group the two utilities within such group that have the lowest reported returns of the group, as well as the two utilities within such group that have the highest reported returns of the group, and the Commission shall then select a majority of the utilities remaining in such peer group. In its final order regarding such biennial review, the Commission shall identify the utilities in such peer group it selected for the calculation of such limitation. For purposes of this subdivision, an investor-owned electric utility shall be deemed part of such peer group if (i) its principal operations are conducted in the southeastern United States east of the Mississippi River in either the states of West Virginia or Kentucky or in those states south of Virginia, excluding the state of Tennessee, (ii) it is a vertically-integrated electric utility providing generation, transmission and distribution services whose facilities and operations are subject to state public utility regulation in the state where its principal operations are conducted, (iii) it had a long-term bond rating assigned by Moody's Investors Service of at least Baa at the end of the most recent test period subject to such biennial review, and (iv) it is not an affiliate of the utility subject to such biennial review.

c. The Commission may, consistent with its precedent for incumbent electric utilities prior to the enactment of Chapters 888 and 933 of the Acts of Assembly of 2007, increase or decrease the utility's combined rate of return based on the Commission's consideration of the utility's performance.

d. In any Current Proceeding, the Commission shall determine whether the Current Return has increased, on a percentage basis, above the Initial Return by more than the increase, expressed as a percentage, in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics of the United States Department of Labor, since the date on which the Commission determined the Initial Return. If so, the Commission may conduct an additional analysis of whether it is in the public interest to utilize such Current Return for the Current Proceeding then pending. A finding of whether the Current Return justifies such additional analysis shall be made without regard to any enhanced rate of return on common equity awarded pursuant to the provisions of subdivision 6. Such additional analysis shall include, but not be limited to, a consideration of overall economic conditions, the level of interest rates and cost of capital with respect to business and industry, in general, as well as electric utilities, the current level of inflation and the utility's cost of goods and services, the effect on the utility's ability to provide adequate service and to attract capital if less than the Current Return were utilized for the Current Proceeding then pending, and such other factors as the Commission may deem relevant. If, as a result of such analysis, the Commission finds that use of the Current Return for the Current Proceeding then pending would not be in the public interest, then the lower limit imposed by subdivision 2 a on the return to be determined by the Commission for such utility shall be calculated, for that Current Proceeding only, by increasing the Initial Return by a percentage at least equal to the increase, expressed as a percentage, in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics of the United States Department of Labor, since the date on which the Commission determined the Initial Return. For purposes of this subdivision:

"Current Proceeding" means any proceeding conducted under any provisions of this subsection that require or authorize the Commission to determine a fair combined rate of return on common equity for a utility and that will be concluded after the date on which the Commission determined the Initial Return for such utility.

"Current Return" means the minimum fair combined rate of return on common equity required for any Current Proceeding by the limitation regarding a utility's peer group specified in subdivision 2 a.

"Initial Return" means the fair combined rate of return on common equity determined for such utility by the Commission on the first occasion after July 1, 2009, under any provision of this subsection pursuant to the provisions of subdivision 2 a.

e. In addition to other considerations, in setting the return on equity within the range allowed by this section, the Commission shall strive to maintain costs of retail electric energy that are cost competitive with costs of retail electric energy provided by the other peer group investor-owned electric utilities.

f. The determination of such returns shall be made by the Commission on a stand-alone basis, and specifically without regard to any return on common equity or other matters determined with regard to facilities described in subdivision 6.

g. If the combined rate of return on common equity earned by the generation and distribution services is no more than 50 basis points above or below the return as so determined or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, such return is no more than 70 basis points above or below the return as so determined, such combined return shall not be considered either excessive or insufficient, respectively. However, for any test period commencing after December 31, 2012, for a Phase II Utility, and after December 31, 2013, for a Phase I Utility, if the utility has, during the test period or periods under review, earned below the return as so determined, whether or not such combined return is within 70 basis points of the return as so determined, the utility may petition the Commission for approval of an increase in rates in accordance with the provisions of subdivision 8 as if it had earned more than 70 basis points below a fair combined rate of return, and such proceeding shall otherwise be conducted in accordance with the provisions of this section.

h. Any amount of a utility's earnings directed by the Commission to be credited to customers' bills pursuant to this section shall not be considered for the purpose of determining the utility's earnings in any subsequent biennial review.

3. Each such utility shall make a biennial filing by March 31 of every other year, beginning in 2011, consisting of the schedules contained in the Commission's rules governing utility rate increase applications; however, if the Commission elects to stagger the dates of the biennial reviews of utilities as provided in subdivision 1, then each Phase I Utility shall commence biennial filings in 2011 and each Phase II Utility shall commence biennial filings in 2012. Such filing shall encompass the two successive 12-month test periods ending December 31 immediately preceding the year in which such proceeding is conducted, and in every such case the filing for each year shall be identified separately and shall be segregated from any other year encompassed by the filing. If the Commission determines that rates should be revised or credits be applied to customers' bills pursuant to subdivision 8 or 9, any rate adjustment clauses previously implemented pursuant to subdivision 5 or those related to facilities utilizing simple-cycle combustion turbines described in subdivision 6, shall be combined with the utility's costs, revenues and investments until the amounts that are the subject of such rate adjustment clauses are fully recovered. The Commission shall combine such clauses with the utility's costs, revenues and investments only after it makes its initial determination with regard to necessary rate revisions or credits to customers' bills, and the amounts thereof, but after such clauses are combined as herein specified, they shall thereafter be considered part of the utility's costs, revenues, and investments for the purposes of future biennial review proceedings. A Phase I Utility shall delay for one year the filing of its biennial review from March 31, 2013, to March 31, 2014, and shall not defer on its books for future recovery any costs incurred during calendar year 2011, other than as provided in subdivision 7 or § 56-249.6, and its subsequent biennial filing shall be made by March 31, 2016, and every two years thereafter.

4. The following costs incurred by the utility shall be deemed reasonable and prudent: (i) costs for transmission services provided to the utility by the regional transmission entity of which the utility is a member, as determined under applicable rates, terms and conditions approved by the Federal Energy Regulatory Commission, and (ii) costs charged to the utility that are associated with demand response programs approved by the Federal Energy Regulatory Commission and administered by the regional transmission entity of which the utility is a member. Upon petition of a utility at any time after the expiration or termination of capped rates, but not more than once in any 12-month period, the Commission shall approve a rate adjustment clause under which such costs, including, without limitation, costs for transmission service, charges for new and existing transmission facilities, administrative charges, and ancillary service charges designed to recover transmission costs, shall be recovered on a timely and current basis from customers. Retail rates to recover these costs shall be designed using the appropriate billing determinants in the retail rate schedules.

5. A utility may at any time, after the expiration or termination of capped rates, but not more than once in any 12-month period, petition the Commission for approval of one or more rate adjustment clauses for the timely and current recovery from customers of the following costs:

a. Incremental costs described in clause (vi) of subsection B of § 56-582 incurred between July 1, 2004, and the expiration or termination of capped rates, if such utility is, as of July 1, 2007, deferring such costs consistent with an order of the Commission entered under clause (vi) of subsection B of § 56-582. The Commission shall approve such a petition allowing the recovery of such costs that comply with the requirements of clause (vi) of subsection B of § 56-582;

b. Projected and actual costs for the utility to design and operate fair and effective peak-shaving programs. The Commission shall approve such a petition if it finds that the program is in the public interest; provided that the Commission shall allow the recovery of such costs as it finds are reasonable;

c. Projected and actual costs for the utility to design, implement, and operate energy efficiency programs, including a margin to be recovered on operating expenses, which margin for the purposes of this section shall be equal to the general rate of return on common equity determined as described in subdivision 2. The Commission shall only approve such a petition if it finds that the program is in the public interest. As part of such cost recovery, the Commission, if requested by the utility, shall allow for the recovery of revenue reductions related to energy efficiency programs. The Commission shall only allow such recovery to the extent that the Commission determines such revenue has not been recovered through margins from incremental off-system sales as defined in § 56-249.6 that are directly attributable to energy efficiency programs.

None of the costs of new energy efficiency programs of an electric utility, including recovery of revenue reductions, shall be assigned to any customer that has a verifiable history of having used more than 10 megawatts of demand from a single meter of delivery. Nor shall any of the costs of new energy efficiency programs of an electric utility, including recovery of revenue reductions, be incurred by any large general service customer as defined herein that has notified the utility of non-participation in such energy efficiency program or programs. A large general service customer is a customer that has a verifiable history of having used more than 500 kilowatts of demand from a single meter of delivery. Non-participation in energy efficiency programs shall be allowed by the Commission if the large general service customer has, at the customer's own expense, implemented energy efficiency programs that have produced or will produce measured and verified results consistent with industry standards and other regulatory criteria stated in this section. The Commission shall, no later than November 15, 2009, promulgate rules and regulations to accommodate the process under which such large general service customers shall file notice for such an exemption and (i) establish the administrative procedures by which eligible customers will notify the utility and (ii) define the standard criteria that must be satisfied by an applicant in order to notify the utility. In promulgating such rules and regulations, the Commission may also specify the timing as to when a utility shall accept and act on such notice, taking into consideration the utility's integrated resource planning process as well as its administration of energy efficiency programs that are approved for cost recovery by the Commission. The notice of non-participation by a large general service customer, to be given by March 1 of a given year, shall be for the duration of the service life of the customer's energy efficiency program. The Commission on its own motion may initiate steps necessary to verify such non-participants' achievement of energy efficiency if the Commission has a body of evidence that the non-participant has knowingly misrepresented its energy efficiency achievement. A utility shall not charge such large general service customer, as defined by the Commission, for the costs of installing energy efficiency equipment beyond what is required to provide electric service and meter such service on the customer's premises if the customer provides, at the customer's expense, equivalent energy efficiency equipment. In all relevant proceedings pursuant to this section, the Commission shall take into consideration the goals of economic development, energy efficiency and environmental protection in the Commonwealth;

d. Projected and actual costs of participation in a renewable energy portfolio standard program pursuant to § 56-585.2 that are not recoverable under subdivision 6. The Commission shall approve such a petition allowing the recovery of such costs as are provided for in a program approved pursuant to § 56-585.2;

e. Projected and actual costs of projects that the Commission finds to be necessary to comply with state or federal environmental laws or regulations applicable to generation facilities used to serve the utility's native load obligations. The Commission shall approve such a petition if it finds that such costs are necessary to comply with such environmental laws or regulations; and

f. Projected and actual costs, not currently in rates, for the utility to design, implement, and operate programs approved by the Commission that accelerate the vegetation management of distribution rights-of-way. No costs shall be allocated to or recovered from customers that are served within the large general service rate classes for a Phase II Utility or that are served at subtransmission or transmission voltage, or take delivery at a substation served from subtransmission or transmission voltage, for a Phase I Utility.

The Commission shall have the authority to determine the duration or amortization period for any adjustment clause approved under this subdivision.

6. To ensure the generation and delivery of a reliable and adequate supply of electricity, to meet the utility's projected native load obligations and to promote economic development, a utility may at any time, after the expiration or termination of capped rates, petition the Commission for approval of a rate adjustment clause for recovery on a timely and current basis from customers of the costs of (i) a coal-fueled generation facility that utilizes Virginia coal and is located in the coalfield region of the Commonwealth, as described in § 15.2-6002, regardless of whether such facility is located within or without the utility's service territory, (ii) one or more other generation facilities, (iii) one or more major unit modifications of generation facilities, *including the costs of any system or equipment upgrade, system or equipment replacement, or other cost reasonably appropriate to extend the combined operating license for or the operating life of one or more generation facilities utilizing nuclear power*, or (iv) one or more new underground facilities to replace one or more existing overhead distribution facilities of 69 kilovolts or less located within the Commonwealth; however, subject to the provisions of the following sentence, the utility shall not file a petition under clause (iv) more often than annually and, in such petition, shall not seek any annual incremental increase in the level of investments associated with such a petition that exceeds five percent of such utility's distribution rate base, as such rate base was determined for the most recently ended 12-month test period in the utility's latest biennial review proceeding conducted pursuant to subdivision 3 and concluded by final order of the Commission prior to the date of filing of such petition under clause (iv). In all proceedings regarding petitions filed under clause (iv), the level of investments approved for recovery in such proceedings shall be in addition to, and not in lieu of, levels of investments previously approved for recovery in prior proceedings under clause (iv). Such a petition concerning facilities described in clause (ii) that utilize nuclear power, facilities described in clause (ii) that are coal-fueled and will be built by a Phase I Utility, or facilities described in clause (i) may also be filed before the expiration or termination of capped rates. A utility that constructs *or makes modifications to* any such facility, or purchases any facility consisting of at least one megawatt of generating capacity using energy derived from sunlight and located in the Commonwealth and that utilizes goods or services sourced, in whole or in part, from one or more Virginia businesses, shall have the right to recover the costs of the facility, as accrued against income, through its rates, including projected construction work in progress, and any

associated allowance for funds used during construction, planning, development and construction or acquisition costs, life-cycle costs, costs related to assessing the feasibility of potential sites for new underground facilities, and costs of infrastructure associated therewith, plus, as an incentive to undertake such projects, an enhanced rate of return on common equity calculated as specified below; however, in determining the amounts recoverable under a rate adjustment clause for new underground facilities, the Commission shall not consider, or increase or reduce such amounts recoverable because of (a) the operation and maintenance costs attributable to either the overhead distribution facilities being replaced or the new underground facilities or (b) any other costs attributable to the overhead distribution facilities being replaced. Notwithstanding the preceding sentence, the costs described in clauses (a) and (b) thereof shall remain eligible for recovery from customers through the utility's base rates for distribution service. A utility filing a petition for approval to construct or purchase a facility consisting of at least one megawatt of generating capacity using energy derived from sunlight and located in the Commonwealth and that utilizes goods or services sourced, in whole or in part, from one or more Virginia businesses may propose a rate adjustment clause based on a market index in lieu of a cost of service model for such facility. A utility seeking approval to construct or purchase a generating facility *described in clause (ii)* shall demonstrate that it has considered and weighed alternative options, including third-party market alternatives, in its selection process. The costs of the facility, other than return on projected construction work in progress and allowance for funds used during construction, shall not be recovered prior to the date a facility constructed by the utility and described in clause (i), (ii), or (iii) begins commercial operation, the date the utility becomes the owner of a purchased generation facility consisting of at least one megawatt of generating capacity using energy derived from sunlight and located in the Commonwealth and that utilizes goods or services sourced, in whole or in part, from one or more Virginia businesses, or the date new underground facilities are classified by the utility as plant in service. Such enhanced rate of return on common equity shall be applied to allowance for funds used during construction and to construction work in progress during the construction phase of the facility and shall thereafter be applied to the entire facility during the first portion of the service life of the facility. The first portion of the service life shall be as specified in the table below; however, the Commission shall determine the duration of the first portion of the service life of any facility, within the range specified in the table below, which determination shall be consistent with the public interest and shall reflect the Commission's determinations regarding how critical the facility may be in meeting the energy needs of the citizens of the Commonwealth and the risks involved in the development of the facility. After the first portion of the service life of the facility is concluded, the utility's general rate of return shall be applied to such facility for the remainder of its service life. As used herein, the service life of the facility shall be deemed to begin on the date a facility constructed by the utility and described in clause (i), (ii), or (iii) begins commercial operation, the date the utility becomes the owner of a purchased generation facility consisting of at least one megawatt of generating capacity using energy derived from sunlight and located in the Commonwealth and that utilizes goods or services sourced, in whole or in part, from one or more Virginia businesses, or the date new underground facilities are classified by the utility as plant in service, and such service life shall be deemed equal in years to the life of that facility as used to calculate the utility's depreciation expense. Such enhanced rate of return on common equity shall be calculated by adding the basis points specified in the table below to the utility's general rate of return, and such enhanced rate of return shall apply only to the facility that is the subject of such rate adjustment clause. Allowance for funds used during construction shall be calculated for any such facility utilizing the utility's actual capital structure and overall cost of capital, including an enhanced rate of return on common equity as determined pursuant to this subdivision, until such construction work in progress is included in rates. The construction of any facility described in clause (i) is in the public interest, and in determining whether to approve such facility, the Commission shall liberally construe the provisions of this title. The construction or purchase by a utility of one or more generation facilities with at least one megawatt of generating capacity, and with an aggregate rated capacity that does not exceed 500 megawatts, that use energy derived from sunlight and are located in the Commonwealth, regardless of whether any of such facilities are located within or without the utility's service territory, is in the public interest, and in determining whether to approve such facility, the Commission shall liberally construe the provisions of this title. A utility may enter into short-term or long-term power purchase contracts for the power derived from sunlight generated by such generation facility prior to purchasing the generation facility. In determining whether to approve petitions for rate adjustment clauses for new underground facilities, and in determining the level of costs to be recovered thereunder, the Commission shall liberally construe the provisions of this title and shall give due consideration to the public policy goals of increased electric service reliability and reduced outage times associated with the replacement of existing overhead distribution facilities with new underground facilities. The basis points to be added to the utility's general rate of return to calculate the enhanced rate of return on common equity, and the first portion of that facility's service life to which such enhanced rate of return shall be applied, shall vary by type of facility, as specified in the following table:

Type of Generation Facility	Basis Points	First Portion of Service Life
Nuclear-powered	200	Between 12 and 25 years
Carbon capture compatible, clean-coal powered	200	Between 10 and 20 years
Renewable powered, other than landfill gas powered	200	Between 5 and 15 years
Coalbed methane gas powered	150	Between 5 and 15 years
Landfill gas powered	200	Between 5 and 15 years

Conventional coal or combined-cycle combustion turbine

100

Between 10 and 20 years

For generating facilities other than those utilizing nuclear power *constructed pursuant to clause (ii)* or those utilizing energy derived from offshore wind, as of July 1, 2013, only those facilities as to which a rate adjustment clause under this subdivision has been previously approved by the Commission, or as to which a petition for approval of such rate adjustment clause was filed with the Commission, on or before January 1, 2013, shall be entitled to the enhanced rate of return on common equity as specified in the above table during the construction phase of the facility and the approved first portion of its service life.

For generating facilities within the Commonwealth utilizing nuclear power or those utilizing energy derived from offshore wind projects located in waters off the Commonwealth's Atlantic shoreline, such facilities shall continue to be eligible for an enhanced rate of return on common equity during the construction phase of the facility and the approved first portion of its service life of between 12 and 25 years in the case of a facility utilizing nuclear power and for a service life of between 5 and 15 years in the case of a facility utilizing energy derived from offshore wind, provided, however, that, as of July 1, 2013, the enhanced return for such facilities *constructed pursuant to clause (ii)* shall be 100 basis points, which shall be added to the utility's general rate of return as determined under subdivision 2. Thirty percent of all costs of such a facility utilizing nuclear power that the utility incurred between July 1, 2007, and December 31, 2013, and all of such costs incurred after December 31, 2013, may be deferred by the utility and recovered through a rate adjustment clause under this subdivision at such time as the Commission provides in an order approving such a rate adjustment clause. The remaining 70 percent of all costs of such a facility that the utility incurred between July 1, 2007, and December 31, 2013, shall not be deferred for recovery through a rate adjustment clause under this subdivision; however, such remaining 70 percent of all costs shall be recovered ratably through existing base rates as determined by the Commission in the test periods under review in the utility's next biennial review filed after July 1, 2014. Thirty percent of all costs of such a facility utilizing energy derived from offshore wind that the utility incurred between July 1, 2007, and December 31, 2013, and all of such costs incurred after December 31, 2013, may be deferred by the utility and recovered through a rate adjustment clause under this subdivision at such time as the Commission provides in an order approving such a rate adjustment clause. The remaining 70 percent of all costs of such a facility that the utility incurred between July 1, 2007, and December 31, 2013, shall not be deferred for recovery through a rate adjustment clause under this subdivision; however, such remaining 70 percent of all costs shall be recovered ratably through existing base rates as determined by the Commission in the test periods under review in the utility's next biennial review filed after July 1, 2014.

In connection with planning to meet forecasted demand for electric generation supply and assure the adequate and sufficient reliability of service, consistent with § 56-598, planning and development activities for a new nuclear generation facility or facilities are in the public interest.

In connection with planning to meet forecasted demand for electric generation supply and assure the adequate and sufficient reliability of service, consistent with § 56-598, planning and development activities for a new utility-owned and utility-operated generating facility or facilities utilizing energy derived from sunlight with an aggregate capacity of 500 megawatts, or from offshore wind, are in the public interest.

Neither generation facilities described in clause (ii) that utilize simple-cycle combustion turbines nor new underground facilities shall receive an enhanced rate of return on common equity as described herein, but instead shall receive the utility's general rate of return during the construction phase of the facility and, thereafter, for the entire service life of the facility. No rate adjustment clause for new underground facilities shall allocate costs to, or provide for the recovery of costs from, customers that are served within the large power service rate class for a Phase I Utility and the large general service rate classes for a Phase II Utility. New underground facilities are hereby declared to be ordinary extensions or improvements in the usual course of business under the provisions of § 56-265.2.

As used in this subdivision, a generation facility is (1) "coalbed methane gas powered" if the facility is fired at least 50 percent by coalbed methane gas, as such term is defined in § 45.1-361.1, produced from wells located in the Commonwealth, and (2) "landfill gas powered" if the facility is fired by methane or other combustible gas produced by the anaerobic digestion or decomposition of biodegradable materials in a solid waste management facility licensed by the Waste Management Board. A landfill gas powered facility includes, in addition to the generation facility itself, the equipment used in collecting, drying, treating, and compressing the landfill gas and in transmitting the landfill gas from the solid waste management facility where it is collected to the generation facility where it is combusted.

For purposes of this subdivision, "general rate of return" means the fair combined rate of return on common equity as it is determined by the Commission from time to time for such utility pursuant to subdivision 2. In any proceeding under this subdivision conducted prior to the conclusion of the first biennial review for such utility, the Commission shall determine a general rate of return for such utility in the same manner as it would in a biennial review proceeding.

Notwithstanding any other provision of this subdivision, if the Commission finds during the biennial review conducted for a Phase II Utility in 2018 that such utility has not filed applications for all necessary federal and state regulatory approvals to construct one or more nuclear-powered or coal-fueled generation facilities that would add a total capacity of at least 1500 megawatts to the amount of the utility's generating resources as such resources existed on July 1, 2007, or that, if all such approvals have been received, that the utility has not made reasonable and good faith efforts to construct one or more such facilities that will provide such additional total capacity within a reasonable time after obtaining such approvals, then the Commission, if it finds it in the public interest, may reduce on a prospective basis any enhanced rate of return on

common equity previously applied to any such facility to no less than the general rate of return for such utility and may apply no less than the utility's general rate of return to any such facility for which the utility seeks approval in the future under this subdivision.

7. Any petition filed pursuant to subdivision 4, 5, or 6 shall be considered by the Commission on a stand-alone basis without regard to the other costs, revenues, investments, or earnings of the utility. Any costs incurred by a utility prior to the filing of such petition, or during the consideration thereof by the Commission, that are proposed for recovery in such petition and that are related to subdivision 5 a, or that are related to facilities and projects described in clause (i) of subdivision 6, or that are related to new underground facilities described in clause (iv) of subdivision 6, shall be deferred on the books and records of the utility until the Commission's final order in the matter, or until the implementation of any applicable approved rate adjustment clauses, whichever is later. Except as otherwise provided in subdivision 6, any costs prudently incurred on or after July 1, 2007, by a utility prior to the filing of such petition, or during the consideration thereof by the Commission, that are proposed for recovery in such petition and that are related to facilities and projects described in clause (ii) or clause (iii) of subdivision 6 that utilize nuclear power, or coal-fueled facilities and projects described in clause (ii) of subdivision 6 if such coal-fueled facilities will be built by a Phase I Utility, shall be deferred on the books and records of the utility until the Commission's final order in the matter, or until the implementation of any applicable approved rate adjustment clauses, whichever is later. Any costs prudently incurred after the expiration or termination of capped rates related to other matters described in subdivision 4, 5, or 6 shall be deferred beginning only upon the expiration or termination of capped rates, provided, however, that no provision of this act shall affect the rights of any parties with respect to the rulings of the Federal Energy Regulatory Commission in PJM Interconnection LLC and Virginia Electric and Power Company, 109 F.E.R.C. P 61, 012 (2004). A utility shall establish a regulatory asset for regulatory accounting and ratemaking purposes under which it shall defer its operation and maintenance costs incurred in connection with (i) the refueling of any nuclear-powered generating plant and (ii) other work at such plant normally performed during a refueling outage. The utility shall amortize such deferred costs over the refueling cycle, but in no case more than 18 months, beginning with the month in which such plant resumes operation after such refueling. The refueling cycle shall be the applicable period of time between planned refueling outages for such plant. As of January 1, 2014, such amortized costs are a component of base rates, recoverable in base rates only ratably over the refueling cycle rather than when such outages occur, and are the only nuclear refueling costs recoverable in base rates. This provision shall apply to any nuclear-powered generating plant refueling outage commencing after December 31, 2013, and the Commission shall treat the deferred and amortized costs of such regulatory asset as part of the utility's costs for the purpose of proceedings conducted (a) with respect to biennial filings under subdivision 3 made on and after July 1, 2014, and (b) pursuant to § 56-245 or the Commission's rules governing utility rate increase applications as provided in subsection B. This provision shall not be deemed to change or reset base rates.

The Commission's final order regarding any petition filed pursuant to subdivision 4, 5, or 6 shall be entered not more than three months, eight months, and nine months, respectively, after the date of filing of such petition. If such petition is approved, the order shall direct that the applicable rate adjustment clause be applied to customers' bills not more than 60 days after the date of the order, or upon the expiration or termination of capped rates, whichever is later.

8. In any biennial review proceeding, the following utility generation and distribution costs not proposed for recovery under any other subdivision of this subsection, as recorded per books by the utility for financial reporting purposes and accrued against income, shall be attributed to the test periods under review: costs associated with asset impairments related to early retirement determinations made by the utility prior to December 31, 2012, for utility generation plant; costs associated with severe weather events; and costs associated with natural disasters. Such costs shall be deemed to have been recovered from customers through rates for generation and distribution services in effect during the test periods under review unless such costs, individually or in the aggregate, together with the utility's other costs, revenues, and investments to be recovered through rates for generation and distribution services, result in the utility's earned return on its generation and distribution services for the combined test periods under review to fall more than 50 basis points below the fair combined rate of return authorized under subdivision 2 for such periods or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, to fall more than 70 basis points below the fair combined rate of return authorized under subdivision 2 for such periods. In such cases, the Commission shall, in such biennial review proceeding, authorize deferred recovery of such costs and allow the utility to amortize and recover such deferred costs over future periods as determined by the Commission. The aggregate amount of such deferred costs shall not exceed an amount that would, together with the utility's other costs, revenues, and investments to be recovered through rates for generation and distribution services, cause the utility's earned return on its generation and distribution services to exceed the fair rate of return authorized under subdivision 2, less 50 basis points, for the combined test periods under review or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, to exceed the fair rate of return authorized under subdivision 2 less 70 basis points. Nothing in this section shall limit the Commission's authority, pursuant to the provisions of Chapter 10 (§ 56-232 et seq.), including specifically § 56-235.2, following the review of combined test period earnings of the utility in a biennial review, for normalization of nonrecurring test period costs and annualized adjustments for future costs, in determining any appropriate increase or decrease in the utility's rates for generation and distribution services pursuant to subdivision 8 a or 8 c.

If the Commission determines as a result of such biennial review that:

a. The utility has, during the test period or periods under review, considered as a whole, earned more than 50 basis points below a fair combined rate of return on its generation and distribution services or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, more than 70 basis points below a fair combined rate of return on its generation and distribution services, as determined in subdivision 2, without regard to any return on common equity or other matters determined with respect to facilities described in subdivision 6, the Commission shall order increases to the utility's rates necessary to provide the opportunity to fully recover the costs of providing the utility's services and to earn not less than such fair combined rate of return, using the most recently ended 12-month test period as the basis for determining the amount of the rate increase necessary. However, the Commission may not order such rate increase unless it finds that the resulting rates are necessary to provide the utility with the opportunity to fully recover its costs of providing its services and to earn not less than a fair combined rate of return on both its generation and distribution services, as determined in subdivision 2, without regard to any return on common equity or other matters determined with respect to facilities described in subdivision 6, using the most recently ended 12-month test period as the basis for determining the permissibility of any rate increase under the standards of this sentence, and the amount thereof;

b. The utility has, during the test period or test periods under review, considered as a whole, earned more than 50 basis points above a fair combined rate of return on its generation and distribution services or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, more than 70 basis points above a fair combined rate of return on its generation and distribution services, as determined in subdivision 2, without regard to any return on common equity or other matters determined with respect to facilities described in subdivision 6, the Commission shall, subject to the provisions of subdivision 9, direct that 60 percent of the amount of such earnings that were more than 50 basis points, or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, that 70 percent of the amount of such earnings that were more than 70 basis points, above such fair combined rate of return for the test period or periods under review, considered as a whole, shall be credited to customers' bills. Any such credits shall be amortized over a period of six to 12 months, as determined at the discretion of the Commission, following the effective date of the Commission's order, and shall be allocated among customer classes such that the relationship between the specific customer class rates of return to the overall target rate of return will have the same relationship as the last approved allocation of revenues used to design base rates; or

c. Such biennial review is the second consecutive biennial review in which the utility has, during the test period or test periods under review, considered as a whole, earned more than 50 basis points above a fair combined rate of return on its generation and distribution services or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, more than 70 basis points above a fair combined rate of return on its generation and distribution services, as determined in subdivision 2, without regard to any return on common equity or other matter determined with respect to facilities described in subdivision 6, the Commission shall, subject to the provisions of subdivision 9 and in addition to the actions authorized in subdivision b, also order reductions to the utility's rates it finds appropriate. However, the Commission may not order such rate reduction unless it finds that the resulting rates will provide the utility with the opportunity to fully recover its costs of providing its services and to earn not less than a fair combined rate of return on its generation and distribution services, as determined in subdivision 2, without regard to any return on common equity or other matters determined with respect to facilities described in subdivision 6, using the most recently ended 12-month test period as the basis for determining the permissibility of any rate reduction under the standards of this sentence, and the amount thereof.

The Commission's final order regarding such biennial review shall be entered not more than eight months after the date of filing, and any revisions in rates or credits so ordered shall take effect not more than 60 days after the date of the order. The fair combined rate of return on common equity determined pursuant to subdivision 2 in such biennial review shall apply, for purposes of reviewing the utility's earnings on its rates for generation and distribution services, to the entire two successive 12-month test periods ending December 31 immediately preceding the year of the utility's subsequent biennial review filing under subdivision 3.

9. If, as a result of a biennial review required under this subsection and conducted with respect to any test period or periods under review ending later than December 31, 2010 (or, if the Commission has elected to stagger its biennial reviews of utilities as provided in subdivision 1, under review ending later than December 31, 2010, for a Phase I Utility, or December 31, 2011, for a Phase II Utility), the Commission finds, with respect to such test period or periods considered as a whole, that (i) any utility has, during the test period or periods under review, considered as a whole, earned more than 50 basis points above a fair combined rate of return on its generation and distribution services or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, more than 70 basis points above a fair combined rate of return on its generation and distribution services, as determined in subdivision 2, without regard to any return on common equity or other matters determined with respect to facilities described in subdivision 6, and (ii) the total aggregate regulated rates of such utility at the end of the most recently-ended 12-month test period exceeded the annual increases in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics of the United States Department of Labor, compounded annually, when compared to the total aggregate regulated rates of such utility as determined pursuant to the biennial review conducted for the base period, the Commission shall, unless it finds that such action is not in the public interest or that the provisions of subdivisions 8 b and c are more consistent with the public interest, direct that any or all earnings for such test period or periods under review, considered as a whole that were more than 50 basis points, or, for any

test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, more than 70 basis points, above such fair combined rate of return shall be credited to customers' bills, in lieu of the provisions of subdivisions 8 b and c. Any such credits shall be amortized and allocated among customer classes in the manner provided by subdivision 8 b. For purposes of this subdivision:

"Base period" means (i) the test period ending December 31, 2010 (or, if the Commission has elected to stagger its biennial reviews of utilities as provided in subdivision 1, the test period ending December 31, 2010, for a Phase I Utility, or December 31, 2011, for a Phase II Utility), or (ii) the most recent test period with respect to which credits have been applied to customers' bills under the provisions of this subdivision, whichever is later.

"Total aggregate regulated rates" shall include: (i) fuel tariffs approved pursuant to § 56-249.6, except for any increases in fuel tariffs deferred by the Commission for recovery in periods after December 31, 2010, pursuant to the provisions of clause (ii) of subsection C of § 56-249.6; (ii) rate adjustment clauses implemented pursuant to subdivision 4 or 5; (iii) revisions to the utility's rates pursuant to subdivision 8 a; (iv) revisions to the utility's rates pursuant to the Commission's rules governing utility rate increase applications, as permitted by subsection B, occurring after July 1, 2009; and (v) base rates in effect as of July 1, 2009.

10. For purposes of this section, the Commission shall regulate the rates, terms and conditions of any utility subject to this section on a stand-alone basis utilizing the actual end-of-test period capital structure and cost of capital of such utility, unless the Commission finds that the debt to equity ratio of such capital structure is unreasonable for such utility, in which case the Commission may utilize a debt to equity ratio that it finds to be reasonable for such utility in determining any rate adjustment pursuant to subdivisions 8 a and c, and without regard to the cost of capital, capital structure, revenues, expenses or investments of any other entity with which such utility may be affiliated. In particular, and without limitation, the Commission shall determine the federal and state income tax costs for any such utility that is part of a publicly traded, consolidated group as follows: (i) such utility's apportioned state income tax costs shall be calculated according to the applicable statutory rate, as if the utility had not filed a consolidated return with its affiliates, and (ii) such utility's federal income tax costs shall be calculated according to the applicable federal income tax rate and shall exclude any consolidated tax liability or benefit adjustments originating from any taxable income or loss of its affiliates.

B. Nothing in this section shall preclude an investor-owned incumbent electric utility from applying for an increase in rates pursuant to § 56-245 or the Commission's rules governing utility rate increase applications; however, in any such filing, a fair rate of return on common equity shall be determined pursuant to subdivision A 2. Nothing in this section shall preclude such utility's recovery of fuel and purchased power costs as provided in § 56-249.6.

C. Except as otherwise provided in this section, the Commission shall exercise authority over the rates, terms and conditions of investor-owned incumbent electric utilities for the provision of generation, transmission and distribution services to retail customers in the Commonwealth pursuant to the provisions of Chapter 10 (§ 56-232 et seq.), including specifically § 56-235.2.

D. The Commission may determine, during any proceeding authorized or required by this section, the reasonableness or prudence of any cost incurred or projected to be incurred, by a utility in connection with the subject of the proceeding. A determination of the Commission regarding the reasonableness or prudence of any such cost shall be consistent with the Commission's authority to determine the reasonableness or prudence of costs in proceedings pursuant to the provisions of Chapter 10 (§ 56-232 et seq.). In determining the reasonableness or prudence of a utility providing energy and capacity to its customers from renewable energy resources, the Commission shall consider the extent to which such renewable energy resources, whether utility-owned or by contract, further the objectives of the Commonwealth Energy Policy set forth in §§ 67-101 and 67-102, and shall also consider whether the costs of such resources is likely to result in unreasonable increases in rates paid by consumers.

E. The Commission shall promulgate such rules and regulations as may be necessary to implement the provisions of this section.

**2. Prior to January 1, 2020, no utility shall file a petition with the State Corporation Commission seeking a rate adjustment clause for recovery of the costs pursuant to clause (iii) of § 56-585.1.A (6) of any system or equipment upgrade, system or equipment replacement, or other cost reasonably appropriate to extend the combined operating license for or the operating life of one or more generation facilities utilizing nuclear power.**

**3. No costs recovered through the utility's rates for generation and distribution services as of January 1, 2017 that are associated with a utility's existing generation facilities utilizing nuclear power shall be eligible for recovery under clause (iii) of § 56-585.1.A (6).**

## CHAPTER 565

*An Act to amend and reenact § 56-594 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 56-594.2, relating to small agricultural generators; sale of electric power; net metering.*

[H 2303]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 56-594 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 56-594.2 as follows:**

**§ 56-594. Net energy metering provisions.**

A. The Commission shall establish by regulation a program that affords eligible customer-generators the opportunity to participate in net energy metering, and a program, to begin no later than July 1, 2014, for customers of investor-owned utilities and no later than July 1, 2015, for customers of electric cooperatives, to afford eligible agricultural customer-generators the opportunity to participate in net energy metering. The regulations may include, but need not be limited to, requirements for (i) retail sellers; (ii) owners or operators of distribution or transmission facilities; (iii) providers of default service; (iv) eligible customer-generators; (v) eligible agricultural customer-generators; or (vi) any combination of the foregoing, as the Commission determines will facilitate the provision of net energy metering, provided that the Commission determines that such requirements do not adversely affect the public interest. *On and after July 1, 2017, small agricultural generators or eligible agricultural customer-generators may elect to interconnect pursuant to the provisions of this section or as small agricultural generators pursuant to § 56-594.2, but not both. Existing eligible agricultural customer-generators may elect to become small agricultural generators, but may not revert to being eligible agricultural customer-generators after such election. On and after July 1, 2019, interconnection of eligible agricultural customer-generators shall cease for electric cooperatives only, and such facilities shall interconnect solely as small agricultural generators. For electric cooperatives, eligible agricultural customer-generators whose renewable energy generating facilities were interconnected before July 1, 2019, may continue to participate in net energy metering pursuant to this section for a period not to exceed 25 years from the date of their renewable energy generating facility's original interconnection.*

B. For the purpose of this section:

"Eligible agricultural customer-generator" means a customer that operates a renewable energy generating facility as part of an agricultural business, which generating facility (i) uses as its sole energy source solar power, wind power, or aerobic or anaerobic digester gas, (ii) does not have an aggregate generation capacity of more than 500 kilowatts, (iii) is located on land owned or controlled by the agricultural business, (iv) is connected to the customer's wiring on the customer's side of its interconnection with the distributor; (v) is interconnected and operated in parallel with an electric company's transmission and distribution facilities, and (vi) is used primarily to provide energy to metered accounts of the agricultural business. An eligible agricultural customer-generator may be served by multiple meters that are located at separate but contiguous sites, such that the eligible agricultural customer-generator may aggregate in a single account the electricity consumption and generation measured by the meters, provided that the same utility serves all such meters. The aggregated load shall be served under the appropriate tariff.

"Eligible customer-generator" means a customer that owns and operates, or contracts with other persons to own, operate, or both, an electrical generating facility that (i) has a capacity of not more than 20 kilowatts for residential customers and not more than one megawatt for nonresidential customers on an electrical generating facility placed in service after July 1, 2015; (ii) uses as its total source of fuel renewable energy, as defined in § 56-576; (iii) is located on the customer's premises and is connected to the customer's wiring on the customer's side of its interconnection with the distributor; (iv) is interconnected and operated in parallel with an electric company's transmission and distribution facilities; and (v) is intended primarily to offset all or part of the customer's own electricity requirements. In addition to the electrical generating facility size limitations in clause (i), the capacity of any generating facility installed under this section after July 1, 2015, shall not exceed the expected annual energy consumption based on the previous 12 months of billing history or an annualized calculation of billing history if 12 months of billing history is not available.

"Net energy metering" means measuring the difference, over the net metering period, between (i) electricity supplied to an eligible customer-generator or eligible agricultural customer-generator from the electric grid and (ii) the electricity generated and fed back to the electric grid by the eligible customer-generator or eligible agricultural customer-generator.

"Net metering period" means the 12-month period following the date of final interconnection of the eligible customer-generator's or eligible agricultural customer-generator's system with an electric service provider, and each 12-month period thereafter.

*"Small agricultural generator" has the same meaning that is ascribed to that term in § 56-594.2.*

C. The Commission's regulations shall ensure that (i) the metering equipment installed for net metering shall be capable of measuring the flow of electricity in two directions and (ii) any eligible customer-generator seeking to participate in net energy metering shall notify its supplier and receive approval to interconnect prior to installation of an electrical generating facility. The electric distribution company shall have 30 days from the date of notification for residential facilities, and 60 days from the date of notification for nonresidential facilities, to determine whether the interconnection requirements have been met. Such regulations shall allocate fairly the cost of such equipment and any necessary interconnection. An eligible customer-generator's electrical generating system, and each electrical generating system of an eligible agricultural customer-generator, shall meet all applicable safety and performance standards established by the National Electrical Code, the Institute of Electrical and Electronics Engineers, and accredited testing laboratories such as Underwriters Laboratories. Beyond the requirements set forth in this section and to ensure public safety, power quality, and reliability of the supplier's electric distribution system, an eligible customer-generator or eligible agricultural customer-generator whose electrical generating system meets those standards and rules shall bear all reasonable costs of equipment required for the interconnection to the supplier's electric distribution system, including costs, if any, to (a) install additional controls, (b) perform or pay for additional tests, and (c) purchase additional liability insurance.

D. The Commission shall establish minimum requirements for contracts to be entered into by the parties to net metering arrangements. Such requirements shall protect the eligible customer-generator or eligible agricultural customer-generator against discrimination by virtue of its status as an eligible customer-generator or eligible agricultural customer-generator, and permit customers that are served on time-of-use tariffs that have electricity supply demand charges contained within the electricity supply portion of the time-of-use tariffs to participate as an eligible customer-generator or eligible agricultural customer-generator. Notwithstanding the cost allocation provisions of subsection C, eligible customer-generators or eligible agricultural customer-generators served on demand charge-based time-of-use tariffs shall bear the incremental metering costs required to net meter such customers.

E. If electricity generated by an eligible customer-generator or eligible agricultural customer-generator over the net metering period exceeds the electricity consumed by the eligible customer-generator or eligible agricultural customer-generator, the customer-generator or eligible agricultural customer-generator shall be compensated for the excess electricity if the entity contracting to receive such electric energy and the eligible customer-generator or eligible agricultural customer-generator enter into a power purchase agreement for such excess electricity. Upon the written request of the eligible customer-generator or eligible agricultural customer-generator, the supplier that serves the eligible customer-generator or eligible agricultural customer-generator shall enter into a power purchase agreement with the requesting eligible customer-generator or eligible agricultural customer-generator that is consistent with the minimum requirements for contracts established by the Commission pursuant to subsection D. The power purchase agreement shall obligate the supplier to purchase such excess electricity at the rate that is provided for such purchases in a net metering standard contract or tariff approved by the Commission, unless the parties agree to a higher rate. The eligible customer-generator or eligible agricultural customer-generator owns any renewable energy certificates associated with its electrical generating facility; however, at the time that the eligible customer-generator or eligible agricultural customer-generator enters into a power purchase agreement with its supplier, the eligible customer-generator or eligible agricultural customer-generator shall have a one-time option to sell the renewable energy certificates associated with such electrical generating facility to its supplier and be compensated at an amount that is established by the Commission to reflect the value of such renewable energy certificates. Nothing in this section shall prevent the eligible customer-generator or eligible agricultural customer-generator and the supplier from voluntarily entering into an agreement for the sale and purchase of excess electricity or renewable energy certificates at mutually-agreed upon prices if the eligible customer-generator or eligible agricultural customer-generator does not exercise its option to sell its renewable energy certificates to its supplier at Commission-approved prices at the time that the eligible customer-generator or eligible agricultural customer-generator enters into a power purchase agreement with its supplier. All costs incurred by the supplier to purchase excess electricity and renewable energy certificates from eligible customer-generators or eligible agricultural customer-generators shall be recoverable through its Renewable Energy Portfolio Standard (RPS) rate adjustment clause, if the supplier has a Commission-approved RPS plan. If not, then all costs shall be recoverable through the supplier's fuel adjustment clause. For purposes of this section, "all costs" shall be defined as the rates paid to the eligible customer-generator or eligible agricultural customer-generator for the purchase of excess electricity and renewable energy certificates and any administrative costs incurred to manage the eligible customer-generator's or eligible agricultural customer-generator's power purchase arrangements. The net metering standard contract or tariff shall be available to eligible customer-generators or eligible agricultural customer-generators on a first-come, first-served basis in each electric distribution company's Virginia service area until the rated generating capacity owned and operated by eligible customer-generators or eligible agricultural customer-generators, and *small agricultural generators* in the state reaches one percent of each electric distribution company's adjusted Virginia peak-load forecast for the previous year, and shall require the supplier to pay the eligible customer-generator or eligible agricultural customer-generator for such excess electricity in a timely manner at a rate to be established by the Commission.

F. Any residential eligible customer-generator or eligible agricultural customer-generator who owns and operates, or contracts with other persons to own, operate, or both, an electrical generating facility with a capacity that exceeds 10 kilowatts shall pay to its supplier, in addition to any other charges authorized by law, a monthly standby charge. The amount of the standby charge and the terms and conditions under which it is assessed shall be in accordance with a methodology developed by the supplier and approved by the Commission. The Commission shall approve a supplier's proposed standby charge methodology if it finds that the standby charges collected from all such eligible customer-generators and eligible agricultural customer-generators allow the supplier to recover only the portion of the supplier's infrastructure costs that are properly associated with serving such eligible customer-generators or eligible agricultural customer-generators. Such an eligible customer-generator or eligible agricultural customer-generator shall not be liable for a standby charge until the date specified in an order of the Commission approving its supplier's methodology.

**§ 56-594.2. *Small agricultural generators.***

A. *As used in this section:*

"*Small agricultural generating facility*" means an electrical generating facility that:

1. *Has a capacity:*

a. *Of not more than 1.5 megawatts; and*

b. *That does not exceed 150 percent of the customer's expected annual energy consumption based on the previous 12 months of billing history or an annualized calculation of billing history if 12 months of billing history is not available;*

2. *Uses as its total source of fuel renewable energy;*

3. Is located on the customer's premises and is interconnected with its utility through a separate meter;
4. Is interconnected and operated in parallel with an electric utility's distribution but not transmission facilities;
5. Is designed so that the electricity generated by the facility is expected to remain on the utility's distribution system; and
6. Is a qualifying small power production facility pursuant to the Public Utility Regulatory Policies Act of 1978 (P.L. 95-617).

"Small agricultural generator" means a customer that:

1. Is not an eligible agricultural customer-generator pursuant to § 56-594;
2. Operates a small agricultural generating facility as part of an agricultural business;
3. May be served by multiple meters that are located at separate but contiguous sites;
4. May aggregate the electricity consumption measured by the meters, solely for purposes of calculating 150 percent of the customer's expected annual energy consumption, but not for billing or retail service purposes, provided that the same utility serves all of its meters;
5. Uses not more than 25 percent of contiguous land owned or controlled by the agricultural business for purposes of the renewable energy generating facility; and
6. Issues a certification under oath as to the amount of land being used for renewable generation.

"Utility" includes supplier or distributor, as applicable.

B. A small agricultural generator electing to interconnect pursuant to this section shall:

1. Enter into a power purchase agreement with its utility to sell all of the electricity generated from its small agricultural generating facility, which power purchase agreement obligates the utility to purchase all the electricity generated, at a rate agreed upon by the parties, but at a rate not less than the utility's Commission-approved avoided cost tariff for energy and capacity;
2. Have the rights described in subsection E of § 56-594 pertaining to an eligible agricultural customer-generator as to the renewable energy certificates or other environmental attributes generated by the renewable energy generating facility;
3. Abide by the appropriate small generator interconnection process as described in 20VAC5-314; and
4. Pay to its utility any necessary additional expenses as required by this section.

C. Utilities:

1. Shall purchase, through the power purchase agreement described in subdivision B 1, all of the output of the small agricultural generator;
2. Shall recover the cost for its distribution facilities to the generating meter either through a proportional cost-sharing agreement with the small agricultural generator or through metering the total capacity and energy placed on the distribution system by the small agricultural generator;
3. Shall recover all costs incurred by the utility to purchase electricity, capacity, and renewable energy certificates from the small agricultural generator:
  - a. If the utility has a Commission-approved Renewable Energy Portfolio Standard (RPS) plan and rate adjustment clause, through the utility's RPS rate adjustment clause; or
  - b. If the utility does not have a Commission-approved RPS rate adjustment clause, through the utility's fuel adjustment clause or through the utility's cost of purchased power;
4. May conduct settlement transactions for purchased power in dollars on the small agricultural generator's electric bill or through other means of settlement, in the utility's sole discretion;
5. Shall bill the small agricultural generator eligible costs for small generator interconnection studies required pursuant to the appropriate small generator interconnection process described in subdivision B 3; and
6. Shall bill its expenses, at cost, for any additional engineering studies that a small agricultural generator is required to pay prior to interconnection.

**2. That the State Corporation Commission shall conduct a single docketed proceeding to implement the provisions of this act. The proceeding shall be initiated between August 1, 2017, and December 1, 2017. The proceeding shall provide notice to the public and an opportunity for public comment. A final order amending or adopting regulations under §§ 56-578, 56-594, as amended by this act, and 56-594.1 of the Code of Virginia that the Commission deems necessary to effectuate the provisions of this act shall be issued not later than June 1, 2018. Utilities shall be required to each make a compliance filing, containing a schedule to accommodate small agricultural generators, to the Commission for administrative approval not sooner than three months following the issuance of the Commission's order amending or adopting regulations under this enactment. Utilities shall not be required to undergo rate proceedings or individual proceedings of any kind to implement the provisions of this act.**

## CHAPTER 566

*An Act to amend and reenact § 18.2-340.33 of the Code of Virginia, relating to charitable gaming; certain raffles.*

[H 2374]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:****1. That § 18.2-340.33 of the Code of Virginia is amended and reenacted as follows:****§ 18.2-340.33. Prohibited practices.**

In addition to those other practices prohibited by this article, the following acts or practices are prohibited:

1. No part of the gross receipts derived by a qualified organization may be used for any purpose other than (i) reasonable and proper gaming expenses, (ii) reasonable and proper business expenses, (iii) those lawful religious, charitable, community or educational purposes for which the organization is specifically chartered or organized, and (iv) expenses relating to the acquisition, construction, maintenance, or repair of any interest in the real property involved in the operation of the organization and used for lawful religious, charitable, community or educational purposes. For the purposes of clause (iv), such expenses may include the expenses of a corporation formed for the purpose of serving as the real estate holding entity of a qualified organization, provided (a) such holding entity is qualified as a tax exempt organization under § 501(c) of the Internal Revenue Code and (b) the membership of the qualified organization is identical to such holding entity.

2. Except as provided in § 18.2-340.34:1, no qualified organization shall enter into a contract with or otherwise employ for compensation any person for the purpose of organizing, managing, or conducting any charitable games. However, organizations composed of or for deaf or blind persons may use a part of their gross receipts for costs associated with providing clerical assistance in the management and operation but not the conduct of charitable gaming.

The provisions of this subdivision shall not prohibit the joint operation of bingo games held in accordance with § 18.2-340.29.

3. No person shall pay or receive for use of any premises devoted, in whole or in part, to the conduct of any charitable games, any consideration in excess of the current fair market rental value of such property. Fair market rental value consideration shall not be based upon or determined by reference to a percentage of the proceeds derived from the operation of any charitable games or to the number of people in attendance at such charitable games.

4. No building or other premises shall be utilized in whole or in part for the purpose of conducting charitable gaming more frequently than two calendar days in any one calendar week. However, no building or other premises owned by (i) a qualified organization which is exempt from taxation pursuant to § 501(c) of the Internal Revenue Code or (ii) any county, city or town shall be utilized in whole or in part for the purpose of conducting bingo games more frequently than four calendar days in any one calendar week.

The provisions of this subdivision shall not apply to the playing of bingo games pursuant to a special permit issued in accordance with § 18.2-340.27.

5. No person shall participate in the management or operation of any charitable game unless such person is and, for a period of at least 30 days immediately preceding such participation, has been a bona fide member of the organization. For any organization that is not composed of members, a person who is not a bona fide member may volunteer in the conduct of a charitable game as long as that person is directly supervised by a bona fide official member of the organization.

The provisions of this subdivision shall not apply to (i) persons employed as clerical assistants by qualified organizations composed of or for deaf or blind persons; (ii) employees of a corporate sponsor of a qualified organization, provided such employees' participation is limited to the management, operation or conduct of no more than one raffle per year; (iii) the spouse or family member of any such bona fide member of a qualified organization provided at least one bona fide member is present; or (iv) persons employed by a qualified organization authorized to sell pull tabs or seal cards in accordance with § 18.2-340.16, provided (a) such sales are conducted by no more than two on-duty employees, (b) such employees receive no compensation for or based on the sale of the pull tabs or seal cards, and (c) such sales are conducted in the private social quarters of the organization.

6. No person shall receive any remuneration for participating in the management, operation or conduct of any charitable game, except that:

a. Persons employed by organizations composed of or for deaf or blind persons may receive remuneration not to exceed \$30 per event for providing clerical assistance in the management and operation but not the conduct of charitable games only for such organizations;

b. Persons under the age of 19 who sell raffle tickets for a qualified organization to raise funds for youth activities in which they participate may receive nonmonetary incentive awards or prizes from the organization;

c. Remuneration may be paid to off-duty law-enforcement officers from the jurisdiction in which such bingo games are played for providing uniformed security for such bingo games even if such officer is a member of the sponsoring organization, provided the remuneration paid to such member is in accordance with off-duty law-enforcement personnel work policies approved by the local law-enforcement official and further provided that such member is not otherwise engaged in the management, operation or conduct of the bingo games of that organization, or to private security services businesses licensed pursuant to § 9.1-139 providing uniformed security for such bingo games, provided that employees of such businesses shall not otherwise be involved in the management, operation, or conduct of the bingo games of that organization;

d. A member of a qualified organization lawfully participating in the management, operation or conduct of a bingo game may be provided food and nonalcoholic beverages by such organization for on-premises consumption during the bingo game provided the food and beverages are provided in accordance with Board regulations; and

e. Remuneration may be paid to bingo managers or callers who have a current registration certificate issued by the Department in accordance with § 18.2-340.34:1, or who are exempt from such registration requirement. Such remuneration shall not exceed \$100 per session.

7. No landlord shall, at bingo games conducted on the landlord's premises, (i) participate in the conduct, management, or operation of any bingo games; (ii) sell, lease or otherwise provide for consideration any bingo supplies, including, but not limited to, bingo cards, instant bingo cards, or other game pieces; or (iii) require as a condition of the lease or by contract that a particular manufacturer, distributor or supplier of bingo supplies or equipment be used by the organization.

The provisions of this subdivision shall not apply to any qualified organization conducting bingo games on its own behalf at premises owned by it.

8. No qualified organization shall enter into any contract with or otherwise employ or compensate any member of the organization on account of the sale of bingo supplies or equipment.

9. No organization shall award any bingo prize money or any merchandise valued in excess of the following amounts:

a. No bingo door prize shall exceed \$50 for a single door prize or \$250 in cumulative door prizes in any one session;

b. No regular bingo or special bingo game prize shall exceed \$100;

c. No instant bingo, pull tab, or seal card prize for a single card shall exceed \$1,000;

d. Except as provided in subdivision 9, no bingo jackpot of any nature whatsoever shall exceed \$1,000, nor shall the total amount of bingo jackpot prizes awarded in any one session exceed \$1,000. Proceeds from the sale of bingo cards and the sheets used for bingo jackpot games shall be accounted for separately from the bingo cards or sheets used for any other bingo games; and

e. No single network bingo prize shall exceed \$25,000. Proceeds from the sale of network bingo cards shall be accounted for separately from bingo cards and sheets used for any other bingo game.

10. The provisions of subdivision 9 shall not apply to:

Any progressive bingo game, in which (a) a regular or special prize, not to exceed \$100, is awarded on the basis of predetermined numbers or patterns selected at random and (b) a progressive prize, not to exceed \$500 for the initial progressive prize and \$5,000 for the maximum progressive prize, is awarded if the predetermined numbers or patterns are covered when a certain number of numbers is called, provided (i) there are no more than six such games per session per organization, (ii) the amount of increase of the progressive prize per session is no more than \$100, (iii) the bingo cards or sheets used in such games are sold separately from the bingo cards or sheets used for any other bingo games, (iv) the organization separately accounts for the proceeds from such sale, and (v) such games are otherwise operated in accordance with the Department's rules of play.

11. No organization shall award any raffle prize valued at more than \$100,000.

The provisions of this subdivision shall not apply to a raffle conducted no more than ~~one~~ *three times* per calendar year by a qualified organization qualified as a tax-exempt organization pursuant to § 501(c) of the Internal Revenue Code for a prize consisting of a lot improved by a residential dwelling where 100 percent of the moneys received from such a raffle, less deductions for the fair market value for the cost of acquisition of the land and materials, are donated to lawful religious, charitable, community, or educational organizations specifically chartered or organized under the laws of the Commonwealth and qualified as a § 501(c) tax-exempt organization. *No more than one such raffle shall be conducted in any one geographical region of the Commonwealth.*

12. No qualified organization composed of or for deaf or blind persons which employs a person not a member to provide clerical assistance in the management and operation but not the conduct of any charitable games shall conduct such games unless it has in force fidelity insurance, as defined in § 38.2-120, written by an insurer licensed to do business in the Commonwealth.

13. No person shall participate in the management or operation of any charitable game if he has ever been convicted of any felony or if he has been convicted of any misdemeanor involving fraud, theft, or financial crimes within the preceding five years. No person shall participate in the conduct of any charitable game if, within the preceding 10 years, he has been convicted of any felony or if, within the preceding five years he has been convicted of any misdemeanor involving fraud, theft, or financial crimes. In addition, no person shall participate in the management, operation or conduct of any charitable game if that person, within the preceding five years, has participated in the management, operation, or conduct of any charitable game which was found by the Department or a court of competent jurisdiction to have been operated in violation of state law, local ordinance or Board regulation.

14. Qualified organizations jointly conducting bingo games pursuant to § 18.2-340.29 shall not circumvent any restrictions and prohibitions which would otherwise apply if a single organization were conducting such games. These restrictions and prohibitions shall include, but not be limited to, the frequency with which bingo games may be held, the value of merchandise or money awarded as prizes, or any other practice prohibited under this section.

15. A qualified organization shall not purchase any charitable gaming supplies for use in the Commonwealth from any person who is not currently registered with the Department as a supplier pursuant to § 18.2-340.34.

16. Unless otherwise permitted in this article, no part of an organization's charitable gaming gross receipts shall be used for an organization's social or recreational activities.

## CHAPTER 567

*An Act to amend and reenact §§ 3.2-6527, 3.2-6528, 3.2-6530, 3.2-6532, and 18.2-403.3 of the Code of Virginia, relating to dogs and cats; lifetime licenses.*

[S 856]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 3.2-6527, 3.2-6528, 3.2-6530, 3.2-6532, and 18.2-403.3 of the Code of Virginia are amended and reenacted as follows:**

**§ 3.2-6527. How to obtain license.**

Any person may obtain a dog license or cat license if required by an ordinance adopted pursuant to subsection B of § 3.2-6524, by making oral or written application to the treasurer of the locality where such person resides, accompanied by the amount of license tax and current certificate of vaccination as required by this article or satisfactory evidence that such certificate has been obtained. The treasurer or other officer charged with the duty of issuing dog and cat licenses shall only have authority to license dogs and cats of resident owners or custodians who reside within the boundary limits of his county or city and may require information to this effect from any applicant. Upon receipt of proper application and current certificate of vaccination as required by this article or satisfactory evidence that such certificate has been obtained, the treasurer or other officer charged with the duty of issuing dog and cat licenses shall issue a license receipt for the amount on which he shall record the name and address of the owner or custodian, the date of payment, the ~~year~~ years for which issued, the serial number of the tag, whether dog or cat, whether male or female, whether spayed or neutered, or whether a kennel, and deliver the metal license tags or plates provided for ~~herein~~ in § 3.2-6526. The information thus received shall be retained by the treasurer, open to public inspection, during the period for which such license is valid. The treasurer may establish substations in convenient locations in the county or city and appoint agents for the collection of the license tax and issuance of such licenses.

**§ 3.2-6528. Amount of license tax.**

The governing body of each county or city shall impose by ordinance a license tax on the ownership of dogs within its jurisdiction. The governing body of any locality that has adopted an ordinance pursuant to subsection B of § 3.2-6524 shall impose by ordinance a license tax on the ownership of cats within its jurisdiction. The governing body may establish different rates of taxation for ownership of female dogs, male dogs, spayed or neutered dogs, female cats, male cats, and spayed or neutered cats. The tax for each dog or cat shall not be less than \$1 and not more than \$10 for each year *or \$50 for a lifetime license issued pursuant to subsection B of § 3.2-6530*. If the dog or cat has been spayed, the tax shall not exceed the tax provided for a male dog or cat. Any ordinance may provide for ~~a~~ an annual license tax for kennels of 10, 20, 30, 40, or 50 dogs or cats not to exceed \$50 for any one such block of kennels.

No license tax shall be levied on any dog that is trained and serves as a guide dog for a blind person, that is trained and serves as a hearing dog for a deaf or hearing-impaired person, or that is trained and serves as a service dog for a mobility-impaired or otherwise disabled person.

As used in this section, "hearing dog," "mobility-impaired person," "otherwise disabled person," and "service dog" have the same meanings as assigned in § 51.5-40.1.

**§ 3.2-6530. When license tax payable.**

A. The license tax as prescribed in § 3.2-6528 is due not later than 30 days after a dog or cat has reached the age of four months, or not later than 30 days after an owner acquires a dog or cat four months of age or older, and each year thereafter.

~~B.~~ Licensing periods for individual dogs and cats may be equal to and may run concurrently with the rabies vaccination effective period.

*B. The governing body of a county or city may by ordinance provide for a lifetime dog or cat license. Such a license shall be valid only as long as the animal's owner resides in the issuing locality and the animal's rabies vaccination is kept current.*

C. Any kennel license tax prescribed pursuant to § 3.2-6528 shall be due on January 1 and not later than January 31 of each year.

**§ 3.2-6532. Duplicate license tags.**

If a dog or cat license tag is lost, destroyed or stolen, the owner or custodian shall at once apply to the treasurer or his agent who issued the original license for a duplicate license tag, presenting the original license receipt. Upon affidavit of the owner or custodian before the treasurer or his agent that the original license tag has been lost, destroyed or stolen, he shall issue a duplicate license tag that the owner or custodian shall immediately affix to the collar of the dog. The treasurer or his agent shall endorse the number of the duplicate and the date issued on the face of the original license receipt. The fee for a duplicate tag for any dog or cat shall ~~be not exceed~~ \$1.

**§ 18.2-403.3. Offenses involving animals — Class 4 misdemeanors.**

The following unlawful acts and offenses against animals shall constitute and be punished as a Class 4 misdemeanor:

1. Violation of § 3.2-6566 pertaining to interference of agents charged with preventing cruelty to animals.
2. Violation of § 3.2-6573 pertaining to shooting pigeons.
3. Violation of § 3.2-6554 pertaining to disposing of the body of a dead companion animal.

4. Violation of ordinances passed pursuant to §§ 3.2-6522 and 3.2-6525 pertaining to rabid dogs and preventing the spread of rabies and the running at large of vicious dogs.
5. Violation of an ordinance passed pursuant to § 3.2-6539 requiring dogs to be on a leash.
6. Failure by any person to secure and exhibit the permits required by § 29.1-422 pertaining to field trails, night trails and foxhounds.
7. Diseased dogs. — For the owner of any dog with a contagious or infectious disease to permit such dog to stray from his premises if such disease is known to the owner.
8. License application. — For any person to make a false statement in order to secure a dog or cat license to which he is not entitled.
9. License tax. — For any dog or cat owner to fail to pay any license tax required by *subsection A or C of § 3.2-6530 before February 1 for the year in which* *within one month after the date when it is due*. In addition, the court may order confiscation and the proper disposition of the dog or cat.
10. Concealing a dog or cat. — For any person to conceal or harbor any dog or cat on which any required license tax has not been paid.
11. Removing collar and tag. — For any person, except the owner or custodian, to remove a legally acquired license tag from a dog or cat without the permission of the owner or custodian.
12. Violation of § 3.2-6503 pertaining to care of animals by owner.

### CHAPTER 568

*An Act to amend and reenact the third enactment of Chapter 888 and the third enactment of Chapter 933 of the Acts of Assembly of 2007, relating to the Commonwealth's goal of reducing the consumption of electric energy.*

[S 990]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That the third enactment of Chapter 888 and the third enactment of Chapter 933 of the Acts of Assembly of 2007 are amended and reenacted as follows:**

**3. That it is in the public interest, and is consistent with the energy policy goals in § 67-102 of the Code of Virginia, to promote cost-effective conservation of energy through fair and effective demand side management, conservation, energy efficiency, and load management programs, including consumer education. These programs may include activities by electric utilities, public or private organizations, or both electric utilities and public or private organizations. The Commonwealth shall have a stated goal of reducing the consumption of electric energy by retail customers through the implementation of such programs by the year 2022 by an amount equal to ~~ten~~ 10 percent of the amount of electric energy consumed by retail customers in 2006. The State Corporation Commission (*the Commission*) shall conduct a proceeding to (i) determine whether the ~~ten~~ 10 percent electric energy consumption reduction goal can be achieved cost-effectively through the operation of such programs; and, if not, determine the appropriate goal for the year 2022 relative to *the* base year of 2006; (ii) identify the mix of programs that should be implemented in the Commonwealth to cost-effectively achieve the defined electric energy consumption reduction goal by 2022, including but not limited to demand side management, conservation, energy efficiency, load management, real-time pricing, and consumer education; (iii) develop a plan for the development and implementation of recommended programs, with incentives and alternative means of compliance to achieve such goals; (iv) determine the entity or entities that could most efficiently deploy and administer various elements of the plan; and (v) estimate the cost of attaining the energy consumption reduction goal. The Commission shall, on or before December 15, 2007, submit its findings and recommendations to the Governor and General Assembly, which shall include recommendations for any additional legislation necessary to implement the plan to meet the energy consumption reduction goal. In developing a plan to meet the goal, the Commission may consider providing for a public benefit fund and shall consider the fair and reasonable allocation by customer class of the incremental costs of meeting the goal that are recovered in accordance with subdivision A 5 b of § 56-585.1 of the Code of Virginia. *The Department of Mines, Minerals and Energy, in consultation with the staff of the Commission, shall submit, as part of the annual report required under § 67-202.1 of the Code of Virginia, an assessment of the progress the Commonwealth is making toward meeting the goal of reducing the consumption of electric energy by retail customers by the year 2022 by an amount equal to 10 percent of the amount of electric energy consumed by retail customers in 2006 through the implementation of demand side management, conservation, energy efficiency, and load management programs, including consumer education, and submit the report to the Governor's Executive Committee on Energy Efficiency and to the Governor and General Assembly as required by § 67-202.1 of the Code of Virginia.***

## CHAPTER 569

*An Act to amend and reenact § 55-519 of the Code of Virginia, relating to the Virginia Residential Property Disclosure Act; required disclosures; local historic districts.*

[S 1037]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:****1. That § 55-519 of the Code of Virginia is amended and reenacted as follows:****§ 55-519. Required disclosures.**

A. With regard to transfers described in § 55-517, the owner of the residential real property shall furnish to a purchaser a residential property disclosure statement in a form provided by the Real Estate Board stating that the owner makes the following representations as to the real property:

1. The owner makes no representations with respect to the matters set forth and described at a website maintained by the Real Estate Board and that the purchaser is advised to consult this website for important information about the real property; and

2. The owner represents that there are no pending enforcement actions pursuant to the Uniform Statewide Building Code (§ 36-97 et seq.) that affect the safe, decent, sanitary living conditions of the property of which the owner has been notified in writing by the locality, except as disclosed on the disclosure statement, nor any pending violation of the local zoning ordinance that the violator has not abated or remedied under the zoning ordinance, within a time period set out in the written notice of violation from the locality or established by a court of competent jurisdiction, except as disclosed on the disclosure statement.

B. At the website referenced in subdivision A 1, the Real Estate Board shall include language providing notice to the purchaser that by delivering the residential property disclosure statement:

1. The owner makes no representations or warranties as to the condition of the real property or any improvements thereon, or with regard to any covenants and restrictions as may be recorded among the land records affecting the real property or any improvements thereon, and purchasers are advised to exercise whatever due diligence a particular purchaser deems necessary, including obtaining a home inspection, as defined in § 54.1-500, in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event, prior to settlement pursuant to such contract;

2. The owner makes no representations with respect to any matters that may pertain to parcels adjacent to the subject parcel, including zoning classification or permitted uses of adjacent parcels, and that purchasers are advised to exercise whatever due diligence a particular purchaser deems necessary with respect to adjacent parcels in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event, prior to settlement pursuant to such contract;

3. The owner makes no representations to any matters that pertain to whether the provisions of any historic district ordinance affect the property and purchasers are advised to exercise whatever due diligence a particular purchaser deems necessary with respect to any historic district designated by the locality pursuant to § 15.2-2306, including review of (i) any local ordinance creating such district ~~or~~, (ii) any official map adopted by the locality depicting historic districts, and (iii) any materials available from the locality that explain (a) any requirements to alter, reconstruct, renovate, restore, or demolish buildings or signs in the local historic district and (b) the necessity of any local review board or governing body approvals prior to doing any work on a property located in a local historic district, in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event, prior to settlement pursuant to such contract;

4. The owner makes no representations with respect to whether the property contains any resource protection areas established in an ordinance implementing the Chesapeake Bay Preservation Act (§ 62.1-44.15:67 et seq.) adopted by the locality where the property is located pursuant to § 62.1-44.15:74 and that purchasers are advised to exercise whatever due diligence a particular purchaser deems necessary to determine whether the provisions of any such ordinance affect the property, including review of any official map adopted by the locality depicting resource protection areas, in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event, prior to settlement pursuant to such contract;

5. The owner makes no representations with respect to information on any sexual offenders registered under Chapter 23 (§ 19.2-387 et seq.) of Title 19.2 and that purchasers are advised to exercise whatever due diligence they deem necessary with respect to such information, in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event, prior to settlement pursuant to such contract;

6. The owner makes no representations with respect to whether the property is within a dam break inundation zone. Such disclosure statement shall advise purchasers to exercise whatever due diligence they deem necessary with respect to whether the property resides within a dam break inundation zone, including a review of any map adopted by the locality depicting dam break inundation zones;

7. The owner makes no representations with respect to the presence of any stormwater detention facilities located on the property, or any maintenance agreement for such facilities, and purchasers are advised to exercise whatever due diligence they deem necessary to determine the presence of any stormwater detention facilities on the property, or any

maintenance agreement for such facilities, in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event, prior to settlement pursuant to such contract;

8. The owner makes no representations with respect to the presence of any wastewater system, including the type or size thereof or associated maintenance responsibilities related thereto, located on the property and purchasers are advised to exercise whatever due diligence they deem necessary to determine the presence of any wastewater system on the property and the costs associated with maintaining, repairing, or inspecting any wastewater system, including any costs or requirements related to the pump-out of septic tanks, in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event, prior to settlement pursuant to such contract;

9. The owner makes no representations with respect to any right to install or use solar energy collection devices on the property; and

10. The owner makes no representations with respect to whether the property is located in one or more special flood hazard areas and purchasers are advised to exercise whatever due diligence they deem necessary, including (i) obtaining a flood certification or mortgage lender determination of whether the property is located in one or more special flood hazard areas, (ii) review of any map depicting special flood hazard areas, and (iii) whether flood insurance is required, in accordance with terms and conditions as may be contained in the real estate purchase contract, but in any event, prior to settlement pursuant to such contract.

C. Any purchaser who is a party to a real estate purchase contract subject to this section may provide in such contract that the disclosures provided on the Real Estate Board website be printed off and provided to such purchaser.

**CHAPTER 570**

*An Act to amend and reenact § 1.2, as amended, of Chapter 646 of the Acts of Assembly of 1968, which provided a charter for the Town of Herndon, relating to boundaries.*

[S 1083]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 1.2, as amended, of Chapter 646 of the Acts of Assembly of 1968 is amended and reenacted as follows:**

§ 1.2. Boundaries.

The territory embraced within the Town of Herndon is that territory in the County of Fairfax, Virginia, established in chapter 376 of the Acts of Assembly of 1938, as amended by order entered in a voluntary boundary line adjustment case by the Circuit Court of Fairfax County, Virginia, on December 20, 1988, in "Board of Supervisors of Fairfax County and Town Council of Herndon," Law 85815, recorded in the Clerk's Office of the Circuit Court of Fairfax County, Virginia, on November 6, 1997, as instrument number 97-151937, Deed Book 10166, Page 1311, and as further amended by order entered affirming a voluntary settlement agreement in a boundary line adjustment case by the Special Court sitting in the Circuit Court of Loudoun County, Virginia, on August 21, 2015, in "Town of Herndon, Virginia and the County of Loudoun, Virginia," recorded in the Clerk's Office of the Circuit Court of Loudoun County, Virginia, on October 7, 2015, as instrument number 20151007-0067932 and as further amended by order entered affirming a voluntary boundary line adjustment by the Circuit Court of Fairfax County, Virginia, on February 1, 2016, recorded in the Clerk's Office of the Circuit Court of Fairfax County, Virginia, on February 19, 2016, as instrument number 2016008713.002.

**CHAPTER 571**

*An Act to amend and reenact § 3.1, as amended, of Chapter 646 of the Acts of Assembly of 1968, which provided a charter for the Town of Herndon, relating to elections.*

[S 1084]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 3.1, as amended, of Chapter 646 of the Acts of Assembly of 1968 is amended and reenacted as follows:**

§ 3.1. Election, qualification and term of office of council members and mayor.

(a) The Town of Herndon shall be governed by a town council composed of six council members and a mayor, all of whom shall be qualified voters of the town. Candidates for town offices shall not be identified on the ballot by political affiliation. In order to have their names placed on the ballot, all candidates shall be nominated only by petition as provided by general law pursuant to § 24.2-506 of the Code of Virginia.

(b) The mayor and council members shall be elected on the ~~first~~ ~~Tuesday~~ ~~in~~ ~~May~~ ~~after~~ ~~the~~ ~~first~~ ~~Monday~~ ~~in~~ ~~November~~ of each even-numbered year. The mayor and council members elected under this section shall enter upon the duties of their offices on the first day of ~~July~~ ~~January~~ following the election. *The mayor and council members shall continue to discharge the duties of their respective offices until their successors have qualified.*

## CHAPTER 572

*An Act to amend and reenact §§ 54.1-1106, 54.1-1108, 54.1-1109, 54.1-1122, and 54.1-1123 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 54.1-1120.1, relating to the Board for Contractors; optional bonding for Class A and Class B contractors.*

[S 1113]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 54.1-1106, 54.1-1108, 54.1-1109, 54.1-1122, and 54.1-1123 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 54.1-1120.1 as follows:**

**§ 54.1-1106. Application for Class A license; fees; examination; issuance.**

A. Any person desiring to be licensed as a Class A contractor shall file with the Department a written application on a form prescribed by the Board. The application shall be accompanied by a fee set by the Board pursuant to § 54.1-201. The application shall contain the name, place of employment, and business address of the proposed designated employee, and information on the knowledge, skills, abilities, and financial position of the applicant. The Board shall determine whether the past performance record of the applicant, including his reputation for paying material bills and carrying out other contractual obligations, satisfies the purposes and intent of this chapter. The Board shall also determine whether the applicant has complied with the laws of the Commonwealth pertaining to the domestication of foreign corporations and all other laws affecting those engaged in the practice of contracting as set forth in this chapter.

*B. As proof of financial responsibility, the applicant shall demonstrate compliance with the minimum net worth requirement fixed by the Board in regulation by providing either:*

~~¶ 1. A financial statement on a form prescribed by the Board, subject to additional verification if the Board determines that sufficient questions or ambiguities exist in an individual the applicant's presentation of his financial information; the Board may require the applicant to provide a; or~~

2. A balance sheet reviewed by a certified public accountant licensed in accordance with § 54.1-4409.1.

*C. In lieu of compliance with subsection B, an applicant may demonstrate financial responsibility by electing to obtain and maintain a bond in the amount of \$50,000. Proof of current bond shall come from a corporate surety licensed to do business in the Commonwealth and approved by the Attorney General and shall be filed with the Department.*

D. In addition, if the applicant is a sole proprietor, he shall furnish to the Board his name and address. If the applicant is a member of a partnership, he shall furnish to the Board the names and addresses of all of the general partners of the partnership. If the applicant is a member of an association, he shall furnish to the Board the names and addresses of all of the members of the association. If the applicant is a corporation, it shall furnish to the Board the names and addresses of all officers of the corporation. If the applicant is a joint venture, it shall furnish to the Board the names and addresses of (i) each member of the joint venture and (ii) any sole proprietor, general partner of any partnership, member of any association, or officer of any corporation who is a member of the joint venture. The applicant shall thereafter keep the Board advised of any changes in the above information.

~~¶ E.~~ E. If the application is satisfactory to the Board, the proposed designated employee shall be required by Board regulations to take an oral or written examination to determine his general knowledge of contracting, including the statutory and regulatory requirements governing contractors in the Commonwealth. If the proposed designated employee successfully completes the examination and the applicant meets or exceeds the other entry criteria established by Board regulations, a Class A contractor license shall be issued to the applicant. The license shall permit the applicant to engage in contracting only so long as the designated employee is in the full-time employment of the contractor or is a member of the contractor's responsible management. No examination shall be required where the licensed Class A contractor changes his form of business entity provided he is in good standing with the Board. In the event the designated employee leaves the full-time employ of the licensed contractor or is no longer a member of the contractor's responsible management, no additional examination shall be required of such designated employee, except in accordance with § 54.1-1110.1, and the contractor shall within 90 days of that departure provide to the Board the name of the new designated employee.

~~¶ F.~~ F. The Board may grant a Class A license in any of the following classifications: (i) residential building contractor, (ii) commercial building contractor, (iii) highway/heavy contractor, (iv) electrical contractor, (v) plumbing contractor, (vi) heating, ventilation, and air conditioning contractor, and (vii) specialty contractor.

**§ 54.1-1108. Application for Class B license; fees; examination; issuance.**

A. Any person desiring to be licensed as a Class B contractor shall file with the Department a written application on a form prescribed by the Board. The application shall be accompanied by a fee set by the Board pursuant to § 54.1-201. The application shall contain the name, place of employment, and business address of the proposed designated employee; information on the knowledge, skills, abilities, and financial position of the applicant; and evidence of holding a current local license pursuant to local ordinances adopted pursuant to § 54.1-1117. The Board shall determine whether the past performance record of the applicant, including his reputation for paying material bills and carrying out other contractual obligations, satisfies the purpose and intent of this chapter. The Board shall also determine whether the applicant has complied with the laws of the Commonwealth pertaining to the domestication of foreign corporations and all other laws affecting those engaged in the practice of contracting as set forth in this chapter.

*B. As proof of financial responsibility, the applicant shall demonstrate compliance with the minimum net worth requirement fixed by the Board in regulation by providing either:*

*1. A financial statement on a form prescribed by the Board, subject to additional verification if the Board determines that sufficient questions or ambiguities exist in the applicant's presentation of financial information; or*

*2. A balance sheet reviewed by a certified public accountant licensed in accordance with § 54.1-4409.1.*

*C. In lieu of compliance with subsection B, an applicant may demonstrate financial responsibility by electing to obtain and maintain a bond in the amount of \$50,000. Proof of current bond shall come from a corporate surety licensed to do business in the Commonwealth and approved by the Attorney General and shall be filed with the Department.*

*D. In addition, if the applicant is a sole proprietor, he shall furnish to the Board his name and address. If the applicant is a member of a partnership, he shall furnish to the Board the names and addresses of all of the general partners of that partnership. If the applicant is a member of an association, he shall furnish to the Board the names and addresses of all of the members of the association. If the applicant is a corporation, it shall furnish to the Board the name and address of all officers of the corporation. If the applicant is a joint venture, it shall furnish to the Board the names and addresses of (i) each member of the joint venture and (ii) any sole proprietor, general partner of any partnership, member of any association, or officer of any corporation who is a member of the joint venture. The applicant shall thereafter keep the Board advised of any changes in the above information.*

*B- E. If the application is satisfactory to the Board, the proposed designated employee shall be required by Board regulations to take an oral or written examination to determine his general knowledge of contracting, including the statutory and regulatory requirements governing contractors in the Commonwealth. If the proposed designated employee successfully completes the examination and the applicant meets or exceeds the other entry criteria established by Board regulations, a Class B contractor license shall be issued to the applicant. The license shall permit the applicant to engage in contracting only so long as the designated employee is in the full-time employment of the contractor and only in the counties, cities, and towns where such person has complied with all local licensing requirements and for the type of work to be performed. No examination shall be required where the licensed Class B contractor changes his form of business entity provided he is in good standing with the Board. In the event the designated employee leaves the full-time employ of the licensed contractor, no additional examination shall be required of such designated employee, except in accordance with § 54.1-1110.1, and the contractor shall within 90 days of that departure provide to the Board the name of the new designated employee.*

*E- F. The Board may grant a Class B license in any of the following classifications: (i) residential building contractor, (ii) commercial building contractor, (iii) highway/heavy contractor, (iv) electrical contractor, (v) plumbing contractor, (vi) HVAC contractor, and (vii) specialty contractor.*

**§ 54.1-1109. Expiration and renewal of license or certificate.**

*A. A license or certificate issued pursuant to this chapter shall expire as provided in Board regulations. Application for renewal of a license or certificate may be made as provided by Board regulations. The application shall be accompanied by a fee set by the Board pursuant to § 54.1-201.*

*B. With respect to a contractor electing continuous bonding under § 54.1-1106 or 54.1-1108, proof of current bond is required in order to renew the license or certificate. The bond shall commence no later than the effective date of the license and shall expire no sooner than the date of expiration of the license or certificate.*

**§ 54.1-1120.1. Recovery on bond.**

*A. If a contractor who elected continuous bonding under § 54.1-1106 or 54.1-1108 fails to satisfy a judgment awarded by a court of competent jurisdiction for improper or dishonest conduct, the judgment creditor shall have a claim against the surety bond for such damages. In order to recover the amount of any unpaid judgment, up to but not exceeding the maximum liability as set forth in § 54.1-1106 or 54.1-1108, the judgment creditor shall meet the eligibility requirements of subsection A of § 54.1-1120 and bring suit directly on the surety bond no later than 12 months after the judgment becomes final.*

*B. The liability of such surety shall be limited to actual monetary loss, court costs, and attorney fees assessed against the contractor as part of the underlying judgment. The liability of such surety shall not include any sums representing interest or punitive damages assessed against the contractor.*

*C. The surety company shall notify the Board when a claim is made against a contractor's bond, when a claim is paid, and when the bond is cancelled. Such notification shall include the amount of claim and the circumstances surrounding the claim. Notification of cancellation shall include the effective date and reason for cancellation. The bond may be cancelled as to future liability by the contractor's surety upon 30 days' notice to the Board.*

**§ 54.1-1122. Consideration of applications for payment.**

*A. The claimant shall submit the following supporting documentation with the claim:*

- 1. Copies of the contract with the regulant and all written change orders to the contract. If no written contract between the regulant and the claimant is available, the claimant may submit an affidavit attesting to the terms of the agreement, promise, or other contractual obligation;*
- 2. All pleadings or other documents filed with the court from which judgment was obtained;*
- 3. All orders and opinions of the court from which judgment was obtained, including the final judgment order;*
- 4. The transcript of the debtor's interrogatories, if conducted, or if no transcript is available, a sworn affidavit affirming that debtor's interrogatories were conducted, or evidence that debtor's interrogatories were attempted if not conducted; a description of assets of the judgment debtor disclosed in the debtor's interrogatories; and a description of all steps taken for*

the sale or application of those disclosed assets in whole or partial satisfaction of the judgment, or a statement why no means are legally available for the sale or application of those disclosed assets, or a statement that the value of the disclosed assets is less than the cost of levying upon and selling such assets including reasonable estimates of the fair market value of the disclosed assets and costs of levying upon selling such assets;

5. A statement of the balance of the judgment remaining unpaid at the time the claim is submitted to the Department, and a statement that the claimant agrees to notify the Department of any additional payment that may be received in whole or partial satisfaction of the judgment during the pendency of the claim before the Board; and

6. Any other documentary evidence or exhibits the claimant wishes the Board to consider with the claim.

B. The Department shall promptly consider the verified claim of the claimant administratively. If the claim form is incomplete or not properly notarized, or if all required supporting documentation is not included with the claim, then the Department may provide the claimant with notice of any deficiency and an additional opportunity to submit a corrected verified claim. The burden shall be on the claimant to comply with all claim requirements and to submit the necessary documentation within 12 months of the initial claim submission. Once the Department confirms that the verified claim is complete, it shall present such verified claim, along with a recommendation regarding payment, to the Board for the Board's consideration and shall notify the claimant of the Board's recommendation.

C. The Department's and Board's consideration of the claim shall be based solely on the contents of the verified claim. Neither an informal fact-finding conference pursuant to § 2.2-4019 nor a formal hearing pursuant to § 2.2-4020 shall be required, ~~but an informal fact-finding conference may be held at the discretion of the Department if~~ unless requested by the claimant ~~within 15 days of the claimant's receipt of the Department's recommendation to the Board.~~

D. A claimant shall not be denied recovery from the Fund due to the fact that order for judgment filed with the verified claim does not contain a specific finding of "improper or dishonest conduct." Any language in the order that supports the conclusion that the court found that the conduct of the regulant meets the definition of "improper or dishonest conduct" in § 54.1-1118 shall be used by the Board to determine eligibility for recovery from the Fund. To the extent the judgment order is silent as to the court's findings on the conduct of the regulant, the Board may determine whether the conduct of the regulant meets the definition of improper or dishonest conduct by substantial evidence in the verified claim.

E. If the Board finds there has been compliance with the required conditions, the Board shall issue a directive ordering payment from the fund to the claimant the amount remaining unpaid on the judgment, subject to the limitations set forth in § 54.1-1123. The claimant shall be notified in writing of the findings of the Board. The Board's findings shall be considered a "case decision" and judicial review of these findings shall be in accordance with § 2.2-4025 of the Administrative Process Act (§ 2.2-4000 et seq.). Notwithstanding any other provision of law, the Board shall have the right to appeal a decision of any court which is contrary to any distribution recommended or authorized by it.

**§ 54.1-1123. Limitations upon recovery from Fund; certain actions not a bar to recovery.**

A. The maximum claim of one claimant against the Fund based upon an unpaid judgment arising out of the improper or dishonest conduct of one regulant in connection with a single transaction involving contracting is limited to \$20,000, *including any amount paid from a contractor's surety bond under § 54.1-1120.1*, regardless of the amount of the unpaid judgment of the claimant.

B. The aggregate of claims against the Fund based upon unpaid judgments arising out of the improper or dishonest conduct of any one regulant involving contracting, is limited by the Board to \$40,000 during any biennium. If a claim has been made against the Fund, and the Board has reason to believe there may be additional claims against the Fund from other transactions involving the same regulant, the Board may withhold any payment(s) from the Fund involving such regulant for a period of not more than one year from the date on which the claimant is awarded in a court of competent jurisdiction in the Commonwealth the final judgment on which his claim against the Fund is based. After this one-year period, if the aggregate of claims against the regulant exceeds \$40,000, during a biennium, \$40,000 shall be prorated by the Board among the claimants and paid from the Fund, *less the amount of any applicable contractor's bond*, in proportion to the amounts of their judgments against the regulant remaining unpaid. *Claims shall be prorated only after any applicable contractor's bond has been exhausted.*

C. Excluded from the amount of any unpaid judgment upon which a claim against the Fund is based shall be any sums representing interest, or punitive damages, or any amounts that do not constitute actual monetary loss to the claimants. Such claim against the Fund may include court costs and attorney fees.

D. If, at any time, the amount of the Fund is insufficient to fully satisfy any claims or claim filed with the Board and authorized by this Act, the Board shall pay such claims, claim, or portion thereof to the claimants in the order that the claims were filed with the Board.

E. Failure of a claimant to comply with the provisions of subdivisions B 1 and 2 and subsection C of § 54.1-1120 and the provisions of § 54.1-1124 shall not be a bar to recovery under this Act if the claimant is otherwise entitled to such recovery.

F. The Board shall have the authority to deny any claim which otherwise appears to meet the requirements of the Act if it finds by clear and convincing evidence that the claimant has presented false information or engaged in collusion to circumvent any of the requirements of the Act.

## CHAPTER 573

*An Act to amend and reenact § 2.2-1606 of the Code of Virginia, relating to the Department of Small Business and Supplier Diversity; powers of the Director; out-of-state applicants for certification as a small, women-owned, or minority-owned business.*

[S 1192]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 2.2-1606 of the Code of Virginia is amended and reenacted as follows:**

**§ 2.2-1606. Powers of Director.**

As deemed necessary or appropriate to better fulfill the duties of the Department, the Director may:

1. With the participation of other state departments and agencies, develop comprehensive plans and specific program goals for small, women-owned, and minority-owned business programs; establish regular performance monitoring and reporting systems to assure that goals of state agencies and institutions are being achieved; and evaluate the impact of federal and state support in achieving objectives.
2. Employ the necessary personnel or subcontract, according to his discretion, with localities to supplement the functions of business development organizations.
3. Assure the coordinated review of all proposed state training and technical assistance activities in direct support of small, women-owned, and minority-owned business programs to ensure consistency with program goals and to avoid duplication.
4. Convene, for purposes of coordination, meetings of the heads of departments and agencies, or their designees, whose programs and activities may affect or contribute to the purposes of this chapter.
5. Convene business leaders, educators, and other representatives of the private sector who are engaged in assisting the development of small, women-owned, and minority-owned business programs or who could contribute to their development for the purpose of proposing, evaluating, or coordinating governmental and private activities in furtherance of the objectives of this chapter.
6. Provide the managerial and organizational framework through which joint undertakings with state departments or agencies or private organizations can be planned and implemented.
7. Recommend appropriate legislative or executive actions.
8. Adopt regulations to implement certification programs for small, women-owned, and minority-owned businesses and employment services organizations, which regulations shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq.) pursuant to subdivision B 2 of § 2.2-4002. Such certification programs shall allow applications for certification to be submitted by electronic means as authorized by § 59.1-496 and the applicant to affix thereto his electronic signature, as defined in § 59.1-480. Such certification programs shall deny certification to vendors from states that deny like certifications to Virginia-based small, women-owned, or minority-owned businesses and employment services organizations or that provide a preference for small, women-owned, or minority-owned businesses and employment services organizations based in that state that is not available to Virginia-based businesses. The regulations shall (i) establish minimum requirements for certification of small, women-owned, and minority-owned businesses and employment services organizations; (ii) provide a process for evaluating existing local, state, private sector, and federal certification programs that meet the minimum requirements; and (iii) mandate certification, without any additional paperwork, of any prospective state vendor that has obtained certification under any certification program that is determined to meet the minimum requirements established in the regulations and of any employment services organization that has been approved by the Department for Aging and Rehabilitative Services. *The regulations shall also require as a prerequisite for approval that any out-of-state business applying for certification in Virginia as a small, women-owned, or minority-owned business have the equivalent certification in the business's state of origin. An out-of-state business located in a state that does not have a small, women-owned, or minority-owned business certification program shall be exempt from the requirements of this provision.*
9. Establish an interdepartmental board in accordance with § 2.2-1608 to supply the Director with information useful in promoting minority business activity.

## CHAPTER 574

*An Act to amend the Code of Virginia by adding in Title 3.2 a chapter numbered 51.1, consisting of sections numbered 3.2-5146 through 3.2-5156, relating to produce safety; civil penalty.*

[S 1195]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding in Title 3.2 a chapter numbered 51.1, consisting of sections numbered 3.2-5146 through 3.2-5156, as follows:**

CHAPTER 51.1.  
PRODUCE SAFETY.

**§ 3.2-5146. Covered produce; exclusion; exemption.**

A. As used in this chapter, unless the context requires a different meaning, "covered produce" means food that is produce within the meaning of 21 C.F.R. Part 112 and that is a raw agricultural commodity, as defined in 21 C.F.R. § 112.3(c), unless excluded under subsection C or exempted under subsection D.

B. "Covered produce" includes all of the following:

1. Fruits and vegetables such as almonds, apples, apricots, apriums, artichokes-globe-type, Asian pears, avocados, babacos, bananas, Belgian endive, blackberries, blueberries, boysenberries, brazil nuts, broad beans, broccoli, brussels sprouts, burdock, cabbages, Chinese cabbages (bok choy, mustard, and Napa), cantaloupes, carambolas, carrots, cauliflower, celeriac, celery, chayote fruit, cherries (sweet), chestnuts, chicory (roots and tops), citrus (such as clementine, grapefruit, lemons, limes, mandarin, oranges, tangerines, tangors, and uniq fruit), cowpea beans, cress-garden, cucumbers, curly endive, currants, dandelion leaves, fennel-Florence, garlic, genip, gooseberries, grapes, green beans, guavas, herbs (such as basil, chives, cilantro, oregano, and parsley), honeydew, huckleberries, Jerusalem artichokes, kale, kiwifruit, kohlrabi, kumquats, leek, lettuce, lychees, macadamia nuts, mangos, other melons (such as Canary, Crenshaw, and Persian), mulberries, mushrooms, mustard greens, nectarines, onions, papayas, parsnips, passion fruit, peaches, pears, peas, peas-pigeon, peppers (such as bell and hot), pine nuts, pineapples, plantains, plums, plumcots, quince, radishes, raspberries, rhubarb, rutabagas, scallions, shallots, snow peas, soursop, spinach, sprouts (such as alfalfa and mung bean), strawberries, summer squash (such as patty pan, yellow, and zucchini), sweetsop, Swiss chard, taro, tomatoes, turmeric, turnips (roots and tops), walnuts, watercress, watermelons, and yams; and

2. A mix of intact fruits and vegetables, such as a fruit basket.

C. "Covered produce" does not include:

1. Produce that is rarely consumed raw, specifically the produce on the following exhaustive list: asparagus; beans, black; beans, great Northern; beans, kidney; beans, lima; beans, navy; beans, pinto; beets, garden (roots and tops); beets, sugar; cashews; cherries, sour; chickpeas; cocoa beans; coffee beans; collards; corn, sweet; cranberries; dates; dill (seeds and weed); eggplants; figs; ginger; hazelnuts; horseradish; lentils; okra; peanuts; pecans; peppermint; potatoes; pumpkins; squash, winter; sweet potatoes; and water chestnuts;

2. Produce that is produced by an individual for personal consumption or produced for consumption on the farm or another farm under the same management; or

3. Produce that is not a raw agricultural commodity, as defined in 21 C.F.R. § 112.3(c).

D. Produce is eligible for exemption from the requirements of this chapter under the following conditions:

1. The produce receives commercial processing that adequately reduces the presence of microorganisms of public health significance;

2. The covered farm discloses in documents accompanying the produce, in accordance with the practice of the trade, that the food is "not processed to adequately reduce the presence of microorganisms of public health significance";

3. The covered farm complies with the requirements of 21 C.F.R. § 112.2(b)(3);

4. The covered farm complies with the requirements of 21 C.F.R. § 112.2(b)(4);

5. The requirements of 21 C.F.R. § 112 Subpart A and Subpart Q apply to such produce; and

6. An entity that provides a written assurance under 21 C.F.R. § 112.2(b)(3)(i) or (ii) acts consistently with the assurance and documents its actions taken to satisfy the written assurance.

**§ 3.2-5147. Covered farm; exemption.**

A. Except as provided in subsection B, a farm, as defined in 21 C.F.R. § 112.3(c), or farm mixed-type facility, as defined in 21 C.F.R. § 112.3(c), with an average annual monetary value of produce, as defined in 21 C.F.R. § 112.3(c), sold during the previous three-year period of more than \$25,000 on a rolling basis, adjusted for inflation using 2011 as the baseline year for calculating the adjustment, is a "covered farm" as used in this chapter, unless the context requires a different meaning. A covered farm shall comply with all applicable requirements of 21 C.F.R. Part 21, this chapter, or any provision of a regulation of the Board adopted pursuant to § 3.2-5148 when conducting a covered activity, as defined in 21 C.F.R. § 112.3(c), on covered produce.

B. A farm is not subject to this chapter if it satisfies the requirements in 21 C.F.R. § 112.5, and the U.S. Food and Drug Administration has not withdrawn the farm's exemption in accordance with the requirements of 21 C.F.R. § 112 Subpart R.

C. A farm is eligible for a qualified exemption and associated modified requirements in a calendar year if:

1. During the previous three-year period preceding the applicable calendar year, the average annual monetary value of the food, as defined in 21 C.F.R. § 112.3(c), the farm sold directly to qualified end-users, as defined in 21 C.F.R. § 112.3(c), during such period exceeded the average annual monetary value of the food the farm sold to all other buyers during that period; and

2. The average annual monetary value of all food, as defined in 21 C.F.R. § 112.3(c), the farm sold during the three-year period preceding the applicable calendar year was less than \$500,000, adjusted for inflation, using 2011 as the baseline year for calculating the adjustment for inflation.

D. If a farm is eligible for a qualified exemption in accordance with 21 C.F.R. § 112.5, the farm is subject to the requirements of 21 C.F.R. § 112 Subparts A, O, Q, and R.

*E. If a farm is eligible for a qualified exemption in accordance with 21 C.F.R. § 112.5, the farm is subject to the modified requirements established in 21 C.F.R. § 112.6(b).*

**§ 3.2-5148. Regulations.**

*The Board may adopt, in accordance with the Administrative Process Act (§ 2.2-4000 et seq.), regulations necessary or convenient to carry out the purposes of this chapter.*

**§ 3.2-5149. Commissioner to have access to certain farms.**

*The Commissioner shall have access only at reasonable hours to any covered farm or any farm eligible for a qualified exemption in accordance with 21 C.F.R. § 112.5 for the purpose of (i) inspecting such farm to determine if any provision of this chapter or 21 C.F.R. Part 112 is being violated and (ii) securing samples or specimens to determine if any provision of this chapter or 21 C.F.R. Part 112 is being violated. The Commissioner shall make or cause to be made examinations of samples or specimens secured pursuant to this section to determine whether any provision of this chapter or 21 C.F.R. Part 112 is being violated.*

**§ 3.2-5150. Authority to seize covered produce.**

*If the Commissioner believes any covered produce on a covered farm that is being grown, kept, or exposed for sale or held in possession or under the control of any person to be in violation of any provision of 21 C.F.R. Part 112, this chapter, or regulations of the Board adopted pursuant to § 3.2-5148, the Commissioner is authorized to seize or take possession of such covered produce.*

**§ 3.2-5151. Authority to condemn or destroy covered produce.**

*A. If the Commissioner believes any covered produce on a covered farm that is being grown, kept, or exposed for sale or held in possession or under the control of any person to be in violation of any provision of 21 C.F.R. Part 112, this chapter, or regulations of the Board adopted pursuant to § 3.2-5148, the Commissioner is authorized to condemn, destroy, or require the destruction of such covered produce.*

*B. Prior to condemning, destroying, or requiring the destruction of covered produce pursuant to subsection A, the Commissioner shall seize the covered produce in accordance with § 3.2-5150 and either:*

- 1. Secure written agreement to the condemnation or destruction, on a form to be provided by the Commissioner, from the person from whom the covered produce was seized; or*
- 2. Make complaint before a magistrate pursuant to § 3.2-5152.*

**§ 3.2-5152. Proceeding for condemnation or destruction.**

*If unable to secure the written agreement to the condemnation or destruction in accordance with subdivision B 1 of § 3.2-5151, the Commissioner shall make complaint before a magistrate, or other officer authorized to issue summons, having jurisdiction where the covered produce was seized. The magistrate or other officer shall issue his summons to the person from whom the covered produce was seized, directing him to appear before an appropriate court in such jurisdiction not less than six nor more than 12 days from the date of issuing the summons and show cause why the covered produce should not be condemned or destroyed. If the person from whom the covered produce was seized cannot be found, then the summons shall be served upon the person then in possession of the covered produce. The summons shall be served at least six days before the time of appearance mentioned therein. If the person from whom the covered produce was seized cannot be found, and no one can be found in possession of the covered produce, and the defendant does not appear on the return day, then an appropriate court shall proceed in the cause in the same manner as where a writ of attachment is returned not personally served upon any of the defendants and none of the defendants appears upon the return day.*

**§ 3.2-5153. Judgment as to covered produce to be condemned or destroyed; procedure before an appropriate court; appeal; proceeds.**

*A. Unless otherwise shown or if the covered produce to be condemned or destroyed pursuant to § 3.2-5151 is found upon trial to be in violation of any provision of 21 C.F.R. Part 112, this chapter, or regulations of the Board adopted pursuant to § 3.2-5148, it shall be the duty of the general district court to render judgment that the covered produce be forfeited to the Commonwealth and that the goods be destroyed or sold by the Commissioner for any purpose other than to be used for food, as defined in § 3.2-5129. The mode of procedure before the general district court shall be the same, as near as may be in civil proceedings. Either party may appeal to the circuit court as appeals are taken from the general district court, but it shall not be necessary for the Commonwealth to give any appeal bond.*

*B. The proceeds arising from any sale ordered pursuant to subsection A shall be disposed of in accordance with § 19.2-386.14.*

**§ 3.2-5154. Violations.**

*No covered farm or farm eligible for a qualified exemption in accordance with 21 C.F.R. § 112.5 shall violate any provision of 21 C.F.R. Part 112 or any provision of a regulation of the Board adopted pursuant to § 3.2-5148.*

**§ 3.2-5155. Impeding Commissioner.**

*No person shall impede, obstruct, hinder, or otherwise prevent or attempt to prevent the Commissioner, an inspector, or any other person in the performance of his duty in connection with this chapter.*

**§ 3.2-5156. Civil penalty.**

*Any person who violates any provision of this chapter or regulation of the Board adopted pursuant to § 3.2-5148 is subject to a civil penalty in an amount not to exceed \$1,000 per violation. In determining the amount of any civil penalty, the Board shall give due consideration to (i) the history of the person's previous violations, (ii) the seriousness of the violation, and (iii) the demonstrated good faith of the person charged in attempting to achieve compliance with this chapter after*

being notified of the violation. Such penalty shall be collected by the Commissioner and the proceeds shall be deposited into the state treasury and credited to the Virginia Natural Resources Commitment Fund created pursuant to § 10.1-2128.1.

**2. That Chapter 51.1 (§ 3.2-5146 et seq.) of Title 3.2 of the Code of Virginia, as created by this act, shall expire upon the effective date of the repeal of 21 C.F.R. Part 112 or on July 1, 2022, whichever occurs sooner.**

**3. That any exemption to the requirements of 21 C.F.R. Part 112 as established in 21 C.F.R. Part 112 also shall apply to Chapter 51.1 (§ 3.2-5146 et seq.) of Title 3.2 of the Code of Virginia, as created by this act.**

**4. That Chapter 51.1 (§ 3.2-5146 et seq.) of Title 3.2 of the Code of Virginia, as created by this act, shall expire if the federal government declines to award funds to the Commonwealth to implement the provisions of federal law embodied in this act or the federal funds awarded are exhausted, whichever is later.**

## CHAPTER 575

*An Act to amend and reenact § 36-96.1:1 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 36-96.3:1 and 36-96.3:2, relating to the Virginia Fair Housing Law; rights and responsibilities with respect to the use of an assistance animal in a dwelling.*

[S 1228]

Approved March 16, 2017

### Be it enacted by the General Assembly of Virginia:

**1. That § 36-96.1:1 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding sections numbered 36-96.3:1 and 36-96.3:2 as follows:**

#### § 36-96.1:1. Definitions.

For the purposes of this chapter, unless the context clearly indicates otherwise:

"Aggrieved person" means any person who (i) claims to have been injured by a discriminatory housing practice or (ii) believes that such person will be injured by a discriminatory housing practice that is about to occur.

"Assistance animal" means an animal that works, provides assistance, or performs tasks for the benefit of a person with a disability, or provides emotional support that alleviates one or more identified symptoms or effects of a person's disability. Assistance animals perform many disability-related functions, including guiding individuals who are blind or have low vision, alerting individuals who are deaf or hard of hearing to sounds, providing protection or rescue assistance, pulling a wheelchair, fetching items, alerting persons to impending seizures, or providing emotional support to persons with disabilities who have a disability-related need for such support. An assistance animal is not required to be individually trained or certified. While dogs are the most common type of assistance animal, other animals can also be assistance animals. An assistance animal is not a pet.

"Complainant" means a person, including the Fair Housing Board, who files a complaint under § 36-96.9.

"Conciliation" means the attempted resolution of issues raised by a complainant, or by the investigation of such complaint, through informal negotiations involving the aggrieved person, the respondent, their respective authorized representatives and the Fair Housing Board.

"Conciliation agreement" means a written agreement setting forth the resolution of the issues in conciliation.

"Discriminatory housing practices" means an act that is unlawful under §§ § 36-96.3, 36-96.4, 36-96.5, or § 36-96.6.

"Dwelling" means any building, structure, or portion thereof, that is occupied as, or designated or intended for occupancy as, a residence by one or more families, and any vacant land that is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.

"Elderliness" means an individual who has attained his fifty-fifth birthday.

"Familial status" means one or more individuals who have not attained the age of 18 years being domiciled with (i) a parent or other person having legal custody of such individual or individuals or (ii) the designee of such parent or other person having custody with the written permission of such parent or other person. The term "familial status" also includes any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years. For purposes of this section, "in the process of securing legal custody" means having filed an appropriate petition to obtain legal custody of such minor in a court of competent jurisdiction.

"Family" includes a single individual, whether male or female.

"Handicap" means, with respect to a person, (i) a physical or mental impairment that substantially limits one or more of such person's major life activities; (ii) a record of having such an impairment; or (iii) being regarded as having such an impairment. The term does not include current, illegal use of, or addiction to a controlled substance as defined in Virginia or federal law. ~~Neither the term "individual with a handicap" nor the term "handicap" shall apply to an individual solely because that individual is a transvestite.~~ For the purposes of this chapter, the terms "handicap" and "disability" shall be interchangeable.

"Lending institution" includes any bank, savings institution, credit union, insurance company or mortgage lender.

"Major life activities" means, but shall not be limited to, any the following functions: caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

"Person" means one or more individuals, whether male or female, corporations, partnerships, associations, labor organizations, fair housing organizations, civil rights organizations, organizations, governmental entities, legal

representatives, mutual companies, joint stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers and fiduciaries.

"Physical or mental impairment" means, but shall not be limited to, any of the following: (i) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; or endocrine or (ii) any mental or psychological disorder, such as an intellectual or developmental disability, organic brain syndrome, emotional or mental illness, or specific learning disability. "Physical or mental impairment" includes such diseases and conditions as orthopedic, visual, speech, and hearing impairments; cerebral palsy; autism; epilepsy; muscular dystrophy; multiple sclerosis; cancer; heart disease; diabetes; human immunodeficiency virus infection; intellectual and developmental disabilities; emotional illness; drug addiction other than addiction caused by current, illegal use of a controlled substance; and alcoholism.

"Respondent" means any person or other entity alleged to have violated the provisions of this chapter, as stated in a complaint filed under the provisions of this chapter and any other person joined pursuant to the provisions of § 36-96.9.

"Restrictive covenant" means any specification in any instrument affecting title to real property that purports to limit the use, occupancy, transfer, rental, or lease of any dwelling because of race, color, religion, national origin, sex, elderliness, familial status, or handicap.

"To rent" means to lease, to sublease, to let, or otherwise to grant for consideration the right to occupy premises not owned by the occupant.

**§ 36-96.3:1. Rights and responsibilities with respect to the use of an assistance animal in a dwelling.**

A. A person with a disability, or a person associated with such person, who maintains an assistance animal in a dwelling shall comply with the rental agreement or any rules and regulations of the property owner applicable to all residents that do not interfere with an equal opportunity to use and enjoy the dwelling and any common areas of the premises. Such person shall not be required to pay a pet fee or deposit or any additional rent to maintain an assistance animal in a dwelling, but shall be responsible for any physical damages to the dwelling if residents who maintain pets are responsible for such damages in accordance with such documents or state law. Nothing herein shall be construed to affect any cause of action against any resident for other damages under the laws of the Commonwealth.

B. If a person's disability is obvious or otherwise known to the person receiving a request, or if the need for a requested accommodation is readily apparent or known to the person receiving a request, the person receiving a request for reasonable accommodation may not request any additional verification about the requester's disability. If a person's disability is readily apparent or known to the person receiving the request but the disability-related need is not readily apparent or known, the person receiving the request may ask for additional verification to evaluate the requester's disability-related need.

C. A person with a disability, or a person associated with such person, may submit a request for a reasonable accommodation to maintain an assistance animal in a dwelling. Subject to subsection B, the person receiving the request may ask the requester to provide reliable documentation of the disability and the disability-related need for an assistance animal, including documentation from any person with whom the person with a disability has or has had a therapeutic relationship.

D. Subject to subsection B, a person receiving a request for a reasonable accommodation to maintain an assistance animal in a dwelling shall evaluate the request and any reliable supporting documentation to verify the disability and the disability-related need for the reasonable accommodation regarding an assistance animal.

E. For purposes of this section, "therapeutic relationship" means the provision of medical care, program care, or personal care services, in good faith, to the person with a disability by (i) a mental health service provider as defined in § 54.1-2400.1; (ii) an individual or entity with a valid, unrestricted state license, certification, or registration to serve persons with disabilities; (iii) a person from a peer support or similar group that does not charge service recipients a fee or impose any actual or implied financial requirement and who has actual knowledge about the requester's disability; or (iv) a caregiver, reliable third party, or government entity with actual knowledge of the requester's disability.

**§ 36-96.3:2. Reasonable accommodations; interactive process.**

A. When a request for a reasonable accommodation establishes that such accommodation is necessary to afford a person with a disability, and who has a disability-related need, an equal opportunity to use and enjoy a dwelling and does not impose either (i) an undue financial and administrative burden or (ii) a fundamental alteration to the nature of the operations of the person receiving the request, the request for the accommodation is reasonable and shall be granted.

B. When a request for a reasonable accommodation may impose either (i) an undue financial and administrative burden or (ii) a fundamental alteration to the nature of the operations of the person receiving the request, the person receiving the request shall offer to engage in a good-faith interactive process to determine if there is an alternative accommodation that would effectively address the disability-related needs of the requester. An interactive process is not required when the requester does not have a disability and a disability-related need for the requested accommodation. As part of the interactive process, unless the reasonableness and necessity for the accommodation has been established by the requester, a request may be made for additional supporting documentation to evaluate the reasonableness of either the requested accommodation or any identified alternative accommodations. If an alternative accommodation is identified that effectively meets the requester's disability-related needs and is reasonable, the person receiving the reasonable accommodation request shall make the effective alternative accommodation. However, the requester shall not be required to

accept an alternative accommodation if the requested accommodation is also reasonable. The various factors to be considered for determining whether an accommodation imposes an undue financial and administrative burden include (a) the cost of the requested accommodation, including any substantial increase in the cost of the owner's insurance policy; (b) the financial resources of the person receiving the request; (c) the benefits that the accommodation would provide to the person with a disability; and (d) the availability of alternative accommodations that would effectively meet the requester's disability-related needs.

C. A request for a reasonable accommodation shall be determined on a case-by-case basis and may be denied if (i) the person on whose behalf the request for an accommodation was submitted is not disabled; (ii) there is no disability-related need for the accommodation; (iii) the accommodation imposes an undue financial and administrative burden on the person receiving the request; or (iv) the accommodation would fundamentally alter the nature of the operations of the person receiving the request. With respect to a request for reasonable accommodation to maintain an assistance animal in a dwelling, the requested assistance animal shall (a) work, provide assistance, or perform tasks or services for the benefit of the requester or (b) provide emotional support that alleviates one or more of the identified symptoms or effects of such requester's existing disability. In addition, as determined by the person receiving the request, the requested assistance animal shall not pose a clear and present threat of substantial harm to others or to the dwelling itself that is not solely based on breed, size, or type or cannot be reduced or eliminated by another reasonable accommodation.

**2. That if any provision of this act is determined by the U.S. Department of Housing and Urban Development to be not substantially equivalent or otherwise inconsistent with the federal Fair Housing Act of 1968, 42 U.S.C. § 3601 et seq., as amended, such provision shall not be enforceable.**

### CHAPTER 576

*An Act to amend and reenact § 1-510 of the Code of Virginia, relating to official emblems and designations; George Washington's rye whiskey; state spirit.*

[S 1261]

Approved March 16, 2017

Whereas, George Washington was a native son of Virginia born on February 22, 1732, in Pope's Creek, Virginia; and  
Whereas, George Washington was the first American president, commander of the Continental Army, and president of the Constitutional Convention; and

Whereas, George Washington served as a model statesman and is universally acknowledged as the father of our nation; and

Whereas, another aspect of George Washington's life was his business activities as a gentleman planter; and

Whereas, from his home at Mount Vernon, which was also a working farming operation, George Washington participated in many business ventures; and

Whereas, George Washington's venture into the rye whiskey business began at the urging of his farm manager, James Anderson, who had been involved in the distilling industry in Scotland before immigrating to America in the early 1790s; and

Whereas, James Anderson was convinced that a distilling business would complement Mount Vernon's other economic ventures, and George Washington agreed; and

Whereas, initially George Washington proceeded cautiously, allowing James Anderson to purchase two stills and set up a small operation in the cooperage next to the gristmill located at the property in early 1797; and

Whereas, this first endeavor produced 600 gallons of rye whiskey; and

Whereas, two years later, in 1799, the year of George Washington's death, his distillery produced nearly 11,000 gallons, making it the largest whiskey distillery in America at the time; and

Whereas, it is fitting to acknowledge yet another accomplishment of this son of Virginia and father of the nation whose efforts produced a spirit that embodies the spirit of Virginia; now, therefore,

**Be it enacted by the General Assembly of Virginia:**

**1. That § 1-510 of the Code of Virginia is amended and reenacted as follows:**

**§ 1-510. Official emblems and designations.**

The following are hereby designated official emblems and designations of the Commonwealth:

Artisan Center — "Virginia Artisans Center," located in the City of Waynesboro.

Bat — Virginia Big-eared bat (*Corynorhinos townsendii virginianus*).

Beverage — Milk.

Bird — Northern Cardinal (*Cardinalis cardinalis*).

Blue Ridge Folklore State Center — Blue Ridge Institute located in the village of Ferrum.

Boat — "Chesapeake Bay Deadrise."

Cabin Capital of Virginia — Page County.

Coal Miners' Memorial — The Richlands Coal Miners' Memorial located in Tazewell County.

Covered Bridge Capital of the Commonwealth — Patrick County.

Covered Bridge Festival — Virginia Covered Bridge Festival held in Patrick County.

Dog — American Foxhound.

- Fish (Freshwater) — Brook Trout.  
 Fish (Saltwater) — Striped Bass.  
 Fleet — Replicas of the three ships, Susan Constant, Godspeed, and Discovery, which comprised the Commonwealth's founding fleet that brought the first permanent English settlers to Jamestown in 1607, and which are exhibited at the Jamestown Settlement in Williamsburg.  
 Flower — American Dogwood (*Cornus florida*).  
 Folk dance — Square dancing, the American folk dance that traces its ancestry to the English Country Dance and the French Ballroom Dance, and is called, cued, or prompted to the dancers, and includes squares, rounds, clogging, contra, line, the Virginia Reel, and heritage dances.  
 Fossil — *Chesapecten jeffersonius*.  
 Gold mining interpretive center — Monroe Park, located in the County of Fauquier.  
 Insect — Tiger Swallowtail Butterfly (*Papilio glaucus* Linne).  
 Maple Festival — The Highland County Maple Festival.  
 Motor sports museum — "Wood Brothers Racing Museum and Virginia Motor Sports Hall of Fame," located in Patrick County.  
 Outdoor drama — "The Trail of the Lonesome Pine Outdoor Drama," adapted for the stage by Clara Lou Kelly and performed in the Town of Big Stone Gap.  
 Outdoor drama, historical — "The Long Way Home" based on the life of Mary Draper Ingles, adapted for the stage by Earl Hobson Smith, and performed in the City of Radford.  
 Rock — Nelsonite.  
 Shakespeare festival — The Virginia Shakespeare Festival held in the City of Williamsburg.  
 Shell — Oyster shell (*Crassostrea virginica*).  
 Snake — Eastern Garter Snake (*Thamnophis sirtalis sirtalis*).  
 Song emeritus — "Carry Me Back to Old Virginy," by James A. Bland, as set out in the House Joint Resolution 10, adopted by the General Assembly of Virginia at the Session of 1940.  
 Song (Popular) — "Sweet Virginia Breeze," by Robbin Thompson and Steve Bassett.  
 Song (Traditional) — "Our Great Virginia," lyrics by Mike Greenly and arranged by Jim Papoulis with music from the original American folk song "Oh Shenandoah."  
*Spirit* — *George Washington's rye whiskey produced at Mount Vernon, Virginia.*  
 Sports hall of fame — "Virginia Sports Hall of Fame," located in the City of Portsmouth.  
 Tree — American Dogwood (*Cornus florida*).  
 War memorial museum — "Virginia War Museum," (formerly known as the War Memorial Museum of Virginia), located in the City of Newport News.

## CHAPTER 577

*An Act to amend and reenact § 1-510 of the Code of Virginia, relating to official emblems and designations; "Song of the Mountains;" state television series.*

[S 1332]

Approved March 16, 2017

Whereas, the "Song of the Mountains" is the first nationwide television program featuring the Bluegrass music of Appalachia; and

Whereas, the "Song of the Mountains" was founded in 2003 as a monthly stage concert series hosted by the Lincoln Theatre in Marion, Virginia; and

Whereas, in the 13 years since its founding, the "Song of the Mountains" series has produced 11 broadcast seasons equaling 228 hours of broadcast content; and

Whereas, the program is broadcast on 151 stations on the Public Broadcast System (PBS) in 29 states reaching 75 different television markets with a potential audience of 93 million viewers; and

Whereas, the program promotes and preserves the music, heritage, and culture of the Southwest region of Virginia; and

Whereas, "Song of the Mountains" continues to consistently present to the nation the unique musical and cultural heritage of not only the Southwest region of the state but the entire Commonwealth; now, therefore,

**Be it enacted by the General Assembly of Virginia:**

**1. That § 1-510 of the Code of Virginia is amended and reenacted as follows:**

**§ 1-510. Official emblems and designations.**

The following are hereby designated official emblems and designations of the Commonwealth:

Artisan Center — "Virginia Artisans Center," located in the City of Waynesboro.

Bat — Virginia Big-eared bat (*Corynorhinus townsendii virginianus*).

Beverage — Milk.

Bird — Northern Cardinal (*Cardinalis cardinalis*).

Blue Ridge Folklore State Center — Blue Ridge Institute located in the village of Ferrum.

Boat — "Chesapeake Bay Deadrise."  
 Cabin Capital of Virginia — Page County.  
 Coal Miners' Memorial — The Richlands Coal Miners' Memorial located in Tazewell County.  
 Covered Bridge Capital of the Commonwealth — Patrick County.  
 Covered Bridge Festival — Virginia Covered Bridge Festival held in Patrick County.  
 Dog — American Foxhound.  
 Fish (Freshwater) — Brook Trout.  
 Fish (Saltwater) — Striped Bass.  
 Fleet — Replicas of the three ships, Susan Constant, Godspeed, and Discovery, which comprised the Commonwealth's founding fleet that brought the first permanent English settlers to Jamestown in 1607, and which are exhibited at the Jamestown Settlement in Williamsburg.  
 Flower — American Dogwood (*Cornus florida*).  
 Folk dance — Square dancing, the American folk dance that traces its ancestry to the English Country Dance and the French Ballroom Dance, and is called, cued, or prompted to the dancers, and includes squares, rounds, clogging, contra, line, the Virginia Reel, and heritage dances.  
 Fossil — Chesapecten jeffersonius.  
 Gold mining interpretive center — Monroe Park, located in the County of Fauquier.  
 Insect — Tiger Swallowtail Butterfly (*Papilio glaucus* Linne).  
 Maple Festival — The Highland County Maple Festival.  
 Motor sports museum — "Wood Brothers Racing Museum and Virginia Motor Sports Hall of Fame," located in Patrick County.  
 Outdoor drama — "The Trail of the Lonesome Pine Outdoor Drama," adapted for the stage by Clara Lou Kelly and performed in the Town of Big Stone Gap.  
 Outdoor drama, historical — "The Long Way Home" based on the life of Mary Draper Ingles, adapted for the stage by Earl Hobson Smith, and performed in the City of Radford.  
 Rock — Nelsonite.  
 Shakespeare festival — The Virginia Shakespeare Festival held in the City of Williamsburg.  
 Shell — Oyster shell (*Crassostrea virginica*).  
 Snake — Eastern Garter Snake (*Thamnophis sirtalis sirtalis*).  
 Song emeritus — "Carry Me Back to Old Virginny," by James A. Bland, as set out in the House Joint Resolution 10, adopted by the General Assembly of Virginia at the Session of 1940.  
 Song (Popular) — "Sweet Virginia Breeze," by Robbin Thompson and Steve Bassett.  
 Song (Traditional) — "Our Great Virginia," lyrics by Mike Greenly and arranged by Jim Papoulis with music from the original American folk song "Oh Shenandoah."  
 Sports hall of fame — "Virginia Sports Hall of Fame," located in the City of Portsmouth.  
 Television series — "Song of the Mountains."  
 Tree — American Dogwood (*Cornus florida*).  
 War memorial museum — "Virginia War Museum," (formerly known as the War Memorial Museum of Virginia), located in the City of Newport News.

## CHAPTER 578

*An Act to amend and reenact § 2.2-4310 of the Code of Virginia, relating to Virginia Public Procurement Act; small business enhancement programs; limitations.*

[S 1334]

Approved March 16, 2017

### **Be it enacted by the General Assembly of Virginia:**

#### **1. That § 2.2-4310 of the Code of Virginia is amended and reenacted as follows:**

##### **§ 2.2-4310. Discrimination prohibited; participation of small, women-owned, minority-owned, and service disabled veteran-owned business and employment services organization.**

A. In the solicitation or awarding of contracts, no public body shall discriminate against a bidder or offeror because of race, religion, color, sex, national origin, age, disability, status as a service disabled veteran, or any other basis prohibited by state law relating to discrimination in employment. Whenever solicitations are made, each public body shall include businesses selected from a list made available by the Department of Small Business and Supplier Diversity, which list shall include all companies and organizations certified by the Department.

B. All public bodies shall establish programs consistent with this chapter to facilitate the participation of small businesses, businesses owned by women, minorities, and service disabled veterans, and employment services organizations in procurement transactions. The programs established shall be in writing and shall comply with the provisions of any enhancement or remedial measures authorized by the Governor pursuant to subsection C or, where applicable, by the chief executive of a local governing body pursuant to § 15.2-965.1, and shall include specific plans to achieve any goals

established therein. State agencies shall submit annual progress reports on (i) small, women-owned, and minority-owned business procurement, (ii) service disabled veteran-owned business procurement, and (iii) employment services organization procurement to the Department of Small Business and Supplier Diversity in a form specified by the Department of Small Business and Supplier Diversity. Contracts and subcontracts awarded to employment services organizations shall be credited toward a contractor's small business, women-owned, and minority-owned business contracting and subcontracting goals. The Department of Small Business and Supplier Diversity shall make information on service disabled veteran-owned procurement available to the Department of Veterans Services upon request.

C. Whenever there exists (i) a rational basis for small business or employment services organization enhancement or (ii) a persuasive analysis that documents a statistically significant disparity between the availability and utilization of women-owned and minority-owned businesses, the Governor is authorized and encouraged to require state agencies to implement appropriate enhancement or remedial measures consistent with prevailing law. *Any enhancement or remedial measure authorized by the Governor pursuant to this subsection for state public bodies may allow for small businesses certified by the Department of Small Business and Supplier Diversity or a subcategory of small businesses established as a part of the enhancement program to have a price preference over noncertified businesses competing for the same contract award on designated procurements, provided that the bid of the certified small business or the business in such subcategory of small businesses established as a part of an enhancement program does not exceed the low bid by more than five percent.*

D. In awarding a contract for services to a small, women-owned, or minority-owned business that is certified in accordance with § 2.2-1606, or to a business identified by a public body as a service disabled veteran-owned business where the award is being made pursuant to an enhancement or remedial program as provided in subsection C, the public body shall include in every such contract of more than \$10,000 the following:

"If the contractor intends to subcontract work as part of its performance under this contract, the contractor shall include in the proposal a plan to subcontract to small, women-owned, minority-owned, and service disabled veteran-owned businesses."

E. In the solicitation or awarding of contracts, no state agency, department or institution shall discriminate against a bidder or offeror because the bidder or offeror employs ex-offenders unless the state agency, department or institution has made a written determination that employing ex-offenders on the specific contract is not in its best interest.

F. As used in this section:

"Employment services organization" means an organization that provides community-based employment services to individuals with disabilities that is an approved Commission on Accreditation of Rehabilitation Facilities (CARF) accredited vendor of the Department for Aging and Rehabilitative Services.

"Minority individual" means an individual who is a citizen of the United States or a legal resident alien and who satisfies one or more of the following definitions:

1. "African American" means a person having origins in any of the original peoples of Africa and who is regarded as such by the community of which this person claims to be a part.

2. "Asian American" means a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands, including but not limited to Japan, China, Vietnam, Samoa, Laos, Cambodia, Taiwan, Northern Mariana Islands, the Philippines, a U.S. territory of the Pacific, India, Pakistan, Bangladesh, or Sri Lanka and who is regarded as such by the community of which this person claims to be a part.

3. "Hispanic American" means a person having origins in any of the Spanish-speaking peoples of Mexico, South or Central America, or the Caribbean Islands or other Spanish or Portuguese cultures and who is regarded as such by the community of which this person claims to be a part.

4. "Native American" means a person having origins in any of the original peoples of North America and who is regarded as such by the community of which this person claims to be a part or who is recognized by a tribal organization.

"Minority-owned business" means a business that is at least 51 percent owned by one or more minority individuals who are U.S. citizens or legal resident aliens, or in the case of a corporation, partnership, or limited liability company or other entity, at least 51 percent of the equity ownership interest in the corporation, partnership, or limited liability company or other entity is owned by one or more minority individuals who are U.S. citizens or legal resident aliens, and both the management and daily business operations are controlled by one or more minority individuals, or any historically black college or university as defined in § 2.2-1604, regardless of the percentage ownership by minority individuals or, in the case of a corporation, partnership, or limited liability company or other entity, the equity ownership interest in the corporation, partnership, or limited liability company or other entity.

"Service disabled veteran" means a veteran who (i) served on active duty in the United States military ground, naval, or air service, (ii) was discharged or released under conditions other than dishonorable, and (iii) has a service-connected disability rating fixed by the United States Department of Veterans Affairs.

"Service disabled veteran business" means a business that is at least 51 percent owned by one or more service disabled veterans or, in the case of a corporation, partnership, or limited liability company or other entity, at least 51 percent of the equity ownership interest in the corporation, partnership, or limited liability company or other entity is owned by one or more individuals who are service disabled veterans and both the management and daily business operations are controlled by one or more individuals who are service disabled veterans.

"Small business" means a business, independently owned and controlled by one or more individuals who are U.S. citizens or legal resident aliens, and together with affiliates, has 250 or fewer employees, or annual gross receipts of

\$10 million or less averaged over the previous three years. One or more of the individual owners shall control both the management and daily business operations of the small business.

"State agency" means any authority, board, department, instrumentality, institution, agency, or other unit of state government. "State agency" shall not include any county, city, or town.

"Women-owned business" means a business that is at least 51 percent owned by one or more women who are U.S. citizens or legal resident aliens, or in the case of a corporation, partnership, or limited liability company or other entity, at least 51 percent of the equity ownership interest is owned by one or more women who are U.S. citizens or legal resident aliens, and both the management and daily business operations are controlled by one or more women.

### CHAPTER 579

*An Act to amend and reenact § 54.1-1102 of the Code of Virginia, relating to Board for Contractors; membership.*

[S 1374]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 54.1-1102 of the Code of Virginia is amended and reenacted as follows:**

**§ 54.1-1102. Board for Contractors membership; offices; meetings; seal; record.**

A. The Board for Contractors shall be composed of ~~15~~ 16 members as follows: one member shall be a licensed Class A general contractor; the larger part of the business of one member shall be the construction of utilities; the larger part of the business of one member shall be the construction of commercial and industrial buildings; the larger part of the business of one member shall be the construction of single-family residences; the larger part of the business of one member shall be the construction of home improvements; one member shall be a subcontractor as generally regarded in the construction industry; one member shall be in the business of sales of construction materials and supplies; one member shall be a local building official; one member shall be a licensed plumbing contractor; one member shall be a licensed electrical contractor; one member shall be a licensed heating, ventilation and air conditioning contractor; one member shall be a certified elevator mechanic or a licensed elevator contractor; one member shall be a certified water well systems provider; *one member shall be a professional engineer licensed in accordance with Chapter 4 (§ 54.1-400 et seq.);* and two members shall be *nonlegislative* citizen members. The terms of the Board members shall be four years.

The Board shall meet at least once each year and at such other times as may be deemed necessary. Annually, the Board shall elect from its membership a chairman and a vice-chairman to serve for a one-year term. ~~Eight~~ *Nine* members of the Board shall constitute a quorum.

The Board shall promulgate regulations not inconsistent with statute necessary for the licensure of contractors and tradesmen and the certification of backflow prevention device workers, and for the relicensure of contractors and tradesmen and for the recertification of backflow prevention device workers, after license or certificate suspension or revocation. The Board shall include in its regulations a requirement that as a condition for initial licensure as a contractor, the designated employee or a member of the responsible management personnel of the contractor shall have successfully completed a Board-approved basic business course, which shall not exceed eight hours of classroom instruction.

The Board may adopt regulations requiring all Class A, B, and C residential contractors, excluding subcontractors to the contracting parties and those who engage in routine maintenance or service contracts, to use legible written contracts including the following terms and conditions:

1. General description of the work to be performed;
2. Fixed price or an estimate of the total cost of the work, the amounts and schedule of progress payments, a listing of specific materials requested by the consumer and the amount of down payment;
3. Estimates of time of commencement and completion of the work; and
4. Contractor's name, address, office telephone number and license or certification number and class.

In transactions involving door-to-door solicitations, the Board may require that a statement of protections be provided by the contractor to the homeowner, consumer or buyer, as the case may be.

The Board shall adopt a seal with the words "Board for Contractors, Commonwealth of Virginia." The Director shall have charge, care and custody of the seal.

B. The Director shall maintain a record of the proceedings of the Board.

### CHAPTER 580

*An Act to amend the Code of Virginia by adding a section numbered 56-585.1:3, relating to electric utility regulation; pilot programs for community solar development.*

[S 1393]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding a section numbered 56-585.1:3 as follows:**

**§ 56-585.1:3. Pilot programs for community solar development.**

A. As used in this section:

"Eligible generation facility" means an electrical generation facility that:

1. Exclusively uses energy derived from sunlight;

2. Is placed in service on or after July 1, 2017;

3. Is not constructed by an investor-owned utility and either (i) is acquired by an investor-owned utility through an asset purchase agreement or (ii) is subject to a power purchase agreement under which an investor-owned utility purchases the facility's output from a third party; and

4. Has a generating capacity of:

a. Not more than two megawatts; or

b. More than two megawatts if not more than two megawatts of the output from the electrical generation facility is selected in an investor-owned utility's RFP for dedication to its pilot program.

"Generating capacity" means an electrical generation facility's nameplate rated capacity measured in direct current megawatts.

"Investor-owned utility" means an electric utility that is a Phase I Utility or a Phase II Utility.

"Participating generating facility" means an eligible generation facility that is selected by an investor-owned utility through its RFP for inclusion in its pilot program.

"Participating third party" means, for investor-owned utilities, a Virginia nonresidential-class customer, an affiliate, a solar development entity, or a nonjurisdictional customer that takes on the obligation, as part of a variable-output contract, of pilot program costs not recovered through the voluntary companion rate schedule as specified in subdivision B 8.

"Participating utility" means (i) each investor-owned utility and (ii) any utility consumer services cooperative that elects to conduct a pilot program under subsection C.

"Phase I Utility" means an investor-owned incumbent electric utility that was, as of July 1, 1999, not bound by a rate case settlement adopted by the Commission that extended in its application beyond January 1, 2002.

"Phase II Utility" means an investor-owned incumbent electric utility that was, as of July 1, 1999, bound by a rate case settlement adopted by the Commission that extended in its application beyond January 1, 2002.

"Pilot program" means a community solar pilot program conducted by a participating utility pursuant to this section following approval by the Commission, under which the participating utility sells electric power to subscribing customers under a voluntary companion rate schedule and the participating utility generates or purchases electric power from participating generation facilities selected by the participating utility.

"Pilot program costs" means all of a participating utility's identified, projected, and actual costs of its pilot program, including costs for (i) purchased power; (ii) renewable and other environmental attributes; (iii) transmission and distribution services; (iv) generating capacity and energy balancing; (v) RFP process costs; (vi) administrative and marketing charges; (vii) capital costs and operations and maintenance expenses related to building, owning, and operating eligible generating facilities; and (viii) a reasonable margin, which margin shall be the weighted average cost of capital.

"Pilot program period" means the three-year period ending three years following the date the first subscription is entered into by a customer.

"RFP" means the request for proposal process conducted by an investor-owned utility.

"Small eligible generation facility" means an eligible generation facility with a generating capacity of less than 0.5 megawatt.

"Solar development entity" means a business entity organized primarily for the purpose of proposing, developing, constructing, purchasing, or selling at wholesale all or part of the output of an eligible generation facility. A solar development entity may be organized in any form and may be a special purpose entity.

"Utility aggregation cooperative" has the same meaning ascribed to "cooperative" in § 56-231.38.

"Utility consumer services cooperative" has the same meaning ascribed to "cooperative" in § 56-231.15.

"Voluntary companion rate schedule" means a rate schedule approved by the Commission upon application by a participating utility that provides for the recovery of the pilot program costs by the participating utility.

B. Notwithstanding the provisions of subsection B of § 56-234 and §§ 56-249.6 and 56-585.1, each investor-owned utility shall conduct a pilot program for retail customers as follows:

1. Each investor-owned utility shall design its own pilot program and within six months of receiving Commission approval shall make subscriptions for participation in its pilot program available to its retail customers on a voluntary basis.

2. An investor-owned utility shall select eligible generating facilities for dedication to its pilot program through an RFP process, under which process:

a. Each investor-owned utility shall have issued one or more public RFPs for eligible generating facilities and the purchase of all energy output and associated renewable energy certificates and other environmental attributes.

b. Each RFP shall:

(1) State the price and non-price criteria used by the investor-owned utility in selecting proposals for dedication to its pilot program; and

(2) Require as a criterion for selection that eligible generating facilities with a combined generating capacity of not less than two megawatts, and any eligible generating facility with a generating capacity of more than two megawatts, be first placed in service on or after July 1, 2017.

c. Each investor-owned utility is authorized to select, under an asset purchase or power purchase agreement, small eligible generating facilities for dedication to its pilot program without regard to whether price criteria are satisfied by their selection if the selection of the small eligible generating facilities materially advances non-price criteria, including a criterion favoring geographic distribution of eligible generating facilities, provided that the generating capacity of small eligible generating facilities does not exceed 25 percent of the utility's pilot program's minimum generating capacity specified in subdivision 3.

d. An investor-owned utility shall not select through its RFP an electrical generation facility with a generating capacity of more than two megawatts for its pilot program unless (i) the costs can be appropriately documented for the portion of the facility's output, which portion shall not exceed two megawatts, that is dedicated to the pilot program and (ii) for a Phase II Utility only, the portion of the facility's generating capacity selected pursuant to this subdivision does not exceed 50 percent of the investor-owned utility's pilot program's minimum generating capacity specified in subdivision 3. The portion of the facility's generating capacity that exceeds the portion of the facility's generating capacity that is selected pursuant to this subdivision shall not be applied in determining whether the pilot program satisfies requirements of subdivision 3 regarding a pilot program's minimum generating capacity.

e. In selecting eligible generating facilities for dedication to its pilot program, an investor-owned utility shall give due consideration to relative costs, economic development benefits, and geographic diversity of eligible generating facilities.

f. The investor-owned utility's application to the Commission shall include a description of the application of the price and non-price criteria in the investor-owned utility's selection of participating generating facilities from among the proposals submitted in response to the RFP.

3. The amount of generating capacity of the eligible generating facilities in an investor-owned utility's pilot program shall not be less than (i) 0.5 megawatt if the pilot program is conducted by a Phase I Utility or (ii) 10 megawatts if the pilot program is conducted by a Phase II Utility.

4. The amount of generating capacity of the eligible generating facilities in an investor-owned utility's pilot program shall not exceed (i) 10 megawatts if the pilot program is conducted by a Phase I Utility or (ii) 40 megawatts if the pilot program is conducted by a Phase II Utility.

5. An investor-owned utility shall have the option of increasing the amount of generating capacity of the eligible generating facilities in its pilot program above the amount most recently approved by the Commission, in such increments as the investor-owned utility elects, as follows:

a. Any such increase shall not result in an amount of generating capacity that exceeds the cap specified for the investor-owned utility's pilot program under subdivision 4;

b. No such increase shall be authorized until such time that 90 percent of the amount of generating capacity of the eligible generating facilities then approved for its pilot program has been subscribed by customers through the investor-owned utility's voluntary companion rate schedule;

c. An investor-owned utility may seek any number of increases in the amount of generating capacity of the eligible generating facilities in its pilot program, subject to the conditions in subdivisions a and b; and

d. The investor-owned utility shall select eligible generating facilities for any increase in the generating capacity of its pilot program through an RFP process that complies with the requirements of subdivision 2.

6. Each pilot program shall expire at the end of its pilot program period, unless renewed or made permanent by appropriate legislation.

7. The renewable energy certificates and other environmental attributes associated with the voluntary companion rate schedule shall be retired by the investor-owned utility on the subscribing customer's behalf.

8. An investor-owned utility shall recover all its pilot program costs primarily through its voluntary companion rate schedule. However, pilot program costs that are not recovered through the voluntary companion rate schedule shall be recoverable from a participating third party and not from the investor-owned utility's Virginia jurisdictional customers. To the extent participating third parties are obligated for pilot program costs not recovered through the voluntary companion rate schedule, variable-output contracts between participating third parties other than affiliates and investor-owned utilities shall be negotiated at arm's length and shall not be reviewable by the Commission and shall require no further Commission approvals pursuant to Chapter 4 (§ 56-76 et seq.) or other applicable law.

9. At the conclusion of the pilot program period, to the extent that the pilot program is not made permanent or extended, each participating generating facility shall cease to be part of the pilot program and shall return to operation under the variable-output contract with a participating third party.

10. Any fixed generation costs and fixed purchased power costs shall remain fixed for subscribing customers throughout the duration of the subscribing customers' continuous and uninterrupted participation in the voluntary companion rate schedule. A subscribing customer's participation in the voluntary companion rate schedule shall be deemed to be continuous and uninterrupted notwithstanding a change in the location where the customer receives service if the new location continues to be within the investor-owned utility's service territory and the customer provides the investor-owned utility with notice of the change prior to or within 90 days following the change. Investor-owned utilities are authorized to decrease the generation or purchased power rate, or both, at any time to reflect cost reductions, if any, subject to Commission review. If, pursuant to subdivision 9, the pilot program is not made permanent or continued, the subscribing customers' subscriptions to the voluntary companion rate schedule shall survive the termination of the pilot program.

11. A subscribing customer's usage that exceeds the amount subscribed for under the voluntary companion rate schedule shall be billed under the customer's applicable standard rate.

12. An investor-owned utility shall not require a subscribing customer to enter an agreement or subscription for participation in a pilot program of more than 12 months' duration unless the subscribing customer's subscription exceeds 100 kW, or its equivalent in kWh, at the time the customer initially enters into the agreement or subscription.

13. As part of an arrangement with a solar development entity, a utility may enter into an agreement that provides for risk sharing and collaboration in marketing a utility's pilot program if the solar development entity is a participating third party.

14. An investor-owned utility shall have the ability to close its pilot program to new subscribers according to the terms of the voluntary companion rate schedule upon notice to the Commission. This option shall be exercisable once per year, upon the anniversary date of the Commission's order approving the voluntary companion rate schedule.

C. Notwithstanding the provisions of subsection B of § 56-234 and §§ 56-249.6 and 56-585.1, upon application of a utility consumer services cooperative the Commission shall review a proposal submitted by the cooperative for a voluntary companion rate schedule. If the Commission finds that the proposal is reasonable and prudent, it shall approve the voluntary companion rate schedule for the cooperative to conduct a pilot program pursuant to this section. No utility consumer services cooperative shall be required to conduct a pilot program pursuant to this section. In making an application to the Commission pursuant to this subsection, a utility consumer services cooperative shall have flexibility to design its voluntary companion rate schedule in a manner that, notwithstanding anything to the contrary in this section, provides the cooperative the ability to:

1. Construct or purchase its generating facilities, or dedicate a portion of its existing power supply portfolio, for its community solar pilot program along with one or more other utility consumer services cooperatives, one or both Phase I or Phase II Utilities, or a utility aggregation cooperative, through requests for proposal or through a contract with a third party or a utility aggregation cooperative;

2. If constructing or purchasing its generating facilities, or dedicating a portion of its existing power supply portfolio, for its pilot program through a utility aggregation cooperative, include generating facilities that may be already in service or may be first placed into service at any time;

3. Utilize generating facilities of any generating capacity for its pilot program;

4. Physically locate the generating facilities used for the pilot program inside or outside of its certificated service territory;

5. Design its voluntary companion rate schedule in coordination with one or more utility consumer services cooperatives, such that participating subscribers from both cooperatives subscribe to an identical rate schedule;

6. Permanently end its pilot program for all subscribers according to the terms of the voluntary companion rate schedule; and

7. Recover pilot program costs that are not recovered through the voluntary companion rate schedule by including unrecovered purchased power expense in the cooperative's cost of purchased power and through a regulatory asset for unrecovered costs that are not purchased power expense, subject to the oversight of the cooperative's board of directors, which regulatory asset shall be approved by the Commission.

D. The participation of retail customers in a pilot program administered by a participating utility in the Commonwealth is in the public interest. Voluntary companion rate schedules approved by the Commission pursuant to this section are necessary in order to acquire information which is in furtherance of the public interest. The Commission shall approve the recovery of pilot program costs that it deems to be reasonable and prudent. The Commission shall also approve the pilot program design, the voluntary companion rate schedule, and the portfolio of participating generating facilities. No Commission review or approval of individual participating generating facilities, agreements, sites, or RFPs shall be required pursuant to this section or any other section of the Code.

E. Any voluntary companion rate schedule approved by the Commission pursuant to this section shall not be considered a tariff for electric energy provided 100 percent from renewable energy pursuant to § 56-577.

F. Each participating utility shall report on the status of its pilot program, including the number of subscribing customers, to the Governor, the Commission, and the Chairmen of the House and Senate Commerce and Labor Committees. The report shall be filed the earlier of (i) three years after the date a customer of the participating utility first subscribes to its pilot program or (ii) July 1, 2022. If a participating utility closes its pilot program to new subscribers pursuant to subdivision B 14, it shall notify the Governor, the Commission, and the Chairmen of the House and Senate Commerce and Labor Committees not later than three months after such closure, which notification shall (a) describe the reasons for the closure and (b) be provided in lieu of the status report otherwise required by this subsection.

**2. That the provisions of this act do not abridge, amend, repeal, or otherwise affect any applications brought before the State Corporation Commission or programs and tariffs approved by the Commission pursuant to any section of the Code of Virginia that is not enacted by this act.**

**3. That prior to submitting a proposed community solar pilot program to the State Corporation Commission for approval, each Phase I and Phase II Utility, as defined in § 56-585.1:3 of the Code of Virginia, as created by this act, shall examine, in cooperation with representatives of relevant governmental, nonprofit, and for-profit entities, options to facilitate the subscription by low-income customers to the utility's community solar pilot program. The utility may apply to governmental, nonprofit, and for-profit entities for grants, sponsorships, donations, or other**

funds to be applied to the specific purpose of lowering the costs to low-income customers of subscribing to the utility's community solar pilot program.

4. That as part of the State Corporation Commission's review of applications brought pursuant to this act, the State Corporation Commission shall ensure that participating utilities include in their marketing materials for the pilot program a consumer disclosure indicating the cost difference between the voluntary companion rate schedule and the subscribing customer's electric rate but for its participation in the pilot program.

#### CHAPTER 581

*An Act to amend and reenact § 56-594 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 56-594.2, relating to small agricultural generators; sale of electric power; net metering.*

[S 1394]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 56-594 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 56-594.2 as follows:**

**§ 56-594. Net energy metering provisions.**

A. The Commission shall establish by regulation a program that affords eligible customer-generators the opportunity to participate in net energy metering, and a program, to begin no later than July 1, 2014, for customers of investor-owned utilities and no later than July 1, 2015, for customers of electric cooperatives, to afford eligible agricultural customer-generators the opportunity to participate in net energy metering. The regulations may include, but need not be limited to, requirements for (i) retail sellers; (ii) owners or operators of distribution or transmission facilities; (iii) providers of default service; (iv) eligible customer-generators; (v) eligible agricultural customer-generators; or (vi) any combination of the foregoing, as the Commission determines will facilitate the provision of net energy metering, provided that the Commission determines that such requirements do not adversely affect the public interest. *On and after July 1, 2017, small agricultural generators or eligible agricultural customer-generators may elect to interconnect pursuant to the provisions of this section or as small agricultural generators pursuant to § 56-594.2, but not both. Existing eligible agricultural customer-generators may elect to become small agricultural generators, but may not revert to being eligible agricultural customer-generators after such election. On and after July 1, 2019, interconnection of eligible agricultural customer-generators shall cease for electric cooperatives only, and such facilities shall interconnect solely as small agricultural generators. For electric cooperatives, eligible agricultural customer-generators whose renewable energy generating facilities were interconnected before July 1, 2019, may continue to participate in net energy metering pursuant to this section for a period not to exceed 25 years from the date of their renewable energy generating facility's original interconnection.*

B. For the purpose of this section:

"Eligible agricultural customer-generator" means a customer that operates a renewable energy generating facility as part of an agricultural business, which generating facility (i) uses as its sole energy source solar power, wind power, or aerobic or anaerobic digester gas, (ii) does not have an aggregate generation capacity of more than 500 kilowatts, (iii) is located on land owned or controlled by the agricultural business, (iv) is connected to the customer's wiring on the customer's side of its interconnection with the distributor; (v) is interconnected and operated in parallel with an electric company's transmission and distribution facilities, and (vi) is used primarily to provide energy to metered accounts of the agricultural business. An eligible agricultural customer-generator may be served by multiple meters that are located at separate but contiguous sites, such that the eligible agricultural customer-generator may aggregate in a single account the electricity consumption and generation measured by the meters, provided that the same utility serves all such meters. The aggregated load shall be served under the appropriate tariff.

"Eligible customer-generator" means a customer that owns and operates, or contracts with other persons to own, operate, or both, an electrical generating facility that (i) has a capacity of not more than 20 kilowatts for residential customers and not more than one megawatt for nonresidential customers on an electrical generating facility placed in service after July 1, 2015; (ii) uses as its total source of fuel renewable energy, as defined in § 56-576; (iii) is located on the customer's premises and is connected to the customer's wiring on the customer's side of its interconnection with the distributor; (iv) is interconnected and operated in parallel with an electric company's transmission and distribution facilities; and (v) is intended primarily to offset all or part of the customer's own electricity requirements. In addition to the electrical generating facility size limitations in clause (i), the capacity of any generating facility installed under this section after July 1, 2015, shall not exceed the expected annual energy consumption based on the previous 12 months of billing history or an annualized calculation of billing history if 12 months of billing history is not available.

"Net energy metering" means measuring the difference, over the net metering period, between (i) electricity supplied to an eligible customer-generator or eligible agricultural customer-generator from the electric grid and (ii) the electricity generated and fed back to the electric grid by the eligible customer-generator or eligible agricultural customer-generator.

"Net metering period" means the 12-month period following the date of final interconnection of the eligible customer-generator's or eligible agricultural customer-generator's system with an electric service provider, and each 12-month period thereafter.

*"Small agricultural generator" has the same meaning that is ascribed to that term in § 56-594.2.*

C. The Commission's regulations shall ensure that (i) the metering equipment installed for net metering shall be capable of measuring the flow of electricity in two directions and (ii) any eligible customer-generator seeking to participate in net energy metering shall notify its supplier and receive approval to interconnect prior to installation of an electrical generating facility. The electric distribution company shall have 30 days from the date of notification for residential facilities, and 60 days from the date of notification for nonresidential facilities, to determine whether the interconnection requirements have been met. Such regulations shall allocate fairly the cost of such equipment and any necessary interconnection. An eligible customer-generator's electrical generating system, and each electrical generating system of an eligible agricultural customer-generator, shall meet all applicable safety and performance standards established by the National Electrical Code, the Institute of Electrical and Electronics Engineers, and accredited testing laboratories such as Underwriters Laboratories. Beyond the requirements set forth in this section and to ensure public safety, power quality, and reliability of the supplier's electric distribution system, an eligible customer-generator or eligible agricultural customer-generator whose electrical generating system meets those standards and rules shall bear all reasonable costs of equipment required for the interconnection to the supplier's electric distribution system, including costs, if any, to (a) install additional controls, (b) perform or pay for additional tests, and (c) purchase additional liability insurance.

D. The Commission shall establish minimum requirements for contracts to be entered into by the parties to net metering arrangements. Such requirements shall protect the eligible customer-generator or eligible agricultural customer-generator against discrimination by virtue of its status as an eligible customer-generator or eligible agricultural customer-generator, and permit customers that are served on time-of-use tariffs that have electricity supply demand charges contained within the electricity supply portion of the time-of-use tariffs to participate as an eligible customer-generator or eligible agricultural customer-generator. Notwithstanding the cost allocation provisions of subsection C, eligible customer-generators or eligible agricultural customer-generators served on demand charge-based time-of-use tariffs shall bear the incremental metering costs required to net meter such customers.

E. If electricity generated by an eligible customer-generator or eligible agricultural customer-generator over the net metering period exceeds the electricity consumed by the eligible customer-generator or eligible agricultural customer-generator, the customer-generator or eligible agricultural customer-generator shall be compensated for the excess electricity if the entity contracting to receive such electric energy and the eligible customer-generator or eligible agricultural customer-generator enter into a power purchase agreement for such excess electricity. Upon the written request of the eligible customer-generator or eligible agricultural customer-generator, the supplier that serves the eligible customer-generator or eligible agricultural customer-generator shall enter into a power purchase agreement with the requesting eligible customer-generator or eligible agricultural customer-generator that is consistent with the minimum requirements for contracts established by the Commission pursuant to subsection D. The power purchase agreement shall obligate the supplier to purchase such excess electricity at the rate that is provided for such purchases in a net metering standard contract or tariff approved by the Commission, unless the parties agree to a higher rate. The eligible customer-generator or eligible agricultural customer-generator owns any renewable energy certificates associated with its electrical generating facility; however, at the time that the eligible customer-generator or eligible agricultural customer-generator enters into a power purchase agreement with its supplier, the eligible customer-generator or eligible agricultural customer-generator shall have a one-time option to sell the renewable energy certificates associated with such electrical generating facility to its supplier and be compensated at an amount that is established by the Commission to reflect the value of such renewable energy certificates. Nothing in this section shall prevent the eligible customer-generator or eligible agricultural customer-generator and the supplier from voluntarily entering into an agreement for the sale and purchase of excess electricity or renewable energy certificates at mutually-agreed upon prices if the eligible customer-generator or eligible agricultural customer-generator does not exercise its option to sell its renewable energy certificates to its supplier at Commission-approved prices at the time that the eligible customer-generator or eligible agricultural customer-generator enters into a power purchase agreement with its supplier. All costs incurred by the supplier to purchase excess electricity and renewable energy certificates from eligible customer-generators or eligible agricultural customer-generators shall be recoverable through its Renewable Energy Portfolio Standard (RPS) rate adjustment clause, if the supplier has a Commission-approved RPS plan. If not, then all costs shall be recoverable through the supplier's fuel adjustment clause. For purposes of this section, "all costs" shall be defined as the rates paid to the eligible customer-generator or eligible agricultural customer-generator for the purchase of excess electricity and renewable energy certificates and any administrative costs incurred to manage the eligible customer-generator's or eligible agricultural customer-generator's power purchase arrangements. The net metering standard contract or tariff shall be available to eligible customer-generators or eligible agricultural customer-generators on a first-come, first-served basis in each electric distribution company's Virginia service area until the rated generating capacity owned and operated by eligible customer-generators ~~or~~ eligible agricultural customer-generators, *and small agricultural generators* in the state reaches one percent of each electric distribution company's adjusted Virginia peak-load forecast for the previous year, and shall require the supplier to pay the eligible customer-generator or eligible agricultural customer-generator for such excess electricity in a timely manner at a rate to be established by the Commission.

F. Any residential eligible customer-generator or eligible agricultural customer-generator who owns and operates, or contracts with other persons to own, operate, or both, an electrical generating facility with a capacity that exceeds 10 kilowatts shall pay to its supplier, in addition to any other charges authorized by law, a monthly standby charge. The amount of the standby charge and the terms and conditions under which it is assessed shall be in accordance with a methodology developed by the supplier and approved by the Commission. The Commission shall approve a supplier's proposed standby charge methodology if it finds that the standby charges collected from all such eligible customer-generators and eligible agricultural customer-generators allow the supplier to recover only the portion of the supplier's infrastructure costs that are properly associated with serving such eligible customer-generators or eligible agricultural customer-generators. Such an eligible customer-generator or eligible agricultural customer-generator shall not be liable for a standby charge until the date specified in an order of the Commission approving its supplier's methodology.

**§ 56-594.2. Small agricultural generators.**

A. As used in this section:

"Small agricultural generating facility" means an electrical generating facility that:

1. Has a capacity:
  - a. Of not more than 1.5 megawatts; and
  - b. That does not exceed 150 percent of the customer's expected annual energy consumption based on the previous 12 months of billing history or an annualized calculation of billing history if 12 months of billing history is not available;
2. Uses as its total source of fuel renewable energy;
3. Is located on the customer's premises and is interconnected with its utility through a separate meter;
4. Is interconnected and operated in parallel with an electric utility's distribution but not transmission facilities;
5. Is designed so that the electricity generated by the facility is expected to remain on the utility's distribution system; and
6. Is a qualifying small power production facility pursuant to the Public Utility Regulatory Policies Act of 1978 (P.L. 95-617).

"Small agricultural generator" means a customer that:

1. Is not an eligible agricultural customer-generator pursuant to § 56-594;
2. Operates a small agricultural generating facility as part of an agricultural business;
3. May be served by multiple meters that are located at separate but contiguous sites;
4. May aggregate the electricity consumption measured by the meters, solely for purposes of calculating 150 percent of the customer's expected annual energy consumption, but not for billing or retail service purposes, provided that the same utility serves all of its meters;
5. Uses not more than 25 percent of contiguous land owned or controlled by the agricultural business for purposes of the renewable energy generating facility; and
6. Issues a certification under oath as to the amount of land being used for renewable generation.

"Utility" includes supplier or distributor, as applicable.

B. A small agricultural generator electing to interconnect pursuant to this section shall:

1. Enter into a power purchase agreement with its utility to sell all of the electricity generated from its small agricultural generating facility, which power purchase agreement obligates the utility to purchase all the electricity generated, at a rate agreed upon by the parties, but at a rate not less than the utility's Commission-approved avoided cost tariff for energy and capacity;
2. Have the rights described in subsection E of § 56-594 pertaining to an eligible agricultural customer-generator as to the renewable energy certificates or other environmental attributes generated by the renewable energy generating facility;
3. Abide by the appropriate small generator interconnection process as described in 20VAC5-314; and
4. Pay to its utility any necessary additional expenses as required by this section.

C. Utilities:

1. Shall purchase, through the power purchase agreement described in subdivision B 1, all of the output of the small agricultural generator;
2. Shall recover the cost for its distribution facilities to the generating meter either through a proportional cost-sharing agreement with the small agricultural generator or through metering the total capacity and energy placed on the distribution system by the small agricultural generator;
3. Shall recover all costs incurred by the utility to purchase electricity, capacity, and renewable energy certificates from the small agricultural generator:
  - a. If the utility has a Commission-approved Renewable Energy Portfolio Standard (RPS) plan and rate adjustment clause, through the utility's RPS rate adjustment clause; or
  - b. If the utility does not have a Commission-approved RPS rate adjustment clause, through the utility's fuel adjustment clause or through the utility's cost of purchased power;
4. May conduct settlement transactions for purchased power in dollars on the small agricultural generator's electric bill or through other means of settlement, in the utility's sole discretion;
5. Shall bill the small agricultural generator eligible costs for small generator interconnection studies required pursuant to the appropriate small generator interconnection process described in subdivision B 3; and

6. Shall bill its expenses, at cost, for any additional engineering studies that a small agricultural generator is required to pay prior to interconnection.

**2. That the State Corporation Commission shall conduct a single docketed proceeding to implement the provisions of this act. The proceeding shall be initiated between August 1, 2017, and December 1, 2017. The proceeding shall provide notice to the public and an opportunity for public comment. A final order amending or adopting regulations under §§ 56-578, 56-594, as amended by this act, and 56-594.1 of the Code of Virginia that the Commission deems necessary to effectuate the provisions of this act shall be issued not later than June 1, 2018. Utilities shall be required to each make a compliance filing, containing a schedule to accommodate small agricultural generators, to the Commission for administrative approval not sooner than three months following the issuance of the Commission's order amending or adopting regulations under this enactment. Utilities shall not be required to undergo rate proceedings or individual proceedings of any kind to implement the provisions of this act.**

## CHAPTER 582

*An Act to amend and reenact § 3.1 of Chapters 654 and 693 of the Acts of Assembly of 2005, which provided a charter for the Town of Onley, relating to elections.*

[S 1429]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 3.1 of Chapters 654 and 693 of the Acts of Assembly of 2005 is amended and reenacted as follows:**

§ 3.1. Election, qualification and term of office for mayor and council.

The Town of Onley shall be governed by a town council composed of six council members and a mayor, all of whom shall be qualified voters of the town and shall be elected by the qualified voters of the town in the manner provided by law from the town at large. The council members and mayor in office ~~at the time of adoption of this charter on July 1, 2017,~~ shall continue in office until the expiration of the terms for which they were elected or until their successors are duly elected and qualified. An election for all council members and the mayor shall be held on the ~~first~~ Tuesday following the first Monday in ~~May 2006,~~ November 2018 and on the ~~first~~ Tuesday following the first Monday in ~~May~~ November of every even-numbered year thereafter. The council members and mayor so elected shall take office on the first day of the following ~~July,~~ January and shall ~~each~~ serve until their successors are elected and have qualified.

## CHAPTER 583

*An Act to amend and reenact § 56-585.1 of the Code of Virginia, relating to electric utility regulation; recovery of costs of undergrounding distribution lines.*

[S 1473]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 56-585.1 of the Code of Virginia is amended and reenacted as follows:**

**§ 56-585.1. Generation, distribution, and transmission rates after capped rates terminate or expire.**

A. During the first six months of 2009, the Commission shall, after notice and opportunity for hearing, initiate proceedings to review the rates, terms and conditions for the provision of generation, distribution and transmission services of each investor-owned incumbent electric utility. Such proceedings shall be governed by the provisions of Chapter 10 (§ 56-232 et seq.), except as modified herein. In such proceedings the Commission shall determine fair rates of return on common equity applicable to the generation and distribution services of the utility. In so doing, the Commission may use any methodology to determine such return it finds consistent with the public interest, but such return shall not be set lower than the average of the returns on common equity reported to the Securities and Exchange Commission for the three most recent annual periods for which such data are available by not less than a majority, selected by the Commission as specified in subdivision 2 b, of other investor-owned electric utilities in the peer group of the utility, nor shall the Commission set such return more than 300 basis points higher than such average. The peer group of the utility shall be determined in the manner prescribed in subdivision 2 b. The Commission may increase or decrease such combined rate of return by up to 100 basis points based on the generating plant performance, customer service, and operating efficiency of a utility, as compared to nationally recognized standards determined by the Commission to be appropriate for such purposes. In such a proceeding, the Commission shall determine the rates that the utility may charge until such rates are adjusted. If the Commission finds that the utility's combined rate of return on common equity is more than 50 basis points below the combined rate of return as so determined, it shall be authorized to order increases to the utility's rates necessary to provide the opportunity to fully recover the costs of providing the utility's services and to earn not less than such combined rate of return. If the Commission finds that the utility's combined rate of return on common equity is more than 50 basis points above the combined rate of return as so determined, it shall be authorized either (i) to order reductions to the utility's rates it finds appropriate, provided that the Commission may not order such rate reduction unless it finds that the resulting rates will

provide the utility with the opportunity to fully recover its costs of providing its services and to earn not less than the fair rates of return on common equity applicable to the generation and distribution services; or (ii) to direct that 60 percent of the amount of the utility's earnings that were more than 50 basis points above the fair combined rate of return for calendar year 2008 be credited to customers' bills, in which event such credits shall be amortized over a period of six to 12 months, as determined at the discretion of the Commission, following the effective date of the Commission's order and be allocated among customer classes such that the relationship between the specific customer class rates of return to the overall target rate of return will have the same relationship as the last approved allocation of revenues used to design base rates. Commencing in 2011, the Commission, after notice and opportunity for hearing, shall conduct biennial reviews of the rates, terms and conditions for the provision of generation, distribution and transmission services by each investor-owned incumbent electric utility, subject to the following provisions:

1. Rates, terms and conditions for each service shall be reviewed separately on an unbundled basis, and such reviews shall be conducted in a single, combined proceeding. The first such review shall utilize the two successive 12-month test periods ending December 31, 2010. However, the Commission may, in its discretion, elect to stagger its biennial reviews of utilities by utilizing the two successive 12-month test periods ending December 31, 2010, for a Phase I Utility, and utilizing the two successive 12-month test periods ending December 31, 2011, for a Phase II Utility, with subsequent proceedings utilizing the two successive 12-month test periods ending December 31 immediately preceding the year in which such proceeding is conducted. For purposes of this section, a Phase I Utility is an investor-owned incumbent electric utility that was, as of July 1, 1999, not bound by a rate case settlement adopted by the Commission that extended in its application beyond January 1, 2002, and a Phase II Utility is an investor-owned incumbent electric utility that was bound by such a settlement.

2. Subject to the provisions of subdivision 6, fair rates of return on common equity applicable separately to the generation and distribution services of such utility, and for the two such services combined, shall be determined by the Commission during each such biennial review, as follows:

a. The Commission may use any methodology to determine such return it finds consistent with the public interest, but such return shall not be set lower than the average of the returns on common equity reported to the Securities and Exchange Commission for the three most recent annual periods for which such data are available by not less than a majority, selected by the Commission as specified in subdivision 2 b, of other investor-owned electric utilities in the peer group of the utility subject to such biennial review, nor shall the Commission set such return more than 300 basis points higher than such average.

b. In selecting such majority of peer group investor-owned electric utilities, the Commission shall first remove from such group the two utilities within such group that have the lowest reported returns of the group, as well as the two utilities within such group that have the highest reported returns of the group, and the Commission shall then select a majority of the utilities remaining in such peer group. In its final order regarding such biennial review, the Commission shall identify the utilities in such peer group it selected for the calculation of such limitation. For purposes of this subdivision, an investor-owned electric utility shall be deemed part of such peer group if (i) its principal operations are conducted in the southeastern United States east of the Mississippi River in either the states of West Virginia or Kentucky or in those states south of Virginia, excluding the state of Tennessee, (ii) it is a vertically-integrated electric utility providing generation, transmission and distribution services whose facilities and operations are subject to state public utility regulation in the state where its principal operations are conducted, (iii) it had a long-term bond rating assigned by Moody's Investors Service of at least Baa at the end of the most recent test period subject to such biennial review, and (iv) it is not an affiliate of the utility subject to such biennial review.

c. The Commission may, consistent with its precedent for incumbent electric utilities prior to the enactment of Chapters 888 and 933 of the Acts of Assembly of 2007, increase or decrease the utility's combined rate of return based on the Commission's consideration of the utility's performance.

d. In any Current Proceeding, the Commission shall determine whether the Current Return has increased, on a percentage basis, above the Initial Return by more than the increase, expressed as a percentage, in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics of the United States Department of Labor, since the date on which the Commission determined the Initial Return. If so, the Commission may conduct an additional analysis of whether it is in the public interest to utilize such Current Return for the Current Proceeding then pending. A finding of whether the Current Return justifies such additional analysis shall be made without regard to any enhanced rate of return on common equity awarded pursuant to the provisions of subdivision 6. Such additional analysis shall include, but not be limited to, a consideration of overall economic conditions, the level of interest rates and cost of capital with respect to business and industry, in general, as well as electric utilities, the current level of inflation and the utility's cost of goods and services, the effect on the utility's ability to provide adequate service and to attract capital if less than the Current Return were utilized for the Current Proceeding then pending, and such other factors as the Commission may deem relevant. If, as a result of such analysis, the Commission finds that use of the Current Return for the Current Proceeding then pending would not be in the public interest, then the lower limit imposed by subdivision 2 a on the return to be determined by the Commission for such utility shall be calculated, for that Current Proceeding only, by increasing the Initial Return by a percentage at least equal to the increase, expressed as a percentage, in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics of

the United States Department of Labor, since the date on which the Commission determined the Initial Return. For purposes of this subdivision:

"Current Proceeding" means any proceeding conducted under any provisions of this subsection that require or authorize the Commission to determine a fair combined rate of return on common equity for a utility and that will be concluded after the date on which the Commission determined the Initial Return for such utility.

"Current Return" means the minimum fair combined rate of return on common equity required for any Current Proceeding by the limitation regarding a utility's peer group specified in subdivision 2 a.

"Initial Return" means the fair combined rate of return on common equity determined for such utility by the Commission on the first occasion after July 1, 2009, under any provision of this subsection pursuant to the provisions of subdivision 2 a.

e. In addition to other considerations, in setting the return on equity within the range allowed by this section, the Commission shall strive to maintain costs of retail electric energy that are cost competitive with costs of retail electric energy provided by the other peer group investor-owned electric utilities.

f. The determination of such returns shall be made by the Commission on a stand-alone basis, and specifically without regard to any return on common equity or other matters determined with regard to facilities described in subdivision 6.

g. If the combined rate of return on common equity earned by the generation and distribution services is no more than 50 basis points above or below the return as so determined or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, such return is no more than 70 basis points above or below the return as so determined, such combined return shall not be considered either excessive or insufficient, respectively. However, for any test period commencing after December 31, 2012, for a Phase II Utility, and after December 31, 2013, for a Phase I Utility, if the utility has, during the test period or periods under review, earned below the return as so determined, whether or not such combined return is within 70 basis points of the return as so determined, the utility may petition the Commission for approval of an increase in rates in accordance with the provisions of subdivision 8 a as if it had earned more than 70 basis points below a fair combined rate of return, and such proceeding shall otherwise be conducted in accordance with the provisions of this section.

h. Any amount of a utility's earnings directed by the Commission to be credited to customers' bills pursuant to this section shall not be considered for the purpose of determining the utility's earnings in any subsequent biennial review.

3. Each such utility shall make a biennial filing by March 31 of every other year, beginning in 2011, consisting of the schedules contained in the Commission's rules governing utility rate increase applications; however, if the Commission elects to stagger the dates of the biennial reviews of utilities as provided in subdivision 1, then each Phase I Utility shall commence biennial filings in 2011 and each Phase II Utility shall commence biennial filings in 2012. Such filing shall encompass the two successive 12-month test periods ending December 31 immediately preceding the year in which such proceeding is conducted, and in every such case the filing for each year shall be identified separately and shall be segregated from any other year encompassed by the filing. If the Commission determines that rates should be revised or credits be applied to customers' bills pursuant to subdivision 8 or 9, any rate adjustment clauses previously implemented pursuant to subdivision 5 or those related to facilities utilizing simple-cycle combustion turbines described in subdivision 6, shall be combined with the utility's costs, revenues and investments until the amounts that are the subject of such rate adjustment clauses are fully recovered. The Commission shall combine such clauses with the utility's costs, revenues and investments only after it makes its initial determination with regard to necessary rate revisions or credits to customers' bills, and the amounts thereof, but after such clauses are combined as herein specified, they shall thereafter be considered part of the utility's costs, revenues, and investments for the purposes of future biennial review proceedings. A Phase I Utility shall delay for one year the filing of its biennial review from March 31, 2013, to March 31, 2014, and shall not defer on its books for future recovery any costs incurred during calendar year 2011, other than as provided in subdivision 7 or § 56-249.6, and its subsequent biennial filing shall be made by March 31, 2016, and every two years thereafter.

4. The following costs incurred by the utility shall be deemed reasonable and prudent: (i) costs for transmission services provided to the utility by the regional transmission entity of which the utility is a member, as determined under applicable rates, terms and conditions approved by the Federal Energy Regulatory Commission, and (ii) costs charged to the utility that are associated with demand response programs approved by the Federal Energy Regulatory Commission and administered by the regional transmission entity of which the utility is a member. Upon petition of a utility at any time after the expiration or termination of capped rates, but not more than once in any 12-month period, the Commission shall approve a rate adjustment clause under which such costs, including, without limitation, costs for transmission service, charges for new and existing transmission facilities, administrative charges, and ancillary service charges designed to recover transmission costs, shall be recovered on a timely and current basis from customers. Retail rates to recover these costs shall be designed using the appropriate billing determinants in the retail rate schedules.

5. A utility may at any time, after the expiration or termination of capped rates, but not more than once in any 12-month period, petition the Commission for approval of one or more rate adjustment clauses for the timely and current recovery from customers of the following costs:

a. Incremental costs described in clause (vi) of subsection B of § 56-582 incurred between July 1, 2004, and the expiration or termination of capped rates, if such utility is, as of July 1, 2007, deferring such costs consistent with an order of the Commission entered under clause (vi) of subsection B of § 56-582. The Commission shall approve such a petition allowing the recovery of such costs that comply with the requirements of clause (vi) of subsection B of § 56-582;

b. Projected and actual costs for the utility to design and operate fair and effective peak-shaving programs. The Commission shall approve such a petition if it finds that the program is in the public interest; provided that the Commission shall allow the recovery of such costs as it finds are reasonable;

c. Projected and actual costs for the utility to design, implement, and operate energy efficiency programs, including a margin to be recovered on operating expenses, which margin for the purposes of this section shall be equal to the general rate of return on common equity determined as described in subdivision 2. The Commission shall only approve such a petition if it finds that the program is in the public interest. As part of such cost recovery, the Commission, if requested by the utility, shall allow for the recovery of revenue reductions related to energy efficiency programs. The Commission shall only allow such recovery to the extent that the Commission determines such revenue has not been recovered through margins from incremental off-system sales as defined in § 56-249.6 that are directly attributable to energy efficiency programs.

None of the costs of new energy efficiency programs of an electric utility, including recovery of revenue reductions, shall be assigned to any customer that has a verifiable history of having used more than 10 megawatts of demand from a single meter of delivery. Nor shall any of the costs of new energy efficiency programs of an electric utility, including recovery of revenue reductions, be incurred by any large general service customer as defined herein that has notified the utility of non-participation in such energy efficiency program or programs. A large general service customer is a customer that has a verifiable history of having used more than 500 kilowatts of demand from a single meter of delivery. Non-participation in energy efficiency programs shall be allowed by the Commission if the large general service customer has, at the customer's own expense, implemented energy efficiency programs that have produced or will produce measured and verified results consistent with industry standards and other regulatory criteria stated in this section. The Commission shall, no later than November 15, 2009, promulgate rules and regulations to accommodate the process under which such large general service customers shall file notice for such an exemption and (i) establish the administrative procedures by which eligible customers will notify the utility and (ii) define the standard criteria that must be satisfied by an applicant in order to notify the utility. In promulgating such rules and regulations, the Commission may also specify the timing as to when a utility shall accept and act on such notice, taking into consideration the utility's integrated resource planning process as well as its administration of energy efficiency programs that are approved for cost recovery by the Commission. The notice of non-participation by a large general service customer, to be given by March 1 of a given year, shall be for the duration of the service life of the customer's energy efficiency program. The Commission on its own motion may initiate steps necessary to verify such non-participants' achievement of energy efficiency if the Commission has a body of evidence that the non-participant has knowingly misrepresented its energy efficiency achievement. A utility shall not charge such large general service customer, as defined by the Commission, for the costs of installing energy efficiency equipment beyond what is required to provide electric service and meter such service on the customer's premises if the customer provides, at the customer's expense, equivalent energy efficiency equipment. In all relevant proceedings pursuant to this section, the Commission shall take into consideration the goals of economic development, energy efficiency and environmental protection in the Commonwealth;

d. Projected and actual costs of participation in a renewable energy portfolio standard program pursuant to § 56-585.2 that are not recoverable under subdivision 6. The Commission shall approve such a petition allowing the recovery of such costs as are provided for in a program approved pursuant to § 56-585.2;

e. Projected and actual costs of projects that the Commission finds to be necessary to comply with state or federal environmental laws or regulations applicable to generation facilities used to serve the utility's native load obligations. The Commission shall approve such a petition if it finds that such costs are necessary to comply with such environmental laws or regulations; and

f. Projected and actual costs, not currently in rates, for the utility to design, implement, and operate programs approved by the Commission that accelerate the vegetation management of distribution rights-of-way. No costs shall be allocated to or recovered from customers that are served within the large general service rate classes for a Phase II Utility or that are served at subtransmission or transmission voltage, or take delivery at a substation served from subtransmission or transmission voltage, for a Phase I Utility.

The Commission shall have the authority to determine the duration or amortization period for any adjustment clause approved under this subdivision.

6. To ensure the generation and delivery of a reliable and adequate supply of electricity, to meet the utility's projected native load obligations and to promote economic development, a utility may at any time, after the expiration or termination of capped rates, petition the Commission for approval of a rate adjustment clause for recovery on a timely and current basis from customers of the costs of (i) a coal-fueled generation facility that utilizes Virginia coal and is located in the coalfield region of the Commonwealth, as described in § 15.2-6002, regardless of whether such facility is located within or without the utility's service territory, (ii) one or more other generation facilities, (iii) one or more major unit modifications of generation facilities, or (iv) one or more new underground facilities to replace one or more existing overhead distribution facilities of 69 kilovolts or less located within the Commonwealth; however, subject to the provisions of the following sentence, the utility shall not file a petition under clause (iv) more often than annually and, in such petition, shall not seek any annual incremental increase in the level of investments associated with such a petition that exceeds five percent of such utility's distribution rate base, as such rate base was determined for the most recently ended 12-month test period in the utility's latest biennial review proceeding conducted pursuant to subdivision 3 and concluded by final order of the

Commission prior to the date of filing of such petition under clause (iv). In all proceedings regarding petitions filed under clause (iv), the level of investments approved for recovery in such proceedings shall be in addition to, and not in lieu of, levels of investments previously approved for recovery in prior proceedings under clause (iv). Such a petition concerning facilities described in clause (ii) that utilize nuclear power, facilities described in clause (ii) that are coal-fueled and will be built by a Phase I Utility, or facilities described in clause (i) may also be filed before the expiration or termination of capped rates. A utility that constructs any such facility, or purchases any facility consisting of at least one megawatt of generating capacity using energy derived from sunlight and located in the Commonwealth and that utilizes goods or services sourced, in whole or in part, from one or more Virginia businesses, shall have the right to recover the costs of the facility, as accrued against income, through its rates, including projected construction work in progress, and any associated allowance for funds used during construction, planning, development and construction or acquisition costs, life-cycle costs, costs related to assessing the feasibility of potential sites for new underground facilities, and costs of infrastructure associated therewith, plus, as an incentive to undertake such projects, an enhanced rate of return on common equity calculated as specified below; however, in determining the amounts recoverable under a rate adjustment clause for new underground facilities, the Commission shall not consider, or increase or reduce such amounts recoverable because of (a) the operation and maintenance costs attributable to either the overhead distribution facilities being replaced or the new underground facilities or (b) any other costs attributable to the overhead distribution facilities being replaced. Notwithstanding the preceding sentence, the costs described in clauses (a) and (b) thereof shall remain eligible for recovery from customers through the utility's base rates for distribution service. A utility filing a petition for approval to construct or purchase a facility consisting of at least one megawatt of generating capacity using energy derived from sunlight and located in the Commonwealth and that utilizes goods or services sourced, in whole or in part, from one or more Virginia businesses may propose a rate adjustment clause based on a market index in lieu of a cost of service model for such facility. A utility seeking approval to construct or purchase a generating facility shall demonstrate that it has considered and weighed alternative options, including third-party market alternatives, in its selection process. The costs of the facility, other than return on projected construction work in progress and allowance for funds used during construction, shall not be recovered prior to the date a facility constructed by the utility and described in clause (i), (ii), or (iii) begins commercial operation, the date the utility becomes the owner of a purchased generation facility consisting of at least one megawatt of generating capacity using energy derived from sunlight and located in the Commonwealth and that utilizes goods or services sourced, in whole or in part, from one or more Virginia businesses, or the date new underground facilities are classified by the utility as plant in service. Such enhanced rate of return on common equity shall be applied to allowance for funds used during construction and to construction work in progress during the construction phase of the facility and shall thereafter be applied to the entire facility during the first portion of the service life of the facility. The first portion of the service life shall be as specified in the table below; however, the Commission shall determine the duration of the first portion of the service life of any facility, within the range specified in the table below, which determination shall be consistent with the public interest and shall reflect the Commission's determinations regarding how critical the facility may be in meeting the energy needs of the citizens of the Commonwealth and the risks involved in the development of the facility. After the first portion of the service life of the facility is concluded, the utility's general rate of return shall be applied to such facility for the remainder of its service life. As used herein, the service life of the facility shall be deemed to begin on the date a facility constructed by the utility and described in clause (i), (ii), or (iii) begins commercial operation, the date the utility becomes the owner of a purchased generation facility consisting of at least one megawatt of generating capacity using energy derived from sunlight and located in the Commonwealth and that utilizes goods or services sourced, in whole or in part, from one or more Virginia businesses, or the date new underground facilities are classified by the utility as plant in service, and such service life shall be deemed equal in years to the life of that facility as used to calculate the utility's depreciation expense. Such enhanced rate of return on common equity shall be calculated by adding the basis points specified in the table below to the utility's general rate of return, and such enhanced rate of return shall apply only to the facility that is the subject of such rate adjustment clause. Allowance for funds used during construction shall be calculated for any such facility utilizing the utility's actual capital structure and overall cost of capital, including an enhanced rate of return on common equity as determined pursuant to this subdivision, until such construction work in progress is included in rates. The construction of any facility described in clause (i) is in the public interest, and in determining whether to approve such facility, the Commission shall liberally construe the provisions of this title. The construction or purchase by a utility of one or more generation facilities with at least one megawatt of generating capacity, and with an aggregate rated capacity that does not exceed 500 megawatts, that use energy derived from sunlight and are located in the Commonwealth, regardless of whether any of such facilities are located within or without the utility's service territory, is in the public interest, and in determining whether to approve such facility, the Commission shall liberally construe the provisions of this title. A utility may enter into short-term or long-term power purchase contracts for the power derived from sunlight generated by such generation facility prior to purchasing the generation facility. *The replacement of any subset of a utility's existing overhead distribution tap lines that have, in the aggregate, an average of nine or more total unplanned outage events-per-mile over a preceding 10-year period with new underground facilities in order to improve electric service reliability is in the public interest.* In determining whether to approve petitions for rate adjustment clauses for *such* new underground facilities *that meet this criteria*, and in determining the level of costs to be recovered thereunder, the Commission shall liberally construe the provisions of this title ~~and shall give due consideration to the public policy goals of increased electric service reliability and reduced outage times associated with the replacement of existing overhead distribution facilities with new underground facilities.~~ *There shall be a rebuttable*

*presumption that the conversion of such facilities will provide local and system-wide benefits, that such new underground facilities are cost beneficial, and that the costs associated with such new underground facilities are reasonably and prudently incurred.* The basis points to be added to the utility's general rate of return to calculate the enhanced rate of return on common equity, and the first portion of that facility's service life to which such enhanced rate of return shall be applied, shall vary by type of facility, as specified in the following table:

Type of Generation Facility	Basis Points	First Portion of Service Life
Nuclear-powered	200	Between 12 and 25 years
Carbon capture compatible, clean-coal powered	200	Between 10 and 20 years
Renewable powered, other than landfill gas powered	200	Between 5 and 15 years
Coalbed methane gas powered	150	Between 5 and 15 years
Landfill gas powered	200	Between 5 and 15 years
Conventional coal or combined-cycle combustion turbine	100	Between 10 and 20 years

For generating facilities other than those utilizing nuclear power or those utilizing energy derived from offshore wind, as of July 1, 2013, only those facilities as to which a rate adjustment clause under this subdivision has been previously approved by the Commission, or as to which a petition for approval of such rate adjustment clause was filed with the Commission, on or before January 1, 2013, shall be entitled to the enhanced rate of return on common equity as specified in the above table during the construction phase of the facility and the approved first portion of its service life.

For generating facilities within the Commonwealth utilizing nuclear power or those utilizing energy derived from offshore wind projects located in waters off the Commonwealth's Atlantic shoreline, such facilities shall continue to be eligible for an enhanced rate of return on common equity during the construction phase of the facility and the approved first portion of its service life of between 12 and 25 years in the case of a facility utilizing nuclear power and for a service life of between 5 and 15 years in the case of a facility utilizing energy derived from offshore wind, provided, however, that, as of July 1, 2013, the enhanced return for such facilities shall be 100 basis points, which shall be added to the utility's general rate of return as determined under subdivision 2. Thirty percent of all costs of such a facility utilizing nuclear power that the utility incurred between July 1, 2007, and December 31, 2013, and all of such costs incurred after December 31, 2013, may be deferred by the utility and recovered through a rate adjustment clause under this subdivision at such time as the Commission provides in an order approving such a rate adjustment clause. The remaining 70 percent of all costs of such a facility that the utility incurred between July 1, 2007, and December 31, 2013, shall not be deferred for recovery through a rate adjustment clause under this subdivision; however, such remaining 70 percent of all costs shall be recovered ratably through existing base rates as determined by the Commission in the test periods under review in the utility's next biennial review filed after July 1, 2014. Thirty percent of all costs of such a facility utilizing energy derived from offshore wind that the utility incurred between July 1, 2007, and December 31, 2013, and all of such costs incurred after December 31, 2013, may be deferred by the utility and recovered through a rate adjustment clause under this subdivision at such time as the Commission provides in an order approving such a rate adjustment clause. The remaining 70 percent of all costs of such a facility that the utility incurred between July 1, 2007, and December 31, 2013, shall not be deferred for recovery through a rate adjustment clause under this subdivision; however, such remaining 70 percent of all costs shall be recovered ratably through existing base rates as determined by the Commission in the test periods under review in the utility's next biennial review filed after July 1, 2014.

In connection with planning to meet forecasted demand for electric generation supply and assure the adequate and sufficient reliability of service, consistent with § 56-598, planning and development activities for a new nuclear generation facility or facilities are in the public interest.

In connection with planning to meet forecasted demand for electric generation supply and assure the adequate and sufficient reliability of service, consistent with § 56-598, planning and development activities for a new utility-owned and utility-operated generating facility or facilities utilizing energy derived from sunlight with an aggregate capacity of 500 megawatts, or from offshore wind, are in the public interest.

Neither generation facilities described in clause (ii) that utilize simple-cycle combustion turbines nor new underground facilities shall receive an enhanced rate of return on common equity as described herein, but instead shall receive the utility's general rate of return during the construction phase of the facility and, thereafter, for the entire service life of the facility. No rate adjustment clause for new underground facilities shall allocate costs to, or provide for the recovery of costs from, customers that are served within the large power service rate class for a Phase I Utility and the large general service rate classes for a Phase II Utility. New underground facilities are hereby declared to be ordinary extensions or improvements in the usual course of business under the provisions of § 56-265.2.

As used in this subdivision, a generation facility is (1) "coalbed methane gas powered" if the facility is fired at least 50 percent by coalbed methane gas, as such term is defined in § 45.1-361.1, produced from wells located in the Commonwealth, and (2) "landfill gas powered" if the facility is fired by methane or other combustible gas produced by the anaerobic digestion or decomposition of biodegradable materials in a solid waste management facility licensed by the Waste Management Board. A landfill gas powered facility includes, in addition to the generation facility itself, the equipment used

in collecting, drying, treating, and compressing the landfill gas and in transmitting the landfill gas from the solid waste management facility where it is collected to the generation facility where it is combusted.

For purposes of this subdivision, "general rate of return" means the fair combined rate of return on common equity as it is determined by the Commission from time to time for such utility pursuant to subdivision 2. In any proceeding under this subdivision conducted prior to the conclusion of the first biennial review for such utility, the Commission shall determine a general rate of return for such utility in the same manner as it would in a biennial review proceeding.

Notwithstanding any other provision of this subdivision, if the Commission finds during the biennial review conducted for a Phase II Utility in 2018 that such utility has not filed applications for all necessary federal and state regulatory approvals to construct one or more nuclear-powered or coal-fueled generation facilities that would add a total capacity of at least 1500 megawatts to the amount of the utility's generating resources as such resources existed on July 1, 2007, or that, if all such approvals have been received, that the utility has not made reasonable and good faith efforts to construct one or more such facilities that will provide such additional total capacity within a reasonable time after obtaining such approvals, then the Commission, if it finds it in the public interest, may reduce on a prospective basis any enhanced rate of return on common equity previously applied to any such facility to no less than the general rate of return for such utility and may apply no less than the utility's general rate of return to any such facility for which the utility seeks approval in the future under this subdivision.

7. Any petition filed pursuant to subdivision 4, 5, or 6 shall be considered by the Commission on a stand-alone basis without regard to the other costs, revenues, investments, or earnings of the utility. Any costs incurred by a utility prior to the filing of such petition, or during the consideration thereof by the Commission, that are proposed for recovery in such petition and that are related to subdivision 5 a, or that are related to facilities and projects described in clause (i) of subdivision 6, or that are related to new underground facilities described in clause (iv) of subdivision 6, shall be deferred on the books and records of the utility until the Commission's final order in the matter, or until the implementation of any applicable approved rate adjustment clauses, whichever is later. Except as otherwise provided in subdivision 6, any costs prudently incurred on or after July 1, 2007, by a utility prior to the filing of such petition, or during the consideration thereof by the Commission, that are proposed for recovery in such petition and that are related to facilities and projects described in clause (ii) of subdivision 6 that utilize nuclear power, or coal-fueled facilities and projects described in clause (ii) of subdivision 6 if such coal-fueled facilities will be built by a Phase I Utility, shall be deferred on the books and records of the utility until the Commission's final order in the matter, or until the implementation of any applicable approved rate adjustment clauses, whichever is later. Any costs prudently incurred after the expiration or termination of capped rates related to other matters described in subdivision 4, 5, or 6 shall be deferred beginning only upon the expiration or termination of capped rates, provided, however, that no provision of this act shall affect the rights of any parties with respect to the rulings of the Federal Energy Regulatory Commission in PJM Interconnection LLC and Virginia Electric and Power Company, 109 F.E.R.C. P 61, 012 (2004). A utility shall establish a regulatory asset for regulatory accounting and ratemaking purposes under which it shall defer its operation and maintenance costs incurred in connection with (i) the refueling of any nuclear-powered generating plant and (ii) other work at such plant normally performed during a refueling outage. The utility shall amortize such deferred costs over the refueling cycle, but in no case more than 18 months, beginning with the month in which such plant resumes operation after such refueling. The refueling cycle shall be the applicable period of time between planned refueling outages for such plant. As of January 1, 2014, such amortized costs are a component of base rates, recoverable in base rates only ratably over the refueling cycle rather than when such outages occur, and are the only nuclear refueling costs recoverable in base rates. This provision shall apply to any nuclear-powered generating plant refueling outage commencing after December 31, 2013, and the Commission shall treat the deferred and amortized costs of such regulatory asset as part of the utility's costs for the purpose of proceedings conducted (a) with respect to biennial filings under subdivision 3 made on and after July 1, 2014, and (b) pursuant to § 56-245 or the Commission's rules governing utility rate increase applications as provided in subsection B. This provision shall not be deemed to change or reset base rates.

The Commission's final order regarding any petition filed pursuant to subdivision 4, 5, or 6 shall be entered not more than three months, eight months, and nine months, respectively, after the date of filing of such petition. If such petition is approved, the order shall direct that the applicable rate adjustment clause be applied to customers' bills not more than 60 days after the date of the order, or upon the expiration or termination of capped rates, whichever is later.

8. In any biennial review proceeding, the following utility generation and distribution costs not proposed for recovery under any other subdivision of this subsection, as recorded per books by the utility for financial reporting purposes and accrued against income, shall be attributed to the test periods under review: costs associated with asset impairments related to early retirement determinations made by the utility prior to December 31, 2012, for utility generation plant; costs associated with severe weather events; and costs associated with natural disasters. Such costs shall be deemed to have been recovered from customers through rates for generation and distribution services in effect during the test periods under review unless such costs, individually or in the aggregate, together with the utility's other costs, revenues, and investments to be recovered through rates for generation and distribution services, result in the utility's earned return on its generation and distribution services for the combined test periods under review to fall more than 50 basis points below the fair combined rate of return authorized under subdivision 2 for such periods or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, to fall more than 70 basis points below the fair combined rate of return authorized under subdivision 2 for such periods. In such cases, the Commission shall, in such

biennial review proceeding, authorize deferred recovery of such costs and allow the utility to amortize and recover such deferred costs over future periods as determined by the Commission. The aggregate amount of such deferred costs shall not exceed an amount that would, together with the utility's other costs, revenues, and investments to be recovered through rates for generation and distribution services, cause the utility's earned return on its generation and distribution services to exceed the fair rate of return authorized under subdivision 2, less 50 basis points, for the combined test periods under review or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, to exceed the fair rate of return authorized under subdivision 2 less 70 basis points. Nothing in this section shall limit the Commission's authority, pursuant to the provisions of Chapter 10 (§ 56-232 et seq.), including specifically § 56-235.2, following the review of combined test period earnings of the utility in a biennial review, for normalization of nonrecurring test period costs and annualized adjustments for future costs, in determining any appropriate increase or decrease in the utility's rates for generation and distribution services pursuant to subdivision 8 a or 8 c.

If the Commission determines as a result of such biennial review that:

a. The utility has, during the test period or periods under review, considered as a whole, earned more than 50 basis points below a fair combined rate of return on its generation and distribution services or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, more than 70 basis points below a fair combined rate of return on its generation and distribution services, as determined in subdivision 2, without regard to any return on common equity or other matters determined with respect to facilities described in subdivision 6, the Commission shall order increases to the utility's rates necessary to provide the opportunity to fully recover the costs of providing the utility's services and to earn not less than such fair combined rate of return, using the most recently ended 12-month test period as the basis for determining the amount of the rate increase necessary. However, the Commission may not order such rate increase unless it finds that the resulting rates are necessary to provide the utility with the opportunity to fully recover its costs of providing its services and to earn not less than a fair combined rate of return on both its generation and distribution services, as determined in subdivision 2, without regard to any return on common equity or other matters determined with respect to facilities described in subdivision 6, using the most recently ended 12-month test period as the basis for determining the permissibility of any rate increase under the standards of this sentence, and the amount thereof;

b. The utility has, during the test period or test periods under review, considered as a whole, earned more than 50 basis points above a fair combined rate of return on its generation and distribution services or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, more than 70 basis points above a fair combined rate of return on its generation and distribution services, as determined in subdivision 2, without regard to any return on common equity or other matters determined with respect to facilities described in subdivision 6, the Commission shall, subject to the provisions of subdivision 9, direct that 60 percent of the amount of such earnings that were more than 50 basis points, or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, that 70 percent of the amount of such earnings that were more than 70 basis points, above such fair combined rate of return for the test period or periods under review, considered as a whole, shall be credited to customers' bills. Any such credits shall be amortized over a period of six to 12 months, as determined at the discretion of the Commission, following the effective date of the Commission's order, and shall be allocated among customer classes such that the relationship between the specific customer class rates of return to the overall target rate of return will have the same relationship as the last approved allocation of revenues used to design base rates; or

c. Such biennial review is the second consecutive biennial review in which the utility has, during the test period or test periods under review, considered as a whole, earned more than 50 basis points above a fair combined rate of return on its generation and distribution services or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, more than 70 basis points above a fair combined rate of return on its generation and distribution services, as determined in subdivision 2, without regard to any return on common equity or other matter determined with respect to facilities described in subdivision 6, the Commission shall, subject to the provisions of subdivision 9 and in addition to the actions authorized in subdivision b, also order reductions to the utility's rates it finds appropriate. However, the Commission may not order such rate reduction unless it finds that the resulting rates will provide the utility with the opportunity to fully recover its costs of providing its services and to earn not less than a fair combined rate of return on its generation and distribution services, as determined in subdivision 2, without regard to any return on common equity or other matters determined with respect to facilities described in subdivision 6, using the most recently ended 12-month test period as the basis for determining the permissibility of any rate reduction under the standards of this sentence, and the amount thereof.

The Commission's final order regarding such biennial review shall be entered not more than eight months after the date of filing, and any revisions in rates or credits so ordered shall take effect not more than 60 days after the date of the order. The fair combined rate of return on common equity determined pursuant to subdivision 2 in such biennial review shall apply, for purposes of reviewing the utility's earnings on its rates for generation and distribution services, to the entire two successive 12-month test periods ending December 31 immediately preceding the year of the utility's subsequent biennial review filing under subdivision 3.

9. If, as a result of a biennial review required under this subsection and conducted with respect to any test period or periods under review ending later than December 31, 2010 (or, if the Commission has elected to stagger its biennial reviews of utilities as provided in subdivision 1, under review ending later than December 31, 2010, for a Phase I Utility, or December 31, 2011, for a Phase II Utility), the Commission finds, with respect to such test period or periods considered as a

whole, that (i) any utility has, during the test period or periods under review, considered as a whole, earned more than 50 basis points above a fair combined rate of return on its generation and distribution services or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, more than 70 basis points above a fair combined rate of return on its generation and distribution services, as determined in subdivision 2, without regard to any return on common equity or other matters determined with respect to facilities described in subdivision 6, and (ii) the total aggregate regulated rates of such utility at the end of the most recently-ended 12-month test period exceeded the annual increases in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics of the United States Department of Labor, compounded annually, when compared to the total aggregate regulated rates of such utility as determined pursuant to the biennial review conducted for the base period, the Commission shall, unless it finds that such action is not in the public interest or that the provisions of subdivisions 8 b and c are more consistent with the public interest, direct that any or all earnings for such test period or periods under review, considered as a whole that were more than 50 basis points, or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, more than 70 basis points, above such fair combined rate of return shall be credited to customers' bills, in lieu of the provisions of subdivisions 8 b and c. Any such credits shall be amortized and allocated among customer classes in the manner provided by subdivision 8 b. For purposes of this subdivision:

"Base period" means (i) the test period ending December 31, 2010 (or, if the Commission has elected to stagger its biennial reviews of utilities as provided in subdivision 1, the test period ending December 31, 2010, for a Phase I Utility, or December 31, 2011, for a Phase II Utility), or (ii) the most recent test period with respect to which credits have been applied to customers' bills under the provisions of this subdivision, whichever is later.

"Total aggregate regulated rates" shall include: (i) fuel tariffs approved pursuant to § 56-249.6, except for any increases in fuel tariffs deferred by the Commission for recovery in periods after December 31, 2010, pursuant to the provisions of clause (ii) of subsection C of § 56-249.6; (ii) rate adjustment clauses implemented pursuant to subdivision 4 or 5; (iii) revisions to the utility's rates pursuant to subdivision 8 a; (iv) revisions to the utility's rates pursuant to the Commission's rules governing utility rate increase applications, as permitted by subsection B, occurring after July 1, 2009; and (v) base rates in effect as of July 1, 2009.

10. For purposes of this section, the Commission shall regulate the rates, terms and conditions of any utility subject to this section on a stand-alone basis utilizing the actual end-of-test period capital structure and cost of capital of such utility, unless the Commission finds that the debt to equity ratio of such capital structure is unreasonable for such utility, in which case the Commission may utilize a debt to equity ratio that it finds to be reasonable for such utility in determining any rate adjustment pursuant to subdivisions 8 a and c, and without regard to the cost of capital, capital structure, revenues, expenses or investments of any other entity with which such utility may be affiliated. In particular, and without limitation, the Commission shall determine the federal and state income tax costs for any such utility that is part of a publicly traded, consolidated group as follows: (i) such utility's apportioned state income tax costs shall be calculated according to the applicable statutory rate, as if the utility had not filed a consolidated return with its affiliates, and (ii) such utility's federal income tax costs shall be calculated according to the applicable federal income tax rate and shall exclude any consolidated tax liability or benefit adjustments originating from any taxable income or loss of its affiliates.

B. Nothing in this section shall preclude an investor-owned incumbent electric utility from applying for an increase in rates pursuant to § 56-245 or the Commission's rules governing utility rate increase applications; however, in any such filing, a fair rate of return on common equity shall be determined pursuant to subdivision A 2. Nothing in this section shall preclude such utility's recovery of fuel and purchased power costs as provided in § 56-249.6.

C. Except as otherwise provided in this section, the Commission shall exercise authority over the rates, terms and conditions of investor-owned incumbent electric utilities for the provision of generation, transmission and distribution services to retail customers in the Commonwealth pursuant to the provisions of Chapter 10 (§ 56-232 et seq.), including specifically § 56-235.2.

D. The Commission may determine, during any proceeding authorized or required by this section, the reasonableness or prudence of any cost incurred or projected to be incurred, by a utility in connection with the subject of the proceeding. A determination of the Commission regarding the reasonableness or prudence of any such cost shall be consistent with the Commission's authority to determine the reasonableness or prudence of costs in proceedings pursuant to the provisions of Chapter 10 (§ 56-232 et seq.). In determining the reasonableness or prudence of a utility providing energy and capacity to its customers from renewable energy resources, the Commission shall consider the extent to which such renewable energy resources, whether utility-owned or by contract, further the objectives of the Commonwealth Energy Policy set forth in §§ 67-101 and 67-102, and shall also consider whether the costs of such resources is likely to result in unreasonable increases in rates paid by consumers.

E. The Commission shall promulgate such rules and regulations as may be necessary to implement the provisions of this section.

**2. That the provisions of this act shall apply to any applications pending with the State Corporation Commission regarding new underground facilities on or after January 1, 2017.**

**3. That when an investor-owned incumbent electric utility proposes to improve electric service reliability pursuant to clause (iv) of subdivision A 6 of § 56-585.1 of the Code of Virginia by installing new underground facilities to replace the utility's existing overhead distribution tap lines, if the utility owns the poles from which the existing overhead**

distribution tap lines are to be relocated and any cable operator of a cable television system, as those terms are defined in § 15.2-2108.19, has also attached its facilities to such poles, the utility shall provide written notice to the cable operator of the utility's intention to relocate the overhead distribution tap lines and to abandon or remove such poles not less than 90 days prior to relocating the utility's overhead distribution lines. The cable operator shall notify the utility within 45 days of the notice of relocation whether the cable operator will relocate its facilities underground. If the cable operator elects to relocate its facilities underground, in such notice the cable operator may request that the utility use commercially reasonable efforts to negotiate a common shared underground easement for the facilities to be located underground of the utility and the cable operator. The cable operator shall be responsible to negotiate any additional easements that it may require. If the cable operator elects to relocate its facilities underground, the cable operator may participate with the utility in a joint relocation of the overhead lines to underground or may engage its own contractors to undertake its relocation work if it deems it appropriate to do so. If the cable operator may legally retain the poles that the utility intends to abandon and the cable operator wishes for its facilities to remain attached to the poles, the utility may convey such poles "as-is" and "where-is" to the cable operator at its depreciated cost less the estimated cost of removal, provided the cable operator assumes all liability for the pole and obtains an easement from the property owner for the use thereof on or before the date the poles are conveyed to the cable operator. In all cases, the cable operator shall be responsible for all costs related to the relocation of cable facilities and, unless otherwise agreed between the utility and the cable operator, the cable operator shall cease all use of such poles and shall relocate or remove its facilities from the poles on or before 90 days after the utility gives written notice to the cable operator that it has relocated its distribution tap lines underground. The utility shall not abandon or remove the poles that the utility owns until the cable operator completes the relocation or removal of its facilities or 90 days after the completion of the relocation of the utility overhead distribution lines, whichever first occurs.

#### CHAPTER 584

*An Act to amend and reenact § 2.2-4002 of the Code of Virginia, relating to the Administrative Process Act; exemption for Charitable Gaming Board.*

[S 1509]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 2.2-4002 of the Code of Virginia is amended and reenacted as follows:**

**§ 2.2-4002. Exemptions from chapter generally.**

A. Although required to comply with § 2.2-4103 of the Virginia Register Act (§ 2.2-4100 et seq.), the following agencies shall be exempted from the provisions of this chapter, except to the extent that they are specifically made subject to §§ 2.2-4024, 2.2-4030, and 2.2-4031:

1. The General Assembly.
2. Courts, any agency of the Supreme Court, and any agency that by the Constitution is expressly granted any of the powers of a court of record.
3. The Department of Game and Inland Fisheries in promulgating regulations regarding the management of wildlife and for all case decisions rendered pursuant to any provisions of Chapters 2 (§ 29.1-200 et seq.), 3 (§ 29.1-300 et seq.), 4 (§ 29.1-400 et seq.), 5 (§ 29.1-500 et seq.), and 7 (§ 29.1-700 et seq.) of Title 29.1.
4. The Virginia Housing Development Authority.
5. Municipal corporations, counties, and all local, regional or multijurisdictional authorities created under this Code, including those with federal authorities.
6. Educational institutions operated by the Commonwealth, provided that, with respect to § 2.2-4031, such educational institutions shall be exempt from the publication requirements only with respect to regulations that pertain to (i) their academic affairs, (ii) the selection, tenure, promotion and disciplining of faculty and employees, (iii) the selection of students, and (iv) rules of conduct and disciplining of students.
7. The Milk Commission in promulgating regulations regarding (i) producers' licenses and bases, (ii) classification and allocation of milk, computation of sales and shrinkage, and (iii) class prices for producers' milk, time and method of payment, butterfat testing and differential.
8. The Virginia Resources Authority.
9. Agencies expressly exempted by any other provision of this Code.
10. The Department of General Services in promulgating standards for the inspection of buildings for asbestos pursuant to § 2.2-1164.
11. The State Council of Higher Education for Virginia, in developing, issuing, and revising guidelines pursuant to § 23.1-207.
12. The Commissioner of Agriculture and Consumer Services in adopting regulations pursuant to subsection B of § 3.2-6002 and in adopting regulations pursuant to § 3.2-6023.

13. The Commissioner of Agriculture and Consumer Services and the Board of Agriculture and Consumer Services in promulgating regulations pursuant to subsections B and D of § 3.2-3601, subsection B of § 3.2-3701, § 3.2-4002, subsections B and D of § 3.2-4801, §§ 3.2-5121 and 3.2-5206, and subsection A of § 3.2-5406.

14. The Board of Optometry when specifying therapeutic pharmaceutical agents, treatment guidelines, and diseases and abnormal conditions of the human eye and its adnexa for TPA-certification of optometrists pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32 of Title 54.1.

15. The Commissioner of the Department of Veterans Services in adopting regulations pursuant to § 2.2-2001.3.

16. The State Board of Education, in developing, issuing, and revising guidelines pursuant to § 22.1-203.2.

17. The Virginia Racing Commission, (i) when acting by and through its duly appointed stewards or in matters related to any specific race meeting or (ii) in promulgating technical rules regulating actual live horse racing at race meetings licensed by the Commission.

18. The Virginia Small Business Financing Authority.

19. The Virginia Economic Development Partnership Authority.

20. The Board of Agriculture and Consumer Services in adopting, amending or repealing regulations pursuant to subsection A (ii) of § 59.1-156.

21. The Insurance Continuing Education Board pursuant to § 38.2-1867.

22. The Board of Health in promulgating the list of diseases that shall be reported to the Department of Health pursuant to § 32.1-35 and in adopting, amending or repealing regulations pursuant to subsection C of § 35.1-14 that incorporate the Food and Drug Administration's Food Code pertaining to restaurants or food service.

23. The Commissioner of the Marine Resources Commission in setting a date of closure for the Chesapeake Bay purse seine fishery for Atlantic menhaden for reduction purposes pursuant to § 28.2-1000.2.

24. The Board of Pharmacy when specifying special subject requirements for continuing education for pharmacists pursuant to § 54.1-3314.1.

25. The Virginia Department of Veterans Services when promulgating rules and regulations pursuant to § 58.1-3219.7.

26. The Virginia Department of Criminal Justice Services when developing, issuing, or revising any training standards established by the Criminal Justice Services Board under § 9.1-102, provided such actions are authorized by the Governor in the interest of public safety.

B. Agency action relating to the following subjects shall be exempted from the provisions of this chapter:

1. Money or damage claims against the Commonwealth or agencies thereof.
2. The award or denial of state contracts, as well as decisions regarding compliance therewith.
3. The location, design, specifications or construction of public buildings or other facilities.
4. Grants of state or federal funds or property.
5. The chartering of corporations.
6. Customary military, militia, naval or police functions.
7. The selection, tenure, dismissal, direction or control of any officer or employee of an agency of the Commonwealth.
8. The conduct of elections or eligibility to vote.
9. Inmates of prisons or other such facilities or parolees therefrom.
10. The custody of persons in, or sought to be placed in, mental health facilities or penal or other state institutions as well as the treatment, supervision, or discharge of such persons.
11. Traffic signs, markers or control devices.
12. Instructions for application or renewal of a license, certificate, or registration required by law.
13. Content of, or rules for the conduct of, any examination required by law.
14. The administration of pools authorized by Chapter 47 (§ 2.2-4700 et seq.).
15. Any rules for the conduct of specific lottery games, so long as such rules are not inconsistent with duly adopted regulations of the Virginia Lottery Board, and provided that such regulations are published and posted.
16. Orders condemning or closing any shellfish, finfish, or crustacea growing area and the shellfish, finfish or crustacea located thereon pursuant to Article 2 (§ 28.2-803 et seq.) of Chapter 8 of Title 28.2.
17. Any operating procedures for review of child deaths developed by the State Child Fatality Review Team pursuant to § 32.1-283.1 and any operating procedures for review of adult deaths developed by the Adult Fatality Review Team pursuant to § 32.1-283.5.
18. The regulations for the implementation of the Health Practitioners' Monitoring Program and the activities of the Health Practitioners' Monitoring Program Committee pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1.
19. The process of reviewing and ranking grant applications submitted to the Commonwealth Neurotrauma Initiative Advisory Board pursuant to Article 12 (§ 51.5-178 et seq.) of Chapter 14 of Title 51.5.
20. Loans from the Small Business Environmental Compliance Assistance Fund pursuant to Article 4 (§ 10.1-1197.1 et seq.) of Chapter 11.1 of Title 10.1.
21. The Virginia Breeders Fund created pursuant to § 59.1-372.
22. The types of pari-mutuel wagering pools available for live or simulcast horse racing.
23. The administration of medication or other substances foreign to the natural horse.

24. Any rules adopted by the Charitable Gaming Board for the approval and conduct of game variations for the conduct of raffles, bingo, network bingo, and instant bingo games, provided that such rules are (i) consistent with Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2 and (ii) published and posted.

C. Minor changes to regulations published in the Virginia Administrative Code under the Virginia Register Act (§ 2.2-4100 et seq.), made by the Virginia Code Commission pursuant to § 30-150, shall be exempt from the provisions of this chapter.

### CHAPTER 585

*An Act to amend and reenact §§ 4.1-100, as it is currently effective and as it shall become effective, and 4.1-210 of the Code of Virginia, relating to alcoholic beverage control; definition of municipal golf course; exemption from food sales requirements for mixed beverage restaurant licensees located on the premises of and operated by municipal golf courses.*

[H 1926]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 4.1-100, as it is currently effective and as it shall become effective, and 4.1-210 of the Code of Virginia are amended and reenacted as follows:**

**§ 4.1-100. (Effective until July 1, 2018) Definitions.**

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

"Alcohol" means the product known as ethyl or grain alcohol obtained by distillation of any fermented liquor, rectified either once or more often, whatever the origin, and shall include synthetic ethyl alcohol, but shall not include methyl alcohol and alcohol completely denatured in accordance with formulas approved by the government of the United States.

"Alcohol vaporizing device" means any device, machine, or process that mixes any alcoholic beverages with pure oxygen or other gas to produce a vaporized product for the purpose of consumption by inhalation.

"Alcoholic beverages" includes alcohol, spirits, wine, and beer, and any one or more of such varieties containing one-half of one percent or more of alcohol by volume, including mixed alcoholic beverages, and every liquid or solid, powder or crystal, patented or not, containing alcohol, spirits, wine, or beer and capable of being consumed by a human being. Any liquid or solid containing more than one of the four varieties shall be considered as belonging to that variety which has the higher percentage of alcohol, however obtained, according to the order in which they are set forth in this definition; except that beer may be manufactured to include flavoring materials and other nonbeverage ingredients containing alcohol, as long as no more than 49 percent of the overall alcohol content of the finished product is derived from the addition of flavors and other nonbeverage ingredients containing alcohol for products with an alcohol content of no more than six percent by volume; or, in the case of products with an alcohol content of more than six percent by volume, as long as no more than one and one-half percent of the volume of the finished product consists of alcohol derived from added flavors and other nonbeverage ingredients containing alcohol.

"Art instruction studio" means any commercial establishment that provides to its customers all required supplies and step-by-step instruction in creating a painting or other work of art during a studio instructional session.

"Arts venue" means a commercial or nonprofit establishment that is open to the public and in which works of art are sold or displayed.

"Barrel" means any container or vessel having a capacity of more than 43 ounces.

"Bed and breakfast establishment" means any establishment (i) having no more than 15 bedrooms; (ii) offering to the public, for compensation, transitory lodging or sleeping accommodations; and (iii) offering at least one meal per day, which may but need not be breakfast, to each person to whom overnight lodging is provided.

"Beer" means any alcoholic beverage obtained by the fermentation of an infusion or decoction of barley, malt, and hops or of any similar products in drinkable water and containing one-half of one percent or more of alcohol by volume.

"Board" means the Virginia Alcoholic Beverage Control Board.

"Bottle" means any vessel intended to contain liquids and having a capacity of not more than 43 ounces.

"Canal boat operator" means any nonprofit organization that operates tourism-oriented canal boats for recreational purposes on waterways declared nonnavigable by the United States Congress pursuant to 33 U.S.C. § 59ii.

"Club" means any private nonprofit corporation or association which is the owner, lessee, or occupant of an establishment operated solely for a national, social, patriotic, political, athletic, or other like purpose, but not for pecuniary gain, the advantages of which belong to all of the members. It also means the establishment so operated. A corporation or association shall not lose its status as a club because of the conduct of charitable gaming conducted pursuant to Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2 in which nonmembers participate frequently or in large numbers, provided that no alcoholic beverages are served or consumed in the room where such charitable gaming is being conducted while such gaming is being conducted and that no alcoholic beverages are made available upon the premises to any person who is neither a member nor a bona fide guest of a member.

Any such corporation or association which has been declared exempt from federal and state income taxes as one which is not organized and operated for pecuniary gain or profit shall be deemed a nonprofit corporation or association.

"Container" means any barrel, bottle, carton, keg, vessel or other receptacle used for holding alcoholic beverages.

"Contract winemaking facility" means the premises of a licensed winery or farm winery that obtains grapes, fruits, and other agricultural products from a person holding a farm winery license and crushes, processes, ferments, bottles, or provides any combination of such services pursuant to an agreement with the farm winery licensee. For all purposes of this title, wine produced by a contract winemaking facility for a farm winery shall be considered to be wine owned and produced by the farm winery that supplied the grapes, fruits, or other agricultural products used in the production of the wine. The contract winemaking facility shall have no right to sell the wine so produced, unless the terms of payment have not been fulfilled in accordance with the contract. The contract winemaking facility may charge the farm winery for its services.

"Convenience grocery store" means an establishment which (i) has an enclosed room in a permanent structure where stock is displayed and offered for sale and (ii) maintains an inventory of edible items intended for human consumption consisting of a variety of such items of the types normally sold in grocery stores.

"Day spa" means any commercial establishment that offers to the public both massage therapy, performed by persons licensed in accordance with § 54.1-3029, and barbering or cosmetology services performed by persons licensed in accordance with Chapter 7 (§ 54.1-700 et seq.) of Title 54.1.

"Designated area" means a room or area approved by the Board for on-premises licensees.

"Dining area" means a public room or area in which meals are regularly served.

"Establishment" means any place where alcoholic beverages of one or more varieties are lawfully manufactured, sold, or used.

"Farm winery" means (i) an establishment (a) located on a farm in the Commonwealth on land zoned agricultural with a producing vineyard, orchard, or similar growing area and with facilities for fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains not more than 21 percent alcohol by volume or (b) located in the Commonwealth on land zoned agricultural with a producing vineyard, orchard, or similar growing area or agreements for purchasing grapes or other fruits from agricultural growers within the Commonwealth and with facilities for fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains not more than 21 percent alcohol by volume or (ii) an accredited public or private institution of higher education, provided that (a) no wine manufactured by the institution shall be sold, (b) the wine manufactured by the institution shall be used solely for research and educational purposes, (c) the wine manufactured by the institution shall be stored on the premises of such farm winery that shall be separate and apart from all other facilities of the institution, and (d) such farm winery is operated in strict conformance with the requirements of this clause (ii) and Board regulations. As used in this definition, the terms "owner" and "lessee" shall include a cooperative formed by an association of individuals for the purpose of manufacturing wine. In the event that such cooperative is licensed as a farm winery, the term "farm" as used in this definition includes all of the land owned or leased by the individual members of the cooperative as long as such land is located in the Commonwealth. For purposes of this definition, "land zoned agricultural" means (1) land zoned as an agricultural district or classification or (2) land otherwise permitted by a locality for farm winery use. For purposes of this definition, "land zoned agricultural" does not include land zoned "residential conservation." Except for the limitation on land zoned "residential conservation," nothing in the definition of "land zoned agricultural" shall otherwise limit or affect local zoning authority.

"Gift shop" means any bona fide retail store selling, predominantly, gifts, books, souvenirs, specialty items relating to history, original and handmade arts and products, collectibles, crafts, and floral arrangements, which is open to the public on a regular basis. Such shop shall be a permanent structure where stock is displayed and offered for sale and which has facilities to properly secure any stock of wine or beer. Such shop may be located (i) on the premises or grounds of a government registered national, state or local historic building or site or (ii) within the premises of a museum. The Board shall consider the purpose, characteristics, nature, and operation of the shop in determining whether it shall be considered a gift shop.

"Gourmet brewing shop" means an establishment which sells to persons to whom wine or beer may lawfully be sold, ingredients for making wine or brewing beer, including packaging, and rents to such persons facilities for manufacturing, fermenting and bottling such wine or beer.

"Gourmet shop" means an establishment provided with adequate inventory, shelving, and storage facilities, where, in consideration of payment, substantial amounts of domestic and imported wines and beers of various types and sizes and related products such as cheeses and gourmet foods are habitually furnished to persons.

"Government store" means a store established by the Board for the sale of alcoholic beverages.

"Hotel" means any duly licensed establishment, provided with special space and accommodation, where, in consideration of payment, food and lodging are habitually furnished to persons, and which has four or more bedrooms. It shall also mean the person who operates such hotel.

"Interdicted person" means a person to whom the sale of alcoholic beverages is prohibited by order pursuant to this title.

"Internet wine retailer" means a person who owns or operates an establishment with adequate inventory, shelving, and storage facilities, where, in consideration of payment, internet or telephone orders are taken and shipped directly to consumers and which establishment is not a retail store open to the public.

"Intoxicated" means a condition in which a person has drunk enough alcoholic beverages to observably affect his manner, disposition, speech, muscular movement, general appearance or behavior.

"Licensed" means the holding of a valid license issued by the Board.

"Licensee" means any person to whom a license has been granted by the Board.

"Liqueur" means any of a class of highly flavored alcoholic beverages that do not exceed an alcohol content of 25 percent by volume.

"Low alcohol beverage cooler" means a drink containing one-half of one percent or more of alcohol by volume, but not more than seven and one-half percent alcohol by volume, and consisting of spirits mixed with nonalcoholic beverages or flavoring or coloring materials; it may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, preservatives or other similar products manufactured by fermenting fruit or fruit juices. Low alcohol beverage coolers shall be treated as wine for all purposes of this title; except that low alcohol beverage coolers shall not be sold in localities that have not approved the sale of mixed beverages pursuant to § 4.1-124. In addition, low alcohol beverage coolers shall not be sold for on-premises consumption other than by mixed beverage licensees.

"Meal-assembly kitchen" means any commercial establishment that offers its customers, for off-premises consumption, ingredients for the preparation of meals and entrees in professional kitchen facilities located at the establishment.

"Meals" means, for a mixed beverage license, an assortment of foods commonly ordered in bona fide, full-service restaurants as principal meals of the day. Such restaurants shall include establishments specializing in full course meals with a single substantial entree.

"Member of a club" means (i) a person who maintains his membership in the club by the payment of monthly, quarterly, or annual dues in the manner established by the rules and regulations thereof or (ii) a person who is a member of a bona fide auxiliary, local chapter, or squadron composed of direct lineal descendants of a bona fide member, whether alive or deceased, of a national or international organization to which an individual lodge holding a club license is an authorized member in the same locality. It shall also mean a lifetime member whose financial contribution is not less than 10 times the annual dues of resident members of the club, the full amount of such contribution being paid in advance in a lump sum.

"Mixed beverage" or "mixed alcoholic beverage" means a drink composed in whole or in part of spirits.

"Mixer" means any prepackaged ingredients containing beverages or flavoring or coloring materials, and which may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives which are not commonly consumed unless combined with alcoholic beverages, whether or not such ingredients contain alcohol. Such specialty beverage product shall be manufactured or distributed by a Virginia corporation.

*"Municipal golf course" means any golf course that is owned by any town incorporated in 1849 and which is the county seat of Smyth County.*

"Place or premises" means the real estate, together with any buildings or other improvements thereon, designated in the application for a license as the place at which the manufacture, bottling, distribution, use or sale of alcoholic beverages shall be performed, except that portion of any such building or other improvement actually and exclusively used as a private residence.

"Public place" means any place, building, or conveyance to which the public has, or is permitted to have, access, including restaurants, soda fountains, hotel dining areas, lobbies and corridors of hotels, and any park, place of public resort or amusement, highway, street, lane, or sidewalk adjoining any highway, street, or lane.

The term shall not include (i) hotel or restaurant dining areas or ballrooms while in use for private meetings or private parties limited in attendance to members and guests of a particular group, association or organization; (ii) restaurants licensed by the Board in office buildings or industrial or similar facilities while such restaurant is closed to the public and in use for private meetings or parties limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such building or facility; (iii) offices, office buildings or industrial facilities while closed to the public and in use for private meetings or parties limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such building or facility; or (iv) private recreational or chartered boats which are not licensed by the Board and on which alcoholic beverages are not sold.

"Residence" means any building or part of a building or structure where a person resides, but does not include any part of a building which is not actually and exclusively used as a private residence, nor any part of a hotel or club other than a private guest room thereof.

"Resort complex" means a facility (i) with a hotel owning year-round sports and recreational facilities located contiguously on the same property or (ii) owned by a nonstock, nonprofit, taxable corporation with voluntary membership which, as its primary function, makes available golf, ski and other recreational facilities both to its members and the general public. The hotel or corporation shall have a minimum of 140 private guest rooms or dwelling units contained on not less than 50 acres. The Board may consider the purpose, characteristics, and operation of the applicant establishment in determining whether it shall be considered as a resort complex. All other pertinent qualifications established by the Board for a hotel operation shall be observed by such licensee.

"Restaurant" means, for a beer, or wine and beer license or a limited mixed beverage restaurant license, any establishment provided with special space and accommodation, where, in consideration of payment, meals or other foods prepared on the premises are regularly sold.

"Restaurant" means, for a mixed beverage license other than a limited mixed beverage restaurant license, an established place of business (i) where meals with substantial entrees are regularly sold and (ii) which has adequate facilities and sufficient employees for cooking, preparing, and serving such meals for consumption at tables in dining areas on the premises, and includes establishments specializing in full course meals with a single substantial entree.

"Sale" and "sell" includes soliciting or receiving an order for; keeping, offering or exposing for sale; peddling, exchanging or bartering; or delivering otherwise than gratuitously, by any means, alcoholic beverages.

"Sangria" means a drink consisting of red or white wine mixed with some combination of sweeteners, fruit, fruit juice, soda, or soda water that may also be mixed with brandy, triple sec, or other similar spirits.

"Special agent" means an employee of the Department of Alcoholic Beverage Control whom the Board has designated as a law-enforcement officer pursuant to § 4.1-105.

"Special event" means an event sponsored by a duly organized nonprofit corporation or association and conducted for an athletic, charitable, civic, educational, political, or religious purpose.

"Spirits" means any beverage which contains alcohol obtained by distillation mixed with drinkable water and other substances, in solution, and includes, among other things, brandy, rum, whiskey, and gin, or any one or more of the last four named ingredients; but shall not include any such liquors completely denatured in accordance with formulas approved by the United States government.

"Wine" means any alcoholic beverage obtained by the fermentation of the natural sugar content of fruits or other agricultural products containing (i) sugar, including honey and milk, either with or without additional sugar; (ii) one-half of one percent or more of alcohol by volume; and (iii) no product of distillation. The term includes any wine to which wine spirits have been added, as provided in the Internal Revenue Code, to make products commonly known as "fortified wine" which do not exceed an alcohol content of 21 percent by volume.

"Wine cooler" means a drink containing one-half of one percent or more of alcohol by volume, and not more than three and two-tenths percent of alcohol by weight or four percent by volume consisting of wine mixed with nonalcoholic beverages or flavoring or coloring materials, and which may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives and shall include other similar products manufactured by fermenting fruit or fruit juices. Wine coolers and similar fermented fruit juice beverages shall be treated as wine for all purposes except for taxation under § 4.1-236.

"With or without meals" means the selling and serving of alcoholic beverages by retail licensees for on-premises consumption whether or not accompanied by food so long as the total food-beverage ratio required by § 4.1-210, or the monthly food sale requirement established by Board regulation, is met by such retail licensee.

**§ 4.1-100. (Effective July 1, 2018) Definitions.**

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

"Alcohol" means the product known as ethyl or grain alcohol obtained by distillation of any fermented liquor, rectified either once or more often, whatever the origin, and shall include synthetic ethyl alcohol, but shall not include methyl alcohol and alcohol completely denatured in accordance with formulas approved by the government of the United States.

"Alcohol vaporizing device" means any device, machine, or process that mixes any alcoholic beverages with pure oxygen or other gas to produce a vaporized product for the purpose of consumption by inhalation.

"Alcoholic beverages" includes alcohol, spirits, wine, and beer, and any one or more of such varieties containing one-half of one percent or more of alcohol by volume, including mixed alcoholic beverages, and every liquid or solid, powder or crystal, patented or not, containing alcohol, spirits, wine, or beer and capable of being consumed by a human being. Any liquid or solid containing more than one of the four varieties shall be considered as belonging to that variety which has the higher percentage of alcohol, however obtained, according to the order in which they are set forth in this definition; except that beer may be manufactured to include flavoring materials and other nonbeverage ingredients containing alcohol, as long as no more than 49 percent of the overall alcohol content of the finished product is derived from the addition of flavors and other nonbeverage ingredients containing alcohol for products with an alcohol content of no more than six percent by volume; or, in the case of products with an alcohol content of more than six percent by volume, as long as no more than one and one-half percent of the volume of the finished product consists of alcohol derived from added flavors and other nonbeverage ingredients containing alcohol.

"Art instruction studio" means any commercial establishment that provides to its customers all required supplies and step-by-step instruction in creating a painting or other work of art during a studio instructional session.

"Arts venue" means a commercial or nonprofit establishment that is open to the public and in which works of art are sold or displayed.

"Authority" means the Virginia Alcoholic Beverage Control Authority created pursuant to this title.

"Barrel" means any container or vessel having a capacity of more than 43 ounces.

"Bed and breakfast establishment" means any establishment (i) having no more than 15 bedrooms; (ii) offering to the public, for compensation, transitory lodging or sleeping accommodations; and (iii) offering at least one meal per day, which may but need not be breakfast, to each person to whom overnight lodging is provided.

"Beer" means any alcoholic beverage obtained by the fermentation of an infusion or decoction of barley, malt, and hops or of any similar products in drinkable water and containing one-half of one percent or more of alcohol by volume.

"Board" means the Board of Directors of the Virginia Alcoholic Beverage Control Authority.

"Bottle" means any vessel intended to contain liquids and having a capacity of not more than 43 ounces.

"Canal boat operator" means any nonprofit organization that operates tourism-oriented canal boats for recreational purposes on waterways declared nonnavigable by the United States Congress pursuant to 33 U.S.C. § 59ii.

"Club" means any private nonprofit corporation or association which is the owner, lessee, or occupant of an establishment operated solely for a national, social, patriotic, political, athletic, or other like purpose, but not for pecuniary

gain, the advantages of which belong to all of the members. It also means the establishment so operated. A corporation or association shall not lose its status as a club because of the conduct of charitable gaming conducted pursuant to Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2 in which nonmembers participate frequently or in large numbers, provided that no alcoholic beverages are served or consumed in the room where such charitable gaming is being conducted while such gaming is being conducted and that no alcoholic beverages are made available upon the premises to any person who is neither a member nor a bona fide guest of a member.

Any such corporation or association which has been declared exempt from federal and state income taxes as one which is not organized and operated for pecuniary gain or profit shall be deemed a nonprofit corporation or association.

"Container" means any barrel, bottle, carton, keg, vessel or other receptacle used for holding alcoholic beverages.

"Contract winemaking facility" means the premises of a licensed winery or farm winery that obtains grapes, fruits, and other agricultural products from a person holding a farm winery license and crushes, processes, ferments, bottles, or provides any combination of such services pursuant to an agreement with the farm winery licensee. For all purposes of this title, wine produced by a contract winemaking facility for a farm winery shall be considered to be wine owned and produced by the farm winery that supplied the grapes, fruits, or other agricultural products used in the production of the wine. The contract winemaking facility shall have no right to sell the wine so produced, unless the terms of payment have not been fulfilled in accordance with the contract. The contract winemaking facility may charge the farm winery for its services.

"Convenience grocery store" means an establishment which (i) has an enclosed room in a permanent structure where stock is displayed and offered for sale and (ii) maintains an inventory of edible items intended for human consumption consisting of a variety of such items of the types normally sold in grocery stores.

"Day spa" means any commercial establishment that offers to the public both massage therapy, performed by persons licensed in accordance with § 54.1-3029, and barbering or cosmetology services performed by persons licensed in accordance with Chapter 7 (§ 54.1-700 et seq.) of Title 54.1.

"Designated area" means a room or area approved by the Board for on-premises licensees.

"Dining area" means a public room or area in which meals are regularly served.

"Establishment" means any place where alcoholic beverages of one or more varieties are lawfully manufactured, sold, or used.

"Farm winery" means (i) an establishment (a) located on a farm in the Commonwealth on land zoned agricultural with a producing vineyard, orchard, or similar growing area and with facilities for fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains not more than 21 percent alcohol by volume or (b) located in the Commonwealth on land zoned agricultural with a producing vineyard, orchard, or similar growing area or agreements for purchasing grapes or other fruits from agricultural growers within the Commonwealth and with facilities for fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains not more than 21 percent alcohol by volume or (ii) an accredited public or private institution of higher education, provided that (a) no wine manufactured by the institution shall be sold, (b) the wine manufactured by the institution shall be used solely for research and educational purposes, (c) the wine manufactured by the institution shall be stored on the premises of such farm winery that shall be separate and apart from all other facilities of the institution, and (d) such farm winery is operated in strict conformance with the requirements of this clause (ii) and Board regulations. As used in this definition, the terms "owner" and "lessee" shall include a cooperative formed by an association of individuals for the purpose of manufacturing wine. In the event that such cooperative is licensed as a farm winery, the term "farm" as used in this definition includes all of the land owned or leased by the individual members of the cooperative as long as such land is located in the Commonwealth. For purposes of this definition, "land zoned agricultural" means (1) land zoned as an agricultural district or classification or (2) land otherwise permitted by a locality for farm winery use. For purposes of this definition, "land zoned agricultural" does not include land zoned "residential conservation." Except for the limitation on land zoned "residential conservation," nothing in the definition of "land zoned agricultural" shall otherwise limit or affect local zoning authority.

"Gift shop" means any bona fide retail store selling, predominantly, gifts, books, souvenirs, specialty items relating to history, original and handmade arts and products, collectibles, crafts, and floral arrangements, which is open to the public on a regular basis. Such shop shall be a permanent structure where stock is displayed and offered for sale and which has facilities to properly secure any stock of wine or beer. Such shop may be located (i) on the premises or grounds of a government registered national, state or local historic building or site or (ii) within the premises of a museum. The Board shall consider the purpose, characteristics, nature, and operation of the shop in determining whether it shall be considered a gift shop.

"Gourmet brewing shop" means an establishment which sells to persons to whom wine or beer may lawfully be sold, ingredients for making wine or brewing beer, including packaging, and rents to such persons facilities for manufacturing, fermenting and bottling such wine or beer.

"Gourmet shop" means an establishment provided with adequate inventory, shelving, and storage facilities, where, in consideration of payment, substantial amounts of domestic and imported wines and beers of various types and sizes and related products such as cheeses and gourmet foods are habitually furnished to persons.

"Government store" means a store established by the Authority for the sale of alcoholic beverages.

"Hotel" means any duly licensed establishment, provided with special space and accommodation, where, in consideration of payment, food and lodging are habitually furnished to persons, and which has four or more bedrooms. It shall also mean the person who operates such hotel.

"Interdicted person" means a person to whom the sale of alcoholic beverages is prohibited by order pursuant to this title.

"Internet wine retailer" means a person who owns or operates an establishment with adequate inventory, shelving, and storage facilities, where, in consideration of payment, internet or telephone orders are taken and shipped directly to consumers and which establishment is not a retail store open to the public.

"Intoxicated" means a condition in which a person has drunk enough alcoholic beverages to observably affect his manner, disposition, speech, muscular movement, general appearance or behavior.

"Licensed" means the holding of a valid license granted by the Authority.

"Licensee" means any person to whom a license has been granted by the Authority.

"Liqueur" means any of a class of highly flavored alcoholic beverages that do not exceed an alcohol content of 25 percent by volume.

"Low alcohol beverage cooler" means a drink containing one-half of one percent or more of alcohol by volume, but not more than seven and one-half percent alcohol by volume, and consisting of spirits mixed with nonalcoholic beverages or flavoring or coloring materials; it may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, preservatives or other similar products manufactured by fermenting fruit or fruit juices. Low alcohol beverage coolers shall be treated as wine for all purposes of this title; except that low alcohol beverage coolers shall not be sold in localities that have not approved the sale of mixed beverages pursuant to § 4.1-124. In addition, low alcohol beverage coolers shall not be sold for on-premises consumption other than by mixed beverage licensees.

"Meal-assembly kitchen" means any commercial establishment that offers its customers, for off-premises consumption, ingredients for the preparation of meals and entrees in professional kitchen facilities located at the establishment.

"Meals" means, for a mixed beverage license, an assortment of foods commonly ordered in bona fide, full-service restaurants as principal meals of the day. Such restaurants shall include establishments specializing in full course meals with a single substantial entree.

"Member of a club" means (i) a person who maintains his membership in the club by the payment of monthly, quarterly, or annual dues in the manner established by the rules and regulations thereof or (ii) a person who is a member of a bona fide auxiliary, local chapter, or squadron composed of direct lineal descendants of a bona fide member, whether alive or deceased, of a national or international organization to which an individual lodge holding a club license is an authorized member in the same locality. It shall also mean a lifetime member whose financial contribution is not less than 10 times the annual dues of resident members of the club, the full amount of such contribution being paid in advance in a lump sum.

"Mixed beverage" or "mixed alcoholic beverage" means a drink composed in whole or in part of spirits.

"Mixer" means any prepackaged ingredients containing beverages or flavoring or coloring materials, and which may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives which are not commonly consumed unless combined with alcoholic beverages, whether or not such ingredients contain alcohol. Such specialty beverage product shall be manufactured or distributed by a Virginia corporation.

*"Municipal golf course" means any golf course that is owned by any town incorporated in 1849 and which is the county seat of Smyth County.*

"Place or premises" means the real estate, together with any buildings or other improvements thereon, designated in the application for a license as the place at which the manufacture, bottling, distribution, use or sale of alcoholic beverages shall be performed, except that portion of any such building or other improvement actually and exclusively used as a private residence.

"Principal stockholder" means any person who individually or in concert with his spouse and immediate family members beneficially owns or controls, directly or indirectly, five percent or more of the equity ownership of any person that is a licensee of the Authority, or who in concert with his spouse and immediate family members has the power to vote or cause the vote of five percent or more of any such equity ownership. "Principal stockholder" does not include a broker-dealer registered under the Securities Exchange Act of 1934, as amended, that holds in inventory shares for sale on the financial markets for a publicly traded corporation holding, directly or indirectly, a license from the Authority.

"Public place" means any place, building, or conveyance to which the public has, or is permitted to have, access, including restaurants, soda fountains, hotel dining areas, lobbies and corridors of hotels, and any park, place of public resort or amusement, highway, street, lane, or sidewalk adjoining any highway, street, or lane.

The term shall not include (i) hotel or restaurant dining areas or ballrooms while in use for private meetings or private parties limited in attendance to members and guests of a particular group, association or organization; (ii) restaurants licensed by the Authority in office buildings or industrial or similar facilities while such restaurant is closed to the public and in use for private meetings or parties limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such building or facility; (iii) offices, office buildings or industrial facilities while closed to the public and in use for private meetings or parties limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such building or facility; or (iv) private recreational or chartered boats which are not licensed by the Board and on which alcoholic beverages are not sold.

"Residence" means any building or part of a building or structure where a person resides, but does not include any part of a building which is not actually and exclusively used as a private residence, nor any part of a hotel or club other than a private guest room thereof.

"Resort complex" means a facility (i) with a hotel owning year-round sports and recreational facilities located contiguously on the same property or (ii) owned by a nonstock, nonprofit, taxable corporation with voluntary membership which, as its primary function, makes available golf, ski and other recreational facilities both to its members and the general public. The hotel or corporation shall have a minimum of 140 private guest rooms or dwelling units contained on not less than 50 acres. The Authority may consider the purpose, characteristics, and operation of the applicant establishment in determining whether it shall be considered as a resort complex. All other pertinent qualifications established by the Board for a hotel operation shall be observed by such licensee.

"Restaurant" means, for a beer, or wine and beer license or a limited mixed beverage restaurant license, any establishment provided with special space and accommodation, where, in consideration of payment, meals or other foods prepared on the premises are regularly sold.

"Restaurant" means, for a mixed beverage license other than a limited mixed beverage restaurant license, an established place of business (i) where meals with substantial entrees are regularly sold and (ii) which has adequate facilities and sufficient employees for cooking, preparing, and serving such meals for consumption at tables in dining areas on the premises, and includes establishments specializing in full course meals with a single substantial entree.

"Sale" and "sell" includes soliciting or receiving an order for; keeping, offering or exposing for sale; peddling, exchanging or bartering; or delivering otherwise than gratuitously, by any means, alcoholic beverages.

"Sangria" means a drink consisting of red or white wine mixed with some combination of sweeteners, fruit, fruit juice, soda, or soda water that may also be mixed with brandy, triple sec, or other similar spirits.

"Special agent" means an employee of the Virginia Alcoholic Beverage Control Authority whom the Board has designated as a law-enforcement officer pursuant to § 4.1-105.

"Special event" means an event sponsored by a duly organized nonprofit corporation or association and conducted for an athletic, charitable, civic, educational, political, or religious purpose.

"Spirits" means any beverage which contains alcohol obtained by distillation mixed with drinkable water and other substances, in solution, and includes, among other things, brandy, rum, whiskey, and gin, or any one or more of the last four named ingredients; but shall not include any such liquors completely denatured in accordance with formulas approved by the United States government.

"Wine" means any alcoholic beverage obtained by the fermentation of the natural sugar content of fruits or other agricultural products containing (i) sugar, including honey and milk, either with or without additional sugar; (ii) one-half of one percent or more of alcohol by volume; and (iii) no product of distillation. The term includes any wine to which wine spirits have been added, as provided in the Internal Revenue Code, to make products commonly known as "fortified wine" which do not exceed an alcohol content of 21 percent by volume.

"Wine cooler" means a drink containing one-half of one percent or more of alcohol by volume, and not more than three and two-tenths percent of alcohol by weight or four percent by volume consisting of wine mixed with nonalcoholic beverages or flavoring or coloring materials, and which may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives and shall include other similar products manufactured by fermenting fruit or fruit juices. Wine coolers and similar fermented fruit juice beverages shall be treated as wine for all purposes except for taxation under § 4.1-236.

"With or without meals" means the selling and serving of alcoholic beverages by retail licensees for on-premises consumption whether or not accompanied by food so long as the total food-beverage ratio required by § 4.1-210, or the monthly food sale requirement established by Board regulation, is met by such retail licensee.

#### **§ 4.1-210. Mixed beverages licenses.**

A. Subject to the provisions of § 4.1-124, the Board may grant the following licenses relating to mixed beverages:

1. Mixed beverage restaurant licenses, which shall authorize the licensee to sell and serve mixed beverages for consumption in dining areas and other designated areas of such restaurant. Such license may be granted only to persons (i) who operate a restaurant and (ii) whose gross receipts from the sale of food cooked or prepared, and consumed on the premises and nonalcoholic beverages served on the premises, after issuance of such license, amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food. For the purposes of this subdivision, other designated areas shall include outdoor dining areas, whether or not contiguous to the licensed premises, which outdoor dining areas may have more than one means of ingress and egress to an adjacent public thoroughfare, provided such areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201.

If the restaurant is located on the premises of a hotel or motel with not less than four permanent bedrooms where food and beverage service is customarily provided by the restaurant in designated areas, bedrooms and other private rooms of such hotel or motel, such licensee may (i) sell and serve mixed beverages for consumption in such designated areas, bedrooms and other private rooms and (ii) sell spirits packaged in original closed containers purchased from the Board for on-premises consumption to registered guests and at scheduled functions of such hotel or motel only in such bedrooms or private rooms. However, with regard to a hotel classified as a resort complex, the Board may authorize the sale and on-premises consumption of alcoholic beverages in all areas within the resort complex deemed appropriate by the Board. Nothing herein shall prohibit any person from keeping and consuming his own lawfully acquired spirits in bedrooms or private rooms.

If the restaurant is located on the premises of and operated by a private, nonprofit or profit club exclusively for its members and their guests, or members of another private, nonprofit or profit club in another city with which it has an agreement for reciprocal dining privileges, such license shall also authorize the licensees to sell and serve mixed beverages for on-premises consumption. Where such club prepares no food in its restaurant but purchases its food requirements from a restaurant licensed by the Board and located on another portion of the premises of the same hotel or motel building, this fact shall not prohibit the granting of a license by the Board to such club qualifying in all other respects. The club's gross receipts from the sale of nonalcoholic beverages consumed on the premises and food resold to its members and guests and consumed on the premises shall amount to at least 45 percent of its gross receipts from the sale of mixed beverages and food. The food sales made by a restaurant to such a club shall be excluded in any consideration of the qualifications of such restaurant for a license from the Board.

*If the restaurant is located on the premises of and operated by a municipal golf course, the Board shall recognize the seasonal nature of the business and waive any applicable monthly food sales requirements for those months when weather conditions may reduce patronage of the golf course, provided that prepared food, including meals, is available to patrons during the same months. The gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises, after the issuance of such license, shall amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food on an annualized basis.*

2. Mixed beverage caterer's licenses, which may be granted only to a person regularly engaged in the business of providing food and beverages to others for service at private gatherings or at special events, which shall authorize the licensee to sell and serve alcoholic beverages for on-premises consumption. The annual gross receipts from the sale of food cooked and prepared for service and nonalcoholic beverages served at gatherings and events referred to in this subdivision shall amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food.

3. Mixed beverage limited caterer's licenses, which may be granted only to a person regularly engaged in the business of providing food and beverages to others for service at private gatherings or at special events, not to exceed 12 gatherings or events per year, which shall authorize the licensee to sell and serve alcoholic beverages for on-premises consumption. The annual gross receipts from the sale of food cooked and prepared for service and nonalcoholic beverages served at gatherings and events referred to in this subdivision shall amount to at least 45 percent of the gross receipts from the sale of mixed beverages and food.

4. Mixed beverage special events licenses, to a duly organized nonprofit corporation or association in charge of a special event, which shall authorize the licensee to sell and serve mixed beverages for on-premises consumption in areas approved by the Board on the premises of the place designated in the license. A separate license shall be required for each day of each special event.

5. Annual mixed beverage special events licenses to (i) a duly organized nonprofit corporation or association operating either a performing arts facility or an art education and exhibition facility, (ii) a nonprofit corporation or association chartered by Congress for the preservation of sites, buildings and objects significant in American history and culture, or (iii) persons operating an agricultural event and entertainment park or similar facility that has a minimum of 50,000 square feet of indoor exhibit space and equine and other livestock show areas, which includes barns, pavilions, or other structures equipped with roofs, exterior walls, and open or closed-door access. The operation in all cases shall be upon premises owned by such licensee or occupied under a bona fide lease the original term of which was for more than one year's duration. Such license shall authorize the licensee to sell alcoholic beverages during scheduled events and performances for on-premises consumption in areas upon the licensed premises approved by the Board.

6. Mixed beverage carrier licenses to persons operating a common carrier of passengers by train, boat or airplane, which shall authorize the licensee to sell and serve mixed beverages anywhere in the Commonwealth to passengers while in transit aboard any such common carrier, and in designated rooms of establishments of air carriers at airports in the Commonwealth. For purposes of supplying its airplanes, as well as any airplanes of a licensed express carrier flying under the same brand, an air carrier licensee may appoint an authorized representative to load distilled spirits onto the same airplanes and to transport and store distilled spirits at or in close proximity to the airport where the distilled spirits will be delivered onto airplanes of the air carrier and any such licensed express carrier. The air carrier licensee shall (i) designate for purposes of its license all locations where the inventory of distilled spirits may be stored and from which the distilled spirits will be delivered onto airplanes of the air carrier and any such licensed express carrier and (ii) maintain records of all distilled spirits to be transported, stored, and delivered by its authorized representative.

7. Mixed beverage club events licenses, which shall authorize a club holding a beer or wine and beer club license to sell and serve mixed beverages for on-premises consumption by club members and their guests in areas approved by the Board on the club premises. A separate license shall be required for each day of each club event. No more than 12 such licenses shall be granted to a club in any calendar year.

8. Annual mixed beverage amphitheater licenses to persons operating food concessions at any outdoor performing arts amphitheater, arena or similar facility that has seating for more than 20,000 persons and is located in Prince William County or the City of Virginia Beach. Such license shall authorize the licensee to sell alcoholic beverages during the performance of any event, in paper, plastic or similar disposable containers to patrons within all seating areas, concourses, walkways, concession areas, or similar facilities, for on-premises consumption.

9. Annual mixed beverage amphitheater licenses to persons operating food concessions at any outdoor performing arts amphitheater, arena or similar facility that has seating for more than 5,000 persons and is located in the City of Alexandria

or the City of Portsmouth. Such license shall authorize the licensee to sell alcoholic beverages during the performance of any event, in paper, plastic or similar disposable containers to patrons within all seating areas, concourses, walkways, concession areas, or similar facilities, for on-premises consumption.

10. Annual mixed beverage motor sports facility license to persons operating food concessions at any outdoor motor sports road racing club facility, of which the track surface is 3.27 miles in length, on 1, 200 acres of rural property bordering the Dan River, which shall authorize the licensee to sell mixed beverages, in paper, plastic, or similar disposable containers during scheduled events, as well as events or performances immediately subsequent thereto, to patrons in all dining facilities, seating areas, viewing areas, walkways, concession areas or similar facilities, for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license.

11. Annual mixed beverage banquet licenses to duly organized private nonprofit fraternal, patriotic or charitable membership organizations that are exempt from state and federal taxation and in charge of banquets conducted exclusively for its members and their guests, which shall authorize the licensee to serve mixed beverages for on-premises consumption in areas approved by the Board on the premises of the place designated in the license. Such license shall authorize the licensee to conduct no more than 12 banquets per calendar year.

12. Limited mixed beverage restaurant licenses, which shall authorize the licensee to sell and serve dessert wines as defined by Board regulation and no more than six varieties of liqueurs, which liqueurs shall be combined with coffee or other nonalcoholic beverages, for consumption in dining areas of the restaurant. Such license may be granted only to persons who operate a restaurant and in no event shall the sale of such wine or liqueur-based drinks, together with the sale of any other alcoholic beverages, exceed 10 percent of the total annual gross sales of all food and alcoholic beverages.

13. Annual mixed beverage motor sports facility licenses to persons operating concessions at an outdoor motor sports facility that hosts a NASCAR national touring race, which shall authorize the licensee to sell mixed beverages, in paper, plastic, or similar disposable containers during scheduled events, as well as events or performances immediately subsequent thereto, to patrons in all dining facilities, seating areas, viewing areas, walkways, concession areas or similar facilities, for on-premises consumption.

14. Annual mixed beverage performing arts facility license to corporations or associations operating a performing arts facility, provided the performing arts facility (i) is owned by a governmental entity; (ii) is occupied by a for-profit entity under a bona fide lease, the original term of which was for more than one year's duration; and (iii) has been rehabilitated in accordance with historic preservation standards. Such license shall authorize the sale, on the dates of performances or events, of alcoholic beverages for on-premises consumption in areas upon the licensed premises approved by the Board.

15. Annual mixed beverage performing arts facility license to persons operating food concessions at any performing arts facility located in the City of Norfolk or the City of Richmond, provided that the performing arts facility (i) is occupied under a bona fide long-term lease or concession agreement, the original term of which was more than five years; (ii) has a capacity in excess of 1,400 patrons; (iii) has been rehabilitated in accordance with historic preservation standards; and (iv) has monthly gross receipts from the sale of food cooked, or prepared, and consumed on the premises and nonalcoholic beverages served on the premises that meet or exceed the monthly minimum established by Board regulations for mixed beverage restaurants. Such license shall authorize the sale, on the dates of performances or events, of alcoholic beverages for on-premises consumption in areas upon the licensed premises approved by the Board.

16. Annual mixed beverage performing arts facility license to persons operating food concessions at any performing arts facility located in the City of Waynesboro, provided that the performing arts facility (i) is occupied under a bona fide long-term lease or concession agreement, the original term of which was more than five years; (ii) has a total capacity in excess of 550 patrons; and (iii) has been rehabilitated in accordance with historic preservation standards. Such license shall authorize the sale, on the dates of performances or private or special events, of alcoholic beverages for on-premises consumption in areas upon the licensed premises approved by the Board.

17. A combined mixed beverage restaurant and caterer's license, which may be granted to any restaurant or hotel that meets the qualifications for both a mixed beverage restaurant pursuant to subdivision A 1 and mixed beverage caterer pursuant to subdivision A 2 for the same business location, and which license shall authorize the licensee to operate as both a mixed beverage restaurant and mixed beverage caterer at the same business premises designated in the license, with a common alcoholic beverage inventory for purposes of the restaurant and catering operations. Such licensee shall meet the separate food qualifications established for the mixed beverage restaurant license pursuant to subdivision A 1 and mixed beverage caterer's license pursuant to subdivision A 2.

B. The granting of any license under subdivision A 1, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, or 17 shall automatically include a license to sell and serve wine and beer for on-premises consumption. The licensee shall pay the state and local taxes required by §§ 4.1-231 and 4.1-233.

## CHAPTER 586

*An Act to amend and reenact § 8.01-223.2 of the Code of Virginia, relating to immunity of persons; defamation; statements regarding matters of public concern communicated to a third party.*

[H 1941]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 8.01-223.2 of the Code of Virginia is amended and reenacted as follows:**

**§ 8.01-223.2. Immunity of persons for statements made at public hearing or communicated to third party.**

A. A person shall be immune from civil liability for a violation of § 18.2-499 ~~or~~, a claim of tortious interference with an existing contract or a business or contractual expectancy, *or a claim of defamation based solely on statements (i) regarding matters of public concern that would be protected under the First Amendment to the United States Constitution made by that person that are communicated to a third party or (ii) made at a public hearing before the governing body of any locality or other political subdivision, or the boards, commissions, agencies and authorities thereof, and other governing bodies of any local governmental entity concerning matters properly before such body. The immunity provided by this section shall not apply to any statements made with actual or constructive knowledge that they are false; or with reckless disregard for whether they are false.*

B. Any person who has a suit against him dismissed pursuant to the immunity provided by this section may be awarded reasonable attorney fees and costs.

**CHAPTER 587**

*An Act to amend and reenact §§ 2.2-3705.7 and 2.2-3711 of the Code of Virginia, relating to the Virginia Freedom of Information Act; record and meeting exclusions for multidisciplinary child sexual abuse response teams; meeting exclusion for criminal sexual assault response teams.*

[H 1971]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 2.2-3705.7 and 2.2-3711 of the Code of Virginia are amended and reenacted as follows:**

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

The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01.

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

2. Working papers and correspondence of the Office of the Governor; the Lieutenant Governor; the Attorney General; the members of the General Assembly, the Division of Legislative Services, or the Clerks of the House of Delegates and the Senate of Virginia; the mayor or chief executive officer of any political subdivision of the Commonwealth; or the president or other chief executive officer of any public institution of higher education in Virginia. However, no information that is otherwise open to inspection under this chapter shall be deemed excluded by virtue of the fact that it has been attached to or incorporated within any working paper or correspondence. Nothing in this subdivision shall be construed to authorize the withholding of any resumes or applications submitted by persons who are appointed by the Governor pursuant to § 2.2-106 or 2.2-107.

As used in this subdivision:

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

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

"Working papers" means those records prepared by or for an above-named public official for his personal or deliberative use.

3. Information contained in library records that can be used to identify both (i) any library patron who has borrowed material from a library and (ii) the material such patron borrowed.

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

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

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

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

8. Personal information, as defined in § 2.2-3801, (i) filed with the Virginia Housing Development Authority concerning individuals who have applied for or received loans or other housing assistance or who have applied for occupancy of or have occupied housing financed, owned or otherwise assisted by the Virginia Housing Development Authority; (ii) concerning persons participating in or persons on the waiting list for federally funded rent-assistance programs; (iii) filed with any local redevelopment and housing authority created pursuant to § 36-4 concerning persons participating in or persons on the waiting list for housing assistance programs funded by local governments or by any such authority; or (iv) filed with any local redevelopment and housing authority created pursuant to § 36-4 or any other local government agency concerning persons who have applied for occupancy or who have occupied affordable dwelling units established pursuant to § 15.2-2304 or 15.2-2305. However, access to one's own information shall not be denied.

9. Information regarding the siting of hazardous waste facilities, except as provided in § 10.1-1441, if disclosure of such information would have a detrimental effect upon the negotiating position of a governing body or on the establishment of the terms, conditions, and provisions of the siting agreement.

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

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

12. Information held by the Virginia Retirement System, acting pursuant to § 51.1-124.30, or a local retirement system, acting pursuant to § 51.1-803, or the Rector and Visitors of the University of Virginia, acting pursuant to § 23.1-2210, or the Virginia College Savings Plan, acting pursuant to § 23.1-704, relating to the acquisition, holding, or disposition of a security or other ownership interest in an entity, where such security or ownership interest is not traded on a governmentally regulated securities exchange, if disclosure of such information would (i) reveal confidential analyses prepared for the Rector and Visitors of the University of Virginia, prepared by the retirement system or the Virginia College Savings Plan, or provided to the retirement system or the Virginia College Savings Plan under a promise of confidentiality of the future value of such ownership interest or the future financial performance of the entity and (ii) have an adverse effect on the value of the investment to be acquired, held, or disposed of by the retirement system, the Rector and Visitors of the University of Virginia, or the Virginia College Savings Plan. Nothing in this subdivision shall be construed to authorize the withholding of information relating to the identity of any investment held, the amount invested, or the present value of such investment.

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

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

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

16. Information held by the Department of Environmental Quality, the State Water Control Board, the State Air Pollution Control Board, or the Virginia Waste Management Board relating to (i) active federal environmental enforcement actions that are considered confidential under federal law and (ii) enforcement strategies, including proposed sanctions for

enforcement actions. Upon request, such information shall be disclosed after a proposed sanction resulting from the investigation has been proposed to the director of the agency. This subdivision shall not be construed to authorize the withholding of information related to inspection reports, notices of violation, and documents detailing the nature of any environmental contamination that may have occurred or similar documents.

17. Information related to the operation of toll facilities that identifies an individual, vehicle, or travel itinerary, including vehicle identification data or vehicle enforcement system information; video or photographic images; Social Security or other identification numbers appearing on driver's licenses; credit card or bank account data; home addresses; phone numbers; or records of the date or time of toll facility use.

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

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

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

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

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

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

24. Information held by the Judicial Inquiry and Review Commission made confidential by § 17.1-913.

25. Information held by the Virginia Retirement System acting pursuant to § 51.1-124.30, a local retirement system acting pursuant to § 51.1-803 (hereinafter collectively referred to as the retirement system), or the Virginia College Savings Plan, acting pursuant to § 23.1-704 relating to:

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

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

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

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

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

(3) Stating the reasons why protection is necessary.

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

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

26. Information held by the Department of Corrections made confidential by § 53.1-233.

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

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

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

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

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

32. Information provided to the Department of Aviation by other entities of the Commonwealth in connection with the operation of aircraft where the information would not be subject to disclosure by the entity providing the information. The entity providing the information to the Department of Aviation shall identify the specific information to be protected and the applicable provision of this chapter that excludes the information from mandatory disclosure.

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

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

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

- a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;
- b. Identifying with specificity the data or other materials for which protection is sought; and
- c. Stating the reasons why protection is necessary.

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

35. Information reflecting the substance of meetings in which (i) individual sexual assault cases are discussed by any sexual assault team established pursuant to § 15.2-1627.4 or (ii) individual child abuse or neglect cases or sex offenses involving a child are discussed by multidisciplinary child abuse teams established pursuant to § 15.2-1627.5. The findings of ~~the~~ any such team may be disclosed or published in statistical or other aggregated form that does not disclose the identity of specific individuals.

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

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

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

shall be construed to authorize a closed meeting by a local governing body or an elected school board to discuss compensation matters that affect the membership of such body or board collectively.

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

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

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

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

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

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

8. In the case of boards of visitors of public institutions of higher education, discussion or consideration of matters relating to gifts, bequests and fund-raising activities, and grants and contracts for services or work to be performed by such institution. However, the terms and conditions of any such gifts, bequests, grants, and contracts made by a foreign government, a foreign legal entity, or a foreign person and accepted by a public institution of higher education in Virginia shall be subject to public disclosure upon written request to the appropriate board of visitors. For the purpose of this subdivision, (i) "foreign government" means any government other than the United States government or the government of a state or a political subdivision thereof; (ii) "foreign legal entity" means any legal entity created under the laws of the United States or of any state thereof if a majority of the ownership of the stock of such legal entity is owned by foreign governments or foreign persons or if a majority of the membership of any such entity is composed of foreign persons or foreign legal entities, or any legal entity created under the laws of a foreign government; and (iii) "foreign person" means any individual who is not a citizen or national of the United States or a trust territory or protectorate thereof.

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

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

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

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

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

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

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

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

17. Those portions of meetings by local government crime commissions where the identity of, or information tending to identify, individuals providing information about crimes or criminal activities under a promise of anonymity is discussed or disclosed.

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

19. Discussion of plans to protect public safety as it relates to terrorist activity or specific cybersecurity threats or vulnerabilities and briefings by staff members, legal counsel, or law-enforcement or emergency service officials concerning actions taken to respond to such matters or a related threat to public safety; discussion of information excluded from this chapter pursuant to subdivision 3 or 4 of § 2.2-3705.2, where discussion in an open meeting would jeopardize the safety of any person or the security of any facility, building, structure, information technology system, or software program; or discussion of reports or plans related to the security of any governmental facility, building or structure, or the safety of persons using such facility, building or structure.

20. Discussion by the Board of the Virginia Retirement System, acting pursuant to § 51.1-124.30, or of any local retirement system, acting pursuant to § 51.1-803, or of the Rector and Visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the Board of the Virginia College Savings Plan, acting pursuant to § 23.1-706, regarding the acquisition, holding or disposition of a security or other ownership interest in an entity, where such security or ownership interest is not traded on a governmentally regulated securities exchange, to the extent that such discussion (i) concerns confidential analyses prepared for the Rector and Visitors of the University of Virginia, prepared by the retirement system or by the Virginia College Savings Plan or provided to the retirement system or the Virginia College Savings Plan under a promise of confidentiality, of the future value of such ownership interest or the future financial performance of the entity, and (ii) would have an adverse effect on the value of the investment to be acquired, held or disposed of by the retirement system, the Rector and Visitors of the University of Virginia, or the Virginia College Savings Plan. Nothing in this subdivision shall be construed to prevent the disclosure of information relating to the identity of any investment held, the amount invested or the present value of such investment.

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

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

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

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

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

26. Discussion or consideration, by the Wireless Carrier E-911 Cost Recovery Subcommittee created pursuant to § 56-484.15, of trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), submitted by CMRS providers as defined in § 56-484.12, related to the provision of wireless E-911 service.

27. Those portions of disciplinary proceedings by any regulatory board within the Department of Professional and Occupational Regulation, Department of Health Professions, or the Board of Accountancy conducted pursuant to

§ 2.2-4019 or 2.2-4020 during which the board deliberates to reach a decision or meetings of health regulatory boards or conference committees of such boards to consider settlement proposals in pending disciplinary actions or modifications to previously issued board orders as requested by either of the parties.

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

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

30. Discussion or consideration of grant or loan application information excluded from this chapter pursuant to subdivision 17 of § 2.2-3705.6 by (i) the Commonwealth Health Research Board or (ii) the Innovation and Entrepreneurship Investment Authority or the Research and Technology Investment Advisory Committee appointed to advise the Innovation and Entrepreneurship Investment Authority.

31. Discussion or consideration by the Commitment Review Committee of information excluded from this chapter pursuant to subdivision 8 of § 2.2-3705.2 relating to individuals subject to commitment as sexually violent predators under Chapter 9 (§ 37.2-900 et seq.) of Title 37.2.

32. [Expired.]

33. Discussion or consideration of confidential proprietary information and trade secrets excluded from this chapter pursuant to subdivision 18 of § 2.2-3705.6. However, the exemption provided by this subdivision shall not apply to any authority created pursuant to the BVU Authority Act (§ 15.2-7200 et seq.).

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

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

36. Discussion or consideration by the Forensic Science Board or the Scientific Advisory Committee created pursuant to Article 2 (§ 9.1-1109 et seq.) of Chapter 11 of Title 9.1 of records excluded from this chapter pursuant to subdivision A 2 a of § 2.2-3706.

37. Discussion or consideration by the Brown v. Board of Education Scholarship Program Awards Committee of information or confidential matters excluded from this chapter pursuant to subdivision 3 of § 2.2-3705.4, and meetings of the Committee to deliberate concerning the annual maximum scholarship award, review and consider scholarship applications and requests for scholarship award renewal, and cancel, rescind, or recover scholarship awards.

38. Discussion or consideration by the Virginia Port Authority of information excluded from this chapter pursuant to subdivision 1 of § 2.2-3705.6.

39. Discussion or consideration by the Board of Trustees of the Virginia Retirement System acting pursuant to § 51.1-124.30, by the Investment Advisory Committee appointed pursuant to § 51.1-124.26, by any local retirement system, acting pursuant to § 51.1-803, by the Board of the Virginia College Savings Plan acting pursuant to § 23.1-706, or by the Virginia College Savings Plan's Investment Advisory Committee appointed pursuant to § 23.1-702 of information excluded from this chapter pursuant to subdivision 25 of § 2.2-3705.7.

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

41. Discussion or consideration by the Board of Education of information relating to the denial, suspension, or revocation of teacher licenses excluded from this chapter pursuant to subdivision 12 of § 2.2-3705.3.

42. Those portions of meetings of the Virginia Military Advisory Council or any commission created by executive order for the purpose of studying and making recommendations regarding preventing closure or realignment of federal military and national security installations and facilities located in Virginia and relocation of such facilities to Virginia, or a local or regional military affairs organization appointed by a local governing body, during which there is discussion of information excluded from this chapter pursuant to subdivision 11 of § 2.2-3705.2.

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

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

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

46. Discussion or consideration of personal and proprietary information that are excluded from the provisions of this chapter pursuant to (i) subdivision 25 of § 2.2-3705.6 or (ii) subsection E of § 10.1-104.7. This exclusion shall not apply to the discussion or consideration of records that contain information that has been certified for release by the person who is the subject of the information or transformed into a statistical or aggregate form that does not allow identification of the person who supplied, or is the subject of, the information.

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

48. Discussion or consideration of grant or loan application records excluded from this chapter pursuant to subdivision 28 of § 2.2-3705.6 related to the submission of an application for an award from the Virginia Research Investment Fund pursuant to Article 8 (§ 23.1-3130 et seq.) of Chapter 31 of Title 23.1.

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

50. Discussion or consideration of (i) individual sexual assault cases by a sexual assault team established pursuant to § 15.2-1627.4 or (ii) individual child abuse or neglect cases or sex offenses involving a child by a child abuse team established pursuant to § 15.2-1627.5.

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

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

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

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

## CHAPTER 588

*An Act to amend and reenact § 38.2-3407.3 of the Code of Virginia, relating to health insurance; calculation of cost-sharing provisions.*

[H 2037]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 38.2-3407.3 of the Code of Virginia is amended and reenacted as follows:**

**§ 38.2-3407.3. Calculation of cost-sharing provisions.**

A. An insurer, health services plan, or health maintenance organization that issues an accident and sickness insurance policy or contract pursuant to which the insured, subscriber or enrollee is required to pay a specified percentage of the cost of covered services, shall calculate such amount payable based upon an amount not to exceed the total amount actually paid or payable to the provider of such services for the services provided to the insured, subscriber, or enrollee. *When there is no amount actually paid or payable to the provider by the insurer, health services plan, or health maintenance organization for the services provided, the insurer, health services plan, or health maintenance organization shall use such insurer's, health services plan's, or health maintenance organization's pre-established allowed amount to calculate the amount payable by the insured for such services.* When an insured, subscriber, or enrollee receives covered services outside the insurer's, health services plan's, or health maintenance organization's provider network, and such entity utilizes another insurer's, health services plan's, or health maintenance organization's provider network located outside the Commonwealth, such entity may satisfy the obligation of this section by using the cost of services as reported by the out-of-state insurer, health services plan, or health maintenance organization when calculating the insured's, subscriber's, or enrollee's percentage of the cost of covered services.

B. Any insurer, health services plan, or health maintenance organization failing to administer its contracts as set forth herein shall be deemed to have committed a knowing and willful violation of this section, and shall be punished as set forth in subsection A of § 38.2-218. Each claim payment found to have been calculated in noncompliance with this section shall be deemed a separate and distinct violation, and shall further be deemed a violation subject to subdivision D 1 c of § 38.2-218, permitting the Commission to require restitution in addition to any other penalties.

## CHAPTER 589

*An Act to amend and reenact § 4.1-126 of the Code of Virginia, relating to alcoholic beverage control; granting of certain mixed beverage licenses.*

[H 2185]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 4.1-126 of the Code of Virginia is amended and reenacted as follows:**

**§ 4.1-126. Licenses for establishments in national forests, certain adjoining lands, on the Blue Ridge Parkway, and certain other properties.**

A. Notwithstanding the provisions of § 4.1-124, mixed beverage licenses may be granted to establishments located (i) on property owned by the federal government in Jefferson National Forest, George Washington National Forest or the Blue Ridge Parkway; (ii) at altitudes of 3,800 feet or more above sea level on property adjoining the Jefferson National Forest; (iii) at an altitude of 2,800 feet or more above sea level on property adjoining the Blue Ridge Parkway at Mile Marker No. 189; (iv) on property within one-quarter mile of Mile Marker No. 174 on the Blue Ridge Parkway; (v) on property developed by a nonprofit economic development company or an industrial development authority; (vi) on old Jonesboro Road between Routes 823 and 654, located approximately 5,500 feet from the City of Bristol; (vii) on property developed as a motor sports road racing club, of which the track surface is 3.27 miles in length, on 1,200 acres of rural property bordering the Dan River in Halifax County, with such license applying to any area of the property deemed appropriate by the Board; (viii) at an altitude of 2,645 feet or more above sea level on land containing at least 750 acres used for recreational purposes and located within two and one-half miles of the Blue Ridge Parkway; (ix) on property fronting U.S. Route 11, with portions fronting Route 659, adjoining the City of Bristol and located approximately 2,700 feet north of mile marker 7.7 on Interstate 81; (x) on property bounded on the north by U.S. Route 11 and to the south by Interstate 81, and located between mile markers 8.1 and 8.5 of Interstate 81; (xi) on property consisting of at least 10,000 acres and operated as a resort located in any county with a population between 19,200 and 19,500; (xii) on property located as of December 1, 2012, within the Montgomery County Route 177 Urban Development Area, which area is adjacent to Exit 109 on Interstate 81; (xiii) on property fronting Route 603, with portions fronting on Interstate 81, located approximately 1,100 feet from the intersection of Route 603 and Interstate 81 at Exit 128; (xiv) on property located south of and within 1,400 feet of Interstate 81 between mile markers 38.8 and 39.5; (xv) on property bounded on the north by Interstate 81, on the west and south by State Route 691, and on the east by State Route 689; (xvi) on property located south of and within 1,500 feet of Interstate 81 between mile markers 44 and 44.4; (xvii) on property within 1,500 feet of Interstate 81 on either frontage road between mile markers 75 and 86 in the County of Wythe; (xviii) on property within the boundary of any town incorporated in 1875 located adjacent to the intersection of Interstate 81 and Route 91; (xix) on property adjacent to the intersection of U.S. Route 220 North and State Route 57, operated as a country club as of December 31, 1926, in Henry County; (xx) on property adjacent to Lake Lanier, operated as a country club as of December 31, 1932, in Henry County; (xxi) on property fronting Old Jonesboro Road between Routes 823 and 808, located approximately 4,500 feet south of Interstate 81, and operated as a country club; (xxii) on property located west of Route 58 and approximately 3,000 feet north of Interstate 81; (xxiii) on property fronting U.S. Route 11 and 1,300 feet north of Interstate 81; (xxiv) on property located within 1,500 feet of Exit 26 on Interstate 81; (xxv) on property within the boundary of any town incorporated in 1911 located adjacent to the intersection of Route 63 and Route 58 Alternate; (xxvi) on property within the boundary of any town incorporated in 1894 consisting of 1.9 square miles and, prior to the town's incorporation, known as Guest Station; ~~and~~ (xxvii) on property fronting Kanawha Ridge Road, located within approximately 700 feet of Route 638, and operated as a resort in Carroll County as of December 31, 2007; (xxviii) *on property located 2,135 feet north of the intersection of State Routes 1223 and 661; (xxix) on property located on State Route 685 approximately 1,128 feet west of the intersection of State Routes 652 and 685; and (xxx) on property located adjacent to State Route 697 and operated as a country club in the Powell Valley section of Wise County.*

B. In granting any license under clauses (iii) and (iv) of subsection A, the Board shall consider whether the (i) voters of the jurisdiction in which the establishment is located have voted by referendum under the provisions of § 4.1-124 to prohibit the sale of mixed beverages and (ii) granting of a license will give that establishment an unfair business advantage over other establishments in the same jurisdiction. If an unfair business advantage will result, then no license shall be granted.

**CHAPTER 590**

*An Act to amend and reenact § 2.2-307 of the Code of Virginia, relating to Office of the State Inspector General; extension of jurisdiction to agencies funded 50 percent or more by state funds.*

[H 2237]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 2.2-307 of the Code of Virginia is amended and reenacted as follows:**

**§ 2.2-307. Definitions.**

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

"Employee" means any person who is regularly employed full time on either a salaried or wage basis, whose tenure is not restricted as to temporary or provisional appointment, in the service of, and whose compensation is payable by, no more often than biweekly, in whole or in part, a state agency.

"Nonstate agency" means any public or private foundation, authority, institute, museum, corporation, or similar organization that is (i) not a unit of state government or a political subdivision of the Commonwealth as established by

general law or special act and (ii) wholly or principally supported by state funds. "Nonstate agency" shall not include any such entity that receives state funds (a) as a subgrantee of a state agency, (b) through a state grant-in-aid program authorized by law, (c) as a result of an award of a competitive grant or a public contract for the procurement of goods, services, or construction, or (d) pursuant to a lease of real property as described in subdivision 5 of § 2.2-1149.

"Office" means the Office of the State Inspector General.

"Officer" means any person who is elected or appointed to a public office in a state agency.

"State agency" means any agency, institution, board, bureau, commission, council, or instrumentality of state government in the executive branch listed in the appropriation act. "State agency" also includes any local department of social services.

## CHAPTER 591

*An Act to amend and reenact § 64.2-528 of the Code of Virginia, relating to priority of debts to be paid from decedent's assets; unpaid child support.*

[S 815]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 64.2-528 of the Code of Virginia is amended and reenacted as follows:**

**§ 64.2-528. Order in which debts and demands of decedents to be paid.**

When the assets of the decedent in his personal representative's possession are not sufficient to satisfy all debts and demands against him, they shall be applied to the payment of such debts and demands in the following order:

1. Costs and expenses of administration;
2. The allowances provided in Article 2 (§ 64.2-309 et seq.) of Chapter 3;
3. Funeral expenses not to exceed \$4,000;
4. Debts and taxes with preference under federal law;
5. Medical and hospital expenses of the last illness of the decedent, including compensation of persons attending him not to exceed \$2,150 for each hospital and nursing home and \$425 for each person furnishing services or goods;
6. Debts and taxes due the Commonwealth;
7. Debts due as trustee for persons under disabilities; as receiver or commissioner under decree of court of the Commonwealth; as personal representative, guardian, conservator, or committee when the qualification was in the Commonwealth; and for moneys collected by anyone to the credit of another and not paid over, regardless of whether or not a bond has been executed for the faithful performance of the duties of the party so collecting such funds;
8. *Debts for child support arrearages;*
9. Debts and taxes due localities and municipal corporations of the Commonwealth; and
10. All other claims.

No preference shall be given in the payment of any claim over any other claim of the same class, and a claim due and payable shall not be entitled to a preference over a claim not due.

## CHAPTER 592

*An Act to amend and reenact § 64.2-701 of the Code of Virginia; to amend the Code of Virginia by adding in Chapter 7 of Title 64.2 an article numbered 8.1, consisting of sections numbered 64.2-779.1 through 64.2-779.25; and to repeal § 64.2-778.1 of the Code of Virginia, relating to the Uniform Trust Decanting Act.*

[S 913]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 64.2-701 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Chapter 7 of Title 64.2 an article numbered 8.1, consisting of sections numbered 64.2-779.1 through 64.2-779.25, as follows:**

**§ 64.2-701. Definitions.**

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

"Action," with respect to an act of a trustee, includes a failure to act.

"Appointive property" means the property or property interest subject to a power of appointment.

"Ascertainable standard" means a standard relating to an individual's health, education, support, or maintenance within the meaning of § 2041(b)(1)(A) or 2514(c)(1) of the Internal Revenue Code of 1986 and any applicable regulations.

"Authorized fiduciary" means (i) a trustee or other fiduciary, other than a settlor, that has discretion to distribute or direct a trustee to distribute part or all of the income or principal of the first trust to one or more current beneficiaries; (ii) a special fiduciary appointed under § 64.2-779.6; or (iii) a special-needs fiduciary under § 64.2-779.10.

"Beneficiary" means a person that (i) has a present or future, *vested or contingent*, beneficial interest in a trust, ~~vested or contingent~~; or (ii) ~~in a capacity other than that of trustee~~, holds a power of appointment over trust property; or (iii) is an identified charitable organization that will or may receive distributions under the terms of the trust.

"Charitable interest" means an interest in a trust that (i) is held by an identified charitable organization and makes the organization a qualified beneficiary; (ii) benefits only charitable organizations and, if the interest were held by an identified charitable organization, would make the organization a qualified beneficiary; or (iii) is held solely for charitable purposes and, if the interest were held by an identified charitable organization, would make the organization a qualified beneficiary.

"Charitable organization" means (i) a person, other than an individual, organized and operated exclusively for charitable purposes or (ii) a government or governmental subdivision, agency, or instrumentality, to the extent that it holds funds exclusively for a charitable purpose.

"Charitable purpose" means the relief of poverty, the advancement of education or religion, the promotion of health, a municipal or other governmental purpose, or another purpose the achievement of which is beneficial to the community.

"Charitable trust" means a trust, or portion of a trust, created for a charitable purpose described in § 64.2-723.

"Conservator" means a person appointed by the court to administer the estate of an adult individual.

"Court" means the court of the Commonwealth having jurisdiction in matters related to trusts.

"Current beneficiary" means a beneficiary that on the date the beneficiary's qualification is determined is a distributee or permissible distributee of trust income or principal. "Current beneficiary" includes the holder of a presently exercisable general power of appointment but does not include a person that is a beneficiary only because the person holds any other power of appointment.

"Decanting power" means the power of an authorized fiduciary under the Uniform Trust Decanting Act (§ 64.2-779.1 et seq.) to distribute property of a first trust to one or more second trusts or to modify the terms of the first trust.

"Environmental law" means a federal, state, or local law, rule, regulation, or ordinance relating to protection of the environment.

"Expanded distributive discretion" means a discretionary power of distribution that is not limited to an ascertainable standard or a reasonably definite standard.

"First trust" means a trust over which an authorized fiduciary may exercise the decanting power.

"First-trust instrument" means the trust instrument for a first trust.

"General power of appointment" means a power of appointment exercisable in favor of a powerholder, the powerholder's estate, a creditor of the powerholder, or a creditor of the powerholder's estate.

"Guardian" means a person appointed by the court to make decisions regarding the support, care, education, health, and welfare of a minor or adult individual. The term does not include a guardian ad litem.

"Guardian of the estate" means a person appointed by the court to administer the estate of a minor.

"Interests of the beneficiaries" means the beneficial interests provided in the terms of the trust.

"Jurisdiction," with respect to a geographic area, includes a state or country.

"Person" means an individual; ~~corporation; business trust; estate; trust; partnership; limited liability company; association; joint venture;~~ *business or nonprofit entity*; government; governmental subdivision, agency, or instrumentality; public corporation; or ~~any other legal or commercial entity~~.

"Powerholder" means a person in which a donor creates a power of appointment.

"Power of appointment" means a power that enables a powerholder acting in a nonfiduciary capacity to designate a recipient of an ownership interest in or another power of appointment over the appointive property. "Power of appointment" does not include a power of attorney.

"Power of withdrawal" means a presently exercisable general power of appointment other than a power exercisable by a trustee that is limited by an ascertainable standard, or that is exercisable by another person only upon consent of the trustee or a person holding an adverse interest.

"Presently exercisable power of appointment" means a power of appointment exercisable by the powerholder at the relevant time. "Presently exercisable power of appointment" includes a power of appointment exercisable only after the occurrence of a specified event, the satisfaction of an ascertainable standard, or the passage of a specified time, only after (i) the occurrence of the specified event, (ii) the satisfaction of the ascertainable standard, or (iii) the passage of the specified time. "Presently exercisable power of appointment" does not include a power exercisable only at the powerholder's death.

"Property" means anything that may be the subject of ownership, whether real or personal, legal or equitable, or any interest therein.

"Qualified beneficiary" means a ~~living or then-existing~~ beneficiary who, on the date the beneficiary's qualification is determined, (i) is a distributee or permissible distributee of trust income or principal; (ii) would be a distributee or permissible distributee of trust income or principal if the interests of the distributees described in clause (i) terminated on that date, ~~but the termination of those interests would not cause~~ without causing the trust to terminate; or (iii) would be a distributee or permissible distributee of trust income or principal if the trust terminated on that date.

"Reasonably definite standard" means a clearly measurable standard under which a holder of a power of distribution is legally accountable within the meaning of § 674(b)(5)(A) of the Internal Revenue Code of 1986 and any applicable regulations.

"Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

"Revocable," as applied to a trust, means revocable by the settlor without the consent of the trustee or a person holding an adverse interest.

"Second trust" means (i) a first trust after modification, including a restatement of the first trust, under the Uniform Trust Decanting Act (§ 64.2-779.1 et seq.) or (ii) a trust to which a distribution of property from a first trust is or may be made under the Uniform Trust Decanting Act (§ 64.2-779.1 et seq.).

"Second-trust instrument" means the trust instrument for a second trust.

"Settlor," except as otherwise provided in § 64.2-779.22, means a person, including a testator, who creates, or contributes property to, a trust. If more than one person creates or contributes property to a trust, each person is a settlor of the portion of the trust property attributable to that person's contribution except to the extent another person has the power to revoke or withdraw that portion.

"Sign" means, with present intent to authenticate or adopt a record, (i) to execute or adopt a tangible symbol or (ii) to attach to or logically associate with the record an electronic symbol, sound, or process.

"Spendthrift provision" means a term of a trust that restrains both voluntary and involuntary transfer of a beneficiary's interest.

"State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term includes an Indian tribe or band recognized by federal law or formally acknowledged by a state.

"Terms of a trust" means the manifestation of the settlor's intent regarding a trust's provisions as expressed in the trust instrument or as may be established by (i) other evidence that would be admissible in a judicial proceeding or (ii) court order or nonjudicial settlement agreement.

"Trust instrument" means an instrument a record executed by the settlor to create a trust or by any person to create a second trust that contains some or all of the terms of the trust, including any amendments thereto.

"Trustee" includes an original, additional, and successor trustee, and a cotrustee.

#### Article 8.1.

#### Uniform Trust Decanting Act.

##### § 64.2-779.1. Scope.

A. Except as otherwise provided in subsections B and C, this article applies to an express trust that is irrevocable or revocable by the settlor only with the consent of the trustee or a person holding an adverse interest.

B. This article does not apply to a trust held solely for charitable purposes.

C. Subject to § 64.2-779.12, a trust instrument may restrict or prohibit exercise of the decanting power.

D. This article does not limit the power of a trustee, powerholder, or other person to distribute or appoint property in further trust or to modify a trust under the trust instrument, a law of the Commonwealth other than this article, common law, a court order, or a nonjudicial settlement agreement.

E. This article does not affect the ability of a settlor to provide in a trust instrument for the distribution of the trust property or appointment in further trust of the trust property or for modification of the trust instrument.

##### § 64.2-779.2. Fiduciary duty.

A. In exercising the decanting power, an authorized fiduciary shall act in accordance with its fiduciary duties, including the duty to act in accordance with the purposes of the first trust.

B. This article does not create or imply a duty to exercise the decanting power or to inform beneficiaries about the applicability of this article.

C. Except as otherwise provided in a first-trust instrument, for purposes of this article and § 64.2-763 and subsection A of § 64.2-764, the terms of the first trust are deemed to include the decanting power.

##### § 64.2-779.3. Application; governing law.

This article applies to a trust created before, on, or after July 1, 2017, that:

1. Has its principal place of administration in the Commonwealth, including a trust whose principal place of administration has been changed to the Commonwealth; or

2. Provides by its trust instrument that it is governed by the law of the Commonwealth or is governed by the law of the Commonwealth for the purpose of:

a. Administration, including administration of a trust whose governing law for purposes of administration has been changed to the law of the Commonwealth;

b. Construction of terms of the trust; or

c. Determining the meaning or effect of terms of the trust.

##### § 64.2-779.4. Reasonable reliance.

A trustee or other person that reasonably relies on the validity of a distribution of part or all of the property of a trust to another trust, or a modification of a trust, under this article, a law of the Commonwealth other than this article, or the law of another jurisdiction is not liable to any person for any action or failure to act as a result of the reliance.

##### § 64.2-779.5. Notice; exercise of decanting power.

A. In this section, a notice period begins on the day notice is given under subsection C and ends 59 days after the day notice is given.

B. Except as otherwise provided in this article, an authorized fiduciary may exercise the decanting power without the consent of any person and without court approval.

C. Except as otherwise provided in subsection F, an authorized fiduciary shall give notice in a record of the intended exercise of the decanting power not later than 60 days before the exercise to (i) each settlor of the first trust, if living or then in existence; (ii) each qualified beneficiary of the first trust; (iii) each holder of a presently exercisable power of appointment over any part or all of the first trust; (iv) each person that currently has the right to remove or replace the authorized fiduciary; (v) each other fiduciary of the first trust; (vi) each fiduciary of the second trust; (vii) each person acting as an advisor or protector of the first trust; (viii) each person holding an adverse interest who has the power to consent to the revocation of the first trust; and (ix) the Attorney General, if subsection B of § 64.2-779.11 applies.

D. An authorized fiduciary is not required to give notice under subsection C to a person that is not known to the fiduciary or is known to the fiduciary but cannot be located by the fiduciary after reasonable diligence.

E. A notice under subsection C shall (i) specify the manner in which the authorized fiduciary intends to exercise the decanting power; (ii) specify the proposed effective date for exercise of the power; (iii) include a copy of the first-trust instrument; and (iv) include a copy of all second-trust instruments.

F. The decanting power may be exercised before expiration of the notice period under subsection A if all persons entitled to receive notice waive the period in a signed record.

G. The receipt of notice, waiver of the notice period, or expiration of the notice period does not affect the right of a person to file an application under § 64.2-779.6 asserting that (i) an attempted exercise of the decanting power is ineffective because it did not comply with this article or was an abuse of discretion or breach of fiduciary duty or (ii) § 64.2-779.19 applies to the exercise of the decanting power.

H. An exercise of the decanting power is not ineffective because of the failure to give notice to one or more persons under subsection C if the authorized fiduciary acted with reasonable care to comply with subsection C.

**§ 64.2-779.6. Court involvement.**

A. On application of an authorized fiduciary, a person entitled to notice under subsection C of § 64.2-779.5, a beneficiary, or with respect to a charitable interest the Attorney General or other person that has standing to enforce the charitable interest, the court may (i) provide instructions to the authorized fiduciary regarding whether a proposed exercise of the decanting power is permitted under this article and consistent with the fiduciary duties of the authorized fiduciary; (ii) appoint a special fiduciary and authorize the special fiduciary to determine whether the decanting power should be exercised under this article and to exercise the decanting power; (iii) approve an exercise of the decanting power; (iv) determine that a proposed or attempted exercise of the decanting power is ineffective because (a) after applying § 64.2-779.19, the proposed or attempted exercise does not or did not comply with this article or (b) the proposed or attempted exercise would be or was an abuse of the fiduciary's discretion or a breach of fiduciary duty; (v) determine the extent to which § 64.2-779.19 applies to a prior exercise of the decanting power; (vi) provide instructions to the trustee regarding the application of § 64.2-779.19 to a prior exercise of the decanting power; or (vii) order other relief to carry out the purposes of this article.

B. On application of an authorized fiduciary, the court may approve (i) an increase in the fiduciary's compensation under § 64.2-779.13 or (ii) a modification under § 64.2-779.15 of a provision granting a person the right to remove or replace the fiduciary.

**§ 64.2-779.7. Formalities.**

An exercise of the decanting power shall be made in a record signed by an authorized fiduciary. The signed record shall, directly or by reference to the notice required by § 64.2-779.5, identify the first trust and the second trust or trusts and state the property of the first trust being distributed to or held subject to the terms of each second trust and the property, if any, that remains in the first trust.

**§ 64.2-779.8. Decanting power under expanded distributive discretion.**

A. As used in this section:

"Noncontingent right" means a right that is not subject to the exercise of discretion or the occurrence of a specified event that is not certain to occur. "Noncontingent right" does not include a right held by a beneficiary if any person has discretion to distribute property subject to the right to any person other than the beneficiary or the beneficiary's estate.

"Presumptive remainder beneficiary" means a qualified beneficiary other than a current beneficiary.

"Successor beneficiary" means a beneficiary that is not a qualified beneficiary on the date the beneficiary's qualification is determined. "Successor beneficiary" does not include a person that is a beneficiary only because the person holds a nongeneral power of appointment.

"Vested interest" means:

1. A right to a mandatory distribution that is a noncontingent right as of the date of the exercise of the decanting power;
2. A current and noncontingent right, annually or more frequently, to a mandatory distribution of income, a specified dollar amount, or a percentage of value of some or all of the trust property;
3. A current and noncontingent right, annually or more frequently, to withdraw income, a specified dollar amount, or a percentage of value of some or all of the trust property;
4. A presently exercisable general power of appointment; or

5. A right to receive an ascertainable part of the trust property on the trust's termination that is not subject to the exercise of discretion or to the occurrence of a specified event that is not certain to occur.

B. Subject to subsection C and § 64.2-779.11, an authorized fiduciary that has expanded distributive discretion over the income or principal of a first trust for the benefit of one or more current beneficiaries may exercise the decanting power over the income or principal of the first trust.

C. Subject to § 64.2-779.10, in an exercise of the decanting power under this section, a second trust may not:

1. Include as a current beneficiary a person that is not a current beneficiary of the first trust, except as otherwise provided in subsection D;

2. Include as a presumptive remainder beneficiary or successor beneficiary a person that is not a current beneficiary, presumptive remainder beneficiary, or successor beneficiary of the first trust, except as otherwise provided in subsection D; or

3. Reduce or eliminate a vested interest.

D. Subject to subdivision C 3 and § 64.2-779.11, in an exercise of the decanting power under this section, a second trust may be a trust created or administered under the law of any jurisdiction and may:

1. Retain a power of appointment granted in the first trust;

2. Omit a power of appointment granted in the first trust, other than a presently exercisable general power of appointment;

3. Create or modify a power of appointment if the powerholder is a current beneficiary of the first trust and the authorized fiduciary has expanded distributive discretion to distribute principal to the beneficiary; and

4. Create or modify a power of appointment if the powerholder is a presumptive remainder beneficiary or successor beneficiary of the first trust, but the exercise of the power may take effect only after the powerholder becomes, or would have become if then living, a current beneficiary.

E. A power of appointment described in subdivisions D 1 through 4 may be general or nongeneral. The class of permissible appointees in favor of which the power may be exercised may be broader than or different from the beneficiaries of the first trust.

F. If an authorized fiduciary has expanded distributive discretion over part but not all of the income or principal of a first trust, the fiduciary may exercise the decanting power under this section over that part of the income or principal over which the authorized fiduciary has expanded distributive discretion.

**§ 64.2-779.9. Decanting power under limited distributive discretion.**

A. As used in this section, "limited distributive discretion" means a discretionary power of distribution that is limited to an ascertainable standard or a reasonably definite standard.

B. An authorized fiduciary that has limited distributive discretion over the income or principal of the first trust for benefit of one or more current beneficiaries may exercise the decanting power over the income or principal of the first trust.

C. Under this section and subject to § 64.2-779.11, a second trust may be created or administered under the law of any jurisdiction. Under this section, the second trusts, in the aggregate, must grant each beneficiary of the first trust beneficial interests that are substantially similar to the beneficial interests of the beneficiary in the first trust. A second trust that defers or postpones a contingent right of a beneficiary to receive an outright distribution of assets upon the attainment of a certain age or upon the occurrence of a specific event (a "deferred distribution") shall be substantially similar to the first trust if the second trust provides that (i) during the lifetime of the beneficiary, no portion of the income or principal attributable to the deferred distribution may be distributed to, or for the benefit of, any person other than the beneficiary and (ii) the beneficiary shall have a testamentary general power of appointment exercisable in favor of the beneficiary's estate over the deferred distribution or the deferred distribution shall be payable to the beneficiary's estate if the second trust does not terminate during the beneficiary's lifetime.

D. A power to make a distribution under a second trust for the benefit of a beneficiary who is an individual is substantially similar to a power under the first trust to make a distribution directly to the beneficiary. A distribution is for the benefit of a beneficiary if:

1. The distribution is applied for the benefit of the beneficiary;

2. The beneficiary is under a legal disability or the trustee reasonably believes the beneficiary is incapacitated, and the distribution is made as permitted under this chapter; or

3. The distribution is made as permitted under the terms of the first-trust instrument and the second-trust instrument for the benefit of the beneficiary.

E. If an authorized fiduciary has limited distributive discretion over part but not all of the income or principal of a first trust, the fiduciary may exercise the decanting power under this section over that part of the income or principal over which the authorized fiduciary has limited distributive discretion.

**§ 64.2-779.10. Trust for beneficiary with disability.**

A. As used in this section:

"Beneficiary with a disability" means a beneficiary of a first trust who the special-needs fiduciary believes may qualify for governmental benefits based on disability, whether or not the beneficiary currently receives those benefits or is an individual who has been determined to be an incapacitated person.

"Governmental benefits" means financial aid or services from a state, federal, or other public agency.

"Special-needs fiduciary" means, with respect to a trust that has a beneficiary with a disability:

1. A trustee or other fiduciary, other than a settlor, that has discretion to distribute part or all of the principal of a first trust to one or more current beneficiaries;

2. If no trustee or fiduciary has discretion under subdivision 1, a trustee or other fiduciary, other than a settlor, that has discretion to distribute part or all of the income of the first trust to one or more current beneficiaries; or

3. If no trustee or fiduciary has discretion under subdivisions 1 and 2, a trustee or other fiduciary, other than a settlor, that is required to distribute part or all of the income or principal of the first trust to one or more current beneficiaries.

"Special-needs trust" means a trust the trustee believes would not be considered a resource for purposes of determining whether a beneficiary with a disability is eligible for governmental benefits.

B. A special-needs fiduciary may exercise the decanting power under § 64.2-779.8 over the income or principal of a first trust, including a first trust under which the fiduciary has only limited distributive discretion as defined in subsection A of § 64.2-779.9, as if the fiduciary had authority to distribute income or principal to a beneficiary with a disability subject to expanded distributive discretion if:

1. A second trust is a special-needs trust that benefits the beneficiary with a disability; and

2. The special-needs fiduciary determines that exercise of the decanting power will further the purposes of the first trust.

C. In an exercise of the decanting power under this section, the following rules apply:

1. Notwithstanding subdivision C 2 of § 64.2-779.8, the interest in the second trust of a beneficiary with a disability may:

a. Be a pooled trust as defined by Medicaid law for the benefit of the beneficiary with a disability under 42 U.S.C. § 1396p(d)(4)(C); or

b. Contain payback provisions complying with reimbursement requirements of Medicaid law under 42 U.S.C. § 1396p(d)(4)(A).

2. Subdivision C 3 of § 64.2-779.8 does not apply to the interests of the beneficiary with a disability.

3. Except as affected by any change to the interests of the beneficiary with a disability, the second trust, or if there are two or more second trusts, the second trusts in the aggregate, must grant each other beneficiary of the first trust beneficial interests in the second trusts that are substantially similar to the beneficiary's beneficial interests in the first trust.

**§ 64.2-779.11. Protection of charitable interest.**

A. As used in this section:

"Determinable charitable interest" means a charitable interest that is a right to a mandatory distribution currently, periodically, on the occurrence of a specified event, or after the passage of a specified time and that is unconditional or will be held solely for charitable purposes.

"Unconditional" means not subject to the occurrence of a specified event that is not certain to occur, other than a requirement in a trust instrument that a charitable organization be in existence or qualify under a particular provision of the United States Internal Revenue Code of 1986 on the date of the distribution, if the charitable organization meets the requirement on the date of determination.

B. If a first trust contains a determinable charitable interest, the Attorney General has the rights of a qualified beneficiary and may represent and bind the charitable interest.

C. If a first trust contains a charitable interest, the second trust or trusts may not:

1. Diminish the charitable interest;

2. Diminish the interest of an identified charitable organization that holds the charitable interest;

3. Alter any charitable purpose stated in the first-trust instrument; or

4. Alter any condition or restriction related to the charitable interest.

D. If there are two or more second trusts, the second trusts shall be treated as one trust for purposes of determining whether the exercise of the decanting power diminishes the charitable interest or diminishes the interest of an identified charitable organization for purposes of subsection C.

E. If a first trust contains a determinable charitable interest, the second trust or trusts that include a charitable interest pursuant to subsection C must be administered under the law of the Commonwealth unless:

1. The Attorney General, after receiving notice under § 64.2-779.5, fails to object in a signed record delivered to the authorized fiduciary within the notice period;

2. The Attorney General consents in a signed record to the second trust or trusts being administered under the law of another jurisdiction; or

3. The court approves the exercise of the decanting power.

F. This article does not limit the powers and duties of the Attorney General under law of the Commonwealth other than this article.

**§ 64.2-779.12. Trust limitation on decanting.**

A. An authorized fiduciary may not exercise the decanting power to the extent the first-trust instrument expressly prohibits exercise of:

1. The decanting power; or

2. A power granted by state law to the fiduciary to distribute part or all of the income or principal of the trust to another trust or to modify the trust.

B. Exercise of the decanting power is subject to any restriction in the first-trust instrument that expressly applies to exercise of:

1. The decanting power; or

2. A power granted by state law to a fiduciary to distribute part or all of the income or principal of the trust to another trust or to modify the trust.

C. A general prohibition of the amendment or revocation of a first trust, a spendthrift clause, or a clause restraining the voluntary or involuntary transfer of a beneficiary's interest does not preclude exercise of the decanting power.

D. Subject to subsections A and B, an authorized fiduciary may exercise the decanting power under this article even if the first-trust instrument permits the authorized fiduciary or another person to modify the first-trust instrument or to distribute part or all of the income or principal of the first trust to another trust.

E. If a first-trust instrument contains an express prohibition described in subsection A or an express restriction described in subsection B, the provision must be included in the second-trust instrument.

**§ 64.2-779.13. Change in compensation.**

A. If a first-trust instrument specifies an authorized fiduciary's compensation, the fiduciary may not exercise the decanting power to increase the fiduciary's compensation above the specified compensation unless:

1. All qualified beneficiaries of the second trust consent to the increase in a signed record; or
2. The increase is approved by the court.

B. If a first-trust instrument does not specify an authorized fiduciary's compensation, the fiduciary may not exercise the decanting power to increase the fiduciary's compensation above the compensation permitted by this chapter unless:

1. All qualified beneficiaries of the second trust consent to the increase in a signed record; or
2. The increase is approved by the court.

C. A change in an authorized fiduciary's compensation that is incidental to other changes made by the exercise of the decanting power is not an increase in the fiduciary's compensation for purposes of subsections A and B.

**§ 64.2-779.14. Relief from liability and indemnification.**

A. Except as otherwise provided in this section, a second-trust instrument may not relieve an authorized fiduciary from liability for breach of trust to a greater extent than the first-trust instrument.

B. A second-trust instrument may provide for indemnification of an authorized fiduciary of the first trust or another person acting in a fiduciary capacity under the first trust for any liability or claim that would have been payable from the first trust if the decanting power had not been exercised.

C. A second-trust instrument may not reduce fiduciary liability in the aggregate.

D. Subject to subsection C, a second-trust instrument may divide and reallocate fiduciary powers among fiduciaries, including one or more trustees, distribution advisors, investment advisors, trust protectors, or other persons, and relieve a fiduciary from liability for an act or failure to act of another fiduciary as permitted by law of the Commonwealth other than this article.

**§ 64.2-779.15. Removal or replacement of authorized fiduciary.**

An authorized fiduciary may not exercise the decanting power to modify a provision in a first-trust instrument granting another person power to remove or replace the fiduciary unless:

1. The person holding the power consents to the modification in a signed record and the modification applies only to the person;
2. The person holding the power and the qualified beneficiaries of the second trust consent to the modification in a signed record and the modification grants a substantially similar power to another person; or
3. The court approves the modification and the modification grants a substantially similar power to another person.

**§ 64.2-779.16. Tax-related provisions.**

A. As used in this section:

"Grantor trust" means a trust as to which a settlor of a first trust is considered the owner under §§ 671 through 677 of the Internal Revenue Code or § 679 of the Internal Revenue Code.

"Internal Revenue Code" means the United States Internal Revenue Code of 1986.

"Nongrantor trust" means a trust that is not a grantor trust.

"Qualified benefits property" means property subject to the minimum distribution requirements of § 401(a)(9) of the Internal Revenue Code and any applicable regulations, or to any similar requirements that refer to § 401(a)(9) of the Internal Revenue Code or the regulations.

B. An exercise of the decanting power is subject to the following limitations:

1. If a first trust contains property that qualified, or would have qualified but for provisions of this article other than this section, for a marital deduction for purposes of the gift or estate tax under the Internal Revenue Code or a state gift, estate, or inheritance tax, the second-trust instrument must not include or omit any term that, if included in or omitted from the trust instrument for the trust to which the property was transferred, would have prevented the transfer from qualifying for the deduction, or would have reduced the amount of the deduction, under the same provisions of the Internal Revenue Code or state law under which the transfer qualified.

2. If the first trust contains property that qualified, or would have qualified but for provisions of this article other than this section, for a charitable deduction for purposes of the income, gift, or estate tax under the Internal Revenue Code or a state income, gift, estate, or inheritance tax, the second-trust instrument must not include or omit any term that, if included in or omitted from the trust instrument for the trust to which the property was transferred, would have prevented the transfer from qualifying for the deduction, or would have reduced the amount of the deduction, under the same provisions of the Internal Revenue Code or state law under which the transfer qualified.

3. If the first trust contains property that qualified, or would have qualified but for provisions of this article other than this section, for the exclusion from the gift tax described in § 2503(b) of the Internal Revenue Code, the second-trust instrument must not include or omit a term that, if included in or omitted from the trust instrument for the trust to which the property was transferred, would have prevented the transfer from qualifying under § 2503(b) of the Internal Revenue Code. If the first trust contains property that qualified, or would have qualified but for provisions of this article other than this section, for the exclusion from the gift tax described in § 2503(b) of the Internal Revenue Code by application of § 2503(c) of the Internal Revenue Code, the second-trust instrument must not include or omit a term that, if included or omitted from the trust instrument for the trust to which the property was transferred, would have prevented the transfer from qualifying under § 2503(c) of the Internal Revenue Code.

4. If the property of the first trust includes shares of stock in an S corporation, as defined in § 1361 of the Internal Revenue Code, and the first trust is, or but for provisions of this article other than this section would be, a permitted shareholder under any provision of § 1361 of the Internal Revenue Code, an authorized fiduciary may exercise the power with respect to part or all of the S-corporation stock only if any second trust receiving the stock is a permitted shareholder under § 1361(c)(2) of the Internal Revenue Code. If the property of the first trust includes shares of stock in an S corporation and the first trust is, or but for provisions of this article other than this section would be, a qualified subchapter-S trust within the meaning of § 1361(d) of the Internal Revenue Code, the second-trust instrument must not include or omit a term that prevents the second trust from qualifying as a qualified subchapter-S trust.

5. If the first trust contains property that qualified, or would have qualified but for provisions of this article other than this section, for a zero inclusion ratio for purposes of the generation-skipping transfer tax under § 2642(c) of the Internal Revenue Code the second-trust instrument must not include or omit a term that, if included in or omitted from the first-trust instrument, would have prevented the transfer to the first trust from qualifying for a zero inclusion ratio under § 2642(c) of the Internal Revenue Code.

6. If the first trust is directly or indirectly the beneficiary of qualified benefits property, the second-trust instrument may not include or omit any term that, if included in or omitted from the first-trust instrument, would have increased the minimum distributions required with respect to the qualified benefits property under § 401(a)(9) of the Internal Revenue Code and any applicable regulations, or any similar requirements that refer to § 401(a)(9) of the Internal Revenue Code or the regulations. If an attempted exercise of the decanting power violates the preceding sentence, the trustee is deemed to have held the qualified benefits property and any reinvested distributions of the property as a separate share from the date of the exercise of the power, and § 64.2-779.19 applies to the separate share.

7. If the first trust qualifies as a grantor trust because of the application of § 672(f)(2)(A) of the Internal Revenue Code, the second trust may not include or omit a term that, if included in or omitted from the first-trust instrument, would have prevented the first trust from qualifying under § 672(f)(2)(A) of the Internal Revenue Code.

8. In this paragraph, "tax benefit" means a federal or state tax deduction, exemption, exclusion, or other benefit not otherwise listed in this section, except for a benefit arising from being a grantor trust. Subject to subdivision 9, a second-trust instrument may not include or omit a term that, if included in or omitted from the first-trust instrument, would have prevented qualification for a tax benefit if:

- a. The first-trust instrument expressly indicates an intent to qualify for the benefit or the first-trust instrument clearly is designed to enable the first trust to qualify for the benefit; and
- b. The transfer of property held by the first trust or the first trust qualified, or would have qualified but for provisions of this article other than this section, would have qualified for the tax benefit.

9. Subject to subdivision 4:

- a. Except as otherwise provided in subdivision 7, the second trust may be a nongrantor trust, even if the first trust is a grantor trust; and
- b. Except as otherwise provided in subdivision 10, the second trust may be a grantor trust, even if the first trust is a nongrantor trust.

10. An authorized fiduciary may not exercise the decanting power if a settlor objects in a signed record delivered to the fiduciary within the notice period and:

a. The first trust and a second trust are both grantor trusts, in whole or in part, the first-trust instrument grants the settlor or another person the power to cause the first trust to cease to be a grantor trust, and the second-trust instrument does not grant an equivalent power to the settlor or other person; or

b. The first trust is a nongrantor trust and a second trust is a grantor trust, in whole or in part, with respect to the settlor, unless:

- (1) The settlor has the power at all times to cause the second trust to cease to be a grantor trust; or
- (2) The first-trust instrument contains a provision granting the settlor or another person a power that would cause the first trust to cease to be a grantor trust and the second-trust instrument contains the same provision.

C. If an authorized fiduciary that has limited distributive discretion over the income or principal of a first trust reasonably determines that the overall income, estate, gift, and generation-skipping tax consequences of the first trust may be reduced by either (i) granting a general power of appointment to a beneficiary of the first trust or (ii) eliminating a general power of appointment granted to a beneficiary of the first trust, the fiduciary may exercise the decanting power over all or any portion of the principal of the trust to grant or eliminate such a general power of appointment and shall, in

addition, have the powers found in subsection D of § 64.2-779.8 as if the fiduciary had expanded distributive discretion, subject to the following provisions:

1. In the case of the grant of a general power of appointment, the class of permissible appointees contained in the second trust shall be limited to the creditors of the powerholder or the creditors of the powerholder's estate.

2. In the case of the elimination of a general power of appointment, the class of permissible appointees in the second trust shall exclude the powerholder, the powerholder's creditors, the powerholder's estate, and the creditors of the powerholder's estate, but shall otherwise be identical to the class of appointees permitted in the first trust.

**§ 64.2-779.17. Duration of second trust.**

A. Subject to subsection B, a second trust may have a duration that is the same as or different from the duration of the first trust.

B. To the extent that property of a second trust is attributable to property of the first trust, the property of the second trust is subject to any rules governing maximum perpetuity, accumulation, or suspension of the power of alienation that apply to property of the first trust.

**§ 64.2-779.18. Need to distribute not required.**

An authorized fiduciary may exercise the decanting power whether or not under the first trust's discretionary distribution standard the fiduciary would have made or could have been compelled to make a discretionary distribution of income or principal at the time of the exercise.

**§ 64.2-779.19. Savings provision.**

A. If exercise of the decanting power would be effective under this article except that the second-trust instrument in part does not comply with this article, the exercise of the power is effective and the following rules apply with respect to the income or principal of the second trust attributable to the exercise of the power:

1. A provision in the second-trust instrument which is not permitted under this article is void to the extent necessary to comply with this article.

2. A provision required by this article to be in the second-trust instrument which is not contained in the instrument is deemed to be included in the instrument to the extent necessary to comply with this article.

B. If a trustee or other fiduciary of a second trust determines that subsection A applies to a prior exercise of the decanting power, the fiduciary shall take corrective action consistent with the fiduciary's duties.

**§ 64.2-779.20. Trust for care of animal.**

A. As used in this section:

"Animal trust" means a trust or an interest in a trust created to provide for the care of one or more animals.

"Protector" means a person appointed in an animal trust to enforce the trust on behalf of the animal or, if no such person is appointed in the trust, a person appointed by the court for that purpose.

B. The decanting power may be exercised over an animal trust that has a protector to the extent that the trust could be decanted under this article if each animal that benefits from the trust were an individual, if the protector consents in a signed record to the exercise of the power.

C. A protector for an animal has the rights under this article of a qualified beneficiary.

D. Notwithstanding any other provision of this article, if a first trust is an animal trust, in an exercise of the decanting power, the second trust must provide that trust property may be applied only to its intended purpose for the period the first trust benefited the animal.

**§ 64.2-779.21. Terms of second trust.**

A reference in this chapter to a trust instrument or terms of the trust includes a second-trust instrument and the terms of the second trust.

**§ 64.2-779.22. Settlor.**

A. For purposes of law of the Commonwealth other than this article and subject to subsection B, a settlor of a first trust is deemed to be the settlor of the second trust with respect to the portion of the income or principal of the first trust subject to the exercise of the decanting power.

B. In determining settlor intent with respect to a second trust, the intent of a settlor of the first trust, a settlor of the second trust, and the authorized fiduciary may be considered.

**§ 64.2-779.23. Later-discovered property.**

A. Except as otherwise provided in subsection C, if exercise of the decanting power was intended to distribute all the income or principal of the first trust to one or more second trusts, later-discovered property belonging to the first trust and property paid to or acquired by the first trust after the exercise of the power is part of the trust estate of the second trust or trusts.

B. Except as otherwise provided in subsection C, if exercise of the decanting power was intended to distribute less than all the income or principal of the first trust to one or more second trusts, later-discovered property belonging to the first trust or property paid to or acquired by the first trust after exercise of the power remains part of the trust estate of the first trust.

C. An authorized fiduciary may provide in an exercise of the decanting power or by the terms of a second trust for disposition of later-discovered property belonging to the first trust or property paid to or acquired by the first trust after exercise of the power.

**§ 64.2-779.24. Obligations.**

*A debt, liability, or other obligation enforceable against property of a first trust is enforceable to the same extent against the property when held by the second trust after exercise of the decanting power.*

**§ 64.2-779.25. Accountings.**

*If accounts for the first trust are filed with the commissioner of accounts, the accounts for the second trust shall be filed with the commissioner of accounts unless the court orders otherwise.*

**2. That § 64.2-778.1 of the Code of Virginia is repealed.**

**CHAPTER 593**

*An Act to amend and reenact §§ 25.1-313 and 25.1-318 of the Code of Virginia, relating to eminent domain; timing for initiation of "quick-take" condemnation procedure and petition for determination of just compensation.*

[S 927]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 25.1-313 and 25.1-318 of the Code of Virginia are amended and reenacted as follows:**

**§ 25.1-313. Institution of condemnation proceedings.**

The authorized condemnor shall institute condemnation proceedings with respect to property described in a certificate any time after the recordation of the certificate, but within 60 180 days after the completion of the construction of the improvements upon the property described in of the recordation of the certificate; if (i) the authorized condemnor and the owner or owners of property taken or damaged by the authorized condemnor are unable to agree as to the compensation, if any, attributable to such taking or damage; or (ii) such agreement cannot be obtained because the owners or one or more of them are under a disability, are unknown, or cannot with reasonable diligence be found within this the Commonwealth. However, this section shall not require the institution of condemnation proceedings if they have been instituted prior to the recordation of such certificate.

**§ 25.1-318. Petition by owner for determination of just compensation.**

A. The owner of property that an authorized condemnor has entered and taken possession of, or taken defeasible title of, pursuant to the provisions of this chapter may petition the circuit court of the locality in which the greater portion of the property lies for the appointment of commissioners or the empanelment of a jury to determine just compensation for the property taken and damages done, if any, to such property, as provided in Chapter 2 (§ 25.1-200 et seq.) if (i) the owner and the authorized condemnor have not reached an agreement as to compensation and damages, if any, and (ii) the authorized condemnor:

1. Has not completed the construction of the contemplated improvements upon the property after a reasonable time for such construction has elapsed; or
2. Has not instituted condemnation proceedings within:
  - a. Sixty days after completion of the construction of the contemplated improvements upon the property; or
  - b. One year hundred eighty days after the authorized condemnor has entered upon and taken possession of the property, regardless of whether the construction of the contemplated improvements has been completed; or
  - c. One hundred eighty days after the recordation of a certificate.

B. A copy of such petition shall be served upon the authorized condemnor at least 10 days before it is filed in the court. The authorized condemnor shall file an answer thereto within five days after the filing of the petition. If the court finds that the conditions prerequisite for such appointment as provided in subsection A are satisfied, the court shall appoint commissioners or empanel a jury, as requested in the owner's petition, to ascertain the amount of compensation to be paid for the property taken and damages done, if any. The proceedings shall thereafter be governed by the procedure prescribed by Chapter 2 (§ 25.1-200 et seq.) insofar as the same may be applicable.

**CHAPTER 594**

*An Act to amend and reenact §§ 59.1-69, 59.1-70, and 59.1-74 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 59.1-70.1 and 59.1-75.1, relating to transacting business under an assumed name; central filing of assumed or fictitious name certificates; penalty.*

[S 1309]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 59.1-69, 59.1-70, and 59.1-74 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 59.1-70.1 and 59.1-75.1 as follows:**

**§ 59.1-69. Certificate required of person transacting business under assumed name.**

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

"Commission" means the State Corporation Commission.

"Person" has the meaning prescribed in § 1-230.

~~B. No person, partnership, limited liability company or corporation shall conduct or transact business in this the Commonwealth under any assumed or fictitious name unless such person, partnership, limited liability company or corporation shall sign and acknowledge a certificate setting forth the name under which such business is to be conducted or transacted, and the names of each person, partnership, limited liability company or corporation owning the same, with their respective post-office and residence addresses (and, (i) when the partnership or limited liability company is a foreign limited partnership or limited liability company, the date of the certificate of registration to transact business in this Commonwealth issued to it by the State Corporation Commission, or (ii) when the corporation is a foreign corporation, the date of the certificate of authority to transact business in this Commonwealth issued to it by the State Corporation Commission); and file the same files in the office of the clerk of the court in which deeds are recorded in the county or city wherein the business is to be conducted Commission a certificate of assumed or fictitious name.~~

~~B. C. No person, partnership, limited liability company or corporation shall use an assumed or fictitious name in the conduct of its the person's business to intentionally misrepresent the geographic origin or location of any such the person or entity.~~

**§ 59.1-70. Filing a certificate with State Corporation Commission; fee.**

~~A. When business is conducted in this Commonwealth under an assumed or fictitious name by a limited partnership filing a certificate under § 50-73.11, by a foreign limited partnership required to register with the Commission under § 50-73.54, or by a limited liability company or corporation, such domestic or foreign limited partnership, limited liability company or corporation shall file in the office of the clerk of the State Corporation Commission a copy of the certificate described in § 59.1-69, duly attested by the clerk of the court in which the original is on file. The certificate of assumed or fictitious name shall be on a form prescribed by the Commission that sets forth the following:~~

- ~~1. The name of the person who will be conducting business under the assumed or fictitious name;~~
- ~~2. The assumed or fictitious name of the business;~~
- ~~3. Whether the person who will be conducting business under the assumed or fictitious name is an individual or, if not, the type of legal or commercial entity of the person;~~
- ~~4. If the person who will be conducting business under the assumed or fictitious name is an individual, the post office address of the individual's office or residence, which shall include a street address, city or town, state, and zip code;~~
- ~~5. If the person who will be conducting business under the assumed or fictitious name is a domestic or foreign corporation, limited liability company, business trust, or limited partnership authorized by the Commission to transact business in the Commonwealth, the identification number issued by the Commission to the person;~~
- ~~6. If the person who will be conducting business under the assumed or fictitious name is a domestic or foreign partnership that has filed with the Commission a statement of partnership authority or a statement of registration as a registered limited liability partnership that has not been canceled, the identification number issued by the Commission to the partnership;~~
- ~~7. If the person who will be conducting business under the assumed or fictitious name is not subject to subdivision 4, 5, or 6, the post office address of the person's principal place of business, which shall include a street address, city or town, state, and zip code; and~~
- ~~8. The printed name and title of the individual signing the certificate of assumed or fictitious name.~~

~~B. The certificate of assumed or fictitious name shall be signed by (i) the individual who will be conducting business under the assumed or fictitious name or (ii) an authorized representative of the person who will be conducting business under the assumed or fictitious name when the person is not an individual.~~

~~C. The State Corporation clerk of the Commission shall charge a ten-dollar fee of \$10 for the filing of a fictitious or an certificate of assumed or fictitious name.~~

~~B. When business is no longer conducted in this Commonwealth under an assumed or fictitious name by a limited partnership filing a certificate under § 50-73.11, by a foreign limited partnership required to register with the Commission under § 50-73.54, or by a limited liability company or corporation, the domestic or foreign limited partnership, limited liability company or corporation may file with the clerk of the State Corporation Commission a copy of a release certificate, duly attested by the clerk of the court in which the certificate is on file. The Commission shall charge a ten-dollar fee for the filing of such certificate.~~

**§ 59.1-70.1. Certificate of release.**

~~A. When a person is no longer conducting business in the Commonwealth under an assumed or fictitious name on file with the clerk of the Commission, the name may be released by filing a certificate of release of an assumed or fictitious name in the office of the clerk of the Commission that is signed (i) by the individual who conducted business under the assumed or fictitious name, (ii) on behalf of the person who conducted business under the assumed or fictitious name when the person is not an individual, (iii) by a court-appointed fiduciary of the person, or (iv) by the person's successor in interest when the person is not an individual.~~

~~B. When a person is no longer conducting business in the Commonwealth under an assumed or fictitious name on file with a circuit court, the name may be released by filing a certificate of release of an assumed or fictitious name with the clerk of the court that is signed and acknowledged by the person, a court-appointed fiduciary of the person, or, when the person is not an individual, the person's successor in interest.~~

C. The certificate of release of an assumed or fictitious name shall be on a form prescribed by the Commission. The fee to file a certificate of release of an assumed or fictitious name with the clerk of the Commission or with the clerk of the court shall be \$10.

**§ 59.1-74. Recordation of certificates and registration of names.**

A. The clerk of the court with whom the a certificate provided for in § 59.1-69 of assumed or fictitious name is filed shall keep a book in which all such certificates shall be of assumed or fictitious name and certificates of release of an assumed or fictitious name are recorded, with their date of record, and shall keep a register in which shall be entered in alphabetical order the name under which every such business is conducted and the names of every person owning the same business. The clerk shall be entitled to a fee of ten dollars for filing and recording such certificate and entering such names.

B. No license shall be issued by the Commissioner a commissioner of the Revenue revenue until the a certificate of assumed or fictitious name has been made and filed (i) in the office of the clerk of the Commission or (ii) prior to May 1, 2019, in the clerk's office of the clerk of the court, and evidence of same produced before him the filing has been provided to the commissioner of the revenue by the person conducting business under the assumed or fictitious name.

**§ 59.1-75.1. Penalty for signing false certificate.**

A. It is unlawful for any person to sign a certificate the person knows is false in any material respect with intent that the certificate be delivered to the Commission for filing.

B. Any person who violates the provisions of this section is guilty of a Class 1 misdemeanor.

**2. That the provisions of this act shall become effective on May 1, 2019.**

**3. That the provisions of this act (i) shall be applied prospectively only; (ii) shall not affect the validity of any filing made, or other action taken, prior to the effective date of this act with respect to a fictitious or assumed name certificate; and (iii) shall not be construed to require any person who was in compliance with applicable laws regarding fictitious or assumed name certificates prior to the effective date of this act to take any action to comply with the requirements of this act.**

**CHAPTER 595**

*An Act to amend and reenact § 4.1-126 of the Code of Virginia, relating to alcoholic beverage control; mixed beverage licenses for certain properties.*

[S 1325]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 4.1-126 of the Code of Virginia is amended and reenacted as follows:**

**§ 4.1-126. Licenses for establishments in national forests, certain adjoining lands, on the Blue Ridge Parkway, and certain other properties.**

A. Notwithstanding the provisions of § 4.1-124, mixed beverage licenses may be granted to establishments located (i) on property owned by the federal government in Jefferson National Forest, George Washington National Forest or the Blue Ridge Parkway; (ii) at altitudes of 3,800 feet or more above sea level on property adjoining the Jefferson National Forest; (iii) at an altitude of 2,800 feet or more above sea level on property adjoining the Blue Ridge Parkway at Mile Marker No. 189; (iv) on property within one-quarter mile of Mile Marker No. 174 on the Blue Ridge Parkway; (v) on property developed by a nonprofit economic development company or an industrial development authority; (vi) on old Jonesboro Road between Routes 823 and 654, located approximately 5,500 feet from the City of Bristol; (vii) on property developed as a motor sports road racing club, of which the track surface is 3.27 miles in length, on 1,200 acres of rural property bordering the Dan River in Halifax County, with such license applying to any area of the property deemed appropriate by the Board; (viii) at an altitude of 2,645 feet or more above sea level on land containing at least 750 acres used for recreational purposes and located within two and one-half miles of the Blue Ridge Parkway; (ix) on property fronting U.S. Route 11, with portions fronting Route 659, adjoining the City of Bristol and located approximately 2,700 feet north of mile marker 7.7 on Interstate 81; (x) on property bounded on the north by U.S. Route 11 and to the south by Interstate 81, and located between mile markers 8.1 and 8.5 of Interstate 81; (xi) on property consisting of at least 10,000 acres and operated as a resort located in any county with a population between 19,200 and 19,500; (xii) on property located as of December 1, 2012, within the Montgomery County Route 177 Urban Development Area, which area is adjacent to Exit 109 on Interstate 81; (xiii) on property fronting Route 603, with portions fronting on Interstate 81, located approximately 1,100 feet from the intersection of Route 603 and Interstate 81 at Exit 128; (xiv) on property located south of and within 1,400 feet of Interstate 81 between mile markers 38.8 and 39.5; (xv) on property bounded on the north by Interstate 81, on the west and south by State Route 691, and on the east by State Route 689; (xvi) on property located south of and within 1,500 feet of Interstate 81 between mile markers 44 and 44.4; (xvii) on property within 4,500 3,000 feet of Interstate 81 on either frontage road between mile markers 75 and 86 in the County of Wythe; (xviii) on property within the boundary of any town incorporated in 1875 located adjacent to the intersection of Interstate 81 and Route 91; (xix) on property adjacent to the intersection of U.S. Route 220 North and State Route 57, operated as a country club as of December 31, 1926, in Henry County; (xx) on property adjacent to Lake Lanier, operated as a country club as of December 31, 1932, in Henry County; (xxi) on property fronting Old Jonesboro Road between Routes 823 and 808, located approximately 4,500 feet south of

Interstate 81, and operated as a country club; (xxii) on property located west of Route 58 and approximately 3,000 feet north of Interstate 81; (xxiii) on property fronting U.S. Route 11 and 1,300 feet north of Interstate 81; (xxiv) on property located within 1,500 feet of Exit 26 on Interstate 81; (xxv) on property within the boundary of any town incorporated in 1911 located adjacent to the intersection of Route 63 and Route 58 Alternate; (xxvi) on property within the boundary of any town incorporated in 1894 consisting of 1.9 square miles and, prior to the town's incorporation, known as Guest Station; and (xxvii) on property fronting Kanawha Ridge Road, located within approximately 700 feet of Route 638, and operated as a resort in Carroll County as of December 31, 2007.

B. In granting any license under clauses (iii) and (iv) of subsection A, the Board shall consider whether the (i) voters of the jurisdiction in which the establishment is located have voted by referendum under the provisions of § 4.1-124 to prohibit the sale of mixed beverages and (ii) granting of a license will give that establishment an unfair business advantage over other establishments in the same jurisdiction. If an unfair business advantage will result, then no license shall be granted.

### CHAPTER 596

*An Act to amend and reenact § 4.1-230 of the Code of Virginia, relating to alcoholic beverage control; applications for retail license; health permit.*

[S 1382]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 4.1-230 of the Code of Virginia is amended and reenacted as follows:**

**§ 4.1-230. Applications for licenses; publication; notice to localities; fees; permits.**

A. Every person intending to apply for any license authorized by this chapter shall file with the Board an application on forms provided by the Board and a statement in writing, under oath, setting forth any information required by the Board. Applications for banquet, tasting, mixed beverage special events, or club events licenses shall not be required to be under oath, but the information contained therein shall be certified as true by the applicant.

*Applicants for retail licenses for establishments that serve food or are otherwise required to obtain a food establishment permit from the Department of Health or an inspection by the Department of Agriculture and Consumer Services shall provide a copy of such permit, proof of inspection, proof of a pending application for such permit, or proof of a pending request for such inspection. If the applicant provides a copy of such permit, proof of inspection, proof of a pending application for a permit, or proof of a pending request for an inspection, a license may be issued to the applicant. If a license is issued on the basis of a pending application or inspection, such license shall authorize the licensee to purchase alcoholic beverages in accordance with the provisions of this title; however, the licensee shall not sell or serve alcoholic beverages until a permit is issued or an inspection is completed.*

B. In addition, each applicant for a license under the provisions of this chapter, except applicants for annual banquet, banquet, tasting, special events, club events, annual mixed beverage banquet, wine or beer shipper's, wine and beer shipper's, delivery permit, annual arts venue, or museum licenses issued under the provisions of Chapter 2 (§ 4.1-200 et seq.), or beer or wine importer's licenses, shall post a notice of his application with the Board on the front door of the building, place or room where he proposes to engage in such business for no more than 30 days and not less than 10 days. Such notice shall be of a size and contain such information as required by the Board, including a statement that any objections shall be submitted to the Board not more than 30 days following initial publication of the notice required pursuant to this subsection.

The applicant shall also cause notice to be published at least once a week for two consecutive weeks in a newspaper published in or having a general circulation in the county, city or town wherein such applicant proposes to engage in such business. Such notice shall contain such information as required by the Board, including a statement that any objections to the issuance of the license be submitted to the Board not later than 30 days from the date of the initial newspaper publication. In the case of wine or beer shipper's licensees, wine and beer shipper's licensees, delivery permittees or operators of boats, dining cars, buffet cars, club cars, and airplanes, the posting and publishing of notice shall not be required.

Except for applicants for annual banquet, banquet, tasting, mixed beverage special events, club events, annual mixed beverage banquet, wine or beer shipper's, wine and beer shipper's, beer or wine importer's, annual arts venue, or museum licenses, the Board shall conduct a background investigation, to include a criminal history records search, which may include a fingerprint-based national criminal history records search, on each applicant for a license. However, the Board may waive, for good cause shown, the requirement for a criminal history records search and completed personal data form for officers, directors, nonmanaging members, or limited partners of any applicant corporation, limited liability company, or limited partnership.

Except for applicants for wine shipper's, beer shipper's, wine and beer shipper's licenses, and delivery permits, the Board shall notify the local governing body of each license application through the county or city attorney or the chief law-enforcement officer of the locality. Local governing bodies shall submit objections to the granting of a license within 30 days of the filing of the application.

C. Each applicant shall pay the required application fee at the time the application is filed. Each license application fee, including annual banquet and annual mixed beverage banquet, shall be \$65, plus the actual cost charged to the Department of State Police by the Federal Bureau of Investigation or the Central Criminal Records Exchange for processing any fingerprints through the Federal Bureau of Investigation or the Central Criminal Records Exchange for each criminal history records search required by the Board, except for banquet, tasting, mixed beverage special events, or mixed beverage club events licenses, in which case the application fee shall be \$15. Application fees shall be in addition to the state license fee required pursuant to § 4.1-231 and shall not be refunded.

D. Subsection A shall not apply to the continuance of licenses granted under this chapter; however, all licensees shall file and maintain with the Board a current, accurate record of the information required by the Board pursuant to subsection A and notify the Board of any changes to such information in accordance with Board regulations.

E. Every application for a permit granted pursuant to § 4.1-212 shall be on a form provided by the Board. In the case of applications to solicit the sale of wine and beer or spirits, each application shall be accompanied by a fee of \$165 and \$390, respectively. The fee for each such permit shall be subject to proration to the following extent: If the permit is granted in the second quarter of any year, the fee shall be decreased by one-fourth; if granted in the third quarter of any year, the fee shall be decreased by one-half; and if granted in the fourth quarter of any year, the fee shall be decreased by three-fourths. Each such permit shall expire on June 30 next succeeding the date of issuance, unless sooner suspended or revoked by the Board. Such permits shall confer upon their holders no authority to make solicitations in the Commonwealth as otherwise provided by law.

The fee for a temporary permit shall be one-twelfth of the combined fees required by this section for applicable licenses to sell wine, beer, or mixed beverages computed to the nearest cent and multiplied by the number of months for which the permit is granted.

The fee for a keg registration permit shall be \$65 annually.

The fee for a permit for the storage of lawfully acquired alcoholic beverages not under customs bond or internal revenue bond in warehouses located in the Commonwealth shall be \$260 annually.

#### CHAPTER 597

*An Act to amend and reenact § 8.01-223.2 of the Code of Virginia, relating to immunity of persons; defamation; statements regarding matters of public concern communicated to a third party.*

[S 1413]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 8.01-223.2 of the Code of Virginia is amended and reenacted as follows:**

**§ 8.01-223.2. Immunity of persons for statements made at public hearing or communicated to third party.**

A. A person shall be immune from civil liability for a violation of § 18.2-499 ~~or~~, a claim of tortious interference with an existing contract or a business or contractual expectancy, *or a claim of defamation based solely on statements (i) regarding matters of public concern that would be protected under the First Amendment to the United States Constitution made by that person that are communicated to a third party or (ii) made at a public hearing before the governing body of any locality or other political subdivision, or the boards, commissions, agencies and authorities thereof, and other governing bodies of any local governmental entity concerning matters properly before such body. The immunity provided by this section shall not apply to any statements made with actual or constructive knowledge that they are false; or with reckless disregard for whether they are false.*

B. Any person who has a suit against him dismissed pursuant to the immunity provided by this section may be awarded reasonable attorney fees and costs.

#### CHAPTER 598

*An Act to amend and reenact § 15.2-1522 of the Code of Virginia, relating to blanket surety bonds; proof of coverage of local officer.*

[S 1558]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 15.2-1522 of the Code of Virginia is amended and reenacted as follows:**

**§ 15.2-1522. When and how officers qualify.**

Every elected county, city, town and district officer, unless otherwise provided by law, on or before the day on which his term of office begins, shall qualify by taking the oath prescribed by § 49-1 and give the bond, if any, required by law, before the circuit court for the county or city, having jurisdiction in the county, city, town or district for which he is elected or appointed, or before the clerk of the circuit court for such county, city, town or district. However, members of governing

bodies and elected school boards may qualify up to and including the day of the initial meeting of the new governing body or elected school board.

Any such oath of town council members, town mayors or members of Boards of Supervisors may be taken before any officer authorized by law to administer oaths. Such oath shall be returned to the clerk of the council of the town, who shall enter the same record on the minute book of the council, or, for members of the Board of Supervisors, returned to the clerk of the circuit court having jurisdiction in the county for which he is elected or appointed, who shall record the same in the order book, on the law side thereof.

Whenever an officer required to give bond is included in a blanket surety bond authorized by § 2.2-1840, such officer shall furnish ~~an extract of the master blanket surety bond on file in the Comptroller's office, reflecting the name or position of the officer~~ confirmation by the Division of Risk Management of the inclusion of the officer on such blanket surety bond and the amount of the coverage, which shall be the equivalent of giving the bond for purposes of qualification.

An appointed officer as used in this article means a person appointed to temporarily fill an elected position. District officer as used in this article means a person elected by the people other than national and statewide officers and members of the General Assembly.

## CHAPTER 599

*An Act to amend and reenact § 2.2-4007.04 of the Code of Virginia, relating to certain regulations of the Department of Medical Assistance Services and the Department of Behavioral Health and Developmental Services.*

[H 1944]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 2.2-4007.04 of the Code of Virginia is amended and reenacted as follows:**

**§ 2.2-4007.04. Economic impact analysis.**

A. Before delivering any proposed regulation under consideration to the Registrar as required in § 2.2-4007.05, the agency shall submit on the Virginia Regulatory Town Hall a copy of that regulation to the Department of Planning and Budget. In addition to determining the public benefit, the Department of Planning and Budget in coordination with the agency shall, within 45 days, prepare an economic impact analysis of the proposed regulation, as follows:

1. The economic impact analysis shall include but need not be limited to the projected number of businesses or other entities to ~~whom~~ which the regulation would apply; the identity of any localities and types of businesses or other entities particularly affected by the regulation; the projected number of persons and employment positions to be affected; the impact of the regulation on the use and value of private property, including additional costs related to the development of real estate for commercial or residential purposes; and the projected costs to affected businesses, localities, or entities of implementing or complying with the regulations, including the estimated fiscal impact on such localities and sources of potential funds to implement and comply with such regulation. A copy of the economic impact analysis shall be provided to the Joint Commission on Administrative Rules; *and*

2. If the regulation may have an adverse effect on small businesses, the economic impact analysis shall also include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the regulation. As used in this subdivision, "small business" has the same meaning as provided in subsection A of § 2.2-4007.1; *and*.

~~3.~~ B. In the event the Department cannot complete an economic impact statement within the 45-day period, it shall advise the agency and the Joint Commission on Administrative Rules as to the reasons for the delay. In no event shall the delay exceed 30 days beyond the original 45-day period.

~~B.~~ C. Agencies shall provide the Department with such estimated fiscal impacts on localities and sources of potential funds. The Department may request the assistance of any other agency in preparing the analysis. The Department shall deliver a copy of the analysis to the agency drafting the regulation, which shall comment thereon as provided in § 2.2-4007.05, a copy to the Registrar for publication with the proposed regulation, and an electronic copy to each member of the General Assembly. No regulation shall be promulgated for consideration pursuant to § 2.2-4007.05 until the impact analysis has been received by the Registrar. For purposes of this section, the term "locality, business, or entity particularly affected" means any locality, business, or entity that bears any identified disproportionate material impact that would not be experienced by other localities, businesses, or entities. The analysis shall represent the Department's best estimate for the purposes of public review and comment on the proposed regulation. The accuracy of the estimate shall in no way affect the validity of the regulation, nor shall any failure to comply with or otherwise follow the procedures set forth in this subsection create any cause of action or provide standing for any person under Article 5 (§ 2.2-4025 et seq.) or otherwise to challenge the actions of the Department hereunder or the action of the agency in adopting the proposed regulation.

~~C.~~ D. In the event the economic impact analysis completed by the Department reveals that the proposed regulation would have an adverse economic impact on businesses or would impose a significant adverse economic impact on a

locality, business, or entity particularly affected, the Department shall advise the Joint Commission on Administrative Rules, the House Committee on Appropriations, and the Senate Committee on Finance within the 45-day period. The Joint Commission on Administrative Rules shall review such rule or regulation and issue a statement containing the Commission's findings in accordance with § 30-73.3.

*E. The Department shall revise and reissue its economic impact analysis within the time limits set forth for the Department's review of regulations at the final stage pursuant to the Governor's executive order for executive branch review if any of the following conditions is present that would materially change the Department's analysis:*

1. *Public comment timely received at the proposed stage indicates significant errors in the economic impact analysis; or*
2. *There is significant or material difference between the agency's proposed economic impact analysis and the anticipated negative economic impacts to the business community as indicated by public comment.*

*The determination of whether a condition is present under this subsection shall be made by the Department and shall not be subject to judicial review.*

**2. That, at or prior to the time a new regulation is posted to the Virginia Regulatory Town Hall, the Department of Medical Assistance Services shall provide direct notice to stakeholders affected by the new regulatory change that such change has been initiated. At the time that the final stage of a regulation is posted to the Virginia Regulatory Town Hall, the Department of Medical Assistance Services shall provide direct notice to stakeholders affected by the regulatory change that such final stage has been posted.**

**3. That, at the time a change to a provider manual is being developed, the Department of Medical Assistance Services shall provide direct notice to stakeholders affected by the provider manual change that such change has been initiated. The Department shall post a notice of such change to the Virginia Regulatory Town Hall, to include a public comment forum, for a period of 30 days. Such notice shall include a description of the change and provide contact information for the Department's designated contact person.**

**4. That, at or prior to the time a new regulation relating to licensed providers is posted to the Virginia Regulatory Town Hall, the Department of Behavioral Health and Developmental Services shall provide direct notice to licensed providers affected by the new regulatory change that such change has been initiated.**

**5. That, at the time that the final stage of a regulation is posted to the Virginia Regulatory Town Hall, the Department of Behavioral Health and Developmental Services shall provide direct notice to licensed providers affected by the regulatory change that such final stage has been posted.**

**6. That, at the time any change to guidance documents related to licensure requirements is being developed, the Department of Behavioral Health and Developmental Services shall provide direct notice to licensed providers affected by the change that such change has been initiated. The Department shall post the proposed change to the Virginia Regulatory Town Hall, to include a public comment forum, for a period of 30 days. Such notice shall include a description of the change and provide contact information for the Department's designated contact person. If it is anticipated that the change shall have an impact on staffing or payment matters for the affected stakeholders, the direct notice to stakeholders shall note this fact and request specific comments regarding an appropriate time frame for the implementation of such changes.**

## CHAPTER 600

*An Act to amend and reenact § 2.2-3705.5 of the Code of Virginia and to amend the Code of Virginia by adding in Title 32.1 a chapter numbered 19, consisting of a section numbered 32.1-372, relating to Emergency Department Care Coordination Program.*

[H 2209]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 2.2-3705.5 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Title 32.1 a chapter numbered 19, consisting of a section numbered 32.1-372, as follows:**

**§ 2.2-3705.5. Exclusions to application of chapter; health and social services records.**

The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01.

1. Health records, except that such records may be personally reviewed by the individual who is the subject of such records, as provided in subsection F of § 32.1-127.1:03.

Where the person who is the subject of health records is confined in a state or local correctional facility, the administrator or chief medical officer of such facility may assert such confined person's right of access to the health records if the administrator or chief medical officer has reasonable cause to believe that such confined person has an infectious disease or other medical condition from which other persons so confined need to be protected. Health records shall only be reviewed and shall not be copied by such administrator or chief medical officer. The information in the health records of a

person so confined shall continue to be confidential and shall not be disclosed by the administrator or chief medical officer of the facility to any person except the subject or except as provided by law.

Where the person who is the subject of health records is under the age of 18, his right of access may be asserted only by his guardian or his parent, including a noncustodial parent, unless such parent's parental rights have been terminated, a court of competent jurisdiction has restricted or denied such access, or a parent has been denied access to the health record in accordance with § 20-124.6. In instances where the person who is the subject thereof is an emancipated minor, a student in a public institution of higher education, or is a minor who has consented to his own treatment as authorized by § 16.1-338 or 54.1-2969, the right of access may be asserted by the subject person.

For the purposes of this chapter, statistical summaries of incidents and statistical data concerning abuse of individuals receiving services compiled by the Commissioner of Behavioral Health and Developmental Services shall be disclosed. No such summaries or data shall include any information that identifies specific individuals receiving services.

2. Applications for admission to examinations or for licensure and scoring records maintained by the Department of Health Professions or any board in that department on individual licensees or applicants. However, such material may be made available during normal working hours for copying, at the requester's expense, by the individual who is the subject thereof, in the offices of the Department of Health Professions or in the offices of any health regulatory board, whichever may possess the material.

3. Reports, documentary evidence and other information as specified in §§ 51.5-122, 51.5-141, and 63.2-104.

4. Investigative notes; proprietary information not published, copyrighted or patented; information obtained from employee personnel records; personally identifiable information regarding residents, clients or other recipients of services; other correspondence and information furnished in confidence to the Department of Social Services in connection with an active investigation of an applicant or licensee pursuant to Chapters 17 (§ 63.2-1700 et seq.) and 18 (§ 63.2-1800 et seq.) of Title 63.2; and information furnished to the Office of the Attorney General in connection with an investigation or litigation pursuant to Article 19.1 (§ 8.01-216.1 et seq.) of Chapter 3 of Title 8.01 and Chapter 9 (§ 32.1-310 et seq.) of Title 32.1. Information from the records of completed investigations shall be disclosed in a form that does not reveal the identity of complainants, persons supplying information, or other individuals involved in the investigation.

5. Information collected for the designation and verification of trauma centers and other specialty care centers within the Statewide Emergency Medical Services System and Services pursuant to Article 2.1 (§ 32.1-111.1 et seq.) of Chapter 4 of Title 32.1.

6. Reports and court documents relating to involuntary admission required to be kept confidential pursuant to § 37.2-818.

7. Data formerly required to be submitted to the Commissioner of Health relating to the establishment of new or the expansion of existing clinical health services, acquisition of major medical equipment, or certain projects requiring capital expenditures pursuant to former § 32.1-102.3:4.

8. Information required to be provided to the Department of Health Professions by certain licensees pursuant to § 54.1-2506.1.

9. Information acquired (i) during a review of any child death conducted by the State Child Fatality Review team established pursuant to § 32.1-283.1 or by a local or regional child fatality review team to the extent that such information is made confidential by § 32.1-283.2; (ii) during a review of any death conducted by a family violence fatality review team to the extent that such information is made confidential by § 32.1-283.3; or (iii) during a review of any adult death conducted by the Adult Fatality Review Team to the extent made confidential by § 32.1-283.5 or by a local or regional adult fatality review team to the extent that such information is made confidential by § 32.1-283.6.

10. Patient level data collected by the Board of Health and not yet processed, verified, and released, pursuant to § 32.1-276.9, to the Board by the nonprofit organization with which the Commissioner of Health has contracted pursuant to § 32.1-276.4.

11. Information held by the Health Practitioners' Monitoring Program Committee within the Department of Health Professions that may identify any practitioner who may be, or who is actually, impaired and disclosure of such information is prohibited by § 54.1-2517.

12. Information relating to a grant application, or accompanying a grant application, submitted to the Commonwealth Neurotrauma Initiative Advisory Board pursuant to Article 12 (§ 51.5-178 et seq.) of Chapter 14 of Title 51.5 that would (i) reveal (a) medical or mental health records or other data identifying individual patients or (b) proprietary business or research-related information produced or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of the applicant.

13. Any information copied, recorded, or received by the Commissioner of Health in the course of an examination, investigation, or review of a managed care health insurance plan licensee pursuant to §§ 32.1-137.4 and 32.1-137.5, including books, records, files, accounts, papers, documents, and any or all computer or other recordings.

14. Information and statistical registries required to be kept confidential pursuant to §§ 63.2-102 and 63.2-104.

15. Information relating to the prescribing and dispensing of covered substances to recipients and any abstracts from such information that are in the possession of the Prescription Monitoring Program pursuant to Chapter 25.2 (§ 54.1-2519 et seq.) of Title 54.1 and any material relating to the operation or security of the Program.

16. Records of the Virginia Birth-Related Neurological Injury Compensation Program required to be kept confidential pursuant to § 38.2-5002.2.

17. Information held by the State Health Commissioner relating to the health of any person subject to an order of quarantine or an order of isolation pursuant to Article 3.02 (§ 32.1-48.05 et seq.) of Chapter 2 of Title 32.1. However, nothing in this subdivision shall be construed to authorize the withholding of statistical summaries, abstracts, or other information in aggregate form.

18. The names and addresses or other contact information of persons receiving transportation services from a state or local public body or its designee under Title II of the Americans with Disabilities Act, (42 U.S.C. § 12131 et seq.) or funded by Temporary Assistance for Needy Families (TANF) created under § 63.2-600.

19. Information held by certain health care committees and entities that may be withheld from discovery as privileged communications pursuant to § 8.01-581.17.

20. *Records of and information held by the Emergency Department Care Coordination Program required to be kept confidential pursuant to § 32.1-372.*

#### CHAPTER 19.

#### EMERGENCY DEPARTMENT CARE COORDINATION PROGRAM.

##### **§ 32.1-372. Emergency Department Care Coordination Program established; purpose.**

A. *The Emergency Department Care Coordination Program (the Program) is hereby created to provide a single, statewide technology solution that connects all hospital emergency departments in the Commonwealth to facilitate real-time communication and collaboration among physicians, other health care providers, and clinical and care management personnel for patients receiving services in hospital emergency departments, for the purpose of improving the quality of patient care services.*

B. *In developing and implementing the Program, the Commissioner shall ensure that the Program:*

1. *Receives real-time patient visit information from, and shares such information with, every hospital emergency department in the Commonwealth through integrations that enable receiving information from and delivering information into electronic health records systems utilized by such hospital emergency departments;*

2. *Requires that all participants in the Program have fully executed health care data exchange contracts that ensure that the secure and reliable exchange of patient information fully complies with patient privacy and security requirements of applicable state and federal laws and regulations, including the Health Insurance Portability and Accountability Act (42 U.S.C. § 1320d et seq.);*

3. *Allows hospital emergency departments in the Commonwealth to receive real-time alerts triggered by analytics to identify patient-specific risks, to create and share care coordination plans and other care recommendations, and to access other clinically beneficial information related to patients receiving services in hospital emergency departments in the Commonwealth;*

4. *Provides a patient's designated primary care physician and supporting clinical and care management personnel with treatment and care coordination information about a patient receiving services in a hospital emergency department in the Commonwealth, including care plans and hospital admissions, transfers, and discharges;*

5. *Provides a patient's designated managed care organization and supporting clinical and care management personnel with care coordination plans and discharge and other treatment and care coordination information about a member receiving services in a hospital emergency department in the Commonwealth; and*

6. *Is integrated with the Prescription Monitoring Program established pursuant to Chapter 25.2 (§ 54.1-2519 et seq.) of Title 54.1 and the Advance Health Care Directive Registry established pursuant to Article 9 (§ 54.1-2994 et seq.) of Chapter 29 of Title 54.1 to enable automated query and automatic delivery of relevant information from such sources into the existing work flow of health care providers in the emergency department.*

C. *The Commissioner shall enter into a contract with a third party to create, operate, maintain, or administer the Program in accordance with this section, which shall include provisions for the protection of patient privacy and data security pursuant to state and federal law and regulations, including the Health Insurance Portability and Accountability Act (42 U.S.C. § 1320d et seq.). The third-party contractor shall establish an advisory council, which shall consist of representatives of the Department, the Department of Medical Assistance Services, the Department of Health Professions, the Virginia Hospital and Healthcare Association, the Virginia Association of Health Plans, the Medical Society of Virginia, the Virginia College of Emergency Physicians, the Virginia Chapter of the American Academy of Pediatricians, and the Virginia Academy of Family Physicians, to advise the Commissioner and the third-party contractor regarding the establishment and operation of the Program, changes to the Program, and outcome measures for the Program.*

D. *Information submitted to the Program shall be confidential and shall be exempt from disclosure under the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).*

**2. That the provisions of this act shall not become effective unless and until the Commonwealth receives federal HITECH funds to implement its provisions.**

## CHAPTER 601

*An Act to amend and reenact § 37.2-505 of the Code of Virginia, relating to community services boards; preadmission screening; regional jail inmates.*

[H 2331]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:****1. That § 37.2-505 of the Code of Virginia is amended and reenacted as follows:****§ 37.2-505. Coordination of services for preadmission screening and discharge planning.**

A. The community services board shall fulfill the following responsibilities:

1. Be responsible for coordinating the community services necessary to accomplish effective preadmission screening and discharge planning for persons referred to the community services board. When preadmission screening reports are required by the court on an emergency basis pursuant to Article 5 (§ 37.2-814 et seq.) of Chapter 8, the community services board shall ensure the development of the report for the court. To accomplish this coordination, the community services board shall establish a structure and procedures involving staff from the community services board and, as appropriate, representatives from (i) the state hospital or training center serving the board's service area, (ii) the local department of social services, (iii) the health department, (iv) the Department for Aging and Rehabilitative Services office in the board's service area, (v) the local school division, and (vi) other public and private human services agencies, including licensed hospitals.

2. Provide preadmission screening services prior to the admission for treatment pursuant to § 37.2-805 or Article 5 (§ 37.2-814 et seq.) of Chapter 8 of any person who requires emergency mental health services while in a city or county served by the community services board. *In the case of inmates incarcerated in a regional jail, each community services board that serves a county or city that is a participant in the regional jail shall review any existing Memorandum of Understanding between the community services board and any other community services boards that serve the regional jail to ensure that such memorandum sets forth the roles and responsibilities of each community service board in the preadmission screening process, provides for communication and information sharing protocols between the community services boards, and provides for due consideration, including financial consideration, should there be disproportionate obligations on one of the community service boards.*

3. Provide, in consultation with the appropriate state hospital or training center, discharge planning for any individual who, prior to admission, resided in a city or county served by the community services board or who chooses to reside after discharge in a city or county served by the board and who is to be released from a state hospital or training center pursuant to § 37.2-837. Upon initiation of discharge planning, the community services board that serves the city or county where the individual resided prior to admission shall inform the individual that he may choose to return to the county or city in which he resided prior to admission or to any other county or city in the Commonwealth. If the individual is unable to make informed decisions regarding his care, the community services board shall so inform his authorized representative, who may choose the county or city in which the individual shall reside upon discharge. In either case and to the extent permitted by federal law, for individuals who choose to return to the county or city in which they resided prior to admission, the community services board shall make every reasonable effort to place the individuals in such county or city. The community services board serving the county or city in which he will reside following discharge shall be responsible for arranging transportation for the individual upon request following the discharge protocols developed by the Department.

The discharge plan shall be completed prior to the individual's discharge. The plan shall be prepared with the involvement and participation of the individual receiving services or his representative and must reflect the individual's preferences to the greatest extent possible. The plan shall include the mental health, developmental, substance abuse, social, educational, medical, employment, housing, legal, advocacy, transportation, and other services that the individual will need upon discharge into the community and identify the public or private agencies that have agreed to provide these services.

No individual shall be discharged from a state hospital or training center without completion by the community services board of the discharge plan described in this subdivision. If state hospital or training center staff identify an individual as ready for discharge and the community services board that is responsible for the individual's care disagrees, the community services board shall document in the treatment plan within 30 days of the individual's identification any reasons for not accepting the individual for discharge. If the state hospital or training center disagrees with the community services board and the board refuses to develop a discharge plan to accept the individual back into the community, the state hospital or training center or the community services board shall ask the Commissioner to review the state hospital's or training center's determination that the individual is ready for discharge in accordance with procedures established by the Department in collaboration with state hospitals, training centers, and community services boards. If the Commissioner determines that the individual is ready for discharge, a discharge plan shall be developed by the Department to ensure the availability of adequate services for the individual and the protection of the community. The Commissioner also shall verify that sufficient state-controlled funds have been allocated to the community services board through the performance contract. If sufficient state-controlled funds have been allocated, the Commissioner may contract with a private provider, another community services board, or a behavioral health authority to deliver the services specified in the discharge plan and

withhold allocated funds applicable to that individual's discharge plan from the community services board in accordance with subsections C and E of § 37.2-508.

4. Provide information, if available, to all hospitals licensed pursuant to Article 1 (§ 32.1-123 et seq.) of Chapter 5 of Title 32.1 about alcohol and substance abuse services available to minors.

B. The community services board may perform the functions set out in subdivision A 1 in the case of children by referring them to the locality's family assessment and planning team and by cooperating with the community policy and management team in the coordination of services for troubled youths and their families. The community services board may involve the family assessment and planning team and the community policy and management team, but it remains responsible for performing the functions set out in subdivisions A 2 and A 3 in the case of children.

**CHAPTER 602**

*An Act to require the Department of Health to take steps to begin eliminating site evaluation and design services for onsite sewage systems and private wells provided by the Department.*

[H 2477]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. § 1. That the Department of Health shall take steps to begin eliminating site evaluation and design services for onsite sewage systems and private wells provided by the Department. In doing so, the Department shall:**

*1. Require, in cases in which site evaluations and design services for onsite sewage systems and private wells are provided by private sector service providers, that such site evaluation and design service providers disclose to the property owner when a conventional onsite sewage system is an option;*

*2. Revise agency regulations and policies to require Department staff to inspect all onsite sewage systems and private wells designed by private sector service providers;*

*3. Expand efforts to educate the public concerning the design, operation, and maintenance of onsite sewage systems and private wells;*

*4. Expand efforts to incorporate onsite sewage systems and private well data into community health assessments;*

*5. Enhance quality assurance checks and inspection procedures for the review of evaluations, designs, and installations by private sector service providers and update its quality assurance manual to reflect this change in the agency's business model;*

*6. Consider separating work unit functions regarding permitting and enforcement for onsite sewage systems and private wells to ensure that staff reviewing evaluations and designs for permitting purposes are separate and independent from staff performing enforcement functions;*

*7. Improve the collection and management of data about onsite sewage systems and private wells, including (i) creating a web-based reporting system for conventional onsite sewage system operation and maintenance, (ii) accepting applications and payments online, (iii) making onsite sewage system and private well records available online, (iv) creating a complete electronic record of all permitted onsite sewage systems and private wells in the Commonwealth, and (v) creating procedures for tracking Notices of Alleged Violations and corrective actions; and*

*8. Revise agency policies to allow the transfer of valid construction permits for onsite sewage systems and private wells to new property owners.*

**2. That the Department of Health shall report on its progress in implementing the provisions of this act and any recommendations for statutory, regulatory, policy or budgetary changes that may be necessary to implement the provisions of this act to the Secretary of Health and Human Resources and the Chairmen of the House Committee on Health, Welfare and Institutions and Senate Committee on Education and Health by November 1, 2017.**

**CHAPTER 603**

*An Act to amend and reenact § 8.01-66.2 of the Code of Virginia, relating to lien against person whose negligence causes injury; emergency medical services providers or agencies.*

[S 867]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 8.01-66.2 of the Code of Virginia is amended and reenacted as follows:**

**§ 8.01-66.2. Lien against person whose negligence causes injury.**

Whenever any person sustains personal injuries caused by the alleged negligence of another and receives treatment in any hospital, public or private, or nursing home, or receives medical attention or treatment from any physician, or receives nursing service or care from any registered nurse, or receives physical therapy treatment from any registered physical therapist in this Commonwealth, or receives medicine from a pharmacy, or receives any emergency medical services and transportation provided by an emergency medical services vehicle, such hospital, nursing home, physician, nurse, physical

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therapist, pharmacy or emergency medical services and transportation provided by an emergency medical services vehicle provider or agency shall each have a lien for the amount of a just and reasonable charge for the service rendered, but not exceeding \$2,500 in the case of a hospital or nursing home, \$750 for each physician, nurse, physical therapist, or pharmacy, and \$200 for each emergency medical services provider or agency providing emergency medical services or emergency medical services vehicle transportation on the claim of such injured person or of his personal representative against the person, firm, or corporation whose negligence is alleged to have caused such injuries.

CHAPTER 604

*An Act to require local departments of social services to timely respond to complaints alleging abuse or neglect of a child under two years of age.*

[S 868]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:**

1. *§ 1. That the State Board of Social Services shall promulgate regulations that require local departments of social services to respond to valid reports and complaints alleging suspected abuse or neglect of a child under the age of two within 24 hours of receiving such reports or complaints.*

CHAPTER 605

*An Act to amend and reenact § 19.2-169.6 of the Code of Virginia, relating to inpatient psychiatric hospital admission; defendant found incompetent.*

[S 935]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:**

1. **That § 19.2-169.6 of the Code of Virginia is amended and reenacted as follows:**

**§ 19.2-169.6. Inpatient psychiatric hospital admission from local correctional facility.**

A. Any inmate of a local correctional facility who is not subject to the provisions of § 19.2-169.2 may be hospitalized for psychiatric treatment at a hospital designated by the Commissioner of Behavioral Health and Developmental Services as appropriate for treatment of persons under criminal charge if:

1. The court with jurisdiction over the inmate's case, if it is still pending, on the petition of the person having custody over an inmate or on its own motion, holds a hearing at which the inmate is represented by counsel and finds by clear and convincing evidence that (i) the inmate has a mental illness; (ii) there exists a substantial likelihood that, as a result of a mental illness, the inmate will, in the near future, (a) cause serious physical harm to himself or others as evidenced by recent behavior causing, attempting, or threatening harm and any other relevant information or (b) suffer serious harm due to his lack of capacity to protect himself from harm as evidenced by recent behavior and any other relevant information; and (iii) the inmate requires treatment in a hospital rather than the local correctional facility. Prior to making this determination, the court shall consider the examination conducted in accordance with § 37.2-815 and the preadmission screening report prepared in accordance with § 37.2-816 and conducted in-person or by means of a two-way electronic video and audio communication system as authorized in § 37.2-804.1 by an employee or designee of the local community services board or behavioral health authority who is skilled in the assessment and treatment of mental illness, who is not providing treatment to the inmate, and who has completed a certification program approved by the Department of Behavioral Health and Developmental Services as provided in § 37.2-809. The examiner appointed pursuant to § 37.2-815, if not physically present at the hearing, shall be available whenever possible for questioning during the hearing through a two-way electronic video and audio or telephonic communication system as authorized in § 37.2-804.1. Any employee or designee of the local community services board or behavioral health authority, as defined in § 37.2-809, representing the board or authority that prepared the preadmission screening report shall attend the hearing in person or, if physical attendance is not practicable, shall participate in the hearing through a two-way electronic video and audio communication system as authorized in § 37.2-804.1. When the hearing is held outside the service area of the community services board or behavioral health authority that prepared the preadmission screening report, and it is not practicable for a representative of the board or authority to attend or participate in the hearing, arrangements shall be made by the board or authority for an employee or designee of the board or authority serving the area in which the hearing is held to attend or participate on behalf of the board or authority that prepared the preadmission screening report; or

2. Upon petition by the person having custody over an inmate, a magistrate finds probable cause to believe that (i) the inmate has a mental illness; (ii) there exists a substantial likelihood that, as a result of a mental illness, the inmate will, in the near future, (a) cause serious physical harm to himself or others as evidenced by recent behavior causing, attempting, or threatening harm and any other relevant information or (b) suffer serious harm due to his lack of capacity to protect himself from harm as evidenced by recent behavior and any other relevant information; and (iii) the inmate requires treatment in a hospital rather than a local correctional facility, and the magistrate issues a temporary detention order for the inmate. Prior

to the filing of the petition, the person having custody shall arrange for an evaluation of the inmate conducted in-person or by means of a two-way electronic video and audio communication system as authorized in § 37.2-804.1 by an employee or designee of the local community services board or behavioral health authority who is skilled in the assessment and treatment of mental illness and who has completed a certification program approved by the Department as provided in § 37.2-809. After considering the evaluation of the employee or designee of the local community services board or behavioral health authority, and any other information presented, and finding that probable cause exists to meet the criteria, the magistrate may issue a temporary detention order in accordance with the applicable procedures specified in §§ 37.2-809 through 37.2-813. The person having custody over the inmate shall notify the court having jurisdiction over the inmate's case, if it is still pending, and the inmate's attorney prior to the detention pursuant to a temporary detention order or as soon thereafter as is reasonable.

Upon detention pursuant to this subdivision, a hearing shall be held either before the court having jurisdiction over the inmate's case or before a district court judge or a special justice, as defined in § 37.2-100, in accordance with the provisions of §§ 37.2-815 through 37.2-821, in which case the inmate shall be represented by counsel as specified in § 37.2-814. The hearing shall be held within 72 hours of execution of the temporary detention order issued pursuant to this subdivision. If the 72-hour period terminates on a Saturday, Sunday, legal holiday, or day on which the court is lawfully closed, the inmate may be detained until the close of business on the next day that is not a Saturday, Sunday, legal holiday, or day on which the court is lawfully closed. Any employee or designee of the local community services board or behavioral health authority, as defined in § 37.2-809, representing the board or authority that prepared the preadmission screening report shall attend the hearing in person or, if physical attendance is not practicable, shall participate in the hearing through a two-way electronic video and audio communication system as authorized in § 37.2-804.1. When the hearing is held outside the service area of the community services board or behavioral health authority that prepared the preadmission screening report, and it is not practicable for a representative of the board or authority to attend or participate in the hearing, arrangements shall be made by the board or authority for an employee or designee of the board or authority serving the area in which the hearing is held to attend or participate on behalf of the board or authority that prepared the preadmission screening report. The judge or special justice conducting the hearing may order the inmate hospitalized if, after considering the examination conducted in accordance with § 37.2-815, the preadmission screening report prepared in accordance with § 37.2-816, and any other available information as specified in subsection C of § 37.2-817, he finds by clear and convincing evidence that (1) the inmate has a mental illness; (2) there exists a substantial likelihood that, as a result of a mental illness, the inmate will, in the near future, (a) cause serious physical harm to himself or others as evidenced by recent behavior causing, attempting, or threatening harm and any other relevant information or (b) suffer serious harm due to his lack of capacity to protect himself from harm as evidenced by recent behavior and any other relevant information; and (3) the inmate requires treatment in a hospital rather than a local correctional facility. The examiner appointed pursuant to § 37.2-815, if not physically present at the hearing, shall be available whenever possible for questioning during the hearing through a two-way electronic video and audio or telephonic communication system as authorized in § 37.2-804.1. The examination and the preadmission screening report shall be admitted into evidence at the hearing.

B. In no event shall an inmate have the right to make application for voluntary admission as may be otherwise provided in § 37.2-805 or 37.2-814 or be subject to an order for mandatory outpatient treatment as provided in § 37.2-817.

C. If an inmate is hospitalized pursuant to this section and his criminal case is still pending, the court having jurisdiction over the inmate's case may order that the admitting hospital evaluate the inmate's competency to stand trial and his mental state at the time of the offense pursuant to §§ 19.2-169.1 and 19.2-169.5.

D. An inmate may not be hospitalized longer than 30 days under subsection A unless the court which has criminal jurisdiction over him or a district court judge or a special justice, as defined in § 37.2-100, holds a hearing and orders the inmate's continued hospitalization in accordance with the provisions of subdivision A 2. If the inmate's hospitalization is continued under this subsection by a court other than the court which has jurisdiction over his criminal case, the facility at which the inmate is hospitalized shall notify the court with jurisdiction over his criminal case and the inmate's attorney in the criminal case, if the case is still pending.

E. Hospitalization may be extended in accordance with subsection D for periods of 60 days for inmates awaiting trial, but in no event may such hospitalization be continued beyond trial, nor shall such hospitalization act to delay trial, as long as the inmate remains competent to stand trial. Hospitalization may be extended in accordance with subsection D for periods of 180 days for an inmate who has been convicted and not yet sentenced, or for an inmate who has been convicted of a crime and is in the custody of a local correctional facility after sentencing, but in no event may such hospitalization be continued beyond the date upon which his sentence would have expired had he received the maximum sentence for the crime charged. Any inmate who has not completed service of his sentence upon discharge from the hospital shall serve the remainder of his sentence.

F. For any inmate who has been convicted and not yet sentenced, or who has been convicted of a crime and is in the custody of a local correctional facility after sentencing, the time the inmate is confined in a hospital for psychiatric treatment shall be deducted from any term for which he may be sentenced to any penal institution, reformatory or elsewhere.

G. Any health care provider, as defined in § 32.1-127.1:03, or other provider rendering services to an inmate who is the subject of a proceeding under this section, upon request, shall disclose to a magistrate, the court, the inmate's attorney, the inmate's guardian ad litem, the examiner appointed pursuant to § 37.2-815, the community service board or behavioral

health authority preparing the preadmission screening pursuant to § 37.2-816, or the sheriff or administrator of the local correctional facility any and all information that is necessary and appropriate to enable each of them to perform his duties under this section. These health care providers and other service providers shall disclose to one another health records and information where necessary to provide care and treatment to the inmate and to monitor that care and treatment. Health records disclosed to a sheriff or administrator of the local correctional facility shall be limited to information necessary to protect the sheriff or administrator of the local correctional facility and his employees, the inmate, or the public from physical injury or to address the health care needs of the inmate. Information disclosed to a law-enforcement officer shall not be used for any other purpose, disclosed to others, or retained.

Any health care provider disclosing records pursuant to this section shall be immune from civil liability for any harm resulting from the disclosure, including any liability under the federal Health Insurance Portability and Accountability Act (42 U.S.C. § 1320d et seq.), as amended, unless the person or provider disclosing such records intended the harm or acted in bad faith.

H. Any order entered where an inmate is the subject of proceedings under this section shall provide for the disclosure of medical records pursuant to subsection G. This subsection shall not preclude any other disclosures as required or permitted by law.

I. As used in this section, "person having custody over an inmate" means the sheriff or other person in charge of the local correctional facility where the inmate is incarcerated at the time of the filing of a petition for the psychiatric treatment of the inmate.

## CHAPTER 606

*An Act to amend and reenact § 37.2-505 of the Code of Virginia, relating to community services boards; preadmission screening; regional jail inmates.*

[S 975]

Approved March 16, 2017

### **Be it enacted by the General Assembly of Virginia:**

#### **1. That § 37.2-505 of the Code of Virginia is amended and reenacted as follows:**

##### **§ 37.2-505. Coordination of services for preadmission screening and discharge planning.**

A. The community services board shall fulfill the following responsibilities:

1. Be responsible for coordinating the community services necessary to accomplish effective preadmission screening and discharge planning for persons referred to the community services board. When preadmission screening reports are required by the court on an emergency basis pursuant to Article 5 (§ 37.2-814 et seq.) of Chapter 8, the community services board shall ensure the development of the report for the court. To accomplish this coordination, the community services board shall establish a structure and procedures involving staff from the community services board and, as appropriate, representatives from (i) the state hospital or training center serving the board's service area, (ii) the local department of social services, (iii) the health department, (iv) the Department for Aging and Rehabilitative Services office in the board's service area, (v) the local school division, and (vi) other public and private human services agencies, including licensed hospitals.

2. Provide preadmission screening services prior to the admission for treatment pursuant to § 37.2-805 or Article 5 (§ 37.2-814 et seq.) of Chapter 8 of any person who requires emergency mental health services while in a city or county served by the community services board. *In the case of inmates incarcerated in a regional jail, each community services board that serves a county or city that is a participant in the regional jail shall review any existing Memorandum of Understanding between the community services board and any other community services boards that serve the regional jail to ensure that such memorandum sets forth the roles and responsibilities of each community services board in the preadmission screening process, provides for communication and information sharing protocols between the community services boards, and provides for due consideration, including financial consideration, should there be disproportionate obligations on one of the community services boards.*

3. Provide, in consultation with the appropriate state hospital or training center, discharge planning for any individual who, prior to admission, resided in a city or county served by the community services board or who chooses to reside after discharge in a city or county served by the board and who is to be released from a state hospital or training center pursuant to § 37.2-837. Upon initiation of discharge planning, the community services board that serves the city or county where the individual resided prior to admission shall inform the individual that he may choose to return to the county or city in which he resided prior to admission or to any other county or city in the Commonwealth. If the individual is unable to make informed decisions regarding his care, the community services board shall so inform his authorized representative, who may choose the county or city in which the individual shall reside upon discharge. In either case and to the extent permitted by federal law, for individuals who choose to return to the county or city in which they resided prior to admission, the community services board shall make every reasonable effort to place the individuals in such county or city. The community services board serving the county or city in which he will reside following discharge shall be responsible for arranging transportation for the individual upon request following the discharge protocols developed by the Department.

The discharge plan shall be completed prior to the individual's discharge. The plan shall be prepared with the involvement and participation of the individual receiving services or his representative and must reflect the individual's preferences to the greatest extent possible. The plan shall include the mental health, developmental, substance abuse, social, educational, medical, employment, housing, legal, advocacy, transportation, and other services that the individual will need upon discharge into the community and identify the public or private agencies that have agreed to provide these services.

No individual shall be discharged from a state hospital or training center without completion by the community services board of the discharge plan described in this subdivision. If state hospital or training center staff identify an individual as ready for discharge and the community services board that is responsible for the individual's care disagrees, the community services board shall document in the treatment plan within 30 days of the individual's identification any reasons for not accepting the individual for discharge. If the state hospital or training center disagrees with the community services board and the board refuses to develop a discharge plan to accept the individual back into the community, the state hospital or training center or the community services board shall ask the Commissioner to review the state hospital's or training center's determination that the individual is ready for discharge in accordance with procedures established by the Department in collaboration with state hospitals, training centers, and community services boards. If the Commissioner determines that the individual is ready for discharge, a discharge plan shall be developed by the Department to ensure the availability of adequate services for the individual and the protection of the community. The Commissioner also shall verify that sufficient state-controlled funds have been allocated to the community services board through the performance contract. If sufficient state-controlled funds have been allocated, the Commissioner may contract with a private provider, another community services board, or a behavioral health authority to deliver the services specified in the discharge plan and withhold allocated funds applicable to that individual's discharge plan from the community services board in accordance with subsections C and E of § 37.2-508.

4. Provide information, if available, to all hospitals licensed pursuant to Article 1 (§ 32.1-123 et seq.) of Chapter 5 of Title 32.1 about alcohol and substance abuse services available to minors.

B. The community services board may perform the functions set out in subdivision A 1 in the case of children by referring them to the locality's family assessment and planning team and by cooperating with the community policy and management team in the coordination of services for troubled youths and their families. The community services board may involve the family assessment and planning team and the community policy and management team, but it remains responsible for performing the functions set out in subdivisions A 2 and A 3 in the case of children.

**CHAPTER 607**

*An Act to amend and reenact §§ 37.2-500 and 37.2-601 of the Code of Virginia, relating to community services boards and behavioral health authorities; services to be provided.*

[S 1005]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 37.2-500 and 37.2-601 of the Code of Virginia are amended and reenacted as follows:**

**§ 37.2-500. Purpose; community services board; services to be provided.**

A. The Department, for the purposes of establishing, maintaining, and promoting the development of mental health, developmental, and substance abuse services in the Commonwealth, may provide funds to assist any city or county or any combinations of cities or counties or cities and counties in the provision of these services. Every county or city shall establish a community services board by itself or in any combination with other cities and counties, unless it establishes a behavioral health authority pursuant to Chapter 6 (§ 37.2-600 et seq.). Every county or city or any combination of cities and counties that has established a community services board, in consultation with that board, shall designate it as an operating community services board, an administrative policy community services board or a local government department with a policy-advisory community services board. The governing body of each city or county that established the community services board may change this designation at any time by ordinance. In the case of a community services board established by more than one city or county, the decision to change this designation shall be the unanimous decision of all governing bodies.

B. The core of services provided by community services boards within the cities and counties that they serve shall include ~~emergency~~:

1. *Emergency services;*
2. *Same-day mental health screening services;*
3. *Outpatient primary care screening and monitoring services for physical health indicators and health risks and follow-up services for individuals identified as being in need of assistance with overcoming barriers to accessing primary health services, including developing linkages to primary health care providers; and, ~~subject~~*
4. *Subject to the availability of funds appropriated for them, case management services.*

C. The core of services may include a comprehensive system of inpatient, outpatient, day support, residential, prevention, early intervention, and other appropriate mental health, developmental, and substance abuse services necessary

to provide individualized services and supports to persons with mental illness, intellectual disability, or substance abuse. Community services boards may establish crisis stabilization units that provide residential crisis stabilization services.

D. In order to provide comprehensive mental health, developmental, and substance abuse services within a continuum of care, the community services board shall function as the single point of entry into publicly funded mental health, developmental, and substance abuse services.

**§ 37.2-601. Behavioral health authorities; purpose.**

A. The Department, for the purposes of establishing, maintaining, and promoting the development of behavioral health services in the Commonwealth, may provide funds to assist certain cities or counties in the provision of these services.

B. The governing body of the Cities of Virginia Beach or Richmond or the County of Chesterfield may establish a behavioral health authority and shall declare its intention to do so by resolution.

C. The behavioral health services provided by behavioral health authorities within the cities or counties they serve shall include ~~emergency~~:

1. *Emergency services;*
2. *Same-day mental health screening services;*
3. *Outpatient primary care screening and monitoring services for physical health indicators and health risks and follow-up services for individuals identified as being in need of assistance with overcoming barriers to accessing primary health services, including developing linkages to primary health care providers; and, subject*
4. *Subject to the availability of funds appropriated for them, case management services.*

D. The behavioral health services may include a comprehensive system of inpatient, outpatient, day support, residential, prevention, early intervention, and other appropriate mental health, developmental, and substance abuse services necessary to provide individualized services and supports to persons with mental illness, intellectual disability, or substance abuse. Behavioral health authorities may establish crisis stabilization units that provide residential crisis stabilization services.

E. In order to provide comprehensive mental health, developmental, and substance abuse services within a continuum of care, the behavioral health authority shall function as the single point of entry into publicly funded mental health, developmental, and substance abuse services.

**2. That the provisions of the first enactment of this act shall become effective on July 1, 2019.**

**3. That, effective July 1, 2021, the core of services provided by community services boards and behavioral health authorities within cities and counties that they serve shall include, in addition to those set forth in subdivisions B 1, 2, and 3 of § 37.2-500 of the Code of Virginia, as amended by this act, and subdivisions C 1, 2, and 3 of § 37.2-601 of the Code of Virginia, as amended by this act, respectively, (i) crisis services for individuals with mental health or substance use disorders, (ii) outpatient mental health and substance abuse services, (iii) psychiatric rehabilitation services, (iv) peer support and family support services, (v) mental health services for members of the armed forces located 50 miles or more from a military treatment facility and veterans located 40 miles or more from a Veterans Health Administration medical facility, (vi) care coordination services, and (vii) case management services.**

**4. That the Department of Behavioral Health and Developmental Services shall report by December 1 of each year to the General Assembly regarding progress in the implementation of the provisions of this act.**

**CHAPTER 608**

*An Act to amend and reenact § 30-170 of the Code of Virginia, relating to the Joint Commission on Health Care; sunset.*

[S 1043]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 30-170 of the Code of Virginia is amended and reenacted as follows:**

**§ 30-170. (Expires July 1, 2018) Sunset.**

The provisions of this chapter shall expire on July 1, ~~2018~~ 2022.

**CHAPTER 609**

*An Act to amend and reenact §§ 19.2-271.4 and 32.1-111.3 of the Code of Virginia, relating to critical incident stress management teams and privileged communications of critical stress management teams.*

[S 1330]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 19.2-271.4 and 32.1-111.3 of the Code of Virginia are amended and reenacted as follows:**

**§ 19.2-271.4. Privileged communications by certain public safety personnel.**

A. A person who is a member of a critical incident stress management or peer support team, established pursuant to subdivision A 13 of § 32.1-111.3, shall not disclose nor be compelled to testify regarding any information communicated to

him by emergency medical services or public safety personnel who are the subjects of peer support services regarding a critical incident. Such information shall also be exempt from the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

B. A person whose communications are privileged under subsection A may waive the privilege.

C. The provisions of this section shall not apply when:

1. Criminal activity is revealed;
2. A member of a critical incident stress management *or peer support* team is a witness or a party to a critical incident that prompted the peer support services;
3. A member of a critical incident stress management *or peer support* team reveals the content of privileged information to prevent a crime against any other person or a threat to public safety;
4. The privileged information reveals intent to defraud or deceive the investigation into the critical incident; ~~or~~
5. A member of a critical incident stress management *or peer support* team reveals the content of privileged information to the employer of the emergency medical services or public safety personnel regarding criminal acts committed or information that would indicate that the emergency medical services or public safety personnel pose a threat to themselves or others; *or*

6. *A member of a critical incident stress management or peer support team is not acting in the role of a member at the time of the communication.*

*D. For the purposes of this section, "critical incident" means an incident that induces an abnormally high level of negative emotions in response to a perceived loss of control. Such an incident is most often related to a threat to the well-being of the emergency medical services or public safety employee or to the well-being of another individual for whom such employee has some obligation of personal or professional concern.*

**§ 32.1-111.3. Statewide Emergency Medical Services Plan; Trauma Triage Plan; Stroke Triage Plan.**

A. The Board of Health shall develop a Statewide Emergency Medical Services Plan that shall provide for a comprehensive, coordinated, emergency medical services system in the Commonwealth and shall review, update, and publish the Plan triennially, making such revisions as may be necessary to improve the effectiveness and efficiency of the Commonwealth's emergency medical services system. The Plan shall incorporate the regional emergency medical services plans prepared by the regional emergency medical services councils pursuant to § 32.1-111.4:2. Publishing through electronic means and posting on the Department website shall satisfy the publication requirement. The objectives of such Plan and the emergency medical services system shall include, but not be limited to, the following:

1. Establishing a comprehensive statewide emergency medical services system, incorporating facilities, transportation, manpower, communications, and other components as integral parts of a unified system that will serve to improve the delivery of emergency medical services and thereby decrease morbidity, hospitalization, disability, and mortality;
2. Reducing the time period between the identification of an acutely ill or injured patient and the definitive treatment;
3. Increasing the accessibility of high quality emergency medical services to all citizens of Virginia;
4. Promoting continuing improvement in system components including ground, water, and air transportation; communications; hospital emergency departments and other emergency medical care facilities; health care provider training and health care service delivery; and consumer health information and education;
5. Ensuring performance improvement of the emergency medical services system and emergency medical services and care delivered on scene, in transit, in hospital emergency departments, and within the hospital environment;
6. Working with professional medical organizations, hospitals, and other public and private agencies in developing approaches whereby the many persons who are presently using the existing emergency department for routine, nonurgent, primary medical care will be served more appropriately and economically;
7. Conducting, promoting, and encouraging programs of education and training designed to upgrade the knowledge and skills of emergency medical services personnel, including expanding the availability of paramedic and advanced life support training throughout the Commonwealth with particular emphasis on regions underserved by emergency medical services personnel having such skills and training;
8. Consulting with and reviewing, with agencies and organizations, the development of applications to governmental or other sources for grants or other funding to support emergency medical services programs;
9. Establishing a statewide air medical evacuation system which shall be developed by the Department of Health in coordination with the Department of State Police and other appropriate state agencies;
10. Establishing and maintaining a process for designation of appropriate hospitals as trauma centers and specialty care centers based on an applicable national evaluation system;
11. Maintaining a comprehensive emergency medical services patient care data collection and performance improvement system pursuant to Article 3.1 (§ 32.1-116.1 et seq.);
12. Collecting data and information and preparing reports for the sole purpose of the designation and verification of trauma centers and other specialty care centers pursuant to this section. All data and information collected shall remain confidential and shall be exempt from the provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.);
13. Establishing and maintaining a process for crisis intervention and peer support services for emergency medical services personnel and public safety personnel, including statewide availability and accreditation of critical incident stress management *or peer support* teams *and personnel*. *Such accreditation standards shall include a requirement that a peer support team be headed by a Virginia-licensed clinical psychologist, Virginia-licensed psychiatrist, Virginia-licensed*

*clinical social worker, or Virginia-licensed professional counselor, who has at least five years of experience as a mental health consultant working directly with emergency medical services personnel or public safety personnel;*

14. Establishing a statewide program of emergency medical services for children to provide coordination and support for emergency pediatric care, availability of pediatric emergency medical care equipment, and pediatric training of health care providers;

15. Establishing and supporting a statewide system of health and medical emergency response teams, including emergency medical services disaster task forces, coordination teams, disaster medical assistance teams, and other support teams that shall assist local emergency medical services agencies at their request during mass casualty, disaster, or whenever local resources are overwhelmed;

16. Establishing and maintaining a program to improve dispatching of emergency medical services personnel and vehicles, including establishment of and support for emergency medical services dispatch training, accreditation of 911 dispatch centers, and public safety answering points;

17. Identifying and establishing best practices for managing and operating emergency medical services agencies, improving and managing emergency medical services response times, and disseminating such information to the appropriate persons and entities;

18. Ensuring that the Department of Criminal Justice Services and the Virginia Criminal Injuries Compensation Fund shall be contacted immediately to deploy assistance in the event there are victims as defined in § 19.2-11.01, and that the Department of Criminal Justice Services and the Virginia Criminal Injuries Compensation Fund become the lead coordinating agencies for those individuals determined to be victims; and

19. Maintaining current contact information for both the Department of Criminal Justice Services and the Virginia Criminal Injuries Compensation Fund.

B. The Board of Health shall also develop and maintain as a component of the Emergency Medical Services Plan a statewide prehospital and interhospital Trauma Triage Plan designed to promote rapid access for pediatric and adult trauma patients to appropriate, organized trauma care through the publication and regular updating of information on resources for trauma care and generally accepted criteria for trauma triage and appropriate transfer. The Trauma Triage Plan shall include:

1. A strategy for maintaining the statewide Trauma Triage Plan through development of regional trauma triage plans that take into account the region's geographic variations and trauma care capabilities and resources, including hospitals designated as trauma centers pursuant to subsection A and inclusion of such regional plans in the statewide Trauma Triage Plan. The regional trauma triage plans shall be reviewed triennially. Plans should ensure that the Department of Criminal Justice Services and the Virginia Criminal Injuries Compensation Fund shall be contacted immediately to deploy assistance in the event there are victims as defined in § 19.2-11.01, and that the Department of Criminal Justice Services and the Virginia Criminal Injuries Compensation Fund become the lead coordinating agencies for those individuals determined to be victims; and maintain current contact information for both the Department of Criminal Justice Services and the Virginia Criminal Injuries Compensation Fund.

2. A uniform set of proposed criteria for prehospital and interhospital triage and transport of trauma patients developed by the Advisory Board, in consultation with the Virginia Chapter of the American College of Surgeons, the Virginia College of Emergency Physicians, the Virginia Hospital and Healthcare Association, and prehospital care providers. The Advisory Board may revise such criteria from time to time to incorporate accepted changes in medical practice or to respond to needs indicated by analyses of data on patient outcomes. Such criteria shall be used as a guide and resource for health care providers and are not intended to establish, in and of themselves, standards of care or to abrogate the requirements of § 8.01-581.20. A decision by a health care provider to deviate from the criteria shall not constitute negligence per se.

3. A performance improvement program for monitoring the quality of emergency medical services and trauma services, consistent with other components of the Emergency Medical Services Plan. The program shall provide for collection and analysis of data on emergency medical and trauma services from existing validated sources, including the emergency medical services patient care information system, pursuant to Article 3.1 (§ 32.1-116.1 et seq.), the Patient Level Data System, and mortality data. The Advisory Board shall review and analyze such data on a quarterly basis and report its findings to the Commissioner. The Advisory Board may execute these duties through a committee composed of persons having expertise in critical care issues and representatives of emergency medical services providers. The program for monitoring and reporting the results of emergency medical services and trauma services data analysis shall be the sole means of encouraging and promoting compliance with the trauma triage criteria.

The Commissioner shall report aggregate findings of the analysis annually to each regional emergency medical services council. The report shall be available to the public and shall identify, minimally, as defined in the statewide plan, the frequency of (i) incorrect triage in comparison to the total number of trauma patients delivered to a hospital prior to pronouncement of death and (ii) incorrect interfacility transfer for each region.

The Advisory Board or its designee shall ensure that each hospital director or emergency medical services agency chief is informed of any incorrect interfacility transfer or triage, as defined in the statewide Trauma Triage Plan, specific to the hospital or agency and shall give the hospital or agency an opportunity to correct any facts on which such determination is based, if the hospital or agency asserts that such facts are inaccurate. The findings of the report shall be used to improve the Trauma Triage Plan, including triage, and transport and trauma center designation criteria.

The Commissioner shall ensure the confidentiality of patient information, in accordance with § 32.1-116.2. Such data or information in the possession of or transmitted to the Commissioner, the Advisory Board, any committee acting on behalf

of the Advisory Board, any hospital or prehospital care provider, any regional emergency medical services council, emergency medical services agency that holds a valid license issued by the Commissioner, or group or committee established to monitor the quality of emergency medical services or trauma services pursuant to this subdivision, or any other person shall be privileged and shall not be disclosed or obtained by legal discovery proceedings, unless a circuit court, after a hearing and for good cause shown arising from extraordinary circumstances, orders disclosure of such data.

C. The Board shall also develop and maintain as a component of the Statewide Emergency Medical Services Plan a statewide prehospital and interhospital Stroke Triage Plan designed to promote rapid access for stroke patients to appropriate, organized stroke care through the publication and regular updating of information on resources for stroke care and generally accepted criteria for stroke triage and appropriate transfer. The Stroke Triage Plan shall include:

1. A strategy for maintaining the statewide Stroke Triage Plan through development of regional stroke triage plans that take into account the region's geographic variations and stroke care capabilities and resources, including hospitals designated as "primary stroke centers" through certification by the Joint Commission, DNV Healthcare, or a comparable process consistent with the recommendations of the Brain Attack Coalition, and inclusion of such regional plans in the statewide Stroke Triage Plan. The regional stroke triage plans shall be reviewed triennially.

2. A uniform set of proposed criteria for prehospital and interhospital triage and transport of stroke patients developed by the Advisory Board, in consultation with the American Stroke Association, the Virginia College of Emergency Physicians, the Virginia Hospital and Healthcare Association, and prehospital care providers. The Board may revise such criteria from time to time to incorporate accepted changes in medical practice or to respond to needs indicated by analyses of data on patient outcomes. Such criteria shall be used as a guide and resource for health care providers and are not intended to establish, in and of themselves, standards of care or to abrogate the requirements of § 8.01-581.20. A decision by a health care provider to deviate from the criteria shall not constitute negligence per se.

D. Whenever any state-owned aircraft, vehicle, or other form of conveyance is utilized under the provisions of this section, an appropriate amount not to exceed the actual costs of operation may be charged by the agency having administrative control of such aircraft, vehicle, or other form of conveyance.

## CHAPTER 610

*An Act to amend and reenact §§ 15.2-901, 15.2-906, 15.2-907, 15.2-908, 15.2-908.1, and 15.2-1115 of the Code of Virginia, relating to lien priority.*

[H 1992]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 15.2-901, 15.2-906, 15.2-907, 15.2-908, 15.2-908.1, and 15.2-1115 of the Code of Virginia are amended and reenacted as follows:**

**§ 15.2-901. Locality may provide for removal or disposal of trash, cutting of grass and weeds; penalty in certain counties; penalty.**

A. Any locality may, by ordinance, provide that:

1. The owners of property therein shall, at such time or times as the governing body may prescribe, remove therefrom any and all trash, garbage, refuse, litter and other substances which might endanger the health or safety of other residents of such locality; or may, whenever the governing body deems it necessary, after reasonable notice, have such trash, garbage, refuse, litter and other like substances which might endanger the health of other residents of the locality, removed by its own agents or employees, in which event the cost or expenses thereof shall be chargeable to and paid by the owners of such property and may be collected by the locality as taxes are collected;

2. Trash, garbage, refuse, litter and other debris shall be disposed of in personally owned or privately owned receptacles that are provided for such use and for the use of the persons disposing of such matter or in authorized facilities provided for such purpose and in no other manner not authorized by law;

3. The owners of occupied or vacant developed or undeveloped property therein, including such property upon which buildings or other improvements are located, shall cut the grass, weeds and other foreign growth on such property or any part thereof at such time or times as the governing body shall prescribe; or may, whenever the governing body deems it necessary, after reasonable notice as determined by the locality, have such grass, weeds or other foreign growth cut by its agents or employees, in which event the cost and expenses thereof shall be chargeable to and paid by the owner of such property and may be collected by the locality as taxes are collected. For purposes of this provision, one written notice per growing season to the owner of record of the subject property shall be considered reasonable notice. No such ordinance adopted by any county shall have any force and effect within the corporate limits of any town. No such ordinance adopted by any county having a density of population of less than 500 per square mile shall have any force or effect except within the boundaries of platted subdivisions or any other areas zoned for residential, business, commercial or industrial use. No such ordinance shall be applicable to land zoned for or in active farming operation.

B. Every charge authorized by this section with which the owner of any such property shall have been assessed and which remains unpaid shall constitute a lien against such property ranking on a parity with liens for unpaid local *real estate* taxes and enforceable in the same manner as provided in Articles 3 (§ 58.1-3940 et seq.) and 4 (§ 58.1-3965 et seq.) of

Chapter 39 of Title 58.1. A locality may waive such liens in order to facilitate the sale of the property. Such liens may be waived only as to a purchaser who is unrelated by blood or marriage to the owner and who has no business association with the owner. All such liens shall remain a personal obligation of the owner of the property at the time the liens were imposed.

C. The governing body of any locality may by ordinance provide that violations of this section shall be subject to a civil penalty, not to exceed \$50 for the first violation, or violations arising from the same set of operative facts. The civil penalty for subsequent violations not arising from the same set of operative facts within 12 months of the first violation shall not exceed \$200. Each business day during which the same violation is found to have existed shall constitute a separate offense. In no event shall a series of specified violations arising from the same set of operative facts result in civil penalties that exceed a total of \$3,000 in a 12-month period.

D. Except as provided in this subsection, adoption of an ordinance pursuant to subsection C shall be in lieu of criminal penalties and shall preclude prosecution of such violation as a misdemeanor. The governing body of any locality may, however, by ordinance provide that such violations shall be a Class 3 misdemeanor in the event three civil penalties have previously been imposed on the same defendant for the same or similar violation, not arising from the same set of operative facts, within a 24-month period. Classifying such subsequent violations as criminal offenses shall preclude the imposition of civil penalties for the same violation.

**§ 15.2-906. Authority to require removal, repair, etc., of buildings and other structures.**

Any locality may, by ordinance, provide that:

1. The owners of property therein, shall at such time or times as the governing body may prescribe, remove, repair or secure any building, wall or any other structure that might endanger the public health or safety of other residents of such locality;

2. The locality through its own agents or employees may remove, repair or secure any building, wall or any other structure that might endanger the public health or safety of other residents of such locality, if the owner and lienholder of such property, after reasonable notice and a reasonable time to do so, has failed to remove, repair, or secure the building, wall or other structure. For purposes of this section, repair may include maintenance work to the exterior of a building to prevent deterioration of the building or adjacent buildings. For purposes of this section, reasonable notice includes a written notice (i) mailed by certified or registered mail, return receipt requested, sent to the last known address of the property owner and (ii) published once a week for two successive weeks in a newspaper having general circulation in the locality. No action shall be taken by the locality to remove, repair, or secure any building, wall, or other structure for at least 30 days following the later of the return of the receipt or newspaper publication, except that the locality may take action to prevent unauthorized access to the building within seven days of such notice if the structure is deemed to pose a significant threat to public safety and such fact is stated in the notice;

3. In the event the locality, through its own agents or employees, removes, repairs, or secures any building, wall, or any other structure after complying with the notice provisions of this section, the cost or expenses thereof shall be chargeable to and paid by the owners of such property and may be collected by the locality as taxes are collected;

4. Every charge authorized by this section or § 15.2-900 with which the owner of any such property has been assessed and that remains unpaid shall constitute a lien against such property ranking on a parity with liens for unpaid local *real estate* taxes and enforceable in the same manner as provided in Articles 3 (§ 58.1-3940 et seq.) and 4 (§ 58.1-3965 et seq.) of Chapter 39 of Title 58.1. A locality may waive such liens in order to facilitate the sale of the property. Such liens may be waived only as to a purchaser who is unrelated by blood or marriage to the owner and who has no business association with the owner. All such liens shall remain a personal obligation of the owner of the property at the time the liens were imposed;

5. Notwithstanding the foregoing, with the written consent of the property owner, a locality may, through its agents or employees, demolish or remove a derelict nonresidential building or structure provided that such building or structure is neither located within or determined to be a contributing property within a state or local historic district nor individually designated in the Virginia Landmarks Register. The property owner's written consent shall identify whether the property is subject to a first lien evidenced by a recorded deed of trust or mortgage and, if so, shall document the property owner's best reasonable efforts to obtain the consent of the first lienholder or the first lienholder's authorized agent. The costs of such demolition or removal shall constitute a lien against such property. In the event the consent of the first lienholder or the first lienholder's authorized agent is obtained, such lien shall rank on a parity with liens for unpaid local taxes and be enforceable in the same manner as provided in subdivision 4. In the event the consent of the first lienholder or the first lienholder's authorized agent is not obtained, such lien shall be subordinate to that first lien but shall otherwise be subject to subdivision 4; and

6. A locality may prescribe civil penalties, not to exceed a total of \$1,000, for violations of any ordinance adopted pursuant to this section.

**§ 15.2-907. Authority to require removal, repair, etc., of buildings and other structures harboring illegal drug use.**

A. As used in this section:

"Affidavit" means the affidavit prepared by a locality in accordance with subdivision B 1 a hereof.

"Controlled substance" means illegally obtained controlled substances or marijuana, as defined in § 54.1-3401.

"Corrective action" means the taking of steps which are reasonably expected to be effective to abate drug blight on real property, such as removal, repair or securing of any building, wall or other structure.

"Drug blight" means a condition existing on real property which tends to endanger the public health or safety of residents of a locality and is caused by the regular presence on the property of persons under the influence of controlled

substances or the regular use of the property for the purpose of illegally possessing, manufacturing or distributing controlled substances.

"Owner" means the record owner of real property.

"Property" means real property.

B. Any locality may, by ordinance, provide that:

1. The locality may undertake corrective action with respect to property in accordance with the procedures described herein:

a. The locality shall execute an affidavit, citing this section, to the effect that (i) drug blight exists on the property and in the manner described therein; (ii) the locality has used diligence without effect to abate the drug blight; and (iii) the drug blight constitutes a present threat to the public's health, safety or welfare.

b. The locality shall then send a notice to the owner of the property, to be sent by regular mail to the last address listed for the owner on the locality's assessment records for the property, together with a copy of such affidavit, advising that (i) the owner has up to 30 days from the date thereof to undertake corrective action to abate the drug blight described in such affidavit and (ii) the locality will, if requested to do so, assist the owner in determining and coordinating the appropriate corrective action to abate the drug blight described in such affidavit.

c. If no corrective action is undertaken during such 30-day period, the locality shall send by regular mail an additional notice to the owner of the property, at the address stated in the preceding subdivision, stating the date on which the locality may commence corrective action to abate the drug blight on the property, which date shall be no earlier than 15 days after the date of mailing of the notice. Such additional notice shall also reasonably describe the corrective action contemplated to be taken by the locality. Upon receipt of such notice, the owner shall have a right, upon reasonable notice to the locality, to seek equitable relief, and the locality shall initiate no corrective action while a proper petition for relief is pending before a court of competent jurisdiction.

2. If the locality undertakes corrective action with respect to the property after complying with the provisions of subdivision B 1, the costs and expenses thereof shall be chargeable to and paid by the owner of such property and may be collected by the locality as taxes are collected.

3. Every charge authorized by this section with which the owner of any such property has been assessed and which remains unpaid shall constitute a lien against such property with the same priority as liens for unpaid local *real estate* taxes and enforceable in the same manner as provided in Articles 3 (§ 58.1-3940 et seq.) and 4 (§ 58.1-3965 et seq.) of Chapter 39 of Title 58.1.

C. If the owner of such property takes timely corrective action pursuant to such ordinance, the locality shall deem the drug blight abated, shall close the proceeding without any charge or cost to the owner and shall promptly provide written notice to the owner that the proceeding has been terminated satisfactorily. The closing of a proceeding shall not bar the locality from initiating a subsequent proceeding if the drug blight recurs.

D. Nothing in this section shall be construed to abridge or waive any rights or remedies of an owner of property at law or in equity.

**§ 15.2-908. Authority of localities to remove or repair the defacement of buildings, walls, fences and other structures.**

A. Any locality may by ordinance undertake or contract for the removal or repair of the defacement of any public building, wall, fence or other structure or any private building, wall, fence or other structure where such defacement is visible from any public right-of-way. The ordinance may provide that whenever the property owner, after reasonable notice, fails to remove or repair the defacement, the locality may have such defacement removed or repaired by its agents or employees. Such agents or employees shall have any and all immunity normally provided to an employee of the locality. For purposes of this section, the term "defacement" means the unauthorized application by any means of any writing, painting, drawing, etching, scratching, or marking of an inscription, word, mark, figure, or design of any type.

If the defacement occurs on a public or private building, wall, fence, or other structure located on an unoccupied property, and the locality, through its own agents or employees, removes or repairs the defacement after complying with the notice provisions of this section, the actual cost or expenses thereof shall be chargeable to and paid by the owners of such property and may be collected by the locality as taxes are collected. No lien shall be chargeable to the owners of such property unless the locality shall have given a minimum of 15 days notice to the property owner prior to the removal of the defacement.

Every charge authorized by this section with which the owner of any such property shall have been assessed and that remains unpaid shall constitute a lien against such property, ranking on a parity with liens for unpaid local *real estate* taxes and enforceable in the same manner as provided in Articles 3 (§ 58.1-3940 et seq.) and 4 (§ 58.1-3965 et seq.) of Chapter 39 of Title 58.1. A locality may waive and release such liens in order to facilitate the sale of the property. Such liens may be waived only as to a purchaser who is unrelated by blood or marriage to the owner and who has no business association with the owner. All such liens shall remain a personal obligation of the owner of the property at the time the liens were imposed.

B. The court may order any person convicted of unlawfully defacing property described in subsection A to pay full or partial restitution to the locality for costs incurred by the locality in removing or repairing the defacement if the locality has adopted an ordinance pursuant to this section.

C. An order of restitution pursuant to this section shall be docketed as provided in § 8.01-446 when so ordered by the court or upon written request of the locality and may be enforced by the locality in the same manner as a judgment in a civil action.

**§ 15.2-908.1. Authority to require removal, repair, etc., of buildings and other structures harboring a bawdy place.**

A. As used in this section:

"Affidavit" means the affidavit prepared by a locality in accordance with subdivision B 1 a hereof.

"Bawdy place" means the same as that term is defined in § 18.2-347.

"Corrective action" means the taking of steps which are reasonably expected to be effective to abate a bawdy place on real property, such as removal, repair or securing of any building, wall or other structure.

"Owner" means the record owner of real property.

"Property" means real property.

B. The governing body of any locality may, by ordinance, provide that:

1. The locality may undertake corrective action with respect to property in accordance with the procedures described herein:

a. The locality shall execute an affidavit, citing this section, to the effect that (i) a bawdy place exists on the property and in the manner described therein; (ii) the locality has used diligence without effect to abate the bawdy place; and (iii) the bawdy place constitutes a present threat to the public's health, safety or welfare.

b. The locality shall then send a notice to the owner of the property, to be sent by regular mail to the last address listed for the owner on the locality's assessment records for the property, together with a copy of such affidavit, advising that (i) the owner has up to thirty days from the date thereof to undertake corrective action to abate the bawdy place described in such affidavit and (ii) the locality will, if requested to do so, assist the owner in determining and coordinating the appropriate corrective action to abate the bawdy place described in such affidavit.

c. If no corrective action is undertaken during such thirty-day period, the locality shall send by regular mail an additional notice to the owner of the property, at the address stated in the preceding subdivision, stating the date on which the locality may commence corrective action to abate the bawdy place on the property, which date shall be no earlier than fifteen days after the date of mailing of the notice. Such additional notice shall also reasonably describe the corrective action contemplated to be taken by the locality. Upon receipt of such notice, the owner shall have a right, upon reasonable notice to the locality, to seek equitable relief, and the locality shall initiate no corrective action while a proper petition for relief is pending before a court of competent jurisdiction.

2. If the locality undertakes corrective action with respect to the property after complying with the provisions of subdivision B 1, the costs and expenses thereof shall be chargeable to and paid by the owner of such property and may be collected by the locality as taxes and levies are collected.

3. Every charge authorized by this section with which the owner of any such property has been assessed and which remains unpaid shall constitute a lien against such property with the same priority as liens for unpaid local *real estate* taxes and enforceable in the same manner as provided in Articles 3 (§ 58.1-3940 et seq.) and 4 (§ 58.1-3965 et seq.) of Chapter 39 of Title 58.1.

C. If the owner of such property takes timely corrective action pursuant to such ordinance, the locality shall deem the bawdy place abated, shall close the proceeding without any charge or cost to the owner and shall promptly provide written notice to the owner that the proceeding has been terminated satisfactorily. The closing of a proceeding shall not bar the locality from initiating a subsequent proceeding if the bawdy place recurs.

D. Nothing in this section shall be construed to abridge or waive any rights or remedies of an owner of property at law or in equity.

**§ 15.2-1115. Abatement or removal of nuisances.**

A. A municipal corporation may compel the abatement or removal of all nuisances, including but not limited to the removal of weeds from private and public property and snow from sidewalks; the covering or removal of offensive, unwholesome, unsanitary or unhealthy substances allowed to accumulate in or on any place or premises; the filling in to the street level, fencing or protection by other means, of the portion of any lot adjacent to a street where the difference in level between the lot and the street constitutes a danger to life and limb; the raising or draining of grounds subject to be covered by stagnant water; and the razing or repair of all unsafe, dangerous or unsanitary public or private buildings, walls or structures which constitute a menace to the health and safety of the occupants thereof or the public. If after such reasonable notice as the municipal corporation may prescribe the owner or owners, occupant or occupants of the property or premises affected by the provisions of this section shall fail to abate or obviate the condition or nuisance, the municipal corporation may do so and charge and collect the cost thereof from the owner or owners, occupant or occupants of the property affected in any manner provided by law for the collection of state or local taxes.

B. Every charge authorized by this section in excess of \$200 which has been assessed against the owner of any such property and which remains unpaid shall constitute a lien against such property. Such liens shall have the same priority as *liens* for other unpaid local *real estate* taxes and shall be enforceable in the same manner as provided in Articles 3 (§ 58.1-3940 et seq.) and 4 (§ 58.1-3965 et seq.) of Chapter 39 of Title 58.1. A locality may waive such liens in order to facilitate the sale of the property. Such liens may be waived only as to a purchaser who is unrelated by blood or marriage to the owner and who has no business association with the owner. All such liens shall remain a personal obligation of the owner of the property at the time the liens were imposed.

CHAPTER 611

*An Act to authorize the Treasury Board to issue bonds pursuant to Article X, Section 9 (c) of the Constitution of Virginia in an amount up to \$13,637,000 plus financing costs to finance the costs of acquiring, constructing, and equipping revenue-producing capital projects at institutions of higher learning of the Commonwealth; to authorize the Treasury Board, by and with the consent of the Governor, to fix the details of such bonds, to provide for the sale of such bonds, and to issue notes to borrow money in anticipation of the issuance of the bonds; to provide for the pledge of the net revenues of such capital projects and the full faith, credit, and taxing power of the Commonwealth for the payment of such bonds; and to provide that the interest income on such bonds and notes shall be exempt from all taxation by the Commonwealth and any political subdivision thereof.*

[H 2250]

Approved March 16, 2017

Whereas, Article X, Section 9 (c) of the Constitution of Virginia provides that the General Assembly may authorize the creation of debt secured by a pledge of net revenues derived from rates, fees, or other charges and the full faith and credit of the Commonwealth of Virginia, provided that such debt is created for specific revenue-producing capital projects, including their enlargement or improvement, at, among others, institutions of higher learning of the Commonwealth; and

Whereas, in accordance with Article X, Section 9 (c) of the Constitution of Virginia, the Governor has certified in writing, filed with the Auditor of Public Accounts, his opinion that the anticipated net revenues of each of the capital projects identified below to be pledged to the payment of the principal of and the interest on that portion of such debt issued for each such project will be sufficient to meet such payments as the same become due and to provide such reserves as may be required by law and that each of the capital projects complies with the requirements of Article X, Section 9 (c) of the Constitution of Virginia now, therefore,

**Be it enacted by the General Assembly of Virginia:**

**1. § 1. Title.**

*This act shall be known and may be cited as the "Commonwealth of Virginia Institutions of Higher Education Bond Act of 2017."*

**§ 2. Authorization of bonds and bond anticipation notes.**

*The Treasury Board is hereby authorized, by and with the consent of the Governor, to sell and issue, pursuant to Article X, Section 9 (c), Constitution of Virginia, at one time or from time to time, bonds of the Commonwealth, to be designated "Commonwealth of Virginia Institutions of Higher Education Bonds, Series ....." in an aggregate principal amount not exceeding \$13,637,000, plus amounts needed to fund issuance costs, reserve funds, construction period interest, and other financing expenses. The Treasury Board is further hereby authorized, by and with the consent of the Governor, to borrow money in anticipation of the issuance of bonds by the issuance of bond anticipation notes (BANs), including BANs issued as commercial paper. The proceeds of such bonds and BANs, excluding amounts needed to fund issuance costs, reserve funds, and other financing expenses, shall be used exclusively for the purpose of providing funds, with any other available funds, for paying all or a portion of the costs of acquiring, constructing, renovating, enlarging, improving, and equipping revenue-producing capital projects at institutions of higher learning of the Commonwealth as follows:*

<i>Institution</i>	<i>Project Title</i>	<i>Amount</i>
<i>The College of William and Mary in Virginia</i>	<i>Renovate Dormitories</i>	<i>\$13,637,000</i>
<i>Total</i>		<i>\$13,637,000</i>

**§ 3. Application of proceeds.**

*The proceeds, including any premium, of bonds and BANs (except the proceeds of (i) bonds the issuance of which has been anticipated by BANs, (ii) refunding bonds, and (iii) refunding BANs) shall be deposited in a special capital outlay fund in the state treasury and, together with the investment income thereon, shall be disbursed by the State Treasurer for paying costs of acquiring, constructing, renovating, enlarging, improving, and equipping the authorized capital projects, including financing costs. The proceeds of (i) bonds the issuance of which has been anticipated by BANs, (ii) refunding bonds, and (iii) refunding BANs shall be used to pay such BANs, refunded bonds, and refunded BANs.*

**§ 4. Details, sale of bonds and BANs.**

*Bonds and BANs shall be dated and may be made redeemable before their maturity or maturities at such price or prices or within such price parameters, all as may be determined by the Treasury Board, by and with the consent of the Governor. Bonds and BANs shall be in such form, shall bear interest at such rate or rates, either at fixed rates or at rates established by formula or other method, and may contain such other provisions, all as determined by the Treasury Board or, when authorized by the Treasury Board, the State Treasurer. The principal of and premium, if any, and the interest on bonds and BANs shall be payable in lawful money of the United States of America. Bonds and BANs may be certificated or uncertificated as determined by the Treasury Board. The Treasury Board may contract for services of such registrars, transfer agents, or other authenticating agents as it deems appropriate to maintain a record of the persons entitled to the bonds and BANs. Bonds and BANs issued in certificated form may be issued under a system of book entry for recording the ownership and transfer of ownership of rights to receive payments on the bonds and BANs. The Treasury Board shall fix the*

authorized denomination or denominations of the bonds and the place or places of payment of certificated bonds and BANs, which may be at the Office of the State Treasurer or at any bank or trust company within or without the Commonwealth. Bonds shall mature at such time or times not exceeding 30 years from their date or dates, and BANs shall mature at such time or times not exceeding five years from their date or dates.

The Treasury Board may sell bonds and BANs in such manner, by competitive bidding, negotiated sale, or private placement, and for such price or within such price parameters as it may determine, by and with the consent of the Governor, to be in the best interest of the Commonwealth. In the discretion of the Treasury Board, bonds and BANs may be issued at one time or from time to time and may be sold and issued at the same time with other general obligation bonds and BANs, respectively, of the Commonwealth authorized pursuant to Article X, Section 9 (a) (3), (b), and (c) of the Constitution of Virginia, as separate issues or as a combined issue, designated "Commonwealth of Virginia General Obligation Bonds Bond Anticipation Notes, Series ....."

§ 5. Execution of bonds and BANs.

Certificated bonds and BANs shall be signed on behalf of the Commonwealth by the Governor and by the State Treasurer, or shall bear their facsimile signatures, and shall bear the lesser seal of the Commonwealth or a facsimile thereof. If the bonds or BANs bear the facsimile signature of the State Treasurer, they shall be signed by such administrative assistant as the State Treasurer shall determine or by such registrar or paying agent as may be designated to sign them by the Treasury Board. If any officer whose signature or facsimile signature appears on any bonds or BANs ceases to be such officer before delivery, such signature or facsimile signature shall nevertheless be valid and sufficient for all purposes the same as if such officer had remained in office until such delivery, and any bond or BAN may bear the facsimile signature of, or may be signed by, such persons as at the actual time of execution are the proper officers to sign such bond or BAN, although at the date of such bond or BAN such persons may not have been such officers.

§ 6. Sources for payment of expenses.

All expenses incurred under this act shall be paid from the proceeds of bonds or BANs, from payments made by the institutions for which the capital projects were authorized in § 2, or from any other available funds as the Treasury Board shall determine.

§ 7. Revenues.

The institution of higher learning named in § 2 is hereby authorized (i) to fix, revise, charge, and collect rates, fees, and charges for or in connection with the use, occupancy, and services of each capital project named in § 2 or the system of which such capital project is a part and (ii) to pledge to the portion of the bonds or BANs issued for such capital project the net revenues resulting from such rates, fees, and charges and remaining after payment of the expenses of operating the project or system, as the case may be. The institution is further authorized to create debt service and sinking funds for the payments of the principal of, premium, if any, and interest on the bonds and other reserves required by any agency of the United States of America purchasing the bonds or any portion thereof.

§ 8. Investments and contracts.

A. Pending the application of the proceeds of the bonds or BANs (including refunding bonds and BANs) to the purpose for which they have been authorized and the application of funds set aside for the purpose to the payment of bonds or BANs, they may be invested by the State Treasurer in securities that are legal investments under the laws of the Commonwealth for public funds and sinking funds, as the case may be. Whenever the State Treasurer receives interest from the investment of the proceeds of bonds or any BANs, such interest shall become a part of the principal of the bonds or any BANs and shall be used in the same manner as required for principal of the bonds or BANs.

B. The Commonwealth may enter into any contract or other arrangement that is determined to be necessary or appropriate to place the obligation or investment of the Commonwealth, as represented by bonds, BANs, or investments, in whole or in part, on the interest rate, cash flow, or other basis desired by the Commonwealth. Such contract or other arrangement may include, without limitation, contracts commonly known as interest rate swap agreements and futures or contracts providing for payments based on levels of, or changes in, interest rates. These contracts or arrangements may be entered into by the Commonwealth in connection with, or incidental to, entering into, or maintaining any (i) agreement that secures bonds or BANs or (ii) investment, or contract providing for investment, otherwise authorized by law. These contracts and arrangements may contain such payment, security, default, remedy, and other terms and conditions as determined by the Commonwealth, after giving due consideration to the creditworthiness of the counterparty or other obligated party, including any rating by any nationally recognized rating agency, and any other criteria as may be appropriate. The determinations referred to in this subsection may be made by the Treasury Board or any public funds manager with professional investment capabilities duly authorized by the Treasury Board to make such determinations.

C. Any money set aside and pledged to secure payments of bonds, BANs, or any of the contracts entered into pursuant to this section may be invested in accordance with subsection A and may be pledged to and used to service any of the contracts or other arrangements entered into pursuant to subsection B.

§ 9. Security for bonds and BANs.

The net revenues of the capital projects set forth above and the full faith and credit of the Commonwealth are hereby irrevocably pledged for the payment of the principal of and the interest on bonds and BANs (unless the Treasury Board, by and with the consent of the Governor, shall provide otherwise) issued under this act. The proceeds of (i) bonds the issuance of which has been anticipated by BANs, (ii) refunding bonds, and (iii) refunding BANs are hereby irrevocably pledged for the payment of principal of and interest and any premium on the BANs or bonds to be paid or redeemed thereby. In the event

*the net revenues pledged to the payment of the bonds or BANs are insufficient in any fiscal year for the timely payment of the principal of, premium, if any, and interest on the bonds or BANs, where the full faith and credit of the Commonwealth have been pledged, the General Assembly shall appropriate a sum sufficient therefor or the Governor shall direct payment therefor from the general fund revenues of the Commonwealth.*

**§ 10. Exemption of interest from tax.**

*The bonds and BANs issued under the provisions of this act, their transfer and the income therefrom, including any profit made on the sale thereof, shall at all times be free and exempt from taxation by the Commonwealth and by any county, city, or town or other political subdivision thereof. The Treasury Board is authorized to take or refrain from taking any and all actions and to covenant to such effect, and to require the participating institutions to do and to covenant likewise, to the extent that, in the judgment of the Treasury Board, it is appropriate in order that interest on the bonds and BANs may be exempt from federal income tax. Alternatively, interest on bonds and BANs may be made subject to inclusion in gross income of the holders thereof for federal income tax purposes.*

**§ 11. Refunding bonds and BANs.**

*The Treasury Board is authorized, by and with the consent of the Governor, to sell and issue, at one time or from time to time, refunding bonds and BANs of the Commonwealth and to refund any or all of the bonds and BANs, respectively, issued under this act or otherwise authorized pursuant to Article X, Section 9 (c) of the Constitution of Virginia. Refunding bonds and BANs may be issued in a principal amount up to the amount necessary to pay at maturity or redeem the bonds and BANs to be refunded and pay all issuance costs and other financing expenses of the refunding. Such refunding bonds and BANs may be issued whether or not the obligations to be refunded are then subject to redemption.*

**§ 12. Defeasance.**

*Any bond or BAN for which cash or direct obligations of the United States of America shall have been set aside in escrow with the State Treasurer or a bank or trust company, within or without the Commonwealth, shall be deemed no longer outstanding under the applicable authorizing instrument, this act, and Article X, Section 9 (c) or (b) of the Constitution of Virginia, as the case may be.*

**§ 13. Severability.**

*The provisions of this act or the application thereof to any person or circumstance that are held invalid shall not affect the validity of other provisions or applications of this act which can be given effect without the invalid provisions or applications.*

**2. That an emergency exists and this act is in force from its passage.**

**CHAPTER 612**

*An Act to amend and reenact §§ 54.1-3448 and 54.1-3454 of the Code of Virginia, relating to addition of drugs to Schedule II and Schedule V of the Drug Control Act.*

[H 2470]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 54.1-3448 and 54.1-3454 of the Code of Virginia are amended and reenacted as follows:**

**§ 54.1-3448. Schedule II.**

The controlled substances listed in this section are included in Schedule II:

1. Any of the following substances, except those narcotic drugs listed in other schedules, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by combination of extraction and chemical synthesis:

Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate, excluding apomorphine, thebaine-derived butorphanol, dextrorphan, nalbuphine, nalmefene, naloxone naltrexone and their respective salts, but including the following:

- Raw opium;
- Opium extracts;
- Opium fluid extracts;
- Powdered opium;
- Granulated opium;
- Tincture of opium;
- Codeine;
- Dihydroetorphine;
- Ethylmorphine;
- Etorphine hydrochloride;
- Hydrocodone;
- Hydromorphone;
- Metopon;
- Oripavine (3-O-demethylthebaine or 6,7,8,14-tetrahydro-4,

5-alpha-epoxy-6-methoxy-17-methylmorphinan-3-ol);  
Morphine;  
Oxycodone;  
Oxymorphone;  
Thebaine.

Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in this subdivision, but not including the isoquinoline alkaloids of opium.

Opium poppy and poppy straw.

Coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions which do not contain cocaine or ecgonine; cocaine or any salt or isomer thereof.

Concentrate of poppy straw, the crude extract of poppy straw in either liquid, solid or powder form, which contains the phenanthrene alkaloids of the opium poppy.

2. Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation:

Alfentanil;  
Alphaprodine;  
Anileridine;  
Bezitramide;  
Bulk dextropropoxyphene (nondosage forms);  
Carfentanil;  
Dihydrocodeine;  
Diphenoxylate;  
Fentanyl;  
Isomethadone;  
Levo-alphaacetylmethadol (levo-alpha-acetylmethadol) (levomethadyl acetate) (LAAM);  
Levomethorphan;  
Levorphanol;  
Metazocine;  
Methadone;  
Methadone — Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane;  
Moramide — Intermediate, 2-methyl-3-morpholino-1, 1-diphenyl-propane-carboxylicacid;  
Pethidine (other name: meperidine);  
Pethidine — Intermediate — A, 4-cyano-1-methyl-4-phenylpiperidine;  
Pethidine — Intermediate — B, ethyl-4-phenylpiperidine-4-carboxylate;  
Pethidine — Intermediate — C, 1-methyl-4-phenylpiperidine-4-carboxylic acid;  
Phenazocine;  
Piminodine;  
Racemethorphan;  
Racemorphan;  
Remifentanil;  
Sufentanil;  
Tapentadol;  
*Thiafentanil.*

3. Any material, compound, mixture or preparation which contains any quantity of the following substances having a potential for abuse associated with a stimulant effect on the central nervous system:

Amphetamine, its salts, optical isomers, and salts of its optical isomers;  
Phenmetrazine and its salts;  
Any substance which contains any quantity of methamphetamine, including its salts, isomers, and salts of isomers;  
Methylphenidate;  
Lisdexamfetamine, its salts, isomers, and salts of its isomers.

4. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

Amobarbital;  
Glutethimide;  
Secobarbital;  
Pentobarbital;  
Phencyclidine.

5. The following hallucinogenic substance:

Nabilone.

6. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances which are:

a. Immediate precursors to amphetamine and methamphetamine:

Phenylacetone.

b. Immediate precursor to phencyclidine:

1-phenylcyclohexylamine;

1-piperidinocyclohexanecarbonitrile (other name: PCC).

c. Immediate precursor to fentanyl:

4-anilino-N-phenethyl-4-piperidine (ANPP).

**§ 54.1-3454. Schedule V.**

The controlled substances listed in this section are included in Schedule V:

1. Any compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs, which also contains one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture, or preparation, valuable medicinal qualities other than those possessed by the narcotic drug alone:

Not more than 200 milligrams of codeine, or any of its salts, per 100 milliliters or per 100 grams;

Not more than 100 milligrams of dihydrocodeine, or any of its salts, per 100 milliliters or per 100 grams;

Not more than 100 milligrams of ethylmorphine, or any of its salts, per 100 milliliters or per 100 grams;

Not more than 2.5 milligrams of diphenoxylate and not less than 25 micrograms of atropine sulfate per dosage unit;

Not more than 100 milligrams of opium per 100 milliliters or per 100 grams;

Not more than 0.5 milligrams of difenoxin and not less than 25 micrograms of atropine sulfate per dosage unit.

The Board may except by regulation any compound, mixture, or preparation containing any depressant substance listed in subdivision 1 from the application of all or any part of this chapter and such substances so excepted may be dispensed pursuant to § 54.1-3416.

2. Unless specifically excepted or listed in another schedule, any material, compound, mixture, or preparation that contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers:

Pyrovalerone.

3. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation that contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts:

*Brivaracetam ((2S)-2-[(4R)-2-oxo-4-propylpyrrolidin-1-yl] butanamide) (also referred to as BRV; UCB-34714; Briviact);*

Ezogabine [N-[2-amino-4-(4-fluorobenzylamino)-phenyl]-carbamic acid ethyl ester]-2779;

Lacosamide [(R)-2-acetoamido-N-benzyl-3-methoxy-propionamide];

Pregabalin [(S)-3-(aminomethyl)-5-methylhexanoic acid].

**2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 780 of the Acts of Assembly of 2016 requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.**

### CHAPTER 613

*An Act to amend and reenact §§ 18.2-250.1 and 54.1-3408.3 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 34 of Title 54.1 an article numbered 4.2, consisting of sections numbered 54.1-3442.5 through 54.1-3442.8, relating to cannabidiol oil and THC-A oil; permitting of pharmaceutical processors to manufacture and provide.*

[S 1027]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 18.2-250.1 and 54.1-3408.3 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 34 of Title 54.1 an article numbered 4.2, consisting of sections numbered 54.1-3442.5 through 54.1-3442.8, as follows:**

**§ 18.2-250.1. Possession of marijuana unlawful.**

A. It is unlawful for any person knowingly or intentionally to possess marijuana unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his professional practice, or except as otherwise authorized by the Drug Control Act (§ 54.1-3400 et seq.).

Upon the prosecution of a person for violation of this section, ownership or occupancy of the premises or vehicle upon or in which marijuana was found shall not create a presumption that such person either knowingly or intentionally possessed such marijuana.

Any person who violates this section is guilty of a misdemeanor and shall be confined in jail not more than 30 days and fined not more than \$500, either or both; any person, upon a second or subsequent conviction of a violation of this section, is guilty of a Class 1 misdemeanor.

B. The provisions of this section shall not apply to members of state, federal, county, city, or town law-enforcement agencies, jail officers, or correctional officers, as defined in § 53.1-1, certified as handlers of dogs trained in the detection of controlled substances when possession of marijuana is necessary for the performance of their duties.

C. In any prosecution under this section involving marijuana in the form of cannabidiol oil or THC-A oil as those terms are defined in § 54.1-3408.3, it shall be an affirmative defense that the individual possessed such oil pursuant to a valid written certification issued by a practitioner in the course of his professional practice pursuant to § 54.1-3408.3 for treatment or to alleviate the symptoms of (i) the individual's intractable epilepsy or (ii) if such individual is the parent or legal guardian of a minor or of an incapacitated adult as defined in § 18.2-369, such minor's or incapacitated adult's intractable epilepsy. If the individual files the valid written certification with the court at least 10 days prior to trial and causes a copy of such written certification to be delivered to the attorney for the Commonwealth, such written certification shall be prima facie evidence that such oil was possessed pursuant to a valid written certification.

**§ 54.1-3408.3. Certification for use of cannabidiol oil or THC-A oil to treat intractable epilepsy.**

A. As used in this section:

"Cannabidiol oil" means a processed Cannabis plant extract that contains at least 15 percent cannabidiol but no more than five percent tetrahydrocannabinol, or a dilution of the resin of the Cannabis plant that contains at least 50 milligrams of cannabidiol per milliliter but not more than five percent tetrahydrocannabinol.

"Practitioner" means a practitioner of medicine or osteopathy licensed by the Board of Medicine who is a neurologist or who specializes in the treatment of epilepsy.

"THC-A oil" means a processed Cannabis plant extract that contains at least 15 percent tetrahydrocannabinol acid but not more than five percent tetrahydrocannabinol, or a dilution of the resin of the Cannabis plant that contains at least 50 milligrams of tetrahydrocannabinol acid per milliliter but not more than five percent tetrahydrocannabinol.

B. A practitioner ~~of medicine or osteopathy licensed by the Board of Medicine~~ in the course of his professional practice may issue a written certification for the use of cannabidiol oil or THC-A oil for treatment or to alleviate the symptoms of a patient's intractable epilepsy.

C. The written certification shall be on a form provided by the Office of the Executive Secretary of the Supreme Court developed in consultation with the Board of Medicine. Such written certification shall contain the name, address, and telephone number of the practitioner, the name and address of the patient issued the written certification, the date on which the written certification was made, and the signature of the practitioner. Such written certification issued pursuant to subsection B shall expire no later than one year after its issuance unless the practitioner provides in such written certification an earlier expiration.

D. No practitioner shall be prosecuted under § 18.2-248 or 18.2-248.1 for dispensing or distributing cannabidiol oil or THC-A oil for the treatment or to alleviate the symptoms of a patient's intractable epilepsy pursuant to a written certification issued pursuant to subsection B. Nothing in this section shall preclude the Board of Medicine from sanctioning a practitioner for failing to properly evaluate or treat a patient's medical condition or otherwise violating the applicable standard of care for evaluating or treating medical conditions.

E. A practitioner who issues a written certification to a patient pursuant to this section shall register with the Board. The Board shall, in consultation with the Board of Medicine, set a limit on the number of patients to whom a practitioner may issue a written certification.

F. A patient who has been issued a written certification shall register with the Board or, if such patient is a minor or an incapacitated adult as defined in § 18.2-369, a patient's parent or legal guardian shall register and shall register such patient with the Board.

G. The Board shall promulgate regulations to implement the registration process. Such regulations shall include (i) a mechanism for sufficiently identifying the practitioner issuing the written certification, the patient being treated by the practitioner, and, if such patient is a minor or an incapacitated adult as defined in § 18.2-369, the patient's parent or legal guardian; (ii) a process for ensuring that any changes in the information are reported in an appropriate timeframe; and (iii) a prohibition for the patient to be issued a written certification by more than one practitioner during any given time period.

H. Information obtained under the registration process shall be confidential and shall not be subject to the disclosure provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.). However, reasonable access to registry information shall be provided to (i) the Chairmen of the House and Senate Committees for Courts of Justice, (ii) state and federal agencies or local law enforcement for the purpose of investigating or prosecuting a specific individual for a specific violation of law, (iii) licensed physicians or pharmacists for the purpose of providing patient care and drug therapy management and monitoring of drugs obtained by a registered patient, (iv) a pharmaceutical processor involved in the treatment of a registered patient, or (v) a registered patient or, if such patient is a minor or an incapacitated adult as defined in § 18.2-369, the patient's parent or legal guardian, but only with respect to information related to such registered patient.

## Article 4.2.

*Permitting of Pharmaceutical Processors to Produce and Dispense Cannabidiol Oil and THC-A Oil.***§ 54.1-3442.5. Definitions.**

As used in this article:

"Cannabidiol oil" has the same meaning as specified in § 54.1-3408.3.

"Pharmaceutical processor" means a facility that (i) has obtained a permit from the Board pursuant to § 54.1-3408.3 and (ii) cultivates Cannabis plants intended only for the production of cannabidiol oil or THC-A oil, produces cannabidiol oil or THC-A oil, and dispenses cannabidiol oil or THC-A oil to a registered patient or, if such patient is a minor or an incapacitated adult as defined in § 18.2-369, such patient's parent or legal guardian for the treatment of intractable epilepsy.

"Practitioner" has the same meaning as specified in § 54.1-3408.3.

"THC-A oil" has the same meaning as specified in § 54.1-3408.3.

**§ 54.1-3442.6. Permit to operate pharmaceutical processor.**

A. No person shall operate a pharmaceutical processor without first obtaining a permit from the Board. The application for such permit shall be made on a form provided by the Board and signed by a pharmacist who will be in full and actual charge of the pharmaceutical processor. The Board shall establish an application fee and other general requirements for such application.

B. Each permit shall expire annually on a date determined by the Board in regulation. The number of permits that the Board may issue or renew in any year is limited to one for each health service area established by the Board of Health. Permits shall be displayed in a conspicuous place on the premises of the pharmaceutical processor.

C. The Board shall adopt regulations establishing health, safety, and security requirements for pharmaceutical processors. Such regulations shall include requirements for (i) physical standards; (ii) location restrictions; (iii) security systems and controls; (iv) minimum equipment and resources; (v) recordkeeping; (vi) labeling and packaging; (vii) quarterly inspections; (viii) processes for safely and securely cultivating Cannabis plants intended for producing cannabidiol oil and THC-A oil, producing cannabidiol oil and THC-A oil, and dispensing and delivering in person cannabidiol oil and THC-A oil to a registered patient or, if such patient is a minor or an incapacitated adult as defined in § 18.2-369, such patient's parent or legal guardian; (ix) a maximum number of marijuana plants a pharmaceutical processor may possess at any one time; and (x) the secure disposal of plant remains.

D. Every pharmaceutical processor shall be under the personal supervision of a licensed pharmacist on the premises of the pharmaceutical processor.

E. No person who has been convicted of a felony or of any offense in violation of Article 1 (§ 18.2-247 et seq.) or Article 1.1 (§ 18.2-265.1 et seq.) of Chapter 7 of Title 18.2 shall be employed by or act as an agent of a pharmaceutical processor.

**§ 54.1-3442.7. Dispensing cannabidiol oil and THC-A oil; report.**

A. A pharmaceutical processor shall dispense or deliver cannabidiol oil or THC-A oil only in person to (i) a patient who is a Virginia resident, has been issued a valid written certification, and is registered with the Board pursuant to § 54.1-3408.3 or (ii) if such patient is a minor or an incapacitated adult as defined in § 18.2-369, such patient's parent or legal guardian who is a Virginia resident and is registered with the Board pursuant to § 54.1-3408.3. Prior to dispensing, the pharmaceutical processor shall verify that the practitioner issuing the written certification, the patient, and, if such patient is a minor or an incapacitated adult, the patient's parent or legal guardian are registered with the Board. No pharmaceutical processor shall dispense more than a 30-day supply for any patient during any 30-day period. The Board shall establish in regulation an amount of cannabidiol oil or THC-A oil that constitutes a 30-day supply to treat or alleviate the symptoms of a patient's intractable epilepsy.

B. A pharmaceutical processor shall dispense only cannabidiol oil and THC-A oil that has been cultivated and produced on the premises of such pharmaceutical processor.

C. The Board shall report annually by December 1 to the Chairmen of the House and Senate Committees for Courts of Justice on the operation of pharmaceutical processors issued a permit by the Board, including the number of practitioners, patients, and parents or legal guardians of patients who have registered with the Board and the number of written certifications issued pursuant to § 54.1-3408.3.

**§ 54.1-3442.8. Criminal liability; exceptions.**

In any prosecution of an agent or employee of a pharmaceutical processor under § 18.2-248, 18.2-248.1, 18.2-250, or 18.2-250.1 for possession or manufacture of marijuana or for possession, manufacture, or distribution of cannabidiol oil or THC-A oil, it shall be an affirmative defense that such agent or employee (i) possessed or manufactured such marijuana for the purposes of producing cannabidiol oil or THC-A oil in accordance with the provisions of this article and Board regulations or (ii) possessed, manufactured, or distributed such cannabidiol oil or THC-A oil in accordance with the provisions of this article and Board regulations. If such agent or employee files a copy of the permit issued to the pharmaceutical processor pursuant to § 54.1-3442.6 with the court at least 10 days prior to trial and causes a copy of such permit to be delivered to the attorney for the Commonwealth, such permit shall be prima facie evidence that (a) such marijuana was possessed or manufactured for the purposes of producing cannabidiol oil or THC-A oil in accordance with the provisions of this article and Board regulations or (b) such cannabidiol oil or THC-A oil was possessed, manufactured, or distributed in accordance with the provisions of this article and Board regulations.

- 2. That the Board of Pharmacy shall promulgate regulations to implement the provisions of the first enactment of this act by December 15, 2017.
- 3. That an emergency exists and this act is in force from its passage.

**CHAPTER 614**

*An Act to amend and reenact § 2 of the first enactment of Chapters 207 and 604 of the Acts of Assembly of 2008, as amended by Chapters 8 and 322 of the Acts of Assembly of 2013, and § 2 of the first enactment of Chapters 11 and 550 of the Acts of Assembly of 2011, relating to modifications to prior revenue bond bills for institutions of higher education; Virginia State University.*

[S 1370]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 2 of the first enactment of Chapter 207 of the Acts of Assembly of 2008, as amended by Chapters 8 and 322 of the Acts of Assembly of 2013, is amended and reenacted as follows:**

§ 2. Authorization of bonds and BANs.

The Treasury Board is hereby authorized, by and with the consent of the Governor, to sell and issue, pursuant to Article X, Section 9(c), Constitution of Virginia, at one time or from time to time, bonds of the Commonwealth, to be designated "Commonwealth of Virginia Higher Educational Institutions Bonds, Series ....." in an aggregate principal amount not exceeding \$350,565,000, plus amounts needed to fund issuance costs, reserve funds, construction period interest and other financing expenses. The Treasury Board is further hereby authorized, by and with the consent of the Governor, to borrow money in anticipation of the issuance of bonds by the issuance of bond anticipation notes (BANs), including BANs issued as commercial paper. The proceeds of such bonds and BANs, excluding amounts needed to fund issuance costs, reserve funds and other financing expenses, shall be used exclusively for the purpose of providing funds, with any other available funds, for paying all or a portion of the costs of acquiring, constructing, renovating, enlarging, improving and equipping revenue-producing capital projects at institutions of higher learning of the Commonwealth as follows:

Institution	Project Title	Project Code	Amount
George Mason University	President's Park Phase II Renovation	17540	\$15,633,000
George Mason University	Smithsonian CRC Housing	17572	17,804,000
George Mason University	Housing VIII	17570	102,460,000
Old Dominion University	Construct Residence Hall, Phase II	17342	34,779,000
Radford University	Renovate Residence Halls	17565	36,000,000
The College of William and Mary in Virginia	Renovate Graduate Student Dormitories	17555	2,500,000
The College of William and Mary in Virginia	Renovate Campus Center and Trinkle Hall	17554	35,000,000
Virginia Polytechnic Institute and State University	Renovate Ambler Johnson Hall	17557	55,000,000
Virginia Polytechnic Institute and State University	Renovate Owens and West End Market Food Courts	17558	5,000,000
Virginia Polytechnic Institute and State University	New Residence Hall	16682	8,047,000
Virginia State University	Demolish Student Village and Dormitories, Construct Gateway <del>500</del> , Phase II, and Improve Campus Residence Halls	17531	38,342,000
Total			\$350,565,000

**2. That § 2 of the first enactment of Chapter 604 of the Acts of Assembly of 2008, as amended by Chapters 8 and 322 of the Acts of Assembly of 2013, is amended and reenacted as follows:**

§ 2. Authorization of bonds and BANs.

The Treasury Board is hereby authorized, by and with the consent of the Governor, to sell and issue, pursuant to Article X, Section 9(c), Constitution of Virginia, at one time or from time to time, bonds of the Commonwealth, to be designated "Commonwealth of Virginia Higher Educational Institutions Bonds, Series ....." in an aggregate principal amount not exceeding \$350,565,000, plus amounts needed to fund issuance costs, reserve funds, construction period interest and other financing expenses. The Treasury Board is further hereby authorized, by and with the consent of the Governor, to

borrow money in anticipation of the issuance of bonds by the issuance of bond anticipation notes (BANs), including BANs issued as commercial paper. The proceeds of such bonds and BANs, excluding amounts needed to fund issuance costs, reserve funds, and other financing expenses, shall be used exclusively for the purpose of providing funds, with any other available funds, for paying all or a portion of the costs of acquiring, constructing, renovating, enlarging, improving, and equipping revenue-producing capital projects at institutions of higher learning of the Commonwealth as follows:

Institution	Project Title	Project Code	Amount
George Mason University	President's Park Phase II Renovation	17540	\$15,633,000
George Mason University	Smithsonian CRC - Housing	17572	17,804,000
George Mason University	Housing VIII	17570	102,460,000
Old Dominion University	Construct Residence Hall, Phase II	17342	34,779,000
Radford University	Renovate Residence Halls	17565	36,000,000
The College of William and Mary in Virginia	Renovate Graduate Student Dormitories	17555	2,500,000
The College of William and Mary in Virginia	Renovate Campus Center and Trinkle Hall	17554	35,000,000
Virginia Polytechnic Institute and State University	Renovate Ambler Johnson Hall	17557	55,000,000
Virginia Polytechnic Institute and State University	Renovate Owens and West End Market Food Courts	17558	5,000,000
Virginia Polytechnic Institute and State University	New Residence Hall	16682	8,047,000
Virginia State University	Demolish Student Village <del>and Dormitories</del> , Construct Gateway <del>500</del> , <del>Phase II</del> , and Improve Campus Residence Halls	17531	38,342,000
Total			\$350,565,000

**3. That § 2 of the first enactment of Chapter 11 of the Acts of Assembly of 2011 is amended and reenacted as follows:**

§ 2. Authorization of bonds and BANs.

The Treasury Board is hereby authorized, by and with the consent of the Governor, to sell and issue, pursuant to Article X, Section 9 (c) of the Constitution of Virginia, at one time or from time to time, bonds of the Commonwealth, to be designated "Commonwealth of Virginia Higher Educational Institutions Bonds, Series ....." in an aggregate principal amount not exceeding \$64,579,000, plus amounts needed to fund issuance costs, reserve funds, construction period interest and other financing expenses. The Treasury Board is further hereby authorized, by and with the consent of the Governor, to borrow money in anticipation of the issuance of bonds by the issuance of bond anticipation notes (BANs), including BANs issued as commercial paper. The proceeds of such bonds and BANs, excluding amounts needed to fund issuance costs, reserve funds and other financing expenses, shall be used exclusively for the purpose of providing funds, with any other available funds, for paying all or a portion of the costs of constructing revenue-producing capital projects at institutions of higher learning of the Commonwealth as follows:

Institution	Project Title	Project Code	Amount
Virginia Commonwealth University	Construct West Grace Street Housing North	17896	\$33,763,000
Virginia State University	Construct Quad II, <del>Phase H</del> and Improve Campus Residence Halls	17895	\$30,816,000
Total			\$64,579,000

**4. That § 2 of the first enactment of Chapter 550 of the Acts of Assembly of 2011 is amended and reenacted as follows:**

§ 2. Authorization of bonds and BANs.

The Treasury Board is hereby authorized, by and with the consent of the Governor, to sell and issue, pursuant to Article X, Section 9 (c) of the Constitution of Virginia, at one time or from time to time, bonds of the Commonwealth, to be designated "Commonwealth of Virginia Higher Educational Institutions Bonds, Series ....." in an aggregate principal amount not exceeding \$64,579,000, plus amounts needed to fund issuance costs, reserve funds, construction period interest and other financing expenses. The Treasury Board is further hereby authorized, by and with the consent of the Governor, to borrow money in anticipation of the issuance of bonds by the issuance of bond anticipation notes (BANs), including BANs

issued as commercial paper. The proceeds of such bonds and BANs, excluding amounts needed to fund issuance costs, reserve funds and other financing expenses, shall be used exclusively for the purpose of providing funds, with any other available funds, for paying all or a portion of the costs of constructing revenue-producing capital projects at institutions of higher learning of the Commonwealth as follows:

Institution	Project Title	Project Code	Amount
Virginia Commonwealth University	Construct West Grace Street Housing North	17896	\$33,763,000
Virginia State University	Construct Quad II, Phase II and Improve Campus Residence Halls	17895	\$30,816,000
Total			\$64,579,000

**5. That an emergency exists and this act is in force from its passage.**

**CHAPTER 615**

*An Act to amend and reenact §§ 38.2-3407.7 and 38.2-4312.1 of the Code of Virginia, relating to pharmacy freedom of choice; pharmacy's intermediary.*

[H 1450]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 38.2-3407.7 and 38.2-4312.1 of the Code of Virginia are amended and reenacted as follows:**

**§ 38.2-3407.7. Pharmacies; freedom of choice.**

A. Notwithstanding any provision of § 38.2-3407 to the contrary, no insurer proposing to issue preferred provider policies or contracts shall prohibit any person receiving pharmacy benefits furnished thereunder from selecting, without limitation, the pharmacy of his choice to furnish such benefits. This right of selection extends to and includes ~~pharmacies~~ *any pharmacy that ~~is~~ is a nonpreferred provider and that ~~has~~ has previously notified the insurer on its own behalf or through an intermediary, by facsimile or otherwise, of ~~their~~ its agreement to accept reimbursement for ~~their~~ its services at rates applicable to pharmacies that are preferred providers, including any copayment consistently imposed by the insurer, as payment in full. Each insurer shall permit prompt electronic or telephonic transmittal of the reimbursement agreement by the pharmacy and ensure prompt verification to the pharmacy of the terms of reimbursement. In no event shall any person receiving a covered pharmacy benefit from a nonpreferred provider which has submitted a reimbursement agreement be responsible for amounts that may be charged by the nonpreferred provider in excess of the copayment and the insurer's reimbursement applicable to all of its preferred pharmacy providers. *If a pharmacy has provided notice pursuant to this subsection through an intermediary, the insurer or its intermediary may elect to respond directly to the pharmacy instead of the intermediary. Nothing in this subsection shall (i) require an insurer or its intermediary to contract with or to disclose confidential information to a pharmacy's intermediary or (ii) prohibit an insurer or its intermediary from contracting with or disclosing confidential information to a pharmacy's intermediary.**

B. No such insurer shall impose upon any person receiving pharmaceutical benefits furnished under any such policy or contract:

1. Any copayment, fee or condition that is not equally imposed upon all individuals in the same benefit category, class or copayment level, whether or not such benefits are furnished by pharmacists who are nonpreferred providers;
2. Any monetary penalty that would affect or influence any such person's choice of pharmacy; or
3. Any reduction in allowable reimbursement for pharmacy services related to utilization of pharmacists who are nonpreferred providers.

C. For purposes of this section, a prohibited condition or penalty shall include, without limitation: (i) denying immediate access to electronic claims filing to a pharmacy that is a nonpreferred provider and that has complied with subsection D or (ii) requiring a person receiving pharmacy benefits to make payment at point of service, except to the extent such conditions and penalties are similarly imposed on preferred providers.

D. Any pharmacy that wishes to be covered by this section shall, if requested to do so in writing by an insurer, within 30 days of the pharmacy's receipt of the request, execute and deliver to the insurer the direct service agreement or preferred provider agreement that the insurer requires all of its preferred providers of pharmacy benefits to execute. Any pharmacy that fails to timely execute and deliver such agreement shall not be covered by this section with respect to that insurer unless and until the pharmacy executes and delivers the agreement.

E. The Commission shall have no jurisdiction to adjudicate controversies arising out of this section.

F. Nothing in this section shall limit the authority of an insurer proposing to issue preferred provider policies or contracts to select a single mail order pharmacy provider as the exclusive provider of pharmacy services that are delivered to the covered person's address by mail, common carrier, or delivery service. The provisions of this section shall not apply to such contracts. As used in this subsection, "mail order pharmacy provider" means a pharmacy permitted to conduct

business in the Commonwealth whose primary business is to dispense a prescription drug or device under a prescriptive drug order and to deliver the drug or device to a patient primarily by mail, common carrier, or delivery service.

**§ 38.2-4312.1. Pharmacies; freedom of choice.**

A. Notwithstanding any other provision in this chapter, no health maintenance organization providing health care plans shall prohibit any person receiving pharmaceutical benefits thereunder from selecting, without limitation, the pharmacy of his choice to furnish such benefits. This right of selection extends to and includes ~~pharmacies~~ *any pharmacy that* ~~are~~ *is not a participating provider* under any such health care plan and that ~~have~~ *has* previously notified the health maintenance organization *on its own behalf or through an intermediary*, by facsimile or otherwise, of ~~their~~ *its* agreement to accept reimbursement for ~~their~~ *its* services at rates applicable to pharmacies that are participating providers, including any copayment consistently imposed by the plan, as payment in full. Each health maintenance organization shall permit prompt electronic or telephonic transmittal of the reimbursement agreement by the pharmacy and ensure prompt verification to the pharmacy of the terms of reimbursement. In no event shall any person receiving a covered pharmacy benefit from a nonparticipating provider which has submitted a reimbursement agreement be responsible for amounts that may be charged by the nonparticipating provider in excess of the copayment and the health maintenance organization's reimbursement applicable to all of its participating pharmacy providers. *If a pharmacy has provided notice pursuant to this subsection through an intermediary, the health maintenance organization or its intermediary may elect to respond directly to the pharmacy instead of the intermediary. Nothing in this subsection shall (i) require a health maintenance organization or its intermediary to contract with or to disclose confidential information to a pharmacy's intermediary or (ii) prohibit a health maintenance organization or its intermediary from contracting with or disclosing confidential information to a pharmacy's intermediary.*

B. No such health maintenance organization shall impose upon any person receiving pharmaceutical benefits furnished under any such health care plan:

1. Any copayment, fee or condition that is not equally imposed upon all individuals in the same benefit category, class or copayment level, whether or not such benefits are furnished by pharmacists who are not participating providers;
2. Any monetary penalty that would affect or influence any such person's choice of pharmacy; or
3. Any reduction in allowable reimbursement for pharmacy services related to utilization of pharmacists who are not participating providers.

C. For purposes of this section, a prohibited condition or penalty shall include, without limitation: (i) denying immediate access to electronic claims filing to a pharmacy that is a nonparticipating provider and that has complied with subsection E or (ii) requiring a person receiving pharmacy benefits to make payment at point of service, except to the extent such conditions and penalties are similarly imposed on participating providers.

D. The provisions of this section are not applicable to any pharmaceutical benefit covered by a health care plan when those benefits are obtained from a pharmacy wholly owned and operated by, or exclusively operated for, the health maintenance organization providing the health care plan.

E. Any pharmacy that wishes to be covered by this section shall, if requested to do so in writing by a health maintenance organization, within 30 days of the pharmacy's receipt of the request, execute and deliver to the health maintenance organization the direct service agreement or participating provider agreement that the health maintenance organization requires all of its participating providers of pharmacy benefits to execute. Any pharmacy that fails to timely execute and deliver such agreement shall not be covered by this section with respect to that health maintenance organization unless and until the pharmacy executes and delivers the agreement.

F. The Commission shall have no jurisdiction to adjudicate controversies arising out of this section.

G. Nothing in this section shall limit the authority of a health maintenance organization providing health care plans to select a single mail order pharmacy provider as the exclusive provider of pharmacy services that are delivered to the covered person's address by mail, common carrier, or delivery service. The provisions of this section shall not apply to such contracts. As used in this subsection, "mail order pharmacy provider" means a pharmacy permitted to conduct business in the Commonwealth whose primary business is to dispense a prescription drug or device under a prescriptive drug order and to deliver the drug or device to a patient primarily by mail, common carrier, or delivery service.

**CHAPTER 616**

*An Act to amend and reenact §§ 2.2-3701, 2.2-3707, 2.2-3707.1, 2.2-3708, 2.2-3708.1, 2.2-3711, 2.2-3712, 10.1-104.7, 15.2-1416, 23.1-1303, and 54.1-2400.2 of the Code of Virginia, relating to the Virginia Freedom of Information Act; public access to meetings of public bodies.*

[H 1540]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 2.2-3701, 2.2-3707, 2.2-3707.1, 2.2-3708, 2.2-3708.1, 2.2-3711, 2.2-3712, 10.1-104.7, 15.2-1416, 23.1-1303, and 54.1-2400.2 of the Code of Virginia are amended and reenacted as follows:**

**§ 2.2-3701. Definitions.**

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

"Closed meeting" means a meeting from which the public is excluded.

"Electronic communication" means any audio or combined audio and visual communication method.

"Emergency" means an unforeseen circumstance rendering the notice required by this chapter impossible or impracticable and which circumstance requires immediate action.

"Information" as used in the exclusions established by §§ 2.2-3705.1 through 2.2-3705.7, means the content within a public record that references a specifically identified subject matter, and shall not be interpreted to require the production of information that is not embodied in a public record.

"Meeting" or "meetings" means the meetings including work sessions, when sitting physically, or through telephonic or video equipment pursuant to § 2.2-3708 or 2.2-3708.1, as a body or entity, or as an informal assemblage of (i) as many as three members or (ii) a quorum, if less than three, of the constituent membership, wherever held, with or without minutes being taken, whether or not votes are cast, of any public body. Neither the gathering of employees of a public body nor the gathering or attendance of two or more members of a public body (i) at any place or function where no part of the purpose of such gathering or attendance is the discussion or transaction of any public business, and such gathering or attendance was not called or prearranged with any purpose of discussing or transacting any business of the public body, or (ii) at a public forum, candidate appearance, or debate, the purpose of which is to inform the electorate and not to transact public business or to hold discussions relating to the transaction of public business, even though the performance of the members individually or collectively in the conduct of public business may be a topic of discussion or debate at such public meeting, shall be deemed a "meeting" subject to the provisions of this chapter.

"Open meeting" or "public meeting" means a meeting at which the public may be present.

"Public body" means any legislative body, authority, board, bureau, commission, district or agency of the Commonwealth or of any political subdivision of the Commonwealth, including cities, towns and counties, municipal councils, governing bodies of counties, school boards and planning commissions; boards of visitors of public institutions of higher education; and other organizations, corporations or agencies in the Commonwealth supported wholly or principally by public funds. It shall include (i) the Virginia Birth-Related Neurological Injury Compensation Program and its board of directors established pursuant to Chapter 50 (§ 38.2-5000 et seq.) of Title 38.2 and (ii) any committee, subcommittee, or other entity however designated, of the public body created to perform delegated functions of the public body or to advise the public body. It shall not exclude any such committee, subcommittee or entity because it has private sector or citizen members. Corporations organized by the Virginia Retirement System are "public bodies" for purposes of this chapter.

For the purposes of the provisions of this chapter applicable to access to public records, constitutional officers and private police departments as defined in § 9.1-101 shall be considered public bodies and, except as otherwise expressly provided by law, shall have the same obligations to disclose public records as other custodians of public records.

"Public records" means all writings and recordings that consist of letters, words or numbers, or their equivalent, set down by handwriting, typewriting, printing, photostating, photography, magnetic impulse, optical or magneto-optical form, mechanical or electronic recording or other form of data compilation, however stored, and regardless of physical form or characteristics, prepared or owned by, or in the possession of a public body or its officers, employees or agents in the transaction of public business. Records that are not prepared for or used in the transaction of public business are not public records.

"Regional public body" means a unit of government organized as provided by law within defined boundaries, as determined by the General Assembly, ~~whose members are appointed by the participating local governing bodies, and such~~ *which* unit includes two or more ~~counties or cities~~ *localities*.

"Scholastic records" means those records containing information directly related to a student or an applicant for admission and maintained by a public body that is an educational agency or institution or by a person acting for such agency or institution.

**§ 2.2-3707. Meetings to be public; notice of meetings; recordings; minutes.**

A. All meetings of public bodies shall be open, except as provided in §§ 2.2-3707.01 and 2.2-3711.

B. No meeting shall be conducted through telephonic, video, electronic or other communication means where the members are not physically assembled to discuss or transact public business, except as provided in § 2.2-3708, 2.2-3708.1 or as may be specifically provided in Title 54.1 for the summary suspension of professional licenses.

C. Every public body shall give notice of the date, time, and location of its meetings by ~~placing the notice in a prominent public location at which notices are regularly posted and in the office of the clerk of the public body, or in the case of a public body that has no clerk, in the office of the chief administrator:~~

1. *Posting such notice on its official public government website, if any;*
2. *Placing such notice in a prominent public location at which notices are regularly posted; and*
3. *Placing such notice at the office of the clerk of the public body or, in the case of a public body that has no clerk, at the office of the chief administrator.*

All state public bodies subject to the provisions of this chapter shall also post notice of their meetings ~~on their websites and on the electronic calendar maintained by the Virginia Information Technologies Agency commonly known as the Commonwealth Calendar~~ *on a central, publicly available electronic calendar maintained by the Commonwealth.* Publication of meeting notices by electronic means by other public bodies shall be encouraged.

The notice shall be posted at least three working days prior to the meeting. ~~Notices for meetings of state public bodies on which there is at least one member appointed by the Governor shall state whether or not public comment will be received at the meeting and, if so, the approximate point during the meeting when public comment will be received.~~

D. Notice, reasonable under the circumstance, of special ~~or~~, emergency, *or continued* meetings shall be given contemporaneously with the notice provided *to the* members of the public body conducting the meeting.

E. Any person may annually file a written request for notification with a public body. The request shall include the requester's name, address, zip code, daytime telephone number, electronic mail address, if available, and organization, if any. The public body receiving such request shall provide notice of all meetings directly to each such person. Without objection by the person, the public body may provide electronic notice of all meetings in response to such requests.

F. At least one copy of *the proposed agenda and* all agenda packets and, unless exempt, all materials furnished to members of a public body for a meeting shall be made available for public inspection at the same time such documents are furnished to the members of the public body. *The proposed agendas for meetings of state public bodies where at least one member has been appointed by the Governor shall state whether or not public comment will be received at the meeting and, if so, the approximate point during the meeting when public comment will be received.*

G. ~~The notice provisions of this chapter shall not apply to informal meetings or gatherings of the members of the General Assembly.~~

~~H.~~ Any person may photograph, film, record or otherwise reproduce any portion of a meeting required to be open. The public body conducting the meeting may adopt rules governing the placement and use of equipment necessary for broadcasting, photographing, filming or recording a meeting to prevent interference with the proceedings, but shall not prohibit or otherwise prevent any person from photographing, filming, recording, or otherwise reproducing any portion of a meeting required to be open. No public body shall conduct a meeting required to be open in any building or facility where such recording devices are prohibited.

~~I.~~ *H.* Minutes shall be recorded at all open meetings. However, minutes shall not be required to be taken at deliberations of (i) standing and other committees of the General Assembly; (ii) legislative interim study commissions and committees, including the Virginia Code Commission; (iii) study committees or commissions appointed by the Governor; or (iv) study commissions or study committees, or any other committees or subcommittees appointed by the governing bodies or school boards of counties, cities and towns, except where the membership of any such commission, committee or subcommittee includes a majority of the governing body of the county, city or town or school board.

Minutes, including draft minutes, and all other records of open meetings, including audio or audio/visual records shall be deemed public records and subject to the provisions of this chapter.

Minutes shall be in writing and shall include (i) the date, time, and location of the meeting; (ii) the members of the public body recorded as present and absent; and (iii) a summary of the discussion on matters proposed, deliberated or decided, and a record of any votes taken. In addition, for electronic communication meetings conducted in accordance with § 2.2-3708, minutes of state public bodies shall include (a) the identity of the members of the public body at each remote location identified in the notice who participated in the meeting through electronic communications means, (b) the identity of the members of the public body who were physically assembled at the primary or central meeting location, and (c) the identity of the members of the public body who were not present at the locations identified in clauses (a) and (b), but who monitored such meeting through electronic communications means.

#### **§ 2.2-3707.1. Posting of minutes for state boards and commissions.**

All boards, commissions, councils, and other public bodies created in the executive branch of state government and subject to the provisions of this chapter shall post minutes of their meetings on such body's *official public government* website; ~~if any~~; and on ~~the~~ *a central* electronic calendar maintained by the ~~Virginia Information Technologies Agency~~ *commonly known as the Commonwealth Calendar Commonwealth*. Draft minutes of meetings shall be posted as soon as possible but no later than ~~ten~~ *10* working days after the conclusion of the meeting. Final approved meeting minutes shall be posted within three working days of final approval of the minutes.

#### **§ 2.2-3708. Electronic communication meetings; applicability; physical quorum required; exceptions; notice; report.**

A. Except as expressly provided in subsection G of this section or § 2.2-3708.1, no local governing body, school board, or any authority, board, bureau, commission, district or agency of local government, any committee thereof, or any entity created by a local governing body, school board, or any local authority, board, or commission shall conduct a meeting wherein the public business is discussed or transacted through telephonic, video, electronic or other communication means where the members are not physically assembled. Nothing in this section shall be construed to prohibit the use of interactive audio or video means to expand public participation.

B. Except as provided in subsection G or H of this section or subsection D of § 2.2-3707.01, state public bodies may conduct any meeting wherein the public business is discussed or transacted through electronic communication means, provided (i) a quorum of the public body is physically assembled at one primary or central meeting location, (ii) notice of the meeting has been given in accordance with subsection C, and (iii) the remote locations, from which additional members of the public body participate through electronic communication means, are open to the public. All persons attending the meeting at any of the meeting locations shall be afforded the same opportunity to address the public body as persons attending the primary or central location.

If an authorized public body holds an electronic meeting pursuant to this section, it shall also hold at least one meeting annually where members in attendance at the meeting are physically assembled at one location and where no members participate by electronic communication means.

C. Notice of any ~~meetings~~ *regular meeting* held pursuant to this section shall be provided at least three working days in advance of the date scheduled for the meeting. *Notice, reasonable under the circumstance, of special, emergency, or continued meetings held pursuant to this section shall be given contemporaneously with the notice provided to members of the public body conducting the meeting. For the purposes of this subsection, "continued meeting" means a meeting that is continued to address an emergency or to conclude the agenda of a meeting for which proper notice was given.*

The notice shall include the date, time, place, and purpose for the meeting; shall identify the locations for the meeting; and shall include a telephone number that may be used at remote locations to notify the primary or central meeting location of any interruption in the telephonic or video broadcast of the meeting to the remote locations. Any interruption in the telephonic or video broadcast of the meeting shall result in the suspension of action at the meeting until repairs are made and public access restored.

D. ~~Agenda~~ *A copy of the proposed agenda and agenda* packets and, unless exempt, all materials that will be distributed to members of the public body and that have been made available to the staff of the public body in sufficient time for duplication and forwarding to all locations where public access will be provided shall be made available to the public at the time of the meeting. Minutes of all meetings held by electronic communication means shall be recorded as required by § 2.2-3707. Votes taken during any meeting conducted through electronic communication means shall be recorded by name in roll-call fashion and included in the minutes.

E. Three working days' notice shall not be required for meetings authorized under this section held in accordance with subsection G ~~or that are continued to address an emergency or to conclude the agenda of the meeting for which proper notice has been given, when the date, time, place, and purpose of the continued meeting are set during the meeting prior to adjournment.~~ Public bodies conducting emergency meetings through electronic communication means shall comply with the provisions of subsection D requiring minutes of the meeting. The nature of the emergency shall be stated in the minutes.

F. Any authorized public body that meets by electronic communication means shall make a written report of the following to the Virginia Freedom of Information Advisory Council ~~and the Joint Commission on Technology and Science~~ by December 15 of each year:

1. The total number of electronic communication meetings held that year;
2. The dates and purposes of the meetings;
3. A copy of the agenda for the meeting;
4. The number of sites for each meeting;
5. The types of electronic communication means by which the meetings were held;
6. The number of participants, including members of the public, at each meeting location;
7. The identity of the members of the public body recorded as absent and those recorded as present at each meeting location;
8. A summary of any public comment received about the electronic communication meetings; and
9. A written summary of the public body's experience using electronic communication meetings, including its logistical and technical experience.

In addition, any authorized public body shall make available to the public at any meeting conducted in accordance with this section a public comment form prepared by the Virginia Freedom of Information Advisory Council in accordance with § 30-179.

G. Any public body may meet by electronic communication means without a quorum of the public body physically assembled at one location when the Governor has declared a state of emergency in accordance with § 44-146.17, provided that (i) the catastrophic nature of the declared emergency makes it impracticable or unsafe to assemble a quorum in a single location and (ii) the purpose of the meeting is to address the emergency. The public body convening a meeting in accordance with this subsection shall (a) give public notice using the best available method given the nature of the emergency, which notice shall be given contemporaneously with the notice provided members of the public body conducting the meeting; (b) make arrangements for public access to such meeting; and (c) otherwise comply with the provisions of this section. The nature of the emergency, the fact that the meeting was held by electronic communication means, and the type of electronic communication means by which the meeting was held shall be stated in the minutes.

H. ~~[Expired]~~

**§ 2.2-3708.1. Participation in meetings due to personal matter; certain disabilities; distance from meeting location for certain public bodies.**

A. A member of a public body may participate in a meeting governed by this chapter through electronic communication means from a remote location that is not open to the public only as follows and subject to the requirements of subsection B:

1. If, on or before the day of a meeting, a member of the public body holding the meeting notifies the chair of the public body that such member is unable to attend the meeting due to ~~an emergency or~~ a personal matter and identifies with specificity the nature of the ~~emergency or~~ personal matter, and the public body holding the meeting records in its minutes the specific nature of the ~~emergency or~~ personal matter and the remote location from which the member participated. If a

member's participation from a remote location is disapproved because such participation would violate the policy adopted pursuant to subsection B, such disapproval shall be recorded in the minutes with specificity.

Such participation by the member shall be limited each calendar year to two meetings ~~or 25 percent of the meetings of the public body, whichever is fewer;~~

2. If a member of a public body notifies the chair of the public body that such member is unable to attend a meeting due to a temporary or permanent disability or other medical condition that prevents the member's physical attendance and the public body records this fact and the remote location from which the member participated in its minutes; or

3. If, on the day of a meeting, a member of a regional public body notifies the chair of the public body that such member's principal residence is more than 60 miles from the meeting location identified in the required notice for such meeting and the public body holding the meeting records in its minutes the remote location from which the member participated. If a member's participation from a remote location is disapproved because such participation would violate the policy adopted pursuant to subsection B, such disapproval shall be recorded in the minutes with specificity.

B. Participation by a member of a public body as authorized under subsection A shall be only under the following conditions:

1. The public body has adopted a written policy allowing for and governing participation of its members by electronic communication means, including an approval process for such participation, subject to the express limitations imposed by this section. Once adopted, the policy shall be applied strictly and uniformly, without exception, to the entire membership and without regard to the identity of the member requesting remote participation or the matters that will be considered or voted on at the meeting;

2. A quorum of the public body is physically assembled at the primary or central meeting location; and

3. The public body makes arrangements for the voice of the remote participant to be heard by all persons at the primary or central meeting location.

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

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

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

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

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

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

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

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

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

8. ~~In the case of boards of visitors of public institutions of higher education, discussion~~ *Consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel. Nothing in this subdivision shall be construed to permit the closure of a meeting merely because an attorney representing the public body is in attendance or is consulted on a matter.*

9. *Discussion or consideration by boards of visitors of public institutions of higher education of matters relating to gifts, bequests and fund-raising activities, and of grants and contracts for services or work to be performed by such*

institution. However, the terms and conditions of any such gifts, bequests, grants, and contracts made by a foreign government, a foreign legal entity, or a foreign person and accepted by a public institution of higher education in Virginia shall be subject to public disclosure upon written request to the appropriate board of visitors. For the purpose of this subdivision, (i) "foreign government" means any government other than the United States government or the government of a state or a political subdivision thereof; (ii) "foreign legal entity" means any legal entity (a) created under the laws of the United States or of any state thereof if a majority of the ownership of the stock of such legal entity is owned by foreign governments or foreign persons or if a majority of the membership of any such entity is composed of foreign persons or foreign legal entities; or ~~any legal entity~~ (b) created under the laws of a foreign government; and (iii) "foreign person" means any individual who is not a citizen or national of the United States or a trust territory or protectorate thereof.

~~9.~~ ~~In the case of~~ 10. Discussion or consideration by the boards of trustees of the Virginia Museum of Fine Arts, the Virginia Museum of Natural History, the Jamestown-Yorktown Foundation, and The Science Museum of Virginia; ~~discussion or consideration~~ of matters relating to specific gifts, bequests, and grants from private sources.

~~10.~~ 11. Discussion or consideration of honorary degrees or special awards.

~~11.~~ 12. Discussion or consideration of tests, examinations, or other information ~~excluded from this chapter pursuant to used, administered, or prepared by a public body and subject to the exclusion in~~ subdivision 4 of § 2.2-3705.1.

~~12.~~ 13. Discussion, consideration, or review by the appropriate House or Senate committees of possible disciplinary action against a member arising out of the possible inadequacy of the disclosure statement filed by the member, provided the member may request in writing that the committee meeting not be conducted in a closed meeting.

~~13.~~ 14. Discussion of strategy with respect to the negotiation of a hazardous waste siting agreement or to consider the terms, conditions, and provisions of a hazardous waste siting agreement if the governing body in open meeting finds that an open meeting will have an adverse effect upon the negotiating position of the governing body or the establishment of the terms, conditions and provisions of the siting agreement, or both. All discussions with the applicant or its representatives may be conducted in a closed meeting.

~~14.~~ 15. Discussion by the Governor and any economic advisory board reviewing forecasts of economic activity and estimating general and nongeneral fund revenues.

~~15.~~ 16. Discussion or consideration of medical and mental health records ~~excluded from this chapter pursuant to subject to the exclusion in~~ subdivision 1 of § 2.2-3705.5.

~~16.~~ 17. Deliberations of the Virginia Lottery Board in a licensing appeal action conducted pursuant to subsection D of § 58.1-4007 regarding the denial or revocation of a license of a lottery sales agent; and discussion, consideration or review of Virginia Lottery matters related to proprietary lottery game information and studies or investigations ~~exempted~~ ~~excluded~~ from disclosure under subdivision 6 of § 2.2-3705.3 and subdivision 11 of § 2.2-3705.7.

~~17.~~ ~~Those portions of meetings by local government crime commissions where the identity of, or information tending to identify, individuals providing information about crimes or criminal activities under a promise of anonymity is discussed or disclosed.~~

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

19. Discussion of plans to protect public safety as it relates to terrorist activity or specific cybersecurity threats or vulnerabilities and briefings by staff members, legal counsel, or law-enforcement or emergency service officials concerning actions taken to respond to such matters or a related threat to public safety; discussion of information ~~excluded from this chapter pursuant to subject to the exclusion in~~ subdivision 3 or 4 of § 2.2-3705.2, where discussion in an open meeting would jeopardize the safety of any person or the security of any facility, building, structure, information technology system, or software program; or discussion of reports or plans related to the security of any governmental facility, building or structure, or the safety of persons using such facility, building or structure.

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

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

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

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

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

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

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

26. Discussion or consideration, by the Wireless Carrier E-911 Cost Recovery Subcommittee created pursuant to § 56-484.15, of trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), submitted by CMRS providers as defined in § 56-484.12, related to the provision of wireless E-911 service.

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

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

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

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

31. Discussion or consideration by the Commitment Review Committee of information ~~excluded from this chapter pursuant to~~ subject to the exclusion in subdivision 8 of § 2.2-3705.2 relating to individuals subject to commitment as sexually violent predators under Chapter 9 (§ 37.2-900 et seq.) of Title 37.2.

32. ~~Expired.~~

33. Discussion or consideration of confidential proprietary information and trade secrets ~~excluded from this chapter pursuant to~~ developed and held by a local public body providing certain telecommunication services or cable television

*services and subject to the exclusion in subdivision 18 of § 2.2-3705.6. However, the exemption provided by this subdivision shall not apply to any authority created pursuant to the BVU Authority Act (§ 15.2-7200 et seq.).*

~~34-~~ 33. Discussion or consideration by a local authority created in accordance with the Virginia Wireless Service Authorities Act (§ 15.2-5431.1 et seq.) of confidential proprietary information and trade secrets ~~excluded from this chapter pursuant to subject to the exclusion in subdivision 19 of § 2.2-3705.6.~~

~~35-~~ 34. Discussion or consideration by the State Board of Elections or local electoral boards of voting security matters made confidential pursuant to § 24.2-625.1.

~~36-~~ 35. Discussion or consideration by the Forensic Science Board or the Scientific Advisory Committee created pursuant to Article 2 (§ 9.1-1109 et seq.) of Chapter 11 of Title 9.1 of ~~records excluded from this chapter pursuant to criminal investigative files subject to the exclusion in subdivision A 2 a of § 2.2-3706.~~

~~37-~~ 36. Discussion or consideration by the Brown v. Board of Education Scholarship ~~Program Awards~~ Committee of information or confidential matters ~~excluded from this chapter pursuant to subject to the exclusion in subdivision 3 of § 2.2-3705.4,~~ and meetings of the Committee to deliberate concerning the annual maximum scholarship award, review and consider scholarship applications and requests for scholarship award renewal, and cancel, rescind, or recover scholarship awards.

~~38-~~ 37. Discussion or consideration by the Virginia Port Authority of information ~~excluded from this chapter pursuant to subject to the exclusion in subdivision 1 of § 2.2-3705.6 related to certain proprietary information gathered by or for the Virginia Port Authority.~~

~~39-~~ 38. Discussion or consideration by the Board of Trustees of the Virginia Retirement System acting pursuant to § 51.1-124.30, by the Investment Advisory Committee appointed pursuant to § 51.1-124.26, by any local retirement system, acting pursuant to § 51.1-803, by the Board of the Virginia College Savings Plan acting pursuant to § 23.1-706, or by the Virginia College Savings Plan's Investment Advisory Committee appointed pursuant to § 23.1-702 of information ~~excluded from this chapter pursuant to subject to the exclusion in subdivision 25 of § 2.2-3705.7.~~

~~40-~~ 39. Discussion or consideration of information ~~excluded from this chapter pursuant to subject to the exclusion in subdivision 3 of § 2.2-3705.6 related to economic development.~~

~~41-~~ 40. Discussion or consideration by the Board of Education of information relating to the denial, suspension, or revocation of teacher licenses ~~excluded from this chapter pursuant to subject to the exclusion in subdivision 12 of § 2.2-3705.3.~~

~~42-~~ 41. Those portions of meetings of the Virginia Military Advisory Council or any commission created by executive order for the purpose of studying and making recommendations regarding preventing closure or realignment of federal military and national security installations and facilities located in Virginia and relocation of such facilities to Virginia, or a local or regional military affairs organization appointed by a local governing body, during which there is discussion of information ~~excluded from this chapter pursuant to subject to the exclusion in subdivision 11 of § 2.2-3705.2.~~

~~43-~~ 42. Discussion or consideration by the Board of Trustees of the Veterans Services Foundation of information ~~excluded from this chapter pursuant to subject to the exclusion in subdivision 29 of § 2.2-3705.7 related to personally identifiable information of donors.~~

~~44-~~ 43. Discussion or consideration by the Virginia Tobacco Region Revitalization Commission of information ~~excluded from this chapter pursuant to subject to the exclusion in subdivision 23 of § 2.2-3705.6 related to certain information contained in grant applications.~~

~~45-~~ 44. Discussion or consideration by the board of directors of the Commercial Space Flight Authority of information ~~excluded from this chapter pursuant to subject to the exclusion in subdivision 24 of § 2.2-3705.6 related to rate structures or charges for the use of projects of, the sale of products of, or services rendered by the Authority and certain proprietary information of a private entity provided to the Authority.~~

~~46-~~ 45. Discussion or consideration of personal and proprietary information ~~that are excluded from the provisions of this chapter pursuant to related to the resource management plan program and subject to the exclusion in (i) subdivision 25 of § 2.2-3705.6 or (ii) subsection E of § 10.1-104.7.~~ This exclusion shall not apply to the discussion or consideration of records that contain information that has been certified for release by the person who is the subject of the information or transformed into a statistical or aggregate form that does not allow identification of the person who supplied, or is the subject of, the information.

~~47-~~ 46. (Effective July 1, 2018) Discussion or consideration by the Board of Directors of the Virginia Alcoholic Beverage Control Authority of information ~~excluded from this chapter pursuant to subject to the exclusion in subdivision 1 of § 2.2-3705.3 or subdivision 34 of § 2.2-3705.7 related to investigations of applicants for licenses and permits and of licensees and permittees.~~

~~48-~~ 47. Discussion or consideration of grant or loan application records ~~excluded from this chapter pursuant to subject to the exclusion in subdivision 28 of § 2.2-3705.6 related to the submission of an application for an award from the Virginia Research Investment Fund pursuant to Article 8 (§ 23.1-3130 et seq.) of Chapter 31 of Title 23.1.~~

~~49-~~ 48. Discussion or development of grant proposals by a regional council established pursuant to Article 26 (§ 2.2-2484 et seq.) of Chapter 24 to be submitted for consideration to the Virginia Growth and Opportunity Board.

B. No resolution, ordinance, rule, contract, regulation or motion adopted, passed or agreed to in a closed meeting shall become effective unless the public body, following the meeting, reconvenes in open meeting and takes a vote of the

membership on such resolution, ordinance, rule, contract, regulation, or motion that shall have its substance reasonably identified in the open meeting.

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

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

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

**§ 2.2-3712. Closed meetings procedures; certification of proceedings.**

A. No closed meeting shall be held unless the public body proposing to convene such meeting has taken an affirmative recorded vote in an open meeting approving a motion that (i) identifies the subject matter, (ii) states the purpose of the meeting *as authorized in subsection A of § 2.2-3711 or other provision of law* and (iii) ~~makes specific reference to~~ *cites the applicable exemption from open meeting requirements provided in § 2.2-3707 or subsection A of § 2.2-3711 or other provision of law.* The matters contained in such motion shall be set forth in detail in the minutes of the open meeting. A general reference to the provisions of this chapter, the authorized exemptions from open meeting requirements, or the subject matter of the closed meeting shall not be sufficient to satisfy the requirements for holding a closed meeting.

B. The notice provisions of this chapter shall not apply to closed meetings of any public body held solely for the purpose of interviewing candidates for the position of chief administrative officer. Prior to any such closed meeting for the purpose of interviewing candidates, the public body shall announce in an open meeting that such closed meeting shall be held at a disclosed or undisclosed location within 15 days thereafter.

C. The public body holding a closed meeting shall restrict its discussion during the closed meeting only to those matters specifically exempted from the provisions of this chapter and identified in the motion required by subsection A.

D. At the conclusion of any closed meeting, the public body holding such meeting shall immediately reconvene in an open meeting and shall take a roll call or other recorded vote to be included in the minutes of that body, certifying that to the best of each member's knowledge (i) only public business matters lawfully exempted from open meeting requirements under this chapter and (ii) only such public business matters as were identified in the motion by which the closed meeting was convened were heard, discussed or considered in the meeting by the public body. Any member of the public body who believes that there was a departure from the requirements of clauses (i) and (ii), shall so state prior to the vote, indicating the substance of the departure that, in his judgment, has taken place. The statement shall be recorded in the minutes of the public body.

E. Failure of the certification required by subsection D to receive the affirmative vote of a majority of the members of the public body present during a meeting shall not affect the validity or confidentiality of such meeting with respect to matters considered therein in compliance with the provisions of this chapter. The recorded vote and any statement made in connection therewith, shall upon proper authentication, constitute evidence in any proceeding brought to enforce the provisions of this chapter.

F. A public body may permit nonmembers to attend a closed meeting if such persons are deemed necessary or if their presence will reasonably aid the public body in its consideration of a topic that is a subject of the meeting.

G. A member of a public body shall be permitted to attend a closed meeting held by any committee or subcommittee of that public body, or a closed meeting of any entity, however designated, created to perform the delegated functions of or to advise that public body. Such member shall in all cases be permitted to observe the closed meeting of the committee, subcommittee or entity. In addition to the requirements of § 2.2-3707, the minutes of the committee or other entity shall include the identity of the member of the parent public body who attended the closed meeting.

H. Except as specifically authorized by law, in no event may any public body take action on matters discussed in any closed meeting, except at an open meeting for which notice was given as required by § 2.2-3707.

I. Minutes may be taken during closed meetings of a public body, but shall not be required. Such minutes shall not be subject to mandatory public disclosure.

**§ 10.1-104.7. Resource management plans; effect of implementation; exclusions.**

A. Notwithstanding any other provision of law, agricultural landowners or operators who fully implement and maintain the applicable components of their resource management plan, in accordance with the criteria for such plans set out in § 10.1-104.8 and any regulations adopted thereunder, shall be deemed to be in full compliance with (i) any load allocation contained in a total maximum daily load (TMDL) established under § 303(d) of the federal Clean Water Act addressing benthic, bacteria, nutrient, or sediment impairments; (ii) any requirements of the Virginia Chesapeake Bay TMDL Watershed Implementation Plan; and (iii) applicable state water quality requirements for nutrients and sediment.

B. The presumption of full compliance provided in subsection A shall not prevent or preclude enforcement of provisions pursuant to (i) a resource management plan or a nutrient management plan otherwise required by law for such

operation, (ii) a Virginia Pollutant Discharge Elimination System permit, (iii) a Virginia Pollution Abatement permit, or (iv) requirements of the Chesapeake Bay Preservation Act (§ 62.1-44.15:67 et seq.).

C. Landowners or operators who implement and maintain a resource management plan in accordance with this article shall be eligible for matching grants for agricultural best management practices provided through the Virginia Agricultural Best Management Practices Cost-Share Program administered by the Department in accordance with program eligibility rules and requirements. Such landowners and operators may also be eligible for state tax credits in accordance with §§ 58.1-339.3 and 58.1-439.5.

D. Nothing in this article shall be construed to limit, modify, impair, or supersede the authority granted to the Commissioner of Agriculture and Consumer Services pursuant to Chapter 4 (§ 3.2-400 et seq.) of Title 3.2.

E. Any personal or proprietary information collected pursuant to this article shall be exempt from the Virginia Freedom of Information Act (§ 2.2-3700 et seq.), except that the Director may release information that has been transformed into a statistical or aggregate form that does not allow identification of the persons who supplied, or are the subject of, particular information. This subsection shall not preclude the application of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) in all other instances of federal or state regulatory actions. Pursuant to subdivision 46 45 of § 2.2-3711, public bodies may hold closed meetings for discussion or consideration of certain records excluded from the provisions of this article and the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

**§ 15.2-1416. Regular meetings.**

The governing body shall assemble at a public place as the governing body may prescribe, in regular session in January for counties and in July for cities and towns. Future meetings shall be held on such days as may be prescribed by resolution of the governing body but in no event shall less than six meetings be held in each fiscal year.

The days, times and places of regular meetings to be held during the ensuing months shall be established at the first meeting which meeting may be referred to as the annual or organizational meeting; however, if the governing body subsequently prescribes any public place other than the initial public meeting place, or any day or time other than that initially established, as a meeting day, place or time, the governing body shall pass a resolution as to such future meeting day, place or time. The governing body shall cause a copy of such resolution to be posted on the door of the courthouse or the initial public meeting place and inserted in a newspaper having general circulation in the county or municipality at least seven days prior to the first such meeting at such other day, place or time. Should the day established by the governing body as the regular meeting day fall on any legal holiday, the meeting shall be held on the next following regular business day, without action of any kind by the governing body.

At its annual meeting the governing body may fix the day or days to which a regular meeting shall be continued if the chairman or mayor, or vice-chairman or vice-mayor if the chairman or mayor is unable to act, finds and declares that weather or other conditions are such that it is hazardous for members to attend the regular meeting. Such finding shall be communicated to the members and the press as promptly as possible. All hearings and other matters previously advertised shall be conducted at the continued meeting and no further advertisement is required.

Regular meetings, ~~without further public notice~~, may be adjourned from day to day or from time to time or from place to place, not beyond the time fixed for the next regular meeting, until the business before the governing body is completed. *Notice of any regular meeting continued under this section shall be reasonable under the circumstances and be given as provided in subsection D of § 2.2-3707.*

Notwithstanding the provisions of this section, any city or town that holds an organizational meeting in compliance with its charter or code shall be deemed to be in compliance with this section.

**§ 23.1-1303. Governing boards; duties.**

A. For purposes of this section, "intellectual property" means (i) a potentially patentable machine, article of manufacture, composition of matter, process, or improvement in any of those; (ii) an issued patent; (iii) a legal right that inheres in a patent; or (iv) anything that is copyrightable.

B. The governing board of each public institution of higher education shall:

1. Adopt and post conspicuously on its website bylaws for its own governance, including provisions that (i) establish the requirement of transparency, to the extent required by law, in all board actions; (ii) describe the board's obligations under the Virginia Freedom of Information Act (§ 2.2-3700 et seq.), as set forth in subdivision B 10 of § 23.1-1301, including the requirements that (a) the board record minutes of each open meeting and post the minutes on the board's website, in accordance with subsection ~~H~~ of § 2.2-3707 and § 2.2-3707.1, (b) discussions and actions on any topic not specifically exempted by § 2.2-3711 be held in an open meeting, (c) the board give public notice of all meetings, in accordance with subsection C of § 2.2-3707, and (d) any action taken in a closed meeting be approved in an open meeting before it can have any force or effect, in accordance with subsection B of § 2.2-3711; and (iii) require that the board invite the Attorney General's appointee or representative to all meetings of the board, executive committee, and board committees;

2. Establish regulations or institution policies for the acceptance and assistance of students that include provisions (i) that specify that individuals who have knowingly and willfully failed to meet the federal requirement to register for the selective service are not eligible to receive any state direct student assistance, (ii) that specify that the accreditation status of a public high school in the Commonwealth shall not be considered in making admissions determinations for students who have earned a diploma pursuant to the requirements established by the Board of Education, and (iii) relating to the admission of certain graduates of comprehensive community colleges as set forth in § 23.1-907;

3. Assist the Council in enforcing the provisions relating to eligibility for financial aid;

4. Notwithstanding any other provision of state law, establish policies and procedures requiring the notification of the parent of a dependent student when such student receives mental health treatment at the institution's student health or counseling center and such treatment becomes part of the student's educational record in accordance with the federal Health Insurance Portability and Accountability Act (42 U.S.C. § 1320d et seq.) and may be disclosed without prior consent as authorized by the federal Family Educational Rights and Privacy Act (20 U.S.C. § 1232g) and related regulations (34 C.F.R. Part 99). Such notification shall only be required if it is determined that there exists a substantial likelihood that, as a result of mental illness the student will, in the near future, (i) cause serious physical harm to himself or others as evidenced by recent behavior or any other relevant information or (ii) suffer serious harm due to his lack of capacity to protect himself from harm or to provide for his basic human needs. However, notification may be withheld if any person licensed to diagnose and treat mental, emotional, or behavioral disorders by a health regulatory board within the Department of Health Professions who is treating the student has made a part of the student's record a written statement that, in the exercise of his professional judgment, the notification would be reasonably likely to cause substantial harm to the student or another person. No public institution of higher education or employee of a public institution of higher education making a disclosure pursuant to this subsection is civilly liable for any harm resulting from such disclosure unless such disclosure constitutes gross negligence or willful misconduct by the institution or its employees;

5. Establish policies and procedures requiring the release of the educational record of a dependent student, as defined by the federal Family Educational Rights and Privacy Act (20 U.S.C. § 1232g), to a parent at his request;

6. Establish programs to seek to ensure that all graduates have the technology skills necessary to compete in the twenty-first century and that all students matriculating in teacher-training programs receive instruction in the effective use of educational technology;

7. Establish policies for the discipline of students who participate in varsity intercollegiate athletics, including a provision requiring an annual report by the administration of the institution to the governing board regarding enforcement actions taken pursuant to such policies;

8. In addition to all meetings prescribed in Chapters 14 (§ 23.1-1400 et seq.) through 29 (§ 23.1-2900 et seq.), meet with the chief executive officer of the institution at least once annually, in a closed meeting pursuant to subdivision A 1 of § 2.2-3711 and deliver an evaluation of the chief executive officer's performance. Any change to the chief executive officer's employment contract during any such meeting or any other meeting of the board shall be made only by a vote of the majority of the board's members;

9. If human research, as defined in § 32.1-162.16, is conducted at the institution, adopt regulations pursuant to the Administrative Process Act (§ 2.2-4000 et seq.) to effectuate the provisions of Chapter 5.1 (§ 32.1-162.16 et seq.) of Title 32.1 for human research. Such regulations shall require the human research committee to submit to the Governor, the General Assembly, and the chief executive officer of the institution or his designee at least annually a report on the human research projects reviewed and approved by the committee and require the committee to report any significant deviations from approved proposals;

10. Submit the annual financial statements for the fiscal year ending the preceding June 30 and the accounts and status of any ongoing capital projects to the Auditor of Public Accounts for the audit of such statements pursuant to § 30-133;

11. Submit to the General Assembly and the Governor an annual executive summary of its interim activity and work no later than the first day of each regular session of the General Assembly. The executive summary shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website;

12. Make available to any interested party upon request a copy of the portion of the most recent report of the Uniform Crime Reporting Section of the Department of State Police entitled "Crime in Virginia" pertaining to institutions of higher education;

13. Adopt policies or institution regulations regarding the ownership, protection, assignment, and use of intellectual property and provide a copy of such policies to the Governor and the Joint Commission on Technology and Science. All employees, including student employees, of public institutions of higher education are bound by the intellectual property policies of the institution employing them; and

14. Adopt policies that are supportive of the intellectual property rights of matriculated students who are not employed by such institution.

**§ 54.1-2400.2. Confidentiality of information obtained during an investigation or disciplinary proceeding; penalty.**

A. Any reports, information or records received and maintained by the Department of Health Professions or any health regulatory board in connection with possible disciplinary proceedings, including any material received or developed by a board during an investigation or proceeding, shall be strictly confidential. The Department of Health Professions or a board may only disclose such confidential information:

1. In a disciplinary proceeding before a board or in any subsequent trial or appeal of an action or order, or to the respondent in entering into a confidential consent agreement under § 54.1-2400;

2. To regulatory authorities concerned with granting, limiting or denying licenses, certificates or registrations to practice a health profession, including the coordinated licensure information system, as defined in § 54.1-3030;

3. To hospital committees concerned with granting, limiting or denying hospital privileges if a final determination regarding a violation has been made;

4. Pursuant to an order of a court of competent jurisdiction for good cause arising from extraordinary circumstances being shown;

5. To qualified personnel for bona fide research or educational purposes, if personally identifiable information relating to any person is first deleted. Such release shall be made pursuant to a written agreement to ensure compliance with this section; or

6. To the Health Practitioners' Monitoring Program within the Department of Health Professions in connection with health practitioners who apply to or participate in the Program.

B. In no event shall confidential information received, maintained or developed by the Department of Health Professions or any board, or disclosed by the Department of Health Professions or a board to others, pursuant to this section, be available for discovery or court subpoena or introduced into evidence in any civil action. This section shall not, however, be construed to inhibit an investigation or prosecution under Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2.

C. Any claim of a physician-patient or practitioner-patient privilege shall not prevail in any investigation or proceeding by any health regulatory board acting within the scope of its authority. The disclosure, however, of any information pursuant to this provision shall not be deemed a waiver of such privilege in any other proceeding.

D. This section shall not prohibit the Director of the Department of Health Professions, after consultation with the relevant health regulatory board president or his designee, from disclosing to the Attorney General, or the appropriate attorney for the Commonwealth, investigatory information which indicates a possible violation of any provision of criminal law, including the laws relating to the manufacture, distribution, dispensing, prescribing or administration of drugs, other than drugs classified as Schedule VI drugs and devices, by any individual regulated by any health regulatory board.

E. This section shall not prohibit the Director of the Department of Health Professions from disclosing matters listed in subdivision A 1, A 2, or A 3 of § 54.1-2909; from making the reports of aggregate information and summaries required by § 54.1-2400.3; or from disclosing the information required to be made available to the public pursuant to § 54.1-2910.1.

F. This section shall not prohibit the Director of the Department of Health Professions, following consultation with the relevant health regulatory board president or his designee, from disclosing information about a suspected violation of state or federal law or regulation to other agencies within the Health and Human Resources Secretariat or to federal law-enforcement agencies having jurisdiction over the suspected violation or requesting an inspection or investigation of a licensee by such state or federal agency when the Director has reason to believe that a possible violation of federal or state law has occurred. Such disclosure shall not exceed the minimum information necessary to permit the state or federal agency having jurisdiction over the suspected violation of state or federal law to conduct an inspection or investigation. Disclosures by the Director pursuant to this subsection shall not be limited to requests for inspections or investigations of licensees. Nothing in this subsection shall require the Director to make any disclosure. Nothing in this section shall permit any agency to which the Director makes a disclosure pursuant to this section to re-disclose any information, reports, records, or materials received from the Department.

G. Whenever a complaint or report has been filed about a person licensed, certified, or registered by a health regulatory board, the source and the subject of a complaint or report shall be provided information about the investigative and disciplinary procedures at the Department of Health Professions. Prior to interviewing a licensee who is the subject of a complaint or report, or at the time that the licensee is first notified in writing of the complaint or report, whichever shall occur first, the licensee shall be provided with a copy of the complaint or report and any records or supporting documentation, unless such provision would materially obstruct a criminal or regulatory investigation. If the relevant board concludes that a disciplinary proceeding will not be instituted, the board may send an advisory letter to the person who was the subject of the complaint or report. The relevant board may also inform the source of the complaint or report (i) that an investigation has been conducted, (ii) that the matter was concluded without a disciplinary proceeding, (iii) of the process the board followed in making its determination, and (iv), if appropriate, that an advisory letter from the board has been communicated to the person who was the subject of the complaint or report. In providing such information, the board shall inform the source of the complaint or report that he is subject to the requirements of this section relating to confidentiality and discovery.

H. Orders and notices of the health regulatory boards relating to disciplinary actions, other than confidential exhibits described in subsection K, shall be disclosed. Information on the date and location of any disciplinary proceeding, allegations against the respondent, and the list of statutes and regulations the respondent is alleged to have violated shall be provided to the source of the complaint or report by the relevant board prior to the proceeding. The source shall be notified of the disposition of a disciplinary case.

I. This section shall not prohibit investigative staff authorized under § 54.1-2506 from interviewing fact witnesses, disclosing to fact witnesses the identity of the subject of the complaint or report, or reviewing with fact witnesses any portion of records or other supporting documentation necessary to refresh the fact witnesses' recollection.

J. Any person found guilty of the unlawful disclosure of confidential information possessed by a health regulatory board shall be guilty of a Class 1 misdemeanor.

K. In disciplinary actions in which a practitioner is or may be unable to practice with reasonable skill and safety to patients and the public because of a mental or physical disability, a health regulatory board shall consider whether to disclose and may decide not to disclose in its notice or order the practitioner's health records, as defined in § 32.1-127.1:03, or his health services, as defined in § 32.1-127.1:03. Such information may be considered by the relevant board in a closed hearing in accordance with subsection A ~~15~~ 16 of § 2.2-3711 and included in a confidential exhibit to a notice or order. The public

notice or order shall identify, if known, the practitioner's mental or physical disability that is the basis for its determination. In the event that the relevant board, in its discretion, determines that this subsection should apply, information contained in the confidential exhibit shall remain part of the confidential record before the relevant board and is subject to court review under the Administrative Process Act (§ 2.2-4000 et seq.) and to release in accordance with this section.

**2. That the provisions of subdivisions A 7, 8, 9, 12, 16, 19, 28, 30, 31, 32, and 35 through 47 of § 2.2-3711 of the Code of Virginia, as amended by this act, are declaratory of existing law.**

### CHAPTER 617

*An Act for the relief of Keith Allen Harward.*

[H 1650]

Approved March 16, 2017

Whereas, Keith Allen Harward (Mr. Harward) spent 33 years in prison for crimes he did not commit; and

Whereas, in the early morning hours of September 14, 1982, an unknown assailant broke into a Newport News, Virginia, home, bludgeoned the husband to death with a crowbar and repeatedly raped the wife while the children slept nearby; and

Whereas, the rape victim described her assailant as wearing a white Navy uniform and told police that the assailant had bitten her repeatedly on the legs; and

Whereas, a Newport News Shipyard security guard who, following a suggestive photo array procedure conducted by police investigators, identified Mr. Harward as the sailor he had seen six months earlier entering the shipyard in a blood-spattered uniform during the early morning hours of the day of the crime; and

Whereas, the shipyard security guard was the only individual to identify Mr. Harward at trial; and

Whereas, the rape victim was not able to identify Mr. Harward either before or at trial; and

Whereas, Mr. Harward did not know the rape victim and did not match the physical description of the assailant provided by the victim; and

Whereas, no physical evidence linked Mr. Harward to the crime scene; and

Whereas, a Virginia Department of Forensic Science (DFS) employee suppressed critical serological evidence excluding Mr. Harward as the source of body fluids found on the victim following the crime; and

Whereas, the main evidence against Mr. Harward at trial was bite mark identification proffered by two forensic odontologists, a line of evidence that has been discredited as scientifically invalid and rejected by the American Board of Forensic Odontology; and

Whereas, police investigators withheld critical information that the victim and the Newport News Shipyard security guard had been hypnotized and that certain key components of their respective testimonies changed after hypnosis; and

Whereas, because defense counsel was not informed of the hypnosis of the witnesses, counsel was not able to object to the admission of the hypnotically enhanced recollections, which were considered to be unreliable and admissible only to the extent that they were consistent with a pre-hypnotic statement; and

Whereas, on March 6, 1986, Mr. Harward was falsely convicted of first degree murder and sentenced to life in prison; and

Whereas, in late 2015 and early 2016, DFS analyzed DNA evidence from a rape kit collected from the victim after the crime and excluded Mr. Harward as the perpetrator of the crime; and

Whereas, the DNA evidence identified the real perpetrator of the crime as Jerry Crotty, a U.S. Navy sailor stationed on the same naval vessel as Mr. Harward at the time of the crime and a serial criminal who died in prison in Ohio in 2006; and

Whereas, on March 4, 2016, Mr. Harward submitted to the Supreme Court of Virginia a Petition for a Writ of Actual Innocence based on the DNA evidence excluding him as the perpetrator of the crime; and

Whereas, on April 6, 2016, Virginia Attorney General Mark Herring filed a response recommending that the Writ of Actual Innocence be granted as quickly as possible; and

Whereas, on April 7, 2016, the Supreme Court of Virginia granted Mr. Harward's Writ of Actual Innocence, formally exonerating him of all the crimes for which he had been convicted; and

Whereas, Mr. Harward has always maintained his innocence; and

Whereas, Mr. Harward, as a result of his wrongful conviction, suffers from numerous painful physical injuries, systemic health conditions, and severe mental anguish and emotional distress and has lost countless opportunities, including the opportunity to marry and have children; and

Whereas, Mr. Harward, as a further result of his wrongful conviction, is an impoverished man, with no job skills or career prospects and no savings or accumulated pension benefits, and does not qualify for social security benefits; and

Whereas, Mr. Harward has no other means to obtain adequate relief except by action of this body; now, therefore,

**Be it enacted by the General Assembly of Virginia:**

**1. § 1.** *That there is hereby appropriated from the general fund of the state treasury the sum of \$1,548,439 for the relief of Mr. Harward, to be paid by check issued by the State Treasurer on warrant of the Comptroller upon execution of a release of any present or future claims Mr. Harward may have against (i) the Commonwealth or any agency, instrumentality, officer, employee, or political subdivision thereof; (ii) any legal counsel appointed pursuant to § 19.2-159 of the Code of Virginia; and (iii) all other parties of interest in connection with the aforesaid occurrence.*

*The compensation, subject to the execution of the release described herein, shall be paid as follows: (a) an initial lump sum of \$309,688 to be paid to Mr. Harward by check issued by the State Treasurer on warrant of the Comptroller within 60 days immediately following the execution of such release and (b) the sum of \$1,238,751 to purchase an annuity no later than September 30, 2017, for the primary benefit of Mr. Harward, the terms of such annuity structured in Mr. Harward's best interests based on consultation among Mr. Harward or his representatives, the State Treasurer, and other necessary parties.*

*The State Treasurer shall purchase the annuity at the lowest cost available from any A+ rated company authorized to sell annuities in the Commonwealth, including any A+ rated company from which the State Lottery Department may purchase an annuity. The annuity shall provide that it shall not be sold, discounted, or used as securitization for loans and mortgages. The annuity shall, however, contain beneficiary provisions providing for the annuity's continued disbursement in the event of Mr. Harward's death.*

*§ 2. That Mr. Harward shall be entitled to receive career and technical training within the Virginia Community College System free of tuition charges, up to a maximum of \$10,000. The cost for the tuition benefit shall be paid by the community college at which the career or technical training is provided. The tuition benefit provided by this section shall expire on January 1, 2022.*

## CHAPTER 618

*An Act to commemorate the centennial anniversary of women's right to vote.*

[H 2348]

Approved March 16, 2017

### **Be it enacted by the General Assembly of Virginia:**

**1. § 1.** *With such funds as are appropriated by the General Assembly and with the agreement of the Virginia Historical Society (the Society), the Society shall plan and lead the Commonwealth in commemorating the centennial anniversary of women's right to vote in 2020.*

*§ 2. The Society shall have the powers and duties to:*

- 1. Plan, develop, and perform programs and activities appropriate to commemorate the centennial of women's right to vote and the passage of the Nineteenth Amendment to the United States Constitution;*
- 2. Collaborate with the Library of Virginia, the Department of Education, the Virginia Foundation for the Humanities and Public Policy, the Virginia Commonwealth University Libraries Special Collections and Archives, and other interested persons and civic and community organizations to plan, provide, and promote appropriate educational and cultural programs to commemorate the history and leaders of women's suffrage in the Commonwealth;*
- 3. Engage and encourage civic, historical, educational, and other organizations throughout the Commonwealth to organize and participate in activities to expand the understanding and appreciation of the significance of the centennial of women's right to vote;*
- 4. Solicit, accept, use, and dispose of gifts, grants, donations, bequests, or other funds received by the task force for the purpose of aiding or facilitating its work; and*
- 5. Perform such other duties, functions, and activities as may be necessary to facilitate and implement the objectives of this act.*

*§ 2. To assist the Society in its work, a task force is hereby created consisting of 12 members as follows: five legislative members, five nonlegislative citizen members, and two ex officio members. Members shall be appointed as follows: three members of the House of Delegates to be appointed by the Speaker of the House of Delegates in accordance with the principles of proportional representation contained in the Rules of the House of Delegates; two members of the Senate to be appointed by the Senate Committee on Rules; two nonlegislative citizen members to be appointed by the Speaker of the House of Delegates; two nonlegislative citizen members to be appointed by the Senate Committee on Rules; and one nonlegislative citizen member to be appointed by the Governor. The Librarian of Virginia or his designee and one representative of the Virginia Historical Society shall serve ex officio without voting privileges. Nonlegislative citizen members of the task force shall be citizens of the Commonwealth. Unless otherwise approved in writing by the chairman of the task force and the respective Clerk, nonlegislative citizen members shall be reimbursed only for travel originating and ending within the Commonwealth for the purpose of attending meetings.*

*Legislative members and ex officio members shall serve terms coincident with their terms of office. Vacancies shall be filled in the same manner as the original appointments.*

*The task force shall elect a chairman and vice-chairman from among its membership, who shall be members of the General Assembly.*

*§ 3. Quorum and meetings.*

*A majority of the members of the task force shall constitute a quorum. The task force shall meet no more than four times each year. The meetings of the task force shall be held at the call of the chairman or whenever the majority of the members so request.*

*§ 4. Compensation; expenses.*

*Legislative members shall receive such compensation as provided in the general appropriation act and the Society shall submit such attendance reports as necessary to the Clerk of the House of Delegates and the Clerk of the Senate to*

*facilitate the payment of such compensation. From the appropriations to the Society as provided in the general appropriation act, the Society shall pay nonlegislative citizen members such compensation for the performance of their duties as provided in § 2.2-2813 of the Code of Virginia and shall reimburse all members for reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825 of the Code of Virginia.*

*§ 5. The provisions of this act shall expire on January 1, 2021.*

## CHAPTER 619

*An Act to amend and reenact § 56-238 of the Code of Virginia, relating to the suspension of proposed rates increases; water utilities.*

[H 2358]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 56-238 of the Code of Virginia is amended and reenacted as follows:**

**§ 56-238. Suspension of proposed rates, etc.; investigation; effectiveness of rates pending investigation and subject to bond; fixing reasonable rates, etc.**

The Commission, either upon complaint or on its own motion, may suspend the enforcement of any or all of the proposed rates, tolls, charges, rules or regulations for schedules required to be filed under § 56-236 of any public utility, except an investor-owned electric public utility, for a period not exceeding 150 days, *or if the public utility is an investor-owned water utility not subject to Chapter 10.2:1 (§ 56-265.13:1 et seq.) for a period not exceeding 180 days*, from the date of filing, and the Commission shall suspend the enforcement of all of the proposed rates, tolls, charges, rules or regulations of an investor-owned electric public utility until the Commission's final order in the proceeding, during which times the Commission shall investigate the reasonableness or justice of such proposed rates, tolls, charges, rules and regulations and thereupon fix and order substituted therefor such rates, tolls, charges, rules and regulations as shall be just and reasonable. The Commission's final order in such a proceeding involving an investor-owned electric public utility that is filed after January 1, 2010, shall be entered not more than nine months after the date of filing, at which time the suspension period shall expire, and any revisions in rates or credits so ordered shall take effect not more than 60 days after the date of the order. Notice of the suspension of any such proposed rate, toll, charge, rule or regulation shall be given by the Commission to the public utility, prior to the expiration of the 30 days' notice to the Commission and the public heretofore provided for. If the proceeding has not been concluded and an order made at the expiration of the suspension period, after notice to the Commission by the public utility making the filing, the proposed rates, tolls, charges, rules or regulations shall go into effect. Where increased rates, tolls or charges are thus made effective, the Commission shall, by order, require the public utility to furnish a bond, to be approved by the Commission, to refund any amounts ordered by the Commission, to keep accurate accounts in detail of all amounts received by reason of such increase, and upon completion of the hearing and decision, to order such public utility to refund, with interest at a rate set by the Commission, the portion of such increased rates, tolls or charges by its decision found not justified. The Commission shall prescribe all necessary rules and regulations to effectuate the purposes of this section on or before September 1, 1980. This section shall not apply to proceedings conducted pursuant to § 56-245 or 56-249.6.

## CHAPTER 620

*An Act to amend and reenact § 2.2-3703 of the Code of Virginia, relating to the Virginia Freedom of Information Act; guidance documents of the Virginia Parole Board.*

[H 1734]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 2.2-3703 of the Code of Virginia is amended and reenacted as follows:**

**§ 2.2-3703. Public bodies and records to which chapter inapplicable; voter registration and election records; access by persons incarcerated in a state, local, or federal correctional facility.**

A. The provisions of this chapter shall not apply to:

1. The Virginia Parole Board, except that (i) information from the Virginia Parole Board providing the number of inmates considered by ~~such~~ the Board for discretionary parole, the number of inmates granted or denied parole, and the number of parolees returned to the custody of the Department of Corrections solely as a result of a determination by ~~such~~ the Board of a violation of parole shall be open to inspection and available for release, on a monthly basis, as provided by § 2.2-3704 ~~and~~; (ii) *all guidance documents, as defined in § 2.2-4001, shall be public records and subject to the provisions of this chapter; and (iii) all records concerning the finances of the Virginia Parole Board shall be public records and subject to the provisions of this chapter. The information required by clause (i) shall be furnished by offense, sex, race, age of the inmate, and the locality in which the conviction was obtained, upon the request of the party seeking the information. The information required by clause (ii) shall include all documents establishing the policy of the Board or any change in or*

clarification of such policy with respect to grant, denial, deferral, revocation, or supervision of parole or geriatric release or the process for consideration thereof, and shall be clearly and conspicuously posted on the Board's website. However, such information shall not include any portion of any document reflecting the application of any policy or policy change or clarification of such policy to an individual inmate;

2. Petit juries and grand juries;
3. Family assessment and planning teams established pursuant to § 2.2-5207;
4. The Virginia State Crime Commission; and
5. The records required by law to be maintained by the clerks of the courts of record, as defined in § 1-212, and courts not of record, as defined in § 16.1-69.5. However, other records maintained by the clerks of such courts shall be public records and subject to the provisions of this chapter.

B. Public access to voter registration and election records shall be governed by the provisions of Title 24.2 and this chapter. The provisions of Title 24.2 shall be controlling in the event of any conflict.

C. No provision of this chapter or Chapter 21 (§ 30-178 et seq.) of Title 30 shall be construed to afford any rights to any person (i) incarcerated in a state, local or federal correctional facility, whether or not such facility is (a) located in the Commonwealth or (b) operated pursuant to the Corrections Private Management Act (§ 53.1-261 et seq.) or (ii) civilly committed pursuant to the Sexually Violent Predators Act (§ 37.2-900 et seq.). However, this subsection shall not be construed to prevent such persons from exercising their constitutionally protected rights, including, but not limited to, their right to call for evidence in their favor in a criminal prosecution.

## CHAPTER 621

*An Act to amend and reenact § 18.2-57.3 of the Code of Virginia, relating to assault and battery against a family or household member; eligibility for first offender status.*

[H 2064]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 18.2-57.3 of the Code of Virginia is amended and reenacted as follows:**

**§ 18.2-57.3. Persons charged with first offense of assault and battery against a family or household member may be placed on local community-based probation; conditions; education and treatment programs; costs and fees; violations; discharge.**

A. When a person is charged with a simple assault in violation of subsection A of § 18.2-57 where the victim was a family or household member of the person or a violation of § 18.2-57.2, the court may defer the proceedings against such person, without a finding of guilt, and place him on probation under the terms of this section.

B. For a person to be eligible for such deferral, the court shall find that (i) the person was an adult at the time of the commission of the offense; (ii) the person has not previously been convicted of any offense under this article or under any statute of the United States or of any state or any ordinance of any local government relating to an assault or assault and battery against a family or household member; (iii) (a) *the person has not previously been convicted of an act of violence as defined in § 19.2-297.1 or (b) if such person has been previously convicted of such an act of violence, the attorney for the Commonwealth does not object to the deferral;* (iv) the person has not previously had a proceeding against him for violation of such an offense dismissed as provided in this section; ~~(iv)~~; (v) the person pleads guilty to, or enters a plea of not guilty or nolo contendere and the court finds the evidence is sufficient to find the person guilty of, simple assault in violation of subsection A of § 18.2-57 where the victim was a family or household member of the person or a violation of § 18.2-57.2; and ~~(v)~~ (vi) the person consents to such deferral.

C. The court shall (i) where a local community-based probation services agency established pursuant to Article 9 (§ 9.1-173 et seq.) of Chapter 1 of Title 9.1 is available, order that the eligible person be placed with such agency and require, as a condition of local community-based probation, the person to successfully complete all treatment, education programs or services, or any combination thereof indicated by an assessment or evaluation obtained by the local community-based probation services agency if such assessment, treatment or education services are available; or (ii) require successful completion of treatment, education programs or services, or any combination thereof, such as, in the opinion of the court, may be best suited to the needs of the person.

D. The court shall require the person entering such education or treatment program or services under the provisions of this section to pay all or part of the costs of the program or services, including the costs of any assessment, evaluation, testing, education and treatment, based upon the person's ability to pay. Such programs or services shall offer a sliding-scale fee structure or other mechanism to assist participants who are unable to pay the full costs of the required programs or services.

The court shall order the person to be of good behavior for a total period of not less than two years following the deferral of proceedings, including the period of supervised probation, if available.

The court shall, unless done at arrest, order the person to report to the original arresting law-enforcement agency to submit to fingerprinting.

E. Upon fulfillment of the terms and conditions specified in the court order, the court shall discharge the person and dismiss the proceedings against him. Discharge and dismissal under this section shall be without adjudication of guilt and is a conviction only for the purposes of applying this section in subsequent proceedings. No charges dismissed pursuant to this section shall be eligible for expungement under § 19.2-392.2.

F. Upon violation of a term or condition of supervised probation or of the period of good behavior, the court may enter an adjudication of guilt and proceed as otherwise provided by law.

G. Notwithstanding any other provision of this section, whenever a court places a person on probation upon terms and conditions pursuant to this section, such action shall be treated as a conviction for purposes of Article 6.1 (§ 18.2-307.1 et seq.) of Chapter 7.

CHAPTER 622

*An Act to amend and reenact §§ 2.2-2715, 2.2-2716, and 2.2-2718 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 2.2-2715.1, relating to Veterans Services Foundation; powers and duties; appointment of executive director; report.*

[H 2148]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 2.2-2715, 2.2-2716, and 2.2-2718 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 2.2-2715.1 as follows:**

**§ 2.2-2715. Veterans Services Foundation; purpose; report; membership; terms; compensation; staff.**

A. The Veterans Services Foundation (the Foundation) is established as an independent body politic and corporate agency of the Commonwealth supporting the interests of veterans and their families and contributors through the Secretary of Veterans and Defense Affairs and the programs and services of the Department of Veterans Services ~~in the executive branch of state government~~. The Foundation shall be governed and administered by a board of trustees. The membership of the Foundation shall be composed of the board of trustees, supporting staff, donors, volunteers, and other interested parties.

B. The Foundation shall (i) administer the Veterans Services Fund (the Fund), (ii) provide funding for veterans services and programs in the Commonwealth through the Fund, and (iii) accept and raise revenue from all sources, including private source fundraising, to support the Fund. The Foundation shall submit a quarterly report to the Commissioner of Veterans Services on the Foundation's funding levels and services and an annual report to the Secretary of Veterans and Defense Affairs and the General Assembly on or before November 30 of each year. The quarterly report ~~and the annual report~~ shall be submitted electronically. *The annual report to the General Assembly shall be submitted for publication as a report document as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.*

C. The board of trustees of the Foundation shall consist of the ~~Commissioner of Veterans Services~~ Secretary of Veterans and Defense Affairs and the Chairmen of the Board of Veterans Services and the Joint Leadership Council of Veterans Service Organizations or their designees, who shall serve as ex officio voting trustees, and 16 trustees to be appointed as follows: eight nonlegislative citizens appointed by the Governor; five nonlegislative citizens appointed by the Speaker of the House of Delegates; and three nonlegislative citizens appointed by the Senate Committee on Rules. A majority of the appointed trustees shall be active or retired chairmen, chief executive officers, or chief financial officers for large private corporations or nonprofit organizations or individuals who have extensive fundraising experience in the private sector. Trustees appointed shall, insofar as possible, be veterans. Each appointing authority shall endeavor to ensure a balanced representation among the officer and enlisted ranks of the armed services and geographical representation on the board of trustees to facilitate fundraising efforts across the state.

Trustees shall be appointed for a term of four years. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. All trustees may be reappointed. However, no trustee shall serve more than two consecutive four-year terms. The remainder of any term to which a trustee is appointed to fill a vacancy shall not constitute a term in determining the trustee's eligibility for reappointment. Vacancies shall be filled in the same manner as the original appointments. Any trustee may be removed at the pleasure of the appointing authority.

D. Trustees shall be reimbursed for their actual expenses incurred while attending meetings of the trustees or performing other duties. However, such reimbursement shall not exceed the per diem rate established for members of the General Assembly pursuant to § 30-19.12.

E. The Department of Veterans Services shall provide the Foundation with administrative *and staff support* and other services.

F. The trustees shall adopt bylaws governing their organization and procedures and may amend the same. The trustees shall elect from their number a chairman and such other officers as their bylaws may provide. Ex officio trustees shall not be eligible to serve as chairman. The trustees shall meet four times a year at such times as they deem appropriate or on call of the chairman. A majority of the voting trustees of the board of trustees shall constitute a quorum.

G. The ~~Director of Finance for the~~ Department of Veterans Services shall ~~serve as~~ provide qualified finance and development personnel to perform the duties of the treasurer and secretary of the Foundation in accordance with the Foundation's directives.

**§ 2.2-2715.1. Executive Director.**

A. The Board may hire an Executive Director of the Foundation, who shall serve at the pleasure of the Board, to direct the day-to-day operations and activities of the Foundation and carry out the powers and duties conferred upon him by the trustees. The Executive Director shall also exercise and perform such other powers and duties as may be lawfully delegated to him and such powers and duties as may be conferred or imposed upon him by law.

B. The Executive Director may employ or retain such agents or employees subordinate to him as necessary to fulfill the duties of the Foundation as conferred upon the Executive Director. Employees of the Foundation, including the Executive Director, shall be eligible for membership in the Virginia Retirement System and participation in all of the health and related insurance and other benefits, including premium conversion and flexible benefits, available to state employees as provided by law.

**§ 2.2-2716. Authority of Foundation.**

The Foundation has the authority to:

1. Administer the Veterans Services Fund, request appropriations, and make allocations of revenue from the Fund to the Department of Veterans Services to provide supplemental funding for the Department's services and programs;
2. Accept, hold, and administer gifts and bequests of money, securities, or other property, absolutely or in trust, for the purposes for which the Foundation is created;
3. Enter into contracts and execute all instruments necessary and appropriate to carry out the Foundation's purposes;
4. Take such actions as may be reasonably necessary to seek, promote, and stimulate contributions for the Fund;
5. Develop other possible dedicated revenue sources for the Fund; ~~and~~
6. Perform any lawful acts necessary or appropriate to carry out the purposes of the Foundation; *and*
7. Develop policies and procedures applicable to the management and functioning of the Foundation and the Department of Veterans Services relating to (i) administration of the Fund, (ii) provision of funding for veterans services and programs through the Fund, and (iii) acceptance and fundraising to strengthen the structure of the Fund.

**§ 2.2-2718. Veterans Services Fund established.**

A. There is created the Veterans Services Fund, a special nonreverting trust fund on the books of the Comptroller, to be administered by the Foundation.

B. The Fund shall include such funds as may be appropriated by the General Assembly; revenues transferred to the Fund from other state programs established for the Fund's benefit; and designated gifts, contributions and bequests of money, securities, or other property of whatsoever character.

C. The Fund shall be used solely for the purposes of carrying out the applicable provisions of ~~Article 6 (§ 2.2-2715 et seq.) of Chapter 27 of this title~~ article. The *unrestricted portion* of the Fund may be used for Foundation expenses, subject to approval by the ~~Board of Trustees~~ board of trustees. Allocations and expenditures of donated restricted funds shall be in accordance with the provisions of Uniform Prudent Management of Institutional Funds Act (§ 64.2-1100 et seq.). Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written ~~request~~ authorization of the Executive Director with the approval of the board of trustees.

D. All money, securities, or other property designated for the Fund and any interest or income therefrom shall remain in the Fund and shall not revert to the general fund.

**CHAPTER 623**

An Act to amend and reenact §§ 8.01-44.5, 15.2-1627, 16.1-228, 16.1-241, 16.1-278.8, 16.1-278.9, 16.1-309, 18.2-268.3, 18.2-268.4, 18.2-268.7, 18.2-268.9, 18.2-269, 18.2-272, 19.2-52, 19.2-73, 29.1-738.3, 46.2-341.26:2, 46.2-341.26:3, 46.2-341.26:4, 46.2-341.26:7, 46.2-341.26:9, 46.2-341.27, 46.2-391.2, 46.2-391.4, and 46.2-2099.49 of the Code of Virginia, relating to DUI; implied consent; refusal of blood or breath tests.

[H 2327]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:**

1. That §§ 8.01-44.5, 15.2-1627, 16.1-228, 16.1-241, 16.1-278.8, 16.1-278.9, 16.1-309, 18.2-268.3, 18.2-268.4, 18.2-268.7, 18.2-268.9, 18.2-269, 18.2-272, 19.2-52, 19.2-73, 29.1-738.3, 46.2-341.26:2, 46.2-341.26:3, 46.2-341.26:4, 46.2-341.26:7, 46.2-341.26:9, 46.2-341.27, 46.2-391.2, 46.2-391.4, and 46.2-2099.49 of the Code of Virginia are amended and reenacted as follows:

**§ 8.01-44.5. Punitive damages for persons injured by intoxicated drivers.**

In any action for personal injury or death arising from the operation of a motor vehicle, engine or train, the finder of fact may, in its discretion, award punitive damages to the plaintiff if the evidence proves that the defendant acted with malice toward the plaintiff or the defendant's conduct was so willful or wanton as to show a conscious disregard for the rights of others.

A defendant's conduct shall be deemed sufficiently willful or wanton as to show a conscious disregard for the rights of others when the evidence proves that (i) when the incident causing the injury or death occurred, the defendant had a blood alcohol concentration of 0.15 percent or more by weight by volume or 0.15 grams or more per 210 liters of breath; (ii) at the time the defendant began drinking alcohol, or during the time he was drinking alcohol, he knew or should have known that his ability to operate a motor vehicle, engine or train would be impaired, or when he was operating a motor vehicle he knew or should have known that his ability to operate a motor vehicle was impaired; and (iii) the defendant's intoxication was a proximate cause of the injury to or death of the plaintiff. For the purposes of clause (i), it shall be rebuttably presumed that the blood alcohol concentration at the time of the incident causing injury or death was at least as high as the test result as shown in a certificate issued pursuant to § 18.2-268.9 ~~or~~, in a certificate of analysis for a blood test administered pursuant to § 18.2-268.7, provided that the test was administered in accordance with the provisions of §§ 18.2-268.1 through 18.2-268.12, *or in a certificate of analysis for a test performed by the Department of Forensic Science on whole blood drawn pursuant to a search warrant, provided that the test was administered in accordance with the provisions of §§ 18.2-268.5, 18.2-268.6, and 18.2-268.7.* In addition to any other forms of proof, a party may submit a copy of a certificate issued pursuant to § 18.2-268.9 ~~or~~, a certificate of analysis for a blood test administered pursuant to § 18.2-268.7, *or a certificate of analysis for a test performed by the Department of Forensic Science on whole blood drawn pursuant to a search warrant,* which shall be prima facie evidence of the facts contained therein and compliance with the applicable provisions of §§ 18.2-268.1 through 18.2-268.12. *For the purposes of clause (ii), it shall be rebuttably presumed that the defendant who has consumed alcohol knew or should have known that his ability to operate a motor vehicle, engine, or train was or would be impaired by such consumption of alcohol.*

However, when a defendant has unreasonably refused to submit to a test of his blood alcohol content as required by § 18.2-268.2, a defendant's conduct shall be deemed sufficiently willful or wanton as to show a conscious disregard for the rights of others when the evidence proves that (a) when the incident causing the injury or death occurred the defendant was intoxicated, which may be established by evidence concerning the conduct or condition of the defendant; (b) at the time the defendant began drinking alcohol, ~~or~~ during the time he was drinking alcohol, *or when he was operating a motor vehicle,* he knew or should have known that his ability to operate a motor vehicle was impaired; and (c) the defendant's intoxication was a proximate cause of the injury to the plaintiff or death of the plaintiff's decedent. In addition to any other forms of proof, a party may submit a certified copy of a court's determination of unreasonable refusal pursuant to § 18.2-268.3, which shall be prima facie evidence that the defendant unreasonably refused to submit to the test. *For the purposes of clause (b), it shall be rebuttably presumed that the defendant who has consumed alcohol knew or should have known that his ability to operate a motor vehicle, engine, or train was or would be impaired by such consumption of alcohol.*

Evidence of similar conduct by the same defendant subsequent to the date of the personal injury or death arising from the operation of a motor vehicle, engine, or train shall be admissible at trial for consideration by the jury or other finder of fact for the limited purpose of determining what amount of punitive damages may be appropriate to deter the defendant and others from similar future action.

**§ 15.2-1627. Duties of attorneys for the Commonwealth and their assistants.**

A. No attorney for the Commonwealth, or assistant attorney for the Commonwealth, shall be required to carry out any duties as a part of his office in civil matters of advising the governing body and all boards, departments, agencies, officials and employees of his county or city; of drafting or preparing county or city ordinances; of defending or bringing actions in which the county or city, or any of its boards, departments or agencies, or officials and employees thereof, shall be a party; or in any other manner of advising or representing the county or city, its boards, departments, agencies, officials and employees, except in matters involving the enforcement of the criminal law within the county or city.

B. The attorney for the Commonwealth and assistant attorney for the Commonwealth shall be a part of the department of law enforcement of the county or city in which he is elected or appointed, and shall have the duties and powers imposed upon him by general law, including the duty of prosecuting all warrants, indictments or informations charging a felony, and he may in his discretion, prosecute Class 1, 2 and 3 misdemeanors, or any other violation, the conviction of which carries a penalty of confinement in jail, or a fine of \$500 or more, or both such confinement and fine. He shall enforce all forfeitures, and carry out all duties imposed upon him by § 2.2-3126. He may enforce the provisions of ~~subsection D of~~ § 18.2-268.3, 29.1-738.2, or 46.2-341.26:3.

**§ 16.1-228. Definitions.**

When used in this chapter, unless the context otherwise requires:

"Abused or neglected child" means any child:

1. Whose parents or other person responsible for his care creates or inflicts, threatens to create or inflict, or allows to be created or inflicted upon such child a physical or mental injury by other than accidental means, or creates a substantial risk of death, disfigurement or impairment of bodily or mental functions, including, but not limited to, a child who is with his parent or other person responsible for his care either (i) during the manufacture or attempted manufacture of a Schedule I or II controlled substance, or (ii) during the unlawful sale of such substance by that child's parents or other person responsible for his care, where such manufacture, or attempted manufacture or unlawful sale would constitute a felony violation of § 18.2-248;

2. Whose parents or other person responsible for his care neglects or refuses to provide care necessary for his health; however, no child who in good faith is under treatment solely by spiritual means through prayer in accordance with the

tenets and practices of a recognized church or religious denomination shall for that reason alone be considered to be an abused or neglected child;

3. Whose parents or other person responsible for his care abandons such child;
4. Whose parents or other person responsible for his care commits or allows to be committed any sexual act upon a child in violation of the law;
5. Who is without parental care or guardianship caused by the unreasonable absence or the mental or physical incapacity of the child's parent, guardian, legal custodian, or other person standing in loco parentis;
6. Whose parents or other person responsible for his care creates a substantial risk of physical or mental injury by knowingly leaving the child alone in the same dwelling, including an apartment as defined in § 55-79.2, with a person to whom the child is not related by blood or marriage and who the parent or other person responsible for his care knows has been convicted of an offense against a minor for which registration is required as a violent sexual offender pursuant to § 9.1-902; or
7. Who has been identified as a victim of sex trafficking or severe forms of trafficking as defined in the Trafficking Victims Protection Act of 2000, 22 U.S.C § 7102 et seq., and in the Justice for Victims of Trafficking Act of 2015, 42 U.S.C. § 5101 et seq.

If a civil proceeding under this chapter is based solely on the parent having left the child at a hospital or emergency medical services agency, it shall be an affirmative defense that such parent safely delivered the child to a hospital that provides 24-hour emergency services or to an attended emergency medical services agency that employs emergency medical services personnel, within 14 days of the child's birth. For purposes of terminating parental rights pursuant to § 16.1-283 and placement for adoption, the court may find such a child is a neglected child upon the ground of abandonment.

"Adoptive home" means the place of residence of any natural person in which a child resides as a member of the household and in which he has been placed for the purposes of adoption or in which he has been legally adopted by another member of the household.

"Adult" means a person 18 years of age or older.

"Ancillary crime" or "ancillary charge" means any delinquent act committed by a juvenile as a part of the same act or transaction as, or which constitutes a part of a common scheme or plan with, a delinquent act which would be a felony if committed by an adult.

"Boot camp" means a short term secure or nonsecure juvenile residential facility with highly structured components including, but not limited to, military style drill and ceremony, physical labor, education and rigid discipline, and no less than six months of intensive aftercare.

"Child," "juvenile," or "minor" means a person less than 18 years of age.

"Child in need of services" means (i) a child whose behavior, conduct or condition presents or results in a serious threat to the well-being and physical safety of the child or (ii) a child under the age of 14 whose behavior, conduct or condition presents or results in a serious threat to the well-being and physical safety of another person; however, no child who in good faith is under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination shall for that reason alone be considered to be a child in need of services, nor shall any child who habitually remains away from or habitually deserts or abandons his family as a result of what the court or the local child protective services unit determines to be incidents of physical, emotional or sexual abuse in the home be considered a child in need of services for that reason alone.

However, to find that a child falls within these provisions, (i) the conduct complained of must present a clear and substantial danger to the child's life or health or to the life or health of another person, (ii) the child or his family is in need of treatment, rehabilitation or services not presently being received, and (iii) the intervention of the court is essential to provide the treatment, rehabilitation or services needed by the child or his family.

"Child in need of supervision" means:

1. A child who, while subject to compulsory school attendance, is habitually and without justification absent from school, and (i) the child has been offered an adequate opportunity to receive the benefit of any and all educational services and programs that are required to be provided by law and which meet the child's particular educational needs, (ii) the school system from which the child is absent or other appropriate agency has made a reasonable effort to effect the child's regular attendance without success, and (iii) the school system has provided documentation that it has complied with the provisions of § 22.1-258; or

2. A child who, without reasonable cause and without the consent of his parent, lawful custodian or placement authority, remains away from or deserts or abandons his family or lawful custodian on more than one occasion or escapes or remains away without proper authority from a residential care facility in which he has been placed by the court, and (i) such conduct presents a clear and substantial danger to the child's life or health, (ii) the child or his family is in need of treatment, rehabilitation or services not presently being received, and (iii) the intervention of the court is essential to provide the treatment, rehabilitation or services needed by the child or his family.

"Child welfare agency" means a child-placing agency, child-caring institution or independent foster home as defined in § 63.2-100.

"The court" or the "juvenile court" or the "juvenile and domestic relations court" means the juvenile and domestic relations district court of each county or city.

"Delinquent act" means (i) an act designated a crime under the law of the Commonwealth, or an ordinance of any city, county, town, or service district, or under federal law, (ii) a violation of § 18.2-308.7, or (iii) a violation of a court order as provided for in § 16.1-292, but shall not include an act other than a violation of § 18.2-308.7, which is otherwise lawful, but is designated a crime only if committed by a child. For purposes of §§ 16.1-241 and 16.1-278.9, the term shall include a refusal to take a blood or breath test in violation of § 18.2-268.2 or a similar ordinance of any county, city, or town.

"Delinquent child" means a child who has committed a delinquent act or an adult who has committed a delinquent act prior to his 18th birthday, except where the jurisdiction of the juvenile court has been terminated under the provisions of § 16.1-269.6.

"Department" means the Department of Juvenile Justice and "Director" means the administrative head in charge thereof or such of his assistants and subordinates as are designated by him to discharge the duties imposed upon him under this law.

"Family abuse" means any act involving violence, force, or threat that results in bodily injury or places one in reasonable apprehension of death, sexual assault, or bodily injury and that is committed by a person against such person's family or household member. Such act includes, but is not limited to, any forceful detention, stalking, criminal sexual assault in violation of Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, or any criminal offense that results in bodily injury or places one in reasonable apprehension of death, sexual assault, or bodily injury.

"Family or household member" means (i) the person's spouse, whether or not he or she resides in the same home with the person, (ii) the person's former spouse, whether or not he or she resides in the same home with the person, (iii) the person's parents, stepparents, children, stepchildren, brothers, sisters, half-brothers, half-sisters, grandparents and grandchildren, regardless of whether such persons reside in the same home with the person, (iv) the person's mother-in-law, father-in-law, sons-in-law, daughters-in-law, brothers-in-law and sisters-in-law who reside in the same home with the person, (v) any individual who has a child in common with the person, whether or not the person and that individual have been married or have resided together at any time, or (vi) any individual who cohabits or who, within the previous 12 months, cohabited with the person, and any children of either of them then residing in the same home with the person.

"Foster care services" means the provision of a full range of casework, treatment and community services for a planned period of time to a child who is abused or neglected as defined in § 63.2-100 or in need of services as defined in this section and his family when the child (i) has been identified as needing services to prevent or eliminate the need for foster care placement, (ii) has been placed through an agreement between the local board of social services or a public agency designated by the community policy and management team and the parents or guardians where legal custody remains with the parents or guardians, (iii) has been committed or entrusted to a local board of social services or child welfare agency, or (iv) has been placed under the supervisory responsibility of the local board pursuant to § 16.1-293.

"Independent living arrangement" means placement of a child at least 16 years of age who is in the custody of a local board or licensed child-placing agency and has been placed by the local board or licensed child-placing agency in a living arrangement in which he does not have daily substitute parental supervision.

"Independent living services" means services and activities provided to a child in foster care 14 years of age or older and who has been committed or entrusted to a local board of social services, child welfare agency, or private child-placing agency. "Independent living services" may also mean services and activities provided to a person who was in foster care on his 18th birthday and has not yet reached the age of 21 years. Such services shall include counseling, education, housing, employment, and money management skills development and access to essential documents and other appropriate services to help children or persons prepare for self-sufficiency.

"Intake officer" means a juvenile probation officer appointed as such pursuant to the authority of this chapter.

"Jail" or "other facility designed for the detention of adults" means a local or regional correctional facility as defined in § 53.1-1, except those facilities utilized on a temporary basis as a court holding cell for a child incident to a court hearing or as a temporary lock-up room or ward incident to the transfer of a child to a juvenile facility.

"The judge" means the judge or the substitute judge of the juvenile and domestic relations district court of each county or city.

"This law" or "the law" means the Juvenile and Domestic Relations District Court Law embraced in this chapter.

"Legal custody" means (i) a legal status created by court order which vests in a custodian the right to have physical custody of the child, to determine and redetermine where and with whom he shall live, the right and duty to protect, train and discipline him and to provide him with food, shelter, education and ordinary medical care, all subject to any residual parental rights and responsibilities or (ii) the legal status created by court order of joint custody as defined in § 20-107.2.

"Permanent foster care placement" means the place of residence in which a child resides and in which he has been placed pursuant to the provisions of §§ 63.2-900 and 63.2-908 with the expectation and agreement between the placing agency and the place of permanent foster care that the child shall remain in the placement until he reaches the age of majority unless modified by court order or unless removed pursuant to § 16.1-251 or 63.2-1517. A permanent foster care placement may be a place of residence of any natural person or persons deemed appropriate to meet a child's needs on a long-term basis.

"Residual parental rights and responsibilities" means all rights and responsibilities remaining with the parent after the transfer of legal custody or guardianship of the person, including but not limited to the right of visitation, consent to adoption, the right to determine religious affiliation and the responsibility for support.

"Secure facility" or "detention home" means a local, regional or state public or private locked residential facility that has construction fixtures designed to prevent escape and to restrict the movement and activities of children held in lawful custody.

"Shelter care" means the temporary care of children in physically unrestricting facilities.

"State Board" means the State Board of Juvenile Justice.

"Status offender" means a child who commits an act prohibited by law which would not be criminal if committed by an adult.

"Status offense" means an act prohibited by law which would not be an offense if committed by an adult.

"Violent juvenile felony" means any of the delinquent acts enumerated in subsection B or C of § 16.1-269.1 when committed by a juvenile 14 years of age or older.

**§ 16.1-241. Jurisdiction; consent for abortion.**

The judges of the juvenile and domestic relations district court elected or appointed under this law shall be conservators of the peace within the corporate limits of the cities and the boundaries of the counties for which they are respectively chosen and within one mile beyond the limits of such cities and counties. Except as hereinafter provided, each juvenile and domestic relations district court shall have, within the limits of the territory for which it is created, exclusive original jurisdiction, and within one mile beyond the limits of said city or county, concurrent jurisdiction with the juvenile court or courts of the adjoining city or county, over all cases, matters and proceedings involving:

A. The custody, visitation, support, control or disposition of a child:

1. Who is alleged to be abused, neglected, in need of services, in need of supervision, a status offender, or delinquent except where the jurisdiction of the juvenile court has been terminated or divested;

2. Who is abandoned by his parent or other custodian or who by reason of the absence or physical or mental incapacity of his parents is without parental care and guardianship;

2a. Who is at risk of being abused or neglected by a parent or custodian who has been adjudicated as having abused or neglected another child in the care of the parent or custodian;

3. Whose custody, visitation or support is a subject of controversy or requires determination. In such cases jurisdiction shall be concurrent with and not exclusive of courts having equity jurisdiction, except as provided in § 16.1-244;

4. Who is the subject of an entrustment agreement entered into pursuant to § 63.2-903 or 63.2-1817 or whose parent or parents for good cause desire to be relieved of his care and custody;

5. Where the termination of residual parental rights and responsibilities is sought. In such cases jurisdiction shall be concurrent with and not exclusive of courts having equity jurisdiction, as provided in § 16.1-244; ~~and~~

6. Who is charged with a traffic infraction as defined in § 46.2-100; *or*

7. *Who is alleged to have refused to take a blood test in violation of § 18.2-268.2.*

In any case in which the juvenile is alleged to have committed a violent juvenile felony enumerated in subsection B of § 16.1-269.1, and for any charges ancillary thereto, the jurisdiction of the juvenile court shall be limited to conducting a preliminary hearing to determine if there is probable cause to believe that the juvenile committed the act alleged and that the juvenile was 14 years of age or older at the time of the commission of the alleged offense, and any matters related thereto. In any case in which the juvenile is alleged to have committed a violent juvenile felony enumerated in subsection C of § 16.1-269.1, and for all charges ancillary thereto, if the attorney for the Commonwealth has given notice as provided in subsection C of § 16.1-269.1, the jurisdiction of the juvenile court shall be limited to conducting a preliminary hearing to determine if there is probable cause to believe that the juvenile committed the act alleged and that the juvenile was 14 years of age or older at the time of the commission of the alleged offense, and any matters related thereto. A determination by the juvenile court following a preliminary hearing pursuant to subsection B or C of § 16.1-269.1 to certify a charge to the grand jury shall divest the juvenile court of jurisdiction over the charge and any ancillary charge. In any case in which a transfer hearing is held pursuant to subsection A of § 16.1-269.1, if the juvenile court determines to transfer the case, jurisdiction of the juvenile court over the case shall be divested as provided in § 16.1-269.6.

In all other cases involving delinquent acts, and in cases in which an ancillary charge remains after a violent juvenile felony charge has been dismissed or a violent juvenile felony has been reduced to a lesser offense not constituting a violent juvenile felony, the jurisdiction of the juvenile court shall not be divested unless there is a transfer pursuant to subsection A of § 16.1-269.1.

The authority of the juvenile court to adjudicate matters involving the custody, visitation, support, control or disposition of a child shall not be limited to the consideration of petitions filed by a mother, father or legal guardian but shall include petitions filed at any time by any party with a legitimate interest therein. A party with a legitimate interest shall be broadly construed and shall include, but not be limited to, grandparents, step-grandparents, stepparents, former stepparents, blood relatives and family members. A party with a legitimate interest shall not include any person (i) whose parental rights have been terminated by court order, either voluntarily or involuntarily, (ii) whose interest in the child derives from or through a person whose parental rights have been terminated by court order, either voluntarily or involuntarily, including, but not limited to, grandparents, stepparents, former stepparents, blood relatives and family members, if the child subsequently has been legally adopted, except where a final order of adoption is entered pursuant to § 63.2-1241, or (iii) who has been convicted of a violation of subsection A of § 18.2-61, § 18.2-63, subsection B of § 18.2-366, or an equivalent offense of another state, the United States, or any foreign jurisdiction, when the child who is the subject of the petition was conceived as a result of such violation. The authority of the juvenile court to consider a petition involving the

custody of a child shall not be proscribed or limited where the child has previously been awarded to the custody of a local board of social services.

B. The admission of minors for inpatient treatment in a mental health facility in accordance with the provisions of Article 16 (§ 16.1-335 et seq.) and the involuntary admission of a person with mental illness or judicial certification of eligibility for admission to a training center for persons with intellectual disability in accordance with the provisions of Chapter 8 (§ 37.2-800 et seq.) of Title 37.2. Jurisdiction of the involuntary admission and certification of adults shall be concurrent with the general district court.

C. Except as provided in subsections D and H, judicial consent to such activities as may require parental consent may be given for a child who has been separated from his parents, guardian, legal custodian or other person standing in loco parentis and is in the custody of the court when such consent is required by law.

D. Judicial consent for emergency surgical or medical treatment for a child who is neither married nor has ever been married, when the consent of his parent, guardian, legal custodian or other person standing in loco parentis is unobtainable because such parent, guardian, legal custodian or other person standing in loco parentis (i) is not a resident of the Commonwealth, (ii) has his whereabouts unknown, (iii) cannot be consulted with promptness, reasonable under the circumstances, or (iv) fails to give such consent or provide such treatment when requested by the judge to do so.

E. Any person charged with deserting, abandoning or failing to provide support for any person in violation of law.

F. Any parent, guardian, legal custodian or other person standing in loco parentis of a child:

1. Who has been abused or neglected;

2. Who is the subject of an entrustment agreement entered into pursuant to § 63.2-903 or 63.2-1817 or is otherwise before the court pursuant to subdivision A 4; or

3. Who has been adjudicated in need of services, in need of supervision, or delinquent, if the court finds that such person has by overt act or omission induced, caused, encouraged or contributed to the conduct of the child complained of in the petition.

G. Petitions filed by or on behalf of a child or such child's parent, guardian, legal custodian or other person standing in loco parentis for the purpose of obtaining treatment, rehabilitation or other services that are required by law to be provided for that child or such child's parent, guardian, legal custodian or other person standing in loco parentis. Jurisdiction in such cases shall be concurrent with and not exclusive of that of courts having equity jurisdiction as provided in § 16.1-244.

H. Judicial consent to apply for a work permit for a child when such child is separated from his parents, legal guardian or other person standing in loco parentis.

I. The prosecution and punishment of persons charged with ill-treatment, abuse, abandonment or neglect of children or with any violation of law that causes or tends to cause a child to come within the purview of this law, or with any other offense against the person of a child. In prosecution for felonies over which the court has jurisdiction, jurisdiction shall be limited to determining whether or not there is probable cause.

J. All offenses in which one family or household member is charged with an offense in which another family or household member is the victim and all offenses under § 18.2-49.1.

In prosecution for felonies over which the court has jurisdiction, jurisdiction shall be limited to determining whether or not there is probable cause. Any objection based on jurisdiction under this subsection shall be made before a jury is impaneled and sworn in a jury trial or, in a nonjury trial, before the earlier of when the court begins to hear or receive evidence or the first witness is sworn, or it shall be conclusively waived for all purposes. Any such objection shall not affect or be grounds for challenging directly or collaterally the jurisdiction of the court in which the case is tried.

K. Petitions filed by a natural parent, whose parental rights to a child have been voluntarily relinquished pursuant to a court proceeding, to seek a reversal of the court order terminating such parental rights. No such petition shall be accepted, however, after the child has been placed in the home of adoptive parents.

L. Any person who seeks spousal support after having separated from his spouse. A decision under this subdivision shall not be res judicata in any subsequent action for spousal support in a circuit court. A circuit court shall have concurrent original jurisdiction in all causes of action under this subdivision.

M. Petitions filed for the purpose of obtaining an order of protection pursuant to § 16.1-253.1, 16.1-253.4, or 16.1-279.1, and all petitions filed for the purpose of obtaining an order of protection pursuant to § 19.2-152.8, 19.2-152.9, or 19.2-152.10 if either the alleged victim or the respondent is a juvenile.

N. Any person who escapes or remains away without proper authority from a residential care facility in which he had been placed by the court or as a result of his commitment to the Virginia Department of Juvenile Justice.

O. Petitions for emancipation of a minor pursuant to Article 15 (§ 16.1-331 et seq.).

P. Petitions for enforcement of administrative support orders entered pursuant to Chapter 19 (§ 63.2-1900 et seq.) of Title 63.2, or by another state in the same manner as if the orders were entered by a juvenile and domestic relations district court upon the filing of a certified copy of such order in the juvenile and domestic relations district court.

Q. Petitions for a determination of parentage pursuant to Chapter 3.1 (§ 20-49.1 et seq.) of Title 20. A circuit court shall have concurrent original jurisdiction to the extent provided for in § 20-49.2.

R. [Repealed.]

S. Petitions filed by school boards against parents pursuant to §§ 16.1-241.2 and 22.1-279.3.

T. Petitions to enforce any request for information or subpoena that is not complied with or to review any refusal to issue a subpoena in an administrative appeal regarding child abuse and neglect pursuant to § 63.2-1526.

U. Petitions filed in connection with parental placement adoption consent hearings pursuant to § 63.2-1233. Such proceedings shall be advanced on the docket so as to be heard by the court within 10 days of filing of the petition, or as soon thereafter as practicable so as to provide the earliest possible disposition.

V. Petitions filed for the purpose of obtaining the court's assistance with the execution of consent to an adoption when the consent to an adoption is executed pursuant to the laws of another state and the laws of that state provide for the execution of consent to an adoption in the court of the Commonwealth.

W. Petitions filed by a juvenile seeking judicial authorization for a physician to perform an abortion if a minor elects not to seek consent of an authorized person.

After a hearing, a judge shall issue an order authorizing a physician to perform an abortion, without the consent of any authorized person, if he finds that (i) the minor is mature enough and well enough informed to make her abortion decision, in consultation with her physician, independent of the wishes of any authorized person, or (ii) the minor is not mature enough or well enough informed to make such decision, but the desired abortion would be in her best interest.

If the judge authorizes an abortion based on the best interests of the minor, such order shall expressly state that such authorization is subject to the physician or his agent giving notice of intent to perform the abortion; however, no such notice shall be required if the judge finds that such notice would not be in the best interest of the minor. In determining whether notice is in the best interest of the minor, the judge shall consider the totality of the circumstances; however, he shall find that notice is not in the best interest of the minor if he finds that (i) one or more authorized persons with whom the minor regularly and customarily resides is abusive or neglectful, and (ii) every other authorized person, if any, is either abusive or neglectful or has refused to accept responsibility as parent, legal guardian, custodian or person standing in loco parentis.

The minor may participate in the court proceedings on her own behalf, and the court may appoint a guardian ad litem for the minor. The court shall advise the minor that she has a right to counsel and shall, upon her request, appoint counsel for her.

Notwithstanding any other provision of law, the provisions of this subsection shall govern proceedings relating to consent for a minor's abortion. Court proceedings under this subsection and records of such proceedings shall be confidential. Such proceedings shall be given precedence over other pending matters so that the court may reach a decision promptly and without delay in order to serve the best interests of the minor. Court proceedings under this subsection shall be heard and decided as soon as practicable but in no event later than four days after the petition is filed.

An expedited confidential appeal to the circuit court shall be available to any minor for whom the court denies an order authorizing an abortion without consent or without notice. Any such appeal shall be heard and decided no later than five days after the appeal is filed. The time periods required by this subsection shall be subject to subsection B of § 1-210. An order authorizing an abortion without consent or without notice shall not be subject to appeal.

No filing fees shall be required of the minor at trial or upon appeal.

If either the original court or the circuit court fails to act within the time periods required by this subsection, the court before which the proceeding is pending shall immediately authorize a physician to perform the abortion without consent of or notice to an authorized person.

Nothing contained in this subsection shall be construed to authorize a physician to perform an abortion on a minor in circumstances or in a manner that would be unlawful if performed on an adult woman.

A physician shall not knowingly perform an abortion upon an unemancipated minor unless consent has been obtained or the minor delivers to the physician a court order entered pursuant to this section and the physician or his agent provides such notice as such order may require. However, neither consent nor judicial authorization nor notice shall be required if the minor declares that she is abused or neglected and the attending physician has reason to suspect that the minor may be an abused or neglected child as defined in § 63.2-100 and reports the suspected abuse or neglect in accordance with § 63.2-1509; or if there is a medical emergency, in which case the attending physician shall certify the facts justifying the exception in the minor's medical record.

For purposes of this subsection:

"Authorization" means the minor has delivered to the physician a notarized, written statement signed by an authorized person that the authorized person knows of the minor's intent to have an abortion and consents to such abortion being performed on the minor.

"Authorized person" means (i) a parent or duly appointed legal guardian or custodian of the minor or (ii) a person standing in loco parentis, including, but not limited to, a grandparent or adult sibling with whom the minor regularly and customarily resides and who has care and control of the minor. Any person who knows he is not an authorized person and who knowingly and willfully signs an authorization statement consenting to an abortion for a minor is guilty of a Class 3 misdemeanor.

"Consent" means that (i) the physician has given notice of intent to perform the abortion and has received authorization from an authorized person, or (ii) at least one authorized person is present with the minor seeking the abortion and provides written authorization to the physician, which shall be witnessed by the physician or an agent thereof. In either case, the written authorization shall be incorporated into the minor's medical record and maintained as a part thereof.

"Medical emergency" means any condition which, on the basis of the physician's good faith clinical judgment, so complicates the medical condition of the pregnant minor as to necessitate the immediate abortion of her pregnancy to avert her death or for which a delay will create a serious risk of substantial and irreversible impairment of a major bodily function.

"Notice of intent to perform the abortion" means that (i) the physician or his agent has given actual notice of his intention to perform such abortion to an authorized person, either in person or by telephone, at least 24 hours previous to the performance of the abortion; or (ii) the physician or his agent, after a reasonable effort to notify an authorized person, has mailed notice to an authorized person by certified mail, addressed to such person at his usual place of abode, with return receipt requested, at least 72 hours prior to the performance of the abortion.

"Perform an abortion" means to interrupt or terminate a pregnancy by any surgical or nonsurgical procedure or to induce a miscarriage as provided in § 18.2-72, 18.2-73, or 18.2-74.

"Unemancipated minor" means a minor who has not been emancipated by (i) entry into a valid marriage, even though the marriage may have been terminated by dissolution; (ii) active duty with any of the Armed Forces of the United States; (iii) willingly living separate and apart from his or her parents or guardian, with the consent or acquiescence of the parents or guardian; or (iv) entry of an order of emancipation pursuant to Article 15 (§ 16.1-331 et seq.).

X. Petitions filed pursuant to Article 17 (§ 16.1-349 et seq.) relating to standby guardians for minor children.

The ages specified in this law refer to the age of the child at the time of the acts complained of in the petition.

Notwithstanding any other provision of law, no fees shall be charged by a sheriff for the service of any process in a proceeding pursuant to subdivision A 3, except as provided in subdivision A 6 of § 17.1-272, or subsection B, D, M, or R.

Notwithstanding the provisions of § 18.2-71, any physician who performs an abortion in violation of subsection W shall be guilty of a Class 3 misdemeanor.

#### § 16.1-278.8. Delinquent juveniles.

A. If a juvenile is found to be delinquent, except where such finding involves a refusal to take a ~~blood or~~ breath test in violation of § 18.2-268.2 or a similar ordinance, the juvenile court or the circuit court may make any of the following orders of disposition for his supervision, care and rehabilitation:

1. Enter an order pursuant to the provisions of § 16.1-278;
2. Permit the juvenile to remain with his parent, subject to such conditions and limitations as the court may order with respect to the juvenile and his parent;
3. Order the parent of a juvenile living with him to participate in such programs, cooperate in such treatment or be subject to such conditions and limitations as the court may order and as are designed for the rehabilitation of the juvenile and his parent;
4. Defer disposition for a specific period of time established by the court with due regard for the gravity of the offense and the juvenile's history, after which time the charge may be dismissed by the judge if the juvenile exhibits good behavior during the period for which disposition is deferred;
- 4a. Defer disposition and place the juvenile in the temporary custody of the Department to attend a boot camp established pursuant to § 66-13 provided bed space is available for confinement and the juvenile (i) has been found delinquent for an offense that would be a Class 1 misdemeanor or felony if committed by an adult, (ii) has not previously been and is not currently being adjudicated delinquent or found guilty of a violent juvenile felony, (iii) has not previously attended a boot camp, (iv) has not previously been committed to and received by the Department, and (v) has had an assessment completed by the Department or its contractor concerning the appropriateness of the candidate for a boot camp. Upon the juvenile's withdrawal, removal or refusal to comply with the terms and conditions of participation in the program, he shall be brought before the court for a hearing at which the court may impose any other disposition as authorized by this section which could have been imposed at the time the juvenile was placed in the custody of the Department;
5. Without entering a judgment of guilty and with the consent of the juvenile and his attorney, defer disposition of the delinquency charge for a specific period of time established by the court with due regard for the gravity of the offense and the juvenile's history, and place the juvenile on probation under such conditions and limitations as the court may prescribe. Upon fulfillment of the terms and conditions, the court shall discharge the juvenile and dismiss the proceedings against him. Discharge and dismissal under these provisions shall be without adjudication of guilt;
6. Order the parent of a juvenile with whom the juvenile does not reside to participate in such programs, cooperate in such treatment or be subject to such conditions and limitations as the court may order and as are designed for the rehabilitation of the juvenile where the court determines this participation to be in the best interest of the juvenile and other parties concerned and where the court determines it reasonable to expect the parent to be able to comply with such order;
7. Place the juvenile on probation under such conditions and limitations as the court may prescribe;
- 7a. Place the juvenile on probation and order treatment for the abuse or dependence on alcohol or drugs in a program licensed by the Department of Behavioral Health and Developmental Services for the treatment of juveniles for substance abuse provided that (i) the juvenile has received a substance abuse screening and assessment pursuant to § 16.1-273 and that such assessment reasonably indicates that the commission of the offense was motivated by, or closely related to, the habitual use of alcohol or drugs and indicates that the juvenile is in need of treatment for this condition; (ii) the juvenile has not previously been and is not currently being adjudicated for a violent juvenile felony; and (iii) such facility is available. Upon the juvenile's withdrawal, removal, or refusal to comply with the conditions of participation in the program, he shall be brought before the court for a hearing at which the court may impose any other disposition authorized by this section. The court shall review such placements at 30-day intervals;
8. Impose a fine not to exceed \$500 upon such juvenile;
9. Suspend the motor vehicle and driver's license of such juvenile or impose a curfew on the juvenile as to the hours during which he may operate a motor vehicle. Any juvenile whose driver's license is suspended may be referred for an

assessment and subsequent referral to appropriate services, upon such terms and conditions as the court may order. The court, in its discretion and upon a demonstration of hardship, may authorize the use of a restricted permit to operate a motor vehicle by any juvenile who enters such program for any of the purposes set forth in subsection E of § 18.2-271.1 or for travel to and from school. The restricted permit shall be issued in accordance with the provisions of such subsection. However, only an abstract of the court order that identifies the juvenile and the conditions under which the restricted license is to be issued shall be sent to the Department of Motor Vehicles.

If a curfew is imposed, the juvenile shall surrender his driver's license, which shall be held in the physical custody of the court during any period of curfew restriction. The court shall send an abstract of any order issued under the provisions of this section to the Department of Motor Vehicles, which shall preserve a record thereof. Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.) of this chapter or the provisions of Title 46.2, this record shall be available only to all law-enforcement officers, attorneys for the Commonwealth and courts. A copy of the court order, upon which shall be noted all curfew restrictions, shall be provided to the juvenile and shall contain such information regarding the juvenile as is reasonably necessary to identify him. The juvenile may operate a motor vehicle under the court order in accordance with its terms.

Any juvenile who operates a motor vehicle in violation of any restrictions imposed pursuant to this section ~~shall be~~ is guilty of a violation of § 46.2-301.

The Department of Motor Vehicles shall refuse to issue a driver's license to any juvenile denied a driver's license until such time as is stipulated in the court order or until notification by the court of withdrawal of the order imposing the curfew;

10. Require the juvenile to make restitution or reparation to the aggrieved party or parties for actual damages or loss caused by the offense for which the juvenile was found to be delinquent;

11. Require the juvenile to participate in a public service project under such conditions as the court prescribes;

12. In case of traffic violations, impose only those penalties that are authorized to be imposed on adults for such violations. However, for those violations punishable by confinement if committed by an adult, confinement shall be imposed only as authorized by this title;

13. Transfer legal custody to any of the following:

a. A relative or other individual who, after study, is found by the court to be qualified to receive and care for the juvenile;

b. A child welfare agency, private organization or facility that is licensed or otherwise authorized by law to receive and provide care for such juvenile. The court shall not transfer legal custody of a delinquent juvenile to an agency, organization or facility outside of the Commonwealth without the approval of the Director; or

c. The local board of social services of the county or city in which the court has jurisdiction or, at the discretion of the court, to the local board of the county or city in which the juvenile has residence if other than the county or city in which the court has jurisdiction. The board shall accept the juvenile for care and custody, provided that it has been given reasonable notice of the pendency of the case and an opportunity to be heard. However, in an emergency in the county or city in which the court has jurisdiction, such local board may be required to temporarily accept a juvenile for a period not to exceed 14 days without prior notice or an opportunity to be heard if the judge entering the placement order describes the emergency and the need for such temporary placement in the order. Nothing in this subdivision shall prohibit the commitment of a juvenile to any local board of social services in the Commonwealth when such local board consents to the commitment. The board to which the juvenile is committed shall have the final authority to determine the appropriate placement for the juvenile. Any order authorizing removal from the home and transferring legal custody of a juvenile to a local board of social services as provided in this subdivision shall be entered only upon a finding by the court that reasonable efforts have been made to prevent removal and that continued placement in the home would be contrary to the welfare of the juvenile, and the order shall so state;

14. Unless waived by an agreement between the attorney for the Commonwealth and the juvenile and his attorney or other legal representative, upon consideration of the results of an investigation completed pursuant to § 16.1-273, commit the juvenile to the Department of Juvenile Justice, but only if he is 11 years of age or older and the current offense is (i) an offense that would be a felony if committed by an adult, (ii) an offense that would be a Class 1 misdemeanor if committed by an adult and the juvenile has previously been found to be delinquent based on an offense that would be a felony if committed by an adult, or (iii) an offense that would be a Class 1 misdemeanor if committed by an adult and the juvenile has previously been adjudicated delinquent of three or more offenses that would be a Class 1 misdemeanor if committed by an adult, and each such offense was not a part of a common act, transaction or scheme;

15. Impose the penalty authorized by § 16.1-284;

16. Impose the penalty authorized by § 16.1-284.1;

17. Unless waived by an agreement between the attorney for the Commonwealth and the juvenile and his attorney or other legal representative, upon consideration of the results of an investigation completed pursuant to § 16.1-273, impose the penalty authorized by § 16.1-285.1;

18. Impose the penalty authorized by § 16.1-278.9; or

19. Require the juvenile to participate in a gang-activity prevention program including, but not limited to, programs funded under the Virginia Juvenile Community Crime Control Act pursuant to § 16.1-309.7, if available, when a juvenile has been found delinquent of any of the following violations: § 18.2-51, 18.2-51.1, 18.2-52, 18.2-53, 18.2-55, 18.2-56,

18.2-57, 18.2-57.2, 18.2-121, 18.2-127, 18.2-128, 18.2-137, 18.2-138, 18.2-146, or 18.2-147, or any violation of a local ordinance adopted pursuant to § 15.2-1812.2.

B. If the court finds a juvenile delinquent of any of the following offenses, the court shall require the juvenile to make at least partial restitution or reparation for any property damage, for loss caused by the offense, or for actual medical expenses incurred by the victim as a result of the offense: § 18.2-51, 18.2-51.1, 18.2-52, 18.2-53, 18.2-55, 18.2-56, 18.2-57, 18.2-57.2, 18.2-121, 18.2-127, 18.2-128, 18.2-137, 18.2-138, 18.2-146, or 18.2-147; or for any violation of a local ordinance adopted pursuant to § 15.2-1812.2. The court shall further require the juvenile to participate in a community service project under such conditions as the court prescribes.

**§ 16.1-278.9. Delinquent children; loss of driving privileges for alcohol, firearm, and drug offenses; truancy.**

A. If a court has found facts which would justify a finding that a child at least 13 years of age at the time of the offense is delinquent and such finding involves (i) a violation of § 18.2-266 or of a similar ordinance of any county, city or town, (ii) a refusal to take a ~~blood or~~ breath test in violation of § 18.2-268.2, (iii) a felony violation of § 18.2-248, 18.2-248.1 or 18.2-250, (iv) a misdemeanor violation of § 18.2-248, 18.2-248.1, or 18.2-250 or a violation of § 18.2-250.1, (v) the unlawful purchase, possession or consumption of alcohol in violation of § 4.1-305 or the unlawful drinking or possession of alcoholic beverages in or on public school grounds in violation of § 4.1-309, (vi) public intoxication in violation of § 18.2-388 or a similar ordinance of a county, city or town, (vii) the unlawful use or possession of a handgun or possession of a "streetsweeper" as defined below, or (viii) a violation of § 18.2-83, the court shall order, in addition to any other penalty that it may impose as provided by law for the offense, that the child be denied a driver's license. In addition to any other penalty authorized by this section, if the offense involves a violation designated under clause (i) and the child was transporting a person 17 years of age or younger, the court shall impose the additional fine and order community service as provided in § 18.2-270. If the offense involves a violation designated under clause (i), (ii), (iii) or (viii), the denial of a driver's license shall be for a period of one year or until the juvenile reaches the age of 17, whichever is longer, for a first such offense or for a period of one year or until the juvenile reaches the age of 18, whichever is longer, for a second or subsequent such offense. If the offense involves a violation designated under clause (iv), (v) or (vi) the denial of driving privileges shall be for a period of six months unless the offense is committed by a child under the age of 16 years and three months, in which case the child's ability to apply for a driver's license shall be delayed for a period of six months following the date he reaches the age of 16 and three months. If the offense involves a first violation designated under clause (v) or (vi), the court shall impose the license sanction and may enter a judgment of guilt or, without entering a judgment of guilt, may defer disposition of the delinquency charge until such time as the court disposes of the case pursuant to subsection F of this section. If the offense involves a violation designated under clause (iii) or (iv), the court shall impose the license sanction and shall dispose of the delinquency charge pursuant to the provisions of this chapter or § 18.2-251. If the offense involves a violation designated under clause (vii), the denial of driving privileges shall be for a period of not less than 30 days, except when the offense involves possession of a concealed handgun or a striker 12, commonly called a "streetsweeper," or any semi-automatic folding stock shotgun of like kind with a spring tension drum magazine capable of holding 12 shotgun shells, in which case the denial of driving privileges shall be for a period of two years unless the offense is committed by a child under the age of 16 years and three months, in which event the child's ability to apply for a driver's license shall be delayed for a period of two years following the date he reaches the age of 16 and three months.

A1. If a court finds that a child at least 13 years of age has failed to comply with school attendance and meeting requirements as provided in § 22.1-258, the court shall order the denial of the child's driving privileges for a period of not less than 30 days. If such failure to comply involves a child under the age of 16 years and three months, the child's ability to apply for a driver's license shall be delayed for a period of not less than 30 days following the date he reaches the age of 16 and three months.

If the court finds a second or subsequent such offense, it may order the denial of a driver's license for a period of one year or until the juvenile reaches the age of 18, whichever is longer, or delay the child's ability to apply for a driver's license for a period of one year following the date he reaches the age of 16 and three months, as may be appropriate.

A2. *If a court finds that a child at least 13 years of age has refused to take a blood test in violation of § 18.2-268.2, the court shall order that the child be denied a driver's license for a period of one year or until the juvenile reaches the age of 17, whichever is longer, for a first such offense or for a period of one year or until the juvenile reaches the age of 18, whichever is longer, for a second or subsequent such offense.*

B. Any child who has a driver's license at the time of the offense or at the time of the court's finding as provided in subsection A1 or A2 shall be ordered to surrender his driver's license, which shall be held in the physical custody of the court during any period of license denial.

C. The court shall report any order issued under this section to the Department of Motor Vehicles, which shall preserve a record thereof. The report and the record shall include a statement as to whether the child was represented by or waived counsel or whether the order was issued pursuant to subsection A1 ~~of this section~~ or A2. Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.) of this chapter or the provisions of Title 46.2, this record shall be available only to all law-enforcement officers, attorneys for the Commonwealth and courts. No other record of the proceeding shall be forwarded to the Department of Motor Vehicles unless the proceeding results in an adjudication of guilt pursuant to subsection F.

The Department of Motor Vehicles shall refuse to issue a driver's license to any child denied a driver's license until such time as is stipulated in the court order or until notification by the court of withdrawal of the order of denial under subsection E.

D. If the finding as to the child involves a violation designated under clause (i), (ii), (iii) or (vi) of subsection A *or a violation designated under subsection A2*, the child may be referred to a certified alcohol safety action program in accordance with § 18.2-271.1 upon such terms and conditions as the court may set forth. If the finding as to such child involves a violation designated under clause (iii), (iv), (v), (vii) or (viii) of subsection A, such child may be referred to appropriate rehabilitative or educational services upon such terms and conditions as the court may set forth.

The court, in its discretion and upon a demonstration of hardship, may authorize the use of a restricted permit to operate a motor vehicle by any child who has a driver's license at the time of the offense or at the time of the court's finding as provided in subsection A1 *or A2* for any of the purposes set forth in subsection E of § 18.2-271.1 or for travel to and from school, except that no restricted license shall be issued for travel to and from home and school when school-provided transportation is available and no restricted license shall be issued if the finding as to such child involves a violation designated under clause (iii) or (iv) of subsection A, or if it involves a second or subsequent violation of any offense designated in subsection A ~~or~~, a second finding by the court of failure to comply with school attendance and meeting requirements as provided in subsection A1, *or a second or subsequent finding by the court of a refusal to take a blood test as provided in subsection A2*. The issuance of the restricted permit shall be set forth within the court order, a copy of which shall be provided to the child, and shall specifically enumerate the restrictions imposed and contain such information regarding the child as is reasonably necessary to identify him. The child may operate a motor vehicle under the court order in accordance with its terms. Any child who operates a motor vehicle in violation of any restrictions imposed pursuant to this section ~~shall be~~ *is* guilty of a violation of § 46.2-301.

E. Upon petition made at least 90 days after issuance of the order, the court may review and withdraw any order of denial of a driver's license if for a first such offense or finding as provided in subsection A1 *or A2*. For a second or subsequent such offense or finding, the order may not be reviewed and withdrawn until one year after its issuance.

F. If the finding as to such child involves a first violation designated under clause (vii) of subsection A, upon fulfillment of the terms and conditions prescribed by the court and after the child's driver's license has been restored, the court shall or, in the event the violation resulted in the injury or death of any person or if the finding involves a violation designated under clause (i), (ii), (v), or (vi) of subsection A, may discharge the child and dismiss the proceedings against him. Discharge and dismissal under these provisions shall be without an adjudication of guilt but a record of the proceeding shall be retained for the purpose of applying this section in subsequent proceedings. Failure of the child to fulfill such terms and conditions shall result in an adjudication of guilt. If the finding as to such child involves a violation designated under clause (iii) or (iv) of subsection A, the charge shall not be dismissed pursuant to this subsection but shall be disposed of pursuant to the provisions of this chapter or § 18.2-251. If the finding as to such child involves a second violation under clause (v), (vi) or (vii) of subsection A, the charge shall not be dismissed pursuant to this subsection but shall be disposed of under § 16.1-278.8.

#### § 16.1-309. Penalty.

A. Except as provided in §§ 16.1-299, 16.1-300, 16.1-301, 16.1-305 and 16.1-307, any person who (i) files a petition, (ii) receives a petition or has access to court records in an official capacity, (iii) participates in the investigation of allegations which form the basis of a petition, (iv) is interviewed concerning such allegations and whose information is derived solely from such interview or (v) is present during any court proceeding, who discloses or makes use of or knowingly permits the use of identifying information not otherwise available to the public concerning a juvenile who is suspected of being or is the subject of a proceeding within the jurisdiction of the juvenile court pursuant to subdivisions A 1 through 5 *or subdivision A 7 of subsection A of § 16.1-241* or who is in the custody of the State Department of Juvenile Justice, which information is directly or indirectly derived from the records or files of a law-enforcement agency, court or the Department of Juvenile Justice or acquired in the course of official duties, ~~shall be~~ *is* guilty of a Class 3 misdemeanor.

B. The provisions of this section shall not apply to any law-enforcement officer or school employee who discloses to school personnel identifying information concerning a juvenile who is suspected of committing or has committed a delinquent act that has met applicable criteria of § 16.1-260 and is committed or alleged to have been committed on school property during a school-sponsored activity or on the way to or from such activity, if the disclosure is made solely for the purpose of enabling school personnel to take appropriate disciplinary action within the school setting against the juvenile. Further, the provisions of this section shall not apply to school personnel who disclose information obtained pursuant to §§ 16.1-305.1 and 22.1-288.2, if the disclosure is made in compliance with those sections.

#### § 18.2-268.3. Refusal of tests; penalties; procedures.

A. It ~~shall be~~ *is* unlawful for a person who is arrested for a violation of § 18.2-266~~7~~ *or 18.2-266.17* or subsection B of § 18.2-272 or of a similar ordinance to unreasonably refuse to have samples of his ~~blood or breath or both blood and breath~~ taken for chemical tests to determine the alcohol ~~or drug~~ content of his blood as required by § 18.2-268.2, and any person who so unreasonably refuses is guilty of a violation of this ~~section~~ *subsection, which is punishable as follows:*

1. A first violation is a civil offense. For a first offense, the court shall suspend the defendant's privilege to drive for a period of one year. This suspension period is in addition to the suspension period provided under § 46.2-391.2.
2. If a person is found to have violated this subsection and within 10 years prior to the date of the refusal he was found guilty of any of the following: a violation of this section, a violation of § 18.2-266, or a violation of any offense listed in

subsection E of § 18.2-270 arising out of separate occurrences or incidents, he is guilty of a Class 1 misdemeanor. A conviction under this subdivision shall of itself operate to deprive the person of the privilege to drive for a period of three years from the date of the judgment of conviction. This revocation period is in addition to the suspension period provided under § 46.2-391.2.

B. It is unlawful for a person who is arrested for a violation of § 18.2-266 or 18.2-266.1 or subsection B of § 18.2-272 or of a similar ordinance to unreasonably refuse to have samples of his blood taken for chemical tests to determine the alcohol or drug content of his blood as required by § 18.2-268.2 and any person who so unreasonably refuses is guilty of a violation of this subsection, which is a civil offense and is punishable as follows:

1. For a first offense, the court shall suspend the defendant's privilege to drive for a period of one year. This suspension period is in addition to the suspension period provided under § 46.2-391.2.

2. If a person is found to have violated this subsection and within 10 years prior to the date of the refusal he was found guilty of any of the following: a violation of this section, a violation of § 18.2-266, or a violation of any offense listed in subsection E of § 18.2-270 arising out of separate occurrences or incidents, such violation shall of itself operate to deprive the person of the privilege to drive for a period of three years from the date of the judgment. This revocation period is in addition to the suspension period provided under § 46.2-391.2.

C. When a person is arrested for a violation of § 18.2-51.4, 18.2-266, or 18.2-266.1 or; subsection B of § 18.2-272 or of a similar ordinance and such person refuses to permit blood or breath or both blood and breath samples to be taken for testing as required by § 18.2-268.2, the arresting officer shall advise the person, from a form provided by the Office of the Executive Secretary of the Supreme Court, ~~that~~ (i) that a person who operates a motor vehicle upon a highway in the Commonwealth is deemed thereby, as a condition of such operation, to have consented to have samples of his blood and breath taken for chemical tests to determine the alcohol or drug content of his blood, (ii) that a finding of unreasonable refusal to consent may be admitted as evidence at a criminal trial, (iii) that the unreasonable refusal to do so constitutes grounds for the revocation of the privilege of operating a motor vehicle upon the highways of the Commonwealth, (iv) ~~the criminal penalty for unreasonable refusal within 10 years of a prior conviction for driving while intoxicated or unreasonable refusal is a Class 2 misdemeanor of the civil penalties for unreasonable refusal to have blood or breath or both blood and breath samples taken, and (v) of the criminal penalty for unreasonable refusal to have breath samples taken within 10 years of any two a prior convictions conviction for driving while intoxicated or unreasonable refusal, which is a Class 1 misdemeanor.~~ The form from which the arresting officer shall advise the person arrested shall contain a brief statement of the law requiring the taking of blood or breath samples, a statement that a finding of unreasonable refusal to consent may be admitted as evidence at a criminal trial, and the penalties for refusal. The Office of the Executive Secretary of the Supreme Court shall make the form available on the Internet and the form shall be considered an official publication of the Commonwealth for the purposes of § 8.01-388.

~~E.~~ D. The arresting officer shall, under oath before the magistrate, execute the form and certify; (i) that the defendant has refused to permit blood or breath or both blood and breath samples to be taken for testing; (ii) that the officer has read the portion of the form described in subsection ~~B~~ C to the arrested person; (iii) that the arrested person, after having had the portion of the form described in subsection ~~B~~ C read to him, has refused to permit such sample or samples to be taken; and (iv) how many, if any, violations of this section, § 18.2-266, or any offense described in subsection E of § 18.2-270 the arrested person has been convicted of within the last 10 years. Such sworn certification shall constitute probable cause for the magistrate to issue a warrant or summons charging the person with unreasonable refusal. The magistrate shall attach the executed and sworn advisement form to the warrant or summons. The warrant or summons for a first offense under ~~this section~~ subsection A or any offense under subsection B shall be executed in the same manner as a criminal warrant or summons. If the person arrested has been taken to a medical facility for treatment or evaluation of his medical condition, the arresting officer may read the advisement form to the person at the medical facility, and issue, on the premises of the medical facility, a summons for a violation of this section in lieu of securing a warrant or summons from the magistrate. The magistrate or arresting officer, as the case may be, shall forward the executed advisement form and warrant or summons to the appropriate court.

~~D.~~ A first violation of this section is a civil offense and subsequent violations are criminal offenses. For a first offense the court shall suspend the defendant's privilege to drive for a period of one year. This suspension period is in addition to the suspension period provided under § 46.2-391.2.

If a person is found to have violated this section and within 10 years prior to the date of the refusal he was found guilty of any of the following: a violation of this section, a violation of § 18.2-266, or a violation of any offense listed in subsection E of § 18.2-270, arising out of separate occurrences or incidents, he is guilty of a Class 2 misdemeanor and the court shall suspend the defendant's privilege to drive for a period of three years. This suspension period is in addition to the suspension period provided under § 46.2-391.2.

If a person is found guilty of a violation of this section and within 10 years prior to the date of the refusal he was found guilty of any two of the following: a violation of this section, a violation of § 18.2-266, or a violation of any offense listed in subsection E of § 18.2-270 arising out of separate occurrences or incidents, he is guilty of a Class 1 misdemeanor and the court shall suspend the defendant's privilege to drive for a period of three years. This suspension period is in addition to the suspension period provided under § 46.2-391.2.

§ 18.2-268.4. Trial and appeal for refusal.

A. Venue for the trial of the warrant or summons shall lie in the court of the county or city in which the offense of driving under the influence of intoxicants or other offense listed in subsection A or B of § 18.2-268.3 is to be tried.

B. The procedure for appeal and trial of a ~~first~~ *any civil* offense of § 18.2-268.3 shall be the same as provided by law for misdemeanors; if requested by either party on appeal to the circuit court, trial by jury shall be as provided in Article 4 (§ 19.2-260 et seq.) of Chapter 15 of Title 19.2, and the Commonwealth shall be required to prove its case beyond a reasonable doubt.

C. If the defendant pleads guilty to a violation of § 18.2-266; *or* 18.2-266.1; or subsection B of § 18.2-272 or of a similar ordinance, the court may dismiss the warrant or summons.

The court shall dispose of the defendant's license in accordance with the provisions of § 46.2-398; however, the defendant's license shall not be returned during any period of suspension imposed under § 46.2-391.2.

**§ 18.2-268.7. Transmission of blood test samples; use as evidence.**

A. Upon receipt of a blood sample forwarded to the Department for analysis pursuant to § 18.2-268.6, the Department shall have it examined for its alcohol or drug or both alcohol and drug content and the Director shall execute a certificate of analysis indicating the name of the accused; the date, time and by whom the blood sample was received and examined; a statement that the seal on the vial had not been broken or otherwise tampered with; a statement that the container and vial were provided or approved by the Department and that the vial was one to which the completed withdrawal certificate was attached; and a statement of the sample's alcohol or drug or both alcohol and drug content. The Director shall remove the withdrawal certificate from the vial and either (i) attach it to the certificate of analysis and state in the certificate of analysis that it was so removed and attached or (ii) electronically scan it into the Department's Laboratory Information Management System and place the original withdrawal certificate in its case-specific file. The certificate of analysis and the withdrawal certificate shall be returned or electronically transmitted to the clerk of the court in which the charge will be heard.

B. After completion of the analysis, the Department shall preserve the remainder of the blood until at least 90 days have lapsed ~~from the date the blood was drawn. During this 90-day period, the~~ *The* accused may, *at any time prior to the expiration of such 90-day period*, by motion filed before the court in which the charge will be heard, with notice to the Department, request an order directing the Department to transmit the remainder of the blood sample to an independent laboratory retained by the accused for analysis. ~~The~~ *On motion of the accused, the report of analysis prepared for the remaining blood sample shall be admissible in evidence, provided that the report is duly attested by a person performing such analysis and the independent laboratory that performed the analysis is accredited or certified to conduct forensic blood alcohol/drug testing by one or more of the following bodies: American Society of Crime Laboratory Directors/Laboratory Accreditation Board (ASCLD/LAB); College of American Pathologists (CAP); U.S. Department of Health and Human Services Substance Abuse and Mental Health Services Administration (SAMHSA); or American Board of Forensic Toxicology (ABFT). If no notice of a motion to transmit the remainder of the blood sample is received prior to the expiration of the 90-day period, the* Department shall destroy the remainder of the blood sample ~~if no notice of a motion to transmit the remaining blood sample is received during the 90-day period unless the Commonwealth has filed a written request with the Department to return the remainder of the blood sample to the investigating law-enforcement agency. In such case, the Department shall return the remainder of the blood sample, if not sent to an independent laboratory, to the investigating law-enforcement agency.~~

C. When a blood sample taken in accordance with the provisions of §§ 18.2-268.2 through 18.2-268.6 is forwarded for analysis to the Department, a report of the test results shall be filed in that office. Upon proper identification of the certificate of withdrawal, the certificate of analysis, with the withdrawal certificate attached, shall, when attested by the Director, be admissible in any court as evidence of the facts therein stated and of the results of such analysis (i) in any criminal proceeding, provided the requirements of subsection A of § 19.2-187.1 have been satisfied and the accused has not objected to the admission of the certificate pursuant to subsection B of § 19.2-187.1, or (ii) in any civil proceeding. ~~On motion of the accused, the report of analysis prepared for the remaining blood sample shall be admissible in evidence provided the report is duly attested by a person performing such analysis and the independent laboratory that performed the analysis is accredited or certified to conduct forensic blood alcohol/drug testing by one or more of the following bodies: American Society of Crime Laboratory Directors/Laboratory Accreditation Board (ASCLD/LAB); College of American Pathologists (CAP); United States Department of Health and Human Services Substance Abuse and Mental Health Services Administration (SAMHSA); or American Board of Forensic Toxicology (ABFT).~~

Upon request of the person whose blood was analyzed, the test results shall be made available to him.

The Director may delegate or assign these duties to an employee of the Department.

**§ 18.2-268.9. Assurance of breath-test validity; use of breath-test results as evidence.**

A. To be capable of being considered valid as evidence in a prosecution under § 18.2-266; *or* 18.2-266.1; or subsection B of § 18.2-272; or a similar ordinance, chemical analysis of a person's breath shall be performed by an individual possessing a valid license to conduct such tests, with a type of equipment and in accordance with methods approved by the Department.

B. The Department shall establish a training program for all individuals who are to administer the breath tests. Upon a person's successful completion of the training program, the Department may license him to conduct breath-test analyses. Such license shall identify the specific types of breath test equipment upon which the individual has successfully completed training. Any individual conducting a breath test under the provisions of § 18.2-268.2 shall issue a certificate which will indicate that the test was conducted in accordance with the Department's specifications, the name of the accused, that prior

to administration of the test the accused was advised of his right to observe the process and see the blood alcohol reading on the equipment used to perform the breath test, the date and time the sample was taken from the accused, the sample's alcohol content, and the name of the person who examined the sample. This certificate, when attested by the individual conducting the breath test on equipment maintained by the Department, shall be admissible in any court as evidence of the facts therein stated and of the results of such analysis (i) in any criminal proceeding, provided that the requirements of subsection A of § 19.2-187.1 have been satisfied and the accused has not objected to the admission of the certificate pursuant to subsection B of § 19.2-187.1, or (ii) in any civil proceeding. Any such certificate of analysis purporting to be signed by a person authorized by the Department shall be admissible in evidence without proof of seal or signature of the person whose name is signed to it. A copy of the certificate shall be promptly delivered to the accused. Copies of Department records relating to any breath test conducted pursuant to this section shall be admissible provided such copies are authenticated as true copies either by the custodian thereof or by the person to whom the custodian reports.

~~The officer making the arrest, or anyone with him at the time of the arrest, or anyone participating in the arrest of the accused, if otherwise~~ Any person qualified to conduct such a breath test as provided by this section, may administer the breath test and or analyze the results.

**§ 18.2-269. Presumptions from alcohol or drug content of blood.**

A. In any prosecution for a violation of § 18.2-36.1 or clause (ii), (iii), or (iv) of § 18.2-266; or any similar ordinance, the amount of alcohol or drugs in the blood of the accused at the time of the alleged offense as indicated by a chemical analysis of a sample of the accused's blood or breath to determine the alcohol or drug content of his blood (i) in accordance with the provisions of §§ 18.2-268.1 through 18.2-268.12 or (ii) performed by the Department of Forensic Science in accordance with the provisions of §§ 18.2-268.5, 18.2-268.6, and 18.2-268.7 on the suspect's whole blood drawn pursuant to a search warrant shall give rise to the following rebuttable presumptions:

(1) 1. If there was at that time 0.05 percent or less by weight by volume of alcohol in the accused's blood or 0.05 grams or less per 210 liters of the accused's breath, it shall be presumed that the accused was not under the influence of alcohol intoxicants at the time of the alleged offense;

(2) 2. If there was at that time in excess of 0.05 percent but less than 0.08 percent by weight by volume of alcohol in the accused's blood or 0.05 grams but less than 0.08 grams per 210 liters of the accused's breath, such facts shall not give rise to any presumption that the accused was or was not under the influence of alcohol intoxicants at the time of the alleged offense, but such facts may be considered with other competent evidence in determining the guilt or innocence of the accused;

(3) 3. If there was at that time 0.08 percent or more by weight by volume of alcohol in the accused's blood or 0.08 grams or more per 210 liters of the accused's breath, it shall be presumed that the accused was under the influence of alcohol intoxicants at the time of the alleged offense; or

(4) 4. If there was at that time an amount of the following substances at a level that is equal to or greater than: (a) (i) 0.02 milligrams of cocaine per liter of blood, (b) (ii) 0.1 milligrams of methamphetamine per liter of blood, (c) (iii) 0.01 milligrams of phencyclidine per liter of blood, or (d) (iv) 0.1 milligrams of 3,4-methylenedioxymethamphetamine per liter of blood, it shall be presumed that the accused was under the influence of drugs at the time of the alleged offense to a degree which impairs his ability to drive or operate any motor vehicle, engine or train safely.

B. The provisions of this section shall not apply to and shall not affect any prosecution for a violation of § 46.2-341.24.

**§ 18.2-272. Driving after forfeiture of license.**

A. Any person who drives or operates any motor vehicle, engine or train in the Commonwealth during the time for which he was deprived of the right to do so (i) upon conviction of a violation of § 18.2-268.3 or 46.2-341.26:3 or of an offense set forth in subsection E of § 18.2-270, (ii) by § 18.2-271 or 46.2-391.2, (iii) after his license has been revoked pursuant to § 46.2-389 or 46.2-391, or (iv) in violation of the terms of a restricted license issued pursuant to subsection E of § 18.2-271.1, is guilty of a Class 1 misdemeanor except as otherwise provided in § 46.2-391, and is subject to administrative revocation of his driver's license pursuant to §§ 46.2-389 and 46.2-391. Any person convicted of three violations of this section committed within a 10-year period is guilty of a Class 6 felony.

Nothing in this section or § 18.2-266, 18.2-270, or 18.2-271; shall be construed as conflicting with or repealing any ordinance or resolution of any city, town or county which restricts still further the right of such persons to drive or operate any such vehicle or conveyance.

B. Regardless of compliance with any other restrictions on his privilege to drive or operate a motor vehicle, it shall be a violation of this section for any person whose privilege to drive or operate a motor vehicle has been restricted, suspended or revoked because of a violation of § 18.2-36.1, 18.2-51.4, 18.2-266, 18.2-268.3, 46.2-341.24, or 46.2-341.26:3 or a similar ordinance or law of another state or the United States to drive or operate a motor vehicle while he has a blood alcohol content of 0.02 percent or more.

Any person suspected of a violation of this subsection shall be entitled to a preliminary breath test in accordance with the provisions of § 18.2-267, shall be deemed to have given his implied consent to have samples of his blood, breath or both taken for analysis pursuant to the provisions of § 18.2-268.2, and, when charged with a violation of this subsection, shall be subject to the provisions of §§ 18.2-268.1 through 18.2-268.12.

C. Any person who drives or operates a motor vehicle without a certified ignition interlock system as required by § 46.2-391.01 is guilty of a Class 1 misdemeanor and is subject to administrative revocation of his driver's license pursuant to §§ 46.2-389 and 46.2-391.

**§ 19.2-52. When search warrant may issue.**

Except as provided in § 19.2-56.1, search warrants, based upon complaint on oath supported by an affidavit as required in § 19.2-54, may be issued by any judge, magistrate or other person having authority to issue criminal warrants, if he be satisfied from such complaint and affidavit that there is reasonable and probable cause for the issuance of such search warrant.

*An application for a search warrant to withdraw blood from a person suspected of violating § 18.2-266, 18.2-266.1, 18.2-272, 29.1-738, 29.1-738.02, or 46.2-341.24 shall be given priority over any pending matters not involving an imminent risk to another's health or safety before such judge, magistrate, or other person having authority to issue criminal warrants.*

**§ 19.2-73. Issuance of summons instead of warrant in certain cases.**

A. In any misdemeanor case or in any class of misdemeanor cases, or in any case involving complaints made by any state or local governmental official or employee having responsibility for the enforcement of any statute, ordinance or administrative regulation, the magistrate or other issuing authority having jurisdiction may issue a summons instead of a warrant when there is reason to believe that the person charged will appear in the courts having jurisdiction over the trial of the offense charged.

B. If any person under suspicion for driving while intoxicated has been taken to a medical facility for treatment or evaluation of his medical condition, the officer at the medical facility may issue, on the premises of the medical facility, a summons for a violation of § 18.2-266, 18.2-266.1, 18.2-272, or 46.2-341.24 and for refusal of tests in violation of subsection A or B of § 18.2-268.3 or subsection A of § 46.2-341.26:3, in lieu of securing a warrant and without having to detain that person, provided that the officer has probable cause to place him under arrest. The issuance of such summons shall be deemed an arrest for purposes of Article 2 (§ 18.2-266 et seq.) of Chapter 7 of Title 18.2.

C. Any person on whom such summons is served shall appear on the date set forth in same, and if such person fails to appear in such court at such time and on such date then he shall be treated in accordance with the provisions of § 19.2-128, regardless of the disposition of, and in addition to, the charge upon which he was originally arrested.

**§ 29.1-738.3. Presumptions from alcohol or drug content.**

In any prosecution for operating a watercraft or motorboat ~~which~~ *that* is underway in violation of clause (ii), (iii), or (iv) of subsection B of § 29.1-738, or of a similar ordinance of any county, city or town, the amount of alcohol or drugs in the blood of the accused at the time of the alleged offense as indicated by a chemical analysis of a sample of the accused's blood or breath to determine the alcohol or drug content of his blood *(i)* in accordance with the provisions of § 29.1-738.2 *or (ii) performed by the Department of Forensic Science in accordance with the provisions of §§ 18.2-268.5, 18.2-268.6, and 18.2-268.7 on the suspect's whole blood drawn pursuant to a search warrant* shall give rise to the rebuttable presumptions of subdivisions (1) A 1 through (4) 4 of ~~subsection A~~ *of* § 18.2-269.

**§ 46.2-341.26:2. Implied consent to post-arrest chemical test to determine alcohol or drug content of blood of commercial driver.**

A. Any person, whether licensed by Virginia or not, who operates a commercial motor vehicle upon a highway as defined in § 46.2-100 in the Commonwealth shall be deemed thereby, as a condition of such operation, to have consented to have samples of his blood, breath, or both blood and breath taken for a chemical test to determine the alcohol, drug or both alcohol and drug content of his blood, if he is arrested for violation of § 46.2-341.24 or 46.2-341.31 within ~~two~~ *three* hours of the alleged offense.

B. Such person shall be required to have a breath sample taken and shall be entitled, upon request, to observe the process of analysis and to see the blood-alcohol reading on the equipment used to perform the breath test. If the equipment automatically produces a written printout of the breath test result, the printout or a copy shall be given to the suspect. If a breath test is not available, then a blood test shall be required.

C. The person may be required to submit to blood tests to determine the drug content of his blood if he has been arrested pursuant to provision (iii), (iv), or (v) of subsection A of § 46.2-341.24, or if he has taken the breath test required pursuant to subsection B and the law-enforcement officer has reasonable cause to believe the person was driving under the influence of any drug or combination of drugs, or the combined influence of alcohol and drugs.

D. If the certificate of analysis referred to in § 46.2-341.26:9 indicates the presence of alcohol in the suspect's blood, the suspect shall be taken before a magistrate to determine whether the magistrate should issue an out-of-service order prohibiting the suspect from driving any commercial motor vehicle for a 24-hour period. If the magistrate finds that there is probable cause to believe that the suspect was driving a commercial motor vehicle with any measurable amount of alcohol in his blood, the magistrate shall issue an out-of-service order prohibiting the suspect from driving any commercial motor vehicle for a period of 24 hours. The magistrate shall forward a copy of the out-of-service order to the Department within seven days after issuing the order. The order shall be in addition to any other action or sanction permitted or required by law to be taken against or imposed upon the suspect.

**§ 46.2-341.26:3. Refusal of tests; issuance of out-of-service orders; disqualification.**

A. ~~It~~ *It is unlawful for a person who is arrested for a violation of § 46.2-341.24 or 46.2-341.31 to unreasonably refuse to have samples of his breath taken for chemical tests to determine the alcohol content of his blood as required by § 46.2-341.26:2, and any person who so unreasonably refuses is guilty of a violation of this subsection, which is punishable as follows:*

1. *A first violation is a civil offense. For a first offense, the court shall suspend the defendant's privilege to drive for a period of one year. This suspension period is in addition to the suspension period provided under § 46.2-391.2.*

2. If a person is found to have violated this subsection and within 10 years prior to the date of the refusal he was found guilty of any of the following: a violation of this section, a violation of any offense listed in subsection E of § 18.2-270, or a violation of § 46.2-341.24 or 46.2-341.31 arising out of separate occurrences or incidents, he is guilty of a Class 1 misdemeanor. A conviction under this subdivision shall of itself operate to deprive the person of the privilege to drive for a period of three years from the date of the judgment of conviction. This revocation period is in addition to the suspension period provided under § 46.2-391.2.

B. It is unlawful for a person who is arrested for a violation of § 46.2-341.24 or 46.2-341.31 to unreasonably refuse to have samples of his blood taken for chemical tests to determine the alcohol or drug content of his blood as required by § 46.2-341.26:2, and any person who so unreasonably refuses is guilty of a violation of this subsection, which is a civil offense and is punishable as follows:

1. For a first offense, the court shall suspend the defendant's privilege to drive for a period of one year. This suspension period is in addition to the suspension period provided under § 46.2-391.2.

2. If a person is found to have violated this subsection and within 10 years prior to the date of the refusal he was found guilty of any of the following: a violation of this section, a violation of any offense listed in subsection E of § 18.2-270, or a violation of § 46.2-341.24 or 46.2-341.31 arising out of separate occurrences or incidents, such violation shall of itself operate to deprive the person of the privilege to drive for a period of three years from the date of the judgment. This revocation period is in addition to the suspension period provided under § 46.2-391.2.

C. When a person is arrested for a violation of § 46.2-341.24 or § 46.2-341.31, ~~after having been advised by a~~ and such person refuses to permit blood or breath or both blood and breath samples to be taken for testing as required by § 46.2-341.26:2, the arresting law-enforcement officer shall advise the person, from a form provided by the Office of the Executive Secretary of the Supreme Court, (i) that a person who operates a commercial motor vehicle on a public highway in the Commonwealth is deemed thereby, as a condition of such operation, to have consented to have samples of his blood or breath taken for chemical tests to determine the alcohol or drug content of his blood, (ii) that a finding of unreasonable refusal to consent may be admitted as evidence at a criminal trial, ~~and~~ (iii) that the unreasonable refusal to do so constitutes grounds for the immediate issuance of an out-of-service order ~~prohibiting him from driving a commercial vehicle for a period of 24 hours and for the disqualification of such person from operating a commercial motor vehicle, then refuses to permit blood or breath samples to be taken for such tests; the law-enforcement officer shall take the person before a magistrate. If he again refuses after having been further advised by the magistrate (i) of the law requiring blood or breath samples to be taken, (ii) that a finding of unreasonable refusal to consent may be admitted as evidence at a criminal trial, and (iii) the sanctions for refusal, and declares again his refusal in writing on a form provided by the Supreme Court, or refuses or fails to so declare in writing and such fact is certified as prescribed below, then no blood or breath samples shall be taken even though he may later request them.~~

~~B. (iv) of the civil penalties for unreasonable refusal to have blood or breath or both blood and breath samples taken, and (v) of the criminal penalty for unreasonable refusal to have breath samples taken within 10 years of a prior conviction for driving while intoxicated or unreasonable refusal, which is a Class 1 misdemeanor. The form from which the law-enforcement officer shall advise the person arrested shall contain a brief statement of the law requiring the taking of blood or breath samples, that a finding of unreasonable refusal to consent to testing may be admitted as evidence at a criminal trial, and the sanctions penalties for refusal; a declaration of refusal; and lines for the signature of the person from whom the blood or breath sample is sought, the date, and the signature of a witness to the signing. If the person refuses or fails to execute the declaration, the magistrate shall certify such fact and that the magistrate advised the person that a refusal to permit a blood or breath sample to be taken, if found to be unreasonable, constitutes grounds for immediate issuance of an out-of-service order prohibiting him from driving a commercial vehicle for a period of twenty-four hours, and for the disqualification of such person from operating a commercial motor vehicle. The Office of the Executive Secretary of the Supreme Court shall make the form available on the Internet, and the form shall be considered an official publication of the Commonwealth for the purposes of § 8.01-388.~~

D. The law-enforcement officer shall, under oath before the magistrate, execute the form and certify (i) that the defendant has refused to permit blood or breath or both blood and breath samples to be taken for testing; (ii) that the officer has read the portion of the form described in subsection C to the arrested person; (iii) that the arrested person, after having had the portion of the form described in subsection C read to him, had refused to permit such sample or samples to be taken; and (iv) how many, if any, violations of this section, any offense listed in subsection E of § 18.2-270, or § 46.2-341.24 or 46.2-341.31 the arrested person has been convicted of within the last 10 years. Such sworn certification shall constitute probable cause for the magistrate to issue a warrant or summons charging the person with unreasonable refusal. The magistrate shall attach the executed and sworn advisement form to the warrant or summons. The warrant or summons for a first offense under subsection A or any offense under subsection B shall be executed in the same manner as a criminal warrant or summons. If the person arrested has been taken to a medical facility for treatment or evaluation of his medical condition, the law-enforcement officer may read the advisement form to the person at the medical facility and issue, on the premises of the medical facility, a summons for a violation of this section in lieu of securing a warrant or summons from the magistrate. The magistrate or law-enforcement officer, as the case may be, shall forward the executed advisement form and warrant or summons to the appropriate court.

~~E.~~ E. If the magistrate finds that there was probable cause to believe the refusal was unreasonable, he shall immediately issue an out-of-service order prohibiting the person from operating a commercial motor vehicle for a period of

twenty-four 24 hours and shall issue a warrant or summons charging such person with a violation of § 46.2-341.26:2. The warrant or summons shall be executed in the same manner as criminal warrants. Venue for the trial of the warrant or summons shall lie in the court of the county or city in which the criminal offense is to be tried.

D. The executed declaration of refusal or the certificate of the magistrate, as the case may be, shall be attached to the warrant and shall be forwarded by the magistrate to the court.

E. When the court receives the declaration or certificate together with the warrant or summons charging refusal, the court shall fix a date for the trial of the warrant or summons, at such time as the court designates.

F. The declaration of refusal or certificate under § 46.2-341.26:3 shall be prima facie evidence that the defendant refused to allow a blood or breath sample to be taken to determine the alcohol or drug content of his blood. However, this shall not prohibit the defendant from introducing on his behalf evidence of the basis for his refusal. The court shall determine the reasonableness of such refusal.

**§ 46.2-341.26:4. Appeal and trial; sanctions for refusal; procedures.**

A. Venue for the trial of the warrant or summons shall lie in the court of the county or city in which the offense of driving under the influence of intoxicants or other offense listed in subsection A or B of § 46.2-341.26:3 is to be tried.

B. The procedure for appeal and trial of any civil offense of § 46.2-341.26:3 shall be the same as provided by law for misdemeanors. If requested by either party on appeal to the circuit court, trial by jury shall be as provided in Article 4 (§ 19.2-260 et seq.) of Chapter 15 of Title 19.2, and the Commonwealth shall be required to prove its case beyond a reasonable doubt.

C. If the court or jury finds the defendant guilty as charged in the warrant or summons referred to in § 46.2-341.26:3, the defendant shall be disqualified as provided in § 46.2-341.18. However, if the defendant pleads guilty to a violation of § 46.2-341.24, the court may dismiss the warrant or summons.

The court shall notify the Commissioner of any such finding of guilt and shall forward *dispose of* the defendant's license to the Commissioner as in other cases of similar nature for suspension of license unless the defendant appeals his conviction. In such case the court shall return the license to the defendant upon his appeal being perfected in accordance with the provisions of § 46.2-398; however, the defendant's license shall not be returned during any period of suspension imposed under § 46.2-391.2.

**§ 46.2-341.26:7. Transmission of samples.**

A. Upon receipt of a blood sample forwarded to the Department for analysis pursuant to § 46.2-341.26:6, the Department shall have it examined for its alcohol or drug content, and the Director shall execute a certificate of analysis indicating the name of the suspect; the date, time, and by whom the blood sample was received and examined; a statement that the seal on the vial had not been broken or otherwise tampered with; a statement that the container and vial were provided or approved by the Department and that the vial was one to which the completed withdrawal certificate was attached; and a statement of the sample's alcohol or drug content. The Director or his representative shall remove the withdrawal certificate from the vial and either (i) attach it to the certificate of analysis and state in the certificate of analysis that it was so removed and attached or (ii) electronically scan it into the Department's Laboratory Information Management System and place the original withdrawal certificate in its case-specific file. The certificate of analysis and the withdrawal certificate shall be returned or electronically transmitted to the clerk of the court in which the charge will be heard.

B. After completion of the analysis, the Department shall preserve the remainder of the blood until at least 90 days have lapsed ~~from the date the blood was drawn. During this 90-day period, the~~ The accused may, at any time prior to the expiration of such 90-day period, by motion filed before the court in which the charge will be heard, with notice to the Department, request an order directing the Department to transmit the remainder of the blood sample to an independent laboratory retained by the accused for analysis. ~~The~~ On motion of the accused, the report of analysis prepared for the remaining blood sample shall be admissible in evidence, provided that the report is duly attested by a person performing such analysis and the independent laboratory that performed the analysis is accredited or certified to conduct forensic blood alcohol/drug testing by one or more of the following bodies: American Society of Crime Laboratory Directors/Laboratory Accreditation Board (ASCLD/LAB); College of American Pathologists (CAP); U.S. Department of Health and Human Services Substance Abuse and Mental Health Services Administration (SAMHSA); or American Board of Forensic Toxicology (ABFT). If no notice of a motion to transmit the remainder of the blood sample is received prior to the expiration of the 90-day period, the Department shall destroy the remainder of the blood sample ~~if no notice of a motion to transmit the remaining blood sample is received during the 90-day period unless the Commonwealth has filed a written request with the Department to return the remainder of the blood sample to the investigating law-enforcement agency. In such case, the Department shall return the remainder of the blood sample, if not sent to an independent laboratory, to the investigating law-enforcement agency.~~

~~B.~~ C. When a blood sample taken in accordance with the provisions of §§ 46.2-341.26:2 through 46.2-341.26:6 is forwarded for analysis to the Department, a report of the test results shall be filed in that office. Upon proper identification of the certificate of withdrawal, the certificate of analysis, with the withdrawal certificate attached, shall, when attested by the Director, be admissible in any court as evidence of the facts therein stated and of the results of such analysis (i) in any criminal proceeding, provided that the requirements of subsection A of § 19.2-187.1 have been satisfied and the accused has not objected to the admission of the certificate pursuant to subsection B of § 19.2-187.1, or (ii) in any civil proceeding. ~~On motion of the accused, the report of analysis prepared for the remaining blood sample shall be admissible in evidence provided the report is duly attested by a person performing such analysis and the independent laboratory that performed the~~

analysis is accredited or certified to conduct forensic blood alcohol/drug testing by one or more of the following bodies: American Society of Crime Laboratory Directors/Laboratory Accreditation Board (ASCLD/LAB); College of American Pathologists (CAP); United States Department of Health and Human Services Substance Abuse and Mental Health Services Administration (SAMHSA); or American Board of Forensic Toxicology (ABFT).

Upon request of the person whose blood or breath was analyzed, the test results shall be made available to him.

The Director may delegate or assign these duties to an employee of the Department.

**§ 46.2-341.26:9. Assurance of breath test validity; use of breath tests as evidence.**

To be capable of being considered valid in a prosecution under § 46.2-341.24 or 46.2-341.31, chemical analysis of a person's breath shall be performed by an individual possessing a valid license to conduct such tests, with the type of equipment and in accordance with methods approved by the Department.

Any individual conducting a breath test under the provisions of § 46.2-341.26:2 shall issue a certificate which includes the name of the suspect, the date and time the sample was taken from the suspect, the alcohol content of the sample, and the identity of the person who examined the sample. The certificate will also indicate that the test was conducted in accordance with the Department's specifications.

The certificate of analysis, when attested by the authorized individual conducting the breath test on equipment maintained by the Department, shall be admissible in any court as evidence of the facts therein stated and of the results of such analysis (i) in any criminal proceeding, provided that the requirements of subsection A of § 19.2-187.1 have been satisfied and the accused has not objected to the admission of the certificate pursuant to subsection B of § 19.2-187.1, or (ii) in any civil proceeding. Any such certificate of analysis purporting to be signed by a person authorized by the Department shall be admissible in evidence without proof of seal or signature of the person whose name is signed to it.

A copy of such certificate shall be promptly delivered to the suspect. ~~The law enforcement officer requiring the test or anyone with such officer at the time if otherwise~~ Any person qualified to conduct such a breath test as provided by this section; may administer the breath test or analyze the results thereof.

**§ 46.2-341.27. Presumptions from alcohol and drug content of blood.**

In any prosecution for a violation of clause (ii), (iii), or (iv) of subsection A of § 46.2-341.24, the amount of alcohol or drugs in the blood of the accused at the time of the alleged offense as indicated by a chemical analysis of a sample of the suspect's blood or breath to determine the alcohol or drug content of his blood (i) in accordance with the provisions of §§ 46.2-341.26:1 through 46.2-341.26:11 or (ii) performed by the Department of Forensic Science in accordance with the provisions of §§ 46.2-341.26:5, 46.2-341.26:6, and 46.2-341.26:7 on the suspect's whole blood drawn pursuant to a search warrant shall give rise to the following rebuttable presumptions:

A. If there was at that time 0.08 percent or more by weight by volume of alcohol in the accused's blood or 0.08 grams or more per 210 liters of the accused's breath, it shall be presumed that the accused was under the influence of alcoholic intoxicants.

B. If there was at that time less than 0.08 percent by weight by volume of alcohol in the accused's blood or 0.08 grams or more per 210 liters of the accused's breath, such fact shall not give rise to any presumption that the accused was or was not under the influence of alcoholic intoxicants, but such fact may be considered with other competent evidence in determining the guilt or innocence of the accused.

C. If there was at that time an amount of the following substances at a level that is equal to or greater than: (a) 0.02 milligrams of cocaine per liter of blood, (b) 0.1 milligrams of methamphetamine per liter of blood, (c) 0.01 milligrams of phencyclidine per liter of blood, or (d) 0.1 milligrams of 3,4-methylenedioxyamphetamine per liter of blood, it shall be presumed that the accused was under the influence of drugs to a degree which impairs his ability to drive or operate any commercial motor vehicle safely.

**§ 46.2-391.2. Administrative suspension of license or privilege to operate a motor vehicle.**

A. If a breath test is taken pursuant to § 18.2-268.2 or any similar ordinance or § 46.2-341.26:2 and (i) the results show a blood alcohol content of 0.08 percent or more by weight by volume or 0.08 grams or more per 210 liters of breath, or (ii) the results, for persons under 21 years of age, show a blood alcohol concentration of 0.02 percent or more by weight by volume or 0.02 grams or more per 210 liters of breath or (iii) the person refuses to submit to the breath or blood test in violation of § 18.2-268.3 or any similar ordinance or § 46.2-341.26:3, and upon issuance of a petition or summons, or upon issuance of a warrant by the magistrate, for a violation of § 18.2-51.4, 18.2-266, or 18.2-266.1, or any similar ordinance, or § 46.2-341.24 or upon the issuance of a warrant or summons by the magistrate or by the arresting officer at a medical facility for a violation of § 18.2-268.3, or any similar ordinance, or § 46.2-341.26:3, the person's license shall be suspended immediately or in the case of (i) (a) an unlicensed person, (ii) (b) a person whose license is otherwise suspended or revoked, or (iii) (c) a person whose driver's license is from a jurisdiction other than the Commonwealth, such person's privilege to operate a motor vehicle in the Commonwealth shall be suspended immediately. The period of suspension of the person's license or privilege to drive shall be seven days, unless the petition, summons or warrant issued charges the person with a second or subsequent offense. If the person is charged with a second offense the suspension shall be for 60 days. If not already expired, the period of suspension shall expire on the day and time of trial of the offense charged on the petition, summons or warrant, except that it shall not so expire during the first seven days of the suspension. If the person is charged with a third or subsequent offense, the suspension shall be until the day and time of trial of the offense charged on the petition, summons or warrant.

A law-enforcement officer, acting on behalf of the Commonwealth, shall serve a notice of suspension personally on the arrested person. When notice is served, the arresting officer shall promptly take possession of any driver's license held by the person and issued by the Commonwealth and shall promptly deliver it to the magistrate. Any driver's license taken into possession under this section shall be forwarded promptly by the magistrate to the clerk of the general district court or, as appropriate, the court with jurisdiction over juveniles of the jurisdiction in which the arrest was made together with any petition, summons or warrant, the results of the breath test, if any, and the report required by subsection B. A copy of the notice of suspension shall be forwarded forthwith to both ~~(a)~~ (1) the general district court or, as appropriate, the court with jurisdiction over juveniles of the jurisdiction in which the arrest was made and ~~(b)~~ (2) the Commissioner. Transmission of this information may be made by electronic means.

The clerk shall promptly return the suspended license to the person at the expiration of the suspension. Whenever a suspended license is to be returned under this section or § 46.2-391.4, the person may elect to have the license returned in person at the clerk's office or by mail to the address on the person's license or to such other address as he may request.

B. Promptly after arrest and service of the notice of suspension, the arresting officer shall forward to the magistrate a sworn report of the arrest that shall include (i) information which adequately identifies the person arrested and (ii) a statement setting forth the arresting officer's grounds for belief that the person violated § 18.2-51.4, 18.2-266, or 18.2-266.1, or a similar ordinance, *or* § 46.2-341.24 or refused to submit to a breath or blood test in violation of § 18.2-268.3 or a similar ordinance *or* § 46.2-341.26:3. The report required by this subsection shall be submitted on forms supplied by the Supreme Court.

C. Any person whose license or privilege to operate a motor vehicle has been suspended under subsection A may, during the period of the suspension, request the general district court or, as appropriate, the court with jurisdiction over juveniles of the jurisdiction in which the arrest was made to review that suspension. The court shall review the suspension within the same time period as the court hears an appeal from an order denying bail or fixing terms of bail or terms of recognizance, giving this matter precedence over all other matters on its docket. If the person proves to the court by a preponderance of the evidence that the arresting officer did not have probable cause for the arrest, that the magistrate did not have probable cause to issue the warrant, or that there was not probable cause for issuance of the petition, the court shall rescind the suspension, or that portion of it that exceeds seven days if there was not probable cause to charge a second offense or 60 days if there was not probable cause to charge a third or subsequent offense, and the clerk of the court shall forthwith, or at the expiration of the reduced suspension time, (i) return the suspended license, if any, to the person unless the license has been otherwise suspended or revoked, (ii) deliver to the person a notice that the suspension under § 46.2-391.2 has been rescinded or reduced, and (iii) forward to the Commissioner a copy of the notice that the suspension under § 46.2-391.2 has been rescinded or reduced. Otherwise, the court shall affirm the suspension. If the person requesting the review fails to appear without just cause, his right to review shall be waived.

The court's findings are without prejudice to the person contesting the suspension or to any other potential party as to any proceedings, civil or criminal, and shall not be evidence in any proceedings, civil or criminal.

D. If a person whose license or privilege to operate a motor vehicle is suspended under subsection A is convicted under § 18.2-36.1, 18.2-51.4, 18.2-266, or 18.2-266.1, or any similar ordinance, *or* § 46.2-341.24 during the suspension imposed by subsection A, and if the court decides to issue the person a restricted permit under subsection E of § 18.2-271.1, such restricted permit shall not be issued to the person before the expiration of the first seven days of the suspension imposed under subsection A.

**§ 46.2-391.4. When suspension to be rescinded.**

Notwithstanding any other provision of § 46.2-391.2, a subsequent dismissal or acquittal of all the charges under §§ § 18.2-36.1, 18.2-51.4, 18.2-266, ~~and~~ *or* 18.2-268.3, or any similar ordinances, *or* § 46.2-341.24 *or* 46.2-341.26:3 for the same offense for which a person's driver's license or privilege to operate a motor vehicle was suspended under § 46.2-391.2 shall result in the immediate rescission of the suspension. In any such case, the clerk of the court shall forthwith (i) return the suspended license, if any, to the person unless the license has been otherwise suspended or revoked; (ii) deliver to the person a notice that the suspension under § 46.2-391.2 has been rescinded; and (iii) forward to the Commissioner a copy of the notice that the suspension under § 46.2-391.2 has been rescinded.

**§ 46.2-2099.49. Requirements for TNC partners; mandatory background screening; drug and alcohol policy; mandatory disclosures to TNC partners; duty of TNC partners to provide updated information to transportation network companies.**

A. Before authorizing an individual to act as a TNC partner, a transportation network company shall confirm that the person is at least 21 years old and possesses a valid driver's license.

B. 1. Before authorizing an individual to act as a TNC partner, and at least once every two years after authorizing an individual to act as a TNC partner, a transportation network company shall obtain a national criminal history records check of that person. The background check shall include (i) a Multi-State/Multi-Jurisdiction Criminal Records Database Search or a search of a similar nationwide database with validation (primary source search) and (ii) a search of the Sex Offender and Crimes Against Minors Registry and the U.S. Department of Justice's National Sex Offender Public Website. The person conducting the background check shall be accredited by the National Association of Professional Background Screeners or a comparable entity approved by the Department.

2. Before authorizing an individual to act as a TNC partner, and at least once annually after authorizing an individual to act as a TNC partner, a transportation network company shall obtain and review a driving history research report on that person from the individual's state of licensure.

3. Before authorizing an individual to act as a TNC partner, and at least once every two years after authorizing a person to act as a TNC partner, a transportation network company shall verify that the person is not listed on the Sex Offender and Crimes Against Minors Registry or on the U.S. Department of Justice's National Sex Offender Public Website.

C. A transportation network company shall not authorize an individual to act as a TNC partner if the criminal history records check required under subsection B reveals that the individual:

1. Is a person for whom registration with the Sex Offender and Crimes Against Minors Registry is required pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1 or is listed on the U.S. Department of Justice's National Sex Offender Public Website;

2. Has ever been convicted of or has ever pled guilty or nolo contendere to a violent felony offense as listed in subsection C of § 17.1-805, or a substantially similar law of another state or of the United States;

3. Within the preceding seven years has been convicted of or has pled guilty or nolo contendere to any of the following offenses, either under Virginia law or a substantially similar law of another state or of the United States: (i) any felony offense other than those included in subdivision 2; (ii) an offense under § 18.2-266, 18.2-266.1, 18.2-272, or 46.2-341.24; or (iii) any offense resulting in revocation of a driver's license pursuant to § 46.2-389 or 46.2-391; or

4. Within the preceding three years has been convicted of or has pled guilty or nolo contendere to any of the following offenses, either under Virginia law or a substantially similar law of another state or of the United States: (i) three or more moving violations; (ii) eluding a law-enforcement officer, as described in § 46.2-817; (iii) reckless driving, as described in Article 7 (§ 46.2-852 et seq.) of Chapter 8; (iv) operating a motor vehicle in violation of § 46.2-301; or (v) refusing to submit to a chemical test to determine the alcohol or drug content of the person's blood or breath, as described in § 18.2-268.3 or 46.2-341.26:3.

D. A transportation network company shall employ a zero-tolerance policy with respect to the use of drugs and alcohol by TNC partners and shall include a notice concerning the policy on its website and associated digital platform.

E. A transportation network company shall make the following disclosures in writing to a TNC partner or prospective TNC partner:

1. The transportation network company shall disclose the liability insurance coverage and limits of liability that the transportation network company provides while the TNC partner uses a vehicle in connection with the transportation network company's digital platform.

2. The transportation network company shall disclose any physical damage coverage provided by the transportation network company for damage to the vehicle used by the TNC partner in connection with the transportation network company's digital platform.

3. The transportation network company shall disclose the uninsured motorist and underinsured motorist coverage and policy limits provided by the transportation network company while the TNC partner uses a vehicle in connection with the transportation network company's digital platform and advise the TNC partner that the TNC partner's personal automobile insurance policy may not provide uninsured motorist and underinsured motorist coverage when the TNC partner uses a vehicle in connection with a transportation network company's digital platform.

4. The transportation network company shall include the following disclosure prominently in writing to a TNC partner or prospective TNC partner: "If the vehicle that you plan to use to transport passengers for our transportation network company has a lien against it, you must notify the lienholder that you will be using the vehicle for transportation services that may violate the terms of your contract with the lienholder."

F. A TNC partner shall inform each transportation network company that has authorized him to act as a TNC partner of any event that may disqualify him from continuing to act as a TNC partner, including any of the following: a change in the registration status of the TNC partner vehicle; the revocation, suspension, cancellation, or restriction of the TNC partner's driver's license; a change in the insurance coverage of the TNC partner vehicle; a motor vehicle moving violation; and a criminal arrest, plea, or conviction.

**2. That an emergency exists and this act is in force from its passage.**

**CHAPTER 624**

*An Act to amend and reenact §§ 18.2-46.4 and 18.2-46.5 of the Code of Virginia, relating to providing support to terrorist organizations; penalty.*

[H 2410]

Approved March 16, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 18.2-46.4 and 18.2-46.5 of the Code of Virginia are amended and reenacted as follows:**

**§ 18.2-46.4. Definitions.**

As used in this article, unless the context requires otherwise or it is otherwise provided:

"Act of terrorism" means an act of violence as defined in clause (i) of subdivision A of § 19.2-297.1 *or an act that would be an act of violence if committed within the Commonwealth* committed *within or outside the Commonwealth* with the intent to (i) intimidate ~~the~~ a civilian population at large; or (ii) influence the conduct or activities of ~~the~~ a government, *including the government* of the United States, a state, or locality, through intimidation.

"Base offense" means an act of violence as defined in clause (i) of subdivision A of § 19.2-297.1 committed with the intent required to commit an act of terrorism.

"Weapon of terrorism" means any device or material that is designed, intended or used to cause death, bodily injury or serious bodily harm, through the release, dissemination, or impact of (i) poisonous chemicals; (ii) an infectious biological substance; or (iii) release of radiation or radioactivity.

**§ 18.2-46.5. Committing, conspiring and aiding and abetting acts of terrorism prohibited; penalty.**

A. Any person who commits or conspires to commit, or aids and abets the commission of an act of terrorism, as defined in § 18.2-46.4, is guilty of a Class 2 felony if the base offense of such act of terrorism may be punished by life imprisonment, or a term of imprisonment of not less than twenty years.

B. Any person who commits, conspires to commit, or aids and abets the commission of an act of terrorism, as defined in § 18.2-46.4, is guilty of a Class 3 felony if the maximum penalty for the base offense of such act of terrorism is a term of imprisonment or incarceration in jail of less than twenty years.

C. Any person who solicits, invites, recruits, encourages, or otherwise causes or attempts to cause another to participate in an act or acts of terrorism, as defined in § 18.2-46.4, is guilty of a Class 4 felony.

D. *Any person who knowingly provides any material support (i) to an individual or organization, whose primary objective is to commit an act of terrorism and (ii) does so with the intent to further such individual's or organization's objective is guilty of a Class 3 felony. If the death of any person results from providing any material support, then the person who provided such material support is guilty of a Class 2 felony.*

**2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 780 of the Acts of Assembly of 2016 requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.**

## CHAPTER 625

*An Act to amend and reenact § 2.2-4343 of the Code of Virginia, relating to procurement; exemption for Virginia Industries for the Blind.*

[H 2096]

Approved March 17, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 2.2-4343 of the Code of Virginia is amended and reenacted as follows:**

**§ 2.2-4343. Exemption from operation of chapter for certain transactions.**

A. The provisions of this chapter shall not apply to:

1. The Virginia Port Authority in the exercise of any of its powers in accordance with Chapter 10 (§ 62.1-128 et seq.) of Title 62.1, provided the Authority implements, by policy or regulation adopted by the Board of Commissioners, procedures to ensure fairness and competitiveness in the procurement of goods and services and in the administration of its capital outlay program. This exemption shall be applicable only so long as such policies and procedures meeting the requirements remain in effect.

2. The Virginia Retirement System for selection of services related to the management, purchase or sale of authorized investments, actuarial services, and disability determination services. Selection of these services shall be governed by the standard set forth in § 51.1-124.30.

3. The State Treasurer in the selection of investment management services related to the external management of funds shall be governed by the standard set forth in § 2.2-4514, and shall be subject to competitive guidelines and policies that are set by the Commonwealth Treasury Board and approved by the Department of General Services.

4. The Department of Social Services or local departments of social services for the acquisition of motor vehicles for sale or transfer to Temporary Assistance to Needy Families (TANF) recipients.

5. The College of William and Mary in Virginia, Virginia Commonwealth University, the University of Virginia, and Virginia Polytechnic Institute and State University in the selection of services related to the management and investment of their endowment funds, endowment income, gifts, all other nongeneral fund reserves and balances, or local funds of or held by the College or Universities pursuant to § 23.1-2210, 23.1-2306, 23.1-2604, or 23.1-2803. However, selection of these services shall be governed by the Uniform Prudent Management of Institutional Funds Act (§ 64.2-1100 et seq.) as required by §§ 23.1-2210, 23.1-2306, 23.1-2604, and 23.1-2803.

6. The Board of the Virginia College Savings Plan for the selection of services related to the operation and administration of the Plan, including, but not limited to, contracts or agreements for the management, purchase, or sale of

authorized investments or actuarial, record keeping, or consulting services. However, such selection shall be governed by the standard set forth in § 23.1-706.

7. Public institutions of higher education for the purchase of items for resale at retail bookstores and similar retail outlets operated by such institutions. However, such purchase procedures shall provide for competition where practicable.

8. The purchase of goods and services by agencies of the legislative branch that may be specifically exempted therefrom by the Chairman of the Committee on Rules of either the House of Delegates or the Senate. Nor shall the contract review provisions of § 2.2-2012 apply to such procurements. The exemption shall be in writing and kept on file with the agency's disbursement records.

9. Any town with a population of less than 3,500, except as stipulated in the provisions of §§ 2.2-4305, 2.2-4308, 2.2-4311, 2.2-4315, 2.2-4330, 2.2-4333 through 2.2-4338, 2.2-4343.1, and 2.2-4367 through 2.2-4377.

10. Any county, city or town whose governing body has adopted, by ordinance or resolution, alternative policies and procedures which are (i) based on competitive principles and (ii) generally applicable to procurement of goods and services by such governing body and its agencies, except as stipulated in subdivision 12.

This exemption shall be applicable only so long as such policies and procedures, or other policies and procedures meeting the requirements of § 2.2-4300, remain in effect in such county, city or town. Such policies and standards may provide for incentive contracting that offers a contractor whose bid is accepted the opportunity to share in any cost savings realized by the locality when project costs are reduced by such contractor, without affecting project quality, during construction of the project. The fee, if any, charged by the project engineer or architect for determining such cost savings shall be paid as a separate cost and shall not be calculated as part of any cost savings.

11. Any school division whose school board has adopted, by policy or regulation, alternative policies and procedures that are (i) based on competitive principles and (ii) generally applicable to procurement of goods and services by the school board, except as stipulated in subdivision 12.

This exemption shall be applicable only so long as such policies and procedures, or other policies or procedures meeting the requirements of § 2.2-4300, remain in effect in such school division. This provision shall not exempt any school division from any centralized purchasing ordinance duly adopted by a local governing body.

12. Notwithstanding the exemptions set forth in subdivisions 9 through 11, the provisions of subsections C and D of § 2.2-4303, and §§ 2.2-4305, 2.2-4308, 2.2-4311, 2.2-4315, 2.2-4317, 2.2-4330, 2.2-4333 through 2.2-4338, 2.2-4343.1, and 2.2-4367 through 2.2-4377 shall apply to all counties, cities and school divisions, and to all towns having a population greater than 3,500 in the Commonwealth.

The method for procurement of professional services through competitive negotiation set forth in §§ 2.2-4303.1 and 2.2-4303.2 shall also apply to all counties, cities and school divisions, and to all towns having a population greater than 3,500, where the cost of the professional service is expected to exceed \$60,000 in the aggregate or for the sum of all phases of a contract or project. A school board that makes purchases through its public school foundation or purchases educational technology through its educational technology foundation, either as may be established pursuant to § 22.1-212.2:2 shall be exempt from the provisions of this chapter, except, relative to such purchases, the school board shall comply with the provisions of §§ 2.2-4311 and 2.2-4367 through 2.2-4377.

13. A public body that is also a utility operator may purchase services through or participate in contracts awarded by one or more utility operators that are not public bodies for utility marking services as required by the Underground Utility Damage Prevention Act (§ 56-265.14 et seq.). A purchase of services under this subdivision may deviate from the procurement procedures set forth in this chapter upon a determination made in advance by the public body and set forth in writing that competitive sealed bidding is either not practicable or not fiscally advantageous to the public, and the contract is awarded based on competitive principles.

14. Procurement of any construction or planning and design services for construction by a Virginia nonprofit corporation or organization not otherwise specifically exempted when (i) the planning, design or construction is funded by state appropriations of \$10,000 or less or (ii) the Virginia nonprofit corporation or organization is obligated to conform to procurement procedures that are established by federal statutes or regulations, whether those federal procedures are in conformance with the provisions of this chapter.

15. Purchases, exchanges, gifts or sales by the Citizens' Advisory Council on Furnishing and Interpreting the Executive Mansion.

16. The Eastern Virginia Medical School in the selection of services related to the management and investment of its endowment and other institutional funds. The selection of these services shall, however, be governed by the Uniform Prudent Management of Institutional Funds Act (§ 64.2-1100 et seq.).

17. The Department of Corrections in the selection of pre-release and post-incarceration services.

18. The University of Virginia Medical Center to the extent provided by subdivision A 3 of § 23.1-2213.

19. The purchase of goods and services by a local governing body or any authority, board, department, instrumentality, institution, agency or other unit of state government when such purchases are made under a remedial plan established by the Governor pursuant to subsection C of § 2.2-4310 or by a chief administrative officer of a county, city or town pursuant to § 15.2-965.1.

20. The contract by community services boards or behavioral health authorities with an administrator or management body pursuant to a joint agreement authorized by § 37.2-512 or 37.2-615.

21. [Expired].

22. The purchase of Virginia-grown food products for use by a public body where the annual cost of the product is not expected to exceed \$100,000.

23. *The Virginia Industries for the Blind when procuring components, materials, supplies, or services for use in commodities and services furnished to the federal government in connection with its operation as an AbilityOne Program-qualified nonprofit agency for the blind under the Javits-Wagner-O'Day Act, 41 U.S.C. §§ 8501-8506, provided that the procurement is accomplished using procedures that ensure that funds are used as efficiently as practicable. Such procedures shall require documentation of the basis for awarding contracts. Notwithstanding the provisions of § 2.2-1117, no public body shall be required to purchase such components, materials, supplies, services, or commodities.*

B. Where a procurement transaction involves the expenditure of federal assistance or contract funds, the receipt of which is conditioned upon compliance with mandatory requirements in federal laws or regulations not in conformance with the provisions of this chapter, a public body may comply with such federal requirements, notwithstanding the provisions of this chapter, only upon the written determination of the Governor, in the case of state agencies, or the governing body, in the case of political subdivisions, that acceptance of the grant or contract funds under the applicable conditions is in the public interest. Such determination shall state the specific provision of this chapter in conflict with the conditions of the grant or contract.

### CHAPTER 626

*An Act to amend and reenact § 22.1-253.13:2 of the Code of Virginia, relating to public schools; reading specialist; dyslexia advisor.*

[H 2395]

Approved March 20, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 22.1-253.13:2 of the Code of Virginia is amended and reenacted as follows:**

**§ 22.1-253.13:2. Standard 2. Instructional, administrative, and support personnel.**

A. The Board shall establish requirements for the licensing of teachers, principals, superintendents, and other professional personnel.

B. School boards shall employ licensed instructional personnel qualified in the relevant subject areas.

C. Each school board shall assign licensed instructional personnel in a manner that produces divisionwide ratios of students in average daily membership to full-time equivalent teaching positions, excluding special education teachers, principals, assistant principals, counselors, and librarians, that are not greater than the following ratios: (i) 24 to one in kindergarten with no class being larger than 29 students; if the average daily membership in any kindergarten class exceeds 24 pupils, a full-time teacher's aide shall be assigned to the class; (ii) 24 to one in grades one, two, and three with no class being larger than 30 students; (iii) 25 to one in grades four through six with no class being larger than 35 students; and (iv) 24 to one in English classes in grades six through 12. After September 30 of any school year, anytime the number of students in a class exceeds the class size limit established by this subsection, the local school division shall notify the parent of each student in such class of such fact no later than 10 days after the date on which the class exceeded the class size limit. Such notification shall state the reason that the class size exceeds the class size limit and describe the measures that the local school division will take to reduce the class size to comply with this subsection.

Within its regulations governing special education programs, the Board shall seek to set pupil/teacher ratios for pupils with intellectual disability that do not exceed the pupil/teacher ratios for self-contained classes for pupils with specific learning disabilities.

Further, school boards shall assign instructional personnel in a manner that produces schoolwide ratios of students in average daily memberships to full-time equivalent teaching positions of 21 to one in middle schools and high schools. School divisions shall provide all middle and high school teachers with one planning period per day or the equivalent, unencumbered of any teaching or supervisory duties.

D. Each local school board shall employ with state and local basic, special education, gifted, and career and technical education funds a minimum number of licensed, full-time equivalent instructional personnel for each 1,000 students in average daily membership (ADM) as set forth in the appropriation act. Calculations of kindergarten positions shall be based on full-day kindergarten programs. Beginning with the March 31 report of average daily membership, those school divisions offering half-day kindergarten with pupil/teacher ratios that exceed 30 to one shall adjust their average daily membership for kindergarten to reflect 85 percent of the total kindergarten average daily memberships, as provided in the appropriation act.

E. In addition to the positions supported by basic aid and in support of regular school year programs of prevention, intervention, and remediation, state funding, pursuant to the appropriation act, shall be provided to fund certain full-time equivalent instructional positions for each 1,000 students in grades K through 12 who are identified as needing prevention, intervention, and remediation services. State funding for prevention, intervention, and remediation programs provided pursuant to this subsection and the appropriation act may be used to support programs for educationally at-risk students as identified by the local school boards.

To provide algebra readiness intervention services required by § 22.1-253.13:1, school divisions may employ mathematics teacher specialists to provide the required algebra readiness intervention services. School divisions using the

Standards of Learning Algebra Readiness Initiative funding in this manner shall only employ instructional personnel licensed by the Board of Education.

F. In addition to the positions supported by basic aid and those in support of regular school year programs of prevention, intervention, and remediation, state funding, pursuant to the appropriation act, shall be provided to support 17 full-time equivalent instructional positions for each 1,000 students identified as having limited English proficiency.

To provide flexibility in the instruction of English language learners who have limited English proficiency and who are at risk of not meeting state accountability standards, school divisions may use state and local funds from the Standards of Quality Prevention, Intervention, and Remediation account to employ additional English language learner teachers to provide instruction to identified limited English proficiency students. Using these funds in this manner is intended to supplement the instructional services provided in this section. School divisions using the SOQ Prevention, Intervention, and Remediation funds in this manner shall employ only instructional personnel licensed by the Board of Education.

G. In addition to the full-time equivalent positions required elsewhere in this section, each local school board shall employ the following reading specialists in elementary schools, one full-time in each elementary school at the discretion of the local school board. *One reading specialist employed by each local school board that employs a reading specialist shall have training in the identification of and the appropriate interventions, accommodations, and teaching techniques for students with dyslexia or a related disorder and shall serve as an advisor on dyslexia and related disorders. Such reading specialist shall have an understanding of the definition of dyslexia and a working knowledge of (i) techniques to help a student on the continuum of skills with dyslexia; (ii) dyslexia characteristics that may manifest at different ages and grade levels; (iii) the basic foundation of the keys to reading, including multisensory, explicit, systemic, and structured reading instruction; and (iv) appropriate interventions, accommodations, and assistive technology supports for students with dyslexia.*

To provide reading intervention services required by § 22.1-253.13:1, school divisions may employ reading specialists to provide the required reading intervention services. School divisions using the Early Reading Intervention Initiative funds in this manner shall employ only instructional personnel licensed by the Board of Education.

H. Each local school board shall employ, at a minimum, the following full-time equivalent positions for any school that reports fall membership, according to the type of school and student enrollment:

1. Principals in elementary schools, one half-time to 299 students, one full-time at 300 students; principals in middle schools, one full-time, to be employed on a 12-month basis; principals in high schools, one full-time, to be employed on a 12-month basis;

2. Assistant principals in elementary schools, one half-time at 600 students, one full-time at 900 students; assistant principals in middle schools, one full-time for each 600 students; assistant principals in high schools, one full-time for each 600 students; and school divisions that employ a sufficient number of assistant principals to meet this staffing requirement may assign assistant principals to schools within the division according to the area of greatest need, regardless of whether such schools are elementary, middle, or secondary;

3. Librarians in elementary schools, one part-time to 299 students, one full-time at 300 students; librarians in middle schools, one-half time to 299 students, one full-time at 300 students, two full-time at 1,000 students; librarians in high schools, one half-time to 299 students, one full-time at 300 students, two full-time at 1,000 students. Local school divisions that employ a sufficient number of librarians to meet this staffing requirement may assign librarians to schools within the division according to the area of greatest need, regardless of whether such schools are elementary, middle, or secondary; and

4. Guidance counselors in elementary schools, one hour per day per 100 students, one full-time at 500 students, one hour per day additional time per 100 students or major fraction thereof; guidance counselors in middle schools, one period per 80 students, one full-time at 400 students, one additional period per 80 students or major fraction thereof; guidance counselors in high schools, one period per 70 students, one full-time at 350 students, one additional period per 70 students or major fraction thereof. Local school divisions that employ a sufficient number of guidance counselors to meet this staffing requirement may assign guidance counselors to schools within the division according to the area of greatest need, regardless of whether such schools are elementary, middle, or secondary.

I. Local school boards shall employ five full-time equivalent positions per 1,000 students in grades kindergarten through five to serve as elementary resource teachers in art, music, and physical education.

J. Local school boards shall employ two full-time equivalent positions per 1,000 students in grades kindergarten through 12, one to provide technology support and one to serve as an instructional technology resource teacher.

To provide flexibility, school divisions may use the state and local funds for instructional technology resource teachers to employ a data coordinator position, an instructional technology resource teacher position, or a data coordinator/instructional resource teacher blended position. The data coordinator position is intended to serve as a resource to principals and classroom teachers in the area of data analysis and interpretation for instructional and school improvement purposes, as well as for overall data management and administration of state assessments. School divisions using these funds in this manner shall employ only instructional personnel licensed by the Board of Education.

K. Local school boards may employ additional positions that exceed these minimal staffing requirements. These additional positions may include, but are not limited to, those funded through the state's incentive and categorical programs as set forth in the appropriation act.

L. A combined school, such as kindergarten through 12, shall meet at all grade levels the staffing requirements for the highest grade level in that school; this requirement shall apply to all staff, except for guidance counselors, and shall be based

on the school's total enrollment; guidance counselor staff requirements shall, however, be based on the enrollment at the various school organization levels, i.e., elementary, middle, or high school. The Board of Education may grant waivers from these staffing levels upon request from local school boards seeking to implement experimental or innovative programs that are not consistent with these staffing levels.

M. School boards shall, however, annually, on or before January 1, report to the public the actual pupil/teacher ratios in elementary school classrooms by school for the current school year. Such actual ratios shall include only the teachers who teach the grade and class on a full-time basis and shall exclude resource personnel. School boards shall report pupil/teacher ratios that include resource teachers in the same annual report. Any classes funded through the voluntary kindergarten through third grade class size reduction program shall be identified as such classes. Any classes having waivers to exceed the requirements of this subsection shall also be identified. Schools shall be identified; however, the data shall be compiled in a manner to ensure the confidentiality of all teacher and pupil identities.

N. Students enrolled in a public school on a less than full-time basis shall be counted in ADM in the relevant school division. Students who are either (i) enrolled in a nonpublic school or (ii) receiving home instruction pursuant to § 22.1-254.1, and who are enrolled in public school on a less than full-time basis in any mathematics, science, English, history, social science, career and technical education, fine arts, foreign language, or health education or physical education course shall be counted in the ADM in the relevant school division on a pro rata basis as provided in the appropriation act. Each such course enrollment by such students shall be counted as 0.25 in the ADM; however, no such nonpublic or home school student shall be counted as more than one-half a student for purposes of such pro rata calculation. Such calculation shall not include enrollments of such students in any other public school courses.

O. Each local school board shall provide those support services that are necessary for the efficient and cost-effective operation and maintenance of its public schools.

For the purposes of this title, unless the context otherwise requires, "support services positions" shall include the following:

1. Executive policy and leadership positions, including school board members, superintendents and assistant superintendents;
2. Fiscal and human resources positions, including fiscal and audit operations;
3. Student support positions, including (i) social workers and social work administrative positions; (ii) guidance administrative positions not included in subdivision H 4; (iii) homebound administrative positions supporting instruction; (iv) attendance support positions related to truancy and dropout prevention; and (v) health and behavioral positions, including school nurses and school psychologists;
4. Instructional personnel support, including professional development positions and library and media positions not included in subdivision H 3;
5. Technology professional positions not included in subsection J;
6. Operation and maintenance positions, including facilities; pupil transportation positions; operation and maintenance professional and service positions; and security service, trade, and laborer positions;
7. Technical and clerical positions for fiscal and human resources, student support, instructional personnel support, operation and maintenance, administration, and technology; and
8. School-based clerical personnel in elementary schools; part-time to 299 students, one full-time at 300 students; clerical personnel in middle schools; one full-time and one additional full-time for each 600 students beyond 200 students and one full-time for the library at 750 students; clerical personnel in high schools; one full-time and one additional full-time for each 600 students beyond 200 students and one full-time for the library at 750 students. Local school divisions that employ a sufficient number of school-based clerical personnel to meet this staffing requirement may assign the clerical personnel to schools within the division according to the area of greatest need, regardless of whether such schools are elementary, middle, or secondary.

Pursuant to the appropriation act, support services shall be funded from basic school aid.

School divisions may use the state and local funds for support services to provide additional instructional services.

P. Notwithstanding the provisions of this section, when determining the assignment of instructional and other licensed personnel in subsections C through J, a local school board shall not be required to include full-time students of approved virtual school programs.

## CHAPTER 627

*An Act to amend and reenact § 9.1-400, as it is currently effective and as it shall become effective, of the Code of Virginia, relating to Line of Duty Act; firefighter trainees.*

[S 1118]

Approved March 20, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 9.1-400, as it is currently effective and as it shall become effective, of the Code of Virginia is amended and reenacted as follows:**

**§ 9.1-400. (Effective until July 1, 2017) Title of chapter; definitions.**

A. This chapter shall be known and designated as the Line of Duty Act.

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

"Beneficiary" means the spouse of a deceased person and such persons as are entitled to take under the will of a deceased person if testate, or as his heirs at law if intestate.

"Deceased person" means any individual whose death occurs on or after April 8, 1972, as the direct or proximate result of the performance of his duty, including the presumptions under §§ 27-40.1, 27-40.2, 51.1-813, and 65.2-402, as a law-enforcement officer of the Commonwealth or any of its political subdivisions; a correctional officer as defined in § 53.1-1; a jail officer; a regional jail or jail farm superintendent; a sheriff, deputy sheriff, or city sergeant or deputy city sergeant of the City of Richmond; a police chaplain; a member of any fire company or department or emergency medical services agency that has been recognized by an ordinance or a resolution of the governing body of any county, city, or town of the Commonwealth as an integral part of the official safety program of such county, city, or town, *including a person with a recognized membership status with such fire company or department who is enrolled in a Fire Service Training course offered by the Virginia Department of Fire Programs or any fire company or department training required in pursuit of qualification to become a certified firefighter*; a member of any fire company providing fire protection services for facilities of the Virginia National Guard; a member of the Virginia National Guard or the Virginia Defense Force while such member is serving in the Virginia National Guard or the Virginia Defense Force on official state duty or federal duty under Title 32 of the United States Code; any special agent of the Virginia Alcoholic Beverage Control Board; any regular or special conservation police officer who receives compensation from a county, city, or town or from the Commonwealth appointed pursuant to the provisions of § 29.1-200; any commissioned forest warden appointed under the provisions of § 10.1-1135; any member or employee of the Virginia Marine Resources Commission granted the power of arrest pursuant to § 28.2-900; any Department of Emergency Management hazardous materials officer; any other employee of the Department of Emergency Management who is performing official duties of the agency, when those duties are related to a major disaster or emergency, as defined in § 44-146.16, that has been or is later declared to exist under the authority of the Governor in accordance with § 44-146.28; any employee of any county, city, or town performing official emergency management or emergency services duties in cooperation with the Department of Emergency Management, when those duties are related to a major disaster or emergency, as defined in § 44-146.16, that has been or is later declared to exist under the authority of the Governor in accordance with § 44-146.28 or a local emergency, as defined in § 44-146.16, declared by a local governing body; any nonfirefighter regional hazardous materials emergency response team member; any conservation officer of the Department of Conservation and Recreation commissioned pursuant to § 10.1-115; or any full-time sworn member of the enforcement division of the Department of Motor Vehicles appointed pursuant to § 46.2-217.

"Disabled person" means any individual who, as the direct or proximate result of the performance of his duty in any position listed in the definition of deceased person in this section, has become mentally or physically incapacitated so as to prevent the further performance of duty where such incapacity is likely to be permanent. The term shall also include any state employee included in the definition of a deceased person who was disabled on or after January 1, 1966.

"Line of duty" means any action the deceased or disabled person was obligated or authorized to perform by rule, regulation, condition of employment or service, or law.

**§ 9.1-400. (Effective July 1, 2017) Title of chapter; definitions.**

A. This chapter shall be known and designated as the Line of Duty Act.

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

"Beneficiary" means the spouse of a deceased person and such persons as are entitled to take under the will of a deceased person if testate, or as his heirs at law if intestate.

(Effective until July 1, 2018) "Deceased person" means any individual whose death occurs on or after April 8, 1972, in the line of duty as the direct or proximate result of the performance of his duty, including the presumptions under §§ 27-40.1, 27-40.2, 51.1-813, 65.2-402, and 65.2-402.1 if his position is covered by the applicable statute, as a law-enforcement officer of the Commonwealth or any of its political subdivisions; a correctional officer as defined in § 53.1-1; a jail officer; a regional jail or jail farm superintendent; a sheriff, deputy sheriff, or city sergeant or deputy city sergeant of the City of Richmond; a police chaplain; a member of any fire company or department or emergency medical services agency that has been recognized by an ordinance or a resolution of the governing body of any county, city, or town of the Commonwealth as an integral part of the official safety program of such county, city, or town, *including a person with a recognized membership status with such fire company or department who is enrolled in a Fire Service Training course offered by the Virginia Department of Fire Programs or any fire company or department training required in pursuit of qualification to become a certified firefighter*; a member of any fire company providing fire protection services for facilities of the Virginia National Guard; a member of the Virginia National Guard or the Virginia Defense Force while such member is serving in the Virginia National Guard or the Virginia Defense Force on official state duty or federal duty under Title 32 of the United States Code; any special agent of the Virginia Alcoholic Beverage Control Board; any regular or special conservation police officer who receives compensation from a county, city, or town or from the Commonwealth appointed pursuant to the provisions of § 29.1-200; any commissioned forest warden appointed under the provisions of § 10.1-1135; any member or employee of the Virginia Marine Resources Commission granted the power of arrest pursuant to § 28.2-900; any Department of Emergency Management hazardous materials officer; any other employee of the Department of Emergency Management who is performing official duties of the agency, when those duties are related to a major disaster or emergency, as defined in § 44-146.16, that has been or is later declared to exist under the authority of the Governor in

accordance with § 44-146.28; any employee of any county, city, or town performing official emergency management or emergency services duties in cooperation with the Department of Emergency Management, when those duties are related to a major disaster or emergency, as defined in § 44-146.16, that has been or is later declared to exist under the authority of the Governor in accordance with § 44-146.28 or a local emergency, as defined in § 44-146.16, declared by a local governing body; any nonfirefighter regional hazardous materials emergency response team member; any conservation officer of the Department of Conservation and Recreation commissioned pursuant to § 10.1-115; or any full-time sworn member of the enforcement division of the Department of Motor Vehicles appointed pursuant to § 46.2-217.

(Effective July 1, 2018) "Deceased person" means any individual whose death occurs on or after April 8, 1972, in the line of duty as the direct or proximate result of the performance of his duty, including the presumptions under §§ 27-40.1, 27-40.2, 51.1-813, 65.2-402, and 65.2-402.1 if his position is covered by the applicable statute, as a law-enforcement officer of the Commonwealth or any of its political subdivisions; a correctional officer as defined in § 53.1-1; a jail officer; a regional jail or jail farm superintendent; a sheriff, deputy sheriff, or city sergeant or deputy city sergeant of the City of Richmond; a police chaplain; a member of any fire company or department or emergency medical services agency that has been recognized by an ordinance or a resolution of the governing body of any county, city, or town of the Commonwealth as an integral part of the official safety program of such county, city, or town, *including a person with a recognized membership status with such fire company or department who is enrolled in a Fire Service Training course offered by the Virginia Department of Fire Programs or any fire company or department training required in pursuit of qualification to become a certified firefighter*; a member of any fire company providing fire protection services for facilities of the Virginia National Guard; a member of the Virginia National Guard or the Virginia Defense Force while such member is serving in the Virginia National Guard or the Virginia Defense Force on official state duty or federal duty under Title 32 of the United States Code; any special agent of the Virginia Alcoholic Beverage Control Authority; any regular or special conservation police officer who receives compensation from a county, city, or town or from the Commonwealth appointed pursuant to the provisions of § 29.1-200; any commissioned forest warden appointed under the provisions of § 10.1-1135; any member or employee of the Virginia Marine Resources Commission granted the power of arrest pursuant to § 28.2-900; any Department of Emergency Management hazardous materials officer; any other employee of the Department of Emergency Management who is performing official duties of the agency, when those duties are related to a major disaster or emergency, as defined in § 44-146.16, that has been or is later declared to exist under the authority of the Governor in accordance with § 44-146.28; any employee of any county, city, or town performing official emergency management or emergency services duties in cooperation with the Department of Emergency Management, when those duties are related to a major disaster or emergency, as defined in § 44-146.16, that has been or is later declared to exist under the authority of the Governor in accordance with § 44-146.28 or a local emergency, as defined in § 44-146.16, declared by a local governing body; any nonfirefighter regional hazardous materials emergency response team member; any conservation officer of the Department of Conservation and Recreation commissioned pursuant to § 10.1-115; or any full-time sworn member of the enforcement division of the Department of Motor Vehicles appointed pursuant to § 46.2-217.

"Disabled person" means any individual who has been determined to be mentally or physically incapacitated so as to prevent the further performance of his duties at the time of his disability where such incapacity is likely to be permanent, and whose incapacity occurs in the line of duty as the direct or proximate result of the performance of his duty, including the presumptions under §§ 27-40.1, 27-40.2, 51.1-813, 65.2-402, and 65.2-402.1 if his position is covered by the applicable statute, in any position listed in the definition of deceased person in this section. "Disabled person" does not include any individual who has been determined to be no longer disabled pursuant to subdivision A 2 of § 9.1-404. Disabled person also does not include any individual during any period in which his health insurance coverage in the LODA Health Benefits Plan is suspended pursuant to subdivision C 4 of § 9.1-401. "Disabled person" includes any state employee included in the definition of a deceased person who was disabled on or after January 1, 1966.

"Eligible dependent" for purposes of continued health insurance pursuant to § 9.1-401 means the natural or adopted child or children of a deceased person or disabled person or of a deceased or disabled person's eligible spouse, including any children born as the result of a pregnancy or adopted pursuant to a preadoptive agreement, either of which occurred prior to the time of the employee's death or disability. Eligibility will continue until the end of the year in which the eligible dependent reaches age 26 or when the eligible dependent ceases to be eligible based on the Virginia Administrative Code or administrative guidance as determined by the Department of Human Resource Management.

"Eligible spouse" for purposes of continued health insurance pursuant to § 9.1-401 means the spouse of a deceased person or a disabled person at the time of the death or disability. Eligibility will continue until the eligible spouse dies, ceases to be married to a disabled person, or in the case of the spouse of a deceased person, dies, remarries, or otherwise ceases to be eligible based on the Virginia Administrative Code or administrative guidance as determined by the Department of Human Resource Management.

"Employee" means any person who would be covered or whose spouse, dependents, or beneficiaries would be covered under the benefits of this chapter if the person became a disabled person or a deceased person.

"Employer" means (i) the employer of a person who is a covered employee or (ii) in the case of a volunteer who is a member of any fire company or department or rescue squad described in the definition of "deceased person," the county, city, or town that by ordinance or resolution recognized such fire company or department or rescue squad as an integral part of the official safety program of such locality.

"Fund" means the Line of Duty Death and Health Benefits Trust Fund established pursuant to § 9.1-400.1.

"Line of duty" means any action the deceased or disabled person was obligated or authorized to perform by rule, regulation, condition of employment or service, or law.

"LODA Health Benefits Plans" means the separate health benefits plans established pursuant to § 9.1-401.

"Nonparticipating employer" means any employer that is a political subdivision of the Commonwealth that elected on or before July 1, 2012, to directly fund the cost of benefits provided under this chapter and not participate in the Fund.

"Participating employer" means any employer that is a state agency or is a political subdivision of the Commonwealth that did not make an election to become a nonparticipating employer.

"VRS" means the Virginia Retirement System.

## CHAPTER 628

*An Act to amend the Code of Virginia by adding a section numbered 22.1-135.1, relating to local school boards; school buildings; potable water; lead testing.*

[S 1359]

Approved March 20, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding a section numbered 22.1-135.1 as follows:**

**§ 22.1-135.1. Potable water; lead testing.**

*Each local school board shall develop and implement a plan to test and, if necessary, remediate potable water from sources identified by the U.S. Environmental Protection Agency as high priority for testing, including bubbler-style and cooler-style drinking fountains, cafeteria or kitchen taps, classroom combination sinks and drinking fountains, and sinks known to be or visibly used for consumption. The local school board shall give priority in the testing plan to schools whose school building was constructed, in whole or in part, before 1986.*

## CHAPTER 629

*An Act to amend and reenact § 22.1-253.13:2 of the Code of Virginia, relating to public schools; reading specialist; dyslexia advisor.*

[S 1516]

Approved March 20, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 22.1-253.13:2 of the Code of Virginia is amended and reenacted as follows:**

**§ 22.1-253.13:2. Standard 2. Instructional, administrative, and support personnel.**

A. The Board shall establish requirements for the licensing of teachers, principals, superintendents, and other professional personnel.

B. School boards shall employ licensed instructional personnel qualified in the relevant subject areas.

C. Each school board shall assign licensed instructional personnel in a manner that produces divisionwide ratios of students in average daily membership to full-time equivalent teaching positions, excluding special education teachers, principals, assistant principals, counselors, and librarians, that are not greater than the following ratios: (i) 24 to one in kindergarten with no class being larger than 29 students; if the average daily membership in any kindergarten class exceeds 24 pupils, a full-time teacher's aide shall be assigned to the class; (ii) 24 to one in grades one, two, and three with no class being larger than 30 students; (iii) 25 to one in grades four through six with no class being larger than 35 students; and (iv) 24 to one in English classes in grades six through 12. After September 30 of any school year, anytime the number of students in a class exceeds the class size limit established by this subsection, the local school division shall notify the parent of each student in such class of such fact no later than 10 days after the date on which the class exceeded the class size limit. Such notification shall state the reason that the class size exceeds the class size limit and describe the measures that the local school division will take to reduce the class size to comply with this subsection.

Within its regulations governing special education programs, the Board shall seek to set pupil/teacher ratios for pupils with intellectual disability that do not exceed the pupil/teacher ratios for self-contained classes for pupils with specific learning disabilities.

Further, school boards shall assign instructional personnel in a manner that produces schoolwide ratios of students in average daily memberships to full-time equivalent teaching positions of 21 to one in middle schools and high schools. School divisions shall provide all middle and high school teachers with one planning period per day or the equivalent, unnumbered of any teaching or supervisory duties.

D. Each local school board shall employ with state and local basic, special education, gifted, and career and technical education funds a minimum number of licensed, full-time equivalent instructional personnel for each 1,000 students in average daily membership (ADM) as set forth in the appropriation act. Calculations of kindergarten positions shall be based on full-day kindergarten programs. Beginning with the March 31 report of average daily membership, those school divisions offering half-day kindergarten with pupil/teacher ratios that exceed 30 to one shall adjust their average daily

membership for kindergarten to reflect 85 percent of the total kindergarten average daily memberships, as provided in the appropriation act.

E. In addition to the positions supported by basic aid and in support of regular school year programs of prevention, intervention, and remediation, state funding, pursuant to the appropriation act, shall be provided to fund certain full-time equivalent instructional positions for each 1,000 students in grades K through 12 who are identified as needing prevention, intervention, and remediation services. State funding for prevention, intervention, and remediation programs provided pursuant to this subsection and the appropriation act may be used to support programs for educationally at-risk students as identified by the local school boards.

To provide algebra readiness intervention services required by § 22.1-253.13:1, school divisions may employ mathematics teacher specialists to provide the required algebra readiness intervention services. School divisions using the Standards of Learning Algebra Readiness Initiative funding in this manner shall only employ instructional personnel licensed by the Board of Education.

F. In addition to the positions supported by basic aid and those in support of regular school year programs of prevention, intervention, and remediation, state funding, pursuant to the appropriation act, shall be provided to support 17 full-time equivalent instructional positions for each 1,000 students identified as having limited English proficiency.

To provide flexibility in the instruction of English language learners who have limited English proficiency and who are at risk of not meeting state accountability standards, school divisions may use state and local funds from the Standards of Quality Prevention, Intervention, and Remediation account to employ additional English language learner teachers to provide instruction to identified limited English proficiency students. Using these funds in this manner is intended to supplement the instructional services provided in this section. School divisions using the SOQ Prevention, Intervention, and Remediation funds in this manner shall employ only instructional personnel licensed by the Board of Education.

G. In addition to the full-time equivalent positions required elsewhere in this section, each local school board shall employ the following reading specialists in elementary schools, one full-time in each elementary school at the discretion of the local school board. *One reading specialist employed by each local school board that employs a reading specialist shall have training in the identification of and the appropriate interventions, accommodations, and teaching techniques for students with dyslexia or a related disorder and shall serve as an advisor on dyslexia and related disorders. Such reading specialist shall have an understanding of the definition of dyslexia and a working knowledge of (i) techniques to help a student on the continuum of skills with dyslexia; (ii) dyslexia characteristics that may manifest at different ages and grade levels; (iii) the basic foundation of the keys to reading, including multisensory, explicit, systemic, and structured reading instruction; and (iv) appropriate interventions, accommodations, and assistive technology supports for students with dyslexia.*

To provide reading intervention services required by § 22.1-253.13:1, school divisions may employ reading specialists to provide the required reading intervention services. School divisions using the Early Reading Intervention Initiative funds in this manner shall employ only instructional personnel licensed by the Board of Education.

H. Each local school board shall employ, at a minimum, the following full-time equivalent positions for any school that reports fall membership, according to the type of school and student enrollment:

1. Principals in elementary schools, one half-time to 299 students, one full-time at 300 students; principals in middle schools, one full-time, to be employed on a 12-month basis; principals in high schools, one full-time, to be employed on a 12-month basis;

2. Assistant principals in elementary schools, one half-time at 600 students, one full-time at 900 students; assistant principals in middle schools, one full-time for each 600 students; assistant principals in high schools, one full-time for each 600 students; and school divisions that employ a sufficient number of assistant principals to meet this staffing requirement may assign assistant principals to schools within the division according to the area of greatest need, regardless of whether such schools are elementary, middle, or secondary;

3. Librarians in elementary schools, one part-time to 299 students, one full-time at 300 students; librarians in middle schools, one-half time to 299 students, one full-time at 300 students, two full-time at 1,000 students; librarians in high schools, one half-time to 299 students, one full-time at 300 students, two full-time at 1,000 students. Local school divisions that employ a sufficient number of librarians to meet this staffing requirement may assign librarians to schools within the division according to the area of greatest need, regardless of whether such schools are elementary, middle, or secondary; and

4. Guidance counselors in elementary schools, one hour per day per 100 students, one full-time at 500 students, one hour per day additional time per 100 students or major fraction thereof; guidance counselors in middle schools, one period per 80 students, one full-time at 400 students, one additional period per 80 students or major fraction thereof; guidance counselors in high schools, one period per 70 students, one full-time at 350 students, one additional period per 70 students or major fraction thereof. Local school divisions that employ a sufficient number of guidance counselors to meet this staffing requirement may assign guidance counselors to schools within the division according to the area of greatest need, regardless of whether such schools are elementary, middle, or secondary.

I. Local school boards shall employ five full-time equivalent positions per 1,000 students in grades kindergarten through five to serve as elementary resource teachers in art, music, and physical education.

J. Local school boards shall employ two full-time equivalent positions per 1,000 students in grades kindergarten through 12, one to provide technology support and one to serve as an instructional technology resource teacher.

To provide flexibility, school divisions may use the state and local funds for instructional technology resource teachers to employ a data coordinator position, an instructional technology resource teacher position, or a data coordinator/instructional resource teacher blended position. The data coordinator position is intended to serve as a resource to principals and classroom teachers in the area of data analysis and interpretation for instructional and school improvement purposes, as well as for overall data management and administration of state assessments. School divisions using these funds in this manner shall employ only instructional personnel licensed by the Board of Education.

K. Local school boards may employ additional positions that exceed these minimal staffing requirements. These additional positions may include, but are not limited to, those funded through the state's incentive and categorical programs as set forth in the appropriation act.

L. A combined school, such as kindergarten through 12, shall meet at all grade levels the staffing requirements for the highest grade level in that school; this requirement shall apply to all staff, except for guidance counselors, and shall be based on the school's total enrollment; guidance counselor staff requirements shall, however, be based on the enrollment at the various school organization levels, i.e., elementary, middle, or high school. The Board of Education may grant waivers from these staffing levels upon request from local school boards seeking to implement experimental or innovative programs that are not consistent with these staffing levels.

M. School boards shall, however, annually, on or before January 1, report to the public the actual pupil/teacher ratios in elementary school classrooms by school for the current school year. Such actual ratios shall include only the teachers who teach the grade and class on a full-time basis and shall exclude resource personnel. School boards shall report pupil/teacher ratios that include resource teachers in the same annual report. Any classes funded through the voluntary kindergarten through third grade class size reduction program shall be identified as such classes. Any classes having waivers to exceed the requirements of this subsection shall also be identified. Schools shall be identified; however, the data shall be compiled in a manner to ensure the confidentiality of all teacher and pupil identities.

N. Students enrolled in a public school on a less than full-time basis shall be counted in ADM in the relevant school division. Students who are either (i) enrolled in a nonpublic school or (ii) receiving home instruction pursuant to § 22.1-254.1, and who are enrolled in public school on a less than full-time basis in any mathematics, science, English, history, social science, career and technical education, fine arts, foreign language, or health education or physical education course shall be counted in the ADM in the relevant school division on a pro rata basis as provided in the appropriation act. Each such course enrollment by such students shall be counted as 0.25 in the ADM; however, no such nonpublic or home school student shall be counted as more than one-half a student for purposes of such pro rata calculation. Such calculation shall not include enrollments of such students in any other public school courses.

O. Each local school board shall provide those support services that are necessary for the efficient and cost-effective operation and maintenance of its public schools.

For the purposes of this title, unless the context otherwise requires, "support services positions" shall include the following:

1. Executive policy and leadership positions, including school board members, superintendents and assistant superintendents;
2. Fiscal and human resources positions, including fiscal and audit operations;
3. Student support positions, including (i) social workers and social work administrative positions; (ii) guidance administrative positions not included in subdivision H 4; (iii) homebound administrative positions supporting instruction; (iv) attendance support positions related to truancy and dropout prevention; and (v) health and behavioral positions, including school nurses and school psychologists;
4. Instructional personnel support, including professional development positions and library and media positions not included in subdivision H 3;
5. Technology professional positions not included in subsection J;
6. Operation and maintenance positions, including facilities; pupil transportation positions; operation and maintenance professional and service positions; and security service, trade, and laborer positions;
7. Technical and clerical positions for fiscal and human resources, student support, instructional personnel support, operation and maintenance, administration, and technology; and
8. School-based clerical personnel in elementary schools; part-time to 299 students, one full-time at 300 students; clerical personnel in middle schools; one full-time and one additional full-time for each 600 students beyond 200 students and one full-time for the library at 750 students; clerical personnel in high schools; one full-time and one additional full-time for each 600 students beyond 200 students and one full-time for the library at 750 students. Local school divisions that employ a sufficient number of school-based clerical personnel to meet this staffing requirement may assign the clerical personnel to schools within the division according to the area of greatest need, regardless of whether such schools are elementary, middle, or secondary.

Pursuant to the appropriation act, support services shall be funded from basic school aid.

School divisions may use the state and local funds for support services to provide additional instructional services.

P. Notwithstanding the provisions of this section, when determining the assignment of instructional and other licensed personnel in subsections C through J, a local school board shall not be required to include full-time students of approved virtual school programs.

CHAPTER 630

*An Act to amend and reenact § 28.2-232 of the Code of Virginia, relating to Marine Resources Commission; licenses; revocation.*

[H 1573]

Approved March 20, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 28.2-232 of the Code of Virginia is amended and reenacted as follows:**

**§ 28.2-232. Revocation of licenses.**

A. The Commission may revoke the fishing privileges within the Commonwealth's tidal waters and revoke, or prohibit the issuance, reissuance, or renewal of any licenses if, after a hearing held after 10 days' notice to the applicant or licensee, it finds that the person has violated any provision of this subtitle. *The Commission shall not revoke any license other than the license for the fishery in which the violation occurred. The Commission may revoke licenses other than the applicable license upon a second or subsequent violation within five years.*

B. The duration of the license revocation and prohibition shall be fixed by the Commission up to a maximum of five years ~~with the withdrawal of all fishing privileges conferred by this title during that period~~, taking into account (i) evidence of repeated or habitual disregard for violations of the conservation, health and, or safety laws and regulations; (ii) abusive conduct and behavior toward officers; and (iii) the severity of any damage that has occurred, or might have occurred, to the natural resources, the public health, or the seafood industry.

*In determining whether to revoke a person's tidal fishing privileges for up to a maximum of five years, the Commission shall take into account (i) evidence of habitual disregard for the conservation, health, or safety laws and regulations; (ii) whether the violation of this subtitle was committed while the person's licenses or privileges were revoked or while the person was under a Commission-ordered probation period; and (iii) evidence that significant harm occurred, or might have occurred, to the natural resources, the public health, or the seafood industry.*

C. The Commission may assess a civil penalty of up to \$10,000 against a person if it finds, after a hearing held after 10 days' notice, that the person has engaged in fishing, other than for recreational purposes as defined in § 28.2-226.1, while the person's applicable licenses and or fishing privileges have been revoked pursuant to this section or § 28.2-528. In setting the amount of the civil penalty, the Commission shall consider the person's history of violating the conservation, health, and safety laws and regulations of the Commonwealth. *The Commission shall accept payment of the civil penalty by credit card and may collect such actual credit card service charges as apply.*

D. If the person fails to pay the civil penalty within 180 days of the assessment of the civil penalty by the Commission, the Commissioner may transmit a true copy of the order assessing such civil penalty to the clerk of the court of any county or city wherein it is ascertained that the person owing the penalty has any estate, and the clerk to whom such copy is so sent shall record it, as a judgment is required by law to be recorded, and shall index the same as well in the name of the Commonwealth as of the person owing the penalty, and thereupon there shall be a lien in favor of the Commonwealth on the property of the person within such county or city in the amount of the civil penalty.

E. Civil penalties collected pursuant to this section shall be deposited into the Virginia Marine Products Fund established in § 3.2-2705.

An appeal from the Commission's decision may be taken to the courts as provided in Article 3 (§ 28.2-216 et seq.) ~~of this chapter.~~

CHAPTER 631

*An Act to amend and reenact §§ 24.2-700 and 24.2-701 of the Code of Virginia, relating to absentee voting; eligibility of persons granted a protective order.*

[H 1912]

Approved March 20, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 24.2-700 and 24.2-701 of the Code of Virginia are amended and reenacted as follows:**

**§ 24.2-700. Persons entitled to vote by absentee ballot.**

The following registered voters may vote by absentee ballot in accordance with the provisions of this chapter in any election in which they are qualified to vote:

1. Any person who, in the regular and orderly course of his business, profession, or occupation or while on personal business or vacation, will be absent from the county or city in which he is entitled to vote;
2. Any person who is (i) a member of a uniformed service, as defined in § 24.2-452, on active duty, (ii) temporarily residing outside of the United States, or (iii) the spouse or dependent residing with any person listed in clause (i) or (ii), and who will be absent on the day of the election from the county or city in which he is entitled to vote;
3. Any student attending a school or institution of learning, or his spouse, who will be absent on the day of election from the county or city in which he is entitled to vote;

4. Any duly registered person with a disability, as defined in § 24.2-101, who is unable to go in person to the polls on the day of election because of his disability, illness, or pregnancy;

5. Any person who is confined while awaiting trial or for having been convicted of a misdemeanor, provided that the trial or release date is scheduled on or after the third day preceding the election. Any person who is awaiting trial and is a resident of the county or city where he is confined shall, on his request, be taken to the polls to vote on election day if his trial date is postponed and he did not have an opportunity to vote absentee;

6. Any person who is a member of an electoral board, registrar, officer of election, or custodian of voting equipment;

7. Any duly registered person who is unable to go in person to the polls on the day of the election because he is primarily and personally responsible for the care of an ill or disabled family member who is confined at home;

8. Any duly registered person who is unable to go in person to the polls on the day of the election because of an obligation occasioned by his religion;

9. Any person who, in the regular and orderly course of his business, profession, or occupation, will be at his place of work and commuting to and from his home to his place of work for 11 or more hours of the 13 hours that the polls are open pursuant to § 24.2-603;

10. Any person who is a law-enforcement officer, as defined in § 18.2-51.1; firefighter, as defined in § 65.2-102; volunteer firefighter, as defined in § 27-42; search and rescue personnel, as defined in § 18.2-51.1; or emergency medical services personnel, as defined in § 32.1-111.1; or

11. Any person who has been designated by a political party, independent candidate, or candidate in a primary election to be a representative of the party or candidate inside a polling place on the day of the election pursuant to subsection C of § 24.2-604 and § 24.2-639; or

12. *Any person granted a protective order issued by or under the authority of any court of competent jurisdiction.*

**§ 24.2-701. Application for absentee ballot.**

A. The State Board shall furnish each general registrar with a sufficient number of applications for official absentee ballots. The registrars shall furnish applications to persons requesting them.

The State Board shall implement a system that enables eligible persons to request and receive an absentee ballot application electronically through the Internet. Electronic absentee ballot applications shall be in a form approved by the State Board.

Except as provided in § 24.2-703, a separate application shall be completed for each election in which the applicant offers to vote. An application for an absentee ballot may be accepted the later of (i) 12 months before an election or (ii) the day following any election held in the twelfth month prior to the election in which the applicant is applying to vote.

An application that is completed in person at the same time that the applicant registers to vote shall be held and processed no sooner than the fifth day after the date that the applicant registered to vote; however, this requirement shall not be applicable to any person who is qualified to vote absentee under subdivision 2 of § 24.2-700.

Any application received before the ballots are printed shall be held and processed as soon as the printed ballots for the election are available.

For the purposes of this chapter, the general registrar's office shall be open a minimum of eight hours between the hours of 8:00 a.m. and 5:00 p.m. on the first and second Saturday immediately preceding all general elections, except May general elections, and on the Saturday immediately preceding any primary election, May general election, or special election.

Unless the applicant is disabled, all applications for absentee ballots shall be signed by the applicant who shall state, subject to felony penalties for making false statements pursuant to § 24.2-1016, that to the best of his knowledge and belief the facts contained in the application are true and correct and that he has not and will not vote in the election at any other place in Virginia or in any other state. If the applicant is unable to sign the application, a person assisting the applicant will note this fact on the applicant signature line and provide his signature, name, and address.

B. Applications for absentee ballots shall be completed in the following manner:

1. An application completed in person shall be made not less than three days prior to the election in which the applicant offers to vote and completed only in the office of the general registrar. The applicant shall sign the application in the presence of a registrar. The applicant shall provide one of the forms of identification specified in subsection B of § 24.2-643. Any applicant who does not show one of the forms of identification specified in subsection B of § 24.2-643 shall be offered a provisional ballot under the provisions of § 24.2-653. The State Board of Elections shall provide instructions to the general registrar for the handling and counting of such provisional ballots pursuant to subsection B of § 24.2-653 and this section.

2. Any other application may be made by mail, electronic or telephonic transmission to a facsimile device if one is available to the office of the general registrar or the office of the State Board if a device is not available locally, or other means. The application shall be on a form furnished by the registrar or, if made under subdivision 2 of § 24.2-700, may be on a federal postcard application prescribed pursuant to 52 U.S.C. § 20301(b)(2). The federal postcard application may be accepted the later of (i) 12 months before an election or (ii) the day following any election held in the twelfth month prior to the election in which the applicant is applying to vote. The application shall be made to the appropriate registrar no later than 5:00 p.m. on the seventh day prior to the election in which the applicant offers to vote.

C. Applications for absentee ballots shall contain the following information:

1. The applicant's printed name, the last four digits of the applicant's social security number, and the reason the applicant will be absent or cannot vote at his polling place on the day of the election;
2. A statement that he is registered in the county or city in which he offers to vote and his residence address in such county or city. Any person temporarily residing outside the United States shall provide the last date of residency at his Virginia residence address, if that residence is no longer available to him. Any person who makes application under subdivision 2 of § 24.2-700 who is not a registered voter may file the applications to register and for a ballot simultaneously;
3. The complete address to which the ballot is to be sent directly to the applicant, unless the application is made in person at a time when the printed ballots for the election are available and the applicant chooses to vote in person at the time of completing his application. The address given shall be (i) the address of the applicant on file in the registration records; (ii) the address at which he will be located while absent from his county or city; or (iii) the address at which he will be located while temporarily confined due to a disability or illness. No ballot shall be sent to, or in care of, any other person; and
4. In the case of a person, or the spouse or dependent of a person, who is on active duty as a member of the uniformed services as defined in § 24.2-452, the branch of service to which he or the spouse belongs; or
5. In the case of a student, or the spouse of a student, who is attending a school or institution of learning, the name of the school or institution of learning; or
6. In the case of any duly registered person with a disability, as defined in § 24.2-101, who is unable to go in person to the polls on the day of the election because of his disability, illness, or pregnancy, that he is a person with a disability, illness, or pregnancy; or
7. In the case of a person who is confined awaiting trial or for having been convicted of a misdemeanor, the name of the institution of confinement; or
8. In the case of a person who will be absent on election day for business reasons, the name of his employer or business; or
9. In the case of a person who will be absent on election day for personal business or vacation reasons, the name of the county or city in Virginia or the state or country to which he is traveling; or
10. In the case of a person who is unable to go to the polls on the day of election because he is primarily and personally responsible for the care of an ill or disabled family member who is confined at home, his relationship to the family member; or
11. In the case of a person who is unable to go to the polls on the day of election because of an obligation occasioned by his religion, that he has an obligation occasioned by his religion; or
12. In the case of a person who, in the regular and orderly course of his business, profession, or occupation, will be at his place of work and commuting to and from his home to his place of work for 11 or more hours of the 13 hours that the polls are open pursuant to § 24.2-603, the name of his business or employer and hours he will be at the workplace and commuting on election day; or
13. In the case of a law-enforcement officer, as defined in § 18.2-51.1; firefighter, as defined in § 65.2-102; volunteer firefighter, as defined in § 27-42; search and rescue personnel, as defined in § 18.2-51.1; or emergency medical services personnel, as defined in § 32.1-111.1, that he is a first responder; or
14. In the case of a person who has been designated by a political party, independent candidate, or candidate in a primary election to be a representative of the party or candidate inside a polling place on the day of the election pursuant to subsection C of § 24.2-604 and § 24.2-639, the fact that he is so designated; or
15. *In the case of a person who has been granted a protective order issued by or under the authority of any court of competent jurisdiction, the name of the county or city in Virginia or the state of the issuing court.*

**CHAPTER 632**

*An Act to amend and reenact § 15.2-1605 of the Code of Virginia, relating to constitutional officers; local leave benefits.*

[S 936]

Approved March 20, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 15.2-1605 of the Code of Virginia is amended and reenacted as follows:**

**§ 15.2-1605. Vacations; sick leave and compensatory time for certain officers and employees.**

A. "Employee," as used in this section, means an employee or deputy of the attorney for the Commonwealth, the treasurer, the commissioner of the revenue, the clerk of the circuit court, and the sheriff and shall also include the officers and employees of all courts whose salaries are paid by the Commonwealth.

B. Every county and city for which such employees work shall annually provide for each employee at least two weeks vacation with pay, at least seven days sick leave with pay, and such legal holidays as are provided for in § 2.2-3300. If any employee or deputy is required to work on any legal holiday, he shall receive, in lieu of the holiday, an equal amount of compensatory time with pay in the same calendar year in which such holiday occurs. The county or city may provide that vacation or sick leave may be accumulated or shall terminate within a given period of time; however, such vacation may not be accumulated in excess of six weeks. The cost of providing such benefits shall be borne in the same manner and on the same basis as the costs of the office are shared or as the excess fees therefrom may be shared. *When a county or city has*

*entered into an agreement with a constitutional officer to include his employees under the locality's personnel leave policies, then such employee may accrue and accumulate leave pursuant to such policies instead of under this section, as long as such local benefits are not less than the amounts as set out in this section.*

C. For the purpose of computing the Commonwealth's financial obligations for accumulated vacation time of an employee under this section, the Commonwealth shall pay the lesser, and in any event only its proportional share, of the amount due to an employee for such time when computed (i) under the applicable counties' or cities' personnel policies, regulations and rules, or (ii) by treating the employee as a Commonwealth employee, under its applicable personnel policies, regulations and rules.

### CHAPTER 633

*An Act to amend and reenact §§ 2.2-2202, 2.2-2203, 2.2-2203.2, and 2.2-2204 of the Code of Virginia and to repeal § 2.2-2203.1 of the Code of Virginia, relating to the Commercial Space Flight Authority.*

[S 1202]

Approved March 20, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 2.2-2202, 2.2-2203, 2.2-2203.2, and 2.2-2204 of the Code of Virginia are amended and reenacted as follows: § 2.2-2202. Declaration of public purpose; Virginia Commercial Space Flight Authority created.**

The General Assembly has determined that there exists in the Commonwealth a need to ~~(i) disseminate knowledge pertaining to scientific and technological research and development among public and private entities; (ii) promote Science, Technology, Engineering, and Math (STEM) education; and (iii) promote industrial and economic development and scientific and technological research and development through the development and promotion of the commercial space flight and government aerospace industry.~~

In order to facilitate and coordinate the advancement of these needs, there is hereby created the Virginia Commercial Space Flight Authority, with the powers and duties set forth in this article, as a public body corporate and as a political subdivision of the Commonwealth. The Authority is constituted as a public instrumentality exercising public functions, and the exercise by the Authority of the powers and duties conferred by this article shall be deemed and held to be the performance of an essential government function of the Commonwealth and a public purpose.

**§ 2.2-2203. Board of directors; members and officers; Executive Director.**

The Authority shall be governed by a board of directors consisting of nine members, two of whom shall be the Secretary of Transportation and the Director of the Virginia Department of Aviation or their respective designees. The remaining seven members shall be appointed by the Governor ~~as follows: one member representing the business community; one member representing the financial industry; one member representing the marketing industry; one member representing the legal industry; one member representing the research and development industry; and two at-large members. Of the members appointed by the Governor, one shall be appointed for a term of one year, two for terms of two years, two for terms of three years, and two for terms of four years from the effective date of their appointment. Thereafter, the members and shall have experience in at least one of the following fields: (i) the aerospace industry, (ii) the financial industry, (iii) the marketing industry, (iv) scientific and technological research and development; or (v) higher education. Members of the Board appointed by the Governor shall be appointed for terms of four years. All members shall serve until their successors are appointed. Any appointment to fill a vacancy shall be for the unexpired term. No member appointed by the Governor shall be eligible to serve more than two consecutive terms; however, a member appointed to fill a vacancy may serve two additional consecutive terms. Members shall serve at the pleasure of the Governor and shall be confirmed by the General Assembly. Members of the Board shall receive reimbursement for their expenses and shall be compensated at the rate provided in § 2.2-2813 for each day spent on Board business.~~

The Board shall annually elect one of its members as chairman and another as vice-chairman and may also elect from its membership, or appoint from the Authority's staff, a secretary and a treasurer and prescribe their powers and duties. The chairman or, in his absence, the vice-chairman shall preside at all meetings of the Board. In the absence of both the chairman and vice-chairman, the Board shall appoint a chairman pro tempore, who shall preside at such meetings. Five members shall constitute a quorum for the transaction of the Authority's business, and no vacancy in the membership shall impair the right of a quorum to exercise all the rights and perform all the duties of the Authority.

The Board may employ an Executive Director of the Authority, who shall serve at the pleasure of the Board, to direct the day-to-day operations and activities of the Authority and carry out the powers and duties conferred upon him by the Board, including powers and duties involving the exercise of discretion. The Executive Director shall also *serve as the Chief Executive Officer of the Authority* and exercise and perform such other powers and duties as may be lawfully delegated to him and such powers and duties as may be conferred or imposed upon him by law. The Executive Director's compensation from the Commonwealth shall be fixed by the Board in accordance with law. Such compensation shall be established at a level that will enable the Authority to attract and retain a capable Executive Director. The Executive Director shall employ or retain such other agents or employees subordinate to the Executive Director as may be necessary to carry out the powers and duties of the Authority.

**§ 2.2-2203.2. Strategic plan.**

~~The Every four years the Executive Director shall present to the Board shall initiate and further plan for the development of commercial space flight in the Commonwealth and, to this end, shall keep informed as to the present requirements and likely future needs of any and all space flight facilities located within the Commonwealth or operated by the Authority. The Board shall submit a strategic plan to the Governor and the General Assembly no later than December 1, 2012, and such plan shall be updated every four years thereafter for its consideration and adoption a strategic plan for the Authority for at least the next six years. Such plan shall include the following:~~

- ~~1. An analysis of the current operating performance of the Authority and trends in the aerospace industry;~~
- ~~2. An analysis of the Authority's economic benefit and expected future performance over the term of the plan;~~
- ~~3. An analysis and identification of opportunities to expand the Authority's market share in sectors of the aerospace industry in which the Authority is active;~~
- ~~4. An analysis and identification of opportunities to expand the Authority's operations into other sectors of the aerospace industry and other adjacent industries;~~
- ~~5. An implementation strategy based on the analyses required by subdivisions one through four;~~
- ~~6. A capital plan to support the implementation strategy; and~~
- ~~7. The establishment of performance indicators to be used for the Authority covering the term of the plan.~~

**§ 2.2-2204. Powers of the Authority.**

The Authority is granted all powers necessary or convenient for the carrying out of its statutory purposes, including, but not limited to, the power to:

1. Sue and be sued, plead and be impleaded, complain and defend in all courts;
2. Adopt, use, and alter at will a common seal;
3. Acquire any project and property, real, personal or mixed, tangible or intangible, or any interest therein, by purchase, gift or devise and to sell, lease (whether as lessor or lessee), transfer, convey or dispose of any project or property, real, personal or mixed, tangible or intangible or any interest therein, at any time acquired or held by the Authority on such terms and conditions as may be determined by the Board;
4. ~~Plan;~~ Adopt a strategic plan pursuant to § 2.2-2203.2 and plan, develop, undertake, carry out, construct, equip, improve, rehabilitate, repair, furnish, maintain and operate projects pursuant to such plan;
5. Adopt an annual budget for the Authority's capital improvements and operations;
6. Adopt, alter, and repeal bylaws, rules, and regulations governing the manner in which its business shall be transacted and the manner in which the power of the Authority shall be exercised and its duties performed. Such bylaws, rules, and regulations may provide for such committees and their functions as the Authority may deem necessary and expedient. Such bylaws, rules, and regulations shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq.);
7. Fix, alter, charge, and collect rates, rentals, fees, and other charges for the use of projects of, the sale of products of, or services rendered by the Authority at rates to be determined by it for the purpose of providing for the payment of the expenses of the Authority; the planning, development, construction, improvement, rehabilitation, repair, furnishing, maintenance, and operation of its projects and properties; the payment of the costs accomplishing its purposes set forth in § 2.2-2202; the payment of the principal of and interest on its obligations; and the creation of reserves for such purposes, for other purposes of the Authority and to pay the cost of maintaining, repairing and operating any project and fulfilling the terms and provisions of any agreements made with the purchasers or holders of any such obligations and any other purposes as set forth in this article;
8. Borrow money, make and issue bonds including bonds as the Authority may determine to issue for the purpose of accomplishing the purposes set forth in § 2.2-2202 or for refunding bonds previously issued by the Authority, whether such outstanding bonds have matured or are then subject to redemption, or any combination of such purposes; secure the payment of all bonds, or any part thereof, by pledge, assignment or deed of trust of all or any of its revenues, rentals, and receipts or of any project or property, real, personal or mixed, tangible or intangible, or any rights and interest therein; make such agreements with the purchasers or holders of such bonds or with others in connection with any such bonds, whether issued or to be issued, as the Authority shall deem advisable; and in general to provide for the security for said bonds and the rights of holders thereof. However, the total principal amount of bonds, including refunding bonds, outstanding at any time shall not exceed \$50 million, excluding from such limit any revenue bonds. The Authority shall not issue any bonds, other than revenue bonds, that are not specifically authorized by a bill or resolution passed by a majority vote of those elected to each house of the General Assembly;
9. Make and enter into all contracts and agreements necessary or incidental to the performance of its duties, the furtherance of its purposes, and the execution of its powers under this article, including interstate compacts that have been authorized by the General Assembly and where necessary consented to by the United States Congress and agreements with any person or federal agency;
10. Employ, in its discretion, consultants, attorneys, architects, engineers, accountants, financial experts, investment bankers, superintendents, managers and such other employees and agents as may be necessary, and to fix their compensation to be payable from funds made available to the Authority;
11. Receive and accept from any federal or private agency, foundation, corporation, association or person grants, donations of money, real or personal property for the benefit of the Authority, and to receive and accept from the Commonwealth or any state, and any municipality, county or other political subdivision thereof and from any other source,

aid or contributions of either money, property, or other things of value, to be held, used and applied for the purposes for which such grants and contributions may be made;

12. Render advice and assistance, and to provide services, to institutions of higher education and to other persons providing services or facilities for scientific and technological research or graduate education, provided that credit toward a degree, certificate or diploma shall be granted only if such education is provided in conjunction with an institution of higher education authorized to operate in Virginia;

13. Develop, undertake and provide programs, alone or in conjunction with any person or federal agency, for scientific and technological research, technology management, continuing education and in-service training; however, credit towards a degree, certificate or diploma shall be granted only if such education is provided in conjunction with an institution of higher education authorized to operate in Virginia; foster the utilization of scientific and technological research, information discoveries and data and obtain patents, copyrights and trademarks thereon; coordinate the scientific and technological research efforts of public institutions and private industry and collect and maintain data on the development and utilization of scientific and technological research capabilities;

14. Pledge or otherwise encumber all or any of the revenues or receipts of the Authority as security for all or any of the obligations of the Authority; and

15. Do all acts and things necessary or convenient to carry out the powers granted to it by law.

**2. That § 2.2-2203.1 of the Code of Virginia is repealed.**

**3. That the provisions of this act shall not be construed to affect existing appointments to the Commercial Space Flight Authority for terms that have not expired.**

**CHAPTER 634**

*An Act to amend the Code of Virginia by adding in Chapter 12 of Title 2.2 a section numbered 2.2-1209, relating to parental leave benefits.*

[S 1412]

Approved March 20, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding in Chapter 12 of Title 2.2 a section numbered 2.2-1209 as follows:**  
**§ 2.2-1209. Parental leave benefits.**

*A. On and after July 1, 2018, the Department shall implement and administer a program for parental leave benefits, which shall consist of adoption leave and leave for a natural father, for full-time state employees with one or more years of continuous employment with the Commonwealth who (i) adopt an infant under one year of age or (ii) are the natural father of an infant under one year of age. Such employees shall be eligible to receive six weeks of parental leave, comparable to the amount of leave awarded for maternity leave under the Sickness and Disability Program pursuant to Chapter 11 (§ 51.1-1100 et seq.) of Title 51.1, as provided in subsection B to account for absence due to the care of the infant, provided that the employee gives reasonable prior notice to his agency head of the intent to adopt and take parental leave. The eligibility of a natural father to receive leave coverage shall expire on the day that the infant reaches one year of age.*

*B. Parental leave coverage shall provide income replacement for a percentage of an eligible employee's creditable compensation for the remainder of the six-week period as specified in subdivisions 1 and 2. Parental leave coverage shall commence upon the expiration of a seven-day waiting period. Such waiting period shall commence for adoption leave coverage on the day that the employee takes custody of the infant and for leave coverage for a natural father on the day that the child is born.*

*1. Except as provided in subdivision 2:*

<i>Work days of 100%</i>	<i>Work days of 80%</i>	
<i>Months of</i>	<i>replacement of</i>	<i>replacement of</i>
<i>state service</i>	<i>creditable compensation</i>	<i>creditable compensation</i>
<i>Less than 60</i>	<i>5</i>	<i>20</i>
<i>60 or more</i>	<i>25</i>	<i>0</i>

*2. For eligible employees commencing employment or reemployment on or after July 1, 2009:*

<i>Work days of 100%</i>	<i>Work days of 60%</i>	
<i>Months of</i>	<i>replacement of</i>	<i>replacement of</i>
<i>state service</i>	<i>creditable compensation</i>	<i>creditable compensation</i>
<i>Less than 60</i>	<i>0</i>	<i>25</i>
<i>60 or more</i>	<i>25</i>	<i>0</i>

*C. If two state employees are eligible for adoption leave for the same infant, only one such employee shall be eligible for leave pursuant to this section. If a state employee is eligible for leave coverage for a natural father pursuant to this section and another state employee is eligible for maternity leave under the Sickness and Disability Program pursuant to Chapter 11 (§ 51.1-1100 et seq.) for the same infant, only one such employee shall be eligible for paid leave under such programs.*

*D. The Department shall develop guidelines and policies for the implementation of parental leave benefits.*

**2. That the provisions of this act providing parental leave coverage shall apply only to an eligible state employee who takes custody of an infant in the course of an adoption on or after July 1, 2018, or, for a natural father, for an infant born on or after July 1, 2018. The benefits provided by this act shall not apply retroactively to adoptions occurring prior to July 1, 2018, or, for a natural father, for a child born prior to July 1, 2018.**

**3. That the Joint Legislative Audit and Review Commission shall include in its study of total compensation to employees of the Commonwealth, as authorized by the Commission by resolution on January 13, 2017, analysis of parental leave benefits for state employees in other states and the cost of providing parental leave benefits to employees of the Commonwealth.**

**4. That the provisions of the first and second enactments of this act shall not become effective unless reenacted by the 2018 Session of the General Assembly.**

### CHAPTER 635

*An Act to amend and reenact §§ 46.2-2000, 46.2-2001, 46.2-2001.1, 46.2-2011.11, 46.2-2011.14, 46.2-2011.16, 46.2-2011.22, 46.2-2099.17, 46.2-2099.18, 46.2-2099.19, and 46.2-2099.48 of the Code of Virginia and to amend the Code of Virginia by adding in Article 10 of Chapter 20 a section numbered 46.2-2099.19:1, relating to transportation network company brokers.*

[S 1494]

Approved March 20, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 46.2-2000, 46.2-2001, 46.2-2001.1, 46.2-2011.11, 46.2-2011.14, 46.2-2011.16, 46.2-2011.22, 46.2-2099.17, 46.2-2099.18, 46.2-2099.19, and 46.2-2099.48 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Article 10 of Chapter 20 a section numbered 46.2-2099.19:1 as follows:**

**§ 46.2-2000. Definitions.**

Whenever used in this chapter unless expressly stated otherwise:

"Authorized insurer" means, in the case of an interstate motor carrier whose operations may or may not include intrastate activity, an insurer authorized to transact business in any one state, or, in the case of a solely intrastate motor carrier, an insurer authorized to transact business in the Commonwealth.

"Broker" means any person not included in the term "motor carrier" and not a bona fide employee or agent of any such carrier, who, as principal or agent, sells or offers for sale any transportation subject to this chapter *except for transportation pursuant to Article 15 (§ 46.2-2099.45 et seq.)*, or negotiates for, or holds himself out by solicitation, advertisement, or otherwise as one who sells, provides, furnishes, contracts, or arranges for such transportation.

"Carrier by motor launch" means a common carrier, which carrier uses one or more motor launches operating on the waters within the Commonwealth to transport passengers.

"Certificate" means a certificate of public convenience and necessity or a certificate of fitness.

"Certificate of fitness" means a certificate issued by the Department to a contract passenger carrier, a sight-seeing carrier, a transportation network company, or a nonemergency medical transportation carrier.

"Certificate of public convenience and necessity" means a certificate issued by the Department of Motor Vehicles to certain common carriers, but nothing contained in this chapter shall be construed to mean that the Department can issue any such certificate authorizing intracity transportation.

"Common carrier" means any person who undertakes, whether directly or by a lease or any other arrangement, to transport passengers for the general public by motor vehicle for compensation over the highways of the Commonwealth, whether over regular or irregular routes, including such motor vehicle operations of carriers by rail or water under this chapter. "Common carrier" does not include nonemergency medical transportation carriers, transportation network companies, or TNC partners as defined in this section.

"Contract passenger carrier" means a motor carrier that transports groups of passengers under a single contract made with one person for an agreed charge for such transportation, regardless of the number of passengers transported, and for which transportation no individual or separate fares are solicited, charged, collected, or received by the carrier. "Contract passenger carrier" does not include a transportation network company or TNC partner as defined in this section.

"Department" means the Department of Motor Vehicles.

"Digital platform" means any online-enabled application, software, website, or system offered or utilized by a transportation network company that enables the prearrangement of rides with TNC partners.

"Employee hauler" means a motor carrier operating for compensation and exclusively transporting only bona fide employees directly to and from the factories, plants, office or other places of like nature where the employees are employed and accustomed to work.

"Excursion train" means any steam-powered train that carries passengers for which the primary purpose of the operation of such train is the passengers' experience and enjoyment of this means of transportation, and does not, in the course of operation, carry (i) freight other than the personal luggage of the passengers or crew or supplies and equipment necessary to serve the needs of the passengers and crew, (ii) passengers who are commuting to work, or (iii) passengers who are traveling to their final destination solely for business or commercial purposes.

"Financial responsibility" means the ability to respond in damages for liability thereafter incurred arising out of the ownership, maintenance, use, or operation of a motor vehicle, in the amounts provided for in this chapter.

"Highway" means every public highway or place of whatever nature open to the use of the public for purposes of vehicular travel in the Commonwealth, including the streets and alleys in towns and cities.

"Identification marker" means a decal or other visible identification issued or required by the Department to show one or more of the following: (i) that the operator of the vehicle has registered with the Department for the payment of the road tax imposed under Chapter 27 (§ 58.1-2700 et seq.) of Title 58.1; (ii) proof of the possession of a certificate or permit issued pursuant to Chapter 20 (§ 46.2-2000 et seq.); (iii) proof that the vehicle has been registered with the Department as a TNC partner vehicle under subsection B of § 46.2-2099.50; (iv) proof that the vehicle has been authorized by a transportation network company to be operated as a TNC partner vehicle, in accordance with subsection C of § 46.2-2099.50; or (v) proof of compliance with the insurance requirements of this chapter.

"Interstate" means transportation of passengers between states.

"Intrastate" means transportation of passengers solely within a state.

"License" means a license issued by the Department to a broker or a TNC broker.

"Minibus" means any motor vehicle having a seating capacity of not less than seven nor more than 31 passengers, including the driver, and used in the transportation of passengers.

"Motor carrier" means any person who undertakes, whether directly or by lease, to transport passengers for compensation over the highways of the Commonwealth.

"Motor launch" means a motor vessel that meets the requirements of the U.S. Coast Guard for the carriage of passengers for compensation, with a capacity of six or more passengers, but not in excess of 50 passengers. "Motor launch" does not include sight-seeing vessels, special or charter party vessels within the provisions of this chapter. A carrier by motor launch shall not be regarded as a steamship company.

"Nonemergency medical transportation carrier" means a motor carrier that exclusively provides nonemergency medical transportation and provides such transportation only (i) through the Department of Medical Assistance Services; (ii) through a broker operating under a contract with the Department of Medical Assistance Services; or (iii) as a Medicaid Managed Care Organization contracted with the Department of Medical Assistance Services to provide such transportation.

"Nonprofit/tax-exempt passenger carrier" means a bona fide nonprofit corporation organized or existing under Chapter 10 (§ 13.1-801 et seq.) of Title 13.1, or a tax-exempt organization as defined in §§ 501(c)(3) and 501(c)(4) of the Internal Revenue Code, as amended, who undertakes, whether directly or by lease, to control and operate minibuses exclusively in the transportation, for compensation, of members of such organization if it is a membership corporation, or of elderly, disabled, or economically disadvantaged members of the community if it is not a membership corporation.

"Operation" or "operations" includes the operation of all motor vehicles, whether loaded or empty, whether for compensation or not, and whether owned by or leased to the motor carrier who operates them or causes them to be operated.

"Operation of a TNC partner vehicle" means (i) any time a TNC partner is logged into a digital platform and is available to pick up passengers; (ii) any time a passenger is in the TNC partner vehicle; and (iii) any time the TNC partner has accepted a prearranged ride request through the digital platform and is en route to a passenger.

"Operator" means the employer or person actually driving a motor vehicle or combination of vehicles.

"Permit" means a permit issued by the Department to carriers operating as employee haulers or nonprofit/tax-exempt passenger carriers or to operators of taxicabs or other vehicles performing taxicab service under this chapter.

"Person" means any individual, firm, copartnership, corporation, company, association, or joint-stock association, and includes any trustee, receiver, assignee, or personal representative thereof.

"Personal vehicle" means a motor vehicle that is not used to transport passengers for compensation except as a TNC partner vehicle.

"Prearranged ride" means passenger transportation for compensation in a TNC partner vehicle arranged through a digital platform. "Prearranged ride" includes the period of time that begins when a TNC partner accepts a ride requested through a digital platform, continues while the TNC partner transports a passenger in a TNC partner vehicle, and ends when the passenger exits the TNC partner vehicle.

"Restricted common carrier" means any person who undertakes, whether directly or by a lease or other arrangement, to transport passengers for compensation, whereby such transportation service has been restricted. "Restricted common carrier" does not include a transportation network company or TNC partner as defined in this section.

"Route," when used in connection with or with respect to a certificate of public convenience and necessity, means the road or highway, or segment thereof, operated over by the holder of a certificate of public convenience and necessity or

proposed to be operated over by an applicant therefor, whether such road or highway is designated by one or more highway numbers.

"Services" and "transportation" include the service of, and all transportation by, all vehicles operated by, for, or in the interest of any motor carrier irrespective of ownership or contract, expressed or implied, together with all facilities and property operated or controlled by any such carrier or carriers and used in the transportation of passengers or the performance of any service in connection therewith.

"Sight-seeing carrier" means a restricted common carrier authorized to transport passengers under the provisions of this chapter, whereby the primary purpose of the operation is the passengers' experience and enjoyment or the promotion of tourism.

"Sight-seeing carrier by boat" means a restricted common carrier, which restricted common carrier uses a boat or boats operating on waters within the Commonwealth to transport passengers, and whereby the primary purpose of the operation is the passengers' experience and enjoyment or the promotion of tourism. Sight-seeing carriers by boat shall not be regarded as steamship companies.

"Single state insurance receipt" means any receipt issued pursuant to 49 C.F.R. Part 367 evidencing that the carrier has the required insurance and paid the requisite fees to the Commonwealth and other qualified jurisdictions.

"Special or charter party carrier by boat" means a restricted common carrier which transports groups of persons under a single contract made with one person for an agreed charge for such movement regardless of the number of persons transported. Special or charter party carriers by boat shall not be regarded as steamship companies.

"Taxicab or other motor vehicle performing a taxicab service" means any motor vehicle having a seating capacity of not more than six passengers, excluding the driver, not operating on a regular route or between fixed terminals used in the transportation of passengers for hire or for compensation, and not a common carrier, restricted common carrier, transportation network company, TNC partner, or nonemergency medical transportation carrier as defined in this chapter.

"TNC broker" means any person who (i) is not a transportation network company or TNC partner and (ii) is not a bona fide employee or agent of a transportation network company or TNC partner, and who contracts or enters into an agreement or arrangement, with a transportation network company and who, in accordance with such contract, agreement or arrangement, arranges any transportation subject to Article 15 (§ 46.2-2099.45 et seq.) or negotiates for or holds himself out by solicitation, advertisement, or otherwise as one who arranges for such transportation but does not control the manner in which such transportation is provided.

"TNC broker insurance" means a motor vehicle liability insurance policy that specifically covers liabilities arising while the TNC partner is en route to a passenger pursuant to arrangements made by a TNC broker.

"TNC insurance" means a motor vehicle liability insurance policy that specifically covers liabilities arising from a TNC partner's operation of a TNC partner vehicle.

"TNC partner" means a person authorized by a transportation network company to use a TNC partner vehicle to provide prearranged rides on an intrastate basis in the Commonwealth.

"TNC partner vehicle" means a personal vehicle authorized by a transportation network company and used by a TNC partner to provide prearranged rides on an intrastate basis in the Commonwealth.

"Trade dress" means a logo, insignia, or emblem attached to or visible from the exterior of a TNC partner vehicle that identifies a transportation network company or digital platform with which the TNC partner vehicle is affiliated.

"Transportation network company" means a person who provides prearranged rides using a digital platform that connects passengers with TNC partners.

**§ 46.2-2001. Regulation by Department; reports; prevention of discrimination; regulation of leasing of motor vehicles.**

The Department shall supervise, regulate and control all motor carriers, carriers by rail, *TNC brokers*, and brokers not exempted under this chapter doing business in the Commonwealth, and all matters relating to the performance of their public duties and their charges therefor as provided by this chapter, and shall correct abuses therein by such carriers; and to that end the Department may prescribe reasonable rules, regulations, forms and reports for such carriers and brokers in furtherance of the administration and operation of this chapter; and the Department shall have the right at all times to require from such motor carriers, carriers by rail, *TNC brokers*, and brokers special reports and statements, under oath, concerning their business.

The Department shall make and enforce such requirements, rules and regulations as may be necessary to prevent unjust or unreasonable discriminations by any carrier, *TNC broker*, or broker in favor of, or against, any person, locality, community or connecting carrier in the matter of service, schedule, efficiency of transportation or otherwise, in connection with the public duties of such carrier, *TNC broker*, or broker. The Department shall administer and enforce all provisions of this chapter, and may prescribe reasonable rules, regulations and procedure looking to that end.

The Department may prescribe and enforce such reasonable requirements, rules and regulations in the matter of leasing of motor vehicles as are necessary to prevent evasion of the Department's regulatory powers.

The Department shall work in conjunction with the Department of State Police and local law-enforcement officials to promote uniform enforcement of the laws pertaining to motor carriers and the rules, regulations, forms, and reports prescribed under the provisions of this chapter.

**§ 46.2-2001.1. License, permit, or certificate required.**

A. It shall be unlawful for any person to operate, offer, advertise, provide, procure, furnish, or arrange by contract, agreement, or arrangement to transport passengers for compensation as a *TNC broker*, broker, motor carrier or excursion train operator without first obtaining a license, permit, or certificate, unless otherwise exempted, as provided in this chapter.

B. Beginning July 1, 2014, any person making application for a license, permit, or certificate pursuant to this chapter who has violated § 46.2-2001.1, either as a result of a conviction or as a result of an imposition of a civil penalty, shall be denied such license, permit, or certificate for a period of 12 months from the date the final disposition of the conviction or imposition of the civil penalty has been rendered.

The Department of Motor Vehicles shall require applicants for a license, permit, or certificate to report any conviction or imposition of civil penalties for violations of § 46.2-2001.1.

**§ 46.2-2011.11. Established place of business.**

A. No license or certificate shall be issued to any applicant that does not have an established place of business, owned or leased by the applicant, where a substantial portion of the activity of the motor carrier, *TNC broker*, or broker business will be routinely conducted and that:

1. Satisfies all applicable local zoning regulations;
2. Houses all records that the motor carrier, *TNC broker*, or broker is required to maintain by this chapter or by regulations promulgated pursuant to this chapter; and
3. Is equipped with a working telephone listed or advertised in the name of the motor carrier, *TNC broker*, or broker.

B. Every licensee and certificate holder shall maintain an established place of business in accordance with subsection A of this section and keep on file a physical address with the Department. Every licensee and certificate holder shall inform the Department by certified letter or other manner prescribed by the Department of any changes to the motor carrier, *TNC broker*, or broker's mailing address, physical location, telephone number, and legal status, legal name of company, or trade name of company within 30 days of such change.

C. Any licensee or certificate holder that relocates his established place of business shall confirm to the Department that the new established place of business conforms to the requirements of subsection A.

**§ 46.2-2011.14. Notice of abandonment of service.**

Every motor carrier, *TNC broker*, broker, or excursion train operator who ceases operation or abandons his rights under a license, certificate, or permit issued shall notify the Department within ~~thirty~~ 30 days of such cessation or abandonment.

**§ 46.2-2011.16. Reports, records, etc.**

A. The Department is hereby authorized to require annual, periodical, or special reports from motor carriers, except such as are exempt from the operation of the provisions of this chapter; to prescribe the manner and form in which such reports shall be made; and to require from such carriers specific answers to all questions upon which the Department may deem information to be necessary. Such reports shall be under oath whenever the Department so requires. The Department may also require any motor carrier to file with it a true copy of each or any contract, agreement, or arrangement between such carrier and any other carrier or person in relation to the provisions of this chapter.

B. The Department may, in its discretion, prescribe (i) the forms of any and all accounts, records, and memoranda to be kept by motor carriers and (ii) the length of time such accounts, records, and memoranda shall be preserved, as well as of the receipts and expenditures of money. The Department or its employees shall at all times have access to all lands, buildings, or equipment of motor carriers used in connection with their operations and also all accounts, records, and memoranda, including all documents, papers, and correspondence now or hereafter existing, and kept, or required to be kept, by motor carriers. The Department and its employees shall have authority to inspect and examine any and all such lands, buildings, equipment, accounts, records, and memoranda, including all documents, papers, and correspondence now or hereafter existing and kept or required to be kept by such carriers. These provisions shall apply to receivers of carriers and to operating trustees and, to the extent deemed necessary by the Department, to persons having control, direct or indirect, over or affiliated with any motor carrier.

C. As used in this section the term "motor carriers" includes *TNC brokers*, brokers, and excursion train operators.

**§ 46.2-2011.22. Violation; criminal penalties.**

A. Any person knowingly and willfully violating any provision of this chapter, or any rule or regulation thereunder, or any term or condition of any certificate, permit, or license, for which a penalty is not otherwise herein provided, is guilty of a misdemeanor and, upon conviction, shall be fined not more than \$2,500 for the first offense and not more than \$5,000 for any subsequent offense. Each day of such violation shall constitute a separate offense.

B. Any person, whether carrier, *TNC broker*, broker, or any officer, employee, agent, or representative thereof, or a *TNC partner*, who knowingly and willfully by any such means or otherwise fraudulently seeks to evade or defeat regulation as in this chapter shall be deemed guilty of a misdemeanor and, upon conviction thereof, be fined not more than \$500 for the first offense and not more than \$2,000 for any subsequent offense.

C. Any motor carrier, *TNC broker*, broker, or excursion train operator or any officer, agent, employee, or representative thereof, or a *TNC partner*, who willfully fails or refuses to make a report to the Department as required by this chapter or to keep accounts, records, and memoranda in the form and manner approved or prescribed by the Department, or knowingly and willfully falsifies, destroys, mutilates, or alters any such report, account, record, or memorandum, or knowingly and willfully files any false report, account, record, or memorandum, is guilty of a misdemeanor and, upon conviction, be subject for each offense to a fine of not less than \$100 and not more than \$5,000.

**§ 46.2-2099.17. Regulation of brokers.**

The Department shall regulate *TNC brokers* and brokers and make and enforce reasonable requirements respecting their licenses, financial responsibility, accounts, records, reports, operations, and practices.

**§ 46.2-2099.18. Broker's license required.**

No person shall for compensation sell or offer for sale transportation subject to this chapter or shall make any contract, agreement, or arrangement to provide, procure, furnish, or arrange for such transportation or shall hold himself out by advertisement, solicitation, or otherwise as one who sells, provides, procures, contracts, or arranges for such transportation, unless such person holds a *TNC broker's license* or broker's license issued by the Department to engage in such transactions; however, the provisions of this section shall not apply to any carrier holding a certificate or permit under the provisions of this chapter or to any bona fide employee or agent of such motor carrier, so far as concerns transportation to be furnished wholly by such carrier or jointly with other motor carriers holding like certificates or permits.

**§ 46.2-2099.19. Broker's license not substitute for other certificates or permits required.**

No person who holds a *TNC broker's license* or broker's license under this article shall engage in transportation subject to this chapter unless he holds a certificate or permit as provided in this chapter. In the execution of any contract, agreement, or arrangement to sell, provide, procure, furnish, or arrange for such transportation, it shall be unlawful for ~~such person~~ *a broker* to employ any carrier by motor vehicle who is not the lawful holder of an effective certificate or permit issued as provided in this chapter or when such certificate or permit does not authorize the carrier to perform the service being acquired.

A person holding a broker's license shall obtain and maintain a copy of the certificate of public convenience and necessity issued to those carriers through which the broker arranges transportation services. *A person holding a TNC broker's license shall obtain and maintain a copy of the credential issued by the transportation network company pursuant to subsection H of § 46.2-2099.48 to those TNC partners through which the broker arranges transportation services.*

*A person holding a TNC broker's license shall, for each TNC partner for whom it arranges transportation, either:*

- 1. Verify that a TNC partner meets all requirements set forth in §§ 46.2-2099.49 and 46.2-2099.50 and obtain all documentation that a transportation network company is required to obtain pursuant to those sections; or*
- 2. Obtain a certification from the transportation network company that authorized the TNC partner that the TNC partner has satisfied all requirements set forth in §§ 46.2-2099.49 and 46.2-2099.50.*

**§ 46.2-2099.19:1. TNC broker insurance.**

*A. A TNC broker shall ensure that any TNC partner with whom it arranges transportation that will be provided pursuant to Article 15 (§ 46.2-2099.45 et seq.) has or is provided with TNC broker insurance as provided in this section. TNC broker insurance shall be in effect from the moment a TNC partner is en route to a passenger pursuant to arrangements made by a TNC broker and end when the TNC partner logs on to the transportation network company's digital platform or when the transportation arranged by the TNC broker has been canceled.*

*B. TNC broker insurance shall provide motor vehicle liability coverage. Such coverage shall be primary and shall provide liability coverage of at least \$1 million for death, bodily injury, and property damage.*

*C. The requirements for the coverage required by this section may be satisfied by any of the following:*

- 1. TNC broker insurance maintained by a TNC partner;*
- 2. TNC broker insurance maintained by a TNC broker that provides coverage in the event that a TNC partner's insurance policy under subdivision 1 has ceased to exist or has been canceled or in the event that the TNC partner does not otherwise maintain TNC broker insurance; or*
- 3. Any combination of subdivisions 1 and 2.*

*A TNC broker may meet its obligations under this subsection through a policy obtained by a TNC partner pursuant to subdivision 1 or 3 only if the TNC broker verifies that a policy is maintained by the TNC partner and such policy is specifically written to cover the TNC partner's use of a vehicle in connection with a TNC broker.*

*D. In every instance where the TNC broker insurance maintained by a TNC partner to fulfill the insurance obligations of this section has lapsed or ceased to exist, the TNC broker shall provide the coverage required by this section beginning with the first dollar of a claim.*

*E. This section shall not limit the liability of a TNC broker arising out of an accident involving a TNC partner in any action for damages against a TNC broker for an amount above the required insurance coverage.*

*F. Any person, or attorney acting on his behalf, who suffers a loss in an automobile accident with a reasonable belief that the accident involves a TNC partner vehicle driven by a TNC partner in connection with a TNC broker and who provides the TNC broker with the date, approximate time, and location of the accident, the name of the TNC partner, if available, and the accident report, if available, may request in writing from the TNC broker information relating to the insurance coverage and the company providing the coverage. The TNC broker shall respond electronically or in writing within 30 days. The TNC broker's response shall contain the following information: (i) the pick-up time of any transportation that the TNC broker had arranged to be provided by the TNC partner within three hours of the automobile accident, (ii) the distance between the site of the automobile accident and the pick-up location, (iii) the name of the insurance carrier providing primary coverage, and (iv) the identity and last known address of the TNC partner.*

*G. No contract, receipt, rule, or regulation shall exempt any TNC broker from the liability that would exist had no contract been made or entered into, and no such contract, receipt, rule, or regulation for exemption from liability for injury or loss occasioned by the neglect or misconduct of such TNC broker shall be valid. The liability referred to in this subsection shall mean the liability imposed by law upon a TNC broker for any loss, damage, or injury to passengers.*

H. Any insurance required by this section may be placed with an insurer that has been admitted in Virginia or with an insurer providing surplus lines insurance as defined in § 38.2-4805.2.

I. Any insurance policy required by this section shall satisfy the financial responsibility requirement for a motor vehicle under § 46.2-706 during the period beginning when such vehicle is en route to a passenger pursuant to arrangements made by a TNC broker and ending when the TNC partner logs on to the transportation network company's digital platform or when the transportation arranged by the TNC broker has been canceled.

J. The Department shall not issue a TNC broker's license to any TNC broker that has not certified to the Department that it will ensure that every TNC partner vehicle for which it arranges transportation will be covered by an insurance policy that meets the requirements of this section.

K. Each TNC broker shall keep on file with the Department proof of an insurance policy maintained by the TNC broker in accordance with subsection C. Such proof shall be in a form acceptable to the Commissioner. A record of the policy shall remain in the files of the Department six months after the license is revoked or suspended for any cause.

L. The Department may suspend a TNC broker license if the licensee fails to comply with the requirements of this section. Any person whose license has been suspended pursuant to this subsection may request a hearing as provided in subsection D of § 46.2-2011.26.

M. In a claims coverage investigation, a TNC broker and its insurer shall cooperate with insurers involved in the claims coverage investigation to facilitate the exchange of information, including the dates and times of any accident involving a TNC partner and information regarding transportation arranged by it to be provided by the TNC partner through the TNC broker within three hours of the automobile accident.

N. A TNC broker shall indemnify, defend, and hold harmless a transportation network company whose digital platform facilitated the prearranged ride from and against any and all claims, actions, damages, liabilities, and judgments, and losses, costs, fees, penalties, and expenses, including attorney fees, with respect to any claim arising out of or related to an act or omission that occurred in connection with a trip arranged by a TNC broker (i) while a TNC partner is en route to begin a prearranged ride or (ii) during a trip performed in violation of subsection A of § 46.2-2099.48 and facilitated through the TNC broker's digital platform.

**§ 46.2-2099.48. General operational requirements for transportation network companies and TNC partner.**

A. A transportation network company and a TNC partner shall provide passenger transportation only on a prearranged basis and only by means of a digital platform that enables passengers to connect with TNC partners using a TNC partner vehicle. No TNC partner shall transport a passenger unless a transportation network company has matched the TNC partner to that passenger through the digital platform. A TNC partner shall not ~~solicit, accept, arrange, or~~ provide transportation in any other manner. *A TNC partner shall not solicit, accept, or arrange transportation except through a transportation network company's digital platform or through a TNC broker.*

B. A transportation network company shall authorize collection of fares for transporting passengers solely through a digital platform. A TNC partner shall not accept payment of fares directly from a passenger or any other person prearranging a ride or by any means other than electronically via a digital platform.

C. A transportation network company with knowledge that a TNC partner has violated the provisions of subsection A or B shall remove the TNC partner from the transportation network company's digital platform for at least one year.

D. A transportation network company shall publish the following information on its public website and associated digital platform:

1. The method used to calculate fares or the applicable rates being charged and an option to receive an estimated fare;
2. Information about its TNC partner screening criteria, including a description of the offenses that the transportation network company will regard as grounds for disqualifying an individual from acting as a TNC partner;
3. The means for a passenger or other person to report a TNC partner reasonably suspected of operating a TNC partner vehicle under the influence of drugs or alcohol;
4. Information about the company's training and testing policies for TNC partners;
5. Information about the company's standards for TNC partner vehicles; and
6. A customer support telephone number or email address and instructions regarding any alternative methods for reporting a complaint.

E. A transportation network company shall associate a TNC partner with one or more personal vehicles and shall authorize a TNC partner to transport passengers only in a vehicle specifically associated with a TNC partner by the transportation network company. The transportation network company shall arrange transportation solely for previously associated TNC partners and TNC partner vehicles. A TNC partner shall not transport passengers except in a TNC partner vehicle associated with the TNC partner by the transportation network company.

F. A TNC partner shall carry at all times while operating a TNC partner vehicle proof of coverage under each in-force TNC insurance policy, which may be displayed as part of the digital platform, and each in-force personal automobile insurance policy covering the vehicle. The TNC partner shall present such proof of insurance upon request to the Commissioner, a law-enforcement officer, an airport owner and operator, an official of the Washington Metropolitan Area Transit Commission, or any person involved in an accident that occurs during the operation of a TNC partner vehicle. The transportation network company shall require the TNC partner's compliance with the provisions of this subsection.

G. Prior to a passenger's entering a TNC partner vehicle, a transportation network company shall provide through the digital platform to the person prearranging the ride the first name and a photograph of the TNC partner, the make and model of the TNC partner vehicle, and the license plate number of the TNC partner vehicle.

H. A transportation network company shall provide to each of its TNC partners a credential, which may be displayed as part of the digital platform, that includes the following information:

1. The name or logo of the transportation network company;
2. The name and a photograph of the TNC partner; and
3. The make, model, and license plate number of each TNC partner vehicle associated with the TNC partner and the state issuing each such license plate.

The TNC partner shall carry the credential at all times during the operation of a TNC partner vehicle and shall present the credential upon request to law-enforcement officers, airport owners and operators, officials of the Washington Metropolitan Area Transit Commission, or a passenger. The transportation network company shall require the TNC partner's compliance with this subsection.

I. A transportation network company and its TNC partner shall, at all times during a prearranged ride, make the following information available through its digital platform immediately upon request to representatives of the Department, to law-enforcement officers, to officials of the Washington Metropolitan Area Transit Commission, and to airport owners and operators:

1. The name of the transportation network company;
2. The name of the TNC partner and the identification number issued to the TNC partner by the transportation network company;
3. The license plate number of the TNC partner vehicle and the state issuing such license plate; and
4. The location, date, and approximate time that each passenger was or will be picked up.

J. Upon completion of a prearranged ride, a transportation network company shall transmit to the person who prearranged the ride an electronic receipt that includes:

1. A map of the route taken;
2. The date and the times the trip began and ended;
3. The total fare, including the base fare and any additional charges incurred for distance traveled or duration of the prearranged ride;
4. The TNC partner's first name and photograph; and
5. Contact information by which additional support may be obtained.

K. The transportation network company shall adopt and enforce a policy of nondiscrimination on the basis of a passenger's points of departure and destination and shall notify TNC partners of such policy.

TNC partners shall comply with all applicable laws regarding nondiscrimination against passengers or potential passengers.

A transportation network company shall provide passengers an opportunity to indicate whether they require a wheelchair-accessible vehicle. If a transportation network company cannot arrange wheelchair-accessible service in a TNC partner vehicle in any instance, it shall direct the passenger to an alternate provider of wheelchair-accessible service, if available.

A transportation network company shall not impose additional charges for providing services to persons with disabilities because of those disabilities.

TNC partners shall comply with all applicable laws relating to accommodation of service animals.

A TNC partner may refuse to transport a passenger for any reason not prohibited by law, including any case in which (i) the passenger is acting in an unlawful, disorderly, or endangering manner; (ii) the passenger is unable to care for himself and is not in the charge of a responsible companion; or (iii) the TNC partner has already committed to providing a ride for another passenger.

A TNC partner shall immediately report to the transportation network company any refusal to transport a passenger after accepting a request to transport that passenger.

L. No transportation network company or TNC partner shall conduct any operation on the property of or into any airport unless such operation is authorized by the airport owner and operator and is in compliance with the rules and regulations of that airport. The Department may take action against a transportation network company that violates any regulation of an airport owner and operator, including the suspension or revocation of the transportation network company's certificate.

M. A TNC partner shall access and utilize a digital platform in a manner that is consistent with traffic laws of the Commonwealth.

N. In accordance with § 46.2-812, no TNC partner shall operate a motor vehicle for more than 13 hours in any 24-hour period.

## CHAPTER 636

*An Act to amend and reenact § 2.2-4304 of the Code of Virginia, relating to the Virginia Public Procurement Act; cooperative procurement; Virginia Sheriffs' Association.*

[S 1548]

Approved March 20, 2017

**Be it enacted by the General Assembly of Virginia:****1. That § 2.2-4304 of the Code of Virginia is amended and reenacted as follows:****§ 2.2-4304. Joint and cooperative procurement.**

A. Any public body may participate in, sponsor, conduct, or administer a joint procurement agreement on behalf of or in conjunction with one or more other public bodies, or public agencies or institutions or localities of the several states, of the United States or its territories, the District of Columbia, the U.S. General Services Administration, or the Metropolitan Washington Council of Governments, for the purpose of combining requirements to increase efficiency or reduce administrative expenses in any acquisition of goods, services, or construction.

B. In addition, a public body may purchase from another public body's contract or from the contract of the Metropolitan Washington Council of Governments *or the Virginia Sheriffs' Association* even if it did not participate in the request for proposal or invitation to bid, if the request for proposal or invitation to bid specified that the procurement was a cooperative procurement being conducted on behalf of other public bodies, except for:

1. Contracts for architectural or engineering services; or
2. Construction, except for the installation of artificial turf and track surfaces, including all associated and necessary construction, which shall not be subject to the limitations prescribed in this subdivision. Nothing in this subdivision shall be construed to prohibit sole source or emergency procurements awarded pursuant to subsections E and F of § 2.2-4303.

In instances where any authority, department, agency, or institution of the Commonwealth desires to purchase information technology and telecommunications goods and services from another public body's contract and the procurement was conducted on behalf of other public bodies, such purchase shall be permitted if approved by the Chief Information Officer of the Commonwealth. Any public body that enters into a cooperative procurement agreement with a county, city, or town whose governing body has adopted alternative policies and procedures pursuant to subdivisions A 9 and A 10 of § 2.2-4343 shall comply with the alternative policies and procedures adopted by the governing body of such county, city, or town.

C. Subject to the provisions of §§ 2.2-1110, 2.2-1111, 2.2-1120 and 2.2-2012, any authority, department, agency, or institution of the Commonwealth may participate in, sponsor, conduct, or administer a joint procurement arrangement in conjunction with public bodies, private health or educational institutions or with public agencies or institutions of the several states, territories of the United States, or the District of Columbia, for the purpose of combining requirements to effect cost savings or reduce administrative expense in any acquisition of goods and services, other than professional services, and construction.

A public body may purchase from any authority, department, agency or institution of the Commonwealth's contract even if it did not participate in the request for proposal or invitation to bid, if the request for proposal or invitation to bid specified that the procurement was a cooperative procurement being conducted on behalf of other public bodies. In such instances, deviation from the procurement procedures set forth in this chapter and the administrative policies and procedures established to implement this chapter shall be permitted, if approved by the Director of the Division of Purchases and Supply.

Pursuant to § 2.2-2012, such approval is not required if the procurement arrangement is for telecommunications and information technology goods and services of every description. In instances where the procurement arrangement is for telecommunications and information technology goods and services, such arrangement shall be permitted if approved by the Chief Information Officer of the Commonwealth. However, such acquisitions shall be procured competitively.

Nothing herein shall prohibit the payment by direct or indirect means of any administrative fee that will allow for participation in any such arrangement.

D. As authorized by the United States Congress and consistent with applicable federal regulations, and provided the terms of the contract permit such purchases:

1. Any authority, department, agency, or institution of the Commonwealth may purchase goods and nonprofessional services, other than telecommunications and information technology, from a U.S. General Services Administration contract or a contract awarded by any other agency of the U.S. government, upon approval of the director of the Division of Purchases and Supply of the Department of General Services;

2. Any authority, department, agency, or institution of the Commonwealth may purchase telecommunications and information technology goods and nonprofessional services from a U.S. General Services Administration contract or a contract awarded by any other agency of the U.S. government, upon approval of the Chief Information Officer of the Commonwealth; and

3. Any county, city, town, or school board may purchase goods and nonprofessional services from a U.S. General Services Administration contract or a contract awarded by any other agency of the U.S. government.

**CHAPTER 637**

*An Act to provide for the sale of surplus property from the General Assembly Building replacement project; emergency.*

[S 1588]

Approved March 20, 2017

**Be it enacted by the General Assembly of Virginia:**

**1.** *§ 1. Notwithstanding any other provision of law, the Department of General Services in cooperation with the Clerk of the Senate and the Clerk of the House of Delegates shall conduct public sales or auctions of the surplus property from the General Assembly Building replacement project. No provision of law shall be construed to restrict the purchase by any person of such surplus property at a public sale or auction. For purposes of this section, "surplus property" means any personal property including, but not limited to, all fixtures, furnishings, materials, supplies, equipment, and recyclable items that are determined to be salvageable surplus property as agreed to by the Clerk of the Senate and the Clerk of the House of Delegates.*

**2. That an emergency exists and this act is in force from its passage.**

**CHAPTER 638**

*An Act to amend and reenact § 64.2-1314 of the Code of Virginia, relating to examining and approving a statement in lieu of the settlement of accounts; fee for commissioner of accounts.*

[H 1654]

Approved March 20, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 64.2-1314 of the Code of Virginia is amended and reenacted as follows:**

**§ 64.2-1314. Statement in lieu of settlement of accounts by personal representatives in certain circumstances.**

**A.** For the purposes of this section, the term "residuary beneficiary" shall not include the trustee of a trust that receives a residuary gift under a decedent's will.

**B.** If all distributees of a decedent's estate or all residuary beneficiaries under a decedent's will are personal representatives of that decedent's estate, whether serving alone or with others who are not distributees or residuary beneficiaries, the personal representatives may, in lieu of the settlement of accounts required by § 64.2-1304, file with the commissioner of accounts a statement under oath that (i) all known charges against the estate have been paid, (ii) six months have elapsed since the personal representatives qualified in the clerk's office, and (iii) the residue of the estate has been delivered to the distributees or beneficiaries. In the case of a residuary beneficiary, the statement shall include an itemized listing, substantiated and accompanied by proper vouchers, showing satisfaction of all other bequests in the will. The statement shall be considered an account stated and subject to all the provisions of this chapter applicable to accounts stated.

**C.** If the statement authorized by this section cannot be filed with the commissioner of accounts within the time prescribed by § 64.2-1304, the personal representatives, within that time, shall file either (i) an interim account or (ii) a written notice under oath that the personal representatives intend to file a statement in lieu of the settlement of accounts when all requirements of this section have been met, which shall include an explanation of why such a statement cannot presently be filed. Second and subsequent interim accounts or notices of intent to file shall be filed annually until the statement in lieu of the settlement of accounts is filed. A commissioner of accounts who determines that the reasons offered for not presently filing a statement in lieu of settlement are not sufficient, whether in a first or subsequent written notice, may require the personal representatives to file an interim account in addition to the notice. The filing of an interim account shall not preclude the filing of a subsequent statement.

~~**D.** For examining and approving a statement and vouchers or a written notice under the provisions of this section, the commissioner of accounts shall be allowed a fee not to exceed \$75.~~

**CHAPTER 639**

*An Act to require the Virginia Retirement System to adopt stress testing and reporting policies.*

[H 1768]

Approved March 20, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. § 1. The Virginia Retirement System (VRS) shall adopt a formal policy to:**

**1.** *Develop and regularly report sensitivity and stress test analyses. Such analyses and reporting shall include projections of benefit levels, pension costs, liabilities, and debt reduction under various economic and investment scenarios;*

**2.** *Improve investment transparency and reporting policy by (i) providing a clear and detailed online statement of investment policy; (ii) including one-year, three-year, five-year, and 10-year investment performance data in quarterly investment reports; (iii) including 20-year and 25-year investment performance data in annual investment reports;*

(iv) reporting net investment returns on a quarterly basis; and (v) reporting gross investment returns and returns by asset class on an annual basis; and

3. Regularly report investment performance and expenses such as external manager fees, carried interest fees, and investment department expenses for all asset classes, including private equity, public equity, fixed income, credit strategies, real assets, strategic opportunities, and other investments.

**CHAPTER 640**

*An Act to amend and reenact §§ 8.3A-118 and 8.3A-118.1 of the Code of Virginia, relating to negotiable instruments; statute of limitations; certificates of deposit.*

[H 1832]

Approved March 20, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 8.3A-118 and 8.3A-118.1 of the Code of Virginia are amended and reenacted as follows:**

**§ 8.3A-118. Statute of limitations.**

(a) Except as provided in subsection (e), an action to enforce the obligation of a party to pay a note payable at a definite time must be commenced within six years after the due date or dates stated in the note or, if a due date is accelerated, within six years after the accelerated due date.

(b) Except as provided in subsection (d) or (e), if demand for payment is made to the maker of a note payable on demand, an action to enforce the obligation of a party to pay the note must be commenced within six years after the demand. If no demand for payment is made to the maker, an action to enforce the note is barred if neither principal nor interest on the note has been paid for a continuous period of ten years.

(c) Except as provided in subsection (d), an action to enforce the obligation of a party to an unaccepted draft to pay the draft must be commenced within three years after dishonor of the draft or ten years after the date of the draft, whichever period expires first.

(d) An action to enforce the obligation of the acceptor of a certified check or the issuer of a teller's check, cashier's check, or traveler's check must be commenced within three years after demand for payment is made to the acceptor or issuer, as the case may be.

(e) An action to enforce the obligation of a party to a certificate of deposit to pay the instrument must be commenced within six years after demand for payment is made to the maker, but if the instrument states a due date and the maker is not required to pay before that date, the six-year period begins when a demand for payment is in effect and the due date has passed.

(f) An action to enforce the obligation of a party to pay an accepted draft, other than a certified check, must be commenced (i) within six years after the due date or dates stated in the draft or acceptance if the obligation of the acceptor is payable at a definite time, or (ii) within six years after the date of the acceptance if the obligation of the acceptor is payable on demand.

(g) Unless governed by other law regarding claims for indemnity or contribution, an action (i) for conversion of an instrument, for money had and received, or like action based on conversion, (ii) for breach of warranty, or (iii) to enforce an obligation, duty, or right arising under this title and not governed by this section must be commenced within three years after the cause of action accrues.

(h) Notwithstanding the provisions of § 8.01-246, this section shall apply to negotiable and non-negotiable notes *and certificates of deposit*.

**§ 8.3A-118.1. Statute of limitations on deposit accounts and certificates of deposit.**

A. An action to enforce the obligations of a bank to pay all or part of the balance of a deposit account or certificate of deposit (collectively, a deposit) must be commenced within six years after the earlier of the following:

(1) If the deposit is a certificate of deposit to which subsection (e) of § 8.3A-118 applies, the date the six-year limitations period begins to run under subsection (e) of § 8.3A-118; or

(2) The later of:

(A) The due date of the deposit indicated in the bank's last written notice of renewal;

(B) The date of the last written communication from the bank recognizing the bank's obligation with respect to the deposit; or

(C) The last day of the taxable year for which the owner of the deposit or the bank last reported interest income earned on the deposit for federal or state income tax purposes.

B. *This section shall apply to negotiable and non-negotiable certificates of deposit.*

## CHAPTER 641

An Act to amend and reenact §§ 19.2-54 and 19.2-56 of the Code of Virginia, relating to search warrants.

[H 1874]

Approved March 20, 2017

Be it enacted by the General Assembly of Virginia:

1. That §§ 19.2-54 and 19.2-56 of the Code of Virginia are amended and reenacted as follows:

**§ 19.2-54. Affidavit preliminary to issuance of search warrant; general search warrant prohibited; effect of failure to file affidavit.**

No search warrant shall be issued until there is filed with the officer authorized to issue the same an affidavit of some person reasonably describing the place, thing, or person to be searched, the things or persons to be searched for thereunder, alleging briefly material facts, constituting the probable cause for the issuance of such warrant and alleging substantially the offense in relation to which such search is to be made and that the object, thing, or person searched for constitutes evidence of the commission of such offense. The affidavit may be filed by electronically transmitted (i) facsimile process or (ii) electronic record as defined in § 59.1-480. Such affidavit shall be certified by the officer who issues such warrant and delivered in person; mailed by certified mail, return receipt requested; or delivered by electronically transmitted facsimile process or by use of filing and security procedures as defined in the Uniform Electronic Transactions Act (§ 59.1-479 et seq.) for transmitting signed documents, by such officer or his designee or agent, to the clerk of the circuit court of the county or city wherein the search is made, ~~with a copy of the affidavit also being delivered to the clerk of the circuit court of the county or city where the warrant is issued, if in a different county or city,~~ within seven days after the issuance of such warrant and shall by such ~~clerk~~ clerk be preserved as a record and shall at all times be subject to inspection by the public after the warrant that is the subject of the affidavit has been executed or 15 days after issuance of the warrant, whichever is earlier; however, such affidavit, any warrant issued pursuant thereto, any return made thereon, and any order sealing the affidavit, warrant, or return may be temporarily sealed for a specific period of time by the appropriate court upon application of the attorney for the Commonwealth for good cause shown in an ex parte hearing. Any individual arrested and claiming to be aggrieved by such search and seizure or any person who claims to be entitled to lawful possession of such property seized may move the appropriate court for the unsealing of such affidavit, warrant, and return. The burden of proof with respect to continued sealing shall be upon the Commonwealth. Each such clerk shall maintain an index of all such affidavits filed in his office in order to facilitate inspection. No such warrant shall be issued on an affidavit omitting such essentials, and no general warrant for the search of a house, place, compartment, vehicle or baggage shall be issued. The term "affidavit" as used in this section, means statements made under oath or affirmation and preserved verbatim.

Failure of the officer issuing such warrant to file the required affidavit shall not invalidate any search made under the warrant unless such failure shall continue for a period of 30 days. If the affidavit is filed prior to the expiration of the 30-day period, nevertheless, evidence obtained in any such search shall not be admissible until a reasonable time after the filing of the required affidavit.

**§ 19.2-56. To whom search warrant directed; what it shall command; warrant to show date and time of issuance; copy of affidavit to be part of warrant and served therewith; warrants not executed within 15 days.**

The judge, magistrate or other official authorized to issue criminal warrants, shall issue a search warrant if he finds from the facts or circumstances recited in the affidavit that there is probable cause for the issuance thereof.

Every search warrant shall be directed to (i) the sheriff, sergeant, or any policeman of the county, city or town in which the place to be searched is located, (ii) any law-enforcement officer or agent employed by the Commonwealth and vested with the powers of sheriffs and police, or (iii) jointly to any such sheriff, sergeant, policeman or law-enforcement officer or agent and an agent, special agent or officer of the Federal Bureau of Investigation, the Bureau of Alcohol, Tobacco and Firearms of the United States Treasury, the United States Naval Criminal Investigative Service, the United States Department of Homeland Security, any inspector, law-enforcement official or police personnel of the United States Postal Service, or the Drug Enforcement Administration. The warrant shall ~~(i)~~ (a) name the affiant, ~~(ii)~~ (b) recite the offense in relation to which the search is to be made, ~~(iii)~~ (c) name or describe the place to be searched, ~~(iv)~~ (d) describe the property or person to be searched for, and ~~(v)~~ (e) recite that the magistrate has found probable cause to believe that the property or person constitutes evidence of a crime (identified in the warrant) or tends to show that a person (named or described therein) has committed or is committing a crime.

The warrant shall command that the place be forthwith searched, either in day or night, and that the objects or persons described in the warrant, if found there, be seized. An inventory shall be produced before a court having jurisdiction of the offense in relation to which the warrant was issued as provided in § 19.2-57.

Any such warrant as provided in this section shall be executed by the policeman or other law-enforcement officer or agent into whose hands it shall come or be delivered. If the warrant is directed jointly to a sheriff, sergeant, policeman or law-enforcement officer or agent of the Commonwealth and a federal agent or officer as otherwise provided in this section, the warrant may be executed jointly or by the policeman, law-enforcement officer or agent into whose hands it is delivered. No other person may be permitted to be present during or participate in the execution of a warrant to search a place except ~~(i)~~ (1) the owners and occupants of the place to be searched when permitted to be present by the officer in charge of the

conduct of the search and ~~(ii)~~ (2) persons designated by the officer in charge of the conduct of the search to assist or provide expertise in the conduct of the search.

Any search warrant for records or other information pertaining to a subscriber to, or customer of, an electronic communication service or remote computing service, whether a domestic corporation or foreign corporation, that is transacting or has transacted any business in the Commonwealth, to be executed upon such service provider may be executed within or without the Commonwealth by hand, United States mail, commercial delivery service, facsimile, or other electronic means upon the service provider. Notwithstanding the provisions of § 19.2-57, the officer executing a warrant pursuant to this paragraph shall endorse the date of execution thereon and shall file the warrant, with the inventory attached (or a notation that no property was seized) and the accompanying affidavit, unless such affidavit was made by voice or videotape recording, within three days after the materials ordered to be produced are received by the officer from the service provider. The return shall be made in the circuit court clerk's office for the jurisdiction wherein the warrant was issued. Saturdays, Sundays, or any federal or state legal holiday shall not be used in computing the three-day filing period.

Electronic communication service or remote computing service providers, whether a foreign or domestic corporation, shall also provide the contents of electronic communications pursuant to a search warrant issued under this section and § 19.2-70.3 using the same process described in the preceding paragraph.

*Notwithstanding the provisions of § 19.2-57, any search warrant for records or other information pertaining to a customer of a financial institution as defined in § 6.2-604, money transmitter as defined in § 6.2-1900, commercial business providing credit history or credit reports, or issuer as defined in § 6.2-424 may be executed within the Commonwealth by hand, United States mail, commercial delivery service, facsimile, or other electronic means upon the financial institution, money transmitter, commercial business providing credit history or credit reports, or issuer. The officer executing such warrant shall endorse the date of execution thereon and shall file the warrant, with the inventory attached (or a notation that no property was seized) and the accompanying affidavit, unless such affidavit was made by voice or videotape recording, within three days after the materials ordered to be produced are received by the officer from the financial institution, money transmitter, commercial business providing credit history or credit reports, or issuer. The return shall be made in the circuit court clerk's office for the jurisdiction wherein the warrant was executed. Saturdays, Sundays, or any federal or state legal holiday shall not be used in computing the three-day filing period. For the purposes of this section, the warrant will be considered executed in the jurisdiction where the entity on which the warrant is served is located.*

Every search warrant shall contain the date and time it was issued. However, the failure of any such search warrant to contain the date and time it was issued shall not render the warrant void, provided that the date and time of issuing of said warrant is established by competent evidence.

The judge, magistrate, or other official authorized to issue criminal warrants shall attach a copy of the affidavit required by § 19.2-54, which shall become a part of the search warrant and served therewith. However, this provision shall not be applicable in any case in which the affidavit is made by means of a voice or videotape recording or where the affidavit has been sealed pursuant to § 19.2-54.

Any search warrant not executed within 15 days after issuance thereof shall be returned to, and voided by, the officer who issued such search warrant.

For the purposes of this section:

"Foreign corporation" means any corporation or other entity, whose primary place of business is located outside of the boundaries of the Commonwealth, that makes a contract or engages in a terms of service agreement with a resident of the Commonwealth to be performed in whole or in part by either party in the Commonwealth, or a corporation that has been issued a certificate of authority pursuant to § 13.1-759 to transact business in the Commonwealth. The making of the contract or terms of service agreement or the issuance of a certificate of authority shall be considered to be the agreement of the foreign corporation or entity that a search warrant or subpoena, which has been properly served on it, has the same legal force and effect as if served personally within the Commonwealth.

"Properly served" means delivery of a search warrant or subpoena by hand, by United States mail, by commercial delivery service, by facsimile or by any other manner to any officer of a corporation or its general manager in the Commonwealth, to any natural person designated by it as agent for the service of process, or if such corporation has designated a corporate agent, to any person named in the latest annual report filed pursuant to § 13.1-775.

## CHAPTER 642

*An Act to amend and reenact § 2.2-3705.7 of the Code of Virginia, relating to the Virginia Freedom of Information Act; public access to library records of minors.*

[H 1876]

Approved March 20, 2017

**Be it enacted by the General Assembly of Virginia:**

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

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

The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01.

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

2. Working papers and correspondence of the Office of the Governor; the Lieutenant Governor; the Attorney General; the members of the General Assembly, the Division of Legislative Services, or the Clerks of the House of Delegates and the Senate of Virginia; the mayor or chief executive officer of any political subdivision of the Commonwealth; or the president or other chief executive officer of any public institution of higher education in Virginia. However, no information that is otherwise open to inspection under this chapter shall be deemed excluded by virtue of the fact that it has been attached to or incorporated within any working paper or correspondence. Nothing in this subdivision shall be construed to authorize the withholding of any resumes or applications submitted by persons who are appointed by the Governor pursuant to § 2.2-106 or 2.2-107.

As used in this subdivision:

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

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

"Working papers" means those records prepared by or for an above-named public official for his personal or deliberative use.

3. Information contained in library records that can be used to identify (i) both ~~(i)~~ (a) any library patron who has borrowed material from a library and ~~(ii)~~ (b) the material such patron borrowed or (ii) any library patron under 18 years of age. For the purposes of clause (ii), access shall not be denied to the parent, including a noncustodial parent, or guardian of such library patron.

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

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

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

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

8. Personal information, as defined in § 2.2-3801, (i) filed with the Virginia Housing Development Authority concerning individuals who have applied for or received loans or other housing assistance or who have applied for occupancy of or have occupied housing financed, owned or otherwise assisted by the Virginia Housing Development Authority; (ii) concerning persons participating in or persons on the waiting list for federally funded rent-assistance programs; (iii) filed with any local redevelopment and housing authority created pursuant to § 36-4 concerning persons participating in or persons on the waiting list for housing assistance programs funded by local governments or by any such authority; or (iv) filed with any local redevelopment and housing authority created pursuant to § 36-4 or any other local government agency concerning persons who have applied for occupancy or who have occupied affordable dwelling units established pursuant to § 15.2-2304 or 15.2-2305. However, access to one's own information shall not be denied.

9. Information regarding the siting of hazardous waste facilities, except as provided in § 10.1-1441, if disclosure of such information would have a detrimental effect upon the negotiating position of a governing body or on the establishment of the terms, conditions, and provisions of the siting agreement.

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

11. Memoranda, graphics, video or audio tapes, production models, data, and information of a proprietary nature produced by or for or collected by or for the Virginia Lottery relating to matters of a specific lottery game design, development, production, operation, ticket price, prize structure, manner of selecting the winning ticket, manner of payment of prizes to holders of winning tickets, frequency of drawings or selections of winning tickets, odds of winning, advertising, or marketing, where such information not been publicly released, published, copyrighted, or patented. Whether released,

published, or copyrighted, all game-related information shall be subject to public disclosure under this chapter upon the first day of sales for the specific lottery game to which it pertains.

12. Information held by the Virginia Retirement System, acting pursuant to § 51.1-124.30, or a local retirement system, acting pursuant to § 51.1-803, or the Rector and Visitors of the University of Virginia, acting pursuant to § 23.1-2210, or the Virginia College Savings Plan, acting pursuant to § 23.1-704, relating to the acquisition, holding, or disposition of a security or other ownership interest in an entity, where such security or ownership interest is not traded on a governmentally regulated securities exchange, if disclosure of such information would (i) reveal confidential analyses prepared for the Rector and Visitors of the University of Virginia, prepared by the retirement system or the Virginia College Savings Plan, or provided to the retirement system or the Virginia College Savings Plan under a promise of confidentiality of the future value of such ownership interest or the future financial performance of the entity and (ii) have an adverse effect on the value of the investment to be acquired, held, or disposed of by the retirement system, the Rector and Visitors of the University of Virginia, or the Virginia College Savings Plan. Nothing in this subdivision shall be construed to authorize the withholding of information relating to the identity of any investment held, the amount invested, or the present value of such investment.

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

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

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

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

17. Information related to the operation of toll facilities that identifies an individual, vehicle, or travel itinerary, including vehicle identification data or vehicle enforcement system information; video or photographic images; Social Security or other identification numbers appearing on driver's licenses; credit card or bank account data; home addresses; phone numbers; or records of the date or time of toll facility use.

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

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

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

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

22. Information held by state or local park and recreation departments and local and regional park authorities concerning identifiable individuals under the age of 18 years. However, nothing in this subdivision shall operate to authorize the withholding of information defined as directory information under regulations implementing the Family

Educational Rights and Privacy Act, 20 U.S.C. § 1232g, unless the public body has undertaken the parental notification and opt-out requirements provided by such regulations. Access shall not be denied to the parent, including a noncustodial parent, or guardian of such person, unless the parent's parental rights have been terminated or a court of competent jurisdiction has restricted or denied such access. For such information of persons who are emancipated, the right of access may be asserted by the subject thereof. Any parent or emancipated person who is the subject of the information may waive, in writing, the protections afforded by this subdivision. If the protections are so waived, the public body shall open such information for inspection and copying.

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

24. Information held by the Judicial Inquiry and Review Commission made confidential by § 17.1-913.

25. Information held by the Virginia Retirement System acting pursuant to § 51.1-124.30, a local retirement system acting pursuant to § 51.1-803 (hereinafter collectively referred to as the retirement system), or the Virginia College Savings Plan, acting pursuant to § 23.1-704 relating to:

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

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

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

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

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

(3) Stating the reasons why protection is necessary.

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

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

26. Information held by the Department of Corrections made confidential by § 53.1-233.

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

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

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

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

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

32. Information provided to the Department of Aviation by other entities of the Commonwealth in connection with the operation of aircraft where the information would not be subject to disclosure by the entity providing the information. The

entity providing the information to the Department of Aviation shall identify the specific information to be protected and the applicable provision of this chapter that excludes the information from mandatory disclosure.

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

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

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

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

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

c. Stating the reasons why protection is necessary.

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

35. Information reflecting the substance of meetings in which individual sexual assault cases are discussed by any sexual assault team established pursuant to § 15.2-1627.4. The findings of the team may be disclosed or published in statistical or other aggregated form that does not disclose the identity of specific individuals.

## CHAPTER 643

*An Act to amend and reenact §§ 38.2-1005.1:7, 38.2-1339, 38.2-1342, and 38.2-4319 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 13 of Title 38.2 an article numbered 5.2, consisting of sections numbered 38.2-1334.11 through 38.2-1334.17, relating to the regulation of insurers; corporate governance annual disclosures.*

[H 2102]

Approved March 20, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 38.2-1005.1:7, 38.2-1339, 38.2-1342, and 38.2-4319 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 13 of Title 38.2 an article numbered 5.2, consisting of sections numbered 38.2-1334.11 through 38.2-1334.17, as follows:**

**§ 38.2-1005.1:7. Regulation and authority of a mutual holding company.**

A. A mutual holding company organized under Title 13.1 pursuant to the authority granted by this article shall have all of the powers granted to a domestic mutual insurance company licensed under Chapter 10 (§ 38.2-1000 et seq.) and shall be subject to the same limitations and restrictions imposed on insurance holding companies by Article 5 (§ 38.2-1322 et seq.), Article 5.1 (§ 38.2-1334.3 et seq.), *Article 5.2 (§ 38.2-1334.11 et seq.)*, and Article 6 (§ 38.2-1335 et seq.) of Chapter 13 as well as all requirements and provisions of the laws of this Commonwealth that are not inconsistent with the provisions of this article except that a mutual holding company shall not have authority to transact insurance pursuant to this title.

B. Neither the mutual holding company nor any intermediate holding company shall issue or reinsure policies of insurance.

C. A mutual holding company may enter into an affiliation agreement or merger agreement either at the time of the conversion, or at some later time with the approval of the Commission, with any mutual insurance company licensed to transact insurance in this Commonwealth or another mutual holding company. Any such merger agreement may authorize members of the mutual insurance company or other mutual holding company to become members of the mutual holding company. Any such affiliation or merger agreement shall be subject to the provisions of this title relating to transactions entered into by a mutual insurance company organized and licensed under the laws of this Commonwealth.

D. The assets of the mutual holding company shall be held in trust under such arrangements and on such terms as the Commission may approve for the benefit of the policyholders of the converted company. Any residual rights of the MHC in such assets or any of the assets of the MHC determined not to be held in trust shall be subject to a lien in favor of the policyholders of the converted company under such terms as the Commission may approve. Upon conversion of the mutual holding company as provided for in § 38.2-1005.1:9, such assets shall be released from trust in accordance with the plan of conversion approved by the Commission.

*Article 5.2.*

*Corporate Governance Annual Disclosures.*

**§ 38.2-1334.11. Definitions.**

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

"Commissioner" means the chief insurance regulatory official of a state, however designated.

"Corporate Governance Annual Disclosure" or "CGAD" means a confidential report filed by the insurer or insurance group made in accordance with the requirements of this article.

"Insurance group" means those insurers and affiliates included within an insurance holding company system as defined in § 38.2-1322.

"Insurer" means an insurance company as defined in § 38.2-100, except that "insurer" shall not include agencies, authorities, or instrumentalities of the United States, its possessions and territories, the Commonwealth of Puerto Rico, the District of Columbia, or a state or political subdivision of a state.

"NAIC" means the National Association of Insurance Commissioners.

**§ 38.2-1334.12. Disclosure requirement.**

A. The requirements of this article shall apply to all insurers domiciled in the Commonwealth. An insurer, or the insurance group of which the insurer is a member, shall, no later than June 1 of each calendar year, submit to the Commission a Corporate Governance Annual Disclosure that contains the information described in subsection B of § 38.2-1334.13. Notwithstanding any request from the Commission made pursuant to subsection C, if the insurer is a member of an insurance group, the insurer shall submit the report required by this section to the Commissioner of the lead state for the insurance group, in accordance with the laws of the lead state, as determined by the procedures outlined in the most recent Financial Analysis Handbook adopted by the NAIC.

B. The CGAD shall include a signature of the insurer or insurance group's chief executive officer or corporate secretary attesting to the best of that individual's belief and knowledge that the insurer has implemented the corporate governance practices and that a copy of the disclosure has been provided to the insurer's board of directors or the appropriate committee thereof.

C. An insurer not required to submit a CGAD under this section shall do so upon the Commission's request.

D. For purposes of completing the CGAD, the insurer or insurance group may provide information regarding corporate governance at one or more of the ultimate controlling parent level, an intermediate holding company level, or the individual legal entity level, depending upon how the insurer or insurance group has structured its system of corporate governance. The insurer or insurance group is encouraged to make the CGAD disclosures at the level at which the insurer's or insurance group's risk appetite is determined, or at which the earnings, capital, liquidity, operations, and reputation of the insurer are overseen collectively and at which the supervision of those factors are coordinated and exercised, or the level at which legal liability for failure of general corporate governance duties would be placed. If the insurer or insurance group determines the level of reporting based on these criteria, it shall indicate which of the three criteria was used to determine the level of reporting and explain any subsequent changes in level of reporting.

E. The review of the CGAD and any additional requests for information shall be made through the lead state as determined by the procedures within the most recent Financial Analysis Handbook referenced in subsection A.

F. Insurers providing information substantially similar to the information required by this article in other documents provided to the Commission, including proxy statements filed in conjunction with the registration requirements pursuant to § 38.2-1329, or other state or federal filings provided to the Commission shall not be required to duplicate that information in the CGAD, but shall only be required to cross-reference the document in which the information is included.

G. Nothing in this article shall be construed to prescribe or impose corporate governance standards and internal procedures beyond that which is required under applicable state corporate law. Notwithstanding the foregoing, nothing in this article shall be construed to limit the Commission's authority, or the rights or obligations of third parties, under § 38.2-1318.

**§ 38.2-1334.13. Contents of Corporate Governance Annual Disclosure.**

A. The insurer or insurance group shall have discretion over the responses to the CGAD inquiries, provided that the CGAD shall contain the material information necessary to permit the Commission to gain an understanding of the insurer's or insurance group's corporate governance structure, policies, and practices. The Commission may request additional information deemed material and necessary to provide the Commission with a clear understanding of the corporate governance policies, the reporting or information system, or the controls implementing those policies.

B. Notwithstanding subsection A, the CGAD shall be prepared consistent with the rules and regulations promulgated by the Commission to administer the requirements of this article. Documentation and supporting information shall be maintained and made available upon examination or upon request of the Commission.

**§ 38.2-1334.14. Confidentiality.**

A. The CGAD is recognized by the Commonwealth as containing confidential and sensitive information related to an insurer or insurance group's internal operations. This information includes proprietary and trade secret information that has the potential for harm and competitive disadvantage to the insurer or insurance group if the information is made public. The CGAD shall be a confidential document filed with the Commission, the CGAD may be shared only as stated in this article and to assist the Commission in the performance of its duties, and in no event shall the CGAD be subject to public disclosure.

B. Documents, materials, or other information, including the CGAD, in the possession of or control of the Commission that is obtained by, created by, or disclosed to the Commission or any other person under this article is declared to be proprietary and to contain trade secrets. All such documents, materials, or other information shall be confidential by law

and privileged, shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private civil action. However, the Commission is authorized to use the documents, materials, or other information in the furtherance of any regulatory or legal action brought as a part of the Commission's official duties. The Commission shall not otherwise make the documents, materials, or other information public without the prior written consent of the insurer. Nothing in this section shall be construed to require written consent of the insurer before the Commission may share or receive confidential documents, materials, or other CGAD-related information pursuant to subsection C to assist in the performance of the Commission's regular duties.

C. Neither the Commission nor any person who received documents, materials, or other CGAD-related information, through examination or otherwise, while acting under the authority of the Commission or with whom such documents, materials, or other information are shared pursuant to this article shall be permitted or required to testify in any private civil action concerning any confidential documents, materials, or information subject to subsection A.

D. In order to assist in the performance of the Commission's regulatory duties, the Commission:

1. May, upon request, share documents, materials, or other CGAD-related information, including the confidential and privileged documents, materials, or information subject to subsection A, including proprietary and trade secret documents and materials, with other state, federal, and international financial regulatory agencies, including any forum for cooperation and communication between insurance supervisors, known as a supervisory college, that is established for the purpose of facilitating the effectiveness of supervision of insurers, with the NAIC, and with third-party consultants pursuant to § 38.2-1334.15, provided that the recipient agrees in writing to maintain the confidentiality and privileged status of the CGAD-related documents, materials, or other information and has verified in writing the legal authority to maintain confidentiality; and

2. May receive documents, materials, or other CGAD-related information, including otherwise confidential and privileged documents, materials, or information, including proprietary and trade-secret information or documents, from regulatory officials of other foreign or domestic jurisdictions, including members of any supervisory college, and from the NAIC and shall maintain as confidential or privileged any documents, materials, or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material, or information.

E. The sharing of information and documents by the Commission pursuant to this article shall not constitute a delegation of regulatory authority or rulemaking, and the Commission is solely responsible for the administration, execution, and enforcement of the provisions of this article.

F. No waiver of any applicable privilege or claim of confidentiality in the documents, proprietary and trade-secret materials, or other CGAD-related information shall occur as a result of disclosure of such CGAD-related information or documents to the Commission under this section or as a result of sharing as authorized in this article.

**§ 38.2-1334.15. NAIC and third-party consultants.**

A. The Commission may retain, at the insurer's expense, third-party consultants, including attorneys, actuaries, accountants, and other experts not otherwise a part of the Commission's staff as may be reasonably necessary to assist the Commission in reviewing the CGAD and related information or the insurer's compliance with this article.

B. Any persons retained under subsection A shall be under the direction and control of the Commission and shall act in a purely advisory capacity.

C. The NAIC and third-party consultants shall be subject to the same confidentiality standards and requirements as the Commission.

D. As part of the retention process, a third-party consultant shall verify to the Commission, with notice to the insurer, that it is free of a conflict of interest and that it has internal procedures in place to monitor compliance with a conflict and to comply with the confidentiality standards and requirements of this article.

E. A written agreement with the NAIC or a third-party consultant, or both, governing sharing and use of information provided pursuant to this article shall contain the following provisions and expressly require the written consent of the insurer prior to making public information provided under this article:

1. Specific procedures and protocols for maintaining the confidentiality and security of CGAD-related information shared with the NAIC or a third-party consultant pursuant to this article;

2. Procedures and protocols for sharing by the NAIC only with other state regulators from states in which the insurance group has domiciled insurers. The agreement shall provide that the recipient agrees in writing to maintain the confidentiality and privileged status of the CGAD-related documents, materials, or other information and has verified in writing the legal authority to maintain confidentiality;

3. A provision specifying that ownership of the CGAD-related information shared with the NAIC or a third-party consultant remains with the Commission and the NAIC's or third-party consultant's use of the information is subject to the direction of the Commission;

4. A provision that prohibits the NAIC or a third-party consultant from storing the information shared pursuant to this article in a permanent database after the underlying analysis is completed;

5. A provision requiring the NAIC or third-party consultant to provide prompt notice to the Commission and to the insurer or insurance group regarding any subpoena, request for disclosure, or request for production of the insurer's CGAD-related information; and

6. A requirement that the NAIC or a third-party consultant consent to intervention by an insurer in any judicial or administrative action in which the NAIC or a third-party consultant may be required to disclose confidential information about the insurer shared with the NAIC or a third-party consultant pursuant to this article.

**§ 38.2-1334.16. Rules and regulations.**

The Commission may adopt rules and regulations implementing the provisions of this article.

**§ 38.2-1334.17. Sanctions.**

Any insurer failing, without just cause, to timely file the CGAD as required in this article shall be subject to the enforcement and penalty provisions set forth in Chapter 2 (§ 38.2-200 et seq.).

**§ 38.2-1339. Exemptions.**

Nothing in this article shall exempt any domestic insurer from the provisions of Article 5 (§ 38.2-1322 et seq.) or Article 5.1 (§ 38.2-1334.3 et seq.), or Article 5.2 (§ 38.2-1334.11 et seq.).

**§ 38.2-1342. Applicability.**

A. All provisions of this article shall apply to domestic insurers.

B. Effective January 1, 1994, any foreign insurer not domiciled and licensed in an accredited state shall confirm, at least once every five years, as a condition of licensing and licensing renewal, its compliance with the provisions of this article or those of a substantially similar law enacted by an accredited state in which the insurer is licensed. The method of confirmation shall be determined by the Commission and may include examination of such foreign insurer and its controlling producer pursuant to Article 4 (§ 38.2-1317 et seq.) of Chapter 13. Any foreign insurer that is unable to confirm substantial compliance in a manner satisfactory to the Commission shall be subject to all of the provisions of this title.

C. All provisions of Article 5 (§ 38.2-1322 et seq.) and Article 5.1 (§ 38.2-1334.3 et seq.), and Article 5.2 (§ 38.2-1334.11 et seq.) of this chapter and Article 2 (§ 38.2-4230 et seq.) of Chapter 42, to the extent they are not superseded by the provisions of this article, shall continue to apply to all parties within holding company systems subject to this article.

**§ 38.2-4319. Statutory construction and relationship to other laws.**

A. No provisions of this title except this chapter and, insofar as they are not inconsistent with this chapter, §§ 38.2-100, 38.2-136, 38.2-200, 38.2-203, 38.2-209 through 38.2-213, 38.2-216, 38.2-218 through 38.2-225, 38.2-229, 38.2-232, 38.2-305, 38.2-316, 38.2-316.1, 38.2-322, 38.2-325, 38.2-326, 38.2-400, 38.2-402 through 38.2-413, 38.2-500 through 38.2-515, 38.2-600 through 38.2-620, Chapter 9 (§ 38.2-900 et seq.), §§ 38.2-1016.1 through 38.2-1023, 38.2-1057, 38.2-1306.1, Article 2 (§ 38.2-1306.2 et seq.), § 38.2-1315.1, Articles 3.1 (§ 38.2-1316.1 et seq.), 4 (§ 38.2-1317 et seq.), 5 (§ 38.2-1322 et seq.), and 5.1 (§ 38.2-1334.3 et seq.), and 5.2 (§ 38.2-1334.11 et seq.) of Chapter 13, Articles 1 (§ 38.2-1400 et seq.), 2 (§ 38.2-1412 et seq.), and 4 (§ 38.2-1446 et seq.) of Chapter 14, §§ 38.2-1800 through 38.2-1836, 38.2-3401, 38.2-3405, 38.2-3405.1, 38.2-3406.1, 38.2-3407.2 through 38.2-3407.6:1, 38.2-3407.9 through 38.2-3407.19, 38.2-3411, 38.2-3411.2, 38.2-3411.3, 38.2-3411.4, 38.2-3412.1, 38.2-3414.1, 38.2-3418.1 through 38.2-3418.17, 38.2-3419.1, 38.2-3430.1 through 38.2-3454, 38.2-3500, subdivision 13 of § 38.2-3503, subdivision 8 of § 38.2-3504, §§ 38.2-3514.1, 38.2-3514.2, 38.2-3522.1 through 38.2-3523.4, 38.2-3525, 38.2-3540.1, 38.2-3540.2, 38.2-3541.2, 38.2-3542, 38.2-3543.2, Article 5 (§ 38.2-3551 et seq.) of Chapter 35, Chapter 35.1 (§ 38.2-3556 et seq.), Chapter 52 (§ 38.2-5200 et seq.), Chapter 55 (§ 38.2-5500 et seq.), and Chapter 58 (§ 38.2-5800 et seq.) shall be applicable to any health maintenance organization granted a license under this chapter. This chapter shall not apply to an insurer or health services plan licensed and regulated in conformance with the insurance laws or Chapter 42 (§ 38.2-4200 et seq.) except with respect to the activities of its health maintenance organization.

B. For plans administered by the Department of Medical Assistance Services that provide benefits pursuant to Title XIX or Title XXI of the Social Security Act, as amended, no provisions of this title except this chapter and, insofar as they are not inconsistent with this chapter, §§ 38.2-100, 38.2-136, 38.2-200, 38.2-203, 38.2-209 through 38.2-213, 38.2-216, 38.2-218 through 38.2-225, 38.2-229, 38.2-232, 38.2-322, 38.2-325, 38.2-400, 38.2-402 through 38.2-413, 38.2-500 through 38.2-515, 38.2-600 through 38.2-620, Chapter 9 (§ 38.2-900 et seq.), §§ 38.2-1016.1 through 38.2-1023, 38.2-1057, 38.2-1306.1, Article 2 (§ 38.2-1306.2 et seq.), § 38.2-1315.1, Articles 3.1 (§ 38.2-1316.1 et seq.), 4 (§ 38.2-1317 et seq.), 5 (§ 38.2-1322 et seq.), and 5.1 (§ 38.2-1334.3 et seq.), and 5.2 (§ 38.2-1334.11 et seq.) of Chapter 13, Articles 1 (§ 38.2-1400 et seq.), 2 (§ 38.2-1412 et seq.), and 4 (§ 38.2-1446 et seq.) of Chapter 14, §§ 38.2-3401, 38.2-3405, 38.2-3407.2 through 38.2-3407.5, 38.2-3407.6, 38.2-3407.6:1, 38.2-3407.9, 38.2-3407.9:01, and 38.2-3407.9:02, subdivisions F 1, F 2, and F 3 of § 38.2-3407.10, §§ 38.2-3407.11, 38.2-3407.11:3, 38.2-3407.13, 38.2-3407.13:1, 38.2-3407.14, 38.2-3411.2, 38.2-3418.1, 38.2-3418.2, 38.2-3419.1, 38.2-3430.1 through 38.2-3437, 38.2-3500, subdivision 13 of § 38.2-3503, subdivision 8 of § 38.2-3504, §§ 38.2-3514.1, 38.2-3514.2, 38.2-3522.1 through 38.2-3523.4, 38.2-3525, 38.2-3540.1, 38.2-3540.2, 38.2-3541.2, 38.2-3542, 38.2-3543.2, Chapter 52 (§ 38.2-5200 et seq.), Chapter 55 (§ 38.2-5500 et seq.), and Chapter 58 (§ 38.2-5800 et seq.) shall be applicable to any health maintenance organization granted a license under this chapter. This chapter shall not apply to an insurer or health services plan licensed and regulated in conformance with the insurance laws or Chapter 42 (§ 38.2-4200 et seq.) except with respect to the activities of its health maintenance organization.

C. Solicitation of enrollees by a licensed health maintenance organization or by its representatives shall not be construed to violate any provisions of law relating to solicitation or advertising by health professionals.

D. A licensed health maintenance organization shall not be deemed to be engaged in the unlawful practice of medicine. All health care providers associated with a health maintenance organization shall be subject to all provisions of law.

E. Notwithstanding the definition of an eligible employee as set forth in § 38.2-3431, a health maintenance organization providing health care plans pursuant to § 38.2-3431 shall not be required to offer coverage to or accept applications from an employee who does not reside within the health maintenance organization's service area.

F. For purposes of applying this section, "insurer" when used in a section cited in subsections A and B shall be construed to mean and include "health maintenance organizations" unless the section cited clearly applies to health maintenance organizations without such construction.

**2. That the provisions of this act shall become effective on January 1, 2018.**

**CHAPTER 644**

*An Act to amend and reenact § 30-178 of the Code of Virginia, relating to the Virginia Freedom of Information Advisory Council; membership; effect of missing meetings.*

[H 2144]

Approved March 20, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 30-178 of the Code of Virginia is amended and reenacted as follows:**

**§ 30-178. Virginia Freedom of Information Advisory Council; membership; terms; quorum; expenses.**

A. The Virginia Freedom of Information Advisory Council (the Council) is hereby created as an advisory council in the legislative branch to encourage and facilitate compliance with the Freedom of Information Act (§ 2.2-3700 *et seq.*).

B. The Council shall consist of ~~12~~ 14 members as follows: the Attorney General or his designee; the Librarian of Virginia or his designee; the Director of the Division of Legislative Services or his designee; ~~four~~ five members appointed by the Speaker of the House of Delegates, ~~one~~ two of whom shall be a ~~member~~ members of the House of Delegates, and three nonlegislative citizen members, at least one of whom shall be or have been a representative of the news media; ~~three~~ four members appointed by the Senate Committee on Rules, ~~one~~ two of whom shall be a ~~member~~ members of the Senate, one of whom shall be or have been an officer of local government, and one nonlegislative citizen at-large member; and two nonlegislative citizen members appointed by the Governor, one of whom shall not be a state employee. The local government representative may be selected from a list recommended by the Virginia Association of Counties and the Virginia Municipal League, after due consideration of such list by the Senate Committee on Rules. The citizen members may be selected from a list recommended by the Virginia Press Association, the Virginia Association of Broadcasters, and the Virginia Coalition for Open Government, after due consideration of such list by the appointing authorities.

C. All appointments following the initial staggering of terms shall be for terms of four years, except that appointments to fill vacancies shall be for the unexpired terms in the same manner as the original appointment. No nonlegislative citizen member shall be eligible to serve for more than two successive four-year terms. However, after the expiration of a term of three years or less, or after the expiration of the remainder of a term to which appointed to fill a vacancy, two additional terms may be served by such member if appointed thereto. Legislative members and other state government officials shall serve terms coincident with their terms of office. Legislative members may be reappointed for successive terms.

D. The members of the Council shall elect from among their membership a chairman and a vice-chairman for two-year terms. The chairman and vice-chairman may not succeed themselves to the same position.

E. The Council shall hold meetings quarterly or upon the call of the chairman. A majority of the Council shall constitute a quorum. *Notwithstanding the provisions of subsection C, if any nonlegislative citizen member of the Council fails to attend a majority of meetings of the Council in a calendar year, the Council shall notify the member's appointing authority. Upon receipt of such notification, the appointing authority may remove the member and appoint a successor as soon as practicable.*

~~E.~~ F. Members of the Council shall receive no compensation for their services but shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813, 2.2-2825 and 30-19.12, as appropriate. Funding for expenses of the members shall be provided from existing appropriations to the Council.

**CHAPTER 645**

*An Act to amend and reenact §§ 2.2-3704.1 and 30-179 of the Code of Virginia, relating to the Virginia Freedom of Information Act; Freedom of Information Advisory Council; online public comment form.*

[H 2146]

Approved March 20, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 2.2-3704.1 and 30-179 of the Code of Virginia are amended and reenacted as follows:**

**§ 2.2-3704.1. Posting of notice of rights and responsibilities by state and local public bodies; assistance by the Freedom of Information Advisory Council.**

A. All state public bodies subject to the provisions of this chapter and any county or city, and any town with a population of more than 250, shall make available the following information to the public upon request and shall post a link to such information on the homepage of their respective public government websites:

1. A plain English explanation of the rights of a requester under this chapter, the procedures to obtain public records from the public body, and the responsibilities of the public body in complying with this chapter. For purposes of this section, "plain English" means written in nontechnical, readily understandable language using words of common everyday usage and avoiding legal terms and phrases or other terms and words of art whose usage or special meaning primarily is limited to a particular field or profession;

2. Contact information for the FOIA officer designated by the public body pursuant to § 2.2-3704.2 to (i) assist a requester in making a request for records or (ii) respond to requests for public records;

3. A general description, summary, list, or index of the types of public records maintained by such state public body;

4. A general description, summary, list, or index of any exemptions in law that permit or require such public records to be withheld from release;

5. Any policy the public body has concerning the type of public records it routinely withholds from release as permitted by this chapter or other law; and

6. The following statement: "A public body may make reasonable charges not to exceed its actual cost incurred in accessing, duplicating, supplying, or searching for the requested records. No public body shall impose any extraneous, intermediary, or surplus fees or expenses to recoup the general costs associated with creating or maintaining records or transacting the general business of the public body. Any duplicating fee charged by a public body shall not exceed the actual cost of duplication. All charges for the supplying of requested records shall be estimated in advance at the request of the citizen as set forth in subsection F of § 2.2-3704 of the Code of Virginia."

*B. Any state public body subject to the provisions of this chapter and any county or city, and any town with a population of more than 250, shall post a link on its official public government website to the online public comment form on the Freedom of Information Advisory Council's website to enable any requester to comment on the quality of assistance provided to the requester by the public body.*

~~B.~~ C. The Freedom of Information Advisory Council, created pursuant to § 30-178, shall assist in the development and implementation of the provisions of subsection A, upon request.

**§ 30-179. Powers and duties of the Council.**

The Council shall:

1. Furnish, upon request, advisory opinions or guidelines, and other appropriate information regarding the Freedom of Information Act (§ 2.2-3700 et seq.) to any person or agency of state or local government, in an expeditious manner;

2. Conduct training seminars and educational programs for the members and staff of public bodies and other interested persons on the requirements of the Freedom of Information Act (§ 2.2-3700 et seq.);

3. Publish such educational materials as it deems appropriate on the provisions of the Freedom of Information Act (§ 2.2-3700 et seq.);

4. Request from any agency of state or local government such assistance, services and information as will enable the Council to effectively carry out its responsibilities. Information provided to the Council by an agency of state or local government shall not be released to any other party unless authorized by such agency;

5. Assist in the development and implementation of the provisions of § 2.2-3704.1;

6. Develop the public comment form for use by designated public bodies in accordance with subsection F of § 2.2-3708; ~~and~~

7. *Develop an online public comment form to be posted on the Council's official public government website to enable any requester to comment on the quality of assistance provided to the requester by a public body; and*

~~7.~~ 8. Report annually on or before December 1 of each year on its activities and findings regarding the Freedom of Information Act (§ 2.2-3700 et seq.), including recommendations for changes in the law, to the General Assembly and the Governor. The annual report shall be published as a state document.

**CHAPTER 646**

*An Act to amend and reenact §§ 13.1-654, 13.1-655, 13.1-658, 13.1-660.2, and 13.1-661 of the Code of Virginia, relating to stock corporations; meetings of shareholders.*

[H 2230]

Approved March 20, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 13.1-654, 13.1-655, 13.1-658, 13.1-660.2, and 13.1-661 of the Code of Virginia are amended and reenacted as follows:**

**§ 13.1-654. Annual meeting.**

A. Unless directors are elected by written consent in lieu of an annual meeting as permitted by § 13.1-657, a corporation shall hold a meeting of shareholders annually at a time stated in or fixed in accordance with the bylaws, except that a corporation registered under the Investment Company Act of 1940 is not required to hold an annual meeting in any

year in which the election of directors is not required to be held under the Investment Company Act of 1940 unless the articles of incorporation or bylaws of the corporation require an annual meeting to be held.

B. ~~Annual~~ *Except as otherwise determined by the board of directors acting pursuant to subsection C of § 13.1-660.2, shareholders' meetings may be held at such place, in or out of the Commonwealth, as may be provided in the bylaws or, where not inconsistent with the bylaws, in the notice of the meeting.*

C. The failure to hold an annual meeting at the time stated in or fixed in accordance with a corporation's bylaws does not affect the validity of any corporate action.

**§ 13.1-655. Special meeting.**

A. A corporation shall hold a special meeting of shareholders:

1. On call of the chairman of the board of directors, the president, the board of directors, or the person or persons authorized to do so by the articles of incorporation or bylaws; or

2. In the case of ~~corporations having~~ *a corporation that is not a public corporation and that has 35 or fewer shareholders of record, if the holders of at least 20 percent of all votes entitled to be cast on any issue proposed to be considered at the special meeting sign, date, and deliver to the corporation's secretary one or more written demands for the meeting describing the purpose or purposes for which it is to be held. The articles of incorporation may provide for an increase or decrease in the percentage stated in this subdivision.*

B. Unless otherwise provided in the articles of incorporation, a written demand for a special meeting may be revoked by a writing, including an electronic transmission, to that effect received by the corporation prior to the receipt by the corporation of demands sufficient in number to require the holding of a special meeting.

C. If not otherwise fixed under § 13.1-656 or 13.1-660, the record date for determining shareholders entitled to demand a special meeting is the date the first shareholder signs the demand.

D. ~~Special~~ *Except as otherwise determined by the board of directors acting pursuant to subsection C of § 13.1-660.2, shareholders' meetings may be held at such place in or out of this Commonwealth as may be provided in the bylaws or, where not inconsistent with the bylaws, in the notice of the meeting.*

E. Only business within the purpose or purposes described in the meeting notice required by subsection C of § 13.1-658 may be conducted at a special shareholders' meeting.

**§ 13.1-658. Notice of meeting.**

A. A corporation shall notify shareholders of the date, time, and place, *if any*, of each annual and special shareholders' meeting. Such notice shall be given no less than 10 nor more than 60 days before the meeting date except that notice of a shareholders' meeting to act on an amendment of the articles of incorporation, a plan of merger, share exchange, domestication or entity conversion, a proposed sale of assets pursuant to § 13.1-724, or the dissolution of the corporation shall be given not less than 25 nor more than 60 days before the meeting date. The notice shall include the record date for determining the shareholders entitled to vote at the meeting, if such date is different than the record date for determining shareholders entitled to notice of the meeting. Unless this chapter or the articles of incorporation require otherwise, the corporation is required to give notice only to shareholders entitled to vote at the meeting as of the record date for determining the shareholders entitled to notice of the meeting.

B. Unless the articles of incorporation or this chapter requires otherwise, notice of an annual meeting need not state the purpose or purposes for which the meeting is called.

C. Notice of a special meeting shall state the purpose or purposes for which the meeting is called.

D. If not otherwise fixed under § 13.1-656 or 13.1-660, the record date for determining shareholders entitled to notice of and to vote at an annual or special meeting is the day before the effective date of the notice to shareholders.

E. Unless the bylaws require otherwise, if an annual or special meeting is adjourned to a different date, time, or place, notice need not be given if the new date, time, or place, *if any*, is announced at the meeting before adjournment. If a new record date for the adjourned meeting is or shall be fixed under § 13.1-660, however, not less than 10 days before the meeting date notice of the adjourned meeting shall be given under this section to shareholders entitled to vote at such adjourned meeting as of the record date fixed for notice of such adjourned meeting.

F. Notwithstanding the foregoing, no notice of a shareholders' meeting need be given to a shareholder if (i) an annual report and proxy statements for two consecutive annual meetings of shareholders or (ii) all, and at least two, checks in payment of dividends or interest on securities during a 12-month period, have been sent by first-class United States mail, addressed to the shareholder at the shareholder's address as it appears on the share transfer books of the corporation, and returned undeliverable. The obligation of the corporation to give notice of shareholders' meetings to any such shareholder shall be reinstated once the corporation has received a new address for such shareholder for entry on its share transfer books.

**§ 13.1-660.2. Remote participation in annual and special meetings.**

A. Shareholders of any class or series may participate in any meeting of shareholders by means of remote communication to the extent the board of directors authorizes such participation for such class or series. Participation by means of remote communication shall be subject to such guidelines and procedures the board of directors adopts, and shall be in conformity with subsection B.

B. Shareholders participating in a shareholders' meeting by means of remote communication shall be deemed present and may vote at such a meeting if the corporation has implemented reasonable measures to:

1. Verify that each person participating remotely is a shareholder *or a shareholder's proxy*; and

2. Provide such shareholders a reasonable opportunity to participate in the meeting and to vote on matters submitted to the shareholders, including an opportunity to communicate, and to read or hear the proceedings of the meeting, substantially concurrently with such proceedings.

*C. Unless the articles of incorporation or bylaws require the meeting of shareholders to be held at a place, the board of directors may determine that any meeting of shareholders shall not be held at any place and shall instead be held solely by means of remote communication in conformity with subsection B.*

**§ 13.1-661. Shareholders' list for meeting.**

A. After fixing a record date for a meeting, a corporation shall prepare an alphabetical list of the names of all its shareholders who are entitled to notice of a shareholders' meeting. If the board of directors fixes a different record date under subsection E of § 13.1-660 to determine the shareholders entitled to vote at the meeting, a corporation shall also prepare an alphabetical list of the names of all its shareholders who are entitled to vote at the meeting. A list shall be arranged by voting group, and within each group by class or series of shares, and show the address of and number of shares held by each shareholder.

B. The shareholders' list for notice shall be available for inspection by any shareholder, beginning two business days after notice of the meeting is given for which the list was prepared and continuing through the meeting, at the corporation's principal office or at a place identified in the meeting notice in the county or city where the meeting will be held. A shareholders' list for voting shall be similarly available for inspection promptly after the record date for voting. The original share transfer books shall be prima facie evidence as to who are the shareholders entitled to examine such list or to vote at any meeting of shareholders. A shareholder, or the shareholder's agent or attorney, is entitled on written demand to inspect and, subject to the requirements set forth in subsection D of § 13.1-771, to copy a list, during the regular business hours and at the shareholder's expense, during the period it is available for inspection.

~~C. The~~ *If the meeting is to be held at a place, the corporation shall make the list of shareholders entitled to vote available at the meeting, and any shareholder, or the shareholder's agent or attorney, is entitled to inspect the list at any time during the meeting or any adjournment.*

D. If the corporation refuses to allow a shareholder, the shareholder's agent, or the shareholder's attorney to inspect a shareholders' list before or at the meeting *as provided in subsections B and C*, or to copy a list as permitted by subsection B, the circuit court of the county or city where the corporation's principal office, or if none in the Commonwealth its registered office, is located, on application of the shareholder, may summarily order the inspection or copying at the corporation's expense and may postpone the meeting for which the list was prepared until the inspection or copying is complete.

E. Refusal or failure to prepare or make available a shareholders' list does not affect the validity of action taken at the meeting.

## CHAPTER 647

*An Act to amend the Code of Virginia by adding in Chapter 22 of Title 23.1 an article numbered 5, consisting of sections numbered 23.1-2219, 23.1-2220, and 23.1-2221, relating to the identification of the history of formerly enslaved African Americans in Virginia.*

[H 2296]

Approved March 20, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding in Chapter 22 of Title 23.1 an article numbered 5, consisting of sections numbered 23.1-2219, 23.1-2220, and 23.1-2221, as follows:**

*Article 5.*

*Virginia Foundation for the Humanities: Identification of the History of Formerly Enslaved African Americans in Virginia.*

**§ 23.1-2219. Virginia Foundation for the Humanities; identification of the history of formerly enslaved African Americans in Virginia.**

A. *With such funds as are appropriated by the General Assembly and with the agreement of the Virginia Foundation for the Humanities (the Foundation), the Foundation shall identify the history of formerly enslaved African Americans in Virginia and determine ways to preserve that history for educational and cultural purposes.*

*B. The Foundation shall:*

*1. Promote the identification, preservation, and conservation of historic sites significant to the history, presence, and contributions of formerly enslaved African Americans in Virginia;*

*2. Assess the extent to which students and the public are knowledgeable concerning African American history, the African slave trade, slavery in Virginia and America, and the vestiges of slavery in the Commonwealth and the nation;*

*3. Identify the contributions of African Americans to Virginia, the nation, and the world;*

*4. Inventory relevant African American historical sites, memorials, exhibits, and resources in the Commonwealth and assess the potential economic impact of tourism and economic development promotion relative to such sites;*

*5. Develop a register of historical sites significant to African American history in Virginia that should be preserved and recommend options for preservation and ways to increase tourism revenues; and*

6. Develop and maintain a roster of volunteer historians, educators, businesses, organizations, and speakers to act as resource persons for classroom teachers on African American history, the African slave trade, American slavery, the impact of slavery on modern society, and the contributions of African Americans to Virginia and the nation.

C. To assist the Foundation in its work, a task force is hereby created consisting of 12 members as follows: three members of the House of Delegates to be appointed by the Speaker of the House of Delegates in accordance with the principles of proportional representation contained in the Rules of the House of Delegates; two members of the Senate to be appointed by the Senate Committee on Rules; four nonlegislative citizen members to be appointed by the Governor, at least one of whom shall be a recognized historian with scholarship in American history and slavery. The Director of the Department of Historic Resources or his designee, the Director of the Black History Museum and Cultural Center of Virginia or his designee, and the President of the Foundation shall serve *ex officio*.

Legislative members shall serve terms coincident with their terms of office. Gubernatorial appointments shall be for a term of two years. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. Nonlegislative citizen members may be reappointed. Vacancies shall be filled in the same manner as the original appointments.

The task force shall elect a chairman and vice-chairman from among its membership, who shall be members of the General Assembly.

**§ 23.1-2220. Quorum and meetings.**

A majority of the members of the task force shall constitute a quorum. The task force shall meet no more than four times each year. The meetings of the task force shall be held at the call of the chairman or whenever the majority of the members so request.

**§ 23.1-2221. Compensation; expenses.**

Legislative members shall receive such compensation as provided in the general appropriation act, and the Foundation shall submit such attendance reports as necessary to the Clerk of the House of Delegates and the Clerk of the Senate to facilitate the payment of such compensation. From the appropriation to the Foundation, the Foundation shall pay nonlegislative citizen members such compensation for the performance of their duties as provided in § 2.2-2813 and shall reimburse all members for reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825.

## CHAPTER 648

An Act to amend and reenact § 38.2-604.1 of the Code of Virginia, relating to notice of financial information collection and disclosure practices.

[H 2422]

Approved March 20, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 38.2-604.1 of the Code of Virginia is amended and reenacted as follows:**

**§ 38.2-604.1. Notice of financial information collection and disclosure practices.**

A. An insurance institution or agent shall provide clear and conspicuous notice of financial information collection and disclosure practices in connection with insurance transactions as required by subsection B of this section:

1. To an applicant before any financial information is disclosed about that applicant to any nonaffiliated third party, if the disclosure is made other than as permitted under § 38.2-613. For purposes of this subdivision, a notice provided to an employer benefit plan sponsor, group or blanket insurance contract holder, or group annuity contract holder shall satisfy the notice requirements of this subdivision for applicants of such plan, policy, or annuity, provided the insurance institution or agent does not disclose the financial information of those applicants to a nonaffiliated third party, other than as permitted under § 38.2-613;

2. To a policyholder no later than delivery or issuance of the policy or any other evidence of coverage, or at the later of these events. For purposes of this subdivision, a notice provided to an employee benefit plan sponsor, group or blanket insurance contract holder, or group annuity contract holder shall satisfy the notice requirements of this subdivision for persons covered under such plans, policies, or annuities, provided the insurance institution or agent does not disclose the financial information of those persons to a nonaffiliated third party, other than as permitted under § 38.2-613; and

3. To a policyholder, other than a policyholder of a title insurance policy, not less than once in each calendar year. A notice provided to the sponsor of an employee benefit plan or the owner of a group or blanket insurance policy or group annuity contract shall satisfy the notice requirements of this subdivision for persons covered under such plan, policy or contract. For purposes of this subdivision only, "policyholder" does not include a person who owns a policy that is lapsed, expired or otherwise inactive or dormant under the insurance institution's business practices, and with whom the insurance institution has not communicated about the relationship for a period of 12 consecutive months, other than annual privacy notices, material required by law or regulation, communication at the direction of a state or federal authority, or promotional materials. *An insurance institution or agent that provides nonpublic personal information to nonaffiliated third parties only in accordance with § 38.2-613 and has not changed its policies and practices with regard to disclosing nonpublic financial information from the policies and practices that were disclosed in the most recent notice sent to the policyholder in*

*accordance with this section shall not be required to provide an annual notice under this section until such time as the licensee does not comply with any criteria described in this paragraph.*

B. Any notice required by subsection A of this section shall be in writing or, if the applicant or policyholder agrees, in electronic format, and shall state:

1. The types of financial information that may be collected;
2. The types of financial information that may be disclosed;
3. The categories of persons to whom financial information may be disclosed; however, when disclosures are made pursuant to subsection B of § 38.2-613, the notice is only required to state that disclosures may be made without prior authorization as permitted by law;
4. If financial information is disclosed pursuant to subdivision C 1 of § 38.2-613, the types of financial information that may be disclosed and the categories of nonaffiliated third parties to whom financial information may be disclosed by contractual agreement;
5. An explanation of the right to direct that financial information not be disclosed to nonaffiliated third parties as provided in § 38.2-612.1, provided that this explanation shall not be required to be given when information is disclosed pursuant to the provisions of § 38.2-613;
6. A description of the policies and practices for protecting the confidentiality and security of financial information;
7. The disclosure required, if any, under Section 603 (d) (2) (A) (iii) of the federal Fair Credit Reporting Act (15 U.S.C. § 1681 et seq.) pertaining to the notices regarding the ability to opt out of disclosure of information among affiliates; and
8. A description of the types of financial information about former policyholders that may be disclosed and a description of the types of affiliates and nonaffiliated third parties to whom financial information about former policyholders may be disclosed; however, when disclosures are made pursuant to subsection B of § 38.2-613, the notice is only required to state that disclosures may be made without prior authorization as permitted by law.

C. An insurance institution or agent that does not disclose, and does not wish to reserve the right to disclose, financial information about policyholders or former policyholders to affiliates or nonaffiliated third parties except as authorized in subsection B of § 38.2-613 may satisfy the requirements of this section by providing a notice, as set forth in subdivisions A 2 and A 3 of this section, that:

1. States the foregoing information regarding such insurance institution or agent;
2. Includes the information described in subdivisions B 1 and B 6 of this section; and
3. States that the insurance institution or agent makes disclosures to other affiliated or nonaffiliated third parties, as applicable, as permitted by law.

D. An insurance institution or agent may satisfy the notice requirements of subdivision A 1 of this section by providing a short form notice at the same time that the insurance institution or agent delivers an opt out notice as required by § 38.2-612.1. Such a short form notice shall: (i) be clear and conspicuous; (ii) state that the notice prescribed in subsection B of this section is available upon request; (iii) explain a reasonable means by which the applicant may obtain that notice; and (iv) be in writing or, if the applicant agrees, in electronic format. The insurance institution or agent is not required to deliver the notice prescribed in subsection B of this section with its short form notice, provided the insurance institution or agent provides the applicant with a reasonable means to obtain such notice.

E. The obligations imposed by this section upon an insurance institution or agent may be satisfied by another insurance institution or agent authorized to act on its behalf. An insurance institution may provide a joint notice from the insurance institution and one or more of its affiliates or other financial institutions, as identified in the notice, if the notice is accurate with respect to the insurance institution and the other institutions.

F. An insurance institution or agent, prior to disclosing financial information to a nonaffiliated third party other than as described in the notice prescribed in subsection B of this section, shall send a revised notice that accurately describes its information collection and disclosure practices. Such notice shall comply with the provisions of subsection B of this section.

G. An insurance institution or agent may satisfy the notice requirements of § 38.2-604 and this section through the use of separate notices or a combined notice.

H. An insurance agent shall not be subject to the requirements of this section in any instance where the insurance institution on whose behalf the agent is acting otherwise complies with the requirements contained herein, and the agent does not disclose any financial information to any person other than the insurance institution or its affiliates, or as permitted by § 38.2-613.

I. An insurance agent seeking to place coverage on behalf of a current policyholder shall be deemed to be in compliance with the requirements of this section in any instance where the agent has provided the notice required by this section within the previous 12 months.

## CHAPTER 649

*An Act to amend and reenact § 15.2-980 of the Code of Virginia, relating to noise violations; civil penalty.*

[S 926]

Approved March 20, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 15.2-980 of the Code of Virginia is amended and reenacted as follows:**

**§ 15.2-980. Civil penalties for violations of noise ordinances.**

Any locality may, by ordinance, adopt a uniform schedule of civil penalties for violations of that locality's noise ordinance. This provision shall not apply to noise generated in connection with the business being performed on industrial property. Civil fines will not exceed \$250 for the first offense and \$500 for each subsequent offense. *The locality may authorize the chief law-enforcement officer to enforce any civil penalties adopted pursuant to the provisions of this section.* The provisions of this section shall not apply to railroads. No ordinance of any locality shall apply to sound emanating from any area permitted by the Virginia Department of Mines, Minerals and Energy or any division thereof.

**CHAPTER 650**

*An Act to amend and reenact § 16.1-69.21 of the Code of Virginia, relating to substitute judges.*

[S 928]

Approved March 20, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 16.1-69.21 of the Code of Virginia is amended and reenacted as follows:**

**§ 16.1-69.21. When substitute to serve; his powers and duties.**

In the event of the inability of the judge to perform the duties of his office or any of them by reason of sickness, absence, vacation, interest in the proceeding or parties before the court, or otherwise, such judge or a person acting on his behalf shall promptly notify the appropriate chief district judge of such inability. If the chief district judge determines that the provisions of § 16.1-69.35 have been complied with or cannot reasonably be done within the time permitted and that no other full-time or retired judge is reasonably available to serve, the chief district judge may direct a substitute judge to serve as a judge of the court, which substitute may serve concurrently with one or more of the judges of the court or alone. ~~He designating a substitute judge to serve, the chief district judge shall, whenever possible, select a substitute judge who does not regularly practice law in the court requiring the substitute.~~ *Where reasonably available When reasonably necessary,* the chief district judge may designate a substitute judge from another district within the Commonwealth. The committee on district courts may adopt policies and procedures governing the utilization of substitute judges. In such event, those policies and procedures will, where applicable, control. While acting as judge, a substitute judge shall perform the same duties, exercise the same power and authority, and be subject to the same obligations as prescribed herein for the judge. While serving as judge of the court, the judge or the substitute judge may perform all acts with respect to the proceedings, judgments and acts of any other judge in connection with any action or proceeding then pending or theretofore disposed of in the court except as otherwise provided in this chapter in the same manner and with the same force and effect as if they were his own.

**CHAPTER 651**

*An Act to amend and reenact §§ 8.01-671, 12.1-39, 12.1-40, and 12.1-41 of the Code of Virginia, relating to time within which a petition for appeal to the Supreme Court shall be filed.*

[S 946]

Approved March 20, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 8.01-671, 12.1-39, 12.1-40, and 12.1-41 of the Code of Virginia are amended and reenacted as follows:**

**§ 8.01-671. Time within which petition must be presented.**

A. In cases where an appeal is permitted from the trial court to the Supreme Court, no petition shall be presented for an appeal to the Supreme Court from any final judgment whether the Commonwealth be a party or not, (i) which shall have been rendered more than ~~three months~~ *90 days* before the petition is presented, provided; that in criminal cases; a ~~thirty-day~~ *30-day* extension may be granted, in the discretion of the court, in order to attain the ends of justice, or (ii) if it be an appeal from a final decree refusing a bill of review to a decree rendered more than ~~four months~~ *120 days* prior thereto, unless the petition is presented within ~~three months~~ *90 days* from the date of such decree.

B. When an appeal from an interlocutory decree or order is permitted, the petition for appeal shall be presented within the appropriate time limitation set forth in subsection A ~~hereof~~.

C. No appeal to the Supreme Court from a decision of the Court of Appeals shall be granted unless a petition for appeal is filed within ~~thirty~~ *30* days after the date of the decision appealed from.

**§ 12.1-39. Appeals generally.**

The Commonwealth, any party in interest, or any party aggrieved by any final finding, decision settling the substantive law, order, or judgment of the Commission shall have, of right, an appeal to the Supreme Court irrespective of the amount involved; provided, however, that the petition for such appeal shall be filed with the Clerk of the Supreme Court within

~~four months~~ 120 days from the final judgment or finding of the State Corporation Commission; and provided further that an appeal bond is filed pursuant to § 8.01-676.1.

No other court of the Commonwealth shall have jurisdiction to review, reverse, correct, or annul any action of the Commission or to enjoin or restrain it in the performance of its official duties; provided, however, that the writs of mandamus and prohibition shall lie from the Supreme Court to the Commission.

The Commission shall, whenever an appeal is taken therefrom, file in the record of the case a statement of the reasons upon which the action appealed from was based.

**§ 12.1-40. Method of taking and prosecuting appeals.**

All appeals from the State Corporation Commission shall be taken and perfected, and the clerk of the Commission shall make up and transmit the record on appeal, within ~~four months~~ 120 days from the date of the finding, order, or judgment appealed from. The method of taking and prosecuting any appeal from the Commission shall be as provided by the rules of the Supreme Court.

**§ 12.1-41. Petitions for writs of supersedeas.**

Upon petition of the Commonwealth, any party in interest, or any party aggrieved, the Supreme Court may award a writ of supersedeas to any final finding, order, or judgment of the Commission. Any such petition shall be presented within ~~four months~~ 120 days from the date of such final finding, order, or judgment.

**CHAPTER 652**

*An Act to amend and reenact § 8.01-671 of the Code of Virginia, relating to time within which petition must be presented; extension time.*

[S 947]

Approved March 20, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 8.01-671 of the Code of Virginia is amended and reenacted as follows:**

**§ 8.01-671. Time within which petition must be presented.**

A. In cases where an appeal is permitted from the trial court to the Supreme Court, no petition shall be presented for an appeal to the Supreme Court from any final judgment whether the Commonwealth be a party or not, (i) which shall have been rendered more than ~~three months~~ 90 days before the petition is presented, provided; that ~~in criminal cases, a thirty-day~~ 30-day extension may be granted, in the discretion of the court, in order to attain the ends of justice, or (ii) if it be an appeal from a final decree refusing a bill of review to a decree rendered more than ~~four months~~ 120 days prior thereto, unless the petition is presented within ~~three months~~ 90 days from the date of such decree.

B. When an appeal from an interlocutory decree or order is permitted, the petition for appeal shall be presented within the appropriate time limitation set forth in subsection A ~~hereof~~.

C. No appeal to the Supreme Court from a decision of the Court of Appeals shall be granted unless a petition for appeal is filed within ~~thirty~~ 30 days after the date of the decision appealed from.

**CHAPTER 653**

*An Act to amend and reenact §§ 38.2-100 and 38.2-514.1 of the Code of Virginia, relating to automobile clubs; insurance.*

[S 1074]

Approved March 20, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 38.2-100 and 38.2-514.1 of the Code of Virginia are amended and reenacted as follows:**

**§ 38.2-100. Definitions.**

As used in this title:

"Alien company" means a company incorporated or organized under the laws of any country other than the United States.

"Commission" means the State Corporation Commission.

"Commissioner" or "Commissioner of Insurance" means the administrative or executive officer of the division or bureau of the Commission established to administer the insurance laws of this Commonwealth.

"Company" means any association, aggregate of individuals, business, corporation, individual, joint-stock company, Lloyds type of organization, organization, partnership, receiver, reciprocal or interinsurance exchange, trustee or society.

"Domestic company" means a company incorporated or organized under the laws of this Commonwealth.

"Foreign company" means a company incorporated or organized under the laws of the United States, or of any state other than this Commonwealth.

"Health services plan" means any arrangement for offering or administering health services or similar or related services by a corporation licensed under Chapter 42 (§ 38.2-4200 et seq.) of this title.

"Insurance" means the business of transferring risk by contract wherein a person, for a consideration, undertakes (i) to indemnify another person, (ii) to pay or provide a specified or ascertainable amount of money, or (iii) to provide a benefit or service upon the occurrence of a determinable risk contingency. Without limiting the foregoing, "insurance" shall include (i) each of the classifications of insurance set forth in Article 2 (§ 38.2-101 et seq.) of this chapter and (ii) the issuance of group and individual contracts, certificates, or evidences of coverage by any health services plan as provided for in Chapter 42 (§ 38.2-4200 et seq.) of this title, health maintenance organization as provided for in Chapter 43 (§ 38.2-4300 et seq.) of this title, legal services organization or legal services plan as provided for in Chapter 44 (§ 38.2-4400 et seq.) of this title, dental or optometric services plan as provided for in Chapter 45 (§ 38.2-4500 et seq.) of this title, and dental plan organization as provided for in Chapter 61 (§ 38.2-6100 et seq.) of this title. "Insurance" shall not include any activity involving an extended service contract that is subject to regulation pursuant to Chapter 34 (§ 59.1-435 et seq.) of Title 59.1 ~~or~~; a warranty made by a manufacturer, seller, lessor, or builder of a product or service; *or a service agreement offered by an automobile club as defined in subsection E of § 38.2-514.1.*

"Insurance company" means any company engaged in the business of making contracts of insurance.

"Insurance transaction," "insurance business," and "business of insurance" include solicitation, negotiations preliminary to execution, execution of an insurance contract, and the transaction of matters subsequent to execution of the contract and arising out of it.

"Insurer" means an insurance company.

"Medicare" means the "Health Insurance for the Aged Act," Title XVIII of the Social Security Amendment of 1965, as amended.

"Person" means any association, aggregate of individuals, business, company, corporation, individual, joint-stock company, Lloyds type of organization, organization, partnership, receiver, reciprocal or interinsurance exchange, trustee or society.

"Rate" or "rates" means any rate of premium, policy fee, membership fee or any other charge made by an insurer for or in connection with a contract or policy of insurance. The terms "rate" or "rates" shall not include a membership fee paid to become a member of an organization or association, one of the benefits of which is the purchasing of insurance coverage.

"Rate service organization" means any organization or person, other than a joint underwriting association under § 38.2-1915 or any employee of an insurer including those insurers under common control or management, who assists insurers in ratemaking or filing by:

- (a) Collecting, compiling, and furnishing loss or expense statistics;
- (b) Recommending, making or filing rates or supplementary rate information; or
- (c) Advising about rate questions, except as an attorney giving legal advice.

"State" means any commonwealth, state, territory, district or insular possession of the United States.

"Surplus to policyholders" means the excess of total admitted assets over the liabilities of an insurer, and shall be the sum of all capital and surplus accounts, including any voluntary reserves, minus any impairment of all capital and surplus accounts.

Without otherwise limiting the meaning of or defining the following terms, "insurance contracts" or "insurance policies" shall include contracts of fidelity, indemnity, guaranty and suretyship.

**§ 38.2-514.1. Disclosure required.**

A. Any agent selling, soliciting, or negotiating a contract of insurance in conjunction with any automobile club service agreement or in conjunction with any accidental death and dismemberment policy shall provide to the applicant, at the time of application, a written disclosure which shall contain:

1. The name or type of each policy or contract of insurance and automobile club service agreement for which application has been made;
2. The premium quotation associated with each policy or contract of insurance and the cost of any dues, assessments or periodic payments of money associated with each automobile club service agreement for which application has been made; and
3. A statement that the applicant has elected to purchase such policies, contracts, or automobile club service agreements.

B. The disclosure required by this section shall be signed and dated by the agent and the applicant. A copy of the signed disclosure shall be given to the applicant at the time of application. If the application is made by telephonic or electronic request, a copy of the disclosure shall be signed and dated by the agent and shall be mailed to the applicant within ten calendar days of the application.

C. The provisions of this section shall apply only to the original issuance of policies or contracts of insurance and automobile club service agreements covering personal, family, or household needs rather than business or professional needs. As used in this section, an automobile club service agreement is an agreement issued by an automobile club as defined in subsection E.

D. Notwithstanding subsections A, B and C, this section shall not apply to the sale of group insurance.

E. As used in this section, "automobile club" means a legal entity that, in consideration of dues, assessments, or periodic payments of money, promises its members or subscribers to assist them in matters relating to motor travel or the operation, use, or maintenance of a motor vehicle by supplying services that may include, *but are not limited to*, towing

service, emergency road service, indemnification service, guaranteed arrest bond certificate service, discount service, financial service, theft service, map service, or touring service.

### CHAPTER 654

*An Act to amend and reenact § 6.2-1918 of the Code of Virginia, relating to money order sellers and money transmitters; required investments.*

[S 1136]

Approved March 20, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 6.2-1918 of the Code of Virginia is amended and reenacted as follows:**

**§ 6.2-1918. Maintenance of permissible investments.**

A. A licensee shall maintain at all times permissible investments that have a market value computed in accordance with generally accepted accounting principles of not less than the aggregate dollar amount of all of its (i) outstanding money orders from all states; and (ii) outstanding money transmission transactions from all states. *For purposes of this subsection, a licensee may calculate the aggregate dollar amount of its outstanding stored value products in accordance with generally accepted accounting principles.*

B. The Commission, with respect to any licensees, may limit the extent to which a type of investment within a class of permissible investments may be considered a permissible investment, except for money and certificates of deposit issued by a bank. The Commission may prescribe by regulation other types of investments that the Commission determines to have a safety substantially equivalent to other permissible investments.

C. Permissible investments shall be deemed to be held in trust for the benefit of the purchasers and holders of the licensee's outstanding money orders and money transmission services in the event of bankruptcy or receivership of the licensee.

### CHAPTER 655

*An Act to amend and reenact §§ 38.2-1024, 38.2-1027, and 38.2-1208 of the Code of Virginia, relating to reciprocal insurance.*

[S 1158]

Approved March 20, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 38.2-1024, 38.2-1027, and 38.2-1208 of the Code of Virginia are amended and reenacted as follows:**

**§ 38.2-1024. License required to transact the business of insurance; application fee requirements for license.**

A. No insurer unless authorized pursuant to Chapter 48 (§ 38.2-4806 et seq.) of this title shall transact the business of insurance in this Commonwealth until it has obtained a license from the Commission. For a foreign or alien insurer *or reciprocal*, this license shall be in addition to the certificate of authority required by § 38.2-1027. Each application for a license to transact the business of insurance in this Commonwealth shall be accompanied by a nonrefundable license application fee of \$500. The fee shall be collected by the Commission and paid directly into the state treasury and credited to the Bureau of Insurance's maintenance fund as provided in subsection B of § 38.2-400. The license shall be signed by a member or other duly authorized agent of the Commission and shall expire on the next June 30 after the date on which it becomes effective, subject to renewal pursuant to § 38.2-1025.

B. The Commission shall not grant a license to do the business of insurance in this Commonwealth to any insurer until it is satisfied that, from the evidence it requires under uniform procedures suitable to and applied equally to all classes of insurers, the insurer:

1. Has paid all fees, taxes, and charges required by law;
2. Has made any deposit required by this title;
3. Has the minimum capital and surplus if a stock insurer, the minimum surplus if a mutual or a reciprocal insurer, and the minimum trustee surplus if an alien insurer, prescribed in this title for insurers transacting the same class of insurance;
4. Has filed a financial statement or statements and any reports, certificates or other documents the Commission considers necessary to secure a full and accurate knowledge of its affairs and financial condition;
5. Is solvent and its financial condition, method of operation, and manner of doing business are such as to satisfy the Commission that it can meet its obligations to all policyholders; and
6. Has otherwise complied with all the requirements of law.

**§ 38.2-1027. Admission of foreign and alien insurers.**

Before transacting any insurance business in this Commonwealth, each foreign or alien insurer *or reciprocal* shall obtain a certificate of authority and shall comply with the applicable provisions of Article 17 (§ 13.1-757 et seq.) of Chapter 9 of Title 13.1 in the case of a stock insurer ~~and~~, of Article 14 (§ 13.1-919 et seq.) of Chapter 10 of Title 13.1 in the

case of a mutual insurer, and of Article 1 (§ 38.2-1200 et seq.) of Chapter 12 in the case of a reciprocal. The certificate shall be in addition to the license to transact the business of insurance required by § 38.2-1024.

**§ 38.2-1208. Additional requirements, foreign and alien reciprocals.**

No foreign reciprocal shall be licensed to transact the business of insurance in this Commonwealth unless it has filed with the Commission a certificate of the supervising insurance official of the state in which it is organized. The certificate shall show that the foreign reciprocal is licensed to write ~~and is writing actively~~ and is writing actively in that state ~~or an affiliate of the foreign reciprocal is licensed to write and is writing actively in its state of domicile or at least two other states~~ the class of insurance it proposes to write in this Commonwealth. No alien reciprocal shall be licensed to transact the business of insurance until it has filed with the Commission a certificate of the supervising insurance official of (i) the state through which it entered the United States or (ii) the alien reciprocal's domiciliary country. The certificate shall show that the alien reciprocal is licensed to write and is writing actively in that state or country the class of insurance it proposes to write in this Commonwealth.

### CHAPTER 656

*An Act to amend the Code of Virginia by adding a section numbered 8.01-40.4, relating to civil action for unlawful creation of image of another or unlawful dissemination or sale of images of another.*

[S 1210]

Approved March 20, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding a section numbered 8.01-40.4 as follows:**

**§ 8.01-40.4. Civil action for unlawful creation of image of another or unlawful dissemination or sale of images of another.**

A. Any person injured by an individual who engaged in conduct that is prohibited under § 18.2-386.1 or 18.2-386.2, whether or not the individual has been charged with or convicted of the alleged violation, may sue therefor and recover compensatory damages, punitive damages, and reasonable attorney fees and costs.

B. No action shall be commenced under this section more than two years after the later of (i) the date of the last act in violation of § 18.2-386.1 or 18.2-386.2, (ii) the date on which such person attained 18 years of age, or (iii) the date on which such person discovered or reasonably should have discovered the prohibited conduct.

C. Nothing in this section shall be construed to impose liability on an interactive computer service, as defined in 47 U.S.C. § 230(f), for content provided by another person.

### CHAPTER 657

*An Act to amend and reenact §§ 16.1-77 and 16.1-107 of the Code of Virginia, relating to district courts; attorney fees.*

[S 1342]

Approved March 20, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 16.1-77 and 16.1-107 of the Code of Virginia are amended and reenacted as follows:**

**§ 16.1-77. Civil jurisdiction of general district courts.**

Except as provided in Article 5 (§ 16.1-122.1 et seq.), each general district court shall have, within the limits of the territory it serves, civil jurisdiction as follows:

(1) Exclusive original jurisdiction of any claim to specific personal property or to any debt, fine or other money, or to damages for breach of contract or for injury done to property, real or personal, or for any injury to the person that would be recoverable by action at law or suit in equity, when the amount of such claim does not exceed \$4,500 exclusive of interest and any ~~attorney's attorney fees contracted for in the instrument,~~ and concurrent jurisdiction with the circuit courts having jurisdiction in such territory of any such claim when the amount thereof exceeds \$4,500 but does not exceed \$25,000, exclusive of interest and any ~~attorney's attorney fees contracted for in the instrument.~~ However, this \$25,000 limit shall not apply with respect to distress warrants under the provisions of § 55-230, cases involving liquidated damages for violations of vehicle weight limits pursuant to § 46.2-1135, nor cases involving forfeiture of a bond pursuant to § 19.2-143.

(2) Jurisdiction to try and decide attachment cases when the amount of the plaintiff's claim does not exceed \$25,000 exclusive of interest and any ~~attorney's attorney fees contracted for in the instrument.~~

(3) Jurisdiction of actions of unlawful entry or detainer as provided in Article 13 (§ 8.01-124 et seq.) of Chapter 3 of Title 8.01, and in Chapter 13 (§ 55-217 et seq.) of Title 55, and the maximum jurisdictional limits prescribed in subdivision (1) shall not apply to any claim, counter-claim or cross-claim in an unlawful detainer action that includes a claim for damages sustained or rent against any person obligated on the lease or guarantee of such lease.

(4) Except where otherwise specifically provided, all jurisdiction, power and authority over any civil action or proceeding conferred upon any general district court judge or magistrate under or by virtue of any provisions of the Code.

(5) Jurisdiction to try and decide suits in interpleader involving personal or real property where the amount of money or value of the property is not more than the maximum jurisdictional limits of the general district court. However, the maximum jurisdictional limits prescribed in subdivision (1) shall not apply to any claim, counter-claim, or cross-claim in an interpleader action that is limited to the disposition of an earnest money deposit pursuant to a real estate purchase contract. The action shall be brought in accordance with the procedures for interpleader as set forth in § 8.01-364. However, the general district court shall not have any power to issue injunctions. Actions in interpleader may be brought by either the stakeholder or any of the claimants. The initial pleading shall be either by motion for judgment, by warrant in debt, or by other uniform court form established by the Supreme Court of Virginia. The initial pleading shall briefly set forth the circumstances of the claim and shall name as defendant all parties in interest who are not parties plaintiff.

(6) Jurisdiction to try and decide any cases pursuant to § 2.2-3713 of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) or § 2.2-3809 of the Government Data Collection and Dissemination Practices Act (§ 2.2-3800 et seq.), for writs of mandamus or for injunctions.

(7) Concurrent jurisdiction with the circuit courts having jurisdiction in such territory to adjudicate habitual offenders pursuant to the provisions of Article 9 (§ 46.2-355.1 et seq.) of Chapter 3 of Title 46.2.

(8) Jurisdiction to try and decide cases alleging a civil violation described in § 18.2-76.

(9) Jurisdiction to try and decide any cases pursuant to § 55-79.80:2 of the Condominium Act (§ 55-79.39 et seq.) or § 55-513 of the Property Owners' Association Act (§ 55-508 et seq.).

(10) Concurrent jurisdiction with the circuit courts to submit matters to arbitration pursuant to Chapter 21 (§ 8.01-577 et seq.) of Title 8.01 where the amount in controversy is within the jurisdictional limits of the general district court. Any party that disagrees with an order by a general district court granting an application to compel arbitration may appeal such decision to the circuit court pursuant to § 8.01-581.016.

#### **§ 16.1-107. Requirements for appeal.**

No appeal shall be allowed unless and until the party applying for the same or someone for him shall give bond, in an amount and with sufficient surety approved by the judge or by his clerk if there is one, or in an amount sufficient to satisfy the judgment of the court in which it was rendered. *Either such amount shall include the award of attorney fees, if any.* Such bond shall be posted within 30 days from the date of judgment, except for an appeal from the judgment of a general district court on an unlawful detainer pursuant to § 8.01-129. However, no appeal bond shall be required of a plaintiff in a civil case where the defendant has not asserted a counterclaim, the Commonwealth or when an appeal is proper to protect the estate of a decedent, an infant, a convict, or an insane person, or the interest of a county, city, town or transportation district created pursuant to the Transportation District Act of 1964 (§ 33.2-1900 et seq.) of Title 33.2. No appeal bond shall be required of a defendant with indemnity coverage through a policy of liability insurance sufficient to satisfy the judgment if the defendant's insurer provides a written irrevocable confirmation of coverage in the amount of the judgment. If defendant's insurer does not provide a written irrevocable confirmation of coverage in the amount of the judgment then an appeal bond will be required. In all civil cases, except trespass, ejection, unlawful detainer against a former owner based upon a foreclosure against that owner, or any action involving the recovering rents, no indigent person shall be required to post an appeal bond. In cases of unlawful detainer against a former owner based upon a foreclosure against that owner, a person who has been determined to be indigent pursuant to the guidelines set forth in § 19.2-159 shall post an appeal bond within 30 days from the date of judgment.

If such bond is furnished by or on behalf of any party against whom judgment has been rendered for money or property or both, the bond shall be conditioned for the performance and satisfaction of such judgment or order as may be entered against such party on appeal, and for the payment of all costs and damages which may be awarded against him in the appellate court. If the appeal is by a party against whom there is no recovery except for costs, the bond shall be conditioned for the payment of such costs and damages as may be awarded against him on the appeal.

In addition to the foregoing, any party applying for appeal shall, within 30 days from the date of the judgment, pay to the clerk of the court from which the appeal is taken the amount of the writ tax of the court to which the appeal is taken and costs as required by subdivision A 13 of § 17.1-275, including all fees for service of process of the notice of appeal in the circuit court pursuant to § 16.1-112.

### **CHAPTER 658**

*An Act for the relief of Keith Allen Harward.*

[S 1479]

Approved March 20, 2017

Whereas, Keith Allen Harward (Mr. Harward) spent 33 years in prison for crimes he did not commit; and

Whereas, in the early morning hours of September 14, 1982, an unknown assailant broke into a Newport News, Virginia, home, bludgeoned the husband to death with a crowbar and repeatedly raped the wife while the children slept nearby; and

Whereas, the rape victim described her assailant as wearing a white Navy uniform and told police that the assailant had bitten her repeatedly on the legs; and

Whereas, a Newport News Shipyard security guard who, following a suggestive photo array procedure conducted by police investigators, identified Mr. Harward as the sailor he had seen six months earlier entering the shipyard in a blood-spattered uniform during the early morning hours of the day of the crime; and

Whereas, the shipyard security guard was the only individual to identify Mr. Harward at trial; and

Whereas the rape victim was not able to identify Mr. Harward either before or at trial; and

Whereas, Mr. Harward did not know the rape victim and did not match the physical description of the assailant provided by the victim; and

Whereas, no physical evidence linked Mr. Harward to the crime scene; and

Whereas, a Virginia Department of Forensic Science (DFS) employee suppressed critical serological evidence excluding Mr. Harward as the source of body fluids found on the victim following the crime; and

Whereas, the main evidence against Mr. Harward at trial was bite mark identification proffered by two forensic odontologists, a line of evidence that has been discredited as scientifically invalid and rejected by the American Board of Forensic Odontology; and

Whereas, police investigators withheld critical information that the victim and the Newport News Shipyard security guard had been hypnotized and that certain key components of their respective testimonies changed after hypnosis; and

Whereas, because defense counsel was not informed of the hypnosis of the witnesses, counsel was not able to object to the admission of the hypnotically enhanced recollections, which were considered to be unreliable and admissible only to the extent that they were consistent with a pre-hypnotic statement; and

Whereas, on March 6, 1986, Mr. Harward was falsely convicted of first degree murder and sentenced to life in prison; and

Whereas, in late 2015 and early 2016, DFS analyzed DNA evidence from a rape kit collected from the victim after the crime and excluded Mr. Harward as the perpetrator of the crime; and

Whereas, the DNA evidence identified the real perpetrator of the crime as Jerry Crotty, a U.S. Navy sailor stationed on the same naval vessel as Mr. Harward at the time of the crime and a serial criminal who died in prison in Ohio in 2006; and

Whereas, on March 4, 2016, Mr. Harward submitted to the Supreme Court of Virginia a Petition for a Writ of Actual Innocence based on the DNA evidence excluding him as the perpetrator of the crime; and

Whereas, on April 6, 2016, Virginia Attorney General Mark Herring filed a response recommending that the Writ of Actual Innocence be granted as quickly as possible; and

Whereas, on April 7, 2016, the Supreme Court of Virginia granted Mr. Harward's Writ of Actual Innocence, formally exonerating him of all the crimes for which he had been convicted; and

Whereas, Mr. Harward has always maintained his innocence; and

Whereas, Mr. Harward, as a result of his wrongful conviction, suffers from numerous painful physical injuries, systemic health conditions, and severe mental anguish and emotional distress and has lost countless opportunities, including the opportunity to marry and have children; and

Whereas, Mr. Harward, as a further result of his wrongful conviction, is an impoverished man, with no job skills or career prospects and no savings or accumulated pension benefits, and does not qualify for social security benefits; and

Whereas, Mr. Harward has no other means to obtain adequate relief except by action of this body; now, therefore,

**Be it enacted by the General Assembly of Virginia:**

1. *§ 1. That there is hereby appropriated from the general fund of the state treasury the sum of \$1,548,439 for the relief of Mr. Harward, to be paid by check issued by the State Treasurer on warrant of the Comptroller upon execution of a release of any present or future claims Mr. Harward may have against (i) the Commonwealth or any agency, instrumentality, officer, employee, or political subdivision thereof; (ii) any legal counsel appointed pursuant to § 19.2-159 of the Code of Virginia; and (iii) all other parties of interest in connection with the aforesaid occurrence.*

*The compensation, subject to the execution of the release described herein, shall be paid as follows: (a) an initial lump sum of \$309,688 to be paid to Mr. Harward by check issued by the State Treasurer on warrant of the Comptroller within 60 days immediately following the execution of such release and (b) the sum of \$1,238,751 to purchase an annuity no later than September 30, 2017, for the primary benefit of Mr. Harward, the terms of such annuity structured in Mr. Harward's best interests based on consultation among Mr. Harward or his representatives, the State Treasurer, and other necessary parties.*

*The State Treasurer shall purchase the annuity at the lowest cost available from any A+ rated company authorized to sell annuities in the Commonwealth, including any A+ rated company from which the State Lottery Department may purchase an annuity. The annuity shall provide that it shall not be sold, discounted, or used as securitization for loans and mortgages. The annuity shall, however, contain beneficiary provisions providing for the annuity's continued disbursement in the event of Mr. Harward's death.*

§ 2. *That Mr. Harward shall be entitled to receive career and technical training within the Virginia Community College System free of tuition charges, up to a maximum of \$10,000. The cost for the tuition benefit shall be paid by the community college at which the career or technical training is provided. The tuition benefit provided by this section shall expire on January 1, 2022.*

## CHAPTER 659

*An Act to amend and reenact § 3, as amended, and § 6 of Chapter 571 of the Acts of Assembly of 1997, which provided a charter for the Town of Grottoes in Rockingham County, relating to vice-mayor.*

[H 1396]

Approved March 20, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 3, as amended, and § 6 of Chapter 571 of the Acts of Assembly of 1997 are amended and reenacted as follows:**

§ 3. Election of the mayor and council persons; vacancies; time of meeting; *appointment of vice-mayor.*

A. Notwithstanding the provisions of § 24.2-222 of the Code of Virginia, on the first Tuesday in November in each even-numbered year, there shall be elected a mayor and three council persons from the town at large, as well as council persons to fill vacancies, if any, whose terms of office shall begin on the first day of January following such election, but in cases of filling vacancies, the term shall begin immediately, and they shall serve until their successors shall be duly elected and qualify. In order to transition from a May to November election date, any mayor or council person elected in 1996 for a four-year term, or in 1998 for a two-year term, shall hold office until his successor has qualified. His successor shall be elected on the Tuesday after the first Monday in November 2000 and shall take office on the January 1 following his election. Any council person elected in 1998 for a four-year term shall hold office until his successor has qualified. His successor shall be elected on the Tuesday after the first Monday in November 2002 and shall take office on the January 1 following his election.

B. The mayor shall be elected for a term of two years; council persons shall serve for terms of four years each.

C. The council shall be a continuing body, and no measure pending before such body shall abate or be discontinued by reason of expiration of the term of office of the council persons or any member. Vacancies in the council shall be filled for the unexpired terms by a majority vote of the remaining members until the next ensuing regularly scheduled general election for the office; or, if the vacancy occurs within 120 days of such regularly scheduled general election, at the second such ensuing election. The present mayor and council persons shall continue in office until the expiration of the term for which they were respectively elected.

D. The council shall, by ordinance, fix the time for the regular meetings. Special meetings shall be called by the clerk of the council upon request of the mayor or any three council persons; reasonable notice of each special meeting shall be given each member of the council; no business shall be transacted at a special meeting except that for which the special meeting is called, unless the council is unanimous.

*E. The council may, by ordinance, appoint one of its members to serve as vice-mayor during his or her term of office.*

§ 6. Powers and duties of the mayor *and vice-mayor.*

The mayor shall preside at the meetings of the council and perform such other duties as may be prescribed by this charter and by general law and such as may be imposed by the council consistent with the office. The mayor shall be entitled to vote upon measures pending before the council only in the event that the other members voting are equally divided for and against such measure. *The vice-mayor shall possess all the powers and discharge the duties of the mayor in the event of the mayor's absence or inability to act. During such temporary service, the vice-mayor shall retain his or her right to vote as a council person and shall not be deemed to have vacated his or her council office.*

## CHAPTER 660

*An Act to amend and reenact § 15.2-2209.1 of the Code of Virginia and to amend and reenact the second enactment of Chapter 509 of the Acts of Assembly of 2013, relating to extension of certain local approvals.*

[H 1697]

Approved March 20, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 15.2-2209.1 of the Code of Virginia is amended and reenacted as follows:**

**§ 15.2-2209.1. Extension of approvals to address housing crisis.**

A. Notwithstanding the time limits for validity set out in § 15.2-2260 or 15.2-2261, or the provisions of subsection F of § 15.2-2260, any subdivision plat valid under § 15.2-2260 and outstanding as of January 1, ~~2014~~ 2017, and any recorded plat or final site plan valid under § 15.2-2261 and outstanding as of January 1, ~~2014~~ 2017, shall remain valid until July 1, ~~2017~~ 2020, or such later date provided for by the terms of the locality's approval, local ordinance, resolution or regulation, or for a longer period as agreed to by the locality. Any other plan or permit associated with such plat or site plan extended by this subsection shall likewise be extended for the same time period.

B. Notwithstanding any other provision of this chapter, for any valid special exception, special use permit, or conditional use permit outstanding as of January 1, ~~2014~~ 2017, and related to new residential or commercial development, any deadline in the exception permit, or in the local zoning ordinance that requires the landowner or developer to commence the project or to incur significant expenses related to improvements for the project within a certain time, shall be extended

until July 1, ~~2017~~ 2020, or longer as agreed to by the locality. The provisions of this subsection shall not apply to any requirement that a use authorized pursuant to a special exception, special use permit, conditional use permit, or other agreement or zoning action be terminated or ended by a certain date or within a set number of years.

C. Notwithstanding any other provision of this chapter, for any rezoning action approved pursuant to § 15.2-2297, 15.2-2298, or 15.2-2303, valid and outstanding as of January 1, ~~2011~~ 2017, and related to new residential or commercial development, any proffered condition that requires the landowner or developer to incur significant expenses upon an event related to a stage or level of development shall be extended until July 1, ~~2017~~ 2020, or longer as agreed to by the locality. However, the extensions in this subsection shall not apply (i) to land or right-of-way dedications pursuant to § 15.2-2297, 15.2-2298, or 15.2-2303, (ii) when completion of the event related to the stage or level of development has occurred, or (iii) to events required to occur on a specified date certain or within a specified time period. Any proffered condition included in a special exception, special use permit, or conditional use permit shall only be extended if it satisfies the provisions of this subsection.

D. The extension of validity provided in subsection A and the extension of certain deadlines as provided in subsection B shall not be effective unless any unreleased performance bonds and agreements or other financial guarantees of completion of public improvements in or associated with the proposed development are continued in force; however, if the locality has enacted a bonding moratorium or deferral option, the performance bonds and agreements or other financial guarantees of completion may be waived or modified by the locality, in which case the extension of validity provided in subsection A and the extension of certain deadlines provided in subsection B shall apply. The landowner or developer must comply with the terms of any bonding moratorium or deferral agreement with the locality in order for the extensions referred to in this subsection to be effective.

**2. That the second enactment of Chapter 509 of the Acts of Assembly of 2013 is amended and reenacted as follows:**

**2. That Chapter 508 of the Acts of Assembly of 2012 is amended by adding a third enactment as follows:**

**3. That extensions of validity effective pursuant to § 15.2-2209.1 of the Code of Virginia and the second enactment of Chapter 193 of the Acts of Assembly of 2009 as of June 30, ~~2012~~ 2017, shall continue to be valid pursuant to this act until the extension date provided in this act.**

**CHAPTER 661**

*An Act to amend and reenact § 15.2-2314 of the Code of Virginia, relating to board of zoning appeals.*

[H 1994]

Approved March 20, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 15.2-2314 of the Code of Virginia is amended and reenacted as follows:**

**§ 15.2-2314. Certiorari to review decision of board.**

Any person or persons jointly or severally aggrieved by any decision of the board of zoning appeals, or any aggrieved taxpayer or any officer, department, board or bureau of the locality, may file with the clerk of the circuit court for the county or city a petition that shall be styled "In Re: date Decision of the Board of Zoning Appeals of [locality name]" specifying the grounds on which aggrieved within 30 days after the final decision of the board.

Upon the presentation of such petition, the court shall allow a writ of certiorari to review the decision of the board of zoning appeals and shall prescribe therein the time within which a return thereto must be made and served upon the secretary of the board of zoning appeals or, if no secretary exists, the chair of the board of zoning appeals, which shall not be less than 10 days and may be extended by the court. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the board and on due cause shown, grant a restraining order.

Any review of a decision of the board shall not be considered an action against the board and the board shall not be a party to the proceedings; however, the board shall participate in the proceedings to the extent required by this section. The governing body, the landowner, and the applicant before the board of zoning appeals shall be necessary parties to the proceedings in the circuit court. The court may permit intervention by any other person or persons jointly or severally aggrieved by any decision of the board of zoning appeals.

The board of zoning appeals shall not be required to return the original papers acted upon by it but it shall be sufficient to return certified or sworn copies thereof or of the portions thereof as may be called for by the writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.

The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.

In the case of an appeal from the board of zoning appeals to the circuit court of an order, requirement, decision or determination of a zoning administrator or other administrative officer in the administration or enforcement of any ordinance or provision of state law, or any modification of zoning requirements pursuant to § 15.2-2286, the findings and conclusions of the board of zoning appeals on questions of fact shall be presumed to be correct. The appealing party may rebut that presumption by proving by a preponderance of the evidence, including the record before the board of zoning appeals, that the board of zoning appeals erred in its decision. Any party may introduce evidence in the proceedings in the court. The court shall hear any arguments on questions of law de novo.

In the case of an appeal by a person of any decision of the board of zoning appeals that denied or granted an application for a variance, the decision of the board of zoning appeals shall be presumed to be correct. The petitioner may rebut that presumption by proving by a preponderance of the evidence, including the record before the board of zoning appeals, that the board of zoning appeals erred in its decision.

In the case of an appeal by a person of any decision of the board of zoning appeals that denied or granted application for a special exception, the decision of the board of zoning appeals shall be presumed to be correct. The petitioner may rebut that presumption by showing to the satisfaction of the court that the board of zoning appeals applied erroneous principles of law, or where the discretion of the board of zoning appeals is involved, the decision of the board of zoning appeals was plainly wrong, was in violation of the purpose and intent of the zoning ordinance, and is not fairly debatable.

In the case of an appeal from the board of zoning appeals to the circuit court of a decision of the board, any party may introduce evidence in the proceedings in the court in accordance with the Rules of Evidence of the Supreme Court of Virginia.

Costs shall not be allowed against the locality *or the governing body*, unless it shall appear to the court that ~~the~~ *the locality or the governing body* acted in bad faith or with malice. In the event the decision of the board is affirmed and the court finds that the appeal was frivolous, the court may order the person or persons who requested the issuance of the writ of certiorari to pay the costs incurred in making the return of the record pursuant to the writ of certiorari. If the petition is withdrawn subsequent to the filing of the return, the locality *or the governing body* may request that the court hear the matter on the question of whether the appeal was frivolous.

## CHAPTER 662

*An Act to amend and reenact § 2.2-3705.6 of the Code of Virginia, relating to the Virginia Freedom of Information Act; proprietary records and trade secrets; charitable gaming supplies.*

[H 2178]

Approved March 20, 2017

### **Be it enacted by the General Assembly of Virginia:**

#### **1. That § 2.2-3705.6 of the Code of Virginia is amended and reenacted as follows:**

##### **§ 2.2-3705.6. Exclusions to application of chapter; proprietary records and trade secrets.**

The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01.

1. Proprietary information gathered by or for the Virginia Port Authority as provided in § 62.1-132.4 or 62.1-134.1.
2. Financial statements not publicly available filed with applications for industrial development financings in accordance with Chapter 49 (§ 15.2-4900 et seq.) of Title 15.2.
3. Proprietary information, voluntarily provided by private business pursuant to a promise of confidentiality from a public body, used by the public body for business, trade, and tourism development or retention; and memoranda, working papers, or other information related to businesses that are considering locating or expanding in Virginia, prepared by a public body, where competition or bargaining is involved and where disclosure of such information would adversely affect the financial interest of the public body.
4. Information that was filed as confidential under the Toxic Substances Information Act (§ 32.1-239 et seq.), as such Act existed prior to July 1, 1992.
5. Fisheries data that would permit identification of any person or vessel, except when required by court order as specified in § 28.2-204.
6. Confidential financial statements, balance sheets, trade secrets, and revenue and cost projections provided to the Department of Rail and Public Transportation, provided such information is exempt under the federal Freedom of Information Act or the federal Interstate Commerce Act or other laws administered by the Surface Transportation Board or the Federal Railroad Administration with respect to data provided in confidence to the Surface Transportation Board and the Federal Railroad Administration.
7. Proprietary information related to inventory and sales, voluntarily provided by private energy suppliers to the Department of Mines, Minerals and Energy, used by that Department for energy contingency planning purposes or for developing consolidated statistical information on energy supplies.
8. Confidential proprietary information furnished to the Board of Medical Assistance Services or the Medicaid Prior Authorization Advisory Committee pursuant to Article 4 (§ 32.1-331.12 et seq.) of Chapter 10 of Title 32.1.
9. Proprietary, commercial or financial information, balance sheets, trade secrets, and revenue and cost projections provided by a private transportation business to the Virginia Department of Transportation and the Department of Rail and Public Transportation for the purpose of conducting transportation studies needed to obtain grants or other financial assistance under the Transportation Equity Act for the 21st Century (P.L. 105-178) for transportation projects if disclosure of such information is exempt under the federal Freedom of Information Act or the federal Interstate Commerce Act or other laws administered by the Surface Transportation Board or the Federal Railroad Administration with respect to data

provided in confidence to the Surface Transportation Board and the Federal Railroad Administration. However, the exclusion provided by this subdivision shall not apply to any wholly owned subsidiary of a public body.

10. Confidential information designated as provided in subsection F of § 2.2-4342 as trade secrets or proprietary information by any person in connection with a procurement transaction or by any person who has submitted to a public body an application for prequalification to bid on public construction projects in accordance with subsection B of § 2.2-4317.

11. a. Memoranda, staff evaluations, or other information prepared by the responsible public entity, its staff, outside advisors, or consultants exclusively for the evaluation and negotiation of proposals filed under the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) or the Public-Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.) where (i) if such information was made public prior to or after the execution of an interim or a comprehensive agreement, § 33.2-1820 or 56-575.17 notwithstanding, the financial interest or bargaining position of the public entity would be adversely affected and (ii) the basis for the determination required in clause (i) is documented in writing by the responsible public entity; and

b. Information provided by a private entity to a responsible public entity, affected jurisdiction, or affected local jurisdiction pursuant to the provisions of the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) or the Public-Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.) if disclosure of such information would reveal (i) trade secrets of the private entity as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.); (ii) financial information of the private entity, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise; or (iii) other information submitted by the private entity where if such information was made public prior to the execution of an interim agreement or a comprehensive agreement, the financial interest or bargaining position of the public or private entity would be adversely affected. In order for the information specified in clauses (i), (ii), and (iii) to be excluded from the provisions of this chapter, the private entity shall make a written request to the responsible public entity:

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

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

(3) Stating the reasons why protection is necessary.

The responsible public entity shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets or financial information of the private entity. To protect other information submitted by the private entity from disclosure, the responsible public entity shall determine whether public disclosure prior to the execution of an interim agreement or a comprehensive agreement would adversely affect the financial interest or bargaining position of the public or private entity. The responsible public entity shall make a written determination of the nature and scope of the protection to be afforded by the responsible public entity under this subdivision. Once a written determination is made by the responsible public entity, the information afforded protection under this subdivision shall continue to be protected from disclosure when in the possession of any affected jurisdiction or affected local jurisdiction.

Except as specifically provided in subdivision 11 a, nothing in this subdivision shall be construed to authorize the withholding of (a) procurement records as required by § 33.2-1820 or 56-575.17; (b) information concerning the terms and conditions of any interim or comprehensive agreement, service contract, lease, partnership, or any agreement of any kind entered into by the responsible public entity and the private entity; (c) information concerning the terms and conditions of any financing arrangement that involves the use of any public funds; or (d) information concerning the performance of any private entity developing or operating a qualifying transportation facility or a qualifying project.

For the purposes of this subdivision, the terms "affected jurisdiction," "affected local jurisdiction," "comprehensive agreement," "interim agreement," "qualifying project," "qualifying transportation facility," "responsible public entity," and "private entity" shall mean the same as those terms are defined in the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) or in the Public-Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.).

12. Confidential proprietary information or trade secrets, not publicly available, provided by a private person or entity pursuant to a promise of confidentiality to the Virginia Resources Authority or to a fund administered in connection with financial assistance rendered or to be rendered by the Virginia Resources Authority where, if such information were made public, the financial interest of the private person or entity would be adversely affected.

13. Trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), or confidential proprietary information that is not generally available to the public through regulatory disclosure or otherwise, provided by a (i) bidder or applicant for a franchise or (ii) franchisee under Chapter 21 (§ 15.2-2100 et seq.) of Title 15.2 to the applicable franchising authority pursuant to a promise of confidentiality from the franchising authority, to the extent the information relates to the bidder's, applicant's, or franchisee's financial capacity or provision of new services, adoption of new technologies or implementation of improvements, where such new services, technologies, or improvements have not been implemented by the franchisee on a nonexperimental scale in the franchise area, and where, if such information were made public, the competitive advantage or financial interests of the franchisee would be adversely affected.

In order for trade secrets or confidential proprietary information to be excluded from the provisions of this chapter, the bidder, applicant, or franchisee shall (a) invoke such exclusion upon submission of the data or other materials for which protection from disclosure is sought, (b) identify the data or other materials for which protection is sought, and (c) state the reason why protection is necessary.

No bidder, applicant, or franchisee may invoke the exclusion provided by this subdivision if the bidder, applicant, or franchisee is owned or controlled by a public body or if any representative of the applicable franchising authority serves on the management board or as an officer of the bidder, applicant, or franchisee.

14. Information of a proprietary or confidential nature furnished by a supplier or manufacturer of charitable gaming supplies to the Department of Agriculture and Consumer Services (i) pursuant to subsection E of § 18.2-340.34 and (ii) pursuant to regulations promulgated by the Charitable Gaming Board related to approval of electronic and mechanical equipment.

15. Information related to Virginia apple producer sales provided to the Virginia State Apple Board pursuant to § 3.2-1215.

16. Trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.) of Title 59.1, submitted by CMRS providers as defined in § 56-484.12 to the Wireless Carrier E-911 Cost Recovery Subcommittee created pursuant to § 56-484.15, relating to the provision of wireless E-911 service.

17. Information relating to a grant or loan application, or accompanying a grant or loan application, to the Innovation and Entrepreneurship Investment Authority pursuant to Article 3 (§ 2.2-2233.1 et seq.) of Chapter 22 of Title 2.2 or to the Commonwealth Health Research Board pursuant to Chapter 5.3 (§ 32.1-162.23 et seq.) of Title 32.1 if disclosure of such information would (i) reveal proprietary business or research-related information produced or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of the applicant.

18. Confidential proprietary information and trade secrets developed and held by a local public body (i) providing telecommunication services pursuant to § 56-265.4:4 and (ii) providing cable television services pursuant to Article 1.1 (§ 15.2-2108.2 et seq.) of Chapter 21 of Title 15.2 if disclosure of such information would be harmful to the competitive position of the locality.

In order for confidential proprietary information or trade secrets to be excluded from the provisions of this chapter, the locality in writing shall (a) invoke the protections of this subdivision, (b) identify with specificity the information for which protection is sought, and (c) state the reasons why protection is necessary. However, the exemption provided by this subdivision shall not apply to any authority created pursuant to the BVU Authority Act (§ 15.2-7200 et seq.).

19. Confidential proprietary information and trade secrets developed by or for a local authority created in accordance with the Virginia Wireless Service Authorities Act (§ 15.2-5431.1 et seq.) to provide qualifying communications services as authorized by Article 5.1 (§ 56-484.7:1 et seq.) of Chapter 15 of Title 56, where disclosure of such information would be harmful to the competitive position of the authority, except that information required to be maintained in accordance with § 15.2-2160 shall be released.

20. Trade secrets as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.) or financial information of a business, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, provided to the Department of Small Business and Supplier Diversity as part of an application for certification as a small, women-owned, or minority-owned business in accordance with Chapter 16.1 (§ 2.2-1603 et seq.). In order for such trade secrets or financial information to be excluded from the provisions of this chapter, the business shall (i) invoke such exclusion upon submission of the data or other materials for which protection from disclosure is sought, (ii) identify the data or other materials for which protection is sought, and (iii) state the reasons why protection is necessary.

21. Information of a proprietary or confidential nature disclosed by a carrier to the State Health Commissioner pursuant to §§ 32.1-276.5:1 and 32.1-276.7:1.

22. Trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), including, but not limited to, financial information, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, and revenue and cost projections supplied by a private or nongovernmental entity to the State Inspector General for the purpose of an audit, special investigation, or any study requested by the Office of the State Inspector General in accordance with law.

In order for the information specified in this subdivision to be excluded from the provisions of this chapter, the private or nongovernmental entity shall make a written request to the State Inspector General:

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

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

c. Stating the reasons why protection is necessary.

The State Inspector General shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets or financial information of the private entity. The State Inspector General shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

23. Information relating to a grant application, or accompanying a grant application, submitted to the Tobacco Region Revitalization Commission that would (i) reveal (a) trade secrets as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), (b) financial information of a grant applicant that is not a public body, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, or (c) research-related information produced or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not been publicly released,

published, copyrighted, or patented, and (ii) be harmful to the competitive position of the applicant; and memoranda, staff evaluations, or other information prepared by the Commission or its staff exclusively for the evaluation of grant applications. The exclusion provided by this subdivision shall apply to grants that are consistent with the powers of and in furtherance of the performance of the duties of the Commission pursuant to § 3.2-3103.

In order for the information specified in this subdivision to be excluded from the provisions of this chapter, the applicant shall make a written request to the Commission:

- a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;
- b. Identifying with specificity the data, information or other materials for which protection is sought; and
- c. Stating the reasons why protection is necessary.

The Commission shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets, financial information, or research-related information of the applicant. The Commission shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

24. a. Information held by the Commercial Space Flight Authority relating to rate structures or charges for the use of projects of, the sale of products of, or services rendered by the Authority if disclosure of such information would adversely affect the financial interest or bargaining position of the Authority or a private entity providing the information to the Authority; or

b. Information provided by a private entity to the Commercial Space Flight Authority if disclosure of such information would (i) reveal (a) trade secrets of the private entity as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.); (b) financial information of the private entity, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise; or (c) other information submitted by the private entity and (ii) adversely affect the financial interest or bargaining position of the Authority or private entity.

In order for the information specified in clauses (a), (b), and (c) of subdivision 24 b to be excluded from the provisions of this chapter, the private entity shall make a written request to the Authority:

- (1) Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;
- (2) Identifying with specificity the data or other materials for which protection is sought; and
- (3) Stating the reasons why protection is necessary.

The Authority shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets or financial information of the private entity. To protect other information submitted by the private entity from disclosure, the Authority shall determine whether public disclosure would adversely affect the financial interest or bargaining position of the Authority or private entity. The Authority shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

25. Information of a proprietary nature furnished by an agricultural landowner or operator to the Department of Conservation and Recreation, the Department of Environmental Quality, the Department of Agriculture and Consumer Services, or any political subdivision, agency, or board of the Commonwealth pursuant to §§ 10.1-104.7, 10.1-104.8, and 10.1-104.9, other than when required as part of a state or federal regulatory enforcement action.

26. Trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), provided to the Department of Environmental Quality pursuant to the provisions of § 10.1-1458. In order for such trade secrets to be excluded from the provisions of this chapter, the submitting party shall (i) invoke this exclusion upon submission of the data or materials for which protection from disclosure is sought, (ii) identify the data or materials for which protection is sought, and (iii) state the reasons why protection is necessary.

27. Information of a proprietary nature furnished by a licensed public-use airport to the Department of Aviation for funding from programs administered by the Department of Aviation or the Virginia Aviation Board, where if such information was made public, the financial interest of the public-use airport would be adversely affected.

In order for the information specified in this subdivision to be excluded from the provisions of this chapter, the public-use airport shall make a written request to the Department of Aviation:

- a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;
- b. Identifying with specificity the data or other materials for which protection is sought; and
- c. Stating the reasons why protection is necessary.

28. Records submitted as a grant or loan application, or accompanying a grant or loan application, for an award from the Virginia Research Investment Fund pursuant to Article 8 (§ 23.1-3130 et seq.) of Chapter 31 of Title 23.1, to the extent that such records contain proprietary business or research-related information produced or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, if the disclosure of such information would be harmful to the competitive position of the applicant.

## CHAPTER 663

*An Act to amend and reenact §§ 2.2-115 and 30-310 of the Code of Virginia, relating to the Commonwealth's Development Opportunity Fund; limitation on use of moneys from the Fund.*

[H 2347]

Approved March 20, 2017

**Be it enacted by the General Assembly of Virginia:****1. That §§ 2.2-115 and 30-310 of the Code of Virginia are amended and reenacted as follows:****§ 2.2-115. Commonwealth's Development Opportunity Fund.**

A. As used in this section, unless the context requires otherwise:

"New job" means employment of an indefinite duration, created as the direct result of the private investment, for which the firm pays the wages and standard fringe benefits for its employee, requiring a minimum of either (i) 35 hours of the employee's time a week for the entire normal year of the firm's operations, which "normal year" must consist of at least 48 weeks or (ii) 1,680 hours per year.

Seasonal or temporary positions, positions created when a job function is shifted from an existing location in the Commonwealth to the location of the economic development project, positions with suppliers, and multiplier or spin-off jobs shall not qualify as new jobs. The term "new job" shall include positions with contractors provided that all requirements included within the definition of the term are met.

"Prevailing average wage" means that amount determined by the Virginia Employment Commission to be the average wage paid workers in the city or county of the Commonwealth where the economic development project is located. The prevailing average wage shall be determined without regard to any fringe benefits.

"Private investment" means the private investment required under this section.

B. There is created the Commonwealth's Development Opportunity Fund (the Fund) to be used by the Governor to attract economic development prospects and secure the expansion of existing industry in the Commonwealth. The Fund shall consist of any funds appropriated to it by the general appropriation act and revenue from any other source, public or private. The Fund shall be established on the books of the Comptroller, and any funds remaining in the Fund at the end of a biennium shall not revert to the general fund but shall remain in the Fund. Interest earned on the Fund shall be credited to the Fund. The Governor shall report to the Chairmen of the House Committees on Appropriations and Finance and the Senate Committee on Finance as funds are awarded in accordance with this section.

C. Funds shall be awarded from the Fund by the Governor as grants or loans to political subdivisions. The criteria for making such grants or loans shall include (i) job creation, (ii) private capital investment, and (iii) anticipated additional state tax revenue expected to accrue to the state and affected localities as a result of the capital investment and jobs created. Loans shall be approved by the Governor and made in accordance with guidelines established by the Virginia Economic Development Partnership and approved by the Comptroller. Loans shall be interest-free unless otherwise determined by the Governor and shall be repaid to the Fund. The Governor may establish the interest rate to be charged; otherwise, any interest charged shall be at market rates as determined by the State Treasurer and shall be indicative of the duration of the loan. The Virginia Economic Development Partnership shall be responsible for monitoring repayment of such loans and reporting the receivables to the Comptroller as required.

Beginning with the five fiscal years from fiscal year 2006-2007 through fiscal year 2010-2011, and for every five fiscal years' period thereafter, in general, no less than one-third of the moneys appropriated to the Fund in every such five-year period shall be awarded to counties and cities having an annual average unemployment rate that is greater than the final statewide average unemployment rate for the calendar year that immediately precedes the calendar year of the award. However, if such one-third requirement will not be met because economic development prospects in such counties and cities are unable to fulfill the applicable minimum private investment and new jobs requirements set forth in this section, then any funds remaining in the Fund at the end of the five-year period that would have otherwise been awarded to such counties and cities shall be made available for awards in the next five fiscal years' period.

D. Funds may be used for public and private utility extension or capacity development on and off site; public and private installation, extension, or capacity development of high-speed or broadband Internet access, whether on or off site; road, rail, or other transportation access costs beyond the funding capability of existing programs; site acquisition; grading, drainage, paving, and any other activity required to prepare a site for construction; construction or build-out of publicly or privately owned buildings; training; or grants or loans to an industrial development authority, housing and redevelopment authority, or other political subdivision for purposes directly relating to any of the foregoing. However, in no case shall funds from the Fund be used, directly or indirectly, to pay or guarantee the payment for any rental, lease, license, or other contractual right to the use of any property.

It shall be the policy of the Commonwealth that moneys in the Fund shall not be used for any economic development project in which a business relocates or expands its operations in one or more Virginia localities and simultaneously closes its operations or substantially reduces the number of its employees in another Virginia locality, *unless the procedures set forth in § 30-310 are followed*. The Secretary of Commerce and Trade shall enforce this policy and for any exception thereto shall promptly provide written notice to the Chairmen of the Senate Finance and House Appropriations Committees,

which notice shall include a justification for any exception to such policy pursuant to § 30-310, submit such projects to the MEI Project Approval Commission established pursuant to § 30-309.

E. 1. a. Except as provided in this subdivision, no grant or loan shall be awarded from the Fund unless the project involves a minimum private investment of \$5 million and creates at least 50 new jobs for which the average wage, excluding fringe benefits, is no less than the prevailing average wage. For projects, including but not limited to projects involving emerging technologies, for which the average wage of the new jobs created, excluding fringe benefits, is at least twice the prevailing average wage for that locality or region, the Governor shall have the discretion to require no less than one-half the number of new jobs as set forth for that locality in this subdivision.

b. Notwithstanding the provisions of subdivision a, a grant or loan may be awarded from the Fund if the project involves a minimum private investment of \$100 million and creates at least 25 new jobs for which the average wage, excluding fringe benefits, is no less than the prevailing average wage.

2. Notwithstanding the provisions of subdivision 1 a, in localities (i) with an annual unemployment rate for the most recent calendar year for which such data is available that is greater than the final statewide average unemployment rate for that calendar year or (ii) with a poverty rate for the most recent calendar year for which such data is available that exceeds the statewide average poverty rate for that year, a grant or loan may be awarded from the Fund pursuant to subdivision 1 a if the project involves a minimum private investment of \$2.5 million and creates at least 25 new jobs for which the average wage, excluding fringe benefits, is no less than 85 percent of the prevailing average wage.

3. Notwithstanding the provisions of subdivisions 1 a and 2, in localities (i) with an annual unemployment rate for the most recent calendar year for which such data is available that is greater than the final statewide average unemployment rate for that calendar year and (ii) with a poverty rate for the most recent calendar year for which such data is available that exceeds the statewide average poverty rate for that year, a grant or loan may be awarded from the Fund pursuant to such subdivisions if the project involves a minimum private investment of \$1.5 million and creates at least 15 new jobs for which the average wage, excluding fringe benefits, is no less than 85 percent of the prevailing average wage.

4. For projects that are eligible under subdivision 2 or 3, the average wage of the new jobs, excluding fringe benefits, shall be no less than 85 percent of the prevailing average wage. In addition, for projects in such localities, the Governor may award a grant or loan for a project paying less than 85 percent of the prevailing average wage but still providing customary employee benefits, only after the Secretary of Commerce and Trade has made a written finding that the economic circumstances in the area are sufficiently distressed (i.e., high unemployment or underemployment and negative economic forecasts) that assistance to the locality to attract the project is nonetheless justified. However, the minimum private investment and number of new jobs required to be created as set forth in this subsection shall still be a condition of eligibility for an award from the Fund. Such written finding shall promptly be provided to the chairs of the Senate Committee on Finance and the House Committee on Appropriations.

F. 1. The Virginia Economic Development Partnership shall assist the Governor in developing objective guidelines and criteria that shall be used in awarding grants or making loans from the Fund. The guidelines may require that as a condition of receiving any grant or loan incentive that is based on employment goals, a recipient company must provide copies of employer quarterly payroll reports that have been provided to the Virginia Employment Commission to verify the employment status of any position included in the employment goal. The guidelines may include a requirement for the affected locality or localities to provide matching funds which may be cash or in-kind, at the discretion of the Governor. The guidelines and criteria shall include provisions for geographic diversity and a cap on the amount of funds to be provided to any individual project. At the discretion of the Governor, this cap may be waived for qualifying projects of regional or statewide interest. In developing the guidelines and criteria, the Virginia Economic Development Partnership shall use the measure for Fiscal Stress published by the Commission on Local Government of the Department of Housing and Community Development for the locality in which the project is located or will be located as one method of determining the amount of assistance a locality shall receive from the Fund.

2. a. Notwithstanding any provision in this section or in the guidelines, each political subdivision that receives a grant or loan from the Fund shall enter into a contract with each business beneficiary of funds from the Fund. A person or entity shall be a business beneficiary of funds from the Fund if grant or loan moneys awarded from the Fund by the Governor are paid to a political subdivision and (i) subsequently distributed by the political subdivision to the person or entity or (ii) used by the political subdivision for the benefit of the person or entity but never distributed to the person or entity.

b. The contract between the political subdivision and the business beneficiary shall provide in detail (i) the fair market value of all funds that the Commonwealth has committed to provide, (ii) the fair market value of all matching funds (or in-kind match) that the political subdivision has agreed to provide, (iii) how funds committed by the Commonwealth (including but not limited to funds from the Fund committed by the Governor) and funds that the political subdivision has agreed to provide are to be spent, (iv) the minimum private investment to be made and the number of new jobs to be created agreed to by the business beneficiary, (v) the average wage (excluding fringe benefits) agreed to be paid in the new jobs, (vi) the prevailing average wage, and (vii) the formula, means, or processes agreed to be used for measuring compliance with the minimum private investment and new jobs requirements, including consideration of any layoffs instituted by the business beneficiary over the course of the period covered by the contract.

The contract shall state the date by which the agreed upon private investment and new job requirements shall be met by the business beneficiary of funds from the Fund and may provide for the political subdivision to grant up to a 15-month extension of such date if deemed appropriate by the political subdivision subsequent to the execution of the contract. Any

extension of such date granted by the political subdivision shall be in writing and promptly delivered to the business beneficiary, and the political subdivision shall simultaneously provide a copy of the extension to the Virginia Economic Development Partnership.

The contract shall provide that if the private investment and new job contractual requirements are not met by the expiration of the date stipulated in the contract, including any extension granted by the political subdivision, the business beneficiary shall be liable to the political subdivision for repayment of a portion of the funds provided under the contract. The contract shall include a formula for purposes of determining the portion of such funds to be repaid. The formula shall, in part, be based upon the fair market value of all funds that have been provided by the Commonwealth and the political subdivision and the extent to which the business beneficiary has met the private investment and new job contractual requirements. Any such funds repaid to the political subdivision that relate to the award from the Commonwealth's Development Opportunity Fund shall promptly be paid over by the political subdivision to the Commonwealth by payment remitted to the State Treasurer. Upon receipt by the State Treasurer of such payment, the Comptroller shall deposit such repaid funds into the Commonwealth's Development Opportunity Fund.

c. The contract shall be amended to reflect changes in the funds committed by the Commonwealth or agreed to be provided by the political subdivision.

d. Notwithstanding any provision in this section or in the guidelines, whenever layoffs instituted by a business beneficiary over the course of the period covered by a contract cause the net total number of the new jobs created to be fewer than the number agreed to, then the business beneficiary shall return the portion of any funds received pursuant to the repayment formula established by the contract.

3. Notwithstanding any provision in this section or in the guidelines, prior to executing any such contract with a business beneficiary, the political subdivision shall provide a copy of the proposed contract to the Attorney General. The Attorney General shall review the proposed contract (i) for enforceability as to its provisions and (ii) to ensure that it is in appropriate legal form. The Attorney General shall provide any written suggestions to the political subdivision within seven days of his receipt of the copy of the contract. The Attorney General's suggestions shall be limited to the enforceability of the contract's provisions and the legal form of the contract.

4. Notwithstanding any provision in this section or in the guidelines, a political subdivision shall not expend, distribute, pledge, use as security, or otherwise use any award from the Fund unless and until such contract as described herein is executed with the business beneficiary.

G. Within the 30 days immediately following June 30 and December 30 of each year, the Governor shall provide a report to the Chairmen of the House Committees on Appropriations and Finance and the Senate Committee on Finance which shall include, but is not limited to, the following information regarding grants and loans awarded from the Fund during the immediately preceding six-month period for economic development projects: the name of the company that is the business beneficiary of the grant or loan and the type of business in which it engages; the location (county, city, or town) of the project; the amount of the grant or loan committed from the Fund and the amount of all other funds committed by the Commonwealth from other sources and the purpose for which such grants, loans, or other funds will be used; the amount of all moneys or funds agreed to be provided by political subdivisions and the purposes for which they will be used; the number of new jobs agreed to be created by the business beneficiary; the amount of investment in the project agreed to be made by the business beneficiary; the timetable for the completion of the project and new jobs created; the prevailing average wage; and the average wage (excluding fringe benefits) agreed to be paid in the new jobs.

H. The Governor shall provide grants and commitments from the Fund in an amount not to exceed the dollar amount contained in the Fund. If the Governor commits funds for years beyond the fiscal years covered under the existing appropriation act, the State Treasurer shall set aside and reserve the funds the Governor has committed, and the funds shall remain in the Fund for those future fiscal years. No grant or loan shall be payable in the years beyond the existing appropriation act unless the funds are currently available in the Fund.

I. On a quarterly basis, the Virginia Economic Development Partnership shall notify the Governor, his campaign committee, and his political action committee of awards from the Fund made in the prior quarter. Within 18 months of the date of each award from the Fund, the Governor, his campaign committee, and his political action committee shall submit to the Virginia Conflict of Interest and Ethics Advisory Council established in § 30-355 a report listing any contribution, gift, or other item with a value greater than \$100 provided by the business beneficiary of such award to the Governor, his campaign committee, or his political action committee, respectively, during (i) the period in which the business beneficiary's application for such award was pending and (ii) the one-year period immediately after any such award was made.

#### **§ 30-310. Review of incentive packages.**

A. 1. The Commission shall review individual incentive packages, including but not limited to packages offering tax incentives, for economic development projects (including but not limited to MEI projects) for which (i) one or more of the incentives in the incentive package is not authorized under current law or an amendment by the General Assembly is being sought to one or more currently existing incentives included as part of the incentive package or (ii) the aggregate amount of incentives to be provided by the Commonwealth in the incentive package including grants, tax incentives such as credits and exemptions, general or nongeneral funds, proceeds from bonds, rights to lease property at below fair market value, or any other incentives from the Commonwealth is in excess of \$10 million in value. *The Commission shall also review economic development projects in which a business relocates or expands its operations in one or more Virginia localities and simultaneously closes its operations or substantially reduces the number of its employees in another Virginia locality.*

The Commission shall recommend approval or denial of such packages *and projects* to the General Assembly. Factors that shall be considered by the Commission in its review shall include, but not be limited to (i) return on investment, (ii) the time frame for repayment of incentives to the Commonwealth, (iii) average wages of the jobs created by the prospective MEI project or other economic development project, (iv) the amount of capital investment that is required, and (v) the need for enhanced employment opportunities in the prospective location of the prospective MEI project or other economic development project.

2. a. Any time a proposed individual incentive package is to be considered by the Commission, materials outlining (i) the value of the proposed incentives, (ii) assumed return on investment, (iii) the time frame for repayment of incentives to the Commonwealth, (iv) average wages of the jobs created by the prospective MEI project or other economic development project, (v) the amount of capital investment that is required, and (vi) the need for enhanced employment opportunities in the prospective location of the prospective MEI project or other economic development project, shall be provided to the Commission members not less than 48 hours prior to the scheduled Commission meeting.

b. The timing of any request for an endorsement of a proposed individual incentive package should be scheduled so that the MEI Commission could, at its discretion, have up to seven days subsequent to the presentation of the incentive package prior to endorsing or rejecting such proposal.

B. An affirmative vote by three of the five members of the Commission from the House of Delegates and two of the three members of the Commission from the Senate shall be required to endorse any incentive package, including but not limited to packages offering tax incentives, for economic development projects (including but not limited to MEI projects) for which (i) one or more of the incentives in the incentive package is not authorized under current law or an amendment by the General Assembly is being sought to one or more currently existing incentives included as part of the incentive package or (ii) the aggregate amount of incentives to be provided by the Commonwealth in the incentive package including grants, tax incentives such as credits and exemptions, general or nongeneral funds, proceeds from bonds, rights to lease property at below fair market value, or any other incentives from the Commonwealth is in excess of \$10 million in value. *Such vote shall also be required to endorse any economic development project in which a business relocates or expands its operations in one or more Virginia localities and simultaneously closes its operations or substantially reduces the number of its employees in another Virginia locality.*

## CHAPTER 664

*An Act to amend and reenact § 2.2-2009 of the Code of Virginia, relating to the Virginia Information Technologies Agency; procurement of information technology; compliance with federal laws and regulations pertaining to information security and privacy.*

[H 2360]

Approved March 20, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 2.2-2009 of the Code of Virginia is amended and reenacted as follows:**

**§ 2.2-2009. Additional duties of the CIO relating to security of government information.**

A. To provide for the security of state government electronic information from unauthorized uses, intrusions or other security threats, the CIO shall direct the development of policies, standards, and guidelines for assessing security risks, determining the appropriate security measures and performing security audits of government electronic information. Such policies, standards, and guidelines shall apply to the Commonwealth's executive, legislative, and judicial branches and independent agencies. The CIO shall work with representatives of the Chief Justice of the Supreme Court and Joint Rules Committee of the General Assembly to identify their needs. Such policies, standards, and guidelines shall, at a minimum:

1. Address the scope and frequency of security audits. In developing and updating such policies, standards, and guidelines, the CIO shall designate a government entity to oversee, plan, and coordinate the conduct of periodic security audits of all executive branch agencies and independent agencies. The CIO shall coordinate these audits with the Auditor of Public Accounts and the Joint Legislative Audit and Review Commission. The Chief Justice of the Supreme Court and the Joint Rules Committee of the General Assembly shall determine the most appropriate methods to review the protection of electronic information within their branches;

2. Control unauthorized uses, intrusions, or other security threats;

3. Provide for the protection of confidential data maintained by state agencies against unauthorized access and use in order to ensure the security and privacy of citizens of the Commonwealth in their interaction with state government. Such policies, standards, and guidelines shall include requirements that (i) any state employee or other authorized user of a state technology asset provide passwords or other means of authentication to use a technology asset and access a state-owned or state-operated computer network or database and (ii) a digital rights management system or other means of authenticating and controlling an individual's ability to access electronic records be utilized to limit access to and use of electronic records that contain confidential information to authorized individuals;

4. Address the creation and operation of a risk management program designed to identify information technology security gaps and develop plans to mitigate the gaps. All agencies in the Commonwealth shall cooperate with the CIO, including (i) providing the CIO with information required to create and implement a Commonwealth risk management

program, (ii) creating an agency risk management program, and (iii) complying with all other risk management activities; and

5. Require that any contract for information technology entered into by the Commonwealth's executive, legislative, and judicial branches and independent agencies require compliance with applicable federal laws and regulations pertaining to information security and privacy.

B. 1. The CIO shall annually report to the Governor, the Secretary, and General Assembly on the results of security audits, the extent to which security policy, standards, and guidelines have been adopted by executive branch and independent agencies, and a list of those executive branch agencies and independent agencies that have not implemented acceptable security and risk management regulations, policies, standards, and guidelines to control unauthorized uses, intrusions, or other security threats. For any executive branch agency or independent agency whose security audit results and plans for corrective action are unacceptable, the CIO shall report such results to (i) the Secretary, (ii) any other affected cabinet secretary, (iii) the Governor, and (iv) the Auditor of Public Accounts. Upon review of the security audit results in question, the CIO may take action to suspend the executive branch agency's or independent agency's information technology projects pursuant to subsection B of § 2.2-2016.1, limit additional information technology investments pending acceptable corrective actions, and recommend to the Governor and Secretary any other appropriate actions.

2. Executive branch agencies and independent agencies subject to such audits as required by this section shall fully cooperate with the entity designated to perform such audits and bear any associated costs. Public bodies that are not required to but elect to use the entity designated to perform such audits shall also bear any associated costs.

C. The provisions of this section shall not infringe upon responsibilities assigned to the Comptroller, the Auditor of Public Accounts, or the Joint Legislative Audit and Review Commission by other provisions of the Code of Virginia.

D. The CIO shall promptly receive reports from directors of departments in the executive branch of state government made in accordance with § 2.2-603 and shall take such actions as are necessary, convenient or desirable to ensure the security of the Commonwealth's electronic information and confidential data.

E. The CIO shall provide technical guidance to the Department of General Services in the development of policies, standards, and guidelines for the recycling and disposal of computers and other technology assets. Such policies, standards, and guidelines shall include the expunging, in a manner as determined by the CIO, of all confidential data and personal identifying information of citizens of the Commonwealth prior to such sale, disposal, or other transfer of computers or other technology assets.

F. The CIO shall provide all directors of agencies and departments with all such information, guidance, and assistance required to ensure that agencies and departments understand and adhere to the policies, standards, and guidelines developed pursuant to this section.

**2. That the provisions of this act shall apply to contracts for information technology entered into on or after July 1, 2017.**

## CHAPTER 665

*An Act to amend and reenact § 15.2-2311 of the Code of Virginia, relating to board of zoning appeals.*

[S 1559]

Approved March 20, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 15.2-2311 of the Code of Virginia is amended and reenacted as follows:**

**§ 15.2-2311. Appeals to board.**

A. An appeal to the board may be taken by any person aggrieved or by any officer, department, board or bureau of the locality affected by any decision of the zoning administrator or from any order, requirement, decision or determination made by any other administrative officer in the administration or enforcement of this article, any ordinance adopted pursuant to this article, or any modification of zoning requirements pursuant to § 15.2-2286. Notwithstanding any charter provision to the contrary, any written notice of a zoning violation or a written order of the zoning administrator dated on or after July 1, 1993, shall include a statement informing the recipient that he may have a right to appeal the notice of a zoning violation or a written order within 30 days in accordance with this section, and that the decision shall be final and unappealable if not appealed within 30 days. The zoning violation or written order shall include the applicable appeal fee and a reference to where additional information may be obtained regarding the filing of an appeal. The appeal period shall not commence until the statement is given *and the zoning administrator's written order is sent by registered mail to, or posted at, the last known address or usual place of abode of the property owner or its registered agent, if any. There shall be a rebuttable presumption that the property owner's last known address is that shown on the current real estate tax assessment records, or the address of a registered agent that is shown in the records of the Clerk of the State Corporation Commission. A written notice of a zoning violation or a written order of the zoning administrator that includes such statement sent by registered or certified mail to, or posted at, the last known address of the property owner as shown on the current real estate tax assessment books or current real estate tax assessment records shall be deemed sufficient notice to the property owner and shall satisfy the notice requirements of this section.* The appeal shall be taken within 30 days after the decision appealed from by filing with the zoning administrator, and with the board, a notice of appeal specifying the

grounds thereof. The zoning administrator shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken. The fee for filing an appeal shall not exceed the costs of advertising the appeal for public hearing and reasonable costs. A decision by the board on an appeal taken pursuant to this section shall be binding upon the owner of the property which is the subject of such appeal only if the owner of such property has been provided notice of the zoning violation or written order of the zoning administrator in accordance with this section. The owner's actual notice of such notice of zoning violation or written order or active participation in the appeal hearing shall waive the owner's right to challenge the validity of the board's decision due to failure of the owner to receive the notice of zoning violation or written order. For jurisdictions that impose civil penalties for violations of the zoning ordinance, any such civil penalty shall not be assessed by a court having jurisdiction during the pendency of the 30-day appeal period.

B. An appeal shall stay all proceedings in furtherance of the action appealed from unless the zoning administrator certifies to the board that by reason of facts stated in the certificate a stay would in his opinion cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order granted by the board or by a court of record, on application and on notice to the zoning administrator and for good cause shown.

C. In no event shall a written order, requirement, decision or determination made by the zoning administrator or other administrative officer be subject to change, modification or reversal by any zoning administrator or other administrative officer after 60 days have elapsed from the date of the written order, requirement, decision or determination where the person aggrieved has materially changed his position in good faith reliance on the action of the zoning administrator or other administrative officer unless it is proven that such written order, requirement, decision or determination was obtained through malfeasance of the zoning administrator or other administrative officer or through fraud. The 60-day limitation period shall not apply in any case where, with the concurrence of the attorney for the governing body, modification is required to correct clerical errors.

D. In any appeal taken pursuant to this section, if the board's attempt to reach a decision results in a tie vote, the matter may be carried over until the next scheduled meeting at the request of the person filing the appeal.

**CHAPTER 666**

*An Act to amend and reenact § 54.1-2022.1 of the Code of Virginia, relating to appraisal management companies; compensation of independent appraisers required.*

[S 1573]

Approved March 20, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 54.1-2022.1 of the Code of Virginia is amended and reenacted as follows:**

**§ 54.1-2022.1. Appraiser compensation.**

A. An appraisal management company shall compensate appraisers in compliance with § 129E(i) of the federal Truth in Lending Act (15 U.S.C. § 1601 et seq.) and regulations promulgated thereunder.

B. *Except in the case of breach of contract or noncompliance with the conditions of the engagement or performance of services that violates the Uniform Standards of Professional Appraisal Practice, an appraisal management company shall compensate the appraiser within 30 days of the initial delivery by the appraiser of the completed appraisal report.*

**CHAPTER 667**

*An Act to amend and reenact § 19.2-8 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 8.01-42.5 and 18.2-51.7, relating to female genital mutilation; criminal penalty and civil action.*

[S 1060]

Approved March 20, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 19.2-8 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding sections numbered 8.01-42.5 and 18.2-51.7 as follows:**

**§ 8.01-42.5. Civil action for female genital mutilation.**

A. *Any person injured by an individual who engaged in conduct that is prohibited under § 18.2-51.7, whether or not the individual has been charged with or convicted of the alleged violation, may sue therefor and recover compensatory damages, punitive damages, and reasonable attorney fees and costs.*

B. *No action shall be commenced under this section more than 10 years after the later of (i) the date of the last act in violation of § 18.2-51.7 or (ii) the date on which such person attained 18 years of age.*

**§ 18.2-51.7. Female genital mutilation.**

A. *Any person who knowingly circumcises, excises, or infibulates, in whole or in any part, the labia majora or labia minora or clitoris of another person who has not attained the age of 18 years is guilty of a Class 1 misdemeanor.*

*B. Any parent, guardian, or other person responsible for the care of a minor who consents to the circumcision, excision, or infibulation, in whole or in any part, of the labia majora or labia minora or clitoris of such minor is guilty of a Class 1 misdemeanor.*

*C. Any parent, guardian, or other person responsible for the care of a minor who knowingly removes or causes or permits the removal of such minor from the Commonwealth for the purposes of committing an offense under subsection A is guilty of a Class 1 misdemeanor.*

*D. A surgical operation is not a violation of this section if the operation is (i) necessary to the health of the person on whom it is performed and is performed by a person licensed in the place of its performance as a medical practitioner or (ii) performed on a person in labor who has just given birth and is performed for medical purposes connected with that labor or birth by a person licensed in the place it is performed as a medical practitioner, midwife, or person in training to become such a practitioner or midwife.*

*E. A violation of this section shall constitute a separate and distinct offense. The provisions of this section shall not preclude prosecution under any other statute.*

**§ 19.2-8. Limitation of prosecutions.**

A prosecution for a misdemeanor, or any pecuniary fine, forfeiture, penalty or amercement, shall be commenced within one year next after there was cause therefor, except that a prosecution for petit larceny may be commenced within five years, and for an attempt to produce abortion, within two years after commission of the offense.

A prosecution for any misdemeanor violation of § 54.1-3904 shall be commenced within two years of the discovery of the offense.

A prosecution for violation of laws governing the placement of children for adoption without a license pursuant to § 63.2-1701 shall be commenced within one year from the date of the filing of the petition for adoption.

A prosecution for making a false statement or representation of a material fact knowing it to be false or knowingly failing to disclose a material fact, to obtain or increase any benefit or other payment under the Virginia Unemployment Compensation Act (§ 60.2-100 et seq.) shall be commenced within three years next after the commission of the offense.

A prosecution for any violation of § 10.1-1320, 62.1-44.32 (b), 62.1-194.1, or Article 11 (§ 62.1-44.34:14 et seq.) of Chapter 3.1 of Title 62.1 that involves the discharge, dumping or emission of any toxic substance as defined in § 32.1-239 shall be commenced within three years next after the commission of the offense.

Prosecution of Building Code violations under § 36-106 shall commence within one year of discovery of the offense by the building official, provided that such discovery occurs within two years of the date of initial occupancy or use after construction of the building or structure, or the issuance of a certificate of use and occupancy for the building or structure, whichever is later. However, prosecutions under § 36-106 relating to the maintenance of existing buildings or structures as contained in the Uniform Statewide Building Code shall commence within one year of the issuance of a notice of violation for the offense by the building official.

Prosecution of any misdemeanor violation of § 54.1-111 shall commence within one year of the discovery of the offense by the complainant, but in no case later than five years from occurrence of the offense.

Prosecution of any misdemeanor violation of any professional licensure requirement imposed by a locality shall commence within one year of the discovery of the offense by the complainant, but in no case later than five years from occurrence of the offense.

Prosecution of nonfelonious offenses which constitute malfeasance in office shall commence within two years next after the commission of the offense.

Prosecution of any violation of § 55-79.87, 55-79.88, 55-79.89, 55-79.90, 55-79.93, 55-79.94, 55-79.95, 55-79.103, or any rule adopted under or order issued pursuant to § 55-79.98, shall commence within three years next after the commission of the offense.

Prosecution of illegal sales or purchases of wild birds, wild animals and freshwater fish under § 29.1-553 shall commence within three years after commission of the offense.

Prosecution of violations under Title 58.1 for offenses involving false or fraudulent statements, documents or returns, or for the offense of willfully attempting in any manner to evade or defeat any tax or the payment thereof, or for the offense of willfully failing to pay any tax, or willfully failing to make any return at the time or times required by law or regulations shall commence within three years next after the commission of the offense, unless a longer period is otherwise prescribed.

Prosecution of violations of subsection A or B of § 3.2-6570 shall commence within five years of the commission of the offense, except violations regarding agricultural animals shall commence within one year of the commission of the offense.

A prosecution for a violation of § 18.2-386.1 shall be commenced within five years of the commission of the offense.

A prosecution for any violation of the Campaign Finance Disclosure Act, Chapter 9.3 (§ 24.2-945 et seq.) of Title 24.2, shall commence within one year of the discovery of the offense but in no case more than three years after the date of the commission of the offense.

A prosecution of a crime that is punishable as a misdemeanor pursuant to the Virginia Computer Crimes Act (§ 18.2-152.1 et seq.) or pursuant to § 18.2-186.3 for identity theft shall be commenced before the earlier of (i) five years after the commission of the last act in the course of conduct constituting a violation of the article or (ii) one year after the existence of the illegal act and the identity of the offender are discovered by the Commonwealth, by the owner, or by anyone else who is damaged by such violation.

A prosecution of a misdemeanor under § 18.2-51.7, 18.2-64.2, 18.2-67.4, 18.2-67.4:1, 18.2-67.4:2, 18.2-67.5, or 18.2-370.6 where the victim is a minor at the time of the offense shall be commenced no later than one year after the victim reaches majority.

A prosecution for a violation of § 18.2-260.1 shall be commenced within three years of the commission of the offense.

Nothing in this section shall be construed to apply to any person fleeing from justice or concealing himself within or without the Commonwealth to avoid arrest or be construed to limit the time within which any prosecution may be commenced for desertion of a spouse or child or for neglect or refusal or failure to provide for the support and maintenance of a spouse or child.

## CHAPTER 668

*An Act to amend and reenact §§ 18.2-46.4 and 18.2-46.5 of the Code of Virginia, relating to providing support to terrorist organizations; penalty.*

[S 1154]

Approved March 20, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 18.2-46.4 and 18.2-46.5 of the Code of Virginia are amended and reenacted as follows:**

**§ 18.2-46.4. Definitions.**

As used in this article, unless the context requires otherwise or it is otherwise provided:

"Act of terrorism" means an act of violence as defined in clause (i) of subdivision A of § 19.2-297.1 *or an act that would be an act of violence if committed within the Commonwealth committed within or outside the Commonwealth* with the intent to (i) intimidate ~~the~~ a civilian population at large; or (ii) influence the conduct or activities of ~~the~~ a government, *including the government* of the United States, a state, *or a* ~~or~~ locality, through intimidation.

"Base offense" means an act of violence as defined in clause (i) of subdivision A of § 19.2-297.1 committed with the intent required to commit an act of terrorism.

"Weapon of terrorism" means any device or material that is designed, intended or used to cause death, bodily injury or serious bodily harm, through the release, dissemination, or impact of (i) poisonous chemicals; (ii) an infectious biological substance; or (iii) release of radiation or radioactivity.

**§ 18.2-46.5. Committing, conspiring and aiding and abetting acts of terrorism prohibited; penalty.**

A. Any person who commits or conspires to commit, or aids and abets the commission of an act of terrorism, as defined in § 18.2-46.4, is guilty of a Class 2 felony if the base offense of such act of terrorism may be punished by life imprisonment, or a term of imprisonment of not less than twenty years.

B. Any person who commits, conspires to commit, or aids and abets the commission of an act of terrorism, as defined in § 18.2-46.4, is guilty of a Class 3 felony if the maximum penalty for the base offense of such act of terrorism is a term of imprisonment or incarceration in jail of less than twenty years.

C. Any person who solicits, invites, recruits, encourages, or otherwise causes or attempts to cause another to participate in an act or acts of terrorism, as defined in § 18.2-46.4, is guilty of a Class 4 felony.

D. *Any person who knowingly provides any material support (i) to an individual or organization whose primary objective is to commit an act of terrorism and (ii) does so with the intent to further such individual's or organization's objective is guilty of a Class 3 felony. If the death of any person results from providing any material support, then the person who provided such material support is guilty of a Class 2 felony.*

**2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 780 of the Acts of Assembly of 2016 requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.**

## CHAPTER 669

*An Act to amend and reenact §§ 19.2-3.1, 19.2-187, and 19.2-187.1 of the Code of Virginia, relating to two-way video testimony; forensic analysis and examination.*

[S 1257]

Approved March 20, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 19.2-3.1, 19.2-187, and 19.2-187.1 of the Code of Virginia are amended and reenacted as follows:**

**§ 19.2-3.1. Personal appearance by two-way electronic video and audio communication; standards.**

A. Where an appearance is required or permitted before a magistrate, intake officer or, prior to trial, before a judge, the appearance may be by (i) personal appearance before the magistrate, intake officer or judge or (ii) use of two-way electronic

video and audio communication. If two-way electronic video and audio communication is used, a magistrate, intake officer or judge may exercise all powers conferred by law and all communications and proceedings shall be conducted in the same manner as if the appearance were in person. If two-way electronic video and audio communication is available for use by a district court for the conduct of a hearing to determine bail or to determine representation by counsel, the court shall use such communication in any such proceeding that would otherwise require the transportation of a person from outside the jurisdiction of the court in order to appear in person before the court. Any documents transmitted between the magistrate, intake officer, or judge and the person appearing before the magistrate, intake officer, or judge may be transmitted by electronically transmitted facsimile process or other electronic method. The facsimile or other electronically generated document may be served or executed by the officer or person to whom sent, and returned in the same manner, and with the same force, effect, authority, and liability as an original document. All signatures thereon shall be treated as original signatures.

B. Any two-way electronic video and audio communication system used for an appearance shall meet the following standards:

1. The persons communicating must simultaneously see and speak to one another;
2. The signal transmission must be live, real time;
3. The signal transmission must be secure from interception through lawful means by anyone other than the persons communicating; and
4. Any other specifications as may be promulgated by the Chief Justice of the Supreme Court.

C. *Nothing in this section shall be construed as requiring a locality to purchase a two-way electronic video and audio communication system. Any decision to purchase such a system is at the discretion of the locality.*

**§ 19.2-187. Admission into evidence of certain certificates of analysis.**

A. In any hearing or trial of any criminal offense or in any proceeding brought pursuant to Chapter 22.1 (§ 19.2-386.1 et seq.), a certificate of analysis of a person performing an analysis or examination, duly attested by such person, shall be admissible in evidence as evidence of the facts therein stated and the results of the analysis or examination referred to therein, provided *that* (i) the certificate of analysis is filed with the clerk of the court hearing the case at least seven days prior to the proceeding if the attorney for the Commonwealth intends to offer it into evidence in a preliminary hearing or the accused intends to offer it into evidence in any hearing or trial, or (ii) the requirements of subsection A of § 19.2-187.1 have been satisfied and the accused has not objected to the admission of the certificate pursuant to subsection B of § 19.2-187.1, when any such analysis or examination is performed in any laboratory operated by the Division of Consolidated Laboratory Services or the Department of Forensic Science or authorized by such Department to conduct such analysis or examination, or performed by a person licensed by the Department of Forensic Science pursuant to § 18.2-268.9 or 46.2-341.26:9 to conduct such analysis or examination, or performed by the Federal Bureau of Investigation, the United States Postal Service, the federal Bureau of Alcohol, Tobacco and Firearms, the Naval Criminal Investigative Service, the National Fish and Wildlife Forensics Laboratory, the federal Drug Enforcement Administration, the Forensic Document Laboratory of the U.S. Department of Homeland Security, or the U.S. Secret Service Laboratory.

B. In a hearing or trial in which the provisions of subsection A of § 19.2-187.1 do not apply, a copy of such certificate shall be mailed or delivered by the clerk or attorney for the Commonwealth to counsel of record for the accused at no charge at least seven days prior to the hearing or trial upon request made by such counsel to the clerk with notice of the request to the attorney for the Commonwealth. The request to the clerk shall be on a form prescribed by the Supreme Court and filed with the clerk at least 10 days prior to the hearing or trial. In the event that a request for a copy of a certificate is filed with the clerk with respect to a case that is not yet before the court, the clerk shall advise the requester that he must resubmit the request at such time as the case is properly before the court in order for such request to be effective. If, upon proper request made by counsel of record for the accused, a copy of such certificate is not mailed or delivered by the clerk or attorney for the Commonwealth to counsel of record for the accused in a timely manner in accordance with this section, the accused shall be entitled to continue the hearing or trial.

C. The certificate of analysis of any examination conducted by the Department of Forensic Science relating to a controlled substance or marijuana shall be mailed or forwarded by personnel of the Department of Forensic Science to the attorney for the Commonwealth of the jurisdiction where such offense may be heard. The attorney for the Commonwealth shall acknowledge receipt of the certificate on forms provided by the laboratory.

Any such certificate of analysis purporting to be signed, either by hand or by electronic means, by any such person shall be admissible as evidence in such hearing or trial without any proof of the seal or signature or of the official character of the person whose name is signed to it. The attestation signature of a person performing the analysis or examination may be either hand or electronically signed.

D. *Any testimony offered by either party in a preliminary hearing or sentencing hearing, or offered by the accused in any hearing other than a trial, from a person who performed an analysis or examination that resulted in a certificate of analysis may be presented by two-way video conferencing. The two-way video testimony permitted by this section shall comply with the provisions of subsection B of § 19.2-3.1. In addition, unless otherwise agreed by the parties and the court, (i) all orders pertaining to witnesses apply to witnesses testifying by video conferencing; (ii) upon request, all materials read or used by the witness during his testimony shall be identified on the video; and (iii) any witness testifying by video conferencing shall certify at the conclusion of his testimony, under penalty of perjury, that he did not engage in any off-camera communications with any person during his testimony.*

E. For the purposes of this section and §§ 19.2-187.01, 19.2-187.1, and 19.2-187.2, the term "certificate of analysis" includes reports of analysis and results of laboratory examination.

F. *Nothing in this section shall be construed as requiring a locality to purchase a two-way electronic video and audio communication system. Any decision to purchase such a system is at the discretion of the locality.*

**§ 19.2-187.1. Procedures for notifying accused of certificate of analysis; waiver; continuances.**

A. In any trial and in any hearing other than a preliminary hearing, in which the attorney for the Commonwealth intends to offer a certificate of analysis into evidence in lieu of testimony pursuant to § 19.2-187, the attorney for the Commonwealth shall:

1. Provide by mail, delivery, or otherwise, a copy of the certificate to counsel of record for the accused, or to the accused if he is proceeding pro se, at no charge, no later than 28 days prior to the hearing or trial;

2. Provide simultaneously with the copy of the certificate so provided under subdivision 1 a notice to the accused of his right to object to having the certificate admitted without the person who performed the analysis or examination being present and testifying;

2a. When the attorney for the Commonwealth intends to present such testimony through two-way video conferencing, attach to the copy of the certificate provided under subdivision 1 a notice on a page separate from the notice in subdivision 2 specifying that the person who performed the analysis or examination may testify by two-way video conferencing and that the accused has a right to object to such two-way video testimony; and

3. File a copy of the certificate and notice with the clerk of the court hearing the matter (i) on the day that the certificate and notice are provided to the accused or (ii) in the case of a breath test certificate for a violation of any offense listed in subsection E of § 18.2-270, no later than three business days following the day that the certificate and notice are provided to the accused.

B. The accused may object in writing to admission of the certificate of analysis, in lieu of testimony, as evidence of the facts stated therein and of the results of the analysis or examination. Such objection shall be filed with the court hearing the matter, with a copy to the attorney for the Commonwealth, no more than 14 days after the certificate and notice were filed with the clerk by the attorney for the Commonwealth or the objection shall be deemed waived. If timely objection is made, the certificate shall not be admissible into evidence unless (i) the testimony of the person who performed the analysis or examination is admitted into evidence describing the facts and results of the analysis or examination during the Commonwealth's case-in-chief at the hearing or trial and that person is present and subject to cross-examination by the accused, (ii) the objection is waived by the accused or his counsel in writing or before the court, or (iii) the parties stipulate before the court to the admissibility of the certificate. If the accused demands, at hearing or trial, the presence of the person who performed the analysis or examination and he is thereafter found guilty of the charge or charges for which he demanded the presence of such witness, \$50 for expenses related to the witness's appearance at hearing or trial shall be charged to the accused as court costs.

B1. ~~When~~ *Except as provided in subsection D of § 19.2-187, when the attorney for the Commonwealth gives notice to the accused of intent to present testimony by two-way video conferencing, the accused may object in writing to the admission of such testimony and may file an objection as provided in subsection B. The provisions of subsection B shall apply to such objection mutatis mutandis.*

B2. The two-way video testimony permitted by this section shall comply with the provisions of subsection B of § 19.2-3.1. In addition, unless otherwise agreed by the parties and the court, (i) all orders pertaining to witnesses apply to witnesses testifying by video conferencing; (ii) upon request, all materials read or used by the witness during his testimony shall be identified on the video; and (iii) any witness testifying by video conferencing shall certify at the conclusion of his testimony, under penalty of perjury, that he did not engage in any off-camera communications with any person during his testimony.

C. Where the person who performed the analysis and examination is not available for hearing or trial and the attorney for the Commonwealth has used due diligence to secure the presence of the person, the court shall order a continuance. Any continuances ordered pursuant to this subsection shall total not more than 90 days if the accused has been held continuously in custody and not more than 180 days if the accused has not been held continuously in custody.

D. Any objection by counsel for the accused, or the accused if he is proceeding pro se, to timeliness of the receipt of notice required by subsection A shall be made before hearing or trial upon his receipt of actual notice unless the accused did not receive actual notice prior to hearing or trial. A showing by the Commonwealth that the notice was mailed, delivered, or otherwise provided in compliance with the time requirements of this section shall constitute prima facie evidence that the notice was timely received by the accused. If the court finds upon the accused's objection made pursuant to this subsection, that he did not receive timely notice pursuant to subsection A, the accused's objection shall not be deemed waived and if the objection is made prior to hearing or trial, a continuance shall be ordered if requested by either party. Any continuance ordered pursuant to this subsection shall be subject to the time limitations set forth in subsection C.

E. Nothing in this section shall prohibit the admissibility of a certificate of analysis when the person who performed the analysis and examination testifies at trial or the hearing concerning the facts stated therein and of the results of the analysis or examination.

F. The accused in any hearing or trial in which a certificate of analysis is offered into evidence shall have the right to call the person performing such analysis or examination or involved in the chain of custody as a witness therein, and examine him in the same manner as if he had been called as an adverse witness. Such witness shall be summoned and

appear at the cost of the Commonwealth; however, if the accused calls the person performing such analysis or examination as a witness and is found guilty of the charge or charges for which such witness is summoned, \$50 for expenses related to that witness's appearance at hearing or trial shall be charged to the accused as court costs.

*G. Nothing in this section shall be construed as requiring a locality to purchase a two-way electronic video and audio communication system. Any decision to purchase such a system is at the discretion of the locality.*

### CHAPTER 670

*An Act to amend and reenact §§ 16.1-69.48:1, 46.2-324, 46.2-613, 46.2-711, 46.2-715, 46.2-716, 46.2-752, 46.2-1000, 46.2-1003, 46.2-1052, and 46.2-1053 of the Code of Virginia, relating to dismissal of certain traffic violations for proof of compliance with law.*

[S 1276]

Approved March 20, 2017

#### **Be it enacted by the General Assembly of Virginia:**

**1. That §§ 16.1-69.48:1, 46.2-324, 46.2-613, 46.2-711, 46.2-715, 46.2-716, 46.2-752, 46.2-1000, 46.2-1003, 46.2-1052, and 46.2-1053 of the Code of Virginia are amended and reenacted as follows:**

**§ 16.1-69.48:1. Fixed fee for misdemeanors, traffic infractions and other violations in district court; additional fees to be added.**

A. Assessment of the fees provided for in this section shall be based on (i) an appearance for court hearing in which there has been a finding of guilty; (ii) a written appearance with waiver of court hearing and entry of guilty plea; (iii) for a defendant failing to appear, a trial in his or her absence resulting in a finding of guilty; (iv) an appearance for court hearing in which the court requires that the defendant successfully complete traffic school, a mature driver motor vehicle crash prevention course, or a driver improvement clinic, in lieu of a finding of guilty; (v) a deferral of proceedings pursuant to §§ 4.1-305, 16.1-278.8, 16.1-278.9, 18.2-57.3, 18.2-251 or 19.2-303.2; or (vi) proof of compliance with law under §§ 46.2-104, 46.2-324, 46.2-613, 46.2-711, 46.2-715, 46.2-716, 46.2-752, 46.2-1000, 46.2-1003, 46.2-1052, 46.2-1053, and 46.2-1158.02.

In addition to any other fee prescribed by this section, a fee of \$35 shall be taxed as costs whenever a defendant fails to appear, unless, after a hearing requested by such person, good cause is shown for such failure to appear. No defendant with multiple charges arising from a single incident shall be taxed the applicable fixed fee provided in subsection B, C, or D more than once for a single appearance or trial in absence related to that incident. However, when a defendant who has multiple charges arising from the same incident and who has been assessed a fixed fee for one of those charges is later convicted of another charge that arises from that same incident and that has a higher fixed fee, he shall be assessed the difference between the fixed fee earlier assessed and the higher fixed fee.

A defendant with charges which arise from separate incidents shall be taxed a fee for each incident even if the charges from the multiple incidents are disposed of in a single appearance or trial in absence.

In addition to the fixed fees assessed pursuant to this section, in the appropriate cases, the clerk shall also assess any costs otherwise specifically provided by statute.

B. In misdemeanors tried in district court, except for those proceedings provided for in subsection C, there shall be assessed as court costs a fixed fee of \$61. The amount collected, in whole or in part, for the fixed fee shall be apportioned, as provided by law, to the following funds in the fractional amounts designated:

1. Processing fee (General Fund) (.573770);
2. Virginia Crime Victim-Witness Fund (.049180);
3. Regional Criminal Justice Training Academies Fund (.016393);
4. Courthouse Construction/Maintenance Fund (.032787);
5. Criminal Injuries Compensation Fund (.098361);
6. Intensified Drug Enforcement Jurisdiction Fund (.065574);
7. Sentencing/supervision fee (General Fund) (.131148); and
8. Virginia Sexual and Domestic Violence Victim Fund (.032787).

C. In criminal actions and proceedings in district court for a violation of any provision of Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, there shall be assessed as court costs a fixed fee of \$136. The amount collected, in whole or in part, for the fixed fee shall be apportioned, as provided by law, to the following funds in the fractional amounts designated:

1. Processing fee (General Fund) (.257353);
2. Virginia Crime Victim-Witness Fund (.022059);
3. Regional Criminal Justice Training Academies Fund (.007353);
4. Courthouse Construction/Maintenance Fund (.014706);
5. Criminal Injuries Compensation Fund (.044118);
6. Intensified Drug Enforcement Jurisdiction Fund (.029412);
7. Drug Offender Assessment and Treatment Fund (.551471);
8. Forensic laboratory fee and sentencing/supervision fee (General Fund) (.058824); and
9. Virginia Sexual and Domestic Violence Victim Fund (.014706).

D. In traffic infractions tried in district court, there shall be assessed as court costs a fixed fee of \$51. The amount collected, in whole or in part, for the fixed fee shall be apportioned, as provided by law, to the following funds in the fractional amounts designated:

1. Processing fee (General Fund) (.764706);
2. Virginia Crime Victim-Witness Fund (.058824);
3. Regional Criminal Justice Training Academies Fund (.019608);
4. Courthouse Construction/Maintenance Fund (.039216);
5. Intensified Drug Enforcement Jurisdiction Fund (.078431); and
6. Virginia Sexual and Domestic Violence Victim Fund (.039216).

**§ 46.2-324. Applicants and license holders to notify Department of change of address; fee.**

A. Whenever any person, after applying for or obtaining a driver's license or special identification card shall move from the address shown in the application or on the license or special identification card, he shall, within 30 days, notify the Department of his change of address. If the Department receives notification from the person or any court or law-enforcement agency that a person's residential address has changed to a non-Virginia address, unless the person (i) is on active duty with the armed forces of the United States, (ii) provides proof that he is a U.S. citizen and resides outside the United States because of his employment or the employment of a spouse or parent, or (iii) provides proof satisfactory to the Commissioner that he is a bona fide resident of Virginia, the Department shall (i) mail, by first-class mail, no later than three days after the notice of address change is received by the Department, notice to the person that his license and/or special identification card will be cancelled by the Department and (ii) cancel the driver's license and/or special identification card 30 days after notice of cancellation has been mailed.

B. The Department may contract with the United States Postal Service or an authorized agent to use the National Change of Address System for the purpose of obtaining current address information for a person whose name appears in customer records maintained by the Department. If the Department receives information from the National Change of Address System indicating that a person whose name appears in a Department record has submitted a permanent change of address to the Postal Service, the Department may then update its records with the mailing address obtained from the National Change of Address System.

C. There may be imposed upon anyone failing to notify the Department of his change of address as required by this section a fee of \$5, which fee shall be used to defray the expenses incurred by the Department. Notwithstanding the foregoing provision of this subsection, no fee shall be imposed on any person whose address is obtained from the National Change of Address System.

D. The Department shall electronically transmit change of address information to the Department of State Police, in a format approved by the State Police, for comparison with information contained in the Virginia Criminal Information Network and National Crime Information Center Convicted Sexual Offender Registry Files, at the time of the change of address. Whenever it appears from the records of the State Police that a person has failed to comply with the duty to register or reregister pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1, the State Police shall promptly investigate and, if there is probable cause to believe a violation has occurred, obtain a warrant or assist in obtaining an indictment charging a violation of § 18.2-472.1 in the jurisdiction in which the person last registered or reregistered or in the jurisdiction where the person made application for change of address.

*E. For any summons issued for a violation of this section, the court may, in its discretion, dismiss the summons, where proof of compliance with this section is provided to the court on or before the court date.*

**§ 46.2-613. Offenses relating to registration, licensing, and certificates of title; penalty.**

A. No person shall:

1. Operate or permit the operation of a motor vehicle, trailer, or semitrailer owned, leased, or otherwise controlled by him to be operated on a highway unless (i) it is registered, (ii) a certificate of title therefor has been issued, and (iii) it has displayed on it the license plate or plates and decal or decals, if any, assigned to it by the Department for the current registration period, subject to the exemptions mentioned in Article 5 (§ 46.2-655 et seq.) and Article 6 (§ 46.2-662 et seq.) of this chapter. The provisions of this subdivision shall apply to the registration, licensing, and titling of mopeds on or after July 1, 2014.

2. Display, cause or permit to be displayed, any registration card, certificate of title, or license plate or decal which he knows is fictitious or which he knows has been cancelled, revoked, suspended, or altered; or display or cause or permit to be displayed on any motor vehicle, trailer, or semitrailer any license plate or decal that he knows is currently issued for another vehicle. Violation of this subdivision shall constitute a Class 2 misdemeanor.

3. Possess or lend or knowingly permit the use of any registration card, license plate, or decal by anyone not entitled to it.

4. Fail or refuse to surrender to the Department or the Department of State Police, on demand, any certificate of title, registration card, or license plate or decal which has been suspended, cancelled, or revoked. Violation of this subdivision shall constitute a Class 2 misdemeanor.

5. Use a false name or address in any application for the registration of any motor vehicle, trailer, or semitrailer or for a certificate of title or for any renewal or duplicate certificate, or knowingly to make a false statement of a material fact or to conceal a material fact or otherwise commit a fraud in any registration application. Violation of this subdivision shall constitute a Class 1 misdemeanor.

*B. For any summons issued for a violation of this section, the court may, in its discretion, dismiss the summons, where proof of compliance with this section is provided to the court on or before the court date.*

**§ 46.2-711. Furnishing number and design of plates; displaying on vehicles required.**

A. The Department shall furnish one license plate for every registered moped, motorcycle, autocycle, tractor truck, semitrailer, or trailer, and two license plates for every other registered motor vehicle, except to licensed motor vehicle dealers and persons delivering unladen vehicles who shall be furnished one license plate. The license plates for trailers, semitrailers, commercial vehicles, and trucks, other than license plates for dealers, may be of such design as to prevent removal without mutilating some part of the indicia forming a part of the license plate, when secured to the bracket.

B. The Department shall issue appropriately designated license plates for:

1. Passenger-carrying vehicles for rent or hire for the transportation of passengers for private trips, other than TNC partner vehicles as defined in § 46.2-2000 and emergency medical services vehicles pursuant to clause (iii) of § 46.2-649.1:1;

2. Taxicabs;

3. Passenger-carrying vehicles operated by common carriers or restricted common carriers;

4. Property-carrying motor vehicles to applicants who operate as private carriers only;

5. Applicants, other than TNC partners as defined in § 46.2-2000 and emergency medical services vehicles pursuant to clause (iii) of § 46.2-649.1:1, who operate motor vehicles as carriers for rent or hire;

6. Vehicles operated by nonemergency medical transportation carriers as defined in § 46.2-2000; and

7. Trailers and semitrailers.

C. The Department shall issue appropriately designated license plates for motor vehicles held for rental as defined in § 58.1-1735.

D. The Department shall issue appropriately designated license plates for low-speed vehicles.

E. No vehicles shall be operated on the highways in the Commonwealth without displaying the license plates required by this chapter. The provisions of this subsection shall not apply to vehicles used to collect and deliver the United States mail to the extent that their rear license plates may be covered by the "CAUTION, FREQUENT STOPS, U.S. MAIL" sign when the vehicle is engaged in the collection and delivery of the United States mail.

F. Pickup or panel trucks are exempt from the provisions of subsection B with reference to displaying for-hire license plates when operated as a carrier for rent or hire. However, this exemption shall not apply to pickup or panel trucks subject to regulation under Chapter 21 (§ 46.2-2100 et seq.).

*G. For any summons issued for a violation of this section, the court may, in its discretion, dismiss the summons, where proof of compliance with this section is provided to the court on or before the court date.*

**§ 46.2-715. Display of license plates.**

License plates assigned to a motor vehicle, other than a moped, motorcycle, autocycle, tractor truck, trailer, or semitrailer, or to persons licensed as motor vehicle dealers or transporters of unladen vehicles, shall be attached to the front and the rear of the vehicle. The license plate assigned to a moped, motorcycle, autocycle, trailer, or semitrailer shall be attached to the rear of the vehicle. The license plate assigned to a tractor truck shall be attached to the front of the vehicle. The license plates issued to licensed motor vehicle dealers and to persons licensed as transporters of unladen vehicles shall consist of one plate for each set issued and shall be attached to the rear of the vehicle to which it is assigned.

*For any summons issued for a violation of this section, the court may, in its discretion, dismiss the summons, where proof of compliance with this section is provided to the court on or before the court date.*

**§ 46.2-716. How license plates fastened to vehicle; altering appearance of license plates.**

A. Every license plate shall be securely fastened to the motor vehicle, trailer, or semitrailer to which it is assigned:

1. So as to prevent the plate from swinging,

2. In a position to be clearly visible, and

3. In a condition to be clearly legible.

B. No colored glass, colored plastic, bracket, holder, mounting, frame, or any other type of covering shall be placed, mounted, or installed on, around, or over any license plate if such glass, plastic, bracket, holder, mounting, frame, or other type of covering in any way alters or obscures (i) the alpha-numeric information, (ii) the color of the license plate, (iii) the name or abbreviated name of the state wherein the vehicle is registered, or (iv) any character or characters, decal, stamp, or other device indicating the month or year in which the vehicle's registration expires. No insignia, emblems, or trailer hitches or couplings shall be mounted in such a way as to hide or obscure any portion of the license plate or render any portion of the license plate illegible.

C. The Superintendent may make such regulations as he may deem advisable to enforce the proper mounting and securing of the license plate on the vehicle.

*D. For any summons issued for a violation of this section, the court may, in its discretion, dismiss the summons, where proof of compliance with this section is provided to the court on or before the court date.*

**§ 46.2-752. Taxes and license fees imposed by counties, cities, and towns; limitations on amounts; disposition of revenues; requiring evidence of payment of personal property taxes and certain fines; prohibiting display of licenses after expiration; failure to display valid local license required by other localities; penalty.**

A. Except as provided in § 46.2-755, counties, cities, and towns may levy and assess taxes and charge license fees on motor vehicles, trailers, and semitrailers. However, none of these taxes and license fees shall be assessed or charged by any

county on vehicles owned by residents of any town located in the county when such town constitutes a separate school district if the vehicles are already subject to town license fees and taxes, nor shall a town charge a license fee to any new resident of the town, previously a resident of a county within which all or part of the town is situated, who has previously paid a license fee for the same tax year to such county. The amount of the license fee or tax imposed by any county, city, or town on any motor vehicle, trailer, or semitrailer shall not be greater than the annual or one-year fee imposed by the Commonwealth on the motor vehicle, trailer, or semitrailer. The license fees and taxes shall be imposed in such manner, on such basis, for such periods, and subject to proration for fractional periods of years, as the proper local authorities may determine.

Owners or lessees of motor vehicles, trailers, and semitrailers who have served outside of the United States in the armed services of the United States shall have a 90-day grace period, beginning on the date they are no longer serving outside the United States, in which to comply with the requirements of this section. For purposes of this section, "the armed services of the United States" includes active duty service with the regular Armed Forces of the United States or the National Guard or other reserve component.

Local licenses may be issued free of charge for any or all of the following:

1. Vehicles powered by clean special fuels as defined in § 46.2-749.3, including dual-fuel and bi-fuel vehicles,
2. Vehicles owned by volunteer emergency medical services agencies,
3. Vehicles owned by volunteer fire departments,
4. Vehicles owned or leased by active members or active auxiliary members of volunteer emergency medical services agencies,
5. Vehicles owned or leased by active members or active auxiliary members of volunteer fire departments,
6. Vehicles owned or leased by auxiliary police officers,
7. Vehicles owned or leased by volunteer police chaplains,
8. Vehicles owned by surviving spouses of persons qualified to receive special license plates under § 46.2-739,
9. Vehicles owned or leased by auxiliary deputy sheriffs or volunteer deputy sheriffs,
10. Vehicles owned by persons qualified to receive special license plates under § 46.2-739,
11. Vehicles owned by any of the following who served at least 10 years in the locality: former members of volunteer emergency medical services agencies, former members of volunteer fire departments, former auxiliary police officers, members and former members of authorized police volunteer citizen support units, members and former members of authorized sheriff's volunteer citizen support units, former volunteer police chaplains, and former volunteer special police officers appointed under former § 15.2-1737. In the case of active members of volunteer emergency medical services agencies and active members of volunteer fire departments, applications for such licenses shall be accompanied by written evidence, in a form acceptable to the locality, of their active affiliation or membership, and no member of an emergency medical services agency or member of a volunteer fire department shall be issued more than one such license free of charge,
12. All vehicles having a situs for the imposition of licensing fees under this section in the locality,
13. Vehicles owned or leased by deputy sheriffs; however, no deputy sheriff shall be issued more than one such license free of charge,
14. Vehicles owned or leased by police officers; however, no police officer shall be issued more than one such license free of charge,
15. Vehicles owned or leased by officers of the State Police; however, no officer of the State Police shall be issued more than one such license free of charge,
16. Vehicles owned or leased by salaried firefighters; however, no salaried firefighter shall be issued more than one such license free of charge,
17. Vehicles owned or leased by salaried emergency medical services personnel; however, no salaried emergency medical services personnel shall be issued more than one such license free of charge,
18. Vehicles with a gross weight exceeding 10,000 pounds owned by museums officially designated by the Commonwealth,
19. Vehicles owned by persons, or their surviving spouses, qualified to receive special license plates under subsection A of § 46.2-743, and
20. Vehicles owned or leased by members of the Virginia Defense Force; however, no member of the Virginia Defense Force shall be issued more than one such license free of charge.

The governing body of any county, city, or town issuing licenses under this section may by ordinance provide for a 50 percent reduction in the fee charged for the issuance of any such license issued for any vehicle owned or leased by any person who is 65 years old or older. No such discount, however, shall be available for more than one vehicle owned or leased by the same person.

The governing body of any county, city, or town issuing licenses free of charge under this subsection may by ordinance provide for (i) the limitation, restriction, or denial of such free issuance to an otherwise qualified applicant, including without limitation the denial of free issuance to a taxpayer who has failed to timely pay personal property taxes due with respect to the vehicle and (ii) the grounds for such limitation, restriction, or denial.

The situs for the imposition of licensing fees under this section shall in all cases, except as hereinafter provided, be the county, city, or town in which the motor vehicle, trailer, or semitrailer is normally garaged, stored, or parked. If it cannot be determined where the personal property is normally garaged, stored, or parked, the situs shall be the domicile of its owner.

In the event the owner of the motor vehicle is a full-time student attending an institution of higher education, the situs shall be the domicile of such student, provided the student has presented sufficient evidence that he has paid a personal property tax on the motor vehicle in his domicile.

B. The revenue derived from all county, city, or town taxes and license fees imposed on motor vehicles, trailers, or semitrailers shall be applied to general county, city, or town purposes.

C. A county, city, or town may require that no motor vehicle, trailer, or semitrailer shall be locally licensed until the applicant has produced satisfactory evidence that all personal property taxes on the motor vehicle, trailer, or semitrailer to be licensed have been paid and satisfactory evidence that any delinquent motor vehicle, trailer, or semitrailer personal property taxes owing have been paid which have been properly assessed or are assessable against the applicant by the county, city, or town. A county, city, or town may also provide that no motor vehicle license shall be issued unless the tangible personal property taxes properly assessed or assessable by that locality on any tangible personal property used or usable as a dwelling titled by the Department of Motor Vehicles and owned by the taxpayer have been paid. Any county and any town within any such county may by agreement require that all personal property taxes assessed by either the county or the town on any vehicle be paid before licensure of such vehicle by either the county or the town.

C1. The Counties of Dinwiddie, Lee, and Wise may, by ordinance or resolution adopted after public notice and hearing and, with the consent of the treasurer, require that no license may be issued under this section unless the applicant has produced satisfactory evidence that all fees, including delinquent fees, payable to such county or local solid waste authority, for the disposal of solid waste pursuant to the Virginia Water and Waste Authorities Act (§ 15.2-5100 et seq.), or pursuant to § 15.2-2159, have been paid in full. For purposes of this subsection, all fees, including delinquent fees, payable to a county for waste disposal services described herein, shall be paid to the treasurer of such county; however, in Wise County, the fee shall be paid to the county or its agent.

D. The Counties of Arlington, Fairfax, Loudoun, and Prince William and towns within them and any city may require that no motor vehicle, trailer, or semitrailer shall be licensed by that jurisdiction unless all fines owed to the jurisdiction by the owner of the vehicle, trailer, or semitrailer for violation of the jurisdiction's ordinances governing parking of vehicles have been paid. The provisions of this subsection shall not apply to vehicles owned by firms or companies in the business of renting motor vehicles.

E. If in any county imposing license fees and taxes under this section, a town therein imposes like fees and taxes on vehicles of owners resident in the town, the owner of any vehicle subject to the fees or taxes shall be entitled, on the owner's displaying evidence that he has paid the fees or taxes, to receive a credit on the fees or taxes imposed by the county to the extent of the fees or taxes he has paid to the town. Nothing in this section shall deprive any town now imposing these licenses and taxes from increasing them or deprive any town not now imposing them from hereafter doing so, but subject to the limitations provided in subsection D. The governing body of any county and the governing body of any town in that county wherein each imposes the license tax herein provided may provide mutual agreements so that not more than one license plate or decal in addition to the state plate shall be required.

F. Notwithstanding the provisions of subsection E, in a consolidated county wherein a tier-city exists, the tier-city may, in accordance with the provisions of the agreement or plan of consolidation, impose license fees and taxes under this section in addition to those fees and taxes imposed by the county, provided that the combined county and tier-city rates do not exceed the maximum provided in subsection A. No credit shall be allowed on the fees or taxes imposed by the county for fees or taxes paid to the tier-city, except as may be provided by the consolidation agreement or plan. The governing body of any county and the governing body of any tier-city in such county wherein each imposes the license tax herein may provide by mutual agreement that no more than one license plate or decal in addition to the state license plate shall be required.

G. Any county, city, or town may by ordinance provide that it shall be unlawful for any owner or operator of a motor vehicle, trailer, or semitrailer (i) to fail to obtain and, if any required by such ordinance, to display the local license required by any ordinance of the county, city or town in which the vehicle is registered, or (ii) to display upon a motor vehicle, trailer, or semitrailer any such local license, required by ordinance to be displayed, after its expiration date. The ordinance may provide that a violation shall constitute a misdemeanor the penalty for which shall not exceed that of a Class 4 misdemeanor and may, in the case of a motor vehicle registered to a resident of the locality where such vehicle is registered, authorize the issuance by local law-enforcement officers of citations, summonses, parking tickets, or uniform traffic summonses for violations. Any such ordinance may also provide that a violation of the ordinance by the registered owner of the vehicle may not be discharged by payment of a fine except upon presentation of satisfactory evidence that the required license has been obtained. Nothing in this section shall be construed to require a county, city, or town to issue a decal or any other tangible evidence of a local license to be displayed on the licensed vehicle if the county's, city's, or town's ordinance does not require display of a decal or other evidence of payment. No ordinance adopted pursuant to this section shall require the display of any local license, decal, or sticker on any vehicle owned by a public service company, as defined in § 56-76, having a fleet of at least 2,500 vehicles garaged in the Commonwealth.

H. Except as provided by subsections E and F, no vehicle shall be subject to taxation under the provisions of this section in more than one jurisdiction. Furthermore, no person who has purchased a local vehicle license, decal, or sticker for a vehicle in one county, city, or town and then moves to and garages his vehicle in another county, city, or town shall be required to purchase another local license, decal, or sticker from the county, city, or town to which he has moved and wherein his vehicle is now garaged until the expiration date of the local license, decal, or sticker issued by the county, city, or town from which he moved.

I. Purchasers of new or used motor vehicles shall be allowed at least a 10-day grace period, beginning with the date of purchase, during which to pay license fees charged by local governments under authority of this section.

J. The treasurer or director of finance of any county, city, or town may enter into an agreement with the Commissioner whereby the Commissioner will refuse to issue or renew any vehicle registration of any applicant therefor who owes to such county, city or town any local vehicle license fees or delinquent tangible personal property tax or parking citations. Before being issued any vehicle registration or renewal of such license or registration by the Commissioner, the applicant shall first satisfy all such local vehicle license fees and delinquent taxes or parking citations and present evidence satisfactory to the Commissioner that all such local vehicle license fees and delinquent taxes or parking citations have been paid in full. The Commissioner shall charge a reasonable fee to cover the costs of such enforcement action, and the treasurer or director of finance may add the cost of this fee to the delinquent tax bill or the amount of the parking citation. The treasurer or director of finance of any county, city, or town seeking to collect delinquent taxes or parking citations through the withholding of registration or renewal thereof by the Commissioner as provided for in this subsection shall notify the Commissioner in the manner provided for in his agreement with the Commissioner and supply to the Commissioner information necessary to identify the debtor whose registration or renewal is to be denied. Any agreement entered into pursuant to the provisions of this subsection shall provide the debtor notice of the intent to deny renewal of registration at least 30 days prior to the expiration date of a current vehicle registration. For the purposes of this subsection, notice by first-class mail to the registrant's address as maintained in the records of the Department of Motor Vehicles shall be deemed sufficient. In the case of parking violations, the Commissioner shall only refuse to issue or renew the vehicle registration of any applicant therefor pursuant to this subsection for the vehicle that incurred the parking violations. The provisions of this subsection shall not apply to vehicles owned by firms or companies in the business of renting motor vehicles.

K. The governing bodies of any two or more counties, cities, or towns may enter into compacts for the regional enforcement of local motor vehicle license requirements. The governing body of each participating jurisdiction may by ordinance require the owner or operator of any motor vehicle, trailer, or semitrailer to display on his vehicle a valid local license issued by another county, city, or town that is a party to the regional compact, provided that the owner or operator is required by the jurisdiction of situs, as provided in § 58.1-3511, to obtain and display such license. The ordinance may also provide that no motor vehicle, trailer, or semitrailer shall be locally licensed until the applicant has produced satisfactory evidence that (i) all personal property taxes on the motor vehicle, trailer, or semitrailer to be licensed have been paid to all participating jurisdictions and (ii) any delinquent motor vehicle, trailer, or semitrailer personal property taxes that have been properly assessed or are assessable by any participating jurisdiction against the applicant have been paid. Any city and any county having the urban county executive form of government, the counties adjacent to such county and towns within them may require that no motor vehicle, trailer, or semitrailer shall be licensed by that jurisdiction or any other jurisdiction in the compact unless all fines owed to any participating jurisdiction by the owner of the vehicle for violation of any participating jurisdiction's ordinances governing parking of vehicles have been paid. The ordinance may further provide that a violation shall constitute a misdemeanor the penalty for which shall not exceed that of a Class 4 misdemeanor. Any such ordinance may also provide that a violation of the ordinance by the owner of the vehicle may not be discharged by payment of a fine and applicable court costs except upon presentation of satisfactory evidence that the required license has been obtained. The provisions of this subsection shall not apply to vehicles owned by firms or companies in the business of renting motor vehicles.

L. In addition to the taxes and license fees permitted in subsection A, counties, cities, and towns may charge a license fee of no more than \$1 per motor vehicle, trailer, and semitrailer. Except for the provisions of subsection B, such fee shall be subject to all other provisions of this section. All funds collected pursuant to this subsection shall be paid pursuant to § 51.1-1204 to the Volunteer Firefighters' and Rescue Squad Workers' Service Award Fund to the accounts of all members of the Fund who are volunteers for fire departments or emergency medical services agencies within the jurisdiction of the particular county, city, or town.

M. In any county, the county treasurer or comparable officer and the treasurer of any town located wholly or partially within such county may enter into a reciprocal agreement, with the approval of the respective local governing bodies, that provides for the town treasurer to collect current, non-delinquent license fees or taxes on any motor vehicle, trailer, or semitrailer owed to the county or for the county treasurer to collect current, non-delinquent license fees or taxes owed to the town. A treasurer or comparable officer collecting any such license fee or tax pursuant to an agreement entered into under this subsection shall account for and pay over such amounts to the locality owed such license fee or tax in the same manner as provided by law. As used in this subsection, with regard to towns, "treasurer" means the town officer or employee vested with authority by the charter, statute, or governing body to collect local taxes.

*N. For any summons issued for a violation of this section, the court may, in its discretion, dismiss the summons, where proof of compliance with this section is provided to the court on or before the court date.*

**§ 46.2-1000. Department to suspend registration of vehicles lacking certain equipment; officer to take possession of registration card, license plates and decals when observing defect in motor vehicle; when to be returned.**

The Department shall suspend the registration of any motor vehicle, trailer, or semitrailer which the Department or the Department of State Police determines is not equipped with proper (i) brakes, (ii) lights, (iii) horn or warning device, (iv) turn signals, (v) safety glass when required by law, (vi) mirror, (vii) muffler, (viii) windshield wiper, (ix) steering gear

adequate to ensure the safe movement of the vehicle as required by this title or when such vehicle is equipped with a smoke screen device or cutout or when such motor vehicle, trailer, or semitrailer is otherwise unsafe to be operated.

Any law-enforcement officer shall, when he observes any defect in a motor vehicle as described above, take possession of the registration card, license plates, and decals of any such vehicle and retain the same in his possession for a period of ~~five~~ 15 days unless the owner of the vehicle corrects the defects or obtains a new safety inspection sticker from an authorized safety inspection station. When the defect or defects are corrected as indicated above the registration card, license plates, and decals shall be returned to the owner.

*For any summons issued for a violation of this section, the court may, in its discretion, dismiss the summons, where proof of compliance with this section is provided to the court on or before the court date.*

**§ 46.2-1003. Illegal use of defective or unsafe equipment.**

It shall be unlawful for any person to use or have as equipment on a motor vehicle operated on a highway any device or equipment mentioned in § 46.2-1002 which is defective or in unsafe condition.

*For any summons issued for a violation of this section, the court may, in its discretion, dismiss the summons, where proof of compliance with this section is provided to the court on or before the court date.*

**§ 46.2-1052. Tinting films, signs, decals, and stickers on windshields, etc.; penalties.**

A. Except as otherwise provided in this article or permitted by federal law, it shall be unlawful for any person to operate any motor vehicle on a highway with any sign, poster, colored or tinted film, sun-shading material, or other colored material on the windshield, front or rear side windows, or rear windows of such motor vehicle. This provision, however, shall not apply to any certificate or other paper required by law or permitted by the Superintendent to be placed on a motor vehicle's windshield or window.

The size of stickers or decals used by counties, cities, and towns in lieu of license plates shall be in compliance with regulations promulgated by the Superintendent. Such stickers shall be affixed on the windshield at a location designated by the Superintendent.

B. Notwithstanding the foregoing provisions of this section, whenever a motor vehicle is equipped with a mirror on each side of such vehicle, so located as to reflect to the driver of such vehicle a view of the highway for at least 200 feet to the rear of such vehicle, any or all of the following shall be lawful:

1. To drive a motor vehicle equipped with one optically grooved clear plastic right-angle rear view lens attached to one rear window of such motor vehicle, not exceeding 18 inches in diameter in the case of a circular lens or not exceeding 11 inches by 14 inches in the case of a rectangular lens, which enables the driver of the motor vehicle to view below the line of sight as viewed through the rear window;
2. To have affixed to the rear side windows, rear window or windows of a motor vehicle any sticker or stickers, regardless of size; or
3. To drive a motor vehicle when the driver's clear view of the highway through the rear window or windows is otherwise obstructed.

C. Except as provided in § 46.2-1053, but notwithstanding the foregoing provisions of this section, no sun-shading or tinting film may be applied or affixed to any window of a motor vehicle unless such motor vehicle is equipped with a mirror on each side of such motor vehicle, so located as to reflect to the driver of the vehicle a view of the highway for at least 200 feet to the rear of such vehicle, and the sun-shading or tinting film is applied or affixed in accordance with the following:

1. No sun-shading or tinting films may be applied or affixed to the rear side windows or rear window or windows of any motor vehicle operated on the highways of the Commonwealth that reduce the total light transmittance of such window to less than 35 percent;
2. No sun-shading or tinting films may be applied or affixed to the front side windows of any motor vehicle operated on the highways of the Commonwealth that reduce total light transmittance of such window to less than 50 percent;
3. No sun-shading or tinting films shall be applied or affixed to any window of a motor vehicle that (i) have a reflectance of light exceeding 20 percent or (ii) produce a holographic or prism effect.

Any person who operates a motor vehicle on the highways of the Commonwealth with sun-shading or tinting films that (i) have a total light transmittance less than that required by subdivisions 1 and 2, (ii) have a reflectance of light exceeding 20 percent, or (iii) produce holographic or prism effects is guilty of a traffic infraction but shall not be awarded any demerit points by the Commissioner for the violation.

Any person or firm who applies or affixes to the windows of any motor vehicle in Virginia sun-shading or tinting films that (i) reduce the light transmittance to levels less than that allowed in subdivisions 1 and 2, (ii) have a reflectance of light exceeding 20 percent, or (iii) produce holographic or prism effects is guilty of a Class 3 misdemeanor for the first offense and of a Class 2 misdemeanor for any subsequent offense.

D. The Division of Purchases and Supply, pursuant to § 2.2-1112, shall determine the proper standards for equipment or devices used to measure light transmittance through windows of motor vehicles. Law-enforcement officers shall use only such equipment or devices to measure light transmittance through windows that meet the standards established by the Division. Such measurements made by law-enforcement officers shall be given a tolerance of minus seven percentage points.

E. No film or darkening material may be applied on the windshield except to replace the sunshield in the uppermost area as installed by the manufacturer of the vehicle.

F. Nothing in this section shall prohibit the affixing to the rear window of a motor vehicle of a single sticker no larger than 20 square inches if such sticker is totally contained within the lower five inches of the glass of the rear window, nor shall subsection B apply to a motor vehicle to which but one such sticker is so affixed.

G. Nothing in this section shall prohibit applying to the rear side windows or rear window of any multipurpose passenger vehicle or pickup truck sun-shading or tinting films that reduce the total light transmittance of such window or windows below 35 percent.

H. As used in this article:

"Front side windows" means those windows located adjacent to and forward of the driver's seat;

"Holographic effect" means a picture or image that may remain constant or change as the viewing angle is changed;

"Multipurpose passenger vehicle" means any motor vehicle that is (i) designed to carry no more than 10 persons and (ii) constructed either on a truck chassis or with special features for occasional off-road use;

"Prism effect" means a visual, iridescent, or rainbow-like effect that separates light into various colored components that may change depending on viewing angle;

"Rear side windows" means those windows located to the rear of the driver's seat;

"Rear window" or "rear windows" means those windows which are located to the rear of the passenger compartment of a motor vehicle and which are approximately parallel to the windshield.

I. Notwithstanding the foregoing provisions of this section, sun-shading material which was applied or installed prior to July 1, 1987, in a manner and on which windows not then in violation of Virginia law, shall continue to be lawful, provided that it can be shown by appropriate receipts that such material was installed prior to July 1, 1987.

J. Where a person is convicted within one year of a second or subsequent violation of this section involving the operation of the same vehicle having a tinted or smoked windshield, the court, in addition to any other penalty, may order the person so convicted to remove such tinted or smoked windshield from the vehicle.

K. The provisions of this section shall not apply to law-enforcement vehicles.

L. The provisions of this section shall not apply to the rear windows or rear side windows of any emergency medical services vehicle used to transport patients.

M. The provisions of subdivision C 1 shall not apply to sight-seeing carriers as defined in § 46.2-2000 and contract passenger carriers as defined in § 46.2-2000.

N. For any summons issued for a violation of this section, the court may, in its discretion, dismiss the summons, where proof of compliance with this section is provided to the court on or before the court date.

**§ 46.2-1053. Equipping certain motor vehicles with sun-shading or tinting films or applications.**

Notwithstanding the provisions of § 46.2-1052, a motor vehicle operated by or regularly used to transport any person with a medical condition which renders him susceptible to harm or injury from exposure to sunlight or bright artificial light may be equipped, on its windshield and any or all of its windows, with sun-shading or tinting films or applications which reduce the transmission of light into the vehicle to levels not less than ~~thirty-five~~ 35 percent. Such sun-shading or tinting film when applied to the windshield of a motor vehicle shall not cause the total light transmittance to be reduced to any level less than ~~seventy~~ 70 percent except for the upper five inches of such windshield or the AS-1 line, whichever is closer to the top of the windshield. Vehicles equipped with such sun-shading or tinting films shall not be operated on any highway unless, while being so operated, the driver or an occupant of the vehicle has in his possession a written authorization issued by the Commissioner of the Department of Motor Vehicles authorizing such operation. The Commissioner shall issue such written authorization only upon receipt of a signed statement from a licensed physician or licensed optometrist (i) identifying with reasonable specificity the person seeking the written authorization and (ii) stating that, in the physician's or optometrist's professional opinion, the equipping of a vehicle with sun-shading or tinting films or applications is necessary to safeguard the health of the person seeking the written authorization. Written authorizations issued by the Commissioner under this section shall be valid so long as the condition requiring the use of sun-shading or tinting films or applications persists or until the vehicle is sold, whichever first occurs. Such written authorizations shall permit the approval of any such vehicle upon its safety inspection as required by this chapter if such vehicle otherwise qualifies for inspection approval. In the discretion of the Commissioner, one or more written authorizations may be issued to an individual or a family. The Division of Purchases and Supply, pursuant to § 2.2-1112, shall determine the proper standards for equipment or devices used to measure light transmittance through windows of motor vehicles. Law-enforcement officers shall use only such equipment or devices to measure light transmittance through windows that meet the standards established by the Division. Such measurements made by law-enforcement officers shall be given a tolerance of minus seven percentage points.

For any summons issued for a violation of this section, the court may, in its discretion, dismiss the summons, where proof of compliance with this section is provided to the court on or before the court date.

**CHAPTER 671**

*An Act to amend and reenact § 8.01-44.5 of the Code of Virginia, relating to punitive damages for persons injured by intoxicated drivers; evidence.*

[S 1498]

Approved March 20, 2017

**Be it enacted by the General Assembly of Virginia:****1. That § 8.01-44.5 of the Code of Virginia is amended and reenacted as follows:****§ 8.01-44.5. Punitive damages for persons injured by intoxicated drivers.**

In any action for personal injury or death arising from the operation of a motor vehicle, engine or train, the finder of fact may, in its discretion, award punitive damages to the plaintiff if the evidence proves that the defendant acted with malice toward the plaintiff or the defendant's conduct was so willful or wanton as to show a conscious disregard for the rights of others.

A defendant's conduct shall be deemed sufficiently willful or wanton as to show a conscious disregard for the rights of others when the evidence proves that (i) when the incident causing the injury or death occurred, the defendant had a blood alcohol concentration of 0.15 percent or more by weight by volume or 0.15 grams or more per 210 liters of breath; (ii) at the time the defendant began drinking alcohol, or during the time he was drinking alcohol, he knew or should have known that his ability to operate a motor vehicle, engine or train would be impaired, or when he was operating a motor vehicle he knew or should have known that his ability to operate a motor vehicle was impaired; and (iii) the defendant's intoxication was a proximate cause of the injury to or death of the plaintiff. For the purposes of clause (i), it shall be rebuttably presumed that the blood alcohol concentration at the time of the incident causing injury or death was at least as high as the test result as shown in a certificate issued pursuant to § 18.2-268.9 ~~or~~, in a certificate of analysis for a blood test administered pursuant to § 18.2-268.7, provided that the test was administered in accordance with the provisions of §§ 18.2-268.1 through 18.2-268.12, *or in a certificate of analysis for a test performed by the Department of Forensic Science on whole blood drawn pursuant to a search warrant, provided that the test was administered in accordance with the provisions of §§ 18.2-268.5, 18.2-268.6, and 18.2-268.7.* In addition to any other forms of proof, a party may submit a copy of a certificate issued pursuant to § 18.2-268.9 ~~or~~, a certificate of analysis for a blood test administered pursuant to § 18.2-268.7, *or a certificate of analysis for a test performed by the Department of Forensic Science on whole blood drawn pursuant to a search warrant,* which shall be prima facie evidence of the facts contained therein and compliance with the applicable provisions of §§ 18.2-268.1 through 18.2-268.12. *For the purposes of clause (ii), it shall be rebuttably presumed that the defendant who has consumed alcohol knew or should have known that his ability to operate a motor vehicle, engine, or train was or would be impaired by such consumption of alcohol.*

However, when a defendant has unreasonably refused to submit to a test of his blood alcohol content as required by § 18.2-268.2, a defendant's conduct shall be deemed sufficiently willful or wanton as to show a conscious disregard for the rights of others when the evidence proves that (a) when the incident causing the injury or death occurred the defendant was intoxicated, which may be established by evidence concerning the conduct or condition of the defendant; (b) at the time the defendant began drinking alcohol, ~~or~~ during the time he was drinking alcohol, *or when he was operating a motor vehicle,* he knew or should have known that his ability to operate a motor vehicle was impaired; and (c) the defendant's intoxication was a proximate cause of the injury to the plaintiff or death of the plaintiff's decedent. In addition to any other forms of proof, a party may submit a certified copy of a court's determination of unreasonable refusal pursuant to § 18.2-268.3, which shall be prima facie evidence that the defendant unreasonably refused to submit to the test. *For the purposes of clause (b), it shall be rebuttably presumed that the defendant who has consumed alcohol knew or should have known that his ability to operate a motor vehicle, engine, or train was or would be impaired by such consumption of alcohol.*

Evidence of similar conduct by the same defendant subsequent to the date of the personal injury or death arising from the operation of a motor vehicle, engine, or train shall be admissible at trial for consideration by the jury or other finder of fact for the limited purpose of determining what amount of punitive damages may be appropriate to deter the defendant and others from similar future action.

**CHAPTER 672**

*An Act to amend and reenact § 19.2-11.11 of the Code of Virginia, relating to victim's right to notification of scientific analysis information.*

[S 1501]

Approved March 20, 2017

**Be it enacted by the General Assembly of Virginia:****1. That § 19.2-11.11 of the Code of Virginia is amended and reenacted as follows:****§ 19.2-11.11. Victim's right to notification of scientific analysis information.**

A. In addition to the rights provided under Chapter 1.1 (§ 19.2-11.01 et seq.), a victim of sexual assault, a parent or guardian of a victim of a sexual assault who was a minor at the time of the offense, or ~~a close relative~~ *the next of kin* of a deceased victim of sexual assault shall have the right to request and receive information from the law-enforcement agency regarding (i) the submission of any physical evidence recovery kit for forensic analysis that was collected from the victim during the investigation of the offense; (ii) the status of any analysis being performed on any evidence that was collected during the investigation of the offense; and (iii) the results of any analysis, unless disclosing this information would interfere with the investigation or prosecution of the offense, in which case the victim, parent, guardian, or ~~relative~~ *next of kin* shall be informed of the estimated date on which the information may be disclosed, if known.

B. In the case of a physical evidence recovery kit that was received by a law-enforcement agency prior to July 1, 2016, and that has subsequently been submitted for analysis, the victim, a parent or guardian of a minor victim, or the next of kin of a deceased victim shall be notified by the law-enforcement agency of the completion of the analysis and shall, upon request, receive information from the law-enforcement agency regarding the results of any analysis, unless disclosing this information would interfere with the investigation or prosecution of the offense, in which case the victim, parent, guardian, or next of kin shall be informed of the estimated date on which the information may be disclosed, if known. A good faith attempt to locate the victim, a parent or guardian of a minor victim, or the next of kin of a deceased victim shall be made if a current address for the victim, a parent or guardian of a minor victim, or the next of kin of a deceased victim is unavailable.

C. The victim, parent, guardian, or ~~relative~~ next of kin who requests to be notified under subsection A ~~must~~ shall provide a current address and telephone number to the attorney for the Commonwealth and to the law-enforcement agency that is investigating the offense and keep such information updated.

*The victim, parent, guardian, or next of kin who requests to be notified under subsection B may provide a current address and telephone number to the attorney for the Commonwealth and to the law-enforcement agency that is investigating the offense and keep such information updated.*

*D. Nothing contained in this section shall require a law-enforcement agency to disclose any information regarding the results of any analysis to a parent or guardian of a minor victim or to the next of kin of a deceased victim if such parent, guardian, or next of kin is the alleged perpetrator of the offense.*

### CHAPTER 673

*An Act to amend and reenact § 19.2-52 of the Code of Virginia, relating to DUI; search warrants for blood withdrawals.*

[S 1564]

Approved March 20, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 19.2-52 of the Code of Virginia is amended and reenacted as follows:**

**§ 19.2-52. When search warrant may issue.**

Except as provided in § 19.2-56.1, search warrants, based upon complaint on oath supported by an affidavit as required in § 19.2-54, may be issued by any judge, magistrate or other person having authority to issue criminal warrants, if he be satisfied from such complaint and affidavit that there is reasonable and probable cause for the issuance of such search warrant.

*An application for a search warrant to withdraw blood from a person suspected of violating § 18.2-266, 18.2-266.1, 18.2-272, 29.1-738, 29.1-738.02, or 46.2-341.24 shall be given priority over any pending matters not involving an imminent risk to another's health or safety before such judge, magistrate, or other person having authority to issue criminal warrants.*

### CHAPTER 674

*An Act to amend and reenact § 19.2-12 of the Code of Virginia, relating to conservators of the peace; investigator employed by an attorney for the Commonwealth.*

[S 1594]

Approved March 20, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 19.2-12 of the Code of Virginia is amended and reenacted as follows:**

**§ 19.2-12. Who are conservators of the peace.**

Every judge and attorney for the Commonwealth throughout the Commonwealth and every magistrate within the geographical area for which he is appointed or elected, shall be a conservator of the peace. In addition, every commissioner in chancery, while sitting as such commissioner; any special agent or law-enforcement officer of the United States Department of Justice, National Marine Fisheries Service of the United States Department of Commerce, Department of Treasury, Department of Agriculture, Department of Defense, Department of State, Office of the Inspector General of the Department of Transportation, Department of Homeland Security, and Department of Interior; any inspector, law-enforcement official or police personnel of the United States Postal Service; any United States marshal or deputy United States marshal whose duties involve the enforcement of the criminal laws of the United States; any officer of the Virginia Marine Police; any criminal investigator of the Department of Professional and Occupational Regulation, who meets the minimum law-enforcement training requirements established by the Department of Criminal Justice Services for in-service training; any criminal investigator of the United States Department of Labor; any special agent of the United States Naval Criminal Investigative Service, any special agent of the National Aeronautics and Space Administration, and any sworn municipal park ranger, who has completed all requirements under § 15.2-1706; *any investigator employed by an attorney for the Commonwealth, who within 10 years immediately prior to being employed by the attorney for the Commonwealth was an active law-enforcement officer as defined in § 9.1-101 in the Commonwealth*

and retired or resigned from his position as a law-enforcement officer in good standing, shall be a conservator of the peace, while engaged in the performance of their official duties.

### CHAPTER 675

*An Act to amend and reenact § 4.1-212 of the Code of Virginia, relating to alcoholic beverage control; culinary walking tour permit.*

[S 1108]

Approved March 20, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 4.1-212 of the Code of Virginia is amended and reenacted as follows:**

**§ 4.1-212. Permits required in certain instances.**

A. The Board may grant the following permits which shall authorize:

1. Wine and beer salesmen representing any out-of-state wholesaler engaged in the sale of wine and beer, or either, to sell or solicit the sale of wine or beer, or both in the Commonwealth.
2. Any person having any interest in the manufacture, distribution or sale of spirits or other alcoholic beverages to solicit any mixed beverage licensee, his agent, employee or any person connected with the licensee in any capacity in his licensed business to sell or offer for sale such spirits or alcoholic beverages.
3. Any person to keep upon his premises alcoholic beverages which he is not authorized by any license to sell and which shall be used for culinary purposes only.
4. Any person to transport lawfully purchased alcoholic beverages within, into or through the Commonwealth, except that no permit shall be required for any person shipping or transporting into the Commonwealth a reasonable quantity of alcoholic beverages when such person is relocating his place of residence to the Commonwealth in accordance with § 4.1-310.
5. Any person to keep, store or possess any still or distilling apparatus.
6. The release of alcoholic beverages not under United States custom bonds or internal revenue bonds stored in Board approved warehouses for delivery to the Board or to persons entitled to receive them within or outside of the Commonwealth.
7. The release of alcoholic beverages from United States customs bonded warehouses for delivery to the Board or to licensees and other persons enumerated in subsection B of § 4.1-131.
8. The release of alcoholic beverages from United States internal revenue bonded warehouses for delivery in accordance with subsection C of § 4.1-132.
9. A secured party or any trustee, curator, committee, conservator, receiver or other fiduciary appointed or qualified in any court proceeding, to continue to operate under the licenses previously issued to any deceased or other person licensed to sell alcoholic beverages for such period as the Board deems appropriate.
10. The one-time sale of lawfully acquired alcoholic beverages belonging to any person, or which may be a part of such person's estate, including a judicial sale, estate sale, sale to enforce a judgment lien or liquidation sale to satisfy indebtedness secured by a security interest in alcoholic beverages, by a sheriff, personal representative, receiver or other officer acting under authority of a court having jurisdiction in the Commonwealth, or by any secured party as defined in subdivision (a)(73) of § 8.9A-102 of the Virginia Uniform Commercial Code. Such sales shall be made only to persons who are licensed or hold a permit to sell alcoholic beverages in the Commonwealth or to persons outside the Commonwealth for resale outside the Commonwealth and upon such conditions or restrictions as the Board may prescribe.
11. Any person who purchases at a foreclosure, secured creditor's or judicial auction sale the premises or property of a person licensed by the Board and who has become lawfully entitled to the possession of the licensed premises to continue to operate the establishment to the same extent as a person holding such licenses for a period not to exceed 60 days or for such longer period as determined by the Board. Such permit shall be temporary and shall confer the privileges of any licenses held by the previous owner to the extent determined by the Board. Such temporary permit may be issued in advance, conditioned on the above requirements.
12. The sale of wine and beer in kegs by any person licensed to sell wine or beer, or both, at retail for off-premises consumption.
13. The storage of lawfully acquired alcoholic beverages not under customs bond or internal revenue bond in warehouses located in the Commonwealth.
14. The storage of wine by a licensed winery or farm winery under internal revenue bond in warehouses located in the Commonwealth.
15. Any person to conduct tastings in accordance with § 4.1-201.1, provided that such person has filed an application for a permit in which the applicant represents (i) that he or she is under contract to conduct such tastings on behalf of the alcoholic beverage manufacturer or wholesaler named in the application; (ii) that such contract grants to the applicant the authority to act as the authorized representative of such manufacturer or wholesaler; and (iii) that such contract contains an acknowledgment that the manufacturer or wholesaler named in the application may be held liable for any violation of

§ 4.1-201.1 by its authorized representative. A permit issued pursuant to this subdivision shall be valid for at least one year, unless sooner suspended or revoked by the Board in accordance with § 4.1-229.

16. Any person who, through contract, lease, concession, license, management or similar agreement (hereinafter referred to as the contract), becomes lawfully entitled to the use and control of the premises of a person licensed by the Board to continue to operate the establishment to the same extent as a person holding such licenses, provided such person has made application to the Board for a license at the same premises. The permit shall (i) confer the privileges of any licenses held by the previous owner to the extent determined by the Board and (ii) be valid for a period of 120 days or for such longer period as may be necessary as determined by the Board pending the completion of the processing of the permittee's license application. No permit shall be issued without the written consent of the previous licensee. No permit shall be issued under the provisions of this subdivision if the previous licensee owes any state or local taxes, or has any pending charges for violation of this title or any Board regulation, unless the permittee agrees to assume the liability of the previous licensee for the taxes or any penalty for the pending charges. An application for a permit may be filed prior to the effective date of the contract, in which case the permit when issued shall become effective on the effective date of the contract. Upon the effective date of the permit, (a) the permittee shall be responsible for compliance with the provisions of this title and any Board regulation and (b) the previous licensee shall not be held liable for any violation of this title or any Board regulation committed by, or any errors or omissions of, the permittee.

17. Any sight-seeing carrier or contract passenger carrier as defined in § 46.2-2000 transporting individuals for compensation to a winery, brewery, or restaurant, licensed under this chapter and authorized to conduct tastings, to collect the licensee's tasting fees from tour participants for the sole purpose of remitting such fees to the licensee.

18. *Any tour company guiding individuals for compensation on a culinary walking tour to one or more establishments licensed to sell alcoholic beverages at retail for on-premises consumption to collect as one fee from tour participants (i) the licensee's fee for the food and alcoholic beverages served as part of the tour and (ii) a fee for the culinary walking tour service. The tour company shall remit to the licensee any fee collected for the food and alcoholic beverages served as part of the tour. Food cooked or prepared on the premises of such licensed establishments shall be served at each such establishment on the tour.*

B. Nothing in subdivision 9, 10, or 11 shall authorize any brewery, winery or affiliate or a subsidiary thereof which has supplied financing to a wholesale licensee to manage and operate the wholesale licensee in the event of a default, except to the extent authorized by subdivision B 3 a of § 4.1-216.

## CHAPTER 676

*An Act to amend and reenact § 16.1-267 of the Code of Virginia, relating to reimbursement for appointment of guardian ad litem.*

[S 1343]

Approved March 20, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 16.1-267 of the Code of Virginia is amended and reenacted as follows:**

**§ 16.1-267. Compensation of appointed counsel.**

A. When the court appoints counsel to represent a child pursuant to subsection A of § 16.1-266 and, after an investigation by the court services unit, finds that the parents are financially able to pay for the attorney and refuse to do so, the court shall assess costs against the parents for such legal services in the maximum amount of that awarded the attorney by the court under the circumstances of the case, considering such factors as the ability of the parents to pay and the nature and extent of the counsel's duties in the case. Such amount shall not exceed the maximum amount specified in subdivision 1 of § 19.2-163 if the action is in district court.

When the court appoints counsel to represent a child pursuant to subsection B or C of § 16.1-266 and, after an investigation by the court services unit, finds that the parents are financially able to pay for the attorney in whole or in part and refuse to do so, the court shall assess costs in whole or in part against the parents for such legal services in the amount awarded the attorney by the court. Such amount shall not exceed \$100 if the action is in circuit court or the maximum amount specified in subdivision 1 of § 19.2-163 if the action is in district court. In determining the financial ability of the parents to pay for an attorney to represent the child, the court shall utilize the financial statement required by § 19.2-159.

In all other cases, except as provided in § 16.1-343, counsel appointed to represent a child shall be compensated for his services pursuant to § 19.2-163.

B. When the court appoints counsel to represent a parent, guardian or other adult pursuant to § 16.1-266, such counsel shall be compensated for his services pursuant to § 19.2-163.

C. *In any proceeding in which the court appoints a guardian ad litem to represent a child pursuant to § 16.1-266, the court shall order the parent, or other party with a legitimate interest who has filed a petition in such proceeding, to reimburse the Commonwealth the costs of such services in an amount not to exceed the amount awarded the guardian ad litem by the court. If the court determines that such party is unable to pay, the required reimbursement may be reduced or eliminated. No party whom the court determines to be indigent pursuant to § 19.2-159 shall be required to pay reimbursement except where the court finds good cause to do so. The Executive Secretary of the Supreme Court shall*

administer the guardian ad litem program and shall report August 1 and January 1 of each year to the Chairmen of the House Appropriations and Senate Finance Committees on the amounts paid for guardian ad litem purposes, amounts reimbursed, savings achieved, and management actions taken to further enhance savings under this program.

**2. That for the purposes of this act, "other party with a legitimate interest" shall not include child welfare agencies or local departments of social services.**

#### CHAPTER 677

*An Act to amend and reenact § 58.1-3146 of the Code of Virginia, relating to discharge of treasurer; legal pleadings.*

[S 1459]

Approved March 20, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 58.1-3146 of the Code of Virginia is amended and reenacted as follows:**

**§ 58.1-3146. Rule to show cause in such case; notice and hearing thereon.**

Prior to the final discharge of any treasurer, the clerk shall issue a rule, as directed by the appropriate circuit court, against the Comptroller, the governing body and the school board of the county or city, to show cause, if any they can, why the treasurer should not be discharged. When the notice has been published and posted as aforesaid and the rule executed, then the court, on the day named in the notice, shall, if no cause be shown to the contrary, enter an order, finally discharging such treasurer. If an objection is made, the court shall hear such matter with or without formal pleadings, on oral testimony, or the court may refer any question that may arise in the proceedings to a commissioner in chancery to make a report thereon and may enter, upon final hearing, such order as it may deem proper. A copy of the order herein required, served upon the Comptroller, the chairman of the governing body, and the mayor of the city or superintendent of schools, respectively, shall be a sufficient service of the rule. *The attorney for the locality may prepare and file any pleadings necessary pursuant to this section. If the locality has no attorney, or if the attorney declines or is unable to perform these tasks, the circuit court shall assign legal counsel for these purposes in accordance with § 15.2-1606, provided, however, that the Compensation Board shall not be obligated to reimburse the locality for fees incurred for this purpose.*

#### CHAPTER 678

*An Act to amend and reenact §§ 2.2-4005 and 30-73.3 of the Code of Virginia, relating to periodic review of exemptions from the Administrative Process Act by the Joint Commission on Administrative Rules.*

[H 1731]

Approved March 20, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 2.2-4005 and 30-73.3 of the Code of Virginia are amended and reenacted as follows:**

**§ 2.2-4005. Review of exemptions by Joint Legislative Audit and Review Commission; Joint Commission on Administrative Rules.**

A. The Joint Legislative Audit and Review Commission shall conduct a review periodically of the exemptions authorized by this chapter. The purpose of this review shall be to assess whether there are any exemptions that should be discontinued or modified.

B. *Beginning November 1, 2017, the Joint Commission on Administrative Rules shall conduct a review of the exemptions authorized by this chapter on a schedule established by the Joint Commission on Administrative Rules. The purpose of this review shall be to assess whether any such exemption should be discontinued or modified.*

C. *Beginning August 1, 2017, each agency having an exemption authorized by this chapter, other than the courts, any agency of the Supreme Court, and any agency that by the Constitution of Virginia is expressly granted any of the powers of a court of record, shall submit a written report to the Joint Commission on Administrative Rules on or before August 1, 2017, which report shall include the date the exemption was enacted, a summary of the necessity for the exemption, and a summary of any rule or regulation adopted pursuant to the exemption in the immediately preceding two fiscal years, if any. Every two years thereafter, each such agency shall submit a written report to the Joint Commission on Administrative Rules that summarizes any rule or regulation adopted pursuant to the exemption in the immediately preceding two fiscal years, if any.*

D. *In the event that an agency having an exemption authorized by this chapter fails to submit the report required pursuant to subsection C, the Joint Commission on Administrative Rules shall recommend to the Governor and the General Assembly that such agency's exemption be discontinued.*

**§ 30-73.3. Powers and duties of Commission.**

A. The Commission shall have the powers and duties to:

1. Review proposed rules and regulations of any agency during the promulgation or final adoption process and determine whether or not the rule or regulation (i) is authorized by statute, (ii) complies with legislative intent, (iii) will cause a substantial reduction in private sector employment, and (iv) contains no mandate that improperly burdens

businesses or would impose a significant adverse economic impact on a locality, business, or entity particularly affected as defined in § 2.2-4007.04.

2. Review the effect of the rule or regulation on (i) the economy, (ii) protection of the Commonwealth's natural resources pursuant to Article XI, Section 1 of the Constitution of Virginia, (iii) government operations of the Commonwealth and localities, and (iv) affected persons and businesses.

3. File with the Registrar and the agency promulgating the regulation an objection to a proposed or final adopted regulation.

4. Suspend the effective date of any portion or all of a final regulation with the concurrence of the Governor as provided in subsection B of § 2.2-4014.

5. Make recommendations to the Governor and General Assembly for action based on its review of any proposed rule or regulation.

6. Review any existing agency rule, regulation, or practice or the failure of an agency to adopt a rule and recommend to the Governor and the General Assembly that a rule be modified, repealed, or adopted.

7. *Beginning November 1, 2017, the Joint Commission on Administrative Rules shall conduct an ongoing review of the exemptions authorized by the Administrative Process Act (§ 2.2-4000 et seq.) in accordance with subsections B and D of § 2.2-4005 on a schedule established by the Commission.*

B. If the Commission finds that a rule or regulation improperly burdens businesses or would impose a significant adverse economic impact on a locality, business, or entity particularly affected, it shall report quarterly to the Governor and the General Assembly on any such regulation. The report shall contain a statement of any position taken by the Commission on any such regulation.

C. If the Commission decides to seek suspension of a final rule or regulation, it shall deliver a statement to the Governor, signed by a majority of the members of the Commission, asking the Governor to concur in delaying the effective date of a portion or all of the final regulation until the end of the next regular legislative session as provided in §§ 2.2-4014 and 2.2-4015.

D. Based upon its review of (i) any final rule or regulation during the promulgation or final adoption process or (ii) any existing agency rule, regulation, or practice or failure to adopt a rule or regulation, the Commission may prepare and arrange for the introduction of a bill to clarify the intent of the General Assembly when it enacted a law or to correct any misapplication of a law by an agency.

**2. That general notice of the provisions of this act shall be posted on the Virginia Regulatory Town Hall and published in the Virginia Register of Regulations by the Joint Commission on Administrative Rules to advise agencies having exemptions authorized by the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia) of their obligations under the provisions of this act.**

**CHAPTER 679**

*An Act to amend and reenact § 30-133 of the Code of Virginia, relating to the Auditor of Public Accounts; online database; register of funds expended.*

[H 2436]

Approved March 20, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 30-133 of the Code of Virginia is amended and reenacted as follows:**

**§ 30-133. Duties and powers generally.**

A. The Auditor of Public Accounts shall audit all the accounts of every state department, officer, board, commission, institution or other agency handling any state funds. In the performance of such duties and the exercise of such powers he may employ the services of certified public accountants, provided the cost thereof shall not exceed such sums as may be available out of the appropriation provided by law for the conduct of his office.

B. The Auditor of Public Accounts shall review the information required in § 2.2-1501 to determine that state agencies are providing and reporting appropriate information on financial and performance measures, and the Auditor shall review the accuracy of the management systems used to accumulate and report the results. The Auditor shall report annually to the General Assembly the results of such audits and make recommendations, if indicated, for new or revised accountability or performance measures to be implemented for the agencies audited.

C. The Auditor of Public Accounts shall prepare, by November 1, a summary of the results of all of the audits and other oversight responsibilities performed for the most recently ended fiscal year. The Auditor of Public Accounts shall present this summary to the Senate Finance, House Appropriations and House Finance Committees on the day the Governor presents to the General Assembly the Executive Budget in accordance with §§ 2.2-1508 and 2.2-1509 or at the direction of the respective Chairman of the Senate Finance, House Appropriations or House Finance Committees at one of their committee meetings prior to the meeting above.

D. As part of his normal oversight responsibilities, the Auditor of Public Accounts shall incorporate into his audit procedures and processes a review process to ensure that the Commonwealth's payments to counties, cities, and towns under Chapter 35.1 (§ 58.1-3523 et seq.) of Title 58.1 are consistent with the provisions of § 58.1-3524. The Auditor of Public

Accounts shall report to the Governor and the Chairman of the Senate Finance Committee annually any material failure by a locality or the Commonwealth to comply with the provisions of Chapter 35.1 of Title 58.1.

E. The Auditor of Public Accounts when called upon by the Governor shall examine the accounts of any institution maintained in whole or in part by the Commonwealth and, upon the direction of the Comptroller, shall examine the accounts of any officer required to settle his accounts with him; and upon the direction of any other state officer at the seat of government he shall examine the accounts of any person required to settle his accounts with such officer.

F. Upon the written request of any member of the General Assembly, the Auditor of Public Accounts shall furnish the requested information and provide technical assistance upon any matter requested by such member.

G. In compliance with the provisions of the federal Single Audit Act Amendments of 1996, Public Law 104-156, the Joint Legislative Audit and Review Commission may authorize the Auditor of Public Accounts to audit biennially the accounts pertaining to federal funds received by state departments, officers, boards, commissions, institutions or other agencies.

H. 1. The Auditor of Public Accounts shall compile and maintain on its Internet website a searchable database providing certain state expenditure, revenue, and demographic information as described in this subsection. In maintaining the database, the Auditor of Public Accounts shall work with and coordinate his efforts with the Joint Legislative Audit and Review Commission in obtaining, summarizing, and compiling the information to avoid duplication of efforts. The database shall be updated each year by October 15 to provide the information required in this subsection for the 10 most recently ended fiscal years of the Commonwealth.

The online database shall be made available to citizens of the Commonwealth to allow public access to historical revenue collections and appropriations with related demographic information, to the extent that the information is available and provided to the Auditor of Public Accounts. All state departments, courts officers, boards, commissions, institutions, or other agencies of the Commonwealth shall furnish all information requested by the Auditor of Public Accounts and shall cooperate with him to the fullest extent.

For purposes of reporting information and implementing the database pursuant to this subsection, the Auditor of Public Accounts shall include all appropriated funds and other sources under the control of state-supported institutions of higher education, except for the activity of private gifts, including endowment funds and unrestricted gifts referenced in § 23.1-101. The exclusion of this activity does not affect the public access to these records unless otherwise specifically exempted by law.

2. The database shall contain the following for each of the 10 most recently ended fiscal years of the Commonwealth:

a. Major categories of spending by each secretariat and ~~for major agencies, to include~~ for each agency and institution, including each independent agency, and including within each major category a register of all funds expended, showing vendor name, date of payment, amount, and a description of the type of expense, including ~~also~~ credit card purchases with the same information to the extent that the information exists. *The database shall include the name, phone number, and email address for a contact at the agency or institution who may be contacted for additional information;*

b. The number of full-time state employees and a listing of the positions and salary of each such position, organized by agency;

c. Total fiscal year revenues from state taxes, fees, and other charges, and total fiscal year revenues from state taxes, fees, and other charges computed on a per capita basis and as a percentage of personal income in the Commonwealth;

d. With regard to state taxes, fees, and other charges computed on a per capita basis and as a percentage of personal income, a comparison of such statistics for Virginia with the same statistics for other states;

e. Total fiscal year revenues from federal sources, including the major categories of spending for such revenues;

f. Total population and total population by various age groups including, but not limited to, school-age population and the population of persons 65 years of age and older;

g. Student enrollment in grades K through 12;

h. Enrollment in public institutions of higher education of the Commonwealth;

i. Enrollment in private institutions of higher education in the Commonwealth;

j. The annual prison population;

k. Virginia adjusted gross income and Virginia taxable income by various age groups;

l. The number of citizens in the Commonwealth receiving food stamps;

m. The number of driver's licenses issued;

n. The number of registered motor vehicles;

o. The number of full-time private sector employees;

p. The number of households;

q. The number of prepaid tuition contracts outstanding pursuant to Chapter 4.9 (§ 23-38.75 et seq.) of Title 23 and the estimated total liability under such contracts;

q. The number of prepaid tuition contracts outstanding pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1 and the estimated total liability under such contracts;

r. Any state audit or report relating to the programs or activities of an agency;

s. Information on capital outlay payments including, but not limited to, project title, funding date, completion date, appropriations, year-to-date expenditures, and unexpended appropriations;

t. Annual bonded indebtedness that shall include, but not be limited to, the amount of the total original obligation stated in terms of principal and interest, the term of the obligation, the amounts of principal and interest previously paid to reduce the obligation, the balance remaining of the obligation, and any refinancing of the obligation; and

u. Other data as the Auditor deems appropriate relating to the Commonwealth of Virginia.

3. The Auditor of Public Accounts shall incorporate into the database the following additional elements as they become available through improved enterprise applications or other systems:

- a. Commodities including, but not limited to, line item expenditures;
- b. Virginia Performs data as it directly relates to funding actions or expenditures;
- c. Descriptive purpose for funding action or expenditure;
- d. Statute or act of General Assembly authorizing the issuance of bonds; and
- e. Copies of actual grants and contracts.

4. The Auditor of Public Accounts shall incorporate in the database the following enhancements:

a. Graphs, charts, or other visual displays of aggregated data showing (i) current state spending by expense category, (ii) year-to-year state spending, and (iii) other data deemed appropriate by the Auditor, including display of available line item expenditures; and

b. Frequently asked questions and their responses.

5. By October 15 of each year, the Auditor shall also produce a paper copy or a computer file containing the information described in this subsection and shall distribute the copy or file to newspapers of general circulation in the Commonwealth. The distribution shall include the address of the Internet website for the searchable database.

I. As a part of audits conducted pursuant to subsection A, the Auditor of Public Accounts shall review compliance with requirements established pursuant to the provisions of § 2.2-519 and the requirements of the Virginia Debt Collection Act (§ 2.2-4800 et seq.).

**CHAPTER 680**

*An Act to repeal Article 4 (§§ 58.1-2640 through 58.1-2651) of Chapter 26 of Title 58.1 of the Code of Virginia, relating to payment of estimated taxes by certain public service corporations.*

[S 1025]

Approved March 20, 2017

**Be it enacted by the General Assembly of Virginia:**

1. That Article 4 (§§ 58.1-2640 through 58.1-2651) of Chapter 26 of Title 58.1 of the Code of Virginia is repealed.
2. That the provisions of this act shall become effective on January 1, 2019.

**CHAPTER 681**

*An Act to amend and reenact § 30-133 of the Code of Virginia, relating to the Auditor of Public Accounts; online database; register of funds expended.*

[S 1307]

Approved March 20, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 30-133 of the Code of Virginia is amended and reenacted as follows:**

**§ 30-133. Duties and powers generally.**

A. The Auditor of Public Accounts shall audit all the accounts of every state department, officer, board, commission, institution or other agency handling any state funds. In the performance of such duties and the exercise of such powers he may employ the services of certified public accountants, provided the cost thereof shall not exceed such sums as may be available out of the appropriation provided by law for the conduct of his office.

B. The Auditor of Public Accounts shall review the information required in § 2.2-1501 to determine that state agencies are providing and reporting appropriate information on financial and performance measures, and the Auditor shall review the accuracy of the management systems used to accumulate and report the results. The Auditor shall report annually to the General Assembly the results of such audits and make recommendations, if indicated, for new or revised accountability or performance measures to be implemented for the agencies audited.

C. The Auditor of Public Accounts shall prepare, by November 1, a summary of the results of all of the audits and other oversight responsibilities performed for the most recently ended fiscal year. The Auditor of Public Accounts shall present this summary to the Senate Finance, House Appropriations and House Finance Committees on the day the Governor presents to the General Assembly the Executive Budget in accordance with §§ 2.2-1508 and 2.2-1509 or at the direction of the respective Chairman of the Senate Finance, House Appropriations or House Finance Committees at one of their committee meetings prior to the meeting above.

D. As part of his normal oversight responsibilities, the Auditor of Public Accounts shall incorporate into his audit procedures and processes a review process to ensure that the Commonwealth's payments to counties, cities, and towns under

Chapter 35.1 (§ 58.1-3523 et seq.) of Title 58.1 are consistent with the provisions of § 58.1-3524. The Auditor of Public Accounts shall report to the Governor and the Chairman of the Senate Finance Committee annually any material failure by a locality or the Commonwealth to comply with the provisions of Chapter 35.1 of Title 58.1.

E. The Auditor of Public Accounts when called upon by the Governor shall examine the accounts of any institution maintained in whole or in part by the Commonwealth and, upon the direction of the Comptroller, shall examine the accounts of any officer required to settle his accounts with him; and upon the direction of any other state officer at the seat of government he shall examine the accounts of any person required to settle his accounts with such officer.

F. Upon the written request of any member of the General Assembly, the Auditor of Public Accounts shall furnish the requested information and provide technical assistance upon any matter requested by such member.

G. In compliance with the provisions of the federal Single Audit Act Amendments of 1996, Public Law 104-156, the Joint Legislative Audit and Review Commission may authorize the Auditor of Public Accounts to audit biennially the accounts pertaining to federal funds received by state departments, officers, boards, commissions, institutions or other agencies.

H. 1. The Auditor of Public Accounts shall compile and maintain on its Internet website a searchable database providing certain state expenditure, revenue, and demographic information as described in this subsection. In maintaining the database, the Auditor of Public Accounts shall work with and coordinate his efforts with the Joint Legislative Audit and Review Commission in obtaining, summarizing, and compiling the information to avoid duplication of efforts. The database shall be updated each year by October 15 to provide the information required in this subsection for the 10 most recently ended fiscal years of the Commonwealth.

The online database shall be made available to citizens of the Commonwealth to allow public access to historical revenue collections and appropriations with related demographic information, to the extent that the information is available and provided to the Auditor of Public Accounts. All state departments, courts officers, boards, commissions, institutions, or other agencies of the Commonwealth shall furnish all information requested by the Auditor of Public Accounts and shall cooperate with him to the fullest extent.

For purposes of reporting information and implementing the database pursuant to this subsection, the Auditor of Public Accounts shall include all appropriated funds and other sources under the control of state-supported institutions of higher education, except for the activity of private gifts, including endowment funds and unrestricted gifts referenced in § 23.1-101. The exclusion of this activity does not affect the public access to these records unless otherwise specifically exempted by law.

2. The database shall contain the following for each of the 10 most recently ended fiscal years of the Commonwealth:

a. Major categories of spending by each secretariat and ~~for major agencies, to include~~ for each agency and institution, including each independent agency, and including within each major category a register of all funds expended, showing vendor name, date of payment, amount, and a description of the type of expense, including ~~also~~ credit card purchases with the same information to the extent that the information exists. *The database shall include the name, phone number, and email address for a contact at the agency or institution who may be contacted for additional information;*

b. The number of full-time state employees and a listing of the positions and salary of each such position, organized by agency;

c. Total fiscal year revenues from state taxes, fees, and other charges, and total fiscal year revenues from state taxes, fees, and other charges computed on a per capita basis and as a percentage of personal income in the Commonwealth;

d. With regard to state taxes, fees, and other charges computed on a per capita basis and as a percentage of personal income, a comparison of such statistics for Virginia with the same statistics for other states;

e. Total fiscal year revenues from federal sources, including the major categories of spending for such revenues;

f. Total population and total population by various age groups including, but not limited to, school-age population and the population of persons 65 years of age and older;

g. Student enrollment in grades K through 12;

h. Enrollment in public institutions of higher education of the Commonwealth;

i. Enrollment in private institutions of higher education in the Commonwealth;

j. The annual prison population;

k. Virginia adjusted gross income and Virginia taxable income by various age groups;

l. The number of citizens in the Commonwealth receiving food stamps;

m. The number of driver's licenses issued;

n. The number of registered motor vehicles;

o. The number of full-time private sector employees;

p. The number of households;

q. The number of prepaid tuition contracts outstanding pursuant to Chapter 4.9 (§ 23-38.75 et seq.) of Title 23 and the estimated total liability under such contracts;

q. The number of prepaid tuition contracts outstanding pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1 and the estimated total liability under such contracts;

r. Any state audit or report relating to the programs or activities of an agency;

s. Information on capital outlay payments including, but not limited to, project title, funding date, completion date, appropriations, year-to-date expenditures, and unexpended appropriations;

t. Annual bonded indebtedness that shall include, but not be limited to, the amount of the total original obligation stated in terms of principal and interest, the term of the obligation, the amounts of principal and interest previously paid to reduce the obligation, the balance remaining of the obligation, and any refinancing of the obligation; and

u. Other data as the Auditor deems appropriate relating to the Commonwealth of Virginia.

3. The Auditor of Public Accounts shall incorporate into the database the following additional elements as they become available through improved enterprise applications or other systems:

- a. Commodities including, but not limited to, line item expenditures;
- b. Virginia Performs data as it directly relates to funding actions or expenditures;
- c. Descriptive purpose for funding action or expenditure;
- d. Statute or act of General Assembly authorizing the issuance of bonds; and
- e. Copies of actual grants and contracts.

4. The Auditor of Public Accounts shall incorporate in the database the following enhancements:

a. Graphs, charts, or other visual displays of aggregated data showing (i) current state spending by expense category, (ii) year-to-year state spending, and (iii) other data deemed appropriate by the Auditor, including display of available line item expenditures; and

b. Frequently asked questions and their responses.

5. By October 15 of each year, the Auditor shall also produce a paper copy or a computer file containing the information described in this subsection and shall distribute the copy or file to newspapers of general circulation in the Commonwealth. The distribution shall include the address of the Internet website for the searchable database.

I. As a part of audits conducted pursuant to subsection A, the Auditor of Public Accounts shall review compliance with requirements established pursuant to the provisions of § 2.2-519 and the requirements of the Virginia Debt Collection Act (§ 2.2-4800 et seq.).

**CHAPTER 682**

*An Act to amend the Code of Virginia by adding in Article 1 of Chapter 27 of Title 54.1 a section numbered 54.1-2708.4 and by adding in Article 2 of Chapter 29 of Title 54.1 a section numbered 54.1-2928.2, relating to Boards of Dentistry and Medicine; regulations for the prescribing of opioids and buprenorphine.*

[S 1180]

Approved March 20, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding in Article 1 of Chapter 27 of Title 54.1 a section numbered 54.1-2708.4 and by adding in Article 2 of Chapter 29 of Title 54.1 a section numbered 54.1-2928.2 as follows:**

**§ 54.1-2708.4. Board to adopt regulations related to prescribing of opioids.**

*The Board shall adopt regulations for the prescribing of opioids, which shall include guidelines for:*

1. *The treatment of acute pain, which shall include (i) requirements for an appropriate patient history and evaluation, (ii) limitations on dosages or day supply of drugs prescribed, (iii) requirements for appropriate documentation in the patient's health record, and (iv) a requirement that the prescriber request and review information contained in the Prescription Monitoring Program in accordance with § 54.1-2522.1;*

2. *The treatment of chronic pain, which shall include, in addition to the requirements for treatment of acute pain set forth in subdivision 1, requirements for (i) development of a treatment plan for the patient, (ii) an agreement for treatment signed by the provider and the patient that includes permission to obtain urine drug screens, and (iii) periodic review of the treatment provided at specific intervals to determine the continued appropriateness of such treatment; and*

3. *Referral of patients to whom opioids are prescribed for substance abuse counseling or treatment, as appropriate.*

**§ 54.1-2928.2. Board to adopt regulations related to prescribing of opioids and buprenorphine.**

*The Board shall adopt regulations for the prescribing of opioids and products containing buprenorphine. Such regulations shall include guidelines for:*

1. *The treatment of acute pain, which shall include (i) requirements for an appropriate patient history and evaluation, (ii) limitations on dosages or day supply of drugs prescribed, (iii) requirements for appropriate documentation in the patient's health record, and (iv) a requirement that the prescriber request and review information contained in the Prescription Monitoring Program in accordance with § 54.1-2522.1;*

2. *The treatment of chronic pain, which shall include, in addition to the requirements for treatment of acute pain set forth in subdivision 1, requirements for (i) development of a treatment plan for the patient, (ii) an agreement for treatment signed by the provider and the patient that includes permission to obtain urine drug screens, and (iii) periodic review of the treatment provided at specific intervals to determine the continued appropriateness of such treatment; and*

3. *The use of buprenorphine in the treatment of addiction, including a requirement for referral to or consultation with a provider of substance abuse counseling in conjunction with treatment of opioid dependency with products containing buprenorphine.*

**2. That an emergency exists and this act is in force from its passage.**

**3. That the Prescription Monitoring Program at the Department of Health Professions shall annually provide a report to the Joint Commission on Health Care and the Chairmen of the House Committee on Health, Welfare and Institutions and the Senate Committee on Education and Health on the prescribing of opioids and benzodiazepines in the Commonwealth that includes data on reporting of unusual patterns of prescribing or dispensing of a covered substance by an individual prescriber or dispenser or on potential misuse of a covered substance by a recipient, pursuant to §54.1-2523.1.**

**CHAPTER 683**

*An Act to amend and reenact §§ 37.2-500 and 37.2-601 of the Code of Virginia, relating to community services boards and behavioral health authorities; services to be provided.*

[H 1549]

Approved March 20, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 37.2-500 and 37.2-601 of the Code of Virginia are amended and reenacted as follows:**

**§ 37.2-500. Purpose; community services board; services to be provided.**

A. The Department, for the purposes of establishing, maintaining, and promoting the development of mental health, developmental, and substance abuse services in the Commonwealth, may provide funds to assist any city or county or any combinations of cities or counties or cities and counties in the provision of these services. Every county or city shall establish a community services board by itself or in any combination with other cities and counties, unless it establishes a behavioral health authority pursuant to Chapter 6 (§ 37.2-600 et seq.). Every county or city or any combination of cities and counties that has established a community services board, in consultation with that board, shall designate it as an operating community services board, an administrative policy community services board or a local government department with a policy-advisory community services board. The governing body of each city or county that established the community services board may change this designation at any time by ordinance. In the case of a community services board established by more than one city or county, the decision to change this designation shall be the unanimous decision of all governing bodies.

B. The core of services provided by community services boards within the cities and counties that they serve shall include ~~emergency~~:

1. *Emergency services;*
2. *Same-day mental health screening services;*
3. *Outpatient primary care screening and monitoring services for physical health indicators and health risks and follow-up services for individuals identified as being in need of assistance with overcoming barriers to accessing primary health services, including developing linkages to primary health care providers; and, ~~subject~~*
4. *Subject to the availability of funds appropriated for them, case management services.*

C. The core of services may include a comprehensive system of inpatient, outpatient, day support, residential, prevention, early intervention, and other appropriate mental health, developmental, and substance abuse services necessary to provide individualized services and supports to persons with mental illness, intellectual disability, or substance abuse. Community services boards may establish crisis stabilization units that provide residential crisis stabilization services.

D. In order to provide comprehensive mental health, developmental, and substance abuse services within a continuum of care, the community services board shall function as the single point of entry into publicly funded mental health, developmental, and substance abuse services.

**§ 37.2-601. Behavioral health authorities; purpose.**

A. The Department, for the purposes of establishing, maintaining, and promoting the development of behavioral health services in the Commonwealth, may provide funds to assist certain cities or counties in the provision of these services.

B. The governing body of the Cities of Virginia Beach or Richmond or the County of Chesterfield may establish a behavioral health authority and shall declare its intention to do so by resolution.

C. The behavioral health services provided by behavioral health authorities within the cities or counties they serve shall include ~~emergency~~:

1. *Emergency services;*
2. *Same-day mental health screening services;*
3. *Outpatient primary care screening and monitoring services for physical health indicators and health risks and follow-up services for individuals identified as being in need of assistance with overcoming barriers to accessing primary health services, including developing linkages to primary health care providers; and, ~~subject~~*
4. *Subject to the availability of funds appropriated for them, case management services.*

D. The behavioral health services may include a comprehensive system of inpatient, outpatient, day support, residential, prevention, early intervention, and other appropriate mental health, developmental, and substance abuse services necessary to provide individualized services and supports to persons with mental illness, intellectual disability, or substance abuse. Behavioral health authorities may establish crisis stabilization units that provide residential crisis stabilization services.

E. In order to provide comprehensive mental health, developmental, and substance abuse services within a continuum of care, the behavioral health authority shall function as the single point of entry into publicly funded mental health, developmental, and substance abuse services.

2. That the provisions of the first enactment of this act shall become effective on July 1, 2019.

3. That, effective July 1, 2021, the core of services provided by community services boards and behavioral health authorities within cities and counties that they serve shall include, in addition to those set forth in subdivisions B 1, 2, and 3 of § 37.2-500 of the Code of Virginia, as amended by this act, and subdivisions C 1, 2, and 3 of § 37.2-601 of the Code of Virginia, as amended by this act, respectively, (i) crisis services for individuals with mental health or substance use disorders, (ii) outpatient mental health and substance abuse services, (iii) psychiatric rehabilitation services, (iv) peer support and family support services, (v) mental health services for members of the armed forces located 50 miles or more from a military treatment facility and veterans located 40 miles or more from a Veterans Health Administration medical facility, (vi) care coordination services, and (vii) case management services.

4. That the Department of Behavioral Health and Developmental Services shall report by December 1 of each year to the General Assembly regarding progress in the implementation of the provisions of this act.

CHAPTER 684

*An Act to amend and reenact § 22.1-279.6 of the Code of Virginia, relating to school boards; policies and procedures prohibiting bullying; parental notification.*

[H 1709]

Approved March 24, 2017

Be it enacted by the General Assembly of Virginia:

1. That § 22.1-279.6 of the Code of Virginia is amended and reenacted as follows:

§ 22.1-279.6. Board of Education guidelines and model policies for codes of student conduct; school board regulations.

A. The Board of Education shall establish guidelines and develop model policies for codes of student conduct to aid local school boards in the implementation of such policies. The guidelines and model policies shall include, but not be limited to, (i) criteria for the removal of a student from a class, the use of suspension, expulsion, and exclusion as disciplinary measures, the grounds for suspension and expulsion and exclusion, and the procedures to be followed in such cases, including proceedings for such suspension, expulsion, and exclusion decisions and all applicable appeals processes; (ii) standards, consistent with state, federal and case laws, for school board policies on alcohol and drugs, gang-related activity, hazing, vandalism, trespassing, threats, search and seizure, disciplining of students with disabilities, intentional injury of others, self-defense, bullying, the use of electronic means for purposes of bullying, harassment, and intimidation, and dissemination of such policies to students, their parents, and school personnel; and (iii) standards for in-service training of school personnel in and examples of the appropriate management of student conduct and student offenses in violation of school board policies.

In accordance with the most recent enunciation of constitutional principles by the Supreme Court of the United States of America, the Board's standards for school board policies on alcohol and drugs and search and seizure shall include guidance for procedures relating to voluntary and mandatory drug testing in schools, including, but not limited to, which groups may be tested, use of test results, confidentiality of test information, privacy considerations, consent to the testing, need to know, and release of the test results to the appropriate school authority.

In the case of suspension and expulsion, the procedures set forth in this article shall be the minimum procedures that the school board may prescribe.

B. School boards shall adopt and revise, as required by § 22.1-253.13:7 and in accordance with the requirements of this section, regulations on codes of student conduct that are consistent with, but may be more stringent than, the guidelines of the Board. School boards shall include, in the regulations on codes of student conduct, procedures for suspension, expulsion, and exclusion decisions and shall biennially review the model student conduct code to incorporate discipline options and alternatives to preserve a safe, nondisruptive environment for effective teaching and learning.

C. Each school board shall include in its code of student conduct prohibitions against hazing and profane or obscene language or conduct. School boards shall also cite in their codes of student conduct the provisions of § 18.2-56, which defines and prohibits hazing and imposes a Class 1 misdemeanor penalty for violations, that is, confinement in jail for not more than 12 months and a fine of not more than \$2,500, either or both.

D. Each school board shall include in its code of student conduct, ~~by July 1, 2014,~~ policies and procedures that include a prohibition against bullying. Such policies and procedures shall (i) be consistent with the standards for school board policies on bullying and the use of electronic means for purposes of bullying developed by the Board pursuant to subsection A and (ii) direct the principal to notify the parent of any student involved in an alleged incident of bullying of the status of any investigation within five school days of the allegation of bullying.

Such policies and procedures shall not be interpreted to infringe upon the First Amendment rights of students and are not intended to prohibit expression of religious, philosophical, or political views, provided that such expression does not cause an actual, material disruption of the work of the school.

E. A school board may regulate the use or possession of beepers or other portable communications devices and laser pointers by students on school property or attending school functions or activities and establish disciplinary procedures pursuant to this article to which students violating such regulations will be subject.

F. Nothing in this section shall be construed to require any school board to adopt policies requiring or encouraging any drug testing in schools. However, a school board may, in its discretion, require or encourage drug testing in accordance with the Board of Education's guidelines and model student conduct policies required by subsection A and the Board's guidelines for student searches required by § 22.1-279.7.

G. The Board of Education shall establish standards to ensure compliance with the federal Improving America's Schools Act of 1994 (Part F-Gun-Free Schools Act of 1994), as amended, in accordance with § 22.1-277.07.

This subsection shall not be construed to diminish the authority of the Board of Education or to diminish the Governor's authority to coordinate and provide policy direction on official communications between the Commonwealth and the United States government.

H. Each school board shall include in its code of student conduct a prohibition on possessing electronic cigarettes on a school bus, on school property, or at a school-sponsored activity.

### CHAPTER 685

*An Act to amend and reenact § 22.1-253.13:4 of the Code of Virginia, relating to high school graduation requirements; verified units of credit; satisfactory score on the PreACT or PSAT/NMSQT examination.*

[H 1982]

Approved March 24, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 22.1-253.13:4 of the Code of Virginia is amended and reenacted as follows:**

**§ 22.1-253.13:4. Standard 4. Student achievement and graduation requirements.**

A. Each local school board shall award diplomas to all secondary school students, including students who transfer from nonpublic schools or from home instruction, who meet the requirements prescribed by the Board of Education and meet such other requirements as may be prescribed by the local school board and approved by the Board of Education. Provisions shall be made to facilitate the transfer and appropriate grade placement of students from other public secondary schools, from nonpublic schools, or from home instruction as outlined in the standards for accreditation. The standards for accreditation shall include provisions relating to the completion of graduation requirements through Virtual Virginia. Further, reasonable accommodation to meet the requirements for diplomas shall be provided for otherwise qualified students with disabilities as needed.

In addition, each local school board may devise, vis-a-vis the award of diplomas to secondary school students, a mechanism for calculating class rankings that takes into consideration whether the student has taken a required class more than one time and has had any prior earned grade for such required class expunged.

Each local school board shall notify the parents of rising eleventh and twelfth grade students of (i) the requirements for graduation pursuant to the standards for accreditation and (ii) the requirements that have yet to be completed by the individual student.

B. Students identified as disabled who complete the requirements of their individualized education programs and meet certain requirements prescribed by the Board pursuant to regulations but do not meet the requirements for any named diploma shall be awarded Applied Studies diplomas by local school boards.

Each local school board shall notify the parent of such students with disabilities who have an individualized education program and who fail to meet the graduation requirements of the student's right to a free and appropriate education to age 21, inclusive, pursuant to Article 2 (§ 22.1-213 et seq.) of Chapter 13.

C. Students who have completed a prescribed course of study as defined by the local school board shall be awarded certificates of program completion by local school boards if they are not eligible to receive a Board of Education-approved diploma.

Each local school board shall provide notification of the right to a free public education for students who have not reached 20 years of age on or before August 1 of the school year, pursuant to Chapter 1 (§ 22.1-1 et seq.), to the parent of students who fail to graduate or who have failed to achieve graduation requirements as provided in the standards for accreditation. If such student who does not graduate or complete such requirements is a student for whom English is a second language, the local school board shall notify the parent of the student's opportunity for a free public education in accordance with § 22.1-5.

D. (From Acts 2016, cc. 720 & 750: The graduation requirements established by the Board of Education pursuant to the provisions of subdivisions D 1, 2, and 3 shall apply to each student who enrolls in high school as (i) a freshman after July 1, 2018; (ii) a sophomore after July 1, 2019; (iii) a junior after July 1, 2020; or (iv) a senior after July 1, 2021) In establishing graduation requirements, the Board shall:

1. Develop and implement, in consultation with stakeholders representing elementary and secondary education, higher education, and business and industry in the Commonwealth and including parents, policymakers, and community leaders in the Commonwealth, a Profile of a Virginia Graduate that identifies the knowledge and skills that students should attain

during high school in order to be successful contributors to the economy of the Commonwealth, giving due consideration to critical thinking, creative thinking, collaboration, communication, and citizenship.

2. Emphasize the development of core skill sets in the early years of high school.
3. Establish multiple paths toward college and career readiness for students to follow in the later years of high school. Each such pathway shall include opportunities for internships, externships, and credentialing.
4. Provide for the selection of integrated learning courses meeting the Standards of Learning and approved by the Board to satisfy graduation requirements, which shall include Standards of Learning testing, as necessary.
5. Require students to complete at least one course in fine or performing arts or career and technical education, one course in United States and Virginia history, and two sequential elective courses chosen from a concentration of courses selected from a variety of options that may be planned to ensure the completion of a focused sequence of elective courses that provides a foundation for further education or training or preparation for employment.
6. ~~Graduation requirements shall include a requirement~~ *Require* that students either (i) complete an Advanced Placement, honors, or International Baccalaureate course or (ii) earn a career and technical education credential that has been approved by the Board, except when a career and technical education credential in a particular subject area is not readily available or appropriate or does not adequately measure student competency, in which case the student shall receive satisfactory competency-based instruction in the subject area to earn credit. The career and technical education credential, when required, could include the successful completion of an industry certification, a state licensure examination, a national occupational competency assessment, or the Virginia workplace readiness skills assessment.
7. Beginning with first-time ninth grade students in the 2016-2017 school year, require students to be trained in emergency first aid, cardiopulmonary resuscitation, and the use of automated external defibrillators, including hands-on practice of the skills necessary to perform cardiopulmonary resuscitation.
8. Make provision in its regulations for students with disabilities to earn a diploma.
9. Require students to complete one virtual course, which may be a noncredit-bearing course.
10. Provide that students who complete elective classes into which the Standards of Learning for any required course have been integrated and achieve a passing score on the relevant Standards of Learning test for the relevant required course receive credit for such elective class.

11. Establish a procedure to facilitate the acceleration of students that allows qualified students, with the recommendation of the division superintendent, without completing the 140-hour class, to obtain credit for such class upon demonstrating mastery of the course content and objectives and receiving a passing score on the relevant Standards of Learning assessment. Nothing in this section shall preclude relevant school division personnel from enforcing compulsory attendance in public schools.

12. Provide for the award of credit for passing scores on industry certifications, state licensure examinations, and national occupational competency assessments approved by the Board of Education.

School boards shall report annually to the Board of Education the number of Board-approved industry certifications obtained, state licensure examinations passed, national occupational competency assessments passed, Virginia workplace readiness skills assessments passed, and the number of career and technical education completers who graduated. These numbers shall be reported as separate categories on the School Performance Report Card.

For the purposes of this subdivision, "career and technical education completer" means a student who has met the requirements for a career and technical education concentration or specialization and all requirements for high school graduation or an approved alternative education program.

In addition, the Board may:

- a. For the purpose of awarding credit, approve the use of additional or substitute tests for the correlated Standards of Learning assessment, such as academic achievement tests, industry certifications or state licensure examinations; and
- b. Permit students completing career and technical education programs designed to enable such students to pass such industry certification examinations or state licensure examinations to be awarded, upon obtaining satisfactory scores on such industry certification or licensure examinations, appropriate credit for one or more career and technical education classes into which relevant Standards of Learning for various classes taught at the same level have been integrated. Such industry certification and state licensure examinations may cover relevant Standards of Learning for various required classes and may, at the discretion of the Board, address some Standards of Learning for several required classes.

13. Provide for the waiver of certain graduation requirements (i) upon the Board's initiative or (ii) at the request of a local school board. Such waivers shall be granted only for good cause and shall be considered on a case-by-case basis.

14. Consider all computer science course credits earned by students to be science course credits, mathematics course credits, or career and technical education credits. The Board of Education shall develop guidelines addressing how computer science courses can satisfy graduation requirements.

15. Permit local school divisions to waive the requirement for students to receive 140 clock hours of instruction upon providing the Board with satisfactory proof, based on Board guidelines, that the students for whom such requirements are waived have learned the content and skills included in the relevant Standards of Learning.

16. *Provide for the award of verified units of credit for a satisfactory score, as determined by the Board, on the Preliminary ACT (PreACT) or Preliminary SAT/National Merit Scholarship Qualifying Test (PSAT/NMSQT) examination.*

E. In the exercise of its authority to recognize exemplary performance by providing for diploma seals:

1. The Board shall develop criteria for recognizing exemplary performance in career and technical education programs by students who have completed the requirements for a Board of Education-approved diploma and shall award seals on the diplomas of students meeting such criteria.

2. The Board shall establish criteria for awarding a diploma seal for advanced mathematics and technology for the Board of Education-approved diplomas. The Board shall consider including criteria for (i) technology courses; (ii) technical writing, reading, and oral communication skills; (iii) technology-related training; and (iv) industry, professional, and trade association national certifications.

3. The Board shall establish criteria for awarding a diploma seal for excellence in civics education and understanding of our state and federal constitutions and the democratic model of government for the Board of Education-approved diplomas. The Board shall consider including criteria for (i) successful completion of history, government, and civics courses, including courses that incorporate character education; (ii) voluntary participation in community service or extracurricular activities that includes the types of activities that shall qualify as community service and the number of hours required; and (iii) related requirements as it deems appropriate.

4. The Board shall establish criteria for awarding a diploma seal of biliteracy to any student who demonstrates proficiency in English and at least one other language for the Board of Education-approved diplomas. The Board shall consider criteria including the student's (i) score on a College Board Advanced Placement foreign language examination, (ii) score on an SAT II Subject Test in a foreign language, (iii) proficiency level on an ACTFL Assessment of Performance toward Proficiency in Languages (AAPPL) measure or another nationally or internationally recognized language proficiency test, or (iv) cumulative grade point average in a sequence of foreign language courses approved by the Board.

F. The Board shall establish, by regulation, requirements for the award of a general achievement adult high school diploma for those persons who are not subject to the compulsory school attendance requirements of § 22.1-254 and have (i) achieved a passing score on a high school equivalency examination approved by the Board of Education; (ii) successfully completed an education and training program designated by the Board of Education; (iii) earned a Board of Education-approved career and technical education credential such as the successful completion of an industry certification, a state licensure examination, a national occupational competency assessment, or the Virginia workplace readiness skills assessment; and (iv) satisfied other requirements as may be established by the Board for the award of such diploma.

G. To ensure the uniform assessment of high school graduation rates, the Board shall collect, analyze, report, and make available to the public high school graduation and dropout data using a formula prescribed by the Board.

H. The Board shall also collect, analyze, report, and make available to the public high school graduation and dropout data using a formula that excludes any student who fails to graduate because such student is in the custody of the Department of Corrections, the Department of Juvenile Justice, or local law enforcement. For the purposes of the Standards of Accreditation, the Board shall use the graduation rate required by this subsection.

I. The Board may promulgate such regulations as may be necessary and appropriate for the collection, analysis, and reporting of such data required by subsections G and H.

## CHAPTER 686

*An Act to amend and reenact § 2.2-2101, as it is currently effective and as it shall become effective, of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 31 of Title 23.1 an article numbered 9, consisting of sections numbered 23.1-3134 through 23.1-3137, relating to the establishment of the Online Virginia Network Authority.*

[H 2262]

Approved March 24, 2017

### **Be it enacted by the General Assembly of Virginia:**

**1. That § 2.2-2101, as it is currently effective and as it shall become effective, of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Chapter 31 of Title 23.1 an article numbered 9, consisting of sections numbered 23.1-3134 through 23.1-3137, as follows:**

**§ 2.2-2101. (Effective until July 1, 2017) Prohibition against service by legislators on boards, commissions, and councils within the executive branch; exceptions.**

Members of the General Assembly shall be ineligible to serve on boards, commissions, and councils within the executive branch of state government who are responsible for administering programs established by the General Assembly. Such prohibition shall not extend to boards, commissions, and councils engaged solely in policy studies or commemorative activities. If any law directs the appointment of any member of the General Assembly to a board, commission, or council in the executive branch of state government that is responsible for administering programs established by the General Assembly, such portion of such law shall be void, and the Governor shall appoint another person from the Commonwealth at large to fill such a position.

The provisions of this section shall not apply to members of the Board for Branch Pilots, who shall be appointed as provided for in § 54.1-901; to members of the Board of Trustees of the Southwest Virginia Higher Education Center, who shall be appointed as provided for in § 23.1-3126; to members of the Board of Trustees of the Southern Virginia Higher Education Center, who shall be appointed as provided for in § 23.1-3121; to members of the Board of Directors of the New College Institute who shall be appointed as provided for in § 23.1-3112; to members of the Virginia Interagency

Coordinating Council who shall be appointed as provided for in § 2.2-5204; to members of the Board of Veterans Services, who shall be appointed as provided for in § 2.2-2452; to members appointed to the Board of Trustees of the Roanoke Higher Education Authority pursuant to § 23.1-3117; *to members of the Board of Trustees of the Online Virginia Network Authority, who shall be appointed as provided in § 23.1-3135*; to members of the Virginia Geographic Information Network Advisory Board, who shall be appointed as provided for in § 2.2-2423; to members of the Standards of Learning Innovation Committee, who shall be appointed as provided for in § 22.1-253.13:10; to members of the Board of Visitors of the Virginia School for the Deaf and the Blind, who shall be appointed as provided for in § 22.1-346.2; to members of the Substance Abuse Services Council, who shall be appointed as provided for in § 2.2-2696; to members of the Criminal Justice Services Board, who shall be appointed as provided in § 9.1-108; to members of the Council on Virginia's Future, who shall be appointed as provided for in § 2.2-2685; to members of the State Executive Council for Children's Services, who shall be appointed as provided in § 2.2-2648; to members of the Virginia Board of Workforce Development, who shall be appointed as provided for in § 2.2-2471; to members of the Volunteer Firefighters' and Rescue Squad Workers' Service Award Fund Board, who shall be appointed as provided for in § 51.1-1201; to members of the Secure Commonwealth Panel, who shall be appointed as provided for in § 2.2-222.3; to members of the Forensic Science Board, who shall be appointed as provided for in § 9.1-1109; to members of the Southwest Virginia Cultural Heritage Foundation, who shall be appointed as provided in § 2.2-2735; or to members of the Virginia Growth and Opportunity Board, who shall be appointed as provided in § 2.2-2485.

**§ 2.2-2101. (Effective July 1, 2017) Prohibition against service by legislators on boards, commissions, and councils within the executive branch; exceptions.**

Members of the General Assembly shall be ineligible to serve on boards, commissions, and councils within the executive branch of state government who are responsible for administering programs established by the General Assembly. Such prohibition shall not extend to boards, commissions, and councils engaged solely in policy studies or commemorative activities. If any law directs the appointment of any member of the General Assembly to a board, commission, or council in the executive branch of state government that is responsible for administering programs established by the General Assembly, such portion of such law shall be void, and the Governor shall appoint another person from the Commonwealth at large to fill such a position.

The provisions of this section shall not apply to members of the Board for Branch Pilots, who shall be appointed as provided for in § 54.1-901; to members of the Board of Trustees of the Southwest Virginia Higher Education Center, who shall be appointed as provided for in § 23.1-3126; to members of the Board of Trustees of the Southern Virginia Higher Education Center, who shall be appointed as provided for in § 23.1-3121; to members of the Board of Directors of the New College Institute who shall be appointed as provided for in § 23.1-3112; to members of the Virginia Interagency Coordinating Council who shall be appointed as provided for in § 2.2-5204; to members of the Board of Veterans Services, who shall be appointed as provided for in § 2.2-2452; to members appointed to the Board of Trustees of the Roanoke Higher Education Authority pursuant to § 23.1-3117; *to members of the Board of Trustees of the Online Virginia Network Authority, who shall be appointed as provided in § 23.1-3135*; to members of the Virginia Geographic Information Network Advisory Board, who shall be appointed as provided for in § 2.2-2423; to members of the Standards of Learning Innovation Committee, who shall be appointed as provided for in § 22.1-253.13:10; to members of the Board of Visitors of the Virginia School for the Deaf and the Blind, who shall be appointed as provided for in § 22.1-346.2; to members of the Substance Abuse Services Council, who shall be appointed as provided for in § 2.2-2696; to members of the Criminal Justice Services Board, who shall be appointed as provided in § 9.1-108; to members of the State Executive Council for Children's Services, who shall be appointed as provided in § 2.2-2648; to members of the Virginia Board of Workforce Development, who shall be appointed as provided for in § 2.2-2471; to members of the Volunteer Firefighters' and Rescue Squad Workers' Service Award Fund Board, who shall be appointed as provided for in § 51.1-1201; to members of the Secure Commonwealth Panel, who shall be appointed as provided for in § 2.2-222.3; to members of the Forensic Science Board, who shall be appointed as provided for in § 9.1-1109; to members of the Southwest Virginia Cultural Heritage Foundation, who shall be appointed as provided in § 2.2-2735; or to members of the Virginia Growth and Opportunity Board, who shall be appointed as provided in § 2.2-2485.

*Article 9.*

*Online Virginia Network Authority.*

**§ 23.1-3134. Online Virginia Network Authority established.**

*The Online Virginia Network Authority (the Authority) is established as a political subdivision of the Commonwealth for the purpose of providing a means for individuals to earn degrees and postsecondary education credentials by improving the quality of and expanding access to online degree and credential programs that are beneficial to citizens, public institutions of higher education, and employers in the Commonwealth.*

**§ 23.1-3135. Board of Trustees.**

*A. The Authority shall be governed by a Board of Trustees (the Board) that has a total membership of 15 members that shall consist of four members of the House of Delegates to be appointed by the Speaker of the House of Delegates in accordance with the principles of proportional representation contained in the Rules of the House of Delegates; three members of the Senate to be appointed by the Senate Committee on Rules; three nonlegislative citizen members to be appointed by the Governor; one nonlegislative citizen member to be appointed by the board of visitors of George Mason University; one nonlegislative citizen member to be appointed by the board of visitors of Old Dominion University; and*

three members who shall serve *ex officio* with voting privileges, consisting of the President of George Mason University or his designee, the President of Old Dominion University or his designee, and the Director of the Council. Nonlegislative citizen members of the Authority shall be citizens of the Commonwealth.

B. Legislative and *ex officio* members of the Board shall serve terms coincident with their terms of office.

C. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. Vacancies shall be filled in the same manner as the original appointments. All members may be reappointed.

D. After the initial staggering of terms, nonlegislative citizen members shall be appointed for a term of four years.

E. No House member shall serve more than four consecutive two-year terms, no Senate member shall serve more than two consecutive four-year terms, and no nonlegislative citizen member shall serve more than two consecutive four-year terms. The remainder of any term to which a member is appointed to fill a vacancy shall not constitute a term in determining the member's eligibility for reappointment.

F. The Board shall elect a chairman and vice-chairman from among its membership. A majority of the members shall constitute a quorum. The meetings of the Board shall be held at the call of the chairman or whenever the majority of the members so request.

G. Legislative members of the Board shall receive such compensation as provided in § 30-19.12, and nonlegislative citizen members shall receive such compensation for the performance of their duties as provided in § 2.2-2813. All members shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. Funding for the costs of compensation and expenses of the members shall be provided by the Authority.

H. George Mason University and Old Dominion University shall provide staff support to the Authority and the Board. All agencies of the Commonwealth shall provide assistance to the Board, upon request.

**§ 23.1-3136. Duties of the Authority.**

The Authority shall:

1. Expand access to affordable higher education in the Commonwealth by establishing the Online Virginia Network (the Network) for the purpose of coordinating the online delivery of courses that facilitate the completion of degrees at George Mason University and Old Dominion University;

2. Encourage each public institution of higher education and each consortium of public institutions of higher education that offers online courses, online degree programs, or online credential programs to offer any such course, degree program, or credential program through the Network;

3. Oversee a process of approval for public institutions of higher education and consortia of such institutions to participate in the Network, with such funds as are appropriated for such purpose and made available to it;

4. Serve as a resource for residents of the Commonwealth and disseminate information regarding the opportunities for online learning offered by institutions and consortia that participate in the Network;

5. Coordinate the maintenance of an online portal through which potential students may examine and enroll seamlessly in Network offerings;

6. Collaborate with institutions and consortia that participate in the Network to ensure that the needs of enrolled students are met before, during, and after enrollment through online student support systems;

7. To the extent practicable, ensure that courses and degree programs offered through the Network (i) are accredited by an accrediting agency recognized by the U.S. Department of Education or authorized by the Council, as applicable; (ii) expand access to underserved populations based on income, race, geography, and age; (iii) are responsive to the employment demands of the Commonwealth; (iv) employ learning and delivery technologies, which may include competency-based and experiential learning, in an efficient and cost-effective manner to promote flexibility for each student to pursue online courses and programs at his own pace and in his own location throughout the year; (v) minimize student expenses and reduce time-to-degree or time-to-credential; and (vi) are offered in collaboration with existing public and private providers of online courses;

8. Promote the refinement and implementation of articulation agreements to ensure that credits earned through the Network are transferable to each other public institution of higher education and contribute to on-time degree completion at each such institution;

9. Assist in developing processes to help institutions and consortia that participate in the Network to expand their online offerings;

10. Develop specific goals for meeting the demand in the Commonwealth for affordable and accessible higher education through online learning;

11. Review and report annually to the Governor and the General Assembly on the cost structure of funds allocated to the establishment, maintenance, and expansion of the Network. In addition, the Authority shall examine ways to reduce the cost of online education and develop a budget that incorporates estimated expected tuition revenue from online students and its use in supporting the Network and assumes that any financial aid will come from existing financial aid programs; and

12. Accept, administer, and account for any state, federal, or private moneys that it may receive. Any moneys, including interest thereon, that have not been expended by the Authority by the end of each fiscal year shall not revert to the general fund but shall remain in the accounts of the Authority.

**§ 23.1-3137. Procurement and information technology.**

A. The Authority shall be exempt from the provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq.), except for § 2.2-4342, which shall not be construed to require compliance with the prequalification application procedures of subsection B of § 2.2-4317, if it adopts and complies with policies for the procurement of goods and services, including professional services, that (i) are based upon competitive principles; (ii) in each instance seek competition to the maximum practical degree; (iii) implement a system of competitive negotiation for professional services pursuant to §§ 2.2-4303.1 and 2.2-4302.2; (iv) prohibit discrimination in the solicitation and award of contracts based on the bidder's or offeror's race, religion, color, sex, national origin, age, or disability or on any other basis prohibited by state or federal law; (v) incorporate the prompt payment principles of §§ 2.2-4350 and 2.2-4354; (vi) consider the impact on correctional enterprises under § 53.1-47; (vii) provide that whenever solicitations are made seeking competitive procurement of goods or services, it shall be a priority of the Authority to provide for fair and reasonable consideration of small, women-owned, and minority-owned businesses and to promote and encourage a diversity of suppliers; and (viii) identify the public, educational, and operational interests served by any procurement rule that deviates from procurement rules in the Virginia Public Procurement Act (§ 2.2-4300 et seq.).

B. The Authority shall be exempt from the provisions governing the Virginia Information Technologies Agency in Chapter 20.1 (§ 2.2-2005 et seq.) of Title 2.2 and the provisions governing the Information Technology Advisory Council in Article 35 (§ 2.2-2699.5 et seq.) of Chapter 26 of Title 2.2, if it adopts and complies with policies and professional best practices regarding strategic planning for information technology, project management, security, budgeting, infrastructure, and ongoing operations.

**2. That the initial appointments of nonlegislative citizen members of the Online Virginia Network Authority Board of Trustees, as created by this act, shall be staggered as follows: one member for a term of two years appointed by the board of visitors of George Mason University; one member for a term of three years appointed by the board of visitors of Old Dominion University; and three members for a term of four years appointed by the Governor.**

**CHAPTER 687**

*An Act to amend and reenact § 22.1-9 of the Code of Virginia, relating to the Board of Education; membership.*

[H 2341]

Approved March 24, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 22.1-9 of the Code of Virginia is amended and reenacted as follows:**

**§ 22.1-9. Appointment, terms, and vacancies.**

The Board of Education shall consist of nine members appointed by the Governor, *at least two of whom shall represent business and industry in the private sector in the Commonwealth.* Every appointment to the Board shall be for a term of four years, except that appointments to fill vacancies other than by expiration of term shall be for the unexpired terms. All appointments, including those to fill vacancies, shall be subject to confirmation by the General Assembly, and any appointment made during the recess of the General Assembly shall expire at the end of ~~thirty~~ 30 days after the commencement of the next session of the General Assembly. No member of the Board shall be appointed to more than two consecutive four-year terms.

**CHAPTER 688**

*An Act to amend and reenact § 22.1-298.1 of the Code of Virginia, relating to teacher licensure by reciprocity; professional teacher's assessments.*

[H 2352]

Approved March 24, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 22.1-298.1 of the Code of Virginia is amended and reenacted as follows:**

**§ 22.1-298.1. Regulations governing licensure.**

A. As used in this section:

"Alternate route to licensure" means a nontraditional route to teacher licensure available to individuals who meet the criteria specified in the regulations issued by the Board of Education.

"Industry certification credential" means an active career and technical education credential that is earned by successfully completing a Board of Education-approved industry certification examination, being issued a professional license in the Commonwealth, or successfully completing an occupational competency examination.

"Licensure by reciprocity" means a process used to issue a license to an individual coming into the Commonwealth from another state when that individual meets certain conditions specified in the Board of Education's regulations.

"Professional teacher's assessment" means those tests mandated for licensure as prescribed by the Board of Education.

"Provisional license" means a nonrenewable license issued by the Board of Education for a specified period of time, not to exceed three years, to an individual who may be employed by a school division in the Commonwealth and who

generally meets the requirements specified in the Board of Education's regulations for licensure, but who may need to take additional coursework or pass additional assessments to be fully licensed with a renewable license.

"Renewable license" means a license issued by the Board of Education for five years to an individual who meets the requirements specified in the Board of Education's regulations.

B. The Board of Education shall prescribe, by regulation, the requirements for the licensure of teachers and other school personnel required to hold a license. Such regulations shall include requirements for the denial, suspension, cancellation, revocation, and reinstatement of licensure. The Board of Education shall revoke the license of any person for whom it has received a notice of dismissal or resignation pursuant to subsection F of § 22.1-313 and, in the case of a person who is the subject of a founded complaint of child abuse or neglect, after all rights to any appeal provided by § 63.2-1526 have been exhausted. Regardless of the authority of any other agency of the Commonwealth to approve educational programs, only the Board of Education shall have the authority to license teachers to be regularly employed by school boards, including those teachers employed to provide nursing education.

The Board of Education shall prescribe by regulation the licensure requirements for teachers who teach only online courses, as defined in § 22.1-212.23. Such license shall be valid only for teaching online courses. Teachers who hold a five-year renewable license issued by the Board of Education may teach online courses for which they are properly endorsed.

C. The Board of Education's regulations shall include requirements that a person seeking initial licensure:

1. Complete professional assessments as prescribed by the Board of Education;
2. Complete study in attention deficit disorder;
3. Complete study in gifted education, including the use of multiple criteria to identify gifted students; and
4. Complete study in methods of improving communication between schools and families and ways of increasing family involvement in student learning at home and at school.

D. In addition, such regulations shall include requirements that:

1. Every person seeking initial licensure or renewal of a license demonstrate proficiency in the use of educational technology for instruction;
2. Every person seeking initial licensure and persons seeking licensure renewal as teachers who have not completed such study shall complete study in child abuse recognition and intervention in accordance with curriculum guidelines developed by the Board of Education in consultation with the Department of Social Services that are relevant to the specific teacher licensure routes;
3. Every person seeking initial licensure or renewal of a license shall receive professional development in instructional methods tailored to promote student academic progress and effective preparation for the Standards of Learning end-of-course and end-of-grade assessments;
4. Every person seeking renewal of a license shall complete all renewal requirements, including professional development in a manner prescribed by the Board, except that no person seeking renewal of a license shall be required to satisfy any such requirement by completing coursework and earning credit at an institution of higher education;
5. Every person seeking initial licensure or renewal of a license shall provide evidence of completion of certification or training in emergency first aid, cardiopulmonary resuscitation, and the use of automated external defibrillators. The certification or training program shall be based on the current national evidence-based emergency cardiovascular care guidelines for cardiopulmonary resuscitation and the use of an automated external defibrillator, such as a program developed by the American Heart Association or the American Red Cross. The Board shall provide a waiver for this requirement for any person with a disability whose disability prohibits such person from completing the certification or training;
6. Every person seeking licensure with an endorsement as a teacher of the blind and visually impaired shall demonstrate proficiency in reading and writing Braille;
7. Every teacher seeking an initial license in the Commonwealth with an endorsement in the area of career and technical education shall have an industry certification credential in the area in which the teacher seeks endorsement. If a teacher seeking an initial license in the Commonwealth has not attained an industry certification credential in the area in which the teacher seeks endorsement, the Board may, upon request of the employing school division or educational agency, issue the teacher a provisional license to allow time for the teacher to attain such credential; and
8. (Effective July 1, 2017) Every person seeking initial licensure or renewal of a license shall complete awareness training, provided by the Department of Education, on the indicators of dyslexia, as that term is defined by the Board pursuant to regulations, and the evidence-based interventions and accommodations for dyslexia.

E. The Board's regulations shall require that initial licensure for principals and assistant principals be contingent upon passage of an assessment as prescribed by the Board.

F. The Board shall establish criteria in its regulations to effectuate the substitution of experiential learning for coursework for those persons seeking initial licensure through an alternate route as defined in Board regulations.

G. Notwithstanding any provision of law to the contrary, the Board (i) may provide for the issuance of a provisional license, valid for a period not to exceed three years, pursuant to subdivision D 7 or to any person who does not meet the requirements of this section or any other requirement for licensure imposed by law and (ii) shall provide for the issuance of a provisional license, valid for a period not to exceed three years, to any former member of the Armed Forces of the

United States or the Virginia National Guard who has received an honorable discharge and has the appropriate level of experience or training but does not meet the requirements for a renewable license.

H. The Board's licensure regulations shall also provide for licensure by reciprocity:

1. With comparable endorsement areas for those individuals holding a valid out-of-state teaching license and national certification from the National Board for Professional Teaching Standards or a nationally recognized certification program approved by the Board of Education. The application for such individuals shall require evidence of such valid licensure and national certification and shall not require official student transcripts;

2. For individuals who have obtained a valid out-of-state license, with full credentials and without deficiencies, that is in force at the time the application for a Virginia license is received by the Department of Education. The individual must establish a file in the Department of Education by submitting a complete application packet, which shall include official student transcripts. An assessment of basic skills as provided in § 22.1-298.2 and service requirements shall not be imposed for these licensed individuals; ~~however, other~~. Other licensing assessments, as prescribed by the Board of Education, shall be required, *but any such individual shall be exempt from any professional teacher's assessment requirements, subject to the approval of the division superintendent or the school board in the school division in which such individual is employed;* and

3. The Board may include other provisions for reciprocity in its regulations.

**2. That the Department of Education shall analyze the current requirements for teacher licensure by reciprocity in the Commonwealth, including the statutory and regulatory requirements for such licensure, and report its findings, including any recommendations for changes to such requirements, to the House Committee on Education and the Senate Committee on Education and Health no later than November 1, 2017.**

#### CHAPTER 689

*An Act to amend and reenact § 18.2-308.016, as it is currently effective and as it shall become effective, of the Code of Virginia, relating to carrying concealed weapons; former attorneys for the Commonwealth and assistant attorneys for the Commonwealth.*

[H 2424]

Approved March 24, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 18.2-308.016, as it is currently effective and as it shall become effective, of the Code of Virginia is amended and reenacted as follows:**

**§ 18.2-308.016. (Effective until July 1, 2018) Retired law-enforcement officers; carrying a concealed handgun.**

A. Except as provided in subsection A of § 18.2-308.012, § 18.2-308 shall not apply to:

1. Any State Police officer retired from the Department of State Police, any officer retired from the Division of Capitol Police, any local law-enforcement officer, auxiliary police officer or animal control officer retired from a police department or sheriff's office within the Commonwealth, any special agent retired from the State Corporation Commission or the Virginia Alcoholic Beverage Control Board, any employee with internal investigations authority designated by the Department of Corrections pursuant to subdivision 11 of § 53.1-10 retired from the Department of Corrections, any conservation police officer retired from the Department of Game and Inland Fisheries, any Virginia Marine Police officer retired from the Law Enforcement Division of the Virginia Marine Resources Commission, any campus police officer appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1 retired from a campus police department, any retired member of the enforcement division of the Department of Motor Vehicles appointed pursuant to § 46.2-217, and any retired investigator of the security division of the Virginia Lottery, other than an officer or agent terminated for cause, (i) with a service-related disability; (ii) following at least 10 years of service with any such law-enforcement agency, commission, board, or any combination thereof; (iii) who has reached 55 years of age; or (iv) who is on long-term leave from such law-enforcement agency or board due to a service-related injury, provided such officer carries with him written proof of consultation with and favorable review of the need to carry a concealed handgun issued by the chief law-enforcement officer of the last such agency from which the officer retired or the agency that employs the officer or, in the case of special agents, issued by the State Corporation Commission or the Virginia Alcoholic Beverage Control Board. A copy of the proof of consultation and favorable review shall be forwarded by the chief, Commission, or Board to the Department of State Police for entry into the Virginia Criminal Information Network. The chief law-enforcement officer shall not without cause withhold such written proof if the retired law-enforcement officer otherwise meets the requirements of this section. An officer set forth in clause (iv) who receives written proof of consultation to carry a concealed handgun shall surrender such proof of consultation upon return to work or upon termination of employment with the law-enforcement agency. Notice of the surrender shall be forwarded to the Department of State Police for entry into the Virginia Criminal Information Network. However, if such officer retires on disability because of the service-related injury, and would be eligible under clause (i) for written proof of consultation to carry a concealed handgun, he may retain the previously issued written proof of consultation.

2. Any person who is eligible for retirement with at least 20 years of service with a law-enforcement agency, commission, or board mentioned in subdivision 1 who has resigned in good standing from such law-enforcement agency, commission, or board to accept a position covered by a retirement system that is authorized under Title 51.1, provided such

person carries with him written proof of consultation with and favorable review of the need to carry a concealed handgun issued by the chief law-enforcement officer of the agency from which he resigned or, in the case of special agents, issued by the State Corporation Commission or the Virginia Alcoholic Beverage Control Board. A copy of the proof of consultation and favorable review shall be forwarded by the chief, Commission, or Board to the Department of State Police for entry into the Virginia Criminal Information Network. The chief law-enforcement officer shall not without cause withhold such written proof if the law-enforcement officer otherwise meets the requirements of this section.

3. Any State Police officer who is a member of the organized reserve forces of any of the Armed Services of the United States or National Guard, while such officer is called to active military duty, provided such officer carries with him written proof of consultation with and favorable review of the need to carry a concealed handgun issued by the Superintendent of State Police. The proof of consultation and favorable review shall be valid as long as the officer is on active military duty and shall expire when the officer returns to active law-enforcement duty. The issuance of the proof of consultation and favorable review shall be entered into the Virginia Criminal Information Network. The Superintendent of State Police shall not without cause withhold such written proof if the officer is in good standing and is qualified to carry a weapon while on active law-enforcement duty.

4. Any retired or resigned attorney for the Commonwealth or assistant attorney for the Commonwealth who (i) was not terminated for cause and served at least 10 years prior to his retirement or resignation; (ii) during the most recent 12-month period, has met, at his own expense, the standards for qualification in firearms training for active law-enforcement officers in the Commonwealth; (iii) carries with him written proof of consultation with and favorable review of the need to carry a concealed handgun issued by the attorney for the Commonwealth from whose office he retired or resigned; and (iv) meets the requirements of a "qualified retired law enforcement officer" pursuant to the federal Law Enforcement Officers Safety Act of 2004 (18 U.S.C. § 926C). A copy of the proof of consultation and favorable review shall be forwarded by the attorney for the Commonwealth to the Department of State Police for entry into the Virginia Criminal Information Network.

B. For purposes of complying with the federal Law Enforcement Officers Safety Act of 2004, a retired or resigned law-enforcement officer, including a retired or resigned attorney for the Commonwealth or assistant attorney for the Commonwealth, who receives proof of consultation and review pursuant to this section shall have the opportunity to annually participate, at the retired or resigned law-enforcement officer's expense, in the same training and testing to carry firearms as is required of active law-enforcement officers in the Commonwealth. If such retired or resigned law-enforcement officer meets the training and qualification standards, the chief law-enforcement officer shall issue the retired or resigned officer certification, valid one year from the date of issuance, indicating that the retired or resigned officer has met the standards of the agency to carry a firearm.

C. A retired or resigned law-enforcement officer, including a retired or resigned attorney for the Commonwealth or assistant attorney for the Commonwealth, who receives proof of consultation and review pursuant to this section may annually participate and meet the training and qualification standards to carry firearms as is required of active law-enforcement officers in the Commonwealth. If such retired or resigned law-enforcement officer meets the training and qualification standards, the chief law-enforcement officer shall issue the retired or resigned officer certification, valid one year from the date of issuance, indicating that the retired or resigned officer has met the standards of the Commonwealth to carry a firearm. A copy of the certification indicating that the retired or resigned officer has met the standards of the Commonwealth to carry a firearm shall be forwarded by the chief, Commission, ~~or~~ Board, or attorney for the Commonwealth to the Department of State Police for entry into the Virginia Criminal Information Network.

D. For all purposes, including for the purpose of applying the reciprocity provisions of § 18.2-308.014, any person granted the privilege to carry a concealed handgun pursuant to this section, while carrying the proof of consultation and favorable review required, shall be deemed to have been issued a concealed handgun permit.

**§ 18.2-308.016. (Effective July 1, 2018) Retired law-enforcement officers; carrying a concealed handgun.**

A. Except as provided in subsection A of § 18.2-308.012, § 18.2-308 shall not apply to:

1. Any State Police officer retired from the Department of State Police, any officer retired from the Division of Capitol Police, any local law-enforcement officer, auxiliary police officer or animal control officer retired from a police department or sheriff's office within the Commonwealth, any special agent retired from the State Corporation Commission or the Virginia Alcoholic Beverage Control Authority, any employee with internal investigations authority designated by the Department of Corrections pursuant to subdivision 11 of § 53.1-10 retired from the Department of Corrections, any conservation police officer retired from the Department of Game and Inland Fisheries, any Virginia Marine Police officer retired from the Law Enforcement Division of the Virginia Marine Resources Commission, any campus police officer appointed under Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1 retired from a campus police department, any retired member of the enforcement division of the Department of Motor Vehicles appointed pursuant to § 46.2-217, and any retired investigator of the security division of the Virginia Lottery, other than an officer or agent terminated for cause, (i) with a service-related disability; (ii) following at least 10 years of service with any such law-enforcement agency, commission, board, or any combination thereof; (iii) who has reached 55 years of age; or (iv) who is on long-term leave from such law-enforcement agency or board due to a service-related injury, provided such officer carries with him written proof of consultation with and favorable review of the need to carry a concealed handgun issued by the chief law-enforcement officer of the last such agency from which the officer retired or the agency that employs the officer or, in the case of special agents, issued by the State Corporation Commission or the Virginia Alcoholic Beverage Control Authority. A copy of the proof of consultation and favorable review shall be forwarded by the chief, Commission, or Board

to the Department of State Police for entry into the Virginia Criminal Information Network. The chief law-enforcement officer shall not without cause withhold such written proof if the retired law-enforcement officer otherwise meets the requirements of this section. An officer set forth in clause (iv) who receives written proof of consultation to carry a concealed handgun shall surrender such proof of consultation upon return to work or upon termination of employment with the law-enforcement agency. Notice of the surrender shall be forwarded to the Department of State Police for entry into the Virginia Criminal Information Network. However, if such officer retires on disability because of the service-related injury, and would be eligible under clause (i) for written proof of consultation to carry a concealed handgun, he may retain the previously issued written proof of consultation.

2. Any person who is eligible for retirement with at least 20 years of service with a law-enforcement agency, commission, or board mentioned in subdivision 1 who has resigned in good standing from such law-enforcement agency, commission, or board to accept a position covered by a retirement system that is authorized under Title 51.1, provided such person carries with him written proof of consultation with and favorable review of the need to carry a concealed handgun issued by the chief law-enforcement officer of the agency from which he resigned or, in the case of special agents, issued by the State Corporation Commission or the Virginia Alcoholic Beverage Control Authority. A copy of the proof of consultation and favorable review shall be forwarded by the chief, Commission, or Board to the Department of State Police for entry into the Virginia Criminal Information Network. The chief law-enforcement officer shall not without cause withhold such written proof if the law-enforcement officer otherwise meets the requirements of this section.

3. Any State Police officer who is a member of the organized reserve forces of any of the Armed Services of the United States or National Guard, while such officer is called to active military duty, provided such officer carries with him written proof of consultation with and favorable review of the need to carry a concealed handgun issued by the Superintendent of State Police. The proof of consultation and favorable review shall be valid as long as the officer is on active military duty and shall expire when the officer returns to active law-enforcement duty. The issuance of the proof of consultation and favorable review shall be entered into the Virginia Criminal Information Network. The Superintendent of State Police shall not without cause withhold such written proof if the officer is in good standing and is qualified to carry a weapon while on active law-enforcement duty.

4. Any retired or resigned attorney for the Commonwealth or assistant attorney for the Commonwealth who (i) was not terminated for cause and served at least 10 years prior to his retirement or resignation; (ii) during the most recent 12-month period, has met, at his own expense, the standards for qualification in firearms training for active law-enforcement officers in the Commonwealth; (iii) carries with him written proof of consultation with and favorable review of the need to carry a concealed handgun issued by the attorney for the Commonwealth from whose office he retired or resigned; and (iv) meets the requirements of a "qualified retired law enforcement officer" pursuant to the federal Law Enforcement Officers Safety Act of 2004 (18 U.S.C. § 926C). A copy of the proof of consultation and favorable review shall be forwarded by the attorney for the Commonwealth to the Department of State Police for entry into the Virginia Criminal Information Network.

B. For purposes of complying with the federal Law Enforcement Officers Safety Act of 2004, a retired or resigned law-enforcement officer, including a retired or resigned attorney for the Commonwealth or assistant attorney for the Commonwealth, who receives proof of consultation and review pursuant to this section shall have the opportunity to annually participate, at the retired or resigned law-enforcement officer's expense, in the same training and testing to carry firearms as is required of active law-enforcement officers in the Commonwealth. If such retired or resigned law-enforcement officer meets the training and qualification standards, the chief law-enforcement officer shall issue the retired or resigned officer certification, valid one year from the date of issuance, indicating that the retired or resigned officer has met the standards of the agency to carry a firearm.

C. A retired or resigned law-enforcement officer, including a retired or resigned attorney for the Commonwealth or assistant attorney for the Commonwealth, who receives proof of consultation and review pursuant to this section may annually participate and meet the training and qualification standards to carry firearms as is required of active law-enforcement officers in the Commonwealth. If such retired or resigned law-enforcement officer meets the training and qualification standards, the chief law-enforcement officer shall issue the retired or resigned officer certification, valid one year from the date of issuance, indicating that the retired or resigned officer has met the standards of the Commonwealth to carry a firearm. A copy of the certification indicating that the retired or resigned officer has met the standards of the Commonwealth to carry a firearm shall be forwarded by the chief, Commission, ~~or~~ Board, or attorney for the Commonwealth to the Department of State Police for entry into the Virginia Criminal Information Network.

D. For all purposes, including for the purpose of applying the reciprocity provisions of § 18.2-308.014, any person granted the privilege to carry a concealed handgun pursuant to this section, while carrying the proof of consultation and favorable review required, shall be deemed to have been issued a concealed handgun permit.

## CHAPTER 690

*An Act to amend and reenact §§ 2.2-507 and 16.1-88.03 of the Code of Virginia, relating to the Department of Military Affairs; civil actions.*

[S 1360]

Approved March 24, 2017

**Be it enacted by the General Assembly of Virginia:****1. That §§ 2.2-507 and 16.1-88.03 of the Code of Virginia are amended and reenacted as follows:****§ 2.2-507. Legal service in civil matters.**

A. All legal service in civil matters for the Commonwealth, the Governor, and every state department, institution, division, commission, board, bureau, agency, entity, official, court, or judge, including the conduct of all civil litigation in which any of them are interested, shall be rendered and performed by the Attorney General, except as provided in this chapter and except for any litigation concerning a justice or judge initiated by the Judicial Inquiry and Review Commission. No regular counsel shall be employed for or by the Governor or any state department, institution, division, commission, board, bureau, agency, entity, or official. The Attorney General may represent personally or through one or more of his assistants any number of state departments, institutions, divisions, commissions, boards, bureaus, agencies, entities, officials, courts, or judges that are parties to the same transaction or that are parties in the same civil or administrative proceeding and may represent multiple interests within the same department, institution, division, commission, board, bureau, agency, or entity. The soil and water conservation district directors or districts may request legal advice from local, public, or private sources; however, upon request of the soil and water conservation district directors or districts, the Attorney General shall provide legal service in civil matters for such district directors or districts.

B. The Attorney General may represent personally or through one of his assistants any of the following persons who are made defendant in any civil action for damages arising out of any matter connected with their official duties:

1. (Effective until July 1, 2018) Members, agents, or employees of the Alcoholic Beverage Control Board;
1. (Effective July 1, 2018) Members, agents, or employees of the Virginia Alcoholic Beverage Control Authority;
2. Agents inspecting or investigators appointed by the State Corporation Commission;
3. Agents, investigators, or auditors employed by the Department of Taxation;
4. Members, agents, or employees of the State Board of Behavioral Health and Developmental Services, the Department of Behavioral Health and Developmental Services, the State Board of Health, the State Department of Health, the Department of General Services, the State Board of Social Services, the Department of Social Services, the State Board of Corrections, the Department of Corrections, the State Board of Juvenile Justice, the Department of Juvenile Justice, the Virginia Parole Board, or the Department of Agriculture and Consumer Services;
5. Persons employed by the Commonwealth Transportation Board, the Department of Transportation, or the Department of Rail and Public Transportation;
6. Persons employed by the Commissioner of Motor Vehicles;
7. Persons appointed by the Commissioner of Marine Resources;
8. Police officers appointed by the Superintendent of State Police;
9. Conservation police officers appointed by the Department of Game and Inland Fisheries;
10. Hearing officers appointed to hear a teacher's grievance pursuant to § 22.1-311;
11. Staff members or volunteers participating in a court-appointed special advocate program pursuant to Article 5 (§ 9.1-151 et seq.) of Chapter 1 of Title 9.1;
12. Any emergency medical services agency that is a licensee of the Department of Health in any civil matter and any guardian ad litem appointed by a court in a civil matter brought against him for alleged errors or omissions in the discharge of his court-appointed duties;
13. Conservation officers of the Department of Conservation and Recreation; or
14. A person appointed by written order of a circuit court judge to run an existing corporation or company as the judge's representative, when that person is acting in execution of a lawful order of the court and the order specifically refers to this section and appoints such person to serve as an agent of the Commonwealth.

Upon request of the affected individual, the Attorney General may represent personally or through one of his assistants any basic or advanced emergency medical care attendant or technician possessing a valid certificate issued by authority of the State Board of Health in any civil matter in which a defense of immunity from liability is raised pursuant to § 8.01-225.

C. If, in the opinion of the Attorney General, it is impracticable or uneconomical for such legal service to be rendered by him or one of his assistants, he may employ special counsel for this purpose, whose compensation shall be fixed by the Attorney General. The compensation for such special counsel shall be paid out of the funds appropriated for the administration of the board, commission, division, or department being represented or whose members, officers, inspectors, investigators, or other employees are being represented pursuant to this section. Notwithstanding any provision of this section to the contrary, the Supreme Court may employ its own counsel in any matter arising out of its official duties in which it, or any justice, is a party.

*D. Nothing herein shall limit the powers granted in § 16.1-88.03.*

**§ 16.1-88.03. Pleadings and other papers by certain parties not represented by attorneys.**

A. Any corporation, partnership, limited liability company, limited partnership, professional corporation, professional limited liability company, registered limited liability partnership, registered limited liability partnership or business trust and the Department of Military Affairs, when the amount claimed in any civil action pursuant to subdivision (1) or (3) of § 16.1-77 does not exceed the jurisdictional amounts authorized in such subsections, exclusive of interest, may prepare, execute, file, and have served on other parties in any proceeding in a general district court a warrant in debt, motion for judgment, warrant in detinue, distress warrant, summons for unlawful detainer, counterclaim, crossclaim, suggestion for summons in garnishment, garnishment summons, writ of possession, writ of fieri facias, interpleader and civil appeal notice

without the intervention of an attorney. Such papers may be signed by a corporate officer, a manager of a limited liability company, a general partner of any form of partnership or a trustee of any business trust, or such corporate officer, with the approval of the board of directors, or manager, general partner or trustee may authorize in writing an employee, a person licensed under the provisions of § 54.1-2106.1, a property manager, or a managing agent of a landlord as defined in § 55-248.4 to sign such papers as the agent of the business entity. *Only an agency employee designated in writing by the Adjutant General may sign such papers on behalf of the Department of Military Affairs.* However, this section shall not apply to an action under subdivision (1) or (3) of § 16.1-77 which was assigned to a corporation, partnership, limited liability company, limited partnership, professional corporation, professional limited liability company, registered limited liability partnership, registered limited liability limited partnership or business trust, or individual solely for the purpose of enforcing an obligation owed or right inuring to another.

B. Nothing in this section shall allow a nonlawyer to file a bill of particulars or grounds of defense or to argue motions, issue a subpoena, rule to show cause, or *capias*; file or interrogate at debtor interrogatories; or to file, issue or argue any other paper, pleading or proceeding not set forth in subsection A.

C. The provisions of § 8.01-271.1 shall apply to any pleading, motion or other paper filed or made pursuant to this section.

D. Parties not represented by counsel, and who have made an appearance in the case, shall promptly notify in writing the clerk of court wherein the litigation is pending, and any adverse party, of any change in the party's address necessary for accurate mailing or service of any pleadings or notices. In the absence of such notification, a mailing to or service upon a party at the most recent address contained in the court file of the case shall be deemed effective service or other notice.

**CHAPTER 691**

*An Act to amend and reenact § 23.1-802 of the Code of Virginia, relating to baccalaureate public institutions of higher education; student mental health; postvention services after a student suicide.*

[S 1430]

Approved March 24, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 23.1-802 of the Code of Virginia is amended and reenacted as follows:**

**§ 23.1-802. Student mental health; policies; website resource.**

A. The governing board of each public institution of higher education shall develop and implement policies that (i) advise students, faculty, and staff, including residence hall staff, of the proper procedures for identifying and addressing the needs of students exhibiting suicidal tendencies or behavior and (ii) provide for training where appropriate. Such policies shall require procedures for notifying the institution's student health or counseling center for the purposes set forth in subdivision B 4 of § 23.1-1303 when a student exhibits suicidal tendencies or behavior.

*B. The board of visitors of each baccalaureate public institution of higher education shall develop and implement policies that ensure that after a student suicide, affected students have access to reasonable medical and behavioral health services, including postvention services. For the purposes of this subsection, "postvention services" means services designed to facilitate the grieving or adjustment process, stabilize the environment, reduce the risk of negative behaviors, and prevent suicide contagion.*

~~B- C.~~ C. The board of visitors of each baccalaureate public institution of higher education shall establish a written memorandum of understanding with its local community services board or behavioral health authority and with local hospitals and other local mental health facilities in order to expand the scope of services available to students seeking treatment. The memorandum shall designate a contact person to be notified, to the extent allowable under state and federal privacy laws, when a student is involuntarily committed, or when a student is discharged from a facility. The memorandum shall provide for the inclusion of the institution in the post-discharge planning of a student who has been committed and intends to return to campus, to the extent allowable under state and federal privacy laws.

~~C- D.~~ D. Each baccalaureate public institution of higher education shall create and feature on its website a page with information dedicated solely to the mental health resources available to students at the institution.

**CHAPTER 692**

*An Act to amend and reenact §§ 22.1-207.1 and 22.1-207.1:1 of the Code of Virginia, relating to family life education; curriculum guidelines and curricula.*

[S 1475]

Approved March 24, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 22.1-207.1 and 22.1-207.1:1 of the Code of Virginia are amended and reenacted as follows:**

**§ 22.1-207.1. Family life education.**

A. As used in this section, "abstinence education" means an educational or motivational component that has as its exclusive purpose teaching the social, psychological, and health gains to be realized by teenagers' abstaining from sexual activity before marriage.

B. The Board of Education shall develop ~~by December 1, 1987, standards~~ *Standards of Learning* Learning and curriculum guidelines for a comprehensive, sequential family life education curriculum in grades ~~kindergarten~~ through 12. Such curriculum guidelines shall include instruction as appropriate for the age of the student in family living and community relationships; the benefits, challenges, responsibilities, and value of marriage for men, women, children, and communities; *the value of family relationships*; abstinence education; the value of postponing sexual activity; the benefits of adoption as a positive choice in the event of an unwanted pregnancy; human sexuality; human reproduction; dating violence, the characteristics of abusive relationships, steps to take to ~~avoid~~ *deter* sexual assault, and the availability of counseling and legal resources, and, in the event of such sexual assault, the importance of immediate medical attention and advice, as well as the requirements of the law; the etiology, prevention, and effects of sexually transmitted diseases; and mental health education and awareness.

C. All such instruction shall be designed to promote parental involvement, foster positive ~~self concepts~~ *self-concepts*, and provide mechanisms for coping with peer pressure and the stresses of modern living according to the students' developmental stages and abilities. The Board shall also establish requirements for appropriate training for teachers of family life education, which shall include training in instructional elements to support the various curriculum components.

~~For the purposes of this section, "abstinence education" means an educational or motivational component which has as its exclusive purpose teaching the social, psychological, and health gains to be realized by teenagers' abstaining from sexual activity before marriage.~~

**§ 22.1-207.1:1. Family life education; certain curricula and Standards of Learning.**

A. Any family life education curriculum offered by a local school division shall require the Standards of Learning objectives related to dating violence and the characteristics of abusive relationships to be taught at least once in middle school and at least twice in high school, as described in the Board of Education's family life education guidelines.

B. Any high school family life education curriculum offered by a local school division shall incorporate age-appropriate elements of effective and evidence-based programs on the prevention of dating violence, domestic abuse, sexual harassment, and sexual violence. *Such age-appropriate elements of effective and evidence-based programs on the prevention of sexual violence may include instruction that increases student awareness of the fact that consent is required before sexual activity.*

**CHAPTER 693**

*An Act to amend and reenact § 46.2-1148 of the Code of Virginia, relating to overweight permits for hauling Virginia-grown farm produce; validity throughout the Commonwealth.*

[H 1519]

Approved March 24, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 46.2-1148 of the Code of Virginia is amended and reenacted as follows:**

**§ 46.2-1148. Overweight permit for hauling Virginia-grown farm produce.**

In addition to other permits provided for in this article, the Commissioner, upon written application by the owner or operator of any vehicle hauling farm produce grown in Virginia *from the point of origin to the first place of delivery*, shall issue permits for overweight operation of such vehicles as provided in this section. Such permits shall allow the vehicles to have a single axle weight of no more than 24,000 pounds, a tandem axle weight of no more than 40,000 pounds, and a tri-axle grouping weight of no more than 50,000 pounds. Additionally, any five-axle combination may have a gross weight of no more than 90,000 pounds, any four-axle combination, may have a gross weight of not more than 70,000 pounds, any three-axle combination may have a gross weight of no more than 60,000 pounds, and any two-axle combination may have a gross weight of no more than 40,000 pounds.

Except as otherwise provided in this section, no such permit shall designate the route to be traversed nor contain restrictions or conditions not applicable to other vehicles in their general use of the highways.

No permit issued under this section shall authorize any vehicle whose axle weights or axle spacing would not be permissible under §§ 46.2-1122 through 46.2-1127 to cross any bridge constituting a part of any public road. *Nothing contained in this section shall authorize any extension of weight limits provided in § 46.2-1127 for operation on interstate highways.*

The fee for a permit issued under this section shall be \$45, to be allocated as follows: (i) \$40 to the Highway Maintenance and Operating Fund established pursuant to § 33.2-1530, with a portion equal to the percentage of the Commonwealth's total lane miles represented by the lane miles eligible for maintenance payments pursuant to §§ 33.2-319 and 33.2-366 being redistributed on the basis of lane miles to the applicable localities pursuant to §§ 33.2-319 and 33.2-366, to be used to assist in funding needed highway pavement and bridge maintenance and rehabilitation and (ii) a \$5 administrative fee to the Department. ~~Such permits shall be valid only in Accomack and Northampton Counties.~~

**ACTS  
OF THE  
GENERAL ASSEMBLY**



**2017 REGULAR SESSION**

**VOLUME I**

**VOLUME II**

**VOLUME III**

**ACTS**

**OF THE**

**GENERAL ASSEMBLY**

**OF THE**

**COMMONWEALTH OF VIRGINIA**

**2017 REGULAR SESSION**

**which met at the State Capitol, Richmond**

**Convened Wednesday, January 11, 2017**

**Adjourned sine die Saturday, February 25, 2017**

**Reconvened Wednesday, April 5, 2017**

**Adjourned sine die Wednesday, April 5, 2017**

**VOLUME II**

**CHAPTERS 694-836**

**COMMONWEALTH OF VIRGINIA**  
**RICHMOND**  
**2017**

**Compiled by the Clerk's Office**

**The House of Delegates**

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**Clerk of the House of Delegates**  
**and**  
**Keeper of the Rolls of the Commonwealth**

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**Deputy Clerk, Legislative Operations**

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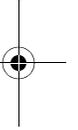
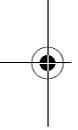
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**Robert M. Villoch**  
**Mary Elizabeth Weil**

**in cooperation with the**

**Senate of Virginia,**  
**Division of Legislative Services,**  
**and**  
**Division of Legislative Automated Systems**



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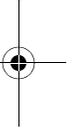
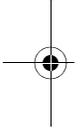
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## CHAPTER 694

*An Act to amend and reenact §§ 46.2-2000, 46.2-2001.3, 46.2-2011.20, 46.2-2011.29, and 46.2-2099.50 of the Code of Virginia, relating to transportation network company partner vehicle registration repeal; safety inspections.*

[H 2019]

Approved March 24, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 46.2-2000, 46.2-2001.3, 46.2-2011.20, 46.2-2011.29, and 46.2-2099.50 of the Code of Virginia are amended and reenacted as follows:**

**§ 46.2-2000. Definitions.**

Whenever used in this chapter unless expressly stated otherwise:

"Authorized insurer" means, in the case of an interstate motor carrier whose operations may or may not include intrastate activity, an insurer authorized to transact business in any one state, or, in the case of a solely intrastate motor carrier, an insurer authorized to transact business in the Commonwealth.

"Broker" means any person not included in the term "motor carrier" and not a bona fide employee or agent of any such carrier, who, as principal or agent, sells or offers for sale any transportation subject to this chapter, or negotiates for, or holds himself out by solicitation, advertisement, or otherwise as one who sells, provides, furnishes, contracts, or arranges for such transportation.

"Carrier by motor launch" means a common carrier, which carrier uses one or more motor launches operating on the waters within the Commonwealth to transport passengers.

"Certificate" means a certificate of public convenience and necessity or a certificate of fitness.

"Certificate of fitness" means a certificate issued by the Department to a contract passenger carrier, a sight-seeing carrier, a transportation network company, or a nonemergency medical transportation carrier.

"Certificate of public convenience and necessity" means a certificate issued by the Department of Motor Vehicles to certain common carriers, but nothing contained in this chapter shall be construed to mean that the Department can issue any such certificate authorizing intracity transportation.

"Common carrier" means any person who undertakes, whether directly or by a lease or any other arrangement, to transport passengers for the general public by motor vehicle for compensation over the highways of the Commonwealth, whether over regular or irregular routes, including such motor vehicle operations of carriers by rail or water under this chapter. "Common carrier" does not include nonemergency medical transportation carriers, transportation network companies, or TNC partners as defined in this section.

"Contract passenger carrier" means a motor carrier that transports groups of passengers under a single contract made with one person for an agreed charge for such transportation, regardless of the number of passengers transported, and for which transportation no individual or separate fares are solicited, charged, collected, or received by the carrier. "Contract passenger carrier" does not include a transportation network company or TNC partner as defined in this section.

"Department" means the Department of Motor Vehicles.

"Digital platform" means any online-enabled application, software, website, or system offered or utilized by a transportation network company that enables the prearrangement of rides with TNC partners.

"Employee hauler" means a motor carrier operating for compensation and exclusively transporting only bona fide employees directly to and from the factories, plants, office or other places of like nature where the employees are employed and accustomed to work.

"Excursion train" means any steam-powered train that carries passengers for which the primary purpose of the operation of such train is the passengers' experience and enjoyment of this means of transportation, and does not, in the course of operation, carry (i) freight other than the personal luggage of the passengers or crew or supplies and equipment necessary to serve the needs of the passengers and crew, (ii) passengers who are commuting to work, or (iii) passengers who are traveling to their final destination solely for business or commercial purposes.

"Financial responsibility" means the ability to respond in damages for liability thereafter incurred arising out of the ownership, maintenance, use, or operation of a motor vehicle, in the amounts provided for in this chapter.

"Highway" means every public highway or place of whatever nature open to the use of the public for purposes of vehicular travel in the Commonwealth, including the streets and alleys in towns and cities.

"Identification marker" means a decal or other visible identification issued ~~or required~~ by the Department to show one or more of the following: (i) that the operator of the vehicle has registered with the Department for the payment of the road tax imposed under Chapter 27 (§ 58.1-2700 et seq.) of Title 58.1; (ii) proof of the possession of a certificate or permit issued pursuant to ~~Chapter 20 (§ 46.2-2000 et seq.); this chapter;~~ or (iii) ~~proof that the vehicle has been registered with the Department as a TNC partner vehicle under subsection B of § 46.2-2099.50;~~ (iv) ~~proof that the vehicle has been authorized by a transportation network company to be operated as a TNC partner vehicle, in accordance with subsection C of § 46.2-2099.50;~~ or (v) proof of compliance with the insurance requirements of this chapter.

"Interstate" means transportation of passengers between states.

"Intrastate" means transportation of passengers solely within a state.

"License" means a license issued by the Department to a broker.

"Minibus" means any motor vehicle having a seating capacity of not less than seven nor more than 31 passengers, including the driver, and used in the transportation of passengers.

"Motor carrier" means any person who undertakes, whether directly or by lease, to transport passengers for compensation over the highways of the Commonwealth.

"Motor launch" means a motor vessel that meets the requirements of the U.S. Coast Guard for the carriage of passengers for compensation, with a capacity of six or more passengers, but not in excess of 50 passengers. "Motor launch" does not include sight-seeing vessels, special or charter party vessels within the provisions of this chapter. A carrier by motor launch shall not be regarded as a steamship company.

"Nonemergency medical transportation carrier" means a motor carrier that exclusively provides nonemergency medical transportation and provides such transportation only (i) through the Department of Medical Assistance Services; (ii) through a broker operating under a contract with the Department of Medical Assistance Services; or (iii) as a Medicaid Managed Care Organization contracted with the Department of Medical Assistance Services to provide such transportation.

"Nonprofit/tax-exempt passenger carrier" means a bona fide nonprofit corporation organized or existing under Chapter 10 (§ 13.1-801 et seq.) of Title 13.1, or a tax-exempt organization as defined in §§ 501(c)(3) and 501(c)(4) of the Internal Revenue Code, as amended, who undertakes, whether directly or by lease, to control and operate minibuses exclusively in the transportation, for compensation, of members of such organization if it is a membership corporation, or of elderly, disabled, or economically disadvantaged members of the community if it is not a membership corporation.

"Operation" or "operations" includes the operation of all motor vehicles, whether loaded or empty, whether for compensation or not, and whether owned by or leased to the motor carrier who operates them or causes them to be operated.

"Operation of a TNC partner vehicle" means (i) any time a TNC partner is logged into a digital platform and is available to pick up passengers; (ii) any time a passenger is in the TNC partner vehicle; and (iii) any time the TNC partner has accepted a prearranged ride request through the digital platform and is en route to a passenger.

"Operator" means the employer or person actually driving a motor vehicle or combination of vehicles.

"Permit" means a permit issued by the Department to carriers operating as employee haulers or nonprofit/tax-exempt passenger carriers or to operators of taxicabs or other vehicles performing taxicab service under this chapter.

"Person" means any individual, firm, copartnership, corporation, company, association, or joint-stock association, and includes any trustee, receiver, assignee, or personal representative thereof.

"Personal vehicle" means a motor vehicle that is not used to transport passengers for compensation except as a TNC partner vehicle.

"Prearranged ride" means passenger transportation for compensation in a TNC partner vehicle arranged through a digital platform. "Prearranged ride" includes the period of time that begins when a TNC partner accepts a ride requested through a digital platform, continues while the TNC partner transports a passenger in a TNC partner vehicle, and ends when the passenger exits the TNC partner vehicle.

"Restricted common carrier" means any person who undertakes, whether directly or by a lease or other arrangement, to transport passengers for compensation, whereby such transportation service has been restricted. "Restricted common carrier" does not include a transportation network company or TNC partner as defined in this section.

"Route," when used in connection with or with respect to a certificate of public convenience and necessity, means the road or highway, or segment thereof, operated over by the holder of a certificate of public convenience and necessity or proposed to be operated over by an applicant therefor, whether such road or highway is designated by one or more highway numbers.

"Services" and "transportation" include the service of, and all transportation by, all vehicles operated by, for, or in the interest of any motor carrier irrespective of ownership or contract, expressed or implied, together with all facilities and property operated or controlled by any such carrier or carriers and used in the transportation of passengers or the performance of any service in connection therewith.

"Sight-seeing carrier" means a restricted common carrier authorized to transport passengers under the provisions of this chapter, whereby the primary purpose of the operation is the passengers' experience and enjoyment or the promotion of tourism.

"Sight-seeing carrier by boat" means a restricted common carrier, which restricted common carrier uses a boat or boats operating on waters within the Commonwealth to transport passengers, and whereby the primary purpose of the operation is the passengers' experience and enjoyment or the promotion of tourism. Sight-seeing carriers by boat shall not be regarded as steamship companies.

"Single state insurance receipt" means any receipt issued pursuant to 49 C.F.R. Part 367 evidencing that the carrier has the required insurance and paid the requisite fees to the Commonwealth and other qualified jurisdictions.

"Special or charter party carrier by boat" means a restricted common carrier which transports groups of persons under a single contract made with one person for an agreed charge for such movement regardless of the number of persons transported. Special or charter party carriers by boat shall not be regarded as steamship companies.

"Taxicab or other motor vehicle performing a taxicab service" means any motor vehicle having a seating capacity of not more than six passengers, excluding the driver, not operating on a regular route or between fixed terminals used in the transportation of passengers for hire or for compensation, and not a common carrier, restricted common carrier, transportation network company, TNC partner, or nonemergency medical transportation carrier as defined in this chapter.

"TNC insurance" means a motor vehicle liability insurance policy that specifically covers liabilities arising from a TNC partner's operation of a TNC partner vehicle.

"TNC partner" means a person authorized by a transportation network company to use a TNC partner vehicle to provide prearranged rides on an intrastate basis in the Commonwealth.

"TNC partner vehicle" means a personal vehicle authorized by a transportation network company and used by a TNC partner to provide prearranged rides on an intrastate basis in the Commonwealth.

"Trade dress" means a logo, insignia, or emblem attached to or visible from the exterior of a TNC partner vehicle that identifies a transportation network company or digital platform with which the TNC partner vehicle is affiliated.

"Transportation network company" means a person who provides prearranged rides using a digital platform that connects passengers with TNC partners.

**§ 46.2-2001.3. Application; notice requirements.**

A. Applications for a license, permit, certificate, *or* identification marker; ~~or TNC partner vehicle registration~~ or renewal of a license, permit, certificate, *or* identification marker; ~~or TNC partner vehicle registration~~ under this chapter shall be made to the Department and contain such information and exhibits as the Department shall require. Such information shall include ~~except in the case of a TNC partner vehicle~~, in the application or otherwise, the matters set forth in § 46.2-2011.24 as grounds for denying licenses, permits, and certificates, and other pertinent matters requisite for the safeguarding of the public interest.

Notwithstanding any other provision of this chapter, the Commissioner may require all or certain applications for a license, permit, certificate, *or* identification marker; ~~or TNC partner vehicle registration~~ to be filed electronically.

~~For the purposes of this subsection, "identification marker" does not include trade dress.~~

B. An applicant for any original certificate of public convenience and necessity issued under this chapter, or any request for a transfer of such certificate, unless otherwise provided, shall cause a notice of such application, on the form and in the manner prescribed by the Department, on every motor carrier holding the same type of certificate issued by the Department and operating or providing service within the area proposed to be served by the applicant.

C. For any application for original certificate or license issued under this chapter, or any request for a transfer of such certificate or license, the Department shall publish a notice of such application on the Department's public website in the form and in the manner prescribed by the Department.

D. An applicant for any original certificate of public convenience and necessity issued under this chapter, or any request for a transfer of such certificate of public convenience and necessity, shall cause a publication of a summary of the application to be made in a newspaper having a general circulation in the proposed area to be served or area where the primary business office is located within such time as the Department may prescribe.

**§ 46.2-2011.20. Unlawful use of registration and identification markers.**

It shall be unlawful for any person to operate or cause to be operated on any highway in the Commonwealth any motor vehicle that (i) does not carry the proper registration and identification that this chapter requires, (ii) does not display an identification marker in such manner as is prescribed by the Department, or (iii) bears registration or identification markers of persons whose ~~TNC partner vehicle registration under subsection B of § 46.2-2099.50~~ or whose license, permit, or certificate issued by the Department has been canceled, revoked, *or* suspended; *or whose renewal thereof has been denied in accordance with this chapter.*

**§ 46.2-2011.29. Surrender of identification marker, license plate, and registration card; removal by law enforcement; operation of vehicle denied.**

~~A. For purposes of this section, "identification marker" does not include trade dress.~~

~~B. It shall be unlawful for a licensee, permittee, or certificate holder; or for the registrant or operator of a vehicle registered under subsection B of § 46.2-2099.50, whose license, permit, or certificate; or vehicle's registration as a TNC partner vehicle, has expired or been revoked or, suspended, or canceled; or whose renewal thereof has been denied pursuant to this chapter to fail or refuse to surrender, on demand, to the Department license plates, identification markers, and registration cards issued under this title.~~

~~C. B. It shall be unlawful for a vehicle owner who is not the holder of a valid permit or certificate or whose vehicle is not validly leased to a motor carrier holding an active permit or certificate to fail or refuse to surrender to the Department on demand license plates, identification markers, and registration cards issued under this title.~~

~~D. Except as provided in subsection E, if C. If any law-enforcement officer finds that a vehicle bearing Virginia license plates or temporary transport plates is in violation of subsection B A or C B, such law-enforcement officer may remove the license plate, identification marker, and registration card. If a law-enforcement officer removes a license plate, identification marker, or registration card, he shall forward the same to the Department.~~

~~E. If the officer finds that a TNC partner vehicle bearing Virginia license plates is being operated in violation of subsection B, such law-enforcement officer shall direct the operator of the vehicle to promptly remove any identification marker and any registration card issued under subsection B of § 46.2-2099.50 and return the same to the Department. If any law-enforcement officer finds that a TNC partner vehicle not bearing Virginia license plates is being operated in violation of subsection B, such law-enforcement officer shall remove any identification marker and any registration card issued under subsection B of § 46.2-2099.50 and shall forward the same to the Department.~~

~~F. D.~~ When informed that a vehicle is being operated in violation of this section, the driver shall drive the vehicle to a nearby location off the public highways and not remove it or allow it to be moved until the motor carrier is in compliance with all provisions of this chapter.

**§ 46.2-2099.50. Requirements for TNC partner vehicles; trade dress issued by transportation network company.**

A. A TNC partner vehicle shall:

1. Be a personal vehicle;
2. Have a seating capacity of no more than eight persons, including the driver;
3. Be validly titled and registered in the Commonwealth or in another state;
4. Not have been issued a certificate of title, either in Virginia or in any other state, branding the vehicle as salvage, nonrepairable, rebuilt, or any equivalent classification;
5. Have a valid Virginia safety inspection *or an annual inspection conducted in another state for which the Department of State Police has determined that such motor vehicle safety inspection standards adequately ensure public safety* and carry proof of that inspection *on or in the vehicle; and*
6. Be covered under a TNC insurance policy meeting the requirements of § 46.2-2099.51 or 46.2-2099.52, as applicable; ~~and~~
7. ~~Be registered with the Department for use as a TNC partner vehicle and display an identification marker issued by the Department as provided in subsection B.~~

No TNC partner shall operate a TNC partner vehicle unless that vehicle meets the requirements of this subsection.

~~B. A vehicle owner, lessee, or TNC partner shall register a personal vehicle for use as a TNC partner vehicle. A TNC partner that is not the vehicle owner or lessee shall, prior to registering any TNC partner vehicle with the Department, secure the consent of each owner, lessor, and lessee of the vehicle as applicable for its registration as a TNC partner vehicle and for its use as a TNC partner vehicle by the TNC partner. A transportation network company shall have the option of registering a TNC partner vehicle on behalf of a TNC partner electronically through a secure portal maintained by the Department provided the TNC partner, if the TNC partner is not the vehicle owner or lessee, certifies that it has secured consent from each owner, lessor, and lessee of the vehicle for its registration as a TNC partner vehicle and for its use as a TNC partner vehicle by the TNC partner.~~

~~Prior to registering for use as a TNC partner vehicle any vehicle that has been titled and registered in another state, the vehicle owner or lessee, or a transportation network company on behalf of the owner or lessee, shall provide the Department with such information as the Department requires to establish a customer record for that person and that person's vehicle. A transportation network company shall have the option to submit this information electronically through a secure portal maintained by the Department.~~

~~For each TNC partner vehicle a transportation network company authorizes, the transportation network company or TNC partner shall provide to the Department, in a form acceptable to the Department, any information reasonably necessary for the Department to identify the vehicle and register it for use as a TNC partner vehicle.~~

~~Upon registering a vehicle for use as a TNC partner vehicle, the Department shall issue a temporary registration, an identification marker to the vehicle owner or lessee, and a registration card indicating the vehicle's registration for use as a TNC partner vehicle.~~

~~The Commissioner may deny, suspend, cancel, or revoke the TNC partner vehicle registration and identification marker for any of the following reasons: (i) the vehicle is not properly registered; (ii) the vehicle does not carry insurance as required by this article; (iii) the vehicle is sold; or (iv) the vehicle is used by a TNC partner in a manner not authorized by this chapter.~~

~~Registration of a TNC partner vehicle under this subsection shall remain valid until (a) the vehicle is no longer authorized to operate as a TNC partner vehicle by a transportation network company; (b) the TNC partner, vehicle owner, or lessee requests cancellation of the registration; (c) there is a transfer of vehicle ownership, other than a transfer from the lessor of the vehicle to the lessee; (d) the vehicle's lease terminates and ownership is not transferred to the lessee; or (e) the Department suspends, revokes, or cancels the registration of the vehicle for use as a TNC partner vehicle. The fee for the replacement of a lost, mutilated, or illegible identification marker or registration card shall be the same as the fee set forth in § 46.2-692 for the replacement of a decal or vehicle registration card. However, if the TNC partner vehicle is not titled and registered in Virginia, the replacement fee for an identification marker shall be \$40.~~

~~Any vehicle registered with the Department as a personal vehicle and subject to further registration as a TNC partner vehicle pursuant to this section shall be presumed to be used for nonbusiness purposes for the purpose of determining whether it is a qualifying vehicle under § 58.1-3523 absent clear and convincing evidence to the contrary, and any registration pursuant to this section shall not create any presumption of business or commercial use of the vehicle or of business activity on the part of the TNC partner, for purposes of any state or local requirement.~~

~~C. B.~~ Before authorizing a vehicle to be used as a TNC partner vehicle, a transportation network company shall confirm that the vehicle meets the requirements of subsection A and shall provide each TNC partner with proof of any TNC insurance policy maintained by the transportation network company.

For each TNC partner vehicle it authorizes, a transportation network company shall issue trade dress to the TNC partner associated with that vehicle. The trade dress shall be sufficient to identify the transportation network company or digital platform with which the vehicle is affiliated and shall be displayed in a manner that complies with Virginia law. The trade dress shall be of such size, shape, and color as to be readily identifiable during daylight hours from a distance of

50 feet while the vehicle is not in motion and shall be reflective, illuminated, or otherwise patently visible in darkness. The trade dress may take the form of a removable device that meets the identification and visibility requirements of this subsection.

The transportation network company shall submit to the Department proof that the transportation network company has established the trade dress required under this subsection by filing with the Department an illustration or photograph of the trade dress.

A TNC partner shall keep the trade dress issued under this subsection visible at all times while the vehicle is being operated as a TNC partner vehicle.

No person shall operate a vehicle bearing trade dress issued under this subsection without the authorization of the transportation network company issuing the trade dress.

~~D: Any information provided to the Department pursuant to this section, whether held by the Department or another public entity, shall not be subject to disclosure under the Virginia Freedom of Information Act (§ 2.2-3700 et seq.). Neither the Department nor any such public entity shall disclose any such information to a nongovernmental entity absent a court order or subpoena. In the event information provided pursuant to this section is sought through a court order or subpoena, the Department or other public entity shall promptly notify the transportation network company prior to disclosure so as to afford the transportation network company the opportunity to take appropriate actions to prevent disclosure. The Department shall not disclose such information to a governmental entity other than to enable that entity to perform its governmental function.~~

**2. That an emergency exists and this act is effective upon its passage or March 1, 2017, whichever is later.**

**CHAPTER 695**

*An Act to amend and reenact §§ 18.2-251, 18.2-259.1, and 46.2-390.1 of the Code of Virginia, relating to marijuana offenses; driver's license forfeiture.*

[H 2051]

Approved March 24, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 18.2-251, 18.2-259.1, and 46.2-390.1 of the Code of Virginia are amended and reenacted as follows:**

**§ 18.2-251. Persons charged with first offense may be placed on probation; conditions; substance abuse screening, assessment treatment and education programs or services; drug tests; costs and fees; violations; discharge.**

Whenever any person who has not previously been convicted of any offense under this article or under any statute of the United States or of any state relating to narcotic drugs, marijuana, or stimulant, depressant, or hallucinogenic drugs, or has not previously had a proceeding against him for violation of such an offense dismissed as provided in this section, pleads guilty to or enters a plea of not guilty to possession of a controlled substance under § 18.2-250 or to possession of marijuana under § 18.2-250.1, the court, upon such plea if the facts found by the court would justify a finding of guilt, without entering a judgment of guilt and with the consent of the accused, may defer further proceedings and place him on probation upon terms and conditions.

As a term or condition, the court shall require the accused to undergo a substance abuse assessment pursuant to § 18.2-251.01 or 19.2-299.2, as appropriate, and enter treatment and/or education program or services, if available, such as, in the opinion of the court, may be best suited to the needs of the accused based upon consideration of the substance abuse assessment. The program or services may be located in the judicial district in which the charge is brought or in any other judicial district as the court may provide. The services shall be provided by (i) a program licensed by the Department of Behavioral Health and Developmental Services, by a similar program which is made available through the Department of Corrections, (ii) a local community-based probation services agency established pursuant to § 9.1-174, or (iii) an ASAP program certified by the Commission on VASAP.

The court shall require the person entering such program under the provisions of this section to pay all or part of the costs of the program, including the costs of the screening, assessment, testing, and treatment, based upon the accused's ability to pay unless the person is determined by the court to be indigent.

As a condition of probation, the court shall require the accused ~~(i)~~ (a) to successfully complete treatment or education program or services, ~~(ii)~~ (b) to remain drug and alcohol free during the period of probation and submit to such tests during that period as may be necessary and appropriate to determine if the accused is drug and alcohol free, ~~(iii)~~ (c) to make reasonable efforts to secure and maintain employment, and ~~(iv)~~ (d) to comply with a plan of at least 100 hours of community service for a felony and up to 24 hours of community service for a misdemeanor. *In addition to any community service required by the court pursuant to clause (d), if the court does not suspend or revoke the accused's license as a term or condition of probation for a violation of § 18.2-250.1, the court shall require the accused to comply with a plan of 50 hours of community service.* Such testing shall be conducted by personnel of the supervising probation agency or personnel of any program or agency approved by the supervising probation agency.

The court shall, unless done at arrest, order the accused to report to the original arresting law-enforcement agency to submit to fingerprinting.

Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the terms and conditions, the court shall discharge the person and dismiss the proceedings against him. Discharge and dismissal under this section shall be without adjudication of guilt and is a conviction only for the purposes of applying this section in subsequent proceedings.

Notwithstanding any other provision of this section, whenever a court places an individual on probation upon terms and conditions pursuant to this section, such action shall be treated as a conviction for purposes of §§ 18.2-259.1, 22.1-315, and 46.2-390.1, and the driver's license forfeiture provisions of those sections shall be imposed. *However, if the court places an individual on probation upon terms and conditions for a violation of § 18.2-250.1, such action shall not be treated as a conviction for purposes of § 18.2-259.1 or 46.2-390.1, provided that a court (1) may suspend or revoke an individual's driver's license as a term or condition of probation and (2) shall suspend or revoke an individual's driver's license as a term or condition of probation for a period of six months if the violation of § 18.2-250.1 was committed while such person was in operation of a motor vehicle.* The provisions of this paragraph shall not be applicable to any offense for which a juvenile has had his license suspended or denied pursuant to § 16.1-278.9 for the same offense.

**§ 18.2-259.1. Forfeiture of driver's license for violations of article.**

A. In addition to any other sanction or penalty imposed for a violation of this article, the (i) judgment of conviction under this article or (ii) placement on probation following deferral of further proceedings under § 18.2-251, *except if the proceeding was for possession of marijuana pursuant to § 18.2-250.1, or subsection H of § 18.2-258.1 for any such offense shall of itself operate to deprive the person so convicted or placed on probation after deferral of proceedings under § 18.2-251 or subsection H of § 18.2-258.1 of the privilege to drive or operate a motor vehicle, engine, or train in the Commonwealth for a period of six months from the date of such judgment or placement on probation.* Such license forfeiture shall be in addition to and shall run consecutively with any other license suspension, revocation or forfeiture in effect or imposed upon the person so convicted or placed on probation. However, a juvenile who has had his license suspended or denied pursuant to § 16.1-278.9 shall not have his license forfeited pursuant to this section for the same offense.

B. The court trying the case shall order any person so convicted or placed on probation to surrender his driver's license to be disposed of in accordance with the provisions of § 46.2-398 and shall notify the Department of Motor Vehicles of any such conviction entered and of the license forfeiture to be imposed.

C. In those cases where the court determines there are compelling circumstances warranting an exception, the court may provide that any individual be issued a restricted license to operate a motor vehicle for any of the purposes set forth in subsection E of § 18.2-271.1. No restricted license issued pursuant to this subsection shall permit any person to operate a commercial motor vehicle as defined in the Virginia Commercial Driver's License Act (§ 46.2-341.1 et seq.). The court shall order the surrender of such person's license in accordance with the provisions of subsection B and shall forward to the Commissioner of the Department of Motor Vehicles a copy of its order entered pursuant to this subsection. This order shall specifically enumerate the restrictions imposed and contain such information regarding the person to whom such a permit is issued as is reasonably necessary to identify such person. The court shall also provide a copy of its order to such person who may operate a motor vehicle on the order until receipt from the Commissioner of the Department of Motor Vehicles of a restricted license, but only if the order provides for a restricted license for that period. A copy of the order and, after receipt thereof, the restricted license shall be carried at all times by such person while operating a motor vehicle. The court may require a person issued a restricted permit under the provisions of this subsection to be monitored by an alcohol safety action program during the period of license suspension. Any violation of the terms of the restricted license or of any condition set forth by the court related thereto, or any failure to remain drug-free during such period shall be reported forthwith to the court by such program. Any person who operates a motor vehicle in violation of any restriction imposed pursuant to this section shall be guilty of a violation of § 46.2-301.

**§ 46.2-390.1. Required revocation for conviction of drug offenses or deferral of proceedings.**

A. Except as otherwise ordered pursuant to § 18.2-259.1, the Commissioner shall forthwith revoke, and not thereafter reissue for six months from the later of (i) the date of conviction or deferral of proceedings under § 18.2-251, *unless the deferral was for proceedings for possession of marijuana pursuant to § 18.2-250.1, or (ii) the next date of eligibility to be licensed, the driver's license, registration card, and license plates of any resident or nonresident on receiving notification of* ~~(i)~~ (a) his conviction, ~~(ii)~~ (b) his having been found guilty in the case of a juvenile, or ~~(iii)~~ (c) the deferral of further proceedings against him under § 18.2-251 for any violation of any provisions of Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, *unless the proceedings were for possession of marijuana pursuant to § 18.2-250.1, or of any state or federal law or valid county, city or town ordinance, or a law of any other state substantially similar to provisions of such Virginia laws.* Such license revocation shall be in addition to and shall run consecutively with any other license suspension, revocation or forfeiture in effect against such person.

B. Any person whose license has been revoked pursuant to this section and § 18.2-259.1 shall be subject to the provisions of §§ 46.2-370 and 46.2-414 and shall be required to pay a reinstatement fee as provided in § 46.2-411 in order to have his license restored.

**2. That the provisions of this act are contingent upon receipt by the Virginia Department of Transportation of written assurance from the Federal Highway Administration of the U.S. Department of Transportation that Virginia will not lose any federal funds as a result of the implementation of this act.**

CHAPTER 696

*An Act to amend the Code of Virginia by adding in Title 33.2 a chapter numbered 31.1, consisting of a section numbered 33.2-3101, relating to the Washington Metrorail Safety Commission Interstate Compact.*

[H 2136]

Approved March 24, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding in Title 33.2 a chapter numbered 31.1, consisting of a section numbered 33.2-3101, as follows:**

CHAPTER 31.1.

WASHINGTON METRORAIL SAFETY COMMISSION INTERSTATE COMPACT.

**§ 33.2-3101. Washington Metrorail Safety Commission Interstate Compact.**

*The Washington Metrorail Safety Commission Interstate Compact is hereby enacted into law and entered into with all other jurisdictions legally joining therein in the form substantially as follows:*

WASHINGTON METRORAIL SAFETY COMMISSION INTERSTATE COMPACT

Preamble

WHEREAS, the Washington Metropolitan Area Transit Authority, an interstate compact agency of the District of Columbia, the Commonwealth of Virginia, and the State of Maryland, provides transportation services to millions of people each year, the safety of whom is paramount; and

WHEREAS, an effective and safe Washington Metropolitan Area Transit Authority system is essential to the commerce and prosperity of the National Capital region; and

WHEREAS, the Tri-State Oversight Committee, created by a memorandum of understanding amongst these three jurisdictions, has provided safety oversight of the Washington Metropolitan Area Transit Authority; and

WHEREAS, an amendment to 49 U.S.C. § 5329 requires the creation of a legally and financially independent state authority for safety oversight of all fixed rail transit facilities; and

WHEREAS, the District of Columbia, the Commonwealth of Virginia, and the State of Maryland intend to create a Washington Metrorail Safety Commission to act as the state safety oversight authority for the Washington Metropolitan Area Transit Authority system under 49 U.S.C. § 5329; and

WHEREAS, this act is created for the benefit of the people of the District of Columbia, the Commonwealth of Virginia, and the State of Maryland and for the increase of their safety, commerce, and prosperity.

Article I.

Definitions.

A. As used in this MSC Compact, the following words and terms shall have the meanings set forth below, unless the context clearly requires a different meaning. Capitalized terms used herein, but not otherwise defined in this act, shall have the definition set forth in regulations issued under 49 U.S.C. § 5329, as they may be revised from time to time:

"Alternate member" means an alternate member of the Board.

"Board" means the board of directors of the Commission.

"Commission" means the Washington Metrorail Safety Commission.

"Member" means a member of the Board.

"MSC Compact" means the Washington Metrorail Safety Commission Interstate Compact created by this act.

"Public transportation agency safety plan" means the comprehensive agency safety plan for a rail transit agency required by 49 U.S.C. § 5329 and the regulations thereunder, as may be amended or revised from time to time.

"Public transportation safety certification training program" means the federal certification training program, as established and amended from time to time by applicable federal laws and regulations, for federal and state employees, or other designated personnel, who conduct safety audits and examinations of public transportation systems and employees of public transportation agencies directly responsible for safety oversight.

"Safety-sensitive position" means any position held by a WMATA employee or contractor designated in the Public Transportation Agency Safety Plan for the WMATA Rail System and approved by the Commission as directly or indirectly affecting the safety of the passengers or employees of the WMATA Rail System.

"Signatory" means the State of Maryland, the Commonwealth of Virginia, and the District of Columbia.

"State" or "jurisdiction" means the State of Maryland, the Commonwealth of Virginia, and the District of Columbia.

"Washington Metropolitan Area Transit Authority" or "WMATA" means the entity created by the WMATA Compact, which entity is responsible for providing certain rail fixed guideway public transportation system services.

"WMATA Compact" means the Washington Metropolitan Area Transit Authority Compact (Public Law 89-774; 80 Stat. 1324).

"WMATA Rail System" or "Metrorail" means the rail fixed guideway public transportation system and all other real and personal property owned, leased, operated, or otherwise used by WMATA rail services and shall include WMATA rail projects under design or construction by owners other than WMATA.

Article II.

Purpose and Functions.

A. *The Signatories to the WMATA Compact hereby adopt this MSC Compact pursuant to 49 U.S.C. § 5329. The Commission created hereunder shall have safety regulatory and enforcement authority over the WMATA Rail System and shall act as the state safety oversight authority for WMATA under 49 U.S.C. § 5329, as may be amended from time to time. WMATA shall be subject to the Commission's rules, regulations, actions, and orders.*

B. *The purpose of this MSC Compact is to create a state safety oversight authority for the WMATA Rail System, pursuant to the mandate of federal law, as a common agency of each Signatory, empowered in the manner hereinafter set forth to review, approve, oversee, and enforce the safety of the WMATA Rail System, including, without limitation, to (i) have exclusive safety oversight authority and responsibility over the WMATA Rail System pursuant to federal law, including, without limitation, the power to restrict, suspend, or prohibit rail service on all or part of the WMATA Rail system as set forth in this MSC Compact; (ii) develop and adopt a written state safety oversight program standard; (iii) review and approve the WMATA public transportation agency safety plan; (iv) investigate Hazards, Incidents, and Accidents on the WMATA Rail System; (v) require, review, approve, oversee, and enforce Corrective Action Plans developed by WMATA; and (vi) meet other requirements of federal and state law relating to safety oversight of the WMATA Rail System.*

*Article III.*

*Establishment and Organization.*

*A. Washington Metrorail Safety Commission.*

*1. The Commission is hereby created as an instrumentality of each Signatory, which shall be a public body corporate and politic, and which shall have the powers and duties set forth in this MSC Compact.*

*2. The Commission shall be financially and legally independent from WMATA.*

*B. Board Membership.*

*1. The Commission shall be governed by a Board of six members with two members appointed or reappointed, including to fill an unexpired term, by each Signatory pursuant to the signatory's applicable laws.*

*2. Each Signatory shall also appoint or reappoint, including to fill an unexpired term, one alternate member pursuant to the signatory's applicable laws.*

*3. An alternate member shall participate and take action as a member only in the absence of one or both members appointed from the same jurisdiction as the alternate member's appointing jurisdiction and, in such instances, may cast a single vote.*

*4. Members and alternate members shall have backgrounds in transit safety, transportation, relevant engineering disciplines, or public finance.*

*5. No member or alternate member shall simultaneously hold an elected public office, serve on the WMATA board of directors, be employed by WMATA, or be a contractor to WMATA.*

*6. Each member and alternate member shall serve a four-year term and may be reappointed for additional terms, except that each Signatory shall make its initial appointments as follows:*

*a. One member shall be appointed for a four-year term;*

*b. One member shall be appointed for a two-year term; and*

*c. The alternate member shall be appointed for a three-year term.*

*7. Any person appointed to fill a vacancy shall serve for the unexpired term.*

*8. Members and alternate members shall be entitled to reimbursement for reasonable and necessary expenses and shall be compensated for each day spent meeting on the business of the Commission at a rate of \$200 per day or at such other rate as may be adjusted in appropriations approved by all of the Signatories.*

*9. A member or an alternate member may be removed or suspended from office only for cause in accordance with the laws of such member's or alternate member's appointing jurisdiction.*

*C. Quorum and Actions of the Board.*

*1. Four members shall constitute a quorum. The affirmative vote of four members is required for action of the Board, other than as provided in subdivision A 3 of Article IV. Quorum and voting requirements under this paragraph may be met with one or more alternate members pursuant to subdivision B 3.*

*2. The Commission action shall become effective upon enactment unless otherwise provided for by the Commission.*

*D. Oath of Office.*

*1. Before entering office, each member and alternate member shall take and subscribe to the following oath or affirmation of office or any such other oath or affirmation as the constitution or laws of the Signatory he or she represents shall provide: "I, \_\_\_\_\_, hereby solemnly swear or affirm that I will support and defend the Constitution and the laws of the United States as a member (or alternate member) of the Board of the Washington Metrorail Safety Commission and will faithfully discharge the duties of the office upon which I am about to enter."*

*E. Organization and Procedure.*

*1. The Board shall provide for its own organization and procedure. Meetings of the Board shall be held as frequently as the Board determines, but in no event less than quarterly. The Board shall keep minutes of its meetings and establish rules and regulations governing its transactions and internal affairs, including, without limitation, policies regarding records retention that are not in conflict with applicable federal record retention laws.*

*2. The Commission shall keep commercially reasonable records of its financial transactions in accordance with accounting principles generally accepted in the United States of America.*

3. The Commission shall establish an office for the conduct of its affairs at a location to be determined by the Commission.

4. The Commission shall adopt the Federal Freedom of Information Act, 5 U.S.C. § 552(a)-(d) and (g), and Government in the Sunshine Act, codified at 5 U.S.C. 552b, as both may be amended from time to time, as its freedom of information policy and open meeting policy, respectively, and shall not be subject to the comparable laws or policies of any Signatory.

5. Reports of investigations or inquiries adopted by the Board shall be made publicly available.

6. The Commission shall adopt a policy on conflict of interest that shall be consistent with the regulations issued under 49 U.S.C. § 5329, as they may be revised from time to time, which, among other things, places appropriate separation between members, officers, employees, contractors, and agents of the Commission and WMATA.

7. The Commission shall adopt and utilize its own administrative procedure and procurement policies in conformance with applicable federal regulations and shall not be subject to the administrative procedure or procurement laws of any Signatory.

*F. Officers and Employees.*

1. The Board shall elect a Chairman, Vice-Chairman, Secretary, and Treasurer from among its members, each for a two-year term, and shall prescribe their powers and duties.

2. The Board shall appoint and fix the compensation and benefits of a chief executive officer who shall be the chief administrative officer of the Commission and who shall have expertise in transportation safety and one or more industry-recognized transportation safety certifications.

3. Consistent with 49 U.S.C. § 5329, as may be amended from time to time, the Commission may employ, under the direction of the chief executive officer, such other technical, legal, clerical, and other employees on a regular, part-time, or as-needed basis as it determines necessary or desirable for the discharge of its duties.

4. The Commission shall not be bound by any statute or regulation of any Signatory in the employment or discharge of any officer or employee of the Commission, but shall develop its own policies in compliance with federal law. The MSC shall, however, consider the laws of the Signatories in devising its employment and discharge policies, and when it deems it practical, devise policies consistent with the laws of the Signatories.

5. The Board may fix and provide policies for the qualification, appointment, removal, term, tenure, compensation benefits, workers' compensation, pension, and retirement rights of its employees subject to federal law. The Board may also establish a personnel system based on merit and fitness and, subject to eligibility, participate in the pension, retirement, and workers' compensation plans of any Signatory or agency or political subdivision thereof.

*Article IV.*

*Powers.*

*A. Safety Oversight Power.*

1. In carrying out its purposes, the Commission, through its Board or designated employees or agents, shall, consistent with federal law:

- a. Adopt, revise, and distribute a written State Safety Oversight Program;
- b. Review, approve, oversee, and enforce the adoption and implementation of WMATA's public transportation agency safety plan;
- c. Require, review, approve, oversee, and enforce the adoption and implementation of any Corrective Action Plans that the Commission deems appropriate;
- d. Implement and enforce relevant federal and state laws and regulations relating to safety of the WMATA Rail System; and

e. Audit every three years the compliance of WMATA with WMATA's public transportation agency safety plan or conduct such an audit on an ongoing basis over a three-year time frame.

2. In performing its duties, the Commission, through its Board or designated employees or agents, may:

a. Conduct, or cause to be conducted, inspections, investigations, examinations, and testing of WMATA personnel and contractors, property, equipment, facilities, rolling stock, and operations of the WMATA Rail System, including, without limitation, electronic information and databases through reasonable means, which may include issuance of subpoenas;

b. Enter upon the WMATA Rail System and, upon reasonable notice and a finding by the chief executive officer that a need exists, upon any lands, waters, and premises adjacent to the WMATA Rail System, including, without limitation, property owned or occupied by the federal government, for the purpose of making inspections, investigations, examinations, and testing as the Commission may deem necessary to carry out the purposes of this MSC Compact, and such entry shall not be deemed a trespass. The Commission shall make reasonable reimbursement for any actual damage resulting to any such adjacent lands, waters, and premises as a result of such activities;

c. Compel WMATA's compliance with any Corrective Action Plan or order of the Commission by such means as the Commission deems appropriate, including, without limitation, by:

- (1) Taking legal action in a court of competent jurisdiction;
- (2) Issuing citations or fines with funds going into an escrow account for spending by WMATA on Commission-directed safety measures;
- (3) Directing WMATA to prioritize spending on safety-critical items;
- (4) Removing a specific vehicle, infrastructure element, or Hazard from the WMATA Rail System; and

(5) *Compelling WMATA to restrict, suspend, or prohibit rail service on all or part of the WMATA Rail System with an appropriate notice period dictated by the circumstances.*

*d. Direct WMATA to suspend or disqualify from performing in any safety-sensitive position an individual who is alleged to or has violated safety rules, regulations, policies, or laws;*

*e. Compel WMATA's Office of the Inspector General, created under WMATA board resolution 2006-18, or any successor WMATA office or organization having similar duties, to conduct safety-related audits or investigations and to provide its findings to the Commission; and*

*f. Take such other actions as the Commission may deem appropriate consistent with its purpose and powers.*

*3. Action by the Board under subdivision 2 c (5) of subsection A of Article IV shall require the unanimous vote of all members present and voting. The Commission shall coordinate its enforcement activities with appropriate federal and state governmental authorities.*

*B. General Powers.*

*1. In addition to the powers and duties set forth above, the Commission may:*

*a. Sue and be sued;*

*b. Adopt, amend, and repeal rules and regulations respecting the exercise of the powers conferred by this MSC Compact;*

*c. Create and abolish offices, employments, and positions, other than those specifically provided for in this MSC Compact, necessary or desirable for the purposes of the Commission;*

*d. Determine a staffing level for the Commission that is commensurate with the size and complexity of the WMATA Rail System, and require that employees and other designated personnel of the Commission, who are responsible for safety oversight, be qualified to perform such functions through appropriate training, including, without limitation, successful completion of the public transportation safety certification training program;*

*e. Contract for or employ consulting attorneys, inspectors, engineers, and such other experts necessary or desirable and, within the limitations prescribed in this MSC Compact, prescribe their powers and duties and fix their compensation;*

*f. Enter into and perform contracts, leases, and agreements necessary or desirable in the performance of its duties and in the execution of the powers granted under this MSC Compact;*

*g. Apply for, receive, and accept such payments, appropriations, grants, gifts, loans, advances, and other funds, properties, and services as may be transferred or made available to it by the United States government or any other public or private entity or individual, subject to the limitations specified in subdivision D 3 of Article V;*

*h. Adopt an official seal and alter the same at its pleasure;*

*i. Adopt and amend by-laws, policies, and procedures governing the regulation of its affairs;*

*j. Appoint one or more advisory committees; and*

*k. Do such other acts necessary or desirable for the performance of its duties and the execution of its powers under this MSC Compact.*

*2. Consistent with this MSC Compact, the Commission shall promulgate rules and regulations to carry out the purposes of this MSC Compact.*

*Article V.*

*General Provisions.*

*A. Annual Safety Report.*

*1. The Commission shall make and publish annually a status report on the safety of the WMATA Rail System, which shall include, among other requirements established by the Commission and federal law, status updates of outstanding Corrective Action Plans, Commission directives, and ongoing investigations. A copy of each such report shall be provided to:*

*a. The Administrator of the Federal Transit Administration;*

*b. The Governor of Virginia, the Governor of Maryland, and the Mayor of the District of Columbia;*

*c. The Chair of the Council of the District of Columbia;*

*d. The President of the Maryland Senate and the Speaker of the Maryland House of Delegates;*

*e. The President of the Senate of Virginia and the Speaker of the Virginia House of Delegates; and*

*f. The General Manager and each member of the board of directors of WMATA.*

*2. The Commission may prepare, publish, and distribute such other safety reports that it deems necessary or desirable.*

*B. Annual Report of Operations.*

*1. The Commission shall make and publish an annual report on its programs, operations, and finances, which shall be distributed in the same manner provided by subdivision A 1.*

*2. The Commission may also prepare, publish, and distribute such other public reports and informational materials as it deems necessary or desirable.*

*C. Annual Independent Audit.*

*An independent annual audit shall be made of the financial accounts of the Commission. The audit shall be made by qualified certified public accountants selected by the Board, who shall have no personal interest, direct or indirect, in the financial affairs of the Commission or any of its officers or employees. The report of audit shall be prepared in accordance with generally accepted auditing principles and shall be distributed in the same manner provided by subdivision A 1. Members, employees, agents, and contractors of the Commission shall provide access to information necessary or desirable for the conduct of the annual audit.*

*D. Financing.*

1. *The Commission's operations shall be funded, independently of WMATA, by the Signatory jurisdictions and, when available, by federal funds. The Commission shall have no authority to levy taxes.*

2. *The Signatories shall unanimously agree on adequate funding levels for the Commission and make equal contributions of such funding, subject to annual appropriation, to cover the portion of Commission operations not funded by federal funds.*

3. *The Commission may borrow up to five percent of its last annual appropriations budget in anticipation of receipts, or as otherwise set forth in the appropriations budget approved by all of the Signatories, from any lawful lending institution for any purpose of this Compact, including, without limitation, for administrative expenses. Such loans shall be for a term not to exceed two years, or at such longer term approved by each Signatory pursuant to its laws as evidenced by the written authorization by the Mayor of the District of Columbia and the Governors of Maryland and Virginia, and at such rates of interest as shall be acceptable to the Commission.*

4. *With respect to the District of Columbia, the commitment or obligation to render financial assistance to the Commission shall be created, by appropriation or in such other manner, or by such other legislation, as the District of Columbia shall determine; provided, that any such commitment or obligation shall be approved by Congress pursuant to the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 774; D.C. Official Code § 1-201.01 et seq.).*

5. *Pursuant to the requirements of 31 U.S.C. §§ 1341, 1342, 1349 to 1351, and 1511 to 1519, and D.C. Official Code §§ 47-105 and 47-355.01 to 355.08 (collectively, the "Anti-Deficiency Acts"), the District cannot obligate itself to any financial commitment in any present or future year unless the necessary funds to pay that commitment have been appropriated and are lawfully available for the purpose committed. Thus, pursuant to the Anti-Deficiency Acts, nothing in this MSC Compact creates an obligation of the District in anticipation of an appropriation for such purpose, and the District's legal liability for the payment of any amount under this MSC Compact does not and may not arise or obtain in advance of the lawful availability of appropriated funds for the applicable fiscal year.*

*E. Tax Exemption.*

*The exercise of the powers granted by this MSC Compact shall in all respects be for the benefit of the people of the District of Columbia, the Commonwealth of Virginia, and the State of Maryland and for the increase of their safety, commerce, and prosperity, and as the activities associated with this MSC Compact shall constitute the performance of essential governmental functions, the Commission shall not be required to pay any taxes or assessments upon the services or any property acquired or used by the Commission under the provisions of this MSC Compact or upon the income therefrom, and shall at all times be free from taxation within the District of Columbia, the Commonwealth of Virginia, and the State of Maryland.*

*F. Reconsideration of Commission Orders.*

1. *WMATA shall have the right to petition the Commission for reconsideration of an order based on rules and procedures developed by the Commission.*

2. *Consistent with subdivision C 2 of Article III, the filing of a petition for reconsideration shall not act as a stay upon the execution of a Commission order, or any part of it, unless the Commission orders otherwise. WMATA may appeal any adverse action on a petition for reconsideration as set forth in subdivision G 1.*

*G. Judicial Matters.*

1. *The United States District Courts for the Eastern District of Virginia, Alexandria Division, the United States District Courts for the District of Maryland, Southern Division, and the United States District Courts for the District of Columbia shall have exclusive and original jurisdiction of all actions brought by or against the Commission and to enforce subpoenas under this MSC Compact.*

2. *The commencement of a judicial proceeding shall not operate as a stay of a Commission order unless specifically ordered by the court.*

*H. Liability and Indemnification.*

1. *The Commission and its members, alternate members, officers, agents, employees, or representatives shall not be liable for suit or action or for any judgment or decree for damages, loss, or injury resulting from action taken within the scope of their employment or duties under this MSC Compact, nor required in any case arising or any appeal taken under this MSC Compact to give a supersedeas bond or security for damages. Nothing in this paragraph shall be construed to protect such person from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of such person.*

2. *The Commission shall be liable for its contracts and for its torts and those of its members, alternate members, officers, agents, employees, and representatives committed in the conduct of any proprietary function, in accordance with the law of the applicable Signatory, including, without limitation, rules on conflict of laws but shall not be liable for any torts occurring in the performance of a governmental function. The exclusive remedy for such breach of contract or tort for which the Commission shall be liable, as herein provided, shall be by suit against the Commission. Nothing contained in this MSC Compact shall be construed as a waiver by the District of Columbia, the Commonwealth of Virginia, or the State of Maryland of any immunity from suit.*

*I. Commitment of Parties.*

*Each of the Signatories pledges to each other faithful cooperation in providing safety oversight for the WMATA Rail System, and, to affect such purposes, agrees to consider in good faith and request any necessary legislation to achieve the objectives of this MSC Compact.*

*J. Amendments and Supplements.*

*Amendments and supplements to this MSC Compact shall be adopted by legislative action of each of the Signatories and the consent of Congress. When one Signatory adopts an amendment or supplement to an existing section of this MSC Compact, that amendment or supplement shall not be immediately effective, and the previously enacted provision or provisions shall remain in effect in each jurisdiction until the amendment or supplement is approved by the other Signatories and is consented to by Congress.*

*K. Withdrawal and Termination.*

*1. Any Signatory may withdraw from this MSC Compact, which action shall constitute a termination of this MSC Compact.*

*2. Withdrawal from this MSC Compact shall be by a Signatory's repeal of this MSC Compact from its laws, but such repeal shall not take effect until two years after the effective date of the repealed statute and written notice of the withdrawal being given by the withdrawing Signatory to the governors or mayors, as appropriate, of the other Signatories.*

*3. Prior to termination of this MSC Compact, the Commission shall provide to each Signatory:*

- a. A mechanism for concluding the operations of the Commission;*
- b. A proposal to maintain state safety oversight of the WMATA Rail System in compliance with applicable federal law;*
- c. A plan to hold surplus funds in a trust for a successor regulatory entity for four years after the termination of this MSC Compact; and*
- d. A plan to return any surplus funds that remain four years after the creation of the trust.*

*L. Construction and Severability.*

*1. This MSC Compact shall be liberally construed to effectuate the purposes for which it is created.*

*2. If any part or provision of this MSC Compact or the application thereof to any person or circumstances be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision, or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this MSC Compact or the application thereof to other persons or circumstances, and the Signatories hereby declare that they would have entered into this MSC Compact or the remainder thereof had the invalidity of such provision or application thereof been apparent.*

*M. Adoption; Effective Date.*

*This MSC Compact shall be adopted by the Signatories in the manner provided by law therefor and shall be signed and sealed in four duplicate original copies. One such copy shall be filed with the Secretary of State of the State of Maryland, the Secretary of the Commonwealth of Virginia, and the Secretary of the District of Columbia in accordance with the laws of each jurisdiction. One copy shall be filed and retained in the archives of the Commission upon its organization. This MSC Compact shall become effective upon the enactment of concurring legislation by the District of Columbia, the Commonwealth of Virginia, and the State of Maryland, and consent thereto by Congress and when all other acts or actions have been taken, including, without limitation, the signing and execution of this MSC Compact by the Governors of Maryland and Virginia and the Mayor of the District of Columbia.*

*N. Conflict of Laws.*

*1. Any conflict between any authority granted herein, or the exercise of such authority, and the provisions of the WMATA Compact shall be resolved in favor of the exercise of such authority by the Commission.*

*2. All other general or special laws inconsistent with this MSC Compact are hereby declared to be inapplicable to the Commission or its activities.*

**2. That members of the Board of Directors of the Washington Metrorail Safety Commission for the Commonwealth of Virginia shall be appointed by the Governor of Virginia and subject to confirmation by the General Assembly.**

**3. That the provisions of this act shall become effective after all of the following have occurred:**

**A. The enactment of concurring legislation by the State of Maryland and the District of Columbia, the signing and execution of the Metrorail Safety Commission Interstate Compact by the Mayor of the District of Columbia and the Governors of Maryland and Virginia, and approval of the Metrorail Safety Commissioner Interstate Compact by the United States Congress;**

**B. The inclusion of this act's fiscal effect in an approved budget and financial plan of the District of Columbia. The chief financial officer for the District of Columbia shall certify the date of the inclusion of the fiscal effect in an approved budget and financial plan and provide notice to the budget director of the Council of the District of Columbia of the certification. The budget director shall cause the notice of the certification to be published in the District of Columbia Register and the date of publication of the notice of the certification shall not affect the applicability of this act;**

**C. The adoption by the Council of the District of Columbia of the fiscal impact statement of the Chief Financial Officer as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act; and**

**D. The approval by the Mayor of the District of Columbia of, or, in the event of a veto by the Mayor, action by the Council of the District of Columbia to override the veto of, a 30-day period of congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act and publication in the District of Columbia Register.**

4. That the Secretary of Transportation, in coordination with the Northern Virginia Transportation Commission, shall engage his counterparts in Maryland and Washington, D.C., and the appropriate officials in the federal government for the purpose of revising the Washington Metropolitan Area Transit Authority Compact of 1966 and implementing other reforms necessary to ensure the near-term and long-term viability of the Washington Area Metropolitan Transit Authority (WMATA). In doing so, the Secretary shall develop, propose, and seek agreement on reforms related to the following: (i) the legal and organizational structure of WMATA; (ii) the composition and qualifications of the WMATA Board of Directors and the length of terms of its members; (iii) labor costs and labor relations; (iv) measures necessary to resolve WMATA's unfunded pension liability and other postemployment benefits; (v) measures necessary to better ensure the safety of riders and employees, including safety in the event of a homeland security emergency in the national capital area; and (vi) financial and operational improvements necessary to ensure that WMATA's performance is at least as efficient as its closest comparable transit systems in the United States. The Secretary shall report to and consult quarterly beginning June 30, 2017, with the Chairmen of the House and Senate Transportation Committees regarding activity taken in accordance with this enactment.
5. That an emergency exists and this act is in force from its passage.

CHAPTER 697

*An Act to amend the Code of Virginia by adding in Chapter 2 of Title 46.2 an article numbered 3, consisting of sections numbered 46.2-225 through 46.2-230, relating to electronic credentials; report.*

[H 2229]

Approved March 24, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding in Chapter 2 of Title 46.2 an article numbered 3, consisting of sections numbered 46.2-225 through 46.2-230, as follows:**

*Article 3.*

*Electronic Credentials Act.*

**§ 46.2-225. Definitions.**

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

*"Data field" means a piece of information that appears on a physical credential, electronic credential, or profile.*

*"Display requirement" means a provision within the Code of Virginia, the Virginia Administrative Code, or a local ordinance or regulation that requires the display or possession of a physical credential to do an act, identify a person or piece of personal property, or show entitlement to a right or privilege.*

*"Electronic credential" means an electronic method by which a person may display or transmit to another person information that verifies a person's identity, identifies personal property, or serves as evidence of the right of a person to do, or to use personal property to do, an act.*

*"Electronic credential system" means a computer system accessed by a person using a computer, cellular telephone, or other electronic device and used to display or transmit electronic credentials to other persons or to a verification system.*

*"Physical credential" means a document issued by an agency of the Commonwealth, another state of the United States, the District of Columbia, the United States, a foreign country, or a political subdivision of a foreign country that is issued in a physical format, such as paper or plastic, and that identifies the holder, identifies a piece of personal property, or grants the holder the permission to do, or to use property to do, an act.*

*"Profile" means an electronic credential created by the Department that displays a different set of data fields than are displayed on the physical credential.*

*"Third-party electronic credential system" means an electronic credential system that is not maintained by the Department or by an agent of the Department on its behalf. "Third-party electronic credential system" may include an electronic wallet.*

*"Verification system" means a computer system operated by the Department or its agent on its behalf that is made available to persons who are presented with electronic credentials for the purpose of verifying the authenticity and validity of electronic credentials issued by the Department or by other government agencies or jurisdictions.*

**§ 46.2-226. Electronic credentials.**

*A. The Department may issue electronic credentials to persons who hold a valid physical credential that the Department is authorized to issue.*

*B. If the Department issues electronic credentials, the credentials shall be issued in addition to, and not instead of, the underlying physical credentials for which a person is eligible. No electronic credential shall be issued unless the applicant holds the corresponding physical credential. Such electronic credentials shall be issued to an electronic credential system.*

*C. The Department may issue electronic credentials to third-party electronic credential systems if the Department first enters into an agreement with the owner of the third-party electronic credential system that sets forth the terms on which the electronic credentials may be displayed.*

*D. The Department may enter into agreements with an agency of the Commonwealth, another state of the United States, or the United States to grant access to the use of electronic credentials issued by such agency. The provisions*

of subsection B shall apply to credentials to which the Department grants such access unless, as part of the agreement permitting the Department to grant access, the other agency agrees that the Department may grant access to electronic credentials to persons not holding a corresponding physical credential.

**§ 46.2-227. Fees.**

A. The Department shall assess a fee of \$10 per year for each individual who is issued electronic credentials by the Department or is granted access to an electronic credential issued in accordance with an agreement pursuant to the provisions of subsection C of § 46.2-226.

B. The Department shall assess a fee pursuant to § 46.2-214 for searches of the verification system.

C. Pursuant to § 46.2-214, the fees received by the Department pursuant to this section shall be paid into the state treasury and shall be set aside as a special fund to be used to meet the expenses of the Department.

**§ 46.2-228. Design of electronic credentials.**

A. The Department and other agencies that enter into an agreement with the Department pursuant to subsection C of § 46.2-226 may create and issue profiles to be used in those circumstances where the display of the data fields would satisfy the purpose for which the profile is being presented.

B. Electronic credentials and electronic credential systems shall be designed so that there is no need for the credential holder to relinquish possession of the device in which the electronic credential system is installed in order to present the credential or for the person to whom the credential is presented to search the verification system to confirm the validity of the credential.

C. Electronic credential and verification systems shall be designed to protect the credential holder's privacy, including by use of privacy-enhancing technologies or other appropriate methods. If the Department enters into an agreement with the owner of a third-party electronic credential system, the agreement shall require the owner of that system to take appropriate measures to protect the credential holder's privacy.

**§ 46.2-229. Verification system.**

A. The Department or its agent may create and operate a verification system.

B. The Department may enter into agreements with other government agencies or jurisdictions issuing electronic credentials to allow for the verification of those credentials through the verification system and may also enter into agreements with other government agencies or jurisdictions or their agents operating a similar verification system for the purpose of verifying Virginia electronic credentials used in other states.

C. The Department or its agent may enter into an agreement with a person to access and search the verification system. Any such agreement shall require, at a minimum, that the person to whom the Department is granting access agree to search the system only in compliance with the requirements of this section and to take appropriate measures to protect the credential holder's privacy.

D. A person who has entered into an agreement with the Department to access and search the verification system, and who has been presented with an electronic credential or profile, may search the verification system to verify the validity and accuracy of the electronic credential or profile that has been presented if the electronic credential holder consents to the search.

E. Following a search of the verification system made by a person with whom it has entered into an agreement pursuant to subsection C, the Department may release through the verification system a verification of those data fields that the electronic credential holder has consented to be verified.

**§ 46.2-230. Acceptance of electronic credentials.**

A. The possession or display of an electronic credential shall not relieve a person from the requirements of any provision in the Code of Virginia, the Virginia Administrative Code, or a local ordinance or regulation requiring the possession or display of a physical credential.

B. Any provision of the Code of Virginia, the Virginia Administrative Code, or a local ordinance or regulation with a display requirement, which may be satisfied by the display or possession of a physical credential for which the Department may issue an electronic credential, may be satisfied by displaying or possessing an electronic credential issued pursuant to this article. Acceptance of an electronic credential shall be at the discretion of the person to whom it is presented and subject to the conditions of this section.

C. If a person displays a profile, its display shall satisfy a display requirement if the profile provides sufficient data fields to satisfy the purpose for which it is being displayed.

D. If the Department, or another agency responsible for enforcing a display requirement, requires that an electronic credential or profile be verified through the verification system prior to acceptance in certain circumstances, the display requirement shall be deemed satisfied by presentation of an electronic credential or profile in those circumstances only if the electronic credential or profile is verified by the verification system.

E. The provisions of this section shall apply to the possession or display of similar electronic credentials or profiles issued by the government of another state of the United States, the District of Columbia, the United States, a foreign country, or a political subdivision of a foreign country to the extent that a physical credential from the same jurisdiction would satisfy the relevant display requirement.

**2. That the Department of Motor Vehicles (the Department) shall examine the electronic credential program and determine whether the fees in § 46.2-228 as created by this act adequately cover the Department's costs of administering the additional responsibilities imposed on the Department under this act. The Department shall**

report the results of its review to the Chairmen of the House and Senate Committees on Transportation no later than December 1, 2019.

### CHAPTER 698

*An Act to amend and reenact §§ 4.1-101.01, 4.1-101.02, 4.1-101.05, 4.1-101.07, 4.1-101.010, 4.1-103, and 4.1-103.1, as they shall become effective, 4.1-225, and 4.1-227 of the Code of Virginia and to amend and reenact the fourth, fifth, and twelfth enactments of Chapters 38 and 730 of the Acts of Assembly of 2015; to amend the Code of Virginia by adding a section numbered 4.1-103.03; and to repeal the sixth enactments of Chapters 38 and 730 of the Acts of Assembly of 2015, relating to the Virginia Alcoholic Beverage Control Authority.*

[H 2359]

Approved March 24, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 4.1-101.01, 4.1-101.02, 4.1-101.05, 4.1-101.07, 4.1-101.010, 4.1-103, and 4.1-103.1, as they shall become effective, 4.1-225, and 4.1-227 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 4.1-103.03 as follows:**

**§ 4.1-101.01. (Effective July 1, 2018) Board of Directors; membership; terms; compensation.**

A. ~~The~~ Beginning January 15, 2018, until July 1, 2018, the Authority shall be governed by a Board of Directors, which shall initially consist of the members of the Alcoholic Beverage Control Board, in accordance with § 4.1-102, and two nonlegislative citizen members appointed by the Governor and confirmed by the affirmative vote of a majority of those voting in each house of the General Assembly. Each appointee shall (i) have been a resident of the Commonwealth for a period of at least three years immediately preceding his appointment, and his continued residency shall be a condition of his tenure in office; (ii) hold, at a minimum, a baccalaureate degree in business or a related field of study; and (iii) possess a minimum of seven years of demonstrated experience or expertise in the direct management, supervision, or control of a business or legal affairs. Appointees shall be subject to a background check in accordance with § 4.1-101.03. Notwithstanding the provisions of § 4.1-102, the provisions of subsection F shall apply to such members. The terms of the members of the Board of Directors of the Authority shall be staggered as follows:

1. For the three members who are members of the Alcoholic Beverage Control Board, their original terms shall continue and upon expiration of such terms, if reappointed, one member shall serve a term of five years, one member shall serve a term of four years, and one member shall serve a term of three years; and

2. For the two nonlegislative citizen members, one member shall serve a term of two years, and one member shall serve a term of one year.

B. Beginning July 1, 2018, the Authority shall be governed by a Board of Directors, which shall consist of five citizens at large appointed by the Governor and confirmed by the affirmative vote of a majority of those voting in each house of the General Assembly. Each appointee shall (i) have been a resident of the Commonwealth for a period of at least three years next preceding his appointment, and his continued residency shall be a condition of his tenure in office; (ii) hold, at a minimum, a baccalaureate degree in business or a related field of study; and (iii) possess a minimum of seven years of demonstrated experience or expertise in the direct management, supervision, or control of a business or legal affairs. Appointees shall be subject to a background check in accordance with § 4.1-101.03.

~~B-~~ C. After the initial staggering of terms, members shall be appointed for a term of five years. All members shall serve until their successors are appointed. Any appointment to fill a vacancy shall be for the unexpired term. No member appointed by the Governor shall be eligible to serve more than two consecutive terms; however, a member appointed to fill a vacancy may serve two additional consecutive terms. Members of the Board may be removed from office by the Governor for cause, including the improper use of its police powers, malfeasance, misfeasance, incompetence, misconduct, neglect of duty, absenteeism, conflict of interests, failure to carry out the policies of the Commonwealth as established in the Constitution or by the General Assembly, or refusal to carry out a lawful directive of the Governor.

~~C-~~ D. The Governor shall appoint the chairman and vice-chairman of the Board from among the membership of the Board. The Board may elect other subordinate officers, who need not be members of the Board. The Board may also form committees and advisory councils, which may include representatives who are not members of the Board, to undertake more extensive study and discussion of the issues before the Board. A majority of the Board shall constitute a quorum for the transaction of the Authority's business, and no vacancy in the membership shall impair the right of a quorum to exercise the rights and perform all duties of the Authority.

~~D-~~ E. The Board shall meet at least every 60 days for the transaction of its business. Special meetings may be held at any time upon the call of the chairman of the Board or the Chief Executive Officer or upon the written request of a majority of the Board members.

~~E-~~ F. Members of the Board shall receive annually such salary, compensation, and reimbursement of expenses for the performance of their official duties as set forth in the general appropriation act for members of the House of Delegates when the General Assembly is not in session, except that the chairman of the Board shall receive annually such salary, compensation, and reimbursement of expenses for the performance of his official duties as set forth in the general appropriation act for a member of the Senate of Virginia when the General Assembly is not in session.

F. G. The provisions of the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.) shall apply to the members of the Board, the Chief Executive Officer of the Authority, and the employees of the Authority.

**§ 4.1-101.02. (Effective July 1, 2018) Appointment, salary, and powers of Chief Executive Officer; appointment of confidential assistant to the Chief Executive Officer.**

A. The Chief Executive Officer of the Authority shall be appointed by the Governor and confirmed by the affirmative vote of a majority of those voting in each house of the General Assembly. The Chief Executive Officer shall not be a member of the Board; shall hold, at a minimum, a baccalaureate degree in business or a related field of study; and shall possess a minimum of seven years of demonstrated experience or expertise in the direct management, supervision, or control of a business or legal affairs. The Chief Executive Officer shall receive such compensation as determined by the Board and approved by the Governor, including any performance bonuses or incentives as the Board deems advisable. The Chief Executive Officer shall be subject to a background check in accordance with § 4.1-101.03. The Chief Executive Officer shall (i) carry out the powers and duties conferred upon him by the Board or imposed upon him by law and (ii) meet performance measures or targets set by the Board and approved by the Governor. The Chief Executive Officer may be removed from office by the Governor for cause, including the improper use of the Authority's police powers, malfeasance, misfeasance, incompetence, misconduct, neglect of duty, absenteeism, conflict of interests, failure to meet performance measures or targets as set by the Board and approved by the Governor, failure to carry out the policies of the Commonwealth as established in the Constitution or by the General Assembly, or refusal to carry out a lawful directive of the Governor.

B. The Chief Executive Officer shall devote his full time to the performance of his official duties and shall not be engaged in any other profession or occupation.

C. The Chief Executive Officer shall supervise and administer the operations of the Authority in accordance with this title.

D. The Chief Executive Officer shall:

1. Serve as the secretary to the Board and keep a true and full record of all proceedings of the Authority and preserve at the Authority's general office all books, documents, and papers of the Authority;

2. Exercise and perform such powers and duties as may be delegated to him by the Board or as may be conferred or imposed upon him by law;

3. ~~Appoint a chief financial officer and employ~~ *Employ* or retain such *special* agents or employees subordinate to the Chief Executive Officer as may be necessary to fulfill the duties of the Authority conferred upon the Chief Executive Officer, subject to the Board's approval; and

4. Make recommendations to the Board for legislative and regulatory changes.

E. Neither the Chief Executive Officer nor the spouse or any member of the immediate family of the Chief Executive Officer shall make any contribution to a candidate for office or officeholder at the local or state level or cause such a contribution to be made on his behalf.

F. To assist the Chief Executive Officer in the performance of his duties, the Governor shall also appoint one confidential assistant for administration who shall be deemed to serve on an employment-at-will basis.

**§ 4.1-101.05. (Effective July 1, 2018) Employees of the Authority.**

A. Employees of the Authority shall be considered employees of the Commonwealth. Employees of the Authority shall be eligible for membership in the Virginia Retirement System *or other retirement plan as authorized by Article 4 (§ 51.1-125 et seq.) of Chapter 1 of Title 51.1* and participation in all health and related insurance and other benefits, including premium conversion and flexible benefits, available to state employees as provided by law. Employees of the Authority shall be employed on such terms and conditions as established by the Board. The Board shall develop and adopt policies and procedures that afford its employees grievance rights, ensure that employment decisions shall be based upon the merit and fitness of applicants, and prohibit discrimination because of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, or disability. *Notwithstanding any other provision of law, the Board shall develop, implement, and administer a paid leave program, which may include annual, personal, and sick leave or any combination thereof. All other leave benefits shall be administered in accordance with Chapter 11 (§ 51.1-1100 et seq.) of Title 51.1, except as otherwise provided in this section.*

B. Notwithstanding any other provision of law, the Authority shall give preference in hiring to *special agents and employees of the former Department of Alcoholic Beverage Control*. The Authority shall issue a written notice to all persons whose employment at the ~~former~~ Department of Alcoholic Beverage Control will be transferred to the Authority. The date upon which such written notice is issued shall be referred to herein as the "Option Date." *In order to facilitate an orderly and efficient transition and ensure the continuation of operations during the transition from the Department of Alcoholic Beverage Control (the Department) to the Authority, the Authority shall have discretion, subject to the time limitations contained herein, to determine the date upon which any employee's employment with the Department will end or be transferred to the Authority. This date shall be stated in the written notice and shall be referred to herein as the "Transition Date." No Transition Date shall occur prior to July 1, 2018, without the mutual agreement of the employee and the Authority. No Transition Date shall be set beyond December 31, 2018.* Each person whose employment will be transferred to the Authority may, by written request made within 180 days of the Option Date, elect not to become employed by the Authority. Any employee of the ~~former~~ Department of Alcoholic Beverage Control who (i) elects not to become employed by the Authority and who is not reemployed by any department, institution, board, commission, or agency of the

Commonwealth; (ii) is not offered the opportunity to transfer to employment by the Authority; or (iii) is not offered a position with the Authority for which the employee is qualified or is offered a position that requires relocation or a reduction in salary, shall be eligible for the severance benefits conferred by the provisions of the Workforce Transition Act (§ 2.2-3200 et seq.). Any employee who accepts employment with the Authority shall not be considered to be involuntarily separated from state employment and shall not be eligible for the severance benefits conferred by the provisions of the Workforce Transition Act. *Any eligibility for such severance benefits shall be contingent on the continued employment through an employee's Transition Date.*

C. Notwithstanding any other provision of law to the contrary, any person whose employment is transferred to the Authority as a result of this section and who is a member of any plan for providing health insurance coverage pursuant to Chapter 28 (§ 2.2-2800 et seq.) of Title 2.2 shall continue to be a member of such health insurance plan under the same terms and conditions as if no transfer had occurred.

D. Notwithstanding any other provision of law to the contrary, any person whose employment is transferred to the Authority as a result of this section and who is a member of the Virginia Retirement System or other retirement plan as authorized by Article 4 (§ 51.1-125 et seq.) of Chapter 1 of Title 51.1 shall continue to be a member of the Virginia Retirement System or other such authorized retirement plan under the same terms and conditions as if no transfer had occurred.

*E. Notwithstanding any other provision of law, any person whose employment is transferred to the Authority as a result of this section and who was subjected to a criminal history background check as a condition of employment with the Department of Alcoholic Beverage Control shall not be subject to the requirements of § 4.1-103.1, unless the Authority deems otherwise.*

**§ 4.1-101.07. (Effective July 1, 2018) Forms of accounts and records; audit; annual report.**

A. The accounts and records of the Authority showing the receipt and disbursement of funds from whatever source derived shall be in a form prescribed by the Auditor of Public Accounts. The Auditor of Public Accounts or his legally authorized representatives shall annually examine the accounts and books of the Authority. The Authority shall submit an annual report to the Governor and General Assembly on or before ~~November 1~~ *December 15* of each year. Such report shall contain the audited annual financial statements of the Authority for the year ending the previous June 30. The Authority shall also submit a six-year plan detailing its assumed revenue forecast, assumed operating costs, number of retail facilities, capital costs, including lease payments, major acquisitions of services and tangible or intangible property, any material changes to the policies and procedures issued by the Authority related to procurement or personnel, and any proposed marketing activities.

*B. Notwithstanding any other provision of law, in exercising any power conferred under this title, the Authority may implement and maintain independent payroll and nonpayroll disbursement systems. These systems and related procedures shall be subject to review and approval by the State Comptroller. Upon agreement with the State Comptroller, the Authority may report summary level detail on both payroll and nonpayroll transactions to the State Comptroller through the Department of Accounts' financial management system or its successor system. Such reports shall be made in accordance with policies, procedures, and directives as prescribed by the State Comptroller. A nonpayroll disbursement system shall include all disbursements and expenditures, other than payroll. Such disbursements and expenditures shall include travel reimbursements, revenue refunds, disbursements for vendor payments, petty cash, and interagency payments.*

**§ 4.1-101.010. (Effective July 1, 2018) Exemption of Authority from personnel and procurement procedures; information systems; etc.**

A. The provisions of the Virginia Personnel Act (§ 2.2-2900 et seq.) and the Virginia Public Procurement Act (§ 2.2-4300 et seq.) shall not apply to the Authority in the exercise of any power conferred under this title. Nor shall the provisions of Chapter 20.1 (§ 2.2-2005 et seq.) of Title 2.2 or Article 2 (§ 51.1-1104 et seq.) of Chapter 11 of Title 51.1 apply to the Authority in the exercise of any power conferred under this title.

*B. To effect its implementation, the Authority's procurement of goods, services, insurance, and construction and the disposition of surplus materials shall be exempt from:*

*1. State agency requirements regarding disposition of surplus materials and distribution of proceeds from the sale or recycling of surplus materials under §§ 2.2-1124 and 2.2-1125;*

*2. The requirement to purchase from the Department for the Blind and Vision Impaired under § 2.2-1117; and*

*3. Any other state statutes, rules, regulations, or requirements relating to the procurement of goods, services, insurance, and construction, including Article 3 (§ 2.2-1109 et seq.) of Chapter 11 of Title 2.2, regarding the duties, responsibilities, and authority of the Division of Purchases and Supply of the Virginia Department of General Services, and Article 4 (§ 2.2-1129 et seq.) of Chapter 11 of Title 2.2, regarding the review and the oversight by the Division of Engineering and Buildings of the Department of General Services of contracts for the construction of the Authority's capital projects and construction-related professional services under § 2.2-1132.*

*C. The Authority (i) may purchase from and participate in all statewide contracts for goods and services, including information technology goods and services; (ii) shall use directly or by integration or interface the Commonwealth's electronic procurement system subject to the terms and conditions agreed upon between the Authority and the Department of General Services; and (iii) shall post on the Department of General Services' central electronic procurement website all Invitations to Bid, Requests for Proposal, sole source award notices, and emergency award notices to ensure visibility and access to the Authority's procurement opportunities on one website.*

**§ 4.1-103. (Effective July 1, 2018) General powers of Board.**

The Board shall have the power to:

1. Sue and be sued, implead and be impleaded, and complain and defend in all courts;
2. Adopt, use, and alter at will a common seal;
3. Fix, alter, charge, and collect rates, rentals, fees, and other charges for the use of property of, the sale of products of, or services rendered by the Authority at rates to be determined by the Authority for the purpose of providing for the payment of the expenses of the Authority;
4. Make and enter into all contracts and agreements necessary or incidental to the performance of its duties, the furtherance of its purposes, and the execution of its powers under this title, including agreements with any person or federal agency;
5. Employ, at its discretion, consultants, researchers, architects, engineers, accountants, financial experts, investment bankers, superintendents, managers, and such other employees and *special* agents as may be necessary and fix their compensation to be payable from funds made available to the Authority. Legal services for the Authority shall be provided by the Attorney General in accordance with Chapter 5 (§ 2.2-500 et seq.) of Title 2.2;
6. Receive and accept from any federal or private agency, foundation, corporation, association, or person grants or other aid to be expended in accomplishing the objectives of the Authority, and receive and accept from the Commonwealth or any state and any municipality, county, or other political subdivision thereof or from any other source aid or contributions of either money, property, or other things of value, to be held, used, and applied only for the purposes for which such grants and contributions may be made. All federal moneys accepted under this section shall be accepted and expended by the Authority upon such terms and conditions as are prescribed by the United States and as are consistent with state law, and all state moneys accepted under this section shall be expended by the Authority upon such terms and conditions as are prescribed by the Commonwealth;
7. Adopt, alter, and repeal bylaws, rules, and regulations governing the manner in which its business shall be transacted and the manner in which the powers of the Authority shall be exercised and its duties performed. *The Board may delegate or assign any duty or task to be performed by the Authority to any officer or employee of the Authority. The Board shall remain responsible for the performance of any such duties or tasks. Any delegation pursuant to this subdivision shall, where appropriate, be accompanied by written guidelines for the exercise of the duties or tasks delegated. Where appropriate, the guidelines shall require that the Board receive summaries of actions taken. Such delegation or assignment shall not relieve the Board of the responsibility to ensure faithful performance of the duties and tasks;*
8. Conduct or engage in any lawful business, activity, effort, or project consistent with the Authority's purposes or necessary or convenient to exercise its powers;
9. Develop policies and procedures generally applicable to the procurement of goods, services, and construction, based upon competitive principles;
10. Develop policies and procedures consistent with Article 4 (§ 2.2-4347 et seq.) of Chapter 43 of Title 2.2;
11. Buy, import and sell alcoholic beverages other than beer and wine not produced by farm wineries, and to have alcoholic beverages other than beer and wine not produced by farm wineries in its possession for sale;
12. Buy and sell any mixers;
13. Buy and sell products licensed by the Virginia Tourism Corporation that are within international trademark classes 16 (paper goods and printer matters), 18 (leather goods), 21 (housewares and glass), and 25 (clothing);
14. Control the possession, sale, transportation and delivery of alcoholic beverages;
15. Determine, subject to § 4.1-121, the localities within which government stores shall be established or operated and the location of such stores;
16. Maintain warehouses for alcoholic beverages and control the storage and delivery of alcoholic beverages to and from such warehouses;
17. Acquire, purchase, hold, use, lease, or otherwise dispose of any property, real, personal or mixed, tangible or intangible, or any interest therein necessary or desirable for carrying out the purposes of the Authority; lease as lessee any property, real, personal or mixed, tangible or intangible, or any interest therein, at such annual rental and on such terms and conditions as may be determined by the Board; lease as lessor to any person any property, real, personal or mixed, tangible or intangible, or any interest therein, at any time acquired by the Authority, whether wholly or partially completed, at such annual rental and on such terms and conditions as may be determined by the Board; sell, transfer, or convey any property, real, personal or mixed, tangible or intangible, or any interest therein, at any time acquired or held by the Authority on such terms and conditions as may be determined by the Board; and occupy and improve any land or building required for the purposes of this title;
18. Purchase or otherwise acquire title to any land or building required for the purposes of this title and sell and convey the same by proper deed, with the consent of the Governor;
19. Purchase, lease or acquire the use of, by any manner, any plant or equipment which may be considered necessary or useful in carrying into effect the purposes of this title, including rectifying, blending and processing plants. The Board may purchase, build, lease, and operate distilleries and manufacture alcoholic beverages;
20. Determine the nature, form and capacity of all containers used for holding alcoholic beverages to be kept or sold under this title, and prescribe the form and content of all labels and seals to be placed thereon; however, no container sold in or shipped into the Commonwealth shall include powdered or crystalline alcohol;

21. Appoint every agent and employee required for its operations; require any or all of them to give bonds payable to the Commonwealth in such penalty as shall be fixed by the Board; and engage the services of experts and professionals;

22. Hold and conduct hearings; issue subpoenas requiring the attendance of witnesses and the production of records, memoranda, papers and other documents before the Board or any agent of the Board; and administer oaths and take testimony thereunder. The Board may authorize any Board member or agent of the Board to hold and conduct hearings, issue subpoenas, administer oaths and take testimony thereunder, and ~~make summary decisions~~ *decide cases*, subject to final decision by the Board, on application of any party aggrieved. *The Board may enter into consent agreements and may request and accept from any applicant or licensee a consent agreement in lieu of proceedings on (i) objections to the issuance of a license or (ii) disciplinary action. Any such consent agreement shall include findings of fact and may include an admission or a finding of a violation. A consent agreement shall not be considered a case decision of the Board and shall not be subject to judicial review under the provisions of the Administrative Process Act (§ 2.2-4000 et seq.), but may be considered by the Board in future disciplinary proceedings;*

23. Make a reasonable charge for preparing and furnishing statistical information and compilations to persons other than (i) officials, including court and police officials, of the Commonwealth and of its subdivisions if the information requested is for official use and (ii) persons who have a personal or legal interest in obtaining the information requested if such information is not to be used for commercial or trade purposes;

24. Promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) and § 4.1-111;

25. Grant, suspend, and revoke licenses for the manufacture, bottling, distribution, importation, and sale of alcoholic beverages;

26. Assess and collect civil penalties and civil charges for violations of this title and Board regulations;

27. Maintain actions to enjoin common nuisances as defined in § 4.1-317;

28. Establish minimum food sale requirements for all retail licensees;

29. Review and approve any proposed legislative or regulatory changes suggested by the Chief Executive Officer as the Board deems appropriate;

30. Report quarterly to the Secretary of Public Safety and Homeland Security on the law-enforcement activities undertaken to enforce the provisions of this title; and

31. Do all acts necessary or advisable to carry out the purposes of this title.

**§ 4.1-103.03. Additional powers; mediation; alternative dispute resolution; confidentiality.**

A. As used in this section:

*"Appropriate case" means any alleged license violation or objection to the application for a license in which it is apparent that there are significant issues of disagreement among interested persons and for which the Board finds that the use of a mediation or dispute resolution proceeding is in the public interest.*

*"Dispute resolution proceeding" means the same as that term is defined in § 8.01-576.4.*

*"Mediation" means the same as that term is defined in § 8.01-576.4.*

*"Neutral" means the same as that term is defined in § 8.01-576.4.*

B. *The Board may use mediation or a dispute resolution proceeding in appropriate cases to resolve underlying issues or reach a consensus or compromise on contested issues. Mediation and other dispute resolution proceedings as authorized by this section shall be voluntary procedures that supplement, rather than limit, other dispute resolution techniques available to the Board. Mediation or a dispute resolution proceeding may be used for an objection to the issuance of a license only with the consent of, and participation by, the applicant for licensure and shall be terminated at the request of such applicant.*

C. *Any resolution of a contested issue accepted by the Board under this section shall be considered a consent agreement as provided in subdivision 22 of § 4.1-103. The decision to use mediation or a dispute resolution proceeding is in the Board's sole discretion and shall not be subject to judicial review.*

D. *The Board may adopt rules and regulations, in accordance with the Administrative Process Act (§ 2.2-4000 et seq.), for the implementation of this section. Such rules and regulations may include (i) standards and procedures for the conduct of mediation and dispute resolution proceedings, including an opportunity for interested persons identified by the Board to participate in the proceeding; (ii) the appointment and function of a neutral to encourage and assist parties to voluntarily compromise or settle contested issues; and (iii) procedures to protect the confidentiality of papers, work products, or other materials.*

E. *The provisions of § 8.01-576.10 concerning the confidentiality of a mediation or dispute resolution proceeding shall govern all such proceedings held pursuant to this section except where the Board uses or relies on information obtained in the course of such proceeding in granting a license, suspending or revoking a license, or accepting payment of a civil penalty or investigative costs. However, a consent agreement signed by the parties shall not be confidential.*

**§ 4.1-103.1. (Effective July 1, 2018) Criminal history records check required on certain employees; reimbursement of costs.**

All persons hired by the Authority whose job duties involve access to or handling of the Authority's funds or merchandise shall be subject to a criminal history records check before, and as a condition of, employment.

~~No person who has~~ *The Board shall develop policies regarding the employment of persons who have been convicted of a felony or a crime involving moral turpitude shall be employed or appointed by the Authority.*

The Department of State Police shall be reimbursed by the Authority for the cost of investigations conducted pursuant to this section.

**§ 4.1-225. Grounds for which Board may suspend or revoke licenses.**

The Board may suspend or revoke any license other than a brewery license, in which case the Board may impose penalties as provided in § 4.1-227, if it has reasonable cause to believe that:

1. The licensee, or if the licensee is a partnership, any general partner thereof, or if the licensee is an association, any member thereof, or a limited partner of 10 percent or more with voting rights, or if the licensee is a corporation, any officer, director, or shareholder owning 10 percent or more of its capital stock, or if the licensee is a limited liability company, any member-manager or any member owning 10 percent or more of the membership interest of the limited liability company:

- a. Has misrepresented a material fact in applying to the Board for such license;
- b. Within the five years immediately preceding the date of the hearing held in accordance with § 4.1-227, has (i) been convicted of a violation of any law, ordinance or regulation of the Commonwealth, of any county, city or town in the Commonwealth, of any state, or of the United States, applicable to the manufacture, transportation, possession, use or sale of alcoholic beverages; (ii) violated any provision of Chapter 3 (§ 4.1-300 et seq.); (iii) committed a violation of the Wine Franchise Act (§ 4.1-400 et seq.) or the Beer Franchise Act (§ 4.1-500 et seq.) in bad faith; (iv) violated or failed or refused to comply with any regulation, rule or order of the Board; or (v) failed or refused to comply with any of the conditions or restrictions of the license granted by the Board;
- c. Has been convicted in any court of a felony or of any crime or offense involving moral turpitude under the laws of any state, or of the United States;
- d. Is not the legitimate owner of the business conducted under the license granted by the Board, or other persons have ownership interests in the business which have not been disclosed;
- e. Cannot demonstrate financial responsibility sufficient to meet the requirements of the business conducted under the license granted by the Board;
- f. Has been intoxicated or under the influence of some self-administered drug while upon the licensed premises;
- g. Has maintained the licensed premises in an unsanitary condition, or allowed such premises to become a meeting place or rendezvous for members of a criminal street gang as defined in § 18.2-46.1 or persons of ill repute, or has allowed any form of illegal gambling to take place upon such premises;
- h. Knowingly employs in the business conducted under such license, as agent, servant, or employee, other than a busboy, cook or other kitchen help, any person who has been convicted in any court of a felony or of any crime or offense involving moral turpitude, or who has violated the laws of the Commonwealth, of any other state, or of the United States, applicable to the manufacture, transportation, possession, use or sale of alcoholic beverages;
- i. Subsequent to the granting of his original license, has demonstrated by his police record a lack of respect for law and order;
- j. Has allowed the consumption of alcoholic beverages upon the licensed premises by any person whom he knew or had reason to believe was (i) less than 21 years of age, (ii) interdicted, or (iii) intoxicated, or has allowed any person whom he knew or had reason to believe was intoxicated to loiter upon such licensed premises;
- k. Has allowed any person to consume upon the licensed premises any alcoholic beverages except as provided under this title;
- l. Is physically unable to carry on the business conducted under such license or has been adjudicated incapacitated;
- m. Has allowed any obscene literature, pictures or materials upon the licensed premises;
- n. Has possessed any illegal gambling apparatus, machine or device upon the licensed premises;
- o. Has upon the licensed premises (i) illegally possessed, distributed, sold or used, or has knowingly allowed any employee or agent, or any other person, to illegally possess, distribute, sell or use marijuana, controlled substances, imitation controlled substances, drug paraphernalia or controlled paraphernalia as those terms are defined in Articles 1 and 1.1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2 and the Drug Control Act (§ 54.1-3400 et seq.); (ii) laundered money in violation of § 18.2-246.3; or (iii) conspired to commit any drug-related offense in violation of Articles 1 and 1.1 of Chapter 7 (§ 18.2-247 et seq.) of Title 18.2 or the Drug Control Act (§ 54.1-3400 et seq.). The provisions of this subdivision shall also apply to any conduct related to the operation of the licensed business which facilitates the commission of any of the offenses set forth herein; or
- p. Has failed to take reasonable measures to prevent (i) the licensed premises, (ii) any premises immediately adjacent to the licensed premises that are owned or leased by the licensee, or (iii) any portion of public property immediately adjacent to the licensed premises from becoming a place where patrons of the establishment commit criminal violations of Article 1 (§ 18.2-30 et seq.), 2 (§ 18.2-38 et seq.), 2.1 (§ 18.2-46.1 et seq.), 2.2 (§ 18.2-46.4 et seq.), 3 (§ 18.2-47 et seq.), 4 (§ 18.2-51 et seq.), 5 (§ 18.2-58 et seq.), 6 (§ 18.2-59 et seq.), or 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2; Article 2 (§ 18.2-266 et seq.) of Chapter 7 of Title 18.2; Article 3 (§ 18.2-344 et seq.) or 5 (§ 18.2-372 et seq.) of Chapter 8 of Title 18.2; or Article 1 (§ 18.2-404 et seq.), 2 (§ 18.2-415), or 3 (§ 18.2-416 et seq.) of Chapter 9 of Title 18.2 and such violations lead to arrests that are so frequent and serious as to reasonably be deemed a continuing threat to the public safety; or
- q. *Has failed to take reasonable measures to prevent an act of violence resulting in death or serious bodily injury, or a recurrence of such acts, from occurring on (i) the licensed premises, (ii) any premises immediately adjacent to the licensed premises that is owned or leased by the licensee, or (iii) any portion of public property immediately adjacent to the licensed premises.*

2. The place occupied by the licensee:
  - a. Does not conform to the requirements of the governing body of the county, city or town in which such establishment is located, with respect to sanitation, health, construction or equipment, or to any similar requirements established by the laws of the Commonwealth or by Board regulations;
  - b. Has been adjudicated a common nuisance under the provisions of this title or § 18.2-258; or
  - c. Has become a meeting place or rendezvous for illegal gambling, illegal users of narcotics, drunks, prostitutes, pimps, panderers or habitual law violators or has become a place where illegal drugs are regularly used or distributed. The Board may consider the general reputation in the community of such establishment in addition to any other competent evidence in making such determination.
3. The licensee or any employee of the licensee discriminated against any member of the armed forces of the United States by prices charged or otherwise.
4. The licensee, his employees, or any entertainer performing on the licensed premises has been convicted of a violation of a local public nudity ordinance for conduct occurring on the licensed premises and the licensee allowed such conduct to occur.
5. Any cause exists for which the Board would have been entitled to refuse to grant such license had the facts been known.
6. The licensee is delinquent for a period of 90 days or more in the payment of any taxes, or any penalties or interest related thereto, lawfully imposed by the locality where the licensed business is located, as certified by the treasurer, commissioner of the revenue, or finance director of such locality, unless (i) the outstanding amount is de minimis; (ii) the licensee has pending a bona fide application for correction or appeal with respect to such taxes, penalties, or interest; or (iii) the licensee has entered into a payment plan approved by the same locality to settle the outstanding liability.
7. Any other cause authorized by this title.

**§ 4.1-227. Suspension or revocation of licenses; notice and hearings; imposition of penalties.**

A. Except for temporary licenses, before the Board may impose a civil penalty against a brewery licensee or suspend or revoke any license, reasonable notice of such proposed or contemplated action shall be given to the licensee in accordance with the provisions of § 2.2-4020 of the Administrative Process Act (§ 2.2-4000 et seq.).

Notwithstanding the provisions of § 2.2-4022, the Board shall, upon written request by the licensee, permit the licensee to inspect and copy or photograph all (i) written or recorded statements made by the licensee or copies thereof or the substance of any oral statements made by the licensee or a previous or present employee of the licensee to any law-enforcement officer, the existence of which is known by the Board and upon which the Board intends to rely as evidence in any adversarial proceeding under this chapter against the licensee, and (ii) designated books, papers, documents, tangible objects, buildings, or places, or copies or portions thereof, that are within the possession, custody, or control of the Board and upon which the Board intends to rely as evidence in any adversarial proceeding under this chapter against the licensee. In addition, any subpoena for the production of documents issued to any person at the request of the licensee or the Board pursuant to § 4.1-103 shall provide for the production of the documents sought within ten working days, notwithstanding anything to the contrary in § 4.1-103.

If the Board fails to provide for inspection or copying under this section for the licensee after a written request, the Board shall be prohibited from introducing into evidence any items the licensee would have lawfully been entitled to inspect or copy under this section.

The action of the Board in suspending or revoking any license or in imposing a civil penalty against the holder of a brewery license shall be subject to judicial review in accordance with the Administrative Process Act. Such review shall extend to the entire evidential record of the proceedings provided by the Board in accordance with the Administrative Process Act. An appeal shall lie to the Court of Appeals from any order of the court. Notwithstanding § 8.01-676.1, the final judgment or order of the circuit court shall not be suspended, stayed or modified by such circuit court pending appeal to the Court of Appeals. Neither mandamus nor injunction shall lie in any such case.

B. In suspending any license the Board may impose, as a condition precedent to the removal of such suspension or any portion thereof, a requirement that the licensee pay the cost incurred by the Board in investigating the licensee and in holding the proceeding resulting in such suspension, or it may impose a civil penalty not to exceed \$1,000 for the first violation, \$2,500 for the second violation and \$5,000 for the third violation in lieu of such suspension or any portion thereof, or both. However, if the violation involved selling alcoholic beverages to a person prohibited from purchasing alcoholic beverages or allowing consumption of alcoholic beverages by underage, intoxicated or interdicted persons, the Board may impose a civil penalty not to exceed \$2,500 for the first violation and \$5,000 for a subsequent violation in lieu of such suspension or any portion thereof, or both and collect such civil penalties as it deems appropriate. In no event shall the Board impose a civil penalty exceeding \$2,000 for the first violation occurring within five years immediately preceding the date of the violation or \$5,000 for the second violation occurring within five years immediately preceding the date of the second violation. However, if the violation involved selling alcoholic beverages to a person prohibited from purchasing alcoholic beverages or allowing consumption of alcoholic beverages by underage, intoxicated, or interdicted persons, the Board may impose a civil penalty not to exceed \$3,000 for the first violation occurring within five years immediately preceding the date of the violation and \$6,000 for a second violation occurring within five years immediately preceding the date of the second violation in lieu of such suspension or any portion thereof, or both. Upon making a finding that aggravating circumstances exist, the Board may also impose a requirement that the licensee pay for the cost incurred by the

Board not exceeding \$10,000 in investigating the licensee and in holding the proceeding resulting in the violation in addition to any suspension or civil penalty incurred.

C. Following notice to (i) the licensee of a hearing ~~which~~ that may result in the suspension or revocation of his license or (ii) the applicant of a hearing to resolve a contested application, the Board may accept ~~from the licensee an offer in compromise to pay a civil charge not exceeding \$5,000, either in lieu of suspension or in addition thereto, or in lieu of revocation a consent agreement as authorized in subdivision 22 of § 4.1-103. The notice shall advise the licensee or applicant of the option to~~ (a) admit the alleged violation or the validity of the objection; (b) waive any right to a hearing or an appeal under the Virginia Administrative Process Act (§ 2.2-4000 et seq.); and (c) (1) accept the proposed restrictions for operating under the license, (2) accept the period of suspension of the licensed privileges within the Board's parameters, (3) pay a civil penalty in lieu of the period of suspension, or any portion of the suspension as applicable, or (4) proceed to a hearing.

D. In case of an offense by the holder of a brewery license, the Board may require that such holder pay the costs incurred by the Board in investigating the licensee, and it may impose a civil penalty not to exceed \$25,000 for the first violation, \$50,000 for the second violation, and for the third or any subsequent violation, suspend or revoke such license or, in lieu of any suspension or portion thereof, impose a civil penalty not to exceed \$100,000. Such suspension or revocation shall not prohibit the licensee from manufacturing or selling beer manufactured by it to the owners of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state, and to persons outside the Commonwealth.

E. The Board shall, by regulation or written order:

1. Designate those (i) objections to an application or (ii) alleged violations that will proceed to an initial hearing;
2. Designate the violations for which a waiver of a hearing and payment of a civil charge in lieu of suspension may be accepted for a first offense occurring within three years immediately preceding the date of the violation;
- ~~2.~~ 3. Provide for a reduction in the length of any suspension and a reduction in the amount of any civil penalty for any retail licensee where the licensee can demonstrate that it provided to its employees alcohol server or seller training certified in advance by the Board;
- ~~3.~~ 4. Establish a schedule of penalties for such offenses, prescribing the appropriate suspension of a license and the civil charge acceptable in lieu of such suspension; and
- ~~4.~~ 5. Establish a schedule of offenses for which any penalty may be waived upon a showing that the licensee has had no prior violations within five years immediately preceding the date of the violation. No waiver shall be granted by the Board, however, for a licensee's willful and knowing violation of this title or Board regulations.

F. A licensee receiving notice of a hearing on an alleged violation meeting the requirements of subsection E shall be advised of the option of (a) accepting the suspension authorized by the Board's schedule, (b) paying a civil charge authorized by the Board's schedule in lieu of suspension, or (c) proceeding to a hearing.

2. That the fourth, fifth, and twelfth enactments of Chapters 38 and 730 of the Acts of Assembly of 2015 are amended and reenacted as follows:

4. That the provisions of this act shall become effective on ~~July 1~~ January 15, 2018, except that the provisions of the (i) thirteenth, fourteenth, and fifteenth enactments of this act shall become effective on July 1, 2015; (ii) third enactment of this act shall become effective on July 1, 2018; and (iii) eleventh enactment of this act shall become effective on January 1, 2019.

5. That the Alcoholic Beverage Control Board or its successor in interest shall continue to receive IT infrastructure and security services pursuant to Chapter 20.1 (§ 2.2-2005 et seq.) of Title 2.2 of the Code of Virginia until July 1, 2019, unless otherwise provided for as part of the Commonwealth's disentanglement plan pursuant to the Comprehensive Infrastructure Agreement with Northrop Grumman. However, in no event shall the Virginia Alcoholic Beverage Control Authority be disentangled prior to October 1, 2018 such time as the Alcoholic Beverage Control Board or its successor in interest elects to no longer receive such services. However, any such departure from services provided under Chapter 20.1 (§ 2.2-2005 et seq.) of the Code of Virginia shall not be made prior to October 1, 2018. The Alcoholic Beverage Control Board or its successor in interest may determine to continue to receive all or partial services pursuant to Chapter 20.1 (§ 2.2-2005 et seq.) of the Code of Virginia based on mutual agreement between it and the Virginia Information Technologies Agency.

12. That any ~~accrued~~ accumulated sick leave, personal leave, or annual leave of any employee of the Department of Alcoholic Beverage Control who transfers to the Virginia Alcoholic Beverage Control Authority in accordance with the provisions of this act shall transfer with the employee. Notwithstanding subsection D of § 4.1-101.05 of the Code of Virginia, as created by this act, any accrued sick leave of any employee of the Department of Alcoholic Beverage Control participating in the Traditional Sick Leave Program who transfers to the Virginia Alcoholic Beverage Control Authority in accordance with the provisions of this act shall be paid out to the employee in accordance with applicable policies and procedures adopted by the Department of Human Resource Management. Notwithstanding subsections B and D of § 51.1-1103 of the Code of Virginia, all employees of the Department of Alcoholic Beverage Control participating in the Traditional Sick Leave Program who transfer to the Virginia Alcoholic Beverage Control Authority in accordance with the provisions of this act shall, upon such transfer, (i) participate in the Virginia Sickness and Disability Program and (ii) be eligible for nonwork related disability benefits without meeting the one-year waiting period required under subsection D of § 51.1-1103 of the Code of Virginia.

3. That the sixth enactment of Chapters 38 and 730 of the Acts of Assembly of 2015 is repealed effective January 15, 2018.
4. That, beginning January 15, 2018, special agents and employees of the Alcoholic Beverage Control Board (the Board) shall be considered employees and special agents of the Department of Alcoholic Beverage Control (the Department) for the purpose of maintaining continued employment. The Department, including such special agents and employees, shall continue in existence through December 31, 2018. The Board shall continue in existence until July 1, 2018. During the period of January 1, 2018, through December 31, 2018, (i) the Department and the Virginia Alcoholic Beverage Control Authority (the Authority) shall exist simultaneously for the purpose of transferring special agents and employees and transitioning operations of the Department to the Authority in accordance with § 4.1-101.05 of the Code of Virginia, as amended by this act, and (ii) the Board of Directors of the Authority shall carry out the duties and responsibilities of the Board, notwithstanding elimination of the Board on July 1, 2018, for the purpose of transferring special agents and employees and facilitating the transition of operations from the Board and Department to the Authority.
5. That prior to July 1, 2018, the Alcoholic Beverage Control Authority (the Authority) and the Department of Alcoholic Beverage Control (the Department) shall enter into an operating agreement whereby employees and special agents of the Department are authorized to exercise the powers and duties conferred by the Alcoholic Beverage Control Board that are incidental to their employment or agency with the Department and conferred upon the Board of Directors of the Authority in accordance with § 4.1-103 of the Code of Virginia, as amended by this act.
6. That any agent or employee of the Department of Alcoholic Beverage Control vested with any powers or duties assigned or delegated by the Alcoholic Beverage Control Board shall be authorized to continuously exercise the same powers and duties conferred upon him as if designated the Board of Directors of the Virginia Alcoholic Beverage Control Authority.
7. That the provisions of § 4.1-101.01 of the Code of Virginia, as amended by this act, shall expire on July 1, 2018.
8. That a current member of the Alcoholic Beverage Control Board is eligible for reappointment in accordance with the provisions of this act, provided that such member meets the qualifications set forth in § 4.1-101.01 of the Code of Virginia, as amended by this act.

#### CHAPTER 699

*An Act to amend and reenact §§ 2.2-4301, 2.2-4303, 2.2-4305, 2.2-4343, 2.2-4345, 23.1-1002, and 33.2-209 of the Code of Virginia; to amend the Code of Virginia by adding in Title 2.2 a chapter numbered 43.1, containing articles numbered 1 through 5, consisting of sections numbered 2.2-4378 through 2.2-4383; and to repeal §§ 2.2-4306, 2.2-4307, and 2.2-4308 of the Code of Virginia, relating to procurement by public bodies; requirements for use of construction management and design-build contracts.*

[H 2366]

Approved March 24, 2017

**Be it enacted by the General Assembly of Virginia:**

1. That §§ 2.2-4301, 2.2-4303, 2.2-4305, 2.2-4343, 2.2-4345, 23.1-1002, and 33.2-209 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Title 2.2 a chapter numbered 43.1, containing articles numbered 1 through 5, consisting of sections numbered 2.2-4378 through 2.2-4383, as follows:

**§ 2.2-4301. Definitions.**

As used in this chapter:

"Affiliate" means an individual or business that controls, is controlled by, or is under common control with another individual or business. A person controls an entity if the person owns, directly or indirectly, more than 10 percent of the voting securities of the entity. For the purposes of this definition "voting security" means a security that (i) confers upon the holder the right to vote for the election of members of the board of directors or similar governing body of the business or (ii) is convertible into, or entitles the holder to receive, upon its exercise, a security that confers such a right to vote. A general partnership interest shall be deemed to be a voting security.

"Best value," as predetermined in the solicitation, means the overall combination of quality, price, and various elements of required services that in total are optimal relative to a public body's needs.

"Business" means any type of corporation, partnership, limited liability company, association, or sole proprietorship operated for profit.

"Competitive negotiation" is the method of contractor selection set forth in § 2.2-4302.2.

"Competitive sealed bidding" is the method of contractor selection set forth in § 2.2-4302.1.

"Construction" means building, altering, repairing, improving or demolishing any structure, building or highway, and any draining, dredging, excavation, grading or similar work upon real property.

"Construction management contract" means a contract in which a party is retained by the owner to coordinate and administer contracts for construction services for the benefit of the owner, and may also include, if provided in the contract, the furnishing of construction services to the owner the same as that term is defined in § 2.2-4379.

"Design-build contract" means a contract between a public body and another party in which the party contracting with the public body agrees to both design and build the structure, roadway or other item specified in the contract the same as that term is defined in § 2.2-4379.

"Employment services organization" means an organization that provides employment services to individuals with disabilities that is an approved Commission on the Accreditation of Rehabilitation Facilities (CARF) accredited vendor of the Department for Aging and Rehabilitative Services.

"Goods" means all material, equipment, supplies, printing, and automated data processing hardware and software.

"Informality" means a minor defect or variation of a bid or proposal from the exact requirements of the Invitation to Bid, or the Request for Proposal, which does not affect the price, quality, quantity or delivery schedule for the goods, services or construction being procured.

"Job order contracting" means a method of procuring construction by establishing a book of unit prices and then obtaining a contractor to perform work as needed using the prices, quantities, and specifications in the book as the basis of its pricing. The contractor may be selected through either competitive sealed bidding or competitive negotiation depending on the needs of the public body procuring the construction services. A minimum amount of work may be specified in the contract. The contract term and the project amount shall not exceed the limitations specified in § ~~2.2-4303~~ or 2.2-4303.2.

"Multiphase professional services contract" means a contract for the providing of professional services where the total scope of work of the second or subsequent phase of the contract cannot be specified without the results of the first or prior phase of the contract.

"Nonprofessional services" means any services not specifically identified as professional services in the definition of professional services.

"Potential bidder or offeror," for the purposes of §§ 2.2-4360 and 2.2-4364, means a person who, at the time a public body negotiates and awards or proposes to award a contract, is engaged in the sale or lease of goods, or the sale of services, insurance or construction, of the type to be procured under the contract, and who at such time is eligible and qualified in all respects to perform that contract, and who would have been eligible and qualified to submit a bid or proposal had the contract been procured through competitive sealed bidding or competitive negotiation.

"Professional services" means work performed by an independent contractor within the scope of the practice of accounting, actuarial services, architecture, land surveying, landscape architecture, law, dentistry, medicine, optometry, pharmacy or professional engineering. "Professional services" shall also include the services of an economist procured by the State Corporation Commission.

"Public body" means any legislative, executive or judicial body, agency, office, department, authority, post, commission, committee, institution, board or political subdivision created by law to exercise some sovereign power or to perform some governmental duty, and empowered by law to undertake the activities described in this chapter. "Public body" shall include (i) any independent agency of the Commonwealth, and (ii) any metropolitan planning organization or planning district commission which operates exclusively within the Commonwealth of Virginia.

"Public contract" means an agreement between a public body and a nongovernmental source that is enforceable in a court of law.

"Responsible bidder" or "offeror" means a person who has the capability, in all respects, to perform fully the contract requirements and the moral and business integrity and reliability that will assure good faith performance, and who has been prequalified, if required.

"Responsive bidder" means a person who has submitted a bid that conforms in all material respects to the Invitation to Bid.

"Reverse auctioning" means a procurement method wherein bidders are invited to bid on specified goods or nonprofessional services through real-time electronic bidding, with the award being made to the lowest responsive and responsible bidder. During the bidding process, bidders' prices are revealed and bidders shall have the opportunity to modify their bid prices for the duration of the time period established for bid opening.

"Services" means any work performed by an independent contractor wherein the service rendered does not consist primarily of acquisition of equipment or materials, or the rental of equipment, materials and supplies.

#### **§ 2.2-4303. Methods of procurement.**

A. All public contracts with nongovernmental contractors for the purchase or lease of goods, or for the purchase of services, insurance, or construction, shall be awarded after competitive sealed bidding, or competitive negotiation as provided in this section, unless otherwise authorized by law.

B. Professional services shall be procured by competitive negotiation.

C. *Goods, services other than professional services, and insurance may be procured by competitive sealed bidding or competitive negotiation.*

Upon a written determination made in advance by (i) the Governor or his designee in the case of a procurement by the Commonwealth or by a department, agency or institution thereof or (ii) the local governing body in the case of a procurement by a political subdivision of the Commonwealth, that competitive negotiation is either not practicable or not fiscally advantageous, insurance may be procured through a licensed agent or broker selected in the manner provided for the procurement of things other than professional services set forth in § 2.2-4302.2. The basis for this determination shall be documented in writing.

D. Construction may be procured only by competitive sealed bidding, except that competitive negotiation may be used in the following instances ~~upon a determination made in advance by the public body and set forth in writing that competitive sealed bidding is either not practicable or not fiscally advantageous to the public, which writing shall document the basis for this determination:~~

1. ~~By the Commonwealth, its departments, agencies and institutions any public body on a fixed price design-build basis or construction management basis under § 2.2-4306 as provided in Chapter 43.1 (§ 2.2-4378 et seq.); or~~

2. ~~By any public body for the construction of highways and any draining, dredging, excavation, grading or similar work upon real property; upon a determination made in advance by the public body and set forth in writing that competitive sealed bidding is either not practicable or not fiscally advantageous to the public, which writing shall document the basis for this determination.~~

3. ~~By any governing body of a locality with a population in excess of 100,000, provided that the locality has the personnel, procedures, and expertise to enter into a contract for construction on a fixed price or not-to-exceed price design-build or construction management basis and shall otherwise be in compliance with the provisions of this section; § 2.2-4308, and other applicable law governing design-build or construction management contracts for public bodies other than the Commonwealth. The procedures of the local governing body shall be consistent with the two-step competitive negotiation process established in § 2.2-4302.2; or~~

4. ~~As otherwise provided in § 2.2-4308.~~

E. Upon a determination in writing that there is only one source practicably available for that which is to be procured, a contract may be negotiated and awarded to that source without competitive sealed bidding or competitive negotiation. The writing shall document the basis for this determination. The public body shall issue a written notice stating that only one source was determined to be practicably available, and identifying that which is being procured, the contractor selected, and the date on which the contract was or will be awarded. This notice shall be posted on the Department of General Services' central electronic procurement website or other appropriate websites, and in addition, public bodies may publish in a newspaper of general circulation on the day the public body awards or announces its decision to award the contract, whichever occurs first. Posting on the Department of General Services' central electronic procurement website shall be required of any state public body. Local public bodies are encouraged to utilize the Department of General Services' central electronic procurement website to provide the public with centralized visibility and access to the Commonwealth's procurement opportunities.

F. In case of emergency, a contract may be awarded without competitive sealed bidding or competitive negotiation; however, such procurement shall be made with such competition as is practicable under the circumstances. A written determination of the basis for the emergency and for the selection of the particular contractor shall be included in the contract file. The public body shall issue a written notice stating that the contract is being awarded on an emergency basis, and identifying that which is being procured, the contractor selected, and the date on which the contract was or will be awarded. This notice shall be posted on the Department of General Services' central electronic procurement website or other appropriate websites, and in addition, public bodies may publish in a newspaper of general circulation on the day the public body awards or announces its decision to award the contract, whichever occurs first, or as soon thereafter as is practicable. Posting on the Department of General Services' central electronic procurement website shall be required of any state public body. Local public bodies are encouraged to utilize the Department of General Services' central electronic procurement website to provide the public with centralized visibility and access to the Commonwealth's procurement opportunities.

G. A public body may establish purchase procedures, if adopted in writing, not requiring competitive sealed bids or competitive negotiation for single or term contracts for:

1. Goods and services other than professional services and non-transportation-related construction, if the aggregate or the sum of all phases is not expected to exceed \$100,000; and

2. Transportation-related construction, if the aggregate or sum of all phases is not expected to exceed \$25,000.

However, such small purchase procedures shall provide for competition wherever practicable.

Such purchase procedures may allow for single or term contracts for professional services without requiring competitive negotiation, provided the aggregate or the sum of all phases is not expected to exceed \$60,000.

Where small purchase procedures are adopted for construction, the procedures shall not waive compliance with the Uniform State Building Code.

For state public bodies, purchases under this subsection that are expected to exceed \$30,000 shall require the (a) written informal solicitation of a minimum of four bidders or offerors and (b) posting of a public notice on the Department of General Services' central electronic procurement website or other appropriate websites. Posting on the Department of General Services' central electronic procurement website shall be required of any state public body. Local public bodies are encouraged to utilize the Department of General Services' central electronic procurement website to provide the public with centralized visibility and access to the Commonwealth's procurement opportunities.

H. Upon a determination made in advance by a public body and set forth in writing that the purchase of goods, products or commodities from a public auction sale is in the best interests of the public, such items may be purchased at the auction, including online public auctions. Purchase of information technology and telecommunications goods and nonprofessional services from a public auction sale shall be permitted by any authority, department, agency, or institution of the Commonwealth if approved by the Chief Information Officer of the Commonwealth. The writing shall document the

basis for this determination. However, bulk purchases of commodities used in road and highway construction and maintenance, and aggregates shall not be made by online public auctions.

I. The purchase of goods or nonprofessional services, but not construction or professional services, may be made by reverse auctioning. However, bulk purchases of commodities used in road and highway construction and maintenance, and aggregates shall not be made by reverse auctioning.

**§ 2.2-4305. Competitive procurement by localities on state-aid projects.**

No contract for the construction of any building or for an addition to or improvement of an existing building by any local governing body or subdivision thereof for which state funds of not more than \$50,000 in the aggregate or for the sum of all phases of a contract or project either by appropriation, grant-in-aid or loan, are used or are to be used for all or part of the cost of construction shall be let except after competitive sealed bidding or after competitive negotiation as provided under subsection D of § 2.2-4303 or *Chapter 43.1* (§ 2.2-4378 *et seq.*). The procedure for the advertising for bids or for proposals and for letting of the contract shall conform, mutatis mutandis, to this chapter.

**§ 2.2-4343. Exemption from operation of chapter for certain transactions.**

A. The provisions of this chapter shall not apply to:

1. The Virginia Port Authority in the exercise of any of its powers in accordance with Chapter 10 (§ 62.1-128 *et seq.*) of Title 62.1, provided the Authority implements, by policy or regulation adopted by the Board of Commissioners, procedures to ensure fairness and competitiveness in the procurement of goods and services and in the administration of its capital outlay program. This exemption shall be applicable only so long as such policies and procedures meeting the requirements remain in effect.

2. The Virginia Retirement System for selection of services related to the management, purchase or sale of authorized investments, actuarial services, and disability determination services. Selection of these services shall be governed by the standard set forth in § 51.1-124.30.

3. The State Treasurer in the selection of investment management services related to the external management of funds shall be governed by the standard set forth in § 2.2-4514, and shall be subject to competitive guidelines and policies that are set by the Commonwealth Treasury Board and approved by the Department of General Services.

4. The Department of Social Services or local departments of social services for the acquisition of motor vehicles for sale or transfer to Temporary Assistance to Needy Families (TANF) recipients.

5. The College of William and Mary in Virginia, Virginia Commonwealth University, the University of Virginia, and Virginia Polytechnic Institute and State University in the selection of services related to the management and investment of their endowment funds, endowment income, gifts, all other nongeneral fund reserves and balances, or local funds of or held by the College or Universities pursuant to § 23.1-2210, 23.1-2306, 23.1-2604, or 23.1-2803. However, selection of these services shall be governed by the Uniform Prudent Management of Institutional Funds Act (§ 64.2-1100 *et seq.*) as required by §§ 23.1-2210, 23.1-2306, 23.1-2604, and 23.1-2803.

6. The Board of the Virginia College Savings Plan for the selection of services related to the operation and administration of the Plan, including, but not limited to, contracts or agreements for the management, purchase, or sale of authorized investments or actuarial, record keeping, or consulting services. However, such selection shall be governed by the standard set forth in § 23.1-706.

7. Public institutions of higher education for the purchase of items for resale at retail bookstores and similar retail outlets operated by such institutions. However, such purchase procedures shall provide for competition where practicable.

8. The purchase of goods and services by agencies of the legislative branch that may be specifically exempted therefrom by the Chairman of the Committee on Rules of either the House of Delegates or the Senate. Nor shall the contract review provisions of § 2.2-2012 apply to such procurements. The exemption shall be in writing and kept on file with the agency's disbursement records.

9. Any town with a population of less than 3,500, except as stipulated in the provisions of §§ 2.2-4305, ~~2.2-4308~~, 2.2-4311, 2.2-4315, 2.2-4330, 2.2-4333 through 2.2-4338, 2.2-4343.1, and 2.2-4367 through 2.2-4377 and *Chapter 43.1* (§ 2.2-4378 *et seq.*).

10. Any county, city or town whose governing body has adopted, by ordinance or resolution, alternative policies and procedures which are (i) based on competitive principles and (ii) generally applicable to procurement of goods and services by such governing body and its agencies, except as stipulated in subdivision 12.

This exemption shall be applicable only so long as such policies and procedures, or other policies and procedures meeting the requirements of § 2.2-4300, remain in effect in such county, city or town. Such policies and standards may provide for incentive contracting that offers a contractor whose bid is accepted the opportunity to share in any cost savings realized by the locality when project costs are reduced by such contractor, without affecting project quality, during construction of the project. The fee, if any, charged by the project engineer or architect for determining such cost savings shall be paid as a separate cost and shall not be calculated as part of any cost savings.

11. Any school division whose school board has adopted, by policy or regulation, alternative policies and procedures that are (i) based on competitive principles and (ii) generally applicable to procurement of goods and services by the school board, except as stipulated in subdivision 12.

This exemption shall be applicable only so long as such policies and procedures, or other policies or procedures meeting the requirements of § 2.2-4300, remain in effect in such school division. This provision shall not exempt any school division from any centralized purchasing ordinance duly adopted by a local governing body.

12. Notwithstanding the exemptions set forth in subdivisions 9 through 11, the provisions of subsections C and D of § 2.2-4303, ~~and §§ 2.2-4305, 2.2-4308,~~ 2.2-4311, 2.2-4315, 2.2-4317, 2.2-4330, 2.2-4333 through 2.2-4338, 2.2-4343.1, and 2.2-4367 through 2.2-4377, *and Chapter 43.1 (§ 2.2-4378 et seq.)* shall apply to all counties, cities, and school divisions, and to all towns having a population greater than 3,500 in the Commonwealth.

The method for procurement of professional services through competitive negotiation set forth in §§ 2.2-4303.1 and 2.2-4303.2 shall also apply to all counties, cities and school divisions, and to all towns having a population greater than 3,500, where the cost of the professional service is expected to exceed \$60,000 in the aggregate or for the sum of all phases of a contract or project. A school board that makes purchases through its public school foundation or purchases educational technology through its educational technology foundation, either as may be established pursuant to § 22.1-212.2:2 shall be exempt from the provisions of this chapter, except, relative to such purchases, the school board shall comply with the provisions of §§ 2.2-4311 and 2.2-4367 through 2.2-4377.

13. A public body that is also a utility operator may purchase services through or participate in contracts awarded by one or more utility operators that are not public bodies for utility marking services as required by the Underground Utility Damage Prevention Act (§ 56-265.14 et seq.). A purchase of services under this subdivision may deviate from the procurement procedures set forth in this chapter upon a determination made in advance by the public body and set forth in writing that competitive sealed bidding is either not practicable or not fiscally advantageous to the public, and the contract is awarded based on competitive principles.

14. Procurement of any construction or planning and design services for construction by a Virginia nonprofit corporation or organization not otherwise specifically exempted when (i) the planning, design or construction is funded by state appropriations of \$10,000 or less or (ii) the Virginia nonprofit corporation or organization is obligated to conform to procurement procedures that are established by federal statutes or regulations, whether those federal procedures are in conformance with the provisions of this chapter.

15. Purchases, exchanges, gifts or sales by the Citizens' Advisory Council on Furnishing and Interpreting the Executive Mansion.

16. The Eastern Virginia Medical School in the selection of services related to the management and investment of its endowment and other institutional funds. The selection of these services shall, however, be governed by the Uniform Prudent Management of Institutional Funds Act (§ 64.2-1100 et seq.).

17. The Department of Corrections in the selection of pre-release and post-incarceration services.

18. The University of Virginia Medical Center to the extent provided by subdivision A 3 of § 23.1-2213.

19. The purchase of goods and services by a local governing body or any authority, board, department, instrumentality, institution, agency or other unit of state government when such purchases are made under a remedial plan established by the Governor pursuant to subsection C of § 2.2-4310 or by a chief administrative officer of a county, city or town pursuant to § 15.2-965.1.

20. The contract by community services boards or behavioral health authorities with an administrator or management body pursuant to a joint agreement authorized by § 37.2-512 or 37.2-615.

21. [Expired].

22. The purchase of Virginia-grown food products for use by a public body where the annual cost of the product is not expected to exceed \$100,000.

B. Where a procurement transaction involves the expenditure of federal assistance or contract funds, the receipt of which is conditioned upon compliance with mandatory requirements in federal laws or regulations not in conformance with the provisions of this chapter, a public body may comply with such federal requirements, notwithstanding the provisions of this chapter, only upon the written determination of the Governor, in the case of state agencies, or the governing body, in the case of political subdivisions, that acceptance of the grant or contract funds under the applicable conditions is in the public interest. Such determination shall state the specific provision of this chapter in conflict with the conditions of the grant or contract.

**§ 2.2-4345. Exemptions from competitive sealed bidding and competitive negotiation for certain transactions; limitations.**

A. The following public bodies may enter into contracts without competitive sealed bidding or competitive negotiation:

1. The Director of the Department of Medical Assistance Services for special services provided for eligible recipients pursuant to subsection H of § 32.1-325, provided that the Director has made a determination in advance after reasonable notice to the public and set forth in writing that competitive sealed bidding or competitive negotiation for such services is not fiscally advantageous to the public, or would constitute an imminent threat to the health or welfare of such recipients. The writing shall document the basis for this determination.

2. The State Health Commissioner for the compilation, storage, analysis, evaluation, and publication of certain data submitted by health care providers and for the development of a methodology to measure the efficiency and productivity of health care providers pursuant to Chapter 7.2 (§ 32.1-276.2 et seq.) of Title 32.1, if the Commissioner has made a determination in advance, after reasonable notice to the public and set forth in writing, that competitive sealed bidding or competitive negotiation for such services is not fiscally advantageous to the public. The writing shall document the basis for this determination. Such agreements and contracts shall be based on competitive principles.

3. The Virginia Code Commission when procuring the services of a publisher, pursuant to §§ 30-146 and 30-148, to publish the Code of Virginia or the Virginia Administrative Code.

4. (Effective until July 1, 2018) The Department of Alcoholic Beverage Control for the purchase of alcoholic beverages.

4. (Effective July 1, 2018) The Virginia Alcoholic Beverage Control Authority for the purchase of alcoholic beverages.

5. The Department for Aging and Rehabilitative Services, for the administration of elder rights programs, with (i) nonprofit Virginia corporations granted tax-exempt status under § 501(c)(3) of the Internal Revenue Code with statewide experience in Virginia in conducting a state long-term care ombudsman program or (ii) designated area agencies on aging.

6. The Department of Health for (a) child restraint devices, pursuant to § 46.2-1097; (b) health care services with Virginia corporations granted tax-exempt status under § 501(c)(3) of the Internal Revenue Code and operating as clinics for the indigent and uninsured that are organized for the delivery of primary health care services in a community (i) as federally qualified health centers designated by the Health Care Financing Administration or (ii) at a reduced or sliding fee scale or without charge; or (c) contracts with laboratories providing cytology and related services if competitive sealed bidding and competitive negotiations are not fiscally advantageous to the public to provide quality control as prescribed in writing by the Commissioner of Health.

7. Virginia Correctional Enterprises, when procuring materials, supplies, or services for use in and support of its production facilities, provided the procurement is accomplished using procedures that ensure as efficient use of funds as practicable and, at a minimum, includes obtaining telephone quotations. Such procedures shall require documentation of the basis for awarding contracts under this section.

8. The Virginia Baseball Stadium Authority for the operation of any facilities developed under the provisions of Chapter 58 (§ 15.2-5800 et seq.) of Title 15.2, including contracts or agreements with respect to the sale of food, beverages and souvenirs at such facilities.

9. With the consent of the Governor, the Jamestown-Yorktown Foundation for the promotion of tourism through marketing with private entities provided a demonstrable cost savings, as reviewed by the Secretary of Education, can be realized by the Foundation and such agreements or contracts are based on competitive principles.

10. The Chesapeake Hospital Authority in the exercise of any power conferred under Chapter 271, as amended, of the Acts of Assembly of 1966, provided that it does not discriminate against any person on the basis of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, or disability in the procurement of goods and services.

11. Richmond Eye and Ear Hospital Authority, any authorities created under Chapter 53 (§ 15.2-5300 et seq.) of Title 15.2 and any hospital or health center commission created under Chapter 52 (§ 15.2-5200 et seq.) of Title 15.2 in the exercise of any power conferred under their respective authorizing legislation, provided that these entities shall not discriminate against any person on the basis of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, or disability in the procurement of goods and services.

12. The Patrick Hospital Authority sealed in the exercise of any power conferred under the Acts of Assembly of 2000, provided that it does not discriminate against any person on the basis of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, or disability in the procurement of goods and services.

13. Public bodies for insurance or electric utility services if purchased through an association of which it is a member if the association was formed and is maintained for the purpose of promoting the interest and welfare of and developing close relationships with similar public bodies, provided such association has procured the insurance or electric utility services by use of competitive principles and provided that the public body has made a determination in advance after reasonable notice to the public and set forth in writing that competitive sealed bidding and competitive negotiation are not fiscally advantageous to the public. The writing shall document the basis for this determination.

14. Public bodies administering public assistance and social services programs as defined in § 63.2-100, community services boards as defined in § 37.2-100, or any public body purchasing services under the Children's Services Act (§ 2.2-5200 et seq.) or the Virginia Juvenile Community Crime Control Act (§ 16.1-309.2 et seq.) for goods or personal services for direct use by the recipients of such programs if the procurement is made for an individual recipient. Contracts for the bulk procurement of goods or services for the use of recipients shall not be exempted from the requirements of § 2.2-4303.

15. The Eastern Virginia Medical School in the exercise of any power conferred pursuant to Chapter 471, as amended, of the Acts of Assembly of 1964.

B. No contract for the construction of any building or for an addition to or improvement of an existing building by any local government or subdivision of local government for which state funds of not more than \$50,000 in the aggregate or for the sum of all phases of a contract or project either by appropriation, grant-in-aid or loan, are used or are to be used for all or part of the cost of construction shall be let except after competitive sealed bidding or after competitive negotiation as provided under ~~of~~ subsection D of § 2.2-4303 or Chapter 43.1 (§ 2.2-4378 et seq.). The procedure for the advertising for bids or for proposals and for letting of the contract shall conform, mutatis mutandis, to this chapter.

#### CHAPTER 43.1.

### CONSTRUCTION MANAGEMENT AND DESIGN-BUILD CONTRACTING.

#### Article I.

#### General Provisions.

**§ 2.2-4378. Purpose; applicability.**

A. The purpose of this chapter is to enunciate the public policies pertaining to governmental procurement of construction utilizing the construction management and design-build procurement methods. Notwithstanding any other provision of law, the Commonwealth may enter into contracts on a fixed price design-build basis or construction management basis in accordance with the provisions of this chapter and § 2.2-1502.

B. Except as provided in subsection C, this chapter shall apply regardless of the source of financing, whether it is general fund, nongeneral fund, federal trust fund, state debt, or institutional debt.

C. The following shall be exempt from the provisions of this chapter:

1. Projects of a covered institution that are to be funded exclusively by a foundation that (i) exists for the primary purpose of supporting the covered institution and (ii) is exempt from taxation under § 501(c)(3) of the Internal Revenue Code; and

2. Transportation construction projects procured and awarded by the Commonwealth Transportation Board pursuant to subsection B of § 33.2-209.

D. The provisions of this chapter shall supplement the provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq.), which provisions shall remain applicable. In the event of any conflict between this chapter and the Virginia Public Procurement Act (§ 2.2-4300 et seq.), the Restructured Higher Education Financial and Administrative Operations Act of 2005 (§ 23.1-1000 et seq.), or any other provision of law, this chapter shall control.

**§ 2.2-4379. Definitions.**

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

"Complex project" means a construction project that includes one or more of the following significant components: difficult site location, unique equipment, specialized building systems, multifaceted program, accelerated schedule, historic designation, or intricate phasing or some other aspect that makes competitive sealed bidding not practical.

"Construction management contract" means a contract in which a party is retained by the owner to coordinate and administer contracts for construction services for the benefit of the owner and may also include, if provided in the contract, the furnishing of construction services to the owner.

"Covered institution" means a public institution of higher education operating (i) subject to a management agreement set forth in Article 4 (§ 23.1-1004 et seq.) of Chapter 10 of Title 23.1, (ii) under a memorandum of understanding pursuant to § 23.1-1003, or (iii) under the pilot program authorized in the appropriation act.

"Department" means the Department of General Services.

"Design-build contract" means a contract between a public body and another party in which the party contracting with the public body agrees to both design and build the structure, or other item specified in the contract.

"Public body" means the same as that term is defined in § 2.2-4301.

"State public body" means any authority, board, department, instrumentality, agency, or other unit of state government.

"State public body" does not include any covered institution; any county, city, or town; or any local or regional governmental authority.

## Article 2.

## Procedures for State Public Bodies.

**§ 2.2-4380. Construction management or design-build contracts for state public bodies authorized.**

A. Any state public body may enter into a contract for construction on a fixed price or not-to-exceed price construction management or design-build basis, provided that such public body complies with the requirements of this article and the procedures adopted by the Secretary of Administration for using construction management or design-build contracts.

B. Procedures adopted by a state public body pursuant to this article shall include the following requirements:

1. A written determination is made in advance by the state public body that competitive sealed bidding is not practicable or fiscally advantageous, and such writing shall document the basis for the determination to use construction management or design-build. The determination shall be included in the Request for Qualifications and maintained in the procurement file;

2. Prior to making a determination as to the use of construction management or design-build for a specific construction project, a state public body shall have in its employ or under contract a licensed architect or engineer with professional competence appropriate to the project who shall (i) advise the public body regarding the use of construction management or design-build for that project and (ii) assist the public body with the preparation of the Request for Proposal and the evaluation of such proposals;

3. Public notice of the Request for Qualifications is posted on the Department's central electronic procurement website, known as eVA, at least 30 days prior to the date set for receipt of qualification proposals;

4. For construction management contracts, the contract is entered into no later than the completion of the schematic phase of design, unless prohibited by authorization of funding restrictions;

5. Prior construction management or design-build experience or previous experience with the Department's Bureau of Capital Outlay Management shall not be required as a prerequisite for award of a contract. However, in the selection of a contractor, a state public body may consider the experience of each contractor on comparable projects;

6. Construction management contracts shall require that (i) no more than 10 percent of the construction work, as measured by the cost of the work, be performed by the construction manager with its own forces and (ii) the remaining 90 percent of the construction work, as measured by the cost of the work, be performed by subcontractors of the

construction manager, which the construction manager shall procure by publicly advertised, competitive sealed bidding to the maximum extent practicable; and

7. The procedures allow for a two-step competitive negotiation process.

C. The Department shall evaluate the proposed procurement method selected by the state public body and make its recommendation as to whether the use of the construction management or design-build procurement method is appropriate for the specific project. In its review, the Department shall also consider:

1. The written determination of the state public body;
2. The compliance by the state public body with subdivisions B 1, 2, and 7;
3. The project cost, expected timeline, and use;
4. Whether the project is a complex project; and
5. Any other criteria established by the Department to evaluate the proposed procurement method for the project.

D. The Department shall conduct its review within five working days after receipt of the written determination and render its written recommendation within such five-working-day period. The written recommendation of the Department shall be maintained in the procurement file.

E. If a state public body elects to proceed with the project using a construction management or design-build procurement method despite the recommendation of the Department to the contrary, such state public body shall state in writing its reasons therefor and any justification for not following the recommendation of the Department and submit same to the Department. The written statement of a state public body's decision to not follow the recommendation of the Department shall be maintained in the procurement file.

### Article 3.

#### Procedures for Covered Institutions.

#### **§ 2.2-4381. Construction management or design-build contracts for covered institutions authorized.**

A. Any covered institution may enter into a contract for construction on a fixed price or not-to-exceed price construction management or design-build basis, provided that such institution complies with the requirements of this article and with the procedures adopted by the Secretary of Administration for using construction management or design-build contracts.

B. Covered institutions shall:

1. Develop procedures for determining the selected procurement method which, at a minimum, shall consider cost, schedule, complexity, and building use;
2. Submit such procedures, and any subsequent changes to adopted procedures, to the Department for review and comment; and
3. Submit Department-reviewed procedures to its board of visitors for adoption.

C. Procedures adopted by a board of visitors pursuant to this article shall include the following requirements:

1. A written determination is made in advance by the covered institution that competitive sealed bidding is not practicable or fiscally advantageous, and such writing shall document the basis for the determination to use construction management or design-build. The determination shall be included in the Request for Qualifications and maintained in the procurement file;

2. Prior to making a determination as to the use of construction management or design-build for a specific construction project, a covered institution shall have in its employ or under contract a licensed architect or engineer with professional competence appropriate to the project who shall (i) advise the covered institution regarding the use of construction management or design-build for that project and (ii) assist the covered institution with the preparation of the Request for Proposal and the evaluation of such proposals;

3. Public notice of the Request for Qualifications is posted on the Department's central electronic procurement website, known as eVA, at least 30 days prior to the date set for receipt of qualification proposals;

4. For construction management contracts, the contract is entered into no later than the completion of the schematic phase of design, unless prohibited by authorization of funding restrictions;

5. Prior construction management or design-build experience or previous experience with the Department's Bureau of Capital Outlay Management shall not be required as a prerequisite for award of a contract. However, in the selection of a contractor, a covered institution may consider the experience of each contractor on comparable projects;

6. Construction management contracts shall require that (i) no more than 10 percent of the construction work, as measured by the cost of the work, be performed by the construction manager with its own forces and (ii) the remaining 90 percent of the construction work, as measured by the cost of the work, be performed by subcontractors of the construction manager, which the construction manager shall procure by publicly advertised, competitive sealed bidding to the maximum extent practicable; and

7. The procedures allow for a two-step competitive negotiation process.

D. The Department shall evaluate the proposed procurement method selected by a covered institution and make its recommendation as to whether the use of the construction management or design-build procurement method is appropriate for the specific project. In its review, the Department shall also consider:

1. The written determination of the covered institution;
2. The compliance by the covered institution with subdivisions C 1, 2, and 7;
3. The project cost, expected timeline, and use;

4. Whether the project is a complex project; and

5. Any other criteria established by the Department to evaluate the proposed procurement method for the project.

E. The Department shall conduct its review within five working days after receipt of the written determination and render its written recommendation within such five-working-day period. The written recommendation of the Department shall be maintained in the procurement file.

F. If a covered institution elects to proceed with the project using a construction management or design-build procurement method despite the recommendation of the Department to the contrary, such covered institution shall state in writing its reasons therefor and any justification for not following the recommendation of the Department and submit same to the Department. The written statement of a covered institution's decision to not follow the recommendation of the Department shall be maintained in the procurement file.

Article 4.

Procedures for Local Public Bodies.

**§ 2.2-4382. Design-build or construction management contracts for local public bodies authorized.**

A. Any local public body may enter into a contract for construction on a fixed price or not-to-exceed price construction management or design-build basis, provided that the local public body (i) complies with the requirements of this article and (ii) has by ordinance or resolution implemented procedures consistent with the procedures adopted by the Secretary of Administration for utilizing construction management or design-build contracts.

B. Prior to making a determination as to the use of construction management or design-build for a specific construction project, a local public body shall have in its employ or under contract a licensed architect or engineer with professional competence appropriate to the project who shall (i) advise such public body regarding the use of construction management or design-build for that project and (ii) assist such public body with the preparation of the Request for Proposal and the evaluation of such proposals.

C. A written determination shall be made in advance by the local public body that competitive sealed bidding is not practicable or fiscally advantageous, and such writing shall document the basis for the determination to utilize construction management or design-build. The determination shall be included in the Request for Qualifications and be maintained in the procurement file.

D. Procedures adopted by a local public body for construction management pursuant to this article shall include the following requirements:

1. Construction management contracts may be utilized for projects where the project cost is expected to be more than \$10 million;

2. Construction management may be utilized on projects where the project cost is expected to be less than \$10 million, provided that (i) the project is a complex project and (ii) the project procurement method is approved by the local governing body. The written approval of the governing body shall be maintained in the procurement file;

3. Public notice of the Request for Qualifications is posted on the Department's central electronic procurement website, known as eVA, at least 30 days prior to the date set for receipt of qualification proposals;

4. The construction management contract is entered into no later than the completion of the schematic phase of design, unless prohibited by authorization of funding restrictions;

5. Prior construction management or design-build experience or previous experience with the Department's Bureau of Capital Outlay Management shall not be required as a prerequisite for award of a contract. However, in the selection of a contractor, the local public body may consider the experience of each contractor on comparable projects;

6. Construction management contracts shall require that (i) no more than 10 percent of the construction work, as measured by the cost of the work, be performed by the construction manager with its own forces and (ii) the remaining 90 percent of the construction work, as measured by the cost of the work, be performed by subcontractors of the construction manager, which the construction manager shall procure by publicly advertised, competitive sealed bidding to the maximum extent practicable;

7. The procedures allow for a two-step competitive negotiation process; and

8. Price is a critical basis for award of the contract.

E. Procedures adopted by a local public body for design-build construction projects shall include a two-step competitive negotiation process consistent with the standards established by the Division of Engineering and Buildings of the Department for state public bodies.

Article 5.

Reporting Requirements for All Public Bodies.

**§ 2.2-4383. Reporting requirements.**

A. The Department shall report by December 1 of each year to the Governor and the Chairmen of the House Committee on Appropriations, the House Committee on General Laws, the Senate Committee on Finance, and the Senate Committee on General Laws and Technology the following information: (i) the number of projects reviewed pursuant to Articles 2 (§ 2.2-4380) and 3 (§ 2.2-4381) and (ii) for each project (a) the identity of the state public body or covered institution and a description of each such project, (b) the estimated cost of the project at the time of the Department's review, (c) the recommendation made by the Department concerning the proposed procurement method, and (d) the final procurement method used by the state public body or covered institution.

*B. All public bodies subject to the provisions of this chapter shall report no later than November 1 of each year to the Director of the Department on all completed capital projects in excess of \$2 million, which report shall include at a minimum (i) the procurement method utilized, (ii) the project budget, (iii) the actual project cost, (iv) the expected timeline, (v) the actual completion time, and (vi) any post-project issues.*

*The Department shall consolidate received report data and submit the consolidated data to the Governor and Chairmen of the House Committee on Appropriations and the Senate Committee on Finance by December 1 of each year.*

**§ 23.1-1002. Eligibility for restructured financial and administrative operational authority and financial benefits.**

A. The state goals for each public institution of higher education are to:

1. Consistent with its institutional mission, provide access to higher education for all citizens throughout the Commonwealth, including underrepresented populations, and consistent with subdivision 4 of § 23.1-203 and in accordance with anticipated demand analysis, meet enrollment projections and degree estimates as agreed upon with the Council. Each such institution shall bear a measure of responsibility for ensuring that the statewide demand for enrollment is met;

2. Consistent with § 23.1-306, ensure that higher education remains affordable, regardless of individual or family income, and through a periodic assessment determine the impact of tuition and fee levels net of financial aid on applications, enrollment, and student indebtedness incurred for the payment of tuition, mandatory fees, and other necessary charges;

3. Offer a broad range of undergraduate and, where appropriate, graduate programs consistent with its mission and assess regularly the extent to which the institution's curricula and degree programs address the Commonwealth's need for sufficient graduates in particular shortage areas, including specific academic disciplines, professions, and geographic regions;

4. Ensure that the institution's academic programs and course offerings maintain high academic standards by undertaking a continuous review and improvement of academic programs, course availability, faculty productivity, and other relevant factors;

5. Improve student retention so that students progress from initial enrollment to a timely graduation and the number of degrees conferred increases as enrollment increases;

6. Consistent with its institutional mission, develop articulation agreements that have uniform application to all comprehensive community colleges and meet appropriate general education and program requirements at the baccalaureate institution of higher education, provide additional opportunities for associate degree graduates to be admitted and enrolled, and offer dual enrollment programs in cooperation with high schools;

7. Actively contribute to efforts to stimulate the economic development of the Commonwealth and the area in which the institution is located, and for those institutions subject to a management agreement pursuant to Article 4 (§ 23.1-1004 et seq.), in areas with below-state average income levels and employment rates;

8. Consistent with its institutional mission, increase the level of externally funded research conducted at the institution and facilitate the transfer of technology from university research centers to private sector companies;

9. Work actively and cooperatively with public elementary and secondary school administrators, teachers, and students to improve student achievement, upgrade the knowledge and skills of teachers, and strengthen leadership skills of school administrators;

10. Prepare a six-year financial plan consistent with § 23.1-306;

11. Conduct the institution's business affairs in a manner that (i) helps maximize the operational efficiencies and economies of the institution and the Commonwealth and (ii) meets all financial and administrative management standards pursuant to § 23.1-1001 specified by the Governor and included in the current general appropriation act, which shall include best practices for electronic procurement and leveraged purchasing, information technology, real estate portfolio management, and diversity of suppliers through fair and reasonable consideration of small, women-owned, and minority-owned business enterprises; and

12. Seek to ensure the safety and security of students on campus.

B. Each public institution of higher education that meets the state goals set forth in subsection A on or after August 1, 2005, may:

1. Dispose of its surplus materials at the location where the surplus materials are held and retain any proceeds from such disposal as provided in subdivision B 14 of § 2.2-1124;

2. As provided in and pursuant to the conditions in subsection C of § 2.2-1132, contract with a building official of the locality in which construction is taking place and for such official to perform any inspection and certifications required to comply with the Uniform Statewide Building Code (§ 36-97 et seq.) pursuant to subsection C of § 36-98.1;

3. For each public institution of higher education that has in effect a signed memorandum of understanding with the Secretary of Administration regarding participation in the nongeneral fund decentralization program as set forth in the general appropriation act, as provided in subsection C of § 2.2-1132, enter into contracts for specific construction projects without the preliminary review and approval of the Division of Engineering and Buildings of the Department of General Services, provided that such institutions are in compliance with the requirements of the Virginia Public Procurement Act (§ 2.2-4300 et seq.) and utilize the general terms and conditions for those forms of procurement approved by the Division of Engineering and Buildings and the Office of the Attorney General;

4. Acquire easements as provided in subdivision 4 of § 2.2-1149;

5. Enter into an operating/income lease or capital lease pursuant to the conditions and provisions in subdivision 5 of § 2.2-1149;

6. Convey an easement pertaining to any property such institution owns or controls as provided in subsection C of § 2.2-1150;

7. In accordance with the conditions and provisions in subdivision C 2 of § 2.2-1153, sell surplus real property that is possessed and controlled by the institution and valued at less than \$5 million;

8. For purposes of compliance with § 2.2-4310, procure goods, services, and construction from a vendor that the institution has certified as a small, women-owned, or minority-owned business enterprise pursuant to the conditions and provisions in § 2.2-1609;

9. Be exempt from review of its budget request for information technology by the CIO as provided in subdivision B 3 of § 2.2-2007.1;

10. Adopt policies for the designation of administrative and professional faculty positions at the institution pursuant to the conditions and provisions in subsection E of § 2.2-2901;

11. Be exempt from reporting its purchases to the Secretary of Education, provided that all purchases, including sole source purchases, are placed through the Commonwealth's electronic procurement system using proper system codes for the methods of procurement; and

12. Utilize as methods of procurement a fixed price, design-build, or construction management contract ~~notwithstanding the provisions of § 2.2-4306 in compliance with the provisions of Chapter 43.1 (§ 2.2-4378 et seq.) of Title 2.2.~~

C. Each public institution of higher education that (i) has been certified during the fiscal year by the Council pursuant to § 23.1-206 as having met the institutional performance benchmarks for public institutions of higher education and (ii) meets the state goals set in subsection A shall receive the following financial benefits:

1. Interest on the tuition and fees and other nongeneral fund Educational and General Revenues deposited into the state treasury by the institution, as provided in the general appropriation act. Such interest shall be paid from the general fund and shall be an appropriate and equitable amount as determined and certified in writing by the Secretary of Finance to the Comptroller by the end of each fiscal year or as soon as practicable after the end of such fiscal year;

2. Any unexpended appropriations of the public institution of higher education at the end of the fiscal year, which shall be reappropriated and allotted for expenditure by the institution in the immediately following fiscal year;

3. A pro rata amount of the rebate due to the Commonwealth on credit card purchases of \$5,000 or less made during the fiscal year. The amount to be paid to each institution shall equal a pro rata share based upon its total transactions of \$5,000 or less using the credit card that is approved for use by all state agencies as compared to all transactions of \$5,000 or less using such card by all state agencies. The Comptroller shall determine the public institution's pro rata share and, as provided in the general appropriation act, shall pay the institution by August 15 of the fiscal year immediately following the year of certification or as soon as practicable after August 15 of such fiscal year. The payment to an institution of its pro rata share under this subdivision shall also be applicable to other rebate or refund programs in effect that are similar to that of the credit card rebate program described in this subdivision. The Secretary of Finance shall identify such other rebate or refund programs and shall determine the pro rata share to be paid to the institution; and

4. A rebate of any transaction fees for the prior fiscal year paid for sole source procurements made by the institution in accordance with subsection E of § 2.2-4303 for using a vendor that is not registered with the Department of General Services' web-based electronic procurement program commonly known as "eVA," as provided in the general appropriation act. Such rebate shall be certified by the Department of General Services and paid to each public institution by August 15 of the fiscal year immediately following the year of certification or as soon as practicable after August 15 of such fiscal year.

**§ 33.2-209. Construction and maintenance contracts and activities related to passenger and freight rail and public transportation.**

A. The Board shall have the power and duty to let all contracts to be administered by the Department of Transportation or the Department of Rail and Public Transportation for the construction, maintenance, and improvement of the highways comprising systems of state highways and for all activities related to passenger and freight rail and public transportation in excess of \$5 million. The Commissioner of Highways has authority to let all Department of Transportation-administered contracts for highway construction, maintenance, and improvements up to \$5 million in value. The Director of the Department of Rail and Public Transportation has the authority to let contracts for passenger and freight rail and public transportation improvements up to \$5 million in value. The Commissioner of Highways is authorized to enter into agreements with localities, authorities, and transportation districts to administer projects and to allow those localities, authorities, and transportation districts to let contracts with no limit on contract value and without prior concurrence of the Commissioner of Highways or the Board for highway construction, maintenance, and improvements within their jurisdictions, in accordance with those provisions of this Code providing those localities, authorities, and transportation districts the ability to let such contracts. The Director of the Department of Rail and Public Transportation is authorized to enter into agreements with localities, authorities, and transportation districts to administer projects and to allow those localities, authorities, and transportation districts to let contracts with no limit on contract value and without prior concurrence of the Director of the Department of Rail and Public Transportation or the Board for passenger and freight rail and public transportation activities within their jurisdictions, in accordance with those provisions of this Code providing those localities, authorities, and transportation districts the ability to let such contracts. The Commissioner of Highways and

the Director of the Department of Rail and Public Transportation shall report on their respective transportation contracting activities at least quarterly to the Board.

B. The Board may award contracts for the construction of transportation projects on a design-build basis. These contracts may be awarded after a written determination is made by the Commissioner of Highways or the Director of the Department of Rail and Public Transportation, pursuant to objective criteria previously adopted by the Board regarding the use of design-build, that delivery of the projects must be expedited and that it is not in the public interest to comply with the design and construction contracting procedures normally followed. Such objective criteria shall include requirements for prequalification of contractors and competitive bidding processes. These contracts shall be of such size and scope to encourage maximum competition and participation by agency prequalified and otherwise qualified contractors. Such determination shall be retained for public inspection in the official records of the Department of Transportation or the Department of Rail and Public Transportation, as the case may be, and shall include a description of the nature and scope of the project and the reasons for the Commissioner's or the Director's determination that awarding a design-build contract will best serve the public interest. A Request for Proposal for transportation projects to be delivered on a design-build basis pursuant to this section may allow for the submission and consideration of alternative technical concepts in accordance with the procedures set forth in such Request for Proposal. The provisions of this section shall supersede contrary provisions of subsection D of § 2.2-4303 and § 2.2-4306.

For the purposes of this subsection, "alternative technical concepts" means proposed changes to agency-supplied base design configurations, project scope, design, or construction criteria that provide a solution that is equal to or better than the requirements in the Request for Proposal.

C. The Board may award contracts for the provision of equipment, materials, and supplies to be used in construction of transportation projects on a fixed-price basis. Any such contract may provide that the price to be paid for the provision of equipment, materials, and supplies to be furnished in connection with the projects shall not be increased but shall remain fixed until completion of the projects specified in the contracts. Material components of any such contract for annual and multiyear programs, including maintenance, may be fixed at the outset of the projects and until completion based on best achievable prices.

**2. That §§ 2.2-4306, 2.2-4307, and 2.2-4308 of the Code of Virginia are repealed.**

**3. That the provisions of § 2.2-4383 of the Code of Virginia, as created by this act, shall apply to projects for which a public body as defined in this act has issued a Request for Qualifications on or after July 1, 2017.**

## CHAPTER 700

*An Act to amend and reenact §§ 46.2-301 and 46.2-395 of the Code of Virginia, relating to driving on a suspended or revoked license; period of suspension.*

[H 2467]

Approved March 24, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 46.2-301 and 46.2-395 of the Code of Virginia are amended and reenacted as follows:**

**§ 46.2-301. Driving while license, permit, or privilege to drive suspended or revoked.**

A. In addition to any other penalty provided by this section, any motor vehicle administratively impounded or immobilized under the provisions of § 46.2-301.1 may, in the discretion of the court, be impounded or immobilized for an additional period of up to 90 days upon conviction of an offender for driving while his driver's license, learner's permit, or privilege to drive a motor vehicle has been suspended or revoked for (i) a violation of § 18.2-36.1, 18.2-51.4, 18.2-266, 18.2-272, or 46.2-341.24 or a substantially similar ordinance or law in any other jurisdiction or (ii) driving after adjudication as an habitual offender, where such adjudication was based in whole or in part on an alcohol-related offense, or where such person's license has been administratively suspended under the provisions of § 46.2-391.2. However, if, at the time of the violation, the offender was driving a motor vehicle owned by another person, the court shall have no jurisdiction over such motor vehicle but may order the impoundment or immobilization of a motor vehicle owned solely by the offender at the time of arrest. All costs of impoundment or immobilization, including removal or storage expenses, shall be paid by the offender prior to the release of his motor vehicle.

B. Except as provided in §§ 46.2-304 and 46.2-357, no resident or nonresident (i) whose driver's license, learner's permit, or privilege to drive a motor vehicle has been suspended or revoked or (ii) who has been directed not to drive by any court or by the Commissioner, or (iii) who has been forbidden, as prescribed by operation of any statute of the Commonwealth or a substantially similar ordinance of any county, city or town, to operate a motor vehicle in the Commonwealth shall thereafter drive any motor vehicle or any self-propelled machinery or equipment on any highway in the Commonwealth until the period of such suspension or revocation has terminated or the privilege has been reinstated or a restricted license is issued pursuant to subsection E. A clerk's notice of suspension of license for failure to pay fines or costs given in accordance with § 46.2-395 shall be sufficient notice for the purpose of maintaining a conviction under this section. For the purposes of this section, the phrase "motor vehicle or any self-propelled machinery or equipment" shall not include mopeds.

C. A violation of subsection B is a Class 1 misdemeanor. A third or subsequent offense occurring within a 10-year period shall include a mandatory minimum term of confinement in jail of 10 days. However, the court shall not be required

to impose a mandatory minimum term of confinement in any case where a motor vehicle is operated in violation of this section in a situation of apparent extreme emergency which requires such operation to save life or limb.

D. Upon a violation of subsection B, the court shall suspend the person's license or privilege to drive a motor vehicle for the same period for which it had been previously suspended or revoked. In the event the person violated subsection B by driving during a period of suspension or revocation which was not for a definite period of time, the court shall suspend the person's license, permit or privilege to drive for an additional period not to exceed 90 days, to commence upon the expiration of the previous suspension or revocation or to commence immediately if the previous suspension or revocation has expired; *however, in the event that the person violated subsection B by driving during a period of suspension imposed pursuant to § 46.2-395, the additional 90-day suspension imposed pursuant to this subsection shall run concurrently with the suspension imposed pursuant to § 46.2-395 in accordance with subsection F of § 46.2-395.*

E. Any person who is otherwise eligible for a restricted license may petition each court that suspended his license pursuant to subsection D for authorization for a restricted license, provided that the period of time for which the license was suspended by the court pursuant to subsection D, if measured from the date of conviction, has expired, even though the suspension itself has not expired. A court may, for good cause shown, authorize the Department of Motor Vehicles to issue a restricted license for any of the purposes set forth in subsection E of § 18.2-271.1. No restricted license shall be issued unless each court that issued a suspension of the person's license pursuant to subsection D authorizes the Department to issue a restricted license. Any restricted license issued pursuant to this subsection shall be in effect until the expiration of any and all suspensions issued pursuant to subsection D, except that it shall automatically terminate upon the expiration, cancellation, suspension, or revocation of the person's license or privilege to drive for any other cause. No restricted license issued pursuant to this subsection shall permit a person to operate a commercial motor vehicle as defined in the Commercial Driver's License Act (§ 46.2-341.1 et seq.). The court shall forward to the Commissioner a copy of its authorization entered pursuant to this subsection, which shall specifically enumerate the restrictions imposed and contain such information regarding the person to whom such a license is issued as is reasonably necessary to identify the person. The court shall also provide a copy of its authorization to the person, who may not operate a motor vehicle until receipt from the Commissioner of a restricted license. A copy of the restricted license issued by the Commissioner shall be carried at all times while operating a motor vehicle.

F. Any person who operates a motor vehicle or any self-propelled machinery or equipment in violation of the terms of a restricted license issued pursuant to subsection E of § 18.2-271.1 is not guilty of a violation of this section but is guilty of a violation of § 18.2-272.

**§ 46.2-395. Suspension of license for failure or refusal to pay fines or costs.**

A. Any person, whether licensed by Virginia or not, who drives a motor vehicle on the highways in the Commonwealth shall thereby, as a condition of such driving, consent to pay all lawful fines, court costs, forfeitures, restitution, and penalties assessed against him for violations of the laws of the Commonwealth; of any county, city, or town; or of the United States. For the purpose of this section, such fines and costs shall be deemed to include any fee assessed by the court under the provisions of § 18.2-271.1 for entry by a person convicted of a violation of § 18.2-51.4 or 18.2-266 into an alcohol safety action program.

B. In addition to any penalty provided by law and subject to the limitations on collection under §§ 19.2-340 and 19.2-341, when any person is convicted of any violation of the law of the Commonwealth or of the United States or of any valid local ordinance and fails or refuses to provide for immediate payment in full of any fine, costs, forfeitures, restitution, or penalty lawfully assessed against him, or fails to make deferred payments or installment payments as ordered by the court, the court shall forthwith suspend the person's privilege to drive a motor vehicle on the highways in the Commonwealth. The driver's license of the person shall continue suspended until the fine, costs, forfeiture, restitution, or penalty has been paid in full. However, if the defendant, after having his license suspended, pays the reinstatement fee to the Department of Motor Vehicles and enters into an agreement under § 19.2-354 that is acceptable to the court to make deferred payments or installment payments of unpaid fines, costs, forfeitures, restitution, or penalties as ordered by the court, the defendant's driver's license shall thereby be restored. If the person has not obtained a license as provided in this chapter, or is a nonresident, the court may direct in the judgment of conviction that the person shall not drive any motor vehicle in Virginia for a period to coincide with the nonpayment of the amounts due.

C. Before transmitting to the Commissioner a record of the person's failure or refusal to pay all or part of any fine, costs, forfeiture, restitution, or penalty or a failure to comply with an order issued pursuant to § 19.2-354, the clerk of the court that convicted the person shall provide or cause to be sent to the person written notice of the suspension of his license or privilege to drive a motor vehicle in Virginia, effective 30 days from the date of conviction, if the fine, costs, forfeiture, restitution, or penalty is not paid prior to the effective date of the suspension as stated on the notice. Notice shall be provided to the person at the time of trial or shall be mailed by first-class mail to the address certified on the summons or bail recognizance document as the person's current mailing address, or to such mailing address as the person has subsequently provided to the court as a change of address. If so mailed on the date of conviction or within five business days thereof, or if delivered to the person at the time of trial, such notice shall be adequate notice of the license suspension and of the person's ability to avoid suspension by paying the fine, costs, forfeiture, restitution, or penalty prior to the effective date. No other notice shall be required to make the suspension effective. A record of the person's failure or refusal and of the license suspension shall be sent to the Commissioner if the fine, costs, forfeiture, restitution, or penalty remains unpaid on the effective date of the suspension specified in the notice or on the failure to make a scheduled payment.

C1. Whenever a person provides for payment of a fine, costs, forfeiture, restitution or penalty other than by cash and such provision for payment fails, the clerk of the court that convicted the person shall cause to be sent to the person written notice of the failure and of the suspension of his license or privilege to drive in Virginia. The license suspension shall be effective 10 days from the date of the notice. The notice shall be effective notice of the suspension and of the person's ability to avoid the suspension by paying the full amount owed by cash, cashier's check or certified check prior to the effective date of the suspension if the notice is mailed by first class mail to the address provided by the person to the court pursuant to subsection C or § 19.2-354. Upon such a failure of payment and notice, the fine, costs, forfeiture, restitution or penalty due shall be paid only in cash, cashier's check or certified check, unless otherwise ordered by the court, for good cause shown.

D. If the person pays the amounts assessed against him subsequent to the time the suspended license has been transmitted to the Department, and his license is not under suspension or revocation for any other lawful reason, except pursuant to this section, then the Commissioner shall return the license to the person on presentation of the official report of the court evidencing the payment of the fine, costs, forfeiture, restitution, or penalty.

E. Any person otherwise eligible for a restricted license may petition each court that suspended his license pursuant to this section for authorization for a restricted license. A court may, upon written verification of employment and for good cause shown, authorize the Department of Motor Vehicles to issue a restricted license to operate a motor vehicle for any of the purposes set forth in subsection E of § 18.2-271.1. No restricted license may be issued unless each court which suspended the person's license pursuant to this section provides authorization for a restricted license. Such restricted license shall not be issued for more than a six-month period. No restricted license issued pursuant to this subsection shall permit a person to operate a commercial motor vehicle as defined in the Commercial Driver's License Act (§ 46.2-341.1 et seq.).

The court shall forward to the Commissioner a copy of its authorization entered pursuant to this section, which shall specifically enumerate the restrictions imposed and contain such information regarding the person to whom such a license is issued as is reasonably necessary to identify the person. The court shall also provide a copy of its authorization to the person, who may not operate a motor vehicle until receipt from the Commissioner of a restricted license. A copy of the restricted license issued by the Commissioner shall be carried at all times while operating a motor vehicle. Any person who operates a motor vehicle in violation of any restrictions imposed pursuant to this section shall be punished as provided in subsection C of § 46.2-301.

*F. Notwithstanding any other provision of law imposing a license suspension, revocation, or forfeiture against a person whose license is suspended pursuant to this section, the period of suspension imposed under this section shall run concurrently with any other license suspension, revocation, or forfeiture imposed.*

## CHAPTER 701

*An Act to amend and reenact § 18.2-271.1 of the Code of Virginia, relating to the issuance of a restricted driver's license for traveling to a job interview.*

[S 817]

Approved March 24, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 18.2-271.1 of the Code of Virginia is amended and reenacted as follows:**

**§ 18.2-271.1. Probation, education, and rehabilitation of person charged or convicted; person convicted under law of another state or federal law.**

A. Any person convicted of a first or second offense of § 18.2-266, or any ordinance of a county, city, or town similar to the provisions thereof, or provisions of subsection A of § 46.2-341.24, shall be required by court order, as a condition of probation or otherwise, to enter into and successfully complete an alcohol safety action program in the judicial district in which such charge is brought or in any other judicial district upon such terms and conditions as the court may set forth. However, upon motion of a person convicted of any such offense following an assessment of the person conducted by an alcohol safety action program, the court, for good cause, may decline to order participation in such a program if the assessment by the alcohol safety action program indicates that intervention is not appropriate for such person. In no event shall such persons be permitted to enter any such program which is not certified as meeting minimum standards and criteria established by the Commission on the Virginia Alcohol Safety Action Program (VASAP) pursuant to this section and to § 18.2-271.2. However, any person charged with a violation of a first or second offense of § 18.2-266, or any ordinance of a county, city, or town similar to the provisions thereof, or provisions of subsection A of § 46.2-341.24, may, at any time prior to trial, enter into an alcohol safety action program in the judicial district in which such charge is brought or in any other judicial district. Any person who enters into such program prior to trial may pre-qualify with the program to have an ignition interlock system installed on any motor vehicle owned or operated by him. However, no ignition interlock company shall install an ignition interlock system on any such vehicle until a court issues to the person a restricted license with the ignition interlock restriction.

B. The court shall require the person entering such program under the provisions of this section to pay a fee of no less than \$250 but no more than \$300. A reasonable portion of such fee, as may be determined by the Commission on VASAP, but not to exceed 10 percent, shall be forwarded monthly to be deposited with the State Treasurer for expenditure by the Commission on VASAP, and the balance shall be held in a separate fund for local administration of driver alcohol

rehabilitation programs. Upon a positive finding that the defendant is indigent, the court may reduce or waive the fee. In addition to the costs of the proceeding, fees as may reasonably be required of defendants referred for intervention under any such program may be charged.

C. Upon conviction of a violation of § 18.2-266 or any ordinance of a county, city or town similar to the provisions thereof, or subsection A of § 46.2-341.24, the court shall impose the sentence authorized by § 18.2-270 or 46.2-341.28 and the license revocation as authorized by § 18.2-271. In addition, if the conviction was for a second offense committed within less than 10 years after a first such offense, the court shall order that restoration of the person's license to drive be conditioned upon the installation of an ignition interlock system on each motor vehicle, as defined in § 46.2-100, owned by or registered to the person, in whole or in part, for a period of six months beginning at the end of the three year license revocation, unless such a system has already been installed for six months prior to that time pursuant to a restricted license order under subsection E of this section. Upon a finding that a person so convicted is required to participate in the program described herein, the court shall enter the conviction on the warrant, and shall note that the person so convicted has been referred to such program. The court may then proceed to issue an order in accordance with subsection E of this section, if the court finds that the person so convicted is eligible for a restricted license. If the court finds good cause for a person not to participate in such program or subsequently that such person has violated, without good cause, any of the conditions set forth by the court in entering the program, the court shall dispose of the case as if no program had been entered, in which event the revocation provisions of § 46.2-389 and subsection A of § 46.2-391 shall be applicable to the conviction. The court shall, upon final disposition of the case, send a copy of its order to the Commissioner of the Department of Motor Vehicles. If such order provides for the issuance of a restricted license, the Commissioner of the Department of Motor Vehicles, upon receipt thereof, shall issue a restricted license. Appeals from any such disposition shall be allowed as provided by law. The time within which an appeal may be taken shall be calculated from the date of the final disposition of the case or any motion for rehearing, whichever is later.

D. Any person who has been convicted under the law of another state or the United States of an offense substantially similar to the provisions of § 18.2-266 or subsection A of § 46.2-341.24, and whose privilege to operate a motor vehicle in this Commonwealth is subject to revocation under the provisions of § 46.2-389 and subsection A of § 46.2-391, may petition the general district court of the county or city in which he resides that he be given probation and assigned to a program as provided in subsection A of this section and that, upon entry into such program, he be issued an order in accordance with subsection E of this section. If the court finds that such person would have qualified therefor if he had been convicted in this Commonwealth of a violation of § 18.2-266 or subsection A of § 46.2-341.24, the court may grant the petition and may issue an order in accordance with subsection E of this section as to the period of license suspension or revocation imposed pursuant to § 46.2-389 or subsection A of § 46.2-391. The court shall, as a condition of a restricted license, prohibit such person from operating a motor vehicle that is not equipped with a functioning certified ignition interlock system for a period of time not to exceed the period of license suspension and restriction, not less than six consecutive months without alcohol-related violations of interlock requirements. Such order shall be conditioned upon the successful completion of a program by the petitioner. If the court subsequently finds that such person has violated any of the conditions set forth by the court, the court shall dispose of the case as if no program had been entered and shall notify the Commissioner, who shall revoke the person's license in accordance with the provisions of § 46.2-389 or subsection A of § 46.2-391. A copy of the order granting the petition or subsequently revoking or suspending such person's license to operate a motor vehicle shall be forthwith sent to the Commissioner of the Department of Motor Vehicles.

No period of license suspension or revocation shall be imposed pursuant to this subsection which, when considered together with any period of license suspension or revocation previously imposed for the same offense under the law of another state or the United States, results in such person's license being suspended for a period in excess of the maximum periods specified in this subsection.

E. Except as otherwise provided herein, whenever a person enters a certified program pursuant to this section, and such person's license to operate a motor vehicle, engine or train in the Commonwealth has been suspended or revoked, the court may, in its discretion and for good cause shown, provide that such person be issued a restricted permit to operate a motor vehicle for any of the following purposes: (i) travel to and from his place of employment; (ii) travel to and from an alcohol rehabilitation or safety action program; (iii) travel during the hours of such person's employment if the operation of a motor vehicle is a necessary incident of such employment; (iv) travel to and from school if such person is a student, upon proper written verification to the court that such person is enrolled in a continuing program of education; (v) travel for health care services, including medically necessary transportation of an elderly parent or, as designated by the court, any person residing in the person's household with a serious medical problem upon written verification of need by a licensed health professional; (vi) travel necessary to transport a minor child under the care of such person to and from school, day care, and facilities housing medical service providers; (vii) travel to and from court-ordered visitation with a child of such person; (viii) travel to a screening, evaluation and education program entered pursuant to § 18.2-251 or subsection H of § 18.2-258.1; (ix) travel to and from court appearances in which he is a subpoenaed witness or a party and appointments with his probation officer and to and from any programs required by the court or as a condition of probation; (x) travel to and from a place of religious worship one day per week at a specified time and place; (xi) travel to and from appointments approved by the Division of Child Support Enforcement of the Department of Social Services as a requirement of participation in an administrative or court-ordered intensive case monitoring program for child support for which the participant maintains written proof of the appointment, including written proof of the date and time of the appointment, on

his person; (xii) travel to and from jail to serve a sentence when such person has been convicted and sentenced to confinement in jail and pursuant to § 53.1-131.1 the time to be served is on weekends or nonconsecutive days; ~~or~~ (xiii) travel to and from the facility that installed or monitors the ignition interlock in the person's vehicle; *or (xiv) travel to and from a job interview for which he maintains on his person written proof from the prospective employer of the date, time, and location of the job interview.* No restricted license issued pursuant to this subsection shall permit any person to operate a commercial motor vehicle as defined in the Virginia Commercial Driver's License Act (§ 46.2-341.1 et seq.). The court shall order the surrender of such person's license to operate a motor vehicle to be disposed of in accordance with the provisions of § 46.2-398 and shall forward to the Commissioner of the Department of Motor Vehicles a copy of its order entered pursuant to this subsection, which shall specifically enumerate the restrictions imposed and contain such information regarding the person to whom such a permit is issued as is reasonably necessary to identify such person. The court shall also provide a copy of its order to the person so convicted who may operate a motor vehicle on the order until receipt from the Commissioner of the Department of Motor Vehicles of a restricted license, if the order provides for a restricted license for that time period. A copy of such order and, after receipt thereof, the restricted license shall be carried at all times while operating a motor vehicle. Any person who operates a motor vehicle in violation of any restrictions imposed pursuant to this section shall be guilty of a violation of § 18.2-272. Such restricted license shall be conditioned upon enrollment within 15 days in, and successful completion of, a program as described in subsection A of this section. No restricted license shall be issued during the first four months of a revocation imposed pursuant to subsection B of § 18.2-271 or subsection A of § 46.2-391 for a second offense of the type described therein committed within 10 years of a first such offense. No restricted license shall be issued during the first year of a revocation imposed pursuant to subsection B of § 18.2-271 or subsection A of § 46.2-391 for a second offense of the type described therein committed within five years of a first such offense. No restricted license shall be issued during any revocation period imposed pursuant to subsection C of § 18.2-271 or subsection B of § 46.2-391. Notwithstanding the provisions of § 46.2-411, the fee charged pursuant to § 46.2-411 for reinstatement of the driver's license of any person whose privilege or license has been suspended or revoked as a result of a violation of § 18.2-266, subsection A of § 46.2-341.24 or of any ordinance of a county, city or town, or of any federal law or the laws of any other state similar to the provisions of § 18.2-266 or subsection A of § 46.2-341.24 shall be \$105. Forty dollars of such reinstatement fee shall be retained by the Department of Motor Vehicles as provided in § 46.2-411, \$40 shall be transferred to the Commission on VASAP, and \$25 shall be transferred to the Commonwealth Neurotrauma Initiative Trust Fund.

F. The court shall have jurisdiction over any person entering such program under any provision of this section until such time as the case has been disposed of by either successful completion of the program, or revocation due to ineligibility or violation of a condition or conditions imposed by the court, whichever shall first occur. Revocation proceedings shall be commenced by notice to show cause why the court should not revoke the privilege afforded by this section. Such notice shall be made by first-class mail to the last known address of such person, and shall direct such person to appear before the court in response thereto on a date contained in such notice, which shall not be less than 10 days from the date of mailing of the notice. Failure to appear in response to such notice shall of itself be grounds for revocation of such privilege. Notice of revocation under this subsection shall be sent forthwith to the Commissioner of the Department of Motor Vehicles.

G. For the purposes of this section, any court which has convicted a person of a violation of § 18.2-266, subsection A of § 46.2-341.24 or any ordinance of a county, city or town similar to the provisions of § 18.2-266 shall have continuing jurisdiction over such person during any period of license revocation related to that conviction, for the limited purposes of (i) referring such person to a certified alcohol safety action program, (ii) providing for a restricted permit for such person in accordance with the provisions of subsection E, and (iii) imposing terms, conditions and limitations for actions taken pursuant to clauses (i) and (ii), whether or not it took either such action at the time of the conviction. This continuing jurisdiction is subject to the limitations of subsection E that provide that no restricted license shall be issued during a revocation imposed pursuant to subsection C of § 18.2-271 or subsection B of § 46.2-391 or during the first four months or first year, whichever is applicable, of the revocation imposed pursuant to subsection B of § 18.2-271 or subsection A of § 46.2-391. The provisions of this subsection shall apply to a person convicted of a violation of § 18.2-266, subsection A of § 46.2-341.24 or any ordinance of a county, city or town similar to the provisions of § 18.2-266 on, after and at any time prior to July 1, 2003.

H. The State Treasurer, the Commission on VASAP or any city or county is authorized to accept any gifts or bequests of money or property, and any grant, loan, service, payment or property from any source, including the federal government, for the purpose of driver alcohol education. Any such gifts, bequests, grants, loans or payments shall be deposited in the separate fund provided in subsection B.

I. The Commission on VASAP, or any county, city, town, or any combination thereof may establish and, if established, shall operate, in accordance with the standards and criteria required by this subsection, alcohol safety action programs in connection with highway safety. Each such program shall operate under the direction of a local independent policy board chosen in accordance with procedures approved and promulgated by the Commission on VASAP. Local sitting or retired district court judges who regularly hear or heard cases involving driving under the influence and are familiar with their local alcohol safety action programs may serve on such boards. The Commission on VASAP shall establish minimum standards and criteria for the implementation and operation of such programs and shall establish procedures to certify all such programs to ensure that they meet the minimum standards and criteria stipulated by the Commission. The Commission shall also establish criteria for the administration of such programs for public information activities, for accounting procedures,

for the auditing requirements of such programs and for the allocation of funds. Funds paid to the Commonwealth hereunder shall be utilized in the discretion of the Commission on VASAP to offset the costs of state programs and local programs run in conjunction with any county, city or town and costs incurred by the Commission. The Commission shall submit an annual report as to actions taken at the close of each calendar year to the Governor and the General Assembly.

J. Notwithstanding any other provisions of this section or of § 18.2-271, nothing in this section shall permit the court to suspend, reduce, limit, or otherwise modify any disqualification from operating a commercial motor vehicle imposed under the provisions of the Virginia Commercial Driver's License Act (§ 46.2-341.1 et seq.).

**CHAPTER 702**

*An Act to amend and reenact § 2.2-3802 of the Code of Virginia, relating to the Government Data Collection and Dissemination Practices Act; exemption for sheriff's departments.*

[S 1061]

Approved March 24, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 2.2-3802 of the Code of Virginia is amended and reenacted as follows:**

**§ 2.2-3802. Systems to which chapter inapplicable.**

The provisions of this chapter shall not apply to personal information systems:

1. Maintained by any court of the Commonwealth;
2. Which may exist in publications of general circulation;
3. Contained in the Criminal Justice Information System as defined in §§ 9.1-126 through 9.1-137 or in the Sex Offender and Crimes Against Minors Registry maintained by the Department of State Police pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1, except to the extent that information is required to be posted on the Internet pursuant to § 9.1-913;
4. Contained in the Virginia Juvenile Justice Information System as defined in §§ 16.1-222 through 16.1-225;
5. Maintained by agencies concerning persons required by law to be licensed in the Commonwealth to engage in the practice of any profession, in which case the names and addresses of persons applying for or possessing the license may be disseminated upon written request to a person engaged in the profession or business of offering professional educational materials or courses for the sole purpose of providing the licensees or applicants for licenses with informational materials relating solely to available professional educational materials or courses, provided the disseminating agency is reasonably assured that the use of the information will be so limited;
6. (Effective until July 1, 2018) Maintained by the Parole Board, the Crime Commission, the Judicial Inquiry and Review Commission, the Virginia Racing Commission, and the Department of Alcoholic Beverage Control;
6. (Effective July 1, 2018) Maintained by the Parole Board, the Crime Commission, the Judicial Inquiry and Review Commission, the Virginia Racing Commission, and the Virginia Alcoholic Beverage Control Authority;
7. Maintained by ~~the~~ any of the following and that deal with investigations and intelligence gathering related to criminal activity:
  - a. The Department of State Police; ~~the~~
  - b. The police department of the Chesapeake Bay Bridge and Tunnel Commission; ~~police~~
  - c. Police departments of cities, counties, and towns; ~~and the campus~~
  - d. Sheriff's departments of counties and cities; and
  - e. Campus police departments of public institutions of higher education as established by Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; ~~and that deal with investigations and intelligence gathering relating to criminal activity; and maintained~~
8. Maintained by local departments of social services regarding alleged cases of child abuse or neglect while such cases are also subject to an ongoing criminal prosecution;
- ~~8-~~ 9. Maintained by the Virginia Port Authority as provided in § 62.1-132.4 or 62.1-134.1;
- ~~9-~~ 10. Maintained by the Virginia Tourism Authority in connection with or as a result of the promotion of travel or tourism in the Commonwealth, in which case names and addresses of persons requesting information on those subjects may be disseminated upon written request to a person engaged in the business of providing travel services or distributing travel information, provided the Virginia Tourism Authority is reasonably assured that the use of the information will be so limited;
- ~~10-~~ 11. Maintained by the Division of Consolidated Laboratory Services of the Department of General Services and the Department of Forensic Science, which deal with scientific investigations relating to criminal activity or suspected criminal activity, except to the extent that § 9.1-1104 may apply;
- ~~11-~~ 12. Maintained by the Department of Corrections or the Office of the State Inspector General that deal with investigations and intelligence gathering by persons acting under the provisions of Chapter 3.2 (§ 2.2-307 et seq.);
- ~~12-~~ 13. Maintained by (i) the Office of the State Inspector General or internal audit departments of state agencies or institutions that deal with communications and investigations relating to the Fraud, Waste and Abuse Hotline or (ii) an

auditor appointed by the local governing body of any county, city, or town or a school board that deals with local investigations required by § 15.2-2511.2;

~~13- 14.~~ Maintained by the Department of Social Services or any local department of social services relating to public assistance fraud investigations; and

~~14- 15.~~ Maintained by the Department of Social Services related to child welfare, adult services or adult protective services, or public assistance programs when requests for personal information are made to the Department of Social Services. Requests for information from these systems shall be made to the appropriate local department of social services, which is the custodian of that record. Notwithstanding the language in this section, an individual shall not be prohibited from obtaining information from the central registry in accordance with the provisions of § 63.2-1515.

**2. That an emergency exists and this act is in force from its passage.**

### CHAPTER 703

*An Act to amend and reenact §§ 18.2-251, 18.2-259.1, and 46.2-390.1 of the Code of Virginia, relating to marijuana offenses; driver's license forfeiture.*

[S 1091]

Approved March 24, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 18.2-251, 18.2-259.1, and 46.2-390.1 of the Code of Virginia are amended and reenacted as follows:**

**§ 18.2-251. Persons charged with first offense may be placed on probation; conditions; substance abuse screening, assessment treatment and education programs or services; drug tests; costs and fees; violations; discharge.**

Whenever any person who has not previously been convicted of any offense under this article or under any statute of the United States or of any state relating to narcotic drugs, marijuana, or stimulant, depressant, or hallucinogenic drugs, or has not previously had a proceeding against him for violation of such an offense dismissed as provided in this section, pleads guilty to or enters a plea of not guilty to possession of a controlled substance under § 18.2-250 or to possession of marijuana under § 18.2-250.1, the court, upon such plea if the facts found by the court would justify a finding of guilt, without entering a judgment of guilt and with the consent of the accused, may defer further proceedings and place him on probation upon terms and conditions.

As a term or condition, the court shall require the accused to undergo a substance abuse assessment pursuant to § 18.2-251.01 or 19.2-299.2, as appropriate, and enter treatment and/or education program or services, if available, such as, in the opinion of the court, may be best suited to the needs of the accused based upon consideration of the substance abuse assessment. The program or services may be located in the judicial district in which the charge is brought or in any other judicial district as the court may provide. The services shall be provided by (i) a program licensed by the Department of Behavioral Health and Developmental Services, by a similar program which is made available through the Department of Corrections, (ii) a local community-based probation services agency established pursuant to § 9.1-174, or (iii) an ASAP program certified by the Commission on VASAP.

The court shall require the person entering such program under the provisions of this section to pay all or part of the costs of the program, including the costs of the screening, assessment, testing, and treatment, based upon the accused's ability to pay unless the person is determined by the court to be indigent.

As a condition of probation, the court shall require the accused ~~(i)~~ (a) to successfully complete treatment or education program or services, ~~(ii)~~ (b) to remain drug and alcohol free during the period of probation and submit to such tests during that period as may be necessary and appropriate to determine if the accused is drug and alcohol free, ~~(iii)~~ (c) to make reasonable efforts to secure and maintain employment, and ~~(iv)~~ (d) to comply with a plan of at least 100 hours of community service for a felony and up to 24 hours of community service for a misdemeanor. *In addition to any community service required by the court pursuant to clause (d), if the court does not suspend or revoke the accused's license as a term or condition of probation for a violation of § 18.2-250.1, the court shall require the accused to comply with a plan of 50 hours of community service.* Such testing shall be conducted by personnel of the supervising probation agency or personnel of any program or agency approved by the supervising probation agency.

The court shall, unless done at arrest, order the accused to report to the original arresting law-enforcement agency to submit to fingerprinting.

Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the terms and conditions, the court shall discharge the person and dismiss the proceedings against him. Discharge and dismissal under this section shall be without adjudication of guilt and is a conviction only for the purposes of applying this section in subsequent proceedings.

Notwithstanding any other provision of this section, whenever a court places an individual on probation upon terms and conditions pursuant to this section, such action shall be treated as a conviction for purposes of §§ 18.2-259.1, 22.1-315, and 46.2-390.1, and the driver's license forfeiture provisions of those sections shall be imposed. *However, if the court places an individual on probation upon terms and conditions for a violation of § 18.2-250.1, such action shall not be treated as a conviction for purposes of § 18.2-259.1 or 46.2-390.1, provided that a court (1) may suspend or revoke an individual's*

driver's license as a term or condition of probation and (2) shall suspend or revoke an individual's driver's license as a term or condition of probation for a period of six months if the violation of § 18.2-250.1 was committed while such person was in operation of a motor vehicle. The provisions of this paragraph shall not be applicable to any offense for which a juvenile has had his license suspended or denied pursuant to § 16.1-278.9 for the same offense.

**§ 18.2-259.1. Forfeiture of driver's license for violations of article.**

A. In addition to any other sanction or penalty imposed for a violation of this article, the (i) judgment of conviction under this article or (ii) placement on probation following deferral of further proceedings under § 18.2-251, *except if the proceeding was for possession of marijuana pursuant to § 18.2-250.1*, or subsection H of § 18.2-258.1 for any such offense shall of itself operate to deprive the person so convicted or placed on probation after deferral of proceedings under § 18.2-251 or subsection H of § 18.2-258.1 of the privilege to drive or operate a motor vehicle, engine, or train in the Commonwealth for a period of six months from the date of such judgment or placement on probation. Such license forfeiture shall be in addition to and shall run consecutively with any other license suspension, revocation or forfeiture in effect or imposed upon the person so convicted or placed on probation. However, a juvenile who has had his license suspended or denied pursuant to § 16.1-278.9 shall not have his license forfeited pursuant to this section for the same offense.

B. The court trying the case shall order any person so convicted or placed on probation to surrender his driver's license to be disposed of in accordance with the provisions of § 46.2-398 and shall notify the Department of Motor Vehicles of any such conviction entered and of the license forfeiture to be imposed.

C. In those cases where the court determines there are compelling circumstances warranting an exception, the court may provide that any individual be issued a restricted license to operate a motor vehicle for any of the purposes set forth in subsection E of § 18.2-271.1. No restricted license issued pursuant to this subsection shall permit any person to operate a commercial motor vehicle as defined in the Virginia Commercial Driver's License Act (§ 46.2-341.1 et seq.). The court shall order the surrender of such person's license in accordance with the provisions of subsection B and shall forward to the Commissioner of the Department of Motor Vehicles a copy of its order entered pursuant to this subsection. This order shall specifically enumerate the restrictions imposed and contain such information regarding the person to whom such a permit is issued as is reasonably necessary to identify such person. The court shall also provide a copy of its order to such person who may operate a motor vehicle on the order until receipt from the Commissioner of the Department of Motor Vehicles of a restricted license, but only if the order provides for a restricted license for that period. A copy of the order and, after receipt thereof, the restricted license shall be carried at all times by such person while operating a motor vehicle. The court may require a person issued a restricted permit under the provisions of this subsection to be monitored by an alcohol safety action program during the period of license suspension. Any violation of the terms of the restricted license or of any condition set forth by the court related thereto, or any failure to remain drug-free during such period shall be reported forthwith to the court by such program. Any person who operates a motor vehicle in violation of any restriction imposed pursuant to this section shall be guilty of a violation of § 46.2-301.

**§ 46.2-390.1. Required revocation for conviction of drug offenses or deferral of proceedings.**

A. Except as otherwise ordered pursuant to § 18.2-259.1, the Commissioner shall forthwith revoke, and not thereafter reissue for six months from the later of (i) the date of conviction or deferral of proceedings under § 18.2-251, *unless the deferral was for proceedings for possession of marijuana pursuant to § 18.2-250.1*, or (ii) the next date of eligibility to be licensed, the driver's license, registration card, and license plates of any resident or nonresident on receiving notification of ~~(i)~~ (a) his conviction, ~~(ii)~~ (b) his having been found guilty in the case of a juvenile, or ~~(iii)~~ (c) the deferral of further proceedings against him under § 18.2-251 for any violation of any provisions of Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, *unless the proceedings were for possession of marijuana pursuant to § 18.2-250.1*, or of any state or federal law or valid county, city or town ordinance, or a law of any other state substantially similar to provisions of such Virginia laws. Such license revocation shall be in addition to and shall run consecutively with any other license suspension, revocation or forfeiture in effect against such person.

B. Any person whose license has been revoked pursuant to this section and § 18.2-259.1 shall be subject to the provisions of §§ 46.2-370 and 46.2-414 and shall be required to pay a reinstatement fee as provided in § 46.2-411 in order to have his license restored.

**2. That the provisions of this act are contingent upon receipt by the Virginia Department of Transportation of written assurance from the Federal Highway Administration of the U.S. Department of Transportation that Virginia will not lose any federal funds as a result of the implementation of this act.**

**CHAPTER 704**

*An Act to amend and reenact §§ 2.2-4301, 2.2-4303, 2.2-4305, 2.2-4343, 2.2-4345, 23.1-1002, and 33.2-209 of the Code of Virginia; to amend the Code of Virginia by adding in Title 2.2 a chapter numbered 43.1, containing articles numbered 1 through 5, consisting of sections numbered 2.2-4378 through 2.2-4383; and to repeal §§ 2.2-4306, 2.2-4307, and 2.2-4308 of the Code of Virginia, relating to procurement by public bodies; requirements for use of construction management and design-build contracts.*

[S 1129]

Approved March 24, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 2.2-4301, 2.2-4303, 2.2-4305, 2.2-4343, 2.2-4345, 23.1-1002, and 33.2-209 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Title 2.2 a chapter numbered 43.1, containing articles numbered 1 through 5, consisting of sections numbered 2.2-4378 through 2.2-4383, as follows:**

**§ 2.2-4301. Definitions.**

As used in this chapter:

"Affiliate" means an individual or business that controls, is controlled by, or is under common control with another individual or business. A person controls an entity if the person owns, directly or indirectly, more than 10 percent of the voting securities of the entity. For the purposes of this definition "voting security" means a security that (i) confers upon the holder the right to vote for the election of members of the board of directors or similar governing body of the business or (ii) is convertible into, or entitles the holder to receive, upon its exercise, a security that confers such a right to vote. A general partnership interest shall be deemed to be a voting security.

"Best value," as predetermined in the solicitation, means the overall combination of quality, price, and various elements of required services that in total are optimal relative to a public body's needs.

"Business" means any type of corporation, partnership, limited liability company, association, or sole proprietorship operated for profit.

"Competitive negotiation" is the method of contractor selection set forth in § 2.2-4302.2.

"Competitive sealed bidding" is the method of contractor selection set forth in § 2.2-4302.1.

"Construction" means building, altering, repairing, improving or demolishing any structure, building or highway, and any draining, dredging, excavation, grading or similar work upon real property.

"Construction management contract" means ~~a contract in which a party is retained by the owner to coordinate and administer contracts for construction services for the benefit of the owner, and may also include, if provided in the contract, the furnishing of construction services to the owner~~ *the same as that term is defined in § 2.2-4379.*

"Design-build contract" means ~~a contract between a public body and another party in which the party contracting with the public body agrees to both design and build the structure, roadway or other item specified in the contract~~ *the same as that term is defined in § 2.2-4379.*

"Employment services organization" means an organization that provides employment services to individuals with disabilities that is an approved Commission on the Accreditation of Rehabilitation Facilities (CARF) accredited vendor of the Department for Aging and Rehabilitative Services.

"Goods" means all material, equipment, supplies, printing, and automated data processing hardware and software.

"Informality" means a minor defect or variation of a bid or proposal from the exact requirements of the Invitation to Bid, or the Request for Proposal, which does not affect the price, quality, quantity or delivery schedule for the goods, services or construction being procured.

"Job order contracting" means a method of procuring construction by establishing a book of unit prices and then obtaining a contractor to perform work as needed using the prices, quantities, and specifications in the book as the basis of its pricing. The contractor may be selected through either competitive sealed bidding or competitive negotiation depending on the needs of the public body procuring the construction services. A minimum amount of work may be specified in the contract. The contract term and the project amount shall not exceed the limitations specified in § ~~2.2-4303 or~~ 2.2-4303.2.

"Multiphase professional services contract" means a contract for the providing of professional services where the total scope of work of the second or subsequent phase of the contract cannot be specified without the results of the first or prior phase of the contract.

"Nonprofessional services" means any services not specifically identified as professional services in the definition of professional services.

"Potential bidder or offeror," for the purposes of §§ 2.2-4360 and 2.2-4364, means a person who, at the time a public body negotiates and awards or proposes to award a contract, is engaged in the sale or lease of goods, or the sale of services, insurance or construction, of the type to be procured under the contract, and who at such time is eligible and qualified in all respects to perform that contract, and who would have been eligible and qualified to submit a bid or proposal had the contract been procured through competitive sealed bidding or competitive negotiation.

"Professional services" means work performed by an independent contractor within the scope of the practice of accounting, actuarial services, architecture, land surveying, landscape architecture, law, dentistry, medicine, optometry, pharmacy or professional engineering. "Professional services" shall also include the services of an economist procured by the State Corporation Commission.

"Public body" means any legislative, executive or judicial body, agency, office, department, authority, post, commission, committee, institution, board or political subdivision created by law to exercise some sovereign power or to perform some governmental duty, and empowered by law to undertake the activities described in this chapter. "Public body" shall include (i) any independent agency of the Commonwealth, and (ii) any metropolitan planning organization or planning district commission which operates exclusively within the Commonwealth of Virginia.

"Public contract" means an agreement between a public body and a nongovernmental source that is enforceable in a court of law.

"Responsible bidder" or "offeror" means a person who has the capability, in all respects, to perform fully the contract requirements and the moral and business integrity and reliability that will assure good faith performance, and who has been prequalified, if required.

"Responsive bidder" means a person who has submitted a bid that conforms in all material respects to the Invitation to Bid.

"Reverse auctioning" means a procurement method wherein bidders are invited to bid on specified goods or nonprofessional services through real-time electronic bidding, with the award being made to the lowest responsive and responsible bidder. During the bidding process, bidders' prices are revealed and bidders shall have the opportunity to modify their bid prices for the duration of the time period established for bid opening.

"Services" means any work performed by an independent contractor wherein the service rendered does not consist primarily of acquisition of equipment or materials, or the rental of equipment, materials and supplies.

**§ 2.2-4303. Methods of procurement.**

A. All public contracts with nongovernmental contractors for the purchase or lease of goods, or for the purchase of services, insurance, or construction, shall be awarded after competitive sealed bidding, or competitive negotiation as provided in this section, unless otherwise authorized by law.

B. Professional services shall be procured by competitive negotiation.

C. *Goods, services other than professional services, and insurance may be procured by competitive sealed bidding or competitive negotiation.*

Upon a written determination made in advance by (i) the Governor or his designee in the case of a procurement by the Commonwealth or by a department, agency or institution thereof or (ii) the local governing body in the case of a procurement by a political subdivision of the Commonwealth, that competitive negotiation is either not practicable or not fiscally advantageous, insurance may be procured through a licensed agent or broker selected in the manner provided for the procurement of things other than professional services set forth in § 2.2-4302.2. The basis for this determination shall be documented in writing.

D. Construction may be procured only by competitive sealed bidding, except that competitive negotiation may be used in the following instances ~~upon a determination made in advance by the public body and set forth in writing that competitive sealed bidding is either not practicable or not fiscally advantageous to the public, which writing shall document the basis for this determination:~~

1. ~~By the Commonwealth, its departments, agencies and institutions~~ *any public body* on a fixed price design-build basis or construction management basis ~~under § 2.2-4306 as provided in Chapter 43.1 (§ 2.2-4378 et seq.); or~~

2. ~~By any public body for the construction of highways and any draining, dredging, excavation, grading or similar work upon real property;~~ *upon a determination made in advance by the public body and set forth in writing that competitive sealed bidding is either not practicable or not fiscally advantageous to the public, which writing shall document the basis for this determination.*

3. ~~By any governing body of a locality with a population in excess of 100,000, provided that the locality has the personnel, procedures, and expertise to enter into a contract for construction on a fixed price or not-to-exceed price design-build or construction management basis and shall otherwise be in compliance with the provisions of this section; § 2.2-4308, and other applicable law governing design-build or construction management contracts for public bodies other than the Commonwealth. The procedures of the local governing body shall be consistent with the two-step competitive negotiation process established in § 2.2-4302.2; or~~

4. ~~As otherwise provided in § 2.2-4308.~~

E. Upon a determination in writing that there is only one source practicably available for that which is to be procured, a contract may be negotiated and awarded to that source without competitive sealed bidding or competitive negotiation. The writing shall document the basis for this determination. The public body shall issue a written notice stating that only one source was determined to be practicably available, and identifying that which is being procured, the contractor selected, and the date on which the contract was or will be awarded. This notice shall be posted on the Department of General Services' central electronic procurement website or other appropriate websites, and in addition, public bodies may publish in a newspaper of general circulation on the day the public body awards or announces its decision to award the contract, whichever occurs first. Posting on the Department of General Services' central electronic procurement website shall be required of any state public body. Local public bodies are encouraged to utilize the Department of General Services' central electronic procurement website to provide the public with centralized visibility and access to the Commonwealth's procurement opportunities.

F. In case of emergency, a contract may be awarded without competitive sealed bidding or competitive negotiation; however, such procurement shall be made with such competition as is practicable under the circumstances. A written determination of the basis for the emergency and for the selection of the particular contractor shall be included in the contract file. The public body shall issue a written notice stating that the contract is being awarded on an emergency basis, and identifying that which is being procured, the contractor selected, and the date on which the contract was or will be awarded. This notice shall be posted on the Department of General Services' central electronic procurement website or other appropriate websites, and in addition, public bodies may publish in a newspaper of general circulation on the day the public body awards or announces its decision to award the contract, whichever occurs first, or as soon thereafter as is practicable. Posting on the Department of General Services' central electronic procurement website shall be required of any state public

body. Local public bodies are encouraged to utilize the Department of General Services' central electronic procurement website to provide the public with centralized visibility and access to the Commonwealth's procurement opportunities.

G. A public body may establish purchase procedures, if adopted in writing, not requiring competitive sealed bids or competitive negotiation for single or term contracts for:

1. Goods and services other than professional services and non-transportation-related construction, if the aggregate or the sum of all phases is not expected to exceed \$100,000; and
2. Transportation-related construction, if the aggregate or sum of all phases is not expected to exceed \$25,000.

However, such small purchase procedures shall provide for competition wherever practicable.

Such purchase procedures may allow for single or term contracts for professional services without requiring competitive negotiation, provided the aggregate or the sum of all phases is not expected to exceed \$60,000.

Where small purchase procedures are adopted for construction, the procedures shall not waive compliance with the Uniform State Building Code.

For state public bodies, purchases under this subsection that are expected to exceed \$30,000 shall require the (a) written informal solicitation of a minimum of four bidders or offerors and (b) posting of a public notice on the Department of General Services' central electronic procurement website or other appropriate websites. Posting on the Department of General Services' central electronic procurement website shall be required of any state public body. Local public bodies are encouraged to utilize the Department of General Services' central electronic procurement website to provide the public with centralized visibility and access to the Commonwealth's procurement opportunities.

H. Upon a determination made in advance by a public body and set forth in writing that the purchase of goods, products or commodities from a public auction sale is in the best interests of the public, such items may be purchased at the auction, including online public auctions. Purchase of information technology and telecommunications goods and nonprofessional services from a public auction sale shall be permitted by any authority, department, agency, or institution of the Commonwealth if approved by the Chief Information Officer of the Commonwealth. The writing shall document the basis for this determination. However, bulk purchases of commodities used in road and highway construction and maintenance, and aggregates shall not be made by online public auctions.

I. The purchase of goods or nonprofessional services, but not construction or professional services, may be made by reverse auctioning. However, bulk purchases of commodities used in road and highway construction and maintenance, and aggregates shall not be made by reverse auctioning.

**§ 2.2-4305. Competitive procurement by localities on state-aid projects.**

No contract for the construction of any building or for an addition to or improvement of an existing building by any local governing body or subdivision thereof for which state funds of not more than \$50,000 in the aggregate or for the sum of all phases of a contract or project either by appropriation, grant-in-aid or loan, are used or are to be used for all or part of the cost of construction shall be let except after competitive sealed bidding or after competitive negotiation as provided under subsection D of § 2.2-4303 or *Chapter 43.1* (§ 2.2-4378 *et seq.*). The procedure for the advertising for bids or for proposals and for letting of the contract shall conform, *mutatis mutandis*, to this chapter.

**§ 2.2-4343. Exemption from operation of chapter for certain transactions.**

A. The provisions of this chapter shall not apply to:

1. The Virginia Port Authority in the exercise of any of its powers in accordance with Chapter 10 (§ 62.1-128 *et seq.*) of Title 62.1, provided the Authority implements, by policy or regulation adopted by the Board of Commissioners, procedures to ensure fairness and competitiveness in the procurement of goods and services and in the administration of its capital outlay program. This exemption shall be applicable only so long as such policies and procedures meeting the requirements remain in effect.

2. The Virginia Retirement System for selection of services related to the management, purchase or sale of authorized investments, actuarial services, and disability determination services. Selection of these services shall be governed by the standard set forth in § 51.1-124.30.

3. The State Treasurer in the selection of investment management services related to the external management of funds shall be governed by the standard set forth in § 2.2-4514, and shall be subject to competitive guidelines and policies that are set by the Commonwealth Treasury Board and approved by the Department of General Services.

4. The Department of Social Services or local departments of social services for the acquisition of motor vehicles for sale or transfer to Temporary Assistance to Needy Families (TANF) recipients.

5. The College of William and Mary in Virginia, Virginia Commonwealth University, the University of Virginia, and Virginia Polytechnic Institute and State University in the selection of services related to the management and investment of their endowment funds, endowment income, gifts, all other nongeneral fund reserves and balances, or local funds of or held by the College or Universities pursuant to § 23.1-2210, 23.1-2306, 23.1-2604, or 23.1-2803. However, selection of these services shall be governed by the Uniform Prudent Management of Institutional Funds Act (§ 64.2-1100 *et seq.*) as required by §§ 23.1-2210, 23.1-2306, 23.1-2604, and 23.1-2803.

6. The Board of the Virginia College Savings Plan for the selection of services related to the operation and administration of the Plan, including, but not limited to, contracts or agreements for the management, purchase, or sale of authorized investments or actuarial, record keeping, or consulting services. However, such selection shall be governed by the standard set forth in § 23.1-706.

7. Public institutions of higher education for the purchase of items for resale at retail bookstores and similar retail outlets operated by such institutions. However, such purchase procedures shall provide for competition where practicable.

8. The purchase of goods and services by agencies of the legislative branch that may be specifically exempted therefrom by the Chairman of the Committee on Rules of either the House of Delegates or the Senate. Nor shall the contract review provisions of § 2.2-2012 apply to such procurements. The exemption shall be in writing and kept on file with the agency's disbursement records.

9. Any town with a population of less than 3,500, except as stipulated in the provisions of §§ 2.2-4305, ~~2.2-4308~~, 2.2-4311, 2.2-4315, 2.2-4330, 2.2-4333 through 2.2-4338, 2.2-4343.1, and 2.2-4367 through 2.2-4377 and Chapter 43.1 (§ 2.2-4378 et seq.).

10. Any county, city or town whose governing body has adopted, by ordinance or resolution, alternative policies and procedures which are (i) based on competitive principles and (ii) generally applicable to procurement of goods and services by such governing body and its agencies, except as stipulated in subdivision 12.

This exemption shall be applicable only so long as such policies and procedures, or other policies and procedures meeting the requirements of § 2.2-4300, remain in effect in such county, city or town. Such policies and standards may provide for incentive contracting that offers a contractor whose bid is accepted the opportunity to share in any cost savings realized by the locality when project costs are reduced by such contractor, without affecting project quality, during construction of the project. The fee, if any, charged by the project engineer or architect for determining such cost savings shall be paid as a separate cost and shall not be calculated as part of any cost savings.

11. Any school division whose school board has adopted, by policy or regulation, alternative policies and procedures that are (i) based on competitive principles and (ii) generally applicable to procurement of goods and services by the school board, except as stipulated in subdivision 12.

This exemption shall be applicable only so long as such policies and procedures, or other policies or procedures meeting the requirements of § 2.2-4300, remain in effect in such school division. This provision shall not exempt any school division from any centralized purchasing ordinance duly adopted by a local governing body.

12. Notwithstanding the exemptions set forth in subdivisions 9 through 11, the provisions of subsections C and D of § 2.2-4303, and §§ 2.2-4305, ~~2.2-4308~~, 2.2-4311, 2.2-4315, 2.2-4317, 2.2-4330, 2.2-4333 through 2.2-4338, 2.2-4343.1, and 2.2-4367 through 2.2-4377, and Chapter 43.1 (§ 2.2-4378 et seq.) shall apply to all counties, cities, and school divisions, and to all towns having a population greater than 3,500 in the Commonwealth.

The method for procurement of professional services through competitive negotiation set forth in §§ 2.2-4303.1 and 2.2-4303.2 shall also apply to all counties, cities and school divisions, and to all towns having a population greater than 3,500, where the cost of the professional service is expected to exceed \$60,000 in the aggregate or for the sum of all phases of a contract or project. A school board that makes purchases through its public school foundation or purchases educational technology through its educational technology foundation, either as may be established pursuant to § 22.1-212.2:2 shall be exempt from the provisions of this chapter, except, relative to such purchases, the school board shall comply with the provisions of §§ 2.2-4311 and 2.2-4367 through 2.2-4377.

13. A public body that is also a utility operator may purchase services through or participate in contracts awarded by one or more utility operators that are not public bodies for utility marking services as required by the Underground Utility Damage Prevention Act (§ 56-265.14 et seq.). A purchase of services under this subdivision may deviate from the procurement procedures set forth in this chapter upon a determination made in advance by the public body and set forth in writing that competitive sealed bidding is either not practicable or not fiscally advantageous to the public, and the contract is awarded based on competitive principles.

14. Procurement of any construction or planning and design services for construction by a Virginia nonprofit corporation or organization not otherwise specifically exempted when (i) the planning, design or construction is funded by state appropriations of \$10,000 or less or (ii) the Virginia nonprofit corporation or organization is obligated to conform to procurement procedures that are established by federal statutes or regulations, whether those federal procedures are in conformance with the provisions of this chapter.

15. Purchases, exchanges, gifts or sales by the Citizens' Advisory Council on Furnishing and Interpreting the Executive Mansion.

16. The Eastern Virginia Medical School in the selection of services related to the management and investment of its endowment and other institutional funds. The selection of these services shall, however, be governed by the Uniform Prudent Management of Institutional Funds Act (§ 64.2-1100 et seq.).

17. The Department of Corrections in the selection of pre-release and post-incarceration services.

18. The University of Virginia Medical Center to the extent provided by subdivision A 3 of § 23.1-2213.

19. The purchase of goods and services by a local governing body or any authority, board, department, instrumentality, institution, agency or other unit of state government when such purchases are made under a remedial plan established by the Governor pursuant to subsection C of § 2.2-4310 or by a chief administrative officer of a county, city or town pursuant to § 15.2-965.1.

20. The contract by community services boards or behavioral health authorities with an administrator or management body pursuant to a joint agreement authorized by § 37.2-512 or 37.2-615.

21. [Expired].

22. The purchase of Virginia-grown food products for use by a public body where the annual cost of the product is not expected to exceed \$100,000.

B. Where a procurement transaction involves the expenditure of federal assistance or contract funds, the receipt of which is conditioned upon compliance with mandatory requirements in federal laws or regulations not in conformance with the provisions of this chapter, a public body may comply with such federal requirements, notwithstanding the provisions of this chapter, only upon the written determination of the Governor, in the case of state agencies, or the governing body, in the case of political subdivisions, that acceptance of the grant or contract funds under the applicable conditions is in the public interest. Such determination shall state the specific provision of this chapter in conflict with the conditions of the grant or contract.

**§ 2.2-4345. Exemptions from competitive sealed bidding and competitive negotiation for certain transactions; limitations.**

A. The following public bodies may enter into contracts without competitive sealed bidding or competitive negotiation:

1. The Director of the Department of Medical Assistance Services for special services provided for eligible recipients pursuant to subsection H of § 32.1-325, provided that the Director has made a determination in advance after reasonable notice to the public and set forth in writing that competitive sealed bidding or competitive negotiation for such services is not fiscally advantageous to the public, or would constitute an imminent threat to the health or welfare of such recipients. The writing shall document the basis for this determination.

2. The State Health Commissioner for the compilation, storage, analysis, evaluation, and publication of certain data submitted by health care providers and for the development of a methodology to measure the efficiency and productivity of health care providers pursuant to Chapter 7.2 (§ 32.1-276.2 et seq.) of Title 32.1, if the Commissioner has made a determination in advance, after reasonable notice to the public and set forth in writing, that competitive sealed bidding or competitive negotiation for such services is not fiscally advantageous to the public. The writing shall document the basis for this determination. Such agreements and contracts shall be based on competitive principles.

3. The Virginia Code Commission when procuring the services of a publisher, pursuant to §§ 30-146 and 30-148, to publish the Code of Virginia or the Virginia Administrative Code.

4. (Effective until July 1, 2018) The Department of Alcoholic Beverage Control for the purchase of alcoholic beverages.

4. (Effective July 1, 2018) The Virginia Alcoholic Beverage Control Authority for the purchase of alcoholic beverages.

5. The Department for Aging and Rehabilitative Services, for the administration of elder rights programs, with (i) nonprofit Virginia corporations granted tax-exempt status under § 501(c)(3) of the Internal Revenue Code with statewide experience in Virginia in conducting a state long-term care ombudsman program or (ii) designated area agencies on aging.

6. The Department of Health for (a) child restraint devices, pursuant to § 46.2-1097; (b) health care services with Virginia corporations granted tax-exempt status under § 501(c)(3) of the Internal Revenue Code and operating as clinics for the indigent and uninsured that are organized for the delivery of primary health care services in a community (i) as federally qualified health centers designated by the Health Care Financing Administration or (ii) at a reduced or sliding fee scale or without charge; or (c) contracts with laboratories providing cytology and related services if competitive sealed bidding and competitive negotiations are not fiscally advantageous to the public to provide quality control as prescribed in writing by the Commissioner of Health.

7. Virginia Correctional Enterprises, when procuring materials, supplies, or services for use in and support of its production facilities, provided the procurement is accomplished using procedures that ensure as efficient use of funds as practicable and, at a minimum, includes obtaining telephone quotations. Such procedures shall require documentation of the basis for awarding contracts under this section.

8. The Virginia Baseball Stadium Authority for the operation of any facilities developed under the provisions of Chapter 58 (§ 15.2-5800 et seq.) of Title 15.2, including contracts or agreements with respect to the sale of food, beverages and souvenirs at such facilities.

9. With the consent of the Governor, the Jamestown-Yorktown Foundation for the promotion of tourism through marketing with private entities provided a demonstrable cost savings, as reviewed by the Secretary of Education, can be realized by the Foundation and such agreements or contracts are based on competitive principles.

10. The Chesapeake Hospital Authority in the exercise of any power conferred under Chapter 271, as amended, of the Acts of Assembly of 1966, provided that it does not discriminate against any person on the basis of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, or disability in the procurement of goods and services.

11. Richmond Eye and Ear Hospital Authority, any authorities created under Chapter 53 (§ 15.2-5300 et seq.) of Title 15.2 and any hospital or health center commission created under Chapter 52 (§ 15.2-5200 et seq.) of Title 15.2 in the exercise of any power conferred under their respective authorizing legislation, provided that these entities shall not discriminate against any person on the basis of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, or disability in the procurement of goods and services.

12. The Patrick Hospital Authority sealed in the exercise of any power conferred under the Acts of Assembly of 2000, provided that it does not discriminate against any person on the basis of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, or disability in the procurement of goods and services.

13. Public bodies for insurance or electric utility services if purchased through an association of which it is a member if the association was formed and is maintained for the purpose of promoting the interest and welfare of and developing close relationships with similar public bodies, provided such association has procured the insurance or electric utility services by use of competitive principles and provided that the public body has made a determination in advance after reasonable notice to the public and set forth in writing that competitive sealed bidding and competitive negotiation are not fiscally advantageous to the public. The writing shall document the basis for this determination.

14. Public bodies administering public assistance and social services programs as defined in § 63.2-100, community services boards as defined in § 37.2-100, or any public body purchasing services under the Children's Services Act (§ 2.2-5200 et seq.) or the Virginia Juvenile Community Crime Control Act (§ 16.1-309.2 et seq.) for goods or personal services for direct use by the recipients of such programs if the procurement is made for an individual recipient. Contracts for the bulk procurement of goods or services for the use of recipients shall not be exempted from the requirements of § 2.2-4303.

15. The Eastern Virginia Medical School in the exercise of any power conferred pursuant to Chapter 471, as amended, of the Acts of Assembly of 1964.

B. No contract for the construction of any building or for an addition to or improvement of an existing building by any local government or subdivision of local government for which state funds of not more than \$50,000 in the aggregate or for the sum of all phases of a contract or project either by appropriation, grant-in-aid or loan, are used or are to be used for all or part of the cost of construction shall be let except after competitive sealed bidding or after competitive negotiation as provided under subsection D of § 2.2-4303 or Chapter 43.1 (§ 2.2-4378 et seq.). The procedure for the advertising for bids or for proposals and for letting of the contract shall conform, mutatis mutandis, to this chapter.

CHAPTER 43.1.

CONSTRUCTION MANAGEMENT AND DESIGN-BUILD CONTRACTING.

Article 1.

General Provisions.

**§ 2.2-4378. Purpose; applicability.**

A. The purpose of this chapter is to enunciate the public policies pertaining to governmental procurement of construction utilizing the construction management and design-build procurement methods. Notwithstanding any other provision of law, the Commonwealth may enter into contracts on a fixed price design-build basis or construction management basis in accordance with the provisions of this chapter and § 2.2-1502.

B. Except as provided in subsection C, this chapter shall apply regardless of the source of financing, whether it is general fund, nongeneral fund, federal trust fund, state debt, or institutional debt.

C. The following shall be exempt from the provisions of this chapter:

1. Projects of a covered institution that are to be funded exclusively by a foundation that (i) exists for the primary purpose of supporting the covered institution and (ii) is exempt from taxation under § 501(c)(3) of the Internal Revenue Code; and

2. Transportation construction projects procured and awarded by the Commonwealth Transportation Board pursuant to subsection B of § 33.2-209.

D. The provisions of this chapter shall supplement the provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq.), which provisions shall remain applicable. In the event of any conflict between this chapter and the Virginia Public Procurement Act (§ 2.2-4300 et seq.), the Restructured Higher Education Financial and Administrative Operations Act of 2005 (§ 23.1-1000 et seq.), or any other provision of law, this chapter shall control.

**§ 2.2-4379. Definitions.**

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

"Complex project" means a construction project that includes one or more of the following significant components: difficult site location, unique equipment, specialized building systems, multifaceted program, accelerated schedule, historic designation, or intricate phasing or some other aspect that makes competitive sealed bidding not practical.

"Construction management contract" means a contract in which a party is retained by the owner to coordinate and administer contracts for construction services for the benefit of the owner and may also include, if provided in the contract, the furnishing of construction services to the owner.

"Covered institution" means a public institution of higher education operating (i) subject to a management agreement set forth in Article 4 (§ 23.1-1004 et seq.) of Chapter 10 of Title 23.1, (ii) under a memorandum of understanding pursuant to § 23.1-1003, or (iii) under the pilot program authorized in the appropriation act.

"Department" means the Department of General Services.

"Design-build contract" means a contract between a public body and another party in which the party contracting with the public body agrees to both design and build the structure, or other item specified in the contract.

"Public body" means the same as that term is defined in § 2.2-4301.

"State public body" means any authority, board, department, instrumentality, agency, or other unit of state government. "State public body" does not include any covered institution; any county, city, or town; or any local or regional governmental authority.

Article 2.

Procedures for State Public Bodies.

**§ 2.2-4380. Construction management or design-build contracts for state public bodies authorized.**

A. Any state public body may enter into a contract for construction on a fixed price or not-to-exceed price construction management or design-build basis, provided that such public body complies with the requirements of this article and the procedures adopted by the Secretary of Administration for using construction management or design-build contracts.

B. Procedures adopted by a state public body pursuant to this article shall include the following requirements:

1. A written determination is made in advance by the state public body that competitive sealed bidding is not practicable or fiscally advantageous, and such writing shall document the basis for the determination to use construction management or design-build. The determination shall be included in the Request for Qualifications and maintained in the procurement file;

2. Prior to making a determination as to the use of construction management or design-build for a specific construction project, a state public body shall have in its employ or under contract a licensed architect or engineer with professional competence appropriate to the project who shall (i) advise the public body regarding the use of construction management or design-build for that project and (ii) assist the public body with the preparation of the Request for Proposal and the evaluation of such proposals;

3. Public notice of the Request for Qualifications is posted on the Department's central electronic procurement website, known as eVA, at least 30 days prior to the date set for receipt of qualification proposals;

4. For construction management contracts, the contract is entered into no later than the completion of the schematic phase of design, unless prohibited by authorization of funding restrictions;

5. Prior construction management or design-build experience or previous experience with the Department's Bureau of Capital Outlay Management shall not be required as a prerequisite for award of a contract. However, in the selection of a contractor, a state public body may consider the experience of each contractor on comparable projects;

6. Construction management contracts shall require that (i) no more than 10 percent of the construction work, as measured by the cost of the work, be performed by the construction manager with its own forces and (ii) the remaining 90 percent of the construction work, as measured by the cost of the work, be performed by subcontractors of the construction manager, which the construction manager shall procure by publicly advertised, competitive sealed bidding to the maximum extent practicable; and

7. The procedures allow for a two-step competitive negotiation process.

C. The Department shall evaluate the proposed procurement method selected by the state public body and make its recommendation as to whether the use of the construction management or design-build procurement method is appropriate for the specific project. In its review, the Department shall also consider:

1. The written determination of the state public body;

2. The compliance by the state public body with subdivisions B 1, 2, and 7;

3. The project cost, expected timeline, and use;

4. Whether the project is a complex project; and

5. Any other criteria established by the Department to evaluate the proposed procurement method for the project.

D. The Department shall conduct its review within five working days after receipt of the written determination and render its written recommendation within such five-working-day period. The written recommendation of the Department shall be maintained in the procurement file.

E. If a state public body elects to proceed with the project using a construction management or design-build procurement method despite the recommendation of the Department to the contrary, such state public body shall state in writing its reasons therefor and any justification for not following the recommendation of the Department and submit same to the Department. The written statement of a state public body's decision to not follow the recommendation of the Department shall be maintained in the procurement file.

### Article 3.

#### Procedures for Covered Institutions.

**§ 2.2-4381. Construction management or design-build contracts for covered institutions authorized.**

A. Any covered institution may enter into a contract for construction on a fixed price or not-to-exceed price construction management or design-build basis, provided that such institution complies with the requirements of this article and with the procedures adopted by the Secretary of Administration for using construction management or design-build contracts.

B. Covered institutions shall:

1. Develop procedures for determining the selected procurement method which, at a minimum, shall consider cost, schedule, complexity, and building use;

2. Submit such procedures, and any subsequent changes to adopted procedures, to the Department for review and comment; and

3. Submit Department-reviewed procedures to its board of visitors for adoption.

C. Procedures adopted by a board of visitors pursuant to this article shall include the following requirements:

1. A written determination is made in advance by the covered institution that competitive sealed bidding is not practicable or fiscally advantageous, and such writing shall document the basis for the determination to use construction management or design-build. The determination shall be included in the Request for Qualifications and maintained in the procurement file;

2. Prior to making a determination as to the use of construction management or design-build for a specific construction project, a covered institution shall have in its employ or under contract a licensed architect or engineer with professional competence appropriate to the project who shall (i) advise the covered institution regarding the use of construction management or design-build for that project and (ii) assist the covered institution with the preparation of the Request for Proposal and the evaluation of such proposals;

3. Public notice of the Request for Qualifications is posted on the Department's central electronic procurement website, known as eVA, at least 30 days prior to the date set for receipt of qualification proposals;

4. For construction management contracts, the contract is entered into no later than the completion of the schematic phase of design, unless prohibited by authorization of funding restrictions;

5. Prior construction management or design-build experience or previous experience with the Department's Bureau of Capital Outlay Management shall not be required as a prerequisite for award of a contract. However, in the selection of a contractor, a covered institution may consider the experience of each contractor on comparable projects;

6. Construction management contracts shall require that (i) no more than 10 percent of the construction work, as measured by the cost of the work, be performed by the construction manager with its own forces and (ii) the remaining 90 percent of the construction work, as measured by the cost of the work, be performed by subcontractors of the construction manager, which the construction manager shall procure by publicly advertised, competitive sealed bidding to the maximum extent practicable; and

7. The procedures allow for a two-step competitive negotiation process.

D. The Department shall evaluate the proposed procurement method selected by a covered institution and make its recommendation as to whether the use of the construction management or design-build procurement method is appropriate for the specific project. In its review, the Department shall also consider:

1. The written determination of the covered institution;
2. The compliance by the covered institution with subdivisions C 1, 2, and 7;
3. The project cost, expected timeline, and use;
4. Whether the project is a complex project; and
5. Any other criteria established by the Department to evaluate the proposed procurement method for the project.

E. The Department shall conduct its review within five working days after receipt of the written determination and render its written recommendation within such five-working-day period. The written recommendation of the Department shall be maintained in the procurement file.

F. If a covered institution elects to proceed with the project using a construction management or design-build procurement method despite the recommendation of the Department to the contrary, such covered institution shall state in writing its reasons therefor and any justification for not following the recommendation of the Department and submit same to the Department. The written statement of a covered institution's decision to not follow the recommendation of the Department shall be maintained in the procurement file.

#### Article 4.

##### Procedures for Local Public Bodies.

#### **§ 2.2-4382. Design-build or construction management contracts for local public bodies authorized.**

A. Any local public body may enter into a contract for construction on a fixed price or not-to-exceed price construction management or design-build basis, provided that the local public body (i) complies with the requirements of this article and (ii) has by ordinance or resolution implemented procedures consistent with the procedures adopted by the Secretary of Administration for utilizing construction management or design-build contracts.

B. Prior to making a determination as to the use of construction management or design-build for a specific construction project, a local public body shall have in its employ or under contract a licensed architect or engineer with professional competence appropriate to the project who shall (i) advise such public body regarding the use of construction management or design-build for that project and (ii) assist such public body with the preparation of the Request for Proposal and the evaluation of such proposals.

C. A written determination shall be made in advance by the local public body that competitive sealed bidding is not practicable or fiscally advantageous, and such writing shall document the basis for the determination to utilize construction management or design-build. The determination shall be included in the Request for Qualifications and be maintained in the procurement file.

D. Procedures adopted by a local public body for construction management pursuant to this article shall include the following requirements:

1. Construction management contracts may be utilized for projects where the project cost is expected to be more than \$10 million;
2. Construction management may be utilized on projects where the project cost is expected to be less than \$10 million, provided that (i) the project is a complex project and (ii) the project procurement method is approved by the local governing body. The written approval of the governing body shall be maintained in the procurement file;
3. Public notice of the Request for Qualifications is posted on the Department's central electronic procurement website, known as eVA, at least 30 days prior to the date set for receipt of qualification proposals;
4. The construction management contract is entered into no later than the completion of the schematic phase of design, unless prohibited by authorization of funding restrictions;

5. Prior construction management or design-build experience or previous experience with the Department's Bureau of Capital Outlay Management shall not be required as a prerequisite for award of a contract. However, in the selection of a contractor, the local public body may consider the experience of each contractor on comparable projects;

6. Construction management contracts shall require that (i) no more than 10 percent of the construction work, as measured by the cost of the work, be performed by the construction manager with its own forces and (ii) the remaining 90 percent of the construction work, as measured by the cost of the work, be performed by subcontractors of the construction manager, which the construction manager shall procure by publicly advertised, competitive sealed bidding to the maximum extent practicable;

7. The procedures allow for a two-step competitive negotiation process; and

8. Price is a critical basis for award of the contract.

E. Procedures adopted by a local public body for design-build construction projects shall include a two-step competitive negotiation process consistent with the standards established by the Division of Engineering and Buildings of the Department for state public bodies.

#### Article 5.

##### Reporting Requirements for All Public Bodies.

##### § 2.2-4383. Reporting requirements.

A. The Department shall report by December 1 of each year to the Governor and the Chairmen of the House Committee on Appropriations, the House Committee on General Laws, the Senate Committee on Finance, and the Senate Committee on General Laws and Technology the following information: (i) the number of projects reviewed pursuant to Articles 2 (§ 2.2-4380) and 3 (§ 2.2-4381) and (ii) for each project (a) the identity of the state public body or covered institution and a description of each such project, (b) the estimated cost of the project at the time of the Department's review, (c) the recommendation made by the Department concerning the proposed procurement method, and (d) the final procurement method used by the state public body or covered institution.

B. All public bodies subject to the provisions of this chapter shall report no later than November 1 of each year to the Director of the Department on all completed capital projects in excess of \$2 million, which report shall include at a minimum (i) the procurement method utilized, (ii) the project budget, (iii) the actual project cost, (iv) the expected timeline, (v) the actual completion time, and (vi) any post-project issues.

The Department shall consolidate received report data and submit the consolidated data to the Governor and Chairmen of the House Committee on Appropriations and the Senate Committee on Finance by December 1 of each year.

##### § 23.1-1002. Eligibility for restructured financial and administrative operational authority and financial benefits.

A. The state goals for each public institution of higher education are to:

1. Consistent with its institutional mission, provide access to higher education for all citizens throughout the Commonwealth, including underrepresented populations, and consistent with subdivision 4 of § 23.1-203 and in accordance with anticipated demand analysis, meet enrollment projections and degree estimates as agreed upon with the Council. Each such institution shall bear a measure of responsibility for ensuring that the statewide demand for enrollment is met;

2. Consistent with § 23.1-306, ensure that higher education remains affordable, regardless of individual or family income, and through a periodic assessment determine the impact of tuition and fee levels net of financial aid on applications, enrollment, and student indebtedness incurred for the payment of tuition, mandatory fees, and other necessary charges;

3. Offer a broad range of undergraduate and, where appropriate, graduate programs consistent with its mission and assess regularly the extent to which the institution's curricula and degree programs address the Commonwealth's need for sufficient graduates in particular shortage areas, including specific academic disciplines, professions, and geographic regions;

4. Ensure that the institution's academic programs and course offerings maintain high academic standards by undertaking a continuous review and improvement of academic programs, course availability, faculty productivity, and other relevant factors;

5. Improve student retention so that students progress from initial enrollment to a timely graduation and the number of degrees conferred increases as enrollment increases;

6. Consistent with its institutional mission, develop articulation agreements that have uniform application to all comprehensive community colleges and meet appropriate general education and program requirements at the baccalaureate institution of higher education, provide additional opportunities for associate degree graduates to be admitted and enrolled, and offer dual enrollment programs in cooperation with high schools;

7. Actively contribute to efforts to stimulate the economic development of the Commonwealth and the area in which the institution is located, and for those institutions subject to a management agreement pursuant to Article 4 (§ 23.1-1004 et seq.), in areas with below-state average income levels and employment rates;

8. Consistent with its institutional mission, increase the level of externally funded research conducted at the institution and facilitate the transfer of technology from university research centers to private sector companies;

9. Work actively and cooperatively with public elementary and secondary school administrators, teachers, and students to improve student achievement, upgrade the knowledge and skills of teachers, and strengthen leadership skills of school administrators;

10. Prepare a six-year financial plan consistent with § 23.1-306;
11. Conduct the institution's business affairs in a manner that (i) helps maximize the operational efficiencies and economies of the institution and the Commonwealth and (ii) meets all financial and administrative management standards pursuant to § 23.1-1001 specified by the Governor and included in the current general appropriation act, which shall include best practices for electronic procurement and leveraged purchasing, information technology, real estate portfolio management, and diversity of suppliers through fair and reasonable consideration of small, women-owned, and minority-owned business enterprises; and
  12. Seek to ensure the safety and security of students on campus.
- B. Each public institution of higher education that meets the state goals set forth in subsection A on or after August 1, 2005, may:
  1. Dispose of its surplus materials at the location where the surplus materials are held and retain any proceeds from such disposal as provided in subdivision B 14 of § 2.2-1124;
  2. As provided in and pursuant to the conditions in subsection C of § 2.2-1132, contract with a building official of the locality in which construction is taking place and for such official to perform any inspection and certifications required to comply with the Uniform Statewide Building Code (§ 36-97 et seq.) pursuant to subsection C of § 36-98.1;
  3. For each public institution of higher education that has in effect a signed memorandum of understanding with the Secretary of Administration regarding participation in the nongeneral fund decentralization program as set forth in the general appropriation act, as provided in subsection C of § 2.2-1132, enter into contracts for specific construction projects without the preliminary review and approval of the Division of Engineering and Buildings of the Department of General Services, provided that such institutions are in compliance with the requirements of the Virginia Public Procurement Act (§ 2.2-4300 et seq.) and utilize the general terms and conditions for those forms of procurement approved by the Division of Engineering and Buildings and the Office of the Attorney General;
  4. Acquire easements as provided in subdivision 4 of § 2.2-1149;
  5. Enter into an operating/income lease or capital lease pursuant to the conditions and provisions in subdivision 5 of § 2.2-1149;
  6. Convey an easement pertaining to any property such institution owns or controls as provided in subsection C of § 2.2-1150;
  7. In accordance with the conditions and provisions in subdivision C 2 of § 2.2-1153, sell surplus real property that is possessed and controlled by the institution and valued at less than \$5 million;
  8. For purposes of compliance with § 2.2-4310, procure goods, services, and construction from a vendor that the institution has certified as a small, women-owned, or minority-owned business enterprise pursuant to the conditions and provisions in § 2.2-1609;
  9. Be exempt from review of its budget request for information technology by the CIO as provided in subdivision B 3 of § 2.2-2007.1;
  10. Adopt policies for the designation of administrative and professional faculty positions at the institution pursuant to the conditions and provisions in subsection E of § 2.2-2901;
  11. Be exempt from reporting its purchases to the Secretary of Education, provided that all purchases, including sole source purchases, are placed through the Commonwealth's electronic procurement system using proper system codes for the methods of procurement; and
  12. Utilize as methods of procurement a fixed price, design-build, or construction management contract ~~notwithstanding the provisions of § 2.2-4306~~ *in compliance with the provisions of Chapter 43.1 (§ 2.2-4378 et seq.) of Title 2.2.*
- C. Each public institution of higher education that (i) has been certified during the fiscal year by the Council pursuant to § 23.1-206 as having met the institutional performance benchmarks for public institutions of higher education and (ii) meets the state goals set in subsection A shall receive the following financial benefits:
  1. Interest on the tuition and fees and other nongeneral fund Educational and General Revenues deposited into the state treasury by the institution, as provided in the general appropriation act. Such interest shall be paid from the general fund and shall be an appropriate and equitable amount as determined and certified in writing by the Secretary of Finance to the Comptroller by the end of each fiscal year or as soon as practicable after the end of such fiscal year;
  2. Any unexpended appropriations of the public institution of higher education at the end of the fiscal year, which shall be reappropriated and allotted for expenditure by the institution in the immediately following fiscal year;
  3. A pro rata amount of the rebate due to the Commonwealth on credit card purchases of \$5,000 or less made during the fiscal year. The amount to be paid to each institution shall equal a pro rata share based upon its total transactions of \$5,000 or less using the credit card that is approved for use by all state agencies as compared to all transactions of \$5,000 or less using such card by all state agencies. The Comptroller shall determine the public institution's pro rata share and, as provided in the general appropriation act, shall pay the institution by August 15 of the fiscal year immediately following the year of certification or as soon as practicable after August 15 of such fiscal year. The payment to an institution of its pro rata share under this subdivision shall also be applicable to other rebate or refund programs in effect that are similar to that of the credit card rebate program described in this subdivision. The Secretary of Finance shall identify such other rebate or refund programs and shall determine the pro rata share to be paid to the institution; and
  4. A rebate of any transaction fees for the prior fiscal year paid for sole source procurements made by the institution in accordance with subsection E of § 2.2-4303 for using a vendor that is not registered with the Department of General

Services' web-based electronic procurement program commonly known as "eVA," as provided in the general appropriation act. Such rebate shall be certified by the Department of General Services and paid to each public institution by August 15 of the fiscal year immediately following the year of certification or as soon as practicable after August 15 of such fiscal year.

**§ 33.2-209. Construction and maintenance contracts and activities related to passenger and freight rail and public transportation.**

A. The Board shall have the power and duty to let all contracts to be administered by the Department of Transportation or the Department of Rail and Public Transportation for the construction, maintenance, and improvement of the highways comprising systems of state highways and for all activities related to passenger and freight rail and public transportation in excess of \$5 million. The Commissioner of Highways has authority to let all Department of Transportation-administered contracts for highway construction, maintenance, and improvements up to \$5 million in value. The Director of the Department of Rail and Public Transportation has the authority to let contracts for passenger and freight rail and public transportation improvements up to \$5 million in value. The Commissioner of Highways is authorized to enter into agreements with localities, authorities, and transportation districts to administer projects and to allow those localities, authorities, and transportation districts to let contracts with no limit on contract value and without prior concurrence of the Commissioner of Highways or the Board for highway construction, maintenance, and improvements within their jurisdictions, in accordance with those provisions of this Code providing those localities, authorities, and transportation districts the ability to let such contracts. The Director of the Department of Rail and Public Transportation is authorized to enter into agreements with localities, authorities, and transportation districts to administer projects and to allow those localities, authorities, and transportation districts to let contracts with no limit on contract value and without prior concurrence of the Director of the Department of Rail and Public Transportation or the Board for passenger and freight rail and public transportation activities within their jurisdictions, in accordance with those provisions of this Code providing those localities, authorities, and transportation districts the ability to let such contracts. The Commissioner of Highways and the Director of the Department of Rail and Public Transportation shall report on their respective transportation contracting activities at least quarterly to the Board.

B. The Board may award contracts for the construction of transportation projects on a design-build basis. These contracts may be awarded after a written determination is made by the Commissioner of Highways or the Director of the Department of Rail and Public Transportation, pursuant to objective criteria previously adopted by the Board regarding the use of design-build, that delivery of the projects must be expedited and that it is not in the public interest to comply with the design and construction contracting procedures normally followed. Such objective criteria shall include requirements for prequalification of contractors and competitive bidding processes. These contracts shall be of such size and scope to encourage maximum competition and participation by agency prequalified and otherwise qualified contractors. Such determination shall be retained for public inspection in the official records of the Department of Transportation or the Department of Rail and Public Transportation, as the case may be, and shall include a description of the nature and scope of the project and the reasons for the Commissioner's or the Director's determination that awarding a design-build contract will best serve the public interest. A Request for Proposal for transportation projects to be delivered on a design-build basis pursuant to this section may allow for the submission and consideration of alternative technical concepts in accordance with the procedures set forth in such Request for Proposal. The provisions of this section shall supersede contrary provisions of subsection D of § 2.2-4303 and § 2.2-4306.

For the purposes of this subsection, "alternative technical concepts" means proposed changes to agency-supplied base design configurations, project scope, design, or construction criteria that provide a solution that is equal to or better than the requirements in the Request for Proposal.

C. The Board may award contracts for the provision of equipment, materials, and supplies to be used in construction of transportation projects on a fixed-price basis. Any such contract may provide that the price to be paid for the provision of equipment, materials, and supplies to be furnished in connection with the projects shall not be increased but shall remain fixed until completion of the projects specified in the contracts. Material components of any such contract for annual and multiyear programs, including maintenance, may be fixed at the outset of the projects and until completion based on best achievable prices.

**2. That §§ 2.2-4306, 2.2-4307, and 2.2-4308 of the Code of Virginia are repealed.**

**3. That the provisions of § 2.2-4383 of the Code of Virginia, as created by this act, shall apply to projects for which a public body as defined in this act has issued a Request for Qualifications on or after July 1, 2017.**

## CHAPTER 705

*An Act to amend the Code of Virginia by adding in Title 33.2 a chapter numbered 31.1, consisting of a section numbered 33.2-3101, relating to the Washington Metrorail Safety Commission Interstate Compact.*

[S 1251]

Approved March 24, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding in Title 33.2 a chapter numbered 31.1, consisting of a section numbered 33.2-3101, as follows:**

## CHAPTER 31.1.

## WASHINGTON METRORAIL SAFETY COMMISSION INTERSTATE COMPACT.

**§ 33.2-3101. Washington Metrorail Safety Commission Interstate Compact.**

The Washington Metrorail Safety Commission Interstate Compact is hereby enacted into law and entered into with all other jurisdictions legally joining therein in the form substantially as follows:

## WASHINGTON METRORAIL SAFETY COMMISSION INTERSTATE COMPACT

## Preamble

WHEREAS, the Washington Metropolitan Area Transit Authority, an interstate compact agency of the District of Columbia, the Commonwealth of Virginia, and the State of Maryland, provides transportation services to millions of people each year, the safety of whom is paramount; and

WHEREAS, an effective and safe Washington Metropolitan Area Transit Authority system is essential to the commerce and prosperity of the National Capital region; and

WHEREAS, the Tri-State Oversight Committee, created by a memorandum of understanding amongst these three jurisdictions, has provided safety oversight of the Washington Metropolitan Area Transit Authority; and

WHEREAS, an amendment to 49 U.S.C. § 5329 requires the creation of a legally and financially independent state authority for safety oversight of all fixed rail transit facilities; and

WHEREAS, the District of Columbia, the Commonwealth of Virginia, and the State of Maryland intend to create a Washington Metrorail Safety Commission to act as the state safety oversight authority for the Washington Metropolitan Area Transit Authority system under 49 U.S.C. § 5329; and

WHEREAS, this act is created for the benefit of the people of the District of Columbia, the Commonwealth of Virginia, and the State of Maryland and for the increase of their safety, commerce, and prosperity.

## Article I.

## Definitions.

A. As used in this MSC Compact, the following words and terms shall have the meanings set forth below, unless the context clearly requires a different meaning. Capitalized terms used herein, but not otherwise defined in this act, shall have the definition set forth in regulations issued under 49 U.S.C. § 5329, as they may be revised from time to time:

"Alternate member" means an alternate member of the Board.

"Board" means the board of directors of the Commission.

"Commission" means the Washington Metrorail Safety Commission.

"Member" means a member of the Board.

"MSC Compact" means the Washington Metrorail Safety Commission Interstate Compact created by this act.

"Public transportation agency safety plan" means the comprehensive agency safety plan for a rail transit agency required by 49 U.S.C. § 5329 and the regulations thereunder, as may be amended or revised from time to time.

"Public transportation safety certification training program" means the federal certification training program, as established and amended from time to time by applicable federal laws and regulations, for federal and state employees, or other designated personnel, who conduct safety audits and examinations of public transportation systems and employees of public transportation agencies directly responsible for safety oversight.

"Safety-sensitive position" means any position held by a WMATA employee or contractor designated in the Public Transportation Agency Safety Plan for the WMATA Rail System and approved by the Commission as directly or indirectly affecting the safety of the passengers or employees of the WMATA Rail System.

"Signatory" means the State of Maryland, the Commonwealth of Virginia, and the District of Columbia.

"State" or "jurisdiction" means the State of Maryland, the Commonwealth of Virginia, and the District of Columbia.

"Washington Metropolitan Area Transit Authority" or "WMATA" means the entity created by the WMATA Compact, which entity is responsible for providing certain rail fixed guideway public transportation system services.

"WMATA Compact" means the Washington Metropolitan Area Transit Authority Compact (Public Law 89-774; 80 Stat. 1324).

"WMATA Rail System" or "Metrorail" means the rail fixed guideway public transportation system and all other real and personal property owned, leased, operated, or otherwise used by WMATA rail services and shall include WMATA rail projects under design or construction by owners other than WMATA.

## Article II.

## Purpose and Functions.

A. The Signatories to the WMATA Compact hereby adopt this MSC Compact pursuant to 49 U.S.C. § 5329. The Commission created hereunder shall have safety regulatory and enforcement authority over the WMATA Rail System and shall act as the state safety oversight authority for WMATA under 49 U.S.C. § 5329, as may be amended from time to time. WMATA shall be subject to the Commission's rules, regulations, actions, and orders.

B. The purpose of this MSC Compact is to create a state safety oversight authority for the WMATA Rail System, pursuant to the mandate of federal law, as a common agency of each Signatory, empowered in the manner hereinafter set forth to review, approve, oversee, and enforce the safety of the WMATA Rail System, including, without limitation, to (i) have exclusive safety oversight authority and responsibility over the WMATA Rail System pursuant to federal law, including, without limitation, the power to restrict, suspend, or prohibit rail service on all or part of the WMATA Rail system as set forth in this MSC Compact; (ii) develop and adopt a written state safety oversight program standard; (iii) review and

approve the WMATA public transportation agency safety plan; (iv) investigate Hazards, Incidents, and Accidents on the WMATA Rail System; (v) require, review, approve, oversee, and enforce Corrective Action Plans developed by WMATA; and (vi) meet other requirements of federal and state law relating to safety oversight of the WMATA Rail System.

*Article III.*

*Establishment and Organization.*

*A. Washington Metrorail Safety Commission.*

1. The Commission is hereby created as an instrumentality of each Signatory, which shall be a public body corporate and politic, and which shall have the powers and duties set forth in this MSC Compact.

2. The Commission shall be financially and legally independent from WMATA.

*B. Board Membership.*

1. The Commission shall be governed by a Board of six members with two members appointed or reappointed, including to fill an unexpired term, by each Signatory pursuant to the signatory's applicable laws.

2. Each Signatory shall also appoint or reappoint, including to fill an unexpired term, one alternate member pursuant to the signatory's applicable laws.

3. An alternate member shall participate and take action as a member only in the absence of one or both members appointed from the same jurisdiction as the alternate member's appointing jurisdiction and, in such instances, may cast a single vote.

4. Members and alternate members shall have backgrounds in transit safety, transportation, relevant engineering disciplines, or public finance.

5. No member or alternate member shall simultaneously hold an elected public office, serve on the WMATA board of directors, be employed by WMATA, or be a contractor to WMATA.

6. Each member and alternate member shall serve a four-year term and may be reappointed for additional terms, except that each Signatory shall make its initial appointments as follows:

a. One member shall be appointed for a four-year term;

b. One member shall be appointed for a two-year term; and

c. The alternate member shall be appointed for a three-year term.

7. Any person appointed to fill a vacancy shall serve for the unexpired term.

8. Members and alternate members shall be entitled to reimbursement for reasonable and necessary expenses and shall be compensated for each day spent meeting on the business of the Commission at a rate of \$200 per day or at such other rate as may be adjusted in appropriations approved by all of the Signatories.

9. A member or an alternate member may be removed or suspended from office only for cause in accordance with the laws of such member's or alternate member's appointing jurisdiction.

*C. Quorum and Actions of the Board.*

1. Four members shall constitute a quorum. The affirmative vote of four members is required for action of the Board, other than as provided in subdivision A 3 of Article IV. Quorum and voting requirements under this paragraph may be met with one or more alternate members pursuant to subdivision B 3.

2. The Commission's action shall become effective upon enactment unless otherwise provided for by the Commission.

*D. Oath of Office.*

1. Before entering office, each member and alternate member shall take and subscribe to the following oath or affirmation of office or any such other oath or affirmation as the constitution or laws of the Signatory he or she represents shall provide: "I, \_\_\_\_\_, hereby solemnly swear or affirm that I will support and defend the Constitution and the laws of the United States as a member (or alternate member) of the Board of the Washington Metrorail Safety Commission and will faithfully discharge the duties of the office upon which I am about to enter."

*E. Organization and Procedure.*

1. The Board shall provide for its own organization and procedure. Meetings of the Board shall be held as frequently as the Board determines, but in no event less than quarterly. The Board shall keep minutes of its meetings and establish rules and regulations governing its transactions and internal affairs, including, without limitation, policies regarding records retention that are not in conflict with applicable federal record retention laws.

2. The Commission shall keep commercially reasonable records of its financial transactions in accordance with accounting principles generally accepted in the United States of America.

3. The Commission shall establish an office for the conduct of its affairs at a location to be determined by the Commission.

4. The Commission shall adopt the Federal Freedom of Information Act, codified at 5 U.S.C. § 552(a)-(d) and (g), and Government in the Sunshine Act, codified at 5 U.S.C. 552b, as both may be amended from time to time, as its freedom of information policy and open meeting policy, respectively, and shall not be subject to the comparable laws or policies of any Signatory.

5. Reports of investigations or inquiries adopted by the Board shall be made publicly available.

6. The Commission shall adopt a policy on conflict of interest that shall be consistent with the regulations issued under 49 U.S.C. § 5329, as they may be revised from time to time, which, among other things, places appropriate separation between members, officers, employees, contractors, and agents of the Commission and WMATA.

7. The Commission shall adopt and utilize its own administrative procedure and procurement policies in conformance with applicable federal regulations and shall not be subject to the administrative procedure or procurement laws of any Signatory.

*F. Officers and Employees.*

1. The Board shall elect a Chairman, Vice-Chairman, Secretary, and Treasurer from among its members, each for a two-year term, and shall prescribe their powers and duties.

2. The Board shall appoint and fix the compensation and benefits of a chief executive officer who shall be the chief administrative officer of the Commission and who shall have expertise in transportation safety and one or more industry-recognized transportation safety certifications.

3. Consistent with 49 U.S.C. § 5329, as may be amended from time to time, the Commission may employ, under the direction of the chief executive officer, such other technical, legal, clerical, and other employees on a regular, part-time, or as-needed basis as it determines necessary or desirable for the discharge of its duties.

4. The Commission shall not be bound by any statute or regulation of any Signatory in the employment or discharge of any officer or employee of the Commission, but shall develop its own policies in compliance with federal law. The MSC shall, however, consider the laws of the Signatories in devising its employment and discharge policies, and when it deems it practical, devise policies consistent with the laws of the Signatories.

5. The Board may fix and provide policies for the qualification, appointment, removal, term, tenure, compensation benefits, workers' compensation, pension, and retirement rights of its employees subject to federal law. The Board may also establish a personnel system based on merit and fitness and, subject to eligibility, participate in the pension, retirement, and workers' compensation plans of any Signatory or agency or political subdivision thereof.

*Article IV.*

*Powers.*

*A. Safety Oversight Power.*

1. In carrying out its purposes, the Commission, through its Board or designated employees or agents, shall, consistent with federal law:

a. Adopt, revise, and distribute a written State Safety Oversight Program;

b. Review, approve, oversee, and enforce the adoption and implementation of WMATA's public transportation agency safety plan;

c. Require, review, approve, oversee, and enforce the adoption and implementation of any Corrective Action Plans that the Commission deems appropriate;

d. Implement and enforce relevant federal and state laws and regulations relating to safety of the WMATA Rail System; and

e. Audit every three years the compliance of WMATA with WMATA's public transportation agency safety plan or conduct such an audit on an ongoing basis over a three-year time frame.

2. In performing its duties, the Commission, through its Board or designated employees or agents, may:

a. Conduct, or cause to be conducted, inspections, investigations, examinations, and testing of WMATA personnel and contractors, property, equipment, facilities, rolling stock, and operations of the WMATA Rail System, including, without limitation, electronic information and databases through reasonable means, which may include issuance of subpoenas;

b. Enter upon the WMATA Rail System and, upon reasonable notice and a finding by the chief executive officer that a need exists, upon any lands, waters, and premises adjacent to the WMATA Rail System, including, without limitation, property owned or occupied by the federal government, for the purpose of making inspections, investigations, examinations, and testing as the Commission may deem necessary to carry out the purposes of this MSC Compact, and such entry shall not be deemed a trespass. The Commission shall make reasonable reimbursement for any actual damage resulting to any such adjacent lands, waters, and premises as a result of such activities;

c. Compel WMATA's compliance with any Corrective Action Plan or order of the Commission by such means as the Commission deems appropriate, including, without limitation, by:

(1) Taking legal action in a court of competent jurisdiction;

(2) Issuing citations or fines with funds going into an escrow account for spending by WMATA on Commission-directed safety measures;

(3) Directing WMATA to prioritize spending on safety-critical items;

(4) Removing a specific vehicle, infrastructure element, or Hazard from the WMATA Rail System; and

(5) Compelling WMATA to restrict, suspend, or prohibit rail service on all or part of the WMATA Rail System with an appropriate notice period dictated by the circumstances.

d. Direct WMATA to suspend or disqualify from performing in any safety-sensitive position an individual who is alleged to or has violated safety rules, regulations, policies, or laws;

e. Compel WMATA's Office of the Inspector General, created under WMATA board resolution 2006-18, or any successor WMATA office or organization having similar duties, to conduct safety-related audits or investigations and to provide its findings to the Commission; and

f. Take such other actions as the Commission may deem appropriate consistent with its purpose and powers.

3. Action by the Board under subdivision 2 c (5) of subsection A of Article IV shall require the unanimous vote of all members present and voting. The Commission shall coordinate its enforcement activities with appropriate federal and state governmental authorities.

*B. General Powers.*

1. In addition to the powers and duties set forth above, the Commission may:

a. Sue and be sued;

b. Adopt, amend, and repeal rules and regulations respecting the exercise of the powers conferred by this MSC Compact;

c. Create and abolish offices, employments, and positions, other than those specifically provided for in this MSC Compact, necessary or desirable for the purposes of the Commission;

d. Determine a staffing level for the Commission that is commensurate with the size and complexity of the WMATA Rail System, and require that employees and other designated personnel of the Commission, who are responsible for safety oversight, be qualified to perform such functions through appropriate training, including, without limitation, successful completion of the public transportation safety certification training program;

e. Contract for or employ consulting attorneys, inspectors, engineers, and such other experts necessary or desirable and, within the limitations prescribed in this MSC Compact, prescribe their powers and duties and fix their compensation;

f. Enter into and perform contracts, leases, and agreements necessary or desirable in the performance of its duties and in the execution of the powers granted under this MSC Compact;

g. Apply for, receive, and accept such payments, appropriations, grants, gifts, loans, advances, and other funds, properties, and services as may be transferred or made available to it by the United States government or any other public or private entity or individual, subject to the limitations specified in subdivision D 3 of Article V;

h. Adopt an official seal and alter the same at its pleasure;

i. Adopt and amend by-laws, policies, and procedures governing the regulation of its affairs;

j. Appoint one or more advisory committees; and

k. Do such other acts necessary or desirable for the performance of its duties and the execution of its powers under this MSC Compact.

2. Consistent with this MSC Compact, the Commission shall promulgate rules and regulations to carry out the purposes of this MSC Compact.

*Article V.  
General Provisions.*

*A. Annual Safety Report.*

1. The Commission shall make and publish annually a status report on the safety of the WMATA Rail System, which shall include, among other requirements established by the Commission and federal law, status updates of outstanding Corrective Action Plans, Commission directives, and ongoing investigations. A copy of each such report shall be provided to:

a. The Administrator of the Federal Transit Administration;

b. The Governor of Virginia, the Governor of Maryland, and the Mayor of the District of Columbia;

c. The Chair of the Council of the District of Columbia;

d. The President of the Maryland Senate and the Speaker of the Maryland House of Delegates;

e. The President of the Senate of Virginia and the Speaker of the Virginia House of Delegates; and

f. The General Manager and each member of the board of directors of WMATA.

2. The Commission may prepare, publish, and distribute such other safety reports that it deems necessary or desirable.

*B. Annual Report of Operations.*

1. The Commission shall make and publish an annual report on its programs, operations, and finances, which shall be distributed in the same manner provided by subdivision A 1.

2. The Commission may also prepare, publish, and distribute such other public reports and informational materials as it deems necessary or desirable.

*C. Annual Independent Audit.*

An independent annual audit shall be made of the financial accounts of the Commission. The audit shall be made by qualified certified public accountants selected by the Board, who shall have no personal interest, direct or indirect, in the financial affairs of the Commission or any of its officers or employees. The report of audit shall be prepared in accordance with generally accepted auditing principles and shall be distributed in the same manner provided by subdivision A 1. Members, employees, agents, and contractors of the Commission shall provide access to information necessary or desirable for the conduct of the annual audit.

*D. Financing.*

1. The Commission's operations shall be funded, independently of WMATA, by the Signatory jurisdictions and, when available, by federal funds. The Commission shall have no authority to levy taxes.

2. The Signatories shall unanimously agree on adequate funding levels for the Commission and make equal contributions of such funding, subject to annual appropriation, to cover the portion of Commission operations not funded by federal funds.

3. The Commission may borrow up to five percent of its last annual appropriations budget in anticipation of receipts, or as otherwise set forth in the appropriations budget approved by all of the Signatories, from any lawful lending institution

for any purpose of this Compact, including, without limitation, for administrative expenses. Such loans shall be for a term not to exceed two years, or at such longer term approved by each Signatory pursuant to its laws as evidenced by the written authorization by the Mayor of the District of Columbia and the Governors of Maryland and Virginia, and at such rates of interest as shall be acceptable to the Commission.

4. With respect to the District of Columbia, the commitment or obligation to render financial assistance to the Commission shall be created, by appropriation or in such other manner, or by such other legislation, as the District of Columbia shall determine; provided, that any such commitment or obligation shall be approved by Congress pursuant to the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 774; D.C. Official Code § 1-201.01 et seq.).

5. Pursuant to the requirements of 31 U.S.C. §§ 1341, 1342, 1349 to 1351, and 1511 to 1519, and D.C. Official Code §§ 47-105 and 47-355.01 to 355.08 (collectively, the "Anti-Deficiency Acts"), the District cannot obligate itself to any financial commitment in any present or future year unless the necessary funds to pay that commitment have been appropriated and are lawfully available for the purpose committed. Thus, pursuant to the Anti-Deficiency Acts, nothing in this MSC Compact creates an obligation of the District in anticipation of an appropriation for such purpose, and the District's legal liability for the payment of any amount under this MSC Compact does not and may not arise or obtain in advance of the lawful availability of appropriated funds for the applicable fiscal year.

*E. Tax Exemption.*

The exercise of the powers granted by this MSC Compact shall in all respects be for the benefit of the people of the District of Columbia, the Commonwealth of Virginia, and the State of Maryland and for the increase of their safety, commerce, and prosperity, and as the activities associated with this MSC Compact shall constitute the performance of essential governmental functions, the Commission shall not be required to pay any taxes or assessments upon the services or any property acquired or used by the Commission under the provisions of this MSC Compact or upon the income therefrom, and shall at all times be free from taxation within the District of Columbia, the Commonwealth of Virginia, and the State of Maryland.

*F. Reconsideration of Commission Orders.*

1. WMATA shall have the right to petition the Commission for reconsideration of an order based on rules and procedures developed by the Commission.

2. Consistent with subdivision C 2 of Article III, the filing of a petition for reconsideration shall not act as a stay upon the execution of a Commission order, or any part of it, unless the Commission orders otherwise. WMATA may appeal any adverse action on a petition for reconsideration as set forth in subdivision G 1.

*G. Judicial Matters.*

1. The United States District Courts for the Eastern District of Virginia, Alexandria Division, the United States District Courts for the District of Maryland, Southern Division, and the United States District Courts for the District of Columbia shall have exclusive and original jurisdiction of all actions brought by or against the Commission and to enforce subpoenas under this MSC Compact.

2. The commencement of a judicial proceeding shall not operate as a stay of a Commission order unless specifically ordered by the court.

*H. Liability and Indemnification.*

1. The Commission and its members, alternate members, officers, agents, employees, or representatives shall not be liable for suit or action or for any judgment or decree for damages, loss, or injury resulting from action taken within the scope of their employment or duties under this MSC Compact, nor required in any case arising or any appeal taken under this MSC Compact to give a supersedeas bond or security for damages. Nothing in this section shall be construed to protect such person from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of such person.

2. The Commission shall be liable for its contracts and for its torts and those of its members, alternate members, officers, agents, employees, and representatives committed in the conduct of any proprietary function, in accordance with the law of the applicable Signatory, including, without limitation, rules on conflict of laws but shall not be liable for any torts occurring in the performance of a governmental function. The exclusive remedy for such breach of contract or tort for which the Commission shall be liable, as herein provided, shall be by suit against the Commission. Nothing contained in this MSC Compact shall be construed as a waiver by the District of Columbia, the Commonwealth of Virginia, or the State of Maryland of any immunity from suit.

*I. Commitment of Parties.*

Each of the Signatories pledges to each other faithful cooperation in providing safety oversight for the WMATA Rail System, and, to affect such purposes, agrees to consider in good faith and request any necessary legislation to achieve the objectives of this MSC Compact.

*J. Amendments and Supplements.*

Amendments and supplements to this MSC Compact shall be adopted by legislative action of each of the Signatories and the consent of Congress. When one Signatory adopts an amendment or supplement to an existing section of this MSC Compact, that amendment or supplement shall not be immediately effective, and the previously enacted provision or provisions shall remain in effect in each jurisdiction until the amendment or supplement is approved by the other Signatories and is consented to by Congress.

*K. Withdrawal and Termination.*

1. Any Signatory may withdraw from this MSC Compact, which action shall constitute a termination of this MSC Compact.

2. Withdrawal from this MSC Compact shall be by a Signatory's repeal of this MSC Compact from its laws, but such repeal shall not take effect until two years after the effective date of the repealed statute and written notice of the withdrawal being given by the withdrawing Signatory to the governors or mayors, as appropriate, of the other Signatories.

3. Prior to termination of this MSC Compact, the Commission shall provide to each Signatory:

a. A mechanism for concluding the operations of the Commission;

b. A proposal to maintain state safety oversight of the WMATA Rail System in compliance with applicable federal law;

c. A plan to hold surplus funds in a trust for a successor regulatory entity for four years after the termination of this MSC Compact; and

d. A plan to return any surplus funds that remain four years after the creation of the trust.

*L. Construction and Severability.*

1. This MSC Compact shall be liberally construed to effectuate the purposes for which it is created.

2. If any part or provision of this MSC Compact or the application thereof to any person or circumstances be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision, or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this MSC Compact or the application thereof to other persons or circumstances, and the Signatories hereby declare that they would have entered into this MSC Compact or the remainder thereof had the invalidity of such provision or application thereof been apparent.

*M. Adoption; Effective Date.*

This MSC Compact shall be adopted by the Signatories in the manner provided by law therefor and shall be signed and sealed in four duplicate original copies. One such copy shall be filed with the Secretary of State of the State of Maryland, the Secretary of the Commonwealth of Virginia, and the Secretary of the District of Columbia in accordance with the laws of each jurisdiction. One copy shall be filed and retained in the archives of the Commission upon its organization. This MSC Compact shall become effective upon the enactment of concurring legislation by the District of Columbia, the Commonwealth of Virginia, and the State of Maryland, and consent thereto by Congress and when all other acts or actions have been taken, including, without limitation, the signing and execution of this MSC Compact by the Governors of Maryland and Virginia and the Mayor of the District of Columbia.

*N. Conflict of Laws.*

1. Any conflict between any authority granted herein, or the exercise of such authority, and the provisions of the WMATA Compact shall be resolved in favor of the exercise of such authority by the Commission.

2. All other general or special laws inconsistent with this MSC Compact are hereby declared to be inapplicable to the Commission or its activities.

**2. That members of the Board of Directors of the Washington Metrorail Safety Commission for the Commonwealth of Virginia shall be appointed by the Governor of Virginia and subject to confirmation by the General Assembly.**

**3. That the provisions of this act shall become effective after all of the following have occurred:**

**A. The enactment of concurring legislation by the State of Maryland and the District of Columbia, the signing and execution of the Metrorail Safety Interstate Compact by the Mayor of the District of Columbia and the Governors of Maryland and Virginia, and approval of the Metrorail Safety Commission Interstate Compact by the United States Congress;**

**B. The inclusion of this act's fiscal effect in an approved budget and financial plan of the District of Columbia. The chief financial officer for the District of Columbia shall certify the date of the inclusion of the fiscal effect in an approved budget and financial plan and provide notice to the budget director of the Council of the District of Columbia of the certification. The budget director shall cause the notice of the certification to be published in the District of Columbia Register and the date of publication of the notice of the certification shall not affect the applicability of this act;**

**C. The adoption by the Council of the District of Columbia of the fiscal impact statement of the Chief Financial Officer as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act; and**

**D. The approval by the Mayor of the District of Columbia of, or, in the event of a veto by the Mayor, action by the Council of the District of Columbia to override the veto of, a 30-day period of congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act and publication in the District of Columbia Register.**

**4. That the Secretary of Transportation, in coordination with the Northern Virginia Transportation Commission, shall engage his counterparts in Maryland and Washington, D.C., and the appropriate officials in the federal government for the purpose of revising the Washington Metropolitan Area Transit Authority Compact of 1966 and implementing other reforms necessary to ensure the near-term and long-term viability of the Washington Area Metropolitan Transit Authority (WMATA). In doing so, the Secretary shall develop, propose, and seek agreement on reforms related to the following: (i) the legal and organizational structure of WMATA; (ii) the composition and qualifications of the WMATA Board of Directors and the length of terms of its members; (iii) labor costs and labor relations; (iv) measures necessary to resolve WMATA's unfunded pension liability and other postemployment benefits; (v) measures necessary to better ensure the safety of riders and employees, including safety in the event of a**

homeland security emergency in the national capital area; and (vi) financial and operational improvements necessary to ensure that WMATA's performance is at least as efficient as its closest comparable transit systems in the United States. The Secretary shall report to and consult quarterly beginning June 30, 2017, with the Chairmen of the House and Senate Transportation Committees regarding activity taken in accordance with this enactment.

5. That an emergency exists and this act is in force from its passage.

## CHAPTER 706

*An Act to amend and reenact §§ 2.2-1136, 2.2-1147, and 2.2-1153 of the Code of Virginia, relating to Department of General Services; maintenance of property records; notification when lease, or other agreement to terminate; report.*

[S 1265]

Approved March 24, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 2.2-1136, 2.2-1147, and 2.2-1153 of the Code of Virginia are amended and reenacted as follows:**

**§ 2.2-1136. Review of easements; maintenance of records; notification when lease or other agreement for branch office to terminate; report.**

A. The Department shall review all deeds, leases, and contractual agreements with utilities to serve state institutions or agencies that require the approval of the Governor, as well as all easements and rights-of-way granted by institutions and agencies to public and private utilities.

B. The Department shall be responsible for the maintenance of ~~real property records of all state departments, agencies and institutions relating to property as defined in § 2.2-1147 and any other real property used or occupied by lease, license, permit, or other agreement by any state department, agency, or institution, except records of real property relating to (i) real estate or rights-of-way acquired by the Department of Transportation for the construction of highways; and; (ii) ungranted shores of the sea, marsh, and meadowlands as defined in § 28.2-1500; or (iii) real estate or rights-of-way acquired by the Department of Rail and Public Transportation for the construction of railway lines or rail or public transportation facilities or the retention of rail corridors for public purposes. The Department may have such boundary, topographic, and other maps prepared as may be necessary.~~ ~~In addition, the~~

C. ~~The Department shall develop the criteria for and conduct an annual inventory of all real property, as defined in § 2.2-1147, owned by state departments, agencies and institutions by January 1, 2012, and update the inventory at least annually thereafter referred to in subsection B for which it is responsible.~~ Such inventory with respect to owned property shall be reviewed by the Department in developing recommendations pursuant to subsection A of § 2.2-1153. All state departments, agencies, and institutions shall cooperate with the Department and provide such data and documents as may be required to develop and maintain the records and inventory required by this section.

~~C. D.~~ D. The Department shall make the inventory referred to in subsection ~~B~~ C available on the Department's website. The description of the inventory shall include parcel identification consistent with national spatial data standards in addition to a street address as available and reported to the Department by ~~departments, agencies, and institutions and shall include the date upon which the use or occupancy, if used or occupied by lease, license, permit, or other agreement, of the inventoried property is to terminate pursuant to the lease, license, permit, or other agreement therefor.~~

E. ~~The Department shall provide a quarterly report, in electronic form, to the General Assembly that includes renewal and termination dates for inventoried property pursuant to the lease, license, permit, or other agreement administered by the Department. Such information shall include property that serves as a branch office of a state agency. The report shall include all such renewals and terminations scheduled to occur within 90 days of the report date. The report shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website. As used in this subsection, "branch office" means an office of a state agency other than its main office that assists the state agency in carrying out its statutory mission, including providing access to government services and programs.~~

**§ 2.2-1147. Definitions.**

As used in §§ ~~2.2-1147.1~~ 2.2-1136 through 2.2-1156, unless the context requires a different meaning:

"Institutions" includes, but is not limited to, any corporation owned by the Commonwealth and subject to the control of the General Assembly.

"Property" means an interest in land and any improvements thereon, *including the privileges and appurtenances of every kind belonging to the land*, held by the Commonwealth and under the control of or occupied by any of its departments, agencies, or institutions but does not include (i) real estate or rights-of-way acquired by the Department of Transportation for the construction of highways; (ii) ungranted shores of the sea, marsh, and meadowlands as defined in § 28.2-1500; or (iii) real estate or rights-of-way acquired by the Department of Rail and Public Transportation for the construction of railway lines or rail or public transportation facilities or the retention of rail corridors for public purposes.

"Recommend," "recommended," or "recommendation," when used with reference to a recommendation by the Department of General Services to the Governor, means to advise either for or against a proposed action.

**§ 2.2-1153. State agencies and institutions to notify Department of property not used or required; criteria.**

A. Whenever any department, agency or institution of state government possesses or has under its control state-owned or leased property that is not being used to full capacity or is not required for the programs of the department, agency or institution, it shall so notify the Department. Such notification shall be in a form and manner prescribed by the Department. Each department, agency and institution shall submit to the Department a land use plan for state-owned property it possesses or has under its control showing present and planned uses of such property. Such plan shall be approved by the cognizant board or governing body of the department, agency or institution holding title to or otherwise controlling the state-owned property or the agency head in the absence of a board or governing body, with a recommendation on whether any property should be declared surplus by the department, agency or institution. Development of such land use plans shall be based on guidelines promulgated by the Department. The guidelines shall provide that each land use plan shall be updated and copies provided to the Department by September 1 of each year. The Department may exempt properties that are held and used for conservation purposes from the requirements of this section. The Department shall review the land use plans, the records and inventory required pursuant to ~~subsection~~ *subsections B and C* of § 2.2-1136 and such other information as may be necessary and determine whether the property or any portion thereof should be declared surplus to the needs of the Commonwealth. By October 1 of each year, the Department shall provide a report to the Chairmen of the House Appropriations and Senate Finance Committees setting forth the Department's findings, the sale or marketing of properties identified pursuant to this section, and recommending any actions that may be required by the Governor and the General Assembly to identify and dispose of property not being efficiently and effectively utilized. The Department shall provide a listing of surplus properties on the Department's website. The description of surplus property shall include parcel identification consistent with national spatial data standards in addition to a street address.

Until permanent disposition of the property determined to be surplus is effected, the property shall continue to be maintained by the department, agency or institution possessing or controlling it, unless upon the recommendation of the Department, the Governor authorizes the transfer of the property to the possession or control of the Department. In this event, the department, agency or institution formerly possessing or controlling the property shall have no further interest in it.

B. The Department shall establish criteria for ascertaining whether property under the control of a department, agency or institution should be classified as "surplus" to its current or proposed needs. Such criteria shall provide that the cognizant board or governing body, if any, of the department, agency or institution holding the title to or otherwise controlling the state-owned property, or the agency head in the absence of a board or governing body, shall approve the designation of the property as surplus.

C. Notwithstanding the provisions of subsection A:

1. The property known as College Woods, which includes Lake Matoaka and is possessed and controlled by a college founded in 1693, regardless of whether such property has been declared surplus pursuant to this section, shall not be transferred or disposed of without the approval of the board of visitors of such college by a two-thirds vote of all board members at a regularly scheduled board meeting. The General Assembly shall also approve the disposal or transfer.

2. Surplus real property valued at less than \$5 million that is possessed and controlled by a public institution of higher education may be sold by such institution, provided that (i) at least 45 days prior to executing a contract for the sale of such property, the institution gives written notification to the Governor and the Chairmen of the House Appropriations and Senate Finance Committees; and (ii) the Governor may postpone the sale at any time up to 10 days prior to the proposed date of sale. Such sale may be effected by public auction, sealed bids, or by marketing through one or more Virginia licensed real estate brokers after satisfying the public notice provisions of subsection A of § 2.2-1156. The terms of all negotiations resulting in such sale shall be public information. The public institution of higher education may retain the proceeds from the sale of such property if the property was acquired by nongeneral funds. If the institution originally acquired the property through a mix of general and nongeneral funds, 50 percent of the proceeds shall be distributed to the institution and 50 percent shall be distributed to the State Park Conservation Resources Fund established under subsection A of § 10.1-202. The authority of a public institution of higher education to sell surplus real property described under this subdivision or to retain any proceeds from the sale of such property shall be subject to the institution meeting the conditions prescribed in subsection A of § 23.1-1002 and § 23.1-1019 (regardless of whether or not the institution has been granted any authority under Article 4 (§ 23.1-1004 et seq.) of Chapter 10 of Title 23.1).

#### CHAPTER 707

*An Act to amend and reenact §§ 4.1-101.01, 4.1-101.02, 4.1-101.05, 4.1-101.07, 4.1-101.010, 4.1-103, and 4.1-103.1, as they shall become effective, 4.1-225, and 4.1-227 of the Code of Virginia and to amend and reenact the fourth, fifth, and twelfth enactments of Chapters 38 and 730 of the Acts of Assembly of 2015; to amend the Code of Virginia by adding a section numbered 4.1-103.03; and to repeal the sixth enactments of Chapters 38 and 730 of the Acts of Assembly of 2015, relating to the Virginia Alcoholic Beverage Control Authority.*

[S 1287]

Approved March 24, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 4.1-101.01, 4.1-101.02, 4.1-101.05, 4.1-101.07, 4.1-101.010, 4.1-103, and 4.1-103.1, as they shall become effective, 4.1-225, and 4.1-227 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 4.1-103.03 as follows:**

**§ 4.1-101.01. (Effective July 1, 2018) Board of Directors; membership; terms; compensation.**

A. ~~The~~ Beginning January 15, 2018, until July 1, 2018, the Authority shall be governed by a Board of Directors, which shall initially consist of the members of the Alcoholic Beverage Control Board, in accordance with § 4.1-102, and two nonlegislative citizen members appointed by the Governor and confirmed by the affirmative vote of a majority of those voting in each house of the General Assembly. Each appointee shall (i) have been a resident of the Commonwealth for a period of at least three years immediately preceding his appointment, and his continued residency shall be a condition of his tenure in office; (ii) hold, at a minimum, a baccalaureate degree in business or a related field of study; and (iii) possess a minimum of seven years of demonstrated experience or expertise in the direct management, supervision, or control of a business or legal affairs. Appointees shall be subject to a background check in accordance with § 4.1-101.03. Notwithstanding the provisions of § 4.1-102, the provisions of subsection F shall apply to such members. The terms of the members of the Board of Directors of the Authority shall be staggered as follows:

1. For the three members who are members of the Alcoholic Beverage Control Board, their original terms shall continue and upon expiration of such terms, if reappointed, one member shall serve a term of five years, one member shall serve a term of four years, and one member shall serve a term of three years; and

2. For the two nonlegislative citizen members, one member shall serve a term of two years, and one member shall serve a term of one year.

B. Beginning July 1, 2018, the Authority shall be governed by a Board of Directors, which shall consist of five citizens at large appointed by the Governor and confirmed by the affirmative vote of a majority of those voting in each house of the General Assembly. Each appointee shall (i) have been a resident of the Commonwealth for a period of at least three years next preceding his appointment, and his continued residency shall be a condition of his tenure in office; (ii) hold, at a minimum, a baccalaureate degree in business or a related field of study; and (iii) possess a minimum of seven years of demonstrated experience or expertise in the direct management, supervision, or control of a business or legal affairs. Appointees shall be subject to a background check in accordance with § 4.1-101.03.

~~B.~~ C. After the initial staggering of terms, members shall be appointed for a term of five years. All members shall serve until their successors are appointed. Any appointment to fill a vacancy shall be for the unexpired term. No member appointed by the Governor shall be eligible to serve more than two consecutive terms; however, a member appointed to fill a vacancy may serve two additional consecutive terms. Members of the Board may be removed from office by the Governor for cause, including the improper use of its police powers, malfeasance, misfeasance, incompetence, misconduct, neglect of duty, absenteeism, conflict of interests, failure to carry out the policies of the Commonwealth as established in the Constitution or by the General Assembly, or refusal to carry out a lawful directive of the Governor.

~~C.~~ D. The Governor shall appoint the chairman and vice-chairman of the Board from among the membership of the Board. The Board may elect other subordinate officers, who need not be members of the Board. The Board may also form committees and advisory councils, which may include representatives who are not members of the Board, to undertake more extensive study and discussion of the issues before the Board. A majority of the Board shall constitute a quorum for the transaction of the Authority's business, and no vacancy in the membership shall impair the right of a quorum to exercise the rights and perform all duties of the Authority.

~~D.~~ E. The Board shall meet at least every 60 days for the transaction of its business. Special meetings may be held at any time upon the call of the chairman of the Board or the Chief Executive Officer or upon the written request of a majority of the Board members.

~~E.~~ F. Members of the Board shall receive annually such salary, compensation, and reimbursement of expenses for the performance of their official duties as set forth in the general appropriation act for members of the House of Delegates when the General Assembly is not in session, except that the chairman of the Board shall receive annually such salary, compensation, and reimbursement of expenses for the performance of his official duties as set forth in the general appropriation act for a member of the Senate of Virginia when the General Assembly is not in session.

~~F.~~ G. The provisions of the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.) shall apply to the members of the Board, the Chief Executive Officer of the Authority, and the employees of the Authority.

**§ 4.1-101.02. (Effective July 1, 2018) Appointment, salary, and powers of Chief Executive Officer; appointment of confidential assistant to the Chief Executive Officer.**

A. The Chief Executive Officer of the Authority shall be appointed by the Governor and confirmed by the affirmative vote of a majority of those voting in each house of the General Assembly. The Chief Executive Officer shall not be a member of the Board; shall hold, at a minimum, a baccalaureate degree in business or a related field of study; and shall possess a minimum of seven years of demonstrated experience or expertise in the direct management, supervision, or control of a business or legal affairs. The Chief Executive Officer shall receive such compensation as determined by the Board and approved by the Governor, including any performance bonuses or incentives as the Board deems advisable. The Chief Executive Officer shall be subject to a background check in accordance with § 4.1-101.03. The Chief Executive Officer shall (i) carry out the powers and duties conferred upon him by the Board or imposed upon him by law and (ii) meet performance measures or targets set by the Board and approved by the Governor. The Chief Executive Officer may be removed from office by the Governor for cause, including the improper use of the Authority's police powers, malfeasance, misfeasance, incompetence, misconduct, neglect of duty, absenteeism, conflict of interests, failure to meet performance measures or targets as set by the Board and approved by the Governor, failure to carry out the policies of the

Commonwealth as established in the Constitution or by the General Assembly, or refusal to carry out a lawful directive of the Governor.

B. The Chief Executive Officer shall devote his full time to the performance of his official duties and shall not be engaged in any other profession or occupation.

C. The Chief Executive Officer shall supervise and administer the operations of the Authority in accordance with this title.

D. The Chief Executive Officer shall:

1. Serve as the secretary to the Board and keep a true and full record of all proceedings of the Authority and preserve at the Authority's general office all books, documents, and papers of the Authority;

2. Exercise and perform such powers and duties as may be delegated to him by the Board or as may be conferred or imposed upon him by law;

3. ~~Appoint a chief financial officer and employ~~ Employ or retain such *special* agents or employees subordinate to the Chief Executive Officer as may be necessary to fulfill the duties of the Authority conferred upon the Chief Executive Officer, subject to the Board's approval; and

4. Make recommendations to the Board for legislative and regulatory changes.

E. Neither the Chief Executive Officer nor the spouse or any member of the immediate family of the Chief Executive Officer shall make any contribution to a candidate for office or officeholder at the local or state level or cause such a contribution to be made on his behalf.

F. To assist the Chief Executive Officer in the performance of his duties, the Governor shall also appoint one confidential assistant for administration who shall be deemed to serve on an employment-at-will basis.

**§ 4.1-101.05. (Effective July 1, 2018) Employees of the Authority.**

A. Employees of the Authority shall be considered employees of the Commonwealth. Employees of the Authority shall be eligible for membership in the Virginia Retirement System or other retirement plan as authorized by Article 4 (§ 51.1-125 et seq.) of Chapter 1 of Title 51.1 and participation in all health and related insurance and other benefits, including premium conversion and flexible benefits, available to state employees as provided by law. Employees of the Authority shall be employed on such terms and conditions as established by the Board. The Board shall develop and adopt policies and procedures that afford its employees grievance rights, ensure that employment decisions shall be based upon the merit and fitness of applicants, and prohibit discrimination because of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, or disability. *Notwithstanding any other provision of law, the Board shall develop, implement, and administer a paid leave program, which may include annual, personal, and sick leave or any combination thereof. All other leave benefits shall be administered in accordance with Chapter 11 (§ 51.1-1100 et seq.) of Title 51.1, except as otherwise provided in this section.*

B. Notwithstanding any other provision of law, the Authority shall give preference in hiring to *special agents and* employees of the ~~former~~ Department of Alcoholic Beverage Control. The Authority shall issue a written notice to all persons whose employment at the ~~former~~ Department of Alcoholic Beverage Control will be transferred to the Authority. The date upon which such written notice is issued shall be referred to herein as the "Option Date." *In order to facilitate an orderly and efficient transition and ensure the continuation of operations during the transition from the Department of Alcoholic Beverage Control (the Department) to the Authority, the Authority shall have discretion, subject to the time limitations contained herein, to determine the date upon which any employee's employment with the Department will end or be transferred to the Authority. This date shall be stated in the written notice and shall be referred to herein as the "Transition Date." No Transition Date shall occur prior to July 1, 2018, without the mutual agreement of the employee and the Authority. No Transition Date shall be set beyond December 31, 2018.* Each person whose employment will be transferred to the Authority may, by written request made within 180 days of the Option Date, elect not to become employed by the Authority. Any employee of the ~~former~~ Department of Alcoholic Beverage Control who (i) ~~elects not to become employed by the Authority and who is not reemployed by any department, institution, board, commission, or agency of the Commonwealth;~~ (ii) is not offered the opportunity to transfer to employment by the Authority; or (iii) (ii) is not offered a position with the Authority for which the employee is qualified or is offered a position that requires relocation or a reduction in salary, shall be eligible for the severance benefits conferred by the provisions of the Workforce Transition Act (§ 2.2-3200 et seq.). Any employee who accepts employment with the Authority shall not be considered to be involuntarily separated from state employment and shall not be eligible for the severance benefits conferred by the provisions of the Workforce Transition Act. *Any eligibility for such severance benefits shall be contingent on the continued employment through an employee's Transition Date.*

C. Notwithstanding any other provision of law to the contrary, any person whose employment is transferred to the Authority as a result of this section and who is a member of any plan for providing health insurance coverage pursuant to Chapter 28 (§ 2.2-2800 et seq.) of Title 2.2 shall continue to be a member of such health insurance plan under the same terms and conditions as if no transfer had occurred.

D. Notwithstanding any other provision of law to the contrary, any person whose employment is transferred to the Authority as a result of this section and who is a member of the Virginia Retirement System or other retirement plan as authorized by Article 4 (§ 51.1-125 et seq.) of Chapter 1 of Title 51.1 shall continue to be a member of the Virginia Retirement System or other such authorized retirement plan under the same terms and conditions as if no transfer had occurred.

*E. Notwithstanding any other provision of law, any person whose employment is transferred to the Authority as a result of this section and who was subjected to a criminal history background check as a condition of employment with the Department of Alcoholic Beverage Control shall not be subject to the requirements of § 4.1-103.1, unless the Authority deems otherwise.*

**§ 4.1-101.07. (Effective July 1, 2018) Forms of accounts and records; audit; annual report.**

A. The accounts and records of the Authority showing the receipt and disbursement of funds from whatever source derived shall be in a form prescribed by the Auditor of Public Accounts. The Auditor of Public Accounts or his legally authorized representatives shall annually examine the accounts and books of the Authority. The Authority shall submit an annual report to the Governor and General Assembly on or before ~~November 1~~ *December 15* of each year. Such report shall contain the audited annual financial statements of the Authority for the year ending the previous June 30. The Authority shall also submit a six-year plan detailing its assumed revenue forecast, assumed operating costs, number of retail facilities, capital costs, including lease payments, major acquisitions of services and tangible or intangible property, any material changes to the policies and procedures issued by the Authority related to procurement or personnel, and any proposed marketing activities.

*B. Notwithstanding any other provision of law, in exercising any power conferred under this title, the Authority may implement and maintain independent payroll and nonpayroll disbursement systems. These systems and related procedures shall be subject to review and approval by the State Comptroller. Upon agreement with the State Comptroller, the Authority may report summary level detail on both payroll and nonpayroll transactions to the State Comptroller through the Department of Accounts' financial management system or its successor system. Such reports shall be made in accordance with policies, procedures, and directives as prescribed by the State Comptroller. A nonpayroll disbursement system shall include all disbursements and expenditures, other than payroll. Such disbursements and expenditures shall include travel reimbursements, revenue refunds, disbursements for vendor payments, petty cash, and interagency payments.*

**§ 4.1-101.010. (Effective July 1, 2018) Exemption of Authority from personnel and procurement procedures; information systems; etc.**

A. The provisions of the Virginia Personnel Act (§ 2.2-2900 et seq.) and the Virginia Public Procurement Act (§ 2.2-4300 et seq.) shall not apply to the Authority in the exercise of any power conferred under this title. Nor shall the provisions of Chapter 20.1 (§ 2.2-2005 et seq.) of Title 2.2 or Article 2 (§ 51.1-1104 et seq.) of Chapter 11 of Title 51.1 apply to the Authority in the exercise of any power conferred under this title.

*B. To effect its implementation, the Authority's procurement of goods, services, insurance, and construction and the disposition of surplus materials shall be exempt from:*

- 1. State agency requirements regarding disposition of surplus materials and distribution of proceeds from the sale or recycling of surplus materials under §§ 2.2-1124 and 2.2-1125;*
- 2. The requirement to purchase from the Department for the Blind and Vision Impaired under § 2.2-1117; and*
- 3. Any other state statutes, rules, regulations, or requirements relating to the procurement of goods, services, insurance, and construction, including Article 3 (§ 2.2-1109 et seq.) of Chapter 11 of Title 2.2, regarding the duties, responsibilities, and authority of the Division of Purchases and Supply of the Virginia Department of General Services, and Article 4 (§ 2.2-1129 et seq.) of Chapter 11 of Title 2.2, regarding the review and the oversight by the Division of Engineering and Buildings of the Department of General Services of contracts for the construction of the Authority's capital projects and construction-related professional services under § 2.2-1132.*

*C. The Authority (i) may purchase from and participate in all statewide contracts for goods and services, including information technology goods and services; (ii) shall use directly or by integration or interface the Commonwealth's electronic procurement system subject to the terms and conditions agreed upon between the Authority and the Department of General Services; and (iii) shall post on the Department of General Services' central electronic procurement website all Invitations to Bid, Requests for Proposal, sole source award notices, and emergency award notices to ensure visibility and access to the Authority's procurement opportunities on one website.*

**§ 4.1-103. (Effective July 1, 2018) General powers of Board.**

The Board shall have the power to:

1. Sue and be sued, implead and be impleaded, and complain and defend in all courts;
2. Adopt, use, and alter at will a common seal;
3. Fix, alter, charge, and collect rates, rentals, fees, and other charges for the use of property of, the sale of products of, or services rendered by the Authority at rates to be determined by the Authority for the purpose of providing for the payment of the expenses of the Authority;
4. Make and enter into all contracts and agreements necessary or incidental to the performance of its duties, the furtherance of its purposes, and the execution of its powers under this title, including agreements with any person or federal agency;
5. Employ, at its discretion, consultants, researchers, architects, engineers, accountants, financial experts, investment bankers, superintendents, managers, and such other employees and *special* agents as may be necessary and fix their compensation to be payable from funds made available to the Authority. Legal services for the Authority shall be provided by the Attorney General in accordance with Chapter 5 (§ 2.2-500 et seq.) of Title 2.2;
6. Receive and accept from any federal or private agency, foundation, corporation, association, or person grants or other aid to be expended in accomplishing the objectives of the Authority, and receive and accept from the Commonwealth

or any state and any municipality, county, or other political subdivision thereof or from any other source aid or contributions of either money, property, or other things of value, to be held, used, and applied only for the purposes for which such grants and contributions may be made. All federal moneys accepted under this section shall be accepted and expended by the Authority upon such terms and conditions as are prescribed by the United States and as are consistent with state law, and all state moneys accepted under this section shall be expended by the Authority upon such terms and conditions as are prescribed by the Commonwealth;

7. Adopt, alter, and repeal bylaws, rules, and regulations governing the manner in which its business shall be transacted and the manner in which the powers of the Authority shall be exercised and its duties performed. *The Board may delegate or assign any duty or task to be performed by the Authority to any officer or employee of the Authority. The Board shall remain responsible for the performance of any such duties or tasks. Any delegation pursuant to this subdivision shall, where appropriate, be accompanied by written guidelines for the exercise of the duties or tasks delegated. Where appropriate, the guidelines shall require that the Board receive summaries of actions taken. Such delegation or assignment shall not relieve the Board of the responsibility to ensure faithful performance of the duties and tasks;*

8. Conduct or engage in any lawful business, activity, effort, or project consistent with the Authority's purposes or necessary or convenient to exercise its powers;

9. Develop policies and procedures generally applicable to the procurement of goods, services, and construction, based upon competitive principles;

10. Develop policies and procedures consistent with Article 4 (§ 2.2-4347 et seq.) of Chapter 43 of Title 2.2;

11. Buy, import and sell alcoholic beverages other than beer and wine not produced by farm wineries, and to have alcoholic beverages other than beer and wine not produced by farm wineries in its possession for sale;

12. Buy and sell any mixers;

13. Buy and sell products licensed by the Virginia Tourism Corporation that are within international trademark classes 16 (paper goods and printer matters), 18 (leather goods), 21 (housewares and glass), and 25 (clothing);

14. Control the possession, sale, transportation and delivery of alcoholic beverages;

15. Determine, subject to § 4.1-121, the localities within which government stores shall be established or operated and the location of such stores;

16. Maintain warehouses for alcoholic beverages and control the storage and delivery of alcoholic beverages to and from such warehouses;

17. Acquire, purchase, hold, use, lease, or otherwise dispose of any property, real, personal or mixed, tangible or intangible, or any interest therein necessary or desirable for carrying out the purposes of the Authority; lease as lessee any property, real, personal or mixed, tangible or intangible, or any interest therein, at such annual rental and on such terms and conditions as may be determined by the Board; lease as lessor to any person any property, real, personal or mixed, tangible or intangible, or any interest therein, at any time acquired by the Authority, whether wholly or partially completed, at such annual rental and on such terms and conditions as may be determined by the Board; sell, transfer, or convey any property, real, personal or mixed, tangible or intangible, or any interest therein, at any time acquired or held by the Authority on such terms and conditions as may be determined by the Board; and occupy and improve any land or building required for the purposes of this title;

18. Purchase or otherwise acquire title to any land or building required for the purposes of this title and sell and convey the same by proper deed, with the consent of the Governor;

19. Purchase, lease or acquire the use of, by any manner, any plant or equipment which may be considered necessary or useful in carrying into effect the purposes of this title, including rectifying, blending and processing plants. The Board may purchase, build, lease, and operate distilleries and manufacture alcoholic beverages;

20. Determine the nature, form and capacity of all containers used for holding alcoholic beverages to be kept or sold under this title, and prescribe the form and content of all labels and seals to be placed thereon; however, no container sold in or shipped into the Commonwealth shall include powdered or crystalline alcohol;

21. Appoint every agent and employee required for its operations; require any or all of them to give bonds payable to the Commonwealth in such penalty as shall be fixed by the Board; and engage the services of experts and professionals;

22. Hold and conduct hearings; issue subpoenas requiring the attendance of witnesses and the production of records, memoranda, papers and other documents before the Board or any agent of the Board; and administer oaths and take testimony thereunder. The Board may authorize any Board member or agent of the Board to hold and conduct hearings, issue subpoenas, administer oaths and take testimony thereunder, and ~~make summary decisions~~ *decide cases*, subject to final decision by the Board, on application of any party aggrieved. *The Board may enter into consent agreements and may request and accept from any applicant or licensee a consent agreement in lieu of proceedings on (i) objections to the issuance of a license or (ii) disciplinary action. Any such consent agreement shall include findings of fact and may include an admission or a finding of a violation. A consent agreement shall not be considered a case decision of the Board and shall not be subject to judicial review under the provisions of the Administrative Process Act (§ 2.2-4000 et seq.), but may be considered by the Board in future disciplinary proceedings;*

23. Make a reasonable charge for preparing and furnishing statistical information and compilations to persons other than (i) officials, including court and police officials, of the Commonwealth and of its subdivisions if the information requested is for official use and (ii) persons who have a personal or legal interest in obtaining the information requested if such information is not to be used for commercial or trade purposes;

- 24. Promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) and § 4.1-111;
- 25. Grant, suspend, and revoke licenses for the manufacture, bottling, distribution, importation, and sale of alcoholic beverages;
- 26. Assess and collect civil penalties and civil charges for violations of this title and Board regulations;
- 27. Maintain actions to enjoin common nuisances as defined in § 4.1-317;
- 28. Establish minimum food sale requirements for all retail licensees;
- 29. Review and approve any proposed legislative or regulatory changes suggested by the Chief Executive Officer as the Board deems appropriate;
- 30. Report quarterly to the Secretary of Public Safety and Homeland Security on the law-enforcement activities undertaken to enforce the provisions of this title; and
- 31. Do all acts necessary or advisable to carry out the purposes of this title.

**§ 4.1-103.03. Additional powers; mediation; alternative dispute resolution; confidentiality.**

A. As used in this section:

"Appropriate case" means any alleged license violation or objection to the application for a license in which it is apparent that there are significant issues of disagreement among interested persons and for which the Board finds that the use of a mediation or dispute resolution proceeding is in the public interest.

"Dispute resolution proceeding" means the same as that term is defined in § 8.01-576.4.

"Mediation" means the same as that term is defined in § 8.01-576.4.

"Neutral" means the same as that term is defined in § 8.01-576.4.

B. The Board may use mediation or a dispute resolution proceeding in appropriate cases to resolve underlying issues or reach a consensus or compromise on contested issues. Mediation and other dispute resolution proceedings as authorized by this section shall be voluntary procedures that supplement, rather than limit, other dispute resolution techniques available to the Board. Mediation or a dispute resolution proceeding may be used for an objection to the issuance of a license only with the consent of, and participation by, the applicant for licensure and shall be terminated at the request of such applicant.

C. Any resolution of a contested issue accepted by the Board under this section shall be considered a consent agreement as provided in subdivision 22 of § 4.1-103. The decision to use mediation or a dispute resolution proceeding is in the Board's sole discretion and shall not be subject to judicial review.

D. The Board may adopt rules and regulations, in accordance with the Administrative Process Act (§ 2.2-4000 et seq.), for the implementation of this section. Such rules and regulations may include (i) standards and procedures for the conduct of mediation and dispute resolution proceedings, including an opportunity for interested persons identified by the Board to participate in the proceeding; (ii) the appointment and function of a neutral to encourage and assist parties to voluntarily compromise or settle contested issues; and (iii) procedures to protect the confidentiality of papers, work products, or other materials.

E. The provisions of § 8.01-576.10 concerning the confidentiality of a mediation or dispute resolution proceeding shall govern all such proceedings held pursuant to this section except where the Board uses or relies on information obtained in the course of such proceeding in granting a license, suspending or revoking a license, or accepting payment of a civil penalty or investigative costs. However, a consent agreement signed by the parties shall not be confidential.

**§ 4.1-103.1. (Effective July 1, 2018) Criminal history records check required on certain employees; reimbursement of costs.**

All persons hired by the Authority whose job duties involve access to or handling of the Authority's funds or merchandise shall be subject to a criminal history records check before, and as a condition of, employment.

~~No person who has~~ The Board shall develop policies regarding the employment of persons who have been convicted of a felony or a crime involving moral turpitude ~~shall be employed or appointed by the Authority.~~

The Department of State Police shall be reimbursed by the Authority for the cost of investigations conducted pursuant to this section.

**§ 4.1-225. Grounds for which Board may suspend or revoke licenses.**

The Board may suspend or revoke any license other than a brewery license, in which case the Board may impose penalties as provided in § 4.1-227, if it has reasonable cause to believe that:

1. The licensee, or if the licensee is a partnership, any general partner thereof, or if the licensee is an association, any member thereof, or a limited partner of 10 percent or more with voting rights, or if the licensee is a corporation, any officer, director, or shareholder owning 10 percent or more of its capital stock, or if the licensee is a limited liability company, any member-manager or any member owning 10 percent or more of the membership interest of the limited liability company:

a. Has misrepresented a material fact in applying to the Board for such license;

b. Within the five years immediately preceding the date of the hearing held in accordance with § 4.1-227, has (i) been convicted of a violation of any law, ordinance or regulation of the Commonwealth, of any county, city or town in the Commonwealth, of any state, or of the United States, applicable to the manufacture, transportation, possession, use or sale of alcoholic beverages; (ii) violated any provision of Chapter 3 (§ 4.1-300 et seq.); (iii) committed a violation of the Wine Franchise Act (§ 4.1-400 et seq.) or the Beer Franchise Act (§ 4.1-500 et seq.) in bad faith; (iv) violated or failed or refused to comply with any regulation, rule or order of the Board; or (v) failed or refused to comply with any of the conditions or restrictions of the license granted by the Board;

- c. Has been convicted in any court of a felony or of any crime or offense involving moral turpitude under the laws of any state, or of the United States;
  - d. Is not the legitimate owner of the business conducted under the license granted by the Board, or other persons have ownership interests in the business which have not been disclosed;
  - e. Cannot demonstrate financial responsibility sufficient to meet the requirements of the business conducted under the license granted by the Board;
  - f. Has been intoxicated or under the influence of some self-administered drug while upon the licensed premises;
  - g. Has maintained the licensed premises in an unsanitary condition, or allowed such premises to become a meeting place or rendezvous for members of a criminal street gang as defined in § 18.2-46.1 or persons of ill repute, or has allowed any form of illegal gambling to take place upon such premises;
  - h. Knowingly employs in the business conducted under such license, as agent, servant, or employee, other than a busboy, cook or other kitchen help, any person who has been convicted in any court of a felony or of any crime or offense involving moral turpitude, or who has violated the laws of the Commonwealth, of any other state, or of the United States, applicable to the manufacture, transportation, possession, use or sale of alcoholic beverages;
  - i. Subsequent to the granting of his original license, has demonstrated by his police record a lack of respect for law and order;
  - j. Has allowed the consumption of alcoholic beverages upon the licensed premises by any person whom he knew or had reason to believe was (i) less than 21 years of age, (ii) interdicted, or (iii) intoxicated, or has allowed any person whom he knew or had reason to believe was intoxicated to loiter upon such licensed premises;
  - k. Has allowed any person to consume upon the licensed premises any alcoholic beverages except as provided under this title;
  - l. Is physically unable to carry on the business conducted under such license or has been adjudicated incapacitated;
  - m. Has allowed any obscene literature, pictures or materials upon the licensed premises;
  - n. Has possessed any illegal gambling apparatus, machine or device upon the licensed premises;
  - o. Has upon the licensed premises (i) illegally possessed, distributed, sold or used, or has knowingly allowed any employee or agent, or any other person, to illegally possess, distribute, sell or use marijuana, controlled substances, imitation controlled substances, drug paraphernalia or controlled paraphernalia as those terms are defined in Articles 1 and 1.1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2 and the Drug Control Act (§ 54.1-3400 et seq.); (ii) laundered money in violation of § 18.2-246.3; or (iii) conspired to commit any drug-related offense in violation of Articles 1 and 1.1 of Chapter 7 (§ 18.2-247 et seq.) of Title 18.2 or the Drug Control Act (§ 54.1-3400 et seq.). The provisions of this subdivision shall also apply to any conduct related to the operation of the licensed business which facilitates the commission of any of the offenses set forth herein; or
  - p. Has failed to take reasonable measures to prevent (i) the licensed premises, (ii) any premises immediately adjacent to the licensed premises that are owned or leased by the licensee, or (iii) any portion of public property immediately adjacent to the licensed premises from becoming a place where patrons of the establishment commit criminal violations of Article 1 (§ 18.2-30 et seq.), 2 (§ 18.2-38 et seq.), 2.1 (§ 18.2-46.1 et seq.), 2.2 (§ 18.2-46.4 et seq.), 3 (§ 18.2-47 et seq.), 4 (§ 18.2-51 et seq.), 5 (§ 18.2-58 et seq.), 6 (§ 18.2-59 et seq.), or 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2; Article 2 (§ 18.2-266 et seq.) of Chapter 7 of Title 18.2; Article 3 (§ 18.2-344 et seq.) or 5 (§ 18.2-372 et seq.) of Chapter 8 of Title 18.2; or Article 1 (§ 18.2-404 et seq.), 2 (§ 18.2-415), or 3 (§ 18.2-416 et seq.) of Chapter 9 of Title 18.2 and such violations lead to arrests that are so frequent and serious as to reasonably be deemed a continuing threat to the public safety; or
  - q. *Has failed to take reasonable measures to prevent an act of violence resulting in death or serious bodily injury, or a recurrence of such acts, from occurring on (i) the licensed premises, (ii) any premises immediately adjacent to the licensed premises that is owned or leased by the licensee, or (iii) any portion of public property immediately adjacent to the licensed premises.*
2. The place occupied by the licensee:
    - a. Does not conform to the requirements of the governing body of the county, city or town in which such establishment is located, with respect to sanitation, health, construction or equipment, or to any similar requirements established by the laws of the Commonwealth or by Board regulations;
    - b. Has been adjudicated a common nuisance under the provisions of this title or § 18.2-258; or
    - c. Has become a meeting place or rendezvous for illegal gambling, illegal users of narcotics, drunks, prostitutes, pimps, panderers or habitual law violators or has become a place where illegal drugs are regularly used or distributed. The Board may consider the general reputation in the community of such establishment in addition to any other competent evidence in making such determination.
  3. The licensee or any employee of the licensee discriminated against any member of the armed forces of the United States by prices charged or otherwise.
  4. The licensee, his employees, or any entertainer performing on the licensed premises has been convicted of a violation of a local public nudity ordinance for conduct occurring on the licensed premises and the licensee allowed such conduct to occur.
  5. Any cause exists for which the Board would have been entitled to refuse to grant such license had the facts been known.

6. The licensee is delinquent for a period of 90 days or more in the payment of any taxes, or any penalties or interest related thereto, lawfully imposed by the locality where the licensed business is located, as certified by the treasurer, commissioner of the revenue, or finance director of such locality, unless (i) the outstanding amount is de minimis; (ii) the licensee has pending a bona fide application for correction or appeal with respect to such taxes, penalties, or interest; or (iii) the licensee has entered into a payment plan approved by the same locality to settle the outstanding liability.

7. Any other cause authorized by this title.

**§ 4.1-227. Suspension or revocation of licenses; notice and hearings; imposition of penalties.**

A. Except for temporary licenses, before the Board may impose a civil penalty against a brewery licensee or suspend or revoke any license, reasonable notice of such proposed or contemplated action shall be given to the licensee in accordance with the provisions of § 2.2-4020 of the Administrative Process Act (§ 2.2-4000 et seq.).

Notwithstanding the provisions of § 2.2-4022, the Board shall, upon written request by the licensee, permit the licensee to inspect and copy or photograph all (i) written or recorded statements made by the licensee or copies thereof or the substance of any oral statements made by the licensee or a previous or present employee of the licensee to any law-enforcement officer, the existence of which is known by the Board and upon which the Board intends to rely as evidence in any adversarial proceeding under this chapter against the licensee, and (ii) designated books, papers, documents, tangible objects, buildings, or places, or copies or portions thereof, that are within the possession, custody, or control of the Board and upon which the Board intends to rely as evidence in any adversarial proceeding under this chapter against the licensee. In addition, any subpoena for the production of documents issued to any person at the request of the licensee or the Board pursuant to § 4.1-103 shall provide for the production of the documents sought within ten working days, notwithstanding anything to the contrary in § 4.1-103.

If the Board fails to provide for inspection or copying under this section for the licensee after a written request, the Board shall be prohibited from introducing into evidence any items the licensee would have lawfully been entitled to inspect or copy under this section.

The action of the Board in suspending or revoking any license or in imposing a civil penalty against the holder of a brewery license shall be subject to judicial review in accordance with the Administrative Process Act. Such review shall extend to the entire evidential record of the proceedings provided by the Board in accordance with the Administrative Process Act. An appeal shall lie to the Court of Appeals from any order of the court. Notwithstanding § 8.01-676.1, the final judgment or order of the circuit court shall not be suspended, stayed or modified by such circuit court pending appeal to the Court of Appeals. Neither mandamus nor injunction shall lie in any such case.

B. In suspending any license the Board may impose, as a condition precedent to the removal of such suspension or any portion thereof, a requirement that the licensee pay the cost incurred by the Board in investigating the licensee and in holding the proceeding resulting in such suspension, or it may impose a civil penalty not to exceed \$1,000 for the first violation, \$2,500 for the second violation and \$5,000 for the third violation in lieu of such suspension or any portion thereof, or both. However, if the violation involved selling alcoholic beverages to a person prohibited from purchasing alcoholic beverages or allowing consumption of alcoholic beverages by underage, intoxicated or interdicted persons, the Board may impose a civil penalty not to exceed \$2,500 for the first violation and \$5,000 for a subsequent violation in lieu of such suspension or any portion thereof, or both and collect such civil penalties as it deems appropriate. In no event shall the Board impose a civil penalty exceeding \$2,000 for the first violation occurring within five years immediately preceding the date of the violation or \$5,000 for the second violation occurring within five years immediately preceding the date of the second violation. However, if the violation involved selling alcoholic beverages to a person prohibited from purchasing alcoholic beverages or allowing consumption of alcoholic beverages by underage, intoxicated, or interdicted persons, the Board may impose a civil penalty not to exceed \$3,000 for the first violation occurring within five years immediately preceding the date of the violation and \$6,000 for a second violation occurring within five years immediately preceding the date of the second violation in lieu of such suspension or any portion thereof, or both. Upon making a finding that aggravating circumstances exist, the Board may also impose a requirement that the licensee pay for the cost incurred by the Board not exceeding \$10,000 in investigating the licensee and in holding the proceeding resulting in the violation in addition to any suspension or civil penalty incurred.

C. Following notice to (i) the licensee of a hearing ~~which~~ that may result in the suspension or revocation of his license or (ii) the applicant of a hearing to resolve a contested application, the Board may accept ~~from the licensee an offer in compromise to pay a civil charge not exceeding \$5,000, either in lieu of suspension or in addition thereto, or in lieu of revocation~~ a consent agreement as authorized in subdivision 22 of § 4.1-103. The notice shall advise the licensee or applicant of the option to (a) admit the alleged violation or the validity of the objection; (b) waive any right to a hearing or an appeal under the Virginia Administrative Process Act (§ 2.2-4000 et seq.); and (c) (1) accept the proposed restrictions for operating under the license, (2) accept the period of suspension of the licensed privileges within the Board's parameters, (3) pay a civil penalty in lieu of the period of suspension, or any portion of the suspension as applicable, or (4) proceed to a hearing.

D. In case of an offense by the holder of a brewery license, the Board may (i) require that such holder pay the costs incurred by the Board in investigating the licensee, ~~and it may~~ (ii) suspend or revoke the on-premises privileges of the brewery, and (iii) impose a civil penalty not to exceed \$25,000 for the first violation, \$50,000 for the second violation, and for the third or any subsequent violation, suspend or revoke such license or, in lieu of any suspension or portion thereof, impose a civil penalty not to exceed \$100,000. Such suspension or revocation shall not prohibit the licensee from

manufacturing or selling beer manufactured by it to the owners of boats registered under the laws of the United States sailing for ports of call of a foreign country or another state, and to persons outside the Commonwealth.

E. The Board shall, by regulation *or written order*:

1. Designate those (i) objections to an application or (ii) alleged violations that will proceed to an initial hearing;
2. Designate the violations for which a waiver of a hearing and payment of a civil charge in lieu of suspension may be accepted for a first offense occurring within three years immediately preceding the date of the violation;
- ~~2.~~ 3. Provide for a reduction in the length of any suspension and a reduction in the amount of any civil penalty for any retail licensee where the licensee can demonstrate that it provided to its employees alcohol server or seller training certified in advance by the Board;
- ~~3.~~ 4. Establish a schedule of penalties for such offenses, prescribing the appropriate suspension of a license and the civil charge acceptable in lieu of such suspension; and
4. 5. Establish a schedule of offenses for which any penalty may be waived upon a showing that the licensee has had no prior violations within five years immediately preceding the date of the violation. No waiver shall be granted by the Board, however, for a licensee's willful and knowing violation of this title or Board regulations.

~~F. A licensee receiving notice of a hearing on an alleged violation meeting the requirements of subsection E shall be advised of the option of (a) accepting the suspension authorized by the Board's schedule, (b) paying a civil charge authorized by the Board's schedule in lieu of suspension, or (c) proceeding to a hearing.~~

2. That the fourth, fifth, and twelfth enactments of Chapters 38 and 730 of the Acts of Assembly of 2015 are amended and reenacted as follows:

4. That the provisions of this act shall become effective on ~~July 1~~ *January 15, 2018*, except that the provisions of the (i) thirteenth, fourteenth, and fifteenth enactments of this act shall become effective on July 1, 2015; (ii) *third enactment of this act shall become effective on July 1, 2018*; and (iii) *eleventh enactment of this act shall become effective on January 1, 2019*.

5. That the Alcoholic Beverage Control Board or its successor in interest shall continue to receive IT infrastructure and security services pursuant to Chapter 20.1 (§ 2.2-2005 et seq.) of Title 2.2 of the Code of Virginia until ~~July 1, 2019~~, *unless otherwise provided for as part of the Commonwealth's disentanglement plan pursuant to the Comprehensive Infrastructure Agreement with Northrop Grumman. However, in no event shall the Virginia Alcoholic Beverage Control Authority be disentangled prior to October 1, 2018 such time as the Alcoholic Beverage Control Board or its successor in interest elects to no longer receive such services. However, any such departure from services provided under Chapter 20.1 (§ 2.2-2005 et seq.) of the Code of Virginia shall not be made prior to October 1, 2018. The Alcoholic Beverage Control Board or its successor in interest may determine to continue to receive all or partial services pursuant to Chapter 20.1 (§ 2.2-2005 et seq.) of the Code of Virginia based on mutual agreement between it and the Virginia Information Technologies Agency.*

12. That any ~~accrued~~ *accumulated* sick leave, *personal leave*, or annual leave of any employee of the Department of Alcoholic Beverage Control who transfers to the Virginia Alcoholic Beverage Control Authority in accordance with the provisions of this act shall transfer with the employee. *Notwithstanding subsection D of § 4.1-101.05 of the Code of Virginia, as created by this act, any accrued sick leave of any employee of the Department of Alcoholic Beverage Control participating in the Traditional Sick Leave Program who transfers to the Virginia Alcoholic Beverage Control Authority in accordance with the provisions of this act shall be paid out to the employee in accordance with applicable policies and procedures adopted by the Department of Human Resource Management. Notwithstanding subsections B and D of § 51.1-1103 of the Code of Virginia, all employees of the Department of Alcoholic Beverage Control participating in the Traditional Sick Leave Program who transfer to the Virginia Alcoholic Beverage Control Authority in accordance with the provisions of this act shall, upon such transfer, (i) participate in the Virginia Sickness and Disability Program and (ii) be eligible for nonwork related disability benefits without meeting the one-year waiting period required under subsection D of § 51.1-1103 of the Code of Virginia.*

3. That the sixth enactment of Chapters 38 and 730 of the Acts of Assembly of 2015 is repealed effective January 15, 2018.

4. That, beginning January 15, 2018, special agents and employees of the Alcoholic Beverage Control Board (the Board) shall be considered employees and special agents of the Department of Alcoholic Beverage Control (the Department) for the purpose of maintaining continued employment. The Department, including such special agents and employees, shall continue in existence through December 31, 2018. The Board shall continue in existence until July 1, 2018. During the period of January 1, 2018, through December 31, 2018, (i) the Department and the Virginia Alcoholic Beverage Control Authority (the Authority) shall exist simultaneously for the purpose of transferring special agents and employees and transitioning operations of the Department to the Authority in accordance with § 4.1-101.05 of the Code of Virginia, as amended by this act, and (ii) the Board of Directors of the Authority shall carry out the duties and responsibilities of the Board, notwithstanding elimination of the Board on July 1, 2018, for the purpose of transferring special agents and employees and facilitating the transition of operations from the Board and Department to the Authority.

5. That prior to July 1, 2018, the Alcoholic Beverage Control Authority (the Authority) and the Department of Alcoholic Beverage Control (the Department) shall enter into an operating agreement whereby employees and special agents of the Department are authorized to exercise the powers and duties conferred by the Alcoholic

Beverage Control Board that are incidental to their employment or agency with the Department and conferred upon the Board of Directors of the Authority in accordance with § 4.1-103 of the Code of Virginia, as amended by this act.

6. That any agent or employee of the Department of Alcoholic Beverage Control vested with any powers or duties assigned or delegated by the Alcoholic Beverage Control Board shall be authorized to continuously exercise the same powers and duties conferred upon him as if designated the Board of Directors of the Virginia Alcoholic Beverage Control Authority.

7. That the provisions of § 4.1-101.01 of the Code of Virginia, as amended by this act, shall expire on July 1, 2018.

8. That a current member of the Alcoholic Beverage Control Board is eligible for reappointment in accordance with the provisions of this act, provided that such member meets the qualifications set forth in § 4.1-101.01 of the Code of Virginia, as amended by this act.

CHAPTER 708

*An Act to amend and reenact §§ 46.2-2000, 46.2-2001.3, 46.2-2011.20, 46.2-2011.29, and 46.2-2099.50 of the Code of Virginia, relating to transportation network company partner vehicle registration repeal; safety inspections.*

[S 1366]

Approved March 24, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 46.2-2000, 46.2-2001.3, 46.2-2011.20, 46.2-2011.29, and 46.2-2099.50 of the Code of Virginia are amended and reenacted as follows:**

**§ 46.2-2000. Definitions.**

Whenever used in this chapter unless expressly stated otherwise:

"Authorized insurer" means, in the case of an interstate motor carrier whose operations may or may not include intrastate activity, an insurer authorized to transact business in any one state, or, in the case of a solely intrastate motor carrier, an insurer authorized to transact business in the Commonwealth.

"Broker" means any person not included in the term "motor carrier" and not a bona fide employee or agent of any such carrier, who, as principal or agent, sells or offers for sale any transportation subject to this chapter, or negotiates for, or holds himself out by solicitation, advertisement, or otherwise as one who sells, provides, furnishes, contracts, or arranges for such transportation.

"Carrier by motor launch" means a common carrier, which carrier uses one or more motor launches operating on the waters within the Commonwealth to transport passengers.

"Certificate" means a certificate of public convenience and necessity or a certificate of fitness.

"Certificate of fitness" means a certificate issued by the Department to a contract passenger carrier, a sight-seeing carrier, a transportation network company, or a nonemergency medical transportation carrier.

"Certificate of public convenience and necessity" means a certificate issued by the Department of Motor Vehicles to certain common carriers, but nothing contained in this chapter shall be construed to mean that the Department can issue any such certificate authorizing intracity transportation.

"Common carrier" means any person who undertakes, whether directly or by a lease or any other arrangement, to transport passengers for the general public by motor vehicle for compensation over the highways of the Commonwealth, whether over regular or irregular routes, including such motor vehicle operations of carriers by rail or water under this chapter. "Common carrier" does not include nonemergency medical transportation carriers, transportation network companies, or TNC partners as defined in this section.

"Contract passenger carrier" means a motor carrier that transports groups of passengers under a single contract made with one person for an agreed charge for such transportation, regardless of the number of passengers transported, and for which transportation no individual or separate fares are solicited, charged, collected, or received by the carrier. "Contract passenger carrier" does not include a transportation network company or TNC partner as defined in this section.

"Department" means the Department of Motor Vehicles.

"Digital platform" means any online-enabled application, software, website, or system offered or utilized by a transportation network company that enables the prearrangement of rides with TNC partners.

"Employee hauler" means a motor carrier operating for compensation and exclusively transporting only bona fide employees directly to and from the factories, plants, office or other places of like nature where the employees are employed and accustomed to work.

"Excursion train" means any steam-powered train that carries passengers for which the primary purpose of the operation of such train is the passengers' experience and enjoyment of this means of transportation, and does not, in the course of operation, carry (i) freight other than the personal luggage of the passengers or crew or supplies and equipment necessary to serve the needs of the passengers and crew, (ii) passengers who are commuting to work, or (iii) passengers who are traveling to their final destination solely for business or commercial purposes.

"Financial responsibility" means the ability to respond in damages for liability thereafter incurred arising out of the ownership, maintenance, use, or operation of a motor vehicle, in the amounts provided for in this chapter.

"Highway" means every public highway or place of whatever nature open to the use of the public for purposes of vehicular travel in the Commonwealth, including the streets and alleys in towns and cities.

"Identification marker" means a decal or other visible identification issued ~~or required~~ by the Department to show one or more of the following: (i) that the operator of the vehicle has registered with the Department for the payment of the road tax imposed under Chapter 27 (§ 58.1-2700 et seq.) of Title 58.1; (ii) proof of the possession of a certificate or permit issued pursuant to ~~Chapter 20 (§ 46.2-2000 et seq.); this chapter;~~ or (iii) ~~proof that the vehicle has been registered with the Department as a TNC partner vehicle under subsection B of § 46.2-2099.50; (iv) proof that the vehicle has been authorized by a transportation network company to be operated as a TNC partner vehicle, in accordance with subsection C of § 46.2-2099.50; or (v) proof of compliance with the insurance requirements of this chapter.~~

"Interstate" means transportation of passengers between states.

"Intrastate" means transportation of passengers solely within a state.

"License" means a license issued by the Department to a broker.

"Minibus" means any motor vehicle having a seating capacity of not less than seven nor more than 31 passengers, including the driver, and used in the transportation of passengers.

"Motor carrier" means any person who undertakes, whether directly or by lease, to transport passengers for compensation over the highways of the Commonwealth.

"Motor launch" means a motor vessel that meets the requirements of the U.S. Coast Guard for the carriage of passengers for compensation, with a capacity of six or more passengers, but not in excess of 50 passengers. "Motor launch" does not include sight-seeing vessels, special or charter party vessels within the provisions of this chapter. A carrier by motor launch shall not be regarded as a steamship company.

"Nonemergency medical transportation carrier" means a motor carrier that exclusively provides nonemergency medical transportation and provides such transportation only (i) through the Department of Medical Assistance Services; (ii) through a broker operating under a contract with the Department of Medical Assistance Services; or (iii) as a Medicaid Managed Care Organization contracted with the Department of Medical Assistance Services to provide such transportation.

"Nonprofit/tax-exempt passenger carrier" means a bona fide nonprofit corporation organized or existing under Chapter 10 (§ 13.1-801 et seq.) of Title 13.1, or a tax-exempt organization as defined in §§ 501(c)(3) and 501(c)(4) of the Internal Revenue Code, as amended, who undertakes, whether directly or by lease, to control and operate minibuses exclusively in the transportation, for compensation, of members of such organization if it is a membership corporation, or of elderly, disabled, or economically disadvantaged members of the community if it is not a membership corporation.

"Operation" or "operations" includes the operation of all motor vehicles, whether loaded or empty, whether for compensation or not, and whether owned by or leased to the motor carrier who operates them or causes them to be operated.

"Operation of a TNC partner vehicle" means (i) any time a TNC partner is logged into a digital platform and is available to pick up passengers; (ii) any time a passenger is in the TNC partner vehicle; and (iii) any time the TNC partner has accepted a prearranged ride request through the digital platform and is en route to a passenger.

"Operator" means the employer or person actually driving a motor vehicle or combination of vehicles.

"Permit" means a permit issued by the Department to carriers operating as employee haulers or nonprofit/tax-exempt passenger carriers or to operators of taxicabs or other vehicles performing taxicab service under this chapter.

"Person" means any individual, firm, copartnership, corporation, company, association, or joint-stock association, and includes any trustee, receiver, assignee, or personal representative thereof.

"Personal vehicle" means a motor vehicle that is not used to transport passengers for compensation except as a TNC partner vehicle.

"Prearranged ride" means passenger transportation for compensation in a TNC partner vehicle arranged through a digital platform. "Prearranged ride" includes the period of time that begins when a TNC partner accepts a ride requested through a digital platform, continues while the TNC partner transports a passenger in a TNC partner vehicle, and ends when the passenger exits the TNC partner vehicle.

"Restricted common carrier" means any person who undertakes, whether directly or by a lease or other arrangement, to transport passengers for compensation, whereby such transportation service has been restricted. "Restricted common carrier" does not include a transportation network company or TNC partner as defined in this section.

"Route," when used in connection with or with respect to a certificate of public convenience and necessity, means the road or highway, or segment thereof, operated over by the holder of a certificate of public convenience and necessity or proposed to be operated over by an applicant therefor, whether such road or highway is designated by one or more highway numbers.

"Services" and "transportation" include the service of, and all transportation by, all vehicles operated by, for, or in the interest of any motor carrier irrespective of ownership or contract, expressed or implied, together with all facilities and property operated or controlled by any such carrier or carriers and used in the transportation of passengers or the performance of any service in connection therewith.

"Sight-seeing carrier" means a restricted common carrier authorized to transport passengers under the provisions of this chapter, whereby the primary purpose of the operation is the passengers' experience and enjoyment or the promotion of tourism.

"Sight-seeing carrier by boat" means a restricted common carrier, which restricted common carrier uses a boat or boats operating on waters within the Commonwealth to transport passengers, and whereby the primary purpose of the operation is

the passengers' experience and enjoyment or the promotion of tourism. Sight-seeing carriers by boat shall not be regarded as steamship companies.

"Single state insurance receipt" means any receipt issued pursuant to 49 C.F.R. Part 367 evidencing that the carrier has the required insurance and paid the requisite fees to the Commonwealth and other qualified jurisdictions.

"Special or charter party carrier by boat" means a restricted common carrier which transports groups of persons under a single contract made with one person for an agreed charge for such movement regardless of the number of persons transported. Special or charter party carriers by boat shall not be regarded as steamship companies.

"Taxicab or other motor vehicle performing a taxicab service" means any motor vehicle having a seating capacity of not more than six passengers, excluding the driver, not operating on a regular route or between fixed terminals used in the transportation of passengers for hire or for compensation, and not a common carrier, restricted common carrier, transportation network company, TNC partner, or nonemergency medical transportation carrier as defined in this chapter.

"TNC insurance" means a motor vehicle liability insurance policy that specifically covers liabilities arising from a TNC partner's operation of a TNC partner vehicle.

"TNC partner" means a person authorized by a transportation network company to use a TNC partner vehicle to provide prearranged rides on an intrastate basis in the Commonwealth.

"TNC partner vehicle" means a personal vehicle authorized by a transportation network company and used by a TNC partner to provide prearranged rides on an intrastate basis in the Commonwealth.

"Trade dress" means a logo, insignia, or emblem attached to or visible from the exterior of a TNC partner vehicle that identifies a transportation network company or digital platform with which the TNC partner vehicle is affiliated.

"Transportation network company" means a person who provides prearranged rides using a digital platform that connects passengers with TNC partners.

**§ 46.2-2001.3. Application; notice requirements.**

A. Applications for a license, permit, certificate, *or* identification marker, ~~or TNC partner vehicle registration~~ or renewal of a license, permit, certificate, *or* identification marker, ~~or TNC partner vehicle registration~~ under this chapter shall be made to the Department and contain such information and exhibits as the Department shall require. Such information shall include ~~except in the case of a TNC partner vehicle~~, in the application or otherwise, the matters set forth in § 46.2-2011.24 as grounds for denying licenses, permits, and certificates, and other pertinent matters requisite for the safeguarding of the public interest.

Notwithstanding any other provision of this chapter, the Commissioner may require all or certain applications for a license, permit, certificate, *or* identification marker, ~~or TNC partner vehicle registration~~ to be filed electronically.

~~For the purposes of this subsection, "identification marker" does not include trade dress.~~

B. An applicant for any original certificate of public convenience and necessity issued under this chapter, or any request for a transfer of such certificate, unless otherwise provided, shall cause a notice of such application, on the form and in the manner prescribed by the Department, on every motor carrier holding the same type of certificate issued by the Department and operating or providing service within the area proposed to be served by the applicant.

C. For any application for original certificate or license issued under this chapter, or any request for a transfer of such certificate or license, the Department shall publish a notice of such application on the Department's public website in the form and in the manner prescribed by the Department.

D. An applicant for any original certificate of public convenience and necessity issued under this chapter, or any request for a transfer of such certificate of public convenience and necessity, shall cause a publication of a summary of the application to be made in a newspaper having a general circulation in the proposed area to be served or area where the primary business office is located within such time as the Department may prescribe.

**§ 46.2-2011.20. Unlawful use of registration and identification markers.**

It shall be unlawful for any person to operate or cause to be operated on any highway in the Commonwealth any motor vehicle that (i) does not carry the proper registration and identification that this chapter requires, (ii) does not display an identification marker in such manner as is prescribed by the Department, or (iii) bears registration or identification markers of persons whose ~~TNC partner vehicle registration under subsection B of § 46.2-2099.50~~ or whose license, permit, or certificate issued by the Department has been canceled, revoked, *or* suspended; or whose renewal thereof *has been* denied in accordance with this chapter.

**§ 46.2-2011.29. Surrender of identification marker, license plate, and registration card; removal by law enforcement; operation of vehicle denied.**

~~A. For purposes of this section, "identification marker" does not include trade dress.~~

~~B. It shall be unlawful for a licensee, permittee, or certificate holder, or for the registrant or operator of a vehicle registered under subsection B of § 46.2-2099.50, whose license, permit, or certificate, or vehicle's registration as a TNC partner vehicle, has expired or been revoked or, suspended, or canceled; or whose renewal thereof has been denied pursuant to this chapter to fail or refuse to surrender, on demand, to the Department license plates, identification markers, and registration cards issued under this title.~~

~~C. B. It shall be unlawful for a vehicle owner who is not the holder of a valid permit or certificate or whose vehicle is not validly leased to a motor carrier holding an active permit or certificate to fail or refuse to surrender to the Department on demand license plates, identification markers, and registration cards issued under this title.~~

**D.** Except as provided in subsection E, if C. If any law-enforcement officer finds that a vehicle bearing Virginia license plates or temporary transport plates is in violation of subsection B A or C B, such law-enforcement officer may remove the license plate, identification marker, and registration card. If a law-enforcement officer removes a license plate, identification marker, or registration card, he shall forward the same to the Department.

**E.** If the officer finds that a TNC partner vehicle bearing Virginia license plates is being operated in violation of subsection B, such law-enforcement officer shall direct the operator of the vehicle to promptly remove any identification marker and any registration card issued under subsection B of § 46.2-2099.50 and return the same to the Department. If any law-enforcement officer finds that a TNC partner vehicle not bearing Virginia license plates is being operated in violation of subsection B, such law-enforcement officer shall remove any identification marker and any registration card issued under subsection B of § 46.2-2099.50 and shall forward the same to the Department.

**F. D.** When informed that a vehicle is being operated in violation of this section, the driver shall drive the vehicle to a nearby location off the public highways and not remove it or allow it to be moved until the motor carrier is in compliance with all provisions of this chapter.

**§ 46.2-2099.50. Requirements for TNC partner vehicles; trade dress issued by transportation network company.**

A. A TNC partner vehicle shall:

1. Be a personal vehicle;
2. Have a seating capacity of no more than eight persons, including the driver;
3. Be validly titled and registered in the Commonwealth or in another state;
4. Not have been issued a certificate of title, either in Virginia or in any other state, branding the vehicle as salvage, nonrepairable, rebuilt, or any equivalent classification;
5. Have a valid Virginia safety inspection or an annual inspection conducted in another state for which the Department of State Police has determined that such motor vehicle safety inspection standards adequately ensure public safety and carry proof of that inspection on or in the vehicle; and
6. Be covered under a TNC insurance policy meeting the requirements of § 46.2-2099.51 or 46.2-2099.52, as applicable; and
7. Be registered with the Department for use as a TNC partner vehicle and display an identification marker issued by the Department as provided in subsection B.

No TNC partner shall operate a TNC partner vehicle unless that vehicle meets the requirements of this subsection.

**B.** A vehicle owner, lessee, or TNC partner shall register a personal vehicle for use as a TNC partner vehicle. A TNC partner that is not the vehicle owner or lessee shall, prior to registering any TNC partner vehicle with the Department, secure the consent of each owner, lessor, and lessee of the vehicle as applicable for its registration as a TNC partner vehicle and for its use as a TNC partner vehicle by the TNC partner. A transportation network company shall have the option of registering a TNC partner vehicle on behalf of a TNC partner electronically through a secure portal maintained by the Department provided the TNC partner, if the TNC partner is not the vehicle owner or lessee, certifies that it has secured consent from each owner, lessor, and lessee of the vehicle for its registration as a TNC partner vehicle and for its use as a TNC partner vehicle by the TNC partner.

Prior to registering for use as a TNC partner vehicle any vehicle that has been titled and registered in another state, the vehicle owner or lessee, or a transportation network company on behalf of the owner or lessee, shall provide the Department with such information as the Department requires to establish a customer record for that person and that person's vehicle. A transportation network company shall have the option to submit this information electronically through a secure portal maintained by the Department.

For each TNC partner vehicle a transportation network company authorizes, the transportation network company or TNC partner shall provide to the Department, in a form acceptable to the Department, any information reasonably necessary for the Department to identify the vehicle and register it for use as a TNC partner vehicle.

Upon registering a vehicle for use as a TNC partner vehicle, the Department shall issue a temporary registration, an identification marker to the vehicle owner or lessee, and a registration card indicating the vehicle's registration for use as a TNC partner vehicle.

The Commissioner may deny, suspend, cancel, or revoke the TNC partner vehicle registration and identification marker for any of the following reasons: (i) the vehicle is not properly registered; (ii) the vehicle does not carry insurance as required by this article; (iii) the vehicle is sold; or (iv) the vehicle is used by a TNC partner in a manner not authorized by this chapter.

Registration of a TNC partner vehicle under this subsection shall remain valid until (a) the vehicle is no longer authorized to operate as a TNC partner vehicle by a transportation network company; (b) the TNC partner, vehicle owner, or lessee requests cancellation of the registration; (c) there is a transfer of vehicle ownership, other than a transfer from the lessor of the vehicle to the lessee; (d) the vehicle's lease terminates and ownership is not transferred to the lessee; or (e) the Department suspends, revokes, or cancels the registration of the vehicle for use as a TNC partner vehicle. The fee for the replacement of a lost, mutilated, or illegible identification marker or registration card shall be the same as the fee set forth in § 46.2-692 for the replacement of a decal or vehicle registration card. However, if the TNC partner vehicle is not titled and registered in Virginia, the replacement fee for an identification marker shall be \$40.

Any vehicle registered with the Department as a personal vehicle and subject to further registration as a TNC partner vehicle pursuant to this section shall be presumed to be used for nonbusiness purposes for the purpose of determining

~~whether it is a qualifying vehicle under § 58.1-3523 absent clear and convincing evidence to the contrary, and any registration pursuant to this section shall not create any presumption of business or commercial use of the vehicle or of business activity on the part of the TNC partner, for purposes of any state or local requirement.~~

~~C. B. Before authorizing a vehicle to be used as a TNC partner vehicle, a transportation network company shall confirm that the vehicle meets the requirements of subsection A and shall provide each TNC partner with proof of any TNC insurance policy maintained by the transportation network company.~~

For each TNC partner vehicle it authorizes, a transportation network company shall issue trade dress to the TNC partner associated with that vehicle. The trade dress shall be sufficient to identify the transportation network company or digital platform with which the vehicle is affiliated and shall be displayed in a manner that complies with Virginia law. The trade dress shall be of such size, shape, and color as to be readily identifiable during daylight hours from a distance of 50 feet while the vehicle is not in motion and shall be reflective, illuminated, or otherwise patently visible in darkness. The trade dress may take the form of a removable device that meets the identification and visibility requirements of this subsection.

The transportation network company shall submit to the Department proof that the transportation network company has established the trade dress required under this subsection by filing with the Department an illustration or photograph of the trade dress.

A TNC partner shall keep the trade dress issued under this subsection visible at all times while the vehicle is being operated as a TNC partner vehicle.

No person shall operate a vehicle bearing trade dress issued under this subsection without the authorization of the transportation network company issuing the trade dress.

~~D. Any information provided to the Department pursuant to this section, whether held by the Department or another public entity, shall not be subject to disclosure under the Virginia Freedom of Information Act (§ 2.2-3700 et seq.). Neither the Department nor any such public entity shall disclose any such information to a nongovernmental entity absent a court order or subpoena. In the event information provided pursuant to this section is sought through a court order or subpoena, the Department or other public entity shall promptly notify the transportation network company prior to disclosure so as to afford the transportation network company the opportunity to take appropriate actions to prevent disclosure. The Department shall not disclose such information to a governmental entity other than to enable that entity to perform its governmental function.~~

**2. That an emergency exists and this act is effective upon its passage or March 1, 2017, whichever is later.**

## CHAPTER 709

*An Act to amend and reenact § 5.1-2.16 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 5.1-2.2:2 and 5.1-2.2:3, relating to Virginia Aviation Board; commercial air service plan and use of funds.*

[S 1417]

Approved March 24, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 5.1-2.16 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding sections numbered 5.1-2.2:2 and 5.1-2.2:3 as follows:**

**§ 5.1-2.2:2. Commercial air service plan.**

A. The Board shall develop and review every five years a commercial air service plan for commercial air service airports within the Commonwealth. In developing and reviewing such plan, the Board shall (i) analyze trends in commercial air service generally, (ii) analyze the current and projected future demographic and economic trends related to air travel needs in the Commonwealth, (iii) solicit input from other appropriate stakeholders, (iv) consider any other factors determined to be appropriate by the Board, and (v) establish reasonable goals for commercial air service based on clauses (i) through (iv).

B. In developing the plan pursuant to subsection A, the Board shall coordinate with each commercial air service airport.

C. Prior to the allocation of funds pursuant to subdivision A 3 of § 58.1-638, the Board shall ensure that any requested funds are not inconsistent with the Board's commercial air service plan and that no commercial service airport is penalized for not meeting goals set forth in such commercial air service plan.

**§ 5.1-2.2:3. Transparency and accountability in the use of Commonwealth Airport Fund revenues.**

A. By November 1 of each year, the Board shall report to the Governor and the General Assembly on the use of Commercial Airport Fund revenues the previous fiscal year. The report shall include at a minimum the following:

1. The use of entitlement funds allocated pursuant to subdivision A 3 a of § 58.1-638 by each air carrier airport, including the amount of funds that are unobligated;

2. The award and use of discretionary funds allocated for air carrier and reliever airports pursuant to subdivision A 3 b of § 58.1-638 by every such airport; and

3. The award and use of discretionary funds allocated for general aviation airports pursuant to subdivision A 3 c of § 58.1-638 by every such airport.

*Such report shall also include the status of ongoing projects funded in whole or in part by the Commonwealth Airport Fund pursuant to subdivision A 3 of § 58.1-638.*

*B. Each year prior to the release of entitlement funds allocated pursuant to subdivision A 3 a of § 58.1-638, each air carrier airport shall submit a plan that outlines the planned use of such funds for the upcoming fiscal year to the Board for review and approval. The Board shall approve such plan provided that the use of funds is in accordance with Board policies. An airport may modify its plan during a fiscal year by submitting a revised plan to the Board for review.*

*C. The Board shall have the right to withhold entitlement funds allocated pursuant to subdivision A 3 a of § 58.1-638 in the event that the entitlement utilization plan is not approved by the Board or the airport uses the funds in a manner that is inconsistent with the approved plan.*

**§ 5.1-2.16. Grants or loans of public or private funds.**

The Board is authorized to accept, receive, receipt for, disburse, and expend federal and state moneys and other moneys, public or private, made available by grant or loan or both, to accomplish, in whole or in part, any of the purposes of this chapter. All federal moneys accepted under this section shall be accepted and expended by the Board upon such terms and conditions as are prescribed by the United States and as are consistent with state law, and all state moneys accepted under this section shall be accepted and expended by the Board upon such terms and conditions as are prescribed by the Commonwealth. *State moneys allocated pursuant to subdivision A 3 of § 58.1-638 shall not be used for (i) operating costs unless otherwise approved by the Board or (ii) purposes related to supporting the operation of an airline, either directly or indirectly, through grants, credit enhancements, or other related means.*

In considering or evaluating the application for or award of any grant of moneys under this section, the Board shall take into account the capacities of all airports within the affected geographic region.

**CHAPTER 710**

*An Act to amend and reenact §§ 25.1-244, 25.1-315, and 33.2-1026 of the Code of Virginia, relating to interest on the amount of award; condemnation proceeding.*

[S 1421]

Approved March 24, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 25.1-244, 25.1-315, and 33.2-1026 of the Code of Virginia are amended and reenacted as follows:**

**§ 25.1-244. Interest on award; entry of judgment for award and interest.**

A. If the petitioner has exercised pendente lite the right to enter into and take possession of the land or other property, in the manner provided by this chapter, upon the payment into court of the sum ascertained in the report of just compensation as provided in § 25.1-238, the owner thereof shall receive interest upon the difference between (i) the amount of just compensation as finally determined and awarded to such owner and (ii) the amount, if any, that such owner received or was entitled to receive from the fund so paid into court. Such interest shall be paid for the period from the time of such entry by the petitioner until the time the fund paid into court on account of the final award of just compensation to such owner is available for distribution. Interest accruing prior to July 1, 1970, shall be paid at the rate of five percent annually; interest accruing thereafter and prior to July 1, 1981, shall be paid at the rate of six percent annually; interest accruing thereafter and prior to July 1, 2003, shall be paid at the rate of eight percent annually; and interest accruing thereafter shall be paid at the general account's primary liquidity portfolio rate, compiled by the Department of the Treasury not less than the judgment rate of interest as set forth in § 8.01-382. No interest shall be payable upon any amount that was withheld from such owner on account of questions involving his right, title, interest or estate in the land or other property taken or damaged.

B. If the petitioner has exercised the right pendente lite to enter into and take possession of the land or other property to be taken or damaged as provided in § 25.1-224, the owner thereof shall receive, in addition to the amount that he is entitled to receive under subsection A, interest at the general account's primary liquidity portfolio rate annually upon the difference between (i) the amount of the award of just compensation as finally determined and (ii) the amount previously paid into court as required under § 25.1-224. Such interest shall be paid for the period from the time of such entry until payment into court of the sum ascertained in the report of just compensation as provided in § 25.1-237.

C. No interest shall be allowed during the time any distribution of the fund paid into court was delayed in the trial court or upon appeal, or thereafter, occasioned by any exceptions made by such owner that are not sustained in whole or in part.

D. If the petitioner fails to pay into court any sum necessary for paying the total award that has been confirmed finally or the interest to which the owner is entitled under this section for a period of 30 days after the time for noting an appeal, the court shall enter judgment therefor against the petitioner, unless the proceedings have been dismissed in accordance with the provisions of Article 8 (§ 25.1-248 et seq.) of this chapter.

E. Interest allowable under the provisions of this section shall be reduced to the extent the fund has accrued interest during the pendency of the suit in the account required by § 25.1-224.

**§ 25.1-315. Awards in greater amounts than deposit; interest.**

A. If the amount of an award in a condemnation proceeding is greater than that deposited with the court or represented by a certificate of deposit, the excess amount, together with interest accrued on such excess amount, shall be paid into court for the person or persons entitled thereto.

B. Interest shall accrue on the excess amount at ~~the general account's primary liquidity portfolio rate, compiled by the Department of the Treasury of Virginia for the month in which the award is rendered~~ *not less than the judgment rate of interest as set forth in § 8.01-382*, computed from the date of such deposit to the date of payment into court and be paid into court for the person or persons entitled thereto. However, any interest that accrued before July 1, 1970, shall be paid at the rate of five percent, and interest accruing thereafter and prior to July 1, 1981, shall be paid at the rate of six percent, and any interest accruing thereafter and prior to July 1, 1994, shall be paid at the rate of eight percent.

**§ 33.2-1026. Awards in greater or lesser amounts than deposit; interest.**

A. If the amount of an award in a condemnation proceeding is greater than that deposited with the court or represented by a certificate of deposit, the excess amount, together with interest accrued on such excess amount, shall be paid into court for the person entitled thereto.

B. Interest shall accrue on the excess amount at *not less than the judgment rate of interest established pursuant to § 6621(a)(2) of the Internal Revenue Code of 1954, as amended*, ~~compiled by the Department for the month in which the award is rendered as set forth in § 8.01-382~~, computed from the date of such deposit to the date of payment into court, and shall be paid into court for the person or persons entitled thereto. However, any (i) interest accruing after June 30, 1970, and prior to July 1, 1981, shall be paid at the rate of six percent; (ii) interest accruing after June 30, 1981, and prior to July 1, 1994, shall be paid at the rate of eight percent; and (iii) interest accruing after June 30, 1994, and prior to July 1, 2003, shall be paid at the general account composite rate, compiled by the Department of the Treasury for the month in which the award is rendered.

C. If the amount of an award in a condemnation proceeding is less than that deposited with the court or represented by a certificate of deposit, and the person or persons entitled thereto have received a distribution of the funds pursuant to § 33.2-1023, the Commissioner of Highways shall recover (i) the amount of such excess and (ii) interest on such excess at the rate of interest established pursuant to § 6621(a)(2) of the Internal Revenue Code of 1954, as amended. If any person has been paid a greater sum than that to which he is entitled as determined by the award, judgment shall be entered for the Commissioner of Highways against such person for the amount of such excess and interest. However, the Commissioner of Highways shall not be entitled to recover the amount of such excess and interest in the event the Commissioner of Highways acquired, by virtue of the certificate, an entire parcel of land containing a dwelling, multiple-family dwelling, or building used for commercial purposes at the time of initiation of negotiations for the acquisition of such property.

## CHAPTER 711

*An Act to amend and reenact § 24.2-712 of the Code of Virginia, relating to central absentee voter precincts; expedited counting of absentee ballots.*

[S 1467]

Approved March 24, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 24.2-712 of the Code of Virginia is amended and reenacted as follows:**

**§ 24.2-712. Central absentee voter precincts; counting ballots.**

A. Notwithstanding any other provision of law, the governing body of each county or city may establish one or more central absentee voter precincts in the courthouse or other public buildings for the purpose of receiving, counting, and recording absentee ballots cast in the county or city. The decision to establish any absentee voter precinct shall be made by the governing body by ordinance; the ordinance shall state for which elections the precinct shall be used. The decision to abolish any absentee voter precinct shall be made by the governing body by ordinance. Immediate notification of either decision shall be sent to the Department of Elections and the electoral board.

B. Each central absentee voter precinct shall have at least three officers of election as provided for other precincts. The number of officers shall be determined by the electoral board and general registrar.

C. If any voter brings an unmarked ballot to the central absentee voter precinct on the day of the election, he shall be allowed to vote it. If any voter brings an unmarked ballot to the general registrar on or before the day of the election, he shall be allowed to vote it, and his ballot shall be delivered to the absentee voter precinct pursuant to § 24.2-710.

The officers at the absentee voter precinct shall determine any appeal by any other voter whose name appears on the absentee voter applicant list and who offers to vote in person. If the officers at the absentee voter precinct produce records showing the receipt of his application and the certificate or other evidence of mailing for the ballot, they shall deny his appeal. If the officers cannot produce such records, the voter shall be allowed to vote in person at the absentee voter precinct and have his vote counted with other absentee votes. If the voter's appeal is denied, the provisions of § 24.2-708 shall be applicable, and the officers shall advise the voter that he may vote on presentation of a statement signed by him that he has not received an absentee ballot and subject to felony penalties for making false statements pursuant to § 24.2-1016.

D. Absentee ballots may be processed as required by § 24.2-711 by the officers of election at the central absentee voter precinct prior to the closing of the polls ~~but the ballot container shall not be opened and the counting of ballots shall not~~

~~begin prior to that time.~~ In the case of machine-readable ballots, the ballot container may be opened and the absentee ballots may be inserted in the counting machines prior to the closing of the polls in accordance with procedures prescribed by the Department of Elections, including procedures to preserve ballot secrecy, but no ballot count totals *by the machines* shall be initiated prior to ~~that time~~ *the closing of the polls.*

*In the case of absentee ballots that are counted by hand, the officers of election may begin tallying such ballots at any time after 3:00 p.m. on the day of the election in accordance with the procedures prescribed by the Department of Elections, including procedures to preserve ballot secrecy. No counts of such tallies shall be determined or transmitted outside of the central absentee voter precinct until after the closing of the polls. The use of cellular telephones or other communication devices shall be prohibited in the central absentee voter precinct during such tallying and until the closing of the polls. Any person present in the central absentee voter precinct shall sign a statement under oath that he will not transmit any counts prior to the closing of the polls. Any person who transmits any counts in violation of this section is guilty of a Class 1 misdemeanor.*

As soon as the polls are closed in the county or city, the officers of election at the central absentee voter precinct shall proceed promptly to ascertain and record the *total* vote given by *all* absentee ~~ballot~~ ballots and report the results in the manner provided for counting and reporting ballots generally in Article 4 (§ 24.2-643 et seq.) of Chapter 6.

E. The electoral board or general registrar may provide that the officers of election for a central absentee voter precinct may be assigned to work all or a portion of the time that the precinct is open on election day subject to the following conditions:

1. The chief officer and the assistant chief officer, appointed pursuant to § 24.2-115 to represent the two political parties, are on duty at all times; and
2. No officer, political party representative, or other candidate representative shall leave the precinct after any ballots have been counted until the polls are closed and the count for the precinct is completed and reported.

F. The general registrar may provide that the central absentee voter precinct will open after 6:00 a.m. on the day of the election provided that the office of the general registrar will be open for the receipt of absentee ballots until the central absentee voter precinct is open and that the officers of election for the central absentee voter precinct obtain the absentee ballots returned to the general registrar's office for the purpose of counting the absentee ballots at the central absentee voter precinct and provided further that the central absentee voter precinct is the same location as the office of the general registrar.

## CHAPTER 712

*An Act to amend and reenact § 32.1-127.1:03 of the Code of Virginia, to amend the Code of Virginia by adding a section numbered 54.1-2400.9, and to repeal § 54.1-2966.1 of the Code of Virginia, relating to the reporting of disabilities of drivers.*

[H 1514]

Approved March 24, 2017

### **Be it enacted by the General Assembly of Virginia:**

**1. That § 32.1-127.1:03 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 54.1-2400.9 as follows:**

#### **§ 32.1-127.1:03. Health records privacy.**

A. There is hereby recognized an individual's right of privacy in the content of his health records. Health records are the property of the health care entity maintaining them, and, except when permitted or required by this section or by other provisions of state law, no health care entity, or other person working in a health care setting, may disclose an individual's health records.

Pursuant to this subsection:

1. Health care entities shall disclose health records to the individual who is the subject of the health record, except as provided in subsections E and F and subsection B of § 8.01-413.

2. Health records shall not be removed from the premises where they are maintained without the approval of the health care entity that maintains such health records, except in accordance with a court order or subpoena consistent with subsection C of § 8.01-413 or with this section or in accordance with the regulations relating to change of ownership of health records promulgated by a health regulatory board established in Title 54.1.

3. No person to whom health records are disclosed shall redisclose or otherwise reveal the health records of an individual, beyond the purpose for which such disclosure was made, without first obtaining the individual's specific authorization to such redisclosure. This redisclosure prohibition shall not, however, prevent (i) any health care entity that receives health records from another health care entity from making subsequent disclosures as permitted under this section and the federal Department of Health and Human Services regulations relating to privacy of the electronic transmission of data and protected health information promulgated by the United States Department of Health and Human Services as required by the Health Insurance Portability and Accountability Act (HIPAA) (42 U.S.C. § 1320d et seq.) or (ii) any health care entity from furnishing health records and aggregate or other data, from which individually identifying prescription information has been removed, encoded or encrypted, to qualified researchers, including, but not limited to, pharmaceutical

manufacturers and their agents or contractors, for purposes of clinical, pharmaco-epidemiological, pharmaco-economic, or other health services research.

4. Health care entities shall, upon the request of the individual who is the subject of the health record, disclose health records to other health care entities, in any available format of the requestor's choosing, as provided in subsection E.

B. As used in this section:

"Agent" means a person who has been appointed as an individual's agent under a power of attorney for health care or an advance directive under the Health Care Decisions Act (§ 54.1-2981 et seq.).

"Certification" means a written representation that is delivered by hand, by first-class mail, by overnight delivery service, or by facsimile if the sender obtains a facsimile-machine-generated confirmation reflecting that all facsimile pages were successfully transmitted.

"Guardian" means a court-appointed guardian of the person.

"Health care clearinghouse" means, consistent with the definition set out in 45 C.F.R. § 160.103, a public or private entity, such as a billing service, repricing company, community health management information system or community health information system, and "value-added" networks and switches, that performs either of the following functions: (i) processes or facilitates the processing of health information received from another entity in a nonstandard format or containing nonstandard data content into standard data elements or a standard transaction; or (ii) receives a standard transaction from another entity and processes or facilitates the processing of health information into nonstandard format or nonstandard data content for the receiving entity.

"Health care entity" means any health care provider, health plan or health care clearinghouse.

"Health care provider" means those entities listed in the definition of "health care provider" in § 8.01-581.1, except that state-operated facilities shall also be considered health care providers for the purposes of this section. Health care provider shall also include all persons who are licensed, certified, registered or permitted or who hold a multistate licensure privilege issued by any of the health regulatory boards within the Department of Health Professions, except persons regulated by the Board of Funeral Directors and Embalmers or the Board of Veterinary Medicine.

"Health plan" means an individual or group plan that provides, or pays the cost of, medical care. "Health plan" shall include any entity included in such definition as set out in 45 C.F.R. § 160.103.

"Health record" means any written, printed or electronically recorded material maintained by a health care entity in the course of providing health services to an individual concerning the individual and the services provided. "Health record" also includes the substance of any communication made by an individual to a health care entity in confidence during or in connection with the provision of health services or information otherwise acquired by the health care entity about an individual in confidence and in connection with the provision of health services to the individual.

"Health services" means, but shall not be limited to, examination, diagnosis, evaluation, treatment, pharmaceuticals, aftercare, habilitation or rehabilitation and mental health therapy of any kind, as well as payment or reimbursement for any such services.

"Individual" means a patient who is receiving or has received health services from a health care entity.

"Individually identifying prescription information" means all prescriptions, drug orders or any other prescription information that specifically identifies an individual.

"Parent" means a biological, adoptive or foster parent.

"Psychotherapy notes" means comments, recorded in any medium by a health care provider who is a mental health professional, documenting or analyzing the contents of conversation during a private counseling session with an individual or a group, joint, or family counseling session that are separated from the rest of the individual's health record. "Psychotherapy notes" shall not include annotations relating to medication and prescription monitoring, counseling session start and stop times, treatment modalities and frequencies, clinical test results, or any summary of any symptoms, diagnosis, prognosis, functional status, treatment plan, or the individual's progress to date.

C. The provisions of this section shall not apply to any of the following:

1. The status of and release of information governed by §§ 65.2-604 and 65.2-607 of the Virginia Workers' Compensation Act;

2. Except where specifically provided herein, the health records of minors; or

3. The release of juvenile health records to a secure facility or a shelter care facility pursuant to § 16.1-248.3.

D. Health care entities may, and, when required by other provisions of state law, shall, disclose health records:

1. As set forth in subsection E, pursuant to the written authorization of (i) the individual or (ii) in the case of a minor, (a) his custodial parent, guardian or other person authorized to consent to treatment of minors pursuant to § 54.1-2969 or (b) the minor himself, if he has consented to his own treatment pursuant to § 54.1-2969, or (iii) in emergency cases or situations where it is impractical to obtain an individual's written authorization, pursuant to the individual's oral authorization for a health care provider or health plan to discuss the individual's health records with a third party specified by the individual;

2. In compliance with a subpoena issued in accord with subsection H, pursuant to a search warrant or a grand jury subpoena, pursuant to court order upon good cause shown or in compliance with a subpoena issued pursuant to subsection C of § 8.01-413. Regardless of the manner by which health records relating to an individual are compelled to be disclosed pursuant to this subdivision, nothing in this subdivision shall be construed to prohibit any staff or employee of a health care

entity from providing information about such individual to a law-enforcement officer in connection with such subpoena, search warrant, or court order;

3. In accord with subsection F of § 8.01-399 including, but not limited to, situations where disclosure is reasonably necessary to establish or collect a fee or to defend a health care entity or the health care entity's employees or staff against any accusation of wrongful conduct; also as required in the course of an investigation, audit, review or proceedings regarding a health care entity's conduct by a duly authorized law-enforcement, licensure, accreditation, or professional review entity;

4. In testimony in accordance with §§ 8.01-399 and 8.01-400.2;

5. In compliance with the provisions of § 8.01-413;

6. As required or authorized by law relating to public health activities, health oversight activities, serious threats to health or safety, or abuse, neglect or domestic violence, relating to contagious disease, public safety, and suspected child or adult abuse reporting requirements, including, but not limited to, those contained in §§ 32.1-36, 32.1-36.1, 32.1-40, 32.1-41, 32.1-127.1:04, 32.1-276.5, 32.1-283, 32.1-283.1, 32.1-320, 37.2-710, 37.2-839, 53.1-40.10, 54.1-2400.6, 54.1-2400.7, 54.1-2400.9, 54.1-2403.3, 54.1-2506, 54.1-2966, ~~54.1-2966.1~~, 54.1-2967, 54.1-2968, 54.1-3408.2, 63.2-1509, and 63.2-1606;

7. Where necessary in connection with the care of the individual;

8. In connection with the health care entity's own health care operations or the health care operations of another health care entity, as specified in 45 C.F.R. § 164.501, or in the normal course of business in accordance with accepted standards of practice within the health services setting; however, the maintenance, storage, and disclosure of the mass of prescription dispensing records maintained in a pharmacy registered or permitted in Virginia shall only be accomplished in compliance with §§ 54.1-3410, 54.1-3411, and 54.1-3412;

9. When the individual has waived his right to the privacy of the health records;

10. When examination and evaluation of an individual are undertaken pursuant to judicial or administrative law order, but only to the extent as required by such order;

11. To the guardian ad litem and any attorney representing the respondent in the course of a guardianship proceeding of an adult patient who is the respondent in a proceeding under Chapter 20 (§ 64.2-2000 et seq.) of Title 64.2;

12. To the guardian ad litem and any attorney appointed by the court to represent an individual who is or has been a patient who is the subject of a commitment proceeding under § 19.2-169.6, Article 5 (§ 37.2-814 et seq.) of Chapter 8 of Title 37.2, Article 16 (§ 16.1-335 et seq.) of Chapter 11 of Title 16.1, or a judicial authorization for treatment proceeding pursuant to Chapter 11 (§ 37.2-1100 et seq.) of Title 37.2;

13. To a magistrate, the court, the evaluator or examiner required under Article 16 (§ 16.1-335 et seq.) of Chapter 11 of Title 16.1 or § 37.2-815, a community services board or behavioral health authority or a designee of a community services board or behavioral health authority, or a law-enforcement officer participating in any proceeding under Article 16 (§ 16.1-335 et seq.) of Chapter 11 of Title 16.1, § 19.2-169.6, or Chapter 8 (§ 37.2-800 et seq.) of Title 37.2 regarding the subject of the proceeding, and to any health care provider evaluating or providing services to the person who is the subject of the proceeding or monitoring the person's adherence to a treatment plan ordered under those provisions. Health records disclosed to a law-enforcement officer shall be limited to information necessary to protect the officer, the person, or the public from physical injury or to address the health care needs of the person. Information disclosed to a law-enforcement officer shall not be used for any other purpose, disclosed to others, or retained;

14. To the attorney and/or guardian ad litem of a minor who represents such minor in any judicial or administrative proceeding, if the court or administrative hearing officer has entered an order granting the attorney or guardian ad litem this right and such attorney or guardian ad litem presents evidence to the health care entity of such order;

15. With regard to the Court-Appointed Special Advocate (CASA) program, a minor's health records in accord with § 9.1-156;

16. To an agent appointed under an individual's power of attorney or to an agent or decision maker designated in an individual's advance directive for health care or for decisions on anatomical gifts and organ, tissue or eye donation or to any other person consistent with the provisions of the Health Care Decisions Act (§ 54.1-2981 et seq.);

17. To third-party payors and their agents for purposes of reimbursement;

18. As is necessary to support an application for receipt of health care benefits from a governmental agency or as required by an authorized governmental agency reviewing such application or reviewing benefits already provided or as necessary to the coordination of prevention and control of disease, injury, or disability and delivery of such health care benefits pursuant to § 32.1-127.1:04;

19. Upon the sale of a medical practice as provided in § 54.1-2405; or upon a change of ownership or closing of a pharmacy pursuant to regulations of the Board of Pharmacy;

20. In accord with subsection B of § 54.1-2400.1, to communicate an individual's specific and immediate threat to cause serious bodily injury or death of an identified or readily identifiable person;

21. Where necessary in connection with the implementation of a hospital's routine contact process for organ donation pursuant to subdivision B 4 of § 32.1-127;

22. In the case of substance abuse records, when permitted by and in conformity with requirements of federal law found in 42 U.S.C. § 290dd-2 and 42 C.F.R. Part 2;

23. In connection with the work of any entity established as set forth in § 8.01-581.16 to evaluate the adequacy or quality of professional services or the competency and qualifications for professional staff privileges;

24. If the health records are those of a deceased or mentally incapacitated individual to the personal representative or executor of the deceased individual or the legal guardian or committee of the incompetent or incapacitated individual or if there is no personal representative, executor, legal guardian or committee appointed, to the following persons in the following order of priority: a spouse, an adult son or daughter, either parent, an adult brother or sister, or any other relative of the deceased individual in order of blood relationship;

25. For the purpose of conducting record reviews of inpatient hospital deaths to promote identification of all potential organ, eye, and tissue donors in conformance with the requirements of applicable federal law and regulations, including 42 C.F.R. § 482.45, (i) to the health care provider's designated organ procurement organization certified by the United States Health Care Financing Administration and (ii) to any eye bank or tissue bank in Virginia certified by the Eye Bank Association of America or the American Association of Tissue Banks;

26. To the Office of the State Inspector General pursuant to Chapter 3.2 (§ 2.2-307 et seq.) of Title 2.2;

27. To an entity participating in the activities of a local health partnership authority established pursuant to Article 6.1 (§ 32.1-122.10:001 et seq.) of Chapter 4, pursuant to subdivision 1;

28. To law-enforcement officials by each licensed emergency medical services agency, (i) when the individual is the victim of a crime or (ii) when the individual has been arrested and has received emergency medical services or has refused emergency medical services and the health records consist of the prehospital patient care report required by § 32.1-116.1;

29. To law-enforcement officials, in response to their request, for the purpose of identifying or locating a suspect, fugitive, person required to register pursuant to § 9.1-901 of the Sex Offender and Crimes Against Minors Registry Act, material witness, or missing person, provided that only the following information may be disclosed: (i) name and address of the person, (ii) date and place of birth of the person, (iii) social security number of the person, (iv) blood type of the person, (v) date and time of treatment received by the person, (vi) date and time of death of the person, where applicable, (vii) description of distinguishing physical characteristics of the person, and (viii) type of injury sustained by the person;

30. To law-enforcement officials regarding the death of an individual for the purpose of alerting law enforcement of the death if the health care entity has a suspicion that such death may have resulted from criminal conduct;

31. To law-enforcement officials if the health care entity believes in good faith that the information disclosed constitutes evidence of a crime that occurred on its premises;

32. To the State Health Commissioner pursuant to § 32.1-48.015 when such records are those of a person or persons who are subject to an order of quarantine or an order of isolation pursuant to Article 3.02 (§ 32.1-48.05 et seq.) of Chapter 2;

33. To the Commissioner of the Department of Labor and Industry or his designee by each licensed emergency medical services agency when the records consist of the prehospital patient care report required by § 32.1-116.1 and the patient has suffered an injury or death on a work site while performing duties or tasks that are within the scope of his employment;

34. To notify a family member or personal representative of an individual who is the subject of a proceeding pursuant to Article 16 (§ 16.1-335 et seq.) of Chapter 11 of Title 16.1 or Chapter 8 (§ 37.2-800 et seq.) of Title 37.2 of information that is directly relevant to such person's involvement with the individual's health care, which may include the individual's location and general condition, when the individual has the capacity to make health care decisions and (i) the individual has agreed to the notification, (ii) the individual has been provided an opportunity to object to the notification and does not express an objection, or (iii) the health care provider can, on the basis of his professional judgment, reasonably infer from the circumstances that the individual does not object to the notification. If the opportunity to agree or object to the notification cannot practicably be provided because of the individual's incapacity or an emergency circumstance, the health care provider may notify a family member or personal representative of the individual of information that is directly relevant to such person's involvement with the individual's health care, which may include the individual's location and general condition if the health care provider, in the exercise of his professional judgment, determines that the notification is in the best interests of the individual. Such notification shall not be made if the provider has actual knowledge the family member or personal representative is currently prohibited by court order from contacting the individual;

35. To a threat assessment team established by a local school board pursuant to § 22.1-79.4, by a public institution of higher education pursuant to § 23.1-805, or by a private nonprofit institution of higher education; and

36. To a regional emergency medical services council pursuant to § 32.1-116.1, for purposes limited to monitoring and improving the quality of emergency medical services pursuant to § 32.1-111.3.

Notwithstanding the provisions of subdivisions 1 through 35, a health care entity shall obtain an individual's written authorization for any disclosure of psychotherapy notes, except when disclosure by the health care entity is (i) for its own training programs in which students, trainees, or practitioners in mental health are being taught under supervision to practice or to improve their skills in group, joint, family, or individual counseling; (ii) to defend itself or its employees or staff against any accusation of wrongful conduct; (iii) in the discharge of the duty, in accordance with subsection B of § 54.1-2400.1, to take precautions to protect third parties from violent behavior or other serious harm; (iv) required in the course of an investigation, audit, review, or proceeding regarding a health care entity's conduct by a duly authorized law-enforcement, licensure, accreditation, or professional review entity; or (v) otherwise required by law.

E. Health care records required to be disclosed pursuant to this section shall be made available electronically only to the extent and in the manner authorized by the federal Health Information Technology for Economic and Clinical Health Act (P.L. 111-5) and implementing regulations and the Health Insurance Portability and Accountability Act (42 U.S.C.

§ 1320d et seq.) and implementing regulations. Notwithstanding any other provision to the contrary, a health care entity shall not be required to provide records in an electronic format requested if (i) the electronic format is not reasonably available without additional cost to the health care entity, (ii) the records would be subject to modification in the format requested, or (iii) the health care entity determines that the integrity of the records could be compromised in the electronic format requested. Requests for copies of or electronic access to health records shall (a) be in writing, dated and signed by the requester; (b) identify the nature of the information requested; and (c) include evidence of the authority of the requester to receive such copies or access such records, and identification of the person to whom the information is to be disclosed; and (d) specify whether the requester would like the records in electronic format, if available, or in paper format. The health care entity shall accept a photocopy, facsimile, or other copy of the original signed by the requestor as if it were an original. Within 15 days of receipt of a request for copies of or electronic access to health records, the health care entity shall do one of the following: (A) furnish such copies of or allow electronic access to the requested health records to any requester authorized to receive them in electronic format if so requested; (B) inform the requester if the information does not exist or cannot be found; (C) if the health care entity does not maintain a record of the information, so inform the requester and provide the name and address, if known, of the health care entity who maintains the record; or (D) deny the request (1) under subsection F, (2) on the grounds that the requester has not established his authority to receive such health records or proof of his identity, or (3) as other provided by law. Procedures set forth in this section shall apply only to requests for health records not specifically governed by other provisions of state law.

F. Except as provided in subsection B of § 8.01-413, copies of or electronic access to an individual's health records shall not be furnished to such individual or anyone authorized to act on the individual's behalf when the individual's treating physician or the individual's treating clinical psychologist has made a part of the individual's record a written statement that, in the exercise of his professional judgment, the furnishing to or review by the individual of such health records would be reasonably likely to endanger the life or physical safety of the individual or another person, or that such health record makes reference to a person other than a health care provider and the access requested would be reasonably likely to cause substantial harm to such referenced person. If any health care entity denies a request for copies of or electronic access to health records based on such statement, the health care entity shall inform the individual of the individual's right to designate, in writing, at his own expense, another reviewing physician or clinical psychologist, whose licensure, training and experience relative to the individual's condition are at least equivalent to that of the physician or clinical psychologist upon whose opinion the denial is based. The designated reviewing physician or clinical psychologist shall make a judgment as to whether to make the health record available to the individual.

The health care entity denying the request shall also inform the individual of the individual's right to request in writing that such health care entity designate, at its own expense, a physician or clinical psychologist, whose licensure, training, and experience relative to the individual's condition are at least equivalent to that of the physician or clinical psychologist upon whose professional judgment the denial is based and who did not participate in the original decision to deny the health records, who shall make a judgment as to whether to make the health record available to the individual. The health care entity shall comply with the judgment of the reviewing physician or clinical psychologist. The health care entity shall permit copying and examination of the health record by such other physician or clinical psychologist designated by either the individual at his own expense or by the health care entity at its expense.

Any health record copied for review by any such designated physician or clinical psychologist shall be accompanied by a statement from the custodian of the health record that the individual's treating physician or clinical psychologist determined that the individual's review of his health record would be reasonably likely to endanger the life or physical safety of the individual or would be reasonably likely to cause substantial harm to a person referenced in the health record who is not a health care provider.

Further, nothing herein shall be construed as giving, or interpreted to bestow the right to receive copies of, or otherwise obtain access to, psychotherapy notes to any individual or any person authorized to act on his behalf.

G. A written authorization to allow release of an individual's health records shall substantially include the following information:

**AUTHORIZATION TO RELEASE CONFIDENTIAL HEALTH RECORDS**

Individual's Name \_\_\_\_\_

Health Care Entity's Name \_\_\_\_\_

Person, Agency, or Health Care Entity to whom disclosure is to be made \_\_\_\_\_

Information or Health Records to be disclosed \_\_\_\_\_

Purpose of Disclosure or at the Request of the Individual \_\_\_\_\_

As the person signing this authorization, I understand that I am giving my permission to the above-named health care entity for disclosure of confidential health records. I understand that the health care entity may not condition treatment or payment on my willingness to sign this authorization unless the specific circumstances under which such conditioning is permitted by law are applicable and are set forth in this authorization. I also understand that I have the right to revoke this authorization at any time, but that my revocation is not effective until delivered in writing to the person who is in possession of my health records and is not effective as to health records already disclosed under this authorization. A copy of this

authorization and a notation concerning the persons or agencies to whom disclosure was made shall be included with my original health records. I understand that health information disclosed under this authorization might be redisclosed by a recipient and may, as a result of such disclosure, no longer be protected to the same extent as such health information was protected by law while solely in the possession of the health care entity.

This authorization expires on (date) or (event) \_\_\_\_\_  
 Signature of Individual or Individual's Legal Representative if Individual is Unable to Sign

\_\_\_\_\_  
 Relationship or Authority of Legal Representative

\_\_\_\_\_  
 Date of Signature

H. Pursuant to this subsection:

1. Unless excepted from these provisions in subdivision 9, no party to a civil, criminal or administrative action or proceeding shall request the issuance of a subpoena duces tecum for another party's health records or cause a subpoena duces tecum to be issued by an attorney unless a copy of the request for the subpoena or a copy of the attorney-issued subpoena is provided to the other party's counsel or to the other party if pro se, simultaneously with filing the request or issuance of the subpoena. No party to an action or proceeding shall request or cause the issuance of a subpoena duces tecum for the health records of a nonparty witness unless a copy of the request for the subpoena or a copy of the attorney-issued subpoena is provided to the nonparty witness simultaneously with filing the request or issuance of the attorney-issued subpoena.

No subpoena duces tecum for health records shall set a return date earlier than 15 days from the date of the subpoena except by order of a court or administrative agency for good cause shown. When a court or administrative agency directs that health records be disclosed pursuant to a subpoena duces tecum earlier than 15 days from the date of the subpoena, a copy of the order shall accompany the subpoena.

Any party requesting a subpoena duces tecum for health records or on whose behalf the subpoena duces tecum is being issued shall have the duty to determine whether the individual whose health records are being sought is pro se or a nonparty.

In instances where health records being subpoenaed are those of a pro se party or nonparty witness, the party requesting or issuing the subpoena shall deliver to the pro se party or nonparty witness together with the copy of the request for subpoena, or a copy of the subpoena in the case of an attorney-issued subpoena, a statement informing them of their rights and remedies. The statement shall include the following language and the heading shall be in boldface capital letters:

**NOTICE TO INDIVIDUAL**

The attached document means that (insert name of party requesting or causing issuance of the subpoena) has either asked the court or administrative agency to issue a subpoena or a subpoena has been issued by the other party's attorney to your doctor, other health care providers (names of health care providers inserted here) or other health care entity (name of health care entity to be inserted here) requiring them to produce your health records. Your doctor, other health care provider or other health care entity is required to respond by providing a copy of your health records. If you believe your health records should not be disclosed and object to their disclosure, you have the right to file a motion with the clerk of the court or the administrative agency to quash the subpoena. If you elect to file a motion to quash, such motion must be filed within 15 days of the date of the request or of the attorney-issued subpoena. You may contact the clerk's office or the administrative agency to determine the requirements that must be satisfied when filing a motion to quash and you may elect to contact an attorney to represent your interest. If you elect to file a motion to quash, you must notify your doctor, other health care provider(s), or other health care entity, that you are filing the motion so that the health care provider or health care entity knows to send the health records to the clerk of court or administrative agency in a sealed envelope or package for safekeeping while your motion is decided.

2. Any party filing a request for a subpoena duces tecum or causing such a subpoena to be issued for an individual's health records shall include a Notice in the same part of the request in which the recipient of the subpoena duces tecum is directed where and when to return the health records. Such notice shall be in boldface capital letters and shall include the following language:

**NOTICE TO HEALTH CARE ENTITIES**

**A COPY OF THIS SUBPOENA DUCES TECUM HAS BEEN PROVIDED TO THE INDIVIDUAL WHOSE HEALTH RECORDS ARE BEING REQUESTED OR HIS COUNSEL. YOU OR THAT INDIVIDUAL HAS THE RIGHT TO FILE A MOTION TO QUASH (OBJECT TO) THE ATTACHED SUBPOENA. IF YOU ELECT TO FILE A MOTION TO QUASH, YOU MUST FILE THE MOTION WITHIN 15 DAYS OF THE DATE OF THIS SUBPOENA.**

**YOU MUST NOT RESPOND TO THIS SUBPOENA UNTIL YOU HAVE RECEIVED WRITTEN CERTIFICATION FROM THE PARTY ON WHOSE BEHALF THE SUBPOENA WAS ISSUED THAT THE TIME FOR FILING A MOTION TO QUASH HAS ELAPSED AND THAT:**

**NO MOTION TO QUASH WAS FILED; OR**

**ANY MOTION TO QUASH HAS BEEN RESOLVED BY THE COURT OR THE ADMINISTRATIVE AGENCY AND THE DISCLOSURES SOUGHT ARE CONSISTENT WITH SUCH RESOLUTION.**

**IF YOU RECEIVE NOTICE THAT THE INDIVIDUAL WHOSE HEALTH RECORDS ARE BEING REQUESTED HAS FILED A MOTION TO QUASH THIS SUBPOENA, OR IF YOU FILE A MOTION TO QUASH THIS SUBPOENA, YOU MUST SEND THE HEALTH RECORDS ONLY TO THE CLERK OF THE COURT OR**

ADMINISTRATIVE AGENCY THAT ISSUED THE SUBPOENA OR IN WHICH THE ACTION IS PENDING AS SHOWN ON THE SUBPOENA USING THE FOLLOWING PROCEDURE:

PLACE THE HEALTH RECORDS IN A SEALED ENVELOPE AND ATTACH TO THE SEALED ENVELOPE A COVER LETTER TO THE CLERK OF COURT OR ADMINISTRATIVE AGENCY WHICH STATES THAT CONFIDENTIAL HEALTH RECORDS ARE ENCLOSED AND ARE TO BE HELD UNDER SEAL PENDING A RULING ON THE MOTION TO QUASH THE SUBPOENA. THE SEALED ENVELOPE AND THE COVER LETTER SHALL BE PLACED IN AN OUTER ENVELOPE OR PACKAGE FOR TRANSMITTAL TO THE COURT OR ADMINISTRATIVE AGENCY.

3. Upon receiving a valid subpoena duces tecum for health records, health care entities shall have the duty to respond to the subpoena in accordance with the provisions of subdivisions 4, 5, 6, 7, and 8.

4. Except to deliver to a clerk of the court or administrative agency subpoenaed health records in a sealed envelope as set forth, health care entities shall not respond to a subpoena duces tecum for such health records until they have received a certification as set forth in subdivision 5 or 8 from the party on whose behalf the subpoena duces tecum was issued.

If the health care entity has actual receipt of notice that a motion to quash the subpoena has been filed or if the health care entity files a motion to quash the subpoena for health records, then the health care entity shall produce the health records, in a securely sealed envelope, to the clerk of the court or administrative agency issuing the subpoena or in whose court or administrative agency the action is pending. The court or administrative agency shall place the health records under seal until a determination is made regarding the motion to quash. The securely sealed envelope shall only be opened on order of the judge or administrative agency. In the event the court or administrative agency grants the motion to quash, the health records shall be returned to the health care entity in the same sealed envelope in which they were delivered to the court or administrative agency. In the event that a judge or administrative agency orders the sealed envelope to be opened to review the health records in camera, a copy of the order shall accompany any health records returned to the health care entity. The health records returned to the health care entity shall be in a securely sealed envelope.

5. If no motion to quash is filed within 15 days of the date of the request or of the attorney-issued subpoena, the party on whose behalf the subpoena was issued shall have the duty to certify to the subpoenaed health care entity that the time for filing a motion to quash has elapsed and that no motion to quash was filed. Any health care entity receiving such certification shall have the duty to comply with the subpoena duces tecum by returning the specified health records by either the return date on the subpoena or five days after receipt of the certification, whichever is later.

6. In the event that the individual whose health records are being sought files a motion to quash the subpoena, the court or administrative agency shall decide whether good cause has been shown by the discovering party to compel disclosure of the individual's health records over the individual's objections. In determining whether good cause has been shown, the court or administrative agency shall consider (i) the particular purpose for which the information was collected; (ii) the degree to which the disclosure of the records would embarrass, injure, or invade the privacy of the individual; (iii) the effect of the disclosure on the individual's future health care; (iv) the importance of the information to the lawsuit or proceeding; and (v) any other relevant factor.

7. Concurrent with the court or administrative agency's resolution of a motion to quash, if subpoenaed health records have been submitted by a health care entity to the court or administrative agency in a sealed envelope, the court or administrative agency shall: (i) upon determining that no submitted health records should be disclosed, return all submitted health records to the health care entity in a sealed envelope; (ii) upon determining that all submitted health records should be disclosed, provide all the submitted health records to the party on whose behalf the subpoena was issued; or (iii) upon determining that only a portion of the submitted health records should be disclosed, provide such portion to the party on whose behalf the subpoena was issued and return the remaining health records to the health care entity in a sealed envelope.

8. Following the court or administrative agency's resolution of a motion to quash, the party on whose behalf the subpoena duces tecum was issued shall have the duty to certify in writing to the subpoenaed health care entity a statement of one of the following:

a. All filed motions to quash have been resolved by the court or administrative agency and the disclosures sought in the subpoena duces tecum are consistent with such resolution; and, therefore, the health records previously delivered in a sealed envelope to the clerk of the court or administrative agency will not be returned to the health care entity;

b. All filed motions to quash have been resolved by the court or administrative agency and the disclosures sought in the subpoena duces tecum are consistent with such resolution and that, since no health records have previously been delivered to the court or administrative agency by the health care entity, the health care entity shall comply with the subpoena duces tecum by returning the health records designated in the subpoena by the return date on the subpoena or five days after receipt of certification, whichever is later;

c. All filed motions to quash have been resolved by the court or administrative agency and the disclosures sought in the subpoena duces tecum are not consistent with such resolution; therefore, no health records shall be disclosed and all health records previously delivered in a sealed envelope to the clerk of the court or administrative agency will be returned to the health care entity;

d. All filed motions to quash have been resolved by the court or administrative agency and the disclosures sought in the subpoena duces tecum are not consistent with such resolution and that only limited disclosure has been authorized. The certification shall state that only the portion of the health records as set forth in the certification, consistent with the court or administrative agency's ruling, shall be disclosed. The certification shall also state that health records that were previously

delivered to the court or administrative agency for which disclosure has been authorized will not be returned to the health care entity; however, all health records for which disclosure has not been authorized will be returned to the health care entity; or

e. All filed motions to quash have been resolved by the court or administrative agency and the disclosures sought in the subpoena duces tecum are not consistent with such resolution and, since no health records have previously been delivered to the court or administrative agency by the health care entity, the health care entity shall return only those health records specified in the certification, consistent with the court or administrative agency's ruling, by the return date on the subpoena or five days after receipt of the certification, whichever is later.

A copy of the court or administrative agency's ruling shall accompany any certification made pursuant to this subdivision.

9. The provisions of this subsection have no application to subpoenas for health records requested under § 8.01-413, or issued by a duly authorized administrative agency conducting an investigation, audit, review or proceedings regarding a health care entity's conduct.

The provisions of this subsection shall apply to subpoenas for the health records of both minors and adults.

Nothing in this subsection shall have any effect on the existing authority of a court or administrative agency to issue a protective order regarding health records, including, but not limited to, ordering the return of health records to a health care entity, after the period for filing a motion to quash has passed.

A subpoena for substance abuse records must conform to the requirements of federal law found in 42 C.F.R. Part 2, Subpart E.

I. Health care entities may testify about the health records of an individual in compliance with §§ 8.01-399 and 8.01-400.2.

J. If an individual requests a copy of his health record from a health care entity, the health care entity may impose a reasonable cost-based fee, which shall include only the cost of supplies for and labor of copying the requested information, postage when the individual requests that such information be mailed, and preparation of an explanation or summary of such information as agreed to by the individual. For the purposes of this section, "individual" shall subsume a person with authority to act on behalf of the individual who is the subject of the health record in making decisions related to his health care.

K. Nothing in this section shall prohibit a health care provider who prescribes or dispenses a controlled substance required to be reported to the Prescription Monitoring Program established pursuant to Chapter 25.2 (§ 54.1-2519 et seq.) of Title 54.1 to a patient from disclosing information obtained from the Prescription Monitoring Program and contained in a patient's health care record to another health care provider when such disclosure is related to the care or treatment of the patient who is the subject of the record.

**§ 54.1-2400.9. Reporting disabilities of drivers.**

Any (i) doctor of medicine, osteopathy, chiropractic, or podiatry; (ii) nurse practitioner; (iii) physician assistant; (iv) optometrist; (v) physical therapist; or (vi) clinical psychologist who reports to the Department of Motor Vehicles the existence, or probable existence, of a mental or physical disability or infirmity of any person licensed to operate a motor vehicle which the reporting practitioner believes affects such person's ability to operate a motor vehicle safely shall not be subject to civil liability under § 32.1-127.1:03 resulting from such report or deemed to have violated the practitioner-patient privilege unless he has acted in bad faith or with malicious intent.

**2. That § 54.1-2966.1 of the Code of Virginia is repealed.**

**CHAPTER 713**

*An Act to amend and reenact §§ 8.01-225 and 54.1-3408 of the Code of Virginia, relating to administration of medications to treat adrenal crisis.*

[H 1661]

Approved March 24, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 8.01-225 and 54.1-3408 of the Code of Virginia are amended and reenacted as follows:**

**§ 8.01-225. Persons rendering emergency care, obstetrical services exempt from liability.**

A. Any person who:

1. In good faith, renders emergency care or assistance, without compensation, to any ill or injured person (i) at the scene of an accident, fire, or any life-threatening emergency; (ii) at a location for screening or stabilization of an emergency medical condition arising from an accident, fire, or any life-threatening emergency; or (iii) en route to any hospital, medical clinic, or doctor's office, shall not be liable for any civil damages for acts or omissions resulting from the rendering of such care or assistance. For purposes of this subdivision, emergency care or assistance includes the forcible entry of a motor vehicle in order to remove an unattended minor at risk of serious bodily injury or death, provided the person has attempted to contact a law-enforcement officer, as defined in § 9.1-101, a firefighter, as defined in § 65.2-102, emergency medical services personnel, as defined in § 32.1-111.1, or an emergency 911 system, if feasible under the circumstances.

2. In the absence of gross negligence, renders emergency obstetrical care or assistance to a female in active labor who has not previously been cared for in connection with the pregnancy by such person or by another professionally associated

with such person and whose medical records are not reasonably available to such person shall not be liable for any civil damages for acts or omissions resulting from the rendering of such emergency care or assistance. The immunity herein granted shall apply only to the emergency medical care provided.

3. In good faith and without compensation, including any emergency medical services provider who holds a valid certificate issued by the Commissioner of Health, administers epinephrine in an emergency to an individual shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment if such person has reason to believe that the individual receiving the injection is suffering or is about to suffer a life-threatening anaphylactic reaction.

4. Provides assistance upon request of any police agency, fire department, emergency medical services agency, or governmental agency in the event of an accident or other emergency involving the use, handling, transportation, transmission, or storage of liquefied petroleum gas, liquefied natural gas, hazardous material, or hazardous waste as defined in § 10.1-1400 or regulations of the Virginia Waste Management Board shall not be liable for any civil damages resulting from any act of commission or omission on his part in the course of his rendering such assistance in good faith.

5. Is an emergency medical services provider possessing a valid certificate issued by authority of the State Board of Health who in good faith renders emergency care or assistance, whether in person or by telephone or other means of communication, without compensation, to any injured or ill person, whether at the scene of an accident, fire, or any other place, or while transporting such injured or ill person to, from, or between any hospital, medical facility, medical clinic, doctor's office, or other similar or related medical facility, shall not be liable for any civil damages for acts or omissions resulting from the rendering of such emergency care, treatment, or assistance, including but in no way limited to acts or omissions which involve violations of State Department of Health regulations or any other state regulations in the rendering of such emergency care or assistance.

6. In good faith and without compensation, renders or administers emergency cardiopulmonary resuscitation (CPR); cardiac defibrillation, including, but not limited to, the use of an automated external defibrillator (AED); or other emergency life-sustaining or resuscitative treatments or procedures which have been approved by the State Board of Health to any sick or injured person, whether at the scene of a fire, an accident, or any other place, or while transporting such person to or from any hospital, clinic, doctor's office, or other medical facility, shall be deemed qualified to administer such emergency treatments and procedures and shall not be liable for acts or omissions resulting from the rendering of such emergency resuscitative treatments or procedures.

7. Operates an AED at the scene of an emergency, trains individuals to be operators of AEDs, or orders AEDs, shall be immune from civil liability for any personal injury that results from any act or omission in the use of an AED in an emergency where the person performing the defibrillation acts as an ordinary, reasonably prudent person would have acted under the same or similar circumstances, unless such personal injury results from gross negligence or willful or wanton misconduct of the person rendering such emergency care.

8. Maintains an AED located on real property owned or controlled by such person shall be immune from civil liability for any personal injury that results from any act or omission in the use in an emergency of an AED located on such property unless such personal injury results from gross negligence or willful or wanton misconduct of the person who maintains the AED or his agent or employee.

9. Is an employee of a school board or of a local health department approved by the local governing body to provide health services pursuant to § 22.1-274 who, while on school property or at a school-sponsored event, (i) renders emergency care or assistance to any sick or injured person; (ii) renders or administers emergency cardiopulmonary resuscitation (CPR); cardiac defibrillation, including, but not limited to, the use of an automated external defibrillator (AED); or other emergency life-sustaining or resuscitative treatments or procedures that have been approved by the State Board of Health to any sick or injured person; (iii) operates an AED, trains individuals to be operators of AEDs, or orders AEDs; or (iv) maintains an AED, shall not be liable for civil damages for ordinary negligence in acts or omissions on the part of such employee while engaged in the acts described in this subdivision.

10. Is a volunteer in good standing and certified to render emergency care by the National Ski Patrol System, Inc., who, in good faith and without compensation, renders emergency care or assistance to any injured or ill person, whether at the scene of a ski resort rescue, outdoor emergency rescue, or any other place or while transporting such injured or ill person to a place accessible for transfer to any available emergency medical system unit, or any resort owner voluntarily providing a ski patroller employed by him to engage in rescue or recovery work at a resort not owned or operated by him, shall not be liable for any civil damages for acts or omissions resulting from the rendering of such emergency care, treatment, or assistance, including but not limited to acts or omissions which involve violations of any state regulation or any standard of the National Ski Patrol System, Inc., in the rendering of such emergency care or assistance, unless such act or omission was the result of gross negligence or willful misconduct.

11. Is an employee of (i) a school board, (ii) a school for students with disabilities as defined in § 22.1-319 licensed by the Board of Education, or (iii) a private school accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education and is authorized by a prescriber and trained in the administration of insulin and glucagon, who, upon the written request of the parents as defined in § 22.1-1, assists with the administration of insulin or administers glucagon to a student diagnosed as having diabetes who requires insulin injections during the school day or for whom glucagon has been prescribed for the emergency treatment of hypoglycemia shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment if the insulin is administered according to the child's

medication schedule or such employee has reason to believe that the individual receiving the glucagon is suffering or is about to suffer life-threatening hypoglycemia. Whenever any such employee is covered by the immunity granted herein, the school board or school employing him shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such insulin or glucagon treatment.

12. Is a school nurse, an employee of a school board, an employee of a local governing body, or an employee of a local health department who is authorized by a prescriber and trained in the administration of epinephrine and who provides, administers, or assists in the administration of epinephrine to a student believed in good faith to be having an anaphylactic reaction, or is the prescriber of the epinephrine, shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment.

13. Is an employee of a school for students with disabilities, as defined in § 22.1-319 and licensed by the Board of Education, or an employee of a private school that is accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education who is authorized by a prescriber and trained in the administration of epinephrine and who administers or assists in the administration of epinephrine to a student believed in good faith to be having an anaphylactic reaction, or is the prescriber of the epinephrine, shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment. Whenever any employee is covered by the immunity granted in this subdivision, the school shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from such administration or assistance.

14. Is an employee of a provider licensed by the Department of Behavioral Health and Developmental Services, or provides services pursuant to a contract with a provider licensed by the Department of Behavioral Health and Developmental Services, who has been trained in the administration of insulin and glucagon and who administers or assists with the administration of insulin or administers glucagon to a person diagnosed as having diabetes who requires insulin injections or for whom glucagon has been prescribed for the emergency treatment of hypoglycemia in accordance with § 54.1-3408 shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment if the insulin is administered in accordance with the prescriber's instructions or such person has reason to believe that the individual receiving the glucagon is suffering or is about to suffer life-threatening hypoglycemia. Whenever any employee of a provider licensed by the Department of Behavioral Health and Developmental Services or a person who provides services pursuant to a contract with a provider licensed by the Department of Behavioral Health and Developmental Services is covered by the immunity granted herein, the provider shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such insulin or glucagon treatment.

15. Is an employee of a provider licensed by the Department of Behavioral Health and Developmental Services, or provides services pursuant to a contract with a provider licensed by the Department of Behavioral Health and Developmental Services, who has been trained in the administration of epinephrine and who administers or assists in the administration of epinephrine to a person believed in good faith to be having an anaphylactic reaction in accordance with the prescriber's instructions shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment.

16. In good faith prescribes, dispenses, or administers naloxone or other opioid antagonist used for overdose reversal in an emergency to an individual who is believed to be experiencing or about to experience a life-threatening opiate overdose shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment if acting in accordance with the provisions of subsection X of § 54.1-3408 or in his role as a member of an emergency medical services agency.

17. *Is an employee of a school board, school for students with disabilities as defined in § 22.1-319 licensed by the Board of Education, or private school accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education who is trained in the administration of injected medications for the treatment of adrenal crisis resulting from a condition causing adrenal insufficiency and who administers or assists in the administration of such medications to a student diagnosed with a condition causing adrenal insufficiency when the student is believed to be experiencing or about to experience an adrenal crisis pursuant to a written order or standing protocol issued by a prescriber within the course of his professional practice and in accordance with the prescriber's instructions shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment.*

B. Any licensed physician serving without compensation as the operational medical director for an emergency medical services agency that holds a valid license as an emergency medical services agency issued by the Commissioner of Health shall not be liable for any civil damages for any act or omission resulting from the rendering of emergency medical services in good faith by the personnel of such licensed agency unless such act or omission was the result of such physician's gross negligence or willful misconduct.

Any person serving without compensation as a dispatcher for any licensed public or nonprofit emergency medical services agency in the Commonwealth shall not be liable for any civil damages for any act or omission resulting from the rendering of emergency services in good faith by the personnel of such licensed agency unless such act or omission was the result of such dispatcher's gross negligence or willful misconduct.

Any individual, certified by the State Office of Emergency Medical Services as an emergency medical services instructor and pursuant to a written agreement with such office, who, in good faith and in the performance of his duties, provides instruction to persons for certification or recertification as a certified basic life support or advanced life support emergency medical services provider shall not be liable for any civil damages for acts or omissions on his part directly

relating to his activities on behalf of such office unless such act or omission was the result of such emergency medical services instructor's gross negligence or willful misconduct.

Any licensed physician serving without compensation as a medical advisor to an E-911 system in the Commonwealth shall not be liable for any civil damages for any act or omission resulting from rendering medical advice in good faith to establish protocols to be used by the personnel of the E-911 service, as defined in § 58.1-1730, when answering emergency calls unless such act or omission was the result of such physician's gross negligence or willful misconduct.

Any licensed physician who directs the provision of emergency medical services, as authorized by the State Board of Health, through a communications device shall not be liable for any civil damages for any act or omission resulting from the rendering of such emergency medical services unless such act or omission was the result of such physician's gross negligence or willful misconduct.

Any licensed physician serving without compensation as a supervisor of an AED in the Commonwealth shall not be liable for any civil damages for any act or omission resulting from rendering medical advice in good faith to the owner of the AED relating to personnel training, local emergency medical services coordination, protocol approval, AED deployment strategies, and equipment maintenance plans and records unless such act or omission was the result of such physician's gross negligence or willful misconduct.

C. Any communications services provider, as defined in § 58.1-647, including mobile service, and any provider of Voice-over-Internet Protocol service, in the Commonwealth shall not be liable for any civil damages for any act or omission resulting from rendering such service with or without charge related to emergency calls unless such act or omission was the result of such service provider's gross negligence or willful misconduct.

Any volunteer engaging in rescue or recovery work at a mine, or any mine operator voluntarily providing personnel to engage in rescue or recovery work at a mine not owned or operated by such operator, shall not be liable for civil damages for acts or omissions resulting from the rendering of such rescue or recovery work in good faith unless such act or omission was the result of gross negligence or willful misconduct. For purposes of this subsection, "Voice-over-Internet Protocol service" or "VoIP service" means any Internet protocol-enabled services utilizing a broadband connection, actually originating or terminating in Internet Protocol from either or both ends of a channel of communication offering real time, multidirectional voice functionality, including, but not limited to, services similar to traditional telephone service.

D. Nothing contained in this section shall be construed to provide immunity from liability arising out of the operation of a motor vehicle.

E. For the purposes of this section, "compensation" shall not be construed to include (i) the salaries of police, fire, or other public officials or personnel who render such emergency assistance; (ii) the salaries or wages of employees of a coal producer engaging in emergency medical services or first aid services pursuant to the provisions of § 45.1-161.38, 45.1-161.101, 45.1-161.199, or 45.1-161.263; (iii) complimentary lift tickets, food, lodging, or other gifts provided as a gratuity to volunteer members of the National Ski Patrol System, Inc., by any resort, group, or agency; (iv) the salary of any person who (a) owns an AED for the use at the scene of an emergency, (b) trains individuals, in courses approved by the Board of Health, to operate AEDs at the scene of emergencies, (c) orders AEDs for use at the scene of emergencies, or (d) operates an AED at the scene of an emergency; or (v) expenses reimbursed to any person providing care or assistance pursuant to this section.

For the purposes of this section, "emergency medical services provider" shall include a person licensed or certified as such or its equivalent by any other state when he is performing services that he is licensed or certified to perform by such other state in caring for a patient in transit in the Commonwealth, which care originated in such other state.

Further, the public shall be urged to receive training on how to use CPR and an AED in order to acquire the skills and confidence to respond to emergencies using both CPR and an AED.

**§ 54.1-3408. Professional use by practitioners.**

A. A practitioner of medicine, osteopathy, podiatry, dentistry, or veterinary medicine or a licensed nurse practitioner pursuant to § 54.1-2957.01, a licensed physician assistant pursuant to § 54.1-2952.1, or a TPA-certified optometrist pursuant to Article 5 (§ 54.1-3222 et seq.) of Chapter 32 shall only prescribe, dispense, or administer controlled substances in good faith for medicinal or therapeutic purposes within the course of his professional practice.

B. The prescribing practitioner's order may be on a written prescription or pursuant to an oral prescription as authorized by this chapter. The prescriber may administer drugs and devices, or he may cause drugs or devices to be administered by:

1. A nurse, physician assistant, or intern under his direction and supervision;
2. Persons trained to administer drugs and devices to patients in state-owned or state-operated hospitals or facilities licensed as hospitals by the Board of Health or psychiatric hospitals licensed by the Department of Behavioral Health and Developmental Services who administer drugs under the control and supervision of the prescriber or a pharmacist;
3. Emergency medical services personnel certified and authorized to administer drugs and devices pursuant to regulations of the Board of Health who act within the scope of such certification and pursuant to an oral or written order or standing protocol; or
4. A licensed respiratory therapist as defined in § 54.1-2954 who administers by inhalation controlled substances used in inhalation or respiratory therapy.

C. Pursuant to an oral or written order or standing protocol, the prescriber, who is authorized by state or federal law to possess and administer radiopharmaceuticals in the scope of his practice, may authorize a nuclear medicine technologist to administer, under his supervision, radiopharmaceuticals used in the diagnosis or treatment of disease.

D. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize registered nurses and licensed practical nurses to possess (i) epinephrine and oxygen for administration in treatment of emergency medical conditions and (ii) heparin and sterile normal saline to use for the maintenance of intravenous access lines.

Pursuant to the regulations of the Board of Health, certain emergency medical services technicians may possess and administer epinephrine in emergency cases of anaphylactic shock.

Pursuant to an order or standing protocol issued by the prescriber within the course of his professional practice, any school nurse, school board employee, employee of a local governing body, or employee of a local health department who is authorized by a prescriber and trained in the administration of epinephrine may possess and administer epinephrine.

Pursuant to an order or a standing protocol issued by the prescriber within the course of his professional practice, any employee of a school for students with disabilities, as defined in § 22.1-319 and licensed by the Board of Education, or any employee of a private school that is accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education who is authorized by a prescriber and trained in the administration of epinephrine may possess and administer epinephrine.

Pursuant to an order issued by the prescriber within the course of his professional practice, an employee of a provider licensed by the Department of Behavioral Health and Developmental Services or a person providing services pursuant to a contract with a provider licensed by the Department of Behavioral Health and Developmental Services may possess and administer epinephrine, provided such person is authorized and trained in the administration of epinephrine.

Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize pharmacists to possess epinephrine and oxygen for administration in treatment of emergency medical conditions.

E. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize licensed physical therapists to possess and administer topical corticosteroids, topical lidocaine, and any other Schedule VI topical drug.

F. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize licensed athletic trainers to possess and administer topical corticosteroids, topical lidocaine, or other Schedule VI topical drugs; oxygen for use in emergency situations; and epinephrine for use in emergency cases of anaphylactic shock.

G. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, and in accordance with policies and guidelines established by the Department of Health pursuant to § 32.1-50.2, such prescriber may authorize registered nurses or licensed practical nurses under the immediate and direct supervision of a registered nurse to possess and administer tuberculin purified protein derivative (PPD) in the absence of a prescriber. The Department of Health's policies and guidelines shall be consistent with applicable guidelines developed by the Centers for Disease Control and Prevention for preventing transmission of mycobacterium tuberculosis and shall be updated to incorporate any subsequently implemented standards of the Occupational Safety and Health Administration and the Department of Labor and Industry to the extent that they are inconsistent with the Department of Health's policies and guidelines. Such standing protocols shall explicitly describe the categories of persons to whom the tuberculin test is to be administered and shall provide for appropriate medical evaluation of those in whom the test is positive. The prescriber shall ensure that the nurse implementing such standing protocols has received adequate training in the practice and principles underlying tuberculin screening.

The Health Commissioner or his designee may authorize registered nurses, acting as agents of the Department of Health, to possess and administer, at the nurse's discretion, tuberculin purified protein derivative (PPD) to those persons in whom tuberculin skin testing is indicated based on protocols and policies established by the Department of Health.

H. Pursuant to a written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize, with the consent of the parents as defined in § 22.1-1, an employee of (i) a school board, (ii) a school for students with disabilities as defined in § 22.1-319 licensed by the Board of Education, or (iii) a private school accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education who is trained in the administration of insulin and glucagon to assist with the administration of insulin or administer glucagon to a student diagnosed as having diabetes and who requires insulin injections during the school day or for whom glucagon has been prescribed for the emergency treatment of hypoglycemia. Such authorization shall only be effective when a licensed nurse, nurse practitioner, physician, or physician assistant is not present to perform the administration of the medication.

Pursuant to a written order issued by the prescriber within the course of his professional practice, such prescriber may authorize an employee of a provider licensed by the Department of Behavioral Health and Developmental Services or a person providing services pursuant to a contract with a provider licensed by the Department of Behavioral Health and Developmental Services to assist with the administration of insulin or to administer glucagon to a person diagnosed as having diabetes and who requires insulin injections or for whom glucagon has been prescribed for the emergency treatment of hypoglycemia, provided such employee or person providing services has been trained in the administration of insulin and glucagon.

I. A prescriber may authorize, pursuant to a protocol approved by the Board of Nursing, the administration of vaccines to adults for immunization, when a practitioner with prescriptive authority is not physically present, by (i) licensed pharmacists, (ii) registered nurses, or (iii) licensed practical nurses under the immediate and direct supervision of a registered nurse. A prescriber acting on behalf of and in accordance with established protocols of the Department of Health may authorize the administration of vaccines to any person by a pharmacist, nurse, or designated emergency medical services provider who holds an advanced life support certificate issued by the Commissioner of Health under the direction of an operational medical director when the prescriber is not physically present. The emergency medical services provider shall provide documentation of the vaccines to be recorded in the Virginia Immunization Information System.

J. A dentist may cause Schedule VI topical drugs to be administered under his direction and supervision by either a dental hygienist or by an authorized agent of the dentist.

Further, pursuant to a written order and in accordance with a standing protocol issued by the dentist in the course of his professional practice, a dentist may authorize a dental hygienist under his general supervision, as defined in § 54.1-2722, to possess and administer topical oral fluorides, topical oral anesthetics, topical and directly applied antimicrobial agents for treatment of periodontal pocket lesions, as well as any other Schedule VI topical drug approved by the Board of Dentistry.

In addition, a dentist may authorize a dental hygienist under his direction to administer Schedule VI nitrous oxide and oxygen inhalation analgesia and, to persons 18 years of age or older, Schedule VI local anesthesia.

K. Pursuant to an oral or written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize registered professional nurses certified as sexual assault nurse examiners-A (SANE-A) under his supervision and when he is not physically present to possess and administer preventive medications for victims of sexual assault as recommended by the Centers for Disease Control and Prevention.

L. This section shall not prevent the administration of drugs by a person who has satisfactorily completed a training program for this purpose approved by the Board of Nursing and who administers such drugs in accordance with a prescriber's instructions pertaining to dosage, frequency, and manner of administration, and in accordance with regulations promulgated by the Board of Pharmacy relating to security and record keeping, when the drugs administered would be normally self-administered by (i) an individual receiving services in a program licensed by the Department of Behavioral Health and Developmental Services; (ii) a resident of the Virginia Rehabilitation Center for the Blind and Vision Impaired; (iii) a resident of a facility approved by the Board or Department of Juvenile Justice for the placement of children in need of services or delinquent or alleged delinquent youth; (iv) a program participant of an adult day-care center licensed by the Department of Social Services; (v) a resident of any facility authorized or operated by a state or local government whose primary purpose is not to provide health care services; (vi) a resident of a private children's residential facility, as defined in § 63.2-100 and licensed by the Department of Social Services, Department of Education, or Department of Behavioral Health and Developmental Services; or (vii) a student in a school for students with disabilities, as defined in § 22.1-319 and licensed by the Board of Education.

In addition, this section shall not prevent a person who has successfully completed a training program for the administration of drugs via percutaneous gastrostomy tube approved by the Board of Nursing and been evaluated by a registered nurse as having demonstrated competency in administration of drugs via percutaneous gastrostomy tube from administering drugs to a person receiving services from a program licensed by the Department of Behavioral Health and Developmental Services to such person via percutaneous gastrostomy tube. The continued competency of a person to administer drugs via percutaneous gastrostomy tube shall be evaluated semiannually by a registered nurse.

M. Medication aides registered by the Board of Nursing pursuant to Article 7 (§ 54.1-3041 et seq.) of Chapter 30 may administer drugs that would otherwise be self-administered to residents of any assisted living facility licensed by the Department of Social Services. A registered medication aide shall administer drugs pursuant to this section in accordance with the prescriber's instructions pertaining to dosage, frequency, and manner of administration; in accordance with regulations promulgated by the Board of Pharmacy relating to security and recordkeeping; in accordance with the assisted living facility's Medication Management Plan; and in accordance with such other regulations governing their practice promulgated by the Board of Nursing.

N. In addition, this section shall not prevent the administration of drugs by a person who administers such drugs in accordance with a physician's instructions pertaining to dosage, frequency, and manner of administration and with written authorization of a parent, and in accordance with school board regulations relating to training, security and record keeping, when the drugs administered would be normally self-administered by a student of a Virginia public school. Training for such persons shall be accomplished through a program approved by the local school boards, in consultation with the local departments of health.

O. In addition, this section shall not prevent the administration of drugs by a person to (i) a child in a child day program as defined in § 63.2-100 and regulated by the State Board of Social Services or a local government pursuant to § 15.2-914, or (ii) a student of a private school that is accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education, provided such person (a) has satisfactorily completed a training program for this purpose approved by the Board of Nursing and taught by a registered nurse, licensed practical nurse, nurse practitioner, physician assistant, doctor of medicine or osteopathic medicine, or pharmacist; (b) has obtained written authorization from a parent or guardian; (c) administers drugs only to the child identified on the prescription label in accordance with the prescriber's instructions pertaining to dosage, frequency, and manner of administration; and (d) administers only those drugs that were dispensed

from a pharmacy and maintained in the original, labeled container that would normally be self-administered by the child or student, or administered by a parent or guardian to the child or student.

P. In addition, this section shall not prevent the administration or dispensing of drugs and devices by persons if they are authorized by the State Health Commissioner in accordance with protocols established by the State Health Commissioner pursuant to § 32.1-42.1 when (i) the Governor has declared a disaster or a state of emergency or the United States Secretary of Health and Human Services has issued a declaration of an actual or potential bioterrorism incident or other actual or potential public health emergency; (ii) it is necessary to permit the provision of needed drugs or devices; and (iii) such persons have received the training necessary to safely administer or dispense the needed drugs or devices. Such persons shall administer or dispense all drugs or devices under the direction, control, and supervision of the State Health Commissioner.

Q. Nothing in this title shall prohibit the administration of normally self-administered drugs by unlicensed individuals to a person in his private residence.

R. This section shall not interfere with any prescriber issuing prescriptions in compliance with his authority and scope of practice and the provisions of this section to a Board agent for use pursuant to subsection G of § 18.2-258.1. Such prescriptions issued by such prescriber shall be deemed to be valid prescriptions.

S. Nothing in this title shall prevent or interfere with dialysis care technicians or dialysis patient care technicians who are certified by an organization approved by the Board of Health Professions or persons authorized for provisional practice pursuant to Chapter 27.01 (§ 54.1-2729.1 et seq.), in the ordinary course of their duties in a Medicare-certified renal dialysis facility, from administering heparin, topical needle site anesthetics, dialysis solutions, sterile normal saline solution, and blood volumizers, for the purpose of facilitating renal dialysis treatment, when such administration of medications occurs under the orders of a licensed physician, nurse practitioner, or physician assistant and under the immediate and direct supervision of a licensed registered nurse. Nothing in this chapter shall be construed to prohibit a patient care dialysis technician trainee from performing dialysis care as part of and within the scope of the clinical skills instruction segment of a supervised dialysis technician training program, provided such trainee is identified as a "trainee" while working in a renal dialysis facility.

The dialysis care technician or dialysis patient care technician administering the medications shall have demonstrated competency as evidenced by holding current valid certification from an organization approved by the Board of Health Professions pursuant to Chapter 27.01 (§ 54.1-2729.1 et seq.).

T. Persons who are otherwise authorized to administer controlled substances in hospitals shall be authorized to administer influenza or pneumococcal vaccines pursuant to § 32.1-126.4.

U. Pursuant to a specific order for a patient and under his direct and immediate supervision, a prescriber may authorize the administration of controlled substances by personnel who have been properly trained to assist a doctor of medicine or osteopathic medicine, provided the method does not include intravenous, intrathecal, or epidural administration and the prescriber remains responsible for such administration.

V. A physician assistant, nurse or a dental hygienist may possess and administer topical fluoride varnish to the teeth of children aged six months to three years pursuant to an oral or written order or a standing protocol issued by a doctor of medicine, osteopathic medicine, or dentistry that conforms to standards adopted by the Department of Health.

W. A prescriber, acting in accordance with guidelines developed pursuant to § 32.1-46.02, may authorize the administration of influenza vaccine to minors by a licensed pharmacist, registered nurse, licensed practical nurse under the direction and immediate supervision of a registered nurse, or emergency medical services provider who holds an advanced life support certificate issued by the Commissioner of Health when the prescriber is not physically present.

X. Notwithstanding the provisions of § 54.1-3303, pursuant to an oral, written, or standing order issued by a prescriber, and in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health, a pharmacist may dispense naloxone or other opioid antagonist used for overdose reversal and a person may possess and administer naloxone or other opioid antagonist used for overdose reversal to a person who is believed to be experiencing or about to experience a life-threatening opiate overdose. Law-enforcement officers as defined in § 9.1-101 and firefighters who have completed a training program may also possess and administer naloxone in accordance with protocols developed by the Board of Pharmacy in consultation with the Board of Medicine and the Department of Health.

*Y. Pursuant to a written order or standing protocol issued by the prescriber within the course of his professional practice, such prescriber may authorize, with the consent of the parents as defined in § 22.1-1, an employee of (i) a school board, (ii) a school for students with disabilities as defined in § 22.1-319 licensed by the Board of Education, or (iii) a private school accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education who is trained in the administration of injected medications for the treatment of adrenal crisis resulting from a condition causing adrenal insufficiency to administer such medication to a student diagnosed with a condition causing adrenal insufficiency when the student is believed to be experiencing or about to experience an adrenal crisis. Such authorization shall be effective only when a licensed nurse, nurse practitioner, physician, or physician assistant is not present to perform the administration of the medication.*

## CHAPTER 714

*An Act to amend and reenact §§ 58.1-609.3 and 58.1-609.10 of the Code of Virginia, relating to retail sales and use tax; aviation parts and supplies.*

[H 1738]

Approved March 24, 2017

**Be it enacted by the General Assembly of Virginia:****1. That §§ 58.1-609.3 and 58.1-609.10 of the Code of Virginia are amended and reenacted as follows:****§ 58.1-609.3. Commercial and industrial exemptions.**

The tax imposed by this chapter or pursuant to the authority granted in §§ 58.1-605 and 58.1-606 shall not apply to the following:

1. Personal property purchased by a contractor which is used solely in another state or in a foreign country, which could be purchased by such contractor for such use free from sales tax in such other state or foreign country, and which is stored temporarily in Virginia pending shipment to such state or country.

2. (i) Industrial materials for future processing, manufacturing, refining, or conversion into articles of tangible personal property for resale where such industrial materials either enter into the production of or become a component part of the finished product; (ii) industrial materials that are coated upon or impregnated into the product at any stage of its being processed, manufactured, refined, or converted for resale; (iii) machinery or tools or repair parts therefor or replacements thereof, fuel, power, energy, or supplies, used directly in processing, manufacturing, refining, mining or converting products for sale or resale; (iv) materials, containers, labels, sacks, cans, boxes, drums or bags for future use for packaging tangible personal property for shipment or sale; or (v) equipment, printing or supplies used directly to produce a publication described in subdivision 3 of § 58.1-609.6 whether it is ultimately sold at retail or for resale or distribution at no cost. Machinery, tools and equipment, or repair parts therefor or replacements thereof, shall be exempt if the preponderance of their use is directly in processing, manufacturing, refining, mining or converting products for sale or resale. The provisions of this subsection do not apply to the drilling or extraction of oil, gas, natural gas and coalbed methane gas. In addition, the exemption provided herein shall not be applicable to any machinery, tools, and equipment, or any other tangible personal property used by a public service corporation in the generation of electric power, except for raw materials that are inputs to production of electricity, including fuel, or for machinery, tools, and equipment used to generate energy derived from sunlight or wind. The exemption for machinery, tools, and equipment used to generate energy derived from sunlight or wind shall expire June 30, 2027.

3. Tangible personal property sold or leased to a public service corporation engaged in business as a common carrier of property or passengers by railway, for use or consumption by such common carrier directly in the rendition of its public service.

4. Ships or vessels, or repairs and alterations thereof, used or to be used exclusively or principally in interstate or foreign commerce; fuel and supplies for use or consumption aboard ships or vessels plying the high seas, either in intercoastal trade between ports in the Commonwealth and ports in other states of the United States or its territories or possessions, or in foreign commerce between ports in the Commonwealth and ports in foreign countries, when delivered directly to such ships or vessels; or tangible personal property used directly in the building, conversion or repair of the ships or vessels covered by this subdivision. This exemption shall include dredges, their supporting equipment, attendant vessels, and fuel and supplies for use or consumption aboard such vessels, provided the dredges are used exclusively or principally in interstate or foreign commerce.

5. Tangible personal property purchased for use or consumption directly and exclusively in basic research or research and development in the experimental or laboratory sense.

6. ~~Tangible~~ *Notwithstanding the provisions of subdivision 20 of § 58.1-609.10, all tangible* personal property sold or leased to an airline operating in intrastate, interstate or foreign commerce as a common carrier providing scheduled air service on a continuing basis to one or more Virginia airports at least one day per week, for use or consumption by such airline directly in the rendition of its common carrier service.

7. Meals furnished by restaurants or food service operators to employees as a part of wages.

8. Tangible personal property including machinery and tools, repair parts or replacements thereof, and supplies and materials used directly in maintaining and preparing textile products for rental or leasing by an industrial processor engaged in the commercial leasing or renting of laundered textile products.

9. Certified pollution control equipment and facilities as defined in § 58.1-3660, except for any equipment that has not been certified to the Department of Taxation by a state certifying authority pursuant to such section.

10. Parts, tires, meters and dispatch radios sold or leased to taxicab operators for use or consumption directly in the rendition of their services.

11. High speed electrostatic duplicators or any other duplicators which have a printing capacity of 4,000 impressions or more per hour purchased or leased by persons engaged primarily in the printing or photocopying of products for sale or resale.

12. From July 1, 1994, and ending July 1, 2022, raw materials, fuel, power, energy, supplies, machinery or tools or repair parts therefor or replacements thereof, used directly in the drilling, extraction, or processing of natural gas or oil and

the reclamation of the well area. For the purposes of this section, the term "natural gas" shall mean "gas," "natural gas," and "coalbed methane gas" as defined in § 45.1-361.1. For the purposes of this section, "drilling," "extraction," and "processing" shall include production, inspection, testing, dewatering, dehydration, or distillation of raw natural gas into a usable condition consistent with commercial practices, and the gathering and transportation of raw natural gas to a facility wherein the gas is converted into such a usable condition. Machinery, tools and equipment, or repair parts therefor or replacements thereof, shall be exempt if the preponderance of their use is directly in the drilling, extraction, refining, or processing of natural gas or oil for sale or resale, or in well area reclamation activities required by state or federal law.

13. Beginning July 1, 1997, (i) the sale, lease, use, storage, consumption, or distribution of an orbital or suborbital space facility, space propulsion system, space vehicle, satellite, or space station of any kind possessing space flight capability, including the components thereof, irrespective of whether such facility, system, vehicle, satellite, or station is returned to this Commonwealth for subsequent use, storage or consumption in any manner when used to conduct spaceport activities; (ii) the sale, lease, use, storage, consumption or distribution of tangible personal property placed on or used aboard any orbital or suborbital space facility, space propulsion system, space vehicle, satellite or space station of any kind, irrespective of whether such tangible personal property is returned to this Commonwealth for subsequent use, storage or consumption in any manner when used to conduct spaceport activities; (iii) fuels of such quality not adapted for use in ordinary vehicles, being produced for, sold and exclusively used for space flight when used to conduct spaceport activities; (iv) the sale, lease, use, storage, consumption or distribution of machinery and equipment purchased, sold, leased, rented or used exclusively for spaceport activities and the sale of goods and services provided to operate and maintain launch facilities, launch equipment, payload processing facilities and payload processing equipment used to conduct spaceport activities.

For purposes of this subdivision, "spaceport activities" means activities directed or sponsored at a facility owned, leased, or operated by or on behalf of the Virginia Commercial Space Flight Authority.

The exemptions provided by this subdivision shall not be denied by reason of a failure, postponement or cancellation of a launch of any orbital or suborbital space facility, space propulsion system, space vehicle, satellite or space station of any kind or the destruction of any launch vehicle or any components thereof.

14. Semiconductor cleanrooms or equipment, fuel, power, energy, supplies, or other tangible personal property used primarily in the integrated process of designing, developing, manufacturing, or testing a semiconductor product, a semiconductor manufacturing process or subprocess, or semiconductor equipment without regard to whether the property is actually contained in or used in a cleanroom environment, touches the product, is used before or after production, or is affixed to or incorporated into real estate.

15. Semiconductor wafers for use or consumption by a semiconductor manufacturer.

16. Railroad rolling stock when sold or leased by the manufacturer thereof.

17. Computer equipment purchased or leased on or before June 30, 2011, used in data centers located in a Virginia locality having an unemployment rate above 4.9 percent for the calendar quarter ending November 2007, for the processing, storage, retrieval, or communication of data, including but not limited to servers, routers, connections, and other enabling hardware when part of a new investment of at least \$75 million in such exempt property, when such investment results in the creation of at least 100 new jobs paying at least twice the prevailing average wage in that locality, so long as such investment was made in accordance with a memorandum of understanding with the Virginia Economic Development Partnership Authority entered into or amended between January 1, 2008, and December 31, 2008. The exemption shall also apply to any such computer equipment purchased or leased to upgrade, add to, or replace computer equipment purchased or leased in the initial investment. The exemption shall not apply to any computer software sold separately from the computer equipment, nor shall it apply to general building improvements or fixtures.

18. Beginning July 1, 2010, and ending June 30, 2035, computer equipment or enabling software purchased or leased for the processing, storage, retrieval, or communication of data, including but not limited to servers, routers, connections, and other enabling hardware, including chillers and backup generators used or to be used in the operation of the equipment exempted in this paragraph, provided that such computer equipment or enabling software is purchased or leased for use in a data center that (i) is located in a Virginia locality, (ii) results in a new capital investment on or after January 1, 2009, of at least \$150 million, and (iii) results in the creation on or after July 1, 2009, of at least 50 new jobs by the data center operator and the tenants of the data center, collectively, associated with the operation or maintenance of the data center provided that such jobs pay at least one and one-half times the prevailing average wage in that locality. The requirement of at least 50 new jobs is reduced to 25 new jobs if the data center is located in a locality that has an unemployment rate for the preceding year of at least 150 percent of the average statewide unemployment rate for such year as determined by the Virginia Economic Development Partnership or is located in an enterprise zone. This exemption applies to the data center operator and the tenants of the data center if they collectively meet the requirements listed in this section. Prior to claiming such exemption, any qualifying person claiming the exemption, including a data center operator on behalf of itself and its tenants, must enter into a memorandum of understanding with the Virginia Economic Development Partnership Authority that at a minimum provides the details for determining the amount of capital investment made and the number of new jobs created, the timeline for achieving the capital investment and new job goals, the repayment obligations should those goals not be achieved, and any conditions under which repayment by the qualifying data center or data center tenant claiming the exemption may be required. In addition, the exemption shall apply to any such computer equipment or enabling software purchased or leased to upgrade, supplement, or replace computer equipment or enabling software purchased or leased in the initial investment.

The exemption shall not apply to any other computer software otherwise taxable under Chapter 6 of Title 58.1 that is sold or leased separately from the computer equipment, nor shall it apply to general building improvements or other fixtures.

19. If the preponderance of their use is in the manufacture of beer by a brewer licensed pursuant to subdivision 1 or 2 of § 4.1-208, (i) machinery, tools, and equipment, or repair parts therefor or replacements thereof, fuel, power, energy, or supplies; (ii) materials for future processing, manufacturing, or conversion into beer where such materials either enter into the production of or become a component part of the beer; and (iii) materials, including containers, labels, sacks, cans, bottles, kegs, boxes, drums, or bags for future use, for packaging the beer for shipment or sale.

**§ 58.1-609.10. Miscellaneous exemptions.**

The tax imposed by this chapter or pursuant to the authority granted in §§ 58.1-605 and 58.1-606 shall not apply to the following:

1. Artificial or propane gas, firewood, coal or home heating oil used for domestic consumption. "Domestic consumption" means the use of artificial or propane gas, firewood, coal or home heating oil by an individual purchaser for other than business, commercial or industrial purposes. The Tax Commissioner shall establish by regulation a system for use by dealers in classifying individual purchases for domestic or nondomestic use based on the principal usage of such gas, wood, coal or oil. Any person making a nondomestic purchase and paying the tax pursuant to this chapter who uses any portion of such purchase for domestic use may, between the first day of the first month and the fifteenth day of the fourth month following the year of purchase, apply for a refund of the tax paid on the domestic use portion.

2. An occasional sale, as defined in § 58.1-602. A nonprofit organization that is eligible to be granted an exemption on its purchases pursuant to § 58.1-609.11, and that is otherwise eligible for the exemption pursuant to this subdivision, shall be exempt pursuant to this subdivision on its sales of (i) food, prepared food and meals and (ii) tickets to events that include the provision of food, prepared food and meals, so long as such sales take place on fewer than 24 occasions in a calendar year.

3. Tangible personal property for future use by a person for taxable lease or rental as an established business or part of an established business, or incidental or germane to such business, including a simultaneous purchase and taxable leaseback.

4. Delivery of tangible personal property outside the Commonwealth for use or consumption outside of the Commonwealth. Delivery of goods destined for foreign export to a factor or export agent shall be deemed to be delivery of goods for use or consumption outside of the Commonwealth.

5. Tangible personal property purchased with food coupons issued by the United States Department of Agriculture under the Food Stamp Program or drafts issued through the Virginia Special Supplemental Food Program for Women, Infants, and Children.

6. Tangible personal property purchased for use or consumption in the performance of maintenance and repair services at Nuclear Regulatory Commission-licensed nuclear power plants located outside the Commonwealth.

7. Beginning July 1, 1997, and ending July 1, 2006, a professional's provision of original, revised, edited, reformatted or copied documents, including but not limited to documents stored on or transmitted by electronic media, to its client or to third parties in the course of the professional's rendition of services to its clientele.

8. School lunches sold and served to pupils and employees of schools and subsidized by government; school textbooks sold by a local board or authorized agency thereof; and school textbooks sold for use by students attending a college or other institution of learning, when sold (i) by such institution of learning or (ii) by any other dealer, when such textbooks have been certified by a department or instructor of such institution of learning as required textbooks for students attending courses at such institution.

9. Medicines, drugs, hypodermic syringes, artificial eyes, contact lenses, eyeglasses, eyeglass cases, and contact lens storage containers when distributed free of charge, all solutions or sterilization kits or other devices applicable to the wearing or maintenance of contact lenses or eyeglasses when distributed free of charge, and hearing aids dispensed by or sold on prescriptions or work orders of licensed physicians, dentists, optometrists, ophthalmologists, opticians, audiologists, hearing aid dealers and fitters, nurse practitioners, physician assistants, and veterinarians; controlled drugs purchased for use by a licensed physician, optometrist, licensed nurse practitioner, or licensed physician assistant in his professional practice, regardless of whether such practice is organized as a sole proprietorship, partnership, or professional corporation, or any other type of corporation in which the shareholders and operators are all licensed physicians, optometrists, licensed nurse practitioners, or licensed physician assistants engaged in the practice of medicine, optometry, or nursing; medicines and drugs purchased for use or consumption by a licensed hospital, nursing home, clinic, or similar corporation not otherwise exempt under this section; and samples of prescription drugs and medicines and their packaging distributed free of charge to authorized recipients in accordance with the federal Food, Drug, and Cosmetic Act (21 U.S.C.A. § 301 et seq., as amended). With the exceptions of those medicines and drugs used for agricultural production animals that are exempt to veterinarians under subdivision 1 of § 58.1-609.2, any veterinarian dispensing or selling medicines or drugs on prescription shall be deemed to be the user or consumer of all such medicines and drugs.

10. Wheelchairs and parts therefor, braces, crutches, prosthetic devices, orthopedic appliances, catheters, urinary accessories, other durable medical equipment and devices, and related parts and supplies specifically designed for those products; and insulin and insulin syringes, and equipment, devices or chemical reagents that may be used by a diabetic to test or monitor blood or urine, when such items or parts are purchased by or on behalf of an individual for use by such individual. Durable medical equipment is equipment that (i) can withstand repeated use, (ii) is primarily and customarily

used to serve a medical purpose, (iii) generally is not useful to a person in the absence of illness or injury, and (iv) is appropriate for use in the home.

- 11. Drugs and supplies used in hemodialysis and peritoneal dialysis.
- 12. Special equipment installed on a motor vehicle when purchased by a handicapped person to enable such person to operate the motor vehicle.
- 13. Special typewriters and computers and related parts and supplies specifically designed for those products used by handicapped persons to communicate when such equipment is prescribed by a licensed physician.
- 14. a. (i) Any nonprescription drugs and proprietary medicines purchased for the cure, mitigation, treatment, or prevention of disease in human beings and (ii) any samples of nonprescription drugs and proprietary medicines distributed free of charge by the manufacturer, including packaging materials and constituent elements and ingredients.  
 b. The terms "nonprescription drugs" and "proprietary medicines" shall be defined pursuant to regulations promulgated by the Department of Taxation. The exemption authorized in this subdivision shall not apply to cosmetics.
- 15. Tangible personal property withdrawn from inventory and donated to (i) an organization exempt from taxation under § 501(c)(3) of the Internal Revenue Code or (ii) the Commonwealth, any political subdivision of the Commonwealth, or any school, agency, or instrumentality thereof.
- 16. Tangible personal property purchased by nonprofit churches that are exempt from taxation under § 501(c)(3) of the Internal Revenue Code, or whose real property is exempt from local taxation pursuant to the provisions of § 58.1-3606, for use (i) in religious worship services by a congregation or church membership while meeting together in a single location and (ii) in the libraries, offices, meeting or counseling rooms or other rooms in the public church buildings used in carrying out the work of the church and its related ministries, including kindergarten, elementary and secondary schools. The exemption for such churches shall also include baptistries; bulletins, programs, newspapers and newsletters that do not contain paid advertising and are used in carrying out the work of the church; gifts including food for distribution outside the public church building; food, disposable serving items, cleaning supplies and teaching materials used in the operation of camps or conference centers by the church or an organization composed of churches that are exempt under this subdivision and which are used in carrying out the work of the church or churches; and property used in caring for or maintaining property owned by the church including, but not limited to, mowing equipment; and building materials installed by the church, and for which the church does not contract with a person or entity to have installed, in the public church buildings used in carrying out the work of the church and its related ministries, including, but not limited to worship services; administrative rooms; and kindergarten, elementary, and secondary schools.
- 17. Medical products and supplies, which are otherwise taxable, such as bandages, gauze dressings, incontinence products and wound-care products, when purchased by a Medicaid recipient through a Department of Medical Assistance Services provider agreement.
- 18. Beginning July 1, 2007, and ending July 1, 2012, multifuel heating stoves used for heating an individual purchaser's residence. "Multifuel heating stoves" are stoves that are capable of burning a wide variety of alternative fuels, including, but not limited to, shelled corn, wood pellets, cherry pits, and olive pits.
- 19. Fabrication of animal meat, grains, vegetables, or other foodstuffs when the purchaser (i) supplies the foodstuffs and they are consumed by the purchaser or his family, (ii) is an organization exempt from taxation under § 501(c)(3) or (c)(4) of the Internal Revenue Code, or (iii) donates the foodstuffs to an organization exempt from taxation under § 501(c)(3) or (c)(4) of the Internal Revenue Code.
- 20. Beginning July 1, 2018, and ending July 1, 2022, parts, engines, and supplies used for maintaining, repairing, or reconditioning aircraft or any aircraft's avionics system, engine, or component parts. This exemption shall not apply to tools and other equipment not attached to or that does not become a part of the aircraft. For purposes of this subdivision, "aircraft" shall include both manned and unmanned systems.

**CHAPTER 715**

*An Act to create a six-year capital outlay plan for projects to be funded entirely or partially from general fund-supported resources and to repeal Chapters 499 and 500 of the Acts of Assembly of 2015.*

[H 2248]

Approved March 24, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. § 1.** *That the following capital outlay projects and descriptive information shall constitute the Commonwealth's capital outlay plan, pursuant to § 2.2-1518 of the Code of Virginia, for the capital projects supported entirely or partially from the general fund for the six-year period beginning July 1, 2017. These projects do not include projects that were previously funded and authorized to proceed to construction.*

<i>Agency Code/Agency</i>	<i>Priority</i>	<i>Project Name</i>	<i>Cost Category</i>
<i>123—Department of Military Affairs</i>	<i>1</i>	<i>Renovate Roanoke Readiness Center</i>	<i>\$0 to \$10,000,000</i>

	2	<i>Acquire Land for Readiness Centers</i>	<i>\$0 to \$10,000,000</i>
	3	<i>Renovate Troutville Readiness Center</i>	<i>\$0 to \$10,000,000</i>
	4	<i>Construct Army Aviation Facility (Sitework)</i>	<i>\$0 to \$10,000,000</i>
	5	<i>Upgrade Fire Safety Systems Statewide</i>	<i>\$0 to \$10,000,000</i>
146— <i>Science Museum of Virginia</i>	1	<i>Install Danville Science Center Exhibits</i>	<i>\$0 to \$10,000,000</i>
156— <i>Department of State Police</i>	1	<i>Construct Division Six Headquarters</i>	<i>\$10,000,001 to \$25,000,000</i>
	2	<i>Replace Training Academy</i>	<i>\$25,000,001 to \$50,000,000</i>
	3	<i>Upgrade STARS Radio System</i>	<i>Above \$100,000,000</i>
194— <i>Department of General Services</i>	1	<i>Replace Critical Systems in the Monroe Building</i>	<i>\$10,000,001 to \$25,000,000</i>
	2	<i>Expand Molecular Lab of Consolidated Lab</i>	<i>\$0 to \$10,000,000</i>
	3	<i>Renovate the Supreme Court Building</i>	<i>Above \$100,000,000</i>
	4	<i>Renovate Morson Row</i>	<i>\$0 to \$10,000,000</i>
199— <i>Department of Conservation and Recreation</i>	1	<i>Construct Widewater State Park, Phase II A</i>	<i>\$0 to \$10,000,000</i>
203— <i>Wilson Workforce and Rehabilitation Center</i>	1	<i>Renovate Watson Theater and Activities Building, Phase 3</i>	<i>\$0 to \$10,000,000</i>
204— <i>The College of William and Mary in Virginia</i>	1	<i>Construct Integrated Science Center, Phase IV</i>	<i>\$50,000,001 to \$75,000,000</i>
207— <i>University of Virginia</i>	1	<i>Renovate Physics Building</i>	<i>\$25,000,001 to \$50,000,000</i>
	2	<i>Renovate Alderman Library</i>	<i>Above \$100,000,000</i>
208— <i>Virginia Polytechnic Institute and State University</i>	1	<i>Construct Undergraduate Lab Building</i>	<i>\$50,000,001 to \$75,000,000</i>
212— <i>Virginia State University</i>	1	<i>Demolish/Replace Daniel Gym and Harris Hall</i>	<i>\$25,000,001 to \$50,000,000</i>
216— <i>James Madison University</i>	1	<i>Renovate Jackson Hall</i>	<i>\$10,000,001 to \$25,000,000</i>
218— <i>Virginia School for the Deaf and the Blind</i>	1	<i>Renovate Main Hall/Repair Chapel</i>	<i>\$25,000,001 to \$50,000,000</i>
221— <i>Old Dominion University</i>	1	<i>Construct Health Sciences Building</i>	<i>\$50,000,001 to \$75,000,000</i>
236— <i>Virginia Commonwealth University</i>	1	<i>Construct STEM Class Laboratory Building</i>	<i>\$75,000,001 to \$100,000,000</i>
239— <i>Frontier Culture Museum</i>	1	<i>Install New Gallery</i>	<i>\$10,000,001 to \$25,000,000</i>
241— <i>Richard Bland College</i>	1	<i>Construct Center for Innovation and Educational Development</i>	<i>\$10,000,001 to \$25,000,000</i>
246— <i>University of Virginia's College at Wise</i>	1	<i>Renovate/Convert Wyllie Library</i>	<i>\$10,000,001 to \$25,000,000</i>
	2	<i>Renovate Academic Buildings/Technology Infrastructure/Campus Improvements</i>	<i>\$10,000,001 to \$25,000,000</i>
247— <i>George Mason University</i>	1	<i>Improve Telecommunications Infrastructure</i>	<i>\$0 to \$10,000,000</i>
260— <i>Virginia Community College System</i>	1	<i>Replace Godwin Building, Annandale Campus, Northern Virginia</i>	<i>\$25,000,001 to \$50,000,000</i>

	2	<i>Replace French Slaughter Building, Locust Grove Campus, Germanna</i>	<i>\$25,000,001 to \$50,000,000</i>
	3	<i>Renovate Diggs/Moore/Harrison Complex, Hampton Campus, Thomas Nelson</i>	<i>\$25,000,001 to \$50,000,000</i>
	4	<i>Construct Advanced Technical Training Center, Hampton Campus, Thomas Nelson</i>	<i>\$25,000,001 to \$50,000,000</i>
	5	<i>Renovate Amherst/Campbell Hall, Central Virginia</i>	<i>\$10,000,001 to \$25,000,000</i>
	6	<i>Construct Center for Advanced Technology and Workforce, Mountain Empire</i>	<i>\$10,000,001 to \$25,000,000</i>
<i>268—Virginia Institute of Marine Science</i>	1	<i>Replace Oyster Hatchery</i>	<i>\$10,000,001 to \$25,000,000</i>
<i>702—Department for the Blind and Vision Impaired</i>	1	<i>Renovate Departmental Headquarters Building</i>	<i>\$0 to \$10,000,000</i>
<i>720—Department of Behavioral Health and Developmental Services</i>	1	<i>Repair or Replace Infrastructure</i>	<i>\$0 to \$10,000,000</i>
	2	<i>Replace Central State Hospital</i>	<i>Above \$100,000,000</i>
<i>777—Department of Juvenile Justice</i>	1	<i>Renovate or Construct Juvenile Correctional Center</i>	<i>\$25,000,001 to \$50,000,000</i>
<i>799—Department of Corrections</i>	1	<i>Replace Powhatan Correctional Center</i>	<i>Above \$100,000,000</i>
	2	<i>Renovate Buckingham Wastewater Treatment Plant</i>	<i>\$0 to \$10,000,000</i>
<i>999—Department of Alcoholic Beverage Control</i>	1	<i>Acquire or Construct ABC Central Office and Warehouse Facility</i>	<i>\$75,000,001 to \$100,000,000</i>

**2. That Chapters 499 and 500 of the Acts of Assembly of 2015 are repealed.**

**CHAPTER 716**

*An Act to amend and reenact § 2.2-2818.2 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 38.2-3407.5:2 relating to health benefit plans; coverage for hormonal contraceptives.*

[H 2267]

Approved March 24, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 2.2-2818.2 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 38.2-3407.5:2 as follows:**

**§ 2.2-2818.2. Application of mandates to the state employee health insurance plan.**

A. As used in this section, "insurance mandate" means a mandatory obligation with respect to coverage, benefits, or the number or types of providers imposed on policies of accident and health insurance under Title 38.2. "Insurance mandate" does not include (i) an administrative rule or regulation imposing a mandatory obligation with respect to coverage, benefits, or providers unless that mandatory obligation was specifically imposed on policies of accident and health insurance by statute or (ii) any obligation imposed on a health carrier by § 38.2-3407.5:2.

B. Notwithstanding the provisions of § 2.2-2818, any law imposed under Title 38.2 that becomes effective on or after July 1, 2009, that provides for an insurance mandate for policies of accident and health insurance shall also apply to health coverage offered to state employees pursuant to § 2.2-2818.

C. If health coverage offered to state employees under § 2.2-2818 offers coverage in the same manner and to the same extent as the coverage required by an insurance mandate imposed under Title 38.2 or coverage that is greater than an insurance mandate imposed under Title 38.2, the coverage offered to state employees under § 2.2-2818 shall be considered in compliance with the insurance mandate.

**§ 38.2-3407.5:2. Reimbursements for dispensing hormonal contraceptives.**

A. As used in this section:

"Covered person" means a policyholder, subscriber, enrollee, participant, or other individual covered by a health benefit plan.

"Health benefit plan" means any accident and health insurance policy or certificate, health services plan contract, health maintenance organization subscriber contract, plan provided by a multiple employer welfare arrangement (MEWA), or plan provided by another benefit arrangement. "Health benefit plan" does not mean accident only, credit, or disability insurance; coverage of Medicare services or federal employee health plans, pursuant to contracts with the United States government; Medicare supplement or long-term care insurance; Medicaid coverage; dental only or vision only insurance; specified disease insurance; hospital confinement indemnity coverage; limited benefit health coverage; short-term limited duration coverage; coverage issued as a supplement to liability insurance; insurance arising out of a workers' compensation or similar law; automobile medical payment insurance; medical expense and loss of income benefits; or insurance under which benefits are payable with or without regard to fault and that is statutorily required to be contained in any liability insurance policy or equivalent self-insurance.

"Health carrier" means an entity subject to the insurance laws and regulations of the Commonwealth and subject to the jurisdiction of the Commission that contracts or offers to contract to provide a health benefit plan.

"Hormonal contraceptive" means a medication taken to prevent pregnancy by means of ingestion of hormones, including medications containing estrogen or progesterone, that is self-administered, requires a prescription, and is approved by the U.S. Food and Drug Administration for such purpose.

"Provider" means a facility, physician or other type of health care practitioner licensed, accredited, certified or authorized by statute to deliver or furnish health care items or services.

B. Any health benefit plan that is amended, renewed, or delivered on or after January 1, 2018, that provides coverage for hormonal contraceptives shall cover up to a 12-month supply of hormonal contraceptives when dispensed or furnished at one time for a covered person by a provider or pharmacy or at a location licensed or otherwise authorized to dispense drugs or supplies.

C. Nothing in this section shall be construed to require a provider to prescribe, furnish, or dispense 12 months of self-administered hormonal contraceptives at one time.

D. A health benefit plan that provides coverage for hormonal contraceptives, in the absence of clinical contraindications, shall not impose utilization controls or other forms of medical management limiting the supply of hormonal contraceptives that may be dispensed or furnished by a provider or pharmacy, or at a location licensed or otherwise authorized to dispense drugs or supplies, to an amount that is less than a 12-month supply.

E. This section shall not be construed to exclude coverage for hormonal contraceptives as prescribed by a provider, acting within his scope of practice, for reasons other than contraceptive purposes, such as decreasing the risk of ovarian cancer or eliminating symptoms of menopause, or for contraception that is necessary to preserve the life or health of an enrollee.

F. Nothing in this section shall be construed to require a health carrier to cover hormonal contraceptives provided by a provider or pharmacy or at a location licensed or otherwise authorized to dispense drugs or supplies, that does not participate in the health carrier's provider network, except as may be otherwise authorized or required by state law or by the plan's policies governing out-of-network coverage.

**CHAPTER 717**

An Act to amend and reenact § 58.1-339.2 of the Code of Virginia, relating to the historic rehabilitation tax credit.

[H 2460]

Approved March 24, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 58.1-339.2 of the Code of Virginia is amended and reenacted as follows:**

**§ 58.1-339.2. Historic rehabilitation tax credit.**

A. Effective for taxable years beginning on and after January 1, 1997, any individual, trust or estate, or corporation incurring eligible expenses in the rehabilitation of a certified historic structure shall be entitled to a credit against the tax imposed by Articles 2 (§ 58.1-320 et seq.), 6 (§ 58.1-360 et seq.) and 10 (§ 58.1-400 et seq.) of Chapter 3; Chapter 12 (§ 58.1-1200 et seq.); Article 1 (§ 58.1-2500 et seq.) of Chapter 25; and Article 2 (§ 58.1-2620 et seq.) of Chapter 26, in accordance with the following schedule:

Year	% of Eligible Expenses
1997	10%
1998	15%
1999	20%
2000 and thereafter	25%

If the amount of such credit exceeds the taxpayer's tax liability for such taxable year, the amount that exceeds the tax liability may be carried over for credit against the taxes of such taxpayer in the next ten taxable years or until the full credit is used, whichever occurs first. Credits granted to a partnership or electing small business corporation (S corporation) shall be passed through to the partners or shareholders, respectively. Credits granted to a partnership or electing small business corporation (S corporation) shall be allocated among all partners or shareholders, respectively, either in proportion to their ownership interest in such entity or as the partners or shareholders mutually agree as provided in an executed document, the form of which shall be prescribed by the Director of the Department of Historic Resources.

B. Effective for taxable years beginning on and after January 1, 2000, any individual, trust, estate, or corporation resident in Virginia that incurs eligible expenses in the rehabilitation of a certified historic structure in any other state that has in effect a reciprocal historic structure rehabilitation tax credit program and agreement for residents of that state who rehabilitate historic structures in Virginia shall be entitled to a credit to the same extent as provided in subsection A and other applicable provisions of law; however, no eligible party shall receive any credit authorized under this subsection prior to taxable years beginning on and after January 1, 2002.

C. 1. To claim the credit authorized under this section, the taxpayer shall apply to the Virginia Department of Historic Resources, which shall determine the amount of eligible rehabilitation expenses and issue a certificate thereof to the taxpayer. The taxpayer shall attach the certificate to the Virginia tax return on which the credit is claimed.

2. For taxable years beginning on and after January 1, 2017, but before January 1, 2019, the amount of the credit that may be claimed by each taxpayer, including amounts carried over from prior taxable years, shall not exceed \$5 million in any taxable year.

D. When used in this section:

"Certified historic structure" means a property listed individually on the Virginia Landmarks Register, or certified by the Director of the Virginia Department of Historic Resources as contributing to the historic significance of a historic district that is listed on the Virginia Landmarks Register or certified by the Director of the Virginia Department of Historic Resources as meeting the criteria for listing on the Virginia Landmarks Register.

"Eligible rehabilitation expenses" means expenses incurred in the material rehabilitation of a certified historic structure and added to the property's capital account.

"Material rehabilitation" means improvements or reconstruction consistent with "The Secretary of the Interior's Standards for Rehabilitation," the cost of which amounts to at least fifty percent of the assessed value of such building for local real estate tax purposes for the year prior to the initial expenditure of any rehabilitation expenses, unless the building is an owner-occupied building, in which case the cost shall amount to at least twenty-five percent of the assessed value of such building for local real estate tax purposes for the year prior to the initial expenditure of any rehabilitation expenses.

"Owner-occupied building" means any building that is used as a personal residence by the owner.

E. The Director of the Department of Historic Resources shall establish by regulation the requirements needed for this program, including the fees to defray necessary expenses thereof, and, except as otherwise prohibited by this section, the extent to which the availability of the credit provided by this section is coextensive with the availability of the federal tax credit for the rehabilitation of certified historic resources.

F. Any gain or income under federal law from the allocation or application of a tax credit under this section shall not be (i) taxable gain or income for purposes of the tax imposed pursuant to Article 2 (§ 58.1-320 et seq.), (ii) taxable gain or income for purposes of the tax imposed pursuant to Article 6 (§ 58.1-360 et seq.), or (iii) taxable gain or income for purposes of the tax imposed pursuant to Article 10 (§ 58.1-400 et seq.). However, nothing in this subsection shall be construed or interpreted as allowing a subtraction or deduction for such gain or income under federal law if the gain or income is otherwise excluded, deducted, or subtracted in computing the respective tax set forth under clauses (i) through (iii).

CHAPTER 718

*An Act to amend the Code of Virginia by adding a section numbered 58.1-1817.1, relating to waiver of tax penalties for small businesses.*

[S 793]

Approved March 24, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding a section numbered 58.1-1817.1 as follows:**

**§ 58.1-1817.1. Waiver of tax penalties for small businesses.**

*As used in this section, "small business" means an independently owned and operated business that has been organized pursuant to Virginia law or maintains a principal place of business in Virginia and has 10 or fewer employees.*

*Any penalties related to taxes administered by the Department shall be waived for a small business during its first two years of operation, provided that such small business enters into an agreement pursuant to § 58.1-1817. However, the Department shall not be required to waive the penalty imposed by § 58.1-1816 or any civil penalties for the failure to remit state sales or withholding taxes.*

## CHAPTER 719

*An Act to amend and reenact § 2.2-3705.5 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 37.2-308.01, relating to commitment hearings for involuntary admissions; data sharing.*

[S 1006]

Approved March 24, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 2.2-3705.5 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 37.2-308.01 as follows:**

**§ 2.2-3705.5. Exclusions to application of chapter; health and social services records.**

The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01.

1. Health records, except that such records may be personally reviewed by the individual who is the subject of such records, as provided in subsection F of § 32.1-127.1:03.

Where the person who is the subject of health records is confined in a state or local correctional facility, the administrator or chief medical officer of such facility may assert such confined person's right of access to the health records if the administrator or chief medical officer has reasonable cause to believe that such confined person has an infectious disease or other medical condition from which other persons so confined need to be protected. Health records shall only be reviewed and shall not be copied by such administrator or chief medical officer. The information in the health records of a person so confined shall continue to be confidential and shall not be disclosed by the administrator or chief medical officer of the facility to any person except the subject or except as provided by law.

Where the person who is the subject of health records is under the age of 18, his right of access may be asserted only by his guardian or his parent, including a noncustodial parent, unless such parent's parental rights have been terminated, a court of competent jurisdiction has restricted or denied such access, or a parent has been denied access to the health record in accordance with § 20-124.6. In instances where the person who is the subject thereof is an emancipated minor, a student in a public institution of higher education, or is a minor who has consented to his own treatment as authorized by § 16.1-338 or 54.1-2969, the right of access may be asserted by the subject person.

For the purposes of this chapter, statistical summaries of incidents and statistical data concerning abuse of individuals receiving services compiled by the Commissioner of Behavioral Health and Developmental Services shall be disclosed. No such summaries or data shall include any information that identifies specific individuals receiving services.

2. Applications for admission to examinations or for licensure and scoring records maintained by the Department of Health Professions or any board in that department on individual licensees or applicants. However, such material may be made available during normal working hours for copying, at the requester's expense, by the individual who is the subject thereof, in the offices of the Department of Health Professions or in the offices of any health regulatory board, whichever may possess the material.

3. Reports, documentary evidence and other information as specified in §§ 51.5-122, 51.5-141, and 63.2-104.

4. Investigative notes; proprietary information not published, copyrighted or patented; information obtained from employee personnel records; personally identifiable information regarding residents, clients or other recipients of services; other correspondence and information furnished in confidence to the Department of Social Services in connection with an active investigation of an applicant or licensee pursuant to Chapters 17 (§ 63.2-1700 et seq.) and 18 (§ 63.2-1800 et seq.) of Title 63.2; and information furnished to the Office of the Attorney General in connection with an investigation or litigation pursuant to Article 19.1 (§ 8.01-216.1 et seq.) of Chapter 3 of Title 8.01 and Chapter 9 (§ 32.1-310 et seq.) of Title 32.1. Information from the records of completed investigations shall be disclosed in a form that does not reveal the identity of complainants, persons supplying information, or other individuals involved in the investigation.

5. Information collected for the designation and verification of trauma centers and other specialty care centers within the Statewide Emergency Medical Services System and Services pursuant to Article 2.1 (§ 32.1-111.1 et seq.) of Chapter 4 of Title 32.1.

6. Reports and court documents relating to involuntary admission required to be kept confidential pursuant to § 37.2-818.

7. Data formerly required to be submitted to the Commissioner of Health relating to the establishment of new or the expansion of existing clinical health services, acquisition of major medical equipment, or certain projects requiring capital expenditures pursuant to former § 32.1-102.3:4.

8. Information required to be provided to the Department of Health Professions by certain licensees pursuant to § 54.1-2506.1.

9. Information acquired (i) during a review of any child death conducted by the State Child Fatality Review team established pursuant to § 32.1-283.1 or by a local or regional child fatality review team to the extent that such information is made confidential by § 32.1-283.2; (ii) during a review of any death conducted by a family violence fatality review team to the extent that such information is made confidential by § 32.1-283.3; or (iii) during a review of any adult death conducted

by the Adult Fatality Review Team to the extent made confidential by § 32.1-283.5 or by a local or regional adult fatality review team to the extent that such information is made confidential by § 32.1-283.6.

10. Patient level data collected by the Board of Health and not yet processed, verified, and released, pursuant to § 32.1-276.9, to the Board by the nonprofit organization with which the Commissioner of Health has contracted pursuant to § 32.1-276.4.

11. Information held by the Health Practitioners' Monitoring Program Committee within the Department of Health Professions that may identify any practitioner who may be, or who is actually, impaired and disclosure of such information is prohibited by § 54.1-2517.

12. Information relating to a grant application, or accompanying a grant application, submitted to the Commonwealth Neurotrauma Initiative Advisory Board pursuant to Article 12 (§ 51.5-178 et seq.) of Chapter 14 of Title 51.5 that would (i) reveal (a) medical or mental health records or other data identifying individual patients or (b) proprietary business or research-related information produced or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of the applicant.

13. Any information copied, recorded, or received by the Commissioner of Health in the course of an examination, investigation, or review of a managed care health insurance plan licensee pursuant to §§ 32.1-137.4 and 32.1-137.5, including books, records, files, accounts, papers, documents, and any or all computer or other recordings.

14. Information and statistical registries required to be kept confidential pursuant to §§ 63.2-102 and 63.2-104.

15. Information relating to the prescribing and dispensing of covered substances to recipients and any abstracts from such information that are in the possession of the Prescription Monitoring Program pursuant to Chapter 25.2 (§ 54.1-2519 et seq.) of Title 54.1 and any material relating to the operation or security of the Program.

16. Records of the Virginia Birth-Related Neurological Injury Compensation Program required to be kept confidential pursuant to § 38.2-5002.2.

17. Information held by the State Health Commissioner relating to the health of any person subject to an order of quarantine or an order of isolation pursuant to Article 3.02 (§ 32.1-48.05 et seq.) of Chapter 2 of Title 32.1. However, nothing in this subdivision shall be construed to authorize the withholding of statistical summaries, abstracts, or other information in aggregate form.

18. The names and addresses or other contact information of persons receiving transportation services from a state or local public body or its designee under Title II of the Americans with Disabilities Act, (42 U.S.C. § 12131 et seq.) or funded by Temporary Assistance for Needy Families (TANF) created under § 63.2-600.

19. Information held by certain health care committees and entities that may be withheld from discovery as privileged communications pursuant to § 8.01-581.17.

20. *Data and information specified in § 37.2-308.01 relating to proceedings provided for in Article 16 (§ 16.1-335 et seq.) of Chapter 11 of Title 16.1 and Chapter 8 (§ 37.2-800 et seq.) of Title 37.2.*

**§ 37.2-308.01. Commitment hearings for involuntary admissions; data sharing.**

*Notwithstanding the provisions of §§ 16.1-305 and 37.2-818, at the request of the Department and as provided in this section, the Office of the Executive Secretary shall provide to the Department electronic data, including individually identifiable information, on the proceedings provided for in Article 16 (§ 16.1-335 et seq.) of Chapter 11 of Title 16.1 and Chapter 8 (§ 37.2-800 et seq.). For the purposes of this section, "individually identifiable information" shall include the name and date of birth of the individual who is the subject of the proceeding and the last four digits of the individual's social security number.*

*Electronic data collected by the Department pursuant to this section may be used by the Department for the purposes of developing and maintaining statistical archives, conducting research on the outcome of proceedings provided for in Article 16 (§ 16.1-335 et seq.) of Chapter 11 of Title 16.1 and Chapter 8 (§ 37.2-800 et seq.), and preparing analyses and reports for use by the Department.*

*The Department shall take all necessary steps to protect the security and privacy of the electronic data to the same extent required by state and federal law and regulations governing health information privacy. Such electronic data shall not be subject to the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).*

## CHAPTER 720

*An Act to amend and reenact § 32.1-127.1:03 of the Code of Virginia, to amend the Code of Virginia by adding a section numbered 54.1-2400.9, and to repeal § 54.1-2966.1 of the Code of Virginia, relating to the reporting of disabilities of drivers.*

[S 1024]

Approved March 24, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 32.1-127.1:03 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 54.1-2400.9 as follows:**

**§ 32.1-127.1:03. Health records privacy.**

A. There is hereby recognized an individual's right of privacy in the content of his health records. Health records are the property of the health care entity maintaining them, and, except when permitted or required by this section or by other provisions of state law, no health care entity, or other person working in a health care setting, may disclose an individual's health records.

Pursuant to this subsection:

1. Health care entities shall disclose health records to the individual who is the subject of the health record, except as provided in subsections E and F and subsection B of § 8.01-413.

2. Health records shall not be removed from the premises where they are maintained without the approval of the health care entity that maintains such health records, except in accordance with a court order or subpoena consistent with subsection C of § 8.01-413 or with this section or in accordance with the regulations relating to change of ownership of health records promulgated by a health regulatory board established in Title 54.1.

3. No person to whom health records are disclosed shall redisclose or otherwise reveal the health records of an individual, beyond the purpose for which such disclosure was made, without first obtaining the individual's specific authorization to such redisclosure. This redisclosure prohibition shall not, however, prevent (i) any health care entity that receives health records from another health care entity from making subsequent disclosures as permitted under this section and the federal Department of Health and Human Services regulations relating to privacy of the electronic transmission of data and protected health information promulgated by the United States Department of Health and Human Services as required by the Health Insurance Portability and Accountability Act (HIPAA) (42 U.S.C. § 1320d et seq.) or (ii) any health care entity from furnishing health records and aggregate or other data, from which individually identifying prescription information has been removed, encoded or encrypted, to qualified researchers, including, but not limited to, pharmaceutical manufacturers and their agents or contractors, for purposes of clinical, pharmaco-epidemiological, pharmaco-economic, or other health services research.

4. Health care entities shall, upon the request of the individual who is the subject of the health record, disclose health records to other health care entities, in any available format of the requestor's choosing, as provided in subsection E.

B. As used in this section:

"Agent" means a person who has been appointed as an individual's agent under a power of attorney for health care or an advance directive under the Health Care Decisions Act (§ 54.1-2981 et seq.).

"Certification" means a written representation that is delivered by hand, by first-class mail, by overnight delivery service, or by facsimile if the sender obtains a facsimile-machine-generated confirmation reflecting that all facsimile pages were successfully transmitted.

"Guardian" means a court-appointed guardian of the person.

"Health care clearinghouse" means, consistent with the definition set out in 45 C.F.R. § 160.103, a public or private entity, such as a billing service, repricing company, community health management information system or community health information system, and "value-added" networks and switches, that performs either of the following functions: (i) processes or facilitates the processing of health information received from another entity in a nonstandard format or containing nonstandard data content into standard data elements or a standard transaction; or (ii) receives a standard transaction from another entity and processes or facilitates the processing of health information into nonstandard format or nonstandard data content for the receiving entity.

"Health care entity" means any health care provider, health plan or health care clearinghouse.

"Health care provider" means those entities listed in the definition of "health care provider" in § 8.01-581.1, except that state-operated facilities shall also be considered health care providers for the purposes of this section. Health care provider shall also include all persons who are licensed, certified, registered or permitted or who hold a multistate licensure privilege issued by any of the health regulatory boards within the Department of Health Professions, except persons regulated by the Board of Funeral Directors and Embalmers or the Board of Veterinary Medicine.

"Health plan" means an individual or group plan that provides, or pays the cost of, medical care. "Health plan" shall include any entity included in such definition as set out in 45 C.F.R. § 160.103.

"Health record" means any written, printed or electronically recorded material maintained by a health care entity in the course of providing health services to an individual concerning the individual and the services provided. "Health record" also includes the substance of any communication made by an individual to a health care entity in confidence during or in connection with the provision of health services or information otherwise acquired by the health care entity about an individual in confidence and in connection with the provision of health services to the individual.

"Health services" means, but shall not be limited to, examination, diagnosis, evaluation, treatment, pharmaceuticals, aftercare, habilitation or rehabilitation and mental health therapy of any kind, as well as payment or reimbursement for any such services.

"Individual" means a patient who is receiving or has received health services from a health care entity.

"Individually identifying prescription information" means all prescriptions, drug orders or any other prescription information that specifically identifies an individual.

"Parent" means a biological, adoptive or foster parent.

"Psychotherapy notes" means comments, recorded in any medium by a health care provider who is a mental health professional, documenting or analyzing the contents of conversation during a private counseling session with an individual or a group, joint, or family counseling session that are separated from the rest of the individual's health record.

"Psychotherapy notes" shall not include annotations relating to medication and prescription monitoring, counseling session start and stop times, treatment modalities and frequencies, clinical test results, or any summary of any symptoms, diagnosis, prognosis, functional status, treatment plan, or the individual's progress to date.

C. The provisions of this section shall not apply to any of the following:

1. The status of and release of information governed by §§ 65.2-604 and 65.2-607 of the Virginia Workers' Compensation Act;

2. Except where specifically provided herein, the health records of minors; or

3. The release of juvenile health records to a secure facility or a shelter care facility pursuant to § 16.1-248.3.

D. Health care entities may, and, when required by other provisions of state law, shall, disclose health records:

1. As set forth in subsection E, pursuant to the written authorization of (i) the individual or (ii) in the case of a minor, (a) his custodial parent, guardian or other person authorized to consent to treatment of minors pursuant to § 54.1-2969 or (b) the minor himself, if he has consented to his own treatment pursuant to § 54.1-2969, or (iii) in emergency cases or situations where it is impractical to obtain an individual's written authorization, pursuant to the individual's oral authorization for a health care provider or health plan to discuss the individual's health records with a third party specified by the individual;

2. In compliance with a subpoena issued in accord with subsection H, pursuant to a search warrant or a grand jury subpoena, pursuant to court order upon good cause shown or in compliance with a subpoena issued pursuant to subsection C of § 8.01-413. Regardless of the manner by which health records relating to an individual are compelled to be disclosed pursuant to this subdivision, nothing in this subdivision shall be construed to prohibit any staff or employee of a health care entity from providing information about such individual to a law-enforcement officer in connection with such subpoena, search warrant, or court order;

3. In accord with subsection F of § 8.01-399 including, but not limited to, situations where disclosure is reasonably necessary to establish or collect a fee or to defend a health care entity or the health care entity's employees or staff against any accusation of wrongful conduct; also as required in the course of an investigation, audit, review or proceedings regarding a health care entity's conduct by a duly authorized law-enforcement, licensure, accreditation, or professional review entity;

4. In testimony in accordance with §§ 8.01-399 and 8.01-400.2;

5. In compliance with the provisions of § 8.01-413;

6. As required or authorized by law relating to public health activities, health oversight activities, serious threats to health or safety, or abuse, neglect or domestic violence, relating to contagious disease, public safety, and suspected child or adult abuse reporting requirements, including, but not limited to, those contained in §§ 32.1-36, 32.1-36.1, 32.1-40, 32.1-41, 32.1-127.1:04, 32.1-276.5, 32.1-283, 32.1-283.1, 32.1-320, 37.2-710, 37.2-839, 53.1-40.10, 54.1-2400.6, 54.1-2400.7, 54.1-2400.9, 54.1-2403.3, 54.1-2506, 54.1-2966, ~~54.1-2966.1~~, 54.1-2967, 54.1-2968, 54.1-3408.2, 63.2-1509, and 63.2-1606;

7. Where necessary in connection with the care of the individual;

8. In connection with the health care entity's own health care operations or the health care operations of another health care entity, as specified in 45 C.F.R. § 164.501, or in the normal course of business in accordance with accepted standards of practice within the health services setting; however, the maintenance, storage, and disclosure of the mass of prescription dispensing records maintained in a pharmacy registered or permitted in Virginia shall only be accomplished in compliance with §§ 54.1-3410, 54.1-3411, and 54.1-3412;

9. When the individual has waived his right to the privacy of the health records;

10. When examination and evaluation of an individual are undertaken pursuant to judicial or administrative law order, but only to the extent as required by such order;

11. To the guardian ad litem and any attorney representing the respondent in the course of a guardianship proceeding of an adult patient who is the respondent in a proceeding under Chapter 20 (§ 64.2-2000 et seq.) of Title 64.2;

12. To the guardian ad litem and any attorney appointed by the court to represent an individual who is or has been a patient who is the subject of a commitment proceeding under § 19.2-169.6, Article 5 (§ 37.2-814 et seq.) of Chapter 8 of Title 37.2, Article 16 (§ 16.1-335 et seq.) of Chapter 11 of Title 16.1, or a judicial authorization for treatment proceeding pursuant to Chapter 11 (§ 37.2-1100 et seq.) of Title 37.2;

13. To a magistrate, the court, the evaluator or examiner required under Article 16 (§ 16.1-335 et seq.) of Chapter 11 of Title 16.1 or § 37.2-815, a community services board or behavioral health authority or a designee of a community services board or behavioral health authority, or a law-enforcement officer participating in any proceeding under Article 16 (§ 16.1-335 et seq.) of Chapter 11 of Title 16.1, § 19.2-169.6, or Chapter 8 (§ 37.2-800 et seq.) of Title 37.2 regarding the subject of the proceeding, and to any health care provider evaluating or providing services to the person who is the subject of the proceeding or monitoring the person's adherence to a treatment plan ordered under those provisions. Health records disclosed to a law-enforcement officer shall be limited to information necessary to protect the officer, the person, or the public from physical injury or to address the health care needs of the person. Information disclosed to a law-enforcement officer shall not be used for any other purpose, disclosed to others, or retained;

14. To the attorney and/or guardian ad litem of a minor who represents such minor in any judicial or administrative proceeding, if the court or administrative hearing officer has entered an order granting the attorney or guardian ad litem this right and such attorney or guardian ad litem presents evidence to the health care entity of such order;

15. With regard to the Court-Appointed Special Advocate (CASA) program, a minor's health records in accord with § 9.1-156;

16. To an agent appointed under an individual's power of attorney or to an agent or decision maker designated in an individual's advance directive for health care or for decisions on anatomical gifts and organ, tissue or eye donation or to any other person consistent with the provisions of the Health Care Decisions Act (§ 54.1-2981 et seq.);

17. To third-party payors and their agents for purposes of reimbursement;

18. As is necessary to support an application for receipt of health care benefits from a governmental agency or as required by an authorized governmental agency reviewing such application or reviewing benefits already provided or as necessary to the coordination of prevention and control of disease, injury, or disability and delivery of such health care benefits pursuant to § 32.1-127.1:04;

19. Upon the sale of a medical practice as provided in § 54.1-2405; or upon a change of ownership or closing of a pharmacy pursuant to regulations of the Board of Pharmacy;

20. In accord with subsection B of § 54.1-2400.1, to communicate an individual's specific and immediate threat to cause serious bodily injury or death of an identified or readily identifiable person;

21. Where necessary in connection with the implementation of a hospital's routine contact process for organ donation pursuant to subdivision B 4 of § 32.1-127;

22. In the case of substance abuse records, when permitted by and in conformity with requirements of federal law found in 42 U.S.C. § 290dd-2 and 42 C.F.R. Part 2;

23. In connection with the work of any entity established as set forth in § 8.01-581.16 to evaluate the adequacy or quality of professional services or the competency and qualifications for professional staff privileges;

24. If the health records are those of a deceased or mentally incapacitated individual to the personal representative or executor of the deceased individual or the legal guardian or committee of the incompetent or incapacitated individual or if there is no personal representative, executor, legal guardian or committee appointed, to the following persons in the following order of priority: a spouse, an adult son or daughter, either parent, an adult brother or sister, or any other relative of the deceased individual in order of blood relationship;

25. For the purpose of conducting record reviews of inpatient hospital deaths to promote identification of all potential organ, eye, and tissue donors in conformance with the requirements of applicable federal law and regulations, including 42 C.F.R. § 482.45, (i) to the health care provider's designated organ procurement organization certified by the United States Health Care Financing Administration and (ii) to any eye bank or tissue bank in Virginia certified by the Eye Bank Association of America or the American Association of Tissue Banks;

26. To the Office of the State Inspector General pursuant to Chapter 3.2 (§ 2.2-307 et seq.) of Title 2.2;

27. To an entity participating in the activities of a local health partnership authority established pursuant to Article 6.1 (§ 32.1-122.10:001 et seq.) of Chapter 4, pursuant to subdivision 1;

28. To law-enforcement officials by each licensed emergency medical services agency, (i) when the individual is the victim of a crime or (ii) when the individual has been arrested and has received emergency medical services or has refused emergency medical services and the health records consist of the prehospital patient care report required by § 32.1-116.1;

29. To law-enforcement officials, in response to their request, for the purpose of identifying or locating a suspect, fugitive, person required to register pursuant to § 9.1-901 of the Sex Offender and Crimes Against Minors Registry Act, material witness, or missing person, provided that only the following information may be disclosed: (i) name and address of the person, (ii) date and place of birth of the person, (iii) social security number of the person, (iv) blood type of the person, (v) date and time of treatment received by the person, (vi) date and time of death of the person, where applicable, (vii) description of distinguishing physical characteristics of the person, and (viii) type of injury sustained by the person;

30. To law-enforcement officials regarding the death of an individual for the purpose of alerting law enforcement of the death if the health care entity has a suspicion that such death may have resulted from criminal conduct;

31. To law-enforcement officials if the health care entity believes in good faith that the information disclosed constitutes evidence of a crime that occurred on its premises;

32. To the State Health Commissioner pursuant to § 32.1-48.015 when such records are those of a person or persons who are subject to an order of quarantine or an order of isolation pursuant to Article 3.02 (§ 32.1-48.05 et seq.) of Chapter 2;

33. To the Commissioner of the Department of Labor and Industry or his designee by each licensed emergency medical services agency when the records consist of the prehospital patient care report required by § 32.1-116.1 and the patient has suffered an injury or death on a work site while performing duties or tasks that are within the scope of his employment;

34. To notify a family member or personal representative of an individual who is the subject of a proceeding pursuant to Article 16 (§ 16.1-335 et seq.) of Chapter 11 of Title 16.1 or Chapter 8 (§ 37.2-800 et seq.) of Title 37.2 of information that is directly relevant to such person's involvement with the individual's health care, which may include the individual's location and general condition, when the individual has the capacity to make health care decisions and (i) the individual has agreed to the notification, (ii) the individual has been provided an opportunity to object to the notification and does not express an objection, or (iii) the health care provider can, on the basis of his professional judgment, reasonably infer from the circumstances that the individual does not object to the notification. If the opportunity to agree or object to the notification cannot practicably be provided because of the individual's incapacity or an emergency circumstance, the health care provider may notify a family member or personal representative of the individual of information that is directly relevant to such person's involvement with the individual's health care, which may include the individual's location and

general condition if the health care provider, in the exercise of his professional judgment, determines that the notification is in the best interests of the individual. Such notification shall not be made if the provider has actual knowledge the family member or personal representative is currently prohibited by court order from contacting the individual;

~~35. To a threat assessment team established by a local school board pursuant to § 22.1-79.4, by a public institution of higher education pursuant to § 23.9.2-10, or by a private nonprofit institution of higher education; and~~

35. To a threat assessment team established by a local school board pursuant to § 22.1-79.4, by a public institution of higher education pursuant to § 23.1-805, or by a private nonprofit institution of higher education; and

36. To a regional emergency medical services council pursuant to § 32.1-116.1, for purposes limited to monitoring and improving the quality of emergency medical services pursuant to § 32.1-111.3.

Notwithstanding the provisions of subdivisions 1 through 35, a health care entity shall obtain an individual's written authorization for any disclosure of psychotherapy notes, except when disclosure by the health care entity is (i) for its own training programs in which students, trainees, or practitioners in mental health are being taught under supervision to practice or to improve their skills in group, joint, family, or individual counseling; (ii) to defend itself or its employees or staff against any accusation of wrongful conduct; (iii) in the discharge of the duty, in accordance with subsection B of § 54.1-2400.1, to take precautions to protect third parties from violent behavior or other serious harm; (iv) required in the course of an investigation, audit, review, or proceeding regarding a health care entity's conduct by a duly authorized law-enforcement, licensure, accreditation, or professional review entity; or (v) otherwise required by law.

E. Health care records required to be disclosed pursuant to this section shall be made available electronically only to the extent and in the manner authorized by the federal Health Information Technology for Economic and Clinical Health Act (P.L. 111-5) and implementing regulations and the Health Insurance Portability and Accountability Act (42 U.S.C. § 1320d et seq.) and implementing regulations. Notwithstanding any other provision to the contrary, a health care entity shall not be required to provide records in an electronic format requested if (i) the electronic format is not reasonably available without additional cost to the health care entity, (ii) the records would be subject to modification in the format requested, or (iii) the health care entity determines that the integrity of the records could be compromised in the electronic format requested. Requests for copies of or electronic access to health records shall (a) be in writing, dated and signed by the requester; (b) identify the nature of the information requested; and (c) include evidence of the authority of the requester to receive such copies or access such records, and identification of the person to whom the information is to be disclosed; and (d) specify whether the requester would like the records in electronic format, if available, or in paper format. The health care entity shall accept a photocopy, facsimile, or other copy of the original signed by the requestor as if it were an original. Within 15 days of receipt of a request for copies of or electronic access to health records, the health care entity shall do one of the following: (A) furnish such copies of or allow electronic access to the requested health records to any requester authorized to receive them in electronic format if so requested; (B) inform the requester if the information does not exist or cannot be found; (C) if the health care entity does not maintain a record of the information, so inform the requester and provide the name and address, if known, of the health care entity who maintains the record; or (D) deny the request (1) under subsection F, (2) on the grounds that the requester has not established his authority to receive such health records or proof of his identity, or (3) as other provided by law. Procedures set forth in this section shall apply only to requests for health records not specifically governed by other provisions of state law.

F. Except as provided in subsection B of § 8.01-413, copies of or electronic access to an individual's health records shall not be furnished to such individual or anyone authorized to act on the individual's behalf when the individual's treating physician or the individual's treating clinical psychologist has made a part of the individual's record a written statement that, in the exercise of his professional judgment, the furnishing to or review by the individual of such health records would be reasonably likely to endanger the life or physical safety of the individual or another person, or that such health record makes reference to a person other than a health care provider and the access requested would be reasonably likely to cause substantial harm to such referenced person. If any health care entity denies a request for copies of or electronic access to health records based on such statement, the health care entity shall inform the individual of the individual's right to designate, in writing, at his own expense, another reviewing physician or clinical psychologist, whose licensure, training and experience relative to the individual's condition are at least equivalent to that of the physician or clinical psychologist upon whose opinion the denial is based. The designated reviewing physician or clinical psychologist shall make a judgment as to whether to make the health record available to the individual.

The health care entity denying the request shall also inform the individual of the individual's right to request in writing that such health care entity designate, at its own expense, a physician or clinical psychologist, whose licensure, training, and experience relative to the individual's condition are at least equivalent to that of the physician or clinical psychologist upon whose professional judgment the denial is based and who did not participate in the original decision to deny the health records, who shall make a judgment as to whether to make the health record available to the individual. The health care entity shall comply with the judgment of the reviewing physician or clinical psychologist. The health care entity shall permit copying and examination of the health record by such other physician or clinical psychologist designated by either the individual at his own expense or by the health care entity at its expense.

Any health record copied for review by any such designated physician or clinical psychologist shall be accompanied by a statement from the custodian of the health record that the individual's treating physician or clinical psychologist determined that the individual's review of his health record would be reasonably likely to endanger the life or physical

safety of the individual or would be reasonably likely to cause substantial harm to a person referenced in the health record who is not a health care provider.

Further, nothing herein shall be construed as giving, or interpreted to bestow the right to receive copies of, or otherwise obtain access to, psychotherapy notes to any individual or any person authorized to act on his behalf.

G. A written authorization to allow release of an individual's health records shall substantially include the following information:

**AUTHORIZATION TO RELEASE CONFIDENTIAL HEALTH RECORDS**

Individual's Name \_\_\_\_\_

Health Care Entity's Name \_\_\_\_\_

Person, Agency, or Health Care Entity to whom disclosure is to be made \_\_\_\_\_

Information or Health Records to be disclosed \_\_\_\_\_

Purpose of Disclosure or at the Request of the Individual \_\_\_\_\_

As the person signing this authorization, I understand that I am giving my permission to the above-named health care entity for disclosure of confidential health records. I understand that the health care entity may not condition treatment or payment on my willingness to sign this authorization unless the specific circumstances under which such conditioning is permitted by law are applicable and are set forth in this authorization. I also understand that I have the right to revoke this authorization at any time, but that my revocation is not effective until delivered in writing to the person who is in possession of my health records and is not effective as to health records already disclosed under this authorization. A copy of this authorization and a notation concerning the persons or agencies to whom disclosure was made shall be included with my original health records. I understand that health information disclosed under this authorization might be redisclosed by a recipient and may, as a result of such disclosure, no longer be protected to the same extent as such health information was protected by law while solely in the possession of the health care entity.

This authorization expires on (date) or (event) \_\_\_\_\_

Signature of Individual or Individual's Legal Representative if Individual is Unable to Sign \_\_\_\_\_

Relationship or Authority of Legal Representative \_\_\_\_\_

Date of Signature \_\_\_\_\_

H. Pursuant to this subsection:

1. Unless excepted from these provisions in subdivision 9, no party to a civil, criminal or administrative action or proceeding shall request the issuance of a subpoena duces tecum for another party's health records or cause a subpoena duces tecum to be issued by an attorney unless a copy of the request for the subpoena or a copy of the attorney-issued subpoena is provided to the other party's counsel or to the other party if pro se, simultaneously with filing the request or issuance of the subpoena. No party to an action or proceeding shall request or cause the issuance of a subpoena duces tecum for the health records of a nonparty witness unless a copy of the request for the subpoena or a copy of the attorney-issued subpoena is provided to the nonparty witness simultaneously with filing the request or issuance of the attorney-issued subpoena.

No subpoena duces tecum for health records shall set a return date earlier than 15 days from the date of the subpoena except by order of a court or administrative agency for good cause shown. When a court or administrative agency directs that health records be disclosed pursuant to a subpoena duces tecum earlier than 15 days from the date of the subpoena, a copy of the order shall accompany the subpoena.

Any party requesting a subpoena duces tecum for health records or on whose behalf the subpoena duces tecum is being issued shall have the duty to determine whether the individual whose health records are being sought is pro se or a nonparty.

In instances where health records being subpoenaed are those of a pro se party or nonparty witness, the party requesting or issuing the subpoena shall deliver to the pro se party or nonparty witness together with the copy of the request for subpoena, or a copy of the subpoena in the case of an attorney-issued subpoena, a statement informing them of their rights and remedies. The statement shall include the following language and the heading shall be in boldface capital letters:

**NOTICE TO INDIVIDUAL**

The attached document means that (insert name of party requesting or causing issuance of the subpoena) has either asked the court or administrative agency to issue a subpoena or a subpoena has been issued by the other party's attorney to your doctor, other health care providers (names of health care providers inserted here) or other health care entity (name of health care entity to be inserted here) requiring them to produce your health records. Your doctor, other health care provider or other health care entity is required to respond by providing a copy of your health records. If you believe your health records should not be disclosed and object to their disclosure, you have the right to file a motion with the clerk of the court or the administrative agency to quash the subpoena. If you elect to file a motion to quash, such motion must be filed within 15 days of the date of the request or of the attorney-issued subpoena. You may contact the clerk's office or the administrative agency to determine the requirements that must be satisfied when filing a motion to quash and you may elect to contact an attorney to represent your interest. If you elect to file a motion to quash, you must notify your doctor, other health care

provider(s), or other health care entity, that you are filing the motion so that the health care provider or health care entity knows to send the health records to the clerk of court or administrative agency in a sealed envelope or package for safekeeping while your motion is decided.

2. Any party filing a request for a subpoena duces tecum or causing such a subpoena to be issued for an individual's health records shall include a Notice in the same part of the request in which the recipient of the subpoena duces tecum is directed where and when to return the health records. Such notice shall be in boldface capital letters and shall include the following language:

**NOTICE TO HEALTH CARE ENTITIES**

A COPY OF THIS SUBPOENA DUCES TECUM HAS BEEN PROVIDED TO THE INDIVIDUAL WHOSE HEALTH RECORDS ARE BEING REQUESTED OR HIS COUNSEL. YOU OR THAT INDIVIDUAL HAS THE RIGHT TO FILE A MOTION TO QUASH (OBJECT TO) THE ATTACHED SUBPOENA. IF YOU ELECT TO FILE A MOTION TO QUASH, YOU MUST FILE THE MOTION WITHIN 15 DAYS OF THE DATE OF THIS SUBPOENA.

YOU MUST NOT RESPOND TO THIS SUBPOENA UNTIL YOU HAVE RECEIVED WRITTEN CERTIFICATION FROM THE PARTY ON WHOSE BEHALF THE SUBPOENA WAS ISSUED THAT THE TIME FOR FILING A MOTION TO QUASH HAS ELAPSED AND THAT:

NO MOTION TO QUASH WAS FILED; OR

ANY MOTION TO QUASH HAS BEEN RESOLVED BY THE COURT OR THE ADMINISTRATIVE AGENCY AND THE DISCLOSURES SOUGHT ARE CONSISTENT WITH SUCH RESOLUTION.

IF YOU RECEIVE NOTICE THAT THE INDIVIDUAL WHOSE HEALTH RECORDS ARE BEING REQUESTED HAS FILED A MOTION TO QUASH THIS SUBPOENA, OR IF YOU FILE A MOTION TO QUASH THIS SUBPOENA, YOU MUST SEND THE HEALTH RECORDS ONLY TO THE CLERK OF THE COURT OR ADMINISTRATIVE AGENCY THAT ISSUED THE SUBPOENA OR IN WHICH THE ACTION IS PENDING AS SHOWN ON THE SUBPOENA USING THE FOLLOWING PROCEDURE:

PLACE THE HEALTH RECORDS IN A SEALED ENVELOPE AND ATTACH TO THE SEALED ENVELOPE A COVER LETTER TO THE CLERK OF COURT OR ADMINISTRATIVE AGENCY WHICH STATES THAT CONFIDENTIAL HEALTH RECORDS ARE ENCLOSED AND ARE TO BE HELD UNDER SEAL PENDING A RULING ON THE MOTION TO QUASH THE SUBPOENA. THE SEALED ENVELOPE AND THE COVER LETTER SHALL BE PLACED IN AN OUTER ENVELOPE OR PACKAGE FOR TRANSMITTAL TO THE COURT OR ADMINISTRATIVE AGENCY.

3. Upon receiving a valid subpoena duces tecum for health records, health care entities shall have the duty to respond to the subpoena in accordance with the provisions of subdivisions 4, 5, 6, 7, and 8.

4. Except to deliver to a clerk of the court or administrative agency subpoenaed health records in a sealed envelope as set forth, health care entities shall not respond to a subpoena duces tecum for such health records until they have received a certification as set forth in subdivision 5 or 8 from the party on whose behalf the subpoena duces tecum was issued.

If the health care entity has actual receipt of notice that a motion to quash the subpoena has been filed or if the health care entity files a motion to quash the subpoena for health records, then the health care entity shall produce the health records, in a securely sealed envelope, to the clerk of the court or administrative agency issuing the subpoena or in whose court or administrative agency the action is pending. The court or administrative agency shall place the health records under seal until a determination is made regarding the motion to quash. The securely sealed envelope shall only be opened on order of the judge or administrative agency. In the event the court or administrative agency grants the motion to quash, the health records shall be returned to the health care entity in the same sealed envelope in which they were delivered to the court or administrative agency. In the event that a judge or administrative agency orders the sealed envelope to be opened to review the health records in camera, a copy of the order shall accompany any health records returned to the health care entity. The health records returned to the health care entity shall be in a securely sealed envelope.

5. If no motion to quash is filed within 15 days of the date of the request or of the attorney-issued subpoena, the party on whose behalf the subpoena was issued shall have the duty to certify to the subpoenaed health care entity that the time for filing a motion to quash has elapsed and that no motion to quash was filed. Any health care entity receiving such certification shall have the duty to comply with the subpoena duces tecum by returning the specified health records by either the return date on the subpoena or five days after receipt of the certification, whichever is later.

6. In the event that the individual whose health records are being sought files a motion to quash the subpoena, the court or administrative agency shall decide whether good cause has been shown by the discovering party to compel disclosure of the individual's health records over the individual's objections. In determining whether good cause has been shown, the court or administrative agency shall consider (i) the particular purpose for which the information was collected; (ii) the degree to which the disclosure of the records would embarrass, injure, or invade the privacy of the individual; (iii) the effect of the disclosure on the individual's future health care; (iv) the importance of the information to the lawsuit or proceeding; and (v) any other relevant factor.

7. Concurrent with the court or administrative agency's resolution of a motion to quash, if subpoenaed health records have been submitted by a health care entity to the court or administrative agency in a sealed envelope, the court or administrative agency shall: (i) upon determining that no submitted health records should be disclosed, return all submitted health records to the health care entity in a sealed envelope; (ii) upon determining that all submitted health records should be disclosed, provide all the submitted health records to the party on whose behalf the subpoena was issued; or (iii) upon

determining that only a portion of the submitted health records should be disclosed, provide such portion to the party on whose behalf the subpoena was issued and return the remaining health records to the health care entity in a sealed envelope.

8. Following the court or administrative agency's resolution of a motion to quash, the party on whose behalf the subpoena duces tecum was issued shall have the duty to certify in writing to the subpoenaed health care entity a statement of one of the following:

a. All filed motions to quash have been resolved by the court or administrative agency and the disclosures sought in the subpoena duces tecum are consistent with such resolution; and, therefore, the health records previously delivered in a sealed envelope to the clerk of the court or administrative agency will not be returned to the health care entity;

b. All filed motions to quash have been resolved by the court or administrative agency and the disclosures sought in the subpoena duces tecum are consistent with such resolution and that, since no health records have previously been delivered to the court or administrative agency by the health care entity, the health care entity shall comply with the subpoena duces tecum by returning the health records designated in the subpoena by the return date on the subpoena or five days after receipt of certification, whichever is later;

c. All filed motions to quash have been resolved by the court or administrative agency and the disclosures sought in the subpoena duces tecum are not consistent with such resolution; therefore, no health records shall be disclosed and all health records previously delivered in a sealed envelope to the clerk of the court or administrative agency will be returned to the health care entity;

d. All filed motions to quash have been resolved by the court or administrative agency and the disclosures sought in the subpoena duces tecum are not consistent with such resolution and that only limited disclosure has been authorized. The certification shall state that only the portion of the health records as set forth in the certification, consistent with the court or administrative agency's ruling, shall be disclosed. The certification shall also state that health records that were previously delivered to the court or administrative agency for which disclosure has been authorized will not be returned to the health care entity; however, all health records for which disclosure has not been authorized will be returned to the health care entity; or

e. All filed motions to quash have been resolved by the court or administrative agency and the disclosures sought in the subpoena duces tecum are not consistent with such resolution and, since no health records have previously been delivered to the court or administrative agency by the health care entity, the health care entity shall return only those health records specified in the certification, consistent with the court or administrative agency's ruling, by the return date on the subpoena or five days after receipt of the certification, whichever is later.

A copy of the court or administrative agency's ruling shall accompany any certification made pursuant to this subdivision.

9. The provisions of this subsection have no application to subpoenas for health records requested under § 8.01-413, or issued by a duly authorized administrative agency conducting an investigation, audit, review or proceedings regarding a health care entity's conduct.

The provisions of this subsection shall apply to subpoenas for the health records of both minors and adults.

Nothing in this subsection shall have any effect on the existing authority of a court or administrative agency to issue a protective order regarding health records, including, but not limited to, ordering the return of health records to a health care entity, after the period for filing a motion to quash has passed.

A subpoena for substance abuse records must conform to the requirements of federal law found in 42 C.F.R. Part 2, Subpart E.

I. Health care entities may testify about the health records of an individual in compliance with §§ 8.01-399 and 8.01-400.2.

J. If an individual requests a copy of his health record from a health care entity, the health care entity may impose a reasonable cost-based fee, which shall include only the cost of supplies for and labor of copying the requested information, postage when the individual requests that such information be mailed, and preparation of an explanation or summary of such information as agreed to by the individual. For the purposes of this section, "individual" shall subsume a person with authority to act on behalf of the individual who is the subject of the health record in making decisions related to his health care.

K. Nothing in this section shall prohibit a health care provider who prescribes or dispenses a controlled substance required to be reported to the Prescription Monitoring Program established pursuant to Chapter 25.2 (§ 54.1-2519 et seq.) of Title 54.1 to a patient from disclosing information obtained from the Prescription Monitoring Program and contained in a patient's health care record to another health care provider when such disclosure is related to the care or treatment of the patient who is the subject of the record.

**§ 54.1-2400.9. Reporting disabilities of drivers.**

Any (i) doctor of medicine, osteopathy, chiropractic, or podiatry; (ii) nurse practitioner; (iii) physician assistant; (iv) optometrist; (v) physical therapist; or (vi) clinical psychologist who reports to the Department of Motor Vehicles the existence, or probable existence, of a mental or physical disability or infirmity of any person licensed to operate a motor vehicle which the reporting practitioner believes affects such person's ability to operate a motor vehicle safely shall not be subject to civil liability under § 32.1-127.1:03 resulting from such report or deemed to have violated the practitioner-patient privilege unless he has acted in bad faith or with malicious intent.

**2. That § 54.1-2966.1 of the Code of Virginia is repealed.**

CHAPTER 721

*An Act to amend and reenact § 58.1-339.2 of the Code of Virginia, relating to the historic rehabilitation tax credit.*

[S 1034]

Approved March 24, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 58.1-339.2 of the Code of Virginia is amended and reenacted as follows:**

**§ 58.1-339.2. Historic rehabilitation tax credit.**

A. Effective for taxable years beginning on and after January 1, 1997, any individual, trust or estate, or corporation incurring eligible expenses in the rehabilitation of a certified historic structure shall be entitled to a credit against the tax imposed by Articles 2 (§ 58.1-320 et seq.), 6 (§ 58.1-360 et seq.) and 10 (§ 58.1-400 et seq.) of Chapter 3; Chapter 12 (§ 58.1-1200 et seq.); Article 1 (§ 58.1-2500 et seq.) of Chapter 25; and Article 2 (§ 58.1-2620 et seq.) of Chapter 26, in accordance with the following schedule:

Year	% of Eligible Expenses
1997	10%
1998	15%
1999	20%
2000 and thereafter	25%

If the amount of such credit exceeds the taxpayer's tax liability for such taxable year, the amount that exceeds the tax liability may be carried over for credit against the taxes of such taxpayer in the next ten taxable years or until the full credit is used, whichever occurs first. Credits granted to a partnership or electing small business corporation (S corporation) shall be passed through to the partners or shareholders, respectively. Credits granted to a partnership or electing small business corporation (S corporation) shall be allocated among all partners or shareholders, respectively, either in proportion to their ownership interest in such entity or as the partners or shareholders mutually agree as provided in an executed document, the form of which shall be prescribed by the Director of the Department of Historic Resources.

B. Effective for taxable years beginning on and after January 1, 2000, any individual, trust, estate, or corporation resident in Virginia that incurs eligible expenses in the rehabilitation of a certified historic structure in any other state that has in effect a reciprocal historic structure rehabilitation tax credit program and agreement for residents of that state who rehabilitate historic structures in Virginia shall be entitled to a credit to the same extent as provided in subsection A and other applicable provisions of law; however, no eligible party shall receive any credit authorized under this subsection prior to taxable years beginning on and after January 1, 2002.

C. 1. To claim the credit authorized under this section, the taxpayer shall apply to the Virginia Department of Historic Resources, which shall determine the amount of eligible rehabilitation expenses and issue a certificate thereof to the taxpayer. The taxpayer shall attach the certificate to the Virginia tax return on which the credit is claimed.

2. For taxable years beginning on and after January 1, 2017, but before January 1, 2019, the amount of the credit that may be claimed by each taxpayer, including amounts carried over from prior taxable years, shall not exceed \$5 million in any taxable year.

D. When used in this section:

"Certified historic structure" means a property listed individually on the Virginia Landmarks Register, or certified by the Director of the Virginia Department of Historic Resources as contributing to the historic significance of a historic district that is listed on the Virginia Landmarks Register or certified by the Director of the Virginia Department of Historic Resources as meeting the criteria for listing on the Virginia Landmarks Register.

"Eligible rehabilitation expenses" means expenses incurred in the material rehabilitation of a certified historic structure and added to the property's capital account.

"Material rehabilitation" means improvements or reconstruction consistent with "The Secretary of the Interior's Standards for Rehabilitation," the cost of which amounts to at least fifty percent of the assessed value of such building for local real estate tax purposes for the year prior to the initial expenditure of any rehabilitation expenses, unless the building is an owner-occupied building, in which case the cost shall amount to at least twenty-five percent of the assessed value of such building for local real estate tax purposes for the year prior to the initial expenditure of any rehabilitation expenses.

"Owner-occupied building" means any building that is used as a personal residence by the owner.

E. The Director of the Department of Historic Resources shall establish by regulation the requirements needed for this program, including the fees to defray necessary expenses thereof, and, except as otherwise prohibited by this section, the extent to which the availability of the credit provided by this section is coextensive with the availability of the federal tax credit for the rehabilitation of certified historic resources.

F. Any gain or income under federal law from the allocation or application of a tax credit under this section shall not be (i) taxable gain or income for purposes of the tax imposed pursuant to Article 2 (§ 58.1-320 et seq.), (ii) taxable gain or income for purposes of the tax imposed pursuant to Article 6 (§ 58.1-360 et seq.), or (iii) taxable gain or income for purposes

of the tax imposed pursuant to Article 10 (§ 58.1-400 et seq.). However, nothing in this subsection shall be construed or interpreted as allowing a subtraction or deduction for such gain or income under federal law if the gain or income is otherwise excluded, deducted, or subtracted in computing the respective tax set forth under clauses (i) through (iii).

**CHAPTER 722**

*An Act to create a six-year capital outlay plan for projects to be funded entirely or partially from general fund-supported resources and to repeal Chapters 499 and 500 of the Acts of Assembly of 2015.*

[S 1045]

Approved March 24, 2017

**Be it enacted by the General Assembly of Virginia:**

**1.** § 1. *That the following capital outlay projects and descriptive information shall constitute the Commonwealth's capital outlay plan, pursuant to § 2.2-1518 of the Code of Virginia, for the capital projects supported entirely or partially from the general fund for the six-year period beginning July 1, 2017. These projects do not include projects that were previously funded and authorized to proceed to construction.*

<i>Agency Code/Agency</i>	<i>Priority</i>	<i>Project Name</i>	<i>Cost Category</i>
<i>123—Department of Military Affairs</i>	<i>1</i>	<i>Renovate Roanoke Readiness Center</i>	<i>\$0 to \$10,000,000</i>
	<i>2</i>	<i>Acquire Land for Readiness Centers</i>	<i>\$0 to \$10,000,000</i>
	<i>3</i>	<i>Renovate Troutville Readiness Center</i>	<i>\$0 to \$10,000,000</i>
	<i>4</i>	<i>Construct Army Aviation Facility (Sitework)</i>	<i>\$0 to \$10,000,000</i>
	<i>5</i>	<i>Upgrade Fire Safety Systems Statewide</i>	<i>\$0 to \$10,000,000</i>
<i>146—Science Museum of Virginia</i>	<i>1</i>	<i>Install Danville Science Center Exhibits</i>	<i>\$0 to \$10,000,000</i>
<i>156—Department of State Police</i>	<i>1</i>	<i>Construct Division Six Headquarters</i>	<i>\$10,000,001 to \$25,000,000</i>
	<i>2</i>	<i>Replace Training Academy</i>	<i>\$25,000,001 to \$50,000,000</i>
	<i>3</i>	<i>Upgrade STARS Radio System</i>	<i>Above \$100,000,000</i>
<i>194—Department of General Services</i>	<i>1</i>	<i>Replace Critical Systems in the Monroe Building</i>	<i>\$10,000,001 to \$25,000,000</i>
	<i>2</i>	<i>Expand Molecular Lab of Consolidated Lab</i>	<i>\$0 to \$10,000,000</i>
	<i>3</i>	<i>Renovate the Supreme Court Building</i>	<i>Above \$100,000,000</i>
	<i>4</i>	<i>Renovate Morson Row</i>	<i>\$0 to \$10,000,000</i>
<i>199—Department of Conservation and Recreation</i>	<i>1</i>	<i>Construct Widewater State Park, Phase II A</i>	<i>\$0 to \$10,000,000</i>
<i>203—Wilson Workforce and Rehabilitation Center</i>	<i>1</i>	<i>Renovate Watson Theater and Activities Building, Phase 3</i>	<i>\$0 to \$10,000,000</i>
<i>204—The College of William and Mary in Virginia</i>	<i>1</i>	<i>Construct Integrated Science Center, Phase IV</i>	<i>\$50,000,001 to \$75,000,000</i>
<i>207—University of Virginia</i>	<i>1</i>	<i>Renovate Physics Building</i>	<i>\$25,000,001 to \$50,000,000</i>
	<i>2</i>	<i>Renovate Alderman Library</i>	<i>Above \$100,000,000</i>
<i>208—Virginia Polytechnic Institute and State University</i>	<i>1</i>	<i>Construct Undergraduate Lab Building</i>	<i>\$50,000,001 to \$75,000,000</i>
<i>212—Virginia State University</i>	<i>1</i>	<i>Demolish/Replace Daniel Gym and Harris Hall</i>	<i>\$25,000,001 to \$50,000,000</i>
	<i>1</i>	<i>Renovate Jackson Hall</i>	<i>\$10,000,001 to \$25,000,000</i>

218—Virginia School for the Deaf and the Blind	1	Renovate Main Hall/Repair Chapel	\$25,000,001 to \$50,000,000
221—Old Dominion University	1	Construct Health Sciences Building	\$50,000,001 to \$75,000,000
236—Virginia Commonwealth University	1	Construct STEM Class Laboratory Building	\$75,000,001 to \$100,000,000
239—Frontier Culture Museum	1	Install New Gallery	\$10,000,001 to \$25,000,000
241—Richard Bland College	1	Construct Center for Innovation and Educational Development	\$10,000,001 to \$25,000,000
246—University of Virginia's College at Wise	1	Renovate/Convert Wyllie Library	\$10,000,001 to \$25,000,000
	2	Renovate Academic Buildings/Technology Infrastructure/Campus Improvements	\$10,000,001 to \$25,000,000
247—George Mason University	1	Improve Telecommunications Infrastructure	\$0 to \$10,000,000
260—Virginia Community College System	1	Replace Godwin Building, Annandale Campus, Northern Virginia	\$25,000,001 to \$50,000,000
	2	Replace French Slaughter Building, Locust Grove Campus, Germanna	\$25,000,001 to \$50,000,000
	3	Renovate Diggs/Moore/Harrison Complex, Hampton Campus, Thomas Nelson	\$25,000,001 to \$50,000,000
	4	Construct Advanced Technical Training Center, Hampton Campus, Thomas Nelson	\$25,000,001 to \$50,000,000
	5	Renovate Amherst/Campbell Hall, Central Virginia	\$10,000,001 to \$25,000,000
	6	Construct Center for Advanced Technology and Workforce, Mountain Empire	\$10,000,001 to \$25,000,000
268—Virginia Institute of Marine Science	1	Replace Oyster Hatchery	\$10,000,001 to \$25,000,000
702—Department for the Blind and Vision Impaired	1	Renovate Departmental Headquarters Building	\$0 to \$10,000,000
720—Department of Behavioral Health and Developmental Services	1	Repair or Replace Infrastructure	\$0 to \$10,000,000
	2	Replace Central State Hospital	Above \$100,000,000
777—Department of Juvenile Justice	1	Renovate or Construct Juvenile Correctional Center	\$25,000,001 to \$50,000,000
799—Department of Corrections	1	Replace Powhatan Correctional Center	Above \$100,000,000
	2	Renovate Buckingham Wastewater Treatment Plant	\$0 to \$10,000,000
999—Department of Alcoholic Beverage Control	1	Acquire or Construct ABC Central Office and Warehouse Facility	\$75,000,001 to \$100,000,000

2. That Chapters 499 and 500 of the Acts of Assembly of 2015 are repealed.

## CHAPTER 723

*An Act to amend and reenact § 58.1-439.20 of the Code of Virginia, relating to Neighborhood Assistance Act Tax Credits; allocation of credits.*

[S 1165]

Approved March 24, 2017

**Be it enacted by the General Assembly of Virginia:****1. That § 58.1-439.20 of the Code of Virginia is amended and reenacted as follows:****§ 58.1-439.20. Proposals; regulations; tax credits authorized; amount for programs.**

A. Any neighborhood organization may submit a proposal, other than education proposals, to the Commissioner of Social Services requesting an allocation of tax credits for use by business firms making donations to the neighborhood organization. Neighborhood organizations may submit education proposals to the Superintendent of Public Instruction requesting an allocation of tax credits for use by business firms making donations to the neighborhood organization.

The proposal shall set forth the program to be conducted by the neighborhood organization, the low-income persons or eligible students with disabilities to be assisted, the estimated amount to be donated to the program, and the plans for implementing the program.

B. 1. The State Board of Social Services and the Department of Education are hereby authorized to adopt regulations (or, alternatively, guidelines in the case of the Department of Education) for the approval or disapproval of such proposals by neighborhood organizations and for determining the value of the donations. Such regulations or guidelines shall contain a requirement that a neighborhood organization shall have been in existence for at least one year. Also, such regulations or guidelines shall contain a requirement that as a prerequisite for approval, neighborhood organizations with total revenues (including the value of all donations) (i) in excess of \$100,000 for the organization's most recent year ended provide to the State Board of Social Services or the Department of Education, as applicable, an audit or review for such year performed by an independent certified public accountant or (ii) of \$100,000 or less for the organization's most recent year ended provide to the State Board of Social Services or the Department of Education, as applicable, a compilation for such year performed by an independent certified public accountant. No proposal for an allocation of tax credits shall be untimely filed solely because such audit, review, or compilation was not submitted by the neighborhood organization by the proposal filing deadline, provided that the audit, review, or compilation is submitted to the State Board of Social Services or the Department of Education, as applicable, within the 30-day period immediately following such deadline.

Such regulations or guidelines by the Department of Education shall provide that at least 50 percent of the persons served by the neighborhood organization be low-income persons or eligible students with disabilities and that at least 50 percent of the neighborhood organization's revenues be used to provide services to low-income persons or to eligible students with disabilities. Such regulations by the State Board of Social Services shall provide that at least 50 percent of the persons served by the neighborhood organization be low-income persons as defined in § 58.1-439.18.

In order for a proposal to be approved, the applicant neighborhood organization and any of its affiliates shall meet the requirements of the application regulations or guidelines.

2. The requirements for proposals submitted to the Superintendent of Public Instruction that (i) at least 50 percent of the persons served by the neighborhood organization and each of its affiliates be low-income persons or eligible students with disabilities and (ii) at least 50 percent of the revenues of the neighborhood organization and each of its affiliates be used to provide services to such persons shall not apply to any neighborhood organization for tax credit allocations beginning for fiscal year 2014-2015 and ending with tax credit allocations for fiscal year 2019-2020, provided that (a) the neighborhood organization received an allocation of tax credits for fiscal year 2011-2012 allocations, (b) at least 50 percent of the persons served by the neighborhood organization are low-income persons or eligible students with disabilities, (c) at least 50 percent of the neighborhood organization's revenues are used to provide services to such persons, and (d) none of the affiliates of the neighborhood organization receives an allocation of tax credits for the program year of such five-year period.

3. Beginning with tax credit allocations for fiscal year 2016-2017 and thereafter, the requirements for a proposal submitted by a neighborhood organization to the Commissioner of Social Services that (i) at least 50 percent of the persons served by each affiliate of the neighborhood organization be low-income persons, (ii) at least 50 percent of the revenues of each affiliate of the neighborhood organization be used to provide services to such persons, (iii) each affiliate also meet the definition of "neighborhood organization" under § 58.1-439.18, and (iv) an audit, review, or compilation for each affiliate be furnished to the Commissioner of Social Services shall not apply in determining the eligibility of the neighborhood organization submitting a proposal, provided that (a) the neighborhood organization otherwise meets all statutory requirements and regulations, (b) the neighborhood organization received a fiscal year 2013-2014 allocation of neighborhood assistance tax credits, and (c) no affiliate of the neighborhood organization submits a proposal for or receives an allocation of tax credits pursuant to this article for the program year for which the neighborhood organization has submitted its proposal.

4. The regulations or guidelines shall provide for the equitable allocation of the available amount of tax credits among the approved proposals submitted by neighborhood organizations. *In allocating credits, the Commissioner of Social Services or the Superintendent of Public Instruction shall consider the past performance of neighborhood organizations*

that have received allocations of credits, including review of performance metrics, success in reaching targeted goals, or other measures of accountability that may be established by regulations or guidelines.

5. The regulations or guidelines shall also provide that at least 10 percent of the available amount of tax credits each year shall be allocated to qualified programs proposed by neighborhood organizations not receiving allocations in the preceding year; however, if the amount of tax credits for qualified programs requested by such neighborhood organizations is less than 10 percent of the available amount of tax credits, the unallocated portion of such 10 percent of the available amount of tax credits shall be allocated to qualified programs proposed by other neighborhood organizations.

C. If the Commissioner of Social Services or the Superintendent of Public Instruction approves a proposal submitted by a neighborhood organization, the organization shall make the allocated tax credit amounts available to business firms making donations to the approved program. A neighborhood organization shall not assign or transfer an allocation of tax credits to another neighborhood organization without the approval of the Commissioner of Social Services or the Superintendent of Public Instruction, as applicable.

Notwithstanding any other provision of law, (i) no more than an aggregate of \$0.825 million in tax credits shall be approved in a fiscal year to a neighborhood organization or to a grouping of neighborhood organization affiliates for all education proposals, and (ii) no more than an aggregate of \$0.5 million in tax credits shall be approved in a fiscal year to a neighborhood organization or to a grouping of neighborhood organization affiliates for all other proposals combined. However, if the State Department of Social Services or the Department of Education after the initial allocation of tax credits to approved proposals has a balance of tax credits remaining for the fiscal year that can be used or allocated by a neighborhood organization for a proposal that had been approved for tax credits during the initial allocation by the State Department of Social Services or the Department of Education, then (a) the Commissioner of Social Services or the Superintendent of Public Instruction, as applicable, shall reallocate the remaining balance of tax credits to such previously approved proposals to the extent that a neighborhood organization can use or allocate additional tax credits for the previously approved proposal and (b) the \$0.825 and \$0.5 million annual limitations for tax credits approved to a grouping of neighborhood organization affiliates shall be inapplicable to the extent of any balance of tax credits reallocated under clause (a). The balance of tax credits remaining for reallocation shall include the amount of any tax credits that have been granted for a proposal approved during the initial allocation but for which the Commissioner of Social Services or the Superintendent of Public Instruction has been provided notice by the neighborhood organization that it will not be able to use or allocate such amount for the approved proposal.

D. The total amount of tax credits granted for programs approved under this article for each fiscal year shall not exceed the following: for education proposals for approval by the Superintendent of Public Instruction, \$8 million for fiscal year 2013-2014, \$8.5 million for fiscal year 2014-2015, and \$9 million for fiscal year 2015-2016 and each fiscal year thereafter; and for all other proposals for approval by the Commissioner of Social Services, \$7 million for fiscal year 2013-2014, \$7.5 million for fiscal year 2014-2015, and \$8 million for fiscal year 2015-2016 and each fiscal year thereafter.

The Superintendent of Public Instruction and the Commissioner of Social Services shall work cooperatively for purposes of ensuring that neighborhood organization proposals are submitted to the proper state agency. The Superintendent of Public Instruction and the Commissioner of Social Services may request the assistance of the Department of Taxation for purposes of determining whether or not anticipated donations for which tax credits are requested by a neighborhood organization likely qualify as a charitable donation under federal tax laws and regulations.

E. Actions of (i) the State Department of Social Services, or the Commissioner of the same, or (ii) the Superintendent of Public Instruction or the Department of Education relating to the review of neighborhood organization proposals and the allocation of tax credits to proposals shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.). Decisions of (a) the State Department of Social Services, or the Commissioner of the same, or (b) the Superintendent of Public Instruction or the Department of Education shall be final and not subject to review or appeal.

F. Notwithstanding the provisions of § 30-19.1:11, the issuance of tax credits under this article shall expire on July 1, 2028.

## CHAPTER 724

*An Act to amend and reenact § 58.1-439.20 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 58.1-439.20:1 and 58.1-439.20:2, relating to the Neighborhood Assistance Act Tax Credit program.*

[S 1168]

Approved March 24, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 58.1-439.20 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding sections numbered 58.1-439.20:1 and 58.1-439.20:2 as follows:**

**§ 58.1-439.20. Proposals to the State Board of Social Services; regulations; tax credits authorized.**

A. Any neighborhood organization may submit a proposal, other than education proposals which shall be applied for and allocated pursuant to the provisions of § 58.1-439.20:1, to the Commissioner of Social Services requesting an allocation of tax credits for use by business firms making donations to the neighborhood organization. ~~Neighborhood~~

organizations may submit education proposals to the Superintendent of Public Instruction requesting an allocation of tax credits for use by business firms making donations to the neighborhood organization.

The proposal shall set forth the program to be conducted by the neighborhood organization, the low-income persons or eligible students with disabilities to be assisted, the estimated amount to be donated to the program, and the plans for implementing the program.

B. 1. The State Board of Social Services and the Department of Education are is hereby authorized to adopt regulations (or, alternatively, guidelines in the case of the Department of Education) for the approval or disapproval of such proposals by neighborhood organizations and for determining the value of the donations. Such regulations or guidelines shall contain a requirement that

2. In order to be eligible to receive an allocation of tax credits pursuant to this article, a neighborhood organization shall have been in existence for at least one year. Also, such regulations or guidelines shall contain a requirement that as a prerequisite for approval, neighborhood organizations with total revenues (including the value of all donations) of (i) in excess of more than \$100,000 for the organization's most recent year ended shall provide to the State Board Commissioner of Social Services or the Department of Education, as applicable, an audit or review for such the most recent year performed by an independent certified public accountant or (ii) of \$100,000 or less for the organization's most recent year ended shall provide to the State Board Commissioner of Social Services or the Department of Education, as applicable, a compilation for such the most recent year performed by an independent certified public accountant. Such audit, review, or compilation shall be performed by an independent certified public accountant. For purposes of this subdivision, "total revenues" means all revenues, including the value of all donations, for the organization's most recent year. No proposal for an allocation of tax credits shall be untimely filed solely because such audit, review, or compilation was not submitted by the neighborhood organization by the proposal filing deadline, provided that the audit, review, or compilation is submitted to the State Board Commissioner of Social Services or the Department of Education, as applicable, within the 30-day period immediately following such deadline.

Such regulations or guidelines by the Department of Education shall provide that 3. In order to be eligible to receive an allocation of credits pursuant to this article, at least 50 percent of the persons served by the neighborhood organization shall be low-income persons or eligible students with disabilities, and that at least 50 percent of the neighborhood organization's revenues shall be used to provide services to low-income persons or to eligible students with disabilities. Such regulations by the State Board of Social Services shall provide that at least 50 percent of the persons served by the neighborhood organization be low-income persons as defined in § 58.1-439.18.

4. In order for a proposal to be approved, the an applicant neighborhood organization and any of its affiliates shall meet the requirements of this section and the application regulations or guidelines.

2: The requirements for proposals submitted to the Superintendent of Public Instruction that (i) at least 50 percent of the persons served by the neighborhood organization and each of its affiliates be low-income persons or eligible students with disabilities and (ii) at least 50 percent of the revenues of the neighborhood organization and each of its affiliates be used to provide services to such persons shall not apply to any neighborhood organization for tax credit allocations beginning for fiscal year 2014-2015 and ending with tax credit allocations for fiscal year 2019-2020, provided that (a) the neighborhood organization received an allocation of tax credits for fiscal year 2011-2012 allocations, (b) at least 50 percent of the persons served by the neighborhood organization are low-income persons or eligible students with disabilities, (c) at least 50 percent of the neighborhood organization's revenues are used to provide services to such persons, and (d) none of the affiliates of the neighborhood organization receives an allocation of tax credits for the program year of such five-year period.

3: Beginning However, beginning with tax credit allocations for fiscal year 2016-2017 and thereafter, the requirements such requirement for a proposal submitted by a neighborhood organization to the Commissioner of Social Services that (i) at least 50 percent of the persons served by each affiliate of the neighborhood organization be low-income persons, (ii) at least 50 percent of the revenues of each affiliate of the neighborhood organization be used to provide services to such persons, (iii) each affiliate also meet the definition of "neighborhood organization" under § 58.1-439.18, and (iv) an audit, review, or compilation for each affiliate be furnished to the Commissioner of Social Services shall not apply in determining the eligibility of the neighborhood organization submitting a proposal, provided that (a) (i) the neighborhood organization otherwise meets all statutory requirements and regulations, (b) (ii) the neighborhood organization received a fiscal year 2013-2014 allocation of neighborhood assistance tax credits, and (c) (iii) no affiliate of the neighborhood organization submits a proposal for or receives an allocation of tax credits pursuant to this article for the program year for which the neighborhood organization has submitted its proposal.

4: 5. The regulations or guidelines shall provide for the equitable allocation of the available amount of tax credits among the approved proposals submitted by neighborhood organizations. The regulations or guidelines shall also provide that at least 10 percent of In any year in which the available amount of tax credits each year exceeds the previous year's available amount, at least 10 percent of the excess amount shall be allocated to qualified programs proposed by neighborhood organizations not receiving that did not receive any allocations in the preceding year; however, if the amount of tax credits for qualified programs requested by such neighborhood organizations is less than 10 percent of the available excess amount of tax credits, the unallocated portion of such 10 percent of the available amount of tax credits shall be allocated to qualified programs proposed by other neighborhood organizations.

C. 1. If the Commissioner of Social Services or the Superintendent of Public Instruction approves a proposal submitted by a neighborhood organization, the organization shall make the allocated tax credit amounts available to business firms making donations to the approved program. A neighborhood organization shall not assign or transfer an allocation of tax credits to another neighborhood organization without the approval of the Commissioner of Social Services or the Superintendent of Public Instruction, as applicable.

2. Notwithstanding any other provision of law, ~~(i) no more than an aggregate of \$0.825 million in tax credits shall be approved in a fiscal year to a neighborhood organization or to a grouping of neighborhood organization affiliates for all education proposals; and (ii) no more than an aggregate of \$0.5 million in tax credits shall be approved in a fiscal year to a neighborhood organization or to a grouping of neighborhood organization affiliates for all other proposals combined.~~ However, if

3. ~~If, after the initial allocation of credits to approved proposals,~~ the State Department of Social Services or the Department of Education after the initial allocation of tax credits to approved proposals has a balance of tax credits remaining for the fiscal year that can be used or allocated by a neighborhood organization for a proposal that had been approved for tax credits during the initial allocation by the State Department of Social Services or the Department of Education, then ~~(a) the Commissioner of Social Services or the Superintendent of Public Instruction, as applicable,~~ shall reallocate the remaining balance of tax credits to such previously approved proposals to the extent that a neighborhood organization can use or allocate additional tax credits for the previously approved proposal and ~~(b) the \$0.825 and. The \$0.5 million annual limitations for tax credits approved to a grouping of neighborhood organization affiliates shall be inapplicable to the extent for such reallocation of any balance of tax credits reallocated under clause (a).~~ The balance of tax credits remaining for reallocation shall include the amount of any tax credits that have been granted for a proposal approved during the initial allocation but for which the Commissioner of Social Services or the Superintendent of Public Instruction has been provided received notice by from the neighborhood organization that it will not be able to use or allocate such amount for the approved proposal.

D. The total amount of tax credits granted for programs approved by the Commissioner of Social Services under this article for each fiscal year shall not exceed the following: for education proposals for approval by the Superintendent of Public Instruction, \$8 million for fiscal year 2013-2014, \$8.5 million for fiscal year 2014-2015, and \$9 million for fiscal year 2015-2016 and each fiscal year thereafter; and for all other proposals for approval by the Commissioner of Social Services, \$7 million for fiscal year 2013-2014, \$7.5 million for fiscal year 2014-2015, and \$8 million for fiscal year 2015-2016 and each fiscal year thereafter.

The Superintendent of Public Instruction and the Commissioner of Social Services shall work cooperatively with the Superintendent of Public Instruction for purposes of ensuring that neighborhood organization proposals are submitted to the proper state agency pursuant to this section and § 58.1-439.20:1. The Superintendent of Public Instruction and the Commissioner of Social Services may request the assistance of the Department of Taxation for purposes of determining whether or not anticipated donations for which tax credits are requested by a neighborhood organization likely qualify as a charitable donation under federal tax laws and regulations.

E. Actions of ~~(i) the State Department of Social Services, or the Commissioner of the same, or (ii) the Superintendent of Public Instruction or the Department of Education~~ relating to the review of neighborhood organization proposals and the allocation of tax credits to proposals shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.). Decisions of ~~(a) the State Department of Social Services, or the Commissioner of the same, or (b) the Superintendent of Public Instruction or the Department of Education~~ shall be final and not subject to review or appeal.

F. ~~Notwithstanding the provisions of § 30-19.1-11, the issuance of tax credits under this article shall expire on July 1, 2028.~~

**§ 58.1-439.20:1. Proposals to the Department of Education; guidelines; tax credits authorized.**

A. Any neighborhood organization may submit education proposals to the Superintendent of Public Instruction requesting an allocation of tax credits for use by business firms making donations to the neighborhood organization. All other neighborhood organization proposals shall be submitted to the Commissioner or Social Services pursuant to § 58.1-439.20.

The proposal shall set forth the program to be conducted by the neighborhood organization, the low-income persons or eligible students with disabilities to be assisted, the estimated amount to be donated to the program, and the plans for implementing the program.

B. 1. The Department of Education is hereby authorized to adopt guidelines for the approval or disapproval of such proposals by neighborhood organizations and for determining the value of the donations.

2. In order to be eligible to receive an allocation of tax credits pursuant to this article, a neighborhood organization shall have been in existence for at least one year. As a prerequisite for approval, neighborhood organizations with total revenues of (i) more than \$100,000 shall provide to the Department of Education an audit or review for the most recent year or (ii) \$100,000 or less shall provide to the Department of Education a compilation for the most recent year. Such audit, review, or compilation shall be performed by an independent certified public accountant. For purposes of this subdivision, "total revenues" means all revenues, including the value of all donations, for the organization's most recent year. No proposal for an allocation of tax credits shall be untimely filed solely because such audit, review, or compilation was not submitted by the neighborhood organization by the proposal filing deadline, provided that the audit, review, or compilation is submitted to the Superintendent of Public Instruction within the 30-day period immediately following such deadline.

3. In order to be eligible to receive an allocation of credits pursuant to this article, at least 50 percent of the persons served by the neighborhood organization shall be low-income persons or eligible students with disabilities and at least 50 percent of the neighborhood organization's revenues shall be used to provide services to low-income persons or to eligible students with disabilities. Expenditures for teacher salaries shall count toward the requirement that at least 50 percent of revenues be used to provide services to low-income persons or to eligible students with disabilities.

4. In order for a proposal to be approved, an applicant neighborhood organization and any of its affiliates shall meet the requirements of this section and the application guidelines. However, beginning with tax credit allocations for fiscal year 2014-2015 and ending with tax credit allocations for fiscal year 2019-2020, such requirement for a proposal submitted by a neighborhood organization to the Superintendent of Public Instruction shall not apply in determining eligibility of the neighborhood organization submitting the proposal, provided that (i) the neighborhood organization otherwise meets all statutory requirements and regulations, (ii) the neighborhood organization received a fiscal year 2011-2012 allocation of neighborhood assistance tax credits, and (iii) no affiliate or neighborhood organization submits a proposal for or receives an allocation of tax credits pursuant to this article for the program year for which the neighborhood organization has submitted its proposal.

5. The guidelines shall provide for the equitable allocation of the available amount of tax credits among the approved proposals submitted by neighborhood organizations. In any year in which the available amount of tax credits exceeds the previous year's available amount, at least 10 percent of the excess amount shall be allocated to qualified programs proposed by neighborhood organizations that did not receive any allocations in the preceding year. If the amount of tax credits requested by such neighborhood organizations is less than 10 percent of the excess amount, the unallocated portion of such 10 percent shall be allocated to qualified programs proposed by other neighborhood organizations.

C. 1. If the Superintendent of Public Instruction approves a proposal submitted by a neighborhood organization, the organization shall make the allocated tax credit amounts available to business firms making donations to the approved program. A neighborhood organization shall not assign or transfer an allocation of tax credits to another neighborhood organization without the approval of the Superintendent of Public Instruction.

2. Notwithstanding any other provision of law, no more than an aggregate of \$0.825 million in tax credits shall be approved in a fiscal year to a neighborhood organization or to a grouping of neighborhood organization affiliates for all education proposals.

3. If, after the initial allocation of credits to approved proposals, the Department of Education has a balance of tax credits remaining for the fiscal year that can be used or allocated by a neighborhood organization for a proposal that had been approved for tax credits during the initial allocation, then the Superintendent of Public Instruction shall reallocate the remaining balance of tax credits to such previously approved proposals to the extent that a neighborhood organization can use or allocate additional tax credits for the previously approved proposal. The \$0.825 million annual limitations for tax credits approved to a grouping of neighborhood organization affiliates shall be inapplicable for such reallocation of any balance of tax credits. The balance of tax credits remaining for reallocation shall include the amount of any tax credits that have been granted for a proposal approved during the initial allocation but for which the Superintendent of Public Instruction received notice from the neighborhood organization that it will not be able to use or allocate such amount for the approved proposal.

D. The total amount of tax credits granted for programs approved by the Superintendent of Public Instruction under this article for each fiscal year shall not exceed \$9 million for fiscal year 2015-2016 and each fiscal year thereafter.

The Superintendent of Public Instruction shall work cooperatively with the Commissioner of Social Services for purposes of ensuring that neighborhood organization proposals are submitted to the proper state agency. The Superintendent of Public Instruction may request the assistance of the Department of Taxation for purposes of determining whether or not anticipated donations for which tax credits are requested by a neighborhood organization likely qualify as a charitable donation under federal tax laws and regulations.

E. Actions of the Superintendent of Public Instruction or the Department of Education relating to the review of neighborhood organization proposals and the allocation of tax credits to proposals shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.). Decisions of the Superintendent of Public Instruction or the Department of Education shall be final and not subject to review or appeal.

**§ 58.1-439.20:2. Expiration.**

Notwithstanding the provisions of § 30-19.1:11, the issuance of tax credits under this article shall expire on July 1, 2028.

**CHAPTER 725**

An Act to amend and reenact § 58.1-513 of the Code of Virginia, relating to land preservation tax credits; withholding tax of nonresident owners.

[S 1286]

Approved March 24, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 58.1-513 of the Code of Virginia is amended and reenacted as follows:**

**§ 58.1-513. Limitations; transfer of credit; gain or loss from tax credit.**

A. Any taxpayer claiming a tax credit under this article shall not claim a credit under any similar Virginia law for costs related to the same project. To the extent a credit is taken in accordance with this article, no subtraction allowed for the gain on the sale of (i) land dedicated to open-space use or (ii) an easement dedicated to open-space use under subsection C of § 58.1-322 shall be allowed for three years following the year in which the credit is taken. Any building which serves as the basis, in whole or in part, of a tax credit under this article shall not serve as the basis of the tax credit allowed under § 58.1-339.2 for a period of five years following the donation on which the credit is based; and any building which serves as the basis for the tax credit allowed under § 58.1-339.2 shall not serve as the basis, in whole or in part, for a tax credit under this article for a period of five years following the completion of the rehabilitation project on which the credit is based.

B. Any tax credits that arise under this article from the donation of land or an interest in land made by a pass-through tax entity such as a trust, estate, partnership, limited liability company or partnership, limited partnership, subchapter S corporation or other fiduciary shall be used either by such entity if it is the taxpayer on behalf of such entity or by the member, manager, partner, shareholder or beneficiary, as the case may be, in proportion to their interest in such entity in the event that income, deductions and tax liability pass through such entity to such member, manager, partner, shareholder or beneficiary or as set forth in the agreement of said entity. Such tax credits shall not be claimed by both the entity and the member, manager, partner, shareholder or beneficiary for the same donation.

C. 1. Any taxpayer holding a credit under this article may transfer unused but otherwise allowable credit for use by another taxpayer on Virginia income tax returns. A taxpayer who transfers any amount of credit under this article shall file a notification of such transfer to the Department in accordance with procedures and forms prescribed by the Tax Commissioner.

2. A fee of two percent of the value of the donated interest shall be imposed upon any transfer arising from the sale by any taxpayer of credits under this article and upon the distribution of a portion of credits under this article to a member, manager, partner, shareholder or beneficiary pursuant to subsection B. *The two percent fee shall not apply to a distribution of credits to a nonresident owner of a pass-through entity when such credits are applied by the pass-through entity to the withholding tax pursuant to subdivision B 2 of § 58.1-486.2.* Revenues generated by such fees first shall be used by the Department of Taxation and the Department of Conservation and Recreation for their costs in implementing this article but in no event shall such amount exceed 50 percent of the total revenue generated by the fee on an annual basis. The remainder of such revenues shall be transferred to the Virginia Land Conservation Fund for distribution to the public or private conservation agencies or organizations, excluding federal governmental entities, that are responsible for enforcing the conservation and preservation purposes of the donated interests. Distribution of such revenues shall be made annually by the Virginia Land Conservation Foundation proportionally based on a three-year average of the number of donated interests accepted by the public or private conservation agencies or organizations, excluding federal governmental entities, during the immediately preceding three-year period.

D. To the extent included in and not otherwise subtracted from federal adjusted gross income pursuant to § 58.1-322 or federal taxable income pursuant to § 58.1-402, there shall be subtracted any amount of gain or income recognized by a taxpayer on the application of a tax credit under this article against a Virginia income tax liability.

E. The transfer of the credit and its application against a tax liability shall not create gain or loss for the transferor or the transferee of such credit.

F. A pass-through tax entity, such as a partnership, limited liability company or Subchapter S corporation, may appoint a tax matters representative, who shall be a general partner, member/manager or shareholder, and register that representative with the Tax Commissioner. The Tax Commissioner shall be entitled to deal with the tax matters representative as representative of the taxpayers to whom credits have been allocated or transferred by the entity under this article with respect to those credits. In the event a pass-through tax entity allocates or transfers tax credits arising under this article to its partners, members or shareholders and the allocated or transferred credits shall be disallowed, in whole or in part, such that an assessment of additional tax against a taxpayer shall be made, the Tax Commissioner shall first make written demand for payment of any additional tax, together with interest and penalties, from the tax matters representative. In the event such payment demand is not satisfied, the Tax Commissioner shall proceed to collection against the taxpayers in accordance with the provisions of Chapter 18 (§ 58.1-1800 et seq.).

**CHAPTER 726**

*An Act to amend the Code of Virginia by adding a section numbered 30-61.1, relating to the Joint Legislative Audit and Review Commission; operational and programmatic efficiency and effectiveness reviews; report.*

[S 1387]

Approved March 24, 2017

**Be it enacted by the General Assembly of Virginia:****1. That the Code of Virginia is amended by adding a section numbered 30-61.1 as follows:****§ 30-61.1. Operational and programmatic efficiency and effectiveness reviews.**

*A. In addition to the review and evaluation of state entities pursuant to the Legislative Program Review and Evaluation Act (§ 30-65 et seq.), the Commission may establish an operational and programmatic efficiency and effectiveness review*

and assessment of any state departments, agencies, and programs. The Commission may contract with a United States-based private management consulting firm to conduct the efficiency and effectiveness review and assessment. Such contract shall be pursuant to a fixed price contract and shall not provide for any payment resulting from the implementation of any recommendations of the review.

B. The purpose of the review and assessment shall be to provide an objective and independent cost-savings assessment of the Commonwealth's organizational structure and its programs in order to provide information to the Governor and the General Assembly to effect savings in expenditures, a reduction in duplication of effort, and programmatic efficiencies in the operation of state government. Any review and assessment conducted pursuant to this section shall take into consideration the results of any prior studies, audits, or reviews conducted by the Commission, the General Assembly or the Auditor of Public Accounts, any Governor-appointed commission or like entity, or any other independent entity that addressed the structure and operation of state government and identified monetary savings or efficiencies leading to a reduction in costs or reduced duplication of effort.

C. The Commission shall submit a report to the General Assembly on the results of any review and assessment by December 1 of the year in which such review is conducted.

### CHAPTER 727

An Act to amend and reenact §§ 38.2-100, 38.2-2600, 38.2-2601, 38.2-2602, 38.2-2604, 38.2-2605, 38.2-2613, 38.2-2615, 59.1-200, and 59.1-436 of the Code of Virginia; to amend the Code of Virginia by adding a section numbered 58.1-400.4 and by adding in Title 59.1 a chapter numbered 33.1, consisting of sections numbered 59.1-434.1 through 59.1-434.8; and to repeal Article 2 (§§ 38.2-2617 through 38.2-2627) of Chapter 26 of Title 38.2 of the Code of Virginia, relating to the regulation of home service contract providers; penalties.

[H 1542]

Approved March 24, 2017

#### Be it enacted by the General Assembly of Virginia:

1. That §§ 38.2-100, 38.2-2600, 38.2-2601, 38.2-2602, 38.2-2604, 38.2-2605, 38.2-2613, 38.2-2615, 59.1-200, and 59.1-436 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 58.1-400.4 and by adding in Title 59.1 a chapter numbered 33.1, consisting of sections numbered 59.1-434.1 through 59.1-434.8, as follows:

#### § 38.2-100. Definitions.

As used in this title:

"Alien company" means a company incorporated or organized under the laws of any country other than the United States.

"Commission" means the State Corporation Commission.

"Commissioner" or "Commissioner of Insurance" means the administrative or executive officer of the division or bureau of the Commission established to administer the insurance laws of this Commonwealth.

"Company" means any association, aggregate of individuals, business, corporation, individual, joint-stock company, Lloyds type of organization, organization, partnership, receiver, reciprocal or interinsurance exchange, trustee or society.

"Domestic company" means a company incorporated or organized under the laws of this Commonwealth.

"Foreign company" means a company incorporated or organized under the laws of the United States, or of any state other than this Commonwealth.

"Health services plan" means any arrangement for offering or administering health services or similar or related services by a corporation licensed under Chapter 42 (§ 38.2-4200 et seq.) of this title.

"Insurance" means the business of transferring risk by contract wherein a person, for a consideration, undertakes (i) to indemnify another person, (ii) to pay or provide a specified or ascertainable amount of money, or (iii) to provide a benefit or service upon the occurrence of a determinable risk contingency. Without limiting the foregoing, "insurance" shall include (i) each of the classifications of insurance set forth in Article 2 (§ 38.2-101 et seq.) of this chapter and (ii) the issuance of group and individual contracts, certificates, or evidences of coverage by any health services plan as provided for in Chapter 42 (§ 38.2-4200 et seq.) of this title, health maintenance organization as provided for in Chapter 43 (§ 38.2-4300 et seq.) of this title, legal services organization or legal services plan as provided for in Chapter 44 (§ 38.2-4400 et seq.) of this title, dental or optometric services plan as provided for in Chapter 45 (§ 38.2-4500 et seq.) of this title, and dental plan organization as provided for in Chapter 61 (§ 38.2-6100 et seq.) of this title. "Insurance" shall not include any activity involving a home service contract that is subject to regulation pursuant to Chapter 33.1 (§ 59.1-434.1 et seq.) of Title 59.1, an extended service contract that is subject to regulation pursuant to Chapter 34 (§ 59.1-435 et seq.) of Title 59.1, or a warranty made by a manufacturer, seller, lessor, or builder of a product or service.

"Insurance company" means any company engaged in the business of making contracts of insurance.

"Insurance transaction," "insurance business," and "business of insurance" include solicitation, negotiations preliminary to execution, execution of an insurance contract, and the transaction of matters subsequent to execution of the contract and arising out of it.

"Insurer" means an insurance company.

"Medicare" means the "Health Insurance for the Aged Act," Title XVIII of the Social Security Amendment of 1965, as amended.

"Person" means any association, aggregate of individuals, business, company, corporation, individual, joint-stock company, Lloyds type of organization, organization, partnership, receiver, reciprocal or interinsurance exchange, trustee or society.

"Rate" or "rates" means any rate of premium, policy fee, membership fee or any other charge made by an insurer for or in connection with a contract or policy of insurance. The terms "rate" or "rates" shall not include a membership fee paid to become a member of an organization or association, one of the benefits of which is the purchasing of insurance coverage.

"Rate service organization" means any organization or person, other than a joint underwriting association under § 38.2-1915 or any employee of an insurer including those insurers under common control or management, who assists insurers in ratemaking or filing by:

- (a) Collecting, compiling, and furnishing loss or expense statistics;
- (b) Recommending, making or filing rates or supplementary rate information; or
- (c) Advising about rate questions, except as an attorney giving legal advice.

"State" means any commonwealth, state, territory, district or insular possession of the United States.

"Surplus to policyholders" means the excess of total admitted assets over the liabilities of an insurer, and shall be the sum of all capital and surplus accounts, including any voluntary reserves, minus any impairment of all capital and surplus accounts.

Without otherwise limiting the meaning of or defining the following terms, "insurance contracts" or "insurance policies" shall include contracts of fidelity, indemnity, guaranty and suretyship.

CHAPTER 26.

HOME PROTECTION COMPANIES AND HOME SERVICE CONTRACT PROVIDERS.

Article 1-

~~Home Protection Companies.~~

**§ 38.2-2600. Definitions.**

As used in this ~~article~~ chapter:

"Fronting company" means a licensed insurer or licensed home protection company which generally transfers to one or more unlicensed insurers or unlicensed home protection companies by reinsurance or otherwise all or substantially all of the risk of loss under all of the home protection contracts written by it in this Commonwealth.

"Home protection company" means any person who performs, or arranges to perform, services pursuant to a home protection insurance contract.

"Home protection insurance contract" or "contract" means any insurance contract or agreement whereby a person undertakes for a specified period of time and for a predetermined fee to furnish, arrange for or indemnify for service, repair, or replacement of any and all of the structural components, parts, appliances, or systems of any covered residential dwelling necessitated by wear and tear, deterioration, inherent defect, or by the failure of an inspection to detect the likelihood of failure.

The contract shall provide for a system to effect repair or replacement if the contract undertakes to provide for repair or replacement services. The contract shall not include protection against consequential damage from the failure of any structural component, part, appliance or system.

"Structural component" means the roof, foundation, basement, walls, ceilings, or floors of a home.

**§ 38.2-2601. Exemptions.**

This ~~article~~ chapter shall not apply to:

1. Performance guarantees given by either (i) the builder of a home or (ii) the manufacturer, seller, or lessor of the property that is the subject of the contract if no identifiable charge is made for the guarantee.
2. Any service contract, guarantee, or warranty intending to guarantee or warrant the repairs or service of a home appliance, component, part, or system that is issued (i) by a person who has sold, serviced, repaired, or provided replacement of the appliance, component, part, or system at the time of or prior to issuance of the service contract, guarantee or warranty if such person does not engage in the business of a home protection company or (ii) by a home protection company which sells such service contracts, guarantees or warranties in the Commonwealth of Virginia and which has net worth in excess of \$100 million.

**§ 38.2-2602. Limited applicability to certain insurers.**

A property and casualty insurer may be licensed to transact home protection insurance as defined in § 38.2-129. An insurer licensed in this Commonwealth to transact the class of insurance defined by § 38.2-111 on July 1, 1986, may also transact home protection insurance without additional authority. No other provision of this ~~article~~ chapter, except § 38.2-2606 and §§ 38.2-2608 through 38.2-2614, shall be applicable to the insurers, their businesses, or their home protection contracts.

**§ 38.2-2604. Qualification for license; net worth; deposit of securities with State Treasurer.**

A. No license shall be issued to any home protection company unless the applicant:

1. Is a Virginia corporation formed under the provisions of Article 3 (§ 13.1-618 et seq.) of Chapter 9 of Title 13.1, or Article 3 (§ 13.1-818 et seq.) of Chapter 10 of Title 13.1; or

2. Is a foreign corporation subject to regulation and licensing under the laws of its domiciliary jurisdiction which are substantially similar to those provided in this ~~article~~ *chapter*, and has obtained a certificate of authority to transact business in this Commonwealth;

3. Furnishes the Commission with evidence satisfactory to it that the management of the home protection company is competent and trustworthy, and can be reasonably expected to successfully manage the company's affairs in compliance with law;

4. Establishes to the satisfaction of the Commission that it (i) maintains employees or has contractual arrangements sufficient to provide the services or indemnity undertaken by it, and (ii) agrees to accept requests for heating, electrical and plumbing services contracted for twenty-four hours per day, seven days per week;

5. Makes the deposit of bonds or other securities required by this section;

6. Is otherwise in compliance with this ~~article~~ *chapter*;

7. Has filed the required application and paid the required fee;

8. Has paid all fees, taxes, and charges required by law;

9. Has the minimum net worth prescribed by this section;

10. Has filed any financial statement and any reports, certificates, or other documents as the Commission deems necessary to secure a full and accurate knowledge of its affairs and financial condition; and

11. Keeps adequate, correct and complete books and records of accounts and maintains proper accounting controls.

B. The Commission shall not issue a license to or renew the license of a home protection company unless it is satisfied that the financial condition, the method of operation, and the manner of doing business enable the home protection company to meet its obligations to all contract holders and that the home protection company has otherwise complied with all the requirements of law.

C. A home protection company shall maintain a net worth in an amount not less than 20% of the premiums charged on its contracts currently in force; however, the minimum required net worth shall be not less than \$100,000, and the maximum required net worth shall be that amount required of insurers under the provisions of Article 5 (§ 38.2-1024 et seq.) of Chapter 10 of this title.

D. No license shall be granted to any home protection company until it presents to the Commission a certificate of the State Treasurer that bonds or other securities have been deposited with him to be held in accordance with the provisions of and upon the terms and conditions and in the amount as provided in Article 7 (§ 38.2-1045 et seq.) of Chapter 10 of this title.

**§ 38.2-2605. Expiration and renewal of license.**

Every home protection company licensed under this ~~article~~ *chapter* shall obtain a renewal of its license annually from the Commission. Every license issued under this ~~article~~ *chapter* shall expire at midnight on June 30 immediately following the date of issuance. No renewal license shall be issued unless the home protection company has paid all taxes, fees, assessments and other charges imposed upon it, and has complied with all the other requirements of law. The Commission shall not fail or refuse to renew the license of any home protection company without giving the home protection company ten days' notice of the failure or refusal to renew and providing it an opportunity to be heard and to introduce evidence in its behalf. Any such hearing may be informal, and the required notice may be waived by the Commission and the home protection company.

**§ 38.2-2613. Application of insurance laws.**

Except as otherwise specifically provided in this ~~article~~ *chapter* or where the context requires otherwise, all of the provisions of this title that apply to property and casualty insurers shall apply in every respect to home protection companies licensed under this ~~article~~ *chapter*. In addition, Article 1 (§ 58.1-2500 et seq.) and Article 2 (§ 58.1-2520 et seq.) of Chapter 25 of Title 58.1 shall apply to the operation of a home protection company.

**§ 38.2-2615. Other insurance transactions prohibited.**

A. A home protection company that engages in any business other than the business of a home protection company is not eligible for the issuance or renewal of a license in this Commonwealth.

B. Nothing in this ~~article~~ *chapter* shall be deemed to authorize any home protection company to transact any business other than that of a home protection company or to transact any other business of insurance, unless the company is authorized by a license issued by the Commission.

**§ 58.1-400.4. Minimum tax on home service contract providers.**

A. As used in this section, unless the context requires a different meaning:

"Collected provider fees" means provider fees collected on home service contracts issued to a resident of the Commonwealth.

"Home service contract" means the same as that term is defined in § 59.1-434.1.

"Provider" means the same as that term is defined in § 59.1-434.1.

"Provider fee" means the consideration paid for a home service contract issued to a resident of the Commonwealth.

B. For taxable years beginning on and after January 1, 2018, a provider shall be subject to a minimum tax instead of the corporate income tax imposed by § 58.1-400, if applicable, net any income tax credits that may be used to offset such tax, if the tax imposed by § 58.1-400 is less than the minimum tax imposed by this subsection. The minimum tax imposed by this subsection shall be equal to 2.25 percent of such provider's collected provider fees.

C. In the case of an income tax return for a period of less than 12 months, the minimum tax shall be based on the collected provider fees for the calendar year that ends during the taxable period or, if none, the most recent calendar year that ended before the taxable period. The minimum tax shall be prorated by the number of months in the taxable period.

D. For purposes of the corporate income tax imposed by § 58.1-400, a provider's collected provider fees shall be considered sales in the Commonwealth when determining such provider's sales factor pursuant to § 58.1-414.

E. When a provider that is subject to the tax imposed by this section is one of several affiliated corporations that file a consolidated or combined income tax return, the portion of the affiliated corporations' tax liability that is attributable to the provider shall be computed as follows:

1. Each corporation included in the consolidated or combined return shall recompute its corporate income tax liability, net of any income tax credits, as if it were filing a separate return. The separate income tax liability of the provider shall then be compared to the affiliated corporation's tax liability, net of any income tax credits, indicated on the consolidated or combined return. For purposes of this section, the lesser amount shall be deemed to be the corporate income tax imposed by § 58.1-400 and attributable to the provider.

2. If such corporate income tax amount is less than the minimum tax of the provider as calculated pursuant to subsection B, the provider shall be subject to the minimum tax in lieu of the corporate income tax imposed by § 58.1-400.

3. If such corporate income tax amount exceeds the minimum tax of the provider as calculated pursuant to subsection B, the provider shall not owe the minimum tax.

F. The requirements imposed under Article 20 (§ 58.1-500 et seq.) of Chapter 3 regarding the filing of a declaration of estimated income taxes and the payment of such estimated taxes shall be applicable to a provider regardless of whether such taxpayer expects to be subject to the minimum tax imposed herein or to the corporate income tax imposed by § 58.1-400.

For purposes of determining the applicability of the exceptions under which the addition to the tax for the underpayment of any installment of estimated taxes shall not be imposed, it shall be irrelevant whether the tax shown on the return for the preceding taxable year is the corporate income tax or the minimum tax.

G. Every provider that owes the minimum tax imposed by this section shall remit such tax payment to the Department of Taxation.

H. The minimum tax imposed by this section on providers is in lieu of all other state and local license fees or license taxes on providers and home service contracts.

I. The minimum tax imposed by this section shall:

1. Apply to (i) any entity that immediately prior to January 1, 2018, was licensed as a provider under former Article 2 (§ 38.2-2617 et seq.) of Chapter 26 of Title 38.2 and that continues to act as a provider on and after January 1, 2018, and (ii) any entity that registers to sell home service contracts under Chapter 33.1 (§ 59.1-434.1 et seq.) of Title 59.1 on or after January 1, 2018; and

2. Not apply to any entity that was exempt from the provisions of former Article 2 (§ 38.2-2617 et seq.) of Chapter 26 of Title 38.2 immediately prior to January 1, 2018.

J. Notwithstanding § 58.1-3 or any other provision of law, the Department of Taxation and the Department of Agriculture and Consumer Services may exchange information regarding providers for purposes of enforcing the provisions of Chapter 33.1 (§ 59.1-434.1 et seq.) of Title 59.1.

#### **§ 59.1-200. Prohibited practices.**

A. The following fraudulent acts or practices committed by a supplier in connection with a consumer transaction are hereby declared unlawful:

1. Misrepresenting goods or services as those of another;
2. Misrepresenting the source, sponsorship, approval, or certification of goods or services;
3. Misrepresenting the affiliation, connection, or association of the supplier, or of the goods or services, with another;
4. Misrepresenting geographic origin in connection with goods or services;
5. Misrepresenting that goods or services have certain quantities, characteristics, ingredients, uses, or benefits;
6. Misrepresenting that goods or services are of a particular standard, quality, grade, style, or model;
7. Advertising or offering for sale goods that are used, secondhand, repossessed, defective, blemished, deteriorated, or reconditioned, or that are "seconds," irregulars, imperfects, or "not first class," without clearly and unequivocally indicating in the advertisement or offer for sale that the goods are used, secondhand, repossessed, defective, blemished, deteriorated, reconditioned, or are "seconds," irregulars, imperfects or "not first class";
8. Advertising goods or services with intent not to sell them as advertised, or with intent not to sell at the price or upon the terms advertised.

In any action brought under this subdivision, the refusal by any person, or any employee, agent, or servant thereof, to sell any goods or services advertised or offered for sale at the price or upon the terms advertised or offered, shall be prima facie evidence of a violation of this subdivision. This paragraph shall not apply when it is clearly and conspicuously stated in the advertisement or offer by which such goods or services are advertised or offered for sale, that the supplier or offeror has a limited quantity or amount of such goods or services for sale, and the supplier or offeror at the time of such advertisement or offer did in fact have or reasonably expected to have at least such quantity or amount for sale;

9. Making false or misleading statements of fact concerning the reasons for, existence of, or amounts of price reductions;
10. Misrepresenting that repairs, alterations, modifications, or services have been performed or parts installed;

11. Misrepresenting by the use of any written or documentary material that appears to be an invoice or bill for merchandise or services previously ordered;

12. Notwithstanding any other provision of law, using in any manner the words "wholesale," "wholesaler," "factory," or "manufacturer" in the supplier's name, or to describe the nature of the supplier's business, unless the supplier is actually engaged primarily in selling at wholesale or in manufacturing the goods or services advertised or offered for sale;

13. Using in any contract or lease any liquidated damage clause, penalty clause, or waiver of defense, or attempting to collect any liquidated damages or penalties under any clause, waiver, damages, or penalties that are void or unenforceable under any otherwise applicable laws of the Commonwealth, or under federal statutes or regulations;

13a. Failing to provide to a consumer, or failing to use or include in any written document or material provided to or executed by a consumer, in connection with a consumer transaction any statement, disclosure, notice, or other information however characterized when the supplier is required by 16 C.F.R. Part 433 to so provide, use, or include the statement, disclosure, notice, or other information in connection with the consumer transaction;

14. Using any other deception, fraud, false pretense, false promise, or misrepresentation in connection with a consumer transaction;

15. Violating any provision of § 3.2-6512, 3.2-6513, or 3.2-6516, relating to the sale of certain animals by pet dealers which is described in such sections, is a violation of this chapter;

16. Failing to disclose all conditions, charges, or fees relating to:

a. The return of goods for refund, exchange, or credit. Such disclosure shall be by means of a sign attached to the goods, or placed in a conspicuous public area of the premises of the supplier, so as to be readily noticeable and readable by the person obtaining the goods from the supplier. If the supplier does not permit a refund, exchange, or credit for return, he shall so state on a similar sign. The provisions of this subdivision shall not apply to any retail merchant who has a policy of providing, for a period of not less than 20 days after date of purchase, a cash refund or credit to the purchaser's credit card account for the return of defective, unused, or undamaged merchandise upon presentation of proof of purchase. In the case of merchandise paid for by check, the purchase shall be treated as a cash purchase and any refund may be delayed for a period of 10 banking days to allow for the check to clear. This subdivision does not apply to sale merchandise that is obviously distressed, out of date, post season, or otherwise reduced for clearance; nor does this subdivision apply to special order purchases where the purchaser has requested the supplier to order merchandise of a specific or unusual size, color, or brand not ordinarily carried in the store or the store's catalog; nor shall this subdivision apply in connection with a transaction for the sale or lease of motor vehicles, farm tractors, or motorcycles as defined in § 46.2-100;

b. A layaway agreement. Such disclosure shall be furnished to the consumer (i) in writing at the time of the layaway agreement, or (ii) by means of a sign placed in a conspicuous public area of the premises of the supplier, so as to be readily noticeable and readable by the consumer, or (iii) on the bill of sale. Disclosure shall include the conditions, charges, or fees in the event that a consumer breaches the agreement;

16a. Failing to provide written notice to a consumer of an existing open-end credit balance in excess of \$5 (i) on an account maintained by the supplier and (ii) resulting from such consumer's overpayment on such account. Suppliers shall give consumers written notice of such credit balances within 60 days of receiving overpayments. If the credit balance information is incorporated into statements of account furnished consumers by suppliers within such 60-day period, no separate or additional notice is required;

17. If a supplier enters into a written agreement with a consumer to resolve a dispute that arises in connection with a consumer transaction, failing to adhere to the terms and conditions of such an agreement;

18. Violating any provision of the Virginia Health Club Act, Chapter 24 (§ 59.1-294 et seq.) ~~of this title~~;

19. Violating any provision of the Virginia Home Solicitation Sales Act, Chapter 2.1 (§ 59.1-21.1 et seq.) ~~of this title~~;

20. Violating any provision of the Automobile Repair Facilities Act, Chapter 17.1 (§ 59.1-207.1 et seq.) ~~of this title~~;

21. Violating any provision of the Virginia Lease-Purchase Agreement Act, Chapter 17.4 (§ 59.1-207.17 et seq.) ~~of this title~~;

22. Violating any provision of the Prizes and Gifts Act, Chapter 31 (§ 59.1-415 et seq.) ~~of this title~~;

23. Violating any provision of the Virginia Public Telephone Information Act, Chapter 32 (§ 59.1-424 et seq.) ~~of this title~~;

24. Violating any provision of § 54.1-1505;

25. Violating any provision of the Motor Vehicle Manufacturers' Warranty Adjustment Act, Chapter 17.6 (§ 59.1-207.34 et seq.) ~~of this title~~;

26. Violating any provision of § 3.2-5627, relating to the pricing of merchandise;

27. Violating any provision of the Pay-Per-Call Services Act, Chapter 33 (§ 59.1-429 et seq.) ~~of this title~~;

28. Violating any provision of the Extended Service Contract Act, Chapter 34 (§ 59.1-435 et seq.) ~~of this title~~;

29. Violating any provision of the Virginia Membership Camping Act, Chapter 25 (§ 59.1-311 et seq.) ~~of this title~~;

30. Violating any provision of the Comparison Price Advertising Act, Chapter 17.7 (§ 59.1-207.40 et seq.) ~~of this title~~;

31. Violating any provision of the Virginia Travel Club Act, Chapter 36 (§ 59.1-445 et seq.) ~~of this title~~;

32. Violating any provision of §§ 46.2-1231 and 46.2-1233.1;

33. Violating any provision of Chapter 40 (§ 54.1-4000 et seq.) of Title 54.1;

34. Violating any provision of Chapter 10.1 (§ 58.1-1031 et seq.) of Title 58.1;

35. Using the consumer's social security number as the consumer's account number with the supplier, if the consumer has requested in writing that the supplier use an alternate number not associated with the consumer's social security number;
36. Violating any provision of Chapter 18 (§ 6.2-1800 et seq.) of Title 6.2;
37. Violating any provision of § 8.01-40.2;
38. Violating any provision of Article 7 (§ 32.1-212 et seq.) of Chapter 6 of Title 32.1;
39. Violating any provision of Chapter 34.1 (§ 59.1-441.1 et seq.) ~~of this title~~;
40. Violating any provision of Chapter 20 (§ 6.2-2000 et seq.) of Title 6.2;
41. Violating any provision of the Virginia Post-Disaster Anti-Price Gouging Act, Chapter 46 (§ 59.1-525 et seq.) ~~of this title~~;
42. Violating any provision of Chapter 47 (§ 59.1-530 et seq.) ~~of this title~~;
43. Violating any provision of § 59.1-443.2;
44. Violating any provision of Chapter 48 (§ 59.1-533 et seq.) ~~of this title~~;
45. Violating any provision of Chapter 25 (§ 6.2-2500 et seq.) of Title 6.2;
46. Violating the provisions of clause (i) of subsection B of § 54.1-1115;
47. Violating any provision of § 18.2-239;
48. Violating any provision of Chapter 26 (§ 59.1-336 et seq.);
49. Selling, offering for sale, or manufacturing for sale a children's product the supplier knows or has reason to know was recalled by the U.S. Consumer Product Safety Commission. There is a rebuttable presumption that a supplier has reason to know a children's product was recalled if notice of the recall has been posted continuously at least 30 days before the sale, offer for sale, or manufacturing for sale on the website of the U.S. Consumer Product Safety Commission. This prohibition does not apply to children's products that are used, secondhand or "seconds";
50. Violating any provision of Chapter 44.1 (§ 59.1-518.1 et seq.) ~~of this title~~;
51. Violating any provision of Chapter 22 (§ 6.2-2200 et seq.) of Title 6.2;
52. Violating any provision of § 8.2-317.1;
53. Violating subsection A of § 9.1-149.1; ~~and~~
54. Selling, offering for sale, or using in the construction, remodeling, or repair of any residential dwelling in the Commonwealth, any drywall that the supplier knows or has reason to know is defective drywall. This subdivision shall not apply to the sale or offering for sale of any building or structure in which defective drywall has been permanently installed or affixed; *and*
55. *Violating any provision of Chapter 33.1 (§ 59.1-434.1 et seq.).*
- B. Nothing in this section shall be construed to invalidate or make unenforceable any contract or lease solely by reason of the failure of such contract or lease to comply with any other law of the Commonwealth or any federal statute or regulation, to the extent such other law, statute, or regulation provides that a violation of such law, statute, or regulation shall not invalidate or make unenforceable such contract or lease.

## CHAPTER 33.1.

## HOME SERVICE CONTRACT PROVIDERS.

**§ 59.1-434.1. Definitions.**

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

*"Board" means the Board of Agriculture and Consumer Services.*

*"Commissioner" means the Commissioner of Agriculture and Consumer Services or his designee.*

*"Home service contract" means a contract or agreement for a separately stated consideration for any duration to perform the service, repair, replacement, or maintenance of property or to indemnify for the costs of service, repair, replacement, or maintenance, for the operational failure of any property due to a defect in materials, workmanship, inherent defect, or normal wear and tear, with or without additional provisions for incidental payment of indemnity under limited circumstances. Home service contracts may provide for the service, repair, replacement, or maintenance of property for damage resulting from power surges or interruption and for accidental damage from handling. Home service contracts may provide roof leak coverage.*

*"Property" means any component, part, appliance, or household system of a residential property that is covered by a contract, whether such component, part, appliance, or household system is personal property or is affixed as real property to the covered residential property.*

*"Provider" means a person that is contractually obligated to the purchaser under the terms of the home service contract.*

*"Purchaser" means a person who enters into a home service contract with a provider.*

**§ 59.1-434.2. Registration; fees.**

A. *It shall be unlawful for any provider to offer, advertise, or execute or cause to be executed by the purchaser any home service contract for property in the Commonwealth unless the provider at the time of the solicitation, offer, advertisement, sale, or execution of a contract has been properly registered with the Commissioner. The registration application and renewal shall be on a form provided by the Commissioner and shall (i) disclose the address, ownership, and nature of business of the provider; (ii) be renewed annually on July 1; (iii) be accompanied by a fee of \$300 per registration and annual renewal; and (iv) be accompanied by an audited financial statement per registration and annual renewal that is prepared in accordance with generally accepted accounting principles or statutory accounting principles, at the election of*

the provider. A registration application or registration renewal shall not be considered filed until all required information and fees are received by the Commissioner and taxes are paid pursuant to Article 10 (§ 58.1-400 et seq.) of Chapter 3 of Title 58.1. Notwithstanding § 58.1-3 or any other provision of law, the Department of Taxation and the Department of Agriculture and Consumer Services may exchange information regarding providers for purposes of enforcing the provisions of this chapter. A provider shall not be required by this chapter to file with the Commissioner or any other entity or agency copies of the provider's home service contract forms or information regarding the rates or charges under the provider's home service contracts. Any provider that fails to register prior to the sale of a home service contract shall pay a late filing fee of \$100 for each 30-day period, or portion thereof, that the registration is late. A provider that fails to timely renew its registration shall pay a late fee of \$50 for each 30-day period, or portion thereof, that the annual renewal filing is late. The late fees authorized by this subsection shall be in addition to all other penalties authorized by law.

B. All fees shall be remitted to the State Treasurer and shall be placed to the credit and in the special fund of the Department of Agriculture and Consumer Services to be used in the administration of this chapter.

**§ 59.1-434.3. Bond or letter of credit required.**

A. Every provider shall maintain a funded reserve account for its obligations under its home service contracts issued and outstanding in the Commonwealth. The reserves shall not be less than 40 percent of gross consideration received, less claims paid, on the sale of the home service contract for all in-force home service contracts sold in the Commonwealth.

B. Each provider, before it is registered under § 59.1-434.2, shall file and maintain with the Commissioner, in form and substance satisfactory to him, a bond with corporate surety, from a company authorized to transact business in the Commonwealth or a letter of credit from a bank insured by the Federal Deposit Insurance Corporation, in the amount of \$10,000. Additional bond or letter of credit amounts shall be similarly filed with the Commissioner and shall be adjusted from time to time, in accordance with the following schedule:

Total Amount of Unexpired Home Service Contracts	Amount of Bond or Letter of Credit
\$50,001 to \$300,000	\$40,000
\$300,001 to \$750,000	\$65,000
\$750,001 or more	\$90,000

The total amount of unexpired home service contracts shall be the total consideration paid by all purchasers to the provider for all home service contracts currently in effect. The bond or letter of credit required by this subsection shall be in favor of the Commonwealth for the benefit of purchasers of home service contracts for property in the event that the provider does not fulfill its obligations under such home service contracts for any reason, including insolvency or bankruptcy.

C. The aggregate liability of the bond or letter of credit to all persons for all breaches of the conditions of the bond or letter of credit shall in no event exceed the amount of the bond or letter of credit. The bond or letter of credit shall not be cancelled or terminated except with the consent of the Commissioner.

D. In lieu of compliance with subsections A and B, a provider may demonstrate financial responsibility by filing with the Commissioner a copy of a liability insurance policy issued by an insurer authorized to transact business in the Commonwealth and that covers 100 percent of the provider's home service contract liabilities, including the administration of claims and the cost for such administration. Reimbursement insurance policies filed pursuant to this section may not be canceled by either the provider or the issuing insurer without providing 60 days' notice to the Commissioner.

**§ 59.1-434.4. Regulations.**

A. The Board is authorized to adopt reasonable regulations in order to implement provisions in this chapter relating to home service contracts. These regulations shall be adopted, amended, or repealed in accordance with the Administrative Process Act (§ 2.2-4000 et seq.).

B. Without limiting the authority of the Board under subsection A, the Board is authorized to adopt reasonable regulations that designate services, in addition to those enumerated in the definition of home service contract in § 59.1-434.1, that may be provided under a home service contract, provided that the designation of the additional services is not inconsistent with the provisions of this chapter.

**§ 59.1-434.5. Investigations.**

A. The Commissioner may, with respect to home service contracts:

1. Make necessary public and private investigations within or without the Commonwealth to determine whether any person has violated the provisions of this chapter or any rule, regulation, or order issued pursuant to this chapter;
2. Require or permit any person to file a statement in writing, under oath or otherwise as the Commissioner determines, as to all facts and circumstances concerning the matter under investigation; and
3. Administer oaths or affirmations, and upon motion or upon request of any party, may subpoena witnesses, compel their attendance, take evidence, and require the production of any matter that is relevant to the investigation, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of relevant facts, or any other matter reasonably calculated to lead to the discovery of material evidence.

*B. Any proceeding or hearing of the Commissioner pursuant to this chapter, in which witnesses are subpoenaed and their attendance required for evidence to be taken, or any matter produced to ascertain material evidence, shall take place within the City of Richmond.*

*C. If any person fails to obey the subpoena or to answer questions propounded by the Commissioner and upon reasonable notice to all persons affected thereby, the Commissioner may apply to the Circuit Court of the City of Richmond for an order compelling compliance.*

**§ 59.1-434.6. Production of records.**

*Every provider, upon written request of the Commissioner, shall make available to the Commissioner its home service contract records for inspection and copying to enable the Commissioner to reasonably determine compliance with this chapter. Every provider shall maintain a true copy of each contract executed between the provider and a purchaser, and each contract shall be maintained for its term.*

**§ 59.1-434.7. Home service contracts not insurance; exemptions.**

*A. Home service contracts are (i) not contracts of insurance in the Commonwealth and (ii) not subject to regulation under Title 38.2.*

*B. Any provider that has a net worth, on a stand-alone basis or together with a parent company, calculated in accordance with generally accepted accounting principles or statutory accounting principles at the election of the provider, in excess of \$100 million shall be subject to neither (i) the provisions of this chapter nor (ii) the provisions of Title 38.2.*

*C. Any matter subject to the insurance regulatory authority of the State Corporation Commission pursuant to Title 38.2 shall not be subject to the provisions of this chapter.*

*D. Providers that comply with this chapter shall not be subject to the provisions of Title 38.2.*

*E. Employees of providers that comply with this chapter and licensed real estate agents or other contractors operating under a written agreement with such providers that market, sell, or offer to sell home service contracts on behalf of the registered provider shall be subject to neither (i) the provisions of this chapter nor (ii) the provisions of Title 38.2.*

*F. The provisions of this chapter shall not apply to:*

*1. Any extended service contract providers offering extended service contracts on consumer products, as those terms are defined in § 59.1-435, that are registered and regulated pursuant to Chapter 34 (§ 59.1-435 et seq.); or*

*2. Any maintenance and service agreement (i) pertaining to a heating, ventilation, air conditioning, or cooling system entered into between a seller of petroleum heating oil, propane, or natural gas and the seller's customer if the seller does not engage in selling home service contracts for property other than heating, ventilation, air conditioning, or cooling systems or (ii) entered into by a person who provides telecommunications services in the Commonwealth to which the service contract, guarantee or warranty relates.*

**§ 59.1-434.8. Violations of chapter; penalty.**

*A. Any provider that knowingly and willfully violates any provision of this chapter is guilty of a Class 3 misdemeanor.*

*B. Any violation of the provisions of this chapter shall constitute a prohibited practice pursuant to the provisions of § 59.1-200 and shall be subject to any and all of the enforcement provisions of the Virginia Consumer Protection Act (§ 59.1-196 et seq.).*

**§ 59.1-436. Registration; fees; exemptions.**

*A. It shall be unlawful for any extended service contract provider to offer, advertise, or execute or cause to be executed by the purchaser any extended service contract for a consumer product in this Commonwealth unless the obligor at the time of the solicitation, offer, advertisement, sale, or execution of a contract has been properly registered with the Commissioner. The registration shall (i) disclose the address, ownership, and nature of business of the obligor; (ii) be renewed annually on July 1; and (iii) be accompanied by a fee of \$300 per registration and annual renewal. A registration application or registration renewal will not be considered filed until all required information and fees are received by the Commissioner. Any obligor who fails to register prior to the sale of an extended service contract shall pay a late filing fee of \$100 for each 30-day period, or portion thereof, that the registration is late. An obligor who fails to timely renew its registration shall pay a late fee of \$50 for each 30-day period, or portion thereof, that the annual renewal filing is late. The late fees authorized by this subsection shall be in addition to all other penalties authorized by law.*

*B. All fees shall be remitted to the State Treasurer and shall be placed to the credit and special fund of the Virginia Department of Agriculture and Consumer Services to be used in the administration of this chapter.*

*C. Any matter subject to the insurance regulatory authority of the State Corporation Commission pursuant to Title 38.2 shall not be subject to the provisions of this chapter.*

*D. Licensed or registered motor vehicle dealers, as defined in § 46.2-1500, shall not be subject to the provisions of this chapter.*

*E. Extended service contract providers who comply with this section and the employees of such providers who market, sell or offer to sell extended service contracts on behalf of the provider shall not be subject to the provisions of Title 38.2.*

*F. Providers of a home service contract, as those terms are defined in § 59.1-434.1, that are registered and regulated pursuant to Chapter 33.1 (§ 59.1-434.1 et seq.) shall not be subject to the provisions of this chapter.*

**2. That Article 2 (§§ 38.2-2617 through 38.2-2627) of Chapter 26 of Title 38.2 of the Code of Virginia is repealed.**

**3. Until such time as the Department of Taxation promulgates a regulation for providers as defined in § 59.1-434.1 of the Code of Virginia, the provisions of 23 VAC 10-120-89 shall apply, mutatis mutandis, to the minimum tax imposed by § 58.1-400.4 of the Code of Virginia, as created by this act.**

4. That any entity that is exempt from the provisions of former Article 2 (§§ 38.2-2617 et seq.) of Chapter 26 of Title 38.2 of the Code of Virginia prior to its repeal pursuant to the second enactment of this act shall be exempt from the provisions of Chapter 33.1 (§ 59.1-434.1 et seq.) of Title 59.1 of the Code of Virginia, as created by this act, for such period that the activities or status of the entity that made it exempt from the application of former Article 2 of Chapter 26 of Title 38.2 continue to exist.

5. That the provisions of this act shall become effective on January 1, 2018.

#### CHAPTER 728

*An Act to amend and reenact § 56-265.2 of the Code of Virginia, relating to State Corporation Commission approval of utility facilities.*

[H 1766]

Approved March 24, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 56-265.2 of the Code of Virginia is amended and reenacted as follows:**

**§ 56-265.2. Certificate of convenience and necessity required for acquisition, etc., of new facilities.**

A. 1. Subject to the provisions of subdivision 2, it shall be unlawful for any public utility to construct, enlarge or acquire, by lease or otherwise, any facilities for use in public utility service, except ordinary extensions or improvements in the usual course of business, without first having obtained a certificate from the Commission that the public convenience and necessity require the exercise of such right or privilege. Any certificate required by this section shall be issued by the Commission only after opportunity for a hearing and after due notice to interested parties. The certificate for overhead electrical transmission lines of 138 kilovolts or more shall be issued by the Commission only after compliance with the provisions of § 56-46.1.

2. For construction of any transmission line of 138 kilovolts *and associated facilities*, a public utility shall either (i) obtain a certificate pursuant to subdivision 1 or (ii) obtain approval pursuant to the requirements of (a) § 15.2-2232 and (b) any applicable local zoning ordinances by the locality or localities in which the transmission line will be located. *Issuance by the Commission of a certificate pursuant to subdivision 1 approving construction of a 138 kilovolt transmission line and any associated facilities shall be deemed to satisfy the requirements of § 15.2-2232 and all local zoning ordinances with respect to the transmission line and its associated facilities. For purposes of this subdivision, "associated facilities" include any station, substation, transition station, and switchyard facilities to be constructed outside of any county operating under the county executive form of government that is located in Planning District 8 in association with a 138 kilovolt transmission line.*

B. In exercising its authority under this section, the Commission, notwithstanding the provisions of § 56-265.4, may permit the construction and operation of electrical generating facilities, which shall not be included in the rate base of any regulated utility whose rates are established pursuant to Chapter 10 (§ 56-232 et seq.), upon a finding that such generating facility and associated facilities including transmission lines and equipment (i) will have no material adverse effect upon the rates paid by customers of any regulated public utility in the Commonwealth; (ii) will have no material adverse effect upon reliability of electric service provided by any such regulated public utility; and (iii) are not otherwise contrary to the public interest. In review of its petition for a certificate to construct and operate a generating facility described in this subsection, the Commission shall give consideration to the effect of the facility and associated facilities, including transmission lines and equipment, on the environment and establish such conditions as may be desirable or necessary to minimize adverse environmental impact as provided in § 56-46.1. Facilities authorized by a certificate issued pursuant to this subsection may be exempted by the Commission from the provisions of Chapter 10 (§ 56-232 et seq.).

C. A map showing the location of any proposed ordinary extension or improvement outside of the territory in which the public utility is lawfully authorized to operate shall be filed with the Commission, and prior notice of such ordinary extension shall be given to the public utility or other entity authorized to provide the same utility service within said territory. Ordinary extensions outside the service territory of a public utility shall be undertaken only for use in providing its public utility service and shall be constructed and operated so as not to interfere with the service or facilities of any public utility or other entity authorized to provide utility service within any other territory. If, upon objection of the affected utility or entity filed within 30 days of the aforesaid notice and after investigation and opportunity for a hearing the Commission finds an ordinary extension would not comply with this section, it may alter or amend the plan for such activity or prohibit its construction.

D. Whenever a certificate is required under this section for a pipeline for the transmission or distribution of natural or manufactured gas, the Commission may issue such a certificate only after compliance with the provisions of § 56-265.2:1. As used in this section and § 56-265.2:1, "pipeline for the transmission or distribution of manufactured or natural gas" shall include the pipeline and any related facilities incidental or necessary to the operation of the pipeline.

E. This section shall be subject to the requirements of § 56-265.3, if any, and nothing herein shall be construed to supersede § 56-265.3.

## CHAPTER 729

*An Act to amend and reenact § 36-96.1:1 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 36-96.3:1 and 36-96.3:2, relating to the Virginia Fair Housing Law; rights and responsibilities with respect to the use of an assistance animal in a dwelling.*

[H 2006]

Approved March 24, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 36-96.1:1 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding sections numbered 36-96.3:1 and 36-96.3:2 as follows:**

**§ 36-96.1:1. Definitions.**

For the purposes of this chapter, unless the context clearly indicates otherwise:

"Aggrieved person" means any person who (i) claims to have been injured by a discriminatory housing practice or (ii) believes that such person will be injured by a discriminatory housing practice that is about to occur.

"Assistance animal" means an animal that works, provides assistance, or performs tasks for the benefit of a person with a disability, or provides emotional support that alleviates one or more identified symptoms or effects of a person's disability. Assistance animals perform many disability-related functions, including guiding individuals who are blind or have low vision, alerting individuals who are deaf or hard of hearing to sounds, providing protection or rescue assistance, pulling a wheelchair, fetching items, alerting persons to impending seizures, or providing emotional support to persons with disabilities who have a disability-related need for such support. An assistance animal is not required to be individually trained or certified. While dogs are the most common type of assistance animal, other animals can also be assistance animals. An assistance animal is not a pet.

"Complainant" means a person, including the Fair Housing Board, who files a complaint under § 36-96.9.

"Conciliation" means the attempted resolution of issues raised by a complainant, or by the investigation of such complaint, through informal negotiations involving the aggrieved person, the respondent, their respective authorized representatives and the Fair Housing Board.

"Conciliation agreement" means a written agreement setting forth the resolution of the issues in conciliation.

"Discriminatory housing practices" means an act that is unlawful under §§ § 36-96.3, 36-96.4, 36-96.5, or § 36-96.6.

"Dwelling" means any building, structure, or portion thereof, that is occupied as, or designated or intended for occupancy as, a residence by one or more families, and any vacant land that is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.

"Elderliness" means an individual who has attained his fifty-fifth birthday.

"Familial status" means one or more individuals who have not attained the age of 18 years being domiciled with (i) a parent or other person having legal custody of such individual or individuals or (ii) the designee of such parent or other person having custody with the written permission of such parent or other person. The term "familial status" also includes any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years. For purposes of this section, "in the process of securing legal custody" means having filed an appropriate petition to obtain legal custody of such minor in a court of competent jurisdiction.

"Family" includes a single individual, whether male or female.

"Handicap" means, with respect to a person, (i) a physical or mental impairment that substantially limits one or more of such person's major life activities; (ii) a record of having such an impairment; or (iii) being regarded as having such an impairment. The term does not include current, illegal use of, or addiction to a controlled substance as defined in Virginia or federal law. ~~Neither the term "individual with a handicap" nor the term "handicap" shall apply to an individual solely because that individual is a transvestite.~~ For the purposes of this chapter, the terms "handicap" and "disability" shall be interchangeable.

"Lending institution" includes any bank, savings institution, credit union, insurance company or mortgage lender.

"Major life activities" means, but shall not be limited to, any the following functions: caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

"Person" means one or more individuals, whether male or female, corporations, partnerships, associations, labor organizations, fair housing organizations, civil rights organizations, organizations, governmental entities, legal representatives, mutual companies, joint stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers and fiduciaries.

"Physical or mental impairment" means, but shall not be limited to, any of the following: (i) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; or endocrine or (ii) any mental or psychological disorder, such as an intellectual or developmental disability, organic brain syndrome, emotional or mental illness, or specific learning disability. "Physical or mental impairment" includes such diseases and conditions as orthopedic, visual, speech, and hearing impairments; cerebral palsy; autism; epilepsy; muscular dystrophy; multiple sclerosis; cancer; heart disease; diabetes;

*human immunodeficiency virus infection; intellectual and developmental disabilities; emotional illness; drug addiction other than addiction caused by current, illegal use of a controlled substance; and alcoholism.*

"Respondent" means any person or other entity alleged to have violated the provisions of this chapter, as stated in a complaint filed under the provisions of this chapter and any other person joined pursuant to the provisions of § 36-96.9.

"Restrictive covenant" means any specification in any instrument affecting title to real property that purports to limit the use, occupancy, transfer, rental, or lease of any dwelling because of race, color, religion, national origin, sex, elderliness, familial status, or handicap.

"To rent" means to lease, to sublease, to let, or otherwise to grant for consideration the right to occupy premises not owned by the occupant.

**§ 36-96.3:1. Rights and responsibilities with respect to the use of an assistance animal in a dwelling.**

A. A person with a disability, or a person associated with such person, who maintains an assistance animal in a dwelling shall comply with the rental agreement or any rules and regulations of the property owner applicable to all residents that do not interfere with an equal opportunity to use and enjoy the dwelling and any common areas of the premises. Such person shall not be required to pay a pet fee or deposit or any additional rent to maintain an assistance animal in a dwelling, but shall be responsible for any physical damages to the dwelling if residents who maintain pets are responsible for such damages in accordance with such documents or state law. Nothing herein shall be construed to affect any cause of action against any resident for other damages under the laws of the Commonwealth.

B. If a person's disability is obvious or otherwise known to the person receiving a request, or if the need for a requested accommodation is readily apparent or known to the person receiving a request, the person receiving a request for reasonable accommodation may not request any additional verification about the requester's disability. If a person's disability is readily apparent or known to the person receiving the request but the disability-related need is not readily apparent or known, the person receiving the request may ask for additional verification to evaluate the requester's disability-related need.

C. A person with a disability, or a person associated with such person, may submit a request for a reasonable accommodation to maintain an assistance animal in a dwelling. Subject to subsection B, the person receiving the request may ask the requester to provide reliable documentation of the disability and the disability-related need for an assistance animal, including documentation from any person with whom the person with a disability has or has had a therapeutic relationship.

D. Subject to subsection B, a person receiving a request for a reasonable accommodation to maintain an assistance animal in a dwelling shall evaluate the request and any reliable supporting documentation to verify the disability and the disability-related need for the reasonable accommodation regarding an assistance animal.

E. For purposes of this section, "therapeutic relationship" means the provision of medical care, program care, or personal care services, in good faith, to the person with a disability by (i) a mental health service provider as defined in § 54.1-2400.1; (ii) an individual or entity with a valid, unrestricted state license, certification, or registration to serve persons with disabilities; (iii) a person from a peer support or similar group that does not charge service recipients a fee or impose any actual or implied financial requirement and who has actual knowledge about the requester's disability; or (iv) a caregiver, reliable third party, or government entity with actual knowledge of the requester's disability.

**§ 36-96.3:2. Reasonable accommodations; interactive process.**

A. When a request for a reasonable accommodation establishes that such accommodation is necessary to afford a person with a disability, and who has a disability-related need, an equal opportunity to use and enjoy a dwelling and does not impose either (i) an undue financial and administrative burden or (ii) a fundamental alteration to the nature of the operations of the person receiving the request, the request for the accommodation is reasonable and shall be granted.

B. When a request for a reasonable accommodation may impose either (i) an undue financial and administrative burden or (ii) a fundamental alteration to the nature of the operations of the person receiving the request, the person receiving the request shall offer to engage in a good-faith interactive process to determine if there is an alternative accommodation that would effectively address the disability-related needs of the requester. An interactive process is not required when the requester does not have a disability and a disability-related need for the requested accommodation. As part of the interactive process, unless the reasonableness and necessity for the accommodation has been established by the requester, a request may be made for additional supporting documentation to evaluate the reasonableness of either the requested accommodation or any identified alternative accommodations. If an alternative accommodation is identified that effectively meets the requester's disability-related needs and is reasonable, the person receiving the reasonable accommodation request shall make the effective alternative accommodation. However, the requester shall not be required to accept an alternative accommodation if the requested accommodation is also reasonable. The various factors to be considered for determining whether an accommodation imposes an undue financial and administrative burden include (a) the cost of the requested accommodation, including any substantial increase in the cost of the owner's insurance policy; (b) the financial resources of the person receiving the request; (c) the benefits that the accommodation would provide to the person with a disability; and (d) the availability of alternative accommodations that would effectively meet the requester's disability-related needs.

C. A request for a reasonable accommodation shall be determined on a case-by-case basis and may be denied if (i) the person on whose behalf the request for an accommodation was submitted is not disabled; (ii) there is no disability-related need for the accommodation; (iii) the accommodation imposes an undue financial and administrative burden on the person

receiving the request; or (iv) the accommodation would fundamentally alter the nature of the operations of the person receiving the request. With respect to a request for reasonable accommodation to maintain an assistance animal in a dwelling, the requested assistance animal shall (a) work, provide assistance, or perform tasks or services for the benefit of the requester or (b) provide emotional support that alleviates one or more of the identified symptoms or effects of such requester's existing disability. In addition, as determined by the person receiving the request, the requested assistance animal shall not pose a clear and present threat of substantial harm to others or to the dwelling itself that is not solely based on breed, size, or type or cannot be reduced or eliminated by another reasonable accommodation.

**2. That if any provision of this act is determined by the U.S. Department of Housing and Urban Development to be not substantially equivalent or otherwise inconsistent with the federal Fair Housing Act of 1968, 42 U.S.C. § 3601 et seq., as amended, such provision shall not be enforceable.**

### CHAPTER 730

*An Act to amend and reenact §§ 55-217, 55-222, 55-223, 55-224, 55-225.2, 55-225.3, 55-225.4, 55-225.6, 55-225.7, 55-225.9, 55-225.11, 55-225.12, 55-225.13, 55-226, 55-226.2, 55-237.1, 55-248.3:1, 55-248.4, 55-248.6, 55-248.7, 55-248.7:1, 55-248.12, 55-248.12:1, 55-248.13, 55-248.13:1, 55-248.13:2, 55-248.15:1, 55-248.16, 55-248.17, 55-248.18, 55-248.18:2, 55-248.21:1, 55-248.24, 55-248.27, 55-248.31, 55-248.38:1, and 55-248.38:3 of the Code of Virginia, to amend the Code of Virginia by adding sections numbered 55-217.1, 55-225.01, 55-225.02, 55-225.11:1, and 55-225.19 through 55-225.48, and to repeal §§ 55-225.8 and 55-248.5 of the Code of Virginia, relating to landlord and tenant law; obligations and remedies for landlords and tenants.*

[H 2033]

Approved March 24, 2017

#### Be it enacted by the General Assembly of Virginia:

**1. That §§ 55-217, 55-222, 55-223, 55-224, 55-225.2, 55-225.3, 55-225.4, 55-225.6, 55-225.7, 55-225.9, 55-225.11, 55-225.12, 55-225.13, 55-226, 55-226.2, 55-237.1, 55-248.3:1, 55-248.4, 55-248.6, 55-248.7, 55-248.7:1, 55-248.12, 55-248.12:1, 55-248.13, 55-248.13:1, 55-248.13:2, 55-248.15:1, 55-248.16, 55-248.17, 55-248.18, 55-248.18:2, 55-248.21:1, 55-248.24, 55-248.27, 55-248.31, 55-248.38:1, and 55-248.38:3 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 55-217.1, 55-225.01, 55-225.02, 55-225.11:1, and 55-225.19 through 55-225.48 as follows:**

#### **§ 55-217. Applicability; right to terminate tenant.**

A grantee or assignee of any land let to lease, or of the reversion thereof, and his heirs, personal representative or assigns shall enjoy against the lessee, his personal representative or assigns, the like advantage, by action or entry for any forfeiture or by action upon any covenant or promise in the lease, which the grantor, assignor or lessor, or his heirs, might have enjoyed. The provisions of this chapter shall apply to all residential dwelling units as specified herein. The provisions of this chapter shall also apply to all nonresidential tenancies unless the rental or lease agreement provides otherwise. The right to evict a tenant whose right of possession has been terminated in a residential tenancy under this chapter may only be effectuated by the filing of an unlawful detainer action, entry of an order of possession, and eviction pursuant to § 55-237.1. The right to evict a tenant whose right of possession has been terminated in any commercial or other nonresidential tenancy under this chapter may be effectuated by self-help eviction without further legal process so long as such eviction does not incite a breach of the peace. However, nothing herein shall be construed to preclude termination of any commercial or other nonresidential tenancy by the filing of an unlawful detainer action, entry of an order of possession, and eviction pursuant to § 55-237.1.

#### **§ 55-217.1. Grantees and assignees to have same rights against lessees as lessors, etc.**

A grantee or assignee of any land let to lease, or of the reversion thereof, and his heirs, personal representative, or assigns, shall enjoy against the lessee, and his heirs, personal representative, or assigns, the like advantage, by action or entry for any forfeiture or by action upon any covenant or promise in the lease that the grantor, assignor, or lessor, or his heirs, might have enjoyed.

#### **§ 55-222. Notice to terminate a tenancy in nonresidential premises; notice of change in use of building.**

A. A tenancy in a nonresidential premises from year to year may be terminated by either party giving three months' notice, in writing, prior to the end of any year of the tenancy, of his intention to terminate the same. A tenancy from month to month may be terminated by either party giving 30 days' notice in writing, prior to the next rent due date, of his intention to terminate the same, unless the rental agreement provides for a different notice period. Written notice of termination shall be given in accordance with this chapter or the ~~Virginia Residential Landlord and Tenant Act (§ 55-248.2 et seq.)~~, as applicable lease agreement.

B. In addition to the termination rights set forth in subsection A, and notwithstanding the terms of the lease, the landlord may terminate the lease due to rehabilitation or a change in the use of all or any part of a building containing at least four residential units, upon 120 days' prior written notice to the tenant. Changes in use shall include but not be limited to conversion to hotel, motel, apartment hotel or other commercial use, planned unit development, substantial rehabilitation, demolition or sale to a contract purchaser requiring an empty building. This 120-day notice requirement shall not be waived

except in the case of a tenancy from month to month, which may be terminated by the landlord by giving the tenant 30 days' written notice prior to the next rent due date of the landlord's intention to terminate the tenancy.

The written notice required by this section to terminate a tenancy shall not be contained in the rental agreement or lease, but shall be a separate writing.

**§ 55-223. Effect of failure of tenant in nonresidential premises to vacate premises at expiration of term.**

A tenant from year to year, month to month, or other definite term, *in a nonresidential premises* shall not, by his mere failure to vacate the premises upon the expiration of the lease, be held as tenant for another term when such failure is not due to his willfulness, negligence, or other avoidable cause, but such tenant shall be liable to the lessor for use and occupation of the premises and also for any loss or damage sustained by the lessor because of such failure to surrender possession at the time stipulated.

**§ 55-224. When tenant deserts nonresidential premises, how landlord may enter, etc.**

If any tenant from whom rent is in arrear and unpaid shall desert ~~the demised~~ *a nonresidential* premises and leave the same uncultivated or unoccupied, without goods thereon subject to distress sufficient to satisfy the rent, the lessor or his agent may post a notice, in writing, upon a conspicuous part of the premises requiring the tenant to pay the rent, in the case of a monthly tenant within ~~ten~~ 10 days, and in the case of a yearly tenant within one month from the date of such notice. If the same be not paid within the time specified in the notice, the lessor shall be entitled to possession of the premises and may enter thereon and the right of such tenant thereto shall thenceforth be at an end, but the landlord may recover the rent up to that time.

**§ 55-225.01. Sections applicable only to certain residential tenancies.**

A. *Residential tenancies. The Virginia Residential Landlord and Tenant Act (§ 55-248.2 et seq.) shall apply to occupancy in any single-family residential dwelling unit and any multifamily dwelling unit located in Virginia unless exempted pursuant to the provisions of this section.*

B. *Exempt residential dwelling units.*

1. *Where the landlord is a natural person, an estate, or a legal entity that owns no more than two single-family residential dwelling units in its own name subject to a rental agreement, such landlord may opt out of the Virginia Residential Landlord and Tenant Act (§ 55-248.2 et seq.) by so stating in a rental agreement with a tenant. Such residential dwelling units shall be exempt from the Virginia Residential Landlord and Tenant Act (§ 55-248.2 et seq.), and the provisions of §§ 55-225.01 through 55-225.48 shall be applicable.*

2. *Where occupancy is under a contract of sale of a dwelling unit or the property of which it is a part, if the occupant is the purchaser or a person who succeeds to his interest, the provisions of this chapter shall apply.*

C. *Tenancies and occupancies that are not residential tenancies. The following occupancies are not residential tenancies under this chapter:*

1. *Residence at a public or private institution, if incidental to detention or the provision of medical, geriatric, educational, counseling, religious, or similar services;*

2. *Occupancy by a member of a fraternal or social organization in the portion of a structure operated for the benefit of the organization;*

3. *Occupancy by an owner of a condominium unit or a holder of a proprietary lease in a cooperative;*

4. *Occupancy in a campground as defined in § 35.1-1;*

5. *Occupancy by a tenant who is not required to pay rent pursuant to a rental agreement;*

6. *Occupancy by an employee of a landlord whose right to occupancy in a multifamily dwelling unit is conditioned upon employment in and about the premises or a former employee whose occupancy continues less than 60 days; or*

7. *Occupancy in a public housing unit or other housing unit subject to regulation by the Department of Housing and Urban Development if the provisions of this chapter are inconsistent with the regulations of the Department of Housing and Urban Development.*

D. *Occupancy in hotel, motel, and extended stay facility.*

1. *A guest who is an occupant of a hotel, motel, extended stay facility, vacation residential facility, including those governed by the Virginia Real Estate Time-Share Act (§ 55-360 et seq.), boardinghouse, or similar transient lodging shall not be construed to be a tenant living in a dwelling unit if such person does not reside in such lodging as his primary residence. Such guest shall be exempt from this chapter, and the innkeeper or property owner, or his agent, shall have the right to use self-help eviction under Virginia law, without the necessity of the filing of an unlawful detainer action in a court of competent jurisdiction and the execution of a writ of possession issued pursuant to such action, which would otherwise be required under this chapter.*

2. *A hotel, motel, extended stay facility, vacation residential facility, boardinghouse, or similar transient lodging shall be exempt from the provisions of this chapter if overnight sleeping accommodations are furnished to a person for consideration if such person does not reside in such lodging as his primary residence.*

3. *If a person resides in a hotel, motel, extended stay facility, vacation residential facility, including those governed by the Virginia Real Estate Time-Share Act (§ 55-360 et seq.), boardinghouse, or similar transient lodging as his primary residence for fewer than 90 consecutive days, such lodging shall not be subject to the provisions of this chapter. However, the owner of such lodging establishment shall give a five-day written notice of nonpayment to a person residing in such lodging and, upon the expiration of the five-day period specified in the notice, may exercise self-help eviction if payment in full has not been received.*

4. If a person resides in a hotel, motel, extended stay facility, vacation residential facility, including those governed by the Virginia Real Estate Time-Share Act (§ 55-360 et seq.), boardinghouse, or similar transient lodging as his primary residence for more than 90 consecutive days or is subject to a written lease for more than 90 days, such lodging shall be subject to the provisions of this chapter.

**§ 55-225.02. Definitions for residential dwelling units subject to this chapter.**

As used in §§ 55-225.01 through 55-225.48, unless the context requires a different meaning:

"Action" means any recoupment, counterclaim, setoff, or other civil suit and any other proceeding in which rights are determined, including actions for possession, rent, unlawful detainer, unlawful entry, and distress for rent.

"Application deposit" means any refundable deposit of money, however denominated, including all money intended to be used as a security deposit under a rental agreement, or property, that is paid by a tenant to a landlord for the purpose of being considered as a tenant for a dwelling unit.

"Application fee" means any nonrefundable fee that is paid by a tenant to a landlord or managing agent for the purpose of being considered as a tenant for a dwelling unit.

"Assignment" means the transfer by any tenant of all interests created by a rental agreement.

"Authorized occupant" means a person entitled to occupy a dwelling unit with the consent of the landlord, but who has not signed the rental agreement and therefore does not have the financial obligations as a tenant under the rental agreement.

"Building or housing code" means any law, ordinance, or governmental regulation concerning fitness for habitation or the construction, maintenance, operation, occupancy, use, or appearance of any structure or that part of a structure that is used as a home, residence, or sleeping place, by one person who maintains a household or by two or more persons who maintain a common household.

"Commencement date of rental agreement" means the date on which the tenant is entitled to occupy the dwelling unit as a tenant.

"Community land trust" means a community housing development organization whose (i) corporate membership is open to any adult resident or organization of a particular geographic area specified in the bylaws of the organization and (ii) board of directors includes a majority of members who are elected by the corporate membership and are composed of tenants, corporate members who are not tenants, and any other category of persons specified in the bylaws of the organization and that:

1. Is not sponsored by a for-profit organization;
2. Acquires parcels of land, held in perpetuity, primarily for conveyance under long-term ground leases;
3. Transfers ownership of any structural improvements located on such leased parcels to the tenant; and
4. Retains a preemptive option to purchase any such structural improvement at a price determined by formula that is designed to ensure that the improvement remains affordable to low-income and moderate-income families in perpetuity.

"Dwelling unit" means a structure or part of a structure that is used as a home or residence by one or more persons who maintain a household, including a manufactured home as defined in § 55-248.41.

"Effective date of rental agreement" means the date on which the rental agreement is signed by the landlord and the tenant obligating each party to the terms and conditions of the rental agreement.

"Facility" means something that is built, constructed, installed, or established to perform some particular function.

"Good faith" means honesty in fact in the conduct of the transaction concerned.

"Guest or invitee" means a person, other than the tenant or an authorized occupant, who has the permission of the tenant to visit but not to occupy the premises.

"Interior of the dwelling unit" means the inside of the dwelling unit, consisting of interior walls, floor, and ceiling that enclose the dwelling unit as conditioned space from the outside air.

"Landlord" means the owner, lessor, or sublessor of the dwelling unit or the building of which such dwelling unit is a part. "Landlord" shall include a managing agent of the premises who fails to disclose the name of such owner, lessor, or sublessor. Such managing agent shall be subject to the provisions of § 16.1-88.03. "Landlord" shall not include a community land trust.

"Managing agent" means a person authorized by the landlord to act on behalf of the landlord under an agreement.

"Mold remediation in accordance with professional standards" means mold remediation of that portion of the dwelling unit or premises affected by mold, or any personal property of the tenant affected by mold, performed consistent with guidance documents published by the U.S. Environmental Protection Agency, the U.S. Department of Housing and Urban Development, or the American Conference of Governmental Industrial Hygienists (the Bioaerosols: Assessment and Control); Standard and Reference Guides of the Institute of Inspection, Cleaning, and Restoration Certification (IICRC) for Professional Water Damage Restoration and Professional Mold Remediation; or any protocol for mold remediation prepared by an industrial hygienist consistent with such guidance documents.

"Multifamily dwelling unit" means more than one single-family dwelling unit located in a building. However, nothing shall be construed to apply to any nonresidential space in such building.

"Natural person" means an individual person. Whenever reference is made to an owner as a natural person, such reference shall include co-owners who are natural persons, either as tenants in common, joint tenants, tenants in partnership, tenants by the entirety, trustees or beneficiaries of a trust, general partnerships, limited liability partnerships,

registered limited liability partnerships or limited liability companies, or any other lawful combination of natural persons permitted by law.

"Notice" means notice given in writing by either regular mail or hand delivery, with the sender retaining sufficient proof of having given such notice in the form of a certificate of service confirming such mailing prepared by the sender and otherwise in accordance with § 55-225.20.

"Organization" means a corporation, government, governmental subdivision or agency, business trust, estate, trust, partnership, or association; two or more persons having a joint or common interest; any combination thereof; and any other legal or commercial entity.

"Owner" means one or more persons or entities, jointly or severally, including a mortgagee in possession, in whom is vested:

1. All or part of the legal title to the property; or
2. All or part of the beneficial ownership and a right to present use and enjoyment of the premises.

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

"Premises" means a dwelling unit and the structure of which it is a part, facilities and appurtenances contained therein, and grounds, areas, and facilities held out for the use of tenants generally or whose use is promised to the tenant.

"Processing fee for payment of rent with bad check" means the processing fee specified in the rental agreement, not to exceed \$50, assessed by a landlord against a tenant for payment of rent with a check drawn by the tenant on which payment has been refused by the payor bank because the drawer had no account or insufficient funds.

"Readily accessible" means areas within the interior of the dwelling unit available for observation at the time of the move-in inspection that do not require removal of materials, personal property, equipment, or similar items.

"Rent" means all money, other than a security deposit, owed or paid to the landlord under the rental agreement, including prepaid rent paid more than one month in advance of the rent due date.

"Rental agreement" or "lease agreement" means all agreements, written or oral, and valid rules and regulations adopted under § 55-225.33 embodying the terms and conditions concerning the use and occupancy of a dwelling unit and premises.

"Rental application" means the written application or similar document used by a landlord to determine if a prospective tenant is qualified to become a tenant of a dwelling unit.

"Residential tenancy" means a tenancy that is based on a rental agreement between a landlord and a tenant for a dwelling unit.

"Roomer" means a person occupying a dwelling unit that lacks a major bathroom or kitchen facility, in a structure where one or more major facilities are used in common by occupants of the dwelling unit and other dwelling units. "Major facility" in the case of a bathroom means a toilet and either a bath or shower and in the case of a kitchen means a refrigerator, stove, or sink.

"Security deposit" means any refundable deposit of money that is furnished by a tenant to a landlord to secure the performance of the terms and conditions of a rental agreement, as a security for damages to the leased premises, or as a pet deposit. However, such money shall be deemed an application deposit until the commencement date of the rental agreement. "Security deposit" does not include a damage insurance policy or renter's insurance policy purchased by a landlord to provide coverage for a tenant.

"Single-family residence" means a structure, other than a multifamily residential structure, maintained and used as a single dwelling unit, condominium unit, or any other dwelling unit that has direct access to a street or thoroughfare and does not share heating facilities, hot water equipment, or any other essential facility or essential service with any other dwelling unit.

"Sublease" means the transfer by any tenant of any but not all interests created by a rental agreement.

"Tenant" means a person entitled only under the terms of a rental agreement to occupy a dwelling unit to the exclusion of others and includes a roomer. "Tenant" does not include (i) an authorized occupant, (ii) a guest or invitee, or (iii) any person who guarantees or cosigns the payment of the financial obligations of a rental agreement but has no right to occupy a dwelling unit.

"Tenant records" means all information, including financial, maintenance, and other records, about a tenant or prospective tenant, whether such information is in written or electronic form or any other medium.

"Utility" means electricity, natural gas, or water and sewer provided by a public service corporation or such other person providing utility services as permitted under § 56-1.2. If the rental agreement so provides, a landlord may use submetering equipment or energy allocation equipment as defined in § 56-245.2 or a ratio utility billing system as defined in § 55-226.2.

"Visible evidence of mold" means the existence of mold in the dwelling unit that is visible to the naked eye by the landlord or tenant in areas within the interior of the dwelling unit readily accessible at the time of the move-in inspection.

"Written notice" means notice given in accordance with § 55-225.20, including any representation of words, letters, symbols, numbers, or figures, whether (i) printed in or inscribed on a tangible medium or (ii) stored in an electronic form or any other medium, retrievable in a perceivable form, and regardless of whether an electronic signature authorized by the Uniform Electronic Transactions Act (§ 59.1-479 et seq.) is affixed.

**§ 55-225.2. Remedies for landlord's unlawful ouster, exclusion or diminution of service.**

If a landlord unlawfully removes or excludes a tenant from residential premises a dwelling unit or willfully diminishes services to a residential tenant by interrupting or causing the interruption of gas, water, or other essential service to the tenant, the tenant may obtain an order from a general district court to recover possession, require the landlord to resume any such interrupted utility service, or terminate the rental agreement and, in any case, recover the actual damages sustained by him and reasonable attorney fees. If the rental agreement is terminated pursuant to this section, the landlord shall return ~~at~~ any security given by such tenant deposit in accordance with § 55-225.19.

**§ 55-225.3. Landlord to maintain dwelling unit.**

A. The landlord shall:

1. Comply with the requirements of applicable building and housing codes materially affecting health and safety;
2. Make all repairs and do whatever is necessary to put and keep the premises in a fit and habitable condition;
3. *Keep all common areas shared by two or more multifamily dwelling units of the premises in a clean and structurally safe condition;*
4. Maintain in good and safe working order and condition all electrical, plumbing, sanitary, heating, ventilating, air-conditioning and other facilities and appliances, including elevators, supplied or required to be supplied by him;
4. ~~Supply running water and reasonable amounts of hot water at all times and reasonable air conditioning if provided and heat in season except where the dwelling unit is so constructed that heat, air conditioning or hot water is generated by an installation within the exclusive control of the tenant or supplied by a direct public utility connection; and~~
5. Maintain the premises in such a condition as to prevent the accumulation of moisture and the growth of mold and to promptly respond to any notices as provided in subdivision A § 9 of § 55-225.4. *Where there is visible evidence of mold, the landlord shall promptly remediate the mold conditions in accordance with the requirements of subsection E of § 8.01-226.12 and reinspect the dwelling unit to confirm that there is no longer visible evidence of mold in the dwelling unit. The landlord shall provide a tenant with a copy of a summary of information related to mold remediation occurring during that tenancy and, upon request of the tenant, make available the full package of such information and reports not protected by attorney-client privilege. Once the mold has been remediated in accordance with professional standards, the landlord shall not be required to make disclosures of a past incidence of mold to subsequent tenants;*

6. *Supply running water and reasonable amounts of hot water at all times and reasonable air conditioning if provided and heat in season except where the dwelling unit is so constructed that heat, air conditioning, or hot water is generated by an installation within the exclusive control of the tenant or supplied by a direct public utility connection; and*

7. *Provide and maintain appropriate receptacles and conveniences for the collection, storage, and removal of ashes, garbage, rubbish, and other waste incidental to the occupancy of one or more dwelling units and arrange for the removal of same.*

B. The landlord shall perform the duties imposed by subsection A in accordance with law; however, the landlord shall be liable only for the tenant's actual damages proximately caused by the landlord's failure to exercise ordinary care.

C. If the duty imposed by subdivision A 1 is greater than any duty imposed by any other subdivision of that subsection, the landlord's duty shall be determined by reference to subdivision A 1.

D. The landlord and tenant may agree in writing that the tenant perform the landlord's duties specified in subdivisions A 2, ~~3,~~ and 4, 6, and 7 and also specified repairs, maintenance tasks, alterations, and remodeling, but only if (i) the transaction is entered into in good faith and not for the purpose of evading the obligations of the landlord and (ii) the agreement does not diminish or affect the obligation of the landlord to other tenants in a multifamily premises.

**§ 55-225.4. Tenant to maintain dwelling unit.**

A. In addition to the provisions of the rental agreement, the tenant shall:

1. Comply with all obligations primarily imposed upon tenants by applicable provisions of building and housing codes materially affecting health and safety;
2. Keep that part of the premises that he occupies and uses as clean and safe as the condition of the premises permit;
3. *Keep that part of the dwelling unit and the part of the premises that he occupies free from insects and pests, as those terms are defined in § 3.2-3900, and promptly notify the landlord of the existence of any insects or pests;*
4. Remove from his dwelling unit all ashes, garbage, rubbish, and other waste in a clean and safe manner and in the appropriate receptacles provided by the landlord;
4. 5. Keep all plumbing fixtures in the dwelling unit or used by the tenant as clean as their condition permits;
- ~~5.~~ 6. Use in a reasonable manner all electrical, plumbing, sanitary, heating, ventilating, air-conditioning and other facilities and appliances, *including an elevator in a multifamily premises, and keep all utility services paid for by the tenant to the utility service provider or its agent on at all times during the term of the rental agreement;*
- ~~6.~~ 7. Not deliberately or negligently destroy, deface, damage, impair or remove any part of the premises or permit any person to do so whether known by the tenant or not;
- ~~7.~~ 8. Not remove or tamper with a properly functioning smoke detector, including removing any working batteries, so as to render the smoke detector inoperative, and shall maintain such smoke detector in accordance with the uniform set of standards for maintenance of smoke detectors established in the Uniform Statewide Building Code (§ 36-97 et seq.);
- ~~8.~~ 9. Use reasonable efforts to maintain the dwelling unit and any other part of the premises that he occupies in such a condition as to prevent accumulation of moisture and the growth of mold and to promptly notify the landlord of any moisture accumulation that occurs or of any visible evidence of mold discovered by the tenant;

~~9-~~ 10. Not paint or disturb painted surfaces, or make alterations in the dwelling unit, without the prior written approval of the landlord, provided *that* (i) the dwelling unit was constructed prior to 1978 and therefore requires the landlord to provide the tenant with lead-based paint disclosures and (ii) the landlord has provided the tenant with such disclosures and the rental agreement provides that the tenant is required to obtain the landlord's prior written approval before painting, disturbing painted surfaces, or making alterations in the dwelling unit;

~~10-~~ 11. Be responsible for his conduct and the conduct of other persons on the premises with his consent whether known by the tenant or not, to ensure that his neighbors' peaceful enjoyment of the premises will not be disturbed; and

~~11-~~ 12. Abide by all reasonable rules and regulations imposed by the landlord.

B. If the duty imposed by subdivision A 1 is greater than any duty imposed by any other subdivision of that subsection, the tenant's duty shall be determined by reference to subdivision A 1.

**§ 55-225.6. Inspection of dwelling unit.**

The landlord ~~may~~ shall, unless the rental agreement provides otherwise, within five days after occupancy of a dwelling unit, submit a written report to the tenant, for his safekeeping, itemizing damages to the dwelling unit existing at the time of occupancy, which record shall be deemed correct unless the tenant objects thereto in writing within five days after receipt thereof. The landlord may adopt a written policy allowing the tenant to prepare the written report of the move-in inspection, in which case the tenant shall submit a copy to the landlord, which record shall be deemed correct unless the landlord objects thereto in writing within five days after receipt thereof. Such written policy adopted by the landlord may also provide for the landlord and the tenant to prepare the written report of the move-in inspection jointly, in which case both the landlord and the tenant shall sign the written report and receive a copy thereof, at which time the inspection record shall be deemed correct.

**§ 55-225.7. Disclosure of mold in dwelling units.**

As part of ~~the~~ any written report of the move-in inspection pursuant to § 55-225.6, the landlord may disclose whether there is any visible evidence of mold in areas readily accessible within the interior of the dwelling unit. If the landlord's written disclosure states that there is no visible evidence of mold in the dwelling unit, this written statement shall be deemed correct unless the tenant objects thereto in writing within five days after receiving the report. If the landlord's written disclosure states that there is visible evidence of mold in the dwelling unit, the tenant shall have the option to terminate the tenancy and not take possession or remain in possession of the dwelling unit. If the tenant requests to take possession, or remain in possession of the dwelling unit, notwithstanding the presence of visible evidence of mold, the landlord shall promptly remediate the mold condition but in no event later than five business days thereafter and ~~re-inspect~~ reinspect the dwelling unit to confirm there is no visible evidence of mold in the dwelling unit and reflect on a new report that there is no visible evidence of mold in the dwelling unit upon ~~re-inspection~~ reinspection.

**§ 55-225.9. Relocation of tenant where mold remediation needs to be performed in the dwelling unit.**

Where a mold condition in a dwelling unit materially affects the health or safety of any tenant or authorized occupant, the landlord may require the tenant to temporarily vacate the dwelling unit in order for the landlord to perform mold remediation in accordance with professional standards as defined in ~~§ 55-225.8~~ 55-225.02 for a period not to exceed 30 days. The landlord shall provide the tenant with either (i) a comparable dwelling unit, as selected by the landlord, at no expense or cost to the tenant, or (ii) a hotel room, as selected by the landlord, at no expense or cost to the tenant. *The landlord shall not be required to pay for any other expenses of the tenant that arise after the temporary relocation period.* The tenant shall continue to be responsible for payment of rent under the rental agreement during the period of any temporary relocation and for the remainder of the term of the rental agreement following the remediation. Nothing in this section shall be construed as entitling the tenant to a termination of a tenancy where or when the landlord has remediated a mold condition in accordance with professional standards as defined in ~~§ 55-225.8~~ 55-225.02. The landlord shall pay all costs of the relocation and the mold remediation, unless the tenant is at fault for the mold condition.

**§ 55-225.11. Required disclosures for properties with defective drywall; remedy for nondisclosure.**

A. If the landlord of a residential dwelling unit has actual knowledge of the existence of defective drywall in such dwelling unit that has not been remediated, the landlord shall provide to a prospective tenant a written disclosure that the property has defective drywall. Such disclosure shall be provided prior to the execution by the tenant of a written lease agreement or, in the case of an oral lease agreement, prior to occupancy by the tenant. For purposes of this section, "defective drywall" means all defective drywall as defined in § 36-156.1.

B. Any tenant who is not provided the disclosure required by subsection A may terminate the lease agreement at any time within 60 days of *notice of* discovery of the existence of defective drywall by providing written notice to the landlord in accordance with the lease or as required by law. Such termination shall be effective as of (i) 15 days after the date of the mailing of the notice or (ii) the date through which rent has been paid, whichever is later. In no event, however, shall the effective date of the termination exceed one month from the date of mailing. Termination of the lease agreement shall be the exclusive remedy for the failure to comply with the disclosure provisions of this section, and shall not affect any rights or duties of the landlord or tenant arising under this chapter, other applicable law, or the rental agreement.

**§ 55-225.11:1. Required disclosures for properties located adjacent to a military air installation; remedy for nondisclosure.**

A. *The landlord of property in any locality in which a military air installation is located, or any person authorized to enter into a rental agreement on his behalf, shall provide to a prospective tenant a written disclosure that the property is located in a noise zone or accident potential zone, or both, as designated by the locality on its official zoning map. Such*

*disclosure shall be provided prior to the execution by the tenant of a written lease agreement or, in the case of an oral lease agreement, prior to occupancy by the tenant. The disclosure shall specify the noise zone or accident potential zone in which the property is located according to the official zoning map of the locality. A disclosure made pursuant to this section containing inaccurate information regarding the location of the noise zone or accident potential zone shall be deemed as nondisclosure unless the inaccurate information is provided by an officer or employee of the locality in which the property is located.*

*B. Any tenant who is not provided the disclosure required by subsection A may terminate the lease agreement at any time during the first 30 days of the lease period by sending to the landlord by certified or registered mail, return receipt requested, a written notice of termination. Such termination shall be effective as of (i) 15 days after the date of the mailing of the notice or (ii) the date through which rent has been paid, whichever is later. In no event, however, shall the effective date of the termination exceed one month from the date of mailing. Termination of the lease agreement shall be the exclusive remedy for the failure to comply with the disclosure provisions of this section, and shall not affect any rights or duties of the landlord or tenant arising under this chapter, other applicable law, or the rental agreement.*

**§ 55-225.12. Tenant's assertion; rent escrow; dwelling units.**

A. The tenant may assert that there exists upon the dwelling unit, a condition or conditions which constitute a material noncompliance by the landlord with the rental agreement or with provisions of law, or which if not promptly corrected, will constitute a fire hazard or serious threat to the life, health or safety of occupants thereof, including but not limited to, a lack of heat or hot or cold running water, except if the tenant is responsible for payment of the utility charge and where the lack of such heat or hot or cold running water is the direct result of the tenant's failure to pay the utility charge; or a lack of light, electricity or adequate sewage disposal facilities; or an infestation of rodents; or the existence of paint containing lead pigment on surfaces within the dwelling, provided that the landlord has notice of such paint. The tenant may file such an assertion in a general district court wherein the dwelling unit is located by a declaration setting forth such assertion and asking for one or more forms of relief as provided for in subsection D.

B. Prior to the granting of any relief, the tenant shall show to the satisfaction of the court that:

1. Prior to the commencement of the action the landlord was served a written notice by the tenant of the conditions described in subsection A, or was notified of such conditions by a violation or condemnation notice from an appropriate state or municipal agency, and that the landlord has refused, or having a reasonable opportunity to do so, has failed to remedy the same. For the purposes of this subsection, what period of time shall be deemed to be unreasonable delay is left to the discretion of the court except that there shall be a rebuttable presumption that a period in excess of 30 days from receipt of the notification by the landlord is unreasonable; and

2. The tenant has paid into court the amount of rent called for under the rental agreement, within five days of the date due thereunder, unless or until such amount is modified by subsequent order of the court under this chapter.

C. It shall be sufficient answer or rejoinder to a declaration pursuant to subsection A if the landlord establishes to the satisfaction of the court that the conditions alleged by the tenant do not in fact exist, or such conditions have been removed or remedied, or such conditions have been caused by the tenant or members of his family or his or their invitees or licensees, or the tenant has unreasonably refused entry to the landlord to the dwelling unit for the purpose of correcting such conditions.

D. Any court shall make findings of fact on the issues before it and shall issue any order that may be required. Such an order may include, but is not limited to, any one or more of the following:

1. Terminating the rental agreement upon the request of the tenant or ordering the dwelling unit surrendered to the landlord if the landlord prevails on a request for possession pursuant to an unlawful detainer properly filed with the court;

2. Ordering all moneys already accumulated in escrow disbursed to the landlord or to the tenant in accordance with this chapter;

3. Ordering that the escrow be continued until the conditions causing the complaint are remedied;

4. Ordering that the amount of rent, whether paid into the escrow account or paid to the landlord, be abated as determined by the court in such an amount as may be equitable to represent the existence of the condition or conditions found by the court to exist. In all cases where the court deems that the tenant is entitled to relief under this chapter, the burden shall be upon the landlord to show cause why there should not be an abatement of rent;

5. Ordering any amount of moneys accumulated in escrow disbursed to the tenant where the landlord refuses to make repairs after a reasonable time or to the landlord or to a contractor chosen by the landlord in order to make repairs or to otherwise remedy the condition. In either case, the court shall in its order insure that moneys thus disbursed will be in fact used for the purpose of making repairs or effecting a remedy;

6. Referring any matter before the court to the proper state or municipal agency for investigation and report and granting a continuance of the action or complaint pending receipt of such investigation and report. When such a continuance is granted, the tenant shall deposit with the court rent payments within five days of the date due under the rental agreement, subject to any abatement under this section, which become due during the period of the continuance, to be held by the court pending its further order;

7. In the court's discretion, ordering escrow funds disbursed to pay a mortgage on the property upon which the dwelling unit is located in order to stay a foreclosure; or

8. In the court's discretion, ordering escrow funds disbursed to pay a creditor to prevent or satisfy a bill to enforce a mechanic's or materialman's lien.

Notwithstanding any provision of this subsection, where an escrow account is established by the court and the condition or conditions are not fully remedied within six months of the establishment of such account, and the landlord has not made reasonable attempts to remedy the condition, the court shall award all moneys accumulated in escrow to the tenant. In such event, the escrow shall not be terminated, but shall begin upon a new six-month period with the same result if, at the end thereof, the condition or conditions have not been remedied.

E. The initial hearing on the tenant's assertion filed pursuant to subsection A shall be held within 15 calendar days from the date of service of process on the landlord, except that the court shall order an earlier hearing where emergency conditions are alleged to exist upon the premises, such as failure of heat in winter, lack of adequate sewage facilities or any other condition which constitutes an immediate threat to the health or safety of the inhabitants of the dwelling unit. The court, on motion of either party or on its own motion, may hold hearings subsequent to the initial proceeding in order to further determine the rights and obligations of the parties. Distribution of escrow moneys may only occur by order of the court after a hearing of which both parties are given notice as required by law or upon motion of both the landlord and tenant or upon certification by the appropriate inspector that the work required by the court to be done has been satisfactorily completed. *If the tenant proceeds under this subsection, he may not proceed under any other section of this chapter as to that breach.*

**§ 55-225.13. Noncompliance by landlord in the rental of a dwelling unit.**

Except as provided in this chapter, for the rental of a dwelling unit, if there is a material noncompliance by the landlord with the rental agreement or a noncompliance with any provision of this chapter affecting dwelling units, materially affecting health and safety, the tenant may serve a written notice on the landlord specifying the acts and omissions constituting the breach and stating that the rental agreement will terminate upon a date not less than 30 days after receipt of the notice if such breach is not remedied in 21 days.

If the landlord commits a breach which is not remediable, the tenant may serve a written notice on the landlord specifying the acts and omissions constituting the breach and stating that the rental agreement will terminate upon a date not less than 30 days after receipt of the notice.

If the landlord has been served with a prior written notice which required the landlord to remedy a breach, and the landlord remedied such breach, where the landlord intentionally commits a subsequent breach of a like nature as the prior breach, the tenant may serve a written notice on the landlord specifying the acts and omissions constituting the subsequent breach, make reference to the prior breach of a like nature, and state that the rental agreement will terminate upon a date not less than 30 days after receipt of the notice.

If the breach is remediable by repairs and the landlord adequately remedies the breach prior to the date specified in the notice, the rental agreement will not terminate. The tenant may not terminate for a condition caused by the deliberate or negligent act or omission of the tenant, a member of his family or other person on the premises with his consent whether known by the tenant or not. In addition, the tenant may recover damages and obtain injunctive relief for noncompliance by the landlord with the provisions of the rental agreement or of this chapter. The tenant shall be entitled to recover reasonable attorney fees unless the landlord proves by a preponderance of the evidence that the landlord's actions were reasonable under the circumstances. *If the rental agreement is terminated due to the landlord's noncompliance, the landlord shall return the security deposit in accordance with § 55-225.19.*

**§ 55-225.19. Security deposits.**

A. *Unless the rental agreement provides otherwise, a landlord may not demand or receive a security deposit, however denominated, in an amount or value in excess of two months' periodic rent. Upon termination of the tenancy, such security deposit, whether it is property or money held by the landlord as security as hereinafter provided, may be applied solely by the landlord (i) to the payment of accrued rent and including the reasonable charges for late payment of rent specified in the rental agreement; (ii) to the payment of the amount of damages which the landlord has suffered by reason of the tenant's noncompliance with § 55-225.4, less reasonable wear and tear; or (iii) to other damages or charges as provided in the rental agreement. The security deposit and any deductions, damages, and charges shall be itemized by the landlord in a written notice given to the tenant, together with any amount due the tenant, within 45 days after termination of the tenancy and delivery of possession.*

*Where there is more than one tenant subject to a rental agreement, unless otherwise agreed to in writing by each of the tenants, disposition of the security deposit shall be made with one check being payable to all such tenants and sent to a forwarding address provided by one of the tenants. The landlord shall make the security deposit disposition within the 45-day time period, but if no forwarding address is provided to the landlord, the landlord may continue to hold such security deposit in escrow. If a tenant fails to provide a forwarding address to the landlord to enable the landlord to make a refund of the security deposit, upon the expiration of one year from the date of the end of the 45-day time period, the landlord may remit such sum to the State Treasurer as unclaimed property on a form prescribed by the administrator that includes the name, social security number, if known, and the last known address of each tenant on the rental agreement. If the landlord or managing agent is a real estate licensee, compliance with this paragraph shall be deemed compliance with § 54.1-2108 and corresponding regulations of the Real Estate Board.*

*Nothing in this section shall be construed by a court of law or otherwise as entitling the tenant, upon the termination of the tenancy, to an immediate credit against the tenant's delinquent rent account in the amount of the security deposit. The landlord shall apply the security deposit in accordance with this section within the 45-day time period. However, provided the landlord has given prior written notice in accordance with this section, the landlord may withhold a reasonable portion*

of the security deposit to cover an amount of the balance due on the water, sewer, or other utility account that is an obligation of the tenant to a third-party provider under the rental agreement for the dwelling unit, and upon payment of such obligations the landlord shall provide written confirmation to the tenant within 10 days thereafter, along with payment to the tenant of any balance otherwise due to the tenant. In order to withhold such funds as part of the disposition of the security deposit, the landlord shall have so advised the tenant of his rights and obligations under this section in (a) a termination notice to the tenant in accordance with this chapter; (b) a vacating notice to the tenant in accordance with this section, or (c) a separate written notice to the tenant at least 15 days prior to the disposition of the security deposit. Any written notice to the tenant shall be given in accordance with the rental agreement or § 55-225.20.

The tenant may provide the landlord with written confirmation of the payment of the final water, sewer, or other utility bill for the dwelling unit, in which case the landlord shall refund the security deposit, unless there are other authorized deductions, within the 45-day period, or if the tenant provides such written confirmation after the expiration of the 45-day period, the landlord shall refund any remaining balance of the security deposit held to the tenant within 10 days following the receipt of such written confirmation provided by the tenant. If the landlord otherwise receives confirmation of payment of the final water, sewer, or other utility bill for the dwelling unit, the landlord shall refund the security deposit, unless there are other authorized deductions, within the 45-day period.

Nothing in this section shall be construed to prohibit the landlord from making the disposition of the security deposit prior to the 45-day period and charging an administrative fee to the tenant for such expedited processing, if the rental agreement so provides and the tenant requests expedited processing in a separate written document.

The landlord shall notify the tenant in writing of any deductions provided by this subsection to be made from the tenant's security deposit during the course of the tenancy. Such notification shall be made within 30 days of the date of the determination of the deduction and shall itemize the reasons in the same manner as provided in subsection B. Such notification shall not be required for deductions made less than 30 days prior to the termination of the rental agreement. If the landlord willfully fails to comply with this section, the court shall order the return of the security deposit to the tenant, together with actual damages and reasonable attorney fees, unless the tenant owes rent to the landlord, in which case, the court shall order an amount equal to the security deposit credited against the rent due to the landlord. In the event that damages to the premises exceed the amount of the security deposit and require the services of a third-party contractor, the landlord shall give written notice to the tenant advising him of that fact within the 45-day period. If notice is given as prescribed in this paragraph, the landlord shall have an additional 15-day period to provide an itemization of the damages and the cost of repair. This section shall not preclude the landlord or tenant from recovering other damages to which he may be entitled under this chapter. The holder of the landlord's interest in the premises at the time of the termination of the tenancy, regardless of how the interest is acquired or transferred, is bound by this section and shall be required to return any security deposit received by the original landlord that is duly owed to the tenant, whether or not such security deposit is transferred with the landlord's interest by law or equity, regardless of any contractual agreements between the original landlord and his successors in interest.

**B. The landlord shall:**

1. Maintain and itemize records for each tenant of all deductions from security deposits provided for under this section which the landlord has made by reason of a tenant's noncompliance with § 55-225.4 during the preceding two years; and
2. Permit a tenant or his authorized agent or attorney to inspect such tenant's records of deductions at any time during normal business hours.

C. Upon request by the landlord to a tenant to vacate, or within five days after receipt of notice by the landlord of the tenant's intent to vacate, the landlord shall provide written notice to the tenant of the tenant's right to be present at the landlord's inspection of the dwelling unit for the purpose of determining the amount of security deposit to be returned. If the tenant desires to be present when the landlord makes the inspection, he shall so advise the landlord in writing who, in turn, shall notify the tenant of the time and date of the inspection, which must be made within 72 hours of delivery of possession. Following the move-out inspection, the landlord shall provide the tenant with a written security deposit disposition statement including an itemized list of damages. If additional damages are discovered by the landlord after the security deposit disposition has been made, nothing herein shall be construed to preclude the landlord from recovery of such damages against the tenant, provided, however, that the tenant may present into evidence a copy of the move-out report to support the tenant's position that such additional damages did not exist at the time of the move-out inspection.

D. If the tenant has any assignee or sublessee, the landlord shall be entitled to hold a security deposit from only one party in compliance with the provisions of this section.

**§ 55-225.20. Notice.**

A. As used in this chapter, "notice" means notice given in writing by either regular mail or hand delivery, with the sender retaining sufficient proof of having given such notice, which may be either a United States postal certificate of mailing or a certificate of service confirming such mailing prepared by the sender. However, a person shall be deemed to have notice of a fact if he has actual knowledge of it, he has received a verbal notice of it, or from all the facts and circumstances known to him at the time in question, he has reason to know it exists. A person "notifies" or "gives" a notice or notification to another by taking steps reasonably calculated to inform another person whether or not the other person actually comes to know of it. If notice is given that is not in writing, the person giving the notice has the burden of proof to show that the notice was given to the recipient of the notice.

*B. If the rental agreement so provides, the landlord and tenant may send notices in electronic form, however any tenant who so requests may elect to send and receive notices in paper form. If electronic delivery is used, the sender shall retain sufficient proof of the electronic delivery, which may be an electronic receipt of delivery, a confirmation that the notice was sent by facsimile, or a certificate of service prepared by the sender confirming the electronic delivery.*

*In the case of the landlord, notice is served on the landlord at his place of business where the rental agreement was made, or at any place held out by the landlord as the place for receipt of the communication.*

*C. In the case of the tenant, notice is served at the tenant's last known place of residence, which may be the dwelling unit.*

*D. Notice, knowledge of a notice, or notification received by an organization is effective for a particular transaction from the time it is brought to the attention of the person conducting that transaction, or from the time it would have been brought to his attention if the organization had exercised reasonable diligence.*

*E. No notice of termination of tenancy served upon a tenant by a public housing authority organized under the Housing Authorities Law (§ 36-1 et seq.) of Title 36 shall be effective unless it contains on its first page, in type no smaller or less legible than that otherwise used in the body of the notice, the name, address, and telephone number of the legal services program, if any, serving the jurisdiction wherein the premises are located.*

*F. The landlord may, in accordance with a written agreement, delegate to a managing agent or other third party the responsibility of providing any written notice under this chapter. The landlord may also engage an attorney at law to prepare or provide any written notice under this chapter or legal process under Title 8.01. Nothing herein shall be construed to preclude the use of an electronic signature as defined in § 59.1-480, or an electronic notarization as defined in § 47.1-2, in any written notice under this chapter or legal process under Title 8.01.*

**§ 55-225.21. Application deposit and application fee.**

*A. Any landlord may require a refundable application deposit in addition to a nonrefundable application fee. If the applicant fails to rent the unit for which application was made, from the application deposit the landlord shall refund to the applicant within 20 days after the applicant's failure to rent the unit or the landlord's rejection of the application all sums in excess of the landlord's actual expenses and damages together with an itemized list of such expenses and damages. If, however, the application deposit was made by cash, certified check, cashier's check, or postal money order, such refund shall be made within 10 days of the applicant's failure to rent the unit if the failure to rent is due to the landlord's rejection of the application. If the landlord fails to comply with this section, the applicant may recover as damages suffered by him that portion of the application deposit wrongfully withheld and reasonable attorney fees.*

*B. A landlord may charge an application fee as provided in this section and may request a prospective tenant to provide information that will enable the landlord to make such determination. The landlord may photocopy each applicant's driver's license or other similar photo identification, containing either the applicant's social security number or control number issued by the Department of Motor Vehicles pursuant to § 46.2-342. However, a landlord shall not photocopy a U.S. government-issued identification so long as to do so is a violation of 18 U.S.C. Part I, Chapter 33, § 701. The landlord may require, for the purpose of determining whether each applicant is eligible to become a tenant in the landlord's dwelling unit, that each applicant provide a social security number issued by the U.S. Social Security Administration or an individual taxpayer identification number issued by the U.S. Internal Revenue Service.*

*C. An application fee shall not exceed \$50, exclusive of any actual out-of-pocket expenses paid by the landlord to a third party performing background, credit, or other pre-occupancy checks on the applicant. However, where an application is being made for a dwelling unit which is a public housing unit or other housing unit subject to regulation by the Department of Housing and Urban Development, an application fee shall not exceed \$32, exclusive of any actual out-of-pocket expenses paid to a third party by the landlord performing background, credit, or other pre-occupancy checks on the applicant.*

**§ 55-225.22. Terms and conditions of rental agreement; copy for tenant; rental payments.**

*A. A landlord and tenant may include in a rental agreement terms and conditions not prohibited by this chapter or other rule of law, including rent, charges for late payment of rent, term of the agreement, automatic renewal of the rental agreement, requirements for notice of intent to vacate or terminate the rental agreement, and other provisions governing the rights and obligations of the parties.*

*B. In the absence of a rental agreement, the tenant shall pay as rent the fair rental value for the use and occupancy of the dwelling unit.*

*C. Rent shall be payable without demand or notice at the time and place agreed upon by the parties. Unless otherwise agreed, rent is payable at the place designated by the landlord, and periodic rent is payable at the beginning of any term of one month or less and otherwise in equal installments at the beginning of each month. If the landlord receives from a tenant a written request for a written statement of charges and payments, he shall provide the tenant with a written statement showing all debits and credits over the tenancy or the past 12 months, whichever is shorter. The landlord shall provide such written statement within 10 business days of receiving the request.*

*D. Unless the rental agreement fixes a definite term, the tenancy shall be week to week in case of a roomer who pays weekly rent, and in all other cases month to month. Terminations of tenancies shall be governed by § 55-225.38 unless the rental agreement provides for a different notice period.*

*E. If the rental agreement contains any provision whereby the landlord may approve or disapprove a sublessee or assignee of the tenant, the landlord shall within 10 business days of receipt by him of the written application of the*

prospective sublessee or assignee, on a form to be provided by the landlord, approve or disapprove the sublessee or assignee. Failure of the landlord to act within 10 business days shall be deemed evidence of his approval.

F. A copy of any written rental agreement signed by both the tenant and the landlord shall be provided to the tenant within one month of the effective date of the written rental agreement. The failure of the landlord to deliver such a rental agreement shall not affect the validity of the agreement.

G. No unilateral change in the terms of a rental agreement by a landlord or tenant shall be valid unless (i) notice of the change is given in accordance with the terms of the rental agreement or as otherwise required by law and (ii) both parties consent in writing to the change.

**§ 55-225.23. Prepaid rent; maintenance of escrow account.**

A landlord and a tenant may agree in a rental agreement that the tenant pay prepaid rent. If a landlord receives prepaid rent, it shall be placed in an escrow account in a federally insured depository by the end of the fifth business day following receipt and shall remain in the account until such time as the prepaid rent becomes due. Unless the landlord has otherwise become entitled to receive any portion of the prepaid rent, it shall not be removed from the escrow account required by this section without the written consent of the tenant.

**§ 55-225.24. Landlord may obtain certain insurance for tenant.**

A. *Damage Insurance.* A landlord may require as a condition of tenancy that a tenant have commercial insurance coverage as specified in the rental agreement to secure the performance by the tenant of the terms and conditions of the rental agreement and pay for the cost of premiums for such insurance coverage obtained by the landlord, generally known as "damage insurance." As provided in § 55-225.02, such payments shall not be deemed a security deposit, but shall be rent. However, the landlord shall not require a tenant to pay both security deposits and the cost of damage insurance premiums, if the total amount of any security deposits and damage insurance premiums exceeds the amount of two months' periodic rent. The landlord shall notify a tenant in writing that the tenant has the right to obtain a separate policy from the landlord's policy for damage insurance. If a tenant elects to obtain a separate policy, the tenant shall submit to the landlord written proof of such coverage and shall maintain such coverage at all times during the term of the rental agreement. Where a landlord obtains damage insurance coverage on behalf of a tenant, the insurance policy shall provide coverage for the tenant as an insured. The landlord shall recover from the tenant the actual costs of such insurance coverage and may recover administrative or other fees associated with administration of a damage insurance policy, including a tenant opting out of the insurance coverage provided by the landlord pursuant to this subsection. If a landlord obtains damage insurance for his tenants, the landlord shall provide to each tenant, prior to execution of the rental agreement, a summary of the insurance policy or certificate evidencing the coverage being provided and upon request of the tenant make available a copy of the insurance policy.

B. *Renter's Insurance.* A landlord may require as a condition of tenancy that a tenant have renter's insurance as specified in the rental agreement that is a combination multi-peril policy containing fire, miscellaneous property, and personal liability coverage insuring personal property located in residential units not occupied by the owner. A landlord may require a tenant to pay for the cost of premiums for such insurance obtained by the landlord, to provide such coverage for the tenant as part of rent or as otherwise provided herein. As provided in § 55-225.02, such payments shall not be deemed a security deposit, but shall be rent. If the landlord requires that such premiums be paid prior to the commencement of the tenancy, the total amount of all security deposits and insurance premiums for damage insurance and renter's insurance shall not exceed the amount of two months' periodic rent. Otherwise, the landlord may add a monthly amount as additional rent to recover the costs of such insurance coverage. The landlord shall notify a tenant in writing that the tenant has the right to obtain a separate policy from the landlord's policy for renter's insurance. If a tenant elects to obtain a separate policy, the tenant shall submit to the landlord written proof of such coverage and shall maintain such coverage at all times during the term of the rental agreement.

C. Where a landlord obtains renter's insurance coverage on behalf of a tenant, the insurance policy shall provide coverage for the tenant as an insured. The landlord shall recover from the tenant the actual costs of such insurance coverage and may recover administrative or other fees associated with the administration of a renter's insurance program, including a tenant opting out of the insurance coverage provided to the tenant pursuant to this subsection. If a landlord obtains renter's insurance for his tenants, the landlord shall provide to each tenant, prior to execution of the rental agreement, a summary of the insurance policy prepared by the insurer or certificate evidencing the coverage being provided and upon request of the tenant make available a copy of the insurance policy.

D. Nothing in this section shall be construed to prohibit the landlord from recovering from the tenant as part of the rent, the tenant's prorated share of the actual costs of other insurance coverages provided by the landlord relative to the premises, or the tenant's prorated share of a self-insurance program held in an escrow account by the landlord, including the landlord's administrative or other fees associated with the administration of such coverages. The landlord may apply such funds held in escrow to pay claims pursuant to the landlord's self-insurance plan.

**§ 55-225.25. Effect of unsigned or undelivered rental agreement.**

If the landlord does not sign and deliver a written rental agreement signed and delivered to him by the tenant, acceptance of rent without reservation by the landlord gives the rental agreement the same effect as if it had been signed and delivered by the landlord. If the tenant does not sign and deliver a written rental agreement signed and delivered to him by the landlord, acceptance of possession or payment of rent without reservation gives the rental agreement the same effect

as if it had been signed and delivered by the tenant. If a rental agreement, given effect by the operation of this section, provides for a term longer than one year, it is effective for only one year.

**§ 55-225.26. Confidentiality of tenant records.**

A. No landlord or managing agent shall release information about a tenant or prospective tenant in the possession of the landlord to a third party unless:

1. The tenant or prospective tenant has given prior written consent;
2. The information is a matter of public record as defined in § 2.2-3701;
3. The information is a summary of the tenant's rent payment record, including the amount of the tenant's periodic rent payment;
4. The information is a copy of a material noncompliance notice that has not been remedied or termination notice given to the tenant under § 55-225.20 and the tenant did not remain in the premises thereafter;
5. The information is requested by a local, state, or federal law-enforcement or public safety official in the performance of his duties;
6. The information is requested pursuant to a subpoena in a civil case;
7. The information is requested by a local commissioner of the revenue in accordance with § 58.1-3901;
8. The information is requested by a contract purchaser of the landlord's property, provided that the contract purchaser agrees in writing to maintain the confidentiality of such information;
9. The information is requested by a lender of the landlord for financing or refinancing of the property;
10. The information is requested by the commanding officer, military housing officer, or military attorney of the tenant;
11. The third party is the landlord's attorney or the landlord's collection agency;
12. The information is otherwise provided in the case of an emergency; or
13. The information is requested by the landlord to be provided to the managing agent, or a successor to the managing agent.

B. A tenant may designate a third party to receive duplicate copies of a summons that has been issued pursuant to § 8.01-126 and of written notices from the landlord relating to the tenancy. Where such a third party has been designated by the tenant, the landlord shall mail the duplicate copy of any summons issued pursuant to § 8.01-126 or notice to the designated third party at the same time the summons or notice is mailed to or served upon the tenant. Nothing in this subsection shall be construed to grant standing to any third party designated by the tenant to challenge actions of the landlord in which notice was mailed pursuant to this subsection. The failure of the landlord to give notice to a third party designated by the tenant shall not affect the validity of any judgment entered against the tenant.

C. A landlord or managing agent may enter into an agreement with a third-party service provider to maintain tenant records in electronic form or other medium. In such case, the landlord and managing agent shall not be liable under this section in the event of a breach of the electronic data of such third-party service provider, except in the case of gross negligence or intentional act. Nothing herein shall be construed to require a landlord or managing agent to indemnify such third-party service provider.

D. A tenant may request a copy of his tenant records in paper or electronic form. If the rental agreement so provides, a landlord may charge a tenant requesting more than one copy of his records the actual costs of preparing copies of such records. However, if the landlord makes available tenant records to each tenant by electronic portal, the tenant shall not be required to pay for access to such portal.

**§ 55-225.27. Landlord and tenant remedies for abuse of access.**

If the tenant refuses to allow lawful access, the landlord may obtain injunctive relief to compel access or terminate the rental agreement. In either case, the landlord may recover actual damages and reasonable attorney fees. If the landlord makes an unlawful entry or a lawful entry in an unreasonable manner or makes repeated demands for entry that is otherwise lawful but that have the effect of unreasonably harassing the tenant, the tenant may obtain injunctive relief to prevent the recurrence of the conduct or terminate the rental agreement. In either case, the tenant may recover actual damages and reasonable attorney fees.

**§ 55-225.28. Actions to enforce remedies pertaining to residential tenancies.**

In addition to any other remedies in this chapter, any person adversely affected by an act or omission prohibited under this chapter may institute an action for injunction and damages against the person responsible for such act or omission in the circuit court in the county or city in which such act or omission occurred. If the court finds that the defendant was responsible for such act or omission, it shall enjoin the defendant from continuance of such practice, and in its discretion award the plaintiff damages as herein provided.

**§ 55-225.29. Disclosure.**

A. The landlord or any person authorized to enter into a rental agreement on his behalf shall disclose to the tenant in writing at or before the commencement of the tenancy the name and address of:

1. The person or persons authorized to manage the premises; and
2. An owner of the premises or any other person authorized to act for and on behalf of the owner, for the purposes of service of process and receiving and receipting for notices and demands.

B. In the event of the sale of the premises, the landlord shall notify the tenant of such sale and disclose to the tenant the name and address of the purchaser and a telephone number at which such purchaser can be located.

C. With respect to a multifamily dwelling unit, if an application for registration of the rental property as a condominium or cooperative has been filed with the Real Estate Board, or if there is within six months an existing plan for tenant displacement resulting from (i) demolition or substantial rehabilitation of the property or (ii) conversion of the rental property to office, hotel, or motel use or planned unit development, then the landlord or any person authorized to enter into a rental agreement on his behalf shall disclose that information in writing to any prospective tenant.

D. The information required to be furnished by this section shall be kept current, and this section extends to and is enforceable against any successor landlord or owner. A person who fails to comply with this section becomes an agent of each person who is a landlord for the purposes of service of process and receiving and receipting for notices and demands.

**§ 55-225.30. Notice to tenants for insecticide or pesticide use.**

A. The landlord shall give written notice to the tenant no less than 48 hours prior to his application of an insecticide or pesticide in the tenant's dwelling unit unless the tenant agrees to a shorter notification period. If a tenant requests the application of the insecticide or pesticide, the 48-hour notice is not required. Tenants who have concerns about specific insecticides or pesticides shall notify the landlord in writing no less than 24 hours before the scheduled insecticide or pesticide application. The tenant shall prepare the dwelling unit for the application of insecticides or pesticides in accordance with any written instructions of the landlord, and if insects or pests are found to be present, follow any written instructions of the landlord to eliminate the insects or pests following the application of insecticides or pesticides.

B. In addition, the landlord shall post notice of all insecticide or pesticide applications in any common areas of the premises other than the dwelling units. Such notice shall consist of conspicuous signs placed in or upon such premises where the insecticide or pesticide will be applied at least 48 hours prior to the application.

**§ 55-225.31. Limitation of liability.**

Unless otherwise agreed, a landlord who conveys premises that include a dwelling unit subject to a rental agreement in a good faith sale to a bona fide purchaser is relieved of liability under the rental agreement and this chapter as to events occurring subsequent to notice to the tenant of the conveyance. Unless otherwise agreed, a managing agent of premises that include a dwelling unit is relieved of liability under the rental agreement and this chapter as to events occurring after written notice to the tenant of the termination of his management.

**§ 55-225.32. Tenancy at will; effect of notice of change of terms or provisions of tenancy.**

A notice of any change by a landlord or tenant in any terms or provisions of a tenancy at will shall constitute a notice to vacate the premises, and such notice of change shall be given in accordance with the terms of the rental agreement, if any, or as otherwise required by law.

**§ 55-225.33. Rules and regulations.**

A. A landlord, from time to time, may adopt rules or regulations, however described, concerning the tenant's use and occupancy of the dwelling unit or premises. Any such rule or regulation is enforceable against the tenant only if:

1. Its purpose is to promote the convenience, safety, or welfare of the tenants in the premises, preserve the landlord's property from abusive use, or make a fair distribution of services and facilities held out for the tenants generally;
2. It is reasonably related to the purpose for which it is adopted;
3. It applies to all tenants in the premises in a fair manner;
4. It is sufficiently explicit in its prohibition, direction, or limitation of the tenant's conduct to fairly inform him of what he must or must not do to comply;
5. It is not for the purpose of evading the obligations of the landlord; and
6. The tenant has been provided with a copy of the rules and regulations or changes thereto at the time he enters into the rental agreement or when they are adopted.

B. A rule or regulation adopted, changed, or provided to the tenant after the tenant enters into the rental agreement shall be enforceable against the tenant if reasonable notice of its adoption or change has been given to the tenant and it does not work a substantial modification of his bargain. If a rule or regulation is adopted or changed after the tenant enters into the rental agreement that does work a substantial modification of his bargain, it shall not be valid unless the tenant consents to it in writing.

C. Any court enforcing this chapter shall consider violations of the reasonable rules and regulations imposed under this section as a breach of the rental agreement and grant the landlord appropriate relief.

**§ 55-225.34. Access; consent; correction of nonemergency conditions; relocation of tenant.**

A. The tenant shall not unreasonably withhold consent to the landlord to enter into the dwelling unit in order to inspect the premises; make necessary or agreed repairs, decorations, alterations, or improvements; supply necessary or agreed-upon services; or exhibit the dwelling unit to prospective or actual purchasers, mortgagees, tenants, workmen, or contractors. If, upon inspection of a dwelling unit during the term of a tenancy, the landlord determines there is a violation by the tenant of § 55-225.4 or the rental agreement materially affecting health and safety that can be remedied by repair, replacement of a damaged item, or cleaning in accordance with § 55-225.46, the landlord may make such repairs and send the tenant an invoice for payment. If, upon inspection of the dwelling unit during the term of a tenancy, the landlord discovers a violation of the rental agreement or other applicable law, the landlord may send a written notice of termination pursuant to § 55-225.43. If the rental agreement so provides and if a tenant without reasonable justification declines to permit the landlord or managing agent to exhibit the dwelling unit for sale or lease, the landlord may recover damages, costs, and reasonable attorney fees against such tenant.

The landlord may enter the dwelling unit without consent of the tenant in case of emergency. The landlord shall not abuse the right of access or use it to harass the tenant. Except in case of emergency or if it is impractical to do so, the landlord shall give the tenant notice of his intent to enter and may enter only at reasonable times. Unless impractical to do so, the landlord shall give the tenant at least 24 hours' notice of routine maintenance to be performed that has not been requested by the tenant. If the tenant makes a request for maintenance, the landlord is not required to provide notice to the tenant. During the pendency of an unlawful detainer filed by the landlord against the tenant, the landlord may request the court to enter an order requiring the tenant to provide the landlord access to such dwelling unit.

B. Upon the sole determination by the landlord of the existence of a nonemergency property condition in the dwelling unit that requires the tenant to temporarily vacate the dwelling unit in order for the landlord to properly remedy such property condition, the landlord may, upon at least 30 days' written notice to the tenant, require the tenant to temporarily vacate the dwelling unit for a period not to exceed 30 days to a comparable dwelling unit, or hotel, as selected by the landlord and at no expense or cost to the tenant. The landlord shall not be required to pay for any other expense of the tenant. The landlord and tenant may agree for the tenant to temporarily vacate the dwelling unit in less than 30 days. For purposes of this subsection, "nonemergency property condition" means (i) a condition in the dwelling unit that, in the determination of the landlord, is necessary for the landlord to remedy in order for the landlord to be in compliance with § 55-225.3; (ii) the condition does not need to be remedied within a 24-hour period, with any condition that needs to be remedied within 24 hours being defined as an "emergency condition"; and (iii) the condition can be effectively remedied only by the temporary relocation of the tenant pursuant to the provisions of this subsection.

The tenant shall continue to be responsible for payment of rent under the rental agreement during the period of any temporary relocation. The landlord shall pay all costs of repairs or remediation required to address the property condition. Refusal of the tenant to cooperate with a temporary relocation pursuant to this subsection shall be deemed a breach of the rental agreement, unless the tenant agrees to vacate the unit and terminate the rental agreement within the 30-day notice period. If the landlord properly remedies the nonemergency property condition within the 30-day period, nothing herein shall be construed to entitle the tenant to terminate the rental agreement. Further, nothing herein shall be construed to limit the landlord from taking legal action against the tenant for any noncompliance that occurs during the period of any temporary relocation pursuant to this section.

C. The landlord has no other right to access except by court order or that permitted by §§ 55-225.39 and 55-225.46 or if the tenant has abandoned or surrendered the premises.

D. The tenant may install, within the dwelling unit, new burglary prevention, including chain latch devices approved by the landlord, and fire detection devices, that the tenant may believe necessary to ensure his safety, provided that:

1. Installation does no permanent damage to any part of the dwelling unit;
2. A duplicate of all keys and instructions for how to operate all devices are given to the landlord; and
3. Upon termination of the tenancy, the tenant shall be responsible for payment to the landlord for reasonable costs incurred for the removal of all such devices and repairs to all damaged areas.

**§ 55-225.35. Fire or casualty damage.**

If the dwelling unit or premises are damaged or destroyed by fire or casualty to an extent that the tenant's enjoyment of the dwelling unit is substantially impaired or required repairs can be accomplished only if the tenant vacates the dwelling unit, either the tenant or the landlord may terminate the rental agreement. The tenant may terminate the rental agreement by vacating the premises and, within 14 days thereafter, serving on the landlord a written notice of his intention to terminate the rental agreement, in which case the rental agreement terminates as of the date of vacating; or if continued occupancy is lawful, § 55-226 shall apply.

The landlord may terminate the rental agreement by giving the tenant 14 days' notice of his intention to terminate the rental agreement based upon the landlord's determination that such damage requires the removal of the tenant and the use of the premises is substantially impaired, in which case the rental agreement terminates as of the expiration of the notice period.

If the rental agreement is terminated, the landlord shall return all security deposits in accordance with § 55-225.19 and prepaid rent, plus accrued interest, recoverable by law unless the landlord reasonably believes that the tenant, tenant's guests, invitees, or authorized occupants were the cause of the damage or casualty, in which case the landlord shall provide a written statement to the tenant for the security and prepaid rent, plus accrued interest based upon the damage or casualty, and may recover actual damages sustained pursuant to § 55-225.48. Proration for rent in the event of termination or apportionment shall be made as of the date of the casualty.

**§ 55-225.36. Use and occupancy by tenant.**

Unless otherwise agreed, the tenant shall occupy his dwelling unit only as a residence.

**§ 55-225.37. Tenant to surrender possession of dwelling unit.**

At the termination of the term of tenancy, whether by expiration of the rental agreement or by reason of default by the tenant, the tenant shall promptly vacate the premises, removing all items of personal property and leaving the premises in good and clean order, reasonable wear and tear excepted. If the tenant fails to vacate, the landlord may bring an action for possession and damages, including reasonable attorney fees.

**§ 55-225.38. Periodic tenancy; holdover remedies.**

A. The landlord or the tenant may terminate a week-to-week tenancy by serving a written notice on the other at least seven days prior to the next rent due date. The landlord or the tenant may terminate a month-to-month tenancy by serving a

written notice on the other at least 30 days prior to the next rent due date, unless the rental agreement provides for a different notice period. The landlord and the tenant may agree in writing to an early termination of a rental agreement. In the event that no such agreement is reached, the provisions of § 55-225.48 shall control.

B. If the tenant remains in possession without the landlord's consent after expiration of the term of the rental agreement or its termination, the landlord may bring an action for possession and may also recover actual damages, reasonable attorney fees, and court costs, unless the tenant proves by a preponderance of the evidence that the failure of the tenant to vacate the dwelling unit as of the termination date was reasonable. The landlord may include in the rental agreement a reasonable liquidated damage penalty, not to exceed an amount equal to 150 percent of the per diem of the monthly rent, for each day the tenant remains in the dwelling unit after the termination date specified in the landlord's notice. However, if the dwelling unit is a public housing unit or other housing unit subject to regulation by the Department of Housing and Urban Development, any liquidated damage penalty shall not exceed an amount equal to the per diem of the monthly rent set out in the lease agreement. If the landlord consents to the tenant's continued occupancy, § 55-225.22 applies.

C. In the event of termination of a rental agreement and the tenant remains in possession with the agreement of the landlord either as a hold-over tenant or a month-to-month tenant and no new rental agreement is entered into, the terms of the terminated agreement shall remain in effect and govern the hold-over or month-to-month tenancy, except that the amount of rent shall be either as provided in the terminated rental agreement or the amount set forth in a written notice to the tenant, provided that such new rent amount shall not take effect until the next rent due date coming 30 days after the notice.

**§ 55-225.39. Remedies for absence, nonuse and abandonment.**

If the rental agreement requires the tenant to give notice to the landlord of an anticipated extended absence in excess of seven days and the tenant fails to do so, the landlord may recover actual damages from the tenant. During any absence of the tenant in excess of seven days, the landlord may enter the dwelling unit at times reasonably necessary to protect his possessions and property. The rental agreement is deemed to be terminated by the landlord as of the date of abandonment by the tenant. If the landlord cannot determine whether the premises have been abandoned by the tenant, the landlord shall serve written notice on the tenant in accordance with § 55-225.20 requiring the tenant to give written notice to the landlord within seven days that the tenant intends to remain in occupancy of the premises. If the tenant gives such written notice to the landlord, or if the landlord otherwise determines that the tenant remains in occupancy of the premises, the landlord shall not treat the premises as having been abandoned. Unless the landlord receives written notice from the tenant or otherwise determines that the tenant remains in occupancy of the premises, upon the expiration of seven days from the date of the landlord's notice to the tenant, there shall be rebuttable presumption that the premises have been abandoned by the tenant and the rental agreement shall be deemed to terminate on that date. The landlord shall mitigate damages in accordance with § 55-225.48.

**§ 55-225.40. Disposal of property abandoned by tenants.**

If any items of personal property are left in the dwelling unit, the premises, or in any storage area provided by the landlord, after the rental agreement has terminated and delivery of possession has occurred, the landlord may consider such property to be abandoned. The landlord may dispose of the property so abandoned as the landlord sees fit or appropriate, provided that he has (i) given a termination notice to the tenant in accordance with this chapter, which includes a statement that any items of personal property left in the dwelling unit or the premises would be disposed of within the 24-hour period after termination, (ii) given written notice to the tenant in accordance with § 55-225.39, which includes a statement that any items of personal property left in the dwelling unit or the premises would be disposed of within the 24-hour period after expiration of the seven-day notice period, or (iii) given a separate written notice to the tenant, which includes a statement that any items of personal property left in the dwelling unit or the premises would be disposed of within 24 hours after expiration of a 10-day period from the date such notice was given to the tenant. Any written notice to the tenant shall be given in accordance with § 55-225.20. The tenant shall have the right to remove his personal property from the dwelling unit or the premises at reasonable times during the 24-hour period after termination or at such other reasonable times until the landlord has disposed of the remaining personal property of the tenant.

During the 24-hour period and until the landlord disposes of the remaining personal property of the tenant, the landlord shall not have any liability for the risk of loss for such personal property. If the landlord fails to allow reasonable access to the tenant to remove his personal property as provided in this section, the tenant shall have a right to injunctive or other relief as provided by law. If the landlord received any funds from any sale of abandoned property as provided in this section, the landlord shall pay such funds to the account of the tenant and apply same to any amounts due the landlord by the tenant, including the reasonable costs incurred by the landlord in selling, storing, or safekeeping such property. If any such funds are remaining after application, the remaining funds shall be treated as a security deposit under the provisions of § 55-225.19. The provisions of this section shall not be applicable if the landlord has been granted a writ of possession for the premises in accordance with Title 8.01 and execution of such writ has been completed pursuant to § 8.01-470.

**§ 55-225.41. Authority of sheriff to store and sell personal property removed from residential premises; recovery of possession by owner; disposition or sale.**

Notwithstanding the provisions of § 8.01-156, when personal property is removed from a dwelling unit, the premises, or from any storage area provided by the landlord pursuant to an action of unlawful detainer or ejectment, or pursuant to any other action in which personal property is removed from the dwelling unit in order to restore the dwelling unit to the person entitled thereto, the sheriff shall oversee the removal of such personal property to be placed into the public way. The tenant shall have the right to remove his personal property from the public way during the 24-hour period after eviction.

*Upon the expiration of the 24-hour period after eviction, the landlord shall remove, or dispose of, any such personal property remaining in the public way.*

*At the landlord's request, any personal property removed pursuant to this section shall be placed into a storage area designated by the landlord, which may be the dwelling unit. The tenant shall have the right to remove his personal property from the landlord's designated storage area at reasonable times during the 24 hours after eviction from the landlord's or at such other reasonable times until the landlord has disposed of the property as provided herein. During that 24-hour period and until the landlord disposes of the remaining personal property of the tenant, the landlord and the sheriff shall not have any liability for the risk of loss for such personal property. If the landlord fails to allow reasonable access to the tenant to remove his personal property as provided herein, the tenant shall have a right to injunctive or other relief as otherwise provided by law.*

*Any property remaining in the landlord's storage area upon the expiration of the 24-hour period after eviction may be disposed of by the landlord as the landlord sees fit or appropriate. If the landlord receives any funds from any sale of such remaining property, the landlord shall pay such funds to the account of the tenant and apply same to any amounts due the landlord by the tenant, including the reasonable costs incurred by the landlord in the eviction process described in this section or the reasonable costs incurred by the landlord in selling or storing such property. If any funds are remaining after application, the remaining funds shall be treated as security deposit under applicable law.*

*The notice posted by the sheriff setting the date and time of the eviction, pursuant to § 8.01-470, shall provide notice to the tenant of the rights afforded to tenants in this section and shall include in the said notice a copy of this statute attached to, or made a part of, this notice.*

*Nothing herein shall affect the right of a landlord to enforce an inchoate or perfected lien of the landlord on the personal property of a tenant: in a dwelling unit or on such premises leased to such tenant; and the right of a landlord to distress, levy, and seize such personal property as otherwise provided by law.*

**§ 55-225.42. Disposal of property of deceased tenants.**

*A. If a tenant who is the sole tenant under a written rental agreement still residing in the dwelling unit dies, and there is no person authorized by order of the circuit court to handle probate matters for the deceased tenant, the landlord may dispose of the personal property left in the dwelling unit or upon the premises. However, the landlord shall give at least 10 days' written notice to (i) the person identified in the rental application, lease agreement, or other landlord document as the authorized person to contact in the event of the death or emergency of the tenant or (ii) the tenant in accordance with § 55-225.20 if no such person is identified in the rental application, lease agreement, or other landlord document as the authorized contact person. The notice given under clause (i) or (ii) shall include a statement that any items of personal property left in the premises would be treated as abandoned property and disposed of in accordance with the provisions of § 55-225.40, if not claimed within 10 days after written notice. Authorized occupants, or guests or invitees, are not allowed to occupy the dwelling unit after the death of the sole remaining tenant and shall vacate the dwelling unit prior to the end of such 10-day period.*

*B. The landlord may request that such authorized contact person provide reasonable proof of identification. Thereafter, the authorized contact person identified in the rental application, lease agreement, or other landlord document may (i) have access to the dwelling unit or the premises and to the tenant records maintained by the landlord and (ii) rightfully claim the personal property of the deceased tenant and otherwise handle the affairs of the deceased tenant with the landlord.*

*C. The rental agreement is deemed to be terminated by the landlord as of the date of death of the tenant who is the sole tenant under a written rental agreement still residing in the dwelling unit, and the landlord shall not be required to seek an order of possession from a court of competent jurisdiction. The estate of the tenant shall remain liable for actual damages under § 55-225.48, and the landlord shall mitigate damages as provided thereunder.*

**§ 55-225.43. Noncompliance with rental agreement; monetary penalty.**

*A. Except as provided in this chapter, if there is a material noncompliance by the tenant with the rental agreement or a violation of § 55-225.4 materially affecting health and safety, the landlord may serve a written notice on the tenant specifying the acts and omissions constituting the breach and stating that the rental agreement will terminate upon a date not less than 30 days after receipt of the notice if the breach is not remedied in 21 days, and that the rental agreement shall terminate as provided in the notice.*

*B. If the breach is remediable by repairs or the payment of damages or otherwise and the tenant adequately remedies the breach prior to the date specified in the notice, the rental agreement shall not terminate.*

*C. If the tenant commits a breach that is not remediable, the landlord may serve a written notice on the tenant specifying the acts and omissions constituting the breach and stating that the rental agreement will terminate upon a date not less than 30 days after receipt of the notice. Notwithstanding anything to the contrary contained elsewhere in this chapter, when a breach of the tenant's obligations under this chapter or the rental agreement involves or constitutes a criminal or a willful act that is not remediable and that poses a threat to health or safety, the landlord may terminate the rental agreement immediately and proceed to obtain possession of the premises. For purposes of this subsection, any illegal drug activity involving a controlled substance, as used or defined by the Drug Control Act (§ 54.1-3400 et seq.), or any activity that involves or constitutes a criminal or willful act that also poses a threat to health or safety, by the tenant, the tenant's authorized occupants, or the tenant's guests or invitees shall constitute an immediate nonremediable violation for which the landlord may proceed to terminate the tenancy without the necessity of waiting for a conviction of any criminal offense that may arise out of the same actions. In order to obtain an order of possession from a court of competent*

jurisdiction terminating the tenancy for illegal drug activity or for any other activity that constitutes a criminal or willful act that also poses a threat to health or safety, the landlord shall prove any such violations by a preponderance of the evidence. However, where the illegal drug activity or any other activity that involves or constitutes a criminal or willful act is engaged in by a tenant's authorized occupants, or guests or invitees, the tenant shall be presumed to have knowledge of such activities unless the presumption is rebutted by a preponderance of the evidence. The initial hearing on the landlord's action for immediate possession of the premises shall be held within 15 calendar days from the date of service on the tenant; however, the court shall order an earlier hearing when emergency conditions are alleged to exist upon the premises which constitute an immediate threat to the health or safety of the other tenants. After the initial hearing, if the matter is scheduled for a subsequent hearing or for a contested trial, the court, to the extent practicable, shall order that the matter be given priority on the court's docket. Such subsequent hearing or contested trial shall be heard no later than 30 calendar days from the date of service on the tenant. During the interim period between the date of the initial hearing and the date of any subsequent hearing or contested trial, the court may afford any further remedy or relief as is necessary to protect the interests of parties to the proceeding or the interests of any other tenant residing on the premises. Failure by the court to hold either of the hearings within the time limits set out herein shall not be a basis for dismissal of the case.

D. If the tenant is a victim of family abuse as defined in § 16.1-228 that occurred in the dwelling unit or on the premises and the perpetrator is barred from the dwelling unit pursuant to § 55-225.44 based upon information provided by the tenant to the landlord, or by a protective order from a court of competent jurisdiction pursuant to § 16.1-253.1, 16.1-279.1, or subsection B of § 20-103, the lease shall not terminate due solely to an act of family abuse against the tenant. However, these provisions shall not be applicable if (i) the tenant fails to provide written documentation corroborating the tenant's status as a victim of family abuse and the exclusion from the dwelling unit of the perpetrator no later than 21 days from the alleged offense or (ii) the perpetrator returns to the dwelling unit or the premises, in violation of a bar notice, and the tenant fails promptly to notify the landlord within 24 hours thereafter that the perpetrator has returned to the dwelling unit or the premises, unless the tenant proves by a preponderance of the evidence that the tenant had no actual knowledge that the perpetrator violated the bar notice, or it was not possible for the tenant to notify the landlord within 24 hours, in which case the tenant shall promptly notify the landlord, but in no event more than seven days thereafter. If the provisions of this subsection are not applicable, the tenant shall remain responsible for the acts of the other co-tenants, authorized occupants, or guests or invitees pursuant to § 55-225.4, and is subject to termination of the tenancy pursuant to the lease and this chapter.

E. If the tenant has been served with a prior written notice that required the tenant to remedy a breach, and the tenant remedied such breach, where the tenant intentionally commits a subsequent breach of a like nature as the prior breach, the landlord may serve a written notice on the tenant specifying the acts and omissions constituting the subsequent breach, make reference to the prior breach of a like nature, and state that the rental agreement will terminate upon a date not less than 30 days after receipt of the notice.

F. If rent is unpaid when due, and the tenant fails to pay rent within five days after written notice is served on him notifying the tenant of his nonpayment, and of the landlord's intention to terminate the rental agreement if the rent is not paid within the five-day period, the landlord may terminate the rental agreement and proceed to obtain possession of the premises as provided in § 55-225.48. If a check for rent is delivered to the landlord drawn on an account with insufficient funds, or if an electronic funds transfer has been rejected because of insufficient funds or a stop-payment order has been placed in bad faith by the authorizing party, and the tenant fails to pay rent within five days after written notice is served on him notifying the tenant of his nonpayment and of the landlord's intention to terminate the rental agreement if the rent is not paid by cash, cashier's check, certified check, or a completed electronic funds transfer within the five-day period, the landlord may terminate the rental agreement and proceed to obtain possession of the premises as provided in § 55-225.48. Nothing shall be construed to prevent a landlord from seeking an award of costs or attorney fees under § 8.01-27.1 or civil recovery under § 8.01-27.2, as a part of other damages requested on the unlawful detainer filed pursuant to § 8.01-126, provided the landlord has given notice in accordance with § 55-225.20, which notice may be included in the five-day termination notice provided in accordance with this section.

G. Except as provided in this chapter, the landlord may recover damages and obtain injunctive relief for any noncompliance by the tenant with the rental agreement or § 55-225.4. In the event of a breach of the rental agreement or noncompliance by the tenant, the landlord shall be entitled to recover from the tenant the following, regardless of whether or not a lawsuit is filed or an order obtained from a court: (i) rent due and owing as contracted for in the rental agreement, (ii) other charges and fees as contracted for in the rental agreement, (iii) late charges contracted for in the rental agreement, (iv) reasonable attorney fees as contracted for in the rental agreement or as provided by law, (v) costs of the proceeding as contracted for in the rental agreement or as provided by law only if court action has been filed, and (vi) damages to the dwelling unit or premises as contracted for in the rental agreement.

H. In a case where a lawsuit is pending before the court upon a breach of the rental agreement or noncompliance by the tenant and the landlord prevails, the court shall award a money judgment to the landlord and against the tenant for the relief requested, which may include the following: (i) rent due and owing as of the court date as contracted for in the rental agreement; (ii) other charges and fees as contracted for in the rental agreement; (iii) late charges contracted for in the rental agreement; (iv) reasonable attorney fees as contracted for in the rental agreement or as provided by law, unless in any such action the tenant proves by a preponderance of the evidence that the tenant's failure to pay rent or vacate was

reasonable; (v) costs of the proceeding as contracted for in the rental agreement or as provided by law; and (vi) damages to the dwelling unit or premises.

**§ 55-225.44. Barring guest or invitee of tenants.**

A. A guest or invitee of a tenant may be barred from the premises by the landlord upon written notice served personally upon the guest or invitee of the tenant for conduct on the landlord's property where the premises are located that violates the terms and conditions of the rental agreement, a local ordinance, or a state or federal law. A copy of the notice must be served upon the tenant in accordance with this chapter. The notice shall describe the conduct of the guest or invitee that is the basis for the landlord's action.

B. In addition to the remedies against the tenant authorized by this chapter, a landlord may apply to the magistrate for a warrant for trespass, provided that the guest or invitee has been served in accordance with subsection A.

C. The tenant may file a tenant's assertion, in accordance with § 55-225.12, requesting that the general district court review the landlord's action to bar the guest or invitee.

**§ 55-225.45. Sheriff authorized to serve certain notices; fees therefor.**

The sheriff of any county or city, upon request, may deliver any notice to a tenant on behalf of a landlord or lessor under the provisions of § 55-225.20. For this service, the sheriff shall be allowed a fee not to exceed \$12.

**§ 55-225.46. Remedy by repair, etc.; emergencies.**

If there is a violation by the tenant of § 55-225.4 or the rental agreement materially affecting health and safety that can be remedied by repair, replacement of a damaged item, or cleaning, the landlord shall send a written notice to the tenant specifying the breach and stating that the landlord will enter the dwelling unit and perform the work in a workmanlike manner, and submit an itemized bill for the actual and reasonable cost therefor to the tenant, which shall be due as rent on the next rent due date, or if the rental agreement has terminated, for immediate payment.

In case of emergency the landlord may, as promptly as conditions require, enter the dwelling unit, perform the work in a workmanlike manner, and submit an itemized bill for the actual and reasonable cost therefor to the tenant, which shall be due as rent on the next rent due date, or if the rental agreement has terminated, for immediate payment.

The landlord may perform the repair, replacement, or cleaning or may engage a third party to do so.

**§ 55-225.47. Landlord's acceptance of rent with reservation.**

A. Provided that the landlord has given written notice to the tenant that the rent will be accepted with reservation, the landlord may accept full or partial payment of all rent and receive an order of possession from a court of competent jurisdiction pursuant to an unlawful detainer action filed under Article 13 (§ 8.01-124 et seq.) of Chapter 3 of Title 8.01 and proceed with eviction under § 55-225.41. Such notice shall be included in a written termination notice given by the landlord to the tenant in accordance with § 55-225.43 or in a separate written notice given by the landlord to the tenant within five business days of receipt of the rent. Unless the landlord has given such notice in a termination notice in accordance with § 55-225.43, the landlord shall continue to give a separate written notice to the tenant within five business days of receipt of the rent that the landlord continues to accept the rent with reservation in accordance with this section until such time as the violation alleged in the termination notice has been remedied or the matter has been adjudicated in a court of competent jurisdiction. If the dwelling unit is a public housing unit or other housing unit subject to regulation by the Department of Housing and Urban Development, the landlord shall be deemed to have accepted rent with reservation pursuant to this subsection if the landlord gives the tenant the written notice required herein for the portion of the rent paid by the tenant.

B. Subsequent to the entry of an order of possession by a court of competent jurisdiction but prior to eviction pursuant to § 55-225.41, the landlord may accept all amounts owed to the landlord by the tenant, including full payment of any money judgment, award of attorney fees, and court costs, and all subsequent rents that may be paid prior to eviction, and proceed with eviction, provided that the landlord has given the tenant written notice that any such payment would be accepted with reservation and would not constitute a waiver of the landlord's right to evict the tenant from the dwelling unit. However, if a landlord enters into a new written rental agreement with the tenant prior to eviction, an order of possession obtained prior to the entry of such new rental agreement is not enforceable. Such notice shall be given in a separate written notice given by the landlord within five business days of receipt of payment of such money judgment, attorney fees and court costs, and all subsequent rents that may be paid prior to eviction. If the dwelling unit is a public housing unit or other housing unit subject to regulation by the Department of Housing and Urban Development, the landlord shall be deemed to have accepted rent with reservation pursuant to this subsection if the landlord gives the tenant the written notice required herein for the portion of the rent paid by the tenant. Writs of possession in cases of unlawful entry and detainer are otherwise subject to § 8.01-471.

C. However, the tenant may pay or present to the court a redemption tender for payment of all rent due and owing as of the return date, including late charges, attorney fees, and court costs, at or before the first return date on an action for unlawful detainer. For purposes of this section, "redemption tender" means a written commitment to pay all rent due and owing as of the return date, including late charges, attorney fees, and court costs, by a local government or nonprofit entity within 10 days of said return date.

D. If the tenant presents a redemption tender to the court at the return date, the court shall continue the action for unlawful detainer for 10 days following the return date for payment to the landlord of all rent due and owing as of the return date, including late charges, attorney fees, and court costs and dismissal of the action upon such payment. Should the landlord not receive full payment of all rent due and owing as of the return date, including late charges, attorney fees, and

court costs, within 10 days of the return date, the court shall, without further evidence, grant to the landlord judgment for all amounts due and immediate possession of the premises.

E. In cases of unlawful detainer, a tenant may pay the landlord or his attorney or pay into court all (i) rent due and owing as of the court date as contracted for in the rental agreement, (ii) other charges and fees as contracted for in the rental agreement, (iii) late charges contracted for in the rental agreement, (iv) reasonable attorney fees as contracted for in the rental agreement or as provided by law, and (v) costs of the proceeding as provided by law, at which time the unlawful detainer proceeding shall be dismissed. A tenant may invoke the rights granted in this section no more than one time during any 12-month period of continuous residency in the dwelling unit, regardless of the term of the rental agreement or any renewal term thereof.

**§ 55-225.48. Remedy after termination.**

If the rental agreement is terminated, the landlord may have a claim for possession and for rent and a separate claim for actual damages for breach of the rental agreement, reasonable attorney fees as provided in § 55-225.43, and the cost of service of any notice under § 55-225.20 or process by a sheriff or private process server, which cost shall not exceed the amount authorized by § 55-225.41, which claims may be enforced, without limitation, by the institution of an action for unlawful entry or detainer. Actual damages for breach of the rental agreement may include a claim for such rent as would have accrued until the expiration of the term thereof or until a tenancy pursuant to a new rental agreement commences, whichever first occurs, provided that nothing herein contained shall diminish the duty of the landlord to mitigate actual damages for breach of the rental agreement. In obtaining post-possession judgments for actual damages as defined herein, the landlord shall not seek a judgment for accelerated rent through the end of the term of the tenancy.

In any unlawful detainer action brought by the landlord, this section shall not be construed to prevent the landlord from being granted by the court a simultaneous judgment for money due and for possession of the premises without a credit for any security deposit. Upon the tenant's vacating the premises either voluntarily or by a writ of possession, security deposits shall be credited to the tenant's account by the landlord in accordance with the requirements of § 55-225.19.

**§ 55-226. Nonresidential buildings destroyed or lessee deprived of possession; covenant to pay rent or repair; reduction of rent.**

No covenant or promise by a lessee of nonresidential property to pay the rent, or that he will keep or leave the premises in good repair, shall have the effect, if the buildings thereon be destroyed by fire or otherwise, in whole or in part, without fault or negligence on his part, or if he be deprived of the possession of the premises by the public enemy, of binding him to make such payment or repair or erect such buildings again, unless there be other words showing it to be the intent of the parties that he should be so bound. But in case of such destruction there shall be a reasonable reduction of the rent for such time as may elapse until there be again upon the premises buildings of as much value to the tenant for his purposes as what may have been so destroyed; and, in case of such deprivation of possession, a like reduction until possession of the premises be restored to him.

**§ 55-226.2. Energy submetering, energy allocation equipment, sewer and water submetering equipment, ratio utility billings systems; local government fees.**

A. Energy submetering equipment, energy allocation equipment, water and sewer submetering equipment, or a ratio utility billing system may be used in a commercial or residential building, manufactured home park, or campground if clearly stated in the rental agreement or lease for the leased premises or dwelling unit. All energy submetering equipment and energy allocation equipment shall meet the requirements and standards established and enforced by the State Corporation Commission pursuant to § 56-245.3.

B. If energy submetering equipment, water and sewer submetering equipment, or energy allocation equipment is used in any building, manufactured home park, or campground, the owner, manager, or operator of the building, manufactured home park, or campground shall bill the tenant for electricity, oil, natural gas or water and sewer for the same billing period as the utility serving the building or campground, unless the rental agreement or lease expressly provides otherwise. The owner, manager, or operator of the building, manufactured home park, or campground may charge and collect from the tenant additional service charges, including, but not limited to, monthly billing fees, account set-up fees or account move-out fees, to cover the actual costs of administrative expenses and billing charged to the building, manufactured home park, or campground owner, manager, or operator by a third-party provider of such services, provided that such charges are agreed to by the building or campground owner and the tenant in the rental agreement or lease. The building or campground owner may require the tenant to pay a late charge of up to \$5 if the tenant fails to make payment when due, which shall not be less than 15 days following the date of mailing or delivery of the bill sent pursuant to this section.

C. If a ratio utility billing system is used in any building, manufactured home park, or campground, in lieu of increasing the rent, the owner, manager, or operator of the building, manufactured home park, or campground may employ such a program that utilizes a mathematical formula for allocating, among the tenants in a building, manufactured home park, or campground, the actual or anticipated water, sewer, electrical, oil, or natural gas billings billed to the building or campground owner from a third-party provider of the utility service. The owner, manager, or operator of the building, manufactured home park, or campground may charge and collect from the tenant additional service charges, including but not limited to monthly billing fees, account set-up fees, or account move-out fees, to cover the actual costs of administrative expenses and billings charged to the building, manufactured home park, or campground owner, manager, or operator by a third-party provider of such services, provided that such charges are agreed to by the building, manufactured home park, or campground owner and the tenant in the rental agreement or lease. The building, manufactured home park, or campground

owner may require the tenant to pay a late charge of up to \$5 if the tenant fails to make payment when due, which shall not be less than 15 days following the date of mailing or delivery of the bill sent pursuant to this section. The late charge shall be deemed rent (i) as defined in § 55-248.4 if a ratio utility billing system is used in a residential multifamily dwelling unit subject to the Virginia Residential Landlord and Tenant Act (§ 55-248.2 et seq.) or (ii) as defined in § 55-248.41 if a ratio utility billing system is used in manufactured home park subject to the Manufactured Home Lot Rental Act (55-248.41 et seq.).

D. Energy allocation equipment shall be tested periodically by the owner, operator or manager of the building, manufactured home park, or campground. Upon the request by a tenant, the owner shall test the energy allocation equipment without charge. The test conducted without charge to the tenant shall not be conducted more frequently than once in a 24-month period for the same tenant. The tenant or his designated representative may be present during the testing of the energy allocation equipment. A written report of the results of the test shall be made to the tenant within 10 working days after the completion of the test.

E. The owner of any building, manufactured home park, or campground shall maintain adequate records regarding energy submetering equipment, water and sewer submetering equipment, energy allocation equipment, or a ratio utility billing system. A tenant may inspect and copy the records for the leased premises during reasonable business hours at a convenient location within the building or campground. The owner of the building or campground may impose and collect a reasonable charge for copying documents, reflecting the actual costs of materials and labor for copying, prior to providing copies of the records to the tenant.

F. Notwithstanding any enforcement action undertaken by the State Corporation Commission pursuant to its authority under § 56-245.3, tenants and owners shall retain any private right of action resulting from any breach of the rental agreement or lease terms required by this section or § 56-245.3, if applicable, to the same extent as such actions may be maintained for breach of other terms of the rental agreement or lease under Chapter 13 (§ 55-217 et seq.) or Chapter 13.2 (§ 55-248.2 et seq.) of this title, if applicable. The use of energy submetering equipment, water and sewer submetering equipment, energy allocation equipment, or a ratio utility billing system is not within the jurisdiction of the Department of Agriculture and Consumer Services under Chapter 56 (§ 3.2-5600 et seq.) of Title 3.2.

G. In lieu of increasing the rent, the owner, manager, or operator of a commercial or residential building, manufactured home park, or campground may employ a program that utilizes a mathematical formula for allocating the actual or anticipated local government fees billed to the building, manufactured home park, or campground owner among the tenants in such building, manufactured home park, or campground if clearly stated in the rental agreement or lease for the leased premises or dwelling unit. Permitted allocation methods may include formulas based upon square footage, occupancy, number of bedrooms, or some other specific method agreed to by the building, manufactured home park, or campground owner and the tenant in the rental agreement or lease. Such owner, manager, or operator of a commercial or residential building, manufactured home park, or campground may also charge and collect from each tenant additional service charges, including monthly billing fees, account set-up fees, or account move-out fees, to cover the actual costs of administrative expenses for administration of such a program. If the building is residential and is subject to (i) the Virginia Residential Landlord and Tenant Act (§ 55-248.2 et seq.), such local government fees and administrative expenses shall be deemed to be rent as defined in § 55-248.4 or (ii) the Manufactured Home Lot Rental Act (55-248.41 et seq.), such local government fees and administrative expenses shall be deemed to be rent as defined in § 55-248.41.

H. Nothing in this section shall be construed to prohibit an owner, manager, or operator of a commercial or residential building, manufactured home park, or campground from including water, sewer, electrical, natural gas, *oil*, or other utilities in the amount of rent as specified in the rental agreement or lease.

I. As used in this section:

"Building" means all of the individual units served through the same utility-owned meter within a commercial or residential building that is defined in subsection A of § 56-245.2 as an apartment building or house, office building or shopping center, or all of the individual dwelling units served through the same utility-owned meter within a manufactured home park as defined in § 55-248.41.

"Campground" means the same as that term is defined in § 35.1-1.

"Campsite" means the same as that term is defined in § 35.1-1.

"Energy allocation equipment" has the same meaning ascribed to such term in subsection A of § 56-245.2.

"Energy submetering equipment" has the same meaning ascribed to "submetering equipment" in subsection A of § 56-245.2.

"Local government fees" means any local government charges or fees assessed against a commercial or residential building or campground, including stormwater, recycling, trash collection, elevator testing, fire or life safety testing, or residential rental inspection programs.

"Ratio utility billing system" means a program that utilizes a mathematical formula for allocating, among the tenants in a building or campground, the actual or anticipated water, sewer, electrical, *oil*, or natural gas billings billed to the building or campground owner from a third-party provider of the utility service. Permitted allocation methods may include formulas based upon square footage, occupancy, number of bedrooms, or some other specific method agreed to by the building or campground owner and the tenant in the rental agreement or lease.

"Water and sewer submetering equipment" means equipment used to measure actual water or sewer usage in any dwelling unit or nonresidential rental unit, as defined in subsection A of § 56-245.2 or campsite, when such equipment is

not owned or controlled by the utility or other provider of water or sewer service that provides service to the building in which the dwelling unit or nonresidential rental unit is located or campground where the campsite is located.

**§ 55-237.1. Authority of sheriffs to store and sell personal property removed from nonresidential premises; recovery of possession by owner; disposition or sale.**

Notwithstanding the provisions of § 8.01-156, when personal property is removed from any leased or rented commercial or ~~residential~~ nonresidential premises pursuant to an action of unlawful detainer or ejection, or pursuant to any other action in which personal property is removed from the premises in order to restore such premises to the person entitled thereto, the sheriff shall oversee the removal of such personal property to be placed into the public way. The tenant shall have the right to remove his personal property from the public way during the 24-hour period after eviction. Upon the expiration of the 24-hour period after eviction, the landlord shall remove, or dispose of, any such personal property remaining in the public way.

At the landlord's request, any personal property removed pursuant to this section shall be placed into a storage area designated by the landlord, which may be the leased or rented premises. The tenant shall have the right to remove his personal property from the landlord's designated storage area at reasonable times during the 24 hours after eviction from the premises or at such other reasonable times until the landlord has disposed of the property as provided herein. During that 24-hour period and until the landlord disposes of the remaining personal property of the tenant, the landlord and the sheriff shall not have any liability for the loss of such personal property. If the landlord fails to allow reasonable access to the tenant to remove his personal property as provided herein, the tenant shall have a right to injunctive relief and such other relief as may be provided by law.

Any property remaining in the landlord's storage area upon the expiration of the 24-hour period after eviction may be disposed of by the landlord as the landlord sees fit or appropriate. If the landlord receives any funds from any sale of such remaining property, the landlord shall pay such funds to the account of the tenant and apply same to any amounts due the landlord by the tenant, including the reasonable costs incurred by the landlord in the eviction process described in this section or the reasonable costs incurred by the landlord in selling or storing such property. If any funds are remaining after application, the remaining funds shall be treated as security deposit under applicable law.

The notice posted by the sheriff setting the date and time of the eviction, pursuant to § 8.01-470, shall provide notice to the tenant of the rights afforded to tenants in this section and shall include in the notice a copy of this statute attached to, or made a part of, this notice.

Nothing herein shall affect the right of a landlord to enforce an inchoate or perfected lien of the landlord on the personal property of a tenant of ~~any leased or rented commercial or residential premises, in a nonresidential premises leased to such tenant or the right of a landlord to distress, levy, and seize such personal property as otherwise provided by law.~~

**§ 55-248.3:1. Applicability of chapter.**

~~This chapter shall apply to all rental agreements entered into on or after July 1, 1974, which are not exempted pursuant to § 55-248.5, and all provisions thereof.~~ A. This chapter shall apply to all jurisdictions in the Commonwealth and may not be waived or otherwise modified, in whole or in part, by the governing body of any locality, its boards and commissions or other instrumentalities, or by the courts of the Commonwealth.

B. *The provisions of this chapter shall apply to occupancy in all single-family and multifamily residential dwelling units and multifamily dwelling unit located in the Commonwealth. However, where the landlord is a natural person, an estate, or a legal entity that owns no more than two single-family residential dwelling units in its own name subject to a rental agreement, such landlord may opt out of the Virginia Residential Landlord and Tenant Act (§ 55-248.2 et seq.) by so stating in a rental agreement with a tenant. Such residential dwelling units shall be exempt from this chapter and the provisions of §§ 55-225.01 through 55-225.48 shall be applicable.*

*The provisions of this chapter shall not apply to instances where occupancy under a contract of sale of a dwelling unit or the property of which it is a part, if the occupant is the purchaser or a person who succeeds to his interest.*

C. *Tenancies and occupancies that are not residential tenancies. The following occupancies are not residential tenancies under this chapter:*

1. *Residence at a public or private institution, if incidental to detention or the provision of medical, geriatric, educational, counseling, religious, or similar services;*
2. *Occupancy by a member of a fraternal or social organization in the portion of a structure operated for the benefit of the organization;*
3. *Occupancy by an owner of a condominium unit or a holder of a proprietary lease in a cooperative;*
4. *Occupancy in a campground as defined in § 35.1-1;*
5. *Occupancy by a tenant who pays no rent pursuant to a rental agreement;*
6. *Occupancy by an employee of a landlord whose right to occupancy in a multifamily dwelling unit is conditioned upon employment in and about the premises or an former employee whose occupancy continues less than 60 days; or*
7. *Occupancy in a public housing unit or other housing unit subject to regulation by the Department of Housing and Urban Development, if the provisions of this chapter are inconsistent with the regulations of the Department of Housing and Urban Development.*

D. *Occupancy in hotel, motel, and extended stay facility.*

1. *A guest who is an occupant of a hotel, motel, extended stay facility, vacation residential facility, including those governed by the Virginia Real Estate Time-Share Act (§ 55-360 et seq.), boardinghouse, or similar transient lodging shall*

*not be construed to be a tenant living in a dwelling unit if such person does not reside in such lodging as his primary residence. Such guest shall be exempt from this chapter, and the innkeeper or property owner, or his agent, shall have the right to use self-help eviction under Virginia law, without the necessity of the filing of an unlawful detainer action in a court of competent jurisdiction and the execution of a writ of possession issued pursuant to such action, which would otherwise be required under this chapter.*

2. A hotel, motel, extended stay facility, vacation residential facility, boardinghouse, or similar transient lodging shall be exempt from the provisions of this chapter if overnight sleeping accommodations are furnished to a person for consideration if such person does not reside in such lodging as his primary residence.

3. If a person resides in a hotel, motel, extended stay facility, vacation residential facility, including those governed by the Virginia Real Estate Time-Share Act (§ 55-360 et seq.), boardinghouse, or similar transient lodging as his primary residence for fewer than 90 consecutive days, such lodging shall not be subject to the provisions of this chapter. However, the owner of such lodging establishment shall give a five-day written notice of nonpayment to a person residing in such lodging and, upon the expiration of the five-day period specified in the notice, may exercise self-help eviction if payment in full has not been received.

4. If a person resides in a hotel, motel, extended stay facility, vacation residential facility, including those governed by the Virginia Real Estate Time-Share Act (§ 55-360 et seq.), boardinghouse, or similar transient lodging as his primary residence for more than 90 consecutive days or is subject to a written lease for more than 90 days, such lodging shall be subject to the provisions of this chapter.

#### **§ 55-248.4. Definitions.**

When used in this chapter, unless expressly stated otherwise:

"Action" means recoupment, counterclaim, set off, or other civil suit and any other proceeding in which rights are determined, including without limitation actions for possession, rent, unlawful detainer, unlawful entry, and distress for rent.

"Application deposit" means any refundable deposit of money, however denominated, including all money intended to be used as a security deposit under a rental agreement, or property, which is paid by a tenant to a landlord for the purpose of being considered as a tenant for a dwelling unit.

"Application fee" means any nonrefundable fee, which is paid by a tenant to a landlord or managing agent for the purpose of being considered as a tenant for a dwelling unit. An application fee shall not exceed \$50, exclusive of any actual out-of-pocket expenses paid by the landlord to a third party performing background, credit, or other pre-occupancy checks on the applicant. However, where an application is being made for a dwelling unit which is a public housing unit or other housing unit subject to regulation by the Department of Housing and Urban Development, an application fee shall not exceed \$32, exclusive of any actual out-of-pocket expenses paid to a third party by the landlord performing background, credit, or other pre-occupancy checks on the applicant.

"Assignment" means the transfer by any tenant of all interests created by a rental agreement.

"Authorized occupant" means a person entitled to occupy a dwelling unit with the consent of the landlord, but who has not signed the rental agreement and therefore does not have the financial obligations as a tenant under the rental agreement.

"Building or housing code" means any law, ordinance or governmental regulation concerning fitness for habitation, or the construction, maintenance, operation, occupancy, use or appearance of any structure or that part of a structure that is used as a home, residence or sleeping place by one person who maintains a household or by two or more persons who maintain a common household.

"Commencement date of rental agreement" means the date upon which the tenant is entitled to occupy the dwelling unit as a tenant.

"Dwelling unit" means a structure or part of a structure that is used as a home or residence by one or more persons who maintain a household, including, but not limited to, a manufactured home.

"Effective date of rental agreement" means the date upon which the rental agreement is signed by the landlord and the tenant obligating each party to the terms and conditions of the rental agreement.

"Facility" means something that is built, constructed, installed or established to perform some particular function.

"Good faith" means honesty in fact in the conduct of the transaction concerned.

"Guest or invitee" means a person, other than the tenant or person authorized by the landlord to occupy the premises, who has the permission of the tenant to visit but not to occupy the premises.

"Interior of the dwelling unit" means the inside of the dwelling unit, consisting of interior walls, floor, and ceiling, that enclose the dwelling unit as conditioned space from the outside air.

"Landlord" means the owner, lessor or sublessor of the dwelling unit or the building of which such dwelling unit is a part. "Landlord" also includes a managing agent of the premises who fails to disclose the name of such owner, lessor or sublessor. Such managing agent shall be subject to the provisions of § 16.1-88.03. Landlord shall not, however, include a community land trust as defined in § 55-221.1.

"Managing agent" means a person authorized by the landlord to act on behalf of the landlord under an agreement.

"Mold remediation in accordance with professional standards" means mold remediation of that portion of the dwelling unit or premises affected by mold, or any personal property of the tenant affected by mold, performed consistent with guidance documents published by the United States Environmental Protection Agency, the U.S. Department of Housing and Urban Development, the American Conference of Governmental Industrial Hygienists (the Bioaerosols Manual), Standard Reference Guides of the Institute of Inspection, Cleaning and Restoration for Water Damage Restoration and Professional

Mold Remediation, or any protocol for mold remediation prepared by an industrial hygienist consistent with said guidance documents.

*"Multifamily dwelling unit" means more than one single-family dwelling unit located in a building. However, nothing in this definition shall be construed to apply to any nonresidential space in such building.*

"Natural person," wherever the chapter refers to an owner as a "natural person," includes co-owners who are natural persons, either as tenants in common, joint tenants, tenants in partnership, tenants by the entirety, trustees or beneficiaries of a trust, general partnerships, limited liability partnerships, registered limited liability partnerships or limited liability companies, or any lawful combination of natural persons permitted by law.

"Notice" means notice given in writing by either regular mail or hand delivery, with the sender retaining sufficient proof of having given such notice, which may be either a United States postal certificate of mailing or a certificate of service confirming such mailing prepared by the sender. However, a person shall be deemed to have notice of a fact if he has actual knowledge of it, he has received a verbal notice of it, or from all of the facts and circumstances known to him at the time in question, he has reason to know it exists. A person "notifies" or "gives" a notice or notification to another by taking steps reasonably calculated to inform another person whether or not the other person actually comes to know of it. If notice is given that is not in writing, the person giving the notice has the burden of proof to show that the notice was given to the recipient of the notice.

"Organization" means a corporation, government, governmental subdivision or agency, business trust, estate, trust, partnership or association, two or more persons having a joint or common interest, or any combination thereof, and any other legal or commercial entity.

"Owner" means one or more persons or entities, jointly or severally, in whom is vested:

1. All or part of the legal title to the property, or

2. All or part of the beneficial ownership and a right to present use and enjoyment of the premises, and the term includes a mortgagee in possession.

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

"Premises" means a dwelling unit and the structure of which it is a part and facilities and appurtenances therein and grounds, areas and facilities held out for the use of tenants generally or whose use is promised to the tenant.

"Processing fee for payment of rent with bad check" means the processing fee specified in the rental agreement, not to exceed \$50, assessed by a landlord against a tenant for payment of rent with a check drawn by the tenant on which payment has been refused by the payor bank because the drawer had no account or insufficient funds.

"Readily accessible" means areas within the interior of the dwelling unit available for observation at the time of the move-in inspection that do not require removal of materials, personal property, equipment or similar items.

"Rent" means all money, other than a security deposit, owed or paid to the landlord under the rental agreement, including prepaid rent paid more than one month in advance of the rent due date.

"Rental agreement" or "lease agreement" means all agreements, written or oral, and valid rules and regulations adopted under § 55-248.17 embodying the terms and conditions concerning the use and occupancy of a dwelling unit and premises.

"Rental application" means the written application or similar document used by a landlord to determine if a prospective tenant is qualified to become a tenant of a dwelling unit. A landlord may charge an application fee as provided in this chapter and may request a prospective tenant to provide information that will enable the landlord to make such determination. The landlord may photocopy each applicant's driver's license or other similar photo identification, containing either the applicant's social security number or control number issued by the Department of Motor Vehicles pursuant to § 46.2-342. However, a landlord shall not photocopy a U.S. government-issued identification so long as to do so is a violation of Title 18 U.S.C. Part I, Chapter 33, § 701. The landlord may require that each applicant provide a social security number issued by the U.S. Social Security Administration or an individual taxpayer identification number issued by the U.S. Internal Revenue Service, for the purpose of determining whether each applicant is eligible to become a tenant in the landlord's dwelling unit.

"Roomer" means a person occupying a dwelling unit that lacks a major bathroom or kitchen facility, in a structure where one or more major facilities are used in common by occupants of the dwelling unit and other dwelling units. Major facility in the case of a bathroom means toilet, and either a bath or shower, and in the case of a kitchen means refrigerator, stove, or sink.

"Security deposit" means any refundable deposit of money that is furnished by a tenant to a landlord to secure the performance of the terms and conditions of a rental agreement, as a security for damages to the leased premises, or as a pet deposit. However, such money shall be deemed an application deposit until the commencement date of the rental agreement. Security deposit shall not include a damage insurance policy or renter's insurance policy as those terms are defined in § 55-248.7:2 purchased by a landlord to provide coverage for a tenant.

"Single-family residence" means a structure, other than a multi-family residential structure, maintained and used as a single dwelling unit, condominium unit, or any other dwelling unit that has direct access to a street or thoroughfare and shares neither heating facilities, hot water equipment, nor any other essential facility or service with any other dwelling unit.

"Sublease" means the transfer by any tenant of any but not all interests created by a rental agreement.

"Tenant" means a person entitled only under the terms of a rental agreement to occupy a dwelling unit to the exclusion of others and shall include roomer. Tenant shall not include (i) an authorized occupant, (ii) a guest or invitee, or (iii) any

person who guarantees or cosigns the payment of the financial obligations of a rental agreement but has no right to occupy a dwelling unit.

"Tenant records" means all information, including financial, maintenance, and other records about a tenant or prospective tenant, whether such information is in written or electronic form or other medium. A tenant may request copies of his tenant records pursuant to § 55-248.9:1.

"Utility" means electricity, natural gas, water and sewer provided by a public service corporation or such other person providing utility services as permitted under § 56-1.2. If the rental agreement so provides, a landlord may use submetering equipment or energy allocation equipment as defined in § 56-245.2, or a ratio utility billing system as defined in § 55-226.2.

"Visible evidence of mold" means the existence of mold in the dwelling unit that is visible to the naked eye by the landlord or tenant in areas within the interior of the dwelling unit readily accessible at the time of the move-in inspection.

"Written notice" means notice given in accordance with § 55-248.6, including any representation of words, letters, symbols, numbers, or figures, whether (i) printed in or inscribed on a tangible medium or (ii) stored in an electronic form or other medium, retrievable in a perceivable form, and regardless of whether an electronic signature authorized by Chapter 42.1 (§ 59.1-479 et seq.) of Title 59.1 is affixed. The landlord may, in accordance with a written agreement, delegate to a managing agent or other third party the responsibility of providing any written notice required by this chapter.

**§ 55-248.6. Notice.**

A. As used in this chapter:

"Notice" means notice given in writing by either regular mail or hand delivery, with the sender retaining sufficient proof of having given such notice, which may be either a United States postal certificate of mailing or a certificate of service confirming such mailing prepared by the sender. However, a person shall be deemed to have notice of a fact if he has actual knowledge of it, he has received a verbal notice of it, or from all the facts and circumstances known to him at the time in question, he has reason to know it exists. A person "notifies" or "gives" a notice or notification to another by taking steps reasonably calculated to inform another person whether or not the other person actually comes to know of it. If notice is given that is not in writing, the person giving the notice has the burden of proof to show that the notice was given to the recipient of the notice.

B. If the rental agreement so provides, the landlord and tenant may send notices in electronic form, however any tenant who so requests may elect to send and receive notices in paper form. If electronic delivery is used, the sender shall retain sufficient proof of the electronic delivery, which may be an electronic receipt of delivery, a confirmation that the notice was sent by facsimile, or a certificate of service prepared by the sender confirming the electronic delivery.

In the case of the landlord, notice is served on the landlord at his place of business where the rental agreement was made, or at any place held out by the landlord as the place for receipt of the communication.

C. In the case of the tenant, notice is served at the tenant's last known place of residence, which may be the dwelling unit.

D. Notice, knowledge or a notice or notification received by an organization is effective for a particular transaction from the time it is brought to the attention of the person conducting that transaction, or from the time it would have been brought to his attention if the organization had exercised reasonable diligence.

E. No notice of termination of tenancy served upon a tenant by a public housing authority organized under the Housing Authorities Law (§ 36-1 et seq.) of Title 36 shall be effective unless it contains on its first page, in type no smaller or less legible than that otherwise used in the body of the notice, the name, address and telephone number of the legal services program, if any, serving the jurisdiction wherein the premises are located.

*F. The landlord may, in accordance with a written agreement, delegate to a managing agent or other third party the responsibility of providing any written notice under this chapter. The landlord may also engage an attorney at law to prepare or provide any written notice under this chapter or legal process under Title 8.01. Nothing herein shall be construed to preclude use of an electronic signature as defined in § 59.1-480, or an electronic notarization as defined in § 47.1-2, in any written notice under this chapter or legal process under Title 8.01.*

**§ 55-248.7. Terms and conditions of rental agreement; copy for tenant; accounting of rental payments.**

A. A landlord and tenant may include in a rental agreement, terms and conditions not prohibited by this chapter or other rule of law, including rent, charges for late payment of rent, term of the agreement, automatic renewal of the rental agreement, requirements for notice of intent to vacate or terminate the rental agreement, and other provisions governing the rights and obligations of the parties.

B. In the absence of a rental agreement, the tenant shall pay as rent the fair rental value for the use and occupancy of the dwelling unit.

C. Rent shall be payable without demand or notice at the time and place agreed upon by the parties. Unless otherwise agreed, rent is payable at the place designated by the landlord and periodic rent is payable at the beginning of any term of one month or less and otherwise in equal installments at the beginning of each month. If the landlord receives from a tenant a written request for an accounting a written statement of charges and payments, he shall provide the tenant with a written statement showing all debits and credits over the tenancy or the past 12 months, whichever is shorter. The landlord shall provide such written statement within 10 business days of receiving the request.

D. Unless the rental agreement fixes a definite term, the tenancy shall be week to week in case of a roomer who pays weekly rent, and in all other cases month to month. Terminations of tenancies shall be governed by § 55-248.37 unless the rental agreement provides for a different notice period.

E. If the rental agreement contains any provision whereby the landlord may approve or disapprove a sublessee or assignee of the tenant, the landlord shall within 10 business days of receipt by him of the written application of the prospective sublessee or assignee on a form to be provided by the landlord, approve or disapprove the sublessee or assignee. Failure of the landlord to act within 10 business days shall be deemed evidence of his approval.

F. A copy of any written rental agreement signed by both the tenant and the landlord shall be provided to the tenant within one month of the effective date of the written rental agreement. The failure of the landlord to deliver such a rental agreement shall not affect the validity of the agreement.

G. No unilateral change in the terms of a rental agreement by a landlord or tenant shall be valid unless (i) notice of the change is given in accordance with the terms of the rental agreement or as otherwise required by law and (ii) both parties consent in writing to the change.

H. The landlord shall provide the tenant with a written receipt, upon request from the tenant, whenever the tenant pays rent in the form of cash or money order.

**§ 55-248.7:1. Prepaid rent; maintenance of escrow account.**

A landlord and a tenant may agree in a rental agreement that the tenant pay prepaid rent. If a landlord receives prepaid rent, it shall be placed in an escrow account in a federally insured depository *authorized to do business* in Virginia by the end of the fifth business day following receipt and shall remain in the account until such time as the prepaid rent becomes due. Unless the landlord has otherwise become entitled to receive any portion of the prepaid rent, it shall not be removed from the escrow account required by this section without the written consent of the tenant.

**§ 55-248.12. Disclosure.**

A. The landlord or any person authorized to enter into a rental agreement on his behalf shall disclose to the tenant in writing at or before the commencement of the tenancy the name and address of:

1. The person or persons authorized to manage the premises; and
2. An owner of the premises or any other person authorized to act for and on behalf of the owner, for the purposes of service of process and receiving and receipting for notices and demands.

B. In the event of the sale of the premises, the landlord shall notify the tenant of such sale and disclose to the tenant the name and address of the purchaser and a telephone number at which such purchaser can be located.

C. ~~¶~~ *With respect to a multifamily dwelling unit*, if an application for registration of the rental property as a condominium or cooperative has been filed with the Real Estate Board, or if there is within six months an existing plan for tenant displacement resulting from (i) demolition or substantial rehabilitation of the property or (ii) conversion of the rental property to office, hotel or motel use or planned unit development, then the landlord or any person authorized to enter into a rental agreement on his behalf shall disclose that information in writing to any prospective tenant.

D. The information required to be furnished by this section shall be kept current and this section extends to and is enforceable against any successor landlord or owner. A person who fails to comply with this section becomes an agent of each person who is a landlord for the purposes of service of process and receiving and receipting for notices and demands.

**§ 55-248.12:1. Required disclosures for properties located adjacent to a military air installation; remedy for nondisclosure.**

A. ~~Notwithstanding the provisions of subdivision A 10 of § 55-248.5, the~~ The landlord of property in any locality in which a military air installation is located, or any person authorized to enter into a rental agreement on his behalf, shall provide to a prospective tenant a written disclosure that the property is located in a noise zone or accident potential zone, or both, as designated by the locality on its official zoning map. Such disclosure shall be provided prior to the execution by the tenant of a written lease agreement or, in the case of an oral lease agreement, prior to occupancy by the tenant. The disclosure shall specify the noise zone or accident potential zone in which the property is located according to the official zoning map of the locality. A disclosure made pursuant to this section containing inaccurate information regarding the location of the noise zone or accident potential zone shall be deemed as nondisclosure unless the inaccurate information is provided by an officer or employee of the locality in which the property is located.

B. Any tenant who is not provided the disclosure required by subsection A may terminate the lease agreement at any time during the first 30 days of the lease period by sending to the landlord by certified or registered mail, return receipt requested, a written notice of termination. Such termination shall be effective as of (i) 15 days after the date of the mailing of the notice or (ii) the date through which rent has been paid, whichever is later. In no event, however, shall the effective date of the termination exceed one month from the date of mailing. Termination of the lease agreement shall be the exclusive remedy for the failure to comply with the disclosure provisions of this section, and shall not affect any rights or duties of the landlord or tenant arising under this chapter, other applicable law, or the rental agreement.

**§ 55-248.13. Landlord to maintain fit premises.**

A. The landlord shall:

1. Comply with the requirements of applicable building and housing codes materially affecting health and safety;
2. Make all repairs and do whatever is necessary to put and keep the premises in a fit and habitable condition;
3. Keep all common areas shared by two or more dwelling units of ~~the~~ *a multifamily* premises in a clean and structurally safe condition;
4. Maintain in good and safe working order and condition all electrical, plumbing, sanitary, heating, ventilating, air-conditioning and other facilities and appliances, including elevators, supplied or required to be supplied by him;

5. Maintain the premises in such a condition as to prevent the accumulation of moisture and the growth of mold, and to promptly respond to any notices from a tenant as provided in subdivision A 10 of § 55-248.16. Where there is visible evidence of mold, the landlord shall promptly remediate the mold conditions in accordance with the requirements of subsection E of § 8.01-226.12 and reinspect the dwelling unit to confirm that there is no longer visible evidence of mold in the dwelling unit. ~~The landlord shall make available to the tenant copies of any available written information related to the remediation of mold.~~ *The landlord shall provide a tenant with a copy of a summary of information related to mold remediation occurring during that tenancy and, upon request of the tenant, make available the full package of such information and reports not protected by attorney-client privilege. Once the mold has been remediated in accordance with professional standards, the landlord shall not be required to make disclosures of a past incidence of mold to subsequent tenants;*

6. Provide and maintain appropriate receptacles and conveniences; ~~in common areas;~~ for the collection, storage, and removal of ashes, garbage, rubbish, and other waste incidental to the occupancy of ~~two or more~~ dwelling units and arrange for the removal of same;

7. Supply running water and reasonable amounts of hot water at all times and reasonable air conditioning if provided and heat in season except where the dwelling unit is so constructed that heat, air conditioning or hot water is generated by an installation within the exclusive control of the tenant or supplied by a direct public utility connection; and

8. Maintain any carbon monoxide alarm that has been installed by the landlord in a dwelling unit.

B. The landlord shall perform the duties imposed by subsection A in accordance with law; however, the landlord shall only be liable for the tenant's actual damages proximately caused by the landlord's failure to exercise ordinary care.

C. If the duty imposed by subdivision A 1 ~~of subsection A~~ is greater than any duty imposed by any other subdivision of that subsection, the landlord's duty shall be determined by reference to subdivision A 1 ~~of subsection A~~.

D. The landlord and tenant may agree in writing that the tenant perform the landlord's duties specified in subdivisions A 3, 6, and 7 ~~of subsection A~~ and also specified repairs, maintenance tasks, alterations, and remodeling, but only if the transaction is entered into in good faith and not for the purpose of evading the obligations of the landlord, and if the agreement does not diminish or affect the obligation of the landlord to other tenants in the premises.

**§ 55-248.13:1. Landlord to provide locks and peepholes.**

The governing body of any ~~county, city or town~~ *locality* may require by ordinance that any landlord who rents five or more dwelling units in any one *multifamily* building shall install:

1. Dead-bolt locks which meet the requirements of the Uniform Statewide Building Code (§ 36-97 et seq.) for new ~~multi-family~~ *multifamily* construction and peepholes in any exterior swinging entrance door to any such unit; however, any door having a glass panel shall not require a peephole.

2. Manufacturer's locks ~~which that~~ meet the requirements of the Uniform Statewide Building Code and removable metal pins or charlie bars in accordance with the Uniform Statewide Building Code on exterior sliding glass doors located in a building at any level or levels designated in the ordinance.

3. Locking devices ~~which that~~ meet the requirements of the Uniform Statewide Building Code on all exterior windows.

Any ordinance adopted pursuant to this section shall further provide that any landlord subject to the ordinance shall have a reasonable time as determined by the governing body in which to comply with the requirements of the ordinance.

**§ 55-248.13:2. Access of tenant to cable, satellite and other television facilities.**

No landlord *of a multifamily dwelling unit* shall demand or accept payment of any fee, charge or other thing of value from any provider of cable television service, cable modem service, satellite master antenna television service, direct broadcast satellite television service, subscription television service or service of any other television programming system in exchange for granting a television service provider mere access to the landlord's tenants or giving the tenants of such landlord mere access to such service. A landlord may enter into a service agreement with a television service provider to provide marketing and other services to the television service provider, designed to facilitate the television service provider's delivery of its services. Under such a service agreement, the television service provider may compensate the landlord for the reasonable value of the services provided, and for the reasonable value of the landlord's property used by the television service provider.

No landlord shall demand or accept any such payment from any tenants in exchange therefor unless the landlord is itself the provider of the service. Nor shall any landlord discriminate in rental charges between tenants who receive any such service and those who do not. Nothing contained herein shall prohibit a landlord from requiring that the provider of such service and the tenant bear the entire cost of the installation, operation or removal of the facilities incident thereto, or prohibit a landlord from demanding or accepting reasonable indemnity or security for any damages caused by such installation, operation or removal.

**§ 55-248.15:1. Security deposits.**

A. A landlord may not demand or receive a security deposit, however denominated, in an amount or value in excess of two months' periodic rent. Upon termination of the tenancy, such security deposit, whether it is property or money held by the landlord as security as hereinafter provided may be applied solely by the landlord (i) to the payment of accrued rent and including the reasonable charges for late payment of rent specified in the rental agreement; (ii) to the payment of the amount of damages which the landlord has suffered by reason of the tenant's noncompliance with § 55-248.16, less reasonable wear and tear; or (iii) to other damages or charges as provided in the rental agreement. The security deposit and any deductions,

damages and charges shall be itemized by the landlord in a written notice given to the tenant, together with any amount due the tenant within 45 days after termination of the tenancy and delivery of possession.

Where there is more than one tenant subject to a rental agreement, unless otherwise agreed to in writing by each of the tenants, disposition of the security deposit shall be made with one check being payable to all such tenants and sent to a forwarding address provided by one of the tenants. ~~Regardless of the number of tenants subject to a rental agreement, if The landlord shall make the security deposit disposition within the 45-day time period, but if no forwarding address is provided to the landlord, the landlord may continue to hold such security deposit in escrow. If a tenant fails to provide a forwarding address to the landlord to enable the landlord to make a refund of the security deposit, upon the expiration of one year from the date of the end of the 45-day time period, the landlord shall, within a reasonable period of time not to exceed 90 days, escheat the balance of such security deposit and any other moneys due the tenant to the Commonwealth, which sums shall be sent to the Virginia Department of Housing and Community Development, payable to the State Treasurer, and credited to the Virginia Housing Trust Fund established pursuant to § 36-142 may remit such sum to the State Treasurer as unclaimed property on a form prescribed by the administrator that includes the name, social security number, if known, and the last known address of each tenant on the rental agreement. Upon payment to the Commonwealth, the landlord shall have no further liability to any tenant relative to the security deposit.~~ If the landlord or managing agent is a real estate licensee, compliance with this paragraph shall be deemed compliance with § 54.1-2108 and corresponding regulations of the Real Estate Board.

Nothing in this section shall be construed by a court of law or otherwise as entitling the tenant, upon the termination of the tenancy, to an immediate credit against the tenant's delinquent rent account in the amount of the security deposit. The landlord shall apply the security deposit in accordance with this section within the 45-day time period. However, provided the landlord has given prior written notice in accordance with this section, the landlord may withhold a reasonable portion of the security deposit to cover an amount of the balance due on the water, sewer, or other utility account that is an obligation of the tenant to a third-party provider under the rental agreement for the dwelling unit, and upon payment of such obligations the landlord shall provide written confirmation to the tenant within 10 days thereafter, along with payment to the tenant of any balance otherwise due to the tenant. In order to withhold such funds as part of the disposition of the security deposit, the landlord shall have so advised the tenant of his rights and obligations under this section in ~~(i)~~ (a) a termination notice to the tenant in accordance with this chapter, ~~(ii)~~ (b) a vacating notice to the tenant in accordance with this section, or ~~(iii)~~ (c) a separate written notice to the tenant at least 15 days prior to the disposition of the security deposit. Any written notice to the tenant shall be given in accordance with § 55-248.6.

The tenant may provide the landlord with written confirmation of the payment of the final water, sewer, or other utility bill for the dwelling unit, in which case the landlord shall refund the security deposit, unless there are other authorized deductions, within the 45-day period, or if the tenant provides such written confirmation after the expiration of the 45-day period, the landlord shall refund any remaining balance of the security deposit held to the tenant within 10 days following the receipt of such written confirmation provided by the tenant. If the landlord otherwise receives confirmation of payment of the final water, sewer, or other utility bill for the dwelling unit, the landlord shall refund the security deposit, unless there are other authorized deductions, within the 45-day period.

Nothing in this section shall be construed to prohibit the landlord from making the disposition of the security deposit prior to the 45-day period and charging an administrative fee to the tenant for such expedited processing, if the rental agreement so provides and the tenant requests expedited processing in a separate written document.

The landlord shall notify the tenant in writing of any deductions provided by this subsection to be made from the tenant's security deposit during the course of the tenancy. Such notification shall be made within 30 days of the date of the determination of the deduction and shall itemize the reasons in the same manner as provided in subsection B. Such notification shall not be required for deductions made less than 30 days prior to the termination of the rental agreement. If the landlord willfully fails to comply with this section, the court shall order the return of the security deposit to the tenant, together with actual damages and reasonable attorney fees, unless the tenant owes rent to the landlord, in which case, the court shall order an amount equal to the security deposit credited against the rent due to the landlord. In the event that damages to the premises exceed the amount of the security deposit and require the services of a third party contractor, the landlord shall give written notice to the tenant advising him of that fact within the 45-day period. If notice is given as prescribed in this paragraph, the landlord shall have an additional 15-day period to provide an itemization of the damages and the cost of repair. This section shall not preclude the landlord or tenant from recovering other damages to which he may be entitled under this chapter. The holder of the landlord's interest in the premises at the time of the termination of the tenancy, regardless of how the interest is acquired or transferred, is bound by this section and shall be required to return any security deposit received by the original landlord that is duly owed to the tenant, whether or not such security deposit is transferred with the landlord's interest by law or equity, regardless of any contractual agreements between the original landlord and his successors in interest.

B. The landlord shall:

1. Maintain and itemize records for each tenant of all deductions from security deposits provided for under this section which the landlord has made by reason of a tenant's noncompliance with § 55-248.16 during the preceding two years; and
2. Permit a tenant or his authorized agent or attorney to inspect such tenant's records of deductions at any time during normal business hours.

C. Upon request by the landlord to a tenant to vacate, or within five days after receipt of notice by the landlord of the tenant's intent to vacate, the landlord shall ~~make reasonable efforts to advise~~ *provide written notice to* the tenant of the tenant's right to be present at the landlord's inspection of the dwelling unit for the purpose of determining the amount of security deposit to be returned. If the tenant desires to be present when the landlord makes the inspection, he shall so advise the landlord in writing who, in turn, shall notify the tenant of the time and date of the inspection, which must be made within 72 hours of delivery of possession. ~~Upon completion of the inspection attended by the tenant, the landlord shall furnish the tenant with an itemized list of damages to the dwelling unit known to exist at the time of the inspection~~ *Following the move-out inspection, the landlord shall provide the tenant with a written security deposit disposition statement, including an itemized list of damages. If additional damages are discovered by the landlord after the security deposit disposition has been made, nothing herein shall be construed to preclude the landlord from recovery of such damages against the tenant, provided, however, that the tenant may present into evidence a copy of the move-out report to support the tenant's position that such additional damages did not exist at the time of the move-out inspection.*

D. If the tenant has any assignee or sublessee, the landlord shall be entitled to hold a security deposit from only one party in compliance with the provisions of this section.

**§ 55-248.16. Tenant to maintain dwelling unit.**

A. In addition to the provisions of the rental agreement, the tenant shall:

1. Comply with all obligations primarily imposed upon tenants by applicable provisions of building and housing codes materially affecting health and safety;

2. Keep that part of the dwelling unit and the part of the premises that he occupies and uses as clean and safe as the condition of the premises permit;

3. Keep that part of the dwelling unit and the part of the premises that he occupies free from insects and pests, as those terms are defined in § 3.2-3900, and to promptly notify the landlord of the existence of any insects or pests;

4. Remove from his dwelling unit all ashes, garbage, rubbish and other waste in a clean and safe manner and in the appropriate receptacles provided by the landlord ~~pursuant to § 55-248.13, if such disposal is on the premises;~~

5. Keep all plumbing fixtures in the dwelling unit or used by the tenant as clean as their condition permits;

6. Use in a reasonable manner all utilities and all electrical, plumbing, sanitary, heating, ventilating, air-conditioning and other facilities and appliances including ~~elevators~~ *an elevator in the a multifamily premises*, and keep all utility services paid for by the tenant to the utility service provider or its agent on at all times during the term of the rental agreement;

7. Not deliberately or negligently destroy, deface, damage, impair or remove any part of the premises or permit any person to do so whether known by the tenant or not;

8. Not remove or tamper with a properly functioning smoke detector installed by the landlord, including removing any working batteries, so as to render the detector inoperative and shall maintain the smoke detector in accordance with the uniform set of standards for maintenance of smoke detectors established in the Uniform Statewide Building Code (§ 36-97 et seq.);

9. Not remove or tamper with a properly functioning carbon monoxide alarm installed by the landlord, including removing any working batteries, so as to render the carbon monoxide detector inoperative and shall maintain the carbon monoxide alarm in accordance with the uniform set of standards for maintenance of carbon monoxide alarms established in the Uniform Statewide Building Code (§ 36-97 et seq.);

10. Use reasonable efforts to maintain the dwelling unit and any other part of the premises that he occupies in such a condition as to prevent accumulation of moisture and the growth of mold, and to promptly notify the landlord of any moisture accumulation that occurs or of any visible evidence of mold discovered by the tenant;

11. Not paint or disturb painted surfaces or make alterations in the dwelling unit without the prior written approval of the landlord, provided *that* (i) the dwelling unit was constructed prior to 1978 and therefore requires the landlord to provide the tenant with lead-based paint disclosures and (ii) the landlord has provided the tenant with such disclosures and the rental agreement provides that the tenant is required to obtain the landlord's prior written approval before painting, disturbing painted surfaces, or making alterations in the dwelling unit;

12. Be responsible for his conduct and the conduct of other persons on the premises with his consent whether known by the tenant or not, to ensure that his neighbors' peaceful enjoyment of the premises will not be disturbed; and

13. Abide by all reasonable rules and regulations imposed by the landlord ~~pursuant to § 55-248.17.~~

B. If the duty imposed by subdivision A 1 ~~of subsection A~~ is greater than any duty imposed by any other subdivision of that subsection, the tenant's duty shall be determined by reference to subdivision A 1.

**§ 55-248.17. Rules and regulations.**

A. A landlord, from time to time, may adopt rules or regulations, however described, concerning the tenants' use and occupancy of the *dwelling unit and* premises. Any such rule or regulation is enforceable against the tenant only if:

1. Its purpose is to promote the convenience, safety or welfare of the tenants in the premises, preserve the landlord's property from abusive use or make a fair distribution of services and facilities held out for the tenants generally;

2. It is reasonably related to the purpose for which it is adopted;

3. It applies to all tenants in the premises in a fair manner;

4. It is sufficiently explicit in its prohibition, direction or limitation of the tenant's conduct to fairly inform him of what he must or must not do to comply;

5. It is not for the purpose of evading the obligations of the landlord; and

6. The tenant has been provided with a copy of the rules and regulations or changes thereto at the time he enters into the rental agreement or when they are adopted.

B. A rule or regulation adopted, changed, or provided to the tenant after the tenant enters into the rental agreement shall be enforceable against the tenant if reasonable notice of its adoption or change has been given to the tenant and it does not work a substantial modification of his bargain. If a rule or regulation is adopted or changed after the tenant enters into the rental agreement that does work a substantial modification of his bargain, it shall not be valid unless the tenant consents to it in writing.

C. Any court enforcing this chapter shall consider violations of the reasonable rules and regulations imposed under this section as a breach of the rental agreement and grant the landlord appropriate relief.

**§ 55-248.18. Access; consent; correction of nonemergency conditions; relocation of tenant.**

A. The tenant shall not unreasonably withhold consent to the landlord to enter into the dwelling unit in order to inspect the premises, make necessary or agreed repairs, decorations, alterations or improvements, supply necessary or agreed services or exhibit the dwelling unit to prospective or actual purchasers, mortgagees, tenants, workmen or contractors. If, upon inspection of a dwelling unit during the term of a tenancy, the landlord determines there is a violation by the tenant of § 55-248.16 or the rental agreement materially affecting health and safety that can be remedied by repair, replacement of a damaged item or cleaning in accordance with § 55-248.32, the landlord may make such repairs and send the tenant an invoice for payment. If, upon inspection of the dwelling unit during the term of a tenancy, the landlord discovers a violation of the rental agreement, this chapter, or other applicable law, the landlord may send a written notice of termination pursuant to § 55-248.31. If the rental agreement so provides and if a tenant without reasonable justification declines to permit the landlord or managing agent to exhibit the dwelling unit for sale or lease, the landlord may recover damages, costs, and reasonable attorney fees against such tenant.

The landlord may enter the dwelling unit without consent of the tenant in case of emergency. The landlord shall not abuse the right of access or use it to harass the tenant. Except in case of emergency or if it is impractical to do so, the landlord shall give the tenant notice of his intent to enter and may enter only at reasonable times. Unless impractical to do so, the landlord shall give the tenant at least 24-hours' notice of routine maintenance to be performed that has not been requested by the tenant. If the tenant makes a request for maintenance, the landlord is not required to provide notice to the tenant. *During the pendency of an unlawful detainer filed by the landlord against the tenant, the landlord may request the court to enter an order requiring the tenant to provide the landlord with access to such dwelling unit.*

B. Upon the sole determination by the landlord of the existence of a nonemergency property condition in the dwelling unit that requires the tenant to temporarily vacate the dwelling unit in order for the landlord to properly remedy such property condition, the landlord may, upon at least 30 days' written notice to the tenant, require the tenant to temporarily vacate the dwelling unit for a period not to exceed 30 days to a comparable dwelling unit, *or hotel*, as selected by the landlord; and at no expense or cost to the tenant. *The landlord shall not be required to pay for any other expenses of the tenant that arise after the temporary relocation period.* The landlord and tenant may agree for the tenant to temporarily vacate the dwelling unit in less than 30 days. For purposes of this subsection, "nonemergency property condition" means (i) a condition in the dwelling unit that, in the determination of the landlord, is necessary for the landlord to remedy in order for the landlord to be in compliance with § 55-248.13; (ii) the condition does not need to be remedied within a 24-hour period, with any condition that needs to be remedied within 24 hours being defined as an "emergency condition"; and (iii) the condition can only be effectively remedied by the temporary relocation of the tenant pursuant to the provisions of this subsection.

The tenant shall continue to be responsible for payment of rent under the rental agreement during the period of any temporary relocation. The landlord shall pay all costs of repairs or remediation required to address the property condition. Refusal of the tenant to cooperate with a temporary relocation pursuant to this subsection shall be deemed a breach of the rental agreement, unless the tenant agrees to vacate the unit and terminate the rental agreement within the 30-day notice period. If the landlord properly remedies the nonemergency property condition within the 30-day period, nothing herein shall be construed to entitle the tenant to terminate the rental agreement. Further, nothing herein shall be construed to limit the landlord from taking legal action against the tenant for any noncompliance that occurs during the period of any temporary relocation pursuant to this section. *During the pendency of an unlawful detainer filed by the landlord against the tenant, the landlord may request the court to enter an order requiring the tenant to provide the landlord with access to such dwelling unit.*

C. The landlord has no other right to access except by court order or that permitted by §§ 55-248.32 and 55-248.33 or if the tenant has abandoned or surrendered the premises.

D. The tenant may install, within the dwelling unit, new burglary prevention, including chain latch devices approved by the landlord, and fire detection devices, that the tenant may believe necessary to ensure his safety, provided:

1. Installation does no permanent damage to any part of the dwelling unit.
2. A duplicate of all keys and instructions of how to operate all devices are given to the landlord.
3. Upon termination of the tenancy, the tenant shall be responsible for payment to the landlord for reasonable costs incurred for the removal of all such devices and repairs to all damaged areas.

E. Upon written request of the tenant *in a dwelling unit*, the landlord shall install a carbon monoxide alarm in the tenant's dwelling unit within 90 days of such request and may charge the tenant a reasonable fee to recover the costs of *the*

equipment and labor for such installation. The landlord's installation of a carbon monoxide alarm shall be in compliance with the Uniform Statewide Building Code.

**§ 55-248.18:2. Relocation of tenant where mold remediation needs to be performed in the dwelling unit.**

Where a mold condition in the dwelling unit materially affects the health or safety of any tenant or authorized occupant, the landlord may require the tenant to temporarily vacate the dwelling unit in order for the landlord to perform mold remediation in accordance with professional standards as defined in § 55-248.4 for a period not to exceed 30 days. The landlord shall provide the tenant with either (i) a comparable dwelling unit, as selected by the landlord, at no expense or cost to the tenant, or (ii) a hotel room as selected by the landlord, at no expense or cost to the tenant. *The landlord shall not be required to pay for any other expenses of the tenant that arise after the relocation period.* The tenant shall continue to be responsible for payment of rent under the rental agreement during the period of any temporary relocation and for the remainder of the term of the rental agreement following the remediation. Nothing in this section shall be construed as entitling the tenant to a termination of a tenancy where or when the landlord has remediated a mold condition in accordance with professional standards as defined in § 55-248.4. The landlord shall pay all costs of the relocation and the mold remediation, unless the mold is a result of the tenant's failure to comply with § 55-248.16.

**§ 55-248.21:1. Early termination of rental agreement by military personnel.**

A. Any member of the armed forces of the United States or a member of the National Guard serving on full-time duty or as a Civil Service technician with the National Guard may, through the procedure detailed in subsection B, terminate his rental agreement if the member (i) has received permanent change of station orders to depart 35 miles or more (radius) from the location of the dwelling unit; (ii) has received temporary duty orders in excess of three months' duration to depart 35 miles or more (radius) from the location of the dwelling unit; (iii) is discharged or released from active duty with the ~~armed forces~~ *Armed Forces* of the United States or from his full-time duty or technician status with the National Guard; or (iv) is ordered to report to government-supplied quarters resulting in the forfeiture of basic allowance for quarters.

B. Tenants who qualify to terminate a rental agreement pursuant to subsection A shall do so by serving on the landlord a written notice of termination to be effective on a date stated therein, such date to be not less than 30 days after the first date on which the next rental payment is due and payable after the date on which the written notice is given. The termination date shall be no more than 60 days prior to the date of departure necessary to comply with the official orders or any supplemental instructions for interim training or duty prior to the transfer. Prior to the termination date, the tenant shall furnish the landlord with a copy of the official notification of the orders or a signed letter, confirming the orders, from the tenant's commanding officer.

The landlord may not charge any liquidated damages.

C. Nothing in this section shall affect the tenant's obligations established by § 55-248.16.

~~D. The exemption provided in subdivision 10 of subsection A of § 55-248.5 shall not apply to this section.~~

**§ 55-248.24. Fire or casualty damage.**

If the dwelling unit or premises are damaged or destroyed by fire or casualty to an extent that the tenant's enjoyment of the dwelling unit is substantially impaired or required repairs can only be accomplished if the tenant vacates the dwelling unit, either the tenant or the landlord may terminate the rental agreement. The tenant may terminate the rental agreement by vacating the premises and within 14 days thereafter, serve on the landlord a written notice of his intention to terminate the rental agreement, in which case the rental agreement terminates as of the date of vacating; or if continued occupancy is lawful, § 55-226 shall apply.

The landlord may terminate the rental agreement by giving the tenant 14 days' notice of his intention to terminate the rental agreement based upon the landlord's determination that such damage requires the removal of the tenant and the use of the premises is substantially impaired, in which case the rental agreement terminates as of the expiration of the notice period.

If the rental agreement is terminated, the landlord shall return all security deposits in accordance with § 55-248.15:1 and prepaid rent, plus accrued interest, recoverable by law unless the landlord reasonably believes that the tenant, tenant's guests, invitees or authorized occupants were the cause of the damage or casualty, in which case the landlord shall ~~account~~ *provide a written statement* to the tenant for the security and prepaid rent, plus accrued interest based upon the damage or casualty, and may recover actual damages sustained pursuant to § 55-248.35. ~~Accounting~~ *Proration* for rent in the event of termination or apportionment shall be made as of the date of the casualty.

**§ 55-248.27. Tenant's assertion; rent escrow.**

A. The tenant may assert that there exists upon the leased premises, a condition or conditions which constitute a material noncompliance by the landlord with the rental agreement or with provisions of law, or which if not promptly corrected, will constitute a fire hazard or serious threat to the life, health or safety of occupants thereof, including but not limited to, a lack of heat or hot or cold running water, except if the tenant is responsible for payment of the utility charge and where the lack of such heat or hot or cold running water is the direct result of the tenant's failure to pay the utility charge; or of light, electricity or adequate sewage disposal facilities; or an infestation of rodents, ~~except if the property is a one-family dwelling~~; or of the existence of paint containing lead pigment on surfaces within the dwelling, provided that the landlord has notice of such paint. The tenant may file such an assertion in a general district court wherein the premises are located by a declaration setting forth such assertion and asking for one or more forms of relief as provided for in subsection D.

B. Prior to the granting of any relief, the tenant shall show to the satisfaction of the court that:

1. Prior to the commencement of the action the landlord was served a written notice by the tenant of the conditions described in subsection A, or was notified of such conditions by a violation or condemnation notice from an appropriate state or municipal agency, and that the landlord has refused, or having a reasonable opportunity to do so, has failed to remedy the same. For the purposes of this subsection, what period of time shall be deemed to be unreasonable delay is left to the discretion of the court except that there shall be a rebuttable presumption that a period in excess of ~~thirty~~ 30 days from receipt of the notification by the landlord is unreasonable; and

2. The tenant has paid into court the amount of rent called for under the rental agreement, within five days of the date due thereunder, unless or until such amount is modified by subsequent order of the court under this chapter.

C. It shall be sufficient answer or rejoinder to a declaration pursuant to subsection A if the landlord establishes to the satisfaction of the court that the conditions alleged by the tenant do not in fact exist, or such conditions have been removed or remedied, or such conditions have been caused by the tenant or members of his family or his or their invitees or licensees, or the tenant has unreasonably refused entry to the landlord to the premises for the purpose of correcting such conditions.

D. Any court shall make findings of fact on the issues before it and shall issue any order that may be required. Such an order may include, but is not limited to, any one or more of the following:

1. Terminating the rental agreement upon the request of the tenant or ordering the premises surrendered to the landlord if the landlord prevails on a request for possession pursuant to an unlawful detainer properly filed with the court;

2. Ordering all moneys already accumulated in escrow disbursed to the landlord or to the tenant in accordance with this chapter;

3. Ordering that the escrow be continued until the conditions causing the complaint are remedied;

4. Ordering that the amount of rent, whether paid into the escrow account or paid to the landlord, be abated as determined by the court in such an amount as may be equitable to represent the existence of the condition or conditions found by the court to exist. In all cases where the court deems that the tenant is entitled to relief under this chapter, the burden shall be upon the landlord to show cause why there should not be an abatement of rent;

5. Ordering any amount of moneys accumulated in escrow disbursed to the tenant where the landlord refuses to make repairs after a reasonable time or to the landlord or to a contractor chosen by the landlord in order to make repairs or to otherwise remedy the condition. In either case, the court shall in its order insure that moneys thus disbursed will be in fact used for the purpose of making repairs or effecting a remedy;

6. Referring any matter before the court to the proper state or municipal agency for investigation and report and granting a continuance of the action or complaint pending receipt of such investigation and report. When such a continuance is granted, the tenant shall deposit with the court rents within five days of date due under the rental agreement, subject to any abatement under this section, which become due during the period of the continuance, to be held by the court pending its further order;

7. In its discretion, ordering escrow funds disbursed to pay a mortgage on the property in order to stay a foreclosure; or

8. In its discretion, ordering escrow funds disbursed to pay a creditor to prevent or satisfy a bill to enforce a mechanic's or materialman's lien.

Notwithstanding any provision of this subsection, where an escrow account is established by the court and the condition or conditions are not fully remedied within six months of the establishment of such account, and the landlord has not made reasonable attempts to remedy the condition, the court shall award all moneys accumulated in escrow to the tenant. In such event, the escrow shall not be terminated, but shall begin upon a new six-month period with the same result if, at the end thereof, the condition or conditions have not been remedied.

E. The initial hearing on the tenant's assertion filed pursuant to subsection A shall be held within fifteen calendar days from the date of service of process on the landlord as authorized by § 55-248.12, except that the court shall order an earlier hearing where emergency conditions are alleged to exist upon the premises, such as failure of heat in winter, lack of adequate sewage facilities or any other condition which constitutes an immediate threat to the health or safety of the inhabitants of the leased premises. The court, on motion of either party or on its own motion, may hold hearings subsequent to the initial proceeding in order to further determine the rights and obligations of the parties. Distribution of escrow moneys may only occur by order of the court after a hearing of which both parties are given notice as required by law or upon motion of both the landlord and tenant or upon certification by the appropriate inspector that the work required by the court to be done has been satisfactorily completed. If the tenant proceeds under this subsection, he may not proceed under any other section of this article as to that breach.

**§ 55-248.31. Noncompliance with rental agreement; monetary penalty.**

A. Except as provided in this chapter, if there is a material noncompliance by the tenant with the rental agreement or a violation of § 55-248.16 materially affecting health and safety, the landlord may serve a written notice on the tenant specifying the acts and omissions constituting the breach and stating that the rental agreement will terminate upon a date not less than 30 days after receipt of the notice if the breach is not remedied in 21 days, and that the rental agreement shall terminate as provided in the notice.

B. If the breach is remediable by repairs or the payment of damages or otherwise and the tenant adequately remedies the breach prior to the date specified in the notice, the rental agreement shall not terminate.

C. If the tenant commits a breach which is not remediable, the landlord may serve a written notice on the tenant specifying the acts and omissions constituting the breach and stating that the rental agreement will terminate upon a date not less than 30 days after receipt of the notice. Notwithstanding anything to the contrary contained elsewhere in this chapter,

when a breach of the tenant's obligations under this chapter or the rental agreement involves or constitutes a criminal or a willful act, which is not remediable and which poses a threat to health or safety, the landlord may terminate the rental agreement immediately and proceed to obtain possession of the premises. For purposes of this subsection, any illegal drug activity involving a controlled substance, as used or defined by the Drug Control Act (§ 54.1-3400 et seq.), *or any activity that involves or constitutes a criminal or willful act that also poses a threat to health and safety*, by the tenant, the tenant's authorized occupants, or the tenant's guests or invitees; shall constitute an immediate nonremediable violation for which the landlord may proceed to terminate the tenancy without the necessity of waiting for a conviction of any criminal offense that may arise out of the same actions. In order to obtain an order of possession from a court of competent jurisdiction terminating the tenancy for illegal drug activity or for any other ~~action~~ activity that involves or constitutes a criminal or willful act *that also poses a threat to health and safety*, the landlord shall prove any such violations by a preponderance of the evidence. However, where the illegal drug activity *or any activity that involves or constitutes a criminal or willful act that also poses a threat to health and safety* is engaged in by a tenant's authorized occupants, or guests or invitees, the tenant shall be presumed to have knowledge of such ~~illegal drug activity activities~~ unless the presumption is rebutted by a preponderance of the evidence. The initial hearing on the landlord's action for immediate possession of the premises shall be held within 15 calendar days from the date of service on the tenant; however, the court shall order an earlier hearing when emergency conditions are alleged to exist upon the premises which constitute an immediate threat to the health or safety of the other tenants. After the initial hearing, if the matter is scheduled for a subsequent hearing or for a contested trial, the court, to the extent practicable, shall order that the matter be given priority on the court's docket. Such subsequent hearing or contested trial shall be heard no later than 30 calendar days from the date of service on the tenant. During the interim period between the date of the initial hearing and the date of any subsequent hearing or contested trial, the court may afford any further remedy or relief as is necessary to protect the interests of parties to the proceeding or the interests of any other tenant residing on the premises. Failure by the court to hold either of the hearings within the time limits set out herein shall not be a basis for dismissal of the case.

D. If the tenant is a victim of family abuse as defined in § 16.1-228 that occurred in the dwelling unit or on the premises and the perpetrator is barred from the dwelling unit pursuant to § 55-248.31:01 based upon information provided by the tenant to the landlord, or by a protective order from a court of competent jurisdiction pursuant to § 16.1-253.1, 16.1-279.1, or subsection B of § 20-103, the lease shall not terminate due solely to an act of family abuse against the tenant. However, these provisions shall not be applicable if (i) the tenant fails to provide written documentation corroborating the tenant's status as a victim of family abuse and the exclusion from the dwelling unit of the perpetrator no later than 21 days from the alleged offense or (ii) the perpetrator returns to the dwelling unit or the premises, in violation of a bar notice, and the tenant fails promptly to notify the landlord within 24 hours thereafter that the perpetrator has returned to the dwelling unit or the premises, unless the tenant proves by a preponderance of the evidence that the tenant had no actual knowledge that the perpetrator violated the bar notice, or it was not possible for the tenant to notify the landlord within 24 hours, in which case the tenant shall promptly notify the landlord, but in no event more than 7 days thereafter. If the provisions of this subsection are not applicable, the tenant shall remain responsible for the acts of the other co-tenants, authorized occupants or guests or invitees pursuant to § 55-248.16, and is subject to termination of the tenancy pursuant to the lease and this chapter.

E. If the tenant has been served with a prior written notice which required the tenant to remedy a breach, and the tenant remedied such breach, where the tenant intentionally commits a subsequent breach of a like nature as the prior breach, the landlord may serve a written notice on the tenant specifying the acts and omissions constituting the subsequent breach, make reference to the prior breach of a like nature, and state that the rental agreement will terminate upon a date not less than 30 days after receipt of the notice.

F. If rent is unpaid when due, and the tenant fails to pay rent within five days after written notice is served on him notifying the tenant of his nonpayment, and of the landlord's intention to terminate the rental agreement if the rent is not paid within the five-day period, the landlord may terminate the rental agreement and proceed to obtain possession of the premises as provided in § 55-248.35. If a check for rent is delivered to the landlord drawn on an account with insufficient funds, or if an electronic funds transfer has been rejected because of insufficient funds or a stop-payment order has been placed in bad faith by the authorizing party, and the tenant fails to pay rent within five days after written notice is served on him notifying the tenant of his nonpayment and of the landlord's intention to terminate the rental agreement if the rent is not paid by cash, cashier's check, certified check, or a completed electronic funds transfer within the five-day period, the landlord may terminate the rental agreement and proceed to obtain possession of the premises as provided in § 55-248.35. Nothing shall be construed to prevent a landlord from seeking an award of costs or attorney fees under § 8.01-27.1 or civil recovery under § 8.01-27.2, as a part of other damages requested on the unlawful detainer filed pursuant to § 8.01-126, provided the landlord has given notice in accordance with § 55-248.6, which notice may be included in the five-day termination notice provided in accordance with this section.

G. Except as provided in this chapter, the landlord may recover damages and obtain injunctive relief for any noncompliance by the tenant with the rental agreement or § 55-248.16. In the event of a breach of the rental agreement or noncompliance by the tenant, the landlord shall be entitled to recover from the tenant the following, regardless of whether or not a lawsuit is filed or an order obtained from a court: (i) rent due and owing as contracted for in the rental agreement, (ii) other charges and fees as contracted for in the rental agreement, (iii) late charges contracted for in the rental agreement, (iv) reasonable attorney fees as contracted for in the rental agreement or as provided by law, (v) costs of the proceeding as

contracted for in the rental agreement or as provided by law only if court action has been filed, and (vi) damages to the dwelling unit or premises as contracted for in the rental agreement.

H. In a case where a lawsuit is pending before the court upon a breach of the rental agreement or noncompliance by the tenant and the landlord prevails, the court shall award a money judgment to the landlord and against the tenant for the relief requested, which may include the following: (i) rent due and owing as of the court date as contracted for in the rental agreement; (ii) other charges and fees as contracted for in the rental agreement; (iii) late charges contracted for in the rental agreement; (iv) reasonable attorney fees as contracted for in the rental agreement or as provided by law, unless in any such action the tenant proves by a preponderance of the evidence that the tenant's failure to pay rent or vacate was reasonable; (v) costs of the proceeding as contracted for in the rental agreement or as provided by law; and (vi) damages to the dwelling unit or premises.

**§ 55-248.38:1. Disposal of property abandoned by tenants.**

If any items of personal property are left in the dwelling unit, the premises, or in any storage area provided by the landlord, after the rental agreement has terminated and delivery of possession has occurred, the landlord may consider such property to be abandoned. The landlord may dispose of the property so abandoned as the landlord sees fit or appropriate, provided he has: (i) given a termination notice to the tenant in accordance with this chapter, which includes a statement that any items of personal property left in the dwelling unit or the premises would be disposed of within the 24-hour period after termination, (ii) given written notice to the tenant in accordance with § 55-248.33, which includes a statement that any items of personal property left in the dwelling unit or the premises would be disposed of within the 24-hour period after expiration of the seven-day notice period, or (iii) given a separate written notice to the tenant, which includes a statement that any items of personal property left in the dwelling unit or the premises would be disposed of within 24 hours after expiration of a 10-day period from the date such notice was given to the tenant. Any written notice to the tenant shall be given in accordance with § 55-248.6. The tenant shall have the right to remove his personal property from the dwelling unit or the premises at reasonable times during the 24-hour period after termination or at such other reasonable times until the landlord has disposed of the remaining personal property of the tenant.

During the 24-hour period and until the landlord disposes of the remaining personal property of the tenant, the landlord shall not have any liability for the risk of loss for such personal property. If the landlord fails to allow reasonable access to the tenant to remove his personal property as provided in this section, the tenant shall have a right to injunctive or other relief as provided by law. If the landlord received any funds from any sale of abandoned property as provided in this section, the landlord shall pay such funds to the account of the tenant and apply same to any amounts due the landlord by the tenant, including the reasonable costs incurred by the landlord in selling, storing or safekeeping such property. If any such funds are remaining after application, the remaining funds shall be treated as a security deposit under the provisions of § 55-248.15:1. The provisions of this section shall not be applicable if the landlord has been granted a writ of possession for the premises in accordance with Title 8.01 and execution of such writ has been completed pursuant to § 8.01-470.

*Nothing herein shall affect the right of a landlord to enforce an inchoate or perfected lien of the landlord on the personal property of a tenant in a dwelling unit or on the premises leased to such tenant and the right of a landlord to distress, levy, and seize such personal property as otherwise provided by law.*

**§ 55-248.38:3. Disposal of property of deceased tenants.**

A. If a tenant, who is the sole occupant of tenant under a written rental agreement still residing in the dwelling unit, dies, and there is no person authorized by order of the circuit court to handle probate matters for the deceased tenant, the landlord may dispose of the personal property left in the dwelling unit or upon the premises. However, the landlord shall give at least 10 days' written notice to (i) the person identified in the rental application, lease agreement, or other landlord document as the authorized person to contact in the event of the death or emergency of the tenant or (ii) the tenant in accordance with § 55-248.6 if no such person is identified in the rental application, lease agreement, or other landlord document as the authorized contact person. The notice given under clause (i) or (ii) shall include a statement that any items of personal property left in the premises would be treated as abandoned property and disposed of in accordance with the provisions of § 55-248.38:1, if not claimed within 10 days. *Authorized occupants, or guests or invitees, are not allowed to occupy the dwelling unit after the death of the sole remaining tenant and shall vacate the dwelling unit prior to the end of the 10-day period.*

B. The landlord may request that such authorized contact person provide reasonable proof of identification. Thereafter, the authorized contact person identified in the rental application, lease agreement, or other landlord document may (i) have access to the dwelling unit or the premises and to the tenant records maintained by the landlord and (ii) rightfully claim the personal property of the deceased tenant and otherwise handle the affairs of the deceased tenant with the landlord.

C. The rental agreement is deemed to be terminated by the landlord as of the date of death of the tenant, who is the sole occupant of tenant under a written rental agreement still residing in the dwelling unit, and the landlord shall not be required to seek an order of possession from a court of competent jurisdiction. The estate of the tenant shall remain liable for actual damages under § 55-248.35, and the landlord shall mitigate damages as provided thereunder.

**2. That §§ 55-225.8 and 55-248.5 of the Code of Virginia are repealed.**

## CHAPTER 731

*An Act to direct the Department of Housing and Community Development to consider revision to the Uniform Statewide Building Code, relating to notice to residents of manufactured home parks of building code violations by the park owner.*

[H 2203]

Approved March 24, 2017

**Be it enacted by the General Assembly of Virginia:**

**1.** *§ 1. That the Department of Housing and Community Development shall consider including in the current revision of the Uniform Statewide Building Code a provision designed to ensure that localities provide appropriate notice to residents of manufactured home parks of any Building Code violation by a park owner that jeopardizes the health and safety of those residents and shall report to the General Assembly regarding the status of such efforts no later than November 1, 2017.*

**2. That an emergency exists and this act is in force from its passage.**

## CHAPTER 732

*An Act to amend and reenact § 2.2-2338 of the Code of Virginia, relating to Fort Monroe Authority; Board of Trustees membership.*

[H 2356]

Approved March 24, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 2.2-2338 of the Code of Virginia is amended and reenacted as follows:**

**§ 2.2-2338. Board of Trustees; membership.**

There is hereby created a political subdivision and public body corporate and politic of the Commonwealth of Virginia to be known as the Fort Monroe Authority, to be governed by a Board of Trustees (Board) consisting of ~~12 voting~~ **14** members appointed as follows: the Secretary of Natural Resources and the Secretary of Commerce and Trade, or their successor positions if those positions no longer exist, from the Governor's cabinet; ~~the Lieutenant Governor~~; the member of the Senate of Virginia and the member of the House of Delegates representing the district in which Fort Monroe lies; two members appointed by the Hampton City Council; and ~~five~~ **eight** nonlegislative citizen members appointed by the Governor, ~~four~~ **seven** of whom shall have expertise relevant to the implementation of the Fort Monroe Reuse Plan, including but not limited to the fields of historic preservation, tourism, environment, real estate, finance, and education, and one of whom shall be a citizen representative from the Hampton Roads region. *The Secretary of Natural Resources and the Secretary of Commerce and Trade shall serve ex officio without voting privileges and may send their deputies or another cabinet member to meetings in the event that official duties require their presence elsewhere.* Cabinet members, ~~the Lieutenant Governor~~, and elected representatives shall serve terms commensurate with their terms of office. ~~Citizen appointees shall initially be appointed for staggered terms of either one, two, or three years, and thereafter shall serve for four-year terms. Cabinet members shall be entitled to send their deputies or another cabinet member, and legislative Legislative members may send another legislator,~~ to meetings as full voting members in the event that official duties require their presence elsewhere.

The Board so appointed shall enter upon the performance of its duties and shall initially and annually thereafter elect one of its members as chairman and another as vice-chairman. The Board shall also elect annually a secretary, who shall be a member of the Board, and a treasurer, who need not be a member of the Board, or a secretary-treasurer, who need not be a member of the Board. The chairman, or in his absence the vice-chairman, shall preside at all meetings of the Board, and in the absence of both the chairman and vice-chairman, the Board shall elect a chairman pro tempore who shall preside at such meetings. Seven Trustees shall constitute a quorum, and all action by the Board shall require the affirmative vote of a majority of the Trustees present and voting, except that any action to amend or terminate the existing Reuse Plan, or to adopt a new Reuse Plan, shall require the affirmative vote of 75 percent or more of the Trustees present and voting. The members of the Board shall be entitled to reimbursement for expenses incurred in attendance upon meetings of the Board or while otherwise engaged in the discharge of their duties. Such expenses shall be paid out of the treasury of the Authority in such manner as shall be prescribed by the Authority.

**2. That the provisions of this act shall not be construed to affect existing appointments for which the terms have not expired. However, any new appointments made on and after July 1, 2017, shall be made in accordance with this act.**

**3. That the initial appointments of the three nonlegislative citizen members appointed by the Governor in accordance with this act shall be staggered as follows: two nonlegislative citizen members shall be appointed for a term of five years, and one nonlegislative citizen member shall be appointed for a term of two years. Thereafter, all nonlegislative citizen members appointed by the Governor shall serve four-year terms.**

## CHAPTER 733

*An Act to amend and reenact § 1-4, as amended, § 1-5, §§ 2-2.1 and 2-5, as amended, §§ 2-8.1, 3-1, 3-2, 3-5, and 3-13, § 4-1, as amended, and §§ 4-7, 6-2, 7-2, and 7-6 of Chapter 259 of the Acts of Assembly of 1962; to amend and reenact Chapter 259 of the Acts of Assembly of 1962 by adding sections numbered 2-3.2 and 6-1.1; and to repeal § 3-4, § 3-10, as amended, § 3-12, § 3-19, as amended, and §§ 4-4, 4-5, 5-1, 6-1, 7-3, and 7-5 of Chapter 259 of the Acts of Assembly of 1962, which provided a charter for the City of Petersburg, relating to council, city officers, and powers.*

[H 2464]

Approved March 24, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 1-4, as amended, § 1-5, §§ 2-2.1 and 2-5, as amended, §§ 2-8.1, 3-1, 3-2, 3-5, and 3-13, § 4-1, as amended, and §§ 4-7, 6-2, 7-2, and 7-6 of Chapter 259 of the Acts of Assembly of 1962 are amended and reenacted and that Chapter 259 of the Acts of Assembly of 1962 is amended by adding sections numbered 2-3.2 and 6-1.1 as follows:**

## § 1-4. Penalties for violation of ordinances.

Where, by the provisions of this charter or any amendment thereof, the city council has authority to pass ordinances or regulations on any subject, they may prescribe a penalty not exceeding twelve months imprisonment or fine not exceeding ~~\$1,000~~ \$2,500 (except where penalty is otherwise provided for in this charter or any amendment) for a violation thereof; provided, however, that should there be a statute of the Commonwealth upon the same subject, then the city council may provide the same penalty for violation of state statute. The city council may also provide that any police officer may detect and arrest any person violating any of such ordinances or regulations and bring him to trial at the next sitting of the general district court or as soon thereafter as may be.

## § 1-5. Publication of ordinances; ordinances as evidence.

All ordinances hereafter passed by the city council for violation of which any penalty is imposed, shall be published once, at least, in a newspaper published in the city to be designated by the city council; provided, however, the council may, in its judgment, direct that only the title of an ordinance, describing clearly and fully its subject in general terms and setting forth the penalty for its violation, be published and such publication shall be sufficient compliance with this section. When the latter method of publication is used, the publication shall state that complete copies of the ordinance or code so adopted may be obtained by any interested person at the office of the clerk of the city council. A record or entry made by the clerk of the city council, or a copy of such record or entry, duly certified to by him, shall be prima facie evidence of the publications of any such ordinance, or any amendment thereof; and all laws, regulations and ordinances of the city council may be read in evidence in all courts of justice and in all proceedings before any officer, body or board in which it shall be necessary to refer thereto, either from a copy thereof, certified by the clerk of the city council, or from the volume of ordinances printed by the authority of the council. But the provisions of this section as to publication of ordinances shall not apply to ordinances embodied in any general compilation, codification or revision of ordinances, printed by authority of the council and adopted by the council as a code and all resolutions appropriating funds in excess of \$100,000 shall be adopted by the council on two readings. No such ordinance or resolution shall be adopted on second reading on the same day as its introduction unless five members elected to council have voted to suspend the rules and to place the matter on second reading. The clerk of council shall post all ordinances and applicable resolutions on the public bulletin board of the city, on the first page of the city's website, and on all social media sites used by the city for the public and shall email such notices to all persons who submit an email address for such purpose.

§ 2-2.1. Creation and composition; election of councilmen generally; application of general laws of the state; council as continuing body.

There shall be a council of the city which shall be composed of seven members, one from each ward, who shall have been a resident of the ward he seeks to represent thirty days prior to filing his notice of candidacy. The candidates shall be qualified voters of the city. They shall be elected by the qualified voters of such wards and each shall remain a resident of the ward from which elected during his term of office. The candidate receiving the greatest number of votes in his ward shall be declared elected and shall serve for a term of four years or until his successor has been elected and qualified except as hereafter provided.

~~On the first Tuesday in May, 1974, there shall be an election in each ward. Candidates in wards one, three, five, and seven, receiving the greatest number of votes each shall serve a four-year term commencing July 1, 1974, and until their successors have been elected and qualified. Thereafter, beginning in May, 1978, elections shall be held in such wards every fourth year on the first Tuesday in May. Candidates in wards two, four and six, receiving the greatest number of votes each shall serve a two-year term, commencing July 1, 1974, and until their successors have been elected and qualified. Thereafter, beginning in May, 1976, elections shall be held in such wards every fourth year on the first Tuesday in May.~~

Beginning in the year 2008, the election of council members in wards two, four, and six shall be held at the same time as the November general election. Candidates receiving the greatest number of votes from each ward at that time shall each serve a four-year term commencing January 1, 2009, and until their successors have been elected and qualified. Thereafter, elections shall be held in such wards every fourth year on the November general election date. On the November general election date in 2010, there shall be an election in wards one, three, five, and seven. Candidates receiving the greatest number of votes from each ward at that time shall each serve a four-year term commencing January 1, 2011, and until their

successors have been elected and qualified. Thereafter, elections shall be held in such wards every fourth year on the November general election date.

The general laws of the Commonwealth relating to the conduct of elections, as far as pertinent, shall apply to the conduct of the general city elections. The council shall be a continuing body and no measures pending before such body shall abate or be discontinued by reason of the expiration of the term of office or removal of the members of said body, or any of them.

§ 2-3.2. Mayor generally.

*At the organizational meeting thereof, the city council shall proceed to choose, by majority vote of all the members thereof, one of their number to be mayor and one to be vice-mayor for the ensuing two years. The mayor shall preside over the meetings of the council and shall have the same right to vote and speak therein as other members and shall have no veto power. He shall be recognized as the head of the city government for all ceremonial purposes and for the purposes of military law and the service of civil process. The vice-mayor shall in the absence or disability of the mayor perform the duties of mayor, and if a vacancy shall occur in the office of mayor shall become mayor for the unexpired portion of the term. In the absence or disability of both the mayor and vice-mayor, the council shall by majority vote of those present choose one of their number to perform the duties of mayor.*

§ 2-5. Power to adopt rules and appoint officers and clerks; discipline of members; journal; open and secret meeting; power to compel attendance of witnesses.

The city council shall have authority to adopt such rules and to appoint such officers and clerks as it may deem proper for the regulation of its proceedings, and for the convenient transaction of business, to compel the attendance of absent members, to expel a member for malfeasance, misfeasance or nonfeasance in office. The city council shall keep a journal of its proceedings, and its meeting shall be open, except when by a recorded vote of a majority of those members present, it shall declare a closed session in accordance with the Virginia Freedom of Information Act. The city council or any of its committees, when authorized by the city council may each, in any investigation before them, respectively, within their respective powers and duties, order the attendance of any person as a witness and the production by any person of all proper books and papers. Any person refusing or failing to attend or to testify, or to produce such books and papers, may be summoned by such investigating body before the municipal judge and upon failure to give a satisfactory excuse, may be fined by him not exceeding twenty dollars, or imprisoned not exceeding thirty days, such person to have the right of appeal, as in case of misdemeanor, to the circuit court of the city. Such witness may be sworn by the officer presiding at such investigation, and shall be liable to prosecution for perjury for any false testimony given at such investigation.

No member of the council shall be eligible, during the term for which he was elected, or for one year thereafter, for any office, position or employment to be filled by the city council or the city manager or by any other city official or employee, *except this restriction shall not apply to the appointment of mayor or vice-mayor.*

§ 2-8.1. Vacancies in office of councilmen.

Vacancies in the office of councilmen ~~from whatever cause arising shall be filled in accordance with the provisions of § 2-2.1 aforesaid by majority vote of the remaining members of council, or, if the council shall fail to fill a vacancy in its membership within thirty days of the occurrence of the vacancy, by appointment by the judge of the circuit court of the city or by the senior judge thereof, in the event there be more than one within 45 days of the seat becoming vacant. The appointee must be a qualified voter in the ward in which the vacancy occurred. If the council cannot agree, the vacancy shall be filled by appointment by the judges of the circuit court of the city. If a majority of the seats on council are vacant, the remaining members shall not make interim appointments and the vacancies shall be filled as provided in § 24.2-227 of the Code of Virginia.~~

*The council shall, within 15 days of the occurrence of the vacancy, petition the circuit court to issue a writ of election to fill the vacancy, pursuant to § 24.2-226 of the Code of Virginia.*

~~When any such vacancy shall occur, the court shall issue a writ of election to fill such vacancy. Such election shall be held at the next ensuing general election. The officer Any council member so elected shall hold the office for the unexpired term of his regularly elected predecessor in office. The person so appointed to fill the vacancy shall hold office until the qualified voters shall fill the same by election and the person so elected shall have qualified. In the event the vacancy occurs within 120 prior to the next ensuing general election, the writ of election shall issue for an election to fill the vacancy at the second ensuing general election.~~

§ 3-1. Oath of city officers generally.

Every officer of the city required by law or by ordinance of the city council, shall, before he enters upon the duties of his office, take and subscribe the oath prescribed by § 49-1 of the Code of Virginia and such other oaths as may be required by the city council. Such oaths, unless otherwise provided, shall be taken before the clerk of the city council. The clerk of the city council shall qualify and take the oath provided by this section before the mayor. A certificate of the oaths provided for in this section, together with the oaths subscribed, shall be filed with the clerk of the city council, who shall preserve the same. *This section shall not apply to officers subject to § 2-4.*

§ 3-2. Filling vacancies; how elections to be held.

In the event of the death, resignation or removal of any officer, whose election or appointment is provided for by this charter, the vacancy in such office shall be filled under and by virtue of the terms of this charter. ~~All elections in the city for the officers of the city and members of the council thereof, shall be held only under and by virtue of the Constitution and laws of this Commonwealth, and the terms of charter.~~

§ 3-5. City manager.

The city council shall employ a person, who may or may not be a resident or qualified voter of the city or of the Commonwealth, to be known as the city manager. The city manager, under the control of the city council, shall have general charge and management of the administrative affairs and work of the city and shall perform such duties as may be required of him by the city council. He shall receive such salary *or compensation* as shall be allowed him by the city council and shall serve at the pleasure of the city council.

§ 3-13. Powers and duties of treasurer.

The city treasurer shall be the custodian of all moneys belonging to the city, shall deposit the same in such bank or banks as the council shall prescribe, shall keep his office in some place designated by the city council, shall keep his books and accounts in such manner as the city council may require, which books and accounts shall always be open to the inspection of the mayor, and any member or committee of the city council, *city manager, and finance director or equivalent officer*. ~~He shall pay no money except upon the order of the city council, or upon an order of a committee of the city council, lawfully drawn in pursuance of the ordinances of the city.~~ He shall report to the city council at the end of each fiscal year, and ~~often more often~~, if required, a full and detailed account of all receipts and expenditures during that year and the state of the treasury. He shall keep as a separate fund any special assessment, and the same shall only be used for the purpose for which it was raised. He shall keep all city moneys separate and distinct from his own moneys, and he is prohibited from using either directly or indirectly the corporation money in his custody and keeping, for his own use and benefit or that of any other person or persons whomsoever and any violation of this provision shall subject him to immediate removal from office.

§ 4-1. Adoption of state law provisions.

The powers set forth in ~~§§ 15.1-837 to 15.1-915, both inclusive~~, *Article 1 (§ 15.2-1100 et seq.) of Chapter 11 of Title 15.2 of the Code of Virginia*, as amended, are hereby conferred upon the city.

§ 4-7. Power of city to acquire land or interests therein for exchange with public utility company.

Whenever any public utility company owns any land or any easement, right of way or other interest in land which the city deems necessary and intends to acquire for any public purpose, which land, easement, right of way or other interest in land owned by the public utility company is devoted to a public use, the city may acquire by gift, purchase or by the exercise of the power of eminent domain additional or a like easement, right of way or interest in land adjacent to or approximately adjacent to such land needed and proposed to be acquired by the city and may then convey the same to the public utility company for use by it in lieu of the land, easement, right of way or other interest in land theretofore owned by it but needed by the city. The condemnation of such land, easement, rights of way or other interest in land to be conveyed to any public utility company shall be governed by the same procedure prescribed by this charter and may be carried out at the same time if against the same property owner and if against the same landowner or in the same proceedings in which land is condemned for the city. The city may, with respect to highways, streets and the extension and construction of sewer and water systems, under the same procedure and conditions prescribed by this chapter, with prospective property needed by the city, enter upon and take possession of such property to be conveyed to any public utility company prior to the acquisition of title thereto in condemnation proceedings and proceed with the relocation of the installations of the public utility company in order that the purposes of the city necessitating such action may be carried out without delay. Nothing in this section shall be construed to authorize the city to exercise the power of eminent domain, except subject to the provisions of ~~§ 25-233 25.1-102~~ of the Code of Virginia, when the interest sought is held by another corporation having the power of eminent domain.

§ 6-1.1. Taxation.

*In order to execute its powers and duties and to meet the wants and purposes of the city, the council is hereby vested with power and authority to levy taxes upon persons, property, real and personal, privileges, businesses, trades, professions, and callings and upon such other subjects of taxation and in such amounts as the council shall deem necessary and proper to provide such sums of money as they shall deem expedient without limitation as to subject, except such as may be expressly provided by general laws or constitutional provision and without limitation as to rate except such as may be provided by the Constitution of Virginia.*

§ 6-2. Consumer tax for use of public utilities; additional annual taxes.

In addition to other powers conferred by law, the city council shall have the power to levy, impose and collect, in such manner as it may deem expedient, a consumer or subscriber tax upon the amount paid for the use within the city of water, electricity, gas, telephone, *cable television*, and any other public utility service, or upon the amount paid for any one or more of such public utility services used within the city, and the council may provide that such tax shall be added to, and collected with, bills rendered consumers for such services.

Any such tax heretofore levied, imposed or collected by any ordinance of the city and which became effective on or after December 1, 1947, and all acts done in pursuance of such ordinance or any amendment thereof, be, and they are hereby, ratified and confirmed.

In addition to the other powers conferred by law, the council is hereby empowered to raise annually by taxes and assessments sums of money as the council shall deem necessary for the purposes of the city, in such manner, on such subjects and transactions, and from such sources as council deems expedient, in accordance with the Constitution and laws of the Commonwealth and the United States.

§ 7-2. Continuation of present offices, etc.

All officers and employees heretofore elected or appointed shall remain in office and continue in their employment and be vested with the powers and duties heretofore imposed upon them by the council or by operation of law or hereafter imposed upon them under the provisions of this act until their successors are duly elected or appointed as provided by law ~~or until action is taken by the city as set forth in § 15-77.9, Code of Virginia, as in force on January 1, 1962.~~

§ 7-6. Effective date.

This ~~act~~ *charter* shall be in force and effect from and after March 1, 1962.

**2. That § 3-4, § 3-10, as amended, § 3-12, § 3-19, as amended, and §§ 4-4, 4-5, 5-1, 6-1, 7-3, and 7-5 of Chapter 259 of the Acts of Assembly of 1962 are repealed.**

**CHAPTER 734**

*An Act to amend the Code of Virginia by adding a section numbered 55-248.49:1, relating to the Manufactured Home Lot Rental Act; notice of uncorrected violations.*

[S 1123]

Approved March 24, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding a section numbered 55-248.49:1 as follows:**

**§ 55-248.49:1. Notice of uncorrected violations.**

*If a landlord does not remedy a violation of an ordinance that pertains to the health and safety of tenants in a manufactured home park within seven days of receiving notice from the locality of such violation, the locality shall notify tenants of the manufactured home park who are affected by the violation. Such notification may consist of posting the notice of violation in a conspicuous place in the manufactured home park or mailing copies of the notice to affected tenants.*

**CHAPTER 735**

*An Act to amend and reenact § 25.1-420 of the Code of Virginia, relating to inverse condemnation proceeding; reimbursement of owner's costs.*

[S 1153]

Approved March 24, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 25.1-420 of the Code of Virginia is amended and reenacted as follows:**

**§ 25.1-420. Reimbursement of owner for costs incurred in inverse condemnation proceeding.**

If a declaratory judgment proceeding is instituted pursuant to § 8.01-187 by the owner of any right, title or interest in real property because of use of his property in any program or project undertaken by a state agency, and either (i) the court renders a judgment for the plaintiff in such proceeding and awards compensation for the *damaging or* taking of property or (ii) the Attorney General effects a settlement of any such proceeding in which the Commonwealth is a party, the court or Attorney General, as appropriate, shall determine and award or allow to such plaintiff, as a part of such judgment or settlement, such sum as will, in the opinion of the court or the Attorney General, as the case may be, reimburse such plaintiff for his reasonable costs, disbursements and expenses, including reasonable attorney, appraisal and engineering fees, actually incurred because of such proceeding.

**2. That the provisions of this act shall not apply to declaratory judgment proceedings filed prior to July 1, 2017.**

**CHAPTER 736**

*An Act to amend and reenact §§ 15.2-2119, 15.2-2119.1, 15.2-2122, and 15.2-5139 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 15.2-2119.4, relating to water and sewer liens; lessee or tenant.*

[S 1189]

Approved March 24, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 15.2-2119, 15.2-2119.1, 15.2-2122, and 15.2-5139 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 15.2-2119.4 as follows:**

**§ 15.2-2119. Fees and charges for water and sewer services provided to a property owner.**

A. For water and sewer services provided by localities, fees and charges may be charged to and collected from (i) any person contracting for the same; (ii) the owner who is the occupant of the property or where a single meter serves multiple units; (iii) a lessee or tenant, ~~provided that the lessee or tenant has written authorization from the owner of the property to obtain water and sewer services in the name of such lessee or tenant in accordance with § 15.2-2119.4~~ with such fees and charges applicable for water and sewer services (a) which directly or indirectly is or has been connected with the sewage disposal system and (b) from or on which sewage or industrial wastes originate or have originated and have directly or

indirectly entered or will enter the sewage disposal system; or (iv) any user of a municipality's water or sewer system with respect to combined sanitary and storm water sewer systems where the user is a resident of the municipality and the purpose of any such fee or charge is related to the control of combined sewer overflow discharges from such systems. Such fees and charges shall be practicable and equitable and payable as directed by the respective locality operating or providing for the operation of the water or sewer system. ~~A locality providing water and sewer services may establish, by adoption of a resolution, that water and sewer services may be provided to a lessee or tenant pursuant to provision (iii) without obtaining an authorization form from the property owner. For purposes of this section, a written or electronic authorization from the owner of the property to obtain water and sewer services in the name of such lessee or tenant substantially in the form as follows shall be sufficient compliance with this section:~~

DATE

[INSERT NAME OF WATER AND SEWER SERVICES PROVIDER AND ADDRESS]

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

RE: [INSERT FULL TENANT NAME AND ADDRESS]

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

To Whom It May Concern:

[INSERT TENANT NAME] has entered into a lease for the property located at [INSERT ADDRESS] and is authorized to obtain services at this address as a tenant of [INSERT PROPERTY OWNER NAME].

Signed: \_\_\_\_\_

PROPERTY OWNER

B. Such fees and charges, being in the nature of use or service charges, shall, as nearly as the governing body deems practicable and equitable, be uniform for the same type, class and amount of use or service of the sewage disposal system; and may be based or computed either on the consumption of water on or in connection with the real estate, making due allowances for commercial use of water, or on the number and kind of water outlets on or in connection with the real estate or on the number and kind of plumbing or sewage fixtures or facilities on or in connection with the real estate or on the number or average number of persons residing or working on or otherwise connected or identified with the real estate or any other factors determining the type, class and amount of use or service of the sewage disposal system, or any combination of such factors, or on such other basis as the governing body may determine. Such fees and charges shall be due and payable at such time as the governing body may determine, and the governing body may require the same to be paid in advance for periods of not more than six months. The revenue derived from any or all of such fees and charges is hereby declared to be revenue of such sewage disposal system.

C. Water and sewer connection fees established by any locality shall be fair and reasonable. Such fees shall be reviewed by the locality periodically and shall be adjusted, if necessary, to assure that they continue to be fair and reasonable. Nothing herein shall affect existing contracts with bondholders ~~which~~ that are in conflict with any of the foregoing provisions.

D. If the fees and charges charged for water service or the use and services of the sewage disposal system by or in connection with any real estate are not paid when due, a penalty and interest shall at that time be owed as provided for by general law, and the owner, ~~lessee, or tenant, as the case may be,~~ of such real estate shall, until such fees and charges are paid with such penalty and interest to the date of payment, cease to dispose of sewage or industrial waste originating from or on such real estate by discharge thereof directly or indirectly into the sewage disposal system. If such owner, ~~lessee, or tenant~~ does not pay the full amount of charges, penalty, and interest for water provided or cease such disposal within 30 days thereafter, the locality or person supplying water or sewage disposal services for the use of such real estate shall notify such owner, ~~lessee, or tenant~~ of the delinquency. If such owner, ~~lessee, or tenant~~ does not pay the full amount of charges, penalty, and interest for water provided or cease such disposal within 60 days after the delinquent fees and charges charged for water or sewage disposal services are due, the locality or person supplying water or sewage disposal services for the use of such real estate may cease supplying water and sewage disposal services thereto unless the health officers certify that shutting off the water will endanger the health of the occupants of the premises or the health of others. At least ~~ten~~ 10 business days prior to ceasing the supply of water or sewage disposal services, the locality or person supplying such services shall provide the owner, ~~lessee, or tenant~~ with written notice of such cessation.

E. Such fees and charges, and any penalty and interest thereon, shall constitute a lien against the property, ranking on a parity with liens for unpaid taxes.

A lien may be placed on the property *when the owner has been advised in writing that a lien may be placed upon the property if the owner fails to pay any delinquent water and sewer charges. Such written notice shall be provided at least 30 days in advance of recordation of any lien with a copy of the bill for delinquent water and sewer charges to allow the property owner a reasonable opportunity to pay the amount of the outstanding balance and avoid the recordation of a lien against the property. The lien may be in the amount of (i) up to three months of delinquent water and sewer charges when the water or sewer is, or both are, supplied to a lessee or tenant pursuant to this section; (ii) when the water or sewer is, or both are, provided to the property owner, up to the number of months of delinquent water or sewer charges; (iii) when the*

water or sewer is, or both are, provided to the property owner; (ii) any applicable penalties and interest on such delinquent charges; and (iv) (iii) reasonable attorney fees and other costs of collection not exceeding 20 percent of such delinquent charges. In no case shall a lien for less than \$25 be placed against the property. In the case of services to a lessee or tenant, if the locality does not cease supplying water to the lessee or tenant within 60 days after the bill becomes delinquent, unless water is required to be provided pursuant to subsection D or other applicable law, there shall be no lien placed on the property for charges and collection costs beyond the 60-day period and no recourse against the property owner for service beyond the 60-day period.

F. Unless the locality has adopted a resolution to not require authorization from land owners for water and sewer service provided to lessees or tenants pursuant to subsection A, a lien may be placed on the property for water and sewer services used by a lessee or tenant only if the locality has (i) advised the owner of the property in writing that a lien may be placed on the property if the lessee or tenant fails to pay any delinquent water and sewer charges; (ii) mailed by first-class mail to the owner of the property, or sent electronically if requested by the owner, at the address listed in the written authorization from the owner of the property (or such other address as the owner may provide); a duplicate copy of the final bill sent to the lessee or tenant at the time of sending the final bill to such lessee or tenant; (iii) collected a security deposit from the lessee or tenant as reasonably determined by the locality to be sufficient to collateralize the locality for not less than three and no more than five months of water and sewer charges; (iv) applied the security deposit held by the locality to the payment of the outstanding balance; (v) employed reasonable collection efforts and practices to collect amounts due from a lessee or a tenant including filing for the Set-Off Debt Collection Program if the locality is a participant; and (vi) provided the property owner with 30 days' written notice with a copy of the final bill to allow the property owner a reasonable opportunity to pay the amount of any outstanding balance and avoid the recordation of a lien against the property. If the property owner fails to pay the amount of the outstanding balance within the 30-day period, the locality may record a lien in the amount of the outstanding balance against the property owner. Upon payment of the outstanding balance, or any portion thereof, or of any amounts of such fees and charges owed by the former tenant, the property owner shall be entitled to receive any refunds and shall be subrogated against the former tenant in place of the locality in the amount paid by the property owner. The locality shall execute all documents necessary to perfect such subrogation in favor of the property owner.

G. When the owner has provided the lessee or tenant with written authorization from the owner of the property to obtain water and sewer services in the name of such lessee or tenant, nothing herein shall be construed to authorize the locality to require (i) the owner to put water and sewer services in the name of the owner, except in the case where a single meter serves multiple tenant units; or (ii) a security deposit or a guarantee of payment from an owner of property.

H. The locality shall not require a security deposit from the lessee or tenant to obtain water and sewer services in the name of such lessee or tenant if such lessee or tenant presents to the locality a landlord authorization letter which has attached documentation showing such lessee or tenant receives need-based local, state, or federal rental assistance, and the absence of a security deposit shall not prevent a locality from exercising its lien rights as authorized under subsection F.

I. Unless a lien has been recorded against the property owner, the locality shall not deny service to a new tenant who is requesting service at a particular property address based upon the fact that a former tenant has not paid any outstanding fees and charges charged for the use and services in the name of the former previous tenant. In addition, the locality shall provide information relative to a former tenant or current tenant to the property owner upon request of the property owner. If the property owner provides the locality a request to be notified of a tenant's delinquent water bill and provides an email address, the locality shall send the property owner notice when a tenant's water bill has become 15 days delinquent.

J. Notwithstanding any provision of law to the contrary, any town with a population between 11,000 and 14,000, with the concurrence of the affected county, which that provides and operates sewer services outside its boundaries may provide sewer services to industrial and commercial users outside its boundaries and collect such compensation therefor as may be contracted for between the town and such user. Such town shall not thereby be obligated to provide sewer services to any other users outside its boundaries.

K. G. The lien shall not bind or affect a subsequent bona fide purchaser of the real estate for valuable consideration without actual notice of the lien until the amount of such delinquent charges is entered in the official records of the office of the clerk of the circuit court in the jurisdiction in which the real estate is located. The clerk shall make and index the entries in the clerk's official records for a fee of \$5 per entry, to be paid by the locality and added to the amount of the lien.

L. H. The lien on any real estate may be discharged by the payment to the locality of the total lien amount and the interest which has accrued to the date of the payment. The locality shall deliver a fully executed lien release substantially in the form set forth in this subsection to the person making the payment. The locality shall provide the fully executed lien release to the person who made payment within 10 business days of such payment if the person who made such payment did not personally appear at the time of such payment. Upon presentation of such lien release, the clerk shall mark the lien satisfied. There shall be no separate clerk's fee for such lien release. For purposes of this section, a lien release of the water and sewer lien substantially in the form as follows shall be sufficient compliance with this section:

Prepared By and When  
Recorded Return to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Tax Parcel/GPIN Number: \_\_\_\_\_  
 CERTIFICATE OF RELEASE OF WATER AND SEWER SERVICE LIEN  
 Pursuant to Va. Code Annotated § 15.2-2119 (~~F~~) (H), this release is exempt from recordation fees.  
 Date Lien Recorded: \_\_\_\_\_ Instrument Deed Book No.: \_\_\_\_\_  
 Grantee for Index Purposes: \_\_\_\_\_  
 Claim Asserted: Delinquent water and sewer service charges in the amount of \$ \_\_\_\_\_.  
 Description of Property: [Insert name of property owner and tax map parcel/GPIN Number]  
 The above-mentioned lien is hereby released.

BY: \_\_\_\_\_  
 TITLE: \_\_\_\_\_  
 COMMONWEALTH OF VIRGINIA  
 CITY/COUNTY OF \_\_\_\_\_, to-wit:  
 Acknowledged, subscribed, and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, by  
 \_\_\_\_\_ as \_\_\_\_\_ of the [Insert Water/Sewer Provider Name] on behalf of [Insert  
 Water/Sewer Provider Name].

\_\_\_\_\_  
 Notary Public  
 My commission expires: \_\_\_\_\_  
 Notary Registration Number: \_\_\_\_\_

**§ 15.2-2119.1. Credit for excessive water and sewer charges.**

A locality or authority, as such term is defined in § 15.2-5101, may provide a partial credit for excessive water and sewer charges where high water usage is caused by damaged pipes, leaks, accidents, or other intentional or unintentional causes.

**§ 15.2-2119.4. Fees and charges for water and sewer services provided to a tenant or lessee of the property owner.**

A. Notwithstanding any provision of law, general or special, the provisions of this section apply to any locality or authority, as such term is defined in § 15.2-5101.

B. A locality or authority providing water or sewer services to a lessee or tenant of the property owner shall do so directly to the tenant after (i) obtaining from the property owner a written or electronic authorization to obtain water and sewer services in the name of such lessee or tenant and (ii) if the locality or authority decides to use the lien rights afforded under subsection G of § 15.2-2119, collecting a security deposit from the lessee or tenant as reasonably determined by the locality to be sufficient to collateralize the locality or authority for not less than three and no more than five months of water and sewer charges. When the property owner has provided the lessee or tenant with written authorization from the property owner to obtain water and sewer services in the name of such lessee or tenant, nothing herein shall be construed to authorize the locality or authority to require (a) the property owner to put water and sewer services in the name of such property owner, except in the case where a single meter serves multiple tenant units, or (b) a security deposit or a guarantee of payment from such property owner. The property owner, lessee, or tenant may provide a copy of the lease or rental agreement to the locality or authority in lieu of the written authorization.

C. For purposes of this section, a written or electronic authorization from the property owner to obtain water and sewer services in the name of such lessee or tenant substantially in the form as follows, or a copy of the lease or rental agreement, shall be sufficient compliance with this section:

DATE  
 [INSERT NAME OF WATER AND SEWER SERVICES PROVIDER AND ADDRESS]

RE: [INSERT FULL TENANT NAME AND ADDRESS]

To Whom It May Concern:  
 [INSERT TENANT NAME] has entered into a lease for the property located at [INSERT ADDRESS] and is authorized to obtain services at this address as a tenant of [INSERT PROPERTY OWNER NAME].

Signed: \_\_\_\_\_  
 PROPERTY OWNER

D. If the fees and charges charged for water service or the use and services of the sewage disposal system by or in connection with any real estate are not paid when due, a penalty and interest shall be owed, as provided for by general law, by the lessee or tenant. If such lessee or tenant does not pay the full amount of charges, penalty, and interest for water provided or cease such disposal within 30 days thereafter, the locality or authority supplying water or sewage disposal services for the use of such real estate shall notify such lessee or tenant of the delinquency. If such lessee or tenant does not pay the full amount of charges, penalty, and interest for water provided or cease such disposal within 60 days after the delinquent fees and charges charged for water or sewage disposal services are due, the locality or authority supplying

*water or sewage disposal services for the use of such real estate may cease supplying water and sewage disposal services thereto unless the health officers certify that shutting off the water will endanger the health of the occupants of the premises or the health of others. At least 10 business days prior to ceasing the supply of water or sewage disposal services, the locality or authority supplying such services shall provide the lessee or tenant with written notice of such cessation, with a copy to the property owner.*

*E. If the lessee or tenant does not pay the full amount of charges, penalty, and interest for water or the use and services of the sewage disposal system in a timely manner as set out herein, in addition to cessation of such service, the locality or authority shall employ reasonable collection efforts and practices to collect amounts due from the lessee or tenant prior to sending written notice to, or taking any collection or legal action against, the property owner regarding the delinquency of payment of such lessee or tenant. For the purposes of this section, "reasonable collection efforts and practices" include (i) applying the security deposit paid by the lessee or tenant held by the locality or authority to the payment of the outstanding balance; and (ii) either filing for the Setoff Debt Collection Program (§ 58.1-520 et seq.) or placing the account with a debt collection service.*

*F. Only after the locality or service authority has taken the reasonable collection efforts set forth in subsection E of § 15.2-2119 and practices to collect such fees and charges from the lessee or tenant may the locality or service authority proceed to notify the property owner of such outstanding lien obligation of such lessee or tenant and thereafter to record a lien against the property owner by using the lien recordation and release of lien processes as set out in § 15.2-2119 and only after notice to the property owner as required in § 15.2-2119. Such a lien, up to three months of delinquent water and sewer charges, shall constitute a lien against the property ranking on a parity with liens for unpaid taxes.*

*G. If a lien is recorded against the property owner and the property owner pays any of the delinquent obligations of such former lessee or tenant, upon payment of the outstanding balance, or any portion thereof, or of any amounts of such fees and charges owed by the former tenant, the property owner shall be entitled to receive any refunds and shall be subrogated against the former tenant in place of the locality or authority in the amount paid by the property owner. The locality or authority shall execute all documents necessary to perfect such subrogation in favor of the property owner.*

*H. Unless a lien has been recorded against the property owner, the locality or authority shall not deny service to a new tenant who is requesting service at a particular property address based upon the fact that a former tenant has not paid any outstanding fees and charges charged for the use and services in the name of the former previous tenant. In addition, the locality or authority shall provide information relative to a former tenant or current tenant to the property owner upon request of the property owner. If the property owner provides the locality or authority a request to be notified of a tenant's delinquent water or sewer bill and provides an email address, the locality or authority shall send the property owner notice when a tenant's water or sewer bill has become 15 days delinquent.*

*I. When a locality or authority does not require a lessee or tenant to pay a security deposit to the locality or authority as a condition precedent to turning on water or sewer services in the name of the lessee or tenant, such locality or authority shall waive its lien rights against the property owner. All other provisions of this section shall apply.*

*J. The locality or authority shall not require a security deposit from the lessee or tenant to obtain water and sewer services in the name of such lessee or tenant if such lessee or tenant presents to the locality or authority a landlord authorization letter that has attached documentation showing that such lessee or tenant receives need-based local, state, or federal rental assistance, and the absence of a security deposit shall not prevent a locality from exercising its lien rights as authorized under this section. All other provisions of this section shall apply.*

**§ 15.2-2122. Localities authorized to establish, etc., sewage disposal system; incidental powers.**

For the purpose of providing relief from pollution, and for the improvement of conditions affecting the public health, and in addition to other powers conferred by law, any locality shall have power and authority to:

1. Establish, construct, improve, enlarge, operate and maintain a sewage disposal system with all the necessary sewers, conduits, pipelines, pumping and ventilating stations, treatment plants and works, and other plants, structures, boats, conveyances and other real and personal property necessary for the operation of such system, subject to the approvals required by § 62.1-44.19.

2. Acquire as permitted by § 15.2-1800, real estate, or rights or easements therein, necessary or convenient for the establishment, enlargement, maintenance or operation of such sewage disposal system and the property, in whole or in part, of any private or public service corporation operating a sewage disposal system or chartered for the purpose of acquiring or operating such a system, including its lands, plants, works, buildings, machinery, pipes, mains and all appurtenances thereto and its contracts, easements, rights and franchises, including its franchise to be a corporation, and have the right to dispose of property so acquired no longer necessary for the use of such system. However, any locality condemning property hereunder shall rest under obligation to furnish sewage service, at appropriate rates, to the customers of any corporation whose property is condemned.

3. Borrow money for the purpose of establishing, constructing, improving and enlarging the sewage disposal system and to issue bonds therefor in the name of the locality.

4. Accept gifts or grants of real or personal property, money, material, labor or supplies for the establishment and operation of such sewage disposal system and make and perform such agreements or contracts as may be necessary or convenient in connection with the procuring or acceptance of such gifts or grants.

5. Enter on any lands, waters and premises for the purpose of making surveys, borings, soundings and examinations for constructing and operating the sewage disposal system, and for the prevention of pollution.

6. Enter into contracts with the United States of America, or any department or agency thereof, or any person, firm or corporation, or the governing body of any other locality, providing for or relating to the treatment and disposal of sewage and industrial wastes.

7. Fix, charge and collect fees or other charges for the use and services of the sewage disposal system; and, except in counties which are not otherwise authorized, require the connection of premises with facilities provided for sewage disposal services. Water and sewer connection fees established by any locality shall be fair and reasonable. Such fees shall be reviewed by the locality periodically and shall be adjusted, if necessary, to assure that they continue to be fair and reasonable. Nothing herein shall affect existing contracts with bondholders which are in conflict with any of the foregoing provisions.

8. Finance in whole or in part the cost of establishing, constructing, improving or enlarging the sewage disposal systems authorized to be established, constructed, improved or enlarged by this section, in advance of putting such systems in operation.

9. Fix, charge and collect fees and other charges for the use and services of sanitary, combined and storm water sewers operated and maintained by any locality. Such fees and charges may be fixed and collected in accordance with and subject to the provisions of §§ 15.2-2119 through 15.2-2119.4.

10. Establish standards for the use and services of sanitary, combined and stormwater sewer systems, treatment works and appurtenances operated and maintained by any locality, including but not limited to implementation of applicable pretreatment requirements pursuant to the State Water Control Law (§ 62.1-44.2 et seq.) and the federal Clean Water Act (33 U.S.C. § 1251 et seq.). Such sewer use standards may be implemented by ordinance, regulation, permit or contract of the locality or of the wastewater authority or sanitation district, where applicable, and violations thereof may be enforced by the same subject to the following conditions and limitations:

a. No order assessing a civil penalty for a violation shall be issued until after the user has been provided an opportunity for a hearing, except with the consent of the user. The notice of the hearing shall be served personally or by registered or certified mail, return receipt requested, on any authorized representative of the user at least 30 days prior to the hearing. The notice shall specify the time and place for the hearing, facts and legal requirements related to the alleged violation, and the amount of any proposed penalty. At the hearing the user may present evidence including witnesses regarding the occurrence of the alleged violation and the amount of the penalty, and the user may examine any witnesses for the locality. A verbatim record of the hearing shall be made. Within 30 days after the conclusion of the hearing, the locality shall make findings of fact and conclusions of law and issue the order.

b. No order issued by the locality shall assess civil penalties in excess of the maximum amounts established in subdivision (8a) of § 62.1-44.15, except with the consent of the user. The actual amount of any penalty assessed shall be based upon the severity of the violations, the extent of any potential or actual environmental harm or facility damage, the compliance history of the user, any economic benefit realized from the noncompliance, and the ability of the user to pay the penalty, provided, however, that in accordance with subdivision 10 d, a locality may establish a uniform schedule of civil penalties for specified types of violations. In addition to civil penalties, the order may include a monetary assessment for actual damages to sewers, treatment works and appurtenances and for costs, attorney fees and other expenses resulting from the violation. Civil penalties in excess of the maximum amounts established in subdivision (8a) of § 62.1-44.15 may be imposed only by a court in amounts determined in its discretion but not to exceed the maximum amounts established in § 62.1-44.32.

c. Any order issued by the locality, whether or not such order assesses a civil penalty, shall inform the user of his right to seek reconsideration or review within the locality, if authorized, and of his right to judicial review of any final order by appeal to circuit court on the record of proceedings before the locality. To commence an appeal, the user shall file a petition in circuit court within 30 days of the date of the order, and failure to do so shall constitute a waiver of the right to appeal. With respect to matters of law, the burden shall be on the party seeking review to designate and demonstrate an error of law subject to review by the court. With respect to issues of fact, the duty of the court shall be limited to ascertaining whether there was substantial evidence in the record to reasonably support such findings.

d. In addition, a locality may, by ordinance, establish a uniform schedule of civil penalties for violations of fats, oils, and grease standards; infiltration and inflow standards; and other specified provisions of any ordinance (other than industrial pretreatment requirements of the State Water Control Law (§ 62.1-44.2 et seq.) or federal Clean Water Act (33 U.S.C. § 1251 et seq.)). The schedule of civil penalties shall be uniform for each type of specified violation, and the penalty for any one violation shall be a civil penalty of not more than \$100 for the initial summons, not more than \$150 for each additional summons and not more than a total amount of \$3,000 for a series of specified violations arising from the same operative set of facts. The locality may issue a civil summons ticket for a scheduled violation. Any person summoned or issued a ticket for a scheduled violation may make an appearance in person or in writing by mail to the treasurer of the locality prior to the date fixed for trial in court. Any person so appearing may enter a waiver of trial, admit liability and pay the civil penalty established for the offense charged. If a person charged with a scheduled violation does not elect to enter a waiver of trial and admit liability, the violation shall be tried in the general district court in the same manner and with the same right of appeal as provided for by law. In any such trial, the locality shall have the burden of proving by a preponderance of the evidence the liability of the alleged violator. An admission of liability or finding of liability under this section shall not be deemed an admission at a criminal proceeding, and no civil action authorized by this section shall proceed while a criminal action is pending.

e. This subdivision shall neither preclude a locality from proceeding directly in circuit court to compel compliance with its sewer use standards or seek civil penalties for violation of the same nor be interpreted as limiting any otherwise applicable legal remedies or sanctions. Each day during which a violation is found to have existed shall constitute a separate violation, and any civil penalties imposed under this subdivision shall be applied to the purpose of abating, preventing or mitigating environmental pollution.

f. For purposes of enforcement of standards established under this subdivision, "locality" shall mean the locality's director of public utilities or other designee of the locality with responsibility for administering and enforcing sewer use standards or, in the case of a wastewater authority or sanitation district, its chief executive.

**§ 15.2-5139. Lien for charges.**

An authority may place a lien upon the real property of an owner only in the same manner provided by § 15.2-2119, and such lien may only be processed, recorded, and released in accordance therewith. *An authority may only provide services to lessees or tenants of property owners in accordance with § 15.2-2119.4.*

An authority may contract with a locality to collect amounts due on properly recorded utility liens in the same manner as unpaid real estate taxes due the locality.

**CHAPTER 737**

*An Act to amend and reenact § 2.2-3705.6 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 15.2-2103.1, relating to the Virginia Freedom of Information Act; proprietary records and trade secrets; solar services agreements.*

[S 1226]

Approved March 24, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 2.2-3705.6 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 15.2-2103.1 as follows:**

**§ 2.2-3705.6. Exclusions to application of chapter; proprietary records and trade secrets.**

The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01.

1. Proprietary information gathered by or for the Virginia Port Authority as provided in § 62.1-132.4 or 62.1-134.1.
2. Financial statements not publicly available filed with applications for industrial development financings in accordance with Chapter 49 (§ 15.2-4900 et seq.) of Title 15.2.
3. Proprietary information, voluntarily provided by private business pursuant to a promise of confidentiality from a public body, used by the public body for business, trade, and tourism development or retention; and memoranda, working papers, or other information related to businesses that are considering locating or expanding in Virginia, prepared by a public body, where competition or bargaining is involved and where disclosure of such information would adversely affect the financial interest of the public body.
4. Information that was filed as confidential under the Toxic Substances Information Act (§ 32.1-239 et seq.), as such Act existed prior to July 1, 1992.
5. Fisheries data that would permit identification of any person or vessel, except when required by court order as specified in § 28.2-204.
6. Confidential financial statements, balance sheets, trade secrets, and revenue and cost projections provided to the Department of Rail and Public Transportation, provided such information is exempt under the federal Freedom of Information Act or the federal Interstate Commerce Act or other laws administered by the Surface Transportation Board or the Federal Railroad Administration with respect to data provided in confidence to the Surface Transportation Board and the Federal Railroad Administration.
7. Proprietary information related to inventory and sales, voluntarily provided by private energy suppliers to the Department of Mines, Minerals and Energy, used by that Department for energy contingency planning purposes or for developing consolidated statistical information on energy supplies.
8. Confidential proprietary information furnished to the Board of Medical Assistance Services or the Medicaid Prior Authorization Advisory Committee pursuant to Article 4 (§ 32.1-331.12 et seq.) of Chapter 10 of Title 32.1.
9. Proprietary, commercial or financial information, balance sheets, trade secrets, and revenue and cost projections provided by a private transportation business to the Virginia Department of Transportation and the Department of Rail and Public Transportation for the purpose of conducting transportation studies needed to obtain grants or other financial assistance under the Transportation Equity Act for the 21st Century (P.L. 105-178) for transportation projects if disclosure of such information is exempt under the federal Freedom of Information Act or the federal Interstate Commerce Act or other laws administered by the Surface Transportation Board or the Federal Railroad Administration with respect to data provided in confidence to the Surface Transportation Board and the Federal Railroad Administration. However, the exclusion provided by this subdivision shall not apply to any wholly owned subsidiary of a public body.

10. Confidential information designated as provided in subsection F of § 2.2-4342 as trade secrets or proprietary information by any person in connection with a procurement transaction or by any person who has submitted to a public body an application for prequalification to bid on public construction projects in accordance with subsection B of § 2.2-4317.

11. a. Memoranda, staff evaluations, or other information prepared by the responsible public entity, its staff, outside advisors, or consultants exclusively for the evaluation and negotiation of proposals filed under the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) or the Public-Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.) where (i) if such information was made public prior to or after the execution of an interim or a comprehensive agreement, § 33.2-1820 or 56-575.17 notwithstanding, the financial interest or bargaining position of the public entity would be adversely affected and (ii) the basis for the determination required in clause (i) is documented in writing by the responsible public entity; and

b. Information provided by a private entity to a responsible public entity, affected jurisdiction, or affected local jurisdiction pursuant to the provisions of the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) or the Public-Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.) if disclosure of such information would reveal (i) trade secrets of the private entity as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.); (ii) financial information of the private entity, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise; or (iii) other information submitted by the private entity where if such information was made public prior to the execution of an interim agreement or a comprehensive agreement, the financial interest or bargaining position of the public or private entity would be adversely affected. In order for the information specified in clauses (i), (ii), and (iii) to be excluded from the provisions of this chapter, the private entity shall make a written request to the responsible public entity:

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

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

(3) Stating the reasons why protection is necessary.

The responsible public entity shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets or financial information of the private entity. To protect other information submitted by the private entity from disclosure, the responsible public entity shall determine whether public disclosure prior to the execution of an interim agreement or a comprehensive agreement would adversely affect the financial interest or bargaining position of the public or private entity. The responsible public entity shall make a written determination of the nature and scope of the protection to be afforded by the responsible public entity under this subdivision. Once a written determination is made by the responsible public entity, the information afforded protection under this subdivision shall continue to be protected from disclosure when in the possession of any affected jurisdiction or affected local jurisdiction.

Except as specifically provided in subdivision 11 a, nothing in this subdivision shall be construed to authorize the withholding of (a) procurement records as required by § 33.2-1820 or 56-575.17; (b) information concerning the terms and conditions of any interim or comprehensive agreement, service contract, lease, partnership, or any agreement of any kind entered into by the responsible public entity and the private entity; (c) information concerning the terms and conditions of any financing arrangement that involves the use of any public funds; or (d) information concerning the performance of any private entity developing or operating a qualifying transportation facility or a qualifying project.

For the purposes of this subdivision, the terms "affected jurisdiction," "affected local jurisdiction," "comprehensive agreement," "interim agreement," "qualifying project," "qualifying transportation facility," "responsible public entity," and "private entity" shall mean the same as those terms are defined in the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) or in the Public-Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.).

12. Confidential proprietary information or trade secrets, not publicly available, provided by a private person or entity pursuant to a promise of confidentiality to the Virginia Resources Authority or to a fund administered in connection with financial assistance rendered or to be rendered by the Virginia Resources Authority where, if such information were made public, the financial interest of the private person or entity would be adversely affected.

13. Trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), or confidential proprietary information that is not generally available to the public through regulatory disclosure or otherwise, provided by a (i) bidder or applicant for a franchise or (ii) franchisee under Chapter 21 (§ 15.2-2100 et seq.) of Title 15.2 to the applicable franchising authority pursuant to a promise of confidentiality from the franchising authority, to the extent the information relates to the bidder's, applicant's, or franchisee's financial capacity or provision of new services, adoption of new technologies or implementation of improvements, where such new services, technologies, or improvements have not been implemented by the franchisee on a nonexperimental scale in the franchise area, and where, if such information were made public, the competitive advantage or financial interests of the franchisee would be adversely affected.

In order for trade secrets or confidential proprietary information to be excluded from the provisions of this chapter, the bidder, applicant, or franchisee shall (a) invoke such exclusion upon submission of the data or other materials for which protection from disclosure is sought, (b) identify the data or other materials for which protection is sought, and (c) state the reason why protection is necessary.

No bidder, applicant, or franchisee may invoke the exclusion provided by this subdivision if the bidder, applicant, or franchisee is owned or controlled by a public body or if any representative of the applicable franchising authority serves on the management board or as an officer of the bidder, applicant, or franchisee.

14. Information of a proprietary nature furnished by a supplier of charitable gaming supplies to the Department of Agriculture and Consumer Services pursuant to subsection E of § 18.2-340.34.

15. Information related to Virginia apple producer sales provided to the Virginia State Apple Board pursuant to § 3.2-1215.

16. Trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.) of Title 59.1, submitted by CMRS providers as defined in § 56-484.12 to the Wireless Carrier E-911 Cost Recovery Subcommittee created pursuant to § 56-484.15, relating to the provision of wireless E-911 service.

17. Information relating to a grant or loan application, or accompanying a grant or loan application, to the Innovation and Entrepreneurship Investment Authority pursuant to Article 3 (§ 2.2-2233.1 et seq.) of Chapter 22 of Title 2.2 or to the Commonwealth Health Research Board pursuant to Chapter 5.3 (§ 32.1-162.23 et seq.) of Title 32.1 if disclosure of such information would (i) reveal proprietary business or research-related information produced or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of the applicant.

18. Confidential proprietary information and trade secrets developed and held by a local public body (i) providing telecommunication services pursuant to § 56-265.4:4 and (ii) providing cable television services pursuant to Article 1.1 (§ 15.2-2108.2 et seq.) of Chapter 21 of Title 15.2 if disclosure of such information would be harmful to the competitive position of the locality.

In order for confidential proprietary information or trade secrets to be excluded from the provisions of this chapter, the locality in writing shall (a) invoke the protections of this subdivision, (b) identify with specificity the information for which protection is sought, and (c) state the reasons why protection is necessary. However, the exemption provided by this subdivision shall not apply to any authority created pursuant to the BVU Authority Act (§ 15.2-7200 et seq.).

19. Confidential proprietary information and trade secrets developed by or for a local authority created in accordance with the Virginia Wireless Service Authorities Act (§ 15.2-5431.1 et seq.) to provide qualifying communications services as authorized by Article 5.1 (§ 56-484.7:1 et seq.) of Chapter 15 of Title 56, where disclosure of such information would be harmful to the competitive position of the authority, except that information required to be maintained in accordance with § 15.2-2160 shall be released.

20. Trade secrets as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.) or financial information of a business, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, provided to the Department of Small Business and Supplier Diversity as part of an application for certification as a small, women-owned, or minority-owned business in accordance with Chapter 16.1 (§ 2.2-1603 et seq.). In order for such trade secrets or financial information to be excluded from the provisions of this chapter, the business shall (i) invoke such exclusion upon submission of the data or other materials for which protection from disclosure is sought, (ii) identify the data or other materials for which protection is sought, and (iii) state the reasons why protection is necessary.

21. Information of a proprietary or confidential nature disclosed by a carrier to the State Health Commissioner pursuant to §§ 32.1-276.5:1 and 32.1-276.7:1.

22. Trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), including, but not limited to, financial information, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, and revenue and cost projections supplied by a private or nongovernmental entity to the State Inspector General for the purpose of an audit, special investigation, or any study requested by the Office of the State Inspector General in accordance with law.

In order for the information specified in this subdivision to be excluded from the provisions of this chapter, the private or nongovernmental entity shall make a written request to the State Inspector General:

- a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;
- b. Identifying with specificity the data or other materials for which protection is sought; and
- c. Stating the reasons why protection is necessary.

The State Inspector General shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets or financial information of the private entity. The State Inspector General shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

23. Information relating to a grant application, or accompanying a grant application, submitted to the Tobacco Region Revitalization Commission that would (i) reveal (a) trade secrets as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), (b) financial information of a grant applicant that is not a public body, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, or (c) research-related information produced or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of the applicant; and memoranda, staff evaluations, or other information prepared by the Commission or its staff exclusively for the evaluation of grant

applications. The exclusion provided by this subdivision shall apply to grants that are consistent with the powers of and in furtherance of the performance of the duties of the Commission pursuant to § 3.2-3103.

In order for the information specified in this subdivision to be excluded from the provisions of this chapter, the applicant shall make a written request to the Commission:

- a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;
- b. Identifying with specificity the data, information or other materials for which protection is sought; and
- c. Stating the reasons why protection is necessary.

The Commission shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets, financial information, or research-related information of the applicant. The Commission shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

24. a. Information held by the Commercial Space Flight Authority relating to rate structures or charges for the use of projects of, the sale of products of, or services rendered by the Authority if disclosure of such information would adversely affect the financial interest or bargaining position of the Authority or a private entity providing the information to the Authority; or

b. Information provided by a private entity to the Commercial Space Flight Authority if disclosure of such information would (i) reveal (a) trade secrets of the private entity as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.); (b) financial information of the private entity, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise; or (c) other information submitted by the private entity and (ii) adversely affect the financial interest or bargaining position of the Authority or private entity.

In order for the information specified in clauses (a), (b), and (c) of subdivision 24 b to be excluded from the provisions of this chapter, the private entity shall make a written request to the Authority:

- (1) Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;
- (2) Identifying with specificity the data or other materials for which protection is sought; and
- (3) Stating the reasons why protection is necessary.

The Authority shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets or financial information of the private entity. To protect other information submitted by the private entity from disclosure, the Authority shall determine whether public disclosure would adversely affect the financial interest or bargaining position of the Authority or private entity. The Authority shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

25. Information of a proprietary nature furnished by an agricultural landowner or operator to the Department of Conservation and Recreation, the Department of Environmental Quality, the Department of Agriculture and Consumer Services, or any political subdivision, agency, or board of the Commonwealth pursuant to §§ 10.1-104.7, 10.1-104.8, and 10.1-104.9, other than when required as part of a state or federal regulatory enforcement action.

26. Trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), provided to the Department of Environmental Quality pursuant to the provisions of § 10.1-1458. In order for such trade secrets to be excluded from the provisions of this chapter, the submitting party shall (i) invoke this exclusion upon submission of the data or materials for which protection from disclosure is sought, (ii) identify the data or materials for which protection is sought, and (iii) state the reasons why protection is necessary.

27. Information of a proprietary nature furnished by a licensed public-use airport to the Department of Aviation for funding from programs administered by the Department of Aviation or the Virginia Aviation Board, where if such information was made public, the financial interest of the public-use airport would be adversely affected.

In order for the information specified in this subdivision to be excluded from the provisions of this chapter, the public-use airport shall make a written request to the Department of Aviation:

- a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;
- b. Identifying with specificity the data or other materials for which protection is sought; and
- c. Stating the reasons why protection is necessary.

28. Records submitted as a grant or loan application, or accompanying a grant or loan application, for an award from the Virginia Research Investment Fund pursuant to Article 8 (§ 23.1-3130 et seq.) of Chapter 31 of Title 23.1, to the extent that such records contain proprietary business or research-related information produced or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, if the disclosure of such information would be harmful to the competitive position of the applicant.

29. *Proprietary information, voluntarily provided by a private business pursuant to a promise of confidentiality from a public body, used by the public body for a solar services agreement, where disclosure of such information would (i) reveal (a) trade secrets of the private business as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.); (b) financial information of the private business, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise; or (c) other information submitted by the private business and (ii) adversely affect the financial interest or bargaining position of the public body or private business.*

*In order for the information specified in clauses (i) (a), (b), and (c) to be excluded from the provisions of this chapter, the private business shall make a written request to the public body:*

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

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

*c. Stating the reasons why protection is necessary.*

**§ 15.2-2103.1. Solar services agreements; nondisclosure of proprietary information.**

*A. A solar services agreement may be structured as a service agreement or may be subject to available appropriation.*

*B. Nothing in this article shall be construed to require the disclosure of proprietary information voluntarily provided by a private entity in connection with a franchise, lease, or use under a solar services agreement that is excluded from mandatory disclosure pursuant to subdivision 29 of § 2.2-3705.6 of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).*

*C. Nothing in this section, however, shall be construed as authorizing the withholding of the financial terms of such agreements.*

**CHAPTER 738**

*An Act to amend and reenact § 8.01-390 of the Code of Virginia and to amend the Code of Virginia by adding in Title 2.2 a chapter numbered 38.2, consisting of sections numbered 2.2-3817, 2.2-3818, and 2.2-3819, relating to the digital certification of government records.*

[S 1341]

Approved March 24, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 8.01-390 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Title 2.2 a chapter numbered 38.2, consisting of sections numbered 2.2-3817, 2.2-3818, and 2.2-3819, as follows:**

**CHAPTER 38.2.**

**DIGITAL CERTIFICATION OF GOVERNMENT RECORDS.**

**§ 2.2-3817. Definitions.**

*As used in this section:*

*"Agency" means any authority, board, commission, council, department, instrumentality, institution, or other unit of state government located in the executive or legislative branch; independent agencies; and any county, city, or town, or other unit of local government, including constitutional officers, except circuit court clerks.*

*"Digital signature" means an electronic sound, symbol, or process attached to or logically associated with an electronic document and executed or adopted by a person with the intent to sign the document. A digital signature shall provide a means to authenticate an electronic record by confirming the agency as the disseminator of the document and shall provide both digital and visible assurance that the digital document has not been altered since it was signed by the custodian of the record at an agency.*

*"Digitally certified copy" means a copy of an electronic record created by an agency to which the agency has attached a digital signature.*

**§ 2.2-3818. Standards for authentication of electronic government records.**

*The Secretary of the Commonwealth, in cooperation with the Virginia Information Technologies Agency, shall develop standards for the use of digital signatures by agencies on electronic records generated by such agencies. The process for developing and maintaining such standards shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq.).*

**§ 2.2-3819. Digitally certified government records.**

*Agencies may make digitally certified copies of electronic records available, provided that such records are created in accordance with the standards developed pursuant to § 2.2-3818. An agency may charge a fee not to exceed \$5 for a digitally certified copy of a record provided pursuant to this chapter.*

**§ 8.01-390. Nonjudicial records as evidence (Subdivision (10)(a) of Supreme Court Rule 2:803 derived from subsection C of this section).**

*A. Copies of records of this Commonwealth, of another state, of the United States, of another country, or of any political subdivision or agency of the same, other than those located in a clerk's office of a court, shall be received as prima facie evidence, provided that such copies are authenticated to be true copies either by the custodian thereof or by the person to whom the custodian reports, if they are different. A digitally certified copy of a record provided pursuant to the provisions of Chapter 38.2 (§ 2.2-3817 et seq.) of Title 2.2, whether in electronic form or in print form with visible assurance of the digital signature, shall be deemed to be authenticated by the custodian of the record unless evidence is presented to the contrary.*

*B. Records and recordings of 911 emergency service calls shall be deemed authentic transcriptions or recordings of the original statements if they are accompanied by a certificate that meets the provisions of subsection A and the certificate contains the date and time of the incoming call and the incoming phone number, if available, associated with the call.*

C. An affidavit signed by an officer deemed to have custody of such an official record, or by his deputy, stating that after a diligent search, no record or entry of such record is found to exist among the records in his office is admissible as evidence that his office has no such record or entry.

### CHAPTER 739

*An Act to amend and reenact §§ 18.2-340.25, 18.2-340.27 and 18.2-340.33 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 18.2-340.27:1, relating to charitable gaming; conduct of games; special permits.*

[S 1512]

Approved March 24, 2017

#### Be it enacted by the General Assembly of Virginia:

**1. That §§ 18.2-340.25, 18.2-340.27 and 18.2-340.33 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 18.2-340.27:1 as follows:**

#### **§ 18.2-340.25. Permit required; application fee; form of application.**

A. Except as provided for in § 18.2-340.23, prior to the commencement of any charitable game, an organization shall obtain a permit from the Department.

B. All complete applications for a permit shall be acted upon by the Department within 45 days from the filing thereof. Upon compliance by the applicant with the provisions of this article, and at the discretion of the Department, a permit may be issued. All permits when issued shall be valid for the period specified in the permit unless it is sooner suspended or revoked. No permit shall be valid for longer than two years. The application shall be a matter of public record.

All permits shall be subject to regulation by the Department to ensure the public safety and welfare in the operation of charitable games. The permit shall only be granted after a reasonable investigation has been conducted by the Department. The Department may require any prospective employee, permit holder or applicant to submit to fingerprinting and to provide personal descriptive information to be forwarded along with employee's, licensee's or applicant's fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purposes of obtaining criminal history record information regarding such prospective employee, permit holder or applicant. The Central Criminal Records Exchange upon receipt of a prospective employee, licensee or applicant record or notification that no record exists, shall forward the report to the Commissioner of the Department or his designee, who shall belong to a governmental entity. However, nothing in this subsection shall be construed to require the routine fingerprinting of volunteer bingo workers.

C. In no case shall an organization receive more than one permit allowing it to conduct charitable gaming; however, nothing in this section shall be construed to prohibit granting special permits pursuant to § ~~18.2-340.27~~ 18.2-340.27:1.

D. Application for a charitable gaming permit shall be made on forms prescribed by the Department and shall be accompanied by payment of the fee for processing the application.

E. Applications for renewal of permits shall be made in accordance with Board Regulations. If a complete renewal application is received 45 days or more prior to the expiration of the permit, the permit shall continue to be effective until such time as the Department has taken final action. Otherwise, the permit shall expire at the end of its term.

F. The failure to meet any of the requirements of § 18.2-340.24 shall cause the automatic denial of the permit, and no organization shall conduct any charitable gaming until the requirements are met and a permit is obtained.

#### **§ 18.2-340.27. Conduct of bingo games.**

A. A qualified organization shall accept only cash or, at its option, checks or debit cards in payment of any charges or assessments for players to participate in bingo games. However, no such organization shall accept postdated checks in payment of any charges or assessments for players to participate in bingo games.

B. No qualified organization or any person on the premises shall extend lines of credit or accept any credit or other electronic fund transfer other than debit cards in payment of any charges or assessments for players to participate in bingo games.

C. Bingo games may be held by qualified organizations no more frequently than two calendar days in any calendar week, except in accordance with ~~subsection E~~ § 18.2-340.27:1.

D. No more than two sessions of bingo games may be held by qualified organizations in any calendar day, nor shall there be more than 55 bingo games per session.

~~E. A special permit may be granted to a qualified organization which entitles it to conduct more frequent operations of bingo games during carnivals, fairs and state, federal or religious holidays, which shall be designated in the permit.~~

F. Any organization may conduct bingo games only in the county, city or town or in any adjoining county, city or town in which they regularly have been in existence or met. The Department may approve exceptions to this requirement where there is a special circumstance or documented need.

#### **§ 18.2-340.27:1. Special permits.**

A. *A special permit may be granted to a qualified organization that entitles it to conduct more frequent operations of bingo games during carnivals, fairs, and state, federal, or religious holidays, which shall be designated in the permit.*

*B. A special permit may be granted to a qualified organization to conduct gaming to replace an approved game that falls on a legal holiday pursuant to § 2.2-3300. The special permit shall designate a date for the replacement game to occur within either (i) 90 days before or (ii) 90 days after such legal holiday for which the special permit is requested.*

*C. A special permit may be granted to a qualified organization to conduct gaming to replace an approved game that has been canceled by the qualified organization on account of severe weather conditions in the locality in which the approved game was scheduled to occur, provided that (i) the qualified organization notifies the Department within 24 hours of the canceled approved game and (ii) the Department is satisfied that the severe weather conditions warranted cancellation. The special permit shall designate a date for the replacement game to occur within 90 days after the date of the canceled game for which the special permit is requested.*

**§ 18.2-340.33. Prohibited practices.**

In addition to those other practices prohibited by this article, the following acts or practices are prohibited:

1. No part of the gross receipts derived by a qualified organization may be used for any purpose other than (i) reasonable and proper gaming expenses, (ii) reasonable and proper business expenses, (iii) those lawful religious, charitable, community or educational purposes for which the organization is specifically chartered or organized, and (iv) expenses relating to the acquisition, construction, maintenance, or repair of any interest in the real property involved in the operation of the organization and used for lawful religious, charitable, community or educational purposes. For the purposes of clause (iv), such expenses may include the expenses of a corporation formed for the purpose of serving as the real estate holding entity of a qualified organization, provided (a) such holding entity is qualified as a tax exempt organization under § 501(c) of the Internal Revenue Code and (b) the membership of the qualified organization is identical to such holding entity.

2. Except as provided in § 18.2-340.34:1, no qualified organization shall enter into a contract with or otherwise employ for compensation any person for the purpose of organizing, managing, or conducting any charitable games. However, organizations composed of or for deaf or blind persons may use a part of their gross receipts for costs associated with providing clerical assistance in the management and operation but not the conduct of charitable gaming.

The provisions of this subdivision shall not prohibit the joint operation of bingo games held in accordance with § 18.2-340.29.

3. No person shall pay or receive for use of any premises devoted, in whole or in part, to the conduct of any charitable games, any consideration in excess of the current fair market rental value of such property. Fair market rental value consideration shall not be based upon or determined by reference to a percentage of the proceeds derived from the operation of any charitable games or to the number of people in attendance at such charitable games.

4. No building or other premises shall be utilized in whole or in part for the purpose of conducting charitable gaming more frequently than two calendar days in any one calendar week. However, no building or other premises owned by (i) a qualified organization which is exempt from taxation pursuant to § 501(c) of the Internal Revenue Code or (ii) any county, city or town shall be utilized in whole or in part for the purpose of conducting bingo games more frequently than four calendar days in any one calendar week.

The provisions of this subdivision shall not apply to the playing of bingo games pursuant to a special permit issued in accordance with ~~§ 18.2-340.27~~ 18.2-340.27:1.

5. No person shall participate in the management or operation of any charitable game unless such person is and, for a period of at least 30 days immediately preceding such participation, has been a bona fide member of the organization. For any organization that is not composed of members, a person who is not a bona fide member may volunteer in the conduct of a charitable game as long as that person is directly supervised by a bona fide official member of the organization.

The provisions of this subdivision shall not apply to (i) persons employed as clerical assistants by qualified organizations composed of or for deaf or blind persons; (ii) employees of a corporate sponsor of a qualified organization, provided such employees' participation is limited to the management, operation or conduct of no more than one raffle per year; (iii) the spouse or family member of any such bona fide member of a qualified organization provided at least one bona fide member is present; or (iv) persons employed by a qualified organization authorized to sell pull tabs or seal cards in accordance with § 18.2-340.16, provided (a) such sales are conducted by no more than two on-duty employees, (b) such employees receive no compensation for or based on the sale of the pull tabs or seal cards, and (c) such sales are conducted in the private social quarters of the organization.

6. No person shall receive any remuneration for participating in the management, operation or conduct of any charitable game, except that:

a. Persons employed by organizations composed of or for deaf or blind persons may receive remuneration not to exceed \$30 per event for providing clerical assistance in the management and operation but not the conduct of charitable games only for such organizations;

b. Persons under the age of 19 who sell raffle tickets for a qualified organization to raise funds for youth activities in which they participate may receive nonmonetary incentive awards or prizes from the organization;

c. Remuneration may be paid to off-duty law-enforcement officers from the jurisdiction in which such bingo games are played for providing uniformed security for such bingo games even if such officer is a member of the sponsoring organization, provided the remuneration paid to such member is in accordance with off-duty law-enforcement personnel work policies approved by the local law-enforcement official and further provided that such member is not otherwise engaged in the management, operation or conduct of the bingo games of that organization, or to private security services

businesses licensed pursuant to § 9.1-139 providing uniformed security for such bingo games, provided that employees of such businesses shall not otherwise be involved in the management, operation, or conduct of the bingo games of that organization;

d. A member of a qualified organization lawfully participating in the management, operation or conduct of a bingo game may be provided food and nonalcoholic beverages by such organization for on-premises consumption during the bingo game provided the food and beverages are provided in accordance with Board regulations; ~~and~~

e. Remuneration may be paid to bingo managers or callers who have a current registration certificate issued by the Department in accordance with § 18.2-340.34:1, or who are exempt from such registration requirement. Such remuneration shall not exceed \$100 per session; *and*

*f. Volunteers of a qualified organization may be reimbursed for their reasonable and necessary travel expenses, not to exceed \$50 per session.*

7. No landlord shall, at bingo games conducted on the landlord's premises, (i) participate in the conduct, management, or operation of any bingo games; (ii) sell, lease or otherwise provide for consideration any bingo supplies, including, but not limited to, bingo cards, instant bingo cards, or other game pieces; or (iii) require as a condition of the lease or by contract that a particular manufacturer, distributor or supplier of bingo supplies or equipment be used by the organization.

The provisions of this subdivision shall not apply to any qualified organization conducting bingo games on its own behalf at premises owned by it.

8. No qualified organization shall enter into any contract with or otherwise employ or compensate any member of the organization on account of the sale of bingo supplies or equipment.

9. No organization shall award any bingo prize money or any merchandise valued in excess of the following amounts:

a. No bingo door prize shall exceed \$50 for a single door prize or \$250 in cumulative door prizes in any one session;

b. No regular bingo or special bingo game prize shall exceed \$100;

c. No instant bingo, pull tab, or seal card prize for a single card shall exceed \$1,000;

d. Except as provided in subdivision 9, no bingo jackpot of any nature whatsoever shall exceed \$1,000, nor shall the total amount of bingo jackpot prizes awarded in any one session exceed \$1,000. Proceeds from the sale of bingo cards and the sheets used for bingo jackpot games shall be accounted for separately from the bingo cards or sheets used for any other bingo games; and

e. No single network bingo prize shall exceed \$25,000. Proceeds from the sale of network bingo cards shall be accounted for separately from bingo cards and sheets used for any other bingo game.

10. The provisions of subdivision 9 shall not apply to:

Any progressive bingo game, in which (a) a regular or special prize, not to exceed \$100, is awarded on the basis of predetermined numbers or patterns selected at random and (b) a progressive prize, not to exceed \$500 for the initial progressive prize and \$5,000 for the maximum progressive prize, is awarded if the predetermined numbers or patterns are covered when a certain number of numbers is called, provided (i) there are no more than six such games per session per organization, (ii) the amount of increase of the progressive prize per session is no more than \$100, (iii) the bingo cards or sheets used in such games are sold separately from the bingo cards or sheets used for any other bingo games, (iv) the organization separately accounts for the proceeds from such sale, and (v) such games are otherwise operated in accordance with the Department's rules of play.

11. No organization shall award any raffle prize valued at more than \$100,000.

The provisions of this subdivision shall not apply to a raffle conducted no more than once per calendar year by a qualified organization qualified as a tax-exempt organization pursuant to § 501(c) of the Internal Revenue Code for a prize consisting of a lot improved by a residential dwelling where 100 percent of the moneys received from such a raffle, less deductions for the fair market value for the cost of acquisition of the land and materials, are donated to lawful religious, charitable, community, or educational organizations specifically chartered or organized under the laws of the Commonwealth and qualified as a § 501(c) tax-exempt organization.

12. No qualified organization composed of or for deaf or blind persons which employs a person not a member to provide clerical assistance in the management and operation but not the conduct of any charitable games shall conduct such games unless it has in force fidelity insurance, as defined in § 38.2-120, written by an insurer licensed to do business in the Commonwealth.

13. No person shall participate in the management or operation of any charitable game if he has ever been convicted of any felony or if he has been convicted of any misdemeanor involving fraud, theft, or financial crimes within the preceding five years. No person shall participate in the conduct of any charitable game if, within the preceding 10 years, he has been convicted of any felony or if, within the preceding five years he has been convicted of any misdemeanor involving fraud, theft, or financial crimes. In addition, no person shall participate in the management, operation or conduct of any charitable game if that person, within the preceding five years, has participated in the management, operation, or conduct of any charitable game which was found by the Department or a court of competent jurisdiction to have been operated in violation of state law, local ordinance or Board regulation.

14. Qualified organizations jointly conducting bingo games pursuant to § 18.2-340.29 shall not circumvent any restrictions and prohibitions which would otherwise apply if a single organization were conducting such games. These restrictions and prohibitions shall include, but not be limited to, the frequency with which bingo games may be held, the value of merchandise or money awarded as prizes, or any other practice prohibited under this section.

15. A qualified organization shall not purchase any charitable gaming supplies for use in the Commonwealth from any person who is not currently registered with the Department as a supplier pursuant to § 18.2-340.34.

16. Unless otherwise permitted in this article, no part of an organization's charitable gaming gross receipts shall be used for an organization's social or recreational activities.

### CHAPTER 740

*An Act to amend and reenact § 2.2-435.7 of the Code of Virginia, relating to the Chief Workforce Development Advisor; responsibilities.*

[S 1539]

Approved March 24, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 2.2-435.7 of the Code of Virginia is amended and reenacted as follows:**

**§ 2.2-435.7. Responsibilities of the Chief Workforce Development Advisor.**

A. The Governor's responsibilities as carried out by the Chief Workforce Development Advisor shall include:

1. Developing a strategic plan for the statewide delivery of workforce development and training programs and activities. The strategic plan shall be developed in coordination with the development of the comprehensive economic development policy required by § 2.2-205. The strategic plan shall include performance measures that link the objectives of such programs and activities to the record of state agencies, local workforce development boards, and other relevant entities in attaining such objectives;

2. Determining the appropriate allocation, to the extent permissible under applicable federal law, of funds and other resources that have been appropriated or are otherwise available for disbursement by the Commonwealth for workforce development programs and activities;

3. Ensuring that the Commonwealth's workforce development efforts are implemented in a coordinated and efficient manner by, among other activities, taking appropriate executive action to this end and recommending to the General Assembly necessary legislative actions to streamline and eliminate duplication in such efforts;

4. Facilitating efficient implementation of workforce development and training programs by cabinet secretaries and agencies responsible for such programs;

5. Developing, in coordination with the Virginia Board of Workforce Development, (i) certification standards for programs and providers and (ii) uniform policies and procedures, including standardized forms and applications, for one-stop centers;

6. Monitoring, in coordination with the Virginia Board of Workforce Development, the effectiveness of each one-stop center and recommending actions needed to improve their effectiveness;

7. Establishing measures to evaluate the effectiveness of the local workforce development boards and conducting annual evaluations of the effectiveness of each local workforce development board. As part of the evaluation process, the Governor shall recommend to such boards specific best management practices;

8. Conducting annual evaluations of the performance of workforce development and training programs and activities and their administrators and providers, using the performance measures developed through the strategic planning process described in subdivision 1. The evaluations shall include, to the extent feasible, (i) a comparison of the per-person costs for each program or activity, (ii) a comparative rating of each program or activity based on its success in meeting program objectives, and (iii) an explanation of the extent to which each agency's appropriation requests incorporate the data reflected in the cost comparison described in clause (i) and the comparative rating described in clause (ii). These evaluations, including the comparative rankings, shall be considered in allocating resources for workforce development and training programs. These evaluations shall be submitted to the chairs of the House and Senate Commerce and Labor Committees and included in the biennial reports pursuant to subdivision 10;

9. Monitoring federal legislation and policy, in order to maximize the Commonwealth's effective use of and access to federal funding available for workforce development programs; and

10. Submitting biennial reports, which shall be included in the Governor's executive budget submissions to the General Assembly, on improvements in the coordination of workforce development efforts statewide. The reports shall identify (i) program success rates in relation to performance measures established by the Virginia Board of Workforce Development, (ii) obstacles to program and resource coordination, and (iii) strategies for facilitating statewide program and resource coordination.

B. The Chief Workforce Development Advisor shall report *directly* to the Governor *and shall not serve in any other capacity*.

**2. That the provisions of this act shall become effective on January 15, 2018.**

## CHAPTER 741

*An Act to amend and reenact §§ 4.1-100, as it is currently effective and as it shall become effective, and 4.1-200 of the Code of Virginia and to amend the Code of Virginia by adding in Article 5 of Chapter 9 of Title 15.2 a section numbered 15.2-983, relating to the short-term rental of property.*

[S 1578]

Approved March 24, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 4.1-100, as it is currently effective and as it shall become effective, and 4.1-200 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Article 5 of Chapter 9 of Title 15.2 a section numbered 15.2-983 as follows:**

**§ 4.1-100. (Effective until July 1, 2018) Definitions.**

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

"Alcohol" means the product known as ethyl or grain alcohol obtained by distillation of any fermented liquor, rectified either once or more often, whatever the origin, and shall include synthetic ethyl alcohol, but shall not include methyl alcohol and alcohol completely denatured in accordance with formulas approved by the government of the United States.

"Alcohol vaporizing device" means any device, machine, or process that mixes any alcoholic beverages with pure oxygen or other gas to produce a vaporized product for the purpose of consumption by inhalation.

"Alcoholic beverages" includes alcohol, spirits, wine, and beer, and any one or more of such varieties containing one-half of one percent or more of alcohol by volume, including mixed alcoholic beverages, and every liquid or solid, powder or crystal, patented or not, containing alcohol, spirits, wine, or beer and capable of being consumed by a human being. Any liquid or solid containing more than one of the four varieties shall be considered as belonging to that variety which has the higher percentage of alcohol, however obtained, according to the order in which they are set forth in this definition; except that beer may be manufactured to include flavoring materials and other nonbeverage ingredients containing alcohol, as long as no more than 49 percent of the overall alcohol content of the finished product is derived from the addition of flavors and other nonbeverage ingredients containing alcohol for products with an alcohol content of no more than six percent by volume; or, in the case of products with an alcohol content of more than six percent by volume, as long as no more than one and one-half percent of the volume of the finished product consists of alcohol derived from added flavors and other nonbeverage ingredients containing alcohol.

"Art instruction studio" means any commercial establishment that provides to its customers all required supplies and step-by-step instruction in creating a painting or other work of art during a studio instructional session.

"Arts venue" means a commercial or nonprofit establishment that is open to the public and in which works of art are sold or displayed.

"Barrel" means any container or vessel having a capacity of more than 43 ounces.

"Bed and breakfast establishment" means any establishment (i) having no more than 15 bedrooms; (ii) offering to the public, for compensation, transitory lodging or sleeping accommodations; and (iii) offering at least one meal per day, which may but need not be breakfast, to each person to whom overnight lodging is provided. *For purposes of the licensing requirements of this title, "bed and breakfast establishment" includes any property offered to the public for short-term rental, as that term is defined in § 15.2-983, other than a hotel as defined in this section, regardless of whether a meal is offered to each person to whom overnight lodging is provided.*

"Beer" means any alcoholic beverage obtained by the fermentation of an infusion or decoction of barley, malt, and hops or of any similar products in drinkable water and containing one-half of one percent or more of alcohol by volume.

"Board" means the Virginia Alcoholic Beverage Control Board.

"Bottle" means any vessel intended to contain liquids and having a capacity of not more than 43 ounces.

"Canal boat operator" means any nonprofit organization that operates tourism-oriented canal boats for recreational purposes on waterways declared nonnavigable by the United States Congress pursuant to 33 U.S.C. § 59ii.

"Club" means any private nonprofit corporation or association which is the owner, lessee, or occupant of an establishment operated solely for a national, social, patriotic, political, athletic, or other like purpose, but not for pecuniary gain, the advantages of which belong to all of the members. It also means the establishment so operated. A corporation or association shall not lose its status as a club because of the conduct of charitable gaming conducted pursuant to Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2 in which nonmembers participate frequently or in large numbers, provided that no alcoholic beverages are served or consumed in the room where such charitable gaming is being conducted while such gaming is being conducted and that no alcoholic beverages are made available upon the premises to any person who is neither a member nor a bona fide guest of a member.

Any such corporation or association which has been declared exempt from federal and state income taxes as one which is not organized and operated for pecuniary gain or profit shall be deemed a nonprofit corporation or association.

"Container" means any barrel, bottle, carton, keg, vessel or other receptacle used for holding alcoholic beverages.

"Contract winemaking facility" means the premises of a licensed winery or farm winery that obtains grapes, fruits, and other agricultural products from a person holding a farm winery license and crushes, processes, ferments, bottles, or provides any combination of such services pursuant to an agreement with the farm winery licensee. For all purposes of this

title, wine produced by a contract winemaking facility for a farm winery shall be considered to be wine owned and produced by the farm winery that supplied the grapes, fruits, or other agricultural products used in the production of the wine. The contract winemaking facility shall have no right to sell the wine so produced, unless the terms of payment have not been fulfilled in accordance with the contract. The contract winemaking facility may charge the farm winery for its services.

"Convenience grocery store" means an establishment which (i) has an enclosed room in a permanent structure where stock is displayed and offered for sale and (ii) maintains an inventory of edible items intended for human consumption consisting of a variety of such items of the types normally sold in grocery stores.

"Day spa" means any commercial establishment that offers to the public both massage therapy, performed by persons licensed in accordance with § 54.1-3029, and barbering or cosmetology services performed by persons licensed in accordance with Chapter 7 (§ 54.1-700 et seq.) of Title 54.1.

"Designated area" means a room or area approved by the Board for on-premises licensees.

"Dining area" means a public room or area in which meals are regularly served.

"Establishment" means any place where alcoholic beverages of one or more varieties are lawfully manufactured, sold, or used.

"Farm winery" means (i) an establishment (a) located on a farm in the Commonwealth on land zoned agricultural with a producing vineyard, orchard, or similar growing area and with facilities for fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains not more than 21 percent alcohol by volume or (b) located in the Commonwealth on land zoned agricultural with a producing vineyard, orchard, or similar growing area or agreements for purchasing grapes or other fruits from agricultural growers within the Commonwealth and with facilities for fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains not more than 21 percent alcohol by volume or (ii) an accredited public or private institution of higher education, provided that (a) no wine manufactured by the institution shall be sold, (b) the wine manufactured by the institution shall be used solely for research and educational purposes, (c) the wine manufactured by the institution shall be stored on the premises of such farm winery that shall be separate and apart from all other facilities of the institution, and (d) such farm winery is operated in strict conformance with the requirements of this clause (ii) and Board regulations. As used in this definition, the terms "owner" and "lessee" shall include a cooperative formed by an association of individuals for the purpose of manufacturing wine. In the event that such cooperative is licensed as a farm winery, the term "farm" as used in this definition includes all of the land owned or leased by the individual members of the cooperative as long as such land is located in the Commonwealth. For purposes of this definition, "land zoned agricultural" means (1) land zoned as an agricultural district or classification or (2) land otherwise permitted by a locality for farm winery use. For purposes of this definition, "land zoned agricultural" does not include land zoned "residential conservation." Except for the limitation on land zoned "residential conservation," nothing in the definition of "land zoned agricultural" shall otherwise limit or affect local zoning authority.

"Gift shop" means any bona fide retail store selling, predominantly, gifts, books, souvenirs, specialty items relating to history, original and handmade arts and products, collectibles, crafts, and floral arrangements, which is open to the public on a regular basis. Such shop shall be a permanent structure where stock is displayed and offered for sale and which has facilities to properly secure any stock of wine or beer. Such shop may be located (i) on the premises or grounds of a government registered national, state or local historic building or site or (ii) within the premises of a museum. The Board shall consider the purpose, characteristics, nature, and operation of the shop in determining whether it shall be considered a gift shop.

"Gourmet brewing shop" means an establishment which sells to persons to whom wine or beer may lawfully be sold, ingredients for making wine or brewing beer, including packaging, and rents to such persons facilities for manufacturing, fermenting and bottling such wine or beer.

"Gourmet shop" means an establishment provided with adequate inventory, shelving, and storage facilities, where, in consideration of payment, substantial amounts of domestic and imported wines and beers of various types and sizes and related products such as cheeses and gourmet foods are habitually furnished to persons.

"Government store" means a store established by the Board for the sale of alcoholic beverages.

"Hotel" means any duly licensed establishment, provided with special space and accommodation, where, in consideration of payment, food and lodging are habitually furnished to persons, and which has four or more bedrooms. It shall also mean the person who operates such hotel.

"Interdicted person" means a person to whom the sale of alcoholic beverages is prohibited by order pursuant to this title.

"Internet wine retailer" means a person who owns or operates an establishment with adequate inventory, shelving, and storage facilities, where, in consideration of payment, internet or telephone orders are taken and shipped directly to consumers and which establishment is not a retail store open to the public.

"Intoxicated" means a condition in which a person has drunk enough alcoholic beverages to observably affect his manner, disposition, speech, muscular movement, general appearance or behavior.

"Licensed" means the holding of a valid license issued by the Board.

"Licensee" means any person to whom a license has been granted by the Board.

"Liqueur" means any of a class of highly flavored alcoholic beverages that do not exceed an alcohol content of 25 percent by volume.

"Low alcohol beverage cooler" means a drink containing one-half of one percent or more of alcohol by volume, but not more than seven and one-half percent alcohol by volume, and consisting of spirits mixed with nonalcoholic beverages or

flavoring or coloring materials; it may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, preservatives or other similar products manufactured by fermenting fruit or fruit juices. Low alcohol beverage coolers shall be treated as wine for all purposes of this title; except that low alcohol beverage coolers shall not be sold in localities that have not approved the sale of mixed beverages pursuant to § 4.1-124. In addition, low alcohol beverage coolers shall not be sold for on-premises consumption other than by mixed beverage licensees.

"Meal-assembly kitchen" means any commercial establishment that offers its customers, for off-premises consumption, ingredients for the preparation of meals and entrees in professional kitchen facilities located at the establishment.

"Meals" means, for a mixed beverage license, an assortment of foods commonly ordered in bona fide, full-service restaurants as principal meals of the day. Such restaurants shall include establishments specializing in full course meals with a single substantial entree.

"Member of a club" means (i) a person who maintains his membership in the club by the payment of monthly, quarterly, or annual dues in the manner established by the rules and regulations thereof or (ii) a person who is a member of a bona fide auxiliary, local chapter, or squadron composed of direct lineal descendants of a bona fide member, whether alive or deceased, of a national or international organization to which an individual lodge holding a club license is an authorized member in the same locality. It shall also mean a lifetime member whose financial contribution is not less than 10 times the annual dues of resident members of the club, the full amount of such contribution being paid in advance in a lump sum.

"Mixed beverage" or "mixed alcoholic beverage" means a drink composed in whole or in part of spirits.

"Mixer" means any prepackaged ingredients containing beverages or flavoring or coloring materials, and which may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives which are not commonly consumed unless combined with alcoholic beverages, whether or not such ingredients contain alcohol. Such specialty beverage product shall be manufactured or distributed by a Virginia corporation.

"Place or premises" means the real estate, together with any buildings or other improvements thereon, designated in the application for a license as the place at which the manufacture, bottling, distribution, use or sale of alcoholic beverages shall be performed, except that portion of any such building or other improvement actually and exclusively used as a private residence.

"Public place" means any place, building, or conveyance to which the public has, or is permitted to have, access, including restaurants, soda fountains, hotel dining areas, lobbies and corridors of hotels, and any park, place of public resort or amusement, highway, street, lane, or sidewalk adjoining any highway, street, or lane.

The term shall not include (i) hotel or restaurant dining areas or ballrooms while in use for private meetings or private parties limited in attendance to members and guests of a particular group, association or organization; (ii) restaurants licensed by the Board in office buildings or industrial or similar facilities while such restaurant is closed to the public and in use for private meetings or parties limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such building or facility; (iii) offices, office buildings or industrial facilities while closed to the public and in use for private meetings or parties limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such building or facility; or (iv) private recreational or chartered boats which are not licensed by the Board and on which alcoholic beverages are not sold.

"Residence" means any building or part of a building or structure where a person resides, but does not include any part of a building which is not actually and exclusively used as a private residence, nor any part of a hotel or club other than a private guest room thereof.

"Resort complex" means a facility (i) with a hotel owning year-round sports and recreational facilities located contiguously on the same property or (ii) owned by a nonstock, nonprofit, taxable corporation with voluntary membership which, as its primary function, makes available golf, ski and other recreational facilities both to its members and the general public. The hotel or corporation shall have a minimum of 140 private guest rooms or dwelling units contained on not less than 50 acres. The Board may consider the purpose, characteristics, and operation of the applicant establishment in determining whether it shall be considered as a resort complex. All other pertinent qualifications established by the Board for a hotel operation shall be observed by such licensee.

"Restaurant" means, for a beer, or wine and beer license or a limited mixed beverage restaurant license, any establishment provided with special space and accommodation, where, in consideration of payment, meals or other foods prepared on the premises are regularly sold.

"Restaurant" means, for a mixed beverage license other than a limited mixed beverage restaurant license, an established place of business (i) where meals with substantial entrees are regularly sold and (ii) which has adequate facilities and sufficient employees for cooking, preparing, and serving such meals for consumption at tables in dining areas on the premises, and includes establishments specializing in full course meals with a single substantial entree.

"Sale" and "sell" includes soliciting or receiving an order for; keeping, offering or exposing for sale; peddling, exchanging or bartering; or delivering otherwise than gratuitously, by any means, alcoholic beverages.

"Sangria" means a drink consisting of red or white wine mixed with some combination of sweeteners, fruit, fruit juice, soda, or soda water that may also be mixed with brandy, triple sec, or other similar spirits.

"Special agent" means an employee of the Department of Alcoholic Beverage Control whom the Board has designated as a law-enforcement officer pursuant to § 4.1-105.

"Special event" means an event sponsored by a duly organized nonprofit corporation or association and conducted for an athletic, charitable, civic, educational, political, or religious purpose.

"Spirits" means any beverage which contains alcohol obtained by distillation mixed with drinkable water and other substances, in solution, and includes, among other things, brandy, rum, whiskey, and gin, or any one or more of the last four named ingredients; but shall not include any such liquors completely denatured in accordance with formulas approved by the United States government.

"Wine" means any alcoholic beverage obtained by the fermentation of the natural sugar content of fruits or other agricultural products containing (i) sugar, including honey and milk, either with or without additional sugar; (ii) one-half of one percent or more of alcohol by volume; and (iii) no product of distillation. The term includes any wine to which wine spirits have been added, as provided in the Internal Revenue Code, to make products commonly known as "fortified wine" which do not exceed an alcohol content of 21 percent by volume.

"Wine cooler" means a drink containing one-half of one percent or more of alcohol by volume, and not more than three and two-tenths percent of alcohol by weight or four percent by volume consisting of wine mixed with nonalcoholic beverages or flavoring or coloring materials, and which may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives and shall include other similar products manufactured by fermenting fruit or fruit juices. Wine coolers and similar fermented fruit juice beverages shall be treated as wine for all purposes except for taxation under § 4.1-236.

"With or without meals" means the selling and serving of alcoholic beverages by retail licensees for on-premises consumption whether or not accompanied by food so long as the total food-beverage ratio required by § 4.1-210, or the monthly food sale requirement established by Board regulation, is met by such retail licensee.

**§ 4.1-100. (Effective July 1, 2018) Definitions.**

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

"Alcohol" means the product known as ethyl or grain alcohol obtained by distillation of any fermented liquor, rectified either once or more often, whatever the origin, and shall include synthetic ethyl alcohol, but shall not include methyl alcohol and alcohol completely denatured in accordance with formulas approved by the government of the United States.

"Alcohol vaporizing device" means any device, machine, or process that mixes any alcoholic beverages with pure oxygen or other gas to produce a vaporized product for the purpose of consumption by inhalation.

"Alcoholic beverages" includes alcohol, spirits, wine, and beer, and any one or more of such varieties containing one-half of one percent or more of alcohol by volume, including mixed alcoholic beverages, and every liquid or solid, powder or crystal, patented or not, containing alcohol, spirits, wine, or beer and capable of being consumed by a human being. Any liquid or solid containing more than one of the four varieties shall be considered as belonging to that variety which has the higher percentage of alcohol, however obtained, according to the order in which they are set forth in this definition; except that beer may be manufactured to include flavoring materials and other nonbeverage ingredients containing alcohol, as long as no more than 49 percent of the overall alcohol content of the finished product is derived from the addition of flavors and other nonbeverage ingredients containing alcohol for products with an alcohol content of no more than six percent by volume; or, in the case of products with an alcohol content of more than six percent by volume, as long as no more than one and one-half percent of the volume of the finished product consists of alcohol derived from added flavors and other nonbeverage ingredients containing alcohol.

"Art instruction studio" means any commercial establishment that provides to its customers all required supplies and step-by-step instruction in creating a painting or other work of art during a studio instructional session.

"Arts venue" means a commercial or nonprofit establishment that is open to the public and in which works of art are sold or displayed.

"Authority" means the Virginia Alcoholic Beverage Control Authority created pursuant to this title.

"Barrel" means any container or vessel having a capacity of more than 43 ounces.

"Bed and breakfast establishment" means any establishment (i) having no more than 15 bedrooms; (ii) offering to the public, for compensation, transitory lodging or sleeping accommodations; and (iii) offering at least one meal per day, which may but need not be breakfast, to each person to whom overnight lodging is provided. *For purposes of the licensing requirements of this title, "bed and breakfast establishment" includes any property offered to the public for short-term rental, as that term is defined in § 15.2-983, other than a hotel as defined in this section, regardless of whether a meal is offered to each person to whom overnight lodging is provided.*

"Beer" means any alcoholic beverage obtained by the fermentation of an infusion or decoction of barley, malt, and hops or of any similar products in drinkable water and containing one-half of one percent or more of alcohol by volume.

"Board" means the Board of Directors of the Virginia Alcoholic Beverage Control Authority.

"Bottle" means any vessel intended to contain liquids and having a capacity of not more than 43 ounces.

"Canal boat operator" means any nonprofit organization that operates tourism-oriented canal boats for recreational purposes on waterways declared nonnavigable by the United States Congress pursuant to 33 U.S.C. § 59ii.

"Club" means any private nonprofit corporation or association which is the owner, lessee, or occupant of an establishment operated solely for a national, social, patriotic, political, athletic, or other like purpose, but not for pecuniary gain, the advantages of which belong to all of the members. It also means the establishment so operated. A corporation or association shall not lose its status as a club because of the conduct of charitable gaming conducted pursuant to Article 1.1:1 (§ 18.2-340.15 et seq.) of Chapter 8 of Title 18.2 in which nonmembers participate frequently or in large numbers, provided

that no alcoholic beverages are served or consumed in the room where such charitable gaming is being conducted while such gaming is being conducted and that no alcoholic beverages are made available upon the premises to any person who is neither a member nor a bona fide guest of a member.

Any such corporation or association which has been declared exempt from federal and state income taxes as one which is not organized and operated for pecuniary gain or profit shall be deemed a nonprofit corporation or association.

"Container" means any barrel, bottle, carton, keg, vessel or other receptacle used for holding alcoholic beverages.

"Contract winemaking facility" means the premises of a licensed winery or farm winery that obtains grapes, fruits, and other agricultural products from a person holding a farm winery license and crushes, processes, ferments, bottles, or provides any combination of such services pursuant to an agreement with the farm winery licensee. For all purposes of this title, wine produced by a contract winemaking facility for a farm winery shall be considered to be wine owned and produced by the farm winery that supplied the grapes, fruits, or other agricultural products used in the production of the wine. The contract winemaking facility shall have no right to sell the wine so produced, unless the terms of payment have not been fulfilled in accordance with the contract. The contract winemaking facility may charge the farm winery for its services.

"Convenience grocery store" means an establishment which (i) has an enclosed room in a permanent structure where stock is displayed and offered for sale and (ii) maintains an inventory of edible items intended for human consumption consisting of a variety of such items of the types normally sold in grocery stores.

"Day spa" means any commercial establishment that offers to the public both massage therapy, performed by persons licensed in accordance with § 54.1-3029, and barbering or cosmetology services performed by persons licensed in accordance with Chapter 7 (§ 54.1-700 et seq.) of Title 54.1.

"Designated area" means a room or area approved by the Board for on-premises licensees.

"Dining area" means a public room or area in which meals are regularly served.

"Establishment" means any place where alcoholic beverages of one or more varieties are lawfully manufactured, sold, or used.

"Farm winery" means (i) an establishment (a) located on a farm in the Commonwealth on land zoned agricultural with a producing vineyard, orchard, or similar growing area and with facilities for fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains not more than 21 percent alcohol by volume or (b) located in the Commonwealth on land zoned agricultural with a producing vineyard, orchard, or similar growing area or agreements for purchasing grapes or other fruits from agricultural growers within the Commonwealth and with facilities for fermenting and bottling wine on the premises where the owner or lessee manufactures wine that contains not more than 21 percent alcohol by volume or (ii) an accredited public or private institution of higher education, provided that (a) no wine manufactured by the institution shall be sold, (b) the wine manufactured by the institution shall be used solely for research and educational purposes, (c) the wine manufactured by the institution shall be stored on the premises of such farm winery that shall be separate and apart from all other facilities of the institution, and (d) such farm winery is operated in strict conformance with the requirements of this clause (ii) and Board regulations. As used in this definition, the terms "owner" and "lessee" shall include a cooperative formed by an association of individuals for the purpose of manufacturing wine. In the event that such cooperative is licensed as a farm winery, the term "farm" as used in this definition includes all of the land owned or leased by the individual members of the cooperative as long as such land is located in the Commonwealth. For purposes of this definition, "land zoned agricultural" means (1) land zoned as an agricultural district or classification or (2) land otherwise permitted by a locality for farm winery use. For purposes of this definition, "land zoned agricultural" does not include land zoned "residential conservation." Except for the limitation on land zoned "residential conservation," nothing in the definition of "land zoned agricultural" shall otherwise limit or affect local zoning authority.

"Gift shop" means any bona fide retail store selling, predominantly, gifts, books, souvenirs, specialty items relating to history, original and handmade arts and products, collectibles, crafts, and floral arrangements, which is open to the public on a regular basis. Such shop shall be a permanent structure where stock is displayed and offered for sale and which has facilities to properly secure any stock of wine or beer. Such shop may be located (i) on the premises or grounds of a government registered national, state or local historic building or site or (ii) within the premises of a museum. The Board shall consider the purpose, characteristics, nature, and operation of the shop in determining whether it shall be considered a gift shop.

"Gourmet brewing shop" means an establishment which sells to persons to whom wine or beer may lawfully be sold, ingredients for making wine or brewing beer, including packaging, and rents to such persons facilities for manufacturing, fermenting and bottling such wine or beer.

"Gourmet shop" means an establishment provided with adequate inventory, shelving, and storage facilities, where, in consideration of payment, substantial amounts of domestic and imported wines and beers of various types and sizes and related products such as cheeses and gourmet foods are habitually furnished to persons.

"Government store" means a store established by the Authority for the sale of alcoholic beverages.

"Hotel" means any duly licensed establishment, provided with special space and accommodation, where, in consideration of payment, food and lodging are habitually furnished to persons, and which has four or more bedrooms. It shall also mean the person who operates such hotel.

"Interdicted person" means a person to whom the sale of alcoholic beverages is prohibited by order pursuant to this title.

"Internet wine retailer" means a person who owns or operates an establishment with adequate inventory, shelving, and storage facilities, where, in consideration of payment, internet or telephone orders are taken and shipped directly to consumers and which establishment is not a retail store open to the public.

"Intoxicated" means a condition in which a person has drunk enough alcoholic beverages to observably affect his manner, disposition, speech, muscular movement, general appearance or behavior.

"Licensed" means the holding of a valid license granted by the Authority.

"Licensee" means any person to whom a license has been granted by the Authority.

"Liqueur" means any of a class of highly flavored alcoholic beverages that do not exceed an alcohol content of 25 percent by volume.

"Low alcohol beverage cooler" means a drink containing one-half of one percent or more of alcohol by volume, but not more than seven and one-half percent alcohol by volume, and consisting of spirits mixed with nonalcoholic beverages or flavoring or coloring materials; it may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, preservatives or other similar products manufactured by fermenting fruit or fruit juices. Low alcohol beverage coolers shall be treated as wine for all purposes of this title; except that low alcohol beverage coolers shall not be sold in localities that have not approved the sale of mixed beverages pursuant to § 4.1-124. In addition, low alcohol beverage coolers shall not be sold for on-premises consumption other than by mixed beverage licensees.

"Meal-assembly kitchen" means any commercial establishment that offers its customers, for off-premises consumption, ingredients for the preparation of meals and entrees in professional kitchen facilities located at the establishment.

"Meals" means, for a mixed beverage license, an assortment of foods commonly ordered in bona fide, full-service restaurants as principal meals of the day. Such restaurants shall include establishments specializing in full course meals with a single substantial entree.

"Member of a club" means (i) a person who maintains his membership in the club by the payment of monthly, quarterly, or annual dues in the manner established by the rules and regulations thereof or (ii) a person who is a member of a bona fide auxiliary, local chapter, or squadron composed of direct lineal descendants of a bona fide member, whether alive or deceased, of a national or international organization to which an individual lodge holding a club license is an authorized member in the same locality. It shall also mean a lifetime member whose financial contribution is not less than 10 times the annual dues of resident members of the club, the full amount of such contribution being paid in advance in a lump sum.

"Mixed beverage" or "mixed alcoholic beverage" means a drink composed in whole or in part of spirits.

"Mixer" means any prepackaged ingredients containing beverages or flavoring or coloring materials, and which may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives which are not commonly consumed unless combined with alcoholic beverages, whether or not such ingredients contain alcohol. Such specialty beverage product shall be manufactured or distributed by a Virginia corporation.

"Place or premises" means the real estate, together with any buildings or other improvements thereon, designated in the application for a license as the place at which the manufacture, bottling, distribution, use or sale of alcoholic beverages shall be performed, except that portion of any such building or other improvement actually and exclusively used as a private residence.

"Principal stockholder" means any person who individually or in concert with his spouse and immediate family members beneficially owns or controls, directly or indirectly, five percent or more of the equity ownership of any person that is a licensee of the Authority, or who in concert with his spouse and immediate family members has the power to vote or cause the vote of five percent or more of any such equity ownership. "Principal stockholder" does not include a broker-dealer registered under the Securities Exchange Act of 1934, as amended, that holds in inventory shares for sale on the financial markets for a publicly traded corporation holding, directly or indirectly, a license from the Authority.

"Public place" means any place, building, or conveyance to which the public has, or is permitted to have, access, including restaurants, soda fountains, hotel dining areas, lobbies and corridors of hotels, and any park, place of public resort or amusement, highway, street, lane, or sidewalk adjoining any highway, street, or lane.

The term shall not include (i) hotel or restaurant dining areas or ballrooms while in use for private meetings or private parties limited in attendance to members and guests of a particular group, association or organization; (ii) restaurants licensed by the Authority in office buildings or industrial or similar facilities while such restaurant is closed to the public and in use for private meetings or parties limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such building or facility; (iii) offices, office buildings or industrial facilities while closed to the public and in use for private meetings or parties limited in attendance to employees and nonpaying guests of the owner or a lessee of all or part of such building or facility; or (iv) private recreational or chartered boats which are not licensed by the Board and on which alcoholic beverages are not sold.

"Residence" means any building or part of a building or structure where a person resides, but does not include any part of a building which is not actually and exclusively used as a private residence, nor any part of a hotel or club other than a private guest room thereof.

"Resort complex" means a facility (i) with a hotel owning year-round sports and recreational facilities located contiguously on the same property or (ii) owned by a nonstock, nonprofit, taxable corporation with voluntary membership which, as its primary function, makes available golf, ski and other recreational facilities both to its members and the general public. The hotel or corporation shall have a minimum of 140 private guest rooms or dwelling units contained on not less

than 50 acres. The Authority may consider the purpose, characteristics, and operation of the applicant establishment in determining whether it shall be considered as a resort complex. All other pertinent qualifications established by the Board for a hotel operation shall be observed by such licensee.

"Restaurant" means, for a beer, or wine and beer license or a limited mixed beverage restaurant license, any establishment provided with special space and accommodation, where, in consideration of payment, meals or other foods prepared on the premises are regularly sold.

"Restaurant" means, for a mixed beverage license other than a limited mixed beverage restaurant license, an established place of business (i) where meals with substantial entrees are regularly sold and (ii) which has adequate facilities and sufficient employees for cooking, preparing, and serving such meals for consumption at tables in dining areas on the premises, and includes establishments specializing in full course meals with a single substantial entree.

"Sale" and "sell" includes soliciting or receiving an order for; keeping, offering or exposing for sale; peddling, exchanging or bartering; or delivering otherwise than gratuitously, by any means, alcoholic beverages.

"Sangria" means a drink consisting of red or white wine mixed with some combination of sweeteners, fruit, fruit juice, soda, or soda water that may also be mixed with brandy, triple sec, or other similar spirits.

"Special agent" means an employee of the Virginia Alcoholic Beverage Control Authority whom the Board has designated as a law-enforcement officer pursuant to § 4.1-105.

"Special event" means an event sponsored by a duly organized nonprofit corporation or association and conducted for an athletic, charitable, civic, educational, political, or religious purpose.

"Spirits" means any beverage which contains alcohol obtained by distillation mixed with drinkable water and other substances, in solution, and includes, among other things, brandy, rum, whiskey, and gin, or any one or more of the last four named ingredients; but shall not include any such liquors completely denatured in accordance with formulas approved by the United States government.

"Wine" means any alcoholic beverage obtained by the fermentation of the natural sugar content of fruits or other agricultural products containing (i) sugar, including honey and milk, either with or without additional sugar; (ii) one-half of one percent or more of alcohol by volume; and (iii) no product of distillation. The term includes any wine to which wine spirits have been added, as provided in the Internal Revenue Code, to make products commonly known as "fortified wine" which do not exceed an alcohol content of 21 percent by volume.

"Wine cooler" means a drink containing one-half of one percent or more of alcohol by volume, and not more than three and two-tenths percent of alcohol by weight or four percent by volume consisting of wine mixed with nonalcoholic beverages or flavoring or coloring materials, and which may also contain water, fruit juices, fruit adjuncts, sugar, carbon dioxide, or preservatives and shall include other similar products manufactured by fermenting fruit or fruit juices. Wine coolers and similar fermented fruit juice beverages shall be treated as wine for all purposes except for taxation under § 4.1-236.

"With or without meals" means the selling and serving of alcoholic beverages by retail licensees for on-premises consumption whether or not accompanied by food so long as the total food-beverage ratio required by § 4.1-210, or the monthly food sale requirement established by Board regulation, is met by such retail licensee.

#### **§ 4.1-200. Exemptions from licensure.**

The licensure requirements of this chapter shall not apply to:

1. A person in charge of an institution regularly conducted as a hospital or sanatorium for the care of persons in ill health, or as a home devoted exclusively to the care of aged people, who administers or causes to be administered alcoholic beverages to any bona fide patient or inmate of the institution who is in need of the same, either by way of external application or otherwise for emergency medicinal purposes. Such person may charge for the alcoholic beverages so administered, and carry such stock as may be necessary for this purpose. No charge shall be made of any patient for the alcoholic beverages so administered to him where the same have been supplied to the institution by the Board free of charge.

2. The manufacture, sale and delivery or shipment by persons authorized under existing laws to engage in such business of any medicine containing sufficient medication to prevent it from being used as a beverage.

3. The manufacture, sale and delivery or shipment by persons authorized under existing laws to engage in such business of any medicinal preparations manufactured in accordance with formulas prescribed by the United States pharmacopoeia; national formulary, patent and proprietary preparations; and other bona fide medicinal and technical preparations; which contain no more alcohol than is necessary to extract the medicinal properties of the drugs contained in such preparations, and no more alcohol than is necessary to hold the medicinal agents in solution and to preserve the same, and which are manufactured and sold to be used exclusively as medicine and not as beverages.

4. The manufacture, sale and delivery or shipment of toilet, medicinal and antiseptic preparations and solutions not intended for internal human use nor to be sold as beverages.

5. The manufacture and sale of food products known as flavoring extracts which are manufactured and sold for cooking and culinary purposes only and not sold as beverages.

6. Any person who manufactures at his residence or at a gourmet brewing shop for domestic consumption at his residence, but not to be sold, dispensed or given away, except as hereinafter provided, wine or beer or both, in an amount not to exceed the limits permitted by federal law.

Any person who manufactures wine or beer in accordance with this subdivision may remove from his residence an amount not to exceed fifty liters of such wine or fifteen gallons of such beer on any one occasion for (i) personal or family use, provided such use does not violate the provisions of this title or Board regulations; (ii) giving to any person to whom wine or beer may be lawfully sold an amount not to exceed (a) one liter of wine per person per year or (b) seventy-two ounces of beer per person per year, provided such gift is for noncommercial purposes; or (iii) giving to any person to whom beer may lawfully be sold a sample of such wine or beer, not to exceed (a) one ounce of wine by volume or (b) two ounces of beer by volume for on-premises consumption at events organized for judging or exhibiting such wine or beer, including events held on the premises of a retail licensee. Nothing in this paragraph shall be construed to authorize the sale of such wine or beer.

The provision of this subdivision shall not apply to any person who resides on property on which a winery, farm winery, or brewery is located.

7. Any person who keeps and possesses lawfully acquired alcoholic beverages in his residence for his personal use or that of his family. However, such alcoholic beverages may be served or given to guests in such residence by such person, his family or servants when (i) such guests are 21 years of age or older or are accompanied by a parent, guardian, or spouse who is 21 years of age or older, (ii) the consumption or possession of such alcoholic beverages by family members or such guests occurs only in such residence where the alcoholic beverages are allowed to be served or given pursuant to this subdivision, and (iii) such service or gift is in no way a shift or device to evade the provisions of this title. *The provisions of this subdivision shall not apply when a person serves or provides alcoholic beverages to a guest occupying the residence as the lessee of a short-term rental, as that term is defined in § 15.2-983, regardless of whether the person who permanently resides in the residence is present during the short-term rental.*

8. Any person who manufactures and sells cider to distillery licensees, or any person who manufactures wine from grapes grown by such person and sells it to winery licensees.

9. The sale of wine and beer in or through canteens or post exchanges on United States reservations when permitted by the proper authority of the United States.

10. The keeping and consumption of any lawfully acquired alcoholic beverages at a private meeting or private party limited in attendance to members and guests of a particular group, association or organization at a banquet or similar affair, or at a special event, if a banquet license has been granted. However, no banquet license shall be required for private meetings or private parties limited in attendance to the members of a common interest community as defined in § 54.1-2345 and their guests, provided (i) the alcoholic beverages shall not be sold or charged for in any way, (ii) the premises where the alcoholic beverages are consumed is limited to the common area regularly occupied and utilized for such private meetings or private parties, and (iii) such meetings or parties are not open to the public.

**§ 15.2-983. Creation of registry for short-term rental of property.**

**A. As used in this section:**

"Operator" means the proprietor of any dwelling, lodging, or sleeping accommodations offered as a short-term rental, whether in the capacity of owner, lessee, sublessee, mortgagee in possession, licensee, or any other possessory capacity.

"Short-term rental" means the provision of a room or space that is suitable or intended for occupancy for dwelling, sleeping, or lodging purposes, for a period of fewer than 30 consecutive days, in exchange for a charge for the occupancy.

B. 1. Notwithstanding any other provision of law, general or special, any locality may, by ordinance, establish a short-term rental registry and require operators within the locality to register annually. The registration shall be ministerial in nature and shall require the operator to provide the complete name of the operator and the address of each property in the locality offered for short-term rental by the operator. A locality may charge a reasonable fee for such registration related to the actual costs of establishing and maintaining the registry.

2. No ordinance shall require a person to register pursuant to this section if such person is (i) licensed by the Real Estate Board or is a property owner who is represented by a real estate licensee; (ii) registered pursuant to the Virginia Real Estate Time-Share Act (§ 55-360 et seq.); (iii) licensed or registered with the Department of Health, related to the provision of room or space for lodging; or (iv) licensed or registered with the locality, related to the rental or management of real property, including licensed real estate professionals, hotels, motels, campgrounds, and bed and breakfast establishments.

C. 1. If a locality adopts a registry ordinance pursuant to this section, such ordinance may include a penalty not to exceed \$500 per violation for an operator required to register who offers for short-term rental a property that is not registered with the locality. Such ordinance may provide that unless and until an operator pays the penalty and registers such property, the operator may not continue to offer such property for short-term rental. Upon repeated violations of a registry ordinance as it relates to a specific property, an operator may be prohibited from registering and offering that property for short-term rental.

2. Such ordinance may further provide that an operator required to register may be prohibited from offering a specific property for short-term rental in the locality upon multiple violations on more than three occasions of applicable state and local laws, ordinances, and regulations, as they relate to the short-term rental.

D. Except as provided in this section, nothing herein shall be construed to prohibit, limit, or otherwise supersede existing local authority to regulate the short-term rental of property through general land use and zoning authority. Nothing in this section shall be construed to supersede or limit contracts or agreements between or among individuals or private entities related to the use of real property, including recorded declarations and covenants, the provisions of condominium instruments of a condominium created pursuant to the Condominium Act (§ 55-79.39 et seq.), the declaration of a common

*interest community as defined in § 55-528, the cooperative instruments of a cooperative created pursuant to the Virginia Real Estate Cooperative Act (§ 55-424 et seq.), or any declaration of a property owners' association created pursuant to the Property Owners' Association Act (§ 55-508 et seq.).*

## CHAPTER 742

*An Act to amend and reenact §§ 2.2-3202 and 4.1-101.05, as it shall become effective, of the Code of Virginia, relating to the Virginia Alcoholic Beverage Control Authority; eligibility of employees for Workforce Transition Act.*

[H 2247]

Approved March 24, 2017

### Be it enacted by the General Assembly of Virginia:

**1. That §§ 2.2-3202 and 4.1-101.05, as it shall become effective, of the Code of Virginia are amended and reenacted as follows:**

#### **§ 2.2-3202. Eligibility for transitional severance benefit.**

A. Any full-time employee of the Commonwealth (i) whose position is covered by the Virginia Personnel Act (§ 2.2-2900 et seq.), (ii) whose position is exempt from the Virginia Personnel Act pursuant to subdivisions 2, 4 (except those persons specified in subsection C of this section), 7, 15 or 16 of § 2.2-2905, (iii) who is employed by the State Corporation Commission, (iv) who is employed by the Virginia Workers' Compensation Commission, (v) who is employed by the Virginia Retirement System, (vi) who is employed by the Virginia Lottery, (vii) who is employed by the Medical College of Virginia Hospitals or the University of Virginia Medical Center, (viii) who is employed at a state educational institution as faculty (including, but not limited to, presidents and teaching and research faculty) as defined in the Consolidated Salary Authorization for Faculty Positions in Institutions of Higher Education, 1994-95, or (ix) whose position is exempt from the Virginia Personnel Act pursuant to subdivision 3 ~~or~~, 20, *or* 28 of § 2.2-2905; and (a) for whom reemployment with the Commonwealth is not possible because there is no available position for which the employee is qualified or the position offered to the employee requires relocation or a reduction in salary and (b) whose involuntary separation was due to causes other than job performance or misconduct, shall be eligible, under the conditions specified, for the transitional severance benefit conferred by this chapter. The date of involuntary separation shall mean the date an employee was terminated from employment or placed on leave without pay-layoff or equivalent status.

B. An otherwise eligible employee whose position is contingent upon project grants as defined in the Catalogue of Federal Domestic Assistance, shall not be eligible for the transitional severance benefit conferred by this chapter unless the funding source had agreed to assume all financial responsibility therefor in its written contract with the Commonwealth.

C. Members of the Judicial Retirement System (§ 51.1-300 et seq.) and officers elected by popular vote shall not be eligible for the transitional severance benefit conferred by this chapter.

D. Eligibility shall commence on the date of involuntary separation.

E. Persons authorized by § 2.2-106 or 51.1-124.22 to appoint a chief administrative officer or the administrative head of an agency shall adhere to the same criteria for eligibility for transitional severance benefits as is required for gubernatorial appointees pursuant to subsection A.

#### **§ 4.1-101.05. (Effective July 1, 2018) Employees of the Authority.**

A. Employees of the Authority shall be considered employees of the Commonwealth. Employees of the Authority shall be eligible for membership in the Virginia Retirement System and participation in all health and related insurance and other benefits, including premium conversion and flexible benefits, available to state employees as provided by law. Employees of the Authority shall be employed on such terms and conditions as established by the Board. The Board shall develop and adopt policies and procedures that afford its employees grievance rights, ensure that employment decisions shall be based upon the merit and fitness of applicants, and prohibit discrimination because of race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, or disability.

B. Notwithstanding any other provision of law, the Authority shall give preference in hiring to employees of the former Department of Alcoholic Beverage Control. The Authority shall issue a written notice to all persons whose employment at the former Department of Alcoholic Beverage Control will be transferred to the Authority. The date upon which such written notice is issued shall be referred to herein as the "Option Date." Each person whose employment will be transferred to the Authority may, by written request made within 180 days of the Option Date, elect not to become employed by the Authority. Any employee of the former Department of Alcoholic Beverage Control who (i) ~~elects not to become employed by the Authority and who is not reemployed by any department, institution, board, commission, or agency of the Commonwealth;~~ (ii) is not offered the opportunity to transfer to employment by the Authority; or (iii) (ii) is not offered a position with the Authority for which the employee is qualified or is offered a position that requires relocation or a reduction in salary; shall be eligible for the severance benefits conferred by the provisions of the Workforce Transition Act (§ 2.2-3200 et seq.). Any employee who accepts employment with the Authority shall not be considered to be involuntarily separated from state employment and shall not be eligible for the severance benefits conferred by the provisions of the Workforce Transition Act.

C. Notwithstanding any other provision of law to the contrary, any person whose employment is transferred to the Authority as a result of this section and who is a member of any plan for providing health insurance coverage pursuant to

Chapter 28 (§ 2.2-2800 et seq.) of Title 2.2 shall continue to be a member of such health insurance plan under the same terms and conditions as if no transfer had occurred.

D. Notwithstanding any other provision of law to the contrary, any person whose employment is transferred to the Authority as a result of this section and who is a member of the Virginia Retirement System or other retirement plan as authorized by Article 4 (§ 51.1-125 et seq.) of Chapter 1 of Title 51.1 shall continue to be a member of the Virginia Retirement System or other such authorized retirement plan under the same terms and conditions as if no transfer had occurred.

**2. That the provisions of this act amending § 2.2-3202 of the Code of Virginia shall become effective on July 1, 2018.**

### CHAPTER 743

*An Act to amend and reenact § 4.1-111 of the Code of Virginia, relating to alcoholic beverage control; bar bystander training.*

[S 1150]

Approved March 24, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 4.1-111 of the Code of Virginia is amended and reenacted as follows:**

**§ 4.1-111. Regulations of Board.**

A. The Board may promulgate reasonable regulations, not inconsistent with this title or the general laws of the Commonwealth, which it deems necessary to carry out the provisions of this title and to prevent the illegal manufacture, bottling, sale, distribution and transportation of alcoholic beverages. The Board may amend or repeal such regulations. Such regulations shall be promulgated, amended or repealed in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) and shall have the effect of law.

B. The Board shall promulgate regulations that:

1. Prescribe what hours and on what days alcoholic beverages shall not be sold by licensees or consumed on any licensed premises, including a provision that mixed beverages may be sold only at such times as wine and beer may be sold.

2. Require mixed beverage caterer licensees to notify the Board in advance of any event to be served by such licensee.

3. Maintain the reasonable separation of retailer interests from those of the manufacturers, bottlers, brokers, importers and wholesalers in accordance with § 4.1-216 and in consideration of the established trade customs, quantity and value of the articles or services involved; prevent undue competitive domination of any person by any other person engaged in the manufacture, distribution and sale at retail or wholesale of alcoholic beverages in the Commonwealth; and promote reasonable accommodation of arm's length business transactions.

4. Establish requirements for the form, content, and retention of all records and accounts, including the (i) reporting and collection of taxes required by § 4.1-236 and (ii) the sale of alcoholic beverages in kegs, by all licensees.

5. Require retail licensees to file an appeal from any hearing decision rendered by a hearing officer within 30 days of the date the notice of the decision is sent. The notice shall be sent to the licensee at the address on record with the Board by certified mail, return receipt requested, and by regular mail.

6. Prescribe the terms and conditions under which persons who collect or trade designer or vintage spirit bottles may sell such bottles at auction, provided that (i) the auction is conducted in accordance with the provisions of Chapter 6 (§ 54.1-600 et seq.) of Title 54.1 and (ii) the bottles are unopened and the manufacturers' seals, marks, or stamps affixed to the bottles are intact.

7. Prescribe the terms and conditions under which credit or debit cards may be accepted from licensees for purchases at government stores, including provision for the collection, where appropriate, of related fees, penalties, and service charges.

8. Require that banquet licensees in charge of public events as defined by Board regulations report to the Board the income and expenses associated with the public event on a form prescribed by the Board when the banquet licensee engages another person to organize, conduct or operate the event on behalf of the banquet licensee. Such regulations shall be applicable only to public events where alcoholic beverages are being sold.

9. Provide alternative methods for licensees to maintain and store business records that are subject to Board inspection, including methods for Board-approved electronic and off-site storage.

10. Require off-premises retail licensees to place any premixed alcoholic energy drinks containing one-half of one percent or more of alcohol by volume in the same location where wine and beer are available for sale within the licensed premises.

11. Prescribe the terms and conditions under which mixed beverage licensees may infuse, store, and sell flavored distilled spirits, including a provision that limits infusion containers to a maximum of 20 liters.

12. Prescribe the schedule of proration for refunded license taxes to licensees who qualify pursuant to subsection C of § 4.1-232.

13. Establish reasonable time, place, and manner restrictions on outdoor advertising of alcoholic beverages, not inconsistent with the provisions of this title, so that such advertising does not encourage or otherwise promote the consumption of alcoholic beverages by persons to whom alcoholic beverages may not be lawfully sold. Such regulations shall:

a. Restrict outdoor advertising of alcoholic beverages in publicly visible locations consistent with (i) the general prohibition against tied interests between retail licensees and manufacturers or wholesale licensees as provided in §§ 4.1-215 and 4.1-216; (ii) the prohibition against manufacturer control of wholesale licensees as set forth in § 4.1-223 and Board regulations adopted pursuant thereto; and (iii) the general prohibition against cooperative advertising between manufacturers, wholesalers, or importers and retail licensees as set forth in Board regulation; and

b. Permit (i) any outdoor signage or advertising not otherwise prohibited by this title and (ii) the display of outdoor alcoholic beverage advertising on lawfully erected billboard signs regulated under Chapter 12 (§ 33.2-1200 et seq.) of Title 33.2 where such signs are located on commercial real estate as defined in § 55-526, but only in accordance with this title.

14. Prescribe the terms and conditions under which a licensed brewery may manufacture beer pursuant to an agreement with a brand owner not under common control with the manufacturing brewery and sell and deliver the beer so manufactured to the brand owner. The regulations shall require that (i) the brand owner be an entity appropriately licensed as a brewery or beer wholesaler, (ii) a written agreement be entered into by the parties, and (iii) records as deemed appropriate by the Board are maintained by the parties.

15. Prescribe the terms for any "happy hour" conducted by on-premises licensees. Such regulations shall permit on-premises licensees to advertise any alcoholic beverage products featured during a happy hour but prohibit the advertising of any pricing related to such happy hour.

16. Permit retail on-premises licensees to give a gift of one alcoholic beverage to a patron or one bottle of wine to a group of two or more patrons, provided that (i) such gifts only are made to individuals to whom such products may lawfully be sold and (ii) only one such gift is given during any 24-hour period and subject to any Board limitations on the frequency of such gifts.

17. Permit the sale of beer and cider for off-premises consumption in resealable growlers made of glass, ceramic, metal, or other materials approved by the Board, or other resealable containers approved by the Board, with a maximum capacity of 128 fluid ounces or, for metric-sized containers, four liters.

18. Permit the sale of wine for off-premises consumption in resealable growlers made of glass, ceramic, metal, or other materials approved by the Board, or other resealable containers approved by the Board, with a maximum capacity of 64 fluid ounces or, for metric-sized containers, two liters. Wine growlers may be used only by persons licensed to sell wine for both on-premises and off-premises consumption or by gourmet shop licensees. Growlers sold by gourmet shop licensees shall be labeled with (i) the manufacturer's name or trade name, (ii) the place of production, (iii) the net contents in fluid ounces, and (iv) the name and address of the retailer.

19. Permit the sale of wine and beer by retailers licensed to sell beer and wine for both on-premises and off-premises consumption, or by gourmet shop licensees for off-premises consumption in sealed containers made of metal or other materials approved by the Board with a maximum capacity of 32 fluid ounces or, for metric-sized containers, one liter, provided that the alcoholic beverage is placed in the container following an order from the consumer.

20. Permit mixed beverage licensees to premix containers of sangria and other mixed alcoholic beverages and to serve such alcoholic beverages in pitchers, subject to size and quantity limitations established by the Board.

21. *Establish and make available to all licensees and permittees for which on-premises consumption of alcoholic beverages is allowed and employees of such licensees and permittees who serve as a bartender or otherwise sell, serve, or dispense alcoholic beverages for on-premises consumption a bar bystander training module, which shall include (i) information that enables licensees, permittees, and their employees to recognize situations that may lead to sexual assault and (ii) intervention strategies to prevent such situations from culminating in sexual assault.*

C. The Board may promulgate regulations that:

1. Provide for the waiver of the license tax for an applicant for a banquet license, such waiver to be based on (i) the amount of alcoholic beverages to be provided by the applicant, (ii) the not-for-profit status of the applicant, and (iii) the condition that no profits are to be generated from the event. For the purposes of clause (ii), the applicant shall submit with the application, an affidavit certifying its not-for-profit status. The granting of such waiver shall be limited to two events per year for each applicant.

2. Establish limitations on the quantity and value of any gifts of alcoholic beverages made in the course of any business entertainment pursuant to subdivision A 22 of § 4.1-325 or subsection C of § 4.1-325.2.

3. Provide incentives to licensees with a proven history of compliance with state and federal laws and regulations to encourage licensees to conduct their business and related activities in a manner that is beneficial to the Commonwealth.

D. Board regulations shall be uniform in their application, except those relating to hours of sale for licensees.

E. Courts shall take judicial notice of Board regulations.

F. The Board's power to regulate shall be broadly construed.

## CHAPTER 744

*An Act to amend and reenact § 4.1-111 of the Code of Virginia, relating to alcoholic beverage control; availability of food when spirits served.*

[S 1216]

Approved March 24, 2017

**Be it enacted by the General Assembly of Virginia:****1. That § 4.1-111 of the Code of Virginia is amended and reenacted as follows:****§ 4.1-111. Regulations of Board.**

A. The Board may promulgate reasonable regulations, not inconsistent with this title or the general laws of the Commonwealth, which it deems necessary to carry out the provisions of this title and to prevent the illegal manufacture, bottling, sale, distribution and transportation of alcoholic beverages. The Board may amend or repeal such regulations. Such regulations shall be promulgated, amended or repealed in accordance with the Administrative Process Act (§ 2.2-4000 et seq.) and shall have the effect of law.

B. The Board shall promulgate regulations that:

1. Prescribe what hours and on what days alcoholic beverages shall not be sold by licensees or consumed on any licensed premises, including a provision that mixed beverages may be sold only at such times as wine and beer may be sold.

2. Require mixed beverage caterer licensees to notify the Board in advance of any event to be served by such licensee.

3. Maintain the reasonable separation of retailer interests from those of the manufacturers, bottlers, brokers, importers and wholesalers in accordance with § 4.1-216 and in consideration of the established trade customs, quantity and value of the articles or services involved; prevent undue competitive domination of any person by any other person engaged in the manufacture, distribution and sale at retail or wholesale of alcoholic beverages in the Commonwealth; and promote reasonable accommodation of arm's length business transactions.

4. Establish requirements for the form, content, and retention of all records and accounts, including the (i) reporting and collection of taxes required by § 4.1-236 and (ii) the sale of alcoholic beverages in kegs, by all licensees.

5. Require retail licensees to file an appeal from any hearing decision rendered by a hearing officer within 30 days of the date the notice of the decision is sent. The notice shall be sent to the licensee at the address on record with the Board by certified mail, return receipt requested, and by regular mail.

6. Prescribe the terms and conditions under which persons who collect or trade designer or vintage spirit bottles may sell such bottles at auction, provided that (i) the auction is conducted in accordance with the provisions of Chapter 6 (§ 54.1-600 et seq.) of Title 54.1 and (ii) the bottles are unopened and the manufacturers' seals, marks, or stamps affixed to the bottles are intact.

7. Prescribe the terms and conditions under which credit or debit cards may be accepted from licensees for purchases at government stores, including provision for the collection, where appropriate, of related fees, penalties, and service charges.

8. Require that banquet licensees in charge of public events as defined by Board regulations report to the Board the income and expenses associated with the public event on a form prescribed by the Board when the banquet licensee engages another person to organize, conduct or operate the event on behalf of the banquet licensee. Such regulations shall be applicable only to public events where alcoholic beverages are being sold.

9. Provide alternative methods for licensees to maintain and store business records that are subject to Board inspection, including methods for Board-approved electronic and off-site storage.

10. Require off-premises retail licensees to place any premixed alcoholic energy drinks containing one-half of one percent or more of alcohol by volume in the same location where wine and beer are available for sale within the licensed premises.

11. Prescribe the terms and conditions under which mixed beverage licensees may infuse, store, and sell flavored distilled spirits, including a provision that limits infusion containers to a maximum of 20 liters.

12. Prescribe the schedule of proration for refunded license taxes to licensees who qualify pursuant to subsection C of § 4.1-232.

13. Establish reasonable time, place, and manner restrictions on outdoor advertising of alcoholic beverages, not inconsistent with the provisions of this title, so that such advertising does not encourage or otherwise promote the consumption of alcoholic beverages by persons to whom alcoholic beverages may not be lawfully sold. Such regulations shall:

a. Restrict outdoor advertising of alcoholic beverages in publicly visible locations consistent with (i) the general prohibition against tied interests between retail licensees and manufacturers or wholesale licensees as provided in §§ 4.1-215 and 4.1-216; (ii) the prohibition against manufacturer control of wholesale licensees as set forth in § 4.1-223 and Board regulations adopted pursuant thereto; and (iii) the general prohibition against cooperative advertising between manufacturers, wholesalers, or importers and retail licensees as set forth in Board regulation; and

b. Permit (i) any outdoor signage or advertising not otherwise prohibited by this title and (ii) the display of outdoor alcoholic beverage advertising on lawfully erected billboard signs regulated under Chapter 12 (§ 33.2-1200 et seq.) of Title 33.2 where such signs are located on commercial real estate as defined in § 55-526, but only in accordance with this title.

14. Prescribe the terms and conditions under which a licensed brewery may manufacture beer pursuant to an agreement with a brand owner not under common control with the manufacturing brewery and sell and deliver the beer so manufactured to the brand owner. The regulations shall require that (i) the brand owner be an entity appropriately licensed as a brewery or beer wholesaler, (ii) a written agreement be entered into by the parties, and (iii) records as deemed appropriate by the Board are maintained by the parties.

15. Prescribe the terms for any "happy hour" conducted by on-premises licensees. Such regulations shall permit on-premises licensees to advertise any alcoholic beverage products featured during a happy hour but prohibit the advertising of any pricing related to such happy hour.

16. Permit retail on-premises licensees to give a gift of one alcoholic beverage to a patron or one bottle of wine to a group of two or more patrons, provided that (i) such gifts only are made to individuals to whom such products may lawfully be sold and (ii) only one such gift is given during any 24-hour period and subject to any Board limitations on the frequency of such gifts.

17. Permit the sale of beer and cider for off-premises consumption in resealable growlers made of glass, ceramic, metal, or other materials approved by the Board, or other resealable containers approved by the Board, with a maximum capacity of 128 fluid ounces or, for metric-sized containers, four liters.

18. Permit the sale of wine for off-premises consumption in resealable growlers made of glass, ceramic, metal, or other materials approved by the Board, or other resealable containers approved by the Board, with a maximum capacity of 64 fluid ounces or, for metric-sized containers, two liters. Wine growlers may be used only by persons licensed to sell wine for both on-premises and off-premises consumption or by gourmet shop licensees. Growlers sold by gourmet shop licensees shall be labeled with (i) the manufacturer's name or trade name, (ii) the place of production, (iii) the net contents in fluid ounces, and (iv) the name and address of the retailer.

19. Permit the sale of wine and beer by retailers licensed to sell beer and wine for both on-premises and off-premises consumption, or by gourmet shop licensees for off-premises consumption in sealed containers made of metal or other materials approved by the Board with a maximum capacity of 32 fluid ounces or, for metric-sized containers, one liter, provided that the alcoholic beverage is placed in the container following an order from the consumer.

20. Permit mixed beverage licensees to premix containers of sangria and other mixed alcoholic beverages and to serve such alcoholic beverages in pitchers, subject to size and quantity limitations established by the Board.

21. *Require mixed beverage licensees to have food, cooked or prepared on the licensed premises, available for on-premises consumption until at least 30 minutes prior to an establishment's closing. Such food shall be available in all areas of the licensed premises in which spirits are sold or served.*

C. The Board may promulgate regulations that:

1. Provide for the waiver of the license tax for an applicant for a banquet license, such waiver to be based on (i) the amount of alcoholic beverages to be provided by the applicant, (ii) the not-for-profit status of the applicant, and (iii) the condition that no profits are to be generated from the event. For the purposes of clause (ii), the applicant shall submit with the application, an affidavit certifying its not-for-profit status. The granting of such waiver shall be limited to two events per year for each applicant.

2. Establish limitations on the quantity and value of any gifts of alcoholic beverages made in the course of any business entertainment pursuant to subdivision A 22 of § 4.1-325 or subsection C of § 4.1-325.2.

3. Provide incentives to licensees with a proven history of compliance with state and federal laws and regulations to encourage licensees to conduct their business and related activities in a manner that is beneficial to the Commonwealth.

D. Board regulations shall be uniform in their application, except those relating to hours of sale for licensees.

E. Courts shall take judicial notice of Board regulations.

F. The Board's power to regulate shall be broadly construed.

CHAPTER 745

*An Act to amend and reenact § 4.1-209 of the Code of Virginia, relating to alcoholic beverage control; wine and beer licenses.*

[S 1587]

Approved March 24, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 4.1-209 of the Code of Virginia is amended and reenacted as follows:**

**§ 4.1-209. Wine and beer licenses; advertising.**

A. The Board may grant the following licenses relating to wine and beer:

1. Retail on-premises wine and beer licenses to:

a. Hotels, restaurants and clubs, which shall authorize the licensee to sell wine and beer, either with or without meals, only in dining areas and other designated areas of such restaurants, or in dining areas, private guest rooms, and other designated areas of such hotels or clubs, for consumption only in such rooms and areas. However, with regard to a hotel classified by the Board as (i) a resort complex, the Board may authorize the sale and consumption of alcoholic beverages in all areas within the resort complex deemed appropriate by the Board or (ii) a limited service hotel, the Board may authorize the sale and consumption of alcoholic beverages in dining areas, private guest rooms, and other designated areas to persons to whom overnight lodging is being provided, for on-premises consumption in such rooms or areas, and without regard to the amount of gross receipts from the sale of food prepared and consumed on the premises, provided that at least one meal is provided each day by the hotel to such guests. With regard to facilities registered in accordance with Chapter 49 (§ 38.2-4900 et seq.) of Title 38.2 of the Code of Virginia as continuing care communities that are also licensed by the Board under this subdivision, any resident may, upon authorization of the licensee, keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas covered by the license. For purposes of this subdivision, "other designated areas" includes outdoor dining areas, whether or not contiguous to the licensed premises, which may have more

than one means of ingress and egress to an adjacent public thoroughfare, provided that such outdoor dining areas are under the control of the licensee and approved by the Board. Such noncontiguous designated areas shall not be approved for any retail license issued pursuant to subdivision A 5 of § 4.1-201;

b. Persons operating dining cars, buffet cars, and club cars of trains, which shall authorize the licensee to sell wine and beer, either with or without meals, in the dining cars, buffet cars, and club cars so operated by them, for on-premises consumption when carrying passengers;

c. Persons operating sight-seeing boats, or special or charter boats, which shall authorize the licensee to sell wine and beer, either with or without meals, on such boats operated by them for on-premises consumption when carrying passengers;

d. Persons operating as air carriers of passengers on regular schedules in foreign, interstate or intrastate commerce, which shall authorize the licensee to sell wine and beer for consumption by passengers in such airplanes anywhere in or over the Commonwealth while in transit and in designated rooms of establishments of such carriers at airports in the Commonwealth, § 4.1-129 notwithstanding. For purposes of supplying its airplanes, as well as any airplane of a licensed express carrier flying under the same brand, an air carrier licensee may appoint an authorized representative to load wine and beer onto the same airplanes and to transport and store wine and beer at or in close proximity to the airport where the wine and beer will be delivered onto airplanes of the air carrier and any such licensed express carrier. The air carrier licensee shall (i) designate for purposes of its license all locations where the inventory of wine and beer may be stored and from which the wine and beer will be delivered onto airplanes of the air carrier and any such licensed express carrier and (ii) maintain records of all wine and beer to be transported, stored, and delivered by its authorized representative;

e. Hospitals, which shall authorize the licensee to sell wine and beer in the rooms of patients for their on-premises consumption only in such rooms, provided the consent of the patient's attending physician is first obtained;

f. Persons operating food concessions at coliseums, stadia, racetracks or similar facilities, which shall authorize the licensee to sell wine and beer in paper, plastic or similar disposable containers, during any event and immediately subsequent thereto, to patrons within all seating areas, concourses, walkways, concession areas and additional locations designated by the Board in such coliseums, stadia, racetracks or similar facilities, for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license;

g. Persons operating food concessions at any outdoor performing arts amphitheater, arena or similar facility which (i) has seating for more than 20,000 persons and is located in Prince William County or the City of Virginia Beach, (ii) has capacity for more than 3,500 persons and is located in the Counties of Albemarle, *Alleghany*, Augusta, Nelson, Pittsylvania, or Rockingham, or the Cities of Charlottesville, Danville, or Roanoke, or (iii) has capacity for more than 9,500 persons and is located in Henrico County. Such license shall authorize the licensee to sell wine and beer during the performance of any event, in paper, plastic or similar disposable containers to patrons within all seating areas, concourses, walkways, concession areas, or similar facilities, for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license;

h. Persons operating food concessions at exhibition or exposition halls, convention centers or similar facilities located in any county operating under the urban county executive form of government or any city which is completely surrounded by such county, which shall authorize the licensee to sell wine and beer during the event, in paper, plastic or similar disposable containers to patrons or attendees within all seating areas, exhibition areas, concourses, walkways, concession areas, and such additional locations designated by the Board in such facilities, for on-premises consumption. Upon authorization of the licensee, any person may keep and consume his own lawfully acquired alcoholic beverages on the premises in all areas and locations covered by the license. For purposes of this subsection, "exhibition or exposition hall" and "convention centers" mean facilities conducting private or public trade shows or exhibitions in an indoor facility having in excess of 100,000 square feet of floor space; and

i. Persons operating a concert and dinner-theater venue on property fronting Natural Bridge School Road in Natural Bridge Station, Virginia, and formerly operated as Natural Bridge High School, which shall authorize the licensee to sell wine and beer during events to patrons or attendees within all seating areas, exhibition areas, concourses, walkways, concession areas, dining areas, and such additional locations designated by the Board in such facilities, for on-premises consumption. Persons licensed pursuant to this subdivision shall serve food, prepared on or off premises, whenever wine or beer is served.

2. Retail off-premises wine and beer licenses, which shall authorize the licensee to sell wine and beer in closed containers for off-premises consumption.

3. Gourmet shop licenses, which shall authorize the licensee to sell wine and beer in closed containers for off-premises consumption and, the provisions of § 4.1-308 notwithstanding, to give to any person to whom wine or beer may be lawfully sold, (i) a sample of wine, not to exceed two ounces by volume or (ii) a sample of beer not to exceed four ounces by volume, for on-premises consumption. The licensee may also give samples of wine and beer in designated areas at events held by the licensee for the purpose of featuring and educating the consuming public about the alcoholic beverages being tasted. Additionally, with the consent of the licensee, farm wineries, wineries, breweries, and wholesale licensees may participate in tastings held by licensees authorized to conduct tastings, including the pouring of samples to any person to whom alcoholic beverages may be lawfully sold. Notwithstanding Board regulations relating to food sales, the licensee shall

maintain each year an average monthly inventory and sales volume of at least \$1,000 in products such as cheeses and gourmet food.

4. Convenience grocery store licenses, which shall authorize the licensee to sell wine and beer in closed containers for off-premises consumption.

5. Retail on-and-off premises wine and beer licenses to persons enumerated in subdivision 1 a, which shall accord all the privileges conferred by retail on-premises wine and beer licenses and in addition, shall authorize the licensee to sell wine and beer in closed containers for off-premises consumption.

6. Banquet licenses to persons in charge of banquets, and to duly organized nonprofit corporations or associations in charge of special events, which shall authorize the licensee to sell or give wine and beer in rooms or areas approved by the Board for the occasion for on-premises consumption in such rooms or areas. Except as provided in § 4.1-215, a separate license shall be required for each day of each banquet or special event. For the purposes of this subdivision, when the location named in the original application for a license is outdoors, the application may also name an alternative location in the event of inclement weather. However, no such license shall be required of any hotel, restaurant, or club holding a retail wine and beer license.

7. Gift shop licenses, which shall authorize the licensee to sell wine and beer only within the interior premises of the gift shop in closed containers for off-premises consumption and, the provisions of § 4.1-308 notwithstanding, to give to any person to whom wine or beer may be lawfully sold (i) a sample of wine not to exceed two ounces by volume or (ii) a sample of beer not to exceed four ounces by volume for on-premises consumption. The licensee may also give samples of wine and beer in designated areas at events held by the licensee for the purpose of featuring and educating the consuming public about the alcoholic beverages being tasted.

8. Gourmet brewing shop licenses, which shall authorize the licensee to sell to any person to whom wine or beer may be lawfully sold, ingredients for making wine or brewing beer, including packaging, and to rent to such persons facilities for manufacturing, fermenting, and bottling such wine or beer, for off-premises consumption in accordance with subdivision 6 of § 4.1-200.

9. Annual banquet licenses, to duly organized private nonprofit fraternal, patriotic or charitable membership organizations that are exempt from state and federal taxation and in charge of banquets conducted exclusively for its members and their guests, which shall authorize the licensee to serve wine and beer in rooms or areas approved by the Board for the occasion for on-premises consumption in such rooms or areas. Such license shall authorize the licensee to conduct no more than 12 banquets per calendar year. For the purposes of this subdivision, when the location named in the original application for a license is outdoors, the application may also name an alternative location in the event of inclement weather. However, no such license shall be required of any hotel, restaurant, or club holding a retail wine and beer license.

10. Fulfillment warehouse licenses, which shall authorize associations as defined in § 13.1-313 with a place of business located in the Commonwealth to (i) receive deliveries and shipments of wine or beer owned by holders of wine or beer shipper's licenses, (ii) store such wine or beer on behalf of the owner, and (iii) pick, pack, and ship such wine or beer as directed by the owner, all in accordance with Board regulations. No wholesale wine or wholesale beer licensee, whether licensed in the Commonwealth or not, or any person under common control of such licensee, shall acquire or hold any financial interest, direct or indirect, in the business for which any fulfillment warehouse license is issued.

11. Marketing portal licenses, which shall authorize agricultural cooperative associations organized under the provisions of the Agricultural Cooperative Association Act (§ 13.1-312 et seq.), with a place of business located in the Commonwealth, in accordance with Board regulations, to solicit and receive orders for wine or beer through the use of the Internet from persons in the Commonwealth to whom wine or beer may be lawfully sold, on behalf of holders of wine or beer shipper's licenses. Upon receipt of an order for wine or beer, the licensee shall forward it to a holder of a wine or beer shipper's license for fulfillment. Marketing portal licensees may also accept payment on behalf of the shipper.

12. Gourmet oyster house licenses, to establishments located on the premises of a commercial marina and permitted by the Department of Health to serve oysters and other fresh seafood for consumption on the premises, where the licensee also offers to the public events for the purpose of featuring and educating the consuming public about local oysters and other seafood products. Such license shall authorize the licensee to (i) give samples of or sell wine and beer in designated rooms and outdoor areas approved by the Board for consumption in such approved areas and (ii) sell wine and beer in closed containers for off-premises consumption. Samples of wine shall not exceed two ounces per person. Samples of beer shall not exceed four ounces per person. The Board shall establish a minimum monthly food sale requirement of oysters and other seafood for such license. Additionally, with the consent of the licensee, farm wineries, wineries, and breweries may participate in tastings held by licensees authorized to conduct tastings, including the pouring of samples to any person to whom alcoholic beverages may be lawfully sold.

B. Notwithstanding any provision of law to the contrary, persons granted a wine and beer license pursuant to this section may display within their licensed premises point-of-sale advertising materials that incorporate the use of any professional athlete or athletic team, provided that such advertising materials: (i) otherwise comply with the applicable regulations of the Federal Bureau of Alcohol, Tobacco and Firearms; and (ii) do not depict any athlete consuming or about to consume alcohol prior to or while engaged in an athletic activity; do not depict an athlete consuming alcohol while the athlete is operating or about to operate a motor vehicle or other machinery; and do not imply that the alcoholic beverage so advertised enhances athletic prowess.

C. Persons granted retail on-premises and on-and-off-premises wine and beer licenses pursuant to this section or subsection B of § 4.1-210 may conduct wine or beer tastings sponsored by the licensee for its customers for on-premises consumption. Such licensees may sell or give samples of wine and beer in designated areas at events held by the licensee for the purpose of featuring and educating the consuming public about the alcoholic beverages being tasted. Additionally, with the consent of the licensee, farm wineries, wineries, and breweries may participate in tastings held by licensees authorized to conduct tastings, including the pouring of samples to any person to whom alcoholic beverages may be lawfully sold. Samples of wine shall not exceed two ounces per person. Samples of beer shall not exceed four ounces per person.

#### CHAPTER 746

*An Act to require the Department of Health to make information about and resources on palliative care available on its website.*

[H 1675]

Approved March 24, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. § 1.** *That the Department of Health shall make information about and resources on palliative care available to the public, health care providers, and health care facilities on its website. Such information shall include information about the delivery of palliative care in the home and in primary, secondary, and tertiary environments; best practices for the delivery of palliative care; consumer education materials and referral information for palliative care; and continuing education opportunities for health care providers.*

#### CHAPTER 747

*An Act to amend and reenact §§ 54.1-2982 and 54.1-2988 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 54.1-2988.1 and by adding in Article 8 of Chapter 29 of Title 54.1 a section numbered 54.1-2993.1, relating to advance directives; persons authorized to provide assistance in completing.*

[H 1747]

Approved March 24, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 54.1-2982 and 54.1-2988 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 54.1-2988.1 and by adding in Article 8 of Chapter 29 of Title 54.1 a section numbered 54.1-2993.1 as follows:**

**§ 54.1-2982. Definitions.**

As used in this article:

"Advance directive" means (i) a witnessed written document, voluntarily executed by the declarant in accordance with the requirements of § 54.1-2983 or (ii) a witnessed oral statement, made by the declarant subsequent to the time he is diagnosed as suffering from a terminal condition and in accordance with the provisions of § 54.1-2983.

"Agent" means an adult appointed by the declarant under an advance directive, executed or made in accordance with the provisions of § 54.1-2983, to make health care decisions for him. The declarant may also appoint an adult to make, after the declarant's death, an anatomical gift of all or any part of his body pursuant to Article 2 (§ 32.1-289.2 et seq.) of Chapter 8 of Title 32.1.

"Attending physician" means the primary physician who has responsibility for the health care of the patient.

"Capacity reviewer" means a licensed physician or clinical psychologist who is qualified by training or experience to assess whether a person is capable or incapable of making an informed decision.

"Declarant" means an adult who makes an advance directive, as defined in this article, while capable of making and communicating an informed decision.

"Durable Do Not Resuscitate Order" means a written physician's order issued pursuant to § 54.1-2987.1 to withhold cardiopulmonary resuscitation from a particular patient in the event of cardiac or respiratory arrest. For purposes of this article, cardiopulmonary resuscitation shall include cardiac compression, endotracheal intubation and other advanced airway management, artificial ventilation, and defibrillation and related procedures. As the terms "advance directive" and "Durable Do Not Resuscitate Order" are used in this article, a Durable Do Not Resuscitate Order is not and shall not be construed as an advance directive.

"Health care" means the furnishing of services to any individual for the purpose of preventing, alleviating, curing, or healing human illness, injury or physical disability, including but not limited to, medications; surgery; blood transfusions; chemotherapy; radiation therapy; admission to a hospital, nursing home, assisted living facility, or other health care facility; psychiatric or other mental health treatment; and life-prolonging procedures and palliative care.

"Health care provider" shall have the same meaning as provided in § 8.01-581.1.

"Incapable of making an informed decision" means the inability of an adult patient, because of mental illness, intellectual disability, or any other mental or physical disorder that precludes communication or impairs judgment, to make

an informed decision about providing, continuing, withholding or withdrawing a specific health care treatment or course of treatment because he is unable to understand the nature, extent or probable consequences of the proposed health care decision, or to make a rational evaluation of the risks and benefits of alternatives to that decision. For purposes of this article, persons who are deaf, dysphasic or have other communication disorders, who are otherwise mentally competent and able to communicate by means other than speech, shall not be considered incapable of making an informed decision.

"Life-prolonging procedure" means any medical procedure, treatment or intervention which (i) utilizes mechanical or other artificial means to sustain, restore or supplant a spontaneous vital function, or is otherwise of such a nature as to afford a patient no reasonable expectation of recovery from a terminal condition and (ii) when applied to a patient in a terminal condition, would serve only to prolong the dying process. The term includes artificially administered hydration and nutrition. However, nothing in this act shall prohibit the administration of medication or the performance of any medical procedure deemed necessary to provide comfort care or to alleviate pain, including the administration of pain relieving medications in excess of recommended dosages in accordance with §§ 54.1-2971.01 and 54.1-3408.1. For purposes of §§ 54.1-2988, 54.1-2989, and 54.1-2991, the term also shall include cardiopulmonary resuscitation.

"Patient care consulting committee" means a committee duly organized by a facility licensed to provide health care under Title 32.1 or Title 37.2, or a hospital or nursing home as defined in § 32.1-123 owned or operated by an agency of the Commonwealth that is exempt from licensure pursuant to § 32.1-124, to consult on health care issues only as authorized in this article. Each patient care consulting committee shall consist of five individuals, including at least one physician, one person licensed or holding a multistate licensure privilege under Chapter 30 (§ 54.1-3000 et seq.) to practice professional nursing, and one individual responsible for the provision of social services to patients of the facility. At least one committee member shall have experience in clinical ethics and at least two committee members shall have no employment or contractual relationship with the facility or any involvement in the management, operations, or governance of the facility, other than serving on the patient care consulting committee. A patient care consulting committee may be organized as a subcommittee of a standing ethics or other committee established by the facility or may be a separate and distinct committee. Four members of the patient care consulting committee shall constitute a quorum of the patient care consulting committee.

"Persistent vegetative state" means a condition caused by injury, disease or illness in which a patient has suffered a loss of consciousness, with no behavioral evidence of self-awareness or awareness of surroundings in a learned manner, other than reflex activity of muscles and nerves for low level conditioned response, and from which, to a reasonable degree of medical probability, there can be no recovery.

"Physician" means a person licensed to practice medicine in the Commonwealth of Virginia or in the jurisdiction where the health care is to be rendered or withheld.

*"Qualified advance directive facilitator" means a person who has successfully completed a training program approved by the Department of Health for providing assistance in completing and executing a written advance directive, including successful demonstration of competence in assisting a person in completing and executing a valid advance directive and successful passage of a written examination.*

"Terminal condition" means a condition caused by injury, disease or illness from which, to a reasonable degree of medical probability a patient cannot recover and (i) the patient's death is imminent or (ii) the patient is in a persistent vegetative state.

"Witness" means any person over the age of 18, including a spouse or blood relative of the declarant. Employees of health care facilities and physician's offices, who act in good faith, shall be permitted to serve as witnesses for purposes of this article.

**§ 54.1-2988. Immunity from liability; burden of proof; presumption.**

A health care facility, physician or other person acting under the direction of a physician shall not be subject to criminal prosecution or civil liability or be deemed to have engaged in unprofessional conduct as a result of issuing a Durable Do Not Resuscitate Order or the providing, continuing, withholding or the withdrawal of health care under authorization or consent obtained in accordance with this article or as the result of the provision, withholding or withdrawal of ongoing health care in accordance with § 54.1-2990. No person or facility providing, continuing, withholding or withdrawing health care or physician issuing a Durable Do Not Resuscitate Order under authorization or consent obtained pursuant to this article or otherwise in accordance with § 54.1-2990 shall incur liability arising out of a claim to the extent the claim is based on lack of authorization or consent for such action.

Any agent or person identified in § 54.1-2986 who authorizes or consents to the providing, continuing, withholding or withdrawal of health care in accordance with this article shall not be subject, solely on the basis of that authorization or consent, to (i) criminal prosecution or civil liability for such action or (ii) liability for the cost of health care.

No individual serving on a facility's patient care consulting committee as defined in this article and no physician rendering a determination or affirmation in cases in which no patient care consulting committee exists shall be subject to criminal prosecution or civil liability for any act or omission done or made in good faith in the performance of such functions.

The provisions of this section shall apply unless it is shown by a preponderance of the evidence that the person authorizing or effectuating the providing, continuing, withholding or withdrawal of health care, or issuing, consenting to, making or following a Durable Do Not Resuscitate Order in accordance with § 54.1-2987.1 did not, in good faith, comply with the provisions of this article.

~~The distribution to patients of written advance directives in a form meeting the requirements of § 54.1-2984 and assistance to patients in the completion and execution of such forms by health care providers shall not constitute the unauthorized practice of law pursuant to Chapter 39 (§ 54.1-3900 et seq.).~~

An advance directive or Durable Do Not Resuscitate Order made, consented to or issued in accordance with this article shall be presumed to have been made, consented to, or issued voluntarily and in good faith by an adult who is capable of making an informed decision, physician or person authorized to consent on the patient's behalf.

**§ 54.1-2988.1. Assistance with completing and executing advance directives.**

A. *The distribution of written advance directives in a form meeting the requirements of § 54.1-2984 and the provision of technical advice, consultation, and assistance to persons with regard to the completion and execution of such forms by (i) health care providers, including their authorized agents or employees, or (ii) qualified advance directive facilitators shall not constitute the unauthorized practice of law pursuant to Chapter 39 (§ 54.1-3900 et seq.).*

B. *The provision of ministerial assistance to a person with regard to the completion or execution of a written advance directive in a form meeting the requirements of § 54.1-2984 shall not constitute the unauthorized practice of law pursuant to Chapter 39 (§ 54.1-3900 et seq.). For the purpose of this subsection, "ministerial assistance" includes reading the form of an advance directive meeting the requirements of § 54.1-2984 to a person, discussing the person's preferences with regard to items included in the form, recording the person's answers on the form, and helping the person sign the form and obtain any other necessary signatures on the form. "Ministerial assistance" does not include the expressing of an opinion regarding the legal effects of any item contained in the form of an advance directive meeting the requirements of § 54.1-2984 or the offering of legal advice to a person completing or executing such form.*

**§ 54.1-2993.1. Qualified advance directive facilitators; requirements for training programs.**

*The Department of Health shall approve a program for the training of qualified advance directive facilitators that includes (i) instruction on the meaning of provisions of a form meeting the requirements of § 54.1-2984, including designating a health care agent and giving instructions relating to one or more specific types of health care, and (ii) requirements for demonstrating competence in assisting persons with completing and executing advance directives, including a written examination on information provided during the training program.*

*In determining whether a training program meets the criteria set forth in this section, the Department of Health may consult with the Department for Aging and Rehabilitative Services, the Department of Behavioral Health and Developmental Services, and the Virginia State Bar.*

**2. That the following training programs may be approved by the Department of Health as training programs the completion of which qualifies an individual as a qualified advance directive facilitator as defined in § 54.1-2982 of the Code of Virginia, as amended by this act: the Honoring Choices Virginia training program founded by the Richmond Academy of Medicine; the Virginia POST Collaborative Advance Care Planning Facilitator training program; the intensive facilitator training for persons who assist others in completing advance directives that is provided by the Institute of Law, Psychiatry, and Public Policy of the University of Virginia under contract with the Department of Behavioral Health and Developmental Services; and any training program that follows the Respecting Choices Advance Care Planning model for facilitator certification courses.**

## CHAPTER 748

*An Act to amend and reenact §§ 63.2-1715 and 63.2-1717 of the Code of Virginia, relating to licensure exemptions; private preschool programs.*

[H 1837]

Approved March 24, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 63.2-1715 and 63.2-1717 of the Code of Virginia are amended and reenacted as follows:**

**§ 63.2-1715. Exemptions from licensure.**

A. The following child day programs shall not be required to be licensed:

1. A child day center that has obtained an exemption pursuant to § 63.2-1716.
2. A program where, by written policy given to and signed by a parent or guardian, school-aged children are free to enter and leave the premises without permission or supervision, regardless of (i) such program's location or the number of days per week of its operation; (ii) the provision of transportation services, including drop-off and pick-up times; or (iii) the scheduling of breaks for snacks, homework, or other activities. A program that would qualify for this exemption except that it assumes responsibility for the supervision, protection and well-being of several children with disabilities who are mainstreamed shall not be subject to licensure.
3. A program of instructional experience in a single focus, such as, but not limited to, computer science, archaeology, sport clinics, or music, if children under the age of six do not attend at all and if no child is allowed to attend for more than 25 days in any three-month period commencing with enrollment. This exemption does not apply if children merely change their enrollment to a different focus area at a site offering a variety of activities and such children's attendance exceeds 25 days in a three-month period.

4. Programs of instructional or recreational activities wherein no child under age six attends for more than six hours weekly with no class or activity period to exceed one and one-half hours, and no child six years of age or above attends for more than six hours weekly when school is in session or 12 hours weekly when school is not in session. Competition, performances and exhibitions related to the instructional or recreational activity shall be excluded when determining the hours of program operation.

5. A program that operates no more than a total of 20 program days in the course of a calendar year provided that programs serving children under age six operate no more than two consecutive weeks without a break of at least a week.

6. Instructional programs offered by private schools that satisfy compulsory attendance laws or the Individuals with Disabilities Education Act, as amended, and programs of school-sponsored extracurricular activities that are focused on single interests such as, but not limited to, music, sports, drama, civic service, or foreign language.

7. Instructional programs offered by public schools that serve preschool-age children or that satisfy compulsory attendance laws or the Individuals with Disabilities Education Act, as amended, and programs of school-sponsored extracurricular activities that are focused on single interests such as, but not limited to, music, sports, drama, civic service, or foreign language.

8. Early intervention programs for children eligible under Part C of the Individuals with Disabilities Education Act, as amended, wherein no child attends for more than a total of six hours per week.

9. Practice or competition in organized competitive sports leagues.

10. Programs of religious instruction, such as Sunday schools, vacation Bible schools, and Bar Mitzvah or Bat Mitzvah classes, and child-minding services provided to allow parents or guardians who are on site to attend religious worship or instructional services.

11. Child-minding services that are not available for more than three hours per day for any individual child offered on site in commercial or recreational establishments if the parent or guardian (i) is not an on-duty employee, except for part-time employees working less than two hours per day, (ii) can be contacted and can resume responsibility for the child's supervision within 30 minutes, and (iii) is receiving or providing services or participating in activities offered by the establishment.

12. A certified preschool or nursery school program operated by a private school that is accredited by a ~~statewide~~ *an* accrediting organization recognized by the State Board of Education ~~or accredited by the National Association for the Education of Young Children's National Academy of Early Childhood Programs; the Association of Christian Schools International; the American Association of Christian Schools; the National Early Childhood Program Accreditation; the National Accreditation Council for Early Childhood Professional Personnel and Programs; the International Academy for Private Education; the American Montessori Society; the International Accreditation and Certification of Childhood Educators, Programs, and Trainers; or the National Accreditation Commission that pursuant to § 22.1-19~~ and complies with the provisions of § 63.2-1717.

13. A program of recreational activities offered by local governments, staffed by local government employees, and attended by school-age children. Such programs shall be subject to safety and supervisory standards established by local governments.

14. A program of instructional or athletic experience operated during the summer months by, and as an extension of, an accredited private elementary, middle, or high school program as set forth in § 22.1-19 and administered by the Virginia Council for Private Education.

B. Family day homes that are members of a licensed family day system shall not be required to obtain a license from the Commissioner.

C. Officers, employees, or agents of the Commonwealth, or of any county, city, or town acting within the scope of their authority as such, who serve as or maintain a child-placing agency shall not be required to be licensed.

**§ 63.2-1717. Certification of preschool or nursery school programs operated by accredited private schools; provisional certification; annual statement and documentary evidence required; enforcement; injunctive relief.**

A. A preschool or nursery school program operated by a private school accredited by a ~~statewide~~ *an* accrediting organization recognized by the Board of Education ~~or a private school or preschool that offers to preschool aged children a program accredited by the National Association for the Education of Young Children's National Academy of Early Childhood Programs; the Association of Christian Schools International; the American Association of Christian Schools; the National Early Childhood Program Accreditation; the National Accreditation Council for Early Childhood Professional Personnel and Programs; the International Academy for Private Education; the American Montessori Society; the International Accreditation and Certification of Childhood Educators, Programs, and Trainers; or the National Accreditation Commission and is recognized by the Board of Education, pursuant to § 22.1-19~~ shall be exempt from licensure under this subtitle if it complies with the provisions of this section and meets the requirements of subsection B; ~~€ or Ø~~.

B. A school described in subsection A shall meet the following conditions in order to be exempt under this subsection:

1. The school offers kindergarten or elementary school instructional programs that satisfy compulsory school attendance laws, and children below the age of compulsory school attendance also participate in such instructional programs;

2. The instructional programs for children of and below the age of eligibility for school attendance share (i) a specific verifiable common pedagogy, (ii) education materials, (iii) methods of instruction, and (iv) professional training and individual teacher certification standards, all of which are required by a state-recognized accrediting organization;

~~3. The instructional programs described in subdivisions 1 and 2 have number of pupils in the preschool program does not exceed 12 pupils for each instructional adult, or if operated as a Montessori program with mixed age groups of three-year-old to six-year-old children and, the number of pupils in the preschool program does not exceed 15 pupils for each instructional adult;~~

~~4. The instructional program contemplates a three to four year learning cycle under a common pedagogy; and~~

~~5. 3. Children below the age of eligibility for kindergarten attendance do not attend the instructional preschool program for more than five hours per day, provided that no more than four hours of instructional classes is provided per day;~~

~~C. A school described in subsection A shall be exempt from licensure if it maintains an enrollment ratio at any one time during the current school year of five children age five or above to one four-year-old child as long as no~~

~~4. No child in attendance is under age four and the number of pupils in the preschool program does not exceed 12 pupils for each instructional adult. three;~~

~~D. A private school or preschool described in subsection A shall meet the following conditions in order to be exempt under this subsection:~~

~~1. The school offers instructional classes and has been in operation since January 1984.~~

~~2. 5. The school preschool offers instructional classes and does not hold itself out as a child care center, child day center, or child day program;~~

~~3. 6. Children enrolled in the school are at least three years of age and preschool do not attend more than (i) three hours per day and (ii) five days per week; and~~

~~4. The enrolled children attend only one program offered by the school per day.~~

~~5. 7. The school maintains a certificate or permit issued pursuant to a local government ordinance that addresses health, safety, and welfare of the children; such as but not limited to space requirements, and requires annual inspections.~~

~~E. C. The school shall file with the Commissioner, prior to the beginning of the school year or calendar year, as the case may be, and thereafter, annually, a statement which includes the following:~~

~~1. Intent to operate a certified preschool program;~~

~~2. Documentary evidence that the school has been accredited as provided in subsection A;~~

~~3. Documentation that the school has disclosed in writing to the parents, guardians, or persons having charge of a child enrolled in the school's preschool program and has posted in a visible location on the premises the fact of the program's exemption from licensure;~~

~~4. Documentary evidence that the physical facility in which the preschool program will be conducted has been inspected (i) before initial certification by the local building official and (ii) within the 12-month period prior to initial certification and at least annually thereafter by the local health department, and local fire marshal or Office of the State Fire Marshal, whichever is appropriate, and an inspection report which that documents that the facility is in compliance with applicable laws and regulations pertaining to food services, health and sanitation, water supply, building codes, and the Statewide Fire Prevention Code or the Uniform Statewide Building Code;~~

~~5. Documentation that the school has disclosed the following in writing to the parents, guardians, or persons having charge of a child enrolled in the school's preschool program, and in a written statement available to the general public: (i) the school facility is in compliance with applicable laws and regulations pertaining to food services, health and sanitation, water supply, building codes, and the Statewide Fire Prevention Code or the Uniform Statewide Building Code; (ii) the preschool program's maximum capacity; (iii) the school's policy or practice for pupil-teacher ratio, staffing patterns, and staff health requirements; and (iv) a description of the school's public liability insurance, if any;~~

~~6. Qualifications of school personnel who work in the preschool program; and~~

~~7. Certification that the school will report to the Commissioner all incidents involving serious injury or death to children attending the preschool program. Reports of serious injuries, which shall include any injuries that require an emergency referral to an offsite health care professional or treatment in a hospital, shall be submitted annually. Reports of deaths shall be submitted no later than one business day after the death occurred; and~~

~~8. Documentary evidence that the private school requires all employees of the preschool and other school employees who have contact with the children enrolled in the preschool program to obtain a criminal record check as provided in subdivision A 41 of § 19.2-389 § 63.2-1720.1 to meet the requirements of § 22.1-296.3 as a condition of initial or continued employment. The school shall not hire or continue employment of any such person who has an offense specified in § 63.2-1719.~~

All accredited private schools seeking certification of preschool programs shall file such information on forms prescribed by the Commissioner. The Commissioner shall certify all preschool programs of accredited private schools which comply with the provisions of subsection A. *The Commissioner may conduct an annual inspection of such preschool programs to ensure compliance with the provisions of this section and conduct inspections to investigate complaints alleging noncompliance.*

~~F. D. A preschool program of a private school that has not been accredited as provided in subsection A, or which has not provided documentation to the Commissioner that it has initiated the accreditation process, shall be subject to licensure.~~

~~The Commissioner shall issue a provisional certificate to a private school which provides documentation to the Commissioner that it has initiated the accreditation process. The provisional certificate shall permit the school to operate its preschool program during the accreditation process period. The issuance of an initial provisional certificate shall be for a period not to exceed one year. A provisional certificate may be renewed up to an additional year if the accrediting~~

organization provides a statement indicating it has visited the school within the previous six months and the school has made sufficient progress. Such programs shall not be subject to licensure during the provisional certification period.

~~G.~~ If a school fails to complete the accreditation process or is denied accreditation, the Commissioner shall revoke the provisional certification and the program shall thereafter be subject to licensure.

~~H.~~ E. If the preschool program of a private school which that is accredited as provided in subsection A fails to file the statement and the required documentary evidence, the Commissioner shall notify the school of its noncompliance and may thereafter take such action as he determines appropriate, including notice that the program is required to be licensed.

~~I.~~ F. The revocation or denial of the certification of a preschool program shall be subject to appeal pursuant to the provisions of the Administrative Process Act (§ 2.2-4000 et seq.). Judicial review of a final agency decision shall be in accordance with the provisions of the Administrative Process Act.

~~J.~~ G. Any person who has reason to believe that a private school falling within the provisions of this section is in noncompliance with any applicable requirement of this section may report the same to the Department, the local department, the local health department, or the local fire marshal, each of which may inspect the school for noncompliance, give reasonable notice to the school of the nature of its noncompliance, and thereafter may take appropriate action as provided by law, including a suit to enjoin the operation of the preschool program.

~~K.~~ H. Upon receipt of a complaint concerning a certified preschool program of an accredited private school, ~~or of a private school to which provisional certification has been issued,~~ if for good cause shown there is reason to suspect that the school is in noncompliance with any provision of this section or the health or safety of the children attending the preschool program is in danger, the Commissioner shall cause an investigation to be made, including on-site visits as he deems necessary of the services, personnel, and facilities of the school's preschool program. The school shall afford the Commissioner reasonable opportunity to inspect the school's preschool program, records, and facility, and to interview the employees and any child or parent or guardian of a child who is or has been enrolled in the preschool program. If, upon completion of the investigation, it is determined that the school is in noncompliance with the provisions of this section, the Commissioner shall give reasonable notice to the school of the nature of its noncompliance and thereafter may take appropriate action as provided by law, including a suit to enjoin the operation of the preschool program.

~~L.~~ I. Failure of a private school to comply with the provisions of this section, or a finding that the health and safety of the children attending the preschool program are in clear and substantial danger upon the completion of an investigation, shall be grounds for revocation of the certification issued pursuant to this section.

~~M.~~ J. If a private school operates a child day program outside the scope of its instructional classes during the school year or operates a child day program during the summer, the child day program shall be subject to licensure under the regulations adopted pursuant to § 63.2-1734.

~~N.~~ K. Nothing in this section shall prohibit a preschool operated by or conducted under the auspices of a private school from obtaining a license pursuant to this subtitle.

CHAPTER 749

*An Act to amend and reenact § 32.1-330 of the Code of Virginia, relating to Department of Medical Assistance Services; requirements related to long-term care.*

[H 2304]

Approved March 24, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 32.1-330 of the Code of Virginia is amended and reenacted as follows:**

**§ 32.1-330. Preadmission screening required.**

A. All individuals who will be eligible for community or institutional long-term care services as defined in the state plan for medical assistance shall be evaluated to determine their need for nursing facility services as defined in that plan. The Department shall require a preadmission screening of all individuals who, at the time of application for admission to a certified nursing facility as defined in § 32.1-123, are eligible for medical assistance or will become eligible within six months following admission. For community-based screening, the screening team shall consist of a nurse, social worker or other assessor designated by the Department, and physician who are employees of the Department of Health or the local department of social services or a team of licensed physicians, nurses, and social workers at the Wilson Workforce and Rehabilitation Center (WWRC) for WWRC clients only. For institutional screening, the Department shall contract with acute care hospitals. The Department shall contract with other public or private entities to conduct required community-based and institutional screenings in addition to or in lieu of the screening teams described in this section in jurisdictions in which the screening team has been unable to complete screenings of individuals within 30 days of such individuals' application.

B. The Department shall require all individuals who administer screenings pursuant to this section to receive training on and be certified in the use of the uniform assessment instrument for screening individuals for eligibility for community or institutional long-term care services provided in accordance with the state plan for medical assistance prior to conducting such screenings. The Department shall publicly report by August 1, 2018, and each year thereafter on the outcomes of the performance standards.

2. That the Board of Medical Assistance Services shall promulgate regulations to implement the provisions of this act to be effective within 280 days of its enactment.
3. That the Department of Medical Assistance Services shall (i) develop a program for the training and certification of individuals who perform preadmission screenings for community and institutional long-term care provided in accordance with the state plan for medical assistance and ensure that all screeners are trained on and certified in the use of the uniform assessment instrument for preadmission screening, (ii) develop guidelines for a standardized preadmission screening process for community and institutional long-term care provided in accordance with the state plan for medical assistance and ensure that all screenings are performed in accordance with such guidelines, (iii) establish and monitor performance according to established standards, and (iv) strengthen oversight of the preadmission screening process for community and institutional long-term care to ensure that problems are identified and addressed promptly.
4. That the Department of Medical Assistance Services shall require managed care organizations that provide managed long-term care services in the Commonwealth to develop the portion of the plan of care addressing the type and amount of long-term services and supports for each recipient. For recipients of long-term care, the managed care organization shall participate in and collaborate with the existing interdisciplinary care team planning process already established pursuant to federal law and regulations in the development of the care plan.
5. That the Department of Medical Assistance Services shall work with its actuary to (i) ensure that trends are consistent with Actuarial Standards of Practice, including consideration of negative historical trends in medical spending by managed care organizations to be carried forward when setting capitation rates paid to managed care organizations through the managed care program where appropriate, and (ii) annually rebase administrative expenses per member per month for projected enrollment changes and future program changes impacting administrative costs beginning in Fiscal Year 2019.
6. That the Department of Medical Assistance Services shall include additional financial and utilization reporting requirements in contracts with managed care organizations and the Managed Care Technical Manual, including requirements for submission of (i) income statements that show medical services expenditures by service category, (ii) statements of revenues and expenses, (iii) information about related party transactions, and (iv) information about service utilization metrics, and shall monitor data submitted by managed care organizations to identify undesirable trends in spending and service utilization and work with managed care organizations to address such trends.
7. That the Department of Medical Assistance Services shall (i) establish a compliance enforcement review process and apply consistent and uniform compliance standards in accordance with the Managed Care Technical Manual, managed care contracts, and federal standards; (ii) return all compliance feedback to managed care organizations within the same reporting or auditing period in which such reports were generated; (iii) review the reasons for which the Commonwealth will mitigate or waive sanctions imposed on managed care organizations that fail to fulfill contract requirements and review and consider infractions due to unforeseen circumstances beyond the managed care organization's control, infractions occurring during the first year of the managed care organization's operation, infractions occurring for the first time, and infractions that are self-reported by the managed care organization; (iv) when applicable, include guidance in the Managed Care Technical Manual for managed care organizations that state the reasons for which sanctions may be mitigated or waived; (v) include information about the number of sanctions mitigated or waived and the reasons for such mitigation or waiver in its monthly compliance reports; and (vi) annually review the results of its contract compliance enforcement action process and include information about the process and results, including the percentage of points and fines mitigated or waived and the reasons for mitigating them for each managed care organization, in its annual report.
8. That the Department of Medical Assistance Services shall (i) incrementally increase the amount of performance incentive awards granted to managed care organizations that meet certain performance goals to create a stronger incentive for managed care organizations to improve performance and (ii) retain at least one metric related to chronic conditions in the performance incentive award program.
9. That the Department of Medical Assistance Services shall work collaboratively with managed care organizations and relevant stakeholders, where appropriate, to annually publish a uniform and agreed-upon managed care organization report card for the Department for the managed care program and shall make such information available to new enrollees as part of the enrollment process.
10. That upon the inclusion of behavioral health services in the managed care program and implementation of managed long-term care services and supports, the Department of Medical Assistance Services shall require all managed care organizations participating in the managed care program to provide to the Department information about (i) the managed care organization's policies and processes for identifying behavioral health providers who provide services deemed to be inappropriate to meet the behavioral health needs of the individual receiving services and (ii) the number of such providers that are disenrolled from the managed care provider's provider network.
11. That the Department of Medical Assistance Services shall develop a process that allows managed care organizations providing services through the managed care program to determine utilization control measures for services provided but includes monitoring of the impact of utilization controls on utilization rates and spending to assess the effectiveness of each managed care organization's utilization control measures.

12. That the Department of Medical Assistance Services shall include language in contracts for managed care long-term care services and supports requiring managed care organizations providing services through the managed care program to develop a plan that includes (i) a standardized process to determine the capacity of individuals receiving services to self-direct services received, (ii) criteria for determining when a person receiving services is no longer able to self-direct services received, and (iii) the roles and responsibilities of service facilitators, including requirements to regularly verify that appropriate services are provided.

13. That following inclusion of managed long-term care services and supports in the managed care program, the Department of Medical Assistance Services shall (i) review information about utilization and spending on long-term care services and supports provided by managed care organizations and work with managed care organizations to make necessary changes to managed care organizations' prior authorization and quality management review processes when undesirable trends are identified; (ii) include revenue and expense reports, information about related party transactions, and information about service utilization metrics in contracts for managed long-term care services and supports and the Managed Care Technical Manual and utilize data and information received from managed long-term care services and supports providers to monitor spending and utilization trends for managed long-term care services and supports and address problems related to spending and utilization of services through managed long-term care services and supports program contracts or the rate-setting process; (iii) include additional requirements for information about metrics related to behavioral health services in the managed long-term care services and supports contract and the Managed Care Technical Manual to facilitate identification of undesirable trends in service utilization and enable the Department to address problems identified with managed care organizations participating in the program; and (iv) include additional metrics related to the long-term care services and supports in the managed long-term care services and supports contract and the Managed Care Technical Manual to facilitate identification of differences between models of care, assessment of progress in and challenges related to keeping service recipients in community-based rather than institutional care, and cooperation with managed care organizations in resolving problems identified.

#### CHAPTER 750

*An Act to amend and reenact § 2.2-4348 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 32.1-319.1, relating to Department of Medical Assistance Services; fraud prevention; prepayment analytics.*

[H 2417]

Approved March 24, 2017

**Be it enacted by the General Assembly of Virginia:**

1. That § 2.2-4348 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 32.1-319.1 as follows:

**§ 2.2-4348. Exemptions.**

The provisions of this article shall not apply to (i) the late payment provisions contained in any public utility tariffs prescribed by the State Corporation Commission or (ii) payments for services provided under the state plan for medical assistance identified as potentially fraudulent, abusive, or erroneous in accordance with the program established pursuant to § 32.1-319.1 and delayed until such time as the claim can be validated.

**§ 32.1-319.1. Department to establish program to use prepayment analytics to mitigate risk of improper payments.**

A. The Department shall establish a program using prepayment analytics to mitigate the risk of improper payments to providers of services that are paid through the Department's fee-for-service delivery system who commit fraud, abuse, or errors. Such program shall include the use of predictive modeling, provider profiling, trend analysis, and other prepayment analytics to identify providers and claims with a high likelihood of fraud, abuse, or error and prevent payments on potentially fraudulent claims from being made until such claims have been validated.

B. The Department may enter into a contract or agreement with a vendor for the operation of the program to mitigate risk of improper payments to providers of services that are paid through the Department's fee-for-service delivery system required by this section.

#### CHAPTER 751

*An Act to amend and reenact §§ 63.2-1720 through 63.2-1721.1, as they shall become effective, 63.2-1722, 63.2-1724, and 63.2-1725 of the Code of Virginia, relating to child care providers; criminal history background check; penalty.*

[S 897]

Approved March 24, 2017

**Be it enacted by the General Assembly of Virginia:**

1. That §§ 63.2-1720 through 63.2-1721.1, as they shall become effective, 63.2-1722, 63.2-1724, and 63.2-1725 of the Code of Virginia are amended and reenacted as follows:

**§ 63.2-1720. (Effective July 1, 2017) Assisted living facilities, adult day care centers, child-placing agencies, and independent foster homes; employment for compensation of persons or use of volunteers convicted of certain offenses prohibited; background check required; penalty.**

A. No assisted living facility, adult day care center, child-placing agency, *or* independent foster home; ~~or family day system~~ licensed in accordance with the provisions of this chapter; ~~or registered family day homes or family day homes approved by family day systems~~; shall hire for compensated employment or continue to employ persons who have an offense as defined in § 63.2-1719. All applicants for employment shall undergo background checks pursuant to subsection C.

B. A licensed assisted living facility or adult day care center may hire an applicant convicted of one misdemeanor barrier crime not involving abuse or neglect, if five years have elapsed following the conviction.

C. Background checks pursuant to subsection A require:

1. A sworn statement or affirmation disclosing whether the person has a criminal conviction or is the subject of any pending criminal charges within or outside the Commonwealth and, in the case of licensed child-placing agencies; *and* independent foster homes; ~~and family day systems~~; ~~registered family day homes~~; ~~and family day homes approved by family day systems~~, whether or not the person has been the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth;

2. A criminal history records check through the Central Criminal Records Exchange pursuant to § 19.2-389; and

3. In the case of licensed child-placing agencies; *and* independent foster homes; ~~and family day systems~~; ~~registered family day homes~~; ~~and family day homes approved by family day systems~~, a search of the central registry maintained pursuant to § 63.2-1515 for any founded complaint of child abuse and neglect.

D. Any person making a materially false statement regarding the sworn statement or affirmation provided pursuant to subdivision C 1 is guilty of a Class 1 misdemeanor.

E. A licensed assisted living facility, licensed adult day care center, licensed child-placing agency, *or* licensed independent foster home; ~~licensed family day system~~; ~~registered family day home~~; ~~or family day home approved by a family day system~~ shall obtain for any compensated employees within 30 days of employment (i) an original criminal record clearance with respect to convictions for offenses specified in § 63.2-1719 or an original criminal history record from the Central Criminal Records Exchange and (ii) in the case of licensed child-placing agencies; *and* independent foster homes; ~~and family day systems~~; ~~registered family day homes~~; ~~and family day homes approved by family day systems~~, a copy of the information from the central registry for any compensated employee within 30 days of employment. However, no employee shall be permitted to work in a position that involves direct contact with a person or child receiving services until an original criminal record clearance or original criminal history record has been received, unless such person works under the direct supervision of another employee for whom a background check has been completed in accordance with the requirements of this section. If an applicant is denied employment because of information from the central registry or convictions appearing on his criminal history record, the licensed assisted living facility, adult day care center, child-placing agency, *or* independent foster home; ~~or family day system~~; ~~registered family day home~~; ~~or family day home approved by a family day system~~ shall provide a copy of the information obtained from the central registry or the Central Criminal Records Exchange or both to the applicant.

F. No volunteer who has an offense as defined in § 63.2-1719 shall be permitted to serve in a licensed child-placing agency; *or* independent foster home; ~~or family day system~~; ~~registered family day home~~; ~~or family day home approved by a family day system~~. Any person desiring to volunteer at a licensed child-placing agency; *or* independent foster home; ~~or family day system~~; ~~registered family day home~~; ~~or family day home approved by a family day system~~ shall provide the agency; *system*; or home with a sworn statement or affirmation pursuant to subdivision C 1. Such licensed child-placing agency; *or* independent foster home; ~~or family day system~~; ~~registered family day home~~; ~~or family day home approved by a family day system~~ shall obtain for any volunteers, within 30 days of commencement of volunteer service, a copy of (i) the information from the central registry and (ii) an original criminal record clearance with respect to offenses specified in § 63.2-1719 or an original criminal history record from the Central Criminal Records Exchange. Any person making a materially false statement regarding the sworn statement or affirmation provided pursuant to subdivision C 1 is guilty of a Class 1 misdemeanor. If a volunteer is denied service because of information from the central registry or convictions appearing on his criminal history record, such licensed child-placing agency; *or* independent foster home; ~~or family day system~~; ~~registered family day home~~; ~~or family day home approved by a family day system~~ shall provide a copy of the information obtained from the central registry or the Central Criminal Records Exchange or both to the volunteer. The provisions of this subsection shall apply only to volunteers who will be alone with any child in the performance of their duties and shall not apply to a parent-volunteer of a child attending a licensed child-placing agency; *or* independent foster home; ~~or family day system~~; ~~registered family day home~~; ~~or family day home approved by a family day system~~, whether or not such parent-volunteer will be alone with any child in the performance of his duties. A parent-volunteer is someone supervising, without pay, a group of children that includes the parent-volunteer's own child in a program that operates no more than four hours per day, provided that the parent-volunteer works under the direct supervision of a person who has received a clearance pursuant to this section.

G. No volunteer shall be permitted to serve in a licensed assisted living facility or licensed adult day care center without the permission or under the supervision of a person who has received a clearance pursuant to this section.

H. Further dissemination of the background check information is prohibited other than to the Commissioner's representative or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination.

I. A licensed assisted living facility shall notify and provide all students a copy of the provisions of this article prior to or upon enrollment in a certified nurse aide program operated by such assisted living facility.

J. A person who complies in good faith with the provisions of this section shall not be liable for any civil damages for any act or omission in the performance of duties under this section unless the act or omission was the result of gross negligence or willful misconduct.

**§ 63.2-1720.1. (Effective July 1, 2017) Child day centers, family day homes, and family day systems; employment for compensation or use as volunteers of persons convicted of or found to have committed certain offenses prohibited; national background check required; penalty.**

A. No child day center ~~or~~, family day home, *or family day system* licensed in accordance with the provisions of this chapter, *child day center exempt from licensure pursuant to § 63.2-1716, registered family day home, family day home approved by a family day system, or child day center, family day home, or child day program that enters into a contract with the Department or a local department to provide child care services funded by the Child Care and Development Block Grant* shall hire for compensated employment, continue to employ, or permit to serve as a volunteer ~~in a position that is involved in the day-to-day operations of the child day center or family day home or in which the employee or volunteer who~~ will be alone with, in control of, or supervising children any person who has an offense as defined in § 63.2-1719. All applicants for employment ~~or~~, *employees, applicants* to serve as volunteers, *and volunteers* shall undergo a background check in accordance with subsection B *prior to employment or beginning to serve as a volunteer and every five years thereafter.*

B. Any ~~applicant~~ *individual* required to undergo a background check in accordance with subsection A shall:

1. Provide a sworn statement or affirmation disclosing whether he has ever been convicted of or is the subject of pending charges for any offense within or outside the Commonwealth and whether he has been the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth;

2. Submit to fingerprinting and provide personal descriptive information described in subdivision B 2 of § 19.2-392.02; and

3. Authorize the child day center ~~or~~, family day home, *or family day system described in subsection A* to obtain a copy of ~~information from the results of a search of the central registry maintained pursuant to § 63.2-1515 on any investigation of child abuse or neglect undertaken on him and any child abuse and neglect registry or equivalent registry maintained by any other state in which the individual has resided in the preceding five years for any founded complaint of child abuse or neglect against him.~~

The ~~applicant's~~ *individual's* fingerprints and personal descriptive information obtained pursuant to subdivision 2 shall be forwarded through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining national criminal history record information regarding such ~~applicant individual~~. Upon receipt of ~~an applicant's~~ *the individual's* record or notification that no record exists, the Central Criminal Records Exchange shall forward the information to the Department, and the Department shall report to the child day center ~~or~~, family day home, *or family day system described in subsection A* as to whether the ~~applicant~~ *individual* is eligible to have responsibility for the safety and well-being of children. In cases in which the record forwarded to the Department is lacking disposition data, the Department shall conduct research in whatever state and local recordkeeping systems are available in order to obtain complete data before reporting to the child day center ~~or~~, family day home, *or family day system.*

C. The child day center ~~or~~, family day home, *or family day system described in subsection A* shall inform every ~~applicant for compensated employment or to serve as a volunteer~~ *individual* required to undergo a background check pursuant to this section that he is entitled to obtain a copy of any background check report and to challenge the accuracy and completeness of any such report and obtain a prompt resolution before a final determination is made of the ~~applicant's~~ *individual's* eligibility to have responsibility for the safety and well-being of children.

D. Any person making a materially false statement regarding the sworn statement or affirmation provided pursuant to subdivision B 1 is guilty of a Class 1 misdemeanor.

E. Further dissemination of the background check information is prohibited other than to the Commissioner's representative or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination.

F. A person who complies in good faith with the provisions of this section shall not be liable for any civil damages for any act or omission in the performance of duties under this section unless the act or omission was the result of gross negligence or willful misconduct.

G. Notwithstanding the provisions of subsection A, a child day center may hire for compensated employment persons who have been convicted of not more than one misdemeanor offense under § 18.2-57 if 10 years have elapsed following the conviction, unless the person committed such offense while employed in a child day center or the object of the offense was a minor.

H. Fees charged for the processing and administration of background checks pursuant to this section shall not exceed the actual cost to the state of such processing and administration.

I. Any person employed for compensation at a licensed child day center or family day home or permitted to serve as a volunteer at a licensed child day center or family day home in a position that is involved in the day-to-day operations of the child day center or family day home or in which he will be alone with, in control of, or supervising children individual required to undergo a background check pursuant to subsection A who is (i) convicted of an offense as defined in § 63.2-1719 within or outside of the Commonwealth or (ii) found to be the subject of a founded complaint of child abuse or neglect within or outside of the Commonwealth shall notify the child day center or, family day home, or family day system described in subsection A of such conviction or finding.

**§ 63.2-1721. (Effective July 1, 2017) Background check upon application for licensure as a child-placing agency or independent foster home; penalty.**

A. Upon application for licensure as a child-placing agency; or independent foster home; or family day system or registration as a family day home, all (i) all applicants; and (ii) agents at the time of application who are or will be involved in the day-to-day operations of the child-placing agency; or independent foster home; family day system; or family day home or who are or will be alone with, in control of, or supervising one or more of the children; and (iii) any other adult living in the home of an applicant for registration as a family day home shall undergo a background check pursuant to subsection B. Upon application for licensure as an assisted living facility, all applicants shall undergo a background check pursuant to subsection B. In addition, foster or adoptive parents requesting approval by child-placing agencies and operators of family day homes requesting approval by family day systems; and any other adult residing in the family day home or existing employee or volunteer of the family day home; shall undergo background checks pursuant to subsection B prior to their approval.

B. Background checks pursuant to subsection A require:

1. A sworn statement or affirmation disclosing whether the person has a criminal conviction or is the subject of any pending criminal charges within or outside the Commonwealth and whether or not the person has been the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth;
2. A criminal history records check through the Central Criminal Records Exchange pursuant to § 19.2-389; and
3. In the case of child-placing agencies, independent foster homes; family day systems; and family day homes, or adoptive or foster parents, a search of the central registry maintained pursuant to § 63.2-1515 for any founded complaint of child abuse and neglect.

C. The person required to have a background check pursuant to subsection A shall submit the background check information required in subsection B to the Commissioner's representative prior to issuance of a license; registration or approval. The applicant shall provide an original criminal record clearance with respect to offenses specified in § 63.2-1719 or an original criminal history record from the Central Criminal Records Exchange. Any person making a materially false statement regarding the sworn statement or affirmation provided pursuant to subdivision B 1 is guilty of a Class 1 misdemeanor. If any person specified in subsection A required to have a background check has any offense as defined in § 63.2-1719, and such person has not been granted a waiver by the Commissioner pursuant to § 63.2-1723 or is not subject to an exception in subsection E, F, G, or H, (i) the Commissioner shall not issue a license to a child-placing agency; or independent foster home; or family day system or a registration to a family day home; (ii) the Commissioner shall not issue a license to an assisted living facility; or (iii) a child-placing agency shall not approve an adoptive or foster home; or (iv) a family day system shall not approve a family day home.

D. No person specified in subsection A shall be involved in the day-to-day operations of a licensed child-placing agency; or independent foster home; or family day system or a registered family day home; be alone with, in control of, or supervising one or more children receiving services from a licensed child-placing agency; or independent foster home; or family day system or a registered family day home; or be permitted to work in a position that involves direct contact with a person receiving services without first having completed background checks pursuant to subsection B unless such person is directly supervised by another person for whom a background check has been completed in accordance with the requirements of this section.

E. Notwithstanding any provision to the contrary contained in this section, a child-placing agency may approve as an adoptive or foster parent an applicant convicted of not more than one misdemeanor as set out in § 18.2-57 not involving abuse, neglect, moral turpitude, or a minor, provided that 10 years have elapsed following the conviction.

F. Notwithstanding any provision to the contrary contained in this section, a child-placing agency may approve as a foster parent an applicant convicted of statutory burglary for breaking and entering a dwelling home or other structure with intent to commit larceny, who has had his civil rights restored by the Governor, provided that 25 years have elapsed following the conviction.

G. Notwithstanding any provision to the contrary contained in this section, a child-placing agency may approve as an adoptive or foster parent an applicant convicted of felony possession of drugs, who has had his civil rights restored by the Governor, provided that 10 years have elapsed following the conviction.

H. Notwithstanding any provision to the contrary contained in this section, a child-placing agency may approve as an adoptive or foster parent an applicant convicted of felony possession of drugs with intent to distribute who has had his civil rights restored by the Governor, provided 20 years have elapsed following the conviction.

I. If an applicant is denied licensure; registration or approval because of information from the central registry or convictions appearing on his criminal history record, the Commissioner shall provide a copy of the information obtained from the central registry or the Central Criminal Records Exchange or both to the applicant.

J. Further dissemination of the background check information is prohibited other than to the Commissioner's representative or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination.

**§ 63.2-1721.1. (Effective July 1, 2017) Background check upon application for licensure, registration, or approval as child day center, family day home, or family day system; penalty.**

A. Every (i) applicant for licensure as a child day center ~~or~~, family day home, *or family day system, registration as a family day home, or approval as a family day home by a family day system*; (ii) agent of an applicant for licensure as a child day center ~~or~~, family day home, *or family day system, registration as a family day home, or approval as a family day home by a family day system* at the time of application who is or will be involved in the day-to-day operations of the child day center ~~or~~, family day home, *or family day system* or who is or will be alone with, in control of, or supervising one or more of the children; and (iii) adult living in ~~the~~ *such child day center or family day home* shall undergo a background check in accordance with subsection B prior to issuance of a license as a child day center ~~or~~, family day home, *or family day system, registration as a family day home, or approval as a family day home by a family day system and every five years thereafter.*

B. Every person required to undergo a background check pursuant to subsection A shall:

1. Provide a sworn statement or affirmation disclosing whether he has ever been convicted of or is the subject of any pending criminal charges for any offense within or outside the Commonwealth and whether or not he has been the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth;

2. Submit to fingerprinting and provide personal descriptive information described in subdivision B 2 of § 19.2-392.02; and

3. Authorize the ~~Department~~ *child day center, family day home, or family day system specified in subsection A* to obtain a copy of ~~information from the results of a search of the central registry maintained pursuant to § 63.2-1515 on any investigation of child abuse or neglect undertaken on him and any child abuse and neglect registry or equivalent registry maintained by any other state in which the individual has resided in the preceding five years for any founded complaint of child abuse or neglect against him.~~

Fingerprints and personal descriptive information obtained pursuant to subdivision 2 shall be forwarded through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining national criminal history record information regarding the individual. Upon receipt of an ~~applicant's individual's~~ record or notification that no record exists, the Central Criminal Records Exchange shall forward the information to the Department. *The Department shall report to the child day center, family day home, or family day system described in subsection A as to whether the individual is eligible to have responsibility for the safety and well-being of children.* In cases in which the record forwarded to the Department is lacking disposition data, the Department shall conduct research in whatever state and local recordkeeping systems are available in order to obtain complete data.

C. If any person specified in subsection A required to have a background check has an offense as defined in § 63.2-1719, and such person has not been granted a waiver by the Commissioner pursuant to § 63.2-1723, no license as a child day center ~~or~~, family day home, *or family day system or registration as a family day home shall be granted by the Commissioner and no approval as a family day home shall be granted by the family day system.*

D. Information from a search of the central registry maintained pursuant to § 63.2-1515 and any child abuse and neglect registry or equivalent registry maintained by any other state in which the applicant, agent, or adult has resided in the preceding five years, authorized in accordance with subdivision B 3, shall be obtained prior to issuance of a license as a child day center ~~or~~, family day home, *or family day system, registration as a family day home, or approval as a family day home by a family day system.*

E. No person specified in subsection A shall be involved in the day-to-day operations of the child day center ~~or~~, family day home, *or family day system*, or shall be alone with, in control of, or supervising one or more children, without first having completed any required background check pursuant to subsection B.

F. Any person making a materially false statement regarding the sworn statement or affirmation provided pursuant to subdivision B 1 is guilty of a Class 1 misdemeanor.

G. If an ~~applicant~~ *individual* is denied licensure, *registration, or approval* because of information from the central registry *or any child abuse and neglect registry or equivalent registry maintained by any other state*, or convictions appearing on his criminal history record, the Commissioner shall provide a copy of the information obtained from the central registry, *any child abuse and neglect registry or equivalent registry maintained by any other state*, or the Central Criminal Records Exchange ~~or both~~ to the ~~applicant~~ *individual*.

H. Further dissemination of the background check information is prohibited other than to the Commissioner's representative or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination.

I. Fees charged for the processing and administration of background checks pursuant to this section shall not exceed the actual cost to the state of such processing and administration.

**§ 63.2-1722. Revocation or denial of renewal based on background checks; failure to obtain background check.**

A. The Commissioner may revoke or deny renewal of a license or registration of a child welfare agency, assisted living facility, or adult day care center; a child-placing agency may revoke the approval of a foster home; and a family day system may revoke the approval of a family day home if the assisted living facility, adult day care center, child welfare agency, foster home, or approved family day home has knowledge that a person specified in § 63.2-1720, 63.2-1720.1, 63.2-1721,

or 63.2-1721.1 required to have a background check has an offense as defined in § 63.2-1719, and such person has not been granted a waiver by the Commissioner pursuant to § 63.2-1723 or is not subject to the exceptions in subsection B of § 63.2-1720, subsection G of § 63.2-1720.1, or subsection E, F, ~~or G~~, or H of § ~~63.2-1721.1~~ 63.2-1721, and the facility, center, home, or agency refuses to separate such person from employment or service *or allows the household member to continue to reside in the home.*

B. Failure to obtain background checks pursuant to §§ 63.2-1720, 63.2-1720.1, 63.2-1721, and 63.2-1721.1 shall be grounds for denial ~~or~~, revocation, *or termination* of a license, registration, or approval *or any contract with the Department or a local department to provide child care services to clients of the Department or local department.* No violation shall occur if the assisted living facility, adult day care center, child-placing agency, independent foster home, family day system, family day home, or child day center has applied for the background check timely and it has not been obtained due to administrative delay. The provisions of this section shall be enforced by the Department.

**§ 63.2-1724. Records check by unlicensed child day center; penalty.**

Any child day center that is exempt from licensure pursuant to § 63.2-1716 shall require a ~~prospective employee or volunteer or all applicants for employment, employees, applicants to serve as volunteers, and volunteers and~~ any other person who is expected to be alone with one or more children enrolled in the child day center to obtain ~~within 30 days of employment or commencement of volunteer service, a search of the central registry maintained pursuant to § 63.2-1515 on any founded complaint of child abuse or neglect and a criminal records check as provided in subdivision A 11 of § 19.2-389. However, no employee shall be permitted to work in a position that involves direct contact with a child until an original criminal record clearance or original criminal history record has been received, unless such person works under the direct supervision of another employee for whom a background check has been completed in accordance with the requirements of this section~~ a background check in accordance with § 63.2-1720.1. A child day center that is exempt from licensure pursuant to § 63.2-1716 shall refuse employment or service to any person who has any offense defined in § 63.2-1719. Such center shall also require a prospective employee or volunteer or any other person who is expected to be alone with one or more children in the child day center to provide a sworn statement or affirmation disclosing whether or not the applicant has ever been (i) the subject of a founded complaint of child abuse or neglect, or (ii) convicted of a crime or is the subject of pending criminal charges for any offense within the Commonwealth or any equivalent offense outside the Commonwealth. The foregoing provisions shall not apply to a parent or guardian who may be left alone with his or her own child. For purposes of this section, convictions shall include prior adult convictions and juvenile convictions or adjudications of delinquency based on a crime that would have been a felony if committed by an adult within or outside the Commonwealth. ~~Any person making a materially false statement regarding any such offense shall be guilty of a Class 1 misdemeanor. If an applicant is denied employment or service because of information from the central registry or convictions appearing on his criminal history record, the child day center shall provide a copy of the information obtained from the central registry or Central Criminal Records Exchange or both to the applicant. Further dissemination of the information provided to the facility is prohibited.~~

The provisions of this section referring to volunteers shall apply only to volunteers who will be alone with any child in the performance of their duties and shall not apply to a parent volunteer of a child attending the child day center whether or not such parent volunteer will be alone with any child in the performance of his duties. A parent volunteer is someone supervising, without pay, a group of children which includes the parent volunteer's own child, in a program which operates no more than four hours per day, where the parent volunteer works under the direct supervision of a person who has received a clearance pursuant to this section.

**§ 63.2-1725. Child day centers or family day homes receiving federal, state, or local child care funds; eligibility requirements.**

A. Whenever any child day center ~~or~~, family day home, *or child day program* that has not met the requirements of §§ ~~63.2-1720, 63.2-1721~~ 63.2-1720.1, 63.2-1721.1, and 63.2-1724 applies to enter into a contract with the Department or a local department to provide child care services to clients of the Department or local department, the Department or local department shall require a ~~criminal records check pursuant to subdivision A 43 of § 19.2-389, as well as a search of the central registry maintained pursuant to § 63.2-1515, on any child abuse or neglect investigation~~ background check, at the time of application to enter into a contract and every five years thereafter, of (i) the applicant; ~~any employee; prospective employee; volunteers;~~ any agents involved in the day-to-day operation; all agents who are alone with, in control of, or supervising one or more of the children; and any other adult living in a child day center or family day home pursuant to § 63.2-1721.1; and (ii) all applicants for employment, employees, applicants to serve as volunteers, and volunteers pursuant to § 63.2-1720.1. ~~The applicant shall provide the Department or local department with copies of these records checks.~~ The child day center ~~or~~, family day home, *or child day program* shall not be permitted to enter into a contract with the Department or a local department for child care services when an applicant; any employee; a prospective employee; a volunteer, an agent involved in the day-to-day operation; an agent alone with, in control of, or supervising one or more children; or any other adult living in a family day home has any offense as defined in § 63.2-1719. ~~The child day center or family day home shall also require the above individuals to provide a sworn statement or affirmation disclosing whether or not the person has ever been (i) the subject of a founded case of child abuse or neglect or (ii) convicted of a crime or is the subject of any pending criminal charges within the Commonwealth or any equivalent offense outside the Commonwealth. Any person making a materially false statement regarding any such offense shall be guilty of a Class 1 misdemeanor. If a person is denied employment or work because of information from the central registry or convictions appearing on his~~

~~criminal history record, the child day center or family day program shall provide a copy of such information obtained from the central registry or Central Criminal Records Exchange or both to the person. Further dissemination of the information provided to the facility, beyond dissemination to the Department, agents of the Department, or the local department, is prohibited.~~

B. Every child day center ~~or~~, family day home, *or child day program* that enters into a contract with the Department or a local department to provide child care services to clients of the Department or local departments that is funded, in whole or in part, by the Child Care and Development Block Grant, shall comply with all requirements established by federal law and regulations.

2. That every person who is employed by or permitted to serve as a volunteer who will be alone with, in control of, or supervising children at a child day center, family day home, or family day system licensed in accordance with the provisions of Chapter 17 (§ 63.2-1700 et seq.) of Title 63.2 of the Code of Virginia, child day center exempt from licensure pursuant to § 63.2-1716 of the Code of Virginia, registered family day home, family day home approved by a family day system, or child day center, family day home, or child day program that enters into a contract with the Department of Social Services or a local department of social services to provide child care services funded by the Child Care and Development Block Grant shall undergo a background check described in § 63.2-1720.1 of the Code of Virginia, to be completed by September 30, 2017, or by the date specified on any federal waiver obtained by the Commonwealth.

3. That every (i) person who is licensed as a child day center, family day home, or family day system, registered as a family day home, or approved as a family day home by a family day system; (ii) agent of a person who is licensed as a child day center, family day home, or family day system, registered as a family day home, or approved as a family day home by a family day system or who will be involved in the day-to-day operations of the child day center, family day home, or family day system or who is or will be alone with, in control of, or supervising one or more children in a child day center, family day home, or family day system; and (iii) adult living in a licensed child day center or family day home, registered family day home, or family day home approved by a family day system shall undergo a background check described in § 63.2-1721.1 of the Code of Virginia, to be completed by September 30, 2017, or by the date specified on any federal waiver obtained by the Commonwealth.

4. That the provisions of this act shall expire on July 1, 2018.

5. That if any provision of the federal Child Care and Development Block Grant Act of 2014 establishing requirements for national fingerprint-based criminal history background checks for (i) employees, applicants for employment, volunteers at or applicants to serve as volunteers at any licensed family day system, registered family day home, family day home approved by a family day system, child day center exempt from licensure pursuant to § 63.2-1716 of the Code of Virginia; (ii) applicants for licensure as a family day system, registration as a family day home or approval as a family day home by a family day system, agents of such applicants, and adults living in such family day homes; and (iii) individuals who apply for or enter into a contract with the Department of Social Services under which a child day center, family day home, or child day program will provide child care services funded by the Child Care and Development Block Grant Act is repealed prior to July 1, 2018, the provisions of this act enacting such requirement shall expire upon the date such provision is repealed.

CHAPTER 752

*An Act to amend and reenact §§ 54.1-2982 and 54.1-2988 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 54.1-2988.1 and by adding in Article 8 of Chapter 29 of Title 54.1 a section numbered 54.1-2993.1, relating to advance directives; persons authorized to provide assistance in completing.*

[S 1242]

Approved March 24, 2017

Be it enacted by the General Assembly of Virginia:

1. That §§ 54.1-2982 and 54.1-2988 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 54.1-2988.1 and by adding in Article 8 of Chapter 29 of Title 54.1 a section numbered 54.1-2993.1 as follows:

§ 54.1-2982. Definitions.

As used in this article:

"Advance directive" means (i) a witnessed written document, voluntarily executed by the declarant in accordance with the requirements of § 54.1-2983 or (ii) a witnessed oral statement, made by the declarant subsequent to the time he is diagnosed as suffering from a terminal condition and in accordance with the provisions of § 54.1-2983.

"Agent" means an adult appointed by the declarant under an advance directive, executed or made in accordance with the provisions of § 54.1-2983, to make health care decisions for him. The declarant may also appoint an adult to make, after the declarant's death, an anatomical gift of all or any part of his body pursuant to Article 2 (§ 32.1-289.2 et seq.) of Chapter 8 of Title 32.1.

"Attending physician" means the primary physician who has responsibility for the health care of the patient.

"Capacity reviewer" means a licensed physician or clinical psychologist who is qualified by training or experience to assess whether a person is capable or incapable of making an informed decision.

"Declarant" means an adult who makes an advance directive, as defined in this article, while capable of making and communicating an informed decision.

"Durable Do Not Resuscitate Order" means a written physician's order issued pursuant to § 54.1-2987.1 to withhold cardiopulmonary resuscitation from a particular patient in the event of cardiac or respiratory arrest. For purposes of this article, cardiopulmonary resuscitation shall include cardiac compression, endotracheal intubation and other advanced airway management, artificial ventilation, and defibrillation and related procedures. As the terms "advance directive" and "Durable Do Not Resuscitate Order" are used in this article, a Durable Do Not Resuscitate Order is not and shall not be construed as an advance directive.

"Health care" means the furnishing of services to any individual for the purpose of preventing, alleviating, curing, or healing human illness, injury or physical disability, including but not limited to, medications; surgery; blood transfusions; chemotherapy; radiation therapy; admission to a hospital, nursing home, assisted living facility, or other health care facility; psychiatric or other mental health treatment; and life-prolonging procedures and palliative care.

*"Health care provider" shall have the same meaning as provided in § 8.01-581.1.*

"Incapable of making an informed decision" means the inability of an adult patient, because of mental illness, intellectual disability, or any other mental or physical disorder that precludes communication or impairs judgment, to make an informed decision about providing, continuing, withholding or withdrawing a specific health care treatment or course of treatment because he is unable to understand the nature, extent or probable consequences of the proposed health care decision, or to make a rational evaluation of the risks and benefits of alternatives to that decision. For purposes of this article, persons who are deaf, dysphasic or have other communication disorders, who are otherwise mentally competent and able to communicate by means other than speech, shall not be considered incapable of making an informed decision.

"Life-prolonging procedure" means any medical procedure, treatment or intervention which (i) utilizes mechanical or other artificial means to sustain, restore or supplant a spontaneous vital function, or is otherwise of such a nature as to afford a patient no reasonable expectation of recovery from a terminal condition and (ii) when applied to a patient in a terminal condition, would serve only to prolong the dying process. The term includes artificially administered hydration and nutrition. However, nothing in this act shall prohibit the administration of medication or the performance of any medical procedure deemed necessary to provide comfort care or to alleviate pain, including the administration of pain relieving medications in excess of recommended dosages in accordance with §§ 54.1-2971.01 and 54.1-3408.1. For purposes of §§ 54.1-2988, 54.1-2989, and 54.1-2991, the term also shall include cardiopulmonary resuscitation.

"Patient care consulting committee" means a committee duly organized by a facility licensed to provide health care under Title 32.1 or Title 37.2, or a hospital or nursing home as defined in § 32.1-123 owned or operated by an agency of the Commonwealth that is exempt from licensure pursuant to § 32.1-124, to consult on health care issues only as authorized in this article. Each patient care consulting committee shall consist of five individuals, including at least one physician, one person licensed or holding a multistate licensure privilege under Chapter 30 (§ 54.1-3000 et seq.) to practice professional nursing, and one individual responsible for the provision of social services to patients of the facility. At least one committee member shall have experience in clinical ethics and at least two committee members shall have no employment or contractual relationship with the facility or any involvement in the management, operations, or governance of the facility, other than serving on the patient care consulting committee. A patient care consulting committee may be organized as a subcommittee of a standing ethics or other committee established by the facility or may be a separate and distinct committee. Four members of the patient care consulting committee shall constitute a quorum of the patient care consulting committee.

"Persistent vegetative state" means a condition caused by injury, disease or illness in which a patient has suffered a loss of consciousness, with no behavioral evidence of self-awareness or awareness of surroundings in a learned manner, other than reflex activity of muscles and nerves for low level conditioned response, and from which, to a reasonable degree of medical probability, there can be no recovery.

"Physician" means a person licensed to practice medicine in the Commonwealth of Virginia or in the jurisdiction where the health care is to be rendered or withheld.

*"Qualified advance directive facilitator" means a person who has successfully completed a training program approved by the Department of Health for providing assistance in completing and executing a written advance directive, including successful demonstration of competence in assisting a person in completing and executing a valid advance directive and successful passage of a written examination.*

"Terminal condition" means a condition caused by injury, disease or illness from which, to a reasonable degree of medical probability a patient cannot recover and (i) the patient's death is imminent or (ii) the patient is in a persistent vegetative state.

"Witness" means any person over the age of 18, including a spouse or blood relative of the declarant. Employees of health care facilities and physician's offices, who act in good faith, shall be permitted to serve as witnesses for purposes of this article.

**§ 54.1-2988. Immunity from liability; burden of proof; presumption.**

A health care facility, physician or other person acting under the direction of a physician shall not be subject to criminal prosecution or civil liability or be deemed to have engaged in unprofessional conduct as a result of issuing a Durable Do Not

Resuscitate Order or the providing, continuing, withholding or the withdrawal of health care under authorization or consent obtained in accordance with this article or as the result of the provision, withholding or withdrawal of ongoing health care in accordance with § 54.1-2990. No person or facility providing, continuing, withholding or withdrawing health care or physician issuing a Durable Do Not Resuscitate Order under authorization or consent obtained pursuant to this article or otherwise in accordance with § 54.1-2990 shall incur liability arising out of a claim to the extent the claim is based on lack of authorization or consent for such action.

Any agent or person identified in § 54.1-2986 who authorizes or consents to the providing, continuing, withholding or withdrawal of health care in accordance with this article shall not be subject, solely on the basis of that authorization or consent, to (i) criminal prosecution or civil liability for such action or (ii) liability for the cost of health care.

No individual serving on a facility's patient care consulting committee as defined in this article and no physician rendering a determination or affirmation in cases in which no patient care consulting committee exists shall be subject to criminal prosecution or civil liability for any act or omission done or made in good faith in the performance of such functions.

The provisions of this section shall apply unless it is shown by a preponderance of the evidence that the person authorizing or effectuating the providing, continuing, withholding or withdrawal of health care, or issuing, consenting to, making or following a Durable Do Not Resuscitate Order in accordance with § 54.1-2987.1 did not, in good faith, comply with the provisions of this article.

~~The distribution to patients of written advance directives in a form meeting the requirements of § 54.1-2984 and assistance to patients in the completion and execution of such forms by health care providers shall not constitute the unauthorized practice of law pursuant to Chapter 39 (§ 54.1-3900 et seq.).~~

An advance directive or Durable Do Not Resuscitate Order made, consented to or issued in accordance with this article shall be presumed to have been made, consented to, or issued voluntarily and in good faith by an adult who is capable of making an informed decision, physician or person authorized to consent on the patient's behalf.

**§ 54.1-2988.1. Assistance with completing and executing advance directives.**

A. *The distribution of written advance directives in a form meeting the requirements of § 54.1-2984 and the provision of technical advice, consultation, and assistance to persons with regard to the completion and execution of such forms by (i) health care providers, including their authorized agents or employees, or (ii) qualified advance directive facilitators shall not constitute the unauthorized practice of law pursuant to Chapter 39 (§ 54.1-3900 et seq.).*

B. *The provision of ministerial assistance to a person with regard to the completion or execution of a written advance directive in a form meeting the requirements of § 54.1-2984 shall not constitute the unauthorized practice of law pursuant to Chapter 39 (§ 54.1-3900 et seq.). For the purpose of this subsection, "ministerial assistance" includes reading the form of an advance directive meeting the requirements of § 54.1-2984 to a person, discussing the person's preferences with regard to items included in the form, recording the person's answers on the form, and helping the person sign the form and obtain any other necessary signatures on the form. "Ministerial assistance" does not include the expressing of an opinion regarding the legal effects of any item contained in the form of an advance directive meeting the requirements of § 54.1-2984 or the offering of legal advice to a person completing or executing such form.*

**§ 54.1-2993.1. Qualified advance directive facilitators; requirements for training programs.**

*The Department of Health shall approve a program for the training of qualified advance directive facilitators that includes (i) instruction on the meaning of provisions of a form meeting the requirements of § 54.1-2984, including designating a health care agent and giving instructions relating to one or more specific types of health care, and (ii) requirements for demonstrating competence in assisting persons with completing and executing advance directives, including a written examination on information provided during the training program.*

*In determining whether a training program meets the criteria set forth in this section, the Department of Health may consult with the Department for Aging and Rehabilitative Services, the Department of Behavioral Health and Developmental Services, and the Virginia State Bar.*

**2. That the following training programs may be approved by the Department of Health as training programs the completion of which qualifies an individual as a qualified advance directive facilitator as defined in § 54.1-2982 of the Code of Virginia, as amended by this act: the Honoring Choices Virginia training program founded by the Richmond Academy of Medicine; the Virginia POST Collaborative Advance Care Planning Facilitator training program; the intensive facilitator training for persons who assist others in completing advance directives that is provided by the Institute of Law, Psychiatry, and Public Policy of the University of Virginia under contract with the Department of Behavioral Health and Developmental Services; and any training program that follows the Respecting Choices Advance Care Planning model for facilitator certification courses.**

**CHAPTER 753**

*An Act to amend and reenact § 19.2-263.3 of the Code of Virginia, relating to juror information; confidentiality.*

[H 1546]

Approved March 24, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 19.2-263.3 of the Code of Virginia is amended and reenacted as follows:**

**§ 19.2-263.3. Juror information confidential.**

A. The court may, upon motion of either party or its own motion, and for good cause shown, issue an order regulating the disclosure of the ~~personal information name and home address~~ of a juror who has been impaneled in a criminal trial to any person, other than to counsel for either party ~~or a pro se defendant~~. ~~Good~~ For the purposes of this subsection, good cause shown includes, but is not limited to, a determination by the court that there is a likelihood of bribery, tampering, or physical injury to or harassment of a juror if his personal information is disclosed. An order regulating the disclosure of information may be modified, and the ~~personal information names and home addresses~~ of the jurors in a criminal case may be disseminated to a person having a legitimate interest or need for the information, with restrictions upon its use and further dissemination as may be deemed appropriate by the court.

B. ~~Additional personal information of a juror who has been impaneled in a criminal case shall be released only to the counsel for the defendant, a pro se defendant, and the attorney for the Commonwealth. The court may, upon motion of either party or its own motion, and for good cause shown, issue an order authorizing the disclosure of any additional personal information of a juror to any other person. Such order may be modified and may place restrictions on the use and further dissemination of such disclosed information.~~

C. In addition to the provisions of ~~subsection A~~ ~~this section~~, the Supreme Court shall prescribe and publish rules that provide for the protection of the *name, home address, and additional personal information* of a juror in a criminal trial.

~~E. D.~~ For purposes of this section, "*additional personal information*" means any information *other than name and home address* collected by the court, clerk, or jury commissioner at any time about a person who is selected to sit on a criminal jury and includes, but is not limited to, a juror's ~~name~~, age, occupation, ~~home and business addresses~~ *address*, telephone numbers, email addresses, and any other identifying information that would assist another in locating or contacting the juror.

**CHAPTER 754**

*An Act to amend and reenact § 13.1-523.1 of the Code of Virginia, relating to the regulation of federal covered securities.*

[H 1754]

Approved March 24, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 13.1-523.1 of the Code of Virginia is amended and reenacted as follows:**

**§ 13.1-523.1. Commission authority to regulate securities and investment advisory activities.**

A. The Commission shall have all the power, authority and jurisdiction reserved to or conferred upon the states by the federal National Securities Markets Improvement Act of 1996 (Pub. L. No. 104-290 (1996)) to regulate securities and investment advisory activities, including the authority to require the registration of persons and securities, the filing of documents, notices, reports and information, and the payment of fees, and to exercise its administrative, investigative, judicial and legislative powers with respect thereto. The Commission shall have the authority to make, amend and rescind such rules and forms in conformance with the National Securities Markets Improvement Act of 1996 as may be necessary for the regulation of securities and investment advisory activities and transactions within its jurisdiction.

B. *The Commission may by rule or order, with respect to any security that is a federal covered security under § 18(b)(4)(C) of the Securities Act of 1933, require the issuer to file a notice together with a consent to service of process where (i) the principal place of business of the issuer is in the Commonwealth or (ii) purchasers of 50 percent or more of the securities sold by the issuer pursuant to an offering made in reliance on § 18(b)(4)(C) of the Securities Act of 1933 are residents of the Commonwealth. The Commission may assess and collect in connection with any filing pursuant to this subsection a nonrefundable filing fee not to exceed \$100.*

**CHAPTER 755**

*An Act to amend and reenact § 8.01-273 of the Code of Virginia, relating to demurrers; amended pleadings.*

[H 1816]

Approved March 24, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 8.01-273 of the Code of Virginia is amended and reenacted as follows:**

**§ 8.01-273. Demurrer; form; grounds to be stated; amendment.**

A. In any suit in equity or action at law, the contention that a pleading does not state a cause of action or that such pleading fails to state facts upon which the relief demanded can be granted may be made by demurrer. All demurrers shall be in writing and shall state specifically the grounds on which the demurrant concludes that the pleading is insufficient at law. No grounds other than those stated specifically in the demurrer shall be considered by the court. A demurrer may be amended as other pleadings are amended.

B. Wherever a demurrer to any pleading has been sustained, and as a result thereof the demurree has amended his pleading, he shall not be deemed to have waived his right to stand upon his pleading before the amendment, provided *that (i) the order of the court shows that he objected to the ruling of the court sustaining the demurrer and (ii) the amended pleading incorporates or refers to the earlier pleading.* On any appeal of such a case the demurree may insist upon his ~~original~~ *earlier pleading before the amendment*, and if the same be held to be good, he shall not be prejudiced by having made the amendment.

## CHAPTER 756

*An Act to amend and reenact § 38.2-5001 of the Code of Virginia, relating to the Virginia Birth-Related Neurological Injury Compensation Program; birth-related neurological injuries.*

[H 2318]

Approved March 24, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 38.2-5001 of the Code of Virginia is amended and reenacted as follows:**

**§ 38.2-5001. Definitions.**

As used in this chapter:

"Birth-related neurological injury" means injury to the brain or spinal cord of an infant caused by the deprivation of oxygen or mechanical injury occurring in the course of labor, delivery or resuscitation necessitated by a deprivation of oxygen or mechanical injury that occurred in the course of labor or delivery, in a hospital which renders the infant permanently motorically disabled and (i) developmentally disabled or (ii) for infants sufficiently developed to be cognitively evaluated, cognitively disabled. In order to constitute a "birth-related neurological injury" within the meaning of this chapter, such disability shall cause the infant to be permanently in need of assistance in all activities of daily living. This definition shall apply to live births only and shall not include disability or death caused by genetic or congenital abnormality, degenerative neurological disease, or maternal substance abuse. ~~The definition provided here shall apply retroactively to any child born on and after January 1, 1988, who suffers from an injury to the brain or spinal cord caused by the deprivation of oxygen or mechanical injury occurring in the course of labor, delivery or resuscitation in the immediate postdelivery period in a hospital.~~

"Claimant" means any person who files a claim pursuant to § 38.2-5004 for compensation for a birth-related neurological injury to an infant. Such claims may be filed by any legal representative on behalf of an injured infant; and, in the case of a deceased infant, the claim may be filed by an administrator, executor, or other legal representative.

"Commission" means the Virginia Workers' Compensation Commission.

"Participating hospital" means a general hospital licensed in Virginia which at the time of the injury (i) had in force an agreement with the Commissioner of Health or his designee, in a form prescribed by the Commissioner, whereby the hospital agreed to participate in the development of a program to provide obstetrical care to patients eligible for Medical Assistance Services and to patients who are indigent, and upon approval of such program by the Commissioner of Health, to participate in its implementation, (ii) had in force an agreement with the State Department of Health whereby the hospital agreed to submit to review of its obstetrical service, as required by subsection C of § 38.2-5004, and (iii) had paid the participating hospital assessment pursuant to § 38.2-5020 for the period of time in which the birth-related neurological injury occurred. The term also includes employees of such hospitals, excluding physicians or nurse-midwives who are eligible to qualify as participating physicians, acting in the course of and in the scope of their employment.

"Participating physician" means a physician licensed in Virginia to practice medicine, who practices obstetrics or performs obstetrical services either full or part time or, as authorized in the plan of operation, a licensed nurse-midwife who performs obstetrical services, either full or part time, within the scope of such licensure and who at the time of the injury (i) had in force an agreement with the Commissioner of Health or his designee, in a form prescribed by the Commissioner, whereby the physician agreed to participate in the development of a program to provide obstetrical care to patients eligible for Medical Assistance Services and to patients who are indigent, and upon approval of such program by the Commissioner of Health, to participate in its implementation, (ii) had in force an agreement with the Board of Medicine whereby the physician agreed to submit to review by the Board of Medicine as required by subsection B of § 38.2-5004, and (iii) had paid the participating physician assessment pursuant to § 38.2-5020 for the period of time in which the birth-related neurological injury occurred. The term "participating physician" includes a partnership, corporation, professional corporation, professional limited liability company or other entity through which the participating physician practices.

"Program" means the Virginia Birth-Related Neurological Injury Compensation Program established by this chapter.

**2. That the provisions of this act are declaratory of existing law.**

**3. That the provisions of this act shall become effective on January 1, 2018.**

## CHAPTER 757

*An Act to amend and reenact §§ 19.2-305.1 and 19.2-354 of the Code of Virginia, relating to restitution; priority of payments.*

[H 2338]

Approved March 24, 2017

**Be it enacted by the General Assembly of Virginia:****1. That §§ 19.2-305.1 and 19.2-354 of the Code of Virginia are amended and reenacted as follows:****§ 19.2-305.1. Restitution for property damage or loss; community service.**

A. Notwithstanding any other provision of law, no person convicted of a crime in violation of any provision in Title 18.2, which resulted in property damage or loss, shall be placed on probation or have his sentence suspended unless such person shall make at least partial restitution for such property damage or loss, or shall be compelled to perform community services, or both, or shall submit a plan for doing that which appears to the court to be feasible under the circumstances.

B. Notwithstanding any other provision of law, any person who, on or after July 1, 1995, commits, and is convicted of, a crime in violation of any provision in Title 18.2 shall make at least partial restitution for any property damage or loss caused by the crime or for any medical expenses or expenses directly related to funeral or burial incurred by the victim or his estate as a result of the crime, may be compelled to perform community services and, if the court so orders, shall submit a plan for doing that which appears to be feasible to the court under the circumstances.

B1. Notwithstanding any other provision of law, any person, who on or after July 1, 2005 commits and is convicted of a crime in violation of § 18.2-248 involving the manufacture of any controlled substance, may be ordered, upon presentation of suitable evidence of such costs, by the court to reimburse the Commonwealth or the locality for the costs incurred by the jurisdiction, as the case may be, for the removal and remediation associated with the illegal manufacture of any controlled substance by the defendant.

B2. Notwithstanding any other provision of law, any person who, on or after July 1, 2015, commits and is convicted of a violation of § 18.2-138 for damage to the Capitol or any building, monument, statuary, artwork, or other state property in Capitol Square, or at any other property assigned to the Capitol Police, shall be ordered to pay restitution to the Commonwealth for the full amount of damages. Any person who, on or after July 1, 2015, commits and is convicted of a violation of § 18.2-405, 18.2-407, or 18.2-408 in Capitol Square, or at any other property assigned to the Capitol Police, shall be ordered to pay restitution to the Commonwealth for the full amount of damages to the Capitol or any building, monument, statuary, artwork, or other state property in Capitol Square, or at any other property assigned to the Capitol Police, to which damage is caused during such riot or unlawful assembly. In any prosecution under § 18.2-138, 18.2-405, 18.2-407, or 18.2-408, testimony of the Division of Engineering and Buildings of the Department of General Services or the Division of Risk Management shall be admissible as evidence of value or extent of damages or cost of repairs to the Capitol or any building, monument, statuary, artwork, or other state property in Capitol Square, or at any other property assigned to the Capitol Police. For the purposes of this subsection, "Capitol Square" means the grounds and the interior and exterior of all buildings in that area in the City of Richmond bounded by Bank, Governor, Broad, and Ninth Streets. "Capitol Square" includes the exterior of all state buildings that are at least 50 years old and bordering the boundary streets.

C. At or before the time of sentencing, the court shall receive and consider any plan for making restitution submitted by the defendant. The plan shall include the defendant's home address, place of employment and address, social security number and bank information. If the court finds such plan to be reasonable and practical under the circumstances, it may consider probation or suspension of whatever portion of the sentence that it deems appropriate. By order of the court incorporating the defendant's plan or a reasonable and practical plan devised by the court, the defendant shall make restitution while he is free on probation or work release or following his release from confinement. Additionally, the court may order that the defendant make restitution during his confinement, if feasible, based upon both his earning capacity and net worth as determined by the court at sentencing.

D. At the time of sentencing, the court shall determine the amount to be repaid by the defendant and the terms and conditions thereof. If community service work is ordered, the court shall determine the terms and conditions upon which such work shall be performed. The court shall include such findings in the judgment order. The order shall specify that sums paid under such order shall be paid to the clerk, who shall disburse such sums as the court may, by order, direct. Any court desiring to participate in the Setoff Debt Collection Act (§§ 58.1-520 through 58.1-535) for the purpose of collecting fines or costs or providing restitution shall, at the time of sentencing, obtain the social security number of each defendant.

E. Unreasonable failure to execute the plan by the defendant shall result in revocation of the probation or imposition of the suspended sentence. A hearing shall be held in accordance with the provisions of this Code relating to revocation of probation or imposition of a suspended sentence before either such action is taken.

E1. A defendant convicted of an offense under § 18.2-374.1, 18.2-374.1:1, or 18.2-374.3 shall be ordered to pay mandatory restitution to the victim of the offense in an amount as determined by the court. For purposes of this subsection, "victim" means a person who is depicted in a still or videographic image involved in an offense under § 18.2-374.1, 18.2-374.1:1, or 18.2-374.3.

The Commonwealth shall make reasonable efforts to notify victims of offenses under § 18.2-374.1, 18.2-374.1:1, or 18.2-374.3.

F. If restitution is ordered to be paid by the defendant to the victim of a crime and the victim can no longer be located or identified, the clerk shall deposit any such restitution collected to the Criminal Injuries Compensation Fund for the benefit of crime victims. The administrator shall reserve a sum sufficient in the Fund from which he shall make prompt payment to the victim for any proper claims. Before making the deposit he shall record the name, last known address and amount of restitution due each victim appearing from the clerk's report to be entitled to restitution.

G. If restitution pursuant to § 19.2-305 or this section is ordered to be paid by the defendant to the victim of a crime or other entity, and the Criminal Injuries Compensation Fund has made any payments to or on behalf of the victim for any loss, damage, or expenses included in the restitution order, then upon presentation by the Fund of a written request that sets forth the amount of payments made by the Fund to the victim or on the victim's behalf, the entity collecting restitution shall pay to the Fund as much of the restitution collected as will reimburse the Fund for its payments made to the victim or on the victim's behalf.

*H. Whenever a defendant is ordered to pay restitution, any sums collected shall be used first to satisfy such restitution order and any collection costs associated with restitution prior to being used to satisfy any fine, forfeiture, penalty, or cost assessed against the defendant.*

**§ 19.2-354. Authority of court to order payment of fine, costs, forfeitures, penalties or restitution in installments or upon other terms and conditions; community work in lieu of payment.**

A. Whenever (i) a defendant, convicted of a traffic infraction or a violation of any criminal law of the Commonwealth or of any political subdivision thereof, or found not innocent in the case of a juvenile, is sentenced to pay a fine, restitution, forfeiture or penalty and (ii) the defendant is unable to make payment of the fine, restitution, forfeiture, or penalty and costs within 30 days of sentencing, the court shall order the defendant to pay such fine, restitution, forfeiture or penalty and any costs which the defendant may be required to pay in deferred payments or installments. The court assessing the fine, restitution, forfeiture, or penalty and costs may authorize the clerk to establish and approve individual deferred or installment payment agreements. *If the defendant owes court-ordered restitution and enters into a deferred or installment payment agreement, any money collected pursuant to such agreement shall be used first to satisfy such restitution order and any collection costs associated with restitution prior to being used to satisfy any other fine, forfeiture, penalty, or cost owed.* Any payment agreement authorized under this section shall be consistent with the Rules of Supreme Court of Virginia, including any required minimum payments or other required conditions. The requirements established by the Rules of Supreme Court of Virginia shall be posted in the clerk's office and on the court's website, if a website is available. As a condition of every such agreement, a defendant who enters into an installment or deferred payment agreement shall promptly inform the court of any change of mailing address during the term of the agreement. If the defendant is unable to make payment within 30 days of sentencing, the court may assess a one-time fee not to exceed \$10 to cover the costs of management of the defendant's account until such account is paid in full. This one-time fee shall not apply to cases in which costs are assessed pursuant to § 17.1-275.1, 17.1-275.2, 17.1-275.3, 17.1-275.4, 17.1-275.7, 17.1-275.8, or 17.1-275.9. Installment or deferred payment agreements shall include terms for payment if the defendant participates in a program as provided in subsection B or C. The court, if such sum or sums are not paid in full by the date ordered, shall proceed in accordance with § 19.2-358.

B. When a person sentenced to the Department of Corrections or a local correctional facility owes any fines, costs, forfeitures, restitution or penalties, he shall be required as a condition of participating in any work release, home/electronic incarceration or nonconsecutive days program as set forth in § 53.1-60, 53.1-131, 53.1-131.1, or 53.1-131.2 to either make full payment or make payments in accordance with his installment or deferred payment agreement while participating in such program. If, after the person has an installment or deferred payment agreement, the person fails to pay as ordered, his participation in the program may be terminated until all fines, costs, forfeitures, restitution and penalties are satisfied. The Director of the Department of Corrections and any sheriff or other administrative head of any local correctional facility shall withhold such ordered payments from any amounts due to such person. Distribution of the money collected shall be made in the following order of priority to:

1. Meet the obligation of any judicial or administrative order to provide support and such funds shall be disbursed according to the terms of such order;
2. Pay any ~~fines~~, restitution or ~~costs~~ as ordered by the court;
3. *Pay any fines or costs as ordered by the court;*
4. Pay travel and other such expenses made necessary by his work release employment or participation in an education or rehabilitative program, including the sums specified in § 53.1-150; and
- ~~4~~ 5. Defray the offender's keep.

The balance shall be credited to the offender's account or sent to his family in an amount the offender so chooses.

The Board of Corrections shall promulgate regulations governing the receipt of wages paid to persons participating in such programs, the withholding of payments and the disbursement of appropriate funds.

C. The court shall establish a program and may provide an option to any person upon whom a fine and costs have been imposed to discharge all or part of the fine or costs by earning credits for the performance of community service work before or after imprisonment. The program shall specify the rate at which credits are earned and provide for the manner of

applying earned credits against the fine or costs. The court shall have such other authority as is reasonably necessary for or incidental to carrying out this program.

D. When the court has authorized deferred payment or installment payments, the clerk shall give notice to the defendant that upon his failure to pay as ordered he may be fined or imprisoned pursuant to § 19.2-358 and his privilege to operate a motor vehicle will be suspended pursuant to § 46.2-395.

E. The failure of the defendant to enter into a deferred payment or installment payment agreement with the court or the failure of the defendant to make payments as ordered by the agreement shall allow the Tax Commissioner to act in accordance with § 19.2-349 to collect all fines, costs, forfeitures and penalties.

### CHAPTER 758

*An Act to amend and reenact § 9.1-102 of the Code of Virginia, relating to Department of Criminal Justice Services; model addiction recovery program; jails.*

[H 1845]

Approved March 24, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 9.1-102 of the Code of Virginia is amended and reenacted as follows:**

**§ 9.1-102. Powers and duties of the Board and the Department.**

The Department, under the direction of the Board, which shall be the policy-making body for carrying out the duties and powers hereunder, shall have the power and duty to:

1. Adopt regulations, pursuant to the Administrative Process Act (§ 2.2-4000 et seq.), for the administration of this chapter including the authority to require the submission of reports and information by law-enforcement officers within the Commonwealth. Any proposed regulations concerning the privacy, confidentiality, and security of criminal justice information shall be submitted for review and comment to any board, commission, or committee or other body which may be established by the General Assembly to regulate the privacy, confidentiality, and security of information collected and maintained by the Commonwealth or any political subdivision thereof;

2. Establish compulsory minimum training standards subsequent to employment as a law-enforcement officer in (i) permanent positions, and (ii) temporary or probationary status, and establish the time required for completion of such training;

3. Establish minimum training standards and qualifications for certification and recertification for law-enforcement officers serving as field training officers;

4. Establish compulsory minimum curriculum requirements for in-service and advanced courses and programs for schools, whether located in or outside the Commonwealth, which are operated for the specific purpose of training law-enforcement officers;

5. Establish (i) compulsory minimum training standards for law-enforcement officers who utilize radar or an electrical or microcomputer device to measure the speed of motor vehicles as provided in § 46.2-882 and establish the time required for completion of the training and (ii) compulsory minimum qualifications for certification and recertification of instructors who provide such training;

6. [Repealed];

7. Establish compulsory minimum entry-level, in-service and advanced training standards for those persons designated to provide courthouse and courtroom security pursuant to the provisions of § 53.1-120, and to establish the time required for completion of such training;

8. Establish compulsory minimum entry-level, in-service and advanced training standards for deputy sheriffs designated to serve process pursuant to the provisions of § 8.01-293, and establish the time required for the completion of such training;

9. Establish compulsory minimum entry-level, in-service, and advanced training standards, as well as the time required for completion of such training, for persons employed as deputy sheriffs and jail officers by local criminal justice agencies, correctional officers employed by the Department of Corrections under the provisions of Title 53.1, and juvenile correctional officers employed at a juvenile correctional facility as the term is defined in § 66-25.3;

10. Establish compulsory minimum training standards for all dispatchers employed by or in any local or state government agency, whose duties include the dispatching of law-enforcement personnel. Such training standards shall apply only to dispatchers hired on or after July 1, 1988;

11. Establish compulsory minimum training standards for all auxiliary police officers employed by or in any local or state government agency. Such training shall be graduated and based on the type of duties to be performed by the auxiliary police officers. Such training standards shall not apply to auxiliary police officers exempt pursuant to § 15.2-1731;

12. Consult and cooperate with counties, municipalities, agencies of the Commonwealth, other state and federal governmental agencies, and with universities, colleges, community colleges, and other institutions, whether located in or outside the Commonwealth, concerning the development of police training schools and programs or courses of instruction;

13. Approve institutions, curricula and facilities, whether located in or outside the Commonwealth, for school operation for the specific purpose of training law-enforcement officers; but this shall not prevent the holding of any such school whether approved or not;

14. Establish and maintain police training programs through such agencies and institutions as the Board deems appropriate;

15. Establish compulsory minimum qualifications of certification and recertification for instructors in criminal justice training schools approved by the Department;

16. Conduct and stimulate research by public and private agencies which shall be designed to improve police administration and law enforcement;

17. Make recommendations concerning any matter within its purview pursuant to this chapter;

18. Coordinate its activities with those of any interstate system for the exchange of criminal history record information, nominate one or more of its members to serve upon the council or committee of any such system, and participate when and as deemed appropriate in any such system's activities and programs;

19. Conduct inquiries and investigations it deems appropriate to carry out its functions under this chapter and, in conducting such inquiries and investigations, may require any criminal justice agency to submit information, reports, and statistical data with respect to its policy and operation of information systems or with respect to its collection, storage, dissemination, and usage of criminal history record information and correctional status information, and such criminal justice agencies shall submit such information, reports, and data as are reasonably required;

20. Conduct audits as required by § 9.1-131;

21. Conduct a continuing study and review of questions of individual privacy and confidentiality of criminal history record information and correctional status information;

22. Advise criminal justice agencies and initiate educational programs for such agencies with respect to matters of privacy, confidentiality, and security as they pertain to criminal history record information and correctional status information;

23. Maintain a liaison with any board, commission, committee, or other body which may be established by law, executive order, or resolution to regulate the privacy and security of information collected by the Commonwealth or any political subdivision thereof;

24. Adopt regulations establishing guidelines and standards for the collection, storage, and dissemination of criminal history record information and correctional status information, and the privacy, confidentiality, and security thereof necessary to implement state and federal statutes, regulations, and court orders;

25. Operate a statewide criminal justice research center, which shall maintain an integrated criminal justice information system, produce reports, provide technical assistance to state and local criminal justice data system users, and provide analysis and interpretation of criminal justice statistical information;

26. Develop a comprehensive, statewide, long-range plan for strengthening and improving law enforcement and the administration of criminal justice throughout the Commonwealth, and periodically update that plan;

27. Cooperate with, and advise and assist, all agencies, departments, boards and institutions of the Commonwealth, and units of general local government, or combinations thereof, including planning district commissions, in planning, developing, and administering programs, projects, comprehensive plans, and other activities for improving law enforcement and the administration of criminal justice throughout the Commonwealth, including allocating and subgranting funds for these purposes;

28. Define, develop, organize, encourage, conduct, coordinate, and administer programs, projects and activities for the Commonwealth and units of general local government, or combinations thereof, in the Commonwealth, designed to strengthen and improve law enforcement and the administration of criminal justice at every level throughout the Commonwealth;

29. Review and evaluate programs, projects, and activities, and recommend, where necessary, revisions or alterations to such programs, projects, and activities for the purpose of improving law enforcement and the administration of criminal justice;

30. Coordinate the activities and projects of the state departments, agencies, and boards of the Commonwealth and of the units of general local government, or combination thereof, including planning district commissions, relating to the preparation, adoption, administration, and implementation of comprehensive plans to strengthen and improve law enforcement and the administration of criminal justice;

31. Do all things necessary on behalf of the Commonwealth and its units of general local government, to determine and secure benefits available under the Omnibus Crime Control and Safe Streets Act of 1968 (P.L. 90-351, 82 Stat. 197), as amended, and under any other federal acts and programs for strengthening and improving law enforcement, the administration of criminal justice, and delinquency prevention and control;

32. Receive, administer, and expend all funds and other assistance available to the Board and the Department for carrying out the purposes of this chapter and the Omnibus Crime Control and Safe Streets Act of 1968, as amended;

33. Apply for and accept grants from the United States government or any other source in carrying out the purposes of this chapter and accept any and all donations both real and personal, and grants of money from any governmental unit or public agency, or from any institution, person, firm or corporation, and may receive, utilize and dispose of the same. Any arrangements pursuant to this section shall be detailed in the annual report of the Board. Such report shall include the

identity of the donor, the nature of the transaction, and the conditions, if any. Any moneys received pursuant to this section shall be deposited in the state treasury to the account of the Department. To these ends, the Board shall have the power to comply with conditions and execute such agreements as may be necessary;

34. Make and enter into all contracts and agreements necessary or incidental to the performance of its duties and execution of its powers under this chapter, including but not limited to, contracts with the United States, units of general local government or combinations thereof, in Virginia or other states, and with agencies and departments of the Commonwealth;

35. Adopt and administer reasonable regulations for the planning and implementation of programs and activities and for the allocation, expenditure and subgranting of funds available to the Commonwealth and to units of general local government, and for carrying out the purposes of this chapter and the powers and duties set forth herein;

36. Certify and decertify law-enforcement officers in accordance with §§ 15.2-1706 and 15.2-1707;

37. Establish training standards and publish and periodically update model policies for law-enforcement personnel in the following subjects:

a. The handling of family abuse, domestic violence, sexual assault, and stalking cases, including standards for determining the predominant physical aggressor in accordance with § 19.2-81.3. The Department shall provide technical support and assistance to law-enforcement agencies in carrying out the requirements set forth in subsection A of § 9.1-1301;

b. Communication with and facilitation of the safe return of individuals diagnosed with Alzheimer's disease;

c. Sensitivity to and awareness of cultural diversity and the potential for biased policing;

d. Protocols for local and regional sexual assault response teams;

e. Communication of death notifications;

f. (Effective until July 1, 2018) The questioning of individuals suspected of driving while intoxicated concerning the physical location of such individual's last consumption of an alcoholic beverage and the communication of such information to the Alcoholic Beverage Control Board;

f. (Effective July 1, 2018) The questioning of individuals suspected of driving while intoxicated concerning the physical location of such individual's last consumption of an alcoholic beverage and the communication of such information to the Virginia Alcoholic Beverage Control Authority;

g. Vehicle patrol duties that embody current best practices for pursuits and for responding to emergency calls;

h. Criminal investigations that embody current best practices for conducting photographic and live lineups;

i. Sensitivity to and awareness of human trafficking offenses and the identification of victims of human trafficking offenses for personnel involved in criminal investigations or assigned to vehicle or street patrol duties; and

j. Missing children, missing adults, and search and rescue protocol;

38. Establish compulsory training standards for basic training and the recertification of law-enforcement officers to ensure sensitivity to and awareness of cultural diversity and the potential for biased policing;

39. Review and evaluate community-policing programs in the Commonwealth, and recommend where necessary statewide operating procedures, guidelines, and standards which strengthen and improve such programs, including sensitivity to and awareness of cultural diversity and the potential for biased policing;

40. Establish a Virginia Law-Enforcement Accreditation Center. The Center may, in cooperation with Virginia law-enforcement agencies, provide technical assistance and administrative support, including staffing, for the establishment of voluntary state law-enforcement accreditation standards. The Center may provide accreditation assistance and training, resource material, and research into methods and procedures that will assist the Virginia law-enforcement community efforts to obtain Virginia accreditation status;

41. Promote community policing philosophy and practice throughout the Commonwealth by providing community policing training and technical assistance statewide to all law-enforcement agencies, community groups, public and private organizations and citizens; developing and distributing innovative policing curricula and training tools on general community policing philosophy and practice and contemporary critical issues facing Virginia communities; serving as a consultant to Virginia organizations with specific community policing needs; facilitating continued development and implementation of community policing programs statewide through discussion forums for community policing leaders, development of law-enforcement instructors; promoting a statewide community policing initiative; and serving as a statewide information source on the subject of community policing including, but not limited to periodic newsletters, a website and an accessible lending library;

42. Establish, in consultation with the Department of Education and the Virginia State Crime Commission, compulsory minimum standards for employment and job-entry and in-service training curricula and certification requirements for school security officers, which training and certification shall be administered by the Virginia Center for School and Campus Safety pursuant to § 9.1-184. Such training standards shall include, but shall not be limited to, the role and responsibility of school security officers, relevant state and federal laws, school and personal liability issues, security awareness in the school environment, mediation and conflict resolution, disaster and emergency response, and student behavioral dynamics. The Department shall establish an advisory committee consisting of local school board representatives, principals, superintendents, and school security personnel to assist in the development of these standards and certification requirements;

43. License and regulate property bail bondsmen and surety bail bondsmen in accordance with Article 11 (§ 9.1-185 et seq.);

44. License and regulate bail enforcement agents in accordance with Article 12 (§ 9.1-186 et seq.);
45. In conjunction with the Virginia State Police and the State Compensation Board, advise criminal justice agencies regarding the investigation, registration, and dissemination of information requirements as they pertain to the Sex Offender and Crimes Against Minors Registry Act (§ 9.1-900 et seq.);
46. Establish minimum standards for (i) employment, (ii) job-entry and in-service training curricula, and (iii) certification requirements for campus security officers. Such training standards shall include, but not be limited to, the role and responsibility of campus security officers, relevant state and federal laws, school and personal liability issues, security awareness in the campus environment, and disaster and emergency response. The Department shall provide technical support and assistance to campus police departments and campus security departments on the establishment and implementation of policies and procedures, including but not limited to: the management of such departments, investigatory procedures, judicial referrals, the establishment and management of databases for campus safety and security information sharing, and development of uniform record keeping for disciplinary records and statistics, such as campus crime logs, judicial referrals and Clery Act statistics. The Department shall establish an advisory committee consisting of college administrators, college police chiefs, college security department chiefs, and local law-enforcement officials to assist in the development of the standards and certification requirements and training pursuant to this subdivision;
47. Assess and report, in accordance with § 9.1-190, the crisis intervention team programs established pursuant to § 9.1-187;
48. In conjunction with the Office of the Attorney General, advise law-enforcement agencies and attorneys for the Commonwealth regarding the identification, investigation, and prosecution of human trafficking offenses using the common law and existing criminal statutes in the Code of Virginia;
49. Register tow truck drivers in accordance with § 46.2-116 and carry out the provisions of § 46.2-117;
50. Administer the activities of the Virginia Sexual and Domestic Violence Program Professional Standards Committee by providing technical assistance and administrative support, including staffing, for the Committee;
51. (Effective July 1, 2017) In accordance with § 9.1-102.1, design and approve the issuance of photo-identification cards to private security services registrants registered pursuant to Article 4 (§ 9.1-138 et seq.);
52. In consultation with the State Council of Higher Education for Virginia and the Virginia Association of Campus Law Enforcement Administrators, develop multidisciplinary curricula on trauma-informed sexual assault investigation; ~~and~~
53. *In consultation with the Department of Behavioral Health and Developmental Services, develop a model addiction recovery program that may be administered by sheriffs, deputy sheriffs, jail officers, administrators, or superintendents in any local or regional jail. Such program shall be based on any existing addiction recovery programs that are being administered by any local or regional jails in the Commonwealth. Participation in the model addiction recovery program shall be voluntary, and such program may address aspects of the recovery process, including medical and clinical recovery, peer-to-peer support, availability of mental health resources, family dynamics, and aftercare aspects of the recovery process; and*
54. Perform such other acts as may be necessary or convenient for the effective performance of its duties.

## CHAPTER 759

*An Act to amend and reenact §§ 53.1-2, 53.1-5, and 53.1-127 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 53.1-69.1, relating to State Board of Corrections; membership; powers and duties; review of deaths of inmates in local correctional facilities.*

[S 1063]

Approved March 24, 2017

### **Be it enacted by the General Assembly of Virginia:**

**1. That §§ 53.1-2, 53.1-5, and 53.1-127 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 53.1-69.1 as follows:**

#### **§ 53.1-2. Appointment of members; qualifications; terms and vacancies.**

There shall be a State Board of Corrections which shall consist of nine residents of the Commonwealth appointed by the Governor and subject to confirmation by the General Assembly. In making appointments the Governor shall endeavor to select appointees of such qualifications and experience that the membership of the Board shall include persons suitably qualified to consider and act upon the various matters under the Board's jurisdiction. *Members of the Board shall be appointed as follows: (i) one former sheriff or one former warden, superintendent, administrator, or operations manager of a state or local correctional facility; (ii) one individual employed by a public mental health services agency with training in or clinical, managerial, or other relevant experience working with individuals subject to the criminal justice system who have mental illness; (iii) one individual with experience overseeing a correctional facility's or mental health facility's compliance with applicable laws, rules, and regulations; (iv) one physician licensed in the Commonwealth; (v) one individual with experience in administering educational or vocational programs in state or local correctional facilities; (vi) one individual with experience in financial management or performing audit investigations; (vii) one citizen member who represents community interests; and (viii) two individuals with experience in conducting criminal, civil, or death investigations.*

Members of the Board shall serve at the pleasure of the Governor and shall be appointed for terms of four years. A vacancy other than by expiration of term shall be filled by the Governor for the unexpired term.

No person shall be eligible to serve more than two full consecutive four-year terms.

**§ 53.1-5. Powers and duties of Board.**

The Board shall have the following powers and duties:

1. To develop and establish operational and fiscal standards governing the operation of local, regional, and community correctional facilities;
2. To advise the Governor and Director on matters relating to corrections;
3. To make, adopt and promulgate such rules and regulations as may be necessary to carry out the provisions of this title and other laws of the Commonwealth pertaining to local, regional, and community correctional facilities;
4. To ensure the development of programs to educate citizens and elicit public support for the activities of the Department;
5. *To develop and implement policies and procedures for the review of the death of any inmate that the Board determines warrants review that occurs in any local, regional, or community correctional facility. Such policies and procedures shall incorporate the Board's authority under § 53.1-6 to ensure the production of evidence necessary to conduct a thorough review of any such death;*
6. To establish and promulgate regulations regarding the provision of educational and vocational programs within the Department; and
- ~~6.~~ 7. To adopt and promulgate regulations and require the Director and Department to enforce regulations prohibiting the possession of obscene materials, as defined and described in Article 5 (§ 18.2-372 et seq.) of Chapter 8 of Title 18.2, by prisoners incarcerated in state correctional facilities.

**§ 53.1-69.1. Review of death of inmates in local correctional facilities.**

*A. The Board shall have the power to review the death of any inmate who was incarcerated in a local correctional facility at the time of his death in order to determine (i) the circumstances surrounding the inmate's death, including identifying any act or omission by the facility or any employee or agent thereof that may have directly or indirectly contributed to the inmate's death, and (ii) whether the facility was in compliance with the regulations promulgated by the Board.*

*B. Any review conducted pursuant to this section shall be conducted in accordance with the policies and procedures for such review developed and implemented by the Board in accordance with subdivision 5 of § 53.1-5. In conducting a review pursuant to this section, the Board may exercise its power under § 53.1-6 to hold and conduct hearings, issue subpoenas, and administer oaths and take testimony thereunder. If the Board determines that it cannot adequately conduct any particular review pursuant to this section because of the conduct by the Board of another ongoing review, the Board may request that the Department assist in the conduct of such review. Department staff conducting a review pursuant to this section shall be considered agents of the Board.*

*C. If the Board determines during the conduct of any review pursuant to this section that it is necessary to review the operation of an entity other than the local correctional facility in order to complete the review, the Board shall request that the Office of the State Inspector General review the operation of such entity if such entity falls within the authority vested in the Office of the State Inspector General pursuant to Chapter 3.2 (§ 2.2-307 et seq.) of Title 2.2. Nothing in this section shall limit the authority of the Office of the State Inspector General to exercise any of the powers and duties set forth in Chapter 3.2 (§ 2.2-307 et seq.) of Title 2.2.*

*D. Upon completion of any review conducted pursuant to this section, the Board shall prepare a detailed report of the findings of any review, which shall be submitted to the Governor, the Speaker of the House of Delegates, and the President pro tempore of the Senate. Such report may contain recommendations for changes to the minimum standards for the construction, equipment, administration, and operation of local correctional facilities in order to prevent problems, abuses, and deficiencies in and improve the effectiveness of such facilities. In addition, the Board may issue any order authorized under § 53.1-69 to correct any failure by the facility to comply with the Board's regulations. Except as otherwise required by law, the Board shall maintain the confidentiality of any confidential records or information obtained from a facility during the course of a review in accordance with state and federal law.*

**§ 53.1-127. Who may enter interior of local correctional facilities; searches of those entering.**

A. Members of the local governing bodies ~~which~~ that participate in the funding of a local correctional facility may go into the interior of that facility. Agents of the Board may go into the interior of any local correctional facility. In addition, Department of Corrections staff and state and local health department staff shall, in the performance of their duties, have access to the interior of any local correctional facility subject to the standards promulgated pursuant to *subsections A and B* of § 53.1-68 ~~A and B~~. Attorneys shall be permitted in the interior of a local correctional facility to confer with prisoners who are their clients and with prisoners who are witnesses in cases in which they are involved. Except for the announced or unannounced inspections authorized pursuant to *subsections A and B* of § 53.1-68 ~~A and B~~ or a review conducted pursuant to § 53.1-69.1, the sheriff, jail administrator, or other person in charge of the facility shall prescribe the time and conditions under which attorneys and other persons may enter the local correctional facility for which he is responsible.

B. Any person seeking to enter the interior of any local correctional facility shall be subject to a search of his person and effects. Such search shall be performed in a manner reasonable under the circumstances and may be a condition precedent to entering a local correctional facility.

## CHAPTER 760

*An Act to amend the Code of Virginia by adding in Chapter 13 of Title 22.1 an article numbered 1.5, consisting of sections numbered 22.1-212.28 through 22.1-212.32, relating to School Divisions of Innovation.*

[H 1981]

Approved March 24, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding in Chapter 13 of Title 22.1 an article numbered 1.5, consisting of sections numbered 22.1-212.28 through 22.1-212.32, as follows:**

*Article 1.5.**School Divisions of Innovation.***§ 22.1-212.28. Definitions.**

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

*"School Division of Innovation" or "SDI" means a school division in which the local school board has developed and for which the Board has approved pursuant to regulations as set forth in this article a plan of innovation to improve student learning; educational performance; and college, career, and citizenship readiness skills in each school in the local school division.*

*"Innovation" means a new or creative alternative to existing instructional or administrative practices or school structures that evidence-based practice suggests will be effective in improving student learning and educational performance.*

**§ 22.1-212.29. Purpose.**

*The Board shall promulgate regulations for the designation of School Divisions of Innovation in which the local school board in the local school division so designated shall, pursuant to a plan of innovation, be exempted from selected regulatory provisions and be permitted to adopt alternative policies for school administrators, teachers, and staff to meet the diverse needs of students.*

**§ 22.1-212.30. Board regulations; procedure.**

*Any local school board may apply to the Board for the local school division or any school therein to be designated as an SDI. Such application shall consist of a plan of innovation for the local school division. The Board shall include in regulations promulgated pursuant to § 22.1-212.29:*

- 1. The procedure and timeline for application, review, amendment, approval, renewal, and revocation of SDI designation;*
- 2. The procedure for the ongoing evaluation of an SDI; and*
- 3. Any other process or procedure that the Board deems appropriate.*

**§ 22.1-212.31. Board regulations; application; expectations.**

*The Board shall establish in regulations promulgated pursuant to § 22.1-212.29 expectations for the plan of innovation of an SDI applicant, including:*

- 1. Establishing goals and performance targets that may include:
 
  - a. Reducing achievement and opportunity gaps among groups of public school students by expanding the range of engaging and relevant learning experiences for students who are identified as academically low-achieving;*
  - b. Increasing student learning through the implementation of high, rigorous standards for student performance and balanced assessments that measure both student growth and achievement;*
  - c. Creating opportunities for students to demonstrate mastery of learning at different points in the learning process based on readiness;*
  - d. Increasing student participation in opportunities that enhance students' preparation for college, career, and citizenship;*
  - e. Increasing the number of students who are college, career, and citizenship ready;*
  - f. Increasing opportunities for students to learn from content experts through integrated course opportunities; and*
  - g. Motivating students at all levels by offering additional curricular choices, personalized learning opportunities, and relevant student learning experiences such as community service projects, internship opportunities, and job shadowing.**
- 2. Identifying divisionwide and school-level policies that will lead students to be better prepared for success in work and life.*
- 3. Describing the ways in which all schools will incorporate innovative practices.*
- 4. Incorporating relevant professional development.*
- 5. Providing evidence of collaboration, support, and shared leadership among teachers in the school division.*
- 6. Providing evidence of the support and engagement of educators, parents, the local community, and the local business community in the development of the plan of innovation and of the capacity of such individuals and entities to support the implementation of innovation.*
- 7. Providing the rationale for requests for waivers from regulatory and statutory provisions.*
- 8. Identifying specific measures of student success that may include alternate assessments or approved substitute tests that will be used to determine if students have met graduation requirements, as applicable.*

**§ 22.1-212.32. SDI designation; duration; renewal.**

A. The initial designation of an SDI shall be for a five-year period.

B. The initial designation of an SDI may be renewed for subsequent periods not to exceed five years each.

**CHAPTER 761**

*An Act to amend and reenact § 18.2-283.1 of the Code of Virginia, relating to commissioners and deputy commissioners of the Virginia Workers' Compensation Commission; carrying a weapon in a courthouse.*

[S 904]

Approved March 24, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 18.2-283.1 of the Code of Virginia is amended and reenacted as follows:**

**§ 18.2-283.1. Carrying weapon into courthouse.**

It ~~shall be~~ is unlawful for any person to possess in or transport into any courthouse in this Commonwealth any (i) gun or other weapon designed or intended to propel a missile or projectile of any kind; (ii) frame, receiver, muffler, silencer, missile, projectile, or ammunition designed for use with a dangerous weapon ~~and~~; or (iii) ~~any~~ other dangerous weapon, including explosives, stun weapons as defined in § 18.2-308.1, and those weapons specified in subsection A of § 18.2-308. Any such weapon shall be subject to seizure by a law-enforcement officer. A violation of this section is punishable as a Class 1 misdemeanor.

The provisions of this section shall not apply to any police officer, sheriff, law-enforcement agent or official, conservation police officer, conservator of the peace, magistrate, court officer, judge, ~~or~~ city or county treasurer, *or commissioner or deputy commissioner of the Virginia Workers' Compensation Commission* while in the conduct of such person's official duties.

**CHAPTER 762**

*An Act to amend and reenact §§ 58.1-322 and 58.1-402 of the Code of Virginia, relating to income tax subtraction; Virginia venture capital account income.*

[H 2074]

Approved March 24, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 58.1-322 and 58.1-402 of the Code of Virginia are amended and reenacted as follows:**

**§ 58.1-322. Virginia taxable income of residents.**

A. The Virginia taxable income of a resident individual means his federal adjusted gross income for the taxable year, which excludes combat pay for certain members of the Armed Forces of the United States as provided in § 112 of the Internal Revenue Code, as amended, and with the modifications specified in this section.

B. To the extent excluded from federal adjusted gross income, there shall be added:

1. Interest, less related expenses to the extent not deducted in determining federal income, on obligations of any state other than Virginia, or of a political subdivision of any such other state unless created by compact or agreement to which Virginia is a party;

2. Interest or dividends, less related expenses to the extent not deducted in determining federal taxable income, on obligations or securities of any authority, commission or instrumentality of the United States, which the laws of the United States exempt from federal income tax but not from state income taxes;

3. Unrelated business taxable income as defined by § 512 of the Internal Revenue Code;

4. The amount of a lump sum distribution from a qualified retirement plan, less the minimum distribution allowance and any amount excludable for federal income tax purposes that is excluded from federal adjusted gross income solely by virtue of an individual's election to use the averaging provisions under § 402 of the Internal Revenue Code;

5 through 8. [Repealed.]

9. The amount required to be included in income for the purpose of computing the partial tax on an accumulation distribution pursuant to § 667 of the Internal Revenue Code;

10. For taxable years beginning on and after January 1, 2014, any loss for the taxable year that was deducted as a capital loss for federal income tax purposes by an account holder attributable to such person's first-time home buyer savings account established pursuant to Chapter 32 (§ 55-555 et seq.) of Title 55. For purposes of this subdivision, "account holder" and "first-time home buyer savings account" mean the same as those terms are defined in § 55-555; and

11. For taxable years beginning on or after January 1, 2016, to the extent that tax credit is allowed for the same donation pursuant to § 58.1-439.12:12, any amount claimed as a federal income tax deduction for such donation under § 170 of the Internal Revenue Code, as amended or renumbered.

C. To the extent included in federal adjusted gross income, there shall be subtracted:

1. Income derived from obligations, or on the sale or exchange of obligations, of the United States and on obligations or securities of any authority, commission or instrumentality of the United States to the extent exempt from state income taxes under the laws of the United States including, but not limited to, stocks, bonds, treasury bills, and treasury notes, but not including interest on refunds of federal taxes, interest on equipment purchase contracts, or interest on other normal business transactions.

2. Income derived from obligations, or on the sale or exchange of obligations of this Commonwealth or of any political subdivision or instrumentality of the Commonwealth.

3. [Repealed.]

4. Benefits received under Title II of the Social Security Act and other benefits subject to federal income taxation solely pursuant to § 86 of the Internal Revenue Code.

4a. Through December 31, 2000, the same amount used in computing the federal credit allowed under § 22 of the Internal Revenue Code by a retiree under age 65 who qualified for such retirement on the basis of permanent and total disability and who is a qualified individual as defined in § 22(b)(2) of the Internal Revenue Code; however, any person who claims a deduction under subdivision D 5 may not also claim a subtraction under this subdivision.

4b. For taxable years beginning on or after January 1, 2001, up to \$20,000 of disability income, as defined in § 22(c)(2)(B)(iii) of the Internal Revenue Code; however, any person who claims a deduction under subdivision D 5 may not also claim a subtraction under this subdivision.

5. The amount of any refund or credit for overpayment of income taxes imposed by the Commonwealth or any other taxing jurisdiction.

6. The amount of wages or salaries eligible for the federal Targeted Jobs Credit which was not deducted for federal purposes on account of the provisions of § 280C(a) of the Internal Revenue Code.

7, 8. [Repealed.]

9. [Expired.]

10. Any amount included therein less than \$600 from a prize awarded by the Virginia Lottery.

11. The wages or salaries received by any person for active and inactive service in the National Guard of the Commonwealth of Virginia, not to exceed the amount of income derived from 39 calendar days of such service or \$3,000, whichever amount is less; however, only those persons in the ranks of O3 and below shall be entitled to the deductions specified herein.

12. Amounts received by an individual, not to exceed \$1,000 in any taxable year, as a reward for information provided to a law-enforcement official or agency, or to a nonprofit corporation created exclusively to assist such law-enforcement official or agency, in the apprehension and conviction of perpetrators of crimes. This provision shall not apply to the following: an individual who is an employee of, or under contract with, a law-enforcement agency, a victim or the perpetrator of the crime for which the reward was paid, or any person who is compensated for the investigation of crimes or accidents.

13. [Repealed.]

14. [Expired.]

15, 16. [Repealed.]

17. For taxable years beginning on and after January 1, 1995, the amount of "qualified research expenses" or "basic research expenses" eligible for deduction for federal purposes, but which were not deducted, on account of the provisions of § 280C(c) of the Internal Revenue Code and which shall be available to partners, shareholders of S corporations, and members of limited liability companies to the extent and in the same manner as other deductions may pass through to such partners, shareholders, and members.

18. [Repealed.]

19. For taxable years beginning on and after January 1, 1996, any income received during the taxable year derived from a qualified pension, profit-sharing, or stock bonus plan as described by § 401 of the Internal Revenue Code, an individual retirement account or annuity established under § 408 of the Internal Revenue Code, a deferred compensation plan as defined by § 457 of the Internal Revenue Code, or any federal government retirement program, the contributions to which were deductible from the taxpayer's federal adjusted gross income, but only to the extent the contributions to such plan or program were subject to taxation under the income tax in another state.

20. For taxable years beginning on and after January 1, 1997, any income attributable to a distribution of benefits or a refund from a prepaid tuition contract or savings trust account with the Virginia College Savings Plan, created pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1. The subtraction for any income attributable to a refund shall be limited to income attributable to a refund in the event of a beneficiary's death, disability, or receipt of a scholarship.

21. For taxable years beginning on or after January 1, 1998, all military pay and allowances, to the extent included in federal adjusted gross income and not otherwise subtracted, deducted or exempted under this section, earned by military personnel while serving by order of the President of the United States with the consent of Congress in a combat zone or qualified hazardous duty area which is treated as a combat zone for federal tax purposes pursuant to § 112 of the Internal Revenue Code.

22. For taxable years beginning on or after January 1, 2000, but before January 1, 2015, the gain derived from the sale or exchange of real property or the sale or exchange of an easement to real property which results in the real property or the easement thereto being devoted to open-space use, as that term is defined in § 58.1-3230, for a period of time not less than

30 years. To the extent a subtraction is taken in accordance with this subdivision, no tax credit under this chapter for donating land for its preservation shall be allowed for three years following the year in which the subtraction is taken.

23. Effective for all taxable years beginning on or after January 1, 2000, \$15,000 of military basic pay for military service personnel on extended active duty for periods in excess of 90 days; however, the subtraction amount shall be reduced dollar-for-dollar by the amount which the taxpayer's military basic pay exceeds \$15,000 and shall be reduced to zero if such military basic pay amount is equal to or exceeds \$30,000.

24. Effective for all taxable years beginning on and after January 1, 2000, the first \$15,000 of salary for each federal and state employee whose total annual salary from all employment for the taxable year is \$15,000 or less.

25. Unemployment benefits taxable pursuant to § 85 of the Internal Revenue Code.

26. For taxable years beginning on and after January 1, 2001, any amount received as military retirement income by an individual awarded the Congressional Medal of Honor.

27. Effective for all taxable years beginning on and after January 1, 1999, income received as a result of (i) the "Master Settlement Agreement," as defined in § 3.2-3100; and (ii) the National Tobacco Grower Settlement Trust dated July 19, 1999, by (a) tobacco farmers; (b) any person holding a tobacco marketing quota, or tobacco farm acreage allotment, under the Agricultural Adjustment Act of 1938; or (c) any person having the right to grow tobacco pursuant to such a quota or allotment, but only to the extent that such income has not been subtracted pursuant to subdivision C 18 of § 58.1-402.

28. For taxable years beginning on and after January 1, 2000, items of income attributable to, derived from or in any way related to (i) assets stolen from, hidden from or otherwise lost by an individual who was a victim or target of Nazi persecution or (ii) damages, reparations, or other consideration received by a victim or target of Nazi persecution to compensate such individual for performing labor against his will under the threat of death, during World War II and its prelude and direct aftermath. This subtraction shall not apply to assets acquired with such items of income or with the proceeds from the sale of assets stolen from, hidden from or otherwise lost to, during World War II and its prelude and direct aftermath, a victim or target of Nazi persecution. The provisions of this subdivision shall only apply to an individual who was the first recipient of such items of income and who was a victim or target of Nazi persecution, or a spouse, widow, widower, or child or stepchild of such victim.

"Victim or target of Nazi persecution" means any individual persecuted or targeted for persecution by the Nazi regime who had assets stolen from, hidden from or otherwise lost as a result of any act or omission in any way relating to (i) the Holocaust; (ii) World War II and its prelude and direct aftermath; (iii) transactions with or actions of the Nazi regime; (iv) treatment of refugees fleeing Nazi persecution; or (v) the holding of such assets by entities or persons in the Swiss Confederation during World War II and its prelude and aftermath. A victim or target of Nazi persecution shall also include any individual forced into labor against his will, under the threat of death, during World War II and its prelude and direct aftermath. As used in this subdivision, "Nazi regime" means the country of Nazi Germany, areas occupied by Nazi Germany, those European countries allied with Nazi Germany, or any other neutral European country or area in Europe under the influence or threat of Nazi invasion.

29, 30. [Repealed.]

31. Effective for all taxable years beginning on or after January 1, 2001, the military death gratuity payment made after September 11, 2001, to the survivor of deceased military personnel killed in the line of duty, pursuant to Chapter 75 of Title 10 of the United States Code; however, the subtraction amount shall be reduced dollar-for-dollar by the amount that the survivor may exclude from his federal gross income in accordance with § 134 of the Internal Revenue Code.

32. Effective for all taxable years beginning on or after January 1, 2007, the death benefit payments from an annuity contract that are received by a beneficiary of such contract provided that (i) the death benefit payment is made pursuant to an annuity contract with an insurance company and (ii) the death benefit payment is paid solely by lump sum. The subtraction under this subdivision shall be allowed only for that portion of the death benefit payment that is included in federal adjusted gross income.

33. For taxable years beginning on and after January 1, 2009, any gain recognized from the sale of launch services to space flight participants, as defined in 49 U.S.C. § 70102, or launch services intended to provide individuals the training or experience of a launch, without performing an actual launch. To qualify for a deduction under this subdivision, launch services must be performed in Virginia or originate from an airport or spaceport in Virginia.

34. For taxable years beginning on and after January 1, 2009, any gain recognized as a result of resupply services contracts for delivering payload, as defined in 49 U.S.C. § 70102, entered into with the Commercial Orbital Transportation Services division of the National Aeronautics and Space Administration or other space flight entity, as defined in § 8.01-227.8, and launched from an airport or spaceport in Virginia.

35. For taxable years beginning on or after January 1, 2011, any income taxed as a long-term capital gain for federal income tax purposes, or any income taxed as investment services partnership interest income (otherwise known as investment partnership carried interest income) for federal income tax purposes. To qualify for a subtraction under this subdivision, such income shall be attributable to an investment in a "qualified business," as defined in § 58.1-339.4, or in any other technology business approved by the Secretary of Technology, provided the business has its principal office or facility in the Commonwealth and less than \$3 million in annual revenues in the fiscal year prior to the investment. To qualify for a subtraction under this subdivision, the investment shall be made between the dates of April 1, 2010, and June 30, 2020. No taxpayer who has claimed a tax credit for an investment in a "qualified business" under § 58.1-339.4 shall be eligible for the subtraction under this subdivision for an investment in the same business.

36. For taxable years beginning on and after January 1, 2014, any income of an account holder for the taxable year taxed as (i) a capital gain for federal income tax purposes attributable to such person's first-time home buyer savings account established pursuant to Chapter 32 (§ 55-555 et seq.) of Title 55 and (ii) interest income or other income for federal income tax purposes attributable to such person's first-time home buyer savings account.

Notwithstanding the statute of limitations on assessments contained in § 58.1-312, any subtraction taken under this subdivision shall be subject to recapture in the taxable year or years in which moneys or funds withdrawn from the first-time home buyer savings account were used for any purpose other than the payment of eligible costs by or on behalf of a qualified beneficiary, as provided under § 55-558. The amount subject to recapture shall be a portion of the amount withdrawn in the taxable year that was used for other than the payment of eligible costs, computed by multiplying the amount withdrawn and used for other than the payment of eligible costs by the ratio of the aggregate earnings in the account at the time of the withdrawal to the total balance in the account at such time.

However, recapture shall not apply to the extent of moneys or funds withdrawn that were (i) withdrawn by reason of the qualified beneficiary's death or disability, (ii) a disbursement of assets of the account pursuant to a filing for protection under the United States Bankruptcy Code, 11 U.S.C. §§ 101 through 1330, or (iii) transferred from an account established pursuant to Chapter 32 (§ 55-555 et seq.) of Title 55 into another account established pursuant to such chapter for the benefit of another qualified beneficiary.

For purposes of this subdivision, "account holder," "eligible costs," "first-time home buyer savings account," and "qualified beneficiary" mean the same as those terms are defined in § 55-555.

37. For taxable years beginning on or after January 1, 2015, any income for the taxable year attributable to the discharge of a student loan solely by reason of the student's death. For purposes of this subdivision, "student loan" means the same as that term is defined under § 108(f) of the Internal Revenue Code.

38. *a. Income, including investment services partnership interest income (otherwise known as investment partnership carried interest income), attributable to an investment in a Virginia venture capital account. To qualify for a subtraction under this subdivision, the investment shall be made on or after January 1, 2018, but before December 31, 2023. No subtraction shall be allowed under this subdivision for an investment in a company that is owned or operated by a family member or an affiliate of the taxpayer. No subtraction shall be allowed under this subdivision for a taxpayer who has claimed a subtraction under subdivision 35 or a tax credit under § 58.1-339.4 for the same investment.*

*b. As used in this subdivision 38:*

*"Qualified portfolio company" means a company that (i) has its principal place of business in the Commonwealth; (ii) has a primary purpose of production, sale, research, or development of a product or service other than the management or investment of capital; and (iii) provides equity in the company to the Virginia venture capital account in exchange for a capital investment. "Qualified portfolio company" does not include a company that is an individual or sole proprietorship.*

*"Virginia venture capital account" means an investment fund that has been certified by the Department as a Virginia venture capital account. In order to be certified as a Virginia venture capital account, the operator of the investment fund shall register the investment fund with the Department prior to December 31, 2023, (i) indicating that it intends to invest at least 50 percent of the capital committed to its fund in qualified portfolio companies and (ii) providing documentation that it employs at least one investor who has at least four years of professional experience in venture capital investment or substantially equivalent experience. "Substantially equivalent experience" includes, but is not limited to, an undergraduate degree from an accredited college or university in economics, finance, or a similar field of study. The Department may require an investment fund to provide documentation of the investor's training, education, or experience as deemed necessary by the Department to determine substantial equivalency. If the Department determines that the investment fund employs at least one investor with the experience set forth herein, the Department shall certify the investment fund as a Virginia venture capital account at such time as the investment fund actually invests at least 50 percent of the capital committed to its fund in qualified portfolio companies.*

D. In computing Virginia taxable income there shall be deducted from Virginia adjusted gross income as defined in § 58.1-321:

1. a. The amount allowable for itemized deductions for federal income tax purposes where the taxpayer has elected for the taxable year to itemize deductions on his federal return, but reduced by the amount of income taxes imposed by the Commonwealth or any other taxing jurisdiction and deducted on such federal return and increased by an amount which, when added to the amount deducted under § 170 of the Internal Revenue Code for mileage, results in a mileage deduction at the state level for such purposes at a rate of 18 cents per mile; or

b. Three thousand dollars for single individuals and \$6,000 for married persons (one-half of such amounts in the case of a married individual filing a separate return) for taxable years beginning on and after January 1, 2005; provided that the taxpayer has not itemized deductions for the taxable year on his federal income tax return. For purposes of this section, any person who may be claimed as a dependent on another taxpayer's return for the taxable year may compute the deduction only with respect to earned income.

2. a. A deduction in the amount of \$900 for taxable years beginning on and after January 1, 2005, but before January 1, 2008; and \$930 for taxable years beginning on and after January 1, 2008, for each personal exemption allowable to the taxpayer for federal income tax purposes.

b. For taxable years beginning on and after January 1, 1987, each blind or aged taxpayer as defined under § 63(f) of the Internal Revenue Code shall be entitled to an additional personal exemption in the amount of \$800.

The additional deduction for blind or aged taxpayers allowed under this subdivision shall be allowable regardless of whether the taxpayer itemizes deductions for the taxable year for federal income tax purposes.

3. A deduction equal to the amount of employment-related expenses upon which the federal credit is based under § 21 of the Internal Revenue Code for expenses for household and dependent care services necessary for gainful employment.

4. An additional \$1,000 deduction for each child residing for the entire taxable year in a home under permanent foster care placement as defined in § 63.2-908, provided the taxpayer can also claim the child as a personal exemption under § 151 of the Internal Revenue Code.

5. a. For taxable years beginning on and after January 1, 2004, a deduction in the amount of \$12,000 for individuals born on or before January 1, 1939.

b. For taxable years beginning on and after January 1, 2004, a deduction in the amount of \$12,000 for individuals born after January 1, 1939, who have attained the age of 65. This deduction shall be reduced by \$1 for every \$1 that the taxpayer's adjusted federal adjusted gross income exceeds \$50,000 for single taxpayers or \$75,000 for married taxpayers. For married taxpayers filing separately, the deduction will be reduced by \$1 for every \$1 the total combined adjusted federal adjusted gross income of both spouses exceeds \$75,000.

For the purposes of this subdivision, "adjusted federal adjusted gross income" means federal adjusted gross income minus any benefits received under Title II of the Social Security Act and other benefits subject to federal income taxation solely pursuant to § 86 of the Internal Revenue Code, as amended.

6. For taxable years beginning on and after January 1, 1997, the amount an individual pays as a fee for an initial screening to become a possible bone marrow donor, if (i) the individual is not reimbursed for such fee or (ii) the individual has not claimed a deduction for the payment of such fee on his federal income tax return.

7. a. A deduction shall be allowed to the purchaser or contributor for the amount paid or contributed during the taxable year for a prepaid tuition contract or college savings trust account entered into with the Virginia College Savings Plan, pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1. Except as provided in subdivision 7 c, the amount deducted on any individual income tax return in any taxable year shall be limited to \$4,000 per prepaid tuition contract or college savings trust account. No deduction shall be allowed pursuant to this section if such payments or contributions are deducted on the purchaser's or contributor's federal income tax return. If the purchase price or annual contribution to a college savings trust account exceeds \$4,000, the remainder may be carried forward and subtracted in future taxable years until the purchase price or college savings trust contribution has been fully deducted; however, except as provided in subdivision 7 c, in no event shall the amount deducted in any taxable year exceed \$4,000 per contract or college savings trust account. Notwithstanding the statute of limitations on assessments contained in § 58.1-312, any deduction taken hereunder shall be subject to recapture in the taxable year or years in which distributions or refunds are made for any reason other than (i) to pay qualified higher education expenses, as defined in § 529 of the Internal Revenue Code or (ii) the beneficiary's death, disability, or receipt of a scholarship. For the purposes of this subdivision, the term "purchaser" or "contributor" means the person shown as such on the records of the Virginia College Savings Plan as of December 31 of the taxable year. In the case of a transfer of ownership of a prepaid tuition contract or college savings trust account, the transferee shall succeed to the transferor's tax attributes associated with a prepaid tuition contract or college savings trust account, including, but not limited to, carryover and recapture of deductions.

b. The amount paid for a prepaid tuition contract during taxable years beginning on or after January 1, 1996, but before January 1, 1998, shall be deducted in taxable years beginning on or after January 1, 1998, and shall be subject to the limitations set out in subdivision 7 a.

c. A purchaser of a prepaid tuition contract or contributor to a college savings trust account who has attained age 70 shall not be subject to the limitation that the amount of the deduction not exceed \$4,000 per prepaid tuition contract or college savings trust account in any taxable year. Such taxpayer shall be allowed a deduction for the full amount paid for the contract or contributed to a college savings trust account, less any amounts previously deducted.

8. For taxable years beginning on and after January 1, 2000, the total amount an individual actually contributed in funds to the Virginia Public School Construction Grants Program and Fund, established in Chapter 11.1 (§ 22.1-175.1 et seq.) of Title 22.1, provided the individual has not claimed a deduction for such amount on his federal income tax return.

9. For taxable years beginning on and after January 1, 1999, an amount equal to 20 percent of the tuition costs incurred by an individual employed as a primary or secondary school teacher licensed pursuant to Chapter 15 (§ 22.1-289.1 et seq.) of Title 22.1 to attend continuing teacher education courses that are required as a condition of employment; however, the deduction provided by this subsection shall be available only if (i) the individual is not reimbursed for such tuition costs and (ii) the individual has not claimed a deduction for the payment of such tuition costs on his federal income tax return.

10. For taxable years beginning on or after January 1, 2000, the amount an individual pays annually in premiums for long-term health care insurance, provided the individual has not claimed a deduction for federal income tax purposes, or, for taxable years beginning before January 1, 2014, a credit under § 58.1-339.11. For taxable years beginning on or after January 1, 2014, no such deduction for long-term health care insurance premiums paid by the individual during the taxable year shall be allowed if the individual has claimed a federal income tax deduction for such taxable year for long-term health care insurance premiums paid by him.

11. For taxable years beginning on and after January 1, 2006, contract payments to a producer of quota tobacco or a tobacco quota holder, or their spouses, as provided under the American Jobs Creation Act of 2004 (P.L. 108-357), but only to the extent that such payments have not been subtracted pursuant to subsection D of § 58.1-402, as follows:

a. If the payment is received in installment payments, then the recognized gain, including any gain recognized in taxable year 2005, may be subtracted in the taxable year immediately following the year in which the installment payment is received.

b. If the payment is received in a single payment, then 10 percent of the recognized gain may be subtracted in the taxable year immediately following the year in which the single payment is received. The taxpayer may then deduct an equal amount in each of the nine succeeding taxable years.

12. For taxable years beginning on and after January 1, 2007, an amount equal to 20 percent of the sum paid by an individual pursuant to Chapter 6 (§ 58.1-600 et seq.), not to exceed \$500 in each taxable year, in purchasing for his own use the following items of tangible personal property: (i) any clothes washers, room air conditioners, dishwashers, and standard size refrigerators that meet or exceed the applicable energy star efficiency requirements developed by the United States Environmental Protection Agency and the United States Department of Energy; (ii) any fuel cell that (a) generates electricity using an electrochemical process, (b) has an electricity-only generation efficiency greater than 35 percent, and (c) has a generating capacity of at least two kilowatts; (iii) any gas heat pump that has a coefficient of performance of at least 1.25 for heating and at least 0.70 for cooling; (iv) any electric heat pump hot water heater that yields an energy factor of at least 1.7; (v) any electric heat pump that has a heating system performance factor of at least 8.0 and a cooling seasonal energy efficiency ratio of at least 13.0; (vi) any central air conditioner that has a cooling seasonal energy efficiency ratio of at least 13.5; (vii) any advanced gas or oil water heater that has an energy factor of at least 0.65; (viii) any advanced oil-fired boiler with a minimum annual fuel-utilization rating of 85; (ix) any advanced oil-fired furnace with a minimum annual fuel-utilization rating of 85; and (x) programmable thermostats.

13. For taxable years beginning on or after January 1, 2007, the lesser of \$5,000 or the amount actually paid by a living donor of an organ or other living tissue for unreimbursed out-of-pocket expenses directly related to the donation that arose within 12 months of such donation, provided the donor has not taken a medical deduction in accordance with the provisions of § 213 of the Internal Revenue Code for such expenses. The deduction may be taken in the taxable year in which the donation is made or the taxable year in which the 12-month period expires.

14. For taxable years beginning on or after January 1, 2013, the amount an individual age 66 or older with earned income of at least \$20,000 for the year and federal adjusted gross income not in excess of \$30,000 for the year pays annually in premiums for (i) a prepaid funeral insurance policy covering the individual or (ii) medical or dental insurance for any person for whom individual tax filers may claim a deduction for such premiums under federal income tax laws. "Earned income" means the same as that term is defined in § 32(c) of the Internal Revenue Code of 1954, as amended or renumbered. The deduction shall not be allowed for any portion of such premiums paid for which the individual has (a) been reimbursed, (b) claimed a deduction for federal income tax purposes, (c) claimed a deduction or subtraction under another provision of this section, or (d) claimed a federal income tax credit or any income tax credit pursuant to this chapter.

E. There shall be added to or subtracted from federal adjusted gross income, as the case may be, the individual's share, as beneficiary of an estate or trust, of the Virginia fiduciary adjustment determined under § 58.1-361.

F. There shall be added or subtracted, as the case may be, the amounts provided in § 58.1-315 as transitional modifications.

G. Effective for all taxable years beginning on or after January 1, 2007, to the extent included in federal adjusted gross income, there shall be (i) subtracted from federal adjusted gross income by a shareholder of an electing small business corporation (S corporation) that is subject to the bank franchise tax imposed under Chapter 12 (§ 58.1-1200 et seq.) for the calendar year in which such taxable year begins, the shareholder's allocable share of the income or gain of such electing small business corporation (S corporation), and (ii) added back to federal adjusted gross income such that, federal adjusted gross income shall be increased, by a shareholder of an electing small business corporation (S corporation) that is subject to the bank franchise tax imposed under Chapter 12 (§ 58.1-1200 et seq.) for the calendar year in which such taxable year begins, the shareholder's allocable share of the losses or deductions of such electing small business corporation (S corporation).

Effective for all taxable years beginning on or after January 1, 2007, to the extent excluded from federal adjusted gross income, there shall be added to federal adjusted gross income by a shareholder of an electing small business corporation (S corporation) that is subject to the bank franchise tax imposed under Chapter 12 (§ 58.1-1200 et seq.) for the calendar year in which such taxable year begins, the value of any distribution paid or distributed to the shareholder by such electing small business corporation (S corporation).

H. Notwithstanding any other provision of law, the income from any disposition of real property which is held by the taxpayer for sale to customers in the ordinary course of the taxpayer's trade or business, as defined in § 453(l)(1)(B) of the Internal Revenue Code, of property made on or after January 1, 2009, may, at the election of the taxpayer, be recognized under the installment method described under § 453 of the Internal Revenue Code, provided that (i) the election relating to the dealer disposition of the property has been made on or before the due date prescribed by law (including extensions) for filing the taxpayer's return of the tax imposed under this chapter for the taxable year in which the disposition occurs, and (ii) the dealer disposition is in accordance with restrictions or conditions established by the Department, which shall be set forth in guidelines developed by the Department. Along with such restrictions or conditions, the guidelines shall also

address the recapture of such income under certain circumstances. The development of the guidelines shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq.).

**§ 58.1-402. Virginia taxable income.**

A. For purposes of this article, Virginia taxable income for a taxable year means the federal taxable income and any other income taxable to the corporation under federal law for such year of a corporation adjusted as provided in subsections B, C, D, and E.

For a regulated investment company and a real estate investment trust, such term means the "investment company taxable income" and "real estate investment trust taxable income," respectively, to which shall be added in each case any amount of capital gains and any other income taxable to the corporation under federal law which shall be further adjusted as provided in subsections B, C, D, and E.

B. There shall be added to the extent excluded from federal taxable income:

1. Interest, less related expenses to the extent not deducted in determining federal taxable income, on obligations of any state other than Virginia, or of a political subdivision of any such other state unless created by compact or agreement to which the Commonwealth is a party;

2. Interest or dividends, less related expenses to the extent not deducted in determining federal taxable income, on obligations or securities of any authority, commission or instrumentality of the United States, which the laws of the United States exempt from federal income tax but not from state income taxes;

3. [Repealed.]

4. The amount of any net income taxes and other taxes, including franchise and excise taxes, which are based on, measured by, or computed with reference to net income, imposed by the Commonwealth or any other taxing jurisdiction, to the extent deducted in determining federal taxable income;

5. Unrelated business taxable income as defined by § 512 of the Internal Revenue Code;

6. [Repealed.]

7. The amount required to be included in income for the purpose of computing the partial tax on an accumulation distribution pursuant to § 667 of the Internal Revenue Code;

8. a. For taxable years beginning on and after January 1, 2004, the amount of any intangible expenses and costs directly or indirectly paid, accrued, or incurred to, or in connection directly or indirectly with one or more direct or indirect transactions with one or more related members to the extent such expenses and costs were deductible or deducted in computing federal taxable income for Virginia purposes. This addition shall not be required for any portion of the intangible expenses and costs if one of the following applies:

(1) The corresponding item of income received by the related member is subject to a tax based on or measured by net income or capital imposed by Virginia, another state, or a foreign government that has entered into a comprehensive tax treaty with the United States government;

(2) The related member derives at least one-third of its gross revenues from the licensing of intangible property to parties who are not related members, and the transaction giving rise to the expenses and costs between the corporation and the related member was made at rates and terms comparable to the rates and terms of agreements that the related member has entered into with parties who are not related members for the licensing of intangible property; or

(3) The corporation can establish to the satisfaction of the Tax Commissioner that the intangible expenses and costs meet both of the following: (i) the related member during the same taxable year directly or indirectly paid, accrued or incurred such portion to a person who is not a related member, and (ii) the transaction giving rise to the intangible expenses and costs between the corporation and the related member did not have as a principal purpose the avoidance of any portion of the tax due under this chapter.

b. A corporation required to add to its federal taxable income intangible expenses and costs pursuant to subdivision a may petition the Tax Commissioner, after filing the related income tax return for the taxable year and remitting to the Tax Commissioner all taxes, penalties, and interest due under this article for such taxable year including tax upon any amount of intangible expenses and costs required to be added to federal taxable income pursuant to subdivision a, to consider evidence relating to the transaction or transactions between the corporation and a related member or members that resulted in the corporation's taxable income being increased, as required under subdivision a, for such intangible expenses and costs.

If the corporation can demonstrate to the Tax Commissioner's sole satisfaction, by clear and convincing evidence, that the transaction or transactions between the corporation and a related member or members resulting in such increase in taxable income pursuant to subdivision a had a valid business purpose other than the avoidance or reduction of the tax due under this chapter, the Tax Commissioner shall permit the corporation to file an amended return. For purposes of such amended return, the requirements of subdivision a shall not apply to any transaction for which the Tax Commissioner is satisfied (and has identified) that the transaction had a valid business purpose other than the avoidance or reduction of the tax due under this chapter. Such amended return shall be filed by the corporation within one year of the written permission granted by the Tax Commissioner and any refund of the tax imposed under this article shall include interest at a rate equal to the rate of interest established under § 58.1-15 and such interest shall accrue as provided under § 58.1-1833. However, upon the filing of such amended return, any related member of the corporation that subtracted from taxable income amounts received pursuant to subdivision C 21 shall be subject to the tax imposed under this article on that portion of such amounts for which the corporation has filed an amended return pursuant to this subdivision. In addition, for such transactions identified by the Tax Commissioner herein by which he has been satisfied by clear and convincing evidence, the Tax

Commissioner may permit the corporation in filing income tax returns for subsequent taxable years to deduct the related intangible expenses and costs without making the adjustment under subdivision a.

The Tax Commissioner may charge a fee for all direct and indirect costs relating to the review of any petition pursuant to this subdivision, to include costs necessary to secure outside experts in evaluating the petition. The Tax Commissioner may condition the review of any petition pursuant to this subdivision upon payment of such fee.

No suit for the purpose of contesting any action of the Tax Commissioner under this subdivision shall be maintained in any court of this Commonwealth.

c. Nothing in subdivision B 8 shall be construed to limit or negate the Department's authority under § 58.1-446;

9. a. For taxable years beginning on and after January 1, 2004, the amount of any interest expenses and costs directly or indirectly paid, accrued, or incurred to, or in connection directly or indirectly with one or more direct or indirect transactions with one or more related members to the extent such expenses and costs were deductible or deducted in computing federal taxable income for Virginia purposes. This addition shall not be required for any portion of the interest expenses and costs, if:

(1) The related member has substantial business operations relating to interest-generating activities, in which the related member pays expenses for at least five full-time employees who maintain, manage, defend or are otherwise responsible for operations or administration relating to the interest-generating activities; and

(2) The interest expenses and costs are not directly or indirectly for, related to or in connection with the direct or indirect acquisition, maintenance, management, sale, exchange, or disposition of intangible property; and

(3) The transaction giving rise to the expenses and costs between the corporation and the related member has a valid business purpose other than the avoidance or reduction of taxation and payments between the parties are made at arm's length rates and terms; and

(4) One of the following applies:

(i) The corresponding item of income received by the related member is subject to a tax based on or measured by net income or capital imposed by Virginia, another state, or a foreign government that has entered into a comprehensive tax treaty with the United States government;

(ii) Payments arise pursuant to a pre-existing contract entered into when the parties were not related members provided the payments continue to be made at arm's length rates and terms;

(iii) The related member engages in transactions with parties other than related members that generate revenue in excess of \$2 million annually; or

(iv) The transaction giving rise to the interest payments between the corporation and a related member was done at arm's length rates and terms and meets any of the following: (a) the related member uses funds that are borrowed from a party other than a related member or that are paid, incurred or passed-through to a person who is not a related member; (b) the debt is part of a regular and systematic funds management or portfolio investment activity conducted by the related member, whereby the funds of two or more related members are aggregated for the purpose of achieving economies of scale, the internal financing of the active business operations of members, or the benefit of centralized management of funds; (c) financing the expansion of the business operations; or (d) restructuring the debt of related members, or the pass-through of acquisition-related indebtedness to related members.

b. A corporation required to add to its federal taxable income interest expenses and costs pursuant to subdivision a may petition the Tax Commissioner, after filing the related income tax return for the taxable year and remitting to the Tax Commissioner all taxes, penalties, and interest due under this article for such taxable year including tax upon any amount of interest expenses and costs required to be added to federal taxable income pursuant to subdivision a, to consider evidence relating to the transaction or transactions between the corporation and a related member or members that resulted in the corporation's taxable income being increased, as required under subdivision a, for such interest expenses and costs.

If the corporation can demonstrate to the Tax Commissioner's sole satisfaction, by clear and convincing evidence, that the transaction or transactions between the corporation and a related member or members resulting in such increase in taxable income pursuant to subdivision a had a valid business purpose other than the avoidance or reduction of the tax due under this chapter and that the related payments between the parties were made at arm's length rates and terms, the Tax Commissioner shall permit the corporation to file an amended return. For purposes of such amended return, the requirements of subdivision a shall not apply to any transaction for which the Tax Commissioner is satisfied (and has identified) that the transaction had a valid business purpose other than the avoidance or reduction of the tax due under this chapter and that the related payments between the parties were made at arm's length rates and terms. Such amended return shall be filed by the corporation within one year of the written permission granted by the Tax Commissioner and any refund of the tax imposed under this article shall include interest at a rate equal to the rate of interest established under § 58.1-15 and such interest shall accrue as provided under § 58.1-1833. However, upon the filing of such amended return, any related member of the corporation that subtracted from taxable income amounts received pursuant to subdivision C 21 shall be subject to the tax imposed under this article on that portion of such amounts for which the corporation has filed an amended return pursuant to this subdivision. In addition, for such transactions identified by the Tax Commissioner herein by which he has been satisfied by clear and convincing evidence, the Tax Commissioner may permit the corporation in filing income tax returns for subsequent taxable years to deduct the related interest expenses and costs without making the adjustment under subdivision a.

The Tax Commissioner may charge a fee for all direct and indirect costs relating to the review of any petition pursuant to this subdivision, to include costs necessary to secure outside experts in evaluating the petition. The Tax Commissioner may condition the review of any petition pursuant to this subdivision upon payment of such fee.

No suit for the purpose of contesting any action of the Tax Commissioner under this subdivision shall be maintained in any court of this Commonwealth.

c. Nothing in subdivision B 9 shall be construed to limit or negate the Department's authority under § 58.1-446.

d. For purposes of subdivision B 9:

"Arm's-length rates and terms" means that (i) two or more related members enter into a written agreement for the transaction, (ii) such agreement is of a duration and contains payment terms substantially similar to those that the related member would be able to obtain from an unrelated entity, (iii) the interest is at or below the applicable federal rate compounded annually for debt instruments under § 1274(d) of the Internal Revenue Code that was in effect at the time of the agreement, and (iv) the borrower or payor adheres to the payment terms of the agreement governing the transaction or any amendments thereto.

"Valid business purpose" means one or more business purposes that alone or in combination constitute the motivation for some business activity or transaction, which activity or transaction improves, apart from tax effects, the economic position of the taxpayer, as further defined by regulation.

10. a. For taxable years beginning on and after January 1, 2009, the amount of dividends deductible under §§ 561 and 857 of the Internal Revenue Code by a Captive Real Estate Investment Trust (REIT). For purposes of this subdivision, a REIT is a Captive REIT if:

(1) It is not regularly traded on an established securities market;

(2) More than 50 percent of the voting power or value of beneficial interests or shares of which, at any time during the last half of the taxable year, is owned or controlled, directly or indirectly, by a single entity that is (i) a corporation or an association taxable as a corporation under the Internal Revenue Code; and (ii) not exempt from federal income tax pursuant to § 501(a) of the Internal Revenue Code; and

(3) More than 25 percent of its income consists of rents from real property as defined in § 856(d) of the Internal Revenue Code.

b. For purposes of applying the ownership test of subdivision 10 a (2), the following entities shall not be considered a corporation or an association taxable as a corporation:

(1) Any REIT that is not treated as a Captive REIT;

(2) Any REIT subsidiary under § 856 of the Internal Revenue Code other than a qualified REIT subsidiary of a Captive REIT;

(3) Any Listed Australian Property Trust, or an entity organized as a trust, provided that a Listed Australian Property Trust owns or controls, directly or indirectly, 75 percent or more of the voting or value of the beneficial interests or shares of such trust; and

(4) Any Qualified Foreign Entity.

c. For purposes of subdivision B 10, the constructive ownership rules prescribed under § 318(a) of the Internal Revenue Code, as modified by § 856(d)(5) of the Internal Revenue Code, shall apply in determining the ownership of stock, assets, or net profits of any person.

d. For purposes of subdivision B 10:

"Listed Australian Property Trust" means an Australian unit trust registered as a Management Investment Scheme, pursuant to the Australian Corporations Act, in which the principal class of units is listed on a recognized stock exchange in Australia and is regularly traded on an established securities market.

"Qualified Foreign Entity" means a corporation, trust, association or partnership organized outside the laws of the United States and that satisfies all of the following criteria:

(1) At least 75 percent of the entity's total asset value at the close of its taxable year is represented by real estate assets, as defined in § 856(c)(5)(B) of the Internal Revenue Code, thereby including shares or certificates of beneficial interest in any REIT, cash and cash equivalents, and U.S. Government securities;

(2) The entity is not subject to a tax on amounts distributed to its beneficial owners, or is exempt from entity level tax;

(3) The entity distributes, on an annual basis, at least 85 percent of its taxable income, as computed in the jurisdiction in which it is organized, to the holders of its shares or certificates of beneficial interest;

(4) The shares or certificates of beneficial interest of such entity are regularly traded on an established securities market or, if not so traded, not more than 10 percent of the voting power or value in such entity is held directly, indirectly, or constructively by a single entity or individual; and

(5) The entity is organized in a country that has a tax treaty with the United States.

e. For taxable years beginning on or after January 1, 2016, for purposes of subdivision B 10, any voting power or value of the beneficial interests or shares in a REIT that is held in a segregated asset account of a life insurance corporation as described in § 817 of the Internal Revenue Code shall not be taken into consideration when determining if such REIT is a Captive REIT.

11. For taxable years beginning on or after January 1, 2016, to the extent that tax credit is allowed for the same donation pursuant to § 58.1-439.12:12, any amount claimed as a federal income tax deduction for such donation under § 170 of the Internal Revenue Code, as amended or renumbered.

- C. There shall be subtracted to the extent included in and not otherwise subtracted from federal taxable income:
1. Income derived from obligations, or on the sale or exchange of obligations, of the United States and on obligations or securities of any authority, commission or instrumentality of the United States to the extent exempt from state income taxes under the laws of the United States including, but not limited to, stocks, bonds, treasury bills, and treasury notes, but not including interest on refunds of federal taxes, interest on equipment purchase contracts, or interest on other normal business transactions.
  2. Income derived from obligations, or on the sale or exchange of obligations of this Commonwealth or of any political subdivision or instrumentality of this Commonwealth.
  3. Dividends upon stock in any domestic international sales corporation, as defined by § 992 of the Internal Revenue Code, 50 percent or more of the income of which was assessable for the preceding year, or the last year in which such corporation has income, under the provisions of the income tax laws of the Commonwealth.
  4. The amount of any refund or credit for overpayment of income taxes imposed by this Commonwealth or any other taxing jurisdiction.
  5. Any amount included therein by the operation of the provisions of § 78 of the Internal Revenue Code (foreign dividend gross-up).
  6. The amount of wages or salaries eligible for the federal Targeted Jobs Credit which was not deducted for federal purposes on account of the provisions of § 280C(a) of the Internal Revenue Code.
  7. Any amount included therein by the operation of § 951 of the Internal Revenue Code (subpart F income).
  8. Any amount included therein which is foreign source income as defined in § 58.1-302.
  9. [Repealed.]
  10. The amount of any dividends received from corporations in which the taxpaying corporation owns 50 percent or more of the voting stock.
  11. [Repealed.]
  - 12, 13. [Expired.]
  14. For taxable years beginning on or after January 1, 1995, the amount for "qualified research expenses" or "basic research expenses" eligible for deduction for federal purposes, but which were not deducted, on account of the provisions of § 280C(c) of the Internal Revenue Code.
  15. For taxable years beginning on or after January 1, 2000, the total amount actually contributed in funds to the Virginia Public School Construction Grants Program and Fund established in Chapter 11.1 (§ 22.1-175.1 et seq.) of Title 22.1.
  16. For taxable years beginning on or after January 1, 2000, but before January 1, 2015, the gain derived from the sale or exchange of real property or the sale or exchange of an easement to real property which results in the real property or the easement thereto being devoted to open-space use, as that term is defined in § 58.1-3230, for a period of time not less than 30 years. To the extent a subtraction is taken in accordance with this subdivision, no tax credit under this chapter for donating land for its preservation shall be allowed for three years following the year in which the subtraction is taken.
  17. For taxable years beginning on and after January 1, 2001, any amount included therein with respect to § 58.1-440.1.
  18. For taxable years beginning on and after January 1, 1999, income received as a result of (i) the "Master Settlement Agreement," as defined in § 3.2-3100; and (ii) the National Tobacco Grower Settlement Trust dated July 19, 1999, by (a) tobacco farming businesses; (b) any business holding a tobacco marketing quota, or tobacco farm acreage allotment, under the Agricultural Adjustment Act of 1938; or (c) any business having the right to grow tobacco pursuant to such a quota allotment.
  - 19, 20. [Repealed.]
  21. For taxable years beginning on and after January 1, 2004, any amount of intangible expenses and costs or interest expenses and costs added to the federal taxable income of a corporation pursuant to subdivision B 8 or B 9 shall be subtracted from the federal taxable income of the related member that received such amount if such related member is subject to Virginia income tax on the same amount.
  22. For taxable years beginning on and after January 1, 2009, any gain recognized from the sale of launch services to space flight participants, as defined in 49 U.S.C. § 70102, or launch services intended to provide individuals the training or experience of a launch, without performing an actual launch. To qualify for a deduction under this subdivision, launch services must be performed in Virginia or originate from an airport or spaceport in Virginia.
  23. For taxable years beginning on and after January 1, 2009, any gain recognized as a result of resupply services contracts for delivering payload, as defined in 49 U.S.C. § 70102, entered into with the Commercial Orbital Transportation Services division of the National Aeronautics and Space Administration or other space flight entity, as defined in § 8.01-227.8, and launched from an airport or spaceport in Virginia.
  24. For taxable years beginning on or after January 1, 2011, any income taxed as a long-term capital gain for federal income tax purposes, or any income taxed as investment services partnership interest income (otherwise known as investment partnership carried interest income) for federal income tax purposes. To qualify for a subtraction under this subdivision, such income must be attributable to an investment in a "qualified business," as defined in § 58.1-339.4, or in any other technology business approved by the Secretary of Technology, provided the business has its principal office or facility in the Commonwealth and less than \$3 million in annual revenues in the fiscal year prior to the investment. To qualify for a subtraction under this subdivision, the investment must be made between the dates of April 1, 2010, and

June 30, 2020. No taxpayer who has claimed a tax credit for an investment in a "qualified business" under § 58.1-339.4 shall be eligible for the subtraction under this subdivision for an investment in the same business.

25. a. *Income, including investment services partnership interest income (otherwise known as investment partnership carried interest income), attributable to an investment in a Virginia venture capital account. To qualify for a subtraction under this subdivision, the investment shall be made on or after January 1, 2018, but before December 31, 2023. No subtraction shall be allowed under this subdivision for an investment in a company that is owned or operated by an affiliate of the taxpayer. No subtraction shall be allowed under this subdivision for a taxpayer who has claimed a subtraction under subdivision 24 for the same investment.*

b. *As used in this subdivision 25:*

*"Qualified portfolio company" means a company that (i) has its principal place of business in the Commonwealth; (ii) has a primary purpose of production, sale, research, or development of a product or service other than the management or investment of capital; and (iii) provides equity in the company to the Virginia venture capital account in exchange for a capital investment. "Qualified portfolio company" does not include a company that is an individual or sole proprietorship.*

*"Virginia venture capital account" means an investment fund that has been certified by the Department as a Virginia venture capital account. In order to be certified as a Virginia venture capital account, the operator of the investment fund shall register the investment fund with the Department prior to December 31, 2023, (i) indicating that it intends to invest at least 50 percent of the capital committed to its fund in qualified portfolio companies and (ii) providing documentation that it employs at least one investor who has at least four years of professional experience in venture capital investment or substantially equivalent experience. "Substantially equivalent experience" includes, but is not limited to, an undergraduate degree from an accredited college or university in economics, finance, or a similar field of study. The Department may require an investment fund to provide documentation of the investor's training, education, or experience as deemed necessary by the Department to determine substantial equivalency. If the Department determines that the investment fund employs at least one investor with the experience set forth herein, the Department shall certify the investment fund as a Virginia venture capital account at such time as the investment fund actually invests at least 50 percent of the capital committed to its fund in qualified portfolio companies.*

D. For taxable years beginning on and after January 1, 2006, there shall be subtracted from federal taxable income contract payments to a producer of quota tobacco or a tobacco quota holder as provided under the American Jobs Creation Act of 2004 (P.L. 108-357) as follows:

1. If the payment is received in installment payments, then the recognized gain, including any gain recognized in taxable year 2005, may be subtracted in the taxable year immediately following the year in which the installment payment is received.

2. If the payment is received in a single payment, then 10 percent of the recognized gain may be subtracted in the taxable year immediately following the year in which the single payment is received. The taxpayer may then deduct an equal amount in each of the nine succeeding taxable years.

E. Adjustments to federal taxable income shall be made to reflect the transitional modifications provided in § 58.1-315.

F. Notwithstanding any other provision of law, the income from any disposition of real property which is held by the taxpayer for sale to customers in the ordinary course of the taxpayer's trade or business, as defined in § 453(l)(1)(B) of the Internal Revenue Code, of property made on or after January 1, 2009, may, at the election of the taxpayer, be recognized under the installment method described under § 453 of the Internal Revenue Code, provided that (i) the election relating to the dealer disposition of the property has been made on or before the due date prescribed by law (including extensions) for filing the taxpayer's return of the tax imposed under this chapter for the taxable year in which the disposition occurs, and (ii) the dealer disposition is in accordance with restrictions or conditions established by the Department, which shall be set forth in guidelines developed by the Department. Along with such restrictions or conditions, the guidelines shall also address the recapture of such income under certain circumstances. The development of the guidelines shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq.).

**2. That prior to December 31, 2017, the Department of Taxation shall promulgate regulations in accordance with the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia) establishing procedures implementing the provisions of this act relating to (i) the registration of an investment fund as a Virginia venture capital account; (ii) the provision of documentation regarding an investor's training, education, or experience as deemed necessary by the Department to meet the requirements of this act; and (iii) the certification of an investment fund as a Virginia venture capital account by the Department of Taxation.**

**3. That the Department of Taxation shall report annually by November 1 of each year to the Chairmen of the House Committee on Appropriations and the Senate Committee on Finance regarding the number of registrations and certifications of Virginia venture capital accounts.**

## CHAPTER 763

*An Act to amend and reenact § 57-49 of the Code of Virginia, relating to charitable solicitations; registration statement.*

[H 2090]

Approved March 24, 2017

**Be it enacted by the General Assembly of Virginia:****1. That § 57-49 of the Code of Virginia is amended and reenacted as follows:****§ 57-49. Registration of charitable organizations; prohibition against support of terrorists.**

A. Every charitable organization, except as otherwise provided in this chapter, which intends to solicit contributions within the Commonwealth, or have funds solicited on its behalf, shall, prior to any solicitation, file an initial registration statement with the Commissioner upon forms acceptable to him. Each registration statement shall thereafter be refiled on or before the fifteenth day of the fifth calendar month of the next and each following fiscal year in which such charitable organization is engaged in solicitation activities within the Commonwealth. It shall be the duty of the president, chairman or principal officer of such charitable organization to file the statements required under this chapter. A charitable organization's registration statement may alternatively be filed online on a website approved by the Commissioner. Such statement shall contain the following information:

1. The name of the organization and the purpose for which it was organized.
2. The principal address of the organization, the address of any offices in the Commonwealth and its designated agent for process within the Commonwealth. If no such agent is designated, the organization shall be deemed to have designated the Secretary of the Commonwealth. If the organization does not maintain an office, the name and address of the person having custody of its financial records.
3. The names and addresses of any chapters, branches or affiliates in the Commonwealth.
4. The place where and the date when the organization was legally established, the form of its organization, and a reference to any determination of its tax-exempt status under the Internal Revenue Code.
5. The names and addresses of the officers, directors, trustees and the principal salaried executive staff officer.
6. A copy of a balance sheet and income and expense statement, with the opinion of any independent public accountant, for the organization's immediately preceding fiscal year; a copy of a financial statement certified by an independent public accountant covering, in a consolidated report, complete information as to all the preceding year's fund-raising activities of the charitable organization, showing kind and amount of funds raised, fund-raising expenses and allocation of disbursement of funds raised; or a copy of Internal Revenue Service Form 990. The report required by this subdivision shall comply with the accounting standards prescribed pursuant to § 57-53. Any organization whose annual gross revenue qualifies such organization to file Form 990-N (also referred to as the e-Postcard) with the Internal Revenue Service may submit a balance sheet and income and expense statement verified under oath or affirmation by the treasurer of the organization.
7. *A statement indicating the percentage of contributions received during the preceding fiscal year that was dedicated to the charitable purpose of the charitable organization.*
8. A statement showing the computation of the percentages provided for in § 57-58.
- ~~9.~~ 9. A statement indicating whether the organization intends to solicit contributions from the public directly or have such done on its behalf by others.
- ~~9.~~ 10. A statement indicating whether the organization is authorized by any other governmental authority to solicit contributions and whether it, or any officer, professional fund-raiser or professional solicitor thereof, is or has ever been enjoined by any court or otherwise prohibited from soliciting contributions in any jurisdiction.
- ~~10.~~ 11. The general purpose or purposes for which the contributions to be solicited shall be used.
- ~~11.~~ 12. The name or names under which it intends to solicit contributions.
- ~~12.~~ 13. The names of the individuals or officers of the organization who will have final responsibility for the custody of the contributions.
- ~~13.~~ 14. The names of the individuals or officers of the organization responsible for the final distribution of the contributions.
- ~~14.~~ 15. A statement indicating whether the organization, or any officer, professional fund-raiser or professional solicitor thereof, has ever been convicted of a felony and, if so, a description of the pertinent facts.
- ~~15.~~ 16. A copy of the current articles of incorporation, bylaws, or other governing documents. If current copies are already on file with the Commissioner, only amendments, if any, shall be filed in years after the initial registration.
- ~~16.~~ 17. A description of the types of solicitation to be undertaken.

A1. Every registration statement shall include the following language:

"No funds have been or will knowingly be used, directly or indirectly, to benefit or provide support, in cash or in kind, to terrorists, terrorist organizations, terrorist activities, or the family members of any terrorist."

A2. No person shall be registered by the Commonwealth or by any locality to solicit funds that are intended to benefit or support terrorists, terrorist organizations or terrorist activities. No person shall be registered by the Commonwealth or by any locality to solicit funds that are intended to benefit or support a family member of any terrorist, unless a court of competent jurisdiction within the Commonwealth, upon petition of an interested person, finds by clear and convincing evidence that, for a period of at least three years next preceding any act of terrorism committed by such terrorist or terrorist organization, the family members to whom the benefit of the contributions shall inure have been living separate and apart from the terrorist or terrorist organization, and the family members have not provided any financial support, in cash or in kind, to the terrorist or terrorist organization for the same period of time.

B. Each chapter, branch or affiliate, except an independent member agency of a federated fund-raising organization, shall separately report the information required by this section or report the information to its parent organization which

shall then furnish such information as to itself and all of its state affiliates, chapters and branches in a consolidated form. All affiliated organizations included in a consolidated registration statement shall be considered as one charitable organization for all purposes of this chapter. If a consolidated registration statement is filed, all statements thereafter filed shall be upon the same basis unless permission to change is granted by the Commissioner.

C. Each federated fund-raising organization shall report the information required by this section in a consolidated form. Any federated fund-raising organization may elect to exclude from its consolidated report information relating to the separate fund-raising activities of all of its independent member agencies. No member agency of a federated fund-raising organization shall be required to report separately any information contained in such a consolidated report. Any separate solicitations campaign conducted by, or on behalf of, any such member agency shall nevertheless be subject to all other provisions of this chapter.

D. The registration forms shall be signed by the chief fiscal officer and by another authorized officer of the charitable organization. If the registration forms are filed online using a website approved by the Commissioner, the charitable organization shall follow the procedures on that website for signing the forms.

E. Every charitable organization which submits an independent registration to the Commissioner shall pay an annual registration fee of (i) \$30 if its gross contributions for the preceding year do not exceed \$25,000; (ii) \$50 if its gross contributions exceed \$25,000 but do not exceed \$50,000; (iii) \$100 if its gross contributions exceed \$50,000 but do not exceed \$100,000; (iv) \$200 if its gross contributions exceed \$100,000 but do not exceed \$500,000; (v) \$250 if its gross contributions exceed \$500,000 but do not exceed \$1 million; and (vi) \$325 if its gross contributions exceed \$1 million. A parent organization filing on behalf of one or more chapters, branches or affiliates or a federated fund-raising organization filing on behalf of its member agencies shall pay a single annual registration fee for itself and such chapters, branches, affiliates or member agencies included in the registration statement. Organizations with no prior financial history filing an initial registration shall be required to pay an initial fee of \$100. Organizations with prior financial history filing an initial registration shall be required to pay an initial fee of \$100 in addition to the annual registration fee. Any organization which allows its registration to lapse, without requesting an extension of time to file, shall be required to resubmit an initial registration. An extension may be granted upon receipt of a written request.

#### CHAPTER 764

*An Act to amend and reenact § 23.1-1300 of the Code of Virginia, relating to governing boards of public institutions of higher education; leadership; residency.*

[H 1402]

Approved March 27, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 23.1-1300 of the Code of Virginia is amended and reenacted as follows:**

**§ 23.1-1300. Members of governing boards; removal; terms; nonvoting, advisory representatives; residency.**

A. Members appointed by the Governor to the governing boards of public institutions of higher education shall serve for terms of four years. Vacancies occurring other than by expiration of a term shall be filled for the unexpired term. No member appointed by the Governor to such a governing board shall serve for more than two consecutive four-year terms; however, a member appointed by the Governor to serve an unexpired term is eligible to serve two consecutive four-year terms immediately succeeding such unexpired term. Except as otherwise provided in § 23.1-2601, all appointments are subject to confirmation by the General Assembly. Members appointed by the Governor to the governing board of a public institution of higher education shall continue to hold office until their successors have been appointed and confirmed. Ex officio members shall serve a term coincident with their term of office.

B. No member appointed by the Governor to the governing board of a public institution of higher education who has served two consecutive four-year terms on such board is eligible to serve on the same board until at least four years have passed since the end of his second consecutive four-year term.

C. Notwithstanding the provisions of subsection E or any other provision of law, the Governor may remove from office for malfeasance, misfeasance, incompetence, or gross neglect of duty any member of the board of any public institution of higher education and fill the vacancy resulting from the removal.

D. The Governor shall set forth in a written public statement his reasons for removing any member pursuant to subsection C at the time the removal occurs. The Governor is the sole judge of the sufficiency of the cause for removal as set forth in subsection C.

E. If any member of the governing board of a public institution of higher education fails to attend (i) the meetings of the board for one year without sufficient cause, as determined by a majority vote of the board, or (ii) the educational programs required by § 23.1-1304 in his first two years of membership without sufficient cause, as determined by a majority vote of the board, the remaining members of the board shall record such failure in the minutes at its next meeting and notify the Governor, and the office of such member shall be vacated. No member of the board of visitors of a four-year public institution of higher education or the State Board for Community Colleges who fails to attend the educational programs required by § 23.1-1304 during his first four-year term is eligible for reappointment to such board.

F. The governing board of each public institution of higher education shall adopt in its bylaws policies (i) for removing members pursuant to subsection E and (ii) referencing the Governor's power to remove members described in subsection C.

G. The governing board of each public institution of higher education and each local community college board may appoint one or more nonvoting, advisory faculty representatives to its respective board. In the case of local community college boards and boards of visitors, such representatives shall be chosen from individuals elected by the faculty or the institution's faculty senate or its equivalent. In the case of the State Board, such representatives shall be chosen from individuals elected by the Chancellor's Faculty Advisory Committee. Such representatives shall be appointed to serve (i) at least one term of at least 12 months, which shall be coterminous with the institution's fiscal year or (ii) for such terms as may be mutually agreed to by the State Board and the Chancellor's Faculty Advisory Committee, or by the local community college board or the board of visitors, and the institution's faculty senate or its equivalent.

H. The board of visitors of any baccalaureate public institution of higher education shall appoint one or more students as nonvoting, advisory representatives. Such representatives shall be appointed under such circumstances and serve for such terms as the board of visitors of the institution shall prescribe.

I. Nothing in subsections G and H shall prohibit the governing board of any public institution of higher education or any local community college board from excluding such nonvoting, advisory faculty or student representatives from discussions of faculty grievances, faculty or staff disciplinary matters or salaries, or any other matter.

J. *The president or any one of the vice presidents of the board of visitors of Virginia Military Institute, the chairman or the vice-chairman of the State Board, and the rector or vice-rector of the governing board of each other public institution of higher education shall be a resident of the Commonwealth.*

**CHAPTER 765**

*An Act to amend and reenact § 22.1-273 of the Code of Virginia, relating to student sight and hearing testing; exception.*

[H 1437]

Approved March 27, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 22.1-273 of the Code of Virginia is amended and reenacted as follows:**

**§ 22.1-273. Sight and hearing of students to be tested; exceptions.**

A. The Superintendent of Public Instruction shall prepare or cause to be prepared, with the advice and approval of the State Health Commissioner, suitable test cards, blanks, record books, and other appliances for testing the sight and hearing of the ~~pupils~~ *students* in the public schools and necessary instructions for the use thereof. The ~~State~~ Department of Education shall furnish the same free of expense to all schools in a school division upon request of the school board of such division accompanied by a resolution of the school board directing the use of such test cards, blanks, record books and other appliances in the schools of the school division.

B. Within the time periods and at the grades provided in regulations promulgated by the Board of Education, the principal of each such school shall cause the sight and hearing of the relevant ~~pupils~~ *students* in the school to be tested, unless ~~such students are pupils~~:

1. *Any such student is admitted for the first time to a public kindergarten or elementary school who have and has been so tested as part of the comprehensive physical examination required by § 22.1-270 or the;*

2. *The parents or guardians of any such ~~students~~ student object on religious grounds and the ~~students show~~ student shows no obvious evidence of any defect or disease of the eyes or ears; or*

3. *Any such student has an Individualized Education Program or a Section 504 Plan that documents a defect of vision or hearing or a disease of the eyes or ears and the principal determines that such a test would not identify any previously unknown defect of vision or hearing or a disease of the eyes or ears.*

C. The principal shall keep a record of ~~such~~ *examinations conducted pursuant to subsection B* in accordance with instructions furnished.

D. Whenever a ~~pupil~~ *student* is found to have any defect of vision or hearing or a disease of the eyes or ears, the principal shall forthwith notify the parent or guardian, in writing, of such defect or disease. Copies of the report shall be preserved for the use of the Superintendent of Public Instruction as he may require.

**CHAPTER 766**

*An Act to amend and reenact § 23.1-1300 of the Code of Virginia, relating to governing boards of public institutions of higher education; leadership; residency.*

[S 907]

Approved March 27, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 23.1-1300 of the Code of Virginia is amended and reenacted as follows:**

**§ 23.1-1300. Members of governing boards; removal; terms; nonvoting, advisory representatives; residency.**

A. Members appointed by the Governor to the governing boards of public institutions of higher education shall serve for terms of four years. Vacancies occurring other than by expiration of a term shall be filled for the unexpired term. No member appointed by the Governor to such a governing board shall serve for more than two consecutive four-year terms; however, a member appointed by the Governor to serve an unexpired term is eligible to serve two consecutive four-year terms immediately succeeding such unexpired term. Except as otherwise provided in § 23.1-2601, all appointments are subject to confirmation by the General Assembly. Members appointed by the Governor to the governing board of a public institution of higher education shall continue to hold office until their successors have been appointed and confirmed. Ex officio members shall serve a term coincident with their term of office.

B. No member appointed by the Governor to the governing board of a public institution of higher education who has served two consecutive four-year terms on such board is eligible to serve on the same board until at least four years have passed since the end of his second consecutive four-year term.

C. Notwithstanding the provisions of subsection E or any other provision of law, the Governor may remove from office for malfeasance, misfeasance, incompetence, or gross neglect of duty any member of the board of any public institution of higher education and fill the vacancy resulting from the removal.

D. The Governor shall set forth in a written public statement his reasons for removing any member pursuant to subsection C at the time the removal occurs. The Governor is the sole judge of the sufficiency of the cause for removal as set forth in subsection C.

E. If any member of the governing board of a public institution of higher education fails to attend (i) the meetings of the board for one year without sufficient cause, as determined by a majority vote of the board, or (ii) the educational programs required by § 23.1-1304 in his first two years of membership without sufficient cause, as determined by a majority vote of the board, the remaining members of the board shall record such failure in the minutes at its next meeting and notify the Governor, and the office of such member shall be vacated. No member of the board of visitors of a four-year public institution of higher education or the State Board for Community Colleges who fails to attend the educational programs required by § 23.1-1304 during his first four-year term is eligible for reappointment to such board.

F. The governing board of each public institution of higher education shall adopt in its bylaws policies (i) for removing members pursuant to subsection E and (ii) referencing the Governor's power to remove members described in subsection C.

G. The governing board of each public institution of higher education and each local community college board may appoint one or more nonvoting, advisory faculty representatives to its respective board. In the case of local community college boards and boards of visitors, such representatives shall be chosen from individuals elected by the faculty or the institution's faculty senate or its equivalent. In the case of the State Board, such representatives shall be chosen from individuals elected by the Chancellor's Faculty Advisory Committee. Such representatives shall be appointed to serve (i) at least one term of at least 12 months, which shall be coterminous with the institution's fiscal year or (ii) for such terms as may be mutually agreed to by the State Board and the Chancellor's Faculty Advisory Committee, or by the local community college board or the board of visitors, and the institution's faculty senate or its equivalent.

H. The board of visitors of any baccalaureate public institution of higher education shall appoint one or more students as nonvoting, advisory representatives. Such representatives shall be appointed under such circumstances and serve for such terms as the board of visitors of the institution shall prescribe.

I. Nothing in subsections G and H shall prohibit the governing board of any public institution of higher education or any local community college board from excluding such nonvoting, advisory faculty or student representatives from discussions of faculty grievances, faculty or staff disciplinary matters or salaries, or any other matter.

J. *The president or any one of the vice presidents of the board of visitors of Virginia Military Institute, the chairman or the vice-chairman of the State Board, and the rector or vice-rector of the governing board of each other public institution of higher education shall be a resident of the Commonwealth.*

## CHAPTER 767

*An Act to amend and reenact § 18.2-308.2 of the Code of Virginia, relating to possession of certain antique firearms; nonviolent felons.*

[S 1533]

Approved March 27, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 18.2-308.2 of the Code of Virginia is amended and reenacted as follows:**

**§ 18.2-308.2. Possession or transportation of firearms, firearms ammunition, stun weapons, explosives or concealed weapons by convicted felons; penalties; petition for permit; when issued.**

A. It shall be unlawful for (i) any person who has been convicted of a felony; (ii) any person adjudicated delinquent as a juvenile 14 years of age or older at the time of the offense of murder in violation of § 18.2-31 or 18.2-32, kidnapping in violation of § 18.2-47, robbery by the threat or presentation of firearms in violation of § 18.2-58, or rape in violation of § 18.2-61; or (iii) any person under the age of 29 who was adjudicated delinquent as a juvenile 14 years of age or older at the time of the offense of a delinquent act which would be a felony if committed by an adult, other than those felonies set forth in clause (ii), whether such conviction or adjudication occurred under the laws of the Commonwealth, or any other

state, the District of Columbia, the United States or any territory thereof, to knowingly and intentionally possess or transport any firearm or ammunition for a firearm, any stun weapon as defined by § 18.2-308.1, or any explosive material, or to knowingly and intentionally carry about his person, hidden from common observation, any weapon described in subsection A of § 18.2-308. However, such person may possess in his residence or the curtilage thereof a stun weapon as defined by § 18.2-308.1. Any person who violates this section shall be guilty of a Class 6 felony. However, any person who violates this section by knowingly and intentionally possessing or transporting any firearm and who was previously convicted of a violent felony as defined in § 17.1-805 shall be sentenced to a mandatory minimum term of imprisonment of five years. Any person who violates this section by knowingly and intentionally possessing or transporting any firearm and who was previously convicted of any other felony within the prior 10 years shall be sentenced to a mandatory minimum term of imprisonment of two years. The mandatory minimum terms of imprisonment prescribed for violations of this section shall be served consecutively with any other sentence.

B. The prohibitions of subsection A shall not apply to (i) any person who possesses a firearm, ammunition for a firearm, explosive material or other weapon while carrying out his duties as a member of the Armed Forces of the United States or of the National Guard of Virginia or of any other state, (ii) any law-enforcement officer in the performance of his duties, (iii) any person who has been pardoned or whose political disabilities have been removed pursuant to Article V, Section 12 of the Constitution of Virginia provided the Governor, in the document granting the pardon or removing the person's political disabilities, may expressly place conditions upon the reinstatement of the person's right to ship, transport, possess or receive firearms, (iv) any person whose right to possess firearms or ammunition has been restored under the law of another state subject to conditions placed upon the reinstatement of the person's right to ship, transport, possess, or receive firearms by such state, or (v) any person adjudicated delinquent as a juvenile who has completed a term of service of no less than two years in the Armed Forces of the United States and, if such person has been discharged from the Armed Forces of the United States, received an honorable discharge and who is not otherwise prohibited under clause (i) or (ii) of subsection A.

C. Any person prohibited from possessing, transporting, or carrying a firearm, ammunition for a firearm, or a stun weapon under subsection A may petition the circuit court of the jurisdiction in which he resides or, if the person is not a resident of the Commonwealth, the circuit court of any county or city where such person was last convicted of a felony or adjudicated delinquent of a disqualifying offense pursuant to subsection A, for a permit to possess or carry a firearm, ammunition for a firearm, or a stun weapon; however, no person who has been convicted of a felony shall be qualified to petition for such a permit unless his civil rights have been restored by the Governor or other appropriate authority. A copy of the petition shall be mailed or delivered to the attorney for the Commonwealth for the jurisdiction where the petition was filed who shall be entitled to respond and represent the interests of the Commonwealth. The court shall conduct a hearing if requested by either party. The court may, in its discretion and for good cause shown, grant such petition and issue a permit. The provisions of this section relating to firearms, ammunition for a firearm, and stun weapons shall not apply to any person who has been granted a permit pursuant to this subsection.

C1. Any person who was prohibited from possessing, transporting or carrying explosive material under subsection A may possess, transport or carry such explosive material if his right to possess, transport or carry explosive material has been restored pursuant to federal law.

C2. *The prohibitions of subsection A shall not prohibit any person other than a person convicted of an act of violence as defined in § 19.2-297.1 or a violent felony as defined in subsection C of § 17.1-805 from possessing, transporting, or carrying (i) antique firearms or (ii) black powder in a quantity not exceeding five pounds if it is intended to be used solely for sporting, recreational, or cultural purposes in antique firearms. For the purposes of this subsection, "antique firearms" means any firearm described in subdivision 3 of the definition of "antique firearm" in subsection G of § 18.2-308.2:2.*

D. For the purpose of this section:

"Ammunition for a firearm" means the combination of a cartridge, projectile, primer, or propellant designed for use in a firearm other than an antique firearm as defined in § 18.2-308.2:2.

"Explosive material" means any chemical compound mixture, or device, the primary or common purpose of which is to function by explosion; the term includes, but is not limited to, dynamite and other high explosives, black powder, pellet powder, smokeless gun powder, detonators, blasting caps and detonating cord but shall not include fireworks or permissible fireworks as defined in § 27-95.

## CHAPTER 768

*An Act to amend and reenact § 32.1-102.4 of the Code of Virginia, relating to conditions on certificates of public need; alternative plans of compliance.*

[H 1544]

Approved March 27, 2017

**Be it enacted by the General Assembly of Virginia:**

- 1. That § 32.1-102.4 of the Code of Virginia is amended and reenacted as follows:**
  - § 32.1-102.4. Conditions of certificates; monitoring; revocation of certificates.**

A. A certificate shall be issued with a schedule for the completion of the project and a maximum capital expenditure amount for the project. The schedule may not be extended and the maximum capital expenditure may not be exceeded without the approval of the Commissioner in accordance with the regulations of the Board.

B. The Commissioner shall monitor each project for which a certificate is issued to determine its progress and compliance with the schedule and with the maximum capital expenditure. The Commissioner shall also monitor all continuing care retirement communities for which a certificate is issued authorizing the establishment of a nursing home facility or an increase in the number of nursing home beds pursuant to § 32.1-102.3:2 and shall enforce compliance with the conditions for such applications which are required by § 32.1-102.3:2. Any willful violation of a provision of § 32.1-102.3:2 or conditions of a certificate of public need granted under the provisions of § 32.1-102.3:2 shall be subject to a civil penalty of up to \$100 per violation per day until the date the Commissioner determines that such facility is in compliance.

C. A certificate may be revoked when:

1. Substantial and continuing progress towards completion of the project in accordance with the schedule has not been made;

2. The maximum capital expenditure amount set for the project is exceeded;

3. The applicant has willfully or recklessly misrepresented intentions or facts in obtaining a certificate; or

4. A continuing care retirement community applicant has failed to honor the conditions of a certificate allowing the establishment of a nursing home facility or granting an increase in the number of nursing home beds in an existing facility which was approved in accordance with the requirements of § 32.1-102.3:2.

D. Further, the Commissioner shall not approve an extension for a schedule for completion of any project or the exceeding of the maximum capital expenditure of any project unless such extension or excess complies with the limitations provided in the regulations promulgated by the Board pursuant to § 32.1-102.2.

E. Any person willfully violating the Board's regulations establishing limitations for schedules for completion of any project or limitations on the exceeding of the maximum capital expenditure of any project shall be subject to a civil penalty of up to \$100 per violation per day until the date of completion of the project.

F. The Commissioner may condition, pursuant to the regulations of the Board, the approval of a certificate (i) upon the agreement of the applicant to provide a level of care at a reduced rate to indigents or accept patients requiring specialized care or (ii) upon the agreement of the applicant to facilitate the development and operation of primary medical care services in designated medically underserved areas of the applicant's service area.

The certificate holder shall provide documentation to the Department demonstrating that the certificate holder has satisfied the conditions of the certificate. If the certificate holder is unable or fails to satisfy the conditions of a certificate, the Department may approve alternative methods to satisfy the conditions pursuant to a plan of compliance. The plan of compliance shall identify a timeframe within which the certificate holder will satisfy the conditions of the certificate, and identify how the certificate holder will satisfy the conditions of the certificate, which may include (i) making direct payments to an organization authorized under a memorandum of understanding with the Department to receive contributions satisfying conditions of a certificate, (ii) making direct payments to a private nonprofit foundation that funds basic insurance coverage for indigents authorized under a memorandum of understanding with the Department to receive contributions satisfying conditions of a certificate, or (iii) other documented efforts or initiatives to provide primary or specialized care to underserved populations. *In cases in which the certificate holder holds more than one certificate with conditions pursuant to this subsection, and the certificate holder is unable to satisfy the conditions of one certificate, such plan of compliance may provide for satisfaction of the conditions on that certificate by providing care at a reduced rate to indigent individuals in excess of the amount required by another certificate issued to the same holder, in an amount approved by the Department provided such care is offered at the same facility. Nothing in the preceding sentence shall prohibit the satisfaction of conditions of more than one certificate among various affiliated facilities or certificates subject to a system-wide or all-inclusive charity care condition established by the Commissioner.* In determining whether the certificate holder has met the conditions of the certificate pursuant to a plan of compliance, only such direct payments, efforts, or initiatives made or undertaken after issuance of the conditioned certificate shall be counted towards satisfaction of conditions.

Any person willfully refusing, failing, or neglecting to honor such agreement shall be subject to a civil penalty of up to \$100 per violation per day until the date of compliance.

G. Pursuant to regulations of the Board, the Commissioner may accept requests for and approve amendments to conditions of existing certificates related to the provision of care at reduced rates or to patients requiring specialized care or related to the development and operation of primary medical care services in designated medically underserved areas of the certificate holder's service area.

H. For the purposes of this section, "completion" means conclusion of construction activities necessary for the substantial performance of the contract.

## CHAPTER 769

## HOUSE JOINT RESOLUTION NO. 545

*Proposing an amendment to Section 14 of Article IV of the Constitution of Virginia, relating to powers of the General Assembly; suspension or nullification of administrative rule or regulation.*

Agreed to by the House of Delegates, February 22, 2017

Agreed to by the Senate, February 20, 2017

RESOLVED by the House of Delegates, the Senate concurring, a majority of the members elected to each house agreeing, That the following amendment to the Constitution of Virginia be, and the same hereby is, proposed and referred to the General Assembly at its first regular session held after the next general election of members of the House of Delegates for its concurrence in conformity with the provisions of Section 1 of Article XII of the Constitution of Virginia, namely:

Amend Section 14 of Article IV of the Constitution of Virginia as follows:

ARTICLE IV  
LEGISLATURE

Section 14. Powers of General Assembly; limitations.

The authority of the General Assembly shall extend to all subjects of legislation not herein forbidden or restricted; and a specific grant of authority in this Constitution upon a subject shall not work a restriction of its authority upon the same or any other subject. The omission in this Constitution of specific grants of authority heretofore conferred shall not be construed to deprive the General Assembly of such authority, or to indicate a change of policy in reference thereto, unless such purpose plainly appear.

The General Assembly shall confer on the courts power to grant divorces, change the names of persons, and direct the sales of estates belonging to infants and other persons under legal disabilities, and shall not, by special legislation, grant relief in these or other cases of which the courts or other tribunals may have jurisdiction.

The General Assembly may regulate the exercise by courts of the right to punish for contempt.

*The General Assembly may suspend or nullify any or all portions of any administrative rule or regulation by a joint resolution agreed to by a majority of the members elected to each house. The General Assembly may by general law authorize a legislative committee or legislative committees acting jointly or a legislative commission to suspend any or all portions of any administrative rule or regulation while the General Assembly is not in a regular session, within such restrictions and upon such conditions as may be prescribed. An administrative rule or regulation suspended by such committee or commission shall be suspended until the end of the next regular session.*

The General Assembly's power to define the accrual date for a civil action based on an intentional tort committed by a natural person against a person who, at the time of the intentional tort, was a minor shall include the power to provide for the retroactive application of a change in the accrual date. No natural person shall have a constitutionally protected property right to bar a cause of action based on intentional torts as described herein on the ground that a change in the accrual date for the action has been applied retroactively or that a statute of limitations or statute of repose has expired.

The General Assembly shall not enact any local, special, or private law in the following cases:

- (1) For the punishment of crime.
- (2) Providing a change of venue in civil or criminal cases.
- (3) Regulating the practice in, or the jurisdiction of, or changing the rules of evidence in any judicial proceedings or inquiry before the courts or other tribunals, or providing or changing the methods of collecting debts or enforcing judgments or prescribing the effect of judicial sales of real estate.
- (4) Changing or locating county seats.
- (5) For the assessment and collection of taxes, except as to animals which the General Assembly may deem dangerous to the farming interests.
- (6) Extending the time for the assessment or collection of taxes.
- (7) Exempting property from taxation.
- (8) Remitting, releasing, postponing, or diminishing any obligation or liability of any person, corporation, or association to the Commonwealth or to any political subdivision thereof.
- (9) Refunding money lawfully paid into the treasury of the Commonwealth or the treasury of any political subdivision thereof.
- (10) Granting from the treasury of the Commonwealth, or granting or authorizing to be granted from the treasury of any political subdivision thereof, any extra compensation to any public officer, servant, agent, or contractor.
- (11) For registering voters, conducting elections, or designating the places of voting.
- (12) Regulating labor, trade, mining, or manufacturing, or the rate of interest on money.
- (13) Granting any pension.
- (14) Creating, increasing, or decreasing, or authorizing to be created, increased, or decreased, the salaries, fees, percentages, or allowances of public officers during the term for which they are elected or appointed.
- (15) Declaring streams navigable, or authorizing the construction of booms or dams therein, or the removal of obstructions therefrom.
- (16) Affecting or regulating fencing or the boundaries of land, or the running at large of stock.

- (17) Creating private corporations, or amending, renewing, or extending the charters thereof.
- (18) Granting to any private corporation, association, or individual any special or exclusive right, privilege, or immunity.
- (19) Naming or changing the name of any private corporation or association.
- (20) Remitting the forfeiture of the charter of any private corporation, except upon the condition that such corporation shall thereafter hold its charter subject to the provisions of this Constitution and the laws passed in pursuance thereof.

**CHAPTER 770**

**HOUSE JOINT RESOLUTION NO. 562**

*Proposing an amendment to Section 6-A of Article X of the Constitution of Virginia, relating to real property tax; exemption.*  
 Agreed to by the House of Delegates, February 6, 2017  
 Agreed to by the Senate, February 17, 2017

RESOLVED by the House of Delegates, the Senate concurring, a majority of the members elected to each house agreeing, That the following amendment to the Constitution of Virginia be, and the same hereby is, proposed and referred to the General Assembly at its first regular session held after the next general election of members of the House of Delegates for its concurrence in conformity with the provisions of Section 1 of Article XII of the Constitution of Virginia, namely:

Amend Section 6-A of Article X of the Constitution of Virginia as follows:

ARTICLE X  
 TAXATION AND FINANCE

Section 6-A. Property tax exemption for certain veterans *and their surviving spouses* and surviving spouses of soldiers killed in action.

(a) Notwithstanding the provisions of Section 6, the General Assembly by general law, and within the restrictions and conditions prescribed therein, shall exempt from taxation the real property, including the joint real property of husband and wife, of any veteran who has been determined by the United States Department of Veterans Affairs or its successor agency pursuant to federal law to have a one hundred percent service-connected, permanent, and total disability, and who occupies the real property as his or her principal place of residence. The General Assembly shall also provide this exemption from taxation for real property owned by the surviving spouse of a veteran who was eligible for the exemption provided in this section, so long as the surviving spouse does not remarry ~~and continues to occupy the real property as his or her principal place of residence.~~ *This exemption applies to the surviving spouse's principal place of residence without any restriction on the spouse's moving to a different principal place of residence.*

(b) Notwithstanding the provisions of Section 6, the General Assembly by general law, and within the restrictions and conditions prescribed therein, may exempt from taxation the real property of the surviving spouse of any member of the armed forces of the United States who was killed in action as determined by the United States Department of Defense, who occupies the real property as his or her principal place of residence. The exemption under this subdivision shall cease if the surviving spouse remarries and shall not be claimed thereafter. This exemption applies regardless of whether the spouse was killed in action prior to the effective date of this subdivision, but the exemption shall not be applicable for any period of time prior to the effective date. This exemption applies to the surviving spouse's principal place of residence without any restriction on the spouse's moving to a different principal place of residence and without any requirement that the spouse reside in the Commonwealth at the time of death of the member of the armed forces.

**CHAPTER 771**

**HOUSE JOINT RESOLUTION NO. 693**

*Proposing an amendment to the Constitution of Virginia by adding in Article X a section numbered 7-B, relating to special funds for transportation purposes.*

Agreed to by the House of Delegates, February 25, 2017  
 Agreed to by the Senate, February 22, 2017

RESOLVED by the House of Delegates, the Senate concurring, a majority of the members elected to each house agreeing, That the following amendment to the Constitution of Virginia be, and the same hereby is, proposed and referred to the General Assembly at its first regular session held after the next general election of members of the House of Delegates for its concurrence in conformity with the provisions of Section 1 of Article XII of the Constitution of Virginia, namely:

Amend the Constitution of Virginia by adding in Article X a section numbered 7-B as follows:

ARTICLE X  
 TAXATION AND FINANCE

*Section 7-B. Transportation Funds.*

(a) *The General Assembly shall maintain permanent and separate Transportation Funds. The Commonwealth Transportation Fund, Transportation Trust Fund, Highway Maintenance and Operating Fund, any other Fund established*

by general law for transportation, and all subsidiary accounts and parts thereof, shall be deemed Transportation Funds for purposes of this section.

(b) There shall be deposited to the Transportation Funds all revenues dedicated to the Transportation Funds under provisions of general law, but excluding a general appropriation law, in effect on January 1, 2018. However, the General Assembly may by general law, but excluding a general appropriation law, make changes to the revenues dedicated and paid into the Transportation Funds. Money in the Transportation Funds may be invested as authorized by law.

(c) The General Assembly shall appropriate Transportation Funds only for purposes of (i) financing, acquiring, constructing, improving, maintaining, and operating transportation systems in the Commonwealth, and all purposes incidental thereto; (ii) furthering the interests of the Commonwealth in highways, public transportation, railways, seaports, and airports; and (iii) providing for the operations of state agencies related to transportation.

(d) The General Assembly may borrow from Transportation Funds for other purposes only by an affirmative vote of two-thirds of the members elected to each house. The name of each member voting and how he voted shall be recorded in the journal of each house. Any amount borrowed shall be repaid to the Transportation Funds, with reasonable interest, not later than the end of the fourth full fiscal year following the effective date of the borrowing.

**CHAPTER 772**

**SENATE JOINT RESOLUTION NO. 295**

*Proposing an amendment to the Constitution of Virginia by adding in Article IV a section numbered 19, relating to legislative review of administrative rules.*

Agreed to by the Senate, February 7, 2017

Agreed to by the House of Delegates, February 20, 2017

RESOLVED by the Senate, the House of Delegates concurring, a majority of the members elected to each house agreeing, That the following amendment to the Constitution of Virginia be, and the same hereby is, proposed and referred to the General Assembly at its first regular session held after the next general election of members of the House of Delegates for its concurrence in conformity with the provisions of Section 1 of Article XII of the Constitution of Virginia, namely:

Amend the Constitution of Virginia by adding in Article IV a section numbered 19 as follows:

ARTICLE IV  
LEGISLATURE

*Section 19. Legislative review of administrative rules.*

*The General Assembly may review any administrative rule to ensure it is consistent with the legislative intent of the statute that the rule was written to interpret, prescribe, implement, or enforce. After that review, the General Assembly may approve or reject, in whole or in part, any rule as provided by law. The approval or rejection of a rule by the General Assembly shall not be subject to gubernatorial veto under Article V, Section 6 of this Constitution.*

**CHAPTER 773**

**SENATE JOINT RESOLUTION NO. 331**

*Proposing an amendment to Section 6 of Article X of the Constitution of Virginia, relating to property tax; exemption for flooding remediation, abatement, and resiliency.*

Agreed to by the Senate, February 6, 2017

Agreed to by the House of Delegates, February 21, 2017

RESOLVED by the Senate, the House of Delegates concurring, a majority of the members elected to each house agreeing, That the following amendment to the Constitution of Virginia be, and the same hereby is, proposed and referred to the General Assembly at its first regular session held after the next general election of members of the House of Delegates for its concurrence in conformity with the provisions of Section 1 of Article XII of the Constitution of Virginia, namely:

Amend Section 6 of Article X of the Constitution of Virginia as follows:

ARTICLE X  
TAXATION AND FINANCE

Section 6. Exempt property.

(a) Except as otherwise provided in this Constitution, the following property and no other shall be exempt from taxation, State and local, including inheritance taxes:

(1) Property owned directly or indirectly by the Commonwealth or any political subdivision thereof, and obligations of the Commonwealth or any political subdivision thereof exempt by law.

(2) Real estate and personal property owned and exclusively occupied or used by churches or religious bodies for religious worship or for the residences of their ministers.

(3) Private or public burying grounds or cemeteries, provided the same are not operated for profit.

(4) Property owned by public libraries or by institutions of learning not conducted for profit, so long as such property is primarily used for literary, scientific, or educational purposes or purposes incidental thereto. This provision may also apply to leasehold interests in such property as may be provided by general law.

(5) Intangible personal property, or any class or classes thereof, as may be exempted in whole or in part by general law.

(6) Property used by its owner for religious, charitable, patriotic, historical, benevolent, cultural, or public park and playground purposes, as may be provided by classification or designation by an ordinance adopted by the local governing body and subject to such restrictions and conditions as provided by general law.

(7) Land subject to a perpetual easement permitting inundation by water as may be exempted in whole or in part by general law.

(b) The General Assembly may by general law authorize the governing body of any county, city, town, or regional government to provide for the exemption from local property taxation, or a portion thereof, within such restrictions and upon such conditions as may be prescribed, of real estate and personal property designed for continuous habitation owned by, and occupied as the sole dwelling of, persons not less than sixty-five years of age or persons permanently and totally disabled as established by general law. A local governing body may be authorized to establish either income or financial worth limitations, or both, in order to qualify for such relief.

(c) Except as to property of the Commonwealth, the General Assembly by general law may restrict or condition, in whole or in part, but not extend, any or all of the above exemptions.

(d) The General Assembly may define as a separate subject of taxation any property, including real or personal property, equipment, facilities, or devices, used primarily for the purpose of abating or preventing pollution of the atmosphere or waters of the Commonwealth or for the purpose of transferring or storing solar energy, and by general law may allow the governing body of any county, city, town, or regional government to exempt or partially exempt such property from taxation, or by general law may directly exempt or partially exempt such property from taxation.

(e) The General Assembly may define as a separate subject of taxation household goods, personal effects and tangible farm property and products, and by general law may allow the governing body of any county, city, town, or regional government to exempt or partially exempt such property from taxation, or by general law may directly exempt or partially exempt such property from taxation.

(f) Exemptions of property from taxation as established or authorized hereby shall be strictly construed; provided, however, that all property exempt from taxation on the effective date of this section shall continue to be exempt until otherwise provided by the General Assembly as herein set forth.

(g) The General Assembly may by general law authorize any county, city, town, or regional government to impose a service charge upon the owners of a class or classes of exempt property for services provided by such governments.

(h) The General Assembly may by general law authorize the governing body of any county, city, town, or regional government to provide for a partial exemption from local real property taxation, within such restrictions and upon such conditions as may be prescribed, (i) of real estate whose improvements, by virtue of age and use, have undergone substantial renovation, rehabilitation or replacement or (ii) of real estate with new structures and improvements in conservation, redevelopment, or rehabilitation areas.

(i) The General Assembly may by general law allow the governing body of any county, city, or town to exempt or partially exempt from taxation any generating equipment installed after December thirty-one, nineteen hundred seventy-four, for the purpose of converting from oil or natural gas to coal or to wood, wood bark, wood residue, or to any other alternate energy source for manufacturing, and any co-generation equipment installed since such date for use in manufacturing.

(j) The General Assembly may by general law allow the governing body of any county, city, or town to have the option to exempt or partially exempt from taxation any business, occupational or professional license or any merchants' capital, or both.

(k) *The General Assembly may by general law authorize the governing body of any county, city, or town to provide for a partial exemption from local real property taxation, within such restrictions and upon such conditions as may be prescribed, of improved real estate subject to recurrent flooding upon which flooding abatement, mitigation, or resiliency efforts have been undertaken.*

#### CHAPTER 774

*An Act to amend the Code of Virginia by adding in Chapter 12 of Title 19.2 a section numbered 19.2-190.2, relating to withdrawal of privately retained counsel; report.*

[H 1411]

Approved April 5, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding in Chapter 12 of Title 19.2 a section numbered 19.2-190.2 as follows:**

**§ 19.2-190.2. *Withdrawal of privately retained counsel.***

*A privately retained counsel in any criminal case may, pursuant to the terms of a written agreement between the attorney and the client, withdraw from representation of a client without leave of court after certification of a charge by a district court by providing written notice of the withdrawal to the client, the attorney for the Commonwealth, and the circuit court within 10 days of the certification of the charge.*

**2. That the Judicial Council shall review (i) the current process by which privately retained counsel may withdraw from a civil case with leave of court and (ii) the possible impact on the courts, litigants, and attorneys of amending such process to allow withdrawal of counsel without leave of court. The Judicial Council shall submit its report by November 1, 2017, to the Chairmen of the House and Senate Committees for Courts of Justice.**

## CHAPTER 775

*An Act to amend and reenact §§ 37.2-416 and 37.2-506 of the Code of Virginia, relating to background checks; exceptions; sponsored living and shared residential service providers.*

[H 1491]

Approved April 5, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 37.2-416 and 37.2-506 of the Code of Virginia are amended and reenacted as follows:**

**§ 37.2-416. Background checks required.**

A. As used in this section:

"Direct care position" means any position that includes responsibility for (i) treatment, case management, health, safety, development, or well-being of an individual receiving services or (ii) immediately supervising a person in a position with this responsibility.

"Hire for compensated employment" does not include (i) a promotion from one adult substance abuse or adult mental health treatment position to another such position within the same licensee licensed pursuant to this article or (ii) new employment in an adult substance abuse or adult mental health treatment position in another office or program licensed pursuant to this article if the person employed prior to July 1, 1999, in a licensed program had no convictions in the five years prior to the application date for employment. "Hire for compensated employment" includes (a) a promotion or transfer from an adult substance abuse treatment position to any mental health or developmental services direct care position within the same licensee licensed pursuant to this article or (b) new employment in any mental health or developmental services direct care position in another office or program of the same licensee licensed pursuant to this article for which the person has previously worked in an adult substance abuse treatment position.

"Shared living" means an arrangement in which the Commonwealth's program of medical assistance pays a portion of a person's rent, utilities, and food expenses in return for the person residing with and providing companionship, support, and other limited, basic assistance to a person with intellectual or developmental disabilities receiving medical assistance services in accordance with a waiver for whom he has no legal responsibility.

B. Every provider licensed pursuant to this article shall require (i) any applicant who accepts employment in any direct care position, (ii) any applicant for approval as a sponsored residential service provider, (iii) any adult living in the home of an applicant for approval as a sponsored residential service provider, (iv) any person employed by a sponsored residential service provider to provide services in the home, and (v) any person who enters into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver to submit to fingerprinting and provide personal descriptive information to be forwarded through the Central Criminal Records Exchange to the Federal Bureau of Investigation (FBI) for the purpose of obtaining national criminal history record information regarding the applicant. Except as otherwise provided in subsection C, D, or F, no provider licensed pursuant to this article shall (a) hire for compensated employment persons who have been convicted of any offense listed in subsection B of § 37.2-314; (b) approve an applicant as a sponsored residential service provider if the applicant, any adult residing in the home of the applicant, or any person employed by the applicant has been convicted of an offense listed in subsection B of § 37.2-314; or (c) permit to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver any person who has been convicted of an offense listed in subsection B of § 37.2-314.

The Central Criminal Records Exchange, upon receipt of an applicant's record or notification that no record exists, shall submit a report to the requesting authorized officer or director of a provider licensed pursuant to this article. If any applicant is denied employment because of information appearing on the criminal history record and the applicant disputes the information upon which the denial was based, the Central Criminal Records Exchange shall, upon written request, furnish to the applicant the procedures for obtaining a copy of the criminal history record from the FBI. The information provided to the authorized officer or director of a provider licensed pursuant to this article shall not be disseminated except as provided in this section.

C. Notwithstanding the provisions of subsection B, a provider may hire for compensated employment at adult substance abuse or adult mental health treatment facilities a person who was convicted of a misdemeanor violation relating to (i) unlawful hazing, as set out in § 18.2-56; (ii) reckless handling of a firearm, as set out in § 18.2-56.1; or (iii) assault and battery, as set out in subsection A of § 18.2-57; or any misdemeanor or felony violation related to (a) reckless endangerment of others by throwing objects, as set out in § 18.2-51.3; (b) threat, as set out in § 18.2-60; (c) breaking and entering a

dwelling house with intent to commit other misdemeanor, as set out in § 18.2-92; or (d) possession of burglarious tools, as set out in § 18.2-94; or any felony violation relating to the distribution of drugs, as set out in Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, except an offense pursuant to subsections H1 and H2 of § 18.2-248; or an equivalent offense in another state, if the hiring provider determines, based upon a screening assessment, that the criminal behavior was substantially related to the applicant's substance abuse or mental illness and that the person has been successfully rehabilitated and is not a risk to individuals receiving services based on his criminal history background and his substance abuse or mental illness history.

D. Notwithstanding the provisions of subsection B, a provider may hire for compensated employment at adult substance abuse treatment facilities a person who has been convicted of not more than one offense of assault and battery of a law-enforcement officer under § 18.2-57, or an equivalent offense in another state, if (i) the person has been granted a simple pardon if the offense was a felony committed in Virginia, or the equivalent if the offense was committed in another state; (ii) more than 10 years have elapsed since the conviction; and (iii) the hiring provider determines, based upon a screening assessment, that the criminal behavior was substantially related to the applicant's substance abuse and that the person has been successfully rehabilitated and is not a risk to individuals receiving services based on his criminal history background and his substance abuse history.

E. The hiring provider and a screening contractor designated by the Department shall screen applicants who meet the criteria set forth in subsections C and D to assess whether the applicants have been rehabilitated successfully and are not a risk to individuals receiving services based on their criminal history backgrounds and substance abuse or mental illness histories. To be eligible for such screening, the applicant shall have completed all prison or jail terms, shall not be under probation or parole supervision, shall have no pending charges in any locality, shall have paid all fines, restitution, and court costs for any prior convictions, and shall have been free of parole or probation for at least five years for all convictions. In addition to any supplementary information the provider or screening contractor may require or the applicant may wish to present, the applicant shall provide to the screening contractor a statement from his most recent probation or parole officer, if any, outlining his period of supervision and a copy of any pre-sentencing or post-sentencing report in connection with the felony conviction. The cost of this screening shall be paid by the applicant, unless the licensed provider decides to pay the cost.

F. Notwithstanding the provisions of subsection B, a provider may (i) hire for compensated employment, (ii) *approve as a sponsored residential service provider*, or (iii) *permit to enter into a shared living arrangement* persons who have been convicted of not more than one misdemeanor offense under § 18.2-57 or 18.2-57.2, if 10 years have elapsed following the conviction, unless the person committed the offense while employed in a direct care position. *A provider may also approve a person as a sponsored residential service provider if (a) any adult living in the home of an applicant or (b) any person employed by the applicant to provide services in the home in which sponsored residential services are provided has been convicted of not more than one misdemeanor offense under § 18.2-57 or 18.2-57.2, or any substantially similar offense under the laws of another jurisdiction, if 10 years have elapsed following the conviction, unless the person committed the offense while employed in a direct care position.*

G. Providers licensed pursuant to this article also shall require, as a condition of employment, approval as a sponsored residential service provider, or permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver, written consent and personal information necessary to obtain a search of the registry of founded complaints of child abuse and neglect that is maintained by the Department of Social Services pursuant to § 63.2-1515.

H. The cost of obtaining the criminal history record and search of the child abuse and neglect registry record shall be borne by the applicant, unless the provider licensed pursuant to this article decides to pay the cost.

I. A person who complies in good faith with the provisions of this section shall not be liable for any civil damages for any act or omission in the performance of duties under this section unless the act or omission was the result of gross negligence or willful misconduct.

#### **§ 37.2-506. Background checks required.**

A. As used in this section:

"Direct care position" means any position that includes responsibility for (i) treatment, case management, health, safety, development, or well-being of an individual receiving services or (ii) immediately supervising a person in a position with this responsibility.

"Hire for compensated employment" does not include (i) a promotion from one adult substance abuse or adult mental health treatment position to another such position within the same community services board or (ii) new employment in an adult substance abuse or adult mental health treatment position in another office or program of the same community services board if the person employed prior to July 1, 1999, had no convictions in the five years prior to the application date for employment. "Hire for compensated employment" includes (a) a promotion or transfer from an adult substance abuse treatment position to any mental health or developmental services direct care position within the same community services board or (b) new employment in any mental health or developmental services direct care position in another office or program of the same community services board for which the person has previously worked in an adult substance abuse treatment position.

"Shared living" means an arrangement in which the Commonwealth's program of medical assistance pays a portion of a person's rent, utilities, and food expenses in return for the person residing with and providing companionship, support, and

other limited, basic assistance to a person with intellectual or developmental disabilities receiving medical assistance services in accordance with a waiver for whom he has no legal responsibility.

B. Every community services board shall require (i) any applicant who accepts employment in any direct care position with the community services board, (ii) any applicant for approval as a sponsored residential service provider, (iii) any adult living in the home of an applicant for approval as a sponsored residential service provider, (iv) any person employed by a sponsored residential service provider to provide services in the home, and (v) any person who enters into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver to submit to fingerprinting and provide personal descriptive information to be forwarded through the Central Criminal Records Exchange to the Federal Bureau of Investigation (FBI) for the purpose of obtaining national criminal history record information regarding the applicant. Except as otherwise provided in subsection C, D, or F, no community services board shall hire for compensated employment, approve as a sponsored residential service provider, or permit to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver persons who have been convicted of any offense listed in subsection B of § 37.2-314.

The Central Criminal Records Exchange, upon receipt of an applicant's record or notification that no record exists, shall submit a report to the requesting executive director or personnel director of the community services board. If any applicant is denied employment because of information appearing on his criminal history record and the applicant disputes the information upon which the denial was based, the Central Criminal Records Exchange shall, upon written request, furnish to the applicant the procedures for obtaining a copy of the criminal history record from the FBI. The information provided to the executive director or personnel director of any community services board shall not be disseminated except as provided in this section.

C. Notwithstanding the provisions of subsection B, the community services board may hire for compensated employment at adult substance abuse or adult mental health treatment programs a person who was convicted of a misdemeanor violation relating to (i) unlawful hazing, as set out in § 18.2-56; (ii) reckless handling of a firearm, as set out in § 18.2-56.1; (iii) assault and battery, as set out in subsection A of § 18.2-57; or (iv) assault and battery against a family or household member, as set out in subsection A of § 18.2-57.2; or any misdemeanor or felony violation related to (a) reckless endangerment of others by throwing objects, as set out in § 18.2-51.3; (b) threat, as set out in § 18.2-60; (c) breaking and entering a dwelling house with intent to commit other misdemeanor, as set out in § 18.2-92; or (d) possession of burglarious tools, as set out in § 18.2-94; or any felony violation relating to the distribution of drugs, as set out in Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, except an offense pursuant to subsection H1 or H2 of § 18.2-248; or an equivalent offense in another state, if the hiring community services board determines, based upon a screening assessment, that the criminal behavior was substantially related to the applicant's substance abuse or mental illness and that the person has been successfully rehabilitated and is not a risk to individuals receiving services based on his criminal history background and his substance abuse or mental illness history.

D. Notwithstanding the provisions of subsection B, the community services board may hire for compensated employment at adult substance abuse treatment programs a person who has been convicted of not more than one offense of assault and battery of a law-enforcement officer under § 18.2-57, or an equivalent offense in another state, if (i) the person has been granted a simple pardon if the offense was a felony committed in Virginia, or the equivalent if the offense was committed in another state; (ii) more than 10 years have elapsed since the conviction; and (iii) the hiring community services board determines, based upon a screening assessment, that the criminal behavior was substantially related to the applicant's substance abuse and that the person has been successfully rehabilitated and is not a risk to individuals receiving services based on his criminal history background and his substance abuse history.

E. The community services board and a screening contractor designated by the Department shall screen applicants who meet the criteria set forth in subsections C and D to assess whether the applicants have been rehabilitated successfully and are not a risk to individuals receiving services based on their criminal history backgrounds and substance abuse or mental illness histories. To be eligible for such screening, the applicant shall have completed all prison or jail terms, shall not be under probation or parole supervision, shall have no pending charges in any locality, shall have paid all fines, restitution, and court costs for any prior convictions, and shall have been free of parole or probation for at least five years for all convictions. In addition to any supplementary information the community services board or screening contractor may require or the applicant may wish to present, the applicant shall provide to the screening contractor a statement from his most recent probation or parole officer, if any, outlining his period of supervision and a copy of any pre-sentencing or post-sentencing report in connection with the felony conviction. The cost of this screening shall be paid by the applicant, unless the board decides to pay the cost.

F. Notwithstanding the provisions of subsection B, a community services board may (i) hire for compensated employment, (ii) *approve as a sponsored residential service provider*, or (iii) *permit to enter into a shared living arrangement* persons who have been convicted of not more than one misdemeanor offense under § 18.2-57 or 18.2-57.2, if 10 years have elapsed following the conviction, unless the person committed the offense while employed in a direct care position. *A community services board may also approve a person as a sponsored residential service provider if (a) any adult living in the home of an applicant or (b) any person employed by the applicant to provide services in the home in which sponsored residential services are provided has been convicted of not more than one misdemeanor offense under § 18.2-57 or 18.2-57.2, or any substantially similar offense under the laws of another jurisdiction, if 10 years have elapsed following the conviction, unless the person committed the offense while employed in a direct care position.*

G. Community services boards also shall require, as a condition of employment, approval as a sponsored residential service provider, or permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver, written consent and personal information necessary to obtain a search of the registry of founded complaints of child abuse and neglect that is maintained by the Department of Social Services pursuant to § 63.2-1515.

H. The cost of obtaining the criminal history record and search of the child abuse and neglect registry record shall be borne by the applicant, unless the community services board decides to pay the cost.

I. A person who complies in good faith with the provisions of this section shall not be liable for any civil damages for any act or omission in the performance of duties under this section unless the act or omission was the result of gross negligence or willful misconduct.

## CHAPTER 776

*An Act to amend the Code of Virginia by adding a section numbered 46.2-410.2, relating to revocation or suspension of driver's licenses; laws of other jurisdictions.*

[H 1525]

Approved April 5, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding a section numbered 46.2-410.2 as follows:**

**§ 46.2-410.2. License suspension or revocation by Commissioner; offenses under the laws of other jurisdictions.**

*Notwithstanding any other provision of this chapter, the Commissioner shall not administratively revoke or suspend the driver's license of any person on the basis of receiving a record of such person's conviction for any offense under the laws of another jurisdiction that would otherwise require the Commissioner to revoke or suspend such person's driver's license unless such offense is substantially similar to an offense under the laws of the Commonwealth or a county, city, or town ordinance. Whenever the Commissioner is required to determine whether the law of another jurisdiction is substantially similar to the laws of the Commonwealth, or a county, city, or town ordinance, such determination shall be based only on the text of the other jurisdiction's law without reference to the particular circumstances of any conviction under such other jurisdiction's laws. However, if the Commissioner cannot reasonably determine from the text of the other jurisdiction's law whether such law is substantially similar to the laws of the Commonwealth, or a county, city, or town ordinance, the Commissioner may, if available, review a certified copy of the final order of the person's conviction in order to make such determination.*

**2. That the Department of Motor Vehicles shall reinstate a person's driver's license that was administratively revoked or suspended prior to July 1, 2017, by the Commissioner of the Department of Motor Vehicles solely on the basis of receiving a record of such person's conviction for any offense under the laws of another jurisdiction if, on a form promulgated by the Department of Motor Vehicles, such person submits to the Department of Motor Vehicles a request to review such suspension or revocation and the Department of Motor Vehicles determines that such suspension or revocation was based on a conviction not in compliance with the provisions of this act. The person requesting the review shall submit with the form a copy of the other jurisdiction's statute under which he was convicted that was in effect at the time of the conviction and a certified copy of the final order of conviction from the other jurisdiction. Any refusal by the Department of Motor Vehicles to reinstate a person's driver's license shall be reviewable in accordance with the provisions of § 46.2-410.1 of the Code of Virginia. The provisions of this act shall not apply to any disqualification of eligibility to operate a commercial motor vehicle imposed by the Commissioner of the Department of Motor Vehicles pursuant to Article 6.1 (§ 46.2-341.1 et seq.) of Chapter 3 of Title 46.2 of the Code of Virginia. Nothing herein shall require the Department of Motor Vehicles to reinstate a person's driver's license if such license was otherwise suspended or revoked.**

## CHAPTER 777

*An Act to amend and reenact § 38.2-401 of the Code of Virginia, relating to the Fire Programs Fund; rate of assessment; allocations.*

[H 1532]

Approved April 5, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 38.2-401 of the Code of Virginia is amended and reenacted as follows:**

**§ 38.2-401. Fire Programs Fund.**

A. 1. There is hereby established in the state treasury a special nonreverting fund to be known as the Fire Programs Fund, hereinafter referred to as "the Fund." The Fund shall be administered by the Department of Fire Programs under policies and definitions established by the Virginia Fire Services Board. All moneys collected pursuant to the assessment made by the Commission pursuant to subdivision 2 of this subsection shall be paid into the state treasury and credited to the Fund. The Fund shall also consist of any moneys appropriated thereto by the General Assembly and any grants or other

moneys received by the Virginia Fire Services Board or Department of Fire Programs for the purposes set forth in this section. Any moneys deposited to or remaining in such Fund during or at the end of each fiscal year or biennium, including interest thereon, shall not revert to the general fund but shall remain in the Fund. Interest earned on all moneys in the Fund and interest earned on moneys held by the Commission pursuant to subdivision 2 of this subsection prior to the deposit of such moneys into the Fund, including interest earned on such moneys during any period when the Commission is reconciling payments from insurers, shall remain in or be deposited into the Fund, as the case may be, and be credited to it. Such interest shall be set aside for fire service purposes in accordance with policies developed by the Virginia Fire Services Board. Notwithstanding any other provision of law to the contrary, policies established by the Virginia Fire Services Board for the administration of the Fund, and any grants provided from the Fund, that are not inconsistent with the purposes set out in this section shall be binding upon any locality that accepts such funds or related grants. The Commission shall be reimbursed from the Fund for all expenses necessary for the administration of this section. The balance of moneys in the Fund shall be allocated periodically as provided in this section. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Executive Director of the Department of Fire Programs (Director) or his designee.

2. The Commission shall annually assess against all licensed insurance companies doing business in the Commonwealth by writing any type of insurance as defined in §§ 38.2-110, 38.2-111, 38.2-126, 38.2-130 and 38.2-131 and those combination policies as defined in § 38.2-1921 that contain insurance as defined in §§ 38.2-110, 38.2-111 and 38.2-126, an assessment in the amount of one percent of the total direct gross premium income for such insurance. Such assessment shall be apportioned, assessed and paid as prescribed by § 38.2-403. In any year in which a company has no direct gross premium income or in which its direct gross premium income is insufficient to produce at the rate of assessment prescribed by law an amount equal to or in excess of \$100, there shall be so apportioned and assessed against such company a contribution of \$100.

B. After reserving funds for the Fire Services Grant Program and Dry Fire Hydrant Grant Program pursuant to subsection D, ~~75~~ 80 percent of the remaining moneys available for allocation from the Fund shall be allocated to the several counties, cities and towns of the Commonwealth providing fire service operations to be used for the improvement of volunteer and career fire services in each of the receiving localities. Funds allocated to the counties, cities and towns pursuant to this subsection shall not be used directly or indirectly to supplant or replace any other funds appropriated by the counties, cities and towns for fire service operations. Such funds shall be used solely for the purposes of training volunteer or career firefighting personnel in each of the receiving localities; funding fire prevention and public safety education programs; constructing, improving and expanding regional or local fire service training facilities; purchasing emergency medical care and equipment for fire personnel; payment of personnel costs related to fire and medical training for fire personnel; or for purchasing personal protective equipment, vehicles, equipment and supplies for use in the receiving locality specifically for fire service purposes. Notwithstanding any other provision of the Code, when localities use such funds to construct, improve or expand fire service training facilities, fire-related training provided at such training facilities shall be by instructors certified or approved according to policies developed by the Virginia Fire Services Board. Distribution of this ~~75~~ 80 percent of the Fund shall be made on the basis of population as provided for in §§ 4.1-116 and 4.1-117; however, no county or city eligible for such funds shall receive less than \$10,000, nor eligible town less than \$4,000. The Virginia Fire Services Board shall be authorized to exceed allocations of \$10,000 for eligible counties and cities and \$4,000 for eligible towns, respectively. Allocations to counties, cities, and towns receiving such allocations shall be fair and equitable as set forth in Board policy. Any increases or decreases in such allocations shall be uniform for all localities. In order to remain eligible for such funds, each receiving locality shall report annually to the Department on the use of the funds allocated to it for the previous year and shall provide a completed Fire Programs Fund Disbursement Agreement form. Each receiving locality shall be responsible for certifying the proper use of the funds. If, at the end of any annual reporting period, a satisfactory report and a completed agreement form have not been submitted by a receiving locality, any funds due to that locality for the next year shall not be retained. Such funds shall be added to the ~~75~~ 80 percent of the Fund allocated to the counties, cities, and towns of the Commonwealth for improvement of fire services in localities.

C. The remainder of the moneys available for allocation from the Fund shall be used for (i) the purposes of carrying out the powers and duties assigned to the Department of Fire Programs under Chapter 2 (§ 9.1-200) of Title 9.1, which shall include providing funded training and administrative support services for nonfunded training to localities and (ii) the payment of the compensation and costs of expenses of the members of the Fire Services Board in performing their official duties; however, the Fund shall not be used for salaries or operating expenses associated with the Office of the State Fire Marshal.

D. The Fire Services Grant Program is hereby established and will be used as grants to provide regional fire services training facilities, to finance the Virginia Fire Incident Reporting System and to build or repair burn buildings as determined by the Virginia Fire Services Board. Beginning January 1, 1996, \$1 million from the assessments made pursuant to this section shall be distributed each year for the Fire Services Grant Program to be used as herein provided, and \$100,000 shall be distributed annually for continuing the statewide Dry Fire Hydrant Grant Program. Moneys allocated pursuant to this subsection shall be used for the purposes stated in this subsection, and for no other purpose. All grants provided from these programs shall be administered by the Department according to the policies established by the Virginia Fire Services Board.

E. Moneys in the Fund shall not be diverted or expended for any purpose not authorized by this section.

F. The Director shall establish written standards for determining the extent to which clients outside the Commonwealth shall be financially responsible for the cost of fire and emergency services training provided by the Department of Fire Programs. Revenues generated by such training shall be retained in the Fire Programs Fund and may be used solely for providing additional funded direct training to members of Virginia's fire and emergency services.

**2. That the provisions of this act shall not become effective unless reenacted by the 2018 Session of the General Assembly.**

### CHAPTER 778

*An Act to amend and reenact §§ 2.2-3701, 2.2-3704, 2.2-3704.1, 2.2-3704.2, 2.2-3705.1 through 2.2-3705.8, 2.2-3711, 2.2-3714, 2.2-3806, 22.1-253.13:3, 22.1-279.8, 23.1-2425, 32.1-48.08, 32.1-48.011, 32.1-48.015, 32.1-283.1, 32.1-283.2, 32.1-283.3, 32.1-283.5, 32.1-283.6, 44-146.18, 44-146.22, 54.1-2517, and 54.1-2523 of the Code of Virginia, relating to the Virginia Freedom of Information Act; public access to records of public bodies.*

[H 1539]

Approved April 5, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 2.2-3701, 2.2-3704, 2.2-3704.1, 2.2-3704.2, 2.2-3705.1 through 2.2-3705.8, 2.2-3711, 2.2-3714, 2.2-3806, 22.1-253.13:3, 22.1-279.8, 23.1-2425, 32.1-48.08, 32.1-48.011, 32.1-48.015, 32.1-283.1, 32.1-283.2, 32.1-283.3, 32.1-283.5, 32.1-283.6, 44-146.18, 44-146.22, 54.1-2517, and 54.1-2523 of the Code of Virginia are amended and reenacted as follows:**

**§ 2.2-3701. Definitions.**

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

"Closed meeting" means a meeting from which the public is excluded.

"Electronic communication" means any audio or combined audio and visual communication method.

"Emergency" means an unforeseen circumstance rendering the notice required by this chapter impossible or impracticable and which circumstance requires immediate action.

"Information" as used in the exclusions established by §§ 2.2-3705.1 through 2.2-3705.7, means the content within a public record that references a specifically identified subject matter, and shall not be interpreted to require the production of information that is not embodied in a public record.

"Meeting" or "meetings" means the meetings including work sessions, when sitting physically, or through telephonic or video equipment pursuant to § 2.2-3708 or 2.2-3708.1, as a body or entity, or as an informal assemblage of (i) as many as three members or (ii) a quorum, if less than three, of the constituent membership, wherever held, with or without minutes being taken, whether or not votes are cast, of any public body. Neither the gathering of employees of a public body nor the gathering or attendance of two or more members of a public body (i) at any place or function where no part of the purpose of such gathering or attendance is the discussion or transaction of any public business, and such gathering or attendance was not called or prearranged with any purpose of discussing or transacting any business of the public body, or (ii) at a public forum, candidate appearance, or debate, the purpose of which is to inform the electorate and not to transact public business or to hold discussions relating to the transaction of public business, even though the performance of the members individually or collectively in the conduct of public business may be a topic of discussion or debate at such public meeting, shall be deemed a "meeting" subject to the provisions of this chapter.

"Open meeting" or "public meeting" means a meeting at which the public may be present.

"Public body" means any legislative body, authority, board, bureau, commission, district or agency of the Commonwealth or of any political subdivision of the Commonwealth, including cities, towns and counties, municipal councils, governing bodies of counties, school boards and planning commissions; boards of visitors of public institutions of higher education; and other organizations, corporations or agencies in the Commonwealth supported wholly or principally by public funds. It shall include (i) the Virginia Birth-Related Neurological Injury Compensation Program and its board of directors established pursuant to Chapter 50 (§ 38.2-5000 et seq.) of Title 38.2 and (ii) any committee, subcommittee, or other entity however designated, of the public body created to perform delegated functions of the public body or to advise the public body. It shall not exclude any such committee, subcommittee or entity because it has private sector or citizen members. Corporations organized by the Virginia Retirement System are "public bodies" for purposes of this chapter.

For the purposes of the provisions of this chapter applicable to access to public records, constitutional officers and private police departments as defined in § 9.1-101 shall be considered public bodies and, except as otherwise expressly provided by law, shall have the same obligations to disclose public records as other custodians of public records.

"Public records" means all writings and recordings that consist of letters, words or numbers, or their equivalent, set down by handwriting, typewriting, printing, photostating, photography, magnetic impulse, optical or magneto-optical form, mechanical or electronic recording or other form of data compilation, however stored, and regardless of physical form or characteristics, prepared or owned by, or in the possession of a public body or its officers, employees or agents in the transaction of public business. ~~Records that are not prepared for or used in the transaction of public business are not public records.~~

"Regional public body" means a unit of government organized as provided by law within defined boundaries, as determined by the General Assembly, whose members are appointed by the participating local governing bodies, and such unit includes two or more counties or cities.

"Scholastic records" means those records containing information directly related to a student or an applicant for admission and maintained by a public body that is an educational agency or institution or by a person acting for such agency or institution.

**§ 2.2-3704. Public records to be open to inspection; procedure for requesting records and responding to request; charges; transfer of records for storage, etc.**

A. Except as otherwise specifically provided by law, all public records shall be open to ~~inspection and copying by any~~ citizens of the Commonwealth, *representatives of newspapers and magazines with circulation in the Commonwealth, and representatives of radio and television stations broadcasting in or into the Commonwealth* during the regular office hours of the custodian of such records. Access to such records shall ~~not be denied to citizens of the Commonwealth, representatives of newspapers and magazines with circulation in the Commonwealth, and representatives of radio and television stations broadcasting in or into the Commonwealth~~ *be provided by the custodian in accordance with this chapter by inspection or by providing copies of the requested records, at the option of the requester.* The custodian may require the requester to provide his name and legal address. The custodian of such records shall take all necessary precautions for their preservation and safekeeping.

B. A request for public records shall identify the requested records with reasonable specificity. The request need not make reference to this chapter in order to invoke the provisions of this chapter or to impose the time limits for response by a public body. Any public body that is subject to this chapter and that is the custodian of the requested records shall promptly, but in all cases within five working days of receiving a request, provide the requested records to the requester or make one of the following responses in writing:

1. The requested records are being entirely withheld. Such response shall identify with reasonable particularity the volume and subject matter of withheld records, and cite, as to each category of withheld records, the specific Code section that authorizes the withholding of the records.

2. The requested records are being provided in part and are being withheld in part. Such response shall identify with reasonable particularity the subject matter of withheld portions, and cite, as to each category of withheld records, the specific Code section that authorizes the withholding of the records.

3. The requested records could not be found or do not exist. However, if the public body that received the request knows that another public body has the requested records, the response shall include contact information for the other public body.

4. It is not practically possible to provide the requested records or to determine whether they are available within the five-work-day period. Such response shall specify the conditions that make a response impossible. If the response is made within five working days, the public body shall have an additional seven work days in which to provide one of the four preceding responses.

C. Any public body may petition the appropriate court for additional time to respond to a request for records when the request is for an extraordinary volume of records or requires an extraordinarily lengthy search, and a response by the public body within the time required by this chapter will prevent the public body from meeting its operational responsibilities. Before proceeding with the petition, however, the public body shall make reasonable efforts to reach an agreement with the requester concerning the production of the records requested.

D. Subject to the provisions of subsection G, no public body shall be required to create a new record if the record does not already exist. However, a public body may abstract or summarize information under such terms and conditions as agreed between the requester and the public body.

E. Failure to respond to a request for records shall be deemed a denial of the request and shall constitute a violation of this chapter.

F. A public body may make reasonable charges not to exceed its actual cost incurred in accessing, duplicating, supplying, or searching for the requested records. No public body shall impose any extraneous, intermediary, or surplus fees or expenses to recoup the general costs associated with creating or maintaining records or transacting the general business of the public body. Any duplicating fee charged by a public body shall not exceed the actual cost of duplication. The public body may also make a reasonable charge for the cost incurred in supplying records produced from a geographic information system at the request of anyone other than the owner of the land that is the subject of the request. However, such charges shall not exceed the actual cost to the public body in supplying such records, except that the public body may charge, on a pro rata per acre basis, for the cost of creating topographical maps developed by the public body, for such maps or portions thereof, which encompass a contiguous area greater than 50 acres. All charges for the supplying of requested records shall be estimated in advance at the request of the citizen.

G. Public records maintained by a public body in an electronic data processing system, computer database, or any other structured collection of data shall be made available to a requester at a reasonable cost, not to exceed the actual cost in accordance with subsection F. When electronic or other databases are combined or contain exempt and nonexempt records, the public body may provide access to the exempt records if not otherwise prohibited by law, but shall provide access to the nonexempt records as provided by this chapter.

Public bodies shall produce nonexempt records maintained in an electronic database in any tangible medium identified by the requester, including, where the public body has the capability, the option of posting the records on a website or

delivering the records through an electronic mail address provided by the requester, if that medium is used by the public body in the regular course of business. No public body shall be required to produce records from an electronic database in a format not regularly used by the public body. However, the public body shall make reasonable efforts to provide records in any format under such terms and conditions as agreed between the requester and public body, including the payment of reasonable costs. The excision of exempt fields of information from a database or the conversion of data from one available format to another shall not be deemed the creation, preparation, or compilation of a new public record.

H. In any case where a public body determines in advance that charges for producing the requested records are likely to exceed \$200, the public body may, before continuing to process the request, require the requester to agree to payment of a deposit not to exceed the amount of the advance determination. The deposit shall be credited toward the final cost of supplying the requested records. The period within which the public body shall respond under this section shall be tolled for the amount of time that elapses between notice of the advance determination and the response of the requester.

I. Before processing a request for records, a public body may require the requester to pay any amounts owed to the public body for previous requests for records that remain unpaid 30 days or more after billing.

J. In the event a public body has transferred possession of public records to any entity, including but not limited to any other public body, for storage, maintenance, or archiving, the public body initiating the transfer of such records shall remain the custodian of such records for purposes of responding to requests for public records made pursuant to this chapter and shall be responsible for retrieving and supplying such public records to the requester. In the event a public body has transferred public records for storage, maintenance, or archiving and such transferring public body is no longer in existence, any public body that is a successor to the transferring public body shall be deemed the custodian of such records. In the event no successor entity exists, the entity in possession of the public records shall be deemed the custodian of the records for purposes of compliance with this chapter, and shall retrieve and supply such records to the requester. Nothing in this subsection shall be construed to apply to records transferred to the Library of Virginia for permanent archiving pursuant to the duties imposed by the Virginia Public Records Act (§ 42.1-76 et seq.). In accordance with § 42.1-79, the Library of Virginia shall be the custodian of such permanently archived records and shall be responsible for responding to requests for such records made pursuant to this chapter.

**§ 2.2-3704.1. Posting of notice of rights and responsibilities by state and local public bodies; assistance by the Freedom of Information Advisory Council.**

A. All state public bodies subject to the provisions of this chapter ~~and~~, any county or city, ~~and~~ any town with a population of more than 250, ~~and any school board~~ shall make available the following information to the public upon request and shall post a link to such information on the homepage of their respective *official* public government websites:

1. A plain English explanation of the rights of a requester under this chapter, the procedures to obtain public records from the public body, and the responsibilities of the public body in complying with this chapter. For purposes of this section, "plain English" means written in nontechnical, readily understandable language using words of common everyday usage and avoiding legal terms and phrases or other terms and words of art whose usage or special meaning primarily is limited to a particular field or profession;

2. Contact information for the FOIA officer designated by the public body pursuant to § 2.2-3704.2 to (i) assist a requester in making a request for records or (ii) respond to requests for public records;

3. A general description, summary, list, or index of the types of public records maintained by such ~~state~~ public body;

4. A general description, summary, list, or index of any exemptions in law that permit or require such public records to be withheld from release;

5. Any policy the public body has concerning the type of public records it routinely withholds from release as permitted by this chapter or other law; and

6. The following statement: "A public body may make reasonable charges not to exceed its actual cost incurred in accessing, duplicating, supplying, or searching for the requested records. No public body shall impose any extraneous, intermediary, or surplus fees or expenses to recoup the general costs associated with creating or maintaining records or transacting the general business of the public body. Any duplicating fee charged by a public body shall not exceed the actual cost of duplication. All charges for the supplying of requested records shall be estimated in advance at the request of the citizen as set forth in subsection F of § 2.2-3704 of the Code of Virginia."

B. The Freedom of Information Advisory Council, created pursuant to § 30-178, shall assist in the development and implementation of the provisions of subsection A, upon request.

**§ 2.2-3704.2. Public bodies to designate FOIA officer.**

A. All state public bodies, including state authorities, that are subject to the provisions of this chapter and all local public bodies that are subject to the provisions of this chapter, shall designate and publicly identify one or more Freedom of Information Act officers (FOIA officer) whose responsibility is to serve as a point of contact for members of the public in requesting public records and to coordinate the public body's compliance with the provisions of this chapter.

B. For such state public bodies, the name and contact information of the public body's FOIA officer to whom members of the public may direct requests for public records and who will oversee the public body's compliance with the provisions of this chapter shall be made available to the public upon request and be posted on the respective public body's *official public government* website at the time of designation and maintained thereafter on such website for the duration of the designation.

C. For such local public bodies, the name and contact information of the public body's FOIA officer to whom members of the public may direct requests for public records and who will oversee the public body's compliance with the provisions

of this chapter shall be made available in a way reasonably calculated to provide notice to the public, including posting at the public body's place of business, posting on its *official public government* website, or including such information in its publications.

D. For the purposes of this section, local public bodies shall include constitutional officers.

E. Any such FOIA officer shall possess specific knowledge of the provisions of this chapter and be trained at least annually by legal counsel for the public body or the Virginia Freedom of Information Advisory Council.

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

The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01.

1. Personnel information concerning identifiable individuals, except that access shall not be denied to the person who is the subject thereof. Any person who is the subject of such information and who is 18 years of age or older may waive, in writing, the protections afforded by this subdivision. If the protections are so waived, such information shall be disclosed. Nothing in this subdivision shall be construed to authorize the withholding of any resumes or applications submitted by persons who are appointed by the Governor pursuant to § 2.2-106 or 2.2-107.

*No provision of this chapter or any provision of Chapter 38 (§ 2.2-3800 et seq.) shall be construed as denying public access to (i) contracts between a public body and its officers or employees, other than contracts settling public employee employment disputes held confidential as personnel records under § 2.2-3705.1; (ii) records of the name, position, job classification, official salary, or rate of pay of, and records of the allowances or reimbursements for expenses paid to, any officer, official, or employee of a public body; or (iii) the compensation or benefits paid by any corporation organized by the Virginia Retirement System or its officers or employees. The provisions of this subdivision, however, shall not require public access to records of the official salaries or rates of pay of public employees whose annual rate of pay is \$10,000 or less.*

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

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

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

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

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

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

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

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

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

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

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

public body for the purpose of receiving electronic mail from the public body and includes home or business (i) address, (ii) email address, or (iii) telephone number or comparable number assigned to any other electronic communication device.

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

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

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

**§ 2.2-3705.2. Exclusions to application of chapter; records relating to public safety.**

The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01.

1. Confidential information, including victim identity, provided to or obtained by staff in a rape crisis center or a program for battered spouses.

2. Information contained in engineering and construction drawings and plans submitted for the sole purpose of complying with the Building Code in obtaining a building permit if disclosure of such information would identify specific trade secrets or other information that would be harmful to the competitive position of the owner or lessee. However, such information shall be exempt only until the building is completed. Information relating to the safety or environmental soundness of any building shall not be exempt from disclosure.

Information contained in engineering and construction drawings and plans that reveal critical structural components; security equipment and systems; ventilation systems; fire protection equipment; mandatory building emergency equipment or systems; elevators; electrical systems; telecommunications equipment and systems; and other utility equipment and systems submitted for the purpose of complying with the Uniform Statewide Building Code (§ 36-97 et seq.) or the Statewide Fire Prevention Code (§ 27-94 et seq.) if disclosure of such information would jeopardize the safety or security of any public or private commercial office, multifamily residential, or retail building or its occupants in the event of terrorism or other threat to public safety. In order for the information to be excluded from mandatory disclosure, the owner or lessee of such property, equipment, or system in writing shall (i) invoke the protections of this paragraph; (ii) identify the drawings, plans, or other materials to be protected; and (iii) state the reasons why protection is necessary.

Nothing in this subdivision shall authorize the withholding of information relating to any building in connection with an inquiry into the performance of that building after it has been subjected to fire, explosion, natural disaster, or other catastrophic event.

3. Information that describes the design, function, operation, or access control features of any security system, whether manual or automated, which is used to control access to or use of any automated data processing or telecommunications system.

4. Information concerning the prevention or response to terrorist activity or cyber attacks, including (i) critical infrastructure information; (ii) vulnerability assessments, operational, procedural, transportation, and tactical planning or training manuals, and staff meeting minutes; (iii) engineering or architectural plans or drawings, or information derived from such plans or drawings; and (iv) information not lawfully available to the public regarding specific cybersecurity threats or vulnerabilities or security plans and measures of an entity, facility, building, structure, information technology system, or software program if disclosure of such information would (a) reveal the location or operation of security equipment and systems; elevators; ventilation; fire protection; emergency, electrical, telecommunications or utility equipment and systems of any public building, structure or information storage facility; or telecommunications or utility equipment or systems or (b) jeopardize the safety of any person.

The same categories of information concerning any person or entity submitted to a public body for the purpose of antiterrorism response planning or cybersecurity planning or protection may be withheld from disclosure if such person or entity in writing (1) invokes the protections of this subdivision; (2) identifies with specificity the information for which protection is sought; and (3) states with reasonable particularity why the protection of such information from public disclosure is necessary to meet the objective of antiterrorism, cybersecurity planning or protection, or critical infrastructure information security and resilience. Such statement shall be a public record and shall be disclosed upon request.

Any public body receiving a request for records excluded under this subdivision shall notify the Secretary of Public Safety and Homeland Security or his designee of such request and the response made by the public body in accordance with § 2.2-3704.

~~Nothing in this subdivision shall be construed to authorize the withholding of information relating to the structural or environmental soundness of any building, nor shall it authorize the withholding of information relating to any building in connection with an inquiry into the performance of that building after it has been subjected to fire, explosion, natural disaster, or other catastrophic event.~~

~~As used in this subdivision, "critical infrastructure information" means the same as that term is defined in 6 U.S.C. § 131.~~

~~5- 3. Information that would disclose the security aspects of a system safety program plan adopted pursuant to 49 C.F.R. Part 659 by the Commonwealth's designated Rail Fixed Guideway Systems Safety Oversight agency; and information in the possession of such agency, the release of which would jeopardize the success of an ongoing investigation of a rail accident or other incident threatening railway safety.~~

~~6- Information contained in engineering and architectural drawings, operational, procedural, tactical planning or training manuals, or staff meeting minutes if disclosure of such information would (i) reveal surveillance techniques, personnel deployments, alarm or security systems or technologies, or operational and transportation plans or protocols or (ii) jeopardize the security of any governmental facility, building, or structure or the safety of persons using such facility, building, or structure.~~

~~7- 4. Information concerning security plans and specific assessment components of school safety audits, as provided in § 22.1-279.8.~~

~~Nothing in this subdivision shall be construed to authorize the withholding prevent the disclosure of information relating to the effectiveness of security plans after (i) any school building or property has been subjected to fire, explosion, natural disaster, or other catastrophic event or (ii) any person on school property has suffered or been threatened with any personal injury.~~

~~8- 5. Information concerning the mental health assessment of an individual subject to commitment as a sexually violent predator under Chapter 9 (§ 37.2-900 et seq.) of Title 37.2 held by the Commitment Review Committee; except that in no case shall information identifying the victims of a sexually violent predator be disclosed.~~

~~9- 6. Subscriber data provided directly or indirectly by a telecommunications carrier communications services provider to a public body that operates a 911 or E-911 emergency dispatch system or an emergency notification or reverse 911 system if the data is in a form not made available by the telecommunications carrier communications services provider to the public generally. Nothing in this subdivision shall authorize the withholding prevent the disclosure of subscriber data generated in connection with specific calls to a 911 emergency system, where the requester is seeking to obtain public records about the use of the system in response to a specific crime, emergency or other event as to which a citizen has initiated a 911 call.~~

~~For the purposes of this subdivision, "subscriber:~~

~~"Communications services provider" means the same as that term is defined in § 58.1-647.~~

~~"Subscriber data" means the name, address, telephone number, and any other information identifying a subscriber of a telecommunications carrier communications services provider.~~

~~10- 7. Subscriber data collected by a local governing body in accordance with the Enhanced Public Safety Telephone Services Act (§ 56-484.12 et seq.) and other identifying information of a personal, medical, or financial nature provided to a local governing body in connection with a 911 or E-911 emergency dispatch system or an emergency notification or reverse 911 system if such records are not otherwise publicly available.~~

~~Nothing in this subdivision shall authorize the withholding prevent the disclosure of subscriber data generated in connection with specific calls to a 911 emergency system, where the requester is seeking to obtain public records about the use of the system in response to a specific crime, emergency or other event as to which a citizen has initiated a 911 call.~~

~~For the purposes of this subdivision, "subscriber:~~

~~"Communications services provider" means the same as that term is defined in § 58.1-647.~~

~~"Subscriber data" means the name, address, telephone number, and any other information identifying a subscriber of a telecommunications carrier communications services provider.~~

~~11- 8. Information held by the Virginia Military Advisory Council or any commission created by executive order for the purpose of studying and making recommendations regarding preventing closure or realignment of federal military and national security installations and facilities located in Virginia and relocation of such facilities to Virginia, or a local or regional military affairs organization appointed by a local governing body, that would (i) reveal strategies under consideration or development by the Council or such commission or organizations to prevent the closure or realignment of federal military installations located in Virginia or the relocation of national security facilities located in Virginia, to limit the adverse economic effect of such realignment, closure, or relocation, or to seek additional tenant activity growth from the Department of Defense or federal government or (ii) disclose trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), provided to the Council or such commission or organizations in connection with their work.~~

~~In order to invoke the trade secret protection provided by clause (ii), the submitting entity shall, in writing and at the time of submission (a) invoke this exclusion, (b) identify with specificity the information for which such protection is sought, and (c) state the reason why such protection is necessary. Nothing in this subdivision shall be construed to authorize the withholding prevent the disclosure of all or part of any record, other than a trade secret that has been specifically identified as required by this subdivision, after the Department of Defense or federal agency has issued a final, unappealable decision, or in the event of litigation, a court of competent jurisdiction has entered a final, unappealable order concerning the closure, realignment, or expansion of the military installation or tenant activities, or the relocation of the national security facility, for which records are sought.~~

~~12-~~ 9. Information, as determined by the State Comptroller, that describes the design, function, operation, or implementation of internal controls over the Commonwealth's financial processes and systems, and the assessment of risks and vulnerabilities of those controls, including the annual assessment of internal controls mandated by the State Comptroller, if disclosure of such information would jeopardize the security of the Commonwealth's financial assets. However, records relating to the investigation of and findings concerning the soundness of any fiscal process shall be disclosed in a form that does not compromise internal controls. Nothing in this subdivision shall be construed to prohibit the Auditor of Public Accounts or the Joint Legislative Audit and Review Commission from reporting internal control deficiencies discovered during the course of an audit.

~~13-~~ 10. Information relating to the Statewide Agencies Radio System (STARS) or any other similar local or regional public safety communications system that (i) describes the design, function, programming, operation, or access control features of the overall system, components, structures, individual networks, and subsystems of the STARS or any other similar local or regional communications system or (ii) relates to radio frequencies assigned to or utilized by STARS or any other similar local or regional communications system, code plugs, circuit routing, addressing schemes, talk groups, fleet maps, encryption, or programming maintained by or utilized by STARS or any other similar local or regional public safety communications system; ~~those engineering and construction drawings and plans that reveal critical structural components, interconnectivity, security equipment and systems, network monitoring, network operation center, master sites, ventilation systems, fire protection equipment, mandatory building emergency equipment, electrical systems, and other utility equipment and systems related to STARS or any other similar local or regional public safety communications system; and special event plans; operational plans; storm plans; or other pre-arranged programming, if disclosure of such information would (a) reveal surveillance techniques, personnel deployments, alarm or security systems or technologies, or operational and transportation plans or protocols or (b) jeopardize the security of any governmental facility, building, or structure or the safety of any person.~~

~~14-~~ 11. Information concerning a salaried or volunteer Fire/EMS company or Fire/EMS department if disclosure of such information would reveal the telephone numbers for cellular telephones, pagers, or comparable portable communication devices provided to its personnel for use in the performance of their official duties.

~~15-~~ 12. Information concerning the disaster recovery plans or the evacuation plans in the event of fire, explosion, natural disaster, or other catastrophic event for hospitals and nursing homes regulated by the Board of Health pursuant to Chapter 5 (§ 32.1-123 et seq.) of Title 32.1 provided to the Department of Health. Nothing in this subdivision shall be construed to ~~authorize the withholding~~ *prevent the disclosure* of information relating to the effectiveness of executed evacuation plans after the occurrence of fire, explosion, natural disaster, or other catastrophic event.

~~16-~~ 13. Records received by the Department of Criminal Justice Services pursuant to §§ 9.1-184, 22.1-79.4, and 22.1-279.8 or for purposes of evaluating threat assessment teams established by a public institution of higher education pursuant to § 23.1-805 or by a private nonprofit institution of higher education, to the extent such records reveal security plans, walk-through checklists, or vulnerability and threat assessment components.

14. Information contained in (i) engineering, architectural, or construction drawings; (ii) operational, procedural, tactical planning, or training manuals; (iii) staff meeting minutes; or (iv) other records that reveal any of the following, the disclosure of which would jeopardize the safety or security of any person; governmental facility, building, or structure or persons using such facility, building, or structure; or public or private commercial office, multifamily residential, or retail building or its occupants:

a. Critical infrastructure information or the location or operation of security equipment and systems of any public building, structure, or information storage facility, including ventilation systems, fire protection equipment, mandatory building emergency equipment or systems, elevators, electrical systems, telecommunications equipment and systems, or utility equipment and systems;

b. Vulnerability assessments, information not lawfully available to the public regarding specific cybersecurity threats or vulnerabilities, or security plans and measures of an entity, facility, building structure, information technology system, or software program;

c. Surveillance techniques, personnel deployments, alarm or security systems or technologies, or operational or transportation plans or protocols; or

d. Interconnectivity, network monitoring, network operation centers, master sites, or systems related to the Statewide Agencies Radio System (STARS) or any other similar local or regional public safety communications system.

*The same categories of records of any person or entity submitted to a public body for the purpose of antiterrorism response planning or cybersecurity planning or protection may be withheld from disclosure if such person or entity in writing (a) invokes the protections of this subdivision, (b) identifies with specificity the records or portions thereof for which protection is sought, and (c) states with reasonable particularity why the protection of such records from public disclosure is necessary to meet the objective of antiterrorism, cybersecurity planning or protection, or critical infrastructure information security and resilience. Such statement shall be a public record and shall be disclosed upon request.*

*Any public body receiving a request for records excluded under clauses (a) and (b) of this subdivision 14 shall notify the Secretary of Public Safety and Homeland Security or his designee of such request and the response made by the public body in accordance with § 2.2-3704.*

*Nothing in this subdivision 14 shall prevent the disclosure of records relating to (1) the structural or environmental soundness of any such facility, building, or structure or (2) an inquiry into the performance of such facility, building, or structure after it has been subjected to fire, explosion, natural disaster, or other catastrophic event.*

*As used in this subdivision, "critical infrastructure information" means the same as that term is defined in 6 U.S.C. § 131.*

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

The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01.

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

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

2. Records of active investigations being conducted by the Department of Health Professions or by any health regulatory board in the Commonwealth pursuant to § 54.1-108.

3. Investigator notes, and other correspondence and information, furnished in confidence with respect to an active investigation of individual employment discrimination complaints made to the Department of Human Resource Management, to such personnel of any local public body, including local school boards, as are responsible for conducting such investigations in confidence, or to any public institution of higher education. ~~Information contained in~~ *However, nothing in this subdivision shall prevent the disclosure of information taken from inactive reports shall be disclosed* in a form that does not reveal the identity of charging parties, persons supplying the information, or other individuals involved in the investigation.

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

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

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

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

8. ~~Information furnished in confidence to the Department of Human Resource Management with respect to an investigation, consultation, or mediation under § 2.2-1202.1, and memoranda, correspondence and other records resulting~~

~~from any such investigation, consultation or mediation. Information contained in inactive reports shall be disclosed in a form that does not reveal the identity of the parties involved or other persons supplying information.~~

~~9-~~ The names, addresses, and telephone numbers of complainants furnished in confidence with respect to an investigation of individual zoning enforcement complaints or complaints relating to the Uniform Statewide Building Code (§ 36-97 et seq.) or the Statewide Fire Prevention Code (§ 27-94 et seq.) made to a local governing body.

~~10-~~ 9. Records of active investigations being conducted by the Department of Criminal Justice Services pursuant to Article 4 (§ 9.1-138 et seq.), Article 4.1 (§ 9.1-150.1 et seq.), Article 11 (§ 9.1-185 et seq.), and Article 12 (§ 9.1-186 et seq.) of Chapter 1 of Title 9.1.

~~11-~~ 10. Information furnished to or prepared by the Board of Education pursuant to subsection D of § 22.1-253.13:3 in connection with the review or investigation of any alleged breach in security, unauthorized alteration, or improper administration of tests by local school board employees responsible for the distribution or administration of the tests. However, this section shall not prohibit the disclosure of such information to (i) a local school board or division superintendent for the purpose of permitting such board or superintendent to consider or to take personnel action with regard to an employee or (ii) any requester, after the conclusion of a review or investigation, in a form that (a) does not reveal the identity of any person making a complaint or supplying information to the Board on a confidential basis and (b) does not compromise the security of any test mandated by the Board.

~~12-~~ 11. Information contained in (i) an application for licensure or renewal of a license for teachers and other school personnel, including transcripts or other documents submitted in support of an application, and (ii) an active investigation conducted by or for the Board of Education related to the denial, suspension, cancellation, revocation, or reinstatement of teacher and other school personnel licenses including investigator notes and other correspondence and information, furnished in confidence with respect to such investigation. However, this subdivision shall not prohibit the disclosure of such (a) application information to the applicant at his own expense or (b) investigation information to a local school board or division superintendent for the purpose of permitting such board or superintendent to consider or to take personnel action with regard to an employee. Information contained in completed investigations shall be disclosed in a form that does not reveal the identity of any complainant or person supplying information to investigators. The completed investigation information disclosed shall include information regarding the school or facility involved, the identity of the person who was the subject of the complaint, the nature of the complaint, and the actions taken to resolve the complaint. If an investigation fails to support a complaint or does not lead to corrective action, the identity of the person who was the subject of the complaint may be released only with the consent of the subject person. No personally identifiable information regarding a current or former student shall be released except as permitted by state or federal law.

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

**§ 2.2-3705.4. Exclusions to application of chapter; educational records and certain records of educational institutions.**

The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01.

1. Scholastic records containing information concerning identifiable individuals, except that such access shall not be denied to the person who is the subject thereof, or the parent or legal guardian of the student. However, no student shall have access to (i) financial records of a parent or guardian or (ii) records of instructional, supervisory, and administrative personnel and educational personnel ancillary thereto, that are in the sole possession of the maker thereof and that are not accessible or revealed to any other person except a substitute.

The parent or legal guardian of a student may prohibit, by written request, the release of any individual information regarding that student until the student reaches the age of 18 years. For scholastic records of students under the age of 18 years, the right of access may be asserted only by his legal guardian or parent, including a noncustodial parent, unless such parent's parental rights have been terminated or a court of competent jurisdiction has restricted or denied such access. For scholastic records of students who are emancipated or attending a state-supported institution of higher education, the right of access may be asserted by the student.

Any person who is the subject of any scholastic record and who is 18 years of age or older may waive, in writing, the protections afforded by this subdivision. If the protections are so waived, such records shall be disclosed.

2. Confidential letters and statements of recommendation placed in the records of educational agencies or institutions respecting (i) admission to any educational agency or institution, (ii) an application for employment or promotion, or (iii) receipt of an honor or honorary recognition.

3. Information held by the Brown v. Board of Education Scholarship Awards Committee that would reveal personally identifiable information, including scholarship applications, personal financial information, and confidential correspondence and letters of recommendation.

4. Information of a proprietary nature produced or collected by or for faculty or staff of public institutions of higher education, other than the institutions' financial or administrative records, in the conduct of or as a result of study or research on medical, scientific, technical or scholarly issues, whether sponsored by the institution alone or in conjunction with a governmental body or a private concern, where such information has not been publicly released, published, copyrighted or patented.

5. Information held by the University of Virginia or the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, that contain proprietary, business-related information pertaining to the operations of the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, including business development or marketing strategies and activities with existing or future joint venturers, partners, or other parties with whom the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, has formed, or forms, any arrangement for the delivery of health care, if disclosure of such information would be harmful to the competitive position of the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be.

6. Personal information, as defined in § 2.2-3801, provided to the Board of the Virginia College Savings Plan or its employees by or on behalf of individuals who have requested information about, applied for, or entered into prepaid tuition contracts or savings trust account agreements pursuant to Chapter 7 (§ 23.1-700 et seq.) of Title 23.1, *including personal information related to (i) qualified beneficiaries as that term is defined in § 23.1-700, (ii) designated survivors, or (iii) authorized individuals.* ~~However, Nothing in this subdivision shall be construed to prevent disclosure or publication of information in a statistical or other form that does not identify individuals or provide personal information shall be disclosed and may be published by the Board.~~ Individuals shall be provided access to their own personal information.

*For purposes of this subdivision:*

*"Authorized individual" means an individual who may be named by the account owner to receive information regarding the account but who does not have any control or authority over the account.*

*"Designated survivor" means the person who will assume account ownership in the event of the account owner's death.*

7. Information maintained in connection with fundraising activities by or for a public institution of higher education that would reveal (i) personal fundraising strategies relating to identifiable donors or prospective donors or (ii) wealth assessments; estate, financial, or tax planning information; health-related information; employment, familial, or marital status information; electronic mail addresses, facsimile or telephone numbers; birth dates or social security numbers of identifiable donors or prospective donors. Nothing in this subdivision, however, shall be construed to ~~authorize the withholding~~ *prevent the disclosure* of information relating to the amount, date, purpose, and terms of the pledge or donation, or the identity of the donor unless the donor has requested anonymity in connection with or as a condition of making a pledge or donation. The exclusion provided by this subdivision shall not apply to protect from disclosure (i) the identities of sponsors providing grants to or contracting with the institution for the performance of research services or other work or (ii) the terms and conditions of such grants or contracts.

8. Information held by a threat assessment team established by a local school board pursuant to § 22.1-79.4 or by a public institution of higher education pursuant to § 23.1-805 relating to the assessment or intervention with a specific individual. However, in the event an individual who has been under assessment commits an act, or is prosecuted for the commission of an act that has caused the death of, or caused serious bodily injury, including any felony sexual assault, to another person, such information of the threat assessment team concerning the individual under assessment shall be made available as provided by this chapter, with the exception of any criminal history records obtained pursuant to § 19.2-389 or 19.2-389.1, health records obtained pursuant to § 32.1-127.1:03, or scholastic records as defined in § 22.1-289. The public body providing such information shall remove personally identifying information of any person who provided information to the threat assessment team under a promise of confidentiality.

**§ 2.2-3705.5. Exclusions to application of chapter; health and social services records.**

The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01.

1. Health records, except that such records may be personally reviewed by the individual who is the subject of such records, as provided in subsection F of § 32.1-127.1:03.

Where the person who is the subject of health records is confined in a state or local correctional facility, the administrator or chief medical officer of such facility may assert such confined person's right of access to the health records if the administrator or chief medical officer has reasonable cause to believe that such confined person has an infectious disease or other medical condition from which other persons so confined need to be protected. Health records shall only be reviewed and shall not be copied by such administrator or chief medical officer. The information in the health records of a person so confined shall continue to be confidential and shall not be disclosed by the administrator or chief medical officer of the facility to any person except the subject or except as provided by law.

Where the person who is the subject of health records is under the age of 18, his right of access may be asserted only by his guardian or his parent, including a noncustodial parent, unless such parent's parental rights have been terminated, a court of competent jurisdiction has restricted or denied such access, or a parent has been denied access to the health record in accordance with § 20-124.6. In instances where the person who is the subject thereof is an emancipated minor, a student in

a public institution of higher education, or is a minor who has consented to his own treatment as authorized by § 16.1-338 or 54.1-2969, the right of access may be asserted by the subject person.

For the purposes of this chapter, statistical summaries of incidents and statistical data concerning abuse of individuals receiving services compiled by the Commissioner of Behavioral Health and Developmental Services shall be disclosed. No such summaries or data shall include any information that identifies specific individuals receiving services.

2. Applications for admission to examinations or for licensure and scoring records maintained by the Department of Health Professions or any board in that department on individual licensees or applicants. ~~However, such material may be made available during normal working hours for copying, at the requester's expense, by the individual who is the subject thereof, in the offices of the Department of Health Professions or in the offices of any health regulatory board, whichever may possess the material; information required to be provided to the Department of Health Professions by certain licensees pursuant to § 54.1-2506.1; information held by the Health Practitioners' Monitoring Program Committee within the Department of Health Professions that identifies any practitioner who may be, or who is actually, impaired to the extent that disclosure is prohibited by § 54.1-2517; and information relating to the prescribing and dispensing of covered substances to recipients and any abstracts from such information that are in the possession of the Prescription Monitoring Program (Program) pursuant to Chapter 25.2 (§ 54.1-2519 et seq.) of Title 54.1 and any material relating to the operation or security of the Program.~~

3. Reports, documentary evidence, and other information as specified in §§ 51.5-122, and 51.5-141, and ~~63.2-104 Chapter 1 (§ 63.2-100 et seq.) of Title 63.2 and information and statistical registries required to be kept confidential pursuant to Chapter 1 (§ 63.2-100 et seq.) of Title 63.2.~~

4. Investigative notes; proprietary information not published, copyrighted or patented; information obtained from employee personnel records; personally identifiable information regarding residents, clients or other recipients of services; other correspondence and information furnished in confidence to the Department of Social Services in connection with an active investigation of an applicant or licensee pursuant to Chapters 17 (§ 63.2-1700 et seq.) and 18 (§ 63.2-1800 et seq.) of Title 63.2; and information furnished to the Office of the Attorney General in connection with an investigation or litigation pursuant to Article 19.1 (§ 8.01-216.1 et seq.) of Chapter 3 of Title 8.01 and Chapter 9 (§ 32.1-310 et seq.) of Title 32.1. ~~Information However, nothing in this subdivision shall prevent the disclosure of information from the records of completed investigations shall be disclosed in a form that does not reveal the identity of complainants, persons supplying information, or other individuals involved in the investigation.~~

5. Information collected for the designation and verification of trauma centers and other specialty care centers within the Statewide Emergency Medical Services System and Services pursuant to Article 2.1 (§ 32.1-111.1 et seq.) of Chapter 4 of Title 32.1.

6. Reports and court documents relating to involuntary admission required to be kept confidential pursuant to § 37.2-818.

7. ~~Data formerly required to be submitted to the Commissioner of Health relating to the establishment of new or the expansion of existing clinical health services; acquisition of major medical equipment; or certain projects requiring capital expenditures pursuant to former § 32.1-102.3:4.~~

8. ~~Information required to be provided to the Department of Health Professions by certain licensees pursuant to § 54.1-2506.1.~~

9. ~~Information acquired (i) during a review of any child death conducted by the State Child Fatality Review team established pursuant to § 32.1-283.1 or by a local or regional child fatality review team to the extent that such information is made confidential by § 32.1-283.2; (ii) during a review of any death conducted by a family violence fatality review team to the extent that such information is made confidential by § 32.1-283.3; or (iii) during a review of any adult death conducted by the Adult Fatality Review Team to the extent made confidential by § 32.1-283.5 or by a local or regional adult fatality review team to the extent that such information is made confidential by § 32.1-283.6.~~

10. ~~8. Patient level data collected by the Board of Health and not yet processed, verified, and released, pursuant to § 32.1-276.9, to the Board by the nonprofit organization with which the Commissioner of Health has contracted pursuant to § 32.1-276.4.~~

11. ~~Information held by the Health Practitioners' Monitoring Program Committee within the Department of Health Professions that may identify any practitioner who may be, or who is actually, impaired and disclosure of such information is prohibited by § 54.1-2517.~~

12. ~~9. Information relating to a grant application, or accompanying a grant application, submitted to the Commonwealth Neurotrauma Initiative Advisory Board pursuant to Article 12 (§ 51.5-178 et seq.) of Chapter 14 of Title 51.5 that would (i) reveal (a) medical or mental health records or other data identifying individual patients or (b) proprietary business or research-related information produced or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of the applicant.~~

13. ~~10. Any information copied, recorded, or received by the Commissioner of Health in the course of an examination, investigation, or review of a managed care health insurance plan licensee pursuant to §§ 32.1-137.4 and 32.1-137.5, including books, records, files, accounts, papers, documents, and any or all computer or other recordings.~~

14. ~~Information and statistical registries required to be kept confidential pursuant to §§ 63.2-102 and 63.2-104.~~

~~15. Information relating to the prescribing and dispensing of covered substances to recipients and any abstracts from such information that are in the possession of the Prescription Monitoring Program pursuant to Chapter 25.2 (§ 54.1-2519 et seq.) of Title 54.1 and any material relating to the operation or security of the Program.~~

~~16- 11.~~ Records of the Virginia Birth-Related Neurological Injury Compensation Program required to be kept confidential pursuant to § 38.2-5002.2.

~~17- 12.~~ Information held by the State Health Commissioner relating to the health of any person subject to an order of quarantine or an order of isolation pursuant to Article 3.02 (§ 32.1-48.05 et seq.) of Chapter 2 of Title 32.1. However, nothing in this subdivision shall be construed to ~~authorize the withholding~~ *prevent the disclosure* of statistical summaries, abstracts, or other information in aggregate form.

~~18- 13.~~ The names and addresses or other contact information of persons receiving transportation services from a state or local public body or its designee under Title II of the Americans with Disabilities Act, (42 U.S.C. § 12131 et seq.) or funded by Temporary Assistance for Needy Families (TANF) created under § 63.2-600.

~~19- 14.~~ Information held by certain health care committees and entities that may be withheld from discovery as privileged communications pursuant to § 8.01-581.17.

**§ 2.2-3705.6. Exclusions to application of chapter; proprietary records and trade secrets.**

The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01.

1. Proprietary information gathered by or for the Virginia Port Authority as provided in § 62.1-132.4 or 62.1-134.1.
2. Financial statements not publicly available filed with applications for industrial development financings in accordance with Chapter 49 (§ 15.2-4900 et seq.) of Title 15.2.
3. Proprietary information, voluntarily provided by private business pursuant to a promise of confidentiality from a public body, used by the public body for business, trade, and tourism development or retention; and memoranda, working papers, or other information related to businesses that are considering locating or expanding in Virginia, prepared by a public body, where competition or bargaining is involved and where disclosure of such information would adversely affect the financial interest of the public body.
4. Information that was filed as confidential under the Toxic Substances Information Act (§ 32.1-239 et seq.), as such Act existed prior to July 1, 1992.
5. Fisheries data that would permit identification of any person or vessel, except when required by court order as specified in § 28.2-204.
6. Confidential financial statements, balance sheets, trade secrets, and revenue and cost projections provided to the Department of Rail and Public Transportation, provided such information is exempt under the federal Freedom of Information Act or the federal Interstate Commerce Act or other laws administered by the Surface Transportation Board or the Federal Railroad Administration with respect to data provided in confidence to the Surface Transportation Board and the Federal Railroad Administration.
7. Proprietary information related to inventory and sales, voluntarily provided by private energy suppliers to the Department of Mines, Minerals and Energy, used by that Department for energy contingency planning purposes or for developing consolidated statistical information on energy supplies.
8. Confidential proprietary information furnished to the Board of Medical Assistance Services or the Medicaid Prior Authorization Advisory Committee pursuant to Article 4 (§ 32.1-331.12 et seq.) of Chapter 10 of Title 32.1.
9. Proprietary, commercial or financial information, balance sheets, trade secrets, and revenue and cost projections provided by a private transportation business to the Virginia Department of Transportation and the Department of Rail and Public Transportation for the purpose of conducting transportation studies needed to obtain grants or other financial assistance under the Transportation Equity Act for the 21st Century (P.L. 105-178) for transportation projects if disclosure of such information is exempt under the federal Freedom of Information Act or the federal Interstate Commerce Act or other laws administered by the Surface Transportation Board or the Federal Railroad Administration with respect to data provided in confidence to the Surface Transportation Board and the Federal Railroad Administration. However, the exclusion provided by this subdivision shall not apply to any wholly owned subsidiary of a public body.
10. Confidential information designated as provided in subsection F of § 2.2-4342 as trade secrets or proprietary information by any person in connection with a procurement transaction or by any person who has submitted to a public body an application for prequalification to bid on public construction projects in accordance with subsection B of § 2.2-4317.
11. a. Memoranda, staff evaluations, or other information prepared by the responsible public entity, its staff, outside advisors, or consultants exclusively for the evaluation and negotiation of proposals filed under the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) or the Public-Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.) where (i) if such information was made public prior to or after the execution of an interim or a comprehensive agreement, § 33.2-1820 or 56-575.17 notwithstanding, the financial interest or bargaining position of the public entity would be adversely affected and (ii) the basis for the determination required in clause (i) is documented in writing by the responsible public entity; and

b. Information provided by a private entity to a responsible public entity, affected jurisdiction, or affected local jurisdiction pursuant to the provisions of the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) or the Public-Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.) if disclosure of such information would reveal (i) trade secrets of the private entity as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.); (ii) financial information of the private entity, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise; or (iii) other information submitted by the private entity where if such information was made public prior to the execution of an interim agreement or a comprehensive agreement, the financial interest or bargaining position of the public or private entity would be adversely affected. In order for the information specified in clauses (i), (ii), and (iii) to be excluded from the provisions of this chapter, the private entity shall make a written request to the responsible public entity:

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

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

(3) Stating the reasons why protection is necessary.

The responsible public entity shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets or financial information of the private entity. To protect other information submitted by the private entity from disclosure, the responsible public entity shall determine whether public disclosure prior to the execution of an interim agreement or a comprehensive agreement would adversely affect the financial interest or bargaining position of the public or private entity. The responsible public entity shall make a written determination of the nature and scope of the protection to be afforded by the responsible public entity under this subdivision. Once a written determination is made by the responsible public entity, the information afforded protection under this subdivision shall continue to be protected from disclosure when in the possession of any affected jurisdiction or affected local jurisdiction.

Except as specifically provided in subdivision 11 a, nothing in this subdivision shall be construed to authorize the withholding of (a) procurement records as required by § 33.2-1820 or 56-575.17; (b) information concerning the terms and conditions of any interim or comprehensive agreement, service contract, lease, partnership, or any agreement of any kind entered into by the responsible public entity and the private entity; (c) information concerning the terms and conditions of any financing arrangement that involves the use of any public funds; or (d) information concerning the performance of any private entity developing or operating a qualifying transportation facility or a qualifying project.

For the purposes of this subdivision, the terms "affected jurisdiction," "affected local jurisdiction," "comprehensive agreement," "interim agreement," "qualifying project," "qualifying transportation facility," "responsible public entity," and "private entity" shall mean the same as those terms are defined in the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) or in the Public-Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.).

12. Confidential proprietary information or trade secrets, not publicly available, provided by a private person or entity pursuant to a promise of confidentiality to the Virginia Resources Authority or to a fund administered in connection with financial assistance rendered or to be rendered by the Virginia Resources Authority where, if such information were made public, the financial interest of the private person or entity would be adversely affected.

13. Trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), or confidential proprietary information that is not generally available to the public through regulatory disclosure or otherwise, provided by a (i) bidder or applicant for a franchise or (ii) franchisee under Chapter 21 (§ 15.2-2100 et seq.) of Title 15.2 to the applicable franchising authority pursuant to a promise of confidentiality from the franchising authority, to the extent the information relates to the bidder's, applicant's, or franchisee's financial capacity or provision of new services, adoption of new technologies or implementation of improvements, where such new services, technologies, or improvements have not been implemented by the franchisee on a nonexperimental scale in the franchise area, and where, if such information were made public, the competitive advantage or financial interests of the franchisee would be adversely affected.

In order for trade secrets or confidential proprietary information to be excluded from the provisions of this chapter, the bidder, applicant, or franchisee shall (a) invoke such exclusion upon submission of the data or other materials for which protection from disclosure is sought, (b) identify the data or other materials for which protection is sought, and (c) state the reason why protection is necessary.

No bidder, applicant, or franchisee may invoke the exclusion provided by this subdivision if the bidder, applicant, or franchisee is owned or controlled by a public body or if any representative of the applicable franchising authority serves on the management board or as an officer of the bidder, applicant, or franchisee.

14. Information of a proprietary nature furnished by a supplier of charitable gaming supplies to the Department of Agriculture and Consumer Services pursuant to subsection E of § 18.2-340.34.

15. Information related to Virginia apple producer sales provided to the Virginia State Apple Board pursuant to § 3.2-1215.

16. Trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.) of Title 59.1, submitted by CMRS providers as defined in § 56-484.12 to the Wireless Carrier E-911 Cost Recovery Subcommittee created pursuant to § 56-484.15, relating to the provision of wireless E-911 service.

17. Information relating to a grant or loan application, or accompanying a grant or loan application, to the Innovation and Entrepreneurship Investment Authority pursuant to Article 3 (§ 2.2-2233.1 et seq.) of Chapter 22 of Title 2.2 or to the Commonwealth Health Research Board pursuant to Chapter 5.3 (§ 32.1-162.23 et seq.) of Title 32.1 if disclosure of such

information would (i) reveal proprietary business or research-related information produced or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of the applicant.

18. Confidential proprietary information and trade secrets developed and held by a local public body (i) providing telecommunication services pursuant to § 56-265.4:4 and (ii) providing cable television services pursuant to Article 1.1 (§ 15.2-2108.2 et seq.) of Chapter 21 of Title 15.2 if disclosure of such information would be harmful to the competitive position of the locality.

In order for confidential proprietary information or trade secrets to be excluded from the provisions of this chapter, the locality in writing shall (a) invoke the protections of this subdivision, (b) identify with specificity the information for which protection is sought, and (c) state the reasons why protection is necessary. However, the exemption provided by this subdivision shall not apply to any authority created pursuant to the BVU Authority Act (§ 15.2-7200 et seq.).

19. Confidential proprietary information and trade secrets developed by or for a local authority created in accordance with the Virginia Wireless Service Authorities Act (§ 15.2-5431.1 et seq.) to provide qualifying communications services as authorized by Article 5.1 (§ 56-484.7:1 et seq.) of Chapter 15 of Title 56, where disclosure of such information would be harmful to the competitive position of the authority, except that information required to be maintained in accordance with § 15.2-2160 shall be released.

20. Trade secrets as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.) or financial information of a business, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, provided to the Department of Small Business and Supplier Diversity as part of an application for certification as a small, women-owned, or minority-owned business in accordance with Chapter 16.1 (§ 2.2-1603 et seq.). In order for such trade secrets or financial information to be excluded from the provisions of this chapter, the business shall (i) invoke such exclusion upon submission of the data or other materials for which protection from disclosure is sought, (ii) identify the data or other materials for which protection is sought, and (iii) state the reasons why protection is necessary.

21. Information of a proprietary or confidential nature disclosed by a carrier to the State Health Commissioner pursuant to §§ 32.1-276.5:1 and 32.1-276.7:1.

22. Trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), including, but not limited to, financial information, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, and revenue and cost projections supplied by a private or nongovernmental entity to the State Inspector General for the purpose of an audit, special investigation, or any study requested by the Office of the State Inspector General in accordance with law.

In order for the information specified in this subdivision to be excluded from the provisions of this chapter, the private or nongovernmental entity shall make a written request to the State Inspector General:

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

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

c. Stating the reasons why protection is necessary.

The State Inspector General shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets or financial information of the private entity. The State Inspector General shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

23. Information relating to a grant application, or accompanying a grant application, submitted to the Tobacco Region Revitalization Commission that would (i) reveal (a) trade secrets as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), (b) financial information of a grant applicant that is not a public body, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, or (c) research-related information produced or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of the applicant; and memoranda, staff evaluations, or other information prepared by the Commission or its staff exclusively for the evaluation of grant applications. The exclusion provided by this subdivision shall apply to grants that are consistent with the powers of and in furtherance of the performance of the duties of the Commission pursuant to § 3.2-3103.

In order for the information specified in this subdivision to be excluded from the provisions of this chapter, the applicant shall make a written request to the Commission:

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

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

c. Stating the reasons why protection is necessary.

The Commission shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets, financial information, or research-related information of the applicant. The Commission shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

24. a. Information held by the Commercial Space Flight Authority relating to rate structures or charges for the use of projects of, the sale of products of, or services rendered by the Authority if disclosure of such information would adversely

affect the financial interest or bargaining position of the Authority or a private entity providing the information to the Authority; or

b. Information provided by a private entity to the Commercial Space Flight Authority if disclosure of such information would (i) reveal (a) trade secrets of the private entity as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.); (b) financial information of the private entity, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise; or (c) other information submitted by the private entity and (ii) adversely affect the financial interest or bargaining position of the Authority or private entity.

In order for the information specified in clauses (a), (b), and (c) of subdivision 24 b to be excluded from the provisions of this chapter, the private entity shall make a written request to the Authority:

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

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

(3) Stating the reasons why protection is necessary.

The Authority shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets or financial information of the private entity. To protect other information submitted by the private entity from disclosure, the Authority shall determine whether public disclosure would adversely affect the financial interest or bargaining position of the Authority or private entity. The Authority shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

25. Information of a proprietary nature furnished by an agricultural landowner or operator to the Department of Conservation and Recreation, the Department of Environmental Quality, the Department of Agriculture and Consumer Services, or any political subdivision, agency, or board of the Commonwealth pursuant to §§ 10.1-104.7, 10.1-104.8, and 10.1-104.9, other than when required as part of a state or federal regulatory enforcement action.

26. Trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), provided to the Department of Environmental Quality pursuant to the provisions of § 10.1-1458. In order for such trade secrets to be excluded from the provisions of this chapter, the submitting party shall (i) invoke this exclusion upon submission of the data or materials for which protection from disclosure is sought, (ii) identify the data or materials for which protection is sought, and (iii) state the reasons why protection is necessary.

27. Information of a proprietary nature furnished by a licensed public-use airport to the Department of Aviation for funding from programs administered by the Department of Aviation or the Virginia Aviation Board, where if such information was made public, the financial interest of the public-use airport would be adversely affected.

In order for the information specified in this subdivision to be excluded from the provisions of this chapter, the public-use airport shall make a written request to the Department of Aviation:

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

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

c. Stating the reasons why protection is necessary.

28. Records submitted as a grant or loan application, or accompanying a grant or loan application, for an award from the Virginia Research Investment Fund pursuant to Article 8 (§ 23.1-3130 et seq.) of Chapter 31 of Title 23.1, to the extent that such records contain proprietary business or research-related information produced or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, if the disclosure of such information would be harmful to the competitive position of the applicant.

29. *Information contained in engineering and construction drawings and plans submitted for the sole purpose of complying with the Building Code in obtaining a building permit if disclosure of such information would identify specific trade secrets or other information that would be harmful to the competitive position of the owner or lessee. However, such information shall be exempt only until the building is completed. Information relating to the safety or environmental soundness of any building shall not be exempt from disclosure.*

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

The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01.

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

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

available or not otherwise subject to an exclusion under this chapter or other provision of law that has been aggregated, combined, or changed in format without substantive analysis or revision shall not be deemed working papers. Nothing in this subdivision shall be construed to authorize the withholding of any resumes or applications submitted by persons who are appointed by the Governor pursuant to § 2.2-106 or 2.2-107.

As used in this subdivision:

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

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

"Working papers" means those records prepared by or for ~~an above-named~~ a public official identified in this subdivision for his personal or deliberative use.

3. Information contained in library records that can be used to identify both (i) any library patron who has borrowed material from a library and (ii) the material such patron borrowed.

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

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

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

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

8. Personal information, as defined in § 2.2-3801, (i) filed with the Virginia Housing Development Authority concerning individuals who have applied for or received loans or other housing assistance or who have applied for occupancy of or have occupied housing financed, owned or otherwise assisted by the Virginia Housing Development Authority; (ii) concerning persons participating in or persons on the waiting list for federally funded rent-assistance programs; (iii) filed with any local redevelopment and housing authority created pursuant to § 36-4 concerning persons participating in or persons on the waiting list for housing assistance programs funded by local governments or by any such authority; or (iv) filed with any local redevelopment and housing authority created pursuant to § 36-4 or any other local government agency concerning persons who have applied for occupancy or who have occupied affordable dwelling units established pursuant to § 15.2-2304 or 15.2-2305. However, access to one's own information shall not be denied.

9. Information regarding the siting of hazardous waste facilities, except as provided in § 10.1-1441, if disclosure of such information would have a detrimental effect upon the negotiating position of a governing body or on the establishment of the terms, conditions, and provisions of the siting agreement.

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

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

12. Information held by the Virginia Retirement System, acting pursuant to § 51.1-124.30, or a local retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of trustees of a trust established by one or more local public bodies to invest funds for post-retirement benefits other than pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title 15.2, or by the Rector and Visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the Virginia College Savings Plan, acting pursuant to § 23.1-704, relating to the acquisition, holding, or disposition of a security or other ownership interest in an entity, where such security or ownership interest is not traded on a governmentally regulated securities exchange, if disclosure of such information would (i) reveal confidential analyses prepared for the Rector and Visitors of the University of Virginia, prepared by the retirement system, a local finance board or board of trustees, or the Virginia College Savings Plan, or provided to the retirement system, a local finance board or board of trustees, or the Virginia College Savings Plan under a promise of confidentiality of the future value of such ownership interest or the future financial performance of the entity and (ii) have an adverse effect on the value of the

investment to be acquired, held, or disposed of by the retirement system, a local finance board or board of trustees, the Rector and Visitors of the University of Virginia, or the Virginia College Savings Plan. Nothing in this subdivision shall be construed to ~~authorize the withholding~~ prevent the disclosure of information relating to the identity of any investment held, the amount invested, or the present value of such investment.

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

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

~~15. 14. Information held by the Virginia Commonwealth University Health System Authority pertaining to any of the following: an individual's qualifications for or continued membership on its medical or teaching staffs; proprietary information gathered by or in the possession of the Authority from third parties pursuant to a promise of confidentiality; contract cost estimates prepared for confidential use in awarding contracts for construction or the purchase of goods or services; information of a proprietary nature produced or collected by or for the Authority or members of its medical or teaching staffs; financial statements not publicly available that may be filed with the Authority from third parties; the identity, accounts, or account status of any customer of the Authority; consulting or other reports paid for by the Authority to assist the Authority in connection with its strategic planning and goals; the determination of marketing and operational strategies where disclosure of such strategies would be harmful to the competitive position of the Authority; and information of a proprietary nature produced or collected by or for employees of the Authority, other than the Authority's financial or administrative records, in the conduct of or as a result of study or research on medical, scientific, technical, or scholarly issues, whether sponsored by the Authority alone or in conjunction with a governmental body or a private concern, when such information has not been publicly released, published, copyrighted, or patented. This exclusion shall also apply when such information is in the possession of Virginia Commonwealth University.~~

~~16. 15. Information held by the Department of Environmental Quality, the State Water Control Board, the State Air Pollution Control Board, or the Virginia Waste Management Board relating to (i) active federal environmental enforcement actions that are considered confidential under federal law and (ii) enforcement strategies, including proposed sanctions for enforcement actions. Upon request, such information shall be disclosed after a proposed sanction resulting from the investigation has been proposed to the director of the agency. This subdivision shall not be construed to authorize the withholding prevent the disclosure of information related to inspection reports, notices of violation, and documents detailing the nature of any environmental contamination that may have occurred or similar documents.~~

~~17. 16. Information related to the operation of toll facilities that identifies an individual, vehicle, or travel itinerary, including vehicle identification data or vehicle enforcement system information; video or photographic images; Social Security or other identification numbers appearing on driver's licenses; credit card or bank account data; home addresses; phone numbers; or records of the date or time of toll facility use.~~

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

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

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

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

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

~~23. 22. Information submitted for inclusion in the Statewide Alert Network administered by the Department of Emergency Management that reveal names, physical addresses, email addresses, computer or internet protocol information,~~

telephone numbers, pager numbers, other wireless or portable communications device information, or operating schedules of individuals or agencies, where the release of such information would compromise the security of the Statewide Alert Network or individuals participating in the Statewide Alert Network.

~~24.~~ 23. Information held by the Judicial Inquiry and Review Commission made confidential by § 17.1-913.

~~25.~~ 24. Information held by the Virginia Retirement System acting pursuant to § 51.1-124.30, a local retirement system acting pursuant to § 51.1-803 (hereinafter collectively referred to as the retirement system), or the Virginia College Savings Plan, acting pursuant to § 23.1-704 relating to:

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

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

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

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

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

(3) Stating the reasons why protection is necessary.

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

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

~~26.~~ 25. Information held by the Department of Corrections made confidential by § 53.1-233.

~~27.~~ 26. Information maintained by the Department of the Treasury or participants in the Local Government Investment Pool (§ 2.2-4600 et seq.) and required to be provided by such participants to the Department to establish accounts in accordance with § 2.2-4602.

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

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

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

~~31.~~ 29. Information prepared for and utilized by the Commonwealth's Attorneys' Services Council in the training of state prosecutors or law-enforcement personnel, where such information is not otherwise available to the public and the disclosure of such information would reveal confidential strategies, methods, or procedures to be employed in law-enforcement activities or materials created for the investigation and prosecution of a criminal case.

~~32.~~ 30. Information provided to the Department of Aviation by other entities of the Commonwealth in connection with the operation of aircraft where the information would not be subject to disclosure by the entity providing the information. The entity providing the information to the Department of Aviation shall identify the specific information to be protected and the applicable provision of this chapter that excludes the information from mandatory disclosure.

~~33.~~ 31. Information created or maintained by or on the behalf of the judicial performance evaluation program related to an evaluation of any individual justice or judge made confidential by § 17.1-100.

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

marketing and operational strategies where disclosure of such strategies would be harmful to the competitive position of the Authority.

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

- a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;
- b. Identifying with specificity the data or other materials for which protection is sought; and
- c. Stating the reasons why protection is necessary.

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

35-32. Information reflecting the substance of meetings in which individual sexual assault cases are discussed by any sexual assault team established pursuant to § 15.2-1627.4. The findings of the team may be disclosed or published in statistical or other aggregated form that does not disclose the identity of specific individuals.

**§ 2.2-3705.8. Limitation on record exclusions.**

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

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

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

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

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

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

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

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

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

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

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

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

8. In the case of boards of visitors of public institutions of higher education, discussion or consideration of matters relating to gifts, bequests and fund-raising activities, and grants and contracts for services or work to be performed by such institution. However, the terms and conditions of any such gifts, bequests, grants, and contracts made by a foreign government, a foreign legal entity, or a foreign person and accepted by a public institution of higher education in Virginia shall be subject to public disclosure upon written request to the appropriate board of visitors. For the purpose of this subdivision, (i) "foreign government" means any government other than the United States government or the government of a state or a political subdivision thereof; (ii) "foreign legal entity" means any legal entity created under the laws of the United States or of any state thereof if a majority of the ownership of the stock of such legal entity is owned by foreign governments or foreign persons or if a majority of the membership of any such entity is composed of foreign persons or foreign legal entities, or any legal entity created under the laws of a foreign government; and (iii) "foreign person" means any individual who is not a citizen or national of the United States or a trust territory or protectorate thereof.

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

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

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

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

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

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

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

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

17. Those portions of meetings by local government crime commissions where the identity of, or information tending to identify, individuals providing information about crimes or criminal activities under a promise of anonymity is discussed or disclosed.

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

19. Discussion of plans to protect public safety as it relates to terrorist activity or specific cybersecurity threats or vulnerabilities and briefings by staff members, legal counsel, or law-enforcement or emergency service officials concerning actions taken to respond to such matters or a related threat to public safety; discussion of information excluded from this chapter pursuant to subdivision 3 or 4 or 14 of § 2.2-3705.2, where discussion in an open meeting would jeopardize the safety of any person or the security of any facility, building, structure, information technology system, or software program; or discussion of reports or plans related to the security of any governmental facility, building or structure, or the safety of persons using such facility, building or structure.

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

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

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

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

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

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

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

26. Discussion or consideration, by the Wireless Carrier E-911 Cost Recovery Subcommittee created pursuant to § 56-484.15, of trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), submitted by CMRS providers as defined in § 56-484.12, related to the provision of wireless E-911 service.

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

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

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

30. Discussion or consideration of grant or loan application information excluded from this chapter pursuant to subdivision 17 of § 2.2-3705.6 by (i) the Commonwealth Health Research Board or (ii) the Innovation and Entrepreneurship Investment Authority or the Research and Technology Investment Advisory Committee appointed to advise the Innovation and Entrepreneurship Investment Authority.

31. Discussion or consideration by the Commitment Review Committee of information excluded from this chapter pursuant to subdivision 8 5 of § 2.2-3705.2 relating to individuals subject to commitment as sexually violent predators under Chapter 9 (§ 37.2-900 et seq.) of Title 37.2.

32. [Expired.]

33. Discussion or consideration of confidential proprietary information and trade secrets excluded from this chapter pursuant to subdivision 18 of § 2.2-3705.6. However, the exemption provided by this subdivision shall not apply to any authority created pursuant to the BVU Authority Act (§ 15.2-7200 et seq.).

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

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

36. Discussion or consideration by the Forensic Science Board or the Scientific Advisory Committee created pursuant to Article 2 (§ 9.1-1109 et seq.) of Chapter 11 of Title 9.1 of records excluded from this chapter pursuant to subdivision A 2 a of § 2.2-3706.

37. Discussion or consideration by the Brown v. Board of Education Scholarship Program Awards Committee of information or confidential matters excluded from this chapter pursuant to subdivision 3 of § 2.2-3705.4, and meetings of the Committee to deliberate concerning the annual maximum scholarship award, review and consider scholarship applications and requests for scholarship award renewal, and cancel, rescind, or recover scholarship awards.

38. Discussion or consideration by the Virginia Port Authority of information excluded from this chapter pursuant to subdivision 1 of § 2.2-3705.6.

39. Discussion or consideration by the Board of Trustees of the Virginia Retirement System acting pursuant to § 51.1-124.30, by the Investment Advisory Committee appointed pursuant to § 51.1-124.26, by any local retirement system, acting pursuant to § 51.1-803, by the Board of the Virginia College Savings Plan acting pursuant to § 23.1-706, or by the Virginia College Savings Plan's Investment Advisory Committee appointed pursuant to § 23.1-702 of information excluded from this chapter pursuant to subdivision ~~25~~ 24 of § 2.2-3705.7.

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

41. Discussion or consideration by the Board of Education of information relating to the denial, suspension, or revocation of teacher licenses excluded from this chapter pursuant to subdivision ~~12~~ 11 of § 2.2-3705.3.

42. Those portions of meetings of the Virginia Military Advisory Council or any commission created by executive order for the purpose of studying and making recommendations regarding preventing closure or realignment of federal military and national security installations and facilities located in Virginia and relocation of such facilities to Virginia, or a local or regional military affairs organization appointed by a local governing body, during which there is discussion of information excluded from this chapter pursuant to subdivision ~~4~~ 8 of § 2.2-3705.2.

43. Discussion or consideration by the Board of Trustees of the Veterans Services Foundation of information excluded from this chapter pursuant to subdivision ~~29~~ 28 of § 2.2-3705.7.

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

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

46. Discussion or consideration of personal and proprietary information that are excluded from the provisions of this chapter pursuant to (i) subdivision 25 of § 2.2-3705.6 or (ii) subsection E of § 10.1-104.7. This exclusion shall not apply to the discussion or consideration of records that contain information that has been certified for release by the person who is the subject of the information or transformed into a statistical or aggregate form that does not allow identification of the person who supplied, or is the subject of, the information.

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

48. Discussion or consideration of grant or loan application records excluded from this chapter pursuant to subdivision 28 of § 2.2-3705.6 related to the submission of an application for an award from the Virginia Research Investment Fund pursuant to Article 8 (§ 23.1-3130 et seq.) of Chapter 31 of Title 23.1.

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

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

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

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

E. This section shall not be construed to (i) require the disclosure of any contract between the Department of Health Professions and an impaired practitioner entered into pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1 or (ii) require the board of directors of any authority created pursuant to the Industrial Development and Revenue Bond Act (§ 15.2-4900 et seq.), or any public body empowered to issue industrial revenue bonds by general or special law, to identify

a business or industry to which subdivision A 5 applies. However, such business or industry shall be identified as a matter of public record at least 30 days prior to the actual date of the board's authorization of the sale or issuance of such bonds.

**§ 2.2-3714. Violations and penalties.**

In a proceeding commenced against any officer, employee, or member of a public body under § 2.2-3713 for a violation of § 2.2-3704, 2.2-3705.1 through ~~2.2-3705.8~~ 2.2-3705.7, 2.2-3706, 2.2-3707, 2.2-3708, 2.2-3708.1, 2.2-3710, 2.2-3711 or 2.2-3712, the court, if it finds that a violation was willfully and knowingly made, shall impose upon such officer, employee, or member in his individual capacity, whether a writ of mandamus or injunctive relief is awarded or not, a civil penalty of not less than \$500 nor more than \$2,000, which amount shall be paid into the State Literary Fund. For a second or subsequent violation, such civil penalty shall be not less than \$2,000 nor more than \$5,000.

**§ 2.2-3806. Rights of data subjects.**

A. Any agency maintaining personal information shall:

1. Inform an individual who is asked to supply personal information about himself whether he is legally required, or may refuse, to supply the information requested, and also of any specific consequences that are known to the agency of providing or not providing the information.

2. Give notice to a data subject of the possible dissemination of part or all of this information to another agency, nongovernmental organization or system not having regular access authority, and indicate the use for which it is intended, and the specific consequences for the individual, which are known to the agency, of providing or not providing the information. However documented permission for dissemination in the hands of the other agency or organization shall satisfy the requirement of this subdivision. The notice may be given on applications or other data collection forms prepared by data subjects.

3. Upon request and proper identification of any data subject, or of his authorized agent, grant the data subject or agent the right to inspect, in a form comprehensible to him:

a. All personal information about that data subject except as provided in subdivision 1 of § 2.2-3705.1, subdivision 1 of § 2.2-3705.4, and subdivision 1 of § 2.2-3705.5.

b. The nature of the sources of the information.

c. The names of recipients, other than those with regular access authority, of personal information about the data subject including the identity of all persons and organizations involved and their relationship to the system when not having regular access authority, except that if the recipient has obtained the information as part of an ongoing criminal investigation such that disclosure of the investigation would jeopardize law-enforcement action, then no disclosure of such access shall be made to the data subject.

4. Comply with the following minimum conditions of disclosure to data subjects:

a. An agency shall make disclosures to data subjects required under this chapter, during normal business hours, in accordance with the procedures set forth in subsections B and C of § 2.2-3704 for responding to requests under the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) or within a time period as may be mutually agreed upon by the agency and the data subject.

b. The disclosures to data subjects required under this chapter shall be made (i) in person, if he appears in person and furnishes proper identification, or (ii) by mail, if he has made a written request, with proper identification. Copies of the documents containing the personal information sought by a data subject shall be furnished to him or his representative at reasonable charges for document search and duplication in accordance with subsection F of § 2.2-3704.

c. The data subject shall be permitted to be accompanied by a person of his choosing, who shall furnish reasonable identification. An agency may require the data subject to furnish a written statement granting the agency permission to discuss the individual's file in such person's presence.

5. If the data subject gives notice that he wishes to challenge, correct, or explain information about him in the information system, the following minimum procedures shall be followed:

a. The agency maintaining the information system shall investigate, and record the current status of that personal information.

b. If, after such investigation, the information is found to be incomplete, inaccurate, not pertinent, not timely, or not necessary to be retained, it shall be promptly corrected or purged.

c. If the investigation does not resolve the dispute, the data subject may file a statement of not more than 200 words setting forth his position.

d. Whenever a statement of dispute is filed, the agency maintaining the information system shall supply any previous recipient with a copy of the statement and, in any subsequent dissemination or use of the information in question, clearly note that it is disputed and supply the statement of the data subject along with the information.

e. The agency maintaining the information system shall clearly and conspicuously disclose to the data subject his rights to make such a request.

f. Following any correction or purging of personal information the agency shall furnish to past recipients notification that the item has been purged or corrected whose receipt shall be acknowledged.

B. Nothing in this chapter shall be construed to require an agency to disseminate any recommendation or letter of reference from or to a third party that is a part of the personnel file of any data subject nor to disseminate any test or examination used, administered or prepared by any public body for purposes of evaluation of (i) any student or any student's

performance, (ii) any seeker's qualifications or aptitude for employment, retention, or promotion, or (iii) qualifications for any license or certificate issued by any public body.

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

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

C. Neither any provision of this chapter nor any provision of the Freedom of Information Act (§ 2.2-3700 et seq.) shall be construed to deny public access to records of the position, job classification, official salary or rate of pay of, and to records of the allowances or reimbursements for expenses paid to any public officer, official or employee at any level of state, local or regional government in the Commonwealth. The provisions of this subsection shall not apply to records of the official salaries or rates of pay of public employees whose annual rate of pay is \$10,000 or less.

D. Nothing in this section or in this chapter shall be construed to require an agency to disseminate information derived from tax returns in violation of §§ 2.2-3705.7 and prohibited from release pursuant to § 58.1-3.

**§ 22.1-253.13:3. Standard 3. Accreditation, other standards, assessments, and releases from state regulations.**

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

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

The Board shall review annually the accreditation status of all schools in the Commonwealth. The Board shall review the accreditation status of a school once every three years if the school has been fully accredited for three consecutive years. Upon such triennial review, the Board shall review the accreditation status of the school for each individual year within that triennial review period. If the Board finds that the school would have been accredited every year of that triennial review period the Board shall accredit the school for another three years. The Board may review the accreditation status of any other school once every two years or once every three years, provided that any school that receives a multiyear accreditation status other than full accreditation shall be covered by a Board-approved multiyear corrective action plan for the duration of the period of accreditation. Such multiyear corrective action plan shall include annual written progress updates to the Board. A multiyear accreditation status shall not relieve any school or division of annual reporting requirements.

Each local school board shall maintain schools that are fully accredited pursuant to the standards for accreditation as prescribed by the Board of Education. Each local school board shall report the accreditation status of all schools in the local school division annually in public session. Within the time specified by the Board of Education, each school board shall submit corrective action plans for any schools within its school division that have been designated as not meeting the standards as approved by the Board.

When the Board of Education determines through the school academic review process that the failure of schools within a division to achieve full accreditation status is related to division-level failure to implement the Standards of Quality or other division-level action or inaction, the Board may require a division-level academic review. After the conduct of such review and within the time specified by the Board of Education, each school board shall submit to the Board for approval a corrective action plan, consistent with criteria established by the Board setting forth specific actions and a schedule designed to ensure that schools within its school division achieve full accreditation status. If the Board determines that the proposed corrective action plan is not sufficient to enable all schools within the division to achieve full accreditation, the Board may return the plan to the local school board with directions to submit an amended plan pursuant to Board guidance. Such corrective action plans shall be part of the relevant school division's comprehensive plan pursuant to § 22.1-253.13:6.

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

B. The Superintendent of Public Instruction shall develop and the Board of Education shall approve criteria for determining and recognizing educational performance in the Commonwealth's public school divisions and schools. Such criteria, when approved, shall become an integral part of the accreditation process and shall include student outcome measurements. The Superintendent of Public Instruction shall annually report to the Board on the accreditation status of all

school divisions and schools. Such report shall include an analysis of the strengths and weaknesses of public education programs in the various school divisions in Virginia and recommendations to the General Assembly for further enhancing student learning uniformly across the Commonwealth. In recognizing educational performance in the school divisions, the Board shall include consideration of special school division accomplishments, such as numbers of dual enrollments and students in Advanced Placement and International Baccalaureate courses, and participation in academic year Governor's Schools.

The Superintendent of Public Instruction shall assist local school boards in the implementation of action plans for increasing educational performance in those school divisions and schools that are identified as not meeting the approved criteria. The Superintendent of Public Instruction shall monitor the implementation of and report to the Board of Education on the effectiveness of the corrective actions taken to improve the educational performance in such school divisions and schools.

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

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

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

The Board shall include in the student outcome measures that are required by the Standards for Accreditation end-of-course or end-of-grade assessments for various grade levels and classes, including the completion of the alternative assessments implemented by each local school board, in accordance with the Standards of Learning. These assessments shall include end-of-course or end-of-grade tests for English, mathematics, science, and history and social science and may be integrated to include multiple subject areas.

The Board shall prescribe alternative methods of Standards of Learning assessment administration for children with disabilities, as that term is defined in § 22.1-213, who meet criteria established by the Board to demonstrate achievement of the Standards of Learning. An eligible student's Individual Education Program team shall make the final determination as to whether an alternative method of administration is appropriate for the student.

The Standards of Learning assessments administered to students in grades three through eight shall not exceed (a) reading and mathematics in grades three and four; (b) reading, mathematics, and science in grade five; (c) reading and mathematics in grades six and seven; (d) reading, writing, and mathematics in grade eight; (e) science after the student receives instruction in the grade six science, life science, and physical science Standards of Learning and before the student completes grade eight; and (f) Virginia Studies and Civics and Economics once each at the grade levels deemed appropriate by each local school board.

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

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

The Department of Education shall award recovery credit to any student in grades three through eight who fails a Standards of Learning assessment in English reading or mathematics, receives remediation, and subsequently retakes and passes such an assessment, including any such student who subsequently retakes such an assessment on an expedited basis.

In addition, to assess the educational progress of students, the Board of Education shall (A) develop appropriate assessments, which may include criterion-referenced tests and other assessment instruments that may be used by classroom teachers; (B) select appropriate industry certification and state licensure examinations; and (C) prescribe and provide measures, which may include nationally normed tests to be used to identify students who score in the bottom quartile at selected grade levels. An annual justification that includes evidence that the student meets the participation criteria defined by the Virginia Department of Education shall be provided for each student considered for the Virginia Grade Level Alternative. Each Individual Education Program team shall review such justification and make the final determination as to whether or not the Virginia Grade Level Alternative is appropriate for the student. The superintendent and the school board

chairman shall certify to the Board of Education, as a part of certifying compliance with the Standards of Quality, that there is a justification in the Individual Education Program for every student who takes the Virginia Grade Level Alternative. Compliance with this requirement shall be monitored as a part of the special education monitoring process conducted by the Department of Education. The Board shall report to the Governor and General Assembly in its annual reports pursuant to § 22.1-18 any school division that is not in compliance with this requirement.

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

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

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

The Board of Education shall not include in its calculation of the passage rate of a Standards of Learning assessment for the purposes of state accountability any student whose parent has decided to not have his child take such Standards of Learning assessment, unless such exclusions would result in the school's not meeting any required state or federal participation rate.

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

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

Records and other information furnished to or prepared by the Board during the conduct of a review or investigation may be withheld pursuant to subdivision ~~10~~ of § 2.2-3705.3. However, this section shall not prohibit the disclosure of records to (i) a local school board or division superintendent for the purpose of permitting such board or superintendent to consider or to take personnel action with regard to an employee or (ii) any requester, after the conclusion of a review or investigation, in a form that (a) does not reveal the identity of any person making a complaint or supplying information to the Board on a confidential basis and (b) does not compromise the security of any test mandated by the Board. Any local school board or division superintendent receiving such records or other information shall, upon taking personnel action against a relevant employee, place copies of such records or information relating to the specific employee in such person's personnel file.

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

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

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

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

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

manner that allows year-to-year comparisons, and (ii) may include the National Assessment of Educational Progress state-by-state assessment.

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

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

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

**§ 22.1-279.8. School safety audits and school crisis, emergency management, and medical emergency response plans required.**

A. For the purposes of this section, unless the context requires otherwise:

"School crisis, emergency management, and medical emergency response plan" means the essential procedures, operations, and assignments required to prevent, manage, and respond to a critical event or emergency, including natural disasters involving fire, flood, tornadoes, or other severe weather; loss or disruption of power, water, communications or shelter; bus or other accidents; medical emergencies, including cardiac arrest and other life-threatening medical emergencies; student or staff member deaths; explosions; bomb threats; gun, knife or other weapons threats; spills or exposures to hazardous substances; the presence of unauthorized persons or trespassers; the loss, disappearance or kidnapping of a student; hostage situations; violence on school property or at school activities; incidents involving acts of terrorism; and other incidents posing a serious threat of harm to students, personnel, or facilities. The plan shall include a provision that the Department of Criminal Justice Services and the Virginia Criminal Injuries Compensation Fund shall be contacted immediately to deploy assistance in the event of an emergency as defined in the emergency response plan when there are victims as defined in § 19.2-11.01. The Department of Criminal Justice Services and the Virginia Criminal Injuries Compensation Fund shall be the lead coordinating agencies for those individuals determined to be victims, and the plan shall also contain current contact information for both agencies.

"School safety audit" means a written assessment of the safety conditions in each public school to (i) identify and, if necessary, develop solutions for physical safety concerns, including building security issues and (ii) identify and evaluate any patterns of student safety concerns occurring on school property or at school-sponsored events. Solutions and responses shall include recommendations for structural adjustments, changes in school safety procedures, and revisions to the school board's standards for student conduct.

B. The Virginia Center for School and Campus Safety, in consultation with the Department of Education, shall develop a list of items to be reviewed and evaluated in the school safety audits required by this section. Such items shall include those incidents reported to school authorities pursuant to § 22.1-279.3:1 and shall include a school inspection walk-through using a standardized checklist provided by the Virginia Center for School and Campus Safety, which shall incorporate crime prevention through environmental design principles.

The Virginia Center for School and Campus Safety shall prescribe a standardized report format for school safety audits, additional reporting criteria, and procedures for report submission, which may include instructions for electronic submission.

Each local school board shall require all schools under its supervisory control to annually conduct school safety audits as defined in this section and consistent with such list.

The results of such school safety audits shall be made public within 90 days of completion. The local school board shall retain authority to withhold or limit the release of any security plans, walk-through checklists, and specific vulnerability assessment components as provided in subdivision 7 4 of § 2.2-3705.2. The completed walk-through checklist

shall be made available upon request to the chief law-enforcement officer of the locality or his designee. Each school shall maintain a copy of the school safety audit, which may exclude such security plans, walk-through checklists, and vulnerability assessment components, within the office of the school principal and shall make a copy of such report available for review upon written request.

Each school shall submit a copy of its school safety audit to the relevant school division superintendent. The division superintendent shall collate and submit all such school safety audits, in the prescribed format and manner of submission, to the Virginia Center for School and Campus Safety and shall make available upon request to the chief law-enforcement officer of the locality the results of such audits.

C. The division superintendent shall establish a school safety audit committee to include, if available, representatives of parents, teachers, local law-enforcement, emergency services agencies, local community services boards, and judicial and public safety personnel. The school safety audit committee shall review the completed school safety audits and submit any plans, as needed, for improving school safety to the division superintendent for submission to the local school board.

D. Each school board shall ensure that every school that it supervises shall develop a written school crisis, emergency management, and medical emergency response plan, consistent with the definition provided in this section, and shall provide copies of such plans to the chief law-enforcement officer, the fire chief, the chief of the emergency medical services agency, and the emergency management official of the locality. Each school division shall designate an emergency manager. The Department of Education and the Virginia Center for School and Campus Safety shall provide technical assistance to the school divisions of the Commonwealth in the development of the school crisis, emergency management, and medical emergency response plans that describe the components of a medical emergency response plan developed in coordination with local emergency medical services providers, the training of school personnel and students to respond to a life-threatening emergency, and the equipment required for this emergency response. The local school board shall annually review the written school crisis, emergency management, and medical emergency response plans. The local school board shall have the authority to withhold or limit the review of any security plans and specific vulnerability assessment components as provided in subdivision 7 4 of § 2.2-3705.2. The local school division superintendent shall certify this review in writing to the Virginia Center for School and Campus Safety no later than August 31 of each year.

Upon consultation with local school boards, division superintendents, the Virginia Center for School and Campus Safety, and the Coordinator of Emergency Management, the Board of Education shall develop, and may revise as it deems necessary, a model school crisis, emergency management, and medical emergency response plan for the purpose of assisting the public schools in Virginia in developing viable, effective crisis, emergency management, and medical emergency response plans. Such model shall set forth recommended effective procedures and means by which parents can contact the relevant school or school division regarding the location and safety of their school children and by which school officials may contact parents, with parental approval, during a critical event or emergency.

**§ 23.1-2425. Confidential and public information.**

A. The Authority is subject to the provisions of the Freedom of Information Act (§ 2.2-3700 et seq.), including the exclusions set forth in subdivision ~~15~~ 14 of § 2.2-3705.7 and subdivision A 23 of § 2.2-3711.

B. For purposes of the Freedom of Information Act (§ 2.2-3700 et seq.), meetings of the board are not considered meetings of the board of visitors of the University. Meetings of the board may be conducted through telephonic or video means as provided in § 2.2-3708.

**§ 32.1-48.08. Declaration of quarantine.**

A. The State Health Commissioner may declare a quarantine of any person or persons or any affected area after he finds that the quarantine is the necessary means to contain a communicable disease of public health threat as defined in § 32.1-48.06 to which such person or persons or the people of an affected area have been or may have been exposed and thus may become infected.

B. The State Health Commissioner shall record his findings and any information on which he has relied in making the finding required for quarantine pursuant to subsection A. The State Health Commissioner's record of findings concerning any communicable disease of public health threat shall be confidential and shall not be disclosed in accordance with subdivision ~~17~~ 12 of § 2.2-3705.5.

C. The State Health Commissioner may order the quarantined person or persons to remain in their residences, to remain in another place where they are present, or to report to a place or places designated by the State Health Commissioner for the duration of their quarantine. An electronic device may be used to enforce any such quarantine. The Commissioner's order of quarantine shall be for a duration consistent with the known incubation period for such disease or, if the incubation period is unknown, for a period anticipated as being consistent with the incubation period for other similar infectious agents.

**§ 32.1-48.011. Isolation may be ordered under certain exceptional circumstances; Commissioner authorized to require hospitalization or other health care.**

A. Whenever the State Health Commissioner makes a determination of exceptional circumstances pursuant to § 32.1-48.05 and that the isolation procedures set forth in Article 3.01 (§ 32.1-48.01 et seq.) of this chapter are insufficient control measures to contain a communicable disease of public health threat, the isolation procedures herein may be invoked.

B. The State Health Commissioner may order the isolation of a person or persons upon a finding that (i) such person or persons are infected with or may reasonably be suspected to be infected with a communicable disease of public health threat and (ii) isolation is necessary to protect the public health, to ensure such isolated person or persons receive appropriate

medical treatment, and to protect health care providers and others who may come into contact with such infected person or persons.

C. The State Health Commissioner shall record his findings and any information on which he has relied in making the finding required for isolation pursuant to this section. The State Health Commissioner's record of findings concerning any communicable disease of public health threat that is involved in an order of isolation shall be confidential and shall not be disclosed in accordance with subdivision 47 12 of § 2.2-3705.5.

D. The Commissioner may order the isolated person or persons to remain in their places of residence, to remain in another place where they are present, or to report to a place or facility designated by the Commissioner for the duration of their isolation. An electronic device may be used to enforce any such isolation. The Commissioner's order of isolation shall be for a duration consistent with the known course of such communicable disease of public health threat or, if the course of the disease is unknown or uncertain, for a period consistent with the probable course of the communicable disease of public health threat.

E. To the extent that persons subject to an order of isolation pursuant to this article require hospitalization or other health care services, the State Health Commissioner shall be authorized to require that such services be provided.

F. The State Health Commissioner shall also have the authority to monitor the medical condition of any person or persons subject to an order of isolation pursuant to this article through regular visits by public health nurses or such other means as the Commissioner shall determine to be necessary.

**§ 32.1-48.015. Authorization to disclose health records.**

A. The provisions of this article are hereby declared to be necessary to prevent serious harm and serious threats to the health and safety of individuals and the public in Virginia for purposes of authorizing the State Health Commissioner or his designee to examine and review any health records of any person or persons subject to any order of quarantine or order of isolation pursuant to this article and the regulations of the Department of Health and Human Services promulgated in compliance with the Health Insurance Portability and Accountability Act of 1996, as amended. The State Health Commissioner shall authorize any designee in writing to so examine and review any health records of any person or persons subject to any order of quarantine or order of isolation pursuant to this article.

B. Pursuant to the regulations concerning patient privacy promulgated by the federal Department of Health and Human Services, covered entities may disclose protected health information to the State Health Commissioner or his designee without obtaining consent or authorization for such disclosure from the person who is the subject of the records. Such protected health information shall be used to facilitate the health care of any person or persons who are subject to an order of quarantine or an order of isolation. The State Health Commissioner or his designee shall only redisclose such protected health information in compliance with the aforementioned federal regulations. Further, the protected health information disclosed to the State Health Commissioner or his designee shall be held confidential and shall not be disclosed pursuant to the provisions of subdivision 47 12 of § 2.2-3705.5.

C. Pursuant to subsection G of § 32.1-116.3, any person requesting or requiring any employee of a public safety agency as defined in subsection J of § 32.1-45.2 to arrest, transfer, or otherwise exercise custodial supervision over an individual known to the requesting person (i) to be infected with any communicable disease or (ii) to be subject to an order of quarantine or an order of isolation pursuant to Article 3.02 (§ 32.1-48.05 et seq.) of Chapter 2 shall inform such employee of a public safety agency of the potential risk of exposure to a communicable disease.

**§ 32.1-283.1. State Child Fatality Review Team; membership; access to and maintenance of records; confidentiality; etc.**

A. There is hereby created the State Child Fatality Review Team, referred to in this section as "the Team," which shall develop and implement procedures to ensure that child deaths occurring in Virginia are analyzed in a systematic way. The Team shall review (i) violent and unnatural child deaths, (ii) sudden child deaths occurring within the first 18 months of life, and (iii) those fatalities for which the cause or manner of death was not determined with reasonable medical certainty. No child death review shall be initiated by the Team until conclusion of any law-enforcement investigation or criminal prosecution. The Team shall (i) develop and revise as necessary operating procedures for the review of child deaths, including identification of cases to be reviewed and procedures for coordination among the agencies and professionals involved, (ii) improve the identification, data collection, and record keeping of the causes of child death, (iii) recommend components for prevention and education programs, (iv) recommend training to improve the investigation of child deaths, and (v) provide technical assistance, upon request, to any local child fatality teams that may be established. The operating procedures for the review of child deaths shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq.) pursuant to subdivision B 17 of § 2.2-4002.

B. The 16-member Team shall be chaired by the Chief Medical Examiner and shall be composed of the following persons or their designees: the Commissioner of Behavioral Health and Developmental Services; the Director of Child Protective Services within the Department of Social Services; the Superintendent of Public Instruction; the State Registrar of Vital Records; and the Director of the Department of Criminal Justice Services. In addition, one representative from each of the following entities shall be appointed by the Governor to serve for a term of three years: local law-enforcement agencies, local fire departments, local departments of social services, the Medical Society of Virginia, the Virginia College of Emergency Physicians, the Virginia Pediatric Society, local emergency medical services personnel, attorneys for the Commonwealth, and community services boards.

C. Upon the request of the Chief Medical Examiner in his capacity as chair of the Team, made after the conclusion of any law-enforcement investigation or prosecution, information and records regarding a child whose death is being reviewed by the Team may be inspected and copied by the Chief Medical Examiner or his designee, including, but not limited to, any report of the circumstances of the event maintained by any state or local law-enforcement agency or medical examiner, and information or records maintained on such child by any school, social services agency or court. Information, records, or reports maintained by any attorney for the Commonwealth shall be made available for inspection and copying by the Chief Medical Examiner pursuant to procedures which shall be developed by the Chief Medical Examiner and the Commonwealth's Attorneys' Services Council established by § 2.2-2617. Any presentence report prepared pursuant to § 19.2-299 for any person convicted of a crime that led to the death of the child shall be made available for inspection and copying by the Office of the Chief Medical Examiner pursuant to procedures which shall be developed by the Chief Medical Examiner. In addition, the Office of the Chief Medical Examiner may inspect and copy from any Virginia health care provider, on behalf of the Team, (i) without obtaining consent, the health and mental health records of the child and those perinatal medical records of the child's mother that related to such child and (ii) upon obtaining consent from each adult regarding his personal records, or from a parent regarding the records of a minor child, the health and mental health records of the child's family. All such information and records shall be confidential and shall be excluded from the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) pursuant to subdivision 9 7 of § 2.2-3705.5. Upon the conclusion of the child death review, all information and records concerning the child and the child's family shall be shredded or otherwise destroyed by the Office of the Chief Medical Examiner in order to ensure confidentiality. Such information or records shall not be subject to subpoena or discovery or be admissible in any criminal or civil proceeding. If available from other sources, however, such information and records shall not be immune from subpoena, discovery, or introduction into evidence when obtained through such other sources solely because the information and records were presented to the Team during a child death review. Further, the findings of the Team may be disclosed or published in statistical or other form which shall not identify individuals. The portions of meetings in which individual child death cases are discussed by the Team shall be closed pursuant to subdivision A 21 of § 2.2-3711. In addition to the requirements of § 2.2-3712, all team members, persons attending closed team meetings, and persons presenting information and records on specific child deaths to the Team during closed meetings shall execute a sworn statement to honor the confidentiality of the information, records, discussions, and opinions disclosed during any closed meeting to review a specific child death. Violations of this subsection are punishable as a Class 3 misdemeanor.

D. Upon notification of a child death, any state or local government agency maintaining records on such child or such child's family which are periodically purged shall retain such records for the longer of 12 months or until such time as the State Child Fatality Review Team has completed its child death review of the specific case.

E. The Team shall compile annual data which shall be made available to the Governor and the General Assembly as requested. These statistical data compilations shall not contain any personally identifying information and shall be public records.

**§ 32.1-283.2. Local and regional child fatality review teams established; membership; authority; confidentiality; immunity.**

A. Upon the initiative of any local or regional law-enforcement agency, fire department, department of social services, emergency medical services agency, attorney for the Commonwealth's office, or community services board, local or regional child fatality teams may be established for the purpose of conducting contemporaneous reviews of local child deaths in order to develop interventions and strategies for prevention specific to the locality or region. Each team shall establish rules and procedures to govern the review process. Agencies may share information but shall be bound by confidentiality and execute a sworn statement to honor the confidentiality of the information they share. Violations are punishable as a Class 3 misdemeanor. The State Child Fatality Review Team shall provide technical assistance and direction as provided for in subsection A of § 32.1-283.1.

B. Local and regional teams may be composed of the following persons from the localities represented on a particular board or their designees: a medical examiner appointed pursuant to § 32.1-282, a local social services official in charge of child protective services, a director of the relevant local or district health department, a chief law-enforcement officer, a local fire marshal, a local emergency medical services agency chief, the attorney for the Commonwealth, an executive director of the local community services board or other local mental health agency, and such additional persons, not to exceed four, as may be appointed to serve by the chairperson of the local or regional team. The chairperson shall be elected from among the designated membership. The additional members appointed by the chairperson may include, but are not restricted to, representatives of local human services agencies; local public education agencies; local pediatricians, psychiatrists and psychologists; and local child advocacy organizations.

C. Each team shall establish local rules and procedures to govern the review process prior to conducting the first child fatality review. The review of a death shall be delayed until any criminal investigations connected with the death are completed or the Commonwealth consents to the commencement of such review prior to the completion of the criminal investigation.

D. All information and records obtained or created regarding the review of a fatality shall be confidential and shall be excluded from the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) pursuant to subdivision 9 7 of § 2.2-3705.5. All such information and records shall be used by the team only in the exercise of its proper purpose and function and shall not be disclosed. Such information or records shall not be subject to subpoena, subpoena duces tecum, or discovery or be

admissible in any criminal or civil proceeding. If available from other sources, however, such information and records shall not be immune from subpoena, subpoena duces tecum, discovery or introduction into evidence when obtained through such other sources solely because the information and records were presented to the team during a fatality review. No person who participated in the reviews nor any member of the team shall be required to make any statement as to what transpired during the review or what information was collected during the review. Upon the conclusion of the fatality review, all information and records concerning the victim and the family shall be returned to the originating agency or destroyed. However, the findings of the team may be disclosed or published in statistical or other form which shall not identify individuals. The portions of meetings in which individual cases are discussed by the team shall be closed pursuant to subdivision A 21 of § 2.2-3711. All team members, persons attending closed team meetings, and persons presenting information and records on specific fatalities to the team during closed meetings shall execute a sworn statement to honor the confidentiality of the information, records, discussions, and opinions disclosed during any closed meeting to review a specific death. Violations of this subsection are punishable as a Class 3 misdemeanor.

E. Members of teams, as well as their agents and employees, shall be immune from civil liability for any act or omission made in connection with participation in a child fatality review team review, unless such act or omission was the result of gross negligence or willful misconduct. Any organization, institution, or person furnishing information, data, testimony, reports or records to review teams as part of such review, shall be immune from civil liability for any act or omission in furnishing such information, unless such act or omission was the result of gross negligence or willful misconduct.

**§ 32.1-283.3. Family violence fatality review teams established; model protocol and data management; membership; authority; confidentiality, etc.**

A. The Office of the Chief Medical Examiner shall develop a model protocol for the development and implementation of local family violence fatality review teams (teams) and such model protocol shall include relevant procedures for conducting reviews of fatal family violence incidents. A "fatal family violence incident" means any fatality that occurred or that is suspected of having occurred in the context of abuse between family members or intimate partners. The Office of the Chief Medical Examiner shall provide technical assistance to the local teams and serve as a clearinghouse for information.

B. Subject to available funding, the Office of the Chief Medical Examiner shall provide ongoing surveillance of fatal family violence occurrences and promulgate an annual report based on accumulated data.

C. Any county or city, or combination of counties, cities, or counties and cities, may establish a family violence fatality review team to examine fatal family violence incidents and to create a body of information to help prevent future family violence fatalities. The team shall have the authority to review the facts and circumstances of all fatal family violence incidents that occur within its designated geographic area.

D. Membership in the team may include, but shall not be limited to, health care professionals, representatives from the local bar, attorneys for the Commonwealth, judges, law-enforcement officials, criminologists, medical examiners appointed pursuant to § 32.1-282, other experts in forensic medicine and pathology, family violence victim advocates, health department professionals, probation and parole professionals, adult and child protective services professionals, and representatives of family violence local coordinating councils.

E. Each team shall establish local rules and procedures to govern the review process prior to the first fatal family violence incident review conducted. The review of a death shall be delayed until any criminal investigations or prosecutions connected with the death are completed.

F. All information and records obtained or created regarding the review of a fatality shall be confidential and shall be excluded from the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) pursuant to subdivision 9 7 of § 2.2-3705.5. All such information and records shall be used by the team only in the exercise of its proper purpose and function and shall not be disclosed. Such information or records shall not be subject to subpoena, subpoena duces tecum or discovery or be admissible in any criminal or civil proceeding. If available from other sources, however, such information and records shall not be immune from subpoena, subpoena duces tecum, discovery or introduction into evidence when obtained through such other sources solely because the information and records were presented to the team during a fatality review. No person who participated in the review nor any member of the team shall be required to make any statement as to what transpired during the review or what information was collected during the review. Upon the conclusion of the fatality review, all information and records concerning the victim and the family shall be returned to the originating agency or destroyed. However, the findings of the team may be disclosed or published in statistical or other form which shall not identify individuals. The portions of meetings in which individual cases are discussed by the team shall be closed pursuant to subdivision A 21 of § 2.2-3711. All team members, persons attending closed team meetings, and persons presenting information and records on specific fatalities to the team during closed meetings shall execute a sworn statement to honor the confidentiality of the information, records, discussions, and opinions disclosed during any closed meeting to review a specific death. Violations of this subsection are punishable as a Class 3 misdemeanor.

G. Members of teams, as well as their agents and employees, shall be immune from civil liability for any act or omission made in connection with participation in a family violence fatality review, unless such act or omission was the result of gross negligence or willful misconduct. Any organization, institution, or person furnishing information, data, testimony, reports or records to review teams as part of such review, shall be immune from civil liability for any act or omission in furnishing such information, unless such act or omission was the result of gross negligence or willful misconduct.

**§ 32.1-283.5. Adult Fatality Review Team; duties; membership; confidentiality; penalties; report; etc.**

A. There is hereby created the Adult Fatality Review Team, referred to in this section as "the Team," which shall develop and implement procedures to ensure that adult deaths occurring in the Commonwealth are analyzed in a systematic way. The Team shall review the death of any person age 60 years or older, or any adult age 18 years or older who is incapacitated, who resides in the Commonwealth, or who does not reside in the Commonwealth but who is temporarily in the Commonwealth and who is in need of temporary or emergency protective services (i) who was the subject of an adult protective services or law-enforcement investigation; (ii) whose death was due to abuse, neglect, or exploitation or acts suggesting abuse, neglect, or exploitation; or (iii) whose death came under the jurisdiction of or was investigated by the Office of the Chief Medical Examiner pursuant to § 32.1-283. The Team shall not initiate an adult death review until the conclusion of any law-enforcement investigation or criminal prosecution. The operating procedures for the review of adult deaths shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq.) pursuant to subdivision B 17 of § 2.2-4002.

B. The 16-member team shall consist of the following persons or their designees: the Chief Medical Examiner, the Commissioner of Behavioral Health and Developmental Services, the Commissioner for Aging and Rehabilitative Services, the Director of the Office of Licensure and Certification of the Department of Health, and the State Long-Term Care Ombudsman. In addition, the Governor shall appoint one representative from each of the following entities: a licensed funeral services provider, the Medical Society of Virginia, and local departments of social services, emergency medical services, attorneys for the Commonwealth, law-enforcement agencies, nurses specializing in geriatric care, psychiatrists specializing in geriatric care, and long-term care providers. The Team further shall include two members appointed by the Governor who are advocates for elderly or disabled populations in Virginia. The Chief Medical Examiner shall serve as chair of the Team.

After the initial staggering of terms, members appointed by the Governor shall be appointed for a term of four years. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. Vacancies shall be filled in the same manner as the original appointments. All members may be reappointed. The Chief Medical Examiner and other ex officio members of the Team shall serve terms coincident with their terms of office.

C. Upon the request of the chair of the Team, made after the conclusion of any law-enforcement investigation or prosecution, information and records regarding an adult whose death is being reviewed by the Team shall be inspected and copied by the chair or his designee, including but not limited to any report of the circumstances of the event maintained by any state or local law-enforcement agency or the Office of the Chief Medical Examiner and information or records on the adult maintained by any facility that provided services to the adult, by any social services agency, or by any court. Information, records, or reports maintained by any attorney for the Commonwealth shall be made available for inspection and copying by the chair or his designee pursuant to procedures that shall be developed by the Chief Medical Examiner and the Commonwealth Attorneys Services Council established by § 2.2-2617. In addition, a health care provider shall provide the Team, upon request, with access to the health and mental health records of (i) the adult whose death is subject to review, without authorization; (ii) any adult relative of the deceased, with authorization; and (iii) any minor child of the deceased, with the authorization of the minor's parent or guardian. The chair of the Team also may copy and inspect the presentence report, prepared pursuant to § 19.2-299, of any person convicted of a crime that led to the death of the adult who is the subject of review by the Team.

D. All information obtained or generated by the Team regarding a review shall be confidential and excluded from the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) pursuant to subdivision 7 of § 2.2-3705.5. Such information shall not be subject to subpoena or discovery or be admissible in any civil or criminal proceeding. If available from other sources, however, such information and records shall not be immune from subpoena, discovery, or introduction into evidence when obtained through such other sources solely because the information and records were presented to the Team during an adult death review. The Team shall compile all information collected during a review. The findings of the Team may be disclosed or published in statistical or other form, but shall not identify any individuals. The portions of meetings in which individual adult death cases are discussed by the Team shall be closed pursuant to subdivision A 21 of § 2.2-3711.

E. All Team members and other persons attending closed Team meetings, including any persons presenting information or records on specific fatalities, shall execute a sworn statement to honor the confidentiality of the information, records, discussions, and opinions disclosed during meetings at which the Team reviews a specific death. No Team member or other person who participates in a review shall be required to make any statement regarding the review or any information collected during the review. Upon conclusion of a review, all information and records concerning the victim and the family shall be shredded or otherwise destroyed in order to ensure confidentiality. Violations of this subsection are punishable as a Class 3 misdemeanor.

F. Upon notification of an adult death, any state or local government agency or facility that provided services to the adult or maintained records on the adult or the adult's family shall retain the records for the longer of 12 months or until such time as the Team has completed its review of the case.

G. The Team shall compile an annual report by October 1 of each year that shall be made available to the Governor and the General Assembly. The annual report shall include any policy, regulatory, or budgetary recommendations developed by the Team. Any statistical compilations prepared by the Team shall be public record and shall not contain any personally identifying information.

**§ 32.1-283.6. Local and regional adult fatality review teams established; membership; authority; confidentiality; immunity.**

A. Upon the initiative of any local or regional law-enforcement agency, department of social services, emergency medical services agency, attorney for the Commonwealth's office, community services board, or official with the Adult Protective Services Unit established pursuant to § 51.5-148, local or regional adult fatality review teams may be established for the purpose of conducting contemporaneous reviews of local adult deaths in order to develop interventions and strategies for prevention specific to the locality or region. For the purposes of this section, the team may review the death of any person age 60 years or older, or any adult age 18 years or older who is incapacitated, who resides in the Commonwealth and who is in need of temporary or emergency protective services (i) who was the subject of an adult protective services or law-enforcement investigation; (ii) whose death was due to abuse, neglect, or exploitation or acts suggesting abuse, neglect, or exploitation; or (iii) whose death came under the jurisdiction of or was investigated by the Office of the Chief Medical Examiner as occurring in any suspicious, unusual, or unnatural manner, pursuant to § 32.1-283. Each team shall establish rules and procedures to govern the review process. Agencies may share information but shall be bound by confidentiality and execute a sworn statement to honor the confidentiality of the information they share. A violation of this subsection is punishable as a Class 3 misdemeanor. The Office of the Chief Medical Examiner shall develop a model protocol for the development and implementation of local or regional adult fatality review teams and such model protocol shall include relevant procedures for conducting reviews of adult fatalities.

B. Local and regional teams may be composed of the following persons from the localities represented on a particular board or their designees: a medical examiner appointed pursuant to § 32.1-282, a local adult protective services official, a local social services official, a director of the relevant local or district health department, an executive director of the local area agency on aging or other department representing the interests of the elderly or disabled, a chief law-enforcement officer, the attorney for the Commonwealth, an executive director of the local community services board or other local mental health agency, a local judge, and such additional persons as may be appointed to serve by the chair of the local or regional team. The chair shall be elected from among the designated membership. The additional members appointed by the chair may include, but are not restricted to, representatives of local human services agencies, local health care professionals specializing in geriatric care or care of incapacitated adults, local emergency medical services personnel, local long-term care providers, representatives of local advocacy or service organizations for elderly or disabled populations, experts in forensic medicine and pathology, local funeral services providers, local centers for independent living, local long-term care ombudsmen, and representatives of the local bar.

C. Each local or regional team shall establish operating procedures to govern the review process prior to conducting the first adult fatality review. The review of a death shall be delayed until any criminal investigations connected with the death are completed or the Commonwealth consents to the commencement of such review prior to the completion of the criminal investigation.

D. All information and records obtained or created regarding a review of a fatality shall be confidential and shall be excluded from the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) pursuant to subdivision 9 7 of § 2.2-3705.5. All such information and records shall be used by the team only in the exercise of its proper purpose and function and shall not be disclosed. Such information and records shall not be subject to subpoena, subpoena duces tecum, discovery, or introduction into evidence when obtained through such other sources solely because the information and records were presented to the team during the fatality review. No person who participated in the review and no member of the team shall be required to make any statement as to what transpired during the review or what information was collected during the review. Upon the conclusion of the fatality review, all information and records concerning the victim and family shall be returned to the originating agency or destroyed. However, the findings of the team may be disclosed or published in statistical or other form that does not identify any individuals. The portions of meetings in which individual cases are discussed by the team shall be closed pursuant to subdivision A 21 of § 2.2-3711. All team members, persons attending closed team meetings, and persons presenting information and records on specific fatalities to the team during closed meetings shall execute a sworn statement to honor the confidentiality of the information, records, discussions, and opinions disclosed during any closed meeting to review a specific death. A violation of this subsection is punishable as a Class 3 misdemeanor.

E. Members of teams, as well as their agents and employees, shall be immune from civil liability for any act or omission made in connection with participation in an adult fatality review team review, unless such act or omission was the result of gross negligence or willful misconduct. Any organization, institution, or person furnishing information, data, testimony, reports, or records to review teams as part of such review shall be immune from civil liability for any act or omission in furnishing such information, unless such act or omission was the result of gross negligence or willful misconduct.

**§ 44-146.18. Department of Emergency Services continued as Department of Emergency Management; administration and operational control; coordinator and other personnel; powers and duties.**

A. The State Office of Emergency Services is continued and shall hereafter be known as the Department of Emergency Management. Wherever the words "State Department of Emergency Services" are used in any law of the Commonwealth, they shall mean the Department of Emergency Management. During a declared emergency this Department shall revert to the operational control of the Governor. The Department shall have a coordinator who shall be appointed by and serve at the pleasure of the Governor and also serve as State Emergency Planning Director. The Department shall employ the professional, technical, secretarial, and clerical employees necessary for the performance of its functions.

B. The Department of Emergency Management shall in the administration of emergency services and disaster preparedness programs:

1. In coordination with political subdivisions and state agencies, ensure that the Commonwealth has up-to-date assessments and preparedness plans to prevent, respond to and recover from all disasters including acts of terrorism;

2. Conduct a statewide emergency management assessment in cooperation with political subdivisions, private industry and other public and private entities deemed vital to preparedness, public safety and security. The assessment shall include a review of emergency response plans, which include the variety of hazards, natural and man-made. The assessment shall be updated annually;

3. Submit to the Governor and to the General Assembly, no later than the first day of each regular session of the General Assembly, an annual executive summary and report on the status of emergency management response plans throughout the Commonwealth and other measures taken or recommended to prevent, respond to and recover from disasters, including acts of terrorism. This report shall be made available to the Division of Legislative Automated Systems for the processing of legislative documents and reports. Information submitted in accordance with the procedures set forth in subdivision 4 14 of § 2.2-3705.2 shall not be disclosed unless:

a. It is requested by law-enforcement authorities in furtherance of an official investigation or the prosecution of a criminal act;

b. The agency holding the record is served with a proper judicial order; or

c. The agency holding the record has obtained written consent to release the information from the Department of Emergency Management;

4. Promulgate plans and programs that are conducive to adequate disaster mitigation preparedness, response and recovery programs;

5. Prepare and maintain a State Emergency Operations Plan for disaster response and recovery operations that assigns primary and support responsibilities for basic emergency services functions to state agencies, organizations and personnel as appropriate;

6. Coordinate and administer disaster mitigation, preparedness, response and recovery plans and programs with the proponent federal, state and local government agencies and related groups;

7. Provide guidance and assistance to state agencies and units of local government in developing and maintaining emergency management and continuity of operations (COOP) programs, plans and systems;

8. Make necessary recommendations to agencies of the federal, state, or local governments on preventive and preparedness measures designed to eliminate or reduce disasters and their impact;

9. Determine requirements of the Commonwealth and its political subdivisions for those necessities needed in the event of a declared emergency which are not otherwise readily available;

10. Assist state agencies and political subdivisions in establishing and operating training programs and programs of public information and education regarding emergency services and disaster preparedness activities;

11. Consult with the Board of Education regarding the development and revision of a model school crisis and emergency management plan for the purpose of assisting public schools in establishing, operating, and maintaining emergency services and disaster preparedness activities;

12. Consult with the State Council of Higher Education in the development and revision of a model institutional crisis and emergency management plan for the purpose of assisting public and private two-year and four-year institutions of higher education in establishing, operating, and maintaining emergency services and disaster preparedness activities and, as needed, in developing an institutional crisis and emergency management plan pursuant to § 23.1-804;

13. Develop standards, provide guidance and encourage the maintenance of local and state agency emergency operations plans, which shall include the requirement for a provision that the Department of Criminal Justice Services and the Virginia Criminal Injuries Compensation Fund be contacted immediately to deploy assistance in the event of an emergency as defined in the emergency response plan when there are victims as defined in § 19.2-11.01. The Department of Criminal Justice Services and the Virginia Criminal Injuries Compensation Fund shall be the lead coordinating agencies for those individuals determined to be victims, and the plan shall also contain current contact information for both agencies;

14. Prepare, maintain, coordinate or implement emergency resource management plans and programs with federal, state and local government agencies and related groups, and make such surveys of industries, resources, and facilities within the Commonwealth, both public and private, as are necessary to carry out the purposes of this chapter;

15. Coordinate with the federal government and any public or private agency or entity in achieving any purpose of this chapter and in implementing programs for disaster prevention, mitigation, preparation, response, and recovery;

16. Establish guidelines pursuant to § 44-146.28, and administer payments to eligible applicants as authorized by the Governor;

17. Coordinate and be responsible for the receipt, evaluation, and dissemination of emergency services intelligence pertaining to all probable hazards affecting the Commonwealth;

18. Coordinate intelligence activities relating to terrorism with the Department of State Police; and

19. Develop an emergency response plan to address the needs of individuals with household pets and service animals in the event of a disaster and assist and coordinate with local agencies in developing an emergency response plan for household pets and service animals.

The Department of Emergency Management shall ensure that all such plans, assessments, and programs required by this subsection include specific preparedness for, and response to, disasters resulting from electromagnetic pulses and geomagnetic disturbances.

C. The Department of Emergency Management shall during a period of impending emergency or declared emergency be responsible for:

1. The receipt, evaluation, and dissemination of intelligence pertaining to an impending or actual disaster;
2. Providing facilities from which state agencies and supporting organizations may conduct emergency operations;
3. Providing an adequate communications and warning system capable of notifying all political subdivisions in the Commonwealth of an impending disaster within a reasonable time;
4. Establishing and maintaining liaison with affected political subdivisions;
5. Determining requirements for disaster relief and recovery assistance;
6. Coordinating disaster response actions of federal, state and volunteer relief agencies;
7. Coordinating and providing guidance and assistance to affected political subdivisions to ensure orderly and timely response to and recovery from disaster effects.

D. The Department of Emergency Management shall be provided the necessary facilities and equipment needed to perform its normal day-to-day activities and coordinate disaster-related activities of the various federal, state, and other agencies during a state of emergency declaration by the Governor or following a major disaster declaration by the President.

E. The Department of Emergency Management is authorized to enter into all contracts and agreements necessary or incidental to performance of any of its duties stated in this section or otherwise assigned to it by law, including contracts with the United States, other states, agencies and government subdivisions of the Commonwealth, and other appropriate public and private entities.

F. The Department of Emergency Management shall encourage private industries whose goods and services are deemed vital to the public good to provide annually updated preparedness assessments to the local coordinator of emergency management on or before April 1 of each year, to facilitate overall Commonwealth preparedness. For the purposes of this section, "private industry" means companies, private hospitals, and other businesses or organizations deemed by the State Coordinator of Emergency Management to be essential to the public safety and well-being of the citizens of the Commonwealth.

G. The Department of Emergency Management shall establish a Coordinator of Search and Rescue. Powers and duties of the Coordinator shall include:

1. Coordinating the search and rescue function of the Department of Emergency Management;
2. Coordinating with local, state, and federal agencies involved in search and rescue;
3. Coordinating the activities of search and rescue organizations involved in search and rescue;
4. Maintaining a register of search and rescue certifications, training, and responses;
5. Establishing a memorandum of understanding with the Virginia Search and Rescue Council and its respective member agencies regarding search and rescue efforts;
6. Providing on-scene search and rescue coordination when requested by an authorized person;
7. Providing specialized search and rescue training to police, fire-rescue, EMS, emergency managers, volunteer search and rescue responders, and others who might have a duty to respond to a search and rescue emergency;
8. Gathering and maintaining statistics on search and rescue in the Commonwealth;
9. Compiling, maintaining, and making available an inventory of search and rescue resources available in the Commonwealth;
10. Periodically reviewing search and rescue cases and developing best professional practices; and
11. Providing an annual report to the Secretary of Public Safety and Homeland Security on the current readiness of Virginia's search and rescue efforts.

Nothing in this chapter shall be construed as authorizing the Department of Emergency Management to take direct operational responsibilities from local, state, or federal law enforcement in the course of search and rescue or missing person cases.

**§ 44-146.22. Development of measures to prevent or reduce harmful consequences of disasters; disclosure of information.**

A. In addition to disaster prevention measures included in state, local and interjurisdictional emergency operations plans, the Governor shall consider, on a continuing basis, hazard mitigation or other measures that could be taken to prevent or reduce the harmful consequences of disasters. At his direction, and pursuant to any other authority, state agencies, including, but not limited to, those charged with responsibilities in connection with floodplain management, stream encroachment and flow regulation, weather modification, fire prevention and control, air quality, public works, critical infrastructure protection, land use and land-use planning, and construction standards, shall make studies of disaster prevention. The Governor, from time to time, shall make recommendations to the General Assembly, local governments, and other appropriate public and private entities as may facilitate measures for prevention or reduction of the harmful consequences of disasters.

B. The Governor or agencies acting on his behalf may receive information, voluntarily submitted from both public and nonpublic entities, related to the protection of the nation's critical infrastructure sectors and components that are located in Virginia or affect the health, safety, and welfare of the citizens of Virginia. Information submitted by any public or

nonpublic entity in accordance with the procedures set forth in subdivision 4 ~~14~~ of § 2.2-3705.2 shall not be disclosed unless:

1. It is requested by law-enforcement authorities in furtherance of an official investigation or the prosecution of a criminal act;
2. The agency holding the record is served with a proper judicial order; or
3. The agency holding the record has obtained the written consent to release the information from the entity voluntarily submitting it.

**§ 54.1-2517. Health Practitioners' Monitoring Program Committee; certain meetings, decisions to be excepted from the Freedom of Information Act; confidentiality of records; immunity from liability.**

A. The Health Practitioners' Monitoring Program Committee shall consist of nine persons appointed by the Director to advise and assist in the operation of the Program, of whom eight shall be licensed, certified, or registered practitioners and one shall be a citizen member. Of the members who are licensed, certified, or registered practitioners, at least one shall be licensed to practice medicine or osteopathy in Virginia and engaged in active clinical practice, at least one shall be a registered nurse engaged in active practice, and all shall be knowledgeable about impairment and rehabilitation, particularly as related to the monitoring of health care practitioners. The Committee shall have the following powers and duties:

1. To determine, in accordance with the regulations, eligibility to enter into the Program;
2. To determine, in accordance with the regulations, those Program participants who are eligible for stayed disciplinary action;
3. To enter into written contracts with practitioners which may include, among other terms and conditions, withdrawal from practice or limitations on the scope of the practice for a period of time;
4. To report to the Director and the health regulatory boards as necessary on the status of applicants for and participants in the Program;
5. To report to the Director, at least annually, on the performance of the Program; and
6. To assist the Director in carrying out the provisions of this chapter.

B. Records of the Program, to the extent such records identify individual practitioners in the Program, shall be privileged and confidential, and shall not be disclosed consistent with the Virginia Freedom of Information Act (§ 2.2-3700 et seq.). Such records shall be used only in the exercise of the proper functions as set forth in this chapter and shall not be public records nor shall such records be subject to court order, except as provided in subdivision C 4, or be subject to discovery or introduction as evidence in any civil, criminal, or administrative proceedings except those conducted by a health regulatory board.

C. Notwithstanding the provisions of subsection B and of subdivision ~~4~~ 2 of § 2.2-3705.5, the Committee may disclose such records relative to an impaired practitioner only:

1. When disclosure of the information is essential to the monitoring needs of the impaired practitioner;
2. When release of the information has been authorized in writing by the impaired practitioner;
3. To a health regulatory board within the Department of Health Professions; or
4. When an order by a court of competent jurisdiction has been granted, upon a showing of good cause therefor, including the need to avert a substantial risk of death or serious bodily harm. In assessing good cause, the court shall weigh the public interest and the need for disclosure against the injury to the patient, to the physician-patient relationship, and to the treatment services. Upon the granting of such order, the court, in determining the extent to which any disclosure of all or any part of any record is necessary, shall impose appropriate protections against unauthorized disclosures.

D. Pursuant to subdivision A 24 of § 2.2-3711, the proceedings of the Committee which in any way pertain or refer to a specific practitioner who may be, or who is actually, impaired and who may be or is, by reason of such impairment, subject to disciplinary action by the relevant board shall be excluded from the requirements of the Freedom of Information Act (§ 2.2-3700 et seq.) and may be closed. Such proceedings shall be privileged and confidential.

E. The members of the Committee shall be immune from liability resulting from the exercise of the powers and duties of the Committee as provided in § 8.01-581.13.

**§ 54.1-2523. Confidentiality of data; disclosure of information; discretionary authority of Director.**

A. All data, records, and reports relating to the prescribing and dispensing of covered substances to recipients and any abstracts from such data, records, and reports that are in the possession of the Prescription Monitoring Program pursuant to this chapter and any material relating to the operation or security of the program shall be confidential and shall be exempt from the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) pursuant to subdivision ~~4~~ 2 of § 2.2-3705.5. Records in possession of the Prescription Monitoring Program shall not be available for civil subpoena, nor shall such records be disclosed, discoverable, or compelled to be produced in any civil proceeding, nor shall such records be deemed admissible as evidence in any civil proceeding for any reason. Further, the Director shall only have discretion to disclose any such information as provided in subsections B and C.

B. Upon receiving a request for information in accordance with the Department's regulations and in compliance with applicable federal law and regulations, the Director shall disclose the following:

1. Information relevant to a specific investigation of a specific recipient or of a specific dispenser or prescriber to an agent who has completed the Virginia State Police Drug Diversion School designated by the superintendent of the Department of State Police or designated by the chief law-enforcement officer of any county, city, or town or campus police department to conduct drug diversion investigations pursuant to § 54.1-3405.

2. Information relevant to an investigation or inspection of or allegation of misconduct by a specific person licensed, certified, or registered by or an applicant for licensure, certification, or registration by a health regulatory board; information relevant to a disciplinary proceeding before a health regulatory board or in any subsequent trial or appeal of an action or board order to designated employees of the Department of Health Professions; or to designated persons operating the Health Practitioners' Monitoring Program pursuant to Chapter 25.1 (§ 54.1-2515 et seq.).

3. Information relevant to the proceedings of any investigatory grand jury or special grand jury that has been properly impaneled in accordance with the provisions of Chapter 13 (§ 19.2-191 et seq.) of Title 19.2.

4. Information relevant to a specific investigation of a specific recipient, dispenser, or prescriber to an agent of a federal law-enforcement agency with authority to conduct drug diversion investigations.

5. Information relevant to a specific investigation, supervision, or monitoring of a specific recipient for purposes of the administration of criminal justice pursuant to Chapter 1 (§ 9.1-100 et seq.) of Title 9.1 to a probation or parole officer as described in Article 2 (§ 53.1-141 et seq.) of Chapter 4 of Title 53.1 or a local community-based probation officer as described in § 9.1-176.1 who has completed the Virginia State Police Drug Diversion School designated by the Director of the Department of Corrections or his designee.

C. In accordance with the Department's regulations and applicable federal law and regulations, the Director may, in his discretion, disclose:

1. Information in the possession of the program concerning a recipient who is over the age of 18 to that recipient. The information shall be mailed to the street or mailing address indicated on the recipient request form.

2. Information on a specific recipient to a prescriber, as defined in this chapter, for the purpose of establishing the treatment history of the specific recipient when such recipient is either under care and treatment by the prescriber or the prescriber is consulting on or initiating treatment of such recipient. In a manner specified by the Director in regulation, notice shall be given to patients that information may be requested by the prescriber from the Prescription Monitoring Program.

3. Information on a specific recipient to a dispenser for the purpose of establishing a prescription history to assist the dispenser in (i) determining the validity of a prescription in accordance with § 54.1-3303 or (ii) providing clinical consultation on the care and treatment of the recipient. In a manner specified by the Director in regulation, notice shall be given to patients that information may be requested by the dispenser from the Prescription Monitoring Program.

4. Information relevant to an investigation or regulatory proceeding of a specific dispenser or prescriber to other regulatory authorities concerned with granting, limiting or denying licenses, certificates or registrations to practice a health profession when such regulatory authority licenses such dispenser or prescriber or such dispenser or prescriber is seeking licensure by such other regulatory authority.

5. Information relevant to an investigation relating to a specific dispenser or prescriber who is a participating provider in the Virginia Medicaid program or information relevant to an investigation relating to a specific recipient who is currently eligible for and receiving or who has been eligible for and has received medical assistance services to the Medicaid Fraud Control Unit of the Office of the Attorney General or to designated employees of the Department of Medical Assistance Services, as appropriate.

6. Information relevant to determination of the cause of death of a specific recipient to the designated employees of the Office of the Chief Medical Examiner.

7. Information for the purpose of bona fide research or education to qualified personnel; however, data elements that would reasonably identify a specific recipient, prescriber, or dispenser shall be deleted or redacted from such information prior to disclosure. Further, release of the information shall only be made pursuant to a written agreement between such qualified personnel and the Director in order to ensure compliance with this subdivision.

8. Information relating to prescriptions for covered substances issued by a specific prescriber, which have been dispensed and reported to the Program, to that prescriber.

9. Information about a specific recipient who is a member of a Virginia Medicaid managed care program to a physician or pharmacist licensed in the Commonwealth and employed by the Virginia Medicaid managed care program. Such information shall only be used to determine eligibility for and to manage the care of the specific recipient in a Patient Utilization Management Safety or similar program. Notice shall be given to recipients that information may be requested by a licensed physician or pharmacist employed by the Virginia Medicaid managed care program from the Prescription Monitoring Program.

10. (Expires July 1, 2022) Information to the Board of Medicine about prescribers who meet a certain threshold for prescribing covered substances for the purpose of requiring relevant continuing education. The threshold shall be determined by the Board of Medicine in consultation with the Program.

D. The Director may enter into agreements for mutual exchange of information among prescription monitoring programs in other jurisdictions, which shall only use the information for purposes allowed by this chapter.

E. This section shall not be construed to supersede the provisions of § 54.1-3406 concerning the divulging of confidential records relating to investigative information.

F. Confidential information that has been received, maintained or developed by any board or disclosed by the board pursuant to subsection A shall not, under any circumstances, be available for discovery or court subpoena or introduced into evidence in any medical malpractice suit or other action for damages arising out of the provision of or failure to provide

services. However, this subsection shall not be construed to inhibit any investigation or prosecution conducted pursuant to Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2.

**2. That the provisions of § 2.2-3704, subdivisions 10 and 14 of § 2.2-3705.2, subdivisions 2 and 3 of § 2.2-3705.5, and subdivision 29 of § 2.2-3705.6 of the Code of Virginia, as amended by this act, are declaratory of existing law.**

### CHAPTER 779

*An Act to amend the Code of Virginia by adding a section numbered 23.1-2911.1, relating to Northern Virginia Community College; computer science training and professional development activities for public school teachers.*

[H 1663]

Approved April 5, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding a section numbered 23.1-2911.1 as follows:**

**§ 23.1-2911.1. Northern Virginia Community College; computer science training and professional development activities for public school teachers.**

A. Northern Virginia Community College, in consultation with the Department of Education, shall contract with a partner organization to develop, market, and implement high-quality and effective computer science training and professional development activities for public school teachers throughout the Commonwealth for the purpose of improving the computer science literacy of all public school students in the Commonwealth.

B. Northern Virginia Community College shall also establish an advisory committee for the purpose of advising the college and its partner organization on the development, marketing, and implementation of training and professional development activities pursuant to subsection A. The Secretary of Commerce and Trade, the Secretary of Education, and the Secretary of Technology shall each submit to the college a list of names of qualified individuals, and the college shall appoint members to such advisory committee from such lists.

### CHAPTER 780

*An Act to amend and reenact § 56-607 of the Code of Virginia, relating to qualified projects of natural gas utilities; investments in eligible infrastructure.*

[H 1671]

Approved April 5, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 56-607 of the Code of Virginia is amended and reenacted as follows:**

**§ 56-607. Application and administration.**

A. A natural gas utility shall account for the actual monthly EIDC incurred on the cumulative investment in eligible infrastructure in excess of any aid to construction contributed by the developer of the project or the person that will occupy the proposed project as a deferred cost until new base rates and charges that incorporate EIDC become effective for the natural gas utility, following a Commission order establishing or confirming customer rates in a rate case using the cost of service methodology set forth in § 56-235.2 or a performance-based regulation plan authorized by § 56-235.6. Such deferred cost shall be accounted for as a regulatory asset and shall not be subject to write-off or write-down by the Commission in an earnings test filing made pursuant to Commission rules governing utility rate increases and annual informational filings.

B. The investment for all qualifying projects of a natural gas utility in any year shall not exceed one percent of the natural gas utility's net plant investment that was utilized in establishing base rates in the natural gas utility's most recent rate case. The provisions of this subsection shall not apply, however, to any natural gas utility serving fewer than ~~1,000~~ 2,000 residential customers and fewer than ~~250~~ 350 commercial and industrial customers in the year in which it makes an investment for qualifying projects.

C. Deferral of costs recovered pursuant to this chapter shall have no effect on the recovery of any other cost by the natural gas utility and shall not be included in any computation relative to a performance-based regulation plan revenue-sharing mechanism.

### CHAPTER 781

*An Act to authorize the Department of Conservation and Recreation to convey certain real property to the Widewater Beach Subdivision Citizens Association, Inc.*

[H 1691]

Approved April 5, 2017

**Be it enacted by the General Assembly of Virginia:**

1. § 1. *The Department of Conservation and Recreation, with approval of the Governor pursuant to § 10.1-109 of the Code of Virginia, is hereby authorized to convey two parcels of land located in or related to Widewater Beach Subdivision, Stafford County, Virginia, one parcel bounded by Woodrow Drive, Lake Drive, Mynell Street, and Hollywood Avenue and described as "A Portion of Tax Map 41, Parcel 2, 17.370 acres," and a portion of abandoned Hollywood Avenue, described as "Parcel 'A' .5134 acres" on that certain plat of survey labeled "PLAT SHOWING PARCEL 'A' 0.5134 ACRES A PORTION OF HOLLYWOOD AVENUE AND THE ROAD RIGHTS-OF-WAY AT WIDEWATER BEACH SUBDIVISION," prepared by Marsh and Legge Land Surveyors, dated March 29, 2013, and recorded with the quitclaim deed dated November 19, 2013, and recorded in the Clerk's Office of the Stafford County Circuit Court as Instrument Number P0024040, to the Widewater Beach Subdivision Citizens Association, Inc., its successors and assigns. This conveyance shall be made without consideration and shall be for the purpose of conveying rights in certain parcels associated with Widewater Beach Subdivision that may have been conveyed to the Department of Conservation and Recreation as part of a larger transfer of land related to the future Widewater State Park by Instrument Number 060008150 in the aforesaid Clerk's Office.*

§ 2. *The conveyance shall comply with the requirements of the federal Land and Water Conservation Fund Act, 16 U.S.C. § 4601-4 et seq., and shall be subject to the approval of the National Park Service. Pursuant to Item 365 I and notwithstanding the provisions of Item C-25 and § 4-13.00 of the 2017 Appropriation Act, the Department of Conservation and Recreation is authorized to accept donated parcels of land contiguous to Widewater State Park as needed in order to meet the requirements of the Land and Water Conservation Fund Act and to obtain the approval of the National Park Service.*

§ 3. *The conveyance shall be made in a form approved by the Attorney General. The appropriate officials of the Commonwealth are hereby authorized to prepare, execute, and deliver such deed and other documents as may be necessary to accomplish the conveyance.*

**CHAPTER 782**

*An Act to amend the Code of Virginia by adding a section numbered 23.1-508.1, relating to the State Board for Community Colleges; reduced rate tuition and mandatory fee charges; certain students who are active duty members in the Armed Forces of the United States.*

[H 1721]

Approved April 5, 2017

**Be it enacted by the General Assembly of Virginia:**

1. **That the Code of Virginia is amended by adding a section numbered 23.1-508.1 as follows:**

§ 23.1-508.1. *State Board; reduced rate tuition and mandatory fee charges; certain students who are active duty members of Armed Forces of the United States.*

A. *The State Board may charge reduced rate tuition and mandatory fees to any student who is (i) an active duty member of the Armed Forces of the United States stationed outside the Commonwealth; (ii) enrolled in a degree program at a comprehensive community college, provided that any such comprehensive community college that offers online degree programs is a member of the National Council for State Authorization Reciprocity Agreements; and (iii) enrolled in training that leads to a Military Occupational Specialty in the Army or Marine Corps, an Air Force Specialty Code, or a Navy Enlisted Classification.*

B. *Any student granted reduced rate tuition pursuant to this section shall be counted as a non-Virginia student for the purposes of determining college admissions and enrollment policies.*

**CHAPTER 783**

*An Act to amend and reenact § 22.1-298.1 of the Code of Virginia, relating to teacher licensure; certification or training in emergency first aid, cardiopulmonary resuscitation, and the use of automated external defibrillators; hands-on practice.*

[H 1829]

Approved April 5, 2017

**Be it enacted by the General Assembly of Virginia:**

1. **That § 22.1-298.1 of the Code of Virginia is amended and reenacted as follows:**

§ 22.1-298.1. **Regulations governing licensure.**

A. As used in this section:

"Alternate route to licensure" means a nontraditional route to teacher licensure available to individuals who meet the criteria specified in the regulations issued by the Board of Education.

"Industry certification credential" means an active career and technical education credential that is earned by successfully completing a Board of Education-approved industry certification examination, being issued a professional license in the Commonwealth, or successfully completing an occupational competency examination.

"Licensure by reciprocity" means a process used to issue a license to an individual coming into the Commonwealth from another state when that individual meets certain conditions specified in the Board of Education's regulations.

"Professional teacher's assessment" means those tests mandated for licensure as prescribed by the Board of Education.

"Provisional license" means a nonrenewable license issued by the Board of Education for a specified period of time, not to exceed three years, to an individual who may be employed by a school division in the Commonwealth and who generally meets the requirements specified in the Board of Education's regulations for licensure, but who may need to take additional coursework or pass additional assessments to be fully licensed with a renewable license.

"Renewable license" means a license issued by the Board of Education for five years to an individual who meets the requirements specified in the Board of Education's regulations.

B. The Board of Education shall prescribe, by regulation, the requirements for the licensure of teachers and other school personnel required to hold a license. Such regulations shall include requirements for the denial, suspension, cancellation, revocation, and reinstatement of licensure. The Board of Education shall revoke the license of any person for whom it has received a notice of dismissal or resignation pursuant to subsection F of § 22.1-313 and, in the case of a person who is the subject of a founded complaint of child abuse or neglect, after all rights to any appeal provided by § 63.2-1526 have been exhausted. Regardless of the authority of any other agency of the Commonwealth to approve educational programs, only the Board of Education shall have the authority to license teachers to be regularly employed by school boards, including those teachers employed to provide nursing education.

The Board of Education shall prescribe by regulation the licensure requirements for teachers who teach only online courses, as defined in § 22.1-212.23. Such license shall be valid only for teaching online courses. Teachers who hold a five-year renewable license issued by the Board of Education may teach online courses for which they are properly endorsed.

C. The Board of Education's regulations shall include requirements that a person seeking initial licensure:

1. Complete professional assessments as prescribed by the Board of Education;
2. Complete study in attention deficit disorder;
3. Complete study in gifted education, including the use of multiple criteria to identify gifted students; and
4. Complete study in methods of improving communication between schools and families and ways of increasing family involvement in student learning at home and at school.

D. In addition, such regulations shall include requirements that:

1. Every person seeking initial licensure or renewal of a license demonstrate proficiency in the use of educational technology for instruction;
2. Every person seeking initial licensure and persons seeking licensure renewal as teachers who have not completed such study shall complete study in child abuse recognition and intervention in accordance with curriculum guidelines developed by the Board of Education in consultation with the Department of Social Services that are relevant to the specific teacher licensure routes;
3. Every person seeking initial licensure or renewal of a license shall receive professional development in instructional methods tailored to promote student academic progress and effective preparation for the Standards of Learning end-of-course and end-of-grade assessments;
4. Every person seeking renewal of a license shall complete all renewal requirements, including professional development in a manner prescribed by the Board, except that no person seeking renewal of a license shall be required to satisfy any such requirement by completing coursework and earning credit at an institution of higher education;
5. Every person seeking initial licensure or renewal of a license shall provide evidence of completion of certification or training in emergency first aid, cardiopulmonary resuscitation, and the use of automated external defibrillators. The certification or training program shall (i) be based on the current national evidence-based emergency cardiovascular care guidelines for cardiopulmonary resuscitation and the use of an automated external defibrillator, such as a program developed by the American Heart Association or the American Red Cross, and (ii) include hands-on practice of the skills necessary to perform cardiopulmonary resuscitation. The Board shall provide a waiver for this requirement for any person with a disability whose disability prohibits such person from completing the certification or training;
6. Every person seeking licensure with an endorsement as a teacher of the blind and visually impaired shall demonstrate proficiency in reading and writing Braille;
7. Every teacher seeking an initial license in the Commonwealth with an endorsement in the area of career and technical education shall have an industry certification credential in the area in which the teacher seeks endorsement. If a teacher seeking an initial license in the Commonwealth has not attained an industry certification credential in the area in which the teacher seeks endorsement, the Board may, upon request of the employing school division or educational agency, issue the teacher a provisional license to allow time for the teacher to attain such credential; and
8. (Effective July 1, 2017) Every person seeking initial licensure or renewal of a license shall complete awareness training, provided by the Department of Education, on the indicators of dyslexia, as that term is defined by the Board pursuant to regulations, and the evidence-based interventions and accommodations for dyslexia.

E. The Board's regulations shall require that initial licensure for principals and assistant principals be contingent upon passage of an assessment as prescribed by the Board.

F. The Board shall establish criteria in its regulations to effectuate the substitution of experiential learning for coursework for those persons seeking initial licensure through an alternate route as defined in Board regulations.

G. Notwithstanding any provision of law to the contrary, the Board (i) may provide for the issuance of a provisional license, valid for a period not to exceed three years, pursuant to subdivision D 7 or to any person who does not meet the requirements of this section or any other requirement for licensure imposed by law and (ii) shall provide for the issuance of a provisional license, valid for a period not to exceed three years, to any former member of the Armed Forces of the United States or the Virginia National Guard who has received an honorable discharge and has the appropriate level of experience or training but does not meet the requirements for a renewable license.

H. The Board's licensure regulations shall also provide for licensure by reciprocity:

1. With comparable endorsement areas for those individuals holding a valid out-of-state teaching license and national certification from the National Board for Professional Teaching Standards or a nationally recognized certification program approved by the Board of Education. The application for such individuals shall require evidence of such valid licensure and national certification and shall not require official student transcripts;

2. For individuals who have obtained a valid out-of-state license, with full credentials and without deficiencies, that is in force at the time the application for a Virginia license is received by the Department of Education. The individual must establish a file in the Department of Education by submitting a complete application packet, which shall include official student transcripts. An assessment of basic skills as provided in § 22.1-298.2 and service requirements shall not be imposed for these licensed individuals; however, other licensing assessments, as prescribed by the Board of Education, shall be required; and

3. The Board may include other provisions for reciprocity in its regulations.

**2. That the provisions of this act shall become effective on September 1, 2017.**

#### CHAPTER 784

*An Act to amend and reenact § 32.1-263 of the Code of Virginia, relating to death certificates; filing.*

[H 1846]

Approved April 5, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 32.1-263 of the Code of Virginia is amended and reenacted as follows:**

**§ 32.1-263. Filing death certificates; medical certification; investigation by Office of the Chief Medical Examiner.**

A. A death certificate, including, if known, the social security number or control number issued by the Department of Motor Vehicles pursuant to § 46.2-342 of the deceased, shall be filed for each death ~~which that~~ occurs in ~~this the~~ Commonwealth with the registrar of the district in which the death occurred within three days after such death and prior to final disposition or removal of the body from the Commonwealth, and. *Non-electronically filed death certificates shall be filed with the registrar of any district in the Commonwealth within three days after such death and prior to final disposition or removal of the body from the Commonwealth. Electronically filed death certificates shall be filed with the State Registrar of Vital Records within three days after such death and prior to final disposition or removal of the body from the Commonwealth. Any death certificate shall be registered by such registrar if it has been completed and filed in accordance with the following requirements:*

1. If the place of death is unknown, but the dead body is found in ~~this the~~ Commonwealth, ~~a death certificate shall be filed in the registration district in which the dead body is found in accordance with this section. The the~~ death shall be registered in the Commonwealth and the place where the dead body is found shall be shown as the place of death. If the date of death is unknown, it shall be determined by approximation, taking into consideration all relevant information, including ~~but not limited to~~, information provided by the immediate family regarding the date and time that the deceased was last seen alive, if the individual died in his home; and

2. When death occurs in a moving conveyance, in the United States of America and the body is first removed from the conveyance in ~~this the~~ Commonwealth, the death shall be registered in ~~this the~~ Commonwealth and the place where it is first removed shall be considered the place of death. When a death occurs on a moving conveyance while in international waters or air space or in a foreign country or its air space and the body is first removed from the conveyance in ~~this the~~ Commonwealth, the death shall be registered in ~~this the~~ Commonwealth but the certificate shall show the actual place of death insofar as can be determined.

B. The licensed funeral director, funeral service licensee, office of the state anatomical program, or next of kin as defined in § 54.1-2800 who first assumes custody of a dead body shall file the certificate of death with the registrar. He shall obtain the personal data, including the social security number of the deceased or control number issued to the deceased by the Department of Motor Vehicles pursuant to § 46.2-342, from the next of kin or the best qualified person or source available and obtain the medical certification from the person responsible therefor.

C. The medical certification shall be completed, signed in black or dark blue ink, and returned to the funeral director within 24 hours after death by the physician in charge of the patient's care for the illness or condition which resulted in death except when inquiry or investigation by the Office of the Chief Medical Examiner is required by § 32.1-283 or 32.1-285.1, or by the physician that pronounces death pursuant to § 54.1-2972.

In the absence of such physician or with his approval, the certificate may be completed and signed by the following: (i) another physician employed or engaged by the same professional practice; (ii) a physician assistant supervised by such physician; (iii) a nurse practitioner practicing as part of a patient care team as defined in § 54.1-2900; (iv) the chief medical officer or medical director, or his designee, of the institution, hospice, or nursing home in which death occurred; (v) a physician specializing in the delivery of health care to hospitalized or emergency department patients who is employed by or engaged by the facility where the death occurred; (vi) the physician who performed an autopsy upon the decedent; or (vii) an individual to whom the physician has delegated authority to complete and sign the certificate, if such individual has access to the medical history of the case and death is due to natural causes.

D. When inquiry or investigation by the Office of the Chief Medical Examiner is required by § 32.1-283 or 32.1-285.1, the Chief Medical Examiner shall cause an investigation of the cause of death to be made and the medical certification portion of the death certificate to be completed and signed within 24 hours after being notified of the death. If the Office of the Chief Medical Examiner refuses jurisdiction, the physician last furnishing medical care to the deceased shall prepare and sign the medical certification portion of the death certificate.

E. If the death is a natural death and a death certificate is being prepared pursuant to § 54.1-2972 and the physician, nurse practitioner, or physician assistant is uncertain about the cause of death, he shall use his best medical judgment to certify a reasonable cause of death or contact the health district physician director in the district where the death occurred to obtain guidance in reaching a determination as to a cause of death and document the same.

If the cause of death cannot be determined within 24 hours after death, the medical certification shall be completed as provided by regulations of the Board. The attending physician or the Chief Medical Examiner, an Assistant Chief Medical Examiner, or a medical examiner appointed pursuant to § 32.1-282 shall give the funeral director or person acting as such notice of the reason for the delay, and final disposition of the body shall not be made until authorized by the attending physician, the Chief Medical Examiner, an Assistant Chief Medical Examiner, or a medical examiner appointed pursuant to § 32.1-282.

F. A physician, nurse practitioner, or physician assistant who, in good faith, signs a certificate of death or determines the cause of death shall be immune from civil liability, only for such signature and determination of causes of death on such certificate, absent gross negligence or willful misconduct.

## CHAPTER 785

*An Act to amend and reenact § 18.2-57.3 of the Code of Virginia, relating to assault and battery against a family or household member; deferred disposition; waiver of appeal.*

[H 1851]

Approved April 5, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 18.2-57.3 of the Code of Virginia is amended and reenacted as follows:**

**§ 18.2-57.3. Persons charged with first offense of assault and battery against a family or household member may be placed on local community-based probation; conditions; education and treatment programs; costs and fees; violations; discharge.**

A. When a person is charged with a simple assault in violation of subsection A of § 18.2-57 where the victim was a family or household member of the person or a violation of § 18.2-57.2, the court may defer the proceedings against such person, without a finding of guilt, and place him on probation under the terms of this section.

B. For a person to be eligible for such deferral, the court shall find that (i) the person was an adult at the time of the commission of the offense, (ii) the person has not previously been convicted of any offense under this article or under any statute of the United States or of any state or any ordinance of any local government relating to an assault or assault and battery against a family or household member, (iii) the person has not previously had a proceeding against him for violation of such an offense dismissed as provided in this section, (iv) the person pleads guilty to, or enters a plea of not guilty or nolo contendere and the court finds the evidence is sufficient to find the person guilty of, simple assault in violation of subsection A of § 18.2-57 where the victim was a family or household member of the person or a violation of § 18.2-57.2, and (v) the person consents to such deferral *and to a waiver of his right to appeal a finding of facts sufficient to justify a finding of guilt under this section entered pursuant to subsection F for a violation of a term or condition of his probation. A person may file a motion to withdraw his consent to the deferral and waiver of his right to appeal within 10 days of the entry of the order deferring proceedings on a form prescribed by the Office of the Executive Secretary of the Supreme Court of Virginia. The court shall schedule a hearing within 30 days of receipt of the motion and shall provide reasonable notice to the attorney for the Commonwealth and to the person and his attorney, if any. If the person appears at the hearing and requests to withdraw his consent, the court shall grant such request, enter a final order adjudicating guilt, and sentence the person accordingly. If the person does not appear at the hearing, the court shall deny his request to withdraw his consent.*

C. The court shall (i) where a local community-based probation services agency established pursuant to Article 9 (§ 9.1-173 et seq.) of Chapter 1 of Title 9.1 is available, order that the eligible person be placed with such agency and require, as a condition of local community-based probation, the person to successfully complete all treatment, education programs or services, or any combination thereof indicated by an assessment or evaluation obtained by the local community-based probation services agency if such assessment, treatment or education services are available; or (ii) require successful completion of treatment, education programs or services, or any combination thereof, such as, in the opinion of the court, may be best suited to the needs of the person.

D. The court shall require the person entering such education or treatment program or services under the provisions of this section to pay all or part of the costs of the program or services, including the costs of any assessment, evaluation, testing, education and treatment, based upon the person's ability to pay. Such programs or services shall offer a sliding-scale fee structure or other mechanism to assist participants who are unable to pay the full costs of the required programs or services.

The court shall order the person to be of good behavior for a total period of not less than two years following the deferral of proceedings, including the period of supervised probation, if available.

The court shall, unless done at arrest, order the person to report to the original arresting law-enforcement agency to submit to fingerprinting.

E. Upon fulfillment of the terms and conditions specified in the court order, the court shall discharge the person and dismiss the proceedings against him. Discharge and dismissal under this section shall be without adjudication of guilt and is a conviction only for the purposes of applying this section in subsequent proceedings. No charges dismissed pursuant to this section shall be eligible for expungement under § 19.2-392.2.

F. Upon violation of a term or condition of supervised probation or of the period of good behavior, the court may enter an adjudication of guilt and proceed as otherwise provided by law. *Any person placed on probation pursuant to this section who is subsequently adjudicated guilty upon a violation of a term or condition of his probation shall have no right of appeal on such adjudication.*

G. Notwithstanding any other provision of this section, whenever a court places a person on probation upon terms and conditions pursuant to this section, such action shall be treated as a conviction for purposes of Article 6.1 (§ 18.2-307.1 et seq.) of Chapter 7.

## CHAPTER 786

*An Act to amend and reenact §§ 19.2-305.1, 19.2-305.2, 19.2-349, and 19.2-368.15 of the Code of Virginia, relating to restitution; enforcement, noncompliance, etc.*

[H 1855]

Approved April 5, 2017

### Be it enacted by the General Assembly of Virginia:

**1. That §§ 19.2-305.1, 19.2-305.2, 19.2-349, and 19.2-368.15 of the Code of Virginia are amended and reenacted as follows:**

#### **§ 19.2-305.1. Restitution for property damage or loss; community service.**

A. Notwithstanding any other provision of law, no person convicted of a crime in violation of any provision in Title 18.2, which resulted in property damage or loss, shall be placed on probation or have his sentence suspended unless such person shall make at least partial restitution for such property damage or loss, or shall be compelled to perform community services, or both, or shall submit a plan for doing that which appears to the court to be feasible under the circumstances.

B. Notwithstanding any other provision of law, any person who, on or after July 1, 1995, commits, and is convicted of, a crime in violation of any provision in Title 18.2 shall make at least partial restitution for any property damage or loss caused by the crime or for any medical expenses or expenses directly related to funeral or burial incurred by the victim or his estate as a result of the crime, may be compelled to perform community services and, if the court so orders, shall submit a plan for doing that which appears to be feasible to the court under the circumstances.

B1. Notwithstanding any other provision of law, any person, who on or after July 1, 2005 commits and is convicted of a crime in violation of § 18.2-248 involving the manufacture of any controlled substance, may be ordered, upon presentation of suitable evidence of such costs, by the court to reimburse the Commonwealth or the locality for the costs incurred by the jurisdiction, as the case may be, for the removal and remediation associated with the illegal manufacture of any controlled substance by the defendant.

B2. Notwithstanding any other provision of law, any person who, on or after July 1, 2015, commits and is convicted of a violation of § 18.2-138 for damage to the Capitol or any building, monument, statuary, artwork, or other state property in Capitol Square, or at any other property assigned to the Capitol Police, shall be ordered to pay restitution to the Commonwealth for the full amount of damages. Any person who, on or after July 1, 2015, commits and is convicted of a violation of § 18.2-405, 18.2-407, or 18.2-408 in Capitol Square, or at any other property assigned to the Capitol Police, shall be ordered to pay restitution to the Commonwealth for the full amount of damages to the Capitol or any building, monument, statuary, artwork, or other state property in Capitol Square, or at any other property assigned to the Capitol

Police, to which damage is caused during such riot or unlawful assembly. In any prosecution under § 18.2-138, 18.2-405, 18.2-407, or 18.2-408, testimony of the Division of Engineering and Buildings of the Department of General Services or the Division of Risk Management shall be admissible as evidence of value or extent of damages or cost of repairs to the Capitol or any building, monument, statuary, artwork, or other state property in Capitol Square, or at any other property assigned to the Capitol Police. For the purposes of this subsection, "Capitol Square" means the grounds and the interior and exterior of all buildings in that area in the City of Richmond bounded by Bank, Governor, Broad, and Ninth Streets. "Capitol Square" includes the exterior of all state buildings that are at least 50 years old and bordering the boundary streets.

C. At or before the time of sentencing, the court shall receive and consider any plan for making restitution submitted by the defendant. The plan shall include the defendant's home address, place of employment and address, social security number and bank information. If the court finds such plan to be reasonable and practical under the circumstances, it may consider probation or suspension of whatever portion of the sentence that it deems appropriate. By order of the court incorporating the defendant's plan or a reasonable and practical plan devised by the court, the defendant shall make restitution while he is free on probation or work release or following his release from confinement. Additionally, the court may order that the defendant make restitution during his confinement, if feasible, based upon both his earning capacity and net worth as determined by the court at sentencing.

D. At the time of sentencing, the court shall determine the amount to be repaid by the defendant and the terms and conditions thereof. If community service work is ordered, the court shall determine the terms and conditions upon which such work shall be performed. The court shall include such findings in the judgment order. The order shall specify that sums paid under such order shall be paid to the clerk, who shall disburse such sums as the court may, by order, direct. Any court desiring to participate in the Setoff Debt Collection Act (§§ 58.1-520 through 58.1-535) for the purpose of collecting fines or costs or providing restitution shall, at the time of sentencing, obtain the social security number of each defendant.

E. *At the time of sentencing, the court shall enter the amount of restitution to be repaid by the defendant, the date by which all restitution is to be paid, and the terms and conditions of such repayment on a form prescribed by the Office of the Executive Secretary of the Supreme Court of Virginia. If the attorney for the Commonwealth participated in the prosecution of the defendant, the attorney for the Commonwealth or his designee shall complete, to the extent possible, all portions of the form excluding the amount of restitution to be repaid by the defendant and the terms and conditions of such repayment. If the attorney for the Commonwealth did not participate in the prosecution of the defendant, the court or the clerk shall complete the form. A copy of the form, excluding contact information for the victim, shall be provided to the defendant at sentencing. A copy of the form shall be provided to the attorney for the Commonwealth and to the victim, his agent, or his estate upon request and free of charge.*

F. Unreasonable failure to execute the plan by the defendant shall result in revocation of the probation or imposition of the suspended sentence. A hearing shall be held in accordance with the provisions of this Code relating to revocation of probation or imposition of a suspended sentence before either such action is taken.

~~E~~ G. A defendant convicted of an offense under § 18.2-374.1, 18.2-374.1:1, or 18.2-374.3 shall be ordered to pay mandatory restitution to the victim of the offense in an amount as determined by the court. For purposes of this subsection, "victim" means a person who is depicted in a still or videographic image involved in an offense under § 18.2-374.1, 18.2-374.1:1, or 18.2-374.3.

The Commonwealth shall make reasonable efforts to notify victims of offenses under § 18.2-374.1, 18.2-374.1:1, or 18.2-374.3.

~~F~~ H. If restitution is ordered to be paid by the defendant to the victim of a crime and the victim can no longer be located or identified, the clerk shall deposit any such restitution collected to the Criminal Injuries Compensation Fund for the benefit of crime victims. The administrator shall reserve a sum sufficient in the Fund from which he shall make prompt payment to the victim for any proper claims. Before making the deposit he shall record the name, last known address and amount of restitution due each victim appearing from the clerk's report to be entitled to restitution.

~~G~~ I. If restitution pursuant to § 19.2-305 or this section is ordered to be paid by the defendant to the victim of a crime or other entity, and the Criminal Injuries Compensation Fund has made any payments to or on behalf of the victim for any loss, damage, or expenses included in the restitution order, then upon presentation by the Fund of a written request that sets forth the amount of payments made by the Fund to the victim or on the victim's behalf, the entity collecting restitution shall pay to the Fund as much of the restitution collected as will reimburse the Fund for its payments made to the victim or on the victim's behalf.

**§ 19.2-305.2. Amount of restitution; enforcement.**

A. The court, when ordering restitution pursuant to § 19.2-305.1, may require that such defendant, in the case of an offense resulting in damage to or loss or destruction of property of a victim of the offense (i) return the property to the owner or (ii) if return of the property is impractical or impossible, pay an amount equal to the greater of the value of the property at the time of the offense or the value of the property at the time of sentencing.

B. An order of restitution may be docketed as provided in § 8.01-446 when so ordered by the court or upon written request of the victim and may be enforced by a victim named in the order to receive the restitution in the same manner as a judgment in a civil action. *Such docketing shall not be construed to prohibit the court from exercising any authority otherwise available to enforce the order of restitution.*

**§ 19.2-349. Responsibility for collections; clerks to report unsatisfied fines, etc.; duty of attorneys for Commonwealth; duties of Department of Taxation.**

A. The clerk of the circuit court and district court of every county and city shall submit to the judge of his court, the Department of Taxation, the State Compensation Board and the attorney for the Commonwealth of his county or city a monthly report of all fines, costs, forfeitures and penalties which are delinquent more than 30 days, including court-ordered restitution of a sum certain, imposed in his court for a violation of state law or a local ordinance which remain unsatisfied, including those which are delinquent in installment payments. The monthly report shall include the social security number or driver's license number of the defendant, if known, and such other information as the Department of Taxation and the Compensation Board deem appropriate. The Executive Secretary shall make the report required by this subsection on behalf of those clerks who participate in the Supreme Court's automated information system.

B. *The clerk of the circuit court and district court of every county and city shall submit quarterly to the attorney for the Commonwealth of his county or city and any probation agency that serves such county or city:*

1. *A list of all defendants with an outstanding balance of restitution ordered by the court served by such clerk. Such report shall include the defendant's name, case number, total amount of restitution ordered, amount of restitution remaining due, and last date of payment; and*

2. *A list of all accounts where more than 90 days have passed since an account was sent to collections and no payments have been made toward fines, costs, forfeitures, penalties, or restitution. For accounts where restitution is owed, such report shall include the defendant's name, case number, and total amount of restitution and restitution interest due.*

C. It shall be the duty of the attorney for the Commonwealth to cause proper proceedings to be instituted for the collection and satisfaction of all fines, costs, forfeitures, penalties and restitution. The attorney for the Commonwealth shall determine whether it would be impractical or uneconomical for such service to be rendered by the office of the attorney for the Commonwealth. If the defendant does not enter into an installment payment agreement under § 19.2-354, the attorney for the Commonwealth and the clerk may agree to a process by which collection activity may be commenced 30 days after judgment.

If the attorney for the Commonwealth does not undertake collection, he shall contract with (i) private attorneys or private collection agencies, (ii) enter into an agreement with a local governing body, (iii) enter into an agreement with the county or city treasurer, or (iv) use the services of the Department of Taxation, upon such terms and conditions as may be established by guidelines promulgated by the Office of the Attorney General, the Executive Secretary of the Supreme Court with the Department of Taxation and the Compensation Board. If the attorney for the Commonwealth undertakes collection, he shall follow the procedures established by the Department of Taxation and the Compensation Board. Such guidelines shall not supersede contracts between attorneys for the Commonwealth and private attorneys and collection agencies when active collection efforts are being undertaken. As part of such contract, private attorneys or collection agencies shall be given access to the social security number of the defendant in order to assist in the collection effort. Any such private attorney shall be subject to the penalties and provisions of § 18.2-186.3.

The fees of any private attorneys or collection agencies shall be paid on a contingency fee basis out of the proceeds of the amounts collected. However, in no event shall such attorney or collection agency receive a fee for amounts collected by the Department of Taxation under the Setoff Debt Collection Act (§ 58.1-520 et seq.). A local treasurer undertaking collection pursuant to an agreement with the attorney for the Commonwealth may collect the administrative fee authorized by § 58.1-3958.

~~C.~~ D. The Department of Taxation and the State Compensation Board shall be responsible for the collection of any judgment which remains unsatisfied or does not meet the conditions of § 19.2-354. Persons owing such unsatisfied judgments or failing to comply with installment payment agreements under § 19.2-354 shall be subject to the delinquent tax collection provisions of Title 58.1. The Department of Taxation and the State Compensation Board shall establish procedures to be followed by clerks of courts, attorneys for the Commonwealth, other state agencies and any private attorneys or collection agents and may employ private attorneys or collection agencies, or engage other state agencies to collect the judgment. The Department of Taxation and the Commonwealth shall be entitled to deduct a fee for services from amounts collected for violations of local ordinances.

The Department of Taxation and the State Compensation Board shall annually report to the Governor and the General Assembly the total of fines, costs, forfeitures and penalties assessed, collected, and unpaid and those which remain unsatisfied or do not meet the conditions of § 19.2-354 by each circuit and district court. The report shall include the procedures established by the Department of Taxation and the State Compensation Board pursuant to this section and a plan for increasing the collection of unpaid fines, costs, forfeitures and penalties. The Auditor of Public Accounts shall annually report to the Governor, the Executive Secretary of the Supreme Court and the General Assembly as to the adherence of clerks of courts, attorneys for the Commonwealth and other state agencies to the procedures established by the Department of Taxation and the State Compensation Board.

**§ 19.2-368.15. Subrogation of Commonwealth to claimant's right of action; lien in favor of the Commonwealth; disposition of funds collected.**

Acceptance of an award made pursuant to this chapter shall subrogate the Commonwealth, to the extent of such award, to any right or right of action accruing to the claimant or the victim to recover payments on account of losses resulting from the crime with respect to which the award is made. However, except as otherwise provided in subsection ~~G~~ I of § 19.2-305.1, the Commonwealth shall not institute any proceedings in connection with its right of subrogation under this section within one year from the date of commission of the crime, unless any claimant or victim's right or action shall have

been previously terminated. All funds collected by the Commonwealth in a proceeding instituted pursuant to this section shall be paid over to the Comptroller for deposit into the Criminal Injuries Compensation Fund.

Whenever any person receives an award from the Criminal Injuries Compensation Fund, the Commonwealth shall have a lien for the total amount paid by the Fund, or any portion thereof compromised pursuant to the authority granted under § 2.2-514, on the claim of such injured person or his personal representative against the person, firm, or corporation who is alleged to have caused such injuries. The Fund's lien shall be inferior to any lien for payment of reasonable attorney fees and costs, but shall be superior to all other liens created by § 8.01-66.2. The injured person may file a petition or motion to reduce the lien and apportion the recovery pursuant to § 8.01-66.9. The Fund's lien shall become effective when notice is provided pursuant to § 8.01-66.5 and liability shall attach pursuant to § 8.01-66.6.

## CHAPTER 787

*An Act to amend and reenact § 22.1-18.01 of the Code of Virginia, relating to biennial review of the standards of quality required.*

[H 2014]

Approved April 5, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 22.1-18.01 of the Code of Virginia is amended and reenacted as follows:**

**§ 22.1-18.01. Biennial review of the standards of quality required; budget estimates.**

A. To ensure the integrity of the standards of quality, the Board of Education shall, in ~~even-numbered~~ *odd-numbered* years, exercise its constitutional authority to determine and prescribe the standards, subject to revision only by the General Assembly, by reviewing the standards and either (i) proposing amendments to the standards or (ii) making a determination that no changes are necessary.

B. ~~In any odd-numbered year following the year in which~~ *If* the Board proposes changes to the standards of quality, the budget estimates that are required to be reported pursuant to § 2.2-1504 shall take into consideration the Board's proposed standards of quality.

## CHAPTER 788

*An Act to amend and reenact §§ 46.2-100, 46.2-904, 46.2-908, 46.2-908.1, 46.2-1015, and 46.2-2101 of the Code of Virginia and to amend the Code of Virginia by adding in Article 12 of Chapter 8 of Title 46.2 a section numbered 46.2-908.1:1, relating to electric personal delivery devices.*

[H 2016]

Approved April 5, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 46.2-100, 46.2-904, 46.2-908, 46.2-908.1, 46.2-1015, and 46.2-2101 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Article 12 of Chapter 8 of Title 46.2 a section numbered 46.2-908.1:1 as follows:**

**§ 46.2-100. Definitions.**

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

"All-terrain vehicle" means a motor vehicle having three or more wheels that is powered by a motor and is manufactured for off-highway use. "All-terrain vehicle" does not include four-wheeled vehicles commonly known as "go-carts" that have low centers of gravity and are typically used in racing on relatively level surfaces, nor does the term include any riding lawn mower.

"Antique motor vehicle" means every motor vehicle, as defined in this section, which was actually manufactured or designated by the manufacturer as a model manufactured in a calendar year not less than 25 years prior to January 1 of each calendar year and is owned solely as a collector's item.

"Antique trailer" means every trailer or semitrailer, as defined in this section, that was actually manufactured or designated by the manufacturer as a model manufactured in a calendar year not less than 25 years prior to January 1 of each calendar year and is owned solely as a collector's item.

"Autocycle" means a three-wheeled motor vehicle that has a steering wheel and seating that does not require the operator to straddle or sit astride and is manufactured to comply with federal safety requirements for motorcycles. Except as otherwise provided, an autocycle shall not be deemed to be a motorcycle.

"Automobile or watercraft transporters" means any tractor truck, lowboy, vehicle, or combination, including vehicles or combinations that transport motor vehicles or watercraft on their power unit, designed and used exclusively for the transportation of motor vehicles or watercraft.

"Bicycle" means a device propelled solely by human power, upon which a person may ride either on or astride a regular seat attached thereto, having two or more wheels in tandem, including children's bicycles, except a toy vehicle

intended for use by young children. For purposes of Chapter 8 (§ 46.2-800 et seq.), a bicycle shall be a vehicle while operated on the highway.

"Bicycle lane" means that portion of a roadway designated by signs and/or pavement markings for the preferential use of bicycles, electric power-assisted bicycles, and mopeds.

"Business district" means the territory contiguous to a highway where 75 percent or more of the property contiguous to a highway, on either side of the highway, for a distance of 300 feet or more along the highway, is occupied by land and buildings actually in use for business purposes.

"Camping trailer" means every vehicle that has collapsible sides and contains sleeping quarters but may or may not contain bathing and cooking facilities and is designed to be drawn by a motor vehicle.

"Cancel" or "cancellation" means that the document or privilege cancelled has been annulled or terminated because of some error, defect, or ineligibility, but the cancellation is without prejudice and reapplication may be made at any time after cancellation.

"Chauffeur" means every person employed for the principal purpose of driving a motor vehicle and every person who drives a motor vehicle while in use as a public or common carrier of persons or property.

"Circular intersection" means an intersection that has an island, generally circular in design, located in the center of the intersection, where all vehicles pass to the right of the island. Circular intersections include roundabouts, rotaries, and traffic circles.

"Commission" means the State Corporation Commission.

"Commissioner" means the Commissioner of the Department of Motor Vehicles of the Commonwealth.

"Converted electric vehicle" means any motor vehicle, other than a motorcycle or auticycle, that has been modified subsequent to its manufacture to replace an internal combustion engine with an electric propulsion system. Such vehicles shall retain their original vehicle identification number, line-make, and model year. A converted electric vehicle shall not be deemed a "reconstructed vehicle" as defined in this section unless it has been materially altered from its original construction by the removal, addition, or substitution of new or used essential parts other than those required for the conversion to electric propulsion.

"Crosswalk" means that part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs or, in the absence of curbs, from the edges of the traversable roadway; or any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

"Decal" means a device to be attached to a license plate that validates the license plate for a predetermined registration period.

"Department" means the Department of Motor Vehicles of the Commonwealth.

"Disabled parking license plate" means a license plate that displays the international symbol of access in the same size as the numbers and letters on the plate and in a color that contrasts with the background.

"Disabled veteran" means a veteran who (i) has either lost, or lost the use of, a leg, arm, or hand; (ii) is blind; or (iii) is permanently and totally disabled as certified by the U.S. Department of Veterans Affairs. A veteran shall be considered blind if he has a permanent impairment of both eyes to the following extent: central visual acuity of 20/200 or less in the better eye, with corrective lenses, or central visual acuity of more than 20/200, if there is a field defect in which the peripheral field has contracted to such an extent that the widest diameter of visual field subtends an angular distance no greater than 20 degrees in the better eye.

"Driver's license" means any license, including a commercial driver's license as defined in the Virginia Commercial Driver's License Act (§ 46.2-341.1 et seq.), issued under the laws of the Commonwealth authorizing the operation of a motor vehicle.

"Electric personal assistive mobility device" means a self-balancing two-nontandem-wheeled device that is designed to transport only one person and powered by an electric propulsion system that limits the device's maximum speed to 15 miles per hour or less. For purposes of Chapter 8 (§ 46.2-800 et seq.), an electric personal assistive mobility device shall be a vehicle when operated on a highway.

*"Electric personal delivery device" means an electrically powered device that (i) is operated on sidewalks, shared-use paths, and crosswalks and intended primarily to transport property; (ii) weighs less than 50 pounds, excluding cargo; (iii) has a maximum speed of 10 miles per hour; and (iv) is equipped with technology to allow for operation of the device with or without the active control or monitoring of a natural person.*

*"Electric personal delivery device operator" means an entity or its agent who exercises direct physical control or monitoring over the navigation system and operation of an electric personal delivery device. For the purposes of this definition, "agent" means a person not less than 16 years of age charged by an entity with the responsibility of navigating and operating an electric personal delivery device. "Electric personal delivery device operator" does not include (i) an entity or person who requests the services of an electric personal delivery device to transport property or (ii) an entity or person who only arranges for and dispatches the requested services of an electric personal delivery device.*

"Electric power-assisted bicycle" means a vehicle that travels on not more than three wheels in contact with the ground and is equipped with (i) pedals that allow propulsion by human power and (ii) an electric motor with an input of no more than 1,000 watts that reduces the pedal effort required of the rider. For the purposes of Chapter 8 (§ 46.2-800 et seq.), an electric power-assisted bicycle shall be a vehicle when operated on a highway.

"Essential parts" means all integral parts and body parts, the removal, alteration, or substitution of which will tend to conceal the identity of a vehicle.

"Farm tractor" means every motor vehicle designed and used as a farm, agricultural, or horticultural implement for drawing plows, mowing machines, and other farm, agricultural, or horticultural machinery and implements, including self-propelled mowers designed and used for mowing lawns.

"Farm utility vehicle" means a vehicle that is powered by a motor and is designed for off-road use and is used as a farm, agricultural, or horticultural service vehicle, generally having four or more wheels, bench seating for the operator and a passenger, a steering wheel for control, and a cargo bed. "Farm utility vehicle" does not include pickup or panel trucks, golf carts, low-speed vehicles, or riding lawn mowers.

"Federal safety requirements" means applicable provisions of 49 U.S.C. § 30101 et seq. and all administrative regulations and policies adopted pursuant thereto.

"Financial responsibility" means the ability to respond in damages for liability thereafter incurred arising out of the ownership, maintenance, use, or operation of a motor vehicle, in the amounts provided for in § 46.2-472.

"Foreign market vehicle" means any motor vehicle originally manufactured outside the United States, which was not manufactured in accordance with 49 U.S.C. § 30101 et seq. and the policies and regulations adopted pursuant to that Act, and for which a Virginia title or registration is sought.

"Foreign vehicle" means every motor vehicle, trailer, or semitrailer that is brought into the Commonwealth otherwise than in the ordinary course of business by or through a manufacturer or dealer and that has not been registered in the Commonwealth.

"Golf cart" means a self-propelled vehicle that is designed to transport persons playing golf and their equipment on a golf course.

"Governing body" means the board of supervisors of a county, council of a city, or council of a town, as context may require.

"Gross weight" means the aggregate weight of a vehicle or combination of vehicles and the load thereon.

"Highway" means the entire width between the boundary lines of every way or place open to the use of the public for purposes of vehicular travel in the Commonwealth, including the streets and alleys, and, for law-enforcement purposes, (i) the entire width between the boundary lines of all private roads or private streets that have been specifically designated "highways" by an ordinance adopted by the governing body of the county, city, or town in which such private roads or streets are located and (ii) the entire width between the boundary lines of every way or place used for purposes of vehicular travel on any property owned, leased, or controlled by the United States government and located in the Commonwealth.

"Intersection" means (i) the area embraced within the prolongation or connection of the lateral curblines or, if none, then the lateral boundary lines of the roadways of two highways that join one another at, or approximately at, right angles, or the area within which vehicles traveling on different highways joining at any other angle may come in conflict; (ii) where a highway includes two roadways 30 feet or more apart, then every crossing of each roadway of such divided highway by an intersecting highway shall be regarded as a separate intersection, in the event such intersecting highway also includes two roadways 30 feet or more apart, then every crossing of two roadways of such highways shall be regarded as a separate intersection; or (iii) for purposes only of authorizing installation of traffic-control devices, every crossing of a highway or street at grade by a pedestrian crosswalk.

"Lane-use control signal" means a signal face displaying indications to permit or prohibit the use of specific lanes of a roadway or to indicate the impending prohibition of such use.

"Law-enforcement officer" means any officer authorized to direct or regulate traffic or to make arrests for violations of this title or local ordinances authorized by law. For the purposes of access to law-enforcement databases regarding motor vehicle registration and ownership only, "law-enforcement officer" also includes city and county commissioners of the revenue and treasurers, together with their duly designated deputies and employees, when such officials are actually engaged in the enforcement of §§ 46.2-752, 46.2-753, and 46.2-754 and local ordinances enacted thereunder.

"License plate" means a device containing letters, numerals, or a combination of both, attached to a motor vehicle, trailer, or semitrailer to indicate that the vehicle is properly registered with the Department.

"Light" means a device for producing illumination or the illumination produced by the device.

"Low-speed vehicle" means any four-wheeled electrically powered or gas-powered vehicle, except a motor vehicle or low-speed vehicle that is used exclusively for agricultural or horticultural purposes or a golf cart, whose maximum speed is greater than 20 miles per hour but not greater than 25 miles per hour and is manufactured to comply with safety standards contained in Title 49 of the Code of Federal Regulations, § 571.500.

"Manufactured home" means a structure subject to federal regulation, transportable in one or more sections, which in the traveling mode is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein.

"Moped" means every vehicle that travels on not more than three wheels in contact with the ground that (i) has a seat that is no less than 24 inches in height, measured from the middle of the seat perpendicular to the ground; (ii) has a gasoline, electric, or hybrid motor that (a) displaces 50 cubic centimeters or less or (b) has an input of 1500 watts or less; (iii) is power-driven, with or without pedals that allow propulsion by human power; and (iv) is not operated at speeds in excess of

35 miles per hour. For purposes of this title, a moped shall be a motorcycle when operated at speeds in excess of 35 miles per hour. For purposes of Chapter 8 (§ 46.2-800 et seq.), a moped shall be a vehicle while operated on a highway.

"Motor-driven cycle" means every motorcycle that has a gasoline engine that (i) displaces less than 150 cubic centimeters; (ii) has a seat less than 24 inches in height, measured from the middle of the seat perpendicular to the ground; and (iii) has no manufacturer-issued vehicle identification number.

"Motor home" means every private motor vehicle with a normal seating capacity of not more than 10 persons, including the driver, designed primarily for use as living quarters for human beings.

"Motor vehicle" means every vehicle as defined in this section that is self-propelled or designed for self-propulsion except as otherwise provided in this title. Any structure designed, used, or maintained primarily to be loaded on or affixed to a motor vehicle to provide a mobile dwelling, sleeping place, office, or commercial space shall be considered a part of a motor vehicle. Except as otherwise provided, for the purposes of this title, any device herein defined as a bicycle, electric personal assistive mobility device, electric power-assisted bicycle, or moped shall be deemed not to be a motor vehicle.

"Motorcycle" means every motor vehicle designed to travel on not more than three wheels in contact with the ground and is capable of traveling at speeds in excess of 35 miles per hour. "Motorcycle" does not include any "autocycle," "electric personal assistive mobility device," "electric power-assisted bicycle," "farm tractor," "golf cart," "moped," "motorized skateboard or foot-scooter," "utility vehicle," or "wheelchair or wheelchair conveyance" as defined in this section.

"Motorized skateboard or foot-scooter" means every vehicle, regardless of the number of its wheels in contact with the ground, that (i) has no seat, but is designed to be stood upon by the operator, (ii) has no manufacturer-issued vehicle identification number, and (iii) is powered by an electric motor having an input of no more than 1,000 watts or a gasoline engine that displaces less than 36 cubic centimeters. "Motorized skateboard or foot-scooter" includes vehicles with or without handlebars but does not include "electric personal assistive mobility devices."

"Nonresident" means every person who is not domiciled in the Commonwealth, except: (i) any foreign corporation that is authorized to do business in the Commonwealth by the State Corporation Commission shall be a resident of the Commonwealth for the purpose of this title; in the case of corporations incorporated in the Commonwealth but doing business outside the Commonwealth, only such principal place of business or branches located within the Commonwealth shall be dealt with as residents of the Commonwealth; (ii) a person who becomes engaged in a gainful occupation in the Commonwealth for a period exceeding 60 days shall be a resident for the purposes of this title except for the purposes of Chapter 3 (§ 46.2-300 et seq.); (iii) a person, other than (a) a nonresident student as defined in this section or (b) a person who is serving a full-time church service or proselyting mission of not more than 36 months and who is not gainfully employed, who has actually resided in the Commonwealth for a period of six months, whether employed or not, or who has registered a motor vehicle, listing an address in the Commonwealth in the application for registration, shall be deemed a resident for the purposes of this title, except for the purposes of the Virginia Commercial Driver's License Act (§ 46.2-341.1 et seq.).

"Nonresident student" means every nonresident person who is enrolled as a full-time student in an accredited institution of learning in the Commonwealth and who is not gainfully employed.

"Off-road motorcycle" means every motorcycle designed exclusively for off-road use by an individual rider with not more than two wheels in contact with the ground. Except as otherwise provided in this chapter, for the purposes of this chapter off-road motorcycles shall be deemed to be "motorcycles."

"Operation or use for rent or for hire, for the transportation of passengers, or as a property carrier for compensation," and "business of transporting persons or property" mean any owner or operator of any motor vehicle, trailer, or semitrailer operating over the highways in the Commonwealth who accepts or receives compensation for the service, directly or indirectly; but these terms do not mean a "truck lessor" as defined in this section and do not include persons or businesses that receive compensation for delivering a product that they themselves sell or produce, where a separate charge is made for delivery of the product or the cost of delivery is included in the sale price of the product, but where the person or business does not derive all or a substantial portion of its income from the transportation of persons or property except as part of a sales transaction.

"Operator" or "driver" means every person who either (i) drives or is in actual physical control of a motor vehicle on a highway or (ii) is exercising control over or steering a vehicle being towed by a motor vehicle.

"Owner" means a person who holds the legal title to a vehicle; however, if a vehicle is the subject of an agreement for its conditional sale or lease with the right of purchase on performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee or if a mortgagor of a vehicle is entitled to possession, then the conditional vendee or lessee or mortgagor shall be the owner for the purpose of this title. In all such instances when the rent paid by the lessee includes charges for services of any nature or when the lease does not provide that title shall pass to the lessee on payment of the rent stipulated, the lessor shall be regarded as the owner of the vehicle, and the vehicle shall be subject to such requirements of this title as are applicable to vehicles operated for compensation. A "truck lessor" as defined in this section shall be regarded as the owner, and his vehicles shall be subject to such requirements of this title as are applicable to vehicles of private carriers.

"Passenger car" means every motor vehicle other than a motorcycle or autocycle designed and used primarily for the transportation of no more than 10 persons, including the driver.

"Payment device" means any credit card as defined in 15 U.S.C. § 1602 (k) or any "accepted card or other means of access" set forth in 15 U.S.C. § 1693a (1). For the purposes of this title, this definition shall also include a card that enables a person to pay for transactions through the use of value stored on the card itself.

"Pickup or panel truck" means (i) every motor vehicle designed for the transportation of property and having a registered gross weight of 7,500 pounds or less or (ii) every motor vehicle registered for personal use, designed to transport property on its own structure independent of any other vehicle, and having a registered gross weight in excess of 7,500 pounds but not in excess of 10,000 pounds.

"Private road or driveway" means every way in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

"Reconstructed vehicle" means every vehicle of a type required to be registered under this title materially altered from its original construction by the removal, addition, or substitution of new or used essential parts. Such vehicles, at the discretion of the Department, shall retain their original vehicle identification number, line-make, and model year. Except as otherwise provided in this title, this definition shall not include a "converted electric vehicle" as defined in this section.

"Replica vehicle" means every vehicle of a type required to be registered under this title not fully constructed by a licensed manufacturer but either constructed or assembled from components. Such components may be from a single vehicle, multiple vehicles, a kit, parts, or fabricated components. The kit may be made up of "major components" as defined in § 46.2-1600, a full body, or a full chassis, or a combination of these parts. The vehicle shall resemble a vehicle of distinctive name, line-make, model, or type as produced by a licensed manufacturer or manufacturer no longer in business and is not a reconstructed or specially constructed vehicle as herein defined.

"Residence district" means the territory contiguous to a highway, not comprising a business district, where 75 percent or more of the property abutting such highway, on either side of the highway, for a distance of 300 feet or more along the highway consists of land improved for dwelling purposes, or is occupied by dwellings, or consists of land or buildings in use for business purposes, or consists of territory zoned residential or territory in residential subdivisions created under Chapter 22 (§ 15.2-2200 et seq.) of Title 15.2.

"Revoke" or "revocation" means that the document or privilege revoked is not subject to renewal or restoration except through reapplication after the expiration of the period of revocation.

"Roadway" means that portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of the shoulder. A highway may include two or more roadways if divided by a physical barrier or barriers or an unpaved area.

"Safety zone" means the area officially set apart within a roadway for the exclusive use of pedestrians and that is protected or is so marked or indicated by plainly visible signs.

"School bus" means any motor vehicle, other than a station wagon, automobile, truck, or commercial bus, which is: (i) designed and used primarily for the transportation of pupils to and from public, private or religious schools, or used for the transportation of the mentally or physically handicapped to and from a sheltered workshop; (ii) painted yellow and bears the words "School Bus" in black letters of a specified size on front and rear; and (iii) is equipped with warning devices prescribed in § 46.2-1090. A yellow school bus may have a white roof provided such vehicle is painted in accordance with regulations promulgated by the Department of Education.

"Semitrailer" means every vehicle of the trailer type so designed and used in conjunction with a motor vehicle that some part of its own weight and that of its own load rests on or is carried by another vehicle.

"Shared-use path" means a bikeway that is physically separated from motorized vehicular traffic by an open space or barrier and is located either within the highway right-of-way or within a separate right-of-way. Shared-use paths may also be used by pedestrians, skaters, users of wheel chairs or wheel chair conveyances, joggers, and other nonmotorized users and *electric personal delivery devices*.

"Shoulder" means that part of a highway between the portion regularly traveled by vehicular traffic and the lateral curbline or ditch.

"Sidewalk" means the portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines, intended for use by pedestrians.

"Snowmobile" means a self-propelled vehicle designed to travel on snow or ice, steered by skis or runners, and supported in whole or in part by one or more skis, belts, or cleats.

"Special construction and forestry equipment" means any vehicle which is designed primarily for highway construction, highway maintenance, earth moving, timber harvesting or other construction or forestry work and which is not designed for the transportation of persons or property on a public highway.

"Specially constructed vehicle" means any vehicle that was not originally constructed under a distinctive name, make, model, or type by a generally recognized manufacturer of vehicles and not a reconstructed vehicle as herein defined.

"Stinger-steered automobile or watercraft transporter" means an automobile or watercraft transporter configured as a semitrailer combination wherein the fifth wheel is located on a drop frame behind and below the rearmost axle of the power unit.

"Superintendent" means the Superintendent of the Department of State Police of the Commonwealth.

"Suspend" or "suspension" means that the document or privilege suspended has been temporarily withdrawn, but may be reinstated following the period of suspension unless it has expired prior to the end of the period of suspension.

"Tow truck" means a motor vehicle for hire (i) designed to lift, pull, or carry another vehicle by means of a hoist or other mechanical apparatus and (ii) having a manufacturer's gross vehicle weight rating of at least 10,000 pounds. "Tow

truck" also includes vehicles designed with a ramp on wheels and a hydraulic lift with a capacity to haul or tow another vehicle, commonly referred to as "rollbacks." "Tow truck" does not include any "automobile or watercraft transporter," "stinger-steered automobile or watercraft transporter," or "tractor truck" as those terms are defined in this section.

"Towing and recovery operator" means a person engaged in the business of (i) removing disabled vehicles, parts of vehicles, their cargoes, and other objects to facilities for repair or safekeeping and (ii) restoring to the highway or other location where they either can be operated or removed to other locations for repair or safekeeping vehicles that have come to rest in places where they cannot be operated.

"Toy vehicle" means any motorized or propellant-driven device that has no manufacturer-issued vehicle identification number that is designed or used to carry any person or persons, on any number of wheels, bearings, glides, blades, runners, or a cushion of air. "Toy vehicle" does not include electric personal assistive mobility devices, electric power-assisted bicycles, mopeds, or motorcycles, nor does it include any nonmotorized or nonpropellant-driven devices such as bicycles, roller skates, or skateboards.

"Tractor truck" means every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the load and weight of the vehicle attached thereto.

"Traffic control device" means a sign, signal, marking, or other device used to regulate, warn, or guide traffic placed on, over, or adjacent to a street, highway, private road open to public travel, pedestrian facility, or shared-use path by authority of a public agency or official having jurisdiction, or in the case of a private road open to public travel, by authority of the private owner or private official having jurisdiction.

"Traffic infraction" means a violation of law punishable as provided in § 46.2-113, which is neither a felony nor a misdemeanor.

"Traffic lane" or "lane" means that portion of a roadway designed or designated to accommodate the forward movement of a single line of vehicles.

"Trailer" means every vehicle without motive power designed for carrying property or passengers wholly on its own structure and for being drawn by a motor vehicle, including manufactured homes.

"Truck" means every motor vehicle designed to transport property on its own structure independent of any other vehicle and having a registered gross weight in excess of 7,500 pounds. "Truck" does not include any pickup or panel truck.

"Truck lessor" means a person who holds the legal title to any motor vehicle, trailer, or semitrailer that is the subject of a bona fide written lease for a term of one year or more to another person, provided that: (i) neither the lessor nor the lessee is a common carrier by motor vehicle or restricted common carrier by motor vehicle or contract carrier by motor vehicle as defined in § 46.2-2000; (ii) the leased motor vehicle, trailer, or semitrailer is used exclusively for the transportation of property of the lessee; (iii) the lessor is not employed in any capacity by the lessee; (iv) the operator of the leased motor vehicle is a bona fide employee of the lessee and is not employed in any capacity by the lessor; and (v) a true copy of the lease, verified by affidavit of the lessor, is filed with the Commissioner.

"Utility vehicle" means a motor vehicle that is (i) designed for off-road use, (ii) powered by a motor, and (iii) used for general maintenance, security, agricultural, or horticultural purposes. "Utility vehicle" does not include riding lawn mowers.

"Vehicle" means every device in, on or by which any person or property is or may be transported or drawn on a highway, except *electric personal delivery devices* and devices moved by human power or used exclusively on stationary rails or tracks. For the purposes of Chapter 8 (§ 46.2-800 et seq.), bicycles, electric personal assistive mobility devices, electric power-assisted bicycles, and mopeds shall be vehicles while operated on a highway.

"Wheel chair or wheel chair conveyance" means a chair or seat equipped with wheels, typically used to provide mobility for persons who, by reason of physical disability, are otherwise unable to move about as pedestrians. "Wheel chair or wheel chair conveyance" includes both three-wheeled and four-wheeled devices. So long as it is operated only as provided in § 46.2-677, a self-propelled wheel chair or self-propelled wheel chair conveyance shall not be considered a motor vehicle.

**§ 46.2-904. Use of roller skates and skateboards on sidewalks and shared-use paths; operation of bicycles and certain motorized and electric items and devices on sidewalks, crosswalks, and shared-use paths; local ordinances.**

The governing body of any county, city, or town may by ordinance prohibit the use of roller skates ~~and~~, skateboards, *and electric personal delivery devices* and/or the riding of bicycles, electric personal assistive mobility devices, motorized skateboards or foot-scooters, motor-driven cycles, or electric power-assisted bicycles on designated sidewalks or crosswalks, including those of any church, school, recreational facility, or any business property open to the public where such activity is prohibited. Signs indicating such prohibition shall be conspicuously posted in general areas where use of roller skates ~~and~~, skateboards, *and electric personal delivery devices*, and/or bicycle, electric personal assistive mobility devices, motorized skateboards or foot-scooters, motor-driven cycles, or electric power-assisted bicycle riding is prohibited. *Unless otherwise prohibited, electric personal delivery devices may be operated on the sidewalks and shared-use paths and across the roadway on a crosswalk of any locality of the Commonwealth.*

A person riding a bicycle, electric personal assistive mobility device, motorized skateboard or foot-scooter, motor-driven cycle, or ~~an~~ electric power-assisted bicycle on a sidewalk, *or shared-use path*, or across a roadway on a crosswalk, shall yield the right-of-way to any pedestrian and shall give an audible signal before overtaking and passing any pedestrian. *An electric personal delivery device operated on a sidewalk or shared-use path or across a roadway on a crosswalk shall yield the right-of-way to any pedestrian.*

No person shall ride a bicycle, electric personal assistive mobility device, motorized skateboard or foot-scooter, motor-driven cycle, or ~~an~~ electric power-assisted bicycle or operate an electric personal delivery device on a sidewalk, or across a roadway on a crosswalk, where such use of bicycles, electric personal assistive mobility devices, *electric personal delivery devices*, motorized skateboards or foot-scooters, motor-driven cycles, or electric power-assisted bicycles is prohibited by official traffic control devices.

A person riding a bicycle, electric personal assistive mobility device, motorized skateboard or foot-scooter, motor-driven cycle, or ~~an~~ electric power-assisted bicycle on a sidewalk, or shared-use path, or across a roadway on a crosswalk, shall have all the rights and duties of a pedestrian under the same circumstances. *An electric personal delivery device operated on a sidewalk or shared-use path or across a roadway on a crosswalk shall have all the rights and duties of a pedestrian under the same circumstances.*

A violation of any ordinance adopted pursuant to this section shall be punishable by a civil penalty of not more than \$50.

**§ 46.2-908. Registration of bicycle, electric personal assistive mobility device, electric personal delivery device, and electric power-assisted bicycle serial numbers.**

Any person who owns a bicycle, electric personal assistive mobility device, *electric personal delivery device*, or electric power-assisted bicycle may register its serial number with the local law-enforcement agency of the political subdivision in which such person resides.

**§ 46.2-908.1. Electric personal assistive mobility devices, electric personal delivery devices, electrically powered toy vehicles, and electric power-assisted bicycles.**

All electric personal assistive mobility devices, *electric personal delivery devices*, electrically powered toy vehicles, and electric power-assisted bicycles shall be equipped with spill-proof, sealed, or gelled electrolyte batteries. No person shall at any time or at any location (i) drive an electric personal assistive mobility device, or an electric power-assisted bicycle faster than ~~twenty-five~~ 25 miles per hour or (ii) operate an electric personal delivery device at a speed faster than 10 miles per hour. No person less than ~~fourteen~~ 14 years old shall drive any electric personal assistive mobility device, motorized skateboard or foot-scooter, or electric power-assisted bicycle unless under the immediate supervision of a person who is at least ~~eighteen~~ 18 years old.

An electric personal assistive mobility device or motorized skateboard or foot-scooter may be operated on any highway with a maximum speed limit of ~~twenty-five~~ 25 miles per hour or less. An electric personal assistive mobility device shall only operate on any highway authorized by this section if a sidewalk is not provided along such highway or if operation of the electric personal assistive mobility device on such sidewalk is prohibited pursuant to § 46.2-904. Nothing in this section shall prohibit the operation of an electric personal assistive mobility device, *electric personal delivery device*, or motorized skateboard or foot-scooter in the crosswalk of any highway where the use of such crosswalk is authorized for pedestrians, bicycles, or electric power-assisted bicycles.

Operation of electric personal assistive mobility devices, electrically powered toy vehicles, bicycles, and electric power-assisted bicycles is prohibited on any Interstate Highway System component except as provided by the section.

The Commonwealth Transportation Board may authorize the use of bicycles on an Interstate Highway System Component provided the operation is limited to bicycle or pedestrian facilities that are barrier separated from the roadway and automobile traffic and such component meets all applicable safety requirements established by federal and state law.

**§ 46.2-908.1:1. Electric personal delivery devices.**

A. All electric personal delivery devices shall obey all traffic and pedestrian control devices and signs and include a plate or marker that is in a position and size to be clearly visible and identifies the name and contact information of the owner of the electric personal delivery device and a unique identifying device number.

B. All electric personal delivery devices shall be equipped with a braking system that, when active or engaged, will enable such electric personal delivery device to come to a controlled stop.

C. No electric personal delivery device shall transport hazardous materials, substances, or waste as defined in § 10.1-1400. For the purposes of this subsection, hazardous materials includes ammunition.

D. No electric personal delivery device shall be operated on a public highway in the Commonwealth, except to the extent necessary to cross an intersection or crosswalk.

E. No electric personal delivery device shall operate on a sidewalk or shared-use path or across a roadway on a crosswalk unless an electric personal delivery device operator is actively controlling or monitoring the navigation and operation of the electric personal delivery device.

F. Any entity or person who uses an electric personal delivery device to engage in criminal activity is criminally liable for such activity.

**§ 46.2-1015. Lights on bicycles, electric personal assistive mobility devices, electric personal delivery devices, electric power-assisted bicycles, and mopeds.**

A. Every bicycle, electric personal assistive mobility device, *electric personal delivery device*, electric power-assisted bicycle, and moped when in use between sunset and sunrise shall be equipped with a headlight on the front emitting a white light visible in clear weather from a distance of at least 500 feet to the front and a red reflector visible from a distance of at least 600 feet to the rear when directly in front of lawful lower beams of headlights on a motor vehicle. Such lights and reflector shall be of types approved by the Superintendent.

In addition to the foregoing provisions of this section, a bicycle or its rider may be equipped with lights or reflectors. These lights may be steady burning or blinking.

B. Every bicycle, or its rider, shall be equipped with a taillight on the rear emitting a red light plainly visible in clear weather from a distance of at least 500 feet to the rear when in use between sunset and sunrise and operating on any highway with a speed limit of 35 mph or greater. Any such taillight shall be of a type approved by the Superintendent.

**§ 46.2-2101. Exemptions from chapter.**

The following are exempt from this chapter:

1. Motor vehicles owned and operated by the United States, District of Columbia, any state, municipality, or any other political subdivision of the Commonwealth.
2. Transportation of property between any point in this Commonwealth and any point outside this Commonwealth or between any points wholly within the limits of any city or town in the Commonwealth. This exemption shall not apply to the insurance requirement imposed on motor carriers pursuant to § 46.2-2143.1.
3. Motor vehicles controlled and operated by a bona fide cooperative association as defined in the Federal Marketing Act, approved June 15, 1929, as amended, or organized or existing under Article 2 (§ 13.1-312 et seq.) of Chapter 3 of Title 13.1, while used exclusively in the conduct of the business of such association.
4. Motor vehicles while used exclusively in (i) carrying newspapers, water, livestock, poultry, poultry products, buttermilk, fresh milk and cream, meats, butter and cheese produced on a farm, fish (including shellfish), slate, horticultural or agricultural commodities (not including manufactured products thereof), and forest products, including lumber and staves (but not including manufactured products thereof), (ii) transporting farm supplies to a farm or farms, (iii) hauling for the Department of Transportation, (iv) carrying fertilizer to any warehouse or warehouses for subsequent distribution to a local area farm or farms, or (v) collecting and disposing of trash, garbage and other refuse.
5. Motor vehicles used for transporting property by an air carrier or carrier affiliated with a direct air carrier whether or not such property has had or will have a prior or subsequent air movement.
6. Motor carriers exclusively operating vehicles with a registered gross weight of 7,500 pounds or less for the sole purpose of providing courier service.
7. *Electric personal delivery devices as defined in § 46.2-100.*

**CHAPTER 789**

*An Act to amend and reenact §§ 2.2-4336 and 2.2-4337 of the Code of Virginia, relating to the Virginia Public Procurement Act; bid, performance, and payment bonds; waiver by localities.*

[H 2017]

Approved April 5, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 2.2-4336 and 2.2-4337 of the Code of Virginia are amended and reenacted as follows:**

**§ 2.2-4336. Bid bonds.**

A. Except in cases of emergency, all bids or proposals for nontransportation-related construction contracts in excess of \$500,000 or transportation-related projects authorized under Article 2 (§ 33.2-208 et seq.) of Chapter 2 of Title 33.2 that are in excess of \$250,000 and partially or wholly funded by the Commonwealth shall be accompanied by a bid bond from a surety company selected by the bidder that is authorized to do business in Virginia, as a guarantee that if the contract is awarded to the bidder, he will enter into the contract for the work mentioned in the bid. The amount of the bid bond shall not exceed five percent of the amount bid.

B. For nontransportation-related construction contracts in excess of \$100,000 but less than \$500,000, where the bid bond requirements are waived, prospective contractors shall be prequalified for each individual project in accordance with § 2.2-4317. *However, a locality may waive the requirement for prequalification of a bidder with a current Class A contractor license for contracts in excess of \$100,000 but less than \$300,000 upon a written determination made in advance by the local governing body that waiving the requirement is in the best interests of the locality. A locality shall not enter into more than 10 such contracts per year.*

C. No forfeiture under a bid bond shall exceed the lesser of (i) the difference between the bid for which the bond was written and the next low bid, or (ii) the face amount of the bid bond.

D. Nothing in this section shall preclude a public body from requiring bid bonds to accompany bids or proposals for construction contracts anticipated to be less than \$500,000 for nontransportation-related projects or \$250,000 for transportation-related projects authorized under Article 2 (§ 33.2-208 et seq.) of Chapter 2 of Title 33.2 and partially or wholly funded by the Commonwealth.

**§ 2.2-4337. Performance and payment bonds.**

A. Except as provided in subsection H, upon the award of any (i) public construction contract exceeding \$500,000 awarded to any prime contractor; (ii) construction contract exceeding \$500,000 awarded to any prime contractor requiring the performance of labor or the furnishing of materials for buildings, structures or other improvements to real property owned or leased by a public body; (iii) construction contract exceeding \$500,000 in which the performance of labor or the furnishing of materials will be paid with public funds; or (iv) transportation-related projects exceeding \$350,000 that are partially or wholly funded by the Commonwealth, the contractor shall furnish to the public body the following bonds:

1. A performance bond in the sum of the contract amount conditioned upon the faithful performance of the contract in strict conformity with the plans, specifications and conditions of the contract. For transportation-related projects authorized under Article 2 (§ 33.2-208 et seq.) of Chapter 2 of Title 33.2, such bond shall be in a form and amount satisfactory to the public body.

2. A payment bond in the sum of the contract amount. The bond shall be for the protection of claimants who have and fulfill contracts to supply labor or materials to the prime contractor to whom the contract was awarded, or to any subcontractors, in furtherance of the work provided for in the contract, and shall be conditioned upon the prompt payment for all materials furnished or labor supplied or performed in the furtherance of the work. For transportation-related projects authorized under Article 2 (§ 33.2-208 et seq.) of Chapter 2 of Title 33.2 and partially or wholly funded by the Commonwealth, such bond shall be in a form and amount satisfactory to the public body.

~~"Labor~~ As used in this subdivision, "labor or materials" ~~shall include~~ includes public utility services and reasonable rentals of equipment, but only for periods when the equipment rented is actually used at the site.

B. For nontransportation-related construction contracts in excess of \$100,000 but less than \$500,000, where the ~~bid bond performance and payment bond~~ requirements are waived, prospective contractors shall be prequalified for each individual project in accordance with § 2.2-4317. *However, a locality may waive the requirement for prequalification of a contractor with a current Class A contractor license for contracts in excess of \$100,000 but less than \$300,000 upon a written determination made in advance by the local governing body that waiving the requirement is in the best interests of the locality. A locality shall not enter into more than 10 such contracts per year.*

C. Each of the bonds shall be executed by one or more surety companies selected by the contractor that are authorized to do business in Virginia.

D. If the public body is the Commonwealth, or any agency or institution thereof, the bonds shall be payable to the Commonwealth of Virginia, naming also the agency or institution thereof. Bonds required for the contracts of other public bodies shall be payable to such public body.

E. Each of the bonds shall be filed with the public body that awarded the contract, or a designated office or official thereof.

F. Nothing in this section shall preclude a public body from requiring payment or performance bonds for construction contracts below \$500,000 for nontransportation-related projects or \$350,000 for transportation-related projects authorized under Article 2 (§ 33.2-208 et seq.) of Chapter 2 of Title 33.2 and partially or wholly funded by the Commonwealth.

G. Nothing in this section shall preclude the contractor from requiring each subcontractor to furnish a payment bond with surety thereon in the sum of the full amount of the contract with such subcontractor conditioned upon the payment to all persons who have and fulfill contracts that are directly with the subcontractor for performing labor and furnishing materials in the prosecution of the work provided for in the subcontract.

H. The performance and payment bond requirements of subsection A for transportation-related projects that are valued in excess of \$250,000 but less than \$350,000 may only be waived by a public body if the bidder provides evidence, satisfactory to the public body, that a surety company has declined an application from the contractor for a performance or payment bond.

**CHAPTER 790**

*An Act to amend and reenact §§ 46.2-613.1, 46.2-711, 46.2-2100, 46.2-2101, 46.2-2108.2, 46.2-2108.4 through 46.2-2109, 46.2-2115, 46.2-2118, 46.2-2120, 46.2-2121, 46.2-2122, 46.2-2124, 46.2-2125, 46.2-2126, 46.2-2129 through 46.2-2140, 46.2-2143, 46.2-2143.1, and 46.2-2144 of the Code of Virginia, to amend the Code of Virginia by adding sections numbered 46.2-2121.1 and 46.2-2143.2, and to repeal § 46.2-2108.3 and Article 5 (§§ 46.2-2174, 46.2-2175, and 46.2-2176) of Chapter 21 of Title 46.2 of the Code of Virginia, relating to the Department of Motor Vehicles; regulation of property carriers.*

[H 2026]

Approved April 5, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 46.2-613.1, 46.2-711, 46.2-2100, 46.2-2101, 46.2-2108.2, 46.2-2108.4 through 46.2-2109, 46.2-2115, 46.2-2118, 46.2-2120, 46.2-2121, 46.2-2122, 46.2-2124, 46.2-2125, 46.2-2126, 46.2-2129 through 46.2-2140, 46.2-2143, 46.2-2143.1, and 46.2-2144 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 46.2-2121.1 and 46.2-2143.2 as follows:**

**§ 46.2-613.1. Civil penalty for violation of license, registration, and tax requirements and vehicle size limitations.**

A. A civil penalty of \$250 and a processing fee of \$20 shall be levied against any person who while at a permanent weighing station:

1. Operates or permits the operation of a truck or tractor truck with a gross weight greater than 7,500 pounds, a trailer, or a semitrailer owned, leased, or otherwise controlled by him on any highway in the Commonwealth unless (i) it is registered, (ii) a certificate of title therefor has been issued, and (iii) it has displayed on it the license plate or plates and decal or decals required by this title.

2. Operates or causes to be operated on any highway in the Commonwealth any motor vehicle that is not in compliance with the Unified Carrier Registration System authorized under 49 U.S.C. § 14504a, enacted pursuant to the Unified Carrier Registration Act of 2005, and the federal regulations promulgated thereunder.

3. Operates or permits the operation of any truck or tractor truck for which the fee for registration is prescribed by § 46.2-697 on any highway in the Commonwealth (i) without first having paid the registration fee hereinabove prescribed or (ii) if at the time of operation the gross weight of the vehicle or of the combination of vehicles of which it is a part is in excess of the gross weight on the basis of which it is registered. In any case where a pickup truck is used in combination with another vehicle, the civil penalty and processing fee shall be assessed only if the combined gross weight exceeds the combined gross weight on the basis of which each vehicle is registered.

4. (i) Fails to *declare a motor vehicle to be operated for hire when required by § 46.2-2121.1* or obtain a proper registration card, ~~identification marker~~, or other evidence of registration as required by ~~Chapter 21 (§ 46.2-2100 et seq.)~~ *this chapter*; (ii) operates or causes to be operated on any highway in the Commonwealth any motor vehicle that does not carry the proper registration and identification ~~marker~~ required by ~~Chapter 21 (§ 46.2-2100 et seq.)~~ *or any motor vehicle that does not this title*, display an identification marker *issued for the vehicle by the Department in the manner prescribed by the Department*, or *display any other identifying information as prescribed by the Department or required by this Title title*; or (iii) operates or causes to be operated on any highway in the Commonwealth any motor vehicle requiring registration cards or identification markers from the Department after such registration cards or identification markers have been revoked, canceled, or suspended.

5. (i) Fails to obtain a proper registration card, identification marker, or other evidence of registration required by Chapter 27 (§ 58.1-2700 et seq.) of Title 58.1 or the terms and provisions of the International Fuel Tax Agreement, as amended by the International Fuel Tax Association, Inc.; (ii) operates or causes to be operated on any highway in the Commonwealth any motor vehicle that does not carry the proper registration and identification marker required by Chapter 27 (§ 58.1-2700 et seq.) of Title 58.1 or the terms and provisions of the International Fuel Tax Agreement, as amended by the International Fuel Tax Association, Inc., or any motor vehicle that does not display an identification marker or other identifying information as prescribed by the Department or required by Title 58.1 or the terms of the International Fuel Tax Agreement, as amended by the International Fuel Tax Association, Inc.; or (iii) operates or causes to be operated on any highway in the Commonwealth any motor vehicle requiring registration cards or identification markers from the Department after such registration cards or identification markers have been revoked, canceled, or suspended.

6. Operates or causes to be operated on any highway in the Commonwealth any truck or tractor truck or combination of vehicles exceeding the size limitations of Articles 14 (§ 46.2-1101 et seq.), 15 (§ 46.2-1105 et seq.), 16 (§ 46.2-1112 et seq.), and 18 (§ 46.2-1139 et seq.) of Chapter 10.

B. Upon collection by the Department, civil penalties levied pursuant to subdivisions A 1 and A 3 through A 5 shall be paid into the Commonwealth Transportation Fund, but civil penalties levied pursuant to subdivisions A 2 and A 6 and all processing fees levied pursuant to this section shall be paid into the state treasury and shall be set aside as a special fund to meet the expenses of the Department of Motor Vehicles.

C. The penalties and fees specified in this section shall be in addition to any other penalty, fee, tax, or liability that may be imposed by law.

**§ 46.2-711. Furnishing number and design of plates; displaying on vehicles required.**

A. The Department shall furnish one license plate for every registered moped, motorcycle, tractor truck, semitrailer, or trailer, and two license plates for every other registered motor vehicle, except to licensed motor vehicle dealers and persons delivering unladen vehicles who shall be furnished one license plate. The license plates for trailers, semitrailers, commercial vehicles, and trucks, other than license plates for dealers, may be of such design as to prevent removal without mutilating some part of the indicia forming a part of the license plate, when secured to the bracket.

B. The Department shall issue appropriately designated license plates for:

1. Passenger-carrying vehicles for rent or hire for the transportation of passengers for private trips, other than TNC partner vehicles as defined in § 46.2-2000 and emergency medical services vehicles pursuant to clause (iii) of § 46.2-649.1:1;

2. Taxicabs;

3. Passenger-carrying vehicles operated by common carriers or restricted common carriers;

4. Property-carrying motor vehicles ~~to applicants who operate as private carriers only~~ *registered pursuant to § 46.2-697 except pickup or panel trucks as defined in § 46.2-100*;

5. Applicants, other than TNC partners as defined in § 46.2-2000 and emergency medical services vehicles pursuant to clause (iii) of § 46.2-649.1:1, who operate motor vehicles as *passenger* carriers for rent or hire;

6. Vehicles operated by nonemergency medical transportation carriers as defined in § 46.2-2000; and

7. Trailers and semitrailers.

C. The Department shall issue appropriately designated license plates for motor vehicles held for rental as defined in § 58.1-1735.

D. The Department shall issue appropriately designated license plates for low-speed vehicles.

E. No vehicles shall be operated on the highways in the Commonwealth without displaying the license plates required by this chapter. The provisions of this subsection shall not apply to vehicles used to collect and deliver the United States

mail to the extent that their rear license plates may be covered by the "CAUTION, FREQUENT STOPS, U.S. MAIL" sign when the vehicle is engaged in the collection and delivery of the United States mail.

~~F. Pickup or panel trucks are exempt from the provisions of subsection B with reference to displaying for-hire license plates when operated as a carrier for rent or hire. However, this exemption shall not apply to pickup or panel trucks subject to regulation under Chapter 21 (§ 46.2-2100 et seq.).~~

**§ 46.2-2100. Definitions.**

Whenever used in this chapter, unless expressly stated otherwise:

"Authorized insurer" means, in the case of an interstate motor carrier whose operations may or may not include intrastate activity, an insurer authorized to transact business in any one state, or, in the case of a solely intrastate motor carrier, an insurer authorized to transact business in the Commonwealth.

~~"Broker" means any person not included in the term "motor carrier" and not a bona fide employee or agent of any such carrier, who, as principal or agent, sells or offers for sale any transportation subject to this chapter, or negotiates for, or holds himself out by solicitation, advertisement, or otherwise as one who sells, provides, furnishes, contracts, or arranges for such transportation.~~

~~"Bulk commodity" means any non-liquid, non-gaseous commodity shipped loose or in mass/aggregate and which in the loading and unloading thereof is ordinarily shoveled, scooped, forked, or mechanically conveyed or which is not in containers or in units of such size to permit piece by piece loading and unloading.~~

~~"Bulk property carrier" means any person, not herein exempted, who undertakes either directly or by lease, to transport exclusively bulk commodities, as defined, for compensation including for purposes of this section for-hire tow truck operations.~~

"Certificate of fitness" means a certificate issued by the Department to certain "household goods carriers" under this chapter.

"Constructive weight" means a measurement of seven pounds per cubic foot of properly loaded van space.

~~"Courier service" means a motor carrier that engages, directly or by lease, exclusively in the transportation of letters, envelopes, negotiable or nonnegotiable instruments, or other documents or papers for compensation.~~

"Department" means the Department of Motor Vehicles.

"Financial responsibility" means the ability to respond in damages for liability thereafter incurred arising out of the ownership, maintenance, use, or operation of a motor vehicle, in the amounts provided for in this chapter.

"Gross weight" means the weight of a truck after a shipment has been loaded.

"Highway" means every public highway or place of whatever nature open to the use of the public for purposes of vehicle travel in this Commonwealth, excluding the streets and alleys in towns and cities.

~~"Household goods" means personal effects and property used or to be used in a dwelling, when a part of the equipment or supplies of such dwelling, and similar property if the transportation of such effects or property is (i) arranged and paid for by the householder, including transportation of the property from a factory or store when the property is purchased by the householder with intent to use it in his dwelling or (ii) arranged and paid for by another party transported or arranged to be transported (i) between residences or (ii) between a residence and a storage facility with the intent to later transport to a residence. Transportation of such goods must be arranged and paid for by, or on behalf of, the householder.~~

~~"Household goods carrier" means a restricted common carrier who undertakes, whether directly or by a lease or other arrangement, to transport "household goods," as herein defined, by motor vehicle for compensation, on any highway in this Commonwealth, between two or more points in this Commonwealth, whether over regular or irregular routes.~~

~~"Identification marker" means a decal or other visible identification issued by the Department to show (i) that the operator of the vehicle has registered with the Department for the payment of the road tax imposed under Chapter 27 (§ 58.1-2700 et seq.) of Title 58.1, (ii) proof of the possession of a certificate or permit issued pursuant to Chapter 21 (§ 46.2-2100 et seq.) of this title, and/or (iii) proof of compliance with the insurance requirements of this chapter.~~

"Interstate" means the transportation of property between states.

"Intrastate" means the transportation of property solely within a state.

~~"License" means a license issued by the Department to a broker.~~

"Motor carrier" means any person who undertakes whether directly or by a lease, to transport property, including household goods, as defined by this chapter, for compensation over the highways of the Commonwealth.

"Motor vehicle" means any vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used upon the highways in the transportation of property, but does not include any vehicle, locomotive or car operated exclusively on a rail or rails.

"Net weight" means the tare weight subtracted from the gross weight.

"Permit" means a permit issued by the Department authorizing the transportation of property, excluding household goods transported for a distance greater than 30 road miles.

"Person" means any individual, firm, copartnership, corporation, company, association or joint-stock association, and includes any trustee, receiver, assignee, or personal representative thereof.

"Property carrier" means any person, not herein exempted, who undertakes either directly or by a lease, to transport property for compensation.

~~"Restricted common carrier" means any person who undertakes, whether directly or by a lease or other arrangement, to transport household goods by motor vehicle for compensation whether over regular or irregular routes.~~

"Services" and "transportation" includes the services of, and all transportation by, all vehicles operated by, for, or in the interest of any motor carrier, irrespective of ownership or contract, express or implied, together with all facilities and property operated or controlled by any such carrier or carriers and used in the transportation of property or in the performance of any service in connection therewith.

~~"Single state insurance receipt" means any receipt issued pursuant to 49 C.F.R. Part 367 evidencing that the carrier has the required insurance and paid the requisite fees to the Commonwealth and other qualified jurisdictions.~~

"Tare weight" means the weight of a truck before being loaded at a shipper's residence or place of business, including the pads, dollies, hand-trucks, ramps and other equipment normally used in the transportation of household goods shipments.

**§ 46.2-2101. Exemptions from chapter.**

The following are exempt from this chapter:

1. Motor vehicles owned and operated by the United States, District of Columbia, any state, municipality, or any other political subdivision of the Commonwealth.

2. Transportation of property between any point in this Commonwealth and any point outside this Commonwealth or between any points wholly within the limits of any city or town in the Commonwealth. This exemption shall not apply to the requirement to declare for-hire operation pursuant to § 46.2-2121.1 or the insurance requirement imposed on motor carriers pursuant to § 46.2-2143.1.

3. Motor vehicles controlled and operated by a bona fide cooperative association as defined in the Federal Marketing Act, approved June 15, 1929, as amended, or organized or existing under Article 2 (§ 13.1-312 et seq.) of Chapter 3 of Title 13.1, while used exclusively in the conduct of the business of such association. *This exemption shall not apply to the requirement to declare for-hire operation pursuant to § 46.2-2121.1.*

4. Motor vehicles while used exclusively in (i) carrying newspapers, water, livestock, poultry, poultry products, buttermilk, fresh milk and cream, meats, butter and cheese produced on a farm, fish (including shellfish), slate, horticultural or agricultural commodities (not including manufactured products thereof), and forest products, including lumber and staves (but not including manufactured products thereof), (ii) transporting farm supplies to a farm or farms, (iii) hauling for the Department of Transportation, (iv) carrying fertilizer to any warehouse or warehouses for subsequent distribution to a local area farm or farms, or (v) collecting and disposing of trash, garbage and other refuse. *This exemption shall not apply to the requirement to declare for-hire operation pursuant to § 46.2-2121.1.*

5. Motor vehicles used for transporting property by an air carrier or carrier affiliated with a direct air carrier whether or not such property has had or will have a prior or subsequent air movement. *This exemption shall not apply to the requirement to declare for-hire operation pursuant to § 46.2-2121.1.*

6. Motor carriers exclusively operating ~~vehicles with a registered gross weight of 7,500 pounds or less for the sole purpose of providing courier service~~ passenger cars, motorcycles, autocycles, mopeds, and vehicles with a gross vehicle weight rating of 10,000 pounds or less. *This exemption shall not apply to the insurance requirements imposed on motor carriers pursuant to § 46.2-2143.1 or 46.2-2143.2.*

**§ 46.2-2108.2. Necessity of a permit or certificate.**

It shall be unlawful for any person to operate, offer, advertise, provide, procure, furnish, or arrange by ~~contract, agreement or arrangement~~ to transport property for compensation on an intrastate basis as a motor carrier or broker without first obtaining from the Department a ~~license, permit, or certificate~~ of fitness as required by this chapter.

**§ 46.2-2108.4. Application; notice requirements.**

A. Applications for a ~~license, permit, or certificate~~ of fitness or renewal of a ~~license, permit, or certificate~~ of fitness under this chapter shall be made to the Department and contain such information as the Department shall require. Such information shall include, in the application or otherwise, the matters set forth in §§ 46.2-2133 and 46.2-2134 as grounds for denying ~~licenses, permits, and certificates~~.

B. The applicant for a certificate of fitness issued under this chapter shall cause a notice of such application, on the form and in the manner prescribed by the Department, to be served on every affected person who has requested notification.

**§ 46.2-2108.5. Registered for fuels tax; business, professional, and occupational license taxes.**

~~License, permit, Permit~~ and certificate of fitness holders shall be licensed and registered in accordance with the road tax requirements of Chapter 27 (§ 58.1-2700 et seq.) of Title 58.1 and licensed for payment of local business, professional, and occupational license taxes of Chapter 37 (§ 58.1-3700 et seq.) of Title 58.1 as required.

**§ 46.2-2108.6. Considerations for determination of issuance of permit, or certificate.**

In determining whether a ~~license, permit, or certificate~~ of fitness required by this chapter shall be issued, the Department may, among other things, consider compliance with financial responsibility, bonding, and other requirements of this chapter.

**§ 46.2-2109. Action on applications; hearings on denials and protests.**

A. The Department may act upon any application required under this chapter without a hearing, unless such application is protested by any party based upon fitness allegations. Parties may protest an application by submitting written grounds to the Department setting forth (i) a precise statement of the party's objections to the application being granted; (ii) a full and clear statement of the facts that the person is prepared to provide by competent evidence; (iii) the case number assigned to the application; and (iv) a certification that a copy of the protest was sent to the applicant. The Department shall have full discretion as to whether a hearing is warranted based on the merits of any protest filed.

B. Any applicant denied without a hearing an original ~~license or certificate of fitness under subsection A; or any request for a transfer for such license or certificate;~~ shall be given a hearing at a time and place determined by the Commissioner or his designee upon the applicant's written request for such hearing made within thirty days of denial.

**§ 46.2-2115. Determination for issuance of permit or certificate.**

If the Department finds the applicant has met all requirements of this chapter, it shall issue a ~~license;~~ permit; or certificate of fitness to the applicant, subject to such terms, limitations and restrictions as the Department may deem proper.

**§ 46.2-2118. Issuance, expiration, and renewal of permit and certificate.**

All ~~licenses;~~ permits; and certificates of fitness issued under this chapter shall be issued for a period of ~~twelve~~ 12 consecutive months except, at the discretion of the Department, the periods may be adjusted as necessary. Such ~~licenses;~~ permits; and certificates shall expire if not renewed annually. Such expiration shall be effective ~~thirty~~ 30 days after the Department has provided the ~~licensee;~~ permittee; or certificate holder notice of ~~non-renewal~~ nonrenewal. If the ~~license;~~ permit; or certificate is renewed within ~~thirty~~ 30 days after notice of ~~non-renewal~~ nonrenewal, then the ~~license;~~ permit; or certificate shall not expire.

**§ 46.2-2120. Filing and application fees.**

Every applicant for an original ~~license or certificate of fitness issued under this chapter and transfer of a license or certificate of fitness under this chapter~~ shall, upon the filing of an application, deposit with the Department, as a filing fee, a sum in the amount of ~~fifty dollars~~ \$50. The Department shall collect a fee of ~~three dollars~~ \$3 for the issuance of a duplicate ~~license or certificate of fitness.~~

**§ 46.2-2121. Vehicle fees.**

Every person who operates a ~~property carrying~~ property-carrying vehicle for compensation over the highways of the Commonwealth; ~~unless such operation is exempted from this chapter;~~ shall be required to pay an annual fee of \$10 for each such vehicle so operated, unless (i) *such operation is exempted from this chapter;* (ii) *the property-carrying vehicle is a passenger car, motorcycle, autocycle, moped, or vehicle with a gross vehicle weight rating of 10,000 pounds or less;* (iii) a vehicle identification marker fee has been paid to the Department as to such vehicle for the current year under the provisions of Chapter 27 (§ 58.1-2700 et seq.) of Title 58.1- ~~Such fee shall be paid through the single state registration system established pursuant to 49 U.S.C. § 14504 and 49 CFR Part 367;~~ or (iv) *a fee has been paid for the vehicle through the unified carrier registration system established pursuant to 49 U.S.C. § 14504a and the regulations promulgated thereunder for carriers registered pursuant to those provisions. No more than one vehicle fee shall be charged or paid as to any vehicle in any one year under Chapter 27 (§ 58.1-2700 et seq.) of Title 58.1 and this chapter, including payments made pursuant to the single state registration system or the unified carrier registration system.*

**§ 46.2-2121.1. Declaration of for-hire operation; presumption of nonbusiness use.**

*Before any motor vehicle is used by a motor carrier to transport property for compensation over the highways of the Commonwealth, the owner of the vehicle shall declare to the Department that the operation of such vehicle is for hire.*

*Any passenger car, motorcycle, autocycle, or pickup or panel truck, as defined in § 46.2-100, subject to the declaration required by this section and determined pursuant to § 58.1-3523 to be (i) privately owned, (ii) leased pursuant to a contract requiring the lessee to pay the tangible personal property tax on such vehicle, or (iii) held in a private trust for nonbusiness purposes and registered with the Department as a personal vehicle shall be presumed to be used for nonbusiness purposes in determining whether such vehicle is a qualifying vehicle under § 58.1-3523 absent clear and convincing evidence to the contrary. Any declaration given pursuant to this section shall not create any presumption of business or commercial use of the vehicle or of business activity on the part of the vehicle owner, lessee, or operator for purposes of any state or local requirement.*

**§ 46.2-2122. Bond and letter of credit requirements of applicants for certificate.**

A. Every applicant for an original certificate of fitness under this chapter shall obtain and file with the Department, along with the application, a surety bond or an irrevocable letter of credit, in addition to any other bond or letter of credit required by law, in the amount of \$50,000, which shall remain in effect for the first five years of licensure. The bond or letter of credit shall be in a form and content acceptable to the Department. The bond or letter of credit shall be conditioned on a statement by the applicant that the applicant will not practice fraud, make any fraudulent representation, or violate any provision of this chapter in the conduct of the applicant's business. The Department may, without holding a hearing, suspend the certificate of fitness during the period that the certificate holder does not have a sufficient bond or letter of credit on file.

~~B. Every applicant for an original license pursuant to Article 5 (§ 46.2-2174 et seq.) shall obtain and file with the Department, along with the application, a surety bond or an irrevocable letter of credit, in addition to any other bond or letter of credit required by law, in the amount of \$25,000. The bond or letter of credit shall be in a form and content acceptable to the Department. The bond or letter of credit shall be conditioned on a statement by the applicant that the applicant will not practice fraud, make any fraudulent representation, or violate any provision of this chapter in the conduct of the applicant's business. The Department may, without holding a hearing, suspend the license during the period that the licensee does not have a sufficient bond or letter of credit on file.~~

C. B. If a person suffers any of the following: (i) loss or damage in connection with the transportation service by reason of fraud practiced on him or fraudulent representation made to him by a ~~licensee or certificate holder~~ or his agent or employee acting within the scope of employment; (ii) loss or damage by reason of a violation by a ~~licensee or certificate holder~~ or his agent or employee of any provision of this chapter in connection with the transportation service; or (iii) loss or damage resulting from a breach of a contract entered into on or after ~~the effective date of this act~~ July 1, 2002, that person

shall have a claim against the ~~licensee or~~ certificate holder's bond or letter of credit, and may recover from such bond or letter of credit the amount awarded to such person by final judgment of a court of competent jurisdiction against the ~~licensee or~~ certificate holder as a result of such loss or damage up to, but not exceeding, the amount of the bond or letter of credit.

~~D. C.~~ The ~~licensee or~~ certificate holder's surety shall notify the Department when a claim is made against a ~~licensee or~~ certificate holder's bond, when a claim is paid and/or when the bond is canceled. Such notification shall include the amount of a claim and the circumstances surrounding the claim. Notification of cancellation shall include the effective date and reason for cancellation.

~~E. D.~~ The surety on any bond filed by a ~~licensee or~~ certificate holder shall be released and discharged from all liability accruing on such bond after the expiration of 60 days from the date on which the surety files with the Department a written request to be released and discharged. Such request shall not operate to relieve, release, or discharge the surety from any liability already accrued or that shall accrue before the expiration of the 60-day period.

**§ 46.2-2124. Notice of discontinuance of service.**

Every motor carrier ~~or broker~~ who ceases operation or abandons his rights under a ~~license~~, permit, or certificate of fitness issued shall notify the Department within ~~thirty~~ 30 days of such cessation or abandonment.

**§ 46.2-2125. Reports, records, etc.**

A. The Department is hereby authorized to require annual, periodical, or special reports from motor carriers, except such as are exempted from the operation of the provisions of this chapter; to prescribe the manner and form in which such reports shall be made; and to require from such carriers specific answers to all questions upon which the Department may deem information to be necessary. Such reports shall be under oath whenever the Department so requires. The Department may also require any motor carrier to file with it a true copy of each or any contract, agreement, or arrangement between such carrier and any other carrier or person in relation to the provisions of this chapter.

B. The Department may, ~~in its discretion~~, prescribe (i) the forms of any and all accounts, records, and memoranda to be kept by motor carriers and (ii) the length of time such accounts, records, and memoranda shall be preserved, as well as of the receipts and expenditures of money. The Department or its employees shall at all times have access to all lands, buildings, or equipment of motor carriers used in connection with their operations and also all accounts, records, and memoranda, including all documents, papers, and correspondence now or hereafter existing, and kept, or required to be kept, by motor carriers. The Department and its employees shall have authority to inspect and examine any and all such lands, buildings, equipment, accounts, records, and memoranda, including all documents, papers, and correspondence now or hereafter existing and kept or required to be kept by such carriers. These provisions shall apply to receivers of carriers and to operating trustees and, to the extent deemed necessary by the Department, to persons having control, direct or indirect, over or affiliated with any motor carrier.

~~C. As used in this section the term "motor carriers" includes brokers.~~

**§ 46.2-2126. Certificate or permit holder not relieved of liability for negligence.**

Nothing in this chapter shall relieve any holder of a certificate, ~~license~~, or permit by and under the authority of the Department from any liability resulting from his negligence, whether or not he has complied with the requirements of this chapter.

**§ 46.2-2129. Unlawful use of registration and identification markers.**

It shall be unlawful for any person to operate or cause to be operated on any highway in the Commonwealth any motor vehicle that (i) does not carry the proper registration and identification that this title requires, (ii) does not display an identification marker *issued for such vehicle by the Department* in such manner as is prescribed by the Department, or (iii) bears registration or identification markers of persons whose ~~license~~, permit, or certificate issued by the Department has been revoked, suspended, or renewal thereof denied in accordance with this chapter.

**§ 46.2-2130. Registration violations; penalties.**

A. The following violations of laws shall be punished as follows:

1. Any person who does not *declare a motor vehicle to be operated for hire when required by § 46.2-2121.1 or otherwise* obtain a proper registration card, ~~identification marker~~, or other evidence of registration as required by ~~this chapter shall be Chapter 6 (§ 46.2-600 et seq.)~~ is guilty of a Class 4 misdemeanor.

2. Any person who operates or causes to be operated on any highway in the Commonwealth any motor vehicle that does not carry the proper registration and identification that this title requires or any motor vehicle that does not display (i) an identification marker *issued for such vehicle by the Department* in such manner as is prescribed by the Department or (ii) other identifying information that this title requires it to display ~~shall be~~ is guilty of a Class 4 misdemeanor.

3. Any person who knowingly displays or uses on any vehicle operated by him any identification marker or other identification that has not been issued to the owner or operator thereof for such vehicle and any person who knowingly assists him to do so ~~shall be~~ is guilty of a Class 3 misdemeanor.

4. Any person who operates or causes to be operated on any highway in the Commonwealth any motor vehicle requiring registration from the Department under this ~~article title or Title 58.1~~ after such registration cards or identification markers have been revoked, canceled or suspended ~~shall be~~ is guilty of a Class 3 misdemeanor.

B. The officer charging the violation under this section shall serve a citation on the operator of the vehicle in violation. Such citation shall be directed to the owner, operator or other person responsible for the violation as determined by the officer. Service of the citation on the vehicle operator shall constitute service of process upon the owner, operator, or other person charged with the violation under this article, and shall have the same legal force as if served within the

Commonwealth personally upon the owner, operator, or other person charged with the violation, whether such owner, operator, or other person charged is a resident or nonresident.

**§ 46.2-2131. Violation; criminal penalties.**

A. Any person knowingly and willfully violating any provision of this chapter, or any rule or regulation thereunder, or any term or condition of any certificate, ~~or permit, or license,~~ for which a penalty is not otherwise herein provided, shall, upon conviction thereof, be fined not more than \$2,500 for the first offense and not more than \$5,000 for any subsequent offense. Each day of such violation shall constitute a separate offense.

B. Any person, whether carrier, ~~broker,~~ shipper, ~~or consignee,~~ or any officer, employee, agent, or representative thereof, who shall knowingly and willfully by any such means or otherwise fraudulently seek to evade or defeat regulation as in this chapter provided for motor carriers ~~or brokers,~~ ~~shall be deemed is~~ guilty of a misdemeanor and, upon conviction thereof, ~~shall~~ be fined not more than \$500 for the first offense and not more than \$2,000 for any subsequent offense.

C. Any motor carrier ~~or broker,~~ or any officer, agent, employee, or representative thereof who willfully fails or refuses to make a report to the Department as required by this chapter or to keep accounts, records, and memoranda in the form and manner approved or prescribed by the Department, or knowingly and willfully falsifies, destroys, mutilates, or alters any such report, account, record or memorandum, or knowingly and willfully files any false report, account, record or memorandum, ~~shall be deemed is~~ guilty of a misdemeanor and upon conviction thereof ~~shall~~ be subject for each offense to a fine of not less than \$100 and not more than \$5,000.

**§ 46.2-2132. Violations; civil penalties.**

The Department may impose a civil penalty not exceeding \$1,000 if any person has:

1. Made any misrepresentation of a material fact to obtain proper operating credentials as required by this chapter or other requirements in this title regulating the operation of motor vehicles;
2. Failed to make any report required in this chapter;
3. Failed to pay any fee or tax properly assessed against him; or
4. Failed to comply with any provision of this chapter or lawful order, rule or regulation of the Department or any term or condition of any certificate, ~~or permit, or license.~~

Any such penalty shall be imposed by order; however, no order issued pursuant to this section shall become effective until the Department has offered the person an opportunity for an administrative hearing to show cause why the order should not be enforced. Instead of or in addition to imposing such penalty, the Department may suspend, revoke, or cancel any ~~license,~~ permit, certificate of fitness, ~~or~~ registration card or identification marker issued pursuant to this title. If, in any such case, it appears that the defendant owes any fee or tax to the Commonwealth, the Department shall enter order therefor.

For the purposes of this section, each separate violation shall be subject to the civil penalty.

**§ 46.2-2133. Grounds for denying, suspending, or revoking certificates.**

A ~~license or~~ certificate of fitness issued under this chapter may be denied, suspended, or revoked on any one or more of the following grounds, where applicable:

1. Material misstatement or omission in application for ~~license or~~ certificate of ~~public convenience and necessity,~~ ~~identification marker,~~ ~~fitness~~ or vehicle registration;
2. Failure to comply subsequent to receipt of a written warning from the Department or any willful failure to comply with a lawful order, any provision of this chapter or any regulation promulgated by the Department under this chapter, or any term or condition of any ~~license or~~ certificate of fitness;
3. Use of deceptive business acts or practices;
4. Knowingly advertising by any means any assertion, representation, or statement of fact that is untrue, misleading, or deceptive relating to the conduct of the business for which a ~~license,~~ certificate of fitness, ~~identification marker,~~ or vehicle registration is held or sought;
5. Having been found, through a judicial or administrative hearing, to have committed fraudulent or deceptive acts in connection with the business for which a ~~license or~~ certificate of fitness is held or sought or any consumer-related fraud;
6. Having been convicted of any criminal act involving the business for which a ~~license or~~ certificate of fitness is held or sought;
7. Improper leasing, renting, lending, or otherwise allowing the improper use of a ~~license,~~ certificate of fitness, ~~identification marker~~ *issued by the Department,* or vehicle registration;
8. Having been convicted of a felony;
9. Having been convicted of any misdemeanor involving lying, cheating, stealing, or moral turpitude;
10. Failure to submit to the Department any tax, fees, dues, fines, or penalties owed to the Department;
11. Failure to furnish the Department information, documentation, or records required or requested pursuant to statute or regulation;
12. Knowingly and willfully filing any false report, account, record, or memorandum;
13. Failure to meet or maintain application certifications or requirements of character, fitness, and financial responsibility pursuant to this chapter;
14. Willfully altering or changing the appearance or wording of any license, certificate, identification marker *issued by the Department,* license plate, or vehicle registration;
15. Failure to provide services in accordance with ~~license or~~ certificate of fitness terms, limitations, conditions, or requirements;

16. Failure to maintain and keep on file with the Department motor carrier liability insurance or cargo insurance, issued by a company licensed to do business in the Commonwealth, or a bond, certificate of insurance, certificate of self-insurance, or unconditional letter of credit in accordance with this chapter, with respect to each motor vehicle operated in the Commonwealth;

17. Failure to comply with the Workers' Compensation Act of Title 65.2;

18. Failure to properly register a motor vehicle under this title;

19. Failure to comply with any federal motor carrier statute, rule, or regulation; or

20. Inactivity of a motor carrier as may be evidenced by the absence of a motor vehicle registered to operate under such certificate ~~or permit~~ for a period of greater than three months.

**§ 46.2-2134. Grounds for denying, suspending, or revoking permits.**

A permit issued under this chapter may be denied, suspended, or revoked on any one or more of the following grounds:

1. Failure to submit to the Department any tax, fees, fines, or penalties owed to the Department.

2. Failure to maintain and keep on file with the Department motor carrier liability insurance or cargo insurance, issued by a company licensed to do business in the Commonwealth, or a bond, certificate of insurance, certificate of self-insurance, or unconditional letter of credit in accordance with this chapter, with respect to each motor vehicle operated in the Commonwealth.

3. Inactivity of a motor carrier as may be evidenced by the absence of a motor vehicle registered to operate under such permit ~~or certificate~~ for a period of greater than three months.

**§ 46.2-2135. Altering or amending permits or certificates.**

The Department may alter or amend a ~~license~~, permit, or certificate of fitness at the request of a ~~licensee~~, permittee, or certificate holder, or upon a finding by the Department that a ~~licensee~~, permittee, or certificate holder failed to observe any of the provisions within this chapter, or any of the rules or regulations of the Department, or any term, condition, or limitation of such ~~license~~ permit or certificate.

**§ 46.2-2136. Suspension, revocation, and refusal to renew permit or certificate; notice and hearing.**

A. Except as provided in subsection D of ~~this section~~, unless otherwise provided in this chapter, no ~~license~~, permit, or certificate of fitness issued under this chapter shall be suspended or revoked, or renewal thereof refused, unless the ~~licensee~~, permittee, or certificate holder has been furnished a written copy of the complaint against him and the grounds upon which the action is taken and has been offered an opportunity for an administrative hearing to show cause why such action should not be taken.

B. The order suspending, revoking, or denying renewal of a ~~license~~, permit, or certificate of fitness shall not become effective until the ~~licensee~~, permittee, or certificate holder has, after notice of the opportunity for a hearing, had ~~thirty~~ 30 days to make a written request for such a hearing. If no hearing has been requested within such ~~thirty-day~~ 30-day period, the order shall become effective and no hearing shall thereafter be held. A timely request for a hearing shall automatically stay operation of the order until after the hearing.

C. Notice of an order suspending, revoking, or denying renewal of a ~~license~~, permit, or certificate of fitness and an opportunity for a hearing shall be mailed to the ~~licensee~~, permittee, or certificate holder by registered or certified mail at the address as shown on the ~~license~~, permit, or certificate or other record of information in possession of the Department and shall be considered served when mailed.

D. If the Department makes a finding, after conducting a preliminary investigation, that the conduct of a ~~licensee~~, permittee, or certificate holder (i) is in violation of this chapter or regulations adopted pursuant to this chapter and (ii) such violation constitutes a danger to public safety, the Department may issue an order suspending the ~~license~~, permit, or certificate. Notice of the suspension shall be in writing and mailed in accordance with subsection C of ~~this section~~. Upon receipt of a request for a hearing appealing the suspension, the ~~licensee~~, permittee, or certificate holder shall be afforded the opportunity for a hearing within ~~thirty~~ 30 days. The suspension shall remain in effect pending the outcome of the hearing.

**§ 46.2-2137. Basis for reinstatement of suspended permits or certificates; reinstatement fees.**

A. The Department shall reinstate any ~~license~~, permit, or certificate suspended pursuant to this chapter provided the grounds upon which the suspension action was taken have been satisfied and the appropriate reinstatement fee and other applicable fees have been paid to the Department.

B. The reinstatement fee for suspensions issued pursuant to this chapter shall be ~~fifty dollars~~ \$50. In the event multiple credentials have been suspended under this chapter for the same violation only one reinstatement fee shall be applicable.

C. In addition to a reinstatement fee, a fee of \$500 shall be paid for failure of a motor carrier to keep in force at all times insurance, a bond or bonds, in an amount required by this chapter. Any motor carrier who applies for a new ~~license~~, permit, or certificate because his prior ~~license~~, permit, or certificate was revoked for failure to keep in force at all times insurance, a bond or bonds, in an amount required by this chapter, shall also be subject to a fee of \$500.

**§ 46.2-2138. Basis for reissuance after revocation of permits or certificates; fees.**

The Department shall not accept an application for a ~~license~~, permit, or certificate from an applicant where such credentials have been revoked pursuant to this chapter until the period of revocation imposed by the Department has passed. The Department shall process such applications under the same provisions, procedures and requirements as an original application for such ~~license~~, permit, or certificate. The Department shall issue such ~~license~~, permit, or certificate, provided *that* the applicant has met all the appropriate qualifications and requirements, has satisfied the grounds upon which the revocation action was taken, and has paid the appropriate application or filing fees to the Department.

**§ 46.2-2139. Surrender of license plate and registration card; removal by law enforcement; operation of vehicle denied.**

A. It shall be unlawful for a ~~licensee~~, permittee, or certificate holder whose ~~license~~, permit, or certificate has expired or been revoked or suspended or whose renewal thereof has been denied pursuant to this chapter to fail or refuse to surrender, on demand, to the Department license plates, ~~identification markers~~, and registration cards issued under this title.

B. It shall be unlawful for a vehicle owner who is not the holder of a valid permit or certificate or whose vehicle is not validly leased to a motor carrier holding an active permit or certificate to fail or refuse to surrender to the Department on demand license plates, ~~identification markers~~, and registration cards issued under this title.

C. If any law-enforcement officer finds that a vehicle bearing Virginia license plates or temporary transport plates is in violation of subsection A or B, such law-enforcement officer may remove the license plate or plates, ~~identification marker~~, and registration card. If a law-enforcement officer removes a license plate, ~~identification marker~~, or registration card, he shall forward such license plate, ~~identification marker~~, and registration card to the Department.

D. When informed that a motor carrier vehicle is being operated in violation of this section, the driver shall drive the vehicle to a nearby location off the public highways and not remove it or allow it to be moved until the motor carrier is in compliance with all provisions of this chapter.

**§ 46.2-2140. Title to plates.**

All registration cards and ~~identification markers~~ *license plates* issued by the Department shall remain the property of the Department.

**§ 46.2-2143. Surety bonds, insurance, letter of credit or securities required prior to issuance of registration.**

No certificate of fitness, permit, ~~identification marker~~, registration card, or license plate shall be issued by the Department to *any motor carrier or for any vehicle operated by or on behalf of* a motor carrier until the motor carrier certifies to the Department that the vehicle is covered by one or more of the following, in the amount or amounts set forth in § 46.2-2143.1:

1. An insurance policy or bond;
2. A certificate of insurance in lieu of the insurance policy or bond, certifying that such policy or bond covers the liability of such motor carrier in accordance with the provisions of this article, is issued by an authorized insurer, or in the case of bonds, is in an amount approved by the Department. The bonds may be issued by the Commonwealth of Virginia, the United States of America, or any municipality in the Commonwealth. Such bonds shall be deposited with the State Treasurer and the surety shall not be reduced except in accordance with an order of the Department;
3. An unconditional letter of credit, issued by a bank doing business in Virginia, for an amount approved by the Department. The letter of credit shall be in effect so long as the motor carrier operates motor vehicles in the Commonwealth; or
4. In the case of a lessor who acts as a registrant for purposes of consolidating lessees' vehicle registration applications, a statement that the registrant has, before leasing a vehicle, obtained from the lessee an insurance policy, bond, or certificate of insurance in lieu of the insurance policy or bond and can make available said proof of insurance coverage upon demand.

Vehicles belonging to carriers who have filed proof of financial responsibility in accordance with the ~~single state registration system authorized by 49 U.S.C. § 14504 or the unified carrier registration system authorized by 49 U.S.C. § 14504a~~ are deemed to have fulfilled the requirements of this article for insurance purposes, ~~provided there is on board the vehicle a copy of an insurance receipt issued pursuant to the federal regulations promulgated pursuant to 49 U.S.C. § 14504 or 14504a.~~ The Department is further authorized to ~~issue single state registration system or unified carrier registration system receipts to~~ register any qualified carrier *under the unified carrier registration system* as well as to collect and disperse the fees for ~~and to qualified jurisdictions registration under that system.~~

**§ 46.2-2143.1. Insurance requirement for motor carriers.**

A. All motor carriers shall keep in force at all times insurance, a bond, or bonds in an amount required by this section. *However, motor carriers exempt under subdivision 6 of § 46.2-2101 shall only be required to keep in force insurance, a bond, or bonds in the amount required by this section that provide primary coverage (i) when the motor carrier or person acting on behalf of the motor carrier is available to transport property for compensation and (ii) from the time the motor carrier or a person acting for or on behalf of the motor carrier accepts the request to transport property and the vehicle is en route to pick up the property until the time the property has been removed from the vehicle and delivered to its final destination.*

B. The minimum public liability financial responsibility requirements for motor carriers operating in intrastate commerce shall be *based on the gross vehicle weight rating of the vehicle as follows: for vehicles with a gross vehicle weight rating in excess of 10,000 pounds, the minimum requirement is \$750,000; for vehicles with a gross vehicle weight rating in excess of 7,500 pounds but not in excess of 10,000 pounds, the minimum requirement is \$300,000; for passenger cars, motorcycles, autocycles, and vehicles with a gross vehicle weight rating of 7,500 pounds or less, the minimum requirement for clause (i) of subsection A is \$25,000 per person, \$50,000 per incident for death and bodily injury and \$20,000 for property damage and for clause (ii) of subsection A is \$100,000 per person and \$300,000 per incident for death and bodily injury and at least \$50,000 for property damage.* The minimum insurance for motor carriers operating in interstate commerce shall equal the minimum required by federal law, rule, or regulation.

C. *Notwithstanding subsection B, the minimum public financial responsibility requirements for household goods carriers required to obtain a certificate of fitness pursuant to this chapter shall be \$750,000.*

D. The minimum cargo insurance required for motor carriers operating in intrastate commerce shall be \$50,000. Motor carriers *not engaged exclusively in the transportation of bulk commodities in the transportation of household goods and those solely operating passenger cars, motorcycles, autocycles, and vehicles with a gross vehicle weight rating of 7,500 pounds or less* shall not be required to file any cargo insurance, bond, or bonds for cargo liability.

~~D. Any motor carrier that meets the minimum federal financial responsibility requirements and also operates in intrastate commerce may submit, in lieu of a separate filing for its intrastate operation pursuant to § 46.2-2143, proof of the minimum federal limits; provided that (i) both interstate and intrastate operations are insured, (ii) the public liability filed is at least \$750,000, and (iii) any cargo insurance requirements of this section have been met.~~

**§ 46.2-2143.2. Special insurance provisions for certain carriers.**

A. The provisions of this section shall apply only to motor carriers exempt under subdivision 6 of § 46.2-2101 and insurance policies maintained by such carriers pursuant to this article.

B. Insurance coverage for motor carriers shall be primary, and the requirements of § 46.2-2143.1 may be satisfied by any of the following:

1. Insurance maintained by the motor carrier;
2. Insurance maintained by another person on behalf of the motor carrier; or
3. Any combination of subdivisions 1 and 2.

C. A motor carrier may meet its obligation under subsection B of § 46.2-2143.1 through a policy obtained by a person other than the carrier under subdivision B 2 or 3 only if the motor carrier verifies that the policy is maintained by such other person.

D. Insurers providing coverage under subsection B of § 46.2-2143.1 shall have the exclusive duty to defend any liability claim, including any claim against a motor carrier or person acting for or on behalf of the motor carrier, arising from an accident occurring within the time period specified in subsection A of § 46.2-2143.1. Insurers of the personal automobile insurance policy of neither a person acting for or on behalf of the motor carrier nor the vehicle's owner shall have the duty to defend or indemnify the activities of a person acting for or on behalf of a motor carrier in connection with the motor carrier unless such policy expressly provides otherwise for the period of time to which subsection A of § 46.2-2143.1 is applicable or the policy contains an amendment or endorsement to provide that coverage.

E. Coverage under a motor carrier's insurance policy shall not be dependent on a personal automobile policy's first denying a claim, nor shall a personal automobile insurance policy be required to first deny a claim.

F. Nothing in this section shall be construed to require a personal automobile insurance policy to provide primary or excess coverage. The personal automobile insurance policy of neither a person acting for or on behalf of the motor carrier nor the vehicle's owner shall provide coverage for activities in connection with the motor carrier to such person acting for or on behalf of the motor carrier, the vehicle owner, or any third party unless such policy expressly provides otherwise for the period of time to which subsection A of § 46.2-2143.1 is applicable or the policy contains an amendment or endorsement to provide that coverage.

G. In every instance where motor carrier insurance maintained by a person other than the motor carrier to fulfill the insurance obligations of subsection B of § 46.2-2143.1 has lapsed or ceased to exist, the motor carrier shall provide the coverage required by that subsection beginning with the first dollar of a claim.

H. This section shall not limit the liability of a motor carrier arising out of an accident involving a person acting for or on behalf of the carrier in any action for damages against a motor carrier for an amount above the required insurance coverage.

I. Any person, or an attorney acting on his behalf, who suffers a loss in an automobile accident with a reasonable belief that the accident involves a vehicle operated by a person acting for or on behalf of a motor carrier and who provides the motor carrier with the date, approximate time, and location of the accident, the name of the vehicle operator, if available, and the accident report, if available, may request in writing from the motor carrier information relating to the insurance coverage and the company providing the coverage. The motor carrier shall respond electronically or in writing within 30 days. The motor carrier's response shall contain the following information: (i) whether, at the approximate time of the accident, the vehicle was being operated for or on behalf of the motor carrier; (ii) the name of the insurance carrier providing primary coverage; and (iii) the identity and last known address of the vehicle operator.

J. Any insurance required by subsection B of § 46.2-2143.1 may be placed with an insurer that has been admitted in Virginia or with an insurer providing surplus lines insurance as defined in § 38.2-4805.2.

K. Any insurance policy required by subsection B of § 46.2-2143.1 shall satisfy the financial responsibility requirement for a motor vehicle under § 46.2-706 during the period such vehicle is being operated for or on behalf of a motor carrier.

L. If a vehicle operated by a person acting for or on behalf of a motor carrier is insured under a personal automobile insurance policy that does not exclude coverage, then such policy shall provide primary coverage and an insurance policy maintained by the motor carrier under § 46.2-2143.1 shall provide excess coverage up to at least the limits required by § 46.2-2143.1.

M. In a claims coverage investigation, a motor carrier and its insurer shall cooperate with insurers involved in the claims coverage investigation to facilitate the exchange of information, including the date and time of any accident involving a vehicle operated for or on behalf of the motor carrier and the precise times that the vehicle was being operated for or on behalf of the motor carrier.

**§ 46.2-2144. Policies or surety bonds to be filed with the Department and securities with State Treasurer.**

A. Each motor carrier shall keep on file with the Department proof of an insurance policy or bond in accordance with this article. Record of the policy or bond shall remain in the files of the Department six months after the certificate of fitness, registration card, license plate, ~~identification marker~~ or permit is canceled for any cause. If federal, state, or municipal bonds are deposited with the State Treasurer in lieu of an insurance policy, the bonds shall remain deposited until six months after the registration card, license plate, certificate, ~~or permit or identification marker~~ is canceled for any cause unless otherwise ordered by the Department.

B. The Department may, without holding a hearing, suspend a permit or certificate of fitness if the permittee or certificate holder fails to comply with the requirements of this section.

**2. That § 46.2-2108.3 and Article 5 (§§ 46.2-2174, 46.2-2175, and 46.2-2176) of Chapter 21 of Title 46.2 of the Code of Virginia are repealed.**

**3. That the provisions of this act shall become effective on January 1, 2018.**

**CHAPTER 791**

*An Act to amend and reenact §§ 32.1-102.1, 32.1-102.2, 32.1-102.4, and 32.1-276.5 of the Code of Virginia, relating to health care providers; data collection.*

[H 2101]

Approved April 5, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 32.1-102.1, 32.1-102.2, 32.1-102.4, and 32.1-276.5 of the Code of Virginia are amended and reenacted as follows:**

**§ 32.1-102.1. Definitions.**

As used in this article, unless the context indicates otherwise:

*"Bad debt" means revenue amounts deemed uncollectable as determined after collection efforts based upon sound credit and collection policies.*

*"Certificate" means a certificate of public need for a project required by this article.*

*"Charity care" means health care services delivered to a patient who has a family income at or below 200 percent of the federal poverty level and for which it was determined that no payment was expected (i) at the time the service was provided because the patient met the facility's criteria for the provision of care without charge due to the patient's status as an indigent person or (ii) at some time following the time the service was provided because the patient met the facility's criteria for the provision of care without charge due to the patient's status as an indigent person. "Charity care" does not include care provided for a fee subsequently deemed uncollectable as bad debt. For a nursing home as defined in § 32.1-123, "charity care" means care at a reduced rate to indigent persons.*

*"Clinical health service" means a single diagnostic, therapeutic, rehabilitative, preventive or palliative procedure or a series of such procedures that may be separately identified for billing and accounting purposes.*

*"Health planning region" means a contiguous geographical area of the Commonwealth with a population base of at least 500,000 persons which is characterized by the availability of multiple levels of medical care services, reasonable travel time for tertiary care, and congruence with planning districts.*

*"Medical care facility," as used in this title, means any institution, place, building or agency, whether or not licensed or required to be licensed by the Board or the Department of Behavioral Health and Developmental Services, whether operated for profit or nonprofit and whether privately owned or privately operated or owned or operated by a local governmental unit, (i) by or in which health services are furnished, conducted, operated or offered for the prevention, diagnosis or treatment of human disease, pain, injury, deformity or physical condition, whether medical or surgical, of two or more nonrelated persons who are injured or physically sick or have mental illness, or for the care of two or more nonrelated persons requiring or receiving medical, surgical or nursing attention or services as acute, chronic, convalescent, aged, physically disabled or crippled or (ii) which is the recipient of reimbursements from third-party health insurance programs or prepaid medical service plans. For purposes of this article, only the following medical care facilities shall be subject to review:*

1. General hospitals.
2. Sanitariums.
3. Nursing homes.
4. Intermediate care facilities, except those intermediate care facilities established for individuals with intellectual disability (ICF/MR) that have no more than 12 beds and are in an area identified as in need of residential services for individuals with intellectual disability in any plan of the Department of Behavioral Health and Developmental Services.
5. Extended care facilities.
6. Mental hospitals.
7. Facilities for individuals with intellectual disability.
8. Psychiatric hospitals and intermediate care facilities established primarily for the medical, psychiatric or psychological treatment and rehabilitation of individuals with substance abuse.

9. Specialized centers or clinics or that portion of a physician's office developed for the provision of outpatient or ambulatory surgery, cardiac catheterization, computed tomographic (CT) scanning, stereotactic radiosurgery, lithotripsy, magnetic resonance imaging (MRI), magnetic source imaging (MSI), positron emission tomographic (PET) scanning, radiation therapy, stereotactic radiotherapy, proton beam therapy, nuclear medicine imaging, except for the purpose of nuclear cardiac imaging, or such other specialty services as may be designated by the Board by regulation.

10. Rehabilitation hospitals.

11. Any facility licensed as a hospital.

The term "medical care facility" does not include any facility of (i) the Department of Behavioral Health and Developmental Services; (ii) any nonhospital substance abuse residential treatment program operated by or contracted primarily for the use of a community services board under the Department of Behavioral Health and Developmental Services' Comprehensive State Plan; (iii) an intermediate care facility for individuals with intellectual disability (ICF/MR) that has no more than 12 beds and is in an area identified as in need of residential services for individuals with intellectual disability in any plan of the Department of Behavioral Health and Developmental Services; (iv) a physician's office, except that portion of a physician's office described in subdivision 9 of the definition of "medical care facility"; (v) the Wilson Workforce and Rehabilitation Center of the Department for Aging and Rehabilitative Services; (vi) the Department of Corrections; or (vii) the Department of Veterans Services. "Medical care facility" shall also not include that portion of a physician's office dedicated to providing nuclear cardiac imaging.

"Project" means:

1. Establishment of a medical care facility;

2. An increase in the total number of beds or operating rooms in an existing medical care facility;

3. Relocation of beds from one existing facility to another, provided that "project" does not include the relocation of up to 10 beds or 10 percent of the beds, whichever is less, (i) from one existing facility to another existing facility at the same site in any two-year period, or (ii) in any three-year period, from one existing nursing home facility to any other existing nursing home facility owned or controlled by the same person that is located either within the same planning district, or within another planning district out of which, during or prior to that three-year period, at least 10 times that number of beds have been authorized by statute to be relocated from one or more facilities located in that other planning district and at least half of those beds have not been replaced, provided further that, however, a hospital shall not be required to obtain a certificate for the use of 10 percent of its beds as nursing home beds as provided in § 32.1-132;

4. Introduction into an existing medical care facility of any new nursing home service, such as intermediate care facility services, extended care facility services, or skilled nursing facility services, regardless of the type of medical care facility in which those services are provided;

5. Introduction into an existing medical care facility of any new cardiac catheterization, computed tomographic (CT) scanning, stereotactic radiosurgery, lithotripsy, magnetic resonance imaging (MRI), magnetic source imaging (MSI), medical rehabilitation, neonatal special care, obstetrical, open heart surgery, positron emission tomographic (PET) scanning, psychiatric, organ or tissue transplant service, radiation therapy, stereotactic radiotherapy, proton beam therapy, nuclear medicine imaging, except for the purpose of nuclear cardiac imaging, substance abuse treatment, or such other specialty clinical services as may be designated by the Board by regulation, which the facility has never provided or has not provided in the previous 12 months;

6. Conversion of beds in an existing medical care facility to medical rehabilitation beds or psychiatric beds;

7. The addition by an existing medical care facility of any medical equipment for the provision of cardiac catheterization, computed tomographic (CT) scanning, stereotactic radiosurgery, lithotripsy, magnetic resonance imaging (MRI), magnetic source imaging (MSI), open heart surgery, positron emission tomographic (PET) scanning, radiation therapy, stereotactic radiotherapy, proton beam therapy, or other specialized service designated by the Board by regulation. Replacement of existing equipment shall not require a certificate of public need;

8. Any capital expenditure of \$15 million or more, not defined as reviewable in subdivisions 1 through 7 of this definition, by or on behalf of a medical care facility other than a general hospital. Capital expenditures of \$5 million or more by a general hospital and capital expenditures between \$5 and \$15 million by a medical care facility other than a general hospital shall be registered with the Commissioner pursuant to regulations developed by the Board. The amounts specified in this subdivision shall be revised effective July 1, 2008, and annually thereafter to reflect inflation using appropriate measures incorporating construction costs and medical inflation. Nothing in this subdivision shall be construed to modify or eliminate the reviewability of any project described in subdivisions 1 through 7 of this definition when undertaken by or on behalf of a general hospital; or

9. Conversion in an existing medical care facility of psychiatric inpatient beds approved pursuant to a Request for Applications (RFA) to nonpsychiatric inpatient beds.

"Regional health planning agency" means the regional agency, including the regional health planning board, its staff and any component thereof, designated by the Virginia Health Planning Board to perform the health planning activities set forth in this chapter within a health planning region.

"State Medical Facilities Plan" means the planning document adopted by the Board of Health which shall include, but not be limited to, (i) methodologies for projecting need for medical care facility beds and services; (ii) statistical information on the availability of medical care facilities and services; and (iii) procedures, criteria and standards for review of applications for projects for medical care facilities and services.

**§ 32.1-102.2. Regulations.**

A. The Board shall promulgate regulations ~~which~~ *that* are consistent with this article and:

1. Shall establish concise procedures for the prompt review of applications for certificates consistent with the provisions of this article which may include a structured batching process which incorporates, but is not limited to, authorization for the Commissioner to request proposals for certain projects. In any structured batching process established by the Board, applications, combined or separate, for computed tomographic (CT) scanning, magnetic resonance imaging (MRI), positron emission tomographic (PET) scanning, radiation therapy, stereotactic radiotherapy, proton beam therapy, or nuclear imaging shall be considered in the radiation therapy batch. A single application may be filed for a combination of (i) radiation therapy, stereotactic radiotherapy and proton beam therapy, and (ii) any or all of the computed tomographic (CT) scanning, magnetic resonance imaging (MRI), positron emission tomographic (PET) scanning, and nuclear medicine imaging;

2. May classify projects and may eliminate one or more or all of the procedures prescribed in § 32.1-102.6 for different classifications;

3. May provide for exempting from the requirement of a certificate projects determined by the Commissioner, upon application for exemption, to be subject to the economic forces of a competitive market or to have no discernible impact on the cost or quality of health services;

4. Shall establish specific criteria for determining need in rural areas, giving due consideration to distinct and unique geographic, socioeconomic, cultural, transportation, and other barriers to access to care in such areas and providing for weighted calculations of need based on the barriers to health care access in such rural areas in lieu of the determinations of need used for the particular proposed project within the relevant health systems area as a whole;

5. May establish, on or after July 1, 1999, a schedule of fees for applications for certificates to be applied to expenses for the administration and operation of the certificate of public need program. Such fees shall not be less than \$1,000 nor exceed the lesser of one percent of the proposed expenditure for the project or \$20,000. Until such time as the Board shall establish a schedule of fees, such fees shall be one percent of the proposed expenditure for the project; however, such fees shall not be less than \$1,000 or more than \$20,000; and

6. Shall establish an expedited application and review process for any certificate for projects reviewable pursuant to subdivision 8 of the definition of "project" in § 32.1-102.1. Regulations establishing the expedited application and review procedure shall include provisions for notice and opportunity for public comment on the application for a certificate, and criteria pursuant to which an application that would normally undergo the review process would instead undergo the full certificate of public need review process set forth in § 32.1-102.6.

B. The Board shall promulgate regulations providing for time limitations for schedules for completion and limitations on the exceeding of the maximum capital expenditure amount for all reviewable projects. The Commissioner shall not approve any such extension or excess unless it complies with the Board's regulations. However, the Commissioner may approve a significant change in cost for an approved project that exceeds the authorized capital expenditure by more than 20 percent, provided the applicant has demonstrated that the cost increases are reasonable and necessary under all the circumstances and do not result from any material expansion of the project as approved.

C. The Board shall also promulgate regulations authorizing the Commissioner to condition approval of a certificate on the agreement of the applicant to provide a level of *charity* care ~~at a reduced rate to indigents~~ *indigent persons* or accept patients requiring specialized care. In addition, the Board's licensure regulations shall direct the Commissioner to condition the issuing or renewing of any license for any applicant whose certificate was approved upon such condition on whether such applicant has complied with any agreement to provide a level of *charity* care ~~at a reduced rate to indigents~~ *indigent persons* or accept patients requiring specialized care. *Except in the case of nursing homes, the value of charity care provided to individuals pursuant to this subsection shall be based on the provider reimbursement methodology utilized by the Centers for Medicare and Medicaid Services for reimbursement under Title XVIII of the Social Security Act, 42 U.S.C. § 1395 et seq.*

**§ 32.1-102.4. Conditions of certificates; monitoring; revocation of certificates.**

A. A certificate shall be issued with a schedule for the completion of the project and a maximum capital expenditure amount for the project. The schedule may not be extended and the maximum capital expenditure may not be exceeded without the approval of the Commissioner in accordance with the regulations of the Board.

B. The Commissioner shall monitor each project for which a certificate is issued to determine its progress and compliance with the schedule and with the maximum capital expenditure. The Commissioner shall also monitor all continuing care retirement communities for which a certificate is issued authorizing the establishment of a nursing home facility or an increase in the number of nursing home beds pursuant to § 32.1-102.3:2 and shall enforce compliance with the conditions for such applications which are required by § 32.1-102.3:2. Any willful violation of a provision of § 32.1-102.3:2 or conditions of a certificate of public need granted under the provisions of § 32.1-102.3:2 shall be subject to a civil penalty of up to \$100 per violation per day until the date the Commissioner determines that such facility is in compliance.

C. A certificate may be revoked when:

1. Substantial and continuing progress towards completion of the project in accordance with the schedule has not been made;

2. The maximum capital expenditure amount set for the project is exceeded;

3. The applicant has willfully or recklessly misrepresented intentions or facts in obtaining a certificate; or

4. A continuing care retirement community applicant has failed to honor the conditions of a certificate allowing the establishment of a nursing home facility or granting an increase in the number of nursing home beds in an existing facility which was approved in accordance with the requirements of § 32.1-102.3:2.

D. Further, the Commissioner shall not approve an extension for a schedule for completion of any project or the exceeding of the maximum capital expenditure of any project unless such extension or excess complies with the limitations provided in the regulations promulgated by the Board pursuant to § 32.1-102.2.

E. Any person willfully violating the Board's regulations establishing limitations for schedules for completion of any project or limitations on the exceeding of the maximum capital expenditure of any project shall be subject to a civil penalty of up to \$100 per violation per day until the date of completion of the project.

F. The Commissioner may condition, pursuant to the regulations of the Board, the approval of a certificate (i) upon the agreement of the applicant to provide a level of *charity care* at a ~~reduced rate to indigents~~ *indigent persons* or accept patients requiring specialized care or (ii) upon the agreement of the applicant to facilitate the development and operation of primary medical care services in designated medically underserved areas of the applicant's service area. *Except in the case of nursing homes, the value of charity care provided to individuals pursuant to this subsection shall be based on the provider reimbursement methodology utilized by the Centers for Medicare and Medicaid Services for reimbursement under Title XVIII of the Social Security Act, 42 U.S.C. § 1395 et seq.*

The certificate holder shall provide documentation to the Department demonstrating that the certificate holder has satisfied the conditions of the certificate, *including documentation of the amount of charity care provided to patients*. If the certificate holder is unable or fails to satisfy the conditions of a certificate, the Department may approve alternative methods to satisfy the conditions pursuant to a plan of compliance. The plan of compliance shall identify a timeframe within which the certificate holder will satisfy the conditions of the certificate, and identify how the certificate holder will satisfy the conditions of the certificate, which may include (i) making direct payments to an organization authorized under a memorandum of understanding with the Department to receive contributions satisfying conditions of a certificate, (ii) making direct payments to a private nonprofit foundation that funds basic insurance coverage for indigents authorized under a memorandum of understanding with the Department to receive contributions satisfying conditions of a certificate, or (iii) other documented efforts or initiatives to provide primary or specialized care to underserved populations. In determining whether the certificate holder has met the conditions of the certificate pursuant to a plan of compliance, only such direct payments, efforts, or initiatives made or undertaken after issuance of the conditioned certificate shall be counted towards satisfaction of conditions.

Any person willfully refusing, failing, or neglecting to honor such agreement shall be subject to a civil penalty of up to \$100 per violation per day until the date of compliance.

G. Pursuant to regulations of the Board, the Commissioner may accept requests for and approve amendments to conditions of existing certificates related to the provision of care at reduced rates or to patients requiring specialized care or related to the development and operation of primary medical care services in designated medically underserved areas of the certificate holder's service area.

H. For the purposes of this section, "completion" means conclusion of construction activities necessary for the substantial performance of the contract.

**§ 32.1-276.5. Providers to submit data.**

A. Every health care provider shall submit data as required pursuant to regulations of the Board, consistent with the recommendations of the nonprofit organization in its strategic plans submitted and approved pursuant to § 32.1-276.4, and as required by this section. *Such data shall include relevant data and information for any parent or subsidiary company of the health care provider that operates in the Commonwealth.* Notwithstanding the provisions of Chapter 38 (§ 2.2-3800 et seq.) of Title 2.2, it shall be lawful to provide information in compliance with the provisions of this chapter.

B. In addition, health maintenance organizations shall annually submit to the Commissioner, to make available to consumers who make health benefit enrollment decisions, audited data consistent with the latest version of the Health Employer Data and Information Set (HEDIS), as required by the National Committee for Quality Assurance, or any other quality of care or performance information set as approved by the Board. The Commissioner, at his discretion, may grant a waiver of the HEDIS or other approved quality of care or performance information set upon a determination by the Commissioner that the health maintenance organization has met Board-approved exemption criteria. The Board shall promulgate regulations to implement the provisions of this section.

C. Every medical care facility as that term is defined in § 32.1-102.1 that furnishes, conducts, operates, or offers any reviewable service shall report data on utilization of such service to the Commissioner, who shall contract with the nonprofit organization authorized under this chapter to collect and disseminate such data. For purposes of this section, "reviewable service" shall mean inpatient beds, operating rooms, nursing home services, cardiac catheterization, computed tomographic (CT) scanning, stereotactic radiosurgery, lithotripsy, magnetic resonance imaging (MRI), magnetic source imaging, medical rehabilitation, neonatal special care, obstetrical services, open heart surgery, positron emission tomographic (PET) scanning, psychiatric services, organ and tissue transplant services, radiation therapy, stereotactic radiotherapy, proton beam therapy, nuclear medicine imaging except for the purpose of nuclear cardiac imaging, and substance abuse treatment.

*Every medical care facility for which a certificate of public need with conditions imposed pursuant to § 32.1-102.4 is issued shall report to the Commissioner data on charity care, as that term is defined in § 32.1-102.1, provided to satisfy a condition of a certificate of public need, including (i) the total amount of such charity care the facility provided to indigent*

persons; (ii) the number of patients to whom such charity care was provided; (iii) the specific services delivered to patients that are reported as charity care recipients; and (iv) the portion of the total amount of such charity care provided that each service represents. The value of charity care reported shall be based on the medical care facility's submission of applicable Diagnosis Related Group codes and Current Procedural Terminology codes aligned with methodology utilized by the Centers for Medicare and Medicaid Services for reimbursement under Title XVIII of the Social Security Act, 42 U.S.C. § 1395 et seq. Notwithstanding the foregoing, every nursing home as defined in § 32.1-123 for which a certificate of public need with conditions imposed pursuant to § 32.1-102.4 is issued shall report data on utilization and other data in accordance with regulations of the Board.

The Commissioner shall also negotiate and contract with a nonprofit organization authorized under § 32.1-276.4 for compiling, storing, and making available to consumers the data submitted by health maintenance organizations pursuant to this section. The nonprofit organization shall assist the Board in developing a quality of care or performance information set for such health maintenance organizations and shall, at the Commissioner's discretion, periodically review this information set for its effectiveness.

D. Every continuing care retirement community established pursuant to Chapter 49 (§ 38.2-4900 et seq.) of Title 38.2 that includes nursing home beds shall report data on utilization of such nursing home beds to the Commissioner, who shall contract with the nonprofit organization authorized under this chapter to collect and disseminate such data.

E. Every hospital that receives a disproportionate share hospital adjustment pursuant to § 1886(d)(5)(F) of the Social Security Act shall report, in accordance with regulations of the Board consistent with recommendations of the nonprofit organization in its strategic plan submitted and provided pursuant to § 32.1-276.4, the number of inpatient days attributed to patients eligible for Medicaid but not Medicare Part A and the total amount of the disproportionate share hospital adjustment received.

F. The Board shall evaluate biennially the impact and effectiveness of such data collection.

**2. That the Commissioner of Health shall report to the Chairmen of the House Committees on Appropriations and Health, Welfare and Institutions and the Senate Committees on Finance and Education and Health by November 1, 2018, a data analysis comparing the value of (i) the total amount of charity care as defined in § 32.1-102.1 of the Code of Virginia, as amended by this act, that each medical care facility provided to indigent persons; (ii) the number of patients to whom charity care was provided; (iii) the specific services delivered to patients that are reported as charity care recipients; and (iv) the portion of the total amount of charity care provided that each service represents to comply with any conditions on such certificates based on the method utilized for valuing such care as of July 1, 2017, to the medical care facility's cost using a method established by the nonprofit organization defined in § 32.1-276.3 of the Code of Virginia and to the value of such care based on the provider reimbursement methodology utilized by the Centers for Medicare and Medicaid Services for reimbursement under Title XVIII of the Social Security Act, 42 U.S.C. § 1395 et seq.**

**3. That the provisions of this act amending §§ 32.1-102.2 and 32.1-102.4 of the Code of Virginia shall become effective on July 1, 2019.**

## CHAPTER 792

*An Act to amend the Code of Virginia by adding a section numbered 2.2-4513.1, relating to the Investment of Public Funds Act; investment of funds in qualified investment pools.*

[H 2105]

Approved April 5, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding a section numbered 2.2-4513.1 as follows:**

**§ 2.2-4513.1. Investment of funds in qualified investment pools.**

A. Notwithstanding the provisions of Article 1 (§ 15.2-1300 et seq.) of Chapter 13 of Title 15.2, in any locality in which the authority to invest moneys belonging to or within the control of the locality has been granted to its elected treasurer, the treasurer may act on behalf of his locality to become a participating political subdivision in qualified investment pools without an ordinance adopted by the locality approving a joint exercise of power agreement. For purposes of this section, "qualified investment pool" means a jointly administered investment pool organized as a trust fund pursuant to Article 1 of Chapter 13 of Title 15.2 that has a professional investment manager.

B. Investments in qualified investment pools described in this section shall comply with the requirements of this chapter applicable to municipal corporations and other political subdivisions.

C. The provisions of this section shall not apply to local trusts established pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title 15.2 to fund postemployment benefits other than pensions.

**2. That nothing in this act shall be construed to diminish existing legal authority of the treasurers of political subdivisions related to the investment of public funds.**

## CHAPTER 793

An Act to amend and reenact §§ 5.1-1.6, 5.1-2.2, 5.1-5, 5.1-9.2, 5.1-9.5, 5.1-9.8, 5.1-14, 5.1-88.1, 5.1-88.2, 5.1-113, and 5.1-150 of the Code of Virginia, relating to registration of aircraft.

[H 2149]

Approved April 5, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 5.1-1.6, 5.1-2.2, 5.1-5, 5.1-9.2, 5.1-9.5, 5.1-9.8, 5.1-14, 5.1-88.1, 5.1-88.2, 5.1-113, and 5.1-150 of the Code of Virginia are amended and reenacted as follows:**

**§ 5.1-1.6. Further powers and duties of Department; State Corporation Commission to administer Chapter 9.**

A. The Department shall have the following powers and duties:

1. Administer the provisions of Chapters 1 (§ 5.1-1 et seq.), 3 (§ 5.1-31 et seq.), 5 (§ 5.1-51 et seq.) and 8.1 (§ 5.1-88.1 et seq.) ~~of this title;~~
2. Plan for the development of a state aviation system;
3. Promote aviation in the Commonwealth in the interest of the public, including representing the interests of the Commonwealth before all tribunals, agencies or offices, federal, state and local, in any matter tending to affect any phase of Virginia aviation;
4. ~~License Register~~ aircraft; and license airports and landing areas; and
5. Provide assistance to cities, towns, counties and other governmental subdivisions for the planning, development, construction and operation of airports, landing fields and other aviation facilities.

B. The State Corporation Commission shall continue to administer Chapter 9 (§ 5.1-89 et seq.) ~~of this title.~~

**§ 5.1-2.2. Powers and duties of Board.**

The Board shall exercise the following powers and duties:

1. Provide a means of citizen access to the Department;
2. Provide a means of publicizing the policies and programs of the Department in order to educate the public and elicit public support for Department activities;
3. Monitor the policies and activities of the Department and have the right of access to departmental information;
4. Advise the Governor and the Director on matters relating to the Commonwealth's aviation policies and programs;
5. Promulgate such rules and regulations relating to airports, landing fields and other aviation facilities, aircraft, ~~air traffic, construction and inspection of aircraft, qualifications and licensing of airmen, stunt flying,~~ and such other kindred matters and things as may be proper and necessary to promote and develop safe aviation practices and operations; and
6. Develop on behalf of the Department recommendations for distribution of funds to localities by the State Corporation Commission for aviation development through the end of the 1978-80 biennium, after which time the Board shall be responsible for the allocation on behalf of the Department of all such funds as provided in this act, which funds shall be distributed by the Department in accordance with such allocation.

**§ 5.1-5. Registration of aircraft.**

~~(a)~~ A. Every resident of ~~this the~~ Commonwealth owning a civil aircraft, every nonresident owning a civil aircraft based in ~~this the~~ Commonwealth ~~over sixty for more than 60 days during any twelve-month 12-month~~ period, and every owner of an aerial application aircraft operating within ~~this the~~ Commonwealth or of a civil aircraft operated in ~~this the~~ Commonwealth as a for-hire intrastate air carrier shall *register such aircraft with the Department before the same such aircraft is operated in this the Commonwealth; obtain from the Department an aircraft license for such aircraft.*

~~(b)~~ B. The Department shall provide for the issuance, expiration, suspension, and revocation of ~~licenses~~ of aircraft *registration* in accordance with regulations promulgated by the Board. *Such aircraft registration or registration requirement shall be considered the licensure or licensure requirement for purposes of the tax imposed pursuant to Chapter 15 (§ 58.1-1500 et seq.) of Title 58.1.* The Department shall furnish any necessary forms pursuant to the issuance of such ~~licenses, registration~~ and may assess a fee for such issuance not in excess of ~~five dollars~~ \$5 annually. The Department may, in lieu of issuing aircraft ~~licenses registration~~ required by subsection ~~(a)~~ of this section A, issue commercial aircraft ~~licenses registration~~ to air carriers and commercial dealers; and issue to noncommercial dealers noncommercial dealer fleet ~~licenses registration~~, to cover all aircraft owned by such dealers and all aircraft for sale held by dealers on a consignment basis from an aircraft manufacturer. The Department may assess a fee not in excess of \$50 annually for any such noncommercial dealer fleet ~~licenses registrations~~ issued and a fee not in excess of \$100 annually for any such commercial fleet ~~licenses registrations~~ issued. The fee for a commercial single aircraft ~~license registration~~ shall not be in excess of ~~ten dollars~~ \$10 annually.

**§ 5.1-9.2. Contract carriers; permit and registration required.**

No person shall operate or engage in the business of a contract carrier by aircraft intrastate in the airspace of this Commonwealth unless such person has secured from the Department a permit authorizing him to conduct such operation or to engage in such business and has ~~licensed registered~~ under § 5.1-5 all aircraft used in this Commonwealth.

**§ 5.1-9.5. Contract carriers; bonds, insurance or certificate of insurance required prior to issuance of registration or permit; securities deposited in lieu thereof.**

A. No ~~license~~ registration or permit shall be issued by the Department to any contract carrier by aircraft until and after such contract carrier has filed with the Department an insurance policy, a bond underwritten by an insurer, or certificate of insurance in lieu thereof, which certificate shall certify that such policy or bond covers the liability of such contract carrier in accordance with the provisions of this statute.

B. Such policy, bond or certificate of insurance shall be issued or underwritten only by an insurer approved or authorized to do business in Virginia, or by one who is eligible as a surplus lines insurer pursuant to Chapter 48 (§ 38.2-4805.1 et seq.) of Title 38.2, and shall be in amounts not less than the following minimum limits: liability for bodily injury to or death of any one person, passenger or other, aboard the aircraft; \$75,000, liability for each occurrence in any one aircraft of at least an amount equal to the sum produced by multiplying \$75,000 by seventy-five percent of the total number of passenger seats installed in the aircraft; and liability for loss or damage to cargo owned by others than the insured of at least \$10,000 for each occurrence. However, the holder of a ~~license~~ registration or permit issued by the Department shall not be required to file any cargo insurance, bond, or bonds for cargo liability for the hauling of property transported under contract.

C. In no event shall the limits required herein for contract carriers be less than those prescribed for like carriers by the Civil Aeronautics Board or the Federal Aviation Administration or their successors.

D. In lieu of such policy, underwritten bond or certificate of insurance, a contract carrier may, with the consent of the Department, submit bonds, in an amount approved by the Department, of the United States of America, the Commonwealth of Virginia, or of any municipality of this Commonwealth as security for its bond. Such federal, state, or municipal bonds shall be deposited with the State Treasurer, and shall not be reduced in amount, pledged as security, or otherwise encumbered for any other purpose during the life of such ~~license~~ registration or permit, except with the prior written approval of the Department.

**§ 5.1-9.8. Same; effect of failure to give or maintain adequate security.**

Failure of any contract carrier holding a ~~license~~ registration or permit issued by and under the authority of the Department to comply with any of the provisions of §§ 5.1-9.5 through 5.1-9.7 shall be a Class 1 misdemeanor and punishable as such.

**§ 5.1-14. Operation of unregistered aircraft.**

Any person who operates or causes to be operated any civil aircraft within the airspace over, above or upon the lands or waters of this Commonwealth, which aircraft has not been and is not at the time of such operation properly certificated under and in accordance with existing federal law and ~~licensed~~ registered under and in accordance with the existing laws of this Commonwealth and rules and regulations promulgated in pursuance thereof, shall be guilty of a misdemeanor.

**§ 5.1-88.1. Proof of financial responsibility to be furnished for each aircraft.**

No aircraft, as defined in § 5.1-1 except a public aircraft or a balloon shall be ~~licensed~~ registered by the Department unless and until the applicant thereof furnishes proof of financial responsibility in the amounts required by this chapter for each aircraft for which a ~~license~~ registration is applied for.

**§ 5.1-88.2. What constitutes proof of financial responsibility.**

A. The following shall constitute proof of financial responsibility as required by § 5.1-88.1:

1. The issuance, by an insurance company licensed to write such insurance in this Commonwealth, of a policy or policies of bodily injury and property damage liability insurance, or a policy or policies written pursuant to Chapter 48 (§ 38.2-4805.1 et seq.) of Title 38.2 that provide coverage with respect to each such aircraft in the amount of \$50,000 because of bodily injury to or death of one person in any one accident, including passenger liability, and \$100,000 because of bodily injury to or death of two or more persons in any one accident, including passenger liability, and to a limit of \$25,000 because of injury to or destruction of property of others in any one accident; or a single limit policy in the sum of \$250,000, covering bodily injury and property damage liability in any one accident, including passenger liability of \$50,000 per passenger seat; or

2. The execution of a bond by the ~~licensee~~ registrant and by a surety company authorized to transact business in this Commonwealth conditioned for payment in amounts and under the same circumstances as would be required in a policy of bodily injury liability and property damage liability insurance, as required by the provisions of subdivision A 1 ~~of this section~~; or

3. The delivery to the Department of \$250,000 in cash or an irrevocable letter of credit in the amount of \$250,000 from a depository institution as defined in § 2.2-4701. Such money or securities so delivered to the Department shall be placed by it in the custody of the State Treasurer and shall be subject to execution to satisfy any judgment within the limits on amounts required by this chapter for personal injury and property damage liability insurance.

B. Notwithstanding the provisions of subsection A of this section, for an aircraft commonly known as an "ultralight," as the same is now and may hereafter be defined by the Federal Aviation Administration, the proof of financial responsibility required by § 5.1-88.1 may be satisfied by the issuance as to that aircraft of a single limit insurance policy in the sum of \$100,000 covering bodily injury and property damage liability in any one accident, that is issued by an insurance company licensed to write such insurance in this Commonwealth or written pursuant to Chapter 48 (§ 38.2-4800 et seq.) of Title 38.2.

**§ 5.1-113. Duration of certificates, registrations, etc.; suspension, revocation, or amendment; penalties.**

Certificates, permits, *registrations*, and licenses issued under the provisions of this chapter shall be effective from the dates specified therein and shall remain in effect until terminated as herein provided. The Commission may at any time, by

its order duly entered after hearing held after notice to the holder of any such certificate, permit, *registration*, or license and an opportunity to such holder to be heard at which it shall be proved that such holder has willfully made any misrepresentation of a material fact in obtaining such certificate, permit, *registration*, or license, or has willfully violated or refused to observe the laws of this Commonwealth touching such certificate, permit, *registration*, or license, or any of the terms of his certificate, permit, *registration*, or license, or any of the Commission's proper orders, rules, or regulations, impose a penalty not exceeding \$1,000, which may be collected by the process of the Commission as provided by law; or the Commission may suspend, revoke, alter, or amend any such certificate, permit, *registration*, or license for any of the causes set forth above. But no such certificate, permit, *registration*, or license shall be revoked, altered, or amended (except upon application of the holder thereof) unless the holder thereof shall willfully fail to comply, within a reasonable time to be fixed by the Commission, with the lawful order of the Commission or with the lawful rule or regulation of the Commission, or with the term, condition, or limitation of such certificate, permit, *registration*, or license, found by the Commission to have been violated by such holder.

Proceedings for the imposition of any penalty provided for in this section may be commenced upon the complaint of any person or upon the Commission's own initiative.

From any order of the Commission suspending, revoking, altering or amending any certificate, permit, *registration*, or license, the holder thereof shall have the right of appeal to the Supreme Court of Virginia, as a matter of right, as in other cases of appeals from the Commission.

**§ 5.1-150. Licenses, registrations, taxes, etc., not affected.**

Nothing in this chapter shall be construed to relieve any person from the payment of any licenses, *registration* fees, taxes, or levies now or hereafter imposed by law.

#### CHAPTER 794

*An Act to amend the Code of Virginia by adding a section numbered 54.1-3408.4, relating to prescription of buprenorphine without naloxone; limitation.*

[H 2163]

Approved April 5, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding a section numbered 54.1-3408.4 as follows:**

**§ 54.1-3408.4. Prescription of buprenorphine without naloxone; limitation.**

*Prescriptions for products containing buprenorphine without naloxone shall be issued only (i) for patients who are pregnant, (ii) when converting a patient from methadone to buprenorphine containing naloxone for a period not to exceed seven days, or (iii) as permitted by regulations of the Board of Medicine, the Board of Nursing, or the Board of Veterinary Medicine.*

**2. That the provisions of this act shall expire on July 1, 2022.**

#### CHAPTER 795

*An Act to amend and reenact §§ 46.2-802 and 46.2-804 of the Code of Virginia, relating to driving on the right side of highways and special regulations applicable on highways laned for traffic; penalties.*

[H 2201]

Approved April 5, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 46.2-802 and 46.2-804 of the Code of Virginia are amended and reenacted as follows:**

**§ 46.2-802. Drive on right side of highways; penalty.**

Except as otherwise provided by law, on all highways of sufficient width, the driver of a vehicle shall drive on the right half of the highway, unless it is impracticable to travel on such side of the highway and except when overtaking and passing another vehicle, subject to the provisions applicable to overtaking and passing set forth in Article 4 (§ 46.2-837 et seq.) of this chapter. *A violation of this section is punishable by a fine of \$100.*

**§ 46.2-804. Special regulations applicable on highways laned for traffic; penalty.**

For the purposes of this section, "traffic lines" includes any temporary traffic control devices used to emulate the lines and markings in subdivisions 6 and 7.

Whenever any roadway has been divided into clearly marked lanes for traffic, drivers of vehicles shall obey the following:

1. Any vehicle proceeding at less than the normal speed of traffic at the time and place and under the conditions existing, shall be driven in the lane nearest the right edge or right curb of the highway when such lane is available for travel except when overtaking and passing another vehicle or in preparation for a left turn or where right lanes are reserved for slow-moving traffic as permitted in this section;

2. A vehicle shall be driven as nearly as is practicable entirely within a single lane and shall not be moved from that lane until the driver has ascertained that such movement can be made safely;

3. Except as otherwise provided in subdivision 5, on a highway which is divided into three lanes, no vehicle shall be driven in the center lane except when overtaking and passing another vehicle or in preparation for a left turn or unless such center lane is at the time allocated exclusively to traffic moving in the direction the vehicle is proceeding and is signed or marked to give notice of such allocation. Traffic-control devices may be erected directing specified traffic to use a designated lane or designating those lanes to be used by traffic moving in a particular direction regardless of the center of the roadway and drivers of vehicles shall obey the directions of every such device;

4. The Commissioner of Highways, or local authorities in their respective jurisdictions, may designate right lanes for slow-moving vehicles and the Virginia Department of Transportation shall post signs requiring trucks and combination vehicles to keep to the right on Interstate Highway System components with no more than two travel lanes in each direction where terrain is likely to slow the speed of such vehicles climbing hills and inclines to a speed that is less than the posted speed limit;

5. Wherever a highway is marked with double traffic lines consisting of a solid line immediately adjacent to a broken line, no vehicle shall be driven to the left of such line if the solid line is on the right of the broken line, except (i) when turning left for the purpose of entering or leaving a public, private, or commercial road or entrance or (ii) in order to pass a pedestrian or a device moved by human power, including a bicycle, skateboard, or foot-scooter, provided such movement can be made safely. Where the middle lane of a highway is marked on both sides with a solid line immediately adjacent to a broken line, such middle lane shall be considered a left-turn or holding lane and it shall be lawful to drive to the left of such line if the solid line is on the right of the broken line for the purpose of turning left into any road or entrance, provided that the vehicle may not travel in such lane further than 150 feet;

6. Wherever a highway is marked with double traffic lines consisting of two immediately adjacent solid yellow lines, no vehicle shall be driven to the left of such lines, except (i) when turning left or (ii) in order to pass a pedestrian or a device moved by human power, including a bicycle, skateboard, or foot-scooter, provided such movement can be made safely; and

7. Whenever a highway is marked with double traffic lines consisting of two immediately adjacent solid white lines, no vehicle shall cross such lines.

*A violation of this section is punishable by a fine of \$100.*

## CHAPTER 796

*An Act to amend and reenact §§ 2.2-2221, 2.2-3705.6, 2.2-3711, 23.1-203, and 23.1-3130 through 23.1-3133 of the Code of Virginia; to amend the Code of Virginia by adding in Article 8 of Chapter 31 of Title 23.1 a section numbered 23.1-3134; and to repeal § 2.2-2221.2 of the Code of Virginia, relating to the Virginia Research Investment Committee.*

[H 2245]

Approved April 5, 2017

### **Be it enacted by the General Assembly of Virginia:**

**1. That §§ 2.2-2221, 2.2-3705.6, 2.2-3711, 23.1-203, and 23.1-3130 through 23.1-3133 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Article 8 of Chapter 31 of Title 23.1 a section numbered 23.1-3134 as follows:**

#### **§ 2.2-2221. Powers of the Authority.**

The Authority is granted all powers necessary or convenient for the carrying out of its statutory purposes, including, but not limited to, the following rights and powers to:

1. Sue and be sued, implead and be impleaded, complain and defend in all courts.
2. Adopt, use, and alter at will a corporate seal.

3. Acquire, purchase, hold, use, lease or otherwise dispose of any project and property, real, personal or mixed, tangible or intangible, or any interest therein necessary or desirable for carrying out the purposes of the Authority, and, without limitation of the foregoing, to lease as lessee, any project and any property, real, personal or mixed, or any interest therein, at such annual rental and on such terms and conditions as may be determined by the Board and to lease as lessor to any person, any project and any property, real, personal or mixed, tangible or intangible, or any interest therein, at any time acquired by the Authority, whether wholly or partially completed, at such annual rental and on such terms and conditions as may be determined by the Board, and to sell, transfer or convey any property, real, personal or mixed, tangible or intangible or any interest therein, at any time acquired or held by the Authority on such terms and conditions as may be determined by the board of the Authority.

4. Plan, develop, undertake, carry out, construct, improve, rehabilitate, repair, furnish, maintain, and operate projects.

5. Adopt bylaws for the management and regulation of its affairs.

6. Establish and maintain satellite offices within the Commonwealth.

7. Fix, alter, charge, and collect rates, rentals, and other charges for the use of projects of, or for the sale of products of or for the services rendered by, the Authority, at rates to be determined by it for the purpose of providing for the payment of the expenses of the Authority, the planning, development, construction, improvement, rehabilitation, repair, furnishing, maintenance, and operation of its projects and properties, the payment of the costs accomplishing its purposes set forth in

§ 2.2-2219, the payment of the principal of and interest on its obligations, and to fulfill the terms and provisions of any agreements made with the purchasers or holders of any such obligations.

8. Borrow money, make and issue bonds including bonds as the Authority may determine to issue for the purpose of accomplishing the purposes set forth in § 2.2-2219 or of refunding bonds previously issued by the Authority, and to secure the payment of all bonds, or any part thereof, by pledge or deed of trust of all or any of its revenues, rentals, and receipts or of any project or property, real, personal or mixed, tangible or intangible, or any interest therein, and to make agreements with the purchasers or holders of such bonds or with others in connection with any such bonds, whether issued or to be issued, as the Authority deems advisable, and in general to provide for the security for the bonds and the rights of holders thereof.

9. Make and enter into all contracts and agreements necessary or incidental to the performance of its duties, the furtherance of its purposes and the execution of its powers under this article, including agreements with any person or federal agency.

10. Employ, in its discretion, consultants, attorneys, architects, engineers, accountants, financial experts, investment bankers, superintendents, managers and such other employees and agents as may be necessary, and to fix their compensation to be payable from funds made available to the Authority.

11. Receive and accept from any federal or private agency, foundation, corporation, association or person grants to be expended in accomplishing the objectives of the Authority, and to receive and accept from the Commonwealth or any state, and any municipality, county or other political subdivision thereof and from any other source, aid or contributions of either money, property, or other things of value, to be held, used and applied only for the purposes for which such grants and contributions may be made.

12. Render advice and assistance, and to provide services, to institutions of higher education and to other persons providing services or facilities for scientific and technological research or graduate education, provided that credit towards a degree, certificate or diploma shall be granted only if such education is provided in conjunction with an institution of higher education authorized to operate in Virginia.

13. Develop, undertake and provide programs, alone or in conjunction with any person or federal agency, for scientific and technological research, technology management, continuing education and in-service training, provided that credit towards a degree, certificate or diploma shall be granted only if such education is provided in conjunction with an institution of higher education authorized to operate in Virginia; to foster the utilization of scientific and technological research information, discoveries and data and to obtain patents, copyrights and trademarks thereon; to coordinate the scientific and technological research efforts of public institutions and private industry and to collect and maintain data on the development and utilization of scientific and technological research capabilities. The universities set forth in § 2.2-2220 shall be the principal leading universities in the research institutes.

14. Pledge or otherwise encumber all or any of the revenues or receipts of the Authority as security for all or any of the obligations of the Authority.

15. Receive, administer, and market any interest in patents, copyrights and materials that were potentially patentable or copyrightable developed by or for state agencies, public institutions of higher education and political subdivisions of the Commonwealth. The Authority shall return to the agency, institution or political subdivision any revenue in excess of its administrative and marketing costs. When general funds are used to develop the patent or copyright or material that was potentially patentable or copyrightable, any state agency, except a public institution of higher education in Virginia, shall return any revenues it receives from the Authority to the general fund unless the Governor authorizes a percentage of the net royalties to be shared with the developer of the patented, copyrighted, or potentially patentable or copyrightable property.

16. ~~Develop~~ *Provide assistance to the Virginia Research Investment Committee related to the development of the Commonwealth Research and Technology Strategic Roadmap, pursuant to § 2.2-2221.2 23.1-3134, for the Commonwealth to use to identify research areas worthy of institutional focus and Commonwealth investment in order to promote commercialization and economic development efforts in the Commonwealth.*

17. Foster innovative partnerships and relationships among the Commonwealth, the Commonwealth's state institutions of higher education, the private sector, federal labs, and not-for-profit organizations to improve research and development commercialization efforts.

18. Receive and review annual reports from state institutions of higher education regarding the progress of projects funded through the Commonwealth Research Initiative or the Commonwealth Research and Commercialization Fund. The Authority shall develop guidelines, methodologies, and criteria for the reports. The Authority shall aggregate the reports and submit an annual omnibus report on the status of research and development initiatives in the Commonwealth to the Governor and the chairmen of the Senate Finance Committee, the House Appropriations Committee, the Senate Committee on General Laws and Technology, the House Committee on Science and Technology, and the Joint Commission on Technology and Science.

19. In consultation with the Secretary of Technology, develop guidelines for the application, review, and award of funds from the Commonwealth Research Commercialization Fund pursuant to § 2.2-2233.1. These guidelines shall address, at a minimum, the application process and shall give special emphasis to fostering collaboration between institutions of higher education and partnerships between institutions of higher education and business and industry.

20. Exclusively, or with any other person, form and otherwise develop, own, operate, govern, and otherwise direct the disposition of assets of, or any combination thereof, separate legal entities, on any such terms and conditions and in any

such manner as may be determined by the Board, provided that such separate legal entities shall be formed solely for the purpose of managing and administering any assets disposed of by the Authority. These legal entities may include limited liability companies, limited partnerships, charitable foundations, real estate holding companies, investment holding companies, nonstock corporations, and benefit corporations. Any entities created by the Authority shall be operated under the governance of the Authority. The Board shall be provided with quarterly performance reports for all governed entities. The articles of incorporation, partnership, or organization for these entities shall provide that, upon dissolution, the assets of the entities that are owned on behalf of the Commonwealth shall be transferred to the Authority. The legal entity shall ensure that the economic benefits attributable to the income and property rights arising from any transactions in which the entity is involved are allocated on a basis that is equitable in the reasonable business judgment of the Board, with due account being given to the interest of the citizens of the Commonwealth and the needs of the formed entity. No legal entity shall be deemed to be a state or governmental agency, advisory agency, or public body or instrumentality. No director, officer, or employee of any such entity shall be deemed to be an officer or employee for purposes of the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.). Notwithstanding the foregoing, the Auditor of Public Accounts or his legally authorized representatives shall annually audit the financial accounts of the Authority and any such entity, provided that the working papers and records of the Auditor of Public Accounts relating to such audits shall not be subject to the provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

21. Do all acts and things necessary or convenient to carry out the powers granted to it by law.

**§ 2.2-3705.6. Exclusions to application of chapter; proprietary records and trade secrets.**

The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01.

1. Proprietary information gathered by or for the Virginia Port Authority as provided in § 62.1-132.4 or 62.1-134.1.
2. Financial statements not publicly available filed with applications for industrial development financings in accordance with Chapter 49 (§ 15.2-4900 et seq.) of Title 15.2.
3. Proprietary information, voluntarily provided by private business pursuant to a promise of confidentiality from a public body, used by the public body for business, trade, and tourism development or retention; and memoranda, working papers, or other information related to businesses that are considering locating or expanding in Virginia, prepared by a public body, where competition or bargaining is involved and where disclosure of such information would adversely affect the financial interest of the public body.
4. Information that was filed as confidential under the Toxic Substances Information Act (§ 32.1-239 et seq.), as such Act existed prior to July 1, 1992.
5. Fisheries data that would permit identification of any person or vessel, except when required by court order as specified in § 28.2-204.
6. Confidential financial statements, balance sheets, trade secrets, and revenue and cost projections provided to the Department of Rail and Public Transportation, provided such information is exempt under the federal Freedom of Information Act or the federal Interstate Commerce Act or other laws administered by the Surface Transportation Board or the Federal Railroad Administration with respect to data provided in confidence to the Surface Transportation Board and the Federal Railroad Administration.
7. Proprietary information related to inventory and sales, voluntarily provided by private energy suppliers to the Department of Mines, Minerals and Energy, used by that Department for energy contingency planning purposes or for developing consolidated statistical information on energy supplies.
8. Confidential proprietary information furnished to the Board of Medical Assistance Services or the Medicaid Prior Authorization Advisory Committee pursuant to Article 4 (§ 32.1-331.12 et seq.) of Chapter 10 of Title 32.1.
9. Proprietary, commercial or financial information, balance sheets, trade secrets, and revenue and cost projections provided by a private transportation business to the Virginia Department of Transportation and the Department of Rail and Public Transportation for the purpose of conducting transportation studies needed to obtain grants or other financial assistance under the Transportation Equity Act for the 21st Century (P.L. 105-178) for transportation projects if disclosure of such information is exempt under the federal Freedom of Information Act or the federal Interstate Commerce Act or other laws administered by the Surface Transportation Board or the Federal Railroad Administration with respect to data provided in confidence to the Surface Transportation Board and the Federal Railroad Administration. However, the exclusion provided by this subdivision shall not apply to any wholly owned subsidiary of a public body.
10. Confidential information designated as provided in subsection F of § 2.2-4342 as trade secrets or proprietary information by any person in connection with a procurement transaction or by any person who has submitted to a public body an application for prequalification to bid on public construction projects in accordance with subsection B of § 2.2-4317.
11. a. Memoranda, staff evaluations, or other information prepared by the responsible public entity, its staff, outside advisors, or consultants exclusively for the evaluation and negotiation of proposals filed under the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) or the Public-Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.) where (i) if such information was made public prior to or after the execution of an interim or a comprehensive agreement, § 33.2-1820 or 56-575.17 notwithstanding, the financial interest or bargaining position of the

public entity would be adversely affected and (ii) the basis for the determination required in clause (i) is documented in writing by the responsible public entity; and

b. Information provided by a private entity to a responsible public entity, affected jurisdiction, or affected local jurisdiction pursuant to the provisions of the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) or the Public-Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.) if disclosure of such information would reveal (i) trade secrets of the private entity as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.); (ii) financial information of the private entity, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise; or (iii) other information submitted by the private entity where if such information was made public prior to the execution of an interim agreement or a comprehensive agreement, the financial interest or bargaining position of the public or private entity would be adversely affected. In order for the information specified in clauses (i), (ii), and (iii) to be excluded from the provisions of this chapter, the private entity shall make a written request to the responsible public entity:

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

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

(3) Stating the reasons why protection is necessary.

The responsible public entity shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets or financial information of the private entity. To protect other information submitted by the private entity from disclosure, the responsible public entity shall determine whether public disclosure prior to the execution of an interim agreement or a comprehensive agreement would adversely affect the financial interest or bargaining position of the public or private entity. The responsible public entity shall make a written determination of the nature and scope of the protection to be afforded by the responsible public entity under this subdivision. Once a written determination is made by the responsible public entity, the information afforded protection under this subdivision shall continue to be protected from disclosure when in the possession of any affected jurisdiction or affected local jurisdiction.

Except as specifically provided in subdivision 11 a, nothing in this subdivision shall be construed to authorize the withholding of (a) procurement records as required by § 33.2-1820 or 56-575.17; (b) information concerning the terms and conditions of any interim or comprehensive agreement, service contract, lease, partnership, or any agreement of any kind entered into by the responsible public entity and the private entity; (c) information concerning the terms and conditions of any financing arrangement that involves the use of any public funds; or (d) information concerning the performance of any private entity developing or operating a qualifying transportation facility or a qualifying project.

For the purposes of this subdivision, the terms "affected jurisdiction," "affected local jurisdiction," "comprehensive agreement," "interim agreement," "qualifying project," "qualifying transportation facility," "responsible public entity," and "private entity" shall mean the same as those terms are defined in the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) or in the Public-Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.).

12. Confidential proprietary information or trade secrets, not publicly available, provided by a private person or entity pursuant to a promise of confidentiality to the Virginia Resources Authority or to a fund administered in connection with financial assistance rendered or to be rendered by the Virginia Resources Authority where, if such information were made public, the financial interest of the private person or entity would be adversely affected.

13. Trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), or confidential proprietary information that is not generally available to the public through regulatory disclosure or otherwise, provided by a (i) bidder or applicant for a franchise or (ii) franchisee under Chapter 21 (§ 15.2-2100 et seq.) of Title 15.2 to the applicable franchising authority pursuant to a promise of confidentiality from the franchising authority, to the extent the information relates to the bidder's, applicant's, or franchisee's financial capacity or provision of new services, adoption of new technologies or implementation of improvements, where such new services, technologies, or improvements have not been implemented by the franchisee on a nonexperimental scale in the franchise area, and where, if such information were made public, the competitive advantage or financial interests of the franchisee would be adversely affected.

In order for trade secrets or confidential proprietary information to be excluded from the provisions of this chapter, the bidder, applicant, or franchisee shall (a) invoke such exclusion upon submission of the data or other materials for which protection from disclosure is sought, (b) identify the data or other materials for which protection is sought, and (c) state the reason why protection is necessary.

No bidder, applicant, or franchisee may invoke the exclusion provided by this subdivision if the bidder, applicant, or franchisee is owned or controlled by a public body or if any representative of the applicable franchising authority serves on the management board or as an officer of the bidder, applicant, or franchisee.

14. Information of a proprietary nature furnished by a supplier of charitable gaming supplies to the Department of Agriculture and Consumer Services pursuant to subsection E of § 18.2-340.34.

15. Information related to Virginia apple producer sales provided to the Virginia State Apple Board pursuant to § 3.2-1215.

16. Trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.) of Title 59.1, submitted by CMRS providers as defined in § 56-484.12 to the Wireless Carrier E-911 Cost Recovery Subcommittee created pursuant to § 56-484.15, relating to the provision of wireless E-911 service.

17. Information relating to a grant or loan application, or accompanying a grant or loan application, to the Innovation and Entrepreneurship Investment Authority pursuant to Article 3 (§ 2.2-2233.1 et seq.) of Chapter 22 of Title 2.2 or to the Commonwealth Health Research Board pursuant to Chapter 5.3 (§ 32.1-162.23 et seq.) of Title 32.1 if disclosure of such information would (i) reveal proprietary business or research-related information produced or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of the applicant.

18. Confidential proprietary information and trade secrets developed and held by a local public body (i) providing telecommunication services pursuant to § 56-265.4:4 and (ii) providing cable television services pursuant to Article 1.1 (§ 15.2-2108.2 et seq.) of Chapter 21 of Title 15.2 if disclosure of such information would be harmful to the competitive position of the locality.

In order for confidential proprietary information or trade secrets to be excluded from the provisions of this chapter, the locality in writing shall (a) invoke the protections of this subdivision, (b) identify with specificity the information for which protection is sought, and (c) state the reasons why protection is necessary. However, the exemption provided by this subdivision shall not apply to any authority created pursuant to the BVU Authority Act (§ 15.2-7200 et seq.).

19. Confidential proprietary information and trade secrets developed by or for a local authority created in accordance with the Virginia Wireless Service Authorities Act (§ 15.2-5431.1 et seq.) to provide qualifying communications services as authorized by Article 5.1 (§ 56-484.7:1 et seq.) of Chapter 15 of Title 56, where disclosure of such information would be harmful to the competitive position of the authority, except that information required to be maintained in accordance with § 15.2-2160 shall be released.

20. Trade secrets as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.) or financial information of a business, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, provided to the Department of Small Business and Supplier Diversity as part of an application for certification as a small, women-owned, or minority-owned business in accordance with Chapter 16.1 (§ 2.2-1603 et seq.). In order for such trade secrets or financial information to be excluded from the provisions of this chapter, the business shall (i) invoke such exclusion upon submission of the data or other materials for which protection from disclosure is sought, (ii) identify the data or other materials for which protection is sought, and (iii) state the reasons why protection is necessary.

21. Information of a proprietary or confidential nature disclosed by a carrier to the State Health Commissioner pursuant to §§ 32.1-276.5:1 and 32.1-276.7:1.

22. Trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), including, but not limited to, financial information, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, and revenue and cost projections supplied by a private or nongovernmental entity to the State Inspector General for the purpose of an audit, special investigation, or any study requested by the Office of the State Inspector General in accordance with law.

In order for the information specified in this subdivision to be excluded from the provisions of this chapter, the private or nongovernmental entity shall make a written request to the State Inspector General:

- a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;
- b. Identifying with specificity the data or other materials for which protection is sought; and
- c. Stating the reasons why protection is necessary.

The State Inspector General shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets or financial information of the private entity. The State Inspector General shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

23. Information relating to a grant application, or accompanying a grant application, submitted to the Tobacco Region Revitalization Commission that would (i) reveal (a) trade secrets as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), (b) financial information of a grant applicant that is not a public body, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, or (c) research-related information produced or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of the applicant; and memoranda, staff evaluations, or other information prepared by the Commission or its staff exclusively for the evaluation of grant applications. The exclusion provided by this subdivision shall apply to grants that are consistent with the powers of and in furtherance of the performance of the duties of the Commission pursuant to § 3.2-3103.

In order for the information specified in this subdivision to be excluded from the provisions of this chapter, the applicant shall make a written request to the Commission:

- a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;
- b. Identifying with specificity the data, information or other materials for which protection is sought; and
- c. Stating the reasons why protection is necessary.

The Commission shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets, financial information, or research-related information of the applicant. The Commission shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

24. a. Information held by the Commercial Space Flight Authority relating to rate structures or charges for the use of projects of, the sale of products of, or services rendered by the Authority if disclosure of such information would adversely affect the financial interest or bargaining position of the Authority or a private entity providing the information to the Authority; or

b. Information provided by a private entity to the Commercial Space Flight Authority if disclosure of such information would (i) reveal (a) trade secrets of the private entity as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.); (b) financial information of the private entity, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise; or (c) other information submitted by the private entity and (ii) adversely affect the financial interest or bargaining position of the Authority or private entity.

In order for the information specified in clauses (a), (b), and (c) of subdivision 24 b to be excluded from the provisions of this chapter, the private entity shall make a written request to the Authority:

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

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

(3) Stating the reasons why protection is necessary.

The Authority shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets or financial information of the private entity. To protect other information submitted by the private entity from disclosure, the Authority shall determine whether public disclosure would adversely affect the financial interest or bargaining position of the Authority or private entity. The Authority shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

25. Information of a proprietary nature furnished by an agricultural landowner or operator to the Department of Conservation and Recreation, the Department of Environmental Quality, the Department of Agriculture and Consumer Services, or any political subdivision, agency, or board of the Commonwealth pursuant to §§ 10.1-104.7, 10.1-104.8, and 10.1-104.9, other than when required as part of a state or federal regulatory enforcement action.

26. Trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), provided to the Department of Environmental Quality pursuant to the provisions of § 10.1-1458. In order for such trade secrets to be excluded from the provisions of this chapter, the submitting party shall (i) invoke this exclusion upon submission of the data or materials for which protection from disclosure is sought, (ii) identify the data or materials for which protection is sought, and (iii) state the reasons why protection is necessary.

27. Information of a proprietary nature furnished by a licensed public-use airport to the Department of Aviation for funding from programs administered by the Department of Aviation or the Virginia Aviation Board, where if such information was made public, the financial interest of the public-use airport would be adversely affected.

In order for the information specified in this subdivision to be excluded from the provisions of this chapter, the public-use airport shall make a written request to the Department of Aviation:

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

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

c. Stating the reasons why protection is necessary.

28. ~~Records submitted as~~ *Information relating to a grant or loan application, or accompanying a grant or loan application, for an award from submitted to the Virginia Research Investment Fund Committee established pursuant to Article 8 (§ 23.1-3130 et seq.) of Chapter 31 of Title 23.1, to the extent that such records contain proprietary business or research-related information produced or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, if the disclosure of such information would be harmful to the competitive position of the applicant would (i) reveal (a) trade secrets as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.); (b) financial information of a party to a grant or loan application that is not a public body, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise; or (c) research-related information produced or collected by a party to the application in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of a party to a grant or loan application; and memoranda, staff evaluations, or other information prepared by the Committee or its staff, or a reviewing entity pursuant to subsection D of § 23.1-3133, exclusively for the evaluation of grant or loan applications, including any scoring or prioritization documents prepared for and forwarded to the Committee pursuant to subsection D of § 23.1-3133.*

In order for the information submitted by the applicant and specified in this subdivision to be excluded from the provisions of this chapter, the applicant shall make a written request to the Committee:

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

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

*c. Stating the reasons why protection is necessary.*

*The Virginia Research Investment Committee shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets, financial information, or research-related information of the party to the application. The Committee shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.*

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

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

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

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

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

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

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

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

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

8. In the case of boards of visitors of public institutions of higher education, discussion or consideration of matters relating to gifts, bequests and fund-raising activities, and grants and contracts for services or work to be performed by such institution. However, the terms and conditions of any such gifts, bequests, grants, and contracts made by a foreign government, a foreign legal entity, or a foreign person and accepted by a public institution of higher education in Virginia shall be subject to public disclosure upon written request to the appropriate board of visitors. For the purpose of this subdivision, (i) "foreign government" means any government other than the United States government or the government of a state or a political subdivision thereof; (ii) "foreign legal entity" means any legal entity created under the laws of the United States or of any state thereof if a majority of the ownership of the stock of such legal entity is owned by foreign governments or foreign persons or if a majority of the membership of any such entity is composed of foreign persons or foreign legal entities, or any legal entity created under the laws of a foreign government; and (iii) "foreign person" means any individual who is not a citizen or national of the United States or a trust territory or protectorate thereof.

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

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

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

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

13. Discussion of strategy with respect to the negotiation of a hazardous waste siting agreement or to consider the terms, conditions, and provisions of a hazardous waste siting agreement if the governing body in open meeting finds that an open meeting will have an adverse effect upon the negotiating position of the governing body or the establishment of the

terms, conditions and provisions of the siting agreement, or both. All discussions with the applicant or its representatives may be conducted in a closed meeting.

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

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

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

17. Those portions of meetings by local government crime commissions where the identity of, or information tending to identify, individuals providing information about crimes or criminal activities under a promise of anonymity is discussed or disclosed.

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

19. Discussion of plans to protect public safety as it relates to terrorist activity or specific cybersecurity threats or vulnerabilities and briefings by staff members, legal counsel, or law-enforcement or emergency service officials concerning actions taken to respond to such matters or a related threat to public safety; discussion of information excluded from this chapter pursuant to subdivision 3 or 4 of § 2.2-3705.2, where discussion in an open meeting would jeopardize the safety of any person or the security of any facility, building, structure, information technology system, or software program; or discussion of reports or plans related to the security of any governmental facility, building or structure, or the safety of persons using such facility, building or structure.

20. Discussion by the Board of the Virginia Retirement System, acting pursuant to § 51.1-124.30, or of any local retirement system, acting pursuant to § 51.1-803, or of the Rector and Visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the Board of the Virginia College Savings Plan, acting pursuant to § 23.1-706, regarding the acquisition, holding or disposition of a security or other ownership interest in an entity, where such security or ownership interest is not traded on a governmentally regulated securities exchange, to the extent that such discussion (i) concerns confidential analyses prepared for the Rector and Visitors of the University of Virginia, prepared by the retirement system or by the Virginia College Savings Plan or provided to the retirement system or the Virginia College Savings Plan under a promise of confidentiality, of the future value of such ownership interest or the future financial performance of the entity, and (ii) would have an adverse effect on the value of the investment to be acquired, held or disposed of by the retirement system, the Rector and Visitors of the University of Virginia, or the Virginia College Savings Plan. Nothing in this subdivision shall be construed to prevent the disclosure of information relating to the identity of any investment held, the amount invested or the present value of such investment.

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

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

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

exclusion shall also apply when the foregoing discussions occur at a meeting of the Virginia Commonwealth University Board of Visitors.

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

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

26. Discussion or consideration, by the Wireless Carrier E-911 Cost Recovery Subcommittee created pursuant to § 56-484.15, of trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), submitted by CMRS providers as defined in § 56-484.12, related to the provision of wireless E-911 service.

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

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

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

30. Discussion or consideration of grant or loan application information excluded from this chapter pursuant to subdivision 17 of § 2.2-3705.6 by (i) the Commonwealth Health Research Board or (ii) the Innovation and Entrepreneurship Investment Authority or the Research and Technology Investment Advisory Committee appointed to advise the Innovation and Entrepreneurship Investment Authority.

31. Discussion or consideration by the Commitment Review Committee of information excluded from this chapter pursuant to subdivision 8 of § 2.2-3705.2 relating to individuals subject to commitment as sexually violent predators under Chapter 9 (§ 37.2-900 et seq.) of Title 37.2.

32. [Expired.]

33. Discussion or consideration of confidential proprietary information and trade secrets excluded from this chapter pursuant to subdivision 18 of § 2.2-3705.6. However, the exemption provided by this subdivision shall not apply to any authority created pursuant to the BVU Authority Act (§ 15.2-7200 et seq.).

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

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

36. Discussion or consideration by the Forensic Science Board or the Scientific Advisory Committee created pursuant to Article 2 (§ 9.1-1109 et seq.) of Chapter 11 of Title 9.1 of records excluded from this chapter pursuant to subdivision A 2 a of § 2.2-3706.

37. Discussion or consideration by the Brown v. Board of Education Scholarship Program Awards Committee of information or confidential matters excluded from this chapter pursuant to subdivision 3 of § 2.2-3705.4, and meetings of the Committee to deliberate concerning the annual maximum scholarship award, review and consider scholarship applications and requests for scholarship award renewal, and cancel, rescind, or recover scholarship awards.

38. Discussion or consideration by the Virginia Port Authority of information excluded from this chapter pursuant to subdivision 1 of § 2.2-3705.6.

39. Discussion or consideration by the Board of Trustees of the Virginia Retirement System acting pursuant to § 51.1-124.30, by the Investment Advisory Committee appointed pursuant to § 51.1-124.26, by any local retirement system, acting pursuant to § 51.1-803, by the Board of the Virginia College Savings Plan acting pursuant to § 23.1-706, or by the Virginia College Savings Plan's Investment Advisory Committee appointed pursuant to § 23.1-702 of information excluded from this chapter pursuant to subdivision 25 of § 2.2-3705.7.

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

41. Discussion or consideration by the Board of Education of information relating to the denial, suspension, or revocation of teacher licenses excluded from this chapter pursuant to subdivision 12 of § 2.2-3705.3.

42. Those portions of meetings of the Virginia Military Advisory Council or any commission created by executive order for the purpose of studying and making recommendations regarding preventing closure or realignment of federal military and national security installations and facilities located in Virginia and relocation of such facilities to Virginia, or a local or regional military affairs organization appointed by a local governing body, during which there is discussion of information excluded from this chapter pursuant to subdivision 11 of § 2.2-3705.2.

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

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

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

46. Discussion or consideration of personal and proprietary information that are excluded from the provisions of this chapter pursuant to (i) subdivision 25 of § 2.2-3705.6 or (ii) subsection E of § 10.1-104.7. This exclusion shall not apply to the discussion or consideration of records that contain information that has been certified for release by the person who is the subject of the information or transformed into a statistical or aggregate form that does not allow identification of the person who supplied, or is the subject of, the information.

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

48. Discussion or consideration of grant or loan application records excluded from this chapter pursuant to subdivision 28 of § 2.2-3705.6 related to the submission of an application for an award from the Virginia Research Investment Fund pursuant to Article 8 (§ 23.1-3130 et seq.) of Chapter 31 of Title 23.1 *or interviews of parties to an application by a reviewing entity pursuant to subsection D of § 23.1-3133 or by the Virginia Research Investment Committee.*

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

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

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

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

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

### § 23.1-203. Duties of Council.

The Council shall:

1. Develop a statewide strategic plan that (i) reflects the goals set forth in subsection A of § 23.1-1002 or (ii) once adopted, reflects the goals and objectives developed pursuant to subdivision B 5 of § 23.1-309 for higher education in the Commonwealth, identifies a coordinated approach to such state and regional goals, and emphasizes the future needs for higher education in the Commonwealth at both the undergraduate and the graduate levels and the mission, programs, facilities, and location of each of the existing institutions of higher education, each public institution's six-year plan, and such other matters as the Council deems appropriate. The Council shall revise such plan at least once every six years and shall submit such recommendations as are necessary for the implementation of the plan to the Governor and the General Assembly.

2. Review and approve or disapprove any proposed change in the statement of mission of any public institution of higher education and define the mission of all newly created public institutions of higher education. The Council shall report such approvals, disapprovals, and definitions to the Governor and the General Assembly at least once every six years. No such actions shall become effective until 30 days after adjournment of the session of the General Assembly next following the filing of such a report. Nothing in this subdivision shall be construed to authorize the Council to modify any mission statement adopted by the General Assembly or empower the Council to affect, either directly or indirectly, the selection of faculty or the standards and criteria for admission of any public institution of higher education, whether relating to academic standards, residence, or other criteria. Faculty selection and student admission policies shall remain a function of the individual public institutions of higher education.

3. Study any proposed escalation of any public institution of higher education to a degree-granting level higher than that level to which it is presently restricted and submit a report and recommendation to the Governor and the General Assembly relating to the proposal. The study shall include the need for and benefits or detriments to be derived from the escalation. No such institution shall implement any such proposed escalation until the Council's report and recommendation have been submitted to the General Assembly and the General Assembly approves the institution's proposal.

4. Review and approve or disapprove all enrollment projections proposed by each public institution of higher education. The Council's projections shall be organized numerically by level of enrollment and shall be used solely for budgetary, fiscal, and strategic planning purposes. The Council shall develop estimates of the number of degrees to be awarded by each public institution of higher education and include those estimates in its reports of enrollment projections. The student admissions policies for such institutions and their specific programs shall remain the sole responsibility of the individual governing boards but all baccalaureate public institutions of higher education shall adopt dual admissions policies with comprehensive community colleges as required by § 23.1-907.

5. Review and approve or disapprove all new undergraduate or graduate academic programs that any public institution of higher education proposes.

6. Review and require the discontinuance of any undergraduate or graduate academic program that is presently offered by any public institution of higher education when the Council determines that such academic program is (i) nonproductive in terms of the number of degrees granted, the number of students served by the program, the program's effectiveness, and budgetary considerations or (ii) supported by state funds and unnecessarily duplicative of academic programs offered at other public institutions of higher education. The Council shall make a report to the Governor and the General Assembly with respect to the discontinuance of any such academic program. No such discontinuance shall become effective until 30 days after the adjournment of the session of the General Assembly next following the filing of such report.

7. Review and approve or disapprove the establishment of any department, school, college, branch, division, or extension of any public institution of higher education that such institution proposes to establish, whether located on or off the main campus of such institution. If any organizational change is determined by the Council to be proposed solely for the purpose of internal management and the institution's curricular offerings remain constant, the Council shall approve the proposed change. Nothing in this subdivision shall be construed to authorize the Council to disapprove the establishment of any such department, school, college, branch, division, or extension established by the General Assembly.

8. Review the proposed closure of any academic program in a high demand or critical shortage area, as defined by the Council, by any public institution of higher education and assist in the development of an orderly closure plan, when needed.

9. Develop a uniform, comprehensive data information system designed to gather all information necessary to the performance of the Council's duties. The system shall include information on admissions, enrollment, self-identified students with documented disabilities, personnel, programs, financing, space inventory, facilities, and such other areas as the Council deems appropriate. When consistent with the Government Data Collection and Dissemination Practices Act (§ 2.2-3800 et seq.), the Virginia Unemployment Compensation Act (§ 60.2-100 et seq.), and applicable federal law, the Council, acting solely or in partnership with the Virginia Department of Education or the Virginia Employment Commission, may contract with private entities to create de-identified student records in which all personally identifiable information has been removed for the purpose of assessing the performance of institutions and specific programs relative to the workforce needs of the Commonwealth.

10. In cooperation with public institutions of higher education, develop guidelines for the assessment of student achievement. Each such institution shall use an approved program that complies with the guidelines of the Council and is consistent with the institution's mission and educational objectives in the development of such assessment. The Council shall report each institution's assessment of student achievement in the revisions to the Commonwealth's statewide strategic plan for higher education.

11. In cooperation with the appropriate state financial and accounting officials, develop and establish uniform standards and systems of accounting, recordkeeping, and statistical reporting for public institutions of higher education.

12. Review biennially and approve or disapprove all changes in the inventory of educational and general space that any public institution of higher education proposes and report such approvals and disapprovals to the Governor and the General Assembly. No such change shall become effective until 30 days after the adjournment of the session of the General Assembly next following the filing of such report.

13. Visit and study the operations of each public institution of higher education at such times as the Council deems appropriate and conduct such other studies in the field of higher education as the Council deems appropriate or as may be requested by the Governor or the General Assembly.

14. Provide advisory services to each accredited nonprofit private institution of higher education whose primary purpose is to provide collegiate or graduate education and not to provide religious training or theological education on academic, administrative, financial, and space utilization matters. The Council may review and advise on joint activities, including contracts for services between public and such private institutions of higher education or between such private institutions of higher education and any agency or political subdivision of the Commonwealth.

15. Adopt such policies and regulations as the Council deems necessary to implement its duties established by state law. Each public institution of higher education shall comply with such policies and regulations.

16. Issue guidelines consistent with the provisions of the federal Family Educational Rights and Privacy Act (20 U.S.C. § 1232g), requiring public institutions of higher education to release a student's academic and disciplinary record to a student's parent.

17. Require each institution of higher education formed, chartered, or established in the Commonwealth after July 1, 1980, to ensure the preservation of student transcripts in the event of institutional closure or revocation of approval to operate in the Commonwealth. An institution may ensure the preservation of student transcripts by binding agreement

with another institution of higher education with which it is not corporately connected or in such other way as the Council may authorize by regulation. In the event that an institution closes or has its approval to operate in the Commonwealth revoked, the Council, through its director, may take such action as is necessary to secure and preserve the student transcripts until such time as an appropriate institution accepts all or some of the transcripts. Nothing in this subdivision shall be deemed to interfere with the right of a student to his own transcripts or authorize disclosure of student records except as may otherwise be authorized by law.

18. Require the development and submission of articulation, dual admissions, and guaranteed admissions agreements between associate-degree-granting and baccalaureate public institutions of higher education.

19. Provide periodic updates of base adequacy funding guidelines adopted by the Joint Subcommittee Studying Higher Education Funding Policies for each public institution of higher education.

20. In consultation with each public institution of higher education, develop a one-year uniform certificate of general studies program to be offered at each comprehensive community college. Such program shall ensure that a comprehensive community college student who completes the one-year certificate program is eligible to transfer all credits earned in academic subject coursework to a baccalaureate public institution of higher education upon acceptance to such baccalaureate institution.

21. Cooperate with the Board of Education in matters of interest to both public elementary and secondary schools and public institutions of higher education, particularly in connection with coordination of the college admission requirements, coordination of teacher training programs with the public school programs, and the Board's Six-Year Educational Technology Plan for Virginia. The Council shall encourage public institutions of higher education to design programs that include the skills necessary for the successful implementation of such Plan.

22. Advise and provide technical assistance to the Brown v. Board of Education Scholarship Committee in the implementation and administration of the Brown v. Board of Education Scholarship Program pursuant to Chapter 34.1 (§ 30-231.01 et seq.) of Title 30.

23. Insofar as possible, seek the cooperation and utilize the facilities of existing state departments, institutions, and agencies in carrying out its duties.

24. Serve as the coordinating council for public institutions of higher education.

25. Serve as the planning and coordinating agency for all postsecondary educational programs for all health professions and occupations and make recommendations, including those relating to financing, for providing adequate and coordinated educational programs to produce an appropriate supply of properly trained personnel. The Council may conduct such studies as it deems appropriate in furtherance of the requirements of this subdivision. All state departments and agencies shall cooperate with the Council in the execution of its responsibilities under this subdivision.

26. Carry out such duties as the Governor may assign to it in response to agency designations requested by the federal government.

27. Insofar as practicable, preserve the individuality, traditions, and sense of responsibility of each public institution of higher education in carrying out its duties.

28. Insofar as practicable, seek the assistance and advice of each public institution of higher education in fulfilling its duties and responsibilities.

29. ~~Assist~~ *Develop the Commonwealth Research and Technology Strategic Roadmap pursuant to the provisions of § 23.1-3134 to be submitted to the Virginia Research Investment Committee for approval, and otherwise assist the Virginia Research Investment Committee with the administration of the Virginia Research Investment Fund consistent with the provisions of Article 8 (§ 23.1-3130 et seq.) of Chapter 31.*

#### Article 8.

#### Virginia Research Investment Fund Committee.

#### § 23.1-3130. Definitions.

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

"Board" means a ~~policy board in the executive branch of government that (i) was created by the 2016 Session of the General Assembly, (ii) has a legislatively stated purpose of promoting collaborative regional economic and workforce development opportunities and activities, and (iii) has membership consisting of members of the House of Delegates, members of the Senate, members of the Governor's Cabinet, and nonlegislative citizen appointees the Virginia Growth and Opportunity Board established pursuant to § 2.2-2485.~~

"Board of Trustees" means the Board of Trustees of the Virginia Retirement System established pursuant to § 51.1-124.20.

"Committee" means the Virginia Research Investment Committee established pursuant to § 23.1-3132.

"Council" means the State Council of Higher Education for Virginia.

"Fund" means the Virginia Research Investment Fund established in § 23.1-3131.

"Roadmap" means the Commonwealth Research and Technology Strategic Roadmap developed pursuant to § 23.1-3134.

#### § 23.1-3131. Virginia Research Investment Fund.

A. There is hereby created in the state treasury a special nonreverting revolving fund to be known as the Virginia Research Investment Fund. The Fund shall be established on the books of the Comptroller. All moneys appropriated by the General Assembly for the Fund, and from any other sources public or private, shall be paid into the state treasury and

credited to the Fund. Interest and other income earned on the Fund shall be credited to the Fund. Any moneys remaining in the Fund, including interest and other income thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund.

B. 1. Notwithstanding any other provision of law, the General Assembly may specifically designate that certain moneys appropriated to the Fund be invested, reinvested, and managed by the Board of ~~the Virginia Retirement System Trustees~~ as provided in § 51.1-124.38. The State Treasurer shall not be held liable for losses suffered by the Virginia Retirement System on investments made under the authority of this subsection.

2. No more than \$4 million of moneys so invested, net of any administrative fee assessed pursuant to subsection E of § 51.1-124.38, may be awarded through grants or loans in a fiscal year for any purpose permitted by this article. At the direction of the Committee, the State Comptroller may annually request a disbursement of \$4 million from the moneys invested by the Board of ~~the Virginia Retirement System Trustees~~, to be held with other moneys in the Fund not subject to such investment. At the end of each fiscal year, if less than \$4 million of such annual allocation is awarded as grants or loans in a calendar year, the Comptroller shall return the remainder of the annual \$4 million allocation to the Board of ~~the Virginia Retirement System Trustees~~ for reinvestment pursuant to § 51.1-124.38.

3. Any loans awarded pursuant to this article shall be paid by the Comptroller from the \$4 million annual allocation set forth in subdivision 2. The recipient of a loan shall repay the loan pursuant to the terms set forth by the Committee. At the end of each fiscal year, the Comptroller shall return any repayments received from loan recipients to the Board of ~~the Virginia Retirement System Trustees~~ for reinvestment pursuant to § 51.1-124.38.

C. 1. Moneys in the Fund shall be used ~~solely primarily~~ for grants and loans to (i) ~~promote research and development excellence in the Commonwealth;~~ (ii) foster innovative and collaborative research, development, and commercialization efforts in the Commonwealth in projects and programs with a high potential for economic development and job creation opportunities; ~~(iii) (ii)~~ position the Commonwealth as a national leader in science-based and technology-based research, development, and commercialization; ~~(iv) (iii)~~ attract and effectively recruit and retain eminent researchers to enhance research superiority at public institutions of higher education; and ~~(v) (iv)~~ encourage cooperation and collaboration among ~~public institutions of higher education research institutions,~~ and with the private sector, in areas and with activities that foster economic development and job creation in the Commonwealth. ~~Areas~~

2. Grants and loans from the Fund for innovative research, development, and commercialization efforts, projects, and programs shall (i) be awarded in areas of focus for awards shall be those areas identified in the ~~Commonwealth Research and Technology Strategic Roadmap;~~ and shall include but not be limited to the biosciences, personalized medicine, cybersecurity, data analytics, and other areas designated in the general appropriation act; (ii) be awarded solely to public institutions of higher education in the Commonwealth or collaborations between the public institutions of higher education and private entities; and (iii) require a match of funds at least equal to the amount awarded.

3. Moneys in the Fund may be used to pay administrative fees assessed by the Board of Trustees for its services in investing Fund moneys pursuant to § 51.1-124.38.

D. The disbursement of grants and loans, ~~and the payment of administrative costs and service fees,~~ from the Fund shall be made by the State Comptroller at the written request of the Committee.

#### § 23.1-3132. Virginia Research Investment Committee; report.

A. There is hereby established the Virginia Research Investment Committee to (i) promote research and development excellence in the Commonwealth; (ii) provide guidance, and coordination as deemed necessary, to existent efforts to support research in the Commonwealth with commercial potential; (iii) approve the Roadmap; and (iv) evaluate and award grants and loans from the Fund pursuant to the provisions of this article.

B. The Committee shall consist of ~~the following members:~~ the Director of the Council, the Secretary of Technology, the Secretary of Finance, and the staff directors of the House Committee on Appropriations and the Senate Committee on Finance, ~~one all of whom shall serve ex officio with voting privileges, and four nonlegislative citizen member members of the Board to be appointed as follows: one appointed by the Speaker of the House of Delegates, one nonlegislative citizen member appointed by the Senate Committee on Rules, and two nonlegislative citizen members appointed by the Governor. If the Board exists, the nonlegislative citizen members appointed by the Speaker of the House, the Senate Committee on Rules, and the Governor shall be nonlegislative citizen members of the Board.~~

C. Ex officio members shall serve terms coincident with their terms of office. ~~If the Board does not exist, nonlegislative citizen members shall be appointed to a term of four years, and no nonlegislative citizen member shall serve more than two consecutive four-year terms. If the Board exists, nonlegislative citizen members shall serve terms coincident with their terms on the Board. Vacancies shall be filled in the same manner as the original appointments.~~

D. The Director of the Council shall serve as the chairman of the Committee.

E. The Committee shall report to the Governor and the Chairmen of the House Committee on Appropriations and the Senate Committee on Finance no later than November 1 of each year. The report shall include details about awards made from the Fund in the immediately preceding fiscal year and updates on the research, development, and commercialization efforts resulting from such awards.

#### § 23.1-3133. Award from Virginia Research Investment Fund.

A. 1. The Council, in consultation with the Committee, shall establish ~~the initial~~ guidelines, procedures, and objective criteria for (i) the application for ~~and award of~~ grants and loans from the Fund; (ii) ~~the review, certification of scientific merits, and scoring or prioritization of applications for grants and loans from the Fund;~~ and (iii) ~~the evaluation and award~~

by the Committee of grants and loans from the Fund. After the adoption of the initial guidelines, procedures, and criteria, the Committee shall be responsible for maintaining, administering, updating, and approving the guidelines, procedures, and criteria, with the assistance of staff of the Council.

2. Such guidelines, procedures, and criteria, and any updates thereto, shall be submitted to the House Committee on Appropriations and the Senate Committee on Finance.

~~B. The guidelines, procedures, and criteria for the award of grants and loans shall include, but not be limited to, requirements that applicants demonstrate and that the reviewers and the Committee consider other:~~

~~1. Other grants, awards, loans, or funds awarded to the proposed program or project by the Commonwealth and shall require an applicant to indicate other;~~

~~2. Other applications from the applicant for state grants, awards, loans, or funds currently pending at the time of the application for an award from the Fund. The criteria shall consider the; and~~

~~3. The potential of the program or project for which a grant or loan is sought to (i) culminate in the commercialization of research; (ii) culminate in the formation or spin-off of viable bioscience, biotechnology, cybersecurity, genomics, or similar companies; (iii) promote the build-out of scientific areas of expertise in science and technology; (iv) promote applied research and development in the areas of focus identified in the Roadmap; (v) provide modern facilities or infrastructure for research and development; (vi) result in significant capital investment and job creation; or (vii) promote collaboration among the public institutions of higher education in the Commonwealth. Such criteria shall also require that the program or project for which a grant or loan is sought be related to an area identified in the Commonwealth Research Technology Strategic Roadmap.~~

~~B. Grants and loans may be awarded to public institutions of higher education in the Commonwealth or collaborations between public institutions of higher education in the Commonwealth and private entities. Any award from the Fund shall require a match of funds at least equal to the amount of the award.~~

~~C. Applications Upon establishment or update of the guidelines, procedures, and criteria, the Committee shall (i) announce publicly these policies and principles, (ii) open and initiate the application process, and (iii) receive applications for grants and loans from the Fund shall be received by the Council in accordance with the procedures developed pursuant to subsection A B.~~

~~D. Upon confirmation that an application is complete, the staff of the Council shall forward the application to an entity with recognized science and technology expertise for a review and certification of the scientific merits of the proposal, including a scoring or prioritization of applicant programs and projects deemed viable by the reviewing entity. Such entities include, but are not limited to, the Virginia Biosciences Health Research Corporation, the Innovation and Entrepreneurship Investment Authority, the Virginia Academy of Science, Engineering and Medicine, or any other entity deemed appropriate by the Council, including a scientific advisory committee created by the Council for the sole purpose of reviewing one or more applications received pursuant to this article.~~

~~D. Any proposal E. Upon an application receiving a favorable evaluation pursuant to subsection C D, the Council shall be forwarded forward the application, along with the scoring or prioritization, to the Committee for further review and a decision whether to award the proposal a grant or loan from the Fund.~~

~~F. 1. Upon receipt of a reviewed application, the Committee shall evaluate the application in accordance with the criteria developed in subsection B, taking into account the review, scoring, or prioritization received in accordance with subsection D. The Committee shall then decide whether to approve the application for an award of a grant or loan from the Fund.~~

~~2. The award of a grant or loan from the Fund shall be subject to any terms and conditions set forth by the Committee for the award.~~

~~3. All decisions by the Committee shall be final and not subject to further review or appeal.~~

~~4. The Governor may announce any award approved by the Committee.~~

**§ 23.1-3134. Commonwealth Research and Technology Strategic Roadmap.**

~~A. The Committee shall approve a Commonwealth Research and Technology Strategic Roadmap, a comprehensive research and technology strategic roadmap for the Commonwealth to identify research areas worthy of economic development and institutional focus. The goal of the Roadmap shall be to develop a cohesive and comprehensive framework through which to encourage collaboration between the Commonwealth's institutions of higher education, private sector industries, and economic development entities in order to focus on the complete life cycle of research, development, and commercialization. The framework shall serve as a means to (i) identify the Commonwealth's key industry sectors in which investments in technology should be made by the Commonwealth; (ii) identify basic and applied research opportunities in these sectors that exhibit commercial promise; (iii) encourage commercialization and economic development activities in the Commonwealth in these sectors; and (iv) help ensure that all investments of public funds in the Commonwealth in basic and applied research are made prudently in focused areas for projects with significant potential for commercialization and economic growth in the Commonwealth.~~

~~B. The Roadmap shall be used to determine areas of focus for awards by the Committee from the Fund and by the Innovation and Entrepreneurship Investment Authority from the Commonwealth Research Commercialization Fund established pursuant to § 2.2-2233.1. Awards from such funds may be made for research activities related to areas of focus other than those identified in the Roadmap only upon a written finding by the respective awarding entity that it is in the Commonwealth's best interest to deviate from the areas set forth in the Roadmap.~~

*C. The Council shall develop the Roadmap and submit it to the Committee for review and approval. In developing the Roadmap, the Council shall select and oversee a panel of independent experts who shall:*

*1. Consult with the chief research officers at public institutions of higher education in the Commonwealth regarding the strategic plan for each institution in order to identify common themes;*

*2. Consult with public institutions of higher education in the Commonwealth, the Innovation and Entrepreneurship Investment Authority, the Virginia Economic Development Partnership, and any other entity deemed relevant to catalog the Commonwealth's assets in order to identify the areas of research and development in which the Commonwealth has a great likelihood of excelling in applied research and commercialization;*

*3. Make recommendations for the alignment of research and development and economic growth in the Commonwealth, identifying the industry sectors in which the Commonwealth should focus its research, development, investment, and economic development efforts;*

*4. Establish a process for maintaining an inventory of the Commonwealth's current research and development endeavors in both the public and private sectors that can be used to attract research and commercialization excellence in the Commonwealth;*

*5. Make recommendations to the Six-Year Capital Outlay Plan Advisory Committee established pursuant to § 2.2-1516 regarding capital construction needs at public institutions of higher education necessary to excel in basic and applied research in identified industry sectors; and*

*6. Solicit feedback from the Committee, the Research and Technology Investment Advisory Committee; public and private institutions of higher education in the Commonwealth; members of the National Academies of Sciences, Engineering and Medicine; members of the Virginia Academy of Science, Engineering and Medicine; federal research and development assets in the Commonwealth; regional technology councils in the Commonwealth; the Virginia Economic Development Partnership; the Board; and the private sector.*

*In selecting the panel of experts pursuant to this subsection, the Council shall ensure that no individuals on the panel are involved, nor have been involved within the past three years, with the application, review, or award process governed by § 2.2-2233.1 or 23.1-3133.*

*D. The Council shall review the Roadmap and make recommendations regarding its update at least once every three years. Such recommended updates shall be submitted to the Committee for review and approval.*

*E. The Committee shall submit a draft of the Roadmap to the Governor and the Chairmen of the Senate Finance Committee, the House Appropriations Committee, and the Joint Commission on Technology and Science at least 30 days prior to Committee voting to approve the Roadmap or any subsequent updates. The Committee shall submit the Roadmap and any subsequent updates approved by it to the Governor for final approval. Unless the Governor returns such submissions to the Committee within 30 days of receipt with specific directions for changes or revisions, the Roadmap or updates shall be deemed approved and ready for implementation. Upon final approval, the Committee shall submit the approved Roadmap, and any subsequent updates, to the Chairmen of the Senate Finance Committee, the House Appropriations Committee, and the Joint Commission on Technology and Science.*

**2. That § 2.2-2221.2 of the Code of Virginia is repealed effective January 1, 2018.**

**3. That § 2.2-2221 of the Code of Virginia, as amended by this act, and § 23.1-3134 of the Code of Virginia, as created by this act, shall become effective on January 1, 2018.**

**4. That the State Council of Higher Education for Virginia and the Virginia Research Investment Committee shall collaborate with the Innovation and Entrepreneurship Investment Authority in updating the current Commonwealth Research and Technology Strategic Roadmap, which shall be submitted prior to January 1, 2018, pursuant to subsection D of § 2.2-2221.2 of the Code of Virginia. The Innovation and Entrepreneurship Investment Authority shall provide interim updates to the Virginia Research Investment Committee regarding its work on the Commonwealth Research and Technology Strategic Roadmap.**

## CHAPTER 797

*An Act to amend and reenact § 20-107.3 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 20-107.1:1, relating to award of life insurance upon divorce or dissolution of marriage.*

[H 2289]

Approved April 5, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 20-107.3 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 20-107.1:1 as follows:**

**§ 20-107.1:1. Court may decree as to maintenance of life insurance policy.**

*A. Upon entry of a decree providing for (i) the dissolution of a marriage, (ii) a divorce, whether from the bond of matrimony or from bed and board, or (iii) separate maintenance, where an order for spousal support or separate maintenance has been entered by the court, the court may order a party to (a) maintain any existing life insurance policy on the insured party's life that was purchased during the marriage, is issued through the insured's employment, or is within effective control of the insured, provided that the party so ordered has the right to designate a beneficiary and that the payee*

has been designated as a beneficiary of such policy during the marriage and the payee is a party with an insurable interest pursuant to subsection B of § 38.2-301; (b) designate the other party as beneficiary of all or a portion of the death benefit of such life insurance for so long as the insured party so ordered has an obligation to pay spousal support to the other party, provided that the party so ordered has the right to designate a beneficiary and that the payee has been designated as a beneficiary of such policy during the marriage and the payee is a party with an insurable interest pursuant to subsection B of § 38.2-301 in accordance with the terms of the policy; (c) allocate the premium cost of such life insurance between the parties, provided that all premiums shall be billed to the policyholder; and (d) order the insured party to execute all appropriate forms or written consents to require the insurer to provide information to the party beneficiary as to the good standing of the policy and the maintenance of that party as beneficiary to the extent required by the order entered pursuant to this section. Any obligation or requirement under such an order shall cease upon the termination of the party's obligation to pay spousal support or separate maintenance.

B. In making a determination under subsection A, the court shall consider:

1. The age, health, and insurability of the insured party;
2. The age and health of the payee spouse;
3. The cost of the life insurance policy;
4. The amount and term of the award of spousal support or separate maintenance;
5. The prevailing insurance rates at the time of the order;
6. The ability of either spouse to pay the premium cost of the life insurance; and
7. Such other factors as the court deems necessary or appropriate to consider in order to arrive at a fair order.

C. Upon motion of either party, any order entered pursuant to this section may be modified upon a material change of circumstances, including a change in marital status of the payor spouse, and in consideration of the factors set forth in subsection B. This provision shall not permit the change in marital status of the payor spouse to be considered as a factor under § 20-107.1 or considered a material change in circumstances in any proceeding related to the modification of spousal support.

D. Nothing in this section shall be construed to create an independent cause of action on the part of any beneficiary against the insurer or to require an insurer to provide information relating to such policy to any person other than the policyholder without the written consent of the policyholder or unless ordered by the court.

E. Nothing in this section shall be construed to require an insurance company to renew or reinstate any insurance policy other than as provided in such insurance policy.

F. In the event a group policy issued by an employer that is subject to a court order pursuant to this section is terminated or canceled by the employer or there is an involuntary change in employment by the payor causing the policy to no longer be in effect, such circumstances shall not be the basis of any finding of contempt against the payor arising out of an order entered pursuant to this section.

G. This section shall not apply to any second to die insurance policies on the lives of the payor and payee.

H. In the case of a term life insurance policy that has the ability to convert to a permanent policy, the court shall not impose an obligation to pay for such a conversion.

### **§ 20-107.3. Court may decree as to property and debts of the parties.**

A. Upon decreeing the dissolution of a marriage, and also upon decreeing a divorce from the bond of matrimony, or upon the filing with the court as provided in subsection J of a certified copy of a final divorce decree obtained without the Commonwealth, the court, upon request of either party, (i) shall determine the legal title as between the parties, and the ownership and value of all property, real or personal, tangible or intangible, of the parties and shall consider which of such property is separate property, which is marital property, and which is part separate and part marital property in accordance with subdivision A 3 and (ii) shall determine the nature of all debts of the parties, or either of them, and shall consider which of such debts is separate debt and which is marital debt. The court shall determine the value of any such property as of the date of the evidentiary hearing on the evaluation issue. The court shall determine the amount of any such debt as of the date of the last separation of the parties, if at such time or thereafter at least one of the parties intends that the separation be permanent, and the extent to which such debt has increased or decreased from the date of separation until the date of the evidentiary hearing. Upon motion of either party made no less than 21 days before the evidentiary hearing the court may, for good cause shown, in order to attain the ends of justice, order that a different valuation date be used. The court, on the motion of either party, may retain jurisdiction in the final decree of divorce to adjudicate the remedy provided by this section when the court determines that such action is clearly necessary, and all decrees heretofore entered retaining such jurisdiction are validated.

1. Separate property is (i) all property, real and personal, acquired by either party before the marriage; (ii) all property acquired during the marriage by bequest, devise, descent, survivorship or gift from a source other than the other party; (iii) all property acquired during the marriage in exchange for or from the proceeds of sale of separate property, provided that such property acquired during the marriage is maintained as separate property; and (iv) that part of any property classified as separate pursuant to subdivision A 3. Income received from separate property during the marriage is separate property if not attributable to the personal effort of either party. The increase in value of separate property during the marriage is separate property, unless marital property or the personal efforts of either party have contributed to such increases and then only to the extent of the increases in value attributable to such contributions. The personal efforts of

either party must be significant and result in substantial appreciation of the separate property if any increase in value attributable thereto is to be considered marital property.

2. Marital property is (i) all property titled in the names of both parties, whether as joint tenants, tenants by the entirety or otherwise, except as provided by subdivision A 3, (ii) that part of any property classified as marital pursuant to subdivision A 3, or (iii) all other property acquired by each party during the marriage which is not separate property as defined above. All property including that portion of pensions, profit-sharing or deferred compensation or retirement plans of whatever nature, acquired by either spouse during the marriage, and before the last separation of the parties, if at such time or thereafter at least one of the parties intends that the separation be permanent, is presumed to be marital property in the absence of satisfactory evidence that it is separate property. For purposes of this section marital property is presumed to be jointly owned unless there is a deed, title or other clear indicia that it is not jointly owned.

3. The court shall classify property as part marital property and part separate property as follows:

a. In the case of income received from separate property during the marriage, such income shall be marital property only to the extent it is attributable to the personal efforts of either party. In the case of the increase in value of separate property during the marriage, such increase in value shall be marital property only to the extent that marital property or the personal efforts of either party have contributed to such increases, provided that any such personal efforts must be significant and result in substantial appreciation of the separate property.

For purposes of this subdivision, the nonowning spouse shall bear the burden of proving that (i) contributions of marital property or personal effort were made and (ii) the separate property increased in value. Once this burden of proof is met, the owning spouse shall bear the burden of proving that the increase in value or some portion thereof was not caused by contributions of marital property or personal effort.

"Personal effort" of a party shall be deemed to be labor, effort, inventiveness, physical or intellectual skill, creativity, or managerial, promotional or marketing activity applied directly to the separate property of either party.

b. In the case of any pension, profit-sharing, or deferred compensation plan or retirement benefit, the marital share as defined in subsection G shall be marital property.

c. In the case of any personal injury or workers' compensation recovery of either party, the marital share as defined in subsection H shall be marital property.

d. When marital property and separate property are commingled by contributing one category of property to another, resulting in the loss of identity of the contributed property, the classification of the contributed property shall be transmuted to the category of property receiving the contribution. However, to the extent the contributed property is retraceable by a preponderance of the evidence and was not a gift, such contributed property shall retain its original classification.

e. When marital property and separate property are commingled into newly acquired property resulting in the loss of identity of the contributing properties, the commingled property shall be deemed transmuted to marital property. However, to the extent the contributed property is retraceable by a preponderance of the evidence and was not a gift, the contributed property shall retain its original classification.

f. When separate property is retitled in the joint names of the parties, the retitled property shall be deemed transmuted to marital property. However, to the extent the property is retraceable by a preponderance of the evidence and was not a gift, the retitled property shall retain its original classification.

g. When the separate property of one party is commingled into the separate property of the other party, or the separate property of each party is commingled into newly acquired property, to the extent the contributed property is retraceable by a preponderance of the evidence and was not a gift, each party shall be reimbursed the value of the contributed property in any award made pursuant to this section.

h. Subdivisions A 3 d, e and f shall apply to jointly owned property. No presumption of gift shall arise under this section where (i) separate property is commingled with jointly owned property; (ii) newly acquired property is conveyed into joint ownership; or (iii) existing property is conveyed or retitled into joint ownership. For purposes of this subdivision A 3, property is jointly owned when it is titled in the name of both parties, whether as joint tenants, tenants by the entireties, or otherwise.

4. Separate debt is (i) all debt incurred by either party before the marriage, (ii) all debt incurred by either party after the date of the last separation of the parties, if at such time or thereafter at least one of the parties intends that the separation be permanent, and (iii) that part of any debt classified as separate pursuant to subdivision A 5. However, to the extent that a party can show by a preponderance of the evidence that the debt was incurred for the benefit of the marriage or family, the court may designate the debt as marital.

5. Marital debt is (i) all debt incurred in the joint names of the parties before the date of the last separation of the parties, if at such time or thereafter at least one of the parties intends that the separation be permanent, whether incurred before or after the date of the marriage, and (ii) all debt incurred in either party's name after the date of the marriage and before the date of the last separation of the parties, if at such time or thereafter at least one of the parties intends that the separation be permanent. However, to the extent that a party can show by a preponderance of the evidence that the debt, or a portion thereof, was incurred, or the proceeds secured by incurring the debt were used, in whole or in part, for a nonmarital purpose, the court may designate the entire debt as separate or a portion of the debt as marital and a portion of the debt as separate.

B. For the purposes of this section only, both parties shall be deemed to have rights and interests in the marital property. However, such interests and rights shall not attach to the legal title of such property and are only to be used as a consideration in determining a monetary award, if any, as provided in this section.

C. Except as provided in subsection G, the court shall have no authority to order the division or transfer of separate property or marital property, or separate or marital debt, which is not jointly owned or owed. However, upon a finding that separate property of one party is in the possession or control of the other party, the court may order that the property be transferred to the party whose separate property it is. The court may, based upon the factors listed in subsection E, divide or transfer or order the division or transfer, or both, of jointly owned marital property, jointly owed marital debt, or any part thereof. The court shall also have the authority to apportion and order the payment of the debts of the parties, or either of them, that are incurred prior to the dissolution of the marriage, based upon the factors listed in subsection E.

As a means of dividing or transferring the jointly owned marital property, the court may transfer or order the transfer of real or personal property or any interest therein to one of the parties, permit either party to purchase the interest of the other and direct the allocation of the proceeds, provided the party purchasing the interest of the other agrees to assume any indebtedness secured by the property, or order its sale by private sale by the parties, through such agent as the court shall direct, or by public sale as the court shall direct without the necessity for partition. All decrees entered prior to July 1, 1991, which are final and not subject to further proceedings on appeal as of that date, which divide or transfer or order the division or transfer of property directly between the parties are hereby validated and deemed self-executing. All orders or decrees which divide or transfer or order division or transfer of real property between the parties shall be recorded and indexed in the names of the parties in the appropriate grantor and grantee indexes in the land records in the clerk's office of the circuit court of the county or city in which the property is located.

D. In addition, based upon (i) the equities and the rights and interests of each party in the marital property, and (ii) the factors listed in subsection E, the court has the power to grant a monetary award, payable either in a lump sum or over a period of time in fixed amounts, to either party. The party against whom a monetary award is made may satisfy the award, in whole or in part, by conveyance of property, subject to the approval of the court. An award entered pursuant to this subsection shall constitute a judgment within the meaning of § 8.01-426 and shall not be docketed by the clerk unless the decree so directs. An award entered pursuant to this subsection may be enforceable in the same manner as any other money judgment. The provisions of § 8.01-382, relating to interest on judgments, shall apply unless the court orders otherwise.

Any marital property, which has been considered or ordered transferred in granting the monetary award under this section, shall not thereafter be the subject of a suit between the same parties to transfer title or possession of such property.

E. The amount of any division or transfer of jointly owned marital property, and the amount of any monetary award, the apportionment of marital debts, and the method of payment shall be determined by the court after consideration of the following factors:

1. The contributions, monetary and nonmonetary, of each party to the well-being of the family;
2. The contributions, monetary and nonmonetary, of each party in the acquisition and care and maintenance of such marital property of the parties;
3. The duration of the marriage;
4. The ages and physical and mental condition of the parties;
5. The circumstances and factors which contributed to the dissolution of the marriage, specifically including any ground for divorce under the provisions of subdivision A (1), (3) or (6) of § 20-91 or § 20-95;
6. How and when specific items of such marital property were acquired;
7. The debts and liabilities of each spouse, the basis for such debts and liabilities, and the property which may serve as security for such debts and liabilities;
8. The liquid or nonliquid character of all marital property;
9. The tax consequences to each party;
10. The use or expenditure of marital property by either of the parties for a nonmarital separate purpose or the dissipation of such funds, when such was done in anticipation of divorce or separation or after the last separation of the parties; and
11. Such other factors as the court deems necessary or appropriate to consider in order to arrive at a fair and equitable monetary award.

F. The court shall determine the amount of any such monetary award without regard to maintenance and support awarded for either party or support for the minor children of both parties and shall, after or at the time of such determination and upon motion of either party, consider whether an order for support and maintenance of a spouse or children shall be entered or, if previously entered, whether such order shall be modified or vacated.

G. In addition to the monetary award made pursuant to subsection D, and upon consideration of the factors set forth in subsection E:

1. The court may direct payment of a percentage of the marital share of any pension, profit-sharing or deferred compensation plan or retirement benefits, whether vested or nonvested, which constitutes marital property and whether payable in a lump sum or over a period of time. The court may order direct payment of such percentage of the marital share by direct assignment to a party from the employer trustee, plan administrator or other holder of the benefits. However, the court shall only direct that payment be made as such benefits are payable. No such payment shall exceed 50 percent of the marital share of the cash benefits actually received by the party against whom such award is made. "Marital share" means that portion of the total interest, the right to which was earned during the marriage and before the last separation of the parties, if at such time or thereafter at least one of the parties intended that the separation be permanent.

2. To the extent permitted by federal or other applicable law, the court may order a party to designate a spouse or former spouse as irrevocable beneficiary during the lifetime of the beneficiary of all or a portion of any survivor benefit or annuity plan of whatsoever nature, but not to include a life insurance policy *except to the extent permitted by § 20-107.1:1*. The court, in its discretion, shall determine as between the parties, who shall bear the costs of maintaining such plan.

H. In addition to the monetary award made pursuant to subsection D, and upon consideration of the factors set forth in subsection E, the court may direct payment of a percentage of the marital share of any personal injury or workers' compensation recovery of either party, whether such recovery is payable in a lump sum or over a period of time. However, the court shall only direct that payment be made as such recovery is payable, whether by settlement, jury award, court award, or otherwise. "Marital share" means that part of the total personal injury or workers' compensation recovery attributable to lost wages or medical expenses to the extent not covered by health insurance accruing during the marriage and before the last separation of the parties, if at such time or thereafter at least one of the parties intended that the separation be permanent.

I. Nothing in this section shall be construed to prevent the affirmation, ratification and incorporation in a decree of an agreement between the parties pursuant to §§ 20-109 and 20-109.1. Agreements, otherwise valid as contracts, entered into between spouses prior to the marriage shall be recognized and enforceable.

J. A court of proper jurisdiction under § 20-96 may exercise the powers conferred by this section after a court of a foreign jurisdiction has decreed a dissolution of a marriage or a divorce from the bond of matrimony, if (i) one of the parties was domiciled in this Commonwealth when the foreign proceedings were commenced, (ii) the foreign court did not have personal jurisdiction over the party domiciled in the Commonwealth, (iii) the proceeding is initiated within two years of receipt of notice of the foreign decree by the party domiciled in the Commonwealth, and (iv) the court obtains personal jurisdiction over the parties pursuant to subdivision A 9 of § 8.01-328.1, or in any other manner permitted by law.

K. The court shall have the continuing authority and jurisdiction to make any additional orders necessary to effectuate and enforce any order entered pursuant to this section, including the authority to:

1. Order a date certain for transfer or division of any jointly owned property under subsection C or payment of any monetary award under subsection D;
2. Punish as contempt of court any willful failure of a party to comply with the provisions of any order made by the court under this section;
3. Appoint a special commissioner to transfer any property under subsection C where a party refuses to comply with the order of the court to transfer such property; and
4. Modify any order entered in a case filed on or after July 1, 1982, intended to affect or divide any pension, profit-sharing or deferred compensation plan or retirement benefits pursuant to the United States Internal Revenue Code or other applicable federal laws, only for the purpose of establishing or maintaining the order as a qualified domestic relations order or to revise or conform its terms so as to effectuate the expressed intent of the order.

L. If it appears upon or after the entry of a final decree of divorce from the bond of matrimony that neither party resides in the city or county of the circuit court that entered the decree, the court may, on the motion of any party or on its own motion, transfer to the circuit court for the city or county where either party resides the authority to make additional orders pursuant to subsection K or to carry out or enforce any stipulation, contract, or agreement between the parties that has been affirmed, ratified, and incorporated by reference pursuant to § 20-109.1.

## CHAPTER 798

*An Act to amend and reenact § 28.2-606 of the Code of Virginia, relating to oyster planting grounds; notice of application.*

[H 2297]

Approved April 5, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 28.2-606 of the Code of Virginia is amended and reenacted as follows:**

**§ 28.2-606. Notice of application.**

A. Notice of the application shall be ~~(+)~~ posted by the Commission for not less than ~~sixty~~ 30 days ~~at the courthouse on its website. The Commission shall provide by registered or certified mail written notice of its receipt of the application to~~ (i) ~~of the county or city in which the ground applied for lies, and in at least two or more prominent places in the vicinity of the ground and~~ (ii) ~~published the mailing address of the holder of a current lease for any oyster planting ground that is contiguous to the ground applied for, and~~ (ii) the last known address, as shown on the current real estate tax assessment book or records, of the owner of any riparian property located within 200 feet of the ground applied for. The provision of notice to the governing board of an association for a common interest community as defined in § 55-528 shall be deemed adequate to notify all associated unit owners or lot owners.

B. The Commission shall publish notice of the application at least once a week for ~~four~~ two consecutive weeks in a newspaper of general circulation in ~~that county or city~~ the area in which the ground applied for lies.

C. Notice provided pursuant to this section shall invite and provide information about the submission of written comments on the application. The cost of the notice required by this section shall be borne by the applicant.

CHAPTER 799

*An Act to amend and reenact § 17.1-619 of the Code of Virginia, relating to payment of jurors; prepaid debit card or card account.*

[H 2324]

Approved April 5, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 17.1-619 of the Code of Virginia is amended and reenacted as follows:**

**§ 17.1-619. How jurors paid.**

A. The compensation and allowances of persons attending the court as jurors in all felony cases shall be paid by the Commonwealth. Jurors in misdemeanor cases shall be paid by the Commonwealth unless the charge is written on a local warrant or summons, in which case the jurors shall be paid by the political subdivision in which the summons is issued. Jurors in all civil cases shall be paid by the political subdivision in which the summons is issued. Payment in all cases shall be by negotiable check, warrant, cash, *credit to a prepaid debit card or card account from which the juror is able to withdraw or transfer funds*, or electronic transfer upon the Commonwealth, or the political subdivision, as the case may be. *If payment is made by credit to a prepaid debit card or card account from which the juror is able to withdraw or transfer funds, such card or card account shall permit the juror to withdraw or transfer funds without incurring any fee for such withdrawal or transfer.*

When, during the same day any juror is entitled to compensation from both the Commonwealth and from the political subdivision in which he has served, the court shall divide the pay for such day between the Commonwealth and the political subdivision. It shall be the duty of the sheriff at the term of the court during which an allowance is made or has been made under this section, to furnish the clerk of the court with a statement showing the number and names of the jurors in attendance upon the court.

B. A county or city may provide by local ordinance that a juror may direct in writing that compensation due him be paid to the court service unit or to any other agency, authority or organization which is ancillary to and provides services to the courts of the county or city.

CHAPTER 800

*An Act to amend the Code of Virginia by adding a section numbered 46.2-373.1, relating to report of law-enforcement officer involved in an accident.*

[H 2336]

Approved April 5, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding a section numbered 46.2-373.1 as follows:**

**§ 46.2-373.1. Report of law-enforcement officer involved in accident.**

*Notwithstanding the provisions of § 46.2-208, any law-enforcement officer, as defined in § 9.1-101, who is named as a driver in a motor vehicle accident on a report submitted to the Department pursuant to § 46.2-373 shall not have the accident displayed on his driving record if he was driving a motor vehicle provided by a law-enforcement agency in the course of his employment and was operating the motor vehicle in the performance of his official duties at the time of such accident. The driving record of such law-enforcement officer involved in an accident in the course of his employment shall not contain any information of an accident submitted pursuant to § 46.2-373.*

CHAPTER 801

*An Act to amend and reenact § 62.1-129 of the Code of Virginia, as it is currently effective and as it shall become effective, relating to Virginia Port Authority; removal of members on Board of Commissioners.*

[H 2367]

Approved April 5, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 62.1-129 of the Code of Virginia, as it is currently effective and as it shall become effective, is amended and reenacted as follows:**

**§ 62.1-129. (Effective until April 1, 2017) Board of Commissioners; members and officers; Executive Director; agents and employees.**

A. All powers, rights and duties conferred by this chapter, or other provisions of law, upon the Authority shall be exercised by the Board of Commissioners of the Virginia Port Authority, hereinafter referred to as Board or Board of Commissioners. The Board shall consist of the State Treasurer, the Chief Executive Officer of the Virginia Economic Development Partnership, and 11 members appointed by the Governor, subject to confirmation by the General Assembly;

who shall serve at the pleasure of the Governor. The terms of members of the Board of Commissioners appointed or reappointed by the Governor on or after January 1, 1981, shall be for five years. Any appointment to fill a vacancy shall be for the unexpired term. Members of the Board shall receive their expenses and shall be compensated at the rate provided in § 2.2-2813 for each day spent on business of the Board. No member appointed by the Governor shall be eligible to serve more than two successive terms. A person appointed to fill a vacancy may be appointed to serve two additional terms. Beginning with those members of the Board of Commissioners appointed or reappointed by the Governor on or after January 1, 1981: (i) appointments shall be made by the Governor in such a manner as to ensure the widest possible geographical representation of all parts of the Commonwealth, and (ii) no resident of the Cities of Chesapeake, Hampton, Newport News, Norfolk, Portsmouth, or Virginia Beach shall be eligible for appointment or reappointment to the Board of Commissioners if his appointment or reappointment would increase or maintain the number of members of the Board of Commissioners residing in such cities above the number of five. One of the members appointed or reappointed from the cities previously mentioned in this section shall be a resident of the City of Portsmouth or the City of Chesapeake, one of the members appointed or reappointed shall be a resident of the City of Norfolk or the City of Virginia Beach, one of the members appointed or reappointed shall be a resident of the City of Newport News or the City of Hampton, one of the members appointed or reappointed shall be a resident of Greater Hampton Roads, and one of the members appointed or reappointed shall be a resident of Greater Hampton Roads, but not a resident of any of the above-mentioned cities. Additionally, one member shall be appointed from the City of Richmond or the County of Chesterfield, Hanover, or Henrico to serve as a ~~nonvoting ex officio~~ member representing the Port of Richmond, and one member shall be appointed from the City of Winchester or the County of Clarke, Frederick, or Warren to serve as a ~~nonvoting ex officio~~ member representing the Virginia Inland Port. Of the members appointed by the Governor, all members shall have executive level experience ~~and represent one~~ in any of the following industries: agriculture, distribution and warehousing, manufacturing, logistics and transportation, mining, marketing, legal, financial, or transportation infrastructure. In addition, the Governor shall appoint at least one member with maritime shipping experience from a list of at least three nominees provided by the Virginia Maritime Association, who shall not be a paid member of the Virginia Maritime Association or have any other conflict of interest with the Virginia Port Authority.

The Board shall elect from its membership a chairman and vice-chairman and may also elect from its membership, or appoint from its staff, a secretary and treasurer and prescribe their powers and duties.

The Board of Commissioners shall appoint the chief executive officer of the Authority, who shall not be a member of the Board, who shall be known as the Executive Director and who shall serve at the pleasure of the Board. The Executive Director's compensation from the Commonwealth shall be fixed by the Board in accordance with law. This compensation shall be established at a level which will enable the Authority to attract and retain a capable Executive Director.

The Board may also appoint from the staff an assistant secretary and an assistant treasurer, who shall, in addition to other duties, discharge such functions of the secretary and treasurer, respectively, as may be directed by the Board.

B. The Board may, at its discretion and from time to time, also form a Maritime Advisory Council, consisting of representatives from the maritime industry, to provide advice and counsel to the Board of Commissioners on all matters associated with the Authority with the exception of the annual budget and personnel matters.

**§ 62.1-129. (Effective April 1, 2017) Board of Commissioners; members and officers; Executive Director; agents and employees.**

A. All powers, rights, and duties conferred by this chapter, or other provisions of law, upon the Authority shall be exercised by the Board of Commissioners of the Virginia Port Authority, hereinafter referred to as the Board or Board of Commissioners. The Board shall consist of the State Treasurer, the Chief Executive Officer of the Virginia Economic Development Partnership, the Chief Executive Officer of the Virginia International Trade Corporation, and 11 members appointed by the Governor, subject to confirmation by the General Assembly, ~~who shall serve at the pleasure of the Governor~~. The terms of members of the Board of Commissioners appointed or reappointed by the Governor on or after January 1, 1981, shall be for five years. Any appointment to fill a vacancy shall be for the unexpired term. Members of the Board shall receive their expenses and shall be compensated at the rate provided in § 2.2-2813 for each day spent on business of the Board. No member appointed by the Governor shall be eligible to serve more than two successive terms. A person appointed to fill a vacancy may be appointed to serve two additional terms. Beginning with those members of the Board of Commissioners appointed or reappointed by the Governor on or after January 1, 1981: (i) appointments shall be made by the Governor in such a manner as to ensure the widest possible geographical representation of all parts of the Commonwealth, and (ii) no resident of the Cities of Chesapeake, Hampton, Newport News, Norfolk, Portsmouth, or Virginia Beach shall be eligible for appointment or reappointment to the Board of Commissioners if his appointment or reappointment would increase or maintain the number of members of the Board of Commissioners residing in such cities above the number of five. One of the members appointed or reappointed from the cities previously mentioned in this section shall be a resident of the City of Portsmouth or the City of Chesapeake, one of the members appointed or reappointed shall be a resident of the City of Norfolk or the City of Virginia Beach, one of the members appointed or reappointed shall be a resident of the City of Newport News or the City of Hampton, one of the members appointed or reappointed shall be a resident of Greater Hampton Roads, and one of the members appointed or reappointed shall be a resident of Greater Hampton Roads, but not a resident of any of the above-mentioned cities. Additionally, one member shall be appointed from the City of Richmond or the County of Chesterfield, Hanover, or Henrico to serve as a ~~nonvoting ex officio~~ member representing the Port of Richmond, and one member shall be appointed from the City of Winchester or the County of

Clarke, Frederick, or Warren to serve as a ~~nonvoting ex officio~~ member representing the Virginia Inland Port. Of the members appointed by the Governor, all members shall have executive level experience and represent one in any of the following industries: agriculture, distribution and warehousing, manufacturing, logistics and transportation, mining, marketing, legal, financial, or transportation infrastructure. In addition, the Governor shall appoint at least one member with maritime shipping experience from a list of at least three nominees provided by the Virginia Maritime Association, who shall not be a paid member of the Virginia Maritime Association or have any other conflict of interest with the Virginia Port Authority.

The Board shall elect from its membership a chairman and vice-chairman and may also elect from its membership, or appoint from its staff, a secretary and treasurer and prescribe their powers and duties.

The Board of Commissioners shall appoint the chief executive officer of the Authority, who shall not be a member of the Board, who shall be known as the Executive Director and who shall serve at the pleasure of the Board. The Executive Director's compensation from the Commonwealth shall be fixed by the Board in accordance with law. This compensation shall be established at a level which will enable the Authority to attract and retain a capable Executive Director.

The Board may also appoint from the staff an assistant secretary and an assistant treasurer, who shall, in addition to other duties, discharge such functions of the secretary and treasurer, respectively, as may be directed by the Board.

B. The Board may, at its discretion and from time to time, also form a Maritime Advisory Council, consisting of representatives from the maritime industry, to provide advice and counsel to the Board of Commissioners on all matters associated with the Authority with the exception of the annual budget and personnel matters.

## CHAPTER 802

*An Act to amend and reenact §§ 19.2-349 and 19.2-354 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 19.2-354.1, relating to collection of unpaid court fines, etc.*

[H 2386]

Approved April 5, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 19.2-349 and 19.2-354 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 19.2-354.1 as follows:**

**§ 19.2-349. Responsibility for collections; clerks to report unsatisfied fines, etc.; duty of attorneys for Commonwealth; duties of Department of Taxation.**

A. The clerk of the circuit court and district court of every county and city shall submit to the judge of his court, the Department of Taxation, the State Compensation Board and the attorney for the Commonwealth of his county or city a monthly report of all fines, costs, forfeitures and penalties which are delinquent more than ~~30~~ 90 days, including court-ordered restitution of a sum certain, imposed in his court for a violation of state law or a local ordinance which remain unsatisfied, including those which are delinquent in installment payments. The monthly report shall include the social security number or driver's license number of the defendant, if known, and such other information as the Department of Taxation and the Compensation Board deem appropriate. The Executive Secretary shall make the report required by this subsection on behalf of those clerks who participate in the Supreme Court's automated information system.

B. It shall be the duty of the attorney for the Commonwealth to cause proper proceedings to be instituted for the collection and satisfaction of all fines, costs, forfeitures, penalties and restitution. The attorney for the Commonwealth shall determine whether it would be impractical or uneconomical for such service to be rendered by the office of the attorney for the Commonwealth. If the defendant does not enter into an installment payment agreement under § 19.2-354, the attorney for the Commonwealth and the clerk may agree to a process by which collection activity may be commenced ~~30~~ 90 days after judgment.

If the attorney for the Commonwealth does not undertake collection, he shall contract with (i) private attorneys or private collection agencies, (ii) enter into an agreement with a local governing body, (iii) enter into an agreement with the county or city treasurer, or (iv) use the services of the Department of Taxation, upon such terms and conditions as may be established by guidelines promulgated by the Office of the Attorney General, the Executive Secretary of the Supreme Court with the Department of Taxation and the Compensation Board. If the attorney for the Commonwealth undertakes collection, he shall follow the procedures established by the Department of Taxation and the Compensation Board. Such guidelines shall not supersede contracts between attorneys for the Commonwealth and private attorneys and collection agencies when active collection efforts are being undertaken. As part of such contract, private attorneys or collection agencies shall be given access to the social security number of the defendant in order to assist in the collection effort. Any such private attorney shall be subject to the penalties and provisions of § 18.2-186.3.

The fees of any private attorneys or collection agencies shall be paid on a contingency fee basis out of the proceeds of the amounts collected. However, in no event shall such attorney or collection agency receive a fee for amounts collected by the Department of Taxation under the Setoff Debt Collection Act (§ 58.1-520 et seq.). A local treasurer undertaking collection pursuant to an agreement with the attorney for the Commonwealth may collect the administrative fee authorized by § 58.1-3958.

C. The Department of Taxation and the State Compensation Board shall be responsible for the collection of any judgment which remains unsatisfied or does not meet the conditions of § 19.2-354. Persons owing such unsatisfied judgments or failing to comply with installment payment agreements under § 19.2-354 shall be subject to the delinquent tax collection provisions of Title 58.1. The Department of Taxation and the State Compensation Board shall establish procedures to be followed by clerks of courts, attorneys for the Commonwealth, other state agencies and any private attorneys or collection agents and may employ private attorneys or collection agencies, or engage other state agencies to collect the judgment. The Department of Taxation and the Commonwealth shall be entitled to deduct a fee for services from amounts collected for violations of local ordinances.

The Department of Taxation and the State Compensation Board shall annually report to the Governor and the General Assembly the total of fines, costs, forfeitures and penalties assessed, collected, and unpaid and those which remain unsatisfied or do not meet the conditions of § 19.2-354 by each circuit and district court. The report shall include the procedures established by the Department of Taxation and the State Compensation Board pursuant to this section and a plan for increasing the collection of unpaid fines, costs, forfeitures and penalties. The Auditor of Public Accounts shall annually report to the Governor, the Executive Secretary of the Supreme Court and the General Assembly as to the adherence of clerks of courts, attorneys for the Commonwealth and other state agencies to the procedures established by the Department of Taxation and the State Compensation Board.

**§ 19.2-354. Authority of court to order payment of fine, costs, forfeitures, penalties or restitution in installments or upon other terms and conditions; community work in lieu of payment.**

A. Whenever (i) a defendant, convicted of a traffic infraction or a violation of any criminal law of the Commonwealth or of any political subdivision thereof, or found not innocent in the case of a juvenile, is sentenced to pay a fine, restitution, forfeiture or penalty and (ii) the defendant is unable to make payment of the fine, restitution, forfeiture, or penalty and costs within 30 days of sentencing, the court shall order the defendant to pay such fine, restitution, forfeiture or penalty and any costs which the defendant may be required to pay in deferred payments or installments. The court assessing the fine, restitution, forfeiture, or penalty and costs may authorize the clerk to establish and approve individual deferred or installment payment agreements. Any payment agreement authorized under this section shall be consistent with the ~~Rules of Supreme Court of Virginia~~ *provisions of § 19.2-354.1*, including any required minimum payments or other required conditions. The requirements ~~established by the Rules of Supreme Court of Virginia~~ *set forth in § 19.2-354.1* shall be posted in the clerk's office and on the court's website, if a website is available. As a condition of every such agreement, a defendant who enters into an installment or deferred payment agreement shall promptly inform the court of any change of mailing address during the term of the agreement. If the defendant is unable to make payment within ~~30~~ 90 days of sentencing, the court may assess a one-time fee not to exceed \$10 to cover the costs of management of the defendant's account until such account is paid in full. This one-time fee shall not apply to cases in which costs are assessed pursuant to § 17.1-275.1, 17.1-275.2, 17.1-275.3, 17.1-275.4, 17.1-275.7, 17.1-275.8, or 17.1-275.9. Installment or deferred payment agreements shall include terms for payment if the defendant participates in a program as provided in subsection B or C. The court, if such sum or sums are not paid in full by the date ordered, shall proceed in accordance with § 19.2-358.

B. When a person sentenced to the Department of Corrections or a local correctional facility owes any fines, costs, forfeitures, restitution or penalties, he shall be required as a condition of participating in any work release, home/electronic incarceration or nonconsecutive days program as set forth in § 53.1-60, 53.1-131, 53.1-131.1, or 53.1-131.2 to either make full payment or make payments in accordance with his installment or deferred payment agreement while participating in such program. If, after the person has an installment or deferred payment agreement, the person fails to pay as ordered, his participation in the program may be terminated until all fines, costs, forfeitures, restitution and penalties are satisfied. The Director of the Department of Corrections and any sheriff or other administrative head of any local correctional facility shall withhold such ordered payments from any amounts due to such person. Distribution of the money collected shall be made in the following order of priority to:

1. Meet the obligation of any judicial or administrative order to provide support and such funds shall be disbursed according to the terms of such order;
2. Pay any fines, restitution or costs as ordered by the court;
3. Pay travel and other such expenses made necessary by his work release employment or participation in an education or rehabilitative program, including the sums specified in § 53.1-150; and
4. Defray the offender's keep.

The balance shall be credited to the offender's account or sent to his family in an amount the offender so chooses.

The Board of Corrections shall promulgate regulations governing the receipt of wages paid to persons participating in such programs, the withholding of payments and the disbursement of appropriate funds.

C. The court shall establish a program and may provide an option to any person upon whom a fine and costs have been imposed to discharge all or part of the fine or costs by earning credits for the performance of community service work before or after imprisonment. The program shall specify the rate at which credits are earned and provide for the manner of applying earned credits against the fine or costs. The court shall have such other authority as is reasonably necessary for or incidental to carrying out this program.

D. When the court has authorized deferred payment or installment payments, the clerk shall give notice to the defendant that upon his failure to pay as ordered he may be fined or imprisoned pursuant to § 19.2-358 and his privilege to operate a motor vehicle will be suspended pursuant to § 46.2-395.

E. The failure of the defendant to enter into a deferred payment or installment payment agreement with the court or the failure of the defendant to make payments as ordered by the agreement shall allow the Tax Commissioner to act in accordance with § 19.2-349 to collect all fines, costs, forfeitures and penalties.

**§ 19.2-354.1. Deferred or installment payment agreements.**

A. For purposes of this section:

"Deferred payment agreement" means an agreement in which no installment payments are required and the defendant agrees to pay the full amount of the fines and costs at the end of the agreement's stated term.

"Fines and costs" means all fines, court costs, forfeitures, and penalties assessed in any case by a single court against a defendant for the commission of any crime or traffic infraction. "Fines and costs" includes restitution unless the court orders a separate payment schedule for restitution.

"Installment payment agreement" means an agreement in which the defendant agrees to make monthly or other periodic payments until the fines and costs are paid in full.

"Modified deferred payment agreement" means a deferred payment agreement in which the defendant also agrees to use best efforts to make monthly or other periodic payments.

B. The court shall give a defendant ordered to pay fines and costs written notice of the availability of deferred, modified deferred, and installment payment agreements and, if a community service program has been established, the availability of earning credit toward discharge of fines and costs through the performance of community service work. The court shall offer any defendant who is unable to pay in full the fines and costs within 30 days of sentencing the opportunity to enter into a deferred payment agreement, modified deferred payment agreement, or installment payment agreement.

C. The court shall not deny a defendant the opportunity to enter into a deferred, modified deferred, or installment payment agreement solely (i) because of the category of offense for which the defendant was convicted or found not innocent, (ii) because of the total amount of all fines and costs, (iii) because the defendant previously defaulted under the terms of a payment agreement, (iv) because the fines and costs have been referred for collections pursuant to § 19.2-349, (v) because the defendant has not established a payment history, or (vi) because the defendant is eligible for a restricted driver's license under subsection E of § 46.2-395.

D. In determining the length of time to pay under a deferred, modified deferred, or installment payment agreement and the amount of the payments, a court shall take into account the defendant's financial resources and obligations, including any fines and costs owed by the defendant in other courts. In assessing the defendant's ability to pay, the court shall use a written financial statement, on a form developed by the Executive Secretary of the Supreme Court, setting forth the defendant's financial resources and obligations or conduct an oral examination of the defendant to determine his financial resources and obligations. The court may require the defendant to present a summary prepared by the Department of Motor Vehicles of the other courts in which the defendant also owes fines and costs. The length of a payment agreement and the amount of the payments shall be reasonable in light of the defendant's financial resources and obligations and shall not be based solely on the amount of fines and costs. The court may offer a payment agreement combining an initial period during which no payment of fines and costs is required followed by a period of installment payments.

E. A court may require a down payment as a condition of a defendant entering a deferred, modified deferred, or installment payment agreement. Any down payment shall be a minimal amount to demonstrate the defendant's commitment to paying the fines and costs. In the case of an installment payment agreement, the required down payment may not exceed (i) if the fines and costs owed are \$500 or less, 10 percent of such amount or (ii) if the fines and costs owed are more than \$500, five percent of such amount or \$50, whichever is greater. A defendant may make a larger down payment than what is provided by this subsection.

F. All fines and costs that a defendant owes for all cases in any single court may be incorporated into one payment agreement, unless otherwise ordered by the court in specific cases. A payment agreement shall include only those outstanding fines and costs for which the limitations period set forth in § 19.2-341 has not run.

G. Any payment received within 10 days of its due date shall be considered to be timely made.

H. At any time during the duration of a payment agreement, the defendant may request a modification of the agreement in writing on a form provided by the Executive Secretary of the Supreme Court, and the court may grant such modification based on a good faith showing of need.

I. A court shall consider a request by a defendant who has defaulted on a payment agreement to enter into a subsequent payment agreement. In determining whether to approve the request for a subsequent payment agreement, the court shall consider any change in the defendant's circumstances. A court shall require a down payment to enter into a subsequent payment agreement, provided that the down payment required to enter into a subsequent payment agreement shall not exceed (i) if the fines and costs owed are \$500 or less, 10 percent of such amount or (ii) if the fines and costs owed are more than \$500, five percent of such amount or \$50, whichever is greater. When a defendant enters into a subsequent payment agreement, a court shall not require a defendant to establish a payment history on the subsequent payment agreement before restoring the defendant's driver's license.

## CHAPTER 803

*An Act to amend and reenact § 1 of the first enactment of Chapters 358 and 382 of the Acts of Assembly of 2013, relating to pilot programs for third party power purchase agreements; institutions of higher education.*

[H 2390]

Approved April 5, 2017

**Be it enacted by the General Assembly of Virginia:****1. That § 1 of the first enactment of Chapters 358 and 382 of the Acts of Assembly of 2013 is amended and reenacted as follows:**

§ 1. That the State Corporation Commission (Commission) shall conduct a pilot program ~~programs~~ under which a person that owns or operates a solar-powered or wind-powered electricity generation facility located on premises owned or leased by an eligible customer-generator, as defined in § 56-594 of the Code of Virginia, shall be permitted to sell the electricity generated from such facility exclusively to such eligible customer-generator under a power purchase agreement used to provide third party financing of the costs of such a renewable generation facility (third party power purchase agreement), subject to the following terms, conditions, and restrictions:

a. ~~The A~~ pilot program shall be conducted within the certificated service territory of ~~an each~~ investor-owned electric utility ~~that was bound by a rate case settlement adopted by the Commission that extended in its application beyond January 1, 2002, which utility is hereafter referred to as the other than a utility described in subsection G of § 56-580 of the Code of Virginia ("Pilot Utility"), provided that within the certificated service territory of an investor-owned utility that was not bound by a rate case settlement adopted by the Commission that extended in its application beyond January 1, 2002, nonprofit, private institutions of higher education as defined in § 23.1-100 of the Code of Virginia that are not being served by generation provided under subdivision A 5 of § 56-577 of the Code of Virginia shall be deemed to be customer-generators eligible to participate in the pilot program;~~

b. The aggregated capacity of all generation facilities that are subject to such third party power purchase agreements at any time during the pilot program shall not exceed 50 megawatts ~~for an investor-owned utility that was bound by a rate case settlement adopted by the Commission that extended in its application beyond January 1, 2002, or seven megawatts for an investor-owned utility that was not bound by a rate case settlement adopted by the Commission that extended in its application beyond January 1, 2002.~~ Such limitation on the aggregated capacity of such facilities shall constitute a portion of the existing limit of one percent of ~~the each~~ Pilot Utility's adjusted Virginia peak-load forecast for the previous year that is available to eligible customer-generators pursuant to subsection E of § 56-594 of the Code of Virginia. Notwithstanding any provision of this act that incorporates provisions of § 56-594, the seller and the customer shall elect either to (i) enter into their third party power purchase agreement subject to the conditions and provisions of the Pilot Utility's net energy metering program under § 56-594 or (ii) provide that electricity generated from the generation facilities subject to the third party power purchase agreement will not be net metered under § 56-594, provided that an election not to net meter under § 56-594 shall not exempt the third party power purchase agreement and the parties thereto from the requirements of this act that incorporate provisions of § 56-594;

c. A solar-powered or wind-powered generation facility with a capacity of no less than 50 kilowatts and no more than one megawatt shall be eligible for a third party power purchase agreement under the pilot program; however, if the customer under such agreement is an entity with tax-exempt status in accordance with § 501(c) of the Internal Revenue Code of 1954, as amended, then such facility is eligible for the pilot program even if it does not meet the 50 kilowatts minimum size requirement. The maximum generation capacity of one megawatt shall not affect the limits on the capacity of electrical generating capacities of 20 kilowatts for residential customers and 500 kilowatts for nonresidential customers set forth in subsection B of § 56-594 of the Code of Virginia, which limitations shall continue to apply to net energy metering generation facilities regardless of whether they are the subject of a third party power purchase agreement under the pilot program;

d. A generation facility that is the subject of a third party power purchase agreement under the pilot program shall serve only one customer, and a third party power purchase agreement shall not serve multiple customers;

e. The customer under a third party power purchase agreement under the pilot program shall be subject to the interconnection and other requirements imposed on eligible customer-generators pursuant to subsection C of § 56-594 of the Code of Virginia, including the requirement that the customer bear the reasonable costs, as determined by the Commission, of the items described in clauses (i), (ii), and (iii) of such subsection;

f. A third party power purchase agreement under the pilot program shall not be valid unless it conforms in all respects to the requirements of the pilot program conducted under the provisions of this act and unless the Commission and the Pilot Utility are provided written notice of the parties' intent to enter into a third party power purchase agreement not less than 30 days prior to the agreement's proposed effective date; and

g. An affiliate of the Pilot Utility shall be permitted to offer and enter into third party power purchase arrangements on the same basis as may any other person that satisfies the requirements of being a seller under a third party power purchase agreement under the pilot program.

**2. That the provisions of this act relating to a pilot program conducted within the certificated service territory of an investor-owned utility that was not bound by a rate case settlement adopted by the State Corporation Commission**

that extended in its application beyond January 1, 2002, shall expire on July 1, 2022. Such expiration shall not affect any power purchase agreement entered into by such a utility during the term of its pilot program.

#### CHAPTER 804

*An Act to amend and reenact §§ 2.2-3705.7, 2.2-3711, and 60.2-114 of the Code of Virginia; to amend the Code of Virginia by adding sections numbered 2.2-2235.1, 2.2-2236.1, 2.2-2237.1, 2.2-2237.2, 2.2-2237.3, 2.2-2239.1, and 2.2-2239.2 and by adding in Article 1 of Chapter 31 of Title 58.1 a section numbered 58.1-3122.3; and to repeal § 2.2-2235 of the Code of Virginia, relating to the Virginia Economic Development Partnership Authority; membership; powers and duties.*

[H 2471]

Approved April 5, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 2.2-3705.7, 2.2-3711, and 60.2-114 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 2.2-2235.1, 2.2-2236.1, 2.2-2237.1, 2.2-2237.2, 2.2-2237.3, 2.2-2239.1, and 2.2-2239.2 and by adding in Article 1 of Chapter 31 of Title 58.1 a section numbered 58.1-3122.3 as follows:**

**§ 2.2-2235.1. Board of directors; members and officers; Chief Executive Officer.**

A. *The Authority shall be governed by a board of directors (the Board) consisting of the Secretary of Commerce and Trade, the Secretary of Finance, the Chairman of the Virginia Growth and Opportunity Board, the Executive Director of the Virginia Port Authority, and the Staff Directors of the House Committee on Appropriations and the Senate Committee on Finance, serving as ex officio, voting members, and 11 members to be appointed as follows:*

1. *Seven nonlegislative citizen members appointed by the Governor; and*
2. *Four nonlegislative citizen members appointed by the Joint Rules Committee.*

B. 1. *Each of the nonlegislative citizen members appointed by the Governor and the Joint Rules Committee shall possess expertise in at least one of the following areas: marketing; international commerce; finance or grant administration; state, regional, or local economic development; measuring the effectiveness of incentive programs; law; information technology; transportation; workforce development; manufacturing; biotechnology; cybersecurity; defense; energy; or any other industry identified in the comprehensive economic development policy developed pursuant to § 2.2-205.*

2. *Each of the nine regions defined by the Virginia Growth and Opportunity Board pursuant to subdivision A 1 of § 2.2-2486 shall be represented by at least one member of the Board. In determining such geographical representation, ex officio members of the Board may be considered to represent the region in which they serve in their official capacity.*

C. *After the initial staggering of terms, members shall serve terms of four years, except that ex officio members of the Board shall serve terms coincident with their terms of office. No member shall be eligible to serve more than two terms; however, after the expiration of the term of a member appointed to serve three years or less, two additional terms may be served if appointed thereto. Any appointment to fill a vacancy shall be for the unexpired term. A person appointed to fill a vacancy may be appointed to serve two additional terms. Nonlegislative citizen members of the Board shall be citizens of the Commonwealth.*

D. *Members of the Board shall receive such compensation for the performance of their duties as provided in § 2.2-2813. All members shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. Funding for the costs of compensation and expenses of the members shall be provided by the Authority.*

E. *The Board shall be deemed a supervisory board within the meaning of § 2.2-2100.*

F. *The Board shall elect a chairman from the nonlegislative citizen members of the Board, and the Secretary of Commerce and Trade shall serve as vice-chairman. The Board shall also elect a secretary and a treasurer, who need not be members of the Board, and may also elect other subordinate officers, who need not be members of the Board. The Chairman and the Vice-chairman, with approval by the Board, shall create an executive committee of the Board. The Board may also form advisory committees, which may include representatives who are not members of the Board, to undertake more extensive study and discussion of the issues before the Board.*

G. *A majority of the members shall constitute a quorum for the transaction of the Authority's business, and no vacancy in the membership shall impair the right of a quorum to exercise the rights and perform all duties of the Authority. The meetings of the Board shall be held at least quarterly or at the call of the chairman.*

H. *The Board shall appoint the chief executive officer of the Authority, who shall not be a member of the Board, whose title shall be President and Chief Executive Officer and may be referred to as the President or as the Chief Executive Officer and who shall serve at the pleasure of the Board and carry out such powers and duties conferred upon him by the Board.*

**§ 2.2-2236.1. Internal auditor; duties.**

A. *The Board shall appoint an internal auditor, who shall not be a member of the Board and who shall report directly to the Board. The internal auditor shall have the following duties:*

1. Perform periodic audits, as deemed advisable by the internal auditor, on any operations, accounts, and transactions of the Authority, including the Division of Incentives, and report its findings to the Board; and

2. Develop and implement an annual work plan that identifies anticipated auditing activities for the fiscal year. Prior to implementation, the work plan shall be presented by the auditor to the Board for approval by the executive committee of the Board at the last meeting of the executive committee in the fiscal year immediately preceding the year in which the annual work plan would become effective.

B. After review by the Board, a copy of the audit reports required by subsection A shall be submitted to the special subcommittee for economic development of the Joint Legislative Audit and Review Commission.

**§ 2.2-2237.1. Board of directors to develop strategic plan for economic development; marketing plan; operational plan; submission.**

A. The Board and the Chief Executive Officer shall develop and update biennially a strategic plan for specific economic development activities for the Commonwealth as a whole. The strategic plan shall be responsive to the comprehensive economic development policy developed pursuant to § 2.2-205. The strategic plan of the Authority shall, at a minimum, include:

1. The identification of specific goals and objectives for the Authority and the development of quantifiable metrics and performance measures for attaining each such goal and objective;

2. A systematic assessment of how the Authority can best add value in carrying out each of its statutory powers and duties; and

3. Such other information deemed appropriate by the Board to ensure that the Authority fully executes its powers and duties.

B. The Authority shall report annually on its strategic plan, any modifications to the strategic plan, and its progress toward meeting the goals and objectives as stated in the strategic plan to the special subcommittee on economic development of the Joint Legislative Audit and Review Commission and the Chairmen of the House Committee on Appropriations and the Senate Committee on Finance.

C. The Board shall include in its strategic planning process the participation of key economic development partners, including state, regional, and local economic development agencies and organizations and international trade organizations.

D. In addition, the Board and the Chief Executive Officer shall develop and update biennially:

1. A marketing plan for the Commonwealth as a whole. The marketing plan of the Authority shall, at a minimum, include:

a. Identification of the Authority's specific and measurable marketing goals and the timetable to achieve such goals;

b. Identification of specific marketing activities;

c. The resources and staff allocated to such marketing activities; and

d. The development of quantifiable metrics and performance measures for attaining each such goal.

The Authority shall report annually on its marketing plan, any modifications to the marketing plan, and its progress toward meeting the goals and objectives as stated in the marketing plan to the special subcommittee on economic development of the Joint Legislative Audit and Review Commission and the Chairmen of the House Committee on Appropriations and the Senate Committee on Finance; and

2. An operational plan for carrying out the powers and duties of the Authority. The operational plan of the Authority shall, at a minimum, include:

a. A process to evaluate the Authority's effectiveness in exercising the powers and duties conferred by this article, including the Authority's ability to work with other state, regional, and local economic development organizations and international trade organizations; and

b. A strategy for coordinating with state agencies that administer economic development incentive programs and relevant executive branch committees, councils, authorities, and commissions to maximize the effectiveness of state economic development programs and activities.

The Authority shall report annually on its operational plan, any modifications to the operational plan, and its progress toward meeting the goals and objectives as stated in the operational plan to the special subcommittee on economic development of the Joint Legislative Audit and Review Commission and the Chairmen of the House Committee on Appropriations and the Senate Committee on Finance.

**§ 2.2-2237.2. Office of the Attorney General to provide instruction to Board.**

The Attorney General or his designee assigned as counsel to the Board shall provide instruction to the Board on its responsibilities and obligations as a supervisory board within 30 days after the initial appointment of members of the Board. Thereafter, such counsel shall provide such instruction biennially.

**§ 2.2-2237.3. Division of Incentives.**

A. Within the Authority shall be created a Division of Incentives that shall be responsible for reviewing, vetting, tracking, and coordinating economic development incentives administered by or through the Authority or economic development incentives offered by the Commonwealth or a locality in conjunction with Authority-administered incentives, including those listed in § 2.2-206.2.

B. No project that includes an offer of economic development incentives by the Commonwealth, including grants or loans from the Commonwealth's Development Opportunity Fund, shall be approved by the Governor until (i) the Division of

*Incentives has undertaken appropriate due diligence regarding the proposed project and the Secretary of Commerce and Trade has certified that the proposed incentives to be offered are appropriate based on the investment and job creation anticipated to be generated by the project and (ii) when required by § 30-310, the MEI Project Approval Commission has reviewed the proposed incentives.*

C. Any contract or memorandum of understanding for the award of economic development incentives by the Commonwealth shall set forth the investment and job creation requirements for the payment of the incentive and shall include a stipulation that the business beneficiary of the incentives shall be liable for the repayment of all or a portion of the incentives if the business beneficiary fails to make the required investments or create the required number of jobs. If it is determined that a business beneficiary is liable for the repayment of all or a portion of an economic development incentive awarded by the Board, the Board may direct the Office of the Attorney General to enforce the provisions of the contract or memorandum of understanding regarding the repayment.

D. Notwithstanding any other provision of law, approval of the Board shall be required to grant an extension for an approved project to meet the investment and job creation requirements set forth in the contract or memorandum of understanding. Notwithstanding any other provision of law, approval of both the Board and the MEI Project Approval Commission shall be required to grant any additional extensions.

E. The Division of Incentives shall provide semiannual updates to the Board of the status and progress of investment and job creation requirements for all projects for which economic development incentives have been awarded, until such time as the investment and job creation requirements are met or the incentives are repaid to the Commonwealth. Updates shall be provided more frequently upon the request of the Board, or if deemed necessary by the Division of Incentives.

F. The Board shall establish a subcommittee, consisting of ex officio members of the Board authorized pursuant to § 60.2-114 and federal law to receive and review employment information received from the Virginia Employment Commission, in order to assist the Division of Incentives with the verification of employment and wage claims of those businesses that have received incentive awards. Such information shall be confidential and shall not be (i) redisclosed to other members of the Board or to the public in accordance with the provisions of subdivision C 2 of § 60.2-114 or (ii) subject to disclosure under the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

**§ 2.2-2239.1. Committee on Business Development and Marketing.**

A. The Board shall establish a Committee on Business Development and Marketing (the Committee) consisting of nine nonlegislative citizen members representing local or regional economic development entities from each of the regions designated by the Virginia Growth and Opportunity Board in accordance with § 2.2-2486 as follows:

1. Four nonlegislative citizen members, at least one of whom shall be from Northern Virginia, one of whom shall be from Hampton Roads, and one of whom shall be from Richmond, to be appointed by the Governor and approved by the General Assembly; and

2. Five nonlegislative citizen members appointed by the Joint Rules Committee.

B. After the initial staggering of terms, nonlegislative citizen members shall be appointed for a term of four years. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. Vacancies shall be filled in the same manner as the original appointments. All members may be reappointed. Members appointed to the Committee shall serve without compensation but shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. Staffing of the Committee shall be provided by the Authority. The Committee shall elect a chairman and vice-chairman from among its membership. A majority of the members shall constitute a quorum.

C. The Committee shall advise the Board on all matters relating to business development and marketing and shall make such recommendations as it may deem desirable.

**§ 2.2-2239.2. Committee on International Trade.**

A. The Board shall establish a Committee on International Trade (the Committee) consisting of the Secretary of Agriculture and Forestry, serving as an ex officio member with voting privileges and whose term is coincident with his term of office, and eight nonlegislative citizen members as follows:

1. One member who is a member of the Board of Commissioners of the Virginia Port Authority and two nonlegislative citizen members possessing experience or expertise in international trade or trade promotion appointed by the Governor and approved by the General Assembly; and

2. Five nonlegislative citizen members possessing experience or expertise in international trade or trade promotion appointed by the Joint Rules Committee.

The Virginia Manufacturing Association shall submit to the Governor and the Joint Rules Committee a list of 12 recommendations for appointments to the Committee. One of the Governor's appointments pursuant to subdivision 1 shall be made from such list, and two of the Joint Rules Committee's appointments pursuant to subdivision 2 shall be made from such list.

B. After the initial staggering of terms, nonlegislative citizen members shall be appointed for a term of four years. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. Vacancies shall be filled in the same manner as the original appointments. All members may be reappointed. Members appointed to the Committee shall serve without compensation but shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. Staffing of the Committee shall be provided by the

*Authority. The Committee shall elect a chairman and vice-chairman from among its membership. A majority of the members shall constitute a quorum.*

*C. The Committee shall advise the Board on all matters relating to international trade and trade promotion and shall make such recommendations as it may deem desirable.*

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

The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01.

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

2. Working papers and correspondence of the Office of the Governor; the Lieutenant Governor; the Attorney General; the members of the General Assembly, the Division of Legislative Services, or the Clerks of the House of Delegates and the Senate of Virginia; the mayor or chief executive officer of any political subdivision of the Commonwealth; or the president or other chief executive officer of any public institution of higher education in Virginia. However, no information that is otherwise open to inspection under this chapter shall be deemed excluded by virtue of the fact that it has been attached to or incorporated within any working paper or correspondence. Nothing in this subdivision shall be construed to authorize the withholding of any resumes or applications submitted by persons who are appointed by the Governor pursuant to § 2.2-106 or 2.2-107.

As used in this subdivision:

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

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

"Working papers" means those records prepared by or for an above-named public official for his personal or deliberative use.

3. Information contained in library records that can be used to identify both (i) any library patron who has borrowed material from a library and (ii) the material such patron borrowed.

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

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

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

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

8. Personal information, as defined in § 2.2-3801, (i) filed with the Virginia Housing Development Authority concerning individuals who have applied for or received loans or other housing assistance or who have applied for occupancy of or have occupied housing financed, owned or otherwise assisted by the Virginia Housing Development Authority; (ii) concerning persons participating in or persons on the waiting list for federally funded rent-assistance programs; (iii) filed with any local redevelopment and housing authority created pursuant to § 36-4 concerning persons participating in or persons on the waiting list for housing assistance programs funded by local governments or by any such authority; or (iv) filed with any local redevelopment and housing authority created pursuant to § 36-4 or any other local government agency concerning persons who have applied for occupancy or who have occupied affordable dwelling units established pursuant to § 15.2-2304 or 15.2-2305. However, access to one's own information shall not be denied.

9. Information regarding the siting of hazardous waste facilities, except as provided in § 10.1-1441, if disclosure of such information would have a detrimental effect upon the negotiating position of a governing body or on the establishment of the terms, conditions, and provisions of the siting agreement.

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

11. Memoranda, graphics, video or audio tapes, production models, data, and information of a proprietary nature produced by or for or collected by or for the Virginia Lottery relating to matters of a specific lottery game design,

development, production, operation, ticket price, prize structure, manner of selecting the winning ticket, manner of payment of prizes to holders of winning tickets, frequency of drawings or selections of winning tickets, odds of winning, advertising, or marketing, where such information not been publicly released, published, copyrighted, or patented. Whether released, published, or copyrighted, all game-related information shall be subject to public disclosure under this chapter upon the first day of sales for the specific lottery game to which it pertains.

12. Information held by the Virginia Retirement System, acting pursuant to § 51.1-124.30, or a local retirement system, acting pursuant to § 51.1-803, or the Rector and Visitors of the University of Virginia, acting pursuant to § 23.1-2210, or the Virginia College Savings Plan, acting pursuant to § 23.1-704, relating to the acquisition, holding, or disposition of a security or other ownership interest in an entity, where such security or ownership interest is not traded on a governmentally regulated securities exchange, if disclosure of such information would (i) reveal confidential analyses prepared for the Rector and Visitors of the University of Virginia, prepared by the retirement system or the Virginia College Savings Plan, or provided to the retirement system or the Virginia College Savings Plan under a promise of confidentiality of the future value of such ownership interest or the future financial performance of the entity and (ii) have an adverse effect on the value of the investment to be acquired, held, or disposed of by the retirement system, the Rector and Visitors of the University of Virginia, or the Virginia College Savings Plan. Nothing in this subdivision shall be construed to authorize the withholding of information relating to the identity of any investment held, the amount invested, or the present value of such investment.

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

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

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

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

17. Information related to the operation of toll facilities that identifies an individual, vehicle, or travel itinerary, including vehicle identification data or vehicle enforcement system information; video or photographic images; Social Security or other identification numbers appearing on driver's licenses; credit card or bank account data; home addresses; phone numbers; or records of the date or time of toll facility use.

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

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

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

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

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

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

24. Information held by the Judicial Inquiry and Review Commission made confidential by § 17.1-913.

25. Information held by the Virginia Retirement System acting pursuant to § 51.1-124.30, a local retirement system acting pursuant to § 51.1-803 (hereinafter collectively referred to as the retirement system), or the Virginia College Savings Plan, acting pursuant to § 23.1-704 relating to:

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

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

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

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

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

(3) Stating the reasons why protection is necessary.

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

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

26. Information held by the Department of Corrections made confidential by § 53.1-233.

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

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

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

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

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

32. Information provided to the Department of Aviation by other entities of the Commonwealth in connection with the operation of aircraft where the information would not be subject to disclosure by the entity providing the information. The entity providing the information to the Department of Aviation shall identify the specific information to be protected and the applicable provision of this chapter that excludes the information from mandatory disclosure.

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

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

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

- a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;
- b. Identifying with specificity the data or other materials for which protection is sought; and
- c. Stating the reasons why protection is necessary.

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

35. Information reflecting the substance of meetings in which individual sexual assault cases are discussed by any sexual assault team established pursuant to § 15.2-1627.4. The findings of the team may be disclosed or published in statistical or other aggregated form that does not disclose the identity of specific individuals.

36. *Information contained in the strategic plan, marketing plan, or operational plan prepared by the Virginia Economic Development Partnership Authority pursuant to § 2.2-2237.1 regarding target companies, specific allocation of resources and staff for marketing activities, and specific marketing activities that would reveal to the Commonwealth's competitors for economic development projects the strategies intended to be deployed by the Commonwealth, thereby adversely affecting the financial interest of the Commonwealth. The executive summaries of the strategic plan, marketing plan, and operational plan shall not be redacted or withheld pursuant to this subdivision.*

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

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

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

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

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

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

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

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

7. Consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the public body; and consultation with legal counsel employed or retained by a public body regarding specific legal matters

requiring the provision of legal advice by such counsel. For the purposes of this subdivision, "probable litigation" means litigation that has been specifically threatened or on which the public body or its legal counsel has a reasonable basis to believe will be commenced by or against a known party. Nothing in this subdivision shall be construed to permit the closure of a meeting merely because an attorney representing the public body is in attendance or is consulted on a matter.

8. In the case of boards of visitors of public institutions of higher education, discussion or consideration of matters relating to gifts, bequests and fund-raising activities, and grants and contracts for services or work to be performed by such institution. However, the terms and conditions of any such gifts, bequests, grants, and contracts made by a foreign government, a foreign legal entity, or a foreign person and accepted by a public institution of higher education in Virginia shall be subject to public disclosure upon written request to the appropriate board of visitors. For the purpose of this subdivision, (i) "foreign government" means any government other than the United States government or the government of a state or a political subdivision thereof; (ii) "foreign legal entity" means any legal entity created under the laws of the United States or of any state thereof if a majority of the ownership of the stock of such legal entity is owned by foreign governments or foreign persons or if a majority of the membership of any such entity is composed of foreign persons or foreign legal entities, or any legal entity created under the laws of a foreign government; and (iii) "foreign person" means any individual who is not a citizen or national of the United States or a trust territory or protectorate thereof.

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

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

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

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

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

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

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

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

17. Those portions of meetings by local government crime commissions where the identity of, or information tending to identify, individuals providing information about crimes or criminal activities under a promise of anonymity is discussed or disclosed.

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

19. Discussion of plans to protect public safety as it relates to terrorist activity or specific cybersecurity threats or vulnerabilities and briefings by staff members, legal counsel, or law-enforcement or emergency service officials concerning actions taken to respond to such matters or a related threat to public safety; discussion of information excluded from this chapter pursuant to subdivision 3 or 4 of § 2.2-3705.2, where discussion in an open meeting would jeopardize the safety of any person or the security of any facility, building, structure, information technology system, or software program; or discussion of reports or plans related to the security of any governmental facility, building or structure, or the safety of persons using such facility, building or structure.

20. Discussion by the Board of the Virginia Retirement System, acting pursuant to § 51.1-124.30, or of any local retirement system, acting pursuant to § 51.1-803, or of the Rector and Visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the Board of the Virginia College Savings Plan, acting pursuant to § 23.1-706, regarding the acquisition, holding or disposition of a security or other ownership interest in an entity, where such security or ownership interest is not traded on a governmentally regulated securities exchange, to the extent that such discussion (i) concerns confidential analyses prepared for the Rector and Visitors of the University of Virginia, prepared by the retirement system or by the Virginia College Savings Plan or provided to the retirement system or the Virginia College Savings Plan under a promise of confidentiality, of the future value of such ownership interest or the future financial performance of the entity, and (ii) would have an adverse effect on the value of the investment to be acquired, held or disposed of by the retirement

system, the Rector and Visitors of the University of Virginia, or the Virginia College Savings Plan. Nothing in this subdivision shall be construed to prevent the disclosure of information relating to the identity of any investment held, the amount invested or the present value of such investment.

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

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

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

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

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

26. Discussion or consideration, by the Wireless Carrier E-911 Cost Recovery Subcommittee created pursuant to § 56-484.15, of trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), submitted by CMRS providers as defined in § 56-484.12, related to the provision of wireless E-911 service.

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

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

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

30. Discussion or consideration of grant or loan application information excluded from this chapter pursuant to subdivision 17 of § 2.2-3705.6 by (i) the Commonwealth Health Research Board or (ii) the Innovation and Entrepreneurship Investment Authority or the Research and Technology Investment Advisory Committee appointed to advise the Innovation and Entrepreneurship Investment Authority.

31. Discussion or consideration by the Commitment Review Committee of information excluded from this chapter pursuant to subdivision 8 of § 2.2-3705.2 relating to individuals subject to commitment as sexually violent predators under Chapter 9 (§ 37.2-900 et seq.) of Title 37.2.

32. [Expired.]

33. Discussion or consideration of confidential proprietary information and trade secrets excluded from this chapter pursuant to subdivision 18 of § 2.2-3705.6. However, the exemption provided by this subdivision shall not apply to any authority created pursuant to the BVU Authority Act (§ 15.2-7200 et seq.).

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

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

36. Discussion or consideration by the Forensic Science Board or the Scientific Advisory Committee created pursuant to Article 2 (§ 9.1-1109 et seq.) of Chapter 11 of Title 9.1 of records excluded from this chapter pursuant to subdivision A 2 a of § 2.2-3706.

37. Discussion or consideration by the Brown v. Board of Education Scholarship Program Awards Committee of information or confidential matters excluded from this chapter pursuant to subdivision 3 of § 2.2-3705.4, and meetings of the Committee to deliberate concerning the annual maximum scholarship award, review and consider scholarship applications and requests for scholarship award renewal, and cancel, rescind, or recover scholarship awards.

38. Discussion or consideration by the Virginia Port Authority of information excluded from this chapter pursuant to subdivision 1 of § 2.2-3705.6.

39. Discussion or consideration by the Board of Trustees of the Virginia Retirement System acting pursuant to § 51.1-124.30, by the Investment Advisory Committee appointed pursuant to § 51.1-124.26, by any local retirement system, acting pursuant to § 51.1-803, by the Board of the Virginia College Savings Plan acting pursuant to § 23.1-706, or by the Virginia College Savings Plan's Investment Advisory Committee appointed pursuant to § 23.1-702 of information excluded from this chapter pursuant to subdivision 25 of § 2.2-3705.7.

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

41. Discussion or consideration by the Board of Education of information relating to the denial, suspension, or revocation of teacher licenses excluded from this chapter pursuant to subdivision 12 of § 2.2-3705.3.

42. Those portions of meetings of the Virginia Military Advisory Council or any commission created by executive order for the purpose of studying and making recommendations regarding preventing closure or realignment of federal military and national security installations and facilities located in Virginia and relocation of such facilities to Virginia, or a local or regional military affairs organization appointed by a local governing body, during which there is discussion of information excluded from this chapter pursuant to subdivision 11 of § 2.2-3705.2.

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

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

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

46. Discussion or consideration of personal and proprietary information that are excluded from the provisions of this chapter pursuant to (i) subdivision 25 of § 2.2-3705.6 or (ii) subsection E of § 10.1-104.7. This exclusion shall not apply to the discussion or consideration of records that contain information that has been certified for release by the person who is the subject of the information or transformed into a statistical or aggregate form that does not allow identification of the person who supplied, or is the subject of, the information.

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

48. Discussion or consideration of grant or loan application records excluded from this chapter pursuant to subdivision 28 of § 2.2-3705.6 related to the submission of an application for an award from the Virginia Research Investment Fund pursuant to Article 8 (§ 23.1-3130 et seq.) of Chapter 31 of Title 23.1.

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

50. Discussion or consideration by the Board of the Virginia Economic Development Partnership Authority, or any subcommittee thereof, of the portions of the strategic plan, marketing plan, or operational plan exempt from disclosure pursuant to subdivision 36 of § 2.2-3705.7.

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

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

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

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

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

**§ 58.1-3122.3. Commissioners to provide certain information to the Virginia Economic Development Partnership Authority; confidentiality of such information.**

A. Each commissioner of the revenue shall provide to the Virginia Economic Development Partnership Authority (the Authority), upon entering into a written agreement, such tax information as may be necessary to facilitate the administration and enforcement by the Authority of performance agreements with businesses that have received incentive awards, the provisions of § 58.1-3 notwithstanding.

B. Any tax information provided to the Authority under this section shall be confidential and shall not be divulged by the Authority. Any tax information so provided shall be used by the Authority solely for the purpose of verifying capital investment claims of those businesses that have received incentive awards.

**§ 60.2-114. Records and reports.**

A. Each employing unit shall keep true and accurate work records, containing such information as the Commission may prescribe. Such records shall be open to inspection and be subject to being copied by the Commission or its authorized representatives at any reasonable time and as often as may be necessary. The Commission may require from any employing unit any sworn or unsworn reports, with respect to persons employed by it, which the Commission deems necessary for the effective administration of this title. Information thus obtained shall not be published or be open to public inspection, other than to public employees in the performance of their public duties, in any manner revealing the employing unit's identity, except as the Commissioner or his delegates deem appropriate, nor shall such information be used in any judicial or administrative proceeding other than one arising out of the provisions of this title; however, the Commission shall make its records about a claimant available to the Workers' Compensation Commission if it requests such records. However, any claimant at a hearing before an appeal tribunal or the Commission shall be supplied with information from such records to the extent necessary for the proper presentation of his claim. Notwithstanding other provisions of this section, the Commissioner, or his delegate, may, in his discretion, reveal information when such communication is not inconsistent with the proper administration of this title.

B. Notwithstanding the provisions of subsection A, the Commission shall, on a reimbursable basis, furnish wage and unemployment compensation information contained in its records to the Secretary of Health and Human Services and the Division of Child Support Enforcement of the Department of Social Services for their use as necessary for the purposes of the National Directory of New Hires established under § 453 (~~+~~) 453(i) of the Social Security Act.

C. Notwithstanding the provisions of subsection A, the Commission shall, upon written request, furnish any:

1. Any agency or political subdivision of the Commonwealth, or its designated agent, such information as it may require for the purpose of collecting fines, penalties, and costs owed to the Commonwealth or its political subdivisions. Such information shall not be published or used in any administrative or judicial proceeding, except in matters arising out of the collection of fines, penalties, and costs owed to the Commonwealth or its political subdivisions; and

2. The Virginia Economic Development Partnership Authority such information as it may require to facilitate the administration and enforcement by the Authority of performance agreements with businesses that have received incentive awards. Any information provided to the Authority under this subdivision shall be confidential pursuant to 20 C.F.R. Part 603 and shall only be disclosed to members of the Authority who are public officials or employees of the Authority for the performance of their official duties. No public official or employee shall redisclose any confidential information obtained pursuant to this subdivision to nonlegislative citizen members of the Authority or to the public. Any information so provided shall be used by the Authority solely for the purpose of verifying employment and wage claims of those businesses that have received incentive awards.

D. Each employing unit shall report to the Virginia New Hire Reporting Center the employment of any newly hired employee in compliance with § 63.2-1946.

E. Any member or employee of the Commission and any member, employee, or agent of any agency or political subdivision of the Commonwealth who violates any provision of this section shall be guilty of a Class 2 misdemeanor.

**2. That § 2.2-2235 of the Code of Virginia is repealed.**

**3. That the terms of the persons currently serving as members of the board of directors of the Virginia Economic Development Partnership Authority shall expire upon the passage of this act.**

**4. That the initial appointments of the board of directors of the Virginia Economic Development Partnership Authority made in accordance with the provisions of this act shall be staggered as follows: (i) of the seven nonlegislative citizen members appointed by the Governor, five shall be appointed for a term of one year and two shall be appointed for a term of three years and (ii) of the four nonlegislative citizen members appointed by the Joint Rules Committee, two shall be appointed for a term of one year and two shall be appointed for a term of**

three years. Thereafter, the terms of nonlegislative citizen members of the board of directors shall be four years. All nonlegislative citizen members appointed pursuant to this enactment shall be eligible for reappointment to two full terms after the expiration of the initial term. After the initial appointment of the nonlegislative citizen members of the board of directors pursuant to this enactment, appointments shall be for terms beginning on July 1 of the year of the appointment.

5. That any current member of the board of directors of the Virginia Economic Development Partnership Authority is eligible for reappointment in accordance with the provisions of this act, provided that such member meets the qualifications set forth in § 2.2-2235.1 of the Code of Virginia, as created by this act.

6. That the initial appointments of the Committee on Business Development and Marketing made in accordance with the provisions of this act shall be staggered as follows: (i) of the four nonlegislative citizen members appointed by the Governor, one shall be appointed for a term of one year, two shall be appointed for a term of two years, and one shall be appointed for terms of three years and (ii) of the five nonlegislative citizen members appointed by the Joint Rules Committee, three shall be appointed for a term of three years and two shall be appointed for a term of four years. Thereafter, the terms of members of the Committee on Business Development and Marketing shall be four years.

7. That the initial appointments of the Committee on International Trade made in accordance with the provisions of this act shall be staggered as follows: (i) of the two nonlegislative citizen members appointed by the Governor who are not a member of the Board of Commissioners of the Virginia Port Authority, one shall be appointed for a term of two years and one shall be appointed for a term of three years; (ii) the member of the Board of Commissioners of the Virginia Port Authority appointed by the Governor shall serve a term of four years; and (iii) of the five nonlegislative citizen members appointed by the Joint Rules Committee, one shall be appointed for a term of one year, two shall be appointed for a term of three years, and two shall be appointed for a term of four years. Thereafter, the terms of members of the Committee on International Trade shall be four years.

8. That an emergency exists and this act is in force from its passage.

#### CHAPTER 805

*An Act to amend the Code of Virginia by adding in Article 2 of Chapter 5 of Title 54.1 a section numbered 54.1-517.2:1, relating to the Board for Asbestos, Lead, and Home Inspectors; home inspections; required information related to yellow shaded corrugated stainless steel tubing.*

[S 812]

Approved April 5, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding in Article 2 of Chapter 5 of Title 54.1 a section numbered 54.1-517.2:1 as follows:**

**§ 54.1-517.2:1. Home inspection; required statement related to the presence of yellow shaded corrugated stainless steel tubing.**

*A. As used in this section:*

*"Bonding" means connecting metallic systems to establish electrical continuity and conductivity.*

*"Corrugated stainless steel tubing" or "CSST" means a flexible stainless steel pipe used to supply natural gas or propane in residential, commercial, and industrial structures.*

*"Grounding" means connecting to the ground or to a conductive body that extends to ground connection.*

*B. If a home inspector observes the presence of any shade of yellow corrugated stainless steel tubing during a home inspection in a home that was built prior to the adoption of the 2006 Virginia Construction Code, effective May 1, 2008, he shall include that observation in the report along with the following statement: "Manufacturers believe that this product is safer if properly bonded and grounded as required by the manufacturer's installation instructions. Proper bonding and grounding of the product should be determined by a contractor licensed to perform the work in the Commonwealth of Virginia."*

#### CHAPTER 806

*An Act to amend and reenact §§ 19.2-349 and 19.2-354 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 19.2-354.1, relating to collection of unpaid court fines, etc.*

[S 854]

Approved April 5, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 19.2-349 and 19.2-354 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 19.2-354.1 as follows:**

**§ 19.2-349. Responsibility for collections; clerks to report unsatisfied fines, etc.; duty of attorneys for Commonwealth; duties of Department of Taxation.**

A. The clerk of the circuit court and district court of every county and city shall submit to the judge of his court, the Department of Taxation, the State Compensation Board and the attorney for the Commonwealth of his county or city a monthly report of all fines, costs, forfeitures and penalties which are delinquent more than ~~30~~ 90 days, including court-ordered restitution of a sum certain, imposed in his court for a violation of state law or a local ordinance which remain unsatisfied, including those which are delinquent in installment payments. The monthly report shall include the social security number or driver's license number of the defendant, if known, and such other information as the Department of Taxation and the Compensation Board deem appropriate. The Executive Secretary shall make the report required by this subsection on behalf of those clerks who participate in the Supreme Court's automated information system.

B. It shall be the duty of the attorney for the Commonwealth to cause proper proceedings to be instituted for the collection and satisfaction of all fines, costs, forfeitures, penalties and restitution. The attorney for the Commonwealth shall determine whether it would be impractical or uneconomical for such service to be rendered by the office of the attorney for the Commonwealth. If the defendant does not enter into an installment payment agreement under § 19.2-354, the attorney for the Commonwealth and the clerk may agree to a process by which collection activity may be commenced ~~30~~ 90 days after judgment.

If the attorney for the Commonwealth does not undertake collection, he shall contract with (i) private attorneys or private collection agencies, (ii) enter into an agreement with a local governing body, (iii) enter into an agreement with the county or city treasurer, or (iv) use the services of the Department of Taxation, upon such terms and conditions as may be established by guidelines promulgated by the Office of the Attorney General, the Executive Secretary of the Supreme Court with the Department of Taxation and the Compensation Board. If the attorney for the Commonwealth undertakes collection, he shall follow the procedures established by the Department of Taxation and the Compensation Board. Such guidelines shall not supersede contracts between attorneys for the Commonwealth and private attorneys and collection agencies when active collection efforts are being undertaken. As part of such contract, private attorneys or collection agencies shall be given access to the social security number of the defendant in order to assist in the collection effort. Any such private attorney shall be subject to the penalties and provisions of § 18.2-186.3.

The fees of any private attorneys or collection agencies shall be paid on a contingency fee basis out of the proceeds of the amounts collected. However, in no event shall such attorney or collection agency receive a fee for amounts collected by the Department of Taxation under the Setoff Debt Collection Act (§ 58.1-520 et seq.). A local treasurer undertaking collection pursuant to an agreement with the attorney for the Commonwealth may collect the administrative fee authorized by § 58.1-3958.

C. The Department of Taxation and the State Compensation Board shall be responsible for the collection of any judgment which remains unsatisfied or does not meet the conditions of § 19.2-354. Persons owing such unsatisfied judgments or failing to comply with installment payment agreements under § 19.2-354 shall be subject to the delinquent tax collection provisions of Title 58.1. The Department of Taxation and the State Compensation Board shall establish procedures to be followed by clerks of courts, attorneys for the Commonwealth, other state agencies and any private attorneys or collection agents and may employ private attorneys or collection agencies, or engage other state agencies to collect the judgment. The Department of Taxation and the Commonwealth shall be entitled to deduct a fee for services from amounts collected for violations of local ordinances.

The Department of Taxation and the State Compensation Board shall annually report to the Governor and the General Assembly the total of fines, costs, forfeitures and penalties assessed, collected, and unpaid and those which remain unsatisfied or do not meet the conditions of § 19.2-354 by each circuit and district court. The report shall include the procedures established by the Department of Taxation and the State Compensation Board pursuant to this section and a plan for increasing the collection of unpaid fines, costs, forfeitures and penalties. The Auditor of Public Accounts shall annually report to the Governor, the Executive Secretary of the Supreme Court and the General Assembly as to the adherence of clerks of courts, attorneys for the Commonwealth and other state agencies to the procedures established by the Department of Taxation and the State Compensation Board.

**§ 19.2-354. Authority of court to order payment of fine, costs, forfeitures, penalties or restitution in installments or upon other terms and conditions; community work in lieu of payment.**

A. Whenever (i) a defendant, convicted of a traffic infraction or a violation of any criminal law of the Commonwealth or of any political subdivision thereof, or found not innocent in the case of a juvenile, is sentenced to pay a fine, restitution, forfeiture or penalty and (ii) the defendant is unable to make payment of the fine, restitution, forfeiture, or penalty and costs within 30 days of sentencing, the court shall order the defendant to pay such fine, restitution, forfeiture or penalty and any costs which the defendant may be required to pay in deferred payments or installments. The court assessing the fine, restitution, forfeiture, or penalty and costs may authorize the clerk to establish and approve individual deferred or installment payment agreements. Any payment agreement authorized under this section shall be consistent with the ~~Rules of Supreme Court of Virginia~~ *provisions of § 19.2-354.1*, including any required minimum payments or other required conditions. The requirements ~~established by the Rules of Supreme Court of Virginia~~ *set forth in § 19.2-354.1* shall be posted in the clerk's office and on the court's website, if a website is available. As a condition of every such agreement, a defendant who enters into an installment or deferred payment agreement shall promptly inform the court of any change of mailing address during the term of the agreement. If the defendant is unable to make payment within ~~30~~ 90 days of sentencing, the court may assess a one-time fee not to exceed \$10 to cover the costs of management of the defendant's account until such account is paid in full. This one-time fee shall not apply to cases in which costs are assessed pursuant to § 17.1-275.1,

17.1-275.2, 17.1-275.3, 17.1-275.4, 17.1-275.7, 17.1-275.8, or 17.1-275.9. Installment or deferred payment agreements shall include terms for payment if the defendant participates in a program as provided in subsection B or C. The court, if such sum or sums are not paid in full by the date ordered, shall proceed in accordance with § 19.2-358.

B. When a person sentenced to the Department of Corrections or a local correctional facility owes any fines, costs, forfeitures, restitution or penalties, he shall be required as a condition of participating in any work release, home/electronic incarceration or nonconsecutive days program as set forth in § 53.1-60, 53.1-131, 53.1-131.1, or 53.1-131.2 to either make full payment or make payments in accordance with his installment or deferred payment agreement while participating in such program. If, after the person has an installment or deferred payment agreement, the person fails to pay as ordered, his participation in the program may be terminated until all fines, costs, forfeitures, restitution and penalties are satisfied. The Director of the Department of Corrections and any sheriff or other administrative head of any local correctional facility shall withhold such ordered payments from any amounts due to such person. Distribution of the money collected shall be made in the following order of priority to:

1. Meet the obligation of any judicial or administrative order to provide support and such funds shall be disbursed according to the terms of such order;
2. Pay any fines, restitution or costs as ordered by the court;
3. Pay travel and other such expenses made necessary by his work release employment or participation in an education or rehabilitative program, including the sums specified in § 53.1-150; and
4. Defray the offender's keep.

The balance shall be credited to the offender's account or sent to his family in an amount the offender so chooses.

The Board of Corrections shall promulgate regulations governing the receipt of wages paid to persons participating in such programs, the withholding of payments and the disbursement of appropriate funds.

C. The court shall establish a program and may provide an option to any person upon whom a fine and costs have been imposed to discharge all or part of the fine or costs by earning credits for the performance of community service work before or after imprisonment. The program shall specify the rate at which credits are earned and provide for the manner of applying earned credits against the fine or costs. The court shall have such other authority as is reasonably necessary for or incidental to carrying out this program.

D. When the court has authorized deferred payment or installment payments, the clerk shall give notice to the defendant that upon his failure to pay as ordered he may be fined or imprisoned pursuant to § 19.2-358 and his privilege to operate a motor vehicle will be suspended pursuant to § 46.2-395.

E. The failure of the defendant to enter into a deferred payment or installment payment agreement with the court or the failure of the defendant to make payments as ordered by the agreement shall allow the Tax Commissioner to act in accordance with § 19.2-349 to collect all fines, costs, forfeitures and penalties.

**§ 19.2-354.1. Deferred or installment payment agreements.**

A. For purposes of this section:

"Deferred payment agreement" means an agreement in which no installment payments are required and the defendant agrees to pay the full amount of the fines and costs at the end of the agreement's stated term.

"Fines and costs" means all fines, court costs, forfeitures, and penalties assessed in any case by a single court against a defendant for the commission of any crime or traffic infraction. "Fines and costs" includes restitution unless the court orders a separate payment schedule for restitution.

"Installment payment agreement" means an agreement in which the defendant agrees to make monthly or other periodic payments until the fines and costs are paid in full.

"Modified deferred payment agreement" means a deferred payment agreement in which the defendant also agrees to use best efforts to make monthly or other periodic payments.

B. The court shall give a defendant ordered to pay fines and costs written notice of the availability of deferred, modified deferred, and installment payment agreements and, if a community service program has been established, the availability of earning credit toward discharge of fines and costs through the performance of community service work. The court shall offer any defendant who is unable to pay in full the fines and costs within 30 days of sentencing the opportunity to enter into a deferred payment agreement, modified deferred payment agreement, or installment payment agreement.

C. The court shall not deny a defendant the opportunity to enter into a deferred, modified deferred, or installment payment agreement solely (i) because of the category of offense for which the defendant was convicted or found not innocent, (ii) because of the total amount of all fines and costs, (iii) because the defendant previously defaulted under the terms of a payment agreement, (iv) because the fines and costs have been referred for collections pursuant to § 19.2-349, (v) because the defendant has not established a payment history, or (vi) because the defendant is eligible for a restricted driver's license under subsection E of § 46.2-395.

D. In determining the length of time to pay under a deferred, modified deferred, or installment payment agreement and the amount of the payments, a court shall take into account the defendant's financial resources and obligations, including any fines and costs owed by the defendant in other courts. In assessing the defendant's ability to pay, the court shall use a written financial statement, on a form developed by the Executive Secretary of the Supreme Court, setting forth the defendant's financial resources and obligations or conduct an oral examination of the defendant to determine his financial resources and obligations. The court may require the defendant to present a summary prepared by the Department of Motor Vehicles of the other courts in which the defendant also owes fines and costs. The length of a payment agreement and the

amount of the payments shall be reasonable in light of the defendant's financial resources and obligations and shall not be based solely on the amount of fines and costs. The court may offer a payment agreement combining an initial period during which no payment of fines and costs is required followed by a period of installment payments.

E. A court may require a down payment as a condition of a defendant entering a deferred, modified deferred, or installment payment agreement. Any down payment shall be a minimal amount to demonstrate the defendant's commitment to paying the fines and costs. In the case of an installment payment agreement, the required down payment may not exceed (i) if the fines and costs owed are \$500 or less, 10 percent of such amount or (ii) if the fines and costs owed are more than \$500, five percent of such amount or \$50, whichever is greater. A defendant may make a larger down payment than what is provided by this subsection.

F. All fines and costs that a defendant owes for all cases in any single court may be incorporated into one payment agreement, unless otherwise ordered by the court in specific cases. A payment agreement shall include only those outstanding fines and costs for which the limitations period set forth in § 19.2-341 has not run.

G. Any payment received within 10 days of its due date shall be considered to be timely made.

H. At any time during the duration of a payment agreement, the defendant may request a modification of the agreement in writing on a form provided by the Executive Secretary of the Supreme Court, and the court may grant such modification based on a good faith showing of need.

I. A court shall consider a request by a defendant who has defaulted on a payment agreement to enter into a subsequent payment agreement. In determining whether to approve the request for a subsequent payment agreement, the court shall consider any change in the defendant's circumstances. A court shall require a down payment to enter into a subsequent payment agreement, provided that the down payment required to enter into a subsequent payment agreement shall not exceed (i) if the fines and costs owed are \$500 or less, 10 percent of such amount or (ii) if the fines and costs owed are more than \$500, five percent of such amount or \$50, whichever is greater. When a defendant enters into a subsequent payment agreement, a court shall not require a defendant to establish a payment history on the subsequent payment agreement before restoring the defendant's driver's license.

## CHAPTER 807

An Act to amend and reenact § 24.2-106 of the Code of Virginia, relating to electoral board appointments; chief judge of the judicial circuit or his designee to make appointment.

[S 864]

Approved April 5, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 24.2-106 of the Code of Virginia is amended and reenacted as follows:**

**§ 24.2-106. Appointment and terms; vacancies; chairman and secretary; certain prohibitions; training.**

A. There shall be in each county and city an electoral board composed of three members who shall be appointed by a ~~majority of the circuit judges~~ the chief judge of the judicial circuit for the county or city ~~or that judge's designee. Such designee shall be any other judge who sits in the judicial circuit. If a majority of the judges cannot agree, the senior judge shall make the appointment.~~ Any vacancy occurring on a board shall be filled by the same authority for the unexpired term. In the event of the temporary absence, or disability that precludes the performance of duties, of one or more members that prevents attaining a quorum, the ~~senior chief judge or his designee~~, for good cause, may appoint, on a ~~meeting to meeting~~ ~~meeting-to-meeting~~ basis, a temporary member to the electoral board. The temporary appointee must be eligible for appointment and to the extent practicable maintain representation of political parties under ~~§ 24.2-106~~ ~~this section~~. The clerk of the circuit court shall send to the State Board a copy of each order making an appointment to an electoral board.

In the appointment of the electoral board, representation shall be given to each of the two political parties having the highest and next highest number of votes in the Commonwealth for Governor at the last preceding gubernatorial election. Two electoral board members shall be of the political party that cast the highest number of votes for Governor at that election. When the Governor was not elected as the candidate of a political party, representation shall be given to each of the political parties having the highest and next highest number of members of the General Assembly at the time of the appointment and two board members shall be of the political party having the highest number of members in the General Assembly. The political party entitled to the appointment shall make and file recommendations with the judges for the appointment not later than January 15 of the year of an appointment to a full term or, in the case of an appointment to fill a vacancy, within 30 days of the date of death or notice of resignation of the member being replaced. Its recommendations shall contain the names of at least three qualified voters of the county or city for each appointment. The ~~judges~~ chief judge, or his designee, shall promptly make such appointment ~~from the recommendations~~ (i) after receipt of the political party's recommendation or (ii) after January 15 for a full term or after the 30-day period expires for a vacancy appointment, whichever of the events described in clause (i) or (ii) first occurs.

The ~~circuit judges~~ chief judge of the judicial circuit for the county or city, or his designee, shall not appoint to the electoral board ~~(+)~~ (a) any person who is the spouse of an electoral board member or the general registrar for the county or city; ~~(+)~~ (b) any person, or the spouse of any person, who is the parent, grandparent, sibling, child, or grandchild of an

electoral board member or the general registrar of the county or city; or ~~(iii)~~ (c) any person who is ineligible to serve under the provisions of this section.

Electoral board members shall serve three-year terms and be appointed to staggered terms, one term to expire at midnight on the last day of February each year. No three-year term shall be shortened to comply with the political party representation requirements of this section.

B. The board shall elect one of its members as chairman and another as secretary. The chairman and the secretary shall represent different political parties, unless the representative of the second-ranked political party declines in writing to accept the unfilled office. At any time that the secretary is incapacitated in such a way that makes it impossible for the secretary to carry out the duties of the position, the board may designate one of its other members as acting secretary. Any such designation shall be made in an open meeting and recorded in the minutes of the board.

The secretary of the electoral board shall immediately notify the State Board of any change in the membership or officers of the electoral board and shall keep the Board informed of the name, residence and mailing addresses, and home and business telephone numbers of each electoral board member.

C. No member of an electoral board shall be eligible to offer for or hold an office to be filled in whole or in part by qualified voters of his jurisdiction. If a member resigns to offer for or hold such office, the vacancy shall be filled as provided in this section.

No member of an electoral board shall be the spouse, grandparent, parent, sibling, child, or grandchild, or the spouse of a grandparent, parent, sibling, child, or grandchild, of a candidate for or holder of an elective office filled in whole or in part by any voters within the jurisdiction of the electoral board.

No member of an electoral board shall serve as the chairman of a state, local or district level political party committee or as a paid worker in the campaign of a candidate for nomination or election to an office filled by election in whole or in part by the qualified voters of the jurisdiction of the electoral board.

D. Each member of the electoral board shall attend an annual training program provided by the State Board during the first year of his appointment and the first year of any subsequent reappointment.

**CHAPTER 808**

*An Act to amend and reenact § 58.1-612 of the Code of Virginia, relating to sales and use tax; nexus to require certain businesses to collect and remit sales and use tax.*

[S 962]

Approved April 5, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 58.1-612 of the Code of Virginia is amended and reenacted as follows:**

**§ 58.1-612. Tax collectible from dealers; "dealer" defined; jurisdiction.**

A. The tax levied by §§ 58.1-603 and 58.1-604 shall be collectible from all persons who are dealers, as hereinafter defined, and who have sufficient contact with the Commonwealth to qualify under subsections (i) B and C or (ii) B and D.

B. The term "dealer," as used in this chapter, shall include every person who:

1. Manufactures or produces tangible personal property for sale at retail, for use, consumption, or distribution, or for storage to be used or consumed in this Commonwealth;
2. Imports or causes to be imported into this Commonwealth tangible personal property from any state or foreign country, for sale at retail, for use, consumption, or distribution, or for storage to be used or consumed in this Commonwealth;
3. Sells at retail, or who offers for sale at retail, or who has in his possession for sale at retail, or for use, consumption, or distribution, or for storage to be used or consumed in this Commonwealth, tangible personal property;
4. Has sold at retail, used, consumed, distributed, or stored for use or consumption in this Commonwealth, tangible personal property and who cannot prove that the tax levied by this chapter has been paid on the sale at retail, the use, consumption, distribution, or storage of such tangible personal property;
5. Leases or rents tangible personal property for a consideration, permitting the use or possession of such property without transferring title thereto;
6. Is the lessee or rentee of tangible personal property and who pays to the owner of such property a consideration for the use or possession of such property without acquiring title thereto;
7. As a representative, agent, or solicitor, of an out-of-state principal, solicits, receives and accepts orders from persons in this Commonwealth for future delivery and whose principal refuses to register as a dealer under § 58.1-613; or
8. Becomes liable to and owes this Commonwealth any amount of tax imposed by this chapter, whether he holds, or is required to hold, a certificate of registration under § 58.1-613.

C. A dealer shall be deemed to have sufficient activity within the Commonwealth to require registration under § 58.1-613 if he:

1. Maintains or has within this Commonwealth, directly or through an agent or subsidiary, an office, warehouse, or place of business of any nature;
2. Solicits business in this Commonwealth by employees, independent contractors, agents or other representatives;

3. Advertises in newspapers or other periodicals printed and published within this Commonwealth, on billboards or posters located in this Commonwealth, or through materials distributed in this Commonwealth by means other than the United States mail;

4. Makes regular deliveries of tangible personal property within this Commonwealth by means other than common carrier. A person shall be deemed to be making regular deliveries hereunder if vehicles other than those operated by a common carrier enter this Commonwealth more than 12 times during a calendar year to deliver goods sold by him;

5. Solicits business in this Commonwealth on a continuous, regular, seasonal, or systematic basis by means of advertising that is broadcast or relayed from a transmitter within this Commonwealth or distributed from a location within this Commonwealth;

6. Solicits business in this Commonwealth by mail, if the solicitations are continuous, regular, seasonal, or systematic and if the dealer benefits from any banking, financing, debt collection, or marketing activities occurring in this Commonwealth or benefits from the location in this Commonwealth of authorized installation, servicing, or repair facilities;

7. Is owned or controlled by the same interests which own or control a business located within this Commonwealth;

8. Has a franchisee or licensee operating under the same trade name in this Commonwealth if the franchisee or licensee is required to obtain a certificate of registration under § 58.1-613; or

9. Owns tangible personal property that is *for sale located in this Commonwealth, or that is* rented or leased to a consumer in this Commonwealth, or offers tangible personal property, on approval, to consumers in this Commonwealth.

D. A dealer is presumed to have sufficient activity within the Commonwealth to require registration under § 58.1-613 (unless the presumption is rebutted as provided herein) if any commonly controlled person maintains a distribution center, warehouse, fulfillment center, office, or similar location within the Commonwealth that facilitates the delivery of tangible personal property sold by the dealer to its customers. The presumption in this subsection may be rebutted by demonstrating that the activities conducted by the commonly controlled person in the Commonwealth are not significantly associated with the dealer's ability to establish or maintain a market in the Commonwealth for the dealer's sales. For purposes of this subsection, a "commonly controlled person" means any person that is a member of the same "controlled group of corporations," as defined in § 1563(a) of the Internal Revenue Code of 1954, as amended or renumbered, as the dealer or any other entity that, notwithstanding its form of organization, bears the same ownership relationship to the dealer as a corporation that is a member of the same "controlled group of corporations," as defined in § 1563(a) of the Internal Revenue Code of 1954, as amended or renumbered.

E. Notwithstanding any other provision of this section, the following shall not be considered to determine whether a person who has contracted with a commercial printer for printing in the Commonwealth is a "dealer" and whether such person has sufficient contact with the Commonwealth to be required to register under § 58.1-613:

1. The ownership or leasing by that person of tangible or intangible property located at the Virginia premises of the commercial printer which is used solely in connection with the printing contract with the person;

2. The sale by that person of property of any kind printed at and shipped or distributed from the Virginia premises of the commercial printer;

3. Activities in connection with the printing contract with the person performed by or on behalf of that person at the Virginia premises of the commercial printer; and

4. Activities in connection with the printing contract with the person performed by the commercial printer within Virginia for or on behalf of that person.

F. In addition to the jurisdictional standards contained in subsections C and D, nothing contained herein (other than subsection E) shall limit any authority which this Commonwealth may enjoy under the provisions of federal law or an opinion of the United States Supreme Court to require the collection of sales and use taxes by any dealer who regularly or systematically solicits sales within this Commonwealth. Furthermore, nothing contained in subsection C shall require any broadcaster, printer, outdoor advertising firm, advertising distributor, or publisher which broadcasts, publishes, or displays or distributes paid commercial advertising in this Commonwealth which is intended to be disseminated primarily to consumers located in this Commonwealth to report or impose any liability to pay any tax imposed under this chapter solely because such broadcaster, printer, outdoor advertising firm, advertising distributor, or publisher accepted such advertising contracts from out-of-state advertisers or sellers.

G. (Contingent effective date -- see note\*) Pursuant to any federal legislation that grants states the authority to require remote sellers to collect sales and use tax, the Commonwealth is authorized, as permitted by such federal legislation, to require collection of sales and use tax by any remote seller, or a single or consolidated provider acting on behalf of a remote seller. If the federal legislation has an exemption for sellers whose sales are less than a minimum amount, then in determining such amount, the sales made by all persons related within the meanings of subsections (b) and (c) of § 267 or § 707(b)(1) of the Internal Revenue Code of 1986 shall be aggregated.

**2. That an emergency exists and the provisions of this act shall become effective on June 1, 2017.**

## CHAPTER 809

*An Act to amend and reenact §§ 15.2-914, 16.1-333.1, 19.2-389, 19.2-392.02, 22.1-296.3, 32.1-126.01, 32.1-162.9:1, 37.2-314, 37.2-408.1, 37.2-416, 37.2-506, 63.2-901.1, 63.2-1601.1, 63.2-1717, 63.2-1719, 63.2-1720, as it is currently effective and as it shall become effective, 63.2-1720.1, as it shall become effective, 63.2-1721, as it is currently*

*effective and as it shall become effective, 63.2-1721.1, as it shall become effective, and 63.2-1722 through 63.2-1726 of the Code of Virginia, relating to criminal history record checks; barrier crimes.*

[S 1008]

Approved April 5, 2017

**Be it enacted by the General Assembly of Virginia:**

1. That §§ 15.2-914, 16.1-333.1, 19.2-389, 19.2-392.02, 22.1-296.3, 32.1-126.01, 32.1-162.9:1, 37.2-314, 37.2-408.1, 37.2-416, 37.2-506, 63.2-901.1, 63.2-1601.1, 63.2-1717, 63.2-1719, 63.2-1720, as it is currently effective and as it shall become effective, 63.2-1720.1, as it shall become effective, 63.2-1721, as it is currently effective and as it shall become effective, 63.2-1721.1, as it shall become effective, and 63.2-1722 through 63.2-1726 of the Code of Virginia are amended and reenacted as follows:

**§ 15.2-914. Regulation of child-care services and facilities in certain counties and cities.**

Any (i) county that has adopted the urban county executive form of government, (ii) city adjacent to a county that has adopted the urban county executive form of government, or (iii) city which is completely surrounded by such county may by ordinance provide for the regulation and licensing of persons who provide child-care services for compensation and for the regulation and licensing of child-care facilities. "Child-care services" means provision of regular care, protection and guidance to one or more children not related by blood or marriage while such children are separated from their parent, guardian or legal custodian in a dwelling not the residence of the child during a part of the day for at least four days of a calendar week. "Child-care facilities" includes any commercial or residential structure which is used to provide child-care services.

Such local ordinance shall not require the regulation or licensing of any child-care facility that is licensed by the Commonwealth and such ordinance shall not require the regulation or licensing of any facility operated by a religious institution as exempted from licensure by § 63.2-1716.

Such local ordinances shall not be more extensive in scope than comparable state regulations applicable to family day homes. Such local ordinances may regulate the possession and storage of firearms, ammunition, or components or combination thereof at child-care facilities so long as such regulation remains no more extensive in scope than comparable state regulations applicable to family day homes. Local regulations shall not affect the manner of construction or materials to be used in the erection, alteration, repair or use of a residential dwelling.

Such local ordinances may require that persons who provide child-care services shall provide certification from the Central Criminal Records Exchange and a national criminal background check, in accordance with §§ 19.2-389 and 19.2-392.02, that such persons have not been convicted of any offense involving the sexual molestation of children, *or the physical or sexual abuse or rape of a child or any offense identified barrier crime defined in § 63.2-1719* 19.2-392.02, and such ordinances may require that persons who provide child-care services shall provide certification from the central registry of the Department of Social Services that such persons have not been the subject of a founded complaint of abuse or neglect. If an applicant is denied licensure because of any adverse information appearing on a record obtained from the Central Criminal Records Exchange, the national criminal background check, or the Department of Social Services, the applicant shall be provided a copy of the information upon which that denial was based.

**§ 16.1-333.1. Written findings necessary to order that minor is emancipated on the basis of intent to marry.**

The court may enter an order declaring such a minor who desires to get married emancipated if, after a hearing where both individuals intending to marry are present, the court makes written findings that:

1. It is the minor's own will that the minor enter into marriage, and the minor is not being compelled against the minor's will by force, threats, persuasions, menace, or duress;
2. The individuals to be married are mature enough to make such a decision to marry;
3. The marriage will not endanger the safety of the minor. In making this finding, the court shall consider (i) the age difference between the parties intending to be married; (ii) whether either individual to be married has a criminal record containing any conviction of an act of violence, as defined in § 19.2-297.1, or any conviction of ~~an offense set forth a barrier crime, as defined in § 63.2-1719 or 63.2-1726~~ 19.2-392.02; and (iii) any history of violence between the parties to be married; and
4. It is in the best interests of the minor petitioning for an order of emancipation that such order be entered. Neither a past or current pregnancy of either individual to be married or between the individuals to be married nor the wishes of the parents or legal guardians of the minor desiring to be married shall be sufficient evidence to establish that the best interests of the minor would be served by entering the order of emancipation.

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

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

1. Authorized officers or employees of criminal justice agencies, as defined by § 9.1-101, for purposes of the administration of criminal justice and the screening of an employment application or review of employment by a criminal justice agency with respect to its own employees or applicants, and dissemination to the Virginia Parole Board, pursuant to this subdivision, of such information on all state-responsible inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2, 3, and 5 of § 53.1-136 shall include collective dissemination by electronic means every 30 days. For purposes of this subdivision, criminal history record information includes information sent to the Central Criminal Records Exchange pursuant to §§ 37.2-819 and 64.2-2014 when disseminated to any full-time or part-time

employee of the State Police, a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth for the purposes of the administration of criminal justice;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17. (Effective until July 1, 2018) The Alcoholic Beverage Control Board for the conduct of investigations as set forth in § 4.1-103.1;

17. (Effective July 1, 2018) The Virginia Alcoholic Beverage Control Authority for the conduct of investigations as set forth in § 4.1-103.1;

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

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

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

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

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

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

24. Public and nonprofit private colleges and universities for the purpose of screening individuals who are offered or accept employment;

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

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

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

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

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

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

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

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

limited to those positions generally described as directly responsible for the health, safety and welfare of the general populace or protection of critical infrastructures;

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

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

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

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

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

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

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

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

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

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

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

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

45. Other entities as otherwise provided by law.

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

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

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

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

D. Criminal justice agencies shall establish procedures to query the Central Criminal Records Exchange prior to dissemination of any criminal history record information on offenses required to be reported to the Central Criminal Records Exchange to ensure that the most up-to-date disposition data is being used. Inquiries of the Exchange shall be made prior to any dissemination except in those cases where time is of the essence and the normal response time of the Exchange would exceed the necessary time period. A criminal justice agency to whom a request has been made for the dissemination

of criminal history record information that is required to be reported to the Central Criminal Records Exchange may direct the inquirer to the Central Criminal Records Exchange for such dissemination. Dissemination of information regarding offenses not required to be reported to the Exchange shall be made by the criminal justice agency maintaining the record as required by § 15.2-1722.

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

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

G. Criminal history information provided to public agencies pursuant to subdivision A 36 shall be limited to the convictions on file with the Exchange for any offense ~~specified set forth in clause (i) of the definition of barrier crime in § 63.2-1719~~ 19.2-392.02.

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

**§ 19.2-392.02. National criminal background checks by businesses and organizations regarding employees or volunteers providing care to children or the elderly or disabled.**

A. For purposes of this section:

"Barrier crime" means ~~any offense set forth in § 63.2-1719 or 63.2-1726~~ (i) a felony violation of § 16.1-253.2; any violation of § 18.2-31, 18.2-32, 18.2-32.1, 18.2-32.2, 18.2-33, 18.2-35, 18.2-36, 18.2-36.1, 18.2-36.2, 18.2-41, or 18.2-42; any felony violation of § 18.2-46.2, 18.2-46.3, 18.2-46.3:1, or 18.2-46.3:3; any violation of § 18.2-46.5, 18.2-46.6, or 18.2-46.7; any violation of subsection A or B of § 18.2-47; any violation of § 18.2-48, 18.2-49, or 18.2-50.3; any violation of § 18.2-51, 18.2-51.1, 18.2-51.2, 18.2-51.3, 18.2-51.4, 18.2-51.5, 18.2-51.6, 18.2-52, 18.2-52.1, 18.2-53, 18.2-53.1, 18.2-54.1, 18.2-54.2, 18.2-55, 18.2-55.1, 18.2-56, 18.2-56.1, 18.2-56.2, 18.2-57, 18.2-57.01, 18.2-57.02, 18.2-57.2, 18.2-58, 18.2-58.1, 18.2-59, 18.2-60, or 18.2-60.1; any felony violation of § 18.2-60.3 or 18.2-60.4; any violation of § 18.2-61, 18.2-63, 18.2-64.1, 18.2-64.2, 18.2-67.1, 18.2-67.2, 18.2-67.3, 18.2-67.4, 18.2-67.4:1, 18.2-67.4:2, 18.2-67.5, 18.2-67.5:1, 18.2-67.5:2, 18.2-67.5:3, 18.2-77, 18.2-79, 18.2-80, 18.2-81, 18.2-82, 18.2-83, 18.2-84, 18.2-85, 18.2-86, 18.2-87, 18.2-87.1, or 18.2-88; any felony violation of § 18.2-279, 18.2-280, 18.2-281, 18.2-282, 18.2-282.1, 18.2-286.1, or 18.2-287.2; any violation of § 18.2-289, 18.2-290, 18.2-300, 18.2-308.4, or 18.2-314; any felony violation of § 18.2-346; any violation of § 18.2-355, 18.2-356, 18.2-357, or 18.2-357.1; any violation of subsection B of § 18.2-361; any violation of § 18.2-366, 18.2-369, 18.2-370, 18.2-370.1, 18.2-370.2, 18.2-370.3, 18.2-370.4, 18.2-370.5, 18.2-370.6, 18.2-371.1, 18.2-374.1, 18.2-374.1:1, 18.2-374.3, 18.2-374.4, 18.2-379, 18.2-386.1, or 18.2-386.2; any felony violation of § 18.2-405 or 18.2-406; any violation of § 18.2-408, 18.2-413, 18.2-414, 18.2-423, 18.2-423.01, 18.2-423.1, 18.2-423.2, 18.2-433.2, 18.2-472.1, 18.2-474.1, 18.2-477, 18.2-477.1, 18.2-477.2, 18.2-478, 18.2-479, 18.2-480, 18.2-481, 18.2-484, 18.2-485, 37.2-917, or 53.1-203; or any substantially similar offense under the laws of another jurisdiction; (ii) any violation of § 18.2-89, 18.2-90, 18.2-91, 18.2-92, 18.2-93, or 18.2-94 or any substantially similar offense under the laws of another jurisdiction; (iii) any felony violation of § 18.2-248, 18.2-248.01, 18.2-248.02, 18.2-248.03, 18.2-248.1, 18.2-248.5, 18.2-251.2, 18.2-251.3, 18.2-255, 18.2-255.2, 18.2-258, 18.2-258.02, 18.2-258.1, or 18.2-258.2 or any substantially similar offense under the laws of another jurisdiction; (iv) any felony violation of § 18.2-250 or any substantially similar offense under the laws of another jurisdiction; (v) any offense set forth in § 9.1-902 that results in the person's requirement to register with the Sex Offender and Crimes Against Minors Registry pursuant to § 9.1-901, including any finding that a person is not guilty by reason of insanity in accordance with Chapter 11.1 (§ 19.2-182.2 et seq.) of Title 19.2 of an offense set forth in § 9.1-902 that results in the person's requirement to register with the Sex Offender and Crimes Against Minors Registry pursuant to § 9.1-901; any substantially similar offense under the laws of another jurisdiction; or any offense for which registration in a sex offender and crimes against minors registry is required under the laws of the jurisdiction where the offender was convicted; or (vi) any other felony not included in clause (i), (ii), (iii), (iv), or (v) unless five years have elapsed from the date of the conviction.

"Barrier crime information" means the following facts concerning a person who has been arrested for, or has been convicted of, a barrier crime, regardless of whether the person was a juvenile or adult at the time of the arrest or conviction: full name, race, sex, date of birth, height, weight, fingerprints, a brief description of the barrier crime or offenses for which the person has been arrested or has been convicted, the disposition of the charge, and any other information that may be useful in identifying persons arrested for or convicted of a barrier crime.

"Care" means the provision of care, treatment, education, training, instruction, supervision, or recreation to children or the elderly or disabled.

"Department" means the Department of State Police.

"Employed by" means any person who is employed by, volunteers for, seeks to be employed by, or seeks to volunteer for a qualified entity.

"Identification document" means a document made or issued by or under the authority of the United States government, a state, a political subdivision of a state, a foreign government, political subdivision of a foreign government, an international governmental or an international quasi-governmental organization that, when completed with information concerning a particular individual, is of a type intended or commonly accepted for the purpose of identification of individuals.

"Provider" means a person who (i) is employed by a qualified entity and has, seeks to have, or may have unsupervised access to a child or to an elderly or disabled person to whom the qualified entity provides care; (ii) is a volunteer of a qualified entity and has, seeks to have, or may have unsupervised access to a child to whom the qualified entity provides care; or (iii) owns, operates, or seeks to own or operate a qualified entity.

"Qualified entity" means a business or organization that provides care to children or the elderly or disabled, whether governmental, private, for profit, nonprofit or voluntary, except organizations exempt pursuant to subdivision A 10 of § 63.2-1715.

B. A qualified entity may request the Department of State Police to conduct a national criminal background check on any provider who is employed by such entity. No qualified entity may request a national criminal background check on a provider until such provider has:

1. Been fingerprinted; and
2. Completed and signed a statement, furnished by the entity, that includes (i) his name, address, and date of birth as it appears on a valid identification document; (ii) a disclosure of whether or not the provider has ever been convicted of or is the subject of pending charges for a criminal offense within or outside the Commonwealth, and if the provider has been convicted of a crime, a description of the crime and the particulars of the conviction; (iii) a notice to the provider that the entity may request a background check; (iv) a notice to the provider that he is entitled to obtain a copy of any background check report, to challenge the accuracy and completeness of any information contained in any such report, and to obtain a prompt determination as to the validity of such challenge before a final determination is made by the Department; and (v) a notice to the provider that prior to the completion of the background check the qualified entity may choose to deny the provider unsupervised access to children or the elderly or disabled for whom the qualified entity provides care.

C. Upon receipt of (i) a qualified entity's written request to conduct a background check on a provider, (ii) the provider's fingerprints, and (iii) a completed, signed statement as described in subsection B, the Department shall make a determination whether the provider has been convicted of or is the subject of charges of a barrier crime. To conduct its determination regarding the provider's barrier crime information, the Department shall access the national criminal history background check system, which is maintained by the Federal Bureau of Investigation and is based on fingerprints and other methods of identification, and shall access the Central Criminal Records Exchange maintained by the Department. If the Department receives a background report lacking disposition data, the Department shall conduct research in whatever state and local recordkeeping systems are available in order to obtain complete data. The Department shall make reasonable efforts to respond to a qualified entity's inquiry within 15 business days.

D. Any background check conducted pursuant to this section for a provider employed by a private entity shall be screened by the Department of State Police. If the provider has been convicted of or is under indictment for a barrier crime, the qualified entity shall be notified that the provider is not qualified to work or volunteer in a position that involves unsupervised access to children or the elderly or disabled.

E. Any background check conducted pursuant to this section for a provider employed by a governmental entity shall be provided to that entity.

F. In the case of a provider who desires to volunteer at a qualified entity and who is subject to a national criminal background check, the Department and the Federal Bureau of Investigation may each charge the provider the lesser of \$18 or the actual cost to the entity of the background check conducted with the fingerprints.

G. The failure to request a criminal background check pursuant to subsection B shall not be considered negligence per se in any civil action.

**§ 22.1-296.3. Certain private school employees subject to fingerprinting and criminal records checks.**

A. As a condition of employment, the governing boards or administrators of private elementary or secondary schools that are accredited pursuant to § 22.1-19 shall require any applicant who accepts employment, whether full-time or part-time, permanent or temporary, to submit to fingerprinting and to provide personal descriptive information to be forwarded along with the applicant's fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding such applicant.

The Central Criminal Records Exchange, upon receipt of an applicant's record or notification that no record exists, shall report to the governing board or administrator, or to a private organization coordinating such records on behalf of such governing board or administrator pursuant to a written agreement with the Department of State Police, that the applicant meets the criteria or does not meet the criteria for employment based on whether or not the applicant has ever been convicted of ~~the following crimes or their equivalent if from another jurisdiction: any offense set forth~~ any barrier crime as defined in § ~~63.2-1719~~ 19.2-392.02.

B. The Central Criminal Records Exchange shall not disclose information to such governing board, administrator, or private organization coordinating such records regarding charges or convictions of any crimes. If any applicant is denied

employment because of information appearing on the criminal history record and the applicant disputes the information upon which the denial was based, the Central Criminal Records Exchange shall, upon request, furnish the applicant the procedures for obtaining a copy of the criminal history record from the Federal Bureau of Investigation. The information provided to the governing board, administrator, or private organization coordinating such records shall not be disseminated except as provided in this section. A governing board or administrator employing or previously employing a temporary teacher or a private organization coordinating such records on behalf of such governing board or administrator pursuant to a written agreement with the Department of State Police may disseminate, at the written request of such temporary teacher, whether such teacher meets the criteria or does not meet the criteria for employment pursuant to subsection A to the governing board or administrator of another accredited private elementary or secondary school in which such teacher has accepted employment. Such governing board, administrator, or private organization transferring criminal records information pursuant to this section shall be immune from civil liability for any official act, decision, or omission done or made in the performance of such transfer, when such acts or omissions are taken in good faith and are not the result of gross negligence or willful misconduct.

Fees charged for the processing and administration of background checks pursuant to this section shall not exceed the actual cost to the state of such processing and administration.

C. Effective July 1, 2017, the governing board or administrator of a private elementary or secondary school that is accredited pursuant to § 22.1-19 that operates a child welfare agency regulated by the Department of Social Services pursuant to Chapter 17 (§ 63.2-1700 et seq.) of Title 63.2 shall accept evidence of a background check in accordance with § 63.2-1720.1 for individuals who are required to undergo a background check in accordance with that section as a condition of employment in lieu of the background check required by subsection A.

D. For purposes of this section, "governing board" or "administrator" means the unit or board or person designated to supervise operations of a system of private schools or a private school accredited pursuant to § 22.1-19.

Nothing in this section or § 19.2-389 shall be construed to require any private or religious school which is not so accredited to comply with this section.

**§ 32.1-126.01. Employment for compensation of persons convicted of barrier crimes prohibited; criminal records check required; suspension or revocation of license.**

A. A licensed nursing home shall not hire for compensated employment; persons who have been convicted of a felony violation of a protective order as set out in § 16.1-253.2; murder or manslaughter as set out in Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2; malicious wounding by mob as set out in § 18.2-41; abduction as set out in subsection A or B of § 18.2-47; abduction for immoral purposes as set out in § 18.2-48; assaults and bodily woundings as set out in Article 4 (§ 18.2-51 et seq.) of Chapter 4 of Title 18.2; robbery as set out in § 18.2-58; earjacking as set out in § 18.2-58.1; extortion by threat as set out in § 18.2-59; threats of death or bodily injury as set out in § 18.2-60; felony stalking as set out in § 18.2-60.3; a felony violation of a protective order as set out in § 18.2-60.4; sexual assault as set out in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2; arson as set out in Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2; drive by shooting as set out in § 18.2-286.1; use of a machine gun in a crime of violence as set out in § 18.2-289; aggressive use of a machine gun as set out in § 18.2-290; use of a sawed-off shotgun in a crime of violence as set out in subsection A of § 18.2-300; pandering as set out in § 18.2-355; crimes against nature involving children as set out in § 18.2-361; incest as set out in § 18.2-366; taking indecent liberties with children as set out in § 18.2-370 or § 18.2-370.1; abuse and neglect of children as set out in § 18.2-371.1; failure to secure medical attention for an injured child as set out in § 18.2-314; obscenity offenses as set out in § 18.2-374.1; possession of child pornography as set out in § 18.2-374.1:1; electronic facilitation of pornography as set out in § 18.2-374.3; abuse and neglect of incapacitated adults as set out in § 18.2-369; employing or permitting a minor to assist in an act constituting an offense under Article 5 (§ 18.2-372 et seq.) of Chapter 8 of Title 18.2 as set out in § 18.2-379; delivery of drugs to prisoners as set out in § 18.2-474.1; escape from jail as set out in § 18.2-477; felonies by prisoners as set out in § 53.1-203; or an equivalent offense in another state *any offense set forth in clause (i) of the definition of barrier crime in § 19.2-392.02*. However, a licensed nursing home may hire an applicant who has been convicted of one *such offense punishable as a misdemeanor specified in this section that does not involving involve* abuse or neglect; if five years have elapsed following the conviction.

Any person desiring to work at a licensed nursing home shall provide the hiring facility with a sworn statement or affirmation disclosing any criminal convictions or any pending criminal charges, whether within or ~~without~~ outside the Commonwealth. Any person making a materially false statement when providing such sworn statement or affirmation regarding any such offense ~~shall be~~ *is* guilty upon conviction of a Class 1 misdemeanor. Further dissemination of the information provided pursuant to this section is prohibited other than to a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination.

A nursing home shall, within 30 days of employment, obtain for any compensated employees an original criminal record clearance with respect to convictions for offenses specified in this section or an original criminal history record from the Central Criminal Records Exchange. However, no employee shall be permitted to work in a position that involves direct contact with a patient until an original criminal record clearance or original criminal history record has been received, unless such person works under the direct supervision of another employee for whom a background check has been completed in accordance with the requirements of this section. The provisions of this section shall be enforced by the Commissioner. If an applicant is denied employment because of convictions appearing on his criminal history record, the nursing home shall provide a copy of the information obtained from the Central Criminal Records Exchange to the applicant.

The provisions of this section shall not apply to volunteers who work with the permission or under the supervision of a person who has received a clearance pursuant to this section.

B. A person who complies in good faith with the provisions of this section shall not be liable for any civil damages for any act or omission in the performance of duties under this section unless the act or omission was the result of gross negligence or willful misconduct.

C. A licensed nursing home shall notify and provide to all students a copy of the provisions of this section prior to or upon enrollment in a certified nurse aide program operated by such nursing home.

**§ 32.1-162.9:1. Employment for compensation of persons convicted of barrier crimes prohibited; criminal records check required; drug testing; suspension or revocation of license.**

A. A licensed home care organization as defined in § 32.1-162.7 or any home care organization exempt from licensure under subdivision 3 a or b of § 32.1-162.8 or any licensed hospice as defined in § 32.1-162.1 shall not hire for compensated employment, persons who have been convicted of a ~~felony violation of a protective order as set out in § 16.1-253.2, murder or manslaughter as set out in Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2, malicious wounding by a mob as set out in § 18.2-41, abduction as set out in subsection A or B of § 18.2-47, abduction for immoral purposes as set out in § 18.2-48, assaults and bodily woundings as set out in Article 4 (§ 18.2-51 et seq.) of Chapter 4 of Title 18.2, robbery as set out in § 18.2-58, earjacking as set out in § 18.2-58.1, extortion by threat as set out in § 18.2-59, threats of death or bodily injury as set out in § 18.2-60, felony stalking as set out in § 18.2-60.3, a felony violation of a protective order as set out in § 18.2-60.4, sexual assault as set out in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, arson as set out in Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2, drive by shooting as set out in § 18.2-286.1, use of a machine gun in a crime of violence as set out in § 18.2-289, aggressive use of a machine gun as set out in § 18.2-290, use of a sawed-off shotgun in a crime of violence as set out in subsection A of § 18.2-300, pandering as set out in § 18.2-355, crimes against nature involving children as set out in § 18.2-361, incest as set out in § 18.2-366, taking indecent liberties with children as set out in § 18.2-370 or § 18.2-370.1, abuse and neglect of children as set out in § 18.2-371.1, failure to secure medical attention for an injured child as set out in § 18.2-314, obscenity offenses as set out in § 18.2-374.1, possession of child pornography as set out in § 18.2-374.1-1, electronic facilitation of pornography as set out in § 18.2-374.3, abuse and neglect of incapacitated adults as set out in § 18.2-369, employing or permitting a minor to assist in an act constituting an offense under Article 5 (§ 18.2-372 et seq.) of Chapter 8 of Title 18.2 as set out in § 18.2-379, delivery of drugs to prisoners as set out in § 18.2-474.1, escape from jail as set out in § 18.2-477, felonies by prisoners as set out in § 53.1-203, or an equivalent offense in another state any offense set forth in clause (i) of the definition of barrier crime in § 19.2-392.02.~~

However, a home care organization or hospice may hire an applicant ~~who has been convicted of one such offense punishable as a misdemeanor specified in this section that does not involving involve~~ abuse or neglect; if five years have elapsed since the conviction.

Any person desiring to work at a licensed home care organization as defined in § 32.1-162.7 or any home care organization exempt from licensure under subdivision 3 a or b of § 32.1-162.8 or any licensed hospice as defined in § 32.1-162.1 shall provide the hiring facility with a sworn statement or affirmation disclosing any criminal convictions or any pending criminal charges, whether within or ~~without~~ outside the Commonwealth. Any person making a materially false statement when providing such sworn statement or affirmation regarding any such offense ~~shall be is~~ guilty upon conviction of a Class 1 misdemeanor. Further dissemination of the information provided pursuant to this section is prohibited other than to a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination.

Such home care organization or hospice shall, within 30 days of employment, obtain for any compensated employees an original criminal record clearance with respect to convictions for offenses specified in this section or an original criminal history record from the Central Criminal Records Exchange. However, no employee shall be permitted to work in a position that involves direct contact with a patient until an original criminal record clearance or original criminal history record has been received, unless such person works under the direct supervision of another employee for whom a background check has been completed in accordance with the requirements of this section. The provisions of this section shall be enforced by the Commissioner. If an applicant is denied employment because of convictions appearing on his criminal history record, the home care organization or hospice shall provide a copy of the information obtained from the Central Criminal Records Exchange to the applicant.

The provisions of this section shall not apply to volunteers who work with the permission or under the supervision of a person who has received a clearance pursuant to this section.

B. A licensed home care organization as defined in § 32.1-162.7 or any home care organization exempt from licensure under subdivision 3 a or b of § 32.1-162.8 shall establish policies for maintaining a drug-free workplace, which may include drug testing when the employer has cause to believe that the person has engaged in the use of illegal drugs and periodically during the course of employment. All positive results from drug testing administered pursuant to this section shall be reported to the health regulatory boards responsible for licensing, certifying, or registering the person to practice, if any.

C. A person who complies in good faith with the provisions of this section shall not be liable for any civil damages for any act or omission in the performance of duties under this section unless the act or omission was the result of gross negligence or willful misconduct.

D. A licensed home care organization or hospice shall notify and provide all students a copy of the provisions of this section prior to or upon enrollment in a certified nurse aide program operated by such home care organization or hospice.

**§ 37.2-314. Background check required.**

A. As a condition of employment, the Department shall require any applicant who (i) accepts a position of employment at a state facility and was not employed by that state facility prior to July 1, 1996, or (ii) accepts a position with the Department that receives, monitors, or disburses funds of the Commonwealth and was not employed by the Department prior to July 1, 1996, to submit to fingerprinting and provide personal descriptive information to be forwarded along with the applicant's fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation (FBI) for the purpose of obtaining national criminal history record information regarding the applicant.

B. For purposes of clause (i) of subsection A, the Department shall not hire for compensated employment persons who have been (†) convicted of a felony violation of a protective order as set out in § 16.1-253.2; murder or manslaughter, as set out in Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2; malicious wounding by mob, as set out in § 18.2-41; abduction, as set out in subsection A or B of § 18.2-47; abduction for immoral purposes, as set out in § 18.2-48; assault and bodily wounding, as set out in Article 4 (§ 18.2-51 et seq.) of Chapter 4 of Title 18.2; robbery, as set out in § 18.2-58; earjacking, as set out § 18.2-58.1; extortion by threat, as set out in § 18.2-59; threat, as set out in § 18.2-60; any felony stalking violation, as set out in § 18.2-60.3; a felony violation of a protective order as set out in § 18.2-60.4; sexual assault, as set out in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2; arson, as set out in Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2; burglary, as set out in Article 2 (§ 18.2-89 et seq.) of Chapter 5 of Title 18.2; any felony violation relating to distribution of drugs, as set out in Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2; drive-by shooting, as set out in § 18.2-286.1; use of a machine gun in a crime of violence, as set out in § 18.2-289; aggressive use of a machine gun, as set out in § 18.2-290; use of a sawed-off shotgun in a crime of violence, as set out in subsection A of § 18.2-300; pandering, as set out in § 18.2-355; crimes against nature involving children, as set out in § 18.2-361; taking indecent liberties with children, as set out in § 18.2-370 or 18.2-370.1; abuse or neglect of children, as set out in § 18.2-371.1, including failing to secure medical attention for an injured child, as set out in § 18.2-314; obscenity offenses, as set out in § 18.2-374.1; possession of child pornography, as set out in § 18.2-374.1.1; electronic facilitation of pornography, as set out in § 18.2-374.3; incest, as set out in § 18.2-366; abuse or neglect of incapacitated adults, as set out in § 18.2-369; employing or permitting a minor to assist in an act constituting an offense under Article 5 (§ 18.2-372 et seq.) of Chapter 8 of Title 18.2, as set out in § 18.2-379; delivery of drugs to prisoners, as set out in § 18.2-474.1; escape from jail, as set out in § 18.2-477; felonies by prisoners, as set out in § 53.1-203; or an equivalent offense in another state; (i) any offense set forth in clause (i), (ii), or (iii) of the definition of barrier crime in § 19.2-392.02 or (ii) convicted of any felony violation relating to possession of drugs, as set out in Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02 (a) in the five years prior to the application date for employment; or (iii) convicted of any felony violation relating to possession of drugs, as set out in Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, and continue (b) such person continues on probation or parole or have failed to pay required court costs for such offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02.

C. The Central Criminal Records Exchange, upon receipt of an applicant's record or notification that no record exists, shall submit a report to the state facility or to the Department. If an applicant is denied employment because of information appearing on his criminal history record and the applicant disputes the information upon which the denial was based, the Central Criminal Records Exchange shall, upon written request, furnish to the applicant the procedures for obtaining a copy of the criminal history record from the FBI. The information provided to the state facility or Department shall not be disseminated except as provided in this section.

D. Those applicants listed in clause (i) of subsection A also shall provide to the state facility or Department a copy of information from the central registry maintained pursuant to § 63.2-1515 on any investigation of child abuse or neglect undertaken on them.

E. The Board may adopt regulations to comply with the provisions of this section. Copies of any information received by the state facility or Department pursuant to this section shall be available to the Department and to the applicable state facility but shall not be disseminated further, except as permitted by state or federal law. The cost of obtaining the criminal history record and the central registry information shall be borne by the applicant, unless the Department or state facility decides to pay the cost.

**§ 37.2-408.1. Background check required; children's residential facilities.**

A. Notwithstanding the provisions of § 37.2-416, as a condition of employment, volunteering or providing services on a regular basis, every children's residential facility that is regulated or operated by the Department shall require any person who (i) accepts a position of employment at such a facility who was not employed by that facility prior to July 1, 2008, (ii) volunteers for such a facility on a regular basis and will be alone with a juvenile in the performance of his duties who was not a volunteer at such facility prior to July 1, 2008, or (iii) provides contractual services directly to a juvenile for such facility on a regular basis and will be alone with a juvenile in the performance of his duties who did not provide such services prior to July 1, 2008, to submit to fingerprinting and to provide personal descriptive information, to be forwarded along with the person's fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding the person. The children's residential facility shall inform the person that he is entitled to obtain a copy of any background check report and to challenge the accuracy and completeness of any such report and obtain a prompt resolution before a final determination is made of the person's eligibility to have responsibility for the safety and well-being of children. The person shall provide the children's residential facility with a written statement or affirmation disclosing whether he has ever been convicted of or is the subject of pending

charges for any offense within or outside the Commonwealth. The results of the criminal history background check must be received prior to permitting a person to work with children.

The Central Criminal Records Exchange, upon receipt of a person's record or notification that no record exists, shall forward it to the state agency that operates or regulates the children's residential facility with which the person is affiliated. The state agency shall, upon receipt of a person's record lacking disposition data, conduct research in whatever state and local recordkeeping systems are available in order to obtain complete data. The state agency shall report to the children's facility whether the person is eligible to have responsibility for the safety and well-being of children. Except as otherwise provided in subsection B, no children's residential facility regulated or operated by the Department shall hire for compensated employment or allow to volunteer or provide contractual services persons who have been ~~(a)~~ convicted of or are the subject of pending charges for the following crimes: a felony violation of a protective order as set out in § 16.1-253.2; murder or manslaughter as set out in Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2; malicious wounding by mob as set out in § 18.2-41; abduction as set out in subsection A or B of § 18.2-47; abduction for immoral purposes as set out in § 18.2-48; assault and bodily woundings as set out in Article 4 (§ 18.2-51 et seq.) of Chapter 4 of Title 18.2; robbery as set out in § 18.2-58; earjacking as set out in § 18.2-58.1; extortion by threat as set out in § 18.2-59; threat as set out in § 18.2-60; any felony stalking violation as set out in § 18.2-60.3; a felony violation of a protective order as set out in § 18.2-60.4; sexual assault as set out in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2; arson as set out in Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2; burglary as set out in Article 2 (§ 18.2-89 et seq.) of Chapter 5 of Title 18.2; any felony violation relating to distribution of drugs as set out in Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2; drive-by shooting as set out in § 18.2-286.1; use of a machine gun in a crime of violence as set out in § 18.2-289; aggressive use of a machine gun as set out in § 18.2-290; use of a sawed-off shotgun in a crime of violence as set out in subsection A of § 18.2-300; pandering as set out in § 18.2-355; crimes against nature involving children as set out § 18.2-361; taking indecent liberties with children as set out in § 18.2-370 or 18.2-370.1; abuse or neglect of children as set out in § 18.2-371.1, including failure to secure medical attention for an injured child as set out in § 18.2-314; obscenity offenses as set out in § 18.2-374.1; possession of child pornography as set out in § 18.2-374.1.1; electronic facilitation of pornography as set out in § 18.2-374.3; incest as set out in § 18.2-366; abuse or neglect of incapacitated adults as set out in § 18.2-369; employing or permitting a minor to assist in an act constituting an offense under Article 5 (§ 18.2-372 et seq.) of Chapter 8 of Title 18.2; as set out in § 18.2-379; delivery of drugs to prisoners as set out in § 18.2-474.1; escape from jail as set out in § 18.2-477; felonies by prisoners as set out in § 53.1-203; or an equivalent offense in another state; (a) any offense set forth in clause (i), (ii), (iii), or (v) of the definition of barrier crime in § 19.2-392.02 or (b) convicted of any felony violation relating to possession of drugs set out in Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2; or an equivalent offense in another state; set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02 (1) in the five years prior to the application date for employment, to be a volunteer, or to provide contractual services; (c) convicted of any felony violation relating to possession of drugs as set out in Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2 and continue or (2) such person continues on probation or parole or have has failed to pay required court costs; or (d) convicted of any offense set forth in § 9.1-902 or have been the subject of a finding of not guilty by reason of insanity in accordance with Chapter 11.1 (§ 19.2-182.2 et seq.) of Title 19.2 of an offense set forth in § 9.1-902 that results in the person's requirement to register with the Sex Offender and Crimes Against Minors Registry pursuant to § 9.1-901; or any similar registry in any other state for such offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02. The provisions of this section also shall apply to structured residential programs, excluding secure detention facilities, established pursuant to § 16.1-309.3 for juvenile offenders cited in a complaint for intake or in a petition before the court that alleges the juvenile is delinquent or in need of services or supervision.

B. Notwithstanding the provisions of subsection A, a children's residential facility may hire for compensated employment or for volunteer or contractual service purposes persons who have been convicted of not more than one misdemeanor offense under § 18.2-57 or 18.2-57.2, or any substantially similar offense under the laws of another jurisdiction, if 10 years have elapsed following the conviction, unless the person committed such offense in the scope of his employment, volunteer, or contractual services.

If the person is denied employment, or the opportunity to volunteer or provide services, at a children's residential facility because of information appearing on his criminal history record, and the person disputes the information upon which the denial was based, upon written request of the person the state agency shall furnish the person the procedures for obtaining his criminal history record from the Federal Bureau of Investigation. If the person has been permitted to assume duties that do not involve contact with children pending receipt of the report, the children's residential facility is not precluded from suspending the person from his position pending a final determination of the person's eligibility to have responsibility for the safety and well-being of children. The information provided to the children's residential facility shall not be disseminated except as provided in this section.

C. Those persons listed in clauses (i), (ii), and (iii) of subsection A also shall authorize the children's residential facility to obtain a copy of information from the central registry maintained pursuant to § 63.2-1515 on any investigation of child abuse or neglect undertaken on him. The person shall provide the children's residential facility with a written statement or affirmation disclosing whether he has ever been the subject of a founded case of child abuse or neglect within or outside the Commonwealth. The children's residential facility shall receive the results of the central registry search prior to permitting a person to work alone with children. Children's residential facilities regulated or operated by the Department shall not hire

for compensated employment, or allow to volunteer or provide contractual services, persons who have a founded case of child abuse or neglect.

D. The cost of obtaining the criminal history record and the central registry information shall be borne by the person unless the children's residential facility, at its option, decides to pay the cost.

**§ 37.2-416. Background checks required.**

A. As used in this section:

"Direct care position" means any position that includes responsibility for (i) treatment, case management, health, safety, development, or well-being of an individual receiving services or (ii) immediately supervising a person in a position with this responsibility.

"Hire for compensated employment" does not include (i) a promotion from one adult substance abuse or adult mental health treatment position to another such position within the same licensee licensed pursuant to this article or (ii) new employment in an adult substance abuse or adult mental health treatment position in another office or program licensed pursuant to this article if the person employed prior to July 1, 1999, in a licensed program had no convictions in the five years prior to the application date for employment. "Hire for compensated employment" includes (a) a promotion or transfer from an adult substance abuse treatment position to any mental health or developmental services direct care position within the same licensee licensed pursuant to this article or (b) new employment in any mental health or developmental services direct care position in another office or program of the same licensee licensed pursuant to this article for which the person has previously worked in an adult substance abuse treatment position.

"Shared living" means an arrangement in which the Commonwealth's program of medical assistance pays a portion of a person's rent, utilities, and food expenses in return for the person residing with and providing companionship, support, and other limited, basic assistance to a person with intellectual or developmental disabilities receiving medical assistance services in accordance with a waiver for whom he has no legal responsibility.

B. Every provider licensed pursuant to this article shall require (i) any applicant who accepts employment in any direct care position, (ii) any applicant for approval as a sponsored residential service provider, (iii) any adult living in the home of an applicant for approval as a sponsored residential service provider, (iv) any person employed by a sponsored residential service provider to provide services in the home, and (v) any person who enters into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver to submit to fingerprinting and provide personal descriptive information to be forwarded through the Central Criminal Records Exchange to the Federal Bureau of Investigation (FBI) for the purpose of obtaining national criminal history record information regarding the applicant. Except as otherwise provided in subsection C, D, or F, no provider licensed pursuant to this article shall ~~(a) hire:~~

1. Hire for compensated employment ~~persons any person who have~~ been convicted of (i) any offense listed in ~~subsection B set forth in clause (i), (ii), or (iii) of the definition of barrier crime in § 37.2-314;~~ ~~(b) approve~~ 19.2-392.02 or (ii) any offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02 (a) in the five years prior to the application date for employment or (b) such person continues on probation or parole or has failed to pay required court costs for such offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02;

2. Approve an applicant as a sponsored residential service provider if the applicant, any adult residing in the home of the applicant, or any person employed by the applicant has been convicted of ~~an~~ (i) any offense listed in ~~subsection B set forth in clause (i), (ii), or (iii) of the definition of barrier crime in § 37.2-314~~ 19.2-392.02 or (ii) any offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02 (a) in the five years prior to the application date to be a sponsored residential service provider or (b) such applicant continues on probation or parole or has failed to pay required court costs for such offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02; or ~~(c) permit~~

3. Permit to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver any person who has been convicted of ~~an~~ (i) any offense listed in ~~subsection B set forth in clause (i), (ii), or (iii) of the definition of barrier crime in § 37.2-314~~ 19.2-392.02 or (ii) any offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02 (a) in the five years prior to entering into a shared living arrangement or (b) such person continues on probation or parole or has failed to pay required court costs for such offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02.

The Central Criminal Records Exchange, upon receipt of an applicant's record or notification that no record exists, shall submit a report to the requesting authorized officer or director of a provider licensed pursuant to this article. If any applicant is denied employment because of information appearing on the criminal history record and the applicant disputes the information upon which the denial was based, the Central Criminal Records Exchange shall, upon written request, furnish to the applicant the procedures for obtaining a copy of the criminal history record from the FBI. The information provided to the authorized officer or director of a provider licensed pursuant to this article shall not be disseminated except as provided in this section.

C. Notwithstanding the provisions of subsection B, a provider may hire for compensated employment at adult substance abuse or adult mental health treatment facilities a person who was convicted of *any violation of § 18.2-51.3*; a misdemeanor violation ~~relating to (i) unlawful hazing, as set out in of § 18.2-56; (ii) reckless handling of a firearm, as set out in § or 18.2-56.1; or (iii) assault and battery, as set out in or subsection A of § 18.2-57; or any misdemeanor or felony violation related to (a) reckless endangerment of others by throwing objects, as set out in § 18.2-51.3; (b) threat, as set out in of § 18.2-60; (c) breaking and entering a dwelling house with intent to commit other misdemeanor, as set out in §, 18.2-92; or (d) possession of burglarious tools, as set out in §, or 18.2-94; or any felony violation relating to the distribution of drugs;~~

as set out in Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2 offense set forth in clause (iii) of the definition of barrier crime in § 19.2-392.02, except an offense pursuant to subsections H1 and H2 of § 18.2-248; or an equivalent any substantially similar offense in under the laws of another state jurisdiction, if the hiring provider determines, based upon a screening assessment, that the criminal behavior was substantially related to the applicant's substance abuse or mental illness and that the person has been successfully rehabilitated and is not a risk to individuals receiving services based on his criminal history background and his substance abuse or mental illness history.

D. Notwithstanding the provisions of subsection B, a provider may hire for compensated employment at adult substance abuse treatment facilities a person who has been convicted of not more than one offense of assault and battery of a law enforcement officer under subsection C of § 18.2-57, or an equivalent any substantially similar offense in under the laws of another state jurisdiction, if (i) the person has been granted a simple pardon if the offense was a felony committed in Virginia, or the equivalent if the offense person was committed in convicted under the laws of another state jurisdiction; (ii) more than 10 years have elapsed since the conviction; and (iii) the hiring provider determines, based upon a screening assessment, that the criminal behavior was substantially related to the applicant's substance abuse and that the person has been successfully rehabilitated and is not a risk to individuals receiving services based on his criminal history background and his substance abuse history.

E. The hiring provider and a screening contractor designated by the Department shall screen applicants who meet the criteria set forth in subsections C and D to assess whether the applicants have been rehabilitated successfully and are not a risk to individuals receiving services based on their criminal history backgrounds and substance abuse or mental illness histories. To be eligible for such screening, the applicant shall have completed all prison or jail terms, shall not be under probation or parole supervision, shall have no pending charges in any locality, shall have paid all fines, restitution, and court costs for any prior convictions, and shall have been free of parole or probation for at least five years for all convictions. In addition to any supplementary information the provider or screening contractor may require or the applicant may wish to present, the applicant shall provide to the screening contractor a statement from his most recent probation or parole officer, if any, outlining his period of supervision and a copy of any pre-sentencing or post-sentencing report in connection with the felony conviction. The cost of this screening shall be paid by the applicant, unless the licensed provider decides to pay the cost.

F. Notwithstanding the provisions of subsection B, a provider may hire for compensated employment persons who have been convicted of not more than one misdemeanor offense under § 18.2-57 or 18.2-57.2, or any substantially similar offense under the laws of another jurisdiction, if 10 years have elapsed following the conviction, unless the person committed the offense while employed in a direct care position.

G. Providers licensed pursuant to this article also shall require, as a condition of employment, approval as a sponsored residential service provider, or permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver, written consent and personal information necessary to obtain a search of the registry of founded complaints of child abuse and neglect that is maintained by the Department of Social Services pursuant to § 63.2-1515.

H. The cost of obtaining the criminal history record and search of the child abuse and neglect registry record shall be borne by the applicant, unless the provider licensed pursuant to this article decides to pay the cost.

I. A person who complies in good faith with the provisions of this section shall not be liable for any civil damages for any act or omission in the performance of duties under this section unless the act or omission was the result of gross negligence or willful misconduct.

#### § 37.2-506. Background checks required.

A. As used in this section:

"Direct care position" means any position that includes responsibility for (i) treatment, case management, health, safety, development, or well-being of an individual receiving services or (ii) immediately supervising a person in a position with this responsibility.

"Hire for compensated employment" does not include (i) a promotion from one adult substance abuse or adult mental health treatment position to another such position within the same community services board or (ii) new employment in an adult substance abuse or adult mental health treatment position in another office or program of the same community services board if the person employed prior to July 1, 1999, had no convictions in the five years prior to the application date for employment. "Hire for compensated employment" includes (a) a promotion or transfer from an adult substance abuse treatment position to any mental health or developmental services direct care position within the same community services board or (b) new employment in any mental health or developmental services direct care position in another office or program of the same community services board for which the person has previously worked in an adult substance abuse treatment position.

"Shared living" means an arrangement in which the Commonwealth's program of medical assistance pays a portion of a person's rent, utilities, and food expenses in return for the person residing with and providing companionship, support, and other limited, basic assistance to a person with intellectual or developmental disabilities receiving medical assistance services in accordance with a waiver for whom he has no legal responsibility.

B. Every community services board shall require (i) any applicant who accepts employment in any direct care position with the community services board, (ii) any applicant for approval as a sponsored residential service provider, (iii) any adult living in the home of an applicant for approval as a sponsored residential service provider, (iv) any person employed by a sponsored residential service provider to provide services in the home, and (v) any person who enters into a shared living

arrangement with a person receiving medical assistance services pursuant to a waiver to submit to fingerprinting and provide personal descriptive information to be forwarded through the Central Criminal Records Exchange to the Federal Bureau of Investigation (FBI) for the purpose of obtaining national criminal history record information regarding the applicant. Except as otherwise provided in subsection C, D, or F, no community services board shall hire for compensated employment, approve as a sponsored residential service provider, or permit to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver persons who have been convicted of ~~(a) any offense listed in subsection B of § 37.2-314 set forth in clause (i), (ii), or (iii) of the definition of barrier crime in § 19.2-392.02 or (b) any offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02 (1) in the five years prior to the application date for employment, the application date to be a sponsored residential service provider, or entering into a shared living arrangement or (2) such person continues on probation or parole or has failed to pay required court costs for such offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02.~~

The Central Criminal Records Exchange, upon receipt of an applicant's record or notification that no record exists, shall submit a report to the requesting executive director or personnel director of the community services board. If any applicant is denied employment because of information appearing on his criminal history record and the applicant disputes the information upon which the denial was based, the Central Criminal Records Exchange shall, upon written request, furnish to the applicant the procedures for obtaining a copy of the criminal history record from the FBI. The information provided to the executive director or personnel director of any community services board shall not be disseminated except as provided in this section.

C. Notwithstanding the provisions of subsection B, the community services board may hire for compensated employment at adult substance abuse or adult mental health treatment programs a person who was convicted of *any violation of § 18.2-51.3; a misdemeanor violation relating to (i) unlawful hazing, as set out in of § 18.2-56; (ii) reckless handling of a firearm, as set out in § or 18.2-56.1; (iii) assault and battery, as set out in, subsection A of § 18.2-57; or (iv) assault and battery against a family or household member, as set out in subsection A of, or § 18.2-57.2; or any misdemeanor or felony violation related to (a) reckless endangerment of others by throwing objects, as set out in § 18.2-51.3; (b) threat, as set out in of § 18.2-60; (c) breaking and entering a dwelling house with intent to commit other misdemeanor, as set out in §, 18.2-92; or (d) possession of burglarious tools, as set out in §, or 18.2-94; or any felony violation relating to the distribution of drugs, as set out in Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2 offense set forth in clause (iii) of the definition of barrier crime in § 19.2-392.02, except an offense pursuant to subsection H1 or H2 of § 18.2-248; or an equivalent any substantially similar offense in under the laws of another state jurisdiction, if the hiring community services board determines, based upon a screening assessment, that the criminal behavior was substantially related to the applicant's substance abuse or mental illness and that the person has been successfully rehabilitated and is not a risk to individuals receiving services based on his criminal history background and his substance abuse or mental illness history.*

D. Notwithstanding the provisions of subsection B, the community services board may hire for compensated employment at adult substance abuse treatment programs a person who has been convicted of not more than one offense ~~of assault and battery of a law enforcement officer under subsection C of § 18.2-57, or an equivalent any substantially similar offense in under the laws of another state jurisdiction, if (i) the person has been granted a simple pardon if the offense was a felony committed in Virginia, or the equivalent if the offense person was committed in convicted under the laws of another state jurisdiction; (ii) more than 10 years have elapsed since the conviction; and (iii) the hiring community services board determines, based upon a screening assessment, that the criminal behavior was substantially related to the applicant's substance abuse and that the person has been successfully rehabilitated and is not a risk to individuals receiving services based on his criminal history background and his substance abuse history.~~

E. The community services board and a screening contractor designated by the Department shall screen applicants who meet the criteria set forth in subsections C and D to assess whether the applicants have been rehabilitated successfully and are not a risk to individuals receiving services based on their criminal history backgrounds and substance abuse or mental illness histories. To be eligible for such screening, the applicant shall have completed all prison or jail terms, shall not be under probation or parole supervision, shall have no pending charges in any locality, shall have paid all fines, restitution, and court costs for any prior convictions, and shall have been free of parole or probation for at least five years for all convictions. In addition to any supplementary information the community services board or screening contractor may require or the applicant may wish to present, the applicant shall provide to the screening contractor a statement from his most recent probation or parole officer, if any, outlining his period of supervision and a copy of any pre-sentencing or post-sentencing report in connection with the felony conviction. The cost of this screening shall be paid by the applicant, unless the board decides to pay the cost.

F. Notwithstanding the provisions of subsection B, a community services board may hire for compensated employment persons who have been convicted of not more than one misdemeanor offense under § 18.2-57 or 18.2-57.2, *or any substantially similar offense under the laws of another jurisdiction, if 10 years have elapsed following the conviction, unless the person committed the offense while employed in a direct care position.*

G. Community services boards also shall require, as a condition of employment, approval as a sponsored residential service provider, or permission to enter into a shared living arrangement with a person receiving medical assistance services pursuant to a waiver, written consent and personal information necessary to obtain a search of the registry of founded complaints of child abuse and neglect that is maintained by the Department of Social Services pursuant to § 63.2-1515.

H. The cost of obtaining the criminal history record and search of the child abuse and neglect registry record shall be borne by the applicant, unless the community services board decides to pay the cost.

I. A person who complies in good faith with the provisions of this section shall not be liable for any civil damages for any act or omission in the performance of duties under this section unless the act or omission was the result of gross negligence or willful misconduct.

**§ 63.2-901.1. Criminal history and central registry check for placements of children.**

A. Each local board and licensed child-placing agency shall obtain, in accordance with regulations adopted by the Board, criminal history record information from the Central Criminal Records Exchange and the Federal Bureau of Investigation through the Central Criminal Records Exchange and the results of a search of the child abuse and neglect central registry of any individual with whom the local board or licensed child-placing agency is considering placing a child on an emergency, temporary or permanent basis, including the birth parent of a child in foster care placement, unless the birth parent has revoked an entrustment agreement pursuant to § 63.2-1223 or 63.2-1817 or a local board or birth parent revokes a placement agreement while legal custody remains with the parent, parents, or guardians pursuant to § 63.2-900. The local board or licensed child-placing agency shall also obtain such background checks on all adult household members residing in the home of the individual with whom the child is to be placed pursuant to subsection B. Such state criminal records or registry search shall be at no cost to the individual. The local board or licensed child-placing agency shall pay for the national fingerprint criminal history record check or may require such individual to pay the cost of the fingerprinting or the national fingerprinting criminal history record check or both. In addition to the fees assessed by the Federal Bureau of Investigation, the designated state agency may assess a fee for responding to requests required by this section.

B. Background checks pursuant to this section require the following:

1. A sworn statement or affirmation disclosing whether or not the individual has a criminal conviction or is the subject of any pending criminal charges within or outside the Commonwealth and whether or not the individual has been the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth;

2. That the individual submit to fingerprinting and provide personal descriptive information to be forwarded along with the individual's fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information. The local board or licensed child-placing agency shall inform the individual that he is entitled to obtain a copy of any background check report and to challenge the accuracy and completeness of any such report and obtain a prompt resolution before a final decision is made of the individual's fitness to have responsibility for the safety and well-being of children.

The Central Criminal Records Exchange, upon receipt of an individual's record or notification that no record exists, shall forward it to the designated state agency. The state agency shall, upon receipt of an individual's record lacking disposition data, conduct research in whatever state and local recordkeeping systems are available in order to obtain complete data. The state agency shall report to the local board or licensed child-placing agency whether the individual meets the criteria for having responsibility for the safety and well-being of children based on whether or not the individual has ever been convicted of or is the subject of pending charges ~~set forth for any barrier crime as defined in § 63.2-1719 or an equivalent set forth in another state~~ 19.2-392.02. Copies of any information received by a local board or licensed child-placing agency pursuant to this section shall be available to the state agency that regulates or operates such a child-placing agency but shall not be disseminated further; and

3. A search of the central registry maintained pursuant to § 63.2-1515 for any founded complaint of child abuse or neglect. In addition, a search of the child abuse and neglect registry maintained by any other state pursuant to the Adam Walsh Child Protection and Safety Act of 2006, Pub. L. 109-248, in which a prospective parent or other adult in the home has resided in the preceding five years.

C. In emergency circumstances, each local board may obtain, from a criminal justice agency, criminal history record information from the Central Criminal Records Exchange and the Federal Bureau of Investigation through the Virginia Criminal Information Network (VCIN) for the criminal records search authorized by this section. Within three days of placing a child, the local board shall require the individual for whom a criminal history record information check was requested to submit to fingerprinting and provide personal descriptive information to be forwarded along with the fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal record history information, pursuant to subsection B. The child shall be removed from the home immediately if any adult resident fails to provide such fingerprints and written permission to perform a criminal history record check when requested.

D. Any individual with whom the local board is considering placing a child on an emergency basis shall submit to a search of the central registry maintained pursuant to § 63.2-1515 and the Adam Walsh Child Protection and Safety Act of 2006, Pub. L. 109-248 for any founded complaint of child abuse or neglect. The search of the central registry must occur prior to emergency placement. Such central registry search shall be at no cost to the individual. Prior to emergency placement, the individual shall provide a written statement of affirmation disclosing whether he has ever been the subject of a founded case of child abuse or neglect within or outside the Commonwealth. Child-placing agencies shall not approve individuals with a founded complaint of child abuse as foster or adoptive parents.

E. The child-placing agency shall not approve a foster or adoptive home if any individual has ~~a record of an offense been convicted of any barrier crime as defined in § 63.2-1719~~ 19.2-392.02 or is the subject of a founded complaint of abuse or neglect as maintained in registries pursuant to § 63.2-1515 and 42 U.S.C.S. 16901 et seq. A child-placing agency may

approve as a foster parent an applicant *who has been* convicted of not more than one misdemeanor as set out in § 18.2-57, or any substantially similar offense under the laws of another jurisdiction, not involving the abuse, neglect, or moral turpitude of a minor, provided that 10 years have elapsed following the conviction.

F. A local board or child-placing agency may approve as a kinship foster care parent an applicant *who has been* convicted of the following offenses, provided that 10 years have elapsed from the date of the conviction and the local board or child-placing agency makes a specific finding that approving the kinship foster care placement would not adversely affect the safety and well-being of the child: (i) ~~a felony conviction for possession of drugs as set out in Article 4 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, but not including a felony conviction for possession of drugs with the intent to distribute; any offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02 or~~ (ii) ~~a any~~ misdemeanor conviction for arson as set out in Article 4 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2; or (iii) ~~an equivalent offense under § 18.2-80, 18.2-81, 18.2-83, 18.2-87, 18.2-87.1, or 18.2-88 or any substantially similar offense in~~ under the laws of another state jurisdiction.

**§ 63.2-1601.1. Criminal history check for agency approved providers of services to adults.**

A. Each local board shall obtain, in accordance with regulations adopted by the Board, criminal history record information from the Central Criminal Records Exchange of any individual the local board is considering approving as a provider of home-based services pursuant to § 63.2-1600 or adult foster care pursuant to § 63.2-1601. The local board may also obtain such a criminal records search on all adult household members residing in the home of the individual with whom the adult is to be placed. The local board shall not hire for compensated employment any persons who have been convicted of ~~an any offense as defined set forth in clause (i) of the definition of barrier crime in § 63.2-1719 19.2-392.02.~~ If approval as an agency approved provider is denied because of information obtained through a Central Criminal Records Exchange search, the local board, upon request, shall provide a copy of the information obtained to the individual who is the subject of the search. Further dissemination of the criminal history record information is prohibited.

B. In emergency circumstances, each local board may obtain from a criminal justice agency the criminal history record information from the Central Criminal Records Exchange for the criminal records search authorized by this section. The provision of home-based services shall be immediately terminated or the adult shall be removed from the home immediately, if any adult resident has been convicted of ~~a any offense set forth in clause (i) of the definition of barrier crime as described in § 63.2-1719 19.2-392.02.~~

**§ 63.2-1717. Certification of preschool or nursery school programs operated by accredited private schools; provisional certification; annual statement and documentary evidence required; enforcement; injunctive relief.**

A. A preschool or nursery school program operated by a private school accredited by a statewide accrediting organization recognized by the Board of Education or a private school or preschool that offers to preschool-aged children a program accredited by the National Association for the Education of Young Children's National Academy of Early Childhood Programs; the Association of Christian Schools International; the American Association of Christian Schools; the National Early Childhood Program Accreditation; the National Accreditation Council for Early Childhood Professional Personnel and Programs; the International Academy for Private Education; the American Montessori Society; the International Accreditation and Certification of Childhood Educators, Programs, and Trainers; or the National Accreditation Commission and is recognized by the Board of Education, shall be exempt from licensure under this subtitle if it complies with the provisions of this section and meets the requirements of subsection B, C or D.

B. A school described in subsection A shall meet the following conditions in order to be exempt under this subsection:

1. The school offers kindergarten or elementary school instructional programs that satisfy compulsory school attendance laws, and children below the age of compulsory school attendance also participate in such instructional programs;
2. The instructional programs for children of and below the age of eligibility for school attendance share (i) a specific verifiable common pedagogy, (ii) education materials, (iii) methods of instruction, and (iv) professional training and individual teacher certification standards, all of which are required by a state-recognized accrediting organization;
3. The instructional programs described in subdivisions 1 and 2 have mixed age groups of three-year-old to six-year-old children and the number of pupils in the preschool program does not exceed 15 pupils for each instructional adult;
4. The instructional program contemplates a three-to-four-year learning cycle under a common pedagogy; and
5. Children below the age of eligibility for kindergarten attendance do not attend the instructional program for more than four hours per day.

C. A school described in subsection A shall be exempt from licensure if it maintains an enrollment ratio at any one time during the current school year of five children age five or above to one four-year-old child as long as no child in attendance is under age four and the number of pupils in the preschool program does not exceed 12 pupils for each instructional adult.

D. A private school or preschool described in subsection A shall meet the following conditions in order to be exempt under this subsection:

1. The school offers instructional classes and has been in operation since January 1984.
2. The school does not hold itself out as a child care center, child day center, or child day program.
3. Children enrolled in the school are at least three years of age and do not attend more than (i) three hours per day and (ii) five days per week.
4. The enrolled children attend only one program offered by the school per day.

5. The school maintains a certificate or permit issued pursuant to a local government ordinance that addresses health, safety and welfare of the children, such as but not limited to space requirements, and requires annual inspections.

E. The school shall file with the Commissioner, prior to the beginning of the school year or calendar year, as the case may be, and thereafter, annually, a statement which includes the following:

1. Intent to operate a certified preschool program;
2. Documentary evidence that the school has been accredited as provided in subsection A;
3. Documentation that the school has disclosed in writing to the parents, guardians, or persons having charge of a child enrolled in the school's preschool program the fact of the program's exemption from licensure;
4. Documentary evidence that the physical facility in which the preschool program will be conducted has been inspected (i) before initial certification by the local building official and (ii) within the 12-month period prior to initial certification and at least annually thereafter by the local health department, and local fire marshal or Office of the State Fire Marshal, whichever is appropriate, and an inspection report which documents that the facility is in compliance with applicable laws and regulations pertaining to food services, health and sanitation, water supply, building codes, and the Statewide Fire Prevention Code or the Uniform Statewide Building Code;
5. Documentation that the school has disclosed the following in writing to the parents, guardians, or persons having charge of a child enrolled in the school's preschool program, and in a written statement available to the general public: (i) the school facility is in compliance with applicable laws and regulations pertaining to food services, health and sanitation, water supply, building codes, and the Statewide Fire Prevention Code or the Uniform Statewide Building Code, (ii) the preschool program's maximum capacity, (iii) the school's policy or practice for pupil-teacher ratio, staffing patterns and staff health requirements, and (iv) a description of the school's public liability insurance, if any;
6. Qualifications of school personnel who work in the preschool program; and
7. Documentary evidence that the private school requires all employees of the preschool and other school employees who have contact with the children enrolled in the preschool program to obtain a criminal record check as provided in subdivision A 11 of § 19.2-389 as a condition of initial or continued employment. ~~The school shall not hire or continue employment of any such person who has an offense specified in § 63.2-1719.~~

All accredited private schools seeking certification of preschool programs shall file such information on forms prescribed by the Commissioner. The Commissioner shall certify all preschool programs of accredited private schools which comply with the provisions of subsection A.

F. A preschool program of a private school that has not been accredited as provided in subsection A, or which has not provided documentation to the Commissioner that it has initiated the accreditation process, shall be subject to licensure.

The Commissioner shall issue a provisional certificate to a private school which provides documentation to the Commissioner that it has initiated the accreditation process. The provisional certificate shall permit the school to operate its preschool program during the accreditation process period. The issuance of an initial provisional certificate shall be for a period not to exceed one year. A provisional certificate may be renewed up to an additional year if the accrediting organization provides a statement indicating it has visited the school within the previous six months and the school has made sufficient progress. Such programs shall not be subject to licensure during the provisional certification period.

G. If a school fails to complete the accreditation process or is denied accreditation, the Commissioner shall revoke the provisional certification and the program shall thereafter be subject to licensure.

H. If the preschool program of a private school which is accredited as provided in subsection A fails to file the statement and the required documentary evidence, the Commissioner shall notify the school of its noncompliance and may thereafter take such action as he determines appropriate, including notice that the program is required to be licensed.

I. The revocation or denial of the certification of a preschool program shall be subject to appeal pursuant to the provisions of the Administrative Process Act (§ 2.2-4000 et seq.). Judicial review of a final agency decision shall be in accordance with the provisions of the Administrative Process Act.

J. Any person who has reason to believe that a private school falling within the provisions of this section is in noncompliance with any applicable requirement of this section may report the same to the Department, the local department, the local health department, or the local fire marshal, each of which may inspect the school for noncompliance, give reasonable notice to the school of the nature of its noncompliance, and thereafter may take appropriate action as provided by law, including a suit to enjoin the operation of the preschool program.

K. Upon receipt of a complaint concerning a certified preschool program of an accredited private school, or of a private school to which provisional certification has been issued, if for good cause shown there is reason to suspect that the school is in noncompliance with any provision of this section or the health or safety of the children attending the preschool program is in danger, the Commissioner shall cause an investigation to be made, including on-site visits as he deems necessary of the services, personnel, and facilities of the school's program. The school shall afford the Commissioner reasonable opportunity to inspect the school's program, records, and facility, and to interview the employees and any child or parent or guardian of a child who is or has been enrolled in the preschool program. If, upon completion of the investigation, it is determined that the school is in noncompliance with the provisions of this section, the Commissioner shall give reasonable notice to the school of the nature of its noncompliance and thereafter may take appropriate action as provided by law, including a suit to enjoin the operation of the preschool program.

L. Failure of a private school to comply with the provisions of this section, or a finding that the health and safety of the children attending the preschool program are in clear and substantial danger upon the completion of an investigation, shall be grounds for revocation of the certification issued pursuant to this section.

M. If a private school operates a child day program outside the scope of its instructional classes during the school year or operates a child day program during the summer, the child day program shall be subject to licensure under the regulations adopted pursuant to § 63.2-1734.

N. Nothing in this section shall prohibit a preschool operated by or conducted under the auspices of a private school from obtaining a license pursuant to this subtitle.

**§ 63.2-1719. Barrier crime; construction.**

As used in this subtitle:

"Barrier crime" means a conviction of a felony violation of a protective order as set out in § 16.1-253.2; murder or manslaughter as set out in Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2; malicious wounding by mob as set out in § 18.2-41; abduction as set out in subsection A or B of § 18.2-47; abduction for immoral purposes as set out in § 18.2-48; assaults and bodily woundings as set out in Article 4 (§ 18.2-51 et seq.) of Chapter 4 of Title 18.2; robbery as set out in § 18.2-58; earjacking as set out in § 18.2-58.1; extortion by threat as set out in § 18.2-59; threats of death or bodily injury as set out in § 18.2-60; felony stalking as set out in § 18.2-60.3; a felony violation of a protective order as set out in § 18.2-60.4; sexual assault as set out in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2; arson as set out in Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2; drive by shooting as set out in § 18.2-286.1; use of a machine gun in a crime of violence as set out in § 18.2-289; aggressive use of a machine gun as set out in § 18.2-290; use of a sawed-off shotgun in a crime of violence as set out in subsection A of § 18.2-300; pandering as set out in § 18.2-355; crimes against nature involving children as set out in § 18.2-361; incest as set out in § 18.2-366; taking indecent liberties with children as set out in § 18.2-370 or 18.2-370.1; abuse and neglect of children as set out in § 18.2-371.1; failure to secure medical attention for an injured child as set out in § 18.2-314; obscenity offenses as set out in § 18.2-374.1; possession of child pornography as set out in § 18.2-374.1.1; electronic facilitation of pornography as set out in § 18.2-374.3; abuse and neglect of incapacitated adults as set out in § 18.2-369; employing or permitting a minor to assist in an act constituting an offense under Article 5 (§ 18.2-372 et seq.) of Chapter 8 of Title 18.2 as set out in § 18.2-379; delivery of drugs to prisoners as set out in § 18.2-474.1; escape from jail as set out in § 18.2-477; felonies by prisoners as set out in § 53.1-203; or an equivalent offense in another state. In the case of child welfare agencies and foster and adoptive homes approved by child-placing agencies, "barrier crime" shall also include convictions of burglary as set out in Article 2 (§ 18.2-89 et seq.) of Chapter 5 of Title 18.2 and any felony violation relating to possession or distribution of drugs as set out in Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2; or an equivalent offense in another state.

"Offense" means a barrier crime and, in the case of child welfare agencies and foster and adoptive homes approved by child-placing agencies; (i) a conviction of any offense set forth in § 9.1-902 or a finding that a person is not guilty by reason of insanity in accordance with Chapter 11.1 (§ 19.2-182.2 et seq.) of Title 19.2 of an offense set forth in § 9.1-902 that results in the person's requirement to register with the Sex Offender and Crimes Against Minors Registry pursuant to § 9.1-901; or any similar registry in any other state; (ii) a conviction of any other felony not included in the definition of barrier crime or described in clause (i) unless five years have elapsed since conviction; and (iii) a founded complaint of child abuse or neglect within or outside the Commonwealth. In For purposes of this chapter, in the case of child welfare agencies and foster and adoptive homes approved by child-placing agencies, convictions for any barrier crime as defined in § 19.2-392.02 shall include prior adult convictions and juvenile convictions or adjudications of delinquency based on a crime that would be a felony if committed by an adult within or outside the Commonwealth.

**§ 63.2-1720. (Effective until July 1, 2017) Employment for compensation of persons or use of volunteers convicted of certain offenses prohibited; background check required; penalty.**

A. An assisted living facility; or adult day care center or child welfare agency licensed or registered in accordance with the provisions of this chapter; or family day homes approved by family day systems, shall not hire for compensated employment or continue to employ persons who have ~~an been convicted of any offense as defined set forth in clause (i) of the definition of barrier crime in § 63.2-1719 19.2-392.02. A child welfare agency licensed or registered in accordance with the provisions of this chapter or a family day home approved by a family day system shall not hire for compensated employment or continue to employ persons who (i) have been convicted of any barrier crime as defined in § 19.2-392.02 or (ii) are the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth.~~ Such employees shall undergo background checks pursuant to subsection D. In the case of child welfare agencies, the provisions of this section shall apply to employees who are involved in the day-to-day operations of such agency or who are alone with, in control of, or supervising one or more children.

B. A licensed assisted living facility or adult day care center may hire an applicant *who has been convicted of one misdemeanor barrier crime not involving abuse or neglect, or any substantially similar offense under the laws of another jurisdiction*, if five years have elapsed following the conviction.

C. Notwithstanding the provisions of subsection A, a child day center may hire for compensated employment persons who have been convicted of not more than one misdemeanor offense under § 18.2-57, *or any substantially similar offense under the laws of another jurisdiction*, if 10 years have elapsed following the conviction, unless the person committed such offense while employed in a child day center or the object of the offense was a minor.

D. Background checks pursuant to this section require:

1. A sworn statement or affirmation disclosing whether the person has a criminal conviction or is the subject of any pending criminal charges within or outside the Commonwealth and, in the case of child welfare agencies, whether or not the person has been the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth;

2. A criminal history record check through the Central Criminal Records Exchange pursuant to § 19.2-389; and

3. In the case of child welfare agencies, a search of the central registry maintained pursuant to § 63.2-1515 for any founded complaint of child abuse and neglect.

E. Any person desiring to work as a compensated employee at a licensed assisted living facility, licensed adult day care center, a licensed or registered child welfare agency, or a family day home approved by a family day system shall provide the hiring or approving facility, center or agency with a sworn statement or affirmation pursuant to subdivision D 1. Any person making a materially false statement regarding the sworn statement or affirmation provided pursuant to subdivision D 1 ~~shall be~~ is guilty of a Class 1 misdemeanor.

F. A licensed assisted living facility, licensed adult day care center, a licensed or registered child welfare agency, or a family day home approved by a family day system shall obtain for any compensated employees within 30 days of employment (i) an original criminal record clearance with respect to convictions for ~~offenses specified~~ any offense set forth in clause (i) of the definition of barrier crime in § ~~63.2-1719~~ 19.2-392.02 or an original criminal history record from the Central Criminal Records Exchange and (ii) in the case of licensed or registered child welfare agencies or family day homes approved by family day systems, (a) an original criminal record clearance with respect to any barrier crime as defined in § 19.2-392.02 or an original criminal history record from the Central Criminal Records Exchange and (b) a copy of the information from the central registry. However, no employee shall be permitted to work in a position that involves direct contact with a person or child receiving services until an original criminal record clearance or original criminal history record has been received, unless such person works under the direct supervision of another employee for whom a background check has been completed in accordance with the requirements of this section. If an applicant is denied employment because of information from the central registry or convictions appearing on his criminal history record, the assisted living facility, adult day care center or child welfare agency shall provide a copy of the information obtained from the central registry or the Central Criminal Records Exchange or both to the applicant.

G. No volunteer who (i) has ~~an offense~~ been convicted of any barrier crime as defined in § ~~63.2-1719~~ 19.2-392.02 or (ii) is the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth shall be permitted to serve in a licensed or registered child welfare agency or a family day home approved by a family day system. Any person desiring to volunteer at such a child welfare agency shall provide the agency with a sworn statement or affirmation pursuant to subdivision D 1. Such child welfare agency shall obtain for any volunteers, within 30 days of commencement of volunteer service, a copy of ~~(i)~~ (a) the information from the central registry and ~~(ii)~~ (b) an original criminal record clearance with respect to ~~offenses specified~~ any barrier crime defined in § ~~63.2-1719~~ 19.2-392.02 or an original criminal history record from the Central Criminal Records Exchange. Any person making a materially false statement regarding the sworn statement or affirmation provided pursuant to subdivision D 1 ~~shall be~~ is guilty of a Class 1 misdemeanor. If a volunteer is denied service because of information from the central registry or convictions appearing on his criminal history record, such child welfare agency shall provide a copy of the information obtained from the central registry or the Central Criminal Records Exchange or both to the volunteer. The provisions of this subsection shall apply only to volunteers who will be alone with any child in the performance of their duties and shall not apply to a parent-volunteer of a child attending a licensed or registered child welfare agency, or a family day home approved by a family day system, whether or not such parent-volunteer will be alone with any child in the performance of his duties. A parent-volunteer is someone supervising, without pay, a group of children that includes the parent-volunteer's own child in a program that operates no more than four hours per day, provided that the parent-volunteer works under the direct supervision of a person who has received a clearance pursuant to this section.

H. No volunteer shall be permitted to serve in a licensed assisted living facility or licensed adult day care center without the permission or under the supervision of a person who has received a clearance pursuant to this section.

I. Further dissemination of the background check information is prohibited other than to the Commissioner's representative or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination.

J. A licensed assisted living facility shall notify and provide all students a copy of the provisions of this article prior to or upon enrollment in a certified nurse aide program operated by such assisted living facility.

K. The provisions of this section shall not apply to any children's residential facility licensed pursuant to § 63.2-1701, which instead shall comply with the background investigation requirements contained in § 63.2-1726.

L. A person who complies in good faith with the provisions of this section shall not be liable for any civil damages for any act or omission in the performance of duties under this section unless the act or omission was the result of gross negligence or willful misconduct.

**§ 63.2-1720. (Effective July 1, 2017) Assisted living facilities and adult day care centers; employment for compensation of persons or use of volunteers convicted of certain offenses prohibited; background check required; penalty.**

A. No assisted living facility, or adult day care center, ~~child placing agency, independent foster home, or family day system licensed in accordance with the provisions of this chapter, or registered family day homes or family day homes approved by family day systems,~~ shall hire for compensated employment or continue to employ persons who have ~~an been~~

convicted of any offense as defined set forth in clause (i) of the definition of barrier crime in § ~~63.2-1719~~ 19.2-392.02. A child-placing agency or independent foster home licensed in accordance with the provisions of this chapter shall not hire for compensated employment or continue to employ persons who (i) have been convicted of any barrier crime as defined in § 19.2-392.02 or (ii) are the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth. All applicants for employment shall undergo background checks pursuant to subsection C.

B. A licensed assisted living facility or adult day care center may hire an applicant convicted of one misdemeanor barrier crime not involving abuse or neglect, or any substantially similar offense under the laws of another jurisdiction, if five years have elapsed following the conviction.

C. Background checks pursuant to subsection A require:

1. A sworn statement or affirmation disclosing whether the person has a criminal conviction or is the subject of any pending criminal charges within or outside the Commonwealth and, in the case of licensed child-placing agencies, independent foster homes, and family day systems, registered family day homes, and family day homes approved by family day systems, whether or not the person has been the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth;

2. A criminal history records check through the Central Criminal Records Exchange pursuant to § 19.2-389; and

3. In the case of licensed child-placing agencies, independent foster homes, and family day systems, registered family day homes, and family day homes approved by family day systems, a search of the central registry maintained pursuant to § 63.2-1515 for any founded complaint of child abuse and neglect.

D. Any person making a materially false statement regarding the sworn statement or affirmation provided pursuant to subdivision C 1 is guilty of a Class 1 misdemeanor.

E. A licensed assisted living facility, licensed adult day care center, licensed child-placing agency, licensed independent foster home, licensed family day system, registered family day home, or family day home approved by a family day system shall obtain for any compensated employees within 30 days of employment (i) an original criminal record clearance with respect to convictions for offenses specified any offense set forth in clause (i) of the definition of barrier crime in § ~~63.2-1719~~ 19.2-392.02 or an original criminal history record from the Central Criminal Records Exchange and (ii) in the case of licensed child-placing agencies, independent foster homes, and family day systems, registered family day homes, and family day homes approved by family day systems, (a) an original criminal record clearance with respect to any barrier crime as defined in § 19.2-392.02 or an original criminal history record from the Central Criminal Records Exchange and (b) a copy of the information from the central registry for any compensated employee within 30 days of employment. However, no employee shall be permitted to work in a position that involves direct contact with a person or child receiving services until an original criminal record clearance or original criminal history record has been received, unless such person works under the direct supervision of another employee for whom a background check has been completed in accordance with the requirements of this section. If an applicant is denied employment because of information from the central registry or convictions appearing on his criminal history record, the licensed assisted living facility, adult day care center, child-placing agency, independent foster home, or family day system, registered family day home, or family day home approved by a family day system shall provide a copy of the information obtained from the central registry or the Central Criminal Records Exchange or both to the applicant.

F. No volunteer who (i) has an offense been convicted of any barrier crime as defined in § ~~63.2-1719~~ 19.2-392.02 or (ii) is the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth shall be permitted to serve in a licensed child-placing agency, independent foster home, or family day system, registered family day home, or family day home approved by a family day system. Any person desiring to volunteer at a licensed child-placing agency, independent foster home, or family day system, registered family day home, or family day home approved by a family day system shall provide the agency, system, or home with a sworn statement or affirmation pursuant to subdivision C 1. Such licensed child-placing agency, independent foster home, or family day system, registered family day home, or family day home approved by a family day system shall obtain for any volunteers, within 30 days of commencement of volunteer service, a copy of (i) (a) the information from the central registry and (ii) (b) an original criminal record clearance with respect to offenses specified any barrier crime as defined in § ~~63.2-1719~~ 19.2-392.02 or an original criminal history record from the Central Criminal Records Exchange. Any person making a materially false statement regarding the sworn statement or affirmation provided pursuant to subdivision C 1 is guilty of a Class 1 misdemeanor. If a volunteer is denied service because of information from the central registry or convictions appearing on his criminal history record, such licensed child-placing agency, independent foster home, or family day system, registered family day home, or family day home approved by a family day system shall provide a copy of the information obtained from the central registry or the Central Criminal Records Exchange or both to the volunteer. The provisions of this subsection shall apply only to volunteers who will be alone with any child in the performance of their duties and shall not apply to a parent-volunteer of a child attending a licensed child-placing agency, independent foster home, or family day system, registered family day home, or family day home approved by a family day system, whether or not such parent-volunteer will be alone with any child in the performance of his duties. A parent-volunteer is someone supervising, without pay, a group of children that includes the parent-volunteer's own child in a program that operates no more than four hours per day, provided that the parent-volunteer works under the direct supervision of a person who has received a clearance pursuant to this section.

G. No volunteer shall be permitted to serve in a licensed assisted living facility or licensed adult day care center without the permission or under the supervision of a person who has received a clearance pursuant to this section.

H. Further dissemination of the background check information is prohibited other than to the Commissioner's representative or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination.

I. A licensed assisted living facility shall notify and provide all students a copy of the provisions of this article prior to or upon enrollment in a certified nurse aide program operated by such assisted living facility.

J. A person who complies in good faith with the provisions of this section shall not be liable for any civil damages for any act or omission in the performance of duties under this section unless the act or omission was the result of gross negligence or willful misconduct.

**§ 63.2-1720.1. (Effective July 1, 2017) Licensed child day centers and licensed family day homes; employment for compensation or use as volunteers of persons convicted of or found to have committed certain offenses prohibited; national background check required; penalty.**

A. No child day center or family day home licensed in accordance with the provisions of this chapter shall hire for compensated employment, continue to employ, or permit to serve as a volunteer in a position that is involved in the day-to-day operations of the child day center or family day home or in which the employee or volunteer will be alone with, in control of, or supervising children any person who (i) has ~~an offense been convicted of any barrier crime~~ as defined in ~~§ 63.2-1719~~ 19.2-392.02 or (ii) is the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth. All applicants for employment or to serve as volunteers shall undergo a background check in accordance with subsection B.

B. Any applicant required to undergo a background check in accordance with subsection A shall:

1. Provide a sworn statement or affirmation disclosing whether he has ever been convicted of or is the subject of pending charges for any offense within or outside the Commonwealth and whether he has been the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth;

2. Submit to fingerprinting and provide personal descriptive information described in subdivision B 2 of § 19.2-392.02; and

3. Authorize the child day center or family day home to obtain a copy of information from the central registry maintained pursuant to § 63.2-1515 on any investigation of child abuse or neglect undertaken on him.

The applicant's fingerprints and personal descriptive information obtained pursuant to subdivision 2 shall be forwarded through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining national criminal history record information regarding such applicant. Upon receipt of an applicant's record or notification that no record exists, the Central Criminal Records Exchange shall forward the information to the Department, and the Department shall report to the child day center or family day home whether the applicant is eligible to have responsibility for the safety and well-being of children. In cases in which the record forwarded to the Department is lacking disposition data, the Department shall conduct research in whatever state and local recordkeeping systems are available in order to obtain complete data before reporting to the child day center or family day home.

C. The child day center or family day home shall inform every applicant for compensated employment or to serve as a volunteer required to undergo a background check pursuant to this section that he is entitled to obtain a copy of any background check report and to challenge the accuracy and completeness of any such report and obtain a prompt resolution before a final determination is made of the applicant's eligibility to have responsibility for the safety and well-being of children.

D. Any person making a materially false statement regarding the sworn statement or affirmation provided pursuant to subdivision B 1 is guilty of a Class 1 misdemeanor.

E. Further dissemination of the background check information is prohibited other than to the Commissioner's representative or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination.

F. A person who complies in good faith with the provisions of this section shall not be liable for any civil damages for any act or omission in the performance of duties under this section unless the act or omission was the result of gross negligence or willful misconduct.

G. Notwithstanding the provisions of subsection A, a child day center may hire for compensated employment persons who have been convicted of not more than one misdemeanor offense under § 18.2-57, or any substantially similar offense under the laws of another jurisdiction, if 10 years have elapsed following the conviction, unless the person committed such offense while employed in a child day center or the object of the offense was a minor.

H. Fees charged for the processing and administration of background checks pursuant to this section shall not exceed the actual cost to the state of such processing and administration.

I. Any person employed for compensation at a licensed child day center or family day home or permitted to serve as a volunteer at a licensed child day center or family day home in a position that is involved in the day-to-day operations of the child day center or family day home or in which he will be alone with, in control of, or supervising children who is (i) convicted of ~~an offense any barrier crime~~ as defined in ~~§ 63.2-1719~~ within or outside of the Commonwealth 19.2-392.02 or (ii) found to be the subject of a founded complaint of child abuse or neglect within or outside of the Commonwealth shall notify the child day center or family day home of such conviction or finding.

**§ 63.2-1721. (Effective until July 1, 2017) Background check upon application for licensure or registration as child welfare agency; background check of foster or adoptive parents approved by child-placing agencies and family day homes approved by family day systems; penalty.**

A. Upon application for licensure or registration as a child welfare agency, (i) all applicants; (ii) agents at the time of application who are or will be involved in the day-to-day operations of the child welfare agency or who are or will be alone with, in control of, or supervising one or more of the children; and (iii) any other adult living in the home of an applicant for licensure or registration as a family day home shall undergo a background check. Upon application for licensure as an assisted living facility, all applicants shall undergo a background check. In addition, foster or adoptive parents requesting approval by child-placing agencies and operators of family day homes requesting approval by family day systems, and any other adult residing in the family day home or existing employee or volunteer of the family day home, shall undergo background checks pursuant to subsection B prior to their approval.

B. Background checks pursuant to this section require:

1. A sworn statement or affirmation disclosing whether the person has a criminal conviction or is the subject of any pending criminal charges within or outside the Commonwealth and whether or not the person has been the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth;

2. A criminal history record check through the Central Criminal Records Exchange pursuant to § 19.2-389; and

3. In the case of child welfare agencies or adoptive or foster parents, a search of the central registry maintained pursuant to § 63.2-1515 for any founded complaint of child abuse and neglect.

C. The character and reputation investigation pursuant to § 63.2-1702 shall include background checks pursuant to subsection B of persons specified in subsection A. The applicant shall submit the background check information required in subsection B to the Commissioner's representative prior to issuance of a license, registration or approval. The applicant, *other than an applicant for licensure as an assisted living facility*, shall provide an original criminal record clearance with respect to ~~offenses specified~~ *any barrier crime as defined in § 63.2-1719 19.2-392.02* or an original criminal history record from the Central Criminal Records Exchange. *An applicant for licensure as an assisted living facility shall provide an original criminal record clearance with respect to any offense set forth in clause (i) of the definition of barrier crime in § 19.2-392.02 or an original criminal history record from the Central Criminal Records Exchange.* Any person making a materially false statement regarding the sworn statement or affirmation provided pursuant to subdivision B 1 ~~shall be~~ *is* guilty of a Class 1 misdemeanor. If any person specified in subsection A, *other than an applicant for licensure as an assisted living facility*, required to have a background check (i) *has been convicted of any offense barrier crime as defined in § 63.2-1719 19.2-392.02 or (ii) is the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth*, and such person has not been granted a waiver by the Commissioner pursuant to § 63.2-1723 or is not subject to an exception in subsections E, F, G, or H ~~(i)~~, (a) the Commissioner shall not issue a license or registration to a child welfare agency; ~~(ii) the Commissioner shall not issue a license to an assisted living facility;~~ (iii), (b) a child-placing agency shall not approve an adoptive or foster home, or ~~(iv)~~ (c) a family day system shall not approve a family day home. *If any applicant for licensure as an assisted living facility required to have a background check has been convicted of any offense set forth in clause (i) of the definition of barrier crime in § 19.2-392.02, the Commissioner shall not issue a license to an assisted living facility.*

D. No person specified in subsection A shall be involved in the day-to-day operations of a child welfare agency; be alone with, in control of, or supervising one or more children receiving services from a child welfare agency; or be permitted to work in a position that involves direct contact with a person receiving services without first having completed background checks pursuant to subsection B, unless such person is directly supervised by another person for whom a background check has been completed in accordance with the requirements of this section.

E. Notwithstanding any provision to the contrary contained in this section, a child-placing agency may approve as an adoptive or foster parent an applicant *who has been convicted of not more than one misdemeanor offense as set out in § 18.2-57, or any substantially similar offense under the laws of another jurisdiction*, not involving abuse, neglect, moral turpitude, or a minor, provided *that 10 years have elapsed following the conviction.*

F. Notwithstanding any provision to the contrary contained in this section, a child-placing agency may approve as a foster parent an applicant *who has been convicted of statutory burglary for breaking and entering a dwelling home or other structure with intent to commit larceny, or any substantially similar offense under the laws of another jurisdiction*, who has had his civil rights restored by the Governor *or other appropriate authority*, provided *that 25 years have elapsed following the conviction.*

G. Notwithstanding any provision to the contrary contained in this section, a child-placing agency may approve as an adoptive or foster parent an applicant convicted of ~~felony possession of drugs~~, *any offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02* who has had his civil rights restored by the Governor *or other appropriate authority*, provided *that 10 years have elapsed following the conviction.*

H. Notwithstanding any provision to the contrary contained in this section, a child-placing agency may approve as an adoptive or foster parent an applicant convicted of ~~felony possession of drugs with intent to distribute~~ *any offense set forth in clause (iii) of the definition of barrier crime in § 19.2-392.02* who has had his civil rights restored by the Governor *or other appropriate authority*, provided *that 20 years have elapsed following the conviction.*

I. If an applicant is denied licensure, registration or approval because of information from the central registry or convictions appearing on his criminal history record, the Commissioner shall provide a copy of the information obtained from the central registry or the Central Criminal Records Exchange or both to the applicant.

J. Further dissemination of the background check information is prohibited other than to the Commissioner's representative or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination.

K. The provisions of this section referring to a sworn statement or affirmation and to prohibitions on the issuance of a license for any offense shall not apply to any children's residential facility licensed pursuant to § 63.2-1701, which instead shall comply with the background investigation requirements contained in § 63.2-1726.

**§ 63.2-1721. (Effective July 1, 2017) Background check upon application for licensure as a child-placing agency, etc.; penalty.**

A. Upon application for licensure as a child-placing agency, independent foster home, or family day system or registration as a family day home, (i) all applicants; (ii) agents at the time of application who are or will be involved in the day-to-day operations of the child-placing agency, independent foster home, family day system, or family day home or who are or will be alone with, in control of, or supervising one or more of the children; and (iii) any other adult living in the home of an applicant for registration as a family day home shall undergo a background check pursuant to subsection B. Upon application for licensure as an assisted living facility, all applicants shall undergo a background check pursuant to subsection B. In addition, foster or adoptive parents requesting approval by child-placing agencies and operators of family day homes requesting approval by family day systems, and any other adult residing in the family day home or existing employee or volunteer of the family day home, shall undergo background checks pursuant to subsection B prior to their approval.

B. Background checks pursuant to subsection A require:

1. A sworn statement or affirmation disclosing whether the person has a criminal conviction or is the subject of any pending criminal charges within or outside the Commonwealth and whether or not the person has been the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth;

2. A criminal history records check through the Central Criminal Records Exchange pursuant to § 19.2-389; and

3. In the case of child-placing agencies, independent foster homes, family day systems, and family day homes, or adoptive or foster parents, a search of the central registry maintained pursuant to § 63.2-1515 for any founded complaint of child abuse and neglect.

C. The person required to have a background check pursuant to subsection A shall submit the background check information required in subsection B to the Commissioner's representative prior to issuance of a license, registration or approval. The applicant, *other than an applicant for licensure as an assisted living facility*, shall provide an original criminal record clearance with respect to ~~offenses specified~~ *any barrier crime as defined in § 19.2-392.02* or an original criminal history record from the Central Criminal Records Exchange. *An applicant for licensure as an assisted living facility shall provide an original criminal record clearance with respect to any offense set forth in clause (i) of the definition of barrier crime in § 19.2-392.02 or an original criminal history record from the Central Criminal Records Exchange.* Any person making a materially false statement regarding the sworn statement or affirmation provided pursuant to subdivision B 1 is guilty of a Class 1 misdemeanor. If any person specified in subsection A, *other than an applicant for licensure as an assisted living facility*, required to have a background check (i) *has been convicted of any offense barrier crime as defined in § 19.2-392.02 or (ii) is the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth*, and such person has not been granted a waiver by the Commissioner pursuant to § 63.2-1723 or is not subject to an exception in subsection E, F, G, or H, ~~(+)~~ (a) the Commissioner shall not issue a license to a child-placing agency, independent foster home, or family day system or a registration to a family day home; ~~(ii) the Commissioner shall not issue a license to an assisted living facility;~~ (iii) (b) a child-placing agency shall not approve an adoptive or foster home; or ~~(iv)~~ (c) a family day system shall not approve a family day home. *If any applicant for licensure as an assisted living facility required to have a background check has been convicted of any offense set forth in clause (i) of the definition of barrier crime in § 19.2-392.02, the Commissioner shall not issue a license to an assisted living facility.*

D. No person specified in subsection A shall be involved in the day-to-day operations of a licensed child-placing agency, independent foster home, or family day system or a registered family day home; be alone with, in control of, or supervising one or more children receiving services from a licensed child-placing agency, independent foster home, or family day system or a registered family day home; or be permitted to work in a position that involves direct contact with a person receiving services without first having completed background checks pursuant to subsection B unless such person is directly supervised by another person for whom a background check has been completed in accordance with the requirements of this section.

E. Notwithstanding any provision to the contrary contained in this section, a child-placing agency may approve as an adoptive or foster parent an applicant *who has been convicted of not more than one misdemeanor offense as set out in § 18.2-57, or any substantially similar offense under the laws of another jurisdiction*, not involving abuse, neglect, moral turpitude, or a minor, provided that 10 years have elapsed following the conviction.

F. Notwithstanding any provision to the contrary contained in this section, a child-placing agency may approve as a foster parent an applicant *who has been convicted of statutory burglary for breaking and entering a dwelling home or other structure with intent to commit larceny, or any substantially similar offense under the laws of another jurisdiction*, who has

had his civil rights restored by the Governor *or other appropriate authority*, provided that 25 years have elapsed following the conviction.

G. Notwithstanding any provision to the contrary contained in this section, a child-placing agency may approve as an adoptive or foster parent an applicant convicted of ~~felony possession of drugs~~, *any offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02* who has had his civil rights restored by the Governor *or other appropriate authority*, provided that 10 years have elapsed following the conviction.

H. Notwithstanding any provision to the contrary contained in this section, a child-placing agency may approve as an adoptive or foster parent an applicant convicted of ~~felony possession of drugs with intent to distribute~~ *any offense set forth in clause (iii) of the definition of barrier crime in § 19.2-392.02* who has had his civil rights restored by the Governor *or other appropriate authority*, provided that 20 years have elapsed following the conviction.

I. If an applicant is denied licensure, registration or approval because of information from the central registry or convictions appearing on his criminal history record, the Commissioner shall provide a copy of the information obtained from the central registry or the Central Criminal Records Exchange or both to the applicant.

J. Further dissemination of the background check information is prohibited other than to the Commissioner's representative or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination.

**§ 63.2-1721.1. (Effective July 1, 2017) Background check upon application for licensure as child day center or family day home; penalty.**

A. Every (i) applicant for licensure as a child day center or family day home; (ii) agent of an applicant for licensure as a child day center or family day home at the time of application who is or will be involved in the day-to-day operations of the child day center or family day home or who is or will be alone with, in control of, or supervising one or more of the children; and (iii) adult living in the family day home shall undergo a background check in accordance with subsection B prior to issuance of a license as a child day center or family day home.

B. Every person required to undergo a background check pursuant to subsection A shall:

1. Provide a sworn statement or affirmation disclosing whether he has ever been convicted of or is the subject of any pending criminal charges for any offense within or outside the Commonwealth and whether or not he has been the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth;

2. Submit to fingerprinting and provide personal descriptive information described in subdivision B 2 of § 19.2-392.02; and

3. Authorize the Department to obtain a copy of information from the central registry maintained pursuant to § 63.2-1515 on any investigation of child abuse or neglect undertaken on him.

Fingerprints and personal descriptive information obtained pursuant to subdivision 2 shall be forwarded through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining national criminal history record information regarding the individual. Upon receipt of an applicant's record or notification that no record exists, the Central Criminal Records Exchange shall forward the information to the Department. In cases in which the record forwarded to the Department is lacking disposition data, the Department shall conduct research in whatever state and local recordkeeping systems are available in order to obtain complete data.

C. If any person specified in subsection A required to have a background check (i) ~~has an offense been convicted of any barrier crime~~ as defined in ~~§ 63.2-1719~~ *19.2-392.02* or (ii) *is the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth*, and such person has not been granted a waiver by the Commissioner pursuant to § 63.2-1723, no license as a child day center or family day home shall be granted.

D. Information from a search of the central registry maintained pursuant to § 63.2-1515, authorized in accordance with subdivision B 3, shall be obtained prior to issuance of a license as a child day center or family day home.

E. No person specified in subsection A shall be involved in the day-to-day operations of the child day center or family day home, or shall be alone with, in control of, or supervising one or more children without first having completed any required background check pursuant to subsection B.

F. Any person making a materially false statement regarding the sworn statement or affirmation provided pursuant to subdivision B 1 is guilty of a Class 1 misdemeanor.

G. If an applicant is denied licensure because of information from the central registry or convictions appearing on his criminal history record, the Commissioner shall provide a copy of the information obtained from the central registry or the Central Criminal Records Exchange or both to the applicant.

H. Further dissemination of the background check information is prohibited other than to the Commissioner's representative or a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination.

I. Fees charged for the processing and administration of background checks pursuant to this section shall not exceed the actual cost to the state of such processing and administration.

**§ 63.2-1722. Revocation or denial of renewal based on background checks; failure to obtain background check.**

A. The Commissioner may revoke or deny renewal of a license or registration of a child welfare agency, assisted living facility, or adult day care center; a child-placing agency may revoke the approval of a foster home; and a family day system may revoke the approval of a family day home if the assisted living facility, adult day care center, child welfare agency, foster home, or approved family day home has knowledge that a person specified in § 63.2-1720, 63.2-1720.1, 63.2-1721,

or 63.2-1721.1 required to have a background check (i) has ~~an offense~~ *been convicted of any barrier crime* as defined in § ~~63.2-1719~~ 19.2-392.02 or (ii) *in the case of a child welfare agency, foster home, or family day home, is the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth*, and such person has not been granted a waiver by the Commissioner pursuant to § 63.2-1723 or is not subject to the exceptions in subsection B of § 63.2-1720, subsection G of § 63.2-1720.1, or subsection E, F, or G of § 63.2-1721.1, and the facility, center, or agency refuses to separate such person from employment or service.

B. Failure to obtain background checks pursuant to §§ 63.2-1720, 63.2-1720.1, 63.2-1721, and 63.2-1721.1 shall be grounds for denial or revocation of a license, registration, or approval. No violation shall occur if the assisted living facility, adult day care center, child-placing agency, independent foster home, family day system, family day home, or child day center has applied for the background check timely and it has not been obtained due to administrative delay. The provisions of this section shall be enforced by the Department.

**§ 63.2-1723. Child welfare agencies; criminal conviction and waiver.**

A. Any person who seeks to operate, volunteer or work at a child welfare agency and who is disqualified because of a criminal conviction or a criminal conviction in the background check of any other adult living in a family day home regulated by the Department, pursuant to §§ 63.2-1720, 63.2-1720.1, 63.2-1721, 63.2-1721.1, and 63.2-1724, may apply in writing for a waiver from the Commissioner. The Commissioner may grant a waiver if the Commissioner determines that (i) the person is of good moral character and reputation and (ii) the waiver would not adversely affect the safety and well-being of children in the person's care. The Commissioner shall not grant a waiver to any person who has been convicted of ~~a~~ *any barrier crime as defined in § 63.2-1719 19.2-392.02*. However, the Commissioner may grant a waiver to a family day home licensed or registered by the Department if any other adult living in the home of the applicant or provider has been convicted of not more than one misdemeanor offense under § 18.2-57 or 18.2-57.2, *or any substantially similar offense under the laws of another jurisdiction*, provided that (a) five years have elapsed following the conviction and (b) the Department has conducted a home study that includes, but is not limited to, (1) an assessment of the safety of children placed in the home and (2) a determination that the offender is now a person of good moral character and reputation. The waiver shall not be granted if the adult living in the home is an assistant or substitute provider or if such adult has been convicted of a misdemeanor offense under both §§ 18.2-57 and 18.2-57.2, *or any substantially similar offense under the laws of another jurisdiction*. Any waiver granted under this section shall be available for inspection by the public. The child welfare agency shall notify in writing every parent and guardian of the children in its care of any waiver granted for its operators, employees or volunteers.

B. The Board shall adopt regulations to implement the provisions of this section.

**§ 63.2-1724. Records check by unlicensed child day center; penalty.**

Any child day center that is exempt from licensure pursuant to § 63.2-1716 shall require a prospective employee or volunteer or any other person who is expected to be alone with one or more children enrolled in the child day center to obtain within 30 days of employment or commencement of volunteer service, a search of the central registry maintained pursuant to § 63.2-1515 on any founded complaint of child abuse or neglect and a criminal records check as provided in subdivision A 11 of § 19.2-389. However, no employee shall be permitted to work in a position that involves direct contact with a child until an original criminal record clearance or original criminal history record has been received, unless such person works under the direct supervision of another employee for whom a background check has been completed in accordance with the requirements of this section. A child day center that is exempt from licensure pursuant to § 63.2-1716 shall refuse employment or service to any person who (i) *has been convicted of any offense barrier crime as defined in § 63.2-1719 19.2-392.02* or (ii) *is the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth*. Such center shall also require a prospective employee or volunteer or any other person who is expected to be alone with one or more children in the child day center to provide a sworn statement or affirmation disclosing whether or not the applicant has ever been ~~(i)~~ (a) the subject of a founded complaint of child abuse or neglect, or ~~(ii)~~ (b) convicted of a crime or is the subject of pending criminal charges for any offense within the Commonwealth or any equivalent offense outside the Commonwealth. The foregoing provisions shall not apply to a parent or guardian who may be left alone with his ~~or her~~ own child. For purposes of this section, convictions shall include prior adult convictions and juvenile convictions or adjudications of delinquency based on a crime that would have been a felony if committed by an adult within or outside the Commonwealth. Any person making a materially false statement regarding any such offense ~~shall be~~ *is guilty of a Class 1 misdemeanor*. If an applicant is denied employment or service because of information from the central registry or convictions appearing on his criminal history record, the child day center shall provide a copy of the information obtained from the central registry or Central Criminal Records Exchange or both to the applicant. Further dissemination of the information provided to the facility is prohibited.

The provisions of this section referring to volunteers shall apply only to volunteers who will be alone with any child in the performance of their duties and shall not apply to a parent-volunteer of a child attending the child day center whether or not such parent-volunteer will be alone with any child in the performance of his duties. A parent-volunteer is someone supervising, without pay, a group of children which includes the parent-volunteer's own child, in a program which operates no more than four hours per day, where the parent-volunteer works under the direct supervision of a person who has received a clearance pursuant to this section.

**§ 63.2-1725. Child day centers or family day homes receiving federal, state, or local child care funds; eligibility requirements.**

A. Whenever any child day center or family day home that has not met the requirements of §§ 63.2-1720, 63.2-1721, and 63.2-1724 applies to enter into a contract with the Department or a local department to provide child care services to clients of the Department or local department, the Department or local department shall require a criminal records check pursuant to subdivision A 43 of § 19.2-389, as well as a search of the central registry maintained pursuant to § 63.2-1515, on any child abuse or neglect investigation, of the applicant; any employee; prospective employee; volunteers; agents involved in the day-to-day operation; all agents who are alone with, in control of, or supervising one or more of the children; and any other adult living in a family day home. The applicant shall provide the Department or local department with copies of these records checks. The child day center or family day home shall not be permitted to enter into a contract with the Department or a local department for child care services when an applicant; any employee; a prospective employee; a volunteer, an agent involved in the day-to-day operation; an agent alone with, in control of, or supervising one or more children; or any other adult living in a family day home (i) has *been convicted of any offense barrier crime* as defined in § ~~63.2-1719~~ 19.2-392.02 or (ii) *is the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth*. The child day center or family day home shall also require the above individuals to provide a sworn statement or affirmation disclosing whether or not the person has ever been (i) (a) the subject of a founded case of child abuse or neglect or (ii) (b) convicted of a crime or is the subject of any pending criminal charges within the Commonwealth or any equivalent offense outside the Commonwealth. Any person making a materially false statement regarding any such offense ~~shall be~~ *is* guilty of a Class 1 misdemeanor. If a person is denied employment or work because of information from the central registry or convictions appearing on his criminal history record, the child day center or family day program shall provide a copy of such information obtained from the central registry or Central Criminal Records Exchange or both to the person. Further dissemination of the information provided to the facility, beyond dissemination to the Department, agents of the Department, or the local department, is prohibited.

B. Every child day center or family day home that enters into a contract with the Department or a local department to provide child care services to clients of the Department or local departments that is funded, in whole or in part, by the Child Care and Development Block Grant, shall comply with all requirements established by federal law and regulations.

**§ 63.2-1726. Background check required; children's residential facilities.**

A. As a condition of employment, volunteering, or providing services on a regular basis, every children's residential facility that is regulated or operated by the Departments of Social Services, Education, Military Affairs, or Behavioral Health and Developmental Services shall require any individual who (i) accepts a position of employment at such a facility who was not employed by that facility prior to July 1, 2007, (ii) volunteers for such a facility on a regular basis and will be alone with a juvenile in the performance of his duties who was not a volunteer at such facility prior to July 1, 2007, or (iii) provides contractual services directly to a juvenile for such facility on a regular basis and will be alone with a juvenile in the performance of his duties who did not provide such services prior to July 1, 2007, to submit to fingerprinting and to provide personal descriptive information, to be forwarded along with the applicant's fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding such applicant. The children's residential facility shall inform the applicant that he is entitled to obtain a copy of any background check report and to challenge the accuracy and completeness of any such report and obtain a prompt resolution before a final determination is made of the applicant's eligibility to have responsibility for the safety and well-being of children. The applicant shall provide the children's residential facility with a written statement or affirmation disclosing whether he has ever been convicted of or is the subject of pending charges for any offense within or outside the Commonwealth. The results of the criminal history background check must be received prior to permitting an applicant to work with children.

The Central Criminal Records Exchange, upon receipt of an individual's record or notification that no record exists, shall forward it to the state agency which operates or regulates the children's residential facility with which the applicant is affiliated. The state agency shall, upon receipt of an applicant's record lacking disposition data, conduct research in whatever state and local recordkeeping systems are available in order to obtain complete data. The state agency shall report to the children's facility whether the applicant is eligible to have responsibility for the safety and well-being of children. Except as otherwise provided in subsection B, no children's residential facility regulated or operated by the Departments of Education, Behavioral Health and Developmental Services, Military Affairs, or Social Services shall hire for compensated employment or allow to volunteer or provide contractual services persons who have been (a) convicted of or are the subject of pending charges for the following crimes: a felony violation of a protective order as set out in § 16.1-253.2; murder or manslaughter as set out in Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2; malicious wounding by mob as set out in § 18.2-41; abduction as set out in subsection A or B of § 18.2-47; abduction for immoral purposes as set out in § 18.2-48; assault and bodily woundings as set out in Article 4 (§ 18.2-51 et seq.) of Chapter 4 of Title 18.2; robbery as set out in § 18.2-58; earjacking as set out in § 18.2-58.1; extortion by threat as set out in § 18.2-59; threat as set out in § 18.2-60; any felony stalking violation as set out in § 18.2-60.3; a felony violation of a protective order as set out in § 18.2-60.4; sexual assault as set out in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2; arson as set out in Article 1 (§ 18.2-77 et seq.) of Chapter 5 of Title 18.2; burglary as set out in Article 2 (§ 18.2-89 et seq.) of Chapter 5 of Title 18.2; any felony violation relating to distribution of drugs as set out in Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2; drive-by shooting as set out in § 18.2-286.1; use of a machine gun in a crime of violence as set out in § 18.2-289; aggressive use of a machine gun as set out in § 18.2-290; use of a sawed off shotgun in a crime of violence as set out in subsection A of § 18.2-300; pandering as set out in § 18.2-355; crimes against nature involving children as set out in § 18.2-361; taking indecent liberties with

children as set out in § 18.2-370 or 18.2-370.1; abuse or neglect of children as set out in § 18.2-371.1, including failure to secure medical attention for an injured child as set out in § 18.2-314; obscenity offenses as set out in § 18.2-374.1; possession of child pornography as set out in § 18.2-374.1-1; electronic facilitation of pornography as set out in § 18.2-374.3; incest as set out in § 18.2-366; abuse or neglect of incapacitated adults as set out in § 18.2-369; employing or permitting a minor to assist in an act constituting an offense under Article 5 (§ 18.2-372 et seq.) of Chapter 8 of Title 18.2 as set out in § 18.2-379; delivery of drugs to prisoners as set out in § 18.2-474.1; escape from jail as set out in § 18.2-477; felonies by prisoners as set out in § 53.1-203; or an equivalent offense in another state; (a) any offense set forth in clause (i), (ii), (iii), or (v) of the definition of barrier crime in § 19.2-392.02 or (b) convicted of any felony violation relating to possession of drugs as set out in Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, or an equivalent offense in another state, set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02 (1) in the five years prior to the application date for employment, to be a volunteer, or to provide contractual services; (c) convicted of any felony violation relating to possession of drugs as set out in Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2 and continue or (2) such person continues on probation or parole or have failed to pay required court costs; or (d) convicted of any offense set forth in § 9.1-902 or have been the subject of a finding of not guilty by reason of insanity in accordance with Chapter 11.1 (§ 19.2-182.2 et seq.) of Title 19.2 of an offense set forth in § 9.1-902 that results in the person's requirement to register with the Sex Offender and Crimes Against Minors Registry pursuant to § 9.1-901, or any similar registry in any other state for such offense set forth in clause (iv) of the definition of barrier crime in § 19.2-392.02. The provisions of this section also shall apply to residential programs established pursuant to § 16.1-309.3 for juvenile offenders cited in a complaint for intake or in a petition before the court that alleges the juvenile is delinquent or in need of services or supervision; and to local secure detention facilities, provided, however, that the provisions of this section related to local secure detention facilities shall only apply to an individual who, on or after July 1, 2013, accepts a position of employment at such local secure detention facility, volunteers at such local secure detention facility on a regular basis and will be alone with a juvenile in the performance of his duties, or provides contractual services directly to a juvenile at a local secure detention facility on a regular basis and will be alone with a juvenile in the performance of his duties. The Central Criminal Records Exchange and the state or local agency that regulates or operates the local secure detention facility shall process the criminal history record information regarding such applicant in accordance with this subsection and subsection B.

B. Notwithstanding the provisions of subsection A, a children's residential facility may hire for compensated employment or for volunteer or contractual service purposes persons who have been convicted of not more than one misdemeanor offense under § 18.2-57 or 18.2-57.2, or any substantially similar offense under the laws of another jurisdiction, if 10 years have elapsed following the conviction, unless the person committed such offense in the scope of his employment, volunteer, or contractual services.

If the applicant is denied employment or the opportunity to volunteer or provide services at a children's residential facility because of information appearing on his criminal history record, and the applicant disputes the information upon which the denial was based, upon written request of the applicant the state agency shall furnish the applicant the procedures for obtaining his criminal history record from the Federal Bureau of Investigation. If the applicant has been permitted to assume duties that do not involve contact with children pending receipt of the report, the children's residential facility is not precluded from suspending the applicant from his position pending a final determination of the applicant's eligibility to have responsibility for the safety and well-being of children. The information provided to the children's residential facility shall not be disseminated except as provided in this section.

C. Those individuals listed in clauses (i), (ii) and (iii) of subsection A also shall authorize the children's residential facility to obtain a copy of information from the central registry maintained pursuant to § 63.2-1515 on any investigation of child abuse or neglect undertaken on him. The applicant shall provide the children's residential facility with a written statement or affirmation disclosing whether he has ever been the subject of a founded case of child abuse or neglect within or outside the Commonwealth. The children's residential facility shall receive the results of the central registry search prior to permitting an applicant to work alone with children. Children's residential facilities regulated or operated by the Departments of Education; Behavioral Health and Developmental Services; Military Affairs; and Social Services shall not hire for compensated employment or allow to volunteer or provide contractual services, persons who have a founded case of child abuse or neglect. Every residential facility for juveniles which is regulated or operated by the Department of Juvenile Justice shall be authorized to obtain a copy of the information from the central registry.

D. The Boards of Social Services; Education; Juvenile Justice; and Behavioral Health and Developmental Services, and the Department of Military Affairs, may adopt regulations to comply with the provisions of this section. Copies of any information received by a children's residential facility pursuant to this section shall be available to the agency that regulates or operates such facility but shall not be disseminated further. The cost of obtaining the criminal history record and the central registry information shall be borne by the employee or volunteer unless the children's residential facility, at its option, decides to pay the cost.

## CHAPTER 810

An Act to amend and reenact §§ 2.1, 2.2, 3.2, 3.5, 3.6, and 4.1 of Chapter 207 of the Acts of Assembly of 1984, which provided a charter for the Town of Bridgewater; to amend Chapter 207 of the Acts of Assembly of 1984 by adding

sections numbered 2.3 through 2.8; and 3.1:1; and to repeal § 3.7 of Chapter 207 of the Acts of Assembly of 1984, relating to general and operational powers of the town; town elections; appointed officers.

[S 1073]

Approved April 5, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 2.1, 2.2, 3.2, 3.5, 3.6, and 4.1 of Chapter 207 of the Acts of Assembly of 1984 are amended and reenacted and that Chapter 207 of the Acts of Assembly of 1984 is amended by adding sections numbered 2.3 through 2.8 and 3.1:1 as follows:**

§ 2.1. General grant of powers.

~~The Town shall have and may exercise all powers which are now or hereafter may be conferred upon or delegated to towns under the Constitution and laws of the Commonwealth of Virginia, as fully and completely as though such powers were specifically enumerated herein, and no enumeration of particular powers in this charter shall be held to be exclusive, and the Town shall have, exercise, and enjoy all the rights, immunities, powers, and privileges and be subject to all the duties and obligations now appertaining to and incumbent on the Town as a municipal corporation.~~

(a) Powers authorized in Code of Virginia. The Town shall have and may exercise any or all powers now or subsequently authorized for exercise by towns in Title 15.2 or elsewhere in the Code of Virginia of 1950, as amended, regardless of whether such powers are set out or incorporated by reference in this charter. All ordinances in force in the Town of Bridgewater as of July 1, 2017, not inconsistent with this charter, shall be and remain in force until altered, amended, or repealed by the town council.

(b) Powers exercised by governing body. All powers vested in the Town by this charter shall be exercised by its governing body unless expressly provided to the contrary. Such powers shall include those not expressly prohibited by the Constitution and general law of the Commonwealth, and which are necessary or desirable to secure and promote the general welfare of the Town's inhabitants and the safety, health, peace, good order, comfort, convenience, morals, trade, commerce, and industry of the Town and the Town's inhabitants, and the enumeration of specific powers shall not be construed or held to be exclusive or as a limitation upon any general grant of power, but shall be construed and held to be in addition to any general grant of power. The exercise of the powers conferred under this section is specifically limited to the area within the corporate limits of the Town, unless otherwise conferred in the applicable sections of the Constitution and general laws, as amended, of the Commonwealth.

(c) Repeal of prior inconsistent acts and charters. All acts and parts of acts in conflict with this charter are hereby repealed, insofar as they affect the provisions of this charter; provided, however, that nothing contained in this act shall be construed to invalidate or to in any manner affect the present existing indebtedness and liabilities of the Town, whether evidenced by bonded obligations or otherwise, or to relieve it of any part of its present obligation or liability on account of bond issues, liabilities, or debts of whatsoever nature or kind. Upon the effective date of this charter, all references to the Town superintendent in the Town's resolutions, ordinances, code provisions, contracts, and all other official acts and governing documents then in effect shall be deemed as referring to the Town manager.

§ 2.2. ~~Adoption of Financial powers granted by the Code of Virginia.~~

~~The powers granted in § 2.1 of this charter include specifically, but are not limited to, all powers set forth in the Code of Virginia, 1950, §§ 15.1-837 through 15.1-907, including subsequent amendments thereof.~~

(a) Generally. In accordance with the Constitution of Virginia and the United States Constitution, the Town may raise through annual taxes and assessments on property, persons, and other subjects of taxation that are not prohibited by law such sums of money as in the judgment of the Town are necessary to pay the debts, defray the expenses, accomplish the purposes, and perform the functions of the Town, in such manner as the council deems necessary or expedient. The Town shall impose no tax on its bonds.

(b) Assessments for local improvements. The Town may impose special or local assessments for local improvements and enforce payment thereof, subject, however, to such limitations prescribed by the Constitution of Virginia as may be in force at the time of the imposition of such special or local assessments.

(c) Water, light, and sewerage rates; rates and charges for public utilities or services, etc., operated, etc., by Town. The Town may establish, impose, and enforce water, light, and sewerage rates and rates and charges for public utilities, or other service, products, or conveniences, operated, rendered, or furnished by the Town and assess, or cause to be assessed, water, light, sewerage, and other public utility rates and charges directly against the owner or owners of the buildings, or against the proper tenant or tenants, and in the event that such rates and charges shall be assessed against a tenant, then the council may, by an ordinance, require of such tenant a deposit of such reasonable amount as may be by such ordinance prescribed before furnishing such services to such tenant.

§ 2.3. Contractual powers; gifts; grants.

(a) Acquisition of property generally; holding, selling, leasing, etc., Town property. The Town may acquire, by purchase, gift, devise, condemnation, or otherwise, property, real and personal, or any estate or interest therein, within or without the Town or state and for any of the purposes of the Town.

(b) Debts and evidence of indebtedness. The Town may contract debts, borrow money, and make and issue evidence of indebtedness.

(c) *Gifts.* The Town may accept or refuse gifts, donations, bequests, or grants of any kind from any source, absolutely or in trust, which are related to the Town's powers, duties, and functions, or for educational, charitable, or other public purposes, and do all the things and acts necessary to carry out the purposes of such gifts, grants, bequests, and devises, with power to manage, maintain, operate, sell, lease, or otherwise handle or dispose of the same, in accordance with terms and conditions of such gifts, grants, bequests, and devises.

§ 2.4. *Operational powers.*

(a) *Generally.* The Town may provide for the organization, conduct, and operation of all departments, offices, boards, commissions, and agencies of the Town, subject to such limitations as may be imposed by this charter or otherwise by law, and may establish, consolidate, abolish, or change departments, offices, boards, commissions, and agencies of the municipal corporation and prescribe the powers, duties, and functions thereof, except where such departments, offices, boards, commissions, and agencies or the powers, duties, and functions thereof are specifically established or prescribed by charter or otherwise by law.

(b) *Records and accounts.* The Town shall provide for the control and management of the Town's affairs and shall prescribe and require the adoption and keeping of such books, records, accounts, and systems of accounting by the departments, boards, commissions, or other agencies of the local government necessary to give full and true accounts of the affairs, resources, and revenues of the municipal corporation and the handling, use, and disposal thereof.

(c) *Expenditure of money.* The Town may expend money of the Town for all lawful purposes.

(d) *Construction, maintenance, etc., of improvements, buildings, etc., for use and operation of Town departments.* The Town may construct, maintain, regulate, and operate public improvements of all kinds, including municipal and other buildings, comfort stations, markets, and all buildings and structures necessary or appropriate for the use and proper operation of the various departments of the Town, and may acquire by condemnation or otherwise all land, riparian, and other rights and easements necessary for such improvements, or any of them.

§ 2.5. *Utilities; public improvements.*

(a) *Water works and water supply.* The Town may own, operate, and maintain water works and acquire in any lawful manner in any county of the state such water, lands, property rights, and riparian rights as the council may deem necessary for the purpose of providing the Town with an adequate water supply, and of piping or conducting the same; lay all necessary mains and service lines, either within or without the corporate limits of the Town, and charge and collect water rents therefor; erect and maintain all necessary dams, pumping stations, and other works in connection therewith; make reasonable rules and regulations for promoting the purity of the Town water supply and protecting it from pollution and for this purpose exercise full police powers and sanitary patrol over all lands comprised within the limits of the watershed tributary to any such water supply wherever such lands may be located in this state; impose and enforce adequate penalties for the violation of any such rules and regulations and prevent by injunction any pollution or threatened pollution of such water supply and any and all acts likely to impair the purity thereof; and for the purpose of acquiring lands, interest in lands, property rights, and riparian rights or materials for any such use exercise within the state all powers of eminent domain provided by the laws of this state. For any of the purposes aforesaid, said Town may, if the council shall so determine, acquire by condemnation, purchase, or otherwise any estate or interest in such lands or any of them in fee.

(b) *Streets; parks, playgrounds, etc.; infrastructure; vehicles.* The Town may establish, maintain, improve, alter, vacate, regulate, and otherwise manage its streets, alleys, parks, playgrounds, and all of its public infrastructure and public works, in such manner as best serves the public interest, safety, and convenience; regulate, limit, restrict, and control the services and routes of and rates charged by vehicles for the carrying of passengers and property in accordance with general law; permit or prohibit poles and wires for electric, telephone, telegraph, television, and other purposes to be erected and gas pipes to be laid in the streets and alleys and prescribe and collect an annual charge for such privileges; and, subject to the provisions of franchise agreements, require the owner or lessees of any such poles or wires now in use or hereafter used to place such wires, cables, and accoutrements in conduits underground in accordance with the Town's prescribed requirements.

(c) *Public utilities.* Subject to the provisions of the Constitution of Virginia, this charter, and general law, the Town may grant franchises for public utilities, reserving rights of transfer, renewal, extension, and amendment thereof.

(d) *Collection and disposition of sewage, garbage, ashes, refuse, etc.; reduction and disposal plant.* The Town may collect and dispose of sewage, ashes, garbage, carcasses of dead animals, and other refuse; make reasonable charges therefor; acquire and operate reduction or any other plants for the utilization or destruction of such materials, or any of them; contract for and regulate the collection and disposal thereof, and require and regulate the collection and disposal thereof.

§ 2.6. *Nuisances; sanitary conditions, etc.*

The Town may compel the abatement and removal of all nuisances within the Town; require all lands, lots, and other premises within the Town to be kept clean; regulate the keeping of animals, poultry, and other fowl therein; regulate the exercise of any dangerous or unwholesome business, trade, or employment therein; regulate the transportation of all articles through the streets of the Town; compel the abatement of smoke, dust, and unnecessary noise; compel the removal of grass and weeds from private and public property and snow from sidewalks; require the covering or removal of offensive, unwholesome, unsanitary, or unhealthy substances allowed to accumulate in or on any place or premises; require the filling in to the street level of the portion of any lot adjacent to a street where the difference in level between the lot and the street

constitutes a danger to life and limb; and require the raising or draining of the grounds subject to be covered by stagnant water and the razing or repair of all unsafe, dangerous, or unsanitary public or private buildings, walls, or structures.

§ 2.7. Police powers.

(a) The Town may exercise full police powers as provided by general law and establish and maintain a department or division of police.

(b) The Town may also do all things whatsoever necessary or expedient for promoting or maintaining the general welfare, comfort, education, morals, peace, government, health, trade, commerce, or industries of the Town or its inhabitants; prescribe any penalty for the violation of any Town ordinance, rule, or regulation or of any provisions of its charter, not exceeding the fine or sentence imposed by the laws of the state; pass and enforce all by-laws, rules, regulations, and ordinances that it may deem necessary for the good order and government of the Town, the management of its property, the conduct of its affairs, and the peace, comfort, convenience, order, morals, health, and protection of its citizens or their property; and do such other things and pass such other laws as may be necessary or proper to carry into full effect any power, authority, capacity, or jurisdiction that is or shall be granted to or vested in said Town, or in the council, court, or offices thereof, or which may be necessarily incident to a municipal corporation.

§ 2.8. Miscellaneous powers.

(a) Removal or reconstruction of unsafe buildings, etc.; protection of public gatherings. The Town may regulate the size, height, materials, and construction of buildings, fences, walls, retaining walls, and other structures hereafter erected in such manner as the public safety and conveniences may require; remove or require to be removed or reconstructed any building, structure, or addition thereto, which by reason of dilapidation, defect of structure, or other causes may have become dangerous to life or property, or which may have been erected contrary to law; and enact stringent and efficient laws for securing the safety of persons from fires in halls and buildings used for public assemblies, entertainments, or amusements.

(b) Fees for permits, etc. The Town may charge and collect fees for permits to use public facilities and for public services and privileges.

(c) Cemeteries. The Town may provide in or near the Town lands to be used as burial places for the dead; improve and care for the same and the approaches thereto; charge for and regulate the use of ground therein; and provide for the perpetual upkeep and care of any plot or burial lot therein. The Town is authorized to take and receive sums of money by gift, bequest, or otherwise, to be kept invested, and the income thereof is to be used for the perpetual upkeep and care of the said lot or plot for which the said donation, gift, or bequest shall have been made.

(d) Injunctive relief. The Town may maintain a suit to restrain by injunction the violation of any ordinance, notwithstanding any punishment that may be provided for the violation of such ordinance.

§ 3.1:1 Term of office for mayor and council effective, July 1, 2017.

Notwithstanding the provisions of § 3.1, effective July 1, 2017, the mayor and members of council shall serve four-year terms or until their successors are elected and qualified.

§ 3.2. Vacancies.

Vacancies on the council shall be filled for the unexpired term from among the qualified voters of the Town by a majority vote of the remaining members of council. A vacancy in the office of mayor shall be filled for the unexpired term from among the qualified voters of the Town by a majority vote of the council in accordance with general law.

§ 3.5. Vice mayor.

The Biennially, at its organizational meeting, the town council shall, by a majority of all of its members, elect a vice mayor from its membership at its first meeting to serve for a term of two years in the absence of or during the disability of the mayor, and the vice mayor shall possess the powers and discharge the duties of the mayor when serving as mayor.

§ 3.6. Meetings of council.

(a) Organizational meeting. The town council's organizational meeting held for the purposes set forth in § 15.2-1416 of the Code of Virginia shall be its first meeting held after January 1 of each year.

(b) Regular meetings. The council shall fix the time of its regular meetings, which shall be at least once each month; and, except as herein provided, the council shall follow Robert's Rules of Order, latest edition, for rules of procedure necessary for the orderly conduct of its business except where inconsistent with the laws of the Commonwealth of Virginia. Minutes shall be kept of its official proceedings, and its meetings shall be open to the public unless an executive session is called according to law.

(c) Special meetings. Special meetings may be called at any time by the mayor or any four members of the council, provided that the members of the council are given reasonable notice of such meetings. No business shall be transacted at the special meeting except that for which it shall be called. If the mayor and all the members of the council are present, this provision requiring prior notice for special meetings is waived.

(d) Rules of procedure. From time to time, the council shall adopt rules of procedure governing its meetings, such rules not being inconsistent with state law.

§ 4.1. Appointments.

The town council may appoint the following officers:

A. (a) Town Superintendent manager. A town superintendent manager who shall be responsible to the town council for the proper administration of all affairs of the Town, for the control and supervision management of all town departments, employees and property, for the appointment, supervision, and dismissal of town employees, including the treasurer and

*police chief, if any, for the preparation and implementation of an annual budget, and for any other duties as prescribed by the council;*

~~B. Town Treasurer. A town treasurer, whose duties shall be to receive all money belonging to the Town, to keep correct accounts of all receipts from all sources and of all expenditures, to be responsible for the collection of all license fees, taxes, levies and charges due to the Town, to disburse the funds of the Town as the council may direct, and other such duties as prescribed by the council;~~

~~C. (b) Town Attorney attorney. A town attorney who shall be an attorney at law licensed to practice under the laws of the Commonwealth. The Town Attorney town attorney shall receive such compensation as provided by the council and shall have such duties as prescribed by the council; and~~

~~D. Police Chief. The council in its discretion may provide for a chief of police whose duties shall be as prescribed by the council. The Town shall have no town sergeant; and~~

~~E. (c) Other Officers officers. The council may appoint any other officers that the council deems necessary and proper.~~

**2. That § 3.7 of Chapter 207 of the Acts of Assembly of 1984 is repealed.**

**CHAPTER 811**

*An Act to amend and reenact §§ 8.01-225 and 22.1-274.01:1 of the Code of Virginia, relating to public schools; certain employees; insulin pump assistance.*

[S 1116]

Approved April 5, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 8.01-225 and 22.1-274.01:1 of the Code of Virginia are amended and reenacted as follows:**

**§ 8.01-225. Persons rendering emergency care, obstetrical services exempt from liability.**

A. Any person who:

1. In good faith, renders emergency care or assistance, without compensation, to any ill or injured person (i) at the scene of an accident, fire, or any life-threatening emergency; (ii) at a location for screening or stabilization of an emergency medical condition arising from an accident, fire, or any life-threatening emergency; or (iii) en route to any hospital, medical clinic, or doctor's office, shall not be liable for any civil damages for acts or omissions resulting from the rendering of such care or assistance. For purposes of this subdivision, emergency care or assistance includes the forcible entry of a motor vehicle in order to remove an unattended minor at risk of serious bodily injury or death, provided the person has attempted to contact a law-enforcement officer, as defined in § 9.1-101, a firefighter, as defined in § 65.2-102, emergency medical services personnel, as defined in § 32.1-111.1, or an emergency 911 system, if feasible under the circumstances.

2. In the absence of gross negligence, renders emergency obstetrical care or assistance to a female in active labor who has not previously been cared for in connection with the pregnancy by such person or by another professionally associated with such person and whose medical records are not reasonably available to such person shall not be liable for any civil damages for acts or omissions resulting from the rendering of such emergency care or assistance. The immunity herein granted shall apply only to the emergency medical care provided.

3. In good faith and without compensation, including any emergency medical services provider who holds a valid certificate issued by the Commissioner of Health, administers epinephrine in an emergency to an individual shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment if such person has reason to believe that the individual receiving the injection is suffering or is about to suffer a life-threatening anaphylactic reaction.

4. Provides assistance upon request of any police agency, fire department, emergency medical services agency, or governmental agency in the event of an accident or other emergency involving the use, handling, transportation, transmission, or storage of liquefied petroleum gas, liquefied natural gas, hazardous material, or hazardous waste as defined in § 10.1-1400 or regulations of the Virginia Waste Management Board shall not be liable for any civil damages resulting from any act of commission or omission on his part in the course of his rendering such assistance in good faith.

5. Is an emergency medical services provider possessing a valid certificate issued by authority of the State Board of Health who in good faith renders emergency care or assistance, whether in person or by telephone or other means of communication, without compensation, to any injured or ill person, whether at the scene of an accident, fire, or any other place, or while transporting such injured or ill person to, from, or between any hospital, medical facility, medical clinic, doctor's office, or other similar or related medical facility, shall not be liable for any civil damages for acts or omissions resulting from the rendering of such emergency care, treatment, or assistance, including but in no way limited to acts or omissions which involve violations of State Department of Health regulations or any other state regulations in the rendering of such emergency care or assistance.

6. In good faith and without compensation, renders or administers emergency cardiopulmonary resuscitation (CPR); cardiac defibrillation, including, but not limited to, the use of an automated external defibrillator (AED); or other emergency life-sustaining or resuscitative treatments or procedures which have been approved by the State Board of Health to any sick or injured person, whether at the scene of a fire, an accident, or any other place, or while transporting such person to or from any hospital, clinic, doctor's office, or other medical facility, shall be deemed qualified to administer such emergency

treatments and procedures and shall not be liable for acts or omissions resulting from the rendering of such emergency resuscitative treatments or procedures.

7. Operates an AED at the scene of an emergency, trains individuals to be operators of AEDs, or orders AEDs, shall be immune from civil liability for any personal injury that results from any act or omission in the use of an AED in an emergency where the person performing the defibrillation acts as an ordinary, reasonably prudent person would have acted under the same or similar circumstances, unless such personal injury results from gross negligence or willful or wanton misconduct of the person rendering such emergency care.

8. Maintains an AED located on real property owned or controlled by such person shall be immune from civil liability for any personal injury that results from any act or omission in the use in an emergency of an AED located on such property unless such personal injury results from gross negligence or willful or wanton misconduct of the person who maintains the AED or his agent or employee.

9. Is an employee of a school board or of a local health department approved by the local governing body to provide health services pursuant to § 22.1-274 who, while on school property or at a school-sponsored event, (i) renders emergency care or assistance to any sick or injured person; (ii) renders or administers emergency cardiopulmonary resuscitation (CPR); cardiac defibrillation, including, but not limited to, the use of an automated external defibrillator (AED); or other emergency life-sustaining or resuscitative treatments or procedures that have been approved by the State Board of Health to any sick or injured person; (iii) operates an AED, trains individuals to be operators of AEDs, or orders AEDs; or (iv) maintains an AED, shall not be liable for civil damages for ordinary negligence in acts or omissions on the part of such employee while engaged in the acts described in this subdivision.

10. Is a volunteer in good standing and certified to render emergency care by the National Ski Patrol System, Inc., who, in good faith and without compensation, renders emergency care or assistance to any injured or ill person, whether at the scene of a ski resort rescue, outdoor emergency rescue, or any other place or while transporting such injured or ill person to a place accessible for transfer to any available emergency medical system unit, or any resort owner voluntarily providing a ski patroller employed by him to engage in rescue or recovery work at a resort not owned or operated by him, shall not be liable for any civil damages for acts or omissions resulting from the rendering of such emergency care, treatment, or assistance, including but not limited to acts or omissions which involve violations of any state regulation or any standard of the National Ski Patrol System, Inc., in the rendering of such emergency care or assistance, unless such act or omission was the result of gross negligence or willful misconduct.

11. Is an employee of (i) a school board, (ii) a school for students with disabilities as defined in § 22.1-319 licensed by the Board of Education, or (iii) a private school accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education and is authorized by a prescriber and trained in the administration of insulin and glucagon, who, upon the written request of the parents as defined in § 22.1-1, assists with the administration of insulin or, *in the case of a school board employee, with the insertion or reinsertion of an insulin pump or any of its parts pursuant to subsection B of § 22.1-274.01:1* or administers glucagon to a student diagnosed as having diabetes who requires insulin injections during the school day or for whom glucagon has been prescribed for the emergency treatment of hypoglycemia shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment if the insulin is administered according to the child's medication schedule or such employee has reason to believe that the individual receiving the glucagon is suffering or is about to suffer life-threatening hypoglycemia. Whenever any such employee is covered by the immunity granted herein, the school board or school employing him shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such insulin or glucagon treatment.

12. Is a school nurse, an employee of a school board, an employee of a local governing body, or an employee of a local health department who is authorized by a prescriber and trained in the administration of epinephrine and who provides, administers, or assists in the administration of epinephrine to a student believed in good faith to be having an anaphylactic reaction, or is the prescriber of the epinephrine, shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment.

13. Is an employee of a school for students with disabilities, as defined in § 22.1-319 and licensed by the Board of Education, or an employee of a private school that is accredited pursuant to § 22.1-19 as administered by the Virginia Council for Private Education who is authorized by a prescriber and trained in the administration of epinephrine and who administers or assists in the administration of epinephrine to a student believed in good faith to be having an anaphylactic reaction, or is the prescriber of the epinephrine, shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment. Whenever any employee is covered by the immunity granted in this subdivision, the school shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from such administration or assistance.

14. Is an employee of a provider licensed by the Department of Behavioral Health and Developmental Services, or provides services pursuant to a contract with a provider licensed by the Department of Behavioral Health and Developmental Services, who has been trained in the administration of insulin and glucagon and who administers or assists with the administration of insulin or administers glucagon to a person diagnosed as having diabetes who requires insulin injections or for whom glucagon has been prescribed for the emergency treatment of hypoglycemia in accordance with § 54.1-3408 shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment if the insulin is administered in accordance with the prescriber's instructions or such person has

reason to believe that the individual receiving the glucagon is suffering or is about to suffer life-threatening hypoglycemia. Whenever any employee of a provider licensed by the Department of Behavioral Health and Developmental Services or a person who provides services pursuant to a contract with a provider licensed by the Department of Behavioral Health and Developmental Services is covered by the immunity granted herein, the provider shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such insulin or glucagon treatment.

15. Is an employee of a provider licensed by the Department of Behavioral Health and Developmental Services, or provides services pursuant to a contract with a provider licensed by the Department of Behavioral Health and Developmental Services, who has been trained in the administration of epinephrine and who administers or assists in the administration of epinephrine to a person believed in good faith to be having an anaphylactic reaction in accordance with the prescriber's instructions shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment.

16. In good faith prescribes, dispenses, or administers naloxone or other opioid antagonist used for overdose reversal in an emergency to an individual who is believed to be experiencing or about to experience a life-threatening opiate overdose shall not be liable for any civil damages for ordinary negligence in acts or omissions resulting from the rendering of such treatment if acting in accordance with the provisions of subsection X of § 54.1-3408 or in his role as a member of an emergency medical services agency.

B. Any licensed physician serving without compensation as the operational medical director for an emergency medical services agency that holds a valid license as an emergency medical services agency issued by the Commissioner of Health shall not be liable for any civil damages for any act or omission resulting from the rendering of emergency medical services in good faith by the personnel of such licensed agency unless such act or omission was the result of such physician's gross negligence or willful misconduct.

Any person serving without compensation as a dispatcher for any licensed public or nonprofit emergency medical services agency in the Commonwealth shall not be liable for any civil damages for any act or omission resulting from the rendering of emergency services in good faith by the personnel of such licensed agency unless such act or omission was the result of such dispatcher's gross negligence or willful misconduct.

Any individual, certified by the State Office of Emergency Medical Services as an emergency medical services instructor and pursuant to a written agreement with such office, who, in good faith and in the performance of his duties, provides instruction to persons for certification or recertification as a certified basic life support or advanced life support emergency medical services provider shall not be liable for any civil damages for acts or omissions on his part directly relating to his activities on behalf of such office unless such act or omission was the result of such emergency medical services instructor's gross negligence or willful misconduct.

Any licensed physician serving without compensation as a medical advisor to an E-911 system in the Commonwealth shall not be liable for any civil damages for any act or omission resulting from rendering medical advice in good faith to establish protocols to be used by the personnel of the E-911 service, as defined in § 58.1-1730, when answering emergency calls unless such act or omission was the result of such physician's gross negligence or willful misconduct.

Any licensed physician who directs the provision of emergency medical services, as authorized by the State Board of Health, through a communications device shall not be liable for any civil damages for any act or omission resulting from the rendering of such emergency medical services unless such act or omission was the result of such physician's gross negligence or willful misconduct.

Any licensed physician serving without compensation as a supervisor of an AED in the Commonwealth shall not be liable for any civil damages for any act or omission resulting from rendering medical advice in good faith to the owner of the AED relating to personnel training, local emergency medical services coordination, protocol approval, AED deployment strategies, and equipment maintenance plans and records unless such act or omission was the result of such physician's gross negligence or willful misconduct.

C. Any communications services provider, as defined in § 58.1-647, including mobile service, and any provider of Voice-over-Internet Protocol service, in the Commonwealth shall not be liable for any civil damages for any act or omission resulting from rendering such service with or without charge related to emergency calls unless such act or omission was the result of such service provider's gross negligence or willful misconduct.

Any volunteer engaging in rescue or recovery work at a mine, or any mine operator voluntarily providing personnel to engage in rescue or recovery work at a mine not owned or operated by such operator, shall not be liable for civil damages for acts or omissions resulting from the rendering of such rescue or recovery work in good faith unless such act or omission was the result of gross negligence or willful misconduct. For purposes of this subsection, "Voice-over-Internet Protocol service" or "VoIP service" means any Internet protocol-enabled services utilizing a broadband connection, actually originating or terminating in Internet Protocol from either or both ends of a channel of communication offering real time, multidirectional voice functionality, including, but not limited to, services similar to traditional telephone service.

D. Nothing contained in this section shall be construed to provide immunity from liability arising out of the operation of a motor vehicle.

E. For the purposes of this section, "compensation" shall not be construed to include (i) the salaries of police, fire, or other public officials or personnel who render such emergency assistance; (ii) the salaries or wages of employees of a coal producer engaging in emergency medical services or first aid services pursuant to the provisions of § 45.1-161.38, 45.1-161.101, 45.1-161.199, or 45.1-161.263; (iii) complimentary lift tickets, food, lodging, or other gifts provided as a

gratuity to volunteer members of the National Ski Patrol System, Inc., by any resort, group, or agency; (iv) the salary of any person who (a) owns an AED for the use at the scene of an emergency, (b) trains individuals, in courses approved by the Board of Health, to operate AEDs at the scene of emergencies, (c) orders AEDs for use at the scene of emergencies, or (d) operates an AED at the scene of an emergency; or (v) expenses reimbursed to any person providing care or assistance pursuant to this section.

For the purposes of this section, "emergency medical services provider" shall include a person licensed or certified as such or its equivalent by any other state when he is performing services that he is licensed or certified to perform by such other state in caring for a patient in transit in the Commonwealth, which care originated in such other state.

Further, the public shall be urged to receive training on how to use CPR and an AED in order to acquire the skills and confidence to respond to emergencies using both CPR and an AED.

**§ 22.1-274.01:1. Students who are diagnosed with diabetes; self-care.**

A. Each local school board shall permit each enrolled student who is diagnosed with diabetes, with parental consent and written approval from the prescriber, as that term is defined in § 54.1-3401, to (i) carry with him and use supplies, including a reasonable and appropriate short-term supply of carbohydrates, an insulin pump, and equipment for immediate treatment of high and low blood glucose levels, and (ii) self-check his own blood glucose levels on a school bus, on school property, and at a school-sponsored activity.

B. A local school board employee who is a registered nurse, licensed practical nurse, or certified nurse aide and who has been trained in the administration of insulin, including the use and insertion of insulin pumps, and the administration of glucagon may assist a student who is diagnosed with diabetes and who carries an insulin pump with the insertion or reinsertion of the pump or any of its parts. For the purposes of this subsection, "employee" has the same meaning as in subsection E of § 22.1-274. Prescriber authorization and parental consent shall be obtained for any such employee to assist with the insertion or reinsertion of the pump or any of its parts. Nothing in this section shall require any employee to assist with the insertion or reinsertion of the pump or any of its parts.

**CHAPTER 812**

*An Act to amend the Code of Virginia by adding a section numbered 54.1-3408.4, relating to prescription of buprenorphine without naloxone; limitation.*

[S 1178]

Approved April 5, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding a section numbered 54.1-3408.4 as follows:**

**§ 54.1-3408.4. Prescription of buprenorphine without naloxone; limitation.**

*Prescriptions for products containing buprenorphine without naloxone shall be issued only (i) for patients who are pregnant, (ii) when converting a patient from methadone to buprenorphine containing naloxone for a period not to exceed seven days, or (iii) as permitted by regulations of the Board of Medicine, the Board of Nursing, or the Board of Veterinary Medicine.*

**2. That the provisions of this act shall expire on July 1, 2022.**

**CHAPTER 813**

*An Act to amend and reenact §§ 67-1500, 67-1501, 67-1502, 67-1505, and 67-1508 of the Code of Virginia, relating to conversion of the Virginia Solar Energy Development Authority to the Virginia Solar Energy Development and Energy Storage Authority.*

[S 1258]

Approved April 5, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 67-1500, 67-1501, 67-1502, 67-1505, and 67-1508 of the Code of Virginia are amended and reenacted as follows:**

**CHAPTER 15.**

**VIRGINIA SOLAR ENERGY DEVELOPMENT AND ENERGY STORAGE AUTHORITY.**

**§ 67-1500. Definitions.**

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

"Authority" means the Virginia Solar Energy Development and Energy Storage Authority created pursuant to this chapter.

"Developer" means any private developer of a solar energy projects project or an energy storage project.

"Energy storage project" means an energy storage facility located within the Commonwealth and includes interests in land, improvements, and ancillary facilities.

"Solar energy project" means an electric generation facility located within the Commonwealth and includes interests in land, improvements, and ancillary facilities.

**§ 67-1501. Authority created; purpose.**

The Virginia Solar Energy Development Authority is ~~created as~~ *continued as the Virginia Solar Energy Development and Energy Storage Authority. The Authority constitutes* a body corporate and a political subdivision of the Commonwealth and as such shall have, and is vested with, all of the politic and corporate powers as are set forth in this chapter. The Authority is established for the purposes of (i) facilitating, coordinating, and supporting the development, either by the Authority or by other qualified entities, of the solar energy ~~industry and energy storage industries~~ and solar energy and energy storage projects by developing programs that increase the availability of financing for solar energy projects; ~~facilitate and energy storage projects;~~ (ii) *facilitating* the increase of solar energy generation systems *and energy storage projects* on public and private sector facilities in the Commonwealth; ~~promote;~~ (iii) *promoting* the growth of the Virginia solar ~~industry, and provide and energy storage industries;~~ (iv) *providing* a hub for collaboration between entities, both public and private, to partner on solar energy projects *and energy storage projects;* and (v) *positioning the Commonwealth as a leader in research, development, commercialization, manufacturing, and deployment of energy storage technology.* The Authority may also consult with research institutions, businesses, nonprofit organizations, and stakeholders as the Authority deems appropriate. The Authority shall have only those powers enumerated in this chapter.

**§ 67-1502. Membership; terms; vacancies; expenses.**

A. The Authority shall be composed of ~~14~~ 15 nonlegislative citizen members appointed as follows: ~~Six~~ Eight members shall be appointed by the Governor; ~~three~~ four members shall be appointed by the Speaker of the House of Delegates; and ~~two~~ three members shall be appointed by the Senate Committee on Rules. All members of the Authority shall reside in the Commonwealth. Members may include representatives of solar businesses, solar customers, renewable energy financiers, state and local government solar customers, *institutions of higher education who have expertise in energy technology,* and solar research academics.

B. Except as otherwise provided herein, all appointments shall be for terms of four years each. No member shall be eligible to serve more than two successive four-year terms. After expiration of an initial term of three years or less, two additional four-year terms may be served by such member if appointed thereto. Appointments to fill vacancies, other than by expiration of a term, shall be made for the unexpired terms. Any appointment to fill a vacancy shall be made in the same manner as the original appointment. The remainder of any term to which a member is appointed to fill a vacancy shall not constitute a term in determining the member's eligibility for reappointment.

C. The initial appointments of members by the Governor *made pursuant to Chapters 90 and 398 of the Acts of Assembly of 2015* shall be as follows: two members shall be appointed for terms of four years, two members shall be appointed for terms of three years, and two members shall be appointed for terms of two years. The initial appointments of members by the Speaker of the House of Delegates *made pursuant to Chapters 90 and 398 of the Acts of Assembly of 2015* shall be as follows: one member shall be appointed for a term of four years, one member shall be appointed for a term of three years, and one member shall be appointed for a term of two years. The initial appointments of members by the Senate Committee on Rules *made pursuant to Chapters 90 and 398 of the Acts of Assembly of 2015* shall be as follows: one member shall be appointed for a term of four years, and one member shall be appointed for a term of three years. Thereafter all appointments shall be for terms of four years.

D. The Authority shall appoint from its membership a chairman and a vice-chairman, both of whom shall serve in such capacities at the pleasure of the Authority. The chairman, or in his absence the vice-chairman, shall preside at all meetings of the Authority. The meetings of the Authority shall be held on the call of the chairman or whenever a majority of the members so request. A majority of members of the Authority serving at any one time shall constitute a quorum for the transaction of business.

E. Members shall serve without compensation. However, all members may be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. Such expenses shall be paid from such funds as may be appropriated to the Authority by the General Assembly.

F. Members of the Authority shall be subject to the standards of conduct set forth in the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.) and may be removed from office for misfeasance, malfeasance, nonfeasance, neglect of duty, or misconduct in the manner set forth therein.

G. Except as otherwise provided in this chapter, members of the Authority shall be subject to the provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

**§ 67-1505. Powers and duties of the Authority.**

In addition to such other powers and duties established under this chapter, the Authority shall have the power and duty to:

1. Adopt, use, and alter at will an official seal;
2. Make bylaws for the management and regulation of its affairs;
3. Maintain an office at such place or places within the Commonwealth as it may designate;
4. Accept, hold, and administer moneys, grants, securities, or other property transferred, given, or bequeathed to the Authority, absolutely or in trust, from any source, public or private, for the purposes for which the Authority is created;
5. Make and execute contracts and all other instruments and agreements necessary or convenient for the exercise of its powers and functions;

6. Employ, in its discretion, consultants, attorneys, architects, engineers, accountants, financial experts, investment bankers, superintendents, managers, and such other employees and agents as may be necessary and fix their compensation to be payable from funds made available to the Authority;

7. Invest its funds as permitted by applicable law;

8. Receive and accept from any federal or private agency, foundation, corporation, association, or person grants, donations of money, or real or personal property for the benefit of the Authority, and receive and accept from the Commonwealth or any state, and from any municipality, county, or other political subdivision thereof and any other source, aid or contributions of either money, property, or other things of value, to be held, used, and applied for the purposes for which such grants and contributions may be made;

9. Enter into agreements with any department, agency, or instrumentality of the United States or of the Commonwealth and with lenders and enter into loans with contracting parties for the purpose of planning, regulating, and providing for the financing or assisting in the financing of any project;

10. Do any lawful act necessary or appropriate to carry out the powers herein granted or reasonably implied;

11. Identify and take steps to mitigate existing state and regulatory or administrative barriers to the development of the solar energy ~~industry~~ *and energy storage industries*, including facilitating any permitting processes;

12. Enter into interstate partnerships to develop the solar energy industry ~~and~~, solar energy projects, *and energy storage projects*;

13. Collaborate with entities, including institutions of higher education, to increase the training and development of the workforce needed by the solar ~~industry~~ *and energy storage industries* in the Commonwealth, including industry-recognized credentials and certifications; ~~and~~

14. Conduct any other activities as may seem appropriate to increase solar energy generation in the Commonwealth and the associated jobs and economic development and competitiveness benefits, including assisting investor-owned utilities in the planned deployment of at least 400 megawatts of solar energy projects in the Commonwealth by 2020 through entering into agreements in its discretion in any manner provided by law for the purpose of planning and providing for the financing or assisting in the financing of the construction or purchase of such solar energy projects authorized pursuant to § 56-585.1;

15. *Promote collaborative efforts among Virginia's public and private institutions of higher education in research, development, and commercialization efforts related to energy storage;*

16. *Monitor relevant developments in energy storage technology and deployment nationally and globally and disseminate relevant information and research results; and*

17. *Identify and work with the Commonwealth's industries and nonprofit partners in advancing efforts related to the development and commercialization of energy storage.*

**§ 67-1508. Confidentiality of information.**

A. The Authority shall hold in confidence the personal and financial information supplied to it, or maintained by it, concerning the siting and development of solar energy projects *and energy storage projects*.

B. Nothing in this section shall prohibit the Authority, in its discretion, from releasing any information that has been transformed into a statistical or aggregate form that does not allow the identification of the person who supplied particular information.

C. Information supplied by or maintained on persons or entities applying for or receiving allocations of federal loan guarantees, as well as specific information relating to the amount and identity of recipients of such distributions, shall be subject to disclosure in accordance with the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

**2. That this act shall not be construed to affect existing appointments for which the terms have not expired. However, any new appointments made after the effective date of this act shall be made in accordance with the provisions of this act.**

**3. That the initial appointments of members to the Virginia Solar Energy Development and Energy Storage Authority by the Governor made pursuant to this act shall be as follows: one member shall be appointed for a term of four years, and one member shall be appointed for a term of three years. The initial appointment of a member to the Virginia Solar Energy Development and Energy Storage Authority by the Speaker of the House of Delegates made pursuant to this act shall be for a term of four years. The initial appointment of a member to the Virginia Solar Energy Development and Energy Storage Authority by the Senate Committee on Rules made pursuant to this act shall be for a term of three years. Following the expiration of their initial terms, all such appointments shall be for a term of four years as provided in § 67-1502 of the Code of Virginia, as amended by this act.**

**CHAPTER 814**

*An Act to amend and reenact §§ 19.2-305.1, 19.2-305.2, 19.2-349, and 19.2-368.15 of the Code of Virginia, relating to restitution; enforcement, noncompliance, etc.*

[S 1284]

Approved April 5, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 19.2-305.1, 19.2-305.2, 19.2-349, and 19.2-368.15 of the Code of Virginia are amended and reenacted as follows:**

**§ 19.2-305.1. Restitution for property damage or loss; community service.**

A. Notwithstanding any other provision of law, no person convicted of a crime in violation of any provision in Title 18.2, which resulted in property damage or loss, shall be placed on probation or have his sentence suspended unless such person shall make at least partial restitution for such property damage or loss, or shall be compelled to perform community services, or both, or shall submit a plan for doing that which appears to the court to be feasible under the circumstances.

B. Notwithstanding any other provision of law, any person who, on or after July 1, 1995, commits, and is convicted of, a crime in violation of any provision in Title 18.2 shall make at least partial restitution for any property damage or loss caused by the crime or for any medical expenses or expenses directly related to funeral or burial incurred by the victim or his estate as a result of the crime, may be compelled to perform community services and, if the court so orders, shall submit a plan for doing that which appears to be feasible to the court under the circumstances.

B1. Notwithstanding any other provision of law, any person, who on or after July 1, 2005 commits and is convicted of a crime in violation of § 18.2-248 involving the manufacture of any controlled substance, may be ordered, upon presentation of suitable evidence of such costs, by the court to reimburse the Commonwealth or the locality for the costs incurred by the jurisdiction, as the case may be, for the removal and remediation associated with the illegal manufacture of any controlled substance by the defendant.

B2. Notwithstanding any other provision of law, any person who, on or after July 1, 2015, commits and is convicted of a violation of § 18.2-138 for damage to the Capitol or any building, monument, statuary, artwork, or other state property in Capitol Square, or at any other property assigned to the Capitol Police, shall be ordered to pay restitution to the Commonwealth for the full amount of damages. Any person who, on or after July 1, 2015, commits and is convicted of a violation of § 18.2-405, 18.2-407, or 18.2-408 in Capitol Square, or at any other property assigned to the Capitol Police, shall be ordered to pay restitution to the Commonwealth for the full amount of damages to the Capitol or any building, monument, statuary, artwork, or other state property in Capitol Square, or at any other property assigned to the Capitol Police, to which damage is caused during such riot or unlawful assembly. In any prosecution under § 18.2-138, 18.2-405, 18.2-407, or 18.2-408, testimony of the Division of Engineering and Buildings of the Department of General Services or the Division of Risk Management shall be admissible as evidence of value or extent of damages or cost of repairs to the Capitol or any building, monument, statuary, artwork, or other state property in Capitol Square, or at any other property assigned to the Capitol Police. For the purposes of this subsection, "Capitol Square" means the grounds and the interior and exterior of all buildings in that area in the City of Richmond bounded by Bank, Governor, Broad, and Ninth Streets. "Capitol Square" includes the exterior of all state buildings that are at least 50 years old and bordering the boundary streets.

C. At or before the time of sentencing, the court shall receive and consider any plan for making restitution submitted by the defendant. The plan shall include the defendant's home address, place of employment and address, social security number and bank information. If the court finds such plan to be reasonable and practical under the circumstances, it may consider probation or suspension of whatever portion of the sentence that it deems appropriate. By order of the court incorporating the defendant's plan or a reasonable and practical plan devised by the court, the defendant shall make restitution while he is free on probation or work release or following his release from confinement. Additionally, the court may order that the defendant make restitution during his confinement, if feasible, based upon both his earning capacity and net worth as determined by the court at sentencing.

D. At the time of sentencing, the court shall determine the amount to be repaid by the defendant and the terms and conditions thereof. If community service work is ordered, the court shall determine the terms and conditions upon which such work shall be performed. The court shall include such findings in the judgment order. The order shall specify that sums paid under such order shall be paid to the clerk, who shall disburse such sums as the court may, by order, direct. Any court desiring to participate in the Setoff Debt Collection Act (§§ 58.1-520 through 58.1-535) for the purpose of collecting fines or costs or providing restitution shall, at the time of sentencing, obtain the social security number of each defendant.

E. *At the time of sentencing, the court shall enter the amount of restitution to be repaid by the defendant, the date by which all restitution is to be paid, and the terms and conditions of such repayment on a form prescribed by the Office of the Executive Secretary of the Supreme Court of Virginia. If the attorney for the Commonwealth participated in the prosecution of the defendant, the attorney for the Commonwealth or his designee shall complete, to the extent possible, all portions of the form excluding the amount of restitution to be repaid by the defendant and the terms and conditions of such repayment. If the attorney for the Commonwealth did not participate in the prosecution of the defendant, the court or the clerk shall complete the form. A copy of the form, excluding contact information for the victim, shall be provided to the defendant at sentencing. A copy of the form shall be provided to the attorney for the Commonwealth and to the victim, his agent, or his estate upon request and free of charge.*

F. Unreasonable failure to execute the plan by the defendant shall result in revocation of the probation or imposition of the suspended sentence. A hearing shall be held in accordance with the provisions of this Code relating to revocation of probation or imposition of a suspended sentence before either such action is taken.

~~E~~ G. A defendant convicted of an offense under § 18.2-374.1, 18.2-374.1:1, or 18.2-374.3 shall be ordered to pay mandatory restitution to the victim of the offense in an amount as determined by the court. For purposes of this subsection,

"victim" means a person who is depicted in a still or videographic image involved in an offense under § 18.2-374.1, 18.2-374.1:1, or 18.2-374.3.

The Commonwealth shall make reasonable efforts to notify victims of offenses under § 18.2-374.1, 18.2-374.1:1, or 18.2-374.3.

~~F. H.~~ If restitution is ordered to be paid by the defendant to the victim of a crime and the victim can no longer be located or identified, the clerk shall deposit any such restitution collected to the Criminal Injuries Compensation Fund for the benefit of crime victims. The administrator shall reserve a sum sufficient in the Fund from which he shall make prompt payment to the victim for any proper claims. Before making the deposit he shall record the name, last known address and amount of restitution due each victim appearing from the clerk's report to be entitled to restitution.

~~G. I.~~ If restitution pursuant to § 19.2-305 or this section is ordered to be paid by the defendant to the victim of a crime or other entity, and the Criminal Injuries Compensation Fund has made any payments to or on behalf of the victim for any loss, damage, or expenses included in the restitution order, then upon presentation by the Fund of a written request that sets forth the amount of payments made by the Fund to the victim or on the victim's behalf, the entity collecting restitution shall pay to the Fund as much of the restitution collected as will reimburse the Fund for its payments made to the victim or on the victim's behalf.

**§ 19.2-305.2. Amount of restitution; enforcement.**

A. The court, when ordering restitution pursuant to § 19.2-305.1, may require that such defendant, in the case of an offense resulting in damage to or loss or destruction of property of a victim of the offense (i) return the property to the owner or (ii) if return of the property is impractical or impossible, pay an amount equal to the greater of the value of the property at the time of the offense or the value of the property at the time of sentencing.

B. An order of restitution may be docketed as provided in § 8.01-446 when so ordered by the court or upon written request of the victim and may be enforced by a victim named in the order to receive the restitution in the same manner as a judgment in a civil action. *Such docketing shall not be construed to prohibit the court from exercising any authority otherwise available to enforce the order of restitution.*

**§ 19.2-349. Responsibility for collections; clerks to report unsatisfied fines, etc.; duty of attorneys for Commonwealth; duties of Department of Taxation.**

A. The clerk of the circuit court and district court of every county and city shall submit to the judge of his court, the Department of Taxation, the State Compensation Board and the attorney for the Commonwealth of his county or city a monthly report of all fines, costs, forfeitures and penalties which are delinquent more than 30 days, including court-ordered restitution of a sum certain, imposed in his court for a violation of state law or a local ordinance which remain unsatisfied, including those which are delinquent in installment payments. The monthly report shall include the social security number or driver's license number of the defendant, if known, and such other information as the Department of Taxation and the Compensation Board deem appropriate. The Executive Secretary shall make the report required by this subsection on behalf of those clerks who participate in the Supreme Court's automated information system.

B. *The clerk of the circuit court and district court of every county and city shall submit quarterly to the attorney for the Commonwealth of his county or city and any probation agency that serves such county or city:*

1. *A list of all defendants with an outstanding balance of restitution ordered by the court served by such clerk. Such report shall include the defendant's name, case number, total amount of restitution ordered, amount of restitution remaining due, and last date of payment; and*

2. *A list of all accounts where more than 90 days have passed since an account was sent to collections and no payments have been made toward fines, costs, forfeitures, penalties, or restitution. For accounts where restitution is owed, such report shall include the defendant's name, case number, and total amount of restitution and restitution interest due.*

C. It shall be the duty of the attorney for the Commonwealth to cause proper proceedings to be instituted for the collection and satisfaction of all fines, costs, forfeitures, penalties and restitution. The attorney for the Commonwealth shall determine whether it would be impractical or uneconomical for such service to be rendered by the office of the attorney for the Commonwealth. If the defendant does not enter into an installment payment agreement under § 19.2-354, the attorney for the Commonwealth and the clerk may agree to a process by which collection activity may be commenced 30 days after judgment.

If the attorney for the Commonwealth does not undertake collection, he shall contract with (i) private attorneys or private collection agencies, (ii) enter into an agreement with a local governing body, (iii) enter into an agreement with the county or city treasurer, or (iv) use the services of the Department of Taxation, upon such terms and conditions as may be established by guidelines promulgated by the Office of the Attorney General, the Executive Secretary of the Supreme Court with the Department of Taxation and the Compensation Board. If the attorney for the Commonwealth undertakes collection, he shall follow the procedures established by the Department of Taxation and the Compensation Board. Such guidelines shall not supersede contracts between attorneys for the Commonwealth and private attorneys and collection agencies when active collection efforts are being undertaken. As part of such contract, private attorneys or collection agencies shall be given access to the social security number of the defendant in order to assist in the collection effort. Any such private attorney shall be subject to the penalties and provisions of § 18.2-186.3.

The fees of any private attorneys or collection agencies shall be paid on a contingency fee basis out of the proceeds of the amounts collected. However, in no event shall such attorney or collection agency receive a fee for amounts collected by the Department of Taxation under the Setoff Debt Collection Act (§ 58.1-520 et seq.). A local treasurer undertaking

collection pursuant to an agreement with the attorney for the Commonwealth may collect the administrative fee authorized by § 58.1-3958.

⊖ *D.* The Department of Taxation and the State Compensation Board shall be responsible for the collection of any judgment which remains unsatisfied or does not meet the conditions of § 19.2-354. Persons owing such unsatisfied judgments or failing to comply with installment payment agreements under § 19.2-354 shall be subject to the delinquent tax collection provisions of Title 58.1. The Department of Taxation and the State Compensation Board shall establish procedures to be followed by clerks of courts, attorneys for the Commonwealth, other state agencies and any private attorneys or collection agents and may employ private attorneys or collection agencies, or engage other state agencies to collect the judgment. The Department of Taxation and the Commonwealth shall be entitled to deduct a fee for services from amounts collected for violations of local ordinances.

The Department of Taxation and the State Compensation Board shall annually report to the Governor and the General Assembly the total of fines, costs, forfeitures and penalties assessed, collected, and unpaid and those which remain unsatisfied or do not meet the conditions of § 19.2-354 by each circuit and district court. The report shall include the procedures established by the Department of Taxation and the State Compensation Board pursuant to this section and a plan for increasing the collection of unpaid fines, costs, forfeitures and penalties. The Auditor of Public Accounts shall annually report to the Governor, the Executive Secretary of the Supreme Court and the General Assembly as to the adherence of clerks of courts, attorneys for the Commonwealth and other state agencies to the procedures established by the Department of Taxation and the State Compensation Board.

**§ 19.2-368.15. Subrogation of Commonwealth to claimant's right of action; lien in favor of the Commonwealth; disposition of funds collected.**

Acceptance of an award made pursuant to this chapter shall subrogate the Commonwealth, to the extent of such award, to any right or right of action accruing to the claimant or the victim to recover payments on account of losses resulting from the crime with respect to which the award is made. However, except as otherwise provided in subsection ⊖ *I* of § 19.2-305.1, the Commonwealth shall not institute any proceedings in connection with its right of subrogation under this section within one year from the date of commission of the crime, unless any claimant or victim's right or action shall have been previously terminated. All funds collected by the Commonwealth in a proceeding instituted pursuant to this section shall be paid over to the Comptroller for deposit into the Criminal Injuries Compensation Fund.

Whenever any person receives an award from the Criminal Injuries Compensation Fund, the Commonwealth shall have a lien for the total amount paid by the Fund, or any portion thereof compromised pursuant to the authority granted under § 2.2-514, on the claim of such injured person or his personal representative against the person, firm, or corporation who is alleged to have caused such injuries. The Fund's lien shall be inferior to any lien for payment of reasonable attorney fees and costs, but shall be superior to all other liens created by § 8.01-66.2. The injured person may file a petition or motion to reduce the lien and apportion the recovery pursuant to § 8.01-66.9. The Fund's lien shall become effective when notice is provided pursuant to § 8.01-66.5 and liability shall attach pursuant to § 8.01-66.6.

## CHAPTER 815

*An Act to amend and reenact §§ 46.2-613.1, 46.2-711, 46.2-2100, 46.2-2101, 46.2-2108.2, 46.2-2108.4 through 46.2-2109, 46.2-2115, 46.2-2118, 46.2-2120, 46.2-2121, 46.2-2122, 46.2-2124, 46.2-2125, 46.2-2126, 46.2-2129 through 46.2-2140, 46.2-2143, 46.2-2143.1, and 46.2-2144 of the Code of Virginia, to amend the Code of Virginia by adding sections numbered 46.2-2121.1 and 46.2-2143.2, and to repeal § 46.2-2108.3 and Article 5 (§§ 46.2-2174, 46.2-2175, and 46.2-2176) of Chapter 21 of Title 46.2 of the Code of Virginia, relating to the Department of Motor Vehicles; regulation of property carriers.*

[S 1364]

Approved April 5, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 46.2-613.1, 46.2-711, 46.2-2100, 46.2-2101, 46.2-2108.2, 46.2-2108.4 through 46.2-2109, 46.2-2115, 46.2-2118, 46.2-2120, 46.2-2121, 46.2-2122, 46.2-2124, 46.2-2125, 46.2-2126, 46.2-2129 through 46.2-2140, 46.2-2143, 46.2-2143.1, and 46.2-2144 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 46.2-2121.1 and 46.2-2143.2 as follows:**

**§ 46.2-613.1. Civil penalty for violation of license, registration, and tax requirements and vehicle size limitations.**

A. A civil penalty of \$250 and a processing fee of \$20 shall be levied against any person who while at a permanent weighing station:

1. Operates or permits the operation of a truck or tractor truck with a gross weight greater than 7,500 pounds, a trailer, or a semitrailer owned, leased, or otherwise controlled by him on any highway in the Commonwealth unless (i) it is registered, (ii) a certificate of title therefor has been issued, and (iii) it has displayed on it the license plate or plates and decal or decals required by this title.

2. Operates or causes to be operated on any highway in the Commonwealth any motor vehicle that is not in compliance with the Unified Carrier Registration System authorized under 49 U.S.C. § 14504a, enacted pursuant to the Unified Carrier Registration Act of 2005, and the federal regulations promulgated thereunder.

3. Operates or permits the operation of any truck or tractor truck for which the fee for registration is prescribed by § 46.2-697 on any highway in the Commonwealth (i) without first having paid the registration fee hereinabove prescribed or (ii) if at the time of operation the gross weight of the vehicle or of the combination of vehicles of which it is a part is in excess of the gross weight on the basis of which it is registered. In any case where a pickup truck is used in combination with another vehicle, the civil penalty and processing fee shall be assessed only if the combined gross weight exceeds the combined gross weight on the basis of which each vehicle is registered.

4. (i) Fails to *declare a motor vehicle to be operated for hire when required by § 46.2-2121.1* or obtain a proper registration card, ~~identification marker~~, or other evidence of registration as required by ~~Chapter 21 (§ 46.2-2100 et seq.)~~ *this chapter*; (ii) operates or causes to be operated on any highway in the Commonwealth any motor vehicle that does not carry the proper registration and identification marker required by ~~Chapter 21 (§ 46.2-2100 et seq.)~~ *or any motor vehicle that does not this title*, display an identification marker *issued for the vehicle by the Department in the manner prescribed by the Department*, or *display any other identifying information as prescribed by the Department or required by this Title title*; or (iii) operates or causes to be operated on any highway in the Commonwealth any motor vehicle requiring registration cards or identification markers from the Department after such registration cards or identification markers have been revoked, canceled, or suspended.

5. (i) Fails to obtain a proper registration card, identification marker, or other evidence of registration required by Chapter 27 (§ 58.1-2700 et seq.) of Title 58.1 or the terms and provisions of the International Fuel Tax Agreement, as amended by the International Fuel Tax Association, Inc.; (ii) operates or causes to be operated on any highway in the Commonwealth any motor vehicle that does not carry the proper registration and identification marker required by Chapter 27 (§ 58.1-2700 et seq.) of Title 58.1 or the terms and provisions of the International Fuel Tax Agreement, as amended by the International Fuel Tax Association, Inc., or any motor vehicle that does not display an identification marker or other identifying information as prescribed by the Department or required by Title 58.1 or the terms of the International Fuel Tax Agreement, as amended by the International Fuel Tax Association, Inc.; or (iii) operates or causes to be operated on any highway in the Commonwealth any motor vehicle requiring registration cards or identification markers from the Department after such registration cards or identification markers have been revoked, canceled, or suspended.

6. Operates or causes to be operated on any highway in the Commonwealth any truck or tractor truck or combination of vehicles exceeding the size limitations of Articles 14 (§ 46.2-1101 et seq.), 15 (§ 46.2-1105 et seq.), 16 (§ 46.2-1112 et seq.), and 18 (§ 46.2-1139 et seq.) of Chapter 10.

B. Upon collection by the Department, civil penalties levied pursuant to subdivisions A 1 and A 3 through A 5 shall be paid into the Commonwealth Transportation Fund, but civil penalties levied pursuant to subdivisions A 2 and A 6 and all processing fees levied pursuant to this section shall be paid into the state treasury and shall be set aside as a special fund to meet the expenses of the Department of Motor Vehicles.

C. The penalties and fees specified in this section shall be in addition to any other penalty, fee, tax, or liability that may be imposed by law.

**§ 46.2-711. Furnishing number and design of plates; displaying on vehicles required.**

A. The Department shall furnish one license plate for every registered moped, motorcycle, autocycle, tractor truck, semitrailer, or trailer, and two license plates for every other registered motor vehicle, except to licensed motor vehicle dealers and persons delivering unladen vehicles who shall be furnished one license plate. The license plates for trailers, semitrailers, commercial vehicles, and trucks, other than license plates for dealers, may be of such design as to prevent removal without mutilating some part of the indicia forming a part of the license plate, when secured to the bracket.

B. The Department shall issue appropriately designated license plates for:

1. Passenger-carrying vehicles for rent or hire for the transportation of passengers for private trips, other than TNC partner vehicles as defined in § 46.2-2000 and emergency medical services vehicles pursuant to clause (iii) of § 46.2-649.1:1;

2. Taxicabs;

3. Passenger-carrying vehicles operated by common carriers or restricted common carriers;

4. Property-carrying motor vehicles ~~to applicants who operate as private carriers only~~ *registered pursuant to § 46.2-697 except pickup or panel trucks as defined in § 46.2-100*;

5. Applicants, other than TNC partners as defined in § 46.2-2000 and emergency medical services vehicles pursuant to clause (iii) of § 46.2-649.1:1, who operate motor vehicles as *passenger* carriers for rent or hire;

6. Vehicles operated by nonemergency medical transportation carriers as defined in § 46.2-2000; and

7. Trailers and semitrailers.

C. The Department shall issue appropriately designated license plates for motor vehicles held for rental as defined in § 58.1-1735.

D. The Department shall issue appropriately designated license plates for low-speed vehicles.

E. No vehicles shall be operated on the highways in the Commonwealth without displaying the license plates required by this chapter. The provisions of this subsection shall not apply to vehicles used to collect and deliver the United States

mail to the extent that their rear license plates may be covered by the "CAUTION, FREQUENT STOPS, U.S. MAIL" sign when the vehicle is engaged in the collection and delivery of the United States mail.

F. Pickup or panel trucks are exempt from the provisions of subsection B with reference to displaying for-hire license plates when operated as a carrier for rent or hire. However, this exemption shall not apply to pickup or panel trucks subject to regulation under Chapter 21 (§ 46.2-2100 et seq.).

**§ 46.2-2100. Definitions.**

Whenever used in this chapter, unless expressly stated otherwise:

"Authorized insurer" means, in the case of an interstate motor carrier whose operations may or may not include intrastate activity, an insurer authorized to transact business in any one state, or, in the case of a solely intrastate motor carrier, an insurer authorized to transact business in the Commonwealth.

"Broker" means any person not included in the term "motor carrier" and not a bona fide employee or agent of any such carrier, who, as principal or agent, sells or offers for sale any transportation subject to this chapter, or negotiates for, or holds himself out by solicitation, advertisement, or otherwise as one who sells, provides, furnishes, contracts, or arranges for such transportation.

"Bulk commodity" means any non-liquid, non-gaseous commodity shipped loose or in mass/aggregate and which in the loading and unloading thereof is ordinarily shoveled, scooped, forked, or mechanically conveyed or which is not in containers or in units of such size to permit piece by piece loading and unloading.

"Bulk property carrier" means any person, not herein exempted, who undertakes either directly or by lease, to transport exclusively bulk commodities, as defined, for compensation including for purposes of this section for-hire tow truck operations.

"Certificate of fitness" means a certificate issued by the Department to certain "household goods carriers" under this chapter.

"Constructive weight" means a measurement of seven pounds per cubic foot of properly loaded van space.

"Courier service" means a motor carrier that engages, directly or by lease, exclusively in the transportation of letters, envelopes, negotiable or nonnegotiable instruments, or other documents or papers for compensation.

"Department" means the Department of Motor Vehicles.

"Financial responsibility" means the ability to respond in damages for liability thereafter incurred arising out of the ownership, maintenance, use, or operation of a motor vehicle, in the amounts provided for in this chapter.

"Gross weight" means the weight of a truck after a shipment has been loaded.

"Highway" means every public highway or place of whatever nature open to the use of the public for purposes of vehicle travel in this Commonwealth, excluding the streets and alleys in towns and cities.

"Household goods" means personal effects and property used or to be used in a dwelling, when a part of the equipment or supplies of such dwelling, and similar property if the transportation of such effects or property is (i) arranged and paid for by the householder, including transportation of the property from a factory or store when the property is purchased by the householder with intent to use it in his dwelling or (ii) arranged and paid for by another party transported or arranged to be transported (i) between residences or (ii) between a residence and a storage facility with the intent to later transport to a residence. Transportation of such goods must be arranged and paid for by, or on behalf of, the householder.

"Household goods carrier" means a restricted common carrier who undertakes, whether directly or by a lease or other arrangement, to transport "household goods," as herein defined, by motor vehicle for compensation, on any highway in this Commonwealth, between two or more points in this Commonwealth, whether over regular or irregular routes.

"Identification marker" means a decal or other visible identification issued by the Department to show (i) that the operator of the vehicle has registered with the Department for the payment of the road tax imposed under Chapter 27 (§ 58.1-2700 et seq.) of Title 58.1, (ii) proof of the possession of a certificate or permit issued pursuant to Chapter 21 (§ 46.2-2100 et seq.) of this title, and/or (iii) proof of compliance with the insurance requirements of this chapter.

"Interstate" means the transportation of property between states.

"Intrastate" means the transportation of property solely within a state.

"License" means a license issued by the Department to a broker.

"Motor carrier" means any person who undertakes whether directly or by a lease, to transport property, including household goods, as defined by this chapter, for compensation over the highways of the Commonwealth.

"Motor vehicle" means any vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used upon the highways in the transportation of property, but does not include any vehicle, locomotive or car operated exclusively on a rail or rails.

"Net weight" means the tare weight subtracted from the gross weight.

"Permit" means a permit issued by the Department authorizing the transportation of property, excluding household goods transported for a distance greater than 30 road miles.

"Person" means any individual, firm, copartnership, corporation, company, association or joint-stock association, and includes any trustee, receiver, assignee, or personal representative thereof.

"Property carrier" means any person, not herein exempted, who undertakes either directly or by a lease, to transport property for compensation.

"Restricted common carrier" means any person who undertakes, whether directly or by a lease or other arrangement, to transport household goods by motor vehicle for compensation whether over regular or irregular routes.

"Services" and "transportation" includes the services of, and all transportation by, all vehicles operated by, for, or in the interest of any motor carrier, irrespective of ownership or contract, express or implied, together with all facilities and property operated or controlled by any such carrier or carriers and used in the transportation of property or in the performance of any service in connection therewith.

~~"Single state insurance receipt" means any receipt issued pursuant to 49 C.F.R. Part 367 evidencing that the carrier has the required insurance and paid the requisite fees to the Commonwealth and other qualified jurisdictions.~~

"Tare weight" means the weight of a truck before being loaded at a shipper's residence or place of business, including the pads, dollies, hand-trucks, ramps and other equipment normally used in the transportation of household goods shipments.

**§ 46.2-2101. Exemptions from chapter.**

The following are exempt from this chapter:

1. Motor vehicles owned and operated by the United States, District of Columbia, any state, municipality, or any other political subdivision of the Commonwealth.

2. Transportation of property between any point in this Commonwealth and any point outside this Commonwealth or between any points wholly within the limits of any city or town in the Commonwealth. This exemption shall not apply to the requirement to declare for-hire operation pursuant to § 46.2-2121.1 or the insurance requirement imposed on motor carriers pursuant to § 46.2-2143.1.

3. Motor vehicles controlled and operated by a bona fide cooperative association as defined in the Federal Marketing Act, approved June 15, 1929, as amended, or organized or existing under Article 2 (§ 13.1-312 et seq.) of Chapter 3 of Title 13.1, while used exclusively in the conduct of the business of such association. *This exemption shall not apply to the requirement to declare for-hire operation pursuant to § 46.2-2121.1.*

4. Motor vehicles while used exclusively in (i) carrying newspapers, water, livestock, poultry, poultry products, buttermilk, fresh milk and cream, meats, butter and cheese produced on a farm, fish (including shellfish), slate, horticultural or agricultural commodities (not including manufactured products thereof), and forest products, including lumber and staves (but not including manufactured products thereof), (ii) transporting farm supplies to a farm or farms, (iii) hauling for the Department of Transportation, (iv) carrying fertilizer to any warehouse or warehouses for subsequent distribution to a local area farm or farms, or (v) collecting and disposing of trash, garbage and other refuse. *This exemption shall not apply to the requirement to declare for-hire operation pursuant to § 46.2-2121.1.*

5. Motor vehicles used for transporting property by an air carrier or carrier affiliated with a direct air carrier whether or not such property has had or will have a prior or subsequent air movement. *This exemption shall not apply to the requirement to declare for-hire operation pursuant to § 46.2-2121.1.*

6. Motor carriers exclusively operating ~~vehicles with a registered gross weight of 7,500 pounds or less for the sole purpose of providing courier service~~ passenger cars, motorcycles, autocycles, mopeds, and vehicles with a gross vehicle weight rating of 10,000 pounds or less. *This exemption shall not apply to the insurance requirements imposed on motor carriers pursuant to § 46.2-2143.1 or 46.2-2143.2.*

**§ 46.2-2108.2. Necessity of a permit or certificate.**

It shall be unlawful for any person to operate, offer, advertise, provide, procure, furnish, or arrange ~~by contract, agreement or arrangement~~ to transport property for compensation on an intrastate basis as a motor carrier ~~or broker~~ without first obtaining from the Department a ~~license, permit, or certificate~~ of fitness as required by this chapter.

**§ 46.2-2108.4. Application; notice requirements.**

A. Applications for a ~~license, permit, or certificate~~ of fitness or renewal of a ~~license, permit, or certificate~~ of fitness under this chapter shall be made to the Department and contain such information as the Department shall require. Such information shall include, in the application or otherwise, the matters set forth in §§ 46.2-2133 and 46.2-2134 as grounds for denying ~~licenses, permits, and certificates.~~

B. The applicant for a certificate of fitness issued under this chapter shall cause a notice of such application, on the form and in the manner prescribed by the Department, to be served on every affected person who has requested notification.

**§ 46.2-2108.5. Registered for fuels tax; business, professional, and occupational license taxes.**

~~License, permit, Permit~~ and certificate of fitness holders shall be licensed and registered in accordance with the road tax requirements of Chapter 27 (§ 58.1-2700 et seq.) of Title 58.1 and licensed for payment of local business, professional, and occupational license taxes of Chapter 37 (§ 58.1-3700 et seq.) of Title 58.1 as required.

**§ 46.2-2108.6. Considerations for determination of issuance of permit, or certificate.**

In determining whether a ~~license, permit, or certificate~~ of fitness required by this chapter shall be issued, the Department may, among other things, consider compliance with financial responsibility, bonding, and other requirements of this chapter.

**§ 46.2-2109. Action on applications; hearings on denials and protests.**

A. The Department may act upon any application required under this chapter without a hearing, unless such application is protested by any party based upon fitness allegations. Parties may protest an application by submitting written grounds to the Department setting forth (i) a precise statement of the party's objections to the application being granted; (ii) a full and clear statement of the facts that the person is prepared to provide by competent evidence; (iii) the case number assigned to the application; and (iv) a certification that a copy of the protest was sent to the applicant. The Department shall have full discretion as to whether a hearing is warranted based on the merits of any protest filed.

B. Any applicant denied without a hearing an original ~~license or~~ certificate of fitness under subsection A; ~~or any request for a transfer for such license or certificate~~, shall be given a hearing at a time and place determined by the Commissioner or his designee upon the applicant's written request for such hearing made within thirty days of denial.

**§ 46.2-2115. Determination for issuance of permit or certificate.**

If the Department finds the applicant has met all requirements of this chapter, it shall issue a ~~license~~, permit, or certificate of fitness to the applicant, subject to such terms, limitations and restrictions as the Department may deem proper.

**§ 46.2-2118. Issuance, expiration, and renewal of permit and certificate.**

All ~~licenses~~, permits, and certificates of fitness issued under this chapter shall be issued for a period of ~~twelve~~ 12 consecutive months except, at the discretion of the Department, the periods may be adjusted as necessary. Such ~~licenses~~, permits, and certificates shall expire if not renewed annually. Such expiration shall be effective ~~thirty~~ 30 days after the Department has provided the ~~licensee~~, permittee, or certificate holder notice of ~~non-renewal~~ nonrenewal. If the ~~license~~, permit, or certificate is renewed within ~~thirty~~ 30 days after notice of ~~non-renewal~~ nonrenewal, then the ~~license~~, permit, or certificate shall not expire.

**§ 46.2-2120. Filing and application fees.**

Every applicant for an original ~~license or~~ certificate of fitness issued under this chapter ~~and transfer of a license or certificate of fitness under this chapter~~ shall, upon the filing of an application, deposit with the Department, as a filing fee, a sum in the amount of ~~fifty dollars~~ \$50. The Department shall collect a fee of ~~three dollars~~ \$3 for the issuance of a duplicate ~~license or~~ certificate of fitness.

**§ 46.2-2121. Vehicle fees.**

Every person who operates a ~~property carrying~~ *property-carrying* vehicle for compensation over the highways of the Commonwealth; ~~unless such operation is exempted from this chapter~~, shall be required to pay an annual fee of \$10 for each such vehicle so operated, unless (i) *such operation is exempted from this chapter*; (ii) *the property-carrying vehicle is a passenger car, motorcycle, autocycle, moped, or vehicle with a gross vehicle weight rating of 10,000 pounds or less*; (iii) a vehicle identification marker fee has been paid to the Department as to such vehicle for the current year under the provisions of Chapter 27 (§ 58.1-2700 et seq.) of Title 58.1; ~~Such fee shall be paid through the single state registration system established pursuant to 49 U.S.C. § 14504 and 49 CFR Part 367; or (iv) a fee has been paid for the vehicle through the unified carrier registration system established pursuant to 49 U.S.C. § 14504a and the regulations promulgated thereunder for carriers registered pursuant to those provisions. No more than one vehicle fee shall be charged or paid as to any vehicle in any one year under Chapter 27 (§ 58.1-2700 et seq.) of Title 58.1 and this chapter, including payments made pursuant to the single state registration system or the unified carrier registration system.~~

**§ 46.2-2121.1. Declaration of for-hire operation; presumption of nonbusiness use.**

*Before any motor vehicle is used by a motor carrier to transport property for compensation over the highways of the Commonwealth, the owner of the vehicle shall declare to the Department that the operation of such vehicle is for hire.*

*Any passenger car, motorcycle, autocycle, or pickup or panel truck, as defined in § 46.2-100, subject to the declaration required by this section and determined pursuant to § 58.1-3523 to be (i) privately owned, (ii) leased pursuant to a contract requiring the lessee to pay the tangible personal property tax on such vehicle, or (iii) held in a private trust for nonbusiness purposes and registered with the Department as a personal vehicle shall be presumed to be used for nonbusiness purposes in determining whether such vehicle is a qualifying vehicle under § 58.1-3523 absent clear and convincing evidence to the contrary. Any declaration given pursuant to this section shall not create any presumption of business or commercial use of the vehicle or of business activity on the part of the vehicle owner, lessee, or operator for purposes of any state or local requirement.*

**§ 46.2-2122. Bond and letter of credit requirements of applicants for certificate.**

A. Every applicant for an original certificate of fitness under this chapter shall obtain and file with the Department, along with the application, a surety bond or an irrevocable letter of credit, in addition to any other bond or letter of credit required by law, in the amount of \$50,000, which shall remain in effect for the first five years of licensure. The bond or letter of credit shall be in a form and content acceptable to the Department. The bond or letter of credit shall be conditioned on a statement by the applicant that the applicant will not practice fraud, make any fraudulent representation, or violate any provision of this chapter in the conduct of the applicant's business. The Department may, without holding a hearing, suspend the certificate of fitness during the period that the certificate holder does not have a sufficient bond or letter of credit on file.

~~B. Every applicant for an original license pursuant to Article 5 (§ 46.2-2174 et seq.) shall obtain and file with the Department, along with the application, a surety bond or an irrevocable letter of credit, in addition to any other bond or letter of credit required by law, in the amount of \$25,000. The bond or letter of credit shall be in a form and content acceptable to the Department. The bond or letter of credit shall be conditioned on a statement by the applicant that the applicant will not practice fraud, make any fraudulent representation, or violate any provision of this chapter in the conduct of the applicant's business. The Department may, without holding a hearing, suspend the license during the period that the licensee does not have a sufficient bond or letter of credit on file.~~

~~C. B.~~ If a person suffers any of the following: (i) loss or damage in connection with the transportation service by reason of fraud practiced on him or fraudulent representation made to him by a ~~licensee or~~ certificate holder or his agent or employee acting within the scope of employment; (ii) loss or damage by reason of a violation by a ~~licensee or~~ certificate holder or his agent or employee of any provision of this chapter in connection with the transportation service; or (iii) loss or damage resulting from a breach of a contract entered into on or after ~~the effective date of this act~~ July 1, 2002, that person

shall have a claim against the ~~licensee or~~ certificate holder's bond or letter of credit, and may recover from such bond or letter of credit the amount awarded to such person by final judgment of a court of competent jurisdiction against the ~~licensee or~~ certificate holder as a result of such loss or damage up to, but not exceeding, the amount of the bond or letter of credit.

~~D.~~ C. The ~~licensee or~~ certificate holder's surety shall notify the Department when a claim is made against a ~~licensee or~~ certificate holder's bond, when a claim is paid and/or when the bond is canceled. Such notification shall include the amount of a claim and the circumstances surrounding the claim. Notification of cancellation shall include the effective date and reason for cancellation.

~~E.~~ D. The surety on any bond filed by a ~~licensee or~~ certificate holder shall be released and discharged from all liability accruing on such bond after the expiration of 60 days from the date on which the surety files with the Department a written request to be released and discharged. Such request shall not operate to relieve, release, or discharge the surety from any liability already accrued or that shall accrue before the expiration of the 60-day period.

**§ 46.2-2124. Notice of discontinuance of service.**

Every motor carrier ~~or broker~~ who ceases operation or abandons his rights under a ~~license~~, permit, or certificate of fitness issued shall notify the Department within ~~thirty~~ 30 days of such cessation or abandonment.

**§ 46.2-2125. Reports, records, etc.**

A. The Department is hereby authorized to require annual, periodical, or special reports from motor carriers, except such as are exempted from the operation of the provisions of this chapter; to prescribe the manner and form in which such reports shall be made; and to require from such carriers specific answers to all questions upon which the Department may deem information to be necessary. Such reports shall be under oath whenever the Department so requires. The Department may also require any motor carrier to file with it a true copy of each or any contract, agreement, or arrangement between such carrier and any other carrier or person in relation to the provisions of this chapter.

B. The Department may, ~~in its discretion~~, prescribe (i) the forms of any and all accounts, records, and memoranda to be kept by motor carriers and (ii) the length of time such accounts, records, and memoranda shall be preserved, as well as of the receipts and expenditures of money. The Department or its employees shall at all times have access to all lands, buildings, or equipment of motor carriers used in connection with their operations and also all accounts, records, and memoranda, including all documents, papers, and correspondence now or hereafter existing, and kept, or required to be kept, by motor carriers. The Department and its employees shall have authority to inspect and examine any and all such lands, buildings, equipment, accounts, records, and memoranda, including all documents, papers, and correspondence now or hereafter existing and kept or required to be kept by such carriers. These provisions shall apply to receivers of carriers and to operating trustees and, to the extent deemed necessary by the Department, to persons having control, direct or indirect, over or affiliated with any motor carrier.

~~C. As used in this section the term "motor carriers" includes brokers.~~

**§ 46.2-2126. Certificate or permit holder not relieved of liability for negligence.**

Nothing in this chapter shall relieve any holder of a certificate, ~~license~~, or permit by and under the authority of the Department from any liability resulting from his negligence, whether or not he has complied with the requirements of this chapter.

**§ 46.2-2129. Unlawful use of registration and identification markers.**

It shall be unlawful for any person to operate or cause to be operated on any highway in the Commonwealth any motor vehicle that (i) does not carry the proper registration and identification that this title requires, (ii) does not display an identification marker *issued for such vehicle by the Department* in such manner as is prescribed by the Department, or (iii) bears registration or identification markers of persons whose ~~license~~, permit, or certificate issued by the Department has been revoked, suspended, or renewal thereof denied in accordance with this chapter.

**§ 46.2-2130. Registration violations; penalties.**

A. The following violations of laws shall be punished as follows:

1. Any person who does not *declare a motor vehicle to be operated for hire when required by § 46.2-2121.1 or otherwise* obtain a proper registration card, ~~identification marker~~, or other evidence of registration as required by ~~this chapter shall be Chapter 6 (§ 46.2-600 et seq.)~~ is guilty of a Class 4 misdemeanor.

2. Any person who operates or causes to be operated on any highway in the Commonwealth any motor vehicle that does not carry the proper registration and identification that this title requires or any motor vehicle that does not display (i) an identification marker *issued for such vehicle by the Department* in such manner as is prescribed by the Department or (ii) other identifying information that this title requires it to display ~~shall be~~ is guilty of a Class 4 misdemeanor.

3. Any person who knowingly displays or uses on any vehicle operated by him any identification marker or other identification that has not been issued to the owner or operator thereof for such vehicle and any person who knowingly assists him to do so ~~shall be~~ is guilty of a Class 3 misdemeanor.

4. Any person who operates or causes to be operated on any highway in the Commonwealth any motor vehicle requiring registration from the Department under this ~~article title or Title 58.1~~ after such registration cards or identification markers have been revoked, canceled or suspended ~~shall be~~ is guilty of a Class 3 misdemeanor.

B. The officer charging the violation under this section shall serve a citation on the operator of the vehicle in violation. Such citation shall be directed to the owner, operator or other person responsible for the violation as determined by the officer. Service of the citation on the vehicle operator shall constitute service of process upon the owner, operator, or other person charged with the violation under this article, and shall have the same legal force as if served within the

Commonwealth personally upon the owner, operator, or other person charged with the violation, whether such owner, operator, or other person charged is a resident or nonresident.

**§ 46.2-2131. Violation; criminal penalties.**

A. Any person knowingly and willfully violating any provision of this chapter, or any rule or regulation thereunder, or any term or condition of any certificate, ~~or permit, or license,~~ for which a penalty is not otherwise herein provided, shall, upon conviction thereof, be fined not more than \$2,500 for the first offense and not more than \$5,000 for any subsequent offense. Each day of such violation shall constitute a separate offense.

B. Any person, whether carrier, ~~broker,~~ shipper, ~~or consignee,~~ or any officer, employee, agent, or representative thereof, who shall knowingly and willfully by any such means or otherwise fraudulently seek to evade or defeat regulation as in this chapter provided for motor carriers ~~or brokers,~~ shall be deemed ~~is~~ guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$500 for the first offense and not more than \$2,000 for any subsequent offense.

C. Any motor carrier ~~or broker,~~ or any officer, agent, employee, or representative thereof who willfully fails or refuses to make a report to the Department as required by this chapter or to keep accounts, records, and memoranda in the form and manner approved or prescribed by the Department, or knowingly and willfully falsifies, destroys, mutilates, or alters any such report, account, record or memorandum, or knowingly and willfully files any false report, account, record or memorandum, shall be deemed ~~is~~ guilty of a misdemeanor and upon conviction thereof shall be subject for each offense to a fine of not less than \$100 and not more than \$5,000.

**§ 46.2-2132. Violations; civil penalties.**

The Department may impose a civil penalty not exceeding \$1,000 if any person has:

1. Made any misrepresentation of a material fact to obtain proper operating credentials as required by this chapter or other requirements in this title regulating the operation of motor vehicles;
2. Failed to make any report required in this chapter;
3. Failed to pay any fee or tax properly assessed against him; or
4. Failed to comply with any provision of this chapter or lawful order, rule or regulation of the Department or any term or condition of any certificate, ~~or permit, or license.~~

Any such penalty shall be imposed by order; however, no order issued pursuant to this section shall become effective until the Department has offered the person an opportunity for an administrative hearing to show cause why the order should not be enforced. Instead of or in addition to imposing such penalty, the Department may suspend, revoke, or cancel any ~~license,~~ permit, certificate of fitness, ~~or~~ registration card or identification marker issued pursuant to this title. If, in any such case, it appears that the defendant owes any fee or tax to the Commonwealth, the Department shall enter order therefor.

For the purposes of this section, each separate violation shall be subject to the civil penalty.

**§ 46.2-2133. Grounds for denying, suspending, or revoking certificates.**

A ~~license or~~ certificate of fitness issued under this chapter may be denied, suspended, or revoked on any one or more of the following grounds, where applicable:

1. Material misstatement or omission in application for ~~license or~~ certificate of ~~public convenience and necessity,~~ ~~identification marker,~~ ~~fitness~~ or vehicle registration;
2. Failure to comply subsequent to receipt of a written warning from the Department or any willful failure to comply with a lawful order, any provision of this chapter or any regulation promulgated by the Department under this chapter, or any term or condition of any ~~license or~~ certificate of fitness;
3. Use of deceptive business acts or practices;
4. Knowingly advertising by any means any assertion, representation, or statement of fact that is untrue, misleading, or deceptive relating to the conduct of the business for which a ~~license,~~ certificate of fitness, ~~identification marker,~~ or vehicle registration is held or sought;
5. Having been found, through a judicial or administrative hearing, to have committed fraudulent or deceptive acts in connection with the business for which a ~~license or~~ certificate of fitness is held or sought or any consumer-related fraud;
6. Having been convicted of any criminal act involving the business for which a ~~license or~~ certificate of fitness is held or sought;
7. Improper leasing, renting, lending, or otherwise allowing the improper use of a ~~license,~~ certificate of fitness, identification marker ~~issued by the Department,~~ or vehicle registration;
8. Having been convicted of a felony;
9. Having been convicted of any misdemeanor involving lying, cheating, stealing, or moral turpitude;
10. Failure to submit to the Department any tax, fees, dues, fines, or penalties owed to the Department;
11. Failure to furnish the Department information, documentation, or records required or requested pursuant to statute or regulation;
12. Knowingly and willfully filing any false report, account, record, or memorandum;
13. Failure to meet or maintain application certifications or requirements of character, fitness, and financial responsibility pursuant to this chapter;
14. Willfully altering or changing the appearance or wording of any license, certificate, identification marker ~~issued by the Department,~~ license plate, or vehicle registration;
15. Failure to provide services in accordance with ~~license or~~ certificate of fitness terms, limitations, conditions, or requirements;

16. Failure to maintain and keep on file with the Department motor carrier liability insurance or cargo insurance, issued by a company licensed to do business in the Commonwealth, or a bond, certificate of insurance, certificate of self-insurance, or unconditional letter of credit in accordance with this chapter, with respect to each motor vehicle operated in the Commonwealth;

17. Failure to comply with the Workers' Compensation Act of Title 65.2;

18. Failure to properly register a motor vehicle under this title;

19. Failure to comply with any federal motor carrier statute, rule, or regulation; or

20. Inactivity of a motor carrier as may be evidenced by the absence of a motor vehicle registered to operate under such certificate or permit for a period of greater than three months.

**§ 46.2-2134. Grounds for denying, suspending, or revoking permits.**

A permit issued under this chapter may be denied, suspended, or revoked on any one or more of the following grounds:

1. Failure to submit to the Department any tax, fees, fines, or penalties owed to the Department.

2. Failure to maintain and keep on file with the Department motor carrier liability insurance or cargo insurance, issued by a company licensed to do business in the Commonwealth, or a bond, certificate of insurance, certificate of self-insurance, or unconditional letter of credit in accordance with this chapter, with respect to each motor vehicle operated in the Commonwealth.

3. Inactivity of a motor carrier as may be evidenced by the absence of a motor vehicle registered to operate under such permit or certificate for a period of greater than three months.

**§ 46.2-2135. Altering or amending permits or certificates.**

The Department may alter or amend a license, permit, or certificate of fitness at the request of a licensee, permittee, or certificate holder; or upon a finding by the Department that a licensee, permittee, or certificate holder failed to observe any of the provisions within this chapter, or any of the rules or regulations of the Department, or any term, condition, or limitation of such license permit or certificate.

**§ 46.2-2136. Suspension, revocation, and refusal to renew permit or certificate; notice and hearing.**

A. Except as provided in subsection D of this section, unless otherwise provided in this chapter, no license, permit, or certificate of fitness issued under this chapter shall be suspended or revoked, or renewal thereof refused, unless the licensee, permittee, or certificate holder has been furnished a written copy of the complaint against him and the grounds upon which the action is taken and has been offered an opportunity for an administrative hearing to show cause why such action should not be taken.

B. The order suspending, revoking, or denying renewal of a license, permit, or certificate of fitness shall not become effective until the licensee, permittee, or certificate holder has, after notice of the opportunity for a hearing, had thirty 30 days to make a written request for such a hearing. If no hearing has been requested within such thirty-day 30-day period, the order shall become effective and no hearing shall thereafter be held. A timely request for a hearing shall automatically stay operation of the order until after the hearing.

C. Notice of an order suspending, revoking, or denying renewal of a license, permit, or certificate of fitness and an opportunity for a hearing shall be mailed to the licensee, permittee, or certificate holder by registered or certified mail at the address as shown on the license, permit, or certificate or other record of information in possession of the Department and shall be considered served when mailed.

D. If the Department makes a finding, after conducting a preliminary investigation, that the conduct of a licensee, permittee, or certificate holder (i) is in violation of this chapter or regulations adopted pursuant to this chapter and (ii) such violation constitutes a danger to public safety, the Department may issue an order suspending the license, permit, or certificate. Notice of the suspension shall be in writing and mailed in accordance with subsection C of this section. Upon receipt of a request for a hearing appealing the suspension, the licensee, permittee, or certificate holder shall be afforded the opportunity for a hearing within thirty 30 days. The suspension shall remain in effect pending the outcome of the hearing.

**§ 46.2-2137. Basis for reinstatement of suspended permits or certificates; reinstatement fees.**

A. The Department shall reinstate any license, permit, or certificate suspended pursuant to this chapter provided the grounds upon which the suspension action was taken have been satisfied and the appropriate reinstatement fee and other applicable fees have been paid to the Department.

B. The reinstatement fee for suspensions issued pursuant to this chapter shall be fifty dollars \$50. In the event multiple credentials have been suspended under this chapter for the same violation only one reinstatement fee shall be applicable.

C. In addition to a reinstatement fee, a fee of \$500 shall be paid for failure of a motor carrier to keep in force at all times insurance, a bond or bonds, in an amount required by this chapter. Any motor carrier who applies for a new license, permit, or certificate because his prior license, permit, or certificate was revoked for failure to keep in force at all times insurance, a bond or bonds, in an amount required by this chapter, shall also be subject to a fee of \$500.

**§ 46.2-2138. Basis for reissuance after revocation of permits or certificates; fees.**

The Department shall not accept an application for a license, permit, or certificate from an applicant where such credentials have been revoked pursuant to this chapter until the period of revocation imposed by the Department has passed. The Department shall process such applications under the same provisions, procedures and requirements as an original application for such license, permit, or certificate. The Department shall issue such license, permit, or certificate, provided that the applicant has met all the appropriate qualifications and requirements, has satisfied the grounds upon which the revocation action was taken, and has paid the appropriate application or filing fees to the Department.

**§ 46.2-2139. Surrender of license plate and registration card; removal by law enforcement; operation of vehicle denied.**

A. It shall be unlawful for a ~~licensee~~, permittee, or certificate holder whose ~~license~~, permit, or certificate has expired or been revoked or suspended or whose renewal thereof has been denied pursuant to this chapter to fail or refuse to surrender, on demand, to the Department license plates, ~~identification markers~~, and registration cards issued under this title.

B. It shall be unlawful for a vehicle owner who is not the holder of a valid permit or certificate or whose vehicle is not validly leased to a motor carrier holding an active permit or certificate to fail or refuse to surrender to the Department on demand license plates, ~~identification markers~~, and registration cards issued under this title.

C. If any law-enforcement officer finds that a vehicle bearing Virginia license plates or temporary transport plates is in violation of subsection A or B, such law-enforcement officer may remove the license plate or plates, ~~identification marker~~, and registration card. If a law-enforcement officer removes a license plate, ~~identification marker~~, or registration card, he shall forward such license plate, ~~identification marker~~, and registration card to the Department.

D. When informed that a motor carrier vehicle is being operated in violation of this section, the driver shall drive the vehicle to a nearby location off the public highways and not remove it or allow it to be moved until the motor carrier is in compliance with all provisions of this chapter.

**§ 46.2-2140. Title to plates.**

All registration cards and ~~identification markers~~ license plates issued by the Department shall remain the property of the Department.

**§ 46.2-2143. Surety bonds, insurance, letter of credit or securities required prior to issuance of registration.**

No certificate of fitness, permit, ~~identification marker~~, registration card, or license plate shall be issued by the Department to *any motor carrier or for any vehicle operated by or on behalf of* a motor carrier until the motor carrier certifies to the Department that the vehicle is covered by one or more of the following, in the amount or amounts set forth in § 46.2-2143.1:

1. An insurance policy or bond;
2. A certificate of insurance in lieu of the insurance policy or bond, certifying that such policy or bond covers the liability of such motor carrier in accordance with the provisions of this article, is issued by an authorized insurer, or in the case of bonds, is in an amount approved by the Department. The bonds may be issued by the Commonwealth of Virginia, the United States of America, or any municipality in the Commonwealth. Such bonds shall be deposited with the State Treasurer and the surety shall not be reduced except in accordance with an order of the Department;
3. An unconditional letter of credit, issued by a bank doing business in Virginia, for an amount approved by the Department. The letter of credit shall be in effect so long as the motor carrier operates motor vehicles in the Commonwealth; or
4. In the case of a lessor who acts as a registrant for purposes of consolidating lessees' vehicle registration applications, a statement that the registrant has, before leasing a vehicle, obtained from the lessee an insurance policy, bond, or certificate of insurance in lieu of the insurance policy or bond and can make available said proof of insurance coverage upon demand.

Vehicles belonging to carriers who have filed proof of financial responsibility in accordance with the ~~single state registration system authorized by 49 U.S.C. § 14504 or the unified carrier registration system authorized by 49 U.S.C. § 14504a~~ are deemed to have fulfilled the requirements of this article for insurance purposes, ~~provided there is on board the vehicle a copy of an insurance receipt issued pursuant to the federal regulations promulgated pursuant to 49 U.S.C. § 14504 or 14504a~~. The Department is further authorized to ~~issue single state registration system or unified carrier registration system receipts to~~ register any qualified carrier under the unified carrier registration system as well as to collect and disperse the fees for ~~and to qualified jurisdictions registration under that system~~.

**§ 46.2-2143.1. Insurance requirement for motor carriers.**

A. All motor carriers shall keep in force at all times insurance, a bond, or bonds in an amount required by this section. *However, motor carriers exempt under subdivision 6 of § 46.2-2101 shall only be required to keep in force insurance, a bond, or bonds in the amount required by this section that provide primary coverage (i) when the motor carrier or person acting on behalf of the motor carrier is available to transport property for compensation and (ii) from the time the motor carrier or a person acting for or on behalf of the motor carrier accepts the request to transport property and the vehicle is en route to pick up the property until the time the property has been removed from the vehicle and delivered to its final destination.*

B. The minimum public liability financial responsibility requirements for motor carriers operating in intrastate commerce shall be based on the gross vehicle weight rating of the vehicle as follows: for vehicles with a gross vehicle weight rating in excess of 10,000 pounds, the minimum requirement is \$750,000; for vehicles with a gross vehicle weight rating in excess of 7,500 pounds but not in excess of 10,000 pounds, the minimum requirement is \$300,000; for passenger cars, motorcycles, autocycles, and vehicles with a gross vehicle weight rating of 7,500 pounds or less, the minimum requirement for clause (i) of subsection A is \$25,000 per person, \$50,000 per incident for death and bodily injury and \$20,000 for property damage and for clause (ii) of subsection A is \$100,000 per person and \$300,000 per incident for death and bodily injury and at least \$50,000 for property damage. The minimum insurance for motor carriers operating in interstate commerce shall equal the minimum required by federal law, rule, or regulation.

C. *Notwithstanding subsection B, the minimum public financial responsibility requirements for household goods carriers required to obtain a certificate of fitness pursuant to this chapter shall be \$750,000.*

D. The minimum cargo insurance required for motor carriers operating in intrastate commerce shall be \$50,000. Motor carriers *not* engaged ~~exclusively in the transportation of bulk commodities~~ in the transportation of household goods and those solely operating passenger cars, motorcycles, autocycles, and vehicles with a gross vehicle weight rating of 7,500 pounds or less shall not be required to file any cargo insurance, bond, or bonds for cargo liability.

~~D. Any motor carrier that meets the minimum federal financial responsibility requirements and also operates in intrastate commerce may submit, in lieu of a separate filing for its intrastate operation pursuant to § 46.2-2143, proof of the minimum federal limits, provided that (i) both interstate and intrastate operations are insured, (ii) the public liability filed is at least \$750,000, and (iii) any cargo insurance requirements of this section have been met.~~

**§ 46.2-2143.2. Special insurance provisions for certain carriers.**

A. The provisions of this section shall apply only to motor carriers exempt under subdivision 6 of § 46.2-2101 and insurance policies maintained by such carriers pursuant to this article.

B. Insurance coverage for motor carriers shall be primary, and the requirements of § 46.2-2143.1 may be satisfied by any of the following:

1. Insurance maintained by the motor carrier;
2. Insurance maintained by another person on behalf of the motor carrier; or
3. Any combination of subdivisions 1 and 2.

C. A motor carrier may meet its obligation under subsection B of § 46.2-2143.1 through a policy obtained by a person other than the carrier under subdivision B 2 or 3 only if the motor carrier verifies that the policy is maintained by such other person.

D. Insurers providing coverage under subsection B of § 46.2-2143.1 shall have the exclusive duty to defend any liability claim, including any claim against a motor carrier or person acting for or on behalf of the motor carrier, arising from an accident occurring within the time period specified in subsection A of § 46.2-2143.1. Insurers of the personal automobile insurance policy of neither a person acting for or on behalf of the motor carrier nor the vehicle's owner shall have the duty to defend or indemnify the activities of a person acting for or on behalf of a motor carrier in connection with the motor carrier unless such policy expressly provides otherwise for the period of time to which subsection A of § 46.2-2143.1 is applicable or the policy contains an amendment or endorsement to provide that coverage.

E. Coverage under a motor carrier's insurance policy shall not be dependent on a personal automobile policy's first denying a claim, nor shall a personal automobile insurance policy be required to first deny a claim.

F. Nothing in this section shall be construed to require a personal automobile insurance policy to provide primary or excess coverage. The personal automobile insurance policy of neither a person acting for or on behalf of the motor carrier nor the vehicle's owner shall provide coverage for activities in connection with the motor carrier to such person acting for or on behalf of the motor carrier, the vehicle owner, or any third party unless such policy expressly provides otherwise for the period of time to which subsection A of § 46.2-2143.1 is applicable or the policy contains an amendment or endorsement to provide that coverage.

G. In every instance where motor carrier insurance maintained by a person other than the motor carrier to fulfill the insurance obligations of subsection B of § 46.2-2143.1 has lapsed or ceased to exist, the motor carrier shall provide the coverage required by that subsection beginning with the first dollar of a claim.

H. This section shall not limit the liability of a motor carrier arising out of an accident involving a person acting for or on behalf of the carrier in any action for damages against a motor carrier for an amount above the required insurance coverage.

I. Any person, or an attorney acting on his behalf, who suffers a loss in an automobile accident with a reasonable belief that the accident involves a vehicle operated by a person acting for or on behalf of a motor carrier and who provides the motor carrier with the date, approximate time, and location of the accident, the name of the vehicle operator, if available, and the accident report, if available, may request in writing from the motor carrier information relating to the insurance coverage and the company providing the coverage. The motor carrier shall respond electronically or in writing within 30 days. The motor carrier's response shall contain the following information: (i) whether, at the approximate time of the accident, the vehicle was being operated for or on behalf of the motor carrier; (ii) the name of the insurance carrier providing primary coverage; and (iii) the identity and last known address of the vehicle operator.

J. Any insurance required by subsection B of § 46.2-2143.1 may be placed with an insurer that has been admitted in Virginia or with an insurer providing surplus lines insurance as defined in § 38.2-4805.2.

K. Any insurance policy required by subsection B of § 46.2-2143.1 shall satisfy the financial responsibility requirement for a motor vehicle under § 46.2-706 during the period such vehicle is being operated for or on behalf of a motor carrier.

L. If a vehicle operated by a person acting for or on behalf of a motor carrier is insured under a personal automobile insurance policy that does not exclude coverage, then such policy shall provide primary coverage and an insurance policy maintained by the motor carrier under § 46.2-2143.1 shall provide excess coverage up to at least the limits required by § 46.2-2143.1.

M. In a claims coverage investigation, a motor carrier and its insurer shall cooperate with insurers involved in the claims coverage investigation to facilitate the exchange of information, including the date and time of any accident involving a vehicle operated for or on behalf of the motor carrier and the precise times that the vehicle was being operated for or on behalf of the motor carrier.

**§ 46.2-2144. Policies or surety bonds to be filed with the Department and securities with State Treasurer.**

A. Each motor carrier shall keep on file with the Department proof of an insurance policy or bond in accordance with this article. Record of the policy or bond shall remain in the files of the Department six months after the certificate of fitness, registration card, license plate, ~~identification marker~~ or permit is canceled for any cause. If federal, state, or municipal bonds are deposited with the State Treasurer in lieu of an insurance policy, the bonds shall remain deposited until six months after the registration card, license plate, certificate, ~~or permit~~ ~~or identification marker~~ is canceled for any cause unless otherwise ordered by the Department.

B. The Department may, without holding a hearing, suspend a permit or certificate of fitness if the permittee or certificate holder fails to comply with the requirements of this section.

**2. That § 46.2-2108.3 and Article 5 (§§ 46.2-2174, 46.2-2175, and 46.2-2176) of Chapter 21 of Title 46.2 of the Code of Virginia are repealed.**

**3. That the provisions of this act shall become effective on January 1, 2018.**

### CHAPTER 816

*An Act to amend and reenact §§ 2.2-2221, 2.2-3705.6, 2.2-3711, 23.1-203, and 23.1-3130 through 23.1-3133 of the Code of Virginia; to amend the Code of Virginia by adding in Article 8 of Chapter 31 of Title 23.1 a section numbered 23.1-3134; and to repeal § 2.2-2221.2 of the Code of Virginia, relating to the Virginia Research Investment Committee.*

[S 1371]

Approved April 5, 2017

#### **Be it enacted by the General Assembly of Virginia:**

**1. That §§ 2.2-2221, 2.2-3705.6, 2.2-3711, 23.1-203, and 23.1-3130 through 23.1-3133 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Article 8 of Chapter 31 of Title 23.1 a section numbered 23.1-3134 as follows:**

#### **§ 2.2-2221. Powers of the Authority.**

The Authority is granted all powers necessary or convenient for the carrying out of its statutory purposes, including, but not limited to, the following rights and powers to:

1. Sue and be sued, implead and be impleaded, complain and defend in all courts.
2. Adopt, use, and alter at will a corporate seal.
3. Acquire, purchase, hold, use, lease or otherwise dispose of any project and property, real, personal or mixed, tangible or intangible, or any interest therein necessary or desirable for carrying out the purposes of the Authority, and, without limitation of the foregoing, to lease as lessee, any project and any property, real, personal or mixed, or any interest therein, at such annual rental and on such terms and conditions as may be determined by the Board and to lease as lessor to any person, any project and any property, real, personal or mixed, tangible or intangible, or any interest therein, at any time acquired by the Authority, whether wholly or partially completed, at such annual rental and on such terms and conditions as may be determined by the Board, and to sell, transfer or convey any property, real, personal or mixed, tangible or intangible or any interest therein, at any time acquired or held by the Authority on such terms and conditions as may be determined by the board of the Authority.
4. Plan, develop, undertake, carry out, construct, improve, rehabilitate, repair, furnish, maintain, and operate projects.
5. Adopt bylaws for the management and regulation of its affairs.
6. Establish and maintain satellite offices within the Commonwealth.
7. Fix, alter, charge, and collect rates, rentals, and other charges for the use of projects of, or for the sale of products of or for the services rendered by, the Authority, at rates to be determined by it for the purpose of providing for the payment of the expenses of the Authority, the planning, development, construction, improvement, rehabilitation, repair, furnishing, maintenance, and operation of its projects and properties, the payment of the costs accomplishing its purposes set forth in § 2.2-2219, the payment of the principal of and interest on its obligations, and to fulfill the terms and provisions of any agreements made with the purchasers or holders of any such obligations.
8. Borrow money, make and issue bonds including bonds as the Authority may determine to issue for the purpose of accomplishing the purposes set forth in § 2.2-2219 or of refunding bonds previously issued by the Authority, and to secure the payment of all bonds, or any part thereof, by pledge or deed of trust of all or any of its revenues, rentals, and receipts or of any project or property, real, personal or mixed, tangible or intangible, or any interest therein, and to make agreements with the purchasers or holders of such bonds or with others in connection with any such bonds, whether issued or to be issued, as the Authority deems advisable, and in general to provide for the security for the bonds and the rights of holders thereof.
9. Make and enter into all contracts and agreements necessary or incidental to the performance of its duties, the furtherance of its purposes and the execution of its powers under this article, including agreements with any person or federal agency.
10. Employ, in its discretion, consultants, attorneys, architects, engineers, accountants, financial experts, investment bankers, superintendents, managers and such other employees and agents as may be necessary, and to fix their compensation to be payable from funds made available to the Authority.

11. Receive and accept from any federal or private agency, foundation, corporation, association or person grants to be expended in accomplishing the objectives of the Authority, and to receive and accept from the Commonwealth or any state, and any municipality, county or other political subdivision thereof and from any other source, aid or contributions of either money, property, or other things of value, to be held, used and applied only for the purposes for which such grants and contributions may be made.

12. Render advice and assistance, and to provide services, to institutions of higher education and to other persons providing services or facilities for scientific and technological research or graduate education, provided that credit towards a degree, certificate or diploma shall be granted only if such education is provided in conjunction with an institution of higher education authorized to operate in Virginia.

13. Develop, undertake and provide programs, alone or in conjunction with any person or federal agency, for scientific and technological research, technology management, continuing education and in-service training, provided that credit towards a degree, certificate or diploma shall be granted only if such education is provided in conjunction with an institution of higher education authorized to operate in Virginia; to foster the utilization of scientific and technological research information, discoveries and data and to obtain patents, copyrights and trademarks thereon; to coordinate the scientific and technological research efforts of public institutions and private industry and to collect and maintain data on the development and utilization of scientific and technological research capabilities. The universities set forth in § 2.2-2220 shall be the principal leading universities in the research institutes.

14. Pledge or otherwise encumber all or any of the revenues or receipts of the Authority as security for all or any of the obligations of the Authority.

15. Receive, administer, and market any interest in patents, copyrights and materials that were potentially patentable or copyrightable developed by or for state agencies, public institutions of higher education and political subdivisions of the Commonwealth. The Authority shall return to the agency, institution or political subdivision any revenue in excess of its administrative and marketing costs. When general funds are used to develop the patent or copyright or material that was potentially patentable or copyrightable, any state agency, except a public institution of higher education in Virginia, shall return any revenues it receives from the Authority to the general fund unless the Governor authorizes a percentage of the net royalties to be shared with the developer of the patented, copyrighted, or potentially patentable or copyrightable property.

16. ~~Develop~~ Provide assistance to the Virginia Research Investment Committee related to the development of the Commonwealth Research and Technology Strategic Roadmap, pursuant to § ~~2.2-2221.2~~ 23.1-3134, for the Commonwealth to use to identify research areas worthy of institutional focus and Commonwealth investment in order to promote commercialization and economic development efforts in the Commonwealth.

17. Foster innovative partnerships and relationships among the Commonwealth, the Commonwealth's state institutions of higher education, the private sector, federal labs, and not-for-profit organizations to improve research and development commercialization efforts.

18. Receive and review annual reports from state institutions of higher education regarding the progress of projects funded through the Commonwealth Research Initiative or the Commonwealth Research and Commercialization Fund. The Authority shall develop guidelines, methodologies, and criteria for the reports. The Authority shall aggregate the reports and submit an annual omnibus report on the status of research and development initiatives in the Commonwealth to the Governor and the chairmen of the Senate Finance Committee, the House Appropriations Committee, the Senate Committee on General Laws and Technology, the House Committee on Science and Technology, and the Joint Commission on Technology and Science.

19. In consultation with the Secretary of Technology, develop guidelines for the application, review, and award of funds from the Commonwealth Research Commercialization Fund pursuant to § 2.2-2233.1. These guidelines shall address, at a minimum, the application process and shall give special emphasis to fostering collaboration between institutions of higher education and partnerships between institutions of higher education and business and industry.

20. Exclusively, or with any other person, form and otherwise develop, own, operate, govern, and otherwise direct the disposition of assets of, or any combination thereof, separate legal entities, on any such terms and conditions and in any such manner as may be determined by the Board, provided that such separate legal entities shall be formed solely for the purpose of managing and administering any assets disposed of by the Authority. These legal entities may include limited liability companies, limited partnerships, charitable foundations, real estate holding companies, investment holding companies, nonstock corporations, and benefit corporations. Any entities created by the Authority shall be operated under the governance of the Authority. The Board shall be provided with quarterly performance reports for all governed entities. The articles of incorporation, partnership, or organization for these entities shall provide that, upon dissolution, the assets of the entities that are owned on behalf of the Commonwealth shall be transferred to the Authority. The legal entity shall ensure that the economic benefits attributable to the income and property rights arising from any transactions in which the entity is involved are allocated on a basis that is equitable in the reasonable business judgment of the Board, with due account being given to the interest of the citizens of the Commonwealth and the needs of the formed entity. No legal entity shall be deemed to be a state or governmental agency, advisory agency, or public body or instrumentality. No director, officer, or employee of any such entity shall be deemed to be an officer or employee for purposes of the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.). Notwithstanding the foregoing, the Auditor of Public Accounts or his legally authorized representatives shall annually audit the financial accounts of the Authority and any such entity,

provided that the working papers and records of the Auditor of Public Accounts relating to such audits shall not be subject to the provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

21. Do all acts and things necessary or convenient to carry out the powers granted to it by law.

**§ 2.2-3705.6. Exclusions to application of chapter; proprietary records and trade secrets.**

The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01.

1. Proprietary information gathered by or for the Virginia Port Authority as provided in § 62.1-132.4 or 62.1-134.1.
2. Financial statements not publicly available filed with applications for industrial development financings in accordance with Chapter 49 (§ 15.2-4900 et seq.) of Title 15.2.
3. Proprietary information, voluntarily provided by private business pursuant to a promise of confidentiality from a public body, used by the public body for business, trade, and tourism development or retention; and memoranda, working papers, or other information related to businesses that are considering locating or expanding in Virginia, prepared by a public body, where competition or bargaining is involved and where disclosure of such information would adversely affect the financial interest of the public body.
4. Information that was filed as confidential under the Toxic Substances Information Act (§ 32.1-239 et seq.), as such Act existed prior to July 1, 1992.
5. Fisheries data that would permit identification of any person or vessel, except when required by court order as specified in § 28.2-204.
6. Confidential financial statements, balance sheets, trade secrets, and revenue and cost projections provided to the Department of Rail and Public Transportation, provided such information is exempt under the federal Freedom of Information Act or the federal Interstate Commerce Act or other laws administered by the Surface Transportation Board or the Federal Railroad Administration with respect to data provided in confidence to the Surface Transportation Board and the Federal Railroad Administration.
7. Proprietary information related to inventory and sales, voluntarily provided by private energy suppliers to the Department of Mines, Minerals and Energy, used by that Department for energy contingency planning purposes or for developing consolidated statistical information on energy supplies.
8. Confidential proprietary information furnished to the Board of Medical Assistance Services or the Medicaid Prior Authorization Advisory Committee pursuant to Article 4 (§ 32.1-331.12 et seq.) of Chapter 10 of Title 32.1.
9. Proprietary, commercial or financial information, balance sheets, trade secrets, and revenue and cost projections provided by a private transportation business to the Virginia Department of Transportation and the Department of Rail and Public Transportation for the purpose of conducting transportation studies needed to obtain grants or other financial assistance under the Transportation Equity Act for the 21st Century (P.L. 105-178) for transportation projects if disclosure of such information is exempt under the federal Freedom of Information Act or the federal Interstate Commerce Act or other laws administered by the Surface Transportation Board or the Federal Railroad Administration with respect to data provided in confidence to the Surface Transportation Board and the Federal Railroad Administration. However, the exclusion provided by this subdivision shall not apply to any wholly owned subsidiary of a public body.
10. Confidential information designated as provided in subsection F of § 2.2-4342 as trade secrets or proprietary information by any person in connection with a procurement transaction or by any person who has submitted to a public body an application for prequalification to bid on public construction projects in accordance with subsection B of § 2.2-4317.
11. a. Memoranda, staff evaluations, or other information prepared by the responsible public entity, its staff, outside advisors, or consultants exclusively for the evaluation and negotiation of proposals filed under the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) or the Public-Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.) where (i) if such information was made public prior to or after the execution of an interim or a comprehensive agreement, § 33.2-1820 or 56-575.17 notwithstanding, the financial interest or bargaining position of the public entity would be adversely affected and (ii) the basis for the determination required in clause (i) is documented in writing by the responsible public entity; and
  - b. Information provided by a private entity to a responsible public entity, affected jurisdiction, or affected local jurisdiction pursuant to the provisions of the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) or the Public-Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.) if disclosure of such information would reveal (i) trade secrets of the private entity as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.); (ii) financial information of the private entity, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise; or (iii) other information submitted by the private entity where if such information was made public prior to the execution of an interim agreement or a comprehensive agreement, the financial interest or bargaining position of the public or private entity would be adversely affected. In order for the information specified in clauses (i), (ii), and (iii) to be excluded from the provisions of this chapter, the private entity shall make a written request to the responsible public entity:
    - (1) Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;

- (2) Identifying with specificity the data or other materials for which protection is sought; and
- (3) Stating the reasons why protection is necessary.

The responsible public entity shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets or financial information of the private entity. To protect other information submitted by the private entity from disclosure, the responsible public entity shall determine whether public disclosure prior to the execution of an interim agreement or a comprehensive agreement would adversely affect the financial interest or bargaining position of the public or private entity. The responsible public entity shall make a written determination of the nature and scope of the protection to be afforded by the responsible public entity under this subdivision. Once a written determination is made by the responsible public entity, the information afforded protection under this subdivision shall continue to be protected from disclosure when in the possession of any affected jurisdiction or affected local jurisdiction.

Except as specifically provided in subdivision 11 a, nothing in this subdivision shall be construed to authorize the withholding of (a) procurement records as required by § 33.2-1820 or 56-575.17; (b) information concerning the terms and conditions of any interim or comprehensive agreement, service contract, lease, partnership, or any agreement of any kind entered into by the responsible public entity and the private entity; (c) information concerning the terms and conditions of any financing arrangement that involves the use of any public funds; or (d) information concerning the performance of any private entity developing or operating a qualifying transportation facility or a qualifying project.

For the purposes of this subdivision, the terms "affected jurisdiction," "affected local jurisdiction," "comprehensive agreement," "interim agreement," "qualifying project," "qualifying transportation facility," "responsible public entity," and "private entity" shall mean the same as those terms are defined in the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) or in the Public-Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.).

12. Confidential proprietary information or trade secrets, not publicly available, provided by a private person or entity pursuant to a promise of confidentiality to the Virginia Resources Authority or to a fund administered in connection with financial assistance rendered or to be rendered by the Virginia Resources Authority where, if such information were made public, the financial interest of the private person or entity would be adversely affected.

13. Trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), or confidential proprietary information that is not generally available to the public through regulatory disclosure or otherwise, provided by a (i) bidder or applicant for a franchise or (ii) franchisee under Chapter 21 (§ 15.2-2100 et seq.) of Title 15.2 to the applicable franchising authority pursuant to a promise of confidentiality from the franchising authority, to the extent the information relates to the bidder's, applicant's, or franchisee's financial capacity or provision of new services, adoption of new technologies or implementation of improvements, where such new services, technologies, or improvements have not been implemented by the franchisee on a nonexperimental scale in the franchise area, and where, if such information were made public, the competitive advantage or financial interests of the franchisee would be adversely affected.

In order for trade secrets or confidential proprietary information to be excluded from the provisions of this chapter, the bidder, applicant, or franchisee shall (a) invoke such exclusion upon submission of the data or other materials for which protection from disclosure is sought, (b) identify the data or other materials for which protection is sought, and (c) state the reason why protection is necessary.

No bidder, applicant, or franchisee may invoke the exclusion provided by this subdivision if the bidder, applicant, or franchisee is owned or controlled by a public body or if any representative of the applicable franchising authority serves on the management board or as an officer of the bidder, applicant, or franchisee.

14. Information of a proprietary nature furnished by a supplier of charitable gaming supplies to the Department of Agriculture and Consumer Services pursuant to subsection E of § 18.2-340.34.

15. Information related to Virginia apple producer sales provided to the Virginia State Apple Board pursuant to § 3.2-1215.

16. Trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.) of Title 59.1, submitted by CMRS providers as defined in § 56-484.12 to the Wireless Carrier E-911 Cost Recovery Subcommittee created pursuant to § 56-484.15, relating to the provision of wireless E-911 service.

17. Information relating to a grant or loan application, or accompanying a grant or loan application, to the Innovation and Entrepreneurship Investment Authority pursuant to Article 3 (§ 2.2-2233.1 et seq.) of Chapter 22 of Title 2.2 or to the Commonwealth Health Research Board pursuant to Chapter 5.3 (§ 32.1-162.23 et seq.) of Title 32.1 if disclosure of such information would (i) reveal proprietary business or research-related information produced or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of the applicant.

18. Confidential proprietary information and trade secrets developed and held by a local public body (i) providing telecommunication services pursuant to § 56-265.4:4 and (ii) providing cable television services pursuant to Article 1.1 (§ 15.2-2108.2 et seq.) of Chapter 21 of Title 15.2 if disclosure of such information would be harmful to the competitive position of the locality.

In order for confidential proprietary information or trade secrets to be excluded from the provisions of this chapter, the locality in writing shall (a) invoke the protections of this subdivision, (b) identify with specificity the information for which protection is sought, and (c) state the reasons why protection is necessary. However, the exemption provided by this subdivision shall not apply to any authority created pursuant to the BVU Authority Act (§ 15.2-7200 et seq.).

19. Confidential proprietary information and trade secrets developed by or for a local authority created in accordance with the Virginia Wireless Service Authorities Act (§ 15.2-5431.1 et seq.) to provide qualifying communications services as authorized by Article 5.1 (§ 56-484.7:1 et seq.) of Chapter 15 of Title 56, where disclosure of such information would be harmful to the competitive position of the authority, except that information required to be maintained in accordance with § 15.2-2160 shall be released.

20. Trade secrets as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.) or financial information of a business, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, provided to the Department of Small Business and Supplier Diversity as part of an application for certification as a small, women-owned, or minority-owned business in accordance with Chapter 16.1 (§ 2.2-1603 et seq.). In order for such trade secrets or financial information to be excluded from the provisions of this chapter, the business shall (i) invoke such exclusion upon submission of the data or other materials for which protection from disclosure is sought, (ii) identify the data or other materials for which protection is sought, and (iii) state the reasons why protection is necessary.

21. Information of a proprietary or confidential nature disclosed by a carrier to the State Health Commissioner pursuant to §§ 32.1-276.5:1 and 32.1-276.7:1.

22. Trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), including, but not limited to, financial information, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, and revenue and cost projections supplied by a private or nongovernmental entity to the State Inspector General for the purpose of an audit, special investigation, or any study requested by the Office of the State Inspector General in accordance with law.

In order for the information specified in this subdivision to be excluded from the provisions of this chapter, the private or nongovernmental entity shall make a written request to the State Inspector General:

- a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;
- b. Identifying with specificity the data or other materials for which protection is sought; and
- c. Stating the reasons why protection is necessary.

The State Inspector General shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets or financial information of the private entity. The State Inspector General shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

23. Information relating to a grant application, or accompanying a grant application, submitted to the Tobacco Region Revitalization Commission that would (i) reveal (a) trade secrets as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), (b) financial information of a grant applicant that is not a public body, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, or (c) research-related information produced or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of the applicant; and memoranda, staff evaluations, or other information prepared by the Commission or its staff exclusively for the evaluation of grant applications. The exclusion provided by this subdivision shall apply to grants that are consistent with the powers of and in furtherance of the performance of the duties of the Commission pursuant to § 3.2-3103.

In order for the information specified in this subdivision to be excluded from the provisions of this chapter, the applicant shall make a written request to the Commission:

- a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;
- b. Identifying with specificity the data, information or other materials for which protection is sought; and
- c. Stating the reasons why protection is necessary.

The Commission shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets, financial information, or research-related information of the applicant. The Commission shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

24. a. Information held by the Commercial Space Flight Authority relating to rate structures or charges for the use of projects of, the sale of products of, or services rendered by the Authority if disclosure of such information would adversely affect the financial interest or bargaining position of the Authority or a private entity providing the information to the Authority; or

b. Information provided by a private entity to the Commercial Space Flight Authority if disclosure of such information would (i) reveal (a) trade secrets of the private entity as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.); (b) financial information of the private entity, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise; or (c) other information submitted by the private entity and (ii) adversely affect the financial interest or bargaining position of the Authority or private entity.

In order for the information specified in clauses (a), (b), and (c) of subdivision 24 b to be excluded from the provisions of this chapter, the private entity shall make a written request to the Authority:

- (1) Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;
- (2) Identifying with specificity the data or other materials for which protection is sought; and

(3) Stating the reasons why protection is necessary.

The Authority shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets or financial information of the private entity. To protect other information submitted by the private entity from disclosure, the Authority shall determine whether public disclosure would adversely affect the financial interest or bargaining position of the Authority or private entity. The Authority shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.

25. Information of a proprietary nature furnished by an agricultural landowner or operator to the Department of Conservation and Recreation, the Department of Environmental Quality, the Department of Agriculture and Consumer Services, or any political subdivision, agency, or board of the Commonwealth pursuant to §§ 10.1-104.7, 10.1-104.8, and 10.1-104.9, other than when required as part of a state or federal regulatory enforcement action.

26. Trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), provided to the Department of Environmental Quality pursuant to the provisions of § 10.1-1458. In order for such trade secrets to be excluded from the provisions of this chapter, the submitting party shall (i) invoke this exclusion upon submission of the data or materials for which protection from disclosure is sought, (ii) identify the data or materials for which protection is sought, and (iii) state the reasons why protection is necessary.

27. Information of a proprietary nature furnished by a licensed public-use airport to the Department of Aviation for funding from programs administered by the Department of Aviation or the Virginia Aviation Board, where if such information was made public, the financial interest of the public-use airport would be adversely affected.

In order for the information specified in this subdivision to be excluded from the provisions of this chapter, the public-use airport shall make a written request to the Department of Aviation:

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

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

c. Stating the reasons why protection is necessary.

28. ~~Records submitted as Information relating to a grant or loan application, or accompanying a grant or loan application, for an award from submitted to the Virginia Research Investment Fund Committee established pursuant to Article 8 (§ 23.1-3130 et seq.) of Chapter 31 of Title 23.1, to the extent that such records contain proprietary business or research-related information produced or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, if the disclosure of such information would be harmful to the competitive position of the applicant would (i) reveal (a) trade secrets as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.); (b) financial information of a party to a grant or loan application that is not a public body, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise; or (c) research-related information produced or collected by a party to the application in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical, technological, or scholarly issues, when such information has not been publicly released, published, copyrighted, or patented, and (ii) be harmful to the competitive position of a party to a grant or loan application; and memoranda, staff evaluations, or other information prepared by the Committee or its staff, or a reviewing entity pursuant to subsection D of § 23.1-3133, exclusively for the evaluation of grant or loan applications, including any scoring or prioritization documents prepared for and forwarded to the Committee pursuant to subsection D of § 23.1-3133.~~

*In order for the information submitted by the applicant and specified in this subdivision to be excluded from the provisions of this chapter, the applicant shall make a written request to the Committee:*

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

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

c. *Stating the reasons why protection is necessary.*

*The Virginia Research Investment Committee shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets, financial information, or research-related information of the party to the application. The Committee shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision.*

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

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

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

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

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

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

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

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

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

8. In the case of boards of visitors of public institutions of higher education, discussion or consideration of matters relating to gifts, bequests and fund-raising activities, and grants and contracts for services or work to be performed by such institution. However, the terms and conditions of any such gifts, bequests, grants, and contracts made by a foreign government, a foreign legal entity, or a foreign person and accepted by a public institution of higher education in Virginia shall be subject to public disclosure upon written request to the appropriate board of visitors. For the purpose of this subdivision, (i) "foreign government" means any government other than the United States government or the government of a state or a political subdivision thereof; (ii) "foreign legal entity" means any legal entity created under the laws of the United States or of any state thereof if a majority of the ownership of the stock of such legal entity is owned by foreign governments or foreign persons or if a majority of the membership of any such entity is composed of foreign persons or foreign legal entities, or any legal entity created under the laws of a foreign government; and (iii) "foreign person" means any individual who is not a citizen or national of the United States or a trust territory or protectorate thereof.

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

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

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

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

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

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

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

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

17. Those portions of meetings by local government crime commissions where the identity of, or information tending to identify, individuals providing information about crimes or criminal activities under a promise of anonymity is discussed or disclosed.

18. Those portions of meetings in which the Board of Corrections discusses or discloses the identity of, or information tending to identify, any prisoner who (i) provides information about crimes or criminal activities, (ii) renders assistance in preventing the escape of another prisoner or in the apprehension of an escaped prisoner, or (iii) voluntarily or at the instance

of a prison official renders other extraordinary services, the disclosure of which is likely to jeopardize the prisoner's life or safety.

19. Discussion of plans to protect public safety as it relates to terrorist activity or specific cybersecurity threats or vulnerabilities and briefings by staff members, legal counsel, or law-enforcement or emergency service officials concerning actions taken to respond to such matters or a related threat to public safety; discussion of information excluded from this chapter pursuant to subdivision 3 or 4 of § 2.2-3705.2, where discussion in an open meeting would jeopardize the safety of any person or the security of any facility, building, structure, information technology system, or software program; or discussion of reports or plans related to the security of any governmental facility, building or structure, or the safety of persons using such facility, building or structure.

20. Discussion by the Board of the Virginia Retirement System, acting pursuant to § 51.1-124.30, or of any local retirement system, acting pursuant to § 51.1-803, or of the Rector and Visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the Board of the Virginia College Savings Plan, acting pursuant to § 23.1-706, regarding the acquisition, holding or disposition of a security or other ownership interest in an entity, where such security or ownership interest is not traded on a governmentally regulated securities exchange, to the extent that such discussion (i) concerns confidential analyses prepared for the Rector and Visitors of the University of Virginia, prepared by the retirement system or by the Virginia College Savings Plan or provided to the retirement system or the Virginia College Savings Plan under a promise of confidentiality, of the future value of such ownership interest or the future financial performance of the entity, and (ii) would have an adverse effect on the value of the investment to be acquired, held or disposed of by the retirement system, the Rector and Visitors of the University of Virginia, or the Virginia College Savings Plan. Nothing in this subdivision shall be construed to prevent the disclosure of information relating to the identity of any investment held, the amount invested or the present value of such investment.

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

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

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

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

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

26. Discussion or consideration, by the Wireless Carrier E-911 Cost Recovery Subcommittee created pursuant to § 56-484.15, of trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), submitted by CMRS providers as defined in § 56-484.12, related to the provision of wireless E-911 service.

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

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

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

30. Discussion or consideration of grant or loan application information excluded from this chapter pursuant to subdivision 17 of § 2.2-3705.6 by (i) the Commonwealth Health Research Board or (ii) the Innovation and Entrepreneurship Investment Authority or the Research and Technology Investment Advisory Committee appointed to advise the Innovation and Entrepreneurship Investment Authority.

31. Discussion or consideration by the Commitment Review Committee of information excluded from this chapter pursuant to subdivision 8 of § 2.2-3705.2 relating to individuals subject to commitment as sexually violent predators under Chapter 9 (§ 37.2-900 et seq.) of Title 37.2.

32. [Expired.]

33. Discussion or consideration of confidential proprietary information and trade secrets excluded from this chapter pursuant to subdivision 18 of § 2.2-3705.6. However, the exemption provided by this subdivision shall not apply to any authority created pursuant to the BVU Authority Act (§ 15.2-7200 et seq.).

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

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

36. Discussion or consideration by the Forensic Science Board or the Scientific Advisory Committee created pursuant to Article 2 (§ 9.1-1109 et seq.) of Chapter 11 of Title 9.1 of records excluded from this chapter pursuant to subdivision A 2 a of § 2.2-3706.

37. Discussion or consideration by the Brown v. Board of Education Scholarship Program Awards Committee of information or confidential matters excluded from this chapter pursuant to subdivision 3 of § 2.2-3705.4, and meetings of the Committee to deliberate concerning the annual maximum scholarship award, review and consider scholarship applications and requests for scholarship award renewal, and cancel, rescind, or recover scholarship awards.

38. Discussion or consideration by the Virginia Port Authority of information excluded from this chapter pursuant to subdivision 1 of § 2.2-3705.6.

39. Discussion or consideration by the Board of Trustees of the Virginia Retirement System acting pursuant to § 51.1-124.30, by the Investment Advisory Committee appointed pursuant to § 51.1-124.26, by any local retirement system, acting pursuant to § 51.1-803, by the Board of the Virginia College Savings Plan acting pursuant to § 23.1-706, or by the Virginia College Savings Plan's Investment Advisory Committee appointed pursuant to § 23.1-702 of information excluded from this chapter pursuant to subdivision 25 of § 2.2-3705.7.

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

41. Discussion or consideration by the Board of Education of information relating to the denial, suspension, or revocation of teacher licenses excluded from this chapter pursuant to subdivision 12 of § 2.2-3705.3.

42. Those portions of meetings of the Virginia Military Advisory Council or any commission created by executive order for the purpose of studying and making recommendations regarding preventing closure or realignment of federal military and national security installations and facilities located in Virginia and relocation of such facilities to Virginia, or a local or regional military affairs organization appointed by a local governing body, during which there is discussion of information excluded from this chapter pursuant to subdivision 11 of § 2.2-3705.2.

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

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

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

46. Discussion or consideration of personal and proprietary information that are excluded from the provisions of this chapter pursuant to (i) subdivision 25 of § 2.2-3705.6 or (ii) subsection E of § 10.1-104.7. This exclusion shall not apply to the discussion or consideration of records that contain information that has been certified for release by the person who is the subject of the information or transformed into a statistical or aggregate form that does not allow identification of the person who supplied, or is the subject of, the information.

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

48. Discussion or consideration of grant or loan application records excluded from this chapter pursuant to subdivision 28 of § 2.2-3705.6 related to the submission of an application for an award from the Virginia Research Investment Fund pursuant to Article 8 (§ 23.1-3130 et seq.) of Chapter 31 of Title 23.1 *or interviews of parties to an*

*application by a reviewing entity pursuant to subsection D of § 23.1-3133 or by the Virginia Research Investment Committee.*

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

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

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

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

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

#### **§ 23.1-203. Duties of Council.**

The Council shall:

1. Develop a statewide strategic plan that (i) reflects the goals set forth in subsection A of § 23.1-1002 or (ii) once adopted, reflects the goals and objectives developed pursuant to subdivision B 5 of § 23.1-309 for higher education in the Commonwealth, identifies a coordinated approach to such state and regional goals, and emphasizes the future needs for higher education in the Commonwealth at both the undergraduate and the graduate levels and the mission, programs, facilities, and location of each of the existing institutions of higher education, each public institution's six-year plan, and such other matters as the Council deems appropriate. The Council shall revise such plan at least once every six years and shall submit such recommendations as are necessary for the implementation of the plan to the Governor and the General Assembly.

2. Review and approve or disapprove any proposed change in the statement of mission of any public institution of higher education and define the mission of all newly created public institutions of higher education. The Council shall report such approvals, disapprovals, and definitions to the Governor and the General Assembly at least once every six years. No such actions shall become effective until 30 days after adjournment of the session of the General Assembly next following the filing of such a report. Nothing in this subdivision shall be construed to authorize the Council to modify any mission statement adopted by the General Assembly or empower the Council to affect, either directly or indirectly, the selection of faculty or the standards and criteria for admission of any public institution of higher education, whether relating to academic standards, residence, or other criteria. Faculty selection and student admission policies shall remain a function of the individual public institutions of higher education.

3. Study any proposed escalation of any public institution of higher education to a degree-granting level higher than that level to which it is presently restricted and submit a report and recommendation to the Governor and the General Assembly relating to the proposal. The study shall include the need for and benefits or detriments to be derived from the escalation. No such institution shall implement any such proposed escalation until the Council's report and recommendation have been submitted to the General Assembly and the General Assembly approves the institution's proposal.

4. Review and approve or disapprove all enrollment projections proposed by each public institution of higher education. The Council's projections shall be organized numerically by level of enrollment and shall be used solely for budgetary, fiscal, and strategic planning purposes. The Council shall develop estimates of the number of degrees to be awarded by each public institution of higher education and include those estimates in its reports of enrollment projections. The student admissions policies for such institutions and their specific programs shall remain the sole responsibility of the individual governing boards but all baccalaureate public institutions of higher education shall adopt dual admissions policies with comprehensive community colleges as required by § 23.1-907.

5. Review and approve or disapprove all new undergraduate or graduate academic programs that any public institution of higher education proposes.

6. Review and require the discontinuance of any undergraduate or graduate academic program that is presently offered by any public institution of higher education when the Council determines that such academic program is (i) nonproductive in terms of the number of degrees granted, the number of students served by the program, the program's effectiveness, and budgetary considerations or (ii) supported by state funds and unnecessarily duplicative of academic programs offered at other public institutions of higher education. The Council shall make a report to the Governor and the General Assembly with respect to the discontinuance of any such academic program. No such discontinuance shall become effective until 30 days after the adjournment of the session of the General Assembly next following the filing of such report.

7. Review and approve or disapprove the establishment of any department, school, college, branch, division, or extension of any public institution of higher education that such institution proposes to establish, whether located on or off the main campus of such institution. If any organizational change is determined by the Council to be proposed solely for the purpose of internal management and the institution's curricular offerings remain constant, the Council shall approve the proposed change. Nothing in this subdivision shall be construed to authorize the Council to disapprove the establishment of any such department, school, college, branch, division, or extension established by the General Assembly.

8. Review the proposed closure of any academic program in a high demand or critical shortage area, as defined by the Council, by any public institution of higher education and assist in the development of an orderly closure plan, when needed.

9. Develop a uniform, comprehensive data information system designed to gather all information necessary to the performance of the Council's duties. The system shall include information on admissions, enrollment, self-identified students with documented disabilities, personnel, programs, financing, space inventory, facilities, and such other areas as the Council deems appropriate. When consistent with the Government Data Collection and Dissemination Practices Act (§ 2.2-3800 et seq.), the Virginia Unemployment Compensation Act (§ 60.2-100 et seq.), and applicable federal law, the Council, acting solely or in partnership with the Virginia Department of Education or the Virginia Employment Commission, may contract with private entities to create de-identified student records in which all personally identifiable information has been removed for the purpose of assessing the performance of institutions and specific programs relative to the workforce needs of the Commonwealth.

10. In cooperation with public institutions of higher education, develop guidelines for the assessment of student achievement. Each such institution shall use an approved program that complies with the guidelines of the Council and is consistent with the institution's mission and educational objectives in the development of such assessment. The Council shall report each institution's assessment of student achievement in the revisions to the Commonwealth's statewide strategic plan for higher education.

11. In cooperation with the appropriate state financial and accounting officials, develop and establish uniform standards and systems of accounting, recordkeeping, and statistical reporting for public institutions of higher education.

12. Review biennially and approve or disapprove all changes in the inventory of educational and general space that any public institution of higher education proposes and report such approvals and disapprovals to the Governor and the General Assembly. No such change shall become effective until 30 days after the adjournment of the session of the General Assembly next following the filing of such report.

13. Visit and study the operations of each public institution of higher education at such times as the Council deems appropriate and conduct such other studies in the field of higher education as the Council deems appropriate or as may be requested by the Governor or the General Assembly.

14. Provide advisory services to each accredited nonprofit private institution of higher education whose primary purpose is to provide collegiate or graduate education and not to provide religious training or theological education on academic, administrative, financial, and space utilization matters. The Council may review and advise on joint activities, including contracts for services between public and such private institutions of higher education or between such private institutions of higher education and any agency or political subdivision of the Commonwealth.

15. Adopt such policies and regulations as the Council deems necessary to implement its duties established by state law. Each public institution of higher education shall comply with such policies and regulations.

16. Issue guidelines consistent with the provisions of the federal Family Educational Rights and Privacy Act (20 U.S.C. § 1232g), requiring public institutions of higher education to release a student's academic and disciplinary record to a student's parent.

17. Require each institution of higher education formed, chartered, or established in the Commonwealth after July 1, 1980, to ensure the preservation of student transcripts in the event of institutional closure or revocation of approval to operate in the Commonwealth. An institution may ensure the preservation of student transcripts by binding agreement with another institution of higher education with which it is not corporately connected or in such other way as the Council may authorize by regulation. In the event that an institution closes or has its approval to operate in the Commonwealth revoked, the Council, through its director, may take such action as is necessary to secure and preserve the student transcripts until such time as an appropriate institution accepts all or some of the transcripts. Nothing in this subdivision shall be deemed to interfere with the right of a student to his own transcripts or authorize disclosure of student records except as may otherwise be authorized by law.

18. Require the development and submission of articulation, dual admissions, and guaranteed admissions agreements between associate-degree-granting and baccalaureate public institutions of higher education.

19. Provide periodic updates of base adequacy funding guidelines adopted by the Joint Subcommittee Studying Higher Education Funding Policies for each public institution of higher education.

20. In consultation with each public institution of higher education, develop a one-year uniform certificate of general studies program to be offered at each comprehensive community college. Such program shall ensure that a comprehensive community college student who completes the one-year certificate program is eligible to transfer all credits earned in academic subject coursework to a baccalaureate public institution of higher education upon acceptance to such baccalaureate institution.

21. Cooperate with the Board of Education in matters of interest to both public elementary and secondary schools and public institutions of higher education, particularly in connection with coordination of the college admission requirements, coordination of teacher training programs with the public school programs, and the Board's Six-Year Educational Technology Plan for Virginia. The Council shall encourage public institutions of higher education to design programs that include the skills necessary for the successful implementation of such Plan.

22. Advise and provide technical assistance to the Brown v. Board of Education Scholarship Committee in the implementation and administration of the Brown v. Board of Education Scholarship Program pursuant to Chapter 34.1 (§ 30-231.01 et seq.) of Title 30.

23. Insofar as possible, seek the cooperation and utilize the facilities of existing state departments, institutions, and agencies in carrying out its duties.

24. Serve as the coordinating council for public institutions of higher education.

25. Serve as the planning and coordinating agency for all postsecondary educational programs for all health professions and occupations and make recommendations, including those relating to financing, for providing adequate and coordinated educational programs to produce an appropriate supply of properly trained personnel. The Council may conduct such studies as it deems appropriate in furtherance of the requirements of this subdivision. All state departments and agencies shall cooperate with the Council in the execution of its responsibilities under this subdivision.

26. Carry out such duties as the Governor may assign to it in response to agency designations requested by the federal government.

27. Insofar as practicable, preserve the individuality, traditions, and sense of responsibility of each public institution of higher education in carrying out its duties.

28. Insofar as practicable, seek the assistance and advice of each public institution of higher education in fulfilling its duties and responsibilities.

29. ~~Assist~~ *Develop the Commonwealth Research and Technology Strategic Roadmap pursuant to the provisions of § 23.1-3134 to be submitted to the Virginia Research Investment Committee for approval, and otherwise assist the Virginia Research Investment Committee with the administration of the Virginia Research Investment Fund consistent with the provisions of Article 8 (§ 23.1-3130 et seq.) of Chapter 31.*

#### Article 8.

#### Virginia Research Investment ~~Fund~~ Committee.

#### § 23.1-3130. Definitions.

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

"Board" means ~~a policy board in the executive branch of government that (i) was created by the 2016 Session of the General Assembly, (ii) has a legislatively stated purpose of promoting collaborative regional economic and workforce development opportunities and activities, and (iii) has membership consisting of members of the House of Delegates, members of the Senate, members of the Governor's Cabinet, and nonlegislative citizen appointees the Virginia Growth and Opportunity Board established pursuant to § 2.2-2485.~~

"Board of Trustees" means *the Board of Trustees of the Virginia Retirement System established pursuant to § 51.1-124.20.*

"Committee" means the Virginia Research Investment Committee established pursuant to § 23.1-3132.

~~"Council" means the State Council of Higher Education for Virginia.~~

"Fund" means the Virginia Research Investment Fund established in § 23.1-3131.

~~"Roadmap" means the Commonwealth Research and Technology Strategic Roadmap developed pursuant to § 23.1-3134.~~

#### § 23.1-3131. Virginia Research Investment Fund.

A. There is hereby created in the state treasury a special nonreverting revolving fund to be known as the Virginia Research Investment Fund. The Fund shall be established on the books of the Comptroller. All moneys appropriated by the General Assembly for the Fund, and from any other sources public or private, shall be paid into the state treasury and credited to the Fund. Interest and other income earned on the Fund shall be credited to the Fund. Any moneys remaining in the Fund, including interest and other income thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund.

B. 1. Notwithstanding any other provision of law, the General Assembly may specifically designate that certain moneys appropriated to the Fund be invested, reinvested, and managed by the Board of ~~the Virginia Retirement System Trustees~~ as provided in § 51.1-124.38. The State Treasurer shall not be held liable for losses suffered by the Virginia Retirement System on investments made under the authority of this subsection.

2. No more than \$4 million of moneys so invested, net of any administrative fee assessed pursuant to subsection E of § 51.1-124.38, may be awarded through grants or loans in a fiscal year for any purpose permitted by this article. At the direction of the Committee, the State Comptroller may annually request a disbursement of \$4 million from the moneys invested by the Board of ~~the Virginia Retirement System Trustees~~, to be held with other moneys in the Fund not subject to such investment. At the end of each fiscal year, if less than \$4 million of such annual allocation is awarded as grants or loans in a calendar year, the Comptroller shall return the remainder of the annual \$4 million allocation to the Board of ~~the Virginia Retirement System Trustees~~ for reinvestment pursuant to § 51.1-124.38.

3. Any loans awarded pursuant to this article shall be paid by the Comptroller from the \$4 million annual allocation set forth in subdivision 2. The recipient of a loan shall repay the loan pursuant to the terms set forth by the Committee. At the end of each fiscal year, the Comptroller shall return any repayments received from loan recipients to the Board of ~~the Virginia Retirement System Trustees~~ for reinvestment pursuant to § 51.1-124.38.

C. 1. Moneys in the Fund shall be used ~~solely primarily~~ for grants and loans to (i) ~~promote research and development excellence in the Commonwealth;~~ (ii) foster innovative and collaborative research, development, and commercialization efforts in the Commonwealth in projects and programs with a high potential for economic development and job creation opportunities; ~~(iii)~~ (ii) position the Commonwealth as a national leader in science-based and technology-based research, development, and commercialization; ~~(iv)~~ (iii) attract and effectively recruit and retain eminent researchers to enhance research superiority at public institutions of higher education; and ~~(v)~~ (iv) encourage cooperation and collaboration among ~~public institutions of higher education research institutions~~, and with the private sector, in areas and with activities that foster economic development and job creation in the Commonwealth. ~~Areas~~

2. Grants and loans from the Fund for innovative research, development, and commercialization efforts, projects, and programs shall (i) be awarded in areas of focus for awards shall be those areas identified in the Commonwealth Research and Technology Strategic Roadmap; and shall include but not be limited to the biosciences, personalized medicine, cybersecurity, data analytics, and other areas designated in the general appropriation act; (ii) be awarded solely to public institutions of higher education in the Commonwealth or collaborations between the public institutions of higher education and private entities; and (iii) require a match of funds at least equal to the amount awarded.

3. Moneys in the Fund may be used to pay administrative fees assessed by the Board of Trustees for its services in investing Fund moneys pursuant to § 51.1-124.38.

D. The disbursement of grants and loans, and the payment of administrative costs and service fees, from the Fund shall be made by the State Comptroller at the written request of the Committee.

**§ 23.1-3132. Virginia Research Investment Committee; report.**

A. There is hereby established the Virginia Research Investment Committee to (i) promote research and development excellence in the Commonwealth; (ii) provide guidance, and coordination as deemed necessary, to existent efforts to support research in the Commonwealth with commercial potential; (iii) approve the Roadmap; and (iv) evaluate and award grants and loans from the Fund pursuant to the provisions of this article.

B. The Committee shall consist of ~~the following members:~~ the Director of the Council, the Secretary of Technology, the Secretary of Finance, and the staff directors of the House Committee on Appropriations and the Senate Committee on Finance, ~~one all of whom shall serve ex officio with voting privileges, and four nonlegislative citizen member members of the Board to be appointed as follows: one appointed by the Speaker of the House of Delegates, one nonlegislative citizen member appointed by the Senate Committee on Rules, and two nonlegislative citizen members appointed by the Governor. If the Board exists, the nonlegislative citizen members appointed by the Speaker of the House, the Senate Committee on Rules, and the Governor shall be nonlegislative citizen members of the Board.~~

C. Ex officio members shall serve terms coincident with their terms of office. ~~If the Board does not exist, nonlegislative citizen members shall be appointed to a term of four years, and no nonlegislative citizen member shall serve more than two consecutive four-year terms. If the Board exists, nonlegislative citizen members shall serve terms coincident with their terms on the Board. Vacancies shall be filled in the same manner as the original appointments.~~

D. The Director of the Council shall serve as the chairman of the Committee.

E. The Committee shall report to the Governor and the Chairmen of the House Committee on Appropriations and the Senate Committee on Finance no later than November 1 of each year. The report shall include details about awards made from the Fund in the immediately preceding fiscal year and updates on the research, development, and commercialization efforts resulting from such awards.

**§ 23.1-3133. Award from Virginia Research Investment Fund.**

A. 1. The Council, in consultation with the Committee, shall establish ~~the initial~~ guidelines, procedures, and objective criteria for (i) the application for ~~and award of~~ grants and loans from the Fund; (ii) the review, certification of scientific merits, and scoring or prioritization of applications for grants and loans from the Fund; and (iii) the evaluation and award by the Committee of grants and loans from the Fund. After the adoption of the initial guidelines, procedures, and criteria, the Committee shall be responsible for maintaining, administering, updating, and approving the guidelines, procedures, and criteria, with the assistance of staff of the Council.

2. Such guidelines, procedures, and criteria, and any updates thereto, shall be submitted to the House Committee on Appropriations and the Senate Committee on Finance.

B. The guidelines, procedures, and criteria for the award of grants and loans shall include, but not be limited to, requirements that applicants demonstrate and that the reviewers and the Committee consider ~~other:~~

1. Other grants, awards, loans, or funds awarded to the proposed program or project by the Commonwealth and shall require an applicant to indicate other;

2. Other applications from the applicant for state grants, awards, loans, or funds currently pending at the time of the application for an award from the Fund. The criteria shall consider the; and

3. The potential of the program or project for which a grant or loan is sought to (i) culminate in the commercialization of research; (ii) culminate in the formation or spin-off of viable bioscience, biotechnology, cybersecurity, genomics, or similar companies; (iii) promote the build-out of scientific areas of expertise in science and technology; (iv) promote

applied research and development *in the areas of focus identified in the Roadmap*; (v) provide modern facilities or infrastructure for research and development; (vi) result in significant capital investment and job creation; or (vii) promote collaboration among the public institutions of higher education in the Commonwealth. ~~Such criteria shall also require that the program or project for which a grant or loan is sought be related to an area identified in the Commonwealth Research Technology Strategic Roadmap.~~

~~B. Grants and loans may be awarded to public institutions of higher education in the Commonwealth or collaborations between public institutions of higher education in the Commonwealth and private entities. Any award from the Fund shall require a match of funds at least equal to the amount of the award.~~

~~C. Applications~~ Upon establishment or update of the guidelines, procedures, and criteria, the Committee shall (i) announce publicly these policies and principles, (ii) open and initiate the application process, and (iii) receive applications for grants and loans from the Fund ~~shall be received by the Council~~ in accordance with the procedures developed pursuant to subsection A B.

D. Upon confirmation that an application is complete, the *staff of the Council* shall forward the application to an entity with recognized science and technology expertise for a review and certification of the scientific merits of the proposal, including a scoring or prioritization of applicant programs and projects deemed viable by the reviewing entity. Such entities include, but are not limited to, the Virginia Biosciences Health Research Corporation, the Innovation and Entrepreneurship Investment Authority, the Virginia Academy of Science, Engineering and Medicine, or any other entity deemed appropriate by the Council, including a scientific advisory committee created by the Council for the sole purpose of reviewing one or more applications received pursuant to this article.

~~D. Any proposal~~ E. Upon an application receiving a favorable evaluation pursuant to subsection ~~E~~ D, the Council shall ~~be forwarded~~ forward the application, along with the scoring or prioritization, to the Committee for further review and a decision whether to award ~~the proposal~~ a grant or loan from the Fund.

F. 1. Upon receipt of a reviewed application, the Committee shall evaluate the application in accordance with the criteria developed in subsection B, taking into account the review, scoring, or prioritization received in accordance with subsection D. The Committee shall then decide whether to approve the application for an award of a grant or loan from the Fund.

2. The award of a grant or loan from the Fund shall be subject to any terms and conditions set forth by the Committee for the award.

3. All decisions by the Committee shall be final and not subject to further review or appeal.

4. The Governor may announce any award approved by the Committee.

**§ 23.1-3134. Commonwealth Research and Technology Strategic Roadmap.**

A. The Committee shall approve a Commonwealth Research and Technology Strategic Roadmap, a comprehensive research and technology strategic roadmap for the Commonwealth to identify research areas worthy of economic development and institutional focus. The goal of the Roadmap shall be to develop a cohesive and comprehensive framework through which to encourage collaboration between the Commonwealth's institutions of higher education, private sector industries, and economic development entities in order to focus on the complete life cycle of research, development, and commercialization. The framework shall serve as a means to (i) identify the Commonwealth's key industry sectors in which investments in technology should be made by the Commonwealth; (ii) identify basic and applied research opportunities in these sectors that exhibit commercial promise; (iii) encourage commercialization and economic development activities in the Commonwealth in these sectors; and (iv) help ensure that all investments of public funds in the Commonwealth in basic and applied research are made prudently in focused areas for projects with significant potential for commercialization and economic growth in the Commonwealth.

B. The Roadmap shall be used to determine areas of focus for awards by the Committee from the Fund and by the Innovation and Entrepreneurship Investment Authority from the Commonwealth Research Commercialization Fund established pursuant to § 2.2-2233.1. Awards from such funds may be made for research activities related to areas of focus other than those identified in the Roadmap only upon a written finding by the respective awarding entity that it is in the Commonwealth's best interest to deviate from the areas set forth in the Roadmap.

C. The Council shall develop the Roadmap and submit it to the Committee for review and approval. In developing the Roadmap, the Council shall select and oversee a panel of independent experts who shall:

1. Consult with the chief research officers at public institutions of higher education in the Commonwealth regarding the strategic plan for each institution in order to identify common themes;

2. Consult with public institutions of higher education in the Commonwealth, the Innovation and Entrepreneurship Investment Authority, the Virginia Economic Development Partnership, and any other entity deemed relevant to catalog the Commonwealth's assets in order to identify the areas of research and development in which the Commonwealth has a great likelihood of excelling in applied research and commercialization;

3. Make recommendations for the alignment of research and development and economic growth in the Commonwealth, identifying the industry sectors in which the Commonwealth should focus its research, development, investment, and economic development efforts;

4. Establish a process for maintaining an inventory of the Commonwealth's current research and development endeavors in both the public and private sectors that can be used to attract research and commercialization excellence in the Commonwealth;

5. Make recommendations to the Six-Year Capital Outlay Plan Advisory Committee established pursuant to § 2.2-1516 regarding capital construction needs at public institutions of higher education necessary to excel in basic and applied research in identified industry sectors; and

6. Solicit feedback from the Committee, the Research and Technology Investment Advisory Committee; public and private institutions of higher education in the Commonwealth; members of the National Academies of Sciences, Engineering and Medicine; members of the Virginia Academy of Science, Engineering and Medicine; federal research and development assets in the Commonwealth; regional technology councils in the Commonwealth; the Virginia Economic Development Partnership; the Board; and the private sector.

In selecting the panel of experts pursuant to this subsection, the Council shall ensure that no individuals on the panel are involved, nor have been involved within the past three years, with the application, review, or award process governed by § 2.2-2233.1 or 23.1-3133.

D. The Council shall review the Roadmap and make recommendations regarding its update at least once every three years. Such recommended updates shall be submitted to the Committee for review and approval.

E. The Committee shall submit a draft of the Roadmap to the Governor and the Chairmen of the Senate Finance Committee, the House Appropriations Committee, and the Joint Commission on Technology and Science at least 30 days prior to Committee voting to approve the Roadmap or any subsequent updates. The Committee shall submit the Roadmap and any subsequent updates approved by it to the Governor for final approval. Unless the Governor returns such submissions to the Committee within 30 days of receipt with specific directions for changes or revisions, the Roadmap or updates shall be deemed approved and ready for implementation. Upon final approval, the Committee shall submit the approved Roadmap, and any subsequent updates, to the Chairmen of the Senate Finance Committee, the House Appropriations Committee, and the Joint Commission on Technology and Science.

2. That § 2.2-2221.2 of the Code of Virginia is repealed effective January 1, 2018.

3. That § 2.2-2221 of the Code of Virginia, as amended by this act, and § 23.1-3134 of the Code of Virginia, as created by this act, shall become effective on January 1, 2018.

4. That the State Council of Higher Education for Virginia and the Virginia Research Investment Committee shall collaborate with the Innovation and Entrepreneurship Investment Authority in updating the current Commonwealth Research and Technology Strategic Roadmap, which shall be submitted prior to January 1, 2018, pursuant to subsection D of § 2.2-2221.2 of the Code of Virginia. The Innovation and Entrepreneurship Investment Authority shall provide interim updates to the Virginia Research Investment Committee regarding its work on the Commonwealth Research and Technology Strategic Roadmap.

#### CHAPTER 817

An Act to require evaluation of closure of coal combustion residuals units.

[S 1398]

Approved April 5, 2017

#### Be it enacted by the General Assembly of Virginia:

1. § 1. That every owner or operator of a coal combustion residuals (CCR) surface impoundment, as that term is defined at 40 C.F.R. § 257.53, that is located within the Chesapeake Bay watershed shall conduct an assessment of each such CCR surface impoundment (CCR unit) regarding the closure of any such unit. At a minimum, an assessment shall, for each CCR unit:

1. Identify and describe any groundwater or surface water pollution located at or stemming from the CCR unit, including pollution identified through past monitoring, and evaluate corrective measures to resolve such pollution. Any such evaluation shall address the issues set forth in 40 C.F.R. § 257.96(c) and shall describe and demonstrate how the proposed corrective measures will restore groundwater or surface water quality.

2. Evaluate the clean closure of the CCR unit through excavation and responsible recycling or reuse of coal ash residuals by incorporating them into concrete or other products in a manner that prevents the release into the environment of the pollutants contained within the coal ash residuals. Such evaluation shall consider the feasibility of the onsite processing of a CCR unit for cementitious purposes as well as the feasibility of creating a processing facility or facilities to serve multiple CCR units, including offsite CCR units.

3. Evaluate the clean closure of the CCR unit through the excavation and removal of coal ash residuals to dry, lined storage in an appropriately permitted and monitored landfill, including an analysis of the impact that any responsible recycling or reuse options would have on such excavation and removal.

4. Demonstrate the long-term safety of the CCR unit, addressing any long-term risks posed by the proposed closure plan and siting, including risks related to extreme weather events, flooding, hurricanes, storm surges, and erosive forces.

2. That no later than December 1, 2017, the owner or operator of any coal combustion residuals surface impoundment (CCR unit) subject to the assessment requirement of the first enactment of this act shall transmit such assessment to the Chairmen of the House Committee on Agriculture, Chesapeake and Natural Resources and the Senate Committee on Agriculture, Conservation and Natural Resources and to the Departments of Environmental Quality and Conservation and Recreation.

**3. That notwithstanding the provisions of this act, the Director of the Department of Environmental Quality (the Director) shall suspend, delay, or defer the issuance of any permit to provide for the closure of any CCR unit until May 1, 2018, or the effective date of any legislation adopted during the 2018 Regular Session of the General Assembly that addresses the closure of a CCR unit in Virginia, whichever occurs later. In deciding whether to issue any such permit, the Director need not include or rely upon his review of any such assessment.**

### CHAPTER 818

*An Act to amend and reenact § 62.1-129 of the Code of Virginia, as it is currently effective and as it shall become effective, relating to Virginia Port Authority; removal of members on Board of Commissioners.*

[S 1415]

Approved April 5, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 62.1-129 of the Code of Virginia, as it is currently effective and as it shall become effective, is amended and reenacted as follows:**

**§ 62.1-129. (Effective until April 1, 2017) Board of Commissioners; members and officers; Executive Director; agents and employees.**

A. All powers, rights and duties conferred by this chapter, or other provisions of law, upon the Authority shall be exercised by the Board of Commissioners of the Virginia Port Authority, hereinafter referred to as Board or Board of Commissioners. The Board shall consist of the State Treasurer, the Chief Executive Officer of the Virginia Economic Development Partnership, and 11 members appointed by the Governor, subject to confirmation by the General Assembly; ~~who shall serve at the pleasure of the Governor.~~ The terms of members of the Board of Commissioners appointed or reappointed by the Governor on or after January 1, 1981, shall be for five years. Any appointment to fill a vacancy shall be for the unexpired term. Members of the Board shall receive their expenses and shall be compensated at the rate provided in § 2.2-2813 for each day spent on business of the Board. No member appointed by the Governor shall be eligible to serve more than two successive terms. A person appointed to fill a vacancy may be appointed to serve two additional terms. Beginning with those members of the Board of Commissioners appointed or reappointed by the Governor on or after January 1, 1981: (i) appointments shall be made by the Governor in such a manner as to ensure the widest possible geographical representation of all parts of the Commonwealth, and (ii) no resident of the Cities of Chesapeake, Hampton, Newport News, Norfolk, Portsmouth, or Virginia Beach shall be eligible for appointment or reappointment to the Board of Commissioners if his appointment or reappointment would increase or maintain the number of members of the Board of Commissioners residing in such cities above the number of five. One of the members appointed or reappointed from the cities previously mentioned in this section shall be a resident of the City of Portsmouth or the City of Chesapeake, one of the members appointed or reappointed shall be a resident of the City of Norfolk or the City of Virginia Beach, one of the members appointed or reappointed shall be a resident of the City of Newport News or the City of Hampton, one of the members appointed or reappointed shall be a resident of Greater Hampton Roads, and one of the members appointed or reappointed shall be a resident of Greater Hampton Roads, but not a resident of any of the above-mentioned cities. Additionally, one member shall be appointed from the City of Richmond or the County of Chesterfield, Hanover, or Henrico to serve as a ~~nonvoting ex officio~~ member representing the Port of Richmond, and one member shall be appointed from the City of Winchester or the County of Clarke, Frederick, or Warren to serve as a ~~nonvoting ex officio~~ member representing the Virginia Inland Port. Of the members appointed by the Governor, all members shall have executive level experience ~~and represent one~~ in any of the following industries: agriculture, distribution and warehousing, manufacturing, logistics and transportation, mining, marketing, legal, financial, or transportation infrastructure. In addition, the Governor shall appoint at least one member with maritime shipping experience from a list of at least three nominees provided by the Virginia Maritime Association, who shall not be a paid member of the Virginia Maritime Association or have any other conflict of interest with the Virginia Port Authority.

The Board shall elect from its membership a chairman and vice-chairman and may also elect from its membership, or appoint from its staff, a secretary and treasurer and prescribe their powers and duties.

The Board of Commissioners shall appoint the chief executive officer of the Authority, who shall not be a member of the Board, who shall be known as the Executive Director and who shall serve at the pleasure of the Board. The Executive Director's compensation from the Commonwealth shall be fixed by the Board in accordance with law. This compensation shall be established at a level which will enable the Authority to attract and retain a capable Executive Director.

The Board may also appoint from the staff an assistant secretary and an assistant treasurer, who shall, in addition to other duties, discharge such functions of the secretary and treasurer, respectively, as may be directed by the Board.

B. The Board may, at its discretion and from time to time, also form a Maritime Advisory Council, consisting of representatives from the maritime industry, to provide advice and counsel to the Board of Commissioners on all matters associated with the Authority with the exception of the annual budget and personnel matters.

**§ 62.1-129. (Effective April 1, 2017) Board of Commissioners; members and officers; Executive Director; agents and employees.**

A. All powers, rights, and duties conferred by this chapter, or other provisions of law, upon the Authority shall be exercised by the Board of Commissioners of the Virginia Port Authority, hereinafter referred to as the Board or Board of Commissioners. The Board shall consist of the State Treasurer, the Chief Executive Officer of the Virginia Economic Development Partnership, the Chief Executive Officer of the Virginia International Trade Corporation, and 11 members appointed by the Governor, subject to confirmation by the General Assembly; ~~who shall serve at the pleasure of the Governor.~~ The terms of members of the Board of Commissioners appointed or reappointed by the Governor on or after January 1, 1981, shall be for five years. Any appointment to fill a vacancy shall be for the unexpired term. Members of the Board shall receive their expenses and shall be compensated at the rate provided in § 2.2-2813 for each day spent on business of the Board. No member appointed by the Governor shall be eligible to serve more than two successive terms. A person appointed to fill a vacancy may be appointed to serve two additional terms. Beginning with those members of the Board of Commissioners appointed or reappointed by the Governor on or after January 1, 1981: (i) appointments shall be made by the Governor in such a manner as to ensure the widest possible geographical representation of all parts of the Commonwealth, and (ii) no resident of the Cities of Chesapeake, Hampton, Newport News, Norfolk, Portsmouth, or Virginia Beach shall be eligible for appointment or reappointment to the Board of Commissioners if his appointment or reappointment would increase or maintain the number of members of the Board of Commissioners residing in such cities above the number of five. One of the members appointed or reappointed from the cities previously mentioned in this section shall be a resident of the City of Portsmouth or the City of Chesapeake, one of the members appointed or reappointed shall be a resident of the City of Norfolk or the City of Virginia Beach, one of the members appointed or reappointed shall be a resident of the City of Newport News or the City of Hampton, one of the members appointed or reappointed shall be a resident of Greater Hampton Roads, and one of the members appointed or reappointed shall be a resident of Greater Hampton Roads, but not a resident of any of the above-mentioned cities. Additionally, one member shall be appointed from the City of Richmond or the County of Chesterfield, Hanover, or Henrico to serve as a ~~nonvoting ex officio~~ member representing the Port of Richmond, and one member shall be appointed from the City of Winchester or the County of Clarke, Frederick, or Warren to serve as a ~~nonvoting ex officio~~ member representing the Virginia Inland Port. Of the members appointed by the Governor, all members shall have executive level experience ~~and represent one in any of the following industries: agriculture, distribution and warehousing, manufacturing, logistics and transportation, mining, marketing, legal, financial, or transportation infrastructure.~~ In addition, the Governor shall appoint at least one member with maritime shipping experience from a list of at least three nominees provided by the Virginia Maritime Association, who shall not be a paid member of the Virginia Maritime Association or have any other conflict of interest with the Virginia Port Authority.

The Board shall elect from its membership a chairman and vice-chairman and may also elect from its membership, or appoint from its staff, a secretary and treasurer and prescribe their powers and duties.

The Board of Commissioners shall appoint the chief executive officer of the Authority, who shall not be a member of the Board, who shall be known as the Executive Director and who shall serve at the pleasure of the Board. The Executive Director's compensation from the Commonwealth shall be fixed by the Board in accordance with law. This compensation shall be established at a level which will enable the Authority to attract and retain a capable Executive Director.

The Board may also appoint from the staff an assistant secretary and an assistant treasurer, who shall, in addition to other duties, discharge such functions of the secretary and treasurer, respectively, as may be directed by the Board.

B. The Board may, at its discretion and from time to time, also form a Maritime Advisory Council, consisting of representatives from the maritime industry, to provide advice and counsel to the Board of Commissioners on all matters associated with the Authority with the exception of the annual budget and personnel matters.

## CHAPTER 819

*An Act to amend the Code of Virginia by adding a section numbered 2.2-4513.1, relating to the Investment of Public Funds Act; investment of funds in qualified investment pools.*

[S 1416]

Approved April 5, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding a section numbered 2.2-4513.1 as follows:**

**§ 2.2-4513.1. Investment of funds in qualified investment pools.**

A. *Notwithstanding the provisions of Article 1 (§ 15.2-1300 et seq.) of Chapter 13 of Title 15.2, in any locality in which the authority to invest moneys belonging to or within the control of the locality has been granted to its elected treasurer, the treasurer may act on behalf of his locality to become a participating political subdivision in qualified investment pools without an ordinance adopted by the locality approving a joint exercise of power agreement. For purposes of this section, "qualified investment pool" means a jointly administered investment pool organized as a trust fund pursuant to Article 1 of Chapter 13 of Title 15.2 that has a professional investment manager.*

B. *Investments in qualified investment pools described in this section shall comply with the requirements of this chapter applicable to municipal corporations and other political subdivisions.*

*C. The provisions of this section shall not apply to local trusts established pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title 15.2 to fund postemployment benefits other than pensions.*

**2. That nothing in this act shall be construed to diminish existing legal authority of the treasurers of political subdivisions related to the investment of public funds.**

## CHAPTER 820

*An Act to amend and reenact § 56-585.1 of the Code of Virginia, relating to electric utility regulation; pumped hydroelectricity generation and storage facilities.*

[S 1418]

Approved April 5, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 56-585.1 of the Code of Virginia is amended and reenacted as follows:**

**§ 56-585.1. Generation, distribution, and transmission rates after capped rates terminate or expire.**

A. During the first six months of 2009, the Commission shall, after notice and opportunity for hearing, initiate proceedings to review the rates, terms and conditions for the provision of generation, distribution and transmission services of each investor-owned incumbent electric utility. Such proceedings shall be governed by the provisions of Chapter 10 (§ 56-232 et seq.), except as modified herein. In such proceedings the Commission shall determine fair rates of return on common equity applicable to the generation and distribution services of the utility. In so doing, the Commission may use any methodology to determine such return it finds consistent with the public interest, but such return shall not be set lower than the average of the returns on common equity reported to the Securities and Exchange Commission for the three most recent annual periods for which such data are available by not less than a majority, selected by the Commission as specified in subdivision 2 b, of other investor-owned electric utilities in the peer group of the utility, nor shall the Commission set such return more than 300 basis points higher than such average. The peer group of the utility shall be determined in the manner prescribed in subdivision 2 b. The Commission may increase or decrease such combined rate of return by up to 100 basis points based on the generating plant performance, customer service, and operating efficiency of a utility, as compared to nationally recognized standards determined by the Commission to be appropriate for such purposes. In such a proceeding, the Commission shall determine the rates that the utility may charge until such rates are adjusted. If the Commission finds that the utility's combined rate of return on common equity is more than 50 basis points below the combined rate of return as so determined, it shall be authorized to order increases to the utility's rates necessary to provide the opportunity to fully recover the costs of providing the utility's services and to earn not less than such combined rate of return. If the Commission finds that the utility's combined rate of return on common equity is more than 50 basis points above the combined rate of return as so determined, it shall be authorized either (i) to order reductions to the utility's rates it finds appropriate, provided that the Commission may not order such rate reduction unless it finds that the resulting rates will provide the utility with the opportunity to fully recover its costs of providing its services and to earn not less than the fair rates of return on common equity applicable to the generation and distribution services; or (ii) to direct that 60 percent of the amount of the utility's earnings that were more than 50 basis points above the fair combined rate of return for calendar year 2008 be credited to customers' bills, in which event such credits shall be amortized over a period of six to 12 months, as determined at the discretion of the Commission, following the effective date of the Commission's order and be allocated among customer classes such that the relationship between the specific customer class rates of return to the overall target rate of return will have the same relationship as the last approved allocation of revenues used to design base rates. Commencing in 2011, the Commission, after notice and opportunity for hearing, shall conduct biennial reviews of the rates, terms and conditions for the provision of generation, distribution and transmission services by each investor-owned incumbent electric utility, subject to the following provisions:

1. Rates, terms and conditions for each service shall be reviewed separately on an unbundled basis, and such reviews shall be conducted in a single, combined proceeding. The first such review shall utilize the two successive 12-month test periods ending December 31, 2010. However, the Commission may, in its discretion, elect to stagger its biennial reviews of utilities by utilizing the two successive 12-month test periods ending December 31, 2010, for a Phase I Utility, and utilizing the two successive 12-month test periods ending December 31, 2011, for a Phase II Utility, with subsequent proceedings utilizing the two successive 12-month test periods ending December 31 immediately preceding the year in which such proceeding is conducted. For purposes of this section, a Phase I Utility is an investor-owned incumbent electric utility that was, as of July 1, 1999, not bound by a rate case settlement adopted by the Commission that extended in its application beyond January 1, 2002, and a Phase II Utility is an investor-owned incumbent electric utility that was bound by such a settlement.

2. Subject to the provisions of subdivision 6, fair rates of return on common equity applicable separately to the generation and distribution services of such utility, and for the two such services combined, shall be determined by the Commission during each such biennial review, as follows:

a. The Commission may use any methodology to determine such return it finds consistent with the public interest, but such return shall not be set lower than the average of the returns on common equity reported to the Securities and Exchange Commission for the three most recent annual periods for which such data are available by not less than a majority, selected

by the Commission as specified in subdivision 2 b, of other investor-owned electric utilities in the peer group of the utility subject to such biennial review, nor shall the Commission set such return more than 300 basis points higher than such average.

b. In selecting such majority of peer group investor-owned electric utilities, the Commission shall first remove from such group the two utilities within such group that have the lowest reported returns of the group, as well as the two utilities within such group that have the highest reported returns of the group, and the Commission shall then select a majority of the utilities remaining in such peer group. In its final order regarding such biennial review, the Commission shall identify the utilities in such peer group it selected for the calculation of such limitation. For purposes of this subdivision, an investor-owned electric utility shall be deemed part of such peer group if (i) its principal operations are conducted in the southeastern United States east of the Mississippi River in either the states of West Virginia or Kentucky or in those states south of Virginia, excluding the state of Tennessee, (ii) it is a vertically-integrated electric utility providing generation, transmission and distribution services whose facilities and operations are subject to state public utility regulation in the state where its principal operations are conducted, (iii) it had a long-term bond rating assigned by Moody's Investors Service of at least Baa at the end of the most recent test period subject to such biennial review, and (iv) it is not an affiliate of the utility subject to such biennial review.

c. The Commission may, consistent with its precedent for incumbent electric utilities prior to the enactment of Chapters 888 and 933 of the Acts of Assembly of 2007, increase or decrease the utility's combined rate of return based on the Commission's consideration of the utility's performance.

d. In any Current Proceeding, the Commission shall determine whether the Current Return has increased, on a percentage basis, above the Initial Return by more than the increase, expressed as a percentage, in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics of the United States Department of Labor, since the date on which the Commission determined the Initial Return. If so, the Commission may conduct an additional analysis of whether it is in the public interest to utilize such Current Return for the Current Proceeding then pending. A finding of whether the Current Return justifies such additional analysis shall be made without regard to any enhanced rate of return on common equity awarded pursuant to the provisions of subdivision 6. Such additional analysis shall include, but not be limited to, a consideration of overall economic conditions, the level of interest rates and cost of capital with respect to business and industry, in general, as well as electric utilities, the current level of inflation and the utility's cost of goods and services, the effect on the utility's ability to provide adequate service and to attract capital if less than the Current Return were utilized for the Current Proceeding then pending, and such other factors as the Commission may deem relevant. If, as a result of such analysis, the Commission finds that use of the Current Return for the Current Proceeding then pending would not be in the public interest, then the lower limit imposed by subdivision 2 a on the return to be determined by the Commission for such utility shall be calculated, for that Current Proceeding only, by increasing the Initial Return by a percentage at least equal to the increase, expressed as a percentage, in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics of the United States Department of Labor, since the date on which the Commission determined the Initial Return. For purposes of this subdivision:

"Current Proceeding" means any proceeding conducted under any provisions of this subsection that require or authorize the Commission to determine a fair combined rate of return on common equity for a utility and that will be concluded after the date on which the Commission determined the Initial Return for such utility.

"Current Return" means the minimum fair combined rate of return on common equity required for any Current Proceeding by the limitation regarding a utility's peer group specified in subdivision 2 a.

"Initial Return" means the fair combined rate of return on common equity determined for such utility by the Commission on the first occasion after July 1, 2009, under any provision of this subsection pursuant to the provisions of subdivision 2 a.

e. In addition to other considerations, in setting the return on equity within the range allowed by this section, the Commission shall strive to maintain costs of retail electric energy that are cost competitive with costs of retail electric energy provided by the other peer group investor-owned electric utilities.

f. The determination of such returns shall be made by the Commission on a stand-alone basis, and specifically without regard to any return on common equity or other matters determined with regard to facilities described in subdivision 6.

g. If the combined rate of return on common equity earned by the generation and distribution services is no more than 50 basis points above or below the return as so determined or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, such return is no more than 70 basis points above or below the return as so determined, such combined return shall not be considered either excessive or insufficient, respectively. However, for any test period commencing after December 31, 2012, for a Phase II Utility, and after December 31, 2013, for a Phase I Utility, if the utility has, during the test period or periods under review, earned below the return as so determined, whether or not such combined return is within 70 basis points of the return as so determined, the utility may petition the Commission for approval of an increase in rates in accordance with the provisions of subdivision 8 a as if it had earned more than 70 basis points below a fair combined rate of return, and such proceeding shall otherwise be conducted in accordance with the provisions of this section.

h. Any amount of a utility's earnings directed by the Commission to be credited to customers' bills pursuant to this section shall not be considered for the purpose of determining the utility's earnings in any subsequent biennial review.

3. Each such utility shall make a biennial filing by March 31 of every other year, beginning in 2011, consisting of the schedules contained in the Commission's rules governing utility rate increase applications; however, if the Commission elects to stagger the dates of the biennial reviews of utilities as provided in subdivision 1, then each Phase I Utility shall commence biennial filings in 2011 and each Phase II Utility shall commence biennial filings in 2012. Such filing shall encompass the two successive 12-month test periods ending December 31 immediately preceding the year in which such proceeding is conducted, and in every such case the filing for each year shall be identified separately and shall be segregated from any other year encompassed by the filing. If the Commission determines that rates should be revised or credits be applied to customers' bills pursuant to subdivision 8 or 9, any rate adjustment clauses previously implemented pursuant to subdivision 5 or those related to facilities utilizing simple-cycle combustion turbines described in subdivision 6, shall be combined with the utility's costs, revenues and investments until the amounts that are the subject of such rate adjustment clauses are fully recovered. The Commission shall combine such clauses with the utility's costs, revenues and investments only after it makes its initial determination with regard to necessary rate revisions or credits to customers' bills, and the amounts thereof, but after such clauses are combined as herein specified, they shall thereafter be considered part of the utility's costs, revenues, and investments for the purposes of future biennial review proceedings. A Phase I Utility shall delay for one year the filing of its biennial review from March 31, 2013, to March 31, 2014, and shall not defer on its books for future recovery any costs incurred during calendar year 2011, other than as provided in subdivision 7 or § 56-249.6, and its subsequent biennial filing shall be made by March 31, 2016, and every two years thereafter.

4. The following costs incurred by the utility shall be deemed reasonable and prudent: (i) costs for transmission services provided to the utility by the regional transmission entity of which the utility is a member, as determined under applicable rates, terms and conditions approved by the Federal Energy Regulatory Commission, and (ii) costs charged to the utility that are associated with demand response programs approved by the Federal Energy Regulatory Commission and administered by the regional transmission entity of which the utility is a member. Upon petition of a utility at any time after the expiration or termination of capped rates, but not more than once in any 12-month period, the Commission shall approve a rate adjustment clause under which such costs, including, without limitation, costs for transmission service, charges for new and existing transmission facilities, administrative charges, and ancillary service charges designed to recover transmission costs, shall be recovered on a timely and current basis from customers. Retail rates to recover these costs shall be designed using the appropriate billing determinants in the retail rate schedules.

5. A utility may at any time, after the expiration or termination of capped rates, but not more than once in any 12-month period, petition the Commission for approval of one or more rate adjustment clauses for the timely and current recovery from customers of the following costs:

a. Incremental costs described in clause (vi) of subsection B of § 56-582 incurred between July 1, 2004, and the expiration or termination of capped rates, if such utility is, as of July 1, 2007, deferring such costs consistent with an order of the Commission entered under clause (vi) of subsection B of § 56-582. The Commission shall approve such a petition allowing the recovery of such costs that comply with the requirements of clause (vi) of subsection B of § 56-582;

b. Projected and actual costs for the utility to design and operate fair and effective peak-shaving programs. The Commission shall approve such a petition if it finds that the program is in the public interest; provided that the Commission shall allow the recovery of such costs as it finds are reasonable;

c. Projected and actual costs for the utility to design, implement, and operate energy efficiency programs, including a margin to be recovered on operating expenses, which margin for the purposes of this section shall be equal to the general rate of return on common equity determined as described in subdivision 2. The Commission shall only approve such a petition if it finds that the program is in the public interest. As part of such cost recovery, the Commission, if requested by the utility, shall allow for the recovery of revenue reductions related to energy efficiency programs. The Commission shall only allow such recovery to the extent that the Commission determines such revenue has not been recovered through margins from incremental off-system sales as defined in § 56-249.6 that are directly attributable to energy efficiency programs.

None of the costs of new energy efficiency programs of an electric utility, including recovery of revenue reductions, shall be assigned to any customer that has a verifiable history of having used more than 10 megawatts of demand from a single meter of delivery. Nor shall any of the costs of new energy efficiency programs of an electric utility, including recovery of revenue reductions, be incurred by any large general service customer as defined herein that has notified the utility of non-participation in such energy efficiency program or programs. A large general service customer is a customer that has a verifiable history of having used more than 500 kilowatts of demand from a single meter of delivery. Non-participation in energy efficiency programs shall be allowed by the Commission if the large general service customer has, at the customer's own expense, implemented energy efficiency programs that have produced or will produce measured and verified results consistent with industry standards and other regulatory criteria stated in this section. The Commission shall, no later than November 15, 2009, promulgate rules and regulations to accommodate the process under which such large general service customers shall file notice for such an exemption and (i) establish the administrative procedures by which eligible customers will notify the utility and (ii) define the standard criteria that must be satisfied by an applicant in order to notify the utility. In promulgating such rules and regulations, the Commission may also specify the timing as to when a utility shall accept and act on such notice, taking into consideration the utility's integrated resource planning process as well as its administration of energy efficiency programs that are approved for cost recovery by the Commission. The notice of non-participation by a large general service customer, to be given by March 1 of a given year, shall be for the

duration of the service life of the customer's energy efficiency program. The Commission on its own motion may initiate steps necessary to verify such non-participants' achievement of energy efficiency if the Commission has a body of evidence that the non-participant has knowingly misrepresented its energy efficiency achievement. A utility shall not charge such large general service customer, as defined by the Commission, for the costs of installing energy efficiency equipment beyond what is required to provide electric service and meter such service on the customer's premises if the customer provides, at the customer's expense, equivalent energy efficiency equipment. In all relevant proceedings pursuant to this section, the Commission shall take into consideration the goals of economic development, energy efficiency and environmental protection in the Commonwealth;

d. Projected and actual costs of participation in a renewable energy portfolio standard program pursuant to § 56-585.2 that are not recoverable under subdivision 6. The Commission shall approve such a petition allowing the recovery of such costs as are provided for in a program approved pursuant to § 56-585.2;

e. Projected and actual costs of projects that the Commission finds to be necessary to comply with state or federal environmental laws or regulations applicable to generation facilities used to serve the utility's native load obligations. The Commission shall approve such a petition if it finds that such costs are necessary to comply with such environmental laws or regulations; and

f. Projected and actual costs, not currently in rates, for the utility to design, implement, and operate programs approved by the Commission that accelerate the vegetation management of distribution rights-of-way. No costs shall be allocated to or recovered from customers that are served within the large general service rate classes for a Phase II Utility or that are served at subtransmission or transmission voltage, or take delivery at a substation served from subtransmission or transmission voltage, for a Phase I Utility.

The Commission shall have the authority to determine the duration or amortization period for any adjustment clause approved under this subdivision.

6. To ensure the generation and delivery of a reliable and adequate supply of electricity, to meet the utility's projected native load obligations and to promote economic development, a utility may at any time, after the expiration or termination of capped rates, petition the Commission for approval of a rate adjustment clause for recovery on a timely and current basis from customers of the costs of (i) a coal-fueled generation facility that utilizes Virginia coal and is located in the coalfield region of the Commonwealth, as described in § 15.2-6002, regardless of whether such facility is located within or without the utility's service territory, (ii) one or more other generation facilities, (iii) one or more major unit modifications of generation facilities, ~~or~~ (iv) one or more new underground facilities to replace one or more existing overhead distribution facilities of 69 kilovolts or less located within the Commonwealth, *or (v) one or more pumped hydroelectricity generation and storage facilities that utilize on-site or off-site renewable energy resources as all or a portion of their power source and such facilities and associated resources are located in the coalfield region of the Commonwealth as described in § 15.2-6002, regardless of whether such facility is located within or without the utility's service territory;* however, subject to the provisions of the following sentence, the utility shall not file a petition under clause (iv) more often than annually and, in such petition, shall not seek any annual incremental increase in the level of investments associated with such a petition that exceeds five percent of such utility's distribution rate base, as such rate base was determined for the most recently ended 12-month test period in the utility's latest biennial review proceeding conducted pursuant to subdivision 3 and concluded by final order of the Commission prior to the date of filing of such petition under clause (iv). In all proceedings regarding petitions filed under clause (iv), the level of investments approved for recovery in such proceedings shall be in addition to, and not in lieu of, levels of investments previously approved for recovery in prior proceedings under clause (iv). Such a petition concerning facilities described in clause (ii) that utilize nuclear power, facilities described in clause (ii) that are coal-fueled and will be built by a Phase I Utility, or facilities described in clause (i) may also be filed before the expiration or termination of capped rates. A utility that constructs any such facility, or purchases any facility consisting of at least one megawatt of generating capacity using energy derived from sunlight and located in the Commonwealth and that utilizes goods or services sourced, in whole or in part, from one or more Virginia businesses, shall have the right to recover the costs of the facility, as accrued against income, through its rates, including projected construction work in progress, and any associated allowance for funds used during construction, planning, development and construction or acquisition costs, life-cycle costs, costs related to assessing the feasibility of potential sites for new underground facilities, and costs of infrastructure associated therewith, plus, as an incentive to undertake such projects, an enhanced rate of return on common equity calculated as specified below; however, in determining the amounts recoverable under a rate adjustment clause for new underground facilities, the Commission shall not consider, or increase or reduce such amounts recoverable because of (a) the operation and maintenance costs attributable to either the overhead distribution facilities being replaced or the new underground facilities or (b) any other costs attributable to the overhead distribution facilities being replaced. Notwithstanding the preceding sentence, the costs described in clauses (a) and (b) thereof shall remain eligible for recovery from customers through the utility's base rates for distribution service. A utility filing a petition for approval to construct or purchase a facility consisting of at least one megawatt of generating capacity using energy derived from sunlight and located in the Commonwealth and that utilizes goods or services sourced, in whole or in part, from one or more Virginia businesses may propose a rate adjustment clause based on a market index in lieu of a cost of service model for such facility. A utility seeking approval to construct or purchase a generating facility *described in clause (i) or (ii)* shall demonstrate that it has considered and weighed alternative options, including third-party market alternatives, in its selection process. The costs of the facility, other than return on projected construction work in progress and allowance for funds used during

construction, shall not be recovered prior to the date a facility constructed by the utility and described in clause (i), (ii), or (iii) begins commercial operation, the date the utility becomes the owner of a purchased generation facility consisting of at least one megawatt of generating capacity using energy derived from sunlight and located in the Commonwealth and that utilizes goods or services sourced, in whole or in part, from one or more Virginia businesses, or the date new underground facilities are classified by the utility as plant in service. Such enhanced rate of return on common equity shall be applied to allowance for funds used during construction and to construction work in progress during the construction phase of the facility and shall thereafter be applied to the entire facility during the first portion of the service life of the facility. The first portion of the service life shall be as specified in the table below; however, the Commission shall determine the duration of the first portion of the service life of any facility, within the range specified in the table below, which determination shall be consistent with the public interest and shall reflect the Commission's determinations regarding how critical the facility may be in meeting the energy needs of the citizens of the Commonwealth and the risks involved in the development of the facility. After the first portion of the service life of the facility is concluded, the utility's general rate of return shall be applied to such facility for the remainder of its service life. As used herein, the service life of the facility shall be deemed to begin on the date a facility constructed by the utility and described in clause (i), (ii), or (iii) begins commercial operation, the date the utility becomes the owner of a purchased generation facility consisting of at least one megawatt of generating capacity using energy derived from sunlight and located in the Commonwealth and that utilizes goods or services sourced, in whole or in part, from one or more Virginia businesses, or the date new underground facilities are classified by the utility as plant in service, and such service life shall be deemed equal in years to the life of that facility as used to calculate the utility's depreciation expense. Such enhanced rate of return on common equity shall be calculated by adding the basis points specified in the table below to the utility's general rate of return, and such enhanced rate of return shall apply only to the facility that is the subject of such rate adjustment clause. Allowance for funds used during construction shall be calculated for any such facility utilizing the utility's actual capital structure and overall cost of capital, including an enhanced rate of return on common equity as determined pursuant to this subdivision, until such construction work in progress is included in rates. The construction of any facility described in clause (i) or (v) is in the public interest, and in determining whether to approve such facility, the Commission shall liberally construe the provisions of this title. The construction or purchase by a utility of one or more generation facilities with at least one megawatt of generating capacity, and with an aggregate rated capacity that does not exceed 500 megawatts, that use energy derived from sunlight and are located in the Commonwealth, regardless of whether any of such facilities are located within or without the utility's service territory, is in the public interest, and in determining whether to approve such facility, the Commission shall liberally construe the provisions of this title. A utility may enter into short-term or long-term power purchase contracts for the power derived from sunlight generated by such generation facility prior to purchasing the generation facility. In determining whether to approve petitions for rate adjustment clauses for new underground facilities, and in determining the level of costs to be recovered thereunder, the Commission shall liberally construe the provisions of this title and shall give due consideration to the public policy goals of increased electric service reliability and reduced outage times associated with the replacement of existing overhead distribution facilities with new underground facilities. The basis points to be added to the utility's general rate of return to calculate the enhanced rate of return on common equity, and the first portion of that facility's service life to which such enhanced rate of return shall be applied, shall vary by type of facility, as specified in the following table:

Type of Generation Facility	Basis Points	First Portion of Service Life
Nuclear-powered	200	Between 12 and 25 years
Carbon capture compatible, clean-coal powered	200	Between 10 and 20 years
Renewable powered, other than landfill gas powered	200	Between 5 and 15 years
Coalbed methane gas powered	150	Between 5 and 15 years
Landfill gas powered	200	Between 5 and 15 years
Conventional coal or combined-cycle combustion turbine	100	Between 10 and 20 years

For generating facilities other than those utilizing nuclear power or those utilizing energy derived from offshore wind, as of July 1, 2013, only those facilities as to which a rate adjustment clause under this subdivision has been previously approved by the Commission, or as to which a petition for approval of such rate adjustment clause was filed with the Commission, on or before January 1, 2013, shall be entitled to the enhanced rate of return on common equity as specified in the above table during the construction phase of the facility and the approved first portion of its service life.

For generating facilities within the Commonwealth utilizing nuclear power or those utilizing energy derived from offshore wind projects located in waters off the Commonwealth's Atlantic shoreline, such facilities shall continue to be eligible for an enhanced rate of return on common equity during the construction phase of the facility and the approved first portion of its service life of between 12 and 25 years in the case of a facility utilizing nuclear power and for a service life of between 5 and 15 years in the case of a facility utilizing energy derived from offshore wind, provided, however, that, as of July 1, 2013, the enhanced return for such facilities shall be 100 basis points, which shall be added to the utility's general rate of return as determined under subdivision 2. Thirty percent of all costs of such a facility utilizing nuclear power that the utility incurred between July 1, 2007, and December 31, 2013, and all of such costs incurred after December 31, 2013, may

be deferred by the utility and recovered through a rate adjustment clause under this subdivision at such time as the Commission provides in an order approving such a rate adjustment clause. The remaining 70 percent of all costs of such a facility that the utility incurred between July 1, 2007, and December 31, 2013, shall not be deferred for recovery through a rate adjustment clause under this subdivision; however, such remaining 70 percent of all costs shall be recovered ratably through existing base rates as determined by the Commission in the test periods under review in the utility's next biennial review filed after July 1, 2014. Thirty percent of all costs of such a facility utilizing energy derived from offshore wind that the utility incurred between July 1, 2007, and December 31, 2013, and all of such costs incurred after December 31, 2013, may be deferred by the utility and recovered through a rate adjustment clause under this subdivision at such time as the Commission provides in an order approving such a rate adjustment clause. The remaining 70 percent of all costs of such a facility that the utility incurred between July 1, 2007, and December 31, 2013, shall not be deferred for recovery through a rate adjustment clause under this subdivision; however, such remaining 70 percent of all costs shall be recovered ratably through existing base rates as determined by the Commission in the test periods under review in the utility's next biennial review filed after July 1, 2014.

In connection with planning to meet forecasted demand for electric generation supply and assure the adequate and sufficient reliability of service, consistent with § 56-598, planning and development activities for a new nuclear generation facility or facilities are in the public interest.

In connection with planning to meet forecasted demand for electric generation supply and assure the adequate and sufficient reliability of service, consistent with § 56-598, planning and development activities for a new utility-owned and utility-operated generating facility or facilities utilizing energy derived from sunlight with an aggregate capacity of 500 megawatts, or from offshore wind, are in the public interest.

Neither generation facilities described in clause (ii) that utilize simple-cycle combustion turbines nor new underground facilities shall receive an enhanced rate of return on common equity as described herein, but instead shall receive the utility's general rate of return during the construction phase of the facility and, thereafter, for the entire service life of the facility. No rate adjustment clause for new underground facilities shall allocate costs to, or provide for the recovery of costs from, customers that are served within the large power service rate class for a Phase I Utility and the large general service rate classes for a Phase II Utility. New underground facilities are hereby declared to be ordinary extensions or improvements in the usual course of business under the provisions of § 56-265.2.

As used in this subdivision, a generation facility is (1) "coalbed methane gas powered" if the facility is fired at least 50 percent by coalbed methane gas, as such term is defined in § 45.1-361.1, produced from wells located in the Commonwealth, and (2) "landfill gas powered" if the facility is fired by methane or other combustible gas produced by the anaerobic digestion or decomposition of biodegradable materials in a solid waste management facility licensed by the Waste Management Board. A landfill gas powered facility includes, in addition to the generation facility itself, the equipment used in collecting, drying, treating, and compressing the landfill gas and in transmitting the landfill gas from the solid waste management facility where it is collected to the generation facility where it is combusted.

For purposes of this subdivision, "general rate of return" means the fair combined rate of return on common equity as it is determined by the Commission from time to time for such utility pursuant to subdivision 2. In any proceeding under this subdivision conducted prior to the conclusion of the first biennial review for such utility, the Commission shall determine a general rate of return for such utility in the same manner as it would in a biennial review proceeding.

Notwithstanding any other provision of this subdivision, if the Commission finds during the biennial review conducted for a Phase II Utility in 2018 that such utility has not filed applications for all necessary federal and state regulatory approvals to construct one or more nuclear-powered or coal-fueled generation facilities that would add a total capacity of at least 1500 megawatts to the amount of the utility's generating resources as such resources existed on July 1, 2007, or that, if all such approvals have been received, that the utility has not made reasonable and good faith efforts to construct one or more such facilities that will provide such additional total capacity within a reasonable time after obtaining such approvals, then the Commission, if it finds it in the public interest, may reduce on a prospective basis any enhanced rate of return on common equity previously applied to any such facility to no less than the general rate of return for such utility and may apply no less than the utility's general rate of return to any such facility for which the utility seeks approval in the future under this subdivision.

7. Any petition filed pursuant to subdivision 4, 5, or 6 shall be considered by the Commission on a stand-alone basis without regard to the other costs, revenues, investments, or earnings of the utility. Any costs incurred by a utility prior to the filing of such petition, or during the consideration thereof by the Commission, that are proposed for recovery in such petition and that are related to subdivision 5 a, or that are related to facilities and projects described in clause (i) of subdivision 6, or that are related to new underground facilities described in clause (iv) of subdivision 6, shall be deferred on the books and records of the utility until the Commission's final order in the matter, or until the implementation of any applicable approved rate adjustment clauses, whichever is later. Except as otherwise provided in subdivision 6, any costs prudently incurred on or after July 1, 2007, by a utility prior to the filing of such petition, or during the consideration thereof by the Commission, that are proposed for recovery in such petition and that are related to facilities and projects described in clause (ii) of subdivision 6 that utilize nuclear power, or coal-fueled facilities and projects described in clause (ii) of subdivision 6 if such coal-fueled facilities will be built by a Phase I Utility, shall be deferred on the books and records of the utility until the Commission's final order in the matter, or until the implementation of any applicable approved rate adjustment clauses, whichever is later. Any costs prudently incurred after the expiration or termination of capped rates

related to other matters described in subdivision 4, 5, or 6 shall be deferred beginning only upon the expiration or termination of capped rates, provided, however, that no provision of this act shall affect the rights of any parties with respect to the rulings of the Federal Energy Regulatory Commission in PJM Interconnection LLC and Virginia Electric and Power Company, 109 F.E.R.C. P 61, 012 (2004). A utility shall establish a regulatory asset for regulatory accounting and ratemaking purposes under which it shall defer its operation and maintenance costs incurred in connection with (i) the refueling of any nuclear-powered generating plant and (ii) other work at such plant normally performed during a refueling outage. The utility shall amortize such deferred costs over the refueling cycle, but in no case more than 18 months, beginning with the month in which such plant resumes operation after such refueling. The refueling cycle shall be the applicable period of time between planned refueling outages for such plant. As of January 1, 2014, such amortized costs are a component of base rates, recoverable in base rates only ratably over the refueling cycle rather than when such outages occur, and are the only nuclear refueling costs recoverable in base rates. This provision shall apply to any nuclear-powered generating plant refueling outage commencing after December 31, 2013, and the Commission shall treat the deferred and amortized costs of such regulatory asset as part of the utility's costs for the purpose of proceedings conducted (a) with respect to biennial filings under subdivision 3 made on and after July 1, 2014, and (b) pursuant to § 56-245 or the Commission's rules governing utility rate increase applications as provided in subsection B. This provision shall not be deemed to change or reset base rates.

The Commission's final order regarding any petition filed pursuant to subdivision 4, 5, or 6 shall be entered not more than three months, eight months, and nine months, respectively, after the date of filing of such petition. If such petition is approved, the order shall direct that the applicable rate adjustment clause be applied to customers' bills not more than 60 days after the date of the order, or upon the expiration or termination of capped rates, whichever is later.

8. In any biennial review proceeding, the following utility generation and distribution costs not proposed for recovery under any other subdivision of this subsection, as recorded per books by the utility for financial reporting purposes and accrued against income, shall be attributed to the test periods under review: costs associated with asset impairments related to early retirement determinations made by the utility prior to December 31, 2012, for utility generation plant; costs associated with severe weather events; and costs associated with natural disasters. Such costs shall be deemed to have been recovered from customers through rates for generation and distribution services in effect during the test periods under review unless such costs, individually or in the aggregate, together with the utility's other costs, revenues, and investments to be recovered through rates for generation and distribution services, result in the utility's earned return on its generation and distribution services for the combined test periods under review to fall more than 50 basis points below the fair combined rate of return authorized under subdivision 2 for such periods or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, to fall more than 70 basis points below the fair combined rate of return authorized under subdivision 2 for such periods. In such cases, the Commission shall, in such biennial review proceeding, authorize deferred recovery of such costs and allow the utility to amortize and recover such deferred costs over future periods as determined by the Commission. The aggregate amount of such deferred costs shall not exceed an amount that would, together with the utility's other costs, revenues, and investments to be recovered through rates for generation and distribution services, cause the utility's earned return on its generation and distribution services to exceed the fair rate of return authorized under subdivision 2, less 50 basis points, for the combined test periods under review or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, to exceed the fair rate of return authorized under subdivision 2 less 70 basis points. Nothing in this section shall limit the Commission's authority, pursuant to the provisions of Chapter 10 (§ 56-232 et seq.), including specifically § 56-235.2, following the review of combined test period earnings of the utility in a biennial review, for normalization of nonrecurring test period costs and annualized adjustments for future costs, in determining any appropriate increase or decrease in the utility's rates for generation and distribution services pursuant to subdivision 8 a or 8 c.

If the Commission determines as a result of such biennial review that:

a. The utility has, during the test period or periods under review, considered as a whole, earned more than 50 basis points below a fair combined rate of return on its generation and distribution services or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, more than 70 basis points below a fair combined rate of return on its generation and distribution services, as determined in subdivision 2, without regard to any return on common equity or other matters determined with respect to facilities described in subdivision 6, the Commission shall order increases to the utility's rates necessary to provide the opportunity to fully recover the costs of providing the utility's services and to earn not less than such fair combined rate of return, using the most recently ended 12-month test period as the basis for determining the amount of the rate increase necessary. However, the Commission may not order such rate increase unless it finds that the resulting rates are necessary to provide the utility with the opportunity to fully recover its costs of providing its services and to earn not less than a fair combined rate of return on both its generation and distribution services, as determined in subdivision 2, without regard to any return on common equity or other matters determined with respect to facilities described in subdivision 6, using the most recently ended 12-month test period as the basis for determining the permissibility of any rate increase under the standards of this sentence, and the amount thereof;

b. The utility has, during the test period or test periods under review, considered as a whole, earned more than 50 basis points above a fair combined rate of return on its generation and distribution services or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, more than 70 basis points above a fair combined rate of return on its generation and distribution services, as determined in subdivision 2, without

regard to any return on common equity or other matters determined with respect to facilities described in subdivision 6, the Commission shall, subject to the provisions of subdivision 9, direct that 60 percent of the amount of such earnings that were more than 50 basis points, or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, that 70 percent of the amount of such earnings that were more than 70 basis points, above such fair combined rate of return for the test period or periods under review, considered as a whole, shall be credited to customers' bills. Any such credits shall be amortized over a period of six to 12 months, as determined at the discretion of the Commission, following the effective date of the Commission's order, and shall be allocated among customer classes such that the relationship between the specific customer class rates of return to the overall target rate of return will have the same relationship as the last approved allocation of revenues used to design base rates; or

c. Such biennial review is the second consecutive biennial review in which the utility has, during the test period or test periods under review, considered as a whole, earned more than 50 basis points above a fair combined rate of return on its generation and distribution services or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, more than 70 basis points above a fair combined rate of return on its generation and distribution services, as determined in subdivision 2, without regard to any return on common equity or other matter determined with respect to facilities described in subdivision 6, the Commission shall, subject to the provisions of subdivision 9 and in addition to the actions authorized in subdivision b, also order reductions to the utility's rates it finds appropriate. However, the Commission may not order such rate reduction unless it finds that the resulting rates will provide the utility with the opportunity to fully recover its costs of providing its services and to earn not less than a fair combined rate of return on its generation and distribution services, as determined in subdivision 2, without regard to any return on common equity or other matters determined with respect to facilities described in subdivision 6, using the most recently ended 12-month test period as the basis for determining the permissibility of any rate reduction under the standards of this sentence, and the amount thereof.

The Commission's final order regarding such biennial review shall be entered not more than eight months after the date of filing, and any revisions in rates or credits so ordered shall take effect not more than 60 days after the date of the order. The fair combined rate of return on common equity determined pursuant to subdivision 2 in such biennial review shall apply, for purposes of reviewing the utility's earnings on its rates for generation and distribution services, to the entire two successive 12-month test periods ending December 31 immediately preceding the year of the utility's subsequent biennial review filing under subdivision 3.

9. If, as a result of a biennial review required under this subsection and conducted with respect to any test period or periods under review ending later than December 31, 2010 (or, if the Commission has elected to stagger its biennial reviews of utilities as provided in subdivision 1, under review ending later than December 31, 2010, for a Phase I Utility, or December 31, 2011, for a Phase II Utility), the Commission finds, with respect to such test period or periods considered as a whole, that (i) any utility has, during the test period or periods under review, considered as a whole, earned more than 50 basis points above a fair combined rate of return on its generation and distribution services or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, more than 70 basis points above a fair combined rate of return on its generation and distribution services, as determined in subdivision 2, without regard to any return on common equity or other matters determined with respect to facilities described in subdivision 6, and (ii) the total aggregate regulated rates of such utility at the end of the most recently-ended 12-month test period exceeded the annual increases in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics of the United States Department of Labor, compounded annually, when compared to the total aggregate regulated rates of such utility as determined pursuant to the biennial review conducted for the base period, the Commission shall, unless it finds that such action is not in the public interest or that the provisions of subdivisions 8 b and c are more consistent with the public interest, direct that any or all earnings for such test period or periods under review, considered as a whole that were more than 50 basis points, or, for any test period commencing after December 31, 2012, for a Phase II Utility and after December 31, 2013, for a Phase I Utility, more than 70 basis points, above such fair combined rate of return shall be credited to customers' bills, in lieu of the provisions of subdivisions 8 b and c. Any such credits shall be amortized and allocated among customer classes in the manner provided by subdivision 8 b. For purposes of this subdivision:

"Base period" means (i) the test period ending December 31, 2010 (or, if the Commission has elected to stagger its biennial reviews of utilities as provided in subdivision 1, the test period ending December 31, 2010, for a Phase I Utility, or December 31, 2011, for a Phase II Utility), or (ii) the most recent test period with respect to which credits have been applied to customers' bills under the provisions of this subdivision, whichever is later.

"Total aggregate regulated rates" shall include: (i) fuel tariffs approved pursuant to § 56-249.6, except for any increases in fuel tariffs deferred by the Commission for recovery in periods after December 31, 2010, pursuant to the provisions of clause (ii) of subsection C of § 56-249.6; (ii) rate adjustment clauses implemented pursuant to subdivision 4 or 5; (iii) revisions to the utility's rates pursuant to subdivision 8 a; (iv) revisions to the utility's rates pursuant to the Commission's rules governing utility rate increase applications, as permitted by subsection B, occurring after July 1, 2009; and (v) base rates in effect as of July 1, 2009.

10. For purposes of this section, the Commission shall regulate the rates, terms and conditions of any utility subject to this section on a stand-alone basis utilizing the actual end-of-test period capital structure and cost of capital of such utility, unless the Commission finds that the debt to equity ratio of such capital structure is unreasonable for such utility, in which

case the Commission may utilize a debt to equity ratio that it finds to be reasonable for such utility in determining any rate adjustment pursuant to subdivisions 8 a and c, and without regard to the cost of capital, capital structure, revenues, expenses or investments of any other entity with which such utility may be affiliated. In particular, and without limitation, the Commission shall determine the federal and state income tax costs for any such utility that is part of a publicly traded, consolidated group as follows: (i) such utility's apportioned state income tax costs shall be calculated according to the applicable statutory rate, as if the utility had not filed a consolidated return with its affiliates, and (ii) such utility's federal income tax costs shall be calculated according to the applicable federal income tax rate and shall exclude any consolidated tax liability or benefit adjustments originating from any taxable income or loss of its affiliates.

B. Nothing in this section shall preclude an investor-owned incumbent electric utility from applying for an increase in rates pursuant to § 56-245 or the Commission's rules governing utility rate increase applications; however, in any such filing, a fair rate of return on common equity shall be determined pursuant to subdivision A 2. Nothing in this section shall preclude such utility's recovery of fuel and purchased power costs as provided in § 56-249.6.

C. Except as otherwise provided in this section, the Commission shall exercise authority over the rates, terms and conditions of investor-owned incumbent electric utilities for the provision of generation, transmission and distribution services to retail customers in the Commonwealth pursuant to the provisions of Chapter 10 (§ 56-232 et seq.), including specifically § 56-235.2.

D. The Commission may determine, during any proceeding authorized or required by this section, the reasonableness or prudence of any cost incurred or projected to be incurred, by a utility in connection with the subject of the proceeding. A determination of the Commission regarding the reasonableness or prudence of any such cost shall be consistent with the Commission's authority to determine the reasonableness or prudence of costs in proceedings pursuant to the provisions of Chapter 10 (§ 56-232 et seq.). In determining the reasonableness or prudence of a utility providing energy and capacity to its customers from renewable energy resources, the Commission shall consider the extent to which such renewable energy resources, whether utility-owned or by contract, further the objectives of the Commonwealth Energy Policy set forth in §§ 67-101 and 67-102, and shall also consider whether the costs of such resources is likely to result in unreasonable increases in rates paid by consumers.

E. The Commission shall promulgate such rules and regulations as may be necessary to implement the provisions of this section.

**CHAPTER 821**

*An Act to amend the Code of Virginia by adding a section numbered 46.2-373.1, relating to report of law-enforcement officer involved in an accident.*

[S 1486]

Approved April 5, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding a section numbered 46.2-373.1 as follows:**

**§ 46.2-373.1. Report of law-enforcement officer involved in accident.**

*Notwithstanding the provisions of § 46.2-208, any law-enforcement officer, as defined in § 9.1-101, who is named as a driver in a motor vehicle accident on a report submitted to the Department pursuant to § 46.2-373 shall not have the accident displayed on his driving record if he was driving a motor vehicle provided by a law-enforcement agency in the course of his employment and was operating the motor vehicle in the performance of his official duties at the time of such accident. The driving record of such law-enforcement officer involved in an accident in the course of his employment shall not contain any information of an accident submitted pursuant to § 46.2-373.*

**CHAPTER 822**

*An Act to amend the Code of Virginia by adding a section numbered 56-235.11, relating to water utilities; retail rates of affiliated entities.*

[S 1492]

Approved April 5, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding a section numbered 56-235.11 as follows:**

**§ 56-235.11. Retail rates of affiliated water utilities.**

*A. As used in this section, unless the context requires a different meaning:*

*"Affiliate" of a specific water utility or a water utility "affiliated" with a specific water utility means a water utility that directly or indirectly through one or more intermediaries controls, is controlled by, or is under common control with the water utility specified.*

*"Control," including the terms "controlling," "controlled by," and "under common control with," means direct or indirect possession of the power to direct or cause the direction of the management and policies of a water utility through*

*the ownership of an equity interest. Control shall be presumed to exist with respect to another water utility if any water utility directly or indirectly owns, controls, or holds with the power to vote 50 percent or more of the equity interest of the other water utility.*

*"Rates" includes rates, tolls, charges, or schedules.*

*"Subsidiary" of a specified water utility means an affiliate directly or indirectly controlled by that water utility through one or more intermediaries.*

*"Water utility" means an investor-owned public utility authorized to furnish water or water and sewer service within a certificated service territory in the Commonwealth except any such investor-owned public utility for which the Commission has approved, after July 1, 2009, and prior to July 1, 2017, a consolidated rate structure consisting of three or more rate groups for the same class of service and in one or more subsequent orders has approved additional consolidation of such rate groups.*

*"Water utility network" means a water utility and all other water utilities that the water utility is an affiliate of, is affiliated with, controls, is controlled by, is under common control with, or is a subsidiary of. "Water utility network" also means, with respect to a water utility that is authorized to furnish water or water and sewer service within multiple certificated service territories in the Commonwealth, all of the certificated service territories that the water utility is certificated to serve.*

*B. In any proceeding commenced on and after July 1, 2017, to establish or approve the rates of a water utility that is in a water utility network, the Commission shall ensure that the rates of each water utility in the water utility network are not unjustly discriminatory by ensuring that equal fixed and volumetric rates are charged for each customer class of each water utility that is in the water utility network.*

*C. Upon the commencement of a proceeding described in subsection B, the Commission shall make each water utility that is a member of the applicable water utility network a party to the proceeding and may review each member water utility's rates. In such proceeding:*

- 1. The Commission shall review the rates of each member of the applicable water utility network and order gradual adjustments to such water utility's rates over an appropriate period in order to implement the provisions of subsection B; and*
- 2. The Commission is authorized to aggregate the revenues and costs of the water utilities that are members of the applicable water utility network.*

**CHAPTER 823**

*An Act to amend the Code of Virginia by adding a section numbered 23.1-2911.1, relating to Northern Virginia Community College; computer science training and professional development activities for public school teachers.*

[S 1493]

Approved April 5, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding a section numbered 23.1-2911.1 as follows:**

**§ 23.1-2911.1. Northern Virginia Community College; computer science training and professional development activities for public school teachers.**

*A. Northern Virginia Community College, in consultation with the Department of Education, shall contract with a partner organization to develop, market, and implement high-quality and effective computer science training and professional development activities for public school teachers throughout the Commonwealth for the purpose of improving the computer science literacy of all public school students in the Commonwealth.*

*B. Northern Virginia Community College shall also establish an advisory committee for the purpose of advising the college and its partner organization on the development, marketing, and implementation of training and professional development activities pursuant to subsection A. The Secretary of Commerce and Trade, the Secretary of Education, and the Secretary of Technology shall each submit to the college a list of names of qualified individuals, and the college shall appoint members to such advisory committee from such lists.*

**CHAPTER 824**

*An Act to amend and reenact §§ 2.2-3705.7, 2.2-3711, and 60.2-114 of the Code of Virginia; to amend the Code of Virginia by adding sections numbered 2.2-2235.1, 2.2-2236.1, 2.2-2237.1, 2.2-2237.2, 2.2-2237.3, 2.2-2239.1, and 2.2-2239.2 and by adding in Article 1 of Chapter 31 of Title 58.1 a section numbered 58.1-3122.3; and to repeal § 2.2-2235 of the Code of Virginia, relating to the Virginia Economic Development Partnership Authority; membership; powers and duties.*

[S 1574]

Approved April 5, 2017

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-3705.7, 2.2-3711, and 60.2-114 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 2.2-2235.1, 2.2-2236.1, 2.2-2237.1, 2.2-2237.2, 2.2-2237.3, 2.2-2239.1, and 2.2-2239.2 and by adding in Article 1 of Chapter 31 of Title 58.1 a section numbered 58.1-3122.3 as follows:

§ 2.2-2235.1. **Board of directors; members and officers; Chief Executive Officer.**

A. The Authority shall be governed by a board of directors (the Board) consisting of the Secretary of Commerce and Trade, the Secretary of Finance, the Chairman of the Virginia Growth and Opportunity Board, the Executive Director of the Virginia Port Authority, and the Staff Directors of the House Committee on Appropriations and the Senate Committee on Finance, serving as ex officio, voting members, and 11 members to be appointed as follows:

1. Seven nonlegislative citizen members appointed by the Governor; and
2. Four nonlegislative citizen members appointed by the Joint Rules Committee.

B. 1. Each of the nonlegislative citizen members appointed by the Governor and the Joint Rules Committee shall possess expertise in at least one of the following areas: marketing; international commerce; finance or grant administration; state, regional, or local economic development; measuring the effectiveness of incentive programs; law; information technology; transportation; workforce development; manufacturing; biotechnology; cybersecurity; defense; energy; or any other industry identified in the comprehensive economic development policy developed pursuant to § 2.2-205.

2. Each of the nine regions defined by the Virginia Growth and Opportunity Board pursuant to subdivision A 1 of § 2.2-2486 shall be represented by at least one member of the Board. In determining such geographical representation, ex officio members of the Board may be considered to represent the region in which they serve in their official capacity.

C. After the initial staggering of terms, members shall serve terms of four years, except that ex officio members of the Board shall serve terms coincident with their terms of office. No member shall be eligible to serve more than two terms; however, after the expiration of the term of a member appointed to serve three years or less, two additional terms may be served if appointed thereto. Any appointment to fill a vacancy shall be for the unexpired term. A person appointed to fill a vacancy may be appointed to serve two additional terms. Nonlegislative citizen members of the Board shall be citizens of the Commonwealth.

D. Members of the Board shall receive such compensation for the performance of their duties as provided in § 2.2-2813. All members shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. Funding for the costs of compensation and expenses of the members shall be provided by the Authority.

E. The Board shall be deemed a supervisory board within the meaning of § 2.2-2100.

F. The Board shall elect a chairman from the nonlegislative citizen members of the Board, and the Secretary of Commerce and Trade shall serve as vice-chairman. The Board shall also elect a secretary and a treasurer, who need not be members of the Board, and may also elect other subordinate officers, who need not be members of the Board. The Chairman and the Vice-chairman, with approval by the Board, shall create an executive committee of the Board. The Board may also form advisory committees, which may include representatives who are not members of the Board, to undertake more extensive study and discussion of the issues before the Board.

G. A majority of the members shall constitute a quorum for the transaction of the Authority's business, and no vacancy in the membership shall impair the right of a quorum to exercise the rights and perform all duties of the Authority. The meetings of the Board shall be held at least quarterly or at the call of the chairman.

H. The Board shall appoint the chief executive officer of the Authority, who shall not be a member of the Board, whose title shall be President and Chief Executive Officer and may be referred to as the President or as the Chief Executive Officer and who shall serve at the pleasure of the Board and carry out such powers and duties conferred upon him by the Board.

§ 2.2-2236.1. **Internal auditor; duties.**

A. The Board shall appoint an internal auditor, who shall not be a member of the Board and who shall report directly to the Board. The internal auditor shall have the following duties:

1. Perform periodic audits, as deemed advisable by the internal auditor, on any operations, accounts, and transactions of the Authority, including the Division of Incentives, and report its findings to the Board; and
2. Develop and implement an annual work plan that identifies anticipated auditing activities for the fiscal year. Prior to implementation, the work plan shall be presented by the auditor to the Board for approval by the executive committee of the Board at the last meeting of the executive committee in the fiscal year immediately preceding the year in which the annual work plan would become effective.

B. After review by the Board, a copy of the audit reports required by subsection A shall be submitted to the special subcommittee for economic development of the Joint Legislative Audit and Review Commission.

§ 2.2-2237.1. **Board of directors to develop strategic plan for economic development; marketing plan; operational plan; submission.**

A. The Board and the Chief Executive Officer shall develop and update biennially a strategic plan for specific economic development activities for the Commonwealth as a whole. The strategic plan shall be responsive to the comprehensive economic development policy developed pursuant to § 2.2-205. The strategic plan of the Authority shall, at a minimum, include:

1. The identification of specific goals and objectives for the Authority and the development of quantifiable metrics and performance measures for attaining each such goal and objective;

2. A systematic assessment of how the Authority can best add value in carrying out each of its statutory powers and duties; and

3. Such other information deemed appropriate by the Board to ensure that the Authority fully executes its powers and duties.

B. The Authority shall report annually on its strategic plan, any modifications to the strategic plan, and its progress toward meeting the goals and objectives as stated in the strategic plan to the special subcommittee on economic development of the Joint Legislative Audit and Review Commission and the Chairmen of the House Committee on Appropriations and the Senate Committee on Finance.

C. The Board shall include in its strategic planning process the participation of key economic development partners, including state, regional, and local economic development agencies and organizations and international trade organizations.

D. In addition, the Board and the Chief Executive Officer shall develop and update biennially:

1. A marketing plan for the Commonwealth as a whole. The marketing plan of the Authority shall, at a minimum, include:

a. Identification of the Authority's specific and measurable marketing goals and the timetable to achieve such goals;

b. Identification of specific marketing activities;

c. The resources and staff allocated to such marketing activities; and

d. The development of quantifiable metrics and performance measures for attaining each such goal.

The Authority shall report annually on its marketing plan, any modifications to the marketing plan, and its progress toward meeting the goals and objectives as stated in the marketing plan to the special subcommittee on economic development of the Joint Legislative Audit and Review Commission and the Chairmen of the House Committee on Appropriations and the Senate Committee on Finance; and

2. An operational plan for carrying out the powers and duties of the Authority. The operational plan of the Authority shall, at a minimum, include:

a. A process to evaluate the Authority's effectiveness in exercising the powers and duties conferred by this article, including the Authority's ability to work with other state, regional, and local economic development organizations and international trade organizations; and

b. A strategy for coordinating with state agencies that administer economic development incentive programs and relevant executive branch committees, councils, authorities, and commissions to maximize the effectiveness of state economic development programs and activities.

The Authority shall report annually on its operational plan, any modifications to the operational plan, and its progress toward meeting the goals and objectives as stated in the operational plan to the special subcommittee on economic development of the Joint Legislative Audit and Review Commission and the Chairmen of the House Committee on Appropriations and the Senate Committee on Finance.

**§ 2.2-2237.2. Office of the Attorney General to provide instruction to Board.**

The Attorney General or his designee assigned as counsel to the Board shall provide instruction to the Board on its responsibilities and obligations as a supervisory board within 30 days after the initial appointment of members of the Board. Thereafter, such counsel shall provide such instruction biennially.

**§ 2.2-2237.3. Division of Incentives.**

A. Within the Authority shall be created a Division of Incentives that shall be responsible for reviewing, vetting, tracking, and coordinating economic development incentives administered by or through the Authority or economic development incentives offered by the Commonwealth or a locality in conjunction with Authority-administered incentives, including those listed in § 2.2-206.2.

B. No project that includes an offer of economic development incentives by the Commonwealth, including grants or loans from the Commonwealth's Development Opportunity Fund, shall be approved by the Governor until (i) the Division of Incentives has undertaken appropriate due diligence regarding the proposed project and the Secretary of Commerce and Trade has certified that the proposed incentives to be offered are appropriate based on the investment and job creation anticipated to be generated by the project and (ii) when required by § 30-310, the MEI Project Approval Commission has reviewed the proposed incentives.

C. Any contract or memorandum of understanding for the award of economic development incentives by the Commonwealth shall set forth the investment and job creation requirements for the payment of the incentive and shall include a stipulation that the business beneficiary of the incentives shall be liable for the repayment of all or a portion of the incentives if the business beneficiary fails to make the required investments or create the required number of jobs. If it is determined that a business beneficiary is liable for the repayment of all or a portion of an economic development incentive awarded by the Board, the Board may direct the Office of the Attorney General to enforce the provisions of the contract or memorandum of understanding regarding the repayment.

D. Notwithstanding any other provision of law, approval of the Board shall be required to grant an extension for an approved project to meet the investment and job creation requirements set forth in the contract or memorandum of

*understanding. Notwithstanding any other provision of law, approval of both the Board and the MEI Project Approval Commission shall be required to grant any additional extensions.*

*E. The Division of Incentives shall provide semiannual updates to the Board of the status and progress of investment and job creation requirements for all projects for which economic development incentives have been awarded, until such time as the investment and job creation requirements are met or the incentives are repaid to the Commonwealth. Updates shall be provided more frequently upon the request of the Board, or if deemed necessary by the Division of Incentives.*

*F. The Board shall establish a subcommittee, consisting of ex officio members of the Board authorized pursuant to § 60.2-114 and federal law to receive and review employment information received from the Virginia Employment Commission, in order to assist the Division of Incentives with the verification of employment and wage claims of those businesses that have received incentive awards. Such information shall be confidential and shall not be (i) redisclosed to other members of the Board or to the public in accordance with the provisions of subdivision C 2 of § 60.2-114 or (ii) subject to disclosure under the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).*

**§ 2.2-2239.1. Committee on Business Development and Marketing.**

*A. The Board shall establish a Committee on Business Development and Marketing (the Committee) consisting of nine nonlegislative citizen members representing local or regional economic development entities from each of the regions designated by the Virginia Growth and Opportunity Board in accordance with § 2.2-2486 as follows:*

*1. Four nonlegislative citizen members, at least one of whom shall be from Northern Virginia, one of whom shall be from Hampton Roads, and one of whom shall be from Richmond, to be appointed by the Governor and approved by the General Assembly; and*

*2. Five nonlegislative citizen members appointed by the Joint Rules Committee.*

*B. After the initial staggering of terms, nonlegislative citizen members shall be appointed for a term of four years. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. Vacancies shall be filled in the same manner as the original appointments. All members may be reappointed. Members appointed to the Committee shall serve without compensation but shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. Staffing of the Committee shall be provided by the Authority. The Committee shall elect a chairman and vice-chairman from among its membership. A majority of the members shall constitute a quorum.*

*C. The Committee shall advise the Board on all matters relating to business development and marketing and shall make such recommendations as it may deem desirable.*

**§ 2.2-2239.2. Committee on International Trade.**

*A. The Board shall establish a Committee on International Trade (the Committee) consisting of the Secretary of Agriculture and Forestry, serving as an ex officio member with voting privileges and whose term is coincident with his term of office, and eight nonlegislative citizen members as follows:*

*1. One member who is a member of the Board of Commissioners of the Virginia Port Authority and two nonlegislative citizen members possessing experience or expertise in international trade or trade promotion appointed by the Governor and approved by the General Assembly; and*

*2. Five nonlegislative citizen members possessing experience or expertise in international trade or trade promotion appointed by the Joint Rules Committee.*

*The Virginia Manufacturing Association shall submit to the Governor and the Joint Rules Committee a list of 12 recommendations for appointments to the Committee. One of the Governor's appointments pursuant to subdivision 1 shall be made from such list, and two of the Joint Rules Committee's appointments pursuant to subdivision 2 shall be made from such list.*

*B. After the initial staggering of terms, nonlegislative citizen members shall be appointed for a term of four years. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. Vacancies shall be filled in the same manner as the original appointments. All members may be reappointed. Members appointed to the Committee shall serve without compensation but shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. Staffing of the Committee shall be provided by the Authority. The Committee shall elect a chairman and vice-chairman from among its membership. A majority of the members shall constitute a quorum.*

*C. The Committee shall advise the Board on all matters relating to international trade and trade promotion and shall make such recommendations as it may deem desirable.*

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

The following information contained in a public record is excluded from the mandatory disclosure provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law. Redaction of information excluded under this section from a public record shall be conducted in accordance with § 2.2-3704.01.

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

2. Working papers and correspondence of the Office of the Governor; the Lieutenant Governor; the Attorney General; the members of the General Assembly, the Division of Legislative Services, or the Clerks of the House of Delegates and the

Senate of Virginia; the mayor or chief executive officer of any political subdivision of the Commonwealth; or the president or other chief executive officer of any public institution of higher education in Virginia. However, no information that is otherwise open to inspection under this chapter shall be deemed excluded by virtue of the fact that it has been attached to or incorporated within any working paper or correspondence. Nothing in this subdivision shall be construed to authorize the withholding of any resumes or applications submitted by persons who are appointed by the Governor pursuant to § 2.2-106 or 2.2-107.

As used in this subdivision:

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

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

"Working papers" means those records prepared by or for an above-named public official for his personal or deliberative use.

3. Information contained in library records that can be used to identify both (i) any library patron who has borrowed material from a library and (ii) the material such patron borrowed.

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

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

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

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

8. Personal information, as defined in § 2.2-3801, (i) filed with the Virginia Housing Development Authority concerning individuals who have applied for or received loans or other housing assistance or who have applied for occupancy of or have occupied housing financed, owned or otherwise assisted by the Virginia Housing Development Authority; (ii) concerning persons participating in or persons on the waiting list for federally funded rent-assistance programs; (iii) filed with any local redevelopment and housing authority created pursuant to § 36-4 concerning persons participating in or persons on the waiting list for housing assistance programs funded by local governments or by any such authority; or (iv) filed with any local redevelopment and housing authority created pursuant to § 36-4 or any other local government agency concerning persons who have applied for occupancy or who have occupied affordable dwelling units established pursuant to § 15.2-2304 or 15.2-2305. However, access to one's own information shall not be denied.

9. Information regarding the siting of hazardous waste facilities, except as provided in § 10.1-1441, if disclosure of such information would have a detrimental effect upon the negotiating position of a governing body or on the establishment of the terms, conditions, and provisions of the siting agreement.

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

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

12. Information held by the Virginia Retirement System, acting pursuant to § 51.1-124.30, or a local retirement system, acting pursuant to § 51.1-803, or the Rector and Visitors of the University of Virginia, acting pursuant to § 23.1-2210, or the Virginia College Savings Plan, acting pursuant to § 23.1-704, relating to the acquisition, holding, or disposition of a security or other ownership interest in an entity, where such security or ownership interest is not traded on a governmentally regulated securities exchange, if disclosure of such information would (i) reveal confidential analyses prepared for the Rector and Visitors of the University of Virginia, prepared by the retirement system or the Virginia College Savings Plan, or provided to the retirement system or the Virginia College Savings Plan under a promise of confidentiality of the future value of such ownership interest or the future financial performance of the entity and (ii) have an adverse effect on the value of the investment to be acquired, held, or disposed of by the retirement system, the Rector and Visitors of the University of

Virginia, or the Virginia College Savings Plan. Nothing in this subdivision shall be construed to authorize the withholding of information relating to the identity of any investment held, the amount invested, or the present value of such investment.

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

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

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

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

17. Information related to the operation of toll facilities that identifies an individual, vehicle, or travel itinerary, including vehicle identification data or vehicle enforcement system information; video or photographic images; Social Security or other identification numbers appearing on driver's licenses; credit card or bank account data; home addresses; phone numbers; or records of the date or time of toll facility use.

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

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

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

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

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

23. Information submitted for inclusion in the Statewide Alert Network administered by the Department of Emergency Management that reveal names, physical addresses, email addresses, computer or internet protocol information, telephone numbers, pager numbers, other wireless or portable communications device information, or operating schedules of

individuals or agencies, where the release of such information would compromise the security of the Statewide Alert Network or individuals participating in the Statewide Alert Network.

24. Information held by the Judicial Inquiry and Review Commission made confidential by § 17.1-913.

25. Information held by the Virginia Retirement System acting pursuant to § 51.1-124.30, a local retirement system acting pursuant to § 51.1-803 (hereinafter collectively referred to as the retirement system), or the Virginia College Savings Plan, acting pursuant to § 23.1-704 relating to:

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

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

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

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

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

(3) Stating the reasons why protection is necessary.

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

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

26. Information held by the Department of Corrections made confidential by § 53.1-233.

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

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

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

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

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

32. Information provided to the Department of Aviation by other entities of the Commonwealth in connection with the operation of aircraft where the information would not be subject to disclosure by the entity providing the information. The entity providing the information to the Department of Aviation shall identify the specific information to be protected and the applicable provision of this chapter that excludes the information from mandatory disclosure.

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

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

marketing and operational strategies where disclosure of such strategies would be harmful to the competitive position of the Authority.

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

- a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;
- b. Identifying with specificity the data or other materials for which protection is sought; and
- c. Stating the reasons why protection is necessary.

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

35. Information reflecting the substance of meetings in which individual sexual assault cases are discussed by any sexual assault team established pursuant to § 15.2-1627.4. The findings of the team may be disclosed or published in statistical or other aggregated form that does not disclose the identity of specific individuals.

36. *Information contained in the strategic plan, marketing plan, or operational plan prepared by the Virginia Economic Development Partnership Authority pursuant to § 2.2-2237.1 regarding target companies, specific allocation of resources and staff for marketing activities, and specific marketing activities that would reveal to the Commonwealth's competitors for economic development projects the strategies intended to be deployed by the Commonwealth, thereby adversely affecting the financial interest of the Commonwealth. The executive summaries of the strategic plan, marketing plan, and operational plan shall not be redacted or withheld pursuant to this subdivision.*

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

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

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

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

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

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

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

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

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

8. In the case of boards of visitors of public institutions of higher education, discussion or consideration of matters relating to gifts, bequests and fund-raising activities, and grants and contracts for services or work to be performed by such institution. However, the terms and conditions of any such gifts, bequests, grants, and contracts made by a foreign government, a foreign legal entity, or a foreign person and accepted by a public institution of higher education in Virginia shall be subject to public disclosure upon written request to the appropriate board of visitors. For the purpose of this subdivision, (i) "foreign government" means any government other than the United States government or the government of a state or a political subdivision thereof; (ii) "foreign legal entity" means any legal entity created under the laws of the United States or of any state thereof if a majority of the ownership of the stock of such legal entity is owned by foreign

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

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

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

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

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

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

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

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

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

17. Those portions of meetings by local government crime commissions where the identity of, or information tending to identify, individuals providing information about crimes or criminal activities under a promise of anonymity is discussed or disclosed.

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

19. Discussion of plans to protect public safety as it relates to terrorist activity or specific cybersecurity threats or vulnerabilities and briefings by staff members, legal counsel, or law-enforcement or emergency service officials concerning actions taken to respond to such matters or a related threat to public safety; discussion of information excluded from this chapter pursuant to subdivision 3 or 4 of § 2.2-3705.2, where discussion in an open meeting would jeopardize the safety of any person or the security of any facility, building, structure, information technology system, or software program; or discussion of reports or plans related to the security of any governmental facility, building or structure, or the safety of persons using such facility, building or structure.

20. Discussion by the Board of the Virginia Retirement System, acting pursuant to § 51.1-124.30, or of any local retirement system, acting pursuant to § 51.1-803, or of the Rector and Visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the Board of the Virginia College Savings Plan, acting pursuant to § 23.1-706, regarding the acquisition, holding or disposition of a security or other ownership interest in an entity, where such security or ownership interest is not traded on a governmentally regulated securities exchange, to the extent that such discussion (i) concerns confidential analyses prepared for the Rector and Visitors of the University of Virginia, prepared by the retirement system or by the Virginia College Savings Plan or provided to the retirement system or the Virginia College Savings Plan under a promise of confidentiality, of the future value of such ownership interest or the future financial performance of the entity, and (ii) would have an adverse effect on the value of the investment to be acquired, held or disposed of by the retirement system, the Rector and Visitors of the University of Virginia, or the Virginia College Savings Plan. Nothing in this subdivision shall be construed to prevent the disclosure of information relating to the identity of any investment held, the amount invested or the present value of such investment.

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

22. Those portions of meetings of the University of Virginia Board of Visitors or the Eastern Virginia Medical School Board of Visitors, as the case may be, and those portions of meetings of any persons to whom management responsibilities

for the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, have been delegated, in which there is discussed proprietary, business-related information pertaining to the operations of the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, including business development or marketing strategies and activities with existing or future joint venturers, partners, or other parties with whom the University of Virginia Medical Center or Eastern Virginia Medical School, as the case may be, has formed, or forms, any arrangement for the delivery of health care, if disclosure of such information would adversely affect the competitive position of the Medical Center or Eastern Virginia Medical School, as the case may be.

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

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

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

26. Discussion or consideration, by the Wireless Carrier E-911 Cost Recovery Subcommittee created pursuant to § 56-484.15, of trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), submitted by CMRS providers as defined in § 56-484.12, related to the provision of wireless E-911 service.

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

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

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

30. Discussion or consideration of grant or loan application information excluded from this chapter pursuant to subdivision 17 of § 2.2-3705.6 by (i) the Commonwealth Health Research Board or (ii) the Innovation and Entrepreneurship Investment Authority or the Research and Technology Investment Advisory Committee appointed to advise the Innovation and Entrepreneurship Investment Authority.

31. Discussion or consideration by the Commitment Review Committee of information excluded from this chapter pursuant to subdivision 8 of § 2.2-3705.2 relating to individuals subject to commitment as sexually violent predators under Chapter 9 (§ 37.2-900 et seq.) of Title 37.2.

32. [Expired.]

33. Discussion or consideration of confidential proprietary information and trade secrets excluded from this chapter pursuant to subdivision 18 of § 2.2-3705.6. However, the exemption provided by this subdivision shall not apply to any authority created pursuant to the BVU Authority Act (§ 15.2-7200 et seq.).

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

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

36. Discussion or consideration by the Forensic Science Board or the Scientific Advisory Committee created pursuant to Article 2 (§ 9.1-1109 et seq.) of Chapter 11 of Title 9.1 of records excluded from this chapter pursuant to subdivision A 2 a of § 2.2-3706.

37. Discussion or consideration by the Brown v. Board of Education Scholarship Program Awards Committee of information or confidential matters excluded from this chapter pursuant to subdivision 3 of § 2.2-3705.4, and meetings of the Committee to deliberate concerning the annual maximum scholarship award, review and consider scholarship applications and requests for scholarship award renewal, and cancel, rescind, or recover scholarship awards.

38. Discussion or consideration by the Virginia Port Authority of information excluded from this chapter pursuant to subdivision 1 of § 2.2-3705.6.

39. Discussion or consideration by the Board of Trustees of the Virginia Retirement System acting pursuant to § 51.1-124.30, by the Investment Advisory Committee appointed pursuant to § 51.1-124.26, by any local retirement system, acting pursuant to § 51.1-803, by the Board of the Virginia College Savings Plan acting pursuant to § 23.1-706, or by the Virginia College Savings Plan's Investment Advisory Committee appointed pursuant to § 23.1-702 of information excluded from this chapter pursuant to subdivision 25 of § 2.2-3705.7.

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

41. Discussion or consideration by the Board of Education of information relating to the denial, suspension, or revocation of teacher licenses excluded from this chapter pursuant to subdivision 12 of § 2.2-3705.3.

42. Those portions of meetings of the Virginia Military Advisory Council or any commission created by executive order for the purpose of studying and making recommendations regarding preventing closure or realignment of federal military and national security installations and facilities located in Virginia and relocation of such facilities to Virginia, or a local or regional military affairs organization appointed by a local governing body, during which there is discussion of information excluded from this chapter pursuant to subdivision 11 of § 2.2-3705.2.

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

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

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

46. Discussion or consideration of personal and proprietary information that are excluded from the provisions of this chapter pursuant to (i) subdivision 25 of § 2.2-3705.6 or (ii) subsection E of § 10.1-104.7. This exclusion shall not apply to the discussion or consideration of records that contain information that has been certified for release by the person who is the subject of the information or transformed into a statistical or aggregate form that does not allow identification of the person who supplied, or is the subject of, the information.

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

48. Discussion or consideration of grant or loan application records excluded from this chapter pursuant to subdivision 28 of § 2.2-3705.6 related to the submission of an application for an award from the Virginia Research Investment Fund pursuant to Article 8 (§ 23.1-3130 et seq.) of Chapter 31 of Title 23.1.

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

50. *Discussion or consideration by the Board of the Virginia Economic Development Partnership Authority, or any subcommittee thereof, of the portions of the strategic plan, marketing plan, or operational plan exempt from disclosure pursuant to subdivision 36 of § 2.2-3705.7.*

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

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

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

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

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

**§ 58.1-3122.3. Commissioners to provide certain information to the Virginia Economic Development Partnership Authority; confidentiality of such information.**

A. *Each commissioner of the revenue shall provide to the Virginia Economic Development Partnership Authority (the Authority), upon entering into a written agreement, such tax information as may be necessary to facilitate the*

*administration and enforcement by the Authority of performance agreements with businesses that have received incentive awards, the provisions of § 58.1-3 notwithstanding.*

*B. Any tax information provided to the Authority under this section shall be confidential and shall not be divulged by the Authority. Any tax information so provided shall be used by the Authority solely for the purpose of verifying capital investment claims of those businesses that have received incentive awards.*

**§ 60.2-114. Records and reports.**

A. Each employing unit shall keep true and accurate work records, containing such information as the Commission may prescribe. Such records shall be open to inspection and be subject to being copied by the Commission or its authorized representatives at any reasonable time and as often as may be necessary. The Commission may require from any employing unit any sworn or unsworn reports, with respect to persons employed by it, which the Commission deems necessary for the effective administration of this title. Information thus obtained shall not be published or be open to public inspection, other than to public employees in the performance of their public duties, in any manner revealing the employing unit's identity, except as the Commissioner or his delegates deem appropriate, nor shall such information be used in any judicial or administrative proceeding other than one arising out of the provisions of this title; however, the Commission shall make its records about a claimant available to the Workers' Compensation Commission if it requests such records. However, any claimant at a hearing before an appeal tribunal or the Commission shall be supplied with information from such records to the extent necessary for the proper presentation of his claim. Notwithstanding other provisions of this section, the Commissioner, or his delegate, may, in his discretion, reveal information when such communication is not inconsistent with the proper administration of this title.

B. Notwithstanding the provisions of subsection A, the Commission shall, on a reimbursable basis, furnish wage and unemployment compensation information contained in its records to the Secretary of Health and Human Services and the Division of Child Support Enforcement of the Department of Social Services for their use as necessary for the purposes of the National Directory of New Hires established under § 453 ~~(j)~~ 453(i) of the Social Security Act.

C. Notwithstanding the provisions of subsection A, the Commission shall, upon written request, furnish ~~any~~:

1. Any agency or political subdivision of the Commonwealth, or its designated agent, such information as it may require for the purpose of collecting fines, penalties, and costs owed to the Commonwealth or its political subdivisions. Such information shall not be published or used in any administrative or judicial proceeding, except in matters arising out of the collection of fines, penalties, and costs owed to the Commonwealth or its political subdivisions; *and*

2. *The Virginia Economic Development Partnership Authority such information as it may require to facilitate the administration and enforcement by the Authority of performance agreements with businesses that have received incentive awards. Any information provided to the Authority under this subdivision shall be confidential pursuant to 20 C.F.R. Part 603 and shall only be disclosed to members of the Authority who are public officials or employees of the Authority for the performance of their official duties. No public official or employee shall redisclose any confidential information obtained pursuant to this subdivision to nonlegislative citizen members of the Authority or to the public. Any information so provided shall be used by the Authority solely for the purpose of verifying employment and wage claims of those businesses that have received incentive awards.*

D. Each employing unit shall report to the Virginia New Hire Reporting Center the employment of any newly hired employee in compliance with § 63.2-1946.

E. Any member or employee of the Commission and any member, employee, or agent of any agency or political subdivision of the Commonwealth who violates any provision of this section shall be guilty of a Class 2 misdemeanor.

**2. That § 2.2-2235 of the Code of Virginia is repealed.**

**3. That the terms of the persons currently serving as members of the board of directors of the Virginia Economic Development Partnership Authority shall expire upon the passage of this act.**

**4. That the initial appointments of the board of directors of the Virginia Economic Development Partnership Authority made in accordance with the provisions of this act shall be staggered as follows: (i) of the seven nonlegislative citizen members appointed by the Governor, five shall be appointed for a term of one year and two shall be appointed for a term of three years and (ii) of the four nonlegislative citizen members appointed by the Joint Rules Committee, two shall be appointed for a term of one year and two shall be appointed for a term of three years. Thereafter, the terms of nonlegislative citizen members of the board of directors shall be four years. All nonlegislative citizen members appointed pursuant to this enactment shall be eligible for reappointment to two full terms after the expiration of the initial term. After the initial appointment of the nonlegislative citizen members of the board of directors pursuant to this enactment, appointments shall be for terms beginning on July 1 of the year of the appointment.**

**5. That any current member of the board of directors of the Virginia Economic Development Partnership Authority is eligible for reappointment in accordance with the provisions of this act, provided that such member meets the qualifications set forth in § 2.2-2235.1 of the Code of Virginia, as created by this act.**

**6. That the initial appointments of the Committee on Business Development and Marketing made in accordance with the provisions of this act shall be staggered as follows: (i) of the four nonlegislative citizen members appointed by the Governor, one shall be appointed for a term of one year, two shall be appointed for a term of two years, and one shall be appointed for terms of three years and (ii) of the five nonlegislative citizen members appointed by the Joint Rules**

Committee, three shall be appointed for a term of three years and two shall be appointed for a term of four years. Thereafter, the terms of members of the Committee on Business Development and Marketing shall be four years.

7. That the initial appointments of the Committee on International Trade made in accordance with the provisions of this act shall be staggered as follows: (i) of the two nonlegislative citizen members appointed by the Governor who are not a member of the Board of Commissioners of the Virginia Port Authority, one shall be appointed for a term of two years and one shall be appointed for a term of three years; (ii) the member of the Board of Commissioners of the Virginia Port Authority appointed by the Governor shall serve a term of four years; and (iii) of the five nonlegislative citizen members appointed by the Joint Rules Committee, one shall be appointed for a term of one year, two shall be appointed for a term of three years, and two shall be appointed for a term of four years. Thereafter, the terms of members of the Committee on International Trade shall be four years.

8. That an emergency exists and this act is in force from its passage.

## CHAPTER 825

*An Act to amend and reenact §§ 46.2-1231, 46.2-1232, and 46.2-1233.2 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 46.2-1233.3, relating to tow truck drivers and towing and recovery operators; requirements; civil penalties.*

[H 1960]

Approved April 26, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 46.2-1231, 46.2-1232, and 46.2-1233.2 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 46.2-1233.3 as follows:**

**§ 46.2-1231. Ticketing, removal, or immobilization of trespassing vehicles by owner or operator of parking or other lot or building; charges.**

The owner, operator, or lessee of any parking lot, parking area, or parking space in a parking lot or area or any part of a parking lot or area, or of any other lot or building, including any county, city, or town, or authorized agent of the person having control of such premises may have any vehicle occupying the lot, area, space, or building without the permission of its owner, operator, lessee, or authorized agent of the one having the control of the premises, removed by towing or otherwise to a licensed garage for storage until called for by the owner or his agent if there are posted at all entrances to the parking lot or area signs clearly and conspicuously disclosing that such vehicle, if parked without permission, will be removed, towed, or immobilized. Such signs shall, at a minimum, include the nonemergency telephone number of the local law-enforcement agency or the telephone number of the responsible towing and recovery operator to contact for information related to the location of vehicles towed from that location. The requirements of this section relating to the posting of signs by an owner, operator, or lessee of any parking lot, parking area or space shall not apply to localities in which the local governing body has adopted an ordinance pursuant to § 46.2-1232.

Whenever a trespassing vehicle is removed or towed as permitted by this section, notice of this action shall forthwith be given by the tow truck operator to the State Police or the local law-enforcement agency of the jurisdiction from which the vehicle was towed. It shall be unlawful to fail to report such tow as required by this section and violation of the reporting requirement of this section shall constitute a traffic infraction punishable by a fine of not more than \$100. Such failure to report shall limit the amount which may be charged for the storage and safekeeping of the towed vehicle to an amount no greater than that charged for one day of storage and safekeeping. If the vehicle is removed and stored, the vehicle owner may be charged and the vehicle may be held for a reasonable fee for the removal and storage.

All businesses engaged in towing vehicles without the consent of their owners shall prominently display (i) at their main place of business and (ii) at any other location where towed vehicles may be reclaimed a comprehensive list of all their fees for towing, recovery, and storage services, or the basis of such charges. This requirement to display a list of fees may also be satisfied by providing, when the towed vehicle is reclaimed, a written list of such fees, either as part of a receipt or separately, to the person who reclaims the vehicle. Charges in excess of those posted shall not be collectable from any motor vehicle owner whose vehicle is towed, recovered, or stored without his consent. *At the time a vehicle owner or agent reclaims a towed vehicle, such towing and recovery operator, if located in Planning District 8, shall provide a written receipt that provides a telephone number or website available for customer complaints. A locality located wholly or partially in Planning District 8 may require additional information to be included on such receipt.*

Notwithstanding the foregoing provisions of this section, if the owner or representative or agent of the owner of the trespassing vehicle is present and removes the trespassing vehicle from the premises before it is actually towed, the trespassing vehicle shall not be towed, but the owner or representative or agent of the owner of the trespassing vehicle shall be liable for a reasonable fee, not to exceed \$25 or such other limit as the governing body of the county, city, or town may set by ordinance, in lieu of towing.

In lieu of having a trespassing vehicle removed by towing or otherwise, the owner, operator, lessee or authorized agent of the premises on which the trespassing vehicle is parked may cause the vehicle to be immobilized by a boot or other device that prevents a vehicle from being moved by preventing a wheel from turning, provided that the boot or other device does not damage the vehicle or wheel. The charge for the removal of any boot or device shall not exceed \$25 or such other

limit as the governing body of the county, city, or town may set by ordinance. In lieu of having the vehicle removed by towing or otherwise, or in lieu of causing the vehicle to be immobilized, the owner, operator, lessee or authorized agent of the premises on which the trespassing vehicle is parked may cause to have an authorized local government official or law-enforcement officer issue, on the premises, a notice of the violation of a parking ordinance or regulation created pursuant to § 46.2-1220 or § 46.2-1221 to the registered owner of the vehicle.

This section shall not apply to police, fire, or public health vehicles or where a vehicle, because of a wreck or other emergency, is parked or left temporarily on the property of another. The governing body of every county, city, and town may by ordinance set limits on fees and charges provided for in this section.

**§ 46.2-1232. Localities may regulate removal or immobilization of trespassing vehicles.**

A. The governing body of any county, city, or town may by ordinance regulate the removal of trespassing vehicles from property by or at the direction of the owner, operator, lessee, or authorized agent in charge of the property. In the event that a vehicle is towed from one locality and stored in or released from a location in another locality, the local ordinance, if any, of the locality from which the vehicle was towed shall apply.

B. No local ordinance adopted under authority of this section shall require that any towing and recovery business also operate as or provide services as a vehicle repair facility or body shop, filling station, or any business other than a towing and recovery business.

C. Any such local ordinance may also require towing and recovery operators to (i) obtain and retain photographs or other documentary evidence substantiating the reason for the removal; (ii) post signs at their main place of business and at any other location where towed vehicles may be reclaimed conspicuously indicating (a) the maximum charges allowed by local ordinance, if any, for all their fees for towing, recovery, and storage services and (b) the name and business telephone number of the local official, if any, responsible for handling consumer complaints; (iii) obtain at the time the vehicle is towed, verbal approval of an agent designated in the local ordinance who is available at all times; and (iv) obtain, at the time the vehicle is towed, if such towing is performed during the normal business hours of the owner of the property from which the vehicle is being towed, the written authorization of the owner of the property from which the vehicle is towed, or his agent. Such written authorization, if required, shall be in addition to any written contract between the towing and recovery operator and the owner of the property or his agent, *except for vehicles being towed from a locality within Planning District 8, which shall not require written authorization if such written contract is in place. Any such written contract governing a property located within Planning District 8 shall clearly state the terms on which towing and recovery operators may monitor private lots on behalf of property owners.* For the purposes of this subsection, "agent" shall not include any person who either (a) is related by blood or marriage to the towing and recovery operator or (b) has a financial interest in the towing and recovery operator's business.

D. Any such ordinance adopted by a locality within Planning District 8 may require towing companies that tow vehicles from the county, city, or town adopting the ordinance to other localities, provided that the stored or released location is within the Commonwealth of Virginia and within 10 miles of the point of origin of the actual towing, (i) to obtain from the locality from which such vehicles are towed a permit to do so and (ii) to submit to an inspection of such towing company's facilities to ensure that the company meets all the locality's requirements, regardless of whether such facilities are located within the locality or elsewhere. The locality may impose and collect reasonable fees for the issuance and administration of permits as provided for in this subsection. Such ordinance may also provide grounds for revocation, suspension, or modification of any permit issued under this subsection, subject to notice to the permittee of the revocation, suspension, or modification and an opportunity for the permittee to have a hearing before the governing body of the locality or its designated agent to challenge the revocation, suspension, or modification. *Any tow truck driver who removes or tows a vehicle, pursuant to any such ordinance, that is occupied by an unattended companion animal as defined in § 3.2-6500 shall, upon such removal, immediately notify the animal control office of the locality in which the vehicle is being removed or towed.* Nothing in this subsection shall be applicable to public safety towing.

**§ 46.2-1233.2. Advisory board.**

Prior to adopting or amending any ordinance pursuant to § 46.2-1232 or § 46.2-1233, the local governing body shall appoint an advisory board to advise the governing body with regard to the appropriate provisions of the ordinance. ~~Voting members~~ ~~Members~~ Members of the advisory board shall *only* consist of an equal number of representatives of local law-enforcement agencies and representatives of licensed towing and recovery operators, and one member of the general public. Any such advisory board shall meet at least once per year at the call of the chairman of the advisory board, who shall be elected annually from among the ~~voting~~ members of the advisory board by a majority vote. *The chairmanship of any such advisory board for any locality within Planning District 8 shall be for a term of one year and rotate annually between a representative of a local law-enforcement agency, a representative of a licensed towing and recovery operator, and one member of the general public.*

**§ 46.2-1233.3. Improper towing; penalty.**

A. *This section shall apply only to tow truck drivers and towing and recovery operators removing a vehicle without the consent of its owner from a location in Planning District 8.*

B. *In addition to any action brought pursuant to subsection B of § 46.2-119, any tow truck driver who violates subsection A of § 46.2-118 or § 46.2-1217, 46.2-1231, or 46.2-1233.1, or any ordinance adopted therefrom, or any ordinance adopted pursuant to § 46.2-1233, or any towing or recovery operator who violates subsection B of § 46.2-118 or § 46.2-1217, 46.2-1231, or 46.2-1233.1, or any ordinance adopted therefrom, or any ordinance adopted pursuant to*

§ 46.2-1233, is subject to a civil penalty of \$150 per violation. Such penalty shall be collected by the Office of the Attorney General, and the proceeds shall be deposited into the Literary Fund.

### CHAPTER 826

An Act to direct compliance with regulations of certain combined sewer overflow outfalls; Chesapeake Bay Watershed.

[H 2383]

Approved April 26, 2017

#### Be it enacted by the General Assembly of Virginia:

1. § 1. That the Department of Environmental Quality (DEQ) shall identify the owner or operator of any combined sewer overflow (CSO) outfall that discharges into the Chesapeake Bay Watershed.

§ 2. For any owner or operator not under a state order or decree related to the CSO as of January 1, 2017, DEQ shall, by July 1, 2018, determine what actions by the owner or operator are necessary to bring the CSO outfall into compliance with Virginia law, the federal Clean Water Act (33 U.S.C. § 1251 et seq.), and the Presumption Approach described in the CSO Control Policy adopted by the U.S. Environmental Protection Agency (EPA) at 59 F.R. 18688, unless a higher level of control is necessary to comply with a Total Maximum Daily Load (TMDL), and shall inform the owner or operator of the actions necessary.

§ 3. Any owner of a CSO outfall that discharges into the Chesapeake Bay Watershed not under a state order or decree related to the CSO as of January 1, 2017, shall, by July 1, 2023, initiate construction activities necessary to bring the CSO outfall into compliance and shall, by July 1, 2025, bring the CSO outfall into compliance with Virginia law, the federal Clean Water Act, and the Presumption Approach described in the EPA CSO Control Policy, unless a higher level of control is necessary to comply with a TMDL.

§ 4. Any owner of a CSO outfall that discharges into the Chesapeake Bay Watershed not under a state order or decree related to the CSO as of January 1, 2017, shall report annually to DEQ on its progress pursuant to § 3. No later than January 1 of each year, DEQ shall transmit, with any additional information the Director of DEQ determines to be appropriate, the CSO outfall progress reports to the Chairmen of the Senate Committee on Finance, the Senate Committee on Agriculture, Conservation and Natural Resources, the House Committee on Appropriations, and the House Committee on Agriculture, Chesapeake and Natural Resources; the Virginia delegation to the Chesapeake Bay Commission; the Secretary of Natural Resources; and the Governor.

### CHAPTER 827

An Act to direct compliance with regulations of certain combined sewer overflow outfalls; Chesapeake Bay Watershed.

[S 898]

Approved April 26, 2017

#### Be it enacted by the General Assembly of Virginia:

1. § 1. That the Department of Environmental Quality (DEQ) shall identify the owner or operator of any combined sewer overflow (CSO) outfall that discharges into the Chesapeake Bay Watershed.

§ 2. For any owner or operator not under a state order or decree related to the CSO as of January 1, 2017, DEQ shall, by July 1, 2018, determine what actions by the owner or operator are necessary to bring the CSO outfall into compliance with Virginia law, the federal Clean Water Act (33 U.S.C. § 1251 et seq.), and the Presumption Approach described in the CSO Control Policy adopted by the U.S. Environmental Protection Agency (EPA) at 59 F.R. 18688, unless a higher level of control is necessary to comply with a Total Maximum Daily Load (TMDL), and shall inform the owner or operator of the actions necessary.

§ 3. Any owner of a CSO outfall that discharges into the Chesapeake Bay Watershed not under a state order or decree related to the CSO as of January 1, 2017, shall, by July 1, 2023, initiate construction activities necessary to bring the CSO outfall into compliance and shall, by July 1, 2025, bring the CSO outfall into compliance with Virginia law, the federal Clean Water Act, and the Presumption Approach described in the EPA CSO Control Policy, unless a higher level of control is necessary to comply with a TMDL.

§ 4. Any owner of a CSO outfall that discharges into the Chesapeake Bay Watershed not under a state order or decree related to the CSO as of January 1, 2017, shall report annually to DEQ on its progress pursuant to § 3. No later than January 1 of each year, DEQ shall transmit, with any additional information the Director of DEQ determines to be appropriate, the CSO outfall progress reports to the Chairmen of the Senate Committee on Finance, the Senate Committee on Agriculture, Conservation and Natural Resources, the House Committee on Appropriations, and the House Committee on Agriculture, Chesapeake and Natural Resources; the Virginia delegation to the Chesapeake Bay Commission; the Secretary of Natural Resources; and the Governor.

CHAPTER 828

*An Act to amend and reenact § 2.2-3706 of the Code of Virginia, relating to the Virginia Freedom of Information Act; completed unattended death investigations; mandatory disclosure.*

[S 1102]

Approved April 26, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 2.2-3706 of the Code of Virginia is amended and reenacted as follows:**

**§ 2.2-3706. Disclosure of criminal records; limitations.**

A. All public bodies engaged in criminal law-enforcement activities shall provide requested records in accordance with this chapter as follows:

1. Records required to be released:

a. Criminal incident information relating to felony offenses, which shall include:

- (1) A general description of the criminal activity reported;
- (2) The date the alleged crime was committed;
- (3) The general location where the alleged crime was committed;
- (4) The identity of the investigating officer or other point of contact; and
- (5) A general description of any injuries suffered or property damaged or stolen.

A verbal response as agreed to by the requester and the public body is sufficient to satisfy the requirements of subdivision a.

Where the release of criminal incident information, however, is likely to jeopardize an ongoing investigation or prosecution or the safety of an individual, cause a suspect to flee or evade detection, or result in the destruction of evidence, such information may be withheld until the above-referenced damage is no longer likely to occur from release of the information. Nothing in subdivision a shall be construed to authorize the withholding of those portions of such information that are not likely to cause the above-referenced damage;

b. Adult arrestee photographs taken during the initial intake following the arrest and as part of the routine booking procedure, except when necessary to avoid jeopardizing an investigation in felony cases until such time as the release of the photograph will no longer jeopardize the investigation; ~~and~~

c. Information relative to the identity of any individual, other than a juvenile, who is arrested and charged, and the status of the charge or arrest; *and*

*d. Records of completed unattended death investigations to the parent or spouse of the decedent or, if there is no living parent or spouse, to the most immediate family member of the decedent, provided the person is not a person of interest or a suspect. For the purposes of this subdivision, "unattended death" means a death determined to be a suicide, accidental or natural death where no criminal charges will be initiated, and "immediate family" means the decedent's personal representative or, if no personal representative has qualified, the decedent's next of kin in order of intestate succession as set forth in § 64.2-200.*

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

a. Criminal investigative files, defined as any documents and information, including complaints, court orders, memoranda, notes, diagrams, maps, photographs, correspondence, reports, witness statements, and evidence relating to a criminal investigation or prosecution, other than criminal incident information subject to release in accordance with subdivision 1 a;

b. Reports submitted in confidence to (i) state and local law-enforcement agencies, (ii) investigators authorized pursuant to Chapter 3.2 (§ 2.2-307 et seq.), and (iii) campus police departments of public institutions of higher education established pursuant to Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1;

c. Records of local law-enforcement agencies relating to neighborhood watch programs that include the names, addresses, and operating schedules of individual participants in the program that are provided to such agencies under a promise of anonymity;

d. All records of persons imprisoned in penal institutions in the Commonwealth provided such records relate to the imprisonment;

e. Records of law-enforcement agencies, to the extent that such records contain specific tactical plans, the disclosure of which would jeopardize the safety or security of law-enforcement personnel or the general public;

f. All records of adult persons under (i) investigation or supervision by a local pretrial services agency in accordance with Article 5 (§ 19.2-152.2 et seq.) of Chapter 9 of Title 19.2; (ii) investigation, probation supervision, or monitoring by a local community-based probation services agency in accordance with Article 9 (§ 9.1-173 et seq.) of Chapter 1 of Title 9.1; or (iii) investigation or supervision by state probation and parole services in accordance with Article 2 (§ 53.1-141 et seq.) of Chapter 4 of Title 53.1;

g. Records of a law-enforcement agency to the extent that they disclose the telephone numbers for cellular telephones, pagers, or comparable portable communication devices provided to its personnel for use in the performance of their official duties;

h. Those portions of any records containing information related to undercover operations or protective details that would reveal the staffing, logistics, or tactical plans of such undercover operations or protective details. Nothing in this subdivision shall operate to allow the withholding of information concerning the overall costs or expenses associated with undercover operations or protective details;

i. Records of (i) background investigations of applicants for law-enforcement agency employment, (ii) administrative investigations relating to allegations of wrongdoing by employees of a law-enforcement agency, and (iii) other administrative investigations conducted by law-enforcement agencies that are made confidential by law;

j. The identity of any victim, witness, or undercover officer, or investigative techniques or procedures. However, the identity of any victim or witness shall be withheld if disclosure is prohibited or restricted under § 19.2-11.2; and

k. Records of the Sex Offender and Crimes Against Minors Registry maintained by the Department of State Police pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1, including information obtained from state, local, and regional officials, except to the extent that information is required to be posted on the Internet pursuant to § 9.1-913; and

3. Prohibited releases. The identity of any individual providing information about a crime or criminal activity under a promise of anonymity shall not be disclosed.

B. Noncriminal records. Those portions of noncriminal incident or other noncriminal investigative reports or materials that contain identifying information of a personal, medical, or financial nature may be withheld where the release of such information would jeopardize the safety or privacy of any person. Access to personnel records of persons employed by a law-enforcement agency shall be governed by the provisions of subdivision A 2 i of this section and subdivision 1 of § 2.2-3705.1, as applicable.

C. Records of any call for service or other communication to an emergency 911 system or communicated with any other equivalent reporting system shall be subject to the provisions of this chapter.

D. Conflict resolution. In the event of conflict between this section as it relates to requests made under this section and other provisions of law, this section shall control.

## CHAPTER 829

*An Act to amend and reenact §§ 2.2-419, 2.2-422, 2.2-423, 2.2-426, 2.2-430, 2.2-431, 2.2-3101, 2.2-3103.1, 2.2-3110, 2.2-3112, 2.2-3114, 2.2-3115, 2.2-3116, 2.2-3121, 2.2-4369, 24.2-502, 30-101, 30-103.1, 30-105, 30-106, 30-110, 30-124, 30-129.1, 30-356, and 30-356.2 of the Code of Virginia and to amend the Code of Virginia by adding in Article 5 of Chapter 31 of Title 2.2 a section numbered 2.2-3118.2 and by adding a section numbered 30-111.1, relating to lobbyist reporting, the State and Local Government Conflict of Interests Act, and the General Assembly Conflicts of Interests Act; filing of required disclosures; registration of lobbyists; candidate filings; judges; definition of gift; informal advice; civil penalties; technical amendments.*

[H 1854]

Approved April 26, 2017

### Be it enacted by the General Assembly of Virginia:

**1. That §§ 2.2-419, 2.2-422, 2.2-423, 2.2-426, 2.2-430, 2.2-431, 2.2-3101, 2.2-3103.1, 2.2-3110, 2.2-3112, 2.2-3114, 2.2-3115, 2.2-3116, 2.2-3121, 2.2-4369, 24.2-502, 30-101, 30-103.1, 30-105, 30-106, 30-110, 30-124, 30-129.1, 30-356, and 30-356.2 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Article 5 of Chapter 31 of Title 2.2 a section numbered 2.2-3118.2 and by adding a section numbered 30-111.1 as follows:**

#### § 2.2-419. Definitions.

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

"Anything of value" means:

1. A pecuniary item, including money, or a bank bill or note;
2. A promissory note, bill of exchange, order, draft, warrant, check, or bond given for the payment of money;
3. A contract, agreement, promise, or other obligation for an advance, conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, gift, pledge, or transfer of money;
4. A stock, bond, note, or other investment interest in an entity;
5. A receipt given for the payment of money or other property;
6. A right in action;
7. A gift, tangible good, chattel, or an interest in a gift, tangible good, or chattel;
8. A loan or forgiveness of indebtedness;
9. A work of art, antique, or collectible;
10. An automobile or other means of personal transportation;
11. Real property or an interest in real property, including title to realty, a fee simple or partial interest, present or future, contingent or vested within realty, a leasehold interest, or other beneficial interest in realty;
12. An honorarium or compensation for services;

13. A rebate or discount in the price of anything of value unless the rebate or discount is made in the ordinary course of business to a member of the public without regard to that person's status as an executive or legislative official, or the sale or trade of something for reasonable compensation that would ordinarily not be available to a member of the public;

14. A promise or offer of employment; or

15. Any other thing of value that is pecuniary or compensatory in value to a person.

"Anything of value" does not mean a campaign contribution properly received and reported pursuant to Chapter 9.3 (§ 24.2-945 et seq.) of Title 24.2.

"Compensation" means:

1. An advance, conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, gift, pledge, or transfer of money or anything of value; or

2. A contract, agreement, promise or other obligation for an advance, conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, gift, pledge, or transfer of money or anything of value, for services rendered or to be rendered.

"Compensation" does not mean reimbursement of expenses if the reimbursement does not exceed the amount actually expended for the expenses and it is substantiated by an itemization of expenses.

"Council" means the Virginia Conflict of Interest and Ethics Advisory Council established in § 30-355.

"Executive action" means the proposal, drafting, development, consideration, amendment, adoption, approval, promulgation, issuance, modification, rejection, or postponement by an executive agency or official of legislation or executive orders issued by the Governor. "Executive action" includes procurement transactions.

"Executive agency" means an agency, board, commission, or other body in the executive branch of state government.

"Executive agency" includes the State Corporation Commission, the Virginia Workers' Compensation Commission, and the Virginia Lottery.

"Executive official" means:

1. The Governor;

2. The Lieutenant Governor;

3. The Attorney General;

4. Any officer or employee of the office of the Governor, Lieutenant Governor, or Attorney General other than a clerical or secretarial employee;

5. The Governor's Secretaries, the Deputy Secretaries, and the chief executive officer of each executive agency; or

6. Members of supervisory and policy boards, commissions and councils, as defined in § 2.2-2100, however selected.

"Expenditure" means:

1. A purchase, payment, distribution, loan, forgiveness of a loan or payment of a loan by a third party, advance, deposit, transfer of funds, a promise to make a payment, or a gift of money or anything of value for any purpose;

2. A payment to a lobbyist for salary, fee, reimbursement for expenses, or other purpose by a person employing, retaining, or contracting for the services of the lobbyist separately or jointly with other persons;

3. A payment in support of or assistance to a lobbyist or the lobbyist's activities, including the direct payment of expenses incurred at the request or suggestion of the lobbyist;

4. A payment that directly benefits an executive or legislative official or a member of the official's immediate family;

5. A payment, including compensation, payment, or reimbursement for the services, time, or expenses of an employee for or in connection with direct communication with an executive or legislative official;

6. A payment for or in connection with soliciting or urging other persons to enter into direct communication with an executive or legislative official; or

7. A payment or reimbursement for categories of expenditures required to be reported pursuant to this chapter.

"Expenditure" does not mean a campaign contribution properly received and reported pursuant to Chapter 9.3 (§ 24.2-945 et seq.) of Title 24.2.

"Fair market value" means the price that a good or service would bring between a willing seller and a willing buyer in the open market after negotiations. If the fair market value cannot be determined, the actual price paid for the good or service shall be given consideration.

"Gift" means anything of value, including any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value, and includes services as well as gifts of transportation, local travel, lodgings, and meals, whether provided in-kind or by purchase of a ticket, payment in advance, or reimbursement after the expense has been incurred.

"Gift" does not mean:

1. Printed informational or promotional material;

2. A gift that is not used and, no later than 60 days after receipt, is returned to the donor or delivered to a charitable organization and is not claimed as a charitable contribution for federal income tax purposes;

3. A devise or inheritance;

4. A gift of a value of less than \$20;

5. Any offer of a ticket, coupon, or other admission or pass unless the ticket, coupon, admission, or pass is used;

6. Any food or beverages provided to an individual at an event at which the individual is performing official duties related to his public service;

7. Any food and beverages received at or registration or attendance fees waived for any event at which the individual is a featured speaker, presenter, or lecturer;

8. An unsolicited award of appreciation or recognition in the form of a plaque, trophy, wall memento, or similar item that is given in recognition of public, civic, charitable, or professional service;

9. Any gift to an individual's spouse, child, uncle, aunt, niece, nephew, or first cousin; a person to whom the donee is engaged to be married; the donee's or his spouse's parent, grandparent, grandchild, brother, sister, step-parent, step-grandparent, step-grandchild, step-brother, or step-sister; or the donee's brother's or sister's spouse *or the donee's son-in-law or daughter-in-law*;

10. Travel provided to facilitate attendance by a legislator at a regular or special session of the General Assembly, a meeting of a legislative committee or commission, or a national conference where attendance is approved by the House Committee on Rules or its Chairman or the Senate Committee on Rules or its Chairman; ~~or~~

11. Travel related to an official meeting of, *or any meal provided for attendance at such meeting by*, the Commonwealth, its political subdivisions, or any board, commission, authority, or other entity, or any charitable organization established pursuant to § 501(c)(3) of the Internal Revenue Code affiliated with such entity, to which such person has been appointed or elected or is a member by virtue of his office or employment; *or*

12. *Attendance at a reception or similar function where food, such as hors d'oeuvres, and beverages that can be conveniently consumed by a person while standing or walking are offered.*

"Immediate family" means (i) the spouse and (ii) any other person who resides in the same household as the executive or legislative official and who is a dependent of the official.

"Legislative action" means:

1. Preparation, research, drafting, introduction, consideration, modification, amendment, approval, passage, enactment, tabling, postponement, defeat, or rejection of a bill, resolution, amendment, motion, report, nomination, appointment, or other matter by the General Assembly or a legislative official;

2. Action by the Governor in approving, vetoing, or recommending amendments for a bill passed by the General Assembly; or

3. Action by the General Assembly in overriding or sustaining a veto by the Governor, considering amendments recommended by the Governor, or considering, confirming, or rejecting an appointment of the Governor.

"Legislative official" means:

1. A member or member-elect of the General Assembly;

2. A member of a committee, subcommittee, commission, or other entity established by and responsible to the General Assembly or either house of the General Assembly; or

3. Persons employed by the General Assembly or an entity established by and responsible to the General Assembly.

"Lobbying" means:

1. Influencing or attempting to influence executive or legislative action through oral or written communication with an executive or legislative official; or

2. Solicitation of others to influence an executive or legislative official.

"Lobbying" does not mean:

1. Requests for appointments, information on the status of pending executive and legislative actions, or other ministerial contacts if there is no attempt to influence executive or legislative actions;

2. Responses to published notices soliciting public comment submitted to the public official designated in the notice to receive the responses;

3. The solicitation of an association by its members to influence legislative or executive action; or

4. Communications between an association and its members and communications between a principal and its lobbyists.

"Lobbyist" means:

1. An individual who is employed and receives payments, or who contracts for economic consideration, including reimbursement for reasonable travel and living expenses, for the purpose of lobbying;

2. An individual who represents an organization, association, or other group for the purpose of lobbying; or

3. A local government employee who lobbies.

"Lobbyist's principal" or "principal" means the entity on whose behalf the lobbyist influences or attempts to influence executive or legislative action. An organization whose employees conduct lobbying activities on its behalf is both a principal and an employer of the lobbyists. In the case of a coalition or association that employs or retains others to conduct lobbying activities on behalf of its membership, the principal is the coalition or association and not its individual members.

"Local government" means:

1. Any county, city, town, or other local or regional political subdivision;

2. Any school division;

3. Any organization or entity that exercises governmental powers that is established pursuant to an interstate compact; or

4. Any organization composed of members representing entities listed in subdivisions 1, 2, or 3 of this definition.

"Local government employee" means a public employee of a local government.

"Person" means an individual, proprietorship, firm, partnership, joint venture, joint stock company, syndicate, business trust, estate, company, corporation, association, club, committee, organization, or group of persons acting in concert.

"Procurement transaction" means all functions that pertain to obtaining all goods, services, or construction on behalf of an executive agency, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration where the stated or expected value of the contract is \$5 million or more.

"Secretary" means the Secretary of the Commonwealth.

"Value" means the actual cost or fair market value of an item or items, whichever is greater. If the fair market value cannot be determined, the actual amount paid for the item or items shall be given consideration.

"Widely attended event" means an event at which at least 25 persons have been invited to attend or there is a reasonable expectation that at least 25 persons will attend the event and the event is open to individuals (i) ~~who share a common interest~~; (ii) who are members of a public, civic, charitable, or professional organization, ~~(iii)~~ (ii) who are from a particular industry or profession, or ~~(iv)~~ (iii) who represent persons interested in a particular issue.

**§ 2.2-422. Registration requirements.**

A. A lobbyist shall register with the Secretary of the Commonwealth prior to engaging in lobbying. A lobbyist who engages in lobbying entirely outside the capital city shall comply with this section by registering with the Secretary within fifteen days after first engaging in lobbying. Registration shall be required annually and expire May 1 of each year.

B. The chief administrative officer of each local government shall register with the Secretary of the Commonwealth and file a statement pursuant to § 2.2-423 if any local government employees will act as lobbyists on its behalf. No registration fee shall be required. Each local government shall file a consolidated report in accordance with the reporting requirements of § 2.2-426 and shall maintain locally a copy of the report that is available for inspection and copying during regular business hours.

C. All registrations required by this section shall be filed electronically in accordance with the standards approved by the Council.

**§ 2.2-423. Contents of registration statement.**

A. The registration statement shall be on a form provided by the Secretary of the Commonwealth and include the following information:

1. The name and business address and telephone number of the lobbyist;
2. The name and business address and telephone number of the person who will keep custody of the lobbyist's and the lobbyist's principal's accounts and records required to comply with this article, and the location and telephone number for the place where the accounts and records are kept;
3. The name and business address and telephone number of the lobbyist's principal;
4. The kind of business of the lobbyist's principal;
5. For each principal, the full name of the individual to whom the lobbyist reports;
6. For each principal, a statement whether the lobbyist is employed or retained and whether exclusively for the purpose of lobbying;
7. The position held by the lobbyist if he is a part-time or full-time employee of the principal;
8. ~~The full name and business address and telephone number of each lobbyist employed by or representing the lobbyist's principal;~~

~~9.~~ An identification of the subject matter (with as much specificity as possible) with regard to which the lobbyist or lobbyist's principal will engage in lobbying; *and*

~~10.~~ 9. The statement of the lobbyist, which shall be signed either originally or by electronic signature as authorized by the Uniform Electronic Transactions Act (§ 59.1-479 et seq.), that the information contained on the registration statement is true and correct; ~~and~~ ~~11.~~ A statement by which a

B. *The lobbyist and the lobbyist's principal shall be notified at the time of the registration that the principal may elect to waive the principal signature requirement on disclosure filings submitted by its registered lobbyist after the filing of the registration statement. The waiver shall be on a form prescribed by the Council and may be filed electronically with the Council in accordance with the standards approved by it pursuant to § 30-356.*

~~B.~~ C. Whenever any change, modification, or addition to his status as a lobbyist is made, *including the termination of his status as a lobbyist*, the lobbyist shall, within one week of such change, modification, or addition, furnish full information regarding the same to the Secretary of the Commonwealth on forms provided by the Secretary.

~~C.~~ D. The Secretary of the Commonwealth shall furnish a copy of this article to any individual offering to register as a lobbyist and shall mail by certified mail a copy of this article and a copy of the information furnished by the lobbyist to the person whom the lobbyist represents to be his principal.

~~D.~~ E. If the principal to whom the information is sent under subsection ~~C~~ D does not, within 10 days of such mailing, file an affidavit, signed by the person or duly authorized agent of the person, denying that the lobbyist appears on his behalf, such person shall be deemed to have appointed the Secretary of the Commonwealth his agent for service of process in any prosecution arising for violation of this article. If such affidavit is filed, the Secretary shall notify the attorney for the Commonwealth of the City of Richmond.

**§ 2.2-426. Lobbyist reporting; penalty.**

A. Each lobbyist shall file with the Council a separate annual report of expenditures, including gifts, for each principal for whom he lobbies by July 1 for the preceding 12-month period complete through the last day of April.

B. Each principal who expends more than \$500 to employ or compensate multiple lobbyists shall be responsible for filing a consolidated lobbyist report pursuant to this section in any case in which the lobbyists are each exempt under the provisions of subdivision 7 or 8 of § 2.2-420 from the reporting requirements of this section.

C. The report shall be on a form prescribed by the Council and shall be accompanied by instructions provided by the Council. All reports shall be submitted electronically and in accordance with the standards approved by the Council pursuant to the provisions of § 30-356.

D. A person who knowingly and intentionally makes a false statement of a material fact on the disclosure statement is guilty of a Class 5 felony.

E. The name of a legislative or executive official, or a member of his immediate family, attending any reportable entertainment event shall not be required to be disclosed by the principal if that legislative or executive official reimburses the principal for, or otherwise pays for, his attendance, or the attendance of a member of his immediate family, at the entertainment event. Reimbursement shall be calculated using the average value for each person attending the event.

F. Each lobbyist shall send to each legislative and executive official who is required to be identified by name on Schedule A or B of the Lobbyist's Disclosure Form a copy of Schedule A or B or a summary of the information pertaining to that official. Copies or summaries shall be provided to the official by ~~December 15~~ *January 10* for the preceding 12-month period complete through ~~November 30~~ *December 31*. *In addition, each lobbyist shall send to each legislator and executive official who is required to file a report of gifts accepted or received during a regular session of the General Assembly pursuant to § 2.2-3114.2 or 30-110.1 a summary of all gifts made by such lobbyist to each legislator or executive official or a member of his immediate family during the period beginning on January 1 complete through adjournment sine die of the regular session of the General Assembly. Summaries shall be provided to the legislator or executive official no later than three weeks after adjournment sine die. For purposes of this section, "adjournment sine die" means adjournment on the last legislative day of the regular session and does not include the reconvened session.*

**§ 2.2-430. Termination.**

A. A lobbyist or a lobbyist's principal may terminate the lobbyist's status as a lobbyist ~~registration~~ *for such principal at any time by filing a prior to the expiration of his registration. Upon termination, the lobbyist may file the report required under § 2.2-426 including information through the last day of lobbying activity. A termination at any time, but shall file the report no later than the deadline set forth in that section. Such report shall indicate that the lobbyist intends to use the report as the final accounting of lobbying activity and shall include information complete through the last day of lobbying activity and the effective date of the termination. The report shall be signed by the lobbyist's principal as otherwise required.*

B. A lobbyist's principal who terminates the services of a lobbyist prior to the expiration of the lobbyist's registration shall provide actual notice to the lobbyist. Such notice shall inform the lobbyist that he is required to file the report required under § 2.2-426 no later than the deadline set forth in that section and that the lobbyist's failure to file such report by the deadline shall result in the assessment of civil penalties against the lobbyist pursuant to § 2.2-431. The lobbyist's principal shall also notify the Secretary of the Commonwealth of the early termination in accordance with subsection B of § 2.2-423.

**§ 2.2-431. Penalties; filing of substituted statement.**

A. Every lobbyist failing to file the statement prescribed by § 2.2-426 within the time prescribed therein shall be assessed a civil penalty of \$50, and every individual failing to file the statement within 10 days after the time prescribed herein shall be assessed an additional civil penalty of \$50 per day from the eleventh day of such default until the statement is filed. The Council shall notify the Secretary of any lobbyist's failure to file the statement within the time prescribed, and the penalties shall be assessed and collected by the Secretary. The Attorney General shall assist the Secretary in collecting the penalties, upon request.

B. Every lobbyist's principal whose lobbyist fails to file the statement prescribed by § 2.2-426 shall be assessed a civil penalty of \$50, and shall be assessed an additional civil penalty of \$50 per day from the eleventh day of such default until the statement is filed. The Council shall notify the Secretary of any lobbyist's failure to file the statement within the time prescribed, and the penalties shall be assessed and collected by the Secretary. The Attorney General shall assist the Secretary in collecting the penalties, upon request.

C. No individual who has failed to file the statement required by § 2.2-426 or who has failed to pay all penalties assessed pursuant to this section, shall register or act as a lobbyist as long as he remains in default.

D. Whenever any lobbyist or lobbyist's principal is or will be in default under § 2.2-426, and the reasons for such default are or will be beyond ~~his the lobbyist's control, or the control of his the lobbyist's principal, or both,~~ the Secretary may suspend the assessment of any penalty otherwise assessable and accept a substituted statement, upon the submission of sworn proofs that shall satisfy him that the default has been beyond the control of the lobbyist or ~~his the lobbyist's principal,~~ and that the substituted statement contains the most accurate and complete information available after the exercise of due diligence.

E. Penalties collected pursuant to this section shall be payable to the State Treasurer for deposit to the general fund and shall be used exclusively to fund the Council.

**§ 2.2-3101. Definitions.**

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

"Advisory agency" means any board, commission, committee or post which does not exercise any sovereign power or duty, but is appointed by a governmental agency or officer or is created by law for the purpose of making studies or recommendations, or advising or consulting with a governmental agency.

"Affiliated business entity relationship" means a relationship, other than a parent-subsidary relationship, that exists when (i) one business entity has a controlling ownership interest in the other business entity, (ii) a controlling owner in one entity is also a controlling owner in the other entity, or (iii) there is shared management or control between the business entities. Factors that may be considered in determining the existence of an affiliated business entity relationship include that the same person or substantially the same person owns or manages the two entities, there are common or commingled funds or assets, the business entities share the use of the same offices or employees, or otherwise share activities, resources or personnel on a regular basis, or there is otherwise a close working relationship between the entities.

"Business" means a corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, trust or foundation, or any other individual or entity carrying on a business or profession, whether or not for profit.

"Candidate" means a person who seeks or campaigns for an office of the Commonwealth or one of its governmental units in a general, primary, or special election and who is qualified to have his name placed on the ballot for the office. The candidate shall become subject to the provisions of this chapter upon the filing of a statement of qualification pursuant to § 24.2-501. The State Board of Elections or general registrar shall notify each such candidate of the provisions of this chapter. Notification made by the general registrar shall consist of information developed by the State Board of Elections.

"Contract" means any agreement to which a governmental agency is a party, or any agreement on behalf of a governmental agency that involves the payment of money appropriated by the General Assembly or a political subdivision, whether or not such agreement is executed in the name of the Commonwealth, or some political subdivision thereof. "Contract" includes a subcontract only when the contract of which it is a part is with the officer's or employee's own governmental agency.

"Council" means the Virginia Conflict of Interest and Ethics Advisory Council established in § 30-355.

"Employee" means all persons employed by a governmental or advisory agency, unless otherwise limited by the context of its use.

"Financial institution" means any bank, trust company, savings institution, industrial loan association, consumer finance company, credit union, broker-dealer as defined in subsection A of § 13.1-501, or investment company or advisor registered under the federal Investment Advisors Act or Investment Company Act of 1940.

"Gift" means any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value. It includes services as well as gifts of transportation, local travel, lodgings and meals, whether provided in-kind, by purchase of a ticket, payment in advance or reimbursement after the expense has been incurred. "Gift" does not include (i) any offer of a ticket, coupon, or other admission or pass unless the ticket, coupon, admission, or pass is used; (ii) honorary degrees; (iii) any athletic, merit, or need-based scholarship or any other financial aid awarded by a public or private school, institution of higher education, or other educational program pursuant to such school, institution, or program's financial aid standards and procedures applicable to the general public; (iv) a campaign contribution properly received and reported pursuant to Chapter 9.3 (§ 24.2-945 et seq.) of Title 24.2; (v) any gift related to the private profession or occupation or *volunteer service* of an officer or employee or of a member of his immediate family; (vi) food or beverages consumed while attending an event at which the filer is performing official duties related to his public service; (vii) food and beverages received at or registration or attendance fees waived for any event at which the filer is a featured speaker, presenter, or lecturer; (viii) unsolicited awards of appreciation or recognition in the form of a plaque, trophy, wall memento, or similar item that is given in recognition of public, civic, charitable, or professional service; (ix) a devise or inheritance; (x) travel disclosed pursuant to the Campaign Finance Disclosure Act (§ 24.2-945 et seq.); (xi) travel paid for or provided by the government of the United States, any of its territories, or any state or any political subdivision of such state; (xii) travel provided to facilitate attendance by a legislator at a regular or special session of the General Assembly, a meeting of a legislative committee or commission, or a national conference where attendance is approved by the House Committee on Rules or its Chairman or the Senate Committee on Rules or its Chairman; (xiii) travel related to an official meeting of, or any meal provided for attendance at such meeting by, the Commonwealth, its political subdivisions, or any board, commission, authority, or other entity, or any charitable organization established pursuant to § 501(c)(3) of the Internal Revenue Code affiliated with such entity, to which such person has been appointed or elected or is a member by virtue of his office or employment; (xiv) gifts with a value of less than \$20; ~~or~~ (xv) *attendance at a reception or similar function where food, such as hors d'oeuvres, and beverages that can be conveniently consumed by a person while standing or walking are offered*; or (xvi) gifts from relatives or personal friends. For the purpose of this definition, "relative" means the donee's spouse, child, uncle, aunt, niece, nephew, or first cousin; a person to whom the donee is engaged to be married; the donee's or his spouse's parent, grandparent, grandchild, brother, sister, step-parent, step-grandparent, step-grandchild, step-brother, or step-sister; or the donee's brother's or sister's spouse or the donee's son-in-law or daughter-in-law. For the purpose of this definition, "personal friend" does not include any person that the filer knows or has reason to know is (a) a lobbyist registered pursuant to Article 3 (§ 2.2-418 et seq.) of Chapter 4 of Title 2.2; (b) a lobbyist's principal as defined in § 2.2-419; (c) for an officer or employee of a local governmental or advisory agency, a person, organization, or business who is a party to or is seeking to become a party to a contract with the local agency of which he is an officer or an employee; or (d) for an officer or employee of a state governmental or advisory agency, a person, organization, or business who is a party to or is seeking to become a party to a contract with the Commonwealth. For purposes of this definition, "person, organization, or business" includes individuals who are officers, directors, or owners of or who have a controlling ownership interest in such organization or business.

"Governmental agency" means each component part of the legislative, executive or judicial branches of state and local government, including each office, department, authority, post, commission, committee, and each institution or board created by law to exercise some regulatory or sovereign power or duty as distinguished from purely advisory powers or duties. Corporations organized or controlled by the Virginia Retirement System are "governmental agencies" for purposes of this chapter.

"Immediate family" means (i) a spouse and (ii) any other person who resides in the same household as the officer or employee and who is a dependent of the officer or employee.

"Officer" means any person appointed or elected to any governmental or advisory agency including local school boards, whether or not he receives compensation or other emolument of office. Unless the context requires otherwise, "officer" includes members of the judiciary.

"Parent-subsidiary relationship" means a relationship that exists when one corporation directly or indirectly owns shares possessing more than 50 percent of the voting power of another corporation.

"Personal interest" means a financial benefit or liability accruing to an officer or employee or to a member of his immediate family. Such interest shall exist by reason of (i) ownership in a business if the ownership interest exceeds three percent of the total equity of the business; (ii) annual income that exceeds, or may reasonably be anticipated to exceed, \$5,000 from ownership in real or personal property or a business; (iii) salary, other compensation, fringe benefits, or benefits from the use of property, or any combination thereof, paid or provided by a business or governmental agency that exceeds, or may reasonably be anticipated to exceed, \$5,000 annually; (iv) ownership of real or personal property if the interest exceeds \$5,000 in value and excluding ownership in a business, income, or salary, other compensation, fringe benefits or benefits from the use of property; (v) personal liability incurred or assumed on behalf of a business if the liability exceeds three percent of the asset value of the business; or (vi) an option for ownership of a business or real or personal property if the ownership interest will consist of clause (i) or (iv) ~~above~~.

"Personal interest in a contract" means a personal interest that an officer or employee has in a contract with a governmental agency, whether due to his being a party to the contract or due to a personal interest in a business that is a party to the contract.

"Personal interest in a transaction" means a personal interest of an officer or employee in any matter considered by his agency. Such personal interest exists when an officer or employee or a member of his immediate family has a personal interest in property or a business or governmental agency, or represents or provides services to any individual or business and such property, business or represented or served individual or business (i) is the subject of the transaction or (ii) may realize a reasonably foreseeable direct or indirect benefit or detriment as a result of the action of the agency considering the transaction. Notwithstanding the above, such personal interest in a transaction shall not be deemed to exist where (a) an elected member of a local governing body serves without remuneration as a member of the board of trustees of a not-for-profit entity and such elected member or member of his immediate family has no personal interest related to the not-for-profit entity or (b) an officer, employee, or elected member of a local governing body is appointed by such local governing body to serve on a governmental agency, or an officer, employee, or elected member of a separate local governmental agency formed by a local governing body is appointed to serve on a governmental agency, and the personal interest in the transaction of the governmental agency is the result of the salary, other compensation, fringe benefits, or benefits provided by the local governing body or the separate governmental agency to the officer, employee, elected member, or member of his immediate family.

"State and local government officers and employees" shall not include members of the General Assembly.

"State filer" means those officers and employees required to file a disclosure statement of their personal interests pursuant to subsection A or B of § 2.2-3114.

"Transaction" means any matter considered by any governmental or advisory agency, whether in a committee, subcommittee, or other entity of that agency or before the agency itself, on which official action is taken or contemplated.

#### **§ 2.2-3103.1. Certain gifts prohibited.**

A. For purposes of this section:

"Person, organization, or business" includes individuals who are officers, directors, or owners of or who have a controlling ownership interest in such organization or business.

"Widely attended event" means an event at which at least 25 persons have been invited to attend or there is a reasonable expectation that at least 25 persons will attend the event and the event is open to individuals (i) ~~who share a common interest~~, (ii) who are members of a public, civic, charitable, or professional organization, (iii) ~~(ii)~~ who are from a particular industry or profession, or (iv) ~~(iii)~~ who represent persons interested in a particular issue.

B. No officer or employee of a local governmental or advisory agency or candidate required to file the disclosure form prescribed in § 2.2-3117 or a member of his immediate family shall solicit, accept, or receive any single gift with a value in excess of \$100 or any combination of gifts with an aggregate value in excess of \$100 within any calendar year for himself or a member of his immediate family from any person that he or a member of his immediate family knows or has reason to know is (i) a lobbyist registered pursuant to Article 3 (§ 2.2-418 et seq.) of Chapter 4; (ii) a lobbyist's principal as defined in § 2.2-419; or (iii) a person, organization, or business who is or is seeking to become a party to a contract with the local agency of which he is an officer or an employee. Gifts with a value of less than \$20 are not subject to aggregation for purposes of this prohibition.

C. No officer or employee of a state governmental or advisory agency or candidate required to file the disclosure form prescribed in § 2.2-3117 or a member of his immediate family shall solicit, accept, or receive any single gift with a value in excess of \$100 or any combination of gifts with an aggregate value in excess of \$100 within any calendar year for himself or a member of his immediate family from any person that he or a member of his immediate family knows or has reason to know is (i) a lobbyist registered pursuant to Article 3 (§ 2.2-418 et seq.) of Chapter 4; (ii) a lobbyist's principal as defined in § 2.2-419; or (iii) a person, organization, or business who is or is seeking to become a party to a contract with the state governmental or advisory agency of which he is an officer or an employee or over which he has the authority to direct such agency's activities. Gifts with a value of less than \$20 are not subject to aggregation for purposes of this prohibition.

D. Notwithstanding the provisions of subsections B and C, such officer, employee, or candidate or a member of his immediate family may accept or receive a gift of food and beverages, entertainment, or the cost of admission with a value in excess of \$100 when such gift is accepted or received while in attendance at a widely attended event and is associated with the event. Such gifts shall be reported on the disclosure form prescribed in § 2.2-3117.

E. Notwithstanding the provisions of subsections B and C, such officer or employee or a member of his immediate family may accept or receive a gift from a foreign dignitary with a value exceeding \$100 for which the fair market value or a gift of greater or equal value has not been provided or exchanged. Such gift shall be accepted on behalf of the Commonwealth or a locality and archived in accordance with guidelines established by the Library of Virginia. Such gift shall be disclosed as having been accepted on behalf of the Commonwealth or a locality, but the value of such gift shall not be required to be disclosed.

F. Notwithstanding the provisions of subsections B and C, such officer, employee, or candidate or a member of his immediate family may accept or receive certain gifts with a value in excess of \$100 from a person listed in subsection B or C if such gift was provided to such officer, employee, or candidate or a member of his immediate family on the basis of a personal friendship. Notwithstanding any other provision of law, a person listed in subsection B or C may be a personal friend of such officer, employee, or candidate or his immediate family for purposes of this subsection. In determining whether a person listed in subsection B or C is a personal friend, the following factors shall be considered: (i) the circumstances under which the gift was offered; (ii) the history of the relationship between the person and the donor, including the nature and length of the friendship and any previous exchange of gifts between them; (iii) to the extent known to the person, whether the donor personally paid for the gift or sought a tax deduction or business reimbursement for the gift; and (iv) whether the donor has given the same or similar gifts to other persons required to file the disclosure form prescribed in § 2.2-3117 or 30-111.

G. Notwithstanding the provisions of subsections B and C, such officer, employee, or candidate or a member of his immediate family may accept or receive gifts of travel, including travel-related transportation, lodging, hospitality, food or beverages, or other thing of value, with a value in excess of \$100 that is paid for or provided by a person listed in subsection B or C when the officer, employee, or candidate has submitted a request for approval of such travel to the Council and has received the approval of the Council pursuant to § 30-356.1. Such gifts shall be reported on the disclosure form prescribed in § 2.2-3117.

H. During the pendency of a civil action in any state or federal court to which the Commonwealth is a party, the Governor or the Attorney General or any employee of the Governor or the Attorney General who is subject to the provisions of this chapter shall not solicit, accept, or receive any gift from any person that he knows or has reason to know is a person, organization, or business that is a party to such civil action. A person, organization, or business that is a party to such civil action shall not knowingly give any gift to the Governor or the Attorney General or any of their employees who are subject to the provisions of this chapter.

I. The \$100 limitation imposed in accordance with this section shall be adjusted by the Council every five years, as of January 1 of that year, in an amount equal to the annual increases for that five-year period in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics of the U.S. Department of Labor, rounded to the nearest whole dollar.

*J. The provisions of this section shall not apply to any justice of the Supreme Court of Virginia, judge of the Court of Appeals of Virginia, judge of any circuit court, or judge or substitute judge of any district court. However, nothing in this subsection shall be construed to authorize the acceptance of any gift if such acceptance would constitute a violation of the Canons of Judicial Conduct for the State of Virginia.*

**§ 2.2-3110. Further exceptions.**

A. The provisions of Article 3 (§ 2.2-3106 et seq.) shall not apply to:

1. The sale, lease or exchange of real property between an officer or employee and a governmental agency, provided the officer or employee does not participate in any way as such officer or employee in such sale, lease or exchange, and this fact is set forth as a matter of public record by the governing body of the governmental agency or by the administrative head thereof;
2. The publication of official notices;
3. Contracts between the government or school board of a ~~town or county~~, city, or town with a population of less than 10,000 and an officer or employee of that ~~town or county~~, city, or town government or school board when the total of such contracts between the ~~town or city~~ government or school board and the officer or employee of that ~~town or city~~ government or school board or a business controlled by him does not exceed ~~\$10,000~~ \$5,000 per year or such amount exceeds ~~\$10,000~~

\$5,000 and is less than \$25,000 but results from contracts arising from awards made on a sealed bid basis, and such officer or employee has made disclosure as provided for in § 2.2-3115;

4. An officer or employee whose sole personal interest in a contract with the governmental agency is by reason of income from the contracting firm or governmental agency in excess of ~~\$10,000~~ \$5,000 per year, provided the officer or employee or a member of his immediate family does not participate and has no authority to participate in the procurement or letting of such contract on behalf of the contracting firm and the officer or employee either does not have authority to participate in the procurement or letting of the contract on behalf of his governmental agency or he disqualifies himself as a matter of public record and does not participate on behalf of his governmental agency in negotiating the contract or in approving the contract;

5. When the governmental agency is a public institution of higher education, an officer or employee whose personal interest in a contract with the institution is by reason of an ownership in the contracting firm in excess of three percent of the contracting firm's equity or such ownership interest and income from the contracting firm is in excess of ~~\$10,000~~ \$5,000 per year, provided that (i) the officer or employee's ownership interest, or ownership and income interest, and that of any immediate family member in the contracting firm is disclosed in writing to the president of the institution, which writing certifies that the officer or employee has not and will not participate in the contract negotiations on behalf of the contracting firm or the institution, (ii) the president of the institution makes a written finding as a matter of public record that the contract is in the best interests of the institution, (iii) the officer or employee either does not have authority to participate in the procurement or letting of the contract on behalf of the institution or disqualifies himself as a matter of public record, and (iv) does not participate on behalf of the institution in negotiating the contract or approving the contract;

6. Except when the governmental agency is the Virginia Retirement System, contracts between an officer's or employee's governmental agency and a public service corporation, financial institution, or company furnishing public utilities in which the officer or employee has a personal interest, provided the officer or employee disqualifies himself as a matter of public record and does not participate on behalf of his governmental agency in negotiating the contract or in approving the contract;

7. Contracts for the purchase of goods or services when the contract does not exceed \$500;

8. Grants or other payment under any program wherein uniform rates for, or the amounts paid to, all qualified applicants are established solely by the administering governmental agency;

9. An officer or employee whose sole personal interest in a contract with his own governmental agency is by reason of his marriage to his spouse who is employed by the same agency, if the spouse was employed by such agency for five or more years prior to marrying such officer or employee; or

10. Contracts entered into by an officer or employee of a soil and water conservation district created pursuant to Article 3 (§ 10.1-506 et seq.) of Chapter 5 of Title 10.1 to participate in the Virginia Agricultural Best Management Practices Cost-Share Program (the Program) established in accordance with § 10.1-546.1. This subdivision shall not apply to subcontracts or other agreements entered into by an officer or employee of a soil and water conservation district to provide services for implementation of a cost-share contract established under the Program.

B. Neither the provisions of this chapter nor, unless expressly provided otherwise, any amendments thereto shall apply to those employment contracts or renewals thereof or to any other contracts entered into prior to August 1, 1987, which were in compliance with either the former Virginia Conflict of Interests Act, Chapter 22 (§ 2.1-347 et seq.) or the former Comprehensive Conflict of Interests Act, Chapter 40 (§ 2.1-599 et seq.) of Title 2.1 at the time of their formation and thereafter. Those contracts shall continue to be governed by the provisions of the appropriate prior Act. Notwithstanding the provisions of subdivision (f) (4) of *former* § 2.1-348 of Title 2.1 in effect prior to July 1, 1983, the employment by the same governmental agency of an officer or employee and spouse or any other relative residing in the same household shall not be deemed to create a material financial interest except when one of such persons is employed in a direct supervisory or administrative position, or both, with respect to such spouse or other relative residing in his household and the annual salary of such subordinate is \$35,000 or more.

**§ 2.2-3112. Prohibited conduct concerning personal interest in a transaction; exceptions.**

A. Each officer and employee of any state or local governmental or advisory agency who has a personal interest in a transaction:

~~1. Shall~~ shall disqualify himself from participating in the transaction if (i) the transaction has application solely to property or a business or governmental agency in which he has a personal interest or a business that has a parent-subsidiary or affiliated business entity relationship with the business in which he has a personal interest or (ii) he is unable to participate pursuant to subdivision B 1, 2, or 3 ~~or 4~~. Any disqualification under the provisions of this ~~subdivision~~ subsection shall be recorded in the public records of the officer's or employee's governmental or advisory agency. The officer or employee shall disclose his personal interest as required by subsection E of § 2.2-3114 or subsection F of § 2.2-3115 and shall not vote or in any manner act on behalf of his agency in the transaction. The officer or employee shall be prohibited from (i) attending any portion of a closed meeting authorized by the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) when the matter in which he has a personal interest is discussed and (ii) discussing the matter in which he has a personal interest with other governmental officers or employees at any time.

B. An officer or employee of any state or local government or advisory agency who has a personal interest in a transaction may participate in the transaction:

~~2. May participate in the transaction if 1. If~~ he is a member of a business, profession, occupation, or group of three or more persons the members of which are affected by the transaction, and he complies with the declaration requirements of subsection F of § 2.2-3114 or subsection H of § 2.2-3115;

~~3. May participate in the transaction when 2. When~~ a party to the transaction is a client of his firm if he does not personally represent or provide services to such client and he complies with the declaration requirements of subsection G of § 2.2-3114 or subsection I of § 2.2-3115; or

~~4. May participate in the transaction if 3. If~~ it affects the public generally, even though his personal interest, as a member of the public, may also be affected by that transaction.

~~B. C.~~ Disqualification under the provisions of this section shall not prevent any employee having a personal interest in a transaction in which his agency is involved from representing himself or a member of his immediate family in such transaction provided he does not receive compensation for such representation and provided he complies with the disqualification and relevant disclosure requirements of this chapter.

~~C. D.~~ Notwithstanding any other provision of law, if disqualifications of officers or employees in accordance with this section leave less than the number required by law to act, the remaining member or members shall constitute a quorum for the conduct of business and have authority to act for the agency by majority vote, unless a unanimous vote of all members is required by law, in which case authority to act shall require a unanimous vote of remaining members. Notwithstanding any provisions of this chapter to the contrary, members of a local governing body whose sole interest in any proposed sale, contract of sale, exchange, lease or conveyance is by virtue of their employment by a business involved in a proposed sale, contract of sale, exchange, lease or conveyance, and where such member's or members' vote is essential to a constitutional majority required pursuant to Article VII, Section 9 of the Constitution of Virginia and § 15.2-2100, such member or members of the local governing body may vote and participate in the deliberations of the governing body concerning whether to approve, enter into or execute such sale, contract of sale, exchange, lease or conveyance. Official action taken under circumstances that violate this section may be rescinded by the agency on such terms as the interests of the agency and innocent third parties require.

~~D. E.~~ The provisions of subsection A shall not prevent an officer or employee from participating in a transaction merely because such officer or employee is a party in a legal proceeding of a civil nature concerning such transaction.

~~E. F.~~ The provisions of subsection A shall not prevent an employee from participating in a transaction regarding textbooks or other educational material for students at state institutions of higher education, when those textbooks or materials have been authored or otherwise created by the employee.

*G. The provisions of this section shall not prevent any justice of the Supreme Court of Virginia, judge of the Court of Appeals of Virginia, judge of any circuit court, judge or substitute judge of any district court, member of the State Corporation Commission, or member of the Virginia Workers' Compensation Commission from participating in a transaction where such individual's participation involves the performance of adjudicative responsibilities as set forth in Canon 3 of the Canons of Judicial Conduct for the State of Virginia. However, nothing in this subsection shall be construed to authorize such individual's participation in a transaction if such participation would constitute a violation of the Canons of Judicial Conduct for the State of Virginia.*

#### **§ 2.2-3114. Disclosure by state officers and employees.**

~~A. The~~ In accordance with the requirements set forth in § 2.2-3118.2, the Governor, Lieutenant Governor, Attorney General, Justices of the Supreme Court, judges of the Court of Appeals, judges of any circuit court, judges and substitute judges of any district court, members of the State Corporation Commission, members of the Virginia Workers' Compensation Commission, members of the Commonwealth Transportation Board, members of the Board of Trustees of the Virginia Retirement System, members of the Virginia Alcoholic Beverage Control Board, and members of the Virginia Lottery Board and other persons occupying such offices or positions of trust or employment in state government, including members of the governing bodies of authorities, as may be designated by the Governor, or officers or employees of the legislative branch, as may be designated by the Joint Rules Committee of the General Assembly, shall file with the Council, as a condition to assuming office or employment, a disclosure statement of their personal interests and such other information as is required on the form prescribed by the Council pursuant to § 2.2-3117 and thereafter shall file such a statement annually on or before ~~January 15. When the filing deadline falls on a Saturday, Sunday, or legal holiday, the disclosure statement shall be filed on the next day that is not a Saturday, Sunday, or legal holiday~~ February 1.

~~B. Nonsalaried~~ In accordance with the requirements set forth in § 2.2-3118.2, nonsalaried citizen members of all policy and supervisory boards, commissions and councils in the executive branch of state government, other than the Commonwealth Transportation Board, members of the Board of Trustees of the Virginia Retirement System, and the Virginia Lottery Board, shall file with the Council, as a condition to assuming office, a disclosure form of their personal interests and such other information as is required on the form prescribed by the Council pursuant to § 2.2-3118 and thereafter shall file such form annually on or before ~~January 15. When the filing deadline falls on a Saturday, Sunday, or legal holiday, the disclosure statement shall be filed on the next day that is not a Saturday, Sunday, or legal holiday~~ February 1. Nonsalaried citizen members of other boards, commissions and councils, including advisory boards and authorities, may be required to file a disclosure form if so designated by the Governor, in which case the form shall be that prescribed by the Council pursuant to § 2.2-3118.

C. The disclosure forms required by subsections A and B shall be made available by the Council at least 30 days prior to the filing deadline. Disclosure forms shall be filed electronically with the Council in accordance with the standards

approved by it pursuant to § 30-356. All forms shall be maintained as public records for five years in the office of the Council. Such forms shall be made public no later than six weeks after *the* filing *deadline*.

D. Candidates for the offices of Governor, Lieutenant Governor or Attorney General shall file a disclosure statement of their personal interests as required by § 24.2-502.

E. Any officer or employee of state government who has a personal interest in any transaction before the governmental or advisory agency of which he is an officer or employee and who is disqualified from participating in that transaction pursuant to ~~subdivision subsection A 4~~ of § 2.2-3112, or otherwise elects to disqualify himself, shall forthwith make disclosure of the existence of his interest, including the full name and address of the business and the address or parcel number for the real estate if the interest involves a business or real estate, and his disclosure shall also be reflected in the public records of the agency for five years in the office of the administrative head of the officer's or employee's governmental agency or advisory agency or, if the agency has a clerk, in the clerk's office.

F. An officer or employee of state government who is required to declare his interest pursuant to subdivision ~~A 2 B 1~~ of § 2.2-3112, shall declare his interest by stating (i) the transaction involved, (ii) the nature of the officer's or employee's personal interest affected by the transaction, (iii) that he is a member of a business, profession, occupation, or group the members of which are affected by the transaction, and (iv) that he is able to participate in the transaction fairly, objectively, and in the public interest. The officer or employee shall either make his declaration orally to be recorded in written minutes for his agency or file a signed written declaration with the clerk or administrative head of his governmental or advisory agency, as appropriate, who shall, in either case, retain and make available for public inspection such declaration for a period of five years from the date of recording or receipt. If reasonable time is not available to comply with the provisions of this subsection prior to participation in the transaction, the officer or employee shall prepare and file the required declaration by the end of the next business day.

G. An officer or employee of state government who is required to declare his interest pursuant to subdivision ~~A 3 B 2~~ of § 2.2-3112, shall declare his interest by stating (i) the transaction involved, (ii) that a party to the transaction is a client of his firm, (iii) that he does not personally represent or provide services to the client, and (iv) that he is able to participate in the transaction fairly, objectively, and in the public interest. The officer or employee shall either make his declaration orally to be recorded in written minutes for his agency or file a signed written declaration with the clerk or administrative head of his governmental or advisory agency, as appropriate, who shall, in either case, retain and make available for public inspection such declaration for a period of five years from the date of recording or receipt. If reasonable time is not available to comply with the provisions of this subsection prior to participation in the transaction, the officer or employee shall prepare and file the required declaration by the end of the next business day.

H. Notwithstanding any other provision of law, chairs of departments at a public institution of higher education in the Commonwealth shall not be required to file the disclosure form prescribed by the Council pursuant to § 2.2-3117 or 2.2-3118.

**§ 2.2-3115. Disclosure by local government officers and employees.**

A. ~~The~~ *In accordance with the requirements set forth in § 2.2-3118.2, the* members of every governing body and school board of each county and city and of towns with populations in excess of 3,500 shall file, as a condition to assuming office or employment, a disclosure statement of their personal interests and other information as is required on the form prescribed by the Council pursuant to § 2.2-3117 and thereafter shall file such a statement annually on or before ~~January 15~~ *February 1*.

~~The~~ *In accordance with the requirements set forth in § 2.2-3118.2, the* members of the governing body of any authority established in any county or city, or part or combination thereof, and having the power to issue bonds or expend funds in excess of \$10,000 in any fiscal year, shall file, as a condition to assuming office, a disclosure statement of their personal interests and other information as is required on the form prescribed by the Council pursuant to § 2.2-3118 and thereafter shall file such a statement annually on or before ~~January 15~~ *February 1*, unless the governing body of the jurisdiction that appoints the members requires that the members file the form set forth in § 2.2-3117.

~~Persons~~ *In accordance with the requirements set forth in § 2.2-3118.2, persons* occupying such positions of trust appointed by governing bodies and persons occupying such positions of employment with governing bodies as may be designated to file by ordinance of the governing body shall file, as a condition to assuming office or employment, a disclosure statement of their personal interests and other information as is required on the form prescribed by the Council pursuant to § 2.2-3117 and thereafter shall file such a statement annually on or before ~~January 15~~ *February 1*.

~~Persons~~ *In accordance with the requirements set forth in § 2.2-3118.2, persons* occupying such positions of trust appointed by school boards and persons occupying such positions of employment with school boards as may be designated to file by an adopted policy of the school board shall file, as a condition to assuming office or employment, a disclosure statement of their personal interests and other information as is required on the form prescribed by the Council pursuant to § 2.2-3117 and thereafter shall file such a statement annually on or before ~~January 15~~ *February 1*.

B. ~~Nonsalaried~~ *In accordance with the requirements set forth in § 2.2-3118.2, nonsalaried* citizen members of local boards, commissions and councils as may be designated by the governing body shall file, as a condition to assuming office, a disclosure form of their personal interests and such other information as is required on the form prescribed by the Council pursuant to § 2.2-3118 and thereafter shall file such form annually on or before ~~January 15~~ *February 1*.

C. No person shall be mandated to file any disclosure not otherwise required by this article.

D. The disclosure forms required by subsections A and B shall be made available by the Virginia Conflict of Interest and Ethics Advisory Council at least 30 days prior to the filing deadline, and the clerks of the governing body and school

board shall distribute the forms to designated individuals at least 20 days prior to the filing deadline. Forms shall be filed and maintained as public records for five years in the office of the clerk of the respective governing body or school board. Forms filed by members of governing bodies of authorities shall be filed and maintained as public records for five years in the office of the clerk of the governing body of the county or city. Such forms shall be made public no later than six weeks after the filing deadline.

E. Candidates for membership in the governing body or school board of any county, city or town with a population of more than 3,500 persons shall file a disclosure statement of their personal interests as required by § 24.2-502.

F. Any officer or employee of local government who has a personal interest in any transaction before the governmental or advisory agency of which he is an officer or employee and who is disqualified from participating in that transaction pursuant to ~~subdivision~~ subsection A ~~+~~ of § 2.2-3112 or otherwise elects to disqualify himself, shall forthwith make disclosure of the existence of his interest, including the full name and address of the business and the address or parcel number for the real estate if the interest involves a business or real estate, and his disclosure shall be reflected in the public records of the agency for five years in the office of the administrative head of the officer's or employee's governmental or advisory agency.

G. In addition to any disclosure required by subsections A and B, in each county and city and in towns with populations in excess of 3,500, members of planning commissions, boards of zoning appeals, real estate assessors, and all county, city and town managers or executive officers shall make annual disclosures of all their interests in real estate located in the county, city or town in which they are elected, appointed, or employed. Such disclosure shall include any business in which such persons own an interest, or from which income is received, if the primary purpose of the business is to own, develop or derive compensation through the sale, exchange or development of real estate in the county, city or town. ~~Such~~ *In accordance with the requirements set forth in § 2.2-3118.2, such* disclosure shall be filed as a condition to assuming office or employment, and thereafter shall be filed annually with the clerk of the governing body of such county, city, or town on or before ~~January 15~~ *February 1*. Such disclosures shall be filed and maintained as public records for five years. Such forms shall be made public no later than six weeks after the filing deadline. Forms for the filing of such reports shall be made available by the Virginia Conflict of Interest and Ethics Advisory Council to the clerk of each governing body.

H. An officer or employee of local government who is required to declare his interest pursuant to subdivision ~~A 2 B 1~~ of § 2.2-3112 shall declare his interest by stating (i) the transaction involved, (ii) the nature of the officer's or employee's personal interest affected by the transaction, (iii) that he is a member of a business, profession, occupation, or group the members of which are affected by the transaction, and (iv) that he is able to participate in the transaction fairly, objectively, and in the public interest. The officer or employee shall either make his declaration orally to be recorded in written minutes for his agency or file a signed written declaration with the clerk or administrative head of his governmental or advisory agency, as appropriate, who shall, in either case, retain and make available for public inspection such declaration for a period of five years from the date of recording or receipt. If reasonable time is not available to comply with the provisions of this subsection prior to participation in the transaction, the officer or employee shall prepare and file the required declaration by the end of the next business day. The officer or employee shall also orally disclose the existence of the interest during each meeting of the governmental or advisory agency at which the transaction is discussed and such disclosure shall be recorded in the minutes of the meeting.

I. An officer or employee of local government who is required to declare his interest pursuant to subdivision ~~A 3 B 2~~ of § 2.2-3112, shall declare his interest by stating (i) the transaction involved, (ii) that a party to the transaction is a client of his firm, (iii) that he does not personally represent or provide services to the client, and (iv) that he is able to participate in the transaction fairly, objectively, and in the public interest. The officer or employee shall either make his declaration orally to be recorded in written minutes for his agency or file a signed written declaration with the clerk or administrative head of his governmental or advisory agency, as appropriate, who shall, in either case, retain and make available for public inspection such declaration for a period of five years from the date of recording or receipt. If reasonable time is not available to comply with the provisions of this subsection prior to participation in the transaction, the officer or employee shall prepare and file the required declaration by the end of the next business day.

*J. The clerk of the governing body or school board that releases any form to the public pursuant to this section shall redact from the form any residential address, personal telephone number, or signature contained on such form; however, any form filed pursuant to subsection G shall not have any residential addresses redacted.*

**§ 2.2-3116. Disclosure by certain constitutional officers.**

For the purposes of this chapter, holders of the constitutional offices of treasurer, sheriff, attorney for the Commonwealth, clerk of the circuit court, and commissioner of the revenue of each county and city shall be required to file with the Council, as a condition to assuming office, the Statement of Economic Interests prescribed by the Council pursuant to § 2.2-3117. These officers shall file statements annually on or before ~~January 15~~ *February 1*. Candidates shall file statements as required by § 24.2-502. Statements shall be filed electronically with the Council in accordance with the standards approved by it pursuant to § 30-356. These officers shall be subject to the prohibition on certain gifts set forth in subsection B of § 2.2-3103.1.

**§ 2.2-3118.2. Disclosure form; filing requirements.**

*A. An officer or employee required to file an annual disclosure on or before February 1 pursuant to this article shall disclose his personal interests and other information as required on the form prescribed by the Council for the preceding calendar year complete through December 31. An officer or employee required to file a disclosure as a condition to*

assuming office or employment shall file such disclosure on or before the day such office or position of employment is assumed and disclose his personal interests and other information as required on the form prescribed by the Council for the preceding 12-month period complete through the last day of the month immediately preceding the month in which the office or position of employment is assumed; however, any officer or employee who assumes office or a position of employment in January shall be required to only file an annual disclosure on or before February 1 for the preceding calendar year complete through December 31.

B. When the deadline for filing any disclosure pursuant to this article falls on a Saturday, Sunday, or legal holiday, the deadline for filing shall be the next day that is not a Saturday, Sunday, or legal holiday.

**§ 2.2-3121. Advisory opinions.**

A. A state officer or employee shall not be prosecuted for a knowing violation of this chapter if the alleged violation resulted from his good faith reliance on a written opinion of the Attorney General or a *formal opinion or written informal advice* of the ~~Virginia Conflict of Interest and Ethics Advisory~~ Council made in response to his written request for such opinion or advice and the opinion or advice was made after a full disclosure of the facts regardless of whether such opinion or advice is later withdrawn provided the alleged violation occurred prior to the withdrawal of the opinion or advice.

B. A local officer or employee shall not be prosecuted for a knowing violation of this chapter if the alleged violation resulted from his good faith reliance on a written opinion of the attorney for the Commonwealth or a *formal opinion or written informal advice* of the Council made in response to his written request for such opinion or advice and the opinion or advice was made after a full disclosure of the facts regardless of whether such opinion or advice is later withdrawn, provided that the alleged violation occurred prior to the withdrawal of the opinion or advice. The written opinion of the attorney for the Commonwealth shall be a public record and shall be released upon request.

C. If any officer or employee serving at the local level of government is charged with a knowing violation of this chapter, and the alleged violation resulted from his reliance upon a written opinion of his county, city, or town attorney, made after a full disclosure of the facts, that such action was not in violation of this chapter, then the officer or employee shall have the right to introduce a copy of the opinion at his trial as evidence that he did not knowingly violate this chapter.

**§ 2.2-4369. Proscribed participation by public employees in procurement transactions.**

Except as may be specifically allowed by subdivisions ~~A B~~ 1, 2, and 3 and 4 of § 2.2-3112, no public employee having official responsibility for a procurement transaction shall participate in that transaction on behalf of the public body when the employee knows that:

1. The employee is contemporaneously employed by a bidder, offeror or contractor involved in the procurement transaction;

2. The employee, the employee's partner, or any member of the employee's immediate family holds a position with a bidder, offeror or contractor such as an officer, director, trustee, partner or the like, or is employed in a capacity involving personal and substantial participation in the procurement transaction, or owns or controls an interest of more than five percent;

3. The employee, the employee's partner, or any member of the employee's immediate family has a pecuniary interest arising from the procurement transaction; or

4. The employee, the employee's partner, or any member of the employee's immediate family is negotiating, or has an arrangement concerning, prospective employment with a bidder, offeror or contractor.

**§ 24.2-502. Statement of economic interests as requirement of candidacy.**

It shall be a requirement of candidacy that a written statement of economic interests shall be filed by (i) a candidate for Governor, Lieutenant Governor, or Attorney General; and a candidate for the Senate or House of Delegates; ~~and a candidate for a constitutional office with the Virginia Conflict of Interest and Ethics Advisory Council and State Board,~~ (ii) a candidate for a constitutional office with the general registrar for the county or city, and (iii) a candidate for member of the governing body or elected school board of any county, city, or town with a population in excess of 3,500 persons with the general registrar for the county or city. The statement of economic interests shall be that specified in § 30-111 for candidates for the General Assembly and in § 2.2-3117 for all other candidates. The foregoing requirement shall not apply to a candidate for reelection to the same office who has met the requirement of annually filing a statement pursuant to § 2.2-3114, 2.2-3115, 2.2-3116, or 30-110.

~~The Virginia Conflict of Interest and Ethics Advisory Council shall transmit to the State Board, immediately after the filing deadline, a list of the candidates who have filed initial or annual statements of economic interests.~~ The general registrar, the clerk of the local governing body, or the clerk of the school board, as appropriate, shall transmit to the local electoral board, immediately after the filing deadline, a list of the candidates who have filed initial or annual statements of economic interests.

**§ 30-101. Definitions.**

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

"Advisory agency" means any board, commission, committee or post which does not exercise any sovereign power or duty, but is appointed by a governmental agency or officer or is created by law for the purpose of making studies or recommendations, or advising or consulting with a governmental agency.

"Business" means a corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, trust or foundation, or any other individual or entity carrying on a business or profession, whether or not for profit.

"Candidate" means a person who seeks or campaigns for election to the General Assembly in a general, primary, or special election and who is qualified to have his name placed on the ballot for the office. The candidate shall become subject to the provisions of this section upon the filing of a statement of qualification pursuant to § 24.2-501. The State Board of Elections shall notify each such candidate of the provisions of this chapter.

"Contract" means any agreement to which a governmental agency is a party, or any agreement on behalf of a governmental agency that involves the payment of money appropriated by the General Assembly or a political subdivision, whether or not such agreement is executed in the name of the Commonwealth, or some political subdivision thereof. "Contract" includes a subcontract only when the contract of which it is a part is with the legislator's own governmental agency.

"Council" means the Virginia Conflict of Interest and Ethics Advisory Council established in § 30-355.

"Financial institution" means any bank, trust company, savings institution, industrial loan association, consumer finance company, credit union, broker-dealer as defined in subsection A of § 13.1-501, or investment company or advisor registered under the federal Investment Advisors Act or Investment Company Act of 1940.

"Gift" means any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value. It includes services as well as gifts of transportation, lodgings and meals, whether provided in-kind, by purchase of a ticket, payment in advance, or reimbursement after the expense has been incurred. "Gift" does not include (i) any offer of a ticket, coupon, or other admission or pass unless the ticket, coupon, admission, or pass is used; (ii) honorary degrees; (iii) any athletic, merit, or need-based scholarship or any other financial aid awarded by a public or private school, institution of higher education, or other educational program pursuant to such school, institution, or program's financial aid standards and procedures applicable to the general public; (iv) a campaign contribution properly received and reported pursuant to Chapter 9.3 (§ 24.2-945 et seq.) of Title 24.2; (v) any gift related to the private profession or occupation *or volunteer service* of a legislator or of a member of his immediate family; (vi) food or beverages consumed while attending an event at which the filer is performing official duties related to his public service; (vii) food and beverages received at or registration or attendance fees waived for any event at which the filer is a featured speaker, presenter, or lecturer; (viii) unsolicited awards of appreciation or recognition in the form of a plaque, trophy, wall memento, or similar item that is given in recognition of public, civic, charitable, or professional service; (ix) a devise or inheritance; (x) travel disclosed pursuant to the Campaign Finance Disclosure Act (§ 24.2-945 et seq.); (xi) travel paid for or provided by the government of the United States, any of its territories, or any state or any political subdivision of such state; (xii) travel provided to facilitate attendance by a legislator at a regular or special session of the General Assembly, a meeting of a legislative committee or commission, or a national conference where attendance is approved by the House Committee on Rules or its Chairman or the Senate Committee on Rules or its Chairman; (xiii) travel related to an official meeting of, *or any meal provided for attendance at such meeting by*, the Commonwealth, its political subdivisions, or any board, commission, authority, or other entity, or any charitable organization established pursuant to § 501(c)(3) of the Internal Revenue Code affiliated with such entity, to which such person has been appointed or elected or is a member by virtue of his office or employment; (xiv) gifts with a value of less than \$20; ~~or~~ (xv) *attendance at a reception or similar function where food, such as hors d'oeuvres, and beverages that can be conveniently consumed by a person while standing or walking are offered; or* (xvi) gifts from relatives or personal friends. For the purpose of this definition, "relative" means the donee's spouse, child, uncle, aunt, niece, nephew, or first cousin; a person to whom the donee is engaged to be married; the donee's or his spouse's parent, grandparent, grandchild, brother, sister, step-parent, step-grandparent, step-grandchild, step-brother, or step-sister; or the donee's brother's or sister's spouse *or the donee's son-in-law or daughter-in-law*. For the purpose of this definition, "personal friend" does not include any person that the filer knows or has reason to know is (a) a lobbyist registered pursuant to Article 3 (§ 2.2-418 et seq.) of Chapter 4 of Title 2.2 or (b) a lobbyist's principal as defined in § 2.2-419.

"Governmental agency" means each component part of the legislative, executive or judicial branches of state and local government, including each office, department, authority, post, commission, committee, and each institution or board created by law to exercise some regulatory or sovereign power or duty as distinguished from purely advisory powers or duties.

"Immediate family" means (i) a spouse and (ii) any other person who resides in the same household as the legislator and who is a dependent of the legislator.

"Legislator" means a member of the General Assembly.

"Personal interest" means a financial benefit or liability accruing to a legislator or to a member of his immediate family. Such interest shall exist by reason of (i) ownership in a business if the ownership interest exceeds three percent of the total equity of the business; (ii) annual income that exceeds, or may reasonably be anticipated to exceed, \$5,000 from ownership in real or personal property or a business; (iii) salary, other compensation, fringe benefits, or benefits from the use of property, or any combination thereof, paid or provided by a business or governmental agency that exceeds, or may reasonably be anticipated to exceed, \$5,000 annually; (iv) ownership of real or personal property if the interest exceeds \$5,000 in value and excluding ownership in a business, income, or salary, other compensation, fringe benefits or benefits from the use of property; (v) personal liability incurred or assumed on behalf of a business if the liability exceeds three percent of the asset value of the business; or (vi) an option for ownership of a business or real or personal property if the ownership interest will consist of clause (i) or (iv).

"Personal interest in a contract" means a personal interest that a legislator has in a contract with a governmental agency, whether due to his being a party to the contract or due to a personal interest in a business that is a party to the contract.

"Personal interest in a transaction" means a personal interest of a legislator in any matter considered by the General Assembly. Such personal interest exists when ~~an officer or employee~~ a legislator or a member of his immediate family has a personal interest in property or a business, or represents or provides services to any individual or business and such property, business or represented or served individual or business (i) is the subject of the transaction or (ii) may realize a reasonably foreseeable direct or indirect benefit or detriment as a result of the action of the agency considering the transaction. A "personal interest in a transaction" exists only if the legislator or member of his immediate family or an individual or business represented or served by the legislator is affected in a way that is substantially different from the general public or from persons comprising a profession, occupation, trade, business or other comparable and generally recognizable class or group of which he or the individual or business he represents or serves is a member.

"Transaction" means any matter considered by the General Assembly, whether in a committee, subcommittee, or other entity of the General Assembly or before the General Assembly itself, on which official action is taken or contemplated.

**§ 30-103.1. Certain gifts prohibited.**

A. For purposes of this section:

"Widely attended event" means an event at which at least 25 persons have been invited to attend or there is a reasonable expectation that at least 25 persons will attend the event and the event is open to individuals (i) ~~who share a common interest,~~ (ii) who are members of a public, civic, charitable, or professional organization, ~~(iii)~~ (ii) who are from a particular industry or profession, or ~~(iv)~~ (iii) who represent persons interested in a particular issue.

B. No legislator or candidate for the General Assembly required to file the disclosure form prescribed in § 30-111 or a member of his immediate family shall solicit, accept, or receive any single gift for himself or a member of his immediate family with a value in excess of \$100 or any combination of gifts with an aggregate value in excess of \$100 within any calendar year for himself or a member of his immediate family from any person that he or a member of his immediate family knows or has reason to know is (i) a lobbyist registered pursuant to Article 3 (§ 2.2-418 et seq.) of Chapter 4 of Title 2.2 or (ii) a lobbyist's principal as defined in § 2.2-419. Gifts with a value of less than \$20 are not subject to aggregation for purposes of this prohibition.

C. Notwithstanding the provisions of subsection B, a legislator or candidate or a member of his immediate family may accept or receive a gift of food and beverages, entertainment, or the cost of admission with a value in excess in \$100 when such gift is accepted or received while in attendance at a widely attended event and is associated with the event. Such gifts shall be reported on the disclosure form prescribed in § 30-111.

D. Notwithstanding the provisions of subsection B, a legislator or a member of his immediate family may accept or receive a gift from a foreign dignitary with a value exceeding \$100 for which the fair market value or a gift of greater or equal value has not been provided or exchanged. Such gift shall be accepted on behalf of the Commonwealth and archived in accordance with guidelines established by the Library of Virginia. Such gift shall be disclosed as having been accepted on behalf of the Commonwealth, but the value of such gift shall not be required to be disclosed.

E. Notwithstanding the provisions of subsection B, a legislator or candidate or a member of his immediate family may accept or receive certain gifts with a value in excess of \$100 from a person listed in subsection B if such gift was provided to the legislator or candidate or a member of his immediate family on the basis of a personal friendship. Notwithstanding any other provision of law, a person listed in subsection B may be a personal friend of the legislator or candidate or his immediate family for purposes of this subsection. In determining whether a person listed in subsection B is a personal friend, the following factors shall be considered: (i) the circumstances under which the gift was offered; (ii) the history of the relationship between the person and the donor, including the nature and length of the friendship and any previous exchange of gifts between them; (iii) to the extent known to the person, whether the donor personally paid for the gift or sought a tax deduction or business reimbursement for the gift; and (iv) whether the donor has given the same or similar gifts to other persons required to file the disclosure form prescribed in § 2.2-3117 or 30-111.

F. Notwithstanding the provisions of subsection B, a legislator or candidate or a member of his immediate family may accept or receive gifts of travel, including travel-related transportation, lodging, hospitality, food or beverages, or other thing of value, with a value in excess of \$100 that is paid for or provided by a person listed in subsection B when the legislator or candidate has submitted a request for approval of such travel to the Council and has received the approval of the Council pursuant to § 30-356.1. Such gifts shall be reported on the disclosure form prescribed in § 30-111.

G. The \$100 limitation imposed in accordance with this section shall be adjusted by the Council every five years, as of January 1 of that year, in an amount equal to the annual increases for that five-year period in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics of the U.S. Department of Labor, rounded to the nearest whole dollar.

**§ 30-105. Prohibited contracts by legislators.**

A. No legislator shall have a personal interest in a contract with the legislative branch of state government.

B. No legislator shall have a personal interest in a contract with any governmental agency of the executive or judicial branches of state government, other than in a contract of regular employment, unless such contract is awarded as a result of competitive sealed bidding or competitive negotiation as set forth in § 2.2-4302.1 or 2.2-4302.2 or is exempted from competitive sealed bidding or competitive negotiation pursuant to § 2.2-4344.

C. No legislator shall have a personal interest in a contract with any governmental agency of local government, other than in a contract of regular employment, unless such contract is (i) awarded as a result of competitive sealed bidding or competitive negotiation as set forth in § 2.2-4302.1 or 2.2-4302.2 or is awarded as a result of a procedure embodying

competitive principles as authorized by subdivision A 10 or A 11 of § 2.2-4343; ~~or~~; (ii) *is exempted from competitive sealed bidding, competitive negotiation, or a procedure embodying competitive principles pursuant to § 2.2-4344; or* (iii) awarded after a finding, in writing, by the administrative head of the local governmental agency that competitive bidding or negotiation is contrary to the best interest of the public.

D. The provisions of this section shall not apply to contracts for the sale by a governmental agency of services or goods at uniform prices available to the general public.

E. The provisions of this section shall not apply to a legislator's personal interest in a contract between a public institution of higher education in Virginia and a publisher or wholesaler of textbooks or other educational materials for students, which accrues to him solely because he has authored or otherwise created such textbooks or materials.

**§ 30-106. Further exceptions.**

A. The provisions of § 30-105 shall not apply to:

1. The sale, lease or exchange of real property between a legislator and a governmental agency, provided the legislator does not participate in any way as a legislator in such sale, lease or exchange, and this fact is set forth as a matter of public record by the governing body of the governmental agency or by the administrative head thereof. The legislator shall disclose any lease with a state governmental agency in his statement of economic interests as provided in § 30-111;

2. The publication of official notices;

3. A legislator whose sole personal interest in a contract with an agency of the legislative branch is by reason of income from the contracting firm or General Assembly in excess of ~~\$10,000~~ \$5,000 per year, provided the legislator or member of his immediate family does not participate and has no authority to participate in the procurement or letting of the contract on behalf of the contracting firm and the legislator either does not have authority to participate in the procurement or letting of the contract on behalf of the agency or he disqualifies himself as a matter of public record and does not participate on behalf of the agency in negotiating the contract or in approving the contract;

4. Contracts between a legislator's governmental agency and a public service corporation, financial institution, or company furnishing public utilities in which the legislator has a personal interest, provided he disqualifies himself as a matter of public record and does not participate on behalf of the agency in negotiating the contract or in approving the contract;

5. Contracts for the purchase of goods or services when the contract does not exceed \$500; or

6. Grants or other payments under any program wherein uniform rates for, or the amounts paid to, all qualified applicants are established solely by the administering governmental agency.

B. Neither the provisions of this chapter nor, unless expressly provided otherwise, any amendments thereto shall apply to those employment contracts or renewals thereof or to any other contracts entered into prior to August 1, 1987, which were in compliance with either the former Virginia Conflict of Interests Act, Chapter 22 (§ 2.1-347 et seq.) or the former Comprehensive Conflict of Interests Act, Chapter 40 (§ 2.1-599 et seq.) of Title 2.1 at the time of their formation and thereafter. Those contracts shall continue to be governed by the provisions of the appropriate prior Act. Notwithstanding the provisions of subdivision (f) (4) of former § 2.1-348 of Chapter 22 of Title 2.1 in effect prior to July 1, 1983, the employment by the same governmental agency of a legislator and spouse or any other relative residing in the same household shall not be deemed to create a material financial interest except when one of such persons is employed in a direct supervisory or administrative position, or both, with respect to such spouse or other relative residing in his household, and the annual salary of such subordinate is \$15,000 or more.

**§ 30-110. Disclosure.**

A. ~~Every~~ *In accordance with the requirements set forth in § 30-111.1, every* legislator and legislator-elect shall file, as a condition to assuming office, a disclosure statement of his personal interests and such other information as is required on the form prescribed by the Council pursuant to § 30-111 and thereafter shall file such a statement annually on or before ~~January 15. When the filing deadline falls on a Saturday, Sunday, or legal holiday, the disclosure statement shall be filed on the next day that is not a Saturday, Sunday, or legal holiday~~ *February 1*. Disclosure forms shall be made available by the Virginia Conflict of Interest and Ethics Advisory Council at least 30 days prior to the filing deadline. Disclosure forms shall be filed electronically with the Virginia Conflict of Interest and Ethics Advisory Council in accordance with the standards approved by it pursuant to § 30-356. The disclosure forms of the members of the General Assembly shall be maintained as public records for five years in the office of the Virginia Conflict of Interest and Ethics Advisory Council. Such forms shall be made public no later than six weeks after *the filing deadline*.

B. Candidates for the General Assembly shall file a disclosure statement of their personal interests as required by §§ 24.2-500 through 24.2-503.

C. Any legislator who has a personal interest in any transaction pending before the General Assembly and who is disqualified from participating in that transaction pursuant to § 30-108 and the rules of his house shall disclose his interest in accordance with the applicable rule of his house.

**§ 30-111.1. Disclosure form; filing requirements.**

A. *A legislator or legislator-elect required to file an annual disclosure on or before February 1 pursuant to this article shall disclose his personal interests and other information as required on the form prescribed by the Council for the preceding calendar year complete through December 31. A legislator or legislator-elect required to file a disclosure as a condition to assuming office shall file such disclosure on or before the day such office is assumed and disclose his personal interests and other information as required on the form prescribed by the Council for the preceding 12-month period*

complete through the last day of the month immediately preceding the month in which the office is assumed; however, any legislator or legislator-elect who assumes office in January shall be required to only file an annual disclosure on or before February 1 for the preceding calendar year complete through December 31.

B. When the deadline for filing any disclosure pursuant to this article falls on a Saturday, Sunday, or legal holiday, the deadline for filing shall be the next day that is not a Saturday, Sunday, or legal holiday.

**§ 30-124. Advisory opinions.**

A legislator shall not be prosecuted or disciplined for a violation of this chapter if his alleged violation resulted from his good faith reliance on a written opinion of a committee on standards of conduct established pursuant to § 30-120, an opinion of the Attorney General as provided in § 30-122, or a formal opinion or written informal advice of the Virginia Conflict of Interest and Ethics Advisory Council established pursuant to § 30-355, and the opinion or advice was made after his full disclosure of the facts regardless of whether such opinion or advice is later withdrawn provided the alleged violation occurred prior to the withdrawal of the opinion or advice.

**§ 30-129.1. Orientation sessions on ethics and conflicts of interests.**

The Virginia Conflict of Interest and Ethics Advisory Council shall conduct an orientation session (i) for new and returning General Assembly members preceding each even-numbered year regular session and (ii) for any new General Assembly member who is elected in a special election and whose term commences after the date of the orientation session provided for in clause (i) and at least six months before the date of the next such orientation session within three months of his election. Attendance at the full orientation session shall be mandatory for newly elected members. Attendance at a refresher session lasting at least two hours shall be mandatory for returning members and may be accomplished by online participation. There shall be no penalty for the failure of a member to attend the full or refresher orientation session, but the member must disclose his attendance pursuant to § 30-111.

**§ 30-356. Powers and duties of the Council.**

The Council shall:

1. Prescribe the forms required for complying with the disclosure requirements of Article 3 and the Acts. These forms shall be the only forms used to comply with the provisions of Article 3 or the Acts. The Council shall make available the disclosure forms and shall provide guidance and other instructions to assist in the completion of the forms;

2. Review all disclosure forms filed by lobbyists pursuant to Article 3 and by state government officers and employees and legislators pursuant to the Acts. The Council may review disclosure forms for completeness, including reviewing the information contained on the face of the form to determine if the disclosure form has been fully completed and comparing the disclosures contained in any disclosure form filed by a lobbyist pursuant to § 2.2-426 with other disclosure forms filed with the Council, and requesting any amendments to ensure the completeness of and correction of errors in the forms, if necessary. If a disclosure form is found to have not been filed or to have been incomplete as filed, the Council shall notify the filer in writing and direct the filer to file a completed disclosure form within a prescribed period of time, and such notification shall be confidential and is excluded from the provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.);

3. Require all disclosure forms and lobbyist registration statements that are required to be filed with the Council to be filed electronically in accordance with the standards approved by the Council. The Council shall provide software or electronic access for filing the required disclosure forms to all filers and registration statements without charge to all individuals required to file with the Council. The Council shall prescribe the method of execution and certification of electronically filed forms, including the use of an electronic signature as authorized by the Uniform Electronic Transactions Act (§ 59.1-479 et seq.). The Council may grant extensions as provided in § 30-356.2 and may authorize a designee to grant such extensions;

4. Accept and review any statement received from a filer disputing the receipt by such filer of a gift that has been disclosed on the form filed by a lobbyist pursuant to Article 3;

5. Beginning July 1, 2016, establish and maintain a searchable electronic database comprising those disclosure forms that are filed with the Council pursuant to §§ 2.2-426, 2.2-3117, 2.2-3118, and 30-111. Such database shall be available to the public through the Council's official website;

6. Furnish, upon request, formal advisory opinions or guidelines and other appropriate information, including informal advice, regarding ethics, conflicts issues arising under Article 3 or the Acts, or a person's duties under Article 3 or the Acts to any person covered by Article 3 or the Acts or to any agency of state or local government, in an expeditious manner. The Council may authorize a designee to furnish formal opinions or informal advice. Formal advisory opinions are public record and shall be published on the Council's website; however, no formal advisory opinion furnished by a designee of the Council shall be available to the public or published until such opinion has been approved by the Council. Published formal advisory opinions may have such deletions and changes as may be necessary to protect the identity of the person involved or other persons supplying information. Informal advice given by the Council or the Council's designee is confidential and is excluded from the mandatory disclosure provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.); however, if the recipient invokes the immunity provisions of § 2.2-3121 or 30-124, the record of the request and the informal advice given shall be deemed to be a public record and shall be released upon request. Other records relating to formal advisory opinions or informal advice, including records of requests, notes, correspondence, and draft versions of such opinions or advice, shall also be confidential and excluded from the mandatory disclosure provisions of the Virginia Freedom of Information Act;

7. Conduct training seminars and educational programs for lobbyists, state and local government officers and employees, legislators, and other interested persons on the requirements of Article 3 and the Acts and provide ethics orientation sessions for legislators in compliance with Article 6 (§ 30-129.1 et seq.) of Chapter 13;

8. Approve orientation courses conducted pursuant to § 2.2-3128 and, upon request, review the educational materials and approve any training or course on the requirements of Article 3 and the Acts conducted for state and local government officers and employees;

9. Publish such educational materials as it deems appropriate on the provisions of Article 3 and the Acts;

10. Review actions taken in the General Assembly with respect to the discipline of its members for the purpose of offering nonbinding advice;

11. Request from any agency of state or local government such assistance, services, and information as will enable the Council to effectively carry out its responsibilities. Information provided to the Council by an agency of state or local government shall not be released to any other party unless authorized by such agency;

12. Redact from any document or form that is to be made available to the public any residential address, personal telephone number, or signature contained on that document or form; and

13. Report on or before December 1 of each year on its activities and findings regarding Article 3 and the Acts, including recommendations for changes in the laws, to the General Assembly and the Governor. The annual report shall be submitted by the chairman as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be published as a state document.

**§ 30-356.2. Right to grant extensions in special circumstances; civil penalty.**

A. Notwithstanding any other provision of law, any person required to file the disclosure form prescribed in Article 3 or the Acts shall be entitled to an extension where good cause for granting such an extension has been shown, as determined by the Council. Good cause shall include:

1. The death of a relative of the filer, as relative is defined in the definition of "gift" in Article 3 or the Acts.

2. A state of emergency is declared by the Governor pursuant to Chapter 3.2 (§ 44-146.13 et seq.) of Title 44 or declared by the President of the United States or the governor of another state pursuant to law and confirmed by the Governor by an executive order, and such an emergency interferes with the timely filing of disclosure forms. The extension shall be granted only for those filers in areas affected by such emergency.

3. The filer is a member of a uniformed service of the United States and is on active duty on the date of the filing deadline.

4. A failure of the electronic filing system and the failure of such system prevents the timely filing of disclosure forms.

B. *For any person who is unable to timely file the disclosure form prescribed in the Acts due to the disclosure form not being made available to him until after the deadline has passed, the Council shall grant such person a five-day extension upon request. The head of the agency for which the person works or the clerk of the school board or governing body of the locality that was responsible for providing the disclosure form to such person shall be assessed a civil penalty in the amount equal to \$250, to be collected in accordance with the procedure set forth in subsection B of § 2.2-3124. If the disclosure form is provided to the person within three days prior to the filing deadline, the Council shall grant such person a three-day extension upon request and no civil penalties shall be assessed against the head of such person's agency or the clerk.*

**2. That an emergency exists and the provisions amending §§ 2.2-426 and 24.2-502 of the Code of Virginia are in force from the passage of this act and that the remaining provisions of this act shall become effective in due course.**

**CHAPTER 830**

*An Act to amend the Code of Virginia by adding in Chapter 29 of Title 54.1 an article numbered 10, consisting of sections numbered 54.1-2997 and 54.1-2998, relating to direct primary care agreements.*

[H 2053]

Approved April 26, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding in Chapter 29 of Title 54.1 an article numbered 10, consisting of sections numbered 54.1-2997 and 54.1-2998, as follows:**

*Article 10.*

*Direct Primary Care Agreements.*

**§ 54.1-2997. Direct primary care agreements.**

A. *A direct agreement between a patient, the patient's legal representative, or the patient's employer and a health care provider for ongoing primary care services in exchange for the payment of a monthly periodic fee, referred to in this article as a direct primary care agreement, is not health insurance or a health maintenance organization, provided that the health care provider does not require patients to pay monthly periodic fees prior to initiation of the direct agreement coverage period. A health care provider who participates in a direct primary care practice may participate in a health insurance carrier network so long as the provider is willing and able to meet the terms and conditions of network membership set by the health insurance carrier.*

B. *The provisions of this article shall not apply to contracts entered into prior to March 1, 2017.*

**§ 54.1-2998. Direct primary care agreement requirements; disclosures; disclaimer.**

A. Every direct primary care agreement shall include the following disclaimer: "This agreement does not provide comprehensive health insurance coverage. It provides only the provision of primary care as specifically described in this agreement."

B. A direct primary care practice and any employer with a direct primary care agreement for its employees shall make the following written information available to prospective direct primary care patients or employees by prominently disclosing in marketing materials and retainer medical agreements that:

1. The direct primary care agreement is not insurance;
2. The direct primary care practice provides only the limited scope of primary care specified in the direct primary care agreement, which marketing materials and retainer medical agreements shall include a clear listing of the services provided under the direct primary care agreement;
3. A patient is required to pay for all services provided by the direct primary care practice that are not specified in the direct primary care agreement; and
4. The agreement standing alone does not satisfy the health benefit requirements as established in the federal Patient Protection and Affordable Care Act (P.L. 111-148), as amended.

C. A direct primary care agreement shall be signed by the individual direct patient who is a party to the direct primary care agreement. Nothing in this subsection prohibits the presentation of marketing materials to groups of potential direct primary care patients.

D. A comprehensive disclosure statement shall be distributed to all direct primary care patients with their participation forms. Such disclosure shall (i) inform the direct primary care patients of their financial rights and responsibilities to the direct primary care practice as provided for in this article, (ii) encourage direct primary care patients to obtain and maintain insurance for services not provided by the direct primary care practice, and (iii) state that the direct primary care practice will not bill a health carrier for services covered under the direct primary care agreement.

**CHAPTER 831**

An Act to amend the Code of Virginia by adding in Chapter 29 of Title 54.1 an article numbered 10, consisting of sections numbered 54.1-2997 and 54.1-2998, relating to direct primary care agreements.

[S 800]

Approved April 26, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding in Chapter 29 of Title 54.1 an article numbered 10, consisting of sections numbered 54.1-2997 and 54.1-2998, as follows:**

*Article 10.**Direct Primary Care Agreements.***§ 54.1-2997. Direct primary care agreements.**

A. A direct agreement between a patient, the patient's legal representative, or the patient's employer and a health care provider for ongoing primary care services in exchange for the payment of a monthly periodic fee, referred to in this article as a direct primary care agreement, is not health insurance or a health maintenance organization, provided that the health care provider does not require patients to pay monthly periodic fees prior to initiation of the direct agreement coverage period. A health care provider who participates in a direct primary care practice may participate in a health insurance carrier network so long as the provider is willing and able to meet the terms and conditions of network membership set by the health insurance carrier.

B. The provisions of this article shall not apply to contracts entered into prior to March 1, 2017.

**§ 54.1-2998. Direct primary care agreement requirements; disclosures; disclaimer.**

A. Every direct primary care agreement shall include the following disclaimer: "This agreement does not provide comprehensive health insurance coverage. It provides only the provision of primary care as specifically described in this agreement."

B. A direct primary care practice and any employer with a direct primary care agreement for its employees shall make the following written information available to prospective direct primary care patients or employees by prominently disclosing in marketing materials and retainer medical agreements that:

1. The direct primary care agreement is not insurance;
2. The direct primary care practice provides only the limited scope of primary care specified in the direct primary care agreement, which marketing materials and retainer medical agreements shall include a clear listing of the services provided under the direct primary care agreement;
3. A patient is required to pay for all services provided by the direct primary care practice that are not specified in the direct primary care agreement; and
4. The agreement standing alone does not satisfy the health benefit requirements as established in the federal Patient Protection and Affordable Care Act (P.L. 111-148), as amended.

C. A direct primary care agreement shall be signed by the individual direct patient who is a party to the direct primary care agreement. Nothing in this subsection prohibits the presentation of marketing materials to groups of potential direct primary care patients.

D. A comprehensive disclosure statement shall be distributed to all direct primary care patients with their participation forms. Such disclosure shall (i) inform the direct primary care patients of their financial rights and responsibilities to the direct primary care practice as provided for in this article, (ii) encourage direct primary care patients to obtain and maintain insurance for services not provided by the direct primary care practice, and (iii) state that the direct primary care practice will not bill a health carrier for services covered under the direct primary care agreement.

## CHAPTER 832

An Act to amend and reenact §§ 2.2-419, 2.2-422, 2.2-423, 2.2-426, 2.2-430, 2.2-431, 2.2-3101, 2.2-3103.1, 2.2-3110, 2.2-3112, 2.2-3114, 2.2-3115, 2.2-3116, 2.2-3121, 2.2-4369, 24.2-502, 30-101, 30-103.1, 30-105, 30-106, 30-110, 30-124, 30-129.1, 30-356, and 30-356.2 of the Code of Virginia and to amend the Code of Virginia by adding in Article 5 of Chapter 31 of Title 2.2 a section numbered 2.2-3118.2 and by adding a section numbered 30-111.1, relating to lobbyist reporting, the State and Local Government Conflict of Interests Act, and the General Assembly Conflicts of Interests Act; filing of required disclosures; registration of lobbyists; candidate filings; judges; definition of gift; informal advice; civil penalties; technical amendments.

[S 1312]

Approved April 26, 2017

### Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-419, 2.2-422, 2.2-423, 2.2-426, 2.2-430, 2.2-431, 2.2-3101, 2.2-3103.1, 2.2-3110, 2.2-3112, 2.2-3114, 2.2-3115, 2.2-3116, 2.2-3121, 2.2-4369, 24.2-502, 30-101, 30-103.1, 30-105, 30-106, 30-110, 30-124, 30-129.1, 30-356, and 30-356.2 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Article 5 of Chapter 31 of Title 2.2 a section numbered 2.2-3118.2 and by adding a section numbered 30-111.1 as follows:

#### § 2.2-419. Definitions.

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

"Anything of value" means:

1. A pecuniary item, including money, or a bank bill or note;
2. A promissory note, bill of exchange, order, draft, warrant, check, or bond given for the payment of money;
3. A contract, agreement, promise, or other obligation for an advance, conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, gift, pledge, or transfer of money;
4. A stock, bond, note, or other investment interest in an entity;
5. A receipt given for the payment of money or other property;
6. A right in action;
7. A gift, tangible good, chattel, or an interest in a gift, tangible good, or chattel;
8. A loan or forgiveness of indebtedness;
9. A work of art, antique, or collectible;
10. An automobile or other means of personal transportation;
11. Real property or an interest in real property, including title to realty, a fee simple or partial interest, present or future, contingent or vested within realty, a leasehold interest, or other beneficial interest in realty;
12. An honorarium or compensation for services;
13. A rebate or discount in the price of anything of value unless the rebate or discount is made in the ordinary course of business to a member of the public without regard to that person's status as an executive or legislative official, or the sale or trade of something for reasonable compensation that would ordinarily not be available to a member of the public;
14. A promise or offer of employment; or
15. Any other thing of value that is pecuniary or compensatory in value to a person.

"Anything of value" does not mean a campaign contribution properly received and reported pursuant to Chapter 9.3 (§ 24.2-945 et seq.) of Title 24.2.

"Compensation" means:

1. An advance, conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, gift, pledge, or transfer of money or anything of value; or
2. A contract, agreement, promise or other obligation for an advance, conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, gift, pledge, or transfer of money or anything of value, for services rendered or to be rendered.

"Compensation" does not mean reimbursement of expenses if the reimbursement does not exceed the amount actually expended for the expenses and it is substantiated by an itemization of expenses.

"Council" means the Virginia Conflict of Interest and Ethics Advisory Council established in § 30-355.

"Executive action" means the proposal, drafting, development, consideration, amendment, adoption, approval, promulgation, issuance, modification, rejection, or postponement by an executive agency or official of legislation or executive orders issued by the Governor. "Executive action" includes procurement transactions.

"Executive agency" means an agency, board, commission, or other body in the executive branch of state government. "Executive agency" includes the State Corporation Commission, the Virginia Workers' Compensation Commission, and the Virginia Lottery.

"Executive official" means:

1. The Governor;
2. The Lieutenant Governor;
3. The Attorney General;
4. Any officer or employee of the office of the Governor, Lieutenant Governor, or Attorney General other than a clerical or secretarial employee;
5. The Governor's Secretaries, the Deputy Secretaries, and the chief executive officer of each executive agency; or
6. Members of supervisory and policy boards, commissions and councils, as defined in § 2.2-2100, however selected.

"Expenditure" means:

1. A purchase, payment, distribution, loan, forgiveness of a loan or payment of a loan by a third party, advance, deposit, transfer of funds, a promise to make a payment, or a gift of money or anything of value for any purpose;
2. A payment to a lobbyist for salary, fee, reimbursement for expenses, or other purpose by a person employing, retaining, or contracting for the services of the lobbyist separately or jointly with other persons;
3. A payment in support of or assistance to a lobbyist or the lobbyist's activities, including the direct payment of expenses incurred at the request or suggestion of the lobbyist;
4. A payment that directly benefits an executive or legislative official or a member of the official's immediate family;
5. A payment, including compensation, payment, or reimbursement for the services, time, or expenses of an employee for or in connection with direct communication with an executive or legislative official;
6. A payment for or in connection with soliciting or urging other persons to enter into direct communication with an executive or legislative official; or
7. A payment or reimbursement for categories of expenditures required to be reported pursuant to this chapter.

"Expenditure" does not mean a campaign contribution properly received and reported pursuant to Chapter 9.3 (§ 24.2-945 et seq.) of Title 24.2.

"Fair market value" means the price that a good or service would bring between a willing seller and a willing buyer in the open market after negotiations. If the fair market value cannot be determined, the actual price paid for the good or service shall be given consideration.

"Gift" means anything of value, including any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value, and includes services as well as gifts of transportation, local travel, lodgings, and meals, whether provided in-kind or by purchase of a ticket, payment in advance, or reimbursement after the expense has been incurred.

"Gift" does not mean:

1. Printed informational or promotional material;
2. A gift that is not used and, no later than 60 days after receipt, is returned to the donor or delivered to a charitable organization and is not claimed as a charitable contribution for federal income tax purposes;
3. A devise or inheritance;
4. A gift of a value of less than \$20;
5. Any offer of a ticket, coupon, or other admission or pass unless the ticket, coupon, admission, or pass is used;
6. Any food or beverages provided to an individual at an event at which the individual is performing official duties related to his public service;
7. Any food and beverages received at or registration or attendance fees waived for any event at which the individual is a featured speaker, presenter, or lecturer;
8. An unsolicited award of appreciation or recognition in the form of a plaque, trophy, wall memento, or similar item that is given in recognition of public, civic, charitable, or professional service;
9. Any gift to an individual's spouse, child, uncle, aunt, niece, nephew, or first cousin; a person to whom the donee is engaged to be married; the donee's or his spouse's parent, grandparent, grandchild, brother, sister, step-parent, step-grandparent, step-grandchild, step-brother, or step-sister; or the donee's brother's or sister's spouse *or the donee's son-in-law or daughter-in-law*;
10. Travel provided to facilitate attendance by a legislator at a regular or special session of the General Assembly, a meeting of a legislative committee or commission, or a national conference where attendance is approved by the House Committee on Rules or its Chairman or the Senate Committee on Rules or its Chairman; ~~or~~
11. Travel related to an official meeting of, *or any meal provided for attendance at such meeting by*, the Commonwealth, its political subdivisions, or any board, commission, authority, or other entity, or any charitable organization established pursuant to § 501(c)(3) of the Internal Revenue Code affiliated with such entity, to which such person has been appointed or elected or is a member by virtue of his office or employment; *or*

12. Attendance at a reception or similar function where food, such as hors d'oeuvres, and beverages that can be conveniently consumed by a person while standing or walking are offered.

"Immediate family" means (i) the spouse and (ii) any other person who resides in the same household as the executive or legislative official and who is a dependent of the official.

"Legislative action" means:

1. Preparation, research, drafting, introduction, consideration, modification, amendment, approval, passage, enactment, tabling, postponement, defeat, or rejection of a bill, resolution, amendment, motion, report, nomination, appointment, or other matter by the General Assembly or a legislative official;

2. Action by the Governor in approving, vetoing, or recommending amendments for a bill passed by the General Assembly; or

3. Action by the General Assembly in overriding or sustaining a veto by the Governor, considering amendments recommended by the Governor, or considering, confirming, or rejecting an appointment of the Governor.

"Legislative official" means:

1. A member or member-elect of the General Assembly;

2. A member of a committee, subcommittee, commission, or other entity established by and responsible to the General Assembly or either house of the General Assembly; or

3. Persons employed by the General Assembly or an entity established by and responsible to the General Assembly.

"Lobbying" means:

1. Influencing or attempting to influence executive or legislative action through oral or written communication with an executive or legislative official; or

2. Solicitation of others to influence an executive or legislative official.

"Lobbying" does not mean:

1. Requests for appointments, information on the status of pending executive and legislative actions, or other ministerial contacts if there is no attempt to influence executive or legislative actions;

2. Responses to published notices soliciting public comment submitted to the public official designated in the notice to receive the responses;

3. The solicitation of an association by its members to influence legislative or executive action; or

4. Communications between an association and its members and communications between a principal and its lobbyists.

"Lobbyist" means:

1. An individual who is employed and receives payments, or who contracts for economic consideration, including reimbursement for reasonable travel and living expenses, for the purpose of lobbying;

2. An individual who represents an organization, association, or other group for the purpose of lobbying; or

3. A local government employee who lobbies.

"Lobbyist's principal" or "principal" means the entity on whose behalf the lobbyist influences or attempts to influence executive or legislative action. An organization whose employees conduct lobbying activities on its behalf is both a principal and an employer of the lobbyists. In the case of a coalition or association that employs or retains others to conduct lobbying activities on behalf of its membership, the principal is the coalition or association and not its individual members.

"Local government" means:

1. Any county, city, town, or other local or regional political subdivision;

2. Any school division;

3. Any organization or entity that exercises governmental powers that is established pursuant to an interstate compact; or

4. Any organization composed of members representing entities listed in subdivisions 1, 2, or 3 of this definition.

"Local government employee" means a public employee of a local government.

"Person" means an individual, proprietorship, firm, partnership, joint venture, joint stock company, syndicate, business trust, estate, company, corporation, association, club, committee, organization, or group of persons acting in concert.

"Procurement transaction" means all functions that pertain to obtaining all goods, services, or construction on behalf of an executive agency, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration where the stated or expected value of the contract is \$5 million or more.

"Secretary" means the Secretary of the Commonwealth.

"Value" means the actual cost or fair market value of an item or items, whichever is greater. If the fair market value cannot be determined, the actual amount paid for the item or items shall be given consideration.

"Widely attended event" means an event at which at least 25 persons have been invited to attend or there is a reasonable expectation that at least 25 persons will attend the event and the event is open to individuals (i) ~~who share a common interest~~, (ii) who are members of a public, civic, charitable, or professional organization, ~~(iii)~~ (ii) who are from a particular industry or profession, or ~~(iv)~~ (iii) who represent persons interested in a particular issue.

#### § 2.2-422. Registration requirements.

A. A lobbyist shall register with the Secretary of the Commonwealth prior to engaging in lobbying. A lobbyist who engages in lobbying entirely outside the capital city shall comply with this section by registering with the Secretary within fifteen days after first engaging in lobbying. Registration shall be required annually and expire May 1 of each year.

B. The chief administrative officer of each local government shall register with the Secretary of the Commonwealth and file a statement pursuant to § 2.2-423 if any local government employees will act as lobbyists on its behalf. No

registration fee shall be required. Each local government shall file a consolidated report in accordance with the reporting requirements of § 2.2-426 and shall maintain locally a copy of the report that is available for inspection and copying during regular business hours.

*C. All registrations required by this section shall be filed electronically in accordance with the standards approved by the Council.*

**§ 2.2-423. Contents of registration statement.**

A. The registration statement shall be on a form provided by the Secretary of the Commonwealth and include the following information:

1. The name and business address and telephone number of the lobbyist;
2. The name and business address and telephone number of the person who will keep custody of the lobbyist's and the lobbyist's principal's accounts and records required to comply with this article, and the location and telephone number for the place where the accounts and records are kept;
3. The name and business address and telephone number of the lobbyist's principal;
4. The kind of business of the lobbyist's principal;
5. For each principal, the full name of the individual to whom the lobbyist reports;
6. For each principal, a statement whether the lobbyist is employed or retained and whether exclusively for the purpose of lobbying;

7. The position held by the lobbyist if he is a part-time or full-time employee of the principal;

~~8. The full name and business address and telephone number of each lobbyist employed by or representing the lobbyist's principal;~~

~~9.~~ An identification of the subject matter (with as much specificity as possible) with regard to which the lobbyist or lobbyist's principal will engage in lobbying; *and*

~~10.~~ 9. The statement of the lobbyist, which shall be signed either originally or by electronic signature as authorized by the Uniform Electronic Transactions Act (§ 59.1-479 et seq.), that the information contained on the registration statement is true and correct; ~~and~~ ~~11.~~ A statement by which a

*B. The lobbyist and the lobbyist's principal shall be notified at the time of the registration that the principal may elect to waive the principal signature requirement on disclosure filings submitted by its registered lobbyist after the filing of the registration statement. The waiver shall be on a form prescribed by the Council and may be filed electronically with the Council in accordance with the standards approved by it pursuant to § 30-356.*

~~B.~~ C. Whenever any change, modification, or addition to his status as a lobbyist is made, *including the termination of his status as a lobbyist*, the lobbyist shall, within one week of such change, modification, or addition, furnish full information regarding the same to the Secretary of the Commonwealth on forms provided by the Secretary.

~~C.~~ D. The Secretary of the Commonwealth shall furnish a copy of this article to any individual offering to register as a lobbyist and shall mail by certified mail a copy of this article and a copy of the information furnished by the lobbyist to the person whom the lobbyist represents to be his principal.

~~D.~~ E. If the principal to whom the information is sent under subsection ~~C~~ D does not, within 10 days of such mailing, file an affidavit, signed by the person or duly authorized agent of the person, denying that the lobbyist appears on his behalf, such person shall be deemed to have appointed the Secretary of the Commonwealth his agent for service of process in any prosecution arising for violation of this article. If such affidavit is filed, the Secretary shall notify the attorney for the Commonwealth of the City of Richmond.

**§ 2.2-426. Lobbyist reporting; penalty.**

A. Each lobbyist shall file with the Council a separate annual report of expenditures, including gifts, for each principal for whom he lobbies by July 1 for the preceding 12-month period complete through the last day of April.

B. Each principal who expends more than \$500 to employ or compensate multiple lobbyists shall be responsible for filing a consolidated lobbyist report pursuant to this section in any case in which the lobbyists are each exempt under the provisions of subdivision 7 or 8 of § 2.2-420 from the reporting requirements of this section.

C. The report shall be on a form prescribed by the Council and shall be accompanied by instructions provided by the Council. All reports shall be submitted electronically and in accordance with the standards approved by the Council pursuant to the provisions of § 30-356.

D. A person who knowingly and intentionally makes a false statement of a material fact on the disclosure statement is guilty of a Class 5 felony.

E. The name of a legislative or executive official, or a member of his immediate family, attending any reportable entertainment event shall not be required to be disclosed by the principal if that legislative or executive official reimburses the principal for, or otherwise pays for, his attendance, or the attendance of a member of his immediate family, at the entertainment event. Reimbursement shall be calculated using the average value for each person attending the event.

F. Each lobbyist shall send to each legislative and executive official who is required to be identified by name on Schedule A or B of the Lobbyist's Disclosure Form a copy of Schedule A or B or a summary of the information pertaining to that official. Copies or summaries shall be provided to the official by ~~December 15~~ January 10 for the preceding 12-month period complete through ~~November 30~~ December 31. *In addition, each lobbyist shall send to each legislator and executive official who is required to file a report of gifts accepted or received during a regular session of the General Assembly pursuant to § 2.2-3114.2 or 30-110.1 a summary of all gifts made by such lobbyist to each legislator or executive*

official or a member of his immediate family during the period beginning on January 1 complete through adjournment sine die of the regular session of the General Assembly. Summaries shall be provided to the legislator or executive official no later than three weeks after adjournment sine die. For purposes of this section, "adjournment sine die" means adjournment on the last legislative day of the regular session and does not include the reconvened session.

**§ 2.2-430. Termination.**

A. A lobbyist or a lobbyist's principal may terminate the lobbyist's status as a lobbyist registration for such principal at any time by filing a prior to the expiration of his registration. Upon termination, the lobbyist may file the report required under § 2.2-426 including information through the last day of lobbying activity. A termination at any time, but shall file the report no later than the deadline set forth in that section. Such report shall indicate that the lobbyist intends to use the report as the final accounting of lobbying activity and shall include information complete through the last day of lobbying activity and the effective date of the termination. The report shall be signed by the lobbyist's principal as otherwise required.

B. A lobbyist's principal who terminates the services of a lobbyist prior to the expiration of the lobbyist's registration shall provide actual notice to the lobbyist. Such notice shall inform the lobbyist that he is required to file the report required under § 2.2-426 no later than the deadline set forth in that section and that the lobbyist's failure to file such report by the deadline shall result in the assessment of civil penalties against the lobbyist pursuant to § 2.2-431. The lobbyist's principal shall also notify the Secretary of the Commonwealth of the early termination in accordance with subsection B of § 2.2-423.

**§ 2.2-431. Penalties; filing of substituted statement.**

A. Every lobbyist failing to file the statement prescribed by § 2.2-426 within the time prescribed therein shall be assessed a civil penalty of \$50, and every individual failing to file the statement within 10 days after the time prescribed herein shall be assessed an additional civil penalty of \$50 per day from the eleventh day of such default until the statement is filed. The Council shall notify the Secretary of any lobbyist's failure to file the statement within the time prescribed, and the penalties shall be assessed and collected by the Secretary. The Attorney General shall assist the Secretary in collecting the penalties, upon request.

B. Every lobbyist's principal whose lobbyist fails to file the statement prescribed by § 2.2-426 shall be assessed a civil penalty of \$50, and shall be assessed an additional civil penalty of \$50 per day from the eleventh day of such default until the statement is filed. The Council shall notify the Secretary of any lobbyist's failure to file the statement within the time prescribed, and the penalties shall be assessed and collected by the Secretary. The Attorney General shall assist the Secretary in collecting the penalties, upon request.

C. No individual who has failed to file the statement required by § 2.2-426 or who has failed to pay all penalties assessed pursuant to this section, shall register or act as a lobbyist as long as he remains in default.

D. Whenever any lobbyist or lobbyist's principal is or will be in default under § 2.2-426, and the reasons for such default are or will be beyond his the lobbyist's control, or the control of his the lobbyist's principal, or both, the Secretary may suspend the assessment of any penalty otherwise assessable and accept a substituted statement, upon the submission of sworn proofs that shall satisfy him that the default has been beyond the control of the lobbyist or his the lobbyist's principal, and that the substituted statement contains the most accurate and complete information available after the exercise of due diligence.

E. Penalties collected pursuant to this section shall be payable to the State Treasurer for deposit to the general fund and shall be used exclusively to fund the Council.

**§ 2.2-3101. Definitions.**

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

"Advisory agency" means any board, commission, committee or post which does not exercise any sovereign power or duty, but is appointed by a governmental agency or officer or is created by law for the purpose of making studies or recommendations, or advising or consulting with a governmental agency.

"Affiliated business entity relationship" means a relationship, other than a parent-subsidary relationship, that exists when (i) one business entity has a controlling ownership interest in the other business entity, (ii) a controlling owner in one entity is also a controlling owner in the other entity, or (iii) there is shared management or control between the business entities. Factors that may be considered in determining the existence of an affiliated business entity relationship include that the same person or substantially the same person owns or manages the two entities, there are common or commingled funds or assets, the business entities share the use of the same offices or employees, or otherwise share activities, resources or personnel on a regular basis, or there is otherwise a close working relationship between the entities.

"Business" means a corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, trust or foundation, or any other individual or entity carrying on a business or profession, whether or not for profit.

"Candidate" means a person who seeks or campaigns for an office of the Commonwealth or one of its governmental units in a general, primary, or special election and who is qualified to have his name placed on the ballot for the office. The candidate shall become subject to the provisions of this chapter upon the filing of a statement of qualification pursuant to § 24.2-501. The State Board of Elections or general registrar shall notify each such candidate of the provisions of this chapter. Notification made by the general registrar shall consist of information developed by the State Board of Elections.

"Contract" means any agreement to which a governmental agency is a party, or any agreement on behalf of a governmental agency that involves the payment of money appropriated by the General Assembly or a political subdivision, whether or not such agreement is executed in the name of the Commonwealth, or some political subdivision thereof.

"Contract" includes a subcontract only when the contract of which it is a part is with the officer's or employee's own governmental agency.

"Council" means the Virginia Conflict of Interest and Ethics Advisory Council established in § 30-355.

"Employee" means all persons employed by a governmental or advisory agency, unless otherwise limited by the context of its use.

"Financial institution" means any bank, trust company, savings institution, industrial loan association, consumer finance company, credit union, broker-dealer as defined in subsection A of § 13.1-501, or investment company or advisor registered under the federal Investment Advisors Act or Investment Company Act of 1940.

"Gift" means any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value. It includes services as well as gifts of transportation, local travel, lodgings and meals, whether provided in-kind, by purchase of a ticket, payment in advance or reimbursement after the expense has been incurred. "Gift" does not include (i) any offer of a ticket, coupon, or other admission or pass unless the ticket, coupon, admission, or pass is used; (ii) honorary degrees; (iii) any athletic, merit, or need-based scholarship or any other financial aid awarded by a public or private school, institution of higher education, or other educational program pursuant to such school, institution, or program's financial aid standards and procedures applicable to the general public; (iv) a campaign contribution properly received and reported pursuant to Chapter 9.3 (§ 24.2-945 et seq.) of Title 24.2; (v) any gift related to the private profession or occupation *or volunteer service* of an officer or employee or of a member of his immediate family; (vi) food or beverages consumed while attending an event at which the filer is performing official duties related to his public service; (vii) food and beverages received at or registration or attendance fees waived for any event at which the filer is a featured speaker, presenter, or lecturer; (viii) unsolicited awards of appreciation or recognition in the form of a plaque, trophy, wall memento, or similar item that is given in recognition of public, civic, charitable, or professional service; (ix) a devise or inheritance; (x) travel disclosed pursuant to the Campaign Finance Disclosure Act (§ 24.2-945 et seq.); (xi) travel paid for or provided by the government of the United States, any of its territories, or any state or any political subdivision of such state; (xii) travel provided to facilitate attendance by a legislator at a regular or special session of the General Assembly, a meeting of a legislative committee or commission, or a national conference where attendance is approved by the House Committee on Rules or its Chairman or the Senate Committee on Rules or its Chairman; (xiii) travel related to an official meeting of, *or any meal provided for attendance at such meeting by*, the Commonwealth, its political subdivisions, or any board, commission, authority, or other entity, or any charitable organization established pursuant to § 501(c)(3) of the Internal Revenue Code affiliated with such entity, to which such person has been appointed or elected or is a member by virtue of his office or employment; (xiv) gifts with a value of less than \$20; ~~or~~ (xv) *attendance at a reception or similar function where food, such as hors d'oeuvres, and beverages that can be conveniently consumed by a person while standing or walking are offered; or* (xvi) gifts from relatives or personal friends. For the purpose of this definition, "relative" means the donee's spouse, child, uncle, aunt, niece, nephew, or first cousin; a person to whom the donee is engaged to be married; the donee's or his spouse's parent, grandparent, grandchild, brother, sister, step-parent, step-grandparent, step-grandchild, step-brother, or step-sister; or the donee's brother's or sister's spouse *or the donee's son-in-law or daughter-in-law*. For the purpose of this definition, "personal friend" does not include any person that the filer knows or has reason to know is (a) a lobbyist registered pursuant to Article 3 (§ 2.2-418 et seq.) of Chapter 4 of Title 2.2; (b) a lobbyist's principal as defined in § 2.2-419; (c) for an officer or employee of a local governmental or advisory agency, a person, organization, or business who is a party to or is seeking to become a party to a contract with the local agency of which he is an officer or an employee; or (d) for an officer or employee of a state governmental or advisory agency, a person, organization, or business who is a party to or is seeking to become a party to a contract with the Commonwealth. For purposes of this definition, "person, organization, or business" includes individuals who are officers, directors, or owners of or who have a controlling ownership interest in such organization or business.

"Governmental agency" means each component part of the legislative, executive or judicial branches of state and local government, including each office, department, authority, post, commission, committee, and each institution or board created by law to exercise some regulatory or sovereign power or duty as distinguished from purely advisory powers or duties. Corporations organized or controlled by the Virginia Retirement System are "governmental agencies" for purposes of this chapter.

"Immediate family" means (i) a spouse and (ii) any other person who resides in the same household as the officer or employee and who is a dependent of the officer or employee.

"Officer" means any person appointed or elected to any governmental or advisory agency including local school boards, whether or not he receives compensation or other emolument of office. Unless the context requires otherwise, "officer" includes members of the judiciary.

"Parent-subsidiary relationship" means a relationship that exists when one corporation directly or indirectly owns shares possessing more than 50 percent of the voting power of another corporation.

"Personal interest" means a financial benefit or liability accruing to an officer or employee or to a member of his immediate family. Such interest shall exist by reason of (i) ownership in a business if the ownership interest exceeds three percent of the total equity of the business; (ii) annual income that exceeds, or may reasonably be anticipated to exceed, \$5,000 from ownership in real or personal property or a business; (iii) salary, other compensation, fringe benefits, or benefits from the use of property, or any combination thereof, paid or provided by a business or governmental agency that exceeds, or may reasonably be anticipated to exceed, \$5,000 annually; (iv) ownership of real or personal property if the

interest exceeds \$5,000 in value and excluding ownership in a business, income, or salary, other compensation, fringe benefits or benefits from the use of property; (v) personal liability incurred or assumed on behalf of a business if the liability exceeds three percent of the asset value of the business; or (vi) an option for ownership of a business or real or personal property if the ownership interest will consist of clause (i) or (iv) ~~above~~.

"Personal interest in a contract" means a personal interest that an officer or employee has in a contract with a governmental agency, whether due to his being a party to the contract or due to a personal interest in a business that is a party to the contract.

"Personal interest in a transaction" means a personal interest of an officer or employee in any matter considered by his agency. Such personal interest exists when an officer or employee or a member of his immediate family has a personal interest in property or a business or governmental agency, or represents or provides services to any individual or business and such property, business or represented or served individual or business (i) is the subject of the transaction or (ii) may realize a reasonably foreseeable direct or indirect benefit or detriment as a result of the action of the agency considering the transaction. Notwithstanding the above, such personal interest in a transaction shall not be deemed to exist where (a) an elected member of a local governing body serves without remuneration as a member of the board of trustees of a not-for-profit entity and such elected member or member of his immediate family has no personal interest related to the not-for-profit entity or (b) an officer, employee, or elected member of a local governing body is appointed by such local governing body to serve on a governmental agency, or an officer, employee, or elected member of a separate local governmental agency formed by a local governing body is appointed to serve on a governmental agency, and the personal interest in the transaction of the governmental agency is the result of the salary, other compensation, fringe benefits, or benefits provided by the local governing body or the separate governmental agency to the officer, employee, elected member, or member of his immediate family.

"State and local government officers and employees" shall not include members of the General Assembly.

"State filer" means those officers and employees required to file a disclosure statement of their personal interests pursuant to subsection A or B of § 2.2-3114.

"Transaction" means any matter considered by any governmental or advisory agency, whether in a committee, subcommittee, or other entity of that agency or before the agency itself, on which official action is taken or contemplated.

**§ 2.2-3103.1. Certain gifts prohibited.**

A. For purposes of this section:

"Person, organization, or business" includes individuals who are officers, directors, or owners of or who have a controlling ownership interest in such organization or business.

"Widely attended event" means an event at which at least 25 persons have been invited to attend or there is a reasonable expectation that at least 25 persons will attend the event and the event is open to individuals (i) ~~who share a common interest~~, (ii) who are members of a public, civic, charitable, or professional organization, ~~(iii)~~ (ii) who are from a particular industry or profession, or ~~(iv)~~ (iii) who represent persons interested in a particular issue.

B. No officer or employee of a local governmental or advisory agency or candidate required to file the disclosure form prescribed in § 2.2-3117 or a member of his immediate family shall solicit, accept, or receive any single gift with a value in excess of \$100 or any combination of gifts with an aggregate value in excess of \$100 within any calendar year for himself or a member of his immediate family from any person that he or a member of his immediate family knows or has reason to know is (i) a lobbyist registered pursuant to Article 3 (§ 2.2-418 et seq.) of Chapter 4; (ii) a lobbyist's principal as defined in § 2.2-419; or (iii) a person, organization, or business who is or is seeking to become a party to a contract with the local agency of which he is an officer or an employee. Gifts with a value of less than \$20 are not subject to aggregation for purposes of this prohibition.

C. No officer or employee of a state governmental or advisory agency or candidate required to file the disclosure form prescribed in § 2.2-3117 or a member of his immediate family shall solicit, accept, or receive any single gift with a value in excess of \$100 or any combination of gifts with an aggregate value in excess of \$100 within any calendar year for himself or a member of his immediate family from any person that he or a member of his immediate family knows or has reason to know is (i) a lobbyist registered pursuant to Article 3 (§ 2.2-418 et seq.) of Chapter 4; (ii) a lobbyist's principal as defined in § 2.2-419; or (iii) a person, organization, or business who is or is seeking to become a party to a contract with the state governmental or advisory agency of which he is an officer or an employee or over which he has the authority to direct such agency's activities. Gifts with a value of less than \$20 are not subject to aggregation for purposes of this prohibition.

D. Notwithstanding the provisions of subsections B and C, such officer, employee, or candidate or a member of his immediate family may accept or receive a gift of food and beverages, entertainment, or the cost of admission with a value in excess of \$100 when such gift is accepted or received while in attendance at a widely attended event and is associated with the event. Such gifts shall be reported on the disclosure form prescribed in § 2.2-3117.

E. Notwithstanding the provisions of subsections B and C, such officer or employee or a member of his immediate family may accept or receive a gift from a foreign dignitary with a value exceeding \$100 for which the fair market value or a gift of greater or equal value has not been provided or exchanged. Such gift shall be accepted on behalf of the Commonwealth or a locality and archived in accordance with guidelines established by the Library of Virginia. Such gift shall be disclosed as having been accepted on behalf of the Commonwealth or a locality, but the value of such gift shall not be required to be disclosed.

F. Notwithstanding the provisions of subsections B and C, such officer, employee, or candidate or a member of his immediate family may accept or receive certain gifts with a value in excess of \$100 from a person listed in subsection B or C if such gift was provided to such officer, employee, or candidate or a member of his immediate family on the basis of a personal friendship. Notwithstanding any other provision of law, a person listed in subsection B or C may be a personal friend of such officer, employee, or candidate or his immediate family for purposes of this subsection. In determining whether a person listed in subsection B or C is a personal friend, the following factors shall be considered: (i) the circumstances under which the gift was offered; (ii) the history of the relationship between the person and the donor, including the nature and length of the friendship and any previous exchange of gifts between them; (iii) to the extent known to the person, whether the donor personally paid for the gift or sought a tax deduction or business reimbursement for the gift; and (iv) whether the donor has given the same or similar gifts to other persons required to file the disclosure form prescribed in § 2.2-3117 or 30-111.

G. Notwithstanding the provisions of subsections B and C, such officer, employee, or candidate or a member of his immediate family may accept or receive gifts of travel, including travel-related transportation, lodging, hospitality, food or beverages, or other thing of value, with a value in excess of \$100 that is paid for or provided by a person listed in subsection B or C when the officer, employee, or candidate has submitted a request for approval of such travel to the Council and has received the approval of the Council pursuant to § 30-356.1. Such gifts shall be reported on the disclosure form prescribed in § 2.2-3117.

H. During the pendency of a civil action in any state or federal court to which the Commonwealth is a party, the Governor or the Attorney General or any employee of the Governor or the Attorney General who is subject to the provisions of this chapter shall not solicit, accept, or receive any gift from any person that he knows or has reason to know is a person, organization, or business that is a party to such civil action. A person, organization, or business that is a party to such civil action shall not knowingly give any gift to the Governor or the Attorney General or any of their employees who are subject to the provisions of this chapter.

I. The \$100 limitation imposed in accordance with this section shall be adjusted by the Council every five years, as of January 1 of that year, in an amount equal to the annual increases for that five-year period in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics of the U.S. Department of Labor, rounded to the nearest whole dollar.

*J. The provisions of this section shall not apply to any justice of the Supreme Court of Virginia, judge of the Court of Appeals of Virginia, judge of any circuit court, or judge or substitute judge of any district court. However, nothing in this subsection shall be construed to authorize the acceptance of any gift if such acceptance would constitute a violation of the Canons of Judicial Conduct for the State of Virginia.*

**§ 2.2-3110. Further exceptions.**

A. The provisions of Article 3 (§ 2.2-3106 et seq.) shall not apply to:

1. The sale, lease or exchange of real property between an officer or employee and a governmental agency, provided the officer or employee does not participate in any way as such officer or employee in such sale, lease or exchange, and this fact is set forth as a matter of public record by the governing body of the governmental agency or by the administrative head thereof;

2. The publication of official notices;

3. Contracts between the government or school board of a ~~town or county~~, city, or town with a population of less than 10,000 and an officer or employee of that ~~town or county~~, city, or town government or school board when the total of such contracts between the ~~town or city~~ government or school board and the officer or employee of that ~~town or city~~ government or school board or a business controlled by him does not exceed ~~\$10,000~~ \$5,000 per year or such amount exceeds ~~\$10,000~~ \$5,000 and is less than \$25,000 but results from contracts arising from awards made on a sealed bid basis, and such officer or employee has made disclosure as provided for in § 2.2-3115;

4. An officer or employee whose sole personal interest in a contract with the governmental agency is by reason of income from the contracting firm or governmental agency in excess of ~~\$10,000~~ \$5,000 per year, provided the officer or employee or a member of his immediate family does not participate and has no authority to participate in the procurement or letting of such contract on behalf of the contracting firm and the officer or employee either does not have authority to participate in the procurement or letting of the contract on behalf of his governmental agency or he disqualifies himself as a matter of public record and does not participate on behalf of his governmental agency in negotiating the contract or in approving the contract;

5. When the governmental agency is a public institution of higher education, an officer or employee whose personal interest in a contract with the institution is by reason of an ownership in the contracting firm in excess of three percent of the contracting firm's equity or such ownership interest and income from the contracting firm is in excess of ~~\$10,000~~ \$5,000 per year, provided that (i) the officer or employee's ownership interest, or ownership and income interest, and that of any immediate family member in the contracting firm is disclosed in writing to the president of the institution, which writing certifies that the officer or employee has not and will not participate in the contract negotiations on behalf of the contracting firm or the institution, (ii) the president of the institution makes a written finding as a matter of public record that the contract is in the best interests of the institution, (iii) the officer or employee either does not have authority to participate in the procurement or letting of the contract on behalf of the institution or disqualifies himself as a matter of public record, and (iv) does not participate on behalf of the institution in negotiating the contract or approving the contract;

6. Except when the governmental agency is the Virginia Retirement System, contracts between an officer's or employee's governmental agency and a public service corporation, financial institution, or company furnishing public utilities in which the officer or employee has a personal interest, provided the officer or employee disqualifies himself as a matter of public record and does not participate on behalf of his governmental agency in negotiating the contract or in approving the contract;

7. Contracts for the purchase of goods or services when the contract does not exceed \$500;

8. Grants or other payment under any program wherein uniform rates for, or the amounts paid to, all qualified applicants are established solely by the administering governmental agency;

9. An officer or employee whose sole personal interest in a contract with his own governmental agency is by reason of his marriage to his spouse who is employed by the same agency, if the spouse was employed by such agency for five or more years prior to marrying such officer or employee; or

10. Contracts entered into by an officer or employee of a soil and water conservation district created pursuant to Article 3 (§ 10.1-506 et seq.) of Chapter 5 of Title 10.1 to participate in the Virginia Agricultural Best Management Practices Cost-Share Program (the Program) established in accordance with § 10.1-546.1. This subdivision shall not apply to subcontracts or other agreements entered into by an officer or employee of a soil and water conservation district to provide services for implementation of a cost-share contract established under the Program.

B. Neither the provisions of this chapter nor, unless expressly provided otherwise, any amendments thereto shall apply to those employment contracts or renewals thereof or to any other contracts entered into prior to August 1, 1987, which were in compliance with either the former Virginia Conflict of Interests Act, Chapter 22 (§ 2.1-347 et seq.) or the former Comprehensive Conflict of Interests Act, Chapter 40 (§ 2.1-599 et seq.) of Title 2.1 at the time of their formation and thereafter. Those contracts shall continue to be governed by the provisions of the appropriate prior Act. Notwithstanding the provisions of subdivision (f) (4) of *former* § 2.1-348 of Title 2.1 in effect prior to July 1, 1983, the employment by the same governmental agency of an officer or employee and spouse or any other relative residing in the same household shall not be deemed to create a material financial interest except when one of such persons is employed in a direct supervisory or administrative position, or both, with respect to such spouse or other relative residing in his household and the annual salary of such subordinate is \$35,000 or more.

**§ 2.2-3112. Prohibited conduct concerning personal interest in a transaction; exceptions.**

A. Each officer and employee of any state or local governmental or advisory agency who has a personal interest in a transaction:

~~1. Shall~~ *shall* disqualify himself from participating in the transaction if (i) the transaction has application solely to property or a business or governmental agency in which he has a personal interest or a business that has a parent-subsidiary or affiliated business entity relationship with the business in which he has a personal interest or (ii) he is unable to participate pursuant to subdivision *B* 1, 2, or 3 ~~or 4~~. Any disqualification under the provisions of this ~~subdivision~~ *subsection* shall be recorded in the public records of the officer's or employee's governmental or advisory agency. The officer or employee shall disclose his personal interest as required by subsection E of § 2.2-3114 or subsection F of § 2.2-3115 and shall not vote or in any manner act on behalf of his agency in the transaction. The officer or employee shall be prohibited from (i) attending any portion of a closed meeting authorized by the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) when the matter in which he has a personal interest is discussed and (ii) discussing the matter in which he has a personal interest with other governmental officers or employees at any time.

*B. An officer or employee of any state or local government or advisory agency who has a personal interest in a transaction may participate in the transaction:*

~~2. May participate in the transaction if 1.~~ *If he is a member of a business, profession, occupation, or group of three or more persons the members of which are affected by the transaction, and he complies with the declaration requirements of subsection F of § 2.2-3114 or subsection H of § 2.2-3115;*

~~3. May participate in the transaction when 2.~~ *When a party to the transaction is a client of his firm if he does not personally represent or provide services to such client and he complies with the declaration requirements of subsection G of § 2.2-3114 or subsection I of § 2.2-3115; or*

~~4. May participate in the transaction if 3.~~ *If it affects the public generally, even though his personal interest, as a member of the public, may also be affected by that transaction.*

~~B. C.~~ *Disqualification under the provisions of this section shall not prevent any employee having a personal interest in a transaction in which his agency is involved from representing himself or a member of his immediate family in such transaction provided he does not receive compensation for such representation and provided he complies with the disqualification and relevant disclosure requirements of this chapter.*

~~C. D.~~ *Notwithstanding any other provision of law, if disqualifications of officers or employees in accordance with this section leave less than the number required by law to act, the remaining member or members shall constitute a quorum for the conduct of business and have authority to act for the agency by majority vote, unless a unanimous vote of all members is required by law, in which case authority to act shall require a unanimous vote of remaining members. Notwithstanding any provisions of this chapter to the contrary, members of a local governing body whose sole interest in any proposed sale, contract of sale, exchange, lease or conveyance is by virtue of their employment by a business involved in a proposed sale, contract of sale, exchange, lease or conveyance, and where such member's or members' vote is essential to a constitutional majority required pursuant to Article VII, Section 9 of the Constitution of Virginia and § 15.2-2100, such member or*

members of the local governing body may vote and participate in the deliberations of the governing body concerning whether to approve, enter into or execute such sale, contract of sale, exchange, lease or conveyance. Official action taken under circumstances that violate this section may be rescinded by the agency on such terms as the interests of the agency and innocent third parties require.

~~D.~~ E. The provisions of subsection A shall not prevent an officer or employee from participating in a transaction merely because such officer or employee is a party in a legal proceeding of a civil nature concerning such transaction.

~~E.~~ F. The provisions of subsection A shall not prevent an employee from participating in a transaction regarding textbooks or other educational material for students at state institutions of higher education, when those textbooks or materials have been authored or otherwise created by the employee.

G. *The provisions of this section shall not prevent any justice of the Supreme Court of Virginia, judge of the Court of Appeals of Virginia, judge of any circuit court, judge or substitute judge of any district court, member of the State Corporation Commission, or member of the Virginia Workers' Compensation Commission from participating in a transaction where such individual's participation involves the performance of adjudicative responsibilities as set forth in Canon 3 of the Canons of Judicial Conduct for the State of Virginia. However, nothing in this subsection shall be construed to authorize such individual's participation in a transaction if such participation would constitute a violation of the Canons of Judicial Conduct for the State of Virginia.*

**§ 2.2-3114. Disclosure by state officers and employees.**

A. ~~The~~ *In accordance with the requirements set forth in § 2.2-3118.2, the Governor, Lieutenant Governor, Attorney General, Justices of the Supreme Court, judges of the Court of Appeals, judges of any circuit court, judges and substitute judges of any district court, members of the State Corporation Commission, members of the Virginia Workers' Compensation Commission, members of the Commonwealth Transportation Board, members of the Board of Trustees of the Virginia Retirement System, members of the Virginia Alcoholic Beverage Control Board, and members of the Virginia Lottery Board and other persons occupying such offices or positions of trust or employment in state government, including members of the governing bodies of authorities, as may be designated by the Governor, or officers or employees of the legislative branch, as may be designated by the Joint Rules Committee of the General Assembly, shall file with the Council, as a condition to assuming office or employment, a disclosure statement of their personal interests and such other information as is required on the form prescribed by the Council pursuant to § 2.2-3117 and thereafter shall file such a statement annually on or before January 15. When the filing deadline falls on a Saturday, Sunday, or legal holiday, the disclosure statement shall be filed on the next day that is not a Saturday, Sunday, or legal holiday February 1.*

B. ~~Nonsalaried~~ *In accordance with the requirements set forth in § 2.2-3118.2, nonsalaried citizen members of all policy and supervisory boards, commissions and councils in the executive branch of state government, other than the Commonwealth Transportation Board, members of the Board of Trustees of the Virginia Retirement System, and the Virginia Lottery Board, shall file with the Council, as a condition to assuming office, a disclosure form of their personal interests and such other information as is required on the form prescribed by the Council pursuant to § 2.2-3118 and thereafter shall file such form annually on or before January 15. When the filing deadline falls on a Saturday, Sunday, or legal holiday, the disclosure statement shall be filed on the next day that is not a Saturday, Sunday, or legal holiday February 1.* Nonsalaried citizen members of other boards, commissions and councils, including advisory boards and authorities, may be required to file a disclosure form if so designated by the Governor, in which case the form shall be that prescribed by the Council pursuant to § 2.2-3118.

C. The disclosure forms required by subsections A and B shall be made available by the Council at least 30 days prior to the filing deadline. Disclosure forms shall be filed electronically with the Council in accordance with the standards approved by it pursuant to § 30-356. All forms shall be maintained as public records for five years in the office of the Council. Such forms shall be made public no later than six weeks after *the filing deadline.*

D. Candidates for the offices of Governor, Lieutenant Governor or Attorney General shall file a disclosure statement of their personal interests as required by § 24.2-502.

E. Any officer or employee of state government who has a personal interest in any transaction before the governmental or advisory agency of which he is an officer or employee and who is disqualified from participating in that transaction pursuant to ~~subdivision~~ *subsection A* † of § 2.2-3112, or otherwise elects to disqualify himself, shall forthwith make disclosure of the existence of his interest, including the full name and address of the business and the address or parcel number for the real estate if the interest involves a business or real estate, and his disclosure shall also be reflected in the public records of the agency for five years in the office of the administrative head of the officer's or employee's governmental agency or advisory agency or, if the agency has a clerk, in the clerk's office.

F. An officer or employee of state government who is required to declare his interest pursuant to ~~subdivision A~~ *B 1* of § 2.2-3112, shall declare his interest by stating (i) the transaction involved, (ii) the nature of the officer's or employee's personal interest affected by the transaction, (iii) that he is a member of a business, profession, occupation, or group the members of which are affected by the transaction, and (iv) that he is able to participate in the transaction fairly, objectively, and in the public interest. The officer or employee shall either make his declaration orally to be recorded in written minutes for his agency or file a signed written declaration with the clerk or administrative head of his governmental or advisory agency, as appropriate, who shall, in either case, retain and make available for public inspection such declaration for a period of five years from the date of recording or receipt. If reasonable time is not available to comply with the provisions of

this subsection prior to participation in the transaction, the officer or employee shall prepare and file the required declaration by the end of the next business day.

G. An officer or employee of state government who is required to declare his interest pursuant to subdivision ~~A 3 B~~ 2 of § 2.2-3112, shall declare his interest by stating (i) the transaction involved, (ii) that a party to the transaction is a client of his firm, (iii) that he does not personally represent or provide services to the client, and (iv) that he is able to participate in the transaction fairly, objectively, and in the public interest. The officer or employee shall either make his declaration orally to be recorded in written minutes for his agency or file a signed written declaration with the clerk or administrative head of his governmental or advisory agency, as appropriate, who shall, in either case, retain and make available for public inspection such declaration for a period of five years from the date of recording or receipt. If reasonable time is not available to comply with the provisions of this subsection prior to participation in the transaction, the officer or employee shall prepare and file the required declaration by the end of the next business day.

H. Notwithstanding any other provision of law, chairs of departments at a public institution of higher education in the Commonwealth shall not be required to file the disclosure form prescribed by the Council pursuant to § 2.2-3117 or 2.2-3118.

**§ 2.2-3115. Disclosure by local government officers and employees.**

A. ~~The~~ *In accordance with the requirements set forth in § 2.2-3118.2, the members of every governing body and school board of each county and city and of towns with populations in excess of 3,500 shall file, as a condition to assuming office or employment, a disclosure statement of their personal interests and other information as is required on the form prescribed by the Council pursuant to § 2.2-3117 and thereafter shall file such a statement annually on or before ~~January 15~~ February 1.*

~~The~~ *In accordance with the requirements set forth in § 2.2-3118.2, the members of the governing body of any authority established in any county or city, or part or combination thereof, and having the power to issue bonds or expend funds in excess of \$10,000 in any fiscal year, shall file, as a condition to assuming office, a disclosure statement of their personal interests and other information as is required on the form prescribed by the Council pursuant to § 2.2-3118 and thereafter shall file such a statement annually on or before ~~January 15~~ February 1, unless the governing body of the jurisdiction that appoints the members requires that the members file the form set forth in § 2.2-3117.*

~~Persons~~ *In accordance with the requirements set forth in § 2.2-3118.2, persons occupying such positions of trust appointed by governing bodies and persons occupying such positions of employment with governing bodies as may be designated to file by ordinance of the governing body shall file, as a condition to assuming office or employment, a disclosure statement of their personal interests and other information as is required on the form prescribed by the Council pursuant to § 2.2-3117 and thereafter shall file such a statement annually on or before ~~January 15~~ February 1.*

~~Persons~~ *In accordance with the requirements set forth in § 2.2-3118.2, persons occupying such positions of trust appointed by school boards and persons occupying such positions of employment with school boards as may be designated to file by an adopted policy of the school board shall file, as a condition to assuming office or employment, a disclosure statement of their personal interests and other information as is required on the form prescribed by the Council pursuant to § 2.2-3117 and thereafter shall file such a statement annually on or before ~~January 15~~ February 1.*

B. ~~Nonsalaried~~ *In accordance with the requirements set forth in § 2.2-3118.2, nonsalaried citizen members of local boards, commissions and councils as may be designated by the governing body shall file, as a condition to assuming office, a disclosure form of their personal interests and such other information as is required on the form prescribed by the Council pursuant to § 2.2-3118 and thereafter shall file such form annually on or before ~~January 15~~ February 1.*

C. No person shall be mandated to file any disclosure not otherwise required by this article.

D. The disclosure forms required by subsections A and B shall be made available by the Virginia Conflict of Interest and Ethics Advisory Council at least 30 days prior to the filing deadline, and the clerks of the governing body and school board shall distribute the forms to designated individuals at least 20 days prior to the filing deadline. Forms shall be filed and maintained as public records for five years in the office of the clerk of the respective governing body or school board. Forms filed by members of governing bodies of authorities shall be filed and maintained as public records for five years in the office of the clerk of the governing body of the county or city. Such forms shall be made public no later than six weeks after the filing deadline.

E. Candidates for membership in the governing body or school board of any county, city or town with a population of more than 3,500 persons shall file a disclosure statement of their personal interests as required by § 24.2-502.

F. Any officer or employee of local government who has a personal interest in any transaction before the governmental or advisory agency of which he is an officer or employee and who is disqualified from participating in that transaction pursuant to ~~subdivision~~ *subsection A 4* of § 2.2-3112 or otherwise elects to disqualify himself, shall forthwith make disclosure of the existence of his interest, including the full name and address of the business and the address or parcel number for the real estate if the interest involves a business or real estate, and his disclosure shall be reflected in the public records of the agency for five years in the office of the administrative head of the officer's or employee's governmental or advisory agency.

G. In addition to any disclosure required by subsections A and B, in each county and city and in towns with populations in excess of 3,500, members of planning commissions, boards of zoning appeals, real estate assessors, and all county, city and town managers or executive officers shall make annual disclosures of all their interests in real estate located in the county, city or town in which they are elected, appointed, or employed. Such disclosure shall include any business in which such persons own an interest, or from which income is received, if the primary purpose of the business is to own, develop or

derive compensation through the sale, exchange or development of real estate in the county, city or town. ~~Such~~ *In accordance with the requirements set forth in § 2.2-3118.2, such* disclosure shall be filed as a condition to assuming office or employment, and thereafter shall be filed annually with the clerk of the governing body of such county, city, or town on or before ~~January 15~~ *February 1*. Such disclosures shall be filed and maintained as public records for five years. Such forms shall be made public no later than six weeks after ~~the~~ *filing deadline*. Forms for the filing of such reports shall be made available by the Virginia Conflict of Interest and Ethics Advisory Council to the clerk of each governing body.

H. An officer or employee of local government who is required to declare his interest pursuant to subdivision ~~A 2 B 1~~ of § 2.2-3112 shall declare his interest by stating (i) the transaction involved, (ii) the nature of the officer's or employee's personal interest affected by the transaction, (iii) that he is a member of a business, profession, occupation, or group the members of which are affected by the transaction, and (iv) that he is able to participate in the transaction fairly, objectively, and in the public interest. The officer or employee shall either make his declaration orally to be recorded in written minutes for his agency or file a signed written declaration with the clerk or administrative head of his governmental or advisory agency, as appropriate, who shall, in either case, retain and make available for public inspection such declaration for a period of five years from the date of recording or receipt. If reasonable time is not available to comply with the provisions of this subsection prior to participation in the transaction, the officer or employee shall prepare and file the required declaration by the end of the next business day. The officer or employee shall also orally disclose the existence of the interest during each meeting of the governmental or advisory agency at which the transaction is discussed and such disclosure shall be recorded in the minutes of the meeting.

I. An officer or employee of local government who is required to declare his interest pursuant to subdivision ~~A 3 B 2~~ of § 2.2-3112, shall declare his interest by stating (i) the transaction involved, (ii) that a party to the transaction is a client of his firm, (iii) that he does not personally represent or provide services to the client, and (iv) that he is able to participate in the transaction fairly, objectively, and in the public interest. The officer or employee shall either make his declaration orally to be recorded in written minutes for his agency or file a signed written declaration with the clerk or administrative head of his governmental or advisory agency, as appropriate, who shall, in either case, retain and make available for public inspection such declaration for a period of five years from the date of recording or receipt. If reasonable time is not available to comply with the provisions of this subsection prior to participation in the transaction, the officer or employee shall prepare and file the required declaration by the end of the next business day.

*J. The clerk of the governing body or school board that releases any form to the public pursuant to this section shall redact from the form any residential address, personal telephone number, or signature contained on such form; however, any form filed pursuant to subsection G shall not have any residential addresses redacted.*

**§ 2.2-3116. Disclosure by certain constitutional officers.**

For the purposes of this chapter, holders of the constitutional offices of treasurer, sheriff, attorney for the Commonwealth, clerk of the circuit court, and commissioner of the revenue of each county and city shall be required to file with the Council, as a condition to assuming office, the Statement of Economic Interests prescribed by the Council pursuant to § 2.2-3117. These officers shall file statements annually on or before ~~January 15~~ *February 1*. Candidates shall file statements as required by § 24.2-502. Statements shall be filed electronically with the Council in accordance with the standards approved by it pursuant to § 30-356. These officers shall be subject to the prohibition on certain gifts set forth in subsection B of § 2.2-3103.1.

**§ 2.2-3118.2. Disclosure form; filing requirements.**

A. *An officer or employee required to file an annual disclosure on or before February 1 pursuant to this article shall disclose his personal interests and other information as required on the form prescribed by the Council for the preceding calendar year complete through December 31. An officer or employee required to file a disclosure as a condition to assuming office or employment shall file such disclosure on or before the day such office or position of employment is assumed and disclose his personal interests and other information as required on the form prescribed by the Council for the preceding 12-month period complete through the last day of the month immediately preceding the month in which the office or position of employment is assumed; however, any officer or employee who assumes office or a position of employment in January shall be required to only file an annual disclosure on or before February 1 for the preceding calendar year complete through December 31.*

B. *When the deadline for filing any disclosure pursuant to this article falls on a Saturday, Sunday, or legal holiday, the deadline for filing shall be the next day that is not a Saturday, Sunday, or legal holiday.*

**§ 2.2-3121. Advisory opinions.**

A. A state officer or employee shall not be prosecuted for a knowing violation of this chapter if the alleged violation resulted from his good faith reliance on a written opinion of the Attorney General or *a formal opinion or written informal advice of the Virginia Conflict of Interest and Ethics Advisory Council* made in response to his written request for such opinion or advice and the opinion or advice was made after a full disclosure of the facts regardless of whether such opinion or advice is later withdrawn provided the alleged violation occurred prior to the withdrawal of the opinion or advice.

B. A local officer or employee shall not be prosecuted for a knowing violation of this chapter if the alleged violation resulted from his good faith reliance on a written opinion of the attorney for the Commonwealth or *a formal opinion or written informal advice of the Council* made in response to his written request for such opinion or advice and the opinion or advice was made after a full disclosure of the facts regardless of whether such opinion or advice is later withdrawn,

provided that the alleged violation occurred prior to the withdrawal of the opinion *or advice*. The written opinion *of the attorney for the Commonwealth* shall be a public record and shall be released upon request.

C. If any officer or employee serving at the local level of government is charged with a knowing violation of this chapter, and the alleged violation resulted from his reliance upon a written opinion of his county, city, or town attorney, made after a full disclosure of the facts, that such action was not in violation of this chapter, then the officer or employee shall have the right to introduce a copy of the opinion at his trial as evidence that he did not knowingly violate this chapter.

**§ 2.2-4369. Proscribed participation by public employees in procurement transactions.**

Except as may be specifically allowed by subdivisions *A B 1, 2, and 3* and 4 of § 2.2-3112, no public employee having official responsibility for a procurement transaction shall participate in that transaction on behalf of the public body when the employee knows that:

1. The employee is contemporaneously employed by a bidder, offeror or contractor involved in the procurement transaction;

2. The employee, the employee's partner, or any member of the employee's immediate family holds a position with a bidder, offeror or contractor such as an officer, director, trustee, partner or the like, or is employed in a capacity involving personal and substantial participation in the procurement transaction, or owns or controls an interest of more than five percent;

3. The employee, the employee's partner, or any member of the employee's immediate family has a pecuniary interest arising from the procurement transaction; or

4. The employee, the employee's partner, or any member of the employee's immediate family is negotiating, or has an arrangement concerning, prospective employment with a bidder, offeror or contractor.

**§ 24.2-502. Statement of economic interests as requirement of candidacy.**

It shall be a requirement of candidacy that a written statement of economic interests shall be filed by (i) a candidate for Governor, Lieutenant Governor, or Attorney General; ~~and a candidate for the Senate or House of Delegates; and a candidate for a constitutional office with the Virginia Conflict of Interest and Ethics Advisory Council and State Board,~~ (ii) a candidate for a constitutional office with the general registrar for the county or city, and (iii) a candidate for member of the governing body or elected school board of any county, city, or town with a population in excess of 3,500 persons with the general registrar for the county or city. The statement of economic interests shall be that specified in § 30-111 for candidates for the General Assembly and in § 2.2-3117 for all other candidates. The foregoing requirement shall not apply to a candidate for reelection to the same office who has met the requirement of annually filing a statement pursuant to § 2.2-3114, 2.2-3115, 2.2-3116, or 30-110.

~~The Virginia Conflict of Interest and Ethics Advisory Council shall transmit to the State Board, immediately after the filing deadline, a list of the candidates who have filed initial or annual statements of economic interests.~~ The general registrar, the clerk of the local governing body, or the clerk of the school board, as appropriate, shall transmit to the local electoral board, immediately after the filing deadline, a list of the candidates who have filed initial or annual statements of economic interests.

**§ 30-101. Definitions.**

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

"Advisory agency" means any board, commission, committee or post which does not exercise any sovereign power or duty, but is appointed by a governmental agency or officer or is created by law for the purpose of making studies or recommendations, or advising or consulting with a governmental agency.

"Business" means a corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, trust or foundation, or any other individual or entity carrying on a business or profession, whether or not for profit.

"Candidate" means a person who seeks or campaigns for election to the General Assembly in a general, primary, or special election and who is qualified to have his name placed on the ballot for the office. The candidate shall become subject to the provisions of this section upon the filing of a statement of qualification pursuant to § 24.2-501. The State Board of Elections shall notify each such candidate of the provisions of this chapter.

"Contract" means any agreement to which a governmental agency is a party, or any agreement on behalf of a governmental agency that involves the payment of money appropriated by the General Assembly or a political subdivision, whether or not such agreement is executed in the name of the Commonwealth, or some political subdivision thereof. "Contract" includes a subcontract only when the contract of which it is a part is with the legislator's own governmental agency.

"Council" means the Virginia Conflict of Interest and Ethics Advisory Council established in § 30-355.

"Financial institution" means any bank, trust company, savings institution, industrial loan association, consumer finance company, credit union, broker-dealer as defined in subsection A of § 13.1-501, or investment company or advisor registered under the federal Investment Advisors Act or Investment Company Act of 1940.

"Gift" means any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value. It includes services as well as gifts of transportation, lodgings and meals, whether provided in-kind, by purchase of a ticket, payment in advance, or reimbursement after the expense has been incurred. "Gift" does not include (i) any offer of a ticket, coupon, or other admission or pass unless the ticket, coupon, admission, or pass is used; (ii) honorary degrees; (iii) any athletic, merit, or need-based scholarship or any other financial aid awarded by a public or private school, institution of higher education, or other educational program pursuant to such school, institution, or program's financial aid

standards and procedures applicable to the general public; (iv) a campaign contribution properly received and reported pursuant to Chapter 9.3 (§ 24.2-945 et seq.) of Title 24.2; (v) any gift related to the private profession or occupation *or volunteer service* of a legislator or of a member of his immediate family; (vi) food or beverages consumed while attending an event at which the filer is performing official duties related to his public service; (vii) food and beverages received at or registration or attendance fees waived for any event at which the filer is a featured speaker, presenter, or lecturer; (viii) unsolicited awards of appreciation or recognition in the form of a plaque, trophy, wall memento, or similar item that is given in recognition of public, civic, charitable, or professional service; (ix) a devise or inheritance; (x) travel disclosed pursuant to the Campaign Finance Disclosure Act (§ 24.2-945 et seq.); (xi) travel paid for or provided by the government of the United States, any of its territories, or any state or any political subdivision of such state; (xii) travel provided to facilitate attendance by a legislator at a regular or special session of the General Assembly, a meeting of a legislative committee or commission, or a national conference where attendance is approved by the House Committee on Rules or its Chairman or the Senate Committee on Rules or its Chairman; (xiii) travel related to an official meeting of, *or any meal provided for attendance at such meeting by*, the Commonwealth, its political subdivisions, or any board, commission, authority, or other entity, or any charitable organization established pursuant to § 501(c)(3) of the Internal Revenue Code affiliated with such entity, to which such person has been appointed or elected or is a member by virtue of his office or employment; (xiv) gifts with a value of less than \$20; ~~or~~ (xv) *attendance at a reception or similar function where food, such as hors d'oeuvres, and beverages that can be conveniently consumed by a person while standing or walking are offered; or (xvi) gifts from relatives or personal friends.* For the purpose of this definition, "relative" means the donee's spouse, child, uncle, aunt, niece, nephew, or first cousin; a person to whom the donee is engaged to be married; the donee's or his spouse's parent, grandparent, grandchild, brother, sister, step-parent, step-grandparent, step-grandchild, step-brother, or step-sister; or the donee's brother's or sister's spouse *or the donee's son-in-law or daughter-in-law.* For the purpose of this definition, "personal friend" does not include any person that the filer knows or has reason to know is (a) a lobbyist registered pursuant to Article 3 (§ 2.2-418 et seq.) of Chapter 4 of Title 2.2 or (b) a lobbyist's principal as defined in § 2.2-419.

"Governmental agency" means each component part of the legislative, executive or judicial branches of state and local government, including each office, department, authority, post, commission, committee, and each institution or board created by law to exercise some regulatory or sovereign power or duty as distinguished from purely advisory powers or duties.

"Immediate family" means (i) a spouse and (ii) any other person who resides in the same household as the legislator and who is a dependent of the legislator.

"Legislator" means a member of the General Assembly.

"Personal interest" means a financial benefit or liability accruing to a legislator or to a member of his immediate family. Such interest shall exist by reason of (i) ownership in a business if the ownership interest exceeds three percent of the total equity of the business; (ii) annual income that exceeds, or may reasonably be anticipated to exceed, \$5,000 from ownership in real or personal property or a business; (iii) salary, other compensation, fringe benefits, or benefits from the use of property, or any combination thereof, paid or provided by a business or governmental agency that exceeds, or may reasonably be anticipated to exceed, \$5,000 annually; (iv) ownership of real or personal property if the interest exceeds \$5,000 in value and excluding ownership in a business, income, or salary, other compensation, fringe benefits or benefits from the use of property; (v) personal liability incurred or assumed on behalf of a business if the liability exceeds three percent of the asset value of the business; or (vi) an option for ownership of a business or real or personal property if the ownership interest will consist of clause (i) or (iv).

"Personal interest in a contract" means a personal interest that a legislator has in a contract with a governmental agency, whether due to his being a party to the contract or due to a personal interest in a business that is a party to the contract.

"Personal interest in a transaction" means a personal interest of a legislator in any matter considered by the General Assembly. Such personal interest exists when ~~an officer or employee a legislator~~ a legislator or a member of his immediate family has a personal interest in property or a business, or represents or provides services to any individual or business and such property, business or represented or served individual or business (i) is the subject of the transaction or (ii) may realize a reasonably foreseeable direct or indirect benefit or detriment as a result of the action of the agency considering the transaction. A "personal interest in a transaction" exists only if the legislator or member of his immediate family or an individual or business represented or served by the legislator is affected in a way that is substantially different from the general public or from persons comprising a profession, occupation, trade, business or other comparable and generally recognizable class or group of which he or the individual or business he represents or serves is a member.

"Transaction" means any matter considered by the General Assembly, whether in a committee, subcommittee, or other entity of the General Assembly or before the General Assembly itself, on which official action is taken or contemplated.

### **§ 30-103.1. Certain gifts prohibited.**

A. For purposes of this section:

"Widely attended event" means an event at which at least 25 persons have been invited to attend or there is a reasonable expectation that at least 25 persons will attend the event and the event is open to individuals (i) ~~who share a common interest,~~ (ii) who are members of a public, civic, charitable, or professional organization, ~~(iii)~~ (ii) who are from a particular industry or profession, or ~~(iv)~~ (iii) who represent persons interested in a particular issue.

B. No legislator or candidate for the General Assembly required to file the disclosure form prescribed in § 30-111 or a member of his immediate family shall solicit, accept, or receive any single gift for himself or a member of his immediate family with a value in excess of \$100 or any combination of gifts with an aggregate value in excess of \$100 within any calendar year for himself or a member of his immediate family from any person that he or a member of his immediate family knows or has reason to know is (i) a lobbyist registered pursuant to Article 3 (§ 2.2-418 et seq.) of Chapter 4 of Title 2.2 or (ii) a lobbyist's principal as defined in § 2.2-419. Gifts with a value of less than \$20 are not subject to aggregation for purposes of this prohibition.

C. Notwithstanding the provisions of subsection B, a legislator or candidate or a member of his immediate family may accept or receive a gift of food and beverages, entertainment, or the cost of admission with a value in excess in \$100 when such gift is accepted or received while in attendance at a widely attended event and is associated with the event. Such gifts shall be reported on the disclosure form prescribed in § 30-111.

D. Notwithstanding the provisions of subsection B, a legislator or a member of his immediate family may accept or receive a gift from a foreign dignitary with a value exceeding \$100 for which the fair market value or a gift of greater or equal value has not been provided or exchanged. Such gift shall be accepted on behalf of the Commonwealth and archived in accordance with guidelines established by the Library of Virginia. Such gift shall be disclosed as having been accepted on behalf of the Commonwealth, but the value of such gift shall not be required to be disclosed.

E. Notwithstanding the provisions of subsection B, a legislator or candidate or a member of his immediate family may accept or receive certain gifts with a value in excess of \$100 from a person listed in subsection B if such gift was provided to the legislator or candidate or a member of his immediate family on the basis of a personal friendship. Notwithstanding any other provision of law, a person listed in subsection B may be a personal friend of the legislator or candidate or his immediate family for purposes of this subsection. In determining whether a person listed in subsection B is a personal friend, the following factors shall be considered: (i) the circumstances under which the gift was offered; (ii) the history of the relationship between the person and the donor, including the nature and length of the friendship and any previous exchange of gifts between them; (iii) to the extent known to the person, whether the donor personally paid for the gift or sought a tax deduction or business reimbursement for the gift; and (iv) whether the donor has given the same or similar gifts to other persons required to file the disclosure form prescribed in § 2.2-3117 or 30-111.

F. Notwithstanding the provisions of subsection B, a legislator or candidate or a member of his immediate family may accept or receive gifts of travel, including travel-related transportation, lodging, hospitality, food or beverages, or other thing of value, with a value in excess of \$100 that is paid for or provided by a person listed in subsection B when the legislator or candidate has submitted a request for approval of such travel to the Council and has received the approval of the Council pursuant to § 30-356.1. Such gifts shall be reported on the disclosure form prescribed in § 30-111.

G. The \$100 limitation imposed in accordance with this section shall be adjusted by the Council every five years, as of January 1 of that year, in an amount equal to the annual increases for that five-year period in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics of the U.S. Department of Labor, rounded to the nearest whole dollar.

**§ 30-105. Prohibited contracts by legislators.**

A. No legislator shall have a personal interest in a contract with the legislative branch of state government.

B. No legislator shall have a personal interest in a contract with any governmental agency of the executive or judicial branches of state government, other than in a contract of regular employment, unless such contract is awarded as a result of competitive sealed bidding or competitive negotiation as set forth in § 2.2-4302.1 or 2.2-4302.2 or is exempted from *competitive sealed bidding or competitive negotiation pursuant to § 2.2-4344*.

C. No legislator shall have a personal interest in a contract with any governmental agency of local government, other than in a contract of regular employment, unless such contract is (i) awarded as a result of competitive sealed bidding or competitive negotiation as set forth in § 2.2-4302.1 or 2.2-4302.2 or is awarded as a result of a procedure embodying competitive principles as authorized by subdivision A 10 or A 11 of § 2.2-4343; ~~or~~; (ii) *is exempted from competitive sealed bidding, competitive negotiation, or a procedure embodying competitive principles pursuant to § 2.2-4344*; or (iii) awarded after a finding, in writing, by the administrative head of the local governmental agency that competitive bidding or negotiation is contrary to the best interest of the public.

D. The provisions of this section shall not apply to contracts for the sale by a governmental agency of services or goods at uniform prices available to the general public.

E. The provisions of this section shall not apply to a legislator's personal interest in a contract between a public institution of higher education in Virginia and a publisher or wholesaler of textbooks or other educational materials for students, which accrues to him solely because he has authored or otherwise created such textbooks or materials.

**§ 30-106. Further exceptions.**

A. The provisions of § 30-105 shall not apply to:

1. The sale, lease or exchange of real property between a legislator and a governmental agency, provided the legislator does not participate in any way as a legislator in such sale, lease or exchange, and this fact is set forth as a matter of public record by the governing body of the governmental agency or by the administrative head thereof. The legislator shall disclose any lease with a state governmental agency in his statement of economic interests as provided in § 30-111;

2. The publication of official notices;

3. A legislator whose sole personal interest in a contract with an agency of the legislative branch is by reason of income from the contracting firm or General Assembly in excess of ~~\$10,000~~ \$5,000 per year, provided the legislator or member of his immediate family does not participate and has no authority to participate in the procurement or letting of the contract on behalf of the contracting firm and the legislator either does not have authority to participate in the procurement or letting of the contract on behalf of the agency or he disqualifies himself as a matter of public record and does not participate on behalf of the agency in negotiating the contract or in approving the contract;

4. Contracts between a legislator's governmental agency and a public service corporation, financial institution, or company furnishing public utilities in which the legislator has a personal interest, provided he disqualifies himself as a matter of public record and does not participate on behalf of the agency in negotiating the contract or in approving the contract;

5. Contracts for the purchase of goods or services when the contract does not exceed \$500; or

6. Grants or other payments under any program wherein uniform rates for, or the amounts paid to, all qualified applicants are established solely by the administering governmental agency.

B. Neither the provisions of this chapter nor, unless expressly provided otherwise, any amendments thereto shall apply to those employment contracts or renewals thereof or to any other contracts entered into prior to August 1, 1987, which were in compliance with either the former Virginia Conflict of Interests Act, Chapter 22 (§ 2.1-347 et seq.) or the former Comprehensive Conflict of Interests Act, Chapter 40 (§ 2.1-599 et seq.) of Title 2.1 at the time of their formation and thereafter. Those contracts shall continue to be governed by the provisions of the appropriate prior Act. Notwithstanding the provisions of subdivision (f) (4) of former § 2.1-348 of Chapter 22 of Title 2.1 in effect prior to July 1, 1983, the employment by the same governmental agency of a legislator and spouse or any other relative residing in the same household shall not be deemed to create a material financial interest except when one of such persons is employed in a direct supervisory or administrative position, or both, with respect to such spouse or other relative residing in his household, and the annual salary of such subordinate is \$15,000 or more.

#### **§ 30-110. Disclosure.**

A. ~~Every~~ *In accordance with the requirements set forth in § 30-111.1, every* legislator and legislator-elect shall file, as a condition to assuming office, a disclosure statement of his personal interests and such other information as is required on the form prescribed by the Council pursuant to § 30-111 and thereafter shall file such a statement annually on or before ~~January 15. When the filing deadline falls on a Saturday, Sunday, or legal holiday, the disclosure statement shall be filed on the next day that is not a Saturday, Sunday, or legal holiday~~ *February 1*. Disclosure forms shall be made available by the Virginia Conflict of Interest and Ethics Advisory Council at least 30 days prior to the filing deadline. Disclosure forms shall be filed electronically with the Virginia Conflict of Interest and Ethics Advisory Council in accordance with the standards approved by it pursuant to § 30-356. The disclosure forms of the members of the General Assembly shall be maintained as public records for five years in the office of the Virginia Conflict of Interest and Ethics Advisory Council. Such forms shall be made public no later than six weeks after *the filing deadline*.

B. Candidates for the General Assembly shall file a disclosure statement of their personal interests as required by §§ 24.2-500 through 24.2-503.

C. Any legislator who has a personal interest in any transaction pending before the General Assembly and who is disqualified from participating in that transaction pursuant to § 30-108 and the rules of his house shall disclose his interest in accordance with the applicable rule of his house.

#### **§ 30-111.1. Disclosure form; filing requirements.**

A. *A legislator or legislator-elect required to file an annual disclosure on or before February 1 pursuant to this article shall disclose his personal interests and other information as required on the form prescribed by the Council for the preceding calendar year complete through December 31. A legislator or legislator-elect required to file a disclosure as a condition to assuming office shall file such disclosure on or before the day such office is assumed and disclose his personal interests and other information as required on the form prescribed by the Council for the preceding 12-month period complete through the last day of the month immediately preceding the month in which the office is assumed; however, any legislator or legislator-elect who assumes office in January shall be required to only file an annual disclosure on or before February 1 for the preceding calendar year complete through December 31.*

B. *When the deadline for filing any disclosure pursuant to this article falls on a Saturday, Sunday, or legal holiday, the deadline for filing shall be the next day that is not a Saturday, Sunday, or legal holiday.*

#### **§ 30-124. Advisory opinions.**

A legislator shall not be prosecuted or disciplined for a violation of this chapter if his alleged violation resulted from his good faith reliance on a written opinion of a committee on standards of conduct established pursuant to § 30-120, an opinion of the Attorney General as provided in § 30-122, or a formal opinion *or written informal advice* of the ~~Virginia Conflict of Interest and Ethics Advisory~~ *Virginia Conflict of Interest and Ethics Advisory* Council established pursuant to § 30-355, and the opinion *or advice* was made after his full disclosure of the facts regardless of whether such opinion *or advice* is later withdrawn provided the alleged violation occurred prior to the withdrawal of the opinion *or advice*.

#### **§ 30-129.1. Orientation sessions on ethics and conflicts of interests.**

The ~~Virginia Conflict of Interest and Ethics Advisory~~ *Virginia Conflict of Interest and Ethics Advisory* Council shall conduct an orientation session (i) for new and returning General Assembly members preceding each even-numbered year regular session and (ii) for any new General Assembly member who is elected in a special election and whose term commences after the date of the orientation session

provided for in clause (i) and at least six months before the date of the next such orientation session within three months of his election. Attendance at the full orientation session shall be mandatory for newly elected members. Attendance at a refresher session ~~lasting at least two hours~~ shall be mandatory for returning members and may be accomplished by online participation. There shall be no penalty for the failure of a member to attend the full or refresher orientation session, but the member must disclose his attendance pursuant to § 30-111.

**§ 30-356. Powers and duties of the Council.**

The Council shall:

1. Prescribe the forms required for complying with the disclosure requirements of Article 3 and the Acts. These forms shall be the only forms used to comply with the provisions of Article 3 or the Acts. The Council shall make available the disclosure forms and shall provide guidance and other instructions to assist in the completion of the forms;
2. Review all disclosure forms filed by lobbyists pursuant to Article 3 and by state government officers and employees and legislators pursuant to the Acts. The Council may review disclosure forms for completeness, including reviewing the information contained on the face of the form to determine if the disclosure form has been fully completed and comparing the disclosures contained in any disclosure form filed by a lobbyist pursuant to § 2.2-426 with other disclosure forms filed with the Council, and requesting any amendments to ensure the completeness of and correction of errors in the forms, if necessary. If a disclosure form is found to have not been filed or to have been incomplete as filed, the Council shall notify the filer in writing and direct the filer to file a completed disclosure form within a prescribed period of time, and such notification shall be confidential and is excluded from the provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.);
3. Require all disclosure forms *and lobbyist registration statements that are required to be filed with the Council* to be filed electronically in accordance with the standards approved by the Council. The Council shall provide software or electronic access for filing the required disclosure forms ~~to all filers and registration statements~~ without charge ~~to all individuals required to file with the Council~~. The Council shall prescribe the method of execution and certification of electronically filed forms, including the use of an electronic signature as authorized by the Uniform Electronic Transactions Act (§ 59.1-479 et seq.). The Council may grant extensions as provided in § 30-356.2 and may authorize a designee to grant such extensions;
4. Accept and review any statement received from a filer disputing the receipt by such filer of a gift that has been disclosed on the form filed by a lobbyist pursuant to Article 3;
5. Beginning July 1, 2016, establish and maintain a searchable electronic database comprising *those* disclosure forms *that are filed with the Council* pursuant to §§ 2.2-426, 2.2-3117, 2.2-3118, and 30-111. Such database shall be available to the public through the Council's official website;
6. Furnish, upon request, formal advisory opinions or guidelines and other appropriate information, including informal advice, regarding ethics, conflicts issues arising under Article 3 or the Acts, or a person's duties under Article 3 or the Acts to any person covered by Article 3 or the Acts or to any agency of state or local government, in an expeditious manner. The Council may authorize a designee to furnish formal opinions or informal advice. Formal advisory opinions are public record and shall be published on the Council's website; however, no formal advisory opinion furnished by a designee of the Council shall be available to the public or published until such opinion has been approved by the Council. Published formal advisory opinions may have such deletions and changes as may be necessary to protect the identity of the person involved or other persons supplying information. Informal advice given by the Council or the Council's designee is confidential and is excluded from the mandatory disclosure provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.); *however, if the recipient invokes the immunity provisions of § 2.2-3121 or 30-124, the record of the request and the informal advice given shall be deemed to be a public record and shall be released upon request*. Other records relating to formal advisory opinions or informal advice, including records of requests, notes, correspondence, and draft versions of such opinions or advice, shall also be confidential and excluded from the mandatory disclosure provisions of the Virginia Freedom of Information Act;
7. Conduct training seminars and educational programs for lobbyists, state and local government officers and employees, legislators, and other interested persons on the requirements of Article 3 and the Acts and provide ethics orientation sessions for legislators in compliance with Article 6 (§ 30-129.1 et seq.) of Chapter 13;
8. Approve orientation courses conducted pursuant to § 2.2-3128 and, upon request, review the educational materials and approve any training or course on the requirements of Article 3 and the Acts conducted for state and local government officers and employees;
9. Publish such educational materials as it deems appropriate on the provisions of Article 3 and the Acts;
10. Review actions taken in the General Assembly with respect to the discipline of its members for the purpose of offering nonbinding advice;
11. Request from any agency of state or local government such assistance, services, and information as will enable the Council to effectively carry out its responsibilities. Information provided to the Council by an agency of state or local government shall not be released to any other party unless authorized by such agency;
12. Redact from any document or form that is to be made available to the public any residential address, personal telephone number, or signature contained on that document or form; and
13. Report on or before December 1 of each year on its activities and findings regarding Article 3 and the Acts, including recommendations for changes in the laws, to the General Assembly and the Governor. The annual report shall be

submitted by the chairman as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be published as a state document.

**§ 30-356.2. Right to grant extensions in special circumstances; civil penalty.**

A. Notwithstanding any other provision of law, any person required to file the disclosure form prescribed in Article 3 or the Acts shall be entitled to an extension where good cause for granting such an extension has been shown, as determined by the Council. Good cause shall include:

1. The death of a relative of the filer, as relative is defined in the definition of "gift" in Article 3 or the Acts.
2. A state of emergency is declared by the Governor pursuant to Chapter 3.2 (§ 44-146.13 et seq.) of Title 44 or declared by the President of the United States or the governor of another state pursuant to law and confirmed by the Governor by an executive order, and such an emergency interferes with the timely filing of disclosure forms. The extension shall be granted only for those filers in areas affected by such emergency.
3. The filer is a member of a uniformed service of the United States and is on active duty on the date of the filing deadline.

4. A failure of the electronic filing system and the failure of such system prevents the timely filing of disclosure forms.

B. *For any person who is unable to timely file the disclosure form prescribed in the Acts due to the disclosure form not being made available to him until after the deadline has passed, the Council shall grant such person a five-day extension upon request. The head of the agency for which the person works or the clerk of the school board or governing body of the locality that was responsible for providing the disclosure form to such person shall be assessed a civil penalty in the amount equal to \$250, to be collected in accordance with the procedure set forth in subsection B of § 2.2-3124. If the disclosure form is provided to the person within three days prior to the filing deadline, the Council shall grant such person a three-day extension upon request and no civil penalties shall be assessed against the head of such person's agency or the clerk.*

**2. That an emergency exists and the provisions amending §§ 2.2-426 and 24.2-502 of the Code of Virginia are in force from the passage of this act and that the remaining provisions of this act shall become effective in due course.**

### CHAPTER 833

*An Act to amend and reenact § 58.1-3833 of the Code of Virginia, relating to county food and beverage tax; referendum.*

[S 1296]

Approved April 26, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That § 58.1-3833 of the Code of Virginia is amended and reenacted as follows:**

**§ 58.1-3833. County food and beverage tax.**

A. Any county is hereby authorized to levy a tax on food and beverages sold, for human consumption, by a restaurant, as such term is defined in subdivision 9 of § 35.1-1, not to exceed four percent of the amount charged for such food and beverages. Such tax shall not be levied on food and beverages sold through vending machines or by (i) boardinghouses that do not accommodate transients; (ii) cafeterias operated by industrial plants for employees only; (iii) restaurants to their employees as part of their compensation when no charge is made to the employee; (iv) volunteer fire departments and volunteer emergency medical services agencies; nonprofit churches or other religious bodies; or educational, charitable, fraternal, or benevolent organizations the first three times per calendar year and, beginning with the fourth time, on the first \$100,000 of gross receipts per calendar year from sales of food and beverages (excluding gross receipts from the first three times), as a fundraising activity, the gross proceeds of which are to be used by such church, religious body or organization exclusively for nonprofit educational, charitable, benevolent, or religious purposes; (v) churches that serve meals for their members as a regular part of their religious observances; (vi) public or private elementary or secondary schools, colleges, and universities to their students or employees; (vii) hospitals, medical clinics, convalescent homes, nursing homes, or other extended care facilities to patients or residents thereof; (viii) day care centers; (ix) homes for the aged, infirm, handicapped, battered women, narcotic addicts, or alcoholics; or (x) age-restricted apartment complexes or residences with restaurants, not open to the public, where meals are served and fees are charged for such food and beverages and are included in rental fees. Also, the tax shall not be levied on food and beverages: (a) when used or consumed and paid for by the Commonwealth, any political subdivision of the Commonwealth, or the United States; or (b) provided by a public or private nonprofit charitable organization or establishment to elderly, infirm, blind, handicapped, or needy persons in their homes, or at central locations; or (c) provided by private establishments that contract with the appropriate agency of the Commonwealth to offer food, food products, or beverages for immediate consumption at concession prices to elderly, infirm, blind, handicapped, or needy persons in their homes or at central locations.

Grocery stores and convenience stores selling prepared foods ready for human consumption at a delicatessen counter shall be subject to the tax, for that portion of the grocery store or convenience store selling such items.

This tax shall be levied only if the tax is approved in a referendum within the county which shall be held in accordance with § 24.2-684 and initiated either by a resolution of the board of supervisors or on the filing of a petition signed by a number of registered voters of the county equal in number to 10 percent of the number of voters registered in the county, as appropriate on January 1 of the year in which the petition is filed with the court of such county. *However, no referendum initiated by a resolution of the board of supervisors shall be authorized in a county in the three calendar years subsequent to*

*the electoral defeat of any referendum held pursuant to this section in such county.* The clerk of the circuit court shall publish notice of the election in a newspaper of general circulation in the county once a week for three consecutive weeks prior to the election. If the voters affirm the levy of a local meals tax, the tax shall be effective in an amount and on such terms as the governing body may by ordinance prescribe. If such resolution of the board of supervisors or such petition states for what projects and/or purposes the revenues collected from the tax are to be used, then the question on the ballot for the referendum shall include language stating for what projects and/or purposes the revenues collected from the tax are to be used.

*Any referendum held for the purpose of approving a county food and beverage tax pursuant to this section shall, in the language of the ballot question presented to voters, contain the following text in a paragraph unto itself: "If this food and beverage tax is adopted and a maximum tax rate of four percent is imposed, then the total tax imposed on all prepared food and beverage shall be ..." followed by the total, expressed as a percentage, of all existing ad valorem taxes applicable to the transaction added to the four percent county food and beverage tax to be approved by the referendum.*

The term "beverage" as set forth herein shall mean alcoholic beverages as defined in § 4.1-100 and nonalcoholic beverages served as part of a meal. The tax shall be in addition to the sales tax currently imposed by the county pursuant to the authority of Chapter 6 (§ 58.1-600 et seq.) of this title. Collection of such tax shall be in a manner prescribed by the governing body.

B. Notwithstanding the provisions of subsection A of this section, Roanoke County, Rockbridge County, Frederick County, Arlington County, and Montgomery County, are hereby authorized to levy a tax on food and beverages sold for human consumption by a restaurant, as such term is defined in § 35.1-1 and as modified in subsection A above and subject to the same exemptions, not to exceed four percent of the amount charged for such food and beverages, provided that the governing body of the respective county holds a public hearing before adopting a local food and beverage tax, and the governing body by unanimous vote adopts such tax by local ordinance. The tax shall be effective in an amount and on such terms as the governing body may by ordinance prescribe.

C. Nothing herein contained shall affect any authority heretofore granted to any county, city or town to levy a meals tax. The county tax limitations imposed pursuant to § 58.1-3711 shall apply to any tax levied under this section, mutatis mutandis. All food and beverage tax collections and all meals tax collections shall be deemed to be held in trust for the county, city or town imposing the applicable tax. The wrongful and fraudulent use of such collections other than remittance of the same as provided by law shall constitute embezzlement pursuant to § 18.2-111.

D. No county which has heretofore adopted an ordinance pursuant to subsection A of this section shall be required to submit an amendment to its meals tax ordinance to the voters in a referendum.

E. Notwithstanding any other provision of this section, no locality shall levy any tax under this section upon (i) that portion of the amount paid by the purchaser as a discretionary gratuity in addition to the sales price; (ii) that portion of the amount paid by the purchaser as a mandatory gratuity or service charge added by the restaurant in addition to the sales price, but only to the extent that such mandatory gratuity or service charge does not exceed 20% of the sales price; or (iii) alcoholic beverages sold in factory sealed containers and purchased for off-premises consumption or food purchased for human consumption as "food" is defined in the Food Stamp Act of 1977, 7 U.S.C. § 2012, as amended, and federal regulations adopted pursuant to that act, except for the following items: sandwiches, salad bar items sold from a salad bar, prepackaged single-serving salads consisting primarily of an assortment of vegetables, and nonfactory sealed beverages.

**CHAPTER 834**

*An Act to amend the Code of Virginia by adding in Title 15.2 a chapter numbered 67.1, consisting of sections numbered 15.2-6705 through 15.2-6710, relating to the Virginia Coal Train Heritage Authority.*

[H 2168]

Approved April 26, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding in Title 15.2 a chapter numbered 67.1, consisting of sections numbered 15.2-6705 through 15.2-6710, as follows:**

*CHAPTER 67.1.*

*VIRGINIA COAL TRAIN HERITAGE AUTHORITY.*

**§ 15.2-6705. Virginia Coal Train Heritage Authority established.**

*The Virginia Coal Train Heritage Authority, referred to in this chapter as "the Authority," is created as a body politic and corporate, a political subdivision of the Commonwealth. As such it shall have, and is hereby vested with, the powers and duties conferred in this chapter.*

**§ 15.2-6706. Board of the Authority; qualifications; terms; quorum; records.**

*A. All powers, rights, and duties conferred by this chapter, or other provisions of law, upon the Authority shall be exercised by the Board of the Virginia Coal Train Heritage Authority ("the board").*

*B. The board shall consist of 25 members as follows: three members of the governing body of each of the Counties of Dickenson, Russell, and Wise, each appointed by the respective governing body; two citizen members appointed by the governing body of each of the Counties of Dickenson, Russell, and Wise, each of whom shall be a resident of the appointing county and not a member of the county governing body; one citizen member appointed by the governing body of each of the*

*Towns of Clinchco, Haysi, and St. Paul, each of whom shall be a resident of the appointing town; three commissioners of the Breaks Interstate Park Commission, appointed by that Commission; two at-large members who shall be Virginia residents and have experience in any aspect of the excursion train business, appointed by a majority vote of the board; and two members of the General Assembly representing any part of the County of Dickenson, Russell, or Wise, who shall serve ex officio with voting privileges.*

*C. Initial appointments to the board shall begin July 1, 2017. Each board member shall serve for a term of four years and may be reappointed for additional terms. The term of any member of the board shall immediately terminate if the member no longer meets the eligibility criteria of the initial appointment. Vacancies shall be filled for the unexpired term. The members of the board shall receive no salary, unless specifically authorized by the governing bodies of Dickenson, Russell, and Wise Counties.*

*D. Seven members of the board shall constitute a quorum of the board for the purposes of conducting its business and exercising its powers and for all other purposes. No vacancy in the membership of the board shall impair the right of a quorum to exercise all the powers and perform all the duties of the board.*

*E. The board shall elect from its membership a chairman, a vice-chairman, and from its membership or not, as they desire, a secretary and a treasurer, or a secretary-treasurer, who shall continue to hold such office until their respective successors are elected.*

*F. The board shall keep detailed minutes of its proceedings, which shall be open to public inspection at all times. It shall keep suitable records of its financial transactions and, unless exempted by § 30-140, it shall arrange to have the records audited annually. Copies of each such audit shall be furnished to the governing bodies of Dickenson, Russell, and Wise Counties and the Auditor of Public Accounts and shall be open to public inspection.*

*G. A local governing body may remove from the board any member it has appointed in the event that the board member is absent from any three consecutive board meetings or is absent from any four board meetings within any 12-month period. In either such event, the local governing body shall appoint a successor for the unexpired portion of the term of the member who has been removed.*

*H. The accounts of the Authority shall be audited annually by the Auditor of Public Accounts, or an independent certified public accountant, and the cost of such audit shall be borne by the Authority.*

**§ 15.2-6707. Executive director; staff.**

*The Authority shall appoint an executive director, who shall be authorized to employ such staff as necessary to enable the Authority to perform its duties as set forth in this chapter. The Authority is authorized to determine the duties of such staff and to fix salaries and compensation from such funds as may be received or appropriated.*

**§ 15.2-6708. Powers of Authority.**

*The Authority shall have the following powers together with all powers incidental thereto or necessary for the performance of those hereinafter stated:*

- 1. To sue and be sued and to prosecute and defend, at law or in equity, in any court having jurisdiction of the subject matter and of the parties;*
- 2. To adopt and use a corporate seal and to alter the same at pleasure;*
- 3. To contract and be contracted with;*
- 4. To employ and pay compensation to such employees and agents, including attorneys, as the board deems necessary in carrying on the business of the Authority;*
- 5. To establish bylaws and make all rules and regulations, not inconsistent with the provisions of this chapter, deemed expedient for the management of the Authority's affairs;*
- 6. To borrow money and to accept contributions, grants, and other financial assistance from the United States government and agencies or instrumentalities thereof; the Commonwealth, or any political subdivision, agency, or public instrumentality of the Commonwealth; or any private person, foundation, or financial institution;*
- 7. To issue bonds in accordance with applicable law;*
- 8. To receive and expend moneys on behalf of tourist train development; and*
- 9. To cooperate with any private or governmental entities in the states of West Virginia, Kentucky, Tennessee, or North Carolina in the development of a tourist train and theme park.*

**§ 15.2-6709. Authority of localities.**

*Localities are hereby authorized to lend or donate money or other property or services to the Authority for any of its purposes. The locality making the grant or loan may restrict the use of such grants or loans to a specific project, within or outside that locality.*

**§ 15.2-6710. Assignment of liability.**

*Notwithstanding the provisions of § 46.2-2099.42, no private excursion train operator that has entered into a public-private partnership contract with the Authority pursuant to the Public-Private Educational Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.) shall be liable upon a claim of personal injury or wrongful death arising from the operation of an excursion train, including operations, maintenance, or signalization of the tracks or facilities upon which the excursion train operates, except in the case of the gross negligence or intentional act of the private excursion train operator. Any authority created pursuant to this chapter shall post notice of such immunity from liability at the time of ticketing and at all train entrances.*

## CHAPTER 835

*An Act to amend the Code of Virginia by adding in Chapter 22 of Title 15.2 an article numbered 7.2, consisting of sections numbered 15.2-2316.3, 15.2-2316.4, and 15.2-2316.5, and by adding in Title 56 a chapter numbered 15.1, consisting of sections numbered 56-484.26 through 56-484.31, relating to wireless communications infrastructure.*

[S 1282]

Approved April 26, 2017

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding in Chapter 22 of Title 15.2 an article numbered 7.2, consisting of sections numbered 15.2-2316.3, 15.2-2316.4, and 15.2-2316.5, and by adding in Title 56 a chapter numbered 15.1, consisting of sections numbered 56-484.26 through 56-484.31, as follows:**

*Article 7.2.**Zoning for Wireless Communications Infrastructure.***§ 15.2-2316.3. Definitions.**

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

*"Antenna" means communications equipment that transmits or receives electromagnetic radio signals used in the provision of any type of wireless communications services.*

*"Base station" means a station that includes a structure that currently supports or houses an antenna, transceiver, coaxial cables, power cables, or other associated equipment at a specific site that is authorized to communicate with mobile stations, generally consisting of radio transceivers, antennas, coaxial cables, power supplies, and other associated electronics.*

*"Co-locate" means to install, mount, maintain, modify, operate, or replace a wireless facility on, under, within, or adjacent to a base station, building, existing structure, utility pole, or wireless support structure. "Co-location" has a corresponding meaning.*

*"Department" means the Department of Transportation.*

*"Existing structure" means any structure that is installed or approved for installation at the time a wireless services provider or wireless infrastructure provider provides notice to a locality or the Department of an agreement with the owner of the structure to co-locate equipment on that structure. "Existing structure" includes any structure that is currently supporting, designed to support, or capable of supporting the attachment of wireless facilities, including towers, buildings, utility poles, light poles, flag poles, signs, and water towers.*

*"Micro-wireless facility" means a small cell facility that is not larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height and that has an exterior antenna, if any, not longer than 11 inches.*

*"Small cell facility" means a wireless facility that meets both of the following qualifications: (i) each antenna is located inside an enclosure of no more than six cubic feet in volume, or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than six cubic feet and (ii) all other wireless equipment associated with the facility has a cumulative volume of no more than 28 cubic feet, or such higher limit as is established by the Federal Communications Commission. The following types of associated equipment are not included in the calculation of equipment volume: electric meter, concealment, telecommunications demarcation boxes, back-up power systems, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs for the connection of power and other services.*

*"Utility pole" means a structure owned, operated, or owned and operated by a public utility, local government, or the Commonwealth that is designed specifically for and used to carry lines, cables, or wires for communications, cable television, or electricity.*

*"Water tower" means a water storage tank, or a standpipe or an elevated tank situated on a support structure, originally constructed for use as a reservoir or facility to store or deliver water.*

*"Wireless facility" means equipment at a fixed location that enables wireless communications between user equipment and a communications network, including (i) equipment associated with wireless services, such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services, such as microwave backhaul, and (ii) radio transceivers, antennas, coaxial, or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration.*

*"Wireless infrastructure provider" means any person that builds or installs transmission equipment, wireless facilities, or wireless support structures, but that is not a wireless services provider.*

*"Wireless services" means (i) "personal wireless services" as defined in 47 U.S.C. § 332(c)(7)(C)(i); (ii) "personal wireless service facilities" as defined in 47 U.S.C. § 332(c)(7)(C)(ii), including commercial mobile services as defined in 47 U.S.C. § 332(d), provided to personal mobile communication devices through wireless facilities; and (iii) any other fixed or mobile wireless service, using licensed or unlicensed spectrum, provided using wireless facilities.*

*"Wireless services provider" means a provider of wireless services.*

*"Wireless support structure" means a freestanding structure, such as a monopole, tower, either guyed or self-supporting, or suitable existing structure or alternative structure designed to support or capable of supporting wireless*

facilities. "Wireless support structure" does not include any telephone or electrical utility pole or any tower used for the distribution or transmission of electrical service.

**§ 15.2-2316.4. Zoning; small cell facilities.**

A. A locality shall not require that a special exception, special use permit, or variance be obtained for any small cell facility installed by a wireless services provider or wireless infrastructure provider on an existing structure, provided that the wireless services provider or wireless infrastructure provider (i) has permission from the owner of the structure to co-locate equipment on that structure and (ii) notifies the locality in which the permitting process occurs.

B. Localities may require administrative review for the issuance of any required zoning permits for the installation of a small cell facility by a wireless services provider or wireless infrastructure provider on an existing structure. Localities shall permit an applicant to submit up to 35 permit requests on a single application. In addition:

1. A locality shall approve or disapprove the application within 60 days of receipt of the complete application. Within 10 days after receipt of an application and a valid electronic mail address for the applicant, the locality shall notify the applicant by electronic mail whether the application is incomplete and specify any missing information; otherwise, the application shall be deemed complete. Any disapproval of the application shall be in writing and accompanied by an explanation for the disapproval. The 60-day period may be extended by the locality in writing for a period not to exceed an additional 30 days. The application shall be deemed approved if the locality fails to act within the initial 60 days or an extended 30-day period.

2. A locality may prescribe and charge a reasonable fee for processing the application not to exceed:

a. \$100 each for up to five small cell facilities on a permit application; and

b. \$50 for each additional small cell facility on a permit application.

3. Approval for a permit shall not be unreasonably conditioned, withheld, or delayed.

4. The locality may disapprove a proposed location or installation of a small cell facility only for the following reasons:

a. Material potential interference with other pre-existing communications facilities or with future communications facilities that have already been designed and planned for a specific location or that have been reserved for future public safety communications facilities;

b. The public safety or other critical public service needs;

c. Only in the case of an installation on or in publicly owned or publicly controlled property, excluding privately owned structures where the applicant has an agreement for attachment to the structure, aesthetic impact or the absence of all required approvals from all departments, authorities, and agencies with jurisdiction over such property; or

d. Conflict with an applicable local ordinance adopted pursuant to § 15.2-2306, or pursuant to local charter on a historic property that is not eligible for the review process established under 54 U.S.C. § 306108.

5. Nothing shall prohibit an applicant from voluntarily submitting, and the locality from accepting, any conditions that otherwise address potential visual or aesthetic effects resulting from the placement of small cell facilities.

6. Nothing in this section shall preclude a locality from adopting reasonable rules with respect to the removal of abandoned wireless support structures or wireless facilities.

C. Notwithstanding anything to the contrary in this section, the installation, placement, maintenance, or replacement of micro-wireless facilities that are suspended on cables or lines that are strung between existing utility poles in compliance with national safety codes shall be exempt from locality-imposed permitting requirements and fees.

**§ 15.2-2316.5. Moratorium prohibited.**

A locality shall not adopt a moratorium on considering zoning applications submitted by wireless services providers or wireless infrastructure providers.

CHAPTER 15.1.

WIRELESS COMMUNICATIONS INFRASTRUCTURE.

**§ 56-484.26. Definitions.**

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

"Antenna" means communications equipment that transmits or receives electromagnetic radio signals used in the provision of any type of wireless communications services.

"Co-locate" means to install, mount, maintain, modify, operate, or replace a wireless facility on, under, within, or adjacent to a base station, building, existing structure, utility pole, or wireless support structure. "Co-location" has a corresponding meaning.

"Department" means the Department of Transportation.

"Districtwide permit" means a permit granted by the Department to a wireless services provider or wireless infrastructure provider that allows the permittee to use the rights-of-way under the Department's jurisdiction to install or maintain small cell facilities on existing structures in one of the Commonwealth's nine construction districts. A districtwide permit allows the permittee to perform multiple occurrences of activities necessary to install or maintain small cell facilities on non-limited access right-of-way without obtaining a single use permit for each occurrence. The central office permit manager shall be responsible for the issuance of all districtwide permits. The Department may authorize districtwide permits covering multiple districts.

"Existing structure" means any structure that is installed or approved for installation at the time a wireless services provider or wireless infrastructure provider provides notice to a locality or the Department of an agreement with the owner

of the structure to co-locate equipment on that structure. "Existing structure" includes any structure that is currently supporting, designed to support, or capable of supporting the attachment of wireless facilities, including towers, buildings, utility poles, light poles, flag poles, signs, and water towers.

"Micro-wireless facility" means a small cell facility that is not larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height and that has an exterior antenna, if any, not longer than 11 inches.

"Small cell facility" means a wireless facility that meets both of the following qualifications: (i) each antenna is located inside an enclosure of no more than six cubic feet in volume, or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an imaginary enclosure of no more than six cubic feet and (ii) all other wireless equipment associated with the facility has a cumulative volume of no more than 28 cubic feet, or such higher limit as is established by the Federal Communications Commission. The following types of associated equipment are not included in the calculation of equipment volume: electric meter, concealment, telecommunications demarcation boxes, ground-based enclosures, back-up power systems, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs for the connection of power and other services.

"Utility pole" means a structure owned, operated, or owned and operated by a public utility, local government, or the Commonwealth that is designed specifically for and used to carry lines, cables, or wires for communications, cable television, or electricity.

"Water tower" means a water storage tank, or a standpipe or an elevated tank situated on a support structure, originally constructed for use as a reservoir or facility to store or deliver water.

"Wireless facility" means equipment at a fixed location that enables wireless services between user equipment and a communications network, including (i) equipment associated with wireless services, such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services, such as microwave backhaul, and (ii) radio transceivers, antennas, coaxial, or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration.

"Wireless infrastructure provider" means any person, including a person authorized to provide telecommunications service in the state, that builds or installs transmission equipment, wireless facilities, or wireless support structures, but that is not a wireless services provider.

"Wireless services" means (i) "personal wireless services" as defined in 47 U.S.C. § 332(c)(7)(C)(i); (ii) "personal wireless service facilities" as defined in 47 U.S.C. § 332(c)(7)(C)(ii), including commercial mobile services as defined in 47 U.S.C. § 332(d), provided to personal mobile communication devices through wireless facilities; and (iii) any other fixed or mobile wireless service, using licensed or unlicensed spectrum, provided using wireless facilities.

"Wireless services provider" means a provider of wireless services.

"Wireless support structure" means a freestanding structure, such as a monopole, tower, either guyed or self-supporting, or suitable existing structure or alternative structure designed to support or capable of supporting wireless facilities. "Wireless support structure" does not include any telephone or electrical utility pole or any tower used for the distribution or transmission of electrical service.

**§ 56-484.27. Access to the public rights-of-way by wireless services providers and wireless infrastructure providers; generally.**

A. No locality or the Department shall impose on wireless services providers or wireless infrastructure providers any restrictions or requirements concerning the use of the public rights-of-way, including the permitting process, the zoning process, notice, time and location of excavations and repair work, enforcement of the statewide building code, and inspections, that are unfair, unreasonable, or discriminatory.

B. No locality or the Department shall require a wireless services provider or wireless infrastructure provider to provide in-kind services or physical assets as a condition of consent to use public rights-of-way or easements. This shall not limit the ability of localities, their authorities or commissions that provide utility services, or the Department to enter into voluntary pole attachment, tower occupancy, conduit occupancy, or conduit construction agreements with wireless services providers or wireless infrastructure providers.

C. No locality or the Department shall adopt a moratorium on considering requests for access to the public rights-of-way from wireless services providers or wireless infrastructure providers.

**§ 56-484.28. Access to public rights-of-way operated and maintained by the Department for the installation and maintenance of small cell facilities on existing structures.**

A. Upon application by a wireless services provider or wireless infrastructure provider, the Department shall issue a districtwide permit, consistent with applicable regulations that do not conflict with this chapter, granting access to public rights-of-way that it operates and maintains to install and maintain small cell facilities on existing structures in the rights-of-way. The application shall include a copy of the agreement under which the applicant has permission from the owner of the structure to the co-location of equipment on that structure. If the application is received on or after September 1, 2017, (i) the Department shall issue the districtwide permit within 30 days after receipt of the application and (ii) the districtwide permit shall be deemed granted if not issued within 30 days after receipt of the complete application. Within 10 days after receipt of an application and a valid electronic mail address for the applicant, the Department shall notify the applicant by electronic mail whether the application is incomplete and specify any missing information; otherwise, the application shall be deemed complete. A districtwide permit issued for the original installation shall allow the permittee to repair, replace, or perform routine maintenance operations to small cell facilities once installed.

B. The Department may require a separate single use permit to allow a wireless services provider or wireless infrastructure provider to install and maintain small cell facilities on an existing structure when such activity requires (i) working within the highway travel lane or requiring closure of a highway travel lane; (ii) disturbing the pavement, shoulder, roadway, or ditch line; (iii) placement on limited access rights-of-way; or (iv) any specific precautions to ensure the safety of the traveling public or the protection of public infrastructure or the operation thereof. Upon application by a wireless services provider or wireless infrastructure provider, the Department may issue a single use permit granting access to install and maintain small cell facilities in such circumstances. If the application is received on or after September 1, 2017, (a) the Department shall approve or disapprove the application within 60 days after receipt of the application, which 60-day period may be extended by the Department in writing for a period not to exceed an additional 30 days and (b) the application shall be deemed approved if the Department fails to approve or disapprove the application within the initial 60 days and any extension thereof. Any disapproval of an application for a single use permit shall be in writing and accompanied by an explanation of the reasons for the disapproval.

C. The Department shall not impose any fee for the use of the right-of-way on a wireless services provider or wireless infrastructure provider to attach or co-locate small cell facilities on an existing structure in the right-of-way. However, the Department may prescribe and charge a reasonable fee not to exceed \$750 for processing an application for a districtwide permit or \$150 for processing an application for a single use permit.

D. The Department shall not impose any fee or require a permit for the installation, placement, maintenance, or replacement of micro-wireless facilities that are suspended on cables or lines that are strung between existing utility poles in compliance with national safety codes. However, the Department may require a single use permit if such activities (i) involve working within the highway travel lane or require closure of a highway travel lane; (ii) disturb the pavement, shoulder, roadway, or ditch line; (iii) include placement on limited access rights-of-way; or (iv) require any specific precautions to ensure the safety of the traveling public or the protection of public infrastructure or the operation thereof, and either were not authorized in or will be conducted in a time, place, or manner that is inconsistent with terms of the existing permit for that facility or the structure upon which it is attached.

**§ 56-484.29. Access to locality rights-of-way for installation and maintenance of small cell facilities on existing structures.**

A. Upon application by a wireless services provider or wireless infrastructure provider, a locality may issue a permit granting access to the public rights-of-way it operates and maintains to install and maintain small cell facilities on existing structures. Such a permit shall grant access to all rights-of-way in the locality for the purpose of installing small cell facilities on existing structures, provided that the wireless services provider or wireless infrastructure provider (i) has permission from the owner of the structure to co-locate equipment on that structure and (ii) provides notice of the agreement and co-location to the locality. The locality shall approve or disapprove any such requested permit within 60 days of receipt of the complete application. Within 10 days after receipt of an application and a valid electronic mail address for the applicant, the locality shall notify the applicant by electronic mail whether the application is incomplete and specify any missing information; otherwise, the application shall be deemed complete. Any disapproval shall be in writing and accompanied by an explanation for the disapproval. The 60-day period may be extended by the locality in writing for a period not to exceed an additional 30 days. The permit request shall be deemed approved if the locality fails to act within the initial 60 days or an extended 30-day period. No such permit shall be required for providers of telecommunications services and nonpublic providers of cable television, electric, natural gas, water, and sanitary sewer services that, as of July 1, 2017, already have facilities lawfully occupying the public rights-of-way under the locality's jurisdiction.

B. Localities shall not impose any fee for the use of the rights-of-way, except for zoning, subdivision, site plan, and comprehensive plan fees of general application, on a wireless services provider or wireless infrastructure provider to attach or co-locate small cell facilities on an existing structure in the right-of-way. However, a locality may prescribe and charge a reasonable fee not to exceed \$250 for processing a permit application under subsection A.

C. Localities shall not impose any fee or require any application or permit for the installation, placement, maintenance, or replacement of micro-wireless facilities that are suspended on cables or lines that are strung between existing utility poles in compliance with national safety codes. However, the locality may require a single use permit if such activities (i) involve working within the highway travel lane or require closure of a highway travel lane; (ii) disturb the pavement, shoulder, roadway, or ditch line; (iii) include placement on limited access rights-of-way; or (iv) require any specific precautions to ensure the safety of the traveling public or the protection of public infrastructure or the operation thereof, and either were not authorized in or will be conducted in a time, place, or manner that is inconsistent with terms of the existing permit for that facility or the structure upon which it is attached.

**§ 56-484.30. Agreements for use of public right-of-way to construct new wireless support structures; relocation of wireless support structures.**

Subject to any applicable requirements of Article VII, Section 9 of the Constitution of Virginia, public right-of-way permits or agreements for the construction of wireless support structures issued on or after July 1, 2017, shall be for an initial term of at least 10 years, with at least three options for renewal for terms of five years, subject to terms providing for earlier termination for cause or by mutual agreement. Nothing herein is intended to prohibit the Department or localities from requiring permittees to relocate wireless support structures when relocation is necessary due to a transportation project, the need to remove a hazard from the right-of-way when the Commissioner of Highways determines such removal is necessary to ensure the safety of the traveling public, or material change to the right-of-way, so long as other users of the

*right-of-way that are in similar conflict with the use of the right-of-way are required to relocate. Such relocation shall be completed as soon as reasonably possible within the time set forth in any written request by the Department or a locality for such relocation, as long as the Department or a locality provides the permittee with a minimum of 180 days' advance written notice to comply with such relocation, unless circumstances beyond the control of the Department or the locality require a shorter period of advance notice. The permittee shall bear only the proportional cost of the relocation that is caused by the transportation project and shall not bear any cost related to private benefit or where the permittee was on private right-of-way. If the locality or the Department bears any of the cost of the relocation, the permittee shall not be obligated to commence the relocation until it receives the funds for such relocation. The permittee shall have no liability for any delays caused by a failure to receive funds for the cost of such relocation, and the Department or a locality shall have no obligation to collect such funds. If relocation is deemed necessary, the Department or locality shall work cooperatively with the permittee to minimize any negative impact to the wireless signal caused by the relocation. There may be emergencies when relocation is required to commence in an expedited manner, and in such situations the permittee and the locality or Department shall work diligently to accomplish such emergency relocation.*

**§ 56-484.31. Attachment of small cell facilities on government-owned structures.**

*A. If the Commonwealth or a locality agrees to permit a wireless services provider or a wireless infrastructure provider to attach small cell facilities to government-owned structures, both the government entity and the wireless services or wireless infrastructure provider shall negotiate in good faith to arrive at a mutually agreeable contract terms and conditions.*

*B. The rates, terms, and conditions for such agreement shall be just and reasonable, cost-based, nondiscriminatory, and competitively neutral, and shall comply with all applicable state and federal laws. However, rates for attachments to government-owned buildings may be based on fair market value.*

*C. For utility poles owned by a locality or the Commonwealth that support aerial cables used for video, communications, or electric service, the parties shall comply with the process for make-ready work under 47 U.S.C. § 224 and implementing regulations. The good faith estimate of the government entity owning or controlling the utility pole for any make-ready work necessary to enable the utility pole to support the requested co-location shall include pole replacement if necessary.*

*D. For utility poles owned by a locality or the Commonwealth that do not support aerial cables used for video, communications, or electric service, the government entity owning or controlling the utility pole shall provide a good faith estimate for any make-ready work necessary to enable the utility pole to support the requested co-location, including pole replacement, if necessary, within 60 days after receipt of a complete application. Make-ready work, including any pole replacement, shall be completed within 60 days of written acceptance of the good faith estimate by the wireless services provider or a wireless infrastructure provider.*

*E. The government entity owning or controlling the utility pole shall not require more make-ready work than required to meet applicable codes or industry standards. Charges for make-ready work, including any pole replacement, shall not exceed actual costs or the amount charged to other wireless services providers, providers of telecommunications services, and nonpublic providers of cable television and electric services for similar work and shall not include consultants' fees or expenses.*

*F. The annual recurring rate to co-locate a small cell facility on a government-owned utility pole shall not exceed the actual, direct, and reasonable costs related to the wireless services provider's or wireless infrastructure provider's use of space on the utility pole. In any controversy concerning the appropriateness of the rate, the government entity owning or controlling the utility pole shall have the burden of proving that the rates are reasonably related to the actual, direct, and reasonable costs incurred for use of space on the utility pole for such period.*

*G. This section shall not apply to utility poles, structures, or property of an electric utility owned or operated by a municipality or other political subdivision.*

## VIRGINIA ACTS OF ASSEMBLY - CHAPTER 836

## REENROLLED

An Act for all amendments to Chapter 780 of the 2016 Acts of Assembly, which appropriated funds for the 2016-18 Biennium, and to provide a portion of revenues for the two years ending respectively, on the thirtieth day of June 2017, and the thirtieth day of June, 2018, submitted by the Governor of Virginia to the presiding officer of each house of the General Assembly of Virginia in accordance with the provisions of § 2.2-1509, Code of Virginia.

[H 1500]

Approved April 28, 2017

Be it enacted by the General Assembly of Virginia:

1. That Items 1, 2, 4, 6, 7, 18, 24, 26, 27, 30, 32, 33, 36, 40, 42, 43, 44, 45, 47, 53, 59, 61, 63, 66, 69, 70, 72, 73, 74, 75, 76, 77, 78, 79, 80, 83, 84, 85, 86, 88, 89, 90, 91, 92, 93, 95, 97, 99, 100, 101, 105, 106, 108, 110, 114, 115, 116, 118, 119, 120, 121, 123, 124, 125, 129, 131, 132, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 146, 147, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 203, 204, 205, 206, 207, 208, 209, 211, 212, 213, 214, 215, 216, 217, 219, 220, 221, 223, 224, 225, 226, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 239, 240, 242, 243, 244, 246, 247, 249, 250, 251, 252, 253, 254, 255, 256, 257, 261, 267, 269, 271, 273, 274, 275, 276, 277, 278, 279, 281, 284, 285, 287, 288, 289, 291, 292, 293, 294, 295, 296, 297, 298, 300, 302, 303, 304, 305, 306, 308, 309, 310, 311, 312, 313, 314, 315, 318, 319, 320, 324, 325, 327, 328, 329, 330, 331, 332, 333, 336, 337, 339, 340, 341, 342, 343, 345, 346, 348, 349, 350, 353, 354, 355, 356, 357, 359, 360, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 376, 378, 379, 380, 381, 382, 383, 386, 387, 391, 393, 394, 395, 396, 398, 401, 402, 405, 409, 410, 417, 419, 422, 423, 426, 428, 431, 432, 433, 434, 435, 436, 437, 438, 442, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 465, 468, 469, 470, 471, 472, 475, 476, 478.20, 479, 480, 484, 486, 487, 488, 489, 490, 491, 493, § 2-0, C-6, C-25, C-26, C-44, C-50, C-52, C-52.10, C-53, C-54, § 3-1.01, § 3-2.03, § 3-5.03, § 3-5.06, § 3-5.11, § 4-0.01, § 4-1.02, § 4-2.03, § 4-4.01, § 4-5.01, § 4-5.02, § 4-5.03, § 4-5.04, § 4-5.07, § 4-6.01, § 4-6.06, § 4-8.01, § 4-8.02, § 4-9.01, § 4-9.02, § 4-9.04, and § 4-14.00, of Chapter 780 of the 2016 Acts of Assembly be hereby amended and reenacted and that the cited chapter be further amended by adding Items 255.10, 472.05, 475.10, 475.20, 478.30, C-1.50, C-2.50, C-2.60, C-5.10, C-5.20, C-10.20, C-13.10, C-14.50, C-14.80, C-22.10, C-22.20, C-22.30, C-22.60, C-22.70, C-22.80, C-24.10, C-24.20, C-24.50, C-34.10, C-34.20, C-34.30, C-34.40, C-34.50, C-35.20, C-41.10, C-43.50, C-45.10, C-48.10, C-48.50, C-49.20, C-52.40, C-52.45, C-52.50, C-52.60, C-52.70, and § 3-3.02, § 3-3.03, § 3-5.15, § 3-5.17, § 3-5.18, § 3-5.19, § 4-8.03, and that the cited chapter be further amended by striking therefrom Items 24, 27, 472.10, and C-35.10.

†2. §1. The following are hereby appropriated, for the current biennium, as set forth in succeeding parts, sections and items, for the purposes stated and for the years indicated:

A. The balances of appropriations made by previous acts of the General Assembly which are recorded as unexpended, as of the close of business on the last day of the previous biennium, on the final records of the State Comptroller; and

B. The public taxes and arrears of taxes, as well as moneys derived from all other sources, which shall come into the state treasury prior to the close of business on the last day of the current biennium. The term "moneys" means nontax revenues of all kinds, including but not limited to fees, licenses, services and contract charges, gifts, grants, and donations, and projected revenues derived from proposed legislation contingent upon General Assembly passage.

§ 2. Such balances, public taxes, arrears of taxes, and monies derived from all other sources as are not segregated by law to other funds, which funds are defined by the State Comptroller, pursuant to § 2.2-803, Code of Virginia, shall establish and constitute the general fund of the state treasury.

§ 3. The appropriations made in this act from the general fund are based upon the following:

	First Year	Second Year	Total
Unreserved Balance, June 30, 2016	\$265,336,321 \$623,444,000	\$0	\$265,336,321 \$623,444,000
Additions to Balance	\$680,905,000 \$112,929,105	(\$500,000) \$128,219,397	\$680,405,000 \$241,148,502
Official Revenue Estimates	\$18,902,391,274 \$18,560,962,400	\$19,633,121,954 \$19,193,307,390	\$38,535,513,228 \$37,754,269,790
Revenue Stabilization Fund	\$294,653,279	\$272,542,500	\$567,195,779
Transfer	\$577,749,718 \$650,847,811	\$596,782,957 \$640,823,562	\$1,174,532,675 \$1,291,671,373

Total General Fund Resources Available for Appropriation	\$20,426,382,313 \$20,242,836,595	\$20,229,404,911 \$20,234,892,849	\$40,655,787,224 \$40,477,729,444
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The appropriations made in this act from nongeneral fund revenues are based upon the following:

	First Year	Second Year	Total
Balance, June 30, 2016	\$4,728,561,193 \$4,795,976,243	\$0	\$4,728,561,193 \$4,795,976,243
Official Revenue Estimates	\$27,087,129,137 \$27,771,433,871	\$27,422,707,612 \$28,300,946,274	\$54,509,836,749 \$56,072,380,145
Lottery Proceeds Fund	\$561,527,170 \$599,982,144	\$541,231,250 \$546,495,789	\$1,102,758,420 \$1,146,477,933
Internal Service Fund	\$2,027,184,365 \$2,077,103,387	\$2,127,218,076 \$2,174,937,786	\$4,154,402,441 \$4,252,041,173
Bond Proceeds	\$342,336,000 \$384,882,000	\$99,900,000 \$408,626,132	\$442,236,000 \$793,508,132
Total Nongeneral Fund Revenues Available for Appropriation	\$34,746,737,865 \$35,629,377,645	\$30,191,056,938 \$31,431,005,981	\$64,937,794,803 \$67,060,383,626
<b>TOTAL PROJECTED REVENUES</b>	<b>\$55,173,120,178</b> <b>\$55,872,214,240</b>	<b>\$50,420,461,849</b> <b>\$51,665,898,830</b>	<b>\$105,593,582,027</b> <b>\$107,538,113,070</b>

§ 4. Nongeneral fund revenues which are not otherwise segregated pursuant to this act shall be segregated in accordance with the acts respectively establishing them.

§ 5. The sums herein appropriated are appropriated from the fund sources designated in the respective items of this act.

§ 6. When used in this act the term:

A. "Current biennium" means the period from the first day of July two thousand sixteen, through the thirtieth day of June two thousand eighteen, inclusive.

B. "Previous biennium" means the period from the first day of July two thousand fourteen, through the thirtieth day of June two thousand sixteen, inclusive.

C. "Next biennium" means the period from the first day of July two thousand eighteen, through the thirtieth day of June two thousand twenty, inclusive.

D. "State agency" means a court, department, institution, office, board, council or other unit of state government located in the legislative, judicial, or executive departments or group of independent agencies, or central appropriations, as shown in this act, and which is designated in this act by title and a three-digit agency code.

E. "Nonstate agency" means an organization or entity as defined in § 2.2-1505 C, Code of Virginia.

F. "Authority" sets forth the general enabling statute, either state or federal, for the operation of the program for which appropriations are shown.

G. "Discretionary" means there is no continuing statutory authority which infers or requires state funding for programs for which the appropriations are shown.

H. "Appropriation" shall include both the funds authorized for expenditure and the corresponding level of full-time equivalent employment.

I. "Sum sufficient" identifies an appropriation for which the Governor is authorized to exceed the amount shown in the Appropriation Act if required to carry out the purpose for which the appropriation is made.

J. "Item Details" indicates that, except as provided in § 6 H above, the numbers shown under the columns labeled Item Details are for information reference only.

K. Unless otherwise defined, terms used in this act dealing with budgeting, planning and related management actions are defined in

the instructions for preparation of the Executive Budget.

§ 7. The total appropriations from all sources in this act have been allocated as follows:

<b>BIENNIUM 2016-18</b>			
	<b>General Fund</b>	<b>Nongeneral Fund</b>	<b>Total</b>
OPERATING EXPENSES	\$40,623,774,591 \$40,468,348,902	\$63,014,448,199 \$63,654,062,447	\$103,638,222,790 \$104,122,411,349
LEGISLATIVE DEPARTMENT	\$164,767,347	\$6,378,883 \$6,776,127	\$166,911,647 \$171,543,474
JUDICIAL DEPARTMENT	\$969,807,137 \$968,525,789	\$66,307,900 \$66,480,945	\$1,036,115,037 \$1,035,006,734
EXECUTIVE DEPARTMENT	\$39,491,949,557 \$39,333,570,633	\$61,773,767,182 \$62,390,912,891	\$101,265,716,739 \$101,724,483,524
INDEPENDENT AGENCIES	\$1,485,133	\$1,167,994,234 \$1,189,892,484	\$1,169,479,367 \$1,191,377,617
STATE GRANTS TO NONSTATE AGENCIES	\$0	\$0	\$0
CAPITAL OUTLAY EXPENSES	\$1,000,000	\$646,876,700 \$1,033,878,832	\$657,676,700 \$1,034,878,832
TOTAL	\$40,634,574,591 \$40,469,348,902	\$63,661,324,899 \$64,687,941,279	\$104,295,899,490 \$105,157,290,181

§ 8. This chapter shall be known and may be cited as the "2017 Appropriation Act."

ITEM 1.	Item Details(\$)		Appropriations(\$)	
	First Year	Second Year	First Year	Second Year
	FY2017	FY2018	FY2017	FY2018

**PART 1: OPERATING EXPENSES**

**LEGISLATIVE DEPARTMENT**

**§ 1-1. GENERAL ASSEMBLY OF VIRGINIA (101)**

1.	Enactment of Laws (78200) a sum sufficient, estimated at.....			\$41,576,606	\$41,577,738 \$43,490,238
	Legislative Sessions (78204).....	\$41,576,606	\$41,577,738 \$43,490,238		
	Fund Sources: General.....	\$41,576,606	\$41,577,738 \$43,490,238		

Authority: Article IV, Constitution of Virginia.

A. Out of this appropriation, the House of Delegates is funded \$25,032,589 the first year and ~~\$25,033,562~~ \$26,041,062 the second year from the general fund. The Senate is funded \$13,888,527 the first year and ~~\$13,894,993~~ \$14,799,993 the second year from the general fund.

B. Out of this appropriation shall be paid:

1. The salaries of the Speaker of the House of Delegates and other members, and personnel employed by each House; the mileage of members, officers and employees, including salaries and mileage of members of legislative committees sitting during recess; public printing and related expenses required by or for the General Assembly; and the incidental expenses of the General Assembly (§§ 30-19.11 through 30-19.20, inclusive, and § 30-19.4, Code of Virginia). The salary of the Speaker of the House of Delegates shall be \$36,321 per year. The salaries of other members of the House of Delegates shall be \$17,640 per year. The salaries of the members of the Senate shall be \$18,000 per year.

2. The annual salary of the Clerk of the House of Delegates, ~~\$151,375 from July 1, 2016 to June 24, 2017 and \$151,375 from June 25, 2017 to June 30, 2018:~~

3. The annual salary of the Clerk of the Senate, ~~\$148,184 from July 1, 2016 to June 24, 2017 and \$148,184 from June 25, 2017 to June 30, 2018:~~

4. Expenses of the Speaker of the House of Delegates not otherwise reimbursed, \$16,200 each year, to be paid in equal monthly installments during the year.

5. In accordance with § 30-19.4, Code of Virginia, and subject to all other conditions of that section except as otherwise provided in the following paragraphs:

a. \$98,793 per calendar year for the compensation of one or more secretaries of the Speaker of the House of Delegates. After June 30, 2016, salary increases shall be governed by the provisions of Item 475 of this act.

b. \$148,189 per calendar year for the compensation of one or more legislative assistants of the Speaker of the House of Delegates. After June 30, 2016, salary increases shall be governed by the provisions of Item 475 of this act.

c. \$187,500 per calendar year for the compensation of one or more secretaries or legislative assistants for the Senate majority and minority leadership, as determined by the Majority Leader in consultation with the Chairman of the Senate Committee on Rules. After June 30, 2016, salary increases shall be governed by the provisions of Item 475 of this act.

d.1. \$40,800 per calendar year for the compensation of legislative assistants for each member of the House of Delegates and \$45,900 for the compensation of legislative assistants for each member of the Senate. After June 30, 2016, salary increases granted shall be governed by the provisions of Item 475 of this act.

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2. In addition, \$15,300 per calendar year for each member of the House of Delegates and \$10,200 per calendar year for each member of the Senate to provide compensation for additional legislative assistant support costs incurred during the legislative session and in the operation of legislative offices within members' districts. After June 30, 2016, salary increases granted shall be governed by the provisions of Item 475 of this act.				
e. The per diem for each legislative assistant of each member of the General Assembly, including the Speaker of the House of Delegates. Such per diem shall equal the amount authorized per session day for General Assembly members in paragraph B 7, if such legislative assistant maintains a temporary residence during the legislative session or an extension thereof and if the establishment of such temporary residence results from the person's employment by the member. The per diem for a legislative assistant who is domiciled in the City of Richmond or whose domicile is within twenty miles of the Capitol shall equal thirty-five percent of the amount paid to a legislative assistant who maintains a temporary residence during such session. For purposes of this paragraph, (i) a session day shall include such days as shall be established by the Rules Committee of each respective House and (ii) a temporary residence is defined as a residence certified by the member served by the legislative assistant as occupied only by reason of employment during the legislative session or extension thereof. Notwithstanding the provisions of (i) of the preceding sentence, if the House from which the legislative assistant is paid is in adjournment during a regular or special session, he must show to the satisfaction of the Clerk that he worked each day during such adjournment for which such per diem is claimed.				
f. A mileage allowance as provided in § 2.2-2823 A, Code of Virginia, and as certified by the member. Such mileage allowance shall be paid to a legislative assistant for one round trip between the City of Richmond and such person's home each week during the legislative session or an extension thereof when such person is maintaining a temporary residence.				
g. Per diem and mileage shall be paid only to a person who is paid compensation pursuant to § 30-19.4, Code of Virginia.				
h. Not more than one person shall be paid per diem or mileage during a single weekly pay period for serving a member as legislative assistant during a legislative session or extension thereof.				
i. No person, by virtue of concurrently serving more than one member, shall be paid mileage or per diem in excess of the daily rates specified in this Item.				
j. \$20,277 per calendar year additional allowance for secretaries or legislative assistants to the Majority and Minority Leaders of the House of Delegates and the Senate and for secretaries or legislative assistants to the President Pro Tempore of the Senate <del>and the Chairman Emeritus of the Senate Finance Committee</del> , and to the Chairmen of the House Appropriations and Senate Finance Committees. After June 30, 2016, salary increases shall be governed by the provisions of Item 475 of this act.				
6.a. All compensation and reimbursement of expenses to members of the General Assembly and non-General Assembly members for attending a meeting described in paragraphs B.6.c., B.6.d., B.7., and B.8. shall be paid solely as provided pursuant to this item.				
b. The provisions of paragraphs B.6.c. and B.6.d. of this item shall not apply during any regular session of the General Assembly or extension thereof, or during any special session of the General Assembly; provided, however, that the provisions of such paragraphs shall apply during any recess of the same.				
c. Notwithstanding any other provision of law, each General Assembly member shall receive compensation for each day, or portion thereof, of attendance at an official meeting of any joint subcommittee, board, commission, authority, council, compact, or other body that has been created or established by the General Assembly or by resolution of a house of the General Assembly, provided that the member has been appointed to, or designated an official member of, such joint subcommittee, board, commission, authority, council, compact, or other body pursuant to an act of the General Assembly or a resolution of a house of the General Assembly that provides for the appointment or designation.				

Notwithstanding any other provision of law, each General Assembly member shall also

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receive compensation for each day, or portion thereof, of attendance at an official meeting of (i) any standing committee or subcommittee thereof of the House of Delegates to which the member has been appointed, (ii) any standing committee or subcommittee thereof or Committee on Rules of the Senate to which the member has been appointed, or (iii) the Joint Rules Committee of the General Assembly. Any official meeting of a subcommittee of any of the committees described in clauses (i), (ii), or (iii) shall also be an official meeting for which the member shall receive compensation.

Notwithstanding any other provision of law, any General Assembly member whose attendance, in the written opinion of the chairman of (a) any joint subcommittee, board, commission, authority, council, or other body that has been created or established in the legislative branch of state government by the General Assembly or by resolution of a house of the General Assembly; (b) any such standing committee of the House of Delegates or of the Senate; (c) the Committee on Rules of the Senate; or (d) the Joint Rules Committee of the General Assembly, is required at an official meeting of the body shall also receive compensation for each day, or portion thereof, of attendance at such official meeting.

Any General Assembly member receiving compensation pursuant to this paragraph for attending an official meeting shall be reimbursed for his or her reasonable and necessary expenses incurred in attending such meeting. Notwithstanding any other provision of law, the reimbursement shall be provided by the respective body holding the meeting or by the entity that supports the work of the body.

d. Compensation to General Assembly members for attendance at any official meeting described under B.6.c. of this item shall ~~may~~ be at ~~the a~~ rate ~~of equal to~~ \$300 for each day, or portion thereof, of attendance. In no case shall a member be paid more than an aggregate of \$300 in compensation for each day, or portion thereof, regardless of whether the member attends more than one official meeting during the day. The payment of such compensation shall be subject to the restrictions and limitations set forth in subsections B., C., and G. of § 30-19.12, Code of Virginia. Notwithstanding any other provision of law, compensation to General Assembly members for attendance at such official meetings shall be paid by the offices of the Clerk of the House of Delegates or Clerk of the Senate, as applicable. The body holding the meeting shall as soon as practicable report the member's attendance at any official meeting of such body to the Clerk of the House of Delegates or the Clerk of the Senate, as applicable, in order to facilitate payment of the compensation. Such body shall report the member's attendance in such manner as prescribed by the respective Clerk.

7. Notwithstanding any other provision of law, whenever any General Assembly member is required to travel for official attendance as a representative of the General Assembly at any meeting, conference, seminar, workshop, or conclave, which is not conducted by the Commonwealth of Virginia or any of its agencies or instrumentalities, such member shall be entitled to (i) compensation in an amount not to exceed the per day rate set forth in paragraph B.6.d., and (ii) reimbursement for reasonable and necessary expenses incurred. Such compensation and reimbursement for expenses shall be set by the Speaker of the House of Delegates for members of the House of Delegates and by the Senate Committee on Rules for members of the Senate.

8. The provisions of this paragraph shall apply only to non-General Assembly members (hereinafter, "citizen members") of any (i) board, commission, authority, council, or other body created or established in the legislative branch of state government by the General Assembly or by resolution of a house of the General Assembly, or (ii) joint legislative committee or subcommittee.

Notwithstanding any other provision of law, any citizen member of any body described in this paragraph who is appointed at the state level, or designated an official member of such body, pursuant to an act of the General Assembly or a resolution of a house of the General Assembly that provides for the appointment or designation, shall receive compensation solely for each day, or portion thereof, of attendance at an official meeting of the same. In no event shall any citizen member be paid compensation for attending a meeting of an advisory committee or other advisory body. Subject to any contrary law that provides for a higher amount of compensation to be paid, compensation shall be paid at the rate of \$50 for each day, or portion thereof, of attendance at an official meeting.

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Such citizen members shall also be reimbursed for reasonable and necessary expenses incurred in attending (i) an official meeting of any body described in this paragraph, or (ii) a meeting of an advisory committee or advisory body of any body described in this paragraph.

Compensation and reimbursement of expenses to such citizen members shall be paid by the body holding the meeting (or for meetings of advisory committees or advisory bodies, the body on whose behalf the meeting is being held) or by the entity that supports the work of the body.

A citizen member, however, who is a full-time employee of the Commonwealth or any of its local political subdivisions, including any full-time faculty member of a public institution of higher education, shall not be entitled to compensation under this paragraph and shall be limited to reimbursement for his reasonable and necessary expenses incurred, which shall be reimbursed by his employer. *If such full-time employee who is a citizen member is required by his employer to take annual, family and personal, or other paid leave or unpaid leave to attend an official meeting under this paragraph, then such person shall be reimbursed for his reasonable and necessary expenses incurred by the body holding the meeting, or for meetings of advisory committees or advisory bodies, the body on whose behalf the meeting is being held, or by the entity that supports the work of the body. For the purposes of this paragraph, reasonable and necessary expenses shall exclude the reimbursement for leave taken by a citizen member who is a full-time employee of the Commonwealth.*

A citizen member who is also currently a treasurer, sheriff, clerk of court, commissioner of the revenue, or attorney for the Commonwealth by reason of election of the qualified county or city voters shall not be entitled to compensation under this paragraph and shall be limited to reimbursement for his reasonable and necessary expenses incurred, which shall be reimbursed within the budget already established by the Compensation Board and in the same manner as other reasonable and necessary expenses of his office are reimbursed. Full-time employees of one of the foregoing constitutional offices shall also not be entitled to compensation under this paragraph and shall be limited to reimbursement for their reasonable and necessary expenses incurred, which shall be reimbursed within the budget already established by the Compensation Board and in the same manner as other reasonable and necessary expenses of the constitutional office are reimbursed.

9. Pursuant to § 30-19.13, Code of Virginia, allowances for expenses of members of the General Assembly during any regular session of the General Assembly or extension thereof or during any special session of the General Assembly shall be paid in an amount not to exceed the maximum daily amount permitted by the Internal Revenue Service under rates established by the U.S. General Services Administration.

10. Allowance for office expenses and supplies of members of the General Assembly, in the amount of \$1,250 for each month of each calendar year. An additional \$500 for each month of each calendar year shall be paid to the Majority and Minority Leaders of the House of Delegates and the Senate and to the President Pro Tempore of the Senate, the Chairman or Chairs of the Senate Finance Committee, and the Chairman of the House Appropriations Committee.

C. One legislative assistant of a member of the General Assembly regularly employed on a twelve (12) consecutive month salary basis receiving 60 percent or more of the salary allotted pursuant to paragraph A.5.c.1, may, for the purposes of §§ 51.1-124.3 and 51.1-152, Code of Virginia, be deemed a "state employee" and as such will be eligible for participation in the Virginia Retirement System, the group life insurance plan, the VRS short and long term disability plans, and the state health insurance plan. Upon approval by the Joint Rules Committee, legislative assistants shall be eligible to participate in the short and long-term disability plans sponsored by the Virginia Retirement System pursuant to Chapter 11 of Title 51.1, Code of Virginia. Such legislative assistants shall not receive sick leave and family and personal leave benefits under this plan. Short-term disability benefits shall be payable from the Legislative Reversion Clearing Account.

D. Out of this appropriation the Clerk of the House of Delegates shall pay the routine maintenance and operating expenses of the General Assembly Building as apportioned to the Senate, House of Delegates, Division of Legislative Services, Joint Legislative Audit and Review Commission, or other legislative agencies. The funds appropriated to each agency in

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the Legislative Department for routine maintenance and operating expenses during the current biennium shall be transferred to the account established for this purpose.

E. An amount of up to \$10,000 per year shall be transferred from Item 36 of this act, to reflect equivalent compensation allowances for the Lieutenant Governor as were authorized by the 1994 General Assembly. The Lieutenant Governor shall report such increases to the Speaker of the House and the Chairman of the House Appropriations Committee and the Chairman of the Senate Finance Committee.

F.1. The Chairmen of the House Appropriations and Senate Finance Committees shall each appoint four members from their respective committees to a joint subcommittee to review public higher education funding policies and to make recommendations to their respective committees. The objective of the review is to develop policies and formulas to provide the public institutions of higher education with an equitable funding methodology that: (a) recognizes differences in institutional mission; (b) provides incentives for achievement and productivity; (c) recognizes enrollment growth; and (d) establishes funding objectives in areas such as faculty salaries, financial aid, and the appropriate share of educational and general costs that should be borne by resident students. In addition, the review shall include the development of comparable cost data concerning the delivery of higher education through an analysis of the relationship of each public institution to its national peers. The public institutions of higher education and the staff of the State Council of Higher Education for Virginia are directed to provide technical assistance, as required, to the joint subcommittee.

2. The Joint Subcommittee on Higher Education Funding Policies shall conduct an assessment of the adequacy of the current educational and general funding levels for Virginia's public institutions of higher education. The assessment shall be used to develop guidelines against which to measure funding requests for higher education. The assessment shall include, but not be limited to, the following components:

- a) Updated student-to-faculty ratios based on current practice or industry norms.
- b) Consideration of support staff needs and the changing requirements of support staff due to technology and privatization of services previously performed by the institutions.
- c) Costs of instruction, such as equipment, utilities, facilities maintenance, and other nonpersonal services expenses.
- d) Recognition of the individual mission of the institution, student characteristics, location, or other factors that may influence the costs of instruction.
- e) Benchmarking of the funding guidelines against a group of peer institutions, or other appropriate comparator group, to assess the validity of the guidelines.
- f) Means by which measures of institutional performance can be assessed and incorporated into funding and policy guidelines for higher education.

3. The Joint Subcommittee on Higher Education Funding Policies shall develop a more precise methodology for determining funding needs at Virginia's public institutions of higher education related to enrollment growth. The methodology should take into consideration that support staff and operations may need to be expanded when enrollment growth reaches certain levels.

4. The Joint Subcommittee may seek support from the staff of the Senate Finance and House Appropriations Committees, the public institutions of higher education, or other higher education or state agency representatives, as requested by the Joint Subcommittee. At its discretion, the Joint Subcommittee may contract for consulting services.

5. The Joint Subcommittee is hereby continued to provide direction and oversight of higher education funding policies. The Joint Subcommittee shall review and articulate policies and funding methodologies on: (a) the appropriate share of educational and general costs that should be borne by students; (b) student financial aid; (c) undergraduate medical education funding; (d) the mix of full-time and part-time faculty; (e) the mix of in-state and out-of-state students as it relates to tuition policy; and (f) the viability of statewide articulation agreements between four-year and two-year public institutions.

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6. a.	It is the objective of the General Assembly that funding for Virginia's public colleges and universities shall be based primarily on the funding guidelines outlined in the November, 2001 report of the Joint Subcommittee on Higher Education Funding Policies.			
b.	Based on the findings and recommendations of its November, 2001 report, the Joint Subcommittee shall coordinate with the State Council of Higher Education, the Secretary of Education, and the Department of Planning and Budget in incorporating the higher education funding guidelines into the development of budget recommendations.			
c.	As part of its responsibilities to ensure the fair and equitable distribution and use of public funds among the public institutions of higher education, the State Council of Higher Education shall incorporate the funding guidelines established by the Joint Subcommittee into its budget recommendations to the Governor and the General Assembly.			
G.	The Chairmen of the Senate Finance and House Appropriations Committees shall each appoint four members from their respective committees to a joint subcommittee to review compensation of state agency heads and cabinet secretaries. The Department of Human Resource Management, the Virginia Retirement System and all other agencies and institutions of the Commonwealth are directed to provide technical assistance, as required, to the joint subcommittee.			
H. 1.	The Chairmen of the House Appropriations and Senate Finance Committees shall each appoint up to five members from their respective committees to a joint subcommittee to provide on-going direction and oversight of Standards of Quality funding cost policies and to make recommendations to their respective committees.			
2.	The Joint Subcommittee on Elementary and Secondary Education Funding shall: a) study the Commonwealth's use of the prevailing salary and cost approaches to funding the Standards of Quality, as compared with alternative approaches, such as a fixed point in time salary base that is increased annually by some minimum percentage or funding the national average teacher salary; and b) review the "federal revenue deduct" methodology, including the current use of a cap on the deduction; and c) review the methodology for establishing a consistent funding cap process for all state funded instructional and certain support positions.			
3.	The school divisions, the staff of the Virginia Department of Education, and staff of the Joint Legislative Audit and Review Commission, are directed to provide technical assistance, as required, to the joint subcommittee.			
I.	<del>Notwithstanding the salaries listed in Item 1, paragraph B-2, of this act, t</del> The Speaker of the House <del>may establish a salary range</del> <i>shall establish the salary</i> for the Clerk of the House of Delegates.			
J.	<del>Notwithstanding the salaries listed in Item 1, paragraph B-3, of this act, t</del> The Senate Committee on Rules <del>may establish a salary range</del> <i>shall establish the salary</i> for the Clerk of the Senate.			
K.	Notwithstanding the salaries set out in Items 2, 4, 5, and 6, the Committee on Joint Rules may establish salary ranges for such agency heads consistent with the provisions and salary ranges included in § 4-6.01 of this act.			
L.	Included within this appropriation is \$15,400 each year from the general fund for expenses related to the Joint Subcommittee on Tax Preferences, pursuant to House Bill 777 of the 2012 Session. This includes \$6,622 each year to be allocated by the Clerk of the Senate and \$8,778 each year to be allocated by the Clerk of the House of Delegates.			
M.	Included in the appropriations for this item is \$25,000 the first year and \$25,000 the second year from the general fund for the operations of the Virginia Indian Commemorative Commission and the development of a monument commemorating the life, achievements, and legacy of Native Americans in the Commonwealth.			
N.1.	The Special Joint Subcommittee to Consult on the Plan to Close State Training Centers shall continue to conduct a review of the assumptions behind the cost and cost savings of implementing the U.S. Department of Justice (DOJ) settlement agreement including but not limited to a review of the cost of providing care in the state intellectual disability (ID) training			

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centers and in the community and an explanation of the difference in costs.

*2. The Joint Subcommittee to Consult on the Plan to Close State Training Centers, in collaboration with the Department of Behavioral Health and Developmental Services, shall develop and evaluate a plan for consideration of operating a smaller state training center to serve those individuals for which care in a training center is appropriate. The Joint Subcommittee shall evaluate and determine the operating costs, capital costs, and consider all other relevant factors in developing the plan for consideration. The Joint Subcommittee shall make recommendations related to the consideration of the plan to the General Assembly by November 30, 2017.*

O. The Joint Commission on Transportation Accountability shall regularly review, and provide oversight of the usage of funding generated pursuant to the provisions of House Bill 2313, 2013 Session of the General Assembly. To this end, by November 15 the Secretary of Transportation, the Northern Virginia Transportation Authority and the Hampton Roads Transportation Accountability Commission shall each prepare a report on the uses of the Intercity Passenger Rail Operating and Capital Funds, the Northern Virginia Transportation Authority Fund, and the Hampton Roads Transportation Fund, respectively, each year to be presented to the Joint Commission on Transportation Accountability.

P.1. There is hereby created in the legislative branch the Virginia World War I and World War II Commemoration Commission. The Commission shall plan, develop, and carry out programs and activities appropriate to commemorate the 100th anniversary of World War I and the 75th anniversary of World War II.

2. The Commission shall have a total membership of ten members consisting of six legislative members, two nonlegislative citizen members, and two ex officio members. Members shall be appointed as follows: four members of the House of Delegates to be appointed by the Speaker of the House of Delegates in accordance with the principles of proportional representation contained in the Rules of the House of Delegates; two members of the Senate of Virginia to be appointed by the Senate Committee on Rules, one nonlegislative citizen member who shall be a World War II historian, to be appointed by the Speaker of the House of Delegates; one nonlegislative citizen member who shall be a World War II veteran or a family member of a World War II veteran, to be appointed by the Senate Committee on Rules; and two ex-officio members, to include the Commissioner of the Virginia Department of Veterans Services or his designee and the Executive Director of the Virginia War Memorial. The nonlegislative and ex-officio members shall be non-voting members. The nonlegislative citizen members shall be citizens of the Commonwealth, unless otherwise approved in writing by the chairman of the committee and the respective Clerk, and shall only be reimbursed for travel originating and ending within the Commonwealth of Virginia for the purpose of attending meetings. The voting members of the Commission shall elect a Chairman and Vice-Chairman from among its membership, who shall be members of the Virginia General Assembly.

3. Legislative members of the Commission and Advisory Council shall receive such compensation as provided in § 30-19.12, Code of Virginia, and nonlegislative citizen members of the Commission shall receive such compensation for the performance of their duties as provided in § 2.2-2813. All members shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. Compensation to members of the General Assembly for attendance at official meetings of the Commission shall be paid by the offices of the Clerk of the House of Delegates or Clerk of the Senate, as applicable. All other compensation and expenses shall be paid from existing appropriations to the Commission.

4. There is hereby created in the state treasury a special nonreverting fund to be known as the Virginia World War I and World War II Commemoration Commission Fund, hereafter referred to as the "Fund." The Fund shall be established on the books of the Comptroller and shall consist of gifts, grants, donations, bequests, or other funds from any source as may be received by the Commission for its work. Moneys shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purpose of enabling the

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	Commission to perform its duties. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request of the chairman of the Commission.			
	5. The Virginia Department of Veterans Services and the Virginia War Memorial shall provide technical assistance to the Commission. The Division of Legislative Services shall act as the fiscal agent for the Commission. Administrative staff support shall be provided by the Office of the Clerk of the House of Delegates. Legal, research, policy analysis, and other services as requested by the Commission shall be provided by the Division of Legislative Services, and by other state agencies and institutions as may be requested by the Commission.			
	6. The Director of the Department of Planning and Budget is authorized to transfer \$1,000,000 in the first year from unexpended balances from the Virginia Sesquicentennial of the American Civil War Commission to the Division of Legislative Services to support the activities of the Virginia World War I and World War II Commemoration Commission. <i>The Director of the Department of Planning and Budget is authorized to transfer the unexpended general fund and special fund balances of the Virginia Sesquicentennial of the American Civil War Commission as of July 1, 2017, to the respective general fund and special fund balances of the Virginia World War I and World War II Commemoration Commission. The Director of the Division of Legislative Services is authorized to fund the operations of the Virginia World War I and World War II Commemoration Commission from the appropriations to the Division and to provide full reimbursement to the Division from the unexpended balances of such Commission, once allotted.</i>			
	7. The Commission may appoint and establish an Advisory Council composed of nonlegislative citizens at large and public officials who have knowledge of World War I and World War II and their respective anniversary commemorations, to serve in a consultative capacity to assist the Commission in its work. Nonlegislative citizen members of the Advisory Council shall serve without compensation but may be reimbursed for travel expenses to attend a meeting of the Advisory Council within the Commonwealth of Virginia. The Advisory Council shall have a Chairman and Vice-Chairman, one of whom shall be a member of the House of Delegates, to be appointed by the Speaker of the House of Delegates, and one of whom shall be a member of the Senate, to be appointed by the Senate Committee on Rules.			
	Q.1. The Chairmen of the House Appropriations and Senate Finance Committees shall each appoint up to five members from their respective committees to a Joint Subcommittee to provide recommendations for reforming the Virginia Preschool Initiative. The goals and objectives of the Joint Subcommittee will be to consider increasing accountability, flexibility, innovation, clarification of the state's role and policy relating to providing a preschool for economically disadvantaged children, and to further develop the facilitation of partnerships between school divisions and private providers for the Virginia Preschool Initiative. The Subcommittee will also review and consider possible recommendations regarding the development of a competency-based professional development framework for early childhood teachers in public schools and early learning practitioners in private early learning settings.			
	2. The staff of the elementary and secondary Education subcommittees for the House Appropriations and Senate Finance Committees and the Department of Education will help with facilitating the scope of work to be completed by the Joint Subcommittee. The Virginia Early Childhood Foundation will provide support and resources to the members and staff of the Joint Subcommittee. Other stakeholders, such as those from the Virginia Department of Social Services, the Virginia Community College System, local school divisions, private and faith-based child day-care providers, accredited organizations, education associations and businesses may provide additional information if requested.			
	3. A report of any preliminary findings and recommendations shall be submitted to the Chairmen of House Appropriations and Senate Finance Committees by November 1, 2017.			
	R. 1.a. The Chairmen of the House Appropriations and Senate Finance Committees shall each appoint four members from their respective committees to a Joint Subcommittee on the Future Competitiveness of Virginia Higher Education to (a) review ways to maintain and improve the quality of higher education, while providing for broad access and affordability; (b) examine the impact of financial, demographic, and competitive changes on the sustainability of individual institutions and the system as a whole; (c) identify best practices to make the system more efficient, including shared services, institutional flexibility, and easily accessible			

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academic pathways; (d) evaluate the use of distance education and online instruction across the Commonwealth and appropriate business models for such programs; (e) review current need-based financial aid programs and alternative models to best provide for student affordability and completion; (f) review the recommendations of the Joint Legislative Audit and Review Commission on the study of the cost efficiency of higher education institutions and make recommendations to their respective committees on the implementation of those recommendations; (g) study the effectiveness and value of transfer students; (h) evaluate the effectiveness of dual enrollment in reducing the cost of higher education; and (i) study the effectiveness of preparing teachers to enter the K-12 system.

*b. The Subcommittee will also conduct a focused review of access, affordability, quality, and autonomy issues related to Virginia's public higher education system. As part of that review the Subcommittee will explore ways to (a) improve the quality of higher education; (b) review the autonomy and flexibility granted to Virginia's public higher education institutions, including the history of restructuring and the expansion of autonomy; (c) examine access and affordability in higher education, including the cost of education and need-based financial aid programs; (d) review the impact of financial, demographic, and competitive changes on the sustainability of Virginia's public higher education system; and (e) identify any practices that would result in more efficient outcomes regarding cost and completion, including dual enrollment and online programs.*

2. As the Joint Subcommittee conducts its analysis, it shall consider the mission, vision, goals and strategies outlined in the statewide strategic plan for higher education developed and approved by the State Council of Higher Education for Virginia, and endorsed by the General Assembly in House Joint Resolution 555 of the 2015 Session of the General Assembly.

3. As part of its deliberations, the Joint Subcommittee shall review alternative tuition and fee structures and programs that could result in lower costs to in-state undergraduate students.

4. The Joint Subcommittee may seek support and technical assistance from the staff of the House Appropriations and Senate Finance Committees, the public institutions of higher education, the staff of the Joint Legislative Audit and Review Commission, and the staff of the State Council of Higher Education for Virginia. Other state agency or higher education representatives shall provide support upon request. At its discretion, the Joint Subcommittee may contract for consulting services.

~~5. The members of the Joint Subcommittee shall develop a two-year workplan for the review and assessment detailed above, and provide an interim report to their respective committees by November 1, 2016 and a final report by November 1, 2017.~~

*6. The members of the Joint Subcommittee shall provide a final report to their respective committees at the conclusion of the review.*

S. The Joint Subcommittee to Evaluate Tax Preferences established pursuant to Chapter 777, 2012 Session of the General Assembly, is hereby directed, as part of its work during calendar year 2016, to undertake a review of the Neighborhood Assistance Act tax credit program and to report to the General Assembly on any proposed changes to the program structure, eligibility requirements, distribution of funding or overall funding amounts made available for the credit by November 15, 2016.

*T.1. The Chairmen of the House Appropriations and Senate Finance Committees shall each appoint four members from their respective committees to a Joint Subcommittee for Health and Human Resources Oversight to respond to federal health care changes, provide ongoing oversight of the Medicaid and children's health insurance programs and oversight of Health and Human Resources agencies. The members of the Joint Subcommittee shall elect a chairman and vice chairman annually.*

*2. The Joint Subcommittee shall monitor, evaluate and respond to federal legislation that repeals, amends or replaces the Affordable Care Act (ACA), Medicaid (Title XIX of the Social Security Act), the Children's Health Insurance Program (Title XXI of the Social Security Act) or any proposals to block grant or change the method by which these*

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	<p>programs are funded. The joint subcommittee shall recommend actions to be taken by the General Assembly to address the impact of any such federal legislation that would affect the state budget and health care coverage now available to Virginians. Furthermore, the subcommittee shall evaluate federal changes for opportunities to improve Virginia's Medicaid and other health insurance programs.</p>			
	<p>3. The Joint Subcommittee shall provide ongoing oversight of initiatives and operations of the Health and Human Resources agencies. The joint subcommittee shall examine progress made in implementing changes to: (i) Medicaid managed care programs, including managed long-term supports and services (the Commonwealth Coordinated Care Plus program) and changes to the Medallion program; (ii) Medicaid waiver programs including the Medicaid waivers serving individuals with developmental disabilities; (iii) the Medicaid Enterprise System; (iv) improve eligibility, enrollment and renewal processes in the Medicaid and CHIP programs; (v) the organizational structure and realignment of staff and resources of the Department of Medical Assistance Services resulting from the change from a fee-for-service to a managed care delivery system; (vi) improve the cost effective delivery of services through the Comprehensive Services Act; and (vii) initiatives and programmatic changes across the Health and Human Resources agencies to ensure efficient and effective use of resources across the Secretariat.</p>			
	<p>4. The Joint Subcommittee may seek support and technical assistance from staff of the House Appropriations and Senate Finance Committees, the staff of the Joint Legislative Audit and Review Commission, and the staff of the Department of Medical Assistance Services. Other state agency staff shall provide support upon request.</p>			
	<p>5.a. The staff of the House Appropriations and Senate Finance Committees shall help facilitate the scope of work to be completed by the Joint Subcommittee for Health and Human Resources Oversight.</p>			
	<p>b. The staff of the Health and Human Resources and Elementary and Secondary Education Subcommittees for the House Appropriations and Senate Finance Committees shall facilitate a workgroup, in cooperation with the Office of Children's Services (OCS), the Virginia Department of Education (VDOE), the Department of Planning and Budget, the Department of Social Services, and the Department of Juvenile Justice, to examine the options and determine the actions necessary to better manage the quality and costs of private day educational programs currently funded through the Children's Services Act (CSA). Other stakeholders, such as those from local governments, school superintendents or their designees, CSA Community Policy and Management Teams and Family Assessment and Planning Teams, special education administrators, private providers, parents of special education students and others may provide additional information to the workgroup as requested.</p>			
	<p>c. In examining the options, the workgroup shall consider: (i) amending the CSA to transfer the state pool funding for students with disabilities in private day educational programs to the VDOE; (ii) the identification and collection of data on an array of measures to assess the efficacy of private special education day school placements; (iii) the identification of the resources necessary in order to transition students in private day school settings to a less restrictive environment; (iv) the role of Local Education Agencies in determining placements and overseeing the quality, cost and outcome of services for students with disabilities in private day educational programs; and (v) an assessment of the Individualized Education Program (IEP) process as compared to federal requirements, including how that process relates to the role of CSA Family Assessment and Planning Team (FAPT) in determining services for students with disabilities whose IEP requires private day educational placement.</p>			
	<p>d. The workgroup shall examine: (i) funding impacts; (ii) necessary statutory, regulatory or budgetary changes; and (iii) other relevant actions necessary to implement any recommended actions. A report on any preliminary findings and recommendations shall be submitted to the Chairmen of the House Appropriations and Senate Finance Committees by November 1, 2017.</p>			
	<p>U.1. The Co-Chairs of the Senate Finance Committee shall appoint five members from their Committee and the Chairman of the House Appropriations Committee shall appoint four members from his Committee and two members of the House Finance Committee to a Joint Subcommittee on Local Government Fiscal Stress. The Joint Subcommittee shall elect a</p>			

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	FY2017	FY2018	FY2017	FY2018

chairman and vice-chairman from among its membership.

2. The goals and objectives of the Joint Subcommittee will be to review (i) savings opportunities from increased regional cooperation and consolidation of services; (ii) local responsibilities for service delivery of state-mandated or high priority programs, (iii) causes of fiscal stress among local governments, (iv) potential financial incentives and other governmental reforms to encourage increased regional cooperation; and (v) the different taxing authorities of cities and counties.

3. Administrative staff support shall be provided by the Office of the Clerks of the House and Senate. The Joint Subcommittee may seek support and technical assistance from the staff of the Division of Legislative Services, House Appropriations and Senate Finance Committees, and the Commission on Local Government. All agencies of the Commonwealth shall provide assistance to the Joint Subcommittee for this study, upon request.

4. No recommendation of the Joint Subcommittee shall be adopted if a majority votes against the recommendation. The Joint Subcommittee shall submit to the Division of Legislative Automated Systems an executive summary of its findings and recommendations no later than the first day of the next Regular Session of the General Assembly for each year.

V. Notwithstanding any other provision of law, the Senate Joint Resolution 47 (2014 Session) Joint Subcommittee Studying Mental Health Services in the Commonwealth in the 21st Century shall continue its work until December 1, 2019.

W. Pursuant to projects authorized and funded in paragraph E.1 of Item C-39.40 of Chapter 1 of the Acts of Assembly of 2014, operations of the Virginia General Assembly will temporarily move to and operate from the Pocahontas Building bounded by the following streets: 9th Street to the west, 10th Street to the east, Bank Street to the north, and Main Street to the south in the City of Richmond. Space occupied temporarily by the General Assembly shall be under the control of the Legislative Support Commission (§ 30-34.1). Funding for routine maintenance and operations of the temporary space is included in Item 1 of this act.

Total for General Assembly of Virginia.....			<b>\$41,576,606</b>	<b>\$41,577,738</b> <b>\$43,490,238</b>
General Fund Positions.....	224.00	224.00		
Position Level.....	224.00	224.00		
Fund Sources: General.....	\$41,576,606	\$41,577,738		\$43,490,238

**§ 1-2. AUDITOR OF PUBLIC ACCOUNTS (133)**

2. Legislative Evaluation and Review (78300).....			\$12,807,644	\$12,808,050 \$13,058,050
Financial and Compliance Audits (78301).....	\$12,807,644	\$12,808,050		\$13,058,050
Fund Sources: General.....	\$11,800,799	\$11,801,167		
Special.....	\$1,006,845	\$1,006,883		\$1,256,883

Authority: Article IV, Section 18, Constitution of Virginia; Title 30, Chapter 14, Code of Virginia.

A. Out of this appropriation shall be paid the annual salary of the Auditor of Public Accounts, \$178,950 from July 1, 2016 to June 24, 2017 and \$178,950 from June 25, 2017 to June 30, 2018.

B. On or before November 1 of each year, the Auditor of Public Accounts shall report to the General Assembly the certified tax revenues collected in the most recently ended fiscal year pursuant to § 2.2-1829, Code of Virginia. The Auditor shall, at the same time, provide his report on (i) the 15 percent limitation and the amount that could be paid into

ITEM 2.	Item Details(\$)		Appropriations(\$)	
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the Revenue Stabilization Fund and (ii) any amounts necessary for deposit into the Fund in order to satisfy the mandatory deposit requirement of Article X, Section 8 of the Constitution of Virginia as well as the additional deposit requirement of § 2.2-1829, Code of Virginia.

C. The specifications of the Auditor of Public Accounts for the independent certified public accountants auditing localities shall include requirements for any money received by the sheriff. These requirements shall include that the independent certified public accountant must submit a letter to the Auditor of Public Accounts annually providing assurance as to whether the sheriff has maintained a proper system of internal controls and records in accordance with the Code of Virginia. This letter shall be submitted along with the locality's audit report.

D.1. Each locality establishing a utility or enacting a system of service charges to support a local stormwater management program pursuant to § 15.2-2114, Code of Virginia, shall provide to the Auditor of Public Accounts by October 1 of each year, in a format specified by the Auditor, a report as to each program funded by these fees and the expected nutrient and sediment reductions for each of these programs. For any specific stormwater outfall generating more than \$200,000 in annual fees, such report shall include identification of specific actions to remediate nutrient and sediment reduction from the specific outfall.

2. The Auditor of Public Accounts shall include in the Specifications for Audits of Counties, Cities, and Towns regulations for all local governments establishing a utility or enacting a system of service charges to support a local stormwater management program pursuant to § 15.2-2114, Code of Virginia, a requirement to ensure that each impacted local government is in compliance with the provisions of § 15.2-2114 A., Code of Virginia. Any such adjustment to the Specifications for Audits of Counties, Cities, and Towns regulations shall be exempt from the Administrative Process Act and shall be required for all audits completed after July 1, 2014.

*E. The Auditor of Public Accounts' Specifications for Audits of Counties, Cities, and Towns and the Specifications for Audits of Authorities, Boards, and Commissions, for the independent certified public accountants auditing localities and local government entities, shall include requirements related to the communication of other internal control deficiencies or financial matters, commonly referred to as a management letter. These requirements shall include that any such communication issued by the independent certified public accountants related to other internal control deficiencies or other financial matters that merit the attention of management and the governing body must be made in the form of official, written communication.*

Total for Auditor of Public Accounts.....			<b>\$12,807,644</b>	<b>\$12,808,050</b> <b>\$13,058,050</b>
General Fund Positions.....	120.00	120.00		
Nongeneral Fund Positions.....	10.00	<del>10.00</del> 12.00		
Position Level.....	130.00	<del>130.00</del> 132.00		
Fund Sources: General.....	\$11,800,799	\$11,801,167		
Special.....	\$1,006,845	<del>\$1,006,883</del> \$1,256,883		

**§ 1-3. COMMISSION ON THE VIRGINIA ALCOHOL SAFETY ACTION PROGRAM (413)**

3.	Ground Transportation System Safety Services (60500).....			\$1,505,873	\$1,505,990
	Ground Transportation Safety Promotion (60503).....	\$1,505,873	\$1,505,990		
	Fund Sources: Special.....	\$1,505,873	\$1,505,990		

Authority: §§ 18.2-271.1 and 18.2-271.2, Code of Virginia.

A. Out of this appropriation shall be paid the annual salary of the Executive Director, \$117,923 from July 1, 2016 to June 24, 2017 and \$117,923 from June 25, 2017 to June 30, 2018.

B. Notwithstanding the salaries listed in paragraph A. of this item, the Commission on the

ITEM 3.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
Virginia Alcohol Safety Action Program may establish a salary range for the Executive Director of the program.				
Total for Commission on the Virginia Alcohol Safety Action Program.....			<b>\$1,505,873</b>	<b>\$1,505,990</b>
Nongeneral Fund Positions.....	11.50	11.50		
Position Level.....	11.50	11.50		
Fund Sources: Special.....	\$1,505,873	\$1,505,990		

**§ 1-4. DIVISION OF CAPITOL POLICE (961)**

4.	Administrative and Support Services (39900).....			\$8,212,877	\$8,214,260 \$9,970,572
	Security Services (39923).....	\$8,212,877	<del>\$8,214,260</del> \$9,970,572		
	Fund Sources: General.....	\$8,212,877	<del>\$8,214,260</del> \$9,970,572		

Authority: Title 30, Chapter 3.1, Code of Virginia.

A. Out of this appropriation shall be paid the annual salary of the Chief, Division of Capitol Police, \$120,000 from July 1, 2016 to June 30, 2017 and \$120,000 from July 1, 2017 to June 30, 2018.

B. Out of this appropriation \$456,312 from the general fund in the second year is provided for the following compensation actions effective July 10, 2017: increase the starting salary for entry level officers up to \$42,750, and subsequent to the salary actions authorized in Item 475 of this act provide an increase to the annual salary of all sworn officers with 18 or more months of \$4,533.

Total for Division of Capitol Police.....			<b>\$8,212,877</b>	<b><del>\$8,214,260</del></b> <b>\$9,970,572</b>
General Fund Positions.....	108.00	108.00		
Position Level.....	108.00	108.00		
Fund Sources: General.....	\$8,212,877	<del>\$8,214,260</del> \$9,970,572		

**§ 1-5. DIVISION OF LEGISLATIVE AUTOMATED SYSTEMS (109)**

5.	Information Technology Development and Operations (82000).....			\$3,717,293	\$3,717,402
	Computer Operations Services (82001).....	\$3,717,293	\$3,717,402		
	Fund Sources: General.....	\$3,438,734	\$3,438,843		
	Special.....	\$278,559	\$278,559		

Authority: Title 30, Chapter 3.2, Code of Virginia.

Out of this appropriation shall be paid the annual salary of the Director, Division of Legislative Automated Systems, \$158,821 from July 1, 2016 to June 24, 2017 and \$158,821 from June 25, 2017 to June 30, 2018.

Total for Division of Legislative Automated Systems.....			<b>\$3,717,293</b>	<b>\$3,717,402</b>
General Fund Positions.....	19.00	19.00		
Position Level.....	19.00	19.00		
Fund Sources: General.....	\$3,438,734	\$3,438,843		
Special.....	\$278,559	\$278,559		

**§ 1-6. DIVISION OF LEGISLATIVE SERVICES (107)**

ITEM 6.		Item Details(\$)		Appropriations(\$)	
		First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
6.	Legislative Research and Analysis (78400).....			\$6,612,073	\$6,612,233
	Bill Drafting and Preparation (78401).....	\$6,612,073	\$6,612,233	\$7,109,913	
	Fund Sources: General.....	\$6,592,039	\$6,592,199		
	Special.....	\$20,034	\$20,034		
		\$267,874			

Authority: Title 30, Chapter 2.2, Code of Virginia.

A. Out of this appropriation shall be paid the annual salary of the Director, Division of Legislative Services, \$157,374 from July 1, 2016, to June 24, 2017 and \$157,374 from June 25, 2017, to June 30, 2018.

B. Notwithstanding the salary set out in paragraph A. of this item, the Committee on Joint Rules may establish a salary range for the Director, Division of Legislative Services.

C. The Division of Legislative Services shall continue to provide administrative support to include payroll processing, accounting, and travel expense processing at no charge to the Chesapeake Bay Commission, the Joint Commission on Health Care, the Virginia Commission on Youth, and the Virginia State Crime Commission.

*D. Out of this appropriation, \$250,000 the first year from the general fund is provided to support the work of the Senate Joint Resolution 47 (2014) Joint Subcommittee to Study Mental Health Services in the Commonwealth in the 21st Century. The funding may be used to contract for expertise and assistance in its work to evaluate the community-based system of service delivery or other related topics as required by the work of the Joint Subcommittee. Any contractor hired shall evaluate the current system along with alternative delivery systems to provide the necessary information and assistance to the subcommittee in determining the most appropriate delivery system, or modifications to the current delivery system, that ensures access, quality, consistency, and accountability. Any remaining balance at year-end shall be carried forward to the subsequent fiscal year.*

*E. Included in this item is \$247,840 in the first year from dedicated special revenue to implement the recommendations of the Chesapeake Bay Restoration Fund Advisory Committee.*

Total for Division of Legislative Services.....			\$6,612,073	\$6,612,233
			\$7,109,913	
General Fund Positions.....	56.00	56.00		
Position Level.....	56.00	56.00		
Fund Sources: General.....	\$6,592,039	\$6,592,199		
	\$6,842,039			
Special.....	\$20,034	\$20,034		
	\$267,874			

**Capitol Square Preservation Council (820)**

7.	Architectural and Antiquity Research Planning and Coordination (74800).....			\$218,451	\$218,472
	Architectural Research (74801).....	\$218,451	\$218,472		
	Fund Sources: General.....	\$218,451	\$218,472		

Authority: Title 30, Chapter 28, Code of Virginia.

*Any net proceeds from the public sale or auction of the surplus property from the General Assembly Building replacement project, less actual direct costs incurred by the Clerk of the House of Delegates, the Clerk of the Senate, and the Department of General Services, shall be deposited into a special non-reverting fund created on the books of the State Comptroller. The Capitol Square Preservation Council shall transfer these funds to the Virginia Capitol Preservation Foundation after entering into an agreement to use such funds to support the restoration and ongoing preservation of Virginia's Capitol and Capitol Square.*

ITEM 7.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
			<b>\$218,451</b>	<b>\$218,472</b>
	Total for Capitol Square Preservation Council.....			
	2.00	2.00		
	General Fund Positions.....			
	2.00	2.00		
	Position Level.....			
	\$218,451	\$218,472		
	Fund Sources: General.....			
<b>Virginia Disability Commission (837)</b>				
8.			\$25,646	\$25,649
	Social Services Research, Planning, and Coordination (45000).....			
	\$25,646	\$25,649		
	Social Services Coordination (45001).....			
	\$25,646	\$25,649		
	Fund Sources: General.....			
	Authority: Title 30, Chapter 35, Code of Virginia.			
			<b>\$25,646</b>	<b>\$25,649</b>
	Total for Virginia Disability Commission.....			
	\$25,646	\$25,649		
	Fund Sources: General.....			
<b>Dr. Martin Luther King, Jr. Memorial Commission (845)</b>				
9.			\$50,755	\$50,768
	Human Relations Management (14600).....			
	\$50,755	\$50,768		
	Human Relations Management (14601).....			
	\$50,755	\$50,768		
	Fund Sources: General.....			
	Authority: Title 30, Chapter 27, Code of Virginia.			
			<b>\$50,755</b>	<b>\$50,768</b>
	Total for Dr. Martin Luther King, Jr. Memorial Commission.....			
	\$50,755	\$50,768		
	Fund Sources: General.....			
<b>Joint Commission on Technology and Science (847)</b>				
10.			\$219,738	\$219,775
	Technology Research, Planning, and Coordination (53700).....			
	\$219,738	\$219,775		
	Technology Research (53701).....			
	\$219,738	\$219,775		
	Fund Sources: General.....			
	Authority: Title 30, Chapter 11, Code of Virginia.			
			<b>\$219,738</b>	<b>\$219,775</b>
	Total for Joint Commission on Technology and Science.....			
	2.00	2.00		
	General Fund Positions.....			
	2.00	2.00		
	Position Level.....			
	\$219,738	\$219,775		
	Fund Sources: General.....			
<b>Commissioners for the Promotion of Uniformity of Legislation in the United States (145)</b>				
11.			\$87,520	\$87,520
	Governmental Affairs Services (70100).....			
	\$87,520	\$87,520		
	Interstate Affairs (70103).....			
	\$87,520	\$87,520		
	Fund Sources: General.....			
	Authority: Title 30, Chapter 29, Code of Virginia.			
			<b>\$87,520</b>	<b>\$87,520</b>
	Total for Commissioners for the Promotion of Uniformity of Legislation in the United States.....			
	\$87,520	\$87,520		
	Fund Sources: General.....			

ITEM 11.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
<b>State Water Commission (971)</b>				
12.	Environmental Policy and Program Development (51600).....		\$10,243	\$10,246
	Environmental Policy and Program Development (51601).....	\$10,243	\$10,246	
	Fund Sources: General.....	\$10,243	\$10,246	
	Authority: Title 30, Chapter 24, Code of Virginia.			
	Total for State Water Commission.....		<b>\$10,243</b>	<b>\$10,246</b>
	Fund Sources: General.....	\$10,243	\$10,246	
<b>Virginia Coal and Energy Commission (118)</b>				
13.	Resource Management Research, Planning, and Coordination (50700).....		\$21,644	\$21,645
	Energy Conservation Advisory Services (50703).....	\$21,644	\$21,645	
	Fund Sources: General.....	\$21,644	\$21,645	
	Authority: Title 30, Chapter 25, Code of Virginia.			
	Total for Virginia Coal and Energy Commission.....		<b>\$21,644</b>	<b>\$21,645</b>
	Fund Sources: General.....	\$21,644	\$21,645	
<b>Virginia Code Commission (108)</b>				
14.	Enactment of Laws (78200).....		\$93,674	\$93,686
	Code Modernization (78201).....	\$93,674	\$93,686	
	Fund Sources: General.....	\$69,580	\$69,589	
	Special.....	\$24,094	\$24,097	
	Authority: Title 30, Chapter 15, Code of Virginia.			
	The Code Commission shall not authorize, or undertake, a re-numbering or re-codification of the Code of Virginia, 1950 as amended unless there is a specific appropriation included in a general Appropriation Act addressing the fiscal impact of such an action. The Commission is authorized to develop a proposal, for review by the Committee on Joint Rules, to re-number the Code of Virginia, including the proposed re-numbering structure and a detailed estimate of any potential fiscal impact on state agencies from the restructuring.			
	Total for Virginia Code Commission.....		<b>\$93,674</b>	<b>\$93,686</b>
	Fund Sources: General.....	\$69,580	\$69,589	
	Special.....	\$24,094	\$24,097	
<b>Virginia Freedom of Information Advisory Council (834)</b>				
15.	Governmental Affairs Services (70100).....		\$203,716	\$203,746
	Public Information Services (70109).....	\$203,716	\$203,746	
	Fund Sources: General.....	\$203,716	\$203,746	
	Authority: Title 30, Chapter 21, Code of Virginia.			
	Total for Virginia Freedom of Information Advisory Council.....		<b>\$203,716</b>	<b>\$203,746</b>
	General Fund Positions.....	1.50	1.50	
	Position Level.....	1.50	1.50	
	Fund Sources: General.....	\$203,716	\$203,746	

ITEM 15.		Item Details(\$)		Appropriations(\$)	
		First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
<b>Virginia Housing Commission (840)</b>					
16.	Housing Assistance Services (45800).....			\$21,260	\$21,269
	Housing Research and Planning (45803).....	\$21,260	\$21,269		
	Fund Sources: General.....	\$21,260	\$21,269		
	Authority: § 30-257, Code of Virginia.				
	Total for Virginia Housing Commission.....			<b>\$21,260</b>	<b>\$21,269</b>
	Fund Sources: General.....	\$21,260	\$21,269		
<b>Brown v. Board of Education Scholarship Committee (858)</b>					
17.	Human Relations Management (14600).....			\$25,338	\$25,339
	Human Relations Management (14601).....	\$25,338	\$25,339		
	Fund Sources: General.....	\$25,338	\$25,339		
	Authority: Title 30, Chapter 34.1, Code of Virginia.				
	Pursuant to § 30-231.5, Code of Virginia, there is provided \$25,000 each year from the general fund to support the operations of the Brown v. Board of Education Scholarship Awards Committee. This operational support shall be used to provide for the expenses incurred by the members of the committee and may be used for such other services as deemed necessary to accomplish the purposes for which it was created.				
	Total for Brown v. Board of Education Scholarship Committee.....			<b>\$25,338</b>	<b>\$25,339</b>
	Fund Sources: General.....	\$25,338	\$25,339		
<b>Virginia Sesquicentennial of the American Civil War Commission (859)</b>					
18.	Human Relations Management (14600).....			\$207,966	\$207,999 \$0
	Human Relations Management (14601).....	\$207,966	<del>\$207,999</del> \$0		
	Fund Sources: General.....	\$107,386	<del>\$107,403</del> \$0		
	Special.....	\$100,580	<del>\$100,596</del> \$0		
	Authority: Title 30, Chapter 40, Code of Virginia.				
	A.1. The Virginia Sesquicentennial of the American Civil War Commission is extended through June 30, 2017. Appointments to the Commission shall continue to be made as provided in Chapter 465 of the Acts of Assembly of 2006. The Commission shall retain all of its powers and duties as provided for in Chapter 465 of the Acts of Assembly of 2006, through June 30, 2017, including the authorization of expenditures from this appropriation to complete the ongoing work of the Commission. <del>As of June 30, 2017, any unexpended general fund balances remaining in this appropriation shall be transferred to the general fund:</del>				
	2: <del>As of June 30, 2017, any unexpended special fund balances shall be transferred to the Virginia Sesquicentennial of the American Civil War Foundation, conditional upon the approval by the Commission of a bona fide contract and work plan, submitted to the Commission by the Foundation, specifying the educational and other services to be provided by the Foundation in consideration of the funds provided. The Commission shall provide a report on its activities and accomplishments to the 2017 General Assembly and a final report to the 2018 General Assembly:</del>				
	3. <del>The Director of the Department of Planning and Budget is authorized to transfer the unexpended general fund and special fund balances of the Virginia Sesquicentennial of</del>				

ITEM 18.	Item Details(\$)		Appropriations(\$)		
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018	
<i>the American Civil War Commission as of July 1, 2017, to the respective general fund and special fund balances of the Virginia World War I and World War II Commemoration Commission.</i>					
B. Pursuant to the provisions of Chapter 465 of the Acts of Assembly of 2006, funding in this Item is appropriated to support the Virginia Sesquicentennial of the American Civil War Commission and Fund. Such funds shall be used for expenses incurred by the members of the Commission, to appoint staff as may be deemed necessary to assist the Commission in performing its duties, and to pay for the services of professional personnel, consultants, advisors, or other services which the Commission may deem necessary to accomplish the purposes for which it was created.					
Total for Virginia Sesquicentennial of the American Civil War Commission.....			<b>\$207,966</b>	<b>\$207,999</b> \$0	
General Fund Positions.....			1.00	1.00	
Position Level.....			1.00	1.00	
Fund Sources: General.....			\$107,386	\$107,403 \$0	
Special.....			\$100,580	\$100,596 \$0	
<b>Commission on Unemployment Compensation (860)</b>					
19.	Consumer Affairs Services (55000).....			\$6,071	\$6,073
	Consumer Assistance (55002).....		\$6,071	\$6,073	
	Fund Sources: General.....		\$6,071	\$6,073	
Authority: Title 30, Chapter 33, Code of Virginia.					
Total for Commission on Unemployment Compensation.....				<b>\$6,071</b>	<b>\$6,073</b>
	Fund Sources: General.....		\$6,071	\$6,073	
<b>Small Business Commission (862)</b>					
20.	Economic Development Services (53400).....			\$15,256	\$15,264
	Economic Development Research, Planning, and Coordination (53401).....		\$15,256	\$15,264	
	Fund Sources: General.....		\$15,256	\$15,264	
Authority: Title 30, Chapter 22, Code of Virginia.					
Total for Small Business Commission.....				<b>\$15,256</b>	<b>\$15,264</b>
	Fund Sources: General.....		\$15,256	\$15,264	
<b>Commission on Electric Utility Regulation (863)</b>					
21.	Resource Management Research, Planning, and Coordination (50700).....			\$10,015	\$10,015
	Resource Management Policy and Program Development (50701).....		\$10,015	\$10,015	
	Fund Sources: General.....		\$10,015	\$10,015	
Authority: Title 30, Chapter 31, Code of Virginia.					
Total for Commission on Electric Utility Regulation..				<b>\$10,015</b>	<b>\$10,015</b>
	Fund Sources: General.....		\$10,015	\$10,015	

ITEM 21.		Item Details(\$)		Appropriations(\$)	
		First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
<b>Manufacturing Development Commission (864)</b>					
22.	Economic Development Services (53400).....			\$12,155	\$12,160
	Economic Development Research, Planning, and Coordination (53401).....	\$12,155	\$12,160		
	Fund Sources: General.....	\$12,155	\$12,160		
	Authority: Title 30, Chapter 41, Code of Virginia.				
	Total for Manufacturing Development Commission.....			<b>\$12,155</b>	<b>\$12,160</b>
	Fund Sources: General.....	\$12,155	\$12,160		
<b>Joint Commission on Administrative Rules (865)</b>					
23.	Governmental Affairs Services (70100).....			\$10,015	\$10,015
	Intragovernmental Services (70104).....	\$10,015	\$10,015		
	Fund Sources: General.....	\$10,015	\$10,015		
	Authority: Title 30, Chapter 8.1, Code of Virginia.				
	Total for Joint Commission on Administrative Rules.....			<b>\$10,015</b>	<b>\$10,015</b>
	Fund Sources: General.....	\$10,015	\$10,015		
<b>Virginia Bicentennial of the American War of 1812 Commission (867)</b>					
24.	<del>Human Relations Management (14600).....</del>			<del>\$23,412</del>	<del>\$23,414</del>
	<del>Human Relations Management (14601).....</del>	<del>\$23,412</del>	<del>\$23,414</del>		
	<del>Fund Sources: General.....</del>	<del>\$23,412</del>	<del>\$23,414</del>		
	<del>Authority: Title 30, Chapter 45, Code of Virginia.</del>				
	<del>Total for Virginia Bicentennial of the American War of 1812 Commission.....</del>			<del><b>\$23,412</b></del>	<del><b>\$23,414</b></del>
				<del>\$0</del>	<del>\$0</del>
	<del>Fund Sources: General.....</del>	<del>\$23,412</del>	<del>\$23,414</del>		
		<del>\$0</del>	<del>\$0</del>		
<b>Autism Advisory Council (871)</b>					
25.	Health Research, Planning, and Coordination (40600).....			\$6,472	\$6,478
	Health Policy Research (40606).....	\$6,472	\$6,478		
	Fund Sources: General.....	\$6,472	\$6,478		
	Authority: Title 30, Chapter 50, Code of Virginia.				
	Total for Autism Advisory Council.....			<b>\$6,472</b>	<b>\$6,478</b>
	Fund Sources: General.....	\$6,472	\$6,478		
<b>Virginia Conflict of Interest and Ethics Advisory Council (876)</b>					
26.	Personnel Management Services (70400).....			\$473,000	<del>\$408,000</del> \$598,000
	Fund Sources: General.....	\$473,000	<del>\$408,000</del> \$598,000		
	Authority: Chapters 792 and 804 of the 2014 Acts of Assembly.				

ITEM 26.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
<i>Of the \$473,000 in fiscal year 2017 and \$598,000 in fiscal year 2018 appropriated to the Council, an amount estimated at \$195,000 each year is from lobbyist registration fees pursuant to § 2.2-424, Code of Virginia.</i>				
	Total for Virginia Conflict of Interest and Ethics Advisory Council.....		<b>\$473,000</b>	<b>\$408,000</b> <i>\$598,000</i>
	General Fund Positions.....	5.00	5.00	
	Position Level.....	5.00	5.00	
	Fund Sources: General.....	\$473,000	<del>\$408,000</del> <i>\$598,000</i>	
<b>Commission for the Commemoration of the Centennial of Women's Right to Vote (874)</b>				
27.	Human Relations Management (14600).....		\$20,000	\$20,000
	Human Relations Management (14601).....		\$20,000	\$20,000
	Fund Sources: General.....		\$20,000	\$20,000
	Total for Commission for the Commemoration of the Centennial of Women's Right to Vote.....		<b>\$20,000</b> \$0	<b>\$20,000</b> \$0
	Fund Sources: General.....		\$20,000 \$0	\$20,000 \$0
<b>Joint Commission on Transportation Accountability (875)</b>				
28.	Ground Transportation Planning and Research (60200).....		\$28,200	\$28,200
	Fund Sources: General.....		\$28,200	\$28,200
	Total for Joint Commission on Transportation Accountability.....		<b>\$28,200</b>	<b>\$28,200</b>
	Fund Sources: General.....		\$28,200	\$28,200
<b>Commission on Economic Opportunity for Virginians in Aspiring and Diverse Communities (877)</b>				
28.10	Economic Development Services (53400).....		\$10,560	\$10,560
	Economic Development Research, Planning, and Coordination (53401).....		\$10,560	\$10,560
	Fund Sources: General.....		\$10,560	\$10,560
	Authority: Discretionary Inclusion			
	Total for Commission on Economic Opportunity for Virginians in Aspiring and Diverse Communities.....		<b>\$10,560</b>	<b>\$10,560</b>
	Fund Sources: General.....		\$10,560	\$10,560
	Grand Total for Division of Legislative Services.....		<b>\$8,413,180</b> <b>\$8,867,608</b>	<b>\$8,348,526</b> <b>\$8,287,113</b>
	General Fund Positions.....	67.50	67.50	
	Position Level.....	67.50	67.50	
	Fund Sources: General.....	\$8,268,472	\$8,203,799	
		\$8,475,060	\$8,242,982	
	Special.....	\$144,708	\$144,727	
		\$392,548	\$44,131	

§ 1-7. CHESAPEAKE BAY COMMISSION (842)

ITEM 29.		Item Details(\$)		Appropriations(\$)	
		First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
29.	Resource Management Research, Planning, and Coordination (50700).....			\$292,204	\$330,217
	Resource Management Policy and Program Development (50701).....	\$292,204	\$330,217		
	Fund Sources: General.....	\$292,204	\$330,217		
	Authority: Title 30, Chapter 36, Code of Virginia.				
	Included in the amounts for this item is \$38,000 the second year from the general fund representing Virginia's share of contributions to the six-state Chesapeake Bay Region efforts to hire an independent outside evaluator responsible for reviewing and submitting reports to Congress according to the schedule prescribed in the Chesapeake Bay Accountability and Recovery Act of 2014. Such funds shall not be released until such time as all six states in the Region have committed equal amounts of funding to the project. If such commitment has not been achieved by June 30, 2018, the amounts will revert to the general fund.				
	Total for Chesapeake Bay Commission.....			<b>\$292,204</b>	<b>\$330,217</b>
	General Fund Positions.....	1.00	1.00		
	Position Level.....	1.00	1.00		
	Fund Sources: General.....	\$292,204	\$330,217		

**§ 1-8. JOINT COMMISSION ON HEALTH CARE (844)**

30.	Health Research, Planning, and Coordination (40600).....			\$764,215	\$764,260
	Health Policy Research (40606).....	\$764,215	\$764,260		
	Fund Sources: General.....	\$764,215	\$764,260		

Authority: Title 30, Chapter 18, Code of Virginia.

*A. The Joint Commission on Health Care shall examine and identify strategies to ensure that the public is made fully aware of the risks and concerns related to the use of psychiatric medications that have dramatically increased over the last 25 years. The Commission shall identify methods: (i) to raise awareness of risks related to the mental and physical health side effects of Attention Deficit Hyperactivity Disorder (ADHD) medication use and risks from potential drug addiction from ADHD medication use; (ii) to compile and track statistics regarding the number of children in Virginia schools who are diagnosed with ADHD or other categories such as "specific learning disabilities, other health impairment, multiple disorder, and emotional disturbances" in the most effective means possible; (iii) used by other states and countries to limit antipsychotic use and the best methods for developing similar systems in the Commonwealth, including approaches and interventions which focus on treatment, recovery, and legal penalties; and (iv) to identify the incidence and prevalence of prescribing anti-psychotics for off-label use by general physicians and psychiatrists for treatment of ADHD for which there is no FDA indication. The Joint Commission on Health Care shall complete its analysis according to the workload priorities set for Commission staff and report findings to the Chairmen of the House Appropriations and Senate Finance Committees no later than November 30, 2018.*

*B. The Joint Commission on Health Care shall study options for increasing the use of telemental health services in the Commonwealth. The Joint Commission on Health Care shall specifically study the issues and recommendations related to telemental health services set forth in the report of the Service System Structure and Financing Work Group of the Joint Subcommittee Studying Mental Health Services in the Commonwealth in the 21st Century. All agencies of the Commonwealth shall provide assistance to the Joint Commission on Health Care for this study, upon request. The Joint Commission on Health Care shall submit an interim report to the Joint Subcommittee Studying Mental Health Services in the Commonwealth in the 21st Century by November 1, 2017 and a final report of its findings to the Joint Subcommittee by November 1, 2018.*

ITEM 30.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
Total for Joint Commission on Health Care.....			<b>\$764,215</b>	<b>\$764,260</b>
General Fund Positions.....	6.00	6.00		
Position Level.....	6.00	6.00		
Fund Sources: General.....	\$764,215	\$764,260		
<b>§ 1-9. VIRGINIA COMMISSION ON YOUTH (839)</b>				
31. Social Services Research, Planning, and Coordination (45000).....			\$348,255	\$348,297
Social Services Research and Planning (45003).....	\$348,255	\$348,297		
Fund Sources: General.....	\$348,255	\$348,297		
Authority: Title 30, Chapter 20, Code of Virginia.				
Total for Virginia Commission on Youth.....			<b>\$348,255</b>	<b>\$348,297</b>
General Fund Positions.....	3.00	3.00		
Position Level.....	3.00	3.00		
Fund Sources: General.....	\$348,255	\$348,297		
<b>§ 1-10. VIRGINIA STATE CRIME COMMISSION (142)</b>				
32. Criminal Justice Research, Planning and Coordination (30500).....			\$807,255	<del>\$807,291</del> \$927,291
Criminal Justice Research (30503).....	\$807,255	<del>\$807,291</del> \$927,291		
Fund Sources: General.....	\$669,606	<del>\$669,635</del> \$789,635		
Federal Trust.....	\$137,649	\$137,656		
Authority: Title 30, Chapter 16, Code of Virginia.				
Total for Virginia State Crime Commission.....			<b>\$807,255</b>	<b><del>\$807,291</del></b> <b>\$927,291</b>
General Fund Positions.....	5.00	<del>5.00</del> 6.00		
Nongeneral Fund Positions.....	4.00	4.00		
Position Level.....	9.00	<del>9.00</del> 10.00		
Fund Sources: General.....	\$669,606	<del>\$669,635</del> \$789,635		
Federal Trust.....	\$137,649	\$137,656		
<b>§ 1-11. JOINT LEGISLATIVE AUDIT AND REVIEW COMMISSION (110)</b>				
33. Legislative Evaluation and Review (78300).....			\$4,090,287	<del>\$4,140,445</del> \$4,340,445
Performance Audits and Evaluation (78303).....	\$4,090,287	<del>\$4,140,445</del> \$4,340,445		
Fund Sources: General.....	\$3,974,570	<del>\$4,024,728</del> \$4,224,728		
Trust and Agency.....	\$115,717	\$115,717		
Authority: Title 30, Chapters 7 and 8, Code of Virginia.				
A. Out of this appropriation shall be paid the annual salary of the Director, Joint Legislative Audit and Review Commission (JLARC), \$156,749 from July 1, 2016, to June 24, 2017, and \$156,749 from June 25, 2017, to June 30, 2018.				

ITEM 33.	Item Details(\$)		Appropriations(\$)	
	First Year	Second Year	First Year	Second Year
	FY2017	FY2018	FY2017	FY2018

B. JLARC, upon request of the Department of Planning and Budget and approval of the Chairman, shall review and provide comments to the department on its use of performance measures in the state budget process. JLARC staff shall review the methodology and proposed uses of such performance measures and provide periodic status reports to the Commission.

C. Expenses associated with the oversight responsibility of the Virginia Retirement System by JLARC and the House Appropriations and Senate Finance Committees shall be reimbursed by the Virginia Retirement System upon documentation by the Director, JLARC of the expenses incurred.

D. Out of this appropriation, funds are provided to continue the technical support staff of JLARC, in order to assist with legislative fiscal impact analysis when an impact statement is referred from the Chairman of a standing committee of the House or Senate, and to conduct oversight of the expenditure forecasting process. Pursuant to existing statutory authority, all agencies of the Commonwealth shall provide access to information necessary to accomplish these duties.

E.1. The General Assembly hereby designates the Joint Legislative Audit and Review Commission (JLARC) to review and evaluate the Virginia Information Technologies Agency (VITA) on a continuing basis and to make such special studies and reports as may be requested by the General Assembly, the House Appropriations Committee, or the Senate Finance Committee.

2. The areas of review and evaluation to be conducted by the Commission shall include, but are not limited to, the following: (i) VITA's infrastructure outsourcing contracts and any amendments thereto; (ii) adequacy of VITA's planning and oversight responsibilities, including VITA's oversight of information technology projects and the security of governmental information; (iii) cost-effectiveness and adequacy of VITA's procurement services and its oversight of the procurement activities of State agencies.

3. For the purpose of carrying out its duties and notwithstanding any contrary provision of law, JLARC shall have the legal authority to access the information, records, facilities, and employees of VITA.

4. Records provided to VITA by a private entity pertaining to VITA's comprehensive infrastructure agreement or any successor contract, or any contractual amendments thereto for the operation of the Commonwealth's information technology infrastructure shall be exempt from the Virginia Freedom of Information Act (§ 2.2-3700 et seq.), to the extent that such records contain (i) trade secrets of the private entity as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.) or (ii) financial records of the private entity, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise. In order for the records specified in clauses (i) and (ii) to be excluded from the Virginia Freedom of Information Act, the private entity shall make a written request to VITA:

- a. Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;
- b. Identifying with specificity the data or other materials for which protection is sought; and
- c. Stating the reasons why protection is necessary.

VITA shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets or financial records of the private entity. VITA shall make a written determination of the nature and scope of the protection to be afforded by it under this subdivision. Once a written determination is made by VITA, the records afforded protection under this subdivision shall continue to be protected from disclosure when in the possession of VITA or JLARC.

Except as specifically provided in this item, nothing in this item shall be construed to authorize the withholding of (a) procurement records as required by § 56-575.17; (b) information concerning the terms and conditions of any interim or comprehensive agreement, service contract, lease, partnership, or any agreement of any kind entered into

ITEM 33.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
by VITA and the private entity; (c) information concerning the terms and conditions of any financing arrangement that involves the use of any public funds; or (d) information concerning the performance of the private entity under the comprehensive infrastructure agreement, or any successor contract, or any contractual amendments thereto for the operation of the Commonwealth's information technology infrastructure.				
5. The Chairman of JLARC may appoint a permanent subcommittee to provide guidance and direction for VITA review and evaluation activities, subject to the full Commission's supervision and such guidelines as the Commission itself may provide.				
6. All agencies of the Commonwealth shall cooperate as requested by JLARC in the performance of its duties under this authority.				
F.1. To assist JLARC in conducting its study of the Virginia Economic Development Partnership Authority (VEDP) pursuant to House Joint Resolution 7 of the 2016 General Assembly, JLARC shall have the legal authority to access the facilities, employees, information and records, including confidential information of VEDP and its contractors and the public and executive session meetings and records of the board of directors of VEDP, for the purpose of conducting this study in accordance with the established standards, processes, and practices exercised by JLARC pursuant to its statutory authority. Access shall include the right to attend such meetings for the purpose of conducting this study.				
2. Records provided by VEDP and its contractors to JLARC in connection with its study of VEDP, where the records would not be subject to disclosure by VEDP, shall be excluded from the provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.). VEDP shall identify the specific portion of the records to be protected and the applicable provision of the Freedom of Information Act or other provision of law that excludes the record or portions thereof from mandatory disclosure.				
G. As a component of its review of water resource planning and management pursuant to House Joint Resolution 623 from the 2015 Session of the General Assembly, the Joint Legislative Audit and Review Commission shall also (i) identify and report a list of the water systems and other water dependent facilities that could be affected by changes, including those that may relate to current "grandfathering" provisions, to the state's water protection permit regulations pursuant to 9 VAC 25-210; and (ii) describe the nature and magnitude of the impact on affected water systems and other water dependent facilities.				
H.1. The General Assembly hereby designates the Joint Legislative Audit and Review Commission (JLARC) to conduct, on a continuing basis, a review and evaluation of economic development initiatives and policies and to make such special studies and reports as may be requested by the General Assembly, the House Appropriations Committee, or the Senate Finance Committee.				
2. The areas of review and evaluation to be conducted by the Commission shall include, but are not limited to, the following: (i) spending on and performance of individual economic development incentives, including grants, tax preferences, and other assistance; (ii) economic benefits to Virginia of total spending on economic development initiatives at least biennially; (iii) effectiveness, value to taxpayers, and economic benefits to Virginia of individual economic development initiatives on a cycle approved by the Commission; and (iv) design, oversight, and accountability of economic development entities, initiatives, and policies as needed.				
3. For the purpose of carrying out its duties under this authority and notwithstanding any contrary provision of law, JLARC shall have the legal authority to access the facilities, employees, information, and records, including confidential information, and the public and executive session meetings and records of the board of VEDP, involved in economic development initiatives and policies for the purpose of carrying out such duties in accordance with the established standards, processes, and practices exercised by JLARC pursuant to its statutory authority. Access shall include the right to attend such meetings for the purpose of carrying out such duties. Any non-disclosure agreement that VEDP enters into on or after July 1, 2016, for the provision of confidential and proprietary information to VEDP by a third party shall require that JLARC also be allowed access to such information for the purposes of carrying out its duties.				

ITEM 33.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
4. Notwithstanding the provisions of subsection A or B of § 58.1-3 or any other provision of law, unless prohibited by federal law, an agreement with a federal entity, or a court decree, the Tax Commissioner is authorized to provide to JLARC such tax information as may be necessary to conduct oversight of economic development initiatives and policies.				
5. The following records shall be excluded from the provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.), and shall not be disclosed by JLARC:				
(a) records provided by a public body as defined in § 2.2-3701, Code of Virginia, to JLARC in connection with its oversight of economic development initiatives and policies, where the records would not be subject to disclosure by the public body providing the records. The public body providing the records to JLARC shall identify the specific portion of the records to be protected and the applicable provision of the Freedom of Information Act or other provision of law that excludes the record or portions thereof from mandatory disclosure.				
(b) confidential proprietary records provided by private entities pursuant to a promise of confidentiality from JLARC, used by JLARC in connection with its oversight of economic development initiatives and policies where, if such records are made public, the financial interest of the private entity would be adversely affected.				
6. By August 15 of each year, the Secretary of Commerce and Trade shall provide to JLARC all information collected pursuant to § 2.2-206.1, Code of Virginia, in a format and manner specified by JLARC to ensure that the final report to be submitted by the Secretary fulfills the intent of the General Assembly and provides the data and evaluation in a meaningful manner for decision-makers.				
7. JLARC shall assist the agencies submitting information to the Secretary of Commerce and Trade pursuant to the provisions of § 2.2-206.1, Code of Virginia, to ensure that the agencies work together to effectively develop standard definitions and measures for the data required to be reported and facilitate the development of appropriate unique project identifiers to be used by the impacted agencies.				
8. The Chairman of JLARC may appoint a permanent subcommittee to provide guidance and direction for ongoing review and evaluation activities, subject to the full Commission's supervision and such guidelines as the Commission itself may provide.				
9. JLARC may employ on a consulting basis such professional or technical experts as may be reasonably necessary for the Commission to fulfill its responsibilities under this authority.				
10. All agencies of the Commonwealth shall cooperate as requested by JLARC in the performance of its duties under this authority.				
I. Notwithstanding the salaries listed in paragraph A. of this item, the Joint Legislative Audit and Review Commission (JLARC) may establish a salary range for the Director of JLARC.				
Total for Joint Legislative Audit and Review Commission.....			\$4,090,287	\$4,140,445
General Fund Positions.....	38.00	38.00		
Nongeneral Fund Positions.....	1.00	1.00		
Position Level.....	39.00	39.00		
Fund Sources: General.....	\$3,974,570	\$4,024,728		
		\$4,224,728		
Trust and Agency.....	\$115,717	\$115,717		

**§ 1-12. VIRGINIA COMMISSION ON INTERGOVERNMENTAL COOPERATION (105)**

34. Governmental Affairs Services (70100).....			\$741,024	\$741,028
Interstate Affairs (70103).....	\$741,024	\$741,028		
Fund Sources: General.....	\$741,024	\$741,028		

ITEM 34.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
Authority: Title 30, Chapter 19, Code of Virginia.				
Out of this appropriation may be paid from the general fund the annual assessments:				
1. To the National Conference of State Legislatures;				
2. To the Council of State Governments;				
3. To the Southern Regional Education Board; and				
4. To the Education Commission of the States.				
Included within this appropriation is \$146,035 each year for the annual dues for the Council of State Governments. Of this amount, one-third (\$48,678) shall represent the dues payable on behalf of the Executive Department, one-third (\$48,678) shall represent the dues payable on behalf of the Judicial Department, and the remaining one-third (\$48,679) shall represent the dues payable on behalf of the Legislative Department. Of the amount for annual dues payable on behalf of the Legislative Department, \$13,908 each year shall be allocated at the discretion of the Senate Committee on Rules and \$34,771 each year shall be allocated at the discretion of the Speaker of the House of Delegates.				
Total for Virginia Commission on Intergovernmental Cooperation.....			<b>\$741,024</b>	<b>\$741,028</b>
Fund Sources: General.....		\$741,024	\$741,028	
<b>§ 1-13. LEGISLATIVE DEPARTMENT REVERSION CLEARING ACCOUNT (102)</b>				
35.	Across the Board Reductions (71400).....			(\$194,600) (\$194,600)
	Across the Board Reduction (71401).....	(\$194,600)	(\$194,600)	
	Fund Sources: General.....	(\$194,600)	(\$194,600)	
Authority: Discretionary Inclusion.				
36.	Enactment of Laws (78200).....			\$360,315 \$360,315
	Undesignated Support for Enactment of Laws Services (78205).....	\$360,315	\$360,315	
	Fund Sources: General.....	\$360,315	\$360,315	
Authority: Discretionary Inclusion.				
A. Transfers out of this appropriation may be made to fund unanticipated costs in the budgets of legislative agencies or other such costs approved by the Joint Rules Committee.				
B. Included within this appropriation is \$200,000 the first year and \$200,000 the second year from the general fund and one position for the operation of the Capitol Guides program. The allocation of these funds shall be subject to the approval of the Committee on Joint Rules. The Capitol Guides program shall be jointly administered by the Clerk of the House of Delegates and the Clerk of the Senate.				
<i>C. On or before June 30, 2017, the Committee on Joint Rules shall authorize the reversion to the general fund of \$700,000 representing savings generated by the Division of Capitol Police.</i>				
<i>D. On or before June 30, 2017, the Committee on Joint Rules shall authorize the reversion to the general fund of \$811,741 representing savings generated from within the Division of Legislative Services.</i>				
Total for Legislative Department Reversion Clearing Account.....			<b>\$165,715</b>	<b>\$165,715</b>
General Fund Positions.....		1.00	1.00	
Position Level.....		1.00	1.00	
Fund Sources: General.....		\$165,715	\$165,715	

ITEM 36.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
TOTAL FOR LEGISLATIVE DEPARTMENT.....			<b>\$83,442,428</b>	<b>\$83,469,219</b>
			<b>\$83,896,856</b>	<b>\$87,646,618</b>
General Fund Positions.....	592.50	592.50		
		593.50		
Nongeneral Fund Positions.....	26.50	26.50		
		28.50		
Position Level.....	619.00	619.00		
		622.00		
Fund Sources: General.....	\$80,253,077	\$80,279,687		
	\$80,459,665	\$84,307,682		
Special.....	\$2,935,985	\$2,936,159		
	\$3,183,825	\$3,085,563		
Trust and Agency.....	\$115,717	\$115,717		
Federal Trust.....	\$137,649	\$137,656		

ITEM 37.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018

**JUDICIAL DEPARTMENT**

**§ 1-14. SUPREME COURT (111)**

37.	Pre-Trial, Trial, and Appellate Processes (32100).....			\$14,173,686	\$14,173,686
	Appellate Review (32101).....	\$8,838,861	\$8,838,861		
	Other Court Costs And Allowances (Criminal Fund) (32104).....	\$5,334,825	\$5,334,825		
	Fund Sources: General.....	\$13,994,406	\$13,994,406		
	Special.....	\$179,280	\$179,280		

Authority: Article VI, Sections 1 through 6, Constitution of Virginia; Title 17.1, Chapter 3 and § 19.2-163, Code of Virginia.

A. Out of the amounts for Appellate Review shall be paid:

1. The annual salary of the Chief Justice, \$190,793 from July 1, 2016, to November 24, 2016, \$190,793 from November 25, 2016, to November 24, 2017, and \$190,793 from November 25, 2017, to June 30, 2018.

2. The annual salaries of the six (6) Associate Justices, each \$178,958 from July 1, 2016, to November 24, 2016, \$178,958 from November 25, 2016, to November 24, 2017, and \$178,958 from November 25, 2017, to June 30, 2018.

3. To each justice, \$13,500 the first year and \$13,500 the second year, for expenses not otherwise reimbursed, said expenses to be paid out of the current appropriation to the Court.

B. There is hereby reappropriated the unexpended balance remaining at the close of business on June 30, 2016, in the appropriation made in Item 34, Chapter 665, Acts of Assembly of 2015, in the item detail Other Court Costs and Allowances (Criminal Fund) and the balance remaining in this item detail on June 30, 2017.

C. Out of the amounts appropriated in this Item, \$4,650,000 the first year and \$4,650,000 the second year from the general fund is included for increased reimbursements for court-appointed counsel pursuant to § 19.2-163, Code of Virginia.

D. The Executive Secretary of the Supreme Court of Virginia shall encourage training of Juvenile and Domestic Relations District Court judges regarding the options available for court-ordered services for families in truancy cases prior to the initiation of other remedies.

E. Out of the amounts appropriated in this Item, \$310,300 the first year and \$310,300 the second year from the general fund is included to cover the cost of fee changes to mediators appointed in any custody and support or visitation cases, consistent with the provisions of House Bill 287 of the 2016 General Assembly.

F. Notwithstanding the provisions of § 20-124.4, Code of Virginia, the fee paid to mediators shall be \$120 per appointment mediated. For such purpose, \$303,000 the first year and \$303,000 the second year from the general fund is included in the appropriation for this item.

38.	Law Library Services (32300).....			\$1,032,728	\$1,032,328
	Law Library Services (32301).....	\$1,032,728	\$1,032,328		
	Fund Sources: General.....	\$1,032,728	\$1,032,328		

Authority: §§ 42.1-60 through 42.1-64, Code of Virginia.

39.	Adjudication Training, Education, and Standards (32600).....			\$899,140	\$899,140
	Judicial Training (32603).....	\$899,140	\$899,140		
	Fund Sources: General.....	\$899,140	\$899,140		

Authority: Title 16.1, Chapter 9; Title 17.1, Chapter 7; §§ 2.2-4025, 19.2-38.1 and 19.2-43, Code of Virginia.

ITEM 40.		Item Details(\$)		Appropriations(\$)	
		First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
40.	Administrative and Support Services (39900).....			\$30,447,541	\$30,684,302 \$30,871,302
	General Management and Direction (39901).....	\$30,447,541	\$30,684,302 \$30,871,302		
	Fund Sources: General.....	\$21,316,432	\$21,552,624 \$21,739,624		
	Special.....	\$124,375	\$124,375		
	Dedicated Special Revenue.....	\$7,500,000	\$7,500,000		
	Federal Trust.....	\$1,506,734	\$1,507,303		

Authority: §§ 16.1-69.30, 16.1-69.33, 17.1-314 through 17.1-320 and 17.1-502, Code of Virginia.

A. The Executive Secretary of the Supreme Court shall submit an annual fiscal year summary, on or before September 1 of each year, to the Chairmen of the House Appropriations and Senate Finance Committees and to the Director, Department of Planning and Budget, which will report the number of individuals for whom legal or medical services were provided and the nature and cost of such services as are authorized for payment from the criminal fund or the involuntary mental commitment fund.

B. Notwithstanding the provisions of § 19.2-326, Code of Virginia, the amount of attorney's fees allowed counsel for indigent defendants in appeals to the Supreme Court shall be in the discretion of the Supreme Court.

C. The Chief Justice is authorized to reallocate legal support staff between the Supreme Court and the Court of Appeals of Virginia, in order to meet changing workload demands.

D. Prior to January 1 of each year, the Judicial Council and the Committee on District Courts are requested to submit a fiscal impact assessment of their recommendations for the creation of any new judgeships, including the cost of judicial retirement, to the Chairmen of the House and Senate Committees on Courts of Justice, and the House Appropriations and Senate Finance Committees.

E. Included in this Item is \$3,750,000 the first year and \$3,750,000 the second year from the general fund, which may support computer system improvements for the several circuit and district courts. The Executive Secretary of the Supreme Court shall submit an annual report to the Director, Department of Planning and Budget on or before September 1 of each year outlining the improvement projects undertaken and the project status of each project. Each project in the report should include the life to date cost of the project, the amount spent on the project in the most recently completed fiscal year, the year the project began, the estimated cost to complete the remainder of the project and an estimated project completion date.

F. Given the continued concern about providing adequate compensation levels for court-appointed attorneys providing criminal indigent defense in the Commonwealth, the Executive Secretary of the Supreme Court, in conjunction with the Governor, Attorney General, Indigent Defense Commission, representatives of the Indigent Defense Stakeholders Group and Chairmen of the House and Senate Courts of Justice Committees, shall continue to study and evaluate all available options to enhance Virginia's Indigent Defense System.

G. In addition to any filing fee or other fee permitted by law, an electronic access fee may be charged for each case filed electronically pursuant to Rule 1:17 of the Rules of the Supreme Court of Virginia. The amount of this fee shall be set by the Supreme Court of Virginia. Moneys collected pursuant to this fee shall be deposited into the State Treasury to the credit of the Courts Technology Fund established pursuant to § 17.1-132, to be used to support the costs of statewide electronic filing systems.

H. 1. No state funds used to support the operation of drug court programs shall be provided to programs that serve first-time substance abuse offenders only or do not include probation violators. This restriction shall not apply to juvenile drug court programs.

2. Notwithstanding the provisions of subsection O. of § 18.2-254.1, Code of Virginia, any



ITEM 40.	Item Details(\$)		Appropriations(\$)	
	First Year	Second Year	First Year	Second Year
	FY2017	FY2018	FY2017	FY2018

J. Included in this appropriation, \$240,000 the first year and \$240,000 the second year from the general fund is provided to implement the Judicial Performance Evaluation Program established by § 17.1-100 of the Code of Virginia.

K. Out of the amounts appropriated for this item, \$250,000 the first year from the general fund is included for the Supreme Court of Virginia to contract with the National Center for State Courts to reevaluate the November 2013 results of the weighted caseload system study that measured and compared judicial caseloads throughout the Commonwealth on the circuit court, general district court, and juvenile and domestic relations district court levels. In addition to the factors considered during the earlier study, the National Center shall also consider factors identified by the Supreme Court such as the use of interpreters, law clerks, retired or substitute judges, the effect of pro se litigants on judicial time, and the effect of population growth or decline, if any. The Supreme Court shall report to the General Assembly by November 15, 2017, on the weighted caseload in each court in each county and city, and in each circuit and district based on the current circuit and district boundaries.

L. Working in collaboration with the Chief Justice and Associate Justices of the Supreme Court of Virginia and the Chief Judge and Associate Judges of the Court of Appeals of Virginia, the Executive Secretary of the Supreme Court, in consultation with the Director of the Department of General Services, is directed to develop a comprehensive plan that meets the future space needs of both courts around Capitol Square, which is acceptable to the Chief Justice of the Supreme Court of Virginia and the Chief Judge of the Court of Appeals of Virginia.

M. Included in the appropriation for this Item is \$175,950 in the first year from the general fund to cover the cost of an electronic submission system to transmit case papers from general district court to circuit court.

*N. The Executive Secretary of the Supreme Court shall review the experience of the courts in providing the option to any person upon whom a fine and costs have been imposed to discharge all or part of the fine or costs by earning credits for the performance of community service work. The Executive Secretary shall provide a report which shall summarize data from previous years indicating the amount of community service performed in lieu of fines and costs, the hourly rate assumed and the total value of fines and costs avoided compared to the total amount of fines and costs collected, by year, and the available data on the financial circumstances of those persons utilizing the option of community service work. The report should also include a projection of the anticipated impact of the adoption of Rule 1:24 by the Supreme Court of Virginia on November 1, 2016, on the collection of fines and costs, and actual data, to the extent to which it is available, on the results of the implementation of Rule 1:24 for the period beginning February 1, 2017. Copies of the report shall be provided by October 1, 2017, to the Judicial Council, the Committee on District Courts, and the Chairmen of the Senate Committees on Courts of Justice and Finance and the House Committees on Courts of Justice and Appropriations.*

O. Included in the appropriation for this item is \$137,000 in the second year from the general fund for the costs of implementing the information technology system changes required pursuant to the provisions of House Bill 1713 and Senate Bill 1044 of the 2017 Session of the General Assembly.

P. The Executive Secretary, in cooperation with the Superintendent of State Police, shall provide a detailed plan for implementation of the statewide electronic summons system for the Department of State Police to the Chairmen of the House Appropriations and Senate Finance Committees. The plan shall include estimated one-time and ongoing costs of procuring, operating, and managing the electronic summons system for the Department of State Police, a consideration of methods and approaches to procuring and operating the system, timelines for the procurement and implementation of the system statewide, and an analysis of the life-cycle costs of the electronic summons system. The plan shall be presented to the Chairmen of the House Appropriations and Senate Finance Committees no later than September 15, 2017.

Total for Supreme Court.....			\$46,553,095	\$46,789,456
				\$46,976,456

ITEM 40.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
General Fund Positions.....	150.63	150.63		
Nongeneral Fund Positions.....	6.00	6.00		
Position Level.....	156.63	156.63		
Fund Sources: General.....	\$37,242,706	\$37,478,498		
		\$37,665,498		
Special.....	\$303,655	\$303,655		
Dedicated Special Revenue.....	\$7,500,000	\$7,500,000		
Federal Trust.....	\$1,506,734	\$1,507,303		

**Court of Appeals of Virginia (125)**

41.	Pre-Trial, Trial, and Appellate Processes (32100).....			\$9,569,436	\$9,569,657
	Appellate Review (32101).....	\$9,564,436	\$9,564,657		
	Other Court Costs And Allowances (Criminal Fund) (32104).....	\$5,000	\$5,000		
	Fund Sources: General.....	\$9,569,436	\$9,569,657		

Authority: Title 17.1, Chapter 4 and § 19.2-163, Code of Virginia.

A. Out of the amounts in this Item for Appellate Review shall be paid:

1. 1. The annual salary of the Chief Justice, \$173,010 from July 1, 2016, to November 24, 2016, \$173,010 from November 25, 2016, to November 24, 2017, and \$173,010 from November 25, 2017, to June 30, 2018.

2. The annual salaries of the ten (10) judges, each at \$170,010 from July 1, 2016, to November 24, 2016, \$170,010 from November 25, 2016, to November 24, 2017, and \$170,010 from November 25, 2017, to June 30, 2018.

3. Salaries of the judges are to be 95 percent of the salaries of justices of the Supreme Court except for the Chief Judge, who shall receive an additional \$3,000 annually.

4. To each judge, \$6,500 the first year and \$6,500 the second year, for expenses not otherwise reimbursed, said expenses to be paid out of the current appropriation to the Court.

B. There is hereby reappropriated the unexpended balance remaining at the close of business on June 30, 2016, in the appropriation made in Item 38, Chapter 665, Acts of Assembly of 2015, in the item detail Other Court Costs and Allowances (Criminal Fund) and the balance remaining in this item detail on June 30, 2017.

C. The amount of attorney's fees allowed counsel to indigent defendants in appeals to the Court of Appeals shall be in the discretion of the court.

	Total for Court of Appeals of Virginia.....			<b>\$9,569,436</b>	<b>\$9,569,657</b>
	General Fund Positions.....	69.13	69.13		
	Position Level.....	69.13	69.13		
	Fund Sources: General.....	\$9,569,436	\$9,569,657		

**Circuit Courts (113)**

42.	Pre-Trial, Trial, and Appellate Processes (32100).....			\$113,655,476	\$113,670,662
	Trial Processes (32103).....	\$49,225,247	\$49,240,433		
	Other Court Costs And Allowances (Criminal Fund) (32104).....	\$64,430,229	\$64,430,229		
	Fund Sources: General.....	\$113,650,476	\$113,665,662		
	Special.....	\$5,000	\$5,000		

Authority: Article VI, Section 1, Constitution of Virginia; Title 17.1, Chapter 5; § 19.2-163, Code of Virginia.

ITEM 42.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
A. Out of the amounts in this Item for Trial Processes shall be paid:				
1. The annual salaries of Circuit Court judges, each at \$166,136 from July 1, 2016, to November 24, 2016, \$166,136 from November 25, 2016, to November 24, 2017, and \$166,136 from November 25, 2017, to June 30, 2018. Such salaries shall represent the total compensation from all sources for Circuit Court judges.				
2. Expenses necessarily incurred for the position of judge of the Circuit Court, including clerk hire not exceeding \$1,500 a year for each judge.				
3. The state's share of expenses incident to the prosecution of a petition for a writ of habeas corpus by an indigent petitioner, including payment of counsel fees as fixed by the Court; the expenses shall be paid upon receipt of an appropriate order from a Circuit Court.				
4. A circuit court judge shall only be reimbursed for mileage for commuting if the judge has to travel to a courthouse in a county or city other than the one in which the judge resides and the distance between the judge's residence and the courthouse is greater than 25 miles.				
B. The Chief Circuit Court Judge shall restrict the appointment of special justices to conduct involuntary mental commitment hearings to those unusual instances when no General District Court or Juvenile and Domestic Relations District Court Judge can be made available or when the volume of the hearings would require more than eight hours a week.				
C. There is hereby reappropriated the unexpended balance remaining at the close of business on June 30, 2016, in the appropriation made in Item 39, Chapter 665, Acts of Assembly of 2015, in the item detail Other Court Costs and Allowances (Criminal Fund) and the balance remaining in this item detail on June 30, 2017.				
D. The appropriation in this Item for Other Court Costs and Allowances (Criminal Fund) shall be used to implement the provisions of § 8.01-384.1:1, Code of Virginia.				
E.1. General fund appropriations for Other Court Costs and Allowances (Criminal Fund) total <del>\$123,560,148</del> 124,384,073 the first year and <del>\$123,560,148</del> 124,384,073 the second year in this Item and Items 37, 41, 43, 44 and 45.				
2. The Chief Justice of the Supreme Court of Virginia shall determine how the amounts appropriated to Other Courts Costs and Allowances (Criminal Fund) will be allocated, consistent with statutory provisions in the Code of Virginia. Funds within these appropriations are to be used to fund fully the statutory caps on compensation applicable to attorneys appointed by the court to defend criminal charges. Should this appropriation not be sufficient to fund fully all of the statutory caps on compensation as established by § 19.2-163, Code of Virginia, that this appropriation shall be applied first to fully fund the statutory caps for the most serious noncapital felonies and then, should funds still remain in this appropriation, to the other statutory caps, in declining order of the severity of the charges to which each cap is applicable.				
3. Out of the amount appropriated from the general fund for Other Court Costs and Allowances (Criminal Fund) in this Item, there shall be transferred an amount not to exceed \$880,000 the first year and not to exceed \$880,000 the second year to the Criminal Injuries Compensation Fund, administered by the Virginia Workers' Compensation Commission, for the administration of the physical evidence recovery kit (PERK) program.				
4. Notwithstanding the provisions of § 19.2-163, Code of Virginia, the amount of compensation allowed to counsel appointed by the court to defend a felony charge that may be punishable by death shall be calculated on an hourly basis at a rate set by the Supreme Court of Virginia.				
F.1. For any hearing conducted pursuant to § 19.2-306, Code of Virginia, the circuit court shall have presented to it a sentencing revocation report prepared on a form designated by the Virginia Criminal Sentencing Commission indicating the condition or conditions of the suspended sentence, good behavior, or probation supervision that the defendant has				

ITEM 42.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
allegedly violated.				
<p>2. For any hearing conducted pursuant to § 19.2-306 in which the defendant is cited for violation of a condition or conditions other than a new criminal offense conviction, the court shall also have presented to it the applicable probation violation guideline worksheets established pursuant to Chapter 1042 of the Acts of Assembly 2003. The court shall review and consider the suitability of the discretionary probation violation guidelines. Before imposing sentence, the court shall state for the record that such review and consideration have been accomplished and shall make the completed worksheets a part of the record of the case and open for inspection. In hearings in which the court imposes a sentence that is either greater or less than that indicated by the discretionary probation violation guidelines, the court shall file with the record of the case a written explanation of such departure.</p> <p>3. Following any hearing conducted pursuant to § 19.2-306 and the entry of a final order, the clerk of the circuit court in which the hearing was held shall cause a copy of such order or orders, the original sentencing revocation report, any applicable probation violation guideline worksheets prepared in the case, and a copy of any departure explanation prepared pursuant to subsection F.2., to be forwarded to the Virginia Criminal Sentencing Commission within 30 days.</p> <p>4. The failure to follow any or all of the provisions specified in F.1. through F.3 or the failure to follow any or all of these provisions in the prescribed manner shall not be reviewable on appeal or the basis of any other post-hearing relief.</p> <p>G. Mandated changes or improvements to court facilities pursuant to § 15.2-1643, Code of Virginia, or otherwise, including any new construction, shall be delayed at the request of the local governing body in which the court is located until June 30, 2018. The provisions of this item shall not apply to facilities that were subject to litigation on or before November 30, 2008.</p> <p>H. In order to reduce expenditures through the Criminal Fund for court-appointed counsel, effective July 1, 2014, compensation paid to attorneys appointed pursuant to Virginia Code § 53.1-40 shall be limited to \$55 per hour, with a maximum per diem compensation of \$200, plus reasonable expenses, to be paid from the Criminal Fund.</p> <p>I.1. Notwithstanding the provisions of § 19.2-155, Code of Virginia, in cases where an Attorney for the Commonwealth must recuse himself from a case or a special prosecutor must be appointed, the circuit court judge must appoint an Attorney for the Commonwealth or an Assistant Attorney for the Commonwealth from another jurisdiction. If the circuit court judge determines that the appointment of such Attorney for the Commonwealth or such Assistant Attorney for the Commonwealth is not appropriate or that such an attorney or assistant is unavailable then the judge must request approval from the Executive Secretary of the Supreme Court for an exception to this requirement.</p> <p>2. The Executive Secretary of the Supreme Court shall include in the annual report required in paragraph A. of Item 40 information on the number of exceptions granted related to special prosecutors and the related expenditures.</p> <p>J. Notwithstanding any other provisions of Chapter 23 of Title 8.1 of the Code of Virginia, a reasonable fee not to exceed \$150 may be charged by Commissioners of Accounts for any foreclosures on a timeshare estate to reimburse them for the reasonable costs associated therewith.</p>				
			<b>\$113,655,476</b>	<b>\$113,670,662</b>
	General Fund Positions.....	165.00	165.00	
	Position Level.....	165.00	165.00	
	Fund Sources: General.....	\$113,650,476	\$113,665,662	
	Special.....	\$5,000	\$5,000	
	<b>General District Courts (114)</b>			
43.	Pre-Trial, Trial, and Appellate Processes (32100).....		\$111,292,744	\$111,305,772
	Trial Processes (32103).....	\$90,294,414	\$90,307,442	

ITEM 43.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
Other Court Costs And Allowances (Criminal Fund) (32104).....	\$15,313,835	\$15,313,835		
	\$15,069,165	\$15,069,165		
Involuntary Mental Commitments (32105).....	\$5,684,495	\$5,684,495		
	\$5,929,165	\$5,929,165		
Fund Sources: General.....	\$111,292,744	\$111,305,772		
Authority: Article VI, Section 8, Constitution of Virginia; §§ 16.1-69.1 through 16.1-137, 19.2-163 and 37.2-809 et seq., Code of Virginia.				
A. Out of the amounts in this Item for Trial Processes shall be paid:				
1. The annual salaries of all General District Court judges, \$149,531 from July 1, 2016, to November 24, 2016, \$149,531 from November 25, 2016, to November 24, 2017, and \$149,531 from November 25, 2017, to June 30, 2018. Such salary shall be 90 percent of the annual salary fixed by law for judges of the Circuit Courts and shall represent the total compensation for General District Court Judges and incorporate all supplements formerly paid by the various localities.				
2. The salaries of substitute judges and court personnel.				
B. There is hereby reappropriated the unexpended balances remaining at the close of business on June 30, 2016, in the appropriation made in Item 40, Chapter 665, Acts of Assembly of 2015 in the item details Other Court Costs and Allowances (Criminal Fund) and Involuntary Mental Commitments and the balances remaining in these item details on June 30, 2017.				
C. Any balance, or portion thereof, in the item detail Involuntary Mental Commitments, may be transferred between Items 43, 44, 45, and 303, as needed, to cover any deficits incurred for Involuntary Mental Commitments by the Supreme Court or the Department of Medical Assistance Services.				
D. The appropriation in this Item for Other Court Costs and Allowances (Criminal Fund) shall be used to implement the provisions of § 8.01-384.1:1, Code of Virginia.				
E. Out of the amount appropriated from the general fund for Other Court Costs and Allowances (Criminal Fund) in this Item, there shall be transferred an amount not to exceed \$40,000 the first year and not to exceed \$40,000 the second year to the Criminal Injuries Compensation Fund, administered by the Virginia Workers' Compensation Commission, for the administration of the physical evidence recovery kit (PERK) program.				
F. A district court judge shall only be reimbursed for mileage for commuting if the judge has to travel to a courthouse in a county or city other than the one in which the judge resides and the distance between the judge's residence and the courthouse is greater than 25 miles.				
G. Upon the retirement or separation from employment of any chief general district court clerks from the 7th judicial district or the 13th judicial district, any vacant chief clerk positions in excess of one chief clerk for each general district court shall be reallocated by the Committee on District Courts to district courts with the highest documented unmet staffing requirements.				
H. On or before January 1, 2018, the Committee on District Courts shall reallocate four district court clerk positions from the 13th judicial district to the 14th judicial district.				
Total for General District Courts.....			\$111,292,744	\$111,305,772
General Fund Positions.....	1,056.10	1,056.10		
Position Level.....	1,056.10	1,056.10		
Fund Sources: General.....	\$111,292,744	\$111,305,772		

**Juvenile and Domestic Relations District Courts (115)**

44.	Pre-Trial, Trial, and Appellate Processes (32100)....			\$95,397,113	\$95,408,588
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ITEM 44.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
Trial Processes (32103).....	\$63,199,016	\$63,210,491		
Other Court Costs And Allowances (Criminal Fund) (32104).....	<del>\$31,827,761</del> \$31,807,351	<del>\$31,827,761</del> \$31,807,351		
Involuntary Mental Commitments (32105).....	<del>\$370,336</del> \$390,746	<del>\$370,336</del> \$390,746		
Fund Sources: General.....	\$95,397,113	\$95,408,588		
<p>Authority: Article VI, Section 8, Constitution of Virginia; §§ 16.1-69.1 through 16.1-69.58, 16.1-226 through 16.1-334, 19.2-163 and 37.2-809 through 37.2-813., Code of Virginia.</p> <p>A. Out of the amounts in this Item for Trial Processes shall be paid:</p> <p>1. The annual salaries of all full-time Juvenile and Domestic Relations District Court Judges, \$149,531 from July 1, 2016, to November 24, 2016, \$149,531 from November 25, 2016, to November 24, 2017, and \$149,531 from November 25, 2017, to June 30, 2018. Such salary shall be 90 percent of the annual salary fixed by law for judges of the Circuit Courts and shall represent the total compensation for Juvenile and Domestic Relations District Court Judges.</p> <p>2. The salaries of substitute judges and court personnel.</p> <p>B. There is hereby reappropriated the unexpended balances remaining at the close of business on June 30, 2016, in the appropriation made in Item 41, Chapter 665, Acts of Assembly of 2015, in the Item details Other Court Costs and Allowances (Criminal Fund) and Involuntary Mental Commitments and the balances remaining in these item details on June 30, 2017.</p> <p>C. Any balance, or portion thereof, in the Item detail Involuntary Mental Commitments, may be transferred between Items 43, 44, 45, and 303, as needed, to cover any deficits incurred for Involuntary Mental Commitments by the Supreme Court or the Department of Medical Assistance Services.</p> <p>D. The appropriation in this Item for Other Court Costs and Allowances (Criminal Fund) shall be used to implement the provisions of § 8.01-384.1:1, Code of Virginia.</p> <p>E. Notwithstanding any other provision of law, when a Guardian ad Litem is appointed for a child by the Commonwealth, the juvenile and domestic relations district court or the circuit court, as the case may be, shall order the parent, parents, adoptive parent or adoptive parents of the child, or another party with a legitimate interest therein who has filed a petition with the court to reimburse the Commonwealth the costs of such services in an amount not to exceed the amount awarded the Guardian ad Litem by the court. If the court determines such party is unable to pay, the required reimbursement may be reduced or eliminated. In addition, it is the intent of the General Assembly that the Supreme Court actively administer the Guardian ad Litem program to ensure that payments made to Guardians ad Litem do not exceed that which is required. The Executive Secretary of the Supreme Court shall report August 1 and January 1 of each year to the Chairmen of the House Appropriations and Senate Finance Committees on the amounts paid for Guardian ad Litem purposes, amounts reimbursed by parents and/or guardians, savings achieved, and management actions taken to further enhance savings under this program. <i>The provisions of this paragraph are effective through June 30, 2017.</i></p> <p>F. Out of the amount appropriated from the general fund for Other Court Costs and Allowances (Criminal Fund) in this Item, there shall be transferred an amount not to exceed \$870,000 the first year and not to exceed \$870,000 the second year to the Criminal Injuries Compensation Fund, administered by the Virginia Workers' Compensation Commission for the administration of the physical evidence recovery kit (PERK) program.</p>				
Total for Juvenile and Domestic Relations District Courts.....			<b>\$95,397,113</b>	<b>\$95,408,588</b>
General Fund Positions.....	617.10	617.10		
Position Level.....	617.10	617.10		
Fund Sources: General.....	\$95,397,113	\$95,408,588		

**Combined District Courts (116)**

ITEM 45.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
45.	Pre-Trial, Trial, and Appellate Processes (32100)....		\$26,294,376	\$26,300,126
	Trial Processes (32103).....	\$17,007,813		\$17,013,563
	Other Court Costs And Allowances (Criminal Fund) (32104).....	\$7,772,423 \$7,737,503		\$7,772,423 \$7,737,503
	Involuntary Mental Commitments (32105).....	\$1,514,140 \$1,549,060		\$1,514,140 \$1,549,060
	Fund Sources: General.....	\$26,294,376		\$26,300,126
<p>Authority: Article VI, Section 8, Constitution of Virginia, §§ 16.1-69.1 through 16.1-137, 16.1-226 through 16.1-334, 19.2-163, and 37.2-809 through 37.2-813, Code of Virginia.</p> <p>A. Out of the amounts in this Item for Trial Processes shall be paid the salaries of substitute judges and court personnel.</p> <p>B. There is hereby reappropriated the unexpended balances remaining at the close of business on June 30, 2016, in the appropriation made in Item 42, Chapter 665, Acts of Assembly of 2015, in the item details Other Court Costs and Allowances (Criminal Fund) and Involuntary Mental Commitments and the balances remaining in these item details on June 30, 2017.</p> <p>C. Any balance, or portion thereof, in the Item detail Involuntary Mental Commitments, may be transferred between Items 43, 44, 45, and 303, as needed, to cover any deficits incurred for Involuntary Mental Commitments by the Supreme Court or the Department of Medical Assistance Services.</p> <p>D. The appropriation in this Item for Other Court Costs and Allowances shall be used to implement the provisions of § 8.01-384.1:1, Code of Virginia.</p> <p>E. Out of the amount appropriated from the general fund for Other Court Costs and Allowances (Criminal Fund) in this Item, there shall be transferred an amount not to exceed \$95,000 the first year and not to exceed \$95,000 the second year to the Criminal Injuries Compensation Fund, administered by the Virginia Workers' Compensation Commission, for the administration of the physical evidence recovery kit (PERK) program.</p>				
	Total for Combined District Courts.....		<b>\$26,294,376</b>	<b>\$26,300,126</b>
	General Fund Positions.....	204.55		204.55
	Position Level.....	204.55		204.55
	Fund Sources: General.....	\$26,294,376		\$26,300,126
<b>Magistrate System (103)</b>				
46.	Pre-Trial, Trial, and Appellate Processes (32100)....		\$32,538,067	\$32,539,816
	Appellate Review (32101).....	\$2,182,372		\$2,182,372
	Pre-Trial Assistance (32102).....	\$30,355,695		\$30,357,444
	Fund Sources: General.....	\$32,538,067		\$32,539,816
<p>Authority: Article VI, Section 8, Constitution of Virginia; Title 19.2, Chapter 3, Code of Virginia.</p>				
	Total for Magistrate System.....		<b>\$32,538,067</b>	<b>\$32,539,816</b>
	General Fund Positions.....	446.20		446.20
	Position Level.....	446.20		446.20
	Fund Sources: General.....	\$32,538,067		\$32,539,816
	Grand Total for Supreme Court.....		<b>\$435,300,307</b>	<b>\$435,584,077</b> <del>\$435,771,077</del>
	General Fund Positions.....	2,708.71		2,708.71
	Nongeneral Fund Positions.....	6.00		6.00

ITEM 46.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
Position Level.....	2,714.71	2,714.71		
Fund Sources: General.....	\$425,984,918	\$426,268,119 \$426,455,119		
Special.....	\$308,655	\$308,655		
Dedicated Special Revenue.....	\$7,500,000	\$7,500,000		
Federal Trust.....	\$1,506,734	\$1,507,303		

**§ 1-15. BOARD OF BAR EXAMINERS (233)**

47.	Regulation of Professions and Occupations (56000)...			\$1,571,480 \$1,638,875	\$1,571,613 \$1,677,263
	Lawyer Regulation (56019).....	\$1,571,480 \$1,638,875	\$1,571,613 \$1,677,263		
	Fund Sources: Special.....	\$1,571,480 \$1,638,875	\$1,571,613 \$1,677,263		

Authority: Title 54.1, Chapter 39, Articles 3 and 4 and § 54.1-3934, Code of Virginia.

The State Comptroller shall continue the Board of Bar Examiners Fund on the Commonwealth Accounting and Reporting System. Revenues collected from fees paid by applicants for admission to the bar shall be deposited into the Board of Bar Examiners Fund. The source of nongeneral funds included in this item is the Board of Bar Examiners Fund. Interest generated by the fund shall be retained by the fund.

	Total for Board of Bar Examiners.....			\$1,571,480 \$1,638,875	\$1,571,613 \$1,677,263
	Nongeneral Fund Positions.....	8.00 9.00	8.00 9.00		
	Position Level.....	8.00 9.00	8.00 9.00		
	Fund Sources: Special.....	\$1,571,480 \$1,638,875	\$1,571,613 \$1,677,263		

**§ 1-16. JUDICIAL INQUIRY AND REVIEW COMMISSION (112)**

48.	Adjudication Training, Education, and Standards (32600).....			\$639,602	\$639,629
	Judicial Standards (32602).....	\$639,602	\$639,629		
	Fund Sources: General.....	\$639,602	\$639,629		

Authority: Article VI, Section 10, Constitution of Virginia; Title 17.1, Chapter 9, Code of Virginia.

	Total for Judicial Inquiry and Review Commission....			\$639,602	\$639,629
	General Fund Positions.....	3.00	3.00		
	Position Level.....	3.00	3.00		
	Fund Sources: General.....	\$639,602	\$639,629		

**§ 1-17. INDIGENT DEFENSE COMMISSION (848)**

49.	Legal Defense (32700).....			\$49,545,735	\$49,139,877
	Criminal Indigent Defense Services (32701).....	\$42,483,638	\$42,112,854		
	Capital Indigent Defense Services (32702).....	\$3,805,455	\$3,776,479		
	Legal Defense Regulatory Services (32703).....	\$210,488	\$210,488		
	Administrative Services (32722).....	\$3,046,154	\$3,040,056		
	Fund Sources: General.....	\$49,533,747	\$49,127,888		
	Special.....	\$11,988	\$11,989		

Authority: §§ 19.2-163.01 through 19.2-163.8, Code of Virginia

ITEM 49.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
A. Pursuant to § 19.2-163.01, Code of Virginia, the Executive Director of the Indigent Defense Commission shall serve at the pleasure of the commission.				
B. Out of the amounts in this Item, \$200,000 the first year and \$200,000 the second year from the general fund is provided to support two positions to enforce and monitor compliance with the new Standards of Practice for court-appointed counsel.				
Total for Indigent Defense Commission.....			<b>\$49,545,735</b>	<b>\$49,139,877</b>
General Fund Positions.....			546.00	546.00
Position Level.....			546.00	546.00
Fund Sources: General.....			\$49,533,747	\$49,127,888
Special.....			\$11,988	\$11,989

**§ 1-18. VIRGINIA CRIMINAL SENTENCING COMMISSION (160)**

50.	Adjudicatory Research, Planning, and Coordination (32400).....			\$1,161,125	\$1,161,173
	Adjudicatory Research And Planning (32403).....	\$1,161,125	\$1,161,173		
	Fund Sources: General.....	\$1,091,094	\$1,091,142		
	Special.....	\$70,031	\$70,031		

Authority: Title 17.1, Chapter 8, Code of Virginia

A. For any fiscal impact statement prepared by the Virginia Criminal Sentencing Commission pursuant to § 30-19.1:4, Code of Virginia, for which the commission does not have sufficient information to project the impact, the commission shall assign a minimum fiscal impact of \$50,000 to the bill and this amount shall be printed on the face of each such bill, but shall not be codified. The provisions of § 30-19.1:4, paragraph H. shall be applicable to any such bill.

B.1. Notwithstanding the provisions of § 19.2-303.5 of the Code of Virginia, the provisions of that section shall not expire on July 1, 2016, but shall continue in effect until July 1, 2017, and may be implemented in up to four sites.

2. The Virginia Criminal Sentencing Commission, with the concurrence of the chief judge of the circuit court and the Commonwealth's attorney of the locality, shall designate each immediate sanction probation program site. The Virginia Criminal Sentencing Commission shall develop guidelines and procedures for implementing the program, administer the program, and evaluate the results of the program. As part of its administration of the program, the commission shall designate a standard, validated substance abuse assessment instrument to be used by probation and parole districts to assess probationers subject to the immediate sanction probation program. The commission shall also determine outcome measures and collect data for evaluation of the results of the program at the designated sites. The commission shall present a report on the implementation of the immediate sanction probation program, including recidivism results to the Chief Justice, Governor, and the Chairmen of the House and Senate Courts of Justice Committees, the House Appropriations Committee, and the Senate Finance Committee by November 1, 2016.

C. The clerk of each circuit court shall provide the Virginia Criminal Sentencing Commission case data in an electronic format from its own case management system or the statewide Circuit Case Management System. If the statewide Circuit Case Management System is used by the clerk, when requested by the Commission, the Executive Secretary of the Supreme Court shall provide for the transfer of such data to the Commission. The Commission may use the data for research, evaluation, or statistical purposes only and shall ensure the confidentiality and security of the data. The Commission shall only publish statistical reports and analyses based on this data as needed for its annual reports or for other reports as required by the General Assembly. The Commission shall not publish personal or case identifying information, including names, social security numbers and dates of birth, that may be included in the data from a case management system. Upon transfer to the Virginia Criminal Sentencing Commission,

ITEM 50.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
such data shall not be subject to the Virginia Freedom of Information Act.				
Total for Virginia Criminal Sentencing Commission..			<b>\$1,161,125</b>	<b>\$1,161,173</b>
General Fund Positions.....		10.00	10.00	
Position Level.....		10.00	10.00	
Fund Sources: General.....		\$1,091,094	\$1,091,142	
Special.....		\$70,031	\$70,031	

**§ 1-19. VIRGINIA STATE BAR (117)**

51.	Legal Defense (32700).....			\$12,141,216	\$12,141,644
	Criminal Indigent Defense Services (32701).....	\$352,500	\$352,500		
	Indigent Defense, Civil (32704).....	\$11,788,716	\$11,789,144		
	Fund Sources: General.....	\$4,791,216	\$4,791,644		
	Special.....	\$7,350,000	\$7,350,000		

Authority: § 17.1-278, Code of Virginia.

A. The Virginia State Bar and the Legal Services Corporation of Virginia shall not use funds provided for in this act, and those available from financial institutions pursuant to § 54.1-3916, Code of Virginia, to file lawsuits on behalf of aliens present in the United States in violation of law.

B.1. The amounts for Indigent Defense, Civil, include up to \$75,000 the first year and up to \$75,000 the second year from the general fund for the Community Tax Law Project, to provide indigent defense services in matters related to taxation disputes, and educational services involving the rights and responsibilities of taxpayers.

2. The amounts for Indigent Defense, Civil, include up to \$4,350,000 the first year and up to \$4,350,000 the second year from the general fund to provide grants for high quality civil legal assistance to low income Virginians and to promote equal access to justice.

3. The amounts for Indigent Defense, Criminal, include up to \$352,500 the first year and up to \$352,500 the second year from the general fund to provide grants to the Virginia Capital Representation Resource Center for representation to people sentenced to death in Virginia and to promote equal access to justice.

C. The Virginia State Bar and the Legal Services Corporation of Virginia shall annually, on or about January 1, provide a report to the Chairmen of the House Appropriations and Senate Finance Committees, and the Director, Department of Planning and Budget regarding the status of legal services assistance programs in the Commonwealth. The report shall include, but not be limited to, efforts to maintain and improve the accuracy of caseload data, case opening and case closure information, and program activity levels as it relates to clients.

52.	Regulation of Professions and Occupations (56000)...			\$14,833,608	\$14,835,813
	Lawyer Regulation (56019).....	\$14,833,608	\$14,835,813		
	Fund Sources: Dedicated Special Revenue.....	\$14,833,608	\$14,835,813		

Authority: Title 54.1, Chapter 39, Article 2 and §§ 54.1-3935 through 54.1-3938, Code of Virginia.

A. It is the intention of the General Assembly that the Virginia State Bar strictly direct its activities toward the purposes of regulating the legal profession and improving the quality of legal services available to the people of the Commonwealth, and that, insofar as reasonably possible, the Virginia State Bar shall refrain from commercial or other undertakings not necessarily or reasonably related to the above stated purposes.

B. Out of the amounts appropriated for this Item, \$1,000,000 the first year and \$1,000,000 the second year from revenues generated from the assessment of annual fees by the Supreme Court of Virginia upon members of the Virginia State Bar, pursuant to Chapter 847, 2007 Acts of Assembly, is provided for transfer to the Clients' Protection Fund of the Virginia State Bar.

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	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
C. The Virginia State Bar shall review its member fee structure and make changes necessary to ensure fees are set at amounts needed only to cover costs and to provide for an appropriate balance.				
Total for Virginia State Bar.....			\$26,974,824	\$26,977,457
Nongeneral Fund Positions.....	89.00	89.00		
Position Level.....	89.00	89.00		
Fund Sources: General.....	\$4,791,216	\$4,791,644		
Special.....	\$7,350,000	\$7,350,000		
Dedicated Special Revenue.....	\$14,833,608	\$14,835,813		

**§ 1-20. JUDICIAL DEPARTMENT REVERSION CLEARING ACCOUNT (104)**

53.	Across the Board Reductions (71400).....			\$2,470,743	\$3,377,395
				\$877,395	\$3,502,395
	Fund Sources: General.....	\$2,470,743	\$3,377,395		
		\$877,395	\$3,502,395		

Authority: Discretionary Inclusion.

A. Sufficient funding is included within the Judicial Department to support a total of 408 circuit and district court judgeships in fiscal year 2017 and 407 circuit and district court judgeships in fiscal year 2018. The vacant judgeships to be filled as of July 1, 2016, are as follows:

1. Circuit Court judgeships: one each in the 10th, 19th, and 23rd Circuits; and two each in the 15th and 25th Circuits, for a total of seven Circuit Court judgeships to be filled as of July 1, 2016.
2. General District Court judgeships: one each in the 7th, 16th, 19th, 21st, 24th and 31st Districts; and two in the 15th District, for a total of eight General District Court judgeships to be filled as of July 1, 2016. ~~The general district court judges of the seventh district shall render assistance on a regular basis to the general district court judges of the eighth district by appropriate designation.~~
3. Juvenile and Domestic Relations District Court judgeships: one each in the 5th, 17th, and 29th Districts, for a total of three Juvenile and Domestic Relations District Court judgeships to be filled as of July 1, 2016, and one in the 13th District to be filled as of August 1, 2016.

B. The vacant judgeships to be filled as of July 1, 2017, are as follows:

1. Circuit Court judgeships: one each in the 3rd, 6th, and 7th Circuits, and two in the 19th Circuit, for a total of five Circuit Court judgeships to be filled as of July 1, 2017.
2. General District Court judgeship: one each in the 8th and 15th Districts, for a total of two General District Court judgeships to be filled as of July 1, 2017.
3. Juvenile and Domestic Relations District Court judgeships: one each in the 2nd, 5th, and 20th Districts, for a total of three Juvenile and Domestic Relations District Court judgeships to be filled as of July 1, 2017.

C. On or before June 30, 2018, the Director of the Department of Planning and Budget shall revert an amount estimated at \$198,822 from Judicial agency balances.

D. Notwithstanding the provisions of § 17.1-507, Code of Virginia, upon the next vacancy of an authorized judgeship in the 19th judicial circuit, the maximum number of authorized judgeships in the 19th judicial circuit shall be reduced from 15 to 14.

B-E. Included within this item is ~~\$1,593,348 the first year and \$2,500,000~~ \$2,625,000 the second year from the general fund for a compensation initiative for district court clerks and deputy clerks; effective ~~November 10, 2016~~ September 10, 2017. The annualized cost of the compensation initiative shall not exceed ~~\$2,500,000~~ \$3,500,000 and the

ITEM 53.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
implementation is subject to approval by the Committee on District Courts.				
<i>F. On or before June 30, 2017, the Director, Department of Planning and Budget, shall authorize the reversion to the general fund of \$1,500,000 the first year from the fiscal year 2016 balances of the Criminal Fund.</i>				
Total for Judicial Department Reversion Clearing Account.....			<del>\$2,470,743</del> \$877,395	<del>\$3,377,395</del> \$3,502,395
Fund Sources: General.....	<del>\$2,470,743</del> \$877,395	<del>\$3,377,395</del> \$3,502,395		
TOTAL FOR JUDICIAL DEPARTMENT.....			<del>\$517,663,816</del> \$516,137,863	<del>\$518,451,221</del> \$518,868,871
General Fund Positions.....	3,267.71	3,267.71		
Nongeneral Fund Positions.....	<del>103.00</del> 104.00	<del>103.00</del> 104.00		
Position Level.....	<del>3,370.71</del> 3,371.71	<del>3,370.71</del> 3,371.71		
Fund Sources: General.....	<del>\$484,511,320</del> \$482,917,972	<del>\$485,295,817</del> \$485,607,817		
Special.....	<del>\$9,312,154</del> \$9,379,549	<del>\$9,312,288</del> \$9,417,938		
Dedicated Special Revenue.....	\$22,333,608	\$22,335,813		
Federal Trust.....	\$1,506,734	\$1,507,303		

ITEM 54.	Item Details(\$)		Appropriations(\$)	
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**EXECUTIVE DEPARTMENT**

**EXECUTIVE OFFICES**

**§ 1-21. OFFICE OF THE GOVERNOR (121)**

54.	Administrative and Support Services (79900).....			\$4,047,738	\$4,047,990
	General Management and Direction (79901).....	\$4,047,738	\$4,047,990		
	Fund Sources: General.....	\$4,047,738	\$4,047,990		

Authority: Article V, Constitution of Virginia; Title 2.2, Chapter 1, Code of Virginia.

Out of this appropriation shall be paid the salary of the Governor, \$175,000 the first year and \$175,000 the second year.

55.	Historic and Commemorative Attraction Management (50200).....			\$757,444	\$763,036
	Executive Mansion Operations (50207).....	\$757,444	\$763,036		
	Fund Sources: General.....	\$757,444	\$763,036		

Authority: Title 2.2, Chapter 1, Code of Virginia.

56.	Governmental Affairs Services (70100).....			\$492,664	\$492,664
	Intergovernmental Relations (70101).....	\$492,664	\$492,664		
	Fund Sources: General.....	\$340,780	\$340,780		
	Commonwealth Transportation.....	\$151,884	\$151,884		

Authority: Title 2.2, Chapter 3, Code of Virginia.

57.	Disaster Planning and Operations (72200).....			<b>a sum sufficient</b> <i>a sum sufficient</i>	
	Disaster Operations (72202).....	a sum sufficient			
	Disaster Assistance (72203).....	a sum sufficient			

Authority: Title 44, Chapter 3.2, Code of Virginia.

A.1. The amount for Disaster Assistance is from all funds of the state treasury, not constitutionally restricted, and is to be effective only in the event of a declared state of emergency or authorization by the Governor of the sum sufficient, pursuant to § 44-146.28, Code of Virginia. Any appropriation authorized by this Item shall be transferred to state agencies for payment of eligible costs according to written directions of the Governor or by such other person or persons as may be designated by him for this purpose.

2. Any amount authorized for expenditure pursuant to § 44-146.28, Code of Virginia, shall be paid to eligible jurisdictions in accordance with guidelines and procedures established by the Department of Emergency Management, pursuant to § 44-146.28, Code of Virginia.

B. In the event of a Presidentially declared disaster, the state and local share of any federal assistance, hazard mitigation, or flood control programs in which the state participates will be determined in accordance with the procedures in the "Commonwealth of Virginia Emergency Operations Plan, Basic Plan," promulgated by the Department of Emergency Management. The state share of any such program shall be no less than 10 percent.

	Total for Office of the Governor.....			<b>\$5,297,846</b>	<b>\$5,303,690</b>
	General Fund Positions.....	41.67	41.67		
	Nongeneral Fund Positions.....	1.33	1.33		
	Position Level.....	43.00	43.00		
	Fund Sources: General.....	\$5,145,962	\$5,151,806		
	Commonwealth Transportation.....	\$151,884	\$151,884		

ITEM 57.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
<b>§ 1-22. LIEUTENANT GOVERNOR (119)</b>				
58.	Administrative and Support Services (79900).....		\$368,927	\$368,967
	General Management and Direction (79901).....	\$368,927	\$368,967	
	Fund Sources: General.....	\$368,927	\$368,967	
	Authority: Article V, Sections 13, 14, and 16, Constitution of Virginia; and Title 24.2, Chapter 2, Article 3, Code of Virginia.			
	Out of this appropriation shall be paid:			
	1. The salary of the Lieutenant Governor, \$36,321 the first year and \$36,321 the second year;			
	2. Expenses of the Lieutenant Governor during sessions of the General Assembly on the same basis as for the members of the General Assembly;			
	3. Salaries and benefits for compensation of up to three staff positions in the Office of the Lieutenant Governor.			
	Total for Lieutenant Governor.....		<b>\$368,927</b>	<b>\$368,967</b>
	General Fund Positions.....	4.00	4.00	
	Position Level.....	4.00	4.00	
	Fund Sources: General.....	\$368,927	\$368,967	
<b>§ 1-23. ATTORNEY GENERAL AND DEPARTMENT OF LAW (141)</b>				
59.	Legal Advice (32000).....		\$30,808,369	\$30,810,242
	State Agency/Local Legal Assistance and Advice (32002).....	\$30,808,369	\$30,810,242	
	Fund Sources: General.....	\$20,804,247	\$20,805,007	
	Special.....	\$9,429,379	\$9,430,492	
	Federal Trust.....	\$574,743	\$574,743	
	Authority: Title 2.2 Chapter 5, Code of Virginia.			
	A. Out of this appropriation shall be paid:			
	1. The salary of the Attorney General, \$150,000 the first year and \$150,000 the second year.			
	2. Expenses of the Attorney General not otherwise reimbursed, \$9,000 each year in equal monthly installments.			
	3. Salary expenses necessary to provide legal services pursuant to Title 2.2, Chapter 5, Code of Virginia.			
	B. Out of this appropriation, \$738,536 the first year and \$738,536 the second year from the general fund is designated for efforts to enforce the 1998 Tobacco Master Settlement Agreement and Article 1 (§ 3.2-4200, et seq.), Chapter 42, Title 3.2, Code of Virginia. The Department of Law shall be responsible for enforcement of Article 1 (§ 3.2-4200, et seq.), Chapter 42, Title 3.2, Code of Virginia and the 1998 Tobacco Master Settlement Agreement. The general fund shall be reimbursed on a proportional basis from the Tobacco Indemnification and Community Revitalization Fund and the Virginia Tobacco Settlement Fund for costs associated with the enforcement of the 1998 Tobacco Master Settlement Agreement pursuant to transfers directed by Item 474, paragraphs A.2 and B.2, and § 3-1.01, Paragraph N of this act.			
	C. Upon notification by the Attorney General, agencies that administer programs which are funded wholly or partially from nongeneral fund appropriations shall transfer to the Department of Law the necessary funds to cover the costs of legal services that are related to such nongeneral funds. The Attorney General, in consultation with the respective agency heads, shall determine the amounts for transfer. It is the intent of the General Assembly that legal services provided by the Office of the Attorney General for general fund-supported			

ITEM 59.	Item Details(\$)		Appropriations(\$)	
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programs shall be provided out of this appropriation.

D. At the request of the Attorney General, the Director, Department of Planning and Budget, shall provide an amount not to exceed \$100,000 per year from the Miscellaneous Contingency Reserve Account to pay the compensation, fees, and expenses of (i) counsel appointed by the Office of the Attorney General in actions brought pursuant to § 15.2-1643, Code of Virginia, to cause court facilities to be made secure, or put in good repair, or rendered otherwise safe, and (ii) counsel representing court personnel, including clerks, judges, and Justices in actions arising out of their official duties.

E.1. Pursuant to Chapter 577 of the Acts of Assembly of 2008, the Office of the Attorney General shall provide legal service in civil matters and consultation and legal advice in suits and other legal actions to soil and water conservation district directors and districts upon the request of those district directors or districts at no charge, inclusive of all fees, expenses, or other costs associated with litigation, excluding the payment of damages.

2. If the Office of the Attorney General is unable to provide legal services to the soil and water conservation districts, and as a result the districts incur costs from retaining other counsel, then the Director of the Department of Planning and Budget shall transfer general fund appropriations from the Office of the Attorney General to the Department of Conservation and Recreation in an amount equal to the cost incurred by the soil and water conservation districts to be used to reimburse the districts for costs incurred.

F. The Attorney General shall prepare and submit a report to the Chairmen of the House Appropriations and Senate Finance Committees by November 1 of each year detailing expenditures in the prior fiscal year for special outside counsel by any executive branch agencies. The report shall include the reasoning why outside counsel is necessary, the hourly rate charged by outside counsel, total expenditures, and funding source.

G. On or before June 30, 2017, the Director, Department of Planning and Budget, shall authorize the reversion to the general fund of \$600,000, representing prior year balances in the Legal Advice program.

60.	Medicaid Program Services (45600).....			\$13,550,426	\$13,550,426
	Medicaid Fraud Investigation and Prosecution (45614).....	\$13,550,426	\$13,550,426		
	Fund Sources: Special.....	\$3,554,322	\$3,554,322		
	Federal Trust.....	\$9,996,104	\$9,996,104		
	Authority: Title 32.1, Chapter 9, Code of Virginia.				
61.	Regulation of Business Practices (55200).....			\$3,540,386	<del>\$3,540,386</del> \$3,040,386
	Regulatory and Consumer Advocacy (55201).....	\$3,540,386	<del>\$3,540,386</del> \$3,040,386		
	Fund Sources: General.....	\$1,620,729	\$1,620,729		
	Special.....	\$1,919,657	<del>\$1,919,657</del> \$1,419,657		

Authority: Title 2.2, Chapter 5, Code of Virginia.

Included in this Item is \$1,250,000 the first year and ~~\$1,250,000~~ \$750,000 the second year from special funds for the Regulatory, Consumer Advocacy, Litigation, and Enforcement Revolving Trust Fund as established in Item 48 of Chapter 966 of the Acts of Assembly 1994 and amended herein. The Department of Law is authorized to deposit to the fund any fees, civil penalties, costs, recoveries, or other moneys which from time to time may become available as a result of regulatory and consumer advocacy litigation, litigation in which the Office of the Attorney General participates, or civil enforcement efforts including, but not limited to, those brought pursuant to Article 1 (§ 3.2-4200 et seq.) and Article 3 (§ 3.2-4204 et seq.) of Chapter 42 of Title 3.2 of the Code of Virginia. The Department of Law is also authorized to deposit to the fund any attorneys' fees which from time to time may be obtained. Any deposit to, and interest earnings on, the fund shall be retained in the fund, provided, however, that any amounts contained in the fund that exceed ~~\$1,250,000~~ \$750,000 on the final day of the fiscal year shall be deposited to the

ITEM 61.	Item Details(\$)		Appropriations(\$)	
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<p>credit of the general fund. In addition to the uses of the fund permitted by Item 48 of Chapter 966 of the Acts of Assembly of 1994, the fund may be used to pay costs associated with enforcement efforts pursuant to Article 1 (§ 3.2-4200 et seq.) and Article 3 (§ 3.2-4204 et seq.) of Chapter 42 of Title 3.2 of the Code of Virginia, costs associated with litigation initiated by the Office of the Attorney General, and costs associated with civil commitment procedures pursuant to Chapter 9 of Title 37.2 of the Code of Virginia.</p>				
62.	<p>Any judgment rendered pursuant to the Virginia Tort Claims Act shall be paid out of the state treasury under the direction of the Attorney General. Claims against agencies funded solely from the general fund shall be paid from the general fund. Claims against agencies funded by both general and nongeneral funds shall be paid from a combination of funds based upon the appropriations from such funds.</p>			
63.	<p>Personnel Management Services (70400).....</p>		\$429,222	\$429,222
	<p>Compliance and Enforcement (70414).....</p>		\$429,222	\$429,222
	<p>Fund Sources: General.....</p>		\$402,773	\$402,773
	<p>Federal Trust.....</p>		\$26,449	\$26,449
<p>Authority: Title 2.2, Chapter 26, Article 12, and Chapter 39; Title 15.2, Chapter 16, § 15.2-1604, Code of Virginia.</p>				
<p><i>The Attorney General shall prepare and submit to the Chairmen of the House Appropriations and Senate Finance Committees by July 30, 2017 a report detailing the administrative salary adjustments approved for the Department during fiscal years 2015, 2016 and 2017. The report shall include the total fiscal impact of these actions as well as the funding sources used to support these adjustments both in the current biennium and future biennia.</i></p>				
	<p>Total for Attorney General and Department of Law....</p>		<b>\$48,328,403</b>	<b>\$48,330,276</b> <del>\$47,830,276</del>
	<p>General Fund Positions.....</p>		218.00	218.00
	<p>Nongeneral Fund Positions.....</p>		194.00	194.00
	<p>Position Level.....</p>		412.00	412.00
	<p>Fund Sources: General.....</p>		\$22,827,749	\$22,828,509
	<p>Special.....</p>		\$14,903,358	<del>\$14,904,471</del> \$14,404,471
	<p>Federal Trust.....</p>		\$10,597,296	\$10,597,296
<p><b>Division of Debt Collection (143)</b></p>				
64.	<p>Collection Services (74000).....</p>		\$2,512,562	\$2,512,562
	<p>State Collection Services (74001).....</p>		\$2,293,746	\$2,293,746
	<p>State Fraud Recovery Services (74002).....</p>		\$218,816	\$218,816
	<p>Fund Sources: Special.....</p>		\$2,512,562	\$2,512,562
<p>Authority: Title 2.2, Chapter 5 and Title 8.01, Chapter 3, Code of Virginia.</p>				
<p>A. 1. The Division of Debt Collection shall provide legal services and advice related to the collection of funds owed the Commonwealth, including the recovery of certain funds pursuant to the Virginia Fraud Against Taxpayers Act (FATA) (§ 8.01-216.1 et seq.) by the Commonwealth as defined by 8.01-216.2. All agencies and institutions shall follow the procedures for collection of funds owed the Commonwealth as specified in §§ 2.2-518 and 2.2-4800 et seq. of the Code of Virginia, and all agencies, institutions, and political subdivisions shall follow the procedures for recovery of funds as specified in §§ 2.2-518 and 8.01-216.1 et seq. of the Code of Virginia, except as provided otherwise therein or in this act.</p>				
<p>2. The provisions of this section shall not apply to any investigations, litigation, or recoveries related to matters handled under the authority granted to the Medicaid Fraud Control Unit within the Department of Law pursuant to the provisions of 42 C.F.R. § 1007 et seq. All matters pertaining to the recovery of such Medicaid funds, including damages, fines, and penalties received pursuant to FATA, are specifically excluded from the provisions of this section.</p>				

ITEM 64.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
<p>B.1. The Division of Debt Collection is entitled to retain as fees up to 30 percent of any revenues generated by its collection services pursuant to paragraph A. to pay operating costs supported by the appropriation in this item.</p> <p>2. Upon closing its books at the end of the fiscal year, after the execution of all transfers to state agencies having claims collected by the Division of Debt Collection, the Division may retain up to a \$400,000 balance in its operating accounts. Any amounts contained in the operating accounts that exceed \$400,000 on the final day of the fiscal year shall be deposited to the credit of the general fund no later than September 1 of the succeeding fiscal year.</p> <p>3. The Division of Debt Collection is entitled to retain as special revenue up to 30 percent of any funds recovered on behalf of the Commonwealth as well as any separate attorney's fees awarded to the Commonwealth pursuant to FATA for its fraud recovery services pursuant to paragraph A., to pay operating costs supported by the appropriation in this item.</p> <p>4. There shall be created on the books of the Comptroller a special, nonreverting, revolving fund to be known as the Fraud Recovery Fund (FATA Fund). The Division is authorized to deposit to the FATA Fund any revenue, fees, civil penalties, costs, recoveries, or other moneys which from time to time may become available as a result of its fraud recovery services. The Division is also authorized to deposit to the FATA Fund any attorneys' fees which from time to time may be awarded to the Commonwealth. Any deposit to, and interest earnings on, the FATA Fund shall be retained in the FATA Fund. The Division shall retain 30% of any funds recovered as well as any separate attorney's fees awarded to the Commonwealth pursuant to FATA, and shall transfer the remaining funds to the appropriate state agencies and political subdivisions on a periodic basis or such other period of time approved by the Division.</p> <p>5. The Director, Department of Planning and Budget, may grant an exception to the provisions in paragraph B.2. if the Division of Debt Collection can show just cause.</p> <p>C. The Division of Debt Collection may contract with private collection agents for the collection of debts amounting to less than \$15,000.</p>				
Total for Division of Debt Collection.....			\$2,512,562	\$2,512,562
Nongeneral Fund Positions.....	26.00	26.00		
Position Level.....	26.00	26.00		
Fund Sources: Special.....	\$2,512,562	\$2,512,562		
Grand Total for Attorney General and Department of Law.....			\$50,840,965	\$50,842,838 \$50,342,838
General Fund Positions.....	218.00	218.00		
Nongeneral Fund Positions.....	220.00	220.00		
Position Level.....	438.00	438.00		
Fund Sources: General.....	\$22,827,749	\$22,828,509		
Special.....	\$17,415,920	\$17,417,033 \$16,917,033		
Federal Trust.....	\$10,597,296	\$10,597,296		
<b>§ 1-24. SECRETARY OF THE COMMONWEALTH (166)</b>				
65. Central Records Retention Services (73800).....			\$2,160,703	\$2,184,148
Appointments (73801).....	\$1,407,033	\$1,407,434		
Authentications (73802).....	\$65,622	\$65,622		
Judicial Support Services (73803).....	\$539,571	\$562,615		
Lobbyist and Organization Registrations (73804)....	\$11,961	\$11,961		
Notaries Commissioning (73805).....	\$136,516	\$136,516		
Fund Sources: General.....	\$2,071,820	\$2,095,265		

ITEM 65.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
Dedicated Special Revenue.....	\$88,883	\$88,883		
Authority: §§ 2.2-400 through 2.2-435, 2.2-3106, Code of Virginia.				
A. The fee charged by the Secretary of the Commonwealth under the provisions of § 2.2-409, Code of Virginia, for a Service of Process shall be \$28.00.				
B. Included in the general fund appropriation for this item is \$18,470 each year for costs related to the Virginia Indian Advisory Board, pursuant to the provisions of House Bill 814 of the 2016 General Assembly.				
Total for Secretary of the Commonwealth.....			<b>\$2,160,703</b>	<b>\$2,184,148</b>
General Fund Positions.....	17.00	17.00		
Position Level.....	17.00	17.00		
Fund Sources: General.....	\$2,071,820	\$2,095,265		
Dedicated Special Revenue.....	\$88,883	\$88,883		

**§ 1-25. OFFICE OF THE STATE INSPECTOR GENERAL (147)**

66. Inspection, Monitoring, and Auditing Services (78700).....			\$6,734,823	<del>\$6,735,117</del> \$6,619,995
Inspection and Compliance of Program Operations (78701).....	\$6,734,823	<del>\$6,735,117</del> \$6,619,995		
Fund Sources: General.....	\$4,600,806	<del>\$4,601,100</del> \$4,485,978		
Special.....	\$282,390	\$282,390		
Commonwealth Transportation.....	\$1,851,627	\$1,851,627		

Authority: Title 2.2, Chapter 3.2, Code of Virginia.

A. Out of this appropriation shall be paid the annual salary of the State Inspector General \$157,945 from July 1, 2016 to June 30, 2017 and \$157,945 from July 1, 2017 to June 30, 2018.

B. The Office of the State Inspector General shall be responsible for investigating the management and operations of state agencies and nonstate agencies to determine whether acts of fraud, waste, abuse, or corruption have been committed or are being committed by state officers or employees or any officers or employees of a nonstate agency, including any allegations of criminal acts affecting the operations of state agencies or nonstate agencies. However, no investigation of an elected official of the Commonwealth to determine whether a criminal violation has occurred, is occurring, or is about to occur under the provisions of § 52-8.1 shall be initiated, undertaken, or continued except upon the request of the Governor, the Attorney General, or a grand jury.

C. The Office of the State Inspector General shall be responsible for coordinating and recommending standards for those internal audit programs in existence as of July 1, 2012, and developing and maintaining other internal audit programs in state agencies and nonstate agencies as needed in order to ensure that the Commonwealth's assets are subject to appropriate internal management controls. The State Inspector General shall assess the condition of the accounting, financial, and administrative controls of state agencies and nonstate agencies.

D. The Office of the State Inspector General shall be responsible for providing timely notification to the appropriate attorney for the Commonwealth and law-enforcement agencies whenever the State Inspector General has reasonable grounds to believe there has been a violation of state criminal law.

E. The Office of the State Inspector General shall be responsible for assisting citizens in understanding their rights and the processes available to them to express concerns regarding the activities of a state agency or nonstate agency or any officer or employee of the foregoing;

ITEM 66.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
<p>F.1. The Office of the State Inspector General shall be responsible for development, coordination and management of a program to train internal auditors. The Office of the State Inspector General shall assist internal auditors of state agencies and institutions in receiving continued professional education as required by professional standards. The Office of the State Inspector General shall coordinate its efforts with state institutions of higher education and offer training programs to the internal auditors as well as coordinate any special training programs for the internal auditors.</p> <p>2. To fund the direct costs of hiring training instructors, the Office of the State Inspector General is authorized to collect fees from training participants to provide training events for internal auditors. A nongeneral fund appropriation of \$125,000 the first year and \$125,000 the second year is provided for use by the Office of the State Inspector General to facilitate the collection of payments from training participants for this purpose.</p>				
Total for Office of the State Inspector General.....			\$6,734,823	<del>\$6,735,117</del> \$6,619,995
General Fund Positions.....	24.00	24.00		
Nongeneral Fund Positions.....	16.00	16.00		
Position Level.....	40.00	40.00		
Fund Sources: General.....	\$4,600,806	<del>\$4,601,100</del> \$4,485,978		
Special.....	\$282,390	\$282,390		
Commonwealth Transportation.....	\$1,851,627	\$1,851,627		
<b>§ 1-26. INTERSTATE ORGANIZATION CONTRIBUTIONS (921)</b>				
67. Governmental Affairs Services (70100).....			\$190,938	\$190,938
Interstate Affairs (70103).....	\$190,938	\$190,938		
Fund Sources: General.....	\$190,938	\$190,938		
Authority: Discretionary Inclusion.				
Out of the amounts for Interstate Affairs funding is provided for the following organizational memberships:				
1. National Association of State Budget Officers				
2. National Governors' Association				
3. Federal Funds Information for States				
Total for Interstate Organization Contributions.....			\$190,938	\$190,938
Fund Sources: General.....	\$190,938	\$190,938		
TOTAL FOR EXECUTIVE OFFICES.....			\$65,594,202	<del>\$65,625,698</del> \$65,010,576
General Fund Positions.....	304.67	304.67		
Nongeneral Fund Positions.....	237.33	237.33		
Position Level.....	542.00	542.00		
Fund Sources: General.....	\$35,206,202	<del>\$35,236,585</del> \$35,121,463		
Special.....	\$17,698,310	<del>\$17,699,423</del> \$17,199,423		
Commonwealth Transportation.....	\$2,003,511	\$2,003,511		
Dedicated Special Revenue.....	\$88,883	\$88,883		
Federal Trust.....	\$10,597,296	\$10,597,296		

ITEM 68.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018

**OFFICE OF ADMINISTRATION**

**§ 1-27. SECRETARY OF ADMINISTRATION (180)**

68.	Administrative and Support Services (79900).....			\$1,281,613	\$1,281,706
	General Management and Direction (79901).....	\$514,947	\$514,947		
	Accounting and Budgeting Services (79903).....	\$766,666	\$766,759		
	Fund Sources: General.....	\$1,281,613	\$1,281,706		
	Authority: Title 2.2, Chapter 2, Code of Virginia.				
	Total for Secretary of Administration.....			<b>\$1,281,613</b>	<b>\$1,281,706</b>
	General Fund Positions.....	11.00	11.00		
	Position Level.....	11.00	11.00		
	Fund Sources: General.....	\$1,281,613	\$1,281,706		

**§ 1-28. COMPENSATION BOARD (157)**

69.	Financial Assistance for Sheriffs (30700).....			<del>\$459,750,097</del>	<del>\$465,971,870</del>
				<i>\$454,667,560</i>	<i>\$461,578,851</i>
	Financial Assistance for Regional Jail Operations (30710).....	<del>\$149,816,206</del>	<del>\$152,453,826</del>		
		<i>\$147,429,386</i>	<i>\$147,486,762</i>		
	Financial Assistance for Local Law Enforcement (30712).....	<del>\$92,361,763</del>	<del>\$93,469,338</del>		
		<i>\$91,529,820</i>	<i>\$92,907,980</i>		
	Financial Assistance for Local Court Services (30713).....	<del>\$54,630,110</del>	<del>\$55,293,094</del>		
		<i>\$54,132,394</i>	<i>\$56,024,027</i>		
	Financial Assistance to Sheriffs (30716).....	<del>\$12,281,873</del>	<del>\$12,296,149</del>		
		<i>\$12,267,597</i>	<i>\$13,064,356</i>		
	Financial Assistance for Local Jail Operations (30718).....	<del>\$150,660,145</del>	<del>\$152,459,463</del>		
		<i>\$149,308,363</i>	<i>\$152,095,726</i>		
	Fund Sources: General.....	<del>\$451,750,097</del>	<del>\$457,971,870</del>		
		<i>\$446,667,560</i>	<i>\$453,578,851</i>		
	Dedicated Special Revenue.....	\$8,000,000	\$8,000,000		

Authority: Title 15.2, Chapter 16, Articles 3 and 6.1; and §§ 53.1-83.1 and 53.1-85, Code of Virginia.

A.1. The annual salaries of the sheriffs of the counties and cities of the Commonwealth shall be as hereinafter prescribed, according to the population of the city or county served and whether the sheriff is charged with civil processing and courtroom security responsibilities only, or the added responsibilities of law enforcement or operation of a jail, or both. Execution of arrest warrants shall not, in and of itself, constitute law enforcement responsibilities for the purpose of determining the salary for which a sheriff is eligible.

2. Whenever a sheriff is such for a county and city together, or for two or more cities, the aggregate population of such political subdivisions shall be the population for the purpose of arriving at the salary of such sheriff under the provisions of this item and such sheriff shall receive as additional compensation the sum of one thousand dollars.

<b>July 1, 2016</b>	<b>July 1, 2017</b>	<b>December 1, 2017</b>
to	to	to
<b>June 30, 2017</b>	<b>November 30, 2017</b>	<b>June 30, 2018</b>

**Law Enforcement and Jail Responsibility**

Less than 10,000	\$68,077	\$68,077	\$68,077
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ITEM 69.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
10,000 to 19,999	\$78,248	\$78,248		\$78,248
20,000 to 39,999	\$85,988	\$85,988		\$85,988
40,000 to 69,999	\$93,466	\$93,466		\$93,466
70,000 to 99,999	\$103,850	\$103,850		\$103,850
100,000 to 174,999	\$115,391	\$115,391		\$115,391
175,000 to 249,999	\$121,463	\$121,463		\$121,463
250,000 and above	\$134,958	\$134,958		\$134,958

**Law Enforcement or Jail**

Less than 10,000	\$66,714	\$66,714		\$66,714
10,000 to 19,999	\$76,683	\$76,683		\$76,683
20,000 to 39,999	\$84,267	\$84,267		\$84,267
40,000 to 69,999	\$91,596	\$91,596		\$91,596
70,000 to 99,999	\$101,774	\$101,774		\$101,774
100,000 to 174,999	\$113,081	\$113,081		\$113,081
175,000 to 249,999	\$119,034	\$119,034		\$119,034
250,000 and above	\$132,934	\$132,934		\$132,934

**No Law Enforcement or Jail Responsibility**

Less than 10,000	\$62,686	\$62,686		\$62,686
10,000 to 19,999	\$69,651	\$69,651		\$69,651
20,000 to 39,999	\$77,388	\$77,388		\$77,388
40,000 to 69,999	\$85,988	\$85,988		\$85,988
70,000 to 99,999	\$95,543	\$95,543		\$95,543
100,000 to 174,999	\$106,158	\$106,158		\$106,158
175,000 to 249,999	\$111,743	\$111,743		\$111,743
250,000 and above	\$125,511	\$125,511		\$125,511

B. Out of the amounts provided for in this Item, no expenditures shall be made to provide security devices such as magnetometers in standard use in major metropolitan airports. Personnel expenditures for operation of such equipment incidental to the duties of courtroom and courthouse security deputies may be authorized, provided that no additional expenditures for personnel shall be approved for the principal purpose of operating these devices.

C. Notwithstanding the provisions of § 53.1-120, or any other section of the Code of Virginia, unless a judge provides the sheriff with a written order stating that a substantial security risk exists in a particular case, no courtroom security deputies may be ordered for civil cases, not more than one deputy may be ordered for criminal cases in a district court, and not more than two deputies may be ordered for criminal cases in a circuit court. In complying with such orders for additional security, the sheriff may consider other deputies present in the courtroom as part of his security force.

D. Should the scheduled opening date of any facility be delayed for which funds are available in this Item, the Director, Department of Planning and Budget, may allot such funds as the Compensation Board may request to allow the employment of staff for training purposes not more than 45 days prior to the rescheduled opening date for the facility.

E. Consistent with the provisions of paragraph B of Item 76, the board shall allocate the additional jail deputies provided in this appropriation using a ratio of one jail deputy for every 3.0 beds of operational capacity. Operational capacity shall be determined by the Department of Corrections. No additional deputy sheriffs shall be provided from this appropriation to a local jail in which the present staffing exceeds this ratio unless the jail is overcrowded. Overcrowding for these purposes shall be defined as when the average annual daily population exceeds the operational capacity. In those jails experiencing overcrowding, the board may allocate one additional jail deputy for every five average



ITEM 69.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
American Correctional Association.				
b. For sheriffs that have not achieved one of the above accreditations:				
1. 3.1 percent for all sheriffs who certify their compliance with the established minimum criteria for the Sheriffs' Career Development Program; and				
2. 3.1 percent additional increase for sheriffs who certify their compliance with the established minimum criteria for the Sheriffs' Career Development Program and operate a jail; and				
3. 3.1 percent additional increase for all sheriffs who certify their compliance with the established minimum criteria for the Sheriffs' Career Development Program and provide primary law enforcement services in the county.				
4. The provisions of subparagraphs 2.b.1. through 2.b.3. of this paragraph shall apply only to sheriffs certifying their compliance with the established minimum criteria for the Sheriffs' Career Development Program prior to July 1, 2016, and shall expire on June 30, 2018.				
5. Other constitutional officers' associations may request the General Assembly to include certification in a program agreed upon by the Compensation Board and the officers' associations by the Weldon Cooper Center for Public Service to the requirements for participation in their respective career development programs.				
K. Notwithstanding the provisions of Article 7, Chapter 15, Title 56, Code of Virginia, \$8,000,000 the first year and \$8,000,000 the second year from the Wireless E-911 Fund is included in this appropriation for local law enforcement dispatchers to offset dispatch center operations and related costs.				
L. Notwithstanding the provisions of §§ 53.1-131 through 53.1-131.3, Code of Virginia, local and regional jails may charge inmates participating in inmate work programs a reasonable daily amount, not to exceed the actual daily cost, to operate the program.				
M. Included in this appropriation is \$1,064,770 the first year and \$1,064,770 the second year from the general fund for the Compensation Board to contract for services to be provided by the Virginia Center for Policing Innovation to implement and maintain the interface between all local and regional jails in the Commonwealth and the Statewide Automated Victim Notification (SAVIN) system, to provide for SAVIN program coordination, and to maintain the interface between SAVIN and the Virginia Sex Offender Registry. All law enforcement agencies receiving general funds pursuant to this item shall provide the data requirements necessary to participate in the SAVIN system.				
N. Included in this appropriation is <del>\$14,276 in the first year and \$28,552</del> \$23,793 in the second year from the general fund to provide for increased participation; <del>effective December 1, 2016,</del> effective August 1, 2017, in the Sheriffs' Career Development Program.				
O. Included in this appropriation is <del>\$939,021 in the first year and \$1,878,042</del> \$1,862,058 in the second year from the general fund to provide for increased participation; <del>effective December 1, 2016,</del> effective August 1, 2017, in the Sheriff's Master Deputy Career Development Program.				
P. Included in this appropriation is \$1,824,731 in the first year and \$1,992,042 in the second year from the general fund to support staffing costs associated with the expansion project at Central Virginia Regional Jail.				
Q. Included in this appropriation is \$171,693 in the first year and \$179,474 in the second year from the general fund to support staffing costs associated with the expansion project at Pamunkey Regional Jail.				
R. Included in this appropriation is <del>\$3,633,037 in the first year and \$8,719,289</del> \$7,266,074 in the second year from the general fund to implement a salary compression plan for sheriffs' offices and regional jails; <del>effective January 1, 2017,</del> effective August 1, 2017. The base salary of each sworn officer with three or more years of continuous service shall be increased by an amount equal to \$80 for each full year of service, up to a maximum of thirty years. The base salary of each non-sworn officer with three or more years of				



ITEM 70.	Item Details(\$)		Appropriations(\$)	
	First Year	Second Year	First Year	Second Year
	FY2017	FY2018	FY2017	FY2018

2. No such payment shall be made unless the program has been approved by the Department of Corrections or the Department of Criminal Justice Services. Alternative punishment or alternative to incarceration programs, however, may include supervised work experience, treatment, and electronic monitoring programs.

G.1. Except as provided for in paragraph G 2, and notwithstanding any other provisions of this Item, the Compensation Board shall provide payment to any locality with an average daily jail population of under ten in FY 1995 an inmate per diem rate of \$22 per day for local responsible inmates and \$28 per day for state responsible inmates held in these jails in lieu of personal service costs for corrections' officers.

2. Any locality covered by the provisions of this paragraph shall be exempt from the provisions thereof provided that the locally elected sheriff, with the assistance of the Compensation Board, enters into good faith negotiations to house his prisoners in an existing local or regional jail. In establishing the per diem rate and capital contribution, if any, to be charged to such locality by a local or regional jail, the Compensation Board and the local sheriff or regional jail authority shall consider the operating support and capital contribution made by the Commonwealth, as required by §§ 15.2-1613, 15.2-1615.1, 53.1-80, and 53.1-81, Code of Virginia. The Compensation Board shall report periodically to the Chairmen of the House Appropriations and Senate Finance Committees on the progress of these negotiations and may withhold the exemption granted by this paragraph if, in the board's opinion, the local sheriff fails to negotiate in good faith.

H.1. The Compensation Board shall recover the state-funded costs associated with housing federal inmates, District of Columbia inmates or contract inmates from other states. The Compensation Board shall determine, by individual jail, the amount to be recovered by the Commonwealth by multiplying the jail's current inmate days for this population by the proportion of the jail's per inmate day salary funds provided by the Commonwealth, as identified in the most recent Jail Cost Report prepared by the Compensation Board. Beginning July 1, 2009, the Compensation Board shall determine, by individual jail, the amount to be recovered by the Commonwealth by multiplying the jail's current inmate days for this population by the proportion of the jail's per inmate day operating costs provided by the Commonwealth, excluding payments otherwise provided for in this Item, as identified in the most recent Jail Cost Report prepared by the Compensation Board. If a jail is not included in the most recent Jail Cost Report, the Compensation Board shall use the statewide average of per inmate day salary funds provided by the Commonwealth.

2. The Compensation Board shall deduct the amount to be recovered by the Commonwealth from the facility's next quarterly per diem payment for state-responsible and local-responsible inmates. Should the next quarterly per diem payment owed the locality not be sufficient against which to net the total quarterly recovery amount, the locality shall remit the remaining amount not recovered to the Compensation Board.

3. Any local or regional jail which receives funding from the Compensation Board shall give priority to the housing of local-responsible, state-responsible, and state contract inmates, in that order, as provided in paragraph H 1.

4. The Compensation Board shall not provide any inmate per diem payments to any local or regional jail which holds federal inmates in excess of the number of beds contracted for with the Department of Corrections, unless the Director, Department of Corrections, certifies to the Chairman of the Compensation Board that a) such contract beds are not required; b) the facility has operational capacity built under contract with the federal government; c) the facility has received a grant from the federal government for a portion of the capital costs; or d) the facility has applied to the Department of Corrections for participation in the contract bed program with a sufficient number of beds to meet the Department of Corrections' need or ability to fund contract beds at that facility in any given fiscal year.

5. The Compensation Board shall apply the cost recovery methodology set out in paragraph H 1 of this Item to any jail which holds inmates from another state on a contractual basis. However, recovery in such circumstances shall not be made for inmates held pending extradition to other states or pending transfer to the Virginia Department of Corrections.

ITEM 70.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
6. The provisions of this paragraph shall not apply to any local or regional jail where the cumulative federal share of capital costs exceeds the Commonwealth's cumulative capital contribution.				
7. For a local or regional jail which operates bed space specifically built utilizing federal capital or grant funds for the housing of federal inmates and for which Compensation Board funding has never been authorized for staff for such bed space, the Compensation Board shall allow an exemption from the recovery provided in paragraph H.1. for a defined number of federal prisoners upon certification by the sheriff or superintendent that the federal government has paid for the construction of bed space in the facility or provided a grant for a portion of the capital cost. Such certification shall include specific funding amounts paid by the federal government, localities, and/or regional jail authorities, and the Commonwealth for the construction of bed space specifically built for the housing of federal inmates and for the construction of the jail facility in its entirety. The defined number of federal prisoners to be exempted from the recovery provided in paragraph H.1. shall be based upon the proportion of funding paid by the federal government and localities and/or regional jail authorities for the construction of bed space to house federal prisoners to the total funding paid by all sources, including the Commonwealth, for all construction costs for the jail facility in its entirety.				
8. Beginning March 1, 2013, federal inmates placed in the custody of a regional jail pursuant to a work release program operated by the federal Bureau of Prisons shall be exempt from the recovery of costs associated with housing federal inmates pursuant to paragraph H.1. of this item if such federal inmates have been assigned by the federal Bureau of Prisons to a home electronic monitoring program in place for such inmates by agreement with the jail on or before January 1, 2012 and are not housed in the jail facility. However, no such exemption shall apply to any federal inmate while they are housed in the regional jail facility.				
I. Any amounts in the program Financial Assistance for Confinement of Inmates in Local and Regional Facilities, may be transferred between Items 69 and 70, as needed, to cover any deficits incurred in the programs Financial Assistance for Sheriffs' Offices and Regional Jails and Financial Assistance for Confinement of Inmates in Local and Regional Facilities.				
J.1. The Compensation Board shall provide an annual report on the number and diagnoses of inmates with mental illnesses in local and regional jails, the treatment services provided, and expenditures on jail mental health programs. The report shall be prepared in cooperation with the Virginia Sheriffs Association, the Virginia Association of Regional Jails, the Virginia Association of Community Services Boards, and the Department of Behavioral Health and Developmental Services, and shall be coordinated with the data submissions required for the annual jail cost report. Copies of this report shall be provided by November 1 of each year to the Governor, Director, Department of Planning and Budget, and the Chairmen of the Senate Finance and House Appropriations Committees.				
<i>2. Whenever a person is admitted to a local or regional correctional facility, the staff of the facility shall screen such person for mental illness using a scientifically validated instrument. The Commissioner of Behavioral Health and Developmental Services shall designate the instrument to be used for the screenings and such instrument shall be capable of being administered by an employee of the local or regional correctional facility, other than a health care provider, provided that such employee is trained in the administration of such instrument.</i>				
<i>3. The Compensation Board shall review its jail staffing standards with respect to the provision of mental health and medical treatment in jails. This review shall include an evaluation of the costs and benefits of requiring in all jails an assessment within 72 hours of the time of the initial screening, by qualified mental health professionals, of the need for mental health services in all cases where the initial screening indicates the person may have a mental illness. The Department of Behavioral Health and Developmental Services shall provide all necessary assistance to the Compensation Board in this evaluation. The Compensation Board shall provide a report, including any recommendations for updating the jail staffing standards and associated costs, to the Secretaries of Administration, Public Safety and Homeland Security, and Health and Human Resources, and to the Chairmen of the House Appropriations and Senate Finance Committees by October 1, 2017.</i>				
K. Out of the amounts appropriated in this item, \$100,000 the first year and \$100,000 the second year from the general fund is provided for the purpose of reimbursing the County of				

ITEM 70.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
<p>Nottoway for the expense of confining residents of the Virginia Center for Behavioral Rehabilitation arrested for new offenses and held in Piedmont Regional Jail at the expense of the County. <i>Reimbursements by the Board are to be made quarterly, and shall be equal to demonstrated costs incurred by the County of Nottoway for confinement of these individuals, and shall not exceed the amounts provided in this paragraph for each fiscal year. Reimbursement of demonstrated costs in the first year may include expenses incurred in the prior fiscal year if not previously reimbursed. In subsequent years, demonstrated costs may include expenses incurred in the last month of the prior fiscal year if not previously reimbursed. The County of Nottoway, the Virginia Center for Behavioral Rehabilitation, and Piedmont Regional Jail shall upon request provide the Compensation Board any information and assistance it determines is necessary to calculate amounts to be reimbursed to the County of Nottoway.</i></p>				
71.	Financial Assistance for Local Finance Directors (71700).....		\$5,515,432	\$5,515,432
	Financial Assistance to Local Finance Directors (71701).....	\$654,837		\$654,837
	Financial Assistance for Operations of Local Finance Directors (71702).....	\$4,860,595		\$4,860,595
	Fund Sources: General.....	\$5,515,432		\$5,515,432

Authority: Title 15.2, Chapter 16, Articles 2 and 6.1, Code of Virginia.

A.1. The annual salaries of elected or appointed officers who hold the combined office of city treasurer and commissioner of the revenue, or elected or appointed officers who hold the combined office of county treasurer and commissioner of the revenue subject to the provisions of § 15.2-1636.17, Code of Virginia, shall be as hereinafter prescribed, based on the services provided, except as otherwise provided in § 15.2-1636.12, Code of Virginia.

	July 1, 2016 to June 30, 2017	July 1, 2017 to November 30, 2017	December 1, 2017 to June 30, 2018
Less than 10,000	\$61,297	\$61,297	\$61,297
10,000-19,999	\$68,111	\$68,111	\$68,111
20,000-39,999	\$75,679	\$75,679	\$75,679
40,000-69,999	\$84,085	\$84,085	\$84,085
70,000-99,999	\$93,429	\$93,429	\$93,429
100,000-174,999	\$103,807	\$103,807	\$103,807
175,000 to 249,999	\$109,274	\$109,274	\$109,274
250,000 and above	\$124,175	\$124,175	\$124,175

2. Whenever any officer whether elected or appointed, who holds that combined office of city treasurer and commissioner of the revenue, is such for two or more cities or for a county and city together, the aggregate population of such political subdivisions shall be the population for the purpose of arriving at the salary of such officer under the provisions of this Item.

B.1. Subject to appropriations by the General Assembly for this purpose, the Treasurers' Career Development Program shall be made available by the Compensation Board to appointed officers who hold the combined office of city or county treasurer and commissioner of the revenue subject to the provisions of § 15.2-1636.17, Code of Virginia.

2. The Compensation Board may increase the annual salary in paragraph A 1 of this Item following receipt of the appointed officer's certification that the minimum requirements of the Treasurers' Career Development Program have been met, provided that such certifications are submitted by appointed officers as part of their annual budget request to the Compensation Board on February 1 of each year.

ITEM 72.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
72. Financial Assistance for Local Commissioners of the Revenue (77100).....			\$18,138,194	\$18,257,002
			\$18,019,387	\$18,219,996
Financial Assistance to Local Commissioners of the Revenue for Tax Value Certification (77101).....	\$9,811,932	\$9,930,740		
	\$9,755,542	\$9,911,943		
Financial Assistance for Operations of Local Commissioners of the Revenue (77102).....	\$7,467,083	\$7,467,083		
	\$7,404,666	\$7,448,874		
Financial Assistance for State Tax Services by Commissioners of the Revenue (77103).....	\$859,179	\$859,179		
Fund Sources: General.....	\$18,138,194	\$18,257,002		
	\$18,019,387	\$18,219,996		

Authority: Title 15.2, Chapter 16, Articles 2 and 6.1, Code of Virginia.

A. The annual salaries of county or city commissioners of the revenue shall be as hereinafter prescribed, except as otherwise provided in § 15.2-1636.12, Code of Virginia.

	July 1, 2016 to June 30, 2017	July 1, 2017 to November 30, 2017	December 1, 2017 to June 30, 2018
Less than 10,000	\$61,297	\$61,297	\$61,297
10,000-19,999	\$68,111	\$68,111	\$68,111
20,000-39,999	\$75,679	\$75,679	\$75,679
40,000-69,999	\$84,085	\$84,085	\$84,085
70,000-99,999	\$93,429	\$93,429	\$93,429
100,000-174,999	\$103,807	\$103,807	\$103,807
175,000 to 249,999	\$109,274	\$109,274	\$109,274
250,000 and above	\$124,175	\$124,175	\$124,175

B. 1. Subject to appropriations by the General Assembly for this purpose, the Compensation Board shall provide for a Commissioners of the Revenue Career Development Program.

2. Following receipt of the commissioner's certification that the minimum requirements of the Commissioners of the Revenue Career Development Program have been met, and provided that such certification is submitted by commissioners of the revenue as part of their annual budget request to the Compensation Board on or before February 1 of each year, the Compensation Board shall increase the annual salary shown in Paragraph A of this Item by the amount shown herein for a 12-month period effective the following July 1. The salary supplement shall be based upon the levels of service offered by the commissioner of the revenue for his/her locality and shall be in accordance with the following schedule:

a. 4.7 percent increase for all commissioners of the revenue who certify their compliance with the established minimum criteria for the Commissioners of the Revenue Career Development Program;

b. 2.3 percent additional increase for all commissioners of the revenue who certify their compliance with the established minimum criteria for the Commissioners of the Revenue Career Development Program and provide state income tax or real estate services as described in the minimum criteria for the Commissioners of the Revenue Career Development Program; and

c. 2.3 percent additional increase for all commissioners of the revenue who certify their compliance with the established minimum criteria for the Commissioners of the Revenue Career Development Program and provide state income tax and real estate services, as described in the minimum criteria for the Commissioners of the Revenue Career Development Program.

C.1. Subject to appropriations by the General Assembly for this purpose, the Compensation Board shall provide for a Deputy Commissioners Career Development Program.

**ITEM 72.**

	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018

2. For each deputy commissioner selected by the commissioner of the revenue for participation in the Deputy Commissioners Career Development Program, the Compensation Board shall increase the annual salary established for that position by 9.3 percent, following receipt of the commissioner of the revenue's certification that the minimum requirements of the Deputy Commissioners Career Development Program have been met, and provided that such certification is submitted by the commissioner of the revenue as part of the annual budget request to the Compensation Board on or before February 1st of each year for an effective date of salary increase of the following July 1.

D. Included in this appropriation is ~~\$56,390~~ in the first year and ~~\$112,780~~\$93,983 in the second year from the general fund to provide for increased participation; ~~effective December 1, 2016,~~effective August 1, 2017, in the Commissioners of the Revenue Career Development Program.

E. Included in this appropriation is ~~\$62,417~~ in the first year and ~~\$124,835~~ \$106,626 in the second year from the general fund to provide for increased participation; ~~effective December 1, 2016,~~effective August 1, 2017, in the Deputy Commissioners of the Revenue Career Development Program.

73.	Financial Assistance for Attorneys for the Commonwealth (77200).....		\$71,696,067		\$71,976,155
			\$71,812,817		\$72,341,472
	Financial Assistance to Attorneys for the Commonwealth (77201).....	\$15,886,864		\$16,170,115	
	Financial Assistance for Operations of Local Attorneys for the Commonwealth (77202).....	\$55,809,203		\$55,806,040	
		\$55,925,953		\$56,171,357	
	Fund Sources: General.....	\$71,696,067		\$71,976,155	
		\$71,412,817		\$71,941,472	
	Dedicated Special Revenue.....	\$400,000		\$400,000	

Authority: Title 15.2, Chapter 16, Articles 4 and 6.1, Code of Virginia.

A.1. The annual salaries of attorneys for the Commonwealth shall be as hereinafter prescribed according to the population of the city or county served except as otherwise provided in § 15.2-1636.12, Code of Virginia.

	July 1, 2016 to June 30, 2017	July 1, 2017 to November 30, 2017	December 1, 2017 to June 30, 2018
Less than 10,000	\$54,322	\$54,322	\$54,322
10,000-19,999	\$60,366	\$60,366	\$60,366
20,000-34,999	\$66,400	\$66,400	\$66,400
35,000-44,999	\$119,516	\$119,516	\$119,516
45,000-99,999	\$132,793	\$132,793	\$132,793
100,000-249,999	\$137,774	\$137,774	\$137,774
250,000 and above	\$142,757	\$142,757	\$142,757

2. The attorneys for the Commonwealth and their successors who serve on a full-time basis pursuant to §§ 15.2-1627.1, 15.2-1628, 15.2-1629, 15.2-1630 or § 15.2-1631, Code of Virginia, shall receive salaries as if they served localities with populations between 35,000 and 44,999.

3. Whenever an attorney for the Commonwealth is such for a county and city together, or for two or more cities, the aggregate population of such political subdivisions shall be the population for the purpose of arriving at the salary of such attorney for the Commonwealth under the provisions of this paragraph and such attorney for the Commonwealth shall receive as additional compensation the sum of one thousand dollars.

B. No expenditure shall be made out of this Item for the employment of investigators, clerk-investigators or other investigative personnel in the office of an attorney for the

ITEM 73.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
Commonwealth.				
<p>C. Consistent with the provisions of § 19.2-349, Code of Virginia, attorneys for the Commonwealth may, in addition to the options otherwise provided by law, employ individuals to assist in collection of outstanding fines, costs, forfeitures, penalties, and restitution. Notwithstanding any other provision of law, beginning on the date upon which the order or judgment is entered, the costs associated with employing such individuals may be paid from the proceeds of the amounts collected provided that the cost is apportioned on a pro rata basis according to the amount collected which is due the state and that which is due the locality. The attorneys for the Commonwealth shall account for the amounts collected and apportion costs associated with the collections consistent with procedures issued by the Auditor of Public Accounts.</p>				
<p>D. The provisions of this act notwithstanding, no Commonwealth's attorney, public defender or employee of a public defender, shall be paid or receive reimbursement for the state portion of a salary in excess of the salary paid to judges of the circuit court. Nothing in this paragraph shall be construed to limit the ability of localities to supplement the salaries of locally elected constitutional officers or their employees.</p>				
<p>E. The Statewide Juvenile Justice project positions, as established under the provisions of Item 74 E, of Chapter 912, 1996 Acts of Assembly, and Chapter 924, 1997 Acts of Assembly, are continued under the provisions of this act. The Commonwealth's attorneys receiving such positions shall annually certify to the Compensation Board that the positions are used primarily, if not exclusively, for the prosecution of delinquency and domestic relations felony cases, as defined by Chapters 912 and 924. In the event the positions are not primarily or exclusively used for the prosecution of delinquency and domestic relations felony cases, the Compensation Board shall reallocate such positions by using the allocation provisions as provided for the board in Item 74 E of Chapters 912 and 924.</p>				
<p>F. The Compensation Board shall monitor the Department of Taxation program regarding the collection of unpaid fines and court costs by private debt collection firms contracted by Commonwealth's attorneys and shall include, in its annual report to the General Assembly on the collection of court-ordered fines and fees for clerks of the courts and Commonwealth's attorneys, the amount of unpaid fines and costs collected by this program.</p>				
<p>G. Out of this appropriation, \$389,165 the first year and \$389,165 the second year from the general fund is designated for the Compensation Board to fund five additional positions in Commonwealth's attorney's offices that shall be dedicated to prosecuting gang-related criminal activities. The board shall ensure that these positions work across jurisdictional lines, serving the Northern Virginia area (counties of Fairfax, Loudoun, Prince William, and Arlington and the cities of Falls Church, Alexandria, Manassas, Manassas Park and Fairfax).</p>				
<p>H. In accordance with the provisions of § 19.2-349, Code of Virginia, attorneys for the Commonwealth may employ individuals, or contract with private attorneys, private collection agencies, or other state or local agencies, to assist in collection of delinquent fines, costs, forfeitures, penalties, and restitution. If the attorney for the Commonwealth employs individuals, the costs associated with employing such individuals may be paid from the proceeds of the amounts collected provided that the cost is apportioned on a pro rata basis according to the amount collected which is due the state and that which is due the locality. If the attorney for the Commonwealth does not undertake collection, the attorney for the Commonwealth shall, as soon as practicable, take steps to ensure that any agreement or contract with an individual, attorney or agency complies with the terms of the current Master Guidelines Governing Collection of Unpaid Delinquent Court-Ordered Fines and Costs Pursuant to Virginia Code § 19.2-349 promulgated by the Office of the Attorney General, the Executive Secretary of the Supreme Court, the Department of Taxation, and the Compensation Board ("the Master Guidelines"). Notwithstanding any other provision of law, the delinquent amounts owed shall be increased by seventeen (17) percent to help offset the costs associated with employing such individuals or contracting with such agencies or individuals. If such increase would exceed the contracted collection agent's fee, then the delinquent amount owed shall be increased by the percentage or amount of the collection agent's fee. Effective July 1, 2015, as provided in § 19.2-349, Code of Virginia, treasurers not being compensated on a contingency basis as of January 1, 2015 shall be prohibited from being compensated on a contingency basis but shall instead be compensated for administrative costs pursuant to § 58.1-3958, Code of Virginia. Treasurers currently</p>				

ITEM 73.	<b>Item Details(\$)</b>		<b>Appropriations(\$)</b>	
	<b>First Year</b>	<b>Second Year</b>	<b>First Year</b>	<b>Second Year</b>
	<b>FY2017</b>	<b>FY2018</b>	<b>FY2017</b>	<b>FY2018</b>

collecting a contingency fee shall be eligible to contract on a contingency fee basis. Effective July 1, 2015, any treasurer collecting a contingency fee shall retain only the expenses of collection, and the excess collection shall be divided between the state and the locality in the same manner as if the collection had been done by the attorney for the Commonwealth. The attorneys for the Commonwealth shall account for the amounts collected and the fees and costs associated with the collections consistent with procedures issued by the Auditor of Public Accounts.

I. Included in this appropriation is ~~\$283,250 in the first year and \$566,501~~ \$531,818 in the second year from the general fund to provide for increased participation; ~~effective December 1, 2016,~~ effective August 1, 2017, in the Assistant Commonwealth's Attorneys Career Development Program.

J. Notwithstanding the provisions of Article 7, Chapter 4, Title 38, Code of Virginia, beginning July 1, 2017, \$400,000 each year from the Insurance Fraud Fund is included in this appropriation to fund multi-jurisdictional Assistant Commonwealth's Attorney positions that shall be dedicated to prosecuting insurance fraud and related criminal activities. The Department of State Police shall identify those jurisdictions most affected by insurance fraud based upon data provided by the Virginia State Police Insurance Fraud Program. The Virginia State Police Insurance Fraud Program shall ensure that these positions work across jurisdictional lines, serving jurisdictions identified as most in need of these resources as supported by data. These funds shall remain unallocated until the Compensation Board and Virginia State Police notify the Director of the Department of Planning and Budget of the joint agreements reached with the Commonwealth's Attorneys of the jurisdictions receiving the additional Assistant Commonwealth's Attorney positions and the jurisdictions to be served by these positions. The Commonwealth's Attorneys receiving such positions shall annually certify to the Compensation Board that these positions are used primarily, if not exclusively, for the prosecution of insurance fraud and related criminal activities.

74.	Financial Assistance for Circuit Court Clerks (77300).....			\$53,108,614	\$53,418,022
				\$52,799,205	\$53,314,886
	Financial Assistance to Circuit Court Clerks (77301).....	\$13,474,083	\$13,783,491		
		\$13,318,437	\$13,731,609		
	Financial Assistance for Operations for Circuit Court Clerks (77302).....	\$22,020,298	\$22,020,298		
		\$21,866,535	\$21,969,044		
	Financial Assistance for Circuit Court Clerks' Land Records (77303).....	\$17,614,233	\$17,614,233		
	Fund Sources: General.....	\$45,107,902	\$45,417,310		
		\$44,798,493	\$45,314,174		
	Trust and Agency.....	\$8,000,712	\$8,000,712		

Authority: Title 15.2, Chapter 16, Article 6.1; §§ 51.1-706 and 51.1-137, Title 17.1, Chapter 2, Article 7, Code of Virginia.

A.1. The annual salaries of clerks of circuit courts shall be as hereinafter prescribed.

	July 1, 2016 to June 30, 2017	July 1, 2017 to November 30, 2017	December 1, 2017 to June 30, 2018
Less than 10,000	\$77,013	\$77,013	\$77,013
10,000 to 19,999	\$94,897	\$94,897	\$94,897
20,000-39,999	\$108,652	\$108,652	\$108,652
40,000-69,999	\$114,152	\$114,152	\$114,152
70,000-99,999	\$123,775	\$123,775	\$123,775
100,000-174,999	\$134,780	\$134,780	\$134,780
175,000-249,999	\$138,963	\$138,963	\$138,963
250,000 and above	\$143,035	\$143,035	\$143,035

ITEM 74.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
2. Whenever a clerk of a circuit court is such for a county and a city, for two or more counties, or for two or more cities, the aggregate population of such political subdivisions shall be the population for the purpose of arriving at the salary of the circuit court clerk under the provisions of this Item.				
3. Except as provided in Item 76 A 2, the annual salary herein prescribed shall be full compensation for services performed by the office of the circuit court clerk as prescribed by general law, and for the additional services of acting as general receiver of the court pursuant to § 8.01-582, Code of Virginia, indexing and filing land use application fees pursuant to § 58.1-3234, Code of Virginia, and all other services provided from, or utilizing the facilities of, the office of the circuit court clerk. Pursuant to § 8.01-589, Code of Virginia, the court shall provide reasonable compensation to the office of the clerk of the circuit court for acting as general receiver of the court. Out of the compensation so allowed, the clerk shall pay his bond or bonds. The remainder of the compensation so allowed shall be fee and commission income to the office of the circuit court clerk.				
4. In any county or city operating under provisions of law which authorizes the governing body to fix the compensation of the clerk on a salary basis, such clerk shall receive such salary as shall be allowed by the governing body. Such salary shall not be fixed at an amount less than the amount that would be allowed the clerk under paragraphs A 1 through A 3 of this Item.				
5. All clerks shall deposit all clerks' fees and state revenue with the State Treasurer in a manner consistent with § 2.2-806, Code of Virginia, unless otherwise provided by the Compensation Board as set forth in § 17.1-284, Code of Virginia or otherwise provided by law.				
B. The reports filed by each circuit court clerk pursuant to § 17.1-283, Code of Virginia, for each calendar year shall include all income derived from the performance of any office, function or duty described or authorized by the Code of Virginia whether directly or indirectly related to the office of circuit court clerk, including, by way of description and not limitation, services performed as a commissioner of accounts, receiver, or licensed agent, but excluding private services performed on a personal basis which are completely unrelated to the office. The Compensation Board may suspend the allowance for office expenses for any clerk who fails to file such reports within the time prescribed by law, or when the board determines that such report does not comply with the provisions of this paragraph.				
C. Each clerk of the circuit court shall submit to the Compensation Board a copy of the report required pursuant to § 19.2-349, Code of Virginia, at the same time that it is submitted to the Commonwealth's attorney.				
D. Included within this appropriation are Trust and Agency funds necessary to support one position to assist circuit court clerks in implementing the recommendations of the Land Records Management Task Force Report dated January 1, 1998.				
E. Notwithstanding the provisions of § 17.1-279 E, Code of Virginia, the Compensation Board may allocate to the clerk of any circuit court funds for the acquisition of equipment and software for a pilot project for the automated application for, and issuance of, marriage licenses by such court. Any such funds allocated shall be deemed to have been expended pursuant to clause (iii) of § 17.1-279 E for the purposes of the limitation on allocations set forth in that subsection.				
F. Notwithstanding the provisions of § 17.1-279, Code of Virginia, the Compensation Board may allocate up to \$2,978,426 the first year and \$2,978,426 the second year of Technology Trust Fund moneys for operating expenses in the clerks' offices.				
G. Notwithstanding § 17.1-287, Code of Virginia, any elected official funded through this Item may elect to relinquish any portion of his state funded salary established in paragraph A 1 of this Item. In any office where the official elects this option, the Compensation Board shall ensure the amount relinquished is used to fund salaries of other office staff.				
H.1. For audits of clerks of the circuit court completed after July 1, 2004, the Auditor of Public Accounts shall report any internal control matter that could be reasonably expected to lead to the loss of revenues or assets, or otherwise compromise fiscal accountability. The				

ITEM 74.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
Auditor of Public Accounts will also report on compliance with appropriate law and other financial matters of the clerks' office.				
2. For internal control matters that could be reasonably expected to lead to the loss of revenues or assets, or otherwise compromise fiscal accountability, the clerk shall provide the Auditor of Public Accounts a written corrective action plan to any such audit findings within 10 business days of the audit exit conference, which will state what actions the clerk will take to remediate the finding. The clerk's response may also address the other matters in the report. During the next audit, the Auditor of Public Accounts shall determine and report if the clerk has corrected the finding related to internal control matters that could be reasonably expected to lead to the loss of revenues or assets, or otherwise compromise fiscal accountability.				
3. Notwithstanding the provisions of Item 475, the Compensation Board shall not provide any salary increase to any circuit court clerk identified by the Auditor of Public Accounts who has not taken corrective action for the matters reported above.				
I.1. Subject to appropriation by the General Assembly for this purpose, the Compensation Board may implement a Circuit Court Clerks' Career Development Program.				
2. Following receipt of a clerk's certification that the minimum requirements of the Clerks' Career Development Program have been met, and provided that such certification is submitted by Clerks as part of their annual budget request to the Compensation Board by February 1 of each year, the Compensation Board shall increase the annual salary shown in Paragraph A.1. of this item by 9.3 percent with the salary increase becoming effective on the following July 1 for a 12-month period.				
J.1. Subject to appropriation by the General Assembly for this purpose, the Compensation Board may implement a Deputy Clerks of Circuit Courts' Career Development Program.				
2. For each deputy clerk selected by the clerk for participation in the Deputy Clerks' Career Development Program, the Compensation Board shall increase the annual salary established for that position by 9.3 percent following receipt of the clerk's certification that the minimum requirements of the Deputy Clerks' Career Development Program have been met and provided that such certification is submitted by clerks as part of their annual budget request to the Compensation Board by February 1 of each year.				
K. Upon request of the attorney for the Commonwealth, the clerk of the circuit court shall contemporaneously provide the attorney for the Commonwealth copies of all documents provided to the Virginia Criminal Sentencing Commission pursuant to § 19.2-298.01 E, Code of Virginia.				
L. The Compensation Board may obligate Trust and Agency funds in excess of the current biennium appropriation for the automation efforts of the clerks' offices from the Technology Trust Fund provided that sufficient cash is available to cover projected costs in each year and that sufficient revenues are projected to meet all cash obligations for new obligations as well as all other commitments and appropriations approved by the General Assembly in the biennial budget.				
M. Offices of the Clerks of the Circuit Court, jails, adult detention centers, and the Department of Corrections are further authorized to enter into agreements to electronically transmit and process criminal court orders to assure timely and accurate recordation and processing of such records.				
N. Included in this appropriation is <del>\$155,646</del> in the first year and <del>\$311,292</del> \$259,410 in the second year from the general fund to provide for increased participation; <del>effective December 1, 2016,</del> , <i>effective August 1, 2017</i> , in the Circuit Court Clerks' Career Development Program.				
O. Included in this appropriation is <del>\$153,763</del> in the first year and <del>\$307,525</del> \$256,271 in the second year from the general fund to provide for increased participation; <del>effective December 1, 2016,</del> , <i>effective August 1, 2017</i> , in the Deputy Circuit Court Clerks' Career Development Program.				

ITEM 75.		Item Details(\$)		Appropriations(\$)	
		First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
75.	Financial Assistance for Local Treasurers (77400).....			\$17,061,248	\$17,127,404
				\$16,995,092	\$17,115,995
	Financial Assistance to Local Treasurers (77401).....	\$9,880,704	\$9,946,860		
		\$9,834,132	\$9,931,336		
	Financial Assistance for Operations of Local Treasurers (77402).....	\$6,977,737	\$6,977,737		
		\$6,958,153	\$6,981,852		
	Financial Assistance for State Tax Services by Local Treasurers (77403).....	\$202,807	\$202,807		
	Fund Sources: General.....	\$17,061,248	\$17,127,404		
		\$16,995,092	\$17,115,995		

Authority: Title 15.2, Chapter 16, Articles 2 and 6.1, Code of Virginia.

A.1. The annual salaries of treasurers, elected or appointed officers who hold the combined office of city treasurer and commissioner of the revenue, or elected or appointed officers who hold the combined office of county treasurer and commissioner of the revenue subject to the provisions of § 15.2-1636.17, Code of Virginia, shall be as hereinafter prescribed, based on the services provided, except as otherwise provided in § 15.2-1636.12, Code of Virginia.

	July 1, 2016 to June 30, 2017	July 1, 2017 to November 30, 2017	December 1, 2017 to June 30, 2018
Less than 10,000	\$61,297	\$61,297	\$61,297
10,000 to 19,999	\$68,111	\$68,111	\$68,111
20,000-39,999	\$75,679	\$75,679	\$75,679
40,000-69,999	\$84,085	\$84,085	\$84,085
70,000-99,999	\$93,429	\$93,429	\$93,429
100,000-174,999	\$103,807	\$103,807	\$103,807
175,000-249,999	\$109,274	\$109,274	\$109,274
250,000 and above	\$124,175	\$124,175	\$124,175

2. Provided, however, that in cities having a treasurer who neither collects nor disburses local taxes or revenue or who distributes local revenues but does not collect the same, such salaries shall be seventy-five percent of the salary prescribed above for the population range in which the city falls except that in no case shall any such treasurer, or any officer whether elected or appointed, who holds that combined office of city treasurer and commissioner of the revenue, receive an increase in salary less than the annual percentage increase provided from state funds to any other treasurer, within the same population range, who was at the maximum prescribed salary in effect for the fiscal year 1980.

3. Whenever a treasurer is such for two or more cities or for a county and city together, the aggregate population of such political subdivisions shall be the population for the purpose of arriving at the salary of such treasurer under the provisions of this Item.

B.1. Subject to appropriations by the General Assembly for this purpose, the Treasurers' Career Development Program shall be made available by the Compensation Board to appointed officers who hold the combined office of city or county treasurer and commissioner of the revenue subject to the provisions of § 15.2-1636.17, Code of Virginia.

2. The Compensation Board may increase the annual salary in paragraph A 1 of this Item by 9.3 percent following receipt of the treasurer's certification that the minimum requirements of the Treasurers' Career Development Program have been met, provided that such certifications are submitted by treasurers as part of their annual budget request to the Compensation Board on February 1 of each year.

C.1. Subject to appropriations by the General Assembly for this purpose, the Compensation Board shall provide for a Deputy Treasurers' Career Development Program.

2. For each deputy treasurer selected by the treasurer for participation in the Deputy Treasurers' Career Development Program, the Compensation Board shall increase the annual

ITEM 75.	Item Details(\$)		Appropriations(\$)	
	First Year	Second Year	First Year	Second Year
	FY2017	FY2018	FY2017	FY2018

salary established for that position by 9.3 percent following receipt of the treasurer's certification that the minimum requirements of the Deputy Treasurers' Career Development Program have been met, and provided that such certification is submitted by the treasurer as part of the annual budget request to the Compensation Board on or before February 1 of each year for an effective date of salary increase of the following July 1st.

D. Included in this appropriation is ~~\$46,572 in the first year and \$93,144~~ \$77,620 in the second year from the general fund to provide for increased participation; ~~effective December 1, 2016,~~ effective August 1, 2017, in the Treasurers' Career Development Program

E. Included in this appropriation is ~~\$19,584 in the first year and \$39,169~~ \$43,284 in the second year from the general fund to provide for increased participation; ~~effective December 1, 2016,~~ effective August 1, 2017, in the Deputy Treasurers' Career Development Program.

76.	Administrative and Support Services (79900).....			\$3,490,949	\$3,496,947
	General Management and Direction (79901).....	\$2,573,056	\$2,579,054		
	Information Technology Services (79902).....	\$836,070	\$836,070		
	Training Services (79925).....	\$81,823	\$81,823		
	Fund Sources: General.....	\$3,490,949	\$3,496,947		

Authority: Title 2.2-1839; Title 15.2, Chapter 16, Articles 2, 3, 4 and 6.1; Title 17.1, Chapter 2, Article 7, Code of Virginia.

A.1. In determining the salary of any officer specified in Items 69, 71, 72, 73, 74, and 75 of this act, the Compensation Board shall use the greater of the most recent actual United States census count or the most recent provisional population estimate from the United States Bureau of the Census or the Weldon Cooper Center for Public Service of the University of Virginia available when fixing the officer's annual budget and shall adjust such population estimate, where applicable, for any annexation or consolidation order by a court when such order becomes effective. There shall be no reduction in salary by reason of a decline in population during the terms in which the incumbent remains in office.

2. In determining the salary of any officer specified in Items 69, 71, 72, 73, 74, and 75 of this act, nothing herein contained shall prevent the governing body of any county or city from supplementing the salary of such officer in such county or city for the provisions of Chapter 822, 2012 Acts of Assembly or for additional services not required by general law; provided, however, that any such supplemental salary shall be paid wholly by such county or city.

3. Any officer whose salary is specified in Items 69, 71, 72, 73, 74, and 75 of this act shall provide reasonable access to his work place, files, records, and computer network as may be requested by his duly elected successor after the successor has been certified.

B.1. Notwithstanding any other provision of law, the Compensation Board shall authorize and fund permanent positions for the locally elected constitutional officers, subject to appropriation by the General Assembly, including the principal officer, at the following levels:

	FY 2017	FY 2018
Sheriffs	11,327	11,327
Partially Funded: Jail Medical, Treatment, and Classification and Records Positions	786	786
Commissioners of the Revenue	851	851
Treasurers	861	861
Directors of Finance	383	383
Commonwealth's Attorneys	<del>1,266</del> 1,268	<del>1,266</del> 1,268
Clerks of the Circuit Court	1,144	1,144
<b>TOTAL</b>	<b>16,618</b> 16,620	<b>16,618</b> 16,620

2. The Compensation Board is authorized to provide funding for 597 temporary positions



ITEM 76.	Item Details(\$)		Appropriations(\$)	
	First Year	Second Year	First Year	Second Year
	FY2017	FY2018	FY2017	FY2018

Appropriations Committees and the Secretaries of Finance and Administration with an annual report, on December 1 of each year, of jail revenues and expenditures for all local and regional jails and jail farms which receive funds from the Compensation Board. Information provided to the Compensation Board is to include an audited statement of revenues and expenses for inmate canteen accounts, telephone commission funds, inmate medical co-payment funds, any other fees collected from inmates and investment/interest monies for inclusion in the report.

2. Local and regional jails and jail farms and local governments receiving funds from the Compensation Board shall, as a condition of receiving such funds, provide such information as may be required by the Compensation Board, necessary to prepare the annual jail cost report.

3. If any sheriff, superintendent, county administrator, or city manager fails to send such information within five working days after the information should be forwarded, the Chairman of the Compensation Board shall notify the sheriff, superintendent, county administrator or city manager of such failure. If the information is not provided within ten working days from that date, then the chairman shall cause the information to be prepared from the books of the city, county, or regional jail and shall certify the cost thereof to the State Comptroller. The State Comptroller shall issue his warrant on the state treasury for that amount, deducting the same from any funds that may be due the sheriff or regional jail from the Commonwealth.

L. In the event of the transition of a city to town status pursuant to the provisions of Chapter 41 (§ 15.2-4100 et seq.) of Title 15.2, Code of Virginia, or the consolidation of a city and a county into a single city pursuant to the provisions of Chapter 35 (§ 15.2-3500 et seq.) of Title 15.2, Code of Virginia, subsequent to July 1, 1999, the Compensation Board shall provide funding from Items 69, 72, 73, 74, and 75 of this act, consistent with the requirements of § 15.2-1302, Code of Virginia. Notwithstanding the provisions of paragraph E of this Item, any positions in the constitutional offices of the former city or former county which are available for reallocation as a result of the transition or consolidation shall be first reallocated in accordance with Compensation Board staffing standards to the constitutional officers in the county in which the town is situated or to the consolidated city, without regard to the Compensation Board's priority of need ranking for reallocated positions. The salary and fringe benefit costs for these positions shall be deducted from any amounts due the county or to the consolidated city, as provided in § 15.2-1302, Code of Virginia.

M. Notwithstanding any other provisions of § 15.2-1605, Code of Virginia, the Compensation Board shall provide no reimbursement for accumulated vacation time for employees of Constitutional Officers.

N. The Compensation Board is hereby authorized to deduct, from reimbursements made each year to localities out of the amounts in Items 69, 71, 72, 73, 74, and 75 of this act, an amount equal to 100 percent of each locality's share of the insurance premium paid by the Compensation Board on behalf of the constitutional officers, directors of finance, and regional jails. From ~~the amount deducted from the share for~~ sheriffs and regional jails, the Compensation Board shall ~~retain~~ deduct an additional \$80,000 each year for the costs of conducting training on managing risk in the operation of local and regional jails.

O. Effective July 1, 2007, the Compensation Board is authorized to withhold reimbursements due the locality for sheriff and jail expenses upon notification from the Superintendent of State Police that there is reason to believe that crime data reported by a locality to the Department of State Police in accordance with § 52-28, Code of Virginia, is missing, incomplete or incorrect. Upon subsequent notification by the Superintendent that the data is accurate, the Compensation Board shall make reimbursement of withheld funding due the locality when such corrections are made within the same fiscal year that funds have been withheld.

P. Notwithstanding the provisions of § 51.1-1403 A, Code of Virginia, the Compensation Board is hereby authorized to deduct, from reimbursements made each year to localities out of the amounts in Items 69, 71, 72, 73, 74, and 75 of this act, an amount equal to each locality's retiree health premium paid by the Compensation Board on behalf of the constitutional offices, directors of finance, and regional jails.

ITEM 76.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
Q.1. Compensation Board payments of, or reimbursements for, the employer paid contribution to the Virginia Retirement System, or any system offering like benefits, shall not exceed the Commonwealth's proportionate share of the following, whichever is less: (a) the actual retirement rate for the local constitutional officer's office or regional correctional facility as set by the Board of the Virginia Retirement System or (b) the employer rate established for the general classified workforce of the Commonwealth covered under and payable to the Virginia Retirement System.				
2. The rate specified in paragraph Q.1. shall exclude the cost of any early retirement program implemented by the Commonwealth.				
3. Any employer paid contribution costs for rates exceeding those specified in paragraph Q.1. shall be borne by the employer.				
4. The benefits rate reimbursed by the Compensation Board to localities and regional jails shall not exceed the rate identified for fiscal year 2011 in Chapter 890, Item 469, paragraph 1.1.				
R. Localities shall not utilize Compensation Board funding to supplant local funds provided for the salaries of constitutional officers and their employees under the provisions of Chapter 822, 2012 Acts of Assembly, who were affected members in service on June 30, 2012.				
S. Effective July 1, 2016, the Compensation Board is authorized to withhold reimbursements due to the locality for sheriff's law enforcement expenses if the sheriff fails to certify to the Board that the sheriff's office is compliant with the sex offender registration requirements of § 9.1-903, Code of Virginia. Upon subsequent certification by the sheriff that the sheriff's office is compliant with the sex offender registration requirements of § 9.1-903, Code of Virginia, the Compensation Board shall make reimbursement of withheld funding due to the locality when such subsequent certification is made within the same fiscal year that funds have been withheld.				
T. 1. The State Compensation Board is hereby directed to <del>convene a</del> <i>continue convening the same</i> group of stakeholders <i>that met three times during 2016 and which is</i> comprised of, and representing the interests of, constitutional officers, regional jail authorities, and local governments. <i>The stakeholder group shall continue</i> to jointly review current and alternative primary liability, medical malpractice, and employee malfeasance policy coverages and contracts, and alternatives for liability reinsurance, for such coverage currently paid for by localities under VARisk.				
2. In <del>its</del> <i>this continuing</i> review, the group shall consider the premiums which have been and are currently being charged to local governments by VARisk for primary liability, medical malpractice, and employee malfeasance policy coverages for the current and prior <del>five (5)</del> <i>six (6)</i> years, and the educational and training services that have been and are currently being provided to constitutional officers in coordination with the VARisk coverage over the same time period. <i>The stakeholder group shall consider the current statutory requirements specifying when localities must prepare budgets, the impact on local governments of the currently utilized system that allows large unanticipated VARisk premium increases, and the resulting hardships on localities caused by an inability to budget for these increases.</i> These findings shall be compared by the State Compensation Board and stakeholders to potential alternative coverage and contracts which could be provided by public and private providers of primary liability, medical malpractice, and employee malfeasance policy coverage, and reinsurance coverage to insure constitutional officers, regional jails authorities, and local governments, and the premiums that would be charged for such coverage. In its review, the group shall also identify and compare any and all policy limits, exclusions, and terms and conditions of VARisk and comparable coverages available from public or private insurance providers.				
3. The State Compensation Board and stakeholders shall <i>continue to explore whether proper and current full funding of these liability programs would be desirable and</i> determine whether the available alternative coverage and service options are competitive with or preferable to the coverage and service options provided under VARisk, and the potential financial benefits or liabilities to the stakeholders or the Commonwealth resulting from the provision of primary liability, medical malpractice, employee malfeasance, and reinsurance coverage by alternative providers, and shall report their <i>final findings and recommendations</i> by December 1, <del>2016</del>				

ITEM 76.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
2017, to the Chairmen of the House Appropriations Committee and the Senate Finance Committee.				
4. The Director, Division of Risk Management, shall provide technical assistance to the stakeholder group upon request of the Executive Secretary of the Compensation Board.				
Total for Compensation Board.....			<b>\$689,370,594</b>	<b>\$697,111,077</b>
			<b>\$683,910,435</b>	<b>\$692,931,824</b>
General Fund Positions.....	20.00	20.00		
Nongeneral Fund Positions.....	1.00	1.00		
Position Level.....	21.00	21.00		
Fund Sources: General.....	\$673,369,882	\$681,110,365		
	\$667,509,723	\$676,531,112		
Trust and Agency.....	\$8,000,712	\$8,000,712		
Dedicated Special Revenue.....	\$8,000,000	\$8,000,000		
	\$8,400,000	\$8,400,000		

**§ 1-29. DEPARTMENT OF GENERAL SERVICES (194)**

77.	Laboratory Services (72600).....			\$32,913,746	\$32,916,520
				\$35,217,284	\$35,164,282
	Statewide Laboratory Services (72604).....	\$32,913,746	\$32,916,520		
		\$35,217,284	\$35,164,282		
	Fund Sources: General.....	\$12,863,261	\$12,863,261		
		\$12,527,486	\$12,471,710		
	Special.....	\$20,000	\$20,000		
	Enterprise.....	\$9,023,770	\$9,025,235		
		\$11,546,770	\$11,548,235		
	Internal Service.....	\$4,668,330	\$4,668,665		
		\$4,727,650	\$4,727,985		
	Federal Trust.....	\$6,338,385	\$6,339,359		
		\$6,395,378	\$6,396,352		

Authority: Title 2.2, Chapter 11, Article 2, Code of Virginia.

A. The provisions of § 2.2-1104, Code of Virginia, notwithstanding, the Division of Consolidated Laboratory Services shall ensure that no individual is denied the benefits of laboratory tests mandated by the Department of Health for reason of inability to pay for such services.

B. Out of this appropriation, ~~\$4,668,330~~ \$4,727,650 the first year and ~~\$4,668,665~~ \$4,727,985 the second year for Statewide Laboratory Services is sum sufficient and these amounts are estimates from an internal service fund which shall be paid from revenues derived from charges collected from state agencies and institutions of higher education for laboratory testing services. The internal service fund shall also consist of revenues transferred from the Department of Transportation for motor fuel testing as stated in § 3-1.02 of this act.

C.1. The provisions of § 2.2-1104 B, Code of Virginia, notwithstanding, the Division of Consolidated Laboratory Services may charge a fee for the limited and specific purpose of analyses of water samples where (i) testing is required by Department of Health regulations as mandated by the federal Safe Drinking Water Act, (ii) funding to support such testing is not otherwise provided for in this act, and (iii) fees shall not be increased unless a plan is first approved by the Governor.

2. The Division of Consolidated Laboratory Services may charge a fee to recover its costs to certify laboratories under the requirements of §§ 2.2-1104 A. 4 and 2.2-1105, Code of Virginia, where certification of these laboratories is required by the Department of Health regulations mandated by the federal Safe Drinking Water Act, Chapter 13 (§ 10.1-1300 et seq.) of Title 10.1, the Virginia Waste Management Act (§ 10.1-1400 et seq.), or the State Water Control Law (§ 62.1-44.2 et seq.), Code of Virginia.

3.a. Any regulations or guidelines necessary to implement or change the amount of the

ITEM 77.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
<p>fees charged for testing of water samples or certification of laboratories may be adopted without complying with the Administrative Process Act (§2.2-4000 et seq.) provided that input is solicited from the public. Such input requires only that notice and an opportunity to submit written comments be given.</p> <p>b. Notwithstanding any other provision of law, changes to fees charged for testing of water samples or certification of laboratories shall be subject to the provisions of § 4-5.03 of this act, effective July 1, 2016.</p> <p>c. Fees charged for testing of water samples or certification of laboratories shall not exceed the cost of providing such services.</p>				
78.	Real Estate Services (72700).....		\$63,058,520	\$63,059,428
	Statewide Leasing and Disposal Services (72705).....		\$66,371,733	\$66,231,733
	Fund Sources: <i>General</i> .....		\$0	\$260,000
	Internal Service.....		\$63,058,520	\$63,059,428
			\$66,371,733	\$65,971,733

Authority: Title 2.2, Chapter 11, Article 4, § 2.2-1156, Code of Virginia.

A. Out of this appropriation, ~~\$63,058,520~~ \$66,371,733 the first year and ~~\$63,059,428~~ \$65,971,733 the second year for Statewide Leasing and Disposal Services is sum sufficient and amounts shown are estimates from an internal service fund which shall be paid from revenues from rent payments or fees to be paid by state agencies and institutions for their occupancy of facilities and management of real property transactions, including, but not necessarily limited to, leases of non-state owned office space throughout the Commonwealth for use by such agencies and institutions. Also included are funds to pay costs associated with the disposal of state-owned real property and interests therein. In implementing the program, the Department of General Services may utilize brokerage services, portfolio management strategies, personnel policies, and compensation practices generally consistent with prevailing industry best practices.

B.1. The costs paid for each sale of state-owned property shall be returned to the fund upon sale of the property in an amount calculated at 115 percent of such costs.

2. The rate charged for administration of single-agency leases shall be three percent of lease costs and the rate for administration of master leases shall be four percent of lease costs. Fees approved in accordance with § 4-5.03 of this act may also be charged for one-time transactions.

C. The Department of General Services shall issue guidelines to ensure that site selection for new state facilities is accomplished in a way that is consistent with the Principles of Sustainable Community Investment identified in Executive Order 69 (2008) and Executive Order 82 (2009).

D.1. Upon notification from the State Treasurer that all debt service and capital lease obligations have been met, the Department of General Services, on behalf of the Commonwealth of Virginia, shall transfer ownership of the property located at the Center for Innovative Technology Complex at 2214 Rock Hill Road, Herndon, Virginia, formerly known as the Software Consortium Productivity Building and now known as the Mid-Rise Building from the Innovation and Entrepreneurship Investment Authority (IEIA), to the Department of General Services.

2. The Department of General Services shall honor all existing leases and contracts and manage the property as part of its real estate services operation. However, the Department of General Services shall allow IEIA to continue to manage and maintain the facility in accordance with Item 428 Q of this act unless otherwise directed by the Governor.

*E. Out of this appropriation, \$260,000 from the general fund the second year is provided to the Department of General Services to conduct an environmental site assessment, and other studies as determined by the department and available funding allows, needed to assess real property at the Central Virginia Training Center site. A report on the department's findings shall be provided to the Governor and Chairmen of the House Appropriations and Senate*

ITEM 78.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
<i>Finance Committees no later than November 1, 2017.</i>				
79.	Procurement Services (73000).....		\$60,149,643	\$60,247,766 \$60,307,766
	Statewide Procurement Services (73002).....	\$25,772,658		\$25,869,606 \$25,929,606
	Surplus Property Programs (73007).....	\$2,180,724		\$2,181,220
	Statewide Cooperative Procurement and Distribution Services (73008).....	\$32,196,261		\$32,196,940
	Fund Sources: General.....	\$2,250,108		\$2,250,108
		\$1,824,892		\$1,824,892
	Special.....	\$2,615,987		\$2,616,027
		\$3,041,203		\$3,101,243
	Enterprise.....	\$20,906,563		\$21,003,471
	Internal Service.....	\$34,376,985		\$34,378,160
Authority: Title 2.2, Chapter 11, Articles 3 and 6, Code of Virginia.				
A. 1. Out of this appropriation, \$606,796 the first year and \$606,840 the second year for federal surplus property is sum sufficient and amounts shown are estimates from an internal service fund which shall be paid from revenues derived from charges for services.				
2. Out of this appropriation, \$1,573,928 the first year and \$1,574,380 the second year for state surplus property is sum sufficient and amounts shown are estimates from an internal service fund which shall be paid from revenues derived from charges for services.				
B. Out of this appropriation, \$32,196,261 the first year and \$32,196,940 the second year for Statewide Cooperative Procurement and Distribution Services is sum sufficient and amounts shown are estimates from an internal service fund which shall be paid from revenues derived from charges for services.				
C.1. The Commonwealth's statewide electronic procurement system and program known as eVA will be financed by fees assessed to state agencies and institutions of higher education and vendors.				
2. Planning for integration between eVA and the statewide financial management system known as Cardinal shall continue and the Department of General Services shall reserve \$2,000,000 of existing eVA special fund balances derived from eVA fees collected before July 2, 2014, for the costs of integration between eVA and Cardinal. The planning shall take into consideration the results of modernization efforts of other state agencies that integrate a comparable version of PeopleSoft with eVA.				
3. Upon approval of an integration plan by the Secretaries of Administration and Finance, the Department of General Services and the Department of Accounts are authorized to fund all approved costs of the integration in accordance with the approved integration plan, including associated integration costs incurred by the Department of Accounts' Cardinal project team. All approved integration costs are to be paid from the existing eVA special fund balances. No integration costs shall be paid from eVA fees collected after July 1, 2014. The Department of General Services is authorized, where necessary, to procure all integration services required for this integration project by the Department of General Services and the Department of Accounts to fulfill the requirements of this subsection. Department of Accounts costs for integration services it procures must be approved by the Department of General Services prior to issuing a purchase order or incurring such costs, as the Department of General Services is expected to pay those costs. The Department of General Services and the Department of Accounts shall work collaboratively to implement and complete the integration in accordance with the Secretaries of Administration and Finance approved plan.				
D. The Department of General Services shall allow nonprofit food banks operating in Virginia and granted tax-exempt status under § 501(c)(3) of the Internal Revenue Code to purchase directly from the Virginia Distribution Center.				
80.	Physical Plant Management Services (74100).....		\$52,183,307 \$52,270,501	\$52,340,498 \$52,427,692

ITEM 80.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
Parking Facilities Management (74105).....	\$4,902,897	\$4,902,963		
Statewide Building Management (74106).....	<del>\$42,011,506</del> \$42,098,700	<del>\$42,015,253</del> \$42,102,447		
Statewide Engineering and Architectural Services (74107).....	\$4,737,063	\$4,890,441		
Seat of Government Mail Services (74108).....	\$531,841	\$531,841		
Fund Sources: General.....	<del>\$1,153,257</del> \$1,131,164	<del>\$1,305,766</del> \$1,283,673		
Special.....	\$4,902,897	\$4,902,963		
Internal Service.....	<del>\$46,127,153</del> \$46,236,440	<del>\$46,131,769</del> \$46,241,056		

Authority: Title 2.2, Chapter 11, Articles 4, 6, and 8; § 58.1-3403, Code of Virginia.

A.1. Out of this appropriation, ~~\$41,390,090~~ \$41,499,377 the first year and ~~\$41,393,837~~ \$41,503,124 the second year for Statewide Building Management represent a sum sufficient internal service fund which shall be paid from revenues from rental charges assessed to occupants of seat of government buildings controlled, maintained, and operated by the Department of General Services and fees paid for other building maintenance and operation services provided through service agreements and special work orders. The internal service fund shall support the facilities at the seat of government and maintenance and operation of such other state-owned facilities as the Governor or department may direct, as otherwise provided by law.

2. Out of the amounts included above in paragraph A.1, \$7,280,481 the first year and \$7,280,481 the second year represent amounts estimated for Statewide Building Management consisting of fees derived from service agreements and special work orders.

3. Out of the amounts included above in paragraph A.1, ~~\$34,109,609~~ \$34,218,896 the first year and ~~\$34,113,356~~ \$34,222,643 the second year represent amounts estimated for Statewide Building Management consisting of revenues derived from rental charges assessed to occupants of seat of government buildings controlled, maintained, and operated by the Department of General Services, excluding the building occupants that currently have maintenance service agreements with the department.

4. The rent rate for occupants of office space in seat of government facilities operated and maintained by the Department of General Services, excluding the building occupants that currently have maintenance service agreements with the department, shall be \$15.96 per square foot the first year and \$15.96 the second year.

5. On or before September 1 of each year, the Department of General Services shall report to the Chairmen of the House Appropriations and Senate Finance Committees, the Secretary of Administration, and the Department of Planning and Budget regarding the operations and maintenance costs of all buildings controlled, maintained, and operated by the Department of General Services. The report shall include, but not be limited to, the cost and fund source associated with the following: utilities, maintenance and repairs, security, custodial services, groundskeeping, direct administration and other overhead, and any other operations or maintenance costs for the most recently concluded fiscal year. The amount of unleased space in each building shall also be reported.

6. Further, out of the estimated cost for Statewide Building Management, amounts estimated at \$2,198,215 the first year and \$2,198,215 the second year shall be paid for Payment in Lieu of Taxes. In addition to the amounts for Statewide Building Management, the following sums, estimated at the amounts shown for this purpose, are included in the appropriations for the agencies identified:

	FY 2017	FY 2018
Department of Alcoholic Beverage Control	\$66,205	\$66,205
Department of Game and Inland Fisheries	\$28,458	\$28,458
Department of Motor Vehicles	\$104,121	\$104,121
Department of State Police	\$665	\$665
Department of Transportation	\$216,783	\$216,783

ITEM 80.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
Department for the Blind and Vision Impaired		\$3,732		\$3,732
Virginia Employment Commission		\$61,185		\$61,185
Virginia Museum of Fine Arts		\$158,513		\$158,513
Virginia Retirement System		\$45,550		\$45,550
Veterans Services		\$138,828		\$138,828
Workers' Compensation Commission		\$20,865		\$20,865
<b>TOTAL</b>		<b>\$844,905</b>		<b>\$844,905</b>

B.1. Out of this appropriation, \$4,737,063 the first year and \$4,737,932 the second year for Statewide Engineering and Architectural Services provided by the Bureau of Capital Outlay Management represent a sum sufficient internal service fund which shall be paid from revenues from fees paid by state agencies and institutions of higher education for the review of architectural, mechanical, and life safety plans of capital outlay projects.

2. In administering this internal service fund, the Bureau of Capital Outlay Management (BCOM) shall provide capital project cost review services to state agencies and institutions of higher education and produce capital project cost analysis work products for the Department of Planning and Budget. BCOM shall collect fees, consistent with those fees authorized above in paragraph B.1, from state agencies and institutions of higher education for completed capital project cost review services or work products.

3. The hourly rate for engineering and architectural services shall be \$142.00 the first year and \$142.00 the second year, excluding contracted services and other special rates as authorized pursuant to § 4-5.03 of this act.

4. Out of the amounts appropriated in this Item, \$152,509 the second year from the general fund is provided for the Bureau of Capital Outlay Management to support the Commonwealth's capital budget and capital pool process for which fees authorized in this paragraph cannot otherwise be assessed.

C. Interest on the employee vehicle parking fund authorized by § 4-6.04 c of this act shall be added to the fund as earned.

D. The Department of General Services shall, in conjunction with affected agencies, develop, implement, and administer a consolidated mail function to process inbound and outbound mail for agencies located in the Richmond metropolitan area. The consolidated mail function shall include the establishment of a centralized mail receiving and outbound processing location or locations, and the enhancement of mail security capabilities within these location(s).

E. All new and renovated state-owned facilities, if the renovations are in excess of 50 percent of the structure's assessed value, that are over 5,000 gross square feet shall be designed and constructed consistent with energy performance standards at least as stringent as the U.S. Green Building Council's LEED rating system or the Green Globes rating system.

F. Effective July 1, 2009, the total service charge for the property known as the General Assembly Building and the State Capitol Building shall not exceed \$70,000 per fiscal year.

G. The Department of General Services, in consultation with the Department of Behavioral Health and Developmental Services, the Department of Corrections, and all other applicable state agencies, shall evaluate the feasibility and cost-effectiveness of using inmate labor to assist in the demolition of vacant buildings on state property. The Department shall develop a plan that includes an inventory of vacant buildings on properties owned by the Commonwealth, which might appropriately be considered for demolition using inmate labor, and an estimated cost of demolition using inmate labor. The Department shall report its findings to the affected agencies, the Director of the Department of Planning and Budget, and the Chairmen of the House Appropriations and Senate Finance Committees by November 1, 2016.

*H. The Director of the Department of General Services shall work with the Commissioner of the Department of Transportation and other agencies to maximize the use of light-*

ITEM 80.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
<p><i>emitting diodes (LEDs) instead of traditional incandescent light bulbs when any state agency installs new outdoor lighting fixtures or replaces nonfunctioning light bulbs on existing outdoor lighting fixtures as long as the LEDs lights are determined to be cost effective. The Director shall report to the Chairmen of the House Appropriations and Senate Finance Committees by November 15, 2017 on the status of this effort including any projected savings.</i></p>				
81.	Printing and Reproduction (82100).....		\$145,600	\$145,600
	Statewide Graphic Design Services (82101).....	\$145,600	\$145,600	
	Fund Sources: Internal Service.....	\$145,600	\$145,600	
<p>Authority: Title 2.2, Chapter 11, Articles 3 and 6, Code of Virginia.</p> <p>1. The appropriation for Statewide Graphic Design Services is sum sufficient and amounts shown are estimates from an internal service fund which shall be paid from revenues derived from charges for services.</p> <p>2. The hourly rate charged for graphic design services shall be \$85.00 the first year and \$85.00 the second year. The amount charged for contracted services shall be 115 percent of the actual cost of such contracted services.</p>				
82.	Transportation Pool Services (82300).....		\$19,004,522	\$19,005,140
	Statewide Vehicle Management Services (82302).....	\$19,004,522	\$19,005,140	
	Fund Sources: Internal Service.....	\$19,004,522	\$19,005,140	
<p>Authority: Title 2.2, Chapter 11, Article 7; § 2.2-120, Code of Virginia.</p> <p>A. The appropriation for Statewide Vehicle Management Services is sum sufficient and amounts shown are estimates from an internal service fund which shall be paid from revenues derived from charges to agencies for fleet management services.</p> <p>B. Charges for central fleet vehicles leased by state agencies and institutions shall be the vehicle purchase cost and interest charges amortized over a period of 84 months or less, in addition to a standard monthly operating charge of \$127.32 the first year and \$127.32 the second year per vehicle for the cost of maintenance and support.</p> <p>C. In addition to providing services to state agencies and institutions, fleet management services may also be provided to local public bodies on a fee for service basis in accordance with established Department of General Services Fleet Management policies and procedures.</p> <p>D. The Department of General Services shall manage the Commonwealth's consolidation of bulk and commercial fuel contracts awarded in response to Chapter 879, Acts of Assembly of 2008, Item 1-83 C. The intent of this consolidation is to leverage the Commonwealth's state and local public entities, gasoline and diesel fuel purchase volume to achieve the most favored pricing from private sector fuel providers, and reduce procurement administration workload from state agencies, institutions, local government entities, and other authorized users of awarded contracts that would have otherwise procured and contracted separately for these commodities.</p> <p>E. The Commonwealth of Virginia, Department of General Services may enter into a comprehensive agreement, or multiple comprehensive agreements, pursuant to the Public-Private Education Facilities and Infrastructure Act – 2002 (§ 56-575.1 et seq.), to achieve the purposes of § 2.2-1176 (B) and result in the replacement of state-owned or operated vehicles with vehicles that operate on alternative fuels. Any agreement entered into must be cost neutral or result in a reduction in the Commonwealth's combined vehicle acquisition and operational costs, and result in lower environmental emissions. The agreements shall not be subject to the requirements found in Title 30, Chapter 42, Code of Virginia (§ 30-278 et. seq.). The Director, Department of General Services, in consultation with the Governor's Senior Advisor on Energy and the Secretary of Finance, shall determine whether the agreement is cost neutral or results in cost savings to the Commonwealth.</p> <p>F. The comprehensive agreement referenced in paragraph E. above, may allow for the Department of General Services (DGS) to establish alternative fuels (natural gas, propane, electric) fueling sites at its office of fleet management facility in Richmond, Virginia. Such sites may be open to the general public for the purchase of alternative fuels when such fuels</p>				

ITEM 82.	Item Details(\$)		Appropriations(\$)	
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are not available on the retail market within 10 miles of the DGS fleet management facility. Rates for fuel purchased by the general public will be established by the private vendor operating the fueling site. In emergency situations or fuel shortages, the Commonwealth retains the ability to restrict access to such sites as necessary.				
83.	Administrative and Support Services (79900).....		\$4,521,284 \$4,264,973	\$4,523,228 \$4,071,411
	General Management and Direction (79901).....	\$2,676,003 \$2,419,692	\$2,677,947 \$2,226,130	
	Information Technology Services (79902).....	\$1,845,281	\$1,845,281	
	Fund Sources: General.....	\$4,521,284 \$4,264,973	\$4,523,228 \$4,071,411	
Authority: Title 2.2, Chapter 11 and Chapter 24, Article 1, Code of Virginia.				
	Total for Department of General Services.....		\$231,976,622 \$237,424,256	\$232,238,180 \$237,353,624
	General Fund Positions.....	252.00	252.00 239.50	
	Nongeneral Fund Positions.....	405.50	405.50 411.50	
	Position Level.....	657.50	657.50 651.00	
	Fund Sources: General.....	\$20,787,910 \$19,748,515	\$20,942,363 \$19,911,686	
	Special.....	\$7,538,884 \$7,964,100	\$7,538,990 \$8,024,206	
	Enterprise.....	\$29,930,333 \$32,453,333	\$30,028,706 \$32,551,706	
	Internal Service.....	\$167,381,110 \$170,862,930	\$167,388,762 \$170,469,674	
	Federal Trust.....	\$6,338,385 \$6,395,378	\$6,339,359 \$6,396,352	
<b>§ 1-30. DEPARTMENT OF HUMAN RESOURCE MANAGEMENT (129)</b>				
84.	Personnel Management Services (70400).....		\$15,949,645 \$17,929,317	\$15,573,382 \$18,097,180
	Agency Human Resource Services (70401).....	\$2,998,734	\$2,998,848 \$1,013,879	
	Human Resource Service Center (70402).....	\$1,254,584	\$1,254,584	
	Equal Employment Services (70403).....	\$819,418	\$819,418	
	Health Benefits Services (70406).....	\$4,768,597 \$6,803,269	\$4,768,882 \$7,405,908	
	Personnel Development Services (70409).....	\$1,036,577	\$659,577	
	<i>Personnel Management Information System (70410).....</i>	\$0	\$1,827,972	
	Employee Dispute Resolution Services (70416).....	\$949,598	\$949,598	
	State Employee Program Services (70417).....	\$1,815,577	\$1,815,577 \$2,009,346	
	State Employee Workers' Compensation Services (70418).....	\$1,367,467	\$1,367,467	
	Administrative and Support Services (70419).....	\$939,093 \$884,093	\$939,431 \$789,431	
	Fund Sources: General.....	\$6,915,977 \$6,860,977	\$6,539,315 \$4,790,839	
	Special.....	\$7,666,201 \$9,700,873	\$7,666,600 \$1,235,048	
	Enterprise.....	\$0	\$2,901,717	
	Internal Service.....	\$0	\$7,609,204	
	Trust and Agency.....	\$1,367,467	\$1,367,467 \$1,560,372	

ITEM 84.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
Authority: Title 2.2, Chapters 12 and 28 through 32, Code of Virginia.				
A. The Department of Human Resource Management shall report any proposed changes in premiums, benefits, carriers, or provider networks to the Governor and the Chairmen of the House Appropriations and Senate Finance Committees at least sixty days prior to implementation.				
B.1. The Department of Human Resource Management shall operate a human resource service center to support the human resource needs of those agencies identified by the Secretary of Administration in consultation with the Department of Planning and Budget. The agencies identified shall cooperate with the Department of Human Resource Management by transferring such records and functions as may be required.				
2. Out of this appropriation, \$590,353 the first year and \$590,353 the second year from the general fund shall be used to support the human resource service center.				
3. Nothing in this paragraph shall prohibit additional agencies from using the services of the center; however, these additional agencies' use of the human resource service center shall be subject to approval by the affected cabinet secretary and the Secretary of Administration.				
4. a. Agencies that are partially or fully funded with nongeneral funds that receive approval by the affected cabinet secretary and the Secretary of Administration to join the human resource service center, on or after July 1, 2014, shall pay the Department of Human Resource Management the costs to support the human resource service center. The agency's share of the costs to support the human resource service center shall be based on the agency's applicable nongeneral fund expenditures as set out in § 4-5.03 of this act.				
b. The rates required to recover the costs of the human resource service center shall be provided by the Department of Human Resource Management to the Department of Planning and Budget by September 1 each year for review and approval of the subsequent fiscal year's rate in accordance with § 4-5.03 of this act.				
c. The rates for the human resource service center shall be \$995.00 per full-time equivalent and \$398.00 per wage employee the first year and \$995.00 per full-time equivalent and \$398.00 per wage employee the second year.				
C. The institutions of higher education shall be exempt from the centralized advertising requirements identified in Executive Order 73 (01).				
D.1. To ensure fair and equitable performance reviews, the Department of Human Resource Management, within available resources, is directed to provide performance management training to agencies and institutions of higher education with classified employees.				
2. Agency heads in the Executive Department are directed to require appropriate performance management training for all agency supervisors and managers.				
E. The Department of Human Resource Management shall take into account the claims experience of each agency and institution when setting premiums for the workers' compensation program.				
F.1. The Department of Human Resource Management shall report to the Governor and Chairmen of the House Appropriations and Senate Finance Committees by October 1 of each year, on its recommended workers' compensation premiums for state agencies for the following biennium. This report shall also include the basis for the department's recommendations, the number and amount of workers' compensation settlements concluded in the previous fiscal year, and the impact of those settlements on the workers' compensation program's reserves.				
2. Beginning July 1, 2015, the Department of Human Resource Management shall conduct an annual review of each state agency's loss control history, to include the severity of workers' compensation claims, experience modification factor, and frequency normalized by payroll. Based on the annual review, state agencies deemed by the Department of Human Resource Management as having higher than normal loss history shall be required to participate in a loss control program. All executive, judicial, legislative, and independent agencies required to participate in the loss control program shall fully cooperate with the Department of Human				

ITEM 84.	Item Details(\$)		Appropriations(\$)	
	First Year	Second Year	First Year	Second Year
	FY2017	FY2018	FY2017	FY2018

Resource Management's review. The Department of Human Resource Management shall provide a report to the Governor, Director, Department of Planning and Budget, and Chairmen of the House Appropriations and Senate Finance Committees on the status and recommendations of the loss control program no later than October 30 of each year.

3. a. A working capital advance of up to \$20,000,000 shall be provided to the Department of Human Resource Management to identify and potentially settle certain workers' compensation claims open for more than one year but less than 10 years. The Department of Human Resource Management shall pay back the working capital advance from annual premiums over a seven year period. The Department of Human Resource Management shall provide a report to the Governor, Director, Department of Planning and Budget, and Chairmen of the House Appropriations and Senate Finance Committees on the status of the settlement program, the number of claims settled, and the estimated state costs avoided from the settlements no later than October 30 of each year.

b. The Secretary of Finance and Secretary of Administration shall approve the drawdowns from this working capital advance prior to the expenditure of funds. The State Comptroller shall notify the Governor and the Chairmen of the House Appropriations and Senate Finance Committees of any approved drawdowns.

G. The Department of Human Resource Management shall report to the Governor and Chairmen of the House Appropriations and Senate Finance Committees, by October 15 of each year, on the renewal cost of the state employee health insurance program premiums that will go into effect on July 1 of the following year. This report shall include the impact of the renewal cost on employee and employer premiums and a valuation of liabilities as required by Other Post Employment Benefits reporting standards.

H. Out of this appropriation, \$606,439 the first year and \$606,439 the second year from the general fund is provided for the time, attendance and leave system.

I. The Department of Human Resource Management shall develop and distribute instructions and guidelines to all executive department agencies for the provision of an annual statement of total compensation for each classified employee. The statement should account for the full cost to the Commonwealth and the employee of cash compensation as well as Social Security, Medicare, retirement, deferred compensation, health insurance, life insurance, and any other benefits. The Director, Department of Human Resource Management, shall ensure that all executive department agencies provide this notice to each employee. The Department of Accounts and the Virginia Retirement System shall provide assistance upon request. Further, the Director of the Department of Human Resource Management shall provide instructions and guidelines for the development notices of total compensation to all independent, legislative, and judicial agencies, and institutions of higher education for preparation of annual statements to their employees.

*J. 1. The appropriation for the Personnel Management Information System (PMIS) is a sum sufficient and amounts shown are estimates from an internal service fund which shall be paid solely from revenues derived from charges to executive branch agencies, identified by the Department of Human Resource Management and approved by the Department of Planning and Budget, to support the operation of PMIS and its subsystems authorized in this Item.*

*2.a. The rate for agencies to support PMIS and its subsystems, operated and maintained by the Department of Human Resource Management, shall be \$16.85 per position the second year. The rate is based upon the higher of the agency's maximum employment level as of July 1, 2016, and filled wage positions as of June 30, 2016, or the total number of filled classified and wage positions as of June 30, 2016.*

*b. The rates authorized to support the operation of PMIS and its subsystems shall be provided by the Department of Human Resource Management and approved by the Department of Planning and Budget by September 1 each year for review and approval of the subsequent fiscal year's rate in accordance with § 4-5.03 of this act.*

*3. The State Comptroller shall recover the cost of services provided for the administration of the internal service fund through interagency transactions as determined by the State*

ITEM 84.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
<i>Comptroller.</i>				
<i>K. Out of the amounts appropriated for this item to support the Commission on Employee Retirement Security and Pension Reform, the Department of Human Resource Management is authorized to spend an amount estimated at \$75,000 each year on the development and maintenance of an employee exit survey and an amount estimated at \$20,000 per year to subscribe to Occupationally Based Data Services focused on total compensation and evaluation of peer employers.</i>				
Total for Department of Human Resource Management.....			<b>\$15,949,645</b> <b>\$17,929,317</b>	<b>\$15,573,382</b> <b>\$18,097,180</b>
General Fund Positions.....	60.46	<del>60.46</del> 53.46		
Nongeneral Fund Positions.....	<del>52.54</del> 54.54	<del>52.54</del> 67.54		
Position Level.....	<del>113.00</del> 115.00	<del>113.00</del> 121.00		
Fund Sources: General.....	\$6,915,977	\$6,539,315		
	\$6,860,977	\$4,790,839		
Special.....	\$7,666,201	\$7,666,600		
	\$9,700,873	\$1,235,048		
Enterprise.....	\$0	\$2,901,717		
Internal Service.....	\$0	\$7,609,204		
Trust and Agency.....	\$1,367,467	\$1,367,467		
		\$1,560,372		

**Administration of Health Insurance (149)**

85.	Personnel Management Services (70400).....			\$1,884,464,330	\$2,018,464,330
				\$1,944,464,330	\$2,087,219,541
	Health Benefits Services (70406).....	\$1,465,195,823	\$1,569,195,823		
		\$1,515,195,823	\$1,619,195,823		
	Local Health Benefit Services (70407).....	\$419,268,507	\$449,268,507		
		\$429,268,507	\$459,268,507		
	<i>Health Insurance Benefit Payment Under the Line of Duty Act (70408).....</i>	\$0	\$8,755,211		
	Fund Sources: Enterprise.....	\$419,268,507	\$449,268,507		
		\$429,268,507	\$459,268,507		
	Internal Service.....	\$1,465,195,823	\$1,569,195,823		
		\$1,515,195,823	\$1,619,195,823		
	Trust and Agency.....	\$0	\$8,755,211		

Authority: § 2.2-2818, § 2.2-1204, and Title 9.1, Chapter 4, Code of Virginia.

A. The appropriation for Health Benefits Services is sum sufficient and amounts shown are estimates from an internal service fund which shall be paid from revenues paid by state agencies to the Department of Human Resource Management.

B. The amounts for Local Health Benefits Services include estimated revenues received from localities for the local choice health benefits program.

C.1. In the event that the total of all eligible claims exceeds the balance in the state employee medical reimbursement account, there is hereby appropriated a sum sufficient from the general fund of the state treasury to enable the payment of such eligible claims.

2. The term "employee medical reimbursement account" means the account administered by the Department of Human Resource Management pursuant to § 125 of the Internal Revenue Code in connection with the health insurance program for state employees (§ 2.2-2818, Code of Virginia).

D. Any balances remaining in the reserved component of the Employee Health Insurance Fund shall be considered part of the overall Health Insurance Fund. It is the intent of the General Assembly that future premiums for the state employee health insurance program shall

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	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
<p>be set in a manner so that the balance in the Health Insurance Fund will be sufficient to meet the estimated Incurred But Not Paid liability for the Fund and maintain a contingency reserve at a level recommended by the Department of Human Resource Management for a self-insured plan subject to the approval of the General Assembly.</p> <p>E. The Department of Human Resource Management shall implement a Medication Therapy Management pilot program for state employees with certain disease states including Type II diabetes. The department shall continue to consult with all provider stakeholders in order to establish program parameters.</p> <p>F. Concurrent with the date the Governor introduces the budget bill, the Directors of the Departments of Planning and Budget and Human Resource Management shall provide to the Chairmen of the House Appropriations and Senate Finance Committees a report detailing the assumptions included in the Governor's introduced budget for the state employee health insurance plan. The report shall include the proposed premium schedule that would be effective for the upcoming fiscal year and any proposed changes to the benefit structure.</p> <p>G. Of money appropriated for the state employee health insurance fund, \$500,000 the first year and \$650,000 the second year shall be held separate and apart from the fund to pay for any required fees due to the Patient-Centered Outcomes Research Institute.</p> <p>H. The Director of the Department of Human Resource Management shall analyze pharmacy claims data from the past biennium in order to assess the value of payments made to the state employee health program's contracted third party administrators, and the value of payments made by the contracted third party administrators to their contracted prescription benefit managers (PBMs). The Director shall identify and report any difference in value in payments made to the contracted PBMs and payments made to the state employee health program's contracted third party administrators and shall make recommendations to the Chairmen of the House Appropriations Committee and Senate Finance Committees by October 1, 2016.</p> <p><i>I. In addition to such other payments as may be available, the full cost of group health insurance, net of any deductions and credits, for the surviving spouses and dependents of certain public safety officers killed in the line of duty and for certain public safety officers disabled in the line of duty, and the spouses and dependents of such disabled officers, are payable from this Item pursuant to Title 9.1, Chapter 4, Code of Virginia, effective July 1, 2017.</i></p> <p><i>J. The Department of Human Resource Management shall identify the requirements, costs, and benefits of implementing a shared-savings incentive program for state-employed, public sector or retired enrollees who elect to shop and receive health care services at a lower cost than the average price paid by their carrier for a comparable health care service. Under such a program, the Department shall develop a plan to reimburse the insured for using a lower cost site of service. The cash payment incentive could be calculated as a percentage or as a flat dollar amount, or by some reasonable methodology determined by the Department. The Department shall determine whether to administer the program itself or through a third-party, or to require carriers to offer access to such a program for health care services eligible for shared incentives and estimate the projected fiscal impact of the program. No later than November 1, 2017 the Department shall report to the Chairmen of the House Appropriations and Senate Finance Committees.</i></p>				
Total for Administration of Health Insurance.....			<b>\$1,884,464,330</b> <b>\$1,944,464,330</b>	<b>\$2,018,464,330</b> <b>\$2,087,219,541</b>
Fund Sources: Enterprise.....	\$419,268,507 \$429,268,507	\$449,268,507 \$459,268,507		
Internal Service.....	\$1,465,195,823 \$1,515,195,823	\$1,569,195,823 \$1,619,195,823		
Trust and Agency.....	\$0	\$8,755,211		
Grand Total for Department of Human Resource Management.....			<b>\$1,900,413,975</b> <b>\$1,962,393,647</b>	<b>\$2,034,037,712</b> <b>\$2,105,316,721</b>

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	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
General Fund Positions.....	60.46	60.46		
		53.46		
Nongeneral Fund Positions.....	52.54	52.54		
	54.54	67.54		
Position Level.....	113.00	113.00		
	115.00	121.00		
Fund Sources: General.....	\$6,915,977	\$6,539,315		
	\$6,860,977	\$4,790,839		
Special.....	\$7,666,201	\$7,666,600		
	\$9,700,873	\$1,235,048		
Enterprise.....	\$419,268,507	\$449,268,507		
	\$429,268,507	\$462,170,224		
Internal Service.....	\$1,465,195,823	\$1,569,195,823		
	\$1,515,195,823	\$1,626,805,027		
Trust and Agency.....	\$1,367,467	\$1,367,467		
		\$10,315,583		

**§ 1-31. DEPARTMENT OF ELECTIONS (132)**

86.	Electoral Services (72300).....			\$11,028,856	\$10,190,808
				\$10,919,347	\$14,327,318
	Electoral Uniformity, Legality, and Quality Assurance Services (72302).....	\$1,797,681	\$1,771,882		
		\$1,744,213			
	Statewide Voter Registration System Services (72304).....	\$5,512,974	\$5,332,056		
		\$5,456,933	\$6,326,015		
	Campaign Finance Disclosure Administration Services (72309).....	\$409,371	\$259,371		
	Election Administration Services (72310).....	\$1,500,661	\$1,224,574		
			\$2,012,443		
	Voter Services (72311).....	\$1,113,656	\$914,687		
			\$999,687		
	Administrative Services (72312).....	\$694,513	\$688,238		
			\$2,957,920		
	Fund Sources: General.....	\$3,579,876	\$2,958,044		
		\$3,470,367	\$7,094,554		
	Special.....	\$116,250	\$116,250		
	Trust and Agency.....	\$7,244,150	\$7,116,514		
	Federal Trust.....	\$88,580	\$0		

Authority: Title 24.2, Chapter 1, Code of Virginia.

A. It is the intention of the General Assembly that all local precincts, other than central absentee precincts established under § 24.2-712, Code of Virginia, will use electronic pollbooks for elections held beginning in November, 2010.

B. Any locality using paper pollbooks for elections held beginning in November, 2010, shall be responsible for entering voting credit as provided in § 24.2-668. Additionally, any locality using paper pollbooks for elections held after November, 2010 may be required to reimburse the Department of Elections for state costs associated with providing paper pollbooks.

C. Municipalities will pay all expenses associated with May elections after June 30, 2009, including those costs incurred by the Department of Elections.

D. The State Board of Elections shall by regulation provide for an administrative fee up to \$25 for each non-electronic report filed with the State Board under § 24.2-947.5. The regulation shall provide for waiver of the fee based upon indigence.

E. All unpaid charges and civil penalties assessed under Title 24.2 shall be subject to interest, the administrative collection fee and late penalties authorized in the Virginia Debt Collection Act, Chapter 48 of Title 2.2, § 2.2-4800 et seq.

F. Out of this appropriation, \$212,687 the first year and \$212,687 the second year from the

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general fund is provided for voter outreach and education required to inform voters about the photo identification requirements pursuant to Chapter 725 of the Acts of Assembly of 2013. It is the intent of the General Assembly that registration cards containing the voter's photograph and signature be provided free to any eligible voter upon request to the general registrar.

G. Out of this appropriation, \$212,423 the first year and \$212,423 the second year from the general fund is provided for conducting list maintenance mailings as required by the National Voter Registration Act.

H. Out of this appropriation, \$196,000 the first year from the general fund is provided to advertise two proposed amendments to the Constitution of Virginia that will appear on the ballot in November 2016, pursuant to Chapter 12 and Chapter 17 of the Acts of Assembly of 2016, and as required pursuant to § 30-19.9 of the Code of Virginia.

87.	Financial Assistance for Electoral Services (78000)			\$5,832,810	\$5,832,810
	Financial Assistance for General Registrar Compensation (78001).....	\$4,925,097	\$4,925,097		
	Financial Assistance for Local Electoral Board Compensation and Expenses (78002).....	\$907,713	\$907,713		
	Fund Sources: General.....	\$5,832,810	\$5,832,810		

Authority: Title 24.2, Chapter 1, Code of Virginia.

A.1.a. In determining the salary for each general registrar, the Department of Elections shall use the most recent provisional population estimate from the Weldon Cooper Center for Public Service of the University of Virginia. The Department of Elections shall adjust such population estimate, where applicable, for any annexation or consolidation order by a court when such order becomes effective. There shall be no reduction in salary by reason of a decline in population during the terms in which the incumbent general registrar remains in office.

b. The annual salaries of general registrars, in accordance with the provisions of § 24.2-111, Code of Virginia, shall be as hereinafter prescribed.

Population	July 1, 2016	July 1, 2017	December 1, 2017
	to June 30, 2017	to November 30, 2017	to June 30, 2018
0-25,000	\$45,557	\$45,557	\$45,557
25,001-50,000	\$50,058	\$50,058	\$50,058
50,001-100,000	\$54,862	\$54,862	\$54,862
100,001-150,000	\$61,312	\$61,312	\$61,312
150,001-200,000	\$67,148	\$67,148	\$67,148
200,001 and above	\$88,750	\$88,750	\$88,750

c. Any locality required to supplement the salary of a general registrar on June 30, 1981, shall continue that supplement at the identical annual amount as paid in FY 1982. This supplement shall continue as long as the incumbent general registrar on July 1, 1982, continues in office. Further, any locality may supplement the annual salary of the general registrar. There shall be no reimbursement out of the state treasury for such supplements.

2. General registrars in the Counties of Arlington, Fairfax, Loudoun, and Prince William and the Cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park shall receive a cost of competition supplement equal to 15 percent of the salaries authorized in paragraph A.1.a. The cost of this supplement shall be paid out of the general fund of the state treasury.

B.1.a. The Department of Elections shall set the annual compensation for secretaries and members of local electoral boards on July 1 of each year. In determining such compensation, the Department of Elections shall use the most recent population estimate

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	FY2017	FY2018	FY2017	FY2018

from the United States Bureau of the Census. However, should more recent population estimates from the Weldon Cooper Center for Public Service of the University of Virginia indicate that the population of any county or city has, since the last United States census, increased so as to entitle such county or city to be placed in a higher compensation bracket, such county or city shall be considered as being within the higher bracket for the purpose of fixing the annual compensation.

b. The annual compensation of the secretary of each local electoral board shall be as hereinafter prescribed.

Population Size of Locality	July 1, 2016	July 1, 2017	December 1, 2017
	to June 30, 2017	to November 30, 2017	to June 30, 2018
0-10,000	\$2,067	\$2,067	\$2,067
10,001-25,000	\$3,097	\$3,097	\$3,097
25,001-50,000	\$4,129	\$4,129	\$4,129
50,001-100,000	\$5,162	\$5,162	\$5,162
100,001-150,000	\$6,192	\$6,192	\$6,192
150,001-200,000	\$7,241	\$7,241	\$7,241
200,001-350,000	\$8,264	\$8,264	\$8,264
Above 350,000	\$9,291	\$9,291	\$9,291

c. The annual compensation of other members of local electoral boards shall be fixed at one-half the annual compensation provided to the secretary of the board.

d. The governing body of any county or city may pay to a full-time secretary of an electoral board such supplemental compensation as it deems appropriate. There shall be no reimbursement out of the state treasury for such supplements.

2. Nothing herein contained shall prevent the governing body of any county or city from paying the secretary of its electoral board such additional allowance for expenses as it deems appropriate but there shall be no reimbursement out of the state treasury for such expenses.

3. Notwithstanding § 24.2-108, Code of Virginia, counties and cities shall not be reimbursed for mileage paid to members of electoral boards.

Total for Department of Elections.....			<b>\$16,861,666</b>	<b>\$16,023,618</b>
			<b>\$16,752,157</b>	<b>\$20,160,128</b>
General Fund Positions.....	30.00	<del>30.00</del> 31.00		
Nongeneral Fund Positions.....	<del>7.00</del> 10.00	<del>7.00</del> 12.00		
Position Level.....	<del>37.00</del> 40.00	<del>37.00</del> 43.00		
Fund Sources: General.....	\$9,412,686	\$8,790,854		
	\$9,303,177	\$12,927,364		
Special.....	\$116,250	\$116,250		
Trust and Agency.....	\$7,244,150	\$7,116,514		
Federal Trust.....	\$88,580	\$0		
TOTAL FOR OFFICE OF ADMINISTRATION.....			<b>\$2,839,904,470</b>	<b>\$2,980,692,293</b>
			<b>\$2,901,762,108</b>	<b>\$3,057,044,003</b>
General Fund Positions.....	373.46	<del>373.46</del> 354.96		
Nongeneral Fund Positions.....	<del>466.04</del> 471.04	<del>466.04</del> 492.04		

ITEM 87.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
Position Level.....	839.50 844.50	839.50 847.00		
Fund Sources: General.....	\$711,768,068 \$704,704,005	\$718,664,603 \$715,442,707		
Special.....	\$15,321,335 \$17,781,223	\$15,321,840 \$9,375,504		
Enterprise.....	\$449,198,840 \$461,721,840	\$479,297,213 \$494,721,930		
Internal Service.....	\$1,632,576,933 \$1,686,058,753	\$1,736,584,585 \$1,797,274,701		
Trust and Agency.....	\$16,612,329	\$16,484,693 \$25,432,809		
Dedicated Special Revenue.....	\$8,000,000 \$8,400,000	\$8,000,000 \$8,400,000		
Federal Trust.....	\$6,426,965 \$6,483,958	\$6,339,359 \$6,396,352		

ITEM 88.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018

**OFFICE OF AGRICULTURE AND FORESTRY**

**§ 1-32. SECRETARY OF AGRICULTURE AND FORESTRY (193)**

88.	Administrative and Support Services (79900).....			\$381,457	\$381,556
	General Management and Direction (79901).....	\$381,457	\$381,556		
	Fund Sources: General.....	\$381,457	\$381,556		

Authority: Title 2.2, Chapter 2, Article 2.1; § 2.2-203.3, Code of Virginia.

*The Secretary of Agriculture and Forestry shall convene a panel of stakeholders within and outside government to: (i) review state and local noise and traffic regulations and the marketing of Virginia wines through events and activities; (ii) consider findings of previous relevant studies on Virginia farm wineries; and (iii) develop recommendations as appropriate for how the state can better foster the viability of Virginia farm wineries. The Secretary shall complete all meetings by November 15, 2017 and report such recommendations to the Governor and the General Assembly no later than November 30, 2017.*

	Total for Secretary of Agriculture and Forestry.....			<b>\$381,457</b>	<b>\$381,556</b>
	General Fund Positions.....	3.00	3.00		
	Position Level.....	3.00	3.00		
	Fund Sources: General.....	\$381,457	\$381,556		

**§ 1-33. DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES (301)**

89.	Nutritional Services (45700).....			\$4,676,016	<del>\$4,676,016</del> \$4,976,016
	Distribution of USDA Donated Food (45708).....	\$4,676,016	<del>\$4,676,016</del> \$4,976,016		
	Fund Sources: General.....	\$292,735	\$292,735		
	Federal Trust.....	\$4,383,281	<del>\$4,383,281</del> \$4,683,281		

Authority: Title 3.2, Chapter 47, Code of Virginia.

The Virginia Departments of Education, Health, and Agriculture and Consumer Services shall develop a plan for the transfer of the Summer Food Services Program and the Child and Adult Care Feeding Program from the Virginia Department of Health, and the Fresh Fruit and Vegetable Program, National School Lunch Program, School Breakfast Program, and Special Milk Program from the Virginia Department of Education to the Virginia Department of Agriculture and Consumer Services in an effort to house feeding programs under one agency, and shall submit such plan to the Governor and the Chairmen of the House Appropriations and Senate Finance Committees no later than November 15, 2016. Such plan shall detail the funding amounts and positions associated with the impacted programs, and include an estimate of whether cost savings or additional costs would be incurred, both during the transition and over the long-term, from the transfer of these programs. The review shall also assess any potential administrative impacts on the local school divisions, the Department of Education and the Department of Health. No transfer of positions or funding shall occur without prior approval of the General Assembly at the 2017 Regular Session.

90.	Animal and Poultry Disease Control (53100).....			<del>\$7,418,531</del> \$7,343,531	\$7,392,491
	Animal Disease Prevention and Control (53101).....	\$3,088,613	\$3,088,613		
	Diagnostic Services (53102).....	<del>\$4,121,991</del> \$4,046,991	\$4,095,951		
	Animal Welfare (53104).....	\$207,927	\$207,927		
	Fund Sources: General.....	<del>\$4,670,924</del> \$4,595,924	\$4,644,884		
	Special.....	\$1,661,632	\$1,661,632		
	Federal Trust.....	\$1,085,975	\$1,085,975		

ITEM 90.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
Authority: Title 3.2, Chapters 60 and 65, Code of Virginia.				
91.	Agricultural Industry Marketing, Development, Promotion, and Improvement (53200).....		\$21,875,845	\$21,812,845
			\$20,805,272	\$20,505,272
	Grading and Certification of Virginia Products (53201).....	\$7,214,196	\$7,214,196	
	Milk Marketing Regulation (53204).....	\$802,494	\$802,494	
	Marketing Research (53205).....	\$272,806	\$272,806	
	Market Virginia Agricultural and Forestry Products Nationally and Internationally (53206).....	\$5,001,995	\$4,951,995	
		\$4,826,995	\$4,701,995	
	Agricultural Commodity Boards (53208).....	\$6,468,643	\$6,468,643	
		\$5,969,906	\$6,544,906	
	Agribusiness Development Services and Farmland Preservation (53209).....	\$2,115,711	\$2,102,711	
		\$1,718,875	\$968,875	
	Fund Sources: General.....	\$9,251,548	\$9,188,548	
		\$8,180,975	\$7,830,975	
	Special.....	\$108,125	\$108,125	
			\$158,125	
	Trust and Agency.....	\$6,704,556	\$6,704,556	
	Dedicated Special Revenue.....	\$5,090,718	\$5,090,718	
	Federal Trust.....	\$720,898	\$720,898	

Authority: Title 3.2, Chapters 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 26, 27, 30, 32, 34, 36.2; Title 28.2, Chapter 2; and Title 61.1, Chapter 4, Code of Virginia.

A. Agricultural Commodity Boards shall be paid from the special fund taxes levied in the following estimated amounts:

1. To the Tobacco Board, \$143,000 the first year and \$143,000 the second year.
2. To the Corn Board, \$390,000 the first year and \$390,000 the second year.
3. To the Egg Board, \$210,000 the first year and \$210,000 the second year.
4. To the Soybean Board, \$980,000 the first year and \$980,000 the second year.
5. To the Peanut Board, \$320,000 the first year and \$320,000 the second year.
6. To the Cattle Industry Board, \$425,000 the first year and \$425,000 the second year.
7. To the Virginia Small Grains Board, \$750,000 the first year and \$750,000 the second year.
8. To the Virginia Horse Industry Board, \$320,000 the first year and \$320,000 the second year.
9. To the Virginia Sheep Industry Board, \$35,000 the first year and \$35,000 the second year.
10. To the Virginia Potato Board, \$25,000 the first year and \$25,000 the second year.
11. To the Virginia Cotton Board, \$180,000 the first year and \$180,000 the second year.
12. To the State Apple Board, \$257,650 the first year and \$257,650 the second year.

B. Each commodity board is authorized to expend funds in accordance with its authority as stated in the Code of Virginia. Such expenditures will be limited to available revenue levels.

C. Each commodity board specified in this Item shall provide an annual notification to its excise tax paying producers which summarizes the purpose of the board and the excise tax, current tax rate, amount of excise taxes collected in the previous tax year, the previous fiscal year expenditures and the board's past year activities. The manner of notification

ITEM 91.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
shall be determined by each board.				
D. The Commissioner shall take all necessary actions to ensure that the fees collected are adequate to cover the nongeneral fund portion of the Grain Inspection Program expenses, including those related to product inspections that are requested by parties financially interested in any agricultural products pursuant to § 3.2-3400, Code of Virginia.				
E. Out of the amounts in this Item shall be paid from certain special fund license taxes, license fees, and permit fees levied or imposed under Title 28.2, Chapters 2, 3, 4, 5, 6 and 7, Code of Virginia, to the Virginia Marine Products Board, \$402,543 and two positions the first year and \$402,543 and two positions the second year.				
F. Out of the amounts in this Item, <del>\$1,941,231</del> \$2,017,494 the first year and <del>\$1,941,231</del> \$2,017,494 the second year from the general fund shall be deposited to the Virginia Wine Promotion Fund as established in § 3.2-3005, Code of Virginia.				
G. Out of the amounts in this Item, <del>\$1,000,000</del> \$500,000 the first year and <del>\$1,000,000</del> \$250,000 the second year from the general fund shall be deposited to the Virginia Farmland Preservation Fund established in § 3.2-201, Code of Virginia. This appropriation shall be deemed sufficient to meet the provisions of § 2.2-1509.4, Code of Virginia.				
H. Out of the amounts in this Item, the Commissioner is authorized to expend from the general fund amounts not to exceed \$25,000 the first year and \$25,000 the second year for entertainment expenses commonly borne by businesses. Further, such expenses shall be recorded separately by the agency.				
I. Out of the amounts in this Item, the Commissioner is authorized to expend <del>\$1,295,226</del> \$1,120,226 the first year and <del>\$1,295,226</del> \$1,120,226 the second year from the general fund for the promotion of Virginia's agricultural products overseas. Such efforts shall be conducted in concert with the international offices opened by the Virginia Economic Development Partnership.				
J. Out of the amounts in this Item, \$25,000 the first year and \$25,000 the second year from the general fund shall be provided to support 4-H and Future Farmers of America youth participation educational costs at the State Fair of Virginia. These funds shall not be used for administrative costs by the State Fair.				
K. 1. Out of the amounts in this Item, \$75,000 the first year <del>and \$75,000 the second year</del> from the general fund shall be used for research, development and the applied commercialization of specialty crops. For the purpose of these funds, specialty crops shall be defined as those crops not currently under widespread commercial production in Virginia, (not listed in the top 20 commodities in Virginia as reported annually by the National Agricultural Statistics Service) but which are commercially produced in other regions of the United States or other regions of the world.				
2. Projects supported with these funds will encompass a crop, or crops, which have a unique potential for successful commercialization due to an existing commercial end market for the crop, or crops, having been identified within the Commonwealth. In selecting projects, priority shall be given to crops for which a commercial processor(s) or packer(s), operates within Virginia, and due to the specialty crop not currently being commercially grown in Virginia, this crop is currently imported into Virginia. The goal of the project is to improve the productivity and competitiveness of existing commercial food and agribusiness processors in Virginia through accelerated crop development of selected specialty crops that can be used as inputs and substitutes for an imported commodity.				
L. Out of the amounts in this item, <del>\$373,944</del> \$113,580 the first year and <del>\$373,944</del> \$113,580 the second year from the general fund and <del>two</del> one full-time equivalent positions shall be used to establish the Virginia Farm Business Development Program. This program shall provide farmers and small agribusinesses that qualify under guidelines as established by the Department with grants not to exceed \$5,000 to assist with business planning, market research, and other related activities including in-depth research, website design, social media strategy, food innovation, packaging design, modernization of facilities and business certification. The authorized positions shall be used for management of the grant program and to conduct regional workshops on marketing and business development. Not later than November 15, 2016, the Department shall report to the Chairmen of the House Committee on				

ITEM 91.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018

Appropriations and the Senate Committee on Finance on the efforts undertaken by the Department to establish the program, the grant guidelines, and the number of grants awarded.

M. Out of the amounts in this item, \$50,000 the first year from the general fund shall be provided for the renovation of the Appomattox 4-H Center.

*N. The department is directed to survey local farmer's markets across the Commonwealth to determine if any local regulations governing the operations of such markets discourage the sale of Virginia products by the use of a locally-grown perimeter rule that gives preference to out-of-state products over products grown in Virginia. If the department finds any such impediments exist, it shall encourage local farmer's markets to revise their guidelines to ensure that Virginia products are given first preference, regardless of the distance from the particular market. In instances where a local Virginia grown product already is selling at a particular market, competitors from across the state should be allowed to sell their Virginia grown products provided there are no objections submitted by competing Virginia sellers.*

92.	Economic Development Services (53400).....			\$2,328,835	\$2,328,835
				\$2,108,835	\$1,215,255
	Financial Assistance for Economic Development (53410).....	\$2,328,835	\$2,328,835		
		\$2,108,835	\$1,215,255		
	Fund Sources: General.....	\$2,328,835	\$2,328,835		
		\$2,108,835	\$1,215,255		

Authority: Title 3.2, Chapter 3.1, Code of Virginia.

A. Out of the amounts in this Item, ~~\$2,000,000~~\$1,780,000 the first year and ~~\$2,000,000~~\$1,000,000 the second year from the general fund shall be deposited to the Governor's Agriculture and Forestry Industries Development Fund for the payment of grants or loans in accordance § 3.2-303 et seq., Code of Virginia. Notwithstanding any other provision of law, at the discretion of the Governor, the cap on the amount of funding that may be awarded to an individual project as provided in § 3.2-305, Code of Virginia, may be waived for qualifying projects of regional or statewide interest.

B. Out of the amounts in this Item, \$328,835 the first year and ~~\$328,835~~\$215,255 the second year may be used by the department to pay administrative costs.

93.	Plant Pest and Disease Control (53500).....			\$3,252,110	\$3,252,110
					\$3,127,110
	Plant Pest and Disease Prevention and Control Services (53504).....	\$3,252,110	\$3,252,110		
					\$1,971,839
	Fund Sources: General.....	\$2,096,839	<del>\$2,096,839</del>		
					\$1,971,839
	Special.....	\$309,528	\$309,528		
	Federal Trust.....	\$845,743	\$845,743		

Authority: Title 3.2, Chapters 7, 8, 9, 10, 28, 38, 41.4 and 44; Title 15.2, Chapter 18, Code of Virginia.

A. Out of the amounts in this Item, \$125,000 the first year and ~~\$125,000~~ the second year from the general fund shall be deposited to the Beehive Grant Fund for the payment of grants in accordance with § 3.2-4415 et seq., Code of Virginia. The department may disburse from the Fund its reasonable costs and expenses incurred in the administration and management of the Fund up to \$25,000 in ~~each~~ the first year. *Notwithstanding the provisions of § 3.2-4416, Code of Virginia, the department shall not accept applications for grants from the Beehive Grant Program if funds are not appropriated for such purposes. The department shall, by November 1, 2017, report to the Chairmen of the House Appropriations and Senate Finance Committees on the amount and number of grants distributed each fiscal year, the impacts to the bee populations in the Commonwealth, and efficiency recommendations regarding the Beehive Grant Program.*

ITEM 93.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
<p>B. The Commissioner shall enter into agreements with local and state agencies, or other persons, for the control of black vultures, coyotes, and other wildlife that pose danger to agricultural animals. The Commissioner shall enter into an agreement with the federal government to establish and maintain the Virginia Cooperative Wildlife Damage Management Program. Pursuant to this requirement, the memorandum of agreement with the U.S. Department of Agriculture Animal and Plant Health Inspection Service (APHIS) Wildlife Services (WS) shall be updated on or before December 31, 2016 to ensure continuation of the partnership.</p>				
94.	Agriculture and Food Homeland Security (54100).....		\$398,277	\$398,277
	Agricultural and Food Emergencies Prevention and Response (54101).....			
	\$398,277	\$398,277		
	Fund Sources: General.....			
	\$169,519	\$169,519		
	Special.....			
	\$99,152	\$99,152		
	Federal Trust.....			
	\$129,606	\$129,606		
	Authority: Title 3.2, Chapters 7, 51, 60, and 65, Code of Virginia.			
95.	Consumer Affairs Services (55000).....		\$1,484,485	<del>\$1,484,485</del> \$1,684,485
	Consumer Affairs - Regulation and Consumer Education (55001).....			
	\$1,484,485	<del>\$1,484,485</del> \$1,684,485		
	Fund Sources: General.....			
	\$33,726	\$33,726		
	Special.....			
	\$1,450,759	<del>\$1,450,759</del> \$1,650,759		
	Authority: Title 3.2, Chapter 1; Title 57, Chapter 5; Title 59.1, Chapters 24, 25, 25.1, 34, 34.1 and 36, Code of Virginia.			
96.	Regulation of Business Practices (55200).....		\$3,319,418	\$3,170,818
	Regulation of Grain Commodity Sales (55207).....			
	\$98,514	\$98,514		
	Regulation of Weights and Measures and Motor Fuels (55212).....			
	\$3,220,904	\$3,072,304		
	Fund Sources: General.....			
	\$3,126,131	\$2,977,531		
	Special.....			
	\$193,287	\$193,287		
	Authority: Title 3.2, Chapters 43, 47, 55.1, 56, 57, and 58; and Title 59.1, Chapter 12, Code of Virginia.			
<p>In lieu of periodic inspections by the Commissioner, Department of Agriculture and Consumer Services, any person whose weights and measures devices, as defined in § 3.2-5600, et seq., Code of Virginia, which are used for a commercial purpose may select to provide for the inspection and testing of all such weights and measures to determine the accuracy and correct operation of the equipment or device. The owner shall have all such weights and measures devices tested at least annually by a service agency that is registered pursuant to § 3.2-5703, Code of Virginia. Weights and measures that have been rejected by a service agency shall not be used again commercially until they have been officially reexamined by the rejecting authority or an inspector employed by the Commissioner, and found to be in compliance with Chapter 56, Title 3.2, Code of Virginia. The owner of such weights and measures devices, or third-party agencies on behalf of the owner, shall report to the Commissioner on an annual basis in a manner prescribed by the Commissioner the results of all testing, including (i) the number of inspections completed, (ii) the number of failures in the weights and measures equipment or devices, and (iii) the actions taken to correct any inaccuracies in the equipment or devices.</p>				
97.	Food Safety and Security (55400).....		\$9,183,330	<del>\$9,182,130</del> \$9,907,130
	Regulation of Food Establishments and Processors (55401).....			
	\$4,068,906	<del>\$4,068,906</del> \$4,793,906		
	Regulation of Meat Products (55402).....			
	\$3,937,211	\$3,936,011		
	Regulation of Milk and Dairy Industry (55403).....			
	\$1,177,213	\$1,177,213		

ITEM 97.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
Fund Sources: General.....	\$5,515,787	\$5,515,187		
Special.....	\$615,990	\$615,990		
Federal Trust.....	\$3,051,553	<del>\$3,050,953</del> \$3,775,953		

Authority: Title 3.2, Chapters 51, 52, 53, 54, 55, and 60, Code of Virginia.

A. Each establishment under the authority of the Regulation of Meat Products that is requesting overtime or holiday inspection shall pay that part of the actual cost of the inspection services.

B. The Commissioner, Department of Agriculture and Consumer Services, is authorized to collect an annual inspection fee, not to exceed \$40, from all establishments that are subject to inspection pursuant to Title 3.2, Chapter 51, Code of Virginia. However, any such establishment that is subject to any permit fee, application fee, inspection fee, risk assessment fee, or similar fee imposed by any locality shall be subject to this annual inspection fee only to the extent that the annual inspection fee and the locally-imposed fee, when combined, do not exceed \$40. This fee structure shall be subject to the approval of the Secretary of Agriculture and Forestry. Any food bank, second harvest certified food bank, food bank member charity, or other food related activity which is exempt from taxation under 26 U.S.C. § 501 (c) (3), which maintains a food handling or storage facility, or any food-related program operated by any Community Services Board, as defined in Title 37.2, Chapter 5, Code of Virginia, shall be exempt from this inspection fee. Also, a producer of fruits and herbs that are dried, without the addition of any other ingredients, and sold only at a local farmers' market shall be exempt from the fee.

98.	Regulation of Products (55700).....		\$5,692,080	\$5,692,080
	Pesticide Regulation and Applicator Certification (55704).....	\$3,605,059	\$3,605,059	
	Regulation of Feed, Seed, and Fertilizer Products (55706).....	\$2,087,021	\$2,087,021	
	Fund Sources: General.....	\$562,648	\$562,648	
	Dedicated Special Revenue.....	\$4,428,659	\$4,428,659	
	Federal Trust.....	\$700,773	\$700,773	

Authority: Title 3.2, Chapters 1, 36, 37, 39, 40, 43, 47, 48, and 49; Title 18.2, Chapter 6; and Title 59.1, Chapter 12, Code of Virginia.

The Office of Pesticide Services shall publish a report on the activities, educational programs, research, and grants administered through the Pesticide Control Act Fund to the Board of Agriculture and Consumer Services by October 15 of each year.

99.	Regulation of Charitable Gaming Organizations (55900).....		\$1,382,067 \$1,185,067	\$1,382,067 \$1,182,067
	Charitable Gaming Regulation and Enforcement (55907).....	\$1,382,067 \$1,185,067	\$1,382,067 \$1,182,067	
	Fund Sources: General.....	\$1,282,067 \$1,085,067	\$1,282,067 \$1,082,067	
	Dedicated Special Revenue.....	\$100,000	\$100,000	

Authority: Title 2.2, Chapter 24; and Title 18.2, Chapter 8, Code of Virginia.

A. Notwithstanding § 18.2-340.31, Code of Virginia, any and all fees paid by any organization conducting charitable gaming under a permit issued by the department, including audit and administrative fees and permit fees, shall be deposited to the general fund.

B. The department shall deposit into the Investigation Fund any assets it receives as a result of a law enforcement seizure and subsequent forfeiture by either a state or federal court. The fund shall be used to defray the expenses of investigation and enforcement actions and to purchase equipment for enforcement purposes.

ITEM 99.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
C. Included in these amounts is \$100,000 the first year and \$100,000 the second year in nongeneral funds from annual registration fees paid by operators of fantasy contests to support both direct and indirect expenses of the department in the regulation of fantasy contests in Virginia.				
100.	Administrative and Support Services (59900).....		\$10,560,048 \$10,344,697	\$10,566,773 \$10,431,199
	General Management and Direction (59901).....		\$10,560,048 \$10,344,697	\$10,566,773 \$10,431,199
	Fund Sources: General.....		\$8,945,728 \$8,730,377	\$8,949,158 \$8,813,584
	Special.....		\$1,338,509	\$1,341,804
	Trust and Agency.....		\$158,734	\$158,734
	Federal Trust.....		\$117,077	\$117,077
Authority: Title 3.2, Chapters 1, 5, 6 and 29; Title 10.1, Chapter 5, Code of Virginia.				
	Total for Department of Agriculture and Consumer Services.....		<b>\$71,571,042</b> <b>\$69,793,118</b>	<b>\$71,338,927</b> <b>\$69,682,200</b>
	General Fund Positions.....		333.00 331.00	333.00 328.00
	Nongeneral Fund Positions.....		206.00	206.00 214.00
	Position Level.....		539.00 537.00	539.00 542.00
	Fund Sources: General.....		\$38,276,487 \$36,498,563	\$38,041,677 \$35,109,950
	Special.....		\$5,776,982	\$5,780,277 \$6,030,277
	Trust and Agency.....		\$6,863,290	\$6,863,290
	Dedicated Special Revenue.....		\$9,619,377	\$9,619,377
	Federal Trust.....		\$11,034,906	\$11,034,306 \$12,059,306

**§ 1-34. DEPARTMENT OF FORESTRY (411)**

101.	Forest Management (50100).....		\$31,734,533 \$31,625,028	\$32,466,232 \$33,514,311
	Reforestation Incentives to Private Forest Land Owners (50102).....		\$3,676,449	\$3,676,449 \$4,289,809
	Forest Conservation, Wildfire & Watershed Services (50103).....		\$23,480,801 \$23,371,296	\$24,212,500 \$23,697,219
	Tree Restoration and Improvement, Nurseries & State-Owned Forest Lands (50104).....		\$3,852,283	\$3,852,283 \$4,627,283
	Financial Assistance for Forest Land Management (50105).....		\$725,000	\$725,000 \$900,000
	Fund Sources: General.....		\$17,969,536 \$17,860,031	\$18,700,323 \$18,383,948
	Special.....		\$8,793,225	\$8,794,137 \$10,144,137
	Trust and Agency.....		\$106,538	\$106,538
	Dedicated Special Revenue.....		\$89,535	\$89,535
	Federal Trust.....		\$4,775,699	\$4,775,699 \$4,790,153

Authority: Title 10.1, Chapter 11, and Title 58.1, Chapter 32, Article 4, Code of Virginia.

A. The State Forester is hereby authorized to utilize any unobligated balances in the fire

ITEM 101.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
<p>suppression fund authorized by § 10.1-1124, Code of Virginia, for the purpose of acquiring replacement equipment for forestry management and protection operations.</p> <p>B. In the event that budgeted amounts for forest fire suppression are insufficient to meet forest fire suppression demands, such amounts as may be necessary for this purpose may be transferred from Item 476 of this act to the Department of Forestry, with the approval of the Director, Department of Planning and Budget.</p> <p>C. The department shall provide technical assistance and project supervision in the aerial spraying of herbicides on timberland on landowner property. In addition to recovering the direct cost associated with the spraying contract, the department may charge an administrative fee for this service.</p> <p>D. The Department of Forestry, in cooperation with the Department of Corrections, shall increase the use of inmate labor for routine and special work projects in state forests.</p> <p>E. The department shall report by December 15 of each year on the progress of implementing the silvicultural water quality laws in Virginia. The report shall be submitted to the Chairmen of the House Appropriations and Senate Finance Committees.</p> <p>F. The appropriation in Reforestation Incentives to Private Forest Land Owners include \$1,833,239 the first year and \$1,833,239 the second year from the general fund for the Reforestation of Timberlands Program. <del>This appropriation matches the anticipated revenue from the forest products severance tax as provided in Section 58.1, Code of Virginia, and meets the provisions of Section 10.1, Code of Virginia. This appropriation shall be deemed sufficient to meet the provisions of Titles 10.1 and 58.1, Code of Virginia.</del></p> <p>G. Out of this appropriation, \$1,292,956 the first year and \$2,126,126 the second year from the general fund is included for the purchase of forest fire protection equipment through the state's master equipment lease purchase program.</p> <p>H. The department is authorized to enter into agreements with private entities for the active operational life of the tower located at 900 Natural Resources Drive in Albemarle County, Virginia. Notwithstanding any other provision of law, any revenues received from such agreements shall be retained by the department and used for forest land management.</p> <p>I.1. The State Comptroller shall continue the Virginia State Forest Mitigation and Acquisition Fund and the Long Term Mitigation Fund as established in Item 102, Chapter 806, 2013 Acts of Assembly. All moneys in these funds shall be used as provided for in this Item and in Item 102, Chapter 806, 2013 Acts of Assembly, and Item 98, Chapter 665, 2015 Acts of Assembly.</p> <p>2.a. With the exception of the amounts prescribed in paragraph I.2.b. of this item, the Virginia State Forest Mitigation and Acquisition Fund shall be used solely for forest land or conservation easement acquisition.</p> <p>b. The Long Term Mitigation Fund shall be used solely for long term management of the Cumberland State Forest Stream Buffer Preservation Stewardship Plan.</p> <p>3. For any such future mitigation projects, no state forest land shall be used to provide compensatory mitigation for wetland or stream impacts of any public or private project until such time as due consideration has been given to the availability of mitigation credits available from private sources. State forest land means all sites, roadways, game food patches, ponds, lakes, streams, rivers, beaches, and lakes to which the Department of Forestry holds title for use, development, and administration.</p> <p>J. <i>The department is authorized to sell properties and timber located at the following: 16520 Five Forks Road, Amelia, Virginia, 23002; 26401 Blue Star Highway, Emporia, Virginia, 23847; 11260 Jessie Dupont Memorial Highway, Kilmarnock, Virginia, 22482; 152 Maury River Road, Lexington, Virginia, 24450; and 2080 Sowers Road NE, Floyd, Virginia, 24091. Notwithstanding any other provision of law, the net proceeds of these transactions, estimated at \$340,000, shall be deposited into the general fund.</i></p>				
Total for Department of Forestry.....			\$31,734,533	\$32,466,232
			\$31,625,028	\$33,514,311

ITEM 101.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
General Fund Positions.....	170.59	<del>170.59</del> 165.59		
Nongeneral Fund Positions.....	113.41	113.41		
Position Level.....	284.00	<del>284.00</del> 279.00		
Fund Sources: General.....	<del>\$17,969,536</del> \$17,860,031	<del>\$18,700,323</del> \$18,383,948		
Special.....	\$8,793,225	<del>\$8,794,137</del> \$10,144,137		
Trust and Agency.....	\$106,538	\$106,538		
Dedicated Special Revenue.....	\$89,535	\$89,535		
Federal Trust.....	\$4,775,699	<del>\$4,775,699</del> \$4,790,153		

**§ 1-35. AGRICULTURAL COUNCIL (307)**

102.	Agricultural and Seafood Product Promotion and Development Services (53000).....			\$490,334	\$490,334
	Grants for Agriculture, Research, Education and Services (53001).....	\$490,334	\$490,334		
	Fund Sources: Dedicated Special Revenue.....	\$490,334	\$490,334		
	Authority: Title 3.2, Chapter 29, Code of Virginia.				
	Total for Agricultural Council.....			<b>\$490,334</b>	<b>\$490,334</b>
	Fund Sources: Dedicated Special Revenue.....	\$490,334	\$490,334		

**§ 1-36. VIRGINIA RACING COMMISSION (405)**

103.	Economic Development Services (53400).....			\$1,500,000	\$1,500,000
	Financial Assistance to the Horse Breeding Industry (53411).....	\$1,500,000	\$1,500,000		
	Fund Sources: Special.....	\$1,500,000	\$1,500,000		
	Authority: Title 59.1, Chapter 29, Code of Virginia.				
104.	Regulation of Horse Racing and Pari-Mutuel Betting (55800).....			\$1,651,791	\$1,651,791
	License and Regulate Horse Racing and Pari-mutuel Wagering (55801).....	\$1,651,791	\$1,651,791		
	Fund Sources: Special.....	\$1,651,791	\$1,651,791		

Authority: Title 59.1, Chapter 29, Code of Virginia.

A. Out of this appropriation, the members of the Virginia Racing Commission shall receive compensation and reimbursement for their reasonable expenses in the performance of their duties, as provided in § 2.2-2104, Code of Virginia.

B. Notwithstanding the provisions of § 59.1-392, Code of Virginia, up to \$255,000 the first year and \$255,000 the second year shall be transferred to Virginia Polytechnic Institute and State University to support the Virginia-Maryland Regional College of Veterinary Medicine.

C. Any revenues received during the biennium and which are due to the commission pursuant to § 59.1-364 et seq., Code of Virginia, shall be used first to fund the operating expenses of the commission as appropriated in this item. Any change in operating expenses as herein appropriated requires the approval of the Department of Planning and Budget. Any revenues in excess of amounts required for commission operations as appropriated under the provisions of this act and amounts payable to specific entities pursuant to § 59.1-392 and appropriated in paragraphs B and D of this item, shall revert to the general fund.

D. Out of these amounts, the obligations set out in § 59.1-392 D. 5., D.6., G.5., G.6., K.3., K.4., K.5., N.3., N.4., and N.5., Code of Virginia, shall be fully funded.

ITEM 104.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
E. In the event revenues exceed the appropriated amounts in this item, the Virginia Racing Commission is authorized to seek an administrative appropriation, up to \$700,000, from the Director, Department of Planning and Budget, to develop programs or award grants for the promotion and marketing, sustenance and growth of the Virginia horse industry, including horse breeding.				
Total for Virginia Racing Commission.....			<b>\$3,151,791</b>	<b>\$3,151,791</b>
Nongeneral Fund Positions.....	10.00	10.00		
Position Level.....	10.00	10.00		
Fund Sources: Special.....	\$3,151,791	\$3,151,791		
<b>TOTAL FOR OFFICE OF AGRICULTURE AND FORESTRY.....</b>			<b>\$107,329,157</b>	<b>\$107,828,840</b>
			<b>\$105,441,728</b>	<b>\$107,220,192</b>
General Fund Positions.....	<del>506.59</del>	<del>506.59</del>		
	504.59	496.59		
Nongeneral Fund Positions.....	329.41	<del>329.41</del>		
		337.41		
Position Level.....	<del>836.00</del>	<del>836.00</del>		
	834.00	834.00		
Fund Sources: General.....	\$56,627,480	\$57,123,556		
	\$54,740,051	\$53,875,454		
Special.....	\$17,721,998	\$17,726,205		
		\$19,326,205		
Trust and Agency.....	\$6,969,828	\$6,969,828		
Dedicated Special Revenue.....	\$10,199,246	\$10,199,246		
Federal Trust.....	\$15,810,605	\$15,810,005		
		\$16,849,459		

ITEM 105.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018

**OFFICE OF COMMERCE AND TRADE**

**§ 1-37. SECRETARY OF COMMERCE AND TRADE (192)**

105.	Administrative and Support Services (79900).....			\$803,632	\$853,779
				\$703,632	\$703,779
	General Management and Direction (79901).....	\$803,632	\$853,779		
		\$703,632	\$703,779		
	Fund Sources: General.....	\$803,632	\$853,779		
		\$703,632	\$703,779		

Authority: Title 2.2, Chapter 2, Article 3; § 2.2-201, Code of Virginia.

A. It is the intent of the General Assembly that state programs providing financial, technical, or training assistance to local governments for economic development projects or directly to businesses seeking to relocate or expand operations in Virginia should not be used to help a company relocate or expand its operations in one or more Virginia communities when the same company is simultaneously closing facilities in other Virginia communities. It is the responsibility of the Secretary of Commerce and Trade to enforce this policy and to inform the Chairmen of the Senate Finance and House Appropriations Committees in writing of the justification to override this policy for any exception.

B. The Secretary shall develop and implement, as a component of the comprehensive economic development policy requirements as established in § 2.2-205, Code of Virginia, a strategic workforce development plan for the Commonwealth.

C. Out of the appropriation for this item, \$100,000 the first year and \$150,000 the second year from the general fund is provided to support the establishment of the Virginia International Trade Corporation created pursuant to the passage of House Bill 858 of the 2016 General Assembly Session.

D.1. The Secretary of Commerce and Trade shall initiate a management and accounting review of the portfolio of programs within the Department of Small Business and Supplier Diversity and develop a remediation plan to address any deficiencies identified, including the audit findings noted in the Virginia Auditor of Public Accounts' report on the audit of the Virginia Small Business Financing Authority (VSBFA) for the fiscal year ended June 30, 2014. In addition, the review shall examine the purpose and appropriateness of transfers between funds under the management of the Department of Small Business and Supplier Diversity, including those funds managed by the VSBFA.

2. The review shall specifically include a review of the Small Business Job Grant Fund to ensure the program is being administered in a manner consistent with the Code and that the fund is being sufficiently promoted.

3. The Secretary shall report his findings and recommendations to the Governor and Chairmen of the House Appropriations and Senate Finance Committees by November 1, 2016.

	Total for Secretary of Commerce and Trade.....			\$803,632	\$853,779
				\$703,632	\$703,779
	General Fund Positions.....	8.00	8.00		
		7.00	7.00		
	Position Level.....	8.00	8.00		
		7.00	7.00		
	Fund Sources: General.....	\$803,632	\$853,779		
		\$703,632	\$703,779		

**Economic Development Incentive Payments (312)**

106.	Economic Development Services (53400).....			\$63,984,360	\$54,809,529
				\$52,541,610	\$64,681,679
	Financial Assistance for Economic Development (53410).....	\$63,984,360	\$54,809,529		
		\$52,541,610	\$64,681,679		

ITEM 106.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
Fund Sources: General.....	\$63,834,360	\$53,859,529		
	\$52,391,610	\$46,505,799		
<i>Special</i> .....	\$0	\$12,662,000		
Dedicated Special Revenue.....	\$150,000	\$950,000		
		\$5,513,880		

Authority: Discretionary Inclusion.

A.1. Out of the amounts in this Item, \$20,750,000 the first year and ~~\$20,750,000~~ \$19,750,000 the second year from the general fund shall be deposited to the Commonwealth's Development Opportunity Fund, as established in § 2.2-115, Code of Virginia. Such funds shall be used at the discretion of the Governor, subject to prior consultation with the Chairmen of the House Appropriations and Senate Finance Committees, to attract economic development prospects to locate or expand in Virginia. If the Governor, pursuant to the provisions of § 2.2-115, E.1., Code of Virginia, determines that a project is of regional or statewide interest and elects to waive the requirement for a local matching contribution, such action shall be included in the report on expenditures from the Commonwealth's Development Opportunity Fund required by § 2.2-115, F., Code of Virginia. Such report shall include an explanation on the jobs anticipated to be created, the capital investment made for the project, and why the waiver was provided.

2. The Governor may allocate these funds as grants or loans to political subdivisions. Loans shall be approved by the Governor and made in accordance with procedures established by the Virginia Economic Development Partnership and approved by the State Comptroller. Loans shall be interest-free unless otherwise determined by the Governor and shall be repaid to the general fund of the state treasury. The Governor may establish the interest rate to be charged, otherwise, any interest charged shall be at market rates as determined by the State Treasurer and shall be indicative of the duration of the loan. The Virginia Economic Development Partnership shall be responsible for monitoring repayment of such loans and reporting the receivables to the State Comptroller as required.

3. Funds may be used for public and private utility extension or capacity development on and off site; road, rail, or other transportation access costs beyond the funding capability of existing programs; site acquisition; grading, drainage, paving, and other activity required to prepare a site for construction; construction or build-out of publicly-owned buildings; grants or loans to an industrial development authority, housing and redevelopment authority, or other political subdivision pursuant to their duties or powers; training; or anything else permitted by law.

4. Consideration should be given to economic development projects that 1) are in areas of high unemployment; 2) link commercial development along existing transportation/transit corridors within regions; and 3) are located near existing public infrastructure.

5. It is the intent of the General Assembly that the Virginia Economic Development Partnership shall work with localities awarded grants from the Commonwealth's Development Opportunity Fund to recover such moneys when the economic development projects fail to meet minimal agreed-upon capital investment and job creation targets. All such recoveries shall be deposited and credited to the Commonwealth's Development Opportunity Fund.

6. Up to \$5,000,000 of previously awarded funds and funds repaid by political subdivisions or business beneficiaries and deposited to the Commonwealth's Development Opportunity Fund may be used to assist Prince George County with site improvements related to the location of a major aerospace engine manufacturer to the Commonwealth.

B.1. Out of the appropriation for this Item, ~~\$3,665,060~~ \$2,722,310 the first year and ~~\$5,295,060~~ \$2,220,330 the second year from the general fund shall be deposited to the Investment Performance Grant subfund of the Virginia Investment Partnership Grant Fund to be used to pay investment performance grants in accordance with § 2.2-5101, Code of Virginia. *In the second year, \$1,763,880 from the Investment Performance Grant subfund of the Virginia Investment Partnership Grant Fund is hereby appropriated and shall be used to pay investment performance grants in accordance with § 2.2-5101, Code of Virginia.*

ITEM 106.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
	2. Consideration should be given to economic development projects that 1) are in areas of high unemployment; 2) link commercial development along existing transportation/transit corridors within regions; and 3) are located near existing public infrastructure.			
	C.1. Out of the appropriation for this Item, \$1,800,000 the first year and \$1,800,000 the second year from the general fund shall be deposited to the Major Eligible Employer Grant subfund of the Virginia Investment Partnership Grant Fund to be used to pay investment performance grants in accordance with § 2.2-5102, Code of Virginia.			
	2. Consideration should be given to economic development projects that 1) are in areas of high unemployment; 2) link commercial development along existing transportation/transit corridors within regions; and 3) are located near existing public infrastructure.			
	D. Out of the appropriation for this Item, \$6,000,000 the first year and \$3,000,000 the second year from the general fund and an amount estimated at \$150,000 the first year and \$150,000 the second year from nongeneral funds shall be deposited to the Governor's Motion Picture Opportunity Fund, as established in § 2.2-2320, Code of Virginia. These nongeneral fund revenues shall be deposited to the fund from revenues generated by the digital media fee established pursuant to § 58.1-1731, et seq., Code of Virginia. Such funds shall be used at the discretion of the Governor to attract film industry production activity to the Commonwealth.			
	E. Out of the appropriation for this Item, <del>\$8,878,000</del> \$378,000 the first year <del>and \$3,729,000 the second year</del> from the general fund shall be deposited to the Aerospace Engine Manufacturer Workforce Training Grant Fund <del>used</del> in support of the location of an aerospace engine facility in Prince George County. <i>In the second year, \$11,000,000 from the Aerospace Manufacturing Performance Grant Fund and \$1,662,000 from the Aerospace Manufacturer Workforce Training Grant Fund is hereby appropriated.</i> These funds <del>may</del> shall be used for grants in accordance with §§ 59.1-284.20; <del>59.1-284.21</del> ; and 59.1-284.22, Code of Virginia. The Director, Department of Planning and Budget shall transfer these funds to the impacted state agencies upon request to the Director, Department of Planning and Budget by the respective state agency.			
	F.1. Out of the appropriation for this Item, \$4,200,000 the first year and <del>\$4,400,000</del> \$1,600,000 the second year from the general fund shall be deposited to the Virginia Economic Development Incentive Grant subfund of the Virginia Investment Partnership Grant Fund to be used to pay investment performance grants in accordance with § 2.2-5102.1, Code of Virginia. In the second year, <del>\$800,000</del> \$3,600,000 from the Virginia Economic Development Incentive Grant subfund of the Virginia Investment Partnership Grant Fund is hereby appropriated and shall be used to pay investment performance grants in accordance with § 2.2-5102.1, Code of Virginia.			
	2. Consideration should be given to economic development projects that 1) are in areas of high unemployment; 2) link commercial development along existing transportation/transit corridors within regions; and 3) are located near existing public infrastructure.			
	3. <i>Notwithstanding § 2.2-5102.1.E. or any other provision of law, and subject to appropriation by the General Assembly, up to \$4,000,000 in economic development incentive grants is authorized for eligible projects to be awarded on or after July 1, 2017, but before June 30, 2018. Any eligible project awarded such grants shall be subject to the conditions set forth in § 2.2-5102.1.</i>			
	G. Out of the appropriation for this Item, \$7,155,840 the first year from the general fund shall be deposited to the Advanced Shipbuilding Training Facility Fund to be used to pay grants in accordance with § 59.1-284.23, F., Code of Virginia.			
	H. Out of the appropriation for this Item, <del>\$2,000,000 the first year and \$3,000,000</del> \$2,000,000 the second year from the general fund shall be deposited to the Pulp, Paper, and Fertilizer Advanced Manufacturing Performance Grant Program Fund to be used for performance grants in accordance with § 59.1-284.28, Code of Virginia.			
	I.1. Out of the appropriation for this Item, \$2,500,000 the first year and <del>\$5,000,000</del> \$3,750,000 the second year from the general fund shall be provided for the Virginia Biosciences Health Research Corporation (VBHRC), a non-stock corporation research consortium initially comprised of the University of Virginia, Virginia Commonwealth University, Virginia			

ITEM 106.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
<p>Polytechnic Institute and State University, George Mason University and the Eastern Virginia Medical School. The consortium will contract with private entities, foundations and other governmental sources to capture and perform research in the biosciences, as well as promote the development of bioscience infrastructure tools which can be used to facilitate additional research activities. The Director, Department of Planning and Budget, is authorized to provide these funds to the non-stock corporation research consortium referenced in this paragraph upon request filed with the Director, Department of Planning and Budget by VBHRC.</p>				
<p>2. Of the amounts provided in J.1. for the research consortium, up to \$2,500,000 the first year and <del>\$5,000,000</del>\$3,750,000 the second year may be used to develop or maintain investments in research infrastructure tools to facilitate bioscience research.</p>				
<p>3. The remaining funding shall be used to capture and perform research in the biosciences and must be matched at least dollar-for-dollar by funding provided by such private entities, foundations and other governmental sources. No research will be funded by the consortium unless at least two of the participating institutions, including the five founding institutions and any other institutions choosing to join, are actively and significantly involved in collaborating on the research. No research will be funded by the consortium unless the research topic has been vetted by a scientific advisory board and holds potential for high impact near-term success in generating other sponsored research, creating spin-off companies or otherwise creating new jobs. The consortium will set guidelines to disburse research funds based on advisory board findings. The consortium will have near-term sustainability as a goal, along with corporate-sponsored research gains, new Virginia company start-ups, and job creation milestones.</p>				
<p>4. Other publicly-supported institutions of higher education in the Commonwealth may choose to join the consortium as participating institutions. Participation in the consortium by the five founding institutions and by other participating institutions choosing to join will require a cash contribution from each institution in each year of participation of at least \$50,000.</p>				
<p>5. Of these funds, up to \$500,000 the first year and \$500,000 the second year may be used to pay the administrative, promotional and legal costs of establishing and administering the consortium, including the creation of intellectual property protocols, and the publication of research results.</p>				
<p>6. The Virginia Economic Development Partnership, in consultation with the publicly-supported institutions of higher education in the Commonwealth participating in the consortium, shall provide to the Governor, and the Chairmen of the Senate Finance and House Appropriations committees, by November 1 of each year a written report summarizing the activities of the consortium, including, but not limited to, a summary of how any funds disbursed to the consortium during the previous fiscal year were spent, and the consortium's progress during the fiscal year in expanding upon existing research opportunities and stimulating new research opportunities in the Commonwealth.</p>				
<p>7. The accounts and records of the consortium shall be made available for review and audit by the Auditor of Public Accounts upon request.</p>				
<p>8. Up to \$2,500,000 of the funds managed by the Commonwealth Health Research Board (CHRB), created pursuant to <del>§ 23-278</del> § 32.1-162.23, Code of Virginia, shall be directed toward collaborative research projects, approved by the boards of the VBHRC and CHRB, to support Virginia's core bioscience strengths, improve human health, and demonstrate commercial viability and a high likelihood of creating new companies and jobs in Virginia.</p>				
<p>J.1. Out of this appropriation, \$209,859 the first year and \$209,868 the second year from the general fund shall be provided to the Virginia-Israel Advisory Board.</p>				
<p>2. The Virginia-Israel Advisory Board shall seek prior approval of all travel and related expenditures from the Secretary of Commerce and Trade.</p>				
<p>3. The Virginia-Israel Advisory Board shall report by January 15 of each year to the Chairmen of the Senate Finance and House Appropriations Committees on the board's activities and expenditure of state funds.</p>				

ITEM 106.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
<p>K. Out of this appropriation, \$5,669,833 the first year and \$5,669,833 the second year from the general fund shall be available for eligible businesses under the Virginia Jobs Investment Program. Pursuant to § 2.2-1611, Code of Virginia, the appropriation provided for the Virginia Jobs Investment Program for eligible businesses shall be deposited to the Virginia Jobs Investment Program Fund.</p>				
<p>L. Out of this appropriation \$500,000 the first year and <del>\$500,000</del> the second year from the general fund is provided for the purpose of attracting new tourism and hospitality projects and expanding existing tourism and hospitality projects in the Commonwealth. Funds shall be disbursed through the Virginia Tourism Authority as grants or loans to political subdivisions or business entities authorized to transact business in the Commonwealth based on criteria as approved by the Governor. The Governor shall transmit his specific criteria for awarding and distributing these funds to the Chairmen of the House Committee on Appropriations and the Senate Finance Committee prior to any expenditure of this appropriation.</p>				
<p>M. Out of this appropriation, \$500,000 the first year and \$500,000 the second year from the general fund may be provided to the Virginia Economic Development Partnership to facilitate additional domestic and international marketing and trade missions approved by the Governor. The Director, Department of Planning and Budget, is authorized to provide these funds to the Virginia Economic Development Partnership upon written approval of the Governor.</p>				
<p><i>N. Out of the appropriation in this Item, \$6,000,000 the second year from the general fund shall be deposited to the Advanced Shipbuilding Production Facility Grant Fund for a grant to be paid in accordance with § 59.1-284.29 E., Code of Virginia.</i></p>				
Total for Economic Development Incentive Payments.....			<b>\$63,984,360</b>	<b>\$54,809,529</b>
			<del>\$52,541,610</del>	<del>\$64,681,679</del>
Fund Sources: General.....	\$63,834,360	\$53,859,529		
	<del>\$52,391,610</del>	<del>\$46,505,799</del>		
<i>Special</i> .....	\$0	\$12,662,000		
Dedicated Special Revenue.....	\$150,000	<del>\$950,000</del>		
		<del>\$5,513,880</del>		
Grand Total for Secretary of Commerce and Trade.....			<b>\$64,787,992</b>	<b>\$55,663,308</b>
			<del>\$53,245,242</del>	<del>\$65,385,458</del>
General Fund Positions.....	8.00	8.00		
	7.00	7.00		
Position Level.....	8.00	8.00		
	7.00	7.00		
Fund Sources: General.....	\$64,637,992	\$54,713,308		
	<del>\$53,095,242</del>	<del>\$47,209,578</del>		
<i>Special</i> .....	\$0	\$12,662,000		
Dedicated Special Revenue.....	\$150,000	<del>\$950,000</del>		
		<del>\$5,513,880</del>		
<b>§ 1-38. BOARD OF ACCOUNTANCY (226)</b>				
107. Regulation of Professions and Occupations (56000)...			\$2,414,828	\$1,917,446
Accountant Regulation (56001).....	\$2,414,828	\$1,917,446		
Fund Sources: Dedicated Special Revenue.....	\$2,414,828	\$1,917,446		
Authority: Title 54.1, Chapter 44, Code of Virginia.				
Total for Board of Accountancy.....			<b>\$2,414,828</b>	<b>\$1,917,446</b>
Nongeneral Fund Positions.....	13.00	13.00		
Position Level.....	13.00	13.00		
Fund Sources: Dedicated Special Revenue.....	\$2,414,828	\$1,917,446		

ITEM 107.		Item Details(\$)		Appropriations(\$)	
		First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
<b>§ 1-39. DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT (165)</b>					
108.	Housing Assistance Services (45800).....			\$51,215,827	\$51,215,827 \$66,215,827
	Housing Assistance (45801).....	\$34,733,932	\$34,733,932		
	Homeless Assistance (45804).....	\$12,937,143	\$12,937,143		
	Financial Assistance for Housing Services (45805).	\$3,544,752	<del>\$3,544,752</del> \$18,544,752		
	Fund Sources: General.....	\$19,263,285	\$19,263,285		
	Special.....	\$344,537	\$344,537		
	Dedicated Special Revenue.....	\$100,000	\$100,000		
	Federal Trust.....	\$31,508,005	<del>\$31,508,005</del> \$46,508,005		

Authority: Title 36, Chapters 1.4, 8, 9, and 11; and Title 58.1, Chapter 3, Articles 4 and 13, Code of Virginia.

A. Out of the amounts in this Item, \$3,482,705 from the general fund, \$100,000 from dedicated special revenue, and \$3,427,000 from federal trust funds the first year and \$3,482,705 from the general fund, \$100,000 from dedicated special revenue, and \$3,427,000 from federal trust funds the second year shall be provided to support services for persons at risk of or experiencing homelessness and housing for populations with special needs, and \$4,050,000 the first year and \$4,050,000 the second year from the general fund shall be provided for homeless prevention. Of the general fund amount provided, the department is authorized to use up to two percent in each year for program administration. The amounts allocated for services for persons at risk of or experiencing homelessness shall be matched through local or private sources. Any balances for the purposes specified in this paragraph which are unexpended on June 30, 2017, and June 30, 2018, shall not revert to the general fund but shall be carried forward and reappropriated.

B. The department shall report to the Chairmen of the Senate Finance, the House Appropriations Committees, and the Director, Department of Planning and Budget, by November 4 of each year on the state's homeless programs, including, but not limited to, the number of (i) emergency shelter beds, (ii) transitional housing units, (iii) single room occupancy dwellings, (iv) homeless intervention programs, (v) homeless prevention programs, and (vi) the number of homeless individuals supported by the permanent housing state funding on a locality and statewide basis and the accomplishments achieved by the additional state funding provided to the program in the first year. The report shall also include the number of Virginians served by these programs, the costs of the programs, and the financial and in-kind support provided by localities and nonprofit groups in these programs. In preparing the report, the department shall consult with localities and community-based groups.

C. Out of the amounts in this Item, \$1,000,000 the first year and \$1,000,000 the second year from the general fund shall be provided for rapid re-housing efforts. In keeping with the specific goals of the Balance of State Continuum of Care, \$100,000 of this amount in each year shall be focused on ensuring that no veteran is homeless or in a shelter for more than 30 days. These funds shall be used to supplement other state and federal programs, shall be directed to areas throughout the state where federal funds are not available, and shall be used to serve those veterans ineligible for federal benefits.

D. The department shall continue to collaborate with the Department of Veteran Services to ensure coordinated efforts towards reducing homelessness among veterans.

E.1. Out of the amounts in this Item, \$5,500,000 the first year and \$5,500,000 the second year from the general fund shall be deposited to the Virginia Housing Trust Fund, established pursuant to § 36-142 et seq., Code of Virginia. Notwithstanding § 36-142, Code of Virginia, when awarding grants through eligible organizations for targeted efforts to reduce homelessness, priority consideration shall be given to efforts to reduce the number of homeless youth and families.

2. As part of the plan required by § 36-142 E., Code of Virginia, the department shall also report on the impact of the loans and grants awarded through the fund, including but not

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<p>limited to: (i) the number of affordable rental housing units repaired or newly constructed, (ii) the number of individuals receiving down payments and/or closing assistance, and (iii) the progress and accomplishments in reducing homelessness achieved by the additional support provided through the fund.</p> <p>F. Out of the amounts in this Item, \$15,800,000 the first year and \$15,800,000 the second year from federal trust funds shall be provided to support Virginia affordable housing programs and the Indoor Plumbing Program.</p> <p>G. Out of the amounts in this Item, \$50,000 the first year and \$50,000 the second year from the general fund and one position shall be provided to support the administrative costs associated with administering the tax credits authorized pursuant to §§ 36-55.63 and 58.1-435, Code of Virginia.</p> <p><i>H. The Department of Housing and Community Development (DHCD) shall develop and implement strategies, that may include potential Medicaid financing, for housing individuals with serious mental illness. DHCD shall include other agencies in the development of such strategies including the Virginia Housing Development Authority, Department of Behavioral Health and Developmental Services, Department of Aging and Rehabilitative Services, Department of Medical Assistance Services, and Department of Social Services. The Department shall also include stakeholders whose constituents have an interest in expanding supportive housing for people with serious mental illness, including the National Alliance on Mental Illness Virginia, the Virginia Housing Alliance and the Virginia Sheriff's Association. An annual report on such strategies and the progress on implementation shall be provided to the Chairmen of the House Appropriations and Senate Finance Committees by the first day of each General Assembly Regular Session.</i></p>				
109.	Community Development Services (53300).....		\$44,737,001	\$68,330,398
	Community Development and Revitalization (53301)			
		\$17,499,555	\$17,499,555	
	Financial Assistance for Regional Cooperation (53303).....	\$7,862,251	\$32,362,251	
	Financial Assistance for Community Development (53305).....	\$19,375,195	\$18,468,592	
	Fund Sources: General.....	\$21,633,213	\$45,226,610	
	Special.....	\$212,012	\$212,012	
	Trust and Agency.....	\$150,000	\$150,000	
	Federal Trust.....	\$22,741,776	\$22,741,776	
<p>Authority: Title 15.2, Chapter 13, Article 3 and Chapter 42; Title 36, Chapters 8, 10 and 11; and Title 59.1, Chapter 22, Code of Virginia.</p> <p>A. Out of the amounts in this Item, \$351,930 the first year and \$351,930 the second year from the general fund is provided for annual membership dues to the Appalachian Regional Commission. These dues are payable from the amounts for Community Development and Revitalization.</p> <p>B. The department and local program administrators shall make every reasonable effort to provide participants basic financial counseling to enhance their ability to benefit from the Indoor Plumbing Program and to foster their movement to economic self-sufficiency.</p> <p>C. Out of the amounts in this Item shall be paid from the general fund in four equal quarterly installments each year:</p> <p>1. To the Lenowisco Planning District Commission, \$75,971 the first year and \$75,971 the second year, which includes \$38,610 the first year and \$38,610 the second year for responsibilities originally undertaken and continued pursuant to § 15.2-4207, Code of Virginia, and the Virginia Coalfield Economic Development Authority.</p> <p>2. To the Cumberland Plateau Planning District Commission, \$75,971 the first year and \$75,971 the second year, which includes \$42,390 the first year and \$42,390 the second year for responsibilities originally undertaken and continued pursuant to § 15.2-4207, Code of Virginia, and the Virginia Coalfield Economic Development Authority.</p>				

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3. To the Mount Rogers Planning District Commission, \$75,971 the first year and \$75,971 the second year.				
4. To the New River Valley Planning District Commission, \$75,971 the first year and \$75,971 the second year.				
5. To the Roanoke Valley-Alleghany Regional Commission, \$75,971 the first year and \$75,971 the second year.				
6. To the Central Shenandoah Planning District Commission, \$75,971 the first year and \$75,971 the second year.				
7. To the Northern Shenandoah Valley Regional Commission, \$75,971 the first year and \$75,971 the second year.				
8. To the Northern Virginia Regional Commission, \$151,943 the first year and \$151,943 the second year.				
9. To the Rappahannock-Rapidan Regional Commission, \$75,971 the first year and \$75,971 the second year.				
10. To the Thomas Jefferson Planning District Commission, \$75,971 the first year and \$75,971 the second year.				
11. To the Region 2000 Local Government Council, \$75,971 the first year and \$75,971 the second year.				
12. To the West Piedmont Planning District Commission, \$75,971 the first year and \$75,971 the second year.				
13. To the Southside Planning District Commission, \$75,971 the first year and \$75,971 the second year.				
14. To the Commonwealth Regional Council, \$75,971 the first year and \$75,971 the second year.				
15. To the Richmond Regional Planning District Commission, \$113,957 the first year and \$113,957 the second year.				
16. To the George Washington Regional Commission, \$75,971 the first year and \$75,971 the second year.				
17. To the Northern Neck Planning District Commission, \$75,971 the first year and \$75,971 the second year.				
18. To the Middle Peninsula Planning District Commission, \$75,971 the first year and \$75,971 the second year.				
19. To the Crater Planning District Commission, \$75,971 the first year and \$75,971 the second year.				
20. To the Accomack-Northampton Planning District Commission, \$75,971 the first year and \$75,971 the second year.				
21. To the Hampton Roads Planning District Commission \$151,943 the first year, and \$151,943 the second year.				
D. Out of the amounts in this Item, \$968,442 the first year and \$968,442 the second year from the general fund shall be provided for the Southeast Rural Community Assistance Project (formerly known as the Virginia Water Project) operating costs and water and wastewater grants. The department shall disburse the total payment each year in twelve equal monthly installments.				
E. The department shall leverage any appropriation provided for the capital costs for safe drinking water and wastewater treatment in the Lenowisco, Cumberland Plateau, or Mount Rogers planning districts with other state moneys, federal grants or loans, local contributions, and private or nonprofit resources.				

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F.1. Out of the amounts in this Item, \$95,000 the first year and \$95,000 the second year from the general fund shall be provided for the Center for Rural Virginia. The department shall report periodically to the Chairmen of the Senate Finance and House Appropriations Committees on the status, needs and accomplishments of the center.				
2. As part of its mission, the Center for Rural Virginia shall monitor the implementation of the budget initiatives approved by the 2005 Session of the General Assembly for rural Virginia and shall report periodically to the Chairmen of the Senate Finance and House Appropriations Committees on the effectiveness of these various programs in addressing rural economic development problems.				
G. Out of the amounts in this Item, \$71,250 the first year and \$71,250 the second year from the general fund shall be provided to support The Crooked Road: Virginia's Heritage Music Trail.				
H. Out of the amounts in this Item, \$2,000,000 the first year and \$2,000,000 the second year from the general fund shall be deposited to the Virginia Removal or Rehabilitation of Derelict Structures Fund to support industrial site revitalization.				
I. Out of the amounts in this Item, \$500,000 the first year and \$500,000 the second year from the general fund shall be provided for the Virginia Main Street Program. This amount shall be in addition to other appropriations for this activity.				
J. Of the general fund amounts provided for Building Entrepreneurial Economies, Building Collaborative Communities, the Virginia Main Street Program, the Indoor Plumbing Rehabilitation Program, and the water and wastewater planning and construction projects in Southwest Virginia, the department is authorized to use up to two percent of the appropriation in each year for program administration.				
K.1. Out of the amounts in this Item, \$875,000 the first year and \$875,000 the second year from the general fund shall be provided for the Southwest Virginia Cultural Heritage Foundation.				
2. The foundation shall report by September 1 of each year to the Governor and the Chairmen of the House Appropriations and Senate Finance Committees on the expenditures of the foundation and its ongoing efforts to generate revenues sufficient to sustain operations.				
L.1. Out of the amounts in this Item, \$1,250,000 the first year and \$1,250,000 the second year from the general fund is provided for the Virginia Telecommunication Initiative. The funds shall be used for providing financial assistance to supplement construction costs by private sector broadband service providers to extend service to areas that presently are unserved by any broadband provider.				
2. The department shall develop appropriate criteria and guidelines for the use of the funding provided to the Virginia Telecommunication Initiative. Such criteria and guidelines shall facilitate the extension of broadband networks by the private sector and shall focus solely on unserved areas. Areas designated to receive funds for construction through the federal Connect America program or receiving other state or federal funds for construction are not eligible to receive funds through the Virginia Telecommunication Initiative. The Department shall encourage additional assistance from the local governments in areas designated to receive funds to lower the overall cost and further assist in the timely completion of construction, including assistance with permits, rights of way, easement and other issues that may hinder or delay timely construction.				
3. The Department shall consult with the Broadband Advisory Council to designate the unserved areas to receive funds. The Department shall report annually to the Governor's Broadband Advisory Council on the progress by the private sector on the designated projects.				
M.1. Out of the amounts in this Item, \$5,500,000 the first year and \$30,000,000 the second year from the general fund shall be deposited to the Virginia Growth and Opportunity Fund to encourage regional cooperation among business, education, and government on strategic economic and workforce development efforts.				
2. Of the amounts provided in this paragraph, the appropriation shall be distributed as follows:				

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<p>(i) \$5,500,000 the first year and \$3,500,000 the second year shall be allocated to qualifying regions to support organizational and capacity building activities as well as preparing regional gap analyses on existing skill levels in the workforce versus the skills most likely needed over time based on expected employment and organizational changes;</p> <p>(ii) \$12,200,000 the second year shall be allocated to qualifying regions based on each region's share of the state population; and (iii) \$14,300,000 the second year shall be awarded to regional councils on a competitive basis.</p> <p>3. The appropriation for this paragraph is contingent on the passage of House Bill 834 of the 2016 Session. If the bill should fail, the amounts appropriated in this item shall be transferred to Item 475 P. as part of the Revenue Reserve.</p> <p>N. Out of the amounts in this Item, \$500,000 the first year from the general fund is provided to the City of Bristol to support the Birthplace of Country Music Museum.</p> <p>O. Out of the amounts in this Item, \$132,400 the first year from the general fund is provided to the Town of Farmville to support the vice presidential debate to be hosted at Longwood University.</p> <p>P. Out of the amounts appropriated in this item, \$600,000 from the general fund the first year and \$325,797 from the general fund the second year is provided to support efforts to restore the Center for Advanced Engineering and Research and Integrated Systems Test back to operational conditions. The appropriation of these funds is contingent upon the appropriation of federal funds from the United States Department of Energy or other sources that exceed \$3,000,000.</p>				
110.	Economic Development Services (53400).....		\$13,423,354	\$13,423,354
	Financial Assistance for Economic Development (53410).....	\$13,423,354	<del>\$13,423,354</del>	\$13,087,821
	Fund Sources: General.....	\$13,423,354	<del>\$13,423,354</del>	\$13,087,821
	Authority: Title 59.1, Chapters 22 and 49, Code of Virginia.			
	<p>Out of the amounts in this Item, <del>\$13,150,000</del>12,650,000 the first year and <del>\$13,150,000</del>12,814,467 the second year from the general fund shall be provided to carry out the provisions of §§ 59.1-547 and 59.1-548, Code of Virginia, related to the Enterprise Zone Grant Act. Notwithstanding the provisions of §§ 59.1-547 and 59.1-548, Code of Virginia, the department is authorized to prorate, with no payment of the unpaid portion of the grant necessary in the next fiscal year, the amount of awards each business receives to match the appropriation for this Item. Should actual grants awarded in each fiscal year be less than the amounts provided in this Item, the excess shall not revert to the general fund but shall be deposited to the Virginia Removal or Rehabilitation of Derelict Structures Fund for revitalization purposes.</p>			
111.	Regulation of Structure Safety (56200).....		\$2,773,534	\$2,773,534
	State Building Code Administration (56202).....	\$2,773,534		\$2,773,534
	Fund Sources: General.....	\$483,706		\$483,706
	Special.....	\$1,989,828		\$1,989,828
	Dedicated Special Revenue.....	\$300,000		\$300,000
	<p>Authority: Title 15.2, Chapter 9; Title 27, Chapters 1, 6, and 9; Title 36, Chapters 4, 4.1, 4.2, 6, and 8; Title 58.1, Chapter 36, Article 5; and Title 63.2, Chapter 17, Code of Virginia.</p>			
112.	Governmental Affairs Services (70100).....		\$339,624	\$339,624
	Intergovernmental Relations (70101).....	\$339,624		\$339,624
	Fund Sources: General.....	\$339,624		\$339,624
	<p>Authority: Title 15.2, Subtitle III, Code of Virginia.</p>			
113.	Administrative and Support Services (59900).....		\$3,157,796	\$3,158,965

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	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
General Management and Direction (59901).....	\$3,157,796	\$3,158,965		
Fund Sources: General.....	\$2,599,641	\$2,600,199		
Special.....	\$558,155	\$558,766		
Authority: Title 36, Chapter 8, Code of Virginia.				
Total for Department of Housing and Community Development.....			<b>\$115,647,136</b> <i>\$115,147,136</i>	<b>\$139,241,702</b> <i>\$153,906,169</i>
General Fund Positions.....	60.25	60.25		
Nongeneral Fund Positions.....	51.75	51.75		
Position Level.....	112.00	112.00		
Fund Sources: General.....	<del>\$57,742,823</del>	<del>\$81,336,778</del>		
	\$57,242,823	\$81,001,245		
Special.....	\$3,104,532	\$3,105,143		
Trust and Agency.....	\$150,000	\$150,000		
Dedicated Special Revenue.....	\$400,000	\$400,000		
Federal Trust.....	\$54,249,781	<del>\$54,249,781</del> <i>\$69,249,781</i>		

**§ 1-40. DEPARTMENT OF LABOR AND INDUSTRY (181)**

114.	Economic Development Services (53400).....			<del>\$2,002,275</del> <i>\$1,802,275</i>	<del>\$2,002,275</del> <i>\$1,948,045</i>
	Apprenticeship Program (53409).....	<del>\$2,002,275</del> <i>\$1,802,275</i>	<del>\$2,002,275</del> <i>\$1,948,045</i>		
	Fund Sources: General.....	<del>\$2,002,275</del> <i>\$1,802,275</i>	<del>\$2,002,275</del> <i>\$1,948,045</i>		
Authority: Title 40.1, Chapter 6, Code of Virginia.					
115.	Regulation of Business Practices (55200).....			\$905,119	<del>\$905,119</del> <i>\$888,878</i>
	Labor Law Services (55206).....	\$905,119	<del>\$905,119</del> <i>\$888,878</i>		
	Fund Sources: General.....	\$905,119	<del>\$905,119</del> <i>\$888,878</i>		
Authority: Title 40.1, Chapters 1, 3, 4, and 5, Code of Virginia.					
116.	Regulation of Individual Safety (55500).....			\$9,997,562	<del>\$9,997,562</del> <i>\$10,647,562</i>
	Virginia Occupational Safety and Health Services (55501).....	\$9,997,562	<del>\$9,997,562</del> <i>\$10,647,562</i>		
	Fund Sources: General.....	\$3,540,255	<del>\$3,540,255</del> <i>\$4,190,255</i>		
	Special.....	\$860,307	\$860,307		
	Federal Trust.....	\$5,597,000	\$5,597,000		

Authority: Title 40.1, Chapters 1, 3, 3.2, and 3.3; Title 54.1, Chapter 5; Title 59.1, Chapter 30, Code of Virginia.

A. Notwithstanding § 40.1-49.4 D., Code of Virginia, and § 4-2.02 of this act, the Department of Labor and Industry may retain up to \$481,350 in civil penalties assessed pursuant to § 40.1-49.4, Code of Virginia, as the required federal grant match for voluntary protection and voluntary compliance programs.

B. Of the amounts provided in this item, \$650,000 the second year is provided from the general fund to support three positions in the Virginia Occupational Safety and Health Voluntary Protection Program and three positions in the Office of Consultation Services.

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		First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
117.	Regulation of Structure Safety (56200).....			\$520,702	\$520,702
	Boiler and Pressure Vessel Safety Services (56201).....	\$520,702	\$520,702		
	Fund Sources: General.....	\$520,702	\$520,702		
	Authority: Title 40.1, Chapter 3.1, Code of Virginia.				
118.	Administrative and Support Services (59900).....			\$3,062,075	\$3,064,252
	General Management and Direction (59901).....	\$3,062,075	\$3,064,252	\$3,030,750	\$3,014,957
	Fund Sources: General.....	\$2,198,402	\$2,199,462		
		\$2,167,077	\$2,150,167		
	Special.....	\$863,673	\$864,790		
	Authority: Title 40.1, Chapters 1, 3, 3.1, 3.2, 3.3, 4, 5, and 6; Title 54.1, Chapter 5; Title 59.1, Chapter 30, Code of Virginia.				
	Total for Department of Labor and Industry.....			<b>\$16,487,733</b>	<b>\$16,489,910</b>
				<b>\$16,256,408</b>	<b>\$17,020,144</b>
	General Fund Positions.....	114.66	<del>114.66</del> 113.66		
	Nongeneral Fund Positions.....	76.34	76.34		
	Position Level.....	191.00	<del>191.00</del> 190.00		
	Fund Sources: General.....	\$9,166,753	\$9,167,813		
		\$8,935,428	\$9,698,047		
	Special.....	\$1,723,980	\$1,725,097		
	Federal Trust.....	\$5,597,000	\$5,597,000		

**§ 1-41. DEPARTMENT OF MINES, MINERALS AND ENERGY (409)**

119.	Minerals Management (50600).....			\$29,258,267	\$29,228,627
	Geologic and Mineral Resource Investigations, Mapping, and Utilization (50601).....	\$1,150,509	\$1,116,863	\$29,161,057	\$28,880,962
		\$1,101,002	\$1,065,820		
	Mineral Mining Environmental Protection, Worker Safety and Land Reclamation (50602).....	\$2,794,332	\$2,794,640		
	Gas and Oil Environmental Protection, Worker Safety and Land Reclamation (50603).....	\$1,602,970	\$1,603,141		
	Coal Environmental Protection and Land Reclamation (50604).....	\$18,435,249	\$18,438,525		
		\$18,387,546	\$18,141,903		
	Coal Worker Safety (50605).....	\$5,275,207	\$5,275,458		
	Fund Sources: General.....	\$9,937,329	\$9,938,470		
		\$9,840,119	\$9,590,805		
	Special.....	\$5,877,439	\$5,877,439		
	Trust and Agency.....	\$525,000	\$525,000		
	Dedicated Special Revenue.....	\$173,000	\$173,000		
	Federal Trust.....	\$12,745,499	\$12,714,718		

Authority: Title 45.1, Code of Virginia.

A. Out of this appropriation, \$31,224 the first year and \$31,224 the second year from special funds shall be provided for annual membership dues to the Interstate Mining Compact Commission.

B. Out of this appropriation shall be provided reimbursement for expenses associated with administrative and judicial review when so ordered by a court of competent jurisdiction.

C. Out of this appropriation, \$6,119 the first year and \$6,119 the second year from the

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<p>general fund shall be provided for annual membership dues to the Interstate Oil and Gas Compact Commission.</p> <p>D. The application fee for a coal mine license or a renewal or transfer of a license pursuant to § 45.1-161.58, Code of Virginia, shall be in the amount of \$350.</p> <p>E. The application fee for a mineral mine license or a renewal or transfer of a license pursuant to § 45.1-161.292:31, Code of Virginia, shall be in the amount of \$400, except applications submitted electronically, which shall be accompanied by a fee of \$330. However, the fee for any person engaged in mining sand or gravel on an area of five acres or less shall be required to pay a fee of \$100, except applications submitted electronically, which shall be accompanied by a fee of \$80.</p> <p>F. The application fee for a new oil or gas well permit pursuant to § 45.1-361.29, Code of Virginia, shall be in the amount of \$600 and the application fee for permit modifications shall be \$300.</p>				
120.	Resource Management Research, Planning, and Coordination (50700).....		\$3,110,922	\$3,111,422
			\$3,011,691	\$3,004,748
	Energy Conservation and Alternative Energy Supply Programs (50705).....		\$3,110,922	\$3,111,422
			\$3,011,691	\$3,004,748
	Fund Sources: General.....		\$1,031,243	\$1,031,643
			\$932,012	\$924,969
	Special.....		\$95,978	\$95,978
	Federal Trust.....		\$1,983,701	\$1,983,801
<p>Authority: Title 45.1, Chapter 26, Code of Virginia.</p> <p>A. Out of this appropriation, \$38,362 the first year and \$38,362 the second year from the general fund shall be provided for dues and expenses for the Southern States Energy Board.</p> <p>B. To defray the costs of implementing the Virginia Energy Management Program, the Department of Mines, Minerals and Energy is authorized to have included in state fuel oil, natural gas, electricity, and similar energy contracts a provision for suppliers to collect from using agencies and remit to the department an administrative surcharge. The surcharge shall reflect the department's actual costs to administer the program. Additionally, the department is authorized, consistent with federal funding rules, to distribute energy-related federal funds as grants or as loans to other state or nonstate agencies for use in financing energy-related projects, and to recover from the recipient an administrative service charge to recover the department's costs of administering such grant or loan programs.</p>				
121.	Administrative and Support Services (59900).....		\$3,902,342	\$3,902,827
			\$3,882,673	\$3,882,910
	General Management and Direction (59901).....		\$3,902,342	\$3,902,827
			\$3,882,673	\$3,882,910
	Fund Sources: General.....		\$2,234,913	\$2,235,398
			\$2,215,244	\$2,215,481
	Special.....		\$1,375,729	\$1,375,729
	Dedicated Special Revenue.....		\$291,700	\$291,700
<p>Authority: Title 45.1, Chapter 14.1, Code of Virginia.</p>				
Total for Department of Mines, Minerals and Energy.			<b>\$36,271,531</b>	<b>\$36,242,876</b>
			<b>\$36,055,421</b>	<b>\$35,768,620</b>
	General Fund Positions.....		161.43	161.43
	Nongeneral Fund Positions.....		74.57	74.57
	Position Level.....		236.00	236.00
	Fund Sources: General.....		\$13,203,485	\$13,205,511
			\$12,987,375	\$12,731,255
	Special.....		\$7,349,146	\$7,349,146
	Trust and Agency.....		\$525,000	\$525,000

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	First Year	Second Year	First Year	Second Year
	FY2017	FY2018	FY2017	FY2018
Dedicated Special Revenue.....	\$464,700	\$464,700		
Federal Trust.....	\$14,729,200	\$14,698,519		

**§ 1-42. DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION (222)**

122.	Regulation of Professions and Occupations (56000).....			\$23,393,856	\$23,396,149
	Licensure, Certification, and Registration of Professions and Occupations (56046).....	\$6,776,959	\$6,777,634		
	Enforcement of Licensing, Regulating and Certifying Professions and Occupations (56047).....	\$8,216,672	\$8,217,399		
	Administrative Services (56048).....	\$8,400,225	\$8,401,116		
	Fund Sources: Special.....	\$1,296,267	\$1,296,267		
	Dedicated Special Revenue.....	\$21,762,589	\$21,764,882		
	Federal Trust.....	\$335,000	\$335,000		
	Authority: Title 54.1, Chapters 1, 2, 3, 4, 5, 6, 7, 8.1, 9, 11, 14, 15, 17, 18, 20.1, 21, 22, 22.1, 23, 23.1, and 23.2; Title 55, Chapters 4.1, 4.2, 19, 21, 24, 26, 27, 28, and 29; and Title 36, Chapter 5.1, Code of Virginia.				
	Costs for professional and occupational regulation may be met by fees paid by the respective professions and occupations.				
	Total for Department of Professional and Occupational Regulation.....			<b>\$23,393,856</b>	<b>\$23,396,149</b>
	Nongeneral Fund Positions.....	203.00	203.00		
	Position Level.....	203.00	203.00		
	Fund Sources: Special.....	\$1,296,267	\$1,296,267		
	Dedicated Special Revenue.....	\$21,762,589	\$21,764,882		
	Federal Trust.....	\$335,000	\$335,000		

**§ 1-43. DEPARTMENT OF SMALL BUSINESS AND SUPPLIER DIVERSITY (350)**

123.	Economic Development Services (53400).....			<del>\$7,667,752</del>	<del>\$7,668,059</del>
				<i>\$6,860,562</i>	<i>\$7,197,831</i>
	Minority Business Enterprise Procurement Reporting and Coordination (53406).....	\$544,350	\$544,350		
	Minority Business Enterprise Outreach (53407).....	\$1,113,982	\$1,114,090		
	Minority Business Enterprise Certification (53414).....	\$430,155	\$430,155		
	Business Information Services (53418).....	<del>\$1,522,619</del>	<del>\$1,522,619</del>		
		<i>\$1,442,619</i>	<i>\$1,442,619</i>		
	Administrative Services (53422).....	<del>\$769,636</del>	<del>\$769,835</del>		
		<i>\$722,427</i>	<i>\$689,835</i>		
	Financial Services for Economic Development (53423).....	<del>\$3,287,010</del>	<del>\$3,287,010</del>		
		<i>\$2,607,029</i>	<i>\$2,976,782</i>		
	Fund Sources: General.....	<del>\$5,166,421</del>	<del>\$5,166,620</del>		
		<i>\$4,359,231</i>	<i>\$4,196,392</i>		
	Special.....	\$801,201	<del>\$801,201</del>		
			<i>\$1,301,201</i>		
	Commonwealth Transportation.....	\$1,535,130	\$1,535,238		
	Trust and Agency.....	\$100,000	\$100,000		
	Dedicated Special Revenue.....	\$65,000	\$65,000		
	Authority: Title 2.2, Chapters 16.1 and 22, Code of Virginia.				

A. The Department of Small Business and Supplier Diversity, in conjunction with the Department of General Services, the Virginia Employment Commission, and the Virginia Department of Transportation, is authorized to conduct analyses of the availability of minority business enterprises in Virginia and the utilization of such businesses by the Commonwealth of Virginia, localities, or private industry in the acquisition of goods and

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services. The department also is authorized to receive and accept from the United States government, or any agency thereof, and from any other source, private or public, any and all gifts, grants, allotments, bequests or devises of any nature that would assist the department in conducting such analyses or otherwise strengthen its services to minority business enterprises. The Director, Department of Planning and Budget, is authorized to establish a nongeneral fund appropriation for the purposes of expending revenues that may be received for this effort.

B.1. Out of the amounts in this Item, ~~\$629,981~~ the first year and ~~\$629,981~~ \$500,000 the second year from the general fund shall be deposited to the Small Business Jobs Grant Fund is hereby appropriated for payment of grants pursuant to § 2.2-1615, Code of Virginia.

2. By April 1 of each year, the department shall report to the Governor and the Secretary of Commerce and Trade the expenditures of the Small Business Jobs Grant Fund and anticipated needs for small business development in order to monitor the effective use of these funds.

C. Out of the amounts in this Item, ~~\$1,000,000~~ \$950,000 the first year and ~~\$1,000,000~~ \$819,753 the second year from the general fund shall be deposited to the Small Business Investment Grant Fund pursuant to § 2.2-1616, Code of Virginia. The department shall aggressively market the program and shall report to the Governor and the Secretary of Commerce and Trade on the status of the program by November 1 of each year.

D. Out of the amounts in this Item, \$500,000 the first year and \$500,000 the second year from the general fund shall be provided to support the Business One-Stop Program.

E.1. Out of the amounts in this Item, \$163,690 from the general fund and \$966,201 from nongeneral funds the first year and \$163,690 from the general fund and \$966,201 from nongeneral funds the second year shall be provided for the Virginia Small Business Financing Authority. The general fund amount shall be used to support operating expenses of the authority.

2. To meet changing financing needs of small businesses, the Executive Director, Virginia Small Business Financing Authority, with the approval of the Director, Department of Small Business and Supplier Diversity, may transfer moneys between funds managed by the authority. These include the Virginia Small Business Growth Fund (§ 2.2-2310, Code of Virginia); the Virginia Export Fund (§ 2.2-2309, Code of Virginia); and the Insurance or Guarantee Fund (§ 2.2-2290, Code of Virginia). The Executive Director, Virginia Small Business Financing Authority, shall report, by fund, the transfers made by January 1 of each year to the Chairmen of the Senate Finance and House Appropriations Committees.

3. The Virginia Small Business Financing Authority is authorized to insure additional loans for eligible small businesses, pursuant to § 2.2-2290, Code of Virginia, up to an aggregate amount not to exceed four times the principal amount in the Insurance or Guarantee Fund, or up to an aggregate amount of \$15,000,000. In the event that the authority is called upon to pay on guaranties of loans of more than 10 percent of the aggregate amount of all outstanding insured loans, the authority shall not insure any further loans and shall immediately notify the Governor and the Chairmen of the House Appropriations and Senate Finance Committees. Pursuant to § 4-1.03 of this act, the Director, Department of Planning and Budget, is authorized to transfer a sum sufficient to the Insurance or Guarantee Fund in the event the amount in the fund falls below the amount needed to honor any guarantee.

4. For the I-95 HOV/HOT Lanes project as evidenced by the Comprehensive Agreement approved pursuant to the Public-Private Transportation Act of 1995, the maximum fee and/or premium charged by the Virginia Small Business Financing Authority pursuant to §§ 2.2-2285 and 2.2-2291, Code of Virginia, for acting as the conduit issuer for any bond financing is not to exceed \$25,000 per annum.

F. The Department of Small Business and Supplier Diversity shall include employment services organizations within the development and operation of any state procurement program or program goal and targets for small, women-owned, and minority-owned businesses consistent with requirements in the Code of Virginia requiring the Department to certify employment service organizations.

*G. Notwithstanding §§ 7VAC10-21-310, 7VAC10-21-320, or 7VAC10-21-330 of the Virginia Administrative Code, or any other provision of law, any business certified on or after July 1,*

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<i>2017, by the Virginia Department of Small Business and Supplier Diversity or the Virginia Department of Minority Business Enterprise as a small, women-owned, or minority-owned business, shall be certified for a period of five years unless (i) the certification is revoked before the end of the five-year period, (ii) the business ceases operation, or (iii) the business no longer qualifies as a small, women- or minority-owned business.</i>				
Total for Department of Small Business and Supplier Diversity.....			<b>\$7,667,752</b> <b>\$6,860,562</b>	<b>\$7,668,059</b> <b>\$7,197,831</b>
General Fund Positions.....	34.00	34.00		
	26.00	26.00		
Nongeneral Fund Positions.....	28.00	28.00		
	24.00	24.00		
Position Level.....	62.00	62.00		
	50.00	50.00		
Fund Sources: General.....	\$5,166,421	\$5,166,620		
	\$4,359,231	\$4,196,392		
Special.....	\$801,201	\$801,201		
		\$1,301,201		
Commonwealth Transportation.....	\$1,535,130	\$1,535,238		
Trust and Agency.....	\$100,000	\$100,000		
Dedicated Special Revenue.....	\$65,000	\$65,000		

**§ 1-44. FORT MONROE AUTHORITY (360)**

124. Economic Development Services (53400).....			<b>\$5,298,368</b> <b>\$5,082,648</b>	<b>\$5,298,372</b> <b>\$4,974,791</b>
Administrative Services (53422).....	\$5,298,368	\$5,298,372		
	\$5,082,648	\$4,974,791		
Fund Sources: General.....	\$5,298,368	\$5,298,372		
	\$5,082,648	\$4,974,791		

Authority: Title 2.2, Chapter 22, Code of Virginia.

A.1. Out of the amounts in this Item, ~~\$5,298,368~~~~5,082,648~~ the first year and ~~\$5,298,372~~~~4,974,791~~ the second year from the general fund shall be provided for the Commonwealth's share of the estimated operating expenses of the Fort Monroe Authority (FMA). This appropriation represents the Commonwealth's share of the FMA's estimated operating expenses. These expenses may not be reimbursed by the federal government and shall be reduced by any federal funding the authority may receive for expenditures funded through the Commonwealth's contribution that ultimately qualify for federal reimbursement. Any such reimbursements shall be repaid to the general fund. The State Comptroller shall disburse the first and second year appropriations in twelve equal monthly installments.

2. All moneys of the FMA, from whatever source derived, shall be paid to the treasurer of the FMA. The Auditor of Public Accounts or his legally authorized representatives shall annually examine the accounts of the books of the FMA.

3. Employees of the FMA shall be eligible for membership in the Virginia Retirement System and participation in all of the health and related insurance and other benefits, including premium conversion and flexible benefits, available to state employees as provided by law.

4. Pursuant to § 2.2-2338, Code of Virginia, the Board of Trustees of the FMA shall be deemed a state public body and may meet by electronic communication means in accordance with the requirements set forth in § 2.2-3708, Code of Virginia. Electronic communication shall mean the same as that term is defined in § 2.2-3701, Code of Virginia.

5. Notwithstanding any other provision of law or agreement, the amount paid from all sources of funds by the FMA to the City of Hampton pursuant to § 2.2-2342, Code of Virginia, shall not exceed \$983,960 in FY 2017 and \$983,960 in FY 2018. Beginning July

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<p>1, 2016, the FMA shall not pay any such amount to the City of Hampton until the City has recorded among the land records in the Office of the Circuit Court Clerk of the City of Hampton an instrument removing any liens or claims of liens on the real property of the Commonwealth at Fort Monroe. Such instrument shall state that the City acknowledges that in the event of conflict between any fees in lieu of taxes provided for under § 2.2-2342 of the Code of Virginia and the Appropriations Act, the Appropriations Act shall prevail. Such instrument shall further state that the FMA has paid all amounts set by the Appropriations Act for fiscal year 2014, fiscal year 2015 and fiscal year 2016 and that the City does not assert nor will it assert in the future any liens of any kind on the real property of the Commonwealth at Fort Monroe. Such instrument shall be in a form acceptable to, and have the written approval of the Attorney General of the Commonwealth in advance of recordation.</p>				
Total for Fort Monroe Authority.....			<b>\$5,298,368</b>	<b>\$5,298,372</b>
			<b>\$5,082,648</b>	<b>\$4,974,791</b>
Fund Sources: General.....	\$5,298,368	\$5,298,372		
	\$5,082,648	\$4,974,791		

**§ 1-45. VIRGINIA ECONOMIC DEVELOPMENT PARTNERSHIP (310)**

125.	Economic Development Services (53400).....		\$26,851,544	\$27,351,546
			\$25,508,967	\$26,035,046
	Economic Development Services (53412).....	\$26,851,544	\$27,351,546	
		\$25,508,967	\$26,035,046	
	Fund Sources: General.....	\$26,851,544	\$27,351,546	
		\$25,508,967	\$26,035,046	

Authority: Title 2.2, Chapter 22, Article 4 and Chapter 51; and § 15.2-941, Code of Virginia.

A. Upon authorization of the Governor, the Virginia Economic Development Partnership may transfer funds appropriated to it by this act to a nonstock corporation.

B. Prior to July 1 of each fiscal year, the Virginia Economic Development Partnership shall provide to the Chairmen of the House Appropriations and Senate Finance Committees and the Director, Department of Planning and Budget a report of its operating plan. Prior to September 1 of each fiscal year, the Partnership shall provide to the Chairmen of the House Appropriations and Senate Finance Committees and the Director, Department of Planning and Budget a detailed expenditure report and a listing of the salaries and bonuses for all partnership employees for the prior fiscal year. All three reports shall be prepared in the formats as previously approved by the Department of Planning and Budget.

C. In developing the criteria for any pay for performance plan, the board shall include, but not be limited to, these variables: 1) the number of economic development prospects committed to move to or expand operations in Virginia; 2) dollar investment made in Virginia for land acquisition, construction, buildings, and equipment; 3) number of full-time jobs directly related to an economic development project; and 4) location of the project. To that end, the pay for performance plan shall be weighted to recognize and reward employees who successfully recruit new economic development prospects or cause existing prospects to expand operations in localities with fiscal stress greater than the statewide average. Fiscal Stress shall be based on the Index published by the Commission on Local Government. If a prospect is physically located in more than one contiguous locality, the highest Fiscal Stress Index of the participating localities will be used.

D.1. The Virginia Economic Development Partnership shall report before the General Assembly convenes in January of each year on the status of the implementation of the state's comprehensive economic development strategy, and shall recommend legislative actions related to the implementation of the comprehensive economic development strategy. The report shall be submitted to the Chairmen of the House Appropriations and Senate Finance Committees, and shall include the number of site visits made by employees of the Virginia Economic Development Partnership with potential economic development prospects.

2. The Virginia Economic Development Partnership shall identify and target industries suited for location in the southside and southwest regions of the state.

E. The State Comptroller shall disburse the first and second year appropriations in twelve

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	equal monthly installments. The Director, Department of Planning and Budget may authorize an increase in disbursements for any month, not to exceed the total appropriation for the fiscal year, if such an advance is necessary to meet payment obligations.			
	F. The Virginia Economic Development Partnership shall provide administrative and support services for the Virginia Tourism Authority as prescribed in the Memorandum of Agreement until July 1, 2018, or until the authority is able to provide such services.			
	G. The Virginia Economic Development Partnership shall report one month after the close of each quarter to the Chairmen of the Senate Finance and House Appropriations Committees on the Commonwealth's Development Opportunity Fund. The report shall include, but not be limited to, total appropriations made or transferred to the fund, total grants awarded, cash balances, and balances available for future commitments.			
	H. Prior to purchasing airline and hotel accommodations related to overseas trade shows, the Virginia Economic Development Partnership shall provide an itemized list of projected costs for review by the Secretary of Commerce and Trade.			
	I. The amounts for Economic Development Services include \$500,000 the first year and \$500,000 the second year from the general fund to market distressed areas of the Commonwealth.			
	J. Out of the amounts for Economic Development Services shall be provided \$215,000 the first year and \$215,000 the second year from the general fund to assist small manufacturers with the export of advanced manufacturing products.			
	K. Out of the amounts for economic development services shall be provided \$500,000 the first year and \$500,000 the second year from the general fund for an expanded international and domestic marketing campaign to market Virginia to attract additional businesses to the Commonwealth.			
	L. The Virginia Economic Development Partnership shall investigate additional ways in which it might encourage the export of products and services from the Commonwealth to international markets, including researching potential methods through which to support broader availability of bridge loans and shipment insurance for Virginia exporters.			
	M. Out of this appropriation, \$1,097,957 the first year and \$1,097,957 the second year from the general fund is provided for administration and operating expenses of the Virginia Jobs Investment Program.			
	N.1. Out of the amounts for Economic Development Services shall be provided <del>\$2,250,000</del> \$2,016,884 in the first year and \$2,250,000 in the second year from the general fund to be deposited in the Virginia Brownfields Restoration and Economic Redevelopment Assistance Fund established pursuant to § 10.1-1237, Code of Virginia.			
	2. Before July 1, 2016, the Virginia Economic Development Partnership, in consultation with the Department of Environmental Quality, shall develop updated guidelines governing the use of the Fund and providing for grants of up to \$500,000 for site remediation. The guidelines shall include a requirement that sites with potential for redevelopment and economic benefits to the surrounding community be prioritized for consideration of such grants.			
	O. The Virginia Economic Development Partnership shall transfer to the Department of Environmental Quality up to \$250,000 of the amounts appropriated in this item to conduct research and for other appropriate costs associated with the development of a long-term offsetting methods within the Virginia Nutrient Credit Exchange. The Virginia Economic Development Partnership shall work in conjunction with the Department of Environmental Quality to develop the long-term offsetting methods.			
	P. Out of the general fund appropriation in this item, the Virginia Economic Development Partnership shall provide \$1,000,000 the first year and <del>\$1,000,000</del> \$925,000 the second year to the Commonwealth Center for Advanced Manufacturing for rent and operating support.			
	Q. Out of the amounts in this item, <del>\$5,160,700</del> \$4,051,239 the first year and			

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<p><del>\$5,160,700</del> \$4,865,700 the second year from the general fund shall be provided to strengthen and promote economic development initiatives. The funding shall be allocated <del>on an annual basis</del> as follows: \$466,000 <del>the first year and</del> \$366,000 <del>the second year</del> to expand and rebrand the Virginia Jobs Investment Program, \$1,000,000 <del>the first year and</del> \$950,000 <del>the second year</del> to support the Virginia International Trade Alliance, <del>\$2,000,000</del> \$890,539 <del>the first year and</del> \$1,900,000 <del>the second year</del> to match federal grants for the Going Global Defense Initiative; <del>Virginia International Trade Alliance</del>; and the State Trade Export Promotion (STEP) grant program, \$650,000 <del>the first year and</del> \$605,000 <del>the second year</del> to Support Virginia exporters, \$250,000 <del>in each year</del> to implement the recommendations of the Virginia Sustained Growth Study and \$794,700 <del>in each year</del> to support US and international business attraction.</p>				
<p><i>R.1. The Virginia Economic Development Partnership (VEDP) shall submit its strategic plan, marketing plan and operational plan to the Joint Legislative Audit and Review Commission Special Subcommittee on Economic Development no later than December 1, 2017 for review.</i></p>				
<p><i>2. In addition, VEDP shall submit its plans for operating and staffing the new Incentives Division, the new Office of the Auditor, and the International Trade Division for review by the JLARC Special Subcommittee on Economic Development no later than December 1, 2017. These plans should include, but not be limited to, organization and staffing qualifications, as well as fiscal estimates for potential increases in funding and positions, if applicable.</i></p>				
<p><i>3. The Comptroller is hereby authorized to withhold general funds in the amount of \$1,500,000 second year until notified by the Chairmen of the House Appropriations and the Senate Finance Committees that VEDP has complied with this request by the date specified and that all or a portion specified of the funds are authorized for disbursement.</i></p>				
Total for Virginia Economic Development Partnership.....			\$26,851,544	\$27,351,546
			\$25,508,967	\$26,035,046
Fund Sources: General.....			\$26,851,544	\$27,351,546
			\$25,508,967	\$26,035,046

125.10 Omitted.

**§ 1-46. VIRGINIA EMPLOYMENT COMMISSION (182)**

126.	Workforce Systems Services (47000).....		\$608,548,028	\$608,548,028
	Job Placement Services (47001).....	\$29,889,191	\$29,889,191	
	Unemployment Insurance Services (47002).....	\$577,799,063	\$577,799,063	
	Workforce Development Services (47003).....	\$859,774	\$859,774	
	Fund Sources: Special.....	\$5,847,388	\$5,847,388	
	Trust and Agency.....	\$602,700,640	\$602,700,640	

Authority: Title 60.2, Chapters 1 through 6, Code of Virginia.

A. Revenues deposited into the Special Unemployment Compensation Administration Fund shall be used for the purposes set out in the following order of priority: 1) to make payment of any interest owed on loans from the U.S. Treasury for payment of unemployment compensation benefits; 2) to support essential services of the Commission, particularly in the event of reductions in federal funding; 3) to finance the cost of capital projects; and 4) to fund the discretionary fund established in § 60.2-315, Code of Virginia. Funding may be transferred from the capital budget to the operating budget consistent with this language.

B. Reed Act funds distributed by the Balanced Budget Act of 1997 and credited to the unemployment trust fund with respect to federal fiscal years 2000, 2001, and 2002, under § 1103 of the Social Security Act (42 U.S.C.), as amended, shall be used only for the administration of the unemployment compensation program, under the direction of the Virginia Employment Commission and shall not be subject to the requirements of § 60.2-305, Code of Virginia.

C. There is hereby appropriated out of the funds made available to this state under § 1103 of the Social Security Act (42 U.S.C.) as amended, the balance of the \$51,067,866 of Reed Act

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funds, if any, provided in Item 120 E. of Chapter 847, 2007 Acts of Assembly, for upgrading obsolete information technology systems, to include staff costs. This appropriation is subject to the provisions of § 60.2-305, Code of Virginia. Savings as a result of the new systems shall be retained by the commission.				
D. Notwithstanding any other provision of law, all fees incurred by the Virginia Employment Commission with respect to the collection of debts authorized to be collected under § 2.2-4806 of the Code of Virginia, using the Treasury Offset Program of the United States, shall become part of the debt owed the Commission and may be recovered accordingly.				
127.	Economic Development Services (53400).....		\$3,087,549	\$3,087,549
	Economic Information Services (53402).....	\$3,087,549	\$3,087,549	
	Fund Sources: Special.....	\$562,573	\$562,573	
	Trust and Agency.....	\$2,524,976	\$2,524,976	

Authority: Title 60.2, Chapters 1 through 6, Code of Virginia.

128.	For payment to the Secretary of the Treasury of the United States to the credit of the federal unemployment trust fund established by the Social Security Act, to be held for the state upon the terms and conditions provided in the said Social Security Act, there is hereby appropriated the amount remaining in the clearing account of the Unemployment Compensation Fund created by § 60.2-301, Code of Virginia, after deducting the refunds payable therefrom pursuant to § 60.2-301, Code of Virginia, a sum sufficient.			
	Total for Virginia Employment Commission.....		<b>\$611,635,577</b>	<b>\$611,635,577</b>
	Nongeneral Fund Positions.....	865.00	865.00	
	Position Level.....	865.00	865.00	
	Fund Sources: Special.....	\$6,409,961	\$6,409,961	
	Trust and Agency.....	\$605,225,616	\$605,225,616	

**§ 1-47. VIRGINIA TOURISM AUTHORITY (320)**

129.	Tourist Promotion (53600).....		\$21,746,335	\$21,046,337
			\$21,035,296	\$19,784,112
	Tourist Promotion Services (53607).....	\$21,746,335	\$21,046,337	
		\$21,035,296	\$19,784,112	
	Fund Sources: General.....	\$21,746,335	\$21,046,337	
		\$21,035,296	\$19,784,112	

Authority: Title 2.2, Chapter 22, Article 8, Code of Virginia.

A.1. The Department of Transportation shall pay to the Virginia Tourism Authority \$1,200,000 each year for continued operation of the Welcome Centers. The Department of Transportation shall fund maintenance at each facility based on the agreed-upon service levels contained in the Memorandum of Agreement between the Virginia Tourism Authority and the Department of Transportation. Included in the amounts in this paragraph is \$100,000 each year for maintenance of the Danville Welcome Center.

2. To the extent necessary to fund the operations of the Welcome Centers, the Virginia Tourism Authority is authorized to collect fees paid by businesses for display space at the Welcome Centers.

B. Upon authorization of the Governor, the Virginia Tourism Authority may transfer funds appropriated to it by this act to a nonstock corporation.

C. Prior to July 1 of each fiscal year, the Virginia Tourism Authority shall provide to the Chairmen of the House Appropriations and Senate Finance Committees and the Director, Department of Planning and Budget a report of its operating plan. Prior to September 1 of each fiscal year, the authority shall provide to the Chairmen of the House Appropriations and Senate Finance Committees and the Director, Department of Planning and Budget a detailed expenditure report and a listing of the salaries and bonuses for all authority

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	employees for the prior fiscal year. All three reports shall be prepared in the formats as previously approved by the Department of Planning and Budget.			
	D. The State Comptroller shall disburse the first and second year appropriations in twelve equal monthly installments. The Director, Department of Planning and Budget may authorize an increase in disbursements for any month, not to exceed the total appropriation for the fiscal year, if such an advance is necessary to meet payment obligations.			
	E. Out of the amounts for Tourist Promotion shall be provided \$1,700,000 the first year and \$1,700,000 the second year from the general fund to promote the Virginia tourism industries. These funds shall be used, among other purposes, to initiate strategies to expand growth tourism industries such as Virginia history tours, wine and epicurean tours and other packaged travel itineraries.			
	F.1 Out of the amounts for Tourist Promotion shall be provided \$2,500,000 the first year and <del>\$2,250,000</del> \$2,125,000 the second year from the general fund for grants to regional and local tourism authorities and other tourism entities to support their efforts. From the grants provided from the amounts included in this paragraph, priority consideration shall be given to funding for the Coalfield Regional Tourism Authority, the Daniel Boone Visitor Center, and \$50,000 the first year and \$50,000 the second year for events sponsored by Special Olympics Virginia, \$500,000 the first year <del>and \$250,000 the second year</del> for the City of Portsmouth for a regional tourism entity, and \$300,000 the first year and \$300,000 the second year to the Southwest Virginia Regional Recreation Authority for the Spearhead Trails initiative. <i>Also out of the amounts in this item for Tourism Promotion, \$125,000 the second year from the general fund shall be provided to the City of Virginia Beach for a regional tourism entity.</i>			
	2. Prior to payment of any grants provided from the amounts included in paragraph F.1 above to the City of Portsmouth for the benefit of a regional tourism entity, and no later than November 1, 2016, the City of Portsmouth shall provide to the Chairmen of the House Appropriations and Senate Finance Committees a report detailing the financial condition of the regional tourism entity and a plan for achieving its long-term financial sustainability. The report shall include the following for the three most recent fiscal years: (i) a statement of financial position summarizing the assets, liabilities and net assets of the organization; (ii) a statement of activity showing total attendance, income and expenses; and (iii) a statement of cash flow.			
	G. The Virginia Tourism Authority shall place a high priority on marketing rural areas of the state.			
	H. Out of the amounts for Tourist Promotion, \$500,000 the first year and \$500,000 the second year from the general fund shall be used to expand electronic marketing of Virginia tourism and conduct major media events with travel industry partners and maintain Welcome Center operations.			
	I. Out of the amounts provided for Tourist Promotion shall be provided \$3,100,000 in the first year and \$3,100,000 in the second year from the general fund to supplement appropriations to promote Virginia's tourism industries through an enhanced advertising campaign. Of these amounts, at least \$1,000,000 the first year and \$1,000,000 the second year shall be used to support a cooperative advertising program to partner with private sector tourism businesses and regional tourism entities to advertise Virginia as a tourism destination. The state dollars shall be used to incentivize private and regional tourism marketing funds on a \$1.00 for \$1.00 basis whereby the Virginia Tourism Corporation shall enter into agreements to undertake joint advertising purchases to promote Virginia and specific facilities with private sector and regional partners.			
	J. Out of the amounts provided for Tourist Promotion shall be provided \$330,012 the first year and \$330,012 the second year from the general fund to promote and advertise tourism in Virginia through a competitively awarded public-private partnership program, matched on at least a three to one basis by each recipient. These amounts include \$130,012 in the first year and \$130,012 in the second year for "See Virginia First," a partnership operated by the Virginia Association of Broadcasters to advertise Virginia Tourism, provided the Association contributes a total of at least \$390,036 in television and radio advertising value to promote tourism in Virginia in the first year and \$390,036 in the second year. Also included in these amounts is \$100,000 the first year and \$100,000 the second year to promote Virginia Parks,			

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and \$100,000 the first year and \$100,000 the second year to promote Virginia's wineries.				
K. Of the amounts provided for Tourism Promotion shall be provided \$497,544 the first year and \$497,544 the second year from the general fund to purchase media in the Washington, D.C., Virginia, and Baltimore, Maryland markets through the "See Virginia First," a partnership operated by the Virginia Association of Broadcasters, in association with its affiliates in other states in the region, provided that the Association can obtain contributions of at least \$1,492,632 <i>the first year and \$1,492,632 the second year</i> in television, radio and station-related internet advertising value to promote tourism in Virginia.				
L. Out of the amounts for Tourist Promotion shall be provided \$450,000 the first year from the general fund to promote and market tourism between the Commonwealth and China in accordance with a signed agreement entered into with the Virginia Tourism Corporation.				
<i>M. Out of the amounts for Tourist Promotion, \$400,000 the second year from the general fund shall be provided as an incentive to establish nonstop air service between Indira Gandhi International Airport and Washington Dulles International Airport in accordance with a signed agreement entered into with the Virginia Tourism Corporation. Such agreement shall include provisions requiring a minimum of three nonstop round-trip flights per week, a load factor, and that the incentive payments be repaid or reduced proportionately if such conditions are not met.</i>				
Total for Virginia Tourism Authority.....			<b>\$21,746,335</b> <b>\$21,035,296</b>	<b>\$21,046,337</b> <b>\$19,784,112</b>
Fund Sources: General.....	\$21,746,335 \$21,035,296	\$21,046,337 \$19,784,112		
<b>TOTAL FOR OFFICE OF COMMERCE AND TRADE.....</b>			<b>\$932,202,652</b> <b>\$916,635,941</b>	<b>\$945,951,282</b> <b>\$967,021,343</b>
General Fund Positions.....	378.34 369.34	378.34 368.34		
Nongeneral Fund Positions.....	1,311.66 1,307.66	1,311.66 1,307.66		
Position Level.....	1,690.00 1,677.00	1,690.00 1,676.00		
Fund Sources: General.....	\$203,813,721 \$188,247,010	\$217,286,285 \$205,630,466		
Special.....	\$20,685,087	\$20,686,815 \$33,848,815		
Commonwealth Transportation.....	\$1,535,130	\$1,535,238		
Trust and Agency.....	\$606,000,616	\$606,000,616		
Dedicated Special Revenue.....	\$25,257,117	\$25,562,028 \$30,125,908		
Federal Trust.....	\$74,910,981	\$74,880,300 \$89,880,300		

ITEM 130.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018

**OFFICE OF EDUCATION**

**§ 1-48. SECRETARY OF EDUCATION (185)**

130.	Administrative and Support Services (79900).....			\$674,735	\$674,794
	General Management and Direction (79901).....	\$674,735	\$674,794		
	Fund Sources: General.....	\$674,735	\$674,794		

Authority: Title 2.2, Chapter 2, § 2.2-208 Code of Virginia.

A. The Secretary of Education is hereby authorized to make allocations to qualified zone academies of the portion of the national zone academy bond limitation amount to be allocated annually to the Commonwealth of Virginia pursuant to Section 1397E of the Internal Revenue Code of 1986, as amended, and to provide for carryovers of any unused limitation amount. In making such allocations, the Secretary of Education is directed to give priority to allocation requests for qualified zone academies having at least 35 percent free lunch participation or either located in federal enterprise communities or located in cities and counties within which federal enterprise communities are located.

B. The Secretary of Education is hereby authorized to make allocations of the portion of the tax-exempt private activity bond limitation amount to be allocated annually to the Commonwealth of Virginia pursuant to the Economic Growth and Tax Relief Reconciliation Act of 2001 (PL 107-16)(Section 142(k)(5) of the Internal Revenue Code of 1986, as amended) for the development of education facilities using public-private partnerships, and to provide for carryovers of any unused limitation amount. In making such allocations, the Secretary is directed to give priority to public-private partnership proposals that will serve as demonstration projects concerning the leveraging of private sector contributions and resources, the achievement of economies or efficiencies associated with private sector innovation, and other benefits that are or may be derived from public-private partnerships in contrast to more traditional approaches to public school construction and renovation. The Secretary is directed to report annually not later than August 31 to the Chairmen of the Senate Finance and House Appropriations Committees regarding any guidelines implemented and any allocations made pursuant to this paragraph.

C. For the funds identified for reallocation in each of the higher education institutions' educational and general programs, each respective institution shall report the amounts and the specific purposes for which they were used in its six-year academic plans finalized in the fall of 2016 and the fall of 2017.

D. The Secretary of Education, in consultation with the Secretary of Finance, shall develop certain approaches for incentives for joint contracting by a school division with an adjacent school division. Such approaches shall consider all of the educational services available to the school divisions subject to the joint contract and shall only apply to circumstances where at least one of the school divisions is equal to or fewer than 4,000 students. A report on the approaches considered by the Secretaries shall be submitted to the Chairmen of Senate Finance and House Appropriations by October 15, 2016.

	Total for Secretary of Education.....			<b>\$674,735</b>	<b>\$674,794</b>
	General Fund Positions.....	5.00	5.00		
	Position Level.....	5.00	5.00		
	Fund Sources: General.....	\$674,735	\$674,794		

**§ 1-49. DEPARTMENT OF EDUCATION, CENTRAL OFFICE OPERATIONS (201)**

131.	Instructional Services (18100).....			\$22,273,413	\$22,273,579
	Public Education Instructional Services (18101).....	\$11,643,503	\$11,643,562	\$21,773,413	\$21,952,397
		\$11,443,503	\$11,822,380		
	Program Administration and Assistance for Instructional Services (18102).....	\$8,957,867	\$8,957,961		
		\$8,657,867	\$8,457,961		

ITEM 131.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
Adult Education and Literacy (18104).....	\$1,672,043	\$1,672,056		
Fund Sources: General.....	<del>\$8,417,030</del>	<del>\$8,417,030</del>		
	\$7,917,030	\$8,095,848		
Special.....	\$300,000	\$300,000		
Commonwealth Transportation.....	\$263,327	\$263,327		
Trust and Agency.....	\$5,000	\$5,000		
Federal Trust.....	\$13,288,056	\$13,288,222		

Authority: Public Education Instructional Services: Title 22.1, Chapter 13, Code of Virginia; P.L. 107-110, P.L. 105-332, P.L.108-447, P.L. 102-305, Federal Code.

Program Administration and Assistance for Instructional Services: Title 22.1, Chapter 13, Code of Virginia; P.L. 107-110, P.L. 105-332, P.L. 108-447, P.L. 102-305, Federal Code.

Compliance and Monitoring of Instructional Services: Title 22.1, Chapter 13, Code of Virginia; P.L. 107-110, P.L. 105-332, P.L. 108-447, Federal Code.

Adult Education and Literacy: §§ 2.2-2472, 22.1-223-226, 22.1-253.13:1, 22.1-254.2, Code of Virginia; P.L. 105-220, Federal Code.

A. The Superintendent of Public Instruction is encouraged to implement school/community team training.

B. The Superintendent of Public Instruction shall provide direction and technical assistance to local school divisions in the revision of their Vocational Education curriculum and instructional practices.

C. The Superintendent of Public Instruction, in cooperation with the Commissioner of Social Services, shall encourage local departments of social services and local school divisions to work together to develop cooperative arrangements for the use of school resources, especially computer labs, for the purpose of training Temporary Assistance for Needy Families (TANF) recipients for the workforce.

D. Notwithstanding § 4-1.04 a 3 of this act, the Superintendent of Public Instruction may apply for grant funding to be used by local school divisions consistent with the provisions of Chapter 447, 1999 Acts of Assembly. The nongeneral fund appropriation for this agency shall be adjusted by the amount of the proceeds of any such grant awards.

E. 1. Out of the appropriations in this item, ~~\$1,500,000~~ \$1,400,000 the first year and ~~\$1,500,000~~ \$1,300,000 the second year from the general fund is provided to support students and teachers pursuing information technology industry certifications. The funding shall be used to provide outreach, training, instructional resources, industry recognized certification opportunities for teachers and students enrolled in Virginia public high schools and regional career and technical education programs, and information technology curriculum resources for use by students' parents.

2. The funds provided in this initiative shall be used to support the following priority objectives: a) increase the percentage of students enrolled in career and technical education courses who receive instruction in information technology leading to an increased number of students achieving industry recognized certifications in information technology; b) increase the number of high schools and regional career and technical education programs that receive the training and technical support to be ready to implement information technology curricula leading to increased statewide implementation and use; c) increase the number of teachers teaching targeted career and technical education courses and other high school teachers who receive training in information technology and in industry recognized certifications leading to an increased number of teachers achieving industry recognized certifications in information technology; and, d) support implementation of information technology curricula in school divisions in Southside and Southwest Virginia so that implementation in those regions is at least comparable to implementation in other regions of Virginia.

F. Out of the appropriation in this Item, ~~\$713,000~~ \$413,000 the first year and ~~\$713,000~~ \$413,000 the second year from the general fund is provided for the Department of Education to continue a professional development program intended to increase the

ITEM 131.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
capacity of principals as school leaders in under-performing schools.				
G. Out of the appropriation in this Item, \$366,000 the first year and \$366,000 the second year from the general fund is provided to the Department of Education to assist local school divisions, as needed, to establish criteria for the professional development of teachers and principals on the subject of issues related to high-needs students.				
H. Out of this appropriation, <del>\$1,000,000</del> \$900,000 the first year and <del>\$1,000,000</del> \$900,000 the second year from the general fund is provided through the Department of Education to the University of Virginia to continue statewide implementation of the Virginia Kindergarten Readiness Program.				
132.	Special Education and Student Services (18200).....		\$13,825,424	<del>\$13,725,513</del> \$13,604,331
	Special Education Instructional Services (18201).....	\$9,028,627	\$8,928,684	
	Special Education Administration and Assistance Services (18202).....	\$793,459	\$793,459	
	Special Education Compliance and Monitoring Services (18203).....	\$2,101,237	\$2,101,269	
	Student Assistance and Guidance Services (18204).....	\$1,902,101	<del>\$1,902,101</del> \$1,780,919	
	Fund Sources: General.....	\$575,598	<del>\$475,598</del> \$354,416	
	Special.....	\$120,000	\$120,000	
	Federal Trust.....	\$13,129,826	\$13,129,915	

Authority: Special Education Instructional Services: §§ 22.1-213 through 22.1-221, 22.1-253.13:1 through 22.1-253.13:8, 22.1-319 through 22.1-332, Code of Virginia; P.L. 108-446, Federal Code.

Special Education Administration and Assistance Services: §§ 22.1-253.13:1 through 22.1-253.13:8, Code of Virginia; P.L. 108-446, Federal Code.

Special Education Compliance and Monitoring Services: §§ 22.1-213 through 22.1-221, 22.1-253.13:1 through 22.1-253.13:8, 22.1-319 through 22.1-332, Code of Virginia; P.L. 108-446, Federal Code.

Student Assistance and Guidance Services: Title 22.1, Chapters 1, 13, 14, 16; §§ 22.1-16.2, 22.1-17.1, 22.1-17.2, 22.1-199.4, 22.1-206, 22.1-207.1, 22.1-208.01, 22.1-209.2, Code of Virginia; P.L. 107-110 and P.L. 108-446, Federal Code.

A. The Department of Education, in collaboration with the Office of Children's Services, shall provide training to local staff serving on Family Assessment and Planning Teams and Community Policy and Management Teams. Training shall include, but need not be limited to, the federal and state requirements pertaining to the provision of the special education services funded under § 2.2-5211, Code of Virginia. The training shall also include written guidance concerning which services remain the financial responsibility of the local school divisions. In addition, the Department of Education shall provide ongoing local oversight of its federal and state requirements related to the provision of services funded under § 2.2-5211, Code of Virginia.

B. The Board of Education shall consider the caseload standards for speech-language pathologists as part of its review of the Standards of Quality, pursuant to § 22.1-18.01, Code of Virginia.

C. The Board of Education shall consider the inclusion of instructional positions needed for blind and visually impaired students enrolled in public schools and shall consider developing a caseload requirement for these instructional positions as part of its review of the Standards of Quality, pursuant to § 22.1-18.01, Code of Virginia.

D. Out of this appropriation, \$197,416 the first year and \$197,416 the second year from the general fund is provided to the Department of Education to provide training, technical assistance, and on-site coaching to public school teachers and administrators on implementation of a positive behavioral interventions and supports program with the goal of

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improving school climate and reducing disruptive behavior in the classroom. Such training and other assistance may be provided as part of the Department's ongoing efforts to assist schools with implementation of a tiered system of supports that addresses both academic and behavioral needs.

E. The Department shall convene an interagency workgroup to assess the barriers to serving students with disabilities in their local public schools. The workgroup shall assess existing policies and funding formulas including school divisions' program requirements, localities' composite indices, local Children's Services Act (CSA) match rate allocations, local CSA rate setting practices, the impact of caps on support positions, policies for transitioning students back to the public school, and funding for local educational programming based on models which are collaborative and create savings for both local and state government while providing youth an educational option within their communities. Membership shall include a balance of local and state representatives, all impacted state agencies, Local Education Agency (LEA) representatives, local CSA representatives, local government officials, local special education administrators, stakeholder organizations, parent representatives, the Arc of Virginia, the Coalition for Students with Disabilities, and members of the Virginia General Assembly. The workgroup shall make recommendations to the Virginia Commission on Youth prior to the 2017 General Assembly Session.

133.	Pupil Assessment Services (18400).....			\$41,607,554	\$39,807,573
	Test Development and Administration (18401).....	\$41,607,554	\$39,807,573		
	Fund Sources: General.....	\$30,848,716	\$29,048,716		
	Special.....	\$261,788	\$261,788		
	Federal Trust.....	\$10,497,050	\$10,497,069		

Authority: § 22.1-253.13:3, sections C and E, Code of Virginia; P.L. 107-110, Federal Code.

A. Out of this appropriation, \$25,380,678 the first year and \$25,380,678 the second year from the general fund is provided to support the costs of contracts for test development, administration, scoring, and reporting as well as other program-related costs of the Standards of Learning testing program.

B. Out of this appropriation, \$4,132,000 the first year and \$2,332,000 the second year from the general fund is provided to transition the grades three through five Standards of Learning mathematics tests and grades three through eight Standards of Learning reading tests to a computer adaptive format to improve the testing process and better identify students' strengths and areas in need of additional instructional focus.

C. Notwithstanding any contrary provisions of law, the Department of Education shall not be required to administer the Stanford 9 norm-referenced test.

134.	School and Division Assistance (18500).....			\$4,061,592	<del>\$4,061,611</del> \$3,940,430
	School Improvement (18501).....	\$2,032,302	<del>\$2,032,302</del> \$1,911,121		
	School Nutrition (18502).....	\$1,614,085	\$1,614,104		
	Pupil Transportation (18503).....	\$415,205	\$415,205		
	Fund Sources: General.....	\$2,556,377	<del>\$2,556,377</del> \$2,435,196		
	Special.....	\$31,000	\$31,000		
	Federal Trust.....	\$1,474,215	\$1,474,234		

Authority: School Improvement: § 22.1-253.13:1 et seq., Code of Virginia; P. L. 107-110, Federal Code.

School Nutrition: §§ 22.1-24, 22.1-89.1, and 22.1-207.3, Code of Virginia; P.L. 79-396, P.L. 89-642, P.L. 95-627, as amended, P.L. 108-265, Federal Code.

Pupil Transportation: Title 22.1, Chapter 12, and Title 46.2, Code of Virginia; P. L. 103-272 and P.L. 109-20, Federal Code.

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	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
<p>A. This appropriation includes \$1,100,183 the first year and \$1,100,183 the second year from the general fund for contractual services related to assisting schools that do not meet the Standards of Accreditation as prescribed by the Board of Education.</p> <p>B. Notwithstanding the provisions of § 2.2-1502.1, Code of Virginia, the Board of Education, in cooperation with the Department of Planning and Budget, is authorized to invite a school division to participate in the school efficiency review program described in § 2.2-1502.1, Code of Virginia, as a component of a division level academic review pursuant to § 22.1-253.13:3, Code of Virginia.</p>				
135.	Technology Assistance Services (18600).....		\$2,092,931	\$2,092,946
			\$1,992,931	\$1,992,946
	Instructional Technology (18601).....	\$574,884		\$574,895
	Distance Learning and Electronic Classroom (18602)			
		\$1,518,047		\$1,518,051
		\$1,418,047		\$1,418,051
	Fund Sources: General.....	\$1,678,107		\$1,678,107
		\$1,578,107		\$1,578,107
	Special.....	\$105,000		\$105,000
	Trust and Agency.....	\$274,559		\$274,563
	Federal Trust.....	\$35,265		\$35,276
<p>Authority: Instructional Technology: §§ 22.1-20.1, 22.1-70.2, 22.1-199.1, 22.1-253.13:1 through 22.1-253.13:8, Code of Virginia; P.L. 107-110, Federal Code.</p> <p>Distance Learning and Electronic Classroom: § 22.1-212.2, Code of Virginia.</p> <p>A. This appropriation includes <del>\$900,000</del> \$800,000 the first year and <del>\$900,000</del> \$800,000 the second year from the general fund for statewide digital content development, online learning, and related support services, as prescribed through contract with the Department of Education. All digital content produced and delivery of online learning shall meet criteria established by the Department of Education, meet or exceed applicable Standards of Learning, and be correlated to such state standards.</p> <p>B. In developing the deliverables for each contract, the Department of Education shall consult with division superintendents or their designated representatives to assess school divisions' needs for digital content, online learning, teacher training, and support services that advance technology integration into the K-12 classroom, as well as for additional educational resources that may be made available to school divisions throughout the Commonwealth.</p>				
136.	Teacher Licensure and Education (56600).....		\$2,181,226	\$2,181,251
			\$2,052,726	\$2,231,251
	Teacher Licensure and Certification (56601).....	\$1,806,726		\$1,806,751
		\$1,678,226		\$1,856,751
	Teacher Education and Assistance (56602).....	\$374,500		\$374,500
	Fund Sources: General.....	\$244,197		\$244,197
		\$115,697		\$294,197
	Special.....	\$1,937,029		\$1,937,054
<p>Authority: Teacher Licensure and Certification: §§ 22.1-16, 22.1-298.1, 22.1-299, 22.1-299.2, 22.1-302, 22.1-303, 22.1-305.2, 22.1-316 to 22.1-318, Code of Virginia; P.L. 107-110, Federal Code.</p> <p>Teacher Education and Assistance: §§ 22.1-290; 22.1-290.01; 22.1-290.1, 22.1-298, 22.1-305.2, 22.1-305.1, <del>23-9.2-3.4</del>; Code of Virginia; P. L. 108-446 and P. L. 107-110, Federal Code.</p> <p>A. Proceeds from the fee schedule for the issuance of teaching certificates shall be utilized to defray all, or any part of, the expenses incurred by the Department of Education in issuing or accounting for teaching certificates. The fee schedule shall take into account the actual costs of issuing certificates. Any portion of the general fund appropriation for this Item may be supplemented by such fees.</p> <p>B. The Board of Education is authorized to approve changes in the licensure fee amounts</p>				

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	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
charged to school personnel pursuant to 8VAC20-22-40 A.2.				
C. In furtherance of the General Assembly's interest in understanding trends in Virginia's teaching work force, teacher turnover rates, and the market for teachers, as evidenced by such metrics as the number of applicants per position, the Department shall develop and provide a model exit questionnaire that Virginia school divisions may administer to their exiting teachers.				
137.	Administrative and Support Services (19900).....		\$19,353,680 \$19,319,055	\$18,955,311 \$19,285,068
	General Management and Direction (19901).....	\$3,849,398 \$3,814,773	\$3,849,545 \$3,601,210	
	Information Technology Services (19902).....	\$9,764,372	\$9,264,372 \$9,536,372	
	Accounting and Budgeting Services (19903).....	\$3,922,834	\$3,929,318 \$4,235,410	
	Policy, Planning, and Evaluation Services (19929)..	\$1,817,076	\$1,912,076	
	Fund Sources: General.....	\$16,763,126 \$16,728,501	\$16,363,156 \$16,692,913	
	Special.....	\$1,890,831	\$1,892,432	
	Federal Trust.....	\$699,723	\$699,723	

Authority: Article VIII, Sections 2, 4, 5, 6, 8, Constitution of Virginia; Title 2.2, Chapters 10, 12, 29, 30, 31, and 32; Title 22.1, 22.1-8 through 20, 22.1-21 through 24; Title 51.1, Chapters 4, 5, 6.1, and 11; Title 60.2, Chapters 60.2-100, 60.2-106; Title 65.2, Chapters 1, 6, and 9, Code of Virginia; P.L. 108-446, P.L. 107-110, Federal Code.

A. Out of this appropriation, \$9,000 the first year and \$9,000 the second year from the general fund is designated to support annual membership dues to the Southern Regional Education Board. In addition, \$5,000 the first year and \$5,000 the second year from the general fund is designated to pay registration and travel expenses of citizens appointed as Virginia commissioners for the Southern Regional Education Board.

B. Out of this appropriation \$70,000 the first year and \$70,000 the second year from the general fund is provided for the fees and travel expenses associated with the Interstate Compact on Educational Opportunity for Military Children, established pursuant to Chapter 187, of the 2009 Acts of Assembly.

C. The Department of Education is authorized to collect proceeds from the sale of educational resources it has developed, such as technology applications, on-line course content, assessments, and other educational content, to out-of-state individuals or entities and to in-state, for-profit entities. The Department of Education is further authorized to deposit such proceeds in a non-reverting special fund account established in its financial records for this purpose. Net proceeds from such sales shall be expended by the Department of Education to further develop existing educational resources or to create new educational resources for the benefit of the commonwealth's public schools and which may also be sold under the provisions of this paragraph. The Secretary of Administration shall authorize any licensing agreements executed by the Department of Education pursuant to this paragraph.

D. Out of this appropriation, ~~\$69,250~~ \$34,625 the first year and ~~\$69,250~~ \$34,625 the second year from the general fund shall be used to provide performance evaluation training to teachers, principals, division superintendents, and other affected school division personnel in support of the transition from continuing employment contracts to annual employment contracts for teachers and principals.

E. Included in this appropriation is \$657,688 the first year and \$679,974 the second year from the general fund for costs to cover ongoing operational and maintenance costs of the Performance Budgeting System and the Cardinal System charged to Direct Aid for Public Education.

F. Out of this appropriation, \$155,000 the first year and ~~\$250,000~~ \$100,000 the second year from the general fund is provided for the Board of Education, in consultation with the Standards of Learning Innovation Committee, to redesign the School Performance Report

ITEM 137.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
<p>Card so that it is more effective in communicating to parents and the public regarding information about the status and achievements of the schools and school divisions.</p> <p>G.1. Out of this appropriation, \$500,000 the first year <i>and \$120,000 the second year</i> is provided from the general fund for a pilot program to provide personalized instructional and academic planning for students, facilitate data-driven school improvement efforts, and support the state's accountability and accreditation systems.</p> <p>2. Preliminary results shall be provided to the President of the State Board of Education and the Chairmen of the Senate Finance and House Appropriations Committees in order to help evaluate whether a statewide approach should be implemented.</p> <p>3. <i>In the event that House Bill 1605 does not become enacted into law, the Director of Department of Planning and Budget shall, on or before July 1, 2017, unallot the \$380,000 from the general fund as set out in paragraph I.1. in this Item, and shall allot the \$380,000 from the general fund to paragraph G.1. in this Item for the pilot for personalized instructional and academic planning for students, which shall increase the funding from \$120,000 to \$500,000 in the second year.</i></p> <p>H. The Department of Education is directed to holistically review the statewide use of technology in the classroom and all sources of digital content development, and online learning such as virtual courses and innovative blended learning language and literacy technology options. The review shall include, but not be limited to, various types of technology currently used in the classroom such as personal computers, tablets, laptops, or other hand held devices, and how any such technology are used and coordinated with the various types of digital content or on-line options that support student academic improvement. The Department of Education shall report its preliminary findings to the Chairmen of the House Appropriations and Senate Finance Committees by November 1, 2017.</p> <p><i>I.1. Out of this appropriation, \$380,000 the second year from the general fund is provided to the Department of Education for estimated start-up costs incurred while developing necessary policies, processes and procedures for the administration of the Parental Choice Education Savings Account program as defined in House Bill 1605, should the bill become enacted into law.</i></p> <p><i>2. In the event that House Bill 1605 does not become enacted into law, the Director of Department of Planning and Budget shall, on or before July 1, 2017, unallot the \$380,000 from the general fund as set out in paragraph I.1. above in this Item, and shall allot the \$380,000 from the general fund to paragraph G.1. in this Item for the personalized instructional and academic planning initiative for students, which shall increase the funding from \$120,000 to \$500,000 in the second year.</i></p>				
Total for Department of Education, Central Office Operations.....			<b>\$105,395,820</b> <b>\$104,632,695</b>	<b>\$103,097,784</b> <b>\$102,813,996</b>
General Fund Positions.....	150.00	<del>150.00</del> 144.00		
Nongeneral Fund Positions.....	178.50	<del>178.50</del> 180.50		
Position Level.....	328.50	<del>328.50</del> 324.50		
Fund Sources: General.....	<del>\$61,083,151</del> \$60,320,026	<del>\$58,783,181</del> \$58,499,393		
Special.....	\$4,645,648	\$4,647,274		
Commonwealth Transportation.....	\$263,327	\$263,327		
Trust and Agency.....	\$279,559	\$279,563		
Federal Trust.....	\$39,124,135	\$39,124,439		
<b>Direct Aid to Public Education (197)</b>				
138. Financial Assistance for Educational, Cultural, Community, and Artistic Affairs (14300).....			\$28,200,095 \$26,895,095	\$30,723,945 \$28,253,945

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Financial Assistance for Supplemental Education (14304).....	\$28,200,095	\$30,723,945		
	\$26,895,095	\$28,253,945		
Fund Sources: General.....	\$28,200,095	\$30,723,945		
	\$26,895,095	\$28,253,945		

Authority: Discretionary Inclusion.

**Appropriation Detail of Educational, Cultural, Community, and Artistic Affairs  
(14300)**

<b>Supplemental Education Assistance Programs (14304)</b>	<b>FY 2017</b>	<b>FY 2018</b>
Achievable Dream	\$500,000	\$500,000
Career and Technical Education Resource Center	\$298,021	\$298,021
Career Council at Northern Neck Career & Technical Center	\$60,300	\$60,300
Charter School Supplement	\$100,000	\$100,000
<i>College Partnership Laboratory School</i>	\$0	\$50,000
Communities in Schools (CIS)	\$1,244,400	\$1,244,400
Computer Science Training For Teachers	\$550,000	\$550,000
Great Aspirations Scholarship Program (GRASP)	\$400,000	\$400,000
High School Program Innovation	\$500,000	\$500,000
Jobs for Virginia Graduates (JVG)	\$573,776	\$573,776
National Board Certification Program	<del>\$5,885,000</del> \$5,015,000	<del>\$5,885,000</del> \$5,100,000
Newport News Aviation Academy - STEM Program	\$100,000	\$100,000
Petersburg Executive Leadership Recruitment Incentives	\$350,000	\$350,000
Positive Behavioral Interventions & Support (PBIS)	\$1,098,000	\$1,098,000
Project Discovery	\$425,000	<del>\$612,500</del> \$662,500
Small School Division Assistance	\$145,896	\$145,896
Southside Virginia Regional Technology Consortium	\$108,905	\$108,905
Southwest Virginia Public Education Consortium	\$124,011	\$124,011
STEM Program / Research Study (VA Air & Space Center)	\$870,625	\$681,975
STEM Competition Team Grants	\$100,000	\$200,000
Targeted Extended School Year Grants	\$7,763,312	\$7,763,312
Teach for America	\$500,000	\$500,000
Teacher Improvement Funding Initiative	<del>\$50,000</del> \$15,000	<del>\$2,075,000</del> \$15,000
Teacher Recruitment & Retention Grant Programs	<del>\$2,331,000</del> \$1,931,000	<del>\$2,331,000</del> \$1,931,000
Teacher Residency Program	\$500,000	<del>\$500,000</del> \$1,000,000
Van Gogh Outreach Program	\$71,849	\$71,849
Virginia Early Childhood Foundation (VECF)	\$2,350,000	\$2,750,000

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Virginia Reading Corps Pilot	\$300,000			\$300,000
Virginia Student Training and Refurbishment (VA STAR) Program	\$300,000			\$300,000
<i>Vocational Lab Pilot</i>		\$0		\$175,000
Wolf Trap Model STEM Program	\$600,000			\$600,000
<b>Total</b>	<b>\$28,200,095</b>			<b>\$30,723,945</b>
	<b>\$26,895,095</b>			<b>\$28,253,945</b>

A. Out of this appropriation, the Department of Education shall provide \$573,776 the first year and \$573,776 the second year from the general fund for the Jobs for Virginia Graduates initiative.

B. Out of this appropriation, the Department of Education shall provide \$124,011 the first year and \$124,011 the second year from the general fund for the Southwest Virginia Public Education Consortium at the University of Virginia's College at Wise. An additional \$71,849 the first year and \$71,849 the second year from the general fund is provided to the Consortium to continue the Van Gogh Outreach program with Lee and Wise County Public Schools and expand the program to the twelve school divisions in Southwest Virginia.

C. This appropriation includes \$108,905 the first year and \$108,905 the second year from the general fund for the Southside Virginia Regional Technology Consortium to expand the research and development phase of a technology linkage.

D. An additional state payment of \$145,896 the first year and \$145,896 the second year from the general fund is provided as a Small School Division Assistance grant for the City of Norton. To receive these funds, the local school board shall certify to the Superintendent of Public Instruction that its division has entered into one or more educational, administrative or support service cost-sharing arrangements with another local school division.

E. Out of this appropriation, \$298,021 the first year and \$298,021 the second year from the general fund shall be allocated for the Career and Technical Education Resource Center to provide vocational curriculum and resource instructional materials free of charge to all school divisions.

F. It is the intent of the General Assembly that the Department of Education provide bonuses from state funds to classroom teachers in Virginia's public schools who hold certification from the National Board of Professional Teaching Standards. Such bonuses shall be \$5,000 the first year of the certificate and \$2,500 annually thereafter for the life of the certificate. This appropriation includes an amount estimated at ~~\$5,885,000~~ \$5,015,000 the first year and ~~\$5,885,000~~ \$5,100,000 the second year from the general fund for the purpose of paying these bonuses. By October 15 of each year, school divisions shall notify the Department of Education of the number of classroom teachers under contract for that school year that hold such certification.

G. This appropriation includes ~~\$2,331,000~~ \$1,931,000 the first year and ~~\$2,331,000~~ \$1,931,000 the second year from the general fund for grants, scholarships, and incentive payments to attract, recruit, and retain high-quality teachers and fill critical teacher shortage disciplines in Virginia's public schools.

1. Out of this appropriation, \$708,000 the first year and \$708,000 the second year from the general fund is provided for teaching scholarship loans. These scholarships shall be for undergraduate students **at or beyond the sophomore year** in college with a cumulative *high school* grade point average of at least 2.7, who were in the top 10 percent of their high school class or alternative measure of achievement as selected by the institution, who are nominated by their college and students at the graduate level, and who meet the criteria and qualifications, pursuant to § 22.1-290.01, Code of Virginia. Awards shall be made to students who are enrolled full-time or part-time in approved undergraduate or graduate teacher education programs for (i) critical teacher shortage disciplines, such as special education, chemistry, physics, earth and space science, foreign languages, or technology education or (ii) as students meeting the qualifications in § 22.1-290.01, Code of Virginia, who have been identified by a local school board to teach in any discipline or at any grade level in which the school board has determined that a shortage of teachers exists; however, such persons shall meet the qualifications for awards granted pursuant to this Item; or (iii) those students seeking

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degrees in Career and Technical education. Minority students may be enrolled in any content area for teacher preparation and male students may be enrolled in any approved elementary or middle school teacher preparation program; therefore, this provision shall satisfy the requirements for the Diversity in Teaching Initiative and Fund, pursuant to Chapters 570, 597, 623, 645, and 719 of the Acts of Assembly of 2000. Scholarship recipients may fulfill the teaching obligation by accepting a teaching position (i) in one of the critical teacher shortage disciplines; or (ii) regardless of teaching discipline, in a school with a high concentration of students eligible for free or reduced price lunch; or (iii) in any discipline or at grade levels with a shortage of teachers; or (iv) in a rural or urban region of the state with a teacher shortage. For the purposes of this Item, "critical teacher shortage area and discipline" means subject areas and grade levels identified by the Board of Education in which the demand for classroom teachers exceeds the supply of teachers, as defined in the Board of Education's Regulations Governing the Determination of Critical Teacher Shortage Areas. Scholarship amounts are based on \$10,000 per year for full-time students, and shall be prorated for part-time students based on the number of credit hours. The Department of Education shall report annually on the critical shortage teaching areas in Virginia.

- a. The Department of Education shall make payments on behalf of the scholarship recipients directly to the Virginia institution of higher education where the scholarship recipient is enrolled full-time or part-time in an approved undergraduate or graduate teacher education program.
- b. The Department of Education is authorized to recover total funds awarded as scholarships, or the appropriate portion thereof, in the event that scholarship recipients fail to honor the stipulated teaching obligation.
- c. Within the fiscal year, any funds not awarded from this program may be applied toward the other teacher preparation, recruitment, and retention programs under paragraph G.

2. Out of this appropriation, \$808,000 the first year and \$808,000 the second year from the general fund is provided to attract, recruit, and retain high-quality diverse individuals to teach science, technology, engineering, or mathematics (STEM) subjects in Virginia's middle and high schools. A teacher with up to three years of teaching experience employed full-time in a Virginia school division who has been issued a five-year Virginia teaching license with an endorsement in Middle Education 6-8: Mathematic, Mathematics-Algebra-I, mathematics, Middle Education 6-8: Science, Biology, Chemistry, Earth and Space Science, physics, or technology education and assigned to a teaching position in a corresponding STEM subject area is eligible to receive a \$5,000 initial incentive award after the completion of the first, second, or third year of teaching with a satisfactory performance evaluation and a signed contract in the same school division for the following school year. A teacher, holding one or more of the aforementioned endorsements and assigned to a teaching position in a corresponding STEM subject area and regardless of teaching experience, who is reassigned from a fully accredited school in a Virginia school division to a hard-to-staff school or a school that is not fully accredited and receives a satisfactory performance evaluation and a signed contract in the same school division for the following year is also eligible to receive an initial incentive award of \$5,000. An additional \$1,000 incentive award may be granted for each year the eligible teacher receives a satisfactory evaluation and teaches a qualifying STEM subject in which the teacher has an endorsement for up to three years in a Virginia school division following the year in which the teacher receives the initial incentive award. The maximum incentive award for each eligible teacher is \$8,000. Funding will be awarded on a first-come, first-served basis with preference to teachers assigned to teach in hard-to-staff schools or low-performing schools not fully accredited. Within the fiscal year, any funds not awarded from this program may be applied toward the other teacher preparation, recruitment, and retention programs under paragraph G.

3. Out of this appropriation, \$400,000 the first year and \$400,000 the second year from the general fund is provided to establish a comprehensive pilot initiative to recruit students to major in the fields of mathematics and science to help alleviate the shortage of qualified teachers in these fields. Within the fiscal year, any funds not awarded from this program may be applied toward the other teacher preparation, recruitment, and retention programs under paragraph G.

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4. Out of this appropriation, \$415,000 the first year and \$415,000 the second year from the general fund is provided to help school divisions recruit and retain qualified middle-school mathematics teachers. Within the fiscal year, any funds not awarded from this program may be applied toward the other teacher preparation, recruitment, and retention programs under paragraph G.				
H. Out of this appropriation, \$400,000 the first year and \$400,000 the second year from the general fund shall be distributed to the Great Aspirations Scholarship Program (GRASP) to provide students and families in need access to financial aid, scholarships, and counseling to maximize educational opportunities for students.				
I. Out of this appropriation, the Department of Education shall provide \$1,244,400 the first year and \$1,244,400 the second year from the general fund to Communities in Schools. These funds will be used to continue existing Communities in Schools programming in Petersburg and Richmond City, expand programming to all Petersburg schools, and expand the Pathways to Parents as Partners program to two additional Richmond City elementary schools.				
J. This appropriation includes \$100,000 the first year and \$100,000 the second year from the general fund for the Superintendent of Public Education to award supplemental grants to charter schools.				
K. 1. Out of this appropriation, the Department of Education shall provide \$425,000 the first year and <del>\$612,500</del> \$662,500 the second year from the general fund for Project Discovery. These funds are towards the cost of the program in Abingdon, Accomack/Northampton, Alexandria, Amherst, Appomattox, Arlington, Bedford, Bland, Campbell, Charlottesville, Cumberland, Danville/Pittsylvania, Fairfax, Franklin/Patrick, Goochland/Powhatan, Lynchburg, Newport News, Norfolk, Richmond City, Roanoke City, Smyth, Surry/Sussex, Tazewell, Williamsburg/James City, and Wythe and the salary of a fiscal officer for Project Discovery. The Department of Education shall administer the Project Discovery funding distributions to each community action agency. Distributions to each community action agency shall be based on performance measures established by the Board of Directors of Project Discovery. The contract with Project Discovery should specify the allocations to each local program and require the submission of a financial and budget report and program evaluation performance measures.				
2. Each participating community action agency shall submit annual performance metrics for services provided through the Project Discovery program that provide measurable evaluations and outcomes of participating students. Such performance metrics shall include evidenced-based data that effectively measure academic improvement outcomes. In addition, the performance metrics shall also include evidenced-based data to evaluate the specific effectiveness of the program for participating students on a longitudinal basis. Further, the performance metrics shall include the coordination and collaboration efforts the program staff regularly have with the school-based personnel, such as teachers and guidance counselors, that support and maximize opportunities of participating students to successfully graduate from high school and then to enroll and graduate from an institution of higher learning. Project Discovery shall submit a comprehensive and cumulative program performance metrics evaluation to the Department of Education and the Chairmen of the House Appropriations and Senate Finance Committees no later than October 1, 2016.				
L. Out of this appropriation, the Department of Education shall provide \$300,000 the first year and \$300,000 the second year from the general fund for the Virginia Student Training and Refurbishment Program.				
M. Out of this appropriation, \$1,098,000 the first year and \$1,098,000 the second year from the general fund is provided to expand the number of schools implementing a system of positive behavioral interventions and supports with the goal of improving school climate and reducing disruptive behavior in the classroom. Such a system may be implemented as part of a tiered system of supports that utilizes evidence-based, system-wide practices to provide a response to academic and behavioral needs. Any school division which desires to apply for this competitive grant must submit a proposal to the Department of Education by June 1 preceding the school-year in which the program is to be implemented. The proposal must define student outcome objectives including, but not limited to, reductions in disciplinary referrals and out-of-school suspension rates. In making the competitive grant awards, the Department of Education shall give priority to school divisions proposing to serve schools				

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identified by the Department as having high suspension rates. No funds awarded to a school division under this grant may be used to supplant funding for schools already implementing the program.

N. Targeted Extended School Year Payments

1. Out of this appropriation, \$7,150,000 the first year and \$7,150,000 the second year from the general fund is provided for a targeted extended school year incentive in order to improve student achievement. Annual start-up grants of up to \$300,000 per school may be awarded for a period of up to two years after the initial implementation year. The per school amount may be up to \$400,000 in the case of schools that have a Denied Accreditation status *or had a Denied Accreditation status when the initial application was made*. After the third consecutive year of successful participation, an eligible school's grant amount shall be based on a shared split of the grant between the state and participating school division's local composite index. Such continuing schools shall remain eligible to receive a grant based on the 2012 JLARC Review of Year Round Schools' researched base findings.

2. Except for school divisions with schools that are in Denied Accreditation status, any other school division applying for such a grant shall be required to provide a twenty percent local match to the grant amount received from either an extended year start-up or planning grant.

3. In the case of any school division with schools that are in Denied Accreditation status that apply for funds, the school division shall also consult with the Superintendent of Public Instruction or designee on all recommendations regarding instructional programs or instructional personnel prior to submission to the local board for approval.

4. Out of this appropriation, \$613,312 the first year and \$613,312 the second year from the general fund is provided for planning grants of no more than \$50,000 each for local school divisions pursuing the creation of new year-round school programs for divisions or individual schools in support of the findings from the 2012 JLARC Review of Year Round Schools. School divisions must submit applications to the Department of Education by August 1 of each year. Priority shall be given to schools based on need, relative to the state accreditation ratings or similar federal designations. Applications shall include evidence of commitment to pursue implementation in the upcoming school year. If balances exist, existing extended school year programs may be eligible to apply for remaining funds.

5. A school division that has been awarded an extended school year start-up grant, a year-round program start-up grant, or an extended year planning grant for the development of an extended year or a new year-round program may spend the awarded grant over two consecutive fiscal years.

6. a) Any such school division receiving funding from a Targeted Extended School Year grant shall provide an annual progress report to the Department of Education that evaluates end of year success of the extended year or year-round model implemented as compared to the prior school year performance as measured by an appropriate evaluation matrix no later than August 1 each year.

b) The Department of Education shall develop such evaluation matrix that would be appropriate for a comprehensive evaluation for such models implemented. Further, the Department of Education is directed to submit the annual progress reports from the participating school divisions and an executive summary of the program's overall status and levels of measured success to the Chairmen of House Appropriations and Senate Finance Committees no later than October 1 each year.

7. Any funds remaining in this paragraph following grant awards may be disbursed by the Department of Education as grants to school divisions to support innovative approaches to instructional delivery or school governance models.

O. Out of this appropriation, \$500,000 the first year and \$500,000 the second year from the general fund is provided through grants or contracts for the cost of fees and financial incentives associated with hiring teachers in challenged schools. These funds may be used for grants or contracts awarded and expenses associated with supporting the Teach for

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<p>America program. School divisions or their partners may apply for those funds through applications submitted to the Department of Education. Applications must be submitted to the Department of Education by September 1 each year. <i>Within the fiscal year, Any unobligated balance each fiscal year shall be carried over to the next fiscal year for the Teach for America program. However, out of any carried over balances from a prior year, up to fifty percent of the balance may be used for the Teacher Residency program.</i></p>				
<p>P. Out of this appropriation, \$600,000 the first year and \$600,000 the second year from the general fund is provided for the Accomack, Arlington, Chesterfield, Fairfax, Loudoun, Norfolk, Petersburg, Richmond City, and Wythe Public Schools to support expansion of a STEM model program for kindergarten and preschool students. Each developed model will focus on enhancing children's learning experiences through the arts.</p>				
<p>Q. Out of this appropriation, \$500,000 the first year and \$500,000 the second year from the general fund is provided for the Achievable Dream partnership with Newport News School Division. This funding is in lieu of a like amount from the Neighborhood Assistance Program Tax Credits for An Achievable Dream Middle and High School, Inc.</p>				
<p>R. Out of this appropriation, \$500,000 the first year and <del>\$500,000</del> \$1,000,000 the second year from the general fund is provided for grants for teacher residency partnerships between university teacher preparation programs and the Petersburg, Norfolk, and Richmond City school divisions to help improve new teacher training and retention for hard-to-staff schools. The grants will support a site-specific residency model program for preparation, planning, development and implementation, including possible stipends in the program to attract qualified candidates and mentors. Applications must be submitted to the Department of Education by August 1 each year.</p>				
<p>S. Out of this appropriation, \$60,300 the first year and \$60,300 the second year from the general fund is provided to the Northern Neck Regional Technical Center to expand the workforce readiness education and industry based skills and certification development efforts supporting that region in the state. These funds support the Center's programs that serve high school students from the surrounding counties of Essex, Lancaster, Northumberland, Rappahannock, Westmoreland and Colonial Beach.</p>				
<p>T. Out of this appropriation, \$2,350,000 the first year and \$2,750,000 the second year from the general fund is provided to the Virginia Early Childhood Foundation.</p>				
<p>1. Of this amount, \$250,000 the first year and \$250,000 the second year is provided for general operations of the Foundation's grant program to strengthen the capacity of local communities to promote school readiness for young children through innovative regional partnerships.</p>				
<p>2. Of this amount, \$600,000 the first year and \$1,000,000 the second year is provided to operate a scholarship program to increase the skills of Virginia's early education workforce.</p>				
<p>3. Of this amount, \$1,500,000 the first year and \$1,500,000 the second year is provided to pilot an initiative to promote public-private delivery of pre-kindergarten services to high-risk children and communities.</p>				
<p><i>4. Notwithstanding any provisions of § 22.1-199.6 or § 22.1-299, and in order to achieve the priorities of the Joint Subcommittee on Virginia Preschool Initiative for exploring the feasibility of and barriers to mixed delivery preschool systems in Virginia, recipients of a Mixed-Delivery Preschool grant shall be provided maximum flexibility within their respective pilot initiative in order to fully implement the associated goals and objectives of the pilot. Recipients of a Mixed-Delivery Preschool grant and divisions participating in such grant pilot activities shall be exempted from all regulatory and statutory provisions related to teacher licensure requirements and qualifications when paid by public funds within the confines of the Mixed-Delivery Preschool pilot initiative.</i></p>				
<p><i>In the case of new pilot grants awarded beginning in the second year, in addition to the provisions of § 22.1-199.6 E., grants shall be awarded to recipients that offer high quality preschool experience to participating enrolled at-risk four-year-old children.</i></p>				
<p>U. This appropriation includes \$500,000 the first year and \$500,000 the second year from the general fund to support ten competitive grants, not to exceed \$50,000 each, for planning the</p>				

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implementation of systemic High School Program Innovation by either individual school divisions or consortia of school divisions or implementing a plan for High School Program Innovation previously approved by the Department of Education. The local applicant(s) selected to conduct this systemic approach to high school reform, in consultation with the Department of Education, will develop and plan or implement innovative approaches to engage and to motivate students through personalized learning and instruction leading to demonstrated mastery of content, as well as skills development of career readiness. Essential elements of high school innovation include: (1) student centered learning, with progress based on student demonstrated proficiency; (2) 'real-world' connections that promote alignment with community work-force needs and emphasize transition to college and/or career; and (3) varying models for educator supports and staffing. Individual school divisions or consortia will be invited to apply on a competitive basis by submitting a grant application that includes descriptions of key elements of innovations, a detailed budget, expectations for outcomes and student achievement benefits, evaluation methods, and plans for sustainability. The Department of Education will make the final determination of which individual school divisions or consortia of divisions will receive the year-long planning grant for High School Innovation or a grant to implement a High School Program Innovation plan previously approved by the Department of Education. Any school division or consortium of divisions which desires to apply for this competitive grant must submit a proposal to the Department of Education by June 1 preceding the school year in which the planning or implementation for systemic high school innovation is to take place.

V.I. Out of this appropriation, \$550,000 the first year and \$550,000 the second year from the general fund is provided to train new teachers in computer science and develop an in-state infrastructure for training existing teachers to teach computer science curricula.

*2. Northern Virginia Community College, in consultation with the Department of Education, shall contract in accordance with House Bill 1663 to develop, market, and implement high-quality and effective computer science training and professional development activities for public school teachers throughout the Commonwealth for the purpose of improving the computer science literacy of all public school students in the Commonwealth. Further, Northern Virginia Community College shall establish an advisory committee for the purpose of advising the college and its partner organization on the development, marketing, and implementation of training and professional development activities pursuant to House Bill 1663, subsection A. The Secretary of Commerce and Trade, the Secretary of Education, and the Secretary of Technology shall each submit to the college a list of names of qualified individuals, and the college shall appoint members to such advisory committee from such lists.*

W. Out of this appropriation, \$100,000 the first year and \$100,000 the second year from the general fund is provided to support the Newport News Aviation Academy's four-year high school STEM program, which focuses on piloting, aircraft maintenance, engineering, computers, and electronics.

X.I. Out of this appropriation, ~~\$50,000~~\$15,000 the first year and \$15,000 the second year is provided for grants to school divisions of up to \$5,000 each to explore alternative teacher compensation approaches that move away from tenure-based step increases toward compensation systems based on teacher performance and student progress. Priority will be given to school divisions that have not previously explored alternative compensation approaches and have schools not achieving full accreditation, or that have high numbers of at-risk students needing qualified teachers in hard-to-staff subjects.

~~2: In the second year, \$2,075,000 from the general fund shall be available for the first year of five-year competitive grants to school divisions to implement performance-based teacher compensation systems. Priority for funding will be given to school divisions with high numbers of at-risk students needing qualified teachers in hard-to-staff subjects. Grantees should combine teacher improvement programs with performance-based compensation systems that consider teacher performance through gains in individual student academic achievement. The approved compensation programs should provide teachers with incentives to take on additional training and responsibilities. The compensation program must include an effective evaluation system.~~

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<p>Y. Out of this appropriation, \$100,000 the first year and \$200,000 the second year from the general fund is provided for STEM Competition Team Grants. Notwithstanding § 22.1-362, Code of Virginia, Paragraph B, grants may not exceed \$5,000 each.</p>				
<p>Z. Out of this appropriation, \$870,625 the first year and \$681,975 the second year from the general fund is provided to support a multi-platform STEM education engagement program and research study, via the Virginia Air &amp; Space Center.</p>				
<p>AA. Out of this appropriation, \$350,000 the first year and \$350,000 the second year from the general fund is provided for executive leadership incentives in the Petersburg City Public Schools to strengthen the impact of division and school level executive leadership on student achievement in the school division. Such incentives may include, but not be limited to, supplements to locally funded salaries, deferred salary compensation, bonuses, housing and commuting supplements, and professional development supplements. The Department of Education shall provide such executive management incentive payments directly to the Petersburg City Public Schools accounts pursuant to a Memorandum of Understanding entered into between the Board of Education and the Petersburg City School Board. Such Agreement shall be approved by both parties by July 1, 2016, shall cover no less than both years of the biennium, and may be amended with the consent of both parties. Such Agreement shall include operational and student achievement metrics and include provisions for the achievement of such metrics as a condition of payment of the incentive funds by the Department of Education. The Department of Education shall provide updates on implementation of the Agreement to the Chairmen of the Senate Finance and House Appropriations Committees.</p>				
<p>BB. Out of this amount, \$300,000 the first year and \$300,000 the second year from the general fund shall be reserved for school divisions to partner with the Virginia Reading Corps program. The Virginia Reading Corps shall report annually to the school divisions and Department of Education on the outcomes of this program.</p>				
<p><i>CC. Out of this appropriation, \$50,000 in the second year from the general fund is provided for Chesterfield County Public Schools to partner and plan with Virginia State University for the continued development of a College Partnership Laboratory School in support of Ettrick Elementary School.</i></p>				
<p><i>DD. Out of this appropriation, \$175,000 is provided the second year from the general fund to establish a Career and Technical Education Vocational Laboratory pilot that will be located within the Virginia Aviation Academy located in the Newport News school division. This vocational-based lab will be developed and focused on advanced, augmented and virtual reality related education.</i></p>				
139.	State Education Assistance Programs (17800).....		\$6,540,664,099	\$6,800,820,055
			\$6,459,942,658	\$6,733,290,559
	Standards of Quality for Public Education (SOQ) (17801).....	\$5,846,977,341 \$5,761,863,096	\$6,006,415,015 \$5,962,735,008	
	Financial Incentive Programs for Public Education (17802).....	\$73,563,071 \$31,306,863	\$193,932,292 \$164,957,065	
	Financial Assistance for Categorical Programs (17803).....	\$58,596,517 \$58,191,555	\$59,241,498 \$59,102,697	
	Distribution of Lottery Funds (17805).....	\$561,527,170 \$608,581,144	\$541,231,250 \$546,495,789	
	Fund Sources: General.....	\$5,810,690,628 \$5,648,408,991	\$6,101,140,457 \$6,001,765,200	
	Special.....	\$895,000	\$895,000	
	Commonwealth Transportation.....	\$803,778 \$2,310,000	\$803,778 \$2,385,000	
	Trust and Agency.....	\$728,274,693 \$808,328,667	\$697,980,820 \$728,245,359	

Authority: Standards of Quality for Public Education (SOQ) (17801): Article VIII, Section 2, Constitution of Virginia; Chapter 667, Acts of Assembly, 1980; §§ 22.1-176 through 22.1-

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198, 22.1-199.1, 22.1-199.2, 22.1-213 through 22.1-221, 22.1-227 through 22.1-237, 22.1-253.13:1 through 22.1-253.13:8, 22.1-254.01, Code of Virginia; Title 51.1, Chapters 1, 5, 6.2, 7, and 14, Code of Virginia; P.L. 91-230, as amended; P.L. 93-380, as amended; P.L. 94-142, as amended; P.L. 98-524, as amended, Federal Code.				
Financial Incentive Programs for Public Education (17802): §§ 22.1-24, 22.1-289.1 through 22.1-318, Code of Virginia; P.L. 79-396, as amended; P.L. 89-10, as amended; P.L. 89-642, as amended; P.L. 108-265, as amended; Title II P.L. 99-159, as amended, Federal Code.				
Financial Assistance for Categorical Programs (17803): Discretionary Inclusion; Treaty of 1677 between Virginia and the Indians; §§ 22.1-3.4, 22.1-108, 22.1-199 through 22.1-212.2:2, 22.1-213 through 22.1-221, 22.1-223 through 22.1-237, 22.1-254, Code of Virginia; P.L. 89-10, as amended; P.L. 91-230, as amended; P.L. 93-380, as amended; P.L. 94-142, as amended; P.L. 94-588; P.L. 95-561, as amended; P.L. 98-211, as amended; P.L. 98-524, as amended; P.L. 99-570; P.L. 100-297, as amended; P.L. 102-73, as amended; P.L. 105-220, as amended, Federal Code.				
Distribution of Lottery Funds (17805): §§ 58.1-4022 and 58.1-4022.1, Code of Virginia				
<b>Appropriation Detail of Education Assistance Programs (17800)</b>				
<b>Standards of Quality (17801)</b>		<b>FY 2017</b>		<b>FY 2018</b>
Basic Aid		\$3,175,990,598		\$3,168,247,958
		\$3,186,089,992		\$3,187,633,305
Sales Tax		\$1,382,928,676		\$1,432,928,676
		\$1,347,400,000		\$1,377,942,000
Textbooks (spilt funded)		\$12,742,776		\$76,878,557
		\$12,159,059		\$76,599,186
Vocational Education		\$52,453,336		\$52,407,414
		\$52,314,746		\$52,236,389
Gifted Education		\$34,407,670		\$34,546,718
		\$34,319,375		\$34,425,282
Special Education		\$382,966,484		\$384,066,920
		\$382,103,771		\$382,857,839
Prevention, Intervention, and Remediation		\$114,133,767		\$114,313,454
		\$113,782,747		\$113,821,446
English as a Second Language ( <i>split funded</i> )		\$52,499,242		\$54,904,712
		\$0		\$55,594,856
VRS Retirement (includes RHCC)		\$402,200,555		\$449,134,786
		\$401,170,449		\$447,555,445
Social Security		\$195,070,635		\$195,732,204
		\$194,571,030		\$195,042,985
Group Life		\$13,298,374		\$13,286,706
		\$13,264,538		\$13,240,433
Remedial Summer School		\$28,285,228		\$29,966,909
		\$24,687,389		\$25,785,842
<b>Total</b>		<b>\$5,846,977,341</b>		<b>\$6,006,415,015</b>
		<b>\$5,761,863,096</b>		<b>\$5,962,735,008</b>
<b>Incentive Programs (17802)</b>				
Compensation Supplement		\$48,904,958		\$84,991,609
		\$0		\$31,846,184
Governor's School		\$18,465,308		\$19,103,335
		\$17,906,049		\$18,420,000
Governor's School Planning Grant - Career and Technical Education		\$100,000		\$0

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	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
At-Risk Add-On (split funded)		\$0	\$83,744,543	\$76,080,851
Clinical Faculty		\$318,750	\$318,750	\$318,750
Career Switcher Mentoring Grants		\$279,983	\$279,983	\$279,983
Special Education Endorsement Program		<del>\$600,000</del>	<del>\$600,000</del>	\$437,186
		\$550,000		\$200,089
Special Education – Vocational Education		\$200,089	\$200,089	\$200,089
<i>Special Education - Regional Tuition (split funded)</i>		\$0	\$32,680,039	\$32,680,039
Virginia Workplace Readiness Skills Assessment		\$308,655		\$308,655
Math/Reading Instructional Specialists Initiative		\$1,834,538		\$1,834,538
Early Reading Specialists Initiative		\$1,476,790		\$1,476,790
Breakfast After the Bell Incentive		\$1,074,000		\$1,074,000
<i>Small School Division Enrollment Loss Fund</i>		\$7,258,009		\$0
<b>Total</b>		<b>\$73,563,071</b>	<b>\$193,932,292</b>	<b>\$164,957,065</b>
		<b>\$31,306,863</b>		
<b>Categorical Programs (17803)</b>				
Adult Education		\$1,051,800	\$1,051,800	\$1,051,800
Adult Literacy		\$2,480,000	\$2,480,000	\$2,480,000
Virtual Virginia		\$5,355,808	\$5,425,808	\$5,425,808
American Indian Treaty Commitment		<del>\$47,916</del>	<del>\$49,095</del>	\$37,691
		\$38,282		\$37,691
School Lunch Program		\$5,801,932	\$5,801,932	\$5,801,932
Special Education - Homebound		<del>\$5,496,525</del>	<del>\$5,606,456</del>	\$5,606,456
		\$5,138,187		\$5,240,952
Special Education - Jails		<del>\$3,489,980</del>	<del>\$3,608,527</del>	\$3,608,527
		\$3,420,695		\$3,476,490
Special Education - State Operated Programs		<del>\$34,872,556</del>	<del>\$35,217,880</del>	\$35,217,880
		\$34,904,851		\$35,588,024
<b>Total</b>		<b>\$58,596,517</b>	<b>\$59,241,498</b>	<b>\$59,102,697</b>
		<b>\$58,191,555</b>		
<b>Lottery (17805)</b>				
Foster Care		\$7,933,839	\$7,937,440	\$7,937,440
		\$9,198,359		\$9,595,565
At-Risk Add-On (split funded)		<del>\$98,327,638</del>	<del>\$14,797,598</del>	\$14,797,598
		\$98,013,725		\$22,010,800
Virginia Preschool Initiative		<del>\$70,657,776</del>	<del>\$70,912,925</del>	\$70,912,925
		\$69,351,713		\$70,950,500
Early Reading Intervention		<del>\$18,142,819</del>	<del>\$18,203,496</del>	\$18,203,496
		\$20,057,840		\$20,098,089
Mentor Teacher		\$1,000,000	\$1,000,000	\$1,000,000
K-3 Primary Class Size Reduction		<del>\$129,745,062</del>	<del>\$131,721,587</del>	\$131,721,587
		\$123,321,155		\$128,583,847
School Breakfast Program		<del>\$3,926,014</del>	<del>\$4,226,897</del>	\$4,226,897
		\$4,887,179		\$5,492,229
SOL Algebra Readiness		<del>\$12,921,689</del>	<del>\$12,955,205</del>	\$12,955,205
		\$12,968,589		\$12,775,341
Supplemental Lottery Per Pupil Allocation		<del>\$36,581,405</del>	<del>\$157,167,568</del>	\$157,167,568
		\$36,581,531		\$191,267,718

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Regional Alternative Education	\$8,624,267			\$8,922,130
	\$8,528,727			\$8,639,782
Individualized Student Alternative Education Program (ISAEP)	\$2,247,581			\$2,247,581
Special Education – Regional Tuition <i>(split funded)</i>	\$87,362,717			\$90,918,109
	\$84,678,643			\$54,898,940
Career and Technical Education – Categorical	\$12,400,829			\$12,400,829
Project Graduation	\$2,774,478			\$2,774,478
				\$1,387,240
Race to GED (NCLB/EFAL)	\$2,410,988			\$2,410,988
Path to Industry Certification (NCLB/EFAL)	\$1,831,464			\$1,831,464
Supplemental Basic Aid	\$764,764			\$802,955
	\$810,169			\$904,877
Textbooks (split funded)	\$63,873,840			\$0
	\$64,250,653			
<i>English as a Second Language (split funded)</i>	\$53,267,521			\$0
<b>Total</b>	<b>\$561,527,170</b>			<b>\$541,231,250</b>
	<b>\$608,581,144</b>			<b>\$546,495,789</b>
Technology – VPSA	\$72,660,000			\$74,830,800
	\$67,138,400			\$69,169,200
Security Equipment - VPSA	\$6,000,000			\$6,000,000

Payments out of the above amounts shall be subject to the following conditions:

**A. Definitions**

1. "March 31 Average Daily Membership," or "March 31 ADM" - The responsible school division's average daily membership for grades K-12 including (1) handicapped students ages 5-21 and (2) students for whom English is a second language who entered school for the first time after reaching their twelfth birthday, and who have not reached twenty-two years of age on or before August 1 of the school year, for the first seven (7) months (or equivalent period) of the school year through March 31 in which state funds are distributed from this appropriation. Preschool and postgraduate students shall not be included in March 31 ADM.

a. School divisions shall take a count of September 30 fall membership and report this information to the Department of Education no later than October 15 of each year.

b. Except as otherwise provided herein, by statute, or by precedent, all appropriations to the Department of Education shall be calculated using March 31 ADM unadjusted for half-day kindergarten programs, estimated at ~~1,245,710.22~~ 1,243,100.49 the first year and ~~1,252,626.58~~ 1,248,935.53 the second year. March 31 ADM for half-day kindergarten shall be adjusted at 85 percent.

c. Students who are either (i) enrolled in a nonpublic school or (ii) receiving home instruction pursuant to § 22.1-254.1 and who are enrolled in a public school on less than a full-time basis in any mathematics, science, English, history, social science, vocational education, health education or physical education, fine arts or foreign language course, or receiving special education services required by a student's individualized education plan, shall be counted in the funded fall membership and March 31 ADM of the responsible school division. Each course shall be counted as 0.25, up to a cap of 0.5 of a student.

d. Students enrolled in an Individualized Student Alternative Education Program (ISAEP) pursuant to § 22.1-254 E shall be counted in the March 31 Average Daily Membership of the responsible school division. School divisions shall report these students separately in their March 31 reports of Average Daily Membership.

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2. "Standards of Quality" - Operations standards for grades kindergarten through 12 as prescribed by the Board of Education subject to revision by the General Assembly.				
3.a. "Basic Operation Cost" - The cost per pupil, including provision for the number of instructional personnel required by the Standards of Quality for each school division with a minimum ratio of 51 professional personnel for each 1,000 pupils or proportionate number thereof, in March 31 ADM for the same fiscal year for which the costs are computed, and including provision for driver, gifted, occupational-vocational, and special education, library materials and other teaching materials, teacher sick leave, general administration, division superintendents' salaries, free textbooks (including those for free and reduced price lunch pupils), school nurses, operation and maintenance of school plant, transportation of pupils, instructional television, professional and staff improvement, remedial work, fixed charges and other costs in programs not funded by other state and/or federal aid.				
b. The state and local shares of funding resulting from the support cost calculation for school nurses shall be specifically identified as such and reported to school divisions annually. School divisions may spend these funds for licensed school nurse positions employed by the school division or for licensed nurses contracted by the local school division to provide school health services.				
4.a. "Composite Index of Local Ability-to-Pay" - An index figure computed for each locality. The composite index is the sum of 2/3 of the index of wealth per pupil in unadjusted March 31 ADM reported for the first seven (7) months of the 2013-2014 school year and 1/3 of the index of wealth per capita (population estimates for 2013 as determined by the Weldon Cooper Center for Public Service of the University of Virginia) multiplied by the local nominal share of the costs of the Standards of Quality of 0.45 in each year. The indices of wealth are determined by combining the following constituent index elements with the indicated weighting: (1) true values of real estate and public service corporations as reported by the State Department of Taxation for the calendar year 2013 - 50 percent; (2) adjusted gross income for the calendar year 2013 as reported by the State Department of Taxation - 40 percent; (3) the sales for the calendar year 2013 which are subject to the state general sales and use tax, as reported by the State Department of Taxation - 10 percent. Each constituent index element for a locality is its sum per March 31 ADM, or per capita, expressed as a percentage of the state average per March 31 ADM, or per capita, for the same element. A locality whose composite index exceeds 0.8000 shall be considered as having an index of 0.8000 for purposes of distributing all payments based on the composite index of local ability-to-pay. Each constituent index element for a locality used to determine the composite index of local ability-to-pay for the current biennium shall be the latest available data for the specified official base year provided to the Department of Education by the responsible source agencies no later than November 15, 2015.				
b. For any locality whose total calendar year 2013 Virginia Adjusted Gross Income is comprised of at least 3 percent or more by nonresidents of Virginia, such nonresident income shall be excluded in computing the composite index of ability-to-pay. The Department of Education shall compute the composite index for such localities by using adjusted gross income data which exclude nonresident income, but shall not adjust the composite index of any other localities. The Department of Taxation shall furnish to the Department of Education such data as are necessary to implement this provision.				
c.1) Notwithstanding the funding provisions in § 22.1-25 D, Code of Virginia, additional state funding for future consolidations shall be as set forth in future Appropriation Acts.				
2) In the case of the consolidation of Clifton Forge and Alleghany County school divisions, the fifteen year period for the application of a new composite index shall apply beginning with the fiscal year that starts on July 1, 2004. The composite index established by the Board of Education shall equal the lowest composite index that was in effect prior to July 1, 2004, of any individual localities involved in such consolidation, and this index shall remain in effect for a period of fifteen years, unless a lower composite index is calculated for the combined division through the process for computing an index as set forth above.				
3) If the composite index of a consolidated school division is reduced during the course of the fifteen year period to a level that would entitle the school division to a lower interest rate for a Literary Fund loan than it received when the loan was originally released, the Board of Education shall reduce the interest rate of such loan for the remainder of the period of the				

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loan. Such reduction shall be based on the interest rate that would apply at the time of such adjustment. This rate shall remain in effect for the duration of the loan and shall apply only to those years remaining to be paid.

4) In the case of the consolidation of Bedford County and Bedford City school divisions, the fifteen year period for the application of a new composite shall apply beginning with the fiscal year that starts on July 1, 2013. The composite index established by the Board of Education shall equal the lowest composite index that was in effect prior to July 1, 2013, of any individual localities involved in such consolidation, and this index shall remain in effect for a period of fifteen years, unless a lower composite index is calculated for the combined division through the process for computing an index as set forth above.

d. When it is determined that a substantial error exists in a constituent index element, the Department of Education will make adjustments in funding for the current school year only in the division where the error occurred. The composite index of any other locality shall not be changed as a result of the adjustment. No adjustment during the biennium will be made as a result of updating of data used in a constituent index element.

e. In the event that any school division consolidates two or more small schools, the division shall continue to receive Standards of Quality funding and provide for the required local expenditure for a period of five years as if the schools had not been consolidated. Small schools are defined as any elementary, middle, or high school with enrollment below 200, 300 and 400 students, respectively.

5. "Required Local Expenditure for the Standards of Quality" - The locality's share based on the composite index of local ability-to-pay of the cost required by all the Standards of Quality minus its estimated revenues from the state sales and use tax dedicated to public education and those sales tax revenues transferred to the general fund from the Public Education Standards of Quality/Local Real Estate Property Tax Relief Fund and appropriated in this Item, both of which are returned on the basis of the latest yearly estimate of school age population provided by the Weldon Cooper Center for Public Service, as specified in this Item, collected by the Department of Education and distributed to school divisions in the fiscal year in which the school year begins.

6. "Required Local Match" - The locality's required share of program cost based on the composite index of local ability-to-pay for all Lottery and Incentive programs, where required, in which the school division has elected to participate in a fiscal year.

7. "Planning District Eight" - The nine localities which comprise Planning District Eight are Arlington County, Fairfax County, Loudoun County, Prince William County, Alexandria City, Fairfax City, Falls Church City, Manassas City, and Manassas Park City.

8. "State Share of the Standards of Quality" - The state share of the Standards of Quality (SOQ) shall be equal to the total funded SOQ cost for a school division less the school division's estimated revenues from the state sales and use tax dedicated to public education based on the latest yearly estimate of school age population provided by the Weldon Cooper Center for Public Service, adjusted for the state's share of the composite index of local ability to pay.

9. Entitlements under this Item that use school-level or division-level Free Lunch eligibility percentages to determine the entitlement amounts are based on the most recent data available as of the biennial rebenchmarking calculations made for the current biennium. However, October 2013 Free Lunch eligibility data is used in the case of schools that participate in the Community Eligibility Provision program.

10. In the event that the general fund appropriations in this Item are not sufficient to meet the entitlements payable to school divisions pursuant to the provisions of this Item, the Department of Education is authorized to transfer any available general fund funds between these Items to address such insufficiencies. If the total general fund appropriations after such transfers remain insufficient to meet the entitlements of any program funded with general fund dollars, the Department of Education is authorized to prorate such shortfall proportionately across all of the school divisions participating in any program where such shortfall occurred. In addition, the Department of Education is authorized each year to temporarily suspend textbook payments made to school divisions

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from Lottery funds to ensure that any shortfall in Lottery revenue can be accounted for in the remaining textbook payments to be made for the year.

11. The Department of Education is directed to apply a cap on inflation rates in the same manner prescribed in § 51.1-166.B, Code of Virginia, when updating funding to school divisions during the biennial rebenchmarking process.

12. Notwithstanding any other provision in statute or in this Item, the Department of Education is directed to combine the end-of-year Average Daily Membership (ADM) for those school divisions who have partnered together as a fiscal agent division and a contractual division for the purposes of calculating prevailing costs included in the Standards of Quality (SOQ).

13. Notwithstanding any other provision in statute or in this Item, the Department of Education is directed to include zeroes in the linear weighted average calculation of support non-personal costs for the purpose of calculating prevailing costs included in the Standards of Quality (SOQ).

14. Notwithstanding any other provision in statute or in this Item, the Department of Education is directed to eliminate the corresponding and appropriate object code(s) related to reported travel expenditures included the linear weighted average non-personal cost calculations for the purpose of calculating prevailing costs included in the Standards of Quality (SOQ).

15. Notwithstanding any other provision in statute or in this Item, the Department of Education is directed to eliminate the corresponding and appropriate object code(s) related to reported leases and rental and facility expenditures included the linear weighted average non-personal cost calculations for the purpose of calculating prevailing costs included in the Standards of Quality (SOQ).

16. Notwithstanding any other provision in statute or in this Item, the Department of Education is directed to fund transportation costs using a 15 year replacement schedule, which is the national standard guideline, for school bus replacement schedule for the purpose of calculating funded transportation costs included in the Standards of Quality (SOQ).

17. To provide temporary flexibility, notwithstanding any other provision in statute or in this Item, school divisions may elect to increase the teacher to pupil staffing ratios in kindergarten through grade 7 and English classes for grades 6 through twelve by one additional student; the teacher to pupil staffing ratio requirements for Elementary Resource teachers, Prevention, Intervention and Remediation, English as a Second Language, Gifted and Talented, Career and Technical funded programs (other than on Career and Technical courses where school divisions will have to maintain a maximum class size based on federal Occupational Safety & Health Administration safety requirements) are waived; and the instructional and support technology positions, librarians and guidance counselors staffing ratios for new hires are waived.

18. To provide additional flexibility, notwithstanding the provisions of § 22.1-79.1, Code of Virginia, any school division that was granted a waiver regarding the opening date of the school year for the 2011-12 school year under the good cause requirements shall continue to be granted a waiver for the 2016-17 school year and the 2017-2018 school year.

**B. General Conditions**

1. The Standards of Quality cost in this Item related to fringe benefits shall be limited for instructional staff members to the employer's cost for a number not exceeding the number of instructional positions required by the Standards of Quality for each school division and for their salaries at the statewide prevailing salary levels as printed below.

<b>Instructional Position</b>	<b>First Year Salary</b>	<b>Second Year Salary</b>
Elementary Teachers	\$47,185	\$47,185
Elementary Assistant Principals	\$67,119	\$67,119
Elementary Principals	\$82,846	\$82,846
Secondary Teachers	\$49,744	\$49,744
Secondary Assistant Principals	\$72,057	\$72,057

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Secondary Principals	\$92,041		\$92,041	
Instructional Aides	\$17,108		\$17,108	

a.1) Payment by the state to a local school division shall be based on the state share of fringe benefit costs of 55 percent of the employer's cost distributed on the basis of the composite index.

2) A locality whose composite index exceeds 0.8000 shall be considered as having an index of 0.8000 for purposes of distributing fringe benefit funds under this provision.

3) The state payment to each school division for retirement, social security, and group life insurance costs for non-instructional personnel is included in and distributed through Basic Aid.

b. Payments to school divisions from this Item shall be calculated using March 31 Average Daily Membership adjusted for half-day kindergarten programs.

c. Payments for health insurance fringe benefits are included in and distributed through Basic Aid.

2. Each locality shall offer a school program for all its eligible pupils which is acceptable to the Department of Education as conforming to the Standards of Quality program requirements.

3. In the event the statewide number of pupils in March 31 ADM results in a state share of cost exceeding the general fund appropriation in this Item, the locality's state share of Basic Aid shall be reduced proportionately so that this general fund appropriation will not be exceeded. In addition, the required local share of Basic Aid shall also be reduced proportionately to the reduction in the state's share.

4. The Department of Education shall make equitable adjustments in the computation of indices of wealth and in other state-funded accounts for localities affected by annexation, unless a court of competent jurisdiction makes such adjustments. However, only the indices of wealth and other state-funded accounts of localities party to the annexation will be adjusted.

5. In the event that the actual revenues from the state sales and use tax dedicated to public education and those sales tax revenues transferred to the general fund from the Public Education Standards of Quality/Local Real Estate Property Tax Relief Fund and appropriated in this Item (both of which are returned on the basis of the latest yearly estimate of school age population provided by the Weldon Cooper Center for Public Service) for sales in the fiscal year in which the school year begins are different from the number estimated as the basis for this appropriation, the estimated state sales and use tax revenues shall not be adjusted.

6. This appropriation shall be apportioned to the public schools with guidelines established by the Department of Education consistent with legislative intent as expressed in this act.

7.a. Appropriations of state funds in this Item include the number of positions required by the Standards of Quality. This Item includes a minimum of 51 professional instructional positions and aide positions (C 5); Education of the Gifted, 1.0 professional instructional position (C 6); Occupational-Vocational Education Payments and Special Education Payments; a minimum of 6.0 professional instructional positions and aide positions (C 7 and C 8) for each 1,000 pupils in March 31 ADM each year in support of the current Standards of Quality. Funding in support of one hour of additional instruction per day based on the percent of students eligible for the federal free lunch program with a pupil-teacher ratio range of 18:1 to 10:1, depending upon a school division's combined failure rate on the English and Math Standards of Learning, is included in Remedial Education Payments (C 9).

b. No actions provided in this section signify any intent of the General Assembly to mandate an increase in the number of instructional personnel per 1,000 students above the numbers explicitly stated in the preceding paragraph.

c. Appropriations in this Item include programs supported in part by transfers to the

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general fund from the Public Education Standards of Quality/Local Real Estate Property Tax Relief Fund pursuant to Part 3 of this Act. These transfers combined together with other appropriations from the general fund in this Item funds the state's share of the following revisions to the Standards of Quality pursuant to Chapters 939 & 955 of the Acts of Assembly of 2004: five elementary resource teachers per 1,000 students; one support technology position per 1,000 students; one instructional technology position per 1,000 students; and a full daily planning period for teachers at the middle and high school levels in order to relieve the financial pressure these education programs place on local real estate taxes.

d. To provide flexibility, school divisions may use the state and local funds for instructional technology resource teachers required by the Standards of Quality to employ a data coordinator position, an instructional technology resource teacher position, or a data coordinator/instructional resource teacher blended position. The data coordinator position is intended to serve as a resource to principals and classroom teachers in the area of data analysis and interpretation for instructional and school improvement purposes, as well as for overall data management and administration of state assessments. School divisions using these SOQ funds in this manner shall only employ instructional personnel licensed by the Board of Education.

e. To provide flexibility in the provision of reading intervention services, school divisions may use the state Early Reading Intervention initiative funding provided from the Lottery Proceeds Fund and the required local matching funds to employ reading specialists to provide the required reading intervention services. School divisions using the Early Reading Intervention Initiative funds in this manner shall only employ instructional personnel licensed by the Board of Education.

f. To provide flexibility in the provision of mathematics intervention services, school divisions may use the state Standards of Learning Algebra Readiness initiative funding provided from the Lottery Proceeds Fund and the required local matching funds to employ mathematics teacher specialists to provide the required mathematics intervention services. School divisions using the Standards of Learning Algebra Readiness initiative funding in this manner shall only employ instructional personnel licensed by the Board of Education.

8.a.1) Pursuant to § 22.1-97, Code of Virginia, the Department of Education is required to make calculations at the start of the school year to ensure that school divisions have appropriated adequate funds to support their estimated required local expenditure for the corresponding state fiscal year. In an effort to reduce the administrative burden on school divisions resulting from state data collections, such as the one needed to make the aforementioned calculations, the requirements of § 22.1-97, Code of Virginia, pertaining to the adequacy of estimated required local expenditures, shall be satisfied by signed certification by each division superintendent at the beginning of each school year that sufficient local funds have been budgeted to meet all state required local effort and required local match amounts. This provision shall only apply to calculations required of the Department of Education related to estimated required local expenditures and shall not pertain to the calculations associated with actual required local expenditures after the close of the school year.

2) The Department of Education shall also make calculations after the close of the school year to verify that the required local effort level, based on actual March 31 Average Daily Membership, was met. Pursuant to § 22.1-97, Code of Virginia, the Department of Education shall report annually, no later than the first day of the General Assembly session, to the House Committees on Education and Appropriations and the Senate Committees on Finance and Education and Health, the results of such calculations made after the close of the school year and the degree to which each school division has met, failed to meet, or surpassed its required local expenditure. The Department of Education shall specify the calculations to determine if a school division has expended its required local expenditure for the Standards of Quality. This calculation may include but is not limited to the following calculations:

b. The total expenditures for operation, defined as total expenditures less all capital outlays, expenditures for debt service, facilities, non-regular day school programs (such as adult education, preschool, and non-local education programs), and any transfers to regional programs will be calculated.

c. The following state funds will be deducted from the amount calculated in paragraph a.

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above: revenues from the state sales and use tax (returned on the basis of the latest yearly estimate of school age population provided by the Weldon Cooper Center for Public Service, as specified in this Item) for sales in the fiscal year in which the school year begins; total receipts from state funds (except state funds for non-regular day school programs and state funds used for capital or debt service purposes); and the state share of any balances carried forward from the previous fiscal year. Any qualifying state funds that remain unspent at the end of the fiscal year will be added to the amount calculated in paragraph a. above.

d. Federal funds, and any federal funds carried forward from the previous fiscal year, will also be deducted from the amount calculated in paragraph a. above. Any federal funds that remain unspent at the end of the fiscal year and any capital expenditures paid from federal funds will be added to the amount calculated in paragraph a. above.

e. Tuition receipts, receipts from payments from other cities or counties, and fund transfers will also be deducted from the amount calculated in paragraph a, then

f. The final amount calculated as described above must be equal to or greater than the required local expenditure defined in paragraph A. 5.

g. The Department of Education shall collect the data necessary to perform the calculations of required local expenditure as required by this section.

h. A locality whose expenditure in fact exceeds the required amount from local funds may not reduce its expenditures unless it first complies with all of the Standards of Quality.

9.a. Any required local matching funds which a locality, as of the end of a school year, has not expended, pursuant to this Item, for the Standards of Quality shall be paid by the locality into the general fund of the state treasury. Such payments shall be made not later than the end of the school year following that in which the under expenditure occurs.

b. Whenever the Department of Education has recovered funds as defined in the preceding paragraph a., the Secretary of Education is authorized to repay to the locality affected by that action, seventy-five percent (75%) of those funds upon his determination that:

- 1) The local school board agrees to include the funds in its June 30 ending balance for the year following that in which the under expenditure occurs;
- 2) The local governing body agrees to reappropriate the funds as a supplemental appropriation to the approved budget for the second year following that in which the under expenditure occurs, in an appropriate category as requested by the local school board, for the direct benefit of the students;
- 3) The local school board agrees to expend these funds, over and above the funds required to meet the required local expenditure for the second year following that in which the under expenditure occurs, for a special project, the details of which must be furnished to the Department of Education for review and approval;
- 4) The local school board agrees to submit quarterly reports to the Department of Education on the use of funds provided through this project award; and
- 5) The local governing body and the local school board agree that the project award will be cancelled and the funds withdrawn if the above conditions have not been met as of June 30 of the second year following that in which the under expenditure occurs.

c. There is hereby appropriated, for the purposes of the foregoing repayment, a sum sufficient, not to exceed 75 percent of the funds deposited in the general fund pursuant to the preceding paragraph a.

10. The Department of Education shall specify the manner for collecting the required information and the method for determining if a school division has expended the local funds required to support the actual local match based on all Lottery and Incentive programs in which the school division has elected to participate. Unless specifically stated otherwise in this Item, school divisions electing to participate in any Lottery or Incentive program that requires a local funding match in order to receive state funding, shall certify to the Department of Education its intent to participate in each program by July 1 each

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fiscal year in a manner prescribed by the Department of Education. As part of this certification process, each division superintendent must also certify that adequate local funds have been appropriated, above the required local effort for the Standards of Quality, to support the projected required local match based on the Lottery and Incentive programs in which the school division has elected to participate. State funding for such program(s) shall not be made until such time that the school division can certify that sufficient local funding has been appropriated to meet required local match. The Department of Education shall make calculations after the close of the fiscal year to verify that the required local match was met based on the state funds that were received.

11. Any sum of local matching funds for Lottery and Incentive program which a locality has not expended as of the end of a fiscal year in support of the required local match pursuant to this Item shall be paid by the locality into the general fund of the state treasury unless the carryover of those unspent funds is specifically permitted by other provisions of this act. Such payments shall be made no later than the end of the school year following that in which the under expenditure occurred.

12. The Superintendent of Public Instruction shall provide a report annually, no later than the first day of the General Assembly session, on the status of teacher salaries, by local school division, to the Governor and the Chairmen of the Senate Finance and House Appropriations Committees. In addition to information on average salaries by school division and statewide comparisons with other states, the report shall also include information on starting salaries by school division and average teacher salaries by school.

13. All state and local matching funds required by the programs in this Item shall be appropriated to the budget of the local school board.

14. By November 15 of each year, the Department of Planning and Budget, in cooperation with the Department of Education, shall prepare and submit a preliminary forecast of Standards of Quality expenditures, based upon the most current data available, to the Chairmen of the House Appropriations and Senate Finance Committees. In odd-numbered years, the forecast for the current and subsequent two fiscal years shall be provided. In even-numbered years, the forecast for the current and subsequent fiscal year shall be provided. The forecast shall detail the projected March 31 Average Daily Membership and the resulting impact on the education budget.

15. School divisions may choose to use state payments provided for Standards of Quality Prevention, Intervention, and Remediation in both years as a block grant for remediation purposes, without restrictions or reporting requirements, other than reporting necessary as a basis for determining funding for the program.

16. Except as otherwise provided in this act, the Superintendent of Public Instruction shall provide guidelines for the distribution and expenditure of general fund appropriations and such additional federal, private and other funds as may be made available to aid in the establishment and maintenance of the public schools.

17. At the Department of Education's option, fees for audio-visual services may be deducted from state Basic Aid payments for individual local school divisions.

18. For distributions not otherwise specified, the Department of Education, at its option, may use prior year data to calculate actual disbursements to individual localities.

19. Payments for accounts related to the Standards of Quality made to localities for public education from the general fund, as provided herein, shall be payable in twenty-four semi-monthly installments at the middle and end of each month.

20. Notwithstanding § 58.1-638 D., Code of Virginia, and other language in this Item, the Department of Education shall, for purposes of calculating the state and local shares of the Standards of Quality, apportion state sales and use tax dedicated to public education and those sales tax revenues transferred to the general fund from the Public Education Standards of Quality/ Local Real Estate Property Tax Relief Fund in the first year based on the July 1, 2014, estimate of school age population provided by the Weldon Cooper Center for Public Service and, in the second year, based on the July 1, 2015, estimate of school age population provided by the Weldon Cooper Center for Public Service.

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Notwithstanding § 58.1-638 D., Code of Virginia, and other language in this Item, the State Comptroller shall distribute the state sales and use tax revenues dedicated to public education and those sales tax revenues transferred to the general fund from the Public Education Standards of Quality/ Local Real Estate Property Tax Relief Fund in the first year based on the July 1, 2014, estimate of school age population provided by the Weldon Cooper Center for Public Service and, in the second year, based on the July 1, 2015, estimate of school age population provided by the Weldon Cooper Center for Public Service.

21. The school divisions within the Tobacco Region, as defined by the Tobacco Indemnification and Community Revitalization Commission, shall jointly explore ways to maximize their collective expenditure reimbursement totals for all eligible E-Rate funding.

22. This Item includes appropriations totaling an estimated ~~\$561,527,170~~ \$608,581,144 the first year and ~~\$541,231,250~~ \$546,495,789 the second year from the revenues deposited to the Lottery Proceeds Fund. These amounts are appropriated for distribution to counties, cities, and towns to support public education programs pursuant to Article X, Section 7-A Constitution of Virginia. Any county, city, or town which accepts a distribution from this fund shall provide its portion of the cost of maintaining an educational program meeting the Standards of Quality pursuant to Section 2 of Article VIII of the Constitution without the use of distributions from the fund.

23. For reporting purposes, the Department of Education shall include Lottery Proceeds Funds as state funds.

24.a. Any locality that has met its required local effort for the Standards of Quality accounts for FY 2017 and that has met its required local match for incentive or Lottery-funded programs in which the locality elected to participate in FY 2017 may carry over into FY 2018 any remaining state Direct Aid to Public Education fund balances available to help minimize any FY 2018 revenue adjustments that may occur in state funding to that locality. Localities electing to carry forward such unspent state funds must appropriate the funds to the school division for expenditure in FY 2018.

b. Any locality that has met its required local effort for the Standards of Quality accounts for FY 2018 and that has met its required local match for incentive or Lottery-funded programs in which the locality elected to participate in FY 2018 may carry over into FY 2019 any remaining state Direct Aid to Public Education fund balances available to help minimize any FY 2019 revenue adjustments that may occur in state funding to that locality. Localities electing to carry forward such unspent state funds must appropriate the funds to the school division for expenditure in FY 2019.

25. Localities are encouraged to allow school boards to carry over any unspent local allocations into the next fiscal year. Localities are also encouraged to provide increased flexibility to school boards by appropriating state and local funds for public education in a lump sum.

26. The Department of Education shall include in the annual School Performance Report Card for school divisions the percentage of each division's annual operating budget allocated to instructional costs. For this report, the Department of Education shall establish a methodology for allocating each school division's expenditures to instructional and non-instructional costs in a manner that is consistent with the funding of the Standards of Quality as approved by the General Assembly.

27. It is the intent of the General Assembly that all school divisions annually provide their employees, upon request, with a user-friendly statement of total compensation, including contract duration if less than 12 months.

28. The Department of Education, in collaboration with the Virginia Community College System, will ensure that the same policies regarding the cost for dual enrollment courses held at a community college, are consistently applied to public school students and home-schooled students alike. These policies will clearly address the school division contributions and any student charges for dual enrollment courses, and will ensure that public school students and home-school students are treated in the same manner.

**C. Apportionment**

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1. Subject to the conditions stated in this paragraph and in paragraph B of this Item, each locality shall receive sums as listed above within this program for the basic operation cost and payments in addition to that cost. The apportionment herein directed shall be inclusive of, and without further payment by reason of, state funds for library and other teaching materials.				
2. School Employee Retirement Contributions				
a. This Item provides funds to each local school board for the state share of the employer's retirement cost incurred by it, on behalf of instructional personnel, for subsequent transfer to the retirement allowance account as provided by Title 51.1, Chapter 1, Code of Virginia.				
b. Notwithstanding § 51.1-1401, Code of Virginia, the Commonwealth shall provide payments for only the state share of the Standards of Quality fringe benefit cost of the retiree health care credit. This Item includes payments in both years based on the state share of fringe benefit costs of 55 percent of the employer's cost on funded Standards of Quality instructional positions, distributed based on the composite index of the local ability-to-pay.				
3. School Employee Social Security Contributions				
a. This Item provides funds to each local school board for the state share of the employer's Social Security cost incurred by it, on behalf of the instructional personnel for subsequent transfer to the Contribution Fund pursuant to Title 51.1, Chapter 7, Code of Virginia.				
b. Appropriations for contributions in paragraphs 2 and 3 above include payments from funds derived from the principal of the Literary Fund in accordance with Article VIII, Section 8, of the Constitution of Virginia. The amounts set aside from the Literary Fund for these purposes shall not exceed <del>\$166,347,523</del> \$199,347,523 the first year and <del>\$156,349,570</del> \$181,349,570 the second year.				
4. School Employee Insurance Contributions				
This Item provides funds to each local school board for the state share of the employer's Group Life Insurance cost incurred by it on behalf of instructional personnel who participate in group insurance under the provisions of Title 51.1, Chapter 5, Code of Virginia.				
5. Basic Aid Payments				
a.1) A state share of the Basic Operation Cost, which cost per pupil in March 31 ADM is established individually for each local school division based on the number of instructional personnel required by the Standards of Quality and the statewide prevailing salary levels (adjusted in Planning District Eight for the cost of competing) as well as recognized support costs calculated on a prevailing basis for an estimated March 31 ADM.				
2) This appropriation includes funding to recognize the common labor market in the Washington-Baltimore-Northern Virginia, DC-MD-VA-WV Combined Statistical Area. Standards of Quality salary payments for instructional and support positions in school divisions of the localities set out below have been adjusted for the equivalent portion of the Cost of Competing Adjustment (COCA) rates that are paid to local school divisions in Planning District Eight. For the counties of Stafford, Fauquier, Spotsylvania, Clarke, Warren, Frederick, and Culpeper and the Cities of Fredericksburg and Winchester, the SOQ payments for instructional <i>and support</i> positions have been increased by 25 percent each year of the COCA rates paid to school divisions in Planning District Eight; <del>and the SOQ payments for support positions have been increased by 25 percent in the second year of the COCA rates paid to school divisions in Planning District Eight.</del>				
The support COCA rate is 10.6 percent.				
b. The state share for a locality shall be equal to the Basic Operation Cost for that locality less the locality's estimated revenues from the state sales and use tax (returned on the basis of the latest yearly estimate of school age population provided by the Weldon Cooper Center for Public Service, as specified in this Item), in the fiscal year in which the school year begins and less the required local expenditure.				
c. For the purpose of this paragraph, the Department of Taxation's fiscal year sales and use tax estimates are as cited in this Item.				

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d. 1) In accordance with the provisions of § 37.2-713, Code of Virginia, the Department of Education shall deduct the locality's share for the education of handicapped pupils residing in institutions within the Department of Behavioral Health and Developmental Services from the locality's Basic Aid payments.

2) The amounts deducted from Basic Aid for the education of intellectually disabled persons shall be transferred to the Department of Behavioral Health and Developmental Services in support of the cost of educating such persons; the amount deducted from Basic Aid for the education of emotionally disturbed persons shall be used to cover extraordinary expenses incurred in the education of such persons. The Department of Education shall establish guidelines to implement these provisions and shall provide for the periodic transfer of sums due from each local school division to the Department of Behavioral Health and Developmental Services and for Special Education categorical payments. The amount of the actual transfers will be based on data accumulated during the prior school year.

e. 1) The apportionment to localities of all driver education revenues received during the school year shall be made as an undesignated component of the state share of Basic Aid in accordance with the provisions of this Item. Only school divisions complying with the standardized program established by the Board of Education shall be entitled to participate in the distribution of state funds appropriated for driver education. The Department of Education will deduct a designated amount per pupil from a school division's Basic Aid payment when the school division is not in compliance with § 22.1-205 C, Code of Virginia. Such amount will be computed by dividing the current appropriation for the Driver Education Fund by actual March 31 ADM.

2) Local school boards may charge a per pupil fee for behind-the-wheel driver education provided, however, that the fee charged plus the per pupil basic aid reimbursement for driver education shall not exceed the actual average per pupil cost. Such fees shall not be cause for a pro rata reduction in Basic Aid payments to school divisions.

f. Textbooks

1) The appropriation in this Item includes ~~\$12,742,776~~ \$12,159,059 the first year and ~~\$76,878,557~~ \$76,599,186 the second year from the general fund and ~~\$63,873,840~~ \$64,250,653 the first year from the Lottery Proceeds Fund as the state's share of the cost of textbooks based on a per pupil amount of \$109.78 the first year and \$109.78 the second year. A school division shall appropriate these funds for textbooks or any other public education instructional expenditure by the school division. The state's distributions for textbooks shall be based on adjusted March 31 ADM. These funds shall be matched by the local government, based on the composite index of local ability-to-pay.

2) School divisions shall provide free textbooks to all students.

3) School divisions may use a portion of this funding to purchase Standards of Learning instructional materials. School divisions may also use these funds to purchase electronic textbooks or other electronic media resources integral to the curriculum and classroom instruction and the technical equipment required to read and access the electronic textbooks and electronic curriculum materials.

4) Any funds provided to school divisions for textbook costs that are unexpended as of June 30, 2017, or June 30, 2018, shall be carried on the books of the locality to be appropriated to the school division the following year to be used for same purpose. School divisions are permitted to carry forward any remaining balance of textbook funds until the funds are expended for a qualifying purpose.

g. The one-cent state sales and use tax earmarked for education and the sales tax revenues transferred to the general fund from the Public Education Standards of Quality/Local Real Estate Property Tax Relief Fund and appropriated in this Item which are distributed to localities on the basis of the latest yearly estimate of school age population provided by the Weldon Cooper Center for Public Service as specified in this Item shall be reflected in each locality's annual budget for educational purposes as a separate revenue source for the current fiscal year.

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h.	The appropriation for the Standards of Quality for Public Education (SOQ) includes amounts estimated at <del>\$385,109,559</del> \$365,400,000 the first year and <del>\$398,609,559</del> \$374,280,780 the second year from the amounts transferred to the general fund from the Public Education Standards of Quality/Local Real Estate Property Tax Relief Fund pursuant to Part 3 of this act which are derived from the 0.375 cent increase in the state sales and use tax levied pursuant to § 58.1-638, Code of Virginia. These additional funds are provided to local school divisions and local governments in order to relieve the financial pressure education programs place on local real estate taxes.			
i.	From the total amounts in paragraph h. above, an amount estimated at <del>\$256,739,719</del> \$243,600,000 the first year and <del>\$265,739,719</del> \$249,487,190 the second year (approximately 1/4 cent of sales and use tax) is appropriated to support a portion of the cost of the state's share of the following revisions to the Standards of Quality pursuant to Chapters 939 & 955 of the Acts of Assembly of 2004: five elementary resource teachers per 1,000 students; one support and one instructional technology position per 1,000 students; a full daily planning period for teachers at the middle and high school levels in order to relieve the pressure on local real estate taxes and shall be taken into account by the governing body of the county, city, or town in setting real estate tax rates.			
j.	From the total amounts in paragraph h. above, an amount estimated at <del>\$128,369,840</del> \$121,800,000 the first year and <del>\$132,869,840</del> \$124,793,590 the second year (approximately 1/8 cent of sales and use tax) is appropriated in this Item to distribute the remainder of the revenues collected and deposited into the Public Education Standards of Quality/Local Real Estate Property Tax Relief Fund on the basis of the latest yearly estimate of school age population provided by the Weldon Cooper Center for Public Service as specified in this Item.			
k.	For the purposes of funding certain support positions in Basic Aid, a funding ratio methodology is used based upon the prevailing ratio of actual support positions, consistent with those recognized for SOQ funding, to actual instructional positions, consistent with those recognized for SOQ funding, as established in Chapter 781, 2009 Acts of Assembly. For the purposes of making the required spending adjustments, the appropriation and distribution of Basic Aid shall reflect this methodology. Local school divisions shall have the discretion as to where the adjustment may be made, consistent with the Standards of Quality funded in this Act.			
6. Education of the Gifted Payments				
a.	An additional payment shall be disbursed by the Department of Education to local school divisions to support the state share of one full-time equivalent instructional position per 1,000 students in adjusted March 31 ADM.			
b.	Local school divisions are required to spend, as part of the required local expenditure for the Standards of Quality the established per pupil cost for gifted education (state and local share) on approved programs for the gifted.			
7. Occupational-Vocational Education Payments				
a.	An additional payment shall be disbursed by the Department of Education to the local school divisions to support the state share of the number of Vocational Education instructors required by the Standards of Quality. These funds shall be disbursed on the same basis as the payment is calculated.			
b.	An amount estimated at <del>\$110,043,313</del> \$110,555,414 the first year and <del>\$110,283,838</del> \$110,801,754 the second year from the general fund included in Basic Aid Payments relates to vocational education programs in support of the Standards of Quality.			
8. Special Education Payments				
a.	An additional payment shall be disbursed by the Department of Education to the local school divisions to support the state share of the number of Special Education instructors required by the Standards of Quality. These funds shall be disbursed on the same basis as the payment is calculated.			
b.	Out of the amounts for special education payments, general fund support is provided to fund the caseload standards for speech pathologists at 68 students for each year of the			

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9. Remedial Education Payments

a. An additional payment estimated at ~~\$114,133,767~~ \$113,782,747 the first year and ~~\$114,313,454~~ \$113,821,446 the second year from the general fund shall be disbursed by the Department of Education to support the Board of Education's Standards of Quality Prevention, Intervention, and Remediation program adopted in June 2003.

b. The payment shall be calculated based on one hour of additional instruction per day for identified students, using the three year average percent of students eligible for the federal Free Lunch program as a proxy for students needing such services. Fall membership shall be multiplied by the three year average division-level Free Lunch eligibility percentage to determine the estimated number of students eligible for services. Pupil-teacher ratios shall be applied to the estimated number of eligible students to determine the number of instructional positions needed for each school division. The pupil-teacher ratio applied for each school division shall range from 10:1 for those divisions with the most severe combined three year average failure rates for English and math Standards of Learning test scores to 18:1 for those divisions with the lowest combined three year average failure rates for English and math Standards of Learning test scores.

c. Funding shall be matched by the local government based on the composite index of local ability-to-pay.

d. To provide flexibility in the instruction of English Language Learners who have limited English proficiency and who are at risk of not meeting state accountability standards, school divisions may use state and local funds from the SOQ Prevention, Intervention, and Remediation account to employ additional English Language Learner teachers to provide instruction to identified limited English proficiency students. Using these funds in this manner is intended to supplement the instructional services provided through the SOQ staffing standard of 17 instructional positions per 1,000 limited English proficiency students. School divisions using the SOQ Prevention, Intervention, and Remediation funds in this manner shall only employ instructional personnel licensed by the Board of Education.

e. An additional state payment estimated at ~~\$83,744,543~~ \$76,080,851 the second year from the general fund and ~~\$98,327,638~~ \$98,013,725 the first year and ~~\$14,797,598~~ \$22,010,800 the second year from the Lottery Proceeds Fund shall be disbursed based on the estimated number of federal Free Lunch participants, in support of programs for students who are educationally at risk. The additional payment shall be based on the state share of:

1) A minimum 1.0 percent add-on, as a percent of the per pupil basic aid cost, for each child who qualifies for the federal Free Lunch Program; and

2) An addition to the add-on, based on the concentration of children qualifying for the federal Free Lunch Program. Based on its percentage of Free Lunch participants, each school division will receive between 1.0 and 13.0 percent in additional basic aid per Free Lunch participant. These funds shall be matched by the local government, based on the composite index of local ability-to-pay.

3a) Local school divisions are required to spend the established at-risk payment (state and local share) on approved programs for students who are educationally at risk.

b) To receive these funds, each school division shall certify to the Department of Education that the state and local share of the at-risk payment will be used to support approved programs for students who are educationally at risk. These programs may include: Dropout Prevention, community and school-based truancy officer programs, Advancement Via Individual Determination (AVID), Project Discovery, Reading Recovery, programs for students who speak English as a second language, or programs related to increasing the success of disadvantaged students in completing a high school degree and providing opportunities to encourage further education and training. Further, each school division shall report to the Department, in the manner prescribed and date set by the Department, the uses of (i) increased funds in fiscal year 2017 above the levels in fiscal year 2016, as well as (ii) the uses of the base level of these funds. The Department

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	shall compile the responses and provide them to the Chairmen of Senate Finance and House Appropriations Committees no later than the first day of the 2017 Session.			
	<p>4) If the Board of Education has required a local school board to submit a corrective action plan pursuant to § 22.1-253.13:3, Code of Virginia, either for the school division pursuant to a division level review, or for any schools within its division that have been designated as not meeting the standards as approved by the Board of Education, the Superintendent of Public Instruction shall determine and report to the Board of Education whether each such local school board has met its obligation to develop and submit such corrective action plan(s) and is making adequate and timely progress in implementing the plan(s). Additionally, if an academic review process undertaken pursuant to § 22.1-253.13:3, Code of Virginia, has identified actions for a local school board to implement, the Superintendent of Public Instruction shall determine and report to the Board of Education whether the local school board has implemented required actions. If the Superintendent certifies that a local school board has failed or refused to meet any of those obligations, the Board of Education shall withhold payment of some or all At-Risk Add-On funds otherwise allocated to the affected division pursuant to this allocation for the pending fiscal year. In determining the amount of At-Risk Add-On funds to be withheld, the Board of Education shall take into consideration the extent to which such funds have already been expended or contractually obligated. The local school board shall be given an opportunity to correct its failure and, if successful in a timely manner, may have some or all of its At-Risk Add-On funds restored at the Board of Education's discretion.</p>			
	f. Regional Alternative Education Programs			
	<p>1) An additional state payment of <del>\$8,624,267</del> \$8,528,727 the first year and <del>\$8,922,130</del> \$8,639,782 the second year from the Lottery Proceeds Fund shall be disbursed for Regional Alternative Education programs. Such programs shall be for the purpose of educating certain expelled students and, as appropriate, students who have received suspensions from public schools and students returned to the community from the Department of Juvenile Justice.</p>			
	<p>2) Each regional program shall have a small student/staff ratio. Such staff shall include, but not be limited to education, mental health, health, and law enforcement professionals, who will collaborate to provide for the academic, psychological, and social needs of the students. Each program shall be designed to ensure that students make the transition back into the "mainstream" within their local school division.</p>			
	<p>3) a) Regional alternative education programs are funded through this Item based on the state's share of the incremental per pupil cost for providing such programs. This incremental per pupil payment shall be adjusted for the composite index of local ability-to-pay of the school division that counts such students attending such program in its March 31 Average Daily Membership. It is the intent of the General Assembly that this incremental per pupil amount be in addition to the basic aid per pupil funding provided to the affected school division for such students. Therefore, local school divisions are encouraged to provide the appropriate portion of the basic aid per pupil funding to the regional programs for students attending these programs, adjusted for costs incurred by the school division for transportation, administration, and any portion of the school day or school year that the student does not attend such program.</p>			
	<p>b) In the event a school division does not use all of the student slots it is allocated under this program, the unused slots may be reallocated or transferred to another school division.</p>			
	<p>1. A school division must request from the Department of Education the availability and possible use of any unused student slots. If any unused slots are available and if the requesting school division chooses to utilize any of the unused slots, the requesting school division shall only receive the state's share of tuition for the unused slot that was allocated in this Item for the originally designated school division.</p>			
	<p>2. However, no requesting school division shall receive more tuition funding from the state for any requested unused slot than what would have been the calculated amount for the requesting school division had the unused slot been allocated to the requesting school division in the original budget. Furthermore, the requesting school division shall pay for any remaining tuition payment necessary for using a previously unused slot.</p>			

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3. The Department of Education shall provide assistance for the state share of the incremental cost of Regional Alternative Education program operations based on the composite index of local ability-to-pay.

g. Remedial Summer School

1) This appropriation includes ~~\$28,285,228~~ \$24,687,389 the first year and ~~\$29,966,909~~ \$25,785,842 the second year from the general fund for the state's share of Remedial Summer School Programs. These funds are available to school divisions for the operation of programs designed to remediate students who are required to attend such programs during a summer school session or during an intersession in the case of year-round schools. These funds may be used in conjunction with other sources of state funding for remediation or intervention. School divisions shall have maximum flexibility with respect to the use of these funds and the types of remediation programs offered; however, in exercising this flexibility, students attending these programs shall not be charged tuition and no high school credit may be awarded to students who participate in this program.

2) For school divisions charging students tuition for summer high school credit courses, consideration shall be given to students from households with extenuating financial circumstances who are repeating a class in order to graduate.

*3) From the amounts provided for Remedial Summer School, there is hereby appropriated \$300,000 the second year from the general fund to support pilot public-private partnerships between local school divisions and the Greater Richmond and Central Virginia affiliates of the Virginia Alliance of YMCAs to expand student participation opportunities in existing summer Power Scholars Academies in such partnered school divisions. The Virginia Alliance of YMCAs shall prepare and submit an evaluation report for such pilot partnerships between the school divisions and the Greater Richmond and Central Virginia YMCA affiliates to the Chairmen of House Appropriations and Senate Finance Committees no later than October 31, 2018.*

10. K-3 Primary Class Size Reduction Payments

a. An additional payment estimated at ~~\$129,745,062~~ \$123,321,155 the first year and ~~\$131,721,587~~ \$128,583,847 the second year from the Lottery Proceeds Fund shall be disbursed by the Department of Education as an incentive for reducing class sizes in the primary grades.

b. The Department of Education shall calculate the payment based on the incremental cost of providing the lower class sizes based on the lower of the division average per pupil cost of all divisions or the actual division per pupil cost.

c. Localities are required to provide a match for these funds based on the composite index of local ability-to-pay.

d. By October 15 of each year school divisions must provide data to the Department of Education that each participating school has a September 30 pupil/teacher ratio in grades K through 3 that meet the following criteria:

<b>Qualifying School Percentage of Students Approved Eligible for Free Lunch, Three-Year Average</b>	<b>Grades K-3 School Ratio</b>	<b>Maximum Individual K-3 Class Size</b>
30% but less than 45%	19 to 1	24
45% but less than 55%	18 to 1	23
55% but less than 65%	17 to 1	22
65% but less than 70%	16 to 1	21
70% but less than 75%	15 to 1	20
75% or more	14 to 1	19

e. School divisions may elect to have eligible schools participate at a higher ratio, or only in a portion of grades kindergarten through three, with a commensurate reduction of state and required local funds, if local conditions do not permit participation at the established ratio and/or maximum individual class size. In the event that a school division requires additional actions to ensure participation at the established ratio and/or maximum

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	individual class size, such actions must be completed by December 1 of the impacted school year. Special education teachers and instructional aides shall not be counted towards meeting these required pupil/teacher ratios in grades kindergarten through three.			
	f. The Superintendent of Public Instruction may grant waivers to school divisions for the class size requirement in eligible schools that have only one class in an affected grade level in the school.			
	11. Literary Fund Subsidy Program Payments			
	a. The Department of Education and the Virginia Public School Authority (VPSA) shall provide a program of funding for school construction and renovation through the Literary Fund and through VPSA bond sales. The program shall be used to provide funds, through Literary Fund loans and subsidies, and through VPSA bond sales, to fund a portion of the projects on the First or Second Literary Fund Waiting List, or other critical projects which may receive priority placement on the First or Second Literary Fund Waiting List by the Department of Education. Interest rate subsidies will provide school divisions with the present value difference in debt service between a Literary Fund loan and a borrowing through the VPSA. To qualify for an interest rate subsidy, the school division's project must be eligible for a Literary Fund loan and shall be subject to the same restrictions. The VPSA shall work with the Department of Education in selecting those projects to be funded through the interest rate subsidy/bond financing program, so as to ensure the maximum leverage of Literary Fund moneys and a minimum impact on the VPSA Bond Pool.			
	b. The Department of Education may offer Literary Fund loans from the uncommitted balances of the Literary Fund after meeting the obligations of the interest rate subsidy sales and the amounts set aside from the Literary Fund for Debt Service Payments for Education Technology in this Item.			
	c. 1) In the event that on any scheduled payment date of bonds of the Virginia Public School Authority (VPSA) authorized under the provisions of a bond resolution adopted subsequent to June 30, 1997, issued subsequent to June 30, 1997, and not benefiting from the provisions of either § 22.1-168 (iii), (iv), and (v), Code of Virginia, or § 22.1-168.1, Code of Virginia, the sum of (i) the payments on general obligation school bonds of cities, counties, and towns (localities) paid to the VPSA and (ii) the proceeds derived from the application of the provisions of § 15.2-2659, Code of Virginia, to such bonds of localities, is less than the debt service due on such bonds of the VPSA on such date, there is hereby appropriated to the VPSA, first, from available moneys of the Literary Fund and, second, from the general fund a sum equal to such deficiency.			
	2) The Commonwealth shall be subrogated to the VPSA to the extent of any such appropriation paid to the VPSA and shall be entitled to enforce the VPSA's remedies with respect to the defaulting locality and to full recovery of the amount of such deficiency, together with interest at the rate of the defaulting locality's bonds.			
	d. The chairman of the Board of Commissioners of the VPSA shall, on or before November 1 of each year, make and deliver to the Governor and the Secretary of Finance a certificate setting forth his estimate of total debt service during each fiscal year of the biennium on bonds of the VPSA issued and projected to be issued during such biennium pursuant to the bond resolution referred to in paragraph a above. The Governor's budget submission each year shall include provisions for the payment of debt service pursuant to paragraph 1) above.			
	12. Educational Technology Payments			
	a. Any unobligated amounts transferred to the educational technology fund shall be disbursed on a pro rata basis to localities. The additional funds shall be used for technology needs identified in the division's technology plan approved by the Department of Education.			
	b. The Department of Education shall authorize amounts estimated at \$11,618,250 the first year from the Literary Fund to provide debt service payments for the education technology grant program conducted through the Virginia Public School Authority in 2012.			
	c. The Department of Education shall authorize amounts estimated at \$12,127,750 the first year and \$12,132,750 the second year from the Literary Fund to provide debt service payments for the education technology grant program conducted through the Virginia Public			

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School Authority in 2013.				
d. 1) The Department of Education shall authorize amounts estimated at \$13,248,500 the first year and \$13,246,250 the second year from the Literary Fund to provide debt service payments for the education technology grant program conducted through the Virginia Public School Authority in 2014.				
2) It is the intent of the General Assembly to authorize sufficient Literary Fund revenues to pay debt service on the Virginia Public School Authority bonds or notes authorized for this program. In developing the proposed 2018-2020 biennial budget for public education, the Department of Education shall include a recommendation to the Governor to authorize sufficient Literary Fund revenues to make debt service payments for this program in fiscal year 2019.				
e. 1) The Department of Education shall authorize amounts estimated at \$13,808,000 the first year and \$13,805,000 the second year from the Literary Fund to provide debt service payments for the education technology grant program conducted through the Virginia Public School Authority in 2015.				
2) It is the intent of the General Assembly to authorize sufficient Literary Fund revenues to pay debt service on the Virginia Public School Authority bonds or notes authorized for this program. In developing the proposed 2018-2020 biennial budget for public education, the Department of Education shall include a recommendation to the Governor to authorize sufficient Literary Fund revenues to make debt service payments for this program in fiscal years 2019 and 2020.				
f. 1) The Department of Education shall authorize amounts estimated at <del>\$14,988,495</del> \$13,753,517 the first year and <del>\$14,988,495</del> \$13,753,750 the second year from the Literary Fund to provide debt service payments for the education technology grant program conducted through the Virginia Public School Authority in 2016.				
2) It is the intent of the General Assembly to authorize sufficient Literary Fund revenues to pay debt service on the Virginia Public School Authority bonds or notes authorized for this program. In developing the proposed 2018-2020 and 2020-2022 biennial budget for public education, the Department of Education shall include a recommendation to the Governor to authorize sufficient Literary Fund revenues to make debt service payments for this program in fiscal years 2019, 2020, and 2021.				
g. 1) An education technology grant program shall be conducted through the Virginia Public School Authority, through the issuance of equipment notes in an amount estimated at <del>\$72,660,000</del> \$67,138,400 in fiscal year 2017 and <del>\$74,830,800</del> \$69,169,200 in fiscal year 2018. Proceeds of the notes will be used to establish a computer-based instructional and testing system for the Standards of Learning (SOL) and to develop the capability for high speed Internet connectivity at high schools followed by middle schools followed by elementary schools. School divisions shall use these funds first to develop and maintain the capability to support the administration of online SOL testing for all students with the exception of students with a documented need for a paper SOL test.				
2) The Department of Education shall authorize amounts estimated at <del>\$14,988,495</del> \$14,351,594 the second year from the Literary Fund to provide debt service payments for the education technology grant program conducted through the Virginia Public School Authority in 2017.				
3) It is the intent of the General Assembly to authorize sufficient Literary Fund revenues to pay debt service on the Virginia Public School Authority bonds or notes authorized for education technology grant programs in fiscal year 2017 and in fiscal year 2018. In developing the proposed 2018-2020, 2020-2022, and 2022-2024 biennial budgets for public education, the Department of Education shall include a recommendation to the Governor to authorize sufficient Literary Fund revenues to make debt service payments for these programs in fiscal years 2019, 2020, 2021, 2022, and 2023.				
4) Grant funds from the issuance of <del>\$72,660,000</del> \$67,138,400 in fiscal year 2017 and <del>\$74,830,800</del> \$69,169,200 in fiscal year 2018 in equipment notes are based on a grant of \$26,000 per school and \$50,000 per school division. For purposes of this grant program, eligible schools shall include schools that are subject to state accreditation and reporting				

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membership in grades K through 12 as of September 30, 2016, for the fiscal year 2017 issuance, and September 30, 2017, for the fiscal year 2018 issuance, as well as regional vocational centers, special education centers, alternative education centers, regular school year Governor's Schools, and the School for the Deaf and the Blind. Schools that serve only pre-kindergarten students shall not be eligible for this grant.

5. a.) Supplemental grants shall be allocated to eligible divisions to support schools that are not fully accredited in accordance with this paragraph. Schools that include a ninth grade that administer SOL tests in Spring 2016 and that are not fully accredited for the second consecutive year, based on school accreditation ratings in effect for fiscal year 2016 and fiscal year 2017 will qualify to participate in the Virginia e-Learning Backpack Initiative in fiscal year 2017 and receive: (1) a supplemental grant of \$400 per student reported in ninth grade fall membership in a qualifying school for the purchase of a laptop or tablet for that student and (2) a supplemental grant of \$2,400 per qualifying school to purchase two content creation packages for teachers. Schools eligible to receive this supplemental grant in fiscal year 2017 shall continue to receive the grant for the number of subsequent years equaling the number of grades 9 through 12 in the qualifying school up to a maximum of four years. Schools that administer SOL tests in Spring 2017 and that are not fully accredited for the second consecutive year based on school accreditation ratings in effect for fiscal year 2017 and fiscal year 2018 will qualify to participate in the initiative in fiscal year 2018. Schools eligible for the supplemental grants in previous fiscal years shall continue to be eligible for the remaining years of their grant award. Schools eligible to receive this supplemental grant in fiscal year 2018 shall continue to receive the grant for the number of subsequent years equaling the number of grades 9 through 12 in the qualifying school up to a maximum of four years. Grants awarded to qualifying schools that do not have grades 10, 11, or 12 may transition with the students to the primary receiving school for all years subsequent to grade 9. Schools are eligible to receive these grants for a period of up to four years beginning in fiscal year 2014 and shall not be eligible to receive a separate award in the future once the original award period has concluded. Schools that are fully accredited or that are new schools with conditional accreditation in their first year shall not be eligible to receive this supplemental grant.

*b.) Supplemental grants allocated to school divisions for participation in the Virginia e-Learning Backpack Initiative prior to fiscal year 2017 shall be used in eligible schools for (1) the purchase of a laptop or tablet for a student reported in ninth grade fall membership, and (2) the purchase of two content creation packages for teachers per grant. The amounts for such grants shall remain unchanged.*

6) Required local match:

a) Localities are required to provide a match for these funds equal to 20 percent of the grant amount, including the supplemental grants provided pursuant to paragraph g. 5). At least 25 percent of the local match, including the match for supplemental grants, shall be used for teacher training in the use of instructional technology, with the remainder spent on other required uses. The Superintendent of Public Instruction is authorized to reduce the required local match for school divisions with a composite index of local ability-to-pay below 0.2000. The Virginia School for the Deaf and the Blind is exempt from the match requirement.

b) School divisions that administer 100 percent of SOL tests online in all elementary, middle, and high schools may use up to 75 percent of their required local match to purchase targeted technology-based interventions. Such interventions may include the necessary technology and software to support online learning, technology-based content systems, content management systems, technology equipment systems, information and data management systems, and other appropriate technologies that support the individual needs of learners. School divisions that receive supplemental grants pursuant to paragraph g.5) above shall use the funds in qualifying schools to purchase laptops and tablets for ninth grade students reported in fall membership and content creation packages for teachers.

7) The goal of the education technology grant program is to improve the instructional, remedial, and testing capabilities of the Standards of Learning for local school divisions and to increase the number of schools achieving full accreditation.

8) Funds shall be used in the following manner:

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a)	Each division shall use funds to reach a goal, in each high school, of: (1) a 5-to-1 student to computer ratio; (2) an Internet-ready local area network (LAN) capability; and (3) high speed access to the Internet. School connectivity (computers, LANs and network access) shall include sufficient download/upload capability to ensure that each student will have adequate access to Internet-based instructional, remedial and assessment programs.			
b)	When each high school in a division meets the goals established in paragraph a) above, the remaining funds shall be used to develop similar capability in first the middle schools and then the elementary schools.			
c)	For purposes of establishing or enhancing a computer-based instructional program supporting the Standards of Learning pursuant to paragraph g. 1) above, these grant funds may be used to purchase handheld multifunctional computing devices that support a broad range of applications and that are controlled by operating systems providing full multimedia support and mobile Internet connectivity. School divisions that elect to use these grant funds to purchase such qualifying handheld devices must continue to meet the on-line testing requirements stated in paragraph g. 1) above.			
d)	School divisions shall be eligible to receive supplemental grants pursuant to paragraph g.5) above. These supplemental grants shall be used in qualifying schools for the purchase of laptops and tablets for ninth grade students reported in fall membership and content creation packages for teachers. Participating school divisions will be required to select a core set of electronic textbooks, applications and online services for productivity, learning management, collaboration, practice, and assessment to be included on all devices. In addition, participating school divisions will assume recurring costs for electronic textbook purchases and maintenance.			
e)	Pursuant to § 15.2-1302, Code of Virginia, and in the event that two or more school divisions became one school division, whether by consolidation of only the school divisions or by consolidation of the local governments, such resulting division shall be provided funding through this program on the basis of having the same number of school divisions as existed prior to September 30, 2000.			
9)	Local school divisions shall maximize the use of available federal funds, including E-Rate Funds, and to the extent possible, use such funds to supplement the program and meet the goals of this program.			
h.	The Department of Education shall maintain criteria to determine if high schools, middle schools, or elementary schools have the capacity to meet the goals of this initiative. The Department of Education shall be responsible for the project management of this program.			
i. 1)	In the event that, on any scheduled payment date of bonds or notes of the Virginia Public School Authority (VPSA) issued for the purpose described in § 22.1-166.2, Code of Virginia, and not benefiting from the provisions of either § 22.1-168 (iii), (iv) and (v), Code of Virginia, or § 22.1-168.1, Code of Virginia, the available moneys in the Literary Fund are less than the amounts authorized for debt service due on such bonds or notes of the VPSA on such date, there is hereby appropriated to the VPSA from the general fund a sum equal to such deficiency.			
2)	The Chairman of the Board of Commissioners of the VPSA shall, on or before November 1 of each year, make and deliver to the Governor and the Secretary of Finance a certificate setting forth his estimate of total debt service during each fiscal year of the biennium on bonds and notes of the VPSA issued and projected to be issued during such biennium pursuant to the resolution referred to in paragraph 1) above. The Governor's budget submission each year shall include provisions for the payment of debt service pursuant to paragraph 1) above.			
j.	Unobligated proceeds of the notes, including investment income derived from the proceeds of the notes may be used to pay interest on, or to decrease principal of the notes or to fund a portion of such other educational technology grants as authorized by the General Assembly.			
k. 1)	For the purposes of § 56-232, Code of Virginia, "Contracts of Telephone Companies with State Government" and for the purposes of § 56-234 "Contracts for Service Rendered			

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<p>by a Telephone Company for the State Government" shall be deemed to include communications lines into public schools which are used for educational technology. The rate structure for such lines shall be negotiated by the Superintendent of Public Instruction and the Chief Information Officer of the Virginia Information Technologies Agency. Further, the Superintendent and Director are authorized to encourage the development of "by-pass" infrastructure in localities where it fails to obtain competitive prices or prices consistent with the best rates obtained in other parts of the state.</p>				
<p>2) The State Corporation Commission, in its consideration of the discount for services provided to elementary schools, secondary schools, and libraries and the universal service funding mechanisms as provided under § 254 of the Telecommunications Act of 1996, is hereby encouraged to make the discounts for intrastate services provided to elementary schools, secondary schools, and libraries for educational purposes as large as is prudently possible and to fund such discounts through the universal fund as provided in § 254 of the Telecommunications Act of 1996. The commission shall proceed as expeditiously as possible in implementing these discounts and the funding mechanism for intrastate services, consistent with the rules of the Federal Communications Commission aimed at the preservation and advancement of universal service.</p>				
<p>13. Security Equipment Payments</p>				
<p>1) A security equipment grant program shall be conducted through the Virginia Public School Authority, through the issuance of equipment notes in an amount estimated at up to \$6,000,000 in fiscal year 2017 and \$6,000,000 in fiscal year 2018 in conjunction with the Virginia Public School Authority technology notes program authorized in C.12. of this Item. Proceeds of the notes will be used to help offset the related costs associated with the purchase of appropriate security equipment that will improve and help ensure the safety of students attending public schools in Virginia.</p>				
<p>2) The Department of Education shall authorize amounts estimated at <del>\$4,949,979</del> \$4,924,392 the first year and <del>\$6,214,457</del> \$6,203,522 the second year from the Literary Fund to provide debt service payments for the security equipment grant programs conducted through the Virginia Public School Authority in fiscal years 2013, 2014, 2015, 2016, and 2017.</p>				
<p>3) It is the intent of the General Assembly to authorize sufficient Literary Fund revenues to pay debt service on the Virginia Public School Authority bonds or notes authorized for this program. In developing the proposed 2018-2020, and 2020-2022, and 2022-2024 biennial budgets for public education, the Department of Education shall include a recommendation to the Governor to authorize sufficient Literary Fund revenues to make debt service payments for these programs in fiscal years 2019, 2020, 2021, 2022, and 2023.</p>				
<p>4) In the event that, on any scheduled payment date of bonds or notes of the Virginia Public School Authority issued for the purpose described in § 22.1-166.2, Code of Virginia, and not benefiting from the provisions of either § 22.1-168 (iii), (iv) and (v), Code of Virginia, or § 22.1-168.1, Code of Virginia, the available moneys in the Literary Fund are less than the amounts authorized for debt service due on such bonds or notes on such date, there is hereby appropriated to the Virginia Public School Authority from the general fund a sum equal to such deficiency.</p>				
<p>5) The Chairman of the Board of Commissioners of the Virginia Public School Authority shall, on or before November 1 of each year, deliver to the Governor and the Secretary of Finance a certificate setting forth his estimate of total debt service during each fiscal year of the biennium on bonds and notes issued and projected to be issued during such biennium. The Governor's budget submission each year shall include provisions for the payment of debt service pursuant to paragraph 1) above.</p>				
<p>6) Grant award funds from the issuance of up to \$6,000,000 in fiscal year 2017 and \$6,000,000 in fiscal year 2018 in equipment notes shall be distributed to eligible school divisions. The grant awards will be based on a competitive grant basis of up to \$100,000 per school division. School divisions will be permitted to apply annually for grant funding. For purposes of this program, eligible schools shall include schools that are subject to state accreditation and reporting membership in grades K through 12 as of September 30, 2016, for the fiscal year 2017 issuance, and September 30, 2017, for the fiscal year 2018 issuance, as well as regional vocational centers, special education centers, alternative education centers,</p>				

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regular school year Governor's Schools, and the Virginia School for the Deaf and the Blind.

7) School divisions would submit their application to Department of Education by August 1 of each year based on the criteria developed by the Department of Education in collaboration with the Department of Criminal Justice Services who will provide requested technical support. Furthermore, the Department of Education will have the authority to make such grant awards to such school divisions.

8) It is also the intent of the General Assembly that the total amount of the grant awards shall not exceed \$30,000,000 over any ongoing revolving five year period.

9) Required local match:

a) Localities are required to provide a match for these funds equal to 25 percent of the grant amount. The Superintendent of Public Instruction is authorized to reduce the required local match for school divisions with a composite index of local ability-to-pay below 0.2000. The Virginia School for the Deaf and the Blind is exempt from the match requirement.

b) Pursuant to § 15.2-1302, Code of Virginia, and in the event that two or more school divisions became one school division, whether by consolidation of only the school divisions or by consolidation of the local governments, such resulting division shall be provided funding through this program on the basis of having the same number of school divisions as existed prior to September 30, 2000.

c) Local school divisions shall maximize the use of available federal funds, including E-Rate Funds, and to the extent possible, use such funds to supplement the program and meet the goals of this program.

14. Virginia Preschool Initiative Payments

a.1) It is the intent of the General Assembly that a payment estimated at ~~\$70,657,776~~ \$69,351,713 the first year and ~~\$70,912,925~~ \$70,950,500 the second year from the Lottery Proceeds Fund shall be disbursed by the Department of Education to schools and community-based organizations to provide quality preschool programs for at-risk four-year-olds who are residents of Virginia and unserved by Head Start program funding. In no event shall distributions from the Lottery Proceeds Fund be made directly to community-based or private providers.

2) These state funds and required local matching funds shall be used to provide programs for at-risk four-year-old children, which include quality preschool education, health services, social services, parental involvement and transportation. It shall be the policy of the Commonwealth that state funds and required local matching funds for the Virginia Preschool Initiative not be used for capital outlay. Programs must provide full-day or half-day and, at least, school-year services.

3) The Department of Education, in cooperation with the Council on Child Day Care and Early Childhood Programs, shall establish academic standards that are in accordance with appropriate preparation for students to be ready to successfully enter kindergarten. These standards shall be established in such a manner as to be measurable for student achievement and success. Students shall be required to be evaluated in the fall and in the spring by each participating school division and the school divisions must certify that the Virginia Preschool Initiative program follows the established standards in order to receive the funding for quality preschool education and criteria for the service components. Such guidelines shall be consistent with the findings of the November 1993 study by the Board of Education, the Department of Education, and the Council on Child Day Care and Early Childhood Programs.

4) a) Grants shall be distributed based on an allocation formula providing the state share of a \$6,125 grant for 100 percent of the unserved at-risk four-year-olds in each locality for a full-day program. The number of unserved at-risk four-year-olds in each locality shall be based on the projected number of kindergarten students, updated once each biennium for the Governor's introduced biennial budget. Half-day programs shall operate for a minimum of three hours of classroom instructional time per day, excluding breaks for



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poverty guidelines in the case of students with special needs or disabilities. Up to 15 percent of a division's slots may be filled based on locally established eligibility criteria so as to meet the unique needs of at-risk children in the community.

2) The Department of Education is directed to compile from each school division the aggregated information as to the number of enrolled students whose families are (i) at or below 130 percent of poverty, and (ii) above 130 percent but below 200 percent of poverty. The Department shall report this information annually, after the application and fall participation reports are submitted to the Department from the school divisions, to the Chairmen of House Appropriations and Senate Finance Committees. In addition, the Department will post and maintain the summary information by division on the Department's website in keeping with current student privacy policies.

e.1) The Department of Education and the Council on Child Day Care and Early Childhood Programs shall provide technical assistance for the administration of this grant program to provide assistance to localities in developing a comprehensive, coordinated, quality preschool program for serving at-risk four-year-old children.

2) A pre-application session shall be provided by the Department and the Council on Child Day Care and Early Childhood Programs prior to the proposal deadline. The Department shall provide interested localities with information on models for service delivery, methods of coordinating funding streams, such as funds to match federal IV-A child care dollars, to maximize funding without supplanting existing sources of funding for the provision of services to at-risk four-year-old children. A priority for technical assistance in the design of programs shall be given to localities where the majority of the at-risk four-year-old population is currently unserved.

f. The Department of Education shall include in the program's application package specific information regarding the potential availability of funding for supplemental grants that may be used for one-time expenses, other than capital, related to start-up or expansion of programs, with priority given to proposals for expanding the use of partnerships with either nonprofit or for-profit providers. Furthermore, the Department is mandated to communicate to all eligible school divisions the remaining available balances in the program's adopted budget, after the fall participation reports have been submitted and finalized for such grants.

**15. Early Reading Intervention Payments**

a. An additional payment of ~~\$18,142,819~~ \$20,057,840 the first year and ~~\$18,203,496~~ \$20,098,089 the second year from the Lottery Proceeds Fund shall be disbursed by the Department of Education to local school divisions for the purposes of providing early reading intervention services to students in grades kindergarten through 3 who demonstrate deficiencies based on their individual performance on diagnostic tests which have been approved by the Department of Education. The Department of Education shall review the tests of any local school board which requests authority to use a test other than the state-provided test to ensure that such local test uses criteria for the early diagnosis of reading deficiencies which are similar to those criteria used in the state-provided test. The Department of Education shall make the state-provided diagnostic test used in this program available to local school divisions. School divisions shall report the results of the diagnostic tests to the Department of Education on an annual basis at a time to be determined by the Superintendent of Public Instruction.

b. These payments shall be based on the state's share of the cost of providing two and one-half hours of additional instruction each week for an estimated number of students in each school division at a student to teacher ratio of five to one. The estimated number of students in each school division in each year shall be determined by multiplying the projected number of students reported in each school division's fall membership in grades kindergarten, 1, 2, and 3 by the percent of students who are determined to need services based on diagnostic tests administered in the previous year in that school division and adjusted in the following manner:

	<b>Year 1</b>	<b>Year 2</b>
Kindergarten	100%	100%
Grade 1	100%	100%

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Grade 2	100%		100%	
Grade 3	100%		100%	

c. These payments are available to any school division that certifies to the Department of Education that an intervention program will be offered to such students and that each student who receives an intervention will be assessed again at the end of that school year. At the beginning of the school year, local school divisions shall partner with the parents of those third grade students in the division who demonstrate reading deficiencies, discussing with them a developed plan for remediation and retesting. Such intervention programs, at the discretion of the local school division, may include, but not be limited to, the use of: special reading teachers; trained aides; full-time early literacy tutors; volunteer tutors under the supervision of a certified teacher; computer-based reading tutorial programs; aides to instruct in-class groups while the teacher provides direct instruction to the students who need extra assistance; or extended instructional time in the school day or year for these students. Localities receiving these payments are required to match these funds based on the composite index of local ability-to-pay.

d. In the event that a school division does not use the diagnostic test provided by the Department of Education in the year that serves as the basis for updating the funding formula for this program but has used it in past years, the Department of Education shall use the most recent data available for the division for the state-provided diagnostic test.

e. The results of all reading diagnostic tests and reading remediation shall be discussed with the student and the student's parent prior to the student being promoted to grade four.

f. Funds appropriated for Standards of Quality Prevention, Intervention, and Remediation, Remedial Summer School, or At-Risk Add-On may also be used to meet the requirements of this program.

#### 16. Standards of Learning Algebra Readiness Payments

a. An additional payment of ~~\$12,921,689~~ \$12,968,589 the first year and ~~\$12,955,205~~ \$12,775,341 the second year from the Lottery Proceeds Fund shall be disbursed by the Department of Education to local school divisions for the purposes of providing math intervention services to students in grades 6, 7, 8 and 9 who are at-risk of failing the Algebra I end-of-course test, as demonstrated by their individual performance on diagnostic tests which have been approved by the Department of Education. *In the second year, this reflects \$199,992 apportioned to each school division to account for the cost of the diagnostic test.* The Department of Education shall review the tests to ensure that such local test uses state-provided criteria for diagnosis of math deficiencies which are similar to those criteria used in the state-provided test. The Department of Education shall make the state-provided diagnostic test used in this program available to local school divisions. School divisions shall report the results of the diagnostic tests to the Department of Education on an annual basis at a time to be determined by the Superintendent of Public Instruction.

b. These payments shall be based on the state's share of the cost of providing two and one-half hours of additional instruction each week for an estimated number of students in each school division at a student to teacher ratio of ten to one. The estimate number of students in each school division shall be determined by multiplying the projected number of students reported in each school division's fall membership by the percent of students that qualify for the federal Free Lunch Program.

c. These payments are available to any school division that certifies to the Department of Education that an intervention program will be offered to such students and that each student who receives an intervention will be assessed again at the end of that school year. Localities receiving these payments are required to match these funds based on the composite index of local ability-to-pay.

#### 17. School Construction Grants Program Escrow

Notwithstanding the requirements of § 22.1-175.5, Code of Virginia, school divisions are permitted to withdraw funds from local escrow accounts established pursuant to § 22.1-175.5 to pay for recurring operational expenses incurred by the school division. Localities are not

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required to provide a local match of the withdrawn funds.

18. English as a Second Language Payments

A payment of ~~\$52,499,242~~ \$53,267,521 the first year *from the Lottery Proceeds Fund* and ~~\$54,904,712~~ \$55,594,856 the second year from the general fund shall be disbursed by the Department of Education to local school divisions to support the state share of 17 professional instructional positions per 1,000 students for whom English is a second language. Local school divisions shall provide a local match based on the composite index of local ability-to-pay.

19. Special Education Instruction Payments

a. The Department of Education shall establish rates for all elements of Special Education Instruction Payments.

b. Out of the appropriations in this Item, the Department of Education shall make available, subject to implementation by the Superintendent of Public Instruction, an amount estimated at ~~\$87,362,717~~ \$84,678,643 the first year and ~~\$90,918,109~~ the second year ~~\$32,680,039~~ *from the general fund* and \$54,898,940 from the Lottery Proceeds Fund the second year for the purpose of the state's share of the tuition rates for approved public school regional programs. Notwithstanding any contrary provision of law, the state's share of the tuition rates shall be based on the composite index of local ability-to-pay.

c. Out of the amounts for Financial Assistance for Categorical Programs, ~~\$34,872,556~~ \$34,904,851 the first year and ~~\$35,217,880~~ \$35,588,024 the second year from the general fund is appropriated to permit the Department of Education to enter into agreements with selected local school boards for the provision of educational services to children residing in certain hospitals, clinics, and detention homes by employees of the local school boards. The portion of these funds provided for educational services to children residing in local or regional detention homes shall only be determined on the basis of children detained in such facilities through a court order issued by a court of the Commonwealth. The selection and employment of instructional and administrative personnel under such agreements will be the responsibility of the local school board in accordance with procedures as prescribed by the local school board. State payments for the first year to the local school boards operating these programs will be based on certified expenditures from the fourth quarter of FY 2016 and the first three quarters of FY 2017. State payments for the second year to the local school boards operating these programs will be based on certified expenditures from the fourth quarter of FY 2017 and the first three quarters of FY 2018.

20. Vocational Education Instruction Payments

a. It is the intention of the General Assembly that the Department of Education explore initiatives that will encourage greater cooperation between jurisdictions and the Virginia Community College System in meeting the needs of public school systems.

b. This appropriation includes \$1,800,000 the first year from the Lottery Proceeds Fund and \$1,800,000 the second year from the Lottery Proceeds Fund for secondary vocational-technical equipment. A base allocation of \$2,000 each year shall be available for all divisions, with the remainder of the funding distributed on the basis of student enrollment in secondary vocational-technical courses. State funds received for secondary vocational-technical equipment must be used to supplement, not supplant, any funds currently provided for secondary vocational-technical equipment within the locality. Local school divisions are not required to provide a local match in order to receive these state funds.

c.1) This appropriation includes an additional \$2,000,000 the first year and \$2,000,000 the second year from the Lottery Proceeds Fund to update vocational-technical equipment to industry standards providing students with classroom experience that translates to the workforce.

2) Of this amount, \$1,400,000 the first year and \$1,400,000 the second year is provided for vocational-technical equipment in high-demand, high-skill, and fast-growth industry sectors as identified by the Virginia Board of Workforce Development and based on data from the Bureau of Labor Statistics and the Virginia Employment Commission.

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3) Of this amount, \$600,000 the first year and \$600,000 the second year will be awarded based on competitive innovative program grants for high-demand and fast-growth industry sectors with priority given to state-identified challenged schools, the Governor's Science Technology, Engineering, and Mathematics (STEM) academies, and the Governor's Health Science Academies.				
d. This appropriation includes \$500,000 the first year and \$500,000 the second year from the Lottery Proceeds Fund to support credentialing testing materials for students and professional development for instructors in science, technology, engineering, and mathematics-health sciences (STEM-H) career and technical education programs.				
<b>21. Adult Education Payments</b>				
State funds shall be used to reimburse general adult education programs on a fixed cost per pupil or cost per class basis. No state funds shall be used to support vocational noncredit courses.				
<b>22. General Education Payments</b>				
a. This appropriation includes \$2,410,988 the first year and \$2,410,988 the second year from the Lottery Proceeds Fund to support Race to GED. Out of this appropriation, \$465,375 the first year and \$465,375 the second year shall be used for PluggedIn VA.				
b. This appropriation includes \$2,774,478 the first year and <del>\$2,774,478</del> \$1,387,240 the second year from the Lottery Proceeds Fund to support Project Graduation and any associated administrative and contractual service expenditures related to this initiative.				
<b>23. Virtual Virginia Payments</b>				
a. From appropriations in this Item, the Department of Education shall provide assistance for the Virtual Virginia program.				
b. This appropriation includes \$498,000 the first year and \$498,000 the second year from the general fund to expand the Virtual Virginia full-time pilot program to 200 students in grades nine through 12.				
c. This appropriation includes \$260,000 the first year and \$330,000 the second year from the general fund to expand the virtual mathematics outreach pilot program to offer additional mathematics courses.				
d. The local share of costs associated with the operation of the Virtual Virginia program shall be computed using the composite index of local ability-to-pay.				
<b>24. Individual Student Alternative Education Program (ISAEP) Payments</b>				
Out of this appropriation, \$2,247,581 the first year from the Lottery Proceeds Fund and \$2,247,581 in the second year from the Lottery Proceeds Fund shall be provided for the secondary schools' Individual Student Alternative Education Program (ISAEP), pursuant to Chapter 488 and Chapter 552 of the 1999 Session of the General Assembly.				
<b>25. Foster Children Education Payments</b>				
a. An additional state payment is provided from the Lottery Proceeds Fund for the prior year's local operations costs, as determined by the Department of Education, for each pupil of school age as defined in § 22.1-1, Code of Virginia, not a resident of the school division providing his education (a) who has been placed in foster care or other custodial care within the geographical boundaries of such school division by a Virginia agency, whether state or local, which is authorized under the laws of this Commonwealth to place children; (b) who has been placed in an orphanage or children's home which exercises legal guardianship rights; or (c) who is a resident of Virginia and has been placed, not solely for school purposes, in a child-caring institution or group home.				
b. This appropriation provides <del>\$7,933,839</del> \$9,198,359 the first year and <del>\$7,937,440</del> \$9,595,565 the second year from the Lottery Proceeds Fund to support children attending public school who have been placed in foster care or other such custodial care across jurisdictional lines, as provided by subsections A and B of § 22.1-101.1, Code of Virginia. To				

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the extent these funds are not adequate to cover the full costs specified therein, the Department is authorized to expend unobligated balances in this Item for this support.				
26. Sales Tax Payments				
a. This is a sum-sufficient appropriation for distribution to counties, cities and towns a portion of net revenue from the state sales and use tax, in support of the Standards of Quality (Title 22.1, Chapter 13.2, Code of Virginia) (See the Attorney General's opinion of August 3, 1982).				
b. Certification of payments and distribution of this appropriation shall be made by the State Comptroller.				
c. The distribution of state sales tax funds shall be made in equal bimonthly payments at the middle and end of each month.				
27. Adult Literacy Payments				
a. Appropriations in this Item include \$125,000 the first year and \$125,000 the second year from the general fund for the ongoing literacy programs conducted by Mountain Empire Community College.				
b. Out of this appropriation, the Department of Education shall provide \$100,000 the first year and \$100,000 the second year from the general fund for the Virginia Literacy Foundation grants to support programs for adult literacy including those delivered by community-based organizations and school divisions providing services for adults with 0-9th grade reading skills.				
28. Governor's School Payments				
a. Out of the amounts for Governor's School Payments, the Department of Education shall provide assistance for the state share of the incremental cost of regular school year Governor's Schools based on each participating locality's composite index of local ability-to-pay. Participating school divisions must certify that no tuition is assessed to students for participation in this program.				
b.1) Out of the amounts for Governor's School Payments, the Department of Education shall provide assistance for the state share of the incremental cost of summer residential Governor's Schools and Foreign Language Academies to be based on the greater of the state's share of the composite index of local ability-to-pay or 50 percent. Participating school divisions must certify that no tuition is assessed to students for participation in this program if they are enrolled in a public school.				
2) Out of the amounts for Governor's School Payments, \$93,000 the first year and \$41,000 the second year is provided to support the Hanover Regional Summer Governor's School for Career and Technical Advancement, which was established pursuant to Chapter 425, 2014 Acts of Assembly, and Chapter 665, 2015 Acts of Assembly.				
c. For the Summer Governor's Schools and Foreign Language Academies programs, the Superintendent of Public Instruction is authorized to adjust the tuition rates, types of programs offered, length of programs, and the number of students enrolled in order to maintain costs within the available state and local funds for these programs.				
d. It shall be the policy of the Commonwealth that state general fund appropriations not be used for capital outlay, structural improvements, renovations, or fixed equipment costs associated with initiation of existing or proposed Governor's schools. State general fund appropriations may be used for the purchase of instructional equipment for such schools, subject to certification by the Superintendent of Public Instruction that at least an equal amount of funds has been committed by participating school divisions to such purchases.				
e. The Board of Education shall not take any action that would increase the state's share of costs associated with the Governor's Schools as set forth in this Item. This provision shall not prohibit the Department of Education from submitting requests for the increased costs of existing programs resulting from updates to student enrollment for school divisions currently participating in existing programs or for school divisions that begin participation in existing programs.				

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f.1) Regular school year Governor's Schools are funded through this Item based on the state's share of the incremental per pupil cost for providing such programs for each student attending a Governor's School up to a cap of 1,800 students per Governor's School in the first year and a cap of 1,800 students per Governor's School in the second year. This incremental per pupil payment shall be adjusted for the composite index of the school division that counts such students attending an academic year Governor's School in their March 31 Average Daily Membership. It is the intent of the General Assembly that this incremental per pupil amount be in addition to the basic aid per pupil funding provided to the affected school division for such students. Therefore, local school divisions are encouraged to provide the appropriate portion of the basic aid per pupil funding to the Governor's Schools for students attending these programs, adjusted for costs incurred by the school division for transportation, administration, and any portion of the day that the student does not attend a Governor's School.				
2) Students attending a revolving Academic Year Governor's School program for only one semester shall be counted as 0.50 of a full-time equivalent student and will be funded for only fifty percent of the full-year funded per pupil amount. Funding for students attending a revolving Academic Year program will be adjusted based upon actual September 30th and January 30th enrollment each fiscal year. For purposes of this Item, revolving programs shall mean Academic Year Governor's School programs that admit students on a semester basis.				
3) Students attending a continuous, non-revolving Academic Year Governor's School program shall be counted as a full-time equivalent student and will be funded for the full-year funded per pupil amount. Funding for students attending a continuous, non-revolving Academic Year Governor's School program will be adjusted based upon actual September 30th student enrollment each fiscal year. For purposes of this Item, continuous, non-revolving programs shall mean Academic Year Governor's School programs that only admit students at the beginning of the school year. Fairfax County Public Schools shall not reduce local per pupil funding for the Thomas Jefferson Governor's School below the amounts appropriated for the 2003-2004 school year.				
4) This appropriation includes an additional <del>\$1,370,160</del> \$1,223,796 the first year and <del>\$1,680,704</del> \$1,250,538 the second year from the general fund to provide the state's share of a 2.5 percent increase in the tuition amount, and the state's share of \$50.00 per course per student adjustment added after the 2.5 percent increase. The 2.5 percent increase and the \$50.00 per course adjustment shall only be effective for fiscal year 2017 and fiscal year 2018. The local funding contribution of each school division participating in an Academic Year Governor's Schools program in either year of the biennium shall not be reduced on a per pupil basis below the amount in fiscal year 2016.				
5) The Department of Education shall review the distribution methodology used to determine the Governor's School tuition payments by November 4, 2016, and submit the findings of the review to the Chairmen of House Appropriations and Senate Finance Committees. The review shall include, but not be limited to, consideration of the length of the academic program day with the intent to determine and provide an equitable distribution of tuition payments based on the actual length of academic program day, the appropriate state and local shares, and the academic model used by Governor's Schools in the configuration of the funding formula.				
g. All regional Governor's Schools are encouraged to provide full-day grades 9 through 12 programs.				
h. Out of the appropriation included in paragraph 36, a.1., of this Item, <del>\$103,041</del> the first year and <del>\$357,852</del> the second year from the general fund is included for the Academic Year Governor's School funding allocation to increase the per pupil amount up to an additional <del>\$70.19</del> the first year and <del>\$119.98</del> the second year per pupil amount as an add-on for a 2.0 percent compensation incentive supplement with an effective date of December 1, 2016. In order to receive the state's allocation for the 2.0 percent compensation incentive supplement in the first year, participating Academic Year Governor's Schools shall comply with the provisions set out in paragraph 36 of this Item.				
i. Out of this appropriation, \$100,000 the first year from the general fund is available for the Department of Education to develop, in collaboration with the school divisions and community colleges in the Roanoke Valley region, a model proposal that establishes a				

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Regional Career and Technical Governor's School Center.

*j. Out of the appropriation included in paragraph 40 of this item, \$135,366 the second year from the general fund is included in the Academic Year Governor's School funding allocation to increase the per pupil amount the second year as an add-on for a compensation supplement payment equal to 2.0 percent of base pay on February 15, 2018, for Academic Year Governor's School instructional and support positions.*

29. School Nutrition Payments

It is provided that, subject to implementation by the Superintendent of Public Instruction, no disbursement shall be made out of the appropriation for school nutrition to any locality in which the schools permit the sale of competitive foods in food service facilities or areas during the time of service of food funded pursuant to this Item.

30. School Breakfast Payments

a. Out of this appropriation, ~~\$3,926,014~~ \$4,887,179 the first year and ~~\$4,226,897~~ \$5,492,229 the second year from the Lottery Proceeds Fund is included to continue a state funded incentive program to maximize federal school nutrition revenues and increase student participation in the school breakfast program. These funds are available to any school division as a reimbursement for breakfast meals served that are in excess of the baseline established by the Department of Education. The per meal reimbursement shall be \$0.22; however, the department is authorized, but not required to reduce this amount proportionately in the event that the actual number of meals to be reimbursed exceeds the number on which this appropriation is based so that this appropriation is not exceeded.

b. In order to receive these funds, school divisions must certify that these funds will be used to supplement existing funds provided by the local governing body and that local funds derived from sources that are not generated by the school nutrition programs have not been reduced or eliminated. The funds shall be used to improve student participation in the school breakfast program. These efforts may include, but are not limited to, reducing the per meal price paid by students, reducing competitive food sales in order to improve the quality of nutritional offerings in schools, increasing access to the school breakfast program, or providing programs to increase parent and student knowledge of good nutritional practices. In no event shall these funds be used to reduce local tax revenues below the level appropriated to school nutrition programs in the prior year. Further, these funds must be provided to the school nutrition programs and may not be used for any other school purpose.

c.1) Out of this appropriation, \$1,074,000 the first year and \$1,074,000 the second year from the general fund is provided to fund an elementary school After-the-Bell Model breakfast pilot program available on a voluntary basis only to elementary schools where student eligibility for free or reduced lunch exceeds 45.0 percent for the participating eligible elementary school, and to provide additional reimbursement for eligible meals served in the current traditional school breakfast program at all grade levels in any participating school. The Department of Education is directed to ensure that only eligible elementary schools receive reimbursement funding for participating in the After-the-Bell school breakfast model. The elementary schools participating in the pilot program shall evaluate the educational impact of the models implemented that provide school breakfasts to students after the first bell of the school day, based on the guidelines developed by the Department of Education and submit the required report to the Department of Education no later June 30, 2017 for the 2016-2017 school year and no later than June 30, 2018 for the 2017-2018 school year.

2) The Department of Education shall communicate, through Superintendent's Memo, to school divisions the types of breakfast serving models and the criteria that will meet the requirements for this State reimbursement, which may include, but are not limited to, breakfast in the classroom, grab and go breakfast, or a breakfast after first period. School divisions may determine the breakfast serving model that best applies to its students, so long as it occurs after the instructional day has begun. For the 2016-2017 and 2017-2018 school years, the Department of Education shall monthly transfer to each school division a reimbursement rate of \$0.05 per breakfast meal that meets either of the established criteria.

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3) No later than July 1, 2016 for the 2016-2017 school year and no later than July 1, 2017 for the 2017-2018 school year, the Department of Education shall provide for a pilot breakfast program application process for school divisions with eligible elementary schools, including guidelines regarding specified required data to be compiled from the prior school year or years and during the one-year pilot. The number of approved applications shall be based on the estimated number of pilot sites that can be accommodated within the approved funding level. The reporting requirements must include: student attendance and tardy arrivals, office discipline referrals, student achievement measures, teachers' responses to the impact of the pilot program before and after implementation, and the financial impact on the division's school food program. The Department of Education shall collect and compile the results of the pilot breakfast program and shall submit the report to the Governor and the Chairmen of the House Appropriations and Senate Finance Committees no later than August 1 following each school year.				
31. Clinical Faculty and Mentor Teacher Program Payments				
This appropriation includes \$1,000,000 the first year and \$1,000,000 the second year from the Lottery Proceeds Fund to be paid to local school divisions for statewide Mentor Teacher Programs to assist pre-service teachers and beginning teachers to make a successful transition into full-time teaching. This appropriation also includes \$318,750 the first year and \$318,750 the second year from the general fund for Clinical Faculty programs to assist pre-service teachers and beginning teachers to make a successful transition into full-time teaching. Such programs shall include elements which are consistent with the following:				
a. An application process for localities and school/higher education partnerships that wish to participate in the programs;				
b. For Clinical Faculty programs only, provisions for a local funding or institutional commitment of 50 percent, to match state grants of 50 percent;				
c. Program plans which include a description of the criteria for selection of clinical faculty and mentor teachers, training, support, and compensation for clinical faculty and mentor teachers, collaboration between the school division and institutions of higher education, the clinical faculty and mentor teacher assignment process, and a process for evaluation of the programs;				
d. The Department of Education shall allow flexibility to local school divisions and higher education institutions regarding compensation for clinical faculty and mentor teachers consistent with these elements of the programs; and				
e. It is the intent of the General Assembly that no preference between pre-service or beginning teacher programs be construed by the language in this Item. School divisions operating beginning teacher mentor programs shall receive equal consideration for funding.				
32. Career Switcher/Alternative Licensure Payments				
Appropriations in this Item include \$279,983 the first year and \$279,983 the second year from the general fund to provide grants to school divisions that employ mentor teachers for new teachers entering the profession through the alternative route to licensure as prescribed by the Board of Education.				
33. Virginia Workplace Readiness Skills Assessment				
Appropriations in this Item include \$308,655 the first year and \$308,655 the second year from the general fund to provide support grants to school divisions for standard diploma graduates. To provide flexibility, school divisions may use the state grants for the actual assessment or for other industry certification preparation and testing.				
34. Reading Specialists Initiative				
a. An additional payment of \$1,476,790 the first year and \$1,476,790 the second year from the general fund shall be disbursed by the Department of Education to qualifying local school divisions for the purpose of providing a reading specialist for any school with a third grade that has a school-wide pass rate of less than 75 percent on the reading Standards of Learning (SOL) assessments.				

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b. These payments shall be based on the state's share of the cost of providing one reading specialist per qualifying school. School divisions with schools participating in this program in fiscal year 2016 shall be eligible to receive funding at 100 percent of the state share the first year and 50 percent of the state share the second year for the same schools and such schools are granted a one-year extension of the two-year waiver referenced in subsection c. for a third year in fiscal year 2018. The Department of Education is authorized to disburse additional payments to divisions from any remaining funds each year to support additional qualifying schools and shall give priority to such schools with the lowest SOL pass rates for reading or the greatest number of years accredited with warning in English. Payments to school divisions in support of such additional qualifying schools each year shall be based on 100 percent of the state share of cost.

c. These payments are available to any school division with a qualifying school that (1) certifies to the Department of Education that the division has hired a reading specialist to provide direct services to children reading below grade level in the school to improve reading achievement and (2) applies and receives a waiver for up to two years from the Board of Education for the administration of third grade SOL assessments in science or history and social science or both for the purpose of creating additional instructional time for reading specialists to work with students reading below grade level to improve reading achievement.

d. These payments also are available to any school division with a qualifying school that certifies to the Department of Education that the division is supporting tuition for collegiate programs and instruction for currently employed instructional school personnel to earn the credentials necessary to meet licensure requirements to be endorsed as a reading specialist.

e. School divisions receiving these payments are required to match these funds based on the composite index of local ability-to-pay.

35. Math/Reading Instructional Specialist Initiative

a. Included in this appropriation is \$1,834,538 the first year and \$1,834,538 the second year from the general fund in additional payments for reading or math instructional specialists at underperforming schools. From this amount, the state share of one reading or math specialist shall be provided to local school divisions with schools which have been denied accreditation or were accredited with warning for the third consecutive year based on school accreditation ratings for the 2015-2016 school year. Such schools shall be eligible to receive the state share of funding for both years of the biennium. In addition, following the academic review required by § 22.1-253.13:3, Code of Virginia, the Department of Education shall identify up to 20 additional schools to also receive the state share of a reading or math instructional specialist. The schools eligible for such personnel are those which were accredited with warning for the second consecutive year based on school accreditation ratings for the 2014-2015 and 2015-2016 school years and that have shown no or limited improvement in student achievement in the past year. Such schools shall also be eligible to receive the state share of funding for both years of the biennium. If, following certification from a school division that it will not participate in the program, the Department is authorized to identify additional eligible schools.

b. These payments are available to any school division with a qualifying school that certifies to the Department of Education that the division has (1) hired a math or reading instructional specialist, or (2) is supporting tuition for collegiate programs and instruction for currently employed instructional school personnel to earn the credentials necessary to meet licensure requirements to be endorsed as a math specialist or a reading specialist. Localities receiving these payments are required to match these funds based on the composite index of local ability-to-pay.

c. The Department of Education is authorized to utilize available funding appropriated to the Early Reading Specialist Initiative contained in this Item to pay for instructional specialists at additional eligible schools, or to support tuition for collegiate programs and instruction for currently employed instructional school personnel at additional eligible schools to earn the credentials necessary to meet licensure requirements to be endorsed as an instructional specialist.

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36. Compensation Supplements				
<p>a.1) The appropriation in this Item includes \$49,007,999 the first year and \$85,349,461 the second year from the general fund for the state share of a payment equivalent to a 2.0 percent salary incentive increase, effective December 1, 2016; for funded SOQ instructional and support positions. Funded SOQ instructional positions shall include the teacher, guidance counselor, librarian, instructional aide, principal, and assistant principal positions funded through the SOQ staffing standards for each school division in the biennium. This amount includes \$103,041 the first year and \$357,852 the second year referenced in paragraph 28: h., for the Academic Year Governor's Schools for a 2.0 percent salary incentive increase, effective December 1, 2016; for instructional and support positions.</p>				
<p>2) It is the intent that the instructional and support position salaries be improved in school divisions throughout the state by at least an average of 2.0 percent in the first year. Sufficient funds are appropriated in this act to finance, on a statewide basis, the state share of a 2.0 percent salary increase for funded SOQ instructional and support positions, effective December 1, 2016, to school divisions which certify to the Department of Education, by October 1, 2016, that salary increases of a minimum average of 2.0 percent have been provided in the first year by December 1, 2016, to instructional and support personnel. In certifying that the salary increases have been provided, school divisions may not include any salary increases that were provided in the first year solely to offset the cost of required member contributions to the Virginia Retirement System under § 51.1-144, Code of Virginia.</p>				
<p>b. The state funds for which the division is eligible to receive shall be matched by the local government, based on the composite index of local ability-to-pay, which shall be calculated using an effective date of December 1, 2016, as the basis for the local match requirement for both funded SOQ instructional and support positions.</p>				
<p>c. This funding is not intended as a mandate to increase salaries.</p>				
37. Broadband Connectivity Capabilities				
<p>By November 1 each year, school divisions shall report to the Department of Education the status of broadband connectivity capability of schools in the division on a form to be provided by the Department. Such report shall include school-level information on the method of Internet service delivery, the level of bandwidth capacity and the degree such capacity is sufficient for delivery of school-wide digital resources and instruction, degree of internet connectivity via Wi-Fi, cost information related to Internet connectivity, data security, and such other pertinent information as determined by the Department of Education. The Department shall provide a summary of the division responses in a report to be made available on its agency Web site.</p>				
38. Supplemental Lottery Per Pupil Allocation Payments				
<p>a. Out of this appropriation, an amount estimated at <del>\$36,581,405</del> \$36,581,531 the first year and <del>\$157,167,568</del> \$191,267,718 the second year from the Lottery Proceeds Fund shall be disbursed by the Department of Education to local school divisions to support the state share of an estimated <del>\$52.42</del> \$52.56 per pupil the first year and <del>\$224.43</del> \$274.12 per pupil the second year in adjusted March 31 average daily membership. These per pupil amounts are subject to change for the purpose of payment to school divisions based on the actual March 31 ADM collected each year. No locality shall be required to maintain a per pupil expenditure each year from local funds which is greater than the per pupil amount expended by the locality for such purposes in the year upon which the 2016-18 biennial Standards of Quality expenditure data were based.</p>				
<p>b. Of the amounts listed above, <i>school divisions are permitted to spend such funds on both recurring and nonrecurring expenses in a manner that best supports the needs of the schools divisions. No local match is required. no more than 50 percent shall be used for recurring costs and at least 50 percent shall be spent on nonrecurring expenditures by the relevant school divisions.</i> Nonrecurring costs shall include school construction, additions, infrastructure, site acquisition, renovations, technology, school buses and other expenditures related to modernizing classroom equipment, and debt service payments on school projects completed during the last 10 years.</p>				
<p>c. Any lottery funds provided to school divisions from this item that are unexpended as of</p>				

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June 30, 2017, and June 30, 2018, shall be carried on the books of the locality to be appropriated to the school division in the following year.

*39. Special Education Endorsement Program*

*a. Notwithstanding § 22.1-290.02, Code of Virginia, out of this appropriation, \$550,000 the first year and \$437,186 the second year from the general fund is provided for traineeships and program operation grants that shall be awarded to public Virginia institutions of higher education to prepare persons who are employed in the public schools of Virginia, state operated programs, or regional special education centers as special educators with a provisional license and enrolled either part-time or full-time in programs for the education of children with disabilities. Applicants shall be graduates of a regionally accredited college or university.*

*b. The award of such grants shall be made by the Department of Education, and the number of awards during any one year shall depend upon the amounts appropriated by the General Assembly for this purpose. The amount awarded for each traineeship shall be \$600 for a minimum of three semester hours of course work in areas required for the special education endorsement to be taken by the applicant during a single semester or summer session. Only one traineeship shall be awarded to a single applicant in a single semester or summer session.*

*40. Compensation Supplement*

*a.1) The appropriation in this item includes \$31,981,550 the second year from the general fund for the state share of a payment equivalent to a 2.0 percent salary incentive increase, effective February 15, 2018, for funded SOQ instructional and support positions. Funded SOQ instructional positions shall include the teacher, guidance counselor, librarian, instructional aide, principal, and assistant principal positions funded through the SOQ staffing standards for each school division in the biennium. This amount includes \$135,366 the second year referenced in paragraph 28. h., for the Academic Year Governor's Schools for a 2.0 percent salary incentive increase, effective February 15, 2018, for instructional and support positions.*

*2) It is the intent that the instructional and support position salaries be increased in school divisions throughout the state by at least an average of 2.0 percent during the 2016-18 biennium. Sufficient funds are appropriated in this act to finance, on a statewide basis, the state share of a 2.0 percent salary increase for funded SOQ instructional and support positions, effective February 15, 2018, to school divisions which certify to the Department of Education, by June 1, 2017, that salary increases of a minimum average of 2.0 percent have been or will have been provided during the 2016-18 biennium, either in the first year or in the second year or through a combination of the two years, to instructional and support personnel. In certifying that the salary increases have been provided, school divisions may not include any salary increases that were provided in the first year solely to offset the cost of required member contributions to the Virginia Retirement System under § 51.1-144, Code of Virginia.*

*b. This funding is not intended as a mandate to increase salaries.*

*41. Small School Division Enrollment Loss Fund*

*Out of this appropriation, \$7,258,009 the first year from the general fund is allocated to eligible school divisions that have realized and reported to the Department of Education a total of a five percent or more decline in average daily membership from March 31, 2011, to March 31, 2016, with a minimum dollar amount for such eligible school divisions of \$75,000. Such eligible school divisions shall receive an apportioned allocation as specified below:*

<b>DIVISION NAME</b>	<b>FY 2017</b>
ALLEGHANY	\$388,339
AMHERST	\$207,863
BATH	\$75,000
BEDFORD	\$411,294

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	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
BLAND				\$75,000
BOTETOURT				\$153,580
BRUNSWICK				\$251,930
BUCHANAN				\$187,525
BUENA VISTA				\$99,574
CAMPBELL				\$356,831
CARROLL				\$341,486
CHARLES CITY				\$75,000
CHARLOTTE				\$139,455
CRAIG				\$75,000
CUMBERLAND				\$75,000
DICKENSON				\$147,963
ESSEX				\$92,159
FLUVANNA				\$127,920
FRANKLIN CITY				\$77,994
GLOUCESTER				\$263,849
GRAYSON				\$184,921
HALIFAX				\$356,415
HIGHLAND				\$75,000
LANCASTER				\$75,000
LEE				\$231,524
MARTINSVILLE				\$134,728
MATHEWS				\$75,000
MECKLENBURG				\$182,522
NORTHAMPTON				\$75,000
NORTHUMBERLAND				\$75,000
PAGE				\$137,643
PETERSBURG				\$180,650
POQUOSON				\$123,514
PRINCE EDWARD				\$247,748
PULASKI				\$200,103
RAPPAHANNOCK				\$75,000
SMYTH				\$191,886
SURRY				\$75,000
SUSSEX				\$110,255
TAZEWELL				\$322,616
WESTMORELAND				\$89,180
WISE				\$416,542
<b>TOTAL</b>				<b>\$7,258,009</b>
140.	Federal Education Assistance Programs (17900).....			\$887,066,897
	Federal Assistance to Local Education Programs (17901).....	\$887,066,897	\$887,066,897	
	Fund Sources: Federal Trust.....	\$887,066,897	\$887,066,897	

Authority: PL 107-110, PL 108-446, PL 105-332, PL 105-220, PL 105-220, Federal Code.

a. The appropriation to support payments to school divisions from federal program grant funds is contained in this Item. *Such federal program grant funds are based on the latest estimates available to the Department of Education and are provided here for informational purposes and are subject to change within each state fiscal year by the awarding federal agency. The Department of Education is directed to update the estimated federal program grant fund amounts contained in the table in this item on a periodic basis throughout the biennium.*

**ITEM 140.**

**Item Details(\$)**  
**First Year      Second Year**  
**FY2017          FY2018**

**Appropriations(\$)**  
**First Year      Second Year**  
**FY2017          FY2018**

b. The Department of Education will encourage localities to apply for Medicaid reimbursements for eligible special education expenditures which will help to increase available state and local funding for other educational activities and expenditures.

c. It is the intent of the General Assembly that in any fiscal year when revenues received or budgeted by the Commonwealth, applicable to any public education program, which were derived from a federally funded grant or program and subsequently realize a decrease in such funding levels, that the Commonwealth will not supplant any of the decreased federal funding received or budgeted with any general fund revenues from the Commonwealth.

<i><b>Item Details of Federal Education</b></i>	<i><b>FY 2017</b></i>	<i><b>FY 2018</b></i>
<i><b>Assistance Program Awards (17900)</b></i>		
<i>Advanced Placement Test Fees</i>	\$248,459	\$248,459
<i>Project AWARE and YMHFA</i>	\$3,897,018	\$3,897,018
<i>Fresh Fruit and Vegetables</i>	\$6,689,276	\$6,689,276
<i>School Nutrition - Breakfast</i>	\$69,069,998	\$69,069,998
<i>School Nutrition - Lunch &amp; Special Milk</i>	\$247,830,902	\$247,830,902
<i>Special Education - Program Improvement*</i>	\$6,096,000	\$6,096,000
<i>Special Education - IDEA - Part B Section 611</i>	\$289,091,848	\$289,091,848
<i>Special Education - IDEA - Part B Section 619 - Preschool</i>	\$8,863,495	\$8,863,495
<i>Federal Preschool Expansion Grant* (VPI )</i>	\$36,553,065	\$36,553,065
<i>Consortium Incentive Grants</i>	\$133,333	\$133,333
<i>Title I - Neglected &amp; Delinquent Children</i>	\$1,528,103	\$1,528,103
<i>Title I Part A - Improving Basic Programs</i>	\$116,593,486	\$116,593,486
<i>Title II Part A - Improving Teacher Quality</i>	\$38,878,041	\$38,878,041
<i>Title II Part B - Math and Science Partnerships</i>	\$2,590,217	\$2,590,217
<i>Title III Part A - Language Acquisition State Grant</i>	\$12,253,779	\$12,253,779
<i>Title VI - Rural and Low-Income Schools</i>	\$2,242,591	\$2,242,591
<i>1003 G - State Set Aside</i>	\$7,517,560	\$7,517,560
<i>Adult Literacy</i>	\$13,097,115	\$13,097,115
<i>Vocational Education - Basic Grant</i>	\$23,892,611	\$23,892,611
	<b>\$887,066,897</b>	<b>\$887,066,897</b>
<i>Multi-year award*</i>		
Total for Direct Aid to Public Education.....		<b>\$7,455,931,091</b> <b>\$7,373,904,650</b>
Fund Sources: General.....	\$5,838,890,723 \$5,675,304,086	\$6,131,864,402 \$6,030,019,145
Special.....	\$895,000	\$895,000
Commonwealth Transportation.....	\$803,778 \$2,310,000	\$803,778 \$2,385,000
Trust and Agency.....	\$728,274,693 \$808,328,667	\$697,980,820 \$728,245,359
Federal Trust.....	\$887,066,897	\$887,066,897

ITEM 140.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
Grand Total for Department of Education, Central Office Operations.....			<b>\$7,561,326,911</b>	<b>\$7,821,708,681</b>
			<del>\$7,478,537,345</del>	<del>\$7,751,425,397</del>
General Fund Positions.....	150.00	150.00		144.00
Nongeneral Fund Positions.....	178.50	178.50		180.50
Position Level.....	328.50	328.50		324.50
Fund Sources: General.....	\$5,899,973,874	\$6,190,647,583		
	\$5,735,624,112	\$6,088,518,538		
Special.....	\$5,540,648	\$5,542,274		
Commonwealth Transportation.....	\$1,067,105	\$1,067,105		
	\$2,573,327	\$2,648,327		
Trust and Agency.....	\$728,554,252	\$698,260,383		
	\$808,608,226	\$728,524,922		
Federal Trust.....	\$926,191,032	\$926,191,336		

**§ 1-50. VIRGINIA SCHOOL FOR THE DEAF AND THE BLIND (218)**

141.	Instruction (19700).....			\$5,603,799	\$5,381,359
				\$5,673,799	\$5,451,359
	Classroom Instruction (19701).....	\$5,326,478	\$5,104,038		
		\$5,396,478	\$5,174,038		
	Occupational-Vocational Instruction (19703).....	\$153,121	\$153,121		
	Outreach and Community Assistance (19710).....	\$124,200	\$124,200		
	Fund Sources: General.....	\$4,767,081	\$4,544,641		
	Special.....	\$111,371	\$111,371		
	Federal Trust.....	\$725,347	\$725,347		
		\$795,347	\$795,347		

Authority: §§ 22.1-346 through 22.1-349, Code of Virginia.

This item includes \$222,440 the first year from the general fund to facilitate a change in the faculty and staff contract year as a result of adjusting the academic year to align with surrounding localities starting in school year 2016-2017.

142.	Residential Support (19800).....			\$5,202,587	\$5,098,280
				\$5,102,587	\$4,998,280
	Food and Dietary Services (19801).....	\$253,151	\$253,151		
		\$286,644	\$286,644		
	Medical and Clinical Services (19802).....	\$363,021	\$343,183		
	Physical Plant Services (19803).....	\$2,081,162	\$2,081,162		
	Residential Services (19804).....	\$2,143,444	\$2,058,975		
		\$2,009,951	\$1,925,482		
	Transportation Services (19805).....	\$361,809	\$361,809		
	Fund Sources: General.....	\$4,859,874	\$4,755,567		
	Special.....	\$204,220	\$204,220		
	Federal Trust.....	\$138,493	\$138,493		
		\$38,493	\$38,493		

Authority: Title 22.1, Chapter 19, Code of Virginia.

This item includes \$104,307 the first year from the general fund to facilitate a change in the faculty and staff contract year as a result of adjusting the academic year to align with surrounding localities starting in school year 2016-2017.

143.	Administrative and Support Services (19900).....			\$1,099,182	\$1,100,438
				\$1,129,182	\$1,130,438
	General Management and Direction (19901).....	\$1,099,182	\$1,100,438		
		\$1,129,182	\$1,130,438		
	Fund Sources: General.....	\$998,737	\$999,853		

ITEM 143.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
Special.....	\$77,043	\$77,115		
Federal Trust.....	\$23,402	\$23,470		
	\$53,402	\$53,470		

Authority: Title 22.1, Chapter 19, Code of Virginia.

A. Notwithstanding any other provision of law, the Virginia School for the Deaf and Blind is authorized to retain the income generated by the rental of facilities on the Staunton campus to outside entities.

B. The Board of Visitors of the Virginia School for the Deaf and the Blind is authorized to accept title to, and assume the ownership of, certain real property, with the improvements thereon, containing 0.95 acres, more or less, known as 4164 Stone Mountain Road, located near Coeburn in Wise County, Virginia, which real property was given and devised to the said school under the Will of Jerald Maxwell Grizzle, deceased alumnus of the school. Acceptance thereof shall be subject to the provisions of §2.2-1149, Code of Virginia. Once the property has been accepted, the Board is authorized to transfer and convey all its right, title and interest in and to the said real property to the VSDB Foundation, a Virginia non-stock corporation, which serves and supports the school. Any such conveyance shall be exempt from §2.2-1156, Code of Virginia, and any other statute concerning the conveyance, transfer or sale of state property. If the VSDB Foundation leases, sells or conveys any interest in the said real property or any improvements thereon, such lease, sale or conveyance shall likewise be exempt from compliance with any statute concerning disposition of state property. Any income or proceeds from the Foundation's lease, sale or conveyance of any interest in the said real property shall be deemed to be local or private funds and may be used by the VSDB Foundation for any foundation purpose.

Total for Virginia School for the Deaf and the Blind.....			\$11,905,568	\$11,580,077
General Fund Positions.....	185.50	185.50		
Position Level.....	185.50	185.50		
Fund Sources: General.....	\$10,625,692	\$10,300,061		
Special.....	\$392,634	\$392,706		
Federal Trust.....	\$887,242	\$887,310		

**§ 1-51. STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA (245)**

144. Higher Education Student Financial Assistance (10800).....			\$76,287,665	\$104,886,328
			\$77,287,665	\$79,987,332
Scholarships (10810).....	\$76,097,665	\$104,696,328		
	\$77,097,665	\$79,797,332		
Regional Financial Assistance for Education (10813).....	\$190,000	\$190,000		
Fund Sources: General.....	\$76,027,665	\$104,626,328		
	\$77,027,665	\$79,727,332		
Special.....	\$10,000	\$10,000		
Dedicated Special Revenue.....	\$250,000	\$250,000		

Authority: Code of Virginia; Tuition Assistance Grant Program: Title 23.1, Chapter 4-6, Code of Virginia, Regional Grants and Contracts: Discretionary Inclusion; Undergraduate and Graduate Assistance: Discretionary Inclusion; § 23-31-1 § 23.1-603; and § 23-7.4-1 § 23.1-608, §§ 23-38-10-9 § 23.1-623 through 23-38-10-13 § 23.1-627

A. Appropriations in this Item are subject to the conditions specified in paragraphs B, C, D, E, F, G, and H hereof.

B. Those private institutions which participate in the programs provided by the appropriations in this Item shall, upon request by the State Council of Higher Education, submit financial and other information which the Council deems appropriate.

C. Out of the amounts for Scholarships the following sums shall be made available for:

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1. Tuition Assistance Grant Program, \$65,812,665 the first year and \$65,812,665 the second year from the general fund is designated for full-time undergraduate and graduate students.				
2. Virginia Space Grant Consortium Scholarships, \$695,000 the first year and \$695,000 the second year from the general fund.				
3. Out of this appropriation, \$20,000 the first year and \$20,000 the second year from the general fund is designated to provide grants of up to \$5,000 per year for Virginia students who attend schools and colleges of optometry. Each student receiving a grant shall agree to set up practice in the Commonwealth for a period of not less than two years upon completion of instruction.				
4. No amount, or part of an amount, listed for any program specified under paragraph C shall be expended for any other program in this appropriation.				
<b>D. Tuition Assistance Grant Program</b>				
1. Payments to students out of this appropriation shall not exceed \$3,200 the first year and \$3,300 the second year for qualified undergraduate students and \$2,200 each year for qualified graduate and medical students attending not-for-profit, independent institutions in accordance with §§ <del>23-38.12</del> § 23.1-628 through <del>23-38.19</del> § 23.1-635, Code of Virginia.				
2. The private institutions which participate in this program shall, during the spring semester previous to the commencement of a new academic year or as soon as a student is admitted for that year, whichever is later, notify their enrolled and newly admitted Virginia students about the availability of tuition assistance awards under the program. The information provided to students and their parents must include information about the eligibility requirements, the application procedures, and the fact that the amount of the award is an estimate and is not guaranteed. The number of students applying for participation and the funds appropriated for the program determine the amount of the award. Conditions for reduction of award amount and award eligibility are described in this Item and in the regulations issued by the State Council of Higher Education. The institutions shall certify to the council that such notification has been completed and shall indicate the method by which it was carried out.				
3. Institutions participating in this program must submit annually to the council copies of audited financial statements.				
4. To be eligible for a fall or full-year award out of this appropriation, a student's application must have been received by a participating independent college or by the State Council of Higher Education by July 31. Returning students who received the award in the previous year will be prioritized with the July 31 award. Applications for a fall or full-year award received after July 31 but no later than September 14 will be held for consideration if funds are available after July 31 and returning student awards have been made. Applications for spring semester only awards must be received by December 1 and will be considered only if funds remain available.				
5. No limitations shall be placed on the award of Tuition Assistance Grants other than those set forth herein or in the Code of Virginia.				
6. All eligible institutions not previously approved by the State Council of Higher Education to participate in the Tuition Assistance Grant Program shall have received accreditation by a nationally recognized regional accrediting agency, prior to participation in the program or by the Commission on Osteopathic College Accreditation of the American Osteopathic Association in the case of freestanding institutions of higher education that offer the Doctor of Osteopathic Medicine as the sole degree program.				
7. Payments to undergraduate students shall be greater than payments to graduate and medical students and shall be based on a differential established by the State Council of Higher Education for Virginia.				
8. No awards shall be provided to graduate students except in health-related professional programs to include allied health, nursing, pharmacy, medicine, and osteopathic medicine. Notwithstanding application deadlines contained in the Virginia Administrative Code for the Tuition Assistance Grant program, provided that the institution has received accreditation by				

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<p>the Liaison Committee on Medical Education, the Virginia Tech - Carilion School of Medicine shall be deemed eligible to participate in the Tuition Assistance Grant program.</p>				
<p>9. Notwithstanding any other provisions of law, Eastern Virginia Medical School is not eligible to participate in the Tuition Assistance Grant Program.</p>				
<p>10. Any general fund appropriation in the Tuition Assistance Grant Program which is unexpended at the close of business June 30 of any fiscal year shall be reappropriated for use in the program in the following year.</p>				
<p>E.1. Regional Grants and Contracts: Out of this appropriation, \$170,000 the first year and \$170,000 the second year from the general fund is designated to support Virginia's participation in the Southern Regional Education Board initiative to increase the number of minority doctoral graduates.</p>				
<p>2. The amounts listed in paragraph E.1 shall be expended in accordance with the agreements between the Commonwealth of Virginia and the Southern Regional Education Board.</p>				
<p>F.1. Out of this appropriation, \$1,980,000 the first year and \$1,980,000 the second year from the general fund is designated to support the Virginia Military Survivors and Dependents program, <del>§ 23-7.4:1</del> § 23.1-608, Code of Virginia, to provide up to a \$1,800 annual stipend to offset the costs of room, board, books and supplies for qualified survivors and dependents of military service members.</p>				
<p>2. The amount of the stipend is an estimate depending on the number of students eligible under <del>§ 23-7.4:1</del> § 23.1-608, Code of Virginia. Changes that increase or decrease the grant amount shall be determined by the State Council of Higher Education for Virginia.</p>				
<p>3. The Director, State Council of Higher Education for Virginia, shall allocate these funds to public institutions of higher education on behalf of students qualifying under this provision.</p>				
<p>4. Each institution of higher education shall report the number of recipients for this program to the State Council of Higher Education for Virginia by April 1 of each year. The State Council of Higher Education for Virginia shall report this information to the Chairmen of the House Appropriations and Senate Finance Committees by May 15 of each year.</p>				
<p>5. The Department of Veterans Services shall consult with the State Council of Higher Education for Virginia prior to the dissemination of any information related to the financial benefits provided under this program.</p>				
<p>G.1. Out of the appropriation for this Item, \$2,850,000 <del>\$2,850,000</del> \$3,549,667 the second year from the general fund is designated to support the Two-Year College Transfer Grant Program.</p>				
<p>2. The State Council of Higher Education for Virginia shall disburse these funds for full-time students consistent with <del>§§ 23-38.10-9</del> § 23.1-623 through <del>23-38.10:13</del> § 23.1-627, Code of Virginia. Beginning with students who are entering a senior institution as a two-year transfer student for the first time in the fall 2013 academic year, and who otherwise meet the eligibility criteria of <del>§ 23-38.10:10</del> § 23.1-624, Code of Virginia, the maximum EFC is raised to \$12,000.</p>				
<p>3. The actual amount of the award depends on the number of students eligible under <del>§§ 23-38.10-9</del> § 23.1-623 through <del>23-38.10:13</del> § 23.1-627, Code of Virginia. Changes that decrease the grant amount shall be determined by the State Council of Higher Education for Virginia.</p>				
<p>4. Out of this appropriation, up to \$600,000 the first year and \$600,000 the second year from the general fund is designated to support students eligible for the first time under <del>§§ 23-38.10-9</del> § 23.1-623 through <del>23-38.10:13</del> § 23.1-627, Code of Virginia. The State Council of Higher Education for Virginia shall transfer these funds to Norfolk State University, Old Dominion University, Radford University, <del>the</del> University of Virginia's College at Wise, Virginia Commonwealth University and Virginia State University so that</p>				

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each institution can provide for grants of \$1,000 from these funds for these students.

a. Each institution shall award grants from these funds for one year and students shall not receive subsequent awards until they have satisfied the requirements to move to the next class level. Each recipient may receive a maximum of one year of support per class level for a maximum total of two years of support.

b. Any balances remaining from the appropriation identified in paragraph G.4 shall not revert to the general fund at the end of the fiscal year, but shall be brought forward and made available to the State Council of Higher Education for Virginia for to support the purposes specified in paragraphs G.1. and G.4 in the subsequent fiscal year.

c. It is anticipated that the institutions shift by a total of 600 the number of students each enrolls from first time freshman to transfers eligible under §§ ~~23-38-10-9~~ § 23.1-623 through ~~23-38-10-13~~ § 23.1-627, Code of Virginia. Institutional goals under this fund are estimated as follows:

<b>Institution</b>	<b>Transfer Target</b>
Norfolk State University	80
Old Dominion University	140
Radford University	140
University of Virginia's College at Wise	20
Virginia Commonwealth University	140
Virginia State University	80

d. The State Council of Higher Education for Virginia may allocate these funds among the institutions in Paragraph G.4.c as necessary to meet the actual number of transfers each institution generates for students eligible for the first time under §§ ~~23-38-10-9~~ § 23.1-623 through ~~23-38-10-13~~ § 23.1-627, Code of Virginia. Each institution shall report its progress toward the targets in Paragraph G.4.c to the Chairmen of the House Appropriations and Senate Finance Committees by May 1 each year.

e. The report shall include a detailed accounting of the use of the funds provided and a plan for achieving the goals identified in this item.

~~H. Out of this appropriation, \$24,098,663 the second year from the general fund is designated for need-based in-state undergraduate financial aid. Based on the recommendations of the Joint Subcommittee on the Future Competitiveness of Virginia Higher Education, the State Council of Higher Education for Virginia will allocate these funds to each institution in fiscal year 2018.~~

~~I. 1. Out of this appropriation, \$4,000,000 \$5,000,000 the first year and \$8,500,000 \$7,500,000 the second year from the general fund is designated for the New Economy Workforce Credential Grant Program.~~

2. The State Council of Higher Education for Virginia shall develop guidelines for the program, collect data, evaluate and approve grant funds for allocation to eligible institutions.

3. *Local community colleges shall not start new workforce programs that would duplicate existing high school and adult Career and Technical Education (CTE) programs for high-demand occupations in order to receive funding under this Grant.*

I VETO THIS ITEM. /s/ Terence R. McAuliffe (04/28/17) (Vetoed item is enclosed in brackets.)

~~[J. Out of this appropriation, \$500,000 the first year and \$500,000 the second year from the general fund is designated for cybersecurity public service scholarships. This award requires a state government employment commitment in the Commonwealth by the recipient equal to the number of years the scholarship is awarded. The State Council of Higher Education for Virginia shall develop eligibility criteria for this program, as well as establish the award amounts.]~~

*K. 1. The State Council of Higher Education for Virginia shall work with representatives of the higher education institutions receiving state financial aid or whose students receive tuition assistance grants and review the financial aid award letters utilized by these institutions by November 1, 2017. During this review, the Council shall identify opportunities for improvement as well as best practices for, but not limited to, clarity and completeness of*

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*the information provided on gift aid as well as student's responsibility regarding student loans or work-study, student's ability to compare financial aid award packages among these institutions to make informed financial choices, and the conditions under which these awards or outstanding balance might change.*

*2. The Council shall then develop and implement award letter policies so that the following information is available to the student (1) a breakdown of the components of the institution's cost of attendance, designating billable charges; (2) a clear identification of each award, indicating the type of aid; (3) the use of standardized terminology consistent with the National Association of Student Financial Aid Administrators (NASFAA); and (4) whether awards are conditional and renewal requirement criteria information.*

*3. The Council shall report its findings and provide a status report on the implementation of the policy and process changes to the House Appropriations and Senate Finance Committees by December 1, 2018.*

145.	Financial Assistance For Educational and General Services (11000).....			\$75,000	\$75,000
	Outstanding Faculty Recognition (11009).....	\$75,000	\$75,000		
	Fund Sources: Special.....	\$75,000	\$75,000		

Authority: Outstanding Faculty Recognition Program: Discretionary Inclusion.

Outstanding Faculty Recognition Program

1. The State Council of Higher Education for Virginia shall annually provide a grant to faculty members selected to be honored under this program from such private funds as may be designated for this purpose.

2. The faculty members shall be selected from public and private institutions of higher education in Virginia, but recipients of Outstanding Faculty Recognition Awards shall not be eligible for the awards in subsequent years.

146.	Higher Education Academic, Fiscal, and Facility Planning and Coordination (11100).....			\$16,984,678 \$15,376,867	\$17,996,219 \$15,157,983
	Higher Education Coordination and Review (11104).....	\$15,768,614 \$14,160,803	\$16,780,097 \$13,941,861		
	Regulation of Private and Out-of-State Institutions (11105).....	\$1,216,064	\$1,216,122		
	Fund Sources: General.....	\$15,618,614 \$14,010,803	\$16,630,097 \$13,791,861		
	Special.....	\$1,176,064	\$1,176,122		
	Trust and Agency.....	\$190,000	\$190,000		

Authority: §§ ~~23-9-3~~ § 23.1-200, ~~23-9-6~~ § 23.1-203, ~~23-20~~ § 23.1-1107, ~~23-38-13~~ § 23.1-629.

A. 1. It is the intent of the General Assembly to provide general fund support to contract at a level equivalent to the Tuition Assistance Grant undergraduate award with Mary Baldwin ~~College~~University for Virginia women resident students to participate in the Virginia Women's Institute for Leadership at Mary Baldwin ~~College~~University.

2. The amounts included in this Item are \$307,899 from the general fund the first year and \$307,899 the second year from the general fund for the programmatic administration of this program.

3. General fund appropriations provided under this contract include financial incentive for the participating students at Mary Baldwin ~~College~~University in the Virginia Women's Institute for Leadership Program. Students receiving this financial incentive will not be eligible for Tuition Assistance Grants.

4. By September 1 of each year, Mary Baldwin ~~College~~University shall report to the Chairmen of the House Appropriations and Senate Finance Committees, the Director,

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<p>State Council of Higher Education for Virginia, and the Director, Department of Planning and Budget, on the number of students participating in the Virginia Women's Leadership Program, the number of in-state and out-of-state students receiving awards, the amount of the awards, the number of students graduating, and the number of students receiving commissions in the military.</p>				
<p>B. In discharging the responsibilities specified in <del>§ 23-272D</del> § 23.1-219, Code of Virginia, the State Council of Higher Education for Virginia shall provide exemptions to individual proprietorships, associations, co-partnerships or corporations which are now or in the future will be using the words "college" or "university" in their training programs solely for their employees or customers, which do not offer degree-granting programs, and whose name includes the word "college" or "university" in a context from which it clearly appears that such entity is not an educational institution.</p>				
<p>C. Out of the appropriation for Higher Education Coordination and Review, <del>\$8,254,013</del> \$7,841,312 the first year and <del>\$8,315,064</del> \$7,902,363 the second year from the general fund is provided for continuation of the Virtual Library of Virginia. Funding for the Virtual Library of Virginia is provided for the benefit of students and faculty at the Commonwealth's public institutions of higher education and participating nonprofit, independent private colleges and universities. Out of this amount, <del>\$396,785</del> \$376,946 the first year and <del>\$396,785</del> \$376,946 the second year is earmarked to allow the participation of nonprofit, independent private colleges and universities.</p>				
<p>D. Out of this appropriation, \$950,366 and <del>eighteen</del> positions the first year and \$950,366 and <del>eighteen</del> positions the second year from nongeneral funds is provided to support higher education coordination and review services, including expenses incurred in the regulation and oversight of the private and out-of-state postsecondary institutions and proprietary schools operating in Virginia. These funds will be generated through fee schedules developed pursuant to <del>§ 23-276.9</del> § 23.1-224, Code of Virginia. Out of this amount, \$190,000 the first year and \$190,000 the second year from nongeneral funds is designated to administration of the Student Tuition Guarantee Fund.</p>				
<p>E. The State Council of Higher Education for Virginia, in consultation with the House Appropriations Committee, the Senate Finance Committee, the Department of General Services, and the Department of Planning and Budget, shall develop a six-year capital outlay plan for higher education institutions including affiliated entities. As a part of this plan SCHEV shall consider (i) current funding mechanisms for capital projects and improvements at the Commonwealth's institutions of higher education, including general obligation bonds and other viable funding methods; (ii) mechanisms to assist private institutions of higher education in the Commonwealth with their capital needs.</p>				
<p>F. The Executive Director, State Council of Higher Education for Virginia, may appoint an advisory committee to assist the council with technology-enriched learning initiatives. The advisory committee may assist the council in (i) developing innovative, cost-effective, technology-enriched teaching and learning initiatives, including distance and distributed learning initiatives; (ii) improving cooperation among and between the public and private institutions of higher education in the Commonwealth; (iii) improving efficiency and expand the availability of technology-enriched courses; and (iv) facilitating the sharing of research and experience to improve student learning.</p>				
<p>G. The State Council of Higher Education for Virginia shall include Eastern Virginia Medical School in any calculations used to determine the funding requirements for state medical schools.</p>				
<p>H. In addition to the reviews conducted under <del>§§ 23-9.6-1.01</del> § 23.1-206 and <del>23-38.87-17</del> § 23.1-306, Code of Virginia, the State Council of Higher Education shall evaluate the progress of individual initiatives funded in this Act as part of the incentive funding provided to colleges and universities with regard to improvements in retention, graduation, degree production and other criteria the Council deems appropriate.</p>				
<p>I. Out of this appropriation, \$160,295 the first year and \$160,295 the second year from the general fund is designated to support research and analysis and the enhancement of consumer information regarding higher education.</p>				

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	First Year	Second Year	First Year	Second Year
	FY2017	FY2018	FY2017	FY2018

J. Out of this appropriation, \$300,000 the first year and \$300,000 the second year from the general fund is designated to support initiatives related to the statewide plan for higher education and to help implement the recommendations of the Joint Legislative Audit and Review Commission's series of higher education reports.

K. 1. Out of this appropriation, \$100,000 the first year from the general fund is designated to design a pilot program to create a regional center for the investigation of incidents of sexual and gender-based violence similar to the multi-disciplinary approach used in child advocacy centers. The pilot program shall include a partnership between higher education, law enforcement, and state government where criminal incidents of sexual and gender-based violence could be reported directly to the center for independent and neutral investigation. The center would be staffed with trauma-informed investigators who would coordinate with both colleges and universities and law enforcement to carry out the investigative responsibilities outlined by Title IX and the Violence Against Women Act. The program design shall include start-up and operational costs, staffing needs, sample memorandum of understanding between higher education institutions, law enforcement and Commonwealth's attorneys' offices, any legislative requirements, and a model for long-term shared financial support. The center's scope would apply only to allegations of criminal behavior.

2. The State Council shall communicate the pilot design to the Secretaries of Education and Public Safety and Homeland Security and to the Chairs of the House Appropriations and Education and Senate Finance and Education and Health Committees by August 1, 2017.

L. Out of this appropriation, \$357,500 ~~each~~ the first year and \$330,687 the second year from the general fund is designated to support research and analysis and the administration of a multi-agency longitudinal data system to improve consumer information and policy recommendations.

M. Out of this appropriation, ~~\$500,000~~ \$450,000 the first year and ~~\$500,000~~ \$225,000 the second year from the general fund is designated to establish and maintain a fund for excellence and innovation. The fund is designed to stimulate collaboration among public school divisions, community colleges and universities to create and expand affordable student pathways and to pursue shared services and other efficiency initiatives at colleges and universities that lead to measurable cost reductions. Grants will be awarded on a competitive basis, with eligibility criteria determined by the State Council of Higher Education for Virginia.

N. Out of this appropriation, ~~\$550,000~~ \$434,890 and three positions the first year and ~~\$600,000~~ \$546,278 and three positions the second year from the general fund is designated to assist the State Council of Higher Education for Virginia in addressing the responsibilities placed on the agency.

~~O. 1: Out of this appropriation, \$1,000,000 the first year and \$2,000,000 the second year from the general fund is designated for the Virginia Degree Completion Network (VDCN). The State Council of Higher Education for Virginia shall work with George Mason University and Old Dominion University to develop a plan for the Network to serve adult learners, nontraditional students, and other students seeking access to an on-line degree program that is more cost-effective than a traditional degree.~~

~~2: The amounts appropriated in the first year may be used to further develop a plan that serves the targeted populations and to invest in equipment. The Council shall report the plan to the Governor and the Chairmen of the House Appropriations and the Senate Finance Committees by September 1, 2016.~~

147.	Higher Education Federal Programs Coordination (11200).....			\$2,440,426	\$2,440,426
	Higher Education Federal Programs Coordination (11201).....	\$2,440,426	\$2,440,426		
	Fund Sources: Federal Trust.....	\$2,440,426	\$2,440,426		

Authority: Title 2323.1, Chapter 202, Code of Virginia.

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	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
Out of this appropriation, \$2,440,426 the first year and \$2,440,426 the second year from nongeneral funds is designated for grants to improve teacher quality (No Child Left Behind Act grant).				
148.	Financial Assistance for Public Education (Categorical) (17100).....		\$3,000,000	\$3,000,000
	Early Awareness and Readiness Programs (17117)....	\$3,000,000	\$3,000,000	
	Fund Sources: Federal Trust.....	\$3,000,000	\$3,000,000	
Authority: Discretionary Inclusion.				
Out of this appropriation, \$3,000,000 the first year and \$3,000,000 the second year from nongeneral funds is designated for the Gaining Early Awareness and Readiness for Undergraduate Programs (GEAR-UP) grant.				
149.	Technology Assistance Services (18600).....		\$100,000	\$100,000
	Distance Learning and Electronic Classroom (18602)	\$100,000	\$100,000	
	Fund Sources: Special.....	\$100,000	\$100,000	
Authority: Code of Virginia, § 23.1-211				
Out of this appropriation, \$100,000 the first year and \$100,000 the second year from nongeneral funds is designated to cover the costs of coordination and administration of the Virginia State Authorization Reciprocity Agreement (SARA) program as administered by the Southern Regional Education Board (SREB) and the National Council on State Authorization Reciprocity Agreements (NC-SARA).				
Total for State Council of Higher Education for Virginia.....			<b>\$98,887,769</b>	<b>\$128,497,973</b>
			<b>\$98,279,958</b>	<b>\$100,760,741</b>
	General Fund Positions.....	45.00	45.00	
	Nongeneral Fund Positions.....	17.00	17.00	
	Position Level.....	62.00	62.00	
	Fund Sources: General.....	<del>\$91,646,279</del>	<del>\$121,256,425</del>	
		\$91,038,468	\$93,519,193	
	Special.....	\$1,361,064	\$1,361,122	
	Trust and Agency.....	\$190,000	\$190,000	
	Dedicated Special Revenue.....	\$250,000	\$250,000	
	Federal Trust.....	\$5,440,426	\$5,440,426	

**§ 1-52. CHRISTOPHER NEWPORT UNIVERSITY (242)**

150.	Educational and General Programs (10000).....		\$70,008,157	<del>\$70,413,753</del> \$69,656,147
	Higher Education Instruction (100101).....	\$35,160,822	<del>\$35,565,806</del> \$34,808,200	
	Higher Education Research (100102).....	\$1,961,180	\$1,961,180	
	Higher Education Academic (100104).....	\$8,940,277	\$8,940,277	
	Higher Education Student Services (100105).....	\$6,080,103	\$6,080,103	
	Higher Education Institutional Support (100106).....	\$8,029,253	\$8,029,865	
	Operation and Maintenance Of Plant (100107).....	\$9,836,522	\$9,836,522	
	Fund Sources: General.....	\$28,055,607	<del>\$28,461,203</del> \$27,703,597	
	Higher Education Operating.....	\$41,952,550	\$41,952,550	

Authority: Title 2323.1, Chapter 5:314, Code of Virginia.

A. This Item includes general and nongeneral fund appropriations to support institutional initiatives that help meet statewide goals described in the Restructured Higher Education Financial and Administrative Operations Act of 2005 (Chapters 933 and 945, 2005 Acts of

ITEM 150.	Item Details(\$)		Appropriations(\$)		
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018	
Assembly).					
<p>B. As Virginia's public colleges and universities approach full funding of the base adequacy guidelines and as the General Assembly strives to fully fund the general fund share of the base adequacy guidelines, these funds are provided with the intent that, in exercising their authority to set tuition and fees, the Board of Visitors shall take into consideration the impact of escalating college costs for Virginia students and families. In accordance with the cost-sharing goals set forth in § 4-2.01 b. of this act, the Board of Visitors is encouraged to limit increases on tuition and mandatory educational and general fees for in-state, undergraduate students to the extent possible.</p>					
<p>C. Out of this appropriation, \$878,335 the first year and \$1,281,164 the second year from the general fund is designated to support the goals of access, affordability, quality and increased degrees. Given the increased investment from the general fund during this biennium, it is the expression of the General Assembly that the institution seek to minimize tuition and fee increases for in-state undergraduate students. This language shall be in effect for the 2016-2018 biennium only. The Board of Visitors shall set the tuition rates for the institution, and forward their action to the State Council of Higher Education for Virginia within three business days of such action. The Council shall analyze the Board's actions and report such analysis to the Chairmen of House Appropriations and Senate Finance Committees within three business days of receipt, at which point, the Board's action shall be final. The Director of the Council shall report the final Board actions to the Chairmen by August 1, 2016 and August 1, 2017.</p>					
151.	Higher Education Student Financial Assistance (10800).....			\$6,560,601	\$6,377,566 \$8,439,157
	Scholarships (10810).....	\$6,548,994	<del>\$6,362,403</del> \$8,423,994		
	Fellowships (10820).....	\$11,607	\$15,163		
	Fund Sources: General.....	\$4,875,601	<del>\$4,692,566</del> \$4,879,157		
	Higher Education Operating.....	\$1,685,000	<del>\$1,685,000</del> \$3,560,000		
	Authority: Title 2323.1, Chapter 5-314, Code of Virginia.				
152.	Financial Assistance For Educational and General Services (11000).....			\$1,498,882	\$1,498,882
	Sponsored Programs (11004).....	\$1,498,882	\$1,498,882		
	Fund Sources: Higher Education Operating.....	\$1,498,882	\$1,498,882		
	Authority: Title 2323.1, Chapter 5-314, Code of Virginia.				
The Higher Education Operating fund source listed in this Item is considered to be a sum sufficient appropriation, which is an estimate of funding required by the university to cover sponsored program operations.					
153.	Higher Education Auxiliary Enterprises (80900) a sum sufficient, estimated at.....			\$73,946,909	\$74,337,409 \$79,602,958
	Food Services (80910).....	\$15,727,071	<del>\$15,977,571</del> \$17,264,273		
	Bookstores And Other Stores (80920).....	\$709,300	\$709,300		
	Residential Services (80930).....	\$28,788,680	<del>\$28,788,680</del> \$30,333,691		
	Parking And Transportation Systems And Services (80940).....	\$1,734,901	<del>\$1,734,901</del> \$1,793,793		
	Student Unions And Recreational Facilities (80970).....	\$5,774,978	\$5,774,978		
	Recreational And Intramural Programs (80980).....	\$165,737	\$165,737		
	Other Enterprise Functions (80990).....	\$12,177,323	<del>\$12,317,323</del> \$13,734,522		

ITEM 153.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
Intercollegiate Athletics (80995).....	\$8,868,919	<del>\$8,868,919</del> \$9,826,664		
Fund Sources: Higher Education Operating.....	\$55,857,589	<del>\$56,248,089</del> \$59,799,089		
Debt Service.....	\$18,089,320	<del>\$18,089,320</del> \$19,803,869		
Authority: Title 2323.1, Chapter 5-314, Code of Virginia.				
Total for Christopher Newport University.....			<b>\$152,014,549</b>	<b>\$152,627,610</b> <b>\$159,197,144</b>
General Fund Positions.....	341.56	341.56		
Nongeneral Fund Positions.....	573.18	577.18		
Position Level.....	914.74	918.74		
Fund Sources: General.....	\$32,931,208	<del>\$33,153,769</del> \$32,582,754		
Higher Education Operating.....	\$100,994,021	<del>\$101,384,521</del> \$106,810,521		
Debt Service.....	\$18,089,320	<del>\$18,089,320</del> \$19,803,869		

**§ 1-53. THE COLLEGE OF WILLIAM AND MARY IN VIRGINIA (204)**

154.	Educational and General Programs (10000).....			\$194,470,435	\$194,520,805 \$199,401,836
	Higher Education Instruction (100101).....	\$109,849,580	<del>\$110,399,950</del> \$111,995,323		
	Higher Education Research (100102).....	\$851,474	\$851,474		
	Higher Education Public Services (100103).....	\$508,498	\$8,498		
	Higher Education Academic (100104).....	\$26,372,007	<del>\$26,372,007</del> \$27,082,007		
	Higher Education Student Services (100105).....	\$8,031,844	<del>\$8,031,844</del> \$8,267,037		
	Higher Education Institutional Support (100106).....	\$20,866,720	<del>\$20,866,720</del> \$22,107,185		
	Operation and Maintenance Of Plant (100107).....	\$27,990,312	<del>\$27,990,312</del> \$29,090,312		
	Fund Sources: General.....	\$43,552,342	<del>\$43,602,712</del> \$41,418,826		
	Higher Education Operating.....	\$141,256,042	<del>\$141,256,042</del> \$148,320,959		
	Debt Service.....	\$9,662,051	\$9,662,051		

Authority: Title 2323.1, Chapter 528, Code of Virginia.

A. This Item includes general and nongeneral fund appropriations to support institutional initiatives that help meet statewide goals described in the Restructured Higher Education Financial and Administrative Operations Act of 2005 (Chapters 933 and 945, 2005 Acts of Assembly).

B. As Virginia's public colleges and universities approach full funding of the base adequacy guidelines and as the General Assembly strives to fully fund the general fund share of the base adequacy guidelines, these funds are provided with the intent that, in exercising their authority to set tuition and fees, the Board of Visitors shall take into consideration the impact of escalating college costs for Virginia students and families. In accordance with the cost-sharing goals set forth in § 4-2.01 b. of this act, the Board of Visitors is encouraged to limit increases on tuition and mandatory educational and general fees for in-state, undergraduate students to the extent possible.

C. Out of this appropriation, \$245,000 the first year and \$245,000 the second year from the general fund is designated to support the Lewis B. Puller Jr. Veterans Benefits Clinic.

D. Out of this appropriation, \$500,000 the first year from the general fund is designated to

ITEM 154.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
<p>provide a one-time grant to the Presidential Precinct, a collaborative effort among the College of William and Mary, University of Virginia, Monticello, Montpelier, and Ash Lawn-Highland, with the mission of empowering the next generation of young leaders from the world's emerging democracies, through education, collaboration, and digital networking. The College of William and Mary may expend funds as deemed appropriate - including hiring additional staff and strengthening fundraising capabilities - to enable the Presidential Precinct to become a globally significant, self-sustaining organization.</p> <p>E. The appropriation for the fund source Higher Education Operating in this Item shall be considered a sum sufficient appropriation, which is an estimate of the amount of revenues to be collected for the educational and general program under the terms of the management agreement between the College of William and Mary and the Commonwealth, as set forth in Chapters 933 and 943 of the 2006 Acts of Assembly.</p> <p>F. Out of this appropriation, \$1,194,758 the first year and \$1,742,708 the second year from the general fund is designated to support the goals of access, affordability, quality and increased degrees. Given the increased investment from the general fund during this biennium, it is the expression of the General Assembly that the institution seek to minimize tuition and fee increases for in-state undergraduate students. This language shall be in effect for the 2016-2018 biennium only. The Board of Visitors shall set the tuition rates for the institution, and forward their action to the State Council of Higher Education for Virginia within three business days of such action. The Council shall analyze the Board's actions and report such analysis to the Chairmen of House Appropriations and Senate Finance Committees within three business days of receipt, at which point, the Board's action shall be final. The Director of the Council shall report the final Board actions to the Chairmen by August 1, 2016 and August 1, 2017.</p> <p>G. Pursuant to § 4-1.02 d. 6.a) of this act and notwithstanding any other provision of law, appropriation reductions in the amount of \$2,183,886 in the second year from the general fund for the College of William and Mary specified in this Item may be distributed to programs within Educational and General Programs, grantees, or among programs other than Educational and General Programs, except Higher Education Student Financial Assistance.</p>				
155.	Higher Education Student Financial Assistance (10800).....		\$31,232,619	\$31,155,916 \$33,440,090
	Scholarships (10810).....	\$21,295,953		\$21,164,034 \$23,448,208
	Fellowships (10820).....	\$9,936,666		\$9,991,882
	Fund Sources: General.....	\$4,338,431		\$4,261,728 \$4,393,647
	Higher Education Operating.....	\$26,894,188		\$26,894,188 \$29,046,443
	Authority: Title 2323.1, Chapter 528, Code of Virginia.			
	A. Higher education operating funds appropriated in this program may be allocated for need-based aid to Virginia undergraduate students to enhance the quality and diversity of the student body.			
	B. The appropriation for the fund source Higher Education Operating in this Item shall be considered sum sufficient appropriation, which is an estimate of the revenue collected to meet student financial aid needs, under the terms of the management agreement between the university and the Commonwealth as set forth in Chapters 933 and 943 of the 2006 Acts of Assembly.			
156.	Financial Assistance For Educational and General Services (11000).....		\$31,166,028	\$31,166,028
	Sponsored Programs (11004).....	\$31,166,028	\$31,166,028	
	Fund Sources: General.....	\$75,000		\$75,000
	Higher Education Operating.....	\$30,905,834		\$30,905,834
	Debt Service.....	\$185,194		\$185,194

ITEM 156.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
Authority: Title 2323.1, Chapter 528, Code of Virginia.				
A. Out of this appropriation, \$75,000 the first year and \$75,000 the second year from the general fund and \$400,000 the first year and \$400,000 the second year from nongeneral funds are designated to build research capacity in biomedical research and biomaterials engineering.				
B. The Higher Education Operating fund source listed in this Item is considered to be a sum sufficient appropriation, which is an estimate of funding required by the college to cover sponsored program operations.				
157.	Higher Education Auxiliary Enterprises (80900) a sum sufficient, estimated at.....		\$79,715,000	\$79,715,000
	Food Services (80910).....	\$15,448,700	\$15,448,700	
	Bookstores And Other Stores (80920).....	\$3,875,918	\$3,875,918	
	Residential Services (80930).....	\$27,002,327	\$27,002,327	
	Parking And Transportation Systems And Services (80940).....	\$1,924,715	\$1,924,715	
	Telecommunications Systems And Services (80950).....	\$4,548,498	\$4,548,498	
	Student Health Services (80960).....	\$3,605,724	\$3,605,724	
	Student Unions And Recreational Facilities (80970).....	\$6,295,078	\$6,295,078	
	Recreational And Intramural Programs (80980).....	\$748,349	\$748,349	
	Other Enterprise Functions (80990).....	\$7,963,968	\$7,963,968	
	Intercollegiate Athletics (80995).....	\$8,301,723	\$8,301,723	
	Fund Sources: Higher Education Operating.....	\$62,351,460	\$62,351,460	
	Debt Service.....	\$17,363,540	\$17,363,540	
Authority: Title 2323.1, Chapter 528, Code of Virginia.				
	Total for The College of William and Mary in Virginia.....		\$336,584,082	\$336,557,749 \$343,722,954
	General Fund Positions.....	545.16	545.16	
	Nongeneral Fund Positions.....	882.96	882.96	
	Position Level.....	1,428.12	1,428.12	
	Fund Sources: General.....	\$47,965,773	\$47,939,440 \$45,887,473	
	Higher Education Operating.....	\$261,407,524	\$261,407,524 \$270,624,696	
	Debt Service.....	\$27,210,785	\$27,210,785	
<b>Richard Bland College (241)</b>				
158.	Educational and General Programs (10000).....		\$11,316,156	\$11,452,554 \$11,432,028
	Higher Education Instruction (100101).....	\$5,188,630	\$5,525,028 \$5,504,502	
	Higher Education Public Services (100103).....	\$4,500	\$4,500	
	Higher Education Academic (100104).....	\$729,502	\$729,502	
	Higher Education Student Services (100105).....	\$1,016,298	\$1,016,298	
	Higher Education Institutional Support (100106).....	\$2,870,310	\$2,670,310	
	Operation and Maintenance Of Plant (100107).....	\$1,506,916	\$1,506,916	
	Fund Sources: General.....	\$6,434,240	\$6,570,638 \$6,550,112	
	Higher Education Operating.....	\$4,881,916	\$4,881,916	
Authority: Title 2323.1, Chapter 528, Code of Virginia.				
A. This Item includes general and nongeneral fund appropriations to support institutional initiatives that help meet statewide goals described in the Restructured Higher Education Financial and Administrative Operations Act of 2005 (Chapters 933 and 945, 2005 Acts of Assembly).				

ITEM 158.	Item Details(\$)		Appropriations(\$)	
	First Year	Second Year	First Year	Second Year
	FY2017	FY2018	FY2017	FY2018

B. As Virginia's public colleges and universities approach full funding of the base adequacy guidelines and as the General Assembly strives to fully fund the general fund share of the base adequacy guidelines, these funds are provided with the intent that, in exercising their authority to set tuition and fees, the Board of Visitors shall take into consideration the impact of escalating college costs for Virginia students and families. In accordance with the cost-sharing goals set forth in § 4-2.01 b. of this act, the Board of Visitors is encouraged to limit increases on tuition and mandatory educational and general fees for in-state, undergraduate students to the extent possible.

C. In order to advance the goals outlined in TJ21 and collaboration and innovation in higher education, Richard Bland College may develop and deliver new, collaborative educational pathways and innovative educational models, including distance learning, technology-based instruction, prior learning assessments, experiential learning, stackable credentials, and competency-based programs that lead to STEM-H and other high-demand credentials and careers, with such funds as are appropriated or made available for this purpose. Richard Bland shall strengthen educational pathways for traditional and nontraditional students, including veterans and military personnel, through the continued establishment and strengthening of cross-institutional and cross-sector partnerships including the use of innovative educational approaches in order to promote entry into high-demand fields and industries critical to the economic development of Virginia. Richard Bland College may:

1. Broker agreements between and among educational, industry, and non-profit partners and establish collaborative, innovative partnership agreements with school districts, public and private colleges and universities, economic development agencies, employers, philanthropic organizations, veterans organizations, public agencies and other partners as necessary to strengthen and streamline educational pathways from high school, to work-based learning, to baccalaureate and advanced degrees that prepare individuals, including nontraditional students and veterans, for entry into STEM-H and other high-demand careers in the Commonwealth;
2. Serve as a clearing house of educational pathway and career pathway information and as a resource and referral agency for traditional and non-traditional students, including veterans;
3. Serve as an educational innovation resource center, referral agency and hub for collaboration, innovation, and information sharing among educational and industry partners to facilitate the vetting, piloting, and effective implementation of innovative, evidence-based educational resources, including open educational resources (OERs) and self-paced, competency-based tools designed to maximize limited resources, improve educational outcomes, or accelerate time to credential completion;
4. Pilot and implement innovative educational approaches and technologies, and promote the development, delivery, and ongoing assessment of innovative, cost-effective degree programs and stackable credentials, including industry-recognized, competency-based credentials that are aligned with and responsive to the educational and workforce development needs of traditional and non-traditional students, including veterans and military personnel, and advance the economic development needs of employers and industries statewide;
5. Identify and implement new strategies to support economic and community development in Virginia and to expand opportunities for traditional and non-traditional students, including veterans, to prepare for high-demand fields.
6. Identify opportunities for resource sharing and new operational efficiencies in the delivery of postsecondary education and pursue additional funding by federal, state, corporate, and private philanthropic sources to support collaborative, innovative approaches to education that improve educational access and outcomes, strengthen the alignment between postsecondary education and high-demand career pathways in Virginia, and support improved educational attainment, economic opportunity, and economic development for Virginians.
7. Richard Bland College may explore shared services and other options for increased collaboration with the College of William and Mary.

ITEM 158.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
<p>D. Out of this appropriation, \$296,410 the first year and \$432,353 the second year from the general fund is designated to support the goals of access, affordability, quality and increased degrees. Given the increased investment from the general fund during this biennium, it is the expression of the General Assembly that the institution seek to minimize tuition and fee increases for in-state undergraduate students. This language shall be in effect for the 2016-2018 biennium only. The Board of Visitors shall set the tuition rates for the institution, and forward their action to the State Council of Higher Education for Virginia within three business days of such action. The Council shall analyze the Board's actions and report such analysis to the Chairmen of House Appropriations and Senate Finance Committees within three business days of receipt, at which point, the Board's action shall be final. The Director of the Council shall report the final Board actions to the Chairmen by August 1, 2016 and August 1, 2017.</p> <p>E. Out of the amounts provided in this appropriation, \$150,000 the second year from the general fund is designated to begin addressing the staffing recommendations of the Auditor of Public Accounts.</p>				
159.	Higher Education Student Financial Assistance (10800).....		\$697,018	<del>\$639,107</del> \$697,018
	Scholarships (10810).....	\$697,018		<del>\$639,107</del> \$697,018
	Fund Sources: General.....	\$637,018		<del>\$579,107</del> \$637,018
	Higher Education Operating.....	\$60,000		\$60,000
	Authority: Title 2323.1, Chapter 528, Code of Virginia.			
160.	Financial Assistance For Educational and General Services (11000) a sum sufficient, estimated at.....		\$15,000	\$15,000
	Sponsored Programs (11004).....	\$15,000	\$15,000	
	Fund Sources: Higher Education Operating.....	\$15,000	\$15,000	
	Authority: Title 2323.1, Chapter 528, Code of Virginia.			
161.	Higher Education Auxiliary Enterprises (80900) a sum sufficient, estimated at.....		\$4,195,002	<del>\$4,195,002</del> \$4,727,202
	Food Services (80910).....	\$438,600		<del>\$438,600</del> \$640,600
	Bookstores And Other Stores (80920).....	\$200,000		\$200,000
	Residential Services (80930).....	\$2,046,902		<del>\$2,046,902</del> \$2,377,102
	Parking And Transportation Systems And Services (80940).....	\$248,000	\$248,000	
	Recreational And Intramural Programs (80980).....	\$29,000	\$29,000	
	Other Enterprise Functions (80990).....	\$882,500	\$882,500	
	Intercollegiate Athletics (80995).....	\$350,000	\$350,000	
	Fund Sources: Higher Education Operating.....	\$4,195,002	<del>\$4,195,002</del> \$4,727,202	
	Authority: Title 2323.1, Chapter 528, Code of Virginia.			
	Total for Richard Bland College.....		\$16,223,176	<del>\$16,301,663</del> \$16,871,248
	General Fund Positions.....	70.43	70.43	
	Nongeneral Fund Positions.....	41.41	41.41	
	Position Level.....	111.84	111.84	
	Fund Sources: General.....	\$7,071,258	<del>\$7,149,745</del> \$7,187,130	

ITEM 161.		Item Details(\$)		Appropriations(\$)	
		First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
	Higher Education Operating.....	\$9,151,918	<del>\$9,151,918</del> \$9,684,118		
<b>Virginia Institute of Marine Science (268)</b>					
162.	Educational and General Programs (10000).....			\$22,448,523	\$22,580,827
	Higher Education Instruction (100101).....	\$2,951,042	<del>\$3,077,293</del> \$2,952,293		
	Higher Education Research (100102).....	\$8,613,098	\$8,619,151		
	Higher Education Academic (100104).....	\$4,608,768	<del>\$4,608,768</del> \$4,733,768		
	Higher Education Institutional Support (100106).....	\$2,327,847	\$2,327,847		
	Operation and Maintenance Of Plant (100107).....	\$3,947,768	\$3,947,768		
	Fund Sources: General.....	\$20,655,493	\$20,787,797		
	Higher Education Operating.....	\$1,793,030	\$1,793,030		

Authority: Title 2323.1, Chapter 528, and Title 28.2, Chapter 11, Code of Virginia.

A. This Item includes general and nongeneral fund appropriations to support institutional initiatives that help meet statewide goals described in the Restructured Higher Education Financial and Administrative Operations Act of 2005 (Chapters 933 and 945, 2005 Acts of Assembly).

B. If sufficient appropriations are not made available by the Commonwealth, it shall not be necessary for the Virginia Institute of Marine Science to reallocate funds from existing research projects to provide the funding for research mandated in the Code of Virginia or in the Appropriation Act.

C. Out of this appropriation, \$212,772 and four positions the first year and \$212,772 and four positions the second year from the general fund is designated to support an Aquaculture Genetics and Breeding Technology Center at the Virginia Institute of Marine Science. The center shall coordinate its efforts with the repletion program of the Virginia Marine Resources Commission.

D. It is the intent of the General Assembly that the development of a disease resistant native oyster remains a high priority for oyster-related research activities at the Virginia Institute of Marine Science.

E. Out of this appropriation, \$68,391 the first year and \$68,391 the second year from the general fund is provided for the continuation of the Clean Marina Program. This additional funding will allow the Virginia Institute of Marine Science to provide education, outreach, and technical assistance to the Commonwealth's marinas in an effort to improve water quality.

F. Out of this appropriation, \$289,096 the first year and \$289,096 the second year from the general fund is designated for the monitoring of the Chesapeake Bay's blue crab population. This additional support will permit the Virginia Institute of Marine Science to generate the data necessary to develop fishery management plans, determine in-danger habitats, and project the annual blue crab catch.

G. Notwithstanding Chapter 719, 1999 Acts of Assembly, out of this appropriation, \$159,579 the first year and \$159,579 the second year from the general fund shall be provided to the Virginia Institute of Marine Science to support the Fishery Resource Grant Fund and Program. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the State Comptroller upon written request of the President of the College of William and Mary.

H. Out of this appropriation, \$426,841 and 3.15 positions the first year and \$432,894 and 3.15 positions the second year from the general fund is designated to support research on sea level rise and state-of-the-art storm surge modeling, as well as for subcontracting with the College of William and Mary's Virginia Coastal Policy Center (CWMVCPC) to conduct policy and legal analyses of stakeholder-driven adaptation responses to sea level rise, in support of the Commonwealth Center for Recurrent Flooding Resiliency. The center, a collaborative partnership involving the Virginia Institute of Marine Science, Old

ITEM 162.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
<p>Dominion University, and the CWMVCPC, shall work with municipalities both along coastal Virginia and throughout the Commonwealth to develop useful resilience strategies.</p> <p>I. The appropriation for the fund source Higher Education Operating in this Item shall be considered a sum sufficient appropriation, which is an estimate of the amount of revenues to be collected for the educational and general program under the terms of the management agreement between the College of William and Mary and the Commonwealth, as set forth in Chapters 933 and 943 of the 2006 Acts of Assembly.</p> <p>J. Out of this appropriation, \$500,000 each year from the general fund is designated to support the institution's priorities such as operations and maintenance of new facilities and technology infrastructure.</p> <p>K. Out of this appropriation, \$125,000 the second year from the general fund is designated for the establishment of a marine conservation fellowship program in partnership with Virginia-based marine science education programs and conservation museums.</p>				
163.	Higher Education Student Financial Assistance (10800).....		\$319,617	\$321,002
	Fellowships (10820).....	\$319,617	\$321,002	
	Fund Sources: General.....	\$319,617	\$321,002	
	Authority: Title 2323.1, Chapter 528, Code of Virginia.			
164.	Financial Assistance For Educational and General Services (11000).....		\$23,738,527	\$23,738,527
	Eminent Scholars (11001).....	\$75,000	\$75,000	
	Sponsored Programs (11004).....	\$23,663,527	\$23,663,527	
	Fund Sources: Higher Education Operating.....	\$23,738,527	\$23,738,527	
	Authority: Title 2323.1, Chapter 528 and Title 28.2, Chapter 11, Code of Virginia.			
	<p>A. Out of the amounts for sponsored programs, \$50,000 the first year and \$50,000 the second year from nongeneral funds shall be paid from the Marine Fishing Improvement Fund to support the Mariculture and Marine Product Advisory Program.</p> <p>B. The Higher Education Operating fund source listed in this Item is considered to be a sum sufficient appropriation, which is an estimate of funding required by the institute to cover sponsored program operations.</p>			
	Total for Virginia Institute of Marine Science.....		\$46,506,667	\$46,640,356
	General Fund Positions.....	287.47	287.47	
	Nongeneral Fund Positions.....	99.30	99.30	
	Position Level.....	386.77	386.77	
	Fund Sources: General.....	\$20,975,110	\$21,108,799	
	Higher Education Operating.....	\$25,531,557	\$25,531,557	
	Grand Total for The College of William and Mary in Virginia.....		\$399,313,925	\$399,499,768
				\$407,234,558
	General Fund Positions.....	903.06	903.06	
	Nongeneral Fund Positions.....	1,023.67	1,023.67	
	Position Level.....	1,926.73	1,926.73	
	Fund Sources: General.....	\$76,012,141	\$76,197,984	
			\$74,183,402	
	Higher Education Operating.....	\$296,090,999	\$296,090,999	
			\$305,840,371	
	Debt Service.....	\$27,210,785	\$27,210,785	

ITEM 165.		Item Details(\$)		Appropriations(\$)	
		First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
165.	Educational and General Programs (10000).....			\$482,207,650	\$484,983,720 \$496,263,960
	Higher Education Instruction (100101).....	\$302,412,935	\$305,189,005 \$307,665,296		
	Higher Education Research (100102).....	\$8,067,184	\$8,067,184 \$8,398,924		
	Higher Education Public Services (100103).....	\$1,984,677	\$1,984,677 \$2,078,727		
	Higher Education Academic (100104).....	\$60,255,054	\$60,255,054 \$63,331,344		
	Higher Education Student Services (100105).....	\$19,901,002	\$19,901,002 \$20,916,742		
	Higher Education Institutional Support (100106)....	\$47,156,708	\$47,156,708 \$49,490,858		
	Operation and Maintenance Of Plant (100107).....	\$42,430,090	\$42,430,090 \$44,382,069		
	Fund Sources: General.....	\$134,542,756	\$137,318,826 \$131,499,066		
	Higher Education Operating.....	\$347,664,894	\$347,664,894 \$364,764,894		

Authority: Title ~~23~~23.1, Chapter ~~9~~15, Code of Virginia.

A. This Item includes general and nongeneral fund appropriations to support institutional initiatives that help meet statewide goals as described in the Restructured Higher Education Financial and Administrative Operations Act of 2005 (Chapters 933 and 945, 2005 Acts of Assembly).

B. Out of this appropriation, an amount estimated at \$289,614 the first year and \$289,614 the second year from the general fund and \$124,120 the first year and \$124,120 the second year from nongeneral funds are designated for the educational telecommunications project to provide graduate engineering education. For supplemental budget requests, the participating institutions and centers jointly shall submit a report in support of such requests to the State Council of Higher Education for Virginia for review and recommendation to the Governor and General Assembly.

C. Out of this appropriation, \$459,125 the first year and \$459,125 the second year from the general fund is designated for the Institute for Conflict Analysis.

D. As Virginia's public colleges and universities approach full funding of the base adequacy guidelines and as the General Assembly strives to fully fund the general fund share of the base adequacy guidelines, these funds are provided with the intent that, in exercising their authority to set tuition and fees, the Board of Visitors shall take into consideration the impact of escalating college costs for Virginia students and families. In accordance with the cost-sharing goals set forth in § 4-2.01 b. of this act, the Board of Visitors is encouraged to limit increases on tuition and mandatory educational and general fees for in-state, undergraduate students to the extent possible.

E. Out of this appropriation, \$50,000 the first year and \$50,000 the second year from the general fund is designated to support the Potomac Bay Science Center.

F. Out of this appropriation, \$400,000 the first year and \$400,000 the second year from the general fund is designated to develop a pathway program to attract and train veterans for cyber security careers.

G. The 4-VA, a public-private partnership among George Mason University, James Madison University, the University of Virginia, Virginia Tech, Old Dominion University, and CISCO Systems, Inc., utilizes emerging technologies to promote collaboration and resource sharing to increase access, reduce time to graduation and reduce unit cost while maintaining and enhancing quality. Instructional talent across the five institutions is leveraged in the delivery of programs in foreign languages, science, technology, engineering and mathematics. The 4-VA Management Board can expand this partnership to additional institutions as appropriate to meet the goals of the 4-VA initiative. It is expected that funding will be pooled by the management board as required to support continuing efforts of the 4-VA priorities and projects.

ITEM 165.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
<p>H. Out of this appropriation, \$6,040,599 the first year and \$8,810,991 the second year from the general fund is designated to support the goals of access, affordability, quality and increased degrees. Given the increased investment from the general fund during this biennium, it is the expression of the General Assembly that the institution seek to minimize tuition and fee increases for in-state undergraduate students. This language shall be in effect for the 2016-2018 biennium only. The Board of Visitors shall set the tuition rates for the institution, and forward their action to the State Council of Higher Education for Virginia within three business days of such action. The Council shall analyze the Board's actions and report such analysis to the Chairmen of House Appropriations and Senate Finance Committees within three business days of receipt, at which point, the Board's action shall be final. The Director of the Council shall report the final Board actions to the Chairmen by August 1, 2016 and August 1, 2017.</p> <p><i>I. Pursuant to § 4-1.02 d. 6.a) of this act and notwithstanding any other provision of law, appropriation reductions in the amount of \$5,819,760 in the second year from the general fund for George Mason University specified in this Item may be distributed to programs within Educational and General Programs, grantees, or among programs other than Educational and General Programs, except Higher Education Student Financial Assistance.</i></p>				
166.	Higher Education Student Financial Assistance (10800).....		\$32,034,750	<del>\$29,239,211</del> \$32,904,052
	Scholarships (10810).....	\$26,595,111		<del>\$23,530,270</del> \$27,195,111
	Fellowships (10820).....	\$5,439,639		\$5,708,941
	Fund Sources: General.....	\$22,338,750		<del>\$19,543,211</del> \$22,608,052
	Higher Education Operating.....	\$9,696,000		<del>\$9,696,000</del> \$10,296,000
<p>Authority: Title <del>2323.1</del>, Chapter <del>9-15</del>, Code of Virginia.</p> <p>Notwithstanding the provisions of § 4-5.01.5.b) of this Act, George Mason University is hereby authorized to transfer the balance of its discontinued student loan funds to an endowment fund established by the University to be used for undergraduate and graduate students in the Higher Education Student Financial Assistance Program.</p>				
167.	Financial Assistance For Educational and General Services (11000).....		\$255,000,000	\$262,000,000
	Eminent Scholars (11001).....	\$1,000,000		\$1,000,000
	Sponsored Programs (11004).....	\$254,000,000		\$261,000,000
	Fund Sources: General.....	\$1,831,250		\$1,831,250
	Higher Education Operating.....	\$253,168,750		\$260,168,750
<p>Authority: Title <del>2323.1</del>, Chapter <del>9-15</del>, Code of Virginia.</p> <p>A. 1. Out of this appropriation, \$956,250 the first year and \$956,250 the second year from the general fund and \$5,850,000 the first year and \$5,850,000 the second year from nongeneral funds are designated to build research capacity in biomedical research and biomaterials engineering.</p> <p>2. Out of this appropriation, \$750,000 the first year and \$750,000 the second year from the general fund is designated for applied research in simulation modeling and gaming.</p> <p>B. Out of this appropriation, \$125,000 the first year and \$125,000 the second year from the general fund is designated for Lyme Disease research and medical test development.</p> <p>C. The Higher Education Operating fund source listed in this Item is considered to be a sum sufficient appropriation, which is an estimate of funding required by the university to cover sponsored program operations.</p>				
168.	Higher Education Auxiliary Enterprises (80900) a sum sufficient, estimated at.....		\$217,268,246	<del>\$217,268,246</del> \$220,500,000

ITEM 168.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
Food Services (80910).....	\$32,726,054	<del>\$32,726,054</del> \$34,257,808		
Bookstores And Other Stores (80920).....	\$1,832,900	\$1,832,900		
Residential Services (80930).....	\$35,988,815	<del>\$35,988,815</del> \$37,688,815		
Parking And Transportation Systems And Services (80940).....	\$14,391,828	\$14,391,828		
Telecommunications Systems And Services (80950).....	\$513,178	\$513,178		
Student Health Services (80960).....	\$5,023,606	\$5,023,606		
Student Unions And Recreational Facilities (80970).....	\$10,691,770	\$10,691,770		
Recreational And Intramural Programs (80980).....	\$17,512,020	\$17,512,020		
Other Enterprise Functions (80990).....	\$75,927,480	\$75,927,480		
Intercollegiate Athletics (80995).....	\$22,660,595	\$22,660,595		
Fund Sources: Higher Education Operating.....	\$163,126,046	<del>\$163,126,046</del> \$166,357,800		
Debt Service.....	\$54,142,200	\$54,142,200		
Authority: Title <del>2323.1</del> , Chapter <del>9-15</del> , Code of Virginia.				
Total for George Mason University.....			<b>\$986,510,646</b>	<b>\$993,491,177</b> <b>\$1,011,668,012</b>
General Fund Positions.....	1,082.14	1,082.14		
Nongeneral Fund Positions.....	3,444.57	<del>3,444.57</del> 3,512.57		
Position Level.....	4,526.71	<del>4,526.71</del> 4,594.71		
Fund Sources: General.....	\$158,712,756	<del>\$158,693,287</del> \$155,938,368		
Higher Education Operating.....	\$773,655,690	<del>\$780,655,690</del> \$801,587,444		
Debt Service.....	\$54,142,200	\$54,142,200		

**§ 1-55. JAMES MADISON UNIVERSITY (216)**

169.	Educational and General Programs (10000).....			\$295,485,761	<del>\$296,849,336</del> \$301,057,159
	Higher Education Instruction (100101).....	\$161,311,017	<del>\$162,674,014</del> \$162,048,002		
	Higher Education Research (100102).....	\$771,252	<del>\$771,252</del> \$882,230		
	Higher Education Public Services (100103).....	\$1,182,023	<del>\$1,182,023</del> \$1,189,449		
	Higher Education Academic (100104).....	\$36,998,036	<del>\$36,998,036</del> \$37,996,477		
	Higher Education Student Services (100105).....	\$17,594,815	<del>\$17,594,815</del> \$18,047,611		
	Higher Education Institutional Support (100106).....	\$43,291,326	<del>\$43,291,904</del> \$44,480,343		
	Operation and Maintenance Of Plant (100107).....	\$34,337,292	<del>\$34,337,292</del> \$36,413,047		
	Fund Sources: General.....	\$81,684,561	<del>\$83,048,136</del> \$79,795,009		
	Higher Education Operating.....	\$211,850,547	<del>\$211,850,547</del> \$219,311,497		
	Debt Service.....	\$1,950,653	\$1,950,653		

Authority: Title ~~2323.1~~, Chapter ~~12-16~~, Code of Virginia.

A. This Item includes general and nongeneral fund appropriations to support institutional initiatives that help meet statewide goals described in the Restructured Higher Education

ITEM 169.	Item Details(\$)		Appropriations(\$)		
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018	
Financial and Administrative Operations Act of 2005 (Chapters 933 and 945, 2005 Acts of Assembly).					
<p>B. As Virginia's public colleges and universities approach full funding of the base adequacy guidelines and as the General Assembly strives to fully fund the general fund share of the base adequacy guidelines, these funds are provided with the intent that, in exercising their authority to set tuition and fees, the Board of Visitors shall take into consideration the impact of escalating college costs for Virginia students and families. In accordance with the cost-sharing goals set forth in § 4-2.01 b. of this act, the Board of Visitors is encouraged to limit increases on tuition and mandatory educational and general fees for in-state, undergraduate students to the extent possible.</p>					
<p>C. The 4-VA, a public-private partnership among George Mason University, James Madison University, the University of Virginia, Virginia Tech, Old Dominion University, and CISCO Systems, Inc., utilizes emerging technologies to promote collaboration and resource sharing to increase access, reduce time to graduation and reduce unit cost while maintaining and enhancing quality. Instructional talent across the five institutions is leveraged in the delivery of programs in foreign languages, science, technology, engineering and mathematics. The 4-VA Management Board can expand this partnership to additional institutions as appropriate to meet the goals of the 4-VA initiative. It is expected that funding will be pooled by the management board as required to support continuing efforts of the 4-VA priorities and projects.</p>					
<p>D. Out of this appropriation, \$2,958,034 the first year and \$4,314,674 the second year from the general fund is designated to support the goals of access, affordability, quality and increased degrees. Given the increased investment from the general fund during this biennium, it is the expression of the General Assembly that the institution seek to minimize tuition and fee increases for in-state undergraduate students. This language shall be in effect for the 2016-2018 biennium only. The Board of Visitors shall set the tuition rates for the institution, and forward their action to the State Council of Higher Education for Virginia within three business days of such action. The Council shall analyze the Board's actions and report such analysis to the Chairmen of House Appropriations and Senate Finance Committees within three business days of receipt, at which point, the Board's action shall be final. The Director of the Council shall report the final Board actions to the Chairmen by August 1, 2016 and August 1, 2017.</p>					
170.	Higher Education Student Financial Assistance (10800).....			\$14,997,356	\$14,812,130 \$15,714,005
	Scholarships (10810).....	\$14,197,485	\$13,896,159 \$14,798,034		
	Fellowships (10820).....	\$799,871	\$915,971		
	Fund Sources: General.....	\$8,620,285	\$8,435,059 \$8,736,385		
	Higher Education Operating.....	\$6,377,071	\$6,377,071 \$6,977,620		
	Authority: Title <del>2323.1</del> , Chapter <del>42-116</del> , Code of Virginia.				
171.	Financial Assistance For Educational and General Services (11000)			\$37,335,958	\$37,335,958
	a sum sufficient, estimated at.....				
	Eminent Scholars (11001).....	\$39,031	\$39,031		
	Sponsored Programs (11004).....	\$37,296,927	\$37,296,927		
	Fund Sources: Higher Education Operating.....	\$37,335,958	\$37,335,958		
	Authority: Title <del>2323.1</del> , Chapter <del>42-116</del> , Code of Virginia.				
172.	Higher Education Auxiliary Enterprises (80900)			\$201,182,374	\$208,887,659
	a sum sufficient, estimated at.....				
	Food Services (80910).....	\$60,807,919	\$63,084,747 \$64,268,443		
	Bookstores And Other Stores (80920).....	\$1,536,704	\$1,536,704 \$1,589,744		

ITEM 172.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
Residential Services (80930).....	\$35,729,579	<del>\$37,106,490</del> \$35,978,941		
Parking And Transportation Systems And Services (80940).....	\$5,662,915	<del>\$6,028,125</del> \$6,377,540		
Telecommunications Systems And Services (80950).....	\$2,322,981	<del>\$2,322,981</del> \$1,399,993		
Student Health Services (80960).....	\$6,202,142	<del>\$6,445,439</del> \$6,459,538		
Student Unions And Recreational Facilities (80970).....	\$7,197,590	<del>\$7,471,764</del> \$7,371,038		
Recreational And Intramural Programs (80980).....	\$12,706,387	<del>\$13,217,275</del> \$14,033,196		
Other Enterprise Functions (80990).....	\$23,801,103	<del>\$24,682,169</del> \$23,800,083		
Intercollegiate Athletics (80995).....	\$45,215,054	<del>\$46,991,965</del> \$47,609,143		
Fund Sources: Higher Education Operating.....	\$172,467,054	<del>\$180,593,264</del> \$178,786,885		
Debt Service.....	\$28,715,320	<del>\$28,294,395</del> \$30,100,774		
Authority: Title <del>2323.1</del> , Chapter <del>42-116</del> , Code of Virginia.				
Total for James Madison University.....			<b>\$549,001,449</b>	<b>\$557,885,083</b> <del>\$562,994,781</del>
General Fund Positions.....	1,118.53	1,118.53		
Nongeneral Fund Positions.....	2,340.47	<del>2,340.47</del> 2,383.47		
Position Level.....	3,459.00	<del>3,459.00</del> 3,502.00		
Fund Sources: General.....	\$90,304,846	<del>\$91,483,195</del> \$88,531,394		
Higher Education Operating.....	\$428,030,630	<del>\$436,156,840</del> \$442,411,960		
Debt Service.....	\$30,665,973	<del>\$30,245,048</del> \$32,051,427		

**§ 1-56. LONGWOOD UNIVERSITY (214)**

173. Educational and General Programs (10000).....			\$69,428,041	<del>\$69,818,949</del> \$69,099,081
Higher Education Instruction (100101).....	\$34,858,567	<del>\$35,248,880</del> \$34,529,012		
Higher Education Public Services (100103).....	\$654,990	\$654,990		
Higher Education Academic (100104).....	\$12,278,823	\$12,278,823		
Higher Education Student Services (100105).....	\$4,826,501	\$4,826,501		
Higher Education Institutional Support (100106)....	\$9,872,963	\$9,873,558		
Operation and Maintenance Of Plant (100107).....	\$6,936,197	\$6,936,197		
Fund Sources: General.....	\$27,219,808	<del>\$27,610,716</del> \$26,890,848		
Higher Education Operating.....	\$42,208,233	\$42,208,233		

Authority: Title ~~2323.1~~, Chapter ~~45~~ 17, Code of Virginia.

A. This Item includes general and nongeneral fund appropriations to support institutional initiatives that help meet statewide goals described in the Restructured Higher Education Financial and Administrative Operations Act of 2005 (Chapters 933 and 945, 2005 Acts of Assembly).

B. As Virginia's public colleges and universities approach full funding of the base

ITEM 173.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
<p>adequacy guidelines and as the General Assembly strives to fully fund the general fund share of the base adequacy guidelines, these funds are provided with the intent that, in exercising their authority to set tuition and fees, the Board of Visitors shall take into consideration the impact of escalating college costs for Virginia students and families. In accordance with the cost-sharing goals set forth in § 4-2.01 b. of this Act, the Board of Visitors is encouraged to limit increases on tuition and mandatory educational and general fees for in-state, undergraduate students to the extent possible.</p> <p>C. Out of this appropriation, \$847,736 the first year and \$1,236,532 the second year from the general fund is designated to support the goals of access, affordability, quality and increased degrees. Given the increased investment from the general fund during this biennium, it is the expression of the General Assembly that the institution seek to minimize tuition and fee increases for in-state undergraduate students. This language shall be in effect for the 2016-2018 biennium only. The Board of Visitors shall set the tuition rates for the institution, and forward their action to the State Council of Higher Education for Virginia within three business days of such action. The Council shall analyze the Board's actions and report such analysis to the Chairmen of House Appropriations and Senate Finance Committees within three business days of receipt, at which point, the Board's action shall be final. The Director of the Council shall report the final Board actions to the Chairmen by August 1, 2016 and August 1, 2017.</p>				
174.	Higher Education Student Financial Assistance (10800).....		\$4,662,825	<del>\$4,302,807</del> \$4,669,021
	Scholarships (10810).....	\$4,662,126	<del>\$4,282,143</del> \$4,648,357	
	Fellowships (10820).....	\$699	\$20,664	
	Fund Sources: General.....	\$4,662,825	<del>\$4,302,807</del> \$4,669,021	
	Authority: Title <del>2323.1</del> , Chapter <del>15</del> 17, Code of Virginia.			
175.	Financial Assistance For Educational and General Services (11000) a sum sufficient, estimated at.....		\$3,178,393	\$3,178,393
	Sponsored Programs (11004).....	\$3,178,393	\$3,178,393	
	Fund Sources: Higher Education Operating.....	\$3,178,393	\$3,178,393	
	Authority: Title <del>2323.1</del> , Chapter <del>15</del> 17, Code of Virginia.			
176.	Higher Education Auxiliary Enterprises (80900) a sum sufficient, estimated at.....		\$55,880,263	\$58,220,379
	Food Services (80910).....	\$7,810,152	\$7,903,758	
	Bookstores And Other Stores (80920).....	\$45,000	\$45,000	
	Residential Services (80930).....	\$16,100,508	\$16,381,326	
	Parking And Transportation Systems And Services (80940).....	\$1,363,955	\$1,644,773	
	Telecommunications Systems And Services (80950).....	\$1,704,201	\$1,985,019	
	Student Health Services (80960).....	\$1,135,591	\$1,416,409	
	Student Unions And Recreational Facilities (80970).....	\$1,869,873	\$2,150,691	
	Recreational And Intramural Programs (80980).....	\$2,496,474	\$2,777,292	
	Other Enterprise Functions (80990).....	\$14,926,058	\$15,206,842	
	Intercollegiate Athletics (80995).....	\$8,428,451	\$8,709,269	
	Fund Sources: Higher Education Operating.....	\$48,292,952	\$50,633,068	
	Debt Service.....	\$7,587,311	\$7,587,311	
	Authority: Title <del>2323.1</del> , Chapter <del>15</del> 17, Code of Virginia.			
	Total for Longwood University.....		\$133,149,522	<del>\$135,520,528</del> \$135,166,874
	General Fund Positions.....	287.89	287.89	
	Nongeneral Fund Positions.....	471.67	471.67	

ITEM 176.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
Position Level.....	759.56	759.56		
Fund Sources: General.....	\$31,882,633	\$31,913,523		
		\$31,559,869		
Higher Education Operating.....	\$93,679,578	\$96,019,694		
Debt Service.....	\$7,587,311	\$7,587,311		

**§ 1-57. NORFOLK STATE UNIVERSITY (213)**

177.	Educational and General Programs (10000).....			\$81,435,383	\$82,042,076
				\$81,444,587	\$82,051,280
	Higher Education Instruction (100101).....	\$36,723,805	\$37,090,498		
	Higher Education Research (100102).....	\$198,246	\$198,246		
	Higher Education Public Services (100103).....	\$1,304,794	\$1,304,794		
	Higher Education Academic (100104).....	\$9,777,966	\$10,017,966		
	Higher Education Student Services (100105).....	\$5,253,547	\$5,253,547		
	Higher Education Institutional Support (100106).....	\$15,565,694	\$15,565,694		
		\$15,574,898	\$15,574,898		
	Operation and Maintenance Of Plant (100107).....	\$12,611,331	\$12,611,331		
	Fund Sources: General.....	\$45,083,024	\$45,449,717		
		\$45,092,228	\$45,458,921		
	Higher Education Operating.....	\$36,352,359	\$36,592,359		

Authority: Title 23.23.1, Chapter 13.119, Code of Virginia.

A. This Item includes general and nongeneral fund appropriations to support institutional initiatives that help meet statewide goals described in the Restructured Higher Education Financial and Administrative Operations Act of 2005 (Chapters 933 and 945, 2005 Acts of Assembly).

B.1. Out of this appropriation, \$5,350,128 the first year and \$5,350,128 the second year from the general fund is designated for the recently initiated Bachelor of Science academic programs in Electronics Engineering and Optical Engineering and Master of Science academic programs in Electronics Engineering, Optical Engineering, Computer Science, and Criminal Justice.

2. Out of the amounts for programs listed in paragraph B.1. above, shall be provided \$273,486 the first year and \$273,486 the second year from the general fund for lease payments through the Master Equipment Leasing Program for educational and general equipment.

3. Out of the amounts for Educational and General Programs, \$37,500 the first year and \$37,500 the second year from the general fund is provided to serve in lieu of endowment income from the Eminent Scholars Program.

C.1. Out of the amounts for Educational and General Programs, a maximum of \$70,000 the first year and \$70,000 the second year from the general fund is designated for the Dozoretz National Institute for Minorities in Applied Sciences.

2. Any unexpended balances in paragraphs B.1., B.2., B.3., and C.1. in this Item at the close of business on June 30, 2016 and June 30, 2017 shall not revert to the surplus of the general fund, but shall be carried forward on the books of the State Comptroller and reappropriated in the succeeding year. Norfolk State University may expend any prior year end balances to support its educational and general activities.

D. As Virginia's public colleges and universities approach full funding of the base adequacy guidelines and as the General Assembly strives to fully fund the general fund share of the base adequacy guidelines, these funds are provided with the intent that, in exercising their authority to set tuition and fees, the Board of Visitors shall take into consideration the impact of escalating college costs for Virginia students and families. In accordance with the cost-sharing goals set forth in § 4-2.01 b. of this act, the Board of Visitors is encouraged to limit increases on tuition and mandatory educational and general fees for in-state, undergraduate students to the extent possible.

ITEM 177.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
E. Out of this appropriation, \$220,000 the first year and \$220,000 the second year from the general fund is designated to increase retention and graduation of juniors and seniors in good academic standing and who have additional demonstrated need.				
F. Out of this appropriation, \$793,421 the first year and \$1,157,307 the second year from the general fund is designated to support the goals of access, affordability, quality and increased degrees. Given the increased investment from the general fund during this biennium, it is the expression of the General Assembly that the institution seek to minimize tuition and fee increases for in-state undergraduate students. This language shall be in effect for the 2016-2018 biennium only. The Board of Visitors shall set the tuition rates for the institution, and forward their action to the State Council of Higher Education for Virginia within three business days of such action. The Council shall analyze the Board's actions and report such analysis to the Chairmen of House Appropriations and Senate Finance Committees within three business days of receipt, at which point, the Board's action shall be final. The Director of the Council shall report the final Board actions to the Chairmen by August 1, 2016 and August 1, 2017.				
178. Higher Education Student Financial Assistance (10800).....			\$16,548,182	<del>\$13,632,871</del> \$16,583,315
Scholarships (10810).....	\$16,404,763	<del>\$13,454,319</del> \$16,404,763		
Fellowships (10820).....	\$143,419	\$178,552		
Fund Sources: General.....	\$11,648,182	<del>\$8,732,871</del> \$11,683,315		
Higher Education Operating.....	\$4,900,000	\$4,900,000		
Authority: Title <del>2323.1</del> , Chapter <del>43-119</del> , Code of Virginia.				
179. Financial Assistance For Educational and General Services (11000) a sum sufficient, estimated at.....			<del>\$24,702,644</del> \$18,006,943	<del>\$24,702,644</del> \$18,006,943
Sponsored Programs (11004).....	<del>\$24,702,644</del> \$18,006,943	<del>\$24,702,644</del> \$18,006,943		
Fund Sources: <i>General</i> .....	\$9,204 \$0	\$9,204 \$0		
Higher Education Operating.....	<del>\$24,693,440</del> \$18,006,943	<del>\$24,693,440</del> \$18,006,943		
Authority: Title <del>2323.1</del> , Chapter <del>43-119</del> , Code of Virginia.				
180. Higher Education Auxiliary Enterprises (80900) a sum sufficient, estimated at.....			\$41,205,989	\$41,965,589
Food Services (80910).....	\$1,368,865	\$1,368,865		
Bookstores And Other Stores (80920).....	\$393,740	\$393,740		
Residential Services (80930).....	\$13,769,908	\$14,529,508		
Parking And Transportation Systems And Services (80940).....	\$458,180	\$458,180		
Student Health Services (80960).....	\$1,000,000	\$1,000,000		
Student Unions And Recreational Facilities (80970)...	\$9,570,213	\$9,570,213		
Other Enterprise Functions (80990).....	\$6,477,215	\$6,477,215		
Intercollegiate Athletics (80995).....	\$8,167,868	\$8,167,868		
Fund Sources: Higher Education Operating.....	\$37,171,807	\$37,171,807		
Debt Service.....	\$4,034,182	\$4,793,782		
Authority: Title <del>2323.1</del> , Chapter <del>43-119</del> , Code of Virginia.				
Total for Norfolk State University.....			<del>\$163,892,198</del> \$157,205,701	<del>\$162,343,180</del> \$158,607,127
General Fund Positions.....	488.37	488.37		
Nongeneral Fund Positions.....	681.75	681.75		

ITEM 180.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
Position Level.....	1,170.12	1,170.12		
Fund Sources: General.....	\$56,740,410	<del>\$54,191,792</del> \$57,142,236		
Higher Education Operating.....	\$103,117,606 <del>\$96,431,109</del>	\$103,357,606 \$96,671,109		
Debt Service.....	\$4,034,182	\$4,793,782		

**§ 1-58. OLD DOMINION UNIVERSITY (221)**

181.	Educational and General Programs (10000).....			\$275,423,028	<del>\$279,889,183</del> \$278,621,345
	Higher Education Instruction (100101).....	\$150,970,721	<del>\$154,097,135</del> \$151,984,456		
	Higher Education Research (100102).....	\$5,707,812	\$5,707,812		
	Higher Education Public Services (100103).....	\$271,710	\$271,710		
	Higher Education Academic (100104).....	\$48,785,754	\$49,336,123		
	Higher Education Student Services (100105).....	\$16,541,274	<del>\$17,202,490</del> \$17,366,260		
	Higher Education Institutional Support (100106).....	\$27,461,847	<del>\$27,534,314</del> \$28,094,970		
	Operation and Maintenance Of Plant (100107).....	\$25,683,910	<del>\$25,739,599</del> \$25,860,014		
	Fund Sources: General.....	\$118,868,484	<del>\$120,907,270</del> \$117,711,131		
	Higher Education Operating.....	\$156,554,544	<del>\$158,981,913</del> \$160,910,214		

Authority: Title 23.1, Chapter 5-220, Code of Virginia.

A.1. This Item includes general and nongeneral fund appropriations to support institutional initiatives that help meet statewide goals described in the Restructured Higher Education Financial and Administrative Operations Act of 2005 (Chapters 933 and 945, 2005 Acts of Assembly).

2. Out of this appropriation, the university may allocate funds to expand enrollment capacity through expansion of distance learning, TELETECHNET and summer school.

B. Out of this appropriation, \$431,013 the first year and \$431,013 the second year from the general fund and \$198,244 the first year and \$198,244 the second year from nongeneral funds are designated for the educational telecommunications project to provide graduate engineering education. For supplemental budget requests, the participating institutions and centers jointly shall submit a report in support of such requests to the State Council of Higher Education for Virginia for review and recommendation to the Governor and General Assembly.

C. Notwithstanding § 55-297, Code of Virginia, Old Dominion University is hereby designated as the administrative agency for the Virginia Coordinate System.

D. Notwithstanding § ~~23-7.4.2~~ § 23.1-506, Code of Virginia, the governing board of Old Dominion University may charge reduced tuition to any person enrolled in one of Old Dominion University's TELETECHNET sites or higher education centers who lives within a 50-mile radius of the site/center, is domiciled in, and is entitled to in-state tuition charges in the institutions of higher learning in any state, or the District of Columbia, which is contiguous to Virginia and which has similar reciprocal provisions for persons domiciled in Virginia.

E. As Virginia's public colleges and universities approach full funding of the base adequacy guidelines and as the General Assembly strives to fully fund the general fund share of the base adequacy guidelines, these funds are provided with the intent that, in exercising their authority to set tuition and fees, the Board of Visitors shall take into consideration the impact of escalating college costs for Virginia students and families. In accordance with the cost-sharing goals set forth in § 4-2.01 b. of this act, the Board of Visitors is encouraged to limit increases on tuition and mandatory educational and general

ITEM 181.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
<p>fees for in-state, undergraduate students to the extent possible.</p> <p>F. Out of this appropriation, \$320,000 the first year and \$320,000 the second year from the general fund is designated to provide opportunity for 80 students per year to be engaged in STEM education using aerospace, high tech science, technology and engineering in partnership with NASA Wallops Flight Facility. Old Dominion University will collaborate with the Virginia Space Grant Consortium and STEM educators to identify the students who will participate in the program each year. The designated funding in this paragraph will not be considered as a resource for purposes of funding guidelines.</p> <p>G. Out of this appropriation, \$465,100 and four positions the first year and \$409,200 and four positions the second year from the general fund is designated to support modeling of socioeconomic impacts of recurrent flooding in support of the Commonwealth Center for Recurrent Flooding Resiliency. The center, a collaborative partnership involving Old Dominion University, the Virginia Institute of Marine Science, and the College of William and Mary's Virginia Coastal Policy Center, shall work with municipalities both along coastal Virginia and throughout the Commonwealth to develop useful resilience strategies.</p> <p>H. The 4-VA, a public-private partnership among George Mason University, James Madison University, the University of Virginia, Virginia Tech, Old Dominion University, and CISCO Systems, Inc., utilizes emerging technologies to promote collaboration and resource sharing to increase access, reduce time to graduation and reduce unit cost while maintaining and enhancing quality. Instructional talent across the five institutions is leveraged in the delivery of programs in foreign languages, science, technology, engineering and mathematics. The 4-VA Management Board can expand this partnership to additional institutions as appropriate to meet the goals of the 4-VA initiative. It is expected that funding will be pooled by the management board as required to support continuing efforts of the 4-VA priorities and projects.</p> <p>I. Out of this appropriation, \$4,554,021 the first year and \$6,642,626 the second year from the general fund is designated to support the goals of access, affordability, quality and increased degrees. Given the increased investment from the general fund during this biennium, it is the expression of the General Assembly that the institution seek to minimize tuition and fee increases for in-state undergraduate students. This language shall be in effect for the 2016-2018 biennium only. The Board of Visitors shall set the tuition rates for the institution, and forward their action to the State Council of Higher Education for Virginia within three business days of such action. The Council shall analyze the Board's actions and report such analysis to the Chairmen of House Appropriations and Senate Finance Committees within three business days of receipt, at which point, the Board's action shall be final. The Director of the Council shall report the final Board actions to the Chairmen by August 1, 2016 and August 1, 2017.</p> <p><i>J. Pursuant to § 4-1.02 d. 6.a) of this act and notwithstanding any other provision of law, appropriation reductions in the amount of \$3,196,139 in the second year from the general fund for Old Dominion University specified in this Item may be distributed to programs within Educational and General Programs, grantees, or among programs other than Educational and General Programs, except Higher Education Student Financial Assistance.</i></p>				
182.	Higher Education Student Financial Assistance (10800).....		\$29,511,732	<del>\$27,956,331</del> \$32,672,195
	Scholarships (10810).....	\$26,947,818		<del>\$25,245,636</del> \$29,961,500
	Fellowships (10820).....	\$2,563,914		\$2,710,695
	Fund Sources: General.....	\$24,197,896		<del>\$20,004,045</del> \$24,344,677
	Higher Education Operating.....	\$5,313,836		<del>\$7,952,286</del> \$8,327,518
	Authority: Title <del>2323.1</del> , Chapter <del>5:220</del> , Code of Virginia.			
183.	Financial Assistance For Educational and General Services (11000).....		\$17,375,120	\$17,375,120
	Eminent Scholars (11001).....	\$421,387		\$421,387

ITEM 183.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
Sponsored Programs (11004).....	\$16,953,733	\$16,953,733		
Fund Sources: General.....	\$3,955,203	\$3,955,203		
Higher Education Operating.....	\$13,419,917	\$13,419,917		

Authority: Title 2323.1, Chapter 5-220, Code of Virginia.

A.1. Out of this appropriation, \$2,099,838 and 14 positions the first year and \$2,099,838 and 14 positions the second year from the general fund and \$4,500,000 the first year and \$4,500,000 the second year from nongeneral funds are designated to build research capacity in modeling and simulation, which shall include efforts to improve traffic management through modeling.

2. Out of this appropriation, \$250,000 the first year and \$250,000 the second year from the general fund is designated to support science, technology, engineering and mathematics (STEM), and health-related programs. Old Dominion University shall use these funds to promote the use of modeling and simulation in the medical industry.

B. Out of this appropriation, \$1,500,000 the first year and \$1,500,000 the second year from the general fund is designated to expand research efforts at the Center for Bioelectrics, which uses electrical stimuli in the biomedical area to eliminate cancer cells and tumors without damaging healthy surrounding tissue, accelerate wound healing, and efficiently deliver DNA vaccines. Non-biomedical areas of research include reducing pollutants in exhaust and establishing effective ground penetrating radar.

C. The Higher Education Operating fund source listed in this Item is considered to be a sum sufficient appropriation, which is an estimate of funding required by the university to cover sponsored program operations.

184. Higher Education Auxiliary Enterprises (80900) a sum sufficient, estimated at.....			\$108,781,044	<del>\$108,781,044</del> \$111,721,044
Food Services (80910).....	\$4,780,460	<del>\$4,780,460</del> \$5,260,460		
Bookstores And Other Stores (80920).....	\$915,764	<del>\$915,764</del> \$655,764		
Residential Services (80930).....	\$32,279,062	<del>\$32,279,062</del> \$32,829,062		
Parking And Transportation Systems And Services (80940).....	\$7,509,248	<del>\$7,509,248</del> \$6,609,248		
Telecommunications Systems And Services (80950).....	\$6,134	<del>\$6,134</del> \$906,134		
Student Health Services (80960).....	\$2,687,180	\$2,687,180		
Student Unions And Recreational Facilities (80970).....	\$7,822,908	<del>\$7,822,908</del> \$8,342,908		
Recreational And Intramural Programs (80980).....	\$2,415,657	\$2,415,657		
Other Enterprise Functions (80990).....	\$16,848,115	<del>\$16,848,115</del> \$18,248,115		
Intercollegiate Athletics (80995).....	\$33,516,516	<del>\$33,516,516</del> \$33,766,516		
Fund Sources: Higher Education Operating.....	\$86,163,563	<del>\$86,163,563</del> \$89,103,563		
Debt Service.....	\$22,617,481	\$22,617,481		

Authority: Title 2323.1, Chapter 5-220, Code of Virginia.

Old Dominion University is authorized to establish a self-supporting "instructional enterprise" fund to account for the revenues and expenditures of TELETECHNET classes offered at locations outside the Commonwealth of Virginia. Consistent with the self-supporting concept of an "enterprise fund," student tuition and fee revenues for TELETECHNET students at locations outside Virginia shall exceed all direct and indirect costs of providing instruction to those students. Tuition and fee rates to meet this

ITEM 184.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
requirement shall be established by the University's Board of Visitors. Revenue and expenditures of the fund shall be accounted for in such a manner as to be auditable by the State Council of Higher Education for Virginia. Revenues in excess of expenditures shall be retained in the fund to support the entire TELETECHNET program. Full-time equivalent students generated through these programs shall be accounted for separately. Additionally, revenues which remain unexpended on the last day of the previous biennium and the last day of the first year of the current biennium shall be reappropriated and allotted for expenditure in the respective succeeding fiscal year.				
Total for Old Dominion University.....			\$431,090,924	\$434,001,678 \$440,389,704
General Fund Positions.....	1,038.51	1,038.51		
Nongeneral Fund Positions.....	1,428.98	<del>1,458.98</del> 1,479.98		
Position Level.....	2,467.49	<del>2,497.49</del> 2,518.49		
Fund Sources: General.....	\$147,021,583	\$144,866,518 \$146,011,011		
Higher Education Operating.....	\$261,451,860	\$266,517,679 \$271,761,212		
Debt Service.....	\$22,617,481	\$22,617,481		

**§ 1-59. RADFORD UNIVERSITY (217)**

185. Educational and General Programs (10000).....			\$122,974,144	\$123,658,473 \$122,323,985
Higher Education Instruction (100101).....	\$75,779,693	\$76,463,002 \$75,128,514		
Higher Education Public Services (100103).....	\$616,976	\$616,976		
Higher Education Academic (100104).....	\$10,937,603	\$10,937,603		
Higher Education Student Services (100105).....	\$5,832,434	\$5,832,434		
Higher Education Institutional Support (100106).....	\$19,253,779	\$19,254,799		
Operation and Maintenance Of Plant (100107).....	\$10,553,659	\$10,553,659		
Fund Sources: General.....	\$49,820,087	\$50,504,416 \$49,169,928		
Higher Education Operating.....	\$73,154,057	\$73,154,057		

Authority: Title ~~2323.1~~, Chapter ~~H-121~~, Code of Virginia.

A. This Item includes general and nongeneral fund appropriations to support institutional initiatives that help meet statewide goals described in the Restructured Higher Education Financial and Administrative Operations Act of 2005 (Chapters 933 and 945, 2005 Acts of Assembly).

B. As Virginia's public colleges and universities approach full funding of the base adequacy guidelines and as the General Assembly strives to fully fund the general fund share of the base adequacy guidelines, these funds are provided with the intent that, in exercising their authority to set tuition and fees, the Board of Visitors shall take into consideration the impact of escalating college costs for Virginia students and families. In accordance with the cost-sharing goals set forth in § 4-2.01 b. of this act, the Board of Visitors is encouraged to limit increases on tuition and mandatory educational and general fees for in-state, undergraduate students to the extent possible.

C. Out of this appropriation, \$1,482,976 the first year and \$2,163,111 the second year from the general fund is designated to support the goals of access, affordability, quality and increased degrees. Given the increased investment from the general fund during this biennium, it is the expression of the General Assembly that the institution seek to minimize tuition and fee increases for in-state undergraduate students. This language shall be in effect for the 2016-2018 biennium only. The Board of Visitors shall set the tuition rates for the institution, and forward their action to the State Council of Higher Education for Virginia within three business days of such action. The Council shall analyze the Board's actions and report such analysis to the Chairmen of House Appropriations and Senate Finance

ITEM 185.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
Committees within three business days of receipt, at which point, the Board's action shall be final. The Director of the Council shall report the final Board actions to the Chairmen by August 1, 2016 and August 1, 2017.				
186.	Higher Education Student Financial Assistance (10800).....		\$11,950,915	\$10,342,836 \$12,027,922
	Scholarships (10810).....	\$11,109,175		<del>\$9,424,089</del> \$11,109,175
	Fellowships (10820).....	\$841,740		\$918,747
	Fund Sources: General.....	\$10,043,444		<del>\$8,435,365</del> \$10,120,451
	Higher Education Operating.....	\$1,907,471		\$1,907,471
Authority: Title 2323.1, Chapter 44-21, Code of Virginia.				
187.	Financial Assistance For Educational and General Services (11000) a sum sufficient, estimated at.....		\$8,891,893	\$8,891,893
	Eminent Scholars (11001).....	\$47,694		\$47,694
	Sponsored Programs (11004).....	\$8,844,199		\$8,844,199
	Fund Sources: Higher Education Operating.....	\$8,891,893		\$8,891,893
Authority: Title 2323.1, Chapter 44-21, Code of Virginia.				
188.	Higher Education Auxiliary Enterprises (80900) a sum sufficient, estimated at.....		\$60,179,912	\$60,179,912
	Food Services (80910).....	\$16,958,145		\$16,958,145
	Bookstores And Other Stores (80920).....	\$534,174		\$534,174
	Residential Services (80930).....	\$12,935,991		\$12,935,991
	Parking And Transportation Systems And Services (80940).....	\$1,440,896		\$1,440,896
	Telecommunications Systems And Services (80950).....	\$576,502		\$576,502
	Student Health Services (80960).....	\$2,842,458		\$2,842,458
	Student Unions And Recreational Facilities (80970).....	\$6,249,639		\$6,249,639
	Recreational And Intramural Programs (80980).....	\$1,465,013		\$1,465,013
	Other Enterprise Functions (80990).....	\$4,651,091		\$4,651,091
	Intercollegiate Athletics (80995).....	\$12,526,003		\$12,526,003
	Fund Sources: Higher Education Operating.....	\$56,779,912		\$56,779,912
	Debt Service.....	\$3,400,000		\$3,400,000
Authority: Title 2323.1, Chapter 44-21, Code of Virginia.				
	Total for Radford University.....		<b>\$203,996,864</b>	<b>\$203,073,114</b> <b>\$203,423,712</b>
	General Fund Positions.....	631.39		631.39
	Nongeneral Fund Positions.....	812.69		812.69
	Position Level.....	1,444.08		1,444.08
	Fund Sources: General.....	\$59,863,531		<del>\$58,939,781</del> \$59,290,379
	Higher Education Operating.....	\$140,733,333		\$140,733,333
	Debt Service.....	\$3,400,000		\$3,400,000
<b>§ 1-60. UNIVERSITY OF MARY WASHINGTON (215)</b>				
189.	Educational and General Programs (10000).....		\$72,409,107	\$74,403,005 \$73,838,008
	Higher Education Instruction (100101).....	\$37,798,651		<del>\$39,489,822</del> \$38,932,825

ITEM 189.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
Higher Education Research (100102).....	\$418,561	\$418,561		
Higher Education Public Services (100103).....	\$316,994	\$316,994		
Higher Education Academic (100104).....	\$9,698,694	\$9,698,694		
Higher Education Student Services (100105).....	\$5,918,741	\$6,221,468		
Higher Education Institutional Support (100106).....	\$9,897,119	<del>\$9,897,119</del> \$9,889,119		
Operation and Maintenance Of Plant (100107).....	\$8,360,347	\$8,360,347		
Fund Sources: General.....	\$25,533,908	<del>\$26,327,806</del> \$25,762,809		
Higher Education Operating.....	\$46,875,199	\$48,075,199		

Authority: Title 2323.1, Chapter 9-218, Code of Virginia.

A. This Item includes general and nongeneral fund appropriations to support institutional initiatives that help meet statewide goals described in the Restructured Higher Education Financial and Administrative Operations Act of 2005 (Chapters 933 and 945, 2005 Acts of Assembly).

B. Out of this appropriation an amount estimated at \$80,483 the first year and \$80,483 the second year from the general fund and \$36,130 the first year and \$36,130 the second year from nongeneral funds are designated for the educational telecommunications project to provide graduate engineering education. The participating institutions and centers shall jointly submit an annual report and operating plan to the State Council of Higher Education for Virginia in support of these funded activities.

C. As Virginia's public colleges and universities approach full funding of the base adequacy guidelines and as the General Assembly strives to fully fund the general fund share of the base adequacy guidelines, these funds are provided with the intent that, in exercising their authority to set tuition and fees, the Board of Visitors shall take into consideration the impact of escalating college costs for Virginia students and families. In accordance with the cost-sharing goals set forth in § 4-2.01 b. of this act, the Board of Visitors is encouraged to limit increases on tuition and mandatory educational and general fees for in-state, undergraduate students to the extent possible.

D. Out of this appropriation, \$1,725,655 the first year and \$2,517,091 the second year from the general fund is designated to support the goals of access, affordability, quality and increased degrees. Given the increased investment from the general fund during this biennium, it is the expression of the General Assembly that the institution seek to minimize tuition and fee increases for in-state undergraduate students. This language shall be in effect for the 2016-2018 biennium only. The Board of Visitors shall set the tuition rates for the institution, and forward their action to the State Council of Higher Education for Virginia within three business days of such action. The Council shall analyze the Board's actions and report such analysis to the Chairmen of House Appropriations and Senate Finance Committees within three business days of receipt, at which point, the Board's action shall be final. The Director of the Council shall report the final Board actions to the Chairmen by August 1, 2016 and August 1, 2017.

E. Notwithstanding any other provision of law, the University of Mary Washington may enter into an agreement with the Fredericksburg Regional Alliance, a nonprofit organization dedicated to cooperative economic development efforts in the Fredericksburg region, for the purpose of expanding regional efforts in the field of economic development and research.

*F. Reductions contained in this item may be distributed only within the Educational and General Program except for the specific appropriations contained herein.*

190. Higher Education Student Financial Assistance (10800).....			\$7,300,386	<del>\$7,570,199</del> \$7,805,021
Scholarships (10810).....	\$7,283,888	<del>\$7,549,066</del> \$7,783,888		
Fellowships (10820).....	\$16,498	\$21,133		
Fund Sources: General.....	\$3,300,386	<del>\$3,070,199</del> \$3,305,021		

ITEM 190.		Item Details(\$)		Appropriations(\$)	
		First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
	Higher Education Operating.....	\$4,000,000	\$4,500,000		
	Authority: Title 23.1, Chapter 9-218, Code of Virginia.				
191.	Financial Assistance For Educational and General Services (11000) a sum sufficient, estimated at.....			\$809,533	\$809,533
	Eminent Scholars (11001).....	\$57,396	\$57,396		
	Sponsored Programs (11004).....	\$752,137	\$752,137		
	Fund Sources: Higher Education Operating.....	\$809,533	\$809,533		
	Authority: Title 23.1, Chapter 9-218, Code of Virginia.				
192.	Museum and Cultural Services (14500).....			\$843,139	<del>\$843,139</del> \$799,139
	Collections Management and Curatorial Services (14501).....	\$843,139	<del>\$843,139</del> \$799,139		
	Fund Sources: General.....	\$525,118	<del>\$525,118</del> \$481,118		
	Special.....	\$318,021	\$318,021		
	Authority: Title 23.1, Chapter 18 and Chapter 51, Acts of Assembly of 1960; <del>§ 23-91.35</del> § 23.1-1310, Code of Virginia.				
	The amounts provided in this appropriation are <i>designated</i> for the support of the James Monroe Museum and Memorial Library and Belmont, the estate and memorial gallery of American artist Gari Melchers.				
193.	Administrative and Support Services (19900)..... Operation of Higher Education Centers (19931).....	\$1,700,000	\$1,700,000	\$1,700,000	\$1,700,000
	Fund Sources: General.....	\$1,250,000	\$1,250,000		
	Special.....	\$450,000	\$450,000		
	Authority: Title 23.1, Chapter 18, Code of Virginia.				
194.	Historic and Commemorative Attraction Management (50200).....			\$275,897	<del>\$275,897</del> \$327,897
	Historic and Commemorative Attraction Management (50200).....	\$53,950	\$53,950		
	Historic Landmarks and Facilities Management (50203).....	\$221,947	<del>\$221,947</del> \$273,947		
	Fund Sources: General.....	\$221,947	<del>\$221,947</del> \$273,947		
	Special.....	\$53,950	\$53,950		
	Authority: Title 2.2, Chapter 2, § 2.2-208 Code of Virginia.				
	The amounts provided in this appropriation are <i>designated</i> for the support of the James Monroe Museum and Memorial Library.				
195.	Higher Education Auxiliary Enterprises (80900) a sum sufficient, estimated at.....			\$42,026,228	<del>\$42,426,228</del> \$43,176,228
	Food Services (80910).....	\$7,316,229	<del>\$7,316,229</del> \$8,066,229		
	Bookstores And Other Stores (80920).....	\$3,184,945	\$3,184,945		
	Residential Services (80930).....	\$10,874,522	\$10,874,522		
	Parking And Transportation Systems And Services (80940).....	\$692,417	\$692,417		
	Telecommunications Systems And Services (80950).....	\$1,182,104	\$1,182,104		

ITEM 195.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
Student Health Services (80960).....	\$592,823	\$592,823		
Student Unions And Recreational Facilities (80970)...	\$1,805,507	\$1,805,507		
Recreational And Intramural Programs (80980).....	\$1,965,941	\$1,965,941		
Other Enterprise Functions (80990).....	\$12,663,456	\$12,663,456		
Intercollegiate Athletics (80995).....	\$1,748,284	\$2,148,284		
Fund Sources: Higher Education Operating.....	\$36,587,600	<del>\$36,987,600</del> \$37,737,600		
Debt Service.....	\$5,438,628	\$5,438,628		
Authority: Title 2323.1, Chapter 9-218, Code of Virginia.				
Total for University of Mary Washington.....			\$125,364,290	<del>\$128,028,001</del> \$128,455,826
General Fund Positions.....	228.66	228.66		
Nongeneral Fund Positions.....	465.00	465.00		
Position Level.....	693.66	693.66		
Fund Sources: General.....	\$30,831,359	<del>\$31,395,070</del> \$31,072,895		
Special.....	\$821,971	\$821,971		
Higher Education Operating.....	\$88,272,332	<del>\$90,372,332</del> \$91,122,332		
Debt Service.....	\$5,438,628	\$5,438,628		

**§ 1-61. UNIVERSITY OF VIRGINIA (207)**

196.	Educational and General Programs (10000).....			\$632,413,218	<del>\$634,119,654</del> \$627,183,619
	Higher Education Instruction (100101).....	\$321,726,098	<del>\$323,417,634</del> \$316,381,599		
	Higher Education Research (100102).....	\$7,130,695	\$7,130,695		
	Higher Education Public Services (100103).....	\$5,977,764	<del>\$5,992,664</del> \$6,092,664		
	Higher Education Academic (100104).....	\$110,900,752	\$110,900,752		
	Higher Education Student Services (100105).....	\$37,614,164	\$37,614,164		
	Higher Education Institutional Support (100106).....	\$41,224,138	\$41,224,138		
	Operation and Maintenance Of Plant (100107).....	\$107,839,607	\$107,839,607		
	Fund Sources: General.....	\$129,061,379	<del>\$130,752,915</del> \$123,816,880		
	Higher Education Operating.....	\$500,471,839	\$500,486,739		
	Debt Service.....	\$2,880,000	\$2,880,000		

Authority: Title 2323.1, Chapter 922, Code of Virginia.

A. This Item includes general and nongeneral fund appropriations to support institutional initiatives that help meet statewide goals described in the Restructured Higher Education Financial and Administrative Operations Act of 2005 (Chapters 933 and 945, 2005 Acts of Assembly).

B.1. This appropriation includes an amount not to exceed \$1,393,959 the first year and \$1,393,959 the second year from the general fund for the operation of the Family Practice Residency Program and Family Practice medical student programs. This appropriation for Family Practice programs, whether ultimately implemented by contract, agreement or other means, is considered to be a grant.

2. The university shall report by July 1 annually to the Department of Planning and Budget an operating plan for the Family Practice Residency Program.

3. The University of Virginia, in cooperation with the Virginia Commonwealth University Health System Authority, shall establish elective Family Practice Medicine experiences in Southwest Virginia for both students and residents.

ITEM 196.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
4. In the event the Governor imposes across-the-board general fund reductions, pursuant to his executive authority in § 4-1.02 of this act, the general fund appropriation for the Family Practice programs shall be exempt from any reductions, provided the general fund appropriation for the family practice program is excluded from the total general fund appropriation for the University of Virginia for purposes of determining the university's portion of the statewide general fund reduction requirement.				
C. 1. Out of this appropriation, \$1,454,176 the first year and <del>\$1,454,176</del> \$1,554,176 the second year from the general fund and \$700,000 the first year and \$714,900 the second year from nongeneral funds is designated for the Virginia Foundation for Humanities and Public Policy. Out of the total funding, \$250,000 and two positions the first year and \$250,000 and two positions the second year from the general fund and \$700,000 and four positions the first year and \$714,900 and four positions the second year from nongeneral funds is provided to support Discovery Virginia, an online archive to preserve elements of Virginia history, culture, and heritage, and make the materials accessible to the public.				
2. Pursuant to House Joint Resolution 762, 1999 Session of the General Assembly, funds in this Item begin to address the objective of appropriating one dollar per capita for the support of the Foundation.				
D. Out of this appropriation, an amount estimated at \$527,610 the first year and \$527,610 the second year from the general fund and at least \$468,850 the first year and at least \$468,850 the second year from nongeneral funds are designated for the educational telecommunications project to provide graduate engineering education. For supplemental budget requests, the participating institutions and centers jointly shall submit a report in support of such requests to the State Council of Higher Education for Virginia for review and recommendation to the Governor and General Assembly.				
E. Out of this appropriation, \$192,954 the first year and \$192,954 the second year from the general fund, and at least \$283,500 the first year and at least \$283,500 the second year from nongeneral funds are designated for the independent Virginia Institute of Government at the University of Virginia Center for Public Service.				
F. Out of this appropriation, at least \$156,397 the first year and \$156,397 the second year from the general fund is designated for support of diabetes education and public service at the Virginia Center for Diabetes Professional Education at the University of Virginia.				
G. Out of this appropriation \$318,946 the first year and \$320,976 the second year from the general fund and \$53,189 the first year and \$53,189 the second year from nongeneral funds are designated for support of the State Arboretum at Blandy Farm.				
H. As Virginia's public colleges and universities approach full funding of the base adequacy guidelines and as the General Assembly strives to fully fund the general fund share of the base adequacy guidelines, these funds are provided with the intent that, in exercising their authority to set tuition and fees, the Board of Visitors shall take into consideration the impact of escalating college costs for Virginia students and families. In accordance with the cost-sharing goals set forth in § 4-2.01 b. of this act, the Board of Visitors is encouraged to limit increases on tuition and mandatory educational and general fees for in-state, undergraduate students to the extent possible.				
I. The 4-VA, a public-private partnership among George Mason University, James Madison University, the University of Virginia, Virginia Tech, Old Dominion University, and CISCO Systems, Inc., utilizes emerging technologies to promote collaboration and resource sharing to increase access, reduce time to graduation and reduce unit cost while maintaining and enhancing quality. Instructional talent across the five institutions is leveraged in the delivery of programs in foreign languages, science, technology, engineering and mathematics. The 4-VA Management Board can expand this partnership to additional institutions as appropriate to meet the goals of the 4-VA initiative. It is expected that funding will be pooled by the management board as required to support continuing efforts of the 4-VA priorities and projects.				
J. The appropriation for the fund source Higher Education Operating in this Item shall be considered a sum sufficient appropriation, which is an estimate of the amount of revenues to be collected for the educational and general program under the terms of the				

ITEM 196.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018

management agreement between the University of Virginia and the Commonwealth, as set forth in Chapters 933 and 943, of the 2006 Acts of Assembly.

K. Out of this appropriation, \$3,657,388 the first year and \$5,334,772 the second year from the general fund is designated to support the goals of access, affordability, quality and increased degrees. Given the increased investment from the general fund during this biennium, it is the expression of the General Assembly that the institution seek to minimize tuition and fee increases for in-state undergraduate students. This language shall be in effect for the 2016-2018 biennium only. The Board of Visitors shall set the tuition rates for the institution, and forward their action to the State Council of Higher Education for Virginia within three business days of such action. The Council shall analyze the Board's actions and report such analysis to the Chairmen of House Appropriations and Senate Finance Committees within three business days of receipt, at which point, the Board's action shall be final. The Director of the Council shall report the final Board actions to the Chairmen by August 1, 2016 and August 1, 2017.

L. Out of this appropriation, \$200,000 the first year and \$200,000 the second year from the general fund is designated for a pilot program to expand health care services to rural and medically underserved areas through the use of nurse practitioners and telemedicine.

*M. Pursuant to § 4-1.02 d. 6.a) of this act and notwithstanding any other provision of law, appropriation reductions in the amount of \$7,036,035 in the second year from the general fund for the University of Virginia specified in this Item may be distributed to programs within Educational and General Programs, grantees, or among programs other than Educational and General Programs, except Higher Education Student Financial Assistance.*

197.	Higher Education Student Financial Assistance (10800).....			\$102,478,803	\$102,503,589 \$102,736,324
	Scholarships (10810).....	\$51,230,260	\$50,997,525 \$51,230,260		
	Fellowships (10820).....	\$51,248,543	\$51,506,064		
	Fund Sources: General.....	\$11,429,370	\$11,454,156 \$11,686,891		
	Higher Education Operating.....	\$91,049,433	\$91,049,433		

Authority: Title 2323.1, Chapter 922, Code of Virginia.

A. Out of this appropriation, \$250,000 the first year and \$250,000 the second year from the general fund, shall be provided to support public-private sector partnerships in order to maximize the number of newly licensed nurses and increase the supply of nursing faculty.

B. The appropriation for the fund source Higher Education Operating in this Item shall be considered a sum sufficient appropriation, which is an estimate of the revenue collected to meet student financial aid needs, under the terms of the management agreement between the university and the Commonwealth as set forth in Chapters 933 and 943 of the 2006 Acts of Assembly.

198.	Financial Assistance For Educational and General Services (11000).....			\$323,807,778	\$323,807,778
	Sponsored Programs (11004).....	\$323,807,778	\$323,807,778		
	Fund Sources: General.....	\$9,967,767	\$9,967,767		
	Higher Education Operating.....	\$291,030,011	\$291,030,011		
	Debt Service.....	\$22,810,000	\$22,810,000		

Authority: Title 2323.1, Chapter 922, Code of Virginia.

A. Out of this appropriation, ~~\$1,600,612~~ \$1,836,047 the first year and ~~\$1,600,612~~ \$1,836,047 the second year from the general fund and \$14,350,000 the first year and \$14,350,000 the second year from nongeneral funds are designated to build research capacity in the areas of bioengineering and biosciences.

B. Out of this appropriation, \$4,381,720 the first year and \$4,381,720 the second year from the general fund is designated for the support of cancer research.

ITEM 198.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
C. Out of this appropriation, \$2,750,000 the first year and \$2,750,000 the second year from the general fund is designated for support of the Focused Ultrasound Center to support core programs and research activities.				
D. Out of this appropriation, \$1,000,000 the first year and \$1,000,000 the second year from the general fund is designated to support the creation of the UVA Economic Development Accelerator.				
E. The Higher Education Operating fund source listed in this Item is considered to be a sum sufficient appropriation, which is an estimate of funding required by the university to cover sponsored program operations.				
199.	Higher Education Auxiliary Enterprises (80900) a sum sufficient, estimated at.....		\$222,775,089	\$222,775,089
	Food Services (80910).....	\$5,126,300	\$5,126,300	
	Residential Services (80930).....	\$42,416,308	\$42,416,308	
	Parking And Transportation Systems And Services (80940).....	\$15,152,588	\$15,152,588	
	Telecommunications Systems And Services (80950).....	\$15,564,808	\$15,564,808	
	Student Health Services (80960).....	\$9,988,173	\$9,988,173	
	Student Unions And Recreational Facilities (80970).....	\$6,416,529	\$6,416,529	
	Recreational And Intramural Programs (80980).....	\$9,719,717	\$9,719,717	
	Other Enterprise Functions (80990).....	\$61,109,420	\$61,109,420	
	Intercollegiate Athletics (80995).....	\$57,281,246	\$57,281,246	
	Fund Sources: Higher Education Operating.....	\$200,917,089	\$200,917,089	
	Debt Service.....	\$21,858,000	\$21,858,000	
Authority: Title 23.1, Chapter 922, Code of Virginia.				
	Total for University of Virginia.....		<b>\$1,281,474,888</b>	<b>\$1,283,206,110</b> <b>\$1,276,502,810</b>
	General Fund Positions.....	1,084.63	1,084.63	
	Nongeneral Fund Positions.....	5,951.17	5,951.17	
	Position Level.....	7,035.80	7,035.80	
	Fund Sources: General.....	\$150,458,516	<del>\$152,174,838</del> <del>\$145,471,538</del>	
	Higher Education Operating.....	\$1,083,468,372	\$1,083,483,272	
	Debt Service.....	\$47,548,000	\$47,548,000	

**University of Virginia Medical Center (209)**

200.	State Health Services (43000).....		<del>\$1,580,204,734</del> <del>\$1,691,825,836</del>	<del>\$1,642,546,130</del> <del>\$1,794,551,772</del>
	Inpatient Medical Services (43007).....	<del>\$696,662,156</del> <del>\$722,912,156</del>	<del>\$729,662,156</del> <del>\$766,462,156</del>	
	Outpatient Medical Services (43011).....	<del>\$384,466,525</del> <del>\$417,466,525</del>	<del>\$403,307,921</del> <del>\$447,307,921</del>	
	Administrative Services (43018).....	<del>\$499,076,053</del> <del>\$551,447,155</del>	<del>\$509,576,053</del> <del>\$580,781,695</del>	
	Fund Sources: Higher Education Operating.....	<del>\$1,562,558,269</del> <del>\$1,674,179,371</del>	<del>\$1,624,899,665</del> <del>\$1,776,905,307</del>	
	Debt Service.....	\$17,646,465	\$17,646,465	

Authority: §§ ~~23-62~~ 23.1, Chapter 22, Article 3 through 23-85, Code of Virginia and Chapter 38, Acts of Assembly of 1978.

A. The appropriation to the University of Virginia Medical Center provides for the care, treatment, health related services and education activities associated with Virginia patients, including indigent and medically indigent patients. Inasmuch as the University of

ITEM 200.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
<p>Virginia Medical Center is a state teaching hospital, this appropriation is to be used to jointly support the education of health students through patient care provided by this appropriation.</p> <p>B. By July 1 of each year, the Director, Department of Medical Assistance Services shall approve a common criteria and methodology for determining free care attributable to the appropriations in this Item. The Medical Center will report to the Department of Medical Assistance Services expenditures for indigent, medically indigent, and other patients. The Auditor of Public Accounts and the State Comptroller shall monitor the implementation of these procedures. The Medical Center shall report by October 31 annually to the Department of Medical Assistance Services, the Comptroller and the Auditor of Public Accounts on expenditures related to this Item. Reporting shall be by means of the indigent care cost report and shall follow criteria approved by the Director, Department of Medical Assistance Services.</p> <p>C. Funding for Family Practice is included in the University of Virginia's Educational and General appropriation. Support for other residencies is included in the hospital appropriation.</p> <p>D. It is the intent of the General Assembly that the University of Virginia Medical Center – Hospital maintain its efforts to staff residencies and fellow positions to produce sufficient generalist physicians in medically underserved regions of the state.</p> <p>E. The Higher Education Operating fund source listed in this Item is considered to be a sum sufficient appropriation, which is an estimate of funding required by the university to cover medical center operations.</p> <p>F. Notwithstanding anything contrary to law, the University of Virginia has authority to determine compensation paid to Medical Center employees in accordance with policies established by the Board of Visitors.</p> <p>G. In order to provide the state share for Medicaid supplemental payments to Medicaid provider private hospitals in which the University of Virginia Medical Center has a non-majority interest, the University of Virginia shall transfer to the Department of Medical Assistance Services public funds that comply with 42 C.F.R. § 433.51.</p>				
201.	The June 30, 2016 and June 30, 2017 unexpended balances to the University of Virginia Medical Center are hereby reappropriated; their use is subject to approval of allotments by the Department of Planning and Budget.			
202.	A full accrual system of accounting shall be effected by the institution, subject to the authority of the State Comptroller, as stated in § 2.2-803, Code of Virginia, with the proviso that appropriations for operating expenses may not be used for capital projects.			
			<b>\$1,580,204,734</b>	<b>\$1,642,546,130</b>
			<b>\$1,691,825,836</b>	<b>\$1,794,551,772</b>
	Total for University of Virginia Medical Center.....			
	Nongeneral Fund Positions.....	6,177.22	6,285.22	
		6,587.22	6,785.22	
	Position Level.....	6,177.22	6,285.22	
		6,587.22	6,785.22	
	Fund Sources: Higher Education Operating.....	\$1,562,558,269	\$1,624,899,665	
		\$1,674,179,371	\$1,776,905,307	
	Debt Service.....	\$17,646,465	\$17,646,465	
<b>University of Virginia's College at Wise (246)</b>				
203.	Educational and General Programs (10000).....		\$26,042,143	\$26,410,007
				\$26,402,789
	Higher Education Instruction (100101).....	\$13,508,948	\$13,876,812	
			\$13,869,594	
	Higher Education Public Services (100103).....	\$677,361	\$677,361	
	Higher Education Academic (100104).....	\$3,578,598	\$3,578,598	
	Higher Education Student Services (100105).....	\$1,998,696	\$1,998,696	
	Higher Education Institutional Support (100106).....	\$3,565,169	\$3,565,169	

ITEM 203.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
Operation and Maintenance Of Plant (100107).....	\$2,713,371	\$2,713,371		
Fund Sources: General.....	\$15,159,941	<del>\$15,527,805</del> \$15,520,587		
Higher Education Operating.....	\$10,882,202	\$10,882,202		

Authority: ~~§§ 23-91.20 through 23-91.23~~ Title 23.1, Chapter 22, Article 2, Code of Virginia.

A. This Item includes general and nongeneral fund appropriations to support institutional initiatives that help meet statewide goals described in the Restructured Higher Education Financial and Administrative Operations Act of 2005 (Chapters 933 and 945, 2005 Acts of Assembly).

B. The software engineering curriculum being established to insure success of recent economic development projects in Southwest Virginia, shall be considered on its merits by the State Council of Higher Education for Virginia and shall not be dependent on funding by the Commonwealth.

C. As Virginia's public colleges and universities approach full funding of the base adequacy guidelines and as the General Assembly strives to fully fund the general fund share of the base adequacy guidelines, these funds are provided with the intent that, in exercising their authority to set tuition and fees, the Board of Visitors shall take into consideration the impact of escalating college costs for Virginia students and families. In accordance with the cost-sharing goals set forth in § 4-2.01 b. of this act, the Board of Visitors is encouraged to limit increases on tuition and mandatory educational and general fees for in-state, undergraduate students to the extent possible.

D. Out of this appropriation, \$233,358 the first year and \$233,358 the second year from the general fund and \$138,577 the first year and \$138,577 the second year from nongeneral funds are designated to facilitate the technical training programs for the Northrop Grumman state backup data center.

E. The appropriation for the fund source Higher Education Operating in this Item shall be considered a sum sufficient appropriation, which is an estimate of the amount of revenues to be collected for the educational and general program under the terms of the management agreement between the University of Virginia and the Commonwealth, as set forth in Chapters 933 and 943, of the 2006 Acts of Assembly.

F. Out of this appropriation, \$800,146 the first year and \$1,167,116 the second year from the general fund is designated to support the goals of access, affordability, quality and increased degrees. Given the increased investment from the general fund during this biennium, it is the expression of the General Assembly that the institution seek to minimize tuition and fee increases for in-state undergraduate students. This language shall be in effect for the 2016-2018 biennium only. The Board of Visitors shall set the tuition rates for the institution, and forward their action to the State Council of Higher Education for Virginia within three business days of such action. The Council shall analyze the Board's actions and report such analysis to the Chairmen of House Appropriations and Senate Finance Committees within three business days of receipt, at which point, the Board's action shall be final. The Director of the Council shall report the final Board actions to the Chairmen by August 1, 2016 and August 1, 2017.

*G. Reductions contained in this item may be distributed only within the Educational and General Program except for the specific appropriations contained herein.*

*H. Out of this appropriation, \$425,000 the second year from the general fund is designated for the operations and maintenance of the new library.*

*I. Out of this appropriation, \$50,000 the second year from the general fund is designated for the University of Virginia's College at Wise to develop a plan related to potential future expansion due to desired enrollment growth. The University shall also detail the impact these plans would have on future capital needs. The plan shall be transmitted to the Chairmen of the Senate Finance and House Appropriations Committees by September 1, 2017."*

ITEM 204.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
204. Higher Education Student Financial Assistance (10800).....			\$2,615,576	<del>\$2,249,938</del> \$2,615,576
Scholarships (10810).....	\$2,615,576	<del>\$2,249,938</del> \$2,615,576		
Fund Sources: General.....	\$2,565,576	<del>\$2,199,938</del> \$2,565,576		
Higher Education Operating.....	\$50,000	\$50,000		
Authority: §§ 23-91.20 through 23-91.23 Title 23.1, Chapter 22, Article 2, Code of Virginia.				
205. Financial Assistance For Educational and General Services (11000) a sum sufficient, estimated at.....			\$2,109,040	<del>\$2,109,040</del> \$2,609,040
Sponsored Programs (11004).....	\$2,109,040	<del>\$2,109,040</del> \$2,609,040		
Fund Sources: Higher Education Operating.....	\$2,109,040	<del>\$2,109,040</del> \$2,609,040		
Authority: §§ 23-91.20 through 23-91.23 Title 23.1 Chapter 22, Article 2, Code of Virginia.				
206. Higher Education Auxiliary Enterprises (80900) a sum sufficient, estimated at.....			\$12,283,913	\$12,283,913
Food Services (80910).....	\$294,528	\$294,528		
Bookstores And Other Stores (80920).....	\$180,575	\$180,575		
Residential Services (80930).....	\$5,519,305	\$5,519,305		
Parking And Transportation Systems And Services (80940).....	\$178,514	\$178,514		
Student Health Services (80960).....	\$159,792	\$159,792		
Student Unions And Recreational Facilities (80970)...	\$621,663	\$621,663		
Other Enterprise Functions (80990).....	\$2,902,148	\$2,902,148		
Intercollegiate Athletics (80995).....	\$2,427,388	\$2,427,388		
Fund Sources: Higher Education Operating.....	\$9,293,913	\$9,293,913		
Debt Service.....	\$2,990,000	\$2,990,000		
Authority: §§ 23-91.20 through 23-91.23 Title 23.1, Chapter 22, Article 2, Code of Virginia.				
Total for University of Virginia's College at Wise.....			<b>\$43,050,672</b>	<del>\$43,052,898</del> <b>\$43,911,318</b>
General Fund Positions.....	165.26	165.26		
Nongeneral Fund Positions.....	<del>168.94</del> 180.44	<del>168.94</del> 181.44		
Position Level.....	<del>334.20</del> 345.70	<del>334.20</del> 346.70		
Fund Sources: General.....	\$17,725,517	<del>\$17,727,743</del> \$18,086,163		
Higher Education Operating.....	\$22,335,155	<del>\$22,335,155</del> \$22,835,155		
Debt Service.....	\$2,990,000	\$2,990,000		
Grand Total for University of Virginia.....			<del>\$2,904,730,294</del> <b>\$3,016,351,396</b>	<del>\$2,968,805,138</del> <b>\$3,114,965,900</b>
General Fund Positions.....	1,249.89	1,249.89		
Nongeneral Fund Positions.....	<del>12,297.33</del> 12,718.83	<del>12,405.33</del> 12,917.83		
Position Level.....	<del>13,547.22</del> 13,968.72	<del>13,655.22</del> 14,167.72		
Fund Sources: General.....	\$168,184,033	<del>\$169,902,581</del> \$163,557,701		

ITEM 206.	Item Details(\$)		Appropriations(\$)	
	First Year	Second Year	First Year	Second Year
	FY2017	FY2018	FY2017	FY2018
Higher Education Operating.....	\$2,668,361,796	\$2,730,718,092		
	\$2,779,982,898	\$2,883,223,734		
Debt Service.....	\$68,184,465	\$68,184,465		

**§ 1-62. VIRGINIA COMMONWEALTH UNIVERSITY (236)**

207.	Educational and General Programs (10000).....			\$574,492,907	\$576,659,760
	Higher Education Instruction (100101).....	\$320,993,373	\$323,160,226		\$570,976,842
			\$317,477,308		
	Higher Education Research (100102).....	\$14,014,438	\$14,014,438		
	Higher Education Public Services (100103).....	\$8,568,028	\$8,568,028		
	Higher Education Academic (100104).....	\$96,223,043	\$96,223,043		
	Higher Education Student Services (100105).....	\$26,280,787	\$26,280,787		
	Higher Education Institutional Support (100106)....	\$53,669,376	\$53,669,376		
	Operation and Maintenance Of Plant (100107).....	\$54,743,862	\$54,743,862		
	Fund Sources: General.....	\$175,892,134	\$178,058,987		
			\$170,040,472		
	Higher Education Operating.....	\$398,600,773	\$398,600,773		
			\$400,936,370		

Authority: Title 23.1, Chapter 6-23, Code of Virginia.

A. This Item includes general and nongeneral fund appropriations to support institutional initiatives that help meet statewide goals described in the Restructured Higher Education Financial and Administrative Operations Act of 2005 (Chapters 933 and 945, 2005 Acts of Assembly).

B.1. Out of this appropriation, \$4,336,607 the first year and \$4,336,607 the second year from the general fund is provided for the operation of the Family Practice Residency Program and Family Practice medical student programs. This appropriation for Family Practice programs, whether ultimately implemented by contract, agreement or other means, is considered to be a grant.

2. The university shall report by July 1 annually to the Department of Planning and Budget an operating plan for the Family Practice Residency Program.

3. The university, in cooperation with the University of Virginia, shall establish elective Family Practice Medicine experiences in Southwest Virginia for both students and residents.

4. In the event the Governor imposes across-the-board general fund reductions, pursuant to his executive authority in § 4-1.02 of this act, the general fund appropriation for the Family Practice programs shall be exempt from any reductions, provided the general fund appropriation for the family practice program is excluded from the total general fund appropriation for Virginia Commonwealth University for purposes of determining the University's portion of the statewide general fund reduction requirement.

C. Out of this appropriation, an amount estimated at \$332,140 the first year and \$332,140 the second year from the general fund and \$168,533 the first year and \$168,533 the second year from nongeneral funds are designated for the educational telecommunications project to provide graduate engineering education. For supplemental budget requests, the participating institutions and centers jointly shall submit a report in support of such requests to the State Council of Higher Education for Virginia for review and recommendation to the Governor and General Assembly.

D.1. Out of this appropriation, not less than \$386,685 the first year and not less than \$386,685 the second year from the general fund is designated for the Virginia Center on Aging. This includes \$319,750 the first year and \$319,750 the second year for the Alzheimer's and Related Diseases Research Award Fund.

2. Out of this appropriation, \$253,244 the first year and \$253,244 the second year from the general fund and \$356,250 the first year and \$356,250 the second year from nongeneral funds are designated for the operation of the Virginia Geriatric Education Center and the



ITEM 207.	Item Details(\$)		Appropriations(\$)		
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018	
<p>M. Out of this appropriation, \$4,370,112 the first year and \$6,374,371 the second year from the general fund is designated to support the goals of access, affordability, quality and increased degrees. Given the increased investment from the general fund during this biennium, it is the expression of the General Assembly that the institution seek to minimize tuition and fee increases for in-state undergraduate students. This language shall be in effect for the 2016-2018 biennium only. The Board of Visitors shall set the tuition rates for the institution, and forward their action to the State Council of Higher Education for Virginia within three business days of such action. The Council shall analyze the Board's actions and report such analysis to the Chairmen of House Appropriations and Senate Finance Committees within three business days of receipt, at which point, the Board's action shall be final. The Director of the Council shall report the final Board actions to the Chairmen by August 1, 2016 and August 1, 2017.</p>					
<p>N. Out of this appropriation, \$25,000 the first year and \$180,000 the second year from the general fund is designated to support a substance abuse fellowship program at the Virginia Commonwealth University School of Medicine.</p>					
<p>O. Out of this appropriation, \$125,000 each year from the general fund is designated to support a partnership between Virginia Commonwealth University and the Virginia Repertory Theatre at the historic November Theatre (formally known as the Empire Theatre).</p>					
<p>P. Out of this appropriation, \$250,000 each year from the general fund is designated for the Commonwealth Center for Advanced Logistics to serve as state matching funds for industry research and membership fees.</p>					
<p>Q. Out of this appropriation, \$125,000 each year from the general fund is designated for the Commonwealth Center for Advanced Logistics to support the traffic optimization modeling and simulation project at the Port of Virginia to improve port operations.</p>					
<p><i>R. Pursuant to § 4-1.02 d. 6.a) of this act and notwithstanding any other provision of law, appropriation reductions in the amount of \$8,018,515 in the second year from the general fund for Virginia Commonwealth University specified in this Item may be distributed to programs within Educational and General Programs, grantees, or among programs other than Educational and General Programs, except Higher Education Student Financial Assistance.</i></p>					
208.	Higher Education Student Financial Assistance (10800).....			\$39,243,354	<del>\$34,988,959</del> \$42,770,903
	Scholarships (10810).....	\$35,981,516	<del>\$31,563,975</del> \$39,345,919		
	Fellowships (10820).....	\$3,261,838	\$3,424,984		
	Fund Sources: General.....	\$29,900,271	<del>\$25,645,876</del> \$30,063,417		
	Higher Education Operating.....	\$9,343,083	<del>\$9,343,083</del> \$12,707,486		
<p>Authority: Title <del>23</del>23.1, Chapter <del>6</del>23, Code of Virginia.</p>					
<p>The appropriation for the fund source Higher Education Operating in this Item shall be considered a sum sufficient appropriation, which is an estimate of the revenue collected to meet student financial aid needs, under the terms of the management agreement between the university and the Commonwealth as set forth in Chapters 933 and 943 of the 2006 Acts of Assembly.</p>					
209.	Financial Assistance For Educational and General Services (11000).....			\$285,785,981	<del>\$285,785,981</del> \$289,385,981
	Eminent Scholars (11001).....	\$3,045,800	\$3,045,800		
	Sponsored Programs (11004).....	\$282,740,181	<del>\$282,740,181</del> \$286,340,181		
	Fund Sources: General.....	\$14,012,500	\$14,012,500		

ITEM 209.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
Higher Education Operating.....	\$254,267,201	<del>\$254,267,201</del> \$256,267,201		
Debt Service.....	\$17,506,280	<del>\$17,506,280</del> \$19,106,280		

Authority: Title 23.1, Chapter 6-23, Code of Virginia.

A. Out of this appropriation, \$1,162,500 the first year and \$1,162,500 the second year from the general fund and \$6,600,000 the first year and \$6,600,000 the second year from nongeneral funds are designated to build research capacity in the areas of biomedical engineering and regenerative medicine.

B. Out of this appropriation, \$12,500,000 the first year and \$12,500,000 the second year from the general fund is designated for the support of cancer research.

C. Out of this appropriation, \$350,000 the first year and \$350,000 the second year from the general fund is designated to support the Parkinson's and Movement Disorders Center.

D. The Higher Education Operating fund source listed in this Item is considered to be a sum sufficient appropriation, which is an estimate of funding required by the university to cover sponsored program operations.

210.	State Health Services (43000).....		\$26,575,000	\$26,575,000
	State Health Services Technical Support And Administration (43012).....	\$26,575,000	\$26,575,000	
	Fund Sources: Higher Education Operating.....	\$26,575,000	\$26,575,000	

Authority: Discretionary Inclusion.

This appropriation includes funding to support 200 instructional and administrative faculty positions and for administrative and classified positions which provide services, through internal service agreements, to the Virginia Commonwealth University Health System Authority.

211.	Higher Education Auxiliary Enterprises (80900) a sum sufficient, estimated at.....		\$141,822,126	<del>\$141,822,126</del> \$154,222,126
	Food Services (80910).....	\$12,531,746	\$12,531,746	
	Bookstores And Other Stores (80920).....	\$4,274,128	\$4,274,128	
	Residential Services (80930).....	\$28,703,531	\$28,703,531	
	Parking And Transportation Systems And Services (80940).....	\$22,338,335	\$22,338,335	
	Telecommunications Systems And Services (80950)..	\$5,042,556	\$5,042,556	
	Student Health Services (80960).....	\$5,891,638	\$5,891,638	
	Student Unions And Recreational Facilities (80970)...	\$12,666,858	\$12,666,858	
	Recreational And Intramural Programs (80980).....	\$10,579,272	\$10,579,272	
	Other Enterprise Functions (80990).....	\$23,741,962	<del>\$23,741,962</del> \$36,141,962	
	Intercollegiate Athletics (80995).....	\$16,052,100	\$16,052,100	
	Fund Sources: Higher Education Operating.....	\$110,154,246	<del>\$110,154,246</del> \$120,354,246	
	Debt Service.....	\$31,667,880	<del>\$31,667,880</del> \$33,867,880	

Authority: Title 23.1, Chapter 6-23, Code of Virginia.

212.	Administrative and Support Services (19900).....		\$45,000,000	\$45,000,000
	Operation of Higher Education Centers (19931).....	\$45,000,000	\$45,000,000	
	Fund Sources: Higher Education Operating.....	\$45,000,000	\$45,000,000	

Authority: Title 23.1, Chapter 6-23, Code of Virginia.

A.1. Out of this appropriation, \$45,000,000 the first year and \$45,000,000 the second year from nongeneral funds is designated to support the university's branch campus in Qatar.

ITEM 212.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
2. Notwithstanding § 2.2-1802 of the Code of Virginia, Virginia Commonwealth University is authorized to maintain a local bank account in Qatar and non-U.S. countries to facilitate business operations the VCU Qatar Campus. These accounts are exempt from the Securities for Public Deposits Act, Title 2.2, Chapter 44 of the Code of Virginia.				
3. Procurements and expenditures from the local bank account(s) are not subject to the Virginia Public Procurement Act and the Commonwealth Accounting Policies and Procedures (CAPP) Manual. Virginia Commonwealth University will institute procurement policies based on competitive procurement principles, except as otherwise stated within these policies. Expenditures from the local bank account will be recorded in the Commonwealth Accounting and Reporting System by Agency Transaction Vouchers, as appropriated herewith with revenue recognized as equal to the expenditures.				
4. Notwithstanding § 2.2-1149 of the Code of Virginia, Virginia Commonwealth University is authorized to approve operating, income and capital leases in Qatar under policies and procedures developed by the University.				
5. Virginia Commonwealth University is authorized to establish and hire staff (non-faculty) positions in Qatar under policies and procedures developed by the University. These employees, who are employed solely to support the Qatar Campus are not considered employees of the Commonwealth of Virginia and are not subject to the Virginia Personnel Act.				
6. The Board of Visitors of Virginia Commonwealth University is authorized to establish policies for the Qatar Campus.				
Total for Virginia Commonwealth University.....			<b>\$1,112,919,368</b>	<b><del>\$1,110,831,826</del> \$1,128,930,852</b>

General Fund Positions.....	1,507.80	1,507.80
Nongeneral Fund Positions.....	3,792.29	3,792.29
Position Level.....	5,300.09	5,300.09
Fund Sources: General.....	\$219,804,905	<del>\$217,717,363</del> \$214,116,389
Higher Education Operating.....	\$843,940,303	<del>\$843,940,303</del> \$861,840,303
Debt Service.....	\$49,174,160	<del>\$49,174,160</del> \$52,974,160

**§ 1-63. VIRGINIA COMMUNITY COLLEGE SYSTEM (260)**

213. Educational and General Programs (10000).....			<del>\$950,300,743</del> \$950,020,743	<del>\$953,064,981</del> \$919,185,350
Higher Education Instruction (100101).....	<del>\$451,725,951</del> \$451,445,951	<del>\$454,490,189</del> \$435,610,558		
Higher Education Public Services (100103).....	\$2,851,598	\$2,851,598		
Higher Education Academic (100104).....	\$98,683,365	\$98,683,365		
Higher Education Student Services (100105).....	\$76,735,650	\$76,735,650		
Higher Education Institutional Support (100106).....	\$208,574,659	\$208,574,659		
Operation and Maintenance Of Plant (100107).....	\$111,729,520	<del>\$111,729,520</del> \$96,729,520		
Fund Sources: General.....	<del>\$381,922,309</del> \$381,642,309	<del>\$384,686,547</del> \$370,806,916		
Higher Education Operating.....	\$568,378,434	<del>\$568,378,434</del> \$548,378,434		

Authority: Title ~~23~~23.1, Chapter ~~4~~629, Code of Virginia.

A. This Item includes general and nongeneral fund appropriations to support institutional initiatives that help meet statewide goals described in the Restructured Higher Education Financial and Administrative Operations Act of 2005 (Chapters 933 and 945, 2005 Acts of Assembly).

ITEM 213.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
B. It is the objective of the Commonwealth that a standard of 70 percent full-time faculty be established for the Virginia Community College System. Consistent with higher education funding guidelines, it is expected that the Virginia Community College System will utilize the funds provided for base operating support to achieve this objective. In addition, the first priority for new funding provided to the community college system shall be for operating support at individual community colleges. Thirty days prior to the beginning of each fiscal year, the Virginia Community College System shall report to the Chairmen of the House Appropriations and Senate Finance Committees on the allocation of all new general funds and nongeneral funds in this item and any cost recovery plans between the individual community colleges and the system office.				
C. It is the intent of the General Assembly that funds available to the Virginia Community College System be reallocated to accommodate changes in enrollment and other cost factors at each of the community colleges.				
D. Tuition and fee revenues from out-of-state students taking distance education courses through the Virginia Community College System must exceed all direct and indirect costs of providing instruction to those students. Tuition and fee rates to meet this requirement shall be established by the State Board for Community Colleges.				
E. Out of this appropriation, amounts for the following special programs are designated: at J. Sargeant Reynolds Community College, the Program for the Deaf, \$64,547 and four positions the first year and \$64,547 and four positions the second year from the general fund and the Program for the Intellectually Disabled, \$91,004 and four positions the first year and \$91,004 and four positions the second year from the general fund; and, at New River Community College, the Program for the Deaf, \$78,328 and four positions the first year and \$78,328 and four positions the second year from the general fund, and the Program for the Intellectually Disabled, \$69,682 and 4.5 positions the first year and \$69,682 and 4.5 positions the second year from the general fund; and, at Danville Community College, the Program for the Deaf, \$26,001 and one position the first year and \$26,001 and one position the second year from the general fund.				
F. Out of this appropriation, \$39,001 the first year and \$39,001 the second year from the general fund is designated to support the Southwest Virginia Telecommunications Network.				
G. Out of this appropriation, \$261,370 and four positions the first year and \$261,370 and four positions the second year from the general fund is provided to support Virginia Western Community College's participation in the Roanoke Higher Education Center and the Botetourt County Education and Training Center at Greenfield.				
H. Out of this appropriation, \$130,005 the first year and \$130,005 the second year from the general fund is designated to support the Southwestern Virginia Advanced Manufacturing Technology Center at Wytheville Community College.				
I.1. Out of this appropriation, \$345,000 the first year and \$345,000 the second year from the general fund is provided for the annual lease or rental costs of space in the Botetourt County Education and Training Center at Greenfield.				
2. The general fund amounts provided for in this paragraph for workforce training, retraining, programming, and community education facilities at the Botetourt County Education and Training Center shall be matched by local or private sources in a ratio of two-thirds state funds to at least one-third local or private funds, as approved by the State Board for Community Colleges.				
J. As Virginia's public colleges and universities approach full funding of the base adequacy guidelines and as the General Assembly strives to fully fund the general fund share of the base adequacy guidelines, these funds are provided with the intent that, in exercising their authority to set tuition and fees, the Board of Visitors shall take into consideration the impact of escalating college costs for Virginia students and families. In accordance with the cost-sharing goals set forth in § 4-2.01 b. of this act, the Board of Visitors is encouraged to limit increases on tuition and mandatory educational and general fees for in-state, undergraduate students to the extent possible.				
K. Out of this appropriation, \$191,884 the first year and \$191,884 the second year from the general fund shall be provided to Northern Virginia Community College to support public-				



ITEM 213.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018

T. Out of this appropriation, \$6,249,681 the first year and \$9,115,967 the second year from the general fund is designated to support the goals of access, affordability, quality and increased degrees. Given the increased investment from the general fund during this biennium, it is the expression of the General Assembly that the institution seek to minimize tuition and fee increases for in-state undergraduate students. This language shall be in effect for the 2016-2018 biennium only. The Board of Visitors shall set the tuition rates for the institution, and forward their action to the State Council of Higher Education for Virginia within three business days of such action. The Council shall analyze the Board's actions and report such analysis to the Chairmen of House Appropriations and Senate Finance Committees within three business days of receipt, at which point, the Board's action shall be final. The Director of the Council shall report the final Board actions to the Chairmen by August 1, 2016 and August 1, 2017.

*U. Reductions contained in this item may be distributed only within the Educational and General Program except for the specific appropriations contained herein.*

*V. 1. The Virginia Community College System, in coordination with the Department of Education, the State Council of Higher Education for Virginia, and the P-20 Council shall: (1) examine the rigor of dual enrollment general education courses; (2) establish structured dual enrollment career technical education and general education program pathways that lead to completion of certificates, diplomas, or associate degrees; (3) develop a process to create a dual enrollment general education course catalog that designates uniform transferability of courses to public four-year institutions of higher education; (4) develop guidelines for the implementation of improved transparent and accurate communication of dual enrollment course credit information to local school divisions, parents, and students; (5) recommend uniform pricing models for dual enrollment course delivery that sustain the affordability of dual enrollment offered by the Virginia Community College System and reflect the positive existing partnerships between local school divisions and Virginia's 23 community colleges; and (6) develop shared funding recommendations for the delivery of early college high school programs. A report of the preliminary findings shall be delivered to the Chairman of the Senate Finance Committee and the Chairman of the House Appropriations Committee by May 1, 2017, with a final report by May 1, 2018.*

*2. For the 2017-18 school year, the Virginia Community College System shall allow school divisions and local community colleges that offer dual enrollment courses to negotiate different costs for dual enrollment courses held at the local community college where a previous agreement had existed in the past and where there would be no loss of revenue based on the previous agreement.*

214. Higher Education Student Financial Assistance (10800)				
a sum sufficient, estimated at.....			\$566,766,889	\$562,839,142 \$64,016,889
Scholarships (10810).....	\$566,766,889	\$562,839,142 \$64,016,889		
Fund Sources: General.....	\$44,269,583	\$40,341,836 \$44,269,583		
Higher Education Operating.....	\$522,497,306	\$522,497,306 \$19,747,306		

Authority: Title ~~2323.1~~, Chapter ~~4629~~, Code of Virginia.

A. Out of this appropriation, \$150,000 the first year and \$150,000 the second year from the general fund is designated for Tidewater Community College to support an apprenticeship program for Virginia's shipyard workers. All general fund amounts appropriated for this apprenticeship program shall be used to provide scholarships to shipyard workers enrolled in the program. The conditions for receiving a scholarship shall be those conditions described in ~~§ 23-220.01~~ § 23.1-2912, Code of Virginia.

B. Funding in this Item shall be allocated for the Virginia Guaranteed Assistance Program, the Commonwealth Award and need-based student financial assistance for industry-based certifications or related programs that do not qualify for other sources of student financial assistance.

ITEM 215.		Item Details(\$)		Appropriations(\$)	
		First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
215.	Financial Assistance For Educational and General Services (11000).....			\$55,236,044	\$55,236,044
	Sponsored Programs (11004).....	\$55,236,044	\$55,236,044		
	Fund Sources: Higher Education Operating.....	\$55,236,044	\$55,236,044		
	Authority: Title <del>23.1</del> , Chapter <del>4629</del> , Code of Virginia.				
216.	Economic Development Services (53400).....			\$99,649,320 \$107,649,320	\$99,209,320 \$107,419,320
	Apprenticeship Program (53409).....	\$2,602,006	<del>\$2,602,006</del> \$0		
	Management of Workforce Development Program Services (53427).....	<del>\$97,047,314</del> \$105,047,314	<del>\$96,607,314</del> \$107,419,320		
	Fund Sources: General.....	\$10,647,664	<del>\$10,207,664</del> \$10,417,664		
	Higher Education Operating.....	<del>\$89,001,656</del> \$97,001,656	<del>\$89,001,656</del> \$97,001,656		

Authority: Title 23.1, Chapter 29, Code of Virginia.

A. Out of this appropriation, \$53,850,629 and 38 positions the first year, and \$53,850,629 and 38 positions the second year from nongeneral funds is provided for the administration and implementation of workforce development programs as part of the federal Workforce Investment Act.

B. Out of this appropriation, \$125,000 the first year and \$125,000 the second year from the general fund is provided to continue planning for the advanced integrated manufacturing technology program at Thomas Nelson Community College.

C.1. Out of this appropriation, \$166,162 the first year and \$166,162 the second year from the general fund is designated for the A. L. Philpott Manufacturing Extension Partnership at Patrick Henry Community College.

2. Out of this appropriation, \$927,700 the first year and \$927,700 the second year from the general fund is designated for the A. L. Philpott Manufacturing Extension Partnership at Patrick Henry Community College for an ongoing match for a grant from the U.S. Department of Commerce to develop a manufacturer assistance program covering most of Virginia.

D. It is the intent of the General Assembly that noncredit business and industry work-related training courses and programs offered by community colleges be funded at a ratio of 30 percent from the general fund and 70 percent from nongeneral funds. Out of this appropriation, \$664,647 in the first year and \$664,647 in the second year from the general fund is designated for this purpose. These funds may be combined with funds of \$249,243 the first year and \$249,243 the second year already included in the Virginia Community College System budget for the "Virginia Works" program. The funds will be allocated by formula to all colleges based on the number of individuals served by non-credit activities.

E.1. As recommended by House Joint Resolution No. 622 (1997), the Joint Subcommittee to Study Noncredit Education for Workforce Training in the Commonwealth, the Virginia Community College System is directed to establish one or more Institutes of Excellence responsible for development of statewide training programs to meet current, high demand workforce needs of the Commonwealth. Out of this appropriation, at least \$664,647 the first year and \$664,647 the second year from the general fund is available to support the Institutes of Excellence.

2. Under the guidance of the Virginia Workforce Council, authorized in Title 2.2, Chapter 26, Article 25, Code of Virginia, the Virginia Community College System shall submit to the Chairmen of the Senate Finance and House Appropriations Committees by November 4 of each year a report detailing the financing, activities, accomplishments and plans for the Institutes of Excellence and the four workforce development centers, and outcomes of the appropriations for 23 workforce coordinators and for non-credit training. The report shall include, but not be limited to:

ITEM 216.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
a. performance measures to be used to evaluate the effectiveness of the workforce coordinators at all 23 colleges;				
b. detailed information on number of students trained, employers served and courses offered; the types of certifications awarded; and the participation by local governments and the public or private sector, and other data relevant to the activities of the four regional workforce development centers;				
c. the number of students trained, employers served and courses offered through noncredit instruction, and the amounts of local government, public or private sector funding used to match this appropriation; and				
d. the amount or percentage of private and public funding contributed for the institutes' programming and operating needs; the number of private and public partnerships involved in the institutes' programming; the number of faculty and colleges affected by the institutes' programming; and performance measures to be used to evaluate the sharing or broadcasting of information and new/improved/updated curricula to other Virginia Community College campuses.				
F. Out of this appropriation, \$1,196,820 and 23 positions the first year and \$1,196,820 and 23 positions the second year from the general fund is provided for staff who will be responsible for coordinating workforce training in the campus service area. The staff will work with local business and industry to determine training needs, coordinate with local economic development personnel, the local workforce training council, and other providers. It is the General Assembly's intent that the Virginia Community College System maximize these positions by encouraging funding matches at the local level.				
G. Out of this appropriation, \$470,880 and four positions the first year and \$470,880 and four positions the second year from the general fund is provided for four workforce training centers: the Peninsula Workforce Development Center (Thomas Nelson Community College), \$78,480 and one position the first year and \$78,480 and one position the second year; the Regional Center for Applied Technology Training (Danville Community College), \$156,960 and one position the first year and \$156,960 and one position the second year; a Workforce Development Center at Paul D. Camp Community College, \$156,960 and one position the first year and \$156,960 and one position the second year; and the Central Virginia Manufacturing Technology Training Center in the Lynchburg area, \$78,480 and one position the first year and \$78,480 and one position the second year. Each center shall provide a 25 percent match prior to the release of state funding.				
H. Out of this appropriation, \$250,000 the first year and \$250,000 the second year from the general fund is designated to continue the pre-immersion hiring program.				
I. 1. Out of this appropriation, \$900,000 the first year and \$460,000 the second year from the general fund is designated to address the interest gap in the system's noncredit workforce programs through enhancement of the system's veteran's portal.				
2. Out of this appropriation, \$100,000 the first year and <del>\$100,000</del> the second year from the general fund is designated for outreach efforts.				
J. Out of this appropriation, \$104,950 each year from the general fund is designated to support career and technical education at Lord Fairfax Community College's Luray-Page County Center with a focus on healthcare and medical programs.				
<i>K. Out of this appropriation, \$310,000 the second year from the general fund is designated to implement a pilot program between Virginia Western Community College, Botetourt County Public Schools, and local industry partners to meet the demand for mechatronic technicians. The program goal is to prepare 100 Mechatronic Engineering Technicians over five years using established career pathways with Botetourt County Public Schools and Virginia Western Community College and a sustainable faculty preparation program.</i>				
217. Higher Education Auxiliary Enterprises (80900)				
a sum sufficient, estimated at.....			\$60,821,317	\$60,821,317
Food Services (80910).....	\$1,238,576	\$1,238,576		
Bookstores And Other Stores (80920).....	\$16,447,297	\$16,447,297		

ITEM 217.	Item Details(\$)		Appropriations(\$)	
	First Year	Second Year	First Year	Second Year
	FY2017	FY2018	FY2017	FY2018
Parking And Transportation Systems And Services (80940).....	\$23,487,416	\$23,487,416		
Student Unions And Recreational Facilities (80970).....	\$19,648,028	\$19,648,028		
Fund Sources: Higher Education Operating.....	\$44,710,554	\$44,710,554		
Debt Service.....	\$16,110,763	\$16,110,763		

Authority: Title 2323.1, Chapter 4629, Code of Virginia.

218. The appropriations in this section are for the following community colleges:

College I.D.	Community College	College I.D.	Community College
61	System Office	80	Northern Virginia
70	Utility	85	Patrick Henry
91	Blue Ridge	77	Paul D. Camp
92	Central Virginia	82	Piedmont
87	Dabney S. Lancaster	78	Rappahannock
79	Danville	76	Southside Virginia
84	Eastern Shore	94	Southwest Virginia
97	Germanna	93	Thomas Nelson
83	J. Sargeant Reynolds	95	Tidewater
90	John Tyler	96	Virginia Highlands
98	Lord Fairfax	86	Virginia Western
99	Mountain Empire	88	Wytheville
75	New River		

Total for Virginia Community College System.....			<del>\$1,732,774,313</del>	<del>\$1,731,170,804</del>
			<b>\$1,740,494,313</b>	<b>\$1,206,678,920</b>

General Fund Positions.....	5,559.57	5,559.57
Nongeneral Fund Positions.....	5,794.58	5,794.58
Position Level.....	11,354.15	11,354.15
Fund Sources: General.....	<del>\$436,839,556</del>	<del>\$435,236,047</del>
	\$436,559,556	\$425,494,163
Higher Education Operating.....	<del>\$1,279,823,994</del>	<del>\$1,279,823,994</del>
	\$1,287,823,994	\$765,073,994
Debt Service.....	\$16,110,763	\$16,110,763

**§ 1-64. VIRGINIA MILITARY INSTITUTE (211)**

219. Educational and General Programs (10000).....			\$38,153,152	<del>\$38,302,660</del>
				<del>\$37,759,314</del>
Higher Education Instruction (100101).....	\$15,995,208	<del>\$16,144,716</del>		
		\$15,601,370		
Higher Education Public Services (100103).....	\$71,011	\$71,011		
Higher Education Academic (100104).....	\$5,518,327	\$5,518,327		
Higher Education Student Services (100105).....	\$2,543,380	\$2,543,380		
Higher Education Institutional Support (100106).....	\$7,223,738	\$7,223,738		
Operation and Maintenance Of Plant (100107).....	\$6,801,488	\$6,801,488		
Fund Sources: General.....	\$9,824,232	<del>\$9,973,740</del>		
		\$9,430,394		
Higher Education Operating.....	\$27,928,920	\$27,928,920		
Debt Service.....	\$400,000	\$400,000		

Authority: Title 2323.1, Chapter 4025, Code of Virginia.

A. This Item includes general and nongeneral fund appropriations to support institutional initiatives that help meet statewide goals as described in the Restructured Higher Education Financial and Administrative Operations Act of 2005 (Chapters 933 and 945,

ITEM 219.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018

2005 Acts of Assembly).

B. As Virginia's public colleges and universities approach full funding of the base adequacy guidelines and as the General Assembly strives to fully fund the general fund share of the base adequacy guidelines, these funds are provided with the intent that, in exercising their authority to set tuition and fees, the Board of Visitors shall take into consideration the impact of escalating college costs for Virginia students and families. In accordance with the cost-sharing goals set forth in § 4-2.01 b. of this act, the Board of Visitors is encouraged to limit increases on tuition and mandatory educational and general fees for in-state, undergraduate students to the extent possible.

C. Resources determined by the State Council of Higher Education for Virginia to be uniquely military shall be excluded from the base adequacy funding guidelines.

D. Out of this appropriation, \$322,979 the first year and \$471,106 the second year from the general fund is designated to support the goals of access, affordability, quality and increased degrees. Given the increased investment from the general fund during this biennium, it is the expression of the General Assembly that the institution seek to minimize tuition and fee increases for in-state undergraduate students. This language shall be in effect for the 2016-2018 biennium only. The Board of Visitors shall set the tuition rates for the institution, and forward their action to the State Council of Higher Education for Virginia within three business days of such action. The Council shall analyze the Board's actions and report such analysis to the Chairmen of House Appropriations and Senate Finance Committees within three business days of receipt, at which point, the Board's action shall be final. The Director of the Council shall report the final Board actions to the Chairmen by August 1, 2016 and August 1, 2017.

*E. Reductions contained in this item may be distributed only within the Educational and General Program except for the specific appropriations contained herein.*

*F. Virginia Military Institute, with the approval of the Governor, is hereby authorized, at no cost to the Commonwealth, to convey certain portions of real property aggregating less than one-half acre that are part of City of Lexington, Virginia tax map parcel 17-1-1 to The George C. Marshall Research Foundation, Incorporated (Foundation) in exchange for the conveyance from the Foundation of certain portions of real property aggregating less than one-half acre that are part of City of Lexington, Virginia tax map parcel 17-1-2A; said exchange being for the purpose of adjusting property boundaries of the aforesaid tax map parcels to cure encroachments of certain improvements over and across each parcel. The exchange, and all documentation pursuant thereto, shall be in a form approved by the Attorney General. The appropriate officials of the Commonwealth and the Institute are hereby authorized to prepare, execute and deliver such deed and other documents pursuant to appropriate law as may be necessary to accomplish the exchange.*

220.	Higher Education Student Financial Assistance (10800).....			\$5,266,240	\$5,570,928 \$5,616,240
	Scholarships (10810).....	\$5,266,240	\$5,570,928 \$5,616,240		
	Fund Sources: General.....	\$1,016,240	\$970,928 \$1,016,240		
	Higher Education Operating.....	\$4,250,000	\$4,600,000		

Authority: Title ~~2323.1~~, Chapter ~~4025~~, § ~~23-105~~ § 23.1-2506, Code of Virginia.

Out of the amounts for Scholarships and Loans, the institute shall provide for State Cadetships and for discretionary student aid.

221.	Financial Assistance For Educational and General Services (11000) a sum sufficient, estimated at.....			\$894,898	\$894,898
	Eminent Scholars (11001).....	\$200,000	\$200,000		
	Sponsored Programs (11004).....	\$694,898	\$694,898		
	Fund Sources: Higher Education Operating.....	\$894,898	\$894,898		

ITEM 221.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
Authority: Title 2323.1, Chapter 4025, Code of Virginia.				
222.	Unique Military Activities (11300).....		\$8,772,662	\$8,772,662
	Fund Sources: General.....	\$4,210,058		\$4,210,058
	Higher Education Operating.....	\$4,562,604		\$4,562,604
Authority: Discretionary Inclusion.				
A.1. Personnel associated with performance of activities designated by the State Council of Higher Education for Virginia to be uniquely military shall be excluded from the calculation of employment guidelines.				
2. It is the intent of the General Assembly that nonresident cadets receive the same general fund support in the Unique Military program as resident cadets.				
223.	Higher Education Auxiliary Enterprises (80900) a sum sufficient, estimated at.....		\$27,942,510	<del>\$28,061,510</del> \$29,916,510
	Food Services (80910).....	\$6,897,369		<del>\$6,897,369</del> \$7,497,369
	Bookstores And Other Stores (80920).....	\$1,174,021		\$1,174,021
	Residential Services (80930).....	\$2,080,471		\$2,080,471
	Student Health Services (80960).....	\$232,440		\$232,440
	Student Unions And Recreational Facilities (80970).....	\$1,338,039		<del>\$1,338,039</del> \$1,838,039
	Recreational And Intramural Programs (80980).....	\$555,874		<del>\$555,874</del> \$955,874
	Other Enterprise Functions (80990).....	\$10,269,395		<del>\$10,388,395</del> \$10,743,395
	Intercollegiate Athletics (80995).....	\$5,394,901		\$5,394,901
	Fund Sources: Higher Education Operating.....	\$26,301,510		<del>\$26,420,510</del> \$27,920,510
	Debt Service.....	\$1,641,000		<del>\$1,641,000</del> \$1,996,000
Authority: Title 2323.1, Chapter 4025, Code of Virginia.				
	Total for Virginia Military Institute.....		<b>\$81,029,462</b>	<del>\$81,602,658</del> \$82,959,624
	General Fund Positions.....	187.71		187.71
	Nongeneral Fund Positions.....	281.06		281.06
	Position Level.....	468.77		468.77
	Fund Sources: General.....	\$15,050,530		<del>\$15,154,726</del> \$14,656,692
	Higher Education Operating.....	\$63,937,932		<del>\$64,406,932</del> \$65,906,932
	Debt Service.....	\$2,041,000		<del>\$2,041,000</del> \$2,396,000
<b>§ 1-65. VIRGINIA POLYTECHNIC INSTITUTE AND STATE UNIVERSITY (208)</b>				
224.	Educational and General Programs (10000).....		\$647,264,487	<del>\$649,628,927</del> \$671,982,040
	Higher Education Instruction (100101).....	\$368,274,498		<del>\$370,638,938</del> \$379,228,934
	Higher Education Research (100102).....	\$22,544,470		\$22,544,470
	Higher Education Public Services (100103).....	\$22,248,422		<del>\$22,248,422</del> \$24,743,672
	Higher Education Academic (100104).....	\$77,170,463		<del>\$77,170,463</del> \$80,870,558
	Higher Education Student Services (100105).....	\$20,147,462		<del>\$20,147,462</del> \$21,162,754

ITEM 224.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
Higher Education Institutional Support (100106).....	\$62,594,663	<del>\$62,594,663</del> \$65,676,992		
Operation and Maintenance Of Plant (100107).....	\$74,284,509	<del>\$74,284,509</del> \$77,754,660		
Fund Sources: General.....	\$161,730,359	<del>\$164,094,799</del> \$155,506,414		
Higher Education Operating.....	\$485,534,128	<del>\$485,534,128</del> \$516,475,626		

Authority: Title ~~23~~ 23.1, Chapter ~~H~~26, Code of Virginia.

A. This Item includes general and nongeneral fund appropriations to support institutional initiatives that help meet statewide goals described in the Restructured Higher Education Financial and Administrative Operations Act of 2005 (Chapters 933 and 945, 2005 Acts of Assembly).

B. Out of this appropriation shall be expended an amount estimated at \$869,882 the first year and \$869,882 the second year from the general fund and \$436,357 the first year and \$436,357 the second year from nongeneral funds are designated for the educational telecommunications project to provide graduate engineering education. For supplemental budget requests, the participating institutions and centers jointly shall submit a report in support of such requests to the State Council of Higher Education for Virginia for review and recommendation to the Governor and General Assembly.

C. Out of this appropriation, \$301,219 the first year and \$301,219 the second year from the general fund is designated to support the Marion duPont Scott Equine Center of the Virginia-Maryland Regional College of Veterinary Medicine.

D. Out of this appropriation, \$225,588 the first year and \$225,588 the second year from the general fund is designated to support tobacco research for medicinal purposes and field tests at sites in Blackstone and Abingdon.

E. As Virginia's public colleges and universities approach full funding of the base adequacy guidelines and as the General Assembly strives to fully fund the general fund share of the base adequacy guidelines, these funds are provided with the intent that, in exercising their authority to set tuition and fees, the Board of Visitors shall take into consideration the impact of escalating college costs for Virginia students and families. In accordance with the cost-sharing goals set forth in § 4-2.01 b. of this act, the Board of Visitors is encouraged to limit increases on tuition and mandatory educational and general fees for in-state, undergraduate students to the extent possible.

F. The appropriation for the fund source Higher Education Operating in this Item shall be considered a sum sufficient appropriation, which is an estimate of the amount of revenues to be collected for the educational and general program under the terms of the management agreement between Virginia Polytechnic Institute and State University and the Commonwealth, as set forth in Chapters 933 and 943, of the 2006 Acts of Assembly.

G. Out of this appropriation, \$288,000 the first year and \$288,000 the second year from the general fund is designated to develop a STEM Industry Internship program in partnership with the Virginia Space Grant Consortium, Virginia Regional Technology Councils and industry. The program will provide 75 undergraduate students across the Commonwealth an opportunity to centrally apply for real world work experience and provide Virginia's industries with access to qualified interns. Virginia Tech will partner with the Virginia Space Grant Consortium and work with Virginia's Regional Technology Councils who will serve as the program's conduit to industry, advertising the program and linking with interested industry partners.

H. The 4-VA, a public-private partnership among George Mason University, James Madison University, the University of Virginia, Virginia Tech, Old Dominion University, and CISCO Systems, Inc., utilizes emerging technologies to promote collaboration and resource sharing to increase access, reduce time to graduation and reduce unit cost while maintaining and enhancing quality. Instructional talent across the five institutions is leveraged in the delivery of programs in foreign languages, science, technology, engineering and mathematics. The 4-VA Management Board can expand this partnership to additional institutions as appropriate to

ITEM 224.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
<p>meet the goals of the 4-VA initiative. It is expected that funding will be pooled by the management board as required to support continuing efforts of the 4-VA priorities and projects.</p> <p>I. Out of this appropriation, \$5,133,251 the first year and \$7,487,508 the second year from the general fund is designated to support the goals of access, affordability, quality and increased degrees. Given the increased investment from the general fund during this biennium, it is the expression of the General Assembly that the institution seek to minimize tuition and fee increases for in-state undergraduate students. This language shall be in effect for the 2016-2018 biennium only. The Board of Visitors shall set the tuition rates for the institution, and forward their action to the State Council of Higher Education for Virginia within three business days of such action. The Council shall analyze the Board's actions and report such analysis to the Chairmen of House Appropriations and Senate Finance Committees within three business days of receipt, at which point, the Board's action shall be final. The Director of the Council shall report the final Board actions to the Chairmen by August 1, 2016 and August 1, 2017</p> <p>J. Out of this appropriation, \$2,000,000 the first year and \$2,000,000 the second year from the general fund is designated to support a cyber range platform to be used for cyber security training by students in Virginia's public high schools, community colleges, and four-year institutions. Virginia Tech shall form a consortium among participating institutions, and shall serve as the coordinating entity for use of the platform. The consortium should initially include all Virginia public institutions with a certification of academic excellence from the federal government.</p> <p><i>K. Pursuant to § 4-1.02 d. 6.a) of this act and notwithstanding any other provision of law, appropriation reductions in the amount of \$8,588,385 in the second year from the general fund for Virginia Polytechnic Institute and State University specified in this Item may be distributed to programs within Educational and General Programs, grantees, or among programs other than Educational and General Programs, except Higher Education Student Financial Assistance.</i></p>				
225.	Higher Education Student Financial Assistance (10800).....		\$21,792,399	\$21,624,256 \$23,192,457
	Scholarships (10810).....	\$16,896,919	\$16,546,631 \$18,114,832	
	Fellowships (10820).....	\$4,895,480	\$5,077,625	
	Fund Sources: General.....	\$20,800,899	\$20,392,756 \$20,983,044	
	Higher Education Operating.....	\$991,500	\$1,231,500 \$2,209,413	
<p>Authority: Soil Scientist Scholarships: <del>§ 23-38.3</del> Title 23.1, Chapter 26, and § 23.1-615, Code of Virginia.; <del>Other Scholarships: §§ 23-114 through 23-131, Code of Virginia.</del></p> <p>A. Out of the amount for Scholarships, the following sums shall be made available from the general fund for:</p> <ol style="list-style-type: none"> <li>1. Soil Scientist Scholarships, \$11,000 the first year and \$11,000 the second year.</li> <li>2. Scholarships, internships, and graduate assistantships administered by the Multicultural Academic Opportunities Program at the university, \$86,500 the first year and \$86,500 the second year. Eligible students must have financial need and participate in an academic support program.</li> </ol> <p>B. The appropriation for the fund source Higher Education Operating in this Item shall be considered a sum sufficient appropriation, which is an estimate of the revenue collected to meet student financial aid needs, under the terms of the management agreement between the university and the Commonwealth as set forth in Chapters 933 and 943 of the 2006 Acts of Assembly.</p>				
226.	Financial Assistance For Educational and General Services (11000).....		\$336,801,687	\$336,801,687
	Eminent Scholars (11001).....	\$2,000,000	\$2,000,000	

ITEM 226.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
Sponsored Programs (11004).....	\$334,801,687	\$334,801,687		
Fund Sources: General.....	\$5,388,544	\$5,388,544		
Higher Education Operating.....	\$331,413,143	\$331,413,143		
Authority: Title 23.1, Chapter 26, Code of Virginia.				
A. Out of this appropriation, \$2,388,544 the first year and \$2,388,544 the second year from the general fund and \$15,000,000 the first year and \$15,000,000 the second year from nongeneral funds are designated to build research capacity in the areas of bioengineering, biomaterials and nanotechnology.				
B. Virginia Polytechnic Institute and State University is authorized to establish a self-supporting "instructional enterprise" fund to account for the revenues and expenditures of the Institute for Distance and Distributed Learning (IDDL) classes offered to students at locations outside the Commonwealth of Virginia. Consistent with the self-supporting concept of an "enterprise fund," student tuition and fee revenues for IDDL students at locations outside Virginia shall exceed all direct and indirect costs of providing instruction to those students. The Board of Visitors shall set tuition and fee rates to meet this requirement and shall set other policies regarding the IDDL as may be appropriate. Revenue and expenditures of the fund shall be accounted for in such a manner as to be auditable by the Auditor of Public Accounts. As a part of this "instructional enterprise" fund Virginia Tech is authorized to establish a program in which Internet-based (on-line) courses, certificate, and entire degree programs, primarily at the graduate level, are offered to students in Virginia who are not enrolled for classes on the Blacksburg campus or one of the extended campus locations. Tuition generated by Virginia students taking these on-line courses and tuition from IDDL students at locations outside Virginia shall be retained in the fund to support the entire IDDL program and shall not be used by the state to offset other Educational and General costs. Revenues in excess of expenditures shall be retained in the fund to support the entire IDDL program. Full-time equivalent students generated through these programs shall be accounted for separately. Additionally, revenues which remain unexpended on the last day of the previous biennium and the last day of the first year of the current biennium shall be reappropriated and allotted for expenditure in the respective succeeding fiscal year.				
C. The Higher Education Operating fund source listed in this Item is considered to be a sum sufficient appropriation, which is an estimate of funding required by the university to cover sponsored program operations.				
D. Out of this appropriation, \$3,000,000 the first year and \$3,000,000 the second year from the general fund is designated to support and enhance brain disorder research.				
227.	Unique Military Activities (11300).....		\$2,284,350	\$2,284,350
	Fund Sources: General.....	\$2,284,350	\$2,284,350	
Authority: Discretionary Inclusion.				
A.1. Personnel associated with performance of activities designated by the State Council of Higher Education for Virginia to be uniquely military shall be excluded from the calculation of employment guidelines.				
2. It is the intent of the General Assembly that nonresident cadets receive the same general fund support in the Unique Military program as resident cadets.				
228.	Higher Education Auxiliary Enterprises (80900) a sum sufficient, estimated at.....		\$312,946,077	\$312,946,077
	Food Services (80910).....	\$58,017,586	\$58,017,586	
	Residential Services (80930).....	\$54,276,261	\$54,276,261	
	Parking And Transportation Systems And Services (80940).....	\$13,709,452	\$13,709,452	
	Telecommunications Systems And Services (80950)..	\$19,617,224	\$19,617,224	
	Student Health Services (80960).....	\$11,308,313	\$11,308,313	
	Student Unions And Recreational Facilities (80970)..	\$18,411,985	\$18,411,985	
	Recreational And Intramural Programs (80980).....	\$9,123,592	\$9,123,592	
	Other Enterprise Functions (80990).....	\$61,298,310	\$61,298,310	

ITEM 228.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
Intercollegiate Athletics (80995).....	\$67,183,354	\$67,183,354		
Fund Sources: Higher Education Operating.....	\$302,595,577	\$302,595,577		
Debt Service.....	\$10,350,500	\$10,350,500		
Authority: Title <del>23</del> 23.1, Chapter <del>4</del> 26, Code of Virginia.				
Total for Virginia Polytechnic Institute and State University.....			<b>\$1,321,089,000</b>	<b><del>\$1,323,285,297</del> \$1,347,206,611</b>
General Fund Positions.....	1,890.53	1,890.53		
Nongeneral Fund Positions.....	4,933.45	4,933.45		
Position Level.....	6,823.98	6,823.98		
Fund Sources: General.....	\$190,204,152	<del>\$192,160,449</del> \$184,162,352		
Higher Education Operating.....	\$1,120,534,348	<del>\$1,120,774,348</del> \$1,152,693,759		
Debt Service.....	\$10,350,500	\$10,350,500		

**Virginia Cooperative Extension and Agricultural Experiment Station (229)**

229.	Educational and General Programs (10000).....			\$88,833,021	\$89,134,563
				\$86,833,021	\$87,134,563
	Higher Education Research (100102).....	<del>\$38,970,432</del> \$38,093,736	\$38,972,098		
	Higher Education Public Services (100103).....	<del>\$46,796,915</del> \$45,773,620	\$46,796,915		
	Higher Education Academic (100104).....	<del>\$715,012</del> \$698,815	\$715,012		
	Operation and Maintenance Of Plant (100107).....	<del>\$2,350,662</del> \$2,266,850	\$2,650,538		
	Fund Sources: General.....	\$68,832,189	\$68,963,855		
	Higher Education Operating.....	<del>\$20,000,832</del> \$18,000,832	\$20,170,708		

Authority: ~~§ 23-132.4~~ Title 23.1, Chapter 26, Article 2 ~~through~~ ~~§ 23-132.11~~, Code of Virginia.

A. Appropriations for this agency shall include operating expenses for research and investigations, and the several regional and county agricultural experiment stations under its control, in accordance with law.

B.1. It is the intent of the General Assembly that the Cooperative Extension Service gives highest priority to programs and services which comprised the original mission of the Extension Service, especially agricultural programs at the local level. The university shall ensure that the service utilizes information technology to the extent possible in the delivery of programs.

2. The budget of this agency shall include and separately account for local payments. Virginia Polytechnic Institute and State University, in conjunction with Virginia State University, shall report, by fund source, actual expenditures for each program area and total actual expenditures for the agency, annually, by September 1, to the Department of Planning and Budget and the House Appropriations and Senate Finance Committees. The report shall include all expenditures from local support funds.

C. The Virginia Cooperative Extension and Agricultural Experiment Station shall not charge a fee for testing the soil on property used for commercial farming.

D. The appropriation for the fund source Higher Education Operating in this Item shall be considered a sum sufficient appropriation, which is an estimate of the amount of revenues to be collected for the educational and general program under the terms of the management agreement between Virginia Polytechnic Institute and State University and the Commonwealth, as set forth in Chapters 933 and 943, of the 2006 Acts of Assembly.

ITEM 229.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
<i>E. The agency shall study how best to leverage state investment with industry partnerships that result in the technological and scientific advancements needed to grow the state's agricultural and natural resource economy. A report shall be sent to the Chairmen of the House Appropriations and Senate Finance Committees by November 1, 2017. The findings of the study are to include short-term and long-term goals to grow the state's agricultural and natural resource economy.</i>				
<i>F. The Virginia Cooperative Extension and Agricultural Experiment Station shall work with the Cooperative Extension and Agricultural Research Services at Virginia State University to jointly study strategies to mitigate the Commonwealth's shortage of career and technical education teachers in the fields of agricultural education, technology education, and family and consumer sciences. The study shall include an evaluation of current offerings, consideration of additional or alternative strategies, and offer recommendations, as appropriate, in a report submitted to the Chairmen of the Senate Finance and House Appropriations Committees by September 1, 2017.</i>				
<i>G. It is the intent of the General Assembly that the general fund share of the Educational and General program for the Virginia Cooperative Extension and Agriculture Experiment Station shall be 95 percent of state funding calculations.</i>				
Total for Virginia Cooperative Extension and Agricultural Experiment Station.....			<b>\$88,833,021</b>	<b>\$89,134,563</b>
			<del>\$86,833,021</del>	<del>\$87,134,563</del>
General Fund Positions.....	726.24	726.24		
Nongeneral Fund Positions.....	388.27	388.27		
Position Level.....	1,114.51	1,114.51		
Fund Sources: General.....	\$68,832,189	\$68,963,855		
Higher Education Operating.....	<del>\$20,000,832</del>	<del>\$20,170,708</del>		
	<del>\$18,000,832</del>	<del>\$18,170,708</del>		
Grand Total for Virginia Polytechnic Institute and State University.....			<b>\$1,409,922,021</b>	<b>\$1,412,419,860</b>
			<del>\$1,407,922,021</del>	<del>\$1,434,341,174</del>
General Fund Positions.....	2,616.77	2,616.77		
Nongeneral Fund Positions.....	5,321.72	5,321.72		
Position Level.....	7,938.49	7,938.49		
Fund Sources: General.....	\$259,036,341	<del>\$261,124,304</del>		
		<del>\$253,126,207</del>		
Higher Education Operating.....	<del>\$1,140,535,180</del>	<del>\$1,140,945,056</del>		
	<del>\$1,138,535,180</del>	<del>\$1,170,864,467</del>		
Debt Service.....	\$10,350,500	\$10,350,500		
<b>§ 1-66. VIRGINIA STATE UNIVERSITY (212)</b>				
230. Educational and General Programs (10000).....			\$70,287,426	\$70,744,975
Higher Education Instruction (100101).....	\$38,972,886	\$39,430,435		
Higher Education Research (100102).....	\$2,110,453	\$2,110,453		
Higher Education Public Services (100103).....	\$120,448	\$120,448		
Higher Education Academic (100104).....	\$5,701,161	\$5,701,161		
Higher Education Student Services (100105).....	\$4,335,982	\$4,335,982		
Higher Education Institutional Support (100106).....	\$11,897,912	\$11,897,912		
Operation and Maintenance Of Plant (100107).....	\$7,148,584	\$7,148,584		
Fund Sources: General.....	\$33,630,728	\$34,088,277		
Higher Education Operating.....	\$36,656,698	\$36,656,698		

Authority: Title 2323.1, Chapter 4327, Code of Virginia.

A. This Item includes general and nongeneral fund appropriations to support institutional initiatives that help meet statewide goals described in the Restructured Higher Education

ITEM 230.	Item Details(\$)		Appropriations(\$)		
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018	
Financial and Administrative Operations Act of 2005 (Chapters 933 and 945, 2005 Acts of Assembly).					
B.1. Out of this appropriation, \$3,790,639 the first year and \$3,790,639 the second year from the general fund is designated for continued enhancement of the existing Bachelor of Science academic programs in Computer Science, Manufacturing Engineering, Computer Engineering, Mass Communications and Criminal Justice, and the doctoral program in Education.					
2. Out of this appropriation, \$37,500 the first year and \$37,500 the second year from the general fund is provided to serve in lieu of endowment income for the Eminent Scholars Program.					
3. Any unexpended balances in paragraphs B.1. and B.2. in this Item at the close of business on June 30, 2016 and June 30, 2017, shall not revert to the surplus of the general fund but shall be carried forward on the books of the State Comptroller and reappropriated in the succeeding year.					
C. This appropriation includes \$200,000 the first year and \$200,000 the second year from the general fund to increase the number of faculty with terminal degrees to at least 85 percent of the total teaching faculty.					
D. Out of this appropriation, Virginia State University is authorized to use up to \$600,000 the first year and \$600,000 the second year from the general fund to address extremely critical deferred maintenance deficiencies in its facilities, including residence halls and dining facilities.					
E. As Virginia's public colleges and universities approach full funding of the base adequacy guidelines and as the General Assembly strives to fully fund the general fund share of the base adequacy guidelines, these funds are provided with the intent that, in exercising their authority to set tuition and fees, the Board of Visitors shall take into consideration the impact of escalating college costs for Virginia students and families. In accordance with the cost-sharing goals set forth in § 4-2.01 b. of this act, the Board of Visitors is encouraged to limit increases on tuition and mandatory educational and general fees for in-state, undergraduate students to the extent possible.					
F. Out of this appropriation, \$1,300,000 the first year and \$1,300,000 the second year from the general fund is designated to support the Manufacturing Engineering and Logistics Technology program.					
G. Out of this appropriation, \$994,498 the first year and \$1,450,603 the second year from the general fund is designated to support the goals of access, affordability, quality and increased degrees. Given the increased investment from the general fund during this biennium, it is the expression of the General Assembly that the institution seek to minimize tuition and fee increases for in-state undergraduate students. This language shall be in effect for the 2016-2018 biennium only. The Board of Visitors shall set the tuition rates for the institution, and forward their action to the State Council of Higher Education for Virginia within three business days of such action. The Council shall analyze the Board's actions and report such analysis to the Chairmen of House Appropriations and Senate Finance Committees within three business days of receipt, at which point, the Board's action shall be final. The Director of the Council shall report the final Board actions to the Chairmen by August 1, 2016 and August 1, 2017.					
231.	Higher Education Student Financial Assistance (10800).....			\$15,180,715	<del>\$14,012,976</del> \$15,212,592
	Scholarships (10810).....	\$14,813,533	<del>\$13,613,917</del> \$14,813,533		
	Fellowships (10820).....	\$367,182	\$399,059		
	Fund Sources: General.....	\$8,583,688	<del>\$7,415,949</del> \$8,615,565		
	Higher Education Operating.....	\$6,597,027	\$6,597,027		

Authority: Title 2323.1, Chapter 1327, Code of Virginia.

ITEM 231.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
Out of this appropriation, \$1,199,616 the first year and \$1,199,616 the second year from the general fund is designated to support in-state undergraduate need-based financial aid. The university is authorized to utilize a portion of this appropriation to support Educational and General Programs if necessary.				
232.	Financial Assistance For Educational and General Services (11000) a sum sufficient, estimated at.....		\$35,538,161	\$35,538,161
	Sponsored Programs (11004).....	\$35,538,161	\$35,538,161	
	Fund Sources: Higher Education Operating.....	\$35,538,161	\$35,538,161	
Authority: Title 2323.1, Chapter 1327, Code of Virginia.				
233.	Higher Education Auxiliary Enterprises (80900) a sum sufficient, estimated at.....		\$42,508,117	\$42,508,117
	Food Services (80910).....	\$8,789,606	\$8,789,606	
	Bookstores And Other Stores (80920).....	\$51,001	\$51,001	
	Residential Services (80930).....	\$17,374,870	\$17,374,870	
	Parking And Transportation Systems And Services (80940).....	\$417,467	\$417,467	
	Student Health Services (80960).....	\$1,046,036	\$1,046,036	
	Student Unions And Recreational Facilities (80970)...	\$2,678,662	\$2,678,662	
	Other Enterprise Functions (80990).....	\$6,150,277	\$6,150,277	
	Intercollegiate Athletics (80995).....	\$6,000,198	\$6,000,198	
	Fund Sources: Higher Education Operating.....	\$32,175,572	\$32,175,572	
	Debt Service.....	\$10,332,545	\$10,332,545	
Authority: Title 2323.1, Chapter 1327, Code of Virginia.				
Total for Virginia State University.....			<b>\$163,514,419</b>	<b>\$162,804,229</b> <b>\$164,003,845</b>
	General Fund Positions.....	323.47	323.47	
	Nongeneral Fund Positions.....	486.89	486.89	
	Position Level.....	810.36	810.36	
	Fund Sources: General.....	\$42,214,416	<del>\$41,504,226</del> \$42,703,842	
	Higher Education Operating.....	\$110,967,458	\$110,967,458	
	Debt Service.....	\$10,332,545	\$10,332,545	

**Cooperative Extension and Agricultural Research Services (234)**

234.	Educational and General Programs (10000).....		\$12,159,497	\$12,159,684
	Higher Education Research (100102).....	\$5,860,828	\$5,860,828	
	Higher Education Public Services (100103).....	\$5,681,024	\$5,681,024	
	Higher Education Institutional Support (100106).....	\$191,813	\$192,000	
	Operation and Maintenance Of Plant (100107).....	\$425,832	\$425,832	
	Fund Sources: General.....	\$5,518,181	\$5,518,368	
	Higher Education Operating.....	\$6,641,316	\$6,641,316	

Authority: Title 2323.1, Chapter 1327, and § 23-165.11 § 23.1-2704, Title 23, Chapter 13, Code of Virginia.

A. Out this appropriation, \$392,107 the first year and \$392,107 the second year from the general fund is designated for support of research and extension activities aimed at the production of hybrid striped bass in Virginia farm ponds. No expenditures will be made from these funds for other purposes without the prior written permission of the Secretary of Education.

B. The Extension Division budgets shall include and separately account for local payments. Virginia State University, in conjunction with Virginia Polytechnic Institute and State

ITEM 234.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
University, shall report, by fund source, actual expenditures for each program area and total actual expenditures for the Extension Division, annually, by September 1, to the Department of Planning and Budget and the House Appropriations and Senate Finance Committees. The report shall include all expenditures from local support funds.				
C. Out of this appropriation, \$394,000 the first year and \$394,000 the second year from the general fund is designated for the Small-Farmer Outreach Training and Technical Assistance Program to provide outreach and business management education to small farmers.				
Total for Cooperative Extension and Agricultural Research Services.....			<b>\$12,159,497</b>	<b>\$12,159,684</b>
General Fund Positions.....	31.75	31.75		
Nongeneral Fund Positions.....	67.00	67.00		
Position Level.....	98.75	98.75		
Fund Sources: General.....	\$5,518,181	\$5,518,368		
Higher Education Operating.....	\$6,641,316	\$6,641,316		
Grand Total for Virginia State University.....			<b>\$175,673,916</b>	<b>\$174,963,913</b> <b>\$176,163,529</b>
General Fund Positions.....	355.22	355.22		
Nongeneral Fund Positions.....	553.89	553.89		
Position Level.....	909.11	909.11		
Fund Sources: General.....	\$47,732,597	<del>\$47,022,594</del> \$48,222,210		
Higher Education Operating.....	\$117,608,774	\$117,608,774		
Debt Service.....	\$10,332,545	\$10,332,545		

**§ 1-67. FRONTIER CULTURE MUSEUM OF VIRGINIA (239)**

235. Museum and Cultural Services (14500).....			<del>\$2,508,426</del> <b>\$2,420,840</b>	<del>\$2,393,451</del> <b>\$2,501,840</b>
Collections Management and Curatorial Services (14501).....	\$184,891	\$184,891		
Education and Extension Services (14503).....	<del>\$1,041,671</del> \$954,085	<del>\$1,041,671</del> \$1,150,060		
Operational and Support Services (14507).....	\$1,281,864	\$1,166,889		
Fund Sources: General.....	<del>\$1,751,721</del> \$1,664,135	<del>\$1,752,090</del> \$1,820,683		
Special.....	\$756,705	<del>\$641,361</del> \$681,157		

Authority: Title ~~2323.1~~, Chapter ~~2532~~, Article 2, Code of Virginia.

A. Any revenue generated by the Frontier Culture Museum of Virginia from the development of its properties pursuant to ~~§ 23-298~~ § 23.1-3203, Code of Virginia, may be retained by the museum to support agency operations. Such revenues shall be deposited into a special fund which shall be created on the books of the State Comptroller. Amounts in this fund shall be appropriated consistent with the provisions of this act.

B. The Governor may authorize the conveyance of any interest in property or improvements thereon held by the Commonwealth to the American Frontier Culture Foundation.

Total for Frontier Culture Museum of Virginia.....			<b>\$2,508,426</b> <b>\$2,420,840</b>	<b>\$2,393,451</b> <b>\$2,501,840</b>
General Fund Positions.....	22.50	22.50		
Nongeneral Fund Positions.....	15.00	15.00		
Position Level.....	37.50	37.50		

ITEM 235.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
Fund Sources: General.....	\$1,751,721	\$1,752,090		
	\$1,664,135	\$1,820,683		
Special.....	\$756,705	\$641,361		
		\$681,157		

**§ 1-68. GUNSTON HALL (417)**

236.	Museum and Cultural Services (14500).....		\$673,318	\$673,400
	Collections Management and Curatorial Services (14501).....	\$67,208	\$67,208	
	Education and Extension Services (14503).....	\$94,350	\$94,350	
	Operational and Support Services (14507).....	\$511,760	\$511,842	
	Fund Sources: General.....	\$496,941	\$497,019	
	Special.....	\$176,377	\$176,381	
	Authority: Title 2323.1, Chapter 2432, Article 3, Code of Virginia.			
	Total for Gunston Hall.....		<b>\$673,318</b>	<b>\$673,400</b>
	General Fund Positions.....	8.00	8.00	
	Nongeneral Fund Positions.....	3.00	3.00	
	Position Level.....	11.00	11.00	
	Fund Sources: General.....	\$496,941	\$497,019	
	Special.....	\$176,377	\$176,381	

**§ 1-69. JAMESTOWN-YORKTOWN FOUNDATION (425)**

237.	Museum and Cultural Services (14500).....		\$17,995,503	\$17,194,198
			\$17,509,202	\$17,297,735
	Collections Management and Curatorial Services (14501).....	\$765,613	\$765,613	
			\$696,896	
	Education and Extension Services (14503).....	\$6,254,309	\$6,247,217	
		\$6,189,917	\$6,234,725	
	Operational and Support Services (14507).....	\$10,975,581	\$10,181,368	
		\$10,553,672	\$10,366,114	
	Fund Sources: General.....	\$9,726,021	\$8,924,716	
		\$9,239,720	\$8,917,027	
	Special.....	\$8,269,482	\$8,269,482	
			\$8,380,708	

Authority: Title 2323.1, Chapter 2332, Article 4, Code of Virginia.

A. Out of the amounts for Operational and Support Services, the Director is authorized to expend from special funds amounts not to exceed \$3,500 the first year and \$3,500 the second year for entertainment expenses commonly borne by businesses. Such expenses shall be recorded separately by the agency.

B. With the prior written approval of the Director, Department of Planning and Budget, nongeneral fund revenues which are unexpended by the end of the fiscal year may be paid to the Jamestown-Yorktown Foundation, Inc. for the specific purposes determined by the Board of Trustees in support of Foundation programs.

C. It is the intent of the General Assembly that the Jamestown-Yorktown Foundation be authorized to fill all positions authorized in this act and all part-time (wage) positions funded in this act, notwithstanding § 4-7.01 of this act.

D. Out of the appropriation for this Item, \$54,777 the first year and \$54,777 the second year from the general fund is included for the purchase of museum electronic security equipment through the state's master equipment lease program.

	Total for Jamestown-Yorktown Foundation.....		<b>\$17,995,503</b>	<b>\$17,194,198</b>
			<b>\$17,509,202</b>	<b>\$17,297,735</b>

ITEM 237.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
General Fund Positions.....	101.00	<del>102.00</del> 108.00		
Nongeneral Fund Positions.....	65.00	<del>65.00</del> 63.00		
Position Level.....	166.00	<del>167.00</del> 171.00		
Fund Sources: General.....	<del>\$9,726,021</del> \$9,239,720	<del>\$8,924,716</del> \$8,917,027		
Special.....	\$8,269,482	<del>\$8,269,482</del> \$8,380,708		

**Jamestown-Yorktown Commemorations (400)**

238. Historic and Commemorative Attraction Management (50200).....			\$3,868,832	\$7,285,532
2019 Commemoration (50210).....	\$3,868,832	\$7,285,532		
Fund Sources: General.....	\$3,868,832	\$7,285,532		
Total for Jamestown-Yorktown Commemorations..			<b>\$3,868,832</b>	<b>\$7,285,532</b>
General Fund Positions.....	8.00	9.00		
Position Level.....	8.00	9.00		
Fund Sources: General.....	\$3,868,832	\$7,285,532		
Grand Total for Jamestown-Yorktown Foundation..			<b>\$21,864,335</b> <b>\$21,378,034</b>	<b>\$24,479,730</b> <b>\$24,583,267</b>
General Fund Positions.....	109.00	<del>111.00</del> 117.00		
Nongeneral Fund Positions.....	65.00	<del>65.00</del> 63.00		
Position Level.....	174.00	<del>176.00</del> 180.00		
Fund Sources: General.....	<del>\$13,594,853</del> \$13,108,552	<del>\$16,210,248</del> \$16,202,559		
Special.....	\$8,269,482	<del>\$8,269,482</del> \$8,380,708		

**§ 1-70. THE LIBRARY OF VIRGINIA (202)**

239. Archives Management (13700).....			\$7,973,496 \$7,816,133	\$7,948,496 \$7,881,033
Management of Public Records (13701).....	<del>\$917,342</del> \$779,377	<del>\$917,342</del> \$892,342		
Management of Archival Records (13702).....	\$1,848,577	\$1,823,577		
Historical and Cultural Publications (13703).....	<del>\$672,655</del> \$653,257	<del>\$672,655</del> \$630,192		
Archival Research Services (13704).....	\$1,871,387	\$1,871,387		
Conservation-Preservation of Historic Records (13705).....	\$663,535	\$663,535		
Circuit Court Record Preservation (13706).....	\$2,000,000	\$2,000,000		
Fund Sources: General.....	<del>\$3,139,239</del> \$2,981,876	<del>\$3,114,239</del> \$3,046,776		
Special.....	\$4,413,414	\$4,413,414		
Federal Trust.....	\$420,843	\$420,843		

Authority: Title 42.1, Chapters 1 and 7, Code of Virginia.

A. The Librarian of Virginia shall report annually to the Secretary of Education on progress in the processing and preserving of circuit court records.

B. The Librarian of Virginia and the State Archivist shall conduct an annual study of The Library of Virginia's archival preservation needs and priorities, and shall report annually

ITEM 239.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
by December 1 to the Governor and the Chairmen of the Senate Finance and House Appropriations Committees of the General Assembly on The Library of Virginia's progress to date in reducing its archival backlog.				
240.	Statewide Library Services (14200).....		\$6,888,719 \$6,805,349	\$6,888,719 \$7,060,584
	Cooperative Library Services (14201).....	\$2,459,487		\$2,459,487
	Consultation to Libraries (14203).....	\$811,554		\$811,554
	Research Library Services (14206).....	\$3,617,678 \$3,534,308		\$3,617,678 \$3,789,543
	Fund Sources: General.....	\$2,707,809 \$2,624,439		\$2,707,809 \$2,879,674
	Special.....	\$40,680		\$40,680
	Federal Trust.....	\$4,140,230		\$4,140,230
Authority: Title 42.1, Chapters 1 and 3, Code of Virginia.				
It is the intent of the General Assembly to continue to provide electronic resources for public libraries and to provide universal access to all citizens of the Commonwealth. First priority shall be the ability to access the Internet in local public libraries.				
241.	Financial Assistance for Educational, Cultural, Community, and Artistic Affairs (14300).....		\$16,253,584	\$15,753,584
	State Formula Aid for Local Public Libraries (14301).....	\$16,253,584		\$15,753,584
	Fund Sources: General.....	\$16,253,584		\$15,753,584
Authority: Title 42.1, Chapter 3, Code of Virginia.				
A. It is the objective of the Commonwealth that all local public libraries receiving state aid provide access to their patrons to worldwide electronic information on the Internet. It is the intent of the General Assembly that local public libraries receiving state aid invest in the technology necessary to provide or enhance this service.				
B. Included in this appropriation is \$190,070 the first year and \$190,070 the second year from the general fund to supplement the state formula aid distribution provided in Title 42.1, Code of Virginia, for Fairfax Public Library System.				
C. Out of this appropriation, \$500,000 the first year from the general fund is designated for the Eastern Shore Public Library to support construction of a new library.				
D. Out of this appropriation, \$20,000 each year from the general fund is designated for the Saltville branch of the Smyth-Bland Regional Library to support operational costs.				
242.	Administrative and Support Services (19900).....		\$8,550,261 \$8,377,252	\$8,551,528 \$8,389,400
	General Management and Direction (19901).....	\$6,257,781 \$6,199,627		\$6,259,048 \$6,096,920
	Information Technology Services (19902).....	\$1,706,456 \$1,591,601		\$1,706,456
	Physical Plant Services (19915).....	\$586,024		\$586,024
	Fund Sources: General.....	\$6,816,382 \$6,643,373		\$6,817,649 \$6,655,521
	Special.....	\$949,766		\$949,766
	Federal Trust.....	\$784,113		\$784,113
Authority: Title 42.1, Chapter 1, Code of Virginia.				
A. In the event that any budget reduction actions are required, the Director, Department of Planning and Budget, shall exclude from any reduction target calculations the rent plan included in the Library of Virginia budget.				
Total for The Library Of Virginia.....			\$39,666,060 \$39,252,318	\$39,142,327 \$39,084,601

ITEM 242.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
General Fund Positions.....	134.09	134.09		
Nongeneral Fund Positions.....	63.91	63.91		
Position Level.....	198.00	198.00		
Fund Sources: General.....	<del>\$28,917,014</del>	<del>\$28,393,281</del>		
	\$28,503,272	\$28,335,555		
Special.....	\$5,403,860	\$5,403,860		
Federal Trust.....	\$5,345,186	\$5,345,186		

**§ 1-71. THE SCIENCE MUSEUM OF VIRGINIA (146)**

243.	Museum and Cultural Services (14500).....			<del>\$11,493,589</del>	<del>\$11,444,325</del>
				\$11,227,307	\$11,299,793
	Collections Management and Curatorial Services (14501).....	\$1,372,096	\$1,372,096		
	Education and Extension Services (14503).....	\$5,046,173	<del>\$5,046,173</del>		
			\$5,009,923		
	Operational and Support Services (14507).....	<del>\$5,075,320</del>	<del>\$5,026,056</del>		
		\$4,809,038	\$4,917,774		
	Fund Sources: General.....	<del>\$5,325,637</del>	<del>\$5,276,373</del>		
		\$5,059,355	\$5,131,841		
	Special.....	\$5,167,952	\$5,167,952		
	Federal Trust.....	\$1,000,000	\$1,000,000		

Authority: Title 2323.1, Chapter 4832, Article 5, Code of Virginia.

A. This appropriation from the general fund shall be in addition to any appropriation from nongeneral funds, notwithstanding any contrary provisions in this act.

B. Out of this appropriation, \$50,000 and two positions the first year and \$50,000 and two positions the second year from the general fund shall be provided to support the Danville Science Center in Danville, Virginia.

C. Out of this appropriation, \$351,314 the first year and \$351,314 the second year from the general fund is included for the purchase of an IMAX digital projection system through the state's master equipment lease program.

D. Out of this appropriation, \$150,000 the first year and \$150,000 the second year is provided to pilot a STEM partnership between the Science Museum of Virginia, the Virginia Air and Space Center, and the Virginia Living Museum for programs that promote achievement for K-12 students in Hampton Roads and across the state, leveraging technology in the vital STEM component of the workforce pipeline.

	Total for The Science Museum of Virginia.....			<del>\$11,493,589</del>	<del>\$11,444,325</del>
				\$11,227,307	\$11,299,793
	General Fund Positions.....	59.19	<del>59.19</del>		
			58.19		
	Nongeneral Fund Positions.....	34.81	34.81		
	Position Level.....	94.00	<del>94.00</del>		
			93.00		
	Fund Sources: General.....	<del>\$5,325,637</del>	<del>\$5,276,373</del>		
		\$5,059,355	\$5,131,841		
	Special.....	\$5,167,952	\$5,167,952		
	Federal Trust.....	\$1,000,000	\$1,000,000		

**§ 1-72. VIRGINIA COMMISSION FOR THE ARTS (148)**

244.	Financial Assistance for Educational, Cultural, Community, and Artistic Affairs (14300).....			<del>\$3,909,308</del>	<del>\$3,909,308</del>
				\$3,721,220	\$3,724,912
	Financial Assistance to Cultural Organizations (14302).....	<del>\$3,909,308</del>	<del>\$3,909,308</del>		
		\$3,721,220	\$3,724,912		

ITEM 244.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
Fund Sources: General.....	\$3,188,633	\$3,188,633		
	\$3,000,545	\$2,910,237		
<i>Dedicated Special Revenue</i> .....	\$0	\$94,000		
Federal Trust.....	\$720,675	\$720,675		

Authority: Title 2.2, Chapter 25, Article 4, Code of Virginia.

A. In the allocation of grants to arts organizations, the Commission shall give preference to the performing arts.

B. It is the objective of the Commonwealth to fund the Virginia Commission for the Arts at an amount that equals one dollar for each resident of Virginia.

C. In the allocation of grants to arts organizations, the Commission shall not consider any other general fund amounts which may be appropriated to an arts organization elsewhere in this act, nor shall any funds appropriated elsewhere in this act supplant those grants which may be allocated from this appropriation.

*D. Notwithstanding § 23.1-3227, Code of Virginia, the Commission is authorized to use \$94,000 in the second year from the Virginia Arts Foundation Fund for grants allocated to arts organizations.*

245. Museum and Cultural Services (14500).....			\$658,238	\$608,442
Operational and Support Services (14507).....	\$658,238	\$608,442		
Fund Sources: General.....	\$573,113	\$523,317		
Federal Trust.....	\$85,125	\$85,125		

Authority: Title 2.2, Chapter 25, Article 4, Code of Virginia.

Out of this appropriation, \$50,000 the first year from the general fund is designated for the purchase of a grant management database.

Total for Virginia Commission for the Arts.....			<b>\$4,567,546</b>	<b>\$4,517,750</b>
			<del>\$4,379,458</del>	<del>\$4,333,354</del>

General Fund Positions.....	5.00	5.00		
Position Level.....	5.00	5.00		
Fund Sources: General.....	\$3,761,746	\$3,711,950		
	\$3,573,658	\$3,433,554		
<i>Dedicated Special Revenue</i> .....	\$0	\$94,000		
Federal Trust.....	\$805,800	\$805,800		

**§ 1-73. VIRGINIA MUSEUM OF FINE ARTS (238)**

246. Museum and Cultural Services (14500).....			\$32,354,442	\$32,357,685
			<del>\$31,856,886</del>	<del>\$35,285,342</del>
Collections Management and Curatorial Services (14501).....	\$8,482,678	\$8,482,678		
	\$8,269,503	\$10,059,678		
Education and Extension Services (14503).....	\$4,800,847	\$4,800,847		
		\$5,800,847		
Operational and Support Services (14507).....	\$19,070,917	\$19,074,160		
	\$18,786,536	\$19,424,817		
Fund Sources: General.....	\$10,109,639	\$10,110,752		
	\$9,612,083	\$9,364,334		
Special.....	\$4,850,465	\$4,852,595		
		\$4,052,595		
Enterprise.....	\$5,479,910	\$5,479,910		
Dedicated Special Revenue.....	\$11,664,428	\$11,664,428		
		\$16,138,503		
Federal Trust.....	\$250,000	\$250,000		

Authority: Title ~~2323.1~~, Chapter 32, Article 6, ~~Chapter 18-1~~, Code of Virginia.

ITEM 246.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
A. The appropriation in this Item from the general fund shall be in addition to any appropriation from nongeneral funds, notwithstanding any contrary provision of this act.				
B. Nongeneral fund revenues included in this Item under Dedicated Special Revenue will be restricted for the uses specified by the donors and shall not be subject to interagency transfers or appropriation reductions.				
C. The Comptroller of Virginia shall establish a special revenue account fund detail code for nongeneral funds donated to the Virginia Museum of Fine Arts by private donors and volunteers who sponsor fundraising activities to support the museum's general operations, exhibitions, and programs, <i>and entertainment expenses commonly borne by businesses. Such expenses shall be recorded separately by the museum.</i>				
D. Out of this appropriation, \$158,513 in the first year and \$158,513 in the second year from the general fund is provided to cover the service fee in lieu of taxes levied by the City of Richmond.				
Total for Virginia Museum of Fine Arts.....			<b>\$32,354,442</b> <b>\$31,856,886</b>	<b>\$32,357,685</b> <b>\$35,285,342</b>
General Fund Positions.....	131.50	131.50		
Nongeneral Fund Positions.....	106.00	106.00		
Position Level.....	237.50	237.50		
Fund Sources: General.....	\$10,109,639	\$10,110,752		
	\$9,612,083	\$9,364,334		
Special.....	\$4,850,465	\$4,852,595		
		\$4,052,595		
Enterprise.....	\$5,479,910	\$5,479,910		
Dedicated Special Revenue.....	\$11,664,428	\$11,664,428		
		\$16,138,503		
Federal Trust.....	\$250,000	\$250,000		

**§ 1-74. EASTERN VIRGINIA MEDICAL SCHOOL (274)**

247.	Financial Assistance For Educational and General Services (11000).....			\$24,475,260	\$25,245,450 \$24,496,983
	Sponsored Programs (11004).....	\$620,429	\$620,429		
	Medical Education (11005).....	\$23,854,831	\$24,625,021		\$23,876,554
	Fund Sources: General.....	\$24,475,260	\$25,245,450		\$24,496,983

Authority: *Title 23.1, Chapter 30 and Chapter 87, Acts of Assembly of 2002.*

A. Out of this appropriation, \$620,429 the first year and \$620,429 the second year from the general fund is designated to build research capacity in medical modeling and simulation.

B. Out of this appropriation, \$6,158,108 the first year and \$6,158,108 the second year from the general fund is designated for treatment, care and maintenance of indigent Virginia patients through the medical school. The aid is to be apportioned on the basis of a plan to be approved, at the beginning of each biennium, by the Director, Department of Medical Assistance Services.

C. Out of this appropriation, \$375,700 the first year and \$375,700 the second year from the general fund is designated to support financial aid for in-state medical and health professions students.

D. Out of this appropriation, \$686,039 the first year and \$686,039 the second year from the general fund is designated for the operation of the Family Practice Residency program and Family Practice Medical Student programs.

E. Out of this appropriation, \$63,146 the first year and \$63,146 the second year from the

ITEM 247.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018

general fund is designated to support the Eastern Virginia Area Health Education Center.

F. Eastern Virginia Medical School shall transfer funds to the Department of Medical Assistance Services to fully fund the state share for Medicaid supplemental payments to physicians affiliated with Eastern Virginia Medical School for Medicaid supplemental capitation payments to managed care organizations for the purpose of securing access to Medicaid physicians services in Eastern Virginia. The funds to be transferred must comply with 42 CFR 433.51.

G. Pursuant to § 4-1.02 d. 6.a) of this act and notwithstanding any other provision of law, appropriation reductions in the amount of \$748,497 in the second year from the general fund for Eastern Virginia Medical School specified in this Item may be distributed to programs within Financial Assistance for Educational and General Services, grantees, or among other than Financial Assistance for Educational and General Services, except Student Financial Assistance and Indigent Care.

H. Eastern Virginia Medical School is hereby authorized to transfer funds to the Department of Medical Assistance Services to fully fund the state share for Medicaid supplemental payments to the primary teaching hospitals affiliated with Eastern Virginia Medical School. These Medicaid supplemental fee-for-service and/or capitation payments to managed care organizations are for the purpose of securing access to hospital services in Eastern Virginia. The funds to be transferred must comply with 42 CFR 433.51.

248.	Appropriations for this agency shall be disbursed in twelve equal monthly installments each fiscal year.				
	Total for Eastern Virginia Medical School.....			\$24,475,260	\$25,245,450 \$24,496,983
	Fund Sources: General.....	\$24,475,260	\$25,245,450 \$24,496,983		

**§ 1-75. NEW COLLEGE INSTITUTE (938)**

249.	Administrative and Support Services (1990).....			\$3,592,872 \$3,506,463	\$3,592,956 \$3,590,544
	Operation of Higher Education Centers (19931).....	\$3,592,872 \$3,506,463	\$3,592,956 \$3,590,544		
	Fund Sources: General.....	\$2,048,181 \$1,961,772	\$2,048,229 \$2,045,817		
	Special.....	\$1,544,691	\$1,544,727		

Authority: ~~Discretionary Inclusion:~~ Title 23.1, Chapter 31, Article 4, Code of Virginia.

A. It is the intent of the General Assembly that the New College Institute, the Institute for Advanced Learning and Research, and the Southern Virginia Higher Education Center coordinate their activities, both instructional and research, to the maximum extent possible to best meet the needs of the citizens of the region, to ensure effective utilization of resources, and to avoid unnecessary duplication. The three entities shall report annually by October 1 to the Secretary of Education and the State Council of Higher Education and the Department of Planning and Budget on their joint efforts in this regard.

B. The requirements of § 4-5.05 shall not apply to this appropriation.

~~C. 1. The Governing Board of the New College Institute shall develop a comprehensive plan to provide higher education degree and certification programs in accordance with its mission and shall review options to achieve stated goals:~~

~~2. Options shall include, but not be limited to: continued operation as an independent public entity with the existing operating structure and partnering with one or more public and/or private entities offering degree or certificate completion:~~

~~3. For options regarding partnering with other entities, such proposed agreement, if any, shall detail the plan of operational guidance and funding mechanisms and shall be subject to the approval of all governance boards impacted:~~

ITEM 249.	Item Details(\$)		Appropriations(\$)	
	First Year	Second Year	First Year	Second Year
	FY2017	FY2018	FY2017	FY2018

*D. 1. The Governing Board of the New College Institute shall be authorized to seek an agreement with the New College Foundation and other non-governmental parties to acquire the Building on Baldwin for the amount not funded by the Virginia Tobacco Indemnification and Community Revitalization Commission, the federal government through the U.S. Economic Development Administration, the Appalachian Regional Commission, other federal monies, or local government.*

*2. If agreement on acquisition of the Building on Baldwin cannot be reached, the Governing Board of the New College Institute, with the assistance of the Department of General Services (DGS), is further authorized to plan for the construction or acquisition of a new facility. Priority will be given to options utilizing existing state property. The Governing Board and DGS may partner with local community colleges and/or local governments to this end.*

*E. 1. Out of this appropriation, \$100,000 from the general fund in the second year is designated for the New College Institute to develop a five-year plan for future growth and development. The Governing Board of the New College Institute shall be authorized to contract with public and private colleges and universities to deliver programs that lead to degrees, certificates or credentials that maximize meeting the needs of the citizens of the region. It is the intent of the General Assembly that the first two years of any program and workforce training be conducted / delivered by any public two-year institutions as determined by the Governing Board of the New College Institute. New College Institute shall also review options to work collaboratively with local community colleges. The plan shall also include mechanisms to address growing the pipeline for post-secondary education while working in consultation with local school boards. The goals of the Harvest Foundation shall be considered in the development of this five-year plan.*

*2. Baccalaureate and higher degrees shall be conducted / delivered by public or private 4-year colleges and universities as determined by the Governing Board of the New College Institute. Subject to the conditions of E.1., George Mason University and Old Dominion University shall provide access of its program portfolio to the New College Institute through the Online Virginia Network.*

*F. The New College Institute and the State Council of Higher Education for Virginia shall evaluate options for alternative pricing that result in lower charges for programs and courses offered to citizens of the region attending the New College Institute. The options shall not be limited to increased subsidy, financial aid or creating a new delivery model for citizens of the Commonwealth. The New College Institute and the State Council of Higher Education for Virginia shall report their findings to the Chairmen of the House Appropriations and Senate Finance Committees prior by December 1, 2017.*

Total for New College Institute.....			<b>\$3,592,872</b>	<b>\$3,592,956</b>
			<b>\$3,506,463</b>	<b>\$3,590,544</b>
General Fund Positions.....	17.00	17.00		
Nongeneral Fund Positions.....	6.00	6.00		
Position Level.....	23.00	23.00		
Fund Sources: General.....	\$2,048,181	\$2,048,229		
	\$1,961,772	\$2,045,817		
Special.....	\$1,544,691	\$1,544,727		

**§ 1-76. INSTITUTE FOR ADVANCED LEARNING AND RESEARCH (885)**

250.	Economic Development Services (53400).....			<b>\$6,437,245</b>	<b>\$6,437,103</b>
				<b>\$6,115,383</b>	<b>\$6,115,247</b>
	Regional Research, Technology, Education, and Commercialization Services (53421).....	\$6,437,245	\$6,437,103		
		\$6,115,383	\$6,115,247		
	Fund Sources: General.....	\$6,437,245	\$6,437,103		
		\$6,115,383	\$6,115,247		

Authority: Title ~~2323.1~~, Chapter ~~16.431~~, Article 3, Code of Virginia.

ITEM 250.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
<p>A. It is the intent of the General Assembly that the Institute for Advanced Learning and Research, the New College Institute, and the Southern Virginia Higher Education Center coordinate their activities, both instructional and research, to the maximum extent possible to best meet the needs of the citizens of the region, to ensure effective utilization of resources, and to avoid unnecessary duplication. The three entities shall report annually by October 1 to the Secretary of Education and the State Council of Higher Education on their joint efforts in this regard.</p> <p>B. The requirements of § 4-5.05 shall not apply to this appropriation.</p> <p>C. This Item includes no funds for the agency's use of leased property for engagement activities.</p> <p>D. This Item includes \$32,071 the first year and \$31,927 the second year from the general fund for the first two years of debt service on a five-year term loan through the Master Equipment Leasing Program (MELP) to purchase communications infrastructure and 16 telephone handsets. It is intended that the ongoing amount will be removed from the agency's base budget in 2022.</p>				
Total for Institute for Advanced Learning and Research.....			\$6,437,245	\$6,437,103
			\$6,115,383	\$6,115,247
Fund Sources: General.....			\$6,437,245	\$6,437,103
			\$6,115,383	\$6,115,247

**§ 1-77. ROANOKE HIGHER EDUCATION AUTHORITY (935)**

251.	Administrative and Support Services (1990).....		\$1,466,005	\$1,466,008
	Operation of Higher Education Centers (19931).....	\$1,466,005	\$1,466,008	\$1,392,707
		\$1,392,705	\$1,392,705	\$1,392,707
Fund Sources: General.....				
			\$1,466,005	\$1,466,008
			\$1,392,705	\$1,392,707
Authority: Title <del>2323.1</del> , Chapter <del>16.331</del> , Article 5, Code of Virginia.				
A. The requirements of § 4-5.05 shall not apply to this appropriation.				
Total for Roanoke Higher Education Authority.....			\$1,466,005	\$1,466,008
			\$1,392,705	\$1,392,707
Fund Sources: General.....			\$1,466,005	\$1,466,008
			\$1,392,705	\$1,392,707

**§ 1-78. SOUTHERN VIRGINIA HIGHER EDUCATION CENTER (937)**

252.	Administrative and Support Services (1990).....		\$8,790,324	\$9,351,411
	Operation of Higher Education Centers (19931).....	\$8,790,324	\$8,646,780	\$9,351,411
		\$8,646,780		
Fund Sources: General.....				
			\$2,870,883	\$3,211,657
			\$2,727,339	\$3,051,075
Special.....			\$5,919,441	\$6,139,754
				\$6,300,336

Authority: Title ~~2323.1~~, Chapter ~~16.531~~, Article 6, Code of Virginia.

A. It is the intent of the General Assembly that the Southern Virginia Higher Education Center, the Institute for Advanced Learning and Research, and the New College Institute coordinate their activities, both instructional and research, to the maximum extent possible to best meet the needs of the citizens of the region, to ensure effective utilization of resources, and to avoid unnecessary duplication. The three entities shall report annually by October 1 to the Secretary of Education and the State Council of Higher Education for Virginia on their joint efforts in this regard.

ITEM 252.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
<p>B. Out of this appropriation, \$29,050 the first year and \$29,050 the second year from the general fund is designated for the educational telecommunications project to provide graduate engineering education. For supplemental budget requests, the participating institutions and centers jointly shall submit a report in support of such requests to the State Council of Higher Education for Virginia for review and recommendation to the Governor and the General Assembly.</p>				
<p>C. Out of this appropriation, \$266,000 and four positions the first year and \$266,000 and four positions the second year from the general fund is designated for additional operational support of the Southern Virginia Higher Education Center and its efforts to provide STEM programs and specialized workforce training to the citizens of Southside Virginia.</p>				
<p>D. Out of this appropriation, \$390,625 and seven positions the first year and \$731,250 and eight positions the second year from the general fund and \$562,100 and 3.5 positions the first year and \$782,100 and 3.5 positions the second year from nongeneral funds are designated to maintain workforce advancement programs in the areas of health care, manufacturing, information technology, and STEM that were originally established through short-term grants in order to expand the credentials-to-career pipeline for key industry sectors in Southside Virginia.</p>				
<p>E. The Southern Virginia Higher Education Center is authorized to provide specialized workforce training consistent with grant agreements and memoranda of understanding with employers that existed as of January 1, 2016. The center will seek opportunities to collaborate with local community colleges in meeting the continuing goals of these programs and on new training needs identified by employers. If the local community colleges are unable to meet the training needs identified by employers, then the center is authorized to seek other education providers or to offer specialized workforce training independent of the local community colleges.</p>				
<p>F. The requirements of § 4-5.05 shall not apply to this appropriation.</p>				
Total for Southern Virginia Higher Education Center.....			<b>\$8,790,324</b>	<b>\$9,351,411</b>
General Fund Positions.....			27.80	28.80
Nongeneral Fund Positions.....			29.50	29.50
Position Level.....			57.30	58.30
Fund Sources: General.....			<del>\$2,870,883</del>	<del>\$3,211,657</del>
			\$2,727,339	\$3,051,075
Special.....			\$5,919,441	<del>\$6,139,754</del>
				\$6,300,336

**§ 1-79. SOUTHWEST VIRGINIA HIGHER EDUCATION CENTER (948)**

253.	Administrative and Support Services (1990).....		\$3,184,010	\$3,184,122
			<del>\$3,075,957</del>	<del>\$3,076,064</del>
	General Management and Direction (19901).....	\$38,794	\$38,794	
	Operation of Higher Education Centers (19931).....	<del>\$3,145,216</del>	<del>\$3,145,328</del>	
		\$3,037,163	\$3,037,270	
	Fund Sources: General.....	<del>\$2,161,055</del>	<del>\$2,161,167</del>	
		\$2,053,002	\$2,053,109	
	Special.....	\$1,022,955	\$1,022,955	

Authority: Title ~~2323.1~~, Chapter ~~16.131~~, Article 7, Code of Virginia.

A. The board of trustees of the Southwest Virginia Higher Education Center may establish and administer agreements with out-of-state institutions certified to operate in Virginia pursuant to § ~~23-276.4~~ § 23.1-219 Code of Virginia for such institutions to provide undergraduate-level and graduate-level instructional programs at the Center.

ITEM 253.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
Total for Southwest Virginia Higher Education Center.....			<b>\$3,184,010</b> <b>\$3,075,957</b>	<b>\$3,184,122</b> <b>\$3,076,064</b>
General Fund Positions.....	31.00	31.00 30.00		
Nongeneral Fund Positions.....	5.00	5.00		
Position Level.....	36.00	36.00 35.00		
Fund Sources: General.....	\$2,161,055	\$2,161,167		
Special.....	\$2,053,002	\$2,053,109		
	\$1,022,955	\$1,022,955		

**§ 1-80. SOUTHEASTERN UNIVERSITIES RESEARCH ASSOCIATION DOING BUSINESS FOR JEFFERSON SCIENCE ASSOCIATES, LLC (936)**

254.	Financial Assistance For Educational and General Services (11000).....			\$1,342,566 \$1,275,438	\$1,342,568 \$1,275,440
	Sponsored Programs (11004).....	\$1,342,566 \$1,275,438	\$1,342,568 \$1,275,440		
	Fund Sources: General.....	\$1,342,566 \$1,275,438	\$1,342,568 \$1,275,440		

Authority: Discretionary Inclusion.

A. This appropriation represents the Commonwealth of Virginia's contribution to the Southeastern Universities Research Association Doing Business for Jefferson Science Associates, LLC, for the support of the Thomas Jefferson National Accelerator Facility (Jefferson Lab) located at Newport News, Virginia. This contribution includes funds to support faculty positions and industry-led research that will promote economic development opportunities in the Commonwealth.

B. An amount of \$1,400,000 the first year and \$1,000,000 the second year from the general fund is designated for the electron ion collider project from amounts appropriated under Item 106 A.1. of this act.

C. This nonstate agency is exempt from the match requirement of § 2.2-1505, Code of Virginia and § 4-5.05 of this act.

Total for Southeastern Universities Research Association Doing Business for Jefferson Science Associates, LLC.....			<b>\$1,342,566</b> <b>\$1,275,438</b>	<b>\$1,342,568</b> <b>\$1,275,440</b>
Fund Sources: General.....	\$1,342,566 \$1,275,438	\$1,342,568 \$1,275,440		

**§ 1-81. HIGHER EDUCATION RESEARCH INITIATIVE (989)**

255.	Financial Assistance For Educational and General Services (11000).....			\$8,000,000 \$4,000,000	\$14,000,000 \$8,000,000
	Sponsored Programs (11004).....	\$8,000,000 \$4,000,000	\$14,000,000 \$8,000,000		
	Fund Sources: General.....	\$8,000,000 \$4,000,000	\$14,000,000 \$8,000,000		

Authority: Title 23.1, Chapter 31, Article 8, Code of Virginia

A.1. Out of this appropriation, ~~\$8,000,000~~\$4,000,000 the first year and ~~\$14,000,000~~\$8,000,000 the second year from the general fund is designated for the Virginia Research Investment Fund. These funds shall be allocated in accordance with provisions established in ~~House Bill 1343~~Chapter 775 of the 2016 General Assembly and shall be used to (i) promote research and development excellence in the Commonwealth; (ii) foster

ITEM 255.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018

innovative and collaborative research, development, and commercialization efforts in projects and programs with a high potential for economic development and job creation opportunities; (iii) position the Commonwealth as a national leader in science-based and technology-based research, development, and commercialization; and (iv) to attract and recruit eminent researchers that enhance research superiority at public institutions of higher education.

2. Pursuant to the objectives stated in paragraph A.1., the Virginia Research Investment Committee (VRIC) may use a portion of the funds appropriated to conduct a study that is to be an assessment of the Commonwealth of Virginia's research assets, including those located at or within its public and private universities, federal research facilities and private sector companies. The purpose of that study shall be, but not limited to the following: (i) to determine the strengths of Virginia's commercialization capabilities; (ii) define research and commercialization clusters; (iii) identify current public and private sector collaborations in research and commercialization; (iv) identify current funding streams and where Virginia may best utilize its fiscal resources to leverage federal and private sector funds; (v) competitive efforts in similar research and commercialization initiatives in other states; and (vi) to recommend areas where Virginia may wish to direct its resources to accomplish the mandate of the Virginia Research Investment Committee. The State Council of Higher Education for Virginia shall serve as the coordinating body on behalf of the VRIC, and shall submit a study proposal to be reviewed and approved by the VRIC.

2.3. In addition to the funding in this item, \$29,000,000 the first year authorized in Item C-52.10 shall be made available to support the purchase of research equipment or laboratory renovations associated with researcher incentive packages and the translation of research into commercial use subject to the provisions established in ~~House Bill 1343~~ Chapter 775. Any institution of higher education or related research entity pursuing this funding must provide a match of an amount at least equal to the awarded funds.

~~B: The appropriation for this item is contingent on the passage of House Bill 1343 of the 2016 Session. If the bill should fail, the amounts appropriated in this item shall be transferred to Item 475 P. as part of the Revenue Reserve.~~

Total for Higher Education Research Initiative.....			<b>\$8,000,000</b>	<b>\$14,000,000</b>
			<del>\$4,000,000</del>	<del>\$8,000,000</del>
Fund Sources: General.....	\$8,000,000	\$14,000,000		
	<del>\$4,000,000</del>	<del>\$8,000,000</del>		

**§ 1-82. ONLINE VIRGINIA NETWORK AUTHORITY (244)**

255.10	Educational and General Programs (10000).....			\$1,000,000	\$2,000,000
	Higher Education Instruction (10001).....	\$1,000,000	\$2,000,000		
	Fund Sources: General.....	\$1,000,000	\$2,000,000		

A. Out of this appropriation, \$1,000,000 the first year and \$2,000,000 the second year from the general fund is designated for the Online Virginia Network Authority (OVN). George Mason University and Old Dominion University shall develop a plan for the OVN that (1) serves adult learners, nontraditional students, and other students seeking access to an online degree program; (2) is more cost-effective than a traditional degree; (3) describes how the OVN will reduce the unit cost of providing online education; (4) uses tuition revenue from online students to support the cost of the initiative; (5) includes a discussion of potential options to partner with those currently providing online courses; and (6) utilizes only existing financial aid programs. The OVN shall provide a status report on the plan to the Governor and the Chairmen of the House Appropriations and the Senate Finance Committees by November 1, 2017. OVN will provide annual progress reports by November 1 in subsequent years.

Total for Online Virginia Network Authority.....			<b>\$1,000,000</b>	<b>\$2,000,000</b>
Fund Sources: General.....	\$1,000,000	\$2,000,000		

**§ 1-83. VIRGINIA COLLEGE BUILDING AUTHORITY (941)**

ITEM 255.10.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018

256. Authority: Chapter 597, Acts of Assembly of 1986.

A.1. The purpose of this Item is to provide an ongoing program for the acquisition and replacement of instructional and research equipment at state-supported institutions of higher education in accordance with the intent and purpose of Chapter 597, Acts of Assembly of 1986.

2. The Governor shall annually present to the General Assembly through the Commonwealth's budget process, the estimated payments and the corresponding total value of equipment to be acquired.

B.1. The State Council of Higher Education for Virginia shall establish and maintain procedures through which institutions of higher education apply for allocations made available under the program, and shall develop guidelines and recommendations for the apportionment of such equipment to each state-supported institution of higher education.

2. The Authority shall finance equipment for educational institutions in accordance with ~~§ 23-30.28~~ § 23.1-1207, Code of Virginia, and according to terms and conditions approved through the Commonwealth's budget and appropriation process. Bonds or notes issued by the Virginia College Building Authority to finance equipment may be sold and issued at the same time with other obligations of the Authority as separate issues or as a combined issue. Each institution shall make available such additional detail on specific equipment to be purchased as may be requested by the Governor or the General Assembly. If emergency acquisitions are necessary when the General Assembly is not in session, the Governor may approve such acquisitions. The Governor shall report his approval of such acquisitions to the Chairmen of the House Appropriations and Senate Finance Committees.

3. Amounts for debt service payments for allocations provided by this Item shall be provided pursuant to Item 281 of this act.

C.1. Transfer of the appropriation in Item 281 of this act to the Virginia College Building Authority shall be subject to the approval of the Secretary of Finance. An allocation of \$128,436,310 made in the 2014-2016 biennium brings the total amount of equipment acquired through the program to approximately \$1,308,319,456.

2. Allocations of \$85,470,000 the first year and \$83,000,000 the second year will be made to support the purchase of additional equipment to enhance instructional and research activity at Virginia's public colleges and universities. Allocations are as follows:

Institution	Prior Allocations	FY 2017 Allocation	FY 2018 Allocation	FY 2017 Research Allocation	FY 2018 Research Allocation
George Mason University	\$83,398,307	\$4,347,024	\$3,947,024	\$474,407	\$474,407
Old Dominion University	\$87,854,054	\$5,416,192	\$5,016,192	\$329,078	\$329,078
University of Virginia	\$229,787,688	\$10,458,476	\$10,458,476	\$5,189,341	\$5,189,341
Virginia Commonwealth University	\$159,186,893	\$6,853,430	\$6,853,430	\$2,995,552	\$2,995,552
Virginia Polytechnic Institute and State University	\$241,668,626	\$10,331,639	\$10,331,639	\$6,190,458	\$5,240,458
College of William and Mary	\$43,900,323	\$2,300,493	\$2,300,493	\$595,857	\$595,857
Christopher Newport University	\$13,369,430	\$754,464	\$754,464	\$0	\$0
University of Virginia's College at Wise	\$5,121,439	\$770,681	\$250,681	\$0	\$0

ITEM 256.	Item Details(\$)		Appropriations(\$)		
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018	
James Madison University	\$43,111,620	\$2,309,646	\$2,309,646	\$0	\$0
Longwood University	\$13,400,103	\$743,433	\$743,433	\$0	\$0
University of Mary Washington	\$15,347,430	\$655,746	\$655,746	\$0	\$0
Norfolk State University	\$38,832,575	\$1,200,108	\$1,200,108	\$0	\$0
Radford University	\$30,598,683	1,744,993	\$1,744,993	\$0	\$0
Virginia Military Institute	\$15,482,346	\$886,084	\$886,084	\$0	\$0
Virginia State University	\$23,462,131	\$1,342,189	\$1,342,189	\$0	\$0
Richard Bland College	\$3,095,964	\$360,149	\$160,149	\$0	\$0
Virginia Community College System	\$243,627,045	\$17,596,542	\$17,596,542	\$0	\$0
Virginia Institute of Marine Science	\$8,034,702	\$362,100	\$362,100	\$175,307	\$175,307
Southwest Virginia Higher Education Center	\$1,303,164	\$80,111	\$80,111	\$0	\$0
Roanoke Higher Education Authority	\$994,347	\$77,623	\$77,623	\$0	\$0
Institute for Advanced Learning and Research	\$5,468,313	\$274,172	\$274,172	\$0	\$0
Southern Virginia Higher Education Center	\$432,996	\$95,790	\$95,790	\$0	\$0
New College Institute	\$341,277	\$34,486	\$34,486	\$0	\$0
Eastern Virginia Medical School	\$500,000	\$524,429	\$524,429	\$0	\$0
<b>TOTAL</b>	<b>\$1,308,319,456</b>	<b>\$69,520,000</b>	<b>\$68,000,000</b>	<b>\$15,950,000</b>	<b>\$15,000,000</b>

D. Out of the allocations for the Virginia Community College System, \$5,000,000 the first year and \$5,000,000 the second year is designated to support the equipment needs of Workforce Development activities, including those related to the New Economy Industry Credential Assistance Training Grant Program.

E. 1. Out of the research allocations for Virginia Tech, \$950,000 the first year is designated for radar equipment to enhance the unmanned aircraft test range.

2. Out of the allocations for the University of Virginia at Wise, \$520,000 the first year is designated for the acquisition of a Nuclear Magnetic Resonance Spectrometer.

3. Out of the allocations for Richard Bland College, \$200,000 the first year is designated for the acquisition and installation of information technology security devices.

4. Out of the allocations for George Mason University, \$400,000 the first year is designated for the acquisition and installation of equipment for the development and delivery of online courses and programs.

5. Out of the allocations for Old Dominion University, \$400,000 the first year is designated for the acquisition and installation of equipment for the development and delivery of online courses and programs.

ITEM 256.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
Total for Virginia College Building Authority.....			\$0	\$0
TOTAL FOR OFFICE OF EDUCATION.....			<del>\$18,404,594,722</del>	<del>\$18,788,354,149</del>
			\$18,426,112,099	\$18,392,678,739
General Fund Positions.....	18,527.65	18,530.65 18,528.65		
Nongeneral Fund Positions.....	39,806.57 40,228.07	39,948.57 40,593.07		
Position Level.....	58,334.22 58,755.72	58,479.22 59,121.72		
Fund Sources: General.....	\$7,946,627,755 \$7,775,650,331	\$8,271,735,292 \$8,103,714,179		
Special.....	\$41,228,245	\$41,337,140 \$40,848,744		
Higher Education Operating.....	\$8,400,234,028 \$8,511,168,633	\$8,488,731,845 \$8,217,476,180		
Commonwealth Transportation.....	\$1,067,105 \$2,573,327	\$1,067,105 \$2,648,327		
Enterprise.....	\$5,479,910	\$5,479,910		
Trust and Agency.....	\$728,744,252 \$808,798,226	\$698,450,383 \$728,714,922		
Debt Service.....	\$329,379,313	\$329,717,988 \$337,393,916		
Dedicated Special Revenue.....	\$11,914,428	\$11,914,428 \$16,482,503		
Federal Trust.....	\$939,919,686	\$939,920,058		

ITEM 257.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018

**OFFICE OF FINANCE**

**§ 1-84. SECRETARY OF FINANCE (190)**

257.	Administrative and Support Services (79900).....			\$488,354	\$488,394
				\$988,354	
	General Management and Direction (79901).....	\$488,354	\$488,394		
		\$988,354			
	Fund Sources: General.....	\$488,354	\$488,394		
		\$988,354			

Authority: Title 2.2, Chapter 2, Article 5; § 2.2-201, Code of Virginia.

A. The Secretary of Finance, in consultation with other affected secretaries, is hereby authorized to order the State Comptroller to transfer to the general fund a reasonable sum, as determined by the State Comptroller, from annual charges of internal service funds and enterprise funds that exceed the cost of providing services or that represent over-recoveries from the general fund.

B. Following every General Assembly session, the financial plan in place required by § 2.2-1503.1, Code of Virginia, shall be updated to reflect policy changes or budget actions adopted by the General Assembly that would alter financial assumptions included in the plan. The revised financial plan shall be posted on the Department of Planning and Budget website no later than September 1 of each year.

C. Out of this appropriation, \$500,000 the first year from the general fund is to be used at the discretion of the Secretary of Finance to conduct intervention and remediation efforts in situations of local fiscal distress that have been previously documented by the Office of the Secretary of Finance prior to January 1, 2017. The Secretary shall report periodically on his efforts to the Chairmen of the House Appropriations and Senate Finance Committees.

	Total for Secretary of Finance.....			\$488,354	\$488,394
				\$988,354	
	General Fund Positions.....	4.00	4.00		
	Position Level.....	4.00	4.00		
	Fund Sources: General.....	\$488,354	\$488,394		
		\$988,354			

**§ 1-85. DEPARTMENT OF ACCOUNTS (151)**

258.	Financial Systems Development and Management (72400).....			\$3,376,976	\$3,376,976
	Financial Systems Development (72401).....	\$736,493	\$736,493		
	Financial Systems Maintenance (72402).....	\$1,060,044	\$1,060,044		
	Computer Services (72404).....	\$1,580,439	\$1,580,439		
	Fund Sources: General.....	\$3,376,976	\$3,376,976		

Authority: Title 2.2, Chapter 8, Code of Virginia.

259.	Accounting Services (73700).....			\$8,651,150	\$8,651,150
	General Accounting (73701).....	\$3,840,834	\$3,840,834		
	Disbursements Review (73702).....	\$1,057,417	\$1,057,417		
	Payroll Operations (73703).....	\$1,249,365	\$1,249,365		
	Financial Reporting (73704).....	\$2,503,534	\$2,503,534		
	Fund Sources: General.....	\$7,788,304	\$7,788,304		
	Special.....	\$862,846	\$862,846		

Authority: Title 2.2, Chapter 8, and § 2.2-1822, Code of Virginia.

ITEM 259.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
<p>A.1. There is hereby created on the books of the State Comptroller the Commonwealth Charge Card Rebate Fund. Rebates earned in any fiscal year on the Commonwealth's statewide charge card program shall be deposited to the Commonwealth Charge Card Rebate Fund. The cost of administration of the program as well as rebates due to political subdivisions and payments due to the federal government are hereby appropriated from the fund. All remaining rebate revenue in the fund shall be deposited to the general fund by June 30 of each year.</p> <p>2. The Department of Accounts is authorized to include the administrative costs estimated at \$80,000 per year for executing entries in the Commonwealth's accounting system for Level III institutions as defined in Chapter 675, 2009 Acts of Assembly, in the program costs appropriated from the fund.</p> <p>B. Notwithstanding the provisions of §§ 17.1-286 and 58.1-3176, Code of Virginia, the State Comptroller shall not make payments to the Circuit Court clerks on amounts directly deposited into the State Treasury by General District Courts, Juvenile and Domestic Relations General District Courts, Combined District Courts, and the Magistrates System. The State Comptroller shall continue to make payments, in accordance with §§ 17.1-286 and 58.1-3176, Code of Virginia, to the respective clerks on those amounts directly deposited into the state treasury by the Circuit Courts.</p> <p>C.1. There is hereby created in the state treasury a special nonreverting fund that shall be known as the Federal Repayment Reserve Fund. The Fund shall be established on the books of the Comptroller and shall consist of such moneys as the State Comptroller determines will be required to repay the federal government its share of any rebates, Internal Service Fund profits, transfers to the general fund or amounts arising from other sources. Interest earned on the moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of the fiscal year shall not revert to the general fund but shall remain in the Fund. The Comptroller shall hold all moneys in this Fund until such payment is required by the federal government.</p> <p>2. Effective upon creation of Federal Repayment Reserve Fund, any agency with cash balances held in reserve for the anticipated federal repayment shall transfer the estimated amount determined by the State Comptroller prior to June 30. On an ongoing basis, agencies shall coordinate with the State Comptroller to identify amounts due to be returned to the federal government. The State Comptroller shall transfer those amounts to the Fund on or before June 30 of each year.</p> <p>D. The Department of Accounts is authorized to charge employees a mandatory fee of up to 15 cents for each payroll deduction administered under the Supplemental Insurance and Annuities program. Reimbursement by the employing agency is prohibited.</p>				
260.	Service Center Administration (82600).....		\$2,653,260	\$2,783,466
	Payroll Service Bureau (82601).....	\$2,653,260	\$2,783,466	
	Fund Sources: Internal Service.....	\$2,653,260	\$2,783,466	

Authority: Title 2.2, Chapter 8, Code of Virginia.

A. The appropriation for the Payroll Service Bureau is sum sufficient and amounts shown are estimates from an internal service fund which shall be paid solely from revenues derived from charges for services.

B.1. The Department of Accounts shall operate the payroll service center to support the salaried and wage employees of all agencies identified by the Department of Planning and Budget. The agencies so identified shall cooperate with the Department of Accounts in transferring such records and functions as may be required. The payroll service center shall provide services to employees to include, but not be limited to, payroll, benefit enrollment and leave accounting. The Department of Accounts shall be responsible for all accounting reconciliations for these services; however, each employing agency shall remain fully responsible for certifying the accuracy of each payroll paid to its employees. This certification shall be in such form as the Comptroller directs.

2.a. The Department of Accounts shall recover the cost of services provided by the payroll service center through interagency transactions as determined by the State Comptroller.

ITEM 260.	Item Details(\$)		Appropriations(\$)	
	First Year	Second Year	First Year	Second Year
	FY2017	FY2018	FY2017	FY2018

b. The Department of Accounts is authorized to charge the following rates to agencies participating in the payroll service center based on the type and number of W-2 forms processed and how each customer agency reports employee leave to the department:

Criteria	FY 2017	FY 2018
Wage employees with automatic leave processing	\$106.34	\$111.55
Wage employees with manual leave processing	\$118.85	\$124.67
Salaried employees without leave processing	\$125.11	\$131.23
Salaried employees with automatic leave processing	\$131.36	\$137.79
Salaried employees with manual leave processing	\$143.87	\$150.92

C.1. The Department of Accounts shall operate a fiscal service center to support the operations of all agencies identified by the Department of Planning and Budget. The agencies so identified shall cooperate with the Department of Accounts in transferring such records and functions as may be required. The service center shall provide services to agencies to include accounts payable processing, travel voucher processing, related reconciliations, and such other fiscal services as may be appropriate.

2. The Department of Accounts shall recover the cost of services provided by the fiscal service center through interagency transactions as determined by the State Comptroller.

3. The Department of Accounts is authorized to charge fees of up to twenty percent of revenues generated pursuant to non-tax debt collection initiatives to pay the administrative costs of supporting such initiatives. These fees are over and above any fees charged by outside collections contractors and/or enhanced collection revenues returned to the Commonwealth.

D. Nothing in this section shall prohibit additional agencies from using the services of the centers; however, such additions shall be subject to approval by the affected cabinet secretary and the Secretary of Finance.

261.	Information Systems Management and Direction (71100).....			\$24,027,675	\$25,030,659
	Financial Oversight for Performance Budgeting System (71107).....	\$3,967,981	\$3,967,981		
	Financial Oversight for Cardinal System (71108).....	\$20,059,694	\$21,062,678		
	Fund Sources: Internal Service.....	\$24,027,675	\$25,030,659		

Authority: Title 2.2 Chapter 8, Code of Virginia

A.1. The appropriation for Financial Oversight for Performance Budgeting System and Financial Oversight for Cardinal System is sum sufficient and amounts shown are estimates from internal service funds which shall be paid solely from revenues derived from charges for services. Out of this appropriation, the Performance Budgeting System is appropriated \$3,967,981 the first year and \$3,967,981 the second year from internal service fund revenues. Out of this appropriation, the Cardinal system is appropriated \$20,059,694 the first year and \$21,062,678 the second year from internal service fund revenues. The State Comptroller shall establish a fund entitled the Enterprise Applications Internal Service Fund. All users of the Commonwealth's enterprise applications shall be assessed a surcharge based on licenses, transactions, or other meaningful methodology as determined by the Secretary of Finance and the owner of the enterprise application, which shall be deposited in the fund. Additionally, the State Comptroller shall recover the cost of services provided for the administration of the fund through interagency transactions as determined by the State Comptroller.

2. The State Comptroller shall submit revised projections of revenues and expenditures for the internal service fund and estimates of any anticipated changes to fee schedules in

ITEM 261.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
<p>accordance with § 4-5.03 of this act.</p> <p>3. In the event that expenses of the enterprise applications become due before costs have been fully recovered in the department's internal service fund, a treasury loan shall be provided to the department to finance these costs. This treasury loan shall be repaid from the proceeds collected in the fund.</p> <p>B.1. A working capital advance of up to <del>\$25,000,000</del>\$52,000,000 shall be provided to the Department of Accounts to pay the initial costs of the replacement of the Commonwealth Integrated Payroll/Personnel System (CIPPS). Initials costs include any costs necessary for the planning, development, and configuration of the new payroll system. Initial costs do not include statewide roll-out costs necessary to ensure agencies are prepared for the implementation of the new payroll system and the decommissioning of CIPPS such as applications configuration, agency training, change management costs, or costs incurred by line agencies to develop required interfaces from agency based systems. From this amount up to \$10,000,000 may be directed toward any unforeseen costs associated with the roll-out of the statewide financial management system known as Cardinal.</p> <p>2. The Secretary of Finance and Secretary of Technology shall approve the drawdowns from this working capital advance prior to the expenditure of funds. The State Comptroller shall notify the Governor and the Chairmen of the House Appropriations and Senate Finance Committees of any approved drawdowns.</p> <p>3. Repayment of the working capital advance and ongoing systems operation, maintenance and support costs for the statewide financial management system shall be funded through the Enterprise Applications Internal Service Fund established pursuant to this Item.</p>				
262.	Administrative and Support Services (79900).....		\$1,437,473	\$1,437,885
	General Management and Direction (79901).....	\$1,437,473	\$1,437,885	
	Fund Sources: General.....	\$1,437,473	\$1,437,885	
<p>Authority: Title 2.2, Chapter 8, Code of Virginia.</p> <p>As a condition of the appropriation in this Item, the department shall provide to the Chairmen of the House Appropriations and Senate Finance Committees the expenditure and revenue reports necessary for timely legislative oversight of state finances. The necessary reports include monthly and year-end versions and shall be provided in an interactive electronic format agreed upon by the Chairmen of the House Appropriations and Senate Finance Committees, or their designees, and the Comptroller. Delivery of these reports shall occur by way of electronic mail or other methods to ensure their receipt within 48 hours of their initial run after the close of the business month.</p>				
263.	<p>In the event of default by a unit, as defined in § 15.2-2602, Code of Virginia, on payment of principal of or interest on any of its general obligation bonded indebtedness when due, the State Comptroller, in accordance with § 15.2-2659, Code of Virginia, is hereby authorized to make such payment to the bondholder, or paying agent for the bondholder, and to recover such payment and associated costs of publication and mailing from any funds appropriated and payable by the Commonwealth to the unit for any and all purposes.</p>			
264.	<p>In the event of default by any employer participating in the health insurance program authorized by § 2.2-1204, Code of Virginia, in the remittance of premiums or other fees and costs of the program, the State Comptroller is hereby authorized to pay such premiums and costs and to recover such payments from any funds appropriated and payable by the Commonwealth to the employer for any purpose. The State Comptroller shall make such payments upon receipt of notice from the Director, Department of Human Resource Management, that such payments are due and unpaid from the employer.</p>			
265.	<p>The State Comptroller shall make calculations of payments and transfers related to interest earned on federal funds, interest receivable on state funds advanced on behalf of federal programs, and direct cost reimbursements due from the federal government pursuant to Item 280 of this act.</p>			
	Total for Department of Accounts.....		<b>\$40,146,534</b>	<b>\$41,280,136</b>

ITEM 265.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
General Fund Positions.....	115.00	115.00		
Nongeneral Fund Positions.....	53.00	53.00		
Position Level.....	168.00	168.00		
Fund Sources: General.....	\$12,602,753	\$12,603,165		
Special.....	\$862,846	\$862,846		
Internal Service.....	\$26,680,935	\$27,814,125		

**Department of Accounts Transfer Payments (162)**

266.	Financial Assistance to Localities - General (72800)			
	a sum sufficient, estimated at.....		\$570,565,000	\$572,065,000
	Distribution of Rolling Stock Taxes (72806).....	\$7,100,000	\$7,100,000	
	Distribution of Recordation Taxes (72808).....	\$40,000,000	\$40,000,000	
	Financial Assistance to Localities - Rental Vehicle Tax (72810).....	\$45,000,000	\$46,500,000	
	Distribution of Sales Tax Revenues from Certain Public Facilities (72811).....	\$1,040,000	\$1,040,000	
	Distribution of Tennessee Valley Authority Payments in Lieu of Taxes (72812).....	\$1,300,000	\$1,300,000	
	Distribution of the Virginia Communications Sales and Use Tax (72816).....	\$440,000,000	\$440,000,000	
	Distribution of Payments to Localities for Enhanced Emergency Communications Services (72817).....	\$36,000,000	\$36,000,000	
	Distribution of Sales Tax Revenues from Certain Tourism Projects (72819).....	\$125,000	\$125,000	
	Fund Sources: General.....	\$49,565,000	\$49,565,000	
	Trust and Agency.....	\$45,000,000	\$46,500,000	
	Dedicated Special Revenue.....	\$476,000,000	\$476,000,000	

Authority: §§ 15.2-5814, 15.2-5914, 33.2-2400, 58.1-608.3, 58.1-662, 58.1-815.1, 58.1-816, 58.1-1736, 58.1-1741, 58.1-2658.1, and 58.1-3406, Code of Virginia.

A. Out of this appropriation, amounts estimated at \$20,000,000 the first year and \$20,000,000 the second year from the general fund shall be deposited into the Northern Virginia Transportation District Fund, as provided in § 33.2-2400, Code of Virginia. Said amount shall consist of recordation taxes attributable to and transferable to the cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park and the counties of Arlington, Fairfax, Loudoun, and Prince William, pursuant to § 58.1-816, Code of Virginia. This amount shall be transferred to Item 457 of this act and shall be used to support the Northern Virginia Transportation District Program as defined in § 33.2-2401, Code of Virginia. The Commonwealth Transportation Board shall make such allocations and expenditures from the fund as are provided in the Northern Virginia Transportation District, Commonwealth of Virginia Revenue Bond Act of 1993 (Chapter 391, 1993 Acts of Assembly). The Commonwealth Transportation Board also shall make such allocations and expenditures from the fund as are provided in Chapters 470 and 597 of the 1994 Acts of Assembly (amendments to Chapter 391, 1993 Acts of Assembly).

B. Pursuant to Chapters 233 and 662, 1994 Acts of Assembly, out of this appropriation, an amount estimated at \$1,000,000 the first year and \$1,000,000 the second year from the general fund shall be deposited into the set-aside fund as requested in an ordinance adopted March 28, 1995, and in compliance with the requirements provided for in § 58.1-816.1, Code of Virginia, for an account for the City of Chesapeake. These amounts shall be transferred to Item 457 of this act and shall be allocated by the Commonwealth Transportation Board to provide for the debt service pursuant to the Oak Grove Connector, City of Chesapeake, Commonwealth of Virginia Transportation Program Revenue Bond Act of 1994 (Chapters 233 and 662, 1994 Acts of Assembly).

C. Out of this appropriation, the Virginia Baseball Stadium Authority shall be paid a sum sufficient equal to the state personal, corporate, and pass-through entity income and sales

ITEM 266.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018

and use tax revenues to which the authority is entitled.

D.1. In order to carry out the provisions of § 58.1-645 et seq., Code of Virginia, there is hereby appropriated a sum sufficient amount of nongeneral fund revenues estimated at \$440,000,000 in the first year and \$440,000,000 in the second year equal to the revenues collected pursuant to § 58.1-645 et seq., Code of Virginia, from the Virginia Communications Sales and Use Tax. All revenue received by the Commonwealth pursuant to the provisions of § 58.1-645 et seq., Code of Virginia, shall be paid into the state treasury and deposited to the Virginia Communications Sales and Use Tax Fund and shall be distributed pursuant to § 58.1-662, Code of Virginia and Item 287 of this act. For the purposes of the State Comptroller's preliminary and final annual reports required by § 2.2-813, Code of Virginia, however, all deposits to and disbursements from the fund shall be accounted for as part of the general fund of the state treasury.

2. It is the intent of the General Assembly that all such revenues be distributed to counties, cities, and towns, the Department for the Deaf and Hard-of-Hearing, and to the Department of Taxation for the costs of administering the Virginia Communications Sales and Use Tax Fund.

E. In order to carry out the provisions of § 58.1-1734 et seq., Code of Virginia, there is hereby appropriated a sum sufficient amount of nongeneral fund revenues estimated at \$45,000,000 in the first year and \$46,500,000 in the second year equal to the revenues collected pursuant to A. 2 of § 58.1-1736 Code of Virginia, from the Virginia Motor Vehicle Rental Tax.

F. In order to carry out the provisions of § 56-484.17 et seq., Code of Virginia, there is hereby appropriated a sum sufficient amount of nongeneral fund revenues estimated at \$36,000,000 in the first year and \$36,000,000 in the second year equal to the revenues collected pursuant to § 56-484.17.1 Code of Virginia, from the Virginia Wireless Tax.

267.	Revenue Stabilization Fund (73500).....			\$605,552,819 \$605,572,105	\$0
	Payments to the Revenue Stabilization Fund (73501).	\$605,552,819 \$605,572,105	\$0		
	Fund Sources: General.....	\$605,552,819 \$605,572,105	\$0		

Authority: Title 2.2, Chapter 18, Article 4, Code of Virginia.

A. On or before November 1 of each year, the Auditor of Public Accounts shall report to the General Assembly the certified tax revenues collected in the most recently ended fiscal year. The auditor shall, at the same time, provide his report on the 15 percent limitation and the amount that could be paid into the fund in order to satisfy the mandatory deposit requirement of Article X, Section 8 of the Constitution of Virginia as well as the additional deposit requirement of § 2.2-1829, Code of Virginia.

B. Out of this appropriation, ~~\$605,552,819~~ \$605,572,105 the first year from the general fund attributable to actual tax collections for FY 2015 shall be paid by the State Comptroller on or before June 30, 2017, into the Revenue Stabilization Fund pursuant to § 2.2-1829, Code of Virginia. This amount is based on the certification of the Auditor of Public Accounts of actual tax revenues for FY 2015. This appropriation meets the mandatory deposit requirement of Article X, Section 8 of the Constitution of Virginia.

C. This appropriation includes \$129,500,000 that was provided in Chapter 665, 2015 Acts of Assembly, as an advance payment for the mandatory deposit to the Revenue Stabilization Fund required in FY 2017.

*D.1. For purposes of determining a transfer from the Revenue Stabilization Fund to the general fund as a result of a downward revision in general fund revenues, the term "total general fund revenues appropriated" shall mean the general fund operating and capital appropriations for each year of the biennium contained in the Appropriation Act which is in effect at the time when such downward revision in general fund revenues is made.*

*2. In accordance with Article 10, § 8, Virginia Constitution, and § 2.2-1830, Code of Virginia, the amount of the transfer shall not exceed the lesser of one-half of the balance of the Revenue Stabilization Fund or one-half of the forecasted shortfall in revenues.*

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<p>3. The anticipated shortfalls in general fund revenues for fiscal years ending June 30, 2017, and June 30, 2018, shall be computed by comparing the revised forecast for "Total General Fund Resources Available for Appropriation" as shown in § 3 of the first enactment to the total general fund revenues appropriated for each year of the biennium as contained in the general appropriation act as it became effective on July 1, 2016 (Chapter 780 of the Acts of Assembly of 2016).</p>				
<p>4. For purposes of computing the shortfall in revenues, the revised forecast referenced in paragraph 3 above shall consist of the revised forecast of revenues and transfers presented to the Governor's Advisory Council on Revenue Estimates on November 28, 2016, adjusted for any technical revisions pursuant to current law. Any subsequent policy-based adjustments to revenues or transfers that are dependent upon the passage of legislation or other budgetary action that requires approval by the 2017 General Assembly shall not be considered as part of the adjustments to the forecast for purposes of calculating the revenue shortfall in fiscal year 2017 or fiscal year 2018.</p>				
<p>5. One-half of the shortfall in revenues in fiscal year 2017 is estimated at \$294,653,279, which is less than one-half of the balance in the Revenue Stabilization Fund as of June 30, 2017. Of this shortfall amount, \$294,653,279 is hereby appropriated in FY 2017, pursuant to § 2.2-1830, Code of Virginia. The State Comptroller shall deposit this sum into the general fund of the state treasury on or before June 30, 2017.</p>				
<p>6. One-half of the shortfall in revenues in fiscal year 2018 is estimated at \$272,542,500, which is less than one-half of the balance in the Revenue Stabilization Fund as of June 30, 2018. Of this shortfall amount, \$272,542,500 is hereby appropriated in FY 2018, pursuant to § 2.2-1830, Code of Virginia. The State Comptroller shall deposit this sum into the general fund of the state treasury on or before June 30, 2018.</p>				
268.	Virginia Education Loan Authority Reserve Fund (73600).....		\$194,778	\$194,778
	Loan Servicing Reserve Fund (73601).....	\$94,778	\$94,778	
	Edvantage Reserve Fund (73602).....	\$100,000	\$100,000	
	Fund Sources: Trust and Agency.....	\$194,778	\$194,778	
<p>Authority: Chapter 384, Acts of Assembly of 1995; Chapter 39, Acts of Assembly of 1998.</p>				
<p>A. The General Assembly hereby recognizes and reaffirms the provisions of such Declarations as may have been adopted by the Virginia Education Loan Authority pursuant to Chapter 384, 1995 Acts of Assembly, and dated June 30, 1996. There is hereby appropriated from the VELA Loan Servicing Reserve Fund within the state treasury such sums as may be necessary, not to exceed \$94,778, to be paid out by the State Comptroller consistent with the provisions of the Declarations. There is hereby appropriated from the VELA Loan Servicing Reserve Fund within the state treasury such sums as may be necessary, not to exceed \$100,000, to be paid out by the State Comptroller for the purpose of determining the validity and amount of any claims against the Fund. The State Comptroller is authorized to take such actions as may be necessary to effect the provisions of this paragraph.</p>				
<p>B. Funds in the Edvantage Reserve Fund are hereby appropriated for disbursement by the State Comptroller, as provided for by law. All interest earned by the Edvantage Reserve Fund shall remain with the fund.</p>				
269.	Line of Duty (76000).....		\$9,458,131	<del>\$9,458,131</del> \$0
	Death Benefit Payments Under the Line of Duty Act (76001).....	\$525,000	<del>\$525,000</del> \$0	
	Health Insurance Benefit Payments Under the Line of Duty Act (76002).....	\$8,933,131	<del>\$8,933,131</del> \$0	
	Fund Sources: Trust and Agency.....	\$9,458,131	<del>\$9,458,131</del> \$0	

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Authority: Title 9.1, Chapter 4, Code of Virginia.

A. In addition to such other payments as may be available, the full cost of group health insurance, net of any deductions and credits, for the surviving spouses and dependents of certain public safety officers killed in the line of duty and for certain public safety officers disabled in the line of duty, and the spouses and dependents of such disabled officers, are payable from this Item pursuant to Title 9.1, Chapter 4, Code of Virginia.

B.1. There is hereby established the Line of Duty Act Fund (the Fund) for the payment of benefits prescribed by and administered under the Line of Duty Act. The funds of the Line of Duty Act Fund shall be deemed separate and independent trust funds, shall be segregated and accounted for separately from all other funds of the Commonwealth, and shall be invested and administered solely in the interests of the covered employees and beneficiaries thereof. Neither the General Assembly nor any public officer, employee, or agency shall use or authorize the use of the Fund for any purpose other than as provided in law for benefits and administrative expenses. Fund deposits are irrevocable and are not subject to the claims of creditors. In addition to other such powers as shall be vested in the board, the board shall have the full power to invest, reinvest and manage assets of the Fund in accordance with Article 3.1 (§ 51.1-124.30 et seq.) of Chapter 1 of Title 51.1, and no officer, director, or member of the board or of any advisory committee of the Retirement System or any of its tax exempt subsidiary corporations whose actions are within the standard of care in Article 3.1 of Chapter 1 of Title 51.1 shall be held personally liable for losses suffered by the Fund on investments made under the authority of this article. The board is authorized to establish loans to the Fund from the Group Life program in such amounts and under such terms as may be established by the board. The Fund shall reimburse the Retirement System for all reasonable costs incurred and associated, directly and indirectly, with the administration, management and investment of the Fund.

2. Definitions. As used in this item:

"Board" means the Board of Trustees of the Virginia Retirement System.

"Covered employee" means any employee, sheriff, deputy sheriff, or volunteer of a participating employer or non-participating employer eligible for coverage under the provisions of the Line of Duty Act.

"Fund" means the Line of Duty Act Fund.

"Line of Duty Act" means § 9.1-400 et seq.

"Non-participating employer" means any political subdivision making the irrevocable election, in a manner and on such forms as prescribed by the board, to self-fund Line of Duty Act benefits under paragraph B.4 of this Item.

"Participating employer" means any agency of the Commonwealth with covered employees and any (i) county, city, or town with covered employees that does not make the election under paragraph B.4 of this Item; or (ii) political entity, subdivision, branch, commission, public authority, or body corporate, or other entity of a local government with covered employees that does not make the election under paragraph B.4 of this Item.

"Retirement System" means the Virginia Retirement System.

3. Payment of benefits; funding of benefits.

a. All payments for benefits provided through the Line of Duty Act shall be paid by the State Comptroller. The State Comptroller shall be reimbursed from the Fund for all benefit payments made on behalf of participating employers that, which payments have been approved by the State Comptroller. The State Comptroller shall be reimbursed on no more than a monthly basis from documentation provided to the Retirement System. Reimbursement from the Fund may include reasonable administrative expenses incurred by the Department of Accounts or the State Comptroller for administering the provisions of the Line of Duty Act.

Each participating employer shall make contributions each year to the Fund in accordance with guidelines adopted by the board. Such contributions shall be for purposes of funding benefits and administrative expenses under the Line of Duty Act. The employer contribution

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for each participating employer shall be determined by the board on a current disbursement basis in accordance with the provisions of this section.

b. For purposes of this Item, employer contributions for coverage provided to members of the National Guard and United States military reserves on active duty shall be paid by the Commonwealth.

c. For purposes of establishing employer contribution contributions, a member of any fire company or department or rescue squad that has been recognized by an ordinance or a resolution of the governing body of any county, city, or town of the Commonwealth as an integral part of the official safety program of such county, city, or town shall be considered part of the city, county, or town served by the company, department or rescue squad. If a company, department, or rescue squad serves more than one city, county, or town, the affected cities, counties, or towns shall determine the basis and apportionment of the required covered payroll and contributions for each department, company, or rescue squad.

d. Each participating employer shall provide all required data requested by the Board to administer the Fund in a form approved by the board.

e. In the event any participating employer fails to remit contributions or other fees and costs of the Fund as duly prescribed, the board shall inform the State Comptroller and the participating employer of the delinquent amount. The State Comptroller shall forthwith transfer such amounts to the Fund from any moneys otherwise distributable to such participating employer.

4. Irrevocable election to become non-participating employer.

a. A political subdivision with covered employees may make, in a manner and on such forms as prescribed by the board, an irrevocable election on or before July 1, 2012, or for the RSW Regional Jail Authority on or before July 1, 2016, to be deemed a non-participating employer fully responsible for self-funding all benefits relating to its past and present covered employees under the Line of Duty Act from its own funds, including any responsibility apportioned to it under the provisions of paragraph 3(c) above. Non-participating employers shall continue to be subject to the provisions set forth in the Line of Duty Act.

b. A non-participating employer shall not be required to contribute to the Fund, nor shall it be required to contribute to the costs incurred or associated, directly or indirectly, with the administration, management and investment of the Fund.

c. Effective July 1, 2012, non-participating employers shall be responsible for self-administering the payments of benefits in accordance with the requirements of the Line of Duty Act. The eligibility determination process for the Line of Duty benefit shall continue to be determined consistent with the provisions of § 9.1-403 and any other applicable section of Code. The State Comptroller shall determine and collect from a non-participating employer an amount representing reasonable costs incurred and associated, directly and indirectly, with such eligibility determination.

d. In the event any non-participating employer fails to remit benefit and other costs of the Line of Duty Act as prescribed, the State Comptroller shall transfer such amounts from any moneys otherwise distributable to such non-participating employer.

5. The Virginia Retirement System Medical Board established pursuant to § 51.1-124.23, Code of Virginia shall, upon request by the State Comptroller, make a written report of its conclusions and recommendations on matters referred to it regarding eligibility for benefits under the Line of Duty Act.

C. In addition to any other benefit provided by law, an additional death benefit in the amount of \$20,000 for the surviving spouses and dependents of certain members of the National Guard and United States military reserves killed in action in any armed conflict on or after October 7, 2001, are payable pursuant to § 44-93.1.B., Code of Virginia, from the Line of Duty Death and Health Benefits Trust Fund. The Department of Accounts, with support from the Department of Military Affairs, shall determine eligibility for this benefit.

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<p>D. For any surviving spouse of a "deceased person" or any "disabled person" as those terms are defined in § 9.1-400, who is receiving the benefits described in § 9.1-401 and who would otherwise qualify for the health insurance credit described in Chapter 14 of Title 51.1, Code of Virginia, the amount of such credit shall be calculated and reimbursed to the State Comptroller for deposit into the Line of Duty Death and Health Benefits Trust Fund from the health insurance credit trust fund, in a manner prescribed by the Board of Trustees of the Virginia Retirement System.</p>				
<p>E. A member of any fire company providing fire protection services for facilities of the Virginia National Guard or the Virginia Air National Guard shall be eligible to receive benefits according to the provisions under the Line of Duty Act, Title 9.1, Chapter 4, Code of Virginia. Funding for the inclusion of a member of any fire company providing fire protection services for facilities of the Virginia National Guard or the Virginia Air National Guard will be paid by the Department of Military Affairs out of its appropriation in Item 410 of this act.</p>				
<p>F. It is the intent of the General Assembly that expeditious payments for burial expenses be made for persons whose death is determined to be a direct and proximate result of their performance in the line of duty as defined by the Line of Duty Act. The State Comptroller is hereby authorized to release, at the request of the family of a person who may be subject to the line of duty death benefits, payments to a funeral service provider for burial and transportation costs. These payments would be advanced from the death benefit that would be due to the beneficiary of the deceased person if it is determined that the person qualifies for line of duty coverage. Expenses advanced under this provision shall not exceed the coverage amounts outlined in § 65.2-512. In the event a determination is made that the death is not subject to the line of duty benefits, the Virginia Retirement System or other retirement fund to which the deceased is a member, will deduct from benefit payments otherwise due to be paid to the beneficiaries of the deceased, payments previously paid by the State Comptroller for burial and related transportation expenses and return such funds to the State Comptroller. The State Comptroller shall have the right to file a claim with the Virginia Workers' Compensation Commission against any employer to recover burial and related transportation expenses advanced under this provision.</p>				
<p>G. Any locality that has established a trust, trusts, or equivalent arrangements for the purpose of accumulating and investing assets to fund post-employment benefits other than pensions under § 15.2-1544, Code of Virginia, may fund Line of Duty Act benefits from the assets of the trust, trusts, or equivalent arrangements.</p>				
<p><i>H. The provisions of this Item are effective until June 30, 2017.</i></p>				
270.	Personnel Management Services (70400).....		\$32,686,276	\$32,686,276
	Employee Flexible Benefits Services (70420).....	\$32,686,276	\$32,686,276	
	Fund Sources: Trust and Agency.....	\$32,686,276	\$32,686,276	
	Authority: Title 2.2, Chapter 8, Code of Virginia.			
271.	Financial Assistance for Health Research (40700).....		\$1,326,344	\$1,326,344
	Health Research Grant Administration Services (40701).....	\$1,326,344	\$1,326,344	
	Fund Sources: Dedicated Special Revenue.....	\$1,326,344	\$1,326,344	
	Authority: Title 2.2, Chapter 8, Code of Virginia.			
<p>The Department of Accounts is authorized to disburse, as fiscal agent for the Commonwealth Health Research Board, funds received from the Virginia Retirement System pursuant to § <del>23-284</del> § 32.1-162.28, Code of Virginia.</p>				
272.	Personal Property Tax Relief Program (74600).....		\$950,000,000	\$950,000,000
	Reimbursements to Localities for Personal Property Tax Relief (74601).....	\$950,000,000	\$950,000,000	
	Fund Sources: General.....	\$950,000,000	\$950,000,000	
	Authority: Discretionary Inclusion.			

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<p>A.1. Out of this appropriation, \$950,000,000 the first year and \$950,000,000 the second year from the general fund is provided to be used to implement a program which provides equitable tax relief from the personal property tax on vehicles.</p>				
<p>2. The amounts appropriated in this Item provide for a local reimbursement level of 70 percent in tax years 2004 and 2005. The local reimbursement level for tax year 2006 is set at \$950,000,000 pursuant Chapter 1, 2004 Acts of Assembly, Special Session I. Payments to localities with calendar year 2006 car tax payment due dates prior to July 1, 2006, shall not be reimbursed until after July 1, 2006, except as otherwise provided in paragraph D of this Item.</p>				
<p>B. Notwithstanding the provisions of subsection B of § 58.1-3524, Code of Virginia, as amended by Chapter 1, 2004 Acts of Assembly, Special Session I, the determination of each county's, city's and town's share of the total funds available for reimbursement for personal property tax relief pursuant to that subsection shall be pro rata based upon the actual payments to such county, city or town pursuant to Title 58.1, Chapter 35.1, Code of Virginia, for tax year 2004 as compared to the actual payments to all counties, cities and towns pursuant to that chapter for tax year 2004, made with respect to reimbursement requests submitted on or before December 31, 2005, as certified in writing by the Auditor of Public Accounts not later than March 1, 2006. Notwithstanding the provisions of the second enactment of Chapter 1, 2004 Acts of Assembly, Special Session I, this paragraph shall become effective upon the effective date of this act.</p>				
<p>C. The requirements of subsection C 2 of § 58.1-3524 and subsection E of § 58.1-3912, Code of Virginia, as amended by Chapter 1, 2004 Acts of Assembly, Special Session I, with respect to the establishment of tax rates for qualifying vehicles and the format of tax bills shall be deemed to have been satisfied if the locality provides by ordinance or resolution, or as part of its annual budget adopted pursuant to Title 15.2, Chapter 25, Code of Virginia, or the provisions of a local government charter or Title 15.2, Chapter 4, 5, 6, 7 or 8, Code of Virginia, if applicable, specific criteria for the allocation of the Commonwealth's payments to such locality for tangible personal property tax relief among the owners of qualifying vehicles, and such locality's tax bills provide a general description of the criteria upon which relief has been allocated and set out, for each qualifying vehicle that is the subject of such bill, the specific dollar amount of relief so allocated.</p>				
<p>D. The Secretary of Finance may authorize advance payment, from funds appropriated in this Item, of sums otherwise due a town on and after July 1, 2006, for personal property tax relief under the provisions of Chapter 1, 2004 Acts of Assembly, Special Session I, if the Secretary finds that such town (1) had a due date for tangible personal property taxes on qualified vehicles for tax year 2006 falling between January 1 and June 30, 2006, (2) had a due date for tangible personal property taxes on qualified vehicles for tax year 2004 falling between January 1 and June 30, 2004, (3) received reimbursements pursuant to the provisions of Title 58.1, Chapter 35.1, Code of Virginia, between January 1 and June 30, 2004, (4) utilizes the cash method of accounting, and (5) would suffer fiscal hardship in the absence of such advance payment.</p>				
<p>E. It is the intention of the General Assembly that reimbursements to counties, cities and towns that had a billing date for tax year 2004 tangible personal property taxes with respect to qualifying vehicles falling between January 1 and June 30, 2004, and received personal property tax relief reimbursement with respect to tax year 2004 from the Commonwealth between January 1 and June 30, 2004, pursuant to the provisions of Title 58.1, Chapter 35.1, Code of Virginia, as it existed prior to the amendments effected by Chapter 1, 2004 Acts of Assembly, Special Session I, be made by the Commonwealth with respect to sums attributable to such spring billing dates not later than August 15 of each fiscal year.</p>				
<p>Total for Department of Accounts Transfer Payments.....</p>			<p><b>\$2,169,783,348</b></p> <p><b>\$2,169,802,634</b></p>	<p><b>\$1,565,730,529</b></p> <p><b>\$1,556,272,398</b></p>
<p>Nongeneral Fund Positions.....</p>		<p>1.00</p>	<p>1.00</p>	
<p>Position Level.....</p>		<p>1.00</p>	<p>1.00</p>	

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Fund Sources: General.....	\$1,605,117,819 <i>\$1,605,137,105</i>	\$999,565,000		
Trust and Agency.....	\$87,339,185	\$88,839,185 <i>\$79,381,054</i>		
Dedicated Special Revenue.....	\$477,326,344	\$477,326,344		
Grand Total for Department of Accounts.....			<b>\$2,209,929,882</b> <i>\$2,209,949,168</i>	<b>\$1,607,010,665</b> <i>\$1,597,552,534</i>
General Fund Positions.....	115.00	115.00		
Nongeneral Fund Positions.....	54.00	54.00		
Position Level.....	169.00	169.00		
Fund Sources: General.....	\$1,617,720,572 <i>\$1,617,739,858</i>	\$1,012,168,165		
Special.....	\$862,846	\$862,846		
Internal Service.....	\$26,680,935	\$27,814,125		
Trust and Agency.....	\$87,339,185	\$88,839,185 <i>\$79,381,054</i>		
Dedicated Special Revenue.....	\$477,326,344	\$477,326,344		

**§ 1-86. DEPARTMENT OF PLANNING AND BUDGET (122)**

273.	Planning, Budgeting, and Evaluation Services (71500).....			\$8,144,587	\$7,614,163 <i>\$7,701,522</i>
	Budget Development and Budget Execution Services (71502).....	\$5,160,087	<del>\$5,160,251</del> <i>\$5,137,610</i>		
	Legislation and Executive Order Review Service (71504).....	\$43,068	\$43,068		
	Forecasting and Regulatory Review Services (71505).....	\$601,370	\$601,370		
	Program Evaluation Services (71506).....	\$1,912,309	<del>\$1,381,660</del> <i>\$1,491,660</i>		
	Administrative Services (71598).....	\$427,753	\$427,814		
	Fund Sources: General.....	\$7,844,587	\$7,314,163 <i>\$7,401,522</i>		
	Special.....	\$300,000	\$300,000		

Authority: Title 2.2, Chapter 15, and Chapter 26, Article 29, Code of Virginia.

A. The Department of Planning and Budget shall be responsible for continued development and coordination of an integrated, systematic policy analysis, planning, budgeting, performance measurement and evaluation process within state government. The department shall collaborate with the Governor's Secretaries and all other agencies of state government and other entities as necessary to ensure that information generated from these processes is useful for managing and improving the efficiency and effectiveness of state government operations.

B. The Department of Planning and Budget shall be responsible for the continued development and coordination of a review process for strategic plans and performance measures of the state agencies. The review process shall assess on a periodic basis the structure and content of the plans and performance measures, the processes used to develop and implement the plans and measures, the degree to which agencies achieve intended goals and results, and the relation between intended and actual results and budget requirements.

C.1. Notwithstanding § 2.2-1508, Code of Virginia, or any other provisions of law, on or before December 20, the Department of Planning and Budget shall deliver to the presiding officer of each house of the General Assembly a copy of the budget document containing the explanation of the Governor's budget recommendations. This copy may be in electronic format.

2. The Department of Planning and Budget shall include in the budget document the amount of projected spending and projected net tax-supported state debt for each year of the biennium

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<p>on a per capita basis. For this purpose, "spending" is defined as total appropriations from all funds for the cited fiscal years as shown in the Budget Bill. The most current population estimates from the Weldon Cooper Center for Public Services shall be used to make the calculations.</p> <p>D.1.a. Notwithstanding any contrary provision of law, any school division may also request the Department of Planning and Budget to coordinate a school efficiency review for the division, including but not limited to the selection of the contractor to conduct that school division's review, by entering into an agreement with the Department of Planning and Budget to participate in a locally-funded school efficiency review. Each participating school division shall pay 100 percent of the cost of the review. A nongeneral fund appropriation of \$300,000 the first year and \$300,000 the second year is provided for use by the Department of Planning and Budget to facilitate the collection of payments from school divisions for the purposes of this item.</p> <p>b. Payment shall be made in full from the participating school division to the Department of Planning and Budget prior to making the final award of the contract to conduct the review.</p> <p>E. Out of this appropriation, \$150,000 the first year and \$150,000 the second year from the general fund is provided to contract for population projections, notwithstanding the provisions of § 60.2-113, Code of Virginia.</p> <p>F. Included in the appropriation for this item is \$788,000 the first year from the general fund for the operation of the Council on Virginia's Future.</p> <p>G. The Council on Virginia's Future shall work cooperatively with the Department of Housing and Community Development in establishing GO Virginia, pursuant to the provisions of House Bill 834 and Senate Bill 449 of the 2016 Session of the General Assembly.</p>				
Total for Department of Planning and Budget.....			<b>\$8,144,587</b>	<b>\$7,614,163</b> <b>\$7,701,522</b>
General Fund Positions.....	64.00	64.00		
Nongeneral Fund Positions.....	3.00	3.00		
Position Level.....	67.00	67.00		
Fund Sources: General.....	\$7,844,587	\$7,314,163 \$7,401,522		
Special.....	\$300,000	\$300,000		

**§ 1-87. DEPARTMENT OF TAXATION (161)**

274. Planning, Budgeting, and Evaluation Services (71500).....			\$3,784,360	\$3,784,360 \$3,686,720
Tax Policy Research and Analysis (71507).....	\$1,842,998	\$1,842,998		
Appeals and Rulings (71508).....	\$1,241,127	\$1,241,127 \$1,143,487		
Revenue Forecasting (71509).....	\$700,235	\$700,235		
Fund Sources: General.....	\$3,784,360	\$3,784,360 \$3,686,720		

Authority: §§ 2.2-1503, 15.2-2502, 58.1-202, 58.1-207, 58.1-210, 58.1-213, 58.1-816, and 58.1-3406, and Title 10.1, Chapter 14, Code of Virginia.

A. The Department of Taxation shall continue the staffing and responsibility for the revenue forecasting of the Commonwealth Transportation Funds, including the Department of Motor Vehicles Special Fund, as provided in § 2.2-1503, Code of Virginia. The Department of Motor Vehicles shall provide the Department of Taxation with direct access to all data records and systems required to perform this function. The Department of Planning and Budget shall effectuate the transfer of three full-time equivalent positions and sufficient funding to ensure the successful consolidation of this function.

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<p>B. Notwithstanding the provisions of § 58.1-202.2, Code of Virginia, no report on public-private partnership contracts shall be required in years following the final report upon the completion of contract or when no such contract is active.</p> <p>C. The Department of Taxation shall report no later than September 1 on an annual basis, to the Chairmen of the House Appropriations, House Finance and Senate Finance Committees, on the amount of state sales and use tax revenues authorized to be remitted for the preceding fiscal year under the provisions of § 58.1-608.3, § 58.1-3851.1, and § 58.1-3851.2, of the Code of Virginia, as amended by the 2015 General Assembly.</p> <p><i>D. The Department of Taxation shall convene a workgroup to examine the provisions related to the timing of payments and return filings required of registered dealers pursuant to §§ 58.1-615 and 58.1-616, Code of Virginia, and § 3-5.06 of this act. The workgroup shall include the staffs of the House Appropriations and Senate Finance Committees, the Secretary of Finance or his designee, and representatives from affected businesses and industries. Additional staff support shall be provided by the Department of Taxation and the Division of Legislative Services upon request. The workgroup shall consider alternatives and limitations to the current accelerated sales tax requirement and may examine other sales tax-related issues as it deems appropriate. The workgroup shall complete its meetings by November 30, 2017, and shall submit to the Governor and the Chairmen of the House Appropriations and Senate Finance Committees a report of its findings and recommendations no later than the first day of the 2018 Regular Session of the General Assembly.</i></p>				
275.	Revenue Administration Services (73200).....		\$59,420,243	\$59,514,345
			\$59,033,516	\$58,835,611
	Tax Return Processing (73214).....	\$10,888,031	<del>\$10,888,031</del>	<del>\$10,613,868</del>
	Customer Services (73217).....	\$6,705,751	<del>\$6,705,751</del>	<del>\$6,634,306</del>
	Compliance Audit (73218).....	<del>\$21,332,947</del>	<del>\$21,427,049</del>	<del>\$21,093,923</del>
	Compliance Collections (73219).....	\$17,868,569	\$17,868,569	
	Legal and Technical Services (73222).....	\$2,624,945	\$2,624,945	
	Fund Sources: General.....	<del>\$48,923,972</del>	<del>\$49,018,074</del>	
		\$48,537,245	\$48,339,340	
	Special.....	\$9,834,786	\$9,834,786	
	Dedicated Special Revenue.....	\$661,485	\$661,485	

Authority: Title 3.2; Title 58.1, Code of Virginia.

A. Pursuant to § 58.1-1803, Code of Virginia, the Tax Commissioner is hereby authorized to contract with private collection agencies for the collection of delinquent accounts. The State Comptroller is hereby authorized to deposit collections from such agencies into the Contract Collector Fund (§ 58.1-1803, Code of Virginia). Revenue in the Contract Collector Fund may be used to pay private collection agencies/attorneys and perform oversight of their operations, upgrade audit and collection systems and data interfaces, and retain experts to perform analysis of receivables and collection techniques. Any balance in the fund remaining after such payment shall be deposited into the appropriate general, nongeneral, or local fund no later than June 30 of each year.

B.1. The Department of Taxation is authorized to retain, as special revenue, its reasonable share of any court fines and fees to reimburse the department for any ongoing operational collection expenses.

2. Any form of state debt assigned to the Department of Taxation for collection may be collected by the department in the same manner and means as state taxes may be collected pursuant to Title 58.1, Chapter 18, Code of Virginia.

C. The Department of Taxation is hereby appropriated revenues from the Communications Sales and Use Tax Trust Fund to recover the direct cost of administration incurred by the department in implementing and collecting this tax as provided by § 58.1-662, Code of Virginia.

D. The Tax Commissioner shall have the authority to waive penalties and grant extensions of

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<p>time to file a return or pay a tax, or both, to any class of taxpayers when the Tax Commissioner in his discretion finds that the normal due date has, or would, cause undue hardship to taxpayers who were, or would be, unable to use electronic means to file a return or pay a tax because of a power or systems failure that causes the department's electronic filing or payment systems to be nonfunctional for all or a portion of a day on or about the due date for a return or payment.</p>				
<p>E. The Department of Taxation is hereby appropriated Land Conservation Incentive Act fees imposed under § 58.1-513 C. 2., Code of Virginia, on the transferring of the value of the donated interest. The Code of Virginia specifies such fees will be used by the Departments of Taxation and Conservation and Recreation to recover the direct cost of administration incurred in implementing the Virginia Land Conservation Act.</p>				
<p>F. In the event that the United States Congress adopts legislation allowing local governments, with the assistance of the Commonwealth, to collect delinquent local taxes using offsets from federal income taxes, the Department of Accounts shall provide a treasury loan to the Department of Taxation to finance the costs of modifying the agency's computer systems to implement this federal debt setoff program. This treasury loan shall be repaid from the proceeds collected from the offsets of federal income taxes collected on behalf of localities by the Department of Taxation.</p>				
<p>G. 1. All revenue received by the Commonwealth pursuant to the provisions of § 58.1-645 et seq., Code of Virginia, shall be paid into the state treasury and deposited to the Virginia Communications Sales and Use Tax Fund and shall be distributed pursuant to § 58.1-662, Code of Virginia, and Items 266 and 287 of this act. For the purposes of the Comptroller's preliminary and final annual reports required by § 2.2-813, Code of Virginia, however, all deposits to and disbursements from the Fund shall be accounted for as part of the general fund of the state treasury.</p>				
<p>2. It is the intent of the General Assembly that all such revenues be distributed to counties, cities, and towns, the Department for the Deaf and Hard-of-Hearing, and for the costs of administering the Virginia Communications Sales and Use Tax.</p>				
<p>H. Notwithstanding the provisions of § 58.1-478, Code of Virginia, effective July 1, 2011, every employer whose average monthly liability can reasonably be expected to be \$1,000 or more and the aggregate amount required to be withheld by any employer exceeds \$500 shall file the annual report required by § 58.1-478, Code of Virginia, and all forms required by § 58.1-472, Code of Virginia, using an electronic medium using a format prescribed by the Tax Commissioner. Waivers shall be granted only if the Tax Commissioner finds that this requirement creates an unreasonable burden on the employer. All requests for waiver shall be submitted to the Tax Commissioner in writing.</p>				
<p>I. Notwithstanding the provisions of § 58.1-214, Code of Virginia, the department shall not be required to mail its forms and instructions unless requested by a taxpayer or his representative.</p>				
<p>J.1. Notwithstanding the provisions of § 58.1-609.12, Code of Virginia, no report on the fiscal, economic and policy impact of the miscellaneous Retail Sales and Use Tax exemptions under § 58.1-609.10, Code of Virginia, shall be required after the completion of the final report in the first five-year cycle of the study, due December 1, 2011. The Department of Taxation shall satisfy the requirement of § 58.1-609.12 that it study and report on the annual fiscal impact of the Retail Sales and Use Tax exemptions for nonprofit entities provided for in § 58.1-609.11, Code of Virginia, by publishing such fiscal impact on its website.</p>				
<p>2. Notwithstanding the provisions of § 58.1-202, Code of Virginia, no report detailing the total amount of corporate income tax relief provided in Virginia shall be required after the completion of such report due on October 1, 2013. The Department of Taxation shall satisfy the requirement of § 58.1-202 that it issue an annual report detailing the total amount of corporate income tax relief provided in Virginia by publishing its Annual Report on its website.</p>				
<p>K. 1. Notwithstanding any provision of the Code of Virginia or this act to the contrary,</p>				
<p>a. Effective January 1, 2013, all corporations are required to file estimated tax payments</p>				



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2. Effective January 1, 2015, every treasurer who receives an estimated income tax return, declaration or voucher pursuant to § 58.1-495 of the Code of Virginia shall transmit such return, declaration or voucher to the Department of Taxation using an electronic medium in a format prescribed by the Tax Commissioner.				
O. Notwithstanding any provision of the Code of Virginia or this act to the contrary, the Department of Taxation is authorized to provide Form 1099 in an electronic format to taxpayers. The Tax Commissioner shall ensure that taxpayers may elect to receive the electronic version of the form.				
P. The Department of Taxation is hereby appropriated revenues from the E-911 Wireless Tax to recover the direct cost of administration incurred by the department in implementing and collecting this tax as provided by § 56-484.17:1, Code of Virginia.				
Q. The Department of Taxation is hereby appropriated revenues from the assessment for expenses pursuant to §§ 38.2-400 and 38.2-403, Code of Virginia, to recover any costs related to the Insurance Premiums License Tax that are incurred by the Department of Taxation, as provided in § 58.1-2533, Code of Virginia.				
R. The Department of Taxation is authorized to charge fees of up to twenty percent of revenues generated pursuant to debt collection initiatives associated with the U.S. Treasury Offset Program to pay the administrative costs of supporting such initiatives. These fees are over and above any fees charged by outside collections contractors and/or enhanced collection revenues returned to the Commonwealth.				
S.1. Notwithstanding any other provision of the Code of Virginia or this act to the contrary, effective July 1, 2015, the Department of Taxation is hereby authorized to charge a fee of \$5.00 per copy of a tax return requested by a taxpayer or a representative thereof.				
2. The Tax Commissioner shall have the authority to waive such fee. Waivers shall be granted only if the Tax Commissioner finds that this requirement creates an unreasonable burden on the person requesting such copies. All requests for waiver shall be submitted to the Tax Commissioner in writing.				
T. Notwithstanding any other provision of the Code of Virginia or this act to the contrary, effective January 1, 2016, the Department of Taxation shall not provide to the local commissioners of the revenue or any other local officials copies of federal tax forms or schedules, including but not limited to, federal Schedules C (1040), C-EZ (1040), D (1040), E (1040), or F (1040), or federal Forms 4562 or 2106, or copies of Virginia Schedule 500FED, unless such schedules or forms are attached to a Virginia income tax return and submitted to the department in an electronic format by the taxpayer.				
U.1. Notwithstanding any other provision of law, Vending Machine Dealer's Sales Tax, Motor Vehicle Rental Tax and Fee, Communications Taxes, and Tobacco Products Tax returns shall be filed using an electronic medium prescribed by the Tax Commissioner beginning with the July 2016 return, due August 2016, for monthly filers and, for less frequent filers, with the first return they are required to file after July 1, 2016.				
<i>2. Notwithstanding any other provision of law, Litter Tax returns shall be filed and any payments shall be made using an electronic medium prescribed by the Tax Commissioner beginning with the first return required to be filed after January 1, 2018.</i>				
3.2: The Tax Commissioner shall have the authority to waive the requirement to file by electronic means upon a determination that the requirement would cause an undue hardship. All requests for waiver shall be transmitted to the Tax Commissioner in writing.				
<i>V.1. Notwithstanding any other provision of law, effective July 1, 2017, the Department of Taxation shall charge a fee of \$275 for each request for a letter ruling to be issued pursuant to § 58.1-203, Code of Virginia, or for an advisory opinion issued pursuant to §§ 58.1-3701 or 58.1-3983.1, Code of Virginia; \$50 for each request for an offer in compromise with respect to doubtful collectability authorized by § 58.1-105, Code of Virginia; and \$100 for each request for permission to change a corporation's filing method pursuant to § 58.1-442, Code of Virginia.</i>				

ITEM 275.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
<p>2. The Tax Commissioner shall have the authority to waive such fees. Waivers shall be granted only if the Tax Commissioner finds that such fee creates an unreasonable burden on the person making such request. All requests for waiver shall be submitted to the Tax Commissioner in writing.</p>				
<p>3. Revenues received from the above fees shall be deposited into the general fund in the state treasury.</p>				
<p>W. Notwithstanding the provisions of § 38.2-5601, Code of Virginia, the Department of Taxation shall not be required to update the Virginia Medical Savings Account Plan report after the completion of such report due on December 31, 2016.</p>				
<p>X. Notwithstanding any other provision of law, any employer or payroll service provider that owns or licenses computerized data relating to income tax withheld pursuant to Article 16 (§ 58.1-460 et seq.) of Chapter 3 of Title 58.1 shall notify the Office of the Attorney General without unreasonable delay after the discovery or notification of unauthorized access and acquisition of unencrypted and unredacted computerized data containing a taxpayer identification number in combination with the income tax withheld for that taxpayer that compromises the confidentiality of such data and that creates a reasonable belief that an unencrypted and unredacted version of such information was accessed and acquired by an unauthorized person, and causes, or the employer or payroll provider reasonably believes has caused or will cause, identity theft or other fraud. With respect to employers, this requirement applies only to information regarding the employer's employees, and does not apply to information regarding the employer's customers or other non-employees.</p>				
<p>Such employer or payroll service provider shall provide the Office of the Attorney General with the name and federal employer identification number of the employer as defined in § 58.1-460 that may be affected by the compromise in confidentiality. Upon receipt of such notice, the Office of the Attorney General shall notify the Department of Taxation of the compromise in confidentiality. The notification required under this provision that does not otherwise require notification under subsections A through L of § 18.2-186.6, Code of Virginia, shall not be subject to any other notification, requirement, exemption, or penalty contained in that section.</p>				
<p>Y.1. Upon request by the Secretary of Finance, the State Comptroller shall grant the Department of Taxation a treasury loan to fund the necessary start-up costs associated with the planning and implementation of the Virginia Tax Amnesty Program, estimated to be \$5,500,000. Repayment of this loan will be from the gross revenues generated by the amnesty program, with a proportionate share of the repayment to be deducted from nongeneral fund amnesty collections, based on the nongeneral fund share of amnesty tax collections.</p>				
<p>2. For purposes of implementing any Virginia Tax Amnesty Program, the Department of Taxation is exempt from subsection B of § 2.2-2016.1 and §§ 2.2-2018.1 through 2.2-2021 of the Code of Virginia pertaining to the Virginia Information Technologies Agency's project management and procurement oversight.</p>				
<p>3. The Department of Taxation is hereby authorized to recover direct costs incurred associated with the Virginia Tax Amnesty Program from the gross revenues generated by the amnesty program.</p>				
276.	Tax Value Assistance to Localities (73400).....		\$2,106,495	\$2,106,495 \$2,006,495
	Training for Local Assessors (73401).....	\$146,401	\$146,401	
	Valuation and Assessment Assistance for Localities (73410).....	\$1,960,094	<del>\$1,960,094</del> \$1,860,094	
	Fund Sources: General.....	\$621,878	\$621,878	
	Special.....	\$1,484,617	<del>\$1,484,617</del> \$1,384,617	
<p>Authority: Title 58.1, Chapters 32, 34, 35, 36, and 39 and §§ 58.1-202, subdivisions 6, 10, and 11, 58.1-206; §§ 58.1-2655, 58.1-3239, 58.1-3278, and 58.1-3374, Code of Virginia.</p>				
<p>A. The department is hereby authorized to recover from participating localities, as special</p>				

ITEM 276.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
funds, the direct costs associated with assessor/property tax and local valuation and assessments training classes. In accordance with § 58.1-206, Code of Virginia, the assessing officers and board members attending shall continue to be reimbursed for the actual expenses incurred by their attendance at the programs.				
B. In the expenditure of funds out of its appropriations for determination of true values of locally taxable real estate for use by the Board of Education in state school fund distributions, the Department of Taxation shall use a sufficiently representative sampling of parcels, in accordance with the classification system as established in § 58.1-208, Code of Virginia, to reflect actual true values; further, the department shall, upon request of any local school board, review its initial determination and promptly inform the Board of Education of corrections in such determination.				
C. Notwithstanding any other provision of law, the requirement that the Department of Taxation print and distribute local tax forms, instructions, and property tax books shall be satisfied by the posting of such documents on the department's web site.				
277.	Administrative and Support Services (79900).....		\$43,729,350 \$41,664,953	\$43,135,285 \$42,394,934
	General Management and Direction (79901).....	\$13,859,383 \$13,407,083	\$13,875,060 \$13,740,709	
	Information Technology Services (79902).....	\$29,869,967 \$28,257,870	\$29,260,225 \$28,654,225	
	Fund Sources: General.....	\$43,577,058 \$41,512,661	\$42,981,831 \$42,241,480	
	Special.....	\$152,292	\$153,454	
Authority: §§ 58.1-200, 58.1-202, and 58.1-213, Code of Virginia.				
A. To defray the costs of administration for voluntary contributions made on individual income tax returns for taxable years beginning on or after January 1, 2003, the Department of Taxation may retain up to five percent of the contributions made to each organization, not to exceed a total of \$50,000 from all organizations in any taxable year.				
B. The Department is hereby authorized to request and receive a treasury loan to fund the necessary start-up costs associated with the implementation of a sales and use tax modification or other state or local tax imposed pursuant to Chapter 766, 2013 Acts of Assembly. The treasury loan shall be repaid for these costs from the tax revenues. The Department shall also retain sufficient revenues to recover its costs incurred administering these taxes.				
C. Out of this appropriation, <del>\$524,670</del> \$366,760 the first year and \$524,670 the second year from the general fund shall be provided for an initiative to develop new mobile applications and purchase computer tablets for the department's field collectors and auditors in order to increase revenue collection efficiency.				
D. Notwithstanding the provisions of §§ 2.2-507 and 2.2-510, when the Tax Commissioner determines that an issue may have a major impact on tax policies, revenues or expenditures, he may request that the Attorney General appoint special counsel to render such assistance or representation as needed. The compensation for such special counsel shall be paid out of the funds appropriated for the administration of the Department of Taxation.				
	Total for Department of Taxation.....		\$109,040,448 \$106,589,324	\$108,540,485 \$106,923,760
	General Fund Positions.....	883.00	883.00 880.00	
	Nongeneral Fund Positions.....	57.00	57.00 56.00	
	Position Level.....	940.00	940.00 936.00	
	Fund Sources: General.....	\$96,907,268 \$94,456,144	\$96,406,143 \$94,889,418	

ITEM 277.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
Special.....	\$11,471,695	<del>\$11,472,857</del> \$11,372,857		
Dedicated Special Revenue.....	\$661,485	\$661,485		

**§ 1-88. DEPARTMENT OF THE TREASURY (152)**

278.	Investment, Trust, and Insurance Services (72500).....			\$9,443,307	<del>\$8,000,732</del> \$9,343,774
	Debt Management (72501).....	\$1,093,034	\$1,093,034		
	Insurance Services (72502).....	\$3,728,051	<del>\$2,459,400</del> \$4,007,839		
	Banking and Investment Services (72503).....	\$4,622,222	<del>\$4,448,298</del> \$4,242,901		
	Fund Sources: General.....	<del>\$5,432,322</del> \$5,383,037	<del>\$3,989,704</del> \$5,173,835		
	<i>Special</i> .....	\$49,285	\$126,365		
	Commonwealth Transportation.....	\$185,187	\$185,187		
	Trust and Agency.....	\$3,825,798	<del>\$3,825,841</del> \$3,858,387		

Authority: Title 2.2, Chapter 18, Code of Virginia.

A. The Department of the Treasury shall take into account the claims experience of each agency and institution when setting premiums for the general liability program.

B. Coverage provided by the VARISK plan for constitutional officers shall be extended to any action filed against a constitutional officer or appointee of a constitutional officer before the Equal Employment Opportunity Commission or the Virginia State Bar.

C. Notwithstanding the provisions of § 33.2-1919 and § 33.2-1927, Code of Virginia, the Northern Virginia Transportation Commission and the Potomac Rappahannock Transportation Commission are authorized to obtain liability policies for the Commissions' joint project, the Virginia Railway Express, consisting of liability insurance and a program of self-insurance maintained by the Commissions and administered by the Department of the Treasury's Division of Risk Management or by an independent third party selected by the Commissions, which liability policies shall be deemed to meet the requirements of § 8.01-195.3, Code of Virginia. In addition, the Director of the Department of Rail and Public Transportation is authorized to work with the Northern Virginia Transportation Commission and the Potomac Rappahannock Transportation Commission to obtain the foregoing liability policies for the Commissions. In obtaining liability policies, the Director of the Department of Rail and Public Transportation shall advise the Commissions regarding compliance with all applicable public procurement and administrative guidelines.

D. By January 15 of each year the Department of the Treasury shall report to the chairmen of the House Appropriations and Senate Finance Committees, in a unified report mutually agreeable to them, summarizing changes in required debt service payments from the general fund as the result of any refinancing, refunding, or issuance actions taken or expected to be taken by the Commonwealth within the next twelve months.

E. The Virginia Public School Authority shall transfer to the Department of the Treasury each year an amount necessary to recover the direct cost incurred by the department in the administration of the Virginia Public School Authority programs.

F. Notwithstanding § 2.2-1836 of the Code of Virginia, the Department of the Treasury is authorized to initiate data breach coverage under the Property Plan for state agencies on a pilot basis beginning on July 1, 2016. On or before October 15, 2017, the Department of the Treasury shall provide a report to the Secretary of Finance summarizing the program, loss experiences, and recommendations regarding the continuation of the program.

G. The Department of the Treasury shall provide to the State Compensation Board the premiums, by local constitutional office and individual regional jail, required to fund the Constitutional Officer and Regional Jail Fund of the State Insurance Reserve Trust Fund. The premiums provided to the Department of the Treasury by the actuary shall be calculated using factors such claims experience by local constitutional office and individual regional jail, each

ITEM 278.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
local constitutional office and individual regional jail's total number of positions, and local and regional jail average daily populations.				
H. Out of the amounts for this Item shall be paid \$1,268,694 in the first year for the relief of Michael Kenneth McAlister, as provided for and contingent upon the passage of the appropriate relief bill of the 2016 Acts of General Assembly.				
<i>I. Out of the amounts for this Item shall be paid \$1,548,439 in the second year for the relief of Keith Allen Harward, as provided for and contingent upon the passage of House Bill 1650 and Senate Bill 1479 of the 2017 General Assembly.</i>				
279. Revenue Administration Services (73200).....			\$13,590,062	\$14,071,625
Unclaimed Property Administration (73207).....	\$7,258,687	\$7,732,623		\$13,921,625
Accounting and Trust Services (73213).....	\$1,664,265	\$1,664,265		
Check Processing and Bank Reconciliation (73216).....	\$2,474,597	<del>\$2,474,597</del> \$2,324,597		
Administrative Services (73220).....	\$2,192,513	\$2,200,140		
Fund Sources: General.....	\$3,812,525	<del>\$3,815,063</del> \$3,644,491		
Special.....	\$335,994	\$335,994		
Trust and Agency.....	\$8,735,786	<del>\$9,214,811</del> \$9,235,383		
Dedicated Special Revenue.....	\$705,757	\$705,757		

Authority: Title 2.2, Chapter 18 and §§ 55-210.1 through 55-210.30, Code of Virginia.

A. Included in this Item is a sum sufficient nongeneral fund appropriation for personal services and other operating expenses to process checks issued by the Department of Social Services. The estimated cost, excluding actual postage costs, is \$89,000 the first year and \$89,000 the second year.

B. Included in this Item is a sum sufficient nongeneral fund appropriation for administrative expenses to process the Virginia Employment Commission (VEC) and Virginia Retirement System (VRS) checks. The estimated cost for VEC is \$5,500 the first year and \$5,500 the second year, and for VRS is \$25,500 the first year and \$25,500 the second year.

C.1. The amounts for Unclaimed Property Administration are for administrative and related support costs of the Uniform Disposition of Unclaimed Property Act, to be paid solely from revenues derived pursuant to the act.

2. The amounts also include a sum sufficient nongeneral fund amount estimated at \$2,000,000 the first year and \$2,000,000 the second year to pay fees for compliance services and securities portfolio custody services for unclaimed property administration.

3. Any revenue derived from the sale of the Department of the Treasury's new unclaimed property system is hereby appropriated to the department for use in unclaimed property customer service and system enhancements.

4. Notwithstanding § 55-210.13.C of the Uniform Disposition of Unclaimed Property Act, the State Treasurer is not required to publish any item of less than \$250.

D. The State Treasurer is authorized to charge institutions of higher education participating in the private college financing program of the Virginia College Building Authority an administrative fee of up to 10 basis points of the amount financed for each project in addition to a share of direct costs of issuance as determined by the State Treasurer. Revenue collected from this administrative fee shall be deposited to a special fund in the Department of the Treasury to compensate the department for direct and indirect staff time and expenses involved with this program.

E. The State Treasurer is authorized to sell any securities remitted as unclaimed demutualization proceeds of insurance companies at any time after delivery, pursuant to legislation enacted by the 2003 Session of the General Assembly. The funds derived from

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	First Year	Second Year	First Year	Second Year
	FY2017	FY2018	FY2017	FY2018

the sale of said securities shall be handled in accordance with § 55-210.19, Code of Virginia.

F.1. The State Treasurer is authorized to charge qualified public depositories holding public deposits, as defined in § 2.2-4401, Code of Virginia, an annual administrative fee of not more than one-half of one basis point of their average public deposit balances over a twelve month period. The State Treasurer shall issue guidelines to effect the implementation of this fee. However, the total fees collected from all qualified depositories shall not exceed \$100,000 in any one year.

2. Any regulations or guidelines necessary to implement or change the amount of the fee may be adopted without complying with the Administrative Process Act (§ 2.2-4000 et seq.) provided that input is solicited from qualified public depositories. Such input requires only that notice and an opportunity to submit written comments be given.

G. The State Treasurer shall work with universities and community colleges to develop policies and procedures which minimize the use of paper checks when issuing any reimbursements of student loan balances. These efforts should include reimbursement through debit cards, direct deposits, or other electronic means.

H. The Virginia Public School Authority shall transfer to the Department of the Treasury each year an amount necessary to recover the direct cost incurred by the department in the accounting and financial reporting of the Virginia Public School Authority programs.

280. 1. There is hereby appropriated to the Department of the Treasury a sum sufficient for the transfer to the federal government, in accordance with the provisions of the federal Cash Management Improvement Act of 1990 and related federal regulations, of the interest owed by the state on federal funds advanced to the state for federal assistance programs, where such funds are held by the state from the time they are deposited in the state's bank account until they are paid out to redeem warrants, checks or payments by other means. This sum sufficient appropriation is funded from the interest earned on federal funds deposited and invested by the state. The actual amount for transfer shall be established by the State Comptroller.

2. When permitted by applicable federal laws or administrative regulations, the State Comptroller shall first offset and reduce the amount to be transferred by any and all amounts of interest payments calculated to be received by the state from the federal government, where such payments are due to the state because the state was required to disburse its own funds for federal program purposes prior to the receipt of federal funds.

3. Should the interest payments calculated to be made by the federal government to the state exceed the interest calculated to be transferred from the state to the federal government, reduced by the federally approved direct cost reimbursement to the state, the State Comptroller shall then notify the federal government of the net amount of interest due to the state and shall record such net interest, upon its receipt, as interest revenue earned by the general fund.

Total for Department of the Treasury.....			<b>\$23,033,369</b>	<b><del>\$22,072,357</del></b> <b>\$23,265,399</b>
General Fund Positions.....	32.60	<del>32.60</del> 31.60		
Nongeneral Fund Positions.....	90.40	<del>90.40</del> 91.40		
Position Level.....	123.00	123.00		
Fund Sources: General.....	\$9,244,847	<del>\$7,804,767</del>		
	\$9,195,562	\$8,818,326		
Special.....	<del>\$335,994</del>	<del>\$335,994</del>		
	\$385,279	\$462,359		
Commonwealth Transportation.....	\$185,187	\$185,187		
Trust and Agency.....	\$12,561,584	<del>\$13,040,652</del>		
		\$13,093,770		
Dedicated Special Revenue.....	\$705,757	\$705,757		

§ 1-89. TREASURY BOARD (155)

ITEM 281.		Item Details(\$)		Appropriations(\$)	
		First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
281.	Bond and Loan Retirement and Redemption (74300).....			\$784,115,125	\$814,838,773
	Debt Service Payments on General Obligation Bonds (74301).....	\$76,752,331	\$70,169,547	\$771,334,565	\$813,838,773
		\$72,574,911	\$70,178,689		
	Capital Lease Payments (74302).....	\$5,492,400	\$5,493,288		
	Debt Service Payments on Public Building Authority Bonds (74303).....	\$288,219,651	\$293,255,074		
		\$281,328,073	\$287,263,593		
	Debt Service Payments on College Building Authority Bonds (74304).....	\$413,650,743	\$445,920,864		
		\$411,939,181	\$450,903,203		
	Fund Sources: General.....	\$734,892,686	\$766,262,854		
		\$722,112,126	\$763,747,452		
	Higher Education Operating.....	\$30,011,174	\$30,011,174		
			\$31,526,576		
	Dedicated Special Revenue.....	\$645,000	\$645,000		
	Federal Trust.....	\$18,566,265	\$17,919,745		

Authority: Title 2.2, Chapter 18, Code of Virginia; Article X, Section 9, Constitution of Virginia.

A. The Director, Department of Planning and Budget is authorized to transfer appropriations between Items in the Treasury Board to address legislation affecting the Treasury Board passed by the General Assembly.

B.1. Out of the amounts for Debt Service Payments on General Obligation Bonds, the following amounts are hereby appropriated from the general fund for debt service on general obligation bonds issued pursuant to Article X, Section 9 (b), of the Constitution of Virginia:

Series	FY 2017		FY 2018	
	General Fund	Federal Funds	General Fund	Federal Funds
2007A	\$6,812,500	\$0	\$6,500,000	\$0
2007B	\$4,200,000	\$0	\$0	\$0
2008A	\$5,362,800	\$0	\$5,116,800	\$0
2008B	\$5,447,850	\$0	\$5,225,850	\$0
2009A	\$6,285,000	\$0	\$6,085,000	\$0
	\$1,080,250		\$4,262,250	
2009B	\$3,238,564	\$470,381	\$3,185,529	\$441,824
2009D Refunding	\$19,659,250	\$0	\$24,849,250	\$0
2012 Refunding	\$4,499,700	\$0	\$4,409,200	\$0
2013 Refunding	\$11,353,250	\$0	\$4,958,750	\$0
2014 Refunding	\$4,436,500	\$0	\$1,107,750	\$0
2015B Refunding	\$4,909,550	\$0	\$8,214,550	\$0
2016B Refunding	\$1,016,977	\$0	\$1,821,450	\$0
Projected debt service & expenses	\$76,986	\$0	\$75,044	\$0
	\$87,339		\$85,486	
<b>Total Service Area</b>	<b>\$76,281,950</b>	<b>\$470,381</b>	<b>\$69,727,723</b>	<b>\$441,824</b>
	<b>\$72,104,530</b>		<b>\$69,736,865</b>	

2. Out of the amounts for Debt Service Payments on General Obligation Bonds, sums needed to fund issuance costs and other expenses are hereby appropriated.

C. Out of the amounts for Capital Lease Payments, the following amounts are hereby appropriated for capital lease payments:

	FY 2017	FY 2018
Norfolk RHA (VCCS-TCC), Series	\$739,250	\$739,738

ITEM 281.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
1995				
Virginia Biotech Research Park, 2009		\$4,753,150		\$4,753,550
<b>Total Capital Lease Payments</b>		<b>\$5,492,400</b>		<b>\$5,493,288</b>

D.1. Out of the amounts for Debt Service Payments on Virginia Public Building Authority Bonds shall be paid to the Virginia Public Building Authority the following amounts for use by the authority for its various bond issues:

Series	General Fund	Nongeneral Fund	General Fund	Nongeneral Fund
2005D	\$1,250,000	\$0	\$1,250,000	\$0
2006A	\$3,854,000	\$0	\$0	\$0
STARS 2006A	\$7,144,250	\$0	\$0	\$0
2006B	\$8,620,250	\$0	\$0	\$0
STARS 2006B	\$4,469,000	\$0	\$0	\$0
2007A	\$8,992,375	\$0	\$8,994,375	\$0
STARS 2007A	\$7,515,875	\$0	\$7,513,250	\$0
2008B	\$7,120,275	\$0	\$7,121,212	\$0
2009A	\$4,685,520	\$0	\$4,680,433	\$0
2009B	<del>\$16,676,505</del> \$13,440,387	\$0	<del>\$16,678,755</del> \$10,206,500	\$0
2009B STARS	\$6,585,500	\$0	\$6,582,000	\$0
2009C	\$1,091,060	\$0	\$1,087,256	\$0
2009D	\$6,258,800	\$0	\$6,267,750	\$0
2010A	\$21,922,619	\$4,427,564	\$21,924,262	\$4,245,372
2010B	\$22,230,332	\$3,483,595	\$22,228,807	\$3,483,595
2011A STARS	\$631,250	\$0	\$626,750	\$0
2011A	<del>\$20,808,175</del> \$19,232,175	\$0	<del>\$20,815,175</del> \$17,663,175	\$0
2011B	\$1,298,724	\$0	\$1,297,524	\$0
2012A Refunding	\$10,397,100	\$0	\$14,873,225	\$0
2013A	\$10,279,800	\$0	\$10,284,425	\$0
2013B	\$3,478,000	\$0	\$3,478,000	\$0
2014A	\$9,204,275	\$645,000	\$9,200,150	\$645,000
2014B	\$2,009,865	\$0	\$2,014,279	\$0
2014C Refunding	\$47,576,200	\$0	\$39,093,450	\$0
2015A	\$17,340,371	\$0	\$17,344,371	\$0
2015B Refunding	\$17,565,080	\$0	\$21,406,330	\$0
2016A	\$2,594,308	\$0	\$14,388,800	\$0
2016B Refunding	\$2,840,840	\$0	\$8,816,400	\$0
2016C	\$2,360,858	\$0	\$11,658,400	\$0
2016D	\$113,933	\$0	\$906,203	\$0
Projected debt service and expenses	<del>\$10,658,291</del> \$668,892	\$0	<del>\$40,119,328</del> \$7,982,299	\$0
<b>Total Service Area</b>	<del>\$279,663,492</del> <b>\$272,771,914</b>	<b>\$8,556,159</b>	<del>\$284,881,107</del> <b>\$278,889,626</b>	<b>\$8,373,967</b>

2.a. Funding is included in this Item for the Commonwealth's reimbursement of a portion of the approved capital costs as determined by the Board of Corrections and other interest costs as provided in §§ 53.1-80 through 53.1-82.2 of the Code of Virginia, for the following:

Project	Commonwealth Share of Approved Capital Costs
Richmond City Jail Replacement	\$31,238,755
RSW Regional Jail	\$32,840,850
Prince William – Manassas Regional Jail	\$21,032,421

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	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
Southwest Virginia Regional Jail				\$18,143,780
Central Virginia Regional Jail				\$8,464,891
Chesapeake City Jail				\$6,860,886
Pamunkey Regional Jail Authority				\$288,575
Hampton Roads Regional Jail				\$1,759,780
Piedmont Regional Jail				\$2,139,464
Rappahannock Regional Jail				\$1,095,862
Rockbridge Regional Jail				\$103,693
Prince William - Manassas Adult Detention Center				\$49,643
<b>Total Approved Capital Costs</b>				<b>\$122,769,402</b>
				<b>\$41,795,215</b>

b. The Commonwealth's share of the total construction cost of the projects listed in the table in paragraph D.2.a. shall not exceed the amount listed for each project. Reimbursement of the Commonwealth's portion of the construction costs of these projects shall be subject to the approval of the Department of Corrections of the final expenditures.

c. This paragraph shall constitute the authority for the Virginia Public Building Authority to issue bonds for the foregoing projects pursuant to § 2.2-2261 of the Code of Virginia.

E.1. Out of the amounts for Debt Service Payments on Virginia College Building Authority Bonds shall be paid to the Virginia College Building Authority the following amounts for use by the Authority for payments on obligations issued for financing authorized projects under the 21st Century College Program:

Series	FY 2017	FY2018
2006	\$8,389,625	\$8,488,250
2007A Refunding	\$13,608,250	\$13,614,000
2007B	\$2,420,250	\$0
2008A	\$5,282,406	\$5,280,656
	\$4,970,250	\$4,968,500
2009A&B	\$27,185,302	\$27,185,447
	\$25,021,515	\$25,021,650
2009E Refunding	\$24,552,650	\$26,974,900
2009F	\$38,279,049	\$38,005,836
2010B	\$28,025,164	\$27,863,320
2011 A	\$17,776,300	\$17,775,300
2012A	\$21,495,900	\$21,499,400
2012B	\$23,813,200	\$23,835,200
2012 C	\$1,709,412	\$1,689,706
2013 A	\$21,958,513	\$21,959,513
2014A	\$19,547,900	\$19,545,150
2014B	\$5,746,400	\$1,379,650
2015A	\$30,852,650	\$30,850,550
2015B Refunding	\$7,281,862	\$7,284,369
	\$7,281,262	\$7,284,361
2015C	\$1,480,181	\$1,478,575
2015D	\$14,129,800	\$14,134,300
2016A	\$19,470,900	\$19,474,600
2016B Refunding	\$1,314,667	\$1,972,000
2016C	\$4,430,559	\$4,431,339
Projected 21st Century debt service & expenses	\$24,724,169	\$66,448,361
	\$825,200	\$48,576,603
<b>Subtotal 21st Century</b>	<b>\$338,258,983</b>	<b>\$375,292,483</b>
	<b>\$337,099,597</b>	<b>\$380,822,703</b>

ITEM 281.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
2. Out of the amounts for Debt Service Payments on Virginia College Building Authority Bonds shall be paid to the Virginia College Building Authority the following amounts for the payment of debt service on authorized bond issues to finance equipment:				
<b>Series</b>		<b>FY 2017</b>		<b>FY 2018</b>
2009D		\$9,051,000		\$0
2010A		\$8,242,500		\$0
2011A		\$8,537,250		\$8,533,500
2012A		\$8,358,500		\$8,362,500
2013A		\$9,450,750		\$9,450,500
2014A		\$9,655,750		\$9,657,500
2015A		\$10,480,000		\$10,484,000
2016A		<del>\$11,616,010</del>		<del>\$11,616,381</del>
		\$11,063,834		\$11,068,500
Projected debt service & expenses		\$0		\$12,524,000
Subtotal Equipment		<del>\$75,391,760</del>		<del>\$70,628,381</del>
		\$74,839,584		\$70,080,500
<b>Total Service Area</b>		<b><del>\$413,650,743</del></b>		<b><del>\$445,920,864</del></b>
		<b>\$411,939,181</b>		<b>\$450,903,203</b>

3. Beginning with the FY 2008 allocation of the higher education equipment trust fund, the Treasury Board shall amortize equipment purchases at seven years, which is consistent with the useful life of the equipment.

4. Out of the amounts for Debt Service Payments on Virginia College Building Authority Bonds, the following nongeneral fund amounts from a capital fee charged to out-of-state students at institutions of higher education shall be paid to the Virginia College Building Authority in each year for debt service on bonds issued under the 21st Century Program:

<b>Institution</b>	<b>FY 2017</b>	<b>FY 2018</b>
George Mason University	\$2,644,092	<del>\$2,644,092</del> \$2,804,490
Old Dominion University	\$1,047,123	<del>\$1,047,123</del> \$1,108,899
University of Virginia	\$4,721,706	<del>\$4,721,706</del> \$5,006,754
Virginia Polytechnic Institute and State University	\$4,867,731	<del>\$4,867,731</del> \$5,192,295
Virginia Commonwealth University	\$2,224,530	<del>\$2,224,530</del> \$2,359,266
College of William and Mary	\$1,549,053	<del>\$1,549,053</del> \$1,639,845
Christopher Newport University	\$122,562	<del>\$122,562</del> \$131,508
University of Virginia's College at Wise	\$45,540	<del>\$45,540</del> \$48,330
James Madison University	\$2,675,079	<del>\$2,675,079</del> \$2,843,787
Norfolk State University	\$402,831	<del>\$402,831</del> \$420,789
Longwood University	\$97,911	<del>\$97,911</del> \$106,149
University of Mary Washington	\$222,750	<del>\$222,750</del> \$234,834
Radford University	\$281,556	<del>\$281,556</del> \$300,486
Virginia Military Institute	\$377,190	<del>\$377,190</del>

ITEM 281.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
				\$400,470
Virginia State University		\$739,233		\$739,233
				\$773,577
Richard Bland College		\$9,900		\$9,900
				\$10,830
Virginia Community College System		\$3,139,785		\$3,139,785
				\$3,301,665
<b>TOTAL</b>		<b>\$25,168,572</b>		<b>\$25,168,572</b>
				<b>\$26,683,974</b>

5. Out of the amounts for Debt Service Payments of College Building Authority Bonds, the following is the estimated general and nongeneral fund breakdown of each institution's share of the debt service on the Virginia College Building Authority bond issues to finance equipment. The nongeneral fund amounts shall be paid to the Virginia College Building Authority in each year for debt service on bonds issued under the equipment program:

Institution	FY 2017		FY 2018	
	General Fund	Nongeneral Fund	General Fund	Nongeneral Fund
College of William & Mary	\$2,428,047	\$259,307	\$2,288,559	\$259,307
University of Virginia	\$12,878,320	\$1,088,024	\$12,398,010	\$1,088,024
Virginia Polytechnic Institute and State University	\$12,686,106	\$992,321	\$12,511,190	\$992,321
Virginia Military Institute	\$782,515	\$88,844	\$710,673	\$88,844
Virginia State University	\$1,251,928	\$108,886	\$1,102,177	\$108,886
Norfolk State University	\$1,134,866	\$108,554	\$974,308	\$108,554
Longwood University	\$695,519	\$54,746	\$616,057	\$54,746
University of Mary Washington	\$579,022	\$97,063	\$494,620	\$97,063
James Madison University	\$2,104,753	\$254,504	\$1,829,499	\$254,504
Radford University	\$1,610,466	\$135,235	\$1,439,279	\$135,235
Old Dominion University	\$4,765,064	\$374,473	\$4,411,475	\$374,473
Virginia Commonwealth University	\$9,079,794	\$401,647	\$8,135,604	\$401,647
Richard Bland College	\$157,143	\$2,027	\$142,476	\$2,027
Christopher Newport University	\$732,687	\$17,899	\$662,856	\$17,899
University of Virginia's College at Wise	\$239,458	\$19,750	\$206,441	\$19,750
George Mason University	\$4,075,025	\$205,665	\$3,715,367	\$205,665
Virginia Community College System	\$12,777,922	\$633,657	\$11,630,735	\$633,657
Virginia Institute of Marine Science	\$576,822	\$0	\$486,789	\$0
Roanoke Higher Education Authority	\$76,416	\$0	\$70,040	\$0

ITEM 281.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
Southwest Virginia Higher Education Center	\$78,865	\$0	\$72,284	\$0
Institute for Advanced Learning and Research	\$269,909	\$0	\$247,386	\$0
Southern Virginia Higher Education Center	\$66,104	\$0	\$72,216	\$0
New College Institute	\$62,148	\$0	\$45,333	\$0
Eastern Virginia Medical School	\$0	\$0	\$82,099	\$0
<b>TOTAL</b>	<b>\$69,108,899</b>	<b>\$4,842,602</b>	<b>\$64,345,473</b>	<b>\$4,842,602</b>

F. Pursuant to various Payment Agreements between the Treasury Board and the Commonwealth Transportation Board, funds required to pay the debt service due on Commonwealth Transportation Board bonds shall be paid to the Trustee for the bondholders by the Treasury Board after transfer of these funds to the Treasury Board from the Commonwealth Transportation Board pursuant to Item 457, paragraph E of this act and §§ 33.2-2300, 33.2-2400, and 58.1-816.1, Code of Virginia.

G. Under the authority of this act, an agency may transfer funds to the Treasury Board for use as lease, rental, or debt service payments to be used for any type of financing where the proceeds are used to acquire equipment and to finance associated costs, including but not limited to issuance and other financing costs. In the event such transfers occur, the transfers shall be deemed an appropriation to the Treasury Board for the purpose of making the lease, rental, or debt service payments described herein.

H. Notwithstanding the provisions of 2.2-11.56, Code of Virginia, if tax-exempt bonds were used by the Commonwealth or its authorities, boards, or institutions to finance the acquisition, construction, improvement or equipping of real property, proceeds from the subsequent sale or disposition of such property and any improvements may first be applied toward remediation options available under federal law in order to maintain the tax-exempt status of such bonds.

282. A. There is hereby appropriated to the Treasury Board a sum sufficient from the general fund to pay obligations incurred pursuant to Article X, Sections 9 (a), 9 (c), and 9 (d), of the Constitution of Virginia, as follows:

1. Section 9 (a) To meet emergencies and redeem previous debt obligations.
2. Section 9 (c) Debt for certain revenue-producing capital projects.
3. Section 9 (d) Debt for variable rate obligations secured by general fund appropriations and a payment agreement with the Treasury Board.
4. For payment of the principal of and the interest on obligations, issued in accordance with the cited Sections 9 (c) and 9 (d), in the event pledged revenues are insufficient to meet the obligation of the Commonwealth.

B. There is hereby appropriated to the Treasury Board a sum sufficient to pay debt service expected at the time of issuance to be paid from subsidies under federal programs and for arbitrage rebate amounts and other penalties to the United States Government for bonds issued by the Commonwealth pursuant to Article X, Sections 9 (a), 9 (b), 9 (c), and 9 (d) (obligations secured by General Fund appropriations to Treasury Board) of the Constitution of Virginia.

Total for Treasury Board.....			<b>\$784,115,125</b>	<b>\$814,838,773</b>
			<b>\$771,334,565</b>	<b>\$813,838,773</b>
Fund Sources: General.....	\$734,892,686	\$766,262,854		
	\$722,112,126	\$763,747,452		
Higher Education Operating.....	\$30,011,174	\$30,011,174		
		\$31,526,576		

ITEM 282.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
Dedicated Special Revenue.....	\$645,000	\$645,000		
Federal Trust.....	\$18,566,265	\$17,919,745		
283. Omitted.				
TOTAL FOR OFFICE OF FINANCE.....			<b>\$3,134,751,765</b>	<b>\$2,560,564,837</b>
			<b>\$3,120,039,367</b>	<b>\$2,549,770,382</b>
General Fund Positions.....	1,098.60	<del>1,098.60</del> 1,094.60		
Nongeneral Fund Positions.....	204.40	204.40		
Position Level.....	1,303.00	<del>1,303.00</del> 1,299.00		
Fund Sources: General.....	<del>\$2,467,098,314</del>	<del>\$1,890,444,486</del>		
	<del>\$2,452,336,631</del>	<del>\$1,887,513,277</del>		
Special.....	<del>\$12,970,535</del>	<del>\$12,971,697</del>		
	<del>\$13,019,820</del>	<del>\$12,998,062</del>		
Higher Education Operating.....	\$30,011,174	<del>\$30,011,174</del> \$31,526,576		
Commonwealth Transportation.....	\$185,187	\$185,187		
Internal Service.....	\$26,680,935	\$27,814,125		
Trust and Agency.....	\$99,900,769	<del>\$101,879,837</del> \$92,474,824		
Dedicated Special Revenue.....	\$479,338,586	\$479,338,586		
Federal Trust.....	\$18,566,265	\$17,919,745		

ITEM 284.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018

**OFFICE OF HEALTH AND HUMAN RESOURCES**

**§ 1-90. SECRETARY OF HEALTH AND HUMAN RESOURCES (188)**

284.	Administrative and Support Services (79900).....			\$742,324	\$742,360
				\$978,480	\$728,516
	General Management and Direction (79901).....	\$742,324	\$742,360		
		\$978,480	\$728,516		
	Fund Sources: General.....	\$728,480	\$728,516		
		\$978,480			
	<i>Federal Trust</i> .....	\$13,844	\$13,844		
		\$0	\$0		

Authority: Title 2.2, Chapter 2; Article 6, and § 2.2-200, Code of Virginia.

A.1. The Secretary of Health and Human Resources, in collaboration with the Office of the Attorney General and the Secretary of Public Safety and Homeland Security, shall present a six-year forecast of the adult offender population presently incarcerated in the Department of Corrections and approaching release who meet the criteria set forth in Chapter 863 and Chapter 914 of the 2006 Acts of Assembly, and who may be eligible for evaluation as sexually violent predators (SVPs) for each fiscal year within the six-year forecasting period. As part of the forecast, the secretary shall report on: (i) the number of Commitment Review Committee (CRC) evaluations to be completed; (ii) the number of eligible inmates recommended by the CRC for civil commitment, conditional release, and full release; (iii) the number of civilly committed residents of the Virginia Center for Behavioral Rehabilitation who are eligible for annual review; and (iv) the number of individuals civilly committed to the Virginia Center for Behavioral Rehabilitation and granted conditional release from civil commitment in a state SVP facility. The secretary shall complete a summary report of current SVP cases and a forecast of SVP eligibility, civil commitments, and SVP conditional releases, including projected bed space requirements, to the Governor and Senate Finance and House Appropriations Committees by November 15 of each year.

2. As part of the forecast process, the Department of Corrections shall administer a STATIC-99 screening to all potential Sexually Violent Predators eligible for civil commitment pursuant to § 37.2-900 et seq., Code of Virginia, within six months of admission to the Department of Corrections. The results of such screenings shall be provided to the commissioner of the Department of Behavioral Health and Developmental Services (DBHDS) on a monthly basis and used for the SVP population forecast process.

3. The Office of the Attorney General shall also provide to the commissioner of DBHDS, on a monthly basis, the status of all SVP cases pending before their office for purposes of forecasting the SVP population.

B. The Secretary of Health and Human Resources, in consultation with the Secretary of Public Safety and the Secretary of Administration, shall convene a work group including, but not limited to, the Department of Medical Assistance Services, Department of Social Services, Department of Health, Department of Behavioral Health and Developmental Services, Department of Corrections, Department of Juvenile Justice, the Compensation Board, the Department of Human Resource Management and other relevant state agencies to examine the current costs of and protocols for purchasing high-cost medications for the populations served by these agencies. After conducting the review, the workgroup shall develop recommendations to improve the cost efficiency and effectiveness of purchasing high-cost medications in order to improve the care and treatment of individuals served by these agencies. The workgroup shall prepare a final report for consideration by the Governor and the Chairmen of the House Appropriations and Senate Finance Committees no later than October 15, 2016.

C. The Secretary shall develop a plan to address the data governance structure across all agencies in the Health and Human Resources Secretariat in order to streamline business processes, increase operational efficiency and effectiveness, and minimize duplication and overlap of current and future systems development. The plan shall consider how agencies can participate in such a structure while adhering to privacy provisions set forth in state and

ITEM 284.	Item Details(\$)		Appropriations(\$)	
	First Year	Second Year	First Year	Second Year
	FY2017	FY2018	FY2017	FY2018

federal law and regulations. The Secretary shall report on the plan, including challenges impacting the plan, to the Governor and the Chairmen of the House Appropriations and Senate Finance Committees by October 15, 2016.

D. The Secretary of Health and Human Resources shall report on transition planning for the Health and Human Resources Secretariat, including the achievement of performance metrics by agencies in the Secretariat, current and emerging challenges facing these agencies, the value of services provided by the agencies, and each agency's strategic plan and executive progress report, as well as cross-agency policy issues. The Secretary shall provide this report to the Chairmen of the House Appropriations and Senate Finance Committees, as well as the Chairmen and members of the Health and Human Resources Subcommittees of each respective committee by September 1, 2016 and semi-annually thereafter until a new Governor is elected and sworn into office.

*E.1. It is the intent of the General Assembly that the Department of Behavioral Health and Developmental Services (DBHDS) transform its system of care into a model that embodies best practices and state-of-the art services by treating, where appropriate, individuals in the community. As part of this effort, DBHDS state hospitals shall be structured to ensure high quality care, efficient operation, and sufficient capacity to serve those individuals needing state hospital care.*

2. *Out of this appropriation, \$250,000 from the general fund the first year shall be provided to the Office of the Secretary of Health and Human Resources (OSHHR) to prepare an implementation plan for the financial realignment of Virginia's public behavioral health system. This plan shall include: (i) a timeline and funding mechanism to eliminate the extraordinary barriers list in state hospitals and to maximize the use of community resources for individuals discharged or diverted from state facility care; (ii) sources for bridge funding, to ensure continuity of care in transitioning patients to the community, and to address one-time, non-recurring expenses associated with the implementation of these reinvestment projects; (iii) state hospital appropriations that can be made available to community services boards to expand community mental health and substance abuse program capacity to serve individuals who are discharged or diverted from admission; (iv) financial incentive for community services boards to serve individuals in the community rather than state hospitals; (v) detailed state hospital employee transition plans that identify all available employment options for each affected position, including transfers to vacant positions in either DBHDS facilities or community services boards; (vi) legislation and Appropriation Act language needed to achieve financial realignment; and (vii) matrices to assess performance outcomes.*

3. *In developing the plan, the OSHHR shall seek input from and participation by DBHDS, community services boards and behavioral health authorities, individuals receiving services and their family members, other affected state agencies, local governments, private providers and other stakeholders. OSHHR shall present the implementation plan to the Chairmen of the House Appropriations and Senate Finance Committees and the Chairman of the Joint Subcommittee to Study Mental Health Services in the Commonwealth in the 21st Century by December 1, 2017.*

Total for Secretary of Health and Human Resources.....			<b>\$742,324</b>	<b>\$742,360</b>
			<b>\$978,480</b>	<b>\$728,516</b>
General Fund Positions.....	5.00	5.00		
Position Level.....	5.00	5.00		
Fund Sources: General.....	\$728,480	\$728,516		
	\$978,480			
Federal Trust.....	\$13,844	\$13,844		
	\$0	\$0		

**Children's Services Act (200)**

285.	Protective Services (45300).....		\$288,522,851	\$287,578,273
			\$329,749,289	\$332,099,501

ITEM 285.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
Financial Assistance for Child and Youth Services (45303).....	\$288,522,851	\$287,578,273		
	\$329,749,289	\$332,099,501		
Fund Sources: General.....	\$235,915,105	\$234,970,527		
	\$277,141,543	\$279,491,755		
Federal Trust.....	\$52,607,746	\$52,607,746		

Authority: Title 2.2, Chapter 52, Code of Virginia.

A. The Department of Education shall serve as fiscal agent to administer funds cited in paragraphs B and C.

B.1.a. Out of this appropriation, \$177,853,240 the first year and ~~\$176,908,662~~\$221,429,890 the second year from the general fund and \$51,609,746 the first year and \$51,607,746 the second year from nongeneral funds shall be used for the state pool of funds pursuant to § 2.2-5211, Code of Virginia. This appropriation shall consist of a Medicaid pool allocation, and a non-Medicaid pool allocation.

b. The Medicaid state pool allocation shall consist of \$28,526,197 the first year and \$28,526,197 the second year from the general fund and \$43,187,748 the first year and \$43,187,748 the second year from nongeneral funds. The Office of Children's Services will transfer these funds to the Department of Medical Assistance Services as they are needed to pay Medicaid provider claims.

c. The non-Medicaid state pool allocation shall consist of \$149,327,043 the first year and ~~\$148,382,435~~\$192,903,693 the second year from the general fund and \$8,419,998 the first year and \$8,419,998 the second year from nongeneral funds. The nongeneral funds shall be transferred from the Department of Social Services.

d. The Office of Children's Services, with the concurrence of the Department of Planning and Budget, shall have the authority to transfer the general fund allocation between the Medicaid and non-Medicaid state pools in the event that a shortage should exist in either of the funding pools.

e. The Office of Children's Services, per the policy of the State Executive Council, shall deny state pool funding to any locality not in compliance with federal and state requirements pertaining to the provision of special education and foster care services funded in accordance with § 2.2-5211, Code of Virginia.

2.a. Out of this appropriation, ~~\$55,666,865~~\$96,893,303 the first year and \$55,666,865 the second year from the general fund and \$1,000,000 the first year and \$1,000,000 the second year from nongeneral funds shall be set aside to pay for the state share of supplemental requests from localities that have exceeded their state allocation for mandated services. The nongeneral funds shall be transferred from the Department of Social Services.

b. In each year, the director of the Office of Children's Services may approve and obligate supplemental funding requests in excess of the amount in 2a above, for mandated pool fund expenditures up to 10 percent of the total general fund appropriation authority in B1a in this Item.

c. The State Executive Council shall maintain local government performance measures to include, but not be limited to, use of federal funds for state and local support of the Children's Services Act.

d. Pursuant to § 2.2-5200, Code of Virginia, Community Policy and Management Teams shall seek to ensure that services and funding are consistent with the Commonwealth's policies of preserving families and providing appropriate services in the least restrictive environment, while protecting the welfare of children and maintaining the safety of the public. Each locality shall submit to the Office of Children's Services information on utilization of residential facilities for treatment of children and length of stay in such facilities. By December 15 of each year, the Office of Children's Services shall report to the Governor and Chairmen of the House Appropriations and Senate Finance Committees on utilization rates and average lengths of stays statewide and for each locality.

3. Each locality receiving funds for activities under the Children's Services Act (CSA) shall

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have a utilization management process, including a uniform assessment, approved by the State Executive Council, covering all CSA services. Utilizing a secure electronic site, each locality shall also provide information as required by the Office of Children's Services to include, but not be limited to case specific information, expenditures, number of youth served in specific CSA activities, length of stay for residents in core licensed residential facilities, and proportion of youth placed in treatment settings suggested by the uniform assessment instrument. The State Executive Council, utilizing this information, shall track and report on child specific outcomes for youth whose services are funded under the Children's Services Act. Only non-identifying demographic, service, cost and outcome information shall be released publicly. Localities requesting funding from the set aside in paragraph 2.a. and 2.b. must demonstrate compliance with all CSA provisions to receive pool funding.

4. The Secretary of Health and Human Resources, in consultation with the Secretary of Education and the Secretary of Public Safety and Homeland Security, shall direct the actions for the Departments of Social Services, Education, and Juvenile Justice, Medical Assistance Services, Health, and Behavioral Health and Developmental Services, to implement, as part of ongoing information systems development and refinement, changes necessary for state and local agencies to fulfill CSA reporting needs.

5. The State Executive Council shall provide localities with technical assistance on ways to control costs and on opportunities for alternative funding sources beyond funds available through the state pool.

6. Out of this appropriation, \$50,000 the first year and \$50,000 the second year from the general fund is provided for a combination of regional and statewide meetings for technical assistance to local community policy and management teams, family assessment and planning teams, and local fiscal agents. Training shall include, but not be limited to, cost containment measures, building community-based services, including creation of partnerships with private providers and non-profit groups, utilization management, use of alternate revenue sources, and administrative and fiscal issues. A state-supported institution of higher education, in cooperation with the Virginia Association of Counties, the Virginia Municipal League, and the State Executive Council, may assist in the provisions of this paragraph. A training plan shall be presented to and approved by the State Executive Council before the beginning of each fiscal year. A training calendar and timely notice of programs shall be provided to Community Policy and Management Teams and family assessment and planning team members statewide as well as to local fiscal agents and chief administrative officers of cities and counties. A report on all regional and statewide training sessions conducted during the fiscal year, including (i) a description of each program and trainers, (ii) the dates of the training and the number of attendees for each program, (iii) a summary of evaluations of these programs by attendees, and (iv) the funds expended, shall be made to the Chairmen of the House Appropriations and Senate Finance Committees and to the members of the State Executive Council by December 1 of each year. Any funds unexpended for this purpose in the first year shall be reappropriated for the same use in the second year.

7. Out of this appropriation, \$70,000 the first year and \$70,000 the second year from the general fund is provided for the Office of Children's Services to contract for the support of uniform CSA reporting requirements.

8. The State Executive Council shall require a uniform assessment instrument.

9. The Office of Children's Services, in conjunction with the Department of Social Services, shall determine a mechanism for reporting Temporary Assistance for Needy Families Maintenance of Effort eligible costs incurred by the Commonwealth and local governments for the Children's Services Act.

10. For purposes of defining cases involving only the payment of foster care maintenance, pursuant to § 2.2-5209, Code of Virginia, the definition of foster care maintenance used by the Virginia Department of Social Services for federal Title IV-E shall be used.

C. The funding formula to carry out the provisions of the Children's Services Act is as follows:

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1. Allocations. The allocations for the Medicaid and non-Medicaid pools shall be the amounts specified in paragraphs B.1.b. and B.1.c. in this Item. These funds shall be distributed to each locality in each year of the biennium based on the greater of that locality's percentage of actual 1997 Children's Services Act pool fund program expenditures to total 1997 pool fund program expenditures or the latest available three-year average of actual pool fund program expenditures as reported to the state fiscal agent.				
2. Local Match. All localities are required to appropriate a local match for the base year funding consisting of the actual aggregate local match rate based on actual total 1997 program expenditures for the Children's Services Act. This local match rate shall also apply to all reimbursements from the state pool of funds in this Item and carryforward expenditures submitted prior to September 30 each year for the preceding fiscal year, including administrative reimbursements under paragraph C.4. in this Item.				
3.a. Notwithstanding the provisions of C.2. of this Item, beginning July 1, 2008, the local match rate for community based services for each locality shall be reduced by 50 percent.				
b. Localities shall review their caseloads for those individuals who can be served appropriately by community-based services and transition those cases to the community for services. Beginning July 1, 2009, the local match rate for non-Medicaid residential services for each locality shall be 25 percent above the fiscal year 2007 base. Beginning July 1, 2011, the local match rate for Medicaid residential services for each locality shall be 25 percent above the fiscal year 2007 base.				
c. By October 1 of each year, The State Executive Council (SEC) shall provide an update to the Governor and the Chairmen of the House Appropriations and Senate Finance Committees on the outcomes of this initiative.				
d. At the direction of the State Executive Council, local Community Policy and Management Teams (CPMTs) and Community Services Boards (CSBs) shall work collaboratively in their service areas to develop a local plan for intensive care coordination (ICC) services that best meets the needs of the children and families. If there is more than one CPMT in the CSB's service area, the CPMTs and the CSB may work together as a region to develop a plan for ICC services. Local CPMTs and CSBs shall also work together to determine the most appropriate and cost-effective provider of ICC services for children in their community who are placed in, or at-risk of being placed in, residential care through the Children's Services Act, in accordance with guidelines developed by the State Executive Council. The State Executive Council and Office of Children's Services shall establish guidelines for reasonable rates for ICC services and provide training and technical assistance to CPMTs and fiscal agents regarding these services.				
e. The local match rate for all non-Medicaid services provided in the public schools after June 30, 2011 shall equal the fiscal year 2007 base.				
4. Local Administrative Costs. Out of this appropriation, an amount equal to two percent of the fiscal year 1997 pool fund allocations, not to exceed \$2,060,000 the first year and \$2,060,000 the second year from the general fund, shall be allocated among all localities for administrative costs. Every locality shall be required to appropriate a local match based on the local match contribution in paragraph C.2. of this Item. Inclusive of the state allocation and local matching funds, every locality shall receive the larger of \$12,500 or an amount equal to two percent of the total pool allocation. No locality shall receive more than \$50,000, inclusive of the state allocation and local matching funds. Localities are encouraged to use administrative funding to hire a full-time or part-time local coordinator for the Children's Services Act program. Localities may pool this administrative funding to hire regional coordinators.				
5. Definition. For purposes of the funding formula in the Children's Services Act, "locality" means city or county.				
D. Community Policy and Management Teams shall use Medicaid-funded services whenever they are available for the appropriate treatment of children and youth receiving services under the Children's Services Act. Effective July 1, 2009, pool funds shall not be spent for any service that can be funded through Medicaid for Medicaid-eligible children and youth except when Medicaid-funded services are unavailable or inappropriate for meeting the needs of a				

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child.

E. Pursuant to subdivision 3 of § 2.2-5206, Code of Virginia, Community Policy and Management Teams shall enter into agreements with the parents or legal guardians of children receiving services under the Children's Services Act. The Office of Children's Services shall be a party to any such agreement. If the parent or legal guardian fails or refuses to pay the agreed upon sum on a timely basis and a collection action cannot be referred to the Division of Child Support Enforcement of the Department of Social Services, upon the request of the community policy management team, the Office of Children's Services shall make a claim against the parent or legal guardian for such payment through the Department of Law's Division of Debt Collection in the Office of the Attorney General.

F. The Office of Children's Services, in cooperation with the Department of Medical Assistance Services, shall provide technical assistance and training to assist residential and treatment foster care providers who provide Medicaid-reimbursable services through the Children's Services Act to become Medicaid-certified providers.

G. The Office of Children's Services shall work with the State Executive Council and the Department of Medical Assistance Services to assist Community Policy and Management Teams in appropriately accessing a full array of Medicaid-funded services for Medicaid-eligible children and youth through the Children's Services Act, thereby increasing Medicaid reimbursement for treatment services and decreasing the number of denials for Medicaid services related to medical necessity and utilization review activities.

H. Pursuant to subdivision 1921 of § 2.2-2648, Code of Virginia, no later than December 20 in the odd-numbered years, the State Executive Council shall biennially publish and disseminate to members of the General Assembly and Community Policy and Management Teams a progress report on services for children, youth, and families and a plan for such services for the succeeding biennium.

I. Out of this appropriation, \$275,000 the first year and \$275,000 the second year from the general fund shall be used to purchase and maintain an information system to provide quality and timely child demographic, service, expenditure, and outcome data.

J. The State Executive Council shall work with the Department of Education to ensure that funding in this Item is sufficient to pay for the educational services of students that have been placed in or admitted to state or privately operated psychiatric or residential treatment facilities to meet the educational needs of the students as prescribed in the student's Individual Educational Plan (IEP).

K.1. The Office of Children's Services (OCS) shall report on funding for therapeutic foster care services including but not limited to the number of children served annually, average cost of care, type of service provided, length of stay, referral source, and ultimate disposition. In addition, the OCS shall provide guidance and training to assist localities in negotiating contracts with therapeutic foster care providers.

2. The Office of Children's Services shall report on funding for special education day treatment and residential services, including but not limited to the number of children served annually, average cost of care, type of service provided, length of stay, referral source, and ultimate disposition.

3. The Office of Children's Services shall report the information included in this paragraph to the Chairmen of the House Appropriations and Senate Finance Committees beginning September 1, 2011 and each year thereafter.

L. Out of this appropriation, the Director, Office of Children's Services, shall allocate \$2,200,000 the first year and \$2,200,000 the second year from the general fund to localities for wrap-around services for students with disabilities as defined in the Children's Services Act policy manual.

M. The State Executive Council (SEC) for Children's Services shall continue to review and develop a robust set of options for (i) increasing the integration of children receiving special education private day treatment services into their home school districts, including mechanisms to involve local school districts in tracking, monitoring and obtaining

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outcome data to assist in making decisions on the appropriate utilization of these services, and (ii) funding the educational costs with local school districts for students whose placement in or admittance to state or privately operated psychiatric or residential treatment facilities for non-educational reasons has been authorized by Medicaid. The SEC shall continue its review with the assistance of relevant stakeholders, including representatives of the Department of Education, the Department of Medical Assistance Services, the Office of Comprehensive Services, the Department of Behavioral Health and Developmental Services, local school districts, local governments, and public and private service providers. The SEC shall present a robust set of options and recommendations that include possible changes to policies, procedures, regulations and statutes, including any fiscal impact for consideration by the Governor and the Chairmen of the House Appropriations and Senate Finance Committees by November 1, 2016.				
286.	Administrative and Support Services (49900).....		\$1,761,624	\$1,847,006
	General Management and Direction (49901).....	\$1,761,624	\$1,847,006	
	Fund Sources: General.....	\$1,761,624	\$1,847,006	
Authority: Title 2.2, Chapter 26, Code of Virginia.				
The Office of Children's Services may enter into a memorandum of understanding with the Department of Social Services for the provision of routine administrative support services.				
	Total for Children's Services Act.....		<del>\$290,284,475</del> \$331,510,913	<del>\$289,425,279</del> \$333,946,507
	General Fund Positions.....	14.00	14.00	
	Position Level.....	14.00	14.00	
	Fund Sources: General.....	\$237,676,729 \$278,903,167	\$236,817,533 \$281,338,761	
	Federal Trust.....	\$52,607,746	\$52,607,746	
	Grand Total for Secretary of Health and Human Resources.....		<del>\$291,026,799</del> \$332,489,393	<del>\$290,167,639</del> \$334,675,023
	General Fund Positions.....	19.00	19.00	
	Position Level.....	19.00	19.00	
	Fund Sources: General.....	\$238,405,209 \$279,881,647	\$237,546,049 \$282,067,277	
	Federal Trust.....	\$52,621,590 \$52,607,746	\$52,621,590 \$52,607,746	

**§ 1-91. DEPARTMENT FOR THE DEAF AND HARD-OF-HEARING (751)**

287.	Social Services Research, Planning, and Coordination (45000).....		<del>\$6,923,773</del> \$6,914,062	\$6,923,950
	Technology Services for Deaf and Hard-of-Hearing (45004).....	\$5,830,413	\$5,830,413	
	Consumer, Interpreter, and Community Support Services (45005).....	\$699,918	\$699,918	
	Administrative Services (45006).....	<del>\$393,442</del> \$383,731	\$393,619	
	Fund Sources: General.....	\$971,077 \$961,366	\$971,106	
	Special.....	\$5,852,696	\$5,852,844	
	Federal Trust.....	\$100,000	\$100,000	

Authority: Title 51.5, Chapter 13, Code of Virginia.

A. Up to \$38,798 the first year and up to \$38,798 the second year from the general fund is provided to the Department of Deaf and Hard-of-Hearing (DDHH) to contract with the Department for Aging and Rehabilitative Services (DARS) for the provision of shared

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<p>administrative services. The scope of the services and specific costs shall be outlined in a memorandum of understanding (MOU) between DDHH and DARS subject to the approval of the respective agency heads. Any revision to the MOU shall be reported by DARS to the Director, Department of Planning and Budget within 30 days.</p> <p>B. Notwithstanding § 58.1-662 of the Code of Virginia, prior to the distribution of monies from the Communications Sales and Use Tax Trust Fund to counties, cities and towns, there shall be distributed monies in the fund to pay for the Technology Assistance Program. This requirement shall not change any other distributions required by law from the Communications Sales and Use Tax Trust Fund.</p> <p>C. Out of this appropriation, \$40,000 the first year and \$40,000 the second year from the general fund shall be used to contract with the Connie Reazor Deaf Resource Center in Planning District 1 for the provision of outreach and technical assistance to deaf and hard-of-hearing individuals.</p>				
Total for Department for the Deaf and Hard-Of-Hearing.....			<b>\$6,923,773</b> <i>\$6,914,062</i>	<b>\$6,923,950</b>
General Fund Positions.....	8.37	8.37		
Nongeneral Fund Positions.....	2.63	2.63		
Position Level.....	11.00	11.00		
Fund Sources: General.....	<i>\$971,077</i>	\$971,106		
	<i>\$961,366</i>			
Special.....	\$5,852,696	\$5,852,844		
Federal Trust.....	\$100,000	\$100,000		

**§ 1-92. DEPARTMENT OF HEALTH (601)**

288.	Higher Education Student Financial Assistance (10800).....			<b>\$624,000</b> <i>\$474,000</i>	<b>\$624,000</b> <i>\$774,000</i>
	Scholarships (10810).....	<b>\$624,000</b> <i>\$474,000</i>	<b>\$624,000</b> <i>\$774,000</i>		
	Fund Sources: General.....	<b>\$150,000</b> <i>\$0</i>	<b>\$150,000</b> <i>\$300,000</i>		
	Dedicated Special Revenue.....	\$85,000	\$85,000		
	Federal Trust.....	\$389,000	\$389,000		

Authority: §§ ~~23-35.9 through 23-35.13; 23-37.1 through 23-37.5~~; §§ 23.1-614 and 32.1-122.5:1 through 32.1-122.10, Code of Virginia.

A. This appropriation shall only be used for the provision of loans or scholarships in accordance with regulations promulgated by the Board of Health, or for the administration, management, and reporting thereof. The department may move appropriation between scholarship or loan repayment programs as long as the scholarship or loan repayment is in accordance with the regulations promulgated by the Board of Health.

B. The Virginia Department of Health shall collaborate with the Virginia Health Care Foundation and the Department of Behavioral Health and Developmental Services, the state teaching hospitals, and other relevant stakeholders on a plan to increase the number of Virginia behavioral health practitioners, including licensed clinical psychologists, licensed clinical social workers, licensed professional counselors, child and adolescent psychiatrists, and psychiatric nurse practitioners, practicing in Virginia's community services boards, behavioral health authorities, state mental health facilities, free clinics, federally qualified health centers and other similar health safety net organizations through the use of a student loan repayment program. The program design shall address the need for behavioral health professionals in behavioral health shortage areas; the types of behavioral health practitioners needed across communities; the results of community health needs assessments that have been completed by hospitals, localities or other organizations; and shortages that may exist in high cost of living areas which may

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<p>preclude individuals from choosing employment in public and non-profit community behavioral health and safety net organizations and state mental health facilities. The program design shall include a preference for applicants who choose employment in underserved areas of the Commonwealth and contain conditions for recipients to practice in these areas for at least two years. The program shall be implemented by the Virginia Department of Health. The plan shall identify opportunities to leverage state funding for the program with funds from other sources in order to maximize the total funding for such a program. The plan shall determine how the program can complement and coordinate with existing efforts to recruit and retain Virginia behavioral health practitioners. The Virginia Department of Health shall report back on the plan, including projected utilization of such a program and estimated costs to implement such a program to the Governor and the Chairmen of the House Appropriations and Senate Finance Committees and the Chairman of the Joint Subcommittee to Study Mental Health Services in the Twenty-First Century by November 1, 2016.</p>				
289.	Emergency Medical Services (40200).....		\$42,969,058	\$42,969,058
	Financial Assistance for Non Profit Emergency Medical Services Organizations and Localities (40203).....	\$35,159,839		\$35,159,839
	State Office of Emergency Medical Services (40204).....	\$7,809,219		\$7,809,219
	Fund Sources: Special.....	\$18,184,334		\$18,184,334
	Dedicated Special Revenue.....	\$24,379,141		\$24,379,141
	Federal Trust.....	\$405,583		\$405,583

Authority: §§ 32.1-111.1 through 32.1-111.16, 32.1-116.1 through 32.1-116.3, and 46.2-694 A 13, Code of Virginia.

A. Out of this appropriation, \$25,000 the first year and \$25,000 the second year from special funds shall be provided to the Department of State Police for administration of criminal history record information for local volunteer fire and rescue squad personnel (pursuant to § 19.2-389 A 11, Code of Virginia).

B.1. Distributions made under § 46.2-694 A 13 b (iii), Code of Virginia, shall be made only to nonprofit emergency medical services organizations.

2. Out of the distribution made from paragraph 1, from the special emergency medical services fund for the Virginia Rescue Squad Assistance Fund, \$840,000 the first year and \$840,000 the second year shall be used for the purchase of new ambulance stretcher retention systems as required by the federal General Services Administration.

C. Out of this appropriation, \$1,045,375 the first year and \$1,045,375 the second year from the Virginia Rescue Squad Assistance Fund and \$2,052,723 the first year and \$2,052,723 the second year from the special emergency medical services fund shall be provided to the Department of State Police for aviation (med-flight) operations.

D. The State Health Commissioner shall review current funding provided to trauma centers to offset uncompensated care losses, report on feasible long-term financing mechanisms, and examine and identify potential funding sources on the federal, state and local level that may be available to Virginia's trauma centers to support the system's capacity to provide quality trauma services to Virginia citizens. As sources are identified, the commissioner shall work with any federal and state agencies and the Trauma System Oversight and Management Committee to assist in securing additional funding for the trauma system.

E. Notwithstanding any other provision of law or regulation, the Board of Health shall not modify the geographic or designated service areas of designated regional emergency medical services councils in effect on January 1, 2008, or make such modifications a criterion in approving or renewing applications for such designation or receiving and disbursing state funds.

F. Notwithstanding any other provision of law or regulation, funds from the \$0.25 of the \$4.25 for Life fee shall be provided for the payment of the initial basic level emergency medical services certification examination provided by the National Registry of Emergency Medical Technicians (NREMT). The Board of Health shall determine an allocation methodology upon recommendation by the State EMS Advisory Board to ensure that funds are available for the payment of initial NREMT testing and distributed to those individuals

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	seeking certification as an Emergency Medical Services provider in the Commonwealth of Virginia.			
	G. Out of this appropriation, up to \$400,000 the first year and up to \$400,000 the second year from the Virginia Rescue Squad Assistance Fund shall be used for grants to emergency medical services organizations to purchase 12-lead electrocardiograph monitors.			
	H. Out of this appropriation, \$90,000 the first year and \$90,000 the second year from the Virginia Rescue Squad Assistance Fund shall be provided for national background checks on persons applying to serve as a licensed provider in a licensed emergency medical services agency. The Office of Emergency Medical Services may transfer funding to the Office of State Police for national background checks as necessary.			
290.	Medical Examiner and Anatomical Services (40300).....		\$11,329,558	\$11,329,558
	Anatomical Services (40301).....	\$549,313		\$549,313
	Medical Examiner Services (40302).....	\$10,780,245		\$10,780,245
	Fund Sources: General.....	\$9,783,065		\$9,783,065
	Special.....	\$713,050		\$713,050
	Federal Trust.....	\$833,443		\$833,443
	Authority: §§ 32.1-277 through 32.1-304, Code of Virginia.			
291.	Vital Records and Health Statistics (40400).....		\$7,773,247	\$7,773,247
	Health Statistics (40401).....	\$1,357,169		\$1,357,169
	Vital Records (40402).....	\$6,416,078		\$6,416,078
	Fund Sources: Special.....	\$7,156,746		\$7,156,746
	Federal Trust.....	\$616,501		\$616,501
	Authority: §§ 8.01-217, 32.1-249 through 32.1-276, Code of Virginia; and P.L. 93-353, as amended, Federal Code.			
	A. Effective July 1, 2004, the standard vital records fee shall be \$12.00 and the fee for the expedited record search shall be \$48.00.			
	B. The Department of Health shall report on efforts to address changes to the Electronic Death Registry System that would improve the system to make it easier for filing death certificates, address interoperability concerns by users, and provide technical assistance to system users, and other improvements. The department shall report to the Chairmen of the House Appropriations and Senate Finance Committees by October 1, 2016.			
	C. Notwithstanding § 32.1-273.D, Code of Virginia, the revenues generated from the sale of birth, marriage, or divorce records in state administered health districts shall be distributed between the districts that issue the records and the Division of Vital Records. The revenues will be split with 65 percent remaining in the district to support the costs of that district and 35 percent to be transferred to the Division of Vital Records to support ongoing infrastructure costs associated with the collection, retention and issuance of the Commonwealth's vital records.			
	D. The state teaching hospitals shall work with the Department of Health and Division of Vital Records to fully implement use of the Electronic Death Registration System (EDRS) for all deaths occurring within any Virginia state teaching hospital's facilities. Full implementation shall occur and be reported, by the Division of Vital Records, to the Chairmen of the House Appropriations and Senate Finance Committees by April 15, 2018, in alignment with the Division of Vital Records plan to promulgate and market the EDRS.			
292.	Communicable Disease Prevention and Control (40500).....		\$78,625,939	<del>\$78,625,939</del> \$79,220,822
	Immunization Program (40502).....	\$5,604,514		\$5,604,514
	Tuberculosis Prevention and Control (40503).....	\$1,962,442		\$1,962,442

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Sexually Transmitted Disease Prevention and Control (40504).....	\$2,183,769	<del>\$2,183,769</del> \$2,778,652		
Disease Investigation and Control Services (40505)....	\$2,792,302	\$2,792,302		
HIV/AIDS Prevention and Treatment Services (40506).....	\$65,508,649	\$65,508,649		
Pharmacy Services (40507).....	\$574,263	\$574,263		
Fund Sources: General.....	\$9,584,858	<del>\$9,584,858</del> \$10,179,741		
Special.....	\$777,408	\$777,408		
Federal Trust.....	\$68,263,673	\$68,263,673		

Authority: §§ 32.1-11.1 through 32.1-11.2, 32.1-35 through 32.1-73, Code of Virginia; and P.L. 91-464, as amended, Federal Code.

A. Out of this appropriation, \$50,000 the first year and \$50,000 the second year from the general fund shall be used to purchase medications for individuals who have tuberculosis but who do not qualify for free or reduced prescription drugs and who do not have adequate income or insurance coverage to purchase the required prescription drugs.

B. Out of this appropriation, \$40,000 the first year and \$40,000 the second year from the general fund shall be provided to the Division of Tuberculosis Control for the purchase of medications and supplies for individuals who have drug-resistant tuberculosis and require treatment with expensive, second-line antimicrobial agents.

C. The requirement for testing of tuberculosis isolates set out in § 32.1-50 E, Code of Virginia, shall be satisfied by the submission of samples to the Division of Consolidated Laboratory Services, or such other laboratory as may be designated by the Board of Health.

D. Out of this appropriation, \$840,288 the first year and \$840,288 the second year from nongeneral funds shall be used to purchase the Tdap (tetanus/diphtheria/pertussis) vaccine for children without insurance.

E. Out of this appropriation, \$200,000 the first year and \$200,000 the second year from the general fund shall be provided to the State Pharmaceutical Assistance Program (SPAP) for insurance premium payments, coinsurance payments, and other out-of-pocket costs for individuals participating in the Virginia AIDS Drug Assistance Program (ADAP) with incomes between 135 percent and 300 percent of the federal poverty income guidelines and who are Medicare Part D beneficiaries.

F. The State Health Commissioner shall monitor patients who have been removed or diverted from the Virginia AIDS Drug Assistance Program due to budget considerations. At a minimum the Commissioner shall monitor patients to determine if they have been successfully enrolled in a private Pharmacy Assistance Program or other program to receive appropriate anti-retroviral medications. The commissioner shall also monitor the program to assess whether a waiting list has developed for services provided through the ADAP program. The commissioner shall report findings to the Chairmen of the House Appropriations and Senate Finance Committees annually on October 1.

293. Health Research, Planning, and Coordination (40600).....			\$17,190,907 \$17,175,200	\$17,190,907 \$17,079,200
Health Research, Planning and Coordination (40603).	\$3,214,122	<del>\$3,214,122</del> \$3,118,122		
Regulation of Health Care Facilities (40607).....	<del>\$12,686,457</del> \$12,670,750	<del>\$12,686,457</del> \$12,670,750		
Certificate of Public Need (40608).....	\$1,290,328	\$1,290,328		
Fund Sources: General.....	\$3,575,610	<del>\$3,575,610</del> \$3,479,610		
Special.....	<del>\$2,125,180</del> \$2,109,473	<del>\$2,125,180</del> \$2,109,473		
Dedicated Special Revenue.....	\$451,798	\$451,798		
Federal Trust.....	\$11,038,319	\$11,038,319		

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<p>Authority: §§ 32.1-102.1 through 32.1-102.11; 32.1-122.01 through 32.1-122.08; and 32.1-123 through 32.1-138.5, Code of Virginia; and P.L. 96-79, as amended, Federal Code; and Title XVIII and Title XIX of the U.S. Social Security Act, Federal Code.</p> <p>A. Supplemental funding for the regional health planning agencies shall be provided from the following sources:</p> <p>1. Special funds from Certificate of Public Need (40608) application fees in excess of those required to operate the COPN Program, provided the program may retain special fund balances each year equal to of one month's operational needs in case of revenue shortfalls in the subsequent year.</p> <p>2. The Department of Health shall revise annual agreements with the regional health planning agencies to require an annual independent financial audit to examine the use of state funds and the reasonableness of those expenditures.</p> <p>B. Failure of any regional health planning agency to establish or sustain business operations shall cause funds to revert to the Central Office to support health planning and Certificate of Public Need functions.</p> <p>C. The State Health Commissioner shall continue implementation of the "Five-Year Action Plan: Improving Access to Primary Health Care Services in Medically Underserved Areas and Populations of the Commonwealth." A minimum of \$150,000 the first year and \$150,000 the second year from the general fund shall be provided to the Virginia Office of Rural Health, as the state match for the federal Office of Rural Health Policy Grant. The commissioner is authorized to contract for services to accomplish the plan.</p> <p>D. Out of the this appropriation, \$278,000 the first year and \$278,000 the second year is appropriated to the department from statewide indirect cost recoveries to match federal funds and support the programs of the Office of Licensure and Certification. Amounts recovered in excess of the special fund appropriation shall be deposited to the general fund.</p> <p>E. The Virginia Department of Health (VDH) in collaboration with the Department of Health Professions shall issue risk mitigation guidelines on the prescription of the class of potent pain medicines known as extended-release and long-acting (ER/LA) opioid analgesics to include co-prescription of an opioid antagonist, approved by the U.S. Food and Drug Administration (FDA), for administration by family members or caregivers in a non-medically supervised environment.</p>				
294.	State Health Services (43000).....		<del>\$177,202,761</del> \$177,172,761	<del>\$177,187,761</del> \$177,365,211
	Child and Adolescent Health Services (43002).....	\$11,543,417 \$11,513,417	\$11,543,417 \$11,513,417	
	Women's and Infant's Health Services (43005).....	\$8,191,065	\$8,191,065 \$8,398,515	
	Chronic Disease Prevention, Health Promotion, and Oral Health (43015).....	\$10,396,238	\$10,396,238	
	Injury and Violence Prevention (43016).....	\$4,437,126	\$4,422,126	
	Women, Infants, and Children (WIC) and Community Nutrition Services (43017).....	\$142,634,915	\$142,634,915	
	Fund Sources: General.....	\$4,225,669 \$4,195,669	\$4,210,669 \$4,305,139	
	Special.....	\$2,893,641	\$2,893,641	
	Dedicated Special Revenue.....	\$64,967,057	\$64,967,057	
	Federal Trust.....	\$105,116,394	<del>\$105,116,394</del> \$105,199,374	

Authority: §§ 32.1-11, 32.1-77, and 32.1-89 through 32.1-90, Code of Virginia; P.L. 94-566, as amended, Title V of the U.S. Social Security Act and Title X of the U.S. Public Health Service Act, Federal Code; and P.L. 95-627, as amended, Federal Code.

A. Out of this appropriation, \$952,807 the first year and \$952,807 the second year from

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<p>special funds is provided to support the newborn screening program and its expansion pursuant to Chapters 717 and 721, Act of Assembly of 2005. Fee revenues sufficient to fund the Department of Health's costs of the program and its expansion shall be transferred from the Division of Consolidated Laboratory Services.</p> <p>B. The Special Supplemental Nutrition Program for Women, Infants, and Children is exempt from the requirements of the Administrative Process Act (§ 2.2-4000 et seq.).</p> <p>C. Out of this appropriation, \$305,000 the first year and \$305,000 the second year from the general fund shall be provided to the department's sickle cell program to address rising pediatric caseloads in the current program. Any remaining funds shall be used to develop transition services for youth who will require adult services to ensure appropriate medical services are available and provided for youth who age out of the current program.</p> <p>D. It is the intent of the General Assembly that the State Health Commissioner continue providing services through child development clinics and access to children's dental services.</p> <p>E. The Virginia Department of Health shall report on state policies and programs that would improve birth outcomes in the Commonwealth and make recommendations to the General Assembly. The department shall evaluate and report on the most effective models for improving birth outcomes, reducing teen pregnancy, reducing unintended pregnancies, and improving the spacing between births. The report shall be submitted to the Chairmen of the House Appropriations and Senate Finance Committees by November 15, 2016.</p> <p>F. Out of this appropriation, \$1,000,000 the first year and \$1,000,000 the second year from the Temporary Assistance for Needy Families (TANF) block grant shall be provided to the Department of Health for the operation of the Resource Mothers program.</p> <p><i>G. Out of this appropriation, \$124,470 from the general fund and \$82,980 from nongeneral funds the second year is provided for the Virginia Department of Health to establish and administer a Perinatal Quality Collaborative. The Perinatal Quality Collaborative shall work to improve pregnancy outcomes for women and newborns by advancing evidence-based clinical practices and processes through continuous quality improvement with an initial focus on pregnant women with substance use disorder and infants impacted by neonatal abstinence syndrome.</i></p> <p><i>H. Notwithstanding any other provision of this act, the Director, Department of Planning and Budget, is authorized to move the associated appropriation and authorized positions supporting the federal Summer Food Service Program and the federal At-Risk Afterschool Meals Program component of the Child and Adult Care Food Program from the Virginia Department of Health to the Department of Education. Such transfer shall be in accordance with a memorandum-of-understanding agreed to by the Virginia Department of Health and the Department of Education setting forth the federal positions and dollars to be transferred associated with the Summer Food Service and At-Risk Afterschool Meals Programs. Such transfer shall be coordinated with the United States Department of Agriculture to ensure a seamless transition.</i></p>				
295.	Community Health Services (44000).....		\$252,828,388	\$252,828,388 \$253,299,396
	Local Dental Services (44002).....	\$4,676,787		\$4,676,787
	Restaurant and Food Safety, Well and Septic Permitting and Other Environmental Health Services (44004).....	\$37,227,550		\$37,227,550
	Local Family Planning Services (44005).....	\$26,672,443		\$26,672,443
	Support for Local Management, Business, and Facilities (44009).....	\$62,967,015		\$62,967,015 \$63,438,023
	Local Maternal and Child Health Services (44010)....	\$43,702,355		\$43,702,355
	Local Immunization Services (44013).....	\$13,967,693		\$13,967,693
	Local Communicable Disease Investigation, Treatment, and Control (44014).....	\$19,294,860		\$19,294,860
	Local Personal Care Services (44015).....	\$4,365,001		\$4,365,001
	Local Chronic Disease and Prevention Control (44016).....	\$11,706,618		\$11,706,618

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Local Nutrition Services (44018).....	\$28,248,066	\$28,248,066		
Fund Sources: General.....	\$99,535,119	<del>\$99,535,119</del> \$99,838,355		
Special.....	\$106,425,406	<del>\$106,425,406</del> \$106,593,178		
Dedicated Special Revenue.....	\$3,508,809	\$3,508,809		
Federal Trust.....	\$43,359,054	\$43,359,054		

Authority: §§ 32.1-11 through 32.1-12, 32.1-31, 32.1-163 through 32.1-176, 32.1-198 through 32.1-211, 32.1-246, and 35.1-1 through 35.1-26, Code of Virginia; Title V of the U.S. Social Security Act; and Title X of the U.S. Public Health Service Act.

A.1. Notwithstanding § 32.1-163 through § 32.1-176, Code of Virginia, the State Health Commissioner shall charge a fee of no more than \$425.00, for a construction permit for on-site sewage systems designed for less than 1,000 gallons per day, and alternative discharging systems not supported with certified work from an authorized onsite soil evaluator or a professional engineer working in consultation with an authorized onsite soil evaluator.

2. Notwithstanding § 32.1-163 through § 32.1-176, Code of Virginia, the State Health Commissioner shall charge a fee of no more than \$350.00, for the certification letter for less than 1,000 gallons per day not supported with certified work from an authorized onsite soil evaluator or a professional engineer working in consultation with an authorized onsite soil evaluator.

3. Notwithstanding § 32.1-163 through § 32.1-176, Code of Virginia, the State Health Commissioner shall charge a fee of no more than \$225.00, for a construction permit for an onsite sewage system designed for less than 1,000 gallons per day when the application is supported with certified work from a licensed onsite soil evaluator.

4. Notwithstanding § 32.1-163 through § 32.1-176, Code of Virginia, the State Health Commissioner shall charge a fee of no more than \$320.00, for the certification letter for less than 1,000 gallons per day supported with certified work from an authorized onsite soil evaluator or a professional engineer working in consultation with an authorized onsite soil evaluator.

5. Notwithstanding § 32.1-163 through § 32.1-176, Code of Virginia, the State Health Commissioner shall charge a fee of no more than \$300.00, for a construction permit for a private well.

6. Notwithstanding § 32.1-163 through § 32.1-176, Code of Virginia, the State Health Commissioner shall charge a fee of no more than \$1,400.00, for a construction permit or certification letter designed for more than 1,000 gallons per day.

7. The State Health Commissioner shall appoint two manufacturers to the Advisory Committee on Sewage Handling and Disposal, representing one system installer and the Association of Onsite Soil Engineers.

B.1. The State Health Commissioner is authorized to develop, in consultation with the regulated entities, a hotel, campground, and summer camp plan and specification review fee, not to exceed \$40.00, a restaurant plan and specification review fee, not to exceed \$40.00, an annual hotel, campground, and summer camp permit renewal fee, not to exceed \$40.00, and an annual restaurant permit renewal fee, not to exceed \$40.00 to be collected from all establishments, except K-12 public schools, that are subject to inspection by the Department of Health pursuant to §§ 35.1-13, 35.1-14, 35.1-16, and 35.1-17, Code of Virginia. However, any such establishment that is subject to any health permit fee, application fee, inspection fee, risk assessment fee or similar fee imposed by any locality as of January 1, 2002, shall be subject to this annual permit renewal fee only to the extent that the Department of Health fee and the locally imposed fee, when combined, do not exceed the fee amount listed in this paragraph. This fee structure shall be subject to the approval of the Secretary of Health and Human Resources.

2. *The Department of Health shall examine the cost recovery from larger establishments to determine if the services are adequately supported and report to the Chairmen of the*

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C. Pursuant to the Department of Health's Policy Implementation Manual (#07-01), individuals who participate in a local festival, fair, or other community event where food is sold, shall be exempt from the annual temporary food establishment permit fee of \$40.00 provided the event is held only one time each calendar year and the event takes place within the locality where the individual resides.

D. The State Health Commissioner shall work with public and private dental providers to develop options for delivering dental services in underserved areas, including the use of public-private partnerships in the development and staffing of facilities, the use of dental hygiene and dental students to expand services and enhance learning experiences, and the availability of reimbursement mechanisms and other public and private resources to expand services.

E. The Department of Health shall continue to implement a sustainable preventive model to begin July 1, 2014, except in the Mount Rogers, Western Tidewater, and Norfolk Health districts, and full transition by January 1, 2016. The model shall ensure that (i) trained personnel are in place; (ii) the focus on those areas of the Commonwealth in the most need of these dental services, including those areas with higher risk factors including a concentration of diabetic and free lunch populations and a higher than average Medicaid-eligible population; and (iii) the development of evaluation metrics to assist in ensuring efficient and effective use of funding and services.

F. Out of this appropriation, \$387,744 the first year and \$387,744 the second year from the general fund and \$267,602 the first year and \$267,602 the second year from nongeneral funds is provided to address the cost of leasing or expanding local health department facilities.

296.	Financial Assistance to Community Human Services Organizations (49200).....			\$20,804,761	\$20,604,761
				\$20,261,806	\$20,576,511
	Payments to Human Services Organizations (49204)..	\$20,804,761	\$20,604,761		
		\$20,261,806	\$20,576,511		
	Fund Sources: General.....	\$18,342,833	\$18,142,833		
		\$17,799,878	\$18,114,583		
	Federal Trust.....	\$2,461,928	\$2,461,928		

Authority: § 32.1-2, Code of Virginia.

A.1. Out of this appropriation, ~~\$832,946~~ \$808,391 the first year and \$832,946 the second year from the general fund and \$2,400,000 the first year and \$2,400,000 the second year from the federal Temporary Assistance for Needy Families (TANF) block grant shall be used to contract with the Comprehensive Health Investment Project (CHIP) of Virginia. *In the event that the CHIP of Virginia changes its name; the provisions of this item shall apply to the successor organization provided that the required program purposes outlined in paragraph A.2. through A.4. are still achieved.*

2. The purpose of the program is to develop, expand, and operate a network of local public-private partnerships providing comprehensive care coordination, family support and preventive medical and dental services to low-income, at-risk children.

3. The general fund appropriation in this Item for the CHIP of Virginia projects shall not be used for administrative costs.

4. CHIP of Virginia shall continue to pursue raising funds and in-kind contributions from local communities. It is the intent of the General Assembly that the CHIP program increases its efforts to raise funds from local communities and other private or public sources with the goal of reducing reliance on general fund appropriations in the future.

5. Of this appropriation, from the amounts in paragraph A.1., \$24,679 the first year and \$24,679 the second year from the general fund shall be used to contract with the CHIP of Roanoke and shall be used as matching funds to support three full-time equivalent public health nurse positions to services in the Roanoke Valley and Allegheny Highlands.

B. Out of this appropriation ~~\$53,241~~ \$51,671 the first year and \$53,241 the second year from

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the general fund shall be used to contract with the Alexandria Neighborhood Health Services, Inc. to promote the health of women in Alexandria, Arlington, Fairfax County, and Falls Church, to prevent illness and injury and provide early treatment for serious health conditions. The contract with Alexandria Neighborhood Health Services Inc. (ANHSI) shall require that ANHSI provide comprehensive women's health care with a focus on preventative health services and screenings to low income, uninsured women. Women's health care services shall focus on preventative screenings. Blood pressure screening and body mass index shall be performed at each visit. The organization shall pursue raising funds and in-kind contributions from the local community.

C. Out of this appropriation ~~\$5,982~~\$5,808 the first year and \$5,982 the second year from the general fund shall be used to contract with the Louisa County Resource Council to promote, develop, and encourage activities to deliver community-based services to disadvantaged Louisa County residents. The contract with Louisa County Resource Council shall require that the council provide assistance to income-eligible residents in meeting various needs of the clients including medication assistance, outreach assistance, and medical care referrals by exploring affordable options. The council shall continue to pursue raising funds and in-kind contributions from the local community.

D. Out of this appropriation, ~~\$7,837~~\$7,606 the first year and \$7,837 the second year from the general fund shall be used to contract with the Olde Towne Medical Center. The contract with Olde Towne Medical Center shall require that the center provide cost effective, comprehensive primary and preventive health care (including obstetrical care) and oral health care to the uninsured, Medicaid, and Medicare residents in the City of Williamsburg, James City County, and York County. The population served shall include adults and children.

E.1. Out of this appropriation, ~~\$433,750~~\$420,964 the first year and \$433,750 the second year from the general fund shall be used to contract with the Virginia Community Healthcare Association (VCHA). The contract with VCHA shall require that the association purchase pharmaceuticals and medically necessary pharmacy supplies, and to provide pharmacy services to low-income, uninsured patients of the Community and Migrant Health Centers throughout Virginia. The uninsured patients served with these funds shall have family incomes no greater than 200 percent of the federal poverty level. The amount allocated to each Community and Migrant Health Center shall be determined through an allocation methodology developed by the Virginia Community Healthcare Association. The allocation methodology shall ensure that funds are distributed such that the Community and Migrant Health Centers are able to serve the pharmacy needs of the greatest number of low-income, uninsured persons. The Virginia Community Healthcare Association shall establish accounting and reporting mechanisms to track the disbursement and expenditure of these funds.

2. Out of this appropriation, ~~\$175,000~~\$169,841 the first year and \$175,000 the second year from the general fund shall be used to contract with the Virginia Community Healthcare Association. The contract with VCHA shall require that the association expand access to care provided through community health centers.

3. Out of this appropriation, ~~\$2,800,000~~\$2,717,457 the first year and \$2,800,000 the second year from the general fund shall be used to contract with the Virginia Community Healthcare Association. The contract with VCHA shall require that the association support community health center operating costs for services provided to uninsured clients. The amount allocated to each Community and Migrant Health Center shall be determined through an allocation methodology developed by the Virginia Community Healthcare Association. The allocation methodology shall ensure that funds are distributed such that the Community and Migrant Health Centers are able to serve the needs of the greatest number of uninsured persons. The Virginia Community Healthcare Association shall establish accounting and reporting mechanisms to track the disbursement and expenditure of these funds.

F.1. Out of this appropriation, ~~\$1,321,400~~\$1,282,446 the first year and \$1,321,400 the second year from the general fund shall be used to contract with the Virginia Association of Free and Charitable Clinics (VAFCC). The contract with VAFCC shall require that the organization purchase pharmaceuticals and medically necessary pharmacy supplies, and to provide pharmacy services to low-income, uninsured patients of the Free Clinics

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	throughout Virginia. The amount allocated to each Free Clinic shall be determined through an allocation methodology developed by the Virginia Association of Free and Charitable Clinics. The allocation methodology shall ensure that funds are distributed such that the Free Clinics are able to serve the pharmacy needs of the greatest number of low-income, uninsured adults. The Virginia Association of Free and Charitable Clinics shall establish accounting and reporting mechanisms to track the disbursement and expenditure of these funds.			
	2. Out of this appropriation, <del>\$175,000</del> \$169,841 the first year and \$175,000 the second year from the general fund shall be used to contract with the Virginia Association of Free and Charitable Clinics (VAFCC). The contract with VAFCC shall require the organization to expand access to health care services.			
	3. Out of this appropriation, <del>\$4,800,000</del> \$4,658,498 the first year and \$4,800,000 the second year from the general fund shall be used to contract with the Virginia Association of Free and Charitable Clinics (VAFCC). The contract with VAFCC shall require that the organization support free clinic operating costs for services provided to uninsured clients. The amount allocated to each free clinic shall be determined through an allocation methodology developed by the Virginia Association of Free and Charitable Clinics. The allocation methodology shall ensure that funds are distributed such that the free clinics are able to serve the needs of the greatest number of uninsured persons. The Virginia Association of Free and Charitable Clinics shall establish accounting and reporting mechanisms to track the disbursement and expenditure of these funds.			
	G. Out of this appropriation, <del>\$29,303</del> \$28,439 the first year and \$29,303 the second year from the general fund shall be used to contract with HealthWorks of Herndon. The contract with HealthWorks of Herndon (HWH) shall require that HWH provide treatment and prevention services, including health care services and mental health counseling, to low income and uninsured adults and children residing in the communities of Herndon, Reston, Chantilly, and Centreville in Fairfax County. These services shall include comprehensive primary health care with integrated behavioral health care to adult and children, prescription medications, diagnostic and lab testing, specialty referrals, and preventive screenings. Children's services shall include school physicals and sports physicals. Patients will also have access to oral health care through HealthWorks Dental Program.			
	H. Out of this appropriation, <del>\$164,758</del> \$159,901 the first year and \$164,758 the second year from the general fund shall be used to contract with the Southwest Virginia Graduate Medical Education Consortium. The contract with Southwest Virginia Graduate Medical Education (GMEC) shall require GMEC to create and support medical residency preceptor sites in rural and underserved communities in Southwest Virginia. <b>GMEC is a program of the University of Virginia's College at Wise.</b>			
	I. Out of this appropriation, <del>\$355,555</del> \$345,073 the first year and \$355,555 the second year from the general fund shall be used to contract with the regional AIDS resource and consultation centers and one local early intervention and treatment center.			
	J. Out of this appropriation, <del>\$57,963</del> \$56,254 the first year and \$57,963 the second year from the general fund shall be used to contract with the Arthur Ashe Health Center in Richmond. The contract with the Arthur Ashe Health Center shall require that the center provide HIV early intervention and treatment for HIV infected patients who reside within the City of Richmond.			
	K. Out of this appropriation, <del>\$10,663</del> \$10,349 the first year and \$10,663 the second year from the general fund shall be used to contract with the <del>Fan Free Clinic</del> Health Brigade for AIDS related services. The contract with the <del>Fan Free Clinic</del> Health Brigade shall require that the clinic provide financial assistance and support groups and conduct an education and outreach program for HIV positive clients in Central Virginia.			
	L.1. Out of this appropriation, <del>\$4,580,571</del> \$4,445,538 the first year and \$4,580,571 the second year from the general fund shall be used to contract with the Virginia Health Care Foundation. The contract with the Virginia Health Care Foundation (VHCF) shall require that the general fund shall be matched with local public and private resources and shall be awarded to proposals which enhance access to primary health care for Virginia's uninsured and medically underserved residents, through innovative service delivery models. The foundation, in coordination with the Virginia Department of Health, the Area Health Education Centers			

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<p>program, the Joint Commission on Health Care, and other appropriate organizations, is encouraged to undertake initiatives to reduce health care workforce shortages. The foundation shall account for the expenditure of these funds by providing the Governor, the Secretary of Health and Human Resources, the Chairmen of the House Appropriations and Senate Finance Committees, the State Health Commissioner, and the Chairman of the Joint Commission on Health Care with a certified audit and full report on the foundation's initiatives and results, including evaluation findings, not later than October 1 of each year for the preceding fiscal year ending June 30.</p>				
<p>2. The contract with the Virginia Health Care Foundation shall require that on or before October 1 of each year, the foundation shall submit to the Governor and the Chairmen of the House Appropriations and Senate Finance Committees a report on the actual amount, by fiscal year, of private and local government funds received by the foundation since its inception. The report shall include certification that an amount equal to the state appropriation for the preceding fiscal year ending June 30 has been matched from private and local government sources during that fiscal year.</p>				
<p>3. Of this appropriation, from the amounts in paragraph L.1., \$125,000 the first year and \$125,000 the second year from the general fund shall be used to contract with the Virginia Health Care Foundation (VHCF). The contract with VHCF shall require that the general fund shall be provided to the foundation to expand the Pharmacy Connection software program to unserved or underserved regions of the Commonwealth.</p>				
<p>4. Of this appropriation, from the amounts in paragraph L.1., \$105,000 the first year and \$105,000 the second year from the general fund shall be used to contract with the Virginia Health Care Foundation (VHCF). The contract with VHCF shall require that the general fund shall be used to contract with the foundation for the Rx Partnership to improve access to free medications for low-income Virginians.</p>				
<p>5. Of this appropriation, from the amounts in paragraph L.1., \$2,350,000 the first year and \$2,350,000 the second year from the general fund shall be used to contract with the Virginia Health Care Foundation (VHCF). The contract with VHCF shall require that the general fund be provided to the foundation to increase the capacity of the Commonwealth's health safety net providers to expand services to unserved or underserved Virginians. Of this amount, (i) \$850,000 the first year and \$850,000 the second year shall be used to underwrite service expansions and/or increase the number of patients served at existing sites or at new sites, (ii) \$1,350,000 the first year and \$1,350,000 the second year shall be used for Medication Assistance Coordinators who provide outreach assistance, and (iii) \$150,000 the first year and \$150,000 the second year shall be made available for locations with existing medication assistance programs.</p>				
<p><del>6. Out of this appropriation, \$150,000 the first year from the general fund shall be used to contract with the Virginia Health Care Foundation (VHCF). The contract with the VHCF shall require that the general fund be used to support the Virginia Student Loan Repayment Program (Va-SLRP).</del></p>				
<p>M.1. Out of this appropriation, <del>\$272,313</del>\$264,285 the first year and \$272,313 the second year from the general fund shall be used to support the administration of the patient level data base, including the outpatient data reporting system. The department shall establish a contract for this service.</p>				
<p>2. Out of this appropriation from the amounts in paragraph M.1., \$25,000 the first year and \$25,000 the second year from the general fund the second year shall be used to contract with the Virginia All Payer Claims Database.</p>				
<p>N. Out of this appropriation, \$302,712 the first year and \$302,712 the second year from the general fund shall be used to contract with the Health Wagon. The contract with the Health Wagon shall require the organization to provide summer outreach programs to low-income and uninsured individuals living in southwest Virginia.</p>				
<p>O. Out of this appropriation, \$105,000 the first year and \$105,000 the second year from the general fund shall be used to contract with the Statewide Sickle Cell Chapters of Virginia (SSCCV). The contract with SSCCV shall require that the general fund shall be used to provide for grants to community-based programs that provide patient assistance,</p>				

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education, and family-centered support for individuals suffering from sickle cell disease. The SSCCV shall develop criteria for distributing these funds including specific goals and outcome measures. A report shall be submitted to the Chairmen of the House Appropriations and Senate Finance Committees detailing program outcomes by October 1 of each year.

P. Out of this appropriation, \$116,280 the first year and \$116,280 the second year from the general fund shall be used to contract with the Virginia Dental Health Foundation for the Mission of Mercy (M.O.M.) dental project. The contract with the Virginia Dental Health Foundation for the Mission of Mercy (M.O.M.) dental project shall require the Foundation to conduct Mission of Mercy (M.O.M) Projects that provide no cost dental services in identified underserved areas.

Q. Out of this appropriation, ~~\$1,000,000~~\$970,521 the first year and \$1,000,000 the second year from the general fund shall be used to contract with three poison control centers. The State Health Commissioner shall review existing poison control services and determine how best to provide and enhance use of these services as a resource for patients with mental health disorders and for health care providers treating patients with poison-related suicide attempts, substance abuse, and adverse medication events. The Commissioner shall allocate the general fund amounts between the three centers. The general fund amounts shall be based on the proportion of Virginia's population served by each center.

R. Out of this appropriation, ~~\$32,559~~\$31,599 the first year and \$32,559 the second year from the general fund shall be used to contract with the Community Health Center of the Rappahannock Region to provide medical, dental, and behavioral health services to low income and/or uninsured residents in the Rappahannock region. The contract with the center shall require the center to include acute and chronic disease management services, lab and diagnostic services, medication assistance, physical examinations, diagnosis and treatment of sexually transmitted infections, immunizations, women's health services (including family planning and pap smears), preventive and restorative dental services, and behavioral health services.

S. Out of this appropriation, ~~\$710,000~~\$674,500 the first year and ~~\$510,000~~\$471,750 the second year from the general fund shall be used to contract with the Hampton Roads Proton Beam Therapy Institute at Hampton University, LLC. The contract with Hampton Roads Proton Beam Therapy Institute shall require that the institute support efforts for proton therapy in the treatment of cancerous tumors with fewer side effects.

*T. Out of this appropriation, \$10,000 the second year is provided to Special Olympics Virginia for the Special Olympics Healthy Athlete Program.*

297.	Drinking Water Improvement (50800).....			\$26,412,542	\$26,412,542
				\$26,337,349	\$26,219,896
	Drinking Water Regulation (50801).....	\$9,656,423	\$9,656,423		
		\$9,581,230	\$9,463,777		
	Drinking Water Construction Financing (50802).....	\$16,321,860	\$16,321,860		
	Public Health Toxicology (50805).....	\$434,259	\$434,259		
	Fund Sources: General.....	\$4,758,637	\$4,758,637		
		\$4,683,444	\$4,565,991		
	Special.....	\$5,567,846	\$5,567,846		
	Dedicated Special Revenue.....	\$13,179,660	\$13,179,660		
	Federal Trust.....	\$2,906,399	\$2,906,399		

Authority: §§ 32.1-163 through 32.1-176.7, 32.1-246, 32.1-246.1, and 62.1-44.18 through 62.1-44.19:9, Code of Virginia; and P.L. 92-500, P.L. 93-523 and P.L. 95-217, Federal Code.

A. It is the intent of the General Assembly that the Department of Health be the agency designated to receive and manage general and nongeneral funds appropriated pursuant to the federal Safe Drinking Water Act of 1996.

B. The fee schedule for charges to community waterworks shall be adjusted to the level necessary to cover the cost of operating the Waterworks Technical Assistance Program, consistent with § 32.1-171.1, Code of Virginia, and shall not exceed \$3.00 per connection to all community waterworks.

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		First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
298.	Environmental Health Hazards Control (56500).....			\$10,628,997	\$10,628,997
	State Office of Environmental Health Services (56501).....	\$4,237,495	\$4,237,495	\$10,428,997	\$10,404,104
		\$4,037,495	\$4,012,602		
	Shellfish Sanitation (56502).....	\$2,604,771	\$2,604,771		
	Bedding and Upholstery Inspection (56503).....	\$811,178	\$811,178		
	Radiological Health and Safety Regulation (56504)				
		\$2,975,553	\$2,975,553		
	Fund Sources: General.....	\$5,420,854	\$5,420,854		
		\$5,220,854	\$5,195,961		
	Special.....	\$2,487,986	\$2,487,986		
	Dedicated Special Revenue.....	\$1,430,613	\$1,430,613		
	Federal Trust.....	\$1,289,544	\$1,289,544		
	Authority: §§ 2.2-4002 B 16; 28.2-800 through 28.2-825; and 32.1-212 through 32.1-245, Code of Virginia.				
	A. Out of this appropriation, \$12,500 the first year and \$12,500 the second year from the general fund shall be provided for the activities of the Sewage Appeals Review Board.				
	B. The Department of Health shall report on the agency's activities to assess the sources of bacterial contamination in shellfish waters and to develop data in support of conditional management plans to allow for the safe harvest of shellfish from contaminated areas. The department shall report on such activities and data development efforts to the Chairmen of the House Appropriations and Senate Finance Committees by October 1, 2016.				
299.	Emergency Preparedness (77500).....			\$33,088,232	\$33,088,232
	Emergency Preparedness and Response (77504).....	\$33,088,232	\$33,088,232		
	Fund Sources: Federal Trust.....	\$33,088,232	\$33,088,232		
	Authority: §§ 32.1-2, 32.1-39, and 32.1-42, Code of Virginia.				
300.	Administrative and Support Services (49900).....			\$19,669,267	\$19,736,795
	General Management and Direction (49901).....	\$6,841,011	\$6,908,539	\$19,439,974	\$23,154,502
		\$6,611,718	\$6,774,246		
	Information Technology Services (49902).....	\$6,352,889	\$6,352,889		
			\$9,904,889		
	Accounting and Budgeting Services (49903).....	\$3,054,706	\$3,054,706		
	Human Resources Services (49914).....	\$2,018,346	\$2,018,346		
	Procurement and Distribution Services (49918).....	\$1,402,315	\$1,402,315		
	Fund Sources: General.....	\$14,674,118	\$14,690,701		
		\$14,429,118	\$14,762,701		
	Special.....	\$3,680,715	\$3,680,715		
		\$3,696,422	\$3,696,422		
	Federal Trust.....	\$1,314,434	\$1,365,379		
			\$4,695,379		
	Authority: §§ 3.2-5206 through 3.2-5216, 32.1-11.3 through 32.1-16 through 32.1-23, 35.1-1 through 35.1-7, and 35.1-9 through 35.1-28, Code of Virginia.				
	A. The State Comptroller is hereby authorized to provide a line of credit of up to \$200,000 to the Department of Health to cover the actual costs of expanding the availability of vital records through the Department of Motor Vehicles, to be repaid from administrative processing fees provided under Code of Virginia, § 32.1-273 until such time as the line of credit is repaid.				
	B. Out of this appropriation, \$150,000 the first year and \$150,000 the second year from the general fund shall be provided for agency costs related to onboarding to ConnectVirginia, transition costs to convert the agency's node on ConnectVirginia to the state agency node, and provide support to other state agencies in their onboarding efforts.				

ITEM 300.	Item Details(\$)		Appropriations(\$)	
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<p><i>C. The Virginia Department of Health is authorized to develop a plan to allocate a reduction of \$150,000 the first year and \$150,000 the second year from the general fund across programs within the department to reflect administrative savings. The Department of Planning and Budget is authorized to make the necessary budget execution adjustments to transfer the funds between programs to implement the plan.</i></p>				
<p><i>D.1. Out of this appropriation, \$370,000 from the general fund and \$3,330,000 from nongeneral funds is provided for the Virginia Department of Health to implement the requirements of House Bill 2209 and Senate Bill 1561 (2017 Session). The department shall contract or amend an existing contract with a non-profit entity as necessary in order to do so. The department shall require its contractor to establish a separate and distinct Emergency Department Care Coordination Advisory Council (ED Council) to whom responsibility for implementing this program shall be delegated under the department's supervision. The contractor may utilize an existing governance, legal and trust framework in order to fulfill the requirements of House Bill 2209 and Senate Bill 1561 and to expedite the implementation of the program.</i></p>				
<p><i>2. The ED Council, under the department's governance and direction shall: (i) specify the necessary functionalities to meet the needs of all key stakeholders; (ii) develop and oversee a competitive selection process for a vendor or vendors that will provide a single, statewide technology solution to fulfill the required functionalities and advance the goals of the initiative; and (iii) select and oversee the implementation of successful information technologies, with implementation no later than June 30, 2018. The ED Council shall include three representatives from the Commonwealth appointed by the Secretary, including the department, the Department of Medical Assistance Services, and the Department of Health Professions; three representatives from hospitals and health systems, nominated by the Virginia Hospital and Healthcare Association; three health plan representatives, nominated by the Virginia Association of Health Plans; and six physician representatives, nominated by the Medical Society of Virginia with representation from the Virginia College of Emergency Physicians, the Virginia Academy of Family Physicians and the Virginia Chapter, American Academy of Pediatrics.</i></p>				
<p><i>3. The department shall coordinate with the Department of Medical Assistance Services to seek federal Health Information Technology for Economic and Clinical Health (HITECH) Act matching funds. The department shall coordinate with the Department of Medical Assistance Services to seek any additional eligible federal matching funds supporting provider electronic health record implementation and integration in order to implement the program. The department may use up to \$100,000 for administrative costs.</i></p>				
<p><i>4. The implementation of this initiative is contingent upon the receipt of federal HITECH Act funds, and neither the department nor its contractor shall be obligated to implement the program without HITECH Act matching funds. The appropriation in this paragraph is contingent upon the receipt of federal HITECH Act funds.</i></p>				
<p><i>5. Effective July 1, 2017 or upon program implementation, all hospitals operating emergency departments in the Commonwealth and all Medicaid Managed Care contracted health plans shall participate in the program. Effective June 30, 2018, all hospital operating emergency departments in the Commonwealth, all Medicaid Managed Care contracted health plans, the State Employee Health Plan, all Medicare plans operating in the Commonwealth, and all commercial plans operating in the Commonwealth, excluding ERISA plans, shall participate in the program. The department, in coordination with the Department of Medical Assistance Services, shall determine the amount of federal funds available to support program operations in the second year. Accordingly, the department, in coordination with the Department of Medical Assistance Services and the ED Council, shall recommend, by December 15, 2017, a funding structure for program operations in fiscal year 2019 that apportions program costs across the Commonwealth, participating hospitals, and participating health plans.</i></p>				
<p><i>6. The department, in coordination with the ED Council, shall report annually beginning November 1, 2017 to the Secretary of Health and Human Resources and the Chairmen of the House Appropriations and the Senate Finance Committees on progress, including, but not limited to: (i) the participation rate of hospitals and health systems, physicians and subscribing health plans; (ii) strategies for sustaining the program and methods to continue to improve care coordination; and (iii) the impact on health care utilization and quality goals</i></p>				

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<i>such as reducing the frequency of visits by high-volume Emergency Department utilizers and avoiding duplication of prescriptions, imaging, testing or other health care services.</i>				
Total for Department of Health.....			<del>\$699,147,657</del> <b>\$697,904,509</b>	<del>\$699,000,185</del> <b>\$703,253,737</b>
General Fund Positions.....	1,490.00	1,490.00		
Nongeneral Fund Positions.....	2,192.00	<del>2,192.00</del> 2,193.00		
Position Level.....	3,682.00	<del>3,682.00</del> 3,683.00		
Fund Sources: General.....	<del>\$170,050,763</del> \$168,807,615	<del>\$169,852,346</del> \$170,525,146		
Special.....	\$150,012,312	<del>\$150,012,312</del> \$150,180,084		
Dedicated Special Revenue.....	\$108,002,078	\$108,002,078		
Federal Trust.....	\$271,082,504	<del>\$271,133,449</del> \$274,546,429		

**§ 1-93. DEPARTMENT OF HEALTH PROFESSIONS (223)**

301.	Higher Education Student Financial Assistance (10800).....			\$65,000	\$65,000
	Scholarships (10810).....	\$65,000	\$65,000		
	Fund Sources: Special.....	\$65,000	\$65,000		
	Authority: § 54.1-3011.2, Chapter 30, Code of Virginia.				
302.	Regulation of Professions and Occupations (56000).....			<del>\$29,700,185</del> \$30,015,448	<del>\$29,703,874</del> \$30,723,844
	Technical Assistance to Regulatory Boards (56044).....	<del>\$29,700,185</del> \$30,015,448	<del>\$29,703,874</del> \$30,723,844		
	Fund Sources: Trust and Agency.....	\$890,573	<del>\$890,573</del> \$1,115,573		
	Dedicated Special Revenue.....	<del>\$28,809,612</del> \$29,124,875	<del>\$28,813,301</del> \$29,608,271		

Authority: Title 54.1, Chapter 25, Code of Virginia.

*Out of this appropriation, \$250,000 from nongeneral funds the second year is provided to implement a demonstration program with the Medical Society of Virginia and the Prescription Monitoring Program (PMP) to enhance the use of the PMP by prescribers through the use of real time access to the program via intraoperability with electronic health records systems. The department shall design the demonstration program using \$25,000 in PMP funds and \$225,000 in federal Health Information Technology for Economic and Clinical Health (HITECH) Act funds. The Department of Medical Assistance Services shall apply for up to \$225,000 in enhanced federal HITECH Act funds to support the program. The Department of Health Professions shall report on the increased use of the program by prescribers in the demonstration program to the Chairmen of the House Appropriations and Senate Finance Committees by July 1, 2018. The implementation of the demonstration program is contingent upon the receipt of federal HITECH Act funds.*

Total for Department of Health Professions.....			<del>\$29,765,185</del> <b>\$30,080,448</b>	<del>\$29,768,874</del> <b>\$30,788,844</b>
Nongeneral Fund Positions.....	229.00	<del>229.00</del> 241.00		
Position Level.....	229.00	<del>229.00</del> 241.00		
Fund Sources: Special.....	\$65,000	\$65,000		

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	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
Trust and Agency.....	\$890,573	<del>\$890,573</del> \$1,115,573		
Dedicated Special Revenue.....	<del>\$28,809,612</del> \$29,124,875	<del>\$28,813,301</del> \$29,608,271		

**§ 1-94. DEPARTMENT OF MEDICAL ASSISTANCE SERVICES (602)**

303.	Pre-Trial, Trial, and Appellate Processes (32100).....		\$16,740,733	<del>\$16,236,238</del> \$16,841,427
	Reimbursements for Medical Services Related to Involuntary Mental Commitments (32107).....	\$16,740,733	<del>\$16,236,238</del> \$16,841,427	
	Fund Sources: General.....	\$16,740,733	<del>\$16,236,238</del> \$16,841,427	

Authority: § 37.2-809, Code of Virginia.

A. Any balance, or portion thereof, in Reimbursements for Medical Services Related to Involuntary Mental Commitments (32107), may be transferred between Items 43, 44, 45, and 303 as needed, to address any deficits incurred for Involuntary Mental Commitments by the Supreme Court or the Department of Medical Assistance Services.

B. Out of this appropriation, payments may be made to licensed health care providers for medical screening and assessment services provided to persons with mental illness while in emergency custody pursuant to § 37.2-808, Code of Virginia.

C. To the extent that appropriation in this Item are insufficient, the Department of Planning and Budget shall transfer general fund appropriation, as needed, from Children's Health Insurance Program Delivery (44600), Medicaid Program Services (45600), and Medical Assistance Services for Low Income Children (46600), if available, into this Item.

304.	Financial Assistance for Health Research (40700).....		<del>\$48,810,945</del> \$28,810,945	<del>\$48,810,945</del> \$28,810,945
	Grants for Improving The Quality of Health Services (40703).....	<del>\$48,810,945</del> \$28,810,945	<del>\$48,810,945</del> \$28,810,945	
	Fund Sources: Federal Trust.....	<del>\$48,810,945</del> \$28,810,945	<del>\$48,810,945</del> \$28,810,945	

Authority: P.L. 111-5, Federal Code.

305.	Children's Health Insurance Program Delivery (44600).....		<del>\$141,419,666</del> \$160,086,710	<del>\$144,692,010</del> \$167,457,281
	Reimbursements for Medical Services Provided Under the Family Access to Medical Insurance Security Plan (44602).....	<del>\$141,419,666</del> \$160,086,710	<del>\$144,692,010</del> \$167,457,281	
	Fund Sources: General.....	<del>\$2,769,009</del> \$5,144,778	<del>\$3,119,577</del> \$6,029,247	
	Dedicated Special Revenue.....	\$14,065,627	\$14,065,627	
	Federal Trust.....	<del>\$124,585,030</del> \$140,876,305	<del>\$127,506,806</del> \$147,362,407	

Authority: Title 32.1, Chapter 13, Code of Virginia; Title XXI, Social Security Act, Federal Code.

A. Pursuant to Chapter 679, Acts of Assembly of 1997, the State Corporation Commission shall annually, on or before June 30, 1998, and each year thereafter, calculate the premium differential between: (i) 0.75 percent of the direct gross subscriber fee income derived from eligible contracts and (ii) the amount of license tax revenue generated pursuant to subdivision A 4 of § 58.1-2501 for the immediately preceding taxable year and notify the Comptroller of the Commonwealth to transfer such amounts to the Family Access to Medical Insurance Security Plan Trust Fund as established on the books of the State Comptroller.

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<p>B. As a condition of this appropriation, revenues from the Family Access to Medical Insurance Security Plan Trust Fund, shall be used to match federal funds for the Children's Health Insurance Program.</p> <p>C. Every eligible applicant for health insurance as provided for in Title 32.1, Chapter 13, Code of Virginia, shall be enrolled and served in the program.</p> <p>D. To the extent that appropriations in this Item are insufficient, the Department of Planning and Budget shall transfer general fund appropriation, as needed, from Medicaid Program Services (45600) and Medical Assistance Services for Low Income Children (46600), if available, into this Item to be used as state match for federal Title XXI funds.</p> <p>E. The Department of Medical Assistance Services shall make the monthly capitation payment to managed care organizations for the member months of each month in the first week of the subsequent month.</p> <p>F. If any part, section, subsection, paragraph, clause, or phrase of this Item or the application thereof is declared by the United States Department of Health and Human Services or the Centers for Medicare and Medicaid Services to be in conflict with a federal law or regulation, such decisions shall not affect the validity of the remaining portions of this Item, which shall remain in force as if this Item had passed without the conflicting part, section, subsection, paragraph, clause, or phrase. Further, if the United States Department of Health and Human Services or the Centers for Medicare and Medicaid Services determines that the process for accomplishing the intent of a part, section, subsection, paragraph, clause, or phrase of this Item is out of compliance or in conflict with federal law and regulation and recommends another method of accomplishing the same intent, the Director, Department of Medical Assistance Services, after consultation with the Attorney General, is authorized to pursue the alternative method.</p> <p>G. The Department of Medical Assistance Services shall amend the state plan for the Children's Health Insurance Program to add coverage for applied behavior analysis (ABA) services. The department shall have the authority to implement this change effective upon passage of this act, and prior to the completion of any regulatory process undertaken in order to effect such change.</p>				
306.	Medicaid Program Services (45600).....		\$9,124,454,594	\$9,336,437,706
			\$9,306,605,828	\$9,705,926,154
	Reimbursements to State-Owned Mental Health and Intellectual Disabilities Facilities (45607).....	\$134,690,148 \$142,690,148	\$132,540,402 \$140,540,402	
	Reimbursements for Behavioral Health Services (45608).....	\$799,525,146 \$833,340,268	\$844,470,582 \$892,215,342	
	Reimbursements for Medical Services (45609).....	\$5,520,952,500 \$5,613,389,616	\$5,579,503,416 \$5,820,956,424	
	Reimbursements for Long-Term Care Services (45610).....	\$2,669,286,800 \$2,717,185,796	\$2,779,923,306 \$2,852,213,986	
	Fund Sources: General.....	\$4,293,904,943 \$4,332,818,444	\$4,421,048,258 \$4,605,674,894	
	Dedicated Special Revenue.....	\$365,084,952 \$399,790,186	\$348,446,539 \$359,174,530	
	Federal Trust.....	\$4,465,464,699 \$4,573,997,198	\$4,566,942,909 \$4,741,076,730	

Authority: Title 32.1, Chapters 9 and 10, Code of Virginia; P.L. 89-97, as amended, Title XIX, Social Security Act, Federal Code.

A. Out of this appropriation, ~~\$63,345,074~~\$71,345,074 the first year and ~~\$62,270,201~~\$70,270,201 the second year from the general fund and ~~\$63,345,074~~\$71,345,074 the first year and ~~\$62,270,201~~\$70,270,201 the second year from the federal trust fund is provided for reimbursement to the institutions within the Department of Behavioral Health and Developmental Services.

B.1. Included in this appropriation is ~~\$67,482,444~~\$64,271,600 the first year and

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	\$71,447,203	\$66,307,880		
	the second year from the general fund and \$84,964,396 the first year and \$89,050,312 the second year from nongeneral funds to reimburse the Virginia Commonwealth University Health System for indigent health care costs. This funding is composed of disproportionate share hospital (DSH) payments, indirect medical education (IME) payments, and any Medicaid profits realized by the Health System. Payments made from the federal DSH fund shall be made in accordance with 42 USC 1396r-4.			
	\$38,588,638	\$39,565,488		
	2. Included in this appropriation is \$40,525,851 the first year and \$40,676,066 the second year from the general fund and \$51,724,368 the first year and \$53,772,622 the second year from nongeneral funds to reimburse the University of Virginia Health System for indigent health care costs. This funding is comprised of disproportionate share hospital (DSH) payments, indirect medical education (IME) payments, and any Medicaid profits realized by the Health System. Payments made from the federal DSH fund shall be made in accordance with 42 USC 1396r-4.			
	3. The general fund amounts for the state teaching hospitals have been reduced to mirror the general fund impact of reduced and no inflation for inpatient services in FY 2017 and FY 2018 for private hospitals reflected in paragraph GGGG. of this Item. It also includes reductions for prior year inflation reductions and indigent care reductions. However, the nongeneral funds are appropriated. In order to receive the nongeneral funds in excess of the amount of the general fund appropriated, the health systems shall certify the public expenditures.			
	4. The Department of Medical Assistance Service shall have the authority to increase Medicaid payments for Type One hospitals and physicians consistent with the appropriations to compensate for limits on disproportionate share hospital (DSH) payments to Type One hospitals that the department would otherwise make. In particular, the department shall have the authority to amend the State Plan for Medical Assistance to increase physician supplemental payments for physician practice plans affiliated with Type One hospitals up to the average commercial rate as demonstrated by University of Virginia Health System and Virginia Commonwealth University Health System, to change reimbursement for Graduate Medical Education to cover costs for Type One hospitals, to case mix adjust the formula for indirect medical education reimbursement for HMO discharges for Type One hospitals and to increase the adjustment factor for Type One hospitals to 1.0. The department shall have the authority to implement these changes prior to completion of any regulatory process undertaken in order to effect such change.			
	\$365,084,952	\$399,790,186		
	C.1. The estimated revenue for the Virginia Health Care Fund is \$348,446,539 the first year and \$359,174,530 the second year, to be used pursuant to the uses stated in § 32.1-367, Code of Virginia.			
	2. Notwithstanding § 32.1-366, Code of Virginia, the State Comptroller shall deposit 41.5 percent of the Commonwealth's allocation of the Master Settlement Agreement with tobacco product manufacturers, as defined in § 3.2-3100, Code of Virginia, to the Virginia Health Care Fund.			
	3. Notwithstanding any other provision of law, the State Comptroller shall deposit 50 percent of the Commonwealth's allocation of the Strategic Contribution Fund payment pursuant to the Master Settlement Agreement with tobacco product manufacturers into the Virginia Health Care Fund.			
	4. Notwithstanding any other provision of law, revenues deposited to the Virginia Health Care Fund shall only be used as the state share of Medicaid unless specifically authorized by this Act.			
	D. If any part, section, subsection, paragraph, clause, or phrase of this Item or the application thereof is declared by the United States Department of Health and Human Services or the Centers for Medicare and Medicaid Services to be in conflict with a federal law or regulation, such decisions shall not affect the validity of the remaining portions of this Item, which shall remain in force as if this Item had passed without the conflicting part, section, subsection, paragraph, clause, or phrase. Further, if the United States Department of Health and Human Services or the Centers for Medicare and Medicaid Services determines that the process for			

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	FY2017	FY2018	FY2017	FY2018

accomplishing the intent of a part, section, subsection, paragraph, clause, or phrase of this Item is out of compliance or in conflict with federal law and regulation and recommends another method of accomplishing the same intent, the Director, Department of Medical Assistance Services, after consultation with the Attorney General, is authorized to pursue the alternative method.

E.1. The Director, Department of Medical Assistance Services shall seek the necessary waivers from the United States Department of Health and Human Services to authorize the Commonwealth to cover health care services and delivery systems, as may be permitted by Title XIX of the Social Security Act, which may provide less expensive alternatives to the State Plan for Medical Assistance.

2. At least 30 days prior to the submission of an application for any new waiver of Title XIX or Title XXI of the Social Security Act, the Department of Medical Assistance Services shall notify the Chairmen of the House Appropriations and Senate Finance Committees of such pending application and provide information on the purpose and justification for the waiver along with any fiscal impact. If the department receives an official letter from either Chairmen raising an objection about the waiver during the 30-day period, the department shall not submit the waiver application and shall request authority for such waiver as part of the normal legislative or budgetary process. If the department receives no objection, then the application may be submitted. Any waiver specifically authorized elsewhere in this item is not subject to this provision. Waiver renewals are not subject to the provisions of this paragraph.

3. The director shall promulgate such regulations as may be necessary to implement those programs which may be permitted by Titles XIX and XXI of the Social Security Act, in conformance with all requirements of the Administrative Process Act.

F. It is the intent of the General Assembly to develop and cause to be developed appropriate, fiscally responsible methods for addressing the issues related to the cost and funding of long-term care. It is the further intent of the General Assembly to promote home-based and community-based care for individuals who are determined to be in need of nursing facility care.

G. To the extent that appropriations in this Item are insufficient, the Department of Planning and Budget shall transfer general fund appropriation, as needed, from Children's Health Insurance Program Delivery (44600) and Medical Assistance Services for Low Income Children (46600), if available, into this Item to be used as state match for federal Title XIX funds.

H. It is the intent of the General Assembly that the medically needy income limits for the Medicaid program are adjusted annually to account for changes in the Consumer Price Index.

I. It is the intent of the General Assembly that the use of the new atypical medications to treat seriously mentally ill Medicaid recipients should be supported by the formularies used to reimburse claims under the Medicaid fee-for-service and managed care plans.

J. The Department of Medical Assistance Services shall establish a program to more effectively manage those Medicaid recipients who receive the highest cost care. To implement the program, the department shall establish uniform criteria for the program, including criteria for the high cost recipients, providers and reimbursement, service limits, assessment and authorization limits, utilization review, quality assessment, appeals and other such criteria as may be deemed necessary to define the program. The department shall seek any necessary approval from the Centers for Medicare and Medicaid Services, and shall promulgate such regulations as may be deemed necessary to implement this program.

K. The Department of Medical Assistance Services and the Virginia Department of Health shall work with representatives of the dental community: to expand the availability and delivery of dental services to pediatric Medicaid recipients; to streamline the administrative processes; and to remove impediments to the efficient delivery of dental services and reimbursement thereof. The Department of Medical Assistance Services shall report its efforts to expand dental services to the Chairmen of the House Appropriations

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	and Senate Finance Committees and the Department of Planning and Budget by December 15 each year.			
	L. The Department of Medical Assistance Services shall not require dentists who agree to participate in the delivery of Medicaid pediatric dental care services, or services provided to enrollees in the Family Access to Medical Insurance Security (FAMIS) Plan or any variation of FAMIS, to also deliver services to subscribers enrolled in commercial plans of the managed care vendor, unless the dentist is a willing participant in the commercial managed care plan.			
	M. The Department of Medical Assistance Services shall implement continued enhancements to the drug utilization review (DUR) program. The department shall continue the Pharmacy Liaison Committee and the DUR Board. The department shall continue to work with the Pharmacy Liaison Committee, <i>meeting at least semi-annually</i> , to implement initiatives for the promotion of cost-effective services delivery as may be appropriate. <i>The department shall solicit input from the Pharmacy Liaison Committee regarding pharmacy provisions in the development and enforcement of all managed care contracts.</i> The department shall report on the Pharmacy Liaison Committee's and the DUR Board's activities to the Board of Medical Assistance Services and to the Chairmen of the House Appropriations and Senate Finance Committees and the Department of Planning and Budget no later than December 15 each year of the biennium.			
	N.1. The Department of Medical Assistance Services shall have the authority to seek federal approval of changes to its Medallion 3.0 waiver.			
	2. In order to conform the state regulations to the federally approved changes and to implement the provisions of this Act, the department shall promulgate emergency regulations to become effective within 280 days or less from the enactment of this Act. The department shall implement these necessary regulatory changes to be consistent with federal approval of the waiver changes.			
	O.1. The Department of Medical Assistance Services shall develop and pursue cost saving strategies internally and with the cooperation of the Department of Social Services, Virginia Department of Health, Office of the Attorney General, Children's Services Act program, Department of Education, Department of Juvenile Justice, Department of Behavioral Health and Developmental Services, Department for Aging and Rehabilitative Services, Department of the Treasury, University of Virginia Health System, Virginia Commonwealth University Health System Authority, Department of Corrections, federally qualified health centers, local health departments, local school divisions, community service boards, local hospitals, and local governments, that focus on optimizing Medicaid claims and cost recoveries. Any revenues generated through these activities shall be transferred to the Virginia Health Care Fund to be used for the purposes specified in this Item.			
	2. The Department of Medical Assistance Services shall retain the savings necessary to reimburse a vendor for its efforts to implement paragraph. O.1. of this Item. However, prior to reimbursement, the department shall identify for the Secretary of Health and Human Resources each of the vendor's revenue maximization efforts and the manner in which each vendor would be reimbursed. No reimbursement shall be made to the vendor without the prior approval of the above plan by the Secretary.			
	P. The Department of Medical Assistance Services shall have the authority to pay contingency fee contractors, engaged in cost recovery activities, from the recoveries that are generated by those activities. All recoveries from these contractors shall be deposited to a special fund. After payment of the contingency fee any prior year recoveries shall be transferred to the Virginia Health Care Fund. The Director, Department of Medical Assistance Services, shall report to the Chairmen of the House Appropriations and Senate Finance Committees the increase in recoveries associated with this program as well as the areas of audit targeted by contractors by November 1 each year.			
	Q. The Department of Medical Assistance Services in cooperation with the State Executive Council, shall provide semi-annual training to local Children's Services Act teams on the procedures for use of Medicaid for residential treatment and treatment foster care services, including, but not limited to, procedures for determining eligibility, billing, reimbursement, and related reporting requirements. The department shall include in this training information			

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on the proper utilization of inpatient and outpatient mental health services as covered by the Medicaid State Plan.

R.1. Notwithstanding § 32.1-331.12 et seq., Code of Virginia, the Department of Medical Assistance Services, in consultation with the Department of Behavioral Health and Developmental Services, shall amend the State Plan for Medical Assistance Services to modify the delivery system of pharmaceutical products to include a Preferred Drug List. In developing the modifications, the department shall consider input from physicians, pharmacists, pharmaceutical manufacturers, patient advocates, and others, as appropriate.

2.a. The department shall utilize a Pharmacy and Therapeutics Committee to assist in the development and ongoing administration of the Preferred Drug List program. The Pharmacy and Therapeutics Committee shall be composed of 8 to 12 members, including the Commissioner, Department of Behavioral Health and Developmental Services, or his designee. Other members shall be selected or approved by the department. The membership shall include a ratio of physicians to pharmacists of 2:1 and the department shall ensure that at least one-half of the physicians and pharmacists are either direct providers or are employed with organizations that serve recipients for all segments of the Medicaid population. Physicians on the committee shall be licensed in Virginia, one of whom shall be a psychiatrist, and one of whom specializes in care for the aging. Pharmacists on the committee shall be licensed in Virginia, one of whom shall have clinical expertise in mental health drugs, and one of whom has clinical expertise in community-based mental health treatment. The Pharmacy and Therapeutics Committee shall recommend to the department (i) which therapeutic classes of drugs should be subject to the Preferred Drug List program and prior authorization requirements; (ii) specific drugs within each therapeutic class to be included on the preferred drug list; (iii) appropriate exclusions for medications, including atypical anti-psychotics, used for the treatment of serious mental illnesses such as bi-polar disorders, schizophrenia, and depression; (iv) appropriate exclusions for medications used for the treatment of brain disorders, cancer and HIV-related conditions; (v) appropriate exclusions for therapeutic classes in which there is only one drug in the therapeutic class or there is very low utilization, or for which it is not cost-effective to include in the Preferred Drug List program; and (vi) appropriate grandfather clauses when prior authorization would interfere with established complex drug regimens that have proven to be clinically effective. In developing and maintaining the preferred drug list, the cost effectiveness of any given drug shall be considered only after it is determined to be safe and clinically effective.

b. The Pharmacy and Therapeutics Committee shall schedule meetings at least semi-annually and may meet at other times at the discretion of the chairperson and members. At the meetings, the Pharmacy and Therapeutics committee shall review any drug in a class subject to the Preferred Drug List that is newly approved by the Federal Food and Drug Administration, provided there is at least thirty (30) days notice of such approval prior to the date of the quarterly meeting.

3. The department shall establish a process for acting on the recommendations made by the Pharmacy and Therapeutics Committee, including documentation of any decisions which deviate from the recommendations of the committee.

4. The Preferred Drug List program shall include provisions for (i) the dispensing of a 72-hour emergency supply of the prescribed drug when requested by a physician and a dispensing fee to be paid to the pharmacy for such supply; (ii) prior authorization decisions to be made within 24 hours and timely notification of the recipient and/or the prescribing physician of any delays or negative decisions; (iii) an expedited review process of denials by the department; and (iv) consumer and provider education, training and information regarding the Preferred Drug List prior to implementation, and ongoing communications to include computer access to information and multilingual material.

5. The Preferred Drug List program shall generate savings as determined by the department that are net of any administrative expenses to implement and administer the program.

6. Notwithstanding § 32.1-331.12 et seq., Code of Virginia, to implement these changes, the Department of Medical Assistance Services shall promulgate emergency regulations to



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Financial Participation for reimbursement to school divisions for medical and transportation services.

U. In the event that the Department of Medical Assistance Services decides to contract for pharmaceutical benefit management services to administer, develop, manage, or implement Medicaid pharmacy benefits, the department shall establish the fee paid to any such contractor based on the reasonable cost of services provided. The department may not offer or pay directly or indirectly any material inducement, bonus, or other financial incentive to a program contractor based on the denial or administrative delay of medically appropriate prescription drug therapy, or on the decreased use of a particular drug or class of drugs, or a reduction in the proportion of beneficiaries who receive prescription drug therapy under the Medicaid program. Bonuses cannot be based on the percentage of cost savings generated under the benefit management of services.

V. The Department of Medical Assistance Services, in cooperation with the Department of Social Services' Division of Child Support Enforcement (DSCE), shall identify and report third party coverage where a medical support order has required a custodial or noncustodial parent to enroll a child in a health insurance plan. The Department of Medical Assistance Services shall also report to the DCSE third party information that has been identified through their third party identification processes for children handled by DCSE.

W.1. Within the limits of this appropriation, the Department of Medical Assistance Services shall work with its contracted managed care organizations and fee-for-service health care providers to: (i) raise awareness among the providers who serve the Medicaid population about the health risks of chronic kidney disease; (ii) establish effective means of identifying patients with this condition; and (iii) develop strategies for improving the health status of these patients. The department shall work with the National Kidney Foundation to prepare and disseminate information for physicians and other health care providers regarding generally accepted standards of clinical care and the benefits of early identification of individuals at highest risk of chronic kidney disease.

2. The department shall request any clinical laboratory performing a serum creatinine test on a Medicaid recipient over the age of 18 years to calculate and report to the physician the estimated glomerular filtration rate (eGFR) of the patient and shall report it as a percent of kidney function remaining.

X.1. Notwithstanding the provisions of § 32.1-325.1:1, Code of Virginia, upon identifying that an overpayment for medical assistance services has been made to a provider, the Director, Department of Medical Assistance Services shall notify the provider of the amount of the overpayment. Such notification of overpayment shall be issued within the earlier of (i) four years after payment of the claim or other payment request, or (ii) four years after filing by the provider of the complete cost report as defined in the Department of Medical Assistance Services' regulations, or (iii) 15 months after filing by the provider of the final complete cost report as defined in the Department of Medical Assistance Services' regulations subsequent to sale of the facility or termination of the provider.

2. Notwithstanding the provisions of § 32.1-325.1, Code of Virginia, the director shall issue an informal fact-finding conference decision concerning provider reimbursement in accordance with the State Plan for Medical Assistance, the provisions of § 2.2-4019, Code of Virginia, and applicable federal law. The informal fact-finding conference decision shall be issued within 180 days of the receipt of the appeal request. If the agency does not render an informal fact-finding conference decision within 180 days of the receipt of the appeal request, the decision is deemed to be in favor of the provider. An appeal of the director's informal fact-finding conference decision concerning provider reimbursement shall be heard in accordance with § 2.2-4020 of the Administrative Process Act (§ 2.2-4020 et seq.) and the State Plan for Medical Assistance provided for in § 32.1-325, Code of Virginia. Once a final agency case decision has been made, the director shall undertake full recovery of such overpayment whether or not the provider disputes, in whole or in part, the informal fact-finding conference decision or the final agency case decision. Interest charges on the unpaid balance of any overpayment shall accrue pursuant to § 32.1-313, Code of Virginia, from the date the Director's agency case decision becomes final.

Y. Any hospital that was designated a Medicare-dependent small rural hospital, as defined



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for collecting the assessment, including penalties for non-compliance. The department shall have the authority to adjust interim rates to cover new Medicaid costs as a result of this assessment.

II. The Department of Medical Assistance Services shall make programmatic changes in the provision of Intensive In-Home services and Community Mental Health services in order to ensure appropriate utilization and cost efficiency. The department shall consider all available options including, but not limited to, prior authorization, utilization review and provider qualifications. The Department of Medical Assistance Services shall promulgate regulations to implement these changes within 280 days or less from the enactment date of this Act.

JJ. Notwithstanding Chapters 228 and 303 of the 2009 Virginia Acts of Assembly and §32.1-323.2 of the Code of Virginia, the Department of Medical Assistance Services shall not add any slots to the Intellectual Disabilities Medicaid Waiver or the Individual and Family Developmental Disabilities and Support Medicaid Waiver other than those slots authorized specifically to support the Money Follows the Person Demonstration, individuals who are exiting state institutions, any slots authorized under Chapters 724 and 729 of the 2011 Virginia Acts of Assembly or §37.2-319, Code of Virginia, or authorized elsewhere in this Act.

KK. The Department of Medical Assistance Services shall not adjust rates or the rate ceiling of residential psychiatric facilities for inflation.

LL. The Department of Medical Assistance Services shall work with the Department of Behavioral Health and Developmental Services in consultation with the Virginia Association of Community Services Boards, the Virginia Network of Private Providers, the Virginia Coalition of Private Provider Associations, and the Association of Community Based Providers, to establish rates for the Intensive In-Home Service based on quality indicators and standards, such as the use of evidence-based practices.

MM. The Department of Medical Assistance Services shall seek federal authority through the necessary waiver(s) and/or State Plan authorization under Titles XIX and XXI of the Social Security Act to expand principles of care coordination to all geographic areas, populations, and services under programs administered by the department. The expansion of care coordination shall be based on the principles of shared financial risk such as shared savings, performance benchmarks or risk and improving the value of care delivered by measuring outcomes, enhancing quality, and monitoring expenditures. The department shall engage stakeholders, including beneficiaries, advocates, providers, and health plans, during the development and implementation of the care coordination projects. Implementation shall include specific requirements for data collection to ensure the ability to monitor utilization, quality of care, outcomes, costs, and cost savings. The department shall report by November 1 of each year to the Governor and the Chairmen of the House Appropriations and Senate Finance Committees detailing implementation progress including, but not limited to, the number of individuals enrolled in care coordination, the geographic areas, populations and services affected and cost savings achieved. Unless otherwise delineated, the department shall have authority to implement necessary changes upon federal approval and prior to the completion of any regulatory process undertaken in order to effect such change. The intent of this Item may be achieved through several steps, including, but not limited to, the following:

a. In fulfillment of this Item, the department may seek federal authority to implement a care coordination program for Elderly or Disabled with Consumer Direction (EDCD) waiver participants effective October 1, 2011. This service would be provided to adult ED CD waiver participants on a mandatory basis. The department shall have authority to promulgate emergency regulations to implement this amendment within 280 days or less from the enactment of this Act.

b. In fulfillment of this Item, the department may seek federal authority through amendments to the State Plan under Title XIX of the Social Security Act, and any necessary waivers, to allow individuals enrolled in Home and Community Based Care (HCBC) waivers to also be enrolled in contracted Medallion 3.0 managed care organizations for the purposes of receiving acute and medical care services. The department shall have authority to promulgate emergency regulations to implement this

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amendment within 280 days or less from the enactment of this Act.				
<p>c. In fulfillment of this Item, the department and the Department of Behavioral Health and Developmental Services, in collaboration with the Community Services Boards and in consultation with appropriate stakeholders, shall develop a blueprint for the development and implementation of a care coordination model for individuals in need of behavioral health services not currently provided through a managed care organization. The overall goal of the project is to improve the value of behavioral health services purchased by the Commonwealth of Virginia without compromising access to behavioral health services for vulnerable populations. Targeted case management services will continue to be the responsibility of the Community Services Boards. The blueprint shall: (i) describe the steps for development and implementation of the program model(s) including funding, populations served, services provided, timeframe for program implementation, and education of clients and providers; (ii) set the criteria for medical necessity for community mental health rehabilitation services; and (iii) include the following principles:</p> <ol style="list-style-type: none"> <li>1. Improves value so that there is better access to care while improving equity.</li> <li>2. Engages consumers as informed and responsible partners from enrollment to care delivery.</li> <li>3. Provides consumer protections with respect to choice of providers and plans of care.</li> <li>4. Improves satisfaction among providers and provides technical assistance and incentives for quality improvement.</li> <li>5. Improves satisfaction among consumers by including consumer representatives on provider panels for the development of policy and planning decisions.</li> <li>6. Improves quality, individual safety, health outcomes, and efficiency.</li> <li>7. Develops direct linkages between medical and behavioral services in order to make it easier for consumers to obtain timely access to care and services, which could include up to full integration.</li> <li>8. Builds upon current best practices in the delivery of behavioral health services.</li> <li>9. Accounts for local circumstances and reflects familiarity with the community where services are provided.</li> <li>10. Develops service capacity and a payment system that reduces the need for involuntary commitments and prevents default (or diversion) to state hospitals.</li> <li>11. Reduces and improves the interface of vulnerable populations with local law enforcement, courts, jails, and detention centers.</li> <li>12. Supports the responsibilities defined in the Code of Virginia relating to Community Services Boards and Behavioral Health Authorities.</li> <li>13. Promotes availability of access to vital supports such as housing and supported employment.</li> <li>14. Achieves cost savings through decreasing avoidable episodes of care and hospitalizations, strengthening the discharge planning process, improving adherence to medication regimens, and utilizing community alternatives to hospitalizations and institutionalization.</li> <li>15. Simplifies the administration of acute psychiatric, community mental health rehabilitation, and medical health services for the coordinating entity, providers, and consumers.</li> <li>16. Requires standardized data collection, outcome measures, customer satisfaction surveys, and reports to track costs, utilization of services, and outcomes. Performance data should be explicit, benchmarked, standardized, publicly available, and validated.</li> <li>17. Provides actionable data and feedback to providers.</li> <li>18. In accordance with federal and state regulations, includes provisions for effective and timely grievances and appeals for consumers.</li> </ol>				

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d. The department may seek the necessary waiver(s) and/or State Plan authorization under Titles XIX and XXI of the Social Security Act to develop and implement a care coordination model, that is consistent with the principles in Paragraph e, for individuals in need of behavioral health services not currently provided through managed care to be effective July 1, 2012. This model may be applied to individuals on a mandatory basis. The department shall have authority to promulgate emergency regulations to implement this amendment within 280 days or less from the enactment date of this Act.				
e. The department may seek the necessary waiver(s) and/or State Plan authorization under Title XIX of the Social Security Act to develop and implement a care coordination model for individuals dually eligible for services under both Medicare and Medicaid. The Director of the Department of Medical Assistance Services, in consultation with the Secretary of Health and Human Resources, shall establish a stakeholder advisory committee to support implementation of dual-eligible care coordination systems. The advisory committee shall support the dual-eligible initiatives by identifying care coordination and quality improvement priorities, assisting in securing analytic and care management support resources from federal, private and other sources and helping design and communicate performance reports. The advisory committee shall include representation from health systems, health plans, long-term care providers, health policy researchers, physicians, and others with expertise in serving the aged, blind, and disabled, and dual-eligible populations. The department shall have authority to implement necessary changes upon federal approval and prior to the completion of any regulatory process undertaken in order to effect such change.				
NN. The Department of Medical Assistance Services shall make programmatic changes in the provision of Residential Treatment Facility (Level C) and Levels A and B residential services (group homes) for children with serious emotional disturbances in order ensure appropriate utilization and cost efficiency. The department shall consider all available options including, but not limited to, prior authorization, utilization review and provider qualifications. The department shall have authority to promulgate regulations to implement these changes within 280 days or less from the enactment date of this Act.				
OO. The Department of Medical Assistance Services, in consultation with the appropriate stakeholders, shall seek federal authority to implement a pricing methodology to modify or replace the current pricing methodology for pharmaceutical products as defined in 13 VAC 30- 80-40, including the dispensing fee, with an alternative methodology that is budget neutral or that creates a cost savings. The department shall have the authority to promulgate emergency regulations to implement this amendment within 280 days or less from the enactment of this Act. The department shall have the authority to implement these changes prior to completion of any regulatory process undertaken in order to effect such change.				
PP. The Department of Medical Assistance Services shall mandate that payment rates negotiated between participating Medicaid managed care organizations and out-of-network providers for emergency or otherwise authorized treatment shall be considered payment in full. In the absence of rates negotiated between the managed care organization and the out-of-network provider, these services shall be reimbursed at the Virginia Medicaid fees and/or rates and shall be considered payment in full. The department shall have the authority to promulgate emergency regulations to implement this amendment within 280 days or less from the enactment date of this Act.				
QQ. The Department of Medical Assistance Services shall have the authority to amend the State Plan for Medical Assistance to convert the current cost-based reimbursement methodology for outpatient hospitals to an Enhanced Ambulatory Patient Group (EAPG) methodology. Reimbursement for laboratory services shall be included in the new outpatient hospital reimbursement methodology. The new EAPG reimbursement methodology shall be implemented in a budget-neutral manner. The department shall have the authority to promulgate regulations to become effective within 280 days or less from the enactment of this Act.				
RR. The Department of Medical Assistance Services shall seek federal authority to move the family planning eligibility group from a demonstration waiver to the State Plan for Medical Assistance. The department shall seek approval of coverage under this new state plan option for individuals with income up to 200 percent of the federal poverty level. For				



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iv. Clarify that appeals remanded to the informal appeal level via Final Agency Decision or court order shall reset the timetable under DMAS' appeals regulations to start running from the date of the remand.

v. Clarify the department's authority to administratively dismiss untimely filed appeal requests.

vi. Clarify the time requirement for commencement of the formal administrative hearing.

**[ VETO THIS ITEM. /s/ Terence R. McAuliffe (04/28/17) (Vetoed item is enclosed in brackets.)**

vii. Clarify that the informal appeals agent shall have the ability to close an informal appeal based on a settlement between the parties up to \$250,000, notwithstanding § 2.2-514 of the Code of Virginia. For settlements of \$250,000 or greater, such settlement shall be subject to § 2.2-514 of the Code of Virginia.

2. The Department of Medical Assistance Services shall have authority to promulgate regulations to implement these changes within 280 days or less from the enactment date of this Act.

3. *The Department of Medical Assistance Services shall convene a workgroup with representatives from the provider community, and the legal community, and the Office of Attorney General to develop a plan to avoid or adjust retractions or for non-material breaches of the Provider Participation Agreement when the provider has substantially complied with the Provider Participation Agreement. The plan shall include an assessment of any administrative financial impact that implementation of such plan would have on the department and an analysis of any implications for the department's efforts to combat fraud, waste, and abuse. The workgroup shall report on the status of this plan to the Chairmen of the House Appropriations and Senate Finance Committees no later than December 1, 2017.*

XX. The Department of Medical Assistance Services shall amend its regulations, subject to the federal Centers for Medicare and Medicaid Services approval, to strengthen the qualifications and responsibilities of the Consumer Directed Service Facilitator to ensure the health, safety and welfare of Medicaid home- and community-based waiver enrollees. The department shall have the authority to promulgate emergency regulations to implement this change effective July 1, 2012.

YY. It is the intent of the General Assembly that the implementation and administration of the care coordination contract for behavioral health services be conducted in a manner that insures system integrity and engages private providers in the independent assessment process. In addition, it is the intent that in the provision of services that ethical and professional conflicts are avoided and that sound clinical decisions are made in the best interests of the individuals receiving behavioral health services. As part of this process, the department shall monitor the performance of the contract to ensure that these principles are met and that stakeholders are involved in the assessment, approval, provision, and use of behavioral health services provided as a result of this contract.

ZZ. 1. Notwithstanding the requirements of Code of Virginia §2.2-4000, et seq., the Department of Medical Assistance Services shall amend the state plan and appropriate waivers under Title XIX of the Social Security Act to implement a process for administrative appeals of Medicaid/Medicare dual eligible recipients in accordance with terms of the Memorandum of Understanding between the department and the Centers for Medicare and Medicaid Services for the financial alignment demonstration program for dual eligible recipients. The department shall implement this change within 280 days or less from the enactment of this Appropriation Act.

2. The department shall include in the fall quarterly report required in paragraph AAAA. of this Item an annual update that details the implementation progress of the financial alignment demonstration. This update shall include, but is not limited to, costs of implementation, projected cost savings, number of individuals enrolled, and any other implementation issues that arise.

AAA. Effective July 1, 2013, the Department of Medical Assistance Services shall have the authority, to establish a 25 percent higher reimbursement rate for congregate residential services for individuals with complex medical or behavioral needs currently residing in an institution and unable to transition to integrated settings in the community

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<p>due to the need for services that cannot be provided within the maximum allowable rate, or individuals whose needs present imminent risk of institutionalization and enhanced waiver services are needed beyond those available within the maximum allowable rate. The department shall have authority to promulgate regulations to implement this change within 280 days or less from the enactment of this Act.</p>				
<p>BBB. The Department of Medical Assistance Services shall amend the State Plan for Medical Assistance to allow for delivery of notices of program reimbursement or other items referred to in the regulations related to provider appeals by electronic means consistent with the Uniform Electronic Transactions Act. The department shall implement this change effective July 1, 2013, and prior to completion of any regulatory process undertaken in order to effect such changes.</p>				
<p>CCC. The Department of Medical Assistance Services shall amend the State Plan for Medical Assistance to convert the current cost-based payment methodology for nursing facility operating rates in 12 VAC 30-90-41 to a price-based methodology effective July 1, 2014. The new price-based payment methodology shall be implemented in a budget neutral manner.</p>				
<p>1. The department shall calculate prospective operating rates for direct and indirect costs in the following manner:</p>				
<p>a. The department shall calculate the cost per day in the base year for direct and indirect operating costs for each nursing facility. The department shall use existing definitions of direct and indirect costs.</p>				
<p>b. The initial base year for calculating the cost per day is cost reports ending in calendar year 2011. The department shall rebase prices in fiscal year 2018 and every three years thereafter using the most recent reliable calendar year cost-settled cost reports for freestanding nursing facilities that have been completed as of September 1.</p>				
<p>c. Each nursing facility's direct cost per day shall be neutralized by dividing the direct cost per day by the raw Medicaid facility case-mix that corresponds to the base year by facility.</p>				
<p>d. Costs per day shall be inflated to the midpoint of the fiscal year rate period using the moving average Virginia Nursing Home inflation index for the 4th quarter of each year (the midpoint of the fiscal year). Costs in the 2011 base year shall be inflated from the midpoint of the cost report year to the midpoint of fiscal year 2012 by pro-rating fiscal year 2012 inflation and annual inflation after that. Annual inflation adjustments shall be based on the last available report prior to the beginning of the fiscal year and corrected for any revisions to prior year inflation.</p>				
<p>e. Prices will be established for the following peer groups using a combination of Medicare wage regions and Medicaid rural and bed size modifications based on similar costs.</p>				
<p>1) Direct Peer groups</p>				
<p>- Northern Virginia MSA</p>				
<p>- Other MSAs</p>				
<p>- Northern Rural</p>				
<p>- Southern Rural</p>				
<p>2) Indirect Peer Groups</p>				
<p>- Northern Virginia MSA</p>				
<p>- Rest of State – Greater than 60 Beds</p>				
<p>- Other MSAs</p>				
<p>- Northern Rural</p>				
<p>- Southern Rural</p>				
<p>- Rest of State – 60 Beds or Less</p>				

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f. The price for each peer group shall be based on the following adjustment factors:

1) Direct - 105 percent of the peer group day-weighted median neutralized and inflated cost per day for freestanding nursing facilities. *Effective on and after July 1, 2017, the Direct Peer Group price percentage shall be increased to 106.8 percent.*

2) Indirect - 100.7 percent of the peer group day-weighted median inflated cost per day for freestanding nursing facilities. *Effective on and after July 1, 2017, the Indirect Peer Group price percentage shall be increased to 101.3 percent.*

3) *The department shall have the authority to implement these price percentage changes effective July 1, 2017 and prior to the completion of any regulatory process in order to effect such changes.*

g. Facilities with costs projected to the rate year below 95 percent of the price shall have an adjusted price equal to the price minus the difference between their cost and 95 percent of the unadjusted price. Adjusted prices will be established at each rebasing. New facilities after the base year shall not have an adjusted price until the next rebasing. The “spending floor” limits the potential gain of low cost facilities, thereby making it possible to implement higher adjustment factors for other facilities at less cost.

h. Individual claim payment for direct costs shall be based on each resident's Resource Utilization Group (RUG) during the service period times the facility direct price (similar to Medicare).

i. Resource Utilization Group (RUG) is a resident classification system that groups nursing facility residents according to resource utilization and assigns weights related to the resource utilization for each classification. The department shall use RUGs to determine facility case mix for cost neutralization in determining the direct costs used in setting the price and for adjusting the claim payments for residents. The department may elect to transition from the RUG-III 34 Medicaid grouper to the RUG-IV 48 grouper in the following manner.

1) The department shall neutralize direct costs per day in the base year using the most current RUG grouper applicable to the base year.

2) The department shall utilize RUG-III 34 groups and weights in fiscal year 2015 for claim payments.

3) Beginning in fiscal year 2016, the department may elect to implement RUG-IV 48 Medicaid groups and weights for claim payments.

4) RUG-IV 48 weights used for claim payments will be normalized to RUG-III 34 weights as long as base year costs are neutralized by the RUG-III 34 group. In that the weights are not the same under RUG IV as under RUG III, normalization will insure that total payments in direct using the RUGs IV 48 weights will be the same as total payments in direct using the RUGs-III 34 grouper.

j. The department shall transition to the price-based methodology over a period of four years, blending the price-based rate described here with the cost-based rate based on current law with the following adjustments. The facility cost-based operating rates shall be the direct and indirect rates for fiscal year 2015 based on facility case-mix neutral rates modeled after the law that would have been in effect in fiscal year 2015 absent this amendment and using base year data from calendar year 2011 inflated to the rate year. Based on a four-year transition, the rate will be based on the following blend:

1) Fiscal year 2015 - 25 percent of the price-based rate and 75 percent of the cost-based rate.

2) Fiscal year 2016 - 50 percent of the price-based rate and 50 percent of the cost-based rate.

3) Fiscal year 2017 - 75 percent of the price-based rate and 25 percent of the cost-based rate.

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4) Fiscal year 2018 - 100 percent of the price-based (fully implemented).				
During the first transition year for the period July 1, 2014 through October 31, 2014, DMAS shall case-mix adjust each direct cost component of the rates using the average facility case-mix from the two most recent finalized quarters (September and December 2013) instead of adjusting this component claim by claim.				
Cost-based rates to be used in the transition for facilities without cost data in the base year but placed in service prior to July 1, 2013 shall be determined based on the most recently settled cost data. If there is no settled cost report at the beginning of a fiscal year, then 100 percent of the price-based rate shall be used for that fiscal year. Facilities placed in service after June 30, 2013 shall be paid 100 percent of the price-based rate.				
2. Prospective capital rates shall be calculated in the following manner.				
a. Fair rental value per diem rates for the fiscal year shall be calculated for all freestanding nursing facilities based on the prior calendar year information aged to the fiscal year and using RS Means factors and rental rates corresponding to the fiscal year. There will be no separate calculation for beds subject to and not subject to transition.				
b. The department shall develop a procedure for mid-year fair rental value per diem rate changes for nursing facilities that put into service a major renovation or new beds. A major renovation shall be defined as an increase in capital of \$3,000 per bed. The nursing facility shall submit complete pro forma documentation at least 60 days prior to the effective date and the new rate shall be effective at the beginning of the month following the end of the 60 days. The provider shall submit final documentation within 60 days of the new rate effective date and the department shall review final documentation and modify the rate if necessary effective 90 days after the implementation of the new rate. No mid-year rate changes shall be made for an effective date after April 30 of the fiscal year.				
c. Effective July 1, 2014, the rental rate shall be 8.0 percent.				
d. These FRV changes shall also apply to specialized care facilities.				
e. The capital per diem rate for hospital-based nursing facilities shall be the last settled capital per diem.				
3. Prospective Nurse Aide Training and Competency Evaluation Programs (NATCEP) rates shall be the Medicaid per diem rate in the base year inflated to the rate year based on inflation used in the operating rate calculations.				
4. A prospective rate for criminal records checks shall be the per diem rate in the base year.				
5. The department shall have the authority to implement these payment changes effective July 1, 2014 and prior to completion of any regulatory process in order to effect such changes.				
6. The department shall amend the State Plan for Medical Assistance to reimburse the price-based operating rate rather than the transition operating rate to any nursing facility whose licensed bed capacity decreased by at least 30 beds after 2011 and whose occupancy increased from less than 70 percent in 2011 to more than 80 percent in 2013. The department shall have the authority to implement this reimbursement change effective July 1, 2015, and prior to completion of any regulatory process in order to effect such change.				
7. Effective July 1, 2017, the department shall amend the State Plan for Medical Assistance to increase the direct and indirect operating rates under the nursing facility price based reimbursement methodology by 15 percent for nursing facilities where at least 80 percent of the resident population have one or more of the following diagnoses: quadriplegia, traumatic brain injury, multiple sclerosis, paraplegia, or cerebral palsy. In addition, a qualifying facility must have at least 90 percent Medicaid utilization and a case mix index of 1.15 or higher in fiscal year 2014. The department shall have the authority to implement this reimbursement methodology change for rates on or after July 1, 2017, and prior to completion of any regulatory process in order to effect such change.				
8. <i>Effective July 1, 2017 through June 30, 2020, the Department of Medical Assistance Services shall amend the State Plan for Medical Assistance to pay nursing facilities located in the former Danville Metropolitan Statistical Area (MSA) the operating rates calculated for</i>				

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*the Other MSA peer group. For purposes of calculating rates under the rebasing effective July 1, 2017, the department shall use the peer groups based on the existing regulations. For future rebasings, the department shall permanently move these facilities to the Other MSA peer group. The department shall have the authority to implement this reimbursement change effective July 1, 2017 and prior to completion of any regulatory process undertaken in order to effect such change.*

DDD. The Department of Medical Assistance Services shall amend its State Plan under Title XIX of the Social Security Act to implement reasonable restrictions on the amount of incurred dental expenses allowed as a deduction from income for nursing facility residents. Such limitations shall include: (i) that routine exams and x-rays, and dental cleaning shall be limited to twice yearly; (ii) full mouth x-rays shall be limited to once every three years; and (iii) deductions for extractions and fillings shall be permitted only if medically necessary as determined by the department.

EEE. Notwithstanding §32.1-325, et seq. and §32.1-351, et seq. of the Code of Virginia, and effective upon the availability of subsidized private health insurance offered through a Health Benefits Exchange in Virginia as articulated through the federal Patient Protection and Affordable Care Act (PPACA), the Department of Medical Assistance Services shall eliminate, to the extent not prohibited under federal law, Medicaid Plan First and FAMIS Moms program offerings to populations eligible for and enrolled in said subsidized coverage in order to remove disincentives for subsidized private healthcare coverage through publicly-offered alternatives. To ensure, to the extent feasible, a smooth transition from public coverage, DMAS shall endeavor to phase out such coverage for existing enrollees once subsidized private insurance is available through a Health Benefits Exchange in Virginia. The department shall implement any necessary changes upon federal approval and prior to the completion of any regulatory process undertaken in order to effect such change.

FFF. The Department of Medical Assistance Services shall have authority to amend the State Plans for Medical Assistance under Titles XIX and XXI of the Social Security Act, and any waivers thereof, to implement requirements of the federal Patient Protection and Affordable Care Act (PPACA) as it pertains to implementation of Medicaid and CHIP eligibility determination and case management standards and practices, including the Modified Adjusted Gross Income (MAGI) methodology. The department shall have authority to implement such standards and practices upon federal approval and prior to the completion of any regulatory process undertaken in order to effect such change.

GGG. Effective July 1, 2013, the Department of Medical Assistance Services shall establish a Medicaid Physician and Managed Care Liaison Committee including, but not limited to, representatives from the following organizations: the Virginia Academy of Family Physicians; the American Academy of Pediatricians – Virginia Chapter; the Virginia College of Emergency Physicians; the American College of Obstetrics and Gynecology – Virginia Section; Virginia Chapter, American College of Radiology; the Psychiatric Society of Virginia; the Virginia Medical Group Management Association; and the Medical Society of Virginia. The committee shall also include representatives from each of the department's contracted managed care organizations and a representative from the Virginia Association of Health Plans. The committee will work with the department to investigate the implementation of quality, cost-effective health care initiatives, to identify means to increase provider participation in the Medicaid program, to remove administrative obstacles to quality, cost-effective patient care, and to address other matters as raised by the department or members of the committee. The Committee shall establish an Emergency Department Care Coordination work group comprised of representatives from the Committee, including the Virginia College of Emergency Physicians, the Medical Society of Virginia, the Virginia Hospital and Healthcare Association, the Virginia Academy of Family Physicians and the Virginia Association of Health Plans to review the following issues: (i) how to improve coordination of care across provider types of Medicaid "super utilizers"; (ii) the impact of primary care provider incentive funding on improved interoperability between hospital and provider systems; and (iii) methods for formalizing a statewide emergency department collaboration to improve care and treatment of Medicaid recipients and increase cost efficiency in the Medicaid program, including recognized best practices for emergency departments. The committee shall meet semi-annually, or more frequently if requested by

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the department or members of the committee. The department, in cooperation with the committee, shall report on the committee's activities annually to the Board of Medical Assistance Services and to the Chairmen of the House Appropriations and Senate Finance Committees and the Department of Planning and Budget no later than October 1 each year.

HHH. The Department of Medical Assistance Services shall establish a work group of representatives of providers of home- and community-based care services to continue improvements in the audit process and procedures for home- and community-based utilization and review audits. The Department of Medical Assistance Services shall report on any revisions to the methodology for home- and community-based utilization and review audits, including progress made in addressing provider concerns and solutions to improve the process for providers while ensuring program integrity. In addition, the report shall include documentation of the past year's audits, a summary of the number of audits to which retractions were assessed and the total amount, the number of appeals received and the results of appeals. The report shall be provided to the Chairmen of the House Appropriations and Senate Finance Committees by December 1 of each year.

III. The Department of Medical Assistance Services shall realign the billable activities paid for individual supported employment provided under the Medicaid home- and community-based waivers to be consistent with job development and job placement services provided through employment services organizations that are reimbursed by the Department for Aging and Rehabilitative Services. The department shall have the authority to implement this reimbursement change effective July 1, 2013, and prior to the completion of any regulatory process undertaken in order to effect such change.

JJJ.1. The Department of Medical Assistance Services shall seek federal authority through any necessary waiver(s) and/or State Plan authorization under Titles XIX and XXI of the Social Security Act to implement a comprehensive value-driven, market-based reform of the Virginia Medicaid/FAMIS programs.

2. The department is authorized to contract with qualified health plans to offer recipients a Medicaid benefit package adhering to these principles. Any coordination of non-traditional behavioral health services covered under contract with qualified health plans or through other means shall adhere to the principles outlined in paragraph MM. c. This reformed service delivery model shall be mandatory, to the extent allowed under the relevant authority granted by the federal government and shall, at a minimum, include (i) limited high-performing provider networks and medical/health homes; (ii) financial incentives for high quality outcomes and alternative payment methods; (iii) improvements to encounter data submission, reporting, and oversight; (iv) standardization of administrative and other processes for providers; and (v) support of the health information exchange.

3. The Department of Medical Assistance Services shall seek reforms to include all remaining Medicaid populations and services, including long-term care and home- and community-based waiver services into cost-effective, managed and coordinated delivery systems. The department shall begin designing the process and obtaining federal authority to transition all remaining Medicaid beneficiaries into a coordinated delivery system. DMAS shall promulgate regulations to implement these provisions to be effective within 280 days of its enactment. The department may implement any changes necessary to implement these provisions prior to the promulgation of regulations undertaken in order to effect such changes.

4. As a condition on all appropriations in this act and notwithstanding any other provision of this act, or any other law, no general or nongeneral funds shall be appropriated or expended for such costs as may be incurred to implement coverage for newly eligible individuals pursuant to 42 U.S.C. § 1396d(y)(1)[2010] of the Patient Protection and Affordable Care Act, unless included in an appropriation bill adopted by the General Assembly on or after July 1, 2016.

KKK.1. The Director of the Department of Medical Assistance Services shall continue to make improvements in the provision of health and long-term care services under Medicaid/FAMIS that are consistent with evidence-based practices and delivered in a cost effective manner to eligible individuals.

2. In order to effect such improvements and ensure that reform efforts are cost effective relative to current forecasted Medicaid/FAMIS expenditure levels, the Department of Medical

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Assistance Services shall (i) develop a five-year consensus forecast of expenditures and savings associated with the Virginia Medicaid/FAMIS reform efforts by November 15 of each year in conjunction with the Department of Planning and Budget, and with input from the House Appropriations and Senate Finance Committees, and (ii) engage stakeholder involvement in meeting annual targets for quality and cost-effectiveness.

LLL. Effective July 1, 2014, the Department of Medical Assistance Services shall replace the AP-DRG grouper with the APR-DRG grouper for hospital inpatient reimbursement. The department shall develop budget neutral case rates and Virginia-specific weights for the APR-DRG grouper based on the FY 2011 base year. The department shall phase in the APR-DRG weights by blending in 50 percent of the full APR-DRG weights with 50 percent of FY 2014 AP-DRG weights in the first year and 75 percent of the full APR-DRG weights with 25 percent of the FY 2014 AP-DRG weights in the second year for each APR-DRG group and severity. FY 2014 AP-DRG weights shall be calculated as a weighted average FY 2014 AP-DRG weight for all claims in the base year that group to each APR-DRG group and severity. Full APR-DRG weights shall be used in the third year and succeeding years for each APR-DRG group and severity. The department shall have the authority to implement these reimbursement changes effective July 1, 2014, and prior to completion of any regulatory process in order to effect such changes.

MMM.1. Effective July 1, 2014, the Department of Medical Assistance Services shall replace the current Disproportionate Share Hospital (DSH) methodology with the following methodology:

- a) DSH eligible hospitals must have a total Medicaid Inpatient Utilization Rate equal to 14 percent or higher in the base year using Medicaid days eligible for Medicare DSH or a Low Income Utilization Rate in excess of 25 percent and meet other federal requirements. Eligibility for out of state cost reporting hospitals shall be based on total Medicaid utilization or on total Medicaid NICU utilization equal to 14 percent or higher.
- b) Each hospital's DSH payment shall be equal to the DSH per diem multiplied by each hospital's eligible DSH days in a base year. Days reported in provider fiscal years in state FY 2011 will be the base year for FY 2015 prospective DSH payments. DSH will be recalculated annually with an updated base year. DSH payments are subject to applicable federal limits.
- c) Eligible DSH days are the sum of all Medicaid inpatient acute, psychiatric and rehabilitation days above 14 percent for each DSH hospital subject to special rules for out of state cost reporting hospitals. Eligible DSH days for out of state cost reporting hospitals shall be the higher of the number of eligible days based on the calculation in the first sentence times Virginia Medicaid utilization (Virginia Medicaid days as a percent of total Medicaid days) or the Medicaid NICU days above 14 percent times Virginia NICU Medicaid utilization (Virginia NICU Medicaid days as a percent of total NICU Medicaid days). Eligible DSH days for out of state cost reporting hospitals who qualify for DSH but who have less than 12 percent Virginia Medicaid utilization shall be 50 percent of the days that would have otherwise been eligible DSH days.
- d) Additional eligible DSH days are days that exceed 28 percent Medicaid utilization for Virginia Type Two hospitals (excluding Children's Hospital of the Kings Daughters).
- e) The DSH per diem shall be calculated in the following manner:
  - a. The DSH per diem for Type Two hospitals is calculated by dividing the total Type Two DSH allocation by the sum of eligible DSH days for all Type Two DSH hospitals. For purposes of DSH, Type Two hospitals do not include Children's Hospital of the Kings Daughters (CHKD) or any hospital whose reimbursement exceeds its federal uncompensated care cost limit. The Type Two Hospital DSH allocation shall equal the amount of DSH paid to Type Two hospitals in state FY 2014 increased annually by the percent change in the federal allotment, including any reductions as a result of the Affordable Care Act, adjusted for the state fiscal year.
  - b. The DSH per diem for State Inpatient Psychiatric Hospitals is calculated by dividing the total State Inpatient Psychiatric Hospital DSH allocation by the sum of eligible DSH days. The State Inpatient Psychiatric Hospital DSH allocation shall equal the amount of DSH



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<p>4. The Department of Medical Assistance Services shall promulgate regulations to implement these provisions to be effective within 280 days of its enactment. The department may implement any changes necessary to implement these provisions prior to the promulgation of regulations undertaken in order to effect such changes.</p>				
<p>QQQ. The Department of Medical Assistance Services shall have authority to amend its regulations, subject to the federal Centers for Medicare and Medicaid Services approval, to strengthen all program requirements and policies of the consumer-directed services programs to ensure the health, safety and welfare of Medicaid home- and community-based waiver enrollees. The department shall submit a detailed report on proposed regulatory changes to the consumer-directed services programs and the issues and problems the department is attempting to resolve. The department shall submit the report to the Director, Department of Planning and Budget and the Chairmen of the House Appropriations and Senate Finance Committees at least 30 days prior to beginning the regulatory process.</p>				
<p>RRR.1. There is hereby appropriated sum-sufficient nongeneral funds for the Department of Medical Assistance Services (DMAS) to pay the state share of supplemental payments for qualifying private hospital partners of Type One hospitals (consisting of state-owned teaching hospitals) as provided in the State Plan for Medical Assistance Services. Qualifying private hospitals shall consist of any hospital currently enrolled as a Virginia Medicaid provider and owned or operated by a private entity in which a Type One hospital has a non-majority interest. The supplemental payments shall be based upon the reimbursement methodology established for such payments in Attachments 4.19-A and 4.19-B of the State Plan for Medical Assistance Services. DMAS shall enter into a transfer agreement with any Type One hospital whose private hospital partner qualifies for such supplemental payments, under which the Type One hospital shall provide the state share in order to match federal Medicaid funds for the supplemental payments to the private hospital partner. The department shall have the authority to implement these reimbursement changes consistent with the effective date in the State Plan amendment approved by the Centers for Medicare and Medicaid Services (CMS) and prior to completion of any regulatory process in order to effect such changes.</p>				
<p>2.a. The Department of Medical Assistance Services shall promulgate regulations to make supplemental payments to Medicaid physician providers with a medical school located in Eastern Virginia that is a political subdivision of the Commonwealth. The amount of the supplemental payment shall be based on the difference between the average commercial rate approved by CMS and the payments otherwise made to physicians. The department shall have the authority to implement these reimbursement changes consistent with the effective date in the State Plan amendment approved by CMS and prior to completion of any regulatory process in order to effect such changes.</p>				
<p>b. The department shall increase payments to Medicaid managed care organizations for the purpose of securing access to Medicaid physician services in Eastern Virginia, through higher rates to physicians affiliated with a medical school located in Eastern Virginia that is a political subdivision of the Commonwealth subject to applicable limits. The department shall revise its contracts with managed care organizations to incorporate these supplemental capitation payments, and provider payment requirements, subject to approval by CMS. No payment shall be made without approval from CMS.</p>				
<p>c. Funding for the state share for these Medicaid payments is authorized in Item 247.</p>				
<p>3.a. The Department of Medical Assistance Services (DMAS) shall have the authority to amend the State Plan for Medical Assistance Services (State Plan) to implement a supplemental Medicaid payment for local government-owned nursing homes. The total supplemental Medicaid payment for local government-owned nursing homes shall be based on the difference between the Upper Payment Limit of 42 CFR §447.272 as approved by CMS and all other Medicaid payments subject to such limit made to such nursing homes. There is hereby appropriated sum-sufficient funds for DMAS to pay the state share of the supplemental Medicaid payment hereunder. However, DMAS shall not submit such State Plan amendment to CMS until it has entered into an intergovernmental agreement with eligible local government-owned nursing homes or the local government itself which requires them to transfer funds to DMAS for use as the state share for the supplemental Medicaid payment each nursing home is entitled to and to represent that</p>				

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each has the authority to transfer funds to DMAS and that the funds used will comply with federal law for use as the state share for the supplemental Medicaid payment. If a local government-owned nursing home or the local government itself is unable to comply with the intergovernmental agreement, DMAS shall have the authority to modify the State Plan. The department shall have the authority to implement the reimbursement change consistent with the effective date in the State Plan amendment approved by CMS and prior to the completion of any regulatory process undertaken in order to effect such change.

*b. If by June 30, 2017, the Department of Medical Assistance Services has not secured approval from the Centers for Medicare and Medicaid Services to use a minimum fee schedule pursuant to 42 C.F.R. § 438.6(c)(1)(iii) for local government-owned nursing homes participating in Commonwealth Coordinated Care Plus (CCC Plus) at the same level as and in lieu of the supplemental Medicaid payments authorized in Section RRR.3.a., then DMAS shall: (i) exclude Medicaid recipients who elect to receive nursing home services in local government-owned nursing homes from CCC Plus; (ii) pay for such excluded recipient's nursing home services on a fee-for-service basis, including the related supplemental Medicaid payments as authorized herein; and (iii) prohibit CCC Plus contracted health plans from in any way limiting Medicaid recipients from electing to receive nursing home services from local government-owned nursing homes. The department may include in CCC Plus Medicaid recipients who elect to receive nursing home services in local government-owned nursing homes in the future when it has secured federal CMS approval to use a minimum fee schedule as described above.*

4. The Department of Medical Assistance Services shall have the authority to amend the State Plan for Medical Assistance Services to implement a supplemental payment for clinic services furnished by the Virginia Department of Health (VDH) effective July 1, 2015. The total supplemental Medicaid payment shall be based on the Upper Payment Limit approved by the Centers for Medicare and Medicaid Services and all other Medicaid payments. VDH is required to transfer funds to the department funds already appropriated to VDH to cover the non-federal share of the Medicaid payments. The department shall have the authority to implement the reimbursement change effective July 1, 2015, and prior to the completion of any regulatory process undertaken in order to effect such changes.

5. The Department of Medical Assistance Services shall amend the State Plan for Medical Assistance to increase the supplemental physician payments for physicians employed at a freestanding children's hospital serving children in Planning District 8 with more than 50 percent Medicaid inpatient utilization in fiscal year 2014 to the maximum allowed by the Centers for Medicare and Medicaid Services within the limit of the appropriation provided for this purpose. The total supplemental Medicaid payment shall be based on the Upper Payment Limit approved by the Centers for Medicare and Medicaid Services and all other Virginia Medicaid fee-for-service payments. The department shall have the authority to implement these reimbursement changes effective July 1, 2016, and prior to the completion of any regulatory process undertaken in order to effect such change."

*6.a. The Department of Medical Assistance Services shall promulgate regulations to make supplemental Medicaid payments to the primary teaching hospitals affiliated with a Liaison Committee on Medical Education (LCME) accredited medical school located in Planning District 23 that is a political subdivision of the Commonwealth and an LCME accredited medical school located in Planning District 5 that has a partnership with a public university. The amount of the supplemental payment shall be based on the reimbursement methodology established for such payments in Attachments 4.19-A and 4.19-B of the State Plan for Medical Assistance and/or the department's contracts with managed care organizations. The department shall have the authority to implement these reimbursement changes consistent with the effective date in the State Plan amendment or the managed care contracts approved by the Centers for Medicare and Medicaid Services (CMS) and prior to completion of any regulatory process in order to effect such changes. No payment shall be made without approval from CMS.*

*b. Funding for the state share for these Medicaid payments is authorized in Item 247 and Item 4-5.03.*

SSS. The Department of Medical Assistance Services shall amend the State Plan for Medical Assistance to provide coverage for cessation services for tobacco users, including pharmacology, group and individual counseling, and other treatment services including the

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most current version of or an official update to the Clinical Health Guideline "Treating Tobacco Use and Dependence" published by the Public Health Service of the U.S. Department of Health and Human Services. These services shall be subject to copayment requirements. The department shall have authority to implement this reimbursement change effective July 1, 2014 and prior to the completion of any regulatory process undertaken in order to effect such changes.

TTT. The Department of Medical Assistance Services shall have the authority to amend the 1915 (c) home- and community-based Elderly or Consumer-Direction (EDCD) waiver, Individual and Family Developmental Disabilities (DD) Support Waiver, Intellectual Disabilities (ID) waiver and Technology-Assisted (TECH) waiver, and associated regulations, to specify that transition services includes the first month's rent for qualified housing as an allowable cost. The department shall have authority to implement this reimbursement change effective July 1, 2014 and prior to the completion of any regulatory process undertaken in order to effect such changes.

UUU. The Department of Medical Assistance Services shall have the authority to implement Section 1902(a)(10)(A)(i)(IX) of the federal Social Security Act to provide Medicaid benefits up until the age of 26 to individuals who are or were in foster care at least until the age of 18 in any state.

VVV. Effective July 1, 2014 the Department of Medical Assistance Services shall amend the State Plan for Medical Assistance to provide that the reimbursement floor for the nursing facility FRV "rental rate" shall be 8.0 percent in fiscal year 2015 and fiscal year 2016. The department shall have the authority to implement these reimbursement changes prior to the completion of any regulatory process undertaken in order to effect such changes.

WWW. The Department of Medical Assistance Services shall amend the State Plan for Medical Assistance to eliminate nursing facility inflation for fiscal year 2016. This shall apply to nursing facility operating rates in the first year, but shall not be substituted for published inflation factors in any subsequent scheduled rebasing of nursing facility rates. The department shall have the authority to implement these reimbursement changes prior to the completion of any regulatory process undertaken in order to effect such changes.

XXX.1.a The Department of Medical Assistance Services shall amend the Medicaid demonstration project (Project Number 11-W-00297/3) to modify eligibility provided through the project to individuals with serious mental illness to be effective July 1, 2015. Income eligibility shall be modified to limit services to seriously mentally ill adults with effective household incomes up to 60 percent of the federal poverty level (FPL). All individuals enrolled in this Medicaid demonstration project with incomes between 61% and 100% of the Federal Poverty Level as of May 15, 2015 who continue to meet other program eligibility rules, shall maintain enrollment in the demonstration until their next eligibility renewal period or July 1, 2016, whichever comes first. Benefits shall include the following services: (i) primary care office visits including diagnostic and treatment services performed in the physician's office, (ii) outpatient specialty care, consultation, and treatment, (iii) outpatient hospital including observation and ambulatory diagnostic procedures, (iv) outpatient laboratory, (v) outpatient pharmacy, (vi) outpatient telemedicine, (vii) medical equipment and supplies for diabetic treatment, (viii) outpatient psychiatric treatment, (ix) mental health case management, (x) psychosocial rehabilitation assessment and psychosocial rehabilitation services, (xi) mental health crisis intervention, (xii) mental health crisis stabilization, (xiii) therapeutic or diagnostic injection, (xiv) behavioral telemedicine, (xv) outpatient substance abuse treatment services, and (xvi) intensive outpatient substance abuse treatment services. Care coordination, Recovery Navigation (peer supports), crisis line and prior authorization for services shall be provided through the agency's Behavioral Health Services Administrator.

b. The Department of Medical Assistance Services shall amend the Medicaid demonstration project described in paragraph XXX 1 a to increase the income eligibility for adults with serious mental illness from 60 to 80 percent of the federal poverty level effective July 1, 2016 and from 80 to 100 percent of the federal poverty level effective October 1, 2017. Effective October 1, 2017, the department shall amend the Medicaid demonstration project to include the provision of addiction recovery and treatment services, including partial day hospitalization and residential treatment services. The

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<p>department shall have authority to implement necessary changes upon federal approval and prior to the completion of any regulatory process undertaken in order to effect such changes.</p>				
<p>c. The Department of Medical Assistance Services, in cooperation with the Department of Social Services and the League of Social Service Executives, shall provide information and conduct outreach activities with the Department of Corrections and local and regional jails to increase access to the Medicaid demonstration waiver for individuals with serious mental illness who are preparing to be released from custody, or are under the supervision of state or local community corrections programs.</p>				
<p>d. The Department of Medical Assistance Services, in cooperation with the Department of Social Services and the League of Social Service Executives, shall provide information and conduct outreach activities with the Department of Corrections and local and regional jails to increase access to the Medicaid demonstration waiver for individuals with serious mental illness who are preparing to be released from custody, or are under the supervision of state or local community corrections programs.</p>				
<p>2. The Department of Medical Assistance Services is authorized to amend the State Plan under Title XIX of the Social Security Act to add coverage for comprehensive dental services to pregnant women receiving services under the Medicaid program to include: (i) diagnostic, (ii) preventive, (iii) restorative, (iv) endodontics, (v) periodontics, (vi) prosthodontics both removable and fixed, (vii) oral surgery, and (viii) adjunctive general services.</p>				
<p>3. The Department of Medical Assistance Services is authorized to amend the FAMIS MOMS and FAMIS Select demonstration waiver (No. 21-W-00058/3) for FAMIS MOMS enrollees to add coverage for dental services to align with pregnant women's coverage under Medicaid.</p>				
<p>4. The Department of Medical Assistance Services is authorized to amend the State Plan under Title XXI of the Social Security Act to plan to allow enrollment for dependent children of state employees who are otherwise eligible for coverage.</p>				
<p>5. The department shall have authority to implement necessary changes upon federal approval and prior to the completion of any regulatory process undertaken in order to effect such changes.</p>				
<p>YYY. The Department of Medical Assistance Services shall amend the State Plan for Medical Assistance Services to eliminate the requirement for pending, reviewing and reducing fees for emergency room claims for 99283 codes. The department shall have the authority to implement this reimbursement change effective July 1, 2015, and prior to the completion of any regulatory process undertaken in order to effect such change.</p>				
<p>ZZZ. The Department of Medical Assistance Services shall amend the State Plan for Medical Assistance to increase the supplemental physician payments for practice plans affiliated with a freestanding children's hospital with more than 50 percent Medicaid inpatient utilization in fiscal year 2009 to the maximum allowed by the Centers for Medicare and Medicaid Services. The department shall have the authority to implement these reimbursement changes effective July 1, 2015, and prior to completion of any regulatory process undertaken in order to effect such change.</p>				
<p>AAAA.1. The Department of Medical Assistance Services (DMAS) shall provide quarterly reports <del>beginning on July 1, 2015,</del> <i>due within 30 days of a quarter's end</i>, to the Governor, Director, Department of Planning and Budget and Chairmen of the House Appropriations and Senate Finance Committees on the implementation of the Commonwealth Coordinated Care program, including information on program enrollment, the ability of Medicare and Medicaid Managed Care Plans to ensure a robust provider network, resolution of provider concerns regarding the cost and technical difficulties in participating in the program, quality of care, and progress in resolving issues related to federal Medicare requirements which impede the efficient and effective delivery of care.</p>				
<p>2. The Department of Medical Assistance Services (DMAS) shall require providers to use a National Provider Identifier number, effective July 1, 2015, in order to participate in the Commonwealth Coordinated Care program.</p>				
<p>BBBB. The Department of Medical Assistance Services (DMAS) shall amend its July 1, 2016, managed care contracts in order to conform to the requirement pursuant to House Bill</p>				

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<p>1942 / Senate Bill 1262, passed during the 2015 Regular Session, for prior authorization of drug benefits.</p>				
<p>CCCC.1. The Department of Medical Assistance Services shall adjust the rates and add new services in accordance with the recommendations of the provider rate study and the published formula for determining the SIS levels and tiers developed as part of the redesign of the Individual and Family Developmental Disabilities Support (DD), Day Support (DS), and Intellectual Disability (ID) Waivers. The department shall have the authority to adjust provider rates and units, effective July 1, 2016, in accordance with those recommendations with the exception that no rate changes for Sponsored Residential services shall take effect until January 1, 2017. The rate increase for skilled nursing services shall be 25 percent.</p>				
<p>2. The Department of Medical Assistance Services shall have the authority to amend the Individual and Family Developmental Disabilities Support (DD), Day Support (DS), and Intellectual Disability (ID) Waivers, to initiate the following new waiver services effective July 1, 2016: Shared Living Residential, Supported Living Residential, Independent Living Residential, Community Engagement, Community Coaching, Workplace Assistance Services, Private Duty Nursing Services, Crisis Support Services, Community Based Crisis Supports, Center-based Crisis Supports, and Electronic Based Home Supports; and the following new waiver services effective July 1, 2017: Community Guide and Peer Support Services, Benefits Planning, and Non-medical Transportation. The rates and units for these new services shall be established consistent with recommendations of the provider rate study and the published formula for determining the SIS levels and tiers developed as part of the waiver redesign, with the exception that private duty nursing rates shall be equal to the rates for private duty nursing services in the Assistive Technology Waiver and the EPSDT program. The implementation of these changes shall be developed in partnership with the Department of Behavioral Health and Developmental Services.</p>				
<p>3. Out of this appropriation, \$328,452 the first year and \$656,903 the second year from the general fund and \$328,452 the first year and \$656,903 the second year from nongeneral funds shall be provided for a Northern Virginia rate differential in the family home payment for Sponsored Residential services. Effective January 1, 2017, the rates for Sponsored Residential services in the Intellectual Disability waiver shall include in the rate methodology a higher differential of 24.5 percent for Northern Virginia providers, in the family home payment as compared to the rest-of-state rate. The Department of Medical Assistance Services and the Department of Behavioral Health and Developmental Services shall, in collaboration with sponsored residential providers, <i>the Virginia Network of Private Providers, the Virginia Association of Community Services Boards, the Virginia Sponsored Residential Provider Group</i>, and family home providers, collect information and feedback related to payments to family homes and the extent to which changes in rates have impacted payments to the family homes statewide, <i>and the increase or decrease in the capacity in each of the five geographic regions. The Department of Medical Assistance Services, in cooperation with the Department of Behavioral Health and Developmental Services, shall report the findings of this analysis to the Governor and the Chairmen of the House Appropriations and Senate Finance Committees by October 1, 2017.</i></p>				
<p>4. For any state plan amendments or waiver changes to effectuate the provisions of paragraphs CCCC 1 and CCCC 2 above, the Department of Medical Assistance Services shall provide, prior to submission to the Centers for Medicare and Medicaid Services, notice to the Chairmen of the House Appropriations and Senate Finance Committees, and post such changes and make them easily accessible on the department's website.</p>				
<p>5. The department shall have the authority to implement necessary changes upon federal approval and prior to the completion of any regulatory process undertaken in order to effect such changes.</p>				
<p>DDDD. The Department of Medical Assistance Services shall amend the 1915 (c ) home-and-community based <del>Intellectual Disabilities</del> <i>Community Living</i> waiver to add 390 slots effective July 1, 2016 and an additional <del>415</del>180 slots effective July 1, 2017. The Department of Medical Assistance Services shall seek federal approval for necessary changes to the <del>ID</del> waiver to add the additional slots.</p>				

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EEEE.1. The Department of Medical Assistance Services shall amend the <del>Individual and Family Developmental Disabilities Support (DD)</del> <i>Family and Individual Support</i> waiver to add 140 new slots effective July 1, 2016 and an additional <del>25344</del> slots effective July 1, 2017. The Department of Medical Assistance Services shall seek federal approval for necessary changes to the <del>DD</del> waiver to add the additional slots.				
2. Effective July 1, 2016, the Department of Medical Assistance Services shall amend the Individual and Family Developmental Disabilities Support (DD) waiver to add 200 slots in fiscal year 2017 for individuals at the top of the chronological waiting list as of June 30, 2016.				
3. Out of this appropriation, \$632,040 the first year and \$632,040 the second year from the general fund and \$632,040 the first year and \$632,040 the second year from nongeneral funds shall be used for up to 40 emergency reserve slots for emergencies, for individuals transferring between waivers and for individuals transitioning from an Intermediate Care Facility (ICF) or state nursing facility (SNF) to the community to ensure the health and safety of individuals in crisis. The Department of Medical Assistance Services shall amend the appropriate waiver to add up to 40 emergency reserve slots across the Intellectual Disability (ID) waiver, Individual and Family Developmental Disabilities Support (DD) waiver and Day Support (DS) waiver within the limits of this appropriation, effective July 1, 2016. The Department of Medical Assistance Services shall seek federal approval for necessary changes to the ID, DD and DS waivers to add the additional emergency reserve slots.				
FFFF.1. Out of this appropriation, \$1,250,000 from the general fund and \$1,250,000 from nongeneral funds the second year shall be used to fund 25 new medical residency slots. The Department of Medical Assistance Services shall submit a State Plan amendment to make supplemental payments for new graduate medical education residency slots effective July 1, 2017. Supplemental payments shall be made for up to 25 new medical residency slots in fiscal year 2018. Of the 25 new residency slots, 13 shall be for primary care and 12 shall be for high need specialties. In addition, preference shall be given for residency slots located in underserved areas. The department shall adopt criteria for primary care, high need specialties and underserved areas developed by the Virginia Health Workforce Development Authority. <del>The authority shall submit these criteria to the department by September 1, 2016. The department shall make supplemental payments to the following hospitals for the specified number of primary care residencies: Sentara Norfolk General (2 residencies), Carilion Medical Center (6 residencies), Centra Lynchburg General Hospital (1 residency), Riverside Regional Medical Center (2 residencies), Bon Secours St. Francis Medical Center (2 residencies). The department shall make supplemental payments to Carilion Medical Center for two psychiatric residencies.</del> The supplemental payment for each new qualifying residency slot shall be \$100,000 annually minus any Medicare residency payment for which the hospital is eligible. Supplemental payments shall be made for up to <del>three</del> four years for each new qualifying resident. The hospital will be eligible for the supplemental payments as long as the hospital maintains the number of residency slots in total and by category as a result of the increase in fiscal year 2018. <del>If the number of qualifying residency slots exceeds the available number of supplemental payments, the Virginia Health Workforce Development Authority shall determine which new residency slots to fund based on priorities developed by the authority.</del> Payments shall be made quarterly following the same schedule for other medical education payments. <del>In order to be eligible for the supplemental payment, the hospital must make an application to the department by November 1, 2016. The department shall identify hospitals and the number of new residency slots to be awarded supplemental payments by April 1, 2017.</del> Subsequent to the award of a supplemental payment, the hospital must provide documentation annually by June 1 that they continue to meet the criteria for the supplemental payments and report any changes during the year to the number of residents. The department shall require all hospitals receiving medical education funding to report annually by June 1 on the number of residents in total and by specialty/subspecialty. The supplemental payments are subject to federal Centers for Medicare and Medicaid Services approval. The department shall have the authority to promulgate emergency regulations to implement this amendment within 280 days or less from the enactment of this act.				
2. Any remaining appropriation for this program at the end of the fiscal year shall be carried forward to the subsequent fiscal year to fund medical residency slots. The Department of Medical Assistance Services shall adjust the 2018-20 Medicaid forecast to include annual funding for the 25 residency slots as approved by the 2016 General Assembly.				

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GGGG. The Department of Medical Assistance Services shall amend the State Plan for Medical Assistance to limit inflation to 50 percent of the inflation factor for fiscal year 2017 and eliminate inflation in fiscal year 2018. This shall apply to inpatient hospital operating rates (including long-stay and freestanding psychiatric hospitals), graduate medical education (GME) payments, disproportionate share hospital (DSH) payments and outpatient hospital rates. Similar reductions shall be made to the general fund share for Type One hospitals as reflected in paragraph B. of this Item. ~~Similar reductions shall also be made to the total reimbursement for Virginia freestanding children's hospitals with greater than 50% Medicaid utilization in 2009 in fiscal year 2018 only.~~ The department shall have the authority to implement these reimbursement changes effective July 1, 2016 and prior to the completion of any regulatory process in order to effect such changes.

HHHH. The Department of Medical Assistance Services shall amend the State Plan for Medical Assistance to ~~limit inflation to 50 percent of~~ provide the full inflation factor for nursing facility and specialized care operating and NATCEP rates for FY2018. The department shall have the authority to implement these reimbursement changes effective July 1, 2017, and prior to the completion of any regulatory process in order to effect such changes.

IIII. The Department of Medical Assistance Services shall amend the State Plan for Medical Assistance to limit inflation to 50 percent of the inflation factor for outpatient rehabilitation agencies and home health agencies for FY2018. The department shall have the authority to implement these reimbursement changes effective July 1, 2017, and prior to the completion of any regulatory process in order to effect such changes.

JJJJ. Effective July 1, 2016, the Department of Medical Assistance Services shall increase the rates for agency and consumer directed personal care, respite and companion services in the EDCD and ID/DD waivers and EPSDT program by two percent from current levels.

KKKK. Effective July 1, 2016, the Department of Medical Assistance Services shall increase the rates for private duty nursing in the Tech waiver and Early and Periodic Screening, Diagnostic and Treatment (EPSDT) program by 11.5 percent from current levels.

LLLL. Out of this appropriation, \$79,505 from the general fund and \$79,505 from the nongeneral fund the first year and \$87,581 from the general fund and \$87,581 from nongeneral funds the second year shall be used to increase reimbursement rates for adult day health services provided through Medicaid home- and community-based waiver programs by 2.5 percent effective July 1, 2016.

MMMM.1. The Department of Medical Assistance Services, in consultation with the appropriate stakeholders, shall amend the state plan for medical assistance and/or seek federal authority through an 1115 demonstration waiver, as soon as feasible, to provide coverage of inpatient detoxification, inpatient substance abuse treatment, residential detoxification, residential substance abuse treatment, and peer support services to Medicaid individuals in the Fee-for-Service and Managed Care Delivery Systems. The department shall have the authority to implement this change effective upon passage of this Act, and prior to the completion of any regulatory process undertaken in order to effect such change.

2. The Department of Medical Assistance Services shall make programmatic changes in the provision of all Substance Abuse Treatment Outpatient, Community Based and Residential Treatment services (group homes and facilities) for individuals with substance abuse disorders in order to ensure parity between the substance abuse treatment services and the medical and mental health services covered by the department and to ensure comprehensive treatment planning and care coordination for individuals receiving behavioral health and substance use disorder services. The department shall take action to ensure appropriate utilization and cost efficiency, and adjust reimbursement rates within the limits of the funding appropriated for this purpose based on current industry standards. The department shall consider all available options including, but not limited to, service definitions, prior authorization, utilization review, provider qualifications, and reimbursement rates for the following Medicaid services: substance abuse day treatment for pregnant women, substance abuse residential treatment for pregnant women, substance abuse case management, opioid treatment, substance abuse day treatment, and substance

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abuse intensive outpatient. The department shall have the authority to implement this change effective upon passage of this Act, and prior to the completion of any regulatory process undertaken in order to effect such change.				
3. The Department of Medical Assistance Services shall amend the State Plan for Medical Assistance and any waivers thereof to include peer support services to children and adults with mental health conditions and/or substance use disorders. The department shall work with its contractors, the Department of Behavioral Health and Developmental Services, and appropriate stakeholders to develop service definitions, utilization review criteria and provider qualifications. The department shall have the authority to implement this change effective upon passage of this Act, and prior to the completion of any regulatory process undertaken in order to effect such change.				
4. The Department of Medical Assistance Services shall, prior to the submission of any state plan amendment or waivers to implement paragraphs MMMM 1, MMMM 2, and MMMM 3, submit a plan detailing the changes in provider rates, new services added and any other programmatic changes to the Chairmen of the House Appropriation and Senate Finance Committees.				
NNNN. The Department of Medical Assistances shall amend the State Plan for Medical Assistance to convert the specialized care rates to a prospective rate consistent with the existing cost-based methodology by adding inflation to the per diem costs subject to existing ceilings for direct, indirect and ancillary costs from the most recent settled cost report prior to the state fiscal year for which the rates are being established. The same inflation adjustment shall apply to plant costs for specialized care facilities that do not have prospective capital rates that are based on fair rental value. The department shall use the state fiscal year rate methodology recently adopted for regular nursing facilities. Partial year inflation shall be applied to per diem costs if the provider fiscal year end is different than the state fiscal year. Ceilings shall also be maintained by state fiscal year. The department shall have the authority to implement these changes effective July 1, 2016, and prior to completion of any regulatory process to effect such changes.				
OOOO. The Department of Medical Assistance Services (DMAS), in consultation with the appropriate stakeholders, shall seek federal authority via a state plan amendment to cover low-dose computed tomography (LDCT) lung cancer screenings for high-risk adults. The department shall promulgate emergency regulations to implement this amendment within 280 days or less from the enactment of this Act.				
PPPP. The Department of Medical Assistance Services shall amend the State Plan under Title XIX of the Social Security Act, and any necessary waivers, to reflect that no authority is provided for the payment of overtime for Medicaid-reimbursed consumer-directed personal assistance, respite and companion services. The Department shall implement the necessary regulatory changes and other necessary measures to be consistent with federal approval of any appropriate state plan and/or waiver changes, and prior to the completion of any regulatory process undertaken in order to effect such change."				
QQQQ. The Department of Medical Assistance Services shall convene a work group of stakeholders, which shall include the Department for Aging and Rehabilitative Services, dementia service providers and dementia advocacy organizations to review the Alzheimer's Assisted Living (AAL) Waiver to determine if it can be modified to meet the 2014 Centers for Medicare and Medicaid Services Home and Community Based Services final rule requirements. If the waiver cannot be modified to meet the federal requirements, then the department shall create a plan that: (i) ensures current waiver recipients continue to receive services and (ii) addresses the service needs of the persons with dementia who are currently eligible for the AAL Waiver. The department shall report its plan and implementation recommendations to the Governor and the Chairmen of the House Appropriations and Senate Finance Committees by October 1, 2016.				
RRRR. The Department of Medical Assistance Services shall not expend any appropriation for an approved Delivery System Reform Incentive Program (DSRIP) §1115 waiver unless the General Assembly appropriates the funding in the 2017 Session. The department shall notify the Chairmen of the House Appropriations and Senate Finance Committees within 15 days of any final negotiated waiver agreement with the Centers for Medicare and Medicaid Services.				

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SSSS. The Department of Medical Assistance Services shall seek federal authority through a State Plan Amendment under Title XIX of the Social Security Act to permit individuals to use certified appraisals conducted by appraisers licensed by the Virginia Real Estate Appraiser Board as an alternative to the use of the tax assessed value to establish the value of any non-commercial real property for purposes of Medicaid resource eligibility. The cost of the appraisal shall be borne by the applicant or his designee.

*TTTT. Effective July 1, 2017, the Department of Medical Assistance Services shall amend the Building Independence waiver to add 60 slots in FY 2018.*

*UUUU. Effective July 1, 2017, the Department of Medical Assistance Services shall amend the managed care regulations to specify that all contracts with health plans in a Medicaid managed care delivery model, including long-term services and supports, require reimbursement to nursing facility and specialized care services at no less than the Medicaid established per diem rate for Medicaid covered days, using the department's methodologies, unless the managed care organization and the nursing facility or specialized care services provider mutually agree to an alternative payment. The department shall have authority to implement this provision prior to the completion of any regulatory process in order to effect such change.*

*VVVV. Omitted.*

*WWWW.1. The Department of Medical Assistance Services shall monitor the capacity available under the Upper Payment Limit (UPL) for all hospital supplemental payments and adjust payments accordingly when the UPL cap is reached. The department shall make an adjustment to stay under the UPL cap by reducing or eliminating as necessary supplemental payments to hospitals based on when the first supplemental payments were actually made so that the newest supplemental payments to hospitals would be impacted first and so on.*

*2. The Department of Medical Assistance Services shall have the authority to implement reimbursement changes deemed necessary to meet the requirements of this paragraph prior to the completion of any regulatory process in order to effect such changes.*

*XXXX. Effective upon enactment of this act, the Department of Medical Assistance Services, in collaboration with the Department of Behavioral Health and Developmental Services, shall make sponsored residential services eligible for customized rates. The department may implement any changes necessary to implement this provision prior to the promulgation of regulations undertaken in order to effect such changes.*

*YYYY.1. Effective no later than January 1, 2019, the Department of Medical Assistance Services is authorized to require consumer-directed aides providing personal care, respite care and companion services in the Medicaid Elderly and Disabled with Consumer Direction (EDCD) and Developmental Disability waiver programs and the Early and Periodic Screening Diagnosis and Treatment (EPSDT) program to utilize an Electronic Visit Verification (EVV) system. The department is authorized to contract with a vendor to provide access to an EVV system for use by consumer-directed aides.*

*2. For personal care, respite care and companion services agencies, the department shall work with the appropriate stakeholders to develop standards for electronic visit verification systems and certification requirements to ensure EVV systems used by such agencies meet all federal requirements and are capable of providing the necessary data the department may require.*

*3. The department shall ensure that implementation of electronic visit verification complies with all requirements of the federal Centers of Medicare and Medicaid Services.*

*ZZZZ. Effective July 1, 2017, the Department of Medical Assistance Services shall amend the State Plan for Medical Assistance to increase the formula for indirect medical education (IME) for freestanding children's hospitals with greater than 50 percent Medicaid utilization in 2009 as a substitute for DSH payments. The formula for these hospitals for indirect medical education for inpatient hospital services provided to Medicaid patients but reimbursed by capitated managed care providers shall be identical to the formula for Type One hospitals. The IME payments shall continue to be limited such*

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<i>that total payments to freestanding children's hospitals with greater than 50 percent Medicaid utilization do not exceed the federal uncompensated care cost limit to which disproportionate share hospital payments are subject, excluding third party reimbursement for Medicaid eligible patients. The department shall have the authority to implement these changes effective July 1, 2017, and prior to completion of any regulatory action to effect such changes.</i>				
307.	Medical Assistance Services (Non-Medicaid) (46400).....		\$821,702	\$821,702
	Insurance Premium Payments for HIV-Positive Individuals (46403).....	\$556,702		\$556,702
	Reimbursements from the Uninsured Medical Catastrophe Fund (46405).....	\$265,000		\$265,000
	Fund Sources: General.....	\$781,702		\$781,702
	Dedicated Special Revenue.....	\$40,000		\$40,000
Authority:- §32.1-330.1 and §32.1-324.3, Code of Virginia.				
A. Out of this appropriation, \$556,702 the first year and \$556,702 the second year from the general fund shall be provided for insurance payment assistance to HIV-infected persons in accordance with § 32.1-330.1, Code of Virginia, except that the eligibility threshold for assistance shall allow a maximum income of no more than 250 percent of the federal poverty threshold.				
B. Out of this appropriation, \$225,000 the first year and \$225,000 the second year from the general fund shall be transferred to the Uninsured Medical Catastrophe Fund under § 32.1-324.3, Code of Virginia.				
308.	Medical Assistance Services for Low Income Children (46600).....		\$130,888,951 \$135,948,364	\$133,539,648 \$140,478,700
	Reimbursements for Medical Services Provided to Low-Income Children (46601).....	\$130,888,951 \$135,948,364		\$133,539,648 \$140,478,700
	Fund Sources: General.....	\$15,569,606 \$16,313,804		\$15,834,390 \$16,857,444
	Federal Trust.....	\$115,319,345 \$119,634,560		\$117,705,258 \$123,621,256
Authority: Title 32.1, Chapters 9, 10 and 13, Code of Virginia; P.L. 89-97, as amended, Titles XIX and XXI, Social Security Act, Federal Code.				
To the extent that appropriations in this Item are insufficient, the Department of Planning and Budget shall transfer general fund appropriation, as needed, from Children's Health Insurance Program Delivery (44600) and Medicaid Program Services (45600), if available, into this Item to be used as state match for federal Title XXI funds.				
309.	Medical Assistance Management Services (Forecasted) (49600).....		\$61,650,394 \$60,861,251	\$77,705,024 \$63,316,049
	Medicaid payments for enrollment and utilization related contracts (49601).....	\$58,189,991 \$57,406,098		\$74,230,019 \$59,969,846
	CHIP payments for enrollment and utilization related contracts (49632).....	\$3,460,403 \$3,455,153		\$3,475,005 \$3,346,203
	Fund Sources: General.....	\$21,701,895 \$21,197,151		\$29,502,577 \$22,450,685
	Federal Trust.....	\$39,948,499 \$39,664,100		\$48,202,447 \$40,865,364
To the extent that appropriations in this Item are insufficient, the Department of Planning and Budget, is authorized to transfer amounts, as needed, from Medicaid Program Services (45600), Medical Assistance Services for Low Income Children (46600) and Children's Health Insurance Program Delivery (44600), if available, into this Item to fund administrative				

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expenditures associated with contracts between the department and companies providing dental benefit services, consumer-directed payroll services, claims processing, behavioral health management services and disease state/chronic care programs for Medicaid and FAMIS recipients.				
310.	Administrative and Support Services (49900).....		\$215,996,052	\$226,373,684
			\$213,492,763	\$229,332,563
	General Management and Direction (49901).....	\$198,269,175	\$208,646,807	
		\$195,765,886	\$211,605,686	
	Information Technology Services (49902).....	\$14,895,620	\$14,895,620	
	Administrative Support for the Family Access to Medical Insurance Security Plan (49932).....	\$2,831,257	\$2,831,257	
	Fund Sources: General.....	\$60,065,774	\$61,175,772	
		\$57,862,485	\$61,063,111	
	Special.....	\$1,565,000	\$1,565,000	
	Federal Trust.....	\$154,365,278	\$163,632,912	
		\$154,065,278	\$166,704,452	

Authority: Title 32.1, Chapters 9 and 10, Code of Virginia; P.L. 89-97, as amended, Titles XIX and XXI, Social Security Act, Federal Code.

A.1. By November 1 of each year, the Department of Planning and Budget, in cooperation with the Department of Medical Assistance Services, shall prepare and submit a forecast of Medicaid expenditures, upon which the Governor's budget recommendations will be based, for the current and subsequent two years to the Chairmen of the House Appropriations and Senate Finance Committees.

2. The forecast shall be based upon current state and federal laws and regulations. Rebasing and inflation estimates that are required by existing law or regulation for any Medicaid provider shall be included in the forecast. The forecast shall also include an estimate of projected increases or decreases in managed care costs, including estimates regarding changes in managed care rates for the three-year period. In preparing for each year's forecast of the managed care portions of the budget, the department shall submit to its actuarial contractor a letter, with a copy sent to the Department of Planning and Budget and the Chairmen of the House Appropriations and Senate Finance Committees. This letter shall document the department's request for a point estimate of the rate of increase in rates, based on application of actuarial principals and methodologies and information available at the time of the forecast, that the contractor estimates will occur in the years being forecast, and shall specify the population groupings for which estimates are requested. The department shall request that the contractor reply in writing with a copy to all parties copied on the department's letter.

3. The Department of Planning and Budget and the Department of Medical Assistance Services shall convene a meeting on or before October 15 of each year with the appropriate staff from the House Appropriations and Senate Finance Committees to review current trends and the assumptions used in the Medicaid forecast prior to its finalization.

B. The Department of Medical Assistance Services shall submit monthly expenditure reports of the Medicaid program by service. The report for the month at the end of each quarter shall compare expenditures to the official Medicaid forecast, adjusted to reflect budget actions from each General Assembly Session. The monthly report shall be submitted to the Department of Planning and Budget and the Chairmen of the House Appropriations and Senate Finance Committees within 20 days after the end of each month and the quarterly report shall be submitted within 30 days after the end of the quarter.

C. Out of this appropriation, \$50,000 the first year and \$50,000 the second year from the special fund is appropriated to the Department of Medical Assistance Services for the administration of the disbursement of civil money penalties levied against and collected from Medicaid nursing facilities for violations of rules identified during survey and certification as required by federal law and regulation. Based on the nature and seriousness of the deficiency, the Agency or the Centers for Medicare and Medicaid Services may impose a civil money penalty, consistent with the severity of the violations,



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<p>federal Centers for Medicare and Medicaid, to require a Medicaid applicant to opt out if such applicant does not want to grant permission to the state to use his federal tax returns for the purposes of renewing eligibility. The Department shall implement the necessary regulatory changes and other necessary measures to be consistent with federal approval of any appropriate state plan changes, and prior to the completion of any regulatory process undertaken in order to effect such change.</p>				
<p><i>K.I.</i> It is the intent of the General Assembly that the Department of Medical Assistance Services provide more data regarding Medicaid and other programs operated by the department on their public website. The department shall create a central website that consolidates data and statistical information to make the information more readily available to the general public. At a minimum the information included on such website shall include monthly enrollment data, expenditures by service, and other relevant data.</p>				
<p><i>2. No later than June 30, 2018, the department shall make Medicaid and other agency data stored in the agency's data warehouse available through the department's website that includes, at a minimum, interactive tools for the user to select, display, manipulate and export requested data.</i></p>				
<p>L.1. Out of this appropriation, \$4,635,000 the first year and \$5,835,000 the second year from the general fund and \$41,715,000 the first year and \$52,515,000 the second year from nongeneral funds shall be provided to replace the Medicaid Management Information System.</p>				
<p>2. Within 30 days of awarding a contract or contracts related to the replacement project, the Department of Medical Assistance Services shall provide the Chairmen of the House Appropriations and Senate Finance Committees, and the Director, Department of Planning and Budget, with a copy of the contract including costs.</p>				
<p>3. Beginning July 1, 2016, the Department of Medical Assistance Services shall provide annual progress reports that must include a current project summary, implementation status, accounting of project expenditures and future milestones. All reports shall be submitted to the Chairmen of House Appropriations and Senate Finance Committees, and Director, Department of Planning and Budget.</p>				
<p>M. The Department of Medical Assistance Services, in collaboration with the departments of Behavioral Health and Developmental Services, Aging and Rehabilitative Services and Health, shall convene a work group with community stakeholders to: (i) recommend methods to improve data capture on the annual incidence of brain injury as defined in the Code of Virginia, and (ii) review expenditure data on Virginians with brain injury receiving care outside of the state, and evaluate options for providing for their care in the Commonwealth. The department shall report on efforts of the workgroup and any recommendations to the Chairmen of the House Appropriations and Senate Finance Committees by December 1, 2016.</p>				
<p>N. The Department of Medical Assistance Services shall report on the estimated number of Virginians who are eligible but not enrolled in the Virginia Medicaid program as of September 1 of each year.</p>				
<p>O.1. The Department of Medical Assistance Services, in collaboration with the Department of Social Services, shall require Medicaid eligibility workers to search for unreported assets at the time of initial eligibility determination and renewal, using all currently available sources of electronic data, including local real estate property databases and the Department of Motor Vehicles for all Medicaid applicants and recipients whose assets are subject to an asset limit under Medicaid eligibility requirements.</p>				
<p>2. The Department of Medical Assistance Services, in collaboration with the Department of Social Services, shall develop a plan to improve the Medicaid estate recovery program in the Commonwealth. The department shall evaluate all public and private resources and data sources available to proactively identify assets, including but not limited to real estate and financial assets, including those identified during the eligibility determination process and those that may not have been reported, of Medicaid recipients and all methods available to initiate recovery from estates for which the value of the assets is likely to</p>				

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	<p>exceed the cost of recovery. The department shall also include the cost of initiating and operating such a program with options that include developing an in-house program or contracting with a third party vendor to perform some or all of the identification and recovery. The study shall examine both the cost benefit and legal implications of the various options and also evaluate and propose changes, as may be needed, to the Code of Virginia that may assist in maximizing the recovery of assets of deceased Medicaid beneficiaries.</p>			
	<p>3. The department shall submit its findings and recommendations for developing an improved estate recovery program to the Governor and the Chairmen of the House Appropriations and Senate Finance Committees by December 1, 2016.</p>			
	<p>P. The Director, Department of Medical Assistance Services shall analyze pharmacy claims data from the past biennium in order to assess the value of payments made to the Medicaid program's contracted managed care plans, and the value of payments made by the contracted managed care plans to their contracted prescription benefit managers (PBMs). Additionally, the Director shall request and, if made available, analyze the value of payments made by the Medicaid program's managed care plans' contracted PBMs to network pharmacies for the same set of pharmacy claims. The Director shall identify and report any difference in value in payments made to the contracted PBMs, payments made to the contracted managed care plans, and if available, to network pharmacies and shall make recommendations to the Chairmen of the House Appropriations and Senate Finance Committees by October 1, 2016.</p>			
	<p>Q. Out of this appropriation, \$400,000 <del>the first year and \$800,000</del> the second year from the general fund and \$400,000 <del>the first year and \$800,000</del> the second year from nongeneral funds is provided to fund cost increases associated with contracts for actuarial and audit services. The Department of Planning and Budget shall unallot these funds on July 1 of each fiscal year, and shall not allot the funds until the Department of Medical Assistance Services provides documentation on the contract award amounts.</p>			
	<p><i>R. The Department of Medical Assistance Services, in collaboration with the Department of Behavioral Health and Developmental Services, shall convene a stakeholder workgroup, to meet at least once annually, with representatives of the Virginia Association of Community Services Boards, the Virginia Network of Private Providers, the Virginia Association of Centers for Independent Living, Virginia Association of Community Rehabilitation Programs (VaACCSES), the disAbility Law Center of Virginia, the ARC of Virginia, and other stakeholders including representative family members, as deemed appropriate by the Department of Medical Assistance Services. The workgroup shall: (i) review data from the previous year on the distribution of the SIS levels and tiers by region and by waiver; (ii) review the process, information considered, scoring, and calculations used to assign individuals to their levels and reimbursement tiers; (iii) review the communication which informs individuals, families, providers, case managers and other appropriate parties about the SIS tool, the administration, and the opportunities for review to ensure transparency; and (iv) review other information as deemed necessary by the workgroup. The department shall report on the results and recommendations of the workgroup to the General Assembly by October 1 of each year.</i></p>			
	<p><i>S. The Department of Medical Assistance Services shall notify the Director, Department of Planning and Budget, and the Chairmen of the House Appropriations and Senate Finance Committees at least 30 days prior to any change in capitated rates for managed care companies. The notification shall include the amount of the rate increase or decrease, and the projected impact on the state budget.</i></p>			
	<p><i>T.1. The Department of Medical Assistance Services (DMAS) shall take actions to improve the reliability of Medicaid eligibility screenings for long-term services and supports, including: (i) validation of the children's criteria used with the Uniform Assessment Instrument to determine eligibility for Medicaid long-term services and supports, and (ii) design and implementation of an inter-rater reliability test for the pre-admission screening process.</i></p>			
	<p><i>2. The department shall work with relevant stakeholders to (i) assess whether hospital screening teams are making appropriate recommendations regarding placement in institutional care or home and community-based care; (ii) determine whether hospitals should have a role in the screening process; and (iii) determine what steps must be taken to ensure the Uniform Assessment Instrument is implemented consistently and does not lead to unnecessary institutional placements.</i></p>			

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3. The department shall report to the General Assembly by December 1 on steps taken to address the risks associated with hospital screenings, including any statutory or regulatory changes needed to improve such screenings.

U.1. Effective January 1, 2018, the Department of Medical Assistance Services shall include in all its contracts with managed care organizations (MCOs) the following:

a. A provision requiring the MCOs to return one-half of the underwriting gain in excess of three percent of Medicaid premium income up to 10 percent. The MCOs shall return 100 percent of the underwriting gain above 10 percent.

b. A requirement for detailed financial and utilization reporting. The reported data shall include: (i) income statements that show expenses by service category; (ii) balance sheets; (iii) information about related-party transactions; and (iv) information on service utilization metrics.

c. Upon the inclusion of behavioral health care in managed care, behavioral health-specific metrics to identify undesirable trends in service utilization.

d. Upon the inclusion of behavioral health care in managed care, a report on their policies and processes for identifying behavioral health providers who provide inappropriate services and the number of such providers that are disenrolled.

2. For rate periods effective January 1, 2018 and thereafter, the Department of Medical Assistance Services shall direct its actuary as part of the rate setting process to:

a. Identify potential inefficiencies in the Medallion program and adjust capitation rates for expected efficiencies. The department is authorized to phase-in this adjustment over time based on the portion of identified inefficiencies that MCOs can reasonably reduce each year.

b. Monitor medical spending for related-party arrangements and adjust historical medical spending when deemed necessary to ensure that capitation rates do not cover excessively high spending as compared to benchmarks. Related-party arrangements shall mean those in which there is common ownership or control between the entities, and shall not include Medicaid payments otherwise authorized in this item.

c. Adjust capitation rates in the Medallion program to account for a portion of expected savings from required initiatives.

d. Allow negative historical trends in medical spending to be carried forward when setting capitation rates.

e. Annually rebase administrative expenses per member per month for projected enrollment changes.

f. Annually incorporate findings on unallowable administrative expenses from audits of MCOs into its calculations of underwriting gain and administrative loss ratios for the purposes of ongoing financial monitoring, including enforcement of the underwriting gain cap.

g. Adjust calculations of underwriting gain and medical loss ratio by classifying as profit medical spending that is excessively high due to related-party arrangements.

3. The Department of Medical Assistance Services shall report to the General Assembly on spending and utilization trends within Medicaid managed care, with detailed population and service information and include an analysis and report on the underlying reasons for these trends, the agency's and MCOs' initiatives to address undesirable trends, and the impact of those initiatives. The report shall be submitted each year by September 1.

4. The Department of Medical Assistance Services shall develop a proposal for cost sharing requirements based on family income for individuals eligible for long-term services and supports through the optional 300 percent of Supplemental Security Income eligibility category and submit the proposal to the Centers for Medicare and Medicaid

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*Services to determine if such a proposal is feasible. No cost sharing requirements shall be implemented unless approved by the General Assembly.*

*5. The Department of Medical Assistance Services shall assess and report on additional or different resources needed to implement recommendations in the Joint Legislative Audit and Review Committee (JLARC) report Managing Spending in Virginia's Medicaid Program. The department shall submit its report to the Chairmen of the House Appropriations and Senate Finance Committees no later than November 1, 2017.*

*6. The Department of Medical Assistance Services shall ensure that the capitation rates for the Commonwealth Coordinated Care Plus program for fiscal year 2018 are budget neutral and do not exceed the cost of care for the enrolled population than that which would have been incurred in the Medicaid fee-for-service program.*

*V. The Director, the Department of Medical Assistance Services, shall include language in all managed care contracts, for all department programming, requiring the plan sponsor to report quarterly, for all quarters through the one ending June 30, 2019, to the department for all pharmacy claims; the amount paid to the pharmacy provider per claim, including but not limited to cost of drug reimbursement; dispensing fees; copayments; and the amount charged to the plan sponsor for each claim by its pharmacy benefit manager. In the event there is a difference between these amounts, the plan sponsor shall report an itemization of all administrative fees, rebates, or processing charges associated with the claim. All data and information provided by the plan sponsor shall be kept secure; and notwithstanding any other provision of law, the department shall maintain the confidentiality of the proprietary information and not share or disclose the proprietary information contained in the report or data collected with persons outside the department. Only those department employees involved in collecting, securing and analyzing the data for the purpose of preparing the report shall have access to the proprietary data. The department shall provide a report using aggregated data only to the Chairmen of the House Appropriations and Senate Finance Committees on the implementation of this initiative and its impact on program expenditures by December 1, 2017. Nothing in the report to the Chairmen of the House Appropriations and Senate Finance Committees shall contain confidential or proprietary information.*

Total for Department of Medical Assistance Services.			<b>\$9,740,783,037</b>	<b>\$9,984,616,957</b>
			<b>\$9,923,368,296</b>	<b>\$10,352,984,821</b>
General Fund Positions.....	232.02	<del>232.02</del>		240.02
Nongeneral Fund Positions.....	241.98	<del>241.98</del>		249.98
Position Level.....	474.00	<del>474.00</del>		490.00
Fund Sources: General.....	\$4,411,533,662	\$4,547,698,514		
	\$4,450,859,097	\$4,729,698,510		
Special.....	\$1,565,000	\$1,565,000		
Dedicated Special Revenue.....	\$379,190,579	\$362,552,166		
	\$413,895,813	\$373,280,157		
Federal Trust.....	\$4,948,493,796	\$5,072,801,277		
	\$5,057,048,386	\$5,248,441,154		

**§ 1-95. DEPARTMENT OF BEHAVIORAL HEALTH AND DEVELOPMENTAL SERVICES (720)**

311.	Regulation of Public Facilities and Services (56100)..			\$3,710,365	\$3,710,365
	Regulation of Health Care Service Providers (56103).	\$3,710,365	\$3,710,365		
	Fund Sources: General.....	\$3,254,690	\$3,254,690		
	Special.....	\$95,864	\$95,864		
	Federal Trust.....	\$359,811	\$359,811		

Authority: Title 37.2, Chapter 4, Code of Virginia.

A. The department shall post on its Web site information concerning (i) any application for initial licensure of or renewal of a license, denial of an application for an initial license or renewal of a license, or issuance of provisional licensure of for any residential facility for

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	<p>children located in the locality and (ii) all inspections and investigations of any residential facility for children licensed by the department, including copies of any reports of such inspections or investigations. Information concerning inspections and investigations of residential facilities for children shall be posted on the department's Web site within seven days of the issuance of any report and shall be maintained on the department's website for a period of at least six years from the date on which the report of the inspection or investigation was issued.</p> <p>B. The Department of Behavioral Health and Developmental Services is authorized to certify individuals as peer <del>support</del>recovery specialists and shall promulgate emergency regulations to become effective within 280 days or less from the enactment of this act.</p>			
312.	<p>A. It is the intent of the General Assembly that the Department of Behavioral Health and Developmental Services proceed in transforming its system of care into a model that embodies best practices and state-of-the-art services. The consumer-driven system of services and supports shall promote self-determination, empowerment, recovery, resilience, health, and the highest possible level of consumer participation in all aspects of community life. The transformed system shall include investments in a suitable array and adequate quantity of community-based services, with an emphasis on consumer choice and the appropriate use of facility resources. State facilities shall be redesigned to ensure high quality care, efficient operation, and capacity necessary for persons most in need of such care. Amounts authorized herein, and in related legislation, shall be used to support the transformation of the system of care and to promote the provision of behavioral health and developmental services in the most efficient and appropriate setting. The Department of Behavioral Health and Developmental Services may consider the use of public-private partnerships to deliver behavioral health and intellectual disability services as part of the comprehensive behavioral health and intellectual disability system of care, in facilities that are being planned for renovation or replacement. These partnerships may include contracts with private entities for facility operations, unless the Department of Behavioral Health and Developmental Services can demonstrate that continued state operation of the facility is at least as cost effective and provides at least an equivalent or higher level quality care than operation by a private entity.</p> <p>B. Notwithstanding any law to the contrary, on July 1, of each year, the State Comptroller shall transfer to the general fund any <del>nongeneral</del>special revenue fund balance accumulated by the Department of Behavioral Health and Developmental Services; <del>except for federal grant funds</del>; in excess of <del>\$30,000,000</del>\$25,000,000.</p> <p>C.1. Notwithstanding §4-5.10, §4-5.09 of this Act and paragraph C. of § 2.2-1156, Code of Virginia, the Department of Behavioral Health and Developmental Services is hereby authorized to deposit the entire proceeds of the sales of surplus land at state-owned behavioral health and intellectual disability facilities into a revolving trust fund. The trust fund may initially be used for expenses associated with restructuring such facilities. Remaining proceeds after such expenses shall be dedicated to continuing services for current patients as facility services are restructured. Thereafter, the fund will be used to enhance services to individuals with mental illness, intellectual disability and substance abuse problems.</p> <p>2. Expenditures from the Behavioral Health and Developmental Services Trust Fund shall be subject to appropriation through an appropriations bill passed by the General Assembly.</p> <p>3. Any remaining balances in the Behavioral Health and Developmental Services Trust Fund shall be carried forward to the subsequent fiscal year.</p> <p>D. Any funds appropriated in this Act for the purpose of complying with the settlement agreement with the United States Department of Justice pursuant to civil action no: 3:12cv059-JAG that remain unspent at the end of the fiscal year may be carried forward into the subsequent fiscal year in order to continue implementation of the agreement's requirements.</p>			
313.	Administrative and Support Services (49900).....		\$79,395,894 \$78,005,357	\$78,724,596 \$78,026,064

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General Management and Direction (49901).....	\$13,374,001 \$12,695,336	\$13,374,921 \$12,445,389		
Information Technology Services (49902).....	\$26,945,594 \$25,933,722	\$26,246,863 \$26,046,863		
Architectural and Engineering Services (49904).....	\$2,660,847	\$2,660,847		
Collection and Locator Services (49905).....	\$2,999,764	\$2,999,764		
Human Resources Services (49914).....	\$494,989	\$494,989		
Program Development and Coordination (49933).....	\$32,920,699 \$33,220,699	\$32,947,212 \$33,378,212		
Fund Sources: General.....	\$46,331,797 \$44,941,260	\$45,537,580 \$44,639,048		
Special.....	\$14,454,916	\$14,509,445		
Federal Trust.....	\$18,609,181	\$18,677,571 \$18,877,571		

Authority: Title 16.1, Article 18, and Title 37.2, Chapters 2, 3, 4, 5, 6 and 7, and Title 2.2, Chapters 26 and 53 Code of Virginia; P.L. 102-119, Federal Code.

A. The Commissioner, Department of Behavioral Health and Developmental Services shall, at the beginning of each fiscal year, establish the current capacity for each facility within the system. When a facility becomes full, the commissioner or his designee shall give notice of the fact to all sheriffs.

B. The Commissioner, Department of Behavioral Health and Developmental Services shall work in conjunction with community services boards to develop and implement a graduated plan for the discharge of eligible facility clients to the greatest extent possible, utilizing savings generated from statewide gains in system efficiencies.

C. Notwithstanding § 4-5.09 of this act and paragraph C of § 2.2-1156, Code of Virginia, the Department of Behavioral Health and Developmental Services is hereby authorized to deposit the entire proceeds of the sales of surplus land at state-owned behavioral health and intellectual disability facilities into a revolving trust fund. The trust fund may initially be used for expenses associated with restructuring such facilities. Remaining proceeds after such expenses shall be dedicated to continuing services for current patients as facility services are restructured.

D. The Department of Behavioral Health and Developmental Services shall identify and create opportunities for public-private partnerships and develop the incentives necessary to establish and maintain an adequate supply of acute-care psychiatric beds for children and adolescents.

E. The Department of Behavioral Health and Developmental Services, in cooperation with the Department of Juvenile Justice, where appropriate, shall identify and create opportunities for public-private partnerships and develop the incentives necessary to establish and maintain an adequate supply of residential beds for the treatment of juveniles with behavioral health treatment needs, including those who are mentally retarded, aggressive, or sex offenders, and those juveniles who need short-term crisis stabilization but not psychiatric hospitalization.

F. Out of this appropriation, \$656,538 the first year and \$656,538 the second year from the general fund shall be provided for placement and restoration services for juveniles found to be incompetent to stand trial pursuant to Title 16.1, Chapter 11, Article 18, Code of Virginia.

G. Out of this appropriation, \$50,000 the first year and \$50,000 the second year from the general fund shall be used to pay for legal and medical examinations needed for individuals living in the community and in need of guardianship services.

H. Out of this appropriation, \$2,419,930 the first year and \$2,419,930 the second year from the general fund shall be provided for services for the civil commitment of sexually violent predators including the following: (i) clinical evaluations and court testimony for sexually violent predators who are being considered for release from state correctional facilities and who will be referred to the Clinical Review Committee for psycho-sexual evaluations prior to the state seeking civil commitment, (ii) conditional release services, including treatment, and (iii) costs associated with contracting with a Global Positioning System service to closely monitor the movements of individuals who are civilly committed to the sexually violent

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predator program but conditionally released.

I. Out of this appropriation, \$146,871 the first year and \$146,871 the second year from the general fund shall be used to operate a real-time reporting system for public and private acute psychiatric beds in the Commonwealth.

J. The Department of Behavioral Health and Developmental Services shall submit a report to the Governor and the Chairmen of the House Appropriations and Senate Finance Committees no later than December 1 of each year for the preceding fiscal year that provides information on the operation of Virginia's publicly-funded behavioral health and developmental services system. The report shall include a brief narrative and data on the numbers of individuals receiving state facility services or CSB services, including purchased inpatient psychiatric services, the types and amounts of services received by these individuals, and CSB and state facility service capacities, staffing, revenues, and expenditures. The annual report also shall describe major new initiatives implemented during the past year and shall provide information on the accomplishment of systemic outcome and performance measures during the year.

K. Out of this appropriation, \$500,000 the first year and \$500,000 the second year from the general fund shall be used for a comprehensive statewide suicide prevention program. The Commissioner of the Department of Behavioral Health and Developmental Services (DBHDS), in collaboration with the Departments of Health, Education, Veterans Services, Aging and Rehabilitative Services, and other partners shall develop and implement a statewide program of public education, evidence-based training, health and behavioral health provider capacity-building, and related suicide prevention activity.

L.1. Beginning October 1, 2013, the Commissioner of the Department of Behavioral Health and Developmental Services shall provide quarterly reports to the House Appropriations and Senate Finance Committees on progress in implementing the plan to close state training centers and transition residents to the community. The reports shall provide the following information on each state training center: (i) the number of authorized representatives who have made decisions regarding the long-term type of placement for the resident they represent and the type of placement they have chosen; (ii) the number of authorized representatives who have not yet made such decisions; (iii) barriers to discharge; (iv) the general fund and nongeneral fund cost of the services provided to individuals transitioning from training centers; and (v) the use of increased Medicaid reimbursement for congregate residential services to meet exceptional needs of individuals transitioning from state training centers.

2. At least six months prior to the closure of a state intellectual disabilities training center, the Commissioner of Behavioral Health and Developmental Services shall complete a comprehensive survey of each individual residing in the facility slated for closure to determine the services and supports the individual will need to receive appropriate care in the community. The survey shall also determine the adequacy of the community to provide care and treatment for the individual, including but not limited to, the appropriateness of current provider rates, adequacy of waiver services, and availability of housing. The Commissioner shall report quarterly findings to the Governor and Chairmen of the House Appropriations and Senate Finance Committees.

3. The department shall convene quarterly meetings with authorized representatives, families, and service providers in Health Planning Regions I, II, III and IV to provide a mechanism to (i) promote routine collaboration between families and authorized representatives, the department, community services boards, and private providers; (ii) ensure the successful transition of training center residents to the community; and (iii) gather input on Medicaid waiver redesign to better serve individuals with intellectual and developmental disability.

4. In the event that provider capacity cannot meet the needs of individuals transitioning from training centers to the community, the department shall work with community services boards and private providers to explore the feasibility of developing (i) a limited number of small community group homes or intermediate care facilities to meet the needs of residents transitioning to the community, and/or (ii) a regional support center to provide specialty services to individuals with intellectual and developmental disabilities whose medical, dental, rehabilitative or other special needs cannot be met by community

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providers. The Commissioner shall report on these efforts to the House Appropriations and Senate Finance Committees as part of the quarterly report, pursuant to paragraph L.1.				
M.1. A joint subcommittee of the House Appropriations and Senate Finance Committees, in collaboration with the Secretary of Health and Human Resources and the Department of Behavioral Health and Developmental Services, shall continue to monitor and review the closure plans for the three remaining training centers scheduled to close by 2020. As part of this review process the joint subcommittee may evaluate options for those individuals in training centers with the most intensive medical and behavioral needs to determine the appropriate types of facility or residential settings necessary to ensure the care and safety of those residents is appropriately factored into the overall plan to transition to a more community-based system. In addition, the joint subcommittee may review the plans for the redesign of the Intellectual Disability, Developmental Disability and Day Support Waivers.				
2. To assist the joint subcommittee, the Department of Behavioral Health and Developmental Services shall provide a quarterly accounting of the costs to operate and maintain each of the existing training centers at a level of detail as determined by the joint subcommittee. <del>The quarterly reports shall be submitted to the joint subcommittee 20 days after the close of each quarter.</del> <i>The quarterly reports for the first, second and third quarter shall be due to the joint subcommittee 20 days after the close of the quarter. The fourth quarter report shall be due on August 15 of each year.</i>				
N. The Department of Behavioral Health and Developmental Services in collaboration with the Department of Medical Assistance Services shall provide a detailed report for each fiscal year on the budget, expenditures, and number of recipients for each specific intellectual disability (ID) and developmental disability (DD) service provided through the Medicaid program or other programs in the Department of Behavioral Health and Developmental Services. This report shall also include the overall budget and expenditures for the ID, DD and Day Support waivers separately. The Department of Medical Assistance Services shall provide the necessary information to the Department of Behavioral Health and Developmental Services 90 days after the end of each fiscal year. This information shall be published on the Department of Behavioral Health and Developmental Services' website within 120 days after the end of each fiscal year.				
O. Effective July 1, 2015, the Department of Behavioral Health and Developmental Services shall not charge any fee to Community Services Boards or private providers for use of the knowledge center, an on-line training system.				
P. The Department of Behavioral Health and Developmental Services in collaboration with the Community Services Boards shall compile and report all available information regarding the services and support needs of the individuals on waiting lists for Intellectual and Developmental Disability (I/DD) waiver services, including an estimate of the number of graduates with I/DD who are exiting secondary education each fiscal year. The department shall submit a report to the Chairmen of the House Appropriations and Senate Finance Committees by December 1, 2015.				
Q.1. Out of this appropriation, \$400,000 the first year from the general fund is included to provide compensation to individuals who were involuntarily sterilized pursuant to the Virginia Eugenical Sterilization Act and who were living as of February 1, 2015. In addition, any funds carried over from House Bill 29 passed by the 2016 General Assembly from Item 307 T, shall also be used for this purpose.				
2. A claim may be submitted on behalf of an individual by a person lawfully authorized to act on the individual's behalf. A claim may be submitted by the estate of or personal representative of, an individual who dies on or after February 1, 2015.				
3. Reimbursement shall be contingent on the individual or their representative providing appropriate documentation and information to verify the claim under guidelines established by the department.				
4. Reimbursement per verified claim shall be \$25,000 and shall be contingent on funding being available, with disbursements being prioritized based on the date at which sufficient documentation is provided.				
5. Should the funding provided for compensation be exhausted prior to the end of fiscal year				

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2018, the department shall continue to collect applications. The department shall provide a report to the Governor and the Chairmen of the House Appropriations and Senate Finance Committees on a quarterly basis on the number of additional individuals who have been applied.

R. Out of this appropriation, \$600,000 the first year and \$600,000 the second year from the general fund shall be used to provide mental health first aid training and certification to recognize and respond to mental or emotional distress. Funding shall be used to cover the cost of personnel dedicated to this activity, training, manuals, and certification for all those receiving the training.

S. The Department of Behavioral Health and Developmental Services shall review and evaluate existing mental health dockets used by courts in the Commonwealth to develop a model that can be replicated in other courts and jurisdictions that determine a need for such a docket. As part of the review, the department shall evaluate mental health dockets in other states and incorporate best practices. The department shall include consideration for a specialty veterans mental health docket and the feasibility for such a docket to handle a population with unique needs. The evaluation shall also review funding practices of these dockets by courts or local governments. The department shall prepare a report on a model program and post it to their website no later than December 1, 2016, and provide notice of the report's availability to courts and local governments.

T.1. Out of this appropriation, up to \$100,000 the first year from the general fund is provided to the Department of Behavioral Health and Developmental Services to contract with an independent contractor to develop options for the General Assembly. Such contract shall consider the Commonwealth's options of how to operate the Central Virginia Training Center to provide care in the event that sufficient community capacity is not available or is insufficient to meet the care needs of individuals. The options developed shall focus on operating the facility by primarily utilizing the newly renovated buildings and include estimates on operating and capital costs and other operational changes necessary to operate such facility. The department, in collaboration with the Department of Planning and Budget (DPB), shall develop the Request for Proposals (RFP), if the RFP process is utilized. DPB shall review the proposals, along with the department, and no award shall be approved without the concurrence of DPB. If the RFP process is not used for any reason then DPB staff shall be jointly involved with the department in selecting the contractor and shall grant final approval before awarding the contract. The Department of Behavioral Health and Developmental Services shall provide all necessary information in a timely manner as requested by the contractor. The contract shall require the work to be completed and the plan submitted by December 1, 2016, to the Chairmen of the House Appropriations and Senate Finance Committees.

2. The Department of Behavioral Health and Developmental Services shall make available relevant information as requested by private entities considering possible submission of proposals in accordance with Chapter 22.1 of the Code of Virginia that are related to Central Virginia Training Center.

*U. Out of this appropriation, \$200,000 the second year from the federal State Targeted Response to the Opioid Crisis Grant is provided for the purchase of opioid overdose reversal kits and opioid antidotes.*

*V. The Department of Behavioral Health and Developmental Services shall provide a progress report on the implementation of the Developmentally Disabled Waiver programs to include information about the population served by the waivers, the level and reimbursement tier, and service utilization and expenses for (i) individuals who have used waiver services for less than one year and (ii) individuals who have used waiver services for 1-5 years. The department shall submit this report by October 15, 2017 to the Chairmen of the House Appropriations and Senate Finance Committees.*

*W. The Department of Behavioral Health and Developmental Services shall provide a report on the management and characteristics of individuals on the waiting list for services through the Developmentally Disabled Waiver programs. The report shall include (i) the age of individuals on the waiting list, and (ii) the number of individuals designated as Priority 1, 2 and 3 on the waiting list. The department shall submit this report by October 15, 2017 to the Chairmen of the House Appropriations and Senate Finance Committees.*

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<i>Finance Committees.</i>				
314.	Central Office Managed Community and Individual Health Services (44400).....		\$7,777,734	\$7,749,085
			\$6,890,358	\$10,749,085
	Individual and Developmental Disability Services (44401).....	\$4,627,734		\$4,599,085
		\$3,740,358		
	Mental Health Services (44402).....	\$3,150,000	\$3,150,000	\$6,150,000
			\$6,150,000	
	Fund Sources: General.....	\$7,777,734	\$7,749,085	
		\$6,890,358	\$10,749,085	
Authority: Title 16.1, Article 18, and Title 37.2, Chapters 2, 3, 4, 5, 6 and 7, and Title 2.2, Chapters 26 and 53 Code of Virginia; P.L. 102-119, Federal Code.				
A. Out of this appropriation, \$3,900,000 the first year and \$3,900,000 the second year from the general fund shall be used for Developmental Disability Health Support Networks in regions served, or previously served, by Southside Virginia Training Center, Northern Virginia Training Center, and Southwestern Virginia Training Center.				
B. Out of this appropriation, <del>\$629,005</del> \$216,700 the first year and <del>\$629,005</del> \$390,000 the second year from the general fund shall be used to provide community-based services to individuals transitioning from state training centers to community settings who are not eligible for Medicaid.				
C. Out of this appropriation, \$2,150,000 the first year and <del>\$2,150,000</del> \$5,150,000 the second year from the general fund shall be used for purchase of acute inpatient psychiatric services at private facilities.				
	Total for Department of Behavioral Health and Developmental Services.....		<del>\$90,883,993</del>	<del>\$90,184,046</del>
			\$88,606,080	\$92,485,514
	General Fund Positions.....	393.60	<del>393.60</del>	
			391.75	
	Nongeneral Fund Positions.....	29.40	<del>29.40</del>	
			29.25	
	Position Level.....	423.00	<del>423.00</del>	
			421.00	
	Fund Sources: General.....	\$57,364,221	\$56,541,355	
		\$55,086,308	\$58,642,823	
	Special.....	\$14,550,780	\$14,605,309	
	Federal Trust.....	\$18,968,992	<del>\$19,037,382</del>	
			\$19,237,382	
<b>Grants to Localities (790)</b>				
315.	Financial Assistance for Health Services (44500).....		\$397,442,984	\$397,606,524
			\$397,142,984	\$425,201,175
	Community Substance Abuse Services (44501).....	\$97,162,190		\$97,162,190
	Community Mental Health Services (44506).....	\$230,617,697	<del>\$230,617,697</del>	
			\$249,962,348	
	Community Developmental Disability Services (44507).....	\$69,663,097	\$69,826,637	
		\$69,363,097	\$78,076,637	
	Fund Sources: General.....	\$331,127,537	\$335,447,077	
		\$330,827,537	\$349,491,728	
	Dedicated Special Revenue.....	\$4,000,000	\$0	
			\$8,550,000	
	Federal Trust.....	\$62,315,447	<del>\$62,159,447</del>	
			\$67,159,447	

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Authority: Title 37.2, Chapters 5 and 6; Title 2.2, Chapter 53, Code of Virginia.				
A. It is the intent of the General Assembly that community mental health, intellectual disability and substance abuse services are to be improved throughout the state. Funds provided in this Item shall not be used to supplant the funding effort provided by localities for services existing as of June 30, 1996.				
B. Further, it is the intent of the General Assembly that funds appropriated for this Item may be used by Community Services Boards to purchase, develop, lease, or otherwise obtain, in accordance with §§ 37.2-504 and 37.2-605, Code of Virginia, real property necessary to the provision of residential services funded by this Item.				
C. Out of the appropriation for this Item, funds are provided to Community Services Boards in an amount sufficient to reimburse the Virginia Housing Development Authority for principal and interest payments on residential projects for the mentally disabled financed by the Housing Authority.				
D. The Department of Behavioral Health and Developmental Services shall make payments to the Community Services Boards from this Item in twenty-four equal semimonthly installments, except for necessary budget revisions or the operational phase-in of new programs.				
E. Failure of a board to participate in Medicaid covered services and to meet all requirements for provider participation shall result in the termination of a like amount of state grant support.				
F. Community Services Boards may establish a line of credit loan for up to three months' operating expenses to assure adequate cash flow.				
G. Out of this appropriation \$190,000 the first year and \$190,000 the second year from the general fund shall be provided to Virginia Commonwealth University for the continued operation and expansion of the Virginia Autism Resource Center.				
H.1. Out of this appropriation, \$15,525,327 the first year and \$16,320,367 the second year from the general fund shall be provided for Virginia's Part C Early Intervention System for infants and toddlers with disabilities.				
2. By November 15 of each year, the department shall report to the Chairmen of the House Appropriations and Senate Finance Committees on the (a) total revenues used to support Part C services, (b) total expenses for all Part C services, (c) total number of infants, toddlers and families served using all Part C revenues, and (d) services provided to those infants, toddlers, and families.				
I. Out of this appropriation \$6,148,128 the first year and \$6,148,128 the second year from the general fund shall be provided for mental health services for children and adolescents with serious emotional disturbances and related disorders, with priority placed on those children who, absent services, are at-risk for custody relinquishment, as determined by the Family and Assessment Planning Team of the locality. The Department of Behavioral Health and Developmental Services shall provide these funds to Community Services Boards through the annual Performance Contract. These funds shall be used exclusively for children and adolescents, not mandated for services under the Comprehensive Services Act for At-Risk Youth, who are identified and assessed through the Family and Assessment Planning Teams and approved by the Community Policy and Management Teams of the localities. The department shall provide these funds to the Community Services Boards based on an individualized plan of care methodology.				
J. The Commissioner, Department of Behavioral Health and Developmental Services shall allocate \$1,000,000 the first year and \$1,000,000 the second year from the federal Community Mental Health Services Block Grant for two specialized geriatric mental health services programs. One program shall be located in Health Planning Region II and one shall be located in Health Planning Region V. The programs shall serve elderly populations with mental illness who are transitioning from state mental health geriatric units to the community or who are at risk of admission to state mental health geriatric units. The commissioner is authorized to reduce the allocation in each year in an amount proportionate to any reduction in the federal Community Mental Health Services Block				

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Grant funds awarded to the Commonwealth.				
<p>K. The Commissioner, Department of Behavioral Health and Developmental Services shall allocate \$750,000 the first year and \$750,000 the second year from the federal Community Mental Health Services Block Grant for consumer-directed programs offering specialized mental health services that promote wellness, recovery and improved self-management. The commissioner is authorized to reduce the allocation in each year in an amount proportionate to any reduction in the federal Community Mental Health Services Block Grant funds awarded to the Commonwealth.</p>				
<p>L. Out of this appropriation, \$2,197,050 the first year and \$2,197,050 the second year from the general fund shall be used for jail diversion and reentry services. Funds shall be distributed to community-based contractors based on need and community preparedness as determined by the commissioner.</p>				
<p>M. Out of this appropriation, \$2,400,000 the first year and \$2,400,000 the second year from the general fund shall be used for treatment and support services for substance use disorders, including individuals with acquired brain injury and co-occurring substance use disorders. Funded services shall focus on recovery models and the use of best practices.</p>				
<p>N. Out of this appropriation, \$2,780,645 the first year and \$2,780,645 the second year from the general fund shall be used to provide outpatient clinician services to children with mental health needs. Each Community Services Board shall receive funding as determined by the commissioner to increase the availability of specialized mental health services for children. The department shall require that each Community Services Board receiving these funds agree to cooperate with Court Service Units in their catchment areas to provide services to mandated and nonmandated children, in their communities, who have been brought before Juvenile and Domestic Relations Courts and for whom treatment services are needed to reduce the risk these children pose to themselves and their communities or who have been referred for services through family assessment and planning teams through the Comprehensive Services Act for At-Risk Youth and Families.</p>				
<p>O. Out of this appropriation, \$17,701,997 the first year and \$17,701,997 the second year from the general fund shall be used to provide emergency services, crisis stabilization services, case management, and inpatient and outpatient mental health services for individuals who are in need of emergency mental health services or who meet the criteria for mental health treatment set forth pursuant to §§ 19.2-169.6, 19.2-176, 19.2-177.1, 37.2-808, 37.2-809, 37.2-813, 37.2-815, 37.2-816, 37.2-817 and 53.1-40.2 of the Code of Virginia. Funding provided in this item also shall be used to offset the fiscal impact of (i) establishing and providing mandatory outpatient treatment, pursuant to House Bill 499 and Senate Bill 246, 2008 Session of General Assembly; and (ii) attendance at involuntary commitment hearings by community services board staff who have completed the prescreening report, pursuant to §§ 19.2-169.6, 19.2-176, 19.2-177.1, 37.2-808, 37.2-809, 37.2-813, 37.2-815, 37.2-816, 37.2-817 and 53.1-40.2 of the Code of Virginia.</p>				
<p>P. Out of this appropriation, \$8,800,000 the first year and \$8,800,000 the second year from the general fund shall be used to provide community crisis intervention services in each region for individuals with intellectual or developmental disabilities and co-occurring mental health or behavioral disorders.</p>				
<p>Q. Out of this appropriation, \$1,900,000 the first year and \$1,900,000 the second year from the general fund shall be used to expand community-based services in Health Planning Region V. These funds shall be used for services intended to delay or deter placement, or provide discharge assistance for patients in a state mental health facility.</p>				
<p>R. Out of this appropriation, \$2,000,000 the first year and \$2,000,000 the second year from the general fund shall be used to expand crisis stabilization and related services statewide intended to delay or deter placement in a state mental health facility.</p>				
<p>S. Out of this appropriation, \$8,400,000 the first year and \$8,400,000 the second year from the general fund shall be used to provide child psychiatry and children's crisis response services for children with mental health and behavioral disorders. These funds, divided among the health planning regions based on the current availability of the services, shall be used to hire or contract with child psychiatrists who can provide direct clinical services, including</p>				

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crisis response services, as well as training and consultation with other children's health care providers in the health planning region such as general practitioners, pediatricians, nurse practitioners, and community service boards staff, to increase their expertise in the prevention, diagnosis, and treatment of children with mental health disorders. Funds may also be used to create new or enhance existing community-based crisis response services in a health planning region, including mobile crisis teams and crisis stabilization services, with the goal of diverting children from inpatient psychiatric hospitalization to less restrictive services in or near their communities. The Department of Behavioral Health and Developmental Services shall report on the use and impact of this funding to the Chairmen of the House Appropriations and Senate Finance Committees beginning on October 1, 2014 and each year thereafter.

T. Out of this appropriation, \$10,500,000 the first year and \$10,500,000 the second year from the general fund shall be used for up to 32 drop-off centers to provide an alternative to incarceration for people with serious mental illness and individuals with acquired brain injury and co-occurring serious mental health illness. Priority for new funding shall be given to programs that have implemented Crisis Intervention Teams pursuant to § 9.1-102 and § 9.1-187 et seq. of the Code of Virginia and have undergone planning to implement drop-off centers.

U. Out of this appropriation, \$1,250,000 the first year and \$1,250,000 the second year from the general fund shall be used to develop and implement crisis services for children with intellectual or developmental disabilities.

V. Out of this appropriation, \$2,652,500 the first year and ~~\$3,305,000~~\$5,805,000 the second year from the general fund shall be used to provide community-based services to individuals residing in state hospitals who have been determined clinically ready for discharge. Of this appropriation, \$652,500 the first year and \$1,305,000 the second year shall be allocated for individuals residing at Western State Hospital who are clinically ready for discharge.

W. Out of this appropriation, \$620,000 the first year and \$620,000 the second year from the general fund shall be used to expand access to telepsychiatry and telemedicine services.

X. Out of this appropriation, \$8,800,000 the first year and \$8,800,000 the second year from the general fund shall be used to implement nine new Programs of Assertive Community Treatment (PACT).

Y. Out of this appropriation, \$4,000,000 the first year and \$4,000,000 the second year from the general fund shall be used to increase availability of community-based mental health outpatient services for youth and young adults. The Department of Behavioral Health and Developmental Services shall report on the use and impact of this funding to the Chairmen of the House Appropriations and Senate Finance Committees on December 1, 2016.

Z. Out of this appropriation, \$500,000 the first year and \$500,000 the second year from the general fund shall be used to increase mental health inpatient treatment purchased in community hospitals. Priority shall be given to regions that exhaust available resources before the end of the year in order to ensure treatment is provided in the community and do not result in more restrictive placements.

AA. Out of this appropriation, \$4,270,500 the first year and ~~\$4,270,500~~ \$9,170,500 the second year from the general fund is provided for permanent supportive housing to support rental subsidies and services to be administered by community services boards or private entities to provide stable, supportive housing for persons with serious mental illness. The Department of Behavioral Health and Developmental Services shall report by October 1, 2016, the number of individuals being served through Permanent Supportive Housing, how the funds are allocated by organization, the average rental subsidy, and any available outcome-based data to determine effectiveness in preventing hospitalizations, incarceration or homelessness.

BB.1. Out of this appropriation, up to \$4,000,000 the first year shall be provided from the Behavioral Health and Developmental Services Trust Fund for one-time expenses related

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to developing housing options, specialized services and making capital improvements to enhance and expand services for individuals with intellectual and developmental disabilities. A minimum of 60 percent of the appropriation shall be used to build additional capacity in Northern Virginia for Virginia citizens with intensive behavioral and/or medical needs who currently are not able to access needed services or residential supports. The remaining funding shall be for projects that address the needs of individuals who are transitioning to the community from the Southwestern Virginia Training Center. Such projects shall be located in Virginia within 100 miles of the Southwestern Virginia Training Center. The Department of Behavioral Health and Developmental Services shall give preference to projects involving existing Virginia providers to expand service capacity.				
2. The Department of Behavioral Health and Developmental Services shall report on the use of the funds from the Trust Fund by December 1, 2016 to the Chairmen of the House Appropriations and Senate Finance Committees.				
3. Pursuant to language contained in Item 312, paragraph C., any unexpended funds in the Trust Fund shall remain in the Trust Fund and are subject to an appropriation in an appropriation bill passed by the General Assembly.				
CC. Out of this appropriation, \$400,000 the first year and \$400,000 the second year is provided for rental subsidies and associated costs for individuals served through the Rental Choice VA program.				
DD. Out of this appropriation, \$1,875,000 the first year and \$3,750,000 the second year from the general fund shall be used to implement a program of rental subsidies for individuals with intellectual and developmental disabilities.				
EE. Out of this appropriation, \$636,000 the first year and \$480,000 the second year from the Behavioral Health and Developmental Services Trust Fund is provided for the transitional costs of individuals moving from state intellectual disability training centers into alternate settings.				
FF. The Department of Behavioral Health and Developmental Services shall develop a plan to implement a performance based contracting system for funds provided by the department to the Community Services Boards. The department shall work with the boards to define performance and outcome measures; describe data collection, analysis and reporting requirements and processes; and identify a funding mechanism and the estimated costs, including any incentives and disincentives, of implementing the system. The department shall submit the plan for consideration to the Secretary of Health and Human Resources, the Secretary of Finance, and the chairmen of the House Appropriations and Senate Finance Committees by November 1, 2016.				
<i>GG. Out of this appropriation, \$4,895,651 the second year from the general fund shall be provided to Community Service Boards and Behavioral Health Authorities to implement same day access for community behavioral health services. The Department of Behavioral Health and Developmental Services shall report on the disbursement of the funds to the Governor and Chairmen of the House Appropriations and Senate Finance Committees no later than November 1, 2017, and on any results from the boards who implemented same day access and where other boards stand with respect to assessment, consultation, and implementation. Annually, thereafter on October 1, the department shall report to the Governor and Chairmen of the House Appropriations and Senate Finance Committees on the effectiveness and outcomes of the program funding.</i>				
<i>HH. Out of this appropriation, \$5,000,000 the second year from the federal State Targeted Response to the Opioid Crisis Grant is provided to increase access to medication assisted treatment for individuals with substance use disorders who are addicted to opioids. In expending this amount, the department shall ensure that preferred drug classes shall include non-narcotic, non-addictive, injectable prescription drug treatment regimens.</i>				
<i>II. Out of this appropriation, \$1,000,000 the second year from the general fund is provided for community detoxification and sobriety services for individuals in crisis.</i>				
<i>JJ. Out of this appropriation, \$880,000 the second year from the general fund is provided for one regional, multi-disciplinary team for older adults. This team shall provide clinical, medical, nursing, and behavioral expertise and psychiatric services to nursing facilities and</i>				

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<i>assisted living facilities.</i>				
<i>KK. Out of this appropriation, \$8,550,000 the second year is provided from the Behavioral Health and Developmental Services Trust Fund and shall be used for: (i) development of behavior/medical intense programs; (ii) subsidies for capital costs associated with rental units; (iii) establishment of a House Call Program in Northern Virginia; (iv) support for individual crisis events; and (v) development of providers in Virginia for individuals with intellectual and developmental disabilities with significant behavioral and mental health support needs.</i>				
Total for Grants to Localities.....			<b>\$397,442,984</b> <del>\$397,142,984</del>	<b>\$397,606,524</b> <del>\$425,201,175</del>
Fund Sources: General.....	\$331,127,537 \$330,827,537	\$335,447,077 \$349,491,728		
Dedicated Special Revenue.....	\$4,000,000	\$0 \$8,550,000		
Federal Trust.....	\$62,315,447	\$62,159,447 \$67,159,447		
<b>Mental Health Treatment Centers (792)</b>				
316. Instruction (19700).....			\$176,397	\$176,397
Facility-Based Education and Skills Training (19708).....	\$176,397	\$176,397		
Fund Sources: General.....	\$34,569	\$34,569		
Special.....	\$5,328	\$5,328		
Federal Trust.....	\$136,500	\$136,500		
Authority: §§ 37.2-312 and 37.2-713, Code of Virginia; P.L. 102-73 and P.L. 102-119, Federal Code.				
317. Secure Confinement (35700).....			\$20,667,330	\$20,667,330
Forensic and Behavioral Rehabilitation Security (35707).....	\$20,667,330	\$20,667,330		
Fund Sources: General.....	\$20,222,873	\$20,222,873		
Special.....	\$444,457	\$444,457		
Authority: Title 37.2, Chapter 9, Code of Virginia.				
318. Pharmacy Services (42100).....			\$18,108,411	<del>\$18,108,411</del> \$18,413,411
Inpatient Pharmacy Services (42102).....	\$18,108,411	<del>\$18,108,411</del> \$18,413,411		
Fund Sources: General.....	\$5,792,741	<del>\$5,792,741</del> \$6,097,741		
Special.....	\$12,315,670	\$12,315,670		
Authority: Title 37.2, Chapter 8, Code of Virginia.				
319. State Health Services (43000).....			<del>\$233,605,479</del> \$235,187,003	<del>\$233,763,146</del> \$237,150,871
Geriatric Care Services (43006).....	\$47,675,300	<del>\$47,675,300</del> \$48,149,747		
Inpatient Medical Services (43007).....	\$18,064,424	\$18,064,424		
State Mental Health Facility Services (43014).....	<del>\$167,865,755</del> \$169,447,279	<del>\$168,023,422</del> \$170,936,700		
Fund Sources: General.....	\$182,290,270 \$183,871,794	\$182,447,937 \$185,835,662		
Special.....	\$51,315,209	\$51,315,209		
Authority: Title 37.2, Chapters 1 through 11, Code of Virginia.				
A. Out of this appropriation, \$700,000 the first year and \$700,000 the second year from				

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<p>the general fund shall be used to continue operating up to 13 beds at Northern Virginia Mental Health Institute (NVMHI) that had been scheduled for closure in fiscal year 2013. The Commissioner of the Department of Behavioral Health and Developmental Services shall ensure continued operation of at least 123 beds.</p>				
<p>B. Out of this appropriation, \$2,500,000 the first year and \$2,500,000 the second year from the general fund shall be made available for the purchase of private inpatient geriatric mental health services and for Discharge Assistance Planning (DAP) funds. Out of the appropriation in the first year, \$652,500 shall be allocated for Discharge Assistance Planning funds for Western State Hospital. The Department of Behavioral Health and Developmental Services shall report <del>annually</del> <i>by November 1 of each year</i> to the Secretary of Finance and the Chairmen of the House Appropriations and Senate Finance Committees on the number of individuals served and the types of services provided.</p>				
<p>C.1. Out of this appropriation, up to \$450,000 the first year from the general fund shall be provided to the Department of Behavioral Health and Developmental Services to develop and issue a request for proposals to hire a contractor to develop a comprehensive plan for the publicly funded geropsychiatric system of care in Virginia. The plan shall address the appropriate array of community services and state geropsychiatric facility services upon which Virginia's behavioral health system should be modeled. The plan shall address relevant state and federal requirements as well as the need for the state to serve as the provider of last resort and forensic services. The plan shall include an assessment of: (i) the level of care required for individuals residing in state geropsychiatric facilities; (ii) current and historical admission and discharge trends by locality; (iii) the number of individuals on the Extraordinary Barriers List and others who may be clinically ready for discharge, and option to overcome the barriers to discharge; (iv) short and long-term inpatient psychiatric services capacity; (v) the availability of an appropriate array of community based services in each region served by the state geriatric hospitals; and (vi) models of care in other states that demonstrate best practices, integrated service delivery, and appropriate hospital services. The department shall include staff from the Department of Planning and Budget and the Department of Health on the RFP review and selection team.</p>				
<p>2. The plan shall be provided to the Governor and the Chairmen of the House Appropriations and Senate Finance Committees and the Joint Subcommittee to Study Mental Health Services in the Twenty-First Century by November 15, 2016.</p>				
<p>3. The Department of Planning and Budget shall unallot these funds on July 1, 2016 and shall not allot these funds until documentation is provided showing the contract award amount.</p>				
<p>D.1. Out of this appropriation up to \$250,000 the first year from the general fund shall be provided for the Department of Behavioral Health and Developmental Services to procure an independent contractor, with extensive experience in certification of health care facilities in accordance with federal requirements, to determine the necessary requirements and to assist staff at Eastern State Hospital in implementing such requirements to seek the appropriate Medicaid certification of all or a portion of the Hancock Geriatric Treatment Center. The department shall include staff from the Department of Planning and Budget and the Department of Health on the procurement review and selection team.</p>				
<p>2. Upon completion of the recommendations from the contractor and a determination that certification is feasible, the Department of Behavioral Health and Developmental Services shall seek and submit, when feasible, the appropriate application for Medicaid certification from the federal Centers for Medicare and Medicaid Services.</p>				
<p>3. The Commissioner shall report on the contract and the progress to obtain Medicaid certification of the Center to the Chairmen of the House Appropriation and Senate Finance Committee by December 1, 2016 and provide a final report upon determination of the certification decision from the federal Centers for Medicare and Medicaid Services.</p>				
320.	Facility Administrative and Support Services (49800).....		\$99,978,035	<del>\$100,086,672</del> \$100,223,494
	General Management and Direction (49801).....	\$45,284,894	<del>\$45,386,441</del> \$45,523,263	
	Information Technology Services (49802).....	\$4,464,339	\$4,471,429	

ITEM 320.	Item Details(\$)		Appropriations(\$)	
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Food and Dietary Services (49807).....	\$13,392,918	\$13,392,918		
Housekeeping Services (49808).....	\$7,987,526	\$7,987,526		
Linen and Laundry Services (49809).....	\$1,625,663	\$1,625,663		
Physical Plant Services (49815).....	\$20,487,841	\$20,487,841		
Power Plant Operation (49817).....	\$4,146,117	\$4,146,117		
Training and Education Services (49825).....	\$2,588,737	\$2,588,737		
Fund Sources: General.....	\$85,682,741	<del>\$85,772,122</del> \$85,908,944		
Special.....	\$14,231,794	\$14,251,050		
Federal Trust.....	\$63,500	\$63,500		

Authority: § 37.2-304, Code of Virginia.

A. Out of this appropriation, \$759,000 the first year and \$759,000 the second year from the general fund shall be used to ensure proper billing and maximum reimbursement for prescription drugs purchased by mental health treatment centers through the Medicare Part D drug program.

B. Notwithstanding § 37.2-319 of the Code of Virginia, the Commissioner shall prepare a plan to address the capital and programmatic needs of other state mental health facilities and state mental retardation training centers when considering expenditures from the trust fund. No less than 30 days prior to the expenditure of funds, the Commissioner shall present an expenditure plan to the Chairmen of the Senate Finance and House Appropriations Committees for their review and consideration.

321. Beginning August 1, 2014, and each year after, the Commissioner, Department of Behavioral Health and Developmental Services, shall report annually to the Secretary of Finance, and the Chairmen of House Appropriations and Senate Finance Committees the general fund and non general fund allocations and authorized position levels for each state-operated behavioral health facility. The report shall be made available on the agency's public website.

Total for Mental Health Treatment Centers.....			<del>\$372,535,652</del> \$374,117,176	<del>\$372,801,956</del> \$376,631,503
General Fund Positions.....	3,823.00	<del>3,823.00</del> 3,848.00		
Nongeneral Fund Positions.....	602.00	602.00		
Position Level.....	4,425.00	<del>4,425.00</del> 4,450.00		
Fund Sources: General.....	<del>\$294,023,194</del> \$295,604,718	<del>\$294,270,242</del> \$298,099,789		
Special.....	\$78,312,458	\$78,331,714		
Federal Trust.....	\$200,000	\$200,000		

**Intellectual Disabilities Training Centers (793)**

322. Instruction (19700).....			\$6,822,335	\$6,612,335
Facility-Based Education and Skills Training (19708).....	\$6,822,335	\$6,612,335		
Fund Sources: General.....	\$6,406,684	\$6,406,684		
Special.....	\$215,651	\$5,651		
Federal Trust.....	\$200,000	\$200,000		
Authority: Title 37.2, Chapter 3, Code of Virginia.				
323. Pharmacy Services (42100).....			\$6,971,298	\$6,831,298
Inpatient Pharmacy Services (42102).....	\$6,971,298	\$6,831,298		
Fund Sources: General.....	\$141,443	\$141,443		
Special.....	\$6,829,855	\$6,689,855		

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Authority: §§ 37.2-312 and 37.2-713, Code of Virginia; P.L. 102-119, Federal Code.				
324.	State Health Services (43000).....		\$112,911,518 \$110,411,518	\$106,964,635 \$104,464,635
	Inpatient Medical Services (43007).....	\$40,453,366		
	State Intellectual Disabilities Training Center Services (43010).....	\$72,458,152 \$69,958,152	\$67,211,269 \$64,711,269	
	Fund Sources: General.....	\$18,411,693 \$15,911,693	\$16,944,810 \$14,444,810	
	Special.....	\$94,499,825	\$90,019,825	
Authority: Title 37.2, Chapters 1 through 11, Code of Virginia.				
The Commissioner of Behavioral Health and Developmental Services shall comply with all relevant state and federal laws and Supreme Court decisions that govern the discharge of residents from state intellectual disability training centers and the granting of intellectual disability waiver slots.				
325.	Facility Administrative and Support Services (49800).....		\$73,432,055	\$71,324,976 \$71,188,154
	General Management and Direction (49801).....	\$17,388,489	\$16,541,410 \$16,404,588	
	Information Technology Services (49802).....	\$2,114,065	\$2,044,065	
	Food and Dietary Services (49807).....	\$15,584,487	\$15,234,487	
	Housekeeping Services (49808).....	\$10,143,226	\$9,933,226	
	Linen and Laundry Services (49809).....	\$2,599,812	\$2,529,812	
	Physical Plant Services (49815).....	\$16,617,224	\$16,197,224	
	Power Plant Operation (49817).....	\$7,286,142	\$7,216,142	
	Training and Education Services (49825).....	\$1,698,610	\$1,628,610	
	Fund Sources: General.....	\$9,738,179	\$9,765,963 \$9,629,141	
	Special.....	\$63,693,876	\$61,559,013	
Authority: Title 37.1, Chapters 1 and 2, Code of Virginia; P.L. 74-320, Federal Code.				
326.	Beginning August 1, 2014, and each year after, the Commissioner, Department of Behavioral Health and Developmental Services, shall report annually to the Secretary of Finance, and the Chairmen of House Appropriations and Senate Finance Committees the general fund and non general fund allocations and authorized position levels for each state-operated training center. The report shall be made available on the agency's public website.			
	Total for Intellectual Disabilities Training Centers.....		\$200,137,206 \$197,637,206	\$191,733,244 \$189,096,422
	General Fund Positions.....	1,154.00	1,154.00	
	Nongeneral Fund Positions.....	971.00	971.00	
	Position Level.....	2,125.00	2,125.00	
	Fund Sources: General.....	\$34,697,999 \$32,197,999	\$33,258,900 \$30,622,078	
	Special.....	\$165,239,207	\$158,274,344	
	Federal Trust.....	\$200,000	\$200,000	
<b>Virginia Center for Behavioral Rehabilitation (794)</b>				
327.	Instruction (19700).....		\$80,213 \$218,480	\$80,213 \$218,480
	Facility-Based Education and Skills Training (19708).....	\$80,213 \$218,480	\$80,213 \$218,480	

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Fund Sources: General.....	\$80,213 \$218,480	\$80,213 \$218,480		
328. Secure Confinement (35700).....			\$6,357,005 \$11,304,724	\$6,357,005 \$11,556,228
Forensic and Behavioral Rehabilitation Security (35707).....	\$6,357,005 \$11,304,724	\$6,357,005 \$11,556,228		
Fund Sources: General.....	\$6,357,005 \$11,304,724	\$6,357,005 \$11,556,228		
Authority: Title 37.2, Chapter 9, Code of Virginia.				
329. Pharmacy Services (42100).....			\$6,229,354 \$998,845	\$6,229,354 \$998,845
Inpatient Pharmacy Services (42102).....	\$6,229,354 \$998,845	\$6,229,354 \$998,845		
Fund Sources: General.....	\$6,229,354 \$998,845	\$6,229,354 \$998,845		
330. State Health Services (43000).....			\$6,770,222 \$9,633,569	\$6,770,222 \$9,633,569
State Mental Health Facility Services (43014).....	\$6,770,222 \$9,633,569	\$6,770,222 \$9,633,569		
Fund Sources: General.....	\$6,770,222 \$9,633,569	\$6,770,222 \$9,633,569		
Authority: Title 37.2, Chapters 1 and 9, Code of Virginia.				
331. Facility Administrative and Support Services (49800).....			\$15,992,008 \$13,273,184	\$15,999,871 \$13,331,348
General Management and Direction (49801).....	\$14,645,518 \$11,926,694	\$14,652,676 \$11,933,852		
Information Technology Services (49802).....	\$117,170	\$117,875		
Food and Dietary Services (49807).....	\$329,863	\$329,863		
Housekeeping Services (49808).....	\$50,185	\$50,185		
Physical Plant Services (49815).....	\$849,272	\$849,272		
Training and Education Services (49825).....	\$0	\$50,301		
Fund Sources: General.....	\$15,992,008 \$13,273,184	\$15,999,871 \$13,331,348		

Authority: Title 37.2, Chapters 1 through 11, Code of Virginia.

A. In the event that services are not available in Virginia to address the specific needs of an individual committed for treatment at the VCBR or conditionally released, or additional capacity cannot be met at the VCBR, the Commissioner is authorized to seek such services from another state.

B. The Department of Medical Assistance Services shall modify state regulations and the state plan for medical assistance, if necessary, to permit the commissioner of the Department of Behavioral Health and Developmental Services, or designee, to sign the Medicaid application form for any resident of the Virginia Center for Behavioral Rehabilitation who refuses, or is unable, to sign for the purposes of Medicaid reimbursement for eligible residents. The Department of Medical Assistance Services shall have the authority to implement these changes prior to the completion of any regulatory process undertaken to effect such change.

C. Notwithstanding any other provision of this act, the Director, Department of Planning and Budget, shall not transfer operating appropriations to the Virginia Center for Behavioral Rehabilitation from any other sub-agency within the Department of Behavioral Health and Developmental Services unless such transfer is related to a distribution of amounts budgeted in central appropriations or for the purpose of funding special hospitalization costs.

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D. The Department of Behavioral Health and Developmental Services shall review and develop options to reduce the census growth and potential need for additional bed capacity at the Virginia Center for Behavioral Rehabilitation. As part of this review the department shall evaluate alternative options such as greater use of conditional release for individuals in order to reduce the future need to increase the physical capacity of the facility. The department shall report its findings to the Chairmen of the House Appropriations and Senate Finance Committees by November 1, 2016.				
Total for Virginia Center for Behavioral Rehabilitation.....			\$35,428,802	\$35,436,665 \$35,738,470
General Fund Positions.....	564.50	564.50 576.50		
Position Level.....	564.50	564.50 576.50		
Fund Sources: General.....	\$35,428,802	\$35,436,665 \$35,738,470		
Grand Total for Department of Behavioral Health and Developmental Services.....			\$1,096,428,637 \$1,092,932,248	\$1,087,762,435 \$1,119,153,084
General Fund Positions.....	5,935.10	5,935.10 5,970.25		
Nongeneral Fund Positions.....	1,602.40	1,602.40 1,602.25		
Position Level.....	7,537.50	7,537.50 7,572.50		
Fund Sources: General.....	\$752,641,753 \$749,145,364	\$754,954,239 \$772,594,888		
Special.....	\$258,102,445	\$251,211,367		
Dedicated Special Revenue.....	\$4,000,000	\$0 \$8,550,000		
Federal Trust.....	\$81,684,439	\$81,596,829 \$86,796,829		

**§ 1-96. DEPARTMENT FOR AGING AND REHABILITATIVE SERVICES (262)**

332.	Rehabilitation Assistance Services (45400).....			\$106,813,335 \$106,538,335	\$106,813,335 \$106,568,178
	Vocational Rehabilitation Services (45404).....	\$88,925,966 \$88,650,966	\$88,925,966 \$88,915,305		
	Community Rehabilitation Programs (45406).....	\$17,887,369	\$17,887,369 \$17,652,873		
	Fund Sources: General.....	\$32,442,747 \$32,167,747	\$32,442,747 \$32,197,590		
	Special.....	\$819,356	\$819,356		
	Dedicated Special Revenue.....	\$997,123	\$997,123		
	Federal Trust.....	\$72,554,109	\$72,554,109		

Authority: Title 51.5, Chapter 14 , Code of Virginia; P.L. 93-112, Federal Code.

A.1. Out of this appropriation, \$8,984,358 the first year and \$8,984,358 the second year from the general fund shall be used as state matching dollars for the federal Vocational Rehabilitation State Grant provided under the Rehabilitation Act of 1973, as amended, hereafter referred to as the federal vocational rehabilitation grant. The Department for Aging and Rehabilitative Services (DARS) shall not transfer or expend these dollars for any purpose other than to support activities related to vocational rehabilitation.

2. The annual federal vocational rehabilitation grant award that will be received by DARS is estimated at \$57,165,260 for federal fiscal year 2016; \$57,165,260 for federal fiscal year 2017; and \$57,165,260 for federal fiscal year 2018. In addition to the base annual award amount, DARS is expected to request up to \$10,524,396 of additional federal allotment

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	dollars in each of these years. Assuming these amounts, the annual 21.3 percent state matching requirement would equate to \$18,320,072 for federal fiscal year 2016; \$18,320,072 for federal fiscal year 2017; and \$18,320,072 for federal fiscal year 2018.			
	3. Based on the projection of federal award funding in paragraph A.2., DARS shall not request federal vocational rehabilitation grant dollars in excess of \$67,689,656 for federal fiscal year 2016; \$67,689,656 for federal fiscal year 2017; and \$67,689,656 for federal fiscal year 2018, without prior written concurrence from the Director, Department of Planning and Budget. Any approved increases in grant award requests shall be reported by DARS to the Chairmen of the House Appropriations and Senate Finance Committees within 30 days.			
	B. Out of this appropriation, \$1,132,073 the first year and \$1,132,073 the second year from the general fund shall be used to provide vocational rehabilitation services for persons recovering from mental health issues, alcohol and other substance abuse issues pursuant to an interagency agreement between the Department of Behavioral Health and Developmental Services and the Department for Aging and Rehabilitative Services.			
	C. The Department for Aging and Rehabilitative Services shall use non-federal appropriation in this item to fulfill any necessary match requirement for the federal Supported Employment grant.			
	D. Out of this appropriation, \$2,658,198 the first year and \$2,658,198 the second year from the general fund is provided for the Extended Employment Services (EES) program.			
	E. Out of this appropriation, <del>\$6,055,229</del> \$5,880,229 the first year and <del>\$6,055,229</del> \$6,044,568 the second year from the general fund is provided for the Long Term Employment Support Services (LTESS) program.			
	F. Recovery of administrative costs for the Long Term Employment Support Services program shall be limited to 1.87 percent <i>the first year and 1.70 percent the second year.</i> <del>each fiscal year.</del>			
	G. In allocating funds for Extended Employment Services, Long Term Employment Support Services (LTESS) and Economic Development, the Department for Aging and Rehabilitative Services shall consider recommendations from the established Employment Service Organizations/LTESS Steering Committee.			
	H. Of this appropriation, <del>\$200,000</del> \$100,000 the first year and \$200,000 the second year from the general fund shall be used to contract with Didlake Inc., for the purpose of extended employment services and Long Term Employment Support Services for people with disabilities.			
	I. A minimum of <del>\$4,682,021</del> \$4,745,136 the first year and \$4,682,021 the second year from all funds is allocated to support Centers for Independent Living.			
	J. The Department for Aging and Rehabilitative Services shall fulfill the administrative responsibilities pertaining to the Personal Attendant Services program, without interruption or discontinuation of personal attendant services currently provided.			
	K. Out of this appropriation, it is estimated that \$2,349,933 the first year and \$2,349,933 the second year from the general fund shall be used for personal assistance services for individuals with disabilities.			
	L.1. Out of this appropriation, \$5,433,981 the first year and \$5,433,981 the second year from the general fund shall be provided for expanding the continuum of services used to assist persons with brain injuries in returning to work and community living.			
	2. Of this amount, \$1,830,000 the first year and \$1,830,000 the second year from the general fund shall be used to provide a continuum of brain injury services to individuals in unserved or underserved regions of the Commonwealth. Up to \$150,000 each year shall be awarded to successful program applicants. Programs currently receiving more than \$250,000 from the general fund each year are ineligible for additional assistance under this section. To be determined eligible for a grant under this section, program applicants shall submit plans to pursue non-state resources to complement the provision of general			

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fund support.

3. Of this amount, \$285,000 the first year and \$285,000 the second year shall be provided from the general fund to support direct case management services for brain injured individuals and their families in Southwestern Virginia.

4. Of this amount, \$150,000 the first year and \$150,000 the second year from the general fund shall be used to support case management services for individuals with brain injuries in unserved or underserved regions of the Commonwealth.

5. In allocating additional funds for brain injury services, the Department for Aging and Rehabilitative Services shall consider recommendations from the Virginia Brain Injury Council (VBIC).

6. The Department for Aging and Rehabilitative Services (DARS) shall submit an annual report to the Chairmen of the Senate Finance and House Appropriations Committees documenting the number of individuals served, services provided, and success in attracting non-state resources.

M.1. For Commonwealth Neurotrauma Initiative Trust Fund grants awarded after July 1, 2004, the commissioner shall require applicants to submit a plan to achieve self-sufficiency by the end of the grant award cycle in order to receive funding consideration.

2. Notwithstanding any other law to the contrary, the commissioner may reallocate up to \$500,000 from unexpended balances in the Commonwealth Neurotrauma Initiative Trust Fund to fund new grant awards for research on traumatic brain and spinal cord injuries.

N. Out of this appropriation, \$388,279 the first year and ~~\$388,279~~ \$351,242 the second year from the general fund shall be allocated to the Long-Term Rehabilitation Case Management Services Program.

O. Every county and city, either singly or in combination with another political subdivision, may establish a local disability services board to provide input to state agencies on service needs and priorities of persons with physical and sensory disabilities, to provide information and resource referral to local governments regarding the Americans with Disabilities Act, and to provide such other assistance and advice to local governments as may be requested.

P. The Department for Aging and Rehabilitative Services shall report on its progress toward implementing the "Interdisciplinary Memory Assessment Clinics with Dementia Care Management" (IMACDCM) as described in the Dementia State Plan. The report shall include the outcomes of the federal "Family Access to Memory Impairment and Loss Information, Engagement and Supports" (ADSSP grant), the "Dementia Specialized Supportive Services Project" (ADI-SSS grant) and any other relevant data with recommendations for further implementation of IMACDCM. The department shall consult with relevant stakeholders in preparing the report. The department shall provide the report to the Chairmen of the House Appropriations and Senate Finance Committees on December 1, 2016.

333.	Individual Care Services (45500).....			\$34,008,218	\$34,819,218
				\$32,918,399	\$35,559,218
	Financial Assistance for Local Services to the Elderly (45504).....	\$29,900,287	\$29,650,287		
		\$28,860,468	\$30,390,287		
	Rights and Protection for the Elderly (45506).....	\$4,107,931	\$5,168,931		
		\$4,057,931			
	Fund Sources: General.....	\$14,252,403	\$15,063,403		
		\$13,162,584	\$15,803,403		
	Special.....	\$60,000	\$60,000		
	Dedicated Special Revenue.....	\$200,000	\$200,000		
	Federal Trust.....	\$19,495,815	\$19,495,815		

Authority: Title 2.2, Chapter 7, Code of Virginia.

A. Out of this appropriation, \$456,209 the first year and \$456,209 the second year from the general fund shall be provided to continue a statewide Respite Care Initiative program for the elderly and persons suffering from Alzheimer's Disease.

ITEM 333.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
<p>B.1. Out of this appropriation, \$1,476,733 the first year and \$1,726,733 the second year from the general fund shall be provided to support local and regional programs of the Virginia Public Guardian and Conservator Program. This funding is estimated to provide 407 client slots the first year and 457 client slots the second year for unrestricted guardianship services.</p>				
<p>2. Out of this appropriation, \$125,500 the first year and \$125,500 the second year from the general fund shall be used to provide services through the Virginia Public Guardian and Conservator Program for individuals with mental illness or intellectual disability (ID). This funding is estimated to provide 40 client slots each year for guardianship services for individuals with mental illness or ID.</p>				
<p>3. Out of this appropriation, \$1,495,600 the first year and \$1,970,600 the second year from the general fund shall be used to provide services through the Virginia Public Guardian and Conservator Program for individuals with intellectual disabilities (ID) and developmental disabilities (DD). This funding shall be expended pursuant to an interagency agreement between the Department of Behavioral Health and Developmental Services (DBHDS) and the Department for Aging and Rehabilitative Services. This funding is estimated to provide 359 client slots the first year and 454 client slots the second year for guardianship services for individuals with ID/DD, as authorized by DBHDS.</p>				
<p>4. Out of this appropriation, \$350,000 the first year and \$686,000 the second year from the general fund shall be used to provide services through the Virginia Public Guardian and Conservator Program for individuals with mental illness. This funding shall be expended pursuant to an interagency agreement between the Department of Behavioral Health and Developmental Services (DBHDS) and the Department for Aging and Rehabilitative Services. This funding is estimated to provide 50 client slots the first year and 98 client slots the second year for guardianship services for individuals with mental illness, as authorized by DBHDS.</p>				
<p>C.1. The 18, <i>and in fiscal year 2018</i>, 25 Area Agencies on Aging that are authorized to use funding for the Care Coordination for the Elderly Program, shall be authorized to use funding to conduct a program providing mobile, brief intervention and service linking as a form of care coordination. The Department for Aging and Rehabilitative Services, in collaboration with the Area Agencies on Aging, shall analyze the resulting impact in these agencies and determine if this model of service delivery is an appropriate and beneficial use of these funds.</p>				
<p>2. The Department for Aging and Rehabilitative Services, in collaboration with the 18, <i>and in fiscal year 2018</i>, 25 Area Agencies on Aging (AAAs) that are authorized to use funding for the Care Coordination for Elderly Program, shall examine and analyze existing state and national care coordination models to determine best practice models. The department and designated AAAs shall determine which models of service delivery are appropriate and demonstrate beneficial use of these funds and develop the accompanying service standards. Each AAA receiving care coordination funding shall submit its plan for care coordination with the annual area plan.</p>				
<p>D. Area Agencies on Aging shall be designated as the lead agency in each respective area for No Wrong Door.</p>				
<p>E. The Department for Aging and Rehabilitative Services shall (i) recommend strategies to coordinate services and resources among agencies involved in the delivery of services to Virginians with dementia; (ii) monitor the implementation of the Dementia State Plan; (iii) recommend policies, legislation, and funding needed to implement the Plan; (iv) collect and monitor data related to the impact of dementia on Virginians; and (v) determine the services, resources, and policies that may be needed to address services for individuals with dementia.</p>				
<p>F. Out of this appropriation, \$201,875 the first year and \$201,875 the second year from the general fund shall be provided to support the distribution of comprehensive health and aging information to Virginia's senior population, their families and caregivers.</p>				
<p>G. Out of this appropriation, \$250,000 the first year and \$250,000 the second year from</p>				

ITEM 333.	Item Details(\$)		Appropriations(\$)	
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<p>the general fund shall be provided for the Pharmacy Connect Program in Southwest Virginia, administered by Mountain Empire Older Citizens, Inc.</p> <p>H. Out of this appropriation, <del>\$100,000</del> \$50,000 the first year and \$100,000 the second year from the general fund shall be used to contract with the Jewish Social Services Agency to provide assistance to low-income seniors who have experienced trauma.</p> <p>I. Out of this appropriation, \$250,000 the first year from the general fund is provided to contract with Bay Aging to be used as bridge funding to support the Eastern Virginia Care Transitions Partnership program.</p> <p><i>J. Out of this appropriation, \$250,000 the second year from the general fund shall be provided to contract with Birmingham Green to provide residential services to low-income, disabled individuals.</i></p>				
334.	Nutritional Services (45700).....		\$22,019,603	\$22,019,603
	Meals Served in Group Settings (45701).....	\$9,521,747		
	Distribution of Food (45702).....	\$424,342		
	Delivery of Meals to Home-Bound Individuals (45703).....	\$12,073,514		
	Fund Sources: General.....	\$6,278,648		
	Federal Trust.....	\$15,740,955		
<p>Authority: Title 2.2, Chapter 7, Code of Virginia.</p> <p>Home delivered meals shall not require cost-sharing until such time as federal law permits cost-sharing with Older Americans Act funding.</p>				
335.	<p>A. Area Agencies on Aging are encouraged to continue seeking funds from a variety of sources which include cost-sharing in programs where not prohibited by funding sources; private sector voluntary contributions from older persons receiving services; families of individuals receiving services; and churches, service groups and other organizations. Such appropriations shall not be included in the appropriations used to match Older Americans Act funding. Revenue generated as a result of these projects shall be retained by the participating area agencies for use in meeting critical care needs of older Virginians. These revenues shall supplement, not supplant, general fund resources.</p> <p>B. It is the intent of the General Assembly that all Area Agencies on Aging use any new general fund revenue, with the exception of funding provided for the Long-term Care Ombudsman program, to implement sliding fees for services. However, priority for services should be given to applicants in the greatest need, regardless of ability to pay. Revenue from fees shall be retained by the Area Agencies on Aging for use in meeting critical care needs of older Virginians. These revenues shall supplement, not supplant, general fund resources.</p> <p>C. It is the intent of the General Assembly that Older Americans Act funds and general fund moneys be targeted to services which can assist the elderly to function independently for as long as possible. Area Agencies on Aging may use general fund moneys for consumer-directed services.</p> <p>D. At the request of the Commissioner, Department for Aging and Rehabilitative Services, the Director, Department of Planning and Budget may transfer state general fund appropriations for services provided by Area Agencies on Aging between service categories. The amounts to be transferred between categories shall not exceed 40 percent of the total state general fund appropriations allocated for each category. Under no circumstances shall any funds be transferred from direct services to administration. State general fund appropriations shall be available to the area agencies on aging beginning July 1 of each year of the biennium, in compliance with the department's General Fund Cash Management Policy.</p>			
336.	Continuing Income Assistance Services (46100).....		<del>\$53,813,677</del> \$53,733,297	\$53,652,917
	Social Security Disability Determination (46102).....	<del>\$53,813,677</del> \$53,733,297		

ITEM 336.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
Fund Sources: General.....	\$1,545,498 \$1,465,118	\$1,465,118		
Special.....	\$150,000	\$150,000		
Federal Trust.....	\$52,118,179	\$52,037,799		

Authority: Title 51.5, Chapter 14, Code of Virginia; Titles II and XVI, P.L. 74-271, Federal Code.

A. The Department for Aging and Rehabilitative Services, in cooperation with the Department of Social Services and local social services agencies, shall develop an expedited process for transitioning hospitalized persons to rehabilitation facilities when the patient may meet the criteria established by the Social Security Administration (SSA) and Medicaid for disability. As part of this expedited process, the Department for Aging and Rehabilitative Services (DARS) shall make Medicaid disability determinations within seven business days of the receipt of social service referrals, when the referrals include sufficient evidence that appropriately documents SSA's definition of disability. If the referrals do not contain sufficient documentation of disability, DARS shall continue to expedite processing of these priority referrals under Medicaid regulations.

B. The general fund appropriation in this item shall only be used for the state match of Medicaid disability determinations and for no other purpose.

337. Administrative and Support Services (49900).....			\$20,231,285 \$20,136,911	\$20,251,762 \$20,813,066
General Management and Direction (49901).....	\$8,348,196 \$8,253,822	\$8,348,317 \$8,215,712		
Information Technology Services (49902).....	\$6,619,507	\$6,639,863		
Planning and Evaluation Services (49916).....	\$280,396	\$280,396		
Program Development and Coordination (49933)....	\$4,983,186	\$4,983,186 \$5,677,095		
Fund Sources: General.....	\$2,544,711 \$2,450,337	\$2,549,722 \$2,715,902		
Special.....	\$11,222,480	\$11,222,480		
Federal Trust.....	\$6,464,094	\$6,479,560 \$6,874,684		

Authority: Title 51.5, Chapter 14, Code of Virginia; P.L. 93-112, Federal Code.

A. 1. Out of this appropriation, \$227,196 the first year and \$227,196 the second year from the general fund shall be used to administer and oversee public guardianship programs and for no other purpose.

2. Of this amount, \$88,350 the first year and \$88,350 the second year shall be used to support the administrative costs associated with serving individuals pursuant to interagency agreements for the provision of public guardianship services between the Department of Behavioral Health and Developmental Services (DBHDS) and the Department for Aging and Rehabilitative Services.

B. Out of this appropriation, up to \$5,000 the first year and \$5,000 the second year from the general fund shall be provided to support activities of the Virginia Public Guardianship and Conservator Program Advisory Board, including but not limited to, paying expenses for the members to attend four meetings per year.

C. Out of this appropriation, \$87,338 the first year and \$87,338 the second year from the general fund is provided to support a position dedicated to monitoring and auditing the auxiliary grant (AG) program. The department shall provide an annual report on AG oversight findings and activities to the Director, Department of Planning and Budget and Chairmen of the House Appropriations and Senate Finance Committees by October 1 of each year.

D. By August 1 of each year, the Department for Aging and Rehabilitative Services (DARS) shall report, for each month of the previous fiscal year, the number of Auxiliary Grant recipients living in a supportive housing setting. This information shall be reported to the Director, Department of Planning and Budget and Chairmen of the House

ITEM 337.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
<i>Appropriations and Senate Finance Committees.</i>				
<i>E. Out of this appropriation, \$395,124 the second year from the general fund and \$395,124 the second year from federal matching funds is provided for eight full-time and one part-time positions to support the Medicaid Managed Long Term Services and Supports (MLTSS) program.</i>				
338.	Included in the Federal Trust appropriation are amounts estimated at \$361,526 the first year and \$361,526 the second year, to pay for statewide indirect cost recoveries of this agency. Actual recoveries of statewide indirect costs up to the level of these estimates shall be exempt from payment into the general fund, as provided by § 4-2.03 of this act. Amounts recovered in excess of these estimates shall be deposited to the general fund.			
	Total for Department for Aging and Rehabilitative Services.....		<b>\$236,886,118</b> <b>\$235,346,545</b>	<b>\$237,556,835</b> <b>\$238,612,982</b>
	General Fund Positions.....	77.09 72.09		
	Nongeneral Fund Positions.....	932.93 935.93		
	Position Level.....	1,010.02 1,008.02		
	Fund Sources: General.....	<del>\$57,064,007</del> \$55,524,434	\$57,799,638 \$58,460,661	
	Special.....	\$12,251,836	\$12,251,836	
	Dedicated Special Revenue.....	\$1,197,123	\$1,197,123	
	Federal Trust.....	\$166,373,152	<del>\$166,308,238</del> \$166,703,362	
<b>Wilson Workforce and Rehabilitation Center (203)</b>				
339.	Rehabilitation Assistance Services (45400).....		<del>\$12,369,931</del> \$12,840,834	<del>\$12,369,931</del> \$12,978,931
	Vocational Rehabilitation Services (45404).....	<del>\$6,253,066</del> \$6,691,969	\$6,253,066 \$6,830,066	
	Medical Rehabilitative Services (45405).....	<del>\$6,116,865</del> \$6,148,865	\$6,116,865 \$6,148,865	
	Fund Sources: General.....	<del>\$2,761,946</del> \$2,623,849	\$2,761,946	
	Special.....	<del>\$9,537,985</del> \$10,207,985	\$9,537,985 \$10,207,985	
	Federal Trust.....	<del>\$70,000</del> \$9,000	\$70,000 \$9,000	
Authority: Title 51.5, Chapter 14, Code of Virginia; P.L. 89-313, P.L. 93-112, P.L. 94-482 and P.L. 95-602, Federal Code.				
340.	Facility Administrative and Support Services (49800).....		<del>\$13,037,158</del> \$13,653,500	<del>\$13,043,550</del> \$13,774,550
	General Management and Direction (49801).....	<del>\$4,037,812</del> \$3,630,654	\$4,043,364 \$3,750,864	
	Information Technology Services (49802).....	<del>\$647,265</del> \$752,265	\$648,105 \$753,105	
	Security Services (49803).....	<del>\$609,283</del> \$717,283	\$609,283 \$717,283	
	Residential Services (49804).....	<del>\$1,471,602</del> \$1,717,102	\$1,471,602 \$1,717,102	
	Food and Dietary Services (49807).....	<del>\$1,106,000</del> \$1,176,000	\$1,106,000 \$1,176,000	
	Physical Plant Services (49815).....	<del>\$5,165,196</del> \$5,660,196	\$5,165,196 \$5,660,196	

ITEM 340.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
Fund Sources: General.....	\$2,293,150	\$2,294,211		
	\$2,178,492			
Special.....	\$10,555,712	\$10,560,376		
	\$11,296,712	\$11,301,376		
Federal Trust.....	\$188,296	\$188,963		
	\$178,296	\$178,963		
Authority: Title 51.5, Chapter 14, Code of Virginia; P.L. 93-112 and P.L. 95-602, Federal Code.				
Comprehensive services available on-site at Wilson Workforce and Rehabilitation Center shall include, but not be limited to, vocational services, including evaluation, prevocational, academic, and vocational training; independent living services; transition from school to work services; rehabilitative engineering and assistive technology; and medical rehabilitation services, including residential, outpatient, supported living, community reentry, and family support.				
Total for Wilson Workforce and Rehabilitation Center.....			\$25,407,089	\$25,413,481
			\$26,494,334	\$26,753,481
General Fund Positions.....	58.80	58.80		
Nongeneral Fund Positions.....	222.20	222.20		
Position Level.....	281.00	281.00		
Fund Sources: General.....	\$5,055,096	\$5,056,157		
	\$4,802,341			
Special.....	\$20,093,697	\$20,098,361		
	\$21,504,697	\$21,509,361		
Federal Trust.....	\$258,296	\$258,963		
	\$187,296	\$187,963		
Grand Total for Department for Aging and Rehabilitative Services.....			\$262,293,207	\$262,970,316
			\$261,840,879	\$265,366,463
General Fund Positions.....	135.89	135.89		
		130.89		
Nongeneral Fund Positions.....	1,155.13	1,155.13		
		1,158.13		
Position Level.....	1,291.02	1,291.02		
		1,289.02		
Fund Sources: General.....	\$62,119,103	\$62,855,795		
	\$60,326,775	\$63,516,818		
Special.....	\$32,345,533	\$32,350,197		
	\$33,756,533	\$33,761,197		
Dedicated Special Revenue.....	\$1,197,123	\$1,197,123		
Federal Trust.....	\$166,631,448	\$166,567,201		
	\$166,560,448	\$166,891,325		

**§ 1-97. DEPARTMENT OF SOCIAL SERVICES (765)**

341.	Program Management Services (45100).....			\$39,354,441	\$39,361,998
				\$39,192,893	\$38,872,182
	Training and Assistance to Local Staff (45101).....	\$4,389,082	\$4,389,082		
			\$4,439,943		
	Central Administration and Quality Assurance for Benefit Programs (45102).....	\$13,260,449	\$13,268,006		
			\$12,959,820		
	Central Administration and Quality Assurance for Family Services (45103).....	\$7,901,901	\$7,901,901		
		\$7,740,353	\$7,669,410		
	Central Administration and Quality Assurance for Community Programs (45105).....	\$8,947,984	\$8,947,984		
	Central Administration and Quality Assurance for Child Care Activities (45107).....	\$4,855,025	\$4,855,025		

ITEM 341.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
Fund Sources: General.....	\$15,568,475	\$15,568,475		
	\$15,406,927	\$15,331,101		
Special.....	\$100,000	\$100,000		
Federal Trust.....	\$23,685,966	\$23,693,523		
		\$23,441,081		

Authority: Title 2.2, Chapter 54; Title 63.2, Chapters 2 and 21, Code of Virginia; Title VI, Subtitle B, P.L. 97-35, as amended; P.L. 103-252, as amended; P.L. 104-193, as amended, Federal Code.

A. The Department of Social Services, in collaboration with the Office of Children's Services, shall provide training to local staff serving on Family Assessment and Planning Teams and Community Policy and Management Teams. Training shall include, but need not be limited to, the federal and state requirements pertaining to the provision of the foster care services funded under § 2.2-5211, Code of Virginia. The training shall also include written guidance concerning which services remain the financial responsibility of the local departments of social services. Training shall be provided on a regional basis at least once per year. Written guidance shall be updated and provided to local Office of Children's Services teams whenever there is a change in allowable expenses under federal or state guidelines. In addition, the Department of Social Services shall provide ongoing local oversight of its federal and state requirements related to the provision of services funded under § 2.2-5211, Code of Virginia.

B. By November 1 of each year, the Department of Planning and Budget, in cooperation with the Department of Social Services, shall prepare and submit a forecast of expenditures for cash assistance provided through the Temporary Assistance for Needy Families (TANF) program, mandatory child day care services under TANF, foster care maintenance and adoption subsidy payments, upon which the Governor's budget recommendations will be based, for the current and subsequent two years to the Chairmen of the House Appropriations and Senate Finance Committees.

C. The Department of Social Services shall provide administrative support and technical assistance to the Family and Children's Trust Fund (FACT) Board of Trustees established in Sections 63.2-2100 through 63.2-2103, Code of Virginia.

D. Out of this appropriation, \$1,829,111 the first year and \$1,829,111 the second year from the general fund and \$1,829,111 the first year and \$1,829,111 the second year from nongeneral funds shall be provided to fund the Supplemental Nutrition Assistance Program (SNAP) Electronic Benefit Transfer (EBT) contract cost.

E.1. Out of this appropriation, ten positions and the associated funding shall be dedicated to providing on-going financial oversight of foster care services. Each of the ten positions, with two working out of each regional office, shall assess and review all foster care spending to ensure that state and federal standards are met. None of these positions shall be used for quality, information technology, or clerical functions.

2. By September 1 of each year, the department shall report to the Governor, the Chairmen of the House Appropriations and Senate Finance Committees, and the Director, Department of Planning and Budget regarding the foster care program's statewide spending, error rates and compliance with state and federal reviews.

342.	Financial Assistance for Self-Sufficiency Programs and Services (45200).....			\$269,284,286	\$274,247,341
				\$258,240,060	\$266,631,353
	Temporary Assistance for Needy Families (TANF) Cash Assistance (45201).....	\$83,371,593	\$88,393,260		
		\$75,902,870	\$84,719,119		
	Temporary Assistance for Needy Families (TANF) Employment Services (45212).....	\$21,657,832	\$21,657,832		
	Supplemental Nutrition Assistance Program Employment and Training (SNAPET) Services (45213).....	\$8,165,759	\$8,107,147		
	Temporary Assistance for Needy Families (TANF) Child Care Subsidies (45214).....	\$59,062,303	\$59,062,303		
		\$54,098,724	\$54,098,724		

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	First Year	Second Year	First Year	Second Year
	FY2017	FY2018	FY2017	FY2018
At-Risk Child Care Subsidies (45215).....	\$90,056,116	\$90,056,116		
	\$91,444,192	\$91,487,848		
Unemployed Parents Cash Assistance (45216).....	\$6,970,683	\$6,970,683		
		\$6,560,683		
Fund Sources: General.....	\$81,131,902	\$81,131,902		
		\$80,721,902		
Federal Trust.....	\$188,152,384	\$193,115,439		
	\$177,108,158	\$185,909,451		

Authority: Title 2.2, Chapter 54; Title 63.2, Chapters 1 through 7, Code of Virginia; Title VI, Subtitle B, P.L. 97-35, as amended; P.L. 103-252, as amended; P.L. 104-193, as amended, Federal Code.

A. It is hereby acknowledged that as of June 30, 2015 there existed with the federal government an unexpended balance of \$72,735,005 in federal Temporary Assistance for Needy Families (TANF) block grant funds which are available to the Commonwealth of Virginia to reimburse expenditures incurred in accordance with the adopted State Plan for the TANF program. Based on projected spending levels and appropriations in this act, the Commonwealth's accumulated balance for authorized federal TANF block grant funds is estimated at ~~\$70,522,775~~ \$99,130,367 on June 30, 2016; ~~\$48,129,554~~ \$91,985,120 on June 30, 2017; and ~~\$20,714,666~~ \$62,204,000 on June 30, 2018.

B. No less than 30 days prior to submitting any amendment to the federal government related to the State Plan for the Temporary Assistance for Needy Families program, the Commissioner of the Department of Social Services shall provide the Chairmen of the House Appropriations and Senate Finance Committees as well as the Director, Department of Planning and Budget written documentation detailing the proposed policy changes. This documentation shall include an estimate of the fiscal impact of the proposed changes and information summarizing public comment that was received on the proposed changes.

C. Notwithstanding any other provision of state law, the Department of Social Services shall maintain a separate state program, as that term is defined by federal regulations governing the Temporary Assistance for Needy Families (TANF) program, 45 C.F.R. § 260.30, for the purpose of providing welfare cash assistance payments to able-bodied two-parent families. The separate state program shall be funded by state funds and operated outside of the TANF program. Able-bodied two-parent families shall not be eligible for TANF cash assistance as defined at 45 C.F.R. § 260.31 (a)(1), but shall receive benefits under the separate state program provided for in this paragraph. Although various conditions and eligibility requirements may be different under the separate state program, the basic benefit payment for which two-parent families are eligible under the separate state program shall not be less than what they would have received under TANF. The Department of Social Services shall establish regulations to govern this separate state program.

D. As a condition of this appropriation, the Department of Social Services shall disregard the value of one motor vehicle per assistance unit in determining eligibility for cash assistance in the Temporary Assistance for Needy Families (TANF) program and in the separate state program for able-bodied two-parent families.

E. The Department of Social Services, in collaboration with local departments of social services, shall maintain minimum performance standards for all local departments of social services participating in the Virginia Initiative for Employment, Not Welfare (VIEW) program. The department shall allocate VIEW funds to local departments of social services based on these performance standards and VIEW caseloads. The allocation formula shall be developed and revised in cooperation with the local social services departments and the Department of Planning and Budget.

F. A participant whose Temporary Assistance for Needy Families (TANF) financial assistance is terminated due to the receipt of 24 months of assistance as specified in § 63.2-612, Code of Virginia, or due to the closure of the TANF case prior to the completion of 24 months of TANF assistance, excluding cases closed with a sanction for noncompliance with the Virginia Initiative for Employment Not Welfare program, shall be eligible to receive employment and training assistance for up to 12 months after



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	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018

described in this paragraph.

N. The Department of Social Services shall increase the Temporary Assistance for Needy Families (TANF) cash benefits by 2.5 percent on July 1, 2016 and by 2.5 percent on July 1, 2017.

O. The Board of Social Services shall combine Groups I and II for the purposes of Temporary Assistance to Needy Families cash benefits and use the Group II rates for the new group.

343.	Financial Assistance for Local Social Services Staff (46000).....			\$431,538,105	<del>\$431,551,281</del> \$436,189,250
	Local Staff and Operations (46010).....	\$431,538,105	<del>\$431,551,281</del> \$436,189,250		
	Fund Sources: General.....	\$117,525,003	<del>\$117,525,003</del> \$122,107,972		
	Dedicated Special Revenue.....	\$3,000,000	\$3,000,000		
	Federal Trust.....	\$311,013,102	<del>\$311,026,278</del> \$311,081,278		

Authority: Title 63.2, Chapters 1 through 7 and 9 through 16, Code of Virginia; P.L. 104-193, Titles IV A, XIX, and XXI, Social Security Act, Federal Code, as amended.

A. The amounts in this Item shall be expended under regulations of the Board of Social Services to reimburse county and city welfare/social services boards pursuant to § 63.2-401, Code of Virginia, and subject to the same percentage limitations for other administrative services performed by county and city public welfare/social services boards and superintendents of public welfare/social services pursuant to other provisions of the Code of Virginia, as amended.

B. Pursuant to the provisions of §§ 63.2-403, 63.2-406, 63.2-407, 63.2-408, and 63.2-615 Code of Virginia, all moneys deducted from funds otherwise payable out of the state treasury to the counties and cities pursuant to the provisions of § 63.2-408, Code of Virginia, shall be credited to the applicable general fund account.

C. Included in this appropriation are funds to reimburse local social service agencies for eligibility workers who interview applicants to determine qualification for public assistance benefits which include but are not limited to: Temporary Assistance for Needy Families (TANF); Supplemental Nutrition Assistance Program (SNAP); and Medicaid.

D. Included in this appropriation are funds to reimburse local social service agencies for social workers who deliver program services which include but are not limited to: child and adult protective services complaint investigations; foster care and adoption services; and adult services.

E. Out of the federal fund appropriation for local social services staff, amounts estimated at \$65,000,000 the first year and \$65,000,000 the second year shall be set aside for allowable local costs which exceed available general fund reimbursement and amounts estimated at \$16,000,000 the first year and \$16,000,000 the second year shall be set aside to reimburse local governments for allowable costs incurred in administering public assistance programs.

F. Out of this appropriation, \$439,338 the first year and \$439,338 the second year from the general fund and \$422,109 the first year and \$422,109 the second year from nongeneral funds is provided to cover the cost of the health insurance credit for retired local social services employees.

G. The Department of Social Services shall work with local departments of social services on a pilot project in the western region of the state to evaluate the available data collected by local departments on facilitated care arrangements. The department shall, based on the findings from the pilot project, determine the most appropriate mechanism for collecting and reporting such data on a statewide basis.

H.1. Out of this appropriation, \$4,527,969 the second year from the general fund shall be

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	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
<p><i>available for the reinvestment of adoption general fund savings as authorized in Title IV, parts B and E of the federal Social Security Act (P.L. 110-351).</i></p> <p><i>2. Of the amount in paragraph H.1. above, \$1,333,031 the second year from the general fund shall be used to provide Child Protective Services (CPS) assessments and investigations in response to all reports of children born exposed to controlled substances regardless of whether the substance had been prescribed to the mother when she has sought or gained substance abuse counseling or treatment.</i></p>				
344.	Child Support Enforcement Services (46300).....		\$772,660,895	\$772,660,895
	Support Enforcement and Collection Services (46301).....	\$107,754,586		\$107,754,586
	Public Assistance Child Support Payments (46302)....	\$11,000,000		\$11,000,000
	Non-Public Assistance Child Support Payments (46303).....	\$653,906,309		\$653,906,309
	Fund Sources: General.....	\$13,288,793		\$13,288,793
	Special.....	\$694,897,989		\$694,897,989
	Federal Trust.....	\$64,474,113		\$64,474,113
<p>Authority: Title 20, Chapters 2 through 3.1 and 4.1 through 9; Title 63.2, Chapter 19, Code of Virginia; P.L. 104-193, as amended; P.L. 105-200, P.L. 106-113, Federal Code.</p> <p>A. Any net revenue from child support enforcement collections, after all disbursements are made in accordance with state and federal statutes and regulations, and after the state's share of the cost of administering the program is paid, shall be estimated and deposited into the general fund by June 30 of the fiscal year in which it is collected. Any additional moneys determined to be available upon final determination of a fiscal year's costs of administering the program shall be deposited to the general fund by September 1 of the subsequent fiscal year in which it is collected.</p> <p>B. In determining eligibility and amounts for cash assistance, pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, the department shall continue to disregard up to \$100 per month in child support payments and return to recipients of cash assistance up to \$100 per month in child support payments collected on their behalf.</p> <p>C. The state share of amounts disbursed to recipients of cash assistance pursuant to paragraph B of this Item shall be considered part of the Commonwealth's required Maintenance of Effort spending for the federal Temporary Assistance for Needy Families program established by the Social Security Act.</p> <p>D. The department shall expand collections of child support payments through contracts with private vendors. However, the Department of Social Services and the Office of the Attorney General shall not contract with any private collection agency, private attorney, or other private entity for any child support enforcement activity until the State Board of Social Services has made a written determination that the activity shall be performed under a proposed contract at a lower cost than if performed by employees of the Commonwealth.</p> <p>E. The Division of Child Support Enforcement, in cooperation with the Department of Medical Assistance Services, shall identify cases for which there is a medical support order requiring a noncustodial parent to contribute to the medical cost of caring for a child who is enrolled in the Medicaid or Family Access to Medical Insurance Security (FAMIS) Programs. Once identified, the division shall work with the Department of Medical Assistance Services to take appropriate enforcement actions to obtain medical support or repayments for the Medicaid program.</p>				
345.	Adult Programs and Services (46800).....		\$40,061,169	\$40,061,169
	Auxiliary Grants for the Aged, Blind, and Disabled (46801).....	\$21,898,969		\$21,898,969
				\$21,398,969
	Adult In-Home and Supportive Services (46802).....	\$6,822,995		\$6,822,995
	Domestic Violence Prevention and Support Activities (46803).....	\$11,339,205		\$11,339,205

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	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
Fund Sources: General.....	\$23,356,141	<del>\$23,356,141</del> \$22,856,141		
Federal Trust.....	\$16,705,028	\$16,705,028		
<p>Authority: Title 63.2, Chapters 1, 16 and 22, Code of Virginia; Title XVI, federal Social Security Act, as amended.</p> <p>A.1. Effective January 1, <del>2015</del> 2017, the Department of Social Services, in collaboration with the Department for Aging and Rehabilitative Services, is authorized to base approved licensed assisted living facility rates for individual facilities on an occupancy rate of 85 percent of licensed capacity, not to exceed a maximum rate of <del>\$1,219</del> \$1,221 per month, which rate is also applied to approved adult foster care homes, unless modified as indicated below. The department may add a 15 percent differential to the maximum amount for licensed assisted living facilities and adult foster care homes in Planning District Eight.</p> <p>2. Effective January 1, 2013, the monthly personal care allowance for auxiliary grant recipients who reside in licensed assisted living facilities and approved adult foster care homes shall be \$82 per month, unless modified as indicated below.</p> <p>3. The Department of Social Services, in collaboration with the Department for Aging and Rehabilitative Services, is authorized to increase the assisted living facility and adult foster care home rates and/or the personal care allowance cited above on January 1 of each year in which the federal government increases Supplemental Security Income or Social Security rates or at any other time that the department determines that an increase is necessary to ensure that the Commonwealth continues to meet federal requirements for continuing eligibility for federal financial participation in the Medicaid program. Any such increase is subject to the prior concurrence of the Department of Planning and Budget. Within thirty days after its effective date, the Department of Social Services shall report any such increase to the Governor and the Chairmen of the House Appropriations and Senate Finance Committees with an explanation of the reasons for the increase.</p> <p>4. <i>The number of auxiliary grant recipients in a supportive housing setting shall not exceed 60.</i></p> <p>B. Out of this appropriation, \$4,185,189 the first year and \$4,185,189 in the second year from the federal Social Services Block Grant shall be allocated to provide adult companion services for low-income elderly and disabled adults.</p> <p>C. The toll-free telephone hotline operated by the Department of Social Services to receive child abuse and neglect complaints shall also be publicized and used by the department to receive complaints of adult abuse and neglect.</p> <p>D. Out of this appropriation, \$248,750 the first year and \$248,750 the second year from the general fund and \$1,346,792 the first year and \$1,346,792 the second year from federal Temporary Assistance for Needy Families (TANF) funds shall be provided as a grant to local domestic violence programs for purchase of crisis and core services for victims of domestic violence, including 24-hour hotlines, emergency shelter, emergency transportation, and other crisis services as a first priority.</p> <p>E. Out of this appropriation, \$75,000 the first year and \$75,000 the second year from the general fund and \$400,000 the first year and \$400,000 the second year from nongeneral funds shall be provided for the purchase of services for victims of domestic violence as stated in § 63.2-1615, Code of Virginia, in accordance with regulations promulgated by the Board of Social Services.</p> <p>F. Out of this appropriation \$1,100,000 the first year and \$1,100,000 the second year from the general fund and \$2,000,000 the first year and \$2,000,000 the second year from federal Temporary Assistance to Needy Families (TANF) funds shall be provided as a grant to local domestic violence programs for services.</p>				
346. Child Welfare Services (46900).....			\$203,423,579 \$211,602,863	\$207,930,566 \$219,775,860
Foster Care Payments (46901).....	\$50,399,410 \$60,158,124	\$53,705,677 \$62,104,143		

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	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
Supplemental Child Welfare Activities (46902).....	\$27,963,364	\$28,672,287		
	\$28,063,364	\$32,249,287		
Adoption Subsidy Payments (46903).....	\$125,060,805	\$125,552,602		
	\$123,381,375	\$125,422,430		
Fund Sources: General.....	\$105,544,700	\$108,164,126		
	\$107,582,982	\$109,715,398		
Special.....	\$325,030	\$325,030		
	\$425,030	\$1,425,030		
Dedicated Special Revenue.....	\$235,265	\$235,265		
		\$485,265		
Federal Trust.....	\$97,318,584	\$99,206,145		
	\$103,359,586	\$108,150,167		

Authority: Title 63.2, Chapters 1, 2, 4 and 8 through 15, Code of Virginia; P.L. 100-294, P.L. 101-126, P.L. 101-226, P.L. 105-89, P.L. 110-351, P.L. 111-320, as amended, Federal Code.

A. Expenditures meeting the criteria of Title IV-E of the Social Security Act shall be fully reimbursed except that expenditures otherwise subject to a standard local matching share under applicable state policy, including local staffing, shall continue to require local match. The commissioner shall ensure that local social service boards obtain reimbursement for all children eligible for Title IV-E coverage.

B. The commissioner, in cooperation with the Department of Planning and Budget, shall establish a reasonable, automatic adjustment for inflation each year to be applied to the room and board maximum rates paid to foster parents. However, this provision shall apply only in fiscal years following a fiscal year in which salary increases are provided for state employees.

C. Out of this appropriation, \$500,000 the first year and \$500,000 the second year from the general fund shall be provided for the purchase of services for victims child abuse and neglect prevention activities as stated in § 63.2-1502, Code of Virginia, in accordance with regulations promulgated by the Board of Social Services.

D. Out of this appropriation, \$180,200 the first year and \$180,200 the second year from the general fund and \$99,800 the first year and \$99,800 the second year from nongeneral funds shall be provided to continue respite care for foster parents.

E. Notwithstanding the provisions of §§ 63.2-1300 through 63.2-1303, Code of Virginia, adoption assistance subsidies and supportive services shall not be available for children adopted through parental placements. This restriction does not apply to existing adoption assistance agreements.

F.1. Out of this appropriation, \$1,500,000 the first year and \$1,500,000 the second year from the general fund shall be provided to implement pilot programs that increase the number of foster care children adopted.

2. Beginning ~~October 1, 2013~~ July 1, 2017, the department shall provide a ~~quarterly report, within 30 days of quarter end;~~ an annual report, not later than 45 days after the end of the state fiscal year, on the use and effectiveness of this funding including, but not limited to, the additional number of special needs children adopted from foster care as a result of this effort and the types of ongoing supportive services provided, to the Governor, Chairmen of House Appropriations and Senate Finance Committees, and the Director, Department of Planning and Budget.

G. Out of this appropriation, ~~\$34,774,377~~ \$23,771,657 the first year and ~~\$34,774,377~~ \$20,654,627 the second year from the general fund and \$7,000,000 the first year and \$7,000,000 the second year from nongeneral funds shall be provided for special needs adoptions.

H. Out of this appropriation ~~\$44,483,316~~ \$45,644,961 the first year and ~~\$44,483,316~~ \$47,978,106 the second year from the general fund and ~~\$44,483,316~~ \$45,644,961 the first year and ~~\$44,483,316~~ \$47,978,106 the second year from nongeneral funds shall be provided for Title IV-E adoption subsidies.

I. The Commissioner, Department of Social Services, shall ensure that local departments that provide independent living services to persons between 18 and 21 years of age make certain

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information about and counseling regarding the availability of independent living services is provided to any person who chooses to leave foster care or who chooses to terminate independent living services before his twenty-first birthday. Information shall include the option for restoration of independent living services following termination of independent living services, and the processes whereby independent living services may be restored should he choose to seek restoration of such services in accordance with § 63.2-905.1 of the Code of Virginia.

J.1. Notwithstanding the provisions of § 63.2-1302, Code of Virginia, the Department of Social Services shall negotiate all adoption assistance agreements with both existing and prospective adoptive parents on behalf of local departments of social services. This provision shall not alter the legal responsibilities of the local departments of social services set out in Chapter 13 of Title 63.2, Code of Virginia, nor alter the rights of the adoptive parents to appeal.

2. Out of this appropriation, \$342,414 the first year and \$342,414 the second year from the general fund and \$215,900 the first year and \$215,900 the second year from nongeneral funds shall be provided for five positions to execute these negotiations.

K.1. The Department of Social Services shall partner with Patrick Henry Family Services to implement a pilot program in the area encompassing Planning District 11 (Amherst, Appomattox, Bedford, Campbell Counties and the City of Lynchburg) for the temporary placements of children for children and families in crisis.

The pilot program will allow a parent or legal custodian of a minor, with the assistance of Patrick Henry Family Services, to delegate to another person by a properly executed power of attorney any powers regarding care, custody, or property of the minor for a temporary placement for a period that is not greater than 90 days. The program will allow for an option of a one-time 90 day extension.

2. The department shall ensure that this pilot program meets the following specific programmatic and safety requirements outlined in 22 VAC 40-131 and 22 VAC 40-191:

(i) The pilot program organization shall meet the background check requirements described in 22 VAC 40-191.

(ii) The pilot program organization shall develop and implement written policies and procedures for governing active and closed cases, admissions, monitoring the administration of medications, prohibiting corporal punishment, ensuring that children are not subjected to abuse or neglect, investigating allegations of misconduct toward children, implementing the child's back-up emergency care plan, assigning designated casework staff, management of all records, discharge policies, and the use of seclusion and restraint (22 VAC 40-131-90).

(iii) The pilot program organization shall provide pre-service and ongoing training for temporary placement providers and staff (22 VAC 40-131-210 and 22 VAC 40-131-150).

3. The Department of Social Services shall evaluate the pilot program and determine if this model of prevention is effective. A report of the evaluation findings and recommendations shall be submitted to the Governor, the Chairmen of the House Appropriations and Senate Finance Committees, and the Commission on Youth by December 1, 2017.

L.1. Out of this appropriation, \$1,015,451 the first year and \$2,925,954 the second year from the general fund and \$999,050 the first year and \$2,886,611 the second year from nongeneral funds shall be available for the expansion of foster care and adoption assistance as authorized in the federal Foster Connections to Success and Increasing Adoptions Act of 2008 (P.L. 110-351; P.L. 11-148).

2. In order to implement the Fostering Futures program, the Department of Social Services shall set out the requirements for program participation in accordance with 42 U.S.C. 675 (8) (B) (iv) and shall provide the format of an agreement to be signed by the local department of social services and the youth. The definition of a child for the purpose of the Fostering Futures program shall be any natural person who has reached the age of 18 years but has not reached the age of 21. The Department of Social Services shall develop

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<p>guidance setting out the requirements for local implementation including a requirement for six-month reviews of each case and reasons for termination of participation by a youth. The guidance shall also include a definition of a supervised independent living arrangement which does not include group homes or residential facilities. Implementation of this program includes the extension of adoption assistance to age 21 for youth who were adopted at age 16 or older and who meet the program participation requirements set out in guidance by the Department of Social Services.</p> <p>3. The Department of Social Services shall issue guidance for the program's eligibility requirements and shall be available, on a voluntary basis, to an individual upon reaching the age of 18 who:</p> <p>(i) was in the custody of a local department of social services either:</p> <p>(a) prior to reaching 18 years of age, remained in foster care upon turning 18 years of age; or</p> <p>(b) immediately prior to commitment to the Department of Juvenile Justice and is transitioning from such commitment to self-sufficiency.</p> <p>(ii) and who is:</p> <p>(a) completing secondary education or an equivalent credential; or</p> <p>(b) enrolled in an institution that provides post-secondary or vocational education; or</p> <p>(c) employed for at least 80 hours per month; or</p> <p>(d) participating in a program or activity designed to promote employment or remove barriers to employment; or</p> <p>(e) incapable of doing any of the activities described in subdivisions (a) through (d) due to a medical condition, which incapability is supported by regularly updated information in the program participant's case plan.</p> <p>4. Implementation of extended foster care services shall be available for those eligible youth reaching age 18 on or after July 1, 2016.</p> <p>M. Out of this appropriation, \$1,417,846 the first year and <del>\$2,126,769</del> \$3,103,769 the second year from the general fund and \$2,500,000 the second year from nongeneral funds shall be available for the reinvestment of adoption general fund savings as authorized in title IV, parts B and E of the federal Social Security Act (P.L. 110-351).</p>				
347.	Financial Assistance for Supplemental Assistance Services (49100).....		\$78,757,450	\$78,757,450
	General Relief (49101).....	\$500,000		\$500,000
	Resettlement Assistance (49102).....	\$9,022,000		\$9,022,000
	Emergency and Energy Assistance (49103).....	\$69,235,450		\$69,235,450
	Fund Sources: General.....	\$500,000		\$500,000
	Federal Trust.....	\$78,257,450		\$78,257,450
	Authority: Title 2.2, Chapter 54; Title 63.2, Code of Virginia; Title VI, Subtitle B, P.L. 97-35, as amended; P.L. 104-193, as amended, Federal Code.			
348.	Financial Assistance to Community Human Services Organizations (49200).....		\$34,975,789	<del>\$34,975,789</del> \$42,314,789
	Community Action Agencies (49201).....	\$16,638,048		\$16,638,048
	Volunteer Services (49202).....	\$3,866,340		\$3,866,340
	Other Payments to Human Services Organizations (49203).....	\$14,471,401		<del>\$14,471,401</del> \$21,810,401
	Fund Sources: General.....	\$3,261,000		<del>\$3,261,000</del> \$524,500
	Federal Trust.....	\$31,714,789		<del>\$31,714,789</del> \$41,790,289

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	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
<p>Authority: Title 2.2, Chapter 54; Title 63.2, Code of Virginia; Title VI, Subtitle B, P.L. 97-35, as amended; P.L. 103-252, as amended; P.L. 104-193, as amended, Federal Code.</p>				
<p>A.1. All increased state or federal funds distributed to Community Action Agencies shall be distributed as follows: The funds shall be distributed to all local Community Action Agencies according to the Department of Social Services funding formula (75 percent based on low-income population, 20 percent based on number of jurisdictions served, and five percent based on square mileage served), adjusted to ensure that no agency receives less than 1.5 percent of any increase.</p>				
<p>2. Out of this appropriation, \$185,725 the first year and \$185,725 the second year from the Temporary Assistance for Needy Families (TANF) block grant shall be provided to contract with the Virginia Community Action Partnership to provide outreach, education and tax preparation services via the Virginia Earned Income Tax Coalition and other community non-profit organizations to citizens who may be eligible for the federal Earned Income Tax Credit. The contract shall require the Virginia Community Action Partnership to report on its efforts to expand the number of Virginians who are able to claim the federal EITC, including the number of individuals identified who could benefit from the credit, the number of individuals counseled on the availability of federal EITC, and the number of individuals assisted with tax preparation to claim the federal EITC. The annual report from the Virginia Community Action Partnership shall also detail actual expenditures for the program including the sub-contractors that were utilized. This report shall be provided to the Governor and the Chairmen of the House Appropriations and Senate Finance Committees by December 1 each year.</p>				
<p>3. Out of this appropriation, \$4,250,000 the first year and \$4,250,000 the second year from the Temporary Assistance for Needy Families (TANF) block grant shall be provided to contract with local Community Action Agencies to provide an array of services designed to meet the needs of low-income individuals and families, including the elderly and migrant workers. Services may include, but are not limited to, child care, community and economic development, education, employment, health and nutrition, housing, and transportation.</p>				
<p>B. The department shall continue to fund from this Item all organizations recognized by the Commonwealth as community action agencies as defined in §2.2-5400 et seq.</p>				
<p>C. Out of this appropriation, \$9,035,501 the first year and \$9,035,501 the second year from the Temporary Assistance for Needy Families (TANF) block grant shall be provided to contract with programs that follow the evidence-based Healthy Families America home visiting model that promotes positive parenting, improves child health and development, and reduces child abuse and neglect. The Department of Social Services shall use a portion of the funds from this item to contract with the statewide office of Prevent Child Abuse Virginia for providing the coordination, technical support, quality assurance, training and evaluation of the Virginia Healthy Families programs.</p>				
<p>D. Out of this appropriation, \$100,000 the first year and \$100,000 the second year from nongeneral funds shall be provided for Volunteer Emergency Families for Children to expand its shelter care network for abused, neglected, runaway, homeless, and at-risk children throughout Virginia.</p>				
<p>E. Out of this appropriation, \$100,000 the first year and \$100,000 the second year from nongeneral funds shall be provided for the Child Abuse Prevention Play (the play) administered by Virginia Repertory Theatre. The contract shall include production and live performances of the play that teach child safety awareness to prevent child abuse.</p>				
<p>F. Out of this appropriation, \$70,000 the first year and \$70,000 the second year from the general fund shall be provided to contract with the Virginia Alzheimer's Association Chapters to provide dementia-specific training to long-term care workers in licensed nursing facilities, assisted living facilities and adult day care centers who deal with Alzheimer's disease and related disorders.</p>				
<p>G. Out of this appropriation, \$200,000 the first year <i>from the general fund</i> and <del>\$200,000</del> \$500,000 the second year from the <i>Temporary Assistance for Needy Families (TANF) block grant</i> <del>general fund</del> shall be provided to contract with Northern Virginia</p>				

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<p>Family Services (NVFS) to provide supportive services that address the basic needs of families in crisis, including the provision of food, financial assistance to prevent homelessness, and access to health services. The contract shall require NVFS to provide an intake process that identifies the needs and appropriate services for those in crisis. Outcomes will be measured utilizing surveys provided to those who receive services and NVFS will report quarterly on survey results.</p> <p>H. Out of this appropriation, \$1,231,000 the first year <i>and</i> \$405,500 the second year from the general fund and <del>\$1,231,000</del> \$825,500 the second year from the <i>Temporary Assistance for Needy Families (TANF) block grant</i> <del>general fund</del> shall be provided to contract with child advocacy centers (CAC) to provide a comprehensive, multidisciplinary team response to allegations of child abuse in a dedicated, child-friendly setting. The contracts shall require CACs to provide forensic interviews, victim support and advocacy services, medical evaluations, and mental health services to victims of child abuse and neglect with the expected outcome of reducing child abuse and neglect. The department shall allocate four percent to Children's Advocacy Centers of Virginia (CACVA), the recognized chapter of the National Children's Alliance for Virginia's Child Advocacy Centers, for the purpose of assisting and supporting the development, continuation, and sustainability of community-coordinated, child-focused services delivered by children's advocacy centers (CACs). Of the remaining 96 percent, (i) 65 percent shall be distributed to a baseline allocation determined by the accreditation status of the CAC: (a) developing and associate centers 100 percent of base; (b) accredited centers 150 percent of base; and (c) accredited centers with satellite facilities 175 percent of base; and (ii) 35 percent shall be allocated according to established criteria to include: (a) 25 percent determined by the rate of child abuse per 1,000; (b) 25 percent determined by child population; and (c) 50 percent determined by the number of counties and independent cities serviced.</p> <p>I. Out of this appropriation, \$100,000 the first year <i>and</i> <del>\$100,000</del> the second year from the general fund shall be provided to contract with Youth for Tomorrow (YFT) to provide comprehensive residential, education and counseling services to at-risk youth of the Commonwealth of Virginia who have been sexually exploited, including victims of sex trafficking. The contract shall require YFT to provide individual assessments/individual service planning; individual and group counseling; room and board; coordination of medical and mental health services and referrals; independent living services for youth transitioning out of foster care; active supervision; education; and family and family reunification services. Youth for Tomorrow shall submit monthly progress reports on activities conducted and progress achieved on outputs, outcomes and other functions/activities during the reporting period. On October 1 of each year, YFT shall provide an annual report to the Governor and the Chairmen of the Senate Finance and House Appropriations Committees that details program services, outputs and outcomes.</p> <p>J.1. Out of this appropriation, \$1,250,000 the first year <i>from the general fund</i> and \$1,250,000 the second year from the <i>Temporary Assistance for Needy Families (TANF) block grant</i> <del>general fund</del> shall be provided to contract with the Virginia Early Childhood Foundation (VECF) to support the health and school readiness of Virginia's young children prior to school entry. These funds shall be matched with local public and private resources with a goal of leveraging a dollar for each state dollar provided.</p> <p>2. Of the amounts in paragraph J.1. above, \$1,250,000 the first year <i>from the general fund</i> and \$1,250,000 the second year from the <i>Temporary Assistance for Needy Families (TANF) block grant</i> <del>general fund</del> shall be used to provide information and assistance to parents and families and to facilitate partnerships with both public and private providers of early childhood services. VECF will track and report statewide and local progress on a biennial basis. The Foundation shall account for the expenditure of these funds by providing the Governor, Secretary of Health and Human Resources, and the Chairmen of the House Appropriations and Senate Finance Committees with a certified audit and full report on Foundation initiatives and results not later than October 1 of each year for the preceding fiscal year ending June 30.</p> <p>3. On or before October 1 of each year, the foundation shall submit to the Governor and the Chairmen of the House Appropriations and Senate Finance Committees a report on the actual amount, by fiscal year, of private and local government funds received by the foundation.</p> <p>K. Out of this appropriation \$1,000,000 the first year and \$1,000,000 the second year from the Temporary Assistance to Needy Families (TANF) block grant shall be provided to the</p>				

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Virginia Alliance of Boys and Girls Clubs to expand community-based prevention and mentoring programs.

L. Out of this appropriation, \$250,000 the first year and ~~\$250,000~~ the second year from the general fund shall be provided to contract with Birmingham Green to provide residential services to low-income, disabled individuals.

*M.1. Out of this appropriation, \$7,500,000 from the Temporary Assistance to Needy Families (TANF) block grant the second year shall be provided for competitive grants for community employment and training programs designed to move low-income individuals out of poverty through programs designed to assist TANF recipients in obtaining and retaining competitive employment with the prospect of a career path and wage growth and other supportive services designed to break the cycle of poverty and permanently move individuals out of poverty. Of this amount, \$2.0 million shall be provided for competitive grants provided through Employment Services Organizations (ESOs).*

*2. The Department of Social Services shall award grants to qualifying programs through a memorandum of understanding which articulates performance measures and outcomes including the number of individuals participating in services, number of individuals hired into employment, the number of unique employers hiring individuals through organizational programs and activities, the average starting wage of individuals hired, reductions in the rate of poverty, as well as process measures such as how the program targets improvement in poverty over a 3-5 year period and fits in with long term community goals for reducing poverty. Grants shall require local matching funds of at least a 25 percent, including in-kind services.*

*3. Community employment and training programs and ESOs shall report on annual program performance and outcome measures contained in the memorandum of understanding with the Department of Social Services. The department shall report on the implementation of the programs and any performance and outcome data collected through the memorandum of understanding by June 1, 2018.*

349.	Regulation of Public Facilities and Services (56100).....			\$26,784,680	<del>\$26,769,191</del> \$26,701,817
	Regulation of Adult and Child Welfare Facilities (56101).....	\$23,827,865	<del>\$23,882,872</del> \$23,815,498		
	Interdepartmental Licensure and Certification (56106).....	\$2,956,815	\$2,886,319		
	Fund Sources: General.....	\$3,697,640	<del>\$3,697,640</del> \$3,630,266		
	Special.....	\$2,376,109	\$2,360,620		
	Federal Trust.....	\$20,710,931	\$20,710,931		

Authority: Title 63.2, Chapters 17 and 18, Code of Virginia.

A. The state nongeneral fund amounts collected and paid into the state treasury pursuant to the provisions of § 63.2-1700, Code of Virginia, shall be used for the development and delivery of training for operators and staff of assisted living facilities, adult day care centers, and child welfare agencies.

B. As a condition of this appropriation, the Department of Social Services shall (i) promptly fill all position vacancies that occur in licensing offices so that positions shall not remain vacant for longer than 120 days and (ii) hire sufficient child care licensing specialists to ensure that all child care facilities receive, at a minimum, the two visits per year mandated by § 63.2-1706, Code of Virginia, and that facilities with compliance problems receive additional inspection visits as necessary to ensure compliance with state laws and regulations.

C. As a condition of this appropriation, the Department of Social Services shall utilize a risk assessment instrument for child and adult care enforcement. This instrument shall include criteria for determining when the following sanctions may be used: (i) the

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<p>imposition of intermediate sanctions, (ii) the denial of licensure renewal or revocation of license of a licensed facility, (iii) injunctive relief against a child care provider, and (iv) additional inspections and intensive oversight of a facility by the Department of Social Services.</p> <p>D. Out of this appropriation, the Department of Social Services shall implement training for new assisted living facility owners and managers to focus on health and safety issues, and resident rights as they pertain to adult care residences.</p> <p>E. Out of this appropriation, \$8,853,833 and 79 positions the first year and \$8,853,833 and 79 positions second year from the federal Child Care and Development Fund (CCDF) shall be provided to address the workload associated with licensing, inspecting and monitoring family day homes, pursuant to § 63.2-1704, Code of Virginia. On July 1, 2016, the Director of the Department of Planning and Budget shall unallot \$8,853,833 of this appropriation. At such time as the department demonstrates a sufficient increase in family day home licensure, inspection and monitoring activity to necessitate additional staff, the Director of the Department of Planning and Budget may allot additional resources. The Department of Social Services shall provide a quarterly report on the implementation of this initiative to the Governor, the Chairmen of the House Appropriations and Senate Finance Committees, and the Director, Department of Planning and Budget.</p> <p>F. The Department of Social Services shall work with localities that currently inspect child day care centers and family day homes to minimize duplication and overlap of inspections pursuant to § 63.2-1701.1, Code of Virginia.</p> <p>G. No child day center, family day home, or family day system licensed in accordance with Chapter 17, Title 63.2; child day center exempt from licensure pursuant to § 63.2-1716; registered family day home; family day home approved by a family day system; or any child day center or family day home that enters into a contract with the Department of Social Services or a local department of social services to provide child care services funded by the Child Care and Development Block Grant shall employ; continue to employ; or permit to serve as a volunteer who will be alone with, in control of, or supervising children any person who has an offense as defined in § 63.2-1719. All employees and volunteers shall undergo the following background check by July 1, 2017 and every 5 years thereafter, as required by the federal Child Care and Development Block Grant Act of 2014 (CCDBG).</p>				
350.	Administrative and Support Services (49900).....		\$118,257,564 \$129,164,154	\$92,615,728 \$104,950,417
	General Management and Direction (49901).....	\$3,583,395 \$3,569,258	\$3,583,395 \$3,527,344	
	Information Technology Services (49902).....	\$93,101,459 \$104,117,970	\$67,441,540 \$80,212,078	
	Accounting and Budgeting Services (49903).....	\$9,229,000 \$9,185,365	\$9,242,789 \$9,069,782	
	Human Resources Services (49914).....	\$3,215,152 \$3,197,729	\$3,219,446 \$3,150,366	
	Planning and Evaluation Services (49916).....	\$3,686,920 \$3,674,386	\$3,686,920 \$3,637,223	
	Procurement and Distribution Services (49918).....	\$2,904,054 \$2,892,286	\$2,904,054 \$2,857,397	
	Public Information Services (49919).....	\$2,184,157 \$2,175,042	\$2,184,157 \$2,148,015	
	Financial and Operational Audits (49929).....	\$353,427 \$352,118	\$353,427 \$348,212	
	Fund Sources: General.....	\$46,368,056 \$50,058,707	\$38,472,352 \$42,779,307	
	Special.....	\$175,000	\$175,000	
	Federal Trust.....	\$71,714,508 \$78,930,447	\$53,968,376 \$61,996,110	

Authority: Title 63.2, Chapter 1; § 2.2-4000 et seq., Code of Virginia; P.L. 98-502, P.L. 104-156, P.L. 104-193, P.L. 104-327, P.L. 105-33, as amended, P.L. 105-89, Federal Code; Titles IV-A, IV-B, IV-D, IV-E, XIX, XX, XXI of the federal Social Security Act, as amended.

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<p>A. The Department of Social Services shall require localities to report all expenditures on designated social services, regardless of reimbursement from state and federal sources. The Department of Social Services is authorized to include eligible costs in its claim for Temporary Assistance for Needy Families Maintenance of Effort requirements.</p>				
<p>B. It is the intent of the General Assembly that the Commissioner, Department of Social Services shall work with localities that seek to voluntarily merge and consolidate their respective local departments of social services. No funds appropriated under this act shall be used to require a locality to merge or consolidate local departments of social services.</p>				
<p>C.1. Out of this appropriation, \$473,844 the first year and \$473,844 the second year from the general fund and \$781,791 the first year and \$781,791 the second year from nongeneral funds shall be provided to support the statewide 2-1-1 Information and Referral System which provides resource and referral information on many of the specialized health and human resource services available in the Commonwealth, including child day care availability and providers in localities throughout the state, and publish consumer-oriented materials for those interested in learning the location of child day care providers.</p>				
<p>2. The Department of Social Services shall request that all state and local child-serving agencies within the Commonwealth be included in the Virginia Statewide Information and Referral System as well as any agency or entity that receives state general fund dollars and provides services to families and youth. The Secretary of Health and Human Resources, the Secretary of Education and Workforce, and the Secretary of Public Safety and Homeland Security shall assist in this effort by requesting all affected agencies within their secretariats to submit information to the statewide Information and Referral System and ensure that such information is accurate and updated annually. Agencies shall also notify the Virginia Information and Referral System of any changes in services that may occur throughout the year.</p>				
<p>3. The Department of Social Services shall communicate with child-serving agencies within the Commonwealth about the availability of the statewide Information and Referral System. This information shall also be communicated via the Department of Social Services' broadcast system on their agency-wide Intranet so that all local and regional offices can be better informed about the Statewide Information and Referral System. Information on the Statewide Information and Referral System shall also be included within the department's electronic mailings to all local and regional offices at least biannually.</p>				
<p>D.1. Out of this appropriation, \$3,452,065 the first year from the general fund and \$961,620 the first year from nongeneral funds shall be provided to complete the base contract to modernize the eligibility determination systems in the Department of Social Services. If any additional funding is needed, the department shall complete modernization efforts within existing resources.</p>				
<p>2. Within 30 days of awarding a contract related to the eligibility project, the Department of Social Services shall provide the Chairmen of House Appropriations and Senate Finance Committees, and Director, Department of Planning and Budget with a copy of the contract including costs.</p>				
<p>3. Beginning July 1, 2012, the Department of Social Services shall also provide semi-annual progress reports that must include a current project summary, implementation status, accounting of project expenditures and future milestones. All reports shall be submitted to the Chairmen of House Appropriations and Senate Finance Committees, and Director, Department of Planning and Budget.</p>				
<p>E.1. The Department of Social Services shall provide to the Chairmen of the House Appropriations and Senate Finance Committees a report on the implementation of the Asset Verification Service that is part of the Eligibility Modernization Project on or before September 1, 2016. It is the intent of the General Assembly to encourage financial institutions with branches in Virginia to work collaboratively with the department and its vendor in order to maximize participation in the Asset Verification Service program.</p>				
<p>2. The Department shall also develop a plan and submit it to the Chairmen of the House</p>				

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	Appropriations and Senate Finance Committees to incorporate searchable national real estate records as part of the Asset Verification Service program as soon as the data are available.			
351.	<p>A. In the operation of any program of public assistance, including benefit and service programs in any locality, for which program appropriations are made to the Department of Social Services, it is provided that if a payment or overpayment is made to an individual who is ineligible therefor under federal and/or state statutes and regulations, the amount of such payment or overpayment shall be returned to the Department of Social Services by the locality.</p> <p>B. However, no such repayments may be required of the locality if the department determines that such overpayment or payments to ineligibles resulted from the promulgation of vague or conflicting regulations by the department or from the failure of the department to make timely distribution to the localities of the statutes, rules, regulations, and policy decisions, causing the overpayment or payment to ineligible(s) to be made by the locality or from situations where a locality exercised due diligence, yet received incomplete or incorrect information from the client which caused the overpayment or payment to ineligibles. If a locality fails to effect the return, the Department of Social Services shall withhold an equal amount from the next disbursement made by the department to the locality for the same program.</p> <p>C. The Department of Social Services shall implement the guidance issued by the U.S. Department of Health and Human Services concerning the obligation of recipients of federal financial assistance to comply with Title VI of the Civil Rights Act of 1964 by ensuring that meaningful access to federally-funded programs, activities and services administered by the department is provided to limited English proficient (LEP) persons, 63 Fed. Reg. 47,311-47,323 (August 8, 2003). At a minimum, the department shall (i) identify the need for language assistance by analyzing the following factors: (1) the number or proportion of LEP persons in the eligible service population, (2) the frequency of contact with such persons, (3) the nature and importance of the program, activity or service, and (4) the costs of providing language assistance and resources available; (ii) translate vital documents into the language of each frequently encountered LEP group eligible to be served; (iii) provide accurate and timely oral interpreter services; and (iv) develop an effective implementation plan to address the identified needs of the LEP populations served.</p>			
352.	<p>A. The amount for the Supplemental Nutrition Assistance Program (SNAP) shall be expended under regulations of the Board of Social Services to reimburse county and city welfare/social services boards pursuant to § 63.2-401, Code of Virginia, and subject to the same percentage limitations for other administrative services performed by county and city public welfare/social services boards and superintendents of public welfare/social services pursuant to other provisions of the Code of Virginia, as amended.</p> <p>B. Pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, the Department of Social Services shall, in cooperation with local departments of social services, maintain a waiver of the work requirement for Supplemental Nutrition Assistance Program (SNAP) recipients residing in areas that do not have a sufficient number of jobs to provide employment for such individuals, including those areas designated as labor surplus areas by the U.S. Department of Labor.</p> <p>C. To the extent permitted by federal law, Supplemental Nutrition Assistance Program (SNAP) recipients subject to a work requirement pursuant to § 824 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, as amended, shall be permitted to satisfy such work requirement by providing volunteer services to a public or private, nonprofit agency for the number of hours per month determined by dividing the household's monthly SNAP allotment by the federal minimum wage.</p> <p>D. The Department of Social Services shall, to the extent permitted by federal law, disregard the value of at least one motor vehicle per household in determining eligibility for the Supplemental Nutrition Assistance Program (SNAP).</p> <p>E. The Department of Social Services shall develop a multi-lingual outreach campaign to inform qualified aliens and their children, who are United States citizens, of their eligibility for the federal Supplemental Nutrition Assistance Program (SNAP) and ensure that they have</p>			

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access to benefits under SNAP. To the extent permitted by federal law, the department shall administer SNAP in a way that minimizes the procedural burden on qualified aliens and addresses concerns about the impact of SNAP receipt on their immigration sponsors and status.				
Total for Department of Social Services.....			<b>\$2,015,097,958</b> <i>\$2,022,978,058</i>	<b>\$1,998,931,408</b> <i>\$2,026,415,182</i>
General Fund Positions.....	615.21	<del>618.49</del> <i>618.99</i>		
Nongeneral Fund Positions.....	1,216.29	<del>1,221.01</del> <i>1,221.51</i>		
Position Level.....	1,831.50	<del>1,839.50</del> <i>1,840.50</i>		
Fund Sources: General.....	<del>\$410,241,710</del> <i>\$415,809,095</i>	<del>\$404,965,432</del> <i>\$411,455,380</i>		
Special.....	<del>\$697,874,128</del> <i>\$697,974,128</i>	<del>\$697,858,639</del> <i>\$698,958,639</i>		
Dedicated Special Revenue.....	\$3,235,265	<del>\$3,235,265</del> <i>\$3,485,265</i>		
Federal Trust.....	<del>\$903,746,855</del> <i>\$905,959,570</i>	<del>\$892,872,072</del> <i>\$912,515,898</i>		

**§ 1-98. VIRGINIA BOARD FOR PEOPLE WITH DISABILITIES (606)**

353.	Social Services Research, Planning, and Coordination (45000).....			<del>\$1,441,894</del> <i>\$1,430,984</i>	<del>\$1,441,894</del> <i>\$1,525,543</i>
	Research, Planning, Outreach, Advocacy, and Systems Improvement (45002).....	\$836,452	<del>\$836,452</del> <i>\$890,318</i>		
	Administrative Services (45006).....	<del>\$605,442</del> <i>\$594,532</i>	<del>\$605,442</del> <i>\$635,225</i>		
	Fund Sources: General.....	<del>\$218,019</del> <i>\$207,109</i>	<del>\$218,019</del> <i>\$201,668</i>		
	Federal Trust.....	\$1,223,875	<del>\$1,223,875</del> <i>\$1,323,875</i>		

Authority: Title 51.5, Chapter 7, Code of Virginia.

Up to \$35,556 the first year and up to \$35,556 the second year is available for the Virginia Board for People with Disabilities (VBPD) to contract with the Department for Aging and Rehabilitative Services (DARS) for the provision of shared administrative services. The scope of the services and specific costs shall be outlined in a memorandum of understanding (MOU) between VBPD and DARS subject to the approval of the respective agency heads. Any revision to the MOU shall be reported by DARS to the Director, Department of Planning and Budget within 30 days.

354.	Financial Assistance for Individual and Family Services (49000).....			\$501,550	<del>\$501,658</del> <i>\$401,644</i>
	Financial Assistance to Localities for Individual and Family Services (49001).....	\$501,550	<del>\$501,658</del> <i>\$401,644</i>		
	Fund Sources: General.....	\$173	<del>\$183</del> <i>\$169</i>		
	Federal Trust.....	\$501,377	<del>\$501,475</del> <i>\$401,475</i>		

Authority: Title 51.5, Chapter 7, Code of Virginia.

Total for Virginia Board for People with Disabilities.....			<b>\$1,943,444</b> <i>\$1,932,534</i>	<b>\$1,943,552</b> <i>\$1,927,187</i>
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General Fund Positions.....	0.60	0.60		
Nongeneral Fund Positions.....	8.40	8.40		
Position Level.....	9.00	9.00		
Fund Sources: General.....	\$218,192	\$218,202		
	\$207,282	\$201,837		
Federal Trust.....	\$1,725,252	\$1,725,350		

**§ 1-99. DEPARTMENT FOR THE BLIND AND VISION IMPAIRED (702)**

355.	Statewide Library Services (14200).....			\$1,232,186	\$1,232,186
				\$1,101,320	\$1,197,186
	Library and Resource Center Services (14202).....	\$1,232,186	\$1,232,186		
		\$1,101,320	\$1,197,186		
	Fund Sources: General.....	\$1,167,186	\$1,167,186		
		\$1,071,320			
	Special.....	\$30,000	\$30,000		
	Trust and Agency.....	\$35,000	\$35,000		
		\$0	\$0		

Authority: § 51.5-74, Code of Virginia; P.L. 89-522, and P.L. 101-254, Federal Code.

Out of this appropriation, \$141,163 the first year and \$141,363 the second year from the general fund shall be used to contract for the provision of radio reading services for the blind and vision impaired.

356.	State Education Services (19100).....			\$1,578,098	\$1,578,098
				\$1,456,988	\$1,485,624
	Braille and Instructional Materials (19101).....	\$855,134	\$855,134		
		\$836,423			
	Educational and Early Childhood Support Services (19102).....	\$722,964	\$722,964		
		\$620,565	\$630,490		
	Fund Sources: General.....	\$923,098	\$923,098		
		\$801,988	\$830,624		
	Trust and Agency.....	\$55,000	\$55,000		
	Federal Trust.....	\$600,000	\$600,000		

Authority: §§ 22.1-214 and 22.1-217, Code of Virginia; P.L. 89-313, P.L. 97-35 and P.L. 102-119, Federal Code.

357.	Rehabilitation Assistance Services (45400).....			\$10,897,486	\$10,897,486
				\$12,390,082	\$13,024,205
	Low Vision Services (45401).....	\$366,162	\$366,162		
		\$416,162	\$416,162		
	Vocational Rehabilitation Services (45404).....	\$6,219,394	\$6,219,394		
		\$7,646,496	\$8,034,267		
	Community Based Independent Living Services (45407).....	\$3,661,612	\$3,661,612		
		\$3,674,676	\$3,921,028		
	Vending Stands, Cafeterias, and Snack Bars (45410)..	\$650,318	\$650,318		
		\$652,748	\$652,748		
	Fund Sources: General.....	\$1,858,863	\$1,858,863		
		\$1,839,357			
	Special.....	\$221,463	\$221,463		
		\$271,463	\$498,309		
	Trust and Agency.....	\$115,000	\$115,000		
		\$150,000	\$150,000		
	Federal Trust.....	\$8,702,160	\$8,702,160		
		\$10,129,262	\$10,517,033		

Authority: § 51.5-1 and Title 51.5, Chapter 1, Code of Virginia; P.L. 93-516 and P.L. 93-112, Federal Code.

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<p>A. It is the intent of the General Assembly that visually handicapped persons who have completed vocational training as food service managers through programs operated by the Department be considered for food service management position openings within the Commonwealth as they arise.</p>				
<p>B. 1. The annual federal vocational rehabilitation grant award that will be received by the Department for the Blind and Vision Impaired (DBVI) is estimated at \$11,442,719 for federal fiscal year 2016; \$11,442,719 for federal fiscal year 2017; and \$11,442,719 for federal fiscal year 2018. In addition to the base annual award amount, DBVI may request up to \$1,500,000 of additional federal allotment dollars in each of these years. Assuming these amounts, the annual 21.3 percent state matching requirement would equate to \$3,632,832 for federal fiscal year 2016; \$3,632,832 for federal fiscal year 2017; and \$3,632,832 for federal fiscal year 2018.</p>				
<p>2. Based on the projection of federal award funding in paragraph A.2., DBVI shall not request federal vocational rehabilitation grant dollars in excess of \$12,942,719 for federal fiscal year 2016; \$12,942,719 for federal fiscal year 2017; and \$12,942,719 for federal fiscal year 2018, without prior written concurrence from the Director, Department of Planning and Budget. Any approved increases in grant award requests shall be reported by DARS to the Chairmen of the House Appropriations and Senate Finance Committees within 30 days.</p>				
358.	Regional Office Support and Administration (49700).....		\$2,468,935	\$2,468,935
	Regional Office and Field Support Services (49701).....			
	\$2,468,935	\$2,468,935		
	Fund Sources: General.....		\$1,326,097	\$1,326,097
	Federal Trust.....		\$1,142,838	\$1,142,838
<p>Authority: Title 2.2, Chapter 36; Title 51.5, Chapter 13, Code of Virginia; P.L. 93-112 and P.L. 97-35, Federal Code.</p>				
359.	Rehabilitative Industries (81000).....		\$48,005,966	\$48,005,966
	Manufacturing, Retail, and Contract Operations (81003).....		\$54,505,966	\$51,005,966
	\$48,005,966	\$48,005,966		
	\$54,505,966	\$51,005,966		
	Fund Sources: Enterprise.....		\$48,005,966	\$48,005,966
			\$54,505,966	\$51,005,966
<p>Authority: § 51.5-72, Code of Virginia; P.L. 92-29 and P.L. 93-112, Federal Code.</p>				
<p>The Industry Production Workers with the Virginia Industries for the Blind shall not be counted in the classified employment levels of the Department for the Blind and Vision Impaired.</p>				
360.	Administrative and Support Services (49900).....		\$2,977,505	\$2,783,639
	General Management and Direction (49901).....		\$2,193,493	\$1,999,627
				\$1,611,856
	Physical Plant Services (49915).....		\$784,012	\$784,012
			\$753,986	
	Fund Sources: General.....		\$1,327,171	\$1,128,020
			\$1,297,145	\$740,249
	Special.....		\$749,678	\$749,678
	Enterprise.....		\$777,394	\$777,394
	Federal Trust.....		\$123,262	\$128,547
<p>Authority: Title 63.2, Chapter 4, Code of Virginia; P.L. 89-313, P.L. 93-112, and P.L. 97-35, Federal Code.</p>				
<p>A. Up to \$1,244,790 the first year and up to \$1,244,790 the second year is available for the Department for the Blind and Vision Impaired (DBVI) to contract with the Department for Aging and Rehabilitative Services (DARS) for the provision of shared administrative</p>				

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	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
<p>services. The scope of the services and specific costs shall be outlined in a memorandum of understanding (MOU) between DBVI and DARS subject to the approval of the respective agency heads. Any revision to the MOU shall be reported by DARS to the Director, Department of Planning and Budget within 30 days.</p> <p>B. Out of this appropriation, \$200,000 the first year shall be used for one-time security enhancements at the agency's Azalea Road campus. None of the funding provided in this paragraph is to be used to support on-going costs, including personal services.</p>				
Total for Department for the Blind and Vision Impaired.....			<b>\$67,160,176</b>	<b>\$66,966,310</b>
			<del>\$74,870,770</del>	<del>\$71,577,784</del>
General Fund Positions.....	62.60	62.60		
Nongeneral Fund Positions.....	84.40	84.40		
	92.40	92.40		
Position Level.....	147.00	147.00		
	155.00	155.00		
Fund Sources: General.....	\$6,602,415	\$6,403,264		
	\$6,335,907	\$5,923,019		
Special.....	\$1,001,141	\$1,001,141		
	\$1,051,141	\$1,277,987		
Enterprise.....	\$48,783,360	\$48,783,360		
	\$55,283,360	\$51,783,360		
Trust and Agency.....	\$205,000	\$205,000		
Federal Trust.....	\$10,568,260	\$10,573,545		
	\$11,995,362	\$12,388,418		
<b>Virginia Rehabilitation Center for the Blind and Vision Impaired (263)</b>				
361. Rehabilitation Assistance Services (45400).....			\$1,429,165	\$1,429,165
Social and Personal Adjustment to Blindness Training (45408).....	\$1,429,165	\$1,429,165		
Fund Sources: Special.....	\$2,000	\$2,000		
Federal Trust.....	\$1,427,165	\$1,427,165		
Authority: § 51.5-1, Code of Virginia; P.L. 93-112, Federal Code.				
362. Administrative and Support Services (49900).....			<b>\$1,512,535</b>	<b>\$1,512,636</b>
			<del>\$1,494,035</del>	<del>\$1,484,886</del>
General Management and Direction (49901).....	\$766,997	\$767,098		
	\$748,497	\$739,348		
Food and Dietary Services (49907).....	\$228,000	\$228,000		
Physical Plant Services (49915).....	\$517,538	\$517,538		
Fund Sources: General.....	\$369,991	\$369,998		
	\$351,491	\$342,248		
Special.....	\$42,000	\$42,000		
Federal Trust.....	\$1,100,544	\$1,100,638		
Authority: § 51.5-73, Code of Virginia; P.L. 93-112, Federal Code.				
<p>Out of this appropriation, <del>\$200,000</del> \$181,500 the first year and <del>\$200,000</del> \$172,250 the second year from the general fund shall be used for training individuals whose cost cannot be covered by federal vocational rehabilitation revenue. It is estimated that this funding will support <del>25</del> 21 blind, deafblind, and vision impaired individuals.<del>this appropriation.</del></p>				
Total for Virginia Rehabilitation Center for the Blind and Vision Impaired.....			<b>\$2,941,700</b>	<b>\$2,941,801</b>
			<del>\$2,923,200</del>	<del>\$2,914,051</del>
Nongeneral Fund Positions.....	26.00	26.00		
Position Level.....	26.00	26.00		

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	First Year	Second Year	First Year	Second Year
	FY2017	FY2018	FY2017	FY2018
Fund Sources: General.....	\$369,991	\$369,998		
	\$351,491	\$342,248		
Special.....	\$44,000	\$44,000		
Federal Trust.....	\$2,527,709	\$2,527,803		
Grand Total for Department for the Blind and Vision Impaired.....			<b>\$70,101,876</b>	<b>\$69,908,111</b>
			<b>\$77,793,970</b>	<b>\$74,491,835</b>
General Fund Positions.....	62.60	62.60		
Nongeneral Fund Positions.....	110.40	110.40		
	118.40	118.40		
Position Level.....	173.00	173.00		
	181.00	181.00		
Fund Sources: General.....	\$6,972,406	\$6,773,262		
	\$6,687,398	\$6,265,267		
Special.....	\$1,045,141	\$1,045,141		
	\$1,095,141	\$1,321,987		
Enterprise.....	\$48,783,360	\$48,783,360		
	\$55,283,360	\$51,783,360		
Trust and Agency.....	\$205,000	\$205,000		
Federal Trust.....	\$13,095,969	\$13,101,348		
	\$14,523,071	\$14,916,221		
TOTAL FOR OFFICE OF HEALTH AND HUMAN RESOURCES.....			<b>\$14,213,511,573</b>	<b>\$14,431,993,427</b>
			<b>\$14,448,234,397</b>	<b>\$14,915,980,126</b>
General Fund Positions.....	8,498.79	8,502.07		
		8,540.72		
Nongeneral Fund Positions.....	6,758.23	6,762.95		
	6,766.23	6,795.30		
Position Level.....	15,257.02	15,265.02		
	15,265.02	15,336.02		
Fund Sources: General.....	\$6,053,153,875	\$6,185,834,945		
	\$6,132,685,639	\$6,437,296,229		
Special.....	\$1,146,862,255	\$1,139,960,500		
	\$1,148,423,255	\$1,142,916,118		
Enterprise.....	\$48,783,360	\$48,783,360		
	\$55,283,360	\$51,783,360		
Trust and Agency.....	\$1,095,573	\$1,095,573		
		\$1,320,573		
Dedicated Special Revenue.....	\$524,434,657	\$503,799,933		
	\$559,455,154	\$524,122,894		
Federal Trust.....	\$6,439,181,853	\$6,552,519,116		
	\$6,551,291,416	\$6,758,540,952		

ITEM 363.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018

**OFFICE OF NATURAL RESOURCES**

**§ 1-100. SECRETARY OF NATURAL RESOURCES (183)**

363.	Administrative and Support Services (79900).....			\$687,130	\$687,173
	General Management and Direction (79901).....	\$687,130	\$687,173		
	Fund Sources: General.....	\$587,130	\$587,173		
	Federal Trust.....	\$100,000	\$100,000		

Authority: Title 2.2, Chapter 2, Article 7; and § 2.2-201, Code of Virginia.

A. The Secretary of Natural Resources shall report to the Chairmen of the Senate Committees on Finance and Agriculture, Conservation, and Natural Resources, and the House Committees on Appropriations and Conservation and Natural Resources, by November 4 of each year on implementation of the Chesapeake Bay nutrient reduction strategies. The report shall include and address the progress and costs of point source and nonpoint source pollution strategies. The report shall include, but not be limited to, information on levels of dissolved oxygen, acres of submerged aquatic vegetation, computer modeling, variety and numbers of living resources, and other relevant measures for the General Assembly to evaluate the progress and effectiveness of the tributary strategies. In addition, the Secretary shall include information on the status of all of Virginia's commitments to the Chesapeake Bay Agreements.

B. It is the intent of the General Assembly that a reserve be created within the Virginia Water Quality Improvement Fund to support the purposes delineated within the Virginia Water Quality Improvement Act of 1997 (WQIA 1997) when year-end general fund surpluses are unavailable. Consequently, 15 percent of any amounts appropriated to the Virginia Water Quality Improvement Fund due to annual general fund revenue collections in excess of the official estimates contained in the general appropriation act shall be withheld from appropriation, unless otherwise specified. When annual general fund revenue collections do not exceed the official revenue estimates contained in the general appropriation act, the reserve fund may be used for WQIA 1997 purposes as directed by the General Assembly within the general appropriation act.

C. *The Secretary of Natural Resources, with the assistance of the Directors of the Department of Conservation and Recreation, the Department of Environmental Quality, the Department of Game and Inland Fisheries, and the Department of Historic Resources, shall provide an annual report to the Chairmen of the House Appropriations and Senate Finance Committees of all projects undertaken pursuant to a settlement or mitigation agreement upon which the Secretary of Natural Resources is an authorized signatory on behalf of the Governor by November 15, 2017 and by each November 15 thereafter until all terms of the settlement or mitigation agreement are satisfied. In addition, whenever a settlement or mitigation agreement is finalized, the Secretary shall provide a copy of, and explanation of, the terms of such settlement to the Chairmen of the House Appropriations and Senate Finance Committees within 15 days.*

	Total for Secretary of Natural Resources.....			<b>\$687,130</b>	<b>\$687,173</b>
	General Fund Positions.....	5.00	5.00		
	Position Level.....	5.00	5.00		
	Fund Sources: General.....	\$587,130	\$587,173		
	Federal Trust.....	\$100,000	\$100,000		

**§ 1-101. DEPARTMENT OF CONSERVATION AND RECREATION (199)**

364.	Land and Resource Management (50300).....			\$100,929,773	\$35,545,383 \$35,500,035
	Soil and Water Conservation (50301).....	\$20,334,929	\$10,440,719 \$10,395,371		
	Dam Inventory, Evaluation and Classification and Flood Plain Management (50314).....	\$6,639,343	\$3,063,753		

ITEM 364.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
Natural Heritage Preservation and Management (50317).....	\$4,849,820	\$4,749,820		
Financial Assistance to Soil and Water Conservation Districts (50320).....	\$7,291,091	\$7,291,091		
Technical Assistance to Soil and Water Conservation Districts (50322).....	\$7,417,751	\$1,200,000		
Agricultural Best Management Practices Cost Share Assistance (50323).....	\$54,396,839	\$8,800,000		
Fund Sources: General.....	\$79,898,205	<del>\$14,513,815</del> \$14,468,467		
Special.....	\$1,101,328	\$1,101,328		
Dedicated Special Revenue.....	\$12,349,829	\$12,349,829		
Federal Trust.....	\$7,580,411	\$7,580,411		

Authority: Title 10.1, Chapters 1, 2, 5, 6, 7, and 21.1; Title 62.1, Chapter 3.1, Code of Virginia.

A.1. Out of the amounts appropriated for Financial Assistance to Virginia Soil and Water Conservation Districts, \$7,191,091 the first year and \$7,191,091 the second year from the general fund shall be provided to soil and water conservation districts for administrative and operational support. These funds shall be distributed upon approval by the Virginia Soil and Water Conservation Board to the districts in accordance with the Board's established financial allocation policy. These amounts shall be in addition to any other funding provided to the districts for technical assistance pursuant to subsections B. and D. of this item. Of this amount, \$6,209,091 the first year and \$6,209,091 the second year from the general fund shall be distributed to the districts for core administrative and operational expenses (personnel, training, travel, rent, utilities, office support, and equipment) based on identified budget projections and in accordance with the Board's financial allocation policy; \$312,000 the first year and \$312,000 the second year from the general fund shall be distributed at a rate of \$3,000 per dam for maintenance; \$500,000 the first year and \$500,000 the second year from the general fund for small dam repairs of known or suspected deficiencies; and \$170,000 the first year and \$170,000 the second year to the department to provide district support in accordance with Board policy, including, but not limited to, services related to auditing, bonding, contracts, and training. The amount appropriated for small dam repairs of known or suspected deficiencies is authorized for transfer to the Soil and Water Conservation District Dam Maintenance, Repair, and Rehabilitation Fund.

2. The Department shall provide a semi-annual report on or before February 15 and August 15 of each year to the Chairmen of the House Appropriations and Senate Finance Committees on each Virginia soil and water conservation district's budget, revised budget, previous year's balance budget, and expenditure for the following: (i) the federal Conservation Reserve Enhancement Program, (ii) the use of Agricultural Best Management Cost-Share Program funds within the Chesapeake Bay watershed, (iii) the use of Agricultural Best Management Cost-Share Program funds within the Southern Rivers area, and (iv) the amount of Technical Assistance funding. The August 15 report shall reflect cumulative amounts.

B.1. Notwithstanding § 10.1-2129 A., Code of Virginia, \$61,708,800 the first year from the general fund shall be deposited to the Virginia Water Quality Improvement Fund established under the Water Quality Improvement Act of 1997. Of this amount, \$1,650,000 shall be appropriated to the department for the following specified statewide uses: \$800,000 shall be used for the Commonwealth's match for participation in the Federal Conservation Enhancement Program (CREP), up to \$500,000 may be utilized to develop a financial tracking and reporting module as part of the Agricultural Best Management Practices Database and to make necessary database revisions, \$250,000 shall be transferred to the Department of Forestry for water quality grants, and \$100,000 shall be utilized as cost-share for the development of nutrient management plans for golf courses. The Department of Forestry shall submit a report by August 15, 2017, to the Department of Conservation and Recreation specifying uses of funds received. Pursuant to paragraph B of Item 363, \$8,244,210 is designated for deposit to the reserve within the Virginia Water Quality Improvement Fund.

ITEM 364.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
2. Of the remaining amount, \$51,814,590 is authorized for transfer to the Virginia Natural Resources Commitment Fund, a subfund of the Water Quality Improvement Fund. Notwithstanding any other provision of law, the funds transferred to the Virginia Natural Resources Commitment Fund shall be distributed by the department upon approval of the Virginia Soil and Water Conservation Board in accordance with the board's developed policies, as follows: \$25,990,198 for Agricultural Best Management Practices Cost-Share Assistance where of this amount \$15,594,119 shall be used for matching grants for Agricultural Best Management Practices on lands in the Commonwealth exclusively or partly within the Chesapeake Bay watershed, \$10,396,079 shall be used for matching grants for Agricultural Best Management Practices on lands in the Commonwealth exclusively outside the Chesapeake Bay watershed, and \$6,217,751 shall be appropriated for Technical Assistance for Virginia Soil and Water Conservation Districts.				
3. Of the remaining amount, \$19,606,641 shall be appropriated for the implementation of previously approved livestock stream exclusion practices. Of this amount, \$9,803,321 shall be used for practices on lands in the Commonwealth exclusively or partly within the Chesapeake Bay watershed, and \$9,803,320 shall be used for practices on lands in the Commonwealth exclusively outside the Chesapeake Bay watershed.				
4. This appropriation meets the mandatory deposit requirements associated with the FY 2015 excess general fund revenue collections and discretionary year-end general fund balances.				
<i>5. In the second year, \$8,274,474 in the Water Quality Improvement Fund Reserve held by the Department of Conservation and Recreation and established pursuant to Item 363 B of this act shall be deposited to the Virginia Water Quality Improvement Fund. Of this amount, \$500,000 shall be appropriated to the Department for soil and water conservation for the Commonwealth's match for participation in the federal Conservation Reserve Enhancement Program (CREP). Of the remaining amounts, \$7,774,474 is authorized for transfer to the Virginia Natural Resources Commitment Fund, a subfund of the Virginia Water Quality Improvement Fund established under the Water Quality Improvement Act of 1997. Notwithstanding any other provision of law, the monies transferred to the Virginia Natural Resources Commitment Fund shall be distributed by the Department upon approval by the Virginia Soil and Water Conservation Board in accordance with the Board's developed policies, as follows: of the \$7,774,474, a total of \$992,937 shall be appropriated for Technical Assistance for Virginia Soil and Water Conservation Districts, and \$6,781,537 for Agricultural Best Management Practices Cost-Share Assistance where of this amount \$4,068,922 shall be used for matching grants for agricultural best management practices on lands in the Commonwealth exclusively or partly within the Chesapeake Bay watershed and \$2,712,615 shall be used for matching grants for agricultural best management practices on lands in the Commonwealth exclusively outside of the Chesapeake Bay watershed.</i>				
C. It is the intent of the General Assembly, that notwithstanding the provisions of § 10.1-2132, Code of Virginia, the Department of Conservation and Recreation is authorized to make Water Quality Improvement Grants to state agencies.				
D.1 Out of this appropriation, \$10,000,000 the first year and \$10,000,000 the second year from nongeneral funds to be deposited to the Virginia Natural Resources Commitment Fund, a subfund of the Virginia Water Quality Improvement Fund, as established in § 10.1-2128.1, Code of Virginia. The funds shall be dispersed by the Department pursuant to § 10.1-2128.1, Code of Virginia.				
2. The source of an amount estimated at \$10,000,000 the first year and \$10,000,000 the second year to support the nongeneral fund appropriation to the Virginia Natural Resources Commitment Fund shall be the recordation tax fee established in Part 3 of this act.				
3. Out of this amount, a total of eight percent, or \$1,200,000, whichever is greater, shall be appropriated to Virginia Soil and Water Conservation Districts for technical assistance to farmers implementing agricultural best management practices, and \$8,800,000 for Agricultural Best Management Practices Cost-Share Assistance. Of the amount deposited for Cost-Share Assistance, distributions between watersheds shall be in accordance with the allocation percentages set out in § 10.1-2128.1 B., Code of Virginia.				
E.1. It is the intent of the General Assembly that all interest earnings of the Water Quality Improvement Fund shall be spent only upon appropriation by the General Assembly, after the				



ITEM 364.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
<p>N. Out of the amounts in this item, \$500,000 in the first year and \$500,000 in the second year from the general fund shall be provided to the Natural Heritage Program in support of active preserve management activities across Virginia's 61 Natural Area Preserves as identified by the Board of Conservation and Recreation in October 2014.</p> <p>O. Notwithstanding § 54.1, Chapter 4, the U.S. Department of Agriculture's Natural Resources Conservation Service and Department of Conservation and Recreation Central Office staff may provide engineering services to the Department of Conservation and Recreation and the local Soil and Water Conservation Districts for design and construction of agriculture best management practices.</p> <p>P. Out of the amounts in this item, \$100,000 the first year from the general fund shall be made available for the construction, improvement, and marking of trails along the lower Appomattox River from the Lake Chesterfield Dam to Appomattox Manor.</p> <p><i>Q. The Director, Department of Conservation and Recreation, shall convene a stakeholder group consisting of, but not limited to, designees of the Secretary of Natural Resources, the Secretary of Agriculture and Forestry, the Department of Agriculture and Consumer Services, the Virginia Association of Soil and Water Conservation Districts, the Virginia Farm Bureau Federation, the Virginia Agribusiness Council, the Chesapeake Bay Commission, and the Chesapeake Bay Foundation to examine the funding, training, and resource needs, as well as explore new incentives, for additional implementation of Resource Management Plans (RMPs), pursuant to §§ 10.1-104.7 through 10.1-104.9, Code of Virginia. The stakeholder group is directed to conduct their review and make recommendations to the Governor and the Chairmen of the House Appropriations and Senate Finance Committees no later than October 1, 2017.</i></p> <p><i>R.1. The Department of Conservation and Recreation shall convene a stakeholder group to include, at a minimum: two members of the House of Delegates and one member of the Senate from the membership of the Chesapeake Bay Commission who will be selected by the Joint Rules Committee, representatives of the Virginia Farm Bureau Foundation, the Virginia Association of Soil and Water Conservation Districts, the Virginia Agribusiness Council, and the Chesapeake Bay Foundation, the Director, Department of Conservation and Recreation or his designee, the Secretary of Natural Resources or her designee, and staff from the House Appropriations and Senate Finance Committees to evaluate methods to stabilize the fluctuations in funding for Agricultural Best Management Practices (BMPs).</i></p> <p><i>2. Such a review shall, at a minimum, (i) consider increasing the portion of any deposit to the Water Quality Improvement Fund (WQIF) directed to the WQIF reserve, (ii) limiting the portion of the WQIF reserve that may be utilized in any given year, (iii) evaluating the combined revenues available from the WQIF and the Natural Resources Commitment Fund as a step in establishing appropriate expenditures from the combined funds in a given fiscal year, and (iv) distributing any funds to be deposited into the WQIF pursuant to the provisions of Chapter 21.1 of Title 10.1, Code of Virginia, across a biennial period. Such review shall also consider the impact on the staffing and technical assistance needs of the Soil and Water Conservation Districts to ensure that staffing requirements do not fluctuate or exceed their annual ability to fully implement and oversee practices with the funding made available.</i></p> <p><i>3. The Stakeholder Group shall report any recommendations to the Chairmen of the House Appropriations, Senate Finance and House and Senate Agriculture, Conservation and Natural Resources Committees no later than November 15, 2017.</i></p>				
365.	Leisure and Recreation Services (50400).....		\$59,377,155	\$59,043,790
			\$59,142,155	\$55,513,652
	Preservation of Open Space Lands (50401).....	\$13,749,857	<del>\$13,749,857</del>	\$10,219,719
	Design and Construction of Outdoor Recreational Facilities (50403).....	\$875,500	\$875,500	
	State Park Management and Operations (50404).....	<del>\$41,283,592</del>	\$40,950,227	
		\$41,048,592		
	Natural Outdoor Recreational and Open Space Resource Research, Planning, and Technical Assistance (50406).....	\$3,468,206	\$3,468,206	

ITEM 365.	Item Details(\$)		Appropriations(\$)	
	First Year	Second Year	First Year	Second Year
	FY2017	FY2018	FY2017	FY2018
Fund Sources: General.....	\$30,631,055	\$30,297,690		
	\$30,396,055	\$26,767,552		
Special.....	\$22,622,592	\$22,622,592		
Debt Service.....	\$75,000	\$75,000		
Dedicated Special Revenue.....	\$1,900,000	\$1,900,000		
Federal Trust.....	\$4,148,508	\$4,148,508		

Authority: Title 10.1, Chapters 1, 2, 3, 4, 4.1, and 17; Title 18.2, Chapters 1 and 5; Title 19.2, Chapters 1, 5, and 7, Code of Virginia.

A.1. Out of the amount for Natural Outdoor Recreational and Open Space Resource Research, Planning, and Technical Assistance shall be paid for the operation and maintenance of Breaks Interstate Park, an amount not to exceed \$275,000 the first year and \$275,000 the second year from the general fund.

2. The Breaks Interstate Park Commission shall submit an annual audit of a fiscal and compliance nature of its accounts and transactions to the Auditor of Public Accounts, the Director, Department of Conservation and Recreation, and the Director, Department of Planning and Budget.

3. The Breaks Interstate Park Commission shall, following the modernization of the Breaks Interstate Park electrical system, enter into negotiations to transfer control of the electrical system serving the park to a local regional electric utility.

B. Notwithstanding the provisions of § 10.1-202, Code of Virginia, amounts deposited to the State Park Conservation Resources Fund may be used for a program of in-state travel advertising. Such travel advertising shall feature Virginia State Parks and the localities or regions in which the parks are located. To the extent possible the department shall enter into cooperative advertising agreements with the Virginia Tourism Authority and local entities to maximize the effectiveness of expenditures for advertising. The department is further authorized to enter into a cooperative advertising agreement with the Virginia Association of Broadcasters.

C. Included in the amount for Preservation of Open-Space Lands is \$1,752,750 the first year and \$1,752,750 the second year from the general fund for the operating expenses of the Virginia Outdoors Foundation (Title 10.1, Chapter 18, Code of Virginia). *Pursuant to § 58.1-817, the \$1 recordation fee shall be imposed on each instrument or document recorded in the proper book for filing of land records in those jurisdictions in which open-space easements are held by the Virginia Outdoors Foundation.*

D.1. Included in the amount for Preservation of Open Space Lands is \$8,000,000 the first year and ~~\$8,000,000~~\$4,500,000 the second year from the general fund to be deposited into the Virginia Land Conservation Fund, § 10.1-1020, Code of Virginia. *Notwithstanding § 10.1-1020, Code of Virginia, \$900,000 shall be transferred to the Virginia Outdoors Foundation's Open-Space Lands Preservation Trust Fund. No less than 50 percent of the appropriations remaining after the transfer to the Virginia Outdoors Foundation's Open-Space Lands Preservation Trust fund has been satisfied* ~~Of these funds, after Virginia Outdoors Foundation's Open-Space Lands Preservation Trust Fund statutory distribution obligations have been satisfied, no less than 50 percent of the remaining appropriations~~ are to be used for grants for fee simple acquisitions with public access or acquisitions of easements with public access. This appropriation shall be deemed sufficient to meet the provisions of § 2.2-1509.4, Code of Virginia.

2. Included in the amounts for Preservation of Open Space Lands is \$2,000,000 the first year and \$2,000,000 the second year from nongeneral funds to be deposited into the Virginia Land Conservation Fund to be distributed by the Virginia Land Conservation Foundation pursuant to the provisions of § 58.1-513, Code of Virginia.

E. Upon completion of the construction of the Daniel Boone Wilderness Trail Interpretative Center, the Division of State Parks may accept transfer of the facility, 153 acres of land, and \$450,000 for maintenance of the completed facility for operation as a satellite facility to Natural Tunnel State Park. It is the intent of the General Assembly that at such time as the facility, property, and cash are transferred to the Division of State Parks that positions and ongoing funding for the operation of the satellite facility shall be

ITEM 365.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
provided.				
F. The Department is hereby authorized to enter into an agreement with the non-profit organization that currently owns Natural Bridge to open and operate the facility as a Virginia State Park.				
G. The Board of Conservation and Recreation shall consider whether public-private partnerships would (i) result in greater operational efficiencies in the planning, development, construction, and operation of new state parks and in the management of existing state parks and (ii) generate cost savings, allow for additional state park amenities, and increase operational revenues for state parks. Technical assistance shall be provided to the Board by the Department of Conservation and Recreation. The Board shall submit a report to the Governor and the Chairmen of the House Appropriations and Senate Finance Committees no later than November 15, 2016.				
H. Out of this appropriation, <del>\$635,000</del> \$400,000 the first year from the general fund is designated to leverage additional support through a public-private <del>efforts</del> partnership to complete the trail redevelopment and enhancement at Pocahontas State Park consistent with the Pocahontas State Park's Swift Creek Mountain Bike Trail Concept plan; <del>including the design for trailhead facilities accessible for disabled riders.</del> <i>It is the intent of the General Assembly that this funding shall be expended solely for the construction of trails related to this plan, which included trails accessible to disabled riders.</i>				
I. Notwithstanding any other provision of the Code of Virginia, as a condition of the expenditure of all amounts included in this item, the Department of Conservation and Recreation shall not initiate or accept by gift, transfer or purchase with nongeneral funds any new lands for use as a State Park or Natural Area Preserve without a specific appropriation for such purpose by the General Assembly. <i>However, the Department is authorized to acquire in-holdings or lands contiguous to an existing State Park or Natural Area Preserve as expressly set out in Items C-25 and C-26 of this act and as provided for in Section 4-2.01 a.1. of this act provided further that such acquisitions will not cause the Department to incur additional operating expenses resulting from such acquisitions.</i>				
366. Administrative and Support Services (59900).....			\$9,639,539	\$9,651,642
			\$9,215,539	\$9,201,642
General Management and Direction (59901).....	\$9,639,539	\$9,651,642		
	\$9,215,539	\$9,201,642		
Fund Sources: General.....	\$9,124,539	\$9,136,642		
	\$8,700,539	\$8,686,642		
Special.....	\$515,000	\$515,000		
Authority: Title 2.2, Chapters 37, 40, 41, 43; and Title 10.1, Chapter 1, Code of Virginia.				
Total for Department of Conservation and Recreation.....			\$169,946,467	\$104,240,815
			\$169,287,467	\$100,215,329
General Fund Positions.....	412.50	<del>412.50</del> 408.50		
Nongeneral Fund Positions.....	39.50	39.50		
Position Level.....	452.00	<del>452.00</del> 448.00		
Fund Sources: General.....	\$119,653,799	\$53,948,147		
	\$118,994,799	\$49,922,661		
Special.....	\$24,238,920	\$24,238,920		
Debt Service.....	\$75,000	\$75,000		
Dedicated Special Revenue.....	\$14,249,829	\$14,249,829		
Federal Trust.....	\$11,728,919	\$11,728,919		
<b>§ 1-102. DEPARTMENT OF ENVIRONMENTAL QUALITY (440)</b>				
367. Land Protection (50900).....			\$26,846,329	\$26,846,329
Land Protection Permitting (50925).....	\$3,652,226	\$3,652,226		

ITEM 367.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
Land Protection Compliance and Enforcement (50926).....	\$22,164,278	\$22,164,278		
Land Protection Outreach (50927).....	\$765,558	\$765,558		
Land Protection Planning and Policy (50928).....	\$264,267	\$264,267		
Fund Sources: General.....	\$2,747,417	\$2,747,417		
			\$1,189,842	
Special.....	\$1,359,676	\$1,359,676		
Trust and Agency.....	\$10,738,508	\$10,738,508		
Dedicated Special Revenue.....	\$5,572,100	\$5,572,100		
			\$7,129,675	
Federal Trust.....	\$6,428,628	\$6,428,628		

Authority: Title 10.1, Chapters 11.1, 11.2, 12.1, 14, and 25; Title 44, Chapter 3.5, Code of Virginia.

A. It is the intent of the General Assembly that balances in the Virginia Environmental Emergency Response Fund be used to meet match requirements for U.S. Environmental Protection Agency Superfund State Support Contracts.

*B. Notwithstanding the provisions of § 10.1-1422.3, Code of Virginia, \$1,557,575 in the second year from the Waste Tire Trust Fund within the Department of Environmental Quality shall be used for the costs associated with the Department's land protection and water programs. Such funds may be used for the purposes set forth in § 10.1-1422.3, Code of Virginia, at the Director's discretion and only as available after funding other land protection and water programs.*

368.	Water Protection (51200).....			\$41,002,971	\$41,002,971
	Water Protection Permitting (51225).....	\$9,507,131	\$9,507,131		
	Water Protection Compliance and Enforcement (51226).....	\$7,866,879	\$7,866,879		
	Water Protection Outreach (51227).....	\$1,997,757	\$1,997,757		
	Water Protection Planning and Policy (51228).....	\$5,229,374	\$5,229,374		
	Water Protection Monitoring and Assessment (51229).....	\$7,520,524	\$7,520,524		
	Water Protection Stormwater Management (51230).....	\$8,881,306	\$8,881,306		
	Fund Sources: General.....	\$19,995,968	\$19,995,968		
	Special.....	\$1,607,265	\$1,607,265		
	Trust and Agency.....	\$25,500	\$25,500		
	Dedicated Special Revenue.....	\$11,502,336	\$11,502,336		
	Federal Trust.....	\$7,871,902	\$7,871,902		

Authority: Title 10.1, Chapter 11.1; and Title 62.1, Chapters 2, 3.1, 3.2, 3.6, 5, 6, 20, 22, 24, and 25, Code of Virginia.

A. Out of this appropriation, \$51,500 the first year and \$51,500 the second year from the general fund is designated for annual membership dues for the Ohio River Valley Water Sanitation Commission.

B.1. The permit fee regulations adopted by the State Water Control Board pursuant to paragraphs B.1. and B.2. of § 62.1-44.15:6, Code of Virginia, shall be set at an amount representing not more than 50 percent of the direct costs for the administration, compliance and enforcement of Virginia Pollutant Discharge Elimination System permits and Virginia Pollution Abatement permits.

2. The regulations adopted by the State Water Control Board to initially implement the provisions of this Item shall be exempt from Article 2 (§ 2.2-4006, et seq.) of Chapter 40 of Title 2.2, Code of Virginia, and shall become effective no later than July 1, 2010. Thereafter, any amendments to the fee schedule described by these acts shall not be exempted from Article 2 (§ 2.2-4006, et seq.) of Chapter 40 of Title 2.2, Code of Virginia.

C. Out of the appropriation for this item, \$151,500 the first year and \$151,500 the second

ITEM 368.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
<p>year from the general fund is designated for the annual membership dues for the Interstate Commission on the Potomac River Basin.</p> <p>D.1. Notwithstanding § 62.1-44.15:56, Code of Virginia, public institutions of higher education, including community colleges, colleges, and universities, shall be subject to project review and compliance for state erosion and sediment control requirements by the local program authority of the locality within which the land disturbing activity is located, unless such institution submits annual specifications to the Department of Environmental Quality, in accordance with § 62.1-44.15:56 A (i), Code of Virginia.</p> <p>2. The State Water Control Board is authorized to amend the Erosion and Sediment Control Regulations (9 VAC 25-840 et seq.) to conform such regulations with this project review requirement and to clarify the process. These amendments shall be exempt from Article 2 (§2.2-4006 et seq.) of the Administrative Process Act.</p> <p>E. Beginning October 1, 2015, there shall be a \$3.75 fee imposed on each dry ton of exceptional quality biosolids cake sewage sludge that is land applied pursuant to § 62.1-44.19:3P, Code of Virginia, until such fee is altered, amended or rescinded by the State Water Control Board.</p> <p>F. If the Board of the Appomattox River Water Authority does not approve an action to move forward with the raising of the Brasfield Dam prior to June 30, <del>2017</del> 2018, the authorization for \$5,000,000 in Virginia Public Building Authority bonds for such project included in Chapter 806, 2013 Acts of Assembly shall expire.</p> <p>G. The Department shall work in conjunction with the Virginia Economic Development Partnership to facilitate the development of long-term offsetting methods within the Virginia Nutrient Credit Exchange as set out in Item 125 of this act.</p>				
369.	Air Protection (51300).....		\$18,347,767	\$18,347,767
	Air Protection Permitting (51325).....	\$6,069,469		
	Air Protection Compliance and Enforcement (51326).....	\$6,641,946		
	Air Protection Outreach (51327).....	\$205,587		
	Air Protection Planning and Policy (51328).....	\$2,327,437		
	Air Protection Monitoring and Assessment (51329)....	\$3,103,328		
	Fund Sources: General.....	\$2,333,542		<del>\$2,333,542</del> \$1,333,542
	Enterprise.....	\$9,613,520		\$9,613,520
	Dedicated Special Revenue.....	\$2,437,796		<del>\$2,437,796</del> \$3,437,796
	Federal Trust.....	\$3,962,909		\$3,962,909

Authority: Title 10.1, Chapters 11.1 and 13; and Title 46.2, Chapter 10, Code of Virginia.

A. The Department of Environmental Quality is authorized to use up to \$300,000 the first year and \$300,000 the second year from the Vehicle Emissions Inspection Program Fund to implement the provisions of Chapter 710, Acts of Assembly of 2002, which authorizes the department to operate a program to subsidize repairs of vehicles that fail to meet emissions standards established by the Air Pollution Control Board when the owner of the vehicle is financially unable to have the vehicle repaired.

B.1. All of the permit program emissions fees collected by the State Air Pollution Control Board pursuant to § 10.1-1322, Code of Virginia, shall be assessed and collected on an annual basis notwithstanding the provisions of that section. The State Air Pollution Control Board shall adopt regulations adjusting permit program emissions fees collected pursuant to § 10.1-1322, Code of Virginia, and establish permit application processing fees and permit maintenance fees sufficient to ensure that the revenues collected from fees cover the total direct and indirect costs of the program consistent with the requirements of Title V of the Clean Air Act, except that the initial adjustment to permit program emissions fees shall not be increased by more than 30 percent over current rates. Notwithstanding the provisions of § 10.1-1322, Code of Virginia, the permit application fees collected pursuant to this paragraph shall not be credited towards the amount of annual fees owed pursuant to § 10.1-1322, Code

ITEM 369.	Item Details(\$)		Appropriations(\$)	
	First Year	Second Year	First Year	Second Year
	FY2017	FY2018	FY2017	FY2018

of Virginia. All of the fees adopted pursuant to this section shall be adjusted annually by the Consumer Price Index.

2. The regulations adopted by the State Air Pollution Control Board to initially implement the provisions of this item shall be exempt from Chapter 40 of Title 2.2, Code of Virginia, and shall become effective no later than July 1, 2012. Thereafter, any amendments to the fee schedule described by these acts shall not be exempted from Chapter 40 of Title 2.2, Code of Virginia.

C. Funding provided in this item is contingent upon no amount contained herein being used to prepare or submit to the Environmental Protection Agency (EPA) a state implementation plan, or other document with respect to the Environmental Protection Agency's "Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units," 80 Fed. Reg. 64,662 (October 23, 2015), unless the stay issued by the United States Supreme Court is released pending disposition of the applicants' petitions for review in the United States Court of Appeals for the District of Columbia Circuit and disposition of the applicants' petition for a writ of certiorari, if such writ is sought.

370.	Environmental Financial Assistance (51500).....			\$62,013,511	<del>\$62,013,511</del> \$63,363,511
	Financial Assistance for Environmental Resources Management (51502).....	\$9,125,868	<del>\$9,125,868</del> \$10,475,868		
	Virginia Water Facilities Revolving Fund Loans and Grants (51503).....	\$23,588,877	\$23,588,877		
	Financial Assistance for Coastal Resources Management (51507).....	\$1,924,500	\$1,924,500		
	Litter Control and Recycling Grants (51509).....	\$2,039,509	\$2,039,509		
	Petroleum Tank Reimbursement (51511).....	\$25,334,757	\$25,334,757		
	Fund Sources: General.....	\$3,053,614	<del>\$3,053,614</del> \$4,403,614		
	Trust and Agency.....	\$25,504,646	\$25,504,646		
	Dedicated Special Revenue.....	\$4,741,509	\$4,741,509		
	Federal Trust.....	\$28,713,742	\$28,713,742		

Authority: Title 10.1, Chapters 11.1, 14, 21.1, and 25 and Title 62.1, Chapters 3.1, 22, 23.2, and 24, Code of Virginia.

A. To the extent available, the authorization included in Chapter 781, 2009 Acts of Assembly, Item 368, paragraph E, is hereby continued for the Virginia Public Building Authority to issue revenue bonds in order to finance Virginia Water Quality Improvement Grants, pursuant to Chapter 851, 2007 Acts of Assembly.

B. To the extent available, the authorization included in Chapter 806, 2013 Acts of Assembly, Item C-39.40, is hereby continued for the Virginia Public Building Authority to issue revenue bonds in order to finance the Stormwater Local Assistance Fund, the Combined Sewer Overflow Matching Fund, Nutrient Removal Grants, the Hopewell Regional Wastewater Treatment Authority, and the Appomattox River Water Authority. The administration of several of the water quality programs, including the Stormwater Local Assistance Fund, transferred to the Department of Environmental Quality per Chapter 756, 2013 Acts of Assembly.

C.1. The State Comptroller is authorized to continue the Stormwater Local Assistance Fund as established in Item 360, Chapter 806, 2013 Acts of Assembly. The fund shall consist of bond proceeds from bonds authorized by the General Assembly and issued pursuant to Item C-39.40 in Chapter 806, 2013 Acts of Assembly, and Item C-43 of Chapter 665, 2015 Acts of Assembly, sums appropriated to it by the General Assembly, and other grants, gifts, and moneys as may be made available to it from any other source, public or private. Interest earned on the moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund.

2. The purpose of the Fund is to provide matching grants to local governments for the

ITEM 370.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
	<p>planning, design, and implementation of stormwater best management practices that address cost efficiency and commitments related to reducing water quality pollutant loads. Moneys in the Fund shall be used to meet: i) obligations related to the Chesapeake Bay total maximum daily load (TMDL) requirements; ii) requirements for local impaired stream TMDLs; iii) water quality requirements of the Chesapeake Bay Watershed Implementation Plan (WIP); and iv) water quality requirements related to the permitting of small municipal stormwater sewer systems. The grants shall be used only for the acquisition of certified nonpoint nutrient credits and capital projects meeting all pre-requirements for implementation, including but not limited to: i) new stormwater best management practices; ii) stormwater best management practice retrofits; iii) stream restoration; iv) low impact development projects; v) buffer restoration; vi) pond retrofits; and vii) wetlands restoration.</p>			
	<p>D. The grants shall be used only for the acquisition of certified nonpoint nutrient credits and capital projects meeting all pre-requirements for implementation, including but not limited to: i) new stormwater best management practices; ii) stormwater best management practice retrofits; iii) stream restoration; iv) low impact development projects; v) buffer restoration; vi) pond retrofits; and vii) wetlands restoration. Such grants shall be in accordance with eligibility determinations made by the State Water Control Board under the authority of the Department of Environmental Quality.</p>			
	<p><del>E. The Department of Environmental Quality is authorized to capitalize the Nutrient Offset Fund to the extent necessary to facilitate the development of grants or contracts to support animal waste to energy projects.</del></p>			
	<p>F. The Department of Environmental Quality shall use an amount not to exceed \$3,000,000 from the Water Quality Improvement Fund to conduct the James River chlorophyll study pursuant to the approved Virginia Chesapeake Bay Total Maximum Daily Load, Phase I Watershed Implementation Plan. This amount shall be used solely for contractual support for water quality monitoring and analysis and computer modeling. No portion of this funding may be used for administrative costs of the department.</p>			
	<p>G. Out of such funds available in this item, the Department shall provide funding to the Virginia Geographic Information Network in an amount necessary to implement statewide digital orthography to improve land coverage data necessary to assist localities in planning and implementing stormwater management programs. As part of this authorization, the Department shall also include data to update prior LIDAR surveys of elevations along coastal areas to support activities related to management of recurrent coastal flooding.</p>			
	<p>H. Out of the amounts appropriated for Financial Assistance for Environmental Resources Management, \$3,292,479 the first year and \$3,292,479 the second year from federal funds is provided to implement stormwater management activities.</p>			
	<p>I.1. Each locality establishing a utility or enacting a system of service charges to support a local stormwater management program pursuant to § 15.2-2114, Code of Virginia, shall provide to the Auditor of Public Accounts by October 1 of each year, in a format specified by the Auditor, a report as to each program funded by these fees and the expected nutrient and sediment reductions for each of these programs. The Department of Environmental Quality shall, at the request of the Auditor of Public Accounts, offer assistance to the Auditor's office in the review of the submitted reports.</p>			
	<p>2. The Auditor of Public Accounts shall include in the Specifications for Audits of Counties, Cities, and Towns regulations for all local governments establishing a utility or enacting a system of service charges to support a local stormwater management program pursuant to § 15.2-2114, Code of Virginia, a requirement to ensure that each impacted local government is in compliance with the provisions of § 15.2-2114 A., Code of Virginia. Any such adjustment to the Specifications for Audits of Counties, Cities, and Towns regulations shall be exempt from the Administrative Process Act and shall be required for all audits completed after July 1, 2014.</p>			
	<p><i>J. Out of the amounts appropriated for Financial Assistance for Environmental Resources Management, \$1,350,000 the second year from the general fund is provided to reimburse the Hampton Roads Sanitation District for the purchase of an extensometer to measure land subsidence.</i></p>			

ITEM 371.		Item Details(\$)		Appropriations(\$)	
		First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
371.	Administrative and Support Services (59900).....			\$27,154,493	\$27,157,559
	General Management and Direction (59901).....	\$19,644,008	\$19,647,074		
	Information Technology Services (59902).....	\$7,510,485	\$7,510,485		
	Fund Sources: General.....	\$12,634,058	\$12,637,124		
	Special.....	\$5,867,648	\$5,867,648		
	Enterprise.....	\$3,325,278	\$3,325,278		
	Trust and Agency.....	\$1,239,744	\$1,239,744		
	Dedicated Special Revenue.....	\$633,740	\$633,740		
	Federal Trust.....	\$3,454,025	\$3,454,025		

Authority: Title 10.1, Chapters 11.1, 13 and 14 and Title 62.1, Chapter 3.1, Code of Virginia.

A. Notwithstanding the provisions of Title 10.1, Chapter 25, Code of Virginia, the department is authorized to expend funds from the balances in the Virginia Environmental Emergency Response Fund for costs associated with its waste management, *air*, and water programs.

B. Notwithstanding the provisions of Title 10.1, Chapter 25, Code of Virginia, the department is authorized to expend up to \$600,000 the first year and \$600,000 the second year from the balances in the Virginia Environmental Emergency Response Fund to further develop and implement eGovernment services.

C. Out of the amounts for this appropriation, \$11,200 the first year and \$11,200 the second year from the general fund is provided for payment of the necessary expenses for Virginia's participation in the Roanoke River Bi-State Commission and Roanoke River Basin Advisory Committee.

Total for Department of Environmental Quality.....				<b>\$175,365,071</b>	<b>\$175,368,137</b> <b>\$176,718,137</b>
General Fund Positions.....	408.50	408.50			
Nongeneral Fund Positions.....	564.50	564.50			
Position Level.....	973.00	973.00			
Fund Sources: General.....	\$40,764,599	<del>\$40,767,665</del> \$39,560,090			
Special.....	\$8,834,589	\$8,834,589			
Enterprise.....	\$12,938,798	\$12,938,798			
Trust and Agency.....	\$37,508,398	\$37,508,398			
Dedicated Special Revenue.....	\$24,887,481	<del>\$24,887,481</del> \$27,445,056			
Federal Trust.....	\$50,431,206	\$50,431,206			

**§ 1-103. DEPARTMENT OF GAME AND INLAND FISHERIES (403)**

372.	Wildlife and Freshwater Fisheries Management (51100).....			\$45,672,578	\$45,686,094
	Wildlife Information and Education (51102).....	\$4,519,960	\$4,519,960		
	Enforcement of Recreational Hunting and Fishing Laws and Regulations (51103).....	\$16,430,863	\$16,444,379		
	Wildlife Management and Habitat Improvement (51106).....	\$24,721,755	\$24,721,755		
	Fund Sources: Dedicated Special Revenue.....	\$31,323,249	\$31,336,765		
	Federal Trust.....	\$14,349,329	\$14,349,329		

Authority: Title 29.1, Chapters 1 through 6, Code of Virginia.

Out of the amounts appropriated for this Item, \$20,000 the first year and \$20,000 the second year from nongeneral funds is provided for the Smith Mountain Lake Water Quality Monitoring Program.

373.	Boating Safety and Regulation (62500).....			\$8,095,918	\$8,095,918
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ITEM 373.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
Boat Registration and Titling (62501).....	\$2,253,186	\$2,253,186		
Boating Safety Information and Education (62502)....	\$462,359	\$462,359		
Enforcement of Boating Safety Laws and Regulations (62503).....	\$5,380,373	\$5,380,373		
Fund Sources: Dedicated Special Revenue.....	\$6,387,953	\$6,387,953		
Federal Trust.....	\$1,707,965	\$1,707,965		
Authority: Title 29.1, Chapters 7 and 8, Code of Virginia.				
374. Administrative and Support Services (59900).....			\$9,041,237	\$9,051,353
General Management and Direction (59901).....	\$7,265,635	\$7,275,751		
Information Technology Services (59902).....	\$1,775,602	\$1,775,602		
Fund Sources: Dedicated Special Revenue.....	\$8,820,388	\$8,830,504		
Federal Trust.....	\$220,849	\$220,849		
Authority: Title 29.1, Chapter 1, Code of Virginia.				
A. The department shall recover the cost of reproduction, plus a reasonable fee per record, from persons or organizations requesting copies of computerized lists of licenses issued by the department.				
B. The department shall not further consolidate its regional offices, field offices, or close any of these offices in presently-served localities or enter into any lease for any new regional office without notification of the Chairman of the House Committee on Agriculture, Chesapeake, and Natural Resources and the Chairman of the Senate Committee on Agriculture, Conservation, and Natural Resources. The department shall not undertake any future reorganization of any division, reporting structures, regional or field offices, or any function it may perform without notifying the Chairmen of the House Committee on Agriculture, Chesapeake, and Natural Resources, the House Committee on Appropriations, the Senate Committee on Agriculture, Conservation, and Natural Resources, and the Senate Committee on Finance.				
C. Funds previously appropriated to the Lake Anna Advisory Committee for hydrilla control and removal may be used at the discretion of the Lake Anna Advisory Committee upon issues related to maintaining the health, safety, and welfare of Lake Anna.				
375. A. Pursuant to §§ 29.1-101, 58.1-638, and 58.1-1410, Code of Virginia, deposits to the Game Protection Fund include an estimated \$17,700,000 the first year and \$17,700,000 the second year from revenue originating from the general fund.				
B. Pursuant to § 29.1-101.01, Code of Virginia, the Department of Planning and Budget shall transfer such funds as designated by the Board of Game and Inland Fisheries from the Game Protection Fund (§ 29.1-101) to the Capital Improvement Fund (§ 29.1-101.01) up to an amount equal to 50 percent or less of the revenue deposited to the Game Protection Fund by § 3-1.01, subparagraph M, of this act.				
C. Out of the amounts transferred pursuant to § 3-1.01, subparagraph K, of this act, \$881,753 the first year and \$881,753 the second year from the Game Protection Fund shall be used for the enforcement of boating laws, boating safety education, and for improving boating access.				
Total for Department of Game and Inland Fisheries....			<b>\$62,809,733</b>	<b>\$62,833,365</b>
Nongeneral Fund Positions.....	496.00	496.00		
Position Level.....	496.00	496.00		
Fund Sources: Dedicated Special Revenue.....	\$46,531,590	\$46,555,222		
Federal Trust.....	\$16,278,143	\$16,278,143		
<b>§ 1-104. DEPARTMENT OF HISTORIC RESOURCES (423)</b>				
376. Historic and Commemorative Attraction Management (50200).....			\$5,890,828	\$5,891,575
			\$5,683,213	\$5,926,450

ITEM 376.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
Financial Assistance for Historic Preservation (50204).....	\$1,086,420	\$1,086,420		
	\$878,805	\$1,121,295		
Historic Resource Management (50205).....	\$4,804,408	\$4,805,155		
Fund Sources: General.....	\$3,704,256	\$3,704,806		
	\$3,496,641	\$3,739,681		
Special.....	\$690,659	\$690,659		
Commonwealth Transportation.....	\$109,835	\$109,835		
Federal Trust.....	\$1,386,078	\$1,386,275		

Authority: Title 10.1, Chapters 22 and 23, Code of Virginia.

A. General fund appropriations for historic and commemorative attractions not identified in § 10.1-2211 or § 10.1-2211.1, Code of Virginia, shall be matched by local or private sources, either in cash or in-kind, in amounts at least equal to the appropriation and which are deemed to be acceptable to the department.

B. In emergency situations which shall be defined as those posing a threat to life, safety or property, § 10.1-2213, Code of Virginia, shall not apply.

C.1. Out of the amounts for Financial Assistance for Historic Preservation shall be paid from the general fund grants to the following organization for the purposes prescribed in § 10.1-2211, Code of Virginia:

ORGANIZATION	FY 2017	FY 2018
United Daughters of the Confederacy	\$83,570	\$83,570

Notwithstanding the cited Code section, the United Daughters of the Confederacy shall make disbursements to the treasurers of Confederate memorial associations and chapters of the United Daughters of the Confederacy for the purposes stated in that section. By November 1 of each year, the United Daughters of the Confederacy shall submit to the Director, Department of Historic Resources a report documenting the disbursement of these funds for their specified purpose.

2. As disbursements are made to the treasurers of Confederate memorial associations and chapters of the United Daughters of the Confederacy by the United Daughters of the Confederacy for the purposes stated in § 10.1-2211, Code of Virginia, an amount equal to \$7,500 each year shall be distributed to the Ladies Memorial Association of Petersburg.

3. As disbursements are made to the treasurers of Confederate memorial associations and chapters of the United Daughters of the Confederacy by the United Daughters of the Confederacy for the purposes stated in § 10.1-2211, Code of Virginia, an amount equal to \$90 the first year and \$90 the second year shall be distributed to the Town of Coeburn Municipal Graveyard.

D. Notwithstanding the requirements of § 10.1-2211.1, Code of Virginia, \$2,850 the first year and \$2,850 the second year from the general fund shall be disbursed to the Sons of the American Revolution for the care of Revolutionary War graves and cemeteries.

E. Included in this appropriation is \$109,835 the first year and \$109,835 the second year in nongeneral funds from the Highway Maintenance and Operating Fund to support the Department of Historic Resources' required reviews of transportation projects.

F. The Department of Historic Resources is authorized to accept a devise of certain real property under the will of Elizabeth Rust Williams known as Clermont Farm located on Route 7 east of the town of Berryville in Clarke County. If, after due consideration of options, the department determines that the property should be sold or leased to a different public or private entity, and notwithstanding the provisions of § 2.2-1156, Code of Virginia, then the department is further authorized to sell or lease such property, provided such sale or lease is not in conflict with the terms of the will. The proceeds of any such sale or lease shall be deposited to the Historic Resources Fund established under § 10.1-2202.1, Code of Virginia.

G. The Department of Historic Resources shall follow and provide input on federal

ITEM 376.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
legislation designed to establish a new national system of recognizing and funding Presidential Libraries for those entities that are not included in the 1955 Presidential Library Act.				
H. Included in this appropriation is <del>\$1,000,000</del> \$792,385 the first year and \$1,000,000 the second year from the general fund to be deposited into the Virginia Battlefield Preservation Fund for grants to be made in accordance with § 10.1-2202.4, Code of Virginia. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. This appropriation shall be deemed sufficient to meet the provisions of § 2.2-1509.4, Code of Virginia.				
I. The Department of Historic Resources is authorized to require applicants for tax credits for historic rehabilitation projects under § 58.1-339.2, Code of Virginia, to provide an audit by a certified public accountant licensed in Virginia, in accordance with guidelines developed by the department in consultation with the Auditor of Public Accounts. The department is also authorized to contract with tax, financial, and other professionals to assist the department with the oversight of historic rehabilitation projects for which tax credits are anticipated.				
<i>J. Included in this appropriation is \$34,875 the second year from the general fund to support the preservation and care of historical African-American graves and cemeteries.</i>				
377.	Administrative and Support Services (59900).....		\$916,745	\$916,868
	General Management and Direction (59901).....	\$916,745		\$916,868
	Fund Sources: General.....	\$691,620		\$691,717
	Special.....	\$45,500		\$45,500
	Federal Trust.....	\$179,625		\$179,651
Authority: Title 10.1, Chapters 10.1, 22 and 23, Code of Virginia.				
Out of the amounts for Administrative and Support Services, the department shall administer state grants to nonstate agencies pursuant to Item 495 of this act.				
Total for Department of Historic Resources.....			<b>\$6,807,573</b>	<b>\$6,808,443</b>
			<b>\$6,599,958</b>	<b>\$6,843,318</b>
	General Fund Positions.....	27.00		27.00
	Nongeneral Fund Positions.....	18.00		18.00
	Position Level.....	45.00		45.00
	Fund Sources: General.....	<del>\$4,395,876</del>		<del>\$4,396,523</del>
		<del>\$4,188,261</del>		<del>\$4,431,398</del>
	Special.....	\$736,159		\$736,159
	Commonwealth Transportation.....	\$109,835		\$109,835
	Federal Trust.....	\$1,565,703		\$1,565,926
<b>§ 1-105. MARINE RESOURCES COMMISSION (402)</b>				
378.	Marine Life Management (50500).....		\$19,864,079	\$19,811,753
			<del>\$19,351,079</del>	<del>\$19,984,632</del>
	Marine Life Information Services (50501).....	\$1,335,643		\$1,336,855
		<del>\$1,310,643</del>		
	Marine Life Regulation Enforcement (50503).....	\$8,859,589		\$8,862,051
		<del>\$8,461,589</del>		
	Artificial Reef Construction (50506).....	\$69,520		\$69,520
	Chesapeake Bay Fisheries Management (50507).....	\$5,637,648		\$5,581,648
		<del>\$5,547,648</del>		
	Oyster Propagation and Habitat Improvement (50508).....	\$3,961,679		\$3,961,679
				<del>\$4,134,558</del>
	Fund Sources: General.....	\$9,407,758		\$9,354,458
		\$8,894,758		\$9,024,337
	Special.....	\$6,312,739		\$6,313,713
				<del>\$6,816,713</del>
	Commonwealth Transportation.....	\$313,768		\$313,768

ITEM 378.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
Dedicated Special Revenue.....	\$581,014	\$581,014		
Federal Trust.....	\$3,248,800	\$3,248,800		

Authority: Title 18.2, Chapters 1 and 5; Title 19.2, Chapters 1, 5 and 7; Title 28.2, Chapters 1 through 10; Title 29.1, Chapter 7; Title 32.1, Chapter 6; Title 33.2, Chapter 1; and Title 62.1, Chapters 18 and 20, Code of Virginia.

A. Out of this appropriation, \$54,098 the first year and \$54,611 the second year from the general fund is provided for annual membership dues to the Atlantic States Marine Fisheries Commission.

B. Out of this appropriation, \$148,750 the first year and \$148,750 the second year from the general fund is provided for annual membership dues to the Potomac River Fisheries Commission.

C. Out of the amounts for Marine Life Regulation Enforcement shall be paid into the Marine Patrols Fund, \$169,248 the first year and \$169,248 the second year, pursuant to § 28.2-108, Code of Virginia. For this purpose, cash shall be transferred from the Commonwealth Transportation Fund.

D. Pursuant to § 58.1-2289 D, Code of Virginia, \$144,520 the first year and \$144,520 the second year shall be transferred to Marine Life Regulation Enforcement from the Commonwealth Transportation Fund from unrefunded motor fuel taxes for boats and paid into the Marine Patrols Fund.

E. Any unexpended general fund balances designated by the agency for oyster remediation activities remaining in this Item on June 30, 2017, and June 30, 2018, shall be reappropriated and reallocated to the Marine Resources Commission for expenditure.

F. The commission shall deposit proceeds from the sale of oyster shells, oyster seeds, and other subaqueous materials pursuant to § 28.2-550, Code of Virginia, to the Public Oyster Rock Replenishment Fund established by § 28.2-542, Code of Virginia. The proceeds from such sale shall be used for the same purposes specified in § 28.2-542, Code of Virginia.

G. Out of this appropriation, \$2,000,000 the first year and \$2,000,000 the second year from the general fund is provided to support oyster replenishment activities.

*H. Notwithstanding any action of the Virginia Marine Resources Commission pursuant to Chapter 4 VAC 20-1090-10 et. seq., or other provisions of law or policy, fee increases proposed to be levied by the Commission for commercial harvest license and gear use fees scheduled to go into effect in December 2017 shall be imposed at the level as they were in effect on January 1, 2016.*

379.	Coastal Lands Surveying and Mapping (51000).....			\$2,207,402	\$1,977,335
				\$1,989,302	\$2,522,423
	Coastal Lands and Bottomlands Management (51001).....	\$1,638,913	\$1,408,846		
		\$1,421,913	\$2,027,913		
	Marine Resources Surveying and Mapping (51002).....	\$568,489	\$568,489		
		\$567,389	\$494,510		
	Fund Sources: General.....	\$1,191,054	\$960,987		
		\$972,954	\$1,506,075		
	Dedicated Special Revenue.....	\$834,348	\$834,348		
	Federal Trust.....	\$182,000	\$182,000		

Authority: Title 28.2, Chapters 12, 13, 14, 15 and 16; Title 62.1, Chapters 16 and 19, Code of Virginia.

Out of this appropriation, ~~\$239,000~~ \$22,000 the first year and ~~\$8,933~~ \$226,000 the second year from the general fund is designated for Virginia's share of an Army Corps of Engineers project to construct a seawall to preserve the harbor on Tangier Island.

380.	Tourist Promotion (53600).....			\$220,000	\$220,000
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ITEM 380.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
Virginia Saltwater Sport Fishing Tournament (53601).....	\$220,000	\$220,000		
Fund Sources: Special.....	\$220,000	\$220,000		
Authority: Title 28.2, Chapter 2, Code of Virginia				
<i>Pursuant to the provisions of §28.2-206, Code of Virginia, the Virginia Marine Resources Commission shall conduct the Virginia Saltwater Sport Fishing Tournament in both years of the biennium.</i>				
381. Administrative and Support Services (59900).....			\$2,303,283	\$2,308,141
			\$2,283,283	\$2,238,141
General Management and Direction (59901).....	\$2,303,283	\$2,308,141		
	\$2,283,283	\$2,238,141		
Fund Sources: General.....	\$2,182,183	\$2,186,545		
	\$2,162,183	\$2,116,545		
Special.....	\$121,100	\$121,596		
Authority: Title 28.2, Chapters 1 and 2, Code of Virginia.				
A. The Marine Resources Commission shall recover the cost of reproduction, plus a reasonable fee per record, from persons or organizations requesting copies of computerized lists of licenses issued by the commission.				
B. From the amounts collected pursuant to § 28.2-200 et seq., Code of Virginia, and deposited into the Virginia Marine Products Fund (§ 3.2-2705, Code of Virginia), the Marine Resources Commission may retain \$10,000 the first year and \$10,000 the second year for the administrative cost of issuing gear licenses.				
C. Notwithstanding any action of the Virginia Marine Resources Commission pursuant to Chapter 4 VAC 20-1090-10 et. seq., or other provisions of law or policy, fees levied by the Commission for saltwater recreational fishing licenses shall be imposed at the level as they were in effect on October 1, 2014.				
<i>D. The Virginia Marine Resources Commission shall report by December 15 of each year all projects and expenditures funded from the Virginia Saltwater Recreational Fishing Development Fund. The report shall be submitted to the Chairmen of the House Appropriations and Senate Finance Committees.</i>				
Total for Marine Resources Commission.....			\$24,594,764	\$24,317,229
			\$23,843,664	\$24,965,196
General Fund Positions.....	128.50	128.50		
		135.50		
Nongeneral Fund Positions.....	35.00	35.00		
		28.00		
Position Level.....	163.50	163.50		
Fund Sources: General.....	\$12,780,995	\$12,501,990		
	\$12,029,895	\$12,646,957		
Special.....	\$6,653,839	\$6,655,309		
		\$7,158,309		
Commonwealth Transportation.....	\$313,768	\$313,768		
Dedicated Special Revenue.....	\$1,415,362	\$1,415,362		
Federal Trust.....	\$3,430,800	\$3,430,800		
<b>§ 1-106. VIRGINIA MUSEUM OF NATURAL HISTORY (942)</b>				
382. Museum and Cultural Services (14500).....			\$3,365,964	\$3,309,486
			\$3,287,401	\$3,093,755
Collections Management and Curatorial Services (14501).....	\$112,299	\$112,299		
		\$112,224		
Education and Extension Services (14503).....	\$515,380	\$515,380		
		\$515,130		

ITEM 382.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
Operational and Support Services (14507).....	\$1,999,334	\$1,942,856		
	<del>\$1,985,173</del>	<del>\$1,727,915</del>		
Scientific Research (14508).....	\$738,951	\$738,951		
	<del>\$674,549</del>	<del>\$738,486</del>		
Fund Sources: General.....	\$2,932,889	\$2,876,411		
	<del>\$2,854,326</del>	<del>\$2,660,680</del>		
Special.....	\$338,075	\$338,075		
Federal Trust.....	\$95,000	\$95,000		
Authority: Title 10.1, Chapter 20, Code of Virginia.				
Total for Virginia Museum of Natural History.....			<b>\$3,365,964</b>	<b>\$3,309,486</b>
			<del>\$3,287,401</del>	<del>\$3,093,755</del>
General Fund Positions.....	39.00	39.00		
		<del>38.00</del>		
Nongeneral Fund Positions.....	9.50	9.50		
Position Level.....	48.50	48.50		
		<del>47.50</del>		
Fund Sources: General.....	\$2,932,889	\$2,876,411		
	<del>\$2,854,326</del>	<del>\$2,660,680</del>		
Special.....	\$338,075	\$338,075		
Federal Trust.....	\$95,000	\$95,000		
TOTAL FOR OFFICE OF NATURAL RESOURCES.....			<b>\$443,576,702</b>	<b>\$377,564,648</b>
			<del>\$441,880,424</del>	<del>\$375,356,273</del>
General Fund Positions.....	1,020.50	1,020.50		
		<del>1,022.50</del>		
Nongeneral Fund Positions.....	1,162.50	1,162.50		
		<del>1,155.50</del>		
Position Level.....	2,183.00	2,183.00		
		<del>2,178.00</del>		
Fund Sources: General.....	\$181,115,288	\$115,077,909		
	<del>\$179,419,010</del>	<del>\$109,808,959</del>		
Special.....	\$40,801,582	\$40,803,052		
		<del>\$41,306,052</del>		
Commonwealth Transportation.....	\$423,603	\$423,603		
Enterprise.....	\$12,938,798	\$12,938,798		
Trust and Agency.....	\$37,508,398	\$37,508,398		
Debt Service.....	\$75,000	\$75,000		
Dedicated Special Revenue.....	\$87,084,262	\$87,107,894		
		<del>\$89,665,469</del>		
Federal Trust.....	\$83,629,771	\$83,629,994		

ITEM 383.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018

**OFFICE OF PUBLIC SAFETY AND HOMELAND SECURITY**

**§ 1-107. SECRETARY OF PUBLIC SAFETY AND HOMELAND SECURITY (187)**

383.	Administrative and Support Services (79900).....			\$647,038	\$647,093 \$1,147,093
	General Management and Direction (79901).....	\$647,038	\$647,093 \$1,147,093		
	Fund Sources: General.....	\$647,038	\$647,093 \$1,147,093		

Authority: Title 2.2, Chapter 2, Article 8, and § 2.2-201, Code of Virginia.

A. The Secretary of Public Safety and Homeland Security shall present revised state and local juvenile and state and local responsibility adult offender population forecasts to the Governor, the Chairmen of the House Appropriations and Senate Finance Committees, and the Chairmen of the House and Senate Courts of Justice Committees by October 15, 2016, for each fiscal year through FY 2022 and by October 15, 2017, for each fiscal year through FY 2023. The secretary shall ensure that the revised forecast for state-responsible adult offenders shall include an estimate of the number of probation violators included each year within the overall population forecast who may be appropriate for alternative sanctions.

B. The secretary shall continue to work with other secretaries to (i) develop services intended to improve the re-entry of offenders from prisons and jails to general society and (ii) enhance the coordination of service delivery to those offenders by all state agencies. The secretary shall provide a status report on actions taken to improve offender transitional and reentry services, as provided in § 2.2-221.1, Code of Virginia, including improvements to the preparation and provision for employment, treatment, and housing opportunities for those being released from incarceration. The report shall be provided to the Governor and the Chairmen of the House Appropriations and Senate Finance Committees no later than November 15 of each year.

*C. The Secretary of Public Safety and Homeland Security and the Secretary of Health and Human Resources shall jointly prepare a report on potential options for continued utilization of the Peumansend Creek Regional Jail as a state, regional, or local correctional mental health facility. This shall include, but not necessarily be limited to, conversion of this facility into a regional mental health facility for inmates from regional or local jails who have been determined to have mental illness and who could be more appropriately housed in a specialized, minimum security facility rather than in a traditional jail setting. The report shall address financing options; governance and accountability; the appropriate mechanisms for administering the facility; security, operational, medical, and mental health treatment standards; and transport procedures. The Secretaries shall consult with the U.S. Department of the Army and leadership at Fort A. P. Hill to assure continuation of a cooperative agreement for the use of the property, as appropriate. Copies of the report shall be provided to the Governor and the Chairmen of the Senate Finance and House Appropriations Committees by October 1, 2017.*

*D. Included in the appropriation for this item is \$500,000 the second year from the general fund for the Commonwealth's nonfederal cost match requirement to accomplish the United States Corps of Engineers Regional Reconnaissance Flood Control Study for both the Hampton Roads and Northern Neck regions as authorized by the U.S. Congress.*

384.	Disaster Planning and Operations (72200).....			\$567,489	\$567,489
	Emergency Planning and Homeland Security (72210).....	\$567,489	\$567,489		
	Fund Sources: Federal Trust.....	\$567,489	\$567,489		
	Total for Secretary of Public Safety and Homeland Security.....			<b>\$1,214,527</b>	<b>\$1,214,582</b> <b>\$1,714,582</b>
	General Fund Positions.....	6.00	6.00		
	Nongeneral Fund Positions.....	3.00	3.00		

ITEM 384.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
Position Level.....	9.00	9.00		
Fund Sources: General.....	\$647,038	\$647,093 \$1,147,093		
Federal Trust.....	\$567,489	\$567,489		

**§ 1-108. COMMONWEALTH'S ATTORNEYS' SERVICES COUNCIL (957)**

385.	Adjudication Training, Education, and Standards (32600).....			\$2,041,805	\$2,041,939
	Prosecutorial Training (32604).....	\$2,041,805	\$2,041,939		
	Fund Sources: General.....	\$631,955	\$632,044		
	Special.....	\$1,409,850	\$1,409,895		
	Authority: Title 2.2, Chapter 26, Article 7, Code of Virginia.				
	Total for Commonwealth's Attorneys' Services Council.....			<b>\$2,041,805</b>	<b>\$2,041,939</b>
	General Fund Positions.....	7.00	7.00		
	Position Level.....	7.00	7.00		
	Fund Sources: General.....	\$631,955	\$632,044		
	Special.....	\$1,409,850	\$1,409,895		

**§ 1-109. DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL (999)**

386.	Crime Detection, Investigation, and Apprehension (30400).....			\$18,673,377	\$18,673,377
	Enforcement and Regulation of Alcoholic Beverage Control Laws (30403).....	\$18,673,377	\$18,673,377		
	Fund Sources: Enterprise.....	\$17,973,377	\$17,973,377		
	Federal Trust.....	\$700,000	\$700,000		

Authority: § 4.1-100 through § 4.1-133, Code of Virginia.

A. No funds appropriated for this program shall be used for enforcement personnel to enforce local ordinances.

B. Revenues of the fund appropriated in this Item and Item 387 of this act are limited to those received pursuant to Title 4, Code of Virginia, excepting taxes collected by the Alcoholic Beverage Control Board.

C. By September 1 of each year, the Alcoholic Beverage Control Board shall report for the prior fiscal year the dollar amount of total wine liter tax collections in Virginia; the portion, expressed in dollars, of such tax collections attributable to the sale of Virginia wine in both ABC stores and in private stores; and, the percentage of total wine liter tax collections attributable to the sale of Virginia wine. Such report shall be submitted to the Chairmen of the House Appropriations and Senate Finance Committees, Director, Department of Planning and Budget and the Virginia Wine Board.

*D. The Department of Alcoholic Beverage Control shall conduct a review of its current application and licensing fees as established in the Code of Virginia, with regard to the adequacy of the current fee structure in covering the actual cost of regulating the alcoholic beverage industry in the Commonwealth. In conducting its review, the department shall consider the actual costs involved in issuing a license, regulating that license, and adjudicating violations against a license, as well as the actual cost of collecting all fees. The department shall provide its findings and any recommendations to the Secretary of Public Safety and Homeland Security, the Chairmen of the House Committees on General Laws and Appropriations, and the Chairmen of the Senate Committees on Rehabilitation and Social Services and Finance by November 1, 2017.*

*E. The Department of Alcoholic Beverage Control shall convey ownership and possession of its mobile command vehicle to the Virginia Department of Emergency Management no*

ITEM 386.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
<i>later than July 1, 2017.</i>				
387.	Alcoholic Beverage Merchandising (80100).....		\$660,569,809 \$661,669,809	\$677,024,228 \$679,676,464
	Administrative Services (80101).....	\$64,966,022	\$66,420,441	
	Alcoholic Beverage Control Retail Store Operations (80102).....	\$95,712,014	\$95,712,014 \$96,264,250	
	Alcoholic Beverage Purchasing, Warehousing and Distribution (80103).....	\$499,891,773 \$500,991,773	\$514,891,773 \$516,991,773	
	Fund Sources: Enterprise.....	\$660,569,809 \$661,669,809	\$677,024,228 \$679,676,464	

Authority: § 4.1-100 through § 4.1-133, Code of Virginia.

A. The Secretary of Finance shall chair an advisory committee to review the progress of the Department of Alcoholic Beverage Control in planning, financing, procuring, and implementing the information technology systems necessary to sustain the department's business enterprise. Members of this committee shall include the Secretary of Public Safety and Homeland Security; the Director, Department of Planning and Budget; the Director, Department of Accounts; the Chief Information Officer of the Commonwealth; the Auditor of Public Accounts; and the Staff Directors of the House Appropriations and Senate Finance Committees and/or their designees.

B. Funds appropriated for services related to state lottery operations shall be used solely for lottery ticket purchases and prize payouts.

C. The Alcoholic Beverage Control Board shall open additional stores in locations deemed to have the greatest potential for total increased sales in order to maximize profitability.

D. Notwithstanding § 4.1-120, Code of Virginia, the Alcoholic Beverage Control Board may open certain government stores, as determined by the Board, for the sale of alcoholic beverages on New Year's Day and on Sundays after 12:00 p.m.

Total for Department of Alcoholic Beverage Control.			<b>\$679,243,186</b> <b>\$680,343,186</b>	<b>\$695,697,605</b> <b>\$698,349,841</b>
Nongeneral Fund Positions.....	1,235.00	<del>1,235.00</del> 1,260.00		
Position Level.....	1,235.00	<del>1,235.00</del> 1,260.00		
Fund Sources: Enterprise.....	\$678,543,186 \$679,643,186	\$694,997,605 \$697,649,841		
Federal Trust.....	\$700,000	\$700,000		

**§ 1-110. DEPARTMENT OF CORRECTIONS (799)**

388.	Instruction (19700).....		\$28,816,944	\$28,989,332
	Career and Technical Instructional Services for Youth and Adult Schools (19712).....	\$9,788,877	\$9,961,265	
	Adult Instructional Services (19713).....	\$12,458,209	\$12,458,209	
	Instructional Leadership and Support Services (19714).....	\$6,569,858	\$6,569,858	
	Fund Sources: General.....	\$28,306,666	\$28,479,054	
	Federal Trust.....	\$510,278	\$510,278	
Authority: §§ 53.1-5 and 53.1-10, Code of Virginia.				
389.	Supervision of Offenders and Re-entry Services (35100).....		\$97,450,960	\$98,850,960
	Probation and Parole Services (35106).....	\$92,156,595	\$93,556,595	
	Community Residential Programs (35108).....	\$3,163,556	\$3,163,556	
	Administrative Services (35109).....	\$2,130,809	\$2,130,809	

ITEM 389.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
Fund Sources: General.....	\$94,635,581	\$96,035,581		
Special.....	\$85,000	\$85,000		
Dedicated Special Revenue.....	\$2,330,379	\$2,330,379		
Federal Trust.....	\$400,000	\$400,000		

Authority: §§ 53.1-67.2 through 53.1-67.6 and §§ 53.1-140 through 53.1-176.3, Code of Virginia.

A. By September 1 of each year, the Department of Corrections shall provide a status report on the Statewide Community-Based Corrections System for State-Responsible Offenders to the Chairmen of the House Courts of Justice; Health, Welfare and Institutions; and Appropriations Committees and the Senate Courts of Justice; Rehabilitation and Social Services; and Finance Committees and to the Department of Planning and Budget. The report shall include a description of the department's progress in implementing evidence-based practices in probation and parole districts, and its plan to continue expanding this initiative into additional districts. The section of the status report on evidence-based practices shall include an evaluation of the effectiveness of these practices in reducing recidivism and how that effectiveness is measured.

B. Included in the appropriation for this Item is \$150,000 the first year and \$150,000 the second year from nongeneral funds to support the implementation of evidence-based practices in probation and parole districts. The source of the funds is the Drug Offender Assessment Fund.

390.	Financial Assistance for Confinement of Inmates in Local and Regional Facilities (35600).....			\$766,483	\$0
	Financial Assistance for Construction of Local and Regional Jails (35603).....	\$766,483	\$0		
	Fund Sources: General.....	\$766,483	\$0		

Authority: §§ 53.1-80 and 53.1-81, Code of Virginia

The appropriation in this Item shall be used to pay the Commonwealth's share of the costs to construct, renovate, or expand local and regional correctional facilities. After reviewing requests for reimbursement, the Department of Corrections shall reimburse the Commonwealth's share of costs approved by the Board of Corrections for the following facilities, not to exceed the amounts shown:

Newport News Public Safety Building	\$609,255
Southampton Jail Farm	\$84,828
Martinsville City Jail	\$72,400

391. A. The following process shall be applicable in order for any county, city, or regional jail authority (hereinafter referred to as "the locality") to receive state reimbursement for a portion of the costs of the construction, expansion, or renovation of a jail as provided in §§53.1-80 and 53.1-81, Code of Virginia:

1. The locality shall file with the Department of Corrections, by January 1 of the year in which it wishes its request to be considered, the following information in a format specified by the department:

- a. the information and documents required by §53.1-82.1, Code of Virginia;
- b. Specifications for the proposed construction or renovation; and
- c. Detailed cost estimates.

2. The Department of Corrections shall review the request and make its comments and recommendations to the Board of Corrections.

3. The Departments of Corrections and Criminal Justice Services shall review the community-based corrections plan and jail population forecast submitted by the locality and make their comments and recommendation concerning them to the Board of

ITEM 391.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
Corrections.				
4. The Board of Corrections shall review and take action on the request, after reviewing the comments and recommendations of the Departments of Corrections and Criminal Justice Services. It may modify any aspect of the request before approving it. The board shall not approve any request unless the following conditions have been met:				
a. the project is consistent with the projected number of local and state responsible offenders to be housed in such facility;				
b. the project meets the design criteria set out in the Board of Corrections' Standards for Planning, Design, Construction and Reimbursement of Local Correctional Facilities;				
c. the project is proposed to be built using standards for a minimum security facility, as adopted by the board, unless the use of more expensive construction standards is justified, based on a documented projection of offender populations that would require a higher level of security;				
d. the project can be completed and operated in a cost-efficient manner; and				
e. any other criteria established by the board.				
5. If the Board of Corrections approves a request, the Department of Corrections shall notify the Department of Planning and Budget by October 1 of the board's action and submit a summary of the project and a detailed list of the board-approved costs to the department.				
6. If the Board of Corrections approves a request, the Department of Criminal Justice Services shall submit to the Department of Planning and Budget by October 1 a summary of the alternatives to incarceration included in the community-based corrections plan approved for the project, along with a projection of the state funds needed to implement these programs.				
7. The Department of Planning and Budget shall submit to the Governor, for consideration for inclusion in the budget bill to be submitted by the Governor to the General Assembly, its recommendations concerning the approval of the request for reimbursement of jail construction or renovation costs and whether state funding is appropriate to support the alternatives to incarceration included in the community-based corrections plan.				
B. The Department of Corrections shall provide an annual report on the status of jail construction and renovation projects as approved for funding by the General Assembly. The report shall be limited to those projects which increase bed capacity. The report shall include a brief summary description of each project, the total capital cost of the project and the approved state share of the capital cost, the number of beds approved, along with the net number of new beds if existing beds are to be removed, and the closure of any existing facilities, if applicable. The report shall include the six-year population forecast, as well as the double-bunking capacity compared to the rated capacity for each project listed. The report shall also include the general fund impact on community corrections programs as reported by the Department of Criminal Justice Services, and the recommended financing arrangements and estimated general fund requirements for debt service as provided by the State Treasurer. Copies of the report shall be provided by October 1 of each year to the Chairmen of the Senate Finance and House Appropriations Committees and to the Director, Department of Planning and Budget.				
C.1. No city, county, town or regional jail shall authorize the construction, remodeling, renovation or rehabilitation of any facility to house any inmate in secure custody which results in increased jail capacity without the prior approval of the Board of Corrections.				
2. Any facility operated by any local or regional jail in the Commonwealth which houses any inmate in secure custody shall be subject to the operational provisions of §§ 53.1-5 and 53.1-68, Code of Virginia, as well as all rules, regulations, and inspections established by the Board of Corrections.				
D. The Board of Corrections shall include within its reporting formats on the capacity of each local and regional jail, a measure of the actual jail capacity, which shall include double-bunking, with exceptions as appropriate, in the judgment of the Board, for isolation, segregation, or medical cells, or similar units which would not normally be double-bunked.				

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<p>Exceptions to this measure of capacity may also be made for jails which were constructed prior to 1980. A report including the double-bunking capacity, as well as the standard Board of Corrections measure of rated capacity, for each jail shall be presented to the Secretary of Public Safety and the Chairmen of the Senate Finance and House Appropriations Committees by October 1 of each year.</p> <p>E: <del>The Commonwealth shall reimburse localities or regional jail authorities for up to 25 percent of the cost of constructing, enlarging, or renovating regional jails, for regional jail projects approved by the Governor on or after July 1, 2015, consistent with the provisions of Chapter 749 of the 2015 General Assembly.</del></p> <p>E. <i>The Commonwealth shall reimburse localities or regional jail authorities up to 25 percent of the cost of constructing, enlarging, or renovating local or regional jails, for projects approved by the Governor on or after July 1, 2017, consistent with the provisions of Senate Bill 1313 of the 2017 General Assembly.</i></p>				
392.	Operation of State Residential Community Correctional Facilities (36100).....		\$16,419,906	\$16,419,906
	Community Facility Management (36101).....	\$1,502,398		\$1,502,398
	Supervision and Management of Probates (36102)..	\$10,613,678		\$10,613,678
	Rehabilitation and Treatment Services - Community Residential Facilities (36103).....	\$1,340,141		\$1,340,141
	Medical and Clinical Services - Community Residential Facilities (36104).....	\$777,513		\$777,513
	Food Services - Community Residential Facilities (36105).....	\$1,163,636		\$1,163,636
	Physical Plant Services - Community Residential Facilities (36106).....	\$1,022,540		\$1,022,540
	Fund Sources: General.....	\$15,519,906		\$15,519,906
	Special.....	\$900,000		\$900,000
<p>Authority: §§ 53.1-67.2 through 53.1-67.8, Code of Virginia.</p> <p>A. Included within this appropriation is \$700,00 the first year and \$700,000 the second year from nongeneral funds to be used for operating expenses of diversion centers operated by the Department of Corrections. The nongeneral funds are to come from the fees collected from probationers, assigned to the diversion centers, to cover a portion of the cost of housing them, pursuant to § 19.2-316.3 C, Code of Virginia.</p> <p>B. Notwithstanding the provisions of § 53.1-67.1, Code of Virginia, the Department of Corrections shall not be required to operate a boot camp program for offenders placed on probation.</p>				
393.	Operation of Secure Correctional Facilities (39800).....		\$954,242,819	\$976,431,247
			\$949,074,960	\$961,411,288
	Supervision and Management of Inmates (39802)...	\$484,138,726		\$492,283,283
		\$468,061,485		\$470,538,521
	Rehabilitation and Treatment Services - Prisons (39803).....	\$40,675,195		\$41,359,252
	Prison Management (39805).....	\$67,684,260		\$70,457,754
	Food Services - Prisons (39807).....	\$43,053,274		\$43,182,334
	Medical and Clinical Services - Prisons (39810).....	\$187,472,385		\$197,929,645
		\$198,824,815		\$205,097,496
	Agribusiness (39811).....	\$10,051,668		\$10,051,668
	Correctional Enterprises (39812).....	\$49,680,835		\$49,680,835
	Physical Plant Services - Prisons (39815).....	\$71,486,476		\$71,486,476
		\$71,043,428		\$71,043,428
	Fund Sources: General.....	\$900,740,944		\$922,929,372
		\$895,573,085		\$907,909,413
	Special.....	\$52,580,835		\$52,580,835
	Federal Trust.....	\$921,040		\$921,040

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Authority: §§ 53.1-1, 53.1-5, 53.1-8, and 53.1-10, Code of Virginia.				
A. Included in this appropriation is \$1,195,000 in the first year and \$1,195,000 the second year from nongeneral funds for the purposes listed below. The source of the funds is commissions generated by prison commissary operations:				
1. \$170,000 the first year and \$170,000 the second year for Assisting Families of Inmates, Inc., to provide transportation for family members to visit offenders in prison and other ancillary services to family members;				
2. \$950,000 the first year and \$950,000 the second year for distribution to organizations that work to enhance faith-based services to inmates; and				
3. \$75,000 the first year and \$75,000 the second year for the "FETCH" program.				
B.1. The Department of Corrections is authorized to contract with other governmental entities to house male and female prisoners from those jurisdictions in facilities operated by the department.				
2. The State Comptroller shall continue to maintain the Contract Prisoners Special Revenue Fund on the books of the Commonwealth to reflect the activities of contracts between the Commonwealth of Virginia and other governmental entities for the housing of prisoners in facilities operated by the Virginia Department of Corrections.				
3. The Department of Corrections shall determine whether it may be possible to contract to house additional federal inmates or inmates from other states in space available within state correctional facilities. The department may, subject to the approval of the Governor, enter into such contracts, to the extent that sufficient bedspace may become available in state facilities for this purpose.				
C. The Department of Corrections may enter into agreements with local and regional jails to house state-responsible offenders in such facilities and to effect transfers of convicted state felons between and among such jails. Such agreements shall be governed by the provisions of Item 70 of this act.				
D. To the extent that the Department of Corrections privatizes food services, the department shall also seek to maximize agribusiness operations.				
E. Notwithstanding the provisions of § 53.1-45, Code of Virginia, the Department of Corrections is authorized to sell on the open market and through the Virginia Farmers' Market Network any dairy, animal, or farm products of which the Commonwealth imports more than it exports.				
F. It is the intention of the General Assembly that § 53.1-47, the Code of Virginia, concerning articles and services produced or manufactured by persons confined in state correctional facilities, shall be construed such that the term "manufactured" articles shall include "remanufactured" articles.				
G. Out of this appropriation, \$921,040 the first year and \$921,040 the second year from nongeneral funds is included for inmate medical costs. The sources of the nongeneral funds are an award from the State Criminal Alien Assistance Program, administered by the U.S. Department of Justice.				
H.1. The Department of Corrections, in coordination with the Virginia Supreme Court, shall continue to operate a behavioral correction program. Offenders eligible for such a program shall be those offenders: (i) who have never been convicted of a violent felony as defined in § 17.1-805 of the Code of Virginia and who have never been convicted of a felony violation of §§ 18.2-248 and 18.2-248.1 of the Code of Virginia; (ii) for whom the sentencing guidelines developed by the Virginia Criminal Sentencing Commission would recommend a sentence of four years or more in facilities operated by the Department of Corrections; and (iii) whom the court determines require treatment for drug or alcohol substance abuse. For any such offender, the court may impose the appropriate sentence with the stipulation that the Department of Corrections place the offender in an intensive therapeutic community-style substance abuse treatment program as soon as possible after receiving the offender. Upon certification by the Department of Corrections that the offender has successfully completed				

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such a program of a duration of 24 months or longer, the court may suspend the remainder of the sentence imposed by the court and order the offender released to supervised probation for a period specified by the court.

2. If an offender assigned to the program voluntarily withdraws from the program, is removed from the program by the Department of Corrections for intractable behavior, fails to participate in program activities, or fails to comply with the terms and conditions of the program, the Department of Corrections shall notify the court, outlining specific reasons for the removal and shall reassign the defendant to another incarceration assignment as appropriate. Under such terms, the offender shall serve out the balance of the sentence imposed by the court, as provided by law.

3. The Department of Corrections shall collect the data and develop the framework and processes that will enable it to conduct an in-depth evaluation of the program three years after it has been in operation. The department shall submit a report periodically on the program to the Chief Justice as he may require and shall submit a report on the implementation of the program and its usage to the Secretary of Public Safety and Homeland Security and the Chairmen of the House Appropriations and Senate Finance Committees by June 30 of each year.

I. Included in the appropriation for this Item is \$250,000 the first year and \$250,000 the second year from nongeneral funds for a culinary arts program in which inmates are trained to operate food service activities serving agency staff and the general public. The source of the funds shall be revenues generated by the program. Any revenues so generated by the program shall not be subject to § 4-2.02 of this act and shall be used by the agency for the costs of operating the program. The State Comptroller shall continue to maintain the Inmate Culinary Arts Training Program Fund on the books of the Commonwealth to reflect the revenue and expenditures of this program.

J.1. The Department of Corrections shall continue to coordinate with the Department of Medical Assistance Services and the Department of Social Services to enroll eligible inmates in Medicaid. To the extent possible, the Department of Corrections shall work to identify potentially eligible inmates on a proactive basis, prior to the time inpatient hospitalization occurs. Procedures shall also include provisions for medical providers to bill the Department of Medical Assistance Services, rather than the Department of Corrections, for eligible inmate inpatient medical expenses. Due to the multiple payor sources associated with inpatient and outpatient health care services, the Department of Corrections and the Department of Medical Assistance Services shall consult with the applicable provider community to ensure that administrative burdens are minimized and payment for health care services is rendered in a prompt manner.

*2. The Department of Corrections, through its contract with the Virginia Commonwealth University Department of Health Administration, shall review the management of a selected number of inmates who account for the largest share of total inpatient and outpatient medical care costs within the department. The review shall include inmates who have been enrolled in Medicaid for qualifying inpatient hospitalizations; for these individuals, the Department of Medical Assistance shall provide the requisite enrollee data. The review shall address the number and characteristics of these inmates (including demographic background, offense history, and security classification) who account for the highest costs for medical care. The review shall also consider, to the extent available, their medical history and current medical issues and address potential case management strategies and other steps to reduce costs for these inmates in the long term. Copies of the review shall be provided by October 1, 2017, to the Secretary of Public Safety and Homeland Security, the Secretary of Health and Human Resources, the Chairman of the Joint Commission on Health Care, and the Chairmen of the House Appropriations and Senate Finance Committees.*

K. Federal funds received by the Department of Corrections from the federal Residential Substance Abuse Treatment Program shall be exempt from payment of statewide and agency indirect cost recoveries into the general fund.

L. Included in the appropriation for this item is funding for the first year and the second year from the general fund for six medical contract monitors. The persons filling these positions shall have the responsibility of closely monitoring the adequacy and quality of

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<p>inmate medical services in those correctional facilities for which the department has contracted with a private vendor to provide inmate medical services.</p> <p>M. The Department of Corrections shall continue to operate a separate program for inmates under 18 years old who have been tried and convicted as adults and committed to the Department of Corrections. This separation of these offenders from the general prison population is required by the requirements of the federal Prison Rape Elimination Act.</p> <p>N. The Department shall provide to the Secretary of Public Safety and Homeland Security, the Directors of the Departments of Planning and Budget and Human Resources Management, and the Chairmen of the House Appropriations and Senate Finance Committees by July 1, 2016, a report assessing:</p> <p>a. The costs, benefits, and administrative actions required to eliminate the Department's reliance on a private contractor for the delivery of inmate health care at multiple facilities, and to provide the same services internally using either state employees or individual contract medical personnel.</p> <p>b. The costs, benefits, and administrative actions required to transition to a statewide health care management model that uses best practices and cost containment methods employed by prison health care management and Medicaid managed care organizations to deliver provider-managed and outcome-based comprehensive health care services through a single statewide contract for all of the Department's adult correctional centers.</p> <p>c. A review of the Department's actual cost experience comparing the previous arrangement in which the contractor assumed full financial risk for the payment of off-site inpatient and outpatient services, and the current and proposed arrangement in which the Department assumes that risk and also receives any Medicaid reimbursement for such off-site expenses. For purposes of analyzing the first arrangement, it is assumed that the benefit of any Medicaid or other third-party reimbursement for hospital or other services would accrue to the contractor. This review shall also compare cost trends experienced by other states which have adopted these two arrangements.</p> <p>d. A comparison of the costs and benefits of the Department's current management of inmate health care, including the model envisioned in its August 2014 Request for Proposals, to the alternative models the Department is directed to assess in subsections a, b, and c above.</p> <p>e. The Department of Human Resources Management, the Department of Planning and Budget and other executive branch agencies shall provide technical assistance to the Department as needed.</p>				
394.	Administrative and Support Services (39900).....		\$100,010,244	<del>\$98,801,981</del> \$99,201,981
	General Management and Direction (39901).....	\$16,324,842		<del>\$16,324,842</del> \$16,424,842
	Information Technology Services (39902).....	\$35,364,276		\$34,619,790
	Accounting and Budgeting Services (39903).....	\$4,912,742		\$4,934,287
	Architectural and Engineering Services (39904).....	\$6,946,969		<del>\$6,363,801</del> \$6,663,801
	Human Resources Services (39914).....	\$5,385,469		\$5,385,469
	Planning and Evaluation Services (39916).....	\$728,081		\$728,081
	Procurement and Distribution Services (39918).....	\$12,970,842		\$13,068,688
	Training Academy (39929).....	\$7,656,522		\$7,656,522
	Offender Classification and Time Computation Services (39930).....	\$9,720,501		\$9,720,501
	Fund Sources: General.....	\$94,641,744		<del>\$94,166,481</del> \$94,566,481
	Special.....	\$5,218,500		\$4,485,500
	Dedicated Special Revenue.....	\$150,000		\$150,000

Authority: §§ 53.1-1 and 53.1-10, Code of Virginia.

A.1. Any plan to modernize and integrate the automated systems of the Department of Corrections shall be based on developing the integrated system in phases, or modules.

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<p>Furthermore, any such integrated system shall be designed to provide the department the data needed to evaluate its programs, including that data needed to measure recidivism.</p>				
<p>2. The appropriation in this Item includes \$2,868,500 the first year and \$2,135,500 the second year from the Contract Prisoners Special Revenue Fund to defray a portion of the costs of maintaining and enhancing the offender management system, including the development of an electronic health records system. In addition to any general fund appropriations, the Department of Corrections may, subject to the authorization of the Director, Department of Planning and Budget, utilize additional revenue deposited in the Contract Prisoners Special Revenue Fund to support the development of the offender management system.</p>				
<p>B. Included in this appropriation is \$550,000 the first year and \$550,000 the second year from nongeneral funds to be used for installation and operating expenses of the telemedicine program operated by the Department of Corrections. The source of the funds is revenue from inmate fees collected for medical services.</p>				
<p>C. Included in this appropriation is \$1,100,000 the first year and \$1,100,000 the second year from nongeneral funds to be used by the Department of Corrections for the operations of its Corrections Construction Unit. The State Comptroller shall continue the Corrections Construction Unit Special Operating Fund on the Commonwealth Accounting and Reporting System to reflect the activities of contracts between the Corrections Construction Unit and (i) institutions within the Department of Corrections for work not related to a capital project and (ii) agencies without the Department of Corrections for work performed for those agencies.</p>				
<p>D. Notwithstanding the provisions of § 53.1-20 A. and B., Code of Virginia, the Director, Department of Corrections, shall receive offenders into the state correctional system from local and regional jails at such time as he determines that sufficient, secure and appropriate housing is available, placing a priority on receiving inmates diagnosed and being treated for HIV, mental illnesses requiring medication, or Hepatitis C. The director shall maximize, consistent with inmate and staff safety, the use of bed space in the state correctional system. The director shall report monthly to the Secretary of Public Safety and Homeland Security and the Department of Planning and Budget on the number of inmates housed in the state correctional system, the number of inmate beds available, and the number of offenders housed in local and regional jails that meet the criteria set out in § 53.1-20 A. and B.</p>				
<p>E. The Department of Corrections is exempted from the approval requirements of Chapter 11 of the Construction and Professional Services Manual as issued by the Division of Engineering and Buildings. The Department of Corrections may authorize and initiate design-build contracts as deemed appropriate by the Director, Department of Corrections, in accordance with §§ 2.2-4301 and 2.2-4306, Code of Virginia.</p>				
<p>F. Notwithstanding any requirement to the contrary, any building, fixture, or structure to be placed, erected or constructed on, or removed or demolished from the property of the Commonwealth of Virginia under the control of the Department of Corrections shall not be subject to review and approval by the Art and Architectural Review Board as contemplated by § 2.2-2402, Code of Virginia. However, if the Department of Corrections seeks to construct a facility that is not a secure correctional facility or a structure located on the property of a secure correctional facility, then the Department of Corrections shall submit that structure to the Art and Architectural Review Board for review and approval by that board. Such other structures could include probation and parole district offices or regional offices.</p>				
<p>G. The Commonwealth of Virginia shall convey 45 acres (more or less) of property, being a portion of Culpeper County Tax Map No. 75, parcel 32, lying in the Cedar Mountain Magisterial District of Culpeper County, Virginia, in consideration of the County's construction of water capacity and service line(s) adequate to serve the needs of the Department of Corrections' Coffeewood Facility and the Department of Juvenile Justice's Culpeper Juvenile Correctional Facility (hereinafter "the facilities"). The cost of the water improvements necessary to serve the facilities, including an eight-inch water service line, and including engineering and land/easement acquisition costs, shall be paid by the Commonwealth, less and except (i) the value of the property for the jail conveyed by the</p>				

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Commonwealth to the County (\$150,382, based on valuation by the Culpeper County Assessor), and (ii) the cost of increasing the size of the water service line from eight inches to twelve inches, in order to accommodate planned county needs.				
H. Notwithstanding the provisions of § 58.1-3403, Code of Virginia, the Department of Corrections shall be exempt from the payment of service charges levied in lieu of taxes by any county, city, or town.				
I. The Department of Corrections shall serve as the Federal Bonding Coordinator and shall work with the Virginia Community College System and its workforce development programs and services to provide fidelity bonds to those offenders released from jails or state correctional centers who are required to provide fidelity bonds as a condition of employment. The department is authorized to use funds from the Contract Prisoners Special Revenue Fund to pay the costs of this activity.				
J. In the event the Department of Corrections closes a correctional facility for which it has entered into an agreement with any locality to pay a proportionate share of the debt service for the establishment of utilities to serve the facility, the department shall continue to pay its agreed upon share of the debt service, subject to the schedule previously agreed upon.				
K. Included in the appropriation for this Item is \$1,000,000 the first year and \$1,000,000 the second year from the general fund for the costs of security technology and hardware for the inmate telephone system.				
L. From the appropriation in this Item, \$500,000 the first year and \$500,000 the second year from the general fund shall be used to present seminars on overcoming obstacles to re-entry and to promote family integration in the correctional centers designated for intensive re-entry programs. The department shall submit a report by October 15 of each year to the chairmen of the House Appropriations and Senate Finance Committees, the Secretary of Public Safety and Homeland Security, and the Department of Planning and Budget on the use of this funding.				
M. Included in the appropriation for this Item is \$583,168 the first year from the general fund for the estimated net increase in the operating cost of adult correctional facilities resulting from the enactment of sentencing legislation as listed below. This amount shall be paid into the Corrections Special Reserve Fund, established pursuant to § 30-19.1:4, Code of Virginia.				
1. Senate Bill 49 and House Bill 1391, concerning a prohibition against possessing firearms by persons covered by protective orders -- \$50,000.				
2. Senate Bill 339 and House Bill 752, concerning stalking -- \$50,000.				
3. Senate Bill 354 and House Bill 510, concerning the statute of limitations for sexual crimes against minors -- \$50,000.				
4. Senate Bill 715 and House Bill 1386, concerning voluntary background checks at gun shows -- \$50,000.				
5. House Bill 177, adding aggravated malicious wounding to the Sex Offender and Crimes Against Minors Registry -- \$50,000.				
6. House Bill 610, increasing the penalty for stalking a person protected by a protective order to a Class 6 felony -- \$101,254.				
7. House Bill 886, concerning a second offense of stalking within five years -- \$81,914.				
8. House Bill 1087 and Senate Bill 323, concerning a violation of a protective order while armed with a firearm -- \$50,000.				
9. House Bill 1189, concerning child welfare agencies operating without a license -- \$50,000.				
10. House Bill 1292, adding Viberzi to Schedule IV of the Drug Control Act -- \$50,000.				
<i>N. Included in the appropriation for this item is \$300,000 the second year from the general fund for the estimated net increase in the operating cost of adult correctional facilities resulting from the enactment of sentencing legislation as listed below. This amount shall be paid into the Corrections Special Reserve Fund, established pursuant to § 30-19.1:4, Code of</i>				

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<i>Virginia.</i>				
1. House Bill 1485 -- \$50,000				
2. House Bill 1616 -- \$50,000				
3. House Bill 1815 -- \$50,000				
4. House Bill 1913 and Senate Bill 1390 -- \$50,000				
5. House Bill 2410 and Senate Bill 1154 -- \$50,000				
6. House Bill 2470 -- \$50,000				
<i>O. Included in the appropriation for this Item is \$100,000 in the second year from the general fund and one position to assist the Board of Corrections in carrying out its duties to ensure that local and regional jails meet the minimum standards set by the Board under the authority of § 53.1-68, Code of Virginia and as provided in Senate Bill 1063 of the 2017 Session of the General Assembly.</i>				
<i>P. The Department of Corrections shall review the current and future use of technology within the department for the purposes of increasing security and employee productivity and achieving long-term cost savings. The department shall give consideration to technological innovations which could be applied to current and future correctional facilities and to the supervision of offenders in the community. Copies of the review, including any recommendations as appropriate, shall be provided to the Secretary of Public Safety and Homeland Security, the Director of the Department of Planning and Budget, and the Chairmen of the House Appropriations and Senate Finance Committee by October 1, 2017.</i>				
Total for Department of Corrections.....			<b>\$1,197,707,356</b> <b>\$1,192,539,497</b>	<b>\$1,219,493,426</b> <b>\$1,204,873,467</b>
General Fund Positions.....	12,352.00	<del>12,352.00</del> 12,098.00		
Nongeneral Fund Positions.....	245.50	251.50		
Position Level.....	12,597.50	<del>12,603.50</del> 12,349.50		
Fund Sources: General.....	<del>\$1,134,611,324</del> \$1,129,443,465	<del>\$1,157,130,394</del> \$1,142,510,435		
Special.....	\$58,784,335	\$58,051,335		
Dedicated Special Revenue.....	\$2,480,379	\$2,480,379		
Federal Trust.....	\$1,831,318	\$1,831,318		

**§ 1-111. DEPARTMENT OF CRIMINAL JUSTICE SERVICES (140)**

395. Criminal Justice Training and Standards (30300)....			\$1,843,901	\$1,843,901
Law Enforcement Training and Education Assistance (30306).....	\$1,843,901	\$1,843,901		
Fund Sources: General.....	\$1,808,901	\$1,808,901		
Special.....	\$35,000	\$35,000		

Authority: Title 9.1, Chapter 1, Code of Virginia.

*The Director of the Department of Criminal Justice Services (the Director) and the Board of Criminal Justice Services (the Board) shall, in conjunction with the relevant stakeholders, review all of the compulsory minimum training standards which are applicable to law-enforcement officers and update them as needed. The Director and the Board shall ensure that the training standards appropriately educate law-enforcement officers in the areas of mental health, community policing, and serving individuals who are disabled. The updated compulsory minimum training standards shall, where appropriate, include consideration of, but not be limited to, the recommendations of the President's Task Force on 21st Century Policing. The Director shall identify current resources available to officers in dealing with situations related to mental health and*

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<i>identify what resources are needed. Any updates to the compulsory minimum training standards shall be completed by October 1, 2019, and shall be reported to the Chairmen of the House Committees on Militia, Police, and Public Safety, Courts of Justice, and Appropriations, and to the Chairmen of the Senate Committees for Courts of Justice and Finance.</i>				
396.	Criminal Justice Research, Planning and Coordination (30500).....		\$439,292	<del>\$439,292</del> \$357,247
	Criminal Justice Research, Statistics, Evaluation, and Information Services (30504).....	\$439,292		<del>\$439,292</del> \$357,247
	Fund Sources: General.....	\$439,292		<del>\$439,292</del> \$357,247
Authority: Title 9.1, Chapter 1; Title 19.2, Chapter 23.1, Code of Virginia.				
397.	Asset Forfeiture and Seizure Fund Management and Financial Assistance Program (30600).....		\$6,740,538	\$6,740,538
	Coordination of Asset Seizure and Forfeiture Activities (30602).....	\$6,740,538		\$6,740,538
	Fund Sources: Special.....	\$6,740,538		\$6,740,538
Authority: Title 19.2, Chapter 22.1, Code of Virginia.				
398.	Financial Assistance for Administration of Justice Services (39000).....		\$79,103,389	<del>\$81,103,389</del> \$79,160,689
	Financial Assistance for Administration of Justice Services (39001).....	\$79,103,389		<del>\$81,103,389</del> \$79,160,689
	Fund Sources: General.....	\$40,317,480		<del>\$42,317,480</del> \$38,817,480
	Special.....	\$100,000		\$100,000
	Trust and Agency.....	\$4,798,130		\$4,798,130
	Dedicated Special Revenue.....	\$12,387,779		\$12,387,779
	Federal Trust.....	\$21,500,000		\$21,500,000

Authority: Title 9.1, Chapter 1, Code of Virginia.

A.1. This appropriation includes an estimated \$9,000,000 the first year and an estimated \$9,000,000 the second year from federal funds pursuant to the Omnibus Crime Control Act of 1968, as amended. Of these amounts, nine percent is available for administration, and the remainder is available for grants to state agencies and local units of government. The remaining federal funds are to be passed through as grants to localities, with a required 25 percent local match. Also included in this appropriation is \$452,128 the first year and \$452,128 the second year from the general fund for the required matching funds for state agencies.

2. The Department of Criminal Justice Services shall provide a summary report on federal anti-crime and related grants which will require state general funds for matching purposes during FY 2013 and beyond. The report shall include a list of each grant and grantee, the purpose of the grant, and the amount of federal and state funds recommended, organized by topical area and fiscal period. The report shall indicate whether each grant represents a new program or a renewal of an existing grant. Copies of this report shall be provided to the Chairmen of the Senate Finance and House Appropriations Committees and the Director, Department of Planning and Budget by January 1 of each year.

B. The Department of Criminal Justice Services is authorized to make grants and provide technical assistance out of this appropriation to state agencies, local governments, regional, and nonprofit organizations for the establishment and operation of programs for the following purposes and up to the amounts specified:

1.a. Regional training academies for criminal justice training, \$1,001,074 the first year and

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<p>\$1,001,074 the second year from the general fund and an estimated \$1,649,315 the first year and an estimated \$1,649,315 the second year from nongeneral funds. The Criminal Justice Services Board shall adopt such rules as may reasonably be required for the distribution of funds and for the establishment, operation and service boundaries of state-supported regional criminal justice training academies.</p>				
<p>b. The Board of Criminal Justice Services, consistent with § 9.1-102, Code of Virginia, and § 6VAC-20-20-61 of the Administrative Code, shall not approve or provide funding for the establishment of any new criminal justice training academy from July 1, 2016, through June 30, 2018.</p>				
<p>c. Notwithstanding subsection B.1.b. of this item, the Board of Criminal Justice Services may approve a new regional criminal justice academy serving the Counties of Clarke, Frederick, and Warren; the City of Winchester; the Towns of Berryville, Front Royal, Middletown, Stephens City and Strasburg; the Northwestern Adult Detention Center; and, the Frederick County Emergency Communications Center, to be established and operated consistent with a written agreement, provided to the Board, between the local governing bodies, chief executive officers, and chief law enforcement officers of the aforementioned localities, and the Rappahannock Regional Criminal Justice Academy. The new academy shall be eligible to receive state funding in a manner consistent with the currently existing regional criminal justice training academies. However, no current existing regional criminal justice training academy other than the Rappahannock Regional Criminal Justice Academy will receive less funding as a result of the creation of the new regional academy.</p>				
<p>2. Virginia Crime Victim-Witness Fund, \$5,124,059 the first year and \$5,124,059 the second year from dedicated special revenue, and \$2,635,000 the first year and <del>\$2,635,000</del> \$943,700 the second year from the general fund. The Department of Criminal Justice Services shall provide a report on the current and projected status of federal, state and local funding for victim-witness programs supported by the Fund. Copies of the report shall be provided annually to the Secretary of Public Safety and Homeland Security, the Department of Planning and Budget, and the Chairmen of the Senate Finance and House Appropriations Committees by October 16 of each year.</p>				
<p>3.a. Court Appointed Special Advocate (CASA) programs, \$1,615,000 the first year and \$1,615,000 the second year from the general fund.</p>				
<p>b. In the event that the federal government reduces or removes support for the CASA programs, the Governor is authorized to provide offsetting funding for those impacted programs out of the unappropriated balances in this Act.</p>				
<p>4. Domestic Violence Fund, \$3,000,000 the first year and \$3,000,000 the second year from the dedicated special revenue fund to provide grants to local programs and prosecutors that provide services to victims of domestic violence.</p>				
<p>5. <del>Offender Reentry and Transition</del> <i>Pre and Post-Incarceration Services (ORTS) (PAPIS)</i>, \$2,286,144 the first year and \$2,286,144 the second year from general fund to support pre and post incarceration professional services and guidance that increase the opportunity for, and the likelihood of, successful reintegration into the community by adult offenders upon release from prisons and jails.</p>				
<p>6. To the Department of Behavioral Health and Developmental Services for the following activities and programs: (i) a partnership program between a local community services board and the district probation and parole office for a jail diversion program; (ii) forensic discharge planners; (iii) advanced training on veterans' issues to local crisis intervention teams; and (iv) cross systems mapping targeting juvenile justice and behavioral health.</p>				
<p>7. To the Department of Corrections for the following activities and programs: (i) community residential re-entry programs for female offenders; (ii) establishment of a pilot day reporting center; and (iii) establishment of a pilot program whereby non-violent state offenders would be housed in a local or regional jail, rather than a prison or other state correctional facility, with rehabilitative services provided by the jail.</p>				
<p>8. To Drive to Work, \$50,000 the first year and \$50,000 the second year from the general fund and \$75,000 the first year and \$75,000 the second year from such federal funds as may be available to provide assistance to low income and previously incarcerated persons</p>				

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	to restore their driving privileges so they can drive to work and keep a job.			
	<i>9. Virginia Firearms Safety and Training for Sexual and Domestic Violence Victims Fund, \$10,000 the second year from the general fund to reimburse entities that offer free of charge firearms safety or training courses or classes approved by the Department of Criminal Justice Services to victims of domestic violence, sexual abuse, stalking, or family abuse.</i>			
	<i>10. For model addiction recovery programs administered in local or regional jails, \$153,600 the second year from the general fund. The Department of Criminal Justice Services, consistent with the provisions of House Bill 1845 of the 2017 General Assembly Session, shall award grants not to exceed \$38,400 to four pilot programs selected in consultation with the Department of Behavioral Health and Developmental Services.</i>			
	C.1. Out of this appropriation, <del>\$26,538,056</del> \$25,038,056 the first year and <del>\$27,038,056</del> \$25,038,056 the second year from the general fund is authorized to make discretionary grants and to provide technical assistance to cities, counties or combinations thereof to develop, implement, operate and evaluate programs, services and facilities established pursuant to the Comprehensive Community Corrections Act for Local-Responsible Offenders (§§ 9.1-173 through 9.1-183 Code of Virginia) and the Pretrial Services Act (§§ 19.2-152.2 through 19.2-152.7, Code of Virginia). Out of these amounts, the Director, Department of Criminal Justice Services, is authorized to expend no more than five percent per year for state administration of these programs.			
	2. The Department of Criminal Justice Services, in conjunction with the Office of the Executive Secretary of the Supreme Court and the Virginia Criminal Sentencing Commission, shall conduct information and training sessions for judges and other judicial officials on the programs, services and facilities available through the Pretrial Services Act and the Comprehensive Community Corrections Act for Local-Responsible Offenders.			
	D.1. Out of this appropriation, \$225,000 the first year and \$225,000 the second year from the general fund is provided for Comprehensive Community Corrections and Pretrial Services Programs for localities that belong to the Central Virginia Regional Jail Authority. These amounts are seventy-five percent of the costs projected in the community-based corrections plan submitted by the Authority. The localities shall provide the remaining twenty-five percent as a condition of receiving these funds.			
	2. Out of this appropriation, \$600,000 the first year and \$600,000 the second year from the general fund is provided for Comprehensive Community Corrections and Pretrial Services Programs for localities that belong to the Southwest Virginia Regional Jail Authority. These amounts are seventy-five percent of the costs projected in the community-based corrections plan submitted by the Authority. The localities shall provide the remaining twenty-five percent as a condition of receiving these funds.			
	E. In the event the federal government should make available additional funds pursuant to the Violence Against Women Act, the department shall set aside 33 percent of such funds for competitive grants to programs providing services to domestic violence and sexual assault victims.			
	F.1. Out of this appropriation, \$1,700,000 the first year and \$1,700,000 the second year from the general fund and \$1,710,000 the first year and \$1,710,000 the second year from such federal funds as are available shall be deposited to the School Resource Officer Incentive Grants Fund established pursuant to § 9.1-110, Code of Virginia.			
	2.a. The Director, Department of Criminal Justice Services, is authorized to expend \$410,877 the first year and \$410,877 the second year from the School Resource Officer Incentive Grants Fund to operate the Virginia Center for School Safety, pursuant to § 9.1-110, Code of Virginia.			
	<i>b. The Center for School Safety shall provide a grant of \$85,000 in the second year to the York County-Poquoson Sheriff's Office for the statewide administration of the Drug Abuse Resistance Education (DARE) program. The Center for School Safety shall conduct an evaluation of the effectiveness of the program, along with an assessment of other evidence-based drug education programs, and shall provide a report on its findings to the Secretary of Public Safety and Homeland Security, the Director of the Department of Planning and Budget, and the Chairmen of the House Appropriations and Senate Finance Committees by</i>			

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3. Subject to the development of criteria for the distribution of grants from the fund, including procedures for the application process and the determination of the actual amount of any grant issued by the department, the department shall award grants to either local law-enforcement agencies, where such local law-enforcement agencies and local school boards have established a collaborative agreement for the employment of school resource officers, as such positions are defined in § 9.1-101, Code of Virginia, for the employment of school resource officers, or to local school divisions for the employment of school security officers, as such positions are defined in § 9.1-101, Code of Virginia, for the employment of school security officers in any public school. The application process shall provide for the selection of either school resource officers, school security officers, or both by localities. The department shall give priority to localities requesting school resource officers, school security officers, or both where no such personnel are currently in place. Localities shall match these funds based on the composite index of local ability-to-pay.

4. Included in this appropriation is \$202,300 the first year and \$202,300 the second year from the general fund for the implementation of a model critical incident response training program for public school personnel and others providing services to public schools, and the maintenance of a model policy for the establishment of threat assessment teams for each public school, including procedures for the assessment of and intervention with students whose behavior poses a threat to the safety of public school staff or other students.

G. Included in the amounts appropriated in this Item is \$1,000,000 the first year and ~~\$1,000,000~~ \$2,500,000 the second year from the general fund for grants to local sexual assault crisis centers (SACCs) and domestic violence programs to provide core and comprehensive services to victims of sexual and domestic violence, including ensuring such services are available and accessible to victims of sexual assault and dating violence committed against college students on- and off-campus.

H.1. Out of the amounts appropriated for this Item, \$1,100,000 the first year and \$1,100,000 the second year from nongeneral funds is provided, to be distributed as follows: for the Southern Virginia Internet Crimes Against Children Task Force, \$600,000 the first year and \$600,000 the second year; and, for the creation of a grant program to law enforcement agencies for the prevention of internet crimes against children, \$500,000 the first year and \$500,000 the second year.

2. The Southern Virginia and Northern Virginia Internet Crimes Against Children Task Forces shall each provide an annual report, in a format specified by the Department of Criminal Justice Services, on their actual expenditures and performance results. Copies of these reports shall be provided to the Secretary of Public Safety and Homeland Security, the Chairmen of the Senate Finance and House Appropriations Committees, and Director, Department of Planning and Budget prior to the distribution of these funds each year.

3. Subject to compliance with the reports and distribution thereof as required in paragraph 2 above, the Governor shall allocate all additional funding, not to exceed actual collections, for the prevention of Internet Crimes Against Children, pursuant to § 17.1-275.12, Code of Virginia.

I. Out of the amounts appropriated for this item, \$50,000 the first year and \$50,000 the second year from the general fund is provided for training to local law enforcement to aid in their identifying and interacting with individuals suffering from Alzheimer's and/or dementia.

J. 1. The Department of Criminal Justice Services shall solicit proposals from local or regional jails to establish pilot programs to provide services to mentally ill inmates, or to provide pre-incarceration crisis intervention services to prevent mentally ill offenders from entering jails. The Department of Criminal Justice Services shall evaluate the proposals in consultation with the Department of Behavioral Health and Developmental Services and the Compensation Board, and shall report a list of up to six recommended pilot sites to the Secretary of Public Safety and Homeland Security and the Chairmen of the House Appropriations and Senate Finance Committees no later than September 15,

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2016.				
2. In its solicitation for proposals, the Department of Criminal Justice Services shall require submissions to include proposed actions to address the following minimum conditions and criteria:				
a. Use of mental health screening and assessment instruments designated by the Department of Behavioral Health and Developmental Services;				
b. Provision of services to all mentally ill inmates in the designated pilot program, whether state or local responsible;				
c. Use of a collaborative partnership among local agencies and officials, including community services boards, local community corrections and pre-trial services agencies, local law enforcement agencies, attorneys for the Commonwealth, public defenders, courts, non-profit organizations, and other stakeholders;				
d. Establishment of a crisis intervention team or plans to establish such a team;				
e. Training for jail staff in dealing with mentally ill inmates;				
f. Provision of a continuum of services;				
g. Use of evidence-based programs and services; and,				
h. Funding necessary to provide services including, but not limited to: mental health treatment services, behavioral health services, case managers to provide discharge planning for individuals, re-entry services, and transportation services.				
3. The funding for each pilot program shall supplement, not supplant, existing local spending on these services.				
4. In evaluating proposals and recommending pilot sites, the Department of Criminal Justice Services, in consultation with the Department of Behavioral Health and Developmental Services and the Compensation Board, shall at minimum give consideration to the following factors:				
a. The readiness of the local or regional jail to undertake the proposed pilot program;				
b. The proposed shares of cost to be funded by the Commonwealth, localities, or other sources, respectively;				
c. The need for such a program demonstrated by the local or regional jail;				
d. The demonstrated collaborative relationship between the jail and community mental health treatment providers and other stakeholders; and,				
e. To the extent feasible, ensuring the recommendation of pilot sites representing both rural and urban settings.				
5. Included in the appropriation for this Item is \$1,000,000 the first year and \$2,500,000 the second year from the general fund to be awarded to local or regional jails to support the proposals recommended pursuant to the report required by Paragraph J.1. of this Item. The funding for each pilot program shall be effective for pilot programs starting as of January 1, 2017.				
6. The Department of Criminal Justice Services, in consultation with the Department of Behavioral Health and Developmental Services, shall evaluate the implementation and effectiveness of the pilot programs and report to the Governor; the Secretaries of Health and Human Resources and Public Safety and Homeland Security, and the Chairmen of the House Appropriations Committee and the Senate Finance Committee by October 15, 2017, for grants awarded in the first year, and by October 15, 2018, for all grants.				
399. Regulation of Professions and Occupations (56000)...			\$3,689,944	\$3,689,944
Business Regulation Services (56033).....	\$3,116,201	\$3,116,201		
Towing Licensing Oversight Services (56035).....	\$573,743	\$573,743		

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Fund Sources: Special.....	\$3,689,944	\$3,689,944		
Authority: Title 9.1, Chapter 1, Article 4, §§ 9.1-141, 9.1-139, 9.1-143, and 9.1-149, Code of Virginia.				
400. Financial Assistance to Localities - General (72800).....			\$177,964,014	\$177,964,014
Financial Assistance to Localities Operating Police Departments (72813).....	\$177,964,014	\$177,964,014		
Fund Sources: General.....	\$177,964,014	\$177,964,014		

Authority: Title 9.1, Chapter 1, Article 8, Code of Virginia.

A. The funds appropriated in this Item shall be distributed to localities with qualifying police departments, as defined in §§ 9.1-165 through 9.1-172, Code of Virginia (HB 599), except that, in accordance with the requirements of § 15.2-1302, Code of Virginia, such funds shall also be distributed to a city without a qualifying police force that was created by the consolidation of a city and a county subsequent to July 1, 2011, pursuant to the provisions of § 15.2-3500 et seq. of the Code of Virginia. Notwithstanding the provisions of §§ 9.1-165 through 9.1-172, Code of Virginia, the total amount to be distributed to localities shall be \$177,964,014 the first year and \$177,964,014 the second year. The amount to be distributed to each locality in each year shall be equal to the amount distributed in fiscal year 2016 plus a 3.2 percent increase above the fiscal year 2016 amounts. The amount to be distributed to such a city created by consolidation shall equal the sum distributed to the city during the year prior to the effective date of the consolidation, net of any additional funds allocated by the Compensation Board to the sheriff of the consolidated city as a result of such consolidation, as adjusted in proportion to the increase or decrease in the total amount distributed to all localities during the applicable year. Notwithstanding the provisions of § 9.1-165, Code of Virginia, the amount to be distributed to each locality in each year shall be proportionate to the amount distributed to that locality in FY 2016.

B. For purposes of receiving funds in accordance with this program, it is the intention of the General Assembly that the Town of Boone's Mill shall be considered to have had a police department in operation since the 1980-82 biennium and is therefore eligible for financial assistance under Title 9.1, Chapter 1, Article 8, Code of Virginia (House Bill 599).

C.1. It is the intent of the General Assembly that state funding provided to localities operating police departments be used to fund local public safety services. Funds provided in this item shall not be used to supplant the funding provided by localities for public safety services.

2. To ensure that state funding provided to localities operating police departments does not supplant local funding for public safety services, all localities shall annually certify to the Department of Criminal Justice Services the amount of funding provided by the locality to support public safety services and that the funding provided in this item was used to supplement that local funding. This certification shall be provided in such manner and on such date as determined by the department. The department shall provide this information to the Chairmen of the House Appropriations and Senate Finance Committees within 30 days following the submission of the local certifications.

D. The Director of the Department of Criminal Justice Services is authorized to withhold reimbursements due a locality under Title 9.1, Chapter 1, Article 8, Code of Virginia, upon notification from the Superintendent of State Police that there is reason to believe that crime data reported by the locality to the Department of State Police in accordance with § 52-28, Code of Virginia, is missing, incomplete or incorrect. Upon subsequent notification by the superintendent that the data is accurate, the director shall make reimbursement of withheld funding due the locality when such corrections are made within the same fiscal year that funds have been withheld.

E. The Director of the Department of Criminal Justice Services is authorized to withhold reimbursements due to a locality under Title 9.1, Chapter 1, Article 8, Code of Virginia, upon notification from the Superintendent of State Police that there is reason to believe the

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police department within a locality is not registering sex offenders as required in § 9.1-903, Code of Virginia. Upon subsequent notification by the Superintendent that the local law enforcement agency is compliant with the requirements of § 9.1-903, Code of Virginia, the Director shall make reimbursement of withheld funding due to the locality in the same fiscal year in which the local law enforcement agency comes into compliance.				
401.	Administrative and Support Services (39900).....		\$2,404,384	<del>\$2,410,178</del> \$2,379,506
	General Management and Direction (39901).....	\$2,356,470	<del>\$2,362,264</del> \$2,331,592	
	Information Technology Services (39902).....	\$47,914	\$47,914	
	Fund Sources: General.....	\$1,582,083	<del>\$1,587,877</del> \$1,557,205	
	Special.....	\$822,301	\$822,301	
Authority: Title 9.1, Chapter 1, Code of Virginia.				
	Total for Department of Criminal Justice Services.....		<del>\$272,185,462</del> \$270,685,462	<del>\$274,191,256</del> \$272,135,839
	General Fund Positions.....	50.50	<del>50.50</del> 48.50	
	Nongeneral Fund Positions.....	<del>68.50</del> 67.50	<del>68.50</del> 67.50	
	Position Level.....	<del>119.00</del> 118.00	<del>119.00</del> 116.00	
	Fund Sources: General.....	\$222,111,770	<del>\$224,117,564</del> \$222,062,147	
	Special.....	\$11,387,783	\$11,387,783	
	Trust and Agency.....	\$4,798,130	\$4,798,130	
	Dedicated Special Revenue.....	\$12,387,779	\$12,387,779	
	Federal Trust.....	\$21,500,000	\$21,500,000	

**§ 1-112. DEPARTMENT OF EMERGENCY MANAGEMENT (127)**

402.	Emergency Preparedness (77500).....		\$29,983,736	<del>\$29,683,736</del> \$29,609,856
	Financial Assistance for Emergency Management and Response (77501).....	\$20,334,681	\$20,334,681	
	Emergency Training and Exercises (77502).....	\$8,937,194	<del>\$8,637,194</del> \$8,609,314	
	Emergency Planning Preparedness Assistance (77503).....	\$608,041	<del>\$608,041</del> \$562,041	
	Emergency Management Regional Coordination (77506).....	\$103,820	\$103,820	
	Fund Sources: General.....	\$1,547,306	<del>\$1,397,306</del> \$1,323,426	
	Special.....	\$1,363,518	\$1,363,518	
	Federal Trust.....	\$27,072,912	\$26,922,912	

Authority: Title 44, Chapters 3.2, 3.3, 3.4, §§ 44-146.13 through 44-146.28:1 and 44-146.31 through 44-146.40, Code of Virginia.

A. Included within this appropriation is the continuation of \$160,810 the first year and \$160,810 the second year from the Fire Programs Fund to support the department's hazardous materials training program.

B. By October 1 of each year, the Sheltering Coordinator shall provide a status report on the Commonwealth's emergency shelter capabilities and readiness to the Governor, the Secretary of Veterans and Defense Affairs, the Secretary of Public Safety and Homeland Security, the Director of the Department of Planning and Budget, and the Chairmen of the House Appropriations and Senate Finance Committees.

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403.	Emergency Response and Recovery (77600).....			\$22,860,630	\$22,860,630
	Emergency Response and Recovery Services (77601).....	\$3,232,918	\$3,232,918		
	Financial Assistance for Emergency Response and Recovery (77602).....	\$19,618,000	\$19,618,000		
	Disaster Recovery Services (77604).....	\$9,712	\$9,712		
	Fund Sources: General.....	\$492,445	\$492,445		
	Special.....	\$288,501	\$288,501		
	Commonwealth Transportation.....	\$1,106,877	\$1,106,877		
	Federal Trust.....	\$20,972,807	\$20,972,807		

Authority: Title 44, Chapters 3.2 through 3.5, §§ 44-146.17, 44-146.18(c), 44-146.22, 44-146.28(a) Code of Virginia.

A. Subject to authorization by the Governor, the Department of Emergency Management may employ persons to assist in response and recovery operations for emergencies or disasters declared either by the President of the United States or by the Governor of Virginia. Such employees shall be compensated solely with funds authorized by the Governor or the federal government for the emergency, disaster, or other specific event for which their employment was authorized. The Director, Department of Planning and Budget, is authorized to increase the agency's position level based on the number of positions approved by the Governor.

B. The Secretary of Finance, consistent with any Executive Order signed by the Governor, may provide the department anticipation loans in such amounts as may be needed to appropriately reimburse localities and state agencies for costs associated with Emergency Management Assistance Compact (EMAC) mission assignments. Such loans shall be based on the reimbursements anticipated under the Emergency Management Assistance Compact (EMAC) and, notwithstanding the provisions of § 4-3.02 b of this act, may be extended for a period longer than twelve months.

C.1. Localities receiving reimbursements from the department for Emergency Management Assistance Compact (EMAC) mission costs shall reimburse the Department of Emergency Management for any overpayments within sixty (60) days of written notification of such overpayment.

2. Overpayment amounts shall be based on the difference between the amount reimbursed to the locality by the Department of Emergency Management and the amount reimbursed to the Department of Emergency Management by the state requesting emergency aid under the Compact.

3. If the locality does not reimburse the Department of Emergency Management the overpaid amount within sixty (60) days of being notified, the Comptroller is authorized to withhold from any funds to be transferred to the locality the amount overpaid to the locality and transfer such withheld funds to the Department of Emergency Management.

D. Consistent with any Executive Order signed by the Governor, the Secretary of Finance or his designee may provide the department anticipation loans in such amounts as may be needed to appropriately reimburse the department for disaster related costs. Such loans shall be based on the federal reimbursements anticipated in accordance with the Robert T. Stafford Disaster Relief and Emergency Assistance Act and, notwithstanding the provisions of § 4-3.02 b of this act, may be extended for a period longer than twelve months, if necessary.

404.	Virginia Emergency Operations Center (77800).....			\$2,291,034	\$2,291,034
	Emergency Communications and Warning Point (77801).....	\$2,291,034	\$2,291,034		
	Fund Sources: General.....	\$876,955	\$876,955		
	Special.....	\$589,110	\$589,110		
	Federal Trust.....	\$824,969	\$824,969		

Authority: Title 44 and § 52-47, Code of Virginia.

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Included within this appropriation is \$424,874 the first year and \$424,874 the second year from the general fund to support the Integrated Flood Observing and Warning System (IFLOWS) program.				
405.	Administrative and Support Services (79900).....		\$8,422,619	<del>\$7,208,921</del> \$7,086,921
	General Management and Direction (79901).....	\$7,797,877		<del>\$6,442,667</del> \$6,320,667
	Information Technology Services (79902).....	\$217,000		\$357,000
	Accounting and Budgeting Services (79903).....	\$37,446		\$38,958
	Telecommunications (79930).....	\$370,296		\$370,296
	Fund Sources: General.....	\$5,196,958		<del>\$4,206,912</del> \$4,084,912
	Special.....	\$418,803		\$418,803
	Commonwealth Transportation.....	\$63,762		\$63,762
	Federal Trust.....	\$2,743,096		\$2,519,444

Authority: Title 44, Chapters 3.2, 3.3, 3.4, Code of Virginia.

A. By September 1 of each year, the State Coordinator of Emergency Management shall assess emergencies and disasters that have been authorized sum sufficient funding by the Governor and provide to the Department of Planning and Budget written justification to support continuing sum sufficient funding longer than one year for a locally declared emergency (or disaster), three years for a state declared disaster, and five years for a nationally declared disaster. At the same time, the state coordinator shall identify any disasters that can be closed due to fulfillment of the state's obligations.

B.1. Localities and eligible private non-profit organizations that have received cost reimbursement through state and/or federal assistance programs to support homeland security and eligible recovery and mitigation projects and initiatives associated with disaster events, that are subsequently notified that either a portion or all of the funds provided are to be returned, shall reimburse the Virginia Department of Emergency Management for such overpayments, including any interest accrued on such funds, within sixty (60) days of being notified and receiving the request for reimbursement.

2. Overpayment amounts shall be based on the difference between the amount reimbursed or prepaid to the entity involved by the Department of Emergency Management and the final amount approved by the granting agency. Localities and eligible private non-profit organizations shall certify that no interest was earned on overpaid funds if no interest is included in the remittance.

3. If the entity does not reimburse the Virginia Department of Emergency Management within 60 days of being notified, the Comptroller is authorized to withhold the amount of overpayment from any eligible funds to be transferred to the locality or organization and redirect the funds withheld to the Virginia Department of Emergency Management to satisfy the outstanding liability.

4. The Department of Emergency Management shall not provide future prepayments to any locality or eligible private non-profit organization once the Comptroller has been required to withhold funding.

C. Included within this appropriation is \$570,901 the first year and \$570,901 the second year from the general fund that shall only be used for costs associated with transforming the agency's information systems to conform with standards of the Virginia Information Technologies Agency.

D. Out of this appropriation, \$57,752 the first year and \$115,504 the second year from the general fund is included for the financing costs of purchasing two vehicles in the first year and an additional two vehicles in the second year through the state's master equipment lease purchase program. It is the intent that the department establish a schedule for replacing emergency response vehicles using the master equipment lease purchase program.

E. Included in this appropriation is \$160,000 in the first year from the general fund for the purchase of new computers and other peripheral equipment at the Virginia Fusion Center and

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the Virginia Emergency Operations Center.				
F. Included in this appropriation is \$195,000 in the first year from the general fund for communications upgrades related to Medflight alerting capabilities, along with upgrades to cooling, cable management, monitoring systems, and other equipment at the Virginia Emergency Operations Center.				
G. Included in this appropriation is \$503,000 in the first year and \$35,000 in the second year from the general fund for the purchase of a computer-aided dispatch system.				
H. Included in this appropriation is \$90,000 in the first year and \$90,000 in the second year from the general fund to support regional satellite communications used by the agency in the event of an emergency.				
I. Included in this appropriation is \$225,000 in the first year from the general fund and \$225,000 in the first year from nongeneral funds to upgrade the Voice Over Internet Protocol (VOIP) system at the agency headquarters and the Virginia Emergency Operations Center, and support a backup server to allow continued operations in the event of an emergency.				
J. Included in this appropriation is \$42,000 each year to replace radios for regional coordinators, hazardous materials officers, disaster response and recovery officers, and other regional staff. The radios shall be inter-operable with the State Agencies Radio System (STARS), and shall be acquired through the Master Equipment Lease Program.				
406.	A. All funds transferred to the Department of Emergency Management pursuant to the Governor's authority under § 44-146.28, Code of Virginia, shall be deposited into a special fund account to be used only for Disaster Recovery.			
	B. Included in the Federal Trust appropriation are amounts estimated at \$34,592 the first year and \$34,592 the second year, to pay for statewide indirect cost recoveries of this agency. Actual recoveries of statewide indirect costs up to the level of these estimates shall be exempt from payment into the general fund, as provided by § 4-2.03 of this act. Amounts recovered in excess of these estimates shall be deposited to the general fund.			
	Total for Department of Emergency Management....		\$63,558,019	\$62,044,321 \$61,848,441
	General Fund Positions.....	45.85	45.85	
	Nongeneral Fund Positions.....	<del>112.15</del> 113.15	<del>112.15</del> 113.15	
	Position Level.....	<del>158.00</del> 159.00	<del>158.00</del> 159.00	
	Fund Sources: General.....	\$8,113,664	\$6,973,618 \$6,777,738	
	Special.....	\$2,659,932	\$2,659,932	
	Commonwealth Transportation.....	\$1,170,639	\$1,170,639	
	Federal Trust.....	\$51,613,784	\$51,240,132	
<b>§ 1-113. DEPARTMENT OF FIRE PROGRAMS (960)</b>				
407.	Fire Training and Technical Support Services (74400).....		\$8,493,742	\$8,498,144
	Fire Services Management and Coordination (74401).....	\$3,684,437	\$3,688,839	
	Virginia Fire Services Research (74402).....	\$302,274	\$302,274	
	Fire Services Training and Professional Development (74403).....	\$2,173,775	\$2,173,775	
	Technical Assistance and Consultation Services (74404).....	\$2,128,643	\$2,128,643	
	Emergency Operational Response Services (74405).....	\$15,000	\$15,000	
	Public Fire and Life Safety Educational Services (74406).....	\$189,613	\$189,613	

ITEM 407.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
Fund Sources: Special.....	\$8,493,742	\$8,498,144		
Authority: Title 9.1, Chapter 2 and § 38.2-401, Code of Virginia.				
Notwithstanding the provisions of § 38.2-401, Code of Virginia, up to 25 percent of the revenue available from the Fire Programs Fund, after making the distributions set out in § 38.2-401 D, Code of Virginia, may be used by the Department of Fire Programs to pay for the administrative costs of all activities assigned to it by law.				
408. Financial Assistance for Fire Services Programs (76400).....			\$29,825,000	\$29,825,000
Fire Programs Fund Distribution (76401).....	\$26,500,000	\$26,500,000		
Burn Building Grants (76402).....	\$2,500,000	\$2,500,000		
Categorical Grants (76403).....	\$825,000	\$825,000		
Fund Sources: Special.....	\$29,575,000	\$29,575,000		
Federal Trust.....	\$250,000	\$250,000		
Authority: §§ 38.2-401, Code of Virginia.				
409. Regulation of Structure Safety (56200).....			\$3,034,370	\$3,035,142
State Fire Prevention Code Administration (56203)....	\$3,034,370	\$3,035,142	\$2,910,658	\$2,849,516
	\$2,910,658	\$2,849,516		
Fund Sources: General.....	\$2,474,248	\$2,475,020		
	\$2,350,536	\$2,289,394		
Special.....	\$560,122	\$560,122		
Authority: §§ 9.1-201, 9.1-206, and 27-94 through 27-99, Code of Virginia.				
The State Fire Marshal may charge no fee for any permits or inspections of any school, whether it be public or private.				
Total for Department of Fire Programs.....			<b>\$41,353,112</b>	<b>\$41,358,286</b>
			<b>\$41,229,400</b>	
General Fund Positions.....	29.00	29.00		
Nongeneral Fund Positions.....	48.00	48.00		
Position Level.....	77.00	77.00		
Fund Sources: General.....	\$2,474,248	\$2,475,020		
	\$2,350,536	\$2,289,394		
Special.....	\$38,628,864	\$38,633,266		
Federal Trust.....	\$250,000	\$250,000		
<b>§ 1-114. DEPARTMENT OF FORENSIC SCIENCE (778)</b>				
410. Law Enforcement Scientific Support Services (30900).....			\$45,258,142	\$45,600,887
			<del>\$44,262,469</del>	
Biological Analysis Services (30901).....	<del>\$12,879,585</del>	\$12,900,492		
	<del>\$12,722,433</del>			
Chemical Analysis Services (30902).....	<del>\$13,543,983</del>	<del>\$14,098,969</del>		
	<del>\$13,204,085</del>	\$8,239,190		
<i>Toxicology Services (30903).....</i>	<i>\$0</i>	<i>\$7,042,248</i>		
Physical Evidence Services (30904).....	<del>\$9,005,031</del>	\$8,755,850		
	<del>\$8,804,422</del>			
Training Services (30905).....	<del>\$1,855,491</del>	<del>\$1,855,491</del>		
	<del>\$1,770,681</del>	\$673,022		
Administrative Services (30906).....	<del>\$7,974,052</del>	\$7,990,085		
	<del>\$7,760,848</del>			
Fund Sources: General.....	\$43,228,212	\$43,570,743		
	\$42,232,539			
Federal Trust.....	\$2,029,930	\$2,030,144		

ITEM 410.	Item Details(\$)		Appropriations(\$)	
	First Year	Second Year	First Year	Second Year
	FY2017	FY2018	FY2017	FY2018

Authority: §§ 9.1-1100 through 9.1-1113, Code of Virginia.

A. Notwithstanding the provisions of § 58.1-3403, Code of Virginia, the Department of Forensic Science shall be exempt from the payment of service charges levied in lieu of taxes by any county, city, or town.

B.1. The Forensic Science Board shall ensure that all individuals who were convicted due to criminal investigations, for which its case files for the years between 1973 and 1988 were found to contain evidence possibly suitable for DNA testing, are informed that such evidence exists and is available for testing. To effectuate this requirement, the Board shall prepare two form letters, one sent to each person whose evidence was tested, and one sent to each person whose evidence was not tested. Copies of each such letter shall be sent to the Chairman of the Forensic Science Board and to the respective Chairmen of the House and Senate Committees for Courts of Justice. The Department of Corrections shall assist the board in effectuating this requirement by providing the addresses for all such persons to whom letters shall be sent, whether currently incarcerated, on probation, or on parole. In cases where the current address of the person cannot be ascertained, the Department of Corrections shall provide the last known address. The Chairman of the Forensic Science Board shall report on the progress of this notification process at each meeting of the Forensic Science Board.

2. Upon a request pursuant to the Virginia Freedom of Information Act for a certificate of analysis that has been issued in connection with the Post Conviction DNA Testing Program and that reflects that a convicted person's DNA profile was not indicated on items of evidence tested, the Department of Forensic Science shall make available for inspection and copying such requested record after all personal and identifying information about the victims, their family members, and consensual partners has been redacted, except where disclosure of the information contained therein is expressly prohibited by law or the Commonwealth's Attorney to whom the certificate was issued states that the certificate is critical to an ongoing active investigation and that disclosure jeopardizes the investigation.

C. The Department of Forensic Science, in cooperation with the Office of the Attorney General, shall pursue funding opportunities including federal grants to ensure that Physical Evidence Recovery Kits, associated with sexual assault reports or other investigations, which were collected but not submitted to the Department between July 1, 2014, and June 30, 2016, are analyzed.

Total for Department of Forensic Science.....			<b>\$45,258,142</b>	<b>\$45,600,887</b>
			<del>\$44,262,469</del>	
General Fund Positions.....	318.00	318.00		
Position Level.....	318.00	318.00		
Fund Sources: General.....	<del>\$43,228,212</del>	\$43,570,743		
	<del>\$42,232,539</del>			
Federal Trust.....	\$2,029,930	\$2,030,144		

**§ 1-115. DEPARTMENT OF JUVENILE JUSTICE (777)**

411.	Instruction (19700).....			\$14,505,382	\$14,505,382
	Youth Instructional Services (19711).....	\$7,418,954	\$7,418,954		
	Career and Technical Instructional Services for Youth and Adult Schools (19712).....	\$2,860,635	\$2,860,635		
	Instructional Leadership and Support Services (19714).....	\$4,225,793	\$4,225,793		
	Fund Sources: General.....	\$12,004,650	\$12,004,650		
	Special.....	\$170,536	\$170,536		
	Federal Trust.....	\$2,330,196	\$2,330,196		

Authority: § 66-13.1, Code of Virginia.

412.	Operation of Community Residential and Nonresidential Services (35000).....			\$3,320,293	\$3,320,293
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ITEM 412.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
Community Residential and Non-residential Custody and Treatment Services (35008).....	\$3,320,293	\$3,320,293		
Fund Sources: General.....	\$3,247,866	\$3,247,866		
Special.....	\$50,000	\$50,000		
Federal Trust.....	\$22,427	\$22,427		
<p>Authority: §§ 16.1-246 through 16.1-258, 16.1-286, 16.1-291 through 16.1-295, 66-13, 66-14, 66-22 and 66-24, Code of Virginia.</p> <p>A. Services funded out of this appropriation may include intensive supervision, day treatment, boot camp, and aftercare services, and should be integrated into existing services for juveniles.</p> <p>B. Included in the appropriation for this Item is \$2,920,000 in the first year and \$2,920,000 in the second year from the general fund for a Juvenile Community Placement Program, in which the department may contract with local juvenile detention centers to house juveniles committed to the department prior to their release. The funding provided shall support a minimum of 40 juvenile detention center beds. The department shall develop program guidelines that at a minimum will include which juveniles qualify for placement, length of stay, level of security, mental health services, alcohol and substance abuse services, as well as other services that will be provided to the juvenile while in the detention center.</p>				
413. Supervision of Offenders and Re-entry Services (35100).....			\$61,514,414	\$61,514,414
Juvenile Probation and Aftercare Services (35102).....	\$61,514,414	\$61,514,414		
Fund Sources: General.....	\$60,632,465	\$60,632,465		
Special.....	\$145,000	\$145,000		
Federal Trust.....	\$736,949	\$736,949		
<p>Authority: §§ 16.1-233 through 16.1-238, 16.1-274, 16.1-294, 16.1-322.1 and 66-14, Code of Virginia.</p> <p>A. Notwithstanding the provisions of § 16.1-273 of the Code of Virginia, the Department of Juvenile Justice, including locally-operated court services units, shall not be required to provide drug screening and assessment services in conjunction with investigations ordered by the courts.</p> <p>B. Included in the appropriation for this Item is \$1,626,575 in the first year and \$1,626,575 in the second year from the general fund to support mental health and substance abuse evaluation and treatment services for juveniles under state probation or parole. Out of this item, up to \$325,315 each year may be used for the provision of inpatient mental health treatment by private providers for residents committed to the Department and found to be in need of mental health treatment pursuant to § 66-20 of the Code of Virginia. The department shall develop a plan to ensure continuation of mental health and substance abuse treatment services, including contracting with local providers as necessary.</p> <p>C. Included in the appropriation for this Item is \$240,000 in the first year and \$240,000 in the second year from the general fund that shall be used for emergency housing upon release from department custody. The department shall develop guidelines which at a minimum includes a juvenile selection process for placement and maximum lengths of stay.</p>				
414. Financial Assistance to Local Governments for Juvenile Justice Services (36000).....			\$48,109,774	\$48,869,594
Financial Assistance for Juvenile Confinement in Local Facilities (36001).....	\$34,567,694	\$35,327,514		
Financial Assistance for Probation and Parole - Local Grants (36002).....	\$2,877,348	\$2,877,348		
Financial Assistance for Community based Alternative Treatment Services (36003).....	\$10,664,732	\$10,664,732		
Fund Sources: General.....	\$46,300,095	\$47,059,915		
Federal Trust.....	\$1,809,679	\$1,809,679		
<p>Authority: §§ 16.1-233 through 16.1-238, 16.1-274, 16.1-322.1 and 66-14, Code of Virginia.</p>				

ITEM 414.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
<p>A. From July 1, 2016 to June 30, 2018, the Board of Juvenile Justice shall not approve or commit additional funds for the state share of the cost of construction, enlargement or renovation of local or regional detention centers, group homes or related facilities. The board may grant exceptions only to address emergency maintenance projects needed to resolve immediate life safety issues. For such emergency projects, approval by both the Board of Juvenile Justice and the Secretary of Public Safety and Homeland Security is required. Any emergency projects must also comply with Board of Juvenile Justice standards.</p>				
<p>B. Each emergency resolution adopted by the Board of Juvenile Justice approving reimbursement of the state share of the cost of construction, maintenance, or operation of local or regional detention centers, group homes, or related facilities or programs shall include a statement noting that such approval is subject to the availability of funds and approval by the General Assembly at its next regular session.</p>				
<p>C. The Department of Juvenile Justice shall reimburse localities, pursuant to § 66-15, Code of Virginia, at the rate of \$50 per day for housing juveniles who have been committed to the department, for each day after the department has received a valid commitment order and other pertinent information as required by § 16.1-287, Code of Virginia.</p>				
<p>D. Notwithstanding the provisions of § 16.1-322.1 of the Code of Virginia, the department shall apportion to localities the amounts appropriated in this Item.</p>				
<p>E.1. The appropriation for Financial Assistance for Community Based Alternative Treatment Services includes \$10,379,926 the first year and \$10,379,926 the second year from the general fund for the implementation of the financial assistance provisions of the Juvenile Community Crime Control Act (VJCCCA), §§ 16.1-309.2 through 16.1-309.10, Code of Virginia. Notwithstanding § 16.1-309.6, Code of Virginia, localities participating in this program and contributing through their local match an amount of local funds which is greater than they receive from the Commonwealth under this program are authorized, but not required, to provide a contribution greater than the state general fund contribution. In no case shall their local match be less than their state share.</p>				
<p>2. Notwithstanding the provisions of §§ 16.1-309.2 through 16.1-309.10, Code of Virginia, the Board of Juvenile Justice shall establish guidelines for use in determining the types of programs for which VJCCCA funding may be expended. The department shall establish a format to receive biennial or annual requests for funding from localities, based on these guidelines. For each program requested, the plan shall document the need for the program, goals, and measurable objectives, and a budget for the proposed expenditure of these funds and any other resources to be committed by localities.</p>				
<p>3.a. Notwithstanding the provisions of § 16.1-309.7 B, Code of Virginia, unobligated VJCCCA funds must be returned to the department by each grantee locality no later than October 1 of the fiscal year following the fiscal year in which they were received, or a similar amount may be withheld from the current fiscal year's periodic payments designated by the department for that locality. The Director, Department of Planning and Budget, may increase the general fund appropriation for this Item up to the amount of unobligated VJCCCA funds returned to the Department of Juvenile Justice.</p>				
<p>b. All such unobligated and reappropriated balances shall be used by the department for the purpose of awarding short-term supplementary grants to localities, for programs and services which have been demonstrated to improve outcomes, including reduced recidivism, of juvenile offenders. Such programs and services must augment and support current VJCCCA-funded programs within each affected locality. The grantee locality shall submit an outcomes report to the department, in accord with a written memorandum of agreement which shall accompany the supplementary grant award. This provision shall apply to funds obligated to and in the possession of the department and its grant recipients. The entity which returns unobligated funds under this provision shall not have a presumptive entitlement to a supplementary grant.</p>				
<p>c. The Department of Juvenile Justice, with the assistance of the Department of Corrections, the Virginia Council on Juvenile Detention, juvenile court service unit directors, juvenile and domestic relations district court judges, and juvenile justice</p>				

ITEM 414.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
<p>advocacy groups, shall provide a report on the types of programs supported by the Juvenile Community Crime Control Act and whether the youth participating in such programs are statistically less likely to be arrested, adjudicated or convicted, or incarcerated for either misdemeanors or crimes that would otherwise be considered felonies if committed by an adult.</p> <p>F. The department shall consolidate the annual reporting requirements in §§ 2.2-222 and 66-13 and in Chapters 755 and 914 of the 1996 Acts of the General Assembly concerning juvenile offender demographics. The consolidated annual report shall address the progress of Virginia Juvenile Community Crime Control Act programs including the requirements in Article 12.1 of Chapter 11 of Title 16.1 (§ 16.1-309.2 et seq.) relating to the number of juveniles served, the average cost for residential and nonresidential services, the number of employees, and descriptions of the contracts entered into by localities. Notwithstanding any other provisions of the Code of Virginia, the consolidated report shall be submitted to the Governor, the General Assembly, the Chairmen of the House Appropriations and Senate Finance Committees, the Secretary of Public Safety and Homeland Security, and the Department of Planning and Budget by the first day of the regular General Assembly session.</p>				
415.	Operation of Secure Correctional Facilities (39800)....		\$68,201,452	\$68,201,452
	Juvenile Corrections Center Management (39801).....	\$5,553,763	\$5,553,763	
	Food Services - Prisons (39807).....	\$6,363,226	\$6,363,226	
	Medical and Clinical Services - Prisons (39810).....	\$8,758,610	\$8,758,610	
	Physical Plant Services - Prisons (39815).....	\$8,177,440	\$8,177,440	
	Offender Classification and Time Computation Services (39830).....	\$1,414,251	\$1,414,251	
	Juvenile Supervision and Management Services (39831).....	\$27,532,577	\$27,532,577	
	Juvenile Rehabilitation and Treatment Services (39832).....	\$10,401,585	\$10,401,585	
	Fund Sources: General.....	\$64,515,908	\$64,515,908	
	Special.....	\$2,092,691	\$2,092,691	
	Dedicated Special Revenue.....	\$48,000	\$48,000	
	Federal Trust.....	\$1,544,853	\$1,544,853	

Authority: §§ 16.1-278.8, 16.1-285.1, 66-13, 66-16, 66-18, 66-19, 66-22 and 66-25.1, Code of Virginia.

A. The Department of Juvenile Justice shall retain all funds paid for the support of children committed to the department to be used for the security, care, and treatment of said children.

B.1. The Director, Department of Juvenile Justice, (the “Department”) shall develop a transformation plan to provide more effective and efficient services for juveniles, using data-based decision-making, that improves outcomes and safely reduces the number of juveniles housed in state-operated juvenile correctional centers, consistent with public safety. To accomplish these objectives, the Department will provide, when appropriate, alternative placements and services for juveniles committed to the Department that offer treatment, supervision and programs that meet the levels of risk and need, as identified by the Department's risk and needs assessment instruments, for each juvenile placed in such placements or programs. Prior to implementation, the plan shall be approved by the Secretary of Public Safety and Homeland Security.

2. The Department shall reallocate any savings from the reduced cost of operating state juvenile correctional centers to support the goals of the transformation plan including, but not limited to: (a) increasing the number of male and female local placement options, and post-dispositional treatment programs and services; (b) ensuring that appropriate placements and treatment programs are available across all regions of the Commonwealth; and (c) providing appropriate levels of educational, career readiness, rehabilitative, and mental health services for these juveniles in state, regional, or local programs and facilities, including but not limited to, community placement programs, independent living programs, and group homes. The goals of such transformation services shall be to reduce the risks for reoffending for juveniles supervised or committed to the Department and to improve and promote the skills and resiliencies necessary for the juveniles to lead successful lives in their communities.

ITEM 415.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
3. No later than November 1 of each year, the Department of Juvenile Justice shall provide a report to the Governor, the Chairmen of the House Appropriations and Senate Finance Committees, the Secretary of Public Safety and Homeland Security and the Director, Department of Planning and Budget, assessing the impact and results of the transformation plan and its related actions. The report shall include, but is not limited to, assessing juvenile offender recidivism rates, fiscal and operational impact on detention homes; changes (if any) in commitment orders by the courts; and use of the savings redirected as a result of transformation, including the amount expended for contracted programs and treatment services, including the number of juveniles receiving each specific service. The report should also include the average length of stay for juveniles in each placement option.				
4. The Director, Department of Planning and Budget, is authorized to transfer appropriations between items and programs within the Department of Juvenile Justice to reallocate any savings achieved through transformation to accomplish the goals of transformation.				
C.1. There is hereby established a task force on juvenile correctional centers comprised of the Secretary of Public Safety and Homeland Security, and the Directors of the Departments of Juvenile Justice, Corrections, and Behavioral Health and Developmental Services, and the Office of Children's Services, or their designees. The Secretary of Public Safety and Homeland Security shall chair the task force. The task force shall present an interim report by November 1, 2016, and a final report by July 15, 2017, to the Governor, the Director of the Department of Planning and Budget, the Chairman of the Virginia Commission on Youth, and the Chairmen of the Senate Finance and House Appropriations Committees.				
2.a. The task force shall consider the future capital and operational requirements for Virginia's juvenile correctional centers, including the construction of a new facility in the City of Chesapeake, for which planning was authorized by the 2016 General Assembly, and also including (i) the projected population of state-responsible juvenile offenders, including an assessment of the impact of the Department of Juvenile Justice's length of stay guidelines, (ii) the number of juveniles expected to be held in each facility, (iii) the level and type of mental health, medical, academic and vocational education, and other services to be provided, (iv) the design and size of spaces needed to accommodate the necessary services within state facilities, (v) the accommodation of the treatment needs of state-responsible juvenile offenders with diagnoses of serious mental or behavioral health issues, (vi) the appropriateness of alternative housing models, including cells and rooms (including both single and double-bunking), dormitories, cottages, and other housing configurations, (vii) the number and geographical location of facilities, and (viii) the potential for contracting for the use of space in existing local and regional secure detention facilities, group homes, and private residential facilities.				
b. The task force shall identify existing juvenile correctional centers, including facilities which are not currently operational, and other property currently owned by state agencies, and consider the extent to which the recommendations developed pursuant to Paragraph C.2.a. of this item may be accommodated within such properties, along with the costs of construction or renovation of existing facilities to accommodate these recommendations. The task force shall conduct a cost-benefit analysis to compare the potential revenues realized from the sale of existing real property owned by state agencies, with the projected replacement costs which would be incurred to provide replacement facilities, should existing properties be sold. This analysis should include an assessment of the impact of locational factors on expected program outcomes and on the objective of maintaining the juvenile offenders' relationships with their families and communities.				
c. In evaluating these alternatives, the task force shall give consideration to and report on the estimated costs of construction, operation and maintenance of facilities, and the potential impact of these alternatives to the outcomes for state-responsible juvenile offenders, including recidivism. The task force shall also give consideration to the projected requirements for state funding for local and regional secure detention facilities, and alternatives to detention, including but not limited to, the Virginia Juvenile Community Crime Control Act.				
3. The Department of General Services and all other agencies of the Commonwealth shall				

ITEM 415.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
provide technical assistance upon request of the task force. The task force shall include input from judges, attorneys for the Commonwealth, law enforcement, local government, private providers, and other stakeholders as appropriate.				
4. The Director, Department of Juvenile Justice, is authorized to procure such consultant or other services as necessary to conduct the task force's review. The Director is authorized to use funds identified in Paragraph A of this item for such purposes.				
5. If the Department of Juvenile Justice deems it necessary, due to facility population decline, efficient use of resources, and the need to further reduce recidivism, to close a state juvenile correctional center, the Department shall (i) work cooperatively with the affected localities to minimize the effect of the closure on those communities and their residents, and (ii) implement a general closure plan, preferably not less than 12 months from announcement of the closure, to create opportunities to place affected state employees in existing departmental vacancies, assist affected employees with placement in other state agencies, create training opportunities for affected employees to increase their qualifications for additional positions, and safely reduce the population of the facility facing closure, consistent with public safety.				
416.	Administrative and Support Services (39900).....		\$18,211,469	\$18,244,965
	General Management and Direction (39901).....	\$4,695,549		
	Information Technology Services (39902).....	\$5,664,781		
	Accounting and Budgeting Services (39903).....	\$3,997,437		
	Architectural and Engineering Services (39904).....	\$458,908		
	Food and Dietary Services (39907).....	\$381,180		
	Human Resources Services (39914).....	\$2,267,005		
	Planning and Evaluation Services (39916).....	\$746,609		
	Fund Sources: General.....	\$16,864,048		\$16,897,373
	Special.....	\$987,645		\$987,816
	Federal Trust.....	\$359,776		\$359,776
Authority: §§ 66-3 and 66-13, Code of Virginia.				
	Total for Department of Juvenile Justice.....		<b>\$213,862,784</b>	<b>\$214,656,100</b>
	General Fund Positions.....	2,149.50		2,149.50
	Nongeneral Fund Positions.....	21.00		21.00
	Position Level.....	2,170.50		2,170.50
	Fund Sources: General.....	\$203,565,032		\$204,358,177
	Special.....	\$3,445,872		\$3,446,043
	Dedicated Special Revenue.....	\$48,000		\$48,000
	Federal Trust.....	\$6,803,880		\$6,803,880
<b>§ 1-116. DEPARTMENT OF MILITARY AFFAIRS (123)</b>				
417.	Higher Education Student Financial Assistance (10800).....		\$3,028,382	\$3,028,382
	Tuition Assistance (10811).....	\$3,028,382		\$3,028,382
	Fund Sources: General.....	\$3,028,382		\$3,028,382
Authority: Title 44, Chapters 1 and 2; <del>§ 23-7.4-2</del> § 23.1-506, Code of Virginia.				
418.	At Risk Youth Residential Program (18700).....		\$5,285,836	\$5,135,836
	Virginia Commonwealth Challenge Program (18701).....	\$5,285,836		\$5,135,836
	Fund Sources: General.....	\$1,742,103		\$1,592,103
	Dedicated Special Revenue.....	\$50,000		\$50,000
	Federal Trust.....	\$3,493,733		\$3,493,733
Authority: Discretionary Inclusion.				
A. The Department of Military Affairs is hereby authorized to designate building space at the				

ITEM 418.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
State Military Reservation as an in-kind match for the receipt of federal funds under the Commonwealth Challenge program, equivalent to a value of \$253,040 each year.				
B. Out of this appropriation, up to \$350,000 the first year and up to \$350,000 the second year in nongeneral funds is provided to establish a STARBASE youth education program to improve math and science skills to prepare students for careers in engineering and other science-related fields of study.				
419.	Defense Preparedness (72100).....		\$52,640,289	\$52,640,289 \$52,468,404
	Armories Operations and Maintenance (72101).....	\$11,579,092		<del>\$11,579,092</del> \$11,407,207
	Virginia State Defense Force (72104).....	\$201,217		\$201,217
	Security Services (72105).....	\$4,355,909		\$4,355,909
	Fort Pickett and Camp Pendleton Operations (72109).....	\$22,775,627		\$22,775,627
	Other Facilities Operations and Maintenance (72110).....	\$13,728,444		\$13,728,444
	Fund Sources: General.....	\$2,986,474		<del>\$2,986,474</del> \$2,814,589
	Special.....	\$1,784,927		\$1,784,927
	Dedicated Special Revenue.....	\$1,730,000		\$1,730,000
	Federal Trust.....	\$46,138,888		\$46,138,888

Authority: Title 44, Chapters 1 and 2, Code of Virginia.

A. The Department is authorized to receive payments from localities resulting from reimbursement agreements with the Virginia Defense Force, an organization of the Virginia National Guard. The Department may disburse up to \$30,000 the first year and \$30,000 the second year from these payments to the Virginia Defense Force. Included in the appropriation for this Item is \$30,000 the first year and \$30,000 the second year from nongeneral funds for this purpose.

B. The Department of Military Affairs may operate, with nongeneral funds, a Morale, Welfare, and Recreation program for the benefit of the Virginia National Guard, Virginia Defense Force, employees of the Department, family members, and other authorized transient users of the Department's facilities, under such policies as approved by the agency.

C. The Department of Military Affairs shall report to the Governor and Chairmen of the House Appropriations and Senate Finance Committees a prioritized list of operating and capital needs related to its duties to the Commonwealth that are not funded by the federal government, including, but not limited to, training and preparedness for state active duty, armory operations and maintenance, and vehicles. The Department shall provide its report no later than August 15, 2016.

420.	Disaster Planning and Operations (72200).....		a sum sufficient	
	Communications and Warning System (72201).....	a sum sufficient		
	Disaster Assistance (72203).....	a sum sufficient		
	Fund Sources: General.....	a sum sufficient		

Authority: Title 44, Chapters 1 and 2, Code of Virginia.

A. The amount for Disaster Planning and Operations provides for a military contingent fund, out of which to pay the military forces of the Commonwealth when aiding the civil authorities.

B. In the event units of the Virginia National Guard shall be in federal service, the sum allocated herein for their support shall not be used for any different purpose, except with the prior written approval of the Governor, other than to provide for the Virginia State Defense Force or for safeguarding properties used by the Virginia National Guard.

421.	Administrative and Support Services (79900).....		\$7,103,370	\$7,112,661
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ITEM 421.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
General Management and Direction (79901).....	\$4,166,638	\$4,175,929		
Telecommunications (79930).....	\$2,936,732	\$2,936,732		
Fund Sources: General.....	\$3,208,023	\$3,208,984		
Dedicated Special Revenue.....	\$528,374	\$528,374		
Federal Trust.....	\$3,366,973	\$3,375,303		
Authority: Title 44, Chapters 1 and 2, Code of Virginia.				
A. The Department of Military Affairs shall advise and provide assistance to the Department of Accounts in administering the \$20,000 death benefit provided for certain members of the National Guard and United States military reserves killed in action in any armed conflict as of October 7, 2001, pursuant to § 44-93.1.B., Code of Virginia.				
B. Included in this appropriation is \$240,000 the first year and \$240,000 the second year from the general fund and \$100,000 in the first year and \$100,000 the second year from nongeneral funds for the financing costs of purchasing STARS radio communication equipment through the state's master equipment lease program.				
Total for Department of Military Affairs.....			<b>\$68,057,877</b>	<b>\$67,917,168</b> <b>\$67,745,283</b>
General Fund Positions.....	51.47	51.47		
Nongeneral Fund Positions.....	307.03	307.03		
Position Level.....	358.50	358.50		
Fund Sources: General.....	\$10,964,982	<del>\$10,815,943</del> \$10,644,058		
Special.....	\$1,784,927	\$1,784,927		
Dedicated Special Revenue.....	\$2,308,374	\$2,308,374		
Federal Trust.....	\$52,999,594	\$53,007,924		

**§ 1-117. DEPARTMENT OF STATE POLICE (156)**

422. Information Technology Systems, Telecommunications and Records Management (30200).....			\$55,315,883	<del>\$53,239,247</del> \$54,189,854
Information Technology Systems and Planning (30201).....	\$15,390,048	\$13,300,827		
Criminal Justice Information Services (30203).....	\$8,417,204	<del>\$8,427,911</del> \$8,808,061		
Telecommunications and Statewide Agencies Radio System (STARS) (30204).....	\$26,787,280	<del>\$26,788,751</del> \$27,409,122		
Firearms Purchase Program (30206).....	\$1,594,585	<del>\$1,594,795</del> \$1,544,881		
Sex Offender Registry Program (30207).....	\$2,835,604	\$2,835,699		
Concealed Weapons Program (30208).....	\$291,162	\$291,264		
Fund Sources: General.....	\$47,283,374	<del>\$45,206,738</del> \$46,157,345		
Special.....	\$3,555,913	\$3,555,913		
Dedicated Special Revenue.....	\$3,716,561	\$3,716,561		
Federal Trust.....	\$760,035	\$760,035		

Authority: §§ 18.2-308.2:2, 19.2-387, 19.2-388, 27-55, 52-4, 52-4.4, 52-8.5, 52-12, 52-13, 52-15, 52-16, 52-25 and 52-31 through 52-34, Code of Virginia.

A.1. It is the intent of the General Assembly that wireless 911 calls be delivered directly by the Commercial Mobile Radio Service (CMRS) provider to the local Public Safety Answering Point (PSAP), in order that such calls be answered by the local jurisdiction within which the call originates, thereby minimizing the need for call transfers whenever possible.

2. Notwithstanding the provisions of Article 7, Chapter 15, Title 56, Code of Virginia, \$3,700,000 the first year and \$3,700,000 the second year from the Wireless E-911 Fund is

ITEM 422.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
	included in this appropriation for telecommunications to offset dispatch center operations and related costs incurred for answering wireless 911 telephone calls.			
	B. Out of the Motor Carrier Special Fund, \$900,000 the first year and \$900,000 the second year shall be disbursed on a quarterly basis to the Department of State Police.			
	C.1. This appropriation includes \$9,175,535 the first year and \$9,175,535 the second year from the general fund for maintaining the Statewide Agencies Radio System (STARS).			
	2. The Secretary of Public Safety and Homeland Security, in conjunction with the STARS Management Group and the Superintendent of State Police, shall provide a status report on (1) annual operating costs; (2) the status of site enhancements to support the system; (3) the project timelines for implementing the enhancements to the system; and (4) other matters as the secretary may deem appropriate. This report shall be provided to the Governor and the Chairmen of the House Appropriations and Senate Finance Committees no later than October 1 of each year.			
	3. Any bond proceeds authorized for the STARS project that remain after the full implementation of the STARS network shall be made available for the STARS equipment needs of the Department of Military Affairs.			
	D. The department shall deposit to the general fund an amount estimated at \$100,000 the first year and \$100,000 the second year resulting from fees generated by additional criminal background checks of local job applicants and prospective licensees collected pursuant to § 15.2-1503.1 of the Code of Virginia.			
	E. Notwithstanding the provisions of §§ 19.2-386.14, 38.2-415, 46.2-1167 and 52-4.3, Code of Virginia, the Department of State Police may use revenue from the State Asset Forfeiture Fund, the Insurance Fraud Fund, the Drug Investigation Trust Account – State, and the Safety Fund to modify, enhance or procure automated systems that focus on the Commonwealth's law enforcement activities and information gathering processes.			
	F. The Superintendent of State Police is authorized to and shall establish a policy and reasonable fee to contract for the bulk transmission of public information from the Virginia Sex Offender Registry. Any fees collected shall be deposited in a special account to be used to offset the costs of administering the registry. The State Superintendent of State Police shall charge no fee for the transfer of any information from the Virginia Sex Offender Registry to the Statewide Automated Victim Notification (SAVIN) system.			
	G. The Virginia State Police shall, upon request, provide to the Department of Behavioral Health and Developmental Services any information it possesses as a result of carrying out the provisions of §§ 19.2-389, 37.2-819 and 64.2-2014, Code of Virginia, to enable the Department to make anonymous the data held pursuant to those provisions and link it with other relevant data held by the Commonwealth for the purpose of evaluating the impact of carrying out these provisions on the public health and safety, pursuant to a grant from the National Science Foundation to Duke University and a subcontract with the University of Virginia.			
	H. Included in the amounts provided for this Item is \$91,189 the first year and \$99,479 the second year from the general fund to establish a public safety information exchange program with those states that share a border with Canada or Mexico and are willing to participate in the exchange program pursuant to § 2.2-224.1, Code of Virginia.			
	<i>1.1. Included in this appropriation is \$620,371 in the second year from the general fund for the annual debt service for the Department to purchase fixed repeaters for the Statewide Agencies Radio System (STARS) through the Department of Treasury's Master Equipment Leasing Program.</i>			
	<i>2. The Superintendent of the Department of State Police shall provide a report detailing anticipated expenditures for equipment replacement for the State Agencies Radio System (STARS) over the ensuing six fiscal years. The report shall be coordinated with the Department of the Treasury and shall include an assessment of potential financing mechanisms for equipment replacement. The report shall be provided to the Secretary of Public Safety and Homeland Security, the Secretary of Finance, the Secretary of Information Technology, the Director of the Department of Planning and Budget, the</i>			

ITEM 422.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
<i>STARS Management Group, and the Chairmen of the House Appropriations and Senate Finance Committees by October 1, 2017. The Superintendent shall thereafter provide an updated report by October 1 of each ensuing odd-numbered calendar year.</i>				
423. Law Enforcement and Highway Safety Services (31000).....			\$260,286,447	\$262,360,348
			\$253,473,398	\$261,046,440
Aviation Operations (31001).....	\$7,334,764	\$7,335,698		
Commercial Vehicle Enforcement (31002).....	\$4,946,935	\$4,946,935		
Counter-Terrorism (31003).....	\$5,589,885	\$5,591,036		
Help Eliminate Auto Theft (HEAT) (31004).....	\$1,862,413	\$1,862,413		
Drug Enforcement (31005).....	\$21,139,158	\$21,142,149		
		\$21,057,149		
Crime Investigation and Intelligence Services (31006).....	\$32,974,604	\$33,619,524		
Uniform Patrol Services (Highway Patrol) (31007)....	\$152,079,959	\$153,503,864		
	\$145,266,910	\$152,274,956		
Insurance Fraud Program (31009).....	\$5,560,880	\$5,560,880		
Vehicle Safety Inspections (31010).....	\$22,265,849	\$22,265,849		
Sex Offender Registry Program Enforcement (31011).....	\$6,532,000	\$6,532,000		
Fund Sources: General.....	\$205,410,499	\$207,484,400		
	\$198,597,450	\$206,170,492		
Special.....	\$28,821,310	\$28,821,310		
Commonwealth Transportation.....	\$8,282,115	\$8,282,115		
Trust and Agency.....	\$20,000	\$20,000		
Dedicated Special Revenue.....	\$9,441,061	\$9,441,061		
Federal Trust.....	\$8,311,462	\$8,311,462		

Authority: §§ 27-56, 33.2-1726, 46.2-1157 through 46.2-1187, 52-1, 52-4, 52-4.2, 52-4.3, 52-8, 52-8.1, 52-8.2, 52-8.4 and 56-334, Code of Virginia.

A. Included in this appropriation is \$810,687 the first year and \$810,687 the second year from Commonwealth Transportation Funds for the personal and associated nonpersonal services costs for eight positions. These positions will be dedicated to patrolling the I-95/395/495 Interchange.

B. Included in this appropriation is \$4,831,625 the first year and \$4,831,625 the second year from the Commonwealth Transportation Fund to support enforcement operations at weigh stations statewide.

C. Included in this appropriation is \$1,631,282 the first year and \$1,631,282 the second year from Commonwealth Transportation Funds that shall be used to support the personal and associated nonpersonal services costs for trooper positions. These positions will be assigned to the "Highway Safety Corridors" and work to supplement the Department of State Police's enforcement efforts in those corridors.

D. The Department of State Police shall modify the implementation of the division of drug law enforcement established pursuant to § 52-8.1:1, Code of Virginia, and shall redirect, as may be necessary, resources heretofore provided for that purpose by the General Assembly for the purposes of homeland security, the gathering of intelligence on terrorist activities, the preparation for response to a terrorist attack and any other activity determined by the Governor to be crucial to strengthening the preparedness of the Commonwealth against the threat of natural disasters and emergencies. Nothing in this Item shall be construed to prohibit the Department of State Police from performing drug law enforcement or investigation as otherwise provided for by the Code of Virginia.

E. Included within this appropriation is \$3,098,098 the first year and \$3,098,098 the second year from the Rescue Squad Assistance Fund to support the department's aviation (med-flight) operations.

F. Included within this appropriation is \$400,000 the first year and \$400,000 the second year from the general fund, which shall be provided to the County of Chesterfield for use in

ITEM 423.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
	funding the paramedics assigned to the Department of State Police for aviation (med-flight) operations, and for related med-flight expenses.			
	G. In the event that special fund revenues for this Item exceed expenditures, the balance of such revenues may be used for air medical evacuation equipment improvements, information technology upgrades or for motor vehicle replacement.			
	H. Included in this appropriation is \$110,000 the first year and \$110,000 the second year from the general fund to maintain increased traffic enforcement on Interstate 81. These funds shall be used to provide overtime payments for extended and additional work shifts so as to maintain the enhanced level of State Police patrols on this and other public highways in the Commonwealth.			
	I.1. Included in the appropriation for this Item is sufficient funding to support, in addition to sworn positions, at least 43 non-sworn positions for monitoring persons required to comply with the requirements of the Sex Offender Registry. The department shall coordinate monitoring and verification activities related to registry requirements with other state and local law enforcement agencies that have responsibility for monitoring or supervising individuals who are also required to comply with the requirements of the Sex Offender Registry.			
	2. The Secretary of Public Safety and Homeland Security, in conjunction with the Superintendent of State Police, shall report on the implementation of the monitoring of offenders required to comply with the Sex Offender Registry requirements. The report shall include at a minimum: (1) the number of verifications conducted; (2) the number of investigations of violations; (3) the status of coordination with other state and local law enforcement agencies activities to monitor Sex Offender Registry requirements; and (4) an update of the sex offender registration and monitoring section in the department's current "Manpower Augmentation Study." This report shall be provided to the Governor and the Chairmen of the House Appropriations and Senate Finance Committees each year by January 1.			
	J. Included within this appropriation is \$200,000 the first year and \$200,000 the second year from nongeneral funds to be used by the Department of State Police to record revenue related to overtime work performed by troopers at the end of a fiscal year and for which reimbursement was not received by the department until the following fiscal year. The Department of Accounts shall establish a revenue code and fund detail for this revenue.			
	K. Included within this appropriation is \$100,000 the first year and \$100,000 the second year from the general fund for the Department of State Police to enhance its capabilities in recruiting minority troopers. Funding is to support increased marketing and advertising efforts for recruiting minorities.			
	L. Included within this appropriation is \$116,988 the first year and \$116,988 the second year from the Department of Aviation's special fund to support the aviation operations of the Department of State Police.			
	M.1. Out of the amounts appropriated for this Item, \$1,450,000 the first year and \$1,450,000 the second year from nongeneral funds shall be distributed to the department to expand the operations of the Northern Virginia Internet Crimes Against Children Task Force.			
	2. Pursuant to paragraph H.2 of Item 398, the Northern Virginia Internet Crimes Against Children Task Force shall provide a report on the actual expenditures and performance results achieved each year. Copies of this report shall be provided each year to the Secretary of Public Safety and Homeland Security and the Chairmen of the House Appropriations and Senate Finance Committees by October 1.			
	N. Out of the appropriation for this Item, \$1,543,733 the first year and \$1,543,733 the second year from the general fund is continued for the ongoing financing costs of purchasing two helicopters through the state's master equipment lease purchase program.			
	O. Effective July 1, 2015, the Superintendent of State Police shall provide training to all local law enforcement agencies on the proper method to register and re-register persons			

ITEM 423.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
<p>required to be registered with the Sex Offender and Crimes Against Minors Registry. Should the Superintendent have reason to believe that any local law enforcement agency is not registering sex offenders as required by § 9.1-903, Code of Virginia, the Superintendent shall notify the local law enforcement agency, as well as the Executive Secretary of the Compensation Board and the Director of the Department of Criminal Justice Services.</p> <p>P: The Superintendent of Virginia State Police shall establish a new area office in the New River Valley. Included in the amounts appropriated for this item are \$205,772 the first year and \$234,680 the second year from the general fund to establish the new area office.</p> <p>Q: Included within this appropriation is \$1,050,000 the first year and \$2,400,000 the second year and ten positions the first year and 20 positions the second year from the general fund; to establish a special operations division. The first two tactical teams established under this division will serve the fourth and sixth divisions:</p> <p>R. Included within this appropriation is \$1,200,000 the second year and ten positions from the general fund to establish a Special Operations Division. The first two tactical teams established under this division will serve first the Fourth and then the Sixth Division. Positions from those two divisions that are transferred into the new Special Operations Division shall be backfilled in those two existing divisions, respectively.</p> <p>S. The Superintendent of the Department of State Police shall establish a new area office in the New River Valley. Included in the amounts appropriated for this item is \$205,772 the second year from the general fund to establish the new area office.</p> <p>T. Notwithstanding the provisions of § 9.1-912, 38.2-414, 38.2-415, 46.2-1167, and 46.2-1168, of the Code of Virginia, the Department of State Police is authorized to use: \$1,387,920 from the Help Eliminate Auto Theft Fund, \$1,656,447 from the Insurance Fraud Fund, \$1,743,630 from the Safety Fund, and \$769,280 from the Sex Offender Registry Fund, in the first year for any of the purposes authorized in this Item.</p>				
424.	Administrative and Support Services (39900).....		\$22,887,845	\$24,414,761
	General Management and Direction (39901).....	\$5,654,864		\$5,655,805
	Accounting and Budgeting Services (39903).....	\$1,940,478		\$1,945,196
	Human Resources Services (39914).....	\$2,048,184		\$2,048,459
	Physical Plant Services (39915).....	\$5,420,179		\$5,421,328
	Procurement and Distribution Services (39918).....	\$2,188,924		\$2,190,031
	Training Academy (39929).....	\$4,973,673		\$6,492,399
	Cafeteria (39931).....	\$661,543		\$661,543
	Fund Sources: General.....	\$22,419,341		\$23,718,670
	Special.....	\$443,504		\$671,091
	Dedicated Special Revenue.....	\$25,000		\$25,000

Authority: §§ 52-1 and 52-4, Code of Virginia.

A. The Superintendent of State Police shall establish written procedures for the timely and accurate electronic reporting of crime data reported to the Department of State Police in accordance with the provisions of § 52-28, Code of Virginia. The procedures shall require the principal officer of the reporting organization to certify that the information provided is, to his knowledge and belief, a true and accurate report. Should the superintendent have reason to believe that any crime data is missing, incomplete or incorrect after audit of the data, the superintendent shall notify the reporting organization, as well as the Chairman of the Compensation Board and the Director, Department of Criminal Justice Services. Upon receiving and verifying resubmitted data that corrects the report, the superintendent shall notify the Chairman of the Compensation Board and the Director, Department of Criminal Justice Services that the missing, incomplete or incorrect data has been satisfactorily submitted.

B. The Department of State Police is authorized to charge other law enforcement agencies a fee for the use of the Virginia State Police Blackstone Training Facility related to training activities. The fee structure and subsequent changes must be reviewed and approved by the Secretary of Public Safety and Homeland Security. The Department shall deposit any moneys received from such fees into the Virginia State Police Blackstone Training Facility Fund. The

ITEM 424.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018

Department shall provide a report on the proposed fee structure and the utilization of the fees for the facility to the Secretary of Public Safety and Homeland Security, the Director of the Department of Planning and Budget, and the Chairmen of the Senate Finance and House Appropriations Committees by October 15, 2016.

C. There is hereby created in the state treasury a special nonreverting fund that shall be known as the Virginia State Police Blackstone Training Facility Fund. The Fund shall be established on the books of the Commonwealth by the Comptroller. Interest earned on the moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of the fiscal year shall not revert to the general fund but shall remain in the Fund. The Department of State Police shall utilize the revenue deposited in the Fund to (1) maintain and repair facilities at the Virginia State Police Blackstone Training Facility, and (2) acquire, maintain, repair or replace equipment at the Virginia State Police Blackstone Training Facility.

425. All revenue received from the sale of motor vehicles shall be reported separately from that received from the sale of other property of the department.

Total for Department of State Police.....			<b>\$338,490,175</b>	<b>\$340,014,356</b>
			<del>\$331,677,126</del>	<del>\$339,651,055</del>
General Fund Positions.....	2,588.00	<del>2,603.00</del>		
		2,613.00		
Nongeneral Fund Positions.....	378.00	<del>378.00</del>		
		394.00		
Position Level.....	2,966.00	<del>2,981.00</del>		
		3,007.00		
Fund Sources: General.....	<del>\$275,113,214</del>	<del>\$276,409,808</del>		
	<del>\$268,300,165</del>	<del>\$276,046,507</del>		
Special.....	\$32,820,727	\$33,048,314		
Commonwealth Transportation.....	\$8,282,115	\$8,282,115		
Trust and Agency.....	\$20,000	\$20,000		
Dedicated Special Revenue.....	\$13,182,622	\$13,182,622		
Federal Trust.....	\$9,071,497	\$9,071,497		

**§ 1-118. VIRGINIA PAROLE BOARD (766)**

426. Probation and Parole Determination (35200).....			<del>\$1,545,204</del>	<del>\$1,545,271</del>
			<del>\$1,567,944</del>	<del>\$1,738,395</del>
Adult Probation and Parole Services (35201).....	<del>\$1,545,204</del>	<del>\$1,545,271</del>		
	<del>\$1,567,944</del>	<del>\$1,738,395</del>		
Fund Sources: General.....	<del>\$1,545,204</del>	<del>\$1,545,271</del>		
	<del>\$1,567,944</del>	<del>\$1,738,395</del>		

Authority: Title 53.1, Chapter 4, Code of Virginia.

Notwithstanding the provisions of § 53.1-40.01, Code of Virginia, the Parole Board shall annually consider for conditional release those inmates who meet the criteria for conditional geriatric release set out in § 53.1-40.01, Code of Virginia, except that upon any such review the Board may schedule the next review as many as three years thereafter. If any such inmate is also eligible for discretionary parole under the provisions of § 53.1-151 et seq., Code of Virginia, the board shall not be required to consider that inmate for conditional geriatric release unless the inmate petitions the board for conditional geriatric release.

Total for Virginia Parole Board.....			<b>\$1,545,204</b>	<b>\$1,545,271</b>
			<del>\$1,567,944</del>	<del>\$1,738,395</del>
General Fund Positions.....	12.00	12.00		
Position Level.....	12.00	12.00		
Fund Sources: General.....	<del>\$1,545,204</del>	<del>\$1,545,271</del>		
	<del>\$1,567,944</del>	<del>\$1,738,395</del>		

ITEM 426.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
TOTAL FOR OFFICE OF PUBLIC SAFETY AND HOMELAND SECURITY .....			<del>\$2,924,517,649</del> <b>\$2,911,040,096</b>	<del>\$2,965,775,197</del> <b>\$2,951,528,489</b>
General Fund Positions.....	17,609.32	<del>17,624.32</del> 17,378.32		
Nongeneral Fund Positions.....	2,418.18	<del>2,424.18</del> 2,465.18		
Position Level.....	20,027.50	<del>20,048.50</del> 19,843.50		
Fund Sources: General.....	<del>\$1,903,006,643</del> \$1,888,429,090	<del>\$1,928,675,675</del> \$1,911,776,731		
Special.....	\$150,922,290	\$150,421,495		
Commonwealth Transportation.....	\$9,452,754	\$9,452,754		
Enterprise.....	<del>\$678,543,186</del> \$679,643,186	<del>\$694,997,605</del> \$697,649,841		
Trust and Agency.....	\$4,818,130	\$4,818,130		
Dedicated Special Revenue.....	\$30,407,154	\$30,407,154		
Federal Trust.....	\$147,367,492	\$147,002,384		

ITEM 427.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018

**OFFICE OF TECHNOLOGY**

**§ 1-119. SECRETARY OF TECHNOLOGY (184)**

427.	Administrative and Support Services (79900).....			\$553,182	\$553,264
	General Management and Direction (79901).....	\$553,182	\$553,264		
	Fund Sources: General.....	\$553,182	\$553,264		
	Authority: Title 2.2, Chapter 2, Article 9, Code of Virginia.				
	Total for Secretary of Technology.....			<b>\$553,182</b>	<b>\$553,264</b>
	General Fund Positions.....	5.00	5.00		
	Position Level.....	5.00	5.00		
	Fund Sources: General.....	\$553,182	\$553,264		

**§ 1-120. INNOVATION AND ENTREPRENEURSHIP INVESTMENT AUTHORITY (934)**

428.	Economic Development Services (53400).....			\$11,538,090	\$11,438,097
				\$11,113,668	\$11,187,740
	Technology Entrepreneurial Development Services (53415).....	<del>\$5,120,771</del> \$4,696,349	\$4,620,778		
	Commonwealth Technology Policy Services (53416).....	\$44,392	\$44,392		
	Technology Industry Development Services (53419).....	\$2,112,511	<del>\$2,362,511</del> \$2,112,154		
	Technology Industry Research and Developmental Services (53420).....	\$4,260,416	\$4,410,416		
	Fund Sources: General.....	<del>\$11,538,090</del> \$11,113,668	<del>\$11,438,097</del> \$11,187,740		

Authority: Title 2.2, Chapter 22, Code of Virginia, and Discretionary Inclusion.

A.1. The appropriation in this Item shall be used for the purpose of and in accordance with the terms and conditions specified in Title 2.2, Chapter 22, Code of Virginia.

2. Out of the amounts appropriated for the Innovation and Entrepreneurship Investment Authority, \$50,000 the first year and \$50,000 the second year from the general fund shall be used to maintain the Commonwealth Innovation and Entrepreneurship Measurement System which measures activities worthy of economic development and institutional focus in furtherance of the Commonwealth Research and Development Roadmap.

B. The Innovation and Entrepreneurship Investment Authority is hereby authorized to transfer funds in this appropriation to the Center for Innovative Technology to expend said funds for realizing the statutory purposes of the Authority, by contracting with governmental and private entities, notwithstanding the provisions of § 4-1.05 b of this act.

C. This appropriation shall be disbursed in twelve equal monthly installments each fiscal year.

D.1. No later than July 15 of each year, the Innovation and Entrepreneurship Investment Authority shall provide to the Chairmen of the House Appropriations and Senate Finance Committees, Secretary of Technology, and the Director, Department of Planning and Budget, a report of its operating plan for each year of the biennium. No later than September 30 of each year, the center shall submit to the same entities a detailed expenditure report for the concluded fiscal year. Both reports shall be prepared in the formats as approved by the Director, Department of Planning and Budget and include, but not be limited to the following:

a. All planned and actual revenue and expenditures along with funding sources, including



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<p>general fund is provided to support the advancement of unmanned systems companies and development of the unmanned systems industry in the Commonwealth.</p>				
<p>2. In addition to the amounts set forth in paragraph J.1., \$350,000 the first year and \$500,000 the second year from the general fund shall be made available for the establishment of an Unmanned Aerial Systems Commercial Center of Excellence and business accelerator in collaboration with the Mid-Atlantic Aviation Partnership and the Virginia Commercial Spaceflight Authority for (i) the development of a strategic plan and roadmap for the recruitment and expansion of commercial UAS entities, and (ii) advancing collaborative public-private UAS partnerships across the Commonwealth at the direction of the Secretary of Technology.</p>				
<p>K. Out of the appropriation for this Item, \$500,000 the first year and <del>\$500,000</del>\$400,000 the second year from the general fund shall support the Virginia Cyber Security Commission and its recommendations.</p>				
<p>L.1. Included in this Item is \$250,000 in the first year and \$500,000 in the second year from the general fund to support the creation of an Information Sharing and Analysis Organization in Virginia.</p>				
<p>2. No later than November 1, 2016, the Virginia Cyber Security Commission shall provide to the Chairmen of the House Appropriations and Senate Finance Committees, the Secretary of Finance, and the Director of Planning and Budget, a report detailing the development and implementation of an Information Sharing and Analysis Organization (ISAO) in Virginia. The report shall include, but not be limited to, defined roles and responsibilities of members, development of a long-term sustainable funding model, technical means for information sharing among members, and potential growth opportunities the ISAO could seek once information sharing is fully established.</p>				
<p>M. Notwithstanding the definition of qualifying institutions in § 2.2-2233.1, Code of Virginia, a university research consortium that includes Virginia colleges and university member institutions is a qualifying institution for purposes of seeking funding from the Commonwealth Research Commercialization Fund.</p>				
<p>N. Any proceeds from the sale of equity in companies that participated in the cyber security accelerator shall not revert to the general fund but shall be used to support the accelerator program.</p>				
<p>O. By September 1 each year, the President of the Innovation and Entrepreneurship Investment Authority shall report to the Chairmen of the House Appropriations and Senate Finance Committees, Secretary of Technology, and to the Director, Department of Planning and Budget on program activities including, but not limited to the following:</p>				
<p>1. For activities associated with providing localities with broadband assistance: (i) the number of localities assisted by state and other broadband funding sources and (ii) the estimated number of households and localities with populations lacking wired broadband access;</p>				
<p>2. For activities associated with the Growth Accelerator Program (GAP): (i) the number of companies receiving investments from the fund, (ii) the state investment and amount of privately leveraged investments per company, (iii) the estimated number of jobs created, (iv) the estimated tax revenue generated, (v) the number of companies who have received investments from the GAP fund still operating in Virginia, (vi) return on investment, to include the value of proceeds from the sale of equity in companies that received support from the program and economic benefits to the Commonwealth, (vii) the number of state investments that failed and the state investment associated with failed investments, and (viii) the number of new companies created or expanded and the number of patents filed; and</p>				
<p>3. For activities associated with the cyber security accelerator: (i) the number of companies assisted and the number of startups successfully launched through the cyber accelerator program, (ii) the number of companies operating in Virginia as a result of the program, (iii) estimated number of jobs created, (iv) the value of proceeds from the sale of equity in companies that received capital support from the program, (v) the number of state investments that failed and the state investment associated with failed investments,</p>				

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and (vi) the number of new companies created or expanded and the number of patents filed.				
4. Such report shall include the prior fiscal year outcomes as well as the outcomes of each program since inception. In addition, the report shall also include program changes anticipated in the subsequent fiscal year.				
P.1. Pursuant to § 3-2.03 of this act, a line of credit up to \$2,500,000 shall be provided to the Innovation and Entrepreneurship Investment Authority as a temporary cash flow advance. The Innovation and Entrepreneurship Investment Authority shall transfer such related funds to the Center for Innovative Technology as a temporary cash advance to be repaid by June 30 of each fiscal year. Funds received from the line of credit shall be used only to support operational costs in anticipation of receiving reimbursement of said expenditures from signed contracts and grant awards. The request for the line of credit shall be prepared in the formats as approved by the Secretary of Finance and Secretary of Technology.				
2. The Secretary of Finance and Secretary of Technology shall approve the draw downs from this line of credit prior to the expenditure of funds.				
Q.1. The Innovation and Entrepreneurship Investment Authority shall continue to manage and maintain the Mid-Rise Building located at the Center for Innovative Technology Complex at 2214 Rock Hill Road, Herndon, Virginia, unless otherwise directed by the Governor.				
2. The Authority shall ensure building maintenance meets the standards of the Virginia Maintenance Code 2012, remains at a level to satisfy existing lease agreements, and meets metropolitan Class B office standards.				
3. Consistent with the transfer of ownership of the Mid-Rise Building to the Department of General Services directed in Item 78 D of this act, the Innovation and Entrepreneurship Investment Authority shall make all records and information related to the Mid-Rise Building available to the Department of General Services. The Authority shall also provide any other information requested by the Department of General Services regarding the Center for Innovative Technology Complex and any components thereof due to the nature of the Mid-Rise Building's shared infrastructure and interconnection to other components of the Complex. Notwithstanding § 2.2-2221, Code of Virginia, or any other provision of law, the Center for Innovative Technology Complex, consisting of property located at 2214 and 2205 Rock Hill Road, Herndon, Virginia, shall be subject to the provisions of §§ 2.2-1150 through 2.2-1158, Code of Virginia.				
R. Out of the amounts appropriated in this Item, \$500,000 from the general fund the first year is provided for the continued support of the MACH 37 Cyber Accelerator program. Use of these funds to support the program is contingent on the operating plan report required in paragraph D of this Item clearly demonstrating that Authority has developed a financial plan to ensure that the appropriation included in the Item in the 2016 Appropriation Act is sufficient to support the authority's operations.				
S. Effective July 1, 2016, any form of proposed increase in employee compensation above the base salaries of employees, including one-time bonuses, except for salary adjustments explicitly authorized in this Act, must be communicated to the Director, Department of Planning and Budget, and the Staff Directors of the House Appropriations Committee and the Senate Finance Committee, more than ninety days in advance of effectuating such increase.				
T.1. Out of the appropriation for this Item, <del>\$2,800,000</del> \$2,599,982 the first year and \$2,800,000 the second year from the general fund shall be deposited into the Commonwealth Research Commercialization Fund created pursuant to §2.2-2233.1, Code of Virginia. These funds shall not be subject to the equal monthly disbursement requirements provided in paragraph C. of this Item but shall be disbursed as provided for in paragraphs T.2. through T.5. below.				
2. Of the amounts provided for the Commonwealth Research Commercialization Fund in paragraph T.1., up to \$1,500,000 the first year and \$1,500,000 the second year shall be used for a Small Business Innovation Research Matching Fund Program for Virginia-based technology businesses and, for matching funds for recipients of federal Small Business Technology Transfer (STTR) awards for Virginia-based small businesses. Any monies from these amounts that have not been allocated at the end of each fiscal year shall not revert to the general fund but shall be distributed for other purposes designated by the Research and				

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Technology Investment Advisory Committee and aligned with the Research and Technology Strategic Roadmap.				
3.a. Businesses meeting the following criteria shall be eligible to apply for an award to be administered by the Research and Technology Investment Advisory Committee:				
(i). The applicant has received an STTR award targeted at the development of qualified research or technologies;				
(ii). At least 51 percent of the applicant's employees reside in Virginia; and				
(iii). At least 51 percent of the applicant's property is located in Virginia.				
b. Applicants shall be eligible for matching grants of up to \$100,000 for Phase I awards and up to \$500,000 for Phase II awards. All applicants shall be required to submit a commercialization plan with their application. Any unused funds shall not revert to the general fund but shall remain in the Commonwealth Research and Commercialization Fund. Notwithstanding the provisions of § 2.2-2233.1 <del>6</del> , Code of Virginia, unused funding from the Fund shall be awarded as originally intended by the Research and Technology Investment Advisory Committee and only reallocated if sufficient demand does not exist for the original allocation.				
4. Prior to disbursement of these funds to the Authority, the Innovation and Entrepreneurship Investment Authority shall certify that the awards have been made in compliance with the requirements set forth in § 2.2-2233.1, Code of Virginia, and in a format approved by the Director, Department of Planning and Budget.				
5. Notwithstanding § 2.2-2233.1, Code of Virginia, Commonwealth Research Commercialization Fund awards authorized for payment shall be disbursed to the Innovation and Entrepreneurship Investment Authority as provided in paragraph T.4. of this item in addition to the monthly payments as provided in paragraph C of this item. Any funds not expensed in accordance with the award shall be remitted by the Authority to the state treasury and deposited to the Commonwealth Research Commercialization Fund.				
U. 1. Notwithstanding § 2.2-2221, Code of Virginia, the General Assembly finds real property and the improvements thereon to be surplus to the needs of the Commonwealth; specifically, real property and improvements located in Loudoun County (Parcel 035-26) and Fairfax County (Parcel 0152-01-0015 and Parcel 0152-01-0017). The Department of General Services shall pursue and is authorized to execute disposal options, with the approval of the Governor, in accordance with § 2.2-1156, Code of Virginia.				
2. The Innovation and Entrepreneurship Investment Authority and the Center for Innovative Technology shall promptly respond to requests for information and provide other assistance as requested by the Department of General Services and other state agencies as necessary to comply with the requirements set forth in § 2.2-1156, Code of Virginia, shall make all records related to the property readily available to the Department of General Services, and shall provide the Department of General Services access to the property. Further, the Innovation and Entrepreneurship Investment Authority shall continue to manage the property in the best interests of the Commonwealth until the property is sold to the successful purchaser. The Innovation and Entrepreneurship Investment Authority shall not convey any interest or allow any new use without the recommendation of the Department of General Services and approval of the Governor or his designee.				
3. The Innovation and Entrepreneurship Investment Authority shall provide monthly reports to the Department of General Services of income and expenses associated with the property. The Department of General Services shall provide quarterly reports to the Chairmen of the House Appropriations and Senate Finance Committees and to the Governor on the Department's progress to determine disposal options of the parcels, beginning with the initial report due October 1, 2016.				
4. Costs incurred by the Department of General Services to carry out the direction in this item shall be accounted for separately from other Department operations and shall be reimbursed from the proceeds of the sale of the property.				

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<p>5. The remaining proceeds of the sale shall be deposited to the nonreverting Virginia Research Investment Fund established pursuant to House Bill 1343 of the 2016 General Assembly for the express purpose of promoting research and development excellence in the Commonwealth; positioning the Commonwealth as a national leader in science-based and technology-based research, development, and commercialization; and encouraging cooperation and collaboration among higher education research institutions, and with the private sector, in areas and with activities that foster economic development and job creation in the Commonwealth, with particular emphasis on personalized health, biosciences, data analytics, and cybersecurity. Such proceeds shall herein be appropriated to the portion of the Fund designated for investment, reinvestment and management by the Board of the Virginia Retirement System as provided in § 51.1-124.38, Code of Virginia.</p> <p><i>V. The Center for Innovative Technology shall not charge indirect costs, including but not limited to, allocating administrative staff and overhead costs against the Innovation and Entrepreneurship Measurement System, broadband, unmanned systems, Cyber Security Commission, and Information Sharing and Analysis Organization (ISAO), unless approved by the Governor.</i></p>				
Total for Innovation and Entrepreneurship Investment Authority.....			<b>\$11,538,090</b>	<b>\$11,438,097</b>
			<b>\$11,113,668</b>	<b>\$11,187,740</b>
Fund Sources: General.....			\$11,538,090	\$11,438,097
			\$11,113,668	\$11,187,740

**§ 1-121. VIRGINIA INFORMATION TECHNOLOGIES AGENCY (136)**

429.	Information Systems Management and Direction (71100).....			\$2,562,707	\$2,712,707
	Geographic Information Access Services (71105).....	\$2,562,707	\$2,712,707		
	Fund Sources: Dedicated Special Revenue.....	\$2,562,707	\$2,712,707		

Authority: Title 2.2, Chapter 20.1, Code of Virginia.

A.1. All state and nonstate agencies receiving an appropriation in Part 1 shall comply with the guidelines and related procedures issued by Virginia Information Technologies Agency for effective management of geographic information systems in the Commonwealth.

2. All state and nonstate agencies identified in paragraph A 1 that have a geographic information system, shall assist the department by providing any requested information on the systems including current and planned expenditures and activities, and acquired resources.

3. The State Corporation Commission, Virginia Employment Commission, the Department of Game and Inland Fisheries, and other nongeneral fund agencies are encouraged to use their own fund sources for the acquisition of hardware and development of data for the spatial data library in the Virginia Geographic Information Network.

B. The Virginia Information Technologies Agency, through its Geographic Information Network Division (VGIN), or its counterpart, shall acquire on a four-year cycle high-resolution digital orthophotography of the land base of Virginia pursuant to VGIN's Virginia Base Mapping Program (VBMP) and digital road centerline files. VGIN shall administer the maintenance of the VBMP and appropriate addressing and standardized attribution in collaboration with local governments. All digital orthophotography, Digital Terrain Models and ancillary data produced by the VBMP, but not including digital road centerline files, shall be the property of the Commonwealth of Virginia and administered by VGIN. The VGIN, or its counterpart, will be responsible for protecting the data through appropriate license agreements and establishing appropriate terms, conditions, charges and any limitations on use of the data. VGIN will license the data at no charge (other than media / transfer costs) to Virginia governmental entities or their agents. Such data shall not be subject to release by such entities under the Freedom of Information Act or similar laws. VGIN in its discretion may release certain data by posting to the Internet. Distribution of the data for commercial or private use or to users outside the Commonwealth will be the sole responsibility of VGIN or its agent(s) and shall require payment of a license fee to be determined by VGIN. All fees collected as a result will be added to the GIS Fund as established in the Code of Virginia §

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2.2-2028. Collected fees and grants are hereby appropriated for future data updates or to cover the costs of existing digital ortho acquisition or for other purposes authorized in § 2.2-2028.

C. Funding in this Item shall be used to support the efforts of the Virginia Geographic Information Network which provides for the development and use of spatial data to support E-911 wireless activities in partnership with Enhanced Emergency Communications Services. Funding is to be earmarked for major updates of the VBMP and digital road centerline files.

D. Notwithstanding the provisions of Article 7, Chapter 15, Title 56, Code of Virginia, \$1,750,000 the first year and \$1,750,000 the second year from Emergency Response Systems Development Technology Services dedicated special revenue shall be used to support the efforts of the Virginia Geographic Information Network, or its counterpart, for providing the development and use of spatial data to support E-911 wireless activities in partnership with Enhanced Emergency Communications Services.

430.	Emergency Response Systems Development Technology Services (71200).....			\$22,836,784	\$22,836,784
	Emergency Communication Systems Development Services (71201).....	\$6,860,176	\$6,860,176		
	Financial Assistance to Localities for Enhanced Emergency Communications Services (71202).....	\$10,984,640	\$10,984,640		
	Financial Assistance to Service Providers for Enhanced Emergency Communications Services (71203).....	\$4,991,968	\$4,991,968		
	Fund Sources: Dedicated Special Revenue.....	\$22,836,784	\$22,836,784		

Authority: Title 2.2, Chapter 20.1, and Title 56, Chapter 15, Code of Virginia.

A.1.a. Out of the amounts for Emergency Communication Systems Development Services, \$1,000,000 the first year and \$1,000,000 the second year from dedicated special revenue shall be used for development and deployment of improvements to the statewide E-911 network.

b. These funds shall remain unallotted until their expenditure has been approved by the Wireless E-911 Services Board.

2. Out of the amounts for Emergency Communication Systems Development Services, \$4,000,000 the first year and \$4,000,000 the second year from dedicated special revenue shall be used for wireless E-911 service costs as determined by the Wireless E-911 Services Board.

B. The operating expenses, administrative costs, and salaries of the employees of the Public Safety Communications Division shall be paid from the Wireless E-911 Fund created pursuant to § 56-484.17.

431.	Information Technology Development and Operations (82000).....			\$319,870,944	\$313,991,989 \$308,143,944
	Network Services -- Data, Voice, and Video (82003).....	\$106,627,529	\$108,488,113 \$97,496,399		
	Data Center Services (82005).....	\$121,056,263	\$118,822,946 \$129,127,383		
	Desktop and End User Services (82006).....	\$88,566,495	\$82,929,482 \$78,117,489		
	Computer Operations Security Services (82010).....	\$3,620,657	\$3,751,448 \$3,402,673		
	Fund Sources: Internal Service.....	\$319,870,944	\$313,991,989 \$308,143,944		

Authority: Title 2.2, Chapter 20.1, Code of Virginia.

A. Out of this appropriation, \$319,870,944 the first year and ~~\$312,755,567~~ \$308,143,944

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<p>the second year for Information Technology Development and Operations is sum sufficient and amounts shown are estimates from an internal service fund which shall be paid solely from revenues derived from charges for services.</p> <p>B. Political subdivisions and local school divisions are hereby authorized to purchase information technology goods and services of every description from the Virginia Information Technologies Agency and its vendors, provided that such purchases are not prohibited by the terms and conditions of the contracts for such goods and services.</p> <p>C.1. In consultation with the General Assembly and the Office of the Governor, the Virginia Information Technologies Agency (VITA) is authorized to plan for, procure, and take other actions necessary to replace information technology services currently provided by Northrop Grumman. VITA's plan to replace information technology services currently provided by Northrop Grumman shall involve agencies served by VITA.</p> <p>2. The Secretary of Finance and Secretary of Technology shall approve the draw downs from the agency's line of credit authorized in § 3-2.03 of this act prior to the expenditure of funds for costs associated with replacing information technology services currently provided by Northrop Grumman.</p> <p>3. The Director, Department of Planning and Budget, is authorized to administratively adjust the appropriation in this Item and Item 434 of this act for approved transition costs associated with replacing information technology services currently provided by Northrop Grumman.</p> <p>D. The Chief Information Officer of the Commonwealth shall report to the Governor and Chairmen of the House Appropriations and Senate Finance Committees on progress toward transitioning to new information technology services that will replace the information technology services currently provided by Northrop Grumman under the Comprehensive Infrastructure Agreement. Such a report shall be made at least quarterly, in a format mutually agreeable to them, and shall (i) describe efforts to discontinue the Unisys mainframe, (ii) assess the Virginia Information Technologies Agency's organization and in-scope information technology and telecommunications costs, and (iii) identify options available to the Commonwealth at the expiry of the current agreement including any anticipated steps required to plan for its expiration.</p>				
432.	Central Support Services for Business Solutions (82400).....		\$12,061,385	<del>\$12,061,385</del> \$6,733,581
	Information Technology Services for Data Exchange Programs (82401).....	\$11,403,571		<del>\$11,403,571</del> \$6,075,767
	Information Technology Services for Productivity Improvements (82402).....	\$657,814	\$657,814	
	Fund Sources: Internal Service.....	\$12,061,385		<del>\$12,061,385</del> \$6,733,581
<p>Authority: Title 2.2, Chapter 20.1, Code of Virginia.</p> <p>The appropriation for Central Support Services for Business Solutions is sum sufficient and amounts shown are estimates from an internal service fund which shall be paid solely from revenues derived from charges for services. Included in these amounts are the projected first and second year costs for workplace productivity and collaboration solutions. These solutions are offered as optional services to executive branch agencies and other customers.</p>				
433.	Information Technology Planning and Quality Control (82800).....		\$4,047,041	\$3,142,189
	Information Technology Investment Management (ITIM) Oversight Services (82801).....	\$1,653,483	\$1,653,567	
	Enterprise Development Services (82803).....	\$2,393,558	\$1,488,622	
	Fund Sources: General.....	\$2,033,955		<del>\$2,034,039</del> \$0
	Internal Service.....	\$0		\$2,034,039
	Dedicated Special Revenue.....	\$2,013,086	\$1,108,150	

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Authority: Title 2.2, Chapter 20.1, Code of Virginia.

A.1. Notwithstanding the provisions of §§ 2.2-1509, 2.2-2007 and 2.2-2017, Code of Virginia, the scope of formal reporting on major information technology projects in the Recommended Technology Investment Projects (RTIP) report is reduced. The efforts involved in researching, analyzing, reviewing, and preparing the report will be streamlined and project ranking will be discontinued. Project analysis will be targeted as determined by the Chief Information Officer (CIO) and the Secretary of Technology. Information on major information technology investments will continue to be provided General Assembly members and staff. Specifically, the following tasks will not be required, though the task may be performed in a more streamlined fashion: (i) The annual report to the Governor, the Secretary, and the Joint Commission on Technology and Science; (ii) The annual report from the CIO for submission to the Secretary, the Information Technology Advisory Council, and the Joint Commission on Technology and Science on a prioritized list of Recommended Technology Investment Projects (RTIP Report); (iii) The development by the CIO and regular update of a methodology for prioritizing projects based upon the allocation of points to defined criteria and the inclusion of this information in the RTIP Report; (iv) The indication by the CIO of the number of points and how they were awarded for each project recommended for funding in the RTIP Report; (v) The reporting, for each project listed in the RTIP, of all projected costs of ongoing operations and maintenance activities of the project for the next three biennia following project implementation, a justification and description for each project baseline change, and whether the project fails to incorporate existing standards for the maintenance, exchange, and security of data; and (vi) The reporting of trends in current projected information technology spending by state agencies and secretariats, including spending on projects, operations and maintenance, and payments to Virginia Information Technologies Agency.

2. Notwithstanding any other provision of law and effective July 1, 2015, the Virginia Information Technologies Agency (VITA) shall maintain and update quarterly a list of major information technology projects that are active or are expected to become active in the next fiscal year and have been approved and recommended for funding by the Secretary of Technology. Such list shall serve as the official repository for all ongoing information technology projects in the Commonwealth and shall include all information required by § 2.2-1509.3 (B)(1)-(8), Code of Virginia. VITA shall make such list publically available on its website, updated on a quarterly basis, and shall submit electronically such quarterly update to the Chairmen of the House Appropriations and Senate Finance Committees and the Director, Department of Planning and Budget, in a format mutually agreeable to them. To ensure such list can be maintained and updated quarterly, state agencies with major information technology projects that are active or are expected to become active in the next fiscal year shall provide in a timely manner all data and other information requested by VITA.

3. The Health Care Reform program office has been established by the Secretary of Health and Human Resources to address the American Recovery and Reinvestment Act (ARRA), the Patient Protection and Patient Affordability Act (PPACA), and the Medicaid Information Technology Architecture (MITA). This program will be generating approximately 23 major as well as non-major projects and the total cost of the program over seven years is expected to be \$93,043,146 with a cost to the Commonwealth of \$9,773,220. Projects will be established over the next four years. The seven year costs include six years of operational expenses associated with the provider incentive program that sunsets in 2021. New recurring Medicaid expenses are also reflected in the seven year cost estimates. The projects and cost estimates in this paragraph include efforts to modernize eligibility determination systems within the Department of Social Services.

434. Administrative and Support Services (89900).....			\$37,642,432	\$38,615,103
			\$36,831,600	\$38,429,289
General Management and Direction (89901).....	\$24,137,989	\$25,213,453		
	\$23,588,486	\$24,867,902		
Accounting and Budgeting Services (89903).....	\$5,166,933	\$5,166,933		
Human Resources Services (89914).....	\$287,796	\$287,796		
		\$708,862		
Procurement and Contracting Services (89918).....	\$4,557,899	\$4,660,073		
	\$4,296,570	\$4,398,744		
Audit Services (89931).....	\$263,705	\$263,705		

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Web Development and Support Services (89940).....	\$3,228,110	\$3,023,143		
Fund Sources: General.....	\$343,706	\$0		
Special.....	\$10,025,670	\$11,035,734		
Internal Service.....	\$9,734,838	\$10,774,405		
	\$27,273,056	\$27,579,369		
	\$26,753,056	\$27,654,884		

Authority: Title 2.2, Chapter 20.1, Code of Virginia.

A.1. Out of this appropriation, ~~\$27,121,075~~ \$26,753,056 the first year and ~~\$27,318,830~~ \$27,233,818 the second year for Administrative and Support Services is sum sufficient and amounts shown are estimates from an internal service fund which shall be paid solely from charges to other programs within this agency.

2. In accordance with § 2.2-2013 D, Code of Virginia, the surcharge rate used to fund expenses for operations and staff of services administered by the Virginia Information Technologies Agency shall be no more than 9.34% the first year and ~~9.09%~~ 10.31% the second year.

3. Included in the amounts for Administrative and Support Services are funds from the Acquisition Services Special Fund which is paid solely from receipts from vendor information technology contracts. These funds will be used to finance procurement and contracting activities and costs unallowable for federal fund reimbursement.

B. The provisions of Title 2.2, Chapter 20.1 of the Code of Virginia shall not apply to the Virginia Port Authority.

C. The requirement that the Department of Behavioral Health and Developmental Services purchase information technology equipment or services from the Virginia Information Technologies Agency according to the provisions of Chapters 981 and 1021 of the Acts of Assembly of 2003 shall not adversely impact the provision of services to mentally disabled clients.

D. The Chief Information Officer and the Secretary of Technology shall provide the Governor and the Chairmen of the Senate Finance and House Appropriations Committees with a report detailing any amendments or modifications to the comprehensive infrastructure agreement. The report shall include statements describing the fiscal impact of such amendments or modifications and shall be submitted within 30 days following the signing of any amended agreement.

E.1. Out of this appropriation, \$343,706 the first year from the general fund is provided for the Virginia Information Technologies Agency to initiate a program to support the use of cloud service providers by state agencies served by the Virginia Information Technologies Agency.

2. As part of the program, the Virginia Information Technologies Agency shall develop policies, standards, and procedures for the use of cloud services providers by state agencies served by the Virginia Information Technologies Agency. These policies, standards, and procedures shall address the security and privacy of Commonwealth and citizen data; ensure compliance with federal and state laws and regulations; and provide for ongoing oversight and management of cloud services to verify performance through service level agreements or other means. VITA shall also establish a statewide contract of approved vendors authorized to offer cloud based services to state agencies.

3. Requests to use cloud providers shall be submitted by participating agencies to the Virginia Information Technologies Agency, which shall review such requests in accordance with the Commonwealth's policies, standards, and procedures. For approved requests, and consistent with Chapter 20.1 of Title 2.2, the Virginia Information Technologies Agency will procure cloud services on behalf of other agencies or may, upon request, authorize other state agencies to undertake such procurements on their own. The Virginia Information Technologies Agency shall also administer and oversee all contracts for cloud services used by agencies participating in the cloud services center, including verification of security and performance.

4. The Virginia Information Technologies Agency shall work with state agencies to assess

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opportunities for additional use of cloud services, including infrastructure, platform, and software as a service. This assessment shall include a review of options for use of service brokers and integrators, and options for providing storage and server services through cloud or on-premises means.				
5. By October 1, 2016, the Virginia Information Technologies Agency shall develop and submit to the Department of Planning and Budget a proposed method for recovering costs associated with providing oversight and management of cloud based services.				
435.	Information Technology Security Oversight (82900).....		\$8,904,694	\$8,115,527
			\$6,271,396	\$5,993,126
	Technology Security Oversight Services (82901)....	\$4,556,365		\$3,627,206
	Information Technology Security Service Center (82902).....	\$4,348,329		\$4,488,321
		\$1,715,031		\$1,740,606
	Cloud Based Services Oversight (82903).....	\$0		\$625,314
	Fund Sources: General.....	\$463,587		\$425,164
	Special.....	\$129,495		\$129,495
				\$285,450
	Internal Service.....	\$8,311,612		\$7,560,868
		\$5,678,314		\$5,282,512

Authority: Title 2.2, Chapter 20.1, Code of Virginia.

A. Out of this appropriation, \$4,275,798 the first year and \$3,346,639 the second year for Technology Security Oversight Services is sum sufficient and amounts shown are estimates from an internal service fund which shall be paid solely from charges to other programs within this agency.

B.1. The Virginia Information Technologies Agency shall operate an information technology security service center to support the information technology security needs of agencies electing to participate in the information technology security service center. Support for participating agencies shall include, but not be limited to, vulnerability scans, information technology security audits, and Information Security Officer services. Participating agencies shall cooperate with the Virginia Information Technologies Agency by transferring such records and functions as may be required.

2.a. The Virginia Information Technologies Agency shall perform vulnerability scans of all public-facing websites and systems operated by state agencies. All state agencies which operate such websites and systems shall cooperate with the Virginia Information Technologies Agency in order to complete the vulnerability scans.

b. Out of this appropriation, \$312,515 the first year and \$274,092 the second year from the general fund shall be used to support vulnerability scanning of public-facing websites and systems of the Commonwealth.

3. Agencies electing to participate in the information technology security service center shall enter into a memorandum of understanding with the Virginia Information Technologies Agency. Such memorandums shall outline the services to be provided by the Virginia Information Technologies Agency and the costs to provide those services. If a participating agency elects to not renew its memorandum of understanding, the agency shall notify the Virginia Information Technologies Agency twelve months prior to the scheduled renewal date of its intent to become a non-participating agency.

4. Non-participating agencies shall be required by July 1 each year to notify the Chief Information Officer of the Commonwealth that the agency has met the requirements of the Commonwealth's information security standards. If the agency has not met the requirements of the Commonwealth's information security standards, the agency shall report to the Chief Information Officer of the Commonwealth the steps and procedures the agency is implementing in order to satisfy the requirements.

5. Out of this appropriation, ~~\$4,035,814~~ \$1,402,516 the first year and ~~\$4,214,229~~ \$1,466,514 the second year for Information Technology Security Service Center is sum

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sufficient and amounts shown are estimates from an internal service fund which shall be paid solely from internal service fund revenues.				
<p>6. Notwithstanding any other provision of state law, and to the extent and in the manner permitted by federal law, the Virginia Information Technologies Agency shall have the legal authority to access, use, and view data and other records transferred to or in the custody of the information technology security service center pursuant to this Item. The services of the center are intended to enhance data security, and no state law or regulation imposing data security or dissemination restrictions on particular records shall prevent or burden the custodian agency's authority under this Item to transfer such records to the center for the purpose of receiving the center's services. All such transfers and any access, use, or viewing of data by center personnel in support of the center's provision of such services to the transferring agency shall be deemed necessary to assist in valid administrative needs of the transferring agency's program that received, used, or created the records transferred, and personnel of the center shall, to the extent necessary, be deemed agents of the transferring agency's administrative unit that is responsible for the program. Without limiting the foregoing, no transfer of records under this Item shall trigger any requirement for notice or consent under the Government Data Collection and Dissemination Practices Act (GDCDPA) (§ 2.2-3800 et. seq.) or other law or regulation of the Commonwealth. The transferring agency shall continue to be deemed the custodian of any record transferred to the center for purposes of the GDCDPA, the Freedom Of Information Act, and other laws or regulations of the Commonwealth pertaining to agencies that administer the transferred records and associated programs. Custody of such records for security purposes shall not make the Virginia Information Technologies Agency a custodian of such records. Any memorandum of understanding under authority of this Item shall specify the records to be transferred, security requirements, and permitted use of data provided. VITA and any contractor it uses in the provision of the center's services shall hold such data in confidence and implement and maintain all information security safeguards defined in the memorandum of understanding or required by federal or state laws, regulations, or policies for the protection of sensitive data.</p> <p>7. The rates required to recover the costs of the information technology security service center shall be provided by the Virginia Information Technologies Agency to the Department of Planning and Budget by September 1 each year for review and approval of the subsequent fiscal year's rate.</p>				
Total for Virginia Information Technologies Agency.			<b>\$407,925,987</b> <b>\$404,481,857</b>	<b>\$401,475,684</b> <b>\$387,991,620</b>
General Fund Positions.....	16.00	14.00 2.00		
Nongeneral Fund Positions.....	230.00 218.00	230.00 234.00		
Position Level.....	246.00 234.00	244.00 236.00		
Fund Sources: General.....	\$2,841,248	\$2,459,203 \$425,164		
Special.....	\$10,155,165 \$9,864,333	\$11,165,229 \$11,059,855		
Internal Service.....	\$367,516,997 \$364,363,699	\$361,193,611 \$349,848,960		
Dedicated Special Revenue.....	\$27,412,577	\$26,657,641		
TOTAL FOR OFFICE OF TECHNOLOGY.....			<b>\$420,017,259</b> <b>\$416,148,707</b>	<b>\$413,467,045</b> <b>\$399,732,624</b>
General Fund Positions.....	21.00	19.00 7.00		
Nongeneral Fund Positions.....	230.00 218.00	230.00 234.00		
Position Level.....	251.00 239.00	249.00 241.00		
Fund Sources: General.....	\$14,932,520 \$14,508,098	\$14,450,564 \$12,166,168		

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Special.....	\$10,155,165	\$11,165,229		
	\$9,864,333	\$11,059,855		
Internal Service.....	\$367,516,997	\$361,193,611		
	\$364,363,699	\$349,848,960		
Dedicated Special Revenue.....	\$27,412,577	\$26,657,641		

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**OFFICE OF TRANSPORTATION**

**§ 1-122. SECRETARY OF TRANSPORTATION (186)**

436.	Administrative and Support Services (79900).....			\$888,357	\$888,474
	General Management and Direction (79901).....	\$888,357	\$888,474		
	Fund Sources: Commonwealth Transportation.....	\$888,357	\$888,474		

Authority: Title 2.2, Chapter 2, Article 10, § 2.2-201, and Titles 33, 46, and 58, Code of Virginia.

A. The transportation policy goals enumerated in this act shall be implemented by the Secretary of Transportation, including the Secretary acting as Chairman of the Commonwealth Transportation Board.

1. The maintenance of existing transportation assets to ensure the safety of the public shall be the first priority in budgeting, allocation, and spending. The highway share of the Transportation Trust Fund shall be used for highway maintenance and operation purposes prior to its availability for new development, acquisition, and construction.

2. It is in the interest of the Commonwealth to have an efficient and cost-effective transportation system that promotes economic development and all modes of transportation, intermodal connectivity, environmental quality, accessibility for people and freight, and transportation safety. The planning, development, construction, and operations of Virginia's transportation facilities will reflect this goal.

3. To the greatest extent possible, the appropriation of transportation revenues shall reflect planned spending of such revenues by agency and by program.

B. The maximization of all federal transportation funds available to the Commonwealth shall be paramount in the budgetary, spending, and allocation processes.

1. Notwithstanding any provision of law to the contrary, the secretary and all agencies within the transportation secretariat are hereby authorized to take all actions necessary to ensure that federal transportation funds are allocated and utilized for the maximum benefit of the Commonwealth, whether such actions or funds or both are authorized under P.L. 112-141 of the 112th Congress, or any successor or related federal transportation legislation, or regulation, rule, or guidance issued by the U.S. Department of Transportation or any federal agency. The secretary and agencies within the transportation secretariat shall utilize, to the maximum extent practicable, the flexibility provided in federal law, regulation, rule, or guidance to use federal funds in a manner consistent with the Code of Virginia.

2. The secretary shall ensure that the allocation of transportation funds apportioned and for which obligation authority is expected to be available under federal law shall be in accordance with such laws and in support of the transportation policy goals enumerated in section A. of this Item. Furthermore, the secretary is authorized to take all actions necessary to allocate the required match for federal highway funds to ensure their appropriate and timely obligation and expenditure within the fiscal constraints of state transportation revenues. By June 1 of each year, the secretary, as Chairman of the Board, shall report to the Governor and General Assembly on the allocation of such federal transportation funds and the actions taken to provide the required match.

3. The board shall only make allocations providing the required match for federal Regional Surface Transportation Program funds to those Metropolitan Planning Organizations in urbanized areas greater than 200,000 that, in consultation with the Office of Intermodal Planning and Investment, have developed regional transportation and land use performance measures pursuant to Chapters 670 and 690 of the 2009 Acts of Assembly and have been approved by the board.

4. Projects funded, in whole or part, from federal funds referred to as congestion mitigation and air quality improvement, shall be selected as directed by the board. Such funds shall be federally obligated within 12 months of their allocation by the board and expended within 36 months of such obligation. If the requirements included in this paragraph are not met by such

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<p>agency or recipient, then the board shall use such federal funds for any other project eligible under 23 USC 149.</p>				
<p>5. Funds apportioned under federal law for the Surface Transportation Program shall be distributed and administered in accordance with federal requirements, including the 22 percent of the non-suballocated portion that is required to be allocated for public transportation purposes. The prioritization process developed under subsection B of Chapter 726 of the 2014 Virginia Acts of Assembly shall not apply to the 22 percent share of the non-suballocated portion allocated for public transportation purposes.</p>				
<p>6. Funds made available to the Metropolitan Planning Organizations known as the Regional Surface Transportation Program for urbanized areas greater than 200,000 shall be federally obligated within 12 months of their allocation by the board and expended within 36 months of such obligation. If the requirements included in this paragraph are not met by the recipient, then the board may rescind the required match for such federal funds.</p>				
<p>7. Notwithstanding paragraph B.2. of this Item, the required matching funds for Transportation Alternatives projects are to be provided by the project sponsor of the federal-aid funding.</p>				
<p>8. Federal transportation funds as well as the required state matching funds may be allocated by the Commonwealth Transportation Board for transit purposes under the same rules and conditions authorized by federal law. The Commonwealth Transportation Board, in consultation with the appropriate local and regional entities, may allocate state revenues to local and regional public transit operators, for operating and/or capital purposes.</p>				
<p>9. If a regional area (or areas) of the Commonwealth is determined to be not in compliance with Clean Air Act rules regarding conformity and as a result federal and/or state allocations, apportionments or obligations cannot be used to fund or support transportation projects or programs in that area, such funds may be used to finance demand management, conformity, and congestion mitigation projects to the extent allowed by federal law. Any remaining amount of such allocations, apportionments, or obligations shall be set aside to the extent possible under law for use in that regional area.</p>				
<p>10. Appropriations in this act related to federal revenues outlined in this section may be adjusted by the Director, Department of Planning and Budget, upon request from the Secretary of Transportation, as needed to utilize and allocate additional federal funds that may become available.</p>				
<p>11. The secretary shall ensure that any bonds issued pursuant to Article 4, Chapter 15 of Title 33.2 shall be programmed to eligible projects selected and funded through the High Priority Projects Program pursuant § 33.2-370 or the Construction District Grant Program pursuant to §33.2-371. In any year such bond proceeds are allocated to one or both of the programs, the secretary shall take all necessary action to ensure that each program is provided with the same overall amount of monies though the mix of bond proceeds, state revenues, and federal revenues provided to each program may vary as deemed appropriate by the secretary.</p>				
<p>C.1. The secretary may ensure that appropriate action is taken to maintain a minimum cash balance and/or cash reserve in the Highway Maintenance and Operating fund.</p>				
<p>2. Notwithstanding the original programmatic allocation, funds provided by the previous primary, secondary and urban construction formulas prior to fiscal year 2010 that are not committed and expected to be expended as of January 1, 2018 may be consolidated to fully fund and advance priority transportation projects within the respective district or locality. If after taking said actions and the determination of the respective locality and the Department of Transportation that formula funds will remain, the funds may be used for other transportation purposes provided by § 33.2, Code of Virginia. All unspent primary, secondary and urban formula funds allocated prior to 2010 unspent as of January 1, 2018 shall be de-allocated and transferred to the State of Good Repair Program pursuant to § 33.2-369, Code of Virginia, unless such funds are allocated to a fully funded and active project.</p>				
<p>D.1. The Office of Intermodal Planning and Investment shall recommend to the Commonwealth Transportation Board all allocations of funds made available in</p>				

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<p>subsections A. and B. of Item 452. The planning and evaluation may be conducted or managed by the Department of Transportation, Department of Rail and Public Transportation, or another qualified entity selected and/or approved by the Commonwealth Transportation Board.</p>				
<p>2. The office shall be responsible for implementing the statewide prioritization process pursuant to § 33.2-214.1 for the Commonwealth Transportation Board.</p>				
<p>3. The office shall work directly with affected Metropolitan Planning Organizations to develop and implement quantifiable and achievable goals relating to congestion reduction and safety, transit and HOV usage, job/housing ratios, job and housing access to transit and pedestrian facilities, air quality, and/or per-capital vehicle miles traveled pursuant to Chapters 670 and 690 of the 2009 Acts of Assembly.</p>				
<p>4. For allocation of funds under Paragraph 1, the office may give a higher priority for planning grants to (i) regional organizations to analyze various land development scenarios for their long range transportation plans, (ii) local governments to revise their comprehensive plans and other applicable local ordinances to designate urban development areas pursuant to Chapter 896 of the 2007 Acts of Assembly and incorporate the principles included in such act, and (iii) local governments, regional organizations, transit agencies and other appropriate entities to develop plans for transit oriented development and the expansion of transit service. Such analyses, plans, and ordinances shall be shared with the regional planning district commission or metropolitan planning organization and the Commonwealth Transportation Board.</p>				
<p>E.1. The Commonwealth Transportation Board is hereby authorized to apply for, execute, and/or endorse applications submitted by private entities to obtain federal credit assistance for one or more qualifying transportation infrastructure projects or facilities to be developed pursuant to the Public-Private Transportation Act of 1995, as amended. Any such application, agreement and/or endorsement shall not financially obligate the Commonwealth or be construed to implicate the credit of the Commonwealth as security for any such federal credit assistance.</p>				
<p>2. The Commonwealth Transportation Board is hereby authorized to pursue or otherwise apply for, and execute, an agreement to obtain financing using a federal credit instrument for project financings otherwise authorized by this Act or other Acts of Assembly.</p>				
<p>F. Revenues generated pursuant to the provisions of § 58.1-3221.3, Code of Virginia, shall only be used to supplement, not supplant, any local funds provided for transportation programs within the localities authorized to impose the fees under the provisions of § 58.1-3221.3, Code of Virginia.</p>				
<p>G. The Director, Department of Planning and Budget, is authorized to adjust the appropriation of transportation agencies in order to utilize proceeds from the sale of Commonwealth of Virginia Transportation Capital Projects Revenue Bonds which were authorized in the prior fiscal year but not issued, pursuant to Section 2 of Enactment Clause 2 of Chapter 896 of the 2007 General Assembly Session.</p>				
<p>H. The Director, Department of Planning and Budget, is authorized to adjust the appropriation of transportation agencies in order to utilize proceeds from the sale of Commonwealth of Virginia Federal Transportation Grant Anticipation Revenue Notes.</p>				
<p>I. Notwithstanding any provision of law, any agreement to transfer money from the Commonwealth Transportation Funds to the Metropolitan Washington Airports Authority (MWAA) in connection with Phase II of the Dulles Corridor Metrorail Project beyond Wiehle Avenue in Fairfax County to Washington Dulles International Airport and on to Virginia Route 772 in Loudoun County shall include provisions stating that the MWAA has addressed all of the recommendations included in the November 2012 report of the Inspector General of the U.S. Department of Transportation as a condition of transferring such money. The Governor may waive this requirement for one or more specific recommendations that have not been implemented by notifying the Chairmen of the House Appropriations and Senate Finance Committees of his reason for granting the waiver or waivers.</p>				
<p>J. In programming funds for the reconstruction and rehabilitation of structurally deficient bridges pursuant to § 33.2-358 C.(i), Code of Virginia, the Commonwealth Transportation</p>				

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Board shall consider both state and locally-owned bridges.

K. All revenues generated under Chapter 896 of the Acts of Assembly of 2007 (HB 3202) and Chapter 766 of the Acts of Assembly of 2013 (HB 2313) that were dedicated to transportation-related funds have been appropriated in conformity with the requirements of those respective chapters.

L. The Secretary of Transportation shall assure that no funds appropriated to any transportation agency are expended directly or indirectly, including by a private contractor, for propaganda purposes in support of any proposed transportation project for which construction funding has not been allocated in the Six Year Improvement Program. This prohibition shall not extend to advertising legally required for public notifications.

M. 1. Notwithstanding § 33.2-1527 B., Code of Virginia, out of the funds made available in Item 453, \$25,000,000 the first year and \$25,000,000 the second year may be provided to the Metropolitan Washington Airports Authority for the sole purpose of reducing the airline cost per enplanement at Washington Dulles International Airport to help attract new domestic and international airlines and retain existing air carriers. Such funding shall be utilized to reduce the debt service requirements and total operating costs of the Authority. The first year amount shall not be provided before December 31, 2016. Payment shall not occur in either fiscal year unless the Authority has entered into an agreement with one or more airlines currently operating at Washington Dulles International Airport which ensures the retention of a domestic airline hub service at the airport for at least seven years beyond calendar year 2017.

2. Prior to the release of any funds authorized in Paragraph M.1. to the Authority, the Secretary of Transportation shall certify in writing to the Governor and the General Assembly that provision of the funds authorized under this item are in the public interest, that the funds will be used to supplement not supplant funds otherwise available to the Authority, and that the Authority has set-forth an attainable plan for long-term cost reductions. Funding shall further be conditioned upon the following requirements:

a. No payments shall occur unless and until the Authority has entered into an agreement with the Virginia Department of Transportation that (i) identifies to the Department future efforts of the Authority to reduce airline cost per enplanement at Washington Dulles International Airport using financing efficiency savings, available funds, and future revenues in an amount that meets or exceeds the amount of the appropriation provided in this section over the course of the agreement through calendar year 2024, (ii) provides full access to the financial records of the Airports Authority recognizing such financial information will be considered confidential and proprietary and will only be used to verify targets for cost per enplanement reductions, and (iii) sets forth a long-range plan for financial viability of the airport and continued lower levels of cost per enplanement beyond the fiscal year 2016-2018 biennium without additional state support beyond the amounts provided pursuant to § 58.1-538, Code of Virginia. Such agreement shall be subject to the provisions established in § 2.2-3705.6, Code of Virginia.

3. By December 1, 2016 and December 1, 2017, the Authority shall report to the Secretary of Transportation and the Chairmen of the House Appropriations and Senate Finance Committees on the actual and forecasted changes to the cost per enplanement at the Washington Dulles International Airport over the prior year, what portion of the reduction is attributable to state support, what portion attributable to cost reduction measures implemented by the Authority and what portion is attributable to increased passenger traffic at the Airports. Further, the Authority shall report the additional measures taken by the Authority to reduce airline cost per enplanement including, but not limited to, an estimate of revenues that could be generated by development or disposal of property owned by the Authority as a means to further reduce long term cost per enplanement. Such report shall also include an outline of additional measures to be taken by the Authority to further reduce cost per enplanement through calendar year 2024.

4. *In addition to the requirements set out in paragraphs M.1. through M.3. of this item, to be eligible for funding in the second year of the biennium, the Metropolitan Washington Airports Authority must submit to the Secretary of Transportation and the Chairmen of the House Appropriations and Senate Finance Committees a detailed plan on the potential sale, lease and/or development of MWAA acreage unsuitable for airport use. Such report*

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*shall include an update on the status of the NEPA process and of any needed approvals from the Federal Aviation Administration or the U.S. Secretary of Transportation, an identification of the types of suitable uses for the various tracts and an estimate of the revenues that could be generated from such uses.*

N. The Commonwealth Transportation Board's rail subcommittee shall review the long range service plan and financial analysis of Virginia Railway Express and assess the conclusions of that analysis with respect to the long-term financial viability of the service, their ability to maintain appropriately costed-services to maintain and expand market share, and the Virginia Railway Express's impact on traffic volumes on the Interstate 66 and Interstate 95 / 395 corridors of statewide significance. The Board shall consult with interested stakeholders and report its findings to the Secretary of Transportation, and the Chairmen of the House Committees on Appropriations and Transportation and the Senate Committees on Finance and Transportation no later than November 15, 2016.

O. 1. No later than October 31, 2016 the Secretary of Transportation shall report to the Chairmen of the House Appropriations and Senate Finance Committees on the outcome of the negotiations pursuant to the procurement for the Commonwealth of Virginia Transform I-66 Corridor Outside the Beltway project and whether the parties were able to deliver the project in a manner that meets all of the terms published in the request for qualifications dated September 17, 2015, as clarified by the term sheet published on October 1, 2015, and subsequently amended, and the draft request for proposals dated December 17, 2015.

2. If the Transportation Public-Private Partnership Advisory Committee established pursuant to § 33.2-1803.2 of the Code of Virginia and the Commissioner of Highways find that the private parties did not meet the terms published in the request for qualifications dated September 17, 2015, as clarified by the term sheet published on October 1, 2015, and subsequently amended, and the draft request for proposals dated December 17, 2015, and state that it is in the public interest to proceed with public financing for this project; and the Secretary of Finance concurs in writing with Commissioner of Highways' finding that the private parties did not meet the terms and that it is in the public interest to proceed with the issuance of bonds, the Secretary shall notify the Chairmen of such finding to enable the respective Committees to consider Senate Bill 60 and House Bill 1067, continued to the 2017 Session by the 2016 General Assembly, prior to the procedural deadline for action on such legislation.

P. The Commonwealth Transportation Board is hereby directed to enter into discussions with Arlington and Fairfax Counties regarding use of air rights over Interstate 66 in their respective jurisdictions no later than October 1, 2016. A report on the progress and outcome of such discussions shall be submitted to the Chairmen of the House Appropriations and Transportation Committees and the Senate Finance and Transportation Committees no later than July 15, 2017.

*Q. Notwithstanding any provision of law to the contrary, the provisions of § 2.2-4321.2, Code of Virginia, shall be applicable to transportation infrastructure projects or facilities to be developed pursuant to the Public Private Transportation Act of 1995, as amended. However, § 2.2-4321.2 shall not apply to any projects or facilities to be developed pursuant to the Public Private Transportation Act of 1995, as amended, that (i) improve or construct a limited access roadway that crosses state borders, and (ii) include construction of a new bridge or expansion of an existing bridge.*

R. The Secretary of Transportation shall initiate an objective review of the operating, governance and financial conditions at the Washington Metro Area Transit Authority. The objective review shall, at a minimum, analyze: (i) the legal and organizational structure of WMATA; (ii) the composition and qualifications of the WMATA Board of Directors and the length of terms of its members; (iii) labor costs and potential strategies to reduce the growth in such costs in the future; (iv) options to improve the sustainability of employee retirement plans; (v) safety and reliability; (vi) options to improve the efficiency of WMATA operations; and, (vii) other factors considered appropriate by the Secretary. To the extent practicable the review shall compare WMATA to other rail transit systems in the United States that have been in operations for more than 35 years and have an overall system length in excess of 35 miles. Further, the Secretary shall request the participation of the District of Columbia and the State of Maryland in such review and report the findings of his review to the Chairmen of the House Appropriations, Senate Finance and House and Senate Transportation Committees no

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<i>later than November 15, 2017, with a follow-up report, if needed, submitted by June 30, 2018. Such report shall include a copy of the WMATA six year capital improvement program, as well as an accounting of assumed revenues generated and available by source and assumptions used regarding operating expenses to develop the capital improvement program.</i>				
Total for Secretary of Transportation.....			<b>\$888,357</b>	<b>\$888,474</b>
Nongeneral Fund Positions.....	6.00	6.00		
Position Level.....	6.00	6.00		
Fund Sources: Commonwealth Transportation.....	\$888,357	\$888,474		

**§ 1-123. VIRGINIA COMMERCIAL SPACE FLIGHT AUTHORITY (509)**

437.	Space Flight Support Services (60800).....		\$15,800,020	\$15,800,021
	Maintenance and Operation of Space Flight Facilities (60801).....	\$15,800,020	\$15,800,021	
	Fund Sources: Commonwealth Transportation.....	\$15,800,020	\$15,800,021	

Authority: Title 2.2, Chapter 22, Code of Virginia.

A. Pursuant to the provisions of Chapters 779 and 817, 2012 Session of the General Assembly, \$15,800,020 in the first year and \$15,800,021 in the second year shall be transferred to the Commonwealth Space Flight Fund as set forth in § 33.2-1526 to support the maintenance and operations of the Virginia Commercial Space Flight Authority. From the funds appropriated in this item, \$500,000 the first year shall be made available for development of an Aircraft Intermediate Maintenance Department in support of the Wallops Island unmanned aircraft systems test range.

B. In order to increase competition among qualified independent audit firms, the Virginia Commercial Spaceflight Authority is authorized to solicit requests for proposals from national firms including those that have submitted proposals prior to July 1, 2016. The final selection of the certified public accounting firm shall be performed by the Auditor of Public Accounts, with the assistance of the Virginia Commercial Spaceflight Authority, through a competitive negotiation process.

C. The Secretary of Transportation, as Chairman of the Virginia Commercial Spaceflight Authority Board, shall, in cooperation with the Secretary of Finance, review options to finance the construction of additional facilities at the Mid-Atlantic Regional Spaceport in support of both commercial space flight and unmanned systems activities. Such review shall include but not be limited to examination of financing options available from the Virginia Resources Authority in addition to other financing options available to the Commonwealth Transportation Board.

Total for Virginia Commercial Space Flight Authority.....			<b>\$15,800,020</b>	<b>\$15,800,021</b>
Fund Sources: Commonwealth Transportation.....	\$15,800,020	\$15,800,021		

**§ 1-124. DEPARTMENT OF AVIATION (841)**

438.	Financial Assistance for Airports (65400).....		\$28,351,475	\$28,351,475
	Financial Assistance for Airport Maintenance (65401).....	\$1,000,000	\$1,000,000	
	Financial Assistance for Airport Development (65404).....	\$25,976,475	\$25,976,475	
	Financial Assistance for Aviation Promotion (65405).....	\$1,375,000	\$1,375,000	
	Fund Sources: Commonwealth Transportation.....	\$28,351,475	\$28,351,475	

Authority: Title 5.1, Chapters 1, 3, and 5; Title 58.1, Chapter 6, Code of Virginia.

A. It is the intent of the General Assembly that the Department of Aviation match federal

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funds for Airport Assistance to the maximum extent possible. In furtherance of this maximization, the Commonwealth Transportation Board may request funding from the Commonwealth Airport Fund for surface transportation projects that provide airport access. The Aviation Board shall consider such requests and provide funding as it so approves. However, the legislative intent expressed herein shall not be construed to prohibit the Virginia Aviation Board from allocating funds for promotional activities in the event that federal matching funds are unavailable.

B. The department is authorized to expend up to \$400,000 the first year and \$400,000 the second year from Aviation Special Funds to support a partnership between industry, academia, and Virginia Small Aircraft Transportation System. The project shall target research efforts to promote safety and greater access for rural airports.

C. The department is authorized to pay to the Civil Air Patrol \$100,000 the first year and \$100,000 the second year from Aviation Special Funds. The provisions of § 2.2-1505, Code of Virginia, and § 4-5.05 of this act shall not apply to the Civil Air Patrol.

D. Out of the amounts included in this Item, \$500,000 the first year and \$500,000 the second year shall be paid to the Washington Airports Task Force.

E. The Department of Aviation is directed to undertake a review of the programs and funding supported by the share of revenues from the Transportation Trust Fund dedicated to the department and to provide a report to the Chairmen of the House Appropriations, Senate Finance, and House and Senate Transportation Committees by November 15, 2016. Such report shall include (i) the allocation of funds by airport, annually and cumulatively over the preceding five fiscal years, (ii) a review of revenues, expenditures and balances by program for each of the preceding five fiscal years; (iii) a description of the goals, objectives and outcomes for each program funded by the Department; (iv) gaps in funding requested and allocated by program and by airport; and, (v) the statutory dedication of funding to the Metropolitan Washington Airports Authority.

*F.1. By November 1 of each year, the Virginia Aviation Board shall report to the Governor and the General Assembly on the use of Commercial Airport Fund revenues allocated the previous fiscal year. The report shall include at a minimum the following: (i) the use of entitlement funds allocated by each air carrier airport, including the amount of funds that are unobligated; (ii) the award and use of discretionary funds allocated for air carrier and reliever airports by every such airport; and (iii) the award and use of discretionary funds allocated for general aviation airports by every such airport. Such report shall also include the status of ongoing projects funded in whole or in part by the Commonwealth Airport Fund pursuant to subdivision A 3 of § 58.1-638. Its first report shall also include the results of an audit of the use of all funds allocated pursuant to § 58.1-638 A. 3., Code of Virginia over the past three years to ensure that all funds have been used in accordance with the policies of the Virginia Aviation Board and the restrictions contained in paragraph G. of this item. The findings of such audit shall be presented to the Chairmen of the House Appropriations, Senate Finance and House and Senate Transportation Committees no later than November 1, 2017.*

*2. The Board shall have the right to withhold entitlement funds allocated pursuant to subdivision A 3 a of § 58.1-638 in the event that the entitlement utilization plan is not approved by the Board or the airport uses the funds in a manner that is inconsistent with the approved plan.*

*G. It is the intent of the General Assembly that state moneys allocated pursuant to subdivision A 3 of § 58.1-638 shall not be used for (i) operating costs unless otherwise approved by the Virginia Aviation Board, or (ii) purposes related to supporting the operation of an airline, either directly or indirectly, through grants, credit enhancements, or other related means.*

439.	Air Transportation System Planning, Regulation, Communication and Education (65500).....			\$2,866,836	\$2,866,836
	Aviation Licensing and Regulation (65501).....	\$113,073	\$113,073		
	Aviation Communication and Education (65502).....	\$862,782	\$862,782		
	General Aviation Personnel Development (65503).....	\$26,400	\$26,400		
	Air Transportation Planning and Development (65504).....	\$1,864,581	\$1,864,581		

ITEM 439.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
Fund Sources: Commonwealth Transportation.....	\$2,366,836	\$2,366,836		
Federal Trust.....	\$500,000	\$500,000		
Authority: Title 5.1, Chapter 1, Code of Virginia.				
440. State Aircraft Flight Operations (65600).....			\$2,214,856	\$2,214,856
State Aircraft Operations and Maintenance (65602)	\$2,214,856	\$2,214,856		
Fund Sources: General.....	\$30,246	\$30,246		
Commonwealth Transportation.....	\$2,184,610	\$2,184,610		
Authority: Title 5.1, Chapter 1, Code of Virginia.				
441. Administrative and Support Services (69900).....			\$2,186,481	\$2,186,481
General Management and Direction (69901).....	\$2,186,481	\$2,186,481		
Fund Sources: General.....	\$7	\$7		
Commonwealth Transportation.....	\$2,186,474	\$2,186,474		
Authority: Title 5.1, Chapter 1, Code of Virginia.				
A. The Director, Department of Aviation, shall prepare general guidelines regarding aircraft acquisition and use that shall include a requirement for state agencies to develop written policies on usage, charge rates and record-keeping. The Director shall examine the aircraft needs of state agencies and determine the most efficient and effective method of organizing and managing the Commonwealth's aircraft operations. The Director shall implement the aircraft management system he determines to be most suitable and revise it periodically as the need arises.				
B. The Virginia Aviation Board and the Department of Aviation may obligate funds in excess of the current biennium appropriation for aviation financial assistance programs supported by the Commonwealth Transportation Fund provided 1) sufficient cash is available to cover projected costs in each year and 2) sufficient revenues are projected to meet all cash obligations for new obligations as well as all other commitments and appropriations approved by the General Assembly in the biennial budget.				
Total for Department of Aviation.....			<b>\$35,619,648</b>	<b>\$35,619,648</b>
Nongeneral Fund Positions.....	34.00	34.00		
Position Level.....	34.00	34.00		
Fund Sources: General.....	\$30,253	\$30,253		
Commonwealth Transportation.....	\$35,089,395	\$35,089,395		
Federal Trust.....	\$500,000	\$500,000		

**§ 1-125. DEPARTMENT OF MOTOR VEHICLES (154)**

442. Ground Transportation Regulation (60100).....			<del>\$179,622,359</del>	<del>\$179,622,359</del>
			<i>\$178,580,056</i>	<i>\$178,585,157</i>
Customer Service Centers Operations (60101).....	<del>\$124,033,251</del>	<del>\$124,033,251</del>		
	<i>\$122,963,251</i>	<i>\$122,963,251</i>		
Ground Transportation Regulation and Enforcement (60103).....	\$41,894,958	\$41,894,958		
Motor Carrier Regulation Services (60105).....	<del>\$13,694,150</del>	<del>\$13,694,150</del>		
	<i>\$13,721,847</i>	<i>\$13,726,948</i>		
Fund Sources: Commonwealth Transportation.....	<del>\$172,175,759</del>	<del>\$172,175,759</del>		
	<i>\$171,133,456</i>	<i>\$171,138,557</i>		
Trust and Agency.....	\$5,446,600	\$5,446,600		
Federal Trust.....	\$2,000,000	\$2,000,000		

Authority: Title 46.2, Chapters 1, 2, 3, 6, 8, 10, 12, 15, 16, and 17; §§ 18.2-266 through 18.2-272; Title 58.1, Chapters 21 and 24, Code of Virginia. Title 33, Chapter 4, United States Code.

ITEM 442.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
A. The Commissioner, Department of Motor Vehicles, is authorized to establish, where feasible and cost efficient, contracts with private/public partnerships with commercial operations, to provide for simplification and streamlining of service to citizens through electronic means. Provided, however, that such commercial operations shall not be entitled to compensation as established under § 46.2-205, Code of Virginia, but rather at rates limited to those established by the commissioner.				
B. The Department of Motor Vehicles shall work to increase the use of alternative service delivery methods, which may include offering discounts on certain transactions conducted online, as determined by the department. As part of its effort to shift customers to internet usage where applicable, the department shall not charge its customers for the use of credit cards for internet or other types of transactions; however, this restriction shall not apply with respect to any credit or debit card transactions the department conducts on behalf of another agency, provided (i) the other agency is authorized to charge customers for the use of credit or debit cards and (ii) the merchant's fees and other transaction costs imposed by the card issuer are charged to the department.				
C. In order to provide citizens of the Commonwealth greater access to the Department of Motor Vehicles, the agency is authorized to enter into an agreement with any local constitutional officer or combination of officers to act as a license agent for the department, with the consent of the chief administrative officer of the constitutional officer's county or city, and to negotiate a separate compensation schedule for such office other than the schedule set out in § 46.2-205, Code of Virginia. Notwithstanding any other provision of law, any compensation due to a constitutional officer serving as a license agent shall be remitted by the department to the officer's county or city on a monthly basis, and not less than 80 percent of the sums so remitted shall be appropriated by such county or city to the office of the constitutional officer to compensate such officer for the additional work involved with processing transactions for the department. Funds appropriated to the constitutional office for such work shall not be used to supplant existing local funding for such office, nor to reduce the local share of the Compensation Board-approved budget for such office below the level established pursuant to general law.				
D. The base compensation for DMV Select Agents shall be set at 4.5 percent of gross collections for the first \$500,000 and 5.0 percent of all gross collections in excess of \$500,000 made by the entity during each fiscal year on such state taxes and fees in place as a matter of law. The commissioner shall supply the agents with all necessary agency forms to provide services to the public, and shall cause to be paid all freight and postage, but shall not be responsible for any extra clerk hire or other business-related expenses or business equipment expenses occasioned by their duties.				
E. Out of the amounts identified in this Item, \$299,991 the first year and \$299,991 the second year from the Commonwealth Transportation Fund shall be paid to the Washington Metropolitan Area Transit Commission.				
F.1. Notwithstanding any other provision of law, the department shall assess a minimum fee of \$10 for all replacement and supplemental titles. The revenue generated from this fee shall be set aside to meet the expenses of the department.				
2. Notwithstanding any other provision of law, the department shall assess a \$10 late fee on all registration renewal transactions that occur after the expiration date. The late fee shall not apply to those exceptions granted under § 46.2-221.4, Code of Virginia. In assessing the late renewal fee the department shall provide a ten day grace period for transactions conducted by mail to allow for administrative processing. This grace period shall not apply to registration renewals for vehicles registered under the International Registration Plan. The revenue generated from this fee shall be set aside to meet the expenses of the department.				
3. Notwithstanding any other provision of law, the department shall establish a \$20 minimum fee for original driver's licenses and replacements. The revenue generated from this fee shall be set aside to meet the expenses of the department.				
G. The Department of Motor Vehicles is hereby granted approval to renew or extend existing capital leases due to expire during the current biennium for existing customer service centers.				
H. The Department of Motor Vehicles is hereby appropriated revenues from the additional				

ITEM 442.	Item Details(\$)		Appropriations(\$)	
	First Year	Second Year	First Year	Second Year
	FY2017	FY2018	FY2017	FY2018

sales tax on fuel in certain transportation districts to recover the direct cost of administration incurred by the department in implementing and collecting this tax as provided by § 58.1-2295, Code of Virginia.

I. The Commissioner of the Department of Motor Vehicles, in consultation with the Commissioner of Highways, shall take such steps as may be necessary to expand access to the E-ZPass program through its customer service channels using such locations and methods as are practicable.

J. Included in the amounts for this item is \$350,000 in the first year and \$350,000 in the second year to support the on-going costs associated with the regulation of Transportation Network Companies in Virginia pursuant to the provisions of Chapter 2, 2015 Session of the General Assembly.

K. Notwithstanding the provisions of Chapter 21 of Title 46.2, Code of Virginia, the Commissioner of the Department of Motor Vehicles shall be authorized to grant temporary authority to a motor carrier to transport property for compensation on an intrastate basis utilizing a digital platform that connects persons seeking a property transportation service with persons authorized by the motor carrier to transport property. Such temporary authority shall be subject to such reasonable conditions as the Commissioner may impose, and shall be valid only for passenger cars and pickup or panel trucks, as those terms are defined in § 46.2-100, Code of Virginia, which vehicles shall not be required to be issued for-hire license plates under the provisions of § 46.2-711, Code of Virginia. Such temporary authority, unless suspended or revoked, shall be valid for such time as the Department shall specify, but such authority shall not extend beyond ~~30 days following the adjournment of the next regular session of the General Assembly~~ January 1, 2018, and shall create no presumption that corresponding permanent authority will be granted thereafter.

*L. The Department of Motor Vehicles is hereby granted approval to distribute the transactional charges of the Cardinal accounting system to state agencies, when the transactions involve funds passed through the department to the benefiting agency.*

*M. The Department of Motor Vehicles is hereby granted approval to distribute a portion of its indirect cost allocation charge to another state agency when the charge is related to revenue collected and transferred by the department to the state agency. Such transfers shall be based on the agency's proportionate share of the department's total transactions in the immediately preceding fiscal year. The Department shall annually submit to the Department of Planning and Budget a summary of the transfer amounts and the transaction volumes used to allocate the internal cost amounts.*

*N. Notwithstanding § 46.2-688, Code of Virginia, the Department of Motor Vehicles shall not be required to refund a proration of the total cost of a motor vehicle registration when less than six months remain in the registration period. Any resulting savings shall be retained and used to meet the expenses of the Department.*

*O. Notwithstanding § 46.2-342, Code of Virginia, the Department of Motor Vehicles shall not be required to include organ donation brochures with every driver's license renewal notice or application mailed to licensed drivers.*

*P. The Commissioner shall only refuse to issue or renew any vehicle registration pursuant to subsection L of § 46.2-819.3:1 of an operator or owner of a vehicle who has no prior convictions for offenses under § 46.2-819.3:1 if, in addition to the conditions set forth in subsection L of § 46.2-819.3:1 for such refusal, the toll operator has offered the individual a settlement of no more than \$2,200.*

443.	Ground Transportation System Safety Services (60500).....			\$7,058,337	\$7,058,337
	Highway Safety Services (60508).....	\$7,058,337	\$7,058,337		
	Fund Sources: Commonwealth Transportation.....	\$5,326,013	\$5,326,013		
	Federal Trust.....	\$1,732,324	\$1,732,324		

Authority: §§ 46.2-222 through 46.2-224, Code of Virginia; Chapter 4, United States Code.

ITEM 443.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
444.	Administrative and Support Services (69900).....		\$71,524,792	\$71,613,989
	General Management and Direction (69901).....	\$29,701,089		\$29,790,286
	Information Technology Services (69902).....	\$36,713,702		\$36,713,702
	Facilities and Grounds Management Services (69915).....	\$5,110,001		\$5,110,001
	Fund Sources: Commonwealth Transportation.....	\$69,287,792		\$69,376,989
	Federal Trust.....	\$2,237,000		\$2,237,000
	Authority: Title 46.2, Chapters 1 and 2, and § 46.2-214.3; Title 58.1, Chapters 17, 21, and 24, Code of Virginia.			
	The Department of Transportation shall reimburse the Department of Motor Vehicles for the operating costs of the Fuels Tax Evasion Program.			
	Total for Department of Motor Vehicles.....		<b>\$258,205,488</b>	<b>\$258,294,685</b>
			<b>\$257,163,185</b>	<b>\$257,257,483</b>
	Nongeneral Fund Positions.....	2,038.00		2,038.00
	Position Level.....	2,038.00		2,038.00
	Fund Sources: Commonwealth Transportation.....	<del>\$246,789,564</del>		<del>\$246,878,761</del>
		\$245,747,261		\$245,841,559
	Trust and Agency.....	\$5,446,600		\$5,446,600
	Federal Trust.....	\$5,969,324		\$5,969,324
	<b>Department of Motor Vehicles Transfer Payments (530)</b>			
445.	Ground Transportation System Safety Services (60500).....		\$26,255,029	\$26,255,029
	Financial Assistance for Transportation Safety (60507).....	\$26,255,029		\$26,255,029
	Fund Sources: Federal Trust.....	\$26,255,029		\$26,255,029
	Authority: §§ 46.2-222 through 46.2-223, Code of Virginia; Chapter 4, United States Code.			
446.	Financial Assistance to Localities - General (72800)...		\$85,691,500	\$85,691,500
	Financial Assistance to Localities - Mobile Home Tax (72803).....	\$5,500,000		\$5,500,000
	Financial Assistance to Localities for the Disposal of Abandoned Vehicles (72814).....	\$391,500		\$391,500
	Distribution of Sales Tax on Fuel in Certain Transportation Districts (72815).....	\$79,800,000		\$79,800,000
	Fund Sources: Commonwealth Transportation.....	\$391,500		\$391,500
	Trust and Agency.....	\$5,500,000		\$5,500,000
	Dedicated Special Revenue.....	\$79,800,000		\$79,800,000
	Authority: §§ 46.2-416, 58.1-2402, and 58.1-2425, and 46.2-1200 through 46.2-1207, Code of Virginia.			
	Funds collected pursuant to § 58.1-2291 et seq., Code of Virginia, from the additional sales tax on fuel in certain transportation districts under § 58.1-2291 et seq., Code of Virginia, shall be returned to the respective commissions in amounts equivalent to the shares collected in the respective member jurisdictions.			
	Total for Department of Motor Vehicles Transfer Payments.....		<b>\$111,946,529</b>	<b>\$111,946,529</b>
	Fund Sources: Commonwealth Transportation.....	\$391,500		\$391,500
	Trust and Agency.....	\$5,500,000		\$5,500,000
	Dedicated Special Revenue.....	\$79,800,000		\$79,800,000
	Federal Trust.....	\$26,255,029		\$26,255,029

ITEM 446.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
Grand Total for Department of Motor Vehicles.....			<b>\$370,152,017</b>	<b>\$370,241,214</b>
			<b>\$369,109,714</b>	<b>\$369,204,012</b>
Nongeneral Fund Positions.....	2,038.00	2,038.00		
Position Level.....	2,038.00	2,038.00		
Fund Sources: Commonwealth Transportation.....	\$247,181,064	\$247,270,261		
	\$246,138,761	\$246,233,059		
Trust and Agency.....	\$10,946,600	\$10,946,600		
Dedicated Special Revenue.....	\$79,800,000	\$79,800,000		
Federal Trust.....	\$32,224,353	\$32,224,353		

**§ 1-126. DEPARTMENT OF RAIL AND PUBLIC TRANSPORTATION (505)**

447.	Ground Transportation Planning and Research (60200).....			\$3,743,598	\$3,743,598
					\$3,347,198
	Rail and Public Transportation Planning, Regulation, and Safety (60203).....	\$3,743,598	\$3,743,598		\$3,347,198
	Fund Sources: Commonwealth Transportation.....	\$3,743,598	\$3,743,598		\$3,347,198
	Authority: Titles 33.2 and 58.1, Code of Virginia.				
448.	Financial Assistance for Public Transportation (60900).....			\$435,536,141	\$443,248,455
	Public Transportation Programs (60901).....	\$412,417,287	\$420,042,153		
	Congestion Management Programs (60902).....	\$13,344,000	\$13,344,000		
	Human Service Transportation Programs (60903)....	\$9,774,854	\$9,862,302		
	Fund Sources: Special.....	\$1,122,396	\$1,139,844		
	Commonwealth Transportation.....	\$434,413,745	\$442,108,611		

Authority: Titles 33.2 and 58.1, Code of Virginia.

A.1. Except as provided in Item 450, the Commonwealth Transportation Board shall allocate all monies in the Commonwealth Mass Transit Fund, as provided in § 58.1-638, Code of Virginia. The total appropriation for the Commonwealth Mass Transit Fund is estimated to be \$247,794,000 the first year and \$255,422,000 the second year from the Transportation Trust Fund. From these funds, the following estimated allocations shall be made:

a. \$182,608,000 the first year and \$187,826,000 the second year to statewide Operating Assistance as provided in § 58.1-638, Code of Virginia.

b. \$55,837,000 the first year and \$58,030,000 the second year from the Commonwealth Mass Transit Fund to statewide Capital Assistance.

c. Notwithstanding the provisions of paragraph A.1.a and A.1.b. of this Item, prior to the annual adoption of the Six-Year Improvement Program, the Commonwealth Transportation Board may allocate funding from the Commonwealth Mass Transit Fund to implement the transit and transportation demand management improvements identified for the I-95 corridor. Such costs shall include only direct transit capital and operating costs as well as transportation demand management activities. Costs associated with additional park and ride lots required to be funded by the Commonwealth under the provisions of the Comprehensive Agreement for the Interstate 95 High Occupancy Toll Lanes project shall be borne by the Department of Transportation as set out in Item 455 of this act.

2. Included in this Item is \$1,500,000 the first year and \$1,500,000 the second year from the Commonwealth Mass Transit Trust Fund. These allocations are designated for "paratransit" capital projects and enhanced transportation services for the elderly and disabled.

3. a. From the amounts appropriated in this Item from the Commonwealth Mass Transit

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	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
	Fund, \$7,849,000 the first year and \$8,066,000 the second year is the estimated allocation to statewide Special Programs as provided in § 58.1-638, Code of Virginia.			
	b. From the amounts provided for Special Programs, the Commonwealth Transportation Board shall operate a program entitled the Transportation Efficiency Improvement Fund (TEIF). The purpose of the TEIF program is to reduce traffic congestion by supporting transportation demand management programs and projects designed to reduce the movement of passengers and freight on Virginia's highway system.			
	c. From the amounts appropriated in this Item from the Commonwealth Mass Transit Fund, up to \$1,975,000 the first year and up to \$1,975,000 the second year may be allocated by the Board for the expansion of vanpool service throughout the Commonwealth. Such efforts may include partnering with private operators to provide vanpool services on a statewide basis. All or a portion of any increase to the amounts appropriated in subparagraph B.5 of Item 436 as a result of the Federal Fixing America's Surface Transportation (FAST) Act may also be allocated by the Board for this purpose.			
	4. Not included in this appropriation is an amount estimated at \$25,583,000 the first year and \$25,583,000 the second year allocated to transit agencies from federal sources for the Surface Transportation Program (STP).			
	B. 1. Funds from a stable and reliable source, as required in Public Law 96-184, as amended, are to be provided to Metro from payments authorized and allocated in this program and pursuant to §§ 58.1-1720 and 58.1-2295, Code of Virginia. Notwithstanding any other provision of law, funds allocated to Metro under this program may be disbursed by the Department of Rail and Public Transportation directly to Metro or to any other transportation entity that has an agreement to provide funding to Metro as deemed appropriate by the Department. In appointing the Virginia members of the board of directors of the Washington Metropolitan Area Transit Authority (WMATA), the Northern Virginia Transportation Commission shall include the Secretary of Transportation or his designee as a principal member on the WMATA board of directors.			
	2. To ensure that all revenues provided to support the Washington Metropolitan Area Transit Authority (WMATA) are used efficiently and appropriately, the WMATA Board of Directors shall submit to the Director, Department of Rail and Public Transportation, and the Chairmen of the House and Senate Transportation Committees and the House Appropriations and Senate Finance Committees, a report on the actions taken to address all the recommendations cited in the Federal Transit Administration of the U. S. Department of Transportation's "Full Scope of Systems Review of the Washington Metropolitan Transit Authority" dated June 10, 2014. Such reports shall be submitted no more than 30 days after the close of each quarter of the fiscal year, and shall include any further findings issued by the appropriate compliance officer of the Federal Transit Administration. In addition, the WMATA Board of Directors shall provide, immediately upon its issuance, a copy of the audited financial statements and shall submit a plan to remedy any deficiencies within 30 days of receipt of the report.			
	C. All Commonwealth Mass Transit Funds appropriated for Financial Assistance for Public Transportation shall be used only for public transportation purposes as defined by the Federal Transit Administration or outlined in § 58.1-638 A.4. or in § 58.1-638 A.5., Code of Virginia.			
	D. It is the intent of the General Assembly that no transit operating assistance funding be used to support any new transit system or route at a level higher than such project would be eligible for under the allocation formula set out in § 58.1-638 A 4. e., Code of Virginia, beyond the first two years of its operation.			
	E.1. The Department of Rail and Public Transportation, in conjunction with the Transit Capital Project Revenue Advisory Board, shall develop a proposal to be submitted to the Commonwealth Transportation Board and the General Assembly for a statewide prioritization process for the use of funds allocated pursuant to § 33.2-365, or allocated to the Commonwealth Mass Transit Fund established pursuant to subdivision A 4 of § 58.1-638. Such prioritization process would be used for the development of a Six-Year Improvement Program for transit capital expenditures to be included in the Program adopted annually by the Commonwealth Transportation Board pursuant to § 33.2-214. The proposal development should be undertaken with input from localities, metropolitan planning organizations, transit authorities, transportation authorities, and other stakeholders.			

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<p>2. Any prioritization process should be based on an objective and quantifiable analysis. For transit capital projects that establish new transit service or expand existing service, the prioritization process should consider, at a minimum, the following factors relative to the cost of the project or strategy: congestion mitigation, economic development, accessibility, safety, environmental quality, and land use. For state of good repair projects, the prioritization process should consider asset condition and other factors determined to be appropriate by the Department. Such a process for the allocation and distribution of funding would be in addition to the tiered approach established by the Commonwealth Transportation Board for capital purposes based on asset need and anticipated state participation level and revenues and is intended to foster project-specific prioritization within the asset tiers.</p> <p>3. The Department shall submit its report on the feasibility and proposed content of such a prioritization scheme to the Chairmen of the House and Senate Transportation Committees, the House Appropriations Committee and the Senate Finance Committee not later than August 1, 2017.</p> <p><i>F. The Director, Department of Planning and Budget, is hereby authorized, upon request by the Secretary of Transportation, to transfer an amount not to exceed \$6,214,575 in the first year and \$6,214,575 in the second year from the amounts appropriated in Item 453 of this act to the Department of Rail and Public Transportation. Such transfers shall be considered loans, and are intended to hold harmless transit agencies that operate in the Commonwealth that receive urbanized transit funds pursuant to 49 U.S.C 5307 whose funds have been withheld by the Federal Transit Administration until the certification of the Metro Safety Commission by the Federal Transit Administration. The Department may disburse, subject to appropriate repayment terms, such funds to affected transit agencies in an amount not to exceed the funds withheld by the Federal Transit Administration. To the extent repayment is not made as required by the agreement between the Department and an affected transit agency, the Department is directed to withhold the payment amount due from funds provided to such transit agency pursuant to §58.1-638 A 4 b 1 (c) of the Code of Virginia in order to return such amounts to the Department of Transportation. However, no funds from such loan shall be disbursed to any transit agency until such agency has expended all funds available for their use from federal fiscal year 2016. The specific terms and structure of any loan shall be approved by the Secretary of Transportation, upon consultation with the Chairmen of the House Appropriations and Senate Finance Committees, or their designees.</i></p>				
449.	Financial Assistance for Rail Programs (61000).....		\$129,339,969	<del>\$129,339,969</del> \$127,488,369
	Rail Industrial Access (61001).....	\$3,000,000	\$3,000,000	
	Rail Preservation Programs (61002).....	\$14,583,720	<del>\$14,583,720</del> \$14,583,520	
	Passenger and Freight Rail Financial Assistance Programs (61003).....	\$111,756,249	<del>\$111,756,249</del> \$109,904,849	
	Fund Sources: Special.....	\$1,000,000	\$1,000,000	
	Commonwealth Transportation.....	\$123,939,969	<del>\$123,939,969</del> \$122,088,369	
	Federal Trust.....	\$4,400,000	\$4,400,000	

Authority: Title 33.2, Code of Virginia.

A. 1. Except as provided in Item 450, the Commonwealth Transportation Board shall operate the Shortline Railway Preservation and Development program in accordance with § 33.2-1602, Code of Virginia. As determined by the board, funds apportioned pursuant to § 33.2-1530 or § 33.2-1601, Code of Virginia, shall be appropriated to the Shortline Railway Preservation and Development Program. Total funding appropriated to the Shortline Railway Preservation and Development Program shall not exceed \$4,000,000 the first year and \$4,000,000 the second year.

2. The board may allocate up to 20 percent of the annual revenue of the Rail Enhancement Fund established through § 33.2-1601, Code of Virginia, to the Shortline Railway Preservation and Development Fund. Should funds established in § 33.2-1601, Code of

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Virginia, be allocated for the purposes outlined in § 33.2-1602, Code of Virginia, the Director of the Department of Rail and Public Transportation shall administer and expend the funds subject to the approval of the board and according to the authority outlined in § 33.2-1602; the requirements of § 33.2-1601 shall not apply.

B. The Commonwealth Transportation Board shall operate the Rail Industrial Access Program in accordance with § 33.2-1600, Code of Virginia. The board may allocate funds pursuant to § 33.2-358, Code of Virginia, to the fund for construction of industrial access railroad tracks.

C. Of the funds appropriated pursuant to Chapters 1019 and 1044 of the 2000 Acts of Assembly for passenger rail capacity improvements in the I-95 passenger rail corridor between Richmond and the District of Columbia, the Director of the Department of Rail and Public Transportation is authorized to utilize any remaining funds along the described corridor for the development of intercity passenger rail enhancements to include rail improvements and passenger station facilities.

D. Because of the overwhelming need for the delivery of services provided by the investment in a balanced transportation system in the Commonwealth, and in an effort to deliver intercity passenger trains utilizing the Commonwealth's investments and to increase passenger train frequencies to Norfolk and Roanoke, notwithstanding the provisions of § 33.2-1601 and § 33.2-1603, Code of Virginia, the Commonwealth Transportation Board may only make further investments in intercity passenger rail capacity to serve new markets in North Carolina, provided the Six-Year Improvement Plan adopted pursuant to § 33.2-214, Code of Virginia includes sufficient funding to complete projects underway to deliver train capacity improvements and provides the funding for service for additional passenger rail frequency to Norfolk and an extension of passenger rail to Roanoke. Any Rail Enhancement Funds utilized for the purposes of the service delivery outlined in this paragraph shall be administered according to the guidelines governing the use of Intercity Passenger Rail Operating and Capital Funds.

E. The Department of Rail and Public Transportation shall evaluate both the costs of providing service to the Town of Bedford as well as the available funding and provide this information to the Chairmen of the House Committees on Transportation and Appropriations, the Senate Committees on Transportation and Finance, and the Joint Commission on Transportation Accountability no later than December 1, 2016.

*F. To achieve cost efficiencies for all parties while undertaking the new rail features of the Atlantic Gateway Project in Fairfax County, the Department shall work with Fairfax County and the Virginia Department of Transportation to develop a cost-effective design for a new facility over Route 1 that replaces the existing bridge, expands rail capacity, and accommodates the future Bus Rapid Transit system on Route 1, and also work with Fairfax County and the Virginia Department of Transportation to identify funding sources for this portion of the project.*

*G. No later than July 1, 2017, the Department of Rail and Public Transportation, in collaboration with the Hampton Roads Transportation Planning Organization as well as all relevant stakeholders, shall evaluate the costs of and potential funding sources for completing a Tier II Environmental Impact Study for the purpose of delivering future high speed passenger rail service between Richmond and Hampton Roads, and provide this information to the Chairmen of the House Committees on Transportation and Appropriations, the Senate Committees on Transportation and Finance.*

450.	Administrative and Support Services (69900).....			\$13,351,725	\$13,858,964 \$16,106,964
	General Management and Direction (69901).....	\$13,351,725	<del>\$13,858,964</del> \$16,106,964		
	Fund Sources: Commonwealth Transportation.....	\$13,351,725	<del>\$13,858,964</del> \$16,106,964		

Authority: Titles 33.2 and 58.1, Code of Virginia.

A. The Director, Department of Planning and Budget, is authorized to adjust appropriations and allotments for the Department of Rail and Public Transportation to reflect changes in the official revenue estimates for commonwealth transportation funds.

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<p>B. The Commonwealth Transportation Board may allocate up to 3.5 percent of the funds revenues appropriated available in Item 448 and Item 449 each year in the funds established pursuant to §§ 33.2-1601, 33.2-1602, and subdivision A4 of § 58.1-638, and up to 5 percent of the revenues available each year in the fund established pursuant to § 33.2-1603 to support costs of project development, project administration and project compliance incurred by the Department of Rail and Public Transportation in implementing rail, public transportation, and congestion management programs and grants; programs set out in §§ 58.1-638, 33.2-1601 and 33.2-1602 and 33.2-1603; Code of Virginia.</p>				
Total for Department of Rail and Public Transportation.....			\$581,971,433	\$590,190,986
Nongeneral Fund Positions.....			60.00	<del>60.00</del> 64.00
Position Level.....			60.00	<del>60.00</del> 64.00
Fund Sources: Special.....			\$2,122,396	\$2,139,844
Commonwealth Transportation.....			\$575,449,037	\$583,651,142
Federal Trust.....			\$4,400,000	\$4,400,000

**§ 1-127. DEPARTMENT OF TRANSPORTATION (501)**

451.	Environmental Monitoring and Evaluation (51400).			\$13,412,237	\$13,674,514
				\$13,534,237	\$14,386,580
	Environmental Monitoring and Compliance for Highway Projects (51408).....	\$10,766,957	\$10,963,364		
		\$10,888,957	\$11,645,641		
	Environmental Monitoring Program Management and Direction (51409).....	\$2,645,280	\$2,711,150		
			\$2,740,939		
	Fund Sources: Commonwealth Transportation.....	\$13,412,237	\$13,674,514		
		\$13,534,237	\$14,386,580		
452.	Ground Transportation Planning and Research (60200).....			\$68,995,247	\$64,625,062
				\$72,784,885	\$73,224,297
	Ground Transportation System Planning (60201)....	\$56,151,798	\$51,508,270		
		\$58,541,924	\$60,147,213		
	Ground Transportation System Research (60202)....	\$9,086,239	\$9,266,770		
		\$10,440,699	\$9,147,341		
	Ground Transportation Program Management and Direction (60204).....	\$3,757,210	\$3,850,022		
		\$3,802,262	\$3,929,743		
	Fund Sources: Commonwealth Transportation.....	\$68,995,247	\$64,625,062		
		\$72,784,885	\$73,224,297		

Authority: Title 33.2, Code of Virginia.

A. Included in the amount for ground transportation system planning and research is no less than \$6,500,000 the first year and no less than \$6,500,000 the second year from the highway share of the Transportation Trust Fund for the planning and evaluation of options to address transportation needs.

B. In addition, the Commonwealth Transportation Board may approve the expenditures of up to \$500,000 the first year and \$500,000 the second year from the highway share of the Transportation Trust Fund for the completion of advance activities, prior to the initiation of an individual project's design along existing highway corridors, to determine short-term and long-term improvements to the corridor. Such activities shall consider safety, access management, alternative modes, operations, and infrastructure improvements. Such funds shall be used for, but are not limited to, the completion of activities prior to the initiation of an individual project's design or to benefit identification of needs throughout the state or the prioritization of those needs. For federally eligible activities, the activity or item shall be included in the Commonwealth Transportation Board's annual update of the Six-Year Improvement program so that (i) appropriate federal funds may be allocated and

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reimbursed for the activities and (ii) all requirements of the federal Statewide Transportation Improvement Program can be achieved.				
C. Notwithstanding the provisions of Chapter 729 and Chapter 733 of the 2012 Acts of Assembly, the Commonwealth Transportation Board shall not reallocate any funds from projects on roadways controlled by any county that has withdrawn or elects to withdraw from the secondary system of state highways, nor from any roadway controlled by a city or town as part of the state's urban roadway system, based on a determination of nonconformity with the Commonwealth Transportation Board's Statewide Transportation Plan or the Six-Year Improvement Program. In jurisdictions that maintain roadways within their boundaries, the provisions of § 33.2-214, Code of Virginia, shall apply only to highways controlled by the Department of Transportation.				
D. The prioritization process developed under subsection B of Chapter 726 of the 2014 Virginia Acts of Assembly shall not apply to use of funds provided in this item from the federal apportionments in the State Planning and Research Program.				
453.	Highway Construction Programs (60300).....		\$2,262,220,703	\$1,812,622,400
			\$2,382,394,166	\$1,855,638,761
	Highway Construction Program Management (60315).....	\$26,741,888 \$27,001,888	\$27,397,557 \$39,005,784	
	State of Good Repair Program (60320).....	\$164,835,012 \$171,957,974	\$103,997,402 \$87,123,374	
	High Priority Projects Program (60321).....	\$95,776,727 \$119,895,765	\$45,444,527 \$35,415,609	
	Construction District Grant Programs (60322).....	\$95,776,727 \$119,895,763	\$45,444,527 \$35,415,609	
	Specialized State and Federal Programs (60323).....	\$1,226,436,233 \$1,290,988,660	\$933,338,307 \$1,001,678,305	
	Legacy Construction Formula Programs (60324).....	\$652,654,116	\$657,000,080	
	Fund Sources: Commonwealth Transportation.....	\$1,880,227,621 \$1,993,401,084	\$1,576,322,400 \$1,612,338,761	
	Trust and Agency.....	\$381,993,082 \$388,993,082	\$236,300,000 \$243,300,000	

Authority: Title 33.2, Chapter 3; Code of Virginia; Chapters 8, 9, and 12, Acts of Assembly of 1989, Special Session II.

A. From the appropriation for specialized state and federal programs funds shall be distributed as follows:

1. \$99,958,646 the first year and \$105,299,506 the second year in federal state and matching funds shall be allocated for regional Surface Transportation Funds and distributed to applicable metropolitan planning organizations pursuant to 23 USC 133;
2. \$53,871,340 the first year and \$55,272,403 the second year in federal and state matching funds shall be allocated for the Highway Safety Improvement Program pursuant to 23 USC 148;
3. \$70,981,544 the first year and \$69,805,236 the second year in federal and state matching funds shall be allocated for the Congestion Mitigation Air Quality program pursuant to 23 USC 149;
4. \$150,000,000 the first year and \$100,000,000 the second year shall be allocated for the Revenue Sharing Program pursuant to § 33.2-357, Code of Virginia;
5. \$20,481,315 the first year and \$20,104,007 the second year in federal funds shall be allocated for the Surface Transportation Block Grant Program Set-Aside to 23 USC 133(h).
6. \$2,736,051 the first year and \$4,183,261 the second year in state funds shall be allocated to the Virginia Transportation Infrastructure Bank pursuant to § 33.2-1500 et seq, Code of Virginia.
7. \$1,368,025 the first year and \$2,091,630 the second year in state funds shall be allocated to

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<p>the Transportation Partnership Opportunity Fund pursuant to § 33.2-1529.1, Code of Virginia.</p>				
<p>B. Notwithstanding § 33.2-358, Code of Virginia, the proceeds from the lease or sale of surplus and residue property purchased under this program in excess of related costs shall be applied to the State of Good Repair Program pursuant to § 33.2-369, Code of Virginia. Proceeds must be used on Federal Title 23 eligible projects.</p>				
<p>C. The Director of the Department of Planning and Budget is authorized to increase the appropriation as needed to utilize amounts available from prior year balances in the dedicated funds and adjust items to the most recent Commonwealth Transportation Board budget.</p>				
<p>D. Funds appropriated for legacy formula construction programs shall be used for the purposes enumerated in subsection C of § 33.2-358, Code of Virginia, or as previously appropriated.</p>				
<p>E. Included in the amounts for specialized state and federal programs is the reappropriation of \$145,700,000 the first year and \$131,300,000 the second year from bond proceeds or dedicated special revenues for anticipated expenditure of amounts collected in prior years. The amounts will be provided from balances in the Capital Projects Revenue Bond Fund, Federal Transportation Grant Anticipation Revenue Bond Fund, Northern Virginia Transportation District Fund, State Route 28 Highway Improvement District Fund, U.S. Route 58 Corridor Development Fund and the Priority Transportation Fund. These amounts were originally appropriated when received or forecasted and are not related to FY 2017 and FY 2018 estimated revenues.</p>				
<p>F. Revenue collected through innovative revenue efforts authorized by § 33.2-213, Code of Virginia, shall be dedicated to State of Good Repair efforts as outlined in § 33.2-369, Code of Virginia, after all related program and collection costs incurred by the Department are considered.</p>				
<p>G. 1. Of the amounts provided in Item 449.10, Chapter 847 of the 20087 Acts of Assembly, \$31,070,647 was dedicated to enumerated projects funded from the Transportation Partnership Opportunity Fund. This amount represents available authorization remaining after the completed advancement of acquisition and construction of the projects in the Item. Of this amount, \$23,110,000 is now directed to Road Improvements at military installations in the Commonwealth. As part of the ongoing negotiations of a memorandum of agreement between the Department of the U.S. Army and the U.S. Department of Transportation and the Virginia Department of Transportation for the delivery of transportation projects as in-kind payments for parcel A-2 and A-3 at the former Ft. Monroe under the economic development conveyance in the Commonwealth of Virginia, the Virginia Department of Transportation shall request that the Department of the U.S. Army consider the reservation of funding included in this paragraph for improvements to the Ft. Eustis Boulevard interchange with I-64 at mile marker 250 which directly benefits Joint Base Langley-Eustis and the United States Army Training and Doctrine Command. Of this amount, \$7,960,647 is now directed to Improvements at interstate rest areas throughout the Commonwealth.</p>				
<p>2. Pursuant to the provisions of Item 449.10, 1., Chapter 847 of the 2007 Acts of Assembly, \$20,000,000 was deposited to the Transportation Partnership Opportunity Fund (TPOF) for the purpose of purchasing right of way owned by Norfolk Southern Corporation and located between Newtown Road and the Oceanfront. The subsequent contract for the TPOF award signed between the Department of Transportation and the City of Virginia Beach, specified that if such funds were not utilized to extend light rail along the corridor to Virginia Beach, the funds were to be repaid to the Department of Transportation and redeposited into the TPOF for allocations for other eligible transportation projects. Based on the failure of the project to move forward, as evidenced by the failure of the voter referendum on the Virginia Beach ballot in the November 2016 election, the City of Virginia Beach is required to repay to the Department of Transportation the full amount in four annual payments of \$5,000,000 by September 1 of each year for the next four years beginning in fiscal year 2018. To the extent the annual payment is not made as required by September 1 in each year for the next four years, the Department of Transportation is directed to withhold the payment amount due from funds</p>				

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	FY2017	FY2018	FY2017	FY2018

*provided to the City of Virginia Beach pursuant to § 33.2-319, Code of Virginia. It is the intent of the General Assembly that these sums are hereby made available to the department to reallocate to eligible TPOF projects as they become available.*

H. For funds allocated in § 58.1-1741, Code of Virginia, to state of good repair purposes for fiscal year 2017 and fiscal year 2018, the distribution of funding in subsections (B) and (C) of § 33.2-369, Code of Virginia, will not apply. The Commonwealth Transportation Board may allocate funds to state of good repair purposes for reconstruction and replacement of structurally deficient state and locally owned bridges and reconstruction and rehabilitation of pavement on the interstate system and primary state highway system determined to be deteriorated by the board, including municipality-maintained primary extensions, as well as to work related to the condition assessment and pavement rehabilitation of secondary highways and other related work to improve secondary highways. Prior to this allocation, the Commonwealth Transportation Board will provide \$11,929,353 for Improvements at Interstate Rest Areas throughout the Commonwealth.

I. The Secretary may establish a pilot program for unpaved roads sections that (i) are more than 2 miles in length, (ii) is not a dead-end, (iii) intersects with existing paved roads at both ends and (iv) have a traffic volume of 100 or more vehicles in a context sensitive manner. Up to \$1,000,000 in the first year and \$1,000,000 in the second year from funds available under subdivision (C)(v) of § 33.2-358, Code of Virginia, may be used for this pilot program.

J. Notwithstanding the provisions of § 33.2-358, Code of Virginia, the unanticipated amounts available for construction from the December 2015 revenue forecast and from the increased federal funding from the passage of the Fixing America's Surface Transportation (FAST) Act shall be distributed following the new construction formula defined by § 33.2-358, Code of Virginia, advancing the distribution of funds under this formula and provide 45 percent of the additional funding to the State of Good Repair Program, 27.5 percent to the High Priority Projects Program, and 27.5 percent to the District Grant Program.

K.1. Notwithstanding any other provision of the Code of Virginia, as a condition on the expenditure of all amounts included in this item, the Commonwealth Transportation Board shall include all amounts needed, not to exceed \$140,000,000, in the fiscal year 2017 through fiscal year 2022 Six-Year Improvement Program adopted pursuant to § 33.2-214, for improvements to the Interstate 66 corridor inside the Capitol Beltway, including but not limited to the addition of a third eastbound travel lane on Interstate 66 from the Dulles Connector Road to State Route 237, North Fairfax Drive/N. Glebe Road exit of Interstate 66.

2. Environmental work pursuant to the National Environmental Policy Act for the project outlined in paragraph J.1. shall commence no later than July 15, 2016, and the Department shall complete a minimum of 30 percent of the design work for such capacity expansion by November 1, 2017. Amounts dedicated to such project shall not reduce amounts made available to the High Priority Projects Program or the District Grant Program.

3. It is the intent of the General Assembly that tolling on Interstate 66 inside the Capitol Beltway shall not extend beyond four hours during the morning rush hour and four hours during the evening rush hour on Mondays, Tuesdays, Wednesdays, Thursdays and Fridays, exclusive of national holidays, and tolling shall not apply on weekends.

*L. It is the intent of the General Assembly that the Commissioner, Department of Transportation, with the cooperation of the Secretary of Finance, shall set-aside any federal funding specifically authorized by Congress for projects on the Coalfields Expressway in a special sub-account of the Transportation Trust Fund to ensure such funds are used exclusively to advance the Coalfields Expressway project.*

454. Highway System Maintenance and Operations (60400).....			\$1,697,946,180	\$1,711,761,575
			\$1,674,434,950	\$1,688,854,039
Interstate Maintenance (60401).....	\$341,106,819	\$347,845,934		
	\$337,737,740	\$356,080,156		
Primary Maintenance (60402).....	\$487,940,892	\$492,032,519		
	\$481,225,945	\$485,842,962		
Secondary Maintenance (60403).....	\$597,154,768	\$599,494,559		
	\$588,025,446	\$583,280,567		

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	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
Transportation Operations Services (60404).....	\$188,047,830	\$188,518,707		
	\$185,082,091	\$182,551,595		
Highway Maintenance Operations, Program Management and Direction (60405).....	\$83,695,871	\$83,869,856		
	\$82,363,728	\$81,098,759		
Fund Sources: Commonwealth Transportation.....	\$1,697,946,180	\$1,711,761,575		
	\$1,674,434,950	\$1,688,854,039		

A. The department is authorized to enter into agreements with state and local law enforcement officials to facilitate the enforcement of high occupancy vehicle (HOV) restrictions throughout the Commonwealth and metropolitan planning regions.

B. Should federal law be changed to permit privatization of rest area operations, the department is hereby authorized to accept or solicit proposals for their development and/or operation.

C. The Director, Department of Planning and Budget, is authorized to increase the appropriation in this Item as needed to utilize amounts available from prior year balances in the dedicated funds.

D. The Commissioner's annual report pursuant to § 33.2-232, Code of Virginia, shall include an assessment of whether the department has met its secondary road pavement targets, by district and on a statewide basis.

*E. Notwithstanding the provisions of § 4-3.02 of this act, the Secretary of Finance may provide the Department of Transportation interest-free treasury loans in an amount not to exceed \$1,700,000 in the first year and \$1,700,000 in the second year which may be extended for a period longer than twelve months. The loan amounts would be provided to the City of Portsmouth to offset losses in personal property tax collections generated by the City due to the transfer of personal property from the Virginia International Gateway to the Commonwealth. The specific terms and structure of any loan shall be approved by the Secretary of Finance, after consultation with the Chairmen of the House Appropriations and Senate Finance Committees, or their designees. A treasury loan for this purpose shall be considered as bridge financing until the planned expansion of the Virginia International Gateway Facility commences and additional equipment is purchased which will generate personal property taxes that the City of Portsmouth shall use to repay the loan. To the extent the loan is not repaid as required by the specific terms of the loan, the Department of Transportation is directed to withhold the payment amount due from funds provided to the City of Portsmouth pursuant to § 33.2-319, Code of Virginia, to repay the loan.*

455. Commonwealth Toll Facilities (60600).....			\$48,248,250	\$79,794,150
			\$90,948,250	\$47,094,150
Toll Facility Acquisition and Construction (60601).	\$12,300,000	\$42,700,000		
	\$55,000,000	\$10,000,000		
Toll Facility Debt Service (60602).....	\$3,188,200	\$3,193,400		
Toll Facility Maintenance And Operation (60603)...	\$12,912,050	\$13,000,750		
Toll Facilities Revolving Fund (60604).....	\$19,848,000	\$20,900,000		
Fund Sources: Commonwealth Transportation.....	\$42,248,250	\$73,750,750		
	\$84,948,250	\$41,050,750		
Trust and Agency.....	\$6,000,000	\$6,043,400		

Authority: §§ 33.2-1524 and 33.2-1700 through 33.2-1729, Code of Virginia.

A. Included in this Item are funds for the installation and implementation of a statewide Electronic Toll Customer Service/Violation Enforcement System.

B. Funds as appropriated are provided for other toll facility initiatives as needed during the biennium including but not limited to funding activities to advance projects pursuant to the Public-Private Transportation Act.

C. Outstanding obligations due to the Toll Facility Revolving Account that were to be repaid from future Urban Construction allocations are hereby released.

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	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
<p><i>D. The Department of Transportation, in consultation with various stakeholders, shall provide to the Chairmen of the House Appropriations, Senate Finance, and House and Senate Transportation Committees by November 15, 2017, its recommendations regarding reporting to the General Assembly toll transaction data, including total toll road violation charges and administrative fees, levied and collected, as well as the feasibility of providing such information on an annual, facility-wide basis for all toll facilities in the Commonwealth.</i></p>				
456.	Financial Assistance to Localities for Ground Transportation (60700).....		\$953,883,265	\$975,994,130
			\$948,976,395	\$947,678,871
	Financial Assistance for City Road Maintenance (60701).....	\$370,126,317 \$371,138,361	\$376,415,683 \$375,355,526	
	Financial Assistance for County Road Maintenance (60702).....	\$65,998,123 \$66,000,705	\$67,119,622 \$66,752,742	
	Financial Assistance for Planning, Access Roads, and Special Projects (60704).....	\$14,458,825 \$15,737,329	\$14,458,825 \$15,370,603	
	Distribution of Northern Virginia Transportation Authority Fund Revenues (60706).....	\$331,900,000 \$327,200,000	\$340,900,000 \$330,600,000	
	Distribution of Hampton Roads Transportation Fund Revenues (60707).....	\$171,400,000 \$168,900,000	\$177,100,000 \$159,600,000	
	Fund Sources: Commonwealth Transportation.....	\$450,583,265 \$452,876,395	\$457,994,130 \$457,478,871	
	Dedicated Special Revenue.....	\$503,300,000 \$496,100,000	\$518,000,000 \$490,200,000	
<p>Authority: Title 33.2, Chapter 1, Code of Virginia.</p>				
<p>A. Out of the amounts for Financial Assistance for Planning, Access Road, and Special Projects, \$7,000,000 the first year and \$7,000,000 the second year from the Commonwealth Transportation Fund shall be allocated for purposes set forth in §§ 33.2-1509, 33.2-1600, and 33.2-1510, Code of Virginia. Of this amount, the allocation for Recreational Access Roads shall be \$1,500,000 the first year and \$1,500,000 the second year, of which an amount up to \$1,000,000 each year may be provided to repair or upgrade highway signage for Virginia State Parks, State Boat Landing Sites and Highway Historical Markers throughout the Commonwealth. The department will work with the Department of Conservation and Recreation, the Department of Game and Inland Fisheries and the Department of Historic Resources to identify the related signage needs.</p>				
<p>B. The Department of Transportation is encouraged to promote the construction and improvement of highways and transit facilities by localities, whether or not such improvements are contained in the Six-Year Improvement Program or Plan. If such improvements are not contained in the Six-Year Improvement Program or Plan, the localities may not seek reimbursement from the department for the improvements.</p>				
<p>C. Distribution of Northern Virginia Transportation Authority Fund Revenues represents direct payments, of the revenue collected and deposited into the Fund, to the Northern Virginia Transportation Authority for uses contained in Chapter 766, 2013 Acts of Assembly. Notwithstanding any other provision of law, moneys deposited into the Hampton Roads Transportation Fund shall be transferred to the Hampton Roads Transportation Accountability Commission for use in accordance with § 33.2-2611, Code of Virginia, which use may include as a source of funds for administrative expenses of the Hampton Roads Transportation Accountability Commission.</p>				
<p>D. The prioritization process developed under subsection B of Chapter 726 of the 2014 Virginia Acts of Assembly shall not apply to use of funds provided in this item from federal apportionments in the Metropolitan Planning Program.</p>				
457.	Non-Toll Supported Transportation Debt Service (61200).....		\$338,454,628	\$383,211,784
			\$331,019,981	\$375,461,840

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Highway Transportation Improvement District Debt Service (61201).....	\$7,215,019	\$7,212,269		
Designated Highway Corridor Debt Service (61202).....	<del>\$66,590,136</del> \$66,919,646	<del>\$67,372,022</del> \$66,747,178		
Commonwealth Transportation Capital Projects Bond Act Debt Service (61204).....	<del>\$189,784,202</del> \$166,313,599	<del>\$214,423,212</del> \$190,531,533		
Federal Transportation Grant Anticipation Revenue Notes Debt Service (61205).....	<del>\$74,865,271</del> \$90,571,717	<del>\$94,204,281</del> \$110,970,860		
Fund Sources: General.....	\$40,000,000	\$40,000,000		
Commonwealth Transportation.....	<del>\$98,356,730</del> \$90,592,573	<del>\$133,097,882</del> \$110,970,860		
Trust and Agency.....	<del>\$192,480,536</del> \$192,810,046	<del>\$202,728,151</del> \$217,105,229		
Federal Trust.....	\$7,617,362	\$7,385,751		

Authority: Titles 15.2, 33.2, and 58.1 of the Code of Virginia; Chapters 827 and 914, Acts of Assembly of 1990; Chapters 233 and 662, Acts of Assembly of 1994; Chapter 8, as amended by Chapter 538, Acts of Assembly of 1999; Chapters 1019 and 1044, Acts of Assembly of 2000; Chapter 799, Acts of Assembly of 2002; Chapter 896, Acts of Assembly of 2007; and Chapters 830 and 868, Acts of Assembly of 2011

A.1. The amount shown for Highway Transportation Improvement District Construction shall be derived from payments made to the Transportation Trust Fund pursuant to the Contract between the State Route 28 Highway Transportation Improvement District and the Commonwealth Transportation Board dated September 1, 1988 as amended by the Amended and Restated District Contract by and among the Commonwealth Transportation Board, the Fairfax County Economic Development Authority and the State Route 28 Highway Transportation Improvement District Commission (the "District Commission") dated August 30, 2002, and May 1, 2012 (the "District Contract").

2. There is hereby appropriated for payment immediately upon receipt to a third party approved by the Commonwealth Transportation Board, or a bond trustee selected by such third party, a sum sufficient equal to the special tax revenues collected by the Counties of Fairfax and Loudoun within the State Route 28 Highway Transportation Improvement District and paid to the Commonwealth Transportation Board by or on behalf of the District Commission (the "contract payments") pursuant to § 15.2-4600 et seq., Code of Virginia, and the District Contract between the Commonwealth Transportation Board and the District Commission.

3. The contract payments may be supplemented from the Construction District Grant Program pursuant to § 33.2-371 allocated to the highway construction district in which the project financed is located, or any other lawfully available revenues of the Transportation Trust Fund, as may be necessary to meet debt service obligations. The payment of debt service shall be for the bonds (the Series 2012 Bonds) issued under the "Commonwealth of Virginia Transportation Contract Revenue Bond Act of 1988" (Chapters 653 and 676, Acts of Assembly of 1988 as amended by Chapters 827 and 914 of the Acts of Assembly of 1990). Funds required to pay the total debt service on the Series 2012 Bonds shall be made available in the amounts indicated in paragraph E of this Item.

B.1. Out of the amounts for Designated Highway Corridor Construction, \$40,000,000 the first year and \$40,000,000 the second year from the general fund shall be paid to the U.S. Route 58 Corridor Development Fund, hereinafter referred to as the "Fund", established pursuant to § 33.2-2300, Code of Virginia. This payment shall be in lieu of the deposit of state recordation taxes to the Fund, as specified in the cited Code section. Said recordation taxes which would otherwise be deposited to the Fund shall be retained by the general fund. Additional appropriations required for the U.S. Route 58 Corridor Development Fund, an amount estimated at \$9,000,000 the first year and \$9,000,000 the second year shall be transferred from the highway share of the Transportation Trust Fund.

2. Pursuant to the "U.S. Route 58 Commonwealth of Virginia Transportation Revenue Bond Act of 1989" (as amended by Chapter 538 of the 1999 Acts of Assembly and

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Chapter 296 of the 2013 Acts of Assembly), the amounts shown in paragraph E of this Item shall be available from the Fund for debt service for the bonds previously issued and additional bonds issued pursuant to said act.				
C.1. The Commonwealth Transportation Board shall maintain the Northern Virginia Transportation District Fund, hereinafter referred to as the "Fund." Pursuant to § 33.2-2400, Code of Virginia, and for so long as the Fund is required to support the issuance of bonds, the Fund shall include at least the following elements:				
a. Amounts transferred from Item 266 of this act to this Item.				
b. Any public right-of-way use fees allocated by the Department of Transportation pursuant to § 56-468.1 of the Code of Virginia and attributable to the counties of Fairfax, Loudoun, and Prince William, the amounts estimated at \$5,209,445 the first year and \$5,209,445 the second year.				
c. Any amounts which may be deposited into the Fund pursuant to a contract between the Commonwealth Transportation Board and a jurisdiction or jurisdictions participating in the Northern Virginia Transportation District Program, the amounts estimated to be \$816,000 the first year and \$816,000 the second year.				
2. The Fund shall support the issuance of bonds at a total authorized level of \$500,200,000 for the purposes provided in the "Northern Virginia Transportation District, Commonwealth of Virginia Revenue Bond Act of 1993," Chapter 391, Acts of Assembly of 1993 as amended by Chapters 470 and 597 of the Acts of Assembly of 1994, Chapters 740 and 761 of the Acts of Assembly of 1998, Chapter 538 of the 1999 Acts of Assembly, Chapter 799 of the 2002 Acts of Assembly, and Chapter 621 of the 2005 Acts of Assembly.				
3. Pursuant to the Northern Virginia Transportation District, Commonwealth of Virginia Revenue Bond Act of 1993, Chapter 391, Acts of Assembly of 1993, and as amended by Chapters 470 and 597 of the Acts of Assembly of 1994, Chapters 740 and 761 of the Acts of Assembly of 1998, Chapter 538 of the 1999 Acts of Assembly, Chapter 799 of the 2002 Acts of Assembly, and Chapter 621 of the 2005 Acts of Assembly, amounts shown in paragraph E of this Item shall be available from the Fund for debt service for the bonds previously issued and additional bonds issued pursuant to said act.				
4. Should the actual distribution of recordation taxes to the localities set forth in § 33.2-2400, Code of Virginia, exceed the amount required for debt service on the bonds issued pursuant to the above act, such excess amount shall be transferred to the Northern Virginia Transportation District Fund in furtherance of the program described in § 33.2-2401, Code of Virginia.				
5. Should the actual distribution of recordation taxes to said localities be less than the amount required to pay debt service on the bonds, the Commonwealth Transportation Board is authorized to meet such deficiency, to the extent required, from funds identified in Enactment No. 1, Section 11, of Chapter 391, Acts of Assembly of 1993.				
D.1. The Commonwealth Transportation Board shall maintain the City of Chesapeake account of the Set-aside Fund, pursuant to § 58.1-816.1, Code of Virginia, which shall include funds transferred from Item 261 of this act to this Item, and an amount estimated at \$1,500,000 the first year and \$1,500,000 the second year received from the City of Chesapeake pursuant to a contract or other alternative mechanism for the purpose provided in the "Oak Grove Connector, City of Chesapeake Commonwealth of Virginia Transportation Program Revenue Bond Act of 1994," Chapters 233 and 662, Acts of Assembly of 1994 (hereafter referred to as the "Oak Grove Connector Act").				
2. The amounts shown in paragraph E of this Item shall be available from the City of Chesapeake account of the Set-aside Fund for debt service for the bonds issued pursuant to the Oak Grove Connector Act.				
3. Should the actual distribution of recordation taxes and such local revenues from the City of Chesapeake as may be received pursuant to a contract or other alternative mechanism to the City of Chesapeake account of the Set-aside Fund be less than the amount required to pay debt service on the bonds, the Commonwealth Transportation Board is authorized to meet such deficiency, pursuant to Enactment No. 1, Section 11 of the Oak Grove Connector Act.				

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	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
E. Pursuant to various Payment Agreements between the Treasury Board and the Commonwealth Transportation Board, funds required to pay the debt service due on the following Commonwealth Transportation Board bonds shall be transferred to the Treasury Board as follows:				
		<b>FY 2017</b>		<b>FY 2018</b>
Transportation Contract Revenue Refund Bonds, Series 2012 (Refunding Route 28)		\$7,215,019		\$7,212,269
Commonwealth of Virginia Transportation Revenue Bonds: U.S. Route 58 Corridor Development Program:				
Series 2006C		\$3,173,000		\$3,173,000
Series 2007B		\$15,031,750		\$15,032,500
Series 2012B (Refunding)		\$6,380,700		\$6,380,100
Series 2014B (Refunding)		\$24,141,750		\$24,140,250
<i>Series 2016C (Refunding)</i>		\$2,592,750		\$2,592,750
Northern Virginia Transportation District Program:				
Series 2006B		\$816,750		\$2,871,750
Series 2007A		\$4,588,150		<del>\$4,575,650</del> 4,600,900
Series 2009A-2		<del>\$5,515,719</del> 5,451,178		\$5,416,203
Series 2012A (Refunding)		\$11,831,538		\$9,792,038
Series 2014A (Refunding)		\$9,647,250		\$9,645,750
<i>Series 2016B (Refunding)</i>		\$639,500		\$2,354,500
Transportation Program Revenue Bonds:				
Series 201606A (Oak Grove Connector, City of Chesapeake)		<del>\$2,230,000</del> 1,990,000		<del>\$2,226,750</del> 1,990,750
Capital Projects Revenue Bonds:				
Series 2010 A-2		\$36,296,593		\$36,092,710
Series 2011		\$42,108,863		\$42,110,113
Series 2012		\$40,279,000		\$40,276,000
Series 2014		\$18,223,950		\$18,226,200
<i>Series 2016</i>		\$16,704,231		\$16,798,750
F. Out of the amounts provided for in this Item, an estimated <del>\$74,865,271</del> 75,595,668 the first year and <del>\$94,204,281</del> 110,970,859 the second year from federal reimbursements shall be provided for debt service payments on the Federal Transportation Grant Anticipation Revenue Notes.				
G. Out of the amounts provided for this Item, an estimated <del>\$156,603,463</del> 153,612,636 the first year and <del>\$175,173,842</del> 153,503,773 the second year from the Priority Transportation Fund shall be provided for debt service payments on the Commonwealth Transportation Capital Projects Revenue Bonds. Any additional amounts needed to offset the debt service payment requirements attributable to the issuance of the Capital Projects Revenue Bonds shall be provided from the Transportation Trust Fund.				

ITEM 457.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
H. The Commonwealth Transportation Board is hereby authorized, by and with the consent of the Governor, to issue, pursuant to the applicable provisions of the Transportation Development and Revenue Bond Act (§ 33.2-1700 et seq., Code of Virginia) as amended from time to time, revenue obligations of the Commonwealth to be designated "Commonwealth of Virginia Transportation Capital Projects Revenue Bonds, Series XXXX" at one or more times in an aggregate principal amount not to exceed \$180,000,000, after all costs. The net proceeds of the bonds shall be used exclusively for the purpose of providing funds for paying the costs incurred or to be incurred for construction or funding of transportation projects set forth in Item 449.10 of Chapter 847 of the Acts of Assembly of 2007, including but not limited to environmental and engineering studies; rights-of-way acquisition; improvements to all modes of transportation; acquisition, construction and related improvements; and any financing costs and other financing expenses. Such costs may include the payment of interest on the bonds for a period during construction and not exceeding one year after completion of construction of the projects. Notwithstanding the provisions of Item 449.10 of Chapter 847 of the acts of Assembly 2007, any remaining funding may be used for the purposes set forth in subsection G of Item 453 of Chapter 665, 2015 Acts of Assembly.				
458. Administrative and Support Services (69900).....			\$259,745,870	\$265,724,618
			\$266,051,608	\$262,124,502
General Management and Direction (69901).....	\$141,356,888	\$144,670,733		
	\$142,662,181	\$136,218,719		
Information Technology Services (69902).....	\$86,742,447	\$88,829,308		
	\$88,723,194	\$90,923,268		
Facilities and Grounds Management Services (69915).....	\$16,182,001	\$16,573,518		
	\$16,235,764	\$16,668,596		
Employee Training and Development (69924).....	\$15,464,534	\$15,651,059		
	\$18,430,469	\$18,313,919		
Fund Sources: Commonwealth Transportation.....	\$259,745,870	\$265,724,618		
	\$266,051,608	\$262,124,502		

Authority: Title 33.2, Code of Virginia.

A. Notwithstanding any other provision of law, the highway share of the Transportation Trust Fund shall be used for highway maintenance and operation purposes prior to its availability for new development, acquisition, and construction.

B. Administrative and Support Services shall include funding for management, direction, and administration to support the department's activities that cannot be directly attributable to individual programs and/or projects.

C. Out of the amounts for General Management and Direction, allocations shall be provided to the Commonwealth Transportation Board to support its operations, the payment of financial advisory and legal services, and the management of the Transportation Trust Fund.

D. Notwithstanding any other provision of law, the department may assess and collect the costs of providing services to other entities, public and private. The department shall take all actions necessary to ensure that all such costs are reasonable and appropriate, recovered, and understood as a condition to providing such service.

E. Each year, as part of the six-year financial planning process, the commissioner shall implement a long-term business strategy that considers appropriate staffing levels for the department. In addition, the commissioner shall identify services, programs, or projects that will be evaluated for devolution or outsourcing in the upcoming year. In undertaking such evaluations, the commissioner is authorized to use the appropriate resources, both public and private, to competitively procure those identified services, programs, or projects and shall identify total costs for such activities.

F. Notwithstanding § 4-2.03 of this act, the Virginia Department of Transportation shall be exempt from recovering statewide and agency indirect costs from the Federal Highway Administration until an indirect cost plan can be evaluated and developed by the agency and approved by the Federal Highway Administration.

G. The Director, Department of Planning and Budget, is authorized to adjust appropriations

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and allotments for the Virginia Department of Transportation to reflect changes in the official revenue estimates for commonwealth transportation funds.

H. Out of the amounts for General Management and Direction, allocations shall be provided to support the capital lease agreement with Fairfax County for the Northern Virginia District building. An amount estimated at \$7,800,000 the first year and \$7,800,000 the second year from Commonwealth Transportation Funds shall be provided.

I. Notwithstanding any other provisions of law, the Commonwealth Transportation Commissioner may enter into a contract with homeowner associations for grounds-keeping, mowing, and litter removal services.

J. The prioritization process developed under subsection B of Chapter 726 of the 2014 Virginia Acts of Assembly shall not apply to use of funds provided in this item from federal apportionments out of the Surface Transportation Program utilized for Employee Training and Development.

K. Notwithstanding the provisions § 2.2-2402 of the Code of Virginia, no construction, erection, repair, upgrade, removal or demolition of any building, fixture or structure located or to be located on property of the Commonwealth of Virginia under the control of the Virginia Department of Transportation (VDOT) and within the secured area of a residency, area headquarters or district complex shall be subject to review or approval by the Art and Architectural Review Board as contemplated by that section. However, for changes to any building or fixture located on property owned or controlled by VDOT that has been designated or is under consideration for designation as a historic property, then VDOT shall submit such changes to the Art and Architectural Review Board for review and approval by the Board.

459. A full accrual system of accounting shall be effected by the Department, subject to the authority of the State Comptroller, as stated in § 2.2-803, Code of Virginia.

Total for Department of Transportation.....			<b>\$5,642,906,380</b>	<b>\$5,307,408,233</b>
			<b>\$5,780,144,472</b>	<b>\$5,264,463,040</b>
Nongeneral Fund Positions.....	7,725.00	7,725.00		
		7,735.00		
Position Level.....	7,725.00	7,725.00		
		7,735.00		
Fund Sources: General.....	\$40,000,000	\$40,000,000		
Commonwealth Transportation.....	<del>\$4,511,515,400</del>	<del>\$4,296,950,931</del>		
	\$4,648,623,982	\$4,260,428,660		
Trust and Agency.....	<del>\$580,473,618</del>	<del>\$445,071,551</del>		
	\$587,803,128	\$466,448,629		
Dedicated Special Revenue.....	\$503,300,000	\$518,000,000		
	<del>\$496,100,000</del>	<del>\$490,200,000</del>		
Federal Trust.....	\$7,617,362	\$7,385,751		

**§ 1-128. MOTOR VEHICLE DEALER BOARD (506)**

460.	Consumer Affairs Services (55000).....			\$267,500	\$267,500
	Consumer Assistance (55002).....	\$267,500	\$267,500		
	Fund Sources: Special.....	\$267,500	\$267,500		
	Authority: Title 46.2, Chapter 15, Code of Virginia.				
461.	Regulation of Professions and Occupations (56000).....			\$2,581,625	\$2,581,764
	Motor Vehicle Dealer and Salesman Regulation (56023).....	\$1,394,147	\$1,394,147		
	Administrative Services (56048).....	\$1,187,478	\$1,187,617		
	Fund Sources: Special.....	\$2,581,625	\$2,581,764		
	Authority: Title 46.2, Chapter 15, Code of Virginia.				

ITEM 461.	Item Details(\$)		Appropriations(\$)	
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Total for Motor Vehicle Dealer Board.....			\$2,849,125	\$2,849,264
Nongeneral Fund Positions.....	25.00	25.00		
Position Level.....	25.00	25.00		
Fund Sources: Special.....	\$2,849,125	\$2,849,264		

**§ 1-129. VIRGINIA PORT AUTHORITY (407)**

462.	Economic Development Services (53400).....			\$5,288,618	\$5,288,618
	National and International Trade Services (53413).....	\$4,374,365	\$4,374,365		
	Commerce Advertising (53426).....	\$914,253	\$914,253		
	Fund Sources: Special.....	\$5,288,618	\$5,288,618		
	Authority: Title 62.1, Chapter 10, Code of Virginia.				
463.	Port Facilities Planning, Maintenance, Acquisition, and Construction (62600).....			\$95,484,176	\$92,979,251
	Maintenance and Operations of Ports and Facilities (62601).....	\$21,600,000	\$21,600,000		
	Port Facilities Planning (62606).....	\$1,280,247	\$1,280,247		
	Debt Service for Port Facilities (62607).....	\$72,603,929	\$70,099,004		
	Fund Sources: Special.....	\$46,995,757	\$45,676,832		
	Commonwealth Transportation.....	\$45,488,419	\$44,302,419		
	Federal Trust.....	\$3,000,000	\$3,000,000		

Authority: Title 62.1, Chapter 10; Title 33.2, Chapter 1, Code of Virginia.

A. 1. It is hereby acknowledged that, in accordance with § 62.1-140, Code of Virginia, the Virginia Port Authority refunded bonds issued on October 22, 1996, in the amount of \$38,300,000 for the purposes of completing the Phase II Expansion at Norfolk International Terminals and replacing and improving equipment at other port facilities. The debt service on the 2006 refunding bonds is estimated to be \$1,440,075 the first year and \$1,440,075 the second year and all or a portion of such 2006 refunding bonds may be refunded by the authority pursuant to § 62.1-140, Code of Virginia.

2. It is hereby acknowledged that, in accordance with § 62.1-140, Code of Virginia, the Virginia Port Authority issued Commonwealth Port Fund bonds on April 14, 2005, in the amount of \$60,000,000, for the purpose of regrading and reconstruction of Norfolk International Terminals (South), Phase III, land acquisition, and other improvements, Capital Project 407-16644. The debt service on bonds referenced in this paragraph is estimated to be \$4,033,856 the first year and \$4,033,856 the second year, and all or a portion of such bonds may be refunded by the Authority pursuant to § 62.1-140, Code of Virginia.

3. It is hereby acknowledged that, in accordance with § 62.1-140, Code of Virginia, the Virginia Port Authority may issue Commonwealth Port Fund bonds up to the amount of \$125,000,000, for the purpose of developing the Craney Island Marine Terminal and creating road and rail access to such terminal, capital project 407-17513. Such bonds may also be used for the purpose of constructing warehouses at a facility owned by the Virginia Port Authority. All or a portion of such bonds may be refunded by the authority pursuant to § 62.1-140, Code of Virginia. The debt service on the bonds referenced in this paragraph is estimated to be \$9,500,000 the first year and \$9,500,000 the second year.

It is hereby acknowledged that the Virginia Port Authority issued \$57,370,000 of such Commonwealth Port Fund bonds noted in the paragraph above in July 2011 for the purpose of developing the Craney Island Marine Terminal and creating road and rail access to such terminal, capital project 407-17513. The debt service on bonds referenced in this paragraph is estimated to be \$2,868,500 the first year and \$2,868,500 the second year, and all or a portion of such bonds may be refunded by the Authority pursuant to § 62.1-140, Code of Virginia.

4. In the event revenues of the Commonwealth Port Fund are insufficient to provide for the debt service on the Virginia Port Authority Commonwealth Port Fund Revenue Bonds

ITEM 463.	Item Details(\$)		Appropriations(\$)	
	First Year	Second Year	First Year	Second Year
	FY2017	FY2018	FY2017	FY2018

authorized by paragraphs A 1, A 2, A 3, and A 4; or any bonds payable from the revenues of the Commonwealth Port Fund, there is hereby appropriated a sum sufficient first from the legally available moneys in the Transportation Trust Fund and then from the general fund to provide for this debt service. Total debt service on the bonds referenced in paragraphs A 1, A 2, A 3, and A 4 is estimated at \$31,578,591 the first year and \$31,578,591 the second year.

5. Notwithstanding § 62.1-140, Code of Virginia, the aggregate principal amount of Commonwealth Port Fund bonds, and including any other long-term commitment that utilizes the Commonwealth Port Fund, shall not exceed \$440,000,000.

6. It is hereby acknowledged that, in accordance with § 62.1-140, Code of Virginia, the Virginia Port Authority issued Commonwealth Port Fund bonds on January 25, 2012 in the amount of \$108,015,000 to refund Commonwealth Port Fund bonds originally issued on July 11, 2002. Debt service on bonds referenced in this paragraph is estimated to be \$9,055,967 the first year and \$9,055,967 the second year, and all or a portion of such bonds may be refunded by the Authority pursuant to § 62.1-140, Code of Virginia.

7. It is hereby acknowledged that, in accordance with § 62.1-140, Code of Virginia, the Virginia Port Authority issued Commonwealth Port Fund bonds on September 26, 2012 in the amount of \$50,025,000 to refund a portion of Commonwealth Port Fund bonds originally issued on April 14, 2005. Debt service on bonds referenced in the paragraph is estimated to be \$4,680,193 the first year, and \$4,680,193 the second year, and all or a portion of such bonds may be refunded by the Authority pursuant to § 62.1-140, Code of Virginia.

B.1. In accordance with § 62.1-140, Code of Virginia, the Virginia Port Authority has issued Port Facilities Revenue Bonds, Series 1997, in the amount of \$98,065,000 to finance the cost of capital projects for the Virginia Port Authority marine and intermodal terminals. In accordance with § 62.1-140, Code of Virginia, the Virginia Port Authority refunded certain maturities of the bonds in 2007. The debt service on the 2007 refunding bonds is estimated at \$6,347,500 the first year and \$6,347,500 the second year from special funds and all or a portion of such bonds may be refunded by the authority pursuant to § 62.1-140, Code of Virginia. The Virginia Port Authority is authorized to transfer to the Virginia International Terminals Inc. (VIT), from the revenues of the authority's port facilities, funds that are available for the purpose under the Authority's applicable Bond Resolution.

2. In accordance with § 62.1-140, Code of Virginia, the Virginia Port Authority on June 18, 2003, issued additional Port Facilities Revenue bonds in the amount of \$55,155,000 to regrade and reconstruct the Norfolk International Terminal (South) backlands (Phase II, capital outlay project 407-16644), and to construct security related facilities at Norfolk International Terminals (North) and Portsmouth Marine Terminal (capital outlay project 407-16961). Total debt service on these bonds referenced in this paragraph is estimated at \$688,275 the first year and \$688,275 the second year from special funds, and all or a portion of such bonds may be refunded by the authority pursuant to § 62.1-140, Code of Virginia.

3. It is hereby acknowledged that, in accordance with § 62.1-140, Code of Virginia, the Virginia Port Authority may issue additional bonds, in an amount of up to \$90,000,000, for the purposes of the reconstruction and expansion of Norfolk International Terminals, and other improvements to port facilities (capital outlay project 407-17252). The debt service on these bonds, estimated to be \$3,983,188 the first year and \$3,983,188 the second year, will be paid from special funds, and all or a portion of such bonds may be refunded by the authority pursuant to § 62.1-140, Code of Virginia.

4. Prior to the 2006-2008 biennium, the Virginia Port Authority purchased, through their master equipment lease program, equipment at a total cost of \$60,163,170 (capital outlay projects 407-16962 and 407-16989). Total debt service on the equipment leases referenced in this paragraph is estimated at \$2,227,023 the first year and \$2,227,023 the second year from special funds, and such lease purchases may be refunded by the authority.

5. It is hereby acknowledged that, in accordance with § 62.1-140, Code of Virginia, the Virginia Port Authority is authorized to purchase, through a purchase agreement (master

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equipment lease program), terminal operating equipment at a total cost of \$41,493,035 (capital outlay project 407-16962). Total debt service referenced in this paragraph, including any interim financing issued in anticipation of such program, is estimated at \$4,705,242 the first year and \$4,705,242 the second year from special funds, and such lease purchases may be refunded by the authority.				
6. It is hereby acknowledged that, in accordance with § 62.1-140, Code of Virginia, the Virginia Port Authority on April 21, 2010, issued Port Facilities Revenue Refunding bonds in an amount of \$68,630,000, for the purposes of the reconstruction and expansion of Norfolk International Terminals (NIT), reconstruction and expansion of Portsmouth Marine Terminal (PMT), land acquisitions adjacent to NIT and PMT, and other improvements to port facilities (capital outlay project 407-16644). The debt service on these bonds, estimated to be \$4,823,319 the first year and \$4,823,319 the second year, will be paid from special funds, and all or a portion of such bonds may be refunded by the authority pursuant to § 62.1-140, Code of Virginia.				
7. It is hereby acknowledged that, in accordance with § 62.1-140, Code of Virginia, the Virginia Port Authority may issue short-term debt on a revolving basis as interim or anticipation financing in order to cover costs of planning, design, and construction pending the receipt of bond or master equipment lease program proceeds authorized in paragraphs A 4, B 5, and B 6 in an amount not to exceed the authorized amount for the projects. In the aggregate, the short-term debt shall not exceed \$200,000,000 at any point in time and all or a portion of such debt may be refunded by the Authority pursuant to § 62.1-140, Code of Virginia. The debt service, including associated fees, on the short-term debt may be paid, as recommended by the authority and approved by the Board, from the bond or master equipment lease proceeds, special funds, or other revenues or proceeds.				
8. It is hereby acknowledged that, in accordance with § 62.1-140, Code of Virginia, the Virginia Port Authority may issue additional bonds, in an amount up to \$105,500,000 for purposes of expanding port terminal capacity (capital outlay project 407-17956). All or a portion of such bonds may be refunded by the authority pursuant to § 62.1-140, Code of Virginia. The debt service on these bonds, estimated to be \$8,500,000 the first year and \$8,500,000 the second year, will be paid from special funds.				
9. Total debt service paid from special funds for all bonds, lease agreements, and short-term debt noted herein shall not exceed \$45,000,000 the first year and \$45,000,000 the second year, unless approved by the Governor upon execution of the capital lease authorized by Item C-40.10 of Chapter 665, 2015 Acts of Assembly. Such approval shall be reported to the Chairmen of the House Appropriations and Senate Finance Committees within five days of the Governor's action.				
10. It is hereby acknowledged that, in accordance with § 62.1-140, Code of Virginia, the Virginia Port Authority issued Port Facilities Revenue bonds on October 22, 2013, in the amount of \$37,945,000 to refund a portion of Port Facilities Revenue bonds originally issued on June 18, 2003 and October 17, 2006. Debt service on bonds referenced in this paragraph is estimated to be \$1,172,500 the first year and \$1,172,500 the second year, and all or a portion of such bonds may be refunded by the Authority pursuant to § 62.1-140, Code of Virginia.				
11. It is hereby acknowledged that, in accordance with § 62.1-140, Code of Virginia, the Virginia Port Authority is authorized to purchase, through a purchase agreement (master equipment lease program), terminal operating equipment at a total estimated cost of \$37,000,000. Total debt service referenced in this paragraph (including any interim financing issued in anticipation of such program), is estimated at \$5,000,000 the first year and \$5,000,000 the second year from special funds, and such lease purchases may be refunded by the Authority.				
C. In order to remain consistent with the grant of authority as provided in Chapter 10, § 62.1-128 et seq. of the Code of Virginia, the Virginia Port Authority is authorized to maintain independent payroll and nonpayroll disbursement systems and, in connection with such systems, to open and maintain an appropriate account with a qualified public depository. As implementation occurs, these systems and related procedures shall be subject to review and approval by the State Comptroller. The Virginia Port Authority shall continue to provide nonpayroll transaction detail to the State Comptroller through the Commonwealth Accounting and Reporting System.				

ITEM 463.	Item Details(\$)		Appropriations(\$)	
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<p>D. Out of the amounts in this Item, \$10,000,000 the first year and \$10,000,000 the second year from the Commonwealth Port Fund may be used to make lease payments associated with the Virginia International Gateway capital lease.</p> <p>E. The Virginia Port Authority shall include the Commonwealth Railway Mainline Safety Relocation Project Phase 2 - I-664 Pughsville Road to Bowers Hill - Feasibility Study as part of its long-range plan for the development of the Craney Island Marine Terminal and creating road and rail access to such terminal.</p>				
464.	Financial Assistance for Port Activities (62800).....		\$3,422,625	\$3,487,625
	Aid to Localities (62801).....	\$1,000,000		
	Payment in Lieu of Taxes (62802).....	\$2,422,625		
	Fund Sources: General.....	\$1,000,000		
	Special.....	\$1,422,625		
	Commonwealth Transportation.....	\$1,000,000		

Authority: Title 62.1, Chapter 10, Code of Virginia.

A. Of the amounts in this Item, \$1,000,000 the first year and \$1,000,000 the second year from the general fund is appropriated for service charges to be paid to localities in which the Virginia Port Authority owns tax-exempt real estate. The funds shall be transferred to Item 454 of this act for distribution by the Commonwealth Transportation Board for roadway maintenance activities in the jurisdictions hosting Virginia Port Authority facilities and shall be treated as other Commonwealth Transportation Board payments to localities for highway maintenance. These funds shall not be used for other activities nor shall they supplant other local government expenditures for roadway maintenance. These funds shall be distributed to the localities on a pro rata basis in accordance with the formula set out in § 58.1-3403 D, Code of Virginia; however, the proportion of the funds distributed based on cargo traveling through each port facility shall be distributed on a pro rata basis according to twenty-foot equivalent units.

B. Of the amounts authorized in Item 106 A. 1., \$2,000,000 the first year and \$2,000,000 the second year from the general fund may be deposited in the Port of Virginia Economic and Infrastructure Development Zone Grant Fund, created pursuant to § 62.1-132.3:2, Code of Virginia. The Executive Director of the Virginia Port Authority shall disburse the funding in the form of grants to qualified companies in accordance with the provisions of § 62.1-132.3:2, Code of Virginia.

465.	Administrative and Support Services (69900).....		\$97,871,020	<del>\$100,131,020</del> \$106,481,020
	General Management and Direction (69901).....	\$86,830,305	<del>\$88,910,305</del> \$95,260,305	
	Security Services (69923).....	\$11,040,715	\$11,220,715	
	Fund Sources: Special.....	\$96,571,020	<del>\$98,831,020</del> \$105,181,020	
	Commonwealth Transportation.....	\$1,300,000	\$1,300,000	

Authority: Title 62.1, Chapter 10, Code of Virginia.

A. Out of the amounts in this Item, the Executive Director is authorized to expend from special funds amounts not to exceed \$37,500 the first year and \$37,500 the second year, for entertainment expenses commonly borne by businesses. Further, such expenses shall be recorded separately by the agency.

B. Prior to purchasing airline and hotel accommodations related to overseas travel, the Virginia Port Authority shall provide an itemized list of projected costs for review by the Secretary of Transportation.

C. ~~It is hereby acknowledged that, in accordance with §§ 62.1-128 and 62.1-147.2, Code of Virginia, in FY 2010, the Port Authority entered into a 20-year lease to operate a privately owned marine terminal in Portsmouth. Included in this Item is an amount estimated at \$58,450,000 the first year and \$61,650,000 68,000,000 the second year from special funds to cover the costs of this lease. It is hereby acknowledged that, in~~

ITEM 465.	Item Details(\$)		Appropriations(\$)	
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<i>accordance with Item C-40.10 of Chapter 665, 2015 Virginia Acts of Assembly, on November 17, 2016, the Port Authority converted its 20 year operating lease to operate a privately owned marine terminal in Portsmouth to a 49 year capital lease terminating December 31, 2065. Included in this Item is an amount estimated at \$58,450,000 the first year and \$68,000,000 the second year from special funds to cover the costs of this lease.</i>				
Total for Virginia Port Authority.....			<b>\$202,066,439</b>	<b>\$201,886,514</b> <b>\$208,236,514</b>
Nongeneral Fund Positions.....	215.00	215.00		
Position Level.....	215.00	215.00		
Fund Sources: General.....	\$1,000,000	\$1,000,000		
Special.....	\$150,278,020	<del>\$151,284,095</del> \$157,634,095		
Commonwealth Transportation.....	\$47,788,419	\$46,602,419		
Federal Trust.....	\$3,000,000	\$3,000,000		
TOTAL FOR OFFICE OF TRANSPORTATION.....			<b>\$6,852,253,419</b>	<b>\$6,524,884,354</b> <b>\$6,988,449,208</b>
Nongeneral Fund Positions.....	10,103.00	<del>10,103.00</del> 10,117.00		
Position Level.....	10,103.00	<del>10,103.00</del> 10,117.00		
Fund Sources: General.....	\$41,030,253	\$41,030,253		
Special.....	\$155,249,541	<del>\$156,273,203</del> \$162,623,203		
Commonwealth Transportation.....	<del>\$5,433,711,692</del> \$5,569,777,971	<del>\$5,226,252,643</del> \$5,188,693,170		
Trust and Agency.....	<del>\$591,420,218</del> \$598,749,728	<del>\$456,018,151</del> \$477,395,229		
Dedicated Special Revenue.....	\$583,100,000 \$575,900,000	\$597,800,000 \$570,000,000		
Federal Trust.....	\$47,741,715	\$47,510,104		

ITEM 466.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018

**OFFICE OF VETERANS AND DEFENSE AFFAIRS**

**§ 1-130. SECRETARY OF VETERANS AND DEFENSE AFFAIRS (454)**

466.	Disaster Planning and Operations (72200).....			\$1,476,546	\$1,083,197
	Emergency Planning (72205).....	\$1,476,546	\$1,083,197		
	Fund Sources: General.....	\$1,104,627	\$711,167		
	Federal Trust.....	\$371,919	\$372,030		

Authority: Title 2.2, Chapter 3.1, Code of Virginia.

A. Included in this Item is \$200,000 the first year and \$190,000 the second year from the general fund for the grant match required for an Office of Economic Adjustment (OEA) grants.

B.1. There is hereby established a working group comprised of the Secretary of Veterans and Defense Affairs, the Secretary of Health and Human Resources, and the Director, Joint Legislative Audit and Review Commission, or their designees. The working group shall be chaired by the Secretary of Veterans and Defense Affairs.

2. The working group shall conduct a review of mental health and rehabilitative services for veterans, and make recommendations for efficient and effective coordination and monitoring of services for veterans in Virginia, as set forth in § 2.2- 2001.1, Code of Virginia. This review fulfills the requirements of recommendations 13 and 14 of the 2015 JLARC report "Operation and Performance of the Department of Veterans Services".

3. The working group shall conduct a rigorous and objective review to (i) determine the nature of monitoring and coordination needed by veterans in order to receive adequate and timely mental health and rehabilitative services, (ii) measure the current and projected need for coordination and monitoring of mental health and rehabilitative services for veterans; (iii) measure the current and projected capacity of private, federal, state, regional, and local entities to provide monitoring and coordination of mental health and rehabilitative services to veterans, by geographic region of the state; (iv) assess the extent of any gap between need and capacity; and (v) review and report how other states coordinate and monitor mental health and rehabilitative services for veterans. The review of other states shall include an assessment of the advantages and disadvantages of models used by other states.

4. After thoroughly considering alternative approaches, the working group shall recommend how the state can best monitor and coordinate mental health and rehabilitative services to ensure that veterans receive adequate and timely mental health and rehabilitative services as required by statute. The recommendations should include (i) organizational structures, programs, partnerships, staff responsibilities, staff qualifications, and licensure; (ii) statutory or regulatory changes, as necessary; and (iii) estimates of the cost to the state and local governments of implementing these recommendations.

5. All agencies of the Commonwealth shall provide technical or other assistance to the working group, upon request.

6. The working group shall direct the appropriate agency staff to develop a detailed implementation plan for the Virginia Veteran and Family Support program, and present the plan to the Joint Legislative Audit and Review Commission no later than November 15, 2016.

7. Upon unanimous request from the members of the working group, the Director, Department of Planning and Budget, shall transfer \$393,494 from the general fund amounts included within this item to the Department of Veterans Services for the purpose of implementing the recommendations of the working group for the Virginia Veteran and Family Support program.

467.	Economic Development Services (53400).....			\$600,000	\$600,000
	Financial Assistance for Economic Development (53410).....	\$600,000	\$600,000		

ITEM 467.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
Fund Sources: General.....	\$600,000	\$600,000		
<p>A.1. Any administrative reappropriations or other administrative appropriation increases pursuant to Item 458 of the Appropriation Act for the 2014-2016 biennium to address the encroachment of incompatible uses in localities in which the United States Navy Master Jet Base, an auxiliary landing field, or United States Air Force Base are located shall continue to be governed by the provisions contained in the 2014-2016 Appropriation Act. The recurring, dedicated special (nongeneral) fund component of the U.S. Navy Master Jet Base and Auxiliary Landing Field encroachment mitigation program is continued through June 30, 2018.</p> <p>2. In the event that dedicated special revenues generated pursuant to the provisions of the 2014-16 Appropriations Act exceed the amounts needed to fund the requirements set out in that Act, any excess dedicated special fund revenue up to \$2,500,000 is hereby appropriated to provide additional assistance to the locality in which the United States Navy Master Jet Base auxiliary landing field is located for the purpose of purchasing property or development rights and otherwise converting such property to an appropriate compatible use and prohibiting new uses or development which is deemed incompatible with air operations arising from such Master Jet Base.</p> <p>B. Included in this appropriation is \$600,000 in the first year and \$600,000 in the second year from the general fund to support the recommendations of the Governor's Commission on Military Installations and Defense Activities.</p> <p>C. The Secretary of Veterans and Defense Affairs may submit project requests that improve, expand, develop, or redevelop a federal or state military installation or its supporting infrastructure, to enhance its military value to the MEI Project Approval Commission established pursuant to § 30-309, Code of Virginia. The Commission shall recommend approval or denial of such packages to the General Assembly. The authority of the Commission to consider and evaluate such projects shall be in addition to the authorities provided to the MEI Project Approval Commission and § 30-310, Code of Virginia.</p>				
Total for Secretary of Veterans and Defense Affairs...			<b>\$2,076,546</b>	<b>\$1,683,197</b>
General Fund Positions.....	4.00	4.00		
Nongeneral Fund Positions.....	2.00	2.00		
Position Level.....	6.00	6.00		
Fund Sources: General.....	\$1,704,627	\$1,311,167		
Federal Trust.....	\$371,919	\$372,030		

**§ 1-131. DEPARTMENT OF VETERANS SERVICES (912)**

468.	Higher Education Student Financial Assistance (10800).....			\$1,024,135	\$1,039,514
	Education Program Certification for Veterans (10814).....	\$1,024,135	\$1,039,514		
	Fund Sources: General.....	\$147,561	\$162,940		
	Federal Trust.....	\$876,574	\$876,574		

Authority: Title 2.2, Chapters 20, 24, 26, and 27, Code of Virginia.

A. Notwithstanding ~~§ 23-7-4-1~~ § 23.1-608, Code of Virginia, the department shall provide the State Council of Higher Education in Virginia the information these schools need to administer the Virginia Military Survivors and Dependent Education Program. The department shall retain the responsibility to certify the eligibility of those who apply for financial aid under this program.

B. No surviving spouse or child may receive the education benefits provided by ~~§ 23-7-4-1~~ § 23.1-608, Code of Virginia, and funded by this or similar state appropriations, for more than four years or its equivalent.

469.	State Health Services (43000).....			\$57,247,739	<del>\$57,440,262</del> \$57,356,929
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ITEM 469.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
Veterans Care Center Operations (43013).....	\$57,247,739	<del>\$57,440,262</del> \$57,356,929		
Fund Sources: General.....	\$0	\$183,333 \$50,000		
Special.....	\$33,538,822	\$33,548,012		
Dedicated Special Revenue.....	\$70,000	<del>\$70,000</del> \$120,000		
Federal Trust.....	\$23,638,917	\$23,638,917		
Authority: § Title 2.2, Chapters 20, 24, 26, and 27, Code of Virginia.				
470. Veterans Benefit Services (46700).....			\$13,671,095 \$13,527,038	\$15,314,180 \$15,924,308
Case Management Services for Veterans Benefits (46701).....	\$6,832,648	\$7,609,744		
Virginia Veteran and Family Support Services (46702).....	\$3,973,448	<del>\$4,760,436</del> \$5,370,564		
Veterans Employment and Transition Services (46703).....	<del>\$2,864,999</del> \$2,720,942	\$2,944,000		
Fund Sources: General.....	<del>\$12,389,041</del> \$12,244,984	\$14,032,126 \$14,642,254		
Dedicated Special Revenue.....	\$600,000	\$600,000		
Federal Trust.....	\$682,054	\$682,054		
Authority: Title 2.2, Chapters 20, 24, 26, and 27, Code of Virginia.				
<p>A. 1. Out of this appropriation, up to \$500,000 in the first year and up to \$500,000 in the second year from the general fund the second year shall be provided to address the costs associated with support of a grant program to create employment opportunities for veterans by assisting Virginia employers in hiring and retaining veterans. The Department of Veterans Services shall develop program guidelines to ensure that the funding mechanism effectively attracts maximum participation of firms to increase the number of veterans hired.</p> <p>2. Such funds shall be used to provide grants beginning July 1, 2015, to any business located in Virginia with 300 or fewer employees which has hired a veteran on or after July 1, 2014, with the following additional requirements: (a) each such veteran shall have been hired within five years of the date of his or her discharge from active military service and (b) each such veteran shall have been continuously employed by the business in a full-time job for at least one year. The grant shall equal \$1,000 per qualifying business for each veteran who has been hired, and who qualifies under the provisions of this item, up to a maximum grant of \$10,000 per business in the fiscal year.</p> <p>3. Grants shall be issued in the order that each completed eligible application is received. In the event that the amount of eligible grants requested in a fiscal year exceeds the funds available in the Fund, such grants shall be paid in the next fiscal year in which funds are available.</p> <p>4. The Department shall report no later than October 1 of each fiscal year after the program is implemented on the demand for the program, and any shortage of funding resulting from requests in excess of the available appropriation.</p> <p><i>B. Any general fund appropriation for the Virginia Veteran and Family Support Services service area which remains unexpended at the end of the first year shall be reappropriated and allotted for expenditure for the second year.</i></p>				
471. Historic and Commemorative Attraction Management (50200).....			\$3,016,895	\$3,326,449 \$3,336,449
State Veterans Cemetery Management and Operations (50206).....	\$1,878,307	<del>\$1,878,307</del> \$1,888,307		

ITEM 471.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
Virginia War Memorial Management and Operations (50209).....	\$1,138,588	\$1,448,142		
Fund Sources: General.....	\$2,227,126	\$2,536,680		
Special.....	\$198,466	\$198,466		
Dedicated Special Revenue.....	\$5,000	\$5,000		
		\$15,000		
Federal Trust.....	\$586,303	\$586,303		

Authority: Title 2.2, Chapters 20, 24, 26, and 27, Code of Virginia.

The Department of General Services shall continue to provide routine building and grounds maintenance for the Virginia War Memorial as part of services provided under the seat of government rental plan.

472. Administrative and Support Services (49900).....			\$2,819,579	\$2,900,227
				\$2,785,227
General Management and Direction (49901).....	\$2,819,579	<del>\$2,900,227</del>		
		\$2,785,227		
Fund Sources: General.....	\$2,344,984	<del>\$2,423,929</del>		
		\$2,308,929		
Special.....	\$414,595	\$416,298		
Dedicated Special Revenue.....	\$60,000	\$60,000		

Authority: Title 2.2, Chapters 20, 24, 26, 27, Code of Virginia.

*Included within the general fund appropriation for this item is up to \$160,000 the second year to support the operations of the Veterans Services Foundation.*

Total for Department of Veterans Services.....			<del>\$77,779,443</del>	<del>\$80,020,632</del>
			\$77,635,386	\$80,442,427
General Fund Positions.....	<del>160.00</del>	168.00		
	161.00	201.00		
Nongeneral Fund Positions.....	600.00	600.00		
Position Level.....	<del>760.00</del>	768.00		
	761.00	801.00		
Fund Sources: General.....	<del>\$17,108,712</del>	\$19,339,008		
	\$16,964,655	\$19,700,803		
Special.....	\$34,151,883	\$34,162,776		
Dedicated Special Revenue.....	\$735,000	<del>\$735,000</del>		
		\$795,000		
Federal Trust.....	\$25,783,848	\$25,783,848		

**§ 1-132. VETERANS SERVICES FOUNDATION (913)**

472.05 Administrative and Support Services (49900).....			\$0	\$115,000
General Management and Direction (49901).....	\$0	\$115,000		
Fund Sources: General.....	\$0	\$115,000		
Total for Veterans Services Foundation.....			\$0	\$115,000
General Fund Positions.....	0.00	1.00		
Position Level.....	0.00	1.00		
Fund Sources: General.....	\$0	\$115,000		
TOTAL FOR OFFICE OF VETERANS AND DEFENSE AFFAIRS.....			<del>\$79,855,989</del>	<del>\$81,703,829</del>
			\$79,711,932	\$82,240,624
General Fund Positions.....	<del>164.00</del>	173.00		
	165.00	206.00		
Nongeneral Fund Positions.....	602.00	602.00		

ITEM 472.05.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
Position Level.....	766.00 767.00	775.00 808.00		
Fund Sources: General.....	\$18,813,339 \$18,669,282	\$20,650,175 \$21,126,970		
Special.....	\$34,151,883	\$34,162,776		
Dedicated Special Revenue.....	\$735,000	<del>\$735,000</del> \$795,000		
Federal Trust.....	\$26,155,767	\$26,155,878		

ITEM 472.10.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018

CENTRAL APPROPRIATIONS

§ 1-133. CENTRAL APPROPRIATIONS (995)

472.10	Higher Education Academic, Fiscal, and Facility Planning and Coordination (1110).....			\$5,000,000	\$5,000,000
	Interest Earned on Educational and General Programs Revenue (1106).....	\$5,000,000	\$5,000,000		
	Fund Sources: General.....	\$4,000,000	\$4,000,000		
	Higher Education Operating.....	\$1,000,000	\$1,000,000		

A: The standards upon which the public institutions of higher education are deemed certified to receive the payment of interest earnings from the tuition and fees and other nongeneral fund Educational and General revenues shall be based upon the standards provided in § 4-9.01 of this act, as approved by the General Assembly.

B: The estimated interest earnings and other revenues shall be distributed to those specific public institutions of higher education that have been certified by the State Council of Higher Education for Virginia as having met the standards provided in § 4-9.01 of this act, based on the distribution methodology developed pursuant to Chapter 933, Enactment 2, Acts of Assembly of 2005 and reported to the Chairmen of the House Appropriations Committee and Senate Finance Committee.

C: In accordance with § 2.2-5004 and 5005, Code of Virginia, this Item provides \$1,750,000 the first year and \$1,750,000 the second year from the general fund; and \$1,000,000 from nongeneral funds in the first year and \$1,000,000 from nongeneral funds in the second year for the estimated total payment to individual institutions of higher education of the interest earned on tuition and fees and other nongeneral fund Education and General Revenues deposited to the state treasury. Upon certification by the State Council of Higher Education of Virginia that all available performance benchmarks have been successfully achieved by the individual institutions of higher education, the Director, Department of Planning and Budget, shall transfer the appropriation in this Item for such estimated interest earnings to the general fund appropriation of each institution's Educational and General program.

D: This Item also includes \$2,250,000 in the first year and \$2,250,000 the second year from the general fund for the payment to individual institutions of higher education of a pro rata amount of the rebate paid to the State Commonwealth on credit card purchases not exceeding \$5,000 during the previous fiscal year. The State Comptroller shall determine the amount owed to each certified institution, net of any payments due to the federal government, using a methodology that equates a pro rata share based upon the total transactions of \$5,000 or less made by the institution using the state-approved credit card in comparison to all transactions of \$5,000 or less using said approved credit card. By October 15, or as soon thereafter as deemed appropriate, following the year of certification, the Comptroller shall reimburse each institution its estimated pro rata share.

E: Once actual financial data from the year of certification are available, the State Comptroller and the Director, Department of Planning and Budget, shall compare the actual data with estimates used to determine the distribution of the interest earnings, nongeneral fund Educational and General revenues, and the pro rata amounts to the certified institutions of higher education. In those cases where variances exist, the Governor shall include in his next introduced budget bill recommended appropriations to make whatever adjustments to each institution's distributed amount to ensure that each institution's incentive payments are accurate based on actual financial data.

473.	Revenue Administration Services (7320).....			a sum sufficient
	Designated Refunds for Taxes and Fees (73215).....		a sum sufficient	
	Fund Sources: General.....		a sum sufficient	

Authority: Discretionary Inclusion.

A. There is hereby appropriated from the affected funds in the state treasury, for refunds of taxes and fees, and the interest thereon, in accordance with law, a sum sufficient.

ITEM 473.	Item Details(\$)		Appropriations(\$)	
	First Year	Second Year	First Year	Second Year
	FY2017	FY2018	FY2017	FY2018

B. There is hereby established a special fund in the state treasury to be known as the Refund Suspense Fund, hereinafter referred to as the Fund. The Tax Commissioner is hereby authorized to contract with nongovernmental entities for review of requests for refunds of taxes to enhance, expand and/or modify the administration of the refund review program, and to perform analysis of refund processing techniques. The amount of any refund identified by the nongovernmental entity as potentially erroneous shall be deposited to the Fund pending review of the refund request. Amounts in the Fund may be used to pay refunds subsequently determined to be valid, to pay the contracted nongovernmental entity for its services, to perform oversight of their operations, to upgrade necessary refund processing systems and data interfaces to facilitate the contractor's work, to offset any administrative or other costs related to any contracts authorized under this provision, and to retain experts to perform analysis of refund processing techniques. Any balance in the fund remaining after such payments, or provision therefore, shall be deposited into the appropriate general, nongeneral, or local fund.

C. There is hereby appropriated from the affected funds in the state treasury for, (1) refunds of previously paid taxes imposed by the Commonwealth at 100 percent of face value up to the amount of the coalfield employment enhancement tax credit authorized by § 58.1-439.2, Code of Virginia, (2) refunds of any remaining credit at 90 percent of face value for credits earned in taxable years beginning before January 1, 2002, and 85 percent of face value for credits earned in taxable years beginning on and after January 1, 2002, and (3) payment of the remaining 10 or 15 percent credit to the Coalfields Economic Development Authority, a sum sufficient.

474.	Distribution of Tobacco Settlement (74500) a sum sufficient, estimated at.....			\$119,327,905	\$119,327,905
	Payments to Tobacco Producers and Tobacco Growing Communities (74501).....	\$110,000,000	\$110,000,000		
	Payments for Tobacco Usage Prevention (74502)....	\$9,327,905	\$9,327,905		
	Fund Sources: Trust and Agency.....	\$119,327,905	\$119,327,905		

Authority: Title 3.2, Chapters 31, 42 and 46, and Title 32.1, Chapter 14, Code of Virginia.

A.1. There is hereby appropriated a sum sufficient estimated at \$110,000,000 the first year and \$110,000,000 the second year from nongeneral funds for expenditures of securitized proceeds and earnings up to the amount transferred from the endowment to the Tobacco Indemnification and Community Revitalization Fund in accordance with § 3.2-3104, Code of Virginia. Such expenditures shall be made pursuant to § 3.2-3108, Code of Virginia.

2. From the amount deposited into the Tobacco Indemnification and Community Revitalization Fund pursuant to § 3.2-3106, Code of Virginia, shall be paid 50 percent of the costs associated with the diligent enforcement of the non-participating manufacturer statute of the 1998 Tobacco Master Settlement Agreement, § 3.2-4201, Code of Virginia, and Item 56, Paragraph B of this act. These costs shall be paid pursuant to the transfer to the general fund directed by § 3-1.01, Paragraph N.1, of this act.

B.1. Notwithstanding the provisions of §§ 32.1-354, 32.1-360 and 32.1-361.1, Code of Virginia, the State Comptroller shall deposit 8.5 percent of the Commonwealth's Allocation pursuant to the Master Settlement Agreement with tobacco product manufacturers to the Virginia Tobacco Settlement Fund. There is hereby appropriated a sum sufficient estimated at \$9,423,439 the first year and \$9,327,905 the second year from available balances in the fund for the purposes set forth in § 32.1-361, Code of Virginia. No less than \$1,000,000 the first year and \$1,000,000 the second year shall be allocated for obesity prevention activities.

2. From the amount deposited into the Virginia Tobacco Settlement Fund shall be paid 8.5 percent of the costs associated with the diligent enforcement of the non-participating manufacturer statute of the 1998 Tobacco Master Settlement Agreement, § 3.2-4201, Code of Virginia, and Item 59, Paragraph B, of this act. These costs shall be paid pursuant to the transfer to the general fund directed by § 3-1.01, Paragraph N.2, of this act.

3. Beginning November 1, 2010, and each year thereafter, the Director, Virginia Healthy

ITEM 474.	Item Details(\$)		Appropriations(\$)	
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Youth Foundation, shall report to the Chairmen of the House Appropriations and Senate Finance Committees on funding provided to community-based organizations for obesity prevention activities pursuant to § 32.1-355, Code of Virginia.				
C. The amounts deposited by the State Comptroller pursuant to paragraph B.1. of this Item shall be included in the general fund revenue calculations for purposes of subsection C of § 58.1-3524, Code of Virginia.				
475.	Compensation and Benefit Adjustments (75700).....		\$111,897,013 \$42,887,042	\$209,873,830 \$203,767,366
	Adjustments to Employee Compensation (75701).....	(\$26,915,362) \$700,000	\$54,198,108 \$116,171,354	
	Adjustments to Employee Benefits (75702).....	\$138,812,375 \$42,187,042	\$155,675,722 \$87,596,012	
	Fund Sources: General.....	\$111,897,013 \$42,887,042	\$209,873,830 \$203,767,366	

Authority: Discretionary Inclusion.

A. Transfers to or from this Item may be made to decrease or supplement general fund appropriations to state agencies for:

1. Adjustments to base rates of pay;
2. Adjustments to rates of pay for budgeted overtime of salaried employees;
3. Salary changes for positions with salaries listed elsewhere in this act;
4. Salary changes for locally elected constitutional officers and their employees;
5. Employer costs of employee benefit programs when required by salary-based pay adjustments;
6. Salary changes for local employees supported by the Commonwealth, other than those funded through appropriations to the Department of Education; and
7. Adjustments to the cost of employee benefits to include but not limited to health insurance premiums and retirement and related contribution rates.

B. Transfers from this Item may be made when appropriations to the state agencies concerned are insufficient for the purposes stated in paragraph A of this Item, as determined by the Department of Planning and Budget, and subject to guidelines prescribed by the department. Further, the Department of Planning and Budget may transfer appropriations within this Item from the second year of the biennium to the first year, when necessary to accomplish the purposes stated in paragraph A of this Item.

C. Except as provided for elsewhere in this Item, agencies supported in whole or in part by nongeneral fund sources, shall pay the proportionate share of changes in salaries and benefits as required by this Item, subject to the rules and regulations prescribed by the appointing or governing authority of such agencies. Nongeneral fund revenues and balances required for this purpose are hereby appropriated.

D. Any supplemental salary payment to a state employee or class of state employees by a local governing body shall be governed by a written agreement between the agency head of the employee or class of employees receiving the supplement and the chief executive officer of the local governing body. Such agreement shall also be reviewed and approved by the Director of the State Department of Human Resource Management. At a minimum, the agreement shall specify the percent of state salary or fixed amount of the supplement, the resultant total salary of the employee or class of employees, the frequency and method of payment to the agency of the supplement, and whether or not such supplement shall be included in the employee's state benefit calculations. A copy of the agreement shall be made available annually to all employees receiving the supplement. The receipt of a local salary supplement shall not subject employees to any personnel or payroll rules and practices other than those promulgated by the State Department of Human Resource Management.

E. The Governor is hereby authorized to transfer funds from agency appropriations to the

ITEM 475.	Item Details(\$)		Appropriations(\$)	
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	FY2017	FY2018	FY2017	FY2018

accounts of participating state employees in such amounts as may be necessary to match the contributions of the qualified participating employees, consistent with the requirements of the Code of Virginia governing the deferred compensation cash match program. Such transfers shall be made consistent with the following:

1. The maximum cash match provided to eligible employees shall not be less than \$20.00 per pay period, or \$40.00 per month, in each year of the biennium. The Governor may direct the agencies of the Commonwealth to utilize funds contained within their existing appropriations to meet these requirements.

2. The Governor may direct agencies supported in whole or in part with nongeneral funds to utilize existing agency appropriations to meet these requirements. Such nongeneral revenues and balances are hereby appropriated for this purpose, subject to the provisions of § 4-2.01 b of this act. The use of such nongeneral funds shall be consistent with any existing conditions and restrictions otherwise placed upon such nongeneral funds.

43. The procurement of services related to the implementation of this program shall be governed by standards set forth in § 51.1-124.30 C, Code of Virginia, and shall not be subject to the provisions of Chapter 7 (§ 11-35 et seq.), Title 11, Code of Virginia.

F. The Secretary of Administration, in conjunction with the Secretary of Finance, may establish a program that allows for the sharing of cost savings from improved productivity, efficiency, and performance with agencies and employees. Such gain sharing programs require a management philosophy of open communication encouraging employee participation; a system which seeks, evaluates and implements employee input on increasing productivity; and a formula for measuring productivity gains and sharing these gains between employees and the agency. The Department of Human Resource Management, in conjunction with the Department of Planning and Budget, shall develop specific gain sharing program guidelines for use by agencies. The Department of Human Resource Management shall provide to the Governor, the Chairmen of the House Appropriations and Senate Finance Committees an annual report no later than October 1 of each year detailing identified savings and their usage.

G.1. Out of the appropriation for this Item, amounts estimated at ~~\$45,575,724~~*\$45,312,041* the first year and ~~\$91,731,143~~*\$91,173,497* the second year from the general fund shall be transferred to state agencies and institutions of higher education to support the general fund portion of costs associated with changes in the employer's share of premiums paid for the Commonwealth's health benefit plans.

2. Notwithstanding any contrary provision of law, the health benefit plans for state employees resulting from the additional funding in this Item shall allow for a portion of employee medical premiums to be charged to employees.

3. The Department of Human Resource Management shall explore options within the health insurance plan for state employees to promote value-based health choices aimed at creating greater employee satisfaction with lower overall health care costs. It is the General Assembly's intent that any savings associated with this employee health care initiative be retained and used towards funding state employee salary or fringe benefit cost increases.

4. Notwithstanding any other provision of law, it shall be the sole responsibility and authority of the Department of Human Resource Management to establish and enforce employer contribution rates for any health insurance plan established pursuant to §2.2-2818, Code of Virginia.

5. The Department of Human Resource Management is prohibited from establishing a retail maintenance network for maintenance drugs that includes penalties for non-use of the retail maintenance network.

6. The Department of Human Resource Management shall not increase the annual out-of-pocket maximum included in the plans above the limits in effect for the plan year which began on July 1, 2014.

7. The Department of Human Resource Management shall develop and implement a pilot program beginning on July 1, 2017 for a single payment per episode for all services and

ITEM 475.	Item Details(\$)		Appropriations(\$)	
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costs spanning multiple providers across multiple settings for musculoskeletal injury claims to the maximum extent possible. The results of this pilot program, to include changes in return-to-work following injury times and costs of single payment per episode versus traditional payment per visit claim payments, shall be reported to the Governor, the Chairmen of the House Appropriations Committee and the Senate Finance Committee by August 1, 2018.

H.1. Contribution rates paid to the Virginia Retirement System for the retirement benefits of public school teachers, state employees, state police officers, state judges, and state law enforcement officers eligible for the Virginia Law Officers Retirement System shall be based on a valuation of retirement assets and liabilities that are consistent with the provisions of Chapters 701 and 823, Acts of Assembly of 2012.

2. Retirement contribution rates, excluding the five percent employee portion, shall be as set out below and include both the regular contribution rate and for the public school teacher plan the rate calculated by the Virginia Retirement System actuary for the 10-year payback of the retirement contribution payments deferred for the 2010-12 biennium:

	FY 2017	FY2018
Public school teachers	14.66%	16.32%
State employees	13.49%	13.49%
State Police Officers' Retirement System	28.54%	28.54%
Virginia Law Officers' Retirement System	21.05%	21.05%
Judicial Retirement System	41.97%	41.97%

3. Payments to the Virginia Retirement System shall be made no later than the tenth day following the close of each month of the fiscal year.

4. The Director of Department of Planning and Budget shall withhold and transfer to this item, amounts estimated at \$10,022,276 the first year and \$10,458,009 the second year, from the general fund appropriations of state agencies and institutions of higher education, representing the net savings resulting from the changes in employer contributions for state employee retirement as provided for in this paragraph.

5. The funding necessary to support the cost of reimbursements to Constitutional Officers for retirement contributions are appropriated elsewhere in this act under the Compensation Board.

6. The funding necessary to support the cost of the employer retirement contribution rate for public school teachers is appropriated elsewhere in this act under Direct Aid to Public Education.

I.1. Except as authorized in Paragraph I.2. of this Item, rates paid to the Virginia Retirement System on behalf of employees of participating (i) counties, (ii) cities, (iii) towns, (iv) local public school divisions (only to the extent that the employer contribution rate is not otherwise specified in this act), and (v) other political subdivisions shall be based on the employer contribution rates certified by the Virginia Retirement System Board of Trustees pursuant to § 51.1-145(I), Code of Virginia.

2. Rates paid to the VRS on behalf of employees of participating (i) counties, (ii) cities, (iii) towns, (iv) local public school divisions (only to the extent that the employer contribution rate is not otherwise specified in this act), and (v) other political subdivisions shall be based on the employer contribution rates certified by the Virginia Retirement System Board of Trustees pursuant to § 51.1-145(I), Code of Virginia, unless the participating employer notifies VRS that it has opted to base the employer contribution rate on the higher of: a) the contribution rate in effect for FY 2012, or b) seventy percent of the results of the June 30, 2011 actuarial valuation of assets and liabilities as approved by the Virginia Retirement System Board of Trustees for the 2012-14 biennium, eighty percent of the results of the June 30, 2013 actuarial valuation of assets and liabilities as approved by the Virginia Retirement System Board of Trustees for the 2014-16 biennium, ninety percent of the results of the June 30, 2015 actuarial valuation of assets and liabilities as approved by the Virginia Retirement System Board of Trustees for the 2016-18 biennium, and one-hundred percent of the results of the June 30, 2017 actuarial valuation of assets and liabilities as approved by the Virginia Retirement System Board of Trustees for the 2018-20 biennium.

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3. Every participating employer that opts not to use the employer contribution rates certified by the Virginia Retirement System Board of Trustees pursuant to § 51.1-145(I), Code of Virginia, must certify to the board of the Virginia Retirement System by resolution adopted by its local governing body that it: has reviewed and understands the information provided by the Virginia Retirement System outlining the potential future fiscal implications of electing or not electing to utilize the employer contribution rates certified by the Virginia Retirement System Board of Trustees, as provided for in paragraph I.1.

4. Local public school divisions must receive the concurrence of the local governing body if electing to pay the alternate contribution rate set out in paragraph I.2. Such concurrence must be documented by a resolution of the governing body.

5. The board of the Virginia Retirement System shall provide all employers participating in the Virginia Retirement System with a summary of the implications inherent in the use of the employer contribution rates certified by the Virginia Retirement System (VRS) Board of Trustees set out in paragraph I.1, and the alternate employer contribution rates set out in paragraph I.2.

J.1. The Virginia Retirement System Board of Trustees shall account for the employer retirement contribution payments deferred for the 2010-2012 biennium based on limiting employer retirement contributions to the Virginia Retirement System to the actuarial normal cost. In setting the employer retirement contribution rates for subsequent biennia, the board shall calculate a separate, supplemental employer contribution rate that will amortize such deferred payments over a period of ten years using the board's assumed long-term rate of return. The Governor shall include funds to support payment of such board-approved, supplemental employer contribution rates in the budget submitted to the General Assembly.

2. For purposes of setting rates for the 2014-16 biennium, and future biennia, the board shall treat any lump-sum deposits into the retirement system as an expedited repayment of the 2010-2012 deferred contributions for the appropriate system. Should these deposits exceed the remaining amounts owed for the deferred contributions, the balance shall remain in these specific systems to address the overall unfunded liability.

K.1. Contribution rates paid to the Virginia Retirement System for other employee benefits to include the public employee group life insurance program, the Virginia Sickness and Disability Program, the state employee retiree health insurance credit, and the public school teacher retiree health insurance credit, shall be based on a valuation of assets and liabilities that assume an investment return of seven percent and an amortization period of 30 years.

2. Contribution rates paid on behalf of public employees for other programs administered by the Virginia Retirement System shall be:

	FY 2017	FY 2018
State employee retiree health insurance credit	1.18%	1.18%
Public school teacher retiree health insurance credit	1.11%	1.23%
State employee group life insurance program	1.31%	1.31%
Employer share of the public school teacher group life insurance program	0.52%	0.52%
Virginia Sickness and Disability Program	0.66%	0.66%

3. Funding for the Virginia Sickness and Disability Program is calculated on a rate of 0.55 percent of total payroll.

4. Out of the general fund appropriation for this Item is included \$6,055,177 the first year and \$6,318,390 the second year to support the general fund portion of the net costs resulting from changes in employer contributions for state employee benefits as provided

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for in this paragraph.				
5. The funding necessary to support the cost of reimbursements to Constitutional Officers for public employee group life insurance contributions is appropriated elsewhere in this act under the Compensation Board.				
6. The funding necessary to support the cost of the employer public school teacher group life insurance and retiree health insurance credit rates is appropriated elsewhere in this act under Direct Aid to Public Education.				
L.1. The retiree health insurance credit contribution rates for the following groups of state supported local public employees shall be: 0.36 percent for constitutional officers and employees of constitutional officers, 0.42 percent for employees of local social services boards, and 0.41 percent for General Registrars and employees of General Registrars.				
2. Out of the general fund appropriation for this Item is included \$661,062 the first year and \$661,062 the second year to support the general fund portion of the net costs resulting from changes in the retiree health insurance credit contribution rates for state supported local public employees through the Compensation Board, the Department of Social Services, and the Department of Elections pursuant to § 51.1-1403, Code of Virginia.				
M.1. Notwithstanding the provisions of § 2.2-3205(A), Code of Virginia, the terminating agency shall not be required to pay the Virginia Retirement System the costs of enhanced retirement benefits provided for in § 2.2-3204(A), Code of Virginia for employees who are involuntarily separated from employment with the Commonwealth if the Director of the Department of Planning and Budget certifies that such action results from 1. budget reductions enacted in the Appropriation Act, 2. budget reductions executed in response to the withholding of appropriations by the Governor pursuant to §4-1.02 of the Act, 3. reorganization or reform actions taken by state agencies to increase efficiency of operations or improve service delivery provided such actions have been previously approved by the Governor, or 4. downsizing actions taken by state agencies as the result of the loss of federal or other grants, private donations, or other nongeneral fund revenue, and if the Director of the Department of Human Resource Management certifies that the action comports with personnel policy. Under these conditions, the entire cost of such benefits for involuntarily separated employees shall be factored into the employer contribution rates paid to the Virginia Retirement System.				
<i>2. Notwithstanding the provisions of § 2.2-3205(A), Code of Virginia, the terminating agency shall not be required to pay the Virginia Retirement System the costs of enhanced retirement benefits provided for in § 2.2-3204(A), Code of Virginia, for employees who are involuntarily separated from employment with the Commonwealth if the Speaker of the House of Delegates and the Chairman of the Senate Committee on Rules have certified on or after July 1, 2016, that such action results from 1. budget reductions enacted in the Appropriation Act pertaining to the Legislative Department; 2. reorganization or reform actions taken by agencies in the legislative branch of state government to increase efficiency of operations or improve service delivery provided such actions have been approved by the Speaker of the House of Delegates and the Chairman of the Senate Committee on Rules; or 3. downsizing actions taken by agencies in the legislative branch of state government as the result of the loss of federal or other grants, private donations, or other nongeneral fund revenue and if the applicable agency certifies that the actions comport with the provisions of and related policies associated with the Workforce Transition Act. Under these conditions, the entire cost of such benefits for involuntarily separated employees shall be factored into the employer contribution rates paid to the Virginia Retirement System.</i>				
N. The purpose of this paragraph is to provide a transitional severance benefit, under the conditions specified, to eligible city, county, school division or other political subdivision employees who are involuntarily separated from employment with their employer.				
1.a. "Involuntary separation" includes, but is not limited to, terminations and layoffs from employment with the employer, or being placed on leave without pay-layoff or equivalent status, due to budget reductions, employer reorganizations, workforce downsizings, or other causes not related to the job performance or misconduct of the employee, but shall not include voluntary resignations. As used in this paragraph, a "terminated employee" shall mean an employee who is involuntarily separated from employment with his employer.				

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<p>b. The governing authority of a city, county, school division or other political subdivision electing to cover its employees under the provisions of this paragraph shall adopt a resolution, as prescribed by the Board of Trustees of the Virginia Retirement System, to that effect. An election by a school division shall be evidenced by a resolution approved by the Board of such school division and its local governing authority.</p>				
<p>2.a. Any (i) "eligible employee" as defined in § 51.1-132, (ii) "teacher" as defined in § 51.1-124.3, and (iii) any "local officer" as defined in § 51.1.124.3 except for the treasurer, commissioner of the revenue, attorney for the Commonwealth, clerk of a circuit court, or sheriff of any county or city, and (a) for whom reemployment with his employer is not possible because there is no available position for which the employee is qualified or the position offered to the employee requires relocation or a reduction in salary and (b) whose involuntary separation was due to causes other than job performance or misconduct, shall be eligible, under the conditions specified, for the transitional severance benefit conferred by this paragraph. The date of involuntary separation shall mean the date an employee was terminated from employment or placed on leave without pay-layoff or equivalent status.</p>				
<p>b. Eligibility shall commence on the date of involuntary separation.</p>				
<p>3.a. On his date of involuntary separation, an eligible employee with (i) two years' service or less to the employer shall be entitled to receive a transitional severance benefit equivalent to four weeks of salary; (ii) three years through and including nine years of consecutive service to the employer shall be entitled to receive a transitional severance benefit equivalent to four weeks of salary plus one additional week of salary for every year of service over two years; (iii) ten years through and including fourteen years of consecutive service to the employer shall be entitled to receive a transitional severance benefit equivalent to twelve weeks of salary plus two additional weeks of salary for every year of service over nine years; or (iv) fifteen years or more of consecutive service to the employer shall be entitled to receive a transitional severance benefit equivalent to two weeks of salary for every year of service, not to exceed thirty-six weeks of salary.</p>				
<p>b. Transitional severance benefits shall be computed by the terminating employer's payroll department. Partial years of service shall be rounded up to the next highest year of service.</p>				
<p>c. Transitional severance benefits shall be paid by the employer in the same manner as normal salary. In accordance with § 60.2-229, transitional severance benefits shall be allocated to the date of involuntary separation. The right of any employee who receives a transitional severance benefit to also receive unemployment compensation pursuant to § 60.2-100 et seq. shall not be denied, abridged, or modified in any way due to receipt of the transitional severance benefit; however, any employee who is entitled to unemployment compensation shall have his transitional severance benefit reduced by the amount of such unemployment compensation. Any offset to a terminated employee's transitional severance benefit due to reductions for unemployment compensation shall be paid in one lump sum at the time the last transitional severance benefit payment is made.</p>				
<p>d. For twelve months after the employee's date of involuntary separation, the employee shall continue to be covered under the (i) health insurance plan administered by the employer for its employees, if he participated in such plan prior to his date of involuntary separation, and (ii) group life insurance plan administered by the Virginia Retirement System pursuant to Chapter 5 (§ 51.1-500 et seq.) of Title 51.1, or such other group life insurance plan as may be administered by the employer. During such twelve months, the terminating employer shall continue to pay its share of the terminated employee's premiums. Upon expiration of such twelve month period, the terminated employee shall be eligible to purchase continuing health insurance coverage under COBRA.</p>				
<p>e. Transitional severance benefit payments shall cease if a terminated employee is reemployed or hired in an individual capacity as an independent contractor or consultant by the employer during the time he is receiving such payments.</p>				
<p>f. All transitional severance benefits payable pursuant to this section shall be subject to applicable federal laws and regulations.</p>				
<p>4.a. In lieu of the transitional severance benefit provided in subparagraph 3 of this paragraph, any otherwise eligible employee who, on the date of involuntary separation, is</p>				

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<p>also (i) a vested member of a <i>defined benefit plan within</i> the Virginia Retirement System, including the hybrid retirement program described in § 51.1-169, and including a member eligible for the benefits described in subsection B of § 51.1-138, and (ii) at least fifty years of age, may elect to have the employer purchase on his behalf years to be credited to either his age or creditable service or a combination of age and creditable service, except that any years of credit purchased on behalf of a member of the Virginia Retirement System, including a member eligible for the benefits described in subsection B of § 51.1-138, who is eligible for unreduced retirement shall be added to his creditable service and not his age. The cost of each year of age or creditable service purchased by the employer shall be equal to fifteen percent of the employee's present annual compensation. The number of years of age or creditable service to be purchased by the employer shall be equal to the quotient obtained by dividing (i) the cash value of the benefits to which the employee would be entitled under subparagraphs 3.a. and 3.d. of this paragraph by (ii) the cost of each year of age or creditable service. Partial years shall be rounded up to the next highest year. Deferred retirement under the provisions of subsection C of §§ 51.1-153 and <del>51.1-205</del>; and disability retirement under the provisions of § 51.1-156 et seq., shall not be available under this paragraph.</p> <p>b. In lieu of the (i) transitional severance benefit provided in subparagraph 3 of this paragraph and (ii) the retirement program provided in this subsection, any employee who is otherwise eligible may take immediate retirement pursuant to §§ 51.1-155.1 or 51.1-155.2.</p> <p>c. The retirement allowance for any employee electing to retire under this paragraph who, by adding years to his age, is between ages fifty-five and sixty-five, shall be reduced on the actuarial basis provided in subdivision A. 2. of § 51.1-155.</p> <p>d. The retirement program provided in this subparagraph shall be otherwise governed by policies and procedures developed by the Virginia Retirement System.</p> <p>e. Costs associated with the provisions of this subparagraph shall be factored into the employer contribution rates paid to the Virginia Retirement System.</p> <p><i>f. Notwithstanding the foregoing, the provisions of this paragraph N shall apply to an otherwise eligible employee who is a person who becomes a member on or after July 1, 2010, a person who does not have 60 months of creditable service as of January 1, 2013, or a person who is enrolled in the hybrid retirement program described in § 51.1-169, mutatis mutandis.</i></p> <p>O. The final sentence of § 51.1-145 (N), Code of Virginia providing that the employer contribution rate established for each employer may include the annual rate of contribution payable by such employer with respect to employees enrolled in optional defined contribution retirement plans, shall not apply to optional defined retirement plans established under § 51.1-126 for employees engaged in teaching, administrative or research duties at institutions of higher education, § 51.1-126.1 for employees of teaching hospitals other than VCU and UVA Medical Centers, and § 51.1-126.3 for University of Virginia Medical Center employees.</p> <p>P-1: The Governor is hereby authorized to allocate a sum of up to \$69,127,326 the first year and \$121,121,244 the second year from this appropriation to the extent necessary to offset any downward revisions of the general fund revenue estimate prepared for fiscal years 2017 and 2018 after the enactment by the General Assembly of the 2016 Appropriation Act. If within 5 days of the preliminary close of the fiscal year ending on June 30, 2016, the Comptroller's analysis does not determine that a revenue re-forecast is required pursuant to § 2-2-1503.3, Code of Virginia, then such appropriation shall be used only for employee compensation purposes as stated in paragraphs Q-, R-, and S: below:</p> <p>2: Furthermore, the \$48,958,949 the first year and \$85,478,906 the second year from the general fund allocated to support the state share of a two percent salary adjustment for SOQ funded positions authorized in Item 139 of this act shall be unallotted if the provisions of paragraph P-1: are not met and the actions authorized in paragraphs Q-, R-, and S: of this item are not effectuated:</p> <p>3: Furthermore, \$5,363,957 the first year and \$12,181,129 the second year from the general fund appropriated within the Compensation Board, Items 69; 72; 73; 74 and 75; to support increased participation in the career development programs and provide a compression salary adjustment for employees of sheriffs' offices and regional jails shall be unallotted if the</p>				

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provisions of paragraph P.1. are not met and the actions authorized in paragraphs Q., R., and S. of this item are not effectuated:				
4: Furthermore, \$1,593,348 the first year and \$2,500,000 the second year from the general fund appropriated within Item 53 of this Act for the purposes of providing compensation adjustments to district court clerks shall be unallotted if the provisions of paragraph P.1. are not met and the actions authorized in paragraphs Q., R., and S. of this item are not effectuated:				
Q.1: Contingent on the provisions of paragraph P.1. above, the base salary of the following employees shall be increased by three percent on November 10, 2016:				
a: Full-time and other classified employees of the Executive Department subject to the Virginia Personnel Act;				
b: Full-time employees of the Executive Department not subject to the Virginia Personnel Act, except officials elected by popular vote;				
c: Any official whose salary is listed in § 4-6.01 of this act, subject to the ranges specified in the agency head salary levels in § 4-6.01 c;				
d: Full-time staff of the Governor's Office, the Lieutenant Governor's Office, the Attorney General's Office, Cabinet Secretaries' Offices, including the Deputy Secretaries, the Virginia Liaison Office, and the Secretary of the Commonwealth's Office;				
e: Heads of agencies in the Legislative Department;				
f: Full-time employees in the Legislative Department, other than officials elected by popular vote;				
g: Legislative Assistants as provided for in Item 1 of this act;				
h: Judges and Justices in the Judicial Department;				
i: Heads of agencies in the Judicial Department;				
j: Full-time employees in the Judicial Department;				
k: Commissioners of the State Corporation Commission and the Virginia Workers' Compensation Commission; the Chief Executive Officer of the Virginia College Savings Plan; and the Directors of the Virginia Lottery, and the Virginia Retirement System; and				
l: Full-time employees of the State Corporation Commission; the Virginia College Savings Plan; the Virginia Lottery; Virginia Workers' Compensation Commission; and the Virginia Retirement System:				
2.a: Employees in the Executive Department subject to the Virginia Personnel Act shall receive the salary increases authorized in this paragraph only if they attained at least a rating of "Contributor" on their latest performance evaluation:				
b: Salary increases authorized in this paragraph for employees in the Judicial and Legislative Departments; employees of Independent agencies; and employees of the Executive Department not subject to the Virginia Personnel Act shall be consistent with the provisions of this paragraph; as determined by the appointing or governing authority. However, notwithstanding anything herein to the contrary, the governing authorities of those state institutions of higher education with employees not subject to the Virginia Personnel Act may implement salary increases for such employees that may vary based on performance and other employment-related factors. The appointing or governing authority shall certify to the Department of Human Resource Management that employees receiving the awards are performing at levels at least comparable to the eligible employees as set out in subparagraph 2.a. of this paragraph:				
3: The Department of Human Resource Management shall increase the minimum and maximum salary for each band within the Commonwealth's Classified Compensation Plan by three percent on November 10, 2016. No salary increase shall be granted to any employee as a result of this action. The department shall develop policies and procedures				

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	to be used in instances when employees fall below the entry level for a job classification due to poor performance. Movement through the revised pay band shall be based on employee performance.			
	4: Out of the amounts for Supplements to Employee Compensation is included \$57,427,676 the first year and \$98,447,339 the second year from the general fund to support the general fund portion of costs associated with the salary increase provided in this paragraph:			
	5: The following agency heads, at their discretion, may utilize agency funds or the funds provided pursuant to this paragraph to implement the provisions of new or existing performance-based pay plans:			
	a: The heads of agencies in the Legislative and Judicial Departments;			
	b: The Commissioners of the State Corporation Commission and the Virginia Workers' Compensation Commission;			
	c: The Attorney General;			
	d: The Director of the Virginia Retirement System;			
	e: The Director of the Virginia Lottery;			
	f: The Director of the University of Virginia Medical Center;			
	g: The Chief Executive Officer of the Virginia College Savings Plan; and			
	h: The Executive Director of the Virginia Port Authority.			
	6: The base rates of pay, and related employee benefits, for wage employees may be increased by up to three percent no earlier than November 10, 2016. The cost of such increases for wage employees shall be borne by existing funds appropriated to each agency.			
	7: The governing authorities of those state institutions of higher education with employees may provide a salary adjustment based on performance and other employment-related factors, as long as the increases do not exceed the three percent increase on average.			
	R-1: Contingent on the provisions of paragraph P-1: above, the appropriations in this item include funds to increase the base salary of the following employees by two percent on December 1, 2016, provided that the governing authority of such employees certifies that the listed employees will receive the stated pay increase:			
	a: Locally-elected constitutional officers;			
	b: General Registrars and members of local electoral boards;			
	c: Full-time employees of locally-elected constitutional officers and;			
	d: Full-time employees of Community Services Boards; Centers for Independent Living; secure detention centers supported by Juvenile Block Grants; juvenile delinquency prevention and local court service units; local social services boards; local pretrial services act and comprehensive community corrections act employees; and local health departments where a memorandum of understanding exists with the Virginia Department of Health.			
	2: Out of the appropriation for Supplements to Employee Compensation is included \$9,366,317 the first year and \$18,673,905 the second year from the general fund to support the costs associated with the salary increase provided in this paragraph:			
	S: Contingent on the provisions of paragraph P-1: above, \$2,333,333 the first year and \$4,000,000 the second year from the general fund shall be transferred from this Item to the Department of State Police for salary supplements effective November 10, 2016; subject to approval by the Secretary of Public Safety and Homeland Security of a salary compression plan for fiscal year 2017 and for fiscal year 2018. No funds shall be included within such plan for employees of the Department of State Police with less than three years of service as of July 1, 2016. No employee receiving an adjustment under this plan shall receive a salary adjustment pursuant to the funding provided in this paragraph of more than seven percent. The total annualized cost of the salary compression plan can be no more than \$4,000,000 a			

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year. Prior to the implementation of this plan, copies of the approved plan shall be provided to the Chairmen of the House Appropriations and Senate Finance Committees.

T. 1. Notwithstanding the provisions of § 17.1-327, Code of Virginia, any justice, judge, member of the State Corporation Commission, or member of the Virginia Workers' Compensation Commission who is retired under the Judicial Retirement System and who is temporarily recalled to service shall be reimbursed for actual expenses incurred during such service and shall be paid a per diem of \$250 for each day the person actually sits, exclusive of travel time.

2. Out of the general fund appropriation for this Item, \$500,000 in the first year and \$500,000 in the second year is provided to support the costs resulting from the changes in the per diem amounts provided for in paragraph T.1. The Director, Department of Planning and Budget, shall disburse funding from this Item to all affected judicial and independent agencies upon request.

*U. The Director, Department of Planning and Budget, shall transfer from this Item, general fund amounts estimated at \$181,038 the first year and \$181,038 the second year to state agencies and institutions of higher education to support the general fund portion of costs of Line of Duty Act premiums based on the latest enrollment update from the Virginia Retirement System.*

*V. The Director, Department of Planning and Budget, shall withhold and transfer to this Item, an amount estimated at \$279,966 the second year from the general fund appropriations of state agencies and institutions of higher education, representing savings from the workers' compensation premiums provided by the Department of Human Resource Management.*

*W. Out of the appropriation for this Item, \$200,000 the first year and \$50,000 the second year from the general fund is provided for the potential state agency cost of legislative or regulatory changes that impact the personnel practices of state government.*

*X.1. The base salary of the following employees shall be increased by three percent on July 10, 2017:*

- a. Full-time and other classified employees of the Executive Department subject to the Virginia Personnel Act, excluding faculty and appointed officials at institutions of higher education;*
- b. Full-time employees of the Executive Department not subject to the Virginia Personnel Act, except officials elected by popular vote;*
- c. Any official whose salary is listed in § 4-6.01 of this act, subject to the ranges specified in the agency head salary levels in § 4-6.01 c, except appointed officials at institutions of higher education;*
- d. Full-time staff of the Governor's Office, the Lieutenant Governor's Office, the Attorney General's Office, Cabinet Secretaries' Offices, including the Deputy Secretaries, the Virginia Liaison Office, and the Secretary of the Commonwealth's Office;*
- e. Heads of agencies in the Legislative Department;*
- f. Full-time employees in the Legislative Department, other than officials elected by popular vote;*
- g. Legislative Assistants as provided for in Item 1 of this act;*
- h. Judges and Justices in the Judicial Department;*
- i. Heads of agencies in the Judicial Department;*
- j. Full-time employees in the Judicial Department;*
- k. Commissioners of the State Corporation Commission and the Virginia Workers' Compensation Commission, the Chief Executive Officer of the Virginia College Savings Plan, and the Directors of the Virginia Lottery, and the Virginia Retirement System; and*

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<p><i>1. Full-time employees of the State Corporation Commission, the Virginia College Savings Plan, the Virginia Lottery, Virginia Workers' Compensation Commission, and the Virginia Retirement System.</i></p> <p><i>2.a. Employees in the Executive Department subject to the Virginia Personnel Act shall receive the salary increases authorized in this paragraph only if they attained at least a rating of "Contributor" on their latest performance evaluation.</i></p> <p><i>b. Salary increases authorized in this paragraph for employees in the Judicial and Legislative Departments, employees of Independent agencies, and employees of the Executive Department not subject to the Virginia Personnel Act shall be consistent with the provisions of this paragraph, as determined by the appointing or governing authority. The appointing or governing authority shall certify to the Department of Human Resource Management that employees receiving the awards are performing at levels at least comparable to the eligible employees as set out in subparagraph 2.a. of this paragraph.</i></p> <p><i>3. The Department of Human Resource Management shall increase the minimum for each band within the Commonwealth's Classified Compensation Plan by three percent and the maximum salary for each band by three percent plus \$6,793 on July 10, 2017. No salary increase shall be granted to any employee as a result of this action. The department shall develop policies and procedures to be used in instances when employees fall below the entry level for a job classification due to poor performance. Movement through the revised pay band shall be based on employee performance.</i></p> <p><i>4. Out of the amounts for Supplements to Employee Compensation is included \$64,753,370 the second year from the general fund to support the general fund portion of costs associated with the salary increase provided in this paragraph.</i></p> <p><i>5. The following agency heads, at their discretion, may utilize agency funds or the funds provided pursuant to this paragraph to implement the provisions of new or existing performance-based pay plans:</i></p> <p><i>a. The heads of agencies in the Legislative and Judicial Departments;</i></p> <p><i>b. The Commissioners of the State Corporation Commission and the Virginia Workers' Compensation Commission;</i></p> <p><i>c. The Attorney General;</i></p> <p><i>d. The Director of the Virginia Retirement System;</i></p> <p><i>e. The Director of the Virginia Lottery;</i></p> <p><i>f. The Director of the University of Virginia Medical Center;</i></p> <p><i>g. The Chief Executive Officer of the Virginia College Savings Plan;</i></p> <p><i>h. The Executive Director of the Virginia Port Authority; and</i></p> <p><i>i. The Chief Executive Officer of the Virginia Alcoholic Beverage Control Authority.</i></p> <p><i>6. The base rates of pay, and related employee benefits, for wage employees may be increased up to three percent no earlier than July 10, 2017. The cost of such increases for wage employees shall be borne by existing funds appropriated to each agency.</i></p> <p><i>Y.1. The appropriations in this item include funds to increase the base salary of the following employees by two percent on August 1, 2017, provided that the governing authority of such employees use such funds to support salary increases for the following listed employees:</i></p> <p><i>a. Locally-elected constitutional officers;</i></p> <p><i>b. General Registrars and members of local electoral boards;</i></p> <p><i>c. Full-time employees of locally-elected constitutional officers and,</i></p> <p><i>d. Full-time employees of Community Services Boards, Centers for Independent Living, secure detention centers supported by Juvenile Block Grants, juvenile delinquency prevention</i></p>				

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*and local court service units, local social services boards, local pretrial services act and comprehensive community corrections act employees, and local health departments where a memorandum of understanding exists with the Virginia Department of Health.*

*2. Out of the appropriation for Supplements to Employee Compensation is included \$15,590,949 the second year from the general fund to support the costs associated with the salary increase provided in this paragraph.*

*Z.1. The base salaries of faculty members at institutions of higher education shall be increased by two percent on July 10, 2017. The general fund share of the two percent salary adjustment shall be distributed to the following institutions in the amounts indicated below:*

<b>Institution</b>	<b>GF Amount</b>
<i>George Mason University</i>	<i>\$1,973,365</i>
<i>Old Dominion University</i>	<i>\$1,199,470</i>
<i>University of Virginia</i>	<i>\$1,589,837</i>
<i>Virginia Commonwealth University</i>	<i>\$2,099,109</i>
<i>Virginia Tech</i>	<i>\$1,940,479</i>
<i>College of William and Mary</i>	<i>\$710,236</i>
<i>Christopher Newport University</i>	<i>\$368,566</i>
<i>University of Virginia - Wise</i>	<i>\$112,200</i>
<i>James Madison University</i>	<i>\$1,061,224</i>
<i>Longwood University</i>	<i>\$327,291</i>
<i>University of Mary Washington</i>	<i>\$317,856</i>
<i>Norfolk State University</i>	<i>\$328,641</i>
<i>Radford University</i>	<i>\$610,932</i>
<i>Virginia Military Institute</i>	<i>\$111,859</i>
<i>Virginia State University</i>	<i>\$295,548</i>
<i>Richard Bland College</i>	<i>\$55,117</i>
<i>Virginia Community College System</i>	<i>\$3,186,371</i>
<i>Virginia Institute of Marine Science</i>	<i>\$169,332</i>
<i>Virginia Tech Extension</i>	<i>\$524,979</i>
<i>Virginia State University Extension</i>	<i>\$10,987</i>
<b>Total</b>	<b>\$16,993,399</b>

*2. Nothing in this act shall preclude institutions of higher education from providing base salary increases or bonuses to faculty or staff.*

*3. Salary increases authorized in paragraph Z. 1. for employees of the Executive Department not subject to the Virginia Personnel Act shall be consistent with the provisions of this paragraph, as determined by the appointing or governing authority. However, notwithstanding anything herein to the contrary, the governing authorities of those state institutions of higher education with employees not subject to the Virginia Personnel Act may implement salary increases for such employees that may vary based on performance and other employment-related factors. The appointing or governing authority shall certify to the Department of Human Resource Management that employees receiving the awards are performing at levels at least comparable to the eligible employees as set out in paragraph X.1., subparagraph 2.a. of this item.*

*4. The base salaries of faculty members at select institutions of higher education that did not provide a supplement to faculty salaries in fiscal year 2017 shall be provided an additional one percent salary adjustment, in addition to the two percent raise provided to all faculty members at higher education institutions within this paragraph. The additional one percent salary adjustment shall be calculated using the base salary of faculty members at the applicable higher education institutions prior to application of the two percent salary adjustment. The general fund share of the additional one percent salary adjustment shall be distributed to the following institutions in the amounts indicated below:*

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	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018	
<b>Institution</b>				<b>GF Amount</b>	
Virginia Military Institute				\$55,930	
Virginia State University				\$147,774	
Norfolk State University				\$164,320	
James Madison University				\$530,612	
Radford University				\$305,466	
Cooperative Extension and Agricultural Research Services (VSU)				\$5,494	
Richard Bland College				\$27,558	
Christopher Newport University				\$184,283	
<b>Total</b>				<b>\$1,421,437</b>	
<p>5. Out of the appropriation for Adjustments to Employee Compensation is included \$18,414,836 the second year from the general fund to support the costs associated with the salary increases provided in this paragraph.</p> <p>AA. The Director of the Department of Planning and Budget shall transfer \$14,308,309 the second year from the general fund from this item to the Department of State Police to provide each sworn officer of the state police an increase in their annual salary equal to \$6,793 effective July 10, 2017. This increase shall be effectuated prior to any percentage salary increase authorized in this act with the same effective date.</p> <p>BB.1. Out of the amounts for compensation supplements in this item \$2,553,890 from the general fund in the second year is provided for an additional two percent adjustment to the base salary of state employees in the following high turnover job roles effective September 10, 2017 for the purposes of relieving salary compression and maintaining market relevance:</p> <ul style="list-style-type: none"> <li>a. Direct Service Associate I</li> <li>b. Direct Service Associate II</li> <li>c. Direct Service Associate III</li> <li>d. Housekeeping and/or Apparel Worker I</li> <li>e. Registered Nurse I</li> <li>f. Registered Nurse II/Nurse Practitioner I/Physician's Assistant</li> <li>g. Licensed Practical Nurse</li> <li>h. Therapy Assistant/Therapist I</li> <li>i. Therapist II</li> </ul> <p>2.a. Employees in the Executive Department subject to the Virginia Personnel Act shall receive the salary increases authorized in this paragraph only if they attained at least a rating of "Contributor" on their latest performance evaluation.</p> <p>b. Salary increases authorized in this paragraph for employees in the Judicial and Legislative Departments, employees of Independent agencies, and employees of the Executive Department not subject to the Virginia Personnel Act shall be consistent with the provisions of this paragraph, as determined by the appointing or governing authority. The governing authorities of those agencies and state institutions of higher education with employees not subject to the Virginia Personnel Act shall certify to the Department of Human Resource Management that employees receiving the awards are performing at levels at least comparable to the eligible employees as set out in subparagraph 2.a. of this paragraph.</p> <p>3. The salary increase authorized in this paragraph is intended to be in addition to any other salary increase authorized in this act.</p>					
475.10	Miscellaneous Reversion Clearing Account (22600)...			(\$368,832)	(\$785,532)
	Designated Reversions from Agency Appropriations (22601).....	(\$368,832)	(\$785,532)		

ITEM 475.10.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
<i>Fund Sources: General.....</i>	(\$368,832)	(\$785,532)		
<i>Authority: Discretionary Inclusion.</i>				
<i>A. The Director, Department of Planning and Budget shall withhold and transfer to this item, \$368,832 the first year and \$785,532 the second year from the general fund appropriation of Jamestown-Yorktown Commemorations 2019 representing savings resulting from a reduction to the agency.</i>				
475.20			(\$2,869,271)	(\$6,625,797)
<i>Reversion Clearing Account - Miscellaneous (23600).....</i>				
<i>Reversion Clearing Account - Miscellaneous (23601).....</i>	(\$2,869,271)	(\$6,625,797)		
<i>Fund Sources: General.....</i>	(\$2,869,271)	(\$6,625,797)		
<i>Authority: Discretionary Inclusion</i>				
<i>A. 1. The Director, Department of Planning and Budget shall withhold and transfer to this item \$2,869,271 the first year and \$6,625,797 the second year from the general fund appropriation of the Department of Housing and Community Development representing savings resulting from the following reductions to the agency:</i>				
<i>a. Out of the amounts contained in Item 109 A., \$119,271 the first year from the general fund for reduced dues assessment for the Appalachian Regional Commission.</i>				
<i>b. Out of the amounts contained in Item 109 L.1., \$250,000 each year from the general fund for reductions to the Virginia Telecommunication Initiative.</i>				
<i>c. Out of the amounts contained in Item 109 H., \$500,000 the second year from the general fund for reductions to the Virginia Derelict Structures Fund.</i>				
<i>d. Out of the amounts contained in Item 109 M.1., \$1,900,000 the first year and \$5,550,000 the second year from the general fund for reductions to the Virginia Growth and Opportunity Fund.</i>				
<i>e. Out of the amounts contained in Item 109, P., \$600,000 the first year and \$325,797 the second year from the general fund for reductions to the Center for Advanced Engineering and Research resulting from elimination of federal funding.</i>				
<i>2.a. Out of the remaining amounts contained in Item 109 M.1., \$3,600,000 the first year and \$24,450,000 the second year from the general fund shall be deposited to the Virginia Growth and Opportunity Fund to encourage regional cooperation among business, education, and government on strategic economic and workforce development efforts. Notwithstanding § 2.2-2489, Code of Virginia, the first year appropriation of \$3,600,000 shall not require matching funds.</i>				
<i>b. The remaining appropriation contained in Item 109 M.1, and pursuant to §2.2-2487, shall be distributed as follows: (i) \$3,600,000 the first year and \$2,250,000 the second year shall be available to allocate to qualifying regions to support organizational and capacity building activities as well as preparing regional gap analyses on existing skill levels in the workforce versus the skills most likely needed over time based on expected employment and organizational changes; (ii) \$10,900,000 the second year shall be available to allocate to qualifying regions based on each region's share of the state population as well as any unused organizational and capacity building funding allocated in (i) above may be retained by any region and used to support regional projects; (iii) \$11,300,000 the second year shall be available to award to regional councils on a competitive basis.</i>				
476.			\$15,651,027	\$9,123,901
Payments for Special or Unanticipated Expenditures (75800).....			\$15,846,364	\$19,090,835
Miscellaneous Contingency Reserve Account (75801).....	\$2,300,000	\$2,300,000		

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	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
Undistributed Support for Designated State Agency Activities (75806).....	\$13,351,027	\$6,823,901		
	\$13,546,364	\$16,790,835		
Fund Sources: General.....	\$15,651,027	\$9,123,901		
	\$15,846,364	\$18,590,835		
<i>Dedicated Special Revenue</i> .....	\$0	\$500,000		

Authority: Discretionary Inclusion.

A. The Governor is hereby authorized to allocate sums from this appropriation, in addition to an amount not to exceed ~~\$2,000,000~~ \$3,500,000 from the unappropriated balance derived by subtracting the general fund appropriations from the projected general fund revenues in this act, to provide for supplemental funds pursuant to paragraph D hereof. Transfers from this Item shall be made only when (1) sufficient funds are not available within the agency's appropriation and (2) additional funds must be provided prior to the end of the next General Assembly Session.

B.1. The Governor is authorized to allocate from the unappropriated general fund balance in this act such amounts as are necessary to provide for unbudgeted cost increases to state agencies incurred as a result of actions to enhance homeland security, combat terrorism, and to provide for costs associated with the payment of a salary supplement for state classified employees ordered to active duty as part of a reserve component of the Armed Forces of the United States or the Virginia National Guard. Any salary supplement provided to state classified employees ordered to active duty, shall apply only to employees who would otherwise earn less in salary and other cash allowances while on active duty as compared to their base salary as a state classified employee. Guidelines for such payments shall be developed by the Department of Human Resource Management in conjunction with the Departments of Accounts and Planning and Budget.

2. The Governor shall submit a report within thirty days to the Chairmen of House Appropriations and Senate Finance Committees which itemizes any disbursements made from this Item for such costs.

3. The governing authority of the agencies listed in this subparagraph may, at its discretion and from existing appropriations, provide such payments to their employees ordered to active duty as part of a reserve component of the Armed Forces of the United States or the Virginia National Guard, as are necessary to provide comparable pay supplements to its employees.

a. Agencies in the Legislative and Judicial Departments;

b. The State Corporation Commission, the Virginia Workers' Compensation Commission, the Virginia Retirement System, the Virginia Lottery , Virginia College Savings Plan, and the Virginia Office for Protection and Advocacy;

c. The Office of the Attorney General and the Department of Law; and

d. State-supported institutions of higher education.

C. The Governor is authorized to expend from the unappropriated general fund balance in this act such amounts as are necessary, up to \$1,500,000, to provide for indemnity payments to growers, producers, and owners for losses sustained as a result of an infectious disease outbreak or natural disaster in livestock and poultry populations in the Commonwealth. These indemnity payments will compensate growers, producers, and owners for a portion of the difference between the appraised value of each animal destroyed or slaughtered or animal product destroyed in order to control or eradicate an animal disease outbreak and the total of any salvage value plus any compensation paid by the federal government.

D. Out of the appropriation for this item is included \$2,000,000 the first year and \$2,000,000 the second year from the general fund to be used by the Governor as he may determine to be needed for the following purposes:

1. To address the six conditions listed in § 4-1.03 c 5 of this act.

2. To provide for unbudgeted and unavoidable increases in costs to state agencies for essential commodities, services, and training which cannot be absorbed within agency appropriations

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including unbudgeted benefits associated with Workforce Transition Act requirements.

3. To secure federal funds in the event that additional matching funds are needed for Virginia to participate in the federal Superfund program.

4. To provide a payment of up to \$100,000 to the Military Order of the Purple Heart, for the continued operation of the National Purple Heart Hall of Honor, provided that at least half of other states have made similar grants.

5. In addition, if the amounts appropriated in this Item are insufficient to meet the unanticipated events enumerated, the Governor may utilize up to \$1,000,000 the first year and \$1,000,000 the second year from the general fund amounts appropriated for the Commonwealth's Opportunity Fund for the unanticipated purposes set forth in paragraph D.1. through paragraph D.5. of this Item.

6. In addition, to provide for payment of monetary rewards to persons who have disclosed information of wrongdoing or abuse under the Fraud and Abuse Whistle Blower Protection Act.

7. The Department of Planning and Budget shall submit a quarterly report of any disbursements made from, commitments made against, and requests made for such sums authorized for allocation pursuant to this paragraph to the Chairmen of the House Appropriations and Senate Finance Committees. This report shall identify each of the conditions specified in this paragraph for which the transfer is made.

E. Included in this appropriation is \$300,000 the first year and \$300,000 the second year from the general fund to pay for private legal services and the general fund share of unbudgeted costs for enforcement of the 1998 Tobacco Master Settlement Agreement. Transfers for private legal services shall be made by the Director, Department of Planning and Budget upon prior written authorization of the Governor or the Attorney General, pursuant to § 2.2-510, Code of Virginia or Item 59, Paragraph D of this act. Transfers for enforcement of the Master Settlement Agreement shall be made by the Director, Department of Planning and Budget at the request of the Attorney General, pursuant to Item 59, Paragraph B of this act.

F. Notwithstanding the provisions of § 58.1-608.3B.(v), Code of Virginia, any municipality which has issued bonds on or after July 1, 2001, but before July 1, 2006, to pay the cost, or portion thereof, of any public facility pursuant to § 58.1-608.3, Code of Virginia, shall be entitled to all sales tax revenues generated by transactions taking place in such public facility.

G. The Director, Department of Planning and Budget, shall transfer from this Item, general fund amounts estimated at ~~\$5,332,350~~ \$5,915,424 the first year and ~~\$3,659,945~~ \$6,231,160 the second year to state agencies and institutions of higher education to support the general fund portion of costs resulting from the estimated usage of technology services provided by the Virginia Information Technologies Agency.

H.1. Any unexpended general fund balances as of June 30, ~~2016~~ 2017 that were appropriated for the purpose of supporting the City of Richmond in the development of the Slavery and Freedom Heritage Site in Richmond shall ~~not~~ revert to the general fund. ~~but shall instead be reappropriated for its original purpose.~~ Out of the \$2,000,000 originally appropriated up to \$1,000,000 shall be used for improvements to the Slave Trail, and up to \$1,000,000 for costs associated with Lumpkin's Pavilion. *On or before June 30, 2017, the Director, Department of Planning and Budget, shall revert to the general fund an amount estimated at \$1,500,000 from the appropriation authorized in Item 468 I.1. of Chapter 2, 2014 Special Session 1. The Governor is authorized to transfer up to \$500,000 from the unappropriated balance for improvements to the Slave Trail or for costs associated with Lumpkin's Pavilion if reimbursement requests exceed the amounts available in the fiscal year 2016-2018 biennium. It is the intent of the General Assembly to fully meet its commitment to the project as reimbursement requests are made and funding to meet such requests shall be included by the Governor in any budget submission made pursuant to the provisions of §§ 2.2-1508 and 2.2-1509, Code of Virginia.*

2. Prior to the receipt of state funds for the purpose set out in paragraph H.1., the

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<p>Richmond City Council shall pass a resolution outlining its approval of and financial commitment to the proposed project and local matching funds in an amount totaling at least \$5,000,000 which shall be appropriated by the City of Richmond for the project prior to receipt of any state funds. Release of state funding for Lumpkin's Pavilion shall also require evidence that the City of Richmond has raised at least fifty percent of the remaining funding required for that portion of the project from private or other sources.</p>				
<p>3. At such time that the City of Richmond has completed construction of the respective improvements, the City of Richmond shall be eligible for reimbursement from the Commonwealth of an amount not to exceed \$9,000,000, or up to twenty five percent of the total costs of each project.</p>				
<p>4. State funding appropriated in paragraph H.1. and future appropriations considered in paragraph H.3., shall be allocated only as follows: no more than \$5,000,000 shall be allocated for the planning, design, and construction of the Pavilion at Lumpkin's Jail, no more than \$1,000,000 shall be allocated for improvements to the Richmond Slave Trail, and no more than \$5,000,000 shall be allocated for the planning, design and construction of a slavery museum.</p>				
<p>5. The City of Richmond shall provide documentation to the Department of General Services on the progress of this project and actual expenditures incurred for it in a form acceptable to the Secretaries of Finance and Administration.</p>				
<p>6. In addition to the matching requirements set out in paragraph H.2., the City of Richmond shall provide and dedicate appropriate contiguous real estate prior to the receipt of any state funding for the purposes outlined in paragraph H.1 above.</p>				
<p>7. The Department of General Services shall act as the fiscal agent for these funds. The director shall oversee the expenditure of state appropriations to ensure that payments to the City of Richmond are made consistent with the purposes set out in paragraphs H.1. and H.4. The Director, Department of Planning and Budget, is authorized to transfer these funds to the Department of General Services to implement this appropriation.</p>				
<p>8. This appropriation shall be exempt from the disbursement procedures specified in § 4-5.05 of the act</p>				
<p>I. Out of this appropriation, the Director, Department of Planning and Budget, is authorized to transfer an amount up to \$5,000,000 the first year, to the Department of State Police for unanticipated costs associated with mitigating security threats, information technology (IT) security gaps, and the data stored on IT systems used by the Department. The costs eligible for reimbursement shall be for information technology and telecommunications goods and services that have been procured in accordance with the regulations, policies, procedures, standards, and guidelines of the Virginia Information Technologies Agency. These funds may not be transferred until the requirements of Paragraph I.2. of this item have been fulfilled.</p>				
<p>2.The Superintendent of State Police shall develop a prioritized list of information technology projects for the Department of State Police, justify the need for the projects, and identify costs associated with such projects. The Superintendent shall also identify the potential or expected projects to be addressed using the appropriation provided in Paragraph I.1. of this item. The Superintendent shall report the list of projects to the Chairmen of the House Appropriations and Senate Finance Committees no later than August 15, 2016.</p>				
<p><i>3.a. Notwithstanding the provisions of § 2.2-2011, Code of Virginia, the Department of State Police is authorized to procure, develop, operate, and manage the cyber security and management tools required to protect the information technology used by the Department that is defined as out-of-scope from the Virginia Information Technologies Agency pursuant to the Memorandum of Understanding (MOU) between the two agencies dated August 30, 2013. The Department of State Police shall be solely responsible for securing all aspects of information technology defined as out-of-scope in the current MOU.</i></p>				
<p><i>b. Costs expended by the Department of State Police for cyber security and management tools shall be reimbursed by the Director, Department of Planning and Budget from unexpended funds provided in paragraph I.1. of this item, after such expenses have been approved by the Chief Information Office and determined to be in compliance with the regulations, policies, procedures, standards, and guidelines of the Virginia Information Technologies Agency.</i></p>				

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*4.a. The Superintendent of State Police shall develop and report to the Chairmen of the House Committee on Appropriations and Senate Committee on Finance a detailed transition plan addressing the steps required for the Department of State Police to assume responsibility for the development, operation, and management of all of its information technology infrastructure and services. The Department of State Police is authorized to procure consulting services to assist in the development of the detailed transition plan. The Virginia Information Technologies Agency shall assist in the development and drafting of the detailed transition plan.*

*b. The report shall, at a minimum, include a detailed transition plan that: (i) identifies and evaluates anticipated transition timelines, tasks, activities, and responsible parties; (ii) identifies any one-time and ongoing costs of transitioning responsibility for information technology services from the Virginia Information Technologies Agency to the Department of State Police, including the estimated costs to obtain existing information technology assets or transition services from Northrop Grumman; (iii) identifies the ongoing costs of staffing, services, and contracts related to enterprise security and management tools, legacy system replacements or upgrades, construction or lease of facilities including data centers, labor costs and workload analyses, and training costs; (iv) identifies any other such factors deemed necessary for discussion as identified by the Superintendent of State Police or Chief Information Officer of the Commonwealth; (v) identifies necessary statutory changes required to effectuate the transition and modernize current statutes related to basic State Police communication systems consistent with the Criminal Justice Information Services Security Policy Version 5.5, or its successor; and (vi) provides a jointly developed and agreed upon MOU between the Department of State Police and the Virginia Information Technologies Agency that certifies the information.*

*c. Costs expended by the Department of State Police for the development of the detailed transition plan shall be reimbursed by the Director, Department of Planning and Budget from unexpended funds provided in paragraph I.1 of this item, after such expenses have been approved by the Chief Information Office and determined to be in compliance with the regulations, policies, procedures, standards, and guidelines of the Virginia Information Technologies Agency.*

*d. The report and accompanying Memorandum shall be provided to the Chairmen of the House Committee on Appropriations and Senate Committee on Finance no later than September 15, 2017. The Chief Information Officer of the Commonwealth shall review the report and provide an analysis of the detailed transition plan no later than 30 days after submission of the report to the Chairmen of the House Committee on Appropriations and Senate Committee on Finance.*

*5. Included within the appropriation for this item, up to \$2,900,000 the second year from the general fund is provided to reimburse the Department of State Police for costs associated with mitigating information technology security threats and gaps required to protect and manage out-of-scope information technology that is not addressed in paragraph 3.b. All such costs shall be eligible for reimbursement if they have been procured in accordance with the regulations, policies, procedures, standards, and guidelines of the Virginia Information Technologies Agency. The Director, Department of Planning and Budget is authorized to release this funding following certification by the Chief Information Officer that these costs address cyber security threats and gaps, including upgrades to legacy applications to remediate audit findings by the Auditor of Public Accounts or Commonwealth Security and Risk Management.*

*J. Out of this appropriation, \$3,018,677 the first year and \$3,163,956 the second year from the general fund shall be provided to state agencies to support the costs of information technology security audits and information security officer services. With such funding, agencies are encouraged to work with the Virginia Information Technologies Agency's information technology shared security center created pursuant to Item 435 of this act.*

*K. It is the intent of the General Assembly that relief shall be provided to localities for qualifying damages resulting from the tornadoes of February 24, 2016, in accordance with state law and the provisions of Item 57 of this act. Such relief is hereby appropriated in accordance with the provisions of Item 57 of this act from the unexpended balances of the general fund.*



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<p>according to regulations and procedures of the five state energy conservation and benefits programs specified in the Warner Amendment (Section 155, P.L. 97-377) to provide restitution to the broad class of parties injured by the alleged overcharges. These programs are:</p>				
<p>a. Low Income Home Energy Assistance Program, 42 U.S.C. § 8621 et seq.</p>				
<p>b. State Energy Conservation Program, 42 U.S.C. § 6321 et seq.</p>				
<p>c. Energy Extension Service, 42 U.S.C. § 7001 et seq.</p>				
<p>d. Institutional Conservation Program, 42 U.S.C. § 6371 et seq.</p>				
<p>e. Weatherization Assistance Program, 42 U.S.C. § 6861 et seq.</p>				
<p>2. Any expenditure involving oil overcharges from the approved settlement In Re: The Department of Energy Stripper Well Litigation (MDL No. 378) or the approved settlement in the case of the Diamond Shamrock Refining and Marketing Company (Civil Action No. C2-84-1432) shall be utilized to fund one or more energy-related programs which are designed to benefit, directly or indirectly, consumers of petroleum products. These programs shall be limited to:</p>				
<p>a. Administration and operation of the five energy conservation and benefit programs specified under the Warner Amendment (Section 155, P.L. 97-377),</p>				
<p>b. Those programs approved by the U.S. Department of Energy's Office of Hearings and Appeals in Subpart V Refund Proceedings,</p>				
<p>c. Those programs referenced in the Chevron consent order (46 FR 52221), and</p>				
<p>d. Such other restitutionary programs approved by the District Court or the U.S. Department of Energy's Office of Hearings and Appeals.</p>				
<p>C. Before appropriations to the Oil Overcharge Expendable Trust Fund can be expended, approval for the use of the funds must be obtained from the United States Department of Energy. Applications to the United States Department of Energy must be made through the Department of Mines, Minerals and Energy.</p>				
<p>D. The Governor shall submit such statements and reports as are required by court orders, settlements, or the Departments of Energy or Health and Human Services regarding use(s) of these funds and shall also report to the Chairmen of the House Appropriations and Senate Finance Committees on the activities funded by transfers from this Item only in fiscal years in which activities have occurred.</p>				
478.10	<p>A.1. For each year of the biennium, there is hereby appropriated from the general fund of the state treasury an amount as specified in paragraphs A.3. and A.4. below, to fund certain capital projects that are presently authorized for funding from debt issuances by either the Virginia College Building Authority or the Virginia Public Building Authority, to the extent that the existing debt for such capital projects has not been issued. The Governor shall recommend an equivalent reduction in the amount of debt authorization for the affected projects so that overall, there is no decrease or increase in total funding for such projects.</p>			
	<p>2. It is the intent of the General Assembly that any appropriation pursuant to this Item only be used to reduce the total authorized but unissued debt such that general fund cash becomes the funding source for certain capital outlay projects rather than debt. In making this substitution, priority shall be given to maintenance reserve or other small capital outlay projects that are better suited to be funded from cash or to taxable debt projects which offer the opportunity to obtain greater debt service cost savings, if funded by cash rather than debt.</p>			
	<p>3. For the first fiscal year of the biennium, the appropriation specified in paragraph A.1. above shall be equal to the lesser of \$181,900,000 or the actual total general fund revenue collections for fiscal year ending June 30, 2016, reduced by any amounts needed to meet the Constitutional or statutory deposit to the Revenue Stabilization Fund and the statutory</p>			

ITEM 478.10.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018

deposit concerning surplus revenue to the Water Quality Improvement Fund, as certified by the State Comptroller, minus the "official revenue estimate" for general fund revenues for the second year of the biennium as contained in the second enactment of Senate Bill 29 of the 2016 General Assembly, as enacted.

4. For the second year of the biennium the appropriation specified in paragraph A.1. above shall be equal to the lesser of \$188,200,000 or the actual total general fund revenue collections for fiscal year ending June 30, 2017, reduced by any amounts needed to meet the Constitutional or statutory deposit to the Revenue Stabilization Fund and the statutory deposit concerning surplus revenue to the Water Quality Improvement Fund, as certified by the State Comptroller, minus the "official revenue estimate" for general fund revenues for the first year of the biennium as contained in the first enactment of this Act.

B. The State Comptroller shall make a commitment for any amount appropriated in this Item pursuant to paragraph A.3. above on the balance sheet of the Commonwealth for June 30, 2016. The State Comptroller shall make a commitment for any amount appropriated in this Item pursuant to paragraph A.4. above on the balance sheet of the Commonwealth for June 30, 2017.

C.1. The Director of the Department of Planning and Budget shall report quarterly to the State Treasurer and to the Six Year Capital Outlay Planning Advisory Committee, established by § 2.2-1516 Code of Virginia, identifying the projects for which the debt authorization was replaced by appropriations pursuant to paragraph A1. above.

2. Upon notification from the Director of the Department of Planning and Budget that appropriations pursuant to paragraph A1. above have been made, the State Treasurer shall not issue any debt for the affected projects.

478.20	Financial Assistance For Educational and General Services (11000).....			\$8,000,000	\$0
	Sponsored Programs (11004).....	\$8,000,000	\$0		
	Fund Sources: General.....	\$8,000,000	\$0		

A. 1. Out of this appropriation, \$8,000,000 the first year from the general fund is provided to offer one-time incentive packages to attract high performing researchers with a history of commercialization subject to meeting the conditions of paragraph B.

2. Out of the amounts authorized in Item C-52.10, \$20,000,000 the first year shall be made available for lab renovations and enhancements and / or research equipment at the Global Genomics and Bioinformatics Research Institute for George Mason University, Old Dominion University, the University of Virginia, Virginia Commonwealth University, Virginia Tech and the College of William and Mary subject to meeting the conditions in paragraph B.

B. The conditions required in order to receive an allocation from this item are:

1. For a project to be eligible at least two institutions or one institution and one private sector company must partner with INOVA at the Global Genomics and Bioinformatics Research Institute;

2. Projects are required to have undergone the vetting process from the Global Genomics and Bioinformatics Research Institute which would include a peer review board based on scientific expertise;

3. Amounts requested from this item by the partnering institutions in paragraph A. shall be matched by two dollars from the INOVA Global Genomics and Bioinformatics Research Institute;

4. In addition, amounts requested by the partnering institutions in paragraph A. shall be matched by one dollar from any combination of the partnering entities provided that at least one-half of the one-dollar match is from new resources.

C. Upon meeting the conditions of paragraph B., the institutions shall submit their funding request application directly to the Virginia Research Investment Committee established in § ~~23-306~~ § 23.1-3132 for review and evaluation. After completing its review, the Virginia Research Investment Committee, pursuant to § ~~23-307~~ § 23.1-3133 shall approve or deny the

ITEM 478.20.	Item Details(\$)		Appropriations(\$)	
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request for an allocation.				
478.30 Revenue Cash Reserve (23700).....			\$0	\$35,000,000
Appropriated Revenue Reserve (23701).....	\$0	\$35,000,000		
Fund Sources: General.....	\$0	\$35,000,000		
<i>Authority: Discretionary Inclusion.</i>				
<i>A. There is hereby appropriated in this item \$35,000,000 from the general fund the second year to establish a Revenue Cash Reserve to mitigate any potential revenue shortfalls that may arise during the remainder of the biennium. This appropriation includes an amount, estimated at \$31,306,555, anticipated to be generated by the Virginia Tax Amnesty Program authorized by House Bill 2246 and Senate Bill 1438, 2017 Session of the General Assembly above the amounts anticipated to be collected by such program in the revenue forecast contained in the first enactment of House Bill 1500 and Senate Bill 900 as introduced.</i>				
<i>B. Any additional collections generated by the Virginia Tax Amnesty Program exceeding the revenue estimate of such program included within the official fiscal year 2018 revenue estimate contained in the first enactment of this act also shall be deposited into the cash reserve.</i>				
<i>C. To determine the amounts that are to be deposited into such reserve, the comptroller shall first determine the tax amnesty program revenues that were collected in excess of the revenues forecast from such program in House Bill 1500 and Senate Bill 900 as enacted.</i>				
<i>D. The comptroller shall then reflect the excess revenues as a commitment on the preliminary balance sheet entitled Revenue Cash Reserve to be held solely for the purposes of mitigating any loss of general fund revenues in fiscal year 2018 from the official forecast contained in this act.</i>				
<i>E. The comptroller may draw against the balances of the Revenue Cash Reserve for an amount equal to any shortfall in general fund revenue collections from the official forecast contained in this act for fiscal year 2018.</i>				
Total for Central Appropriations.....			<b>\$259,875,945</b> <b>\$182,823,208</b>	<b>\$343,325,636</b> <b>\$369,774,777</b>
Fund Sources: General.....	\$139,548,040 \$63,495,303	\$222,997,731 \$249,946,872		
Higher Education Operating.....	\$1,000,000 \$0	\$1,000,000 \$0		
Trust and Agency.....	\$119,327,905	\$119,327,905		
Dedicated Special Revenue.....	\$0	\$500,000		
TOTAL FOR CENTRAL APPROPRIATIONS.....			<b>\$259,875,945</b> <b>\$182,823,208</b>	<b>\$343,325,636</b> <b>\$369,774,777</b>
Fund Sources: General.....	\$139,548,040 \$63,495,303	\$222,997,731 \$249,946,872		
Higher Education Operating.....	\$1,000,000 \$0	\$1,000,000 \$0		
Trust and Agency.....	\$119,327,905	\$119,327,905		
Dedicated Special Revenue.....	\$0	\$500,000		
TOTAL FOR EXECUTIVE DEPARTMENT.....			<b>\$50,677,985,504</b> <b>\$51,003,873,417</b>	<b>\$50,587,731,235</b> <b>\$50,720,610,107</b>
General Fund Positions.....	48,502.92 48,492.92	48,531.20 48,302.35		
Nongeneral Fund Positions.....	63,629.32 64,047.82	63,782.04 64,540.89		
Position Level.....	112,132.24 112,540.74	112,313.24 112,843.24		
Fund Sources: General.....	\$19,772,741,498 \$19,549,120,905	\$19,719,208,059 \$19,784,449,728		

ITEM 478.30.	Item Details(\$)		Appropriations(\$)	
	First Year	Second Year	First Year	Second Year
	FY2017	FY2018	FY2017	FY2018
Special.....	\$1,663,768,226	\$1,658,529,375		
	\$1,667,547,567	\$1,676,086,252		
Higher Education Operating.....	\$8,431,245,202	\$8,519,743,019		
	\$8,541,179,807	\$8,249,002,756		
Commonwealth Transportation.....	\$5,448,378,982	\$5,240,920,041		
	\$5,585,951,483	\$5,204,941,790		
Enterprise.....	\$1,194,944,094	\$1,241,496,886		
	\$1,215,067,094	\$1,262,573,839		
Internal Service.....	\$2,026,774,865	\$2,125,592,321		
	\$2,077,103,387	\$2,174,937,786		
Trust and Agency.....	\$2,212,398,018	\$2,048,553,514		
	\$2,299,781,502	\$2,099,963,234		
Debt Service.....	\$329,454,313	\$329,792,988		
		\$337,468,916		
Dedicated Special Revenue.....	\$1,787,971,910	\$1,781,610,793		
	\$1,816,192,407	\$1,786,783,284		
Federal Trust.....	\$7,810,308,396	\$7,922,284,239		
	\$7,922,474,952	\$8,144,402,522		

ITEM 479.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018

INDEPENDENT AGENCIES

§ 1-134. STATE CORPORATION COMMISSION (171)

479.	Regulation of Business Practices (55200).....			\$63,405,897	\$63,409,235 \$64,509,235
	Corporation Commission Clerk's Services (55203)..	\$11,977,276	<del>\$11,977,954</del> \$13,077,954		
	Regulation of Investment Companies, Products and Services (55210).....	\$7,360,191	\$7,360,574		
	Regulation of Financial Institutions (55215).....	\$15,410,623	\$15,411,285		
	Regulation of Insurance Industry (55216).....	\$28,657,807	\$28,659,422		
	Fund Sources: Special.....	\$63,405,897	<del>\$63,409,235</del> \$64,509,235		

Authority: Article IX, Constitution of Virginia; Title 8.9A, Part 4; Title 12.1, Chapter 4; Title 13.1; Title 55, Chapter 6, Article 6; Title 56, Chapter 15, Article 5; Title 58.1, Chapter 28; Title 59.1, Chapter 6.1, Code of Virginia; Title 13.1, Chapter 3.1; Title 38.2; Title 58.1, Chapter 25; and Title 65.2, Chapter 8, Code of Virginia.

A. Out of this appropriation, the State Corporation Commission is authorized to expend an amount not to exceed \$10,000 the first year and \$10,000 the second year for the payment of annual membership dues to the National Conference of Insurance Legislators.

B. Out of this appropriation, \$3,000,000 the first year and \$3,000,000 the second year is designated for replacement of the Clerk's Information System.

C. Out of the amounts for this item, \$1,100,000 the second year is provided to effectuate the provisions of House Bill 2111 of the 2017 General Assembly Session which allows the Commission to absorb the credit card and eCheck convenience fees as opposed to passing them on to the filers and also grants the Commission the discretion to not charge a fee for providing copies of certain documents.

480.	Regulation of Public Utilities (56300).....			\$28,927,754	\$28,929,566 \$29,268,938
	Regulation of Utility Companies (56301).....	\$28,927,754	<del>\$28,929,566</del> \$29,268,938		
	Fund Sources: Special.....	\$23,716,317	<del>\$23,717,179</del> \$24,056,551		
	Dedicated Special Revenue.....	\$1,861,437	\$1,862,387		
	Federal Trust.....	\$3,350,000	\$3,350,000		

Authority: Title 56, Chapter 10, Code of Virginia.

481.	Distribution of Fees From and To Regulated Entities and Localities (56400).....			\$6,856,941	\$6,856,941
	Distribution of Uninsured Motorist Fee (56401).....	\$6,340,845	\$6,340,845		
	Distribution of Rolling Stock Taxes (56402).....	\$516,096	\$516,096		
	Fund Sources: Trust and Agency.....	\$6,856,941	\$6,856,941		

Authority: § 58.1-2652, Code of Virginia.

482.	Administrative and Support Services (59900).....				
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Authority: Title 12.1, Code of Virginia; Article IV, Section 14 and Article IX, Constitution of Virginia.

A. Operational costs for this program shall be paid solely from charges to agency programs.

B. Out of the amounts for this Item, shall be paid the annual salary of the chairman, \$171,929 from July 1, 2016, to June 30, 2018, and for the other two Commissioners of the State Corporation Commission, each at \$170,046 from July 1, 2016, to June 30, 2018.

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<p>C. Notwithstanding the provisions of § 13.1-775.1, Code of Virginia, the State Corporation Commission shall continue the following annual registration fees for domestic and foreign corporations. The new annual rates shall be \$100 for every foreign and domestic corporation authorized to do business in the Commonwealth whose number of authorized shares is 5,000 shares or less. Any such corporation whose number of authorized shares is more than 5,000 shall pay an annual registration fee of \$100 plus \$30 for each 5,000 shares or fraction thereof in excess of 5,000 up to a maximum of \$1,700. The commission shall deposit these funds into a special fund and transfer three-fourths of the receipts to the general fund semiannually.</p>				
483.	Plan Management (40800).....		\$201,256	\$201,292
	Federal Health Benefit Exchange Plan Management (40801).....	\$201,256	\$201,292	
	Fund Sources: General.....	\$201,256	\$201,292	
<p>Authority: §§ 38.2-316.1 and 38.2-326, Code of Virginia; § 42.18041 c, United States Code.</p> <p>There is hereby appropriated to the State Corporation Commission \$201,256 the first year and \$201,292 the second year from the general fund to pay for the plan management functions authorized in Chapter 670 of the Acts of Assembly of 2013.</p>				
	Total for State Corporation Commission.....		<b>\$99,391,848</b>	<b>\$99,397,034</b> <i>\$100,836,406</i>
	Nongeneral Fund Positions.....	665.00	<del>665.00</del> 669.00	
	Position Level.....	665.00	<del>665.00</del> 669.00	
	Fund Sources: General.....	\$201,256	\$201,292	
	Special.....	\$87,122,214	<del>\$87,126,414</del> \$88,565,786	
	Trust and Agency.....	\$6,856,941	\$6,856,941	
	Dedicated Special Revenue.....	\$1,861,437	\$1,862,387	
	Federal Trust.....	\$3,350,000	\$3,350,000	
<b>§ 1-135. VIRGINIA LOTTERY (172)</b>				
484.	State Lottery Operations (81100).....		<del>\$99,164,515</del> \$109,422,029	<del>\$99,166,361</del> \$99,607,813
	Regulation and Law Enforcement (81105).....	\$3,119,677	\$3,119,677	
	Gaming Operations (81106).....	<del>\$82,624,350</del> \$92,624,350	\$82,624,350	
	Administrative Services (81107).....	<del>\$13,420,488</del> \$13,678,002	<del>\$13,422,334</del> \$13,863,786	
	Fund Sources: Enterprise.....	<del>\$99,164,515</del> \$109,422,029	<del>\$99,166,361</del> \$99,607,813	
<p>Authority: Title 58.1, Chapter 40, Code of Virginia.</p> <p>Out of the amounts for Virginia Lottery Operations shall be paid:</p> <ol style="list-style-type: none"> <li>1. Reimbursement for compensation and reasonable expenses of the members of the Virginia Lottery Board in the performance of their duties, as provided in § 2.2-2813, Code of Virginia.</li> <li>2. The total costs for the operation and administration of the state lottery, pursuant to § 58.1-4022, Code of Virginia.</li> <li>3. The costs of informing the public of the purposes of the Lottery Proceeds Fund, established pursuant to Article X, Section 7-A, Constitution of Virginia.</li> </ol>				
485.	Disbursement of Lottery Prize Payments (81200).....		a sum sufficient	
	Payment of Lottery Prizes (81201).....	a sum sufficient		
	Fund Sources: Enterprise.....	a sum sufficient		

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Authority: Title 58.1, Chapter 40, Code of Virginia.				
There is hereby appropriated from affected funds in the state treasury, for payment of prizes awarded by the state lottery and of commissions to lottery sales agents, in accordance with law, a sum sufficient.				
Total for Virginia Lottery.....			<del>\$99,164,515</del> \$109,422,029	<del>\$99,166,361</del> \$99,607,813
Nongeneral Fund Positions.....	308.00	308.00		
Position Level.....	308.00	308.00		
Fund Sources: Enterprise.....	<del>\$99,164,515</del> \$109,422,029	<del>\$99,166,361</del> \$99,607,813		

**§ 1-136. VIRGINIA COLLEGE SAVINGS PLAN (174)**

486.	Investment, Trust, and Insurance Services (72500) a sum sufficient, estimated at.....			\$214,000,000	\$250,000,000
	Payments for Tuition and Educational Expense Benefits (72505).....	\$214,000,000	\$250,000,000		
	Fund Sources: Enterprise.....	\$214,000,000	\$250,000,000		

Authority: Title 23, ~~Chapter 4-9; Chapter 7,~~ Chapter 7, Code of Virginia.

A. Amounts for Payments for Tuition and Educational Expense Benefits represent the payment of benefits to postsecondary educational institutions on behalf of program participants under the Virginia529 prePAID Program, estimated at \$214,000,000 the first year and \$250,000,000 the second year, from nongeneral funds pursuant to § 23-38-76, § 23.1-701, Code of Virginia.

~~B. Any moneys collected, distributed or held for the benefit of participants under the Virginia529 inVEST Program and other higher education savings programs; including any income from such funds; are not subject to the provisions of §§ 2.2-1800 through 2.2-1825, inclusive; or § 23.1-701 (C) of the Code of Virginia requiring deposit in the State Treasury. This provision does not apply to the Virginia529 prePAID Program, or Plan administrative fee revenue:~~

~~B.1. Any moneys collected, distributed or held for the benefit of participants under the Virginia529 inVEST Program and other higher education savings programs, including any income from such funds, are subject to the provisions of § 23.1-701.B. of the Code of Virginia.~~

~~2. Any moneys collected, distributed or held for the benefit of participants under the Virginia529 prePAID Program, or any Plan administrative revenue, including any income from such funds, are subject to § 23.1-701.C. of the Code of Virginia.~~

C. Amounts for Payments for Tuition and Educational Expense Benefits cover the current obligations of the fund as provided for in Title ~~23.1,~~ Chapter 4-9 7, Code of Virginia.

487.	Information Technology Development and Operations (82000).....			\$1,805,562	\$1,906,855
	Information Systems Development Services (82004).....	\$1,805,562	\$1,906,855		
	Fund Sources: Enterprise.....	\$1,805,562	\$1,906,855		

Authority: Title ~~23.1,~~ Chapter 4-97, Code of Virginia.

The Virginia College Savings Plan is authorized to establish a self-supporting “operational enterprise” fund to account for the revenues and expenditures of providing services to other college savings plans operated under § 529 of the Internal Revenue Code, as amended, at locations outside of the Commonwealth of Virginia. Consistent with the self-supporting concept of an “enterprise fund,” revenues from operations performed for programs outside of Virginia shall exceed all direct and indirect costs of providing these services. The board shall set rates charged to meet this requirement and shall set other

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policies as may be appropriate. Revenues and expenses of the fund shall be accounted for in such a manner as to be auditable by the Auditor of Public Accounts. Revenues in excess of expenses shall be retained in the fund to support the entire program. Additionally, revenues that remain unexpended on the last day of the previous biennium and the last day of the first year of the current biennium shall be reappropriated and allotted for expenditure in the respective succeeding fiscal year.				
488.	Administrative and Support Services (79900).....		\$25,593,353	<del>\$24,359,984</del> \$25,359,984
	General Management and Direction (79901).....	\$10,805,401	\$11,083,552	
	Investment, Trust and Related Services for Virginia529 prePAID Program (79950).....	\$5,873,959	<del>\$5,903,259</del> \$6,903,259	
	Trust and Related Services for Virginia529 inVEST Program and other Higher Education Savings Programs (79951).....	\$6,086,155	\$6,115,455	
	Investment, Trust and Related Services for Achieving a Better Life Experience (ABLE) Program (79952).....	\$2,827,838	\$1,257,718	
	Fund Sources: Enterprise.....	\$25,593,353	<del>\$24,359,984</del> \$25,359,984	
Authority: Title <del>23</del> 23.1, Chapter <del>4</del> 97, Code of Virginia.				
A. Out of the amounts appropriated to this Item, \$650,000 the first year and \$650,000 the second year from nongeneral funds are designated for a comprehensive compensation plan to link pay to performance.				
B. Amounts for Investment, Trust and Related Services cover variable or unpredictable costs of the Virginia529 prePAID Program, estimated at \$5,873,959 the first year and <del>\$5,903,259</del> \$6,903,259 the second year, from nongeneral funds pursuant to <del>§ 23-38.76</del> , § 23.1-701, Code of Virginia.				
C. Amounts for Investment, Trust and Related Services cover variable and unpredictable costs of the Virginia529 inVEST Program and other higher education savings programs, estimated at \$6,086,155 the first year and \$6,115,455 the second year, from nongeneral funds pursuant to <del>§ 23-38.76</del> , § 23.1-701, Code of Virginia.				
<i>D.1. Included in this appropriation is \$2,000,000 in the second year from nongeneral funds to support SOAR Virginia scholarships.</i>				
<i>2. Of the appropriation provided in D.1., \$1,000,000 shall be from existing appropriations provided in this item.</i>				
<i>3. The funding provided to SOAR Virginia in D.1. and D.2. above are contingent upon the Virginia529 prePAID fund having an actuarial fund value of at least 100 percent in the prior fiscal year and Virginia529 operating expenses must have less than a 70 percent operating expense to operating revenue ratio in the prior fiscal year unless otherwise authorized by the Governor.</i>				
	Total for Virginia College Savings Plan.....		\$241,398,915	<del>\$276,266,839</del> \$277,266,839
	Nongeneral Fund Positions.....	115.00	115.00	
	Position Level.....	115.00	115.00	
	Fund Sources: Enterprise.....	\$241,398,915	<del>\$276,266,839</del> \$277,266,839	

**§ 1-137. VIRGINIA RETIREMENT SYSTEM (158)**

489.	Personnel Management Services (70400).....		\$13,338,829 \$16,911,431	\$13,381,244 \$17,290,398
	Administration of Retirement and Insurance Programs (70415).....	\$13,338,829 \$16,911,431	\$13,381,244 \$17,290,398	

ITEM 489.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
Fund Sources: General.....	\$32,585	\$50,000		
Trust and Agency.....	\$13,306,244	\$13,331,244		
	\$16,878,846	\$17,240,398		

Authority: *Title 9.1, Chapter 4*; Title 51.1, Chapters 1, 2, 2.1, and 3, Code of Virginia.

A. The Board of Trustees of the Virginia Retirement System is hereby authorized to charge a participation fee to each employer served by the Virginia Retirement System for any services provided pursuant to Title 51.1, Code of Virginia. The fee shall be utilized to pay the administrative expenses of all administrative services, including non-retirement programs. Retirement contributions required by the board shall be reduced to pay such fees in a manner prescribed by the Board of Trustees.

B. State agencies and institutions of higher education shall make payments to the Virginia Retirement System (VRS) for VRS-administered benefits no less often than monthly.

C. The Virginia Retirement System shall make changes to administrative policies, procedures, and systems as necessary for implementation of the public employee retirement reforms provided in Chapter 701 of the Acts of Assembly of 2012.

D.1. Out of this appropriation, \$32,585 the first year and \$50,000 the second year from the general fund is provided for expenses associated with the Volunteer Firefighters' and Rescue Squad Workers' Service Award Fund.

2. Gains forfeited prior to July 1, 2016 pursuant to § 51.1-1206, Code of Virginia, and the accumulated earnings thereon shall be used to provide the reimbursement described in § 51.1-1200, Code of Virginia. All future gains forfeited pursuant to § 51.1-1206, Code of Virginia, shall also be used to provide the reimbursement described in § 51.1-1200, Code of Virginia.

E. The Board of Trustees of the Virginia Retirement System shall provide notification to the Chairmen of the House Appropriations Committee and Senate Finance Committee when a political subdivision becomes more than 60 days in arrears in their contributions to the Virginia Retirement System. Such notification shall occur within 15 days of when the 60 day period has occurred.

*F.1. Pursuant to the administration of Chapter 4 of Title 9.1, Code of Virginia, the following provisions are effective July 1, 2017:*

*2. For purposes of this Item, employer contributions for coverage provided to members of the National Guard and Virginia Defense Force on active duty shall be paid by the Department of Military Affairs.*

*3. For purposes of establishing employer contributions, a member of any fire company or department or rescue squad that has been recognized by an ordinance or a resolution of the governing body of any county, city, or town of the Commonwealth as an integral part of the official safety program of such county, city, or town shall be considered part of the city, county, or town served by the company, department or rescue squad. If a company, department, or rescue squad serves more than one city, county, or town, the affected cities, counties, or towns shall determine the basis and apportionment of the required covered payroll and contributions for each local department, company, or rescue squad.*

*4. Notwithstanding any other provision of law, for the purposes of Chapter 4 of Title 9.1, Code of Virginia, the term "nonparticipating employer" means any employer that is a political subdivision of the Commonwealth that elected on or before July 1, 2012, or the RSW Regional Jail Authority that elected on or before July 1, 2016, to directly fund the cost of benefits provided under this chapter and not participate in the Fund.*

*5. The Virginia Retirement System Medical Board established pursuant to § 51.1-124.23, Code of Virginia, shall make a written report of its conclusions and recommendations on matters referred to it regarding eligibility for benefits under the Line of Duty Act.*

*6. In addition to any other benefit provided by law, an additional death benefit in the amount of \$20,000 for the surviving spouses and dependents of certain members of the National Guard and United States military reserves killed in action in any armed conflict*

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<p><i>on or after October 7, 2001, are payable pursuant to § 44-93.1.B., Code of Virginia, from the Line of Duty Death and Health Benefits Trust Fund. The Virginia Retirement System, with support from the Department of Military Affairs, shall determine eligibility for this benefit.</i></p> <p><i>7. For any surviving spouse of a "deceased person" or any "disabled person" as those terms are defined in § 9.1-400, who is receiving the benefits described in § 9.1-401 and who would otherwise qualify for the health insurance credit described in Chapter 14 of Title 51.1, Code of Virginia, the amount of such credit shall be deposited into the Line of Duty Death and Health Benefits Trust Fund or paid to the nonparticipating employer, as applicable, from the health insurance credit trust fund, in a manner prescribed by the Board of Trustees of the Virginia Retirement System.</i></p> <p><i>8. A member of any fire company providing fire protection services for facilities of the Virginia National Guard or the Virginia Air National Guard shall be eligible to receive benefits according to the provisions under the Line of Duty Act, Title 9.1, Chapter 4, Code of Virginia. Funding for the inclusion of a member of any fire company providing fire protection services for facilities of the Virginia National Guard or the Virginia Air National Guard will be paid by the Department of Military Affairs out of its appropriation in Item 419 of this act.</i></p> <p><i>9. Any locality that has established a trust, trusts, or equivalent arrangements for the purpose of accumulating and investing assets to fund post-employment benefits other than pensions under § 15.2-1544, Code of Virginia, may fund Line of Duty Act benefits from the assets of the trust, trusts, or equivalent arrangements.</i></p>				
490.	Investment, Trust, and Insurance Services (72500).....		\$30,686,981 \$30,635,702	\$30,732,829 \$30,681,550
	Investment Management Services (72504).....	\$30,686,981 \$30,635,702	\$30,732,829 \$30,681,550	
	Fund Sources: Trust and Agency.....	\$30,686,981 \$30,635,702	\$30,732,829 \$30,681,550	

Authority: Title 51.1, Chapters 1, 2, 2.1, and 3, Code of Virginia.

By September 30 of each year, the Board of Trustees of the Virginia Retirement System shall report to the Governor and the Chairmen of the House Appropriations and Senate Finance Committees on the prior fiscal year's results obtained by the internal investment management program. The report shall include a comparison of investment performance against the board's benchmarks and an estimate of the program's fee savings when compared to similar assets managed externally.

491.	Administrative and Support Services (79900).....		\$38,732,875 \$37,953,411	\$34,289,177 \$34,907,746
	General Management and Direction (79901).....	\$21,988,099 \$20,280,930	\$18,696,540 \$18,387,404	
	Information Technology Services (79902).....	\$16,744,776 \$17,672,481	\$15,592,637 \$16,520,342	
	Fund Sources: Trust and Agency.....	\$38,732,875 \$37,953,411	\$34,289,177 \$34,907,746	

Authority: Title 51.1, Chapters 1, 2, 2.1, and 3, Code of Virginia.

A. Out of the amounts appropriated to this Item, the director is authorized to expend an amount not to exceed \$25,000 the first year and \$25,000 the second year for expenses commonly borne by business enterprises. Such expenses shall be recorded separately by the agency.

B. Out of the amounts appropriated to this item, an amount not to exceed \$300,000 the first year and \$300,000 the second year is designated to provide retirement-related services in support of the Commission on Employee Retirement Security and Pension Reform created pursuant to the passage of House Bill 665 of the 2016 General Assembly Session.

492.	In the event any political subdivision of the Commonwealth of Virginia participating in the programs administered by the Virginia Retirement System fails to remit contributions or other fees and costs of the programs as duly prescribed, the Board of Trustees of the Virginia			
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Retirement System shall inform the State Comptroller and the participating political subdivision of the delinquent amount. The State Comptroller shall forthwith transfer such amounts to the appropriate fund from any non earmarked moneys otherwise distributable to such political subdivision by any department or agency of the state.				
Total for Virginia Retirement System.....			<b>\$82,758,685</b> <b>\$85,500,544</b>	<b>\$78,403,250</b> <b>\$82,879,694</b>
Nongeneral Fund Positions.....	337.00	337.00		
Position Level.....	337.00	337.00		
Fund Sources: General.....	\$32,585	\$50,000		
Trust and Agency.....	\$82,726,100	\$78,353,250		
	\$85,467,959	\$82,829,694		
<b>§ 1-138. VIRGINIA WORKERS' COMPENSATION COMMISSION (191)</b>				
493.	Employment Assistance Services (46200).....		\$38,822,874	\$37,827,270 \$39,368,879
	Workers Compensation Services (46204).....	\$38,822,874	\$37,827,270 \$39,368,879	
	Fund Sources: General.....	\$1,000,000	\$0	
	Dedicated Special Revenue.....	\$37,822,874	\$37,827,270 \$39,368,879	
Authority: Title 65.2, Chapter 2; Title 38.2, Chapter 50, Code of Virginia.				
A. Out of the amounts for Workers' Compensation Services shall be paid the annual salary of the chairman, \$169,655 from July 1, 2016 to June 30, 2018, and for each of the other two Commissioners of the Virginia Workers' Compensation Commission, \$166,169 from July 1, 2016 to June 30, 2018.				
B. In addition, retired Commissioners recalled to active duty will be paid as authorized by § 17.1-327, Code of Virginia.				
C. Out of the amounts appropriated for this item, beginning July 1, 2010, and ending June 30, 2020, payments of \$20,000 per year shall be paid to Kurt E. Beach to offset the continuing costs of his health care.				
494.	Financial Assistance for Supplemental Assistance Services (49100).....		\$8,440,660	\$8,441,116
	Crime Victim Compensation (49104).....	\$8,440,660	\$8,441,116	
	Fund Sources: Dedicated Special Revenue.....	\$6,940,660	\$6,941,116	
	Federal Trust.....	\$1,500,000	\$1,500,000	
Authority: Title 19.2, Chapters 21.1 and 21.2, Code of Virginia.				
Total for Virginia Workers' Compensation Commission.....			<b>\$47,263,534</b>	<b>\$46,268,386</b> <b>\$47,809,995</b>
	Nongeneral Fund Positions.....	292.00	<del>292.00</del> 295.00	
	Position Level.....	292.00	<del>292.00</del> 295.00	
	Fund Sources: General.....	\$1,000,000	\$0	
	Dedicated Special Revenue.....	\$44,763,534	\$44,768,386 \$46,309,995	
	Federal Trust.....	\$1,500,000	\$1,500,000	
TOTAL FOR INDEPENDENT AGENCIES.....			<b>\$569,977,497</b> <b>\$582,976,870</b>	<b>\$599,501,870</b> <b>\$608,400,747</b>
	Nongeneral Fund Positions.....	1,717.00	<del>1,717.00</del> 1,724.00	

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Position Level.....	1,717.00	<del>1,717.00</del> 1,724.00		
Fund Sources: General.....	\$1,233,841	\$251,292		
Special.....	\$87,122,214	<del>\$87,126,414</del> \$88,565,786		
Enterprise.....	<del>\$340,563,430</del> \$350,820,944	<del>\$375,433,200</del> \$376,874,652		
Trust and Agency.....	<del>\$89,583,041</del> \$92,324,900	<del>\$85,210,191</del> \$89,686,635		
Dedicated Special Revenue.....	\$46,624,971	<del>\$46,630,773</del> \$48,172,382		
Federal Trust.....	\$4,850,000	\$4,850,000		

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**STATE GRANTS TO NONSTATE ENTITIES**

**§ 1-139. STATE GRANTS TO NONSTATE ENTITIES-NONSTATE AGENCIES (986)**

495. Financial Assistance for Educational, Cultural, Community, and Artistic Affairs (14300).....

Authority: Discretionary Inclusion.

A. Grants provided for in this Item shall be administered by the Department of Historic Resources. As determined by the department, projects of museums and historic sites, as provided for in § 10.1-2211, 10.1-2212, and 10.1-2213 of the Code of Virginia, shall be administered under the provisions of those sections. Others listed in this Item shall be administered under the provisions of § 4-5.05 of this act.

B. Prior to the distribution of any funds, the organization or entity shall make application to the department in a format prescribed by the department. The application shall state whether grant funds provided under this item will be used for purposes of operating support or capital outlay and shall include project and spending plans. Unless otherwise specified in this item, the matching share for grants funded from this Item may be cash or in-kind contributions as requested by the nonstate organization in its application for state grant funds, but must be concurrent with the grant period. The department shall use applicable federal guidelines assessing the value and eligibility of in-kind contributions to be used as matching amounts.

C. The appropriation to those entities in this Item that are marked with an asterisk (\*) shall not be subject to the matching requirements of § 4-5.05 of this act.

D. Grants are hereby made to each of the following organizations and entities subject to the conditions set forth in paragraphs A., B., and C. of this Item:

Total for State Grants to Nonstate Entities-Nonstate Agencies.....			\$0	\$0
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<b>TOTAL FOR STATE GRANTS TO NONSTATE ENTITIES.....</b>			<b>\$0</b>	<b>\$0</b>
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<b>TOTAL FOR PART 1: OPERATING EXPENSES.</b>			<b>\$51,849,069,245</b>	<b>\$51,789,153,545</b>
			<b>\$52,186,885,006</b>	<b>\$51,935,526,343</b>

General Fund Positions.....	52,363.13	52,391.41		
	52,353.13	52,163.56		
Nongeneral Fund Positions.....	65,475.82	65,628.54		
	65,895.32	66,397.39		
Position Level.....	117,838.95	118,019.95		
	118,248.45	118,560.95		

Fund Sources: General.....	\$20,338,739,736	\$20,285,034,855		
	\$20,113,732,383	\$20,354,616,519		
Special.....	\$1,763,138,579	\$1,757,904,236		
	\$1,767,233,155	\$1,777,155,539		
Higher Education Operating.....	\$8,431,245,202	\$8,519,743,019		
	\$8,541,179,807	\$8,249,002,756		
Commonwealth Transportation.....	\$5,448,378,982	\$5,240,920,041		
	\$5,585,951,483	\$5,204,941,790		
Enterprise.....	\$1,535,507,524	\$1,616,930,086		
	\$1,565,888,038	\$1,639,448,491		
Internal Service.....	\$2,026,774,865	\$2,125,592,321		
	\$2,077,103,387	\$2,174,937,786		
Trust and Agency.....	\$2,302,096,776	\$2,133,879,422		
	\$2,392,222,119	\$2,189,765,586		
Debt Service.....	\$329,454,313	\$329,792,988		
		\$337,468,916		
Dedicated Special Revenue.....	\$1,856,930,489	\$1,850,577,379		
	\$1,885,150,986	\$1,857,291,479		

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Federal Trust.....	\$7,816,802,779 \$7,928,969,335	\$7,928,779,198 \$8,150,897,481		

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**PART 2: CAPITAL PROJECT EXPENSES**

**§ 2-0. GENERAL CONDITIONS**

A.1. The General Assembly hereby authorizes the capital projects listed in this act. The amounts hereinafter set forth are appropriated to the state agencies named for the indicated capital projects. Amounts so appropriated and amounts reappropriated pursuant to paragraph G of this section shall be available for expenditure during the current biennium, subject to the conditions controlling the expenditures of capital project funds as provided by law. Reappropriated amounts, unless otherwise stated, are limited to the unexpended appropriation balances at the close of the previous biennium, as shown by the records of the Department of Accounts.

2. The Director, Department of Planning and Budget, may transfer appropriations listed in Part 2 of this act from the second year to the first year in accordance with § 4-1.03 a 5 of this act.

B. The five-digit number following the title of a project is the code identification number assigned for the life of the project.

C. Except as herein otherwise expressly provided, appropriations or reappropriations for structures may be used for the purchase of equipment to be used in the structures for which the funds are provided, subject to guidelines prescribed by the Governor.

D. Notwithstanding any other provisions of law, appropriations for capital projects shall be subject to the following:

1. Appropriations or reappropriations of funds made pursuant to this act for planning of capital projects shall not constitute implied approval of construction funds in a future biennium. Funds, other than the reappropriations referred to above, for the preparation of capital project proposals must come from the affected agency's existing resources.

2. No capital project for which appropriations for planning are contained in this act, nor any project for which appropriations for planning have been previously approved, shall be considered for construction funds until preliminary plans and cost estimates are reviewed by the Department of General Services. The purpose of this review is to avoid unnecessary expenditures for each project, in the interest of assuring the overall cost of the project is reasonable in relation to the purpose intended, regardless of discrete design choices.

E.1. Expenditures from Items in this act identified as "Maintenance Reserve" are to be made only for the maintenance of property, plant, and equipment as defined in § 4-4.01c of this act to the extent that funds included in the appropriation to the agency for this purpose in Part 1 of this act are insufficient.

2. Agencies and institutions of higher education can expend up to \$1,500,000 for a single repair or project through the maintenance reserve appropriation. Such expenditures shall be subject to rules and regulations prescribed by the Governor. To the extent an agency or institution of higher education has identified a potential project that exceeds this threshold, the Director, Department of Planning and Budget, can provide exemptions to the threshold as long as the project still meets the definition of a maintenance reserve project as defined by the Department of Planning and Budget.

3. Only facilities supported wholly or in part by the general fund shall utilize general fund maintenance reserve appropriations. Facilities supported entirely by nongeneral funds shall accomplish maintenance through the use of nongeneral funds.

F. Conditions Applicable to Bond Projects

1. The capital projects listed in §§ 2-53 and 2-54 for the indicated agencies and institutions of higher education are hereby authorized and sums from the sources and in the amount indicated are hereby appropriated and reappropriated. The issuance of bonds in a principal amount plus amounts needed to fund issuance costs, reserve funds, and other financing expenses, including capitalized interest for any project listed in §§ 2-53 and 2-54 is hereby authorized.

2. The issuance of bonds for any project listed in § 2-53 is to be separately authorized pursuant to Article X, Section 9 (c), Constitution of Virginia.

3. The issuance of bonds for any project listed in §§ 2-53 or 2-54 shall be authorized pursuant to ~~§ 23-19~~ § 23.1-1106, Code of Virginia.

4. In the event that the cost of any capital project listed in §§ 2-53 and 2-54 shall exceed the amount appropriated therefore, the Director, Department of Planning and Budget, is hereby authorized, upon request of the affected institution, to approve an increase in appropriation authority of not more than ten percent of the amount designated in §§ 2-53 and 2-54 for such project, from any available nongeneral fund revenues, provided that such increase shall not constitute an increase in debt issuance authorization for such capital project. Furthermore, the Director, Department of Planning and Budget, is hereby authorized to approve the expenditure of all interest earnings derived from the investment of bond proceeds in addition to the amount designated in §§ 2-53 and 2-54 for such capital project.

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5. The interest on bonds to be issued for these projects may be subject to inclusion in gross income for federal income tax purposes.

6. Inclusion of a project in this act does not imply a commitment of state funds for temporary construction financing. In the absence of such commitment, the institution may be responsible for securing short-term financing and covering the costs from other sources of funds.

7. In the event that the Treasury Board determines not to finance all or any portion of any project listed in § 2-53 of this act with the issuance of bonds pursuant to Article X, Section 9 (c), Constitution of Virginia, and notwithstanding any provision of law to the contrary, this act shall constitute the approval of the General Assembly to finance all or such portion of such project under the authorization of § 2-54 of this act.

8. The General Assembly further declares and directs that, notwithstanding any other provision of law to the contrary, 50 percent of the proceeds from the sale of surplus real property pursuant to § 2.2-1147 et seq., Code of Virginia, which pertain to the general fund, and which were under the control of an institution of higher education prior to the sale, shall be deposited in a special fund set up on the books of the State Comptroller, which shall be known as the Higher Education Capital Projects Fund. Such sums shall be held in reserve, and may be used, upon appropriation, to pay debt service on bonds for the 21st Century College Program as authorized in Item C-7.10 of Chapter 924 of the Acts of Assembly of 1997.

G. Upon certification by the Director, Department of Planning and Budget, there is hereby reappropriated the appropriations unexpended at the close of the previous biennium for all authorized capital projects which meet any of the following conditions:

1. Construction is in progress.
2. Equipment purchases have been authorized by the Governor but not received.
3. Plans and specifications have been authorized by the Governor but not completed.
4. Obligations were outstanding at the end of the previous biennium.

#### H. Alternative Financing

1. Any agency or institution of the Commonwealth that would construct, purchase, lease, or exchange a capital asset by means of an alternative financing mechanism, such as the Public Private Education Infrastructure Act, or similar statutory authority, shall provide a report to the Governor and the Chairmen of the Senate Finance and House Appropriations Committees no less than 30 days prior to entering into such alternative financing agreement. This report shall provide:

- a. a description of the purpose to be achieved by the proposal;
- b. a description of the financing options available, including the alternative financing, which will delineate the revenue streams or client populations pledged or encumbered by the alternative financing;
- c. an analysis of the alternatives clearly setting out the advantages and disadvantages of each for the Commonwealth;
- d. an analysis of the alternatives clearly setting out the advantages and disadvantages of each for the clients of the agency or institution; and
- e. a recommendation and planned course of action based on this analysis.

#### I. Conditions Applicable to Alternative Financing

The following authorizations to construct, purchase, lease or exchange a capital asset by means of an alternative financing mechanism, such as the Public Private Education Infrastructure Act, or similar statutory authority, are continued until revoked:

##### 1. James Madison University

a. Subject to the provisions of this act, the General Assembly authorizes James Madison University, with the approval of the Governor, to explore and evaluate an alternative financing scenario to provide additional parking, student housing, and/or operational related facilities. The project shall be consistent with the guidelines of the Department of General Services and comply with Treasury Board Guidelines issued pursuant to ~~§ 23-19(d)(4)~~ § 23.1-1106 C.1.d, Code of Virginia.

b. The General Assembly authorizes James Madison University to enter into a written agreement with a public or private entity to design, construct, and finance a facility or facilities to provide additional parking, student housing, and/or operational related facilities. The facility or facilities may be located on property owned by the Commonwealth. All project proposals and approvals shall be in accordance with the guidelines cited in paragraph 1 of this item. James Madison University is also authorized to enter into a written agreement with the public or private entity to lease all or a portion of the facilities.

c. The General Assembly further authorizes James Madison University to enter into a written agreement with the public or private

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entity for the support of such parking, student housing, and/or operational related facilities by including the facilities in the University's facility inventory and managing their operation and maintenance; by assigning parking authorizations, students, and/or operations to the facility or facilities in preference to other University facilities; by restricting construction of competing projects; and by otherwise supporting the facilities consistent with law, provided that the University shall not be required to take any action that would constitute a breach of the University's obligations under any documents or other instruments constituting or securing bonds or other indebtedness of the University or the Commonwealth of Virginia.

d. James Madison University is further authorized to convey fee simple title in and to one or more parcels of land to James Madison University Foundation (JMUF), which will develop and use the land for the purpose of developing and establishing residential housing for students and/or faculty and staff, office, retail, athletics, dining, student services, and other auxiliary activities and commercial land use in accordance with the University's Master Plan.

2. Longwood University

a. Subject to the provisions of this act, the General Assembly authorizes Longwood University to enter into a written agreement or agreements with the Longwood University Real Estate Foundation (LUREF) for the development, design, construction and financing of student housing projects, a convocation center, parking, and operational and recreational facilities through alternative financing agreements including public-private partnerships. The facility or facilities may be located on property owned by the Commonwealth.

b. Longwood is further authorized to enter into a written agreement with the LUREF for the support of such student housing, convocation center, parking, and operational and recreational facilities by including the facilities in the University's facility inventory and managing their operation and maintenance; by assigning parking authorizations, students and/or operations to the facility or facilities in preference to other University facilities; by restricting construction of competing projects; and by otherwise supporting the facilities consistent with law, provided that the University shall not be required to take any action that would constitute a breach of the University's obligations under any documents or other instruments constituting or securing bonds or other indebtedness of the University or the Commonwealth of Virginia.

c. The General Assembly further authorizes Longwood University to enter into a written agreement with a public or private entity to plan, design, develop, construct, finance, manage and operate a facility or facilities to provide additional student housing and/or operational-related facilities. Longwood University is also authorized to enter into a written agreement with the public or private entity to lease all or a portion of the facilities. The State Treasurer is authorized to make Treasury loans to provide interim financing for planning, construction and other costs of any of the projects. Revenue bonds issued by or for the benefit of LUREF will provide construction and/or permanent financing.

d. Longwood University is further authorized to convey fee simple title in and to one or more parcels of land to LUREF, which will develop and use the land for the purpose of developing and establishing residential housing for students and/or faculty and staff, office, retail, athletics, dining, student services, and other auxiliary activities and commercial land use in accordance with the University's Master Plan.

3. Christopher Newport University

a. Subject to the provisions of this act, the General Assembly authorizes Christopher Newport University to enter into, continue, extend or amend written agreements with the Christopher Newport University Educational Foundation (CNUEF) or the Christopher Newport University Real Estate Foundation (CNUREF) in connection with the refinancing of certain housing and office space projects.

b. Christopher Newport University is further authorized to enter into, continue, extend or amend written agreements with CNUEF or CNUREF to support such facilities including agreements to (i) lease all or a portion of such facilities from CNUEF or CNUREF, (ii) include such facilities in the University's building inventory, (iii) manage the operation and maintenance of the facilities, including collection of any rental fees from University students in connection with the use of such facilities, and (iv) otherwise support the activities at such facilities consistent with law, provided that the University shall not be required to take any action that would constitute a breach of the University's obligation under any documents or instruments constituting or securing bonds or other indebtedness of the University or the Commonwealth of Virginia.

4. Radford University

a. Subject to the provisions of this act, the General Assembly authorizes Radford University, with the approval of the Governor, to explore and evaluate an alternative financing scenario to provide additional parking, student housing, and/or operational related facilities. The project shall be consistent with the guidelines of the Department of General Services and comply with Treasury Board Guidelines issued pursuant to ~~§ 23-19(d)(4)~~ § 23.1-1106 C.1.d, Code of Virginia.

b. The General Assembly authorizes Radford University to enter into a written agreement with a public or private entity to design, construct, and finance a facility or facilities to provide additional parking, student housing, and/or operational related facilities. The facility or facilities may be located on property owned by the Commonwealth. All project proposals and approvals shall be in accordance with the guidelines cited in paragraph 1 of this item. Radford University is also authorized to enter into a written

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agreement with the public or private entity to lease all or a portion of the facilities.

c. The General Assembly further authorizes Radford University to enter into a written agreement with the public or private entity for the support of such parking, student housing, and/or operational related facilities by including the facilities in the University's facility inventory and managing their operation and maintenance; by assigning parking authorizations, students, and/or operations to the facility or facilities in preference to other University facilities; by restricting construction of competing projects; and by otherwise supporting the facilities consistent with law, provided that the University shall not be required to take any action that would constitute a breach of the University's obligations under any documents or other instruments constituting or securing bonds or other indebtedness of the University or the Commonwealth of Virginia.

#### 5. University of Mary Washington

a. Subject to the provisions of this act, the General Assembly authorizes the University of Mary Washington to enter into a written agreement or agreements with the University of Mary Washington Foundation (UMWF) to support student housing projects and/or operational-related facilities through alternative financing agreements including public-private partnerships.

b. The University of Mary Washington is further authorized to enter into written agreements with UMWF to support such student housing facilities; the support may include agreements to (i) include the student housing facilities in the University's students housing inventory; (ii) manage the operation and maintenance of the facilities, including collection of rental fees as if those students occupied University-owned housing; (iii) assign students to the facilities in preference to other University-owned facilities; (iv) seek to obtain police power over the student housing as provided by law; and (v) otherwise support the students housing facilities consistent with law, provided that the University's obligation under any documents or other instruments constituting or securing bonds or other indebtedness of the University or the Commonwealth of Virginia.

c. The General Assembly further authorizes the University of Mary Washington to enter into a written agreement with a public or private entity to design, construct, and finance a facility or facilities to provide additional student housing and/or operational-related facilities. The facility or facilities may or may not be located on property owned by the Commonwealth. The University of Mary Washington is also authorized to enter into a written agreement with the public or private entity to lease all or a portion of the facilities. The State Treasurer is authorized to make Treasury loans to provide interim financing for planning, construction and other costs of any of the projects. Revenue bonds issued by or for UMWF will provide construction and/or permanent financing.

#### 6. Norfolk State University

a. Subject to the provisions of this act, the General Assembly authorizes Norfolk State University to enter into a written agreement or agreements with a Foundation of the University for the development of one or more student housing projects on or adjacent to campus, subject to the conditions outlined in the Public-Private Education Facilities Infrastructure Act of 2002.

b. Norfolk State University is further authorized to enter into written agreements with a Foundation of the University to support such student housing facilities; the support may include agreements to (i) include the student housing facilities in the University's student housing inventory; (ii) manage the operation and maintenance of the facilities, including collection of rental fees as if those students occupied University-owned housing; (iii) assign students to the facilities in preference to other University-owned facilities; (iv) restrict construction of competing student housing projects; (v) seek to obtain police power over the student housing as provided by law; and (vi) otherwise support the student housing facilities consistent with law, provided that the University shall not be required to take any action that would constitute a breach of the University's obligations under any documents or other instruments constituting or securing bonds or other indebtedness of the University or the Commonwealth of Virginia.

#### 7. Northern Virginia Community College - Alexandria Campus

The General Assembly authorizes Northern Virginia Community College, Alexandria Campus to enter into a written agreement either with its affiliated foundation or a private contractor to construct a facility to provide on-campus housing on College land to be leased to said foundation or private contractor for such purposes. Northern Virginia Community College, Alexandria Campus, is also authorized to enter into a written agreement with said foundation or private contractor for the support of such student housing facilities and management of the operation and maintenance of the same.

#### 8. Virginia State University

a. Subject to the provisions of this act, the General Assembly authorizes Virginia State University (University) to enter into a written agreement or agreements with the Virginia State University Foundation (VSUF), Virginia State University Real Estate Foundation (VSUREF), and other entities owned or controlled by the university for the development, design, construction, financing, and management of a mixed-use economic development corridor comprising student housing, parking, and dining facilities through alternative financing agreements including public-private partnerships. The facility or facilities may be located on property owned by the Commonwealth.

b. Virginia State University is further authorized to enter into a written agreement with the VSUREF, VSUF, and other entities owned or controlled by the university for the support of such a mixed-use economic development corridor comprising student housing,

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parking, and dining facilities by including these projects in the university's facility inventory and managing their operation and maintenance; by assigning parking authorizations, students and/or operations to the facility or facilities in preference to other university facilities; by restricting construction of competing projects; and by otherwise supporting the facilities consistent with law, provided that the university shall not be required to take any action that would constitute a breach of the university's obligations under any documents or other instruments constituting or securing bonds or other indebtedness of the university or the Commonwealth of Virginia.

9. College of William and Mary

a. Subject to the provisions of this act, the General Assembly authorizes the College of William and Mary, with the approval of the Governor, to explore and evaluate alternative financing scenarios to provide additional parking, student or faculty/staff housing, recreational, athletic and/or operational related facilities. The project shall be consistent with the guidelines of the Department of General Services and comply with Treasury Board guidelines issued pursuant to § 23.1-1106 C.1. (d), Code of Virginia.

b. The General Assembly authorizes the College of William and Mary to enter into written agreements with public or private entities to design, construct, and finance a facility or facilities to provide additional parking, student or faculty/staff housing, recreational, athletic, and/or operational related facilities. The facility or facilities may be on property owned by the Commonwealth. All project proposals and approvals shall be in accordance with the guidelines cited in paragraph 1 of this item. The College of William and Mary is also authorized to enter into a written agreement with the public or private entity to lease all or a portion of the facility.

c. The General Assembly further authorizes the College of William and Mary to enter into written agreements with the public or private entities for the support and operation of such parking, student or faculty/staff housing, recreational, athletic, and/or operational related facilities by including the facilities in the College's facility inventory and managing their operation and maintenance including the assignment of parking authorizations, students, faculty or staff, and operations to the facility in preference to other university facilities, limiting construction of competing projects, and by otherwise supporting the facilities consistent with law, provided that the Collage shall not be required to take any action that would constitute a breach of the University's obligations under any documents or other instruments constituting or securing bonds or other indebtedness of the College or the Commonwealth of Virginia.

d. The College of William and Mary is further authorized to convey fee simple title in and to one or more parcels of land to the William and Mary Real Estate Foundation (WMREF) which will develop and use the land for the purpose of developing and establishing residential housing for students, faculty, or staff; recreational, athletic, and/or operational related facilities including office, retail and commercial, student services, or other auxiliary activities.

9-10. The following individuals, and members of their immediate family, may not engage in an alternative financing arrangement with any agency or institution of the Commonwealth, where the potential for financial gain, or other factors may cause a conflict of interest:

- a. A member of the agency or institution's governing body;
- b. Any elected or appointed official of the Commonwealth or its agencies and institutions who has, or reasonably can be assumed to have, a direct influence on the approval of the alternative financing arrangement; or
- c. Any elected or appointed official of a participating political subdivision, or authority who has, or reasonably can be assumed to have, a direct influence on the approval of the alternative financing arrangement.

J. Appropriations contained in this act for capital project planning shall be used as specified for each capital project and construction funding for the project shall be considered by the General Assembly after determining that (1) project cost is reasonable; (2) the project remains a highly-ranked capital priority for the Commonwealth; and (3) the project is fully justified from a space and programmatic perspective.

K. Any capital project that has received a supplemental appropriation due to cost overruns must be completed within the revised budget provided. If a project requires an additional supplement, the Governor should also consider reduction in project scope or cancelling the project before requesting additional appropriations. Agencies and institutions with nongeneral funds may bear the costs of additional overruns from nongeneral funds.

L. The Governor shall consider the project life cycle cost that provides the best long-term benefit to the Commonwealth when conducting capital project reviews, design and construction decisions, and project scope changes.

M. No structure, improvement or renovation shall occur on the state property located at the Carillon in Byrd Park in the City of Richmond without the approval of the General Assembly.

N. All agencies of the Commonwealth and institutions of higher education shall provide information and/or use systems and processes in the method and format as directed by the Director, Department of General Services, on behalf of the Six-Year Capital Outlay Plan Advisory Committee, to provide necessary information for state-wide reporting. This requirement shall apply to all projects, including those funded from general and nongeneral fund sources.

	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018

O. The Department of General Services, with the cooperation and support of the Workers' Compensation Commission, is hereby directed to manage acquisition or, construction, or leasing under a capital lease of a new headquarters facility for the commission out of such funds appropriated for such purposes by Item C-38.10, Chapter 1, 2014 Special Session I. Upon completion of the new facility, the department shall transfer the existing headquarters facility located at 1000 DMV Drive in Richmond, Virginia to the Science Museum of Virginia.

P. The Director, Department of Planning and Budget, in consultation with the Six-Year Capital Outlay Plan Advisory Committee, is authorized to transfer bond appropriations and bond proceeds between and among the capital pool projects listed in the table below, in order to address any shortfall in appropriation in one or more of such projects:

Pool Project No.	Pool Project Title	Authorization
17775	Public Education Institutions Capital Account	Enactment Clause 2, § 4, Chapter 1, 2008 Special Session I Acts of Assembly
17776	State Agency Capital Account	Enactment Clause 2, § 2, Chapter 1, 2008 Special Session I Acts of Assembly
17861	Supplements for Previously Authorized Higher Education Capital Projects	Item C-85, Chapter 874, 2010 Acts of Assembly; amended by Item C-85, Chapter 890, 2011 Acts of Assembly
17862	Energy Conservation	Item C-86, Chapter 890, 2011 Acts of Assembly
17967	Capital Outlay Project Pool	Item C-38.10, Chapter 3, 2012 Special Session I Acts of Assembly; amended by: Item C-38.10, Chapter 806, 2013 Acts of Assembly; by Item C-38.10, Chapter 1, 2014 Special Session I Acts of Assembly; Item C-43, Chapter 2, 2014 Special Session I Acts of Assembly; and Item C-43, Chapter 665, 2015 Acts of Assembly
18049	Comprehensive Capital Outlay Program	Item C-39.40, Chapter 806, 2013 Acts of Assembly; amended by: Item C-39.40, Chapter 1, 2014 Special Session I Acts of Assembly; Item C-46.10, Chapter 2, 2014 Special Session I Acts of Assembly, and Item 46.10, Chapter 665, 2015 Acts of Assembly
18196	Capital Outlay Renovation Pool	Item 46.15, Chapter 665, 2015 Acts of Assembly
18300	2016 VPBA Capital Construction Pool	§ 1, Chapters 759 and 769, 2016 Acts of Assembly
18301	2016 VCBA Capital Construction Pool	§ 2, Chapters 759 and 769, 2016 Acts of Assembly

**EXECUTIVE DEPARTMENT**

**OFFICE OF AGRICULTURE AND FORESTRY**

C-1. Omitted.

TOTAL FOR OFFICE OF AGRICULTURE AND FORESTRY.....			\$0	\$0
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**OFFICE OF ADMINISTRATION**

**§ 2-1. DEPARTMENT OF GENERAL SERVICES (194)**

C-1.50	Improvements: Repair the exterior envelope of Main Street Centre (18308).....			\$0	\$2,500,000
	Fund Sources: Bond Proceeds.....	\$0	\$2,500,000		
	Total for Department of General Services.....			\$0	\$2,500,000
	Fund Sources: Bond Proceeds.....	\$0	\$2,500,000		
	TOTAL FOR OFFICE OF ADMINISTRATION.....			\$0	\$2,500,000
	Fund Sources: Bond Proceeds.....	\$0	\$2,500,000		

**OFFICE OF COMMERCE AND TRADE**

ITEM C-1.50.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
<b>§ 2-2. VIRGINIA EMPLOYMENT COMMISSION (182)</b>				
C-2.	Maintenance Reserve (14950).....		\$683,000	\$175,000
	Fund Sources: Special.....	\$683,000	\$175,000	
	Total for Virginia Employment Commission.....		<b>\$683,000</b>	<b>\$175,000</b>
	Fund Sources: Special.....	\$683,000	\$175,000	
	TOTAL FOR OFFICE OF COMMERCE AND TRADE.....		<b>\$683,000</b>	<b>\$175,000</b>
	Fund Sources: Special.....	\$683,000	\$175,000	

**OFFICE OF EDUCATION**

**§ 2-3. CHRISTOPHER NEWPORT UNIVERSITY (242)**

- C-2.50 *Christopher Newport University is authorized to sell the Yoder Barn Property in Newport News, Virginia. One-hundred percent of the proceeds from the sale of said property shall be used to support Christopher Newport University's endowment. Said property was a gift to Christopher Newport University in 2007, comprises approximately 3.1853 acres and is situated at 660 Hamilton Drive, bordered by Criston Drive and Oyster Point Road.*
- C-2.60 *Christopher Newport University is authorized to increase the scope of the project, Construct and Renovate Fine Arts and Rehearsal Space (18086) to 105,040 gross square feet to include 88,060 gross square feet of new construction and 16,980 gross square feet of renovation. Total project cost will not exceed the amount appropriated in Chapter 759, 2016 Session of the General Assembly.*

Total for Christopher Newport University.....			<b>\$0</b>	<b>\$0</b>
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**§ 2-4. THE COLLEGE OF WILLIAM AND MARY IN VIRGINIA (204)**

C-3.	Improvements: Renovate Dormitories (18218).....		\$2,500,000	\$0
	Fund Sources: Bond Proceeds.....	\$2,500,000	\$0	
C-4.	Improvements: Improve Auxilliary Facilities (18219).....		\$5,000,000	\$0
	Fund Sources: Bond Proceeds.....	\$5,000,000	\$0	
C-5.	Improvements: Improve Athletic Facilities (18220).....		\$5,000,000	\$0
	Fund Sources: Bond Proceeds.....	\$5,000,000	\$0	
C-5.10	<i>Improvements: Renovate dormitories (18100).....</i>		<i>\$13,637,000</i>	<i>\$0</i>
	<i>Fund Sources: Bond Proceeds.....</i>	<i>\$13,637,000</i>	<i>\$0</i>	
C-5.20	<i>New Construction: Construct West Utilities Plant (18202).....</i>		<i>\$14,986,000</i>	<i>\$0</i>
	<i>Fund Sources: Bond Proceeds.....</i>	<i>\$14,986,000</i>	<i>\$0</i>	
	Total for The College of William and Mary in Virginia.....		<b>\$12,500,000</b>	<b>\$0</b>
			<b>\$41,123,000</b>	
	Fund Sources: Bond Proceeds.....	\$12,500,000	\$0	
		<b>\$41,123,000</b>		

ITEM C-5.20.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
<b>Richard Bland College (241)</b>				
C-6.	Improvements: Convert Former Humanities and Social Sciences Building into Student Housing (18222).....		\$2,650,000 \$4,250,000	\$0
	Fund Sources: Bond Proceeds.....	\$2,650,000 \$4,250,000		\$0
	Total for Richard Bland College.....		<b>\$2,650,000</b> <b>\$4,250,000</b>	<b>\$0</b>
	Fund Sources: Bond Proceeds.....	\$2,650,000 \$4,250,000		\$0
<b>§ 2-5. GEORGE MASON UNIVERSITY (247)</b>				
C-7.	Construct/Renovate Robinson Hall, New Academic and Research Facility and Harris Theater Site (18207).....		\$2,582,000	\$0
	Fund Sources: Bond Proceeds.....	\$2,582,000	\$0	
C-8.	New Construction: Construct Utilities Distribution Infrastructure (18208).....		\$25,228,000	\$0
	Fund Sources: Bond Proceeds.....	\$25,228,000	\$0	
C-8.10	Improvements: Renovate and Upgrade Hazel Hall (18252).....		\$3,000,000	\$0
	Fund Sources: Higher Education Operating.....	\$3,000,000	\$0	
C-8.20	New Construction: Construct Basketball Training, Wrestling and Athlete Academic Support Center (18253).....		\$15,500,000	\$0
	Fund Sources: Higher Education Operating.....	\$15,500,000	\$0	
	Total for George Mason University.....		<b>\$46,310,000</b>	<b>\$0</b>
	Fund Sources: Higher Education Operating.....	\$18,500,000	\$0	
	Bond Proceeds.....	\$27,810,000	\$0	
<b>§ 2-6. JAMES MADISON UNIVERSITY (216)</b>				
C-9.	Acquisition: Blanket Property Acquisition (17821)....		\$3,000,000	\$0
	Fund Sources: Higher Education Operating.....	\$3,000,000	\$0	
C-10.	New Construction: Construct East Campus Parking Deck (18231).....		\$40,000,000	\$0
	Fund Sources: Bond Proceeds.....	\$40,000,000	\$0	
C-10.10	New Construction: Construct Phillips Dining Hall Replacement (18249).....		\$35,000,000	\$0
	Fund Sources: Higher Education Operating.....	\$8,400,000	\$0	
	Bond Proceeds.....	\$26,600,000	\$0	
C-10.20	New Construction: Construct West Campus Parking Deck (18306).....		\$0	\$14,000,000
	Fund Sources: Higher Education Operating.....	\$0	\$7,000,000	
	Bond Proceeds.....	\$0	\$7,000,000	
	Total for James Madison University.....		<b>\$78,000,000</b>	<b>\$0</b> <b>\$14,000,000</b>

ITEM C-10.20.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
Fund Sources: Higher Education Operating.....	\$11,400,000	\$0		
		\$7,000,000		
Bond Proceeds.....	\$66,600,000	\$0		
		\$7,000,000		

**§ 2-7. LONGWOOD UNIVERSITY (214)**

C-11.	Main Reserve Allocation. (12722).....			\$3,000,000	\$0
	Fund Sources: Higher Education Operating.....	\$3,000,000	\$0		
C-12.	Omitted.				
C-13.	Omitted.				
C-13.10	<i>Improvements: Replace Steam Distribution System Wheeler Mall (18271).....</i>			\$0	\$3,192,000
	<i>Fund Sources: Bond Proceeds.....</i>	\$0	\$3,192,000		
	Total for Longwood University.....			<b>\$3,000,000</b>	<b>\$0</b> <b>\$3,192,000</b>
	Fund Sources: Higher Education Operating.....	\$3,000,000	\$0		
	Bond Proceeds.....	\$0	\$3,192,000		

**§ 2-8. NORFOLK STATE UNIVERSITY (213)**

C-14.	Improvements: Renovate and Upgrade Dormitories (18221).....			\$9,237,000	\$0
	Fund Sources: Bond Proceeds.....	\$9,237,000	\$0		
	Total for Norfolk State University.....			<b>\$9,237,000</b>	<b>\$0</b>
	Fund Sources: Bond Proceeds.....	\$9,237,000	\$0		

**§ 2-9. OLD DOMINION UNIVERSITY (221)**

C-14.50	<i>New Construction: Reconstruct the Stadium at Foreman Field (18303).....</i>			\$0	\$55,000,000
	<i>Fund Sources: Higher Education Operating.....</i>	\$0	\$10,000,000		
	<i>Bond Proceeds.....</i>	\$0	\$45,000,000		
	<i>Old Dominion University is authorized to reconstruct the Stadium at Foreman Field. Any debt service for the project that is supported by subsidy may be excluded from the subsidy calculations defined under § 23.1-1309 A., Code of Virginia. The institution shall not raise athletic fees to support the construction of this facility.</i>				
	Total for Old Dominion University.....			<b>\$0</b>	<b>\$55,000,000</b>
	Fund Sources: Higher Education Operating.....	\$0	\$10,000,000		
	Bond Proceeds.....	\$0	\$45,000,000		

**§ 2-10. RADFORD UNIVERSITY (217)**

C-14.80	<i>Improvements: Renovate and Improve Various Athletic Facilities and Fields (18315).....</i>			\$0	\$10,700,000
	<i>Fund Sources: Higher Education Operating.....</i>	\$0	\$10,700,000		
	<i>Radford University is authorized to renovate and improve various athletic facilities and fields as part of its comprehensive master plan. The project includes replacement of softball stadium lights, resurfacing tennis courts, renovation and improvement to baseball stadium restrooms, concession areas and ticket office and renovation, improvements and upgrades in the Dedmon Center Arena. Any debt service for the projects contained herein</i>				

ITEM C-14.80.		Item Details(\$)		Appropriations(\$)	
		First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
	<i>supported by subsidy may be excluded from the subsidy calculations defined under § 23.1-1309 A., Code of Virginia.</i>				
	Total for Radford University.....			\$0	\$10,700,000
	Fund Sources: Higher Education Operating.....	\$0	\$10,700,000		
<b>§ 2-11. UNIVERSITY OF MARY WASHINGTON (215)</b>					
C-15.	New Construction: Construct New Parking Deck, Phase I (18226).....			\$7,000,000	\$0
	Fund Sources: Bond Proceeds.....	\$7,000,000	\$0		
	Total for University of Mary Washington.....			\$7,000,000	\$0
	Fund Sources: Bond Proceeds.....	\$7,000,000	\$0		
<b>§ 2-12. UNIVERSITY OF VIRGINIA (207)</b>					
C-16.	New Construction: Construct Contemplative Sciences Center (18234).....			\$53,300,000	\$0
	Fund Sources: Higher Education Operating.....	\$53,300,000	\$0		
C-17.	New Construction: Construct Anheuser-Busch Coastal Research Center, Phase II (18235).....			\$6,280,000	\$0
	Fund Sources: Higher Education Operating.....	\$6,280,000	\$0		
	Total for University of Virginia.....			\$59,580,000	\$0
	Fund Sources: Higher Education Operating.....	\$59,580,000	\$0		
<b>§ 2-13. VIRGINIA COMMONWEALTH UNIVERSITY (236)</b>					
C-18.	New Construction: Construct New Allied Health Professions Building (18206).....			\$10,800,000	\$0
	Fund Sources: Bond Proceeds.....	\$10,800,000	\$0		
C-19.	New Construction: Construct School of Engineering Research Expansion (18243).....			\$41,341,000	\$0
	Fund Sources: Bond Proceeds.....	\$41,341,000	\$0		
	Total for Virginia Commonwealth University.....			\$52,141,000	\$0
	Fund Sources: Bond Proceeds.....	\$52,141,000	\$0		
<b>§ 2-14. VIRGINIA COMMUNITY COLLEGE SYSTEM (260)</b>					
C-20.	New Construction: Construct Parking Garage, Virginia Western (18223).....			\$14,307,000	\$0
	Fund Sources: Bond Proceeds.....	\$14,307,000	\$0		
	Total for Virginia Community College System.....			\$14,307,000	\$0
	Fund Sources: Bond Proceeds.....	\$14,307,000	\$0		
<b>§ 2-15. VIRGINIA MILITARY INSTITUTE (211)</b>					
C-21.	Improvements: Improve Post Infrastructure Phase I, II, and III (18204).....			\$3,380,000	\$0
	Fund Sources: Bond Proceeds.....	\$3,380,000	\$0		
	Total for Virginia Military Institute.....			\$3,380,000	\$0

ITEM C-21.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
Fund Sources: Bond Proceeds.....	\$3,380,000	\$0		
<b>§ 2-16. VIRGINIA POLYTECHNIC INSTITUTE AND STATE UNIVERSITY (208)</b>				
C-22. New Construction: Renovate student health center (18224).....			\$3,071,000	\$0
Fund Sources: Bond Proceeds.....	\$3,071,000	\$0		
C-22.10 <i>Improvements: Renovate Holden Hall (Engineering) (18267)</i> .....			\$0	\$17,500,000
Fund Sources: Bond Proceeds.....	\$0	\$17,500,000		
C-22.20 <i>New Construction: Construct Central Chiller Plant, Phase II (18268)</i> .....			\$0	\$9,797,000
Fund Sources: Bond Proceeds.....	\$0	\$9,797,000		
C-22.30 <i>New Construction: Construct VT Carilion Research Institute Biosciences Addition (18269)</i> .....			\$0	\$23,793,000
Fund Sources: Bond Proceeds.....	\$0	\$23,793,000		
Total for Virginia Polytechnic Institute and State University.....			<b>\$3,071,000</b>	<b>\$0</b>
Fund Sources: Bond Proceeds.....	\$3,071,000	\$0		<b>\$51,090,000</b>
		\$51,090,000		

**§ 2-17. VIRGINIA STATE UNIVERSITY (212)**

C-22.60 <i>New Construction: Demolish Student Village Dormitories, Construct Gateway II and Improve Campus Residence Halls (17531)</i> .....			\$0	\$0
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*Notwithstanding Item C-73.30, Chapter 2, 2012 Acts of Assembly, \$642,000 is hereby transferred from 9(d) Virginia College Building Authority bond proceeds to 9(c) revenue bond proceeds for improvements to residence hall facilities on the Virginia State University campus. In addition, the project previously known as Demolish Student Village and Construct Gateway 500, Phase II is now authorized as Construct Student Village Dormitories, Construct Gateway II and Improve Campus Residence Halls to provide an expanded scope to include renovations and improvements to other campus residences halls.*

C-22.70 <i>New Construction: Construct Quad II and Improve Campus Residence Halls (17895)</i>				
<i>Notwithstanding any other provision of law, the project previously known as Construct Quad II is now authorized as Construct Quad II and Improve Campus Residence Halls to provide an expanded scope to include renovations and improvements to other campus residence halls.</i>				
C-22.80 <i>New Construction: Addition to M.T. Carter Building (17871)</i> .....			\$0	\$3,350,000
Fund Sources: Higher Education Operating.....	\$0	\$3,350,000		
Total for Virginia State University.....			<b>\$0</b>	<b>\$3,350,000</b>
Fund Sources: Higher Education Operating.....	\$0	\$3,350,000		

C-23. Omitted.

C-24. Omitted.

**§ 2-18. FRONTIER CULTURE MUSEUM OF VIRGINIA (239)**

ITEM C-24.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
C-24.10 <i>Planning: Pre-Planning Crossing Gallery (18316)....</i>			\$250,000	\$0
<i>Fund Sources: General.....</i>	\$250,000	\$0		
<p><i>A. 1. Out of this appropriation, \$250,000 the first year from the general fund is designated for pre-planning for an indoor gallery to enhance the other existing indoor spaces that supplement what is primarily an outdoor living history setting. The project should demonstrate how it best coordinates and leverages the ability to offer an indoor experience in the event of inclement weather and that leverages the lecture hall, barn, and covered pavilion areas in coordination with the outdoor signature exhibits. The plan should take into consideration a scale that is commensurate with existing annual visitation levels and possible potential levels given population and location. The plan may offer options for future expansion in subsequent years to ensure efficiency in any additional long-term projects that may be desired.</i></p> <p><i>2. The Frontier Culture Museum shall report the pre-planning study to the Chairmen of the House Appropriations and Senate Finance Committees by September 1 of the year prior to the request for detailed planning.</i></p>				
Total for Frontier Culture Museum of Virginia.....			\$250,000	\$0
<i>Fund Sources: General.....</i>	\$250,000	\$0		
<b>§ 2-19. THE SCIENCE MUSEUM OF VIRGINIA (146)</b>				
C-24.20 <i>Planning: Pre-Planning for New Exhibits at the Danville Science Center (18317).....</i>			\$250,000	\$0
<i>Fund Sources: General.....</i>	\$250,000	\$0		
<p><i>A. 1. Out of this appropriation, \$250,000 the first year from the general fund is designated for the pre-planning study for the construction of new exhibits at the Danville Science Center under the Science Museum of Virginia.</i></p> <p><i>2. The Science Museum shall report the pre-planning study to the Chairmen of the House Appropriations and Senate Finance Committees by September 1 of the year prior to the request for detailed planning.</i></p>				
Total for The Science Museum of Virginia.....			\$250,000	\$0
<i>Fund Sources: General.....</i>	\$250,000	\$0		
TOTAL FOR OFFICE OF EDUCATION.....			<del>\$291,176,000</del>	<del>\$0</del>
			\$321,899,000	\$137,332,000
<i>Fund Sources: General.....</i>	\$500,000	\$0		
Higher Education Operating.....	\$92,480,000	\$0		
		\$31,050,000		
Bond Proceeds.....	\$198,696,000	\$0		
	\$228,919,000	\$106,282,000		

**OFFICE OF HEALTH AND HUMAN RESOURCES**

**§ 2-20. DEPARTMENT OF BEHAVIORAL HEALTH AND DEVELOPMENTAL SERVICES (720)**

C-24.50 <i>Make infrastructure repairs to state facilities (18307).....</i>			\$0	\$3,600,000
<i>Fund Sources: Bond Proceeds.....</i>	\$0	\$3,600,000		
<p><i>A. The Department of Behavioral Health and Developmental Services is hereby authorized to make infrastructure repairs to the storm and sanitary sewer systems at Central State Hospital and Eastern State Hospital.</i></p>				
Total for Department of Behavioral Health and Developmental Services.....			\$0	\$3,600,000

ITEM C-24.50.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
Fund Sources: <i>Bond Proceeds</i> .....	\$0	\$3,600,000		
TOTAL FOR OFFICE OF HEALTH AND HUMAN RESOURCES.....			\$0	\$3,600,000
Fund Sources: <i>Bond Proceeds</i> .....	\$0	\$3,600,000		

**OFFICE OF NATURAL RESOURCES**

**§ 2-21. DEPARTMENT OF CONSERVATION AND RECREATION (199)**

C-25.	Acquisition: Acquisition of land for State Parks (18236).....			\$1,000,000	\$0 \$1,000,000
	Fund Sources: Special.....	\$500,000	\$0 \$1,000,000		
	Federal Trust.....	\$500,000	\$0		

*It is the intent of the General Assembly that any acquisitions by gift, transfer or purchase, be limited to in-holdings or contiguous properties, consistent with the authorization contained in Item 365, and be limited to property within or contiguous to Hungry Mother, Kiptopeke, Lake Anna, Mayo River, New River Trail, Westmoreland, Seven Bends, False Cape and York River State Parks.*

C-26.	Acquisition: Acquisition of land for Natural Area Preserves (18242).....			\$1,000,000 \$1,026,000	\$0 \$2,654,000
	Fund Sources: <i>Special</i> .....	\$25,000	\$0		
	<i>Dedicated Special Revenue</i> .....	\$878,000	\$2,141,000		
	Federal Trust.....	\$1,000,000 \$123,000	\$0 \$513,000		

*It is the intent of the General Assembly that any acquisitions by gift, transfer or purchase be limited, consistent with the authorization contained in Item 365, to property within or contiguous to The Cedars, Cowbane Prairie, Grayson Glads, Bald Knob, Deep Run Ponds, Redrock Mountain, Buffalo Mountain, Antioch Pines, Magothy Bay and the Pinnacles Natural Area Preserves. In addition, the Department of Conservation and Natural Resources is authorized to accept donations of property within Stafford County contiguous to existing Natural Area Preserves.*

	Total for Department of Conservation and Recreation.....			\$2,000,000 \$2,026,000	\$0 \$3,654,000
	Fund Sources: Special.....	\$500,000 \$525,000	\$0 \$1,000,000		
	<i>Dedicated Special Revenue</i> .....	\$878,000	\$2,141,000		
	Federal Trust.....	\$1,500,000 \$623,000	\$0 \$513,000		

**§ 2-22. DEPARTMENT OF GAME AND INLAND FISHERIES (403)**

C-27.	Maintenance Reserve (13316).....			\$1,900,000	\$1,900,000
	Fund Sources: <i>Dedicated Special Revenue</i> .....	\$1,150,000	\$1,150,000		
	Federal Trust.....	\$750,000	\$750,000		
C-28.	Improvements: Improve Wildlife Management Areas (18103).....			\$1,000,000	\$1,000,000
	Fund Sources: <i>Dedicated Special Revenue</i> .....	\$500,000	\$500,000		
	Federal Trust.....	\$500,000	\$500,000		
C-29.	Acquisition: Acquire Additional Land (18104).....			\$2,000,000	\$2,000,000
	Fund Sources: <i>Dedicated Special Revenue</i> .....	\$500,000	\$500,000		

ITEM C-29.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
	Federal Trust.....	\$1,500,000	\$1,500,000	
C-30.	Improvements: Repair and Upgrade Dams to Comply with the Dam Safety Act (18105).....			\$500,000
	Fund Sources: Dedicated Special Revenue.....	\$500,000	\$500,000	
C-31.	Improvements: Improve Boating Access (18106).....			\$1,000,000
	Fund Sources: Dedicated Special Revenue.....	\$250,000	\$500,000	
	Federal Trust.....	\$750,000	\$1,500,000	
	Total for Department of Game and Inland Fisheries....			<b>\$6,400,000</b>
	Fund Sources: Dedicated Special Revenue.....	\$2,900,000	\$3,150,000	
	Federal Trust.....	\$3,500,000	\$4,250,000	
	<b>TOTAL FOR OFFICE OF NATURAL RESOURCES.....</b>			<b>\$8,400,000</b>
				<b>\$8,426,000</b>
	Fund Sources: Special.....	<del>\$500,000</del>	<del>\$0</del>	
		\$525,000	\$1,000,000	
	Dedicated Special Revenue.....	<del>\$2,900,000</del>	<del>\$3,150,000</del>	
		\$3,778,000	\$5,291,000	
	Federal Trust.....	<del>\$5,000,000</del>	<del>\$4,250,000</del>	
		\$4,123,000	\$4,763,000	

**OFFICE OF PUBLIC SAFETY AND HOMELAND SECURITY**

C-31.50 Omitted.

**§ 2-23. DEPARTMENT OF CORRECTIONS (799)**

C-32.	Acquisition: Acquire central office headquarters building (18217).....			\$30,000	\$0
	Fund Sources: Special.....	\$30,000	\$0		
	The Department of Corrections is authorized to exercise its option under a capital lease to purchase the office building and adjacent property, including parking lots, located at 6900 Atmore Drive, Richmond, Virginia. All documents relating to the purchase shall be reviewed and approved by the Office of the Attorney General.				
C-33.	Stand-alone Equipment Acquisition: Equip Correctional Center in Culpeper County (18136).....			\$1,740,000	\$0
	Fund Sources: Bond Proceeds.....	\$1,740,000	\$0		
	In addition to amounts previously authorized for this project, the Virginia Public Building Authority, pursuant to § 2.2-2263, Code of Virginia, is authorized to issue bonds to supplement the project listed in this Item. The aggregate principal of the supplemental amount shall not exceed \$1,740,000 plus amounts to fund related issuance costs, and other financing costs, in accordance with § 2.2-2263, Code of Virginia.				
	Total for Department of Corrections.....			<b>\$1,770,000</b>	<b>\$0</b>
	Fund Sources: Special.....	\$30,000	\$0		
	Bond Proceeds.....	\$1,740,000	\$0		

**§ 2-24. DEPARTMENT OF MILITARY AFFAIRS (123)**

C-34.	Acquisition: Exchange parcels of land with City of Staunton (18238).....			\$25,000	\$0
	Fund Sources: Dedicated Special Revenue.....	\$25,000	\$0		

The Department of Military Affairs, with the approval of the Governor, as otherwise

ITEM C-34.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
<p>authorized by law, is authorized to transfer approximately one acre to the city of Staunton in exchange for approximately one acre owned by the city for mutually beneficial boundary changes. The only costs to the department shall be normal closing costs, to include a survey. The Office of the Attorney General shall review and approve all documents associated with the transaction.</p>				
C-34.10	<p><i>Acquisition: Acquire Land for Readiness Centers (18309).....</i></p>		\$0	\$3,000,000
	<p><i>Fund Sources: Bond Proceeds.....</i></p>		\$0	\$3,000,000
C-34.20	<p><i>Improvements: Renovate Roanoke Field Maintenance Shop (18310).....</i></p>		\$1,323,000	\$0
	<p><i>Fund Sources: Federal Trust.....</i></p>		\$1,000,000	\$0
	<p><i>Bond Proceeds.....</i></p>		\$323,000	\$0
C-34.30	<p><i>Improvements: Replace / Install Fire Safety Systems in Readiness Centers (18318).....</i></p>		\$0	\$5,000,000
	<p><i>Fund Sources: Bond Proceeds.....</i></p>		\$0	\$5,000,000
C-34.40	<p><i>A. The Department of General Services (DGS) and the Department of Military Affairs (DMA), in consultation with the Department of Planning and Budget (DPB), shall study and identify issues related to the DMA's ability to enter into contracts using federal funding and adhering to the Commonwealth's capital outlay Code requirements, and DGS' policy and procedures for capital outlay projects. DGS and DMA will give priority to evaluating and developing, if possible, options to leverage federal dollars for capital projects that become available and must be obligated within 90 days of the end of a federal fiscal year. DGS and DMA shall submit recommendations to the Chairmen of the House Appropriations and Senate Finance Committees and the Secretaries of Administration, Finance, and Public Safety and Homeland Security no later than November 1, 2017.</i></p>			
C-34.50	<p><i>A. The Department of Military Affairs (DMA) and the Department of General Services (DGS) shall evaluate the use of real property under the possession and control of the DMA, consistent with the respective obligations of such departments under § 2.2-1153, Code of Virginia, and shall develop a strategic plan for use, sale or disposal of any such real property that is deemed to be surplus to the DMA's current or proposed needs. The strategic plan will include recommendations for the management and use of revenue generated, if any, from the sale of DMA state-owned surplus real property.</i></p> <p><i>B. With respect to Readiness Centers, such plan shall be consistent with the DMA Readiness Center Transformation Master Plan, as approved by the federal National Guard Bureau, in order to achieve the objectives of the transformation plan. Any such surplus real property being considered for sale or disposal shall be disposed of in accordance with § 2.2-1150 or § 2.2-1156, Code of Virginia, for not less than fair market value as supported by more than one appraisal performed by independent appraisers licensed as Virginia Certified General Real Estate Appraisers. The DGS shall be responsible for obtaining and reviewing such appraisals, and provide the results of the appraisals, with a recommendation of the fair market value of the appraised real property based upon such appraisals, to the DMA. The DMA will be responsible to fund the cost to obtain the required appraisals. The DGS will obtain such appraisals at the expense of the DMA only upon approval by the Adjutant General.</i></p>			
	<p>Total for Department of Military Affairs.....</p>		\$25,000 \$1,348,000	\$0 \$8,000,000
	<p>Fund Sources: Dedicated Special Revenue.....</p>		\$25,000	\$0
	<p><i>Federal Trust.....</i></p>		\$1,000,000	\$0
	<p><i>Bond Proceeds.....</i></p>		\$323,000	\$8,000,000

§ 2-25. DEPARTMENT OF STATE POLICE (156)

ITEM C-35.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
C-35. Acquisition: Exchange Property with the Economic Development Authority of the City of Staunton (18216).....			\$10,000	\$0
Fund Sources: Special.....	\$10,000	\$0		
<p>A.1. The Virginia Department of State Police, with the approval of the Governor pursuant to Code of Virginia §§ 2.2-1149 and 2.2-1150, is hereby authorized to convey a parcel of real property owned by the Department, located at 1303 Richmond Avenue, Staunton, Virginia, further identified as all the real property acquired by the Department by deed dated November 13, 1964, and recorded in Deed Book 497, Page 531 in the land records of the Circuit Court of Augusta County, containing approximately 0.957 acre, more or less, in exchange for approximately 1.0 acre of real property owned by the Economic Development Authority of the City of Staunton (“EDA”) located at the northeasterly corner of the intersection formed by National Avenue and Valley Center Drive, Staunton, Virginia, to be improved by the EDA as determined necessary by the Department to render the property suitable for use and ready for operation as the Department’s Area 17 Bureau of Criminal Investigations Office. The approximately 1.0 acre of real property with improvements thereto received by the Department shall, as determined by the Department, be of comparable or greater value to the property conveyed by the Department in the exchange.</p> <p>2. The exchange and all documentation pursuant thereto shall be in a form approved by the Attorney General. The appropriate officials of the Commonwealth are hereby authorized to prepare, execute, and deliver such deed and other documents pursuant to appropriate law and as may be necessary to accomplish the exchange.</p> <p>3. Required improvements to the property to be obtained by the Department for a Bureau of Criminal Investigations Area Office shall be completed by the EDA prior to completion of the exchange authorized herein.</p>				
C-35.10 <del>New Construction: Construct Area 12 Office Building (18250).....</del>			\$800,000	\$0
Fund Sources: <del>General</del> .....	\$800,000	\$0		
C-35.20 <i>From the existing appropriation for the Statewide Agencies Radio Systems capital project (17130), the Department of State Police is directed to use up to \$3,443,651 for the replacement of STARS battery power plants, the upgrade of STARS network management platforms, and the replacement of Department of State Police STARS mobile data terminals.</i>				
Total for Department of State Police.....			<b>\$810,000</b> <b>\$10,000</b>	<b>\$0</b>
Fund Sources: General.....	\$800,000	\$0		
Special.....	\$10,000	\$0		
TOTAL FOR OFFICE OF PUBLIC SAFETY AND HOMELAND SECURITY.....			<b>\$2,605,000</b> <b>\$3,128,000</b>	<b>\$0</b> <b>\$8,000,000</b>
Fund Sources: General.....	\$800,000	\$0		
Special.....	\$40,000	\$0		
Dedicated Special Revenue.....	\$25,000	\$0		
Federal Trust.....	\$1,000,000	\$0		
Bond Proceeds.....	\$1,740,000	\$0		
	\$2,063,000	\$8,000,000		

OFFICE OF TRANSPORTATION

§ 2-26. DEPARTMENT OF MOTOR VEHICLES (154)

C-36. Maintenance Reserve (15021).....			\$3,726,000	\$0
Fund Sources: Commonwealth Transportation.....	\$3,726,000	\$0		

ITEM C-36.		Item Details(\$)		Appropriations(\$)	
		First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
C-37.	Acquisition: Acquire South Hill Customer Service Center (18232).....			\$8,700	\$0
	Fund Sources: Commonwealth Transportation.....	\$8,700	\$0		
C-38.	New Construction: Relocate Dumfries Motor Carrier Service Center (18233).....			\$5,041,000	\$0
	Fund Sources: Commonwealth Transportation.....	\$5,041,000	\$0		
	Total for Department of Motor Vehicles.....			<b>\$8,775,700</b>	<b>\$0</b>
	Fund Sources: Commonwealth Transportation.....	\$8,775,700	\$0		

**§ 2-27. DEPARTMENT OF TRANSPORTATION (501)**

C-39.	Maintenance Reserve (15732).....			\$4,742,000	\$4,742,000
	Fund Sources: Commonwealth Transportation.....	\$4,742,000	\$4,742,000		
C-40.	Improvements: Acquire, Design, Construct and Renovate Facilities at the Central Office (18129)....			\$1,149,000	\$1,149,000
	Fund Sources: Commonwealth Transportation.....	\$1,149,000	\$1,149,000		
C-41.	Improvements: Acquire, Design, Construct and Renovate Agency Facilities (18130).....			\$34,100,000	\$34,780,000
	Fund Sources: Commonwealth Transportation.....	\$34,100,000	\$34,780,000		
C-41.10	<i>Notwithstanding any provisions of Chapter 11 of Title 2.2 of the Code of Virginia to the contrary, the Virginia Department of Transportation (VDOT) is hereby authorized to market, sell and convey all or a portion of the Hampton Roads District Headquarters in Suffolk, Virginia, containing 88.463 acres, more or less, as shown on a plat of survey entitled, "Boundary Survey Of Tax Parcels 25-45A &amp; 26E-F-G-PT-J Property Of Commonwealth Of Virginia," by Andrew T. Brady, L. S., dated September 22, 2014. In addition, VDOT is authorized to lease from the successful purchaser all or part of the Hampton Roads District Headquarters property, following its conveyance, in order to continue operations until all necessary facilities are available, in the judgment of VDOT, to begin full-time operations at the chosen replacement site. Any proceeds from the sale not needed for the acquisition, construction and other expenses related to the relocation shall be deposited in the Transportation Trust Fund.</i>				
	Total for Department of Transportation.....			<b>\$39,991,000</b>	<b>\$40,671,000</b>
	Fund Sources: Commonwealth Transportation.....	\$39,991,000	\$40,671,000		

**§ 2-28. VIRGINIA PORT AUTHORITY (407)**

C-42.	Maintenance Reserve (13804).....			\$3,000,000	\$3,000,000
	Fund Sources: Commonwealth Transportation.....	\$3,000,000	\$3,000,000		
C-43.	Omitted.				
	Total for Virginia Port Authority.....			<b>\$3,000,000</b>	<b>\$3,000,000</b>
	Fund Sources: Commonwealth Transportation.....	\$3,000,000	\$3,000,000		
	TOTAL FOR OFFICE OF TRANSPORTATION...			<b>\$51,766,700</b>	<b>\$43,671,000</b>
	Fund Sources: Commonwealth Transportation.....	\$51,766,700	\$43,671,000		

**OFFICE OF VETERANS AND DEFENSE AFFAIRS**

**§ 2-29. DEPARTMENT OF VETERANS SERVICES (912)**

ITEM C-43.50.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
C-43.50 <i>Improvements: Construction of Additional Burial Sites, Albert G. Horton, Jr. Memorial Veterans Cemetery (18319).....</i>			\$0	\$10,000,000
<i>Fund Sources: Bond Proceeds.....</i>	\$0	\$10,000,000		
<i>The Governor is authorized to request federal funds to expand the Albert G. Horton, Jr. Memorial Veterans Cemetery in Suffolk. The funds in this item are provided for the state share for the construction and other project costs of additional burial sites and associated landscaping and infrastructure work at this veterans cemetery.</i>				
Total for Department of Veterans Services.....			\$0	\$10,000,000
Fund Sources: <i>Bond Proceeds.....</i>	\$0	\$10,000,000		
TOTAL FOR OFFICE OF VETERANS AND DEFENSE AFFAIRS.....			\$0	\$10,000,000
Fund Sources: <i>Bond Proceeds.....</i>	\$0	\$10,000,000		

**CENTRAL APPROPRIATIONS**

**§ 2-30. CENTRAL CAPITAL OUTLAY (949)**

C-44. Central Maintenance Reserve (15776).....			\$94,400,000	\$99,900,000
			\$94,900,000	\$104,353,057
Fund Sources: <i>General.....</i>	\$10,000,000	\$0		
	\$0			
Bond Proceeds.....	\$84,400,000	\$99,900,000		
	\$94,900,000	\$104,353,057		

A.1. A total of ~~\$84,400,000~~\$94,900,000 the first year and ~~\$99,900,000~~\$104,353,057 the second year is hereby authorized for issuance by the Virginia Public Building Authority pursuant to § 2.2-2263 Code of Virginia, or the Virginia College Building Authority pursuant to § ~~23-30.24~~ § 23.1-1200 et seq., Code of Virginia, for capital costs of maintenance reserve projects.

2. Out of this appropriation \$10,000,000 the first year from the general fund is designated for capital costs of maintenance reserve projects:

B. The proceeds of such bonds previously authorized in paragraph A.1. and the general fund amounts provided from paragraph A.2. are hereby appropriated for the capital costs of the following maintenance reserve projects:

Agency Name/Code	Project Code	FY 2017	FY 2018
Department of Military Affairs (123)	10893	\$788,692	\$953,057
			\$1,906,114
Department of Emergency Management (127)	15989	\$101,497	\$103,511
The Science Museum of Virginia (146)	13634	\$652,922	\$678,844
Department of State Police (156)	10886	<del>\$583,507</del>	\$645,389
		\$1,083,507	
Department of General Services (194)	14260	\$9,365,823	\$9,753,439
Department of Conservation and Recreation (199)	16646	\$2,528,082	\$2,658,290
The Library of Virginia (202)	17423	\$174,363	\$183,117
Wilson Workforce and Rehabilitation Center (203)	10885	\$500,906	\$538,033
The College of William and Mary (204)	12713	\$2,234,469	\$2,452,332
University of Virginia (207)	12704	\$8,232,934	\$8,961,551

ITEM C-44.		Item Details(\$)		Appropriations(\$)	
		First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
	Virginia Polytechnic Institute and State University (208)	12707	\$9,038,037		\$9,719,156
	Virginia Military Institute (211)	12732	\$1,269,545		\$1,337,439
	Virginia State University (212)	12733	\$4,069,015		\$3,225,429
	Norfolk State University (213)	12724	\$3,338,158		\$3,442,384
	Longwood University (214)	12722	\$1,247,211		\$1,343,291
	University of Mary Washington (215)	12723	\$1,161,043		\$1,231,951
	James Madison University (216)	12718	\$3,207,676		\$3,472,317
	Radford University (217)	12731	\$1,433,590		\$1,541,335
	Virginia School for the Deaf and Blind (218)	14082	\$411,322		\$452,130
	Old Dominion University (221)	12710	\$2,232,655		\$2,443,093
	Virginia Commonwealth University (236)	12708	\$3,897,561		<del>\$4,380,564</del> \$7,880,564
	Virginia Museum of Fine Arts (238)	13633	\$760,838		\$820,690
	Frontier Culture Museum of Virginia (239)	15045	\$527,685		\$536,110
	Richard Bland College (241)	12716	\$404,159		\$421,134
	Christopher Newport University (242)	12719	\$611,062		\$655,906
	University of Virginia's College at Wise (246)	12706	\$476,176		\$516,913
	George Mason University (247)	12712	\$3,663,163		\$4,011,694
	Virginia Community College System (260)	12611	\$7,092,905		\$7,983,097
	Virginia Institute of Marine Science (268)	12331	\$538,273		\$578,436
	Eastern Virginia Medical School (274)	18190	\$318,929		\$318,929
	Department of Agriculture and Consumer Services (301)	12253	\$1,127,322		\$409,323
	Marine Resources Commission (402)	16498	\$100,627		\$101,472
	Department of Mines, Minerals, and Energy (409)	13096	\$104,365		\$110,237
	Department of Forestry (411)	13986	\$391,932		\$459,067
	Gunston Hall (417)	12382	\$370,186		\$173,320
	Jamestown-Yorktown Foundation (425)	13605	\$1,627,996		\$1,664,819
	Department for the Blind and Vision Impaired (702)	13942	\$369,151		\$381,910
	Department of Behavioral Health and Developmental Services (720)	10880	\$5,039,419		\$5,503,387
	Department of Juvenile Justice (777)	15081	\$947,902		\$1,038,641
	Department of Forensic Science (778)	16320	\$474,155		\$531,269
	Department of Corrections (799)	10887	\$10,538,371		\$11,613,681
	Institute for Advanced Learning and Research (885)	18044	\$314,890		\$330,120
	Department of Veterans Services	17073	\$425,906		\$459,559

ITEM C-44.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
(912)				
Innovation and Entrepreneurship Investment Authority (934)	17943	\$111,550		\$127,090
Roanoke Higher Education Center (935)	17916	\$361,197		\$378,753
Southern Virginia Higher Education Center (937)	18131	\$303,571		\$303,571
New College Institute (938)	18132	\$303,571		\$303,571
Virginia Museum of Natural History (942)	14439	\$314,527		\$329,269
Southwest Virginia Higher Education Center (948)	16499	\$311,164		\$321,380
Total		\$94,400,000 \$94,900,000		\$99,900,000 \$104,353,057

C. Expenditures for amounts appropriated in this Item are subject to conditions defined in §2-0 E of this act.

D. 1. In order to reduce building operation costs and repay capital investments, agencies and institutions of higher education may give priority to maintenance reserve projects which result in guaranteed savings to the agency or institution pursuant to § 11-34.3, Code of Virginia.

2. Agencies and institutions of higher education may use maintenance reserve funds to finance the following capital costs: to repair or replace damaged or inoperable equipment, components of plant, and utility systems; to correct deficiencies in property and plant required to conform with building and safety codes or those associated with hazardous condition corrections, including asbestos abatement; to correct deficiencies in fire protection, energy conservation and handicapped access; and to address such other physical plant deficiencies as the Director, Department of Planning and Budget may approve. Agencies and institutions of higher education may also use maintenance reserve funds to make other necessary improvements that do not meet the criteria for maintenance reserve funding with the prior approval of the Director, Department of Planning and Budget.

E. 1. The Department of General Services is authorized to use these funds from its maintenance reserve allocation for necessary repairs and improvements in and around Capitol Square for items such as repair and conservation of the historic fence, repair and improvements to the grounds, upkeep and ongoing repairs to the exterior of the Capitol and Bell Tower, and conservation and maintenance of monuments and statues. The use of and allocation of these funds shall be as deemed appropriate by the Director, Department of General Services.

2. Notwithstanding the provisions of § 2.2-1130, Code of Virginia, the Department of General Services shall resume custody, control and supervision of the Virginia War Memorial Carillon. Out of the amounts provided for the Department of General Services (Project Code 14260), the Department shall provide for maintenance and repair of the Virginia War Memorial Carillon. In addition, notwithstanding the provisions of § 2.2-1130, Code of Virginia, any fund balances held by the Department of General Services and new revenues generated by the Department of General Services under the provisions of § 2.2-1130, Code of Virginia, shall be paid to the Department of General Services by the Comptroller and shall be retained by the Department of General Services for the upkeep, maintenance, and improvement of the Virginia War Memorial Carillon for fiscal years 2017 and 2018. No later than August 31, 2017, the Department will prepare an annual maintenance and operation budget, to include needed resources, to maintain and operate the Carillon, report its findings to the Chairmen of the House Appropriations and Senate Finance Committees no later than October 1, 2017, and include its budget and resource needs in a budget request to be considered for funding during the 2018 Session of the General Assembly. No expenses from this item shall be made until the conditions of this paragraph are met.

F.1. The Jamestown-Yorktown Foundation may use an amount not to exceed 20 percent of its annual maintenance reserve allocation from this item for the conservation of art and artifacts.

2. The Virginia Museum of Fine Arts may use an amount not to exceed 20 percent of its

ITEM C-44.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
annual maintenance reserve allocation from this item for the conservation of art works owned by the Museum.				
G. The Department of Corrections may use a portion of its annual maintenance reserve allocation to make modifications to correctional facilities needed to enable the agency to meet the requirements of the federal Prison Rape Elimination Act.				
H. The Frontier Culture Museum may use its maintenance reserve allocation to pave the loop roads, paths, and parking lots, repair and replace restroom facilities, improve public entrance accessibility, and improve the grounds at the museum.				
I. 1. Any balances remaining from the maintenance reserve allocation identified in this item for the Jamestown-Yorktown Foundation shall not revert to the general fund at the end of the fiscal year, but shall be brought forward and made available to the Jamestown-Yorktown Foundation for the purposes of the maintenance reserve program in the subsequent fiscal year.				
2. Any balances remaining from the maintenance reserve allocation identified in this item for the Virginia Museum of Fine Arts shall not revert to the general fund at the end of the fiscal year, but shall be brought forward and made available to the Virginia Museum of Fine Arts for the purposes of the maintenance reserve program in the subsequent fiscal year.				
J. The Jamestown-Yorktown Foundation may utilize its annual maintenance reserve allocation to restore, repair or renew exhibits.				
K. The Department of Corrections may use up to \$1,500,000 of its annual maintenance reserve allocation to retrofit the correctional facility in Culpeper County that had been used in the past by the Department of Juvenile Justice to house juvenile defenders, but will, effective January 1, 2016, be used to house adult offenders.				
L. Out of the amounts provided for Virginia State University (Project Code 12733), \$950,000 the first year is designated to replace heating, ventilation, air-conditioning and controls in the M.T. Carter Building.				
M. Out of the amounts provided for the Department of Agriculture and Consumer Services (Project Code 12253), \$750,000 the first year is designated to install generators in regional laboratories.				
N. Out of the amounts provided for Gunston Hall (Project Code 12382), \$200,000 the first year is designated for new water lines.				
<i>O. Gunston Hall may use an amount not to exceed 20 percent of its annual maintenance reserve allocation from this Item to restore, repair, or renew exhibits. Furthermore, it may use its maintenance reserve allocation to pave the roads, paths, and parking lots, improve entrance accessibility, and improve the grounds at the museum.</i>				
<i>P. Out of the amounts provided for the Department of State Police (Project Code 10886), \$500,000 the first year is designated to address mold remediation, air conditioning and heating improvements, exterior water proofing, and roof repairs at the training academy in Chesterfield County.</i>				
<i>Q. Virginia Commonwealth University is authorized to use up to \$3,500,000 in maintenance reserve funding to make repairs to the Scott House. For every dollar of state funding used on this project, the university shall provide matching funds from nongeneral fund resources.</i>				

C-45. Omitted.

C-45.10	Central Reserve for Capital Equipment Funding (17954).....		\$0	\$19,584,500
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Fund Sources: Bond Proceeds.....	\$0	\$19,584,500
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A. 1. The capital projects in paragraph B of this Item are hereby authorized and may be financed in whole or in part through bonds of the Virginia College Building Authority.

ITEM C-45.10.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
<p>pursuant to § 23.1-1200 et seq., Code of Virginia, or the Virginia Public Building Authority pursuant to § 2.2-2260, Code of Virginia. Bonds of the Virginia College Building Authority issued to finance these projects may be sold and issued under the 21st Century College Program at the same time with other obligations of the Authority as separate issues or as a combined issue. The aggregate principal amount shall not exceed \$19,584,500 plus amounts to fund issuance costs, reserve funds, original issue discount, interest prior to and during the acquisition or construction and for one year after completion thereof, and other financing expenses.</p> <p>2. From the list of projects included in paragraph B of this Item, the Director, Department of Planning and Budget, shall provide the Chairmen of the Virginia College Building Authority and the Virginia Public Building Authority with the specific projects, as well as the amounts for these projects, to be financed by each authority within the dollar limit established by this authorization.</p> <p>3. Debt service on the projects contained in this Item shall be provided from appropriations to the Treasury Board.</p> <p>B. There is hereby appropriated \$19,584,500 in the second year from bond proceeds of the Virginia College Building Authority or the Virginia Public Building Authority to provide funds for equipment for the following projects for which construction was previously provided.</p> <p><b>Agency Name/Project Title</b></p> <p><b>Department of Conservation and Recreation (199)</b>            Construct Widewater State Park (18056)            Renovate Historic Building, Walnut Valley Farm, Chippokes Plantation State Park (18159)</p> <p><b>Wilson Workforce and Rehabilitation Center (203)</b>            Renovate and Expand Anderson Vocational Training Building, Phase II (18160)</p> <p><b>Virginia Polytechnic Institute and State University (208)</b>            Renovate or Renew Academic Buildings (18065)</p> <p><b>Virginia State University (212)</b>            Renovate Lockett Hall (17511)</p> <p><b>Longwood University (214)</b>            Construct Admissions Office (18083)</p> <p><b>Virginia Cooperative Extension and Agricultural Experiment Station (229)</b>            Improve Kentland Facilities, Phase I (17830)</p> <p><b>Virginia Community College System (260)</b>            Replace Anderson Hall, Virginia Western (17991)            Replace Academic and Administration Building, Eastern Shore (18076)            Renovate Engineering and Industrial Technology Building, Danville (18077)            Construct Student Service and Learning Resources Center, Christianna Campus, Southside Virginia (18079)            Renovate Bird Hall and Renovate/Expand Nicholas Center, Chester Campus, John Tyler (18029)</p> <p><b>Virginia Institute of Marine Science (268)</b>            Construct Facilities Management Building (18088)</p> <p><b>Department of Corrections (799)</b>            Acquire Richmond P&amp;P Office (18063)</p>				
C-46.	Omitted.			
C-47.	Omitted.			
C-48.	Omitted.			
C-48.10	Capital Outlay Project Pool (17967).....		\$1,500,000	\$49,352,000
	Fund Sources: Bond Proceeds.....	\$1,500,000	\$49,352,000	

ITEM C-48.10.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
<p>A. In addition to the amounts previously authorized in Item C-43, Chapter 2, 2014 Special Session I, Acts of Assembly, the Virginia Public Building Authority, pursuant to § 2.2-2260 et seq. of the Code of Virginia, and the Virginia College Building Authority, pursuant to § 23.1-1200 et seq. of the Code of Virginia, are authorized to issue bonds in a principal amount not to exceed \$50,852,000, plus amounts needed to fund issuance costs, reserve funds, original issue discount, interest prior to and during the acquisition or construction and for one year after completion thereof, and other financing expenses, to finance the capital costs of the projects described in paragraph C. of this Item.</p>				
<p>B. Debt service on bonds issued under the authorization in this Item shall be provided from appropriations to the Treasury Board.</p>				
<p>C. Included in the appropriation for this Item is \$1,500,000 in bond proceeds the first year and \$49,352,000 in bond proceeds the second year for the following purposes:</p>				
<p>1. To supplement the funding for the following projects previously authorized in Item C-43, Chapter 2, 2014 Special Session I Acts of Assembly:</p>				
194--Department of General Services	Make Critical Repairs and Improvements to Consolidated Lab (18148)			
411--Department of Forestry	Construct Garages for Fire Dozers and Transports (18151)			
799--Department of Corrections	Replace Fire Alarm Systems (18156)			
<p>2. To fund the following projects hereby authorized for construction:</p>				
Virginia School for the Deaf and the Blind (218)	Repair Main Hall Exterior			
Department of State Police (156)	Construct Area 12 Office Building (18250)			
Virginia Institute of Marine Science (268)	Construct Eastern Shore Laboratory Education, Administration and Research Complex (18320)			
<p>3. To fund the following projects hereby authorized for renovation and equipment:</p>				
Institute for Advanced Learning and Research (885)	Institute (IALR) Renovation, Improvements and Equipment (18321)			
Department of Corrections (799)	Replace Greensville Heating and Hot Water Pipes (18322)			
<p>4. To supplement the funding for the following project previously authorized in Item C-38.10, Chapter 3, 2012 Special Session I Acts of Assembly:</p>				
Department of Veterans Services (912)	Virginia War Memorial (18010)			
<p>D. The Virginia School for the Deaf and the Blind shall submit a formal plan to the Secretary of Education to address the school's declining enrollment. The plan should specify current and future uses of Main Hall to ensure optimal utilization of the facility. The Governor is to provide final approval of the plan before any funding provided in this Item is released for repair to the exterior of the school's Main Hall.</p>				
C-48.50 Comprehensive Capital Outlay Program (18049)....			\$0	\$2,382,000
Fund Sources: Bond Proceeds.....	\$0	\$2,382,000		
<p>A. In addition to the amounts previously authorized in Item C-39.40, Chapter 1, 2014 Special Session I Acts of Assembly, the Virginia College Building Authority, pursuant to § 23.1-1200 et seq. of the Code of Virginia, is authorized to issue bonds in a principal amount not to exceed \$2,382,000, plus amounts needed to fund issuance costs, reserve funds, original issue discount, interest prior to and during the acquisition or construction and for one year after completion thereof, and other financing expenses, to finance the capital costs of the project described in paragraph C. of this Item.</p>				
<p>B. Debt service on the bonds issued under the authorization in this Item shall be provided from appropriations to the Treasury Board.</p>				
<p>C. Included in the appropriation for this Item is \$2,382,000 in bond proceeds the second year to supplement the funding for the following project previously authorized in Item C-</p>				

ITEM C-48.50.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018

39.40, Chapter 1, 2014 Special Session I Acts of Assembly:

212--Virginia State University	Erosion and Sediment Control Stormwater Master Plan/Retention Pond (17980)
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C-49. Omitted.

C-49.20 Capital Outlay Renovation Pool (18196).....		\$0	\$7,842,000
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Fund Sources: Bond Proceeds.....	\$0	\$7,842,000
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A. In addition to the amounts previously authorized in Item C-46.15, Chapter 665, 2015 Acts of Assembly, the Virginia College Building Authority, pursuant to § 23.1-1200 et seq., Code of Virginia, is authorized to issue bonds in a principal amount not to exceed \$7,842,000, plus amounts needed to fund issuance costs, reserve funds, original issue discount, interest prior to and during the acquisition or construction and for one year after completion thereof, and other financing costs, to supplement the funding for the following projects previously authorized in Item C-46.15, Chapter 665, 2015 Acts of Assembly:

208--Virginia Polytechnic Institute and State University	Renovate or Renew Academic Buildings (18065)
260--Virginia Community College System	Renovate Engineering and Industrial Technology Building, Danville (18077)

B. Debt service on the bonds issued under the authorization in this Item shall be provided from appropriations to the Treasury Board.

C-50. The provisions of Item C-46.10, Chapter 665, 2015 Acts of Assembly, as it relates to the Advanced Manufacturing Apprentice Academy Center and Regional Centers of Excellence are hereby extended without change for the 2016-2018 Biennium *except for paragraph D.*

D. Upon certification from the Virginia Economic Development Partnership and the Commonwealth Center for Advanced Manufacturing that one or more federal grants have been awarded or contributions from other non-governmental sources, including but not limited to in-kind donations of land, equipment, software or services, have been received by the Commonwealth Center for Advanced Manufacturing, the Director, Department of Planning and Budget shall release all or a portion of \$25 million from this item to the Virginia Economic Development Partnership (VEDP) for the Commonwealth Center for Advanced Manufacturing to develop an Advanced Manufacturing Apprentice Academy Center to support existing and future Regional Centers of Excellence. In-kind donations shall not exceed more than 40 percent of the total match that is required.

C-51. The authorization for the Virginia Public Building Authority to issue bonds for the projects listed below is reduced by the amounts shown. The Director, Department of Planning and Budget, shall reduce the appropriations for the projects accordingly.

Agency Code	Agency Name	Project Code	Amount
799	Department of Corrections	15167	\$121,248
799	Department of Corrections	16105	\$849,365
799	Department of Corrections	16424	\$18,733
799	Department of Corrections	16433	\$61,199
799	Department of Corrections	16991	\$1,516
799	Department of Corrections	16993	\$115,788
799	Department of Corrections	17139	\$134,875
799	Department of Corrections	17607	\$43,424
799	Department of Corrections	17610	\$186,930
799	Department of Corrections	17615	\$157,649
799	Department of Corrections	17620	\$49,723
777	Department of Juvenile Justice	16723	\$11,299,338
777	Department of Juvenile Justice	16979	\$980,214
777	Department of Juvenile Justice	17254	\$997,716

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	First Year	Second Year	First Year	Second Year
	FY2017	FY2018	FY2017	FY2018
777	Department of Juvenile Justice	17257		\$700,000
777	Department of Juvenile Justice	17602		\$2,200,000
777	Department of Juvenile Justice	17605		\$394,315

C-52. A. George Mason University is hereby granted approval to enter into a capital lease for Potomac Heights Housing, a GMU foundation-owned student apartment building on the Fairfax campus.

B. The Department of General Services is authorized to enter into capital leases as follows:

1. On behalf of the Department of Social Services, to address lease space needs for the Child Support Enforcement District Office, the Regional Administrative Office and the Regional Training Offices in Abingdon.
2. On behalf of the Department of Social Services, to address lease space needs for the Child Support Enforcement District Office and the Child Support Enforcement Regional Offices in Roanoke and Lynchburg.
3. On behalf of the Department of Motor Vehicles, to address lease space needs for a customer service center to replace or renew the lease for the existing facility in Smithfield.
4. On behalf of the Virginia Marine Resources Commission, to address lease space needs for a headquarter facility to replace or renew the lease for the existing facilities in Newport News.
5. On behalf of the Department of Corrections, to address lease space needs for a probation and parole office offices to replace or renew the lease for the existing facilities in Petersburg and Chesterfield County.
6. On behalf of the Department of Motor Vehicles, to address lease space needs for an additional customer service center or relocation and expansion of existing centers in Loudoun County.

C-52.10	Improvements: Research Labs and Equipment (18251).....			\$57,500,000	\$0
	Fund Sources: Bond Proceeds.....	\$57,500,000	\$0		

A. Contingent on the passage of House Bill 1343 of the 2016 General Assembly, the Virginia College Building Authority is authorized to issue, pursuant to § ~~23-304~~ § 23.1-3130 et seq., Code of Virginia, bonds in the amount of \$57,500,000 the first year, plus amounts to fund related issuance costs and other financing expenses for lab renovations and enhancements and / or research equipment related to higher education research.

B. Out of the amounts appropriated in this item, the project at the University of Virginia to Renovate Space for the Center for Human Therapeutics shall be funded.

C-52.20 Omitted.

C-52.30 Omitted.

C-52.40	Supplant Capital Projects (17631).....			\$0	\$94,730,575
	Fund Sources: Bond Proceeds.....	\$0	\$94,730,575		

A. On or before June 30, 2018, the Director, Department of Planning and Budget, in collaboration with the Comptroller, shall revert general fund appropriations from the capital projects listed in paragraph D. of this Item in the amounts shown. The Director, Department of Planning and Budget, may direct the restoration of any portion of the reverted amount if the director shall subsequently verify an unpaid obligation cannot be paid as a result of this reversion.

B. The Virginia College Building Authority, pursuant to § 2.2-2260 et seq. of the Code of Virginia, is authorized to issue bonds in a principal amount not to exceed \$94,730,575,

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plus amounts needed to fund issuance costs, reserve funds, original issue discount, interest prior to and during the acquisition or construction and for one year after completion thereof, and other financing expenses, to finance the capital costs of the projects described in paragraph D. of this Item.

C. Debt service on the bonds issued under the authorization provided in this Item shall be paid from appropriations to the Treasury Board.

D. In the second year, the Director, Department of Planning and Budget, shall restore from proceeds of bonds authorized for issuance by the Virginia College Building Authority by paragraph B. of this Item an amount equivalent to the general fund appropriation reverted from the following projects:

Agency	Project Title/Number	Amount
Virginia Polytechnic Institute and State University (208)	Renovate or Renew Academic Buildings (18065)	\$24,959,494
Longwood University (214)	Additional Biomass Boiler (18016)	\$5,449,095
James Madison University (216)	Acquire East Campus Chiller Plant (18173)	\$2,800,000
James Madison University (216)	Renovate/Addition Madison Hall	\$15,741,438
Radford University (217)	Renovate Whitt Hall (18067)	\$7,397,093
Virginia Cooperative Extension and Agricultural Experiment Station (229)	Improve Kentland Facilities (17830)	\$7,936,259
Virginia Commonwealth University (236)	Renovate Raleigh Building (18071)	\$7,010,583
Virginia Commonwealth University (236)	Renovate Sanger Hall, Phase II (18070)	\$17,214,620
Virginia Community College System (260)	Renovate Engineering and Industrial Technology Building, Danville (18077)	\$6,221,993
		\$94,730,575

E. On or before June 30, 2018, the Director, Department of Planning and Budget, shall revert general fund appropriations estimated at \$33,790,000 from the capital projects in the agencies listed below to the general fund of the state treasury:

Agency/Project	Amount
<b>Department of Corrections(799)</b>	
Equip Correctional Center in Culpeper County (18136)	\$40,000
<b>Central Capital Outlay (949)</b>	
Capital Outlay Project Pool (17967)	\$19,500,000
Detail Planning for Capital Projects (17968)	\$14,250,000
	<b>\$33,790,000</b>

F. On or before June 30, 2017, the State Comptroller shall transfer to the general fund \$5,000,000 as appropriate from the following agency, fund, and project codes listed.

Agency Name/ (Code)	Fund	Project Code
Central Capital (949)	0965	17777
Central Capital (949)	0965	17968
Department of Conservation and Recreation (199)	0965	00000
Department of Conservation and Recreation (199)	0965	18159
Woodrow Wilson Workforce and Rehabilitation Center (203)	0965	18160
Virginia Community College System (260)	0965	17989
Department of Forensic Science (778)	0965	18167
Department of Juvenile Justice (777)	0965	17727
Department of Behavioral Health and	0965	18166

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<i>Developmental Services (720)</i>				
<i>Frontier Culture Museum (239)</i>		0965	18073	
C-52.45 <i>Planning: Acquire or Construct ABC Central Office and Warehouse Facility (18323).....</i>			\$500,000	\$0
<i>Fund Sources: General.....</i>	\$500,000	\$0		

A. *The Department of Alcoholic Beverage Control (ABC) and the Department of General Services (DGS) shall develop and deliver a plan to provide capital project options for a new ABC warehouse and ABC administrative offices.*

B. *The plan will be a comprehensive plan for an ABC warehouse and administrative offices. At a minimum the plan will include real estate development approaches to achieve operationally ready, "turn-key", cost effective and efficient solutions to meet ABC's operational and business requirements. Solutions may include, but not be limited to, lease or construction of new facilities, acquiring existing facilities through lease or purchase, a combination of new construction and existing facilities, and must include at least one option for using the existing location for the new or retrofitted warehouse and administrative office building.*

C. *In developing a new construction option for office space, an infill design concept should be considered, which initially would accommodate not more than a ten percent increase in central office staff beyond the number currently located in the headquarters building, with further growth in staff beyond the ten percent to be accommodated through less-expensive infill construction.*

D. *The Department of General Services (DGS) shall analyze and include options in the ABC plan for the use of state-owned real property declared surplus and existing underutilized state-owned real property.*

E. *Private sector developer options are to be included in the ABC plan. DGS is tasked and authorized to publicly solicit proposals (i.e. Request For Proposal, Request For Information or by other public solicitation method), to evaluate requirements in paragraphs B and D of this item, from the private sector developer community interested in providing solutions that meet ABC's operational, business, and cost effectiveness and efficiency requirements.*

F. *ABC is tasked to include in the plan financing options for the capital project options.*

G. *The plan shall be delivered to the Governor, Chairmen of the House Appropriations and Senate Finance Committees, and the Six-Year Capital Outlay Plan Advisory Committee (§ 2.2-1516) no later than November 1, 2017.*

H. *Funds authorized to the Department of General Services for this item may be used to accomplish the necessary tasks to prepare, develop, complete, and execute the ABC plan.*

C-52.50 *Notwithstanding the provisions of § 2 of Chapter 759 and 769 of the 2016 Acts of Assembly, the following projects shall be managed by the Secretary of Finance, in consultation with the Six-Year Capital Outlay Plan Advisory Committee established under § 2.2-1516, Code of Virginia, to establish an agreed-upon schedule for the use of the nongeneral fund portion of these projects prior to the use of bond financing. The issuance of debt obligations for these projects shall not be subject to the annual issuance limit set out in the tenth enactment of Chapters 759 and 769, 2016 Acts of Assembly:*

Agency	Project Code	Project Title
<i>College of William and Mary (204)</i>	<i>18202</i>	<i>Construct West Utilities Plant</i>
<i>College of William and Mary (204)</i>	<i>18292</i>	<i>Construct Fine and Performing Arts Facility, Phases I &amp; II</i>
<i>University of Virginia (207)</i>	<i>18082</i>	<i>Renovate Gilmer Hall and Chemistry Building</i>
<i>Virginia Polytechnic Institute and State University (208)</i>	<i>18267</i>	<i>Renovate Holden Hall (Engineering)</i>

ITEM C-52.50.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
Virginia Polytechnic Institute and State University (208)	18269	Construct VT Carilion Research Institute Biosciences Addition		
James Madison University (216)	18273	Construct New School of Business		
Virginia Commonwealth University (236)	18206	Construct School of Allied Health Professions Building		
Virginia Commonwealth University (236)	18243	Construct School of Engineering Research Expansion		
George Mason University (247)	18208	Construct Utilities Distribution Infrastructure		

C-52.60 A. The Virginia Public Building Authority, pursuant to § 2.2-2260 et seq. of the Code of Virginia, is authorized to issue bonds in a principal amount not to exceed \$24,423,000, plus amounts needed to fund issuance costs, reserve funds, original issue discount, interest prior to and during the acquisition or construction and for one year after completion thereof, and other financing expenses, to finance the capital costs of the projects described in paragraph C. of this Item, including constructing, improving, furnishing, equipping, acquiring, and renovating buildings, facilities, improvements, and land therefor.

B. Debt service on bonds issued under the authorization in this Item shall be provided from appropriations to the Treasury Board.

C. The appropriations for the following authorized projects are contained in the appropriation Items listed:

Agency Name/Project Title	Project Code	Item	VPBA Bonds
<b>Department of Military Affairs (123)</b>			
Acquire Land for Readiness Centers	18309	C-34.10	\$3,000,000
Renovate Roanoke Field Maintenance Shop	18310	C-34.20	\$323,000
Replace / Install Fire Safety Systems in Readiness Centers	18318	C-34.30	\$5,000,000
<b>Department of General Services (194)</b>			
Repair the Exterior Envelope of Main Street Centre	18308	C-1.50	\$2,500,000
<b>Department of Behavioral Health and Developmental Services (720)</b>			
Make Infrastructure Repairs to State Facilities	18307	C-24.50	\$3,600,000
<b>Department of Veterans Services (912)</b>			
Construction of Additional Burial Vaults	18319	C-43.50	\$10,000,000

C-52.70 A. Pursuant to projects authorized and funded in paragraph E.1 of Item C-39.40 of Chapter 1 of the Acts of Assembly of 2014, operations of the Virginia General Assembly will temporarily move and operate from the Pocahontas Building bounded by the following streets 9th to the west, 10th to the east, Bank to the north, and Main to the south in the City of Richmond. This temporary move will result in the Commonwealth's legislative activities to be concentrated in an area requiring traffic and pedestrian operational safety and security enhancements. As such, and pursuant to the responsibilities of the Department of General Services (DGS) (§ 2.2-1129) and the Division of Capitol Police (DCP) (§ 30-34.2:1), Bank Street from 9th to 12th Street in the City of Richmond shall be controlled by the DGS and the DCP while the General Assembly is in session and is located in the Pocahontas Building. Vehicular travel limitations and pedestrian management needs on and along Bank Street shall be determined jointly by the DGS and the DCP during that time. These determinations will be based on the

ITEM C-52.70.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018
<p><i>recommendations outlined in the Bank Street Safety and Security Assessment prepared by Commonwealth Architects dated February 15, 2017 (the Assessment). Funding for materials and contract services needed to address pedestrian and vehicle management activities are available to DGS from the Chapter referenced in this item.</i></p> <p><i>B. The DGS and the DCP will coordinate its Bank Street decisions with the City of Richmond to allow for adequate set-up and removal of temporary traffic control after December 1st each year prior to a General Assembly session and two weeks after a General Assembly session ends. At no time, will DGS or DCP make permanent changes to Bank Street right-of-way (e.g. traffic control devices, security fixtures, street lighting, surface treatments) without the approval of the City of Richmond's Chief Administrative Officer. Additionally, at no time will the City prevent DGS and DCP from implementing the recommendations outlined in the Assessment. Bank Street operations will revert to the City of Richmond upon the General Assembly vacating the Pocahontas Building and has moved to its new building on Broad Street.</i></p> <p><i>C. The projects stated in the Chapter referenced above also include new permanent facilities for state government operations. Design precedence for permanent facilities will accommodate the operational needs of state government resources identified to occupy and conduct state business within the funded projects.</i></p>				
Total for Central Capital Outlay.....			<b>\$151,900,000</b> <i>\$154,400,000</i>	<b>\$99,900,000</b> <i>\$278,244,132</i>
Fund Sources: General.....	\$10,000,000 \$500,000	\$0		
Bond Proceeds.....	\$141,900,000 <i>\$153,900,000</i>	\$99,900,000 <i>\$278,244,132</i>		

**§ 2-31. 9(C) REVENUE BONDS (950)**

- C-53. A.1. This Item authorizes the capital projects listed below to be financed pursuant to Article X, Section 9(c), Constitution of Virginia.
2. The appropriations for said capital projects are contained in the appropriation Items listed below and are subject to the conditions in § 2-0 F of this act.
3. The total amount listed in this Item includes ~~\$40,987,000~~ \$54,624,000 in bond proceeds.

Agency Name/ Project Title	Item #	Project Code	Section 9(c) Bonds
<b>College of William and Mary (204)</b>			
Renovate Dormitories	C-3	18218	\$2,500,000
<i>Renovate Dormitories</i>	<i>C-5.10</i>	<i>18100</i>	<i>\$13,637,000</i>
<b>Norfolk State University (213)</b>			
Renovate and Upgrade Dormitories	C-14	18221	\$9,237,000
<b>James Madison University (216)</b>			
Construct Phillips Dining Hall	C-10.10	18249	\$26,600,000
<b>Richard Bland College (241)</b>			
Convert Former Humanities and Social Sciences Building into Student Housing	C-6	18222	\$2,650,000
<b>Total for Nongeneral Fund Obligation Bonds 9(c)</b>			<b>\$40,987,000</b> <b>\$54,624,000</b>
Total for 9(C) Revenue Bonds.....			\$0 \$0

ITEM C-53.	Item Details(\$)		Appropriations(\$)	
	First Year FY2017	Second Year FY2018	First Year FY2017	Second Year FY2018

**§ 2-32. 9(D) REVENUE BONDS (951)**

- C-54. 1. This Item authorizes the capital projects listed below to be financed pursuant to Article X, Section 9(d), Constitution of Virginia.
2. The appropriations for said capital projects are contained in the appropriation Items listed below and are subject to the conditions in § 2-0 F of this act.
3. The total amount listed in this Item includes ~~\$157,709,000~~ \$280,577,000 in bond proceeds.

Agency Name/ Project Title	Item #	Project Code	Section 9(d) Bonds
<b>College of William and Mary (204)</b>			
Improve Auxiliary Facilities	C-4	18219	\$5,000,000
Improve Athletic Facilities	C-5	18220	\$5,000,000
<i>Construct West Utilities Plant</i>	<i>C-5.20</i>	<i>18202</i>	<i>\$14,986,000</i>
<b>Virginia Polytechnic Institute and State University (208)</b>			
Renovate Student Health Center	C-22	18224	\$3,071,000
<i>Renovate Holden Hall (Engineering)</i>	<i>C-22.10</i>	<i>18267</i>	<i>\$17,500,000</i>
<i>Construct Central Chiller Plant, Phase II</i>	<i>C-22.20</i>	<i>18268</i>	<i>\$9,797,000</i>
<i>Construct VT Carilion Research Institute Biosciences Addition</i>	<i>C-22.30</i>	<i>18269</i>	<i>\$23,793,000</i>
<b>Virginia Military Institute (211)</b>			
Improve Post Infrastructure Phases I, II and III	C-21	18204	\$3,380,000
<b>Longwood University (214)</b>			
<i>Replace Steam Distribution System Wheeler Mall</i>	<i>C-13.10</i>	<i>18271</i>	<i>\$3,192,000</i>
<b>University of Mary Washington (215)</b>			
Construct New Parking Deck, Phase I	C-15	18226	\$7,000,000
<b>James Madison University (216)</b>			
Construct East Campus Parking Deck	C-10	18231	\$40,000,000
<i>Construct West Campus Parking Deck</i>	<i>C-10.20</i>	<i>18306</i>	<i>\$7,000,000</i>
<b>Old Dominion University (221)</b>			
<i>Reconstruct the Stadium at Foreman Field</i>	<i>C-14.50</i>	<i>18303</i>	<i>\$45,000,000</i>
<b>Virginia Commonwealth University (236)</b>			
Construct School of Allied Health Professions Building	C-18	18206	\$10,800,000
Construct School of Engineering Research Expansion	C-19	18243	\$41,341,000

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<b>Richard Bland College (241)</b>				
Convert Former Humanities and Social Sciences Building into Student Housing	C-6	18222	\$1,600,000	
<b>George Mason University (247)</b>				
Construct/Renovate Robinson Hall, New Academic and Research Facility and Harris Theater	C-7	18207	\$2,582,000	
Construct Utilities Distribution Infrastructure	C-8	18208	\$25,228,000	
<b>Virginia Community College System (260)</b>				
Construct Parking Garage, Virginia Western	C-20	18223	\$14,307,000	
<b>Total for Nongeneral Fund Obligation Bonds 9(d)</b>			<b>\$157,709,000</b> <b>\$280,577,000</b>	
Total for 9(D) Revenue Bonds.....			\$0	\$0
TOTAL FOR CENTRAL APPROPRIATIONS.....			<b>\$151,900,000</b> <b>\$154,400,000</b>	<b>\$99,900,000</b> <b>\$278,244,132</b>
Fund Sources: General.....	\$10,000,000	\$0		
	\$500,000			
Bond Proceeds.....	\$141,900,000	\$99,900,000		
	\$153,900,000	\$278,244,132		
TOTAL FOR PART 2: CAPITAL PROJECT EXPENSES.....			<b>\$506,530,700</b> <b>\$540,302,700</b>	<b>\$151,146,000</b> <b>\$494,576,132</b>
Fund Sources: General.....	\$10,800,000	\$0		
	\$1,000,000			
Special.....	\$1,223,000	\$175,000		
	\$1,248,000	\$1,175,000		
Higher Education Operating.....	\$92,480,000	\$0		
		\$31,050,000		
Commonwealth Transportation.....	\$51,766,700	\$43,671,000		
Dedicated Special Revenue.....	\$2,925,000	\$3,150,000		
	\$3,803,000	\$5,291,000		
Federal Trust.....	\$5,000,000	\$4,250,000		
	\$5,123,000	\$4,763,000		
Bond Proceeds.....	\$342,336,000	\$99,900,000		
	\$384,882,000	\$408,626,132		

**PART 3: MISCELLANEOUS**  
**§ 3-1.00 TRANSFERS**

§ 3-1.01 INTERFUND TRANSFERS

A.1. In order to reimburse the general fund of the state treasury for expenses herein authorized to be paid therefrom on account of the activities listed below, the State Comptroller shall transfer the sums stated below to the general fund from the nongeneral funds specified, except as noted, on January 1 of each year of the current biennium. Transfers from the Alcoholic Beverage Control Enterprise Fund to the general fund shall be made four times a year, and such transfers shall be made within fifty (50) days of the close of the quarter. The payment for the fourth quarter of each fiscal year shall be made in the month of JunE.

	FY 2017	FY 2018
1. Alcoholic Beverage Control Enterprise Fund (§ 4.1-116, Code of Virginia)		
a) For expenses incurred for care, treatment, study and rehabilitation of alcoholics by the Department of Behavioral Health and Developmental Services and other state agencies (from Alcoholic Beverage Control gross profits)	\$65,375,769	\$65,375,769
b) For expenses incurred for care, treatment, study and rehabilitation of alcoholics by the Department of Behavioral Health and Developmental Services and other state agencies (from gross wine liter tax collections as specified in § 4.1-234, Code of Virginia)	\$9,141,363	\$9,141,363
2. Forest Products Tax Fund (§ 58.1-1609, Code of Virginia)	<del>\$20,971</del> \$20,917	<del>\$20,971</del> \$20,917
For collection by Department of Taxation		
3. Peanut Fund (§3.2-1906, Code of Virginia)	<del>\$2,539</del> \$2,830	<del>\$2,539</del> \$2,830
4. For collection by Department of Taxation		
a) Aircraft Sales & Use Tax (§ 58.1-1509, Code of Virginia)	<del>\$43,980</del> \$59,419	<del>\$43,980</del> \$59,419
b) Soft Drink Excise Tax	<del>\$1,875</del> \$2,157	<del>\$1,875</del> \$2,157
c) Virginia Litter Tax	<del>\$8,151</del> \$9,238	<del>\$8,151</del> \$9,238
5. Proceeds of the Tax on Motor Vehicle Fuels For inspection of gasoline, diesel fuel and motor oils	\$97,586	\$97,586
6. Virginia Retirement System (Trust and Agency) For postage by the Department of the Treasury	\$34,500	\$34,500
7. Department of Alcoholic Beverage Control (Enterprise) For services by the:		
a) Auditor of Public Accounts	\$75,521	\$75,521
b) Department of Accounts	\$64,607	\$64,607
c) Department of the Treasury	\$47,628	\$47,628
8. <i>Commission on the Virginia Alcohol Safety Action Program (Special)</i> <i>For expenses incurred for care, treatment, study and rehabilitation of alcoholics by the Department of Behavioral Health and Developmental Services and other state agencies.</i>	\$800,000	\$0
<b>TOTAL</b>	<b><del>\$74,914,490</del> \$75,731,535</b>	<b><del>\$74,914,490</del> \$74,931,535</b>

2.a. Transfers of net profits from the Alcoholic Beverage Control Enterprise Fund to the general fund shall be made four times a year, and such transfers shall be made within fifty (50) days of the close of each quarter. The transfer of fourth quarter profits shall

be estimated and made in the month of June. In the event actual net profits are less than the estimate transferred in June, the difference shall be deducted from the net profits of the next quarter and the resulting sum transferred to the general fund. Distributions to localities shall be made within fifty (50) days of the close of each quarter. Net profits are estimated at ~~\$84,328,070~~ \$108,428,070 the first year and ~~\$89,828,070~~ \$103,028,070 the second year.

b. Pursuant to § 4.1-116 B, Code of Virginia, the Department of Alcoholic Beverage Control shall notify the State Comptroller of the amount to be deducted quarterly from the net profits for transfer to the reserve fund established by the cited section. *However, § 4.1-116 B. shall not apply if depreciation is expensed directly in order to reduce net profits.*

B.1. If any transfer to the general fund required by any subsections of §§ 3-1.01 through 3-6.02 is subsequently determined to be in violation of any federal statute or regulation, or Virginia constitutional requirement, the State Comptroller is hereby directed to reverse such transfer and to return such funds to the affected nongeneral fund account.

2. There is hereby appropriated from the applicable funds such amounts as are required to be refunded to the federal government for mutually agreeable resolution of internal service fund over-recoveries as identified by the U. S. Department of Health and Human Services' review of the annual Statewide Indirect Cost Allocation Plans.

C. In order to fund such projects for improvement of the Chesapeake Bay and its tributaries as provided in § 58.1-2289 D, Code of Virginia, there is hereby transferred to the general fund of the state treasury the amounts listed below. The Department of Motor Vehicles shall be responsible for effecting the provisions of this paragraph. The amounts listed below shall be transferred on June 30 of each fiscal year.

154	Department of Motor Vehicles	\$7,416,469	\$7,416,469
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D. The provisions of Chapter 6 of Title 58.1, Code of Virginia notwithstanding, the State Comptroller shall transfer to the general fund from the special fund titled "Collections of Local Sales Taxes" a proportionate share of the costs attributable to increased local sales and use tax compliance efforts, the Property Tax Unit, and State Land Evaluation Advisory Committee (SLEAC) services by the Department of Taxation estimated at ~~\$5,511,428~~ \$5,921,168 the first year and ~~\$5,511,428~~ \$5,921,168 the second year.

E. The State Comptroller shall transfer to the general fund from the Transportation Trust Fund a proportionate share of the costs attributable to increased sales and use tax compliance efforts and revenue forecasting for the Transportation Trust Fund by the Department of Taxation estimated at ~~\$2,783,614~~ \$2,925,835 the first year and ~~\$2,783,614~~ \$2,925,835 the second year.

F. On or before June 30 of each year, the State Comptroller shall transfer \$12,629,154 the first year and \$12,629,154 the second year to the general fund the following amounts from the agencies and fund sources listed below, for expenses incurred by central service agencies:

Agency Name	Fund Group	FY 2017	FY 2018
Compensation Board (157)	0900	\$61,074	\$61,074
Department of Elections (132)	0200	\$957	\$957
Department of Agriculture & Consumer Services (301)	0200	\$17,482	\$17,482
Department of Agriculture & Consumer Services (301)	0900	\$35,474	\$35,474
Department of Forestry (411)	0200	\$42,081	\$42,081
Department of Forestry (411)	900	\$334	\$334
Department of Housing and Community Develop. (165)	0900	\$269	\$269
Board of Accountancy (226)	0900	\$10,155	\$10,155
Board of Bar Examiners (233)	0200	\$7,587	\$7,587
Department of Labor and Industry (181)	0200	\$10,226	\$10,226
Department of Professional & Occupational Regulations (222)	0200	\$7,650	\$7,650
Department of Professional & Occupational Regulations (222)	0900	\$3,248	\$3,248

Southwest Virginia Higher Ed. Center (948)	0200	\$22,282	\$22,282
Virginia Museum of Fine Arts (238)	0200	\$25,161	\$25,161
Virginia Museum of Fine Arts (238)	0500	\$19,314	\$19,314
Department of Health (601)	0900	\$220,055	\$220,055
Health Insurance Administration (149)	0500	\$425,602	\$425,602
Tobacco Indemnification & Revit. Commission (851)	0900	\$18,714	\$18,714
Virginia for Health Youth Foundation (852)	0900	\$19,464	\$19,464
Department for the Deaf and Hard-Of- Hearing (751)	0200	\$26,440	\$26,440
Department of Behavioral Health and Developmental Services (720)	0200	\$20,612	\$20,612
Department of Health Professions (223)	0900	\$33,161	\$33,161
Department for Aging and Rehabilitative Services (262)	0200	\$61,116	\$61,116
Department for Aging and Rehabilitative Services (262)	0900	\$373	\$373
Virginia College Savings Plan (174)	0500	\$645,854	\$645,854
Supreme Court (111)	0900	\$273,576	\$273,576
Virginia State Bar (117)	0900	\$73,122	\$73,122
Department of Conservation and Recreation (199)	0200	\$182,537	\$182,537
Department of Conservation and Recreation (199)	0900	\$55,954	\$55,954
Department of Game and Inland Fisheries (403)	0900	\$750,436	\$750,436
Marine Resources Commission (402)	0200	\$20,208	\$20,208
Marine Resources Commission (402)	0900	\$10,075	\$10,075
Virginia Museum of Natural History (942)	0200	\$3,930	\$3,930
Alcoholic Beverage Control (999)	0500	\$150	\$150
Department of Criminal Justice Services (140)	0200	\$56,643	\$56,643
Department of Criminal Justice Services (140)	0900	\$71,485	\$71,485
Department of Fire Programs (960)	0200	\$14,376	\$14,376
Department of State Police (156)	0200	\$103,044	\$103,044
Department of Military Affairs (123)	0900	\$8,722	\$8,722
State Corporation Commission (171)	0900	\$7,120	\$7,120
Innovation & Entrepreneurship	0900	\$1,340	\$1,340

Investment Authority (934)			
Department of Aviation (841)	0400	\$79,004	\$79,004
Department of Rail and Public Transportation (505)	0400	\$675,667	\$675,667
Department of Motor Vehicles (154)	0400	\$3,728,268	\$3,728,268
Department of Transportation (501)	0400	\$4,566,723	\$4,566,723
Motor Vehicle Dealer Board (506)	0200	\$21,061	\$21,061
Virginia Port Authority (407)	0200	\$143,610	\$143,610
Virginia Port Authority (407)	0400	\$47,418	\$47,418
		<b>\$12,629,154</b>	<b>\$12,629,154</b>

G.1. The State Comptroller shall transfer to the Lottery Proceeds Fund established pursuant to § 58.1-4022.1, Code of Virginia, an amount estimated at ~~\$561,527,170~~ \$599,982,144 the first year and ~~\$541,231,250~~ \$546,495,789 the second year, from the Virginia Lottery Fund. The transfer each year shall be made in two parts: (1) on or before January 1 of each year, the State Comptroller shall transfer the balance of the Virginia Lottery Fund for the first five months of the fiscal year and (2) thereafter, the transfer will be made on a monthly basis, *or until the amount estimated at \$599,982,144 the first year and \$546,495,789 the second year has been transferred to the Lottery Proceeds Fund.* Prior to June 20 of each year, the Virginia Lottery Director shall estimate the amount of profits in the Virginia Lottery Fund for the month of June and shall notify the State Comptroller so that the estimated profits can be transferred to the Lottery Proceeds Fund prior to June 22.

2. No later than 10 days after receipt of the annual audit report required by § 58.1-4022.1, Code of Virginia, the State Comptroller shall transfer to the Lottery Proceeds Fund the remaining audited balances of the Virginia Lottery Fund for the prior fiscal year. If such annual audit discloses that the actual revenue is less than the estimate on which the June transfer was based, the State Comptroller shall adjust the next monthly transfer from the Virginia Lottery Fund to account for the difference between the actual revenue and the estimate transferred to the Lottery Proceeds Fund. The State Comptroller shall take all actions necessary to effect the transfers required by this paragraph, notwithstanding the provisions of § 58.1-4022, Code of Virginia. In preparing the Comprehensive Annual Financial Report, the State Comptroller shall report the Lottery Proceeds Fund as specified in § 58.1-4022.1, Code of Virginia.

H.1. The State Treasurer is authorized to charge up to 20 basis points for each nongeneral fund account which he manages and which receives investment income. The assessed fees, which are estimated to generate \$3,000,000 the first year and \$3,000,000 the second year, will be based on a sliding fee structure as determined by the State Treasurer. The amounts shall be paid into the general fund of the state treasury.

2.a. The State Treasurer is authorized to charge institutions of higher education participating in the pooled bond program of the Virginia College Building Authority an administrative fee of up to 10 basis points of the amount financed for each project in addition to a share of direct costs of issuance as determined by the State Treasurer. Such amounts collected from the public institutions of higher education, which are estimated to generate \$100,000 the first year and \$100,000 the second year, shall be paid into the general fund of the state treasury.

3. The State Treasurer is authorized to charge agencies, institutions and all other entities that utilize alternative financing structures and require Treasury Board approval, including capital lease arrangements, up to 10 basis points of the amount financed in addition to a share of direct costs of issuance as determined by the State Treasurer. Such amounts collected shall be paid into the general fund of the state treasury.

4. The State Treasurer is authorized to charge projects financed under Article X, Section 9(c) of the Constitution of Virginia, an administrative fee of up to 10 basis points of the amount financed for each project in addition to a share of direct costs of issuance as determined by the State Treasurer. Such amounts collected are estimated to generate \$50,000 the first year and \$50,000 the second year, and shall be paid into the general fund of the state treasury.

I. The State Comptroller shall transfer to the general fund of the state treasury 50 percent of the annual reimbursement received from the Manville Property Damage Settlement Trust for the cost of asbestos abatement at state-owned facilities. The balance of the reimbursement shall be transferred to the state agencies that incurred the expense of the asbestos abatement.

J. The State Comptroller shall transfer to the general fund from the Revenue Stabilization Fund in the state treasury any amounts in excess of the limitation specified in § 2.2-1829, Code of Virginia.

K.1. Not later than 30 days after the close of each quarter during the biennium, the State Comptroller shall transfer, notwithstanding the allotment specified in § 58.1-1410, Code of Virginia, funds collected pursuant to § 58.1-1402, Code of

Virginia, from the general fund to the Game Protection Fund. This transfer shall not exceed \$4,700,000 the first year and \$4,700,000 the second year.

2. Notwithstanding the provisions of subparagraph K.1. above, the Governor may, at his discretion, direct the State Comptroller to transfer to the Game Protection Fund, any funds collected pursuant to § 58.1-1402, Code of Virginia, that are in excess of the official revenue forecast for such collections.

L.1. On or before June 30 each year, the State Comptroller shall transfer from the general fund to the Family Access to Medical Insurance Security Plan Trust Fund the amount required by § 32.1-352, Code of Virginia. This transfer shall not exceed \$14,065,627 the first year and \$14,065,627 the second year. The State Comptroller shall transfer 90 percent of the yearly estimated amounts to the Trust Fund on July 15 of each year.

2. Notwithstanding any other provision of law, interest earnings shall not be allocated to the Family Access to Medical Insurance Security Plan Trust Fund (agency code 602, fund detail 0903) in either the first year or the second year of the biennium.

M. Not later than thirty days after the close of each quarter during the biennium, the State Comptroller shall transfer to the Game Protection Fund the general fund revenues collected pursuant to § 58.1-638 E, Code of Virginia. Notwithstanding § 58.1-638 E, this transfer shall not exceed ~~\$13,000,000~~ \$12,350,000 the first year and ~~\$13,000,000~~ \$12,350,000 the second year.

N.1. On or before June 30 each year, the State Comptroller shall transfer from the Tobacco Indemnification and Community Revitalization Fund to the general fund an amount estimated at \$244,268 the first year and \$244,268 the second year. This amount represents the Tobacco Indemnification and Community Revitalization Commission's 50 percent proportional share of the Office of the Attorney General's expenses related to the enforcement of the 1998 Tobacco Master Settlement Agreement and § 3.2-4201, Code of Virginia.

2. On or before June 30 each year, the State Comptroller shall transfer from the Tobacco Settlement Fund to the general fund an amount estimated at \$48,854 the first year and \$48,854 the second year. This amount represents the Tobacco Settlement Foundation's ten percent proportional share of the Office of the Attorney General's expenses related to the enforcement of the 1998 Tobacco Master Settlement Agreement and § 3.2-4201, Code of Virginia.

O. On or before June 30 each year, the State Comptroller shall transfer to the general fund \$5,089,914 the first year and \$5,089,914 the second year from the Court Debt Collection Program Fund at the Department of Taxation.

P. On or before June 30 each year, the State Comptroller shall transfer to the general fund \$7,400,000 the first year and \$7,400,000 the second year from the Department of Motor Vehicles' Uninsured Motorists Fund. These amounts shall be from the share that would otherwise have been transferred to the State Corporation Commission.

Q. On or before June 30 each year, the State Comptroller shall transfer an amount estimated at \$6,500,000 the first year and an amount estimated at \$6,500,000 the second year to the general fund from the Intensified Drug Enforcement Jurisdictions Fund at the Department of Criminal Justice Services.

R. On or before June 30 each year, the State Comptroller shall transfer to the general fund ~~\$2,464,585~~ \$3,364,585 the first year and ~~\$2,464,585~~ \$3,364,585 the second year from operating efficiencies to be implemented by the Department of Alcoholic Beverage Control.

S. The State Comptroller shall transfer quarterly, one-half of the revenue received pursuant to § 18.2-270.01, of the Code of Virginia, and consistent with the provisions of § 3-6.03 of this act, to the general fund in an amount not to exceed ~~\$6,055,000~~ \$7,905,000 the first year, and ~~\$6,055,000~~ \$8,055,000 the second year from the Trauma Center Fund contained in the Department of Health's Financial Assistance for Non Profit Emergency Medical Services Organizations and Localities (40203).

T. On or before June 30 each year, the State Comptroller shall transfer \$600,000 the first year and \$600,000 the second year to the general fund from the Land Preservation Fund (Fund 0216) at the Department of Taxation.

U. Unless prohibited by federal law or regulation or by the Constitution of Virginia and notwithstanding any contrary provision of state law, on June 30 of each fiscal year, the State Comptroller shall transfer to the general fund of the state treasury the cash balance from any nongeneral fund account that has a cash balance of less than \$100. This provision shall not apply to institutions of higher education, bond proceeds, or trust accounts. The State Comptroller shall consult with the Director of the Department of Planning and Budget in implementing this provision and, for just cause, shall have discretion to exclude certain balances from this transfer or to restore certain balances that have been transferred.

V.1. The Brunswick Correctional Center operated by the Department of Corrections shall be sold. The Commonwealth may enter into negotiations with (1) the Virginia Tobacco Indemnification and Community Revitalization Commission, (2) regional local governments, and (3) regional industrial development authorities for the purchase of this property as an economic development site.

2. Notwithstanding the provisions of § 2.2-1156, Code of Virginia or any other provisions of law, the proceeds of the sale of the Brunswick Correctional Center shall be paid into the general fund.

W. ~~On or before June 30 each year~~ *On a monthly basis, in the month subsequent to collection*, the State Comptroller shall transfer all amounts collected for the fund created pursuant to § 17.1-275.12 of the Code of Virginia, to Items 346, 398, and 423 of this act, for the purposes enumerated in Section 17.1-275.12.

X. On or before June 30 each year, the State Comptroller shall transfer ~~\$7,518,587~~*\$10,368,587* the first year and ~~\$7,518,587~~*\$10,518,587* the second year to the general fund from the \$2.00 increase in the annual vehicle registration fee from the special emergency medical services fund contained in the Department of Health's Emergency Medical Services Program (40200).

Y. The provisions of Chapter 6.2, Title 58.1, Code of Virginia, notwithstanding, on or before June 30 each year the State Comptroller shall transfer to the general fund from the proceeds of the Virginia Communications Sales and Use Tax (fund 0926), the Department of Taxation's indirect costs of administering this tax estimated at ~~\$134,894~~*\$111,101* the first year and ~~\$134,894~~*\$111,101* the second year.

Z. Any amount designated by the State Comptroller from the June 30, 2016, or June 30, 2017, general fund balance for transportation pursuant to § 2.2-1514B., Code of Virginia, is hereby appropriated.

AA. The Department of General Services, with the cooperation and support of the Department of Behavioral Health and Developmental Services, is authorized to sell to Virginia Electric and Power Company, a Virginia corporation d/b/a Dominion Virginia Power, for such consideration as the Governor may approve, a parcel of land containing approximately 15 acres along the northern property line of Southside Virginia Training Center. After deduction of the expenses incurred by the Department of General Services in the sale of the property, the proceeds of the sale shall be deposited to the Behavioral Health and Developmental Services Trust Fund established pursuant to § 37.2-318, Code of Virginia. Any conveyance shall be approved by the Governor or his designee in the manner set forth in § 2.2-1150, Code of Virginia.

BB. On or before June 30, of each fiscal year, the State Comptroller shall transfer to the State Health Insurance Fund (Fund 0620) the balance from the Special Fund (Fund 0200) at the Department of Human Resource Management. The balance in the Department of Human Resource's Special Fund represents a portion of the payments deposited into the State Health Insurance Fund used to pay the state health insurance program's administrative expenses.

CC. *The Department of General Services is authorized to dispose of the following property currently owned by the Department of Corrections in the manner it deems to be in the best interests of the Commonwealth: Pulaski Correctional Center and White Post Detention and Diversion Center. Such disposal may include sale or transfer to other agencies or to local government entities.* Notwithstanding the provisions of § 2.2-1156, Code of Virginia, the proceeds from the sale of *all or any part of the following properties currently owned by the Department of Corrections* shall be deposited into the general fund no later than June 30, 2018: ~~Pulaski Correctional Center and White Post Detention and Diversion Center.~~

DD. The State Comptroller shall deposit an additional \$280,000 to the general fund on or before June 30, 2017, and an additional \$600,000 to the general fund on or before June 30, 2018, from the fees generated by the Firearms Transaction and Concealed Weapons Permit Programs at the Department of State Police.

EE. On or before June 30, 2017 and June 30, 2018 the State Comptroller shall transfer to the general fund \$764,459 the first year and \$797,698 the second year from nongeneral fund balances within the Department of Motor Vehicles representing the savings that will be realized by the Department of Motor Vehicles as a result of the reduction in retirement contributions rates due to the expedited repayment of the deferred contributions which occurred during the 2010-12 biennium.

FF. *On or before June 30, 2017, the State Comptroller shall transfer amounts estimated at \$16,345,357 from the agencies and fund sources listed below to the general fund of the state treasury.*

	<i>Fund Detail</i>	<i>FY 2017</i>
<b><i>Department of Criminal Justice Services (140)</i></b>		
<i>Capture available nongeneral fund balance</i>	<i>02210</i>	<i>\$146,388</i>
<i>Transfer available nongeneral fund cash balance to general fund</i>	<i>09035</i>	<i>\$411,000</i>
<b><i>Department of Taxation (161)</i></b>		
<i>Transfer nongeneral fund balances to the general fund</i>	<i>02144</i>	<i>\$791,796</i>
<b><i>Department of Conservation and Recreation (199)</i></b>		
<i>Revert unobligated prior-year</i>	<i>09360</i>	<i>\$528,000</i>

*cash in the Natural Resources  
Commitment Fund*

***Department of Agriculture and  
Consumer Services (301)***

<i>Transfer Dangerous Dog Registry cash balance</i>	02301	\$45,000
<i>Discontinue the Beehive Grant Fund program</i>	02157	\$175,000

***Department of Forestry (411)***

<i>Sell surplus equipment</i>	02870	\$45,046
<i>Transfer portion of cash balance in the State Lands Fund</i>	02124	\$140,000
<i>Transfer portion of cash balance in the Nurseries Fund</i>	02515	\$425,000

***Department of Environmental  
Quality (440)***

<i>Transfer cash from Hazardous Waste Management Fund</i>	02450	\$500,000
<i>Transfer cash from the Waste Tire Trust Fund</i>	09060	\$1,038,230

***Department of Health (601)***

<i>Transfer balance from Surplus Property Fund</i>	02870	\$514
<i>Transfer interest accumulated from local health department special fund donations</i>	09013	\$32,794
<i>Transfer Community Health Services revenue to the general fund</i>	02050	\$100,000
<i>Transfer Trauma Center Fund revenue from reinstatement of driver's licenses</i>	09020	\$150,000
<i>Transfer additional revenue from Emergency Medical Services</i>	02130	\$150,000
<i>Transfer interest accumulated from local health department special fund donations</i>	02110	\$189,937
<i>Transfer Maternal and Child Health revenue</i>	02601	\$1,035,132

***Department of Behavioral  
Health and Developmental  
Services (720)***

<i>Capture nongeneral fund cash no longer required to support the CCBHC initiative</i>	02003	\$1,100,000
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***Department of Forensic  
Science (778)***

<i>Realize savings from reduced discretionary spending, vacancies, and operational efficiencies</i>	02870	\$19,771
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**Mental Health Treatment Centers (792)**

Capture special fund balances 02003 \$8,910,673

**Department of Corrections (799)**

Transfer nongeneral fund balances to general fund 02550 \$411,076

**\$16,345,357**

GG. On or before June 30, 2018, the State Comptroller shall transfer to the general fund \$500,000 the second year from the Hazardous Waste Management Permit Fund (02450) at the Department of Environmental Quality.

HH. The transfer of excess amounts in the Regulatory, Consumer Advocacy, Litigation, and Enforcement Revolving Trust Fund to the general fund pursuant to Item 61 of this act is estimated at \$1,400,000 the first year and \$20,431,999 the second year resulting from anticipated proceeds from various settlements.

II.1. On or before June 30 each year, the State Comptroller shall transfer \$11,951,845 the first year and \$3,758,423 the second year to the general fund from agency nongeneral funds, as detailed below, to fund a portion of the nongeneral share of costs for the expedited repayment of deferred contributions to the Virginia Retirement System authorized in Chapter 732, 2016 Acts of Assembly.

<b>Agency Name</b>	<b>Fund Detail</b>	<b>FY 2017</b>	<b>FY 2018</b>
Supreme Court (111)	02800	\$6,752	\$6,752
Virginia State Bar (117)	09117	\$66,397	\$66,397
Department of Military Affairs (123)	02123	\$14,215	
Department of Military Affairs (123)	09012	\$11,321	
Department of Emergency Management (127)	02880	\$17,829	
Department of Human Resource Management (129)	02129	\$114,651	
Department of Human Resource Management (129)	02271	\$9,525	
Department of Human Resource Management (129)	02351	\$5,177	
Department of Human Resource Management (129)	02500	\$5,849	
Department of Human Resource Management (129)	07129	\$17,251	
Department of Elections (132)	07011	\$26,239	
Auditor of Public Accounts (133)	02133	\$26,054	
Virginia Information Technologies Agency (136)	02101	\$100,426	
Virginia Information Technologies Agency (136)	06136	\$271,125	\$260,539
Virginia Information Technologies Agency (136)	09051	\$16,623	
Virginia Information Technologies Agency (136)	09281	\$35,028	
Virginia Information Technologies Agency (136)	09104	\$10,302	

<i>Department of Criminal Justice Services (140)</i>	02140	\$48,406	
<i>Department of Criminal Justice Services (140)</i>	02210	\$6,257	
<i>Department of Criminal Justice Services (140)</i>	02820	\$4,975	
<i>Department of Criminal Justice Services (140)</i>	09035	\$5,017	
<i>Department of Criminal Justice Services (140)</i>	09120	\$4,328	
<i>Department of Criminal Justice Services (140)</i>	09300	\$7,699	
<i>Attorney General and Department of Law (141)</i>	02141	\$110,147	\$110,147
<i>Attorney General and Department of Law (141)</i>	02395	\$16,265	
<i>Attorney General and Department of Law (141)</i>	02800	\$33,039	
<i>Division of Debt Collection (143)</i>	02143	\$55,564	
<i>The Science Museum of Virginia (146)</i>	02146	\$20,978	\$20,977
<i>Department of Accounts (151)</i>	06150	\$3,417	
<i>Department of Accounts (151)</i>	06080	\$66,164	
<i>Department of Accounts (151)</i>	06090	\$70,156	
<i>Department of the Treasury (152)</i>	02152	\$4,329	
<i>Department of the Treasury (152)</i>	07030	\$94,445	
<i>Department of the Treasury (152)</i>	07152	\$90,222	
<i>Department of the Treasury (152)</i>	09090	\$1,420	
<i>Department of Motor Vehicles (154)</i>	04540	\$710,947	\$741,859
<i>Department of Motor Vehicles (154)</i>	04100	\$53,512	\$55,839
<i>Department of State Police (156)</i>	02800	\$66,608	
<i>Department of State Police (156)</i>	02156	\$44,582	
<i>Department of State Police (156)</i>	02270	\$93,709	
<i>Department of State Police (156)</i>	02610	\$93,709	
<i>Department of State Police (156)</i>	09142	\$70,560	
<i>Department of State Police (156)</i>	09163	\$70,560	
<i>Department of Taxation (161)</i>	02005	\$1,207	
<i>Department of Taxation (161)</i>	02080	\$12,664	
<i>Department of Taxation (161)</i>	02090	\$4,072	
<i>Department of Taxation (161)</i>	02164	\$14,696	
<i>Department of Taxation (161)</i>	02230	\$4,193	
<i>Department of Taxation (161)</i>	02510	\$251	
<i>Department of Taxation (161)</i>	09260	\$9,250	
<i>Department of Taxation (161)</i>	09281	\$1,263	
<i>Department of Housing and Community Development (165)</i>	02165	\$46,652	
<i>State Corporation Commission (171)</i>	02080	\$332,765	
<i>State Corporation Commission (171)</i>	02090	\$480,660	

<i>State Corporation Commission (171)</i>	02100	\$258,817	
<i>State Corporation Commission (171)</i>	02173	\$258,817	
<i>State Corporation Commission (171)</i>	02205	\$499,147	
<i>State Corporation Commission (171)</i>	09023	\$18,487	
<i>Virginia Lottery (172)</i>	05172	\$756,470	
<i>Virginia College Savings Plan (174)</i>	05174	\$197,627	
<i>Virginia College Savings Plan (174)</i>	05175	\$91,096	
<i>Department of Labor and Industry (181)</i>	02181	\$6,158	
<i>Department of Labor and Industry (181)</i>	02800	\$13,670	
<i>Virginia Employment Commission (182)</i>	02182	\$96,684	
<i>Virginia Workers' Compensation Commission (191)</i>	09191	\$701,831	
<i>Virginia Workers' Compensation Commission (191)</i>	09030	\$53,062	
<i>Department of General Services (194)</i>	02060	\$65,299	
<i>Department of General Services (194)</i>	02615	\$6,084	
<i>Department of General Services (194)</i>	02700	\$7,894	
<i>Department of General Services (194)</i>	05010	\$61,964	
<i>Department of General Services (194)</i>	05050	\$15,313	
<i>Department of General Services (194)</i>	06020	\$2,669	
<i>Department of General Services (194)</i>	06040	\$269,326	
<i>Department of General Services (194)</i>	06070	\$408,039	
<i>Department of General Services (194)</i>	06100	\$30,660	
<i>Department of General Services (194)</i>	06030	\$13,433	
<i>Department of Conservation and Recreation (199)</i>	02164	\$7,207	
<i>Department of Conservation and Recreation (199)</i>	02199	\$12,012	
<i>Department of Conservation and Recreation (199)</i>	02630	\$7,474	
<i>Department of Conservation and Recreation (199)</i>	09080	\$1,064	
<i>Department of Conservation and Recreation (199)</i>	09261	\$5,196	
<i>Department of Education, Central Office Operations (201)</i>	02201	\$23,087	\$23,087
<i>Department of Education, Central Office Operations (201)</i>	02800	\$192,733	\$192,733
<i>The Library Of Virginia (202)</i>	02202	\$38,283	
<i>Wilson Workforce and Rehabilitation Center (203)</i>	02203	\$92,218	\$92,218
<i>Virginia School for the Deaf and the Blind (218)</i>	02218	\$6,727	\$6,727
<i>Department of Professional and</i>	02222	\$4,730	

<i>Occupational Regulation (222)</i>			
<i>Department of Professional and Occupational Regulation (222)</i>	02590	\$16,942	
<i>Department of Professional and Occupational Regulation (222)</i>	09222	\$380,256	
<i>Department of Health Professions (223)</i>	07253	\$5,314	\$5,314
<i>Department of Health Professions (223)</i>	09223	\$260,367	\$260,367
<i>Board of Accountancy (226)</i>	09226	\$28,626	
<i>Board of Bar Examiners (233)</i>	02233	\$5,948	\$5,948
<i>Virginia Museum of Fine Arts (238)</i>	02238	\$3,996	\$3,996
<i>Virginia Museum of Fine Arts (238)</i>	05238	\$20,550	\$20,549
<i>Frontier Culture Museum of Virginia (239)</i>	02239	\$11,185	
<i>State Council of Higher Education for Virginia (245)</i>	02245	\$8,686	\$8,687
<i>Department for Aging and Rehabilitative Services (262)</i>	02262	\$4,667	\$4,667
<i>Department for Aging and Rehabilitative Services (262)</i>	02800	\$53,670	\$53,670
<i>Department of Agriculture and Consumer Services (301)</i>	07290	\$132,559	
<i>Department of Agriculture and Consumer Services (301)</i>	09017	\$45,397	
<i>Department of Agriculture and Consumer Services (301)</i>	02301	\$76,267	
<i>Marine Resources Commission (402)</i>	02455	\$6,240	
<i>Marine Resources Commission (402)</i>	02490	\$8,554	
<i>Marine Resources Commission (402)</i>	02402	\$314	
<i>Department of Game and Inland Fisheries (403)</i>	09403	\$248,158	
<i>Virginia Racing Commission (405)</i>	02280	\$8,212	
<i>Virginia Port Authority (407)</i>	02407	\$7,686	\$7,686
<i>Virginia Port Authority (407)</i>	04740	\$854	\$854
<i>Department of Mines, Minerals and Energy (409)</i>	02183	\$33,348	
<i>Department of Mines, Minerals and Energy (409)</i>	02409	\$2,604	
<i>Department of Mines, Minerals and Energy (409)</i>	02800	\$16,153	
<i>Department of Forestry (411)</i>	02411	\$43,386	
<i>Department of Forestry (411)</i>	02340	\$13,298	
<i>Department of Forestry (411)</i>	02515	\$21,502	
<i>Department of Forestry (411)</i>	02640	\$22,304	
<i>Department of Historic Resources (423)</i>	02423	\$9,443	

<i>Jamestown-Yorktown Foundation (425)</i>	02425	\$57,244	\$57,243
<i>Department of Environmental Quality (440)</i>	02149	\$2,923	
<i>Department of Environmental Quality (440)</i>	02440	\$19,362	
<i>Department of Environmental Quality (440)</i>	02450	\$20,000	
<i>Department of Environmental Quality (440)</i>	09024	\$74,846	
<i>Department of Environmental Quality (440)</i>	09042	\$240	
<i>Department of Environmental Quality (440)</i>	09060	\$1,576	
<i>Department of Environmental Quality (440)</i>	09070	\$2,156	
<i>Department of Environmental Quality (440)</i>	09190	\$250,000	
<i>Department of Environmental Quality (440)</i>	09143	\$133,448	
<i>Department of Environmental Quality (440)</i>	09250	\$50,000	
<i>Department of Environmental Quality (440)</i>	07480	\$206,120	\$206,120
<i>Department of Rail and Public Transportation (505)</i>	04000	\$81,030	\$81,030
<i>Motor Vehicle Dealer Board (506)</i>	02120	\$50,977	
<i>Department of Health (601)</i>	02000	\$44,816	\$44,816
<i>Department of Health (601)</i>	02020	\$49,417	\$49,417
<i>Department of Health (601)</i>	02030	\$1,063	\$1,063
<i>Department of Health (601)</i>	02063	\$2,080	\$2,080
<i>Department of Health (601)</i>	02110	\$4,897	\$4,897
<i>Department of Health (601)</i>	02130	\$27,478	\$27,478
<i>Department of Health (601)</i>	02150	\$1,078	\$1,078
<i>Department of Health (601)</i>	02260	\$659	\$659
<i>Department of Health (601)</i>	02480	\$30,945	\$30,945
<i>Department of Health (601)</i>	02800	\$468,651	\$468,651
<i>Department of Health (601)</i>	09013	\$14,206	\$14,206
<i>Department of Health (601)</i>	09100	\$1,078	\$1,078
<i>Department of Health (601)</i>	09312	\$6,403	\$6,403
<i>Department of Health (601)</i>	09450	\$16,167	\$16,167
<i>Department for the Blind and Vision Impaired (702)</i>	02702	\$646	
<i>Department for the Blind and Vision Impaired (702)</i>	05910	\$31,973	\$31,973
<i>Department for the Deaf and Hard- Of-Hearing (751)</i>	02751	\$7,798	
<i>Department of Social Services (765)</i>	02022	\$39,870	\$39,870
<i>Department of Social Services (765)</i>	02043	\$39,870	\$39,870

<i>Department of Juvenile Justice (777)</i>	02777	\$4,694	\$4,694
<i>Department of Corrections (799)</i>	02711		\$125,628
<i>Department of Corrections (799)</i>	02320	\$20,397	
<i>Department of Corrections (799)</i>	09530	\$58,540	
<i>Department of Aviation (841)</i>	04610	\$93,101	
<i>Virginia Foundation for Healthy Youth (852)</i>	09430	\$11,314	\$11,314
<i>Department of Veterans Services (912)</i>	02912	\$252,836	
<i>Southern Virginia Higher Education Center (937)</i>	02937	\$14,562	\$14,563
<i>Southwest Virginia Higher Education Center (948)</i>	02948	\$4,698	\$4,697
<i>Commonwealth's Attorneys' Services Council (957)</i>	02957	\$281	\$281
<i>Department of Fire Programs (960)</i>	02180	\$22,307	\$22,307
<i>Department of Alcoholic Beverage Control (999)</i>	05001	\$500,882	\$500,882
		<b>\$11,951,845</b>	<b>\$3,758,423</b>

2. Out of the amounts listed above, the Comptroller shall transfer into the Federal Repayment Reserve Fund an amount estimated to be sufficient to pay the federal government in anticipation of a federal repayment resulting from transfers from internal service funds identified in this list. The State Comptroller shall notify the Director, Department of Planning and Budget of the final federal repayment transfer amount prior to making the transfer into the Federal Repayment Reserve Fund.

3. On or before June 30 each year, the State Comptroller shall transfer \$26,064,305 the first year and \$17,376,204 the second year to the general fund the following amounts from the agencies and funds listed below, to fund a portion of the nongeneral share of costs for the expedited repayment of deferred contributions to the Virginia Retirement System authorized in Chapter 732, 2016 Acts of Assembly. Agencies may determine the appropriate fund detail amount within each fund.

<b>Agency Name</b>	<b>Fund</b>	<b>FY 2017</b>	<b>FY 2018</b>
<i>Christopher Newport University (242)</i>	03	\$390,307	\$260,205
<i>College of William and Mary (204)</i>	03	\$1,020,946	\$680,630
<i>Richard Bland College (241)</i>	03	\$42,715	\$28,476
<i>George Mason University (247)</i>	03	\$1,935,422	\$1,290,281
<i>James Madison University (216)</i>	03	\$1,551,829	\$1,034,553
<i>Longwood University (214)</i>	03	\$326,500	\$217,667
<i>Norfolk State University (213)</i>	03	\$486,295	\$324,197
<i>Old Dominion University (221)</i>	03	\$1,002,931	\$668,621
<i>Radford University (217)</i>	03	\$517,096	\$344,731
<i>University of Mary Washington (215)</i>	03	\$314,079	\$209,386
<i>University of Virginia (207)</i>	03	\$5,048,921	\$3,365,948
<i>University of Virginia Medical Center (209)</i>	03	\$1,072,236	\$714,824
<i>University of Virginia's College at Wise (246)</i>	03	\$117,388	\$78,259
<i>Virginia Commonwealth University (236)</i>	03	\$3,210,947	\$2,140,631

<i>VCU Medical College of Virginia Hospitals Authority (206)</i>	03	\$772,167	\$514,778
<i>Virginia Community College System (260)</i>	03	\$3,377,834	\$2,251,889
<i>Virginia Military Institute (211)</i>	03	\$288,536	\$192,357
<i>Virginia Polytechnic Institute and State University (208)</i>	03	\$4,110,195	\$2,740,130
<i>Virginia State University (212)</i>	03	\$477,961	\$318,641
<b>Total</b>		<b>\$26,064,305</b>	<b>\$17,376,204</b>

JJ. On or before June 30, 2018, the State Comptroller shall transfer to the general fund \$723,914 the second year from the Biofuels Production Fund (09461) at the Department of Mines Minerals and Energy.

KK. On or before June 30, 2018, the State Comptroller shall transfer to the general fund amounts estimated at \$210,000 from the following funds in the second year of the biennium within the Department of Health.

<b>Department of Health (601)</b>	<b>Fund Detail</b>	<b>FY 2018</b>
<i>Waterworks Technical Assistance Fund</i>	02480	\$23,295
<i>Donations - Local Health Departments</i>	09013	\$9,391
<i>Trauma Center Fund</i>	09020	\$49,920
<i>Virginia Rescue Squads Assistance Fund</i>	09100	\$82,542
<i>Water Supply Assistance Grant Fund</i>	09224	\$38,802
<i>Radioactive Materials Facility Licensure/Inspection Fund</i>	09312	\$4,521
<i>Medical And Physician's Assistant Scholarship And Loan Repayment Fund</i>	09341	\$74
<i>Nursing Scholarship And Loan Repayment Fund</i>	09321	\$1,455

LL. On or before June 30, 2018, the State Comptroller shall transfer to the general fund \$2,500,000 in nongeneral fund cash balances from the Aerospace Engine Manufacturing Supplier Cluster Grant Fund.

MM. On or before June 30, 2018, the State Comptroller shall transfer to the general fund \$1,600,000 in nongeneral fund cash balances from the Department of Small Business and Supplier Diversity, representing excess balances of \$640,000 in the Small Business Investment Grant Fund and \$960,000 in the Small Business Jobs Grant Fund.

§ 3-1.02 INTERAGENCY TRANSFERS

The Virginia Department of Transportation shall transfer, from motor fuel tax revenues, \$388,254 the first year and \$388,254 the second year to the Department of General Services for motor fuels testing.

§ 3-1.03 SHORT-TERM ADVANCE TO THE GENERAL FUND FROM NONGENERAL FUNDS

A. To meet the occasional short-term cash needs of the general fund during the course of the year when cumulative year-to-date disbursements exceed temporarily cumulative year-to-date revenue collections, the State Comptroller is authorized to draw cash temporarily from nongeneral fund cash balances deemed to be available, although special dedicated funds related to commodity boards are exempt from this provision. Such cash drawdowns shall be limited to the amounts immediately required by the general fund to meet disbursements made in pursuance of an authorized appropriation. However, the amount of the cash drawdown from any particular nongeneral fund shall be limited to the excess of the cash balance of such fund over the amount otherwise necessary to meet the short-term disbursement requirements of that nongeneral fund. The State Comptroller will ensure that those funds will be replenished in the normal course of business.

B. In the event that nongeneral funds are not sufficient to compensate for the operating cash needs of the general fund, the State Treasurer is authorized to borrow, temporarily, required funds from cash balances within the Transportation Trust Fund, where such trust fund balances, based upon assessments provided by the Commonwealth Transportation Commissioner, are not otherwise needed to meet the short-term disbursement needs of the Transportation Trust Fund, including any debt service and debt coverage needs, over the life of the borrowing. In addition, the State Treasurer shall ensure that such borrowings are consistent with the terms and conditions of all bond documents, if any, that are relevant to the Transportation Trust Fund.

C. The Secretary of Finance, the State Treasurer and the Commonwealth Transportation Commissioner shall jointly agree on the amounts of such interfund borrowings. Such borrowed amounts shall be repaid to the Transportation Trust Fund at the earliest practical time when they are no longer needed to meet short-term cash needs of the general fund, provided, however, that such borrowed amounts shall be repaid within the biennium in which they are borrowed. Interest shall accrue daily at the rate per annum equal to the then current one-year United States Treasury Obligation Note rate.

D. Any temporary loan shall be evidenced by a loan certificate duly executed by the State Treasurer and the Commonwealth Transportation Commissioner specifying the maturity date of such loan and the annual rate of interest. Prepayment of temporary loans shall be without penalty and with interest calculated to such prepayment date. The State Treasurer is authorized to make, at least monthly, interest payments to the Transportation Trust Fund.

### § 3-2.00 WORKING CAPITAL FUNDS AND LINES OF CREDIT

#### § 3-2.01 ADVANCES TO WORKING CAPITAL FUNDS

The State Comptroller shall make available to the Virginia Racing Commission, on July 1 of each year, the amount of \$125,000 from the general fund as a temporary cash flow advance, to be repaid by December 30 of each year.

#### § 3-2.02 CHARGES AGAINST WORKING CAPITAL FUNDS

The State Comptroller may periodically charge the appropriation of any state agency for the expenses incurred for services received from any program financed and accounted for by working capital funds. Such charge may be made upon receipt of such documentation as in the opinion of the State Comptroller provides satisfactory evidence of a claim, charge or demand against the appropriations made to any agency. The amounts so charged shall be recorded to the credit of the appropriate working capital fund accounts. In the event any portion of the charge so made shall be disputed, the amount in dispute may be restored to the agency appropriation by direction of the Governor.

#### § 3-2.03 LINES OF CREDIT

a. The State Comptroller shall provide lines of credit to the following agencies, not to exceed the amounts shown:

Administration of Health Insurance	\$150,000,000
<i>Administration of Health Insurance, Line of Duty Act</i>	<i>\$10,000,000</i>
<i>Administration of Health Insurance, Local Option</i>	<i>\$150,000,000</i>
Department of Accounts, for the Payroll Service Bureau	\$400,000
Department of Accounts, Transfer Payments	\$5,250,000
Department of Alcoholic Beverage Control	\$60,000,000
Department of Corrections, for Virginia Correctional Enterprises	\$1,000,000
Department of Corrections, for Educational Grant Processing	300,000
Department of Emergency Management	\$150,000
Department of Environmental Quality	\$5,000,000
Department of Human Resource Management, for the Workers' Compensation Self Insurance Trust Fund	\$10,000,000
Department of Behavioral Health and Developmental Services	\$30,000,000
<i>Department of Medical Assistance Services, for the Virginia Health Care Fund</i>	<i>\$12,000,000</i>
Department of Motor Vehicles	\$5,000,000
Department of the Treasury, for the Unclaimed Property Trust Fund	\$5,000,000
Department of the Treasury, for the State Insurance Reserve Trust Fund	\$25,000,000
Virginia Lottery	\$40,000,000
Virginia Information Technologies Agency	<del>\$60,000,000</del> \$75,000,000
Virginia Tobacco Settlement Foundation	\$3,000,000
Department of Historic Resources	\$600,000
Department of Fire Programs	\$30,000,000
Compensation Board	\$8,000,000
Department of Conservation and Recreation	\$4,000,000
Department of Military Affairs, for State Active Duty	\$5,000,000
Department of Military Affairs, for Federal Cooperative Agreements	\$21,000,000
Innovation and Entrepreneurship Authority	\$2,500,000

b. The State Comptroller shall execute an agreement with each agency documenting the procedures for the line of credit, including, but not limited to, applicable interest and the method for the drawdown of funds. The provisions of § 4-3.02 b of this act shall not apply to these lines of credit.

c. The State Comptroller, in conjunction with the Departments of General Services and Planning and Budget, shall establish guidelines for agencies and institutions to utilize a line of credit to support fixed and one-time costs associated with implementation

of office space consolidation, relocation and/or office space co-location strategies, where such line of credit shall be repaid by the agency or institution based on the cost savings and efficiencies realized by the agency or institution resulting from the consolidation and/or relocation. In such cases the terms of office space consolidation or co-location strategies shall be approved by the Secretary of Administration, in consultation with the Secretary of Finance, as demonstrating cost benefit to the Commonwealth. In no case shall the advances to an agency or institution exceed \$1,000,000 nor the repayment begin more than one year following the implementation or extend beyond a repayment period of seven years.

d. The State Comptroller is hereby authorized to provide lines of credit of up to \$2,500,000 to the Department of Motor Vehicles and up to \$2,500,000 to the Department of State Police to be repaid from revenues provided under the federal government's establishment of Uniform Carrier Registration.

e. The Virginia Lottery is hereby authorized to use its line of credit to meet cash flow needs for operations at any time during the year and to provide cash to the Virginia Lottery Fund to meet the required transfer of estimated lottery profits to the Lottery Proceeds Fund in the month of June, as specified in provisions of § 3-1.01G. of this act. The Virginia Lottery shall repay the line of credit as actual cash flows become available. The Secretary of Finance is authorized to increase the line of credit to the Virginia Lottery if necessary to meet operating needs.

f. The State Comptroller is hereby authorized to provide a line of credit of up to \$200,000 to the Department of Health to cover the actual costs of expanding the availability of vital records through the Department Motor Vehicles to be repaid from administrative processing fees provided under Code of Virginia, § 32.1-273 until such time as the line of credit is repaid.

g. The State Comptroller is hereby authorized to provide a line of credit of up to \$5,000,000 to the Department of Military Affairs to cover the actual costs of responding to State Active Duty. The line of credit will be repaid as the Department of Military Affairs is reimbursed from federal or other funds, other than Department of Military Affairs funds.

h. The Innovation and Entrepreneurship Investment Authority is hereby authorized to use its line of credit to meet cash flow needs at any time during the year in support of operational costs in anticipation of reimbursement of said expenditures from signed contracts and grant awards. The Innovation and Entrepreneurship Investment Authority shall repay the line of credit by June 30 of each fiscal year.

### § 3-3.00 GENERAL FUND DEPOSITS

#### § 3-3.01 PAYMENT BY THE STATE TREASURER

The state Treasurer shall transfer an amount estimated at \$2,000 on or before June 30, 2017 and an amount estimated at \$2,000 on or before June 30, 2018, to the general fund from excess 9(c) sinking fund balances.

#### § 3-3.02 PAYMENT BY THE VIRGINIA RESOURCES AUTHORITY

*On or before June 30, 2017, the Virginia Resources Authority shall pay to the general fund \$544,711 from uncommitted balances in the Dam Safety, Flood Prevention and Protection Assistance Fund.*

#### § 3-3.03 INTEREST EARNINGS

*Notwithstanding any other provision of law, on or before June 30 of each year, the State Comptroller shall transfer to the general fund an amount estimated at \$500,000 per year to reflect interest earned on tuition and fees from Educational and General Revenues deposited in the state treasury from the College of William and Mary, University of Virginia, University of Virginia's College at Wise, Virginia Commonwealth University, Virginia Tech and Virginia Tech Extension.*

### § 3-4.00 AUXILIARY ENTERPRISES AND SPONSORED PROGRAMS IN INSTITUTIONS OF HIGHER EDUCATION

#### § 3-4.01 AUXILIARY ENTERPRISE INVESTMENT YIELDS

A. The educational and general programs in institutions of higher education shall recover the full indirect cost of auxiliary enterprise programs as certified by institutions of higher education to the Comptroller subject to annual audit by the Auditor of Public accounts. The State Comptroller shall credit those institutions meeting this requirement with the interest earned by the investment of the funds of their auxiliary enterprise programs.

B. No interest shall be credited for that portion of the fund's cash balance that represents any outstanding loans due from the State Treasurer. The provisions of this section shall not apply to the capital projects authorized under Items C-36.21 and C-36.40 of Chapter 924, 1997 Acts of Assembly.

### § 3-5.00 ADJUSTMENTS AND MODIFICATIONS TO TAX COLLECTIONS

#### § 3-5.01 RETALIATORY COSTS TO OTHER STATES TAX CREDIT

Notwithstanding any other provision of law, the amount deposited to the Priority Transportation Trust Fund pursuant to § 58.1-

2531 shall not be reduced by more than \$266,667 by any refund of the Tax Credit for Retaliatory Costs to Other States available under § 58.1-2510.

### §3-5.02 PAYMENT OF AUTO RENTAL TAX TO THE GENERAL FUND

Notwithstanding the provisions of § 58.1-1741, Code of Virginia, or any other provision of law, all revenues resulting from the fee imposed under subdivision A3 of § 58.1-1736, Code of Virginia, shall be deposited into the general fund after the direct costs of administering the fee are recovered by the Department of Taxation.

### § 3-5.03 IMPLEMENTATION OF CHAPTER 3, ACTS OF ASSEMBLY OF 2004, SPECIAL SESSION I

Revenues deposited into the Public Education Standards of Quality/Local Real Estate Property Tax Relief Fund established under § 58.1-638.1 of the Code of Virginia pursuant to enactments of the 2004 Special Session of the General Assembly shall be transferred to the general fund and used to meet the Commonwealth's responsibilities for the Standards of Quality prescribed pursuant to Article VIII, Section 2, of the Constitution of Virginia. The Comptroller shall take all actions necessary to effect such transfers monthly, no later than 10 days following the deposit to the Fund. The amounts transferred shall be distributed to localities as specified in Direct Aid to Public Education's (197), State Education Assistance Programs (17800) of this Act. The estimated amount of such transfers are ~~\$385,109,559~~ \$365,409,559 the first year and ~~\$398,609,559~~ \$374,290,339 the second year.

### § 3-5.04 RETAIL SALES & USE TAX EXEMPTION FOR INTERNET SERVICE PROVIDERS

Notwithstanding any other provision of law, for purchases made on or after July 1, 2006, any exemption from the retail sales and use tax applicable to production, distribution, and other equipment used to provide Internet-access services by providers of Internet service, as defined in § 58.1-602, Code of Virginia, shall occur as a refund request to the Tax Commissioner. The Tax Commissioner shall develop procedures for such refunds.

### § 3-5.05 DISPOSITION OF EXCESS FEES COLLECTED BY CLERKS OF THE CIRCUIT COURTS

Notwithstanding §§ 15.2-540, 15.2-639, 15.2-848, 17.1-285, and any other provision of law general or special, effective July 1, 2009, the Commonwealth shall be entitled to two-thirds of the excess fees collected by the clerks of the circuit courts as required to be reported under § 17.1-283.

### § 3-5.06 ACCELERATED SALES TAX

A. Notwithstanding any other provision of law, in addition to the amounts required under the provisions of §§58.1-615 and 58.1-616, any dealer as defined by §58.1-612 or direct payment permit holder pursuant to §58.1-624 with taxable sales and purchases of \$1,000,000 or greater for the 12-month period beginning July 1, and ending June 30 of the immediately preceding calendar year, shall be required to make a payment equal to 90 percent of the sales and use tax liability for the previous June. Such tax payments shall be made on or before the 30th day of June, if payments are made by electronic fund transfer, as defined in § 58.1-202.1. If payment is made by other than electronic funds transfer, such payment shall be made on or before the 25th day of June. Every dealer or direct payment holder shall be entitled to a credit for the payment under this section on the return for June of the current year due July 20.

B. The Tax Commissioner may develop guidelines implementing the provisions of this section. Such guidelines shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

C. For purposes of this section, taxable sales or purchases shall be computed without regard to the number of certificates of registration held by the dealer. The provisions of this section shall not apply to persons who are required to file only a Form ST-7, Consumer's Use Tax Return.

D. In lieu of the penalties provided in § 58.1-635, except with respect to fraudulent returns, failure to make a timely payment or full payment of the sales and use tax liability as provided in subsection A shall subject the dealer or direct payment permit holder to a penalty of six percent of the amount of tax underpayment that should have been properly paid to the Tax Commissioner. Interest shall accrue as provided in § 58.1-15. The payment required by this section shall become delinquent on the first day following the due date set forth in this section if not paid.

E. Payments made pursuant to this section shall be made in accordance with procedures established by the Tax Commissioner and shall be considered general fund revenue, except with respect to those revenues required to be distributed under the provisions of §§ 58.1-605, 58.1-606, 58.1-638(A), 58.1-638(G)-(H), 58.1-638.2, and 58.1-638.3 of the Code of Virginia.

F. That the State Comptroller shall make no distribution of the taxes collected pursuant to this section in accordance with §§ 58.1-605, 58.1-606, 58.1-638, 58.1-638.1, 58.1-638.2 and 58.1-638.3 of the Code of Virginia until the Tax Commissioner makes a written certification to the Comptroller certifying the sales and use tax revenues generated pursuant to this section. The Tax Commissioner shall certify the sales and use tax revenues generated as soon as practicable after the sales and use tax revenues have been paid into the state treasury in any month for the preceding month. If the Governor determines on July 31 of each year, that funds are available to transfer such collections in accordance with §§ 58.1-638(B)-(F) and 58.1-638.1, Code of Virginia, he shall direct the State Comptroller to make such allocation. The Secretary of Finance will report the Governor's determination to the Chairman of the

House Appropriations and Senate Finance Committees on August 15 of each year.

G.1. Beginning with the tax payment that would be remitted on or before June 25, 2017, if the payment is made by other than electronic fund transfers, and by June 30, 2017, if payments are made by electronic fund transfer, the provisions of § 3-5.08 of Chapter 874, 2010 Acts of Assembly, shall apply only to those dealers or permit holders with taxable sales and purchases of ~~\$10,000,000~~ \$2,500,000 or greater for the 12-month period beginning July 1 and ending June 30 of the immediately preceding calendar year.

2. Beginning with the tax payment that would be remitted on or before June 25, 2018, if the payment is made by other than electronic fund transfers, and by June 30, 2018, if payments are made by electronic fund transfer, the provisions of § 3-5.08 of Chapter 874, 2010 Acts of Assembly, shall apply only to those dealers or permit holders with taxable sales and purchases of ~~\$25,000,000~~ \$4,000,000 or greater for the 12-month period beginning July 1 and ending June 30 of the immediately preceding calendar year.

§ 3-5.07 DISCOUNTS AND ALLOWANCES

A. Notwithstanding any other provision of law, effective beginning with the return for June 2010, due July 2010, the compensation allowed under § 58.1-622, Code of Virginia, shall be suspended for any dealer required to remit the tax levied under §§ 58.1-603 and 58.1-604, Code of Virginia, by electronic funds transfer pursuant to § 58.1-202.1, Code of Virginia, and the compensation available to all other dealers shall be limited to the following percentages of the first three percent of the tax levied under §§ 58.1-603 and 58.1-604, Code of Virginia:

Monthly Taxable Sales	Percentage
\$0 to \$62,500	1.6%
\$62,501 to \$208,000	1.2%
\$208,001 and above	0.8%

B. Notwithstanding any other provision of law, effective beginning with the return for June 2010, due July 2010, the compensation available under §§ 58.1-642, 58.1-656, 58.1-1021.03, and 58.1-1730, Code of Virginia, shall be suspended.

C. Beginning with the return for June 2011, due July 2011, the compensation under § 58.1-1021.03 shall be reinstated.

§ 3-5.08 SALES TAX COMMITMENT TO HIGHWAY MAINTENANCE AND OPERATING FUND

The sales and use tax revenue for distribution to the Highway Maintenance and Operating Fund shall be consistent with Chapter 766, 2013 Acts of Assembly.

§ 3-5.09 INTANGIBLE HOLDING COMPANY ADDBACK

Notwithstanding the provisions of § 58.1-402(B)(8), Code of Virginia, for taxable years beginning on and after January 1, 2004:

(i) The exception in § 58.1-402(B)(8)(a)(1) for income that is subject to a tax based on or measured by net income or capital imposed by Virginia, another state, or a foreign government shall be limited and apply only to the portion of such income received by the related member, which portion is attributed to a state or foreign government in which the related member has sufficient nexus to be subject to such taxes; and

(ii) The exception in § 58.1-402(B)(8)(a)(2) for a related member deriving at least one-third of its gross revenues from licensing to unrelated parties shall be limited and apply only to the portion of such income derived from licensing agreements for which the rates and terms are comparable to the rates and terms of agreements that the related member has actually entered into with unrelated entities.

§ 3-5.10 REGIONAL FUELS TAX

Funds collected pursuant to § 58.1-2291 et seq., Code of Virginia, from the additional sales tax on fuel in certain transportation districts under § 58.1-2291 et seq., Code of Virginia, shall be returned to the respective commissions in amounts equivalent to the shares collected in the respective member jurisdictions. However, no funds shall be collected pursuant to § 58.1-2291 et seq., Code of Virginia, from levying the additional sales tax on aviation fuel as that term is defined in § 58.1-2201, Code of Virginia.

§ 3-5.11 DEDUCTION FOR ABLE ACT CONTRIBUTIONS

A. Effective for taxable years beginning on or after January 1, 2016, an individual shall be allowed a deduction from Virginia adjusted gross income as defined in § 58.1-321, Code of Virginia, for the amount contributed during the taxable year to an ABLE savings trust account entered into with the Virginia College Savings Plan pursuant to Chapter 4-9 7 (~~§ 23-38.75~~ § 23.1-700 et seq.) of Title 23.1, Code of Virginia. The amount deducted on any individual income tax return in any taxable year shall be limited to \$2,000 per ABLE savings trust account. No deduction shall be allowed pursuant to this section if such

contributions are deducted on the contributor's federal income tax return. If the contribution to an ABLÉ savings trust account exceeds \$2,000 the remainder may be carried forward and subtracted in future taxable years until the ABLÉ savings trust contribution has been fully deducted; however, in no event shall the amount deducted in any taxable year exceed \$2,000 per ABLÉ savings trust account.

B. Notwithstanding the statute of limitations on assessments contained in § 58.1-312, Code of Virginia, any deduction taken hereunder shall be subject to recapture in the taxable year or years in which distributions or refunds are made for any reason other than (i) to pay qualified disability expenses, as defined in § 529A of the Internal Revenue Code; or (ii) the beneficiary's death.

C. A contributor to an ABLÉ savings trust account who has attained age 70 shall not be subject to the limitation that the amount of the deduction not exceed \$2,000 per ABLÉ savings trust account in any taxable year. Such taxpayer shall be allowed a deduction for the full amount contributed to an ABLÉ savings trust account, less any amounts previously deducted.

D. The Tax Commissioner shall develop guidelines implementing the provisions of this section, including but not limited to the computation, carryover, and recapture of the deduction provided under this section. Such guidelines shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq., Code of Virginia).

#### § 3-5.12 RETAIL SALES AND USE TAX EXEMPTION FOR RESEARCH AND DEVELOPMENT

A. Notwithstanding any other provision of law or regulation, and beginning July 1, 2016, the retail sales and use tax exemption provided for in subdivision 5 of § 58.1-609.3 of the Code of Virginia, applicable to tangible personal property purchased or leased for use or consumption directly and exclusively in basic research or research and development in the experimental or laboratory sense, shall apply to such property used in a federally funded research and development center, regardless of whether such property is used by the purchaser, lessee, or another person or entity.

B. Nothing in this section shall be construed to relieve any federally funded research and development center of any liability for retail sales and use tax due for the purchase of tangible personal property pursuant to the law in effect at the time of the purchase.

#### § 3-5.13 ADMISSIONS TAX

Notwithstanding the provisions of § 58.1-3818.02, Code of Virginia, or any other provision of law, subject to the execution of a memorandum of understanding between an entertainment venue and the County of Stafford, Stafford County is authorized to impose a tax on admissions to an entertainment venue located in the county that (i) is licensed to do business in the county for the first time on or after July 1, 2015, and (ii) requires at last 75 acres of land for its operations, and (iii) such land is purchased or leased by the entertainment venue owner on or after June 1, 2015. The tax shall not exceed 10 percent of the amount of charge for admission to any such venue. The provisions of this section shall expire on July 1, 2019 if no entertainment venue exists in Stafford County upon which the tax authorized is imposed.

#### § 3-5.14 SUNSET DATES FOR INCOME TAX CREDITS AND SALES AND USE TAX EXEMPTIONS

A. Notwithstanding any other provision of law the General Assembly shall not advance the sunset date on any existing sales tax exemption or tax credit beyond June 30, 2022. Any new sales tax exemption or tax credit enacted by the General Assembly prior to the 2021 regular legislative session shall have a sunset date not later than June 30, 2022. However, this requirement shall not apply to tax exemptions administered by the Department of Taxation under § 58.1-609.11, relating to exemptions for nonprofit entities nor shall it apply to exemptions or tax credits with sunset dates after June 30, 2022, enacted or advanced during the 2016 Session of the General Assembly.

B. By November 1, 2020, the Department of Taxation shall report to every member of the General Assembly and to the Joint Subcommittee to Evaluate Tax Preferences, on the revenue impact of every sales tax exemption and tax credit scheduled to expire on or before June 30, 2022. The report shall include the prior fiscal year's state and local sales tax impact of each expiring sales tax exemption, and the prior fiscal year's general fund revenue impact of each expiring tax credit. The tax credit revenue impact analysis shall be inclusive of credits claimed against any tax imposed under Title 58.1 of the Code of Virginia.

C. The Department shall provide an updated revenue impact report no later than November 1, 2025, and every five years thereafter, for sales tax exemptions and tax credits set to expire within two years following the date of the report. Such reports shall be distributed to every member of the General Assembly and to the Joint Subcommittee to Evaluate Tax Preferences.

#### § 3-5.15 SALES TAX NEXUS

*Notwithstanding any other provision of law, if a dealer has inventory in the Commonwealth, such dealer shall have physical presence in the Commonwealth and shall be deemed to have sufficient activity within the Commonwealth to require registration under § 58.1-613 pursuant to § 58.1-612(C).*

#### § 3-5.16. Omitted.

#### § 3-5.17 VIRGINIA TAX AMNESTY PROGRAM

A. Notwithstanding any other provision of law, there is hereby established the Virginia Tax Amnesty Program. It is the intent of this program to improve voluntary compliance with the tax laws and to increase and to accelerate collections of certain taxes owed to the Commonwealth.

B. The Virginia Tax Amnesty Program shall be administered by the Department of Taxation, and any person, individual, corporation, estate, trust or partnership required to file a return or to pay any tax administered or collected by the Department of Taxation shall be eligible to participate, subject to the requirements set forth below and guidelines established by the Tax Commissioner. The Tax Commissioner may require participants in the program to complete an amnesty application and such other forms as he may prescribe and to furnish any additional information he deems necessary to make a determination regarding the validity of such amnesty application.

C. The Tax Commissioner shall establish guidelines and rules for the procedures for participation and any other rules that are deemed necessary by the Tax Commissioner. The guidelines and rules issued by the Tax Commissioner regarding the Virginia Tax Amnesty Program shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq. of the Code of Virginia).

D. The Virginia Tax Amnesty Program shall have the following features:

1. The program shall be conducted during the period July 1, 2017 through June 30, 2018 and shall not last less than 60 nor more than 75 days. The exact dates of the program shall be established by the Tax Commissioner.

2. All civil or criminal penalties assessed or assessable, as provided in this title, including the addition to tax under §§ 58.1-492 and 58.1-504 of the Code of Virginia, and one-half of the interest assessed or assessable, as provided in this title, which are the result of nonpayment, underpayment, nonreporting or underreporting of tax liabilities, shall be waived upon receipt of the payment of the amount of taxes and interest owed, with the following exceptions:

a. No person, individual, corporation, estate, trust or partnership currently under investigation or prosecution for filing a fraudulent return or failing to file a return with the intent to evade tax shall qualify to participate.

b. No person, individual, corporation, estate, trust or partnership shall be eligible to participate in the program with respect to any assessment outstanding for which the date of assessment is less than 90 days prior to the first day of the program or with respect to any liability arising from the failure to file a return for which the due date of the return is less than 90 days prior to the first day of the program.

c. No person, individual, corporation, estate, or trust shall be eligible to participate in the program with respect to any tax liability from the income taxes imposed by §§ 58.1-320, 58.1-360 and 58.1-400 of the Code of Virginia, if the tax liability is attributable to taxable years beginning on and after January 1, 2016.

d. No taxpayer shall be eligible to participate in the Program with respect to any tax liability if it is attributable to an issue that is subject to a decision of a Virginia court rendered on or after January 1, 2016.

E. For the purpose of computing the outstanding balance due because of the nonpayment, underpayment, nonreporting or underreporting of any tax liability that has not been assessed prior to the first day of the program, the rate of interest specified for omitted taxes and assessments under § 58.1-15 shall not be applicable. The Tax Commissioner shall, instead, establish one interest rate to be used for each taxable year that approximates the average "underpayment rate" specified under § 58.1-15 of the Code of Virginia for the five-year period immediately preceding the program.

F. 1. If any taxpayer eligible for amnesty under this section and under the rules and guidelines established by the Tax Commissioner retains any outstanding balance after the close of the Virginia Tax Amnesty Program because of the nonpayment, underpayment, nonreporting or underreporting of any tax liability eligible for relief under the Virginia Tax Amnesty Program, then such balance shall be subject to a 20 percent penalty on the unpaid tax. This penalty is in addition to all other penalties that may apply to the taxpayer.

2. Any taxpayer who defaults upon any agreement to pay tax and interest arising out of a grant of amnesty is subject to reinstatement of the penalty and interest forgiven and the imposition of the penalty under this section as though the taxpayer retained the original outstanding balance at the close of the Virginia Tax Amnesty Program.

#### § 3-5.18 LIMITATION ON THE AMOUNT OF HISTORIC REHABILITATION TAX CREDITS CLAIMED

Notwithstanding § 58.1-339.2 or any other provision of law, effective for taxable years beginning on and after January 1, 2017, the amount of the Historic Rehabilitation Tax Credit that may be claimed by each taxpayer, including amounts carried over from prior taxable years, shall not exceed \$5 million for any taxable year.

#### § 3-5.19 LIMITATION ON THE AMOUNT OF LAND PRESERVATION TAX CREDITS CLAIMED

Notwithstanding § 58.1-512 or any other provision of law, effective for the taxable year beginning on and after January 1, 2017, the amount of the Land Preservation Tax Credit that may be claimed by each taxpayer, including amounts carried over from prior taxable years, shall not exceed \$20,000.

**§ 3-6.00 ADJUSTMENTS AND MODIFICATIONS TO FEES****§ 3-6.01 RECORDATION TAX FEE**

There is hereby assessed a twenty dollar fee on (i) every deed for which the state recordation tax is collected pursuant to §§ 58.1-801 A and 58.1-803, Code of Virginia; and (ii) every certificate of satisfaction admitted under § 55-66.6, Code of Virginia. The revenue generated from fifty percent of such fee shall be deposited to the general fund. The revenue generated from the other fifty percent of such fee shall be deposited to the Virginia Natural Resources Commitment Fund, a subfund of the Virginia Water Quality Improvement Fund, as established in § 10.1-2128.1, Code of Virginia. The funds deposited to this subfund shall be disbursed for the agricultural best management practices cost share program, pursuant to § 10.1-2128.1, Code of Virginia.

**§ 3-6.02 ANNUAL VEHICLE REGISTRATION FEE (\$4.25 FOR LIFE)**

Notwithstanding § 46.2-694 paragraph 13 of the Code of Virginia, the additional fee that shall be charged and collected at the time of registration of each pickup or panel truck and each motor vehicle shall be \$6.25.

**§ 3-6.03 DRIVERS LICENSE REINSTATEMENT FEE**

Notwithstanding § 46.2-411 of the Code of Virginia, the drivers license reinstatement fee payable to the Trauma Center Fund shall be \$100.

**§ 3-6.04. Omitted.**

**PART 4: GENERAL PROVISIONS**  
**§ 4-0.00 OPERATING POLICIES**

§ 4-0.01 OPERATING POLICIES

- a. Each appropriating act of the General Assembly shall be subject to the following provisions and conditions, unless specifically exempt elsewhere in this act.
- b. All appropriations contained in this act, or in any other appropriating act of the General Assembly, are declared to be maximum appropriations and conditional on receipt of revenue.
- c. The Governor, as chief budget officer of the state, shall ensure that the provisions and conditions as set forth in this section are strictly observed.
- d. Public higher education institutions are not subject to the provisions of § 2.2-4800, Code of Virginia, or the provisions of the Department of Accounts' Commonwealth Accounting Policies and Procedures manual (CAPP) topic 20505 with regard to students who are veterans of the United States armed services and National Guard and are in receipt of federal educational benefits under the G.I. Bill. Public higher education shall establish internal procedures for the continued enrollment of such students to include resolution of outstanding accounts receivable.
- e. *The provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq. of the Code of Virginia) shall not apply to grants made in support of the 2019 Commemoration to non-profit entities organized under § 501 (c)(3) of the Internal Revenue Code.*
- f. 1. *The State Council of Higher Education for Virginia shall establish a policy for granting undergraduate course credit to entering freshman students who have taken one or more Advanced Placement, Cambridge Advanced (A/AS), College-Level Examination Program (CLEP), or International Baccalaureate examinations by August 1, 2017. The policy shall:*
  - a) *Outline the conditions necessary for each public institution of higher education to grant course credit, including the minimum required scores on such examinations;*
  - b) *Identify the course credit or other academic requirements of each public institution of higher education that the student satisfies by achieving the minimum required scores on such examinations; and*
  - c) *Ensure, to the extent possible, that the grant of course credit is consistent across each public institution of higher education and each such examination.*
2. *The Council and each public institution of higher education shall make the policy available to the public on its website.*

**§ 4-1.00 APPROPRIATIONS**

§ 4-1.01 PREREQUISITES FOR PAYMENT

- a. The State Comptroller shall not pay any money out of the state treasury except pursuant to appropriations in this act or in any other act of the General Assembly making an appropriation during the current biennium.
- b. Moneys shall be spent solely for the purposes for which they were appropriated by the General Assembly, except as specifically provided otherwise by § 4-1.03 Appropriation Transfers, § 4-4.01 Capital Projects, or § 4-5.01 a. Settlement of Claims with Individuals. Should the Governor find that moneys are not being spent in accordance with provisions of the act appropriating them, he shall restrain the State Comptroller from making further disbursements, in whole or in part, from said appropriations. Further, should the Auditor of Public Accounts determine that a state or other agency is not spending moneys in accordance with provisions of the act appropriating them, he shall so advise the Governor or other governing authority, the State Comptroller, the Chairman of the Joint Legislative Audit and Review Commission, and Chairmen of the Senate Finance and House Appropriations Committees.
- c. Exclusive of revenues paid into the general fund of the state treasury, all revenues earned or collected by an agency, and contained in an appropriation item to the agency shall be expended first during the fiscal year, prior to the expenditure of any general fund appropriation within that appropriation item, unless prohibited by statute or by the terms and conditions of any gift, grant or donation.

§ 4-1.02 WITHHOLDING OF SPENDING AUTHORITY

- a. For purposes of this subsection, withholding of spending authority is defined as any action pursuant to a budget reduction plan approved by the Governor to address a declared shortfall in budgeted revenue that impedes or limits the ability to spend appropriated moneys, regardless of the mechanism used to effect such withholding.

b.1. Changed Expenditure Factors: The Governor is authorized to reduce spending authority, by withholding allotments of appropriations, when expenditure factors, such as enrollments or population in institutions, are smaller than the estimates upon which the appropriation was based. Moneys generated from the withholding action shall not be reallocated for any other purpose, provided the withholding of allotments of appropriations under this provision shall not occur until at least 15 days after the Governor has transmitted a statement of changed factors and intent to withhold moneys to the Chairmen of the House Appropriations and Senate Finance Committees.

2. Moneys shall not be withheld on the basis of reorganization plans or program evaluations until such plans or evaluations have been specifically presented in writing to the General Assembly at its next regularly scheduled session.

c. Increased Nongeneral Fund Revenue:

1. General fund appropriations to any state agency for operating expenses are supplemental to nongeneral fund revenues collected by the agency. To the extent that nongeneral fund revenues collected in a fiscal year exceed the estimate on which the operating budget was based, the Governor is authorized to withhold general fund spending authority, by withholding allotments of appropriations, in an equivalent amount. However, this limitation shall not apply to (a) restricted excess tuition and fees for educational and general programs in the institutions of higher education, as defined in § 4-2.01 c of this act; (b) appropriations to institutions of higher education designated for fellowships, scholarships and loans; (c) gifts or grants which are made to any state agency for the direct costs of a stipulated project; (d) appropriations to institutions for the mentally ill or intellectually disabled payable from the Behavioral Health and Developmental Services Revenue Fund; and (e) general fund appropriations for highway construction and mass transit. Moneys unallotted under this provision shall not be reallocated for any other purpose.

2. To the degree that new or additional grant funds become available to supplement general fund appropriations for a program, following enactment of an appropriation act, the Governor is authorized to withhold general fund spending authority, by withholding allotments of appropriations, in an amount equivalent to that provided from grant funds, unless such action is prohibited by the original provider of the grant funds. The withholding action shall not include general fund appropriations, which are required to match grant funds. Moneys unallotted under this provision shall not be reallocated for any other purpose.

d. Reduced General Fund Resources:

1. The term "general fund resources" as applied in this subsection includes revenues collected and paid into the general fund of the state treasury during the current biennium, transfers to the general fund of the state treasury during the current biennium, and all unexpended balances brought forward from the previous biennium.

2. In the event that general fund resources are estimated by the Governor to be insufficient to pay in full all general fund appropriations authorized by the General Assembly, the Governor shall, subject to the qualifications herein contained, withhold general fund spending authority, by withholding allotments of appropriations, to prevent any expenditure in excess of the estimated general fund resources available.

3. In making this determination, the Governor shall take into account actual general fund revenue collections for the current fiscal year and the results of a formal written re-estimate of general fund revenues for the current and next biennium, prepared within the previous 90 days, in accordance with the process specified in § 2.2-1503, Code of Virginia. Said re-estimate of general fund revenues shall be communicated to the Chairmen of the Senate Finance, House Appropriations and House Finance Committees, prior to taking action to reduce general fund allotments of appropriations on account of reduced resources.

4.a) In addition to monthly reports on the status of revenue collections relative to the current fiscal year's estimate, the Governor shall provide a written quarterly assessment of the current economic outlook for the remainder of the fiscal year to the Chairmen of the House Appropriations, House Finance, and Senate Finance Committees.

b) Within five business days after the preliminary close of the state accounts at the end of the fiscal year, the State Comptroller shall provide the Governor with the actual total of (1) individual income taxes, (2) corporate income taxes, and (3) sales taxes for the just-completed fiscal year, with a comparison of such actual totals with the total of such taxes in the official budget estimate for that fiscal year. If that comparison indicates that the total of (1) individual income taxes, (2) corporate income taxes, and (3) sales taxes, as shown on the preliminary close, was one percent or more below the amount of such taxes in the official budget estimate for the just-completed fiscal year, the Governor shall prepare a written re-estimate of general fund revenues for the current biennium and the next biennium in accordance with § 2.2-1503, Code of Virginia, to be reported to the Chairmen of the Senate Finance, House Finance and House Appropriations Committees, not later than September 1 following the close of the fiscal year.

5.a) The Governor shall take no action to withhold allotments until a written plan detailing specific reduction actions approved by the Governor, identified by program and appropriation item, has been presented to the Chairmen of the House Appropriations and Senate Finance Committees. Subsequent modifications to the approved reduction plan also must be submitted to the Chairmen of the House Appropriations and Senate Finance Committees, prior to withholding allotments of appropriations.

b) In addition to the budget reduction plan approved by the Governor, all budget reduction proposals submitted by state agencies to the Governor or the Governor's staff, including but not limited to the Department of Planning and Budget, the Governor's Cabinet secretaries, or the Chief of Staff, whether submitted electronically or otherwise, shall be made available via electronic means to the

Chairmen of the House Appropriations and Senate Finance Committees concurrently with that budget reduction plan.

6. In effecting the reduction of expenditures, the Governor shall not withhold allotments of appropriations for:

a) More than 15 percent cumulatively of the annual general fund appropriation contained in this act for operating expenses of any one state or nonstate agency or institution designated in this act by title, and the exact amount withheld, by state or nonstate agency or institution, shall be reported within five calendar days to the Chairmen of the Senate Finance and House Appropriations Committees. State agencies providing funds directly to grantees named in this act shall not apportion a larger cut to the grantee than the proportional cut apportioned to the agency. Without regard to § 4-5.05 b.4. of this act, the remaining appropriation to the grantee which is not subject to the cut, equal to at least 85 percent of the annual appropriation, shall be made by July 31, or in two equal installments, one payable by July 31 and the other payable by December 31, if the remaining appropriation is less than or equal to \$500,000, except in cases where the normal conditions of the grant dictate a different payment schedule.

b) The payment of principal and interest on the bonded debt or other bonded obligations of the Commonwealth, its agencies and its authorities, or for payment of a legally authorized deficit.

c) The payments for care of graves of Confederate *and historical African American* dead.

d) The employer contributions, and employer-paid member contributions, to the Social Security System, Virginia Retirement System, Judicial Retirement System, State Police Officers Retirement System, Virginia Law Officers Retirement System, Optional Retirement Plan for College and University Faculty, Optional Retirement Plan for Political Appointees, Optional Retirement Plan for Superintendents, the Volunteer Service Award Program, the Virginia Retirement System's group life insurance, sickness and disability, and retiree health care credit programs for state employees, state-supported local employees and teachers. If the Virginia Retirement System Board of Trustees approves a contribution rate for a fiscal year that is lower than the rate on which the appropriation was based, or if the United States government approves a Social Security rate that is lower than that in effect for the current budget, the Governor may withhold excess contributions. However, employer and employee paid rates or contributions for health insurance and matching deferred compensation for state employees, state-supported local employees and teachers may not be increased or decreased beyond the amounts approved by the General Assembly. Payments for the employee benefit programs listed in this paragraph may not be delayed beyond the customary billing cycles that have been established by law or policy by the governing board.

e) The payments in fulfillment of any contract awarded for the design, construction and furnishing of any state building.

f) The salary of any state officer for whom the Constitution of Virginia prohibits a change in salary.

g) The salary of any officer or employee in the Executive Department by more than two percent (irrespective of the fund source for payment of salaries and wages); however, the percentage of reduction shall be uniformly applied to all employees within the Executive Department.

h) The appropriation supported by the State Bar Fund, as authorized by § 54.1-3913, Code of Virginia, unless the supporting revenues for such appropriation are estimated to be insufficient to pay the appropriation.

7. The Governor is authorized to withhold specific allotments of appropriations by a uniform percentage, a graduated reduction or on an individual basis, or apply a combination of these actions, in effecting the authorized reduction of expenditures, up to the maximum of 15 percent, as prescribed in subdivision 6a of this subsection.

8. Each nongeneral fund appropriation shall be payable in full only to the extent the nongeneral fund revenues from which the appropriation is payable are estimated to be sufficient. The Governor is authorized to reduce allotments of nongeneral fund appropriations by the amount necessary to ensure that expenditures do not exceed the supporting revenues for such appropriations; however, the Governor shall take no action to reduce allotments of appropriations for major nongeneral fund sources on account of reduced revenues until such time as a formal written re-estimate of revenues for the current and next biennium, prepared in accordance with the process specified in § 2.2-1503, Code of Virginia, has been reported to the Chairmen of the Senate Finance, House Finance, and House Appropriations Committees. For purposes of this subsection, major nongeneral fund sources are defined as Highway Maintenance and Operating Fund and Transportation Trust Fund.

9. Notwithstanding any contrary provisions of law, the Governor is authorized to transfer to the general fund on June 30 of each year of the biennium, or within 20 days from that date, any available unexpended balances in other funds in the state treasury, subject to the following:

a) The Governor shall declare in writing to the Chairmen of the Senate Finance and House Appropriations Committees that a fiscal emergency exists which warrants the transfer of nongeneral funds to the general fund and reports the exact amount of such transfer within five calendar days of the transfer;

b) No such transfer may be made from retirement or other trust accounts, the State Bar Fund as authorized by § 54.1-3913, Code of Virginia, debt service funds, or federal funds; and

c) The Governor shall include for informative purposes, in the first biennial budget he submits subsequent to the transfer, the amount transferred from each account or fund and recommendations for restoring such amounts.

10. The Director, Department of Planning and Budget, shall make available via electronic means a report of spending authority withheld under the provisions of this subsection to the Chairmen of the Senate Finance and House Appropriations Committees within five calendar days of the action to withhold. Said report shall include the amount withheld by agency and appropriation item.

11. If action to withhold allotments of appropriation under this provision is inadequate to eliminate the imbalance between projected general fund resources and appropriations, the Speaker of the House of Delegates and the President pro tempore of the Senate shall be advised in writing by the Governor, so that they may consider requesting a special session of the General Assembly.

#### § 4-1.03 APPROPRIATION TRANSFERS

##### GENERAL

a. During any fiscal year, the Director, Department of Planning and Budget, may transfer appropriation authority from one state or other agency to another, to effect the following:

- 1) distribution of amounts budgeted in the central appropriation to agencies, or withdrawal of budgeted amounts from agencies in accordance with specific language in the central appropriation establishing reversion clearing accounts;
- 2) distribution of pass-through grants or other funds held by an agency as fiscal agent;
- 3) correction of errors within this act, where such errors have been identified in writing by the Chairmen of the House Appropriations and Senate Finance Committees;
- 4) proper accounting between fund sources 0100 and 0300 in higher education institutions;
- 5) transfers specifically authorized elsewhere in this act or as specified in the Code of Virginia;
- 6) to supplement capital projects in order to realize efficiencies or provide for cost overruns unrelated to changes in size or scope; or
- 7) to administer a program for another agency or to effect budgeted program purposes approved by the General Assembly, pursuant to a signed agreement between the respective agencies.

b. During any fiscal year, the Director, Department of Planning and Budget, may transfer appropriation authority within an agency to effect proper accounting between fund sources and to effect program purposes approved by the General Assembly, unless specifically provided otherwise in this act or as specified in the Code of Virginia. However, appropriation authority for local aid programs and aid to individuals, with the exception of student financial aid, shall not be transferred elsewhere without advance notice to the Chairmen of the House Appropriations and Senate Finance Committees. Further, any transfers between capital projects shall be made only to realize efficiencies or provide for cost overruns unrelated to changes in size or scope.

c.1. In addition to authority granted elsewhere in this act, the Director, Department of Planning and Budget, may transfer operating appropriations authority among sub-agencies within the Judicial System, the Department of Corrections, and the Department of Behavioral Health and Developmental Services to effect changes in operating expense requirements which may occur during the biennium.

2. The Director, Department of Planning and Budget, may transfer appropriations from the Department of Behavioral Health and Developmental Services to the Department of Medical Assistance Services, consisting of the general fund amounts required to match federal funds for reimbursement of services provided by its institutions and Community Services Boards.

3. The Director, Department of Planning and Budget, may transfer appropriations from the Office of Comprehensive Services to the Department of Medical Assistance Services, consisting of the general fund amounts required to match federal funds for reimbursement of services provided to eligible children.

4. The Director, Department of Planning and Budget, may transfer an appropriation or portion thereof within a state or other agency, or from one such agency to another, to support changes in agency organization, program or responsibility enacted by the General Assembly to be effective during the current biennium.

5. The Director, Department of Planning and Budget, may transfer appropriations from the second year to the first year, with said transfer to be reported in writing to the Chairmen of the Senate Finance and House Appropriations Committees within five calendar days of the transfer, when the expenditure of such funds is required to:

- a) address a threat to life, safety, health or property, or
- b) provide for unbudgeted cost increases for statutorily required services or federally mandated services, in order to continue those services at the present level, or
- c) provide for payment of overtime salaries and wages, when the obligations for payment of such overtime were incurred during a

situation deemed threatening to life, safety, health, or property, or

d) provide for payments to the beneficiaries of certain public safety officers killed in the line of duty, as authorized in Title 2.2, Chapter 4, Code of Virginia and for payments to the beneficiaries of certain members of the National Guard and United States military reserves killed in action in any armed conflict on or after October 7, 2001, as authorized in § 44-93.1 B., Code of Virginia, or

e) continue a program at the present level of service or at an increased level of service when required to address unanticipated increases in workload such as enrollment, caseload or like factors, or unanticipated costs, or

f) to address unanticipated business or industrial development opportunities which will benefit the state's economy, provided that any such appropriations be used in a manner consistent with the purposes of the program as originally appropriated.

6. An appropriation transfer shall not occur except through properly executed appropriation transfer documents designed specifically for that purpose, and all transactions effecting appropriation transfers shall be entered in the state's computerized budgeting and accounting systems.

7. The Director, Department of Planning and Budget, may transfer from any other agency, appropriations to supplement any project of the Virginia Public Building Authority authorized by the General Assembly and approved by the Governor. Such capital project shall be transferred to the state agency designated as the managing agency for the Virginia Public Building Authority.

8. In the event of the transition of a city to town status pursuant to the provisions of Chapter 41 of Title 15.2 of the Code of Virginia (§ 15.2-4100 et seq.) or the consolidation of a city and a county into a single city pursuant to the provisions of Chapter 35 of Title 15.2, Code of Virginia (§ 15.2-3500 et seq.) subsequent to July 1, 1999, the provisions of § 15.2-1302 shall govern distributions from state agencies to the county in which the town is situated or to the consolidated city, and the Director, Department of Planning and Budget, is authorized to transfer appropriations or portions thereof within a state agency, or from one such agency to another, if necessary to fulfill the requirements of § 15.2-1302.

#### § 4-1.04 APPROPRIATION INCREASES

##### a. UNAPPROPRIATED NONGENERAL FUNDS:

##### 1. Sale of Surplus Materials:

The Director, Department of Planning and Budget, is hereby authorized to increase the appropriations to any state agency by the amount of credit resulting from the sale of surplus materials under the provisions of § 2.2-1125, Code of Virginia.

##### 2. Insurance Recovery:

The Director, Department of Planning and Budget, shall increase the appropriation authority for any state agency by the amount of the proceeds of an insurance policy or from the State Insurance Reserve Trust Fund, for expenditures as far as may be necessary, to pay for the repair or replacement of lost, damaged or destroyed property, plant or equipment.

##### 3. Gifts, Grants and Other Nongeneral Funds:

a) Subject to § 4-1.02 c, Increased Nongeneral Fund Revenue, and the conditions stated in this section, the Director, Department of Planning and Budget, is hereby authorized to increase the appropriations to any state agency by the amount of the proceeds of donations, gifts, grants or other nongeneral funds paid into the state treasury in excess of such appropriations during a fiscal year. Such appropriations shall be increased only when the expenditure of moneys is authorized elsewhere in this act or is required to:

1) address a threat to life, safety, health or property or

2) provide for unbudgeted increases in costs for services required by statute or services mandated by the federal government, in order to continue those services at the present level or implement compensation adjustments approved by the General Assembly, or

3) provide for payment of overtime salaries and wages, when the obligations for payment of such overtime were incurred during a situation deemed threatening to life, safety, health, or property, or

4) continue a program at the present level of service or at an increased level of service when required to address unanticipated increases in noncredit instruction at institutions of higher education or business and industrial development opportunities which will benefit the state's economy, or

5) participate in a federal or sponsored program provided that the provisions of § 4-5.03 shall also apply to increases in appropriations for additional gifts, grants, and other nongeneral fund revenue which require a general fund match as a condition of their acceptance; or

- 6) realize cost savings in excess of the additional funds provided, or
  - 7) permit a state agency or institution to use a donation, gift or grant for the purpose intended by the donor, or
  - 8) provide for cost overruns on capital projects and for capital projects authorized under § 4-4.01 m of this act, or
  - 9) address caseload or workload changes in programs approved by the General Assembly.
- b) The above conditions shall not apply to donations and gifts to the endowment funds of institutions of higher education.
  - c) Each state agency and institution shall ensure that its budget estimates include a reasonable estimate of receipts from donations, gifts or other nongeneral fund revenue. The Department of Planning and Budget shall review such estimates and verify their accuracy, as part of the budget planning and review process.
  - d) No obligation or expenditure shall be made from such funds until a revised operating budget request is approved by the Director, Department of Planning and Budget. Expenditures from any gift, grant or donation shall be in accordance with the purpose for which it was made; however, expenditures for property, plant or equipment, irrespective of fund source, are subject to the provisions of §§ 4-2.03 Indirect Costs, 4-4.01 Capital Projects General, and 4-5.03 b Services and Clients-New Services, of this act.
  - e) Nothing in this section shall exempt agencies from complying with § 4-2.01 a Solicitation and Acceptance of Donations, Gifts, Grants, and Contracts of this act.

4. Any nongeneral fund cash balance recorded on the books of the Department of Accounts as unexpended on the last day of the fiscal year may be appropriated for use in the succeeding fiscal year with the prior written approval of the Director, Department of Planning and Budget, unless the General Assembly shall have specifically provided otherwise. Revenues deposited to the Virginia Health Care Fund shall be used only as the state share of Medicaid, unless the General Assembly specifically authorizes an alternate use. With regard to the appropriation of other nongeneral fund cash balances, the Director shall make a listing of such transactions available to the public via electronic means no less than ten business days following the approval of the appropriation of any such balance.

#### 5. Reporting:

The Director, Department of Planning and Budget, shall make available via electronic means a report on increases in unappropriated nongeneral funds in accordance with § 4-8.00, Reporting Requirements, or as modified by specific provisions in this subsection.

#### b. AGRIBUSINESS EQUIPMENT FOR THE DEPARTMENT OF CORRECTIONS

The Director of the Department of Planning and Budget may increase the Department of Corrections appropriation for the purchase of agribusiness equipment or the repair or construction of agribusiness facilities by an amount equal to fifty percent of any annual amounts in excess of fiscal year 1992 deposits to the general fund from agribusiness operations. It is the intent of the General Assembly that appropriation increases for the purposes specified shall not be used to reduce the general fund appropriations for the Department of Corrections.

### § 4-1.05 REVERSION OF APPROPRIATIONS AND REAPPROPRIATIONS

#### a. GENERAL FUND OPERATING EXPENSE:

1.a) General fund appropriations which remain unexpended on (i) the last day of the previous biennium or (ii) the last day of the first year of the current biennium, shall be reappropriated and allotted for expenditure where required by the Code of Virginia, where necessary for the payment of preexisting obligations for the purchase of goods or services, or where desirable, in the determination of the Governor, to address any of the six conditions listed in § 4-1.03 c.5 of this act or to provide financial incentives to reduce spending to effect current or future cost savings. With the exception of the unexpended general fund appropriations of agencies in the Legislative Department, the Judicial Department, the Independent Agencies, or institutions of higher education, all other such unexpended general fund appropriations unexpended on the last day of the previous biennium or the last day of the first year of the current biennium shall revert to the general fund.

General fund appropriations for agencies in the Legislative Department, the Judicial Department, and the Independent Agencies shall be reappropriated, except as may be specifically provided otherwise by the General Assembly. General fund appropriations shall also be reappropriated for institutions of higher education, subject to § 2.2-5005, Code of Virginia.

2. a. The Governor shall report within five calendar days after completing the reappropriation process to the Chairmen of the Senate Finance and House Appropriations Committees on the reappropriated amounts for each state agency in the Executive Department. He shall provide a preliminary report of reappropriation actions on or before November 1 and a final report on or before December 20 to the Chairmen of the House Appropriations and Senate Finance Committees.

b. The Director, Department of Planning and Budget, may transfer reappropriated amounts within an agency to cover nonrecurring costs.

3. Pursuant to subsection E of § 2.2-1125, Code of Virginia, the determination of compliance by an agency or institution with management standards prescribed by the Governor shall be made by the Secretary of Finance and the Secretary having jurisdiction over the agency or institution, acting jointly.

4. The general fund resources available for appropriation in the first enactment of this act include the reversion of certain unexpended balances in operating appropriations as of June 30 of the prior fiscal year, which were otherwise required to be reappropriated by language in the Appropriation Act.

5. Upon request, the Director, Department of Planning and Budget, shall provide a report to the Chairmen of the House Appropriations and Senate Finance Committees showing the amount reverted for each agency and the total amount of such reversions.

b. NONGENERAL FUND OPERATING EXPENSE:

Based on analysis by the State Comptroller, when any nongeneral fund has had no increases or decreases in fund balances for a period of 24 months, the State Comptroller shall promptly transfer and pay the balance into the fund balance of the general fund. If it is subsequently determined that an appropriate need warrants repayment of all or a portion of the amount transferred, the Director, Department of Planning and Budget shall include repayment in the next budget bill submitted to the General Assembly. This provision does not apply to funds held in trust by the Commonwealth.

c. CAPITAL PROJECTS:

1. Upon certification by the Director, Department of Planning and Budget, the State Comptroller is hereby authorized to revert to the fund balance of the general fund any portion of the unexpended general fund cash balance and corresponding appropriation or reappropriation for a capital project when the Director determines that such portion is not needed for completion of the project. The State Comptroller may similarly return to the appropriate fund source any part of the unexpended nongeneral fund cash balance and reduce any appropriation or reappropriation which the Director determines is not needed to complete the project.

2. The unexpended general fund cash balance and corresponding appropriation or reappropriation for capital projects shall revert to and become part of the fund balance of the general fund during the current biennium as of the date the Director, Department of Planning and Budget, certifies to the State Comptroller that the project has been completed in accordance with the intent of the appropriation or reappropriation and there are no known unpaid obligations related to the project. The State Comptroller shall return the unexpended nongeneral fund cash balance, if there be any, for such completed project to the source from which said nongeneral funds were obtained. Likewise, he shall revert an equivalent portion of the appropriation or reappropriation of said nongeneral funds.

3. The Director, Department of Planning and Budget, may direct the restoration of any portion of the reverted amount if he shall subsequently verify an unpaid obligation or requirement for completion of the project. In the case of a capital project for which an unexpended cash balance was returned and appropriation or reappropriation was reverted in the prior biennium, he may likewise restore any portion of such amount under the same conditions.

§ 4-1.06 LIMITED ADJUSTMENTS OF APPROPRIATIONS

a. LIMITED CONTINUATION OF APPROPRIATIONS.

Notwithstanding any contrary provision of law, any unexpended balances on the books of the State Comptroller as of the last day of the previous biennium shall be continued in force for such period, not exceeding 10 days from such date, as may be necessary in order to permit payment of any claims, demands or liabilities incurred prior to such date and unpaid at the close of business on such date, and shown by audit in the Department of Accounts to be a just and legal charge, for values received as of the last day of the previous biennium, against such unexpended balances.

b. LIMITATIONS ON CASH DISBURSEMENTS.

Notwithstanding any contrary provision of law, the State Comptroller may begin preparing the accounts of the Commonwealth for each subsequent fiscal year on or about 10 days before the start of such fiscal year. The books will be open only to enter budgetary transactions and transactions that will not require the receipt or disbursement of funds until after June 30. Should an emergency arise, or in years in which July 1 falls on a weekend requiring the processing of transactions on or before June 30, the State Comptroller may, with notification to the Auditor of Public Accounts, authorize the disbursement of funds drawn against appropriations of the subsequent fiscal year, not to exceed the sum of three million dollars (\$3,000,000) from the general fund. This provision does not apply to debt service payments on bonds of the Commonwealth which shall be made in accordance with bond documents, trust indentures, and/or escrow agreements.

§ 4-1.07 ALLOTMENTS

Except when otherwise directed by the Governor within the limits prescribed in §§ 4-1.02 Withholding of Spending Authority, 4-1.03 Appropriation Transfers, and 4-1.04 Appropriation Increases of this act, the Director, Department of Planning and

Budget, shall prepare and act upon the allotment of appropriations required by this act, and by § 2.2-1819, Code of Virginia, and the authorizations for rates of pay required by this act. Such allotments and authorizations shall have the same effect as if the personal signature of the Governor were subscribed thereto. This section shall not be construed to prohibit an appeal by the head of any state agency to the Governor for reconsideration of any action taken by the Director, Department of Planning and Budget, under this section.

#### § 4-2.00 REVENUES

##### § 4-2.01 NONGENERAL FUND REVENUES

###### a. SOLICITATION AND ACCEPTANCE OF DONATIONS, GIFTS, GRANTS, AND CONTRACTS:

1. No state agency shall solicit or accept any donation, gift, grant, or contract without the written approval of the Governor except under written guidelines issued by the Governor which provide for the solicitation and acceptance of nongeneral funds, except that donations or gifts to the Virginia War Memorial Foundation that are small in size and number and valued at less than \$5,000, such as library items or small display items, may be approved by the Executive Director of the Virginia War Memorial in consultation with the Secretary of Veterans Affairs and Homeland Security. All other gifts and donations to the Virginia War Memorial Foundation must receive written approval from the Secretary of Veterans Affairs and Homeland Security.

2. The Governor may issue policies in writing for procedures which allow state agencies to solicit and accept nonmonetary donations, gifts, grants, or contracts except that donations, gifts and grants of real property shall be subject to § 4-4.00 of this act and § 2.2-1149, Code of Virginia. This provision shall apply to donations, gifts and grants of real property to endowment funds of institutions of higher education, when such endowment funds are held by the institution in its own name and not by a separately incorporated foundation or corporation.

3. The preceding subdivisions shall not apply to property and equipment acquired and used by a state agency or institution through a lease purchase agreement and subsequently donated to the state agency or institution during or at the expiration of the lease purchase agreement, provided that the lessor is the Virginia College Building Authority.

4. The use of endowment funds for property, plant or equipment for state-owned facilities is subject to §§ 4-2.03 Indirect Costs, 4-4.01 Capital Projects-General and 4-5.03 Services and Clients of this act.

###### b. HIGHER EDUCATION TUITION AND FEES

1. Except as provided in Chapters 933 and 943 of the 2006 Acts of Assembly, Chapters 594 and 616 of the 2008 Acts of Assembly, and Chapters 675 and 685 of the 2009 Acts of Assembly, all nongeneral fund collections by public institutions of higher education, including collections from the sale of dairy and farm products, shall be deposited in the state treasury in accordance with § 2.2-1802, Code of Virginia, and expended by the institutions of higher education in accordance with the appropriations and provisions of this act, provided, however, that this requirement shall not apply to private gifts, endowment funds, or income derived from endowments and gifts.

2. a) The Boards of Visitors or other governing bodies of institutions of higher education may set tuition and fee charges at levels they deem to be appropriate for all resident student groups based on, but not limited to, competitive market rates, provided that the total revenue generated by the collection of tuition and fees from all students is within the nongeneral fund appropriation for educational and general programs provided in this act.

b) The Boards of Visitors or other governing bodies of institutions of higher education may set tuition and fee charges at levels they deem to be appropriate for all nonresident student groups based on, but not limited to, competitive market rates, provided that: i) the tuition and mandatory educational and general fee rates for nonresident undergraduate and graduate students cover at least 100 percent of the average cost of their education, as calculated through base adequacy guidelines adopted, and periodically amended, by the Joint Subcommittee Studying Higher Education Funding Policies, and ii) the total revenue generated by the collection of tuition and fees from all students is within the nongeneral fund appropriation for educational and general programs provided in this act.

c) For institutions charging nonresident students less than 100 percent of the cost of education, the State Council of Higher Education for Virginia may authorize a phased approach to meeting this requirement, when in its judgment, it would result in annual tuition and fee increases for nonresident students that would discourage their enrollment.

d) The Boards of Visitors or other governing bodies of institutions of higher education shall not increase the current proportion of nonresident undergraduate students if the institution's nonresident undergraduate enrollment exceeds 25 percent. Norfolk State University, Virginia Military Institute, Virginia State University, and two-year public institutions are exempt from this restriction.

3. a) In setting the nongeneral fund appropriation for educational and general programs at the institutions of higher education, the General Assembly shall take into consideration the appropriate student share of costs associated with providing full funding of the base adequacy guidelines referenced in subparagraph 2. b), raising average salaries for teaching and research faculty to the 60th percentile of peer institutions, and other priorities set forth in this act.

b) In determining the appropriate state share of educational costs for resident students, the General Assembly shall seek to cover at

least 67 percent of educational costs associated with providing full funding of the base adequacy guidelines referenced in subparagraph 2. b), raising average salaries for teaching and research faculty to the 60th percentile of peer institutions, and other priorities set forth in this act.

4. a) Each institution and the State Council of Higher Education for Virginia shall monitor tuition, fees, and other charges, as well as the mix of resident and nonresident students, to ensure that the primary mission of providing educational opportunities to citizens of Virginia is served, while recognizing the material contributions provided by the presence of nonresident students. The State Council of Higher Education for Virginia shall also develop and enforce uniform guidelines for reporting student enrollments and the domiciliary status of students.

b) The State Council of Higher Education for Virginia shall report to the Governor and the Chairmen of the House Appropriations and Senate Finance Committees no later than August 1 of each year the annual change in total charges for tuition and all required fees approved and allotted by the Board of Visitors. As it deems appropriate, the State Council of Higher Education for Virginia shall provide comparative national, peer, and market data with respect to charges assessed students for tuition and required fees at institutions outside of the Commonwealth.

c) Institutions of higher education are hereby authorized to make the technology service fee authorized in Chapter 1042, 2003 Acts of Assembly, part of ongoing tuition revenue. Such revenues shall continue to be used to supplement technology resources at the institutions of higher education.

d) Except as provided in Chapters 933 and 943 of the 2006 Acts of Assembly, Chapters 594 and 616 of the 2008 Acts of Assembly, and Chapters 675 and 685 of the 2009 Acts of Assembly, each institution shall work with the State Council of Higher Education for Virginia and the Virginia College Savings Plan to determine appropriate tuition and fee estimates for tuition savings plans.

5. It is the intent of the General Assembly that each institution's combined general and nongeneral fund appropriation within its educational and general program closely approximate the anticipated annual budget each fiscal year.

6. Nonresident graduate students employed by an institution as teaching assistants, research assistants, or graduate assistants and paid at an annual contract rate of \$4,000 or more may be considered resident students for the purposes of charging tuition and fees.

7. The fund source "Higher Education Operating" within educational and general programs for institutions of higher education includes tuition and fee revenues from nonresident students to pay their proportionate share of the amortized cost of the construction of buildings approved by the Commonwealth of Virginia Educational Institutions Bond Act of 1992 and the Commonwealth of Virginia Educational Facilities Bond Act of 2002.

8. a) Except as provided in Chapters 933 and 943 of the 2006 Acts of Assembly, Chapters 594 and 616 of the 2008 Acts of Assembly, and Chapters 675 and 685 of the 2009 Acts of Assembly, mandatory fees for purposes other than educational and general programs shall not be increased for Virginia undergraduates beyond five percent annually, excluding requirements for wage, salary, and fringe benefit increases, authorized by the General Assembly. Fee increases required to carry out actions that respond to mandates of federal agencies are also exempt from this provision, provided that a report on the purposes of the amount of the fee increase is submitted to the Chairmen of the House Appropriations and Senate Finance Committees by the institution of higher education at least 30 days prior to the effective date of the fee increase.

b) This restriction shall not apply in the following instances: fee increases directly related to capital projects authorized by the General Assembly; fee increases to support student health services; and other fee increases specifically authorized by the General Assembly.

c) Due to the small mandatory non-educational and general program fees currently assessed students in the Virginia Community College System, increases in any one year of no more than \$15 shall be allowed on a cost-justified case-by-case basis, subject to approval by the State Board for Community Colleges.

9. Any institution of higher education granting new tuition waivers to resident or nonresident students not authorized by the Code of Virginia must absorb the cost of any discretionary waivers.

10. Tuition and fee revenues from nonresident students taking courses through Virginia institutions from the Southern Regional Education Board's Southern Regional Electronic Campus must exceed all direct and indirect costs of providing instruction to those students. Tuition and fee rates to meet this requirement shall be established by the Board of Visitors of the institution.

c. HIGHER EDUCATION PLANNED EXCESS REVENUES:

An institution of higher education, except for those public institutions governed by Chapters 933 and 943 of the 2006 Acts of Assembly, Chapters 594 and 616 of the 2008 Acts of Assembly, and Chapters 675 and 685 of the 2009 Acts of Assembly, may generate and retain tuition and fee revenues in excess of those provided in § 4-2.01 b Higher Education Tuition and Fees, subject to the following:

1. Such revenues are identified by language in the appropriations in this act to any such institution.
2. The use of such moneys is fully documented by the institution to the Governor prior to each fiscal year and prior to allotment.
3. The moneys are supplemental to, and not a part of, ongoing expenditure levels for educational and general programs used as the basis for funding in subsequent biennia.
4. The receipt and expenditure of these moneys shall be recorded as restricted funds on the books of the Department of Accounts and shall not revert to the surplus of the general fund at the end of the biennium.
5. Tuition and fee revenues generated by the institution other than as provided herein shall be subject to the provisions of § 4-1.04 a.3 Gifts, Grants, and Other Nongeneral Funds of this act.

§ 4-2.02 GENERAL FUND REVENUE

a. STATE AGENCY PAYMENTS INTO GENERAL FUND:

1. Except as provided in § 4-2.02 a.2., all moneys, fees, taxes, charges and revenues received at any time by the following agencies from the sources indicated shall be paid immediately into the general fund of the state treasury:

a) Marine Resources Commission, from all sources, except:

- 1) Revenues payable to the Public Oyster Rocks Replenishment Fund established by § 28.2-542, Code of Virginia.
- 2) Revenue payable to the Virginia Marine Products Fund established by § 3.2-2705, Code of Virginia.
- 3) Revenue payable to the Virginia Saltwater Recreational Fishing Development Fund established by § 28.2-302.3, Code of Virginia.
- 4) Revenue payable to the Marine Fishing Improvement Fund established by § 28.2-208, Code of Virginia.
- 5) Revenue payable to the Marine Habitat and Waterways Improvement Fund established by § 28.2-1206, Code of Virginia.

b1) Department of Labor and Industry, or any other agency, for the administration of the state labor and employment laws under Title 40.1, Code of Virginia.

2) Department of Labor and Industry, from boiler and pressure vessel inspection certificate fees, pursuant to § 40.1-51.15, Code of Virginia.

c) All state institutions for the mentally ill or intellectually disabled, from fees or per diem paid employees for the performance of services for which such payment is made, except for a fee or per diem allowed by statute to a superintendent or staff member of any such institution when summoned as a witness in any court.

d) Secretary of the Commonwealth, from all sources.

e) The Departments of Corrections and Juvenile Justice, as required by law, including revenues from sales of dairy and other farm products.

f) Auditor of Public Accounts, from charges for audits or examinations when the law requires that such costs be borne by the county, city, town, regional government or political subdivision of such governments audited or examined.

g) Department of Education, from repayment of student scholarships and loans, except for the cost of such collections.

h) Department of the Treasury, from the following source:

Fees collected for handling cash and securities deposited with the State Treasurer pursuant to § 46.2-454, Code of Virginia.

i) Attorney General, from recoveries of attorneys' fees and costs of litigation.

j) Department of Social Services, from net revenues received from child support collections after all disbursements are made in accordance with state and federal statutes and regulations, and the state's share of the cost of administering the programs is paid.

k) Department of General Services, from net revenues received from refunds of overpayments of utilities charges in prior fiscal years, after deduction of the cost of collection and any refunds due to the federal government.

l) Without regard to paragraph e) above, the following revenues shall be excluded from the requirement for deposit to the general fund and shall be deposited as follows: (1) payments to Virginia Correctional Enterprises shall be deposited into the Virginia Correctional Enterprises Fund; (2) payments to the Departments of Corrections and Juvenile Justice for work performed by inmates, work release prisoners, probationers or wards, which are intended to cover the expenses of these inmates, work release prisoners, probationers, or wards, shall be retained by the respective agencies for their use; and (3) payments to the Departments of Corrections

and Juvenile Justice for work performed by inmates in educational programs shall be retained by the agency to increase vocational training activities and to purchase work tools and work clothes for inmates, upon release.

m) the Department of State Police, from the fees generated by the Firearms Transaction Program Fund, the Concealed Weapons Program, and the Conservator of the Peace Program pursuant to §§ 18.2-308, 18.2-308.2:2 and 19.2-13, Code of Virginia

2. The provisions of § 4-2.02 a.1. State Agency Payments into General Fund shall not apply to proceeds from the sale of surplus materials pursuant to § 2.2-1125, Code of Virginia. However, the State Comptroller is authorized to transfer to the general fund of the state treasury, out of the credits under § 4-1.04 a.1 Unappropriated Nongeneral Funds – Sale of Surplus Materials of this act, sums derived from the sale of materials originally purchased with general fund appropriations. The State Comptroller may authorize similar transfers of the proceeds from the sale of property not subject to § 2.2-1124, Code of Virginia, if said property was originally acquired with general fund appropriations, unless the General Assembly provides otherwise.

n) Without regard to § 4-2.02 a.1 above, payments to the Treasurer of Virginia assessed to insurance companies for the safekeeping and handling of securities or surety bonds deposited as insurance collateral shall be deposited into the Insurance Collateral Assessment Fund to defray such safekeeping and handling expenses.

#### b. DEFINITION OF GENERAL FUND REVENUE FOR PERSONAL PROPERTY RELIEF ACT

Notwithstanding any contrary provision of law, for purposes of subsection C of § 58.1-3524 and subsection B of § 58.1-3536, Code of Virginia, the term general fund revenues, excluding transfers, is defined as (i) all state taxes, including penalties and interest, required and/or authorized to be collected and paid into the general fund of the state treasury pursuant to Title 58.1, Code of Virginia; (ii) permits, fees, licenses, fines, forfeitures, charges for services, and revenue from the use of money and property required and/or authorized to be paid into the general fund of the treasury; and (iii) amounts required to be deposited to the general fund of the state treasury pursuant to § 4-2.02 a.1., of this act. However, in no case shall (i) lump-sum payments, (ii) one-time payments not generated from the normal operation of state government, or (iii) proceeds from the sale of state property or assets be included in the general fund revenue calculations for purposes of subsection C of § 58.1-3524 and subsection B of § 58.1-3536, Code of Virginia.

#### c. DATE OF RECEIPT OF REVENUES:

All June general fund collections received under Subtitle I of Title 58.1, Code of Virginia, bearing a postmark date or electronic transactions with a settlement or notification date on or before the first business day in July, when June 30 falls on a Saturday or Sunday, shall be considered as June revenue and recorded under guidelines established annually by the Department of Accounts.

#### d. RECOVERIES BY THE OFFICE OF THE ATTORNEY GENERAL

1. As a condition of the appropriation for Item 59 of this Act, there is hereby created the Disbursement Review Committee (the "Committee"), the members of which are the Attorney General, who shall serve as chairman; two members of the House of Delegates appointed by the Speaker of the House; two members of the Senate appointed by the Chairman of the Senate Committee on Rules; and two members appointed by the Governor.

2. Whenever forfeitures are available for distribution by the Attorney General through programs overseen by either the U.S. Department of Justice Asset Forfeiture Program or the U.S. Treasury Executive Office for Asset Forfeiture, by virtue of the Attorney General's participation on behalf of the Commonwealth or on behalf of an agency of the Commonwealth, the Attorney General shall seek input from the Committee, to the extent permissible under applicable federal law and guidelines, for the preparation of a proposed Distribution Plan (the "Plan") regarding the distribution and use of money or property, or both. If a federal entity must approve the Plan for such distribution or use, or both, and does not approve the Plan submitted by the Attorney General, the Plan may be revised if deemed appropriate and resubmitted to the federal entity for approval following notification of the Committee. If the federal entity approves the original Plan or a revised Plan, the Attorney General shall inform the Committee, and ensure that such money or property, or both, is distributed or used, or both, in a manner that is consistent with the Plan approved by the federal entity. The distribution of any money or property, or both, shall be done in a manner as prescribed by the State Comptroller and consistent with any federal authorization in order to ensure proper accounting on the books of the Commonwealth.

### § 4-2.03 INDIRECT COSTS

#### a. INDIRECT COST RECOVERIES FROM GRANTS AND CONTRACTS:

Each state agency, including institutions of higher education, which accepts a grant or contract shall recover full statewide and agency indirect costs unless prohibited by the grantor agency or exempted by provisions of this act.

#### b. AGENCIES OTHER THAN INSTITUTIONS OF HIGHER EDUCATION:

The following conditions shall apply to indirect cost recoveries received by all agencies other than institutions of higher

education:

1. The Governor shall include in the recommended nongeneral fund appropriation for each agency in this act the amount which the agency includes in its revenue estimate as an indirect cost recovery. The recommended nongeneral fund appropriations shall reflect the indirect costs in the program incurring the costs.
2. If actual agency indirect cost recoveries exceed the nongeneral fund amount appropriated in this act, the Director, Department of Planning and Budget, is authorized to increase the nongeneral fund appropriation to the agency by the amount of such excess indirect cost recovery. Such increase shall be made in the program incurring the costs.
3. Statewide indirect cost recoveries shall be paid into the general fund of the state treasury, unless the agency is specifically exempted from this requirement by language in this act. Any statewide indirect cost recoveries received by the agency in excess of the exempted sum shall be deposited to the general fund of the state treasury.

c. INSTITUTIONS OF HIGHER EDUCATION:

The following conditions shall apply to indirect cost recoveries received by institutions of higher education:

1. Seventy percent shall be retained by the institution as an appropriation of moneys for the conduct and enhancement of research and research-related requirements. Such moneys may be used for payment of principal of and interest on bonds issued by or for the institution pursuant to § ~~23-19~~ § 23.1-1106, Code of Virginia, for any appropriate purpose of the institution, including, but not limited to, the conduct and enhancement of research and research-related requirements.
2. Thirty percent of the indirect cost recoveries for the level of sponsored programs authorized in the appropriations in Part 1 of Chapter 1042 of the Acts of Assembly of 2003, shall be included in the educational and general revenues of the institution to meet administrative costs.
3. Institutions of higher education may retain 100 percent of the indirect cost recoveries related to research grant and contract levels in excess of the levels authorized in Chapter 1042 of the Acts of Assembly of 2003. This provision is included as an additional incentive for increasing externally funded research activities.

d. REPORTS

The Director, Department of Planning and Budget, shall make available via electronic means a report to the Chairmen of the Senate Finance and House Appropriations Committees and the public no later than September 1 of each year on the indirect cost recovery moneys administratively appropriated.

e. REGULATIONS:

The State Comptroller is hereby authorized to issue regulations to carry out the provisions of this subsection, including the establishment of criteria to certify that an agency is in compliance with the provisions of this subsection.

**§ 4-3.00 DEFICIT AUTHORIZATION AND TREASURY LOANS**

§ 4-3.01 DEFICITS

a. GENERAL:

1. Except as provided in this section no state agency shall incur a deficit. No state agency receiving general fund appropriations under the provisions of this act shall obligate or expend moneys in excess of its general fund appropriations, nor shall it obligate or expend moneys in excess of nongeneral fund revenues that are collected and appropriated.
2. The Governor is authorized to approve deficit funding for a state agency under the following conditions:
  - a) an unanticipated federal or judicial mandate has been imposed,
  - b) insufficient moneys are available in the first year of the biennium for start-up of General Assembly-approved action, or
  - c) delay pending action by the General Assembly at its next legislative session will result in the curtailment of services required by statute or those required by federal mandate or will produce a threat to life, safety, health or property.
  - d) Such approval by the Governor shall be in writing under the conditions described in § 4-3.02 a Authorized Deficit Loans of this act and shall be promptly communicated to the Chairmen of the House Appropriations and Senate Finance Committees within five calendar days of deficit approval.
3. Deficits shall not be authorized for capital projects.

4. The Department of Transportation may obligate funds in excess of the current biennium appropriation for projects of a capital nature not covered by § 4-4.00 Capital Projects, of this act provided such projects a) are delineated in the Virginia Transportation

Six-Year Improvement Program, as approved by the Commonwealth Transportation Board; and b) have sufficient cash allocated to each such project to cover projected costs in each year of the Program; and provided that c) sufficient revenues are projected to meet all cash obligations for such projects as well as all other commitments and appropriations approved by the General Assembly in the biennial budget.

b. UNAUTHORIZED DEFICITS: If any agency contravenes any of the prohibitions stated above, thereby incurring an unauthorized deficit, the Governor is hereby directed to withhold approval of such excess obligation or expenditure. Further, there shall be no reimbursement of said excess, nor shall there be any liability or obligation upon the state to make any appropriation hereafter to meet such unauthorized deficit. Further, those members of the governing board of any such agency who shall have voted therefor, or its head if there be no governing board, making any such excess obligation or expenditure shall be personally liable for the full amount of such unauthorized deficit and, at the discretion of the Governor, shall be deemed guilty of neglect of official duty and be subject to removal therefor. Further, the State Comptroller is hereby directed to make public any such unauthorized deficit, and the Director, Department of Planning and Budget, is hereby directed to set out such unauthorized deficits in the next biennium budget. In addition, the Governor is directed to bring this provision of this act to the attention of the members of the governing board of each state agency, or its head if there be no governing board, within two weeks of the date that this act becomes effective. The governing board or the agency head shall execute and return to the Governor a signed acknowledgment of such notification.

c. TOTAL AUTHORIZED DEFICITS: The amount which the Governor may authorize, under the provisions of this section during the current biennium, to be expended from loans repayable out of the general fund of the state treasury, for all state agencies, or other agencies combined, in excess of general fund appropriations for the current biennium, shall not exceed one and one-half percent (1 1/2%) of the revenues collected and paid into the general fund of the state treasury as defined in § 4-2.02 b. of this act during the last year of the previous biennium and the first year of the current biennium.

d. The Governor shall report any such authorized and unauthorized deficits to the Chairmen of the House Appropriations and Senate Finance Committees within five calendar days of deficit approval. By August 15 of each year, the Governor shall provide a comprehensive report to the Chairmen of the House Appropriations and Senate Finance Committees detailing all such deficits.

#### § 4-3.02 TREASURY LOANS

a. AUTHORIZED DEFICIT LOANS: A state agency requesting authorization for deficit spending shall prepare a plan for the Governor's review and approval, specifying appropriate financial, administrative and management actions necessary to eliminate the deficit and to prevent future deficits. If the Governor approves the plan and authorizes a state agency to incur a deficit under the provisions of this section, the amount authorized shall be obtained by the agency by borrowing the authorized amount on such terms and from such sources as may be approved by the Governor. At the close of business on the last day of the current biennium, any unexpended balance of such loan shall be applied toward repayment of the loan, unless such action is contrary to the conditions of the loan approval. The Director, Department of Planning and Budget, shall set forth in the next biennial budget all such loans which require an appropriation for repayment. A copy of the approved plan to eliminate the deficit shall be transmitted to the Chairmen of the House Appropriations and the Senate Finance Committees within five calendar days of approval.

b. ANTICIPATION LOANS: Authorization for anticipation loans are limited to the provisions below.

1.a) When the payment of authorized obligations for operating expenses is required prior to the collection of nongeneral fund revenues, any state agency may borrow from the state treasury the required sums with the prior written approval of the Secretary of Finance or his designee as to the amount, terms and sources of such funds; such loans shall not exceed the amount of the anticipated collections of such revenues and shall be repaid only from such revenues when collected.

b) When the payment of authorized obligations for capital expenses is required prior to the collection of nongeneral fund revenues or proceeds from authorized debt, any state agency or body corporate and politic, constituting a public corporation and government instrumentality, may borrow from the state treasury the required sums with the prior written approval of the Secretary of Finance or his designee as to the amount, terms and sources of such funds; such loans in anticipation of bond proceeds shall not exceed the amount of the anticipated proceeds from debt authorized by the General Assembly and shall be repaid only from such proceeds when collected.

2. Anticipation loans for operating expenses shall be in amounts not greater than the sum identified by the agency as the minimum amount required to meet the projected expenditures. The term of any anticipation loans granted for operating expenses shall not exceed twelve months.

3. Before an anticipation loan for a capital project is authorized, the agency shall develop a plan for financing such capital project; approval of the State Treasurer shall be obtained for all plans to incur authorized debt.

4. Anticipation loans for capital projects shall be in amounts not greater than the sum identified by the agency as required to meet the projected expenditures for the project within the current biennium.

5. To ensure that such loans are repaid as soon as practical and economical, the Department of Planning and Budget shall monitor the construction and expenditure schedules of all approved capital projects that will be paid for with proceeds from authorized debt and have anticipation loans.

6. Unless otherwise prohibited by federal or state law, the State Treasurer shall charge current market interest rates on anticipation loans made for operating purposes and capital projects subject to the following:

a) Anticipation loans for capital projects for which debt service will be paid with general fund appropriations shall be exempt from interest payments on borrowed balances.

b) Interest payments on anticipation loans for nongeneral fund capital projects or nongeneral fund operating expenses shall be made from appropriated nongeneral fund revenues. Such interest shall not be paid with the funds from the anticipation loan or from the proceeds of authorized debt without the approval of the State Treasurer.

c) REPORTING: All outstanding loans shall be reported by the Governor to the Chairmen of the House Appropriations and Senate Finance Committees by August 15 of each year. The report shall include a status of the repayment schedule for each loan.

c. ANTICIPATION LOANS FOR PROJECTS NOT INCLUDED IN THIS ACT OR FOR PROJECTS AUTHORIZED UNDER § 4-4.01M: Authorization for anticipation loans for projects not included in this act or for projects authorized under § 4-4.01 m are limited to the provisions below:

1. Such loans are limited to those projects that shall be repaid from revenues derived from nongeneral fund sources.

2.a) When the payment of authorized obligations for operating expenses is required prior to the collection of nongeneral fund revenues, any state agency may borrow from the state treasury the required sum with the prior written approval of the Secretary of Finance or his designee as to the amount, terms, and sources of such funds. Such loans shall not exceed the amount of the anticipated collections of such nongeneral fund revenues and shall be repaid only from such nongeneral fund revenues when collected.

b) When the payment of obligations for capital expenses for projects authorized under § 4-4.01 m is required prior to the collection of nongeneral fund revenues, any state agency or body corporate and politic, constituting a public corporation and government instrumentality, may borrow from the state treasury the required sums with the prior written approval of the Secretary of Finance or his designee as to the amount, terms and sources of such funds. Such loans shall be repaid only from nongeneral fund revenues associated with the project.

3. Anticipation loans for operating expenses shall be in amounts not greater than the sum identified by the agency as the minimum amount required to meet projected expenditures. The term of any anticipation loans granted for operating expenses shall not exceed 12 months.

4. Before an anticipation loan is provided for a capital project authorized under § 4-4.01 m, the agency shall develop a plan for repayment of such loan and approval of the Director of the Department of Planning and Budget shall be obtained for all such plans and reported to the Chairman of the House Appropriations and Senate Finance Committees.

5. Anticipation loans for capital projects authorized under § 4-4.01 m shall be in amounts not greater than the sum identified by the agency as required to meet the projected expenditures for the project within the current biennium. Such loans shall be repaid only from nongeneral fund revenues associated with the project.

6. The State Treasurer shall charge current market interest rates on anticipation loans made for capital projects authorized under § 4-4.01 m. Interest payments on anticipation loans for nongeneral fund capital projects authorized under § 4-4.01 m shall be made from appropriated nongeneral fund revenues. Such interest shall not be paid with the funds from the anticipation loan without the approval of the Director of the Department of Planning and Budget.

a) REPORTING: All outstanding loans shall be reported by the Governor to the Chairmen of the House Appropriations and Senate Finance Committees by August 15 of each year. The report shall include a status of the repayment schedule for each loan.

#### § 4-3.03 CAPITAL LEASES

##### a. GENERAL:

1. As part of their capital budget submission, all agencies and institutions of the Commonwealth proposing building projects that may qualify as capital lease agreements, as defined in Generally Accepted Accounting Principles (GAAP), and that may be supported in whole, or in part, from appropriations provided for in this act, shall submit copies of such proposals to the Directors of the Departments of Planning and Budget and General Services, the State Comptroller, and the State Treasurer. The Secretary of Finance may promulgate guidelines for the review and approval of such requests.

2. The proposals shall be submitted in such form as the Secretary of Finance may prescribe. The Comptroller and the Director, Department of General Services shall be responsible for evaluating the proposals to determine if they qualify as capital lease agreements. The State Treasurer shall be responsible for incorporating existing and authorized capital lease agreements in the annual Debt Capacity Advisory Committee reports.

b. APPROVAL OF FINANCINGS:

1. For any project which qualifies as a capital lease, as defined in the preceding subdivisions a 1 and 2, and which is financed through the issuance of securities, the Treasury Board shall approve the terms and structure of such financing pursuant to § 2.2-2416, Code of Virginia.

2. For any project for which costs will exceed \$5,000,000 and which is financed through a capital lease transaction, the Treasury Board shall approve the financing terms and structure of such capital lease in addition to such other reviews and approvals as may be required by law. Prior to consideration by the Treasury Board, the Departments of Accounts, General Services, and Planning and Budget shall notify the Treasury Board upon their approval of any transaction which qualifies as a capital lease under the terms of this section. The State Treasurer shall notify the Chairmen of the House Appropriations and Senate Finance Committees of the action of the Treasury Board as it regards this subdivision within five calendar days of its action.

c. REPORTS: Not later than December 20 of each year, the Secretary of Finance and the Secretary of Administration shall jointly be responsible for providing the Chairmen of the House Appropriations and Senate Finance Committees with recommendations involving proposed capital lease agreements.

d. This section shall not apply to capital leases that are funded entirely with nongeneral fund revenues and are entered into by public institutions of higher education governed by Chapters 933 and 943 of the 2006 Acts of Assembly. Furthermore, the Department of General Services is authorized to enter into capital leases for executive branch agencies provided that the resulting capital lease is funded entirely with nongeneral funds, is approved based on the requirements of § 4-3.03 b.1 and 2 above, and would not be considered tax supported debt of the Commonwealth.

#### § 4-4.00 CAPITAL PROJECTS

##### § 4-4.01 GENERAL

a. Definition:

1. Unless defined otherwise, when used in this section, "capital project" or "project" means acquisition of property and new construction and improvements related to state-owned property, plant or equipment (including plans therefor), as the terms "acquisition", "new construction", and "improvements" are defined in the instructions for the preparation of the Executive Budget. "Capital project" or "project" shall also mean any improvements to property leased for use by a state agency, and not owned by the state, when such improvements are financed by public funds, except as hereinafter provided in subdivisions 3 and 4 of this subsection.

2. The provisions of this section are applicable equally to acquisition of property and plant by purchase, gift, or any other means, including the acquisition of property through a lease/purchase contract, regardless of the method of financing or the source of funds. Acquisition of property by lease shall be subject to § 4-3.03 of this act.

3. The provisions of this section shall not apply to property or equipment acquired by lease or improvements to leased property and equipment when the improvements are provided by the lessor pursuant to the terms of the lease and upon expiration of the lease remain the property of the lessor.

4. The provisions of this section shall not apply to property leased by state agencies for the purposes described in §§ 2.2-1151 C and 33.2-1010, Code of Virginia.

b. Notwithstanding any other provisions of law, requests for appropriations for capital projects shall be subject to the following:

1. The agency shall submit a capital project proposal for all requested capital projects. Such proposals shall be submitted to the Director, Department of Planning and Budget, for review and approval in accordance with guidelines prescribed by the director. Projects shall be developed to meet agency functional and space requirements within a cost range comparable to similar public and private sector projects.

2. Except for institutions of higher education governed by Chapters 933 and 943 of the 2006 Acts of Assembly, Chapters 594 and 616 of the 2008 Acts of Assembly and Chapters 675 and 685 of the 2009 Acts of Assembly, financings for capital projects shall comply, where applicable, with the Treasury Board Guidelines issued pursuant to § 2.2-2416, Code of Virginia, and any subsequent amendments thereto.

3. As part of any request for appropriations for an armory, the Department of Military Affairs shall obtain a written commitment from the host locality to share in the operating expense of the armory.

c. Each agency head shall provide annually to the Director, Department of Planning and Budget, a report on the use of the maintenance reserve appropriation of the agency in Part 2 of this act. In the use of its maintenance reserve appropriation, an agency shall give first priority to the repair or replacement of roof on buildings under control of the agency. The agency head shall certify in the agency's annual maintenance reserve report that to the best of his or her knowledge, all necessary roof

repairs have been accomplished or are in the process of being accomplished. Such roof repairs and replacements shall be in accord with the technical requirements of the Commonwealth's Construction and Professional Services Manual.

d. The Department of Planning and Budget shall review its approach to capital outlay planning and budgeting from time to time and make available via electronic means a report of any proposed change to the Chairmen of the House Appropriations and Senate Finance Committees and the public prior to its implementation. Such report shall include an analysis of the impact of the suggested change on affected agencies and institutions.

e. Nothing in §§ 2-0 and 4-4.00 of this act shall be deemed to override the provisions of §§ 2.2-1132 and 62.1-132.6, Code of Virginia, amended by Chapter 488, 1997 Acts of Assembly, relating to Virginia Port Authority capital projects and procurement activities.

f. Legislative Approval: It is the intent of the General Assembly that, with the exceptions noted in this paragraph and paragraph m, all capital projects to be undertaken by agencies of the Commonwealth, including institutions of higher education, shall be pursuant to approvals by the General Assembly as provided in the Six-Year Capital Outlay Plan established pursuant to § 2.2-1515, et seq., Code of Virginia. Otherwise, the consideration of capital projects shall be limited to:

1. Supplementing projects which have been bid and determined to have insufficient funding to be placed under contract, and
2. Projects declared by the Governor or the General Assembly to be of an emergency nature, which may avoid an increase in cost or otherwise result in a measurable benefit to the state, and/or which are required for the continued use of existing facilities.
3. This paragraph does not prohibit the initiation of projects authorized by § 4-4.01 m hereof, or projects included under the central appropriations for capital project expenses in this act.

g. Preliminary Requirements: In regard to each capital project for which appropriation or reappropriation is made pursuant to this act, or which is hereafter considered by the Governor for inclusion in the Executive Budget, or which is offered as a gift or is considered for purchase, the Governor is hereby required: (1) to determine the urgency of its need, as compared with the need for other capital projects as herein authorized, or hereafter considered; (2) to determine whether the proposed plans and specifications for each capital project are suitable and adequate, and whether they involve expenditures which are excessive for the purposes intended; (3) to determine whether labor, materials, and other requirements, if any, needed for the acquisition or construction of such project can and will be obtained at reasonable cost; and (4) to determine whether or not the project conforms to a site or master plan approved by the agency head or board of visitors of an institution of higher education for a program approved by the General Assembly.

h. Initiation Generally:

1. No architectural or engineering planning for, or construction of, or purchase of any capital project shall be commenced or revised without the prior written approval of the Governor or his designee.
2. The requirements of § 10.1-1190, Code of Virginia, shall be met prior to the release of funds for a major state project, provided, however, that the Governor or his designee is authorized to release from any appropriation for a major state project made pursuant to this act such sum or sums as may be necessary to pay for the preparation of the environmental impact report required by § 10.1-1188, Code of Virginia.
3. The Governor, at his discretion, or his designee may release from any capital project appropriation or reappropriation made pursuant to this act such sum (or sums) as may be necessary to pay for the preparation of plans and specifications by architects and engineers, provided that the estimated cost of the construction covered by such drawings and specifications does not exceed the appropriation therefor; provided, further, however, that the architectural and engineering fees paid on completion of the preliminary design for any such project may be based on such estimated costs as may be approved by the Governor in writing, where it is shown to the satisfaction of the Governor that higher costs of labor or material, or both, or other unforeseen conditions, have made the appropriation inadequate for the completion of the project for which the appropriation was made, and where in the judgment of the Governor such changed conditions justify the payment of architectural or engineering fees based on costs exceeding the appropriation.
4. Architectural or engineering contracts shall not be awarded in perpetuity for capital projects at any state institution, agency or activity.

i. Capital Projects Financed with Bonds: Capital projects proposed to be financed with (i) 9 (c) general obligation bonds or (ii) 9(d) obligations where debt service is expected to be paid from project revenues or revenues of the agency or institution, shall be reviewed as follows:

1. By August 15 of each year, requests for inclusion in the Executive Budget of capital projects to be financed with 9(c) general obligation bonds shall be submitted to the State Treasurer for evaluation of financial feasibility. Submission shall be in accordance with the instructions prescribed by the State Treasurer. The State Treasurer shall distribute copies of financial feasibility studies to the Director, Department of Planning and Budget, the Secretary for the submitting agency or institution, the Chairmen of the House Appropriations and Senate Finance Committees, and the Director, State Council of Higher Education for Virginia, if the project is

requested by an institution of higher education.

2. By August 15 of each year, institutions shall also prepare and submit copies of financial feasibility studies to the State Council of Higher Education for Virginia for 9(d) obligations where debt service is expected to be paid from project revenues or revenues of the institution. The State Council of Higher Education for Virginia shall identify the impact of all projects requested by the institutions of higher education, and as described in § 4-4.01 j.1. of this act, on the current and projected cost to students in institutions of higher education and the impact of the project on the institution's need for student financial assistance. The State Council of Higher Education for Virginia shall report such information to the Secretary of Finance and the Chairmen of the House Appropriations and Senate Finance Committees no later than October 1 of each year.

3. Prior to the issuance of debt for 9(c) general obligation projects, when more than one year has elapsed since the review of financial feasibility specified in § 4-4.01 j 1 above, an updated feasibility study shall be prepared by the agency and reviewed by the State Treasurer prior to requesting the Governor's Opinion of Financial Feasibility required under Article X, Section 9 (c), of the Constitution of Virginia.

j. Transfers to supplement capital projects from nongeneral funds may be made under the conditions set forth in §§ 4-1.03 a, 4-1.04 a.3, and 4-4.01 m of this act.

k.1. Change in Size and Scope: Unless otherwise provided by law, the scope, which is the function or intended use, of any capital project may not be substantively changed, nor its size increased or decreased by more than five percent in size beyond the plans and justification which were the basis for the appropriation or reappropriation in this act or for the Governor's authorization pursuant to § 4-4.01 m of this act. However, this prohibition is not applicable to changes in size and scope required because of circumstances determined by the Governor to be an emergency, or requirements imposed by the federal government when such capital project is for armories or other defense-related installations and is funded in whole or in part by federal funds. Furthermore, this prohibition shall not apply to minor increases, beyond five percent, in square footage determined by the Director, Department of General Services, to be reasonable and appropriate based on a written justification submitted by the agency stating the reason for the increase, with the provision that such increase will not increase the cost of the project beyond the amount appropriated; nor to decreases in size beyond five percent to offset unbudgeted costs when such costs are determined by the Director, Department of Planning and Budget, to be reasonable based on a written justification submitted by the agency specifying the amount and nature of the unbudgeted costs and the types of actions that will be taken to decrease the size of the project. The written justification shall also include a certification, signed by the agency head, that the resulting project will be consistent with the original programmatic intent of the appropriations.

2. If space planning, energy conservation, and environmental standards guides for any type of construction have been approved by the Governor or the General Assembly, the Governor shall require capital projects to conform to such planning guides.

#### l. Projects Not Included In This Act:

##### 1. Authorization by Governor:

a) The Governor may authorize initiation of, planning for, construction of or acquisition of a nongeneral fund capital project not specifically included in this act or provided for a program approved by the General Assembly through appropriations, under one or more of the following conditions:

1) The project is required to meet an emergency situation.

2) The project is to be operated as an auxiliary enterprise or sponsored program in an institution of higher education and will be fully funded by revenues of auxiliary enterprises or sponsored programs.

3) The project is to be operated as an educational and general program in an institution of higher education and will be fully funded by nongeneral fund revenues of educational and general programs or from private gifts and indirect cost recoveries.

4) The project consists of plant or property which has become available or has been received as a gift.

5) The project has been recommended for funding by the Tobacco Indemnification and Community Revitalization Commission or the Virginia Tobacco Settlement Foundation.

b) The foregoing conditions are subject to the following criteria:

1) Funds are available within the appropriations made by this act (including those subject to §§ 4-1.03 a, 4-1.04 a.3, and 4-2.03) without adverse effect on other projects or programs, or from unappropriated nongeneral fund revenues or balances.

2) In the Governor's opinion such action may avoid an increase in cost or otherwise result in a measurable benefit to the state.

3) The authorization includes a detailed description of the project, the project need, the total project cost, the estimated operating costs, and the fund sources for the project and its operating costs.

4) The Chairmen of the House Appropriations and Senate Finance Committees shall be notified by the Governor prior to the

authorization of any capital project under the provisions of this subsection.

5) Permanent funding for any project initiated under this section shall only be from nongeneral fund sources.

2. Authorization by Director, Department of Planning and Budget:

a) The Director, Department of Planning and Budget, may authorize initiation of a capital project not included in this act, if the General Assembly has enacted legislation to fund the project from bonds of the Virginia Public Building Authority, Virginia College Building Authority, or from reserves created by refunding of bonds issued by those Authorities.

3. Delegated authorization by Boards of Visitors, Public Institutions of Higher Education:

a) In accordance with § 4-5.06 of this act, the board of visitors of any public institution of higher education that: i) has met the eligibility criteria set forth in Chapters 933 and 945 of the 2005 Acts of Assembly for additional operational and administrative autonomy, including having entered into a memorandum of understanding with the Secretary of Administration for delegated authority of nongeneral fund capital outlay projects, and ii) has received a sum sufficient nongeneral fund appropriation for emergency projects as set out in Part 2: Capital Project Expenses of this act, may authorize the initiation of any capital project that is not specifically set forth in this act provided that the project meets at least one of the conditions and criteria identified in § 4-4.01 m 1 of this act.

b) At least 30 days prior to the initiation of a project under this provision, the board of visitors must notify the Governor and Chairmen of the House Appropriations and Senate Finance Committees and must provide a life-cycle budget analysis of the project. Such analysis shall be in a form to be prescribed by the Auditor of Public Accounts.

c) The Commonwealth of Virginia shall have no general fund obligation for the construction, operation, insurance, routine maintenance, or long-term maintenance of any project authorized by the board of visitors of a public institution of higher education in accordance with this provision.

m. Acquisition, maintenance, and operation of buildings and nonbuilding facilities in colleges and universities shall be subject to the following policies:

1. The anticipated program use of the building or nonbuilding facility should determine the funding source for expenditures for acquisition, construction, maintenance, operation, and repairs.

2. Expenditures for land acquisition, site preparation beyond five feet from a building, and the construction of additional outdoor lighting, sidewalks, outdoor athletic and recreational facilities, and parking lots in the Virginia Community College System shall be made only from appropriated federal funds, Trust and Agency funds, including local government allocations or appropriations, or the proceeds of indebtedness authorized by the General Assembly.

3. The general policy of the Commonwealth shall be that parking services are to be operated as an auxiliary enterprise by all colleges and universities. Institutions should develop sufficient reserves for ongoing maintenance and replacement of parking facilities.

4. Except as provided in paragraph 2 above, expenditures for maintenance, replacement, and repair of outdoor lighting, sidewalks, and other infrastructure facilities may be made from any appropriated funds.

5. Expenditures for operations, maintenance, and repair of athletic, recreational, and public service facilities, both indoor and outdoor, should be from nongeneral funds. However, this condition shall not apply to any indoor recreational facility existing on a community college campus as of July 1, 1988.

6.a.1. At institutions of higher education that have met the eligibility criteria for additional operational and administrative authority as set forth in Chapters 933 and 945 of the 2005 Acts of Assembly or Chapters 824 and 829 of the 2008 Acts of Assembly, any repair, renovation, or new construction project costing up to \$2,000,000 shall be exempt from the capital outlay review and approval process. For purposes of this paragraph, projects shall not include any subset of a series of projects, which in combination would exceed the \$2,000,000 maximum.

2. All institutions of higher education shall be exempt from the capital review and approval process for repair, renovation, or new construction projects costing up to \$2,000,000.

b. Blanket authorizations funded entirely by nongeneral funds may be used for 1) renovation and infrastructure projects costing up to \$2,000,000 and 2) the planning of nongeneral fund new construction and renovation projects through bidding, with bid award made after receipt of a construction authorization. The Director, Department of Planning and Budget, may provide exemptions to the threshold.

7. It is the policy of the Commonwealth that the institutions of higher education shall treat the maintenance of their facilities as a priority for the allocation of resources. No appropriations shall be transferred from the "Operation and Maintenance of Plant" subprogram except for closely and definitely related purposes, as approved by the Director, Department of Planning and Budget, or his designee. A report providing the rationale for each approved transfer shall be made to the Chairmen of the House Appropriations and Senate Finance Committees.

n. Legislative Intent and Reporting: Appropriations for capital projects shall be deemed to have been made for purposes which require their expenditure, or being placed under contract for expenditure, during the current biennium. Agencies to which such appropriations are made in this act or any other act are required to report progress as specified by the Governor. If, in the opinion of the Governor, these reports do not indicate satisfactory progress, he is authorized to take such actions as in his judgment may be necessary to meet legislative intent as herein defined. Reporting on the progress of capital projects shall be in accordance with § 4-8.00, Reporting Requirements.

o. No expenditure from a general fund appropriation in this act shall be made to expand or enhance a capital outlay project beyond that anticipated when the project was initially approved by the General Assembly except to comply with requirements imposed by the federal government when such capital project is for armories or other defense-related installations and is funded in whole or in part by federal funds. General fund appropriations in excess of those necessary to complete the project shall not be reallocated to expand or enhance the project, or be reallocated to a different project. The prohibitions in this subsection shall not apply to transfers from projects for which reappropriations have been authorized.

p. Local or private funds to be used for the acquisition, construction or improvement of capital projects for state agency use as owner or lessee shall be deposited into the state treasury for appropriation prior to their expenditure for such projects.

q. State-owned Registered Historic Landmarks: To guarantee that the historical and/or architectural integrity of any state-owned properties listed on the Virginia Landmarks Register and the knowledge to be gained from archaeological sites will not be adversely affected because of inappropriate changes, the heads of those agencies in charge of such properties are directed to submit all plans for significant alterations, remodeling, redecoration, restoration or repairs that may basically alter the appearance of the structure, landscaping, or demolition to the Department of Historic Resources. Such plans shall be reviewed within thirty days and the comments of that department shall be submitted to the Governor through the Department of General Services for use in making a final determination.

r.1. The Governor may authorize the conveyance of any interest in property or improvements thereon held by the Commonwealth to the educational or real estate foundation of any institution of higher education where he finds that such property was acquired with local or private funds or by gift or grant to or for the use of the institution, and not with funds appropriated to the institution by the General Assembly. Any approved conveyance shall be exempt from § 2.2-1156, Code of Virginia, and any other statute concerning conveyance, transfer or sale of state property. If the foundation conveys any interest in the property or any improvements thereon, such conveyance shall likewise be exempt from compliance with any statute concerning disposition of state property. Any income or proceeds from the conveyance of any interest in the property shall be deemed to be local or private funds and may be used by the foundation for any foundation purpose.

2. This section shall not apply to public institutions of higher education governed by Chapters 933 and 943 of the 2006 Acts of Assembly, Chapters 594 and 616 of the 2008 Acts of Assembly, Chapters 824 and 829 of the 2008 Acts of Assembly, and Chapters 675 and 685 of the 2009 Acts of Assembly.

s.1. Facility Lease Agreements Involving Institutions of Higher Education: In the case of any lease agreement involving state-owned property controlled by an institution of higher education, where the lease has been entered into consistent with the provisions of § 2.2-1155, Code of Virginia, the Governor may amend, adjust or waive any project review and reporting procedures of Executive agencies as may reasonably be required to promote the property improvement goals for which the lease agreement was developed.

2. This section shall not apply to public institutions of higher education governed by Chapters 933 and 943 of the 2006 Acts of Assembly, Chapters 594 and 616 of the 2008 Acts of Assembly, Chapters 824 and 829 of the 2008 Acts of Assembly, and Chapters 675 and 685 of the 2009 Acts of Assembly.

t. Energy-efficiency Projects: Improvements to state-owned properties for the purpose of energy-efficiency shall be treated as follows:

1. Such improvements shall be considered an operating expense, provided that:

a) the scope of the project meets or exceeds the applicable energy-efficiency standards set forth in the American Society of Heating, Refrigerating, and Air Conditioning Engineers (ASHRAE), the Illuminating Engineering Society (IES) standard 90.1-1989 and is limited to measures listed in guidelines issued by the Department of General Services;

b) the project is financed consistent with the provisions of § 2.2-2417, Code of Virginia, which requires Treasury Board approval and is executed through a nonprofessional services contract with a vendor approved by the Department of General Services;

c) the scope of work has been reviewed and recommended by the Department of Mines, Minerals and Energy;

d) the total cost does not exceed \$3,000,000; and

e) if the total cost exceeds \$3,000,000, but does not exceed \$7,000,000, the energy savings from the project offset the total cost

of the project, including debt service and interest payments.

2. If (a) the total cost of the improvement exceeds \$7,000,000 or (b) the total cost exceeds \$3,000,000, but does not exceed \$7,000,000, and the energy savings from the project do not fully offset the total cost of the project, including debt services and interest payments, the improvement shall be considered a capital expense regardless of the type of improvement and the following conditions must be met:

a) the scope of the project meets or exceeds the applicable energy-efficiency standards set forth in the American Society of Heating, Refrigerating, and Air Conditioning Engineers (ASHRAE), the Illuminating Engineering Society (IES) standard 90.1-1989 and is limited to measures listed in guidelines issued by the Department of General Services;

b) the project is financed consistent with the provisions of § 2.2-2417, Code of Virginia, which requires Treasury Board approval and is executed through a nonprofessional services contract with a vendor approved by the Department of General Services;

c) the scope of work has been reviewed and recommended by the Department of Mines, Minerals and Energy;

d) the project has been reviewed by the Department of Planning and Budget; and

e) the project has been approved by the Governor.

3. If the total project exceeds \$250,000, the agency director will submit written notification to the Director, Department of Planning and Budget, verifying that the project meets all of the conditions in subparagraph 1 above.

The provisions of §§ 2.0 and 4-4.01 of this act and the provisions of § 2.2-1132, Code of Virginia, shall not apply to energy conservation projects that qualify as capital expenses.

4. As used in this paragraph, "improvement" does not include (a) constructing, enlarging, altering, repairing or demolishing a building or structure, (b) changing the use of a building either within the same use group or to a different use group when the new use requires greater degrees of structural strength, fire protection, exit facilities or sanitary provisions, or (c) removing or disturbing any asbestos-containing materials during demolition, alteration, renovation of or additions to building or structures. If the projected scope of an energy-efficiency project includes any of these elements, it shall be subject to the capital outlay process as set out in this section.

5. The Director, Department of Planning and Budget, shall notify the Chairmen of the House Appropriations and Senate Finance Committees upon the initiation of any energy-efficiency projects under the provisions of this paragraph.

u. No expenditures shall be authorized for the purchase of fee simple title to any real property to be used for a correctional facility or for the actual construction of a correctional facility provided for in this act, or by reference hereto, that involves acquisition or new construction of youth or adult correctional facilities on real property which was not owned by the Commonwealth on January 1, 1995, until the governing body of the county, city or town wherein the project is to be located has adopted a resolution supporting the location of such project within the boundaries of the affected jurisdiction. The foregoing does not prohibit expenditures for site studies, real estate options, correctional facility design and related expenditures.

v. Except for institutions of higher education governed by Chapters 933 and 943 of the 2006 Acts of Assembly, Chapters 594 and 616 of the 2008 Acts of Assembly, and Chapters 675 and 685 of the 2009 Acts of Assembly, any alternative financing agreement entered into between a state agency or institution of higher education and a private entity or affiliated foundation must be reviewed and approved by the Treasury Board.

w. Prior to requesting authorization for new dormitory capital projects, institutions of higher education shall conduct a cost study to determine whether an alternative financing arrangement or public-private transaction would provide a more effective option for the construction of the proposed facility. This study shall be submitted to the Department of Planning and Budget as part of the budget development process and shall be evaluated by the Governor prior to submitting his proposed budget.

x. Construction or improvement projects of the Department of Military Affairs are not exempt from the capital outlay review process when the state procurement process is utilized, except for those projects with both an estimated cost of \$3,000,000 or less and are 100 percent federally reimbursed. The Department of Military Affairs shall submit by July 30 of each year to the Department of Planning and Budget a list of such projects that were funded pursuant to this exemption in the previous fiscal year and any projects that would be eligible for such funding in future fiscal years.

y. While the competitive sealed bid process is the preferred method of construction procurement for public bodies, institutions of higher education and state agencies considering the use of Design Build or Construction Management procurement methods for capital projects shall proceed as follows:

1. Institutions of higher education governed under Chapters 933 and 943 of the 2006 Acts of Assembly, Chapters 594, 616, 824 and 829 of the 2008 Acts of Assembly, Chapters 675 and 685 of the 2009 Acts of Assembly, operating under a memorandum of understanding pursuant to ~~§ 23-38-90~~ § 23.1-1003, and those operating under a pilot program under § 4-9.02 shall:

a) Develop a process for determining the selected procurement method which, at a minimum, must consider cost, schedule,

complexity, and building use;

b) Submit the process for determining the procurement method to the Department of General Services for review and recommendations;

c) Submit for approval, the process for determining the procurement method with the Department of General Services recommendations, to the Board of Visitors.

2. All other institutions of higher education and state agencies shall submit procurement method requests to the Director, Department of General Services for review and approval.

3. Processes for considering Construction Management procurement method shall include, among other processes as determined by the owning institution of higher education or state agency, the following requirements:

a) Cost and project timeline are critical components of the selection process;

b) Construction Management contract will be initiated no later than the Schematic Phase of design unless prohibited by authorization of funding restrictions; and,

c) A written justification that sealed bidding is not practicable and/or fiscally advantageous and such written justification shall be stated in the Request for Qualifications used to procure the Construction Management services.

4. All state entities, including institutions of higher education governed under Chapters 933 and 943 of the 2006 Acts of Assembly, Chapters 594, 616, 824 and 829 of the 2008 Acts of Assembly, Chapters 675 and 685 of the 2009 Acts of Assembly, operating under a memorandum of understanding pursuant to § ~~23-38-90~~ § 23.1-1003, and those operating under a pilot program under § 4-9.02 shall report annually, on November 1st of each year, to the Director, Department of General Services on completed capital projects, beginning with those authorized for construction under Chapter 665 of the 2015 Virginia Acts of Assembly, to include at a minimum procurement method, project budget, actual project costs, expected timeline, actual completion time and any post-project issues. The Department of General Services shall consolidate received report data and submit the consolidated data to the Governor and Chairmen of the House Appropriations and Senate Finance Committees no later than December 1st of each year.

5. The Auditor of Public Accounts shall, as part of its annual audit plan, determine that institutions of higher education governed under Chapters 933 and 943 of the 2006 Acts of Assembly, Chapters 594, 616, 824 and 829 of the 2008 Acts of Assembly, Chapters 675 and 685 of the 2009 Acts of Assembly, operating under a memorandum of understanding pursuant to § ~~23-38-90~~ § 23.1-1003 and those operating under a pilot program under § 4-9.02 complied with their internal review process in the selection of procurement method.

6. All state entities, including institutions of higher education governed under Chapters 933 and 943 of the 2006 Acts of Assembly, Chapters 594, 616, 824 and 829 of the 2008 Acts of Assembly, Chapters 675 and 685 of the 2009 Acts of Assembly, operating under a memorandum of understanding pursuant to § ~~23-38-90~~ § 23.1-1003 and those operating under a pilot program under § 4-9.02 shall post approved capital projects, beginning with those authorized for construction under Chapter 665 of the 2015 Virginia Acts of Assembly, and approved procurement methods and advertise for project delivery services no less than 30 days publicly on the Commonwealth's statewide electronic procurement system and program, eVA.

#### § 4-4.02 PLANNING AND BUDGETING

a. It shall be the intent of the General Assembly to make biennial appropriations for a capital improvements program sufficient to address the program needs of the Commonwealth. The capital improvements program shall include maintenance and deferred maintenance of the Commonwealth's existing facilities, and of the facility requirements necessary to deliver the programs of state agencies and institutions.

b. In effecting these policies, the Governor shall establish a capital budget plan to address the renewal and replacement of the Commonwealth's physical plant, using such guidelines as recommended by industry or government to maintain the Commonwealth's investment in its property and plant.

### § 4-5.00 SPECIAL CONDITIONS AND RESTRICTIONS ON EXPENDITURES

#### § 4-5.01 TRANSACTIONS WITH INDIVIDUALS

a. **SETTLEMENT OF CLAIMS:** Whenever a dispute, claim or controversy involving the interest of the Commonwealth is settled pursuant to § 2.2-514, Code of Virginia, payment may be made out of any appropriations, designated by the Governor, to the state agency(ies) which is (are) party to the settlement.

b. **STUDENT FINANCIAL ASSISTANCE FOR HIGHER EDUCATION:**

1. General:

a) The appropriations made in this act to state institutions of higher education within the Items for student financial assistance may be expended for any one, all, or any combination of the following purposes: grants to undergraduate students enrolled at least one-half time in a degree, certificate, industry-based certification and related programs that do not qualify for other sources of student financial assistance or diploma program; grants to full-time graduate students; graduate assistantships: grants to students enrolled full-time in a dual or concurrent undergraduate and graduate program. The institutions may also use these appropriations for the purpose of supporting work study programs. The institution is required to transfer to educational and general appropriations all funds used for work study or to pay graduate assistantships. Institutions may also contribute to federal or private student grant aid programs requiring matching funds by the institution, except for programs requiring work. The State Council of Higher Education for Virginia shall annually review each institution's plan for the expenditures of its general fund appropriation for undergraduate student financial assistance prior to the start of the fall term to determine program compliance. The institution's plan shall include the institution's assumptions and calculations for determining the cost of attendance, student financial need, and student remaining need as well as an award schedule or description of how funds are awarded. For the purposes of the proposed plan, each community college shall be considered independently. No limitations shall be placed on the awarding of nongeneral fund appropriations made in this act to state institutions of higher education within the Items for student financial assistance other than those found previously in this paragraph and as follows: (i) funds derived from in-state student tuition will not subsidize out-of-state students, (ii) students receiving these funds must be making satisfactory academic progress, (iii) awards made to students should be based primarily on financial need, and (iv) institutions should make larger grant and scholarship awards to students taking the number of credit hours necessary to complete a degree in a timely manner.

b) All awards made to undergraduate students from such Items shall be for Virginia students only and such awards shall offset all, or portions of, the costs of tuition and required fees, and, in the case of students qualifying under subdivision b 2 c)1) hereof, the cost of books. All undergraduate financial aid award amounts funded by this appropriation shall be proportionate to the remaining need of individual students, with students with higher levels of remaining need receiving grants before other students. No criteria other than the need of the student shall be used to determine the award amount. Because of the low cost of attendance and recognizing that federal grants provide a much higher portion of cost than at other institutions, a modified approach and minimum award amount for the neediest VGAP student should be implemented for community college and Richard Bland College students based on remaining need and the combination of federal and grant state aid. Student financial need shall be determined by a need-analysis system approved by the Council.

c)1) All need-based awards made to graduate students shall be determined by the use of a need-analysis system approved by the Council.

2) As part of the six-year financial plans required in the provisions of Chapters 933 and 945 of the 2005 Acts of Assembly, each institution of higher education shall report the extent to which tuition and fee revenues are used to support graduate student aid and graduate compensation and how the use of these funds impacts planned increases in student tuition and fees.

d) A student who receives a grant under such Items and who, during a semester, withdraws from the institution which made the award must surrender the unearned portion. The institution shall calculate the unearned portion of the award based on the percentage used for federal Return to Title IV program purposes.

e) An award made under such Items to assist a student in attending an institution's summer session shall be prorated according to the size of comparable awards made in that institution's regular session.

f) The provisions of this act under the heading "Student Financial Assistance for Higher Education" shall not apply to (1) the soil scientist scholarships authorized under ~~§ 23-38.3~~ § 23.1-615, Code of Virginia and (2) need-based financial aid programs for industry-based certification and related programs that do not qualify for other sources of student financial assistance, which will be subject to guidelines developed by the State Council of Higher Education for Virginia.

g) Unless noted elsewhere in this act, general fund awards shall be named "Commonwealth" grants.

h) Unless otherwise provided by statute, undergraduate awards shall not be made to students seeking a second or additional baccalaureate degree until the financial aid needs of first-degree seeking students are fully met.

## 2. Grants To Undergraduate Students:

a) Each institution which makes undergraduate grants paid from its appropriation for student financial assistance shall expend such sums as approved for that purpose by the Council.

b) A student receiving an award must be duly admitted and enrolled in a degree, certificate or diploma program at the institution making the award, and shall be making satisfactory academic progress as defined by the institution for the purposes of eligibility under Title IV of the federal Higher Education Act, as amended.

c)1) It is the intent of the General Assembly that students eligible under the Virginia Guaranteed Assistance Program (VGAP) authorized in Title ~~2323.1~~, Chapter 4.4:2, Code of Virginia, shall receive grants before all other students at the same institution with equivalent remaining need from the appropriations for undergraduate student financial assistance found in Part 1 of this act (service area 1081000 - Scholarships). In each instance, VGAP eligible students shall receive awards greater than other students with

equivalent remaining need.

2) The amount of each VGAP grant shall vary according to each student's remaining need and the total of tuition, all required fees and the cost of books at the institution the student will attend upon acceptance for admission. The actual amount of the VGAP award will be determined by the proportionate award schedule adopted by each institution; however, those students with the greatest financial need shall be guaranteed an award at least equal to tuition.

3) It is the intent of the General Assembly that the Virginia Guaranteed Assistance Program serve as an incentive to financially needy students now attending elementary and secondary school in Virginia to raise their expectations and their academic performance and to consider higher education an achievable objective in their futures.

4) Students may not receive a VGAP and a Commonwealth grant in the same semester.

### 3. Grants To Graduate Students:

a) An individual award may be based on financial need but may, in addition to or instead of, be based on other criteria determined by the institution making the award. The amount of an award shall be determined by the institution making the award; however, the Council shall annually be notified as to the maximum size of a graduate award that is paid from funds in the appropriation.

b) A student receiving a graduate award paid from the appropriation must be duly admitted into a graduate degree program at the institution making the award.

c) Not more than 50 percent of the funds designated by an institution as graduate grants from the appropriation, and approved as such by the Council, shall be awarded to persons not eligible to be classified as Virginia domiciliary resident students except in cases where the persons meet the criteria outlined in § 4-2.01b.6.

4. Matching Funds: Any institution of higher education may, with the approval of the Council, use funds from its appropriation for fellowships and scholarships to provide the institutional contribution to any student financial aid program established by the federal government or private sources which requires the matching of the contribution by institutional funds, except for programs requiring work.

### 5. Discontinued Loan Program:

a) If any federal student loan program for which the institutional contribution was appropriated by the General Assembly is discontinued, the institutional share of the discontinued loan program shall be repaid to the fund from which the institutional share was derived unless other arrangements for the use of the funds are recommended by the Council and approved by the Department of Planning and Budget. Should the institution be permitted to retain the federal contributions to the program, the funds shall be used according to arrangements authorized by the Council and approved by the Department of Planning and Budget.

b)1) An institution of higher education may discontinue its student loan fund established pursuant to Title 23.1, Chapter 4.01, Code of Virginia. The full amount of cash in such discontinued loan fund shall be paid into the state treasury into a nonrevertible nongeneral fund account. Prior to such payment, the State Comptroller shall verify its accuracy, including the fact that the cash held by the institution in the loan fund will be fully depleted by such payment. The loan fund shall not be reestablished thereafter for that institution.

2) The cash so paid into the state treasury shall be used only for grants to undergraduate and graduate students in the Higher Education Student Financial Assistance program according to arrangements authorized by the Council and approved by the Department of Planning and Budget.

3) Payments on principal and interest of any promissory notes held by the discontinued loan fund shall continue to be received by the institution, which shall deposit such payments in the state treasury to the nonrevertible nongeneral fund account specified in subdivision (1) preceding, to be used for grants as specified in subdivision (2) preceding.

6. Reporting: The Council shall collect student-specific information for undergraduate students as is necessary for the operation of the Student Financial Assistance Program. The Council shall maintain regulations governing the operation of the Student Financial Assistance Program based on the provisions outlined in this section, the Code of Virginia, and State Council policy.

### C. PAYMENTS TO CITIZEN MEMBERS OF NONLEGISLATIVE BODIES:

Notwithstanding any other provision of law, executive branch agencies shall not pay compensation to citizen members of boards, commissions, authorities, councils, or other bodies from any fund for the performance of such members' duties in the work of the board, commission, authority, council, or other body.

#### *d. VIRGINIA BIRTH-RELATED NEUROLOGICAL INJURY COMPENSATION PROGRAM*

*1. Notwithstanding any other provision of law, the Virginia Birth-Related Neurological Injury Compensation Program is*

*authorized to require each admitted claimant's parent or legal guardian to purchase private health insurance (the "primary payer") to provide coverage for the actual medically necessary and reasonable expenses as described in Virginia Code § 38.2-5009(A)(1) that were, or are, incurred as a result of the admitted claimant's birth-related neurological injury and for the admitted claimant's benefit. Provided, however, that the Program shall reimburse, upon receipt of proof of payment, solely the portion of the premiums that is attributable to the admitted claimant's post-admission coverage from the effective date of this provision forward and paid for by the admitted claimant's parent or legal guardian.*

*2. The State Corporation Commission shall develop a report containing options and recommendations for improving the actuarial soundness of financing for the Virginia Birth-Related Neurological Injury Compensation Program. The report shall be presented to the Governor and Chairmen of the House Appropriations and Senate Finance Committees no later than November 1, 2017.*

#### § 4-5.02 THIRD PARTY TRANSACTIONS

##### a. EMPLOYMENT OF ATTORNEYS:

1.a) All attorneys authorized by this act to be employed by any state agency and all attorneys compensated out of any moneys appropriated in this session of the General Assembly shall be appointed by the Attorney General and be in all respects subject to the provisions of Title 2.2, Chapter 5, Code of Virginia, to the extent not to conflict with Title 12.1, Chapter 4, Code of Virginia; provided, however, that if the Governor certifies the need for independent legal counsel for any Executive Department agency, such agency shall be free to act independently of the Office of the Attorney General in regard to selection, and provided, further, that compensation of such independent legal counsel shall be paid from the moneys appropriated to such Executive Department agency or from the moneys appropriated to the Office of the Attorney General.

b) For purposes of this act, "attorney" shall be defined as an employee or contractor who represents an agency before a court, board or agency of the Commonwealth of Virginia or political subdivision thereof. This term shall not include members of the bar employed by an agency who perform in a capacity that does not require a license to practice law, including but not limited to, instructing, managing, supervising or performing normal or customary duties of that agency.

2. This section does not apply to attorneys employed by state agencies in the Legislative Department, Judicial Department or Independent Agencies.

3. Reporting on employment of attorneys shall be in accordance with § 4-8.00, Reporting Requirements.

4. Notwithstanding § 2.2-510.1 of the Code of Virginia and any other conflicting provision of law, the Virginia Retirement System may enter into agreements to seek *i)* recovery of investment losses in foreign jurisdictions, *and ii)* *legal advice related to its investments.* Any such agreements shall be reported to the Office of the Attorney General as soon as practicable.

b. STUDIES AND CONSULTATIVE SERVICES REQUIRED BY GENERAL ASSEMBLY: No expenditure for payments on third party nongovernmental contracts for studies or consultative services shall be made out of any appropriation to the General Assembly or to any study group created by the General Assembly, nor shall any such expenditure for third party nongovernmental contracts be made by any Executive Department agency in response to a legislative request for a study, without the prior approval of two of the following persons: the Chairman of the House Appropriations Committee; the Chairman of the Senate Finance Committee; the Speaker of the House of Delegates; the President pro tempore of the Senate. All such expenditures shall be made only in accordance with the terms of a written contract approved as to form by the Attorney General.

c. USE OF CONSULTING SERVICES: All state agencies and institutions of higher education shall make a determination of "return on investment" as part of the criteria for awarding contracts for consulting services.

##### d. DEBT COLLECTION SERVICES:

1. Notwithstanding any provision of the Code of Virginia or this act to the contrary, the Virginia Commonwealth University Health System Authority shall have the option to participate in the Office of the Attorney General's debt collection process. Should the Authority choose not to participate, the Authority shall have the authority to collect its accounts receivable by engaging private collection agents and attorneys to pursue collection actions, and to independently compromise, settle, and discharge accounts receivable claims.

2. Notwithstanding any provision of the Code of Virginia or this act to the contrary, the University of Virginia Medical Center shall have the authority to collect its accounts receivable by engaging private collection agents and attorneys to pursue collection actions, and to independently compromise, settle, and discharge accounts receivable claims, provided that the University of Virginia demonstrates to the Secretary of Finance that debt collection by an agent other than the Office of the Attorney General is anticipated to be more cost effective. Nothing in this paragraph is intended to limit the ability of the University of Virginia Medical Center from voluntarily contracting with the Office of the Attorney General's Division of Debt Collection in cases where the Center would benefit from the expertise of legal counsel and collection services offered by the Office of the Attorney General.

3. Notwithstanding any provision of the Code of Virginia or this act to the contrary, the Department of Taxation shall be exempt from participating in the debt collection process of the Office of the Attorney General.

## § 4-5.03 SERVICES AND CLIENTS

## a. CHANGED COST FACTORS:

1. No state agency, or its governing body, shall alter factors (e.g., qualification level for receipt of payment or service) which may increase the number of eligible recipients for its authorized services or payments, or alter factors which may increase the unit cost of benefit payments within its authorized services, unless the General Assembly has made an appropriation for the cost of such change.
2. Notwithstanding any other provision of law, the Department of Planning and Budget, with assistance from agencies that operate internal service funds as requested, shall establish policies and procedures for annually reviewing and approving internal service fund overhead surcharge rates and working capital reserves.
3. By September 1 each year, state agencies that operate an internal service fund, pursuant to §§ 2.2-803, 2.2-1101, and 2.2-2013, Code of Virginia, that have an impact on agency expenditures, shall submit a report to the Department of Planning and Budget and the Joint Legislative Audit and Review Commission to include all information as required by the Department of Planning and Budget to conduct a thorough review of overhead surcharge rates, revenues, expenditures, full-time positions, and working capital reserves for each internal service fund. The report shall include any proposed modifications in rates to be charged by internal service funds for review and approval by the Department of Planning and Budget. In its review, the Department of Planning and Budget shall determine whether the requested rate modifications are consistent with budget assumptions. The format by which agencies submit the operating plan for each internal service fund shall be determined by the Department of Planning and Budget with assistance from agencies that operate internal service funds as requested.
4. State agencies that operate internal service funds may not change a billable overhead surcharge rate to another state agency unless the resulting change is provided in the final General Assembly enacted budget.
5. State agencies that operate more than one internal service fund shall comply with the review and approval requirements detailed in this Item for each internal service fund.
6. As determined by the Director, Department of Planning and Budget, state agencies that operate select programs where an agency provides a service to and bills other agencies shall be subject to the annual review of the agency's internal service funds consistent with the provisions of this Item, unless such payment for services is pursuant to a memorandum of understanding authorized by § 4-1.03 a. 7 of this act.
7. The Governor is authorized to change internal service fund overhead surcharge rates, including the creation of new rates, beyond the rates enacted in the budget in the event of an emergency or to implement actions approved by the General Assembly, upon prior notice to the Chairmen of the House Appropriations and Senate Finance Committees. Such prior notice shall be no less than five days prior to enactment of a revised or new rate and shall include the basis of the rate change and the impact on state agencies.
8. Notwithstanding any other provision of law, the Commonwealth's statewide electronic procurement system and program known as eVA shall have all rates and working capital reserves reviewed and approved by the Department of Planning and Budget consistent with the provisions of this Item.
9. State agencies that are partially or fully funded with nongeneral funds and are billed for services provided by another state agency shall pay the nongeneral fund cost for the service from the agency's applicable nongeneral fund revenue source consistent with an appropriation proration of such expenses.

## b. NEW SERVICES:

1. No state agency shall begin any new service that will call for future additional property, plant or equipment or that will require an increase in subsequent general or nongeneral fund operating expenses without first obtaining the authorization of the General Assembly.
2. Pursuant to the policies and procedures of the State Council of Higher Education regarding approval of academic programs and the concomitant enrollment, no state institution of higher education shall operate any academic program with funds in this act unless approved by the Council and included in the Executive Budget, or approved by the General Assembly. The Council may grant exemptions to this policy in exceptional circumstances.
3. a) The General Assembly is supportive of the increasing commitment by both Virginia Tech and the Carilion Clinic to the success of the programs at the Virginia Tech/Carilion School of Medicine and the Virginia Tech/Carilion Research Institute, and encourages these two institutions to pursue further developments in their partnership. Therefore, notwithstanding § 4-5.03 c. of the Appropriation Act, if through the efforts of these institutions to further strengthen the partnership, Virginia Tech acquires the Virginia Tech Carilion School of Medicine during the current biennium, the General Assembly approves the creation and establishment of the Virginia Tech/Carilion School of Medicine within the institution notwithstanding ~~§ 23-9.6:1~~ § 23.1-203 Code of Virginia. No additional funds are required to implement establishment of the Virginia Tech/Carilion School of Medicine within the institution.

*b) Virginia Tech Carilion School of Medicine is hereby authorized to transfer funds to the Department of Medical Assistance Services to fully fund the state share for Medicaid supplemental payments to the teaching hospital affiliated with the Virginia Tech Carilion School of Medicine. These Medicaid supplemental fee-for-service and/or capitation payments to managed care organizations are for the purpose of securing access to Medicaid hospital services in Western Virginia. The funds to be transferred must comply with 42 CFR 433.51.*

4. Reporting on all new services shall be in accordance with § 4-8.00, Reporting Requirements.

c. OFF-CAMPUS SITES OF INSTITUTIONS OF HIGHER EDUCATION:

No moneys appropriated by this act shall be used for off-campus sites unless as provided for in this section.

1. A public college or university seeking to create, establish, or operate an off-campus instructional site, funded directly or indirectly from the general fund or with revenue from tuition and mandatory educational and general fees generated from credit course offerings, shall first refer the matter to the State Council of Higher Education for Virginia for its consideration and approval. The State Council of Higher Education for Virginia may provide institutions with conditional approval to operate the site for up to one year, after which time the college or university must receive approval from the Governor and General Assembly, through legislation or appropriation, to continue operating the site.

2. For the colleges of the Virginia Community College System, the State Board for Community Colleges shall be responsible for approving off-campus locations. Sites governed by this requirement are those at any locations not contiguous to the main campus of the institution, including locations outside Virginia.

3. a) The provisions herein shall not apply to credit offerings on the site of a public or private entity if the offerings are supported entirely with private, local, or federal funds or revenue from tuition and mandatory educational and general fees generated entirely by course offerings at the site.

b) Offerings at previously approved off-campus locations shall also not be subject to these provisions.

c) Further, the provisions herein do not govern the establishment and operations of campus sites with a primary function of carrying out grant and contract research where direct and indirect costs from such research are covered through external funding sources. Such locations may offer limited graduate education as appropriate to support the research mission of the site.

d) Nothing herein shall prohibit an institution from offering non-credit continuing education programs at sites away from the main campus of a college or university.

4. The State Council of Higher Education shall establish guidelines to implement this provision.

d. PERFORMANCE MEASUREMENT

1. In accordance with § 2.2-1501, Code of Virginia, the Department of Planning and Budget shall develop a programmatic budget and accounting structure for all new programs and activities to ensure that it provides the appropriate financial and performance measures to determine if programs achieve desired results and outcomes. The Department of Accounts shall provide assistance as requested by the Department of Planning and Budget. The Department of Planning and Budget shall provide this information each year when the Governor submits the budget in accordance with § 2.2-1509, Code of Virginia, to the Chairmen of the House Appropriations, House Finance, and Senate Finance Committees.

2.a) Within thirty days of the enactment of this act, the Director, Department of Planning and Budget, shall make available via electronic means to the Chairmen of the House Appropriations and Senate Finance Committees and the public a list of the new initiatives for which appropriations are provided in this act.

b) Not later than ninety days after the end of the first year of the biennium, the Director, Department of Planning and Budget, shall make available via electronic means a report on the performance of each new initiative contained in the list, to be submitted to the Chairmen of the House Appropriations and Senate Finance Committees and the public. The report shall compare the actual results, including expenditures, of the initiative with the anticipated results and the appropriation for the initiative. This information shall be used to determine whether the initiative should be extended beyond the beginning period. In the preparation of this report, all state agencies shall provide assistance as requested by the Department of Planning and Budget.

§ 4-5.04 GOODS AND SERVICES

a. STUDENT ATTENDANCE AT INSTITUTIONS OF HIGHER EDUCATION:

1. Public Information Encouraged: Each public institution of higher education is expected and encouraged to provide prospective students with accurate and objective information about its programs and services. The institution may use public funds under the control of the institution's Board of Visitors for the development, preparation and dissemination of factual information about the following subjects: academic programs; special programs for minorities; dates, times and procedures for registration; dates and times of course offerings; admission requirements; financial aid; tuition and fee schedules; and other information normally distributed

through the college catalog. This information may be presented in any and all media, such as newspapers, magazines, television or radio where the information may be in the form of news, public service announcements or advertisements. Other forms of acceptable presentation would include brochures, pamphlets, posters, notices, bulletins, official catalogs, flyers available at public places and formal or informal meetings with prospective students.

2. Excessive Promotion Prohibited: Each public institution of higher education is prohibited from using public funds under the control of the institution's Board of Visitors for the development, preparation, dissemination or presentation of any material intended or designed to induce students to attend by exaggerating or extolling the institution's virtues, faculty, students, facilities or programs through the use of hyperbole. Artwork and photographs which exaggerate or extol rather than supplement or complement permissible information are prohibited. Mass mailings are generally prohibited; however, either mass mailings or newspaper inserts, but not both, may be used if other methods of distributing permissible information are not economically feasible in the institution's local service area.

3. Remedial Education: Senior institutions of higher education shall make arrangements with community colleges for the remediation of students accepted for admission by the senior institutions.

4. Compliance: The president or chancellor of each institution of higher education is responsible for the institution's compliance with this subsection.

b. INFORMATION TECHNOLOGY FACILITIES AND SERVICES:

1.a) The Virginia Information Technologies Agency shall procure information technology and telecommunications goods and services of every description for its own benefit or on behalf of other state agencies and institutions, or authorize other state agencies or institutions to undertake such procurements on their own.

b) Except for research projects, research initiatives, or instructional programs at public institutions of higher education, or any non-major information technology project request from the Virginia Community College System, Longwood University, or from an institution of higher education which is a member of the Virginia Association of State Colleges and University Purchasing Professionals (VASCUPP) as of July 1, 2003, or any procurement of information technology and telecommunications goods and services by public institutions of higher education governed by some combination of Chapters 933 and 945 of the 2005 Acts of Assembly, Chapters 933 and 943 of the 2006 Acts of Assembly, Chapters 594 and 616 of the 2008 Acts of Assembly, Chapters 824 and 829 of the 2008 Acts of Assembly, and Chapters 675 and 685 of the 2009 Acts of Assembly, requests for authorization from state agencies and institutions to procure information technology and telecommunications goods and services on their own behalf shall be made in writing to the Chief Information Officer or his designee. Members of VASCUPP as of July 1, 2003, are hereby recognized as: The College of William and Mary, George Mason University, James Madison University, Old Dominion University, Radford University, Virginia Commonwealth University, Virginia Military Institute, Virginia Polytechnic Institute and State University, and the University of Virginia.

c) The Chief Information Officer or his designee may grant the authorization upon a written determination that the request conforms to the statewide information technology plan and the individual information technology plan of the requesting agency or institution.

d) Any procurement authorized by the Chief Information Officer or his designee for information technology and telecommunications goods and services, including geographic information systems, shall be issued by the requesting state agency or institution in accordance with the regulations, policies, procedures, standards, and guidelines of the Virginia Information Technologies Agency.

e) Nothing in this subsection shall prevent public institutions of higher education or the Virginia Community College System from using the services of Network Virginia.

f) To ensure that the Commonwealth's research universities maintain a competitive position with access to the national optical research network infrastructure including the National LambdaRail and Internet2, the Network Virginia Contract Administrator is hereby authorized to renegotiate the term of the existing contracts. Additionally, the contract administrator is authorized to competitively negotiate additional agreements in accordance with the Code of Virginia and all applicable regulations, as required, to establish and maintain research network infrastructure.

2. If the billing rates and associated systems for computer, telecommunications and systems development services to state agencies are altered, the Director, Department of Planning and Budget, may transfer appropriations from the general fund between programs affected. These transfers are limited to actions needed to adjust for overfunding or underfunding the program appropriations affected by the altered billing systems.

3. The provisions of this subsection shall not in any way affect the duties and responsibilities of the State Comptroller under the provisions of § 2.2-803, Code of Virginia.

4. It is the intent of the General Assembly that information technology (IT) systems, products, data, and service costs, including geographic information systems (GIS), be contained through the shared use of existing or planned equipment, data, or services which may be available or soon made available for use by state agencies, institutions, authorities, and other public bodies. State

agencies, institutions, and authorities shall cooperate with the Virginia Information Technologies Agency in identifying the development and operational requirements for proposed IT and GIS systems, products, data, and services, including the proposed use, functionality, capacity and the total cost of acquisition, operation and maintenance.

5. This section shall not apply to public institutions of higher education governed by some combination of Chapters 933 and 945 of the 2005 Acts of Assembly, Chapters 933 and 943 of the 2006 Acts of Assembly or Chapters 594 and 616 of the 2008 Acts of Assembly, Chapters 824 and 829 of the 2008 Acts of Assembly and Chapters 675 and 685 of the 2009 Acts of Assembly, *or to the Virginia Alcoholic Beverage Control Authority*.

6. Notwithstanding any other provision of law, state agencies that do not receive computer services from the Virginia Information Technologies Agency may develop their own policies and procedures governing the sale of surplus computers and laptops to their employees or officials. Any proceeds from the sale of surplus computers or laptops shall be deposited into the appropriate fund or funds used to purchase the equipment.

c. MOTOR VEHICLES AND AIRCRAFT:

1. No motor vehicles shall be purchased or leased with public funds by the state or any officer or employee on behalf of the state without the prior written approval of the Director, Department of General Services.

2. The institutions of higher education *and the Alcoholic Beverage Control Authority* shall be exempt from this provision but shall be required to report their entire inventory of purchased and leased vehicles including the cost of such to the Director of the Department of General Services by June 30 of each year. The Director of the Department of General Services shall compare the cost of vehicles acquired by institutions of higher education *and the Authority* to like vehicles under the state contract. If the comparison demonstrates for a given institution *or the Authority* that the cost to the Commonwealth is greater for like vehicles than would be the case based on a contract of statewide applicability, the Governor or his designee may suspend the exemption granted to the institution *or the Authority* pursuant to this subparagraph c.

3. The Director, Department of General Services, is hereby authorized to transfer surplus motor vehicles among the state agencies, and determine the value of such surplus equipment for the purpose of maintaining the financial accounts of the state agencies affected by such transfers.

d. MOTION PICTURE, TELEVISION AND RADIO SERVICES PRODUCTION: Except for public institutions of higher education governed by Chapters 933 and 943 of the 2006 Acts of Assembly, no state Executive Department agency or the Virginia Lottery Department shall expend any public funds for the production of motion picture films or of programs for television transmission, or for the operation of television or radio transmission facilities, without the prior written approval of the Governor or as otherwise provided in this act, except for educational television programs produced for elementary-secondary education by authority of the Virginia Information Technologies Agency. The Joint Subcommittee on Rules is authorized to provide the approval of such expenditures for legislative agencies. For judicial agencies and independent agencies, other than the Virginia Lottery Department, prior approval action rests with the supervisory bodies of these entities. With respect to television programs which are so approved and other programs which are otherwise authorized or are not produced for television transmission, state agencies may enter into contracts without competitive sealed bidding, or competitive negotiation, for program production and transmission services which are performed by public telecommunications entities, as defined in § 2.2-2006, Code of Virginia.

e. TRAVEL: Reimbursement for the cost of travel on official business of the state government is authorized to be paid pursuant to law and regulations issued by the State Comptroller to implement such law. Notwithstanding any contrary provisions of law:

1. For the use of personal automobiles in the discharge of official duties outside the continental limits of the United States, the State Comptroller may authorize an allowance not exceeding the actual cost of operation of such automobiles;

2. The first 15,000 miles of use during each fiscal year of personal automobiles in the discharge of official duties within the continental limits of the United States shall be reimbursed at an amount equal to the most recent business standard mileage rate as established by the Internal Revenue Service for employees or self-employed individuals to use in computing their income tax deductible costs for operating passenger vehicles owned or leased by them for business purposes, or in the instance of a state employee, at the lesser of (a) the IRS rate or (b) the lowest combined capital and operational trip pool rate charged by the Department of General Services, Office of Fleet Management Services (OFMS), posted on the OFMS website at time of travel, for the use of a compact state-owned vehicle. If the head of the state agency concerned certifies that a state-owned vehicle was not available, or if, according to regulations issued by the State Comptroller, the use of a personal automobile in lieu of a state-owned automobile is considered to be an advantage to the state, the reimbursement shall be at the rate of the IRS rate. For such use in excess of 15,000 miles in each fiscal year, the reimbursement shall be at a rate of 13.0 cents per mile, unless a state-owned vehicle is not available; then the rate shall be the IRS rate;

3. The State Comptroller may authorize exemptions to restrictions upon use of common carrier accommodations;

4. The State Comptroller may authorize reimbursement by per diem in lieu of actual costs of meals and any other expense category deemed necessary for the efficient and effective operation of state government;

5. State employees traveling on official business of state government shall be reimbursed for their travel costs using the same bank

account authorized by the employee in which their net pay is direct deposited; and

6. This section shall not apply to members and employees of public school boards.

f. **SMALL PURCHASE CHARGE CARD, ELECTRONIC DATA INTERCHANGE, DIRECT DEPOSIT, AND PAYLINE OPT OUT:** The State Comptroller is hereby authorized to charge state agencies a fee of \$5 per check or earnings notice when, in his judgment, agencies have failed to comply with the Commonwealth's electronic commerce initiatives to reduce unnecessary administrative costs for the printing and mailing of state checks and earning notices. The fee shall be collected by the Department of Accounts through accounting entries.

g. **PURCHASES OF APPLIANCES AND EQUIPMENT:** State agencies and institutions shall purchase Energy Star rated appliances and equipment in all cases where such appliances and equipment are available.

h. **ELECTRONIC PAYMENTS:** Any recipient of payments from the State Treasury who receives six or more payments per year issued by the State Treasurer shall receive such payments electronically. The State Treasurer shall decide the appropriate method of electronic payment and, through his warrant issuance authority, the State Comptroller shall enforce the provisions of this section. The State Comptroller is authorized to grant administrative relief to this requirement when circumstances justify non-electronic payment.

i. **LOCAL AND NON-STATE SAVINGS AND EFFICIENCIES:** It is the intent of the General Assembly that State agencies shall encourage and assist local governments, school divisions, and other non-state governmental entities in their efforts to achieve cost savings and efficiencies in the provision of mandated functions and services including but not limited to finance, procurement, social services programs, and facilities management.

j. **TELECOMMUNICATION SERVICES AND DEVICES:**

1. The Chief Information Officer and the State Comptroller shall develop statewide requirements for the use of cellular telephones and other telecommunication devices by in-scope Executive Department agencies, addressing the assignment, evaluation of need, safeguarding, monitoring, and usage of these telecommunication devices. The requirements shall include an acceptable use agreement template clearly defining an employee's responsibility when they receive and use a telecommunication device. Statewide requirements shall require some form of identification on a device in case it is lost or stolen and procedures to wipe the device clean of all sensitive information when it is no longer in use.

2. In-scope Executive Department agencies providing employees with telecommunication devices shall develop agency-specific policies, incorporating the guidance provided in § 4-5.04 k. 1. of this act and shall maintain a cost justification for the assignment or a public health, welfare and safety need.

3. The Chief Information Officer shall determine the optimal number of telecommunication vendors and plans necessary to meet the needs of in-scope Executive Department agency personnel. The Chief Information Officer shall regularly procure these services and provide statewide contracts for use by all such agencies. These contracts shall require the vendors to provide detailed usage information in a useable electronic format to enable the in-scope agencies to properly monitor usage to make informed purchasing decisions and minimize costs.

4. The Chief Information Officer shall examine the feasibility of providing tools for in-scope Executive Department agencies to analyze usage and cost data to assist in determining the most cost effective plan combinations for the entity as a whole and individual users.

k. **ALTERNATIVE PROCUREMENT:** If any payment is declared unconstitutional for any reason or if the Attorney General finds in a formal, written, legal opinion that a payment is unconstitutional, in circumstances where a good or service can constitutionally be the subject of a purchase, the administering agency of such payment is authorized to use the affected appropriation to procure, by means of the Commonwealth's Procurement Act, goods and services, which are similar to those sought by such payment in order to accomplish the original legislative intent.

l. **MEDICAL SERVICES:** No expenditures from general or nongeneral fund sources may be made out of any appropriation by the General Assembly for providing abortion services, except otherwise as required by federal law or state statute.

#### § 4-5.05 NONSTATE AGENCIES, INTERSTATE COMPACTS AND ORGANIZATIONAL MEMBERSHIPS

a. The accounts of any agency, however titled, which receives funds from this or any other appropriating act, and is not owned or controlled by the Commonwealth of Virginia, shall be subject to audit or shall present an audit acceptable to the Auditor of Public Accounts when so directed by the Governor or the Joint Legislative Audit and Review Commission.

b.1. For purposes of this subsection, the definition of "nonstate agency" is that contained in § 2.2-1505, Code of Virginia.

2. Allotment of appropriations to nonstate agencies shall be subject to the following criteria:

a) Such agency is located in and operates in Virginia.

b) The agency must be open to the public or otherwise engaged in activity of public interest, with expenditures having actually been incurred for its operation.

3. No allotment of appropriations shall be made to a nonstate agency until such agency has certified to the Secretary of Finance that cash or in-kind contributions are on hand and available to match equally all or any part of an appropriation which may be provided by the General Assembly, unless the organization is specifically exempted from this requirement by language in this act. Such matching funds shall not have been previously used to meet the match requirement in any prior appropriation act.

4. Operating appropriations for nonstate agencies equal to or in excess of \$150,000 shall be disbursed to nonstate agencies in twelve or fewer equal monthly installments depending on when the first payment is made within the fiscal year. Operating appropriations for nonstate agencies of less than \$150,000 shall be disbursed in one payment once the nonstate agency has successfully met applicable match and application requirements.

5. The provisions of § 2.2-4343 A 14, Code of Virginia shall apply to any expenditure of state appropriations by a nonstate agency.

c.1. Each interstate compact commission and each organization in which the Commonwealth of Virginia or a state agency thereof holds membership, and the dues for which are provided in this act or any other appropriating act, shall submit its biennial budget request to the state agency under which such commission or organization is listed in this act. The state agency shall include the request of such commission or organization within its own request, but identified separately. Requests by the commission or organization for disbursements from appropriations shall be submitted to the designated state agency.

2. Each state agency shall submit by November 1 each year, a report to the Director, Department of Planning and Budget, listing the name and purpose for organizational memberships held by that agency with annual dues of \$5,000 or more. The institutions of higher education shall be exempt from this reporting requirement.

#### § 4-5.06 DELEGATION OF AUTHORITY

a. The designation in this act of an officer or agency head to perform a specified duty shall not be deemed to supersede the authority of the Governor to delegate powers under the provisions of § 2.2-104 , Code of Virginia.

b. The nongeneral fund capital outlay decentralization programs initiated pursuant to § 4-5.08b of Chapter 912, 1996 Acts of Assembly as continued in subsequent appropriation acts are hereby made permanent. Decentralization programs for which institutions have executed memoranda of understanding with the Secretary of Administration pursuant to the provisions of § 4-5.08b of Chapter 912, 1996 Acts of Assembly shall no longer be considered pilot projects, and shall remain in effect until revoked.

c. Institutions wishing to participate in a nongeneral fund capital outlay decentralization program for the first time shall submit a letter of interest to the appropriate Cabinet Secretary. Within 90 calendar days of the receipt of the institution's request to participate, the responsible Cabinet Secretary shall determine whether the institution meets the eligibility criteria and, if appropriate, establish a decentralization program at the institution. The Cabinet Secretary shall report to the Governor and Chairmen of the Senate Finance and House Appropriations Committees by December 1 of each year all institutions that have applied for inclusion in a decentralization program and whether the institutions have been granted authority to participate in the decentralization program.

d. The provisions identified in § 4-5.08 f and § 4-5.08 h of Chapter 1042 of the Acts of Assembly of 2003 pertaining to pilot programs for selected capital outlay projects and memoranda of understanding in institutions of higher education are hereby continued. Notwithstanding these provisions, those projects shall be insured through the state's risk management liability program.

e. If during an independent audit conducted by the Auditor of Public Accounts, the audit discloses that an institution is not performing within the terms of the memoranda of understanding or their addenda, the Auditor shall report this information to the Governor, the responsible Cabinet Secretary, and the Chairmen of the Senate Finance and House Appropriations Committees.

f. Institutions that have executed memoranda of understanding with the Secretary of Administration for nongeneral fund capital outlay decentralization programs are hereby granted a waiver from the provisions of § 2.2-4301, Competitive Negotiation, subdivision 3a, Code of Virginia, regarding the not to exceed amount of \$100,000 for a single project, the not to exceed sum of \$500,000 for all projects performed, and the option to renew for two additional one-year terms.

g. Notwithstanding any contrary provision of law or this act, delegations of authority in this act to the Governor shall apply only to agencies and personnel within the Executive Department, unless specifically stated otherwise.

h. This section shall not apply to public institutions of higher education governed by Chapters 933 and 943 of the 2006 Acts of Assembly.

#### § 4-5.07 LEASE, LICENSE OR USE AGREEMENTS

a. Agencies shall not acquire or occupy real property through lease, license or use agreement until the agency certifies to the Director, Department of General Services, that (i) funds are available within the agency's appropriations made by this act for the cost of the lease, license or use agreement and (ii) except for good cause as determined by the Department of General Services, the volume of such space conforms with the space planning procedures for leased facilities developed by the Department of General

Services and approved by the Governor. The Department of General Services shall acquire and hold such space for use by state departments, agencies and institutions within the Executive Branch and may utilize brokerage services, portfolio management strategies, strategic planning, transaction management, project and construction management, and lease administration strategies consistent with industry best practices as adopted by the Department from time to time. These provisions may be waived in writing by the Director, Department of General Services. However, these provisions shall not apply to institutions of higher education that have met the conditions prescribed in subsection B of § ~~23-38.88~~ § 23.1-1006, Code of Virginia.

b. Agencies acquiring personal property in accordance with § 2.2-2417, Code of Virginia, shall certify to the State Treasurer that funds are available within the agency's appropriations made by this act for the cost of the lease.

#### § 4-5.08 SEMICONDUCTOR MANUFACTURING PERFORMANCE GRANT PROGRAMS

a. The Comptroller shall not draw any warrants to issue checks for semiconductor manufacturing performance grant programs, pursuant to Title 59.1, Chapter 22.3, Code of Virginia, without a specific legislative appropriation. The appropriation shall be in accordance with the terms and conditions set forth in a memorandum of understanding between a qualified manufacturer and the Commonwealth. These terms and conditions shall supplement the provisions of the Semiconductor Manufacturing Performance Grant Program, the Semiconductor Memory or Logic Wafer Manufacturing Performance Grant Program, and the Semiconductor Memory or Logic Wafer Manufacturing Performance Grant Program II, as applicable, and shall include but not be limited to the numbers and types of semiconductor wafers that are produced; the level of investment directly related to the building and equipment for manufacturing of wafers or activities ancillary to or supportive of such manufacturer within the eligible locality; and the direct employment related to these programs. To that end, the Secretary of Commerce and Trade shall certify in writing to the Governor and to the Chairmen of the House Appropriations and Senate Finance Committees the extent to which a qualified manufacturer met the terms and conditions. The appropriation shall be made in full or in proportion to a qualified manufacturer's fulfillment of the memorandum of understanding.

b. The Governor shall consult with the House Appropriations and Senate Finance Committees before amending any existing memorandum of understanding. These Committees shall have the opportunity to review any changes prior to their execution by the Commonwealth.

#### § 4-5.09 DISPOSITION OF SURPLUS REAL PROPERTY

a. Notwithstanding the provisions of § 2.2-1156, Code of Virginia, the departments, divisions, institutions, or agencies of the Commonwealth, or the Governor, shall sell or lease surplus real property only under the following circumstances:

1. Any emergency declared in accordance with §§ 44-146.18:2 or § 44-146.28, Code of Virginia, or
2. Not less than thirty days after the Governor notifies, in writing, the Chairmen of the House Appropriations and Senate Finance Committees regarding the planned conveyance, including a statement of the proceeds to be derived from such conveyance and the individual or entity taking title to such property.
3. Surplus property valued at less than \$5,000,000 that is possessed and controlled by a public institution of higher education, pursuant to §§ 2.2-1149 and 2.2-1153, Code of Virginia.

b. In any circumstance provided for in subsection a of this section, the cognizant board or governing body of the agency or institution holding title or otherwise controlling the state-owned property shall approve, in writing, the proposed conveyance of the property.

c. In accordance with § 15.2-2005, Code of Virginia, the consent of the General Assembly is herein provided for the road known as Standpipe Road, that was relocated and established on a portion of the Virginia Department of Transportation's Culpeper District Office property, identified as Tax Map No. 50-28, to improve the operational efficiency of the local road network in the Town of Culpeper. Further, the Virginia Department of Transportation is hereby authorized to convey to the Town of Culpeper, upon such terms and conditions as the Department deems proper and for such considerations the Department may determine, the property on which "Standpipe Road (Relocated)(Variable Width R/W)" on the plat entitled "plat Showing Property and Various Easements for Standpipe Road Relocated, Tax Map 50-28, Town of Culpeper, Culpeper County, Virginia" prepared by ATCS P.L.C and sealed March 14, 2012, together with easements to the Town of Culpeper for electric utility, slopes and drainage as shown on said plat. The conveyance shall be made with the approval of the Governor and in a form approved by the Attorney General. The appropriate officials of the Commonwealth are hereby authorized to prepare, execute, and deliver such deed and other documents as may be necessary to accomplish the conveyance.

d. Notwithstanding the provisions of § 2.2-1156, Code of Virginia, if tax-exempt bonds were issued by the Commonwealth or its related authorities, boards or institutions to finance the acquisition, construction, improvement or equipping of real property, proceeds from the sale or disposition of such property and any improvements may first be applied toward remediation options available under federal law to maintain the tax-exempt status of such bonds.

#### § 4-5.10 SURPLUS PROPERTY TRANSFERS FOR ECONOMIC DEVELOPMENT

a. The Commonwealth shall receive the fair market value of surplus state property which is designated by the Governor for

economic development purposes, and for any properties owned by an Industrial Development Authority in any county where the Commonwealth has a continuing interest based on the deferred portion of the purchase price, which shall be assessed by more than one independent appraiser certified as a Licensed General Appraiser. Such property shall not be disposed of for less than its fair market value as determined by the assessments.

b. Recognizing the commercial, business and industrial development potential of certain lands declared surplus, and for any properties owned by an Industrial Development Authority in any county where the Commonwealth has a continuing interest based on the deferred portion of the purchase price, the Governor shall be authorized to utilize funds available in the Governor's discretion, to meet the requirements of the preceding subsection a. Sale proceeds, together with the money from the Commonwealth's Development Opportunity Fund, shall be deposited as provided in § 2.2-1156 D, Code of Virginia.

c. Within thirty days of closing on the sale of surplus property designated for economic development, the Governor or his designee shall report to the Chairmen of the Senate Finance and House Appropriations Committees. The report shall include information on the number of acres sold, sales price, amount of proceeds deposited to the general fund and Conservation Resources Fund, and the fair market value of the sold property.

d. Except for subaqueous lands that have been filled prior to January 1, 2006, the Governor shall not sell or convey those subaqueous lands identified by metes and bounds in Chapter 884 of the Acts of the Assembly of 2006.

#### § 4-6.00 POSITIONS AND EMPLOYMENT

##### § 4-6.01 EMPLOYEE COMPENSATION

a. The compensation of all kinds and from all sources of each appointee of the Governor and of each officer and employee in the Executive Department who enters the service of the Commonwealth or who is promoted to a vacant position shall be fixed at such rate as shall be approved by the Governor in writing or as is in accordance with rules and regulations established by the Governor. No increase shall be made in such compensation except with the Governor's written approval first obtained or in accordance with the rules and regulations established by the Governor. In all cases where any appointee, officer or employee is employed or promoted to fill a vacancy in a position for which a salary is specified by this act, the Governor may fix the salary of such officer or employee at a lower rate or amount within the respective level than is specified. In those instances where a position is created by an act of the General Assembly but not specified by this act, the Governor may fix the salary of such position in accordance with the provisions of this subsection.

b. Annual salaries of persons appointed to positions by the General Assembly, pursuant to the provisions of §§ 2.2-200 and 2.2-400, Code of Virginia, shall be paid in the amounts shown.

	<b>July 1, 2016 to June 24, 2017</b>	<b>June 25, 2017 to November 24, 2017</b>	<b>November 25, 2017 to June 30, 2018</b>
Chief of Staff	\$167,737	\$167,737	\$167,737
Secretary of Administration	\$159,762	\$159,762	\$159,762
Secretary of Agriculture and Forestry	\$159,817	\$159,817	\$159,817
Secretary of Commerce and Trade	\$166,915	\$166,915	\$166,915
Secretary of the Commonwealth	\$158,966	\$158,966	\$158,966
Secretary of Education	\$159,960	\$159,960	\$159,960
Secretary of Finance	\$170,854	\$170,854	\$170,854
Secretary of Health and Human Resources	\$159,291	\$159,291	\$159,291
Secretary of Natural Resources	\$158,966	\$158,966	\$158,966
Secretary of Public Safety and Homeland Security	\$168,838	\$168,838	\$168,838
Secretary of Technology	\$158,966	\$158,966	\$158,966
Secretary of Transportation	\$166,915	\$166,915	\$166,915

Secretary of Veterans and Defense Affairs                      \$163,642                      \$163,642                      \$163,642

c.1.a) Annual salaries of persons appointed to positions listed in subdivision c 6 hereof shall be paid in the amounts shown for the current biennium, unless changed in accordance with conditions stated in subdivisions c 2 through c 5 hereof.

b) The starting salary of a new appointee shall not exceed the midpoint of the range, except where the midpoint salary is less than a ten percent increase from an appointee's preappointment compensation. In such cases, an appointee's starting salary may be set at a rate which is ten percent higher than the preappointment compensation, provided that the maximum of the range is not exceeded. However, in instances where an appointee's preappointment compensation exceeded the maximum of the respective salary range, then the salary for that appointee may be set at the maximum salary for the respective salary range *except if the new hire was employed in a state classified position, then the Governor may exceed the maximum salary for the position and set the salary for the employee at a salary level not to exceed the employee's salary at their prior state position.*

c) Nothing in subdivision c 1 shall be interpreted to supersede the provisions of § 4-6.01 e, f, g, h, i, j, k, l, and m of this act.

d) For new appointees to positions listed in § 4-6.01c.6., the Governor is authorized to provide for fringe benefits in addition to those otherwise provided by law, including post retirement health care and other non-salaried benefits provided to similar positions in the public sector.

2.a)1) The Governor may increase or decrease the annual salary for incumbents of positions listed in subdivision c 6 below at a rate of up to 10 percent in any single fiscal year between the minimum and the maximum of the respective salary range in accordance with an assessment of performance and service to the Commonwealth.

2) The governing boards of the independent agencies may increase or decrease the annual salary for incumbents of positions listed in subdivision c.7. below at a rate of up to 10 percent in any fiscal year between the minimum and maximum of the respective salary range, in accordance with an assessment of performance and service to the Commonwealth.

b)1) The appointing or governing authority may grant performance bonuses of 0-5 percent for positions whose salaries are listed in §§ 1-1 through 1-9, and 4-6.01 b, c, and d of this act, based on an annual assessment of performance, in accordance with policies and procedures established by such appointing or governing authority. Such performance bonuses shall be over and above the salaries listed in this act, and shall not become part of the base rate of pay.

2) The appointing or governing authority shall report performance bonuses which are granted to executive branch employees to the Department of Human Resource Management for retention in its records.

3. From the effective date of the Executive Pay Plan set forth in Chapter 601, Acts of Assembly of 1981, all incumbents holding positions listed in this § 4-6.01 shall be eligible for all fringe benefits provided to full-time classified state employees and, notwithstanding any provision to the contrary, the annual salary paid pursuant to this § 4-6.01 shall be included as creditable compensation for the calculation of such benefits.

4. Notwithstanding § 4-6.01.c.2.b)1) of this Act, the Board of Commissioners of the Virginia Port Authority may supplement the salary of its Executive Director, with the prior approval of the Governor. The Board should be guided by criteria which provide a reasonable limit on the total additional income of the Executive Director. The criteria should include, without limitation, a consideration of the salaries paid to similar officials at comparable ports of other states. The Board shall report approved supplements to the Department of Human Resource Management for retention in its records.

5. With the written approval of the Governor, the Board of Trustees of the Virginia Museum of Fine Arts, the Science Museum of Virginia, the Virginia Museum of Natural History, the Jamestown-Yorktown Foundation, Gunston Hall, and the Library Board may supplement the salary of the Director of each museum, and the Librarian of Virginia from nonstate funds. In approving a supplement, the Governor should be guided by criteria which provide a reasonable limit on the total additional income and the criteria should include, without limitation, a consideration of the salaries paid to similar officials at comparable museums and libraries of other states. The respective Boards shall report approved supplements to the Department of Human Resource Management for retention in its records.

6.a) The following salaries shall be paid for the current biennium in the amounts shown, however, all salary changes shall be subject to subdivisions c 2 through c 5 above.

	July 1, 2016 to June 24, 2017	June 25, 2017 to November 24, 2017	November 25, 2017 to June 30, 2018
<b>Level I Range</b>	<b>\$150,915 - \$206,467</b>	<b>\$150,915 - \$206,467</b>	<b>\$150,915 - \$206,467</b>
<b>Midpoint</b>	<b>\$178,691</b>	<b>\$178,691</b>	<b>\$178,691</b>

Chief Information Officer, Virginia Information Technologies Agency	\$175,000	\$175,000	\$175,000
Commissioner, Department of Motor Vehicles	\$160,165	\$160,165	\$160,165
Commissioner, Department of Social Services	\$150,915	\$150,915	\$150,915
Commissioner, Department of Behavioral Health and Developmental Services	\$178,500	\$178,500	\$178,500
Commonwealth Transportation Commissioner	\$202,419	\$202,419	\$202,419
Director, Department of Corrections	\$156,060	\$156,060	\$156,060
Director, Department of Environmental Quality	\$184,649	\$184,649	\$184,649
Director, Department of Medical Assistance Services	\$193,736	\$193,736	\$193,736
Director, Department of Planning and Budget	\$167,669	\$167,669	\$167,669
State Health Commissioner	\$196,139	\$196,139	\$196,139
State Tax Commissioner	\$159,855	\$159,855	\$159,855
Superintendent of Public Instruction	\$206,467	\$206,467	\$206,467
Superintendent of State Police	\$179,325	\$179,325	\$179,325
	<b>July 1, 2016 to June 24, 2017</b>	<b>June 25, 2017 to November 24, 2017</b>	<b>November 25, 2017 to June 30, 2018</b>
<b>Level II Range</b>	<b>\$118,223 - \$167,541</b>	<b>\$118,223 - \$167,541</b>	<b>\$118,223 - \$167,541</b>
<b>Midpoint</b>	<b>\$142,882</b>	<b>\$142,882</b>	<b>\$142,882</b>
Alcoholic Beverage Control Commissioner	\$125,935	\$125,935	\$125,935
Alcoholic Beverage Control Commissioner	\$124,440	\$124,440	\$124,440
Chairman, Alcoholic Beverage Control Board	\$133,598	\$133,598	\$133,598
Commissioner, Department for Aging and Rehabilitative Services	\$151,354	\$151,354	\$151,354

Commissioner, Department of Agriculture and Consumer Services	\$165,552	\$165,552	\$165,552
Commissioner, Department of Veterans Services	\$142,800	\$142,800	\$142,800
Commissioner, Virginia Employment Commission	<del>\$156,900</del> \$156,970	<del>\$156,900</del> \$156,970	<del>\$156,900</del> \$156,970
Executive Director, Department of Game and Inland Fisheries	\$140,208	\$140,208	\$140,208
Commissioner, Marine Resources Commission	\$118,223	\$118,223	\$118,223
Director, Department of Forensic Science	\$162,685	\$162,685	\$162,685
Director, Department of General Services	\$162,344	\$162,344	\$162,344
Director, Department of Human Resource Management	\$145,628	\$145,628	\$145,628
Director, Department of Juvenile Justice	\$123,165	\$123,165	\$123,165
Director, Department of Mines, Minerals and Energy	\$142,500	\$142,500	\$142,500
Director, Department of Rail and Public Transportation	\$147,900	\$147,900	\$147,900
Director, Department of Small Business and Supplier Diversity	\$135,404	\$135,404	\$135,404
Executive Director, <del>DMV</del> Motor Vehicle Dealer Board	<del>\$123,784</del> \$111,000	<del>\$123,784</del> \$111,000	<del>\$123,784</del> \$111,000
Executive Director, Virginia Port Authority	\$137,186	\$137,186	\$137,186
State Comptroller	\$167,541	\$167,541	\$167,541
State Treasurer	\$167,408	\$167,408	\$167,408

	<b>July 1, 2016 to June 24, 2017</b>	<b>June 25, 2017 to November 24, 2017</b>	<b>November 25, 2017 to June 30, 2018</b>
<b>Level III Range</b>	<b>\$107,748 - \$149,112</b>	<b>\$107,748 - \$149,112</b>	<b>\$107,748 - \$149,112</b>
<b>Midpoint</b>	<b>\$128,430</b>	<b>\$128,430</b>	<b>\$128,430</b>
Adjutant General	\$135,548	\$135,548	\$135,548
Chairman, Virginia Parole	\$127,485	\$127,485	\$127,485

## Board

Vice Chairman, Virginia Parole Board	\$114,704	\$114,704	\$114,704
Member, Virginia Parole Board	\$112,455	\$112,455	\$112,455
Commissioner, Department of Labor and Industry	<del>\$126,710</del> \$135,579	<del>\$126,710</del> \$135,579	<del>\$126,710</del> \$135,579
Coordinator, Department of Emergency Management	\$122,791	\$122,791	\$122,791
Director, Department of Aviation	\$134,286	\$134,286	\$134,286
Director, Department of Conservation and Recreation	\$147,162	\$147,162	\$147,162
Director, Department of Criminal Justice Services	\$121,380	\$121,380	\$121,380
Director, Department of Health Professions	\$131,223	\$131,223	\$131,223
Director, Department of Historic Resources	\$107,748	\$107,748	\$107,748
Director, Department of Housing and Community Development	\$133,297	\$133,297	\$133,297
Director, Department of Professional and Occupational Regulation	<del>\$137,700</del> \$147,339	<del>\$137,700</del> \$147,339	<del>\$137,700</del> \$147,339
Director, The Science Museum of Virginia	\$134,755	\$134,755	\$134,755
Director, Virginia Museum of Fine Arts	\$140,112	\$140,112	\$140,112
Director, Virginia Museum of Natural History	\$115,029	\$115,029	\$115,029
Executive Director, Board of Accountancy	<del>\$117,024</del> \$128,430	<del>\$117,024</del> \$128,430	<del>\$117,024</del> \$128,430
Executive Director, Jamestown-Yorktown Foundation	\$136,784	\$136,784	\$136,784
Executive Secretary, Virginia Racing Commission	<del>\$112,854</del> \$110,000	<del>\$112,854</del> \$110,000	<del>\$112,854</del> \$110,000
Librarian of Virginia	\$149,112	\$149,112	\$149,112
State Forester, Department of Forestry	\$140,760	\$140,760	\$140,760

July 1, 2016

June 25, 2017

November 25, 2017

	to June 24, 2017	to November 24, 2017	to June 30, 2018
<b>Level IV Range</b>	<b>\$96,685 - \$114,945</b>	<b>\$96,685 - \$114,945</b>	<b>\$96,685 - \$114,945</b>
<b>Midpoint</b>	<b>\$105,815</b>	<b>\$105,815</b>	<b>\$105,815</b>
Administrator, Commonwealth's Attorneys' Services Council	\$104,622	\$104,622	\$104,622
Commissioner, Virginia Department for the Blind and Vision Impaired	\$114,945	\$114,945	\$114,945
Executive Director, Frontier Culture Museum of Virginia	\$112,002	\$112,002	\$112,002
Commissioner, Department of Elections	\$108,202	\$108,202	\$108,202
Executive Director, Virginia- Israel Advisory Board	\$96,685	\$96,685	\$96,685

	July 1, 2016 to June 24, 2017	June 25, 2017 to November 24, 2017	November 25, 2017 to June 30, 2018
<b>Level V Range</b>	<b>\$22,831 - \$95,706</b>	<b>\$22,831 - \$95,706</b>	<b>\$22,831 - \$95,706</b>
<b>Midpoint</b>	<b>\$59,268</b>	<b>\$59,268</b>	<b>\$59,268</b>
Director, Gunston Hall	\$87,900	\$87,900	\$87,900
Director, Virginia Department for the Deaf and Hard-of-Hearing	\$95,706	\$95,706	\$95,706
Executive Director, Department of Fire Programs	\$92,162	\$92,162	\$92,162
Executive Director, Virginia Commission for the Arts	\$88,009	\$88,009	\$88,009
Chairman of Board Chairman, Compensation Board	\$22,831	\$22,831	\$22,831

7. Annual salaries of the directors of the independent agencies, as listed in this subdivision, shall be paid in the amounts shown. All salary changes shall be subject to subdivisions c 1, c 2, and c 3 above.

	July 1, 2016 to June 24, 2017	June 25, 2017 to November 24, 2017	November 25, 2017 to June 30, 2018
<b>Independent Range</b>	<b>\$166,946 - \$180,458</b>	<b>\$166,946 - \$180,458</b>	<b>\$166,946 - \$180,458</b>
<b>Midpoint</b>	<b>\$173,702</b>	<b>\$173,702</b>	<b>\$173,702</b>
Director, Virginia Lottery	\$166,946	\$166,946	\$166,946

Director, Virginia Retirement System	\$180,458	\$180,458	\$180,458
Chief Executive Officer, Virginia College Savings Plan	\$178,021	\$178,021	\$178,021

8. Notwithstanding any provision of this Act, the Board of Trustees of the Virginia Retirement System may supplement the salary of its Director. The Board should be guided by criteria, which provide a reasonable limit on the total additional income of the Director. The criteria should include, without limitation, a consideration of the salaries paid to similar officials in comparable public pension plans. The Board shall report such criteria and potential supplement level to the Chairmen of the Senate Finance and House Appropriations Committees at least 60 days prior to the effectuation of the compensation action. The Board shall report approved supplements to the Department of Human Resource Management for retention in its records.

9. Notwithstanding any provision of this Act, the Board of the Virginia College Savings Plan may supplement the compensation of its Chief Executive Officer. The Board should be guided by criteria which provide a reasonable limit on the total additional income of the Chief Executive Officer. The criteria should include, without limitation, a consideration of compensation paid to similar officials in comparable qualified tuition programs, independent public agencies or other entities with similar responsibilities and size. The Board shall report such criteria and potential supplement level to the Chairmen of the Senate Finance and House Appropriations Committees at least 60 days prior to the effectuation of the compensation action. The Board shall report approved supplements to the Department of Human Resource Management for retention in its records.

d.1. Annual salaries of the presidents of the senior institutions of higher education, the President of Richard Bland College, the Chancellor of the University of Virginia's College at Wise, the Superintendent of the Virginia Military Institute, the Director of the State Council of Higher Education, the Director of the Southern Virginia Higher Education Center, the Director of the Southwest Virginia Higher Education Center and the Chancellor of Community Colleges, as listed in this paragraph, shall be paid in the amounts shown. The annual salaries of the presidents of the community colleges shall be fixed by the State Board for Community Colleges within a salary structure submitted to the Governor prior to June 1 each year for approval.

2.a) The board of visitors of each institution of higher education or the boards of directors for Southern Virginia Higher Education Center, Southwest Virginia Higher Education Center, and the New College Institute may annually supplement the salary of a president or director from private gifts, endowment funds, foundation funds, or income from endowments and gifts. Supplements paid from other than the cited sources prior to June 30, 1997, may continue to be paid. In approving a supplement, the board of visitors or board of directors should be guided by criteria which provide a reasonable limit on the total additional income of a president or director. The criteria should include a consideration of additional income from outside sources including, but not being limited to, service on boards of directors or other such services. The board of visitors or board of directors shall report approved supplements to the Department of Human Resource Management for retention in its records.

b) The State Board for Community Colleges may annually supplement the salary of the Chancellor from any available appropriations of the Virginia Community College System. In approving a supplement, the State Board for Community Colleges should be guided by criteria which provide a reasonable limit on the total additional income of the Chancellor. The criteria should include consideration of additional income from outside sources including, but not being limited to, service on boards of directors or other such services. The Board shall report approved supplements to the Department of Human Resource Management for retention in its records.

c) Norfolk State University is authorized to supplement the salary of its president from educational and general funds up to \$17,000.

d) Should a vacancy occur for the Director of the State Council of Higher Education on or after the date of enactment of this act, the salary for the new director shall be established by the State Council of Higher Education based on the salary range for Level I agency heads. Furthermore, the state council may provide a bonus of up to five percent of the annual salary for the new director.

	July 1, 2016 to June 24, 2017	June 25, 2017 to November 24, 2017	November 25, 2017 to June 30, 2018
<b>NEW COLLEGE INSTITUTE</b>			
Executive Director, New College Institute	\$126,844	\$126,844	\$126,844
<b>STATE COUNCIL OF HIGHER EDUCATION FOR VIRGINIA</b>			
Director, State Council of Higher Education for Virginia	\$193,669	\$193,669	\$193,669

**SOUTHERN VIRGINIA  
HIGHER EDUCATION  
CENTER**

Director, Southern Virginia Higher Education Center	\$130,362	\$130,362	\$130,362
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**SOUTHWEST VIRGINIA  
HIGHER EDUCATION  
CENTER**

Director, Southwest Virginia Higher Education Center	\$128,300 \$130,000	\$128,300 \$130,000	\$128,300 \$130,000
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**VIRGINIA COMMUNITY  
COLLEGE SYSTEM**

Chancellor of Community Colleges	\$175,705	\$175,705	\$175,705
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**SENIOR COLLEGE  
PRESIDENTS' SALARIES**

Chancellor, University of Virginia's College at Wise	\$127,210	\$127,210	\$127,210
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President, Christopher Newport University	\$138,452	\$138,452	\$138,452
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President, The College of William and Mary in Virginia	\$163,602	\$163,602	\$163,602
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President, George Mason University	\$154,298	\$154,298	\$154,298
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President, James Madison University	\$159,372	\$159,372	\$159,372
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President, Longwood University	\$153,858	\$153,858	\$153,858
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President, Norfolk State University	\$146,500	\$146,500	\$146,500
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President, Old Dominion University	\$173,735	\$173,735	\$173,735
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President, Radford University	<del>\$154,991</del> \$159,391	<del>\$154,991</del> \$159,391	<del>\$154,991</del> \$159,391
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President, Richard Bland College	\$134,420	\$134,420	\$134,420
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President, University of Mary Washington	\$146,711	\$146,711	\$146,711
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President, University of Virginia	\$188,749	\$188,749	\$188,749
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President, Virginia Commonwealth University	\$181,387	\$181,387	\$181,387
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President, Virginia Polytechnic Institute and State University	\$194,378	\$194,378	\$194,378
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President, Virginia State University	<del>\$149,426</del> \$149,496	<del>\$149,426</del> \$149,496	<del>\$149,426</del> \$149,496
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Superintendent, Virginia Military Institute	\$150,277	\$150,277	\$150,277
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e. 1. Salaries for newly employed or promoted employees shall be established consistent with the compensation and classification plans established by the Governor.

2. The State Comptroller is hereby authorized to require payment of wages or salaries to state employees by direct deposit or by credit to a prepaid debit card or card account from which the employee is able to withdraw or transfer funds.

f. The provisions of this section, requiring prior written approval of the Governor relative to compensation, shall apply also to any system of incentive award payments which may be adopted and implemented by the Governor. The cost of implementing any such system shall be paid from any funds appropriated to the affected agencies.

g. No lump sum appropriation for personal service shall be regarded as advisory or suggestive of individual salary rates or of salary schedules to be fixed under law by the Governor payable from the lump sum appropriation.

h. Subject to approval by the Governor of a plan for a statewide employee meritorious service awards program, as provided for in § 2.2-1201, Code of Virginia, the costs for such awards shall be paid from any operating funds appropriated to the affected agencies.

i. The General Assembly hereby affirms and ratifies the Governor's existing authority and the established practice of this body to provide for pay differentials or to supplement base rates of pay for employees in specific job classifications in particular geographic and/or functional areas where, in the Governor's discretion, they are needed for the purpose of maintaining salaries which enable the Commonwealth to maintain a competitive position in the relevant labor market.

j.1. If at any time the Administrator of the Commonwealth's Attorneys' Services Council serves on the faculty of a state-supported institution of higher education, the faculty appointment must be approved by the Council. Such institution shall pay one-half of the salary listed in § 4-6.01 c 6 of this act. Further, such institution may provide compensation in addition to that listed in § 4-6.01 c 6; provided, however, that such additional compensation must be approved by the Council.

2. If the Administrator ceases to be a member of the faculty of a state-supported institution of higher education, the total salary listed in § 4-6.01 c 6 shall be paid from the Council's appropriation.

k.1.a. Except as otherwise provided for in this subdivision, any increases in the salary band assignment of any job role contained in the compensation and classification plans approved by the Governor shall be effective beginning with the first pay period, defined as the pay period from June 25 through July 9, of the fiscal year if: (1) the agency certifies to the Secretary of Finance that funds are available within the agency's appropriation to cover the cost of the increase for the remainder of the current biennium and presents a plan for covering the costs next biennium and the Secretary concurs, or (2) such funds are appropriated by the General Assembly. If at any time the Secretary of Administration shall certify that such change in the salary band assignment for a job role is of an emergency nature and the Secretary of Finance shall certify that funds are available to cover the cost of the increase for the remainder of the biennium within the agency's appropriation, such change in compensation may be effective on a date agreed upon by these two Secretaries. The Secretary of Administration shall provide a monthly report of all such emergency changes in accordance with § 4-8.00, Reporting Requirements.

b. Notwithstanding any other provision of law, state employees will be paid on the first workday of July for the work period June 10 to June 24 in any calendar year in which July 1 falls on a weekend.

2. Salary adjustments for any employee through a promotion, role change, exceptional recruitment and retention incentive options, or in-range adjustment shall occur only if: a) the agency has sufficient funds within its appropriation to cover the cost of the salary adjustment for the remainder of the current biennium or b) such funds are appropriated by the General Assembly.

3. No changes in salary band assignments affecting classified employees of more than one agency shall become effective unless the Secretary of Finance certifies that sufficient funds are available to provide such increase or plan to all affected employees supported from the general fund.

l. Full-time employees of the Commonwealth, including faculty members of state institutions of higher education, who are appointed to a state-level board, council, commission or similar collegial body shall not receive any such compensation for their services as members or chairmen except for reimbursement of reasonable and necessary expenses. The foregoing provision shall likewise apply to the Compensation Board, pursuant to § 15.2-1636.5, Code of Virginia.

m.1. Notwithstanding any other provision of law, the board of visitors or other governing body of any public institution of higher education is authorized to establish age and service eligibility criteria for faculty participating in voluntary early retirement incentive plans for their respective institutions pursuant to ~~§ 23-9-2:3-1~~ § 23.1-1302 B and the cash payment offered under such compensation plans pursuant to ~~§ 23-9-2:3-1~~ § 23.1-1302 D, Code of Virginia. Notwithstanding the limitations in ~~§ 23-9-2:3-1~~ § 23.1-1302 D, the total cost in any fiscal year for any such compensation plan, shall be set forth by the governing body in the compensation plan for approval by the Governor and review for legal sufficiency by the Office of the Attorney General.

2. Notwithstanding any other provision of law, employees holding full-time, academic-year classified positions at public institutions of higher education shall be considered "state employees" as defined in § 51.1-124.3, Code of Virginia, and shall be considered for medical/hospitalization, retirement service credit, and other benefits on the same basis as those individuals appointed to full-time, 12-month classified positions.

n. Notwithstanding the Department of Human Resource Management Policies and Procedures, payment to employees with five or more years of continuous service who either terminate or retire from service shall be paid in one sum for twenty-five percent of their sick leave balance, provided, however, that the total amount paid for sick leave shall not exceed \$5,000 and the remaining seventy-five percent of their sick leave shall lapse. This provision shall not apply to employees who are covered by the Virginia Sickness and Disability Program as defined in § 51.1-1100, Code of Virginia. Such employees shall not be paid for their sick leave balances. However, they will be paid, if eligible as described above, for any disability leave credits they have at separation or retirement or may convert disability credits to service credit under the Virginia Retirement System pursuant to § 51.1-1103 (F), Code of Virginia.

o. It is the intent of the General Assembly that calculation of the faculty salary benchmark goal for the Virginia Community College System shall be done in a manner consistent with that used for four-year institutions, taking into consideration the number of faculty at each of the community colleges. In addition, calculation of the salary target shall reflect an eight percent salary differential in a manner consistent with other public four-year institutions and for faculty at Northern Virginia Community College.

p. Any public institution of higher education that has met the eligibility criteria set out in Chapters 933 and 945 of the 2005 Acts of Assembly may supplement annual salaries for classified employees from private gifts, endowment funds, or income from endowments and gifts, subject to policies approved by the board of visitors. The Commonwealth shall have no general fund obligations for the continuation of such salary supplements.

q. The Governor, or any other appropriate Board or Public Body, is authorized to adjust the salaries of employees specified in this item, and other items in the Act, to reflect the compensation adjustments authorized in this Act.

r. Any public institution of higher education shall not provide general fund monies above \$100,000 for any individual athletic coaching salaries after July 1, 2013. Athletic coaching salaries with general fund monies above this amount shall be phased-down over a five-year period at 20 percent per year until reaching the cap of \$100,000.

#### § 4-6.02 EMPLOYEE TRAINING AND STUDY

Subject to uniform rules and regulations established by the Governor, the head of any state agency may authorize, from any funds appropriated to such department, institution or other agency in this act or subsequently made available for the purpose, compensation or expenses or both compensation and expenses for employees pursuing approved training courses or academic studies for the purpose of becoming better equipped for their employment in the state service. The rules and regulations shall include reasonable provision for the return of any employee receiving such benefits for a reasonable period of duty, or for reimbursement to the state for expenditures incurred on behalf of the employee should he not return to state service.

#### § 4-6.03 EMPLOYEE BENEFITS

a. Any medical/hospitalization benefit program provided for state employees shall include the following provision: any state employee, as defined in § 2.2-2818, Code of Virginia, shall have the option to accept or reject coverage.

b. Except as provided for sworn personnel of the Department of State Police, no payment of, or reimbursement for, the employer paid contribution to the State Police Officers' Retirement System, or any system offering like benefits, shall be made by the Compensation Board of the Commonwealth at a rate greater than the employer rate established for the general classified workforce of the Commonwealth covered under the Virginia Retirement System. Any cost for benefits exceeding such general rate shall be borne by the employee or, in the case of a political subdivision, by the employer.

c. Each agency may, within the funds appropriated by this act, implement a transit and ridesharing incentive program for its employees. With such programs, agencies may reimburse employees for all or a portion of the costs incurred from using public transit, car pools, or van pools. The Secretary of Transportation shall develop guidelines for the implementation of such programs and any agency program must be developed in accordance with such guidelines. The guidelines shall be in accordance with the federal National Energy Policy Act of 1992 (P.L. 102-486), and no program shall provide an incentive that exceeds the actual costs incurred by the employee.

d. Any hospital that serves as the primary medical facility for state employees may be allowed to participate in the State Employee Health Insurance Program pursuant to § 2.2-2818, Code of Virginia, provided that (1) such hospital is not a participating provider in the network, contracted by the Department of Human Resource Management, that serves state employees and (2) such hospital enters into a written agreement with the Department of Human Resource Management as to the rates of reimbursement. The department shall accept the lowest rates offered by the hospital from among the rates charged by the hospital to (1) its largest purchaser of care, (2) any state or federal public program, or (3) any special rate developed by the hospital for the state employee health benefits program which is lower than either of the rates above. If the department and

the hospital cannot come to an agreement, the department shall reimburse the hospital at the rates contained in its final offer to the hospital until the dispute is resolved. Any dispute shall be resolved through arbitration or through the procedures established by the Administrative Process Act, as the hospital may decide, without impairment of any residual right to judicial review.

e. Any classified employee of the Commonwealth and any person similarly employed in the legislative, judicial and independent agencies who (i) is compensated on a salaried basis and (ii) works at least twenty hours per week shall be considered a full-time employee for the purposes of participation in the Virginia Retirement System's group life insurance and retirement programs. Any part-time magistrate hired prior to July 1, 1999, shall have the option of participating in the programs under this provision.

f.1. Any member of the Virginia Retirement System who is retired under the provisions of § 51.1-155.1, Code of Virginia who: 1) returns to work in a position that is covered by the provisions of § 51.1-155.1, Code of Virginia after a break of not less than four years, 2) receives no other compensation for service to a public employer than that provided for the position covered by § 51.1-155.1, Code of Virginia during such period of reemployment, 3) retires within one year of commencing such period of reemployment, and 4) retires directly from service at the end of such period of reemployment may either:

a) Revert to the previous retirement benefit received under the provisions of § 51.1-155.1, Code of Virginia, including any annual cost of living adjustments granted thereon. This benefit may be adjusted upward to reflect the effect of such additional months of service and compensation received during the period of reemployment, or

b) Retire under the provisions of Title 51.1 in effect at the termination of his or her period of reemployment, including any purchase of service that may be eligible for purchase under the provisions of § 51.1-142.2, Code of Virginia.

2. The Virginia Retirement System shall establish procedures for verification by the employer of eligibility for the benefits provided for in this paragraph.

g. Notwithstanding any other provision of law, no agency head compensated by funds appropriated in this act may be a member of the Virginia Law Officers' Retirement System created under Title 51.1, Chapter 2.1, Code of Virginia. The provisions of this paragraph are effective on July 1, 2002, and shall not apply to the Chief of the Capitol Police.

h. Full-time employees appointed by the Governor who, except for meeting the minimum service requirements, would be eligible for the provisions of § 51.1-155.1, Code of Virginia, may, upon termination of service, use any severance allowance payment to purchase service to meet, but not exceed, the minimum service requirements of § 51.1-155.1, Code of Virginia. Such service purchase shall be at the rate of 15 percent of the employee's final creditable compensation or average final compensation, whichever is greater, and shall be completed within 90 days of separation of service.

i. When calculating the retirement benefits payable under the Virginia Retirement System (VRS), the State Police Officers' Retirement System (SPORS), the Virginia Law-enforcement Officers' Retirement System (VaLORS), or the Judicial Retirement System (JRS) to any employee of the Commonwealth or its political subdivisions who is called to active duty with the armed forces of the United States, including the United States Coast Guard, the Virginia Retirement System shall:

1) utilize the pre-deployment salary, or the actual salary paid by the Commonwealth or the political subdivision, whichever is higher, when calculating average compensation, and

2) include those months after September 1, 2001 during which the employee was serving on active duty with the armed forces of the United States in the calculation of creditable service.

j. The provisions in § 51.1-144, Code of Virginia, that require a member to contribute five percent of his creditable compensation for each pay period for which he receives compensation on a salary reduction basis, shall not apply to any (i) "state employee," as defined in § 51.1-124.3, Code of Virginia, who is an elected official, or (ii) member of the Judicial Retirement System under Chapter 3 of Title 51.1 (§ 51.1-300 et seq.), who is not a "person who becomes a member on or after July 1, 2010," as defined in § 51.1-124.3, Code of Virginia.

k. Notwithstanding the provisions of subsection G of § 51.1-156, any employee of a school division who completed a period of 24 months of leave of absence without pay during October 2013 and who had previously submitted an application for disability retirement to VRS in 2011 may submit an application for disability retirement under the provisions of § 51.1-156. Such application shall be received by the Virginia Retirement System no later than October 1, 2014. This provision shall not be construed to grant relief in any case for which a court of competent jurisdiction has already rendered a decision, as contemplated by Article II, Section 14 of the Constitution of Virginia.

#### § 4-6.04 CHARGES

a. **FOOD SERVICES:** Except as exempted by the prior written approval of the Director, Department of Human Resource Management, and the provisions of § 2.2-3605, Code of Virginia, state employees shall be charged for meals served in state facilities. Charges for meals will be determined by the agency. Such charges shall be not less than the value of raw food and the cost of direct labor and utilities incidental to preparation and service. Each agency shall maintain records as to the calculation of meal charges and revenues collected. Except where appropriations for operation of the food service are from nongeneral funds, all revenues received from such charges shall be paid directly and promptly into the general fund. The provisions of this paragraph shall

not apply to on-duty employees assigned to correctional facilities operated by the Departments of Corrections and Juvenile Justice.

b. HOUSING SERVICES:

1. Each agency will collect a fee from state employees who occupy state-owned or leased housing, subject to guidelines provided by the Director, Department of General Services. Each agency head is responsible for establishing a fee for state-owned or leased housing and for documenting in writing why the rate established was selected. In exceptional circumstances, which shall be documented as being in the best interest of the Commonwealth by the agency requesting an exception, the Director, Department of General Services may waive the requirement for collection of fees.

2. All revenues received from housing fees shall be promptly deposited in the state treasury. For housing for which operating expenses or rent are financed by general fund appropriations, such revenues shall be deposited to the credit of the general fund. For housing for which operating expenses or rent are financed by nongeneral fund appropriations, such revenues shall be deposited to the credit of the nongeneral fund. Agencies which provide housing for which operating expenses or rent are financed from both general fund and nongeneral fund appropriations shall allocate such revenues, when deposited in the state treasury, to the appropriate fund sources in the same proportion as the appropriations. However, without exception, any portion of a housing fee attributable to depreciation for housing which was constructed with general fund appropriations shall be paid into the general fund.

c. PARKING SERVICES:

1. State-owned parking facilities

Agencies with parking space for employees in state-owned facilities shall, when required by the Director, Department of General Services, charge employees for such space on a basis approved by the Governor. All revenues received from such charges shall be paid directly and promptly into a special fund in the state treasury to be used, as determined by the Governor, for payment of costs for the provision of vehicle parking spaces. Interest shall be added to the fund as earned. -

2. Leased parking facilities in metropolitan Richmond area

Agencies occupying private sector leased or rental space in the metropolitan Richmond area, not including institutions of higher education, shall be required to charge a fee to employees for vehicle parking spaces that are assigned to them or are otherwise available either incidental to the lease or rental agreement or pursuant to a separate lease agreement for private parking space. In such cases, the individual employee parking fee shall not be less than that paid by employees parking in Department of General Services parking facilities at the Seat of Government. The Director, Department of General Services may amend or waive the fee requirement for good cause. Revenues derived from employees paying for parking spaces in leased facilities will be retained by the leasing agency to be used to offset the cost of the lease to which it pertains. Any lease for private parking space must be approved by the Director, Department of General Services.

3. The assignment of Lot P1A of the Department of General Services, Capitol Area Site Plan, to include parking spaces 1 through 37, but excluding spaces 34 and 36, which shall be reserved for the Department of General Services, and the surrounding surfaces around those spaces shall be under the control of the Committee on Joint Rules and administered by the Clerk of the House and the Clerk of the Senate. Any employee permanently assigned to any of these spaces shall be subject to the provisions of paragraph 1 of this item.

§ 4-6.05 SELECTION OF APPLICANTS FOR CLASSIFIED POSITIONS

It is the responsibility of state agency heads to ensure that all provisions outlined in Title 2.2, Chapter 29, Code of Virginia (the Virginia Personnel Act), and executive orders that govern the practice of selecting applicants for classified positions are strictly observed. The Governor's Secretaries shall ensure this provision is faithfully enforced.

§ 4-6.06 POSITIONS GOVERNED BY CHAPTERS 933 AND 943 OF THE 2006 ACTS OF ASSEMBLY

Except as provided in subsection A of ~~§ 23-38.114~~ § 23.1-1020 of the Code of Virginia, § 4-6.00 shall not apply to public institutions of higher education governed by Chapters 933 and 943 of the 2006 Acts of Assembly, Chapters 594 and 616 of the 2008 Acts of Assembly and Chapters 675 and 685 of the 2009 Acts of Assembly, with regard to their participating covered employees, as that term is defined in those two chapters, except to the extent a specific appropriation or language in this act addresses such an employee.

**§ 4-7.00 STATEWIDE PLANS**

§ 4-7.01 MANPOWER CONTROL PROGRAM

a.1. The term Position Level is defined as the number of full-time equivalent (FTE) salaried employees assigned to an agency in this act. Except as provided in § 4-7.01 b, the Position Level number stipulated in an agency's appropriation is the upper limit for agency employment which cannot be exceeded during the fiscal year without approval from the Director, Department of

Planning and Budget for Executive Department agencies, approval from the Joint Committee on Rules for Legislative Department agencies or approval from the appropriate governing authority for the independent agencies.

2. Any approval granted under this subsection shall be reported in writing to the Chairmen of the House Appropriations Committee and the Senate Finance Committee, the Governor and the Directors of the Department of Planning and Budget and Department of Human Resource Management within ten days of such approval. Approvals for executive department agencies shall be based on threats to life, safety, health, or property, or compliance with judicial orders or federal mandates, to support federal grants or private donations, to administer a program for another agency or to address an immediate increase in workload or responsibility or when to delay approval of increased positions would result in a curtailment of services prior to the next legislative session. Any such position level increases pursuant to this provision may not be approved for more than one year.

b. The Position Levels stipulated for the individual agencies within the Department of Behavioral Health and Developmental Services and the Department of Corrections are for reference only and are subject to changes by the applicable Department, provided that such changes do not result in exceeding the Position Level for that department.

c.1. The Governor shall implement such policies and procedures as are necessary to ensure that the number of employees in the Executive Department, excluding institutions of higher education and the State Council of Higher Education, may be further restricted to the number required for efficient operation of those programs approved by the General Assembly. Such policies and procedures shall include periodic review and analysis of the staffing requirements of all Executive Department agencies by the Department of Planning and Budget with the object of eliminating through attrition positions not necessary for the efficient operation of programs.

2. The institutions of higher education and the State Council of Higher Education are hereby authorized to fill all positions authorized in this act. This provision shall be waived only upon the Governor's official declaration that a fiscal emergency exists requiring a change in the official estimate of general fund revenues available for appropriation.

d.1. Position Levels are for reference only and are not binding on agencies in the legislative department, independent agencies, the Executive Offices other than the offices of the Governor's Secretaries, and the judicial department.

2. Positions assigned to programs supported by internal service funds are for reference only and may fluctuate depending upon workload and funding availability.

3. Positions assigned to sponsored programs, auxiliary enterprises, continuing education, and teaching hospitals in the institutions of higher education are for reference only and may fluctuate depending upon workload and funding availability. Positions assigned to Item Detail 43012, State Health Services Technical Support and Administration, at Virginia Commonwealth University are for reference only and may fluctuate depending upon workload and funding availability.

4. Positions assigned to educational and general programs in the institutions of higher education are for reference only and may fluctuate depending upon workload and funding availability. However, total general fund positions filled by an institution of higher education may not exceed 105 percent of the general fund positions appropriated without prior approval from the Director, Department of Planning and Budget.

5. Positions assigned to Item Details 47001, Job Placement Services; 47002, Unemployment Insurance Services; 47003, Workforce Development Services; and 53402, Economic Information Services, at the Virginia Employment Commission are for reference only and may fluctuate depending upon workload and funding availability. Unless otherwise required by the funding source, after enactment of this act, any new positions hired using this provision shall not be subject to transitional severance benefit provisions of the Workforce Transition Act of 1995, Title 2.2, Chapter 32, Code of Virginia.

e. Prior to implementing any Executive Department hiring freeze, the Governor shall consider the needs of the Commonwealth in regards to the safe and efficient operation of state facilities and performance of essential services to include the exemption of certain positions assigned to agencies and institutions that provide services pertaining to public safety and public health from such hiring freezes.

f.1. Full-time, part-time, wage or contractual state employees assigned to the Governor's Cabinet Secretaries from agencies and institutions under their control for the purpose of carrying out temporary assignments or projects may not be so assigned for a period exceeding 180 days in any calendar year. The permanent transfer of positions from an agency or institution to the Offices of the Secretaries, or the temporary assignment of agency or institutional employees to the Offices of the Secretaries for periods exceeding 180 days in any calendar year regardless of the separate or discrete nature of the projects, is prohibited without the prior approval of the General Assembly.

2. Not more than three positions in total, as described in subsection 1 hereof, may be assigned at any time to the Office of any Cabinet Secretary, unless specifically approved in writing by the Governor. The Governor shall notify the Chairmen of the House Appropriations and Senate Finance Committees in the case of any such approvals.

g. All state employees, including those in the legislative, judicial, and executive branches and the independent agencies of the Commonwealth, who are not eligible for benefits under a health care plan established and administered by the Department of Human Resource Management (DHRM) pursuant to Va. Code § 2.2-2818, or by an agency administering its own health care plan, may not

work more than 29 hours per week on average over a twelve month period. Adjunct faculty at institutions of higher education may not work more than 29 hours per week on average over a twelve month period, including classroom or other instructional time plus additional hours determined by the institution as necessary to perform the adjunct faculty's duties. DHRM shall provide relevant program requirements to agencies and employees, including, but not limited to, information on wage, variable and seasonal employees. All state agencies/employers in all branches of government shall provide information requested by DHRM concerning hours worked by employees as needed to comply with the Affordable Care Act (the "Act") and this provision. State agencies/employers are accountable for compliance with this provision, and are responsible for any costs associated with maintaining compliance with it and for any costs or penalties associated with any violations of the Act or regulations thereunder and any such costs shall be borne by the agency from existing appropriations. The provisions of this paragraph shall not apply to employees of state teaching hospitals that have their own health insurance plan; however, the state teaching hospitals are accountable for compliance with, and are responsible for any costs associated with maintaining compliance with the Act and for any costs or penalties associated with any violations of the Act or regulations thereunder and any such costs shall be borne by the agency from existing appropriations. Subject to approval of the Governor, DHRM shall modify this provision consistent with any updates or changes to federal law and regulations.

**§ 4-8.00 REPORTING REQUIREMENTS**

§ 4-8.01 GOVERNOR

a. General:

1. The Governor shall submit the information specified in this section to the Chairmen of the House Appropriations and Senate Finance Committees on a monthly basis, or at such intervals as may be directed by said Chairmen, or as specified elsewhere in this act. The information on agency operating plans and expenditures as well as agency budget requests shall be submitted in such form, and by such method, including electronically, as may be mutually agreed upon. Such information shall be preserved for public inspection in the Department of Planning and Budget.

2. The Governor shall make available annually to the Chairmen of the Senate Finance, House Finance, and House Appropriations Committees a report concerning the receipt of any nongeneral funds above the amount(s) specifically appropriated, their sources, and the amounts for each agency affected.

3. a) It is the intent of the General Assembly that reporting requirements affecting state institutions of higher education be reduced or consolidated where appropriate. State institutions of higher education, working with the Secretary of Education and Workforce, Secretary of Finance, and the Director, Department of Planning and Budget, shall continue to identify specific reporting requirements that the Governor may consider suspending.

b) Reporting generally should be limited to instances where (1) there is a compelling state interest for state agencies to collect, use, and maintain the information collected; (2) substantial risk to the public welfare or safety would result from failing to collect the information; or (3) the information collected is central to an essential state process mandated by the Code of Virginia.

c) Upon the effective date of this act, and until its expiration date, the following reporting requirements are hereby suspended or modified as specified below:

Agency	Report Title of Descriptor	Authority	Action
Department of Accounts	Intercollegiate Athletics Receipts & Disbursements	Code of Virginia § <del>23-1-1</del> § 23.1-102.	Suspend reporting.
Department of Accounts	Prompt Pay Summary Report	Agency Directive	Change reporting from monthly to quarterly.
Department of General Services	Usage of State-Assigned and State-Owned Vehicles Report	Agency Directive -- Executive Order 89 (2005)	Suspend reporting.
Department of General Services	Gas Report/Repair Charge	Agency Directive--Executive Order 89 (2005)	Suspend reporting.
Department of Human Resource Management	Report of Personnel Development Service	Agency Directive	Suspend reporting.
Department of Human Resource Management	Human Capital Report (Full-Time, Part-Time, Temporary, Contractual employees funded by the Commonwealth)	Code of Virginia § 2.2-1201. A. 14.	Change reporting from annually to monthly.

Department of Human Resource Management State Employee Workers' Compensation Program	Work-related injuries and illnesses report -- goals, strategies, and results	Agency Directive -- Executive Order 94 (2005)	Suspend reporting.
Governor's Office	Small, Women-and Minority-owned Businesses (SWaM)	Executive Directive	Change reporting from weekly to monthly.
Secretary of Commerce and Trade	Recruitment of National and Regional Conferences Report	Agency Directive -- Executive Order 14 (2006)	Suspend reporting.

d) The Department of Planning and Budget (DPB) and the State Council of Higher Education for Virginia (SCHEV) shall work jointly to attempt to consolidate various reporting requirements pertaining to the estimates and projections of nongeneral fund revenues in institutions of higher education. The purpose of this effort shall be aimed at developing a common form for use in collecting nongeneral fund data for DPB's six-year nongeneral fund revenue estimate submission and SCHEV's annual survey of nongeneral fund revenue from institutions of higher education.

b. Operating Appropriations Reports:

1. Status of Adjustments to Appropriations. Such information must include increases and decreases of appropriations or allotments, transfers and additional revenues. A report of appropriation transfers from one agency to another made pursuant to § 4-1.03 of this act shall be made available via electronic means to the Chairmen of the House Appropriations and Senate Finance Committees, and the public by the tenth day of the month following that in which such transfer occurs, unless otherwise specified in § 4-1.03.
2. Status of each sum sufficient appropriation. The information must include the amount of expenditures for the period just completed and the revised estimates of expenditures for the remaining period of the current biennium, as well as an explanation of differences between the amount of the actual appropriation and actual and/or projected appropriations for each year of the current biennium.
3. Status of Economic Contingency Appropriation. The information must include actions taken related to the appropriation for economic contingency.
4. Status of Withholding Appropriations. The information must include amounts withheld and the agencies affected.
5. Status of reductions occurring in general and nongeneral fund revenues in relation to appropriations.
6. Status of approvals of deficits.

c. Employment Reports:

1. Status of changes in positions and employment of state agencies affected. The information must include the number of positions and the agencies affected.
2. Status of the employment by the Attorney General of special counsel in certain highway proceedings brought pursuant to Chapter 10 of Title 33.2, Code of Virginia, on behalf of the Commissioner of Highways, as authorized by § 2.2-510, Code of Virginia. This report shall include fees for special counsel for the respective county or city for which the expenditure is made and shall be submitted within 60 days of the close of the fiscal year (see § 4-5.02 a.3).
3. Changes in the level of compensation authorized pursuant to § 4-6.01 k, Employee Compensation. Such report shall include a list of the positions changed, the number of employees affected, the source and amount of funds, and the nature of the emergency.
4. Pursuant to requirements of § 2.2-203.1, Code of Virginia, the Secretary of Administration, in cooperation with the Secretary of Technology, shall provide a report describing the Commonwealth's telecommuting policies, which state agencies and localities have adopted telecommuting policies, the number of state employees who telecommute, the frequency with which state employees telecommute by locality, and the efficacy of telecommuting policies in accomplishing the provision of state services and completing state functions. This report shall be provided to the Chairmen of the House Committee on Appropriations, the House Committee on Science and Technology, the Senate Committee on Finance, and the Senate Committee on General Laws and Technology each year by October 1.

d. Capital Appropriations Reports:

1. Status of progress of capital projects on an annual basis (see § 4-4.01 o).
2. Notice of all capital projects authorized under § 4-4.01 m (see § 4-4.01 m. 1. b) 4).

e. Utilization of State Owned and Leased Real Property:

1. By November 15 of each year, the Department of General Services (DGS) shall consolidate the reporting requirements of § 2.2-1131.1 and § 2.2-1153 of the Code of Virginia into a single report eliminating the individual reports required by § 2.2-1131.1 and § 2.2-1153 of the Code of Virginia. This report shall be submitted to the Governor and the General Assembly and include (i) information on the implementation and effectiveness of the program established pursuant to subsection A of § 2.2-1131.1, (ii) a listing of real property leases that are in effect for the current year, the agency executing the lease, the amount of space leased, the population of each leased facility, and the annual cost of the lease; and, (iii) a report on DGS's findings and recommendations under the provisions of § 2.2-1153, and recommendations for any actions that may be required by the Governor and the General Assembly to identify and dispose of property not being efficiently and effectively utilized.

2. By October 1 of each year, each agency that controls leased property, where such leased property is not under the DGS lease administration program, shall provide a report on each leased facility or portion thereof to DGS in a manner and form prescribed by DGS. Specific data included in the report shall identify at a minimum, the number of square feet occupied, the number of employees and contractors working in the leased space, if applicable, and the cost of the lease.

f. Services Reports:

Status of any exemptions by the State Council of Higher Education to policy which prohibits use of funds in this act for the operation of any academic program by any state institution of higher education, unless approved by the Council and included in the Governor's recommended budget, or approved by the General Assembly (see § 4-5.05 b 2).

g. Standard State Agency Abbreviations:

The Department of Planning and Budget shall be responsible for maintaining a list of standard abbreviations of the names of state agencies. The Department shall make a listing of agency standard abbreviations available via electronic means on a continuous basis to the Chairmen of the House Appropriations and Senate Finance Committees, the State Comptroller, the Director, Department of Human Resource Management and the Chief Information Officer, Virginia Information Technologies Agency, and the public.

h. Educational and General Program Nongeneral Fund Administrative Appropriations Approved by the Department of Planning and Budget:

The Secretary of Finance and Secretary of Education, in collaboration with the Director, Department of Planning and Budget, shall report in December and June of each year to the Chairmen of the House Appropriations and Senate Finance Committees on adjustments made to higher education operating funds in the Educational and General Programs (10000) items for each public college and university contained in this budget. The report shall include actual or projected adjustments which increase nongeneral funds or actual or projected adjustments that transfer nongeneral funds to other items within the institution. The report shall provide the justification for the increase or transfer and the relative impact on student groups.

§ 4-8.02 STATE AGENCIES

a. As received, all state agencies shall forward copies of each federal audit performed on agency or institution programs or activities to the Auditor of Public Accounts and to the State Comptroller. Upon request, all state agencies shall provide copies of all internal audit reports and access to all working papers prepared by such auditors to the Auditor of Public Accounts and to the State Comptroller.

b. Annually: Within five calendar days after state agencies submit their budget requests, amendment briefs, or requests for amendments to the Department of Planning and Budget, the Director, Department of Planning and Budget shall submit, electronically if available, copies to the Chairmen of the Senate Finance and House Appropriations Committees.

c. By September 1 of each year, state agencies receiving any asset as the result of a law-enforcement seizure and subsequent forfeiture by either a state or federal court, shall submit a report identifying all such assets received during the prior fiscal year and their estimated net worth, to the Chairmen of the House Appropriations and Senate Finance Committees.

*d. Any state agency that is required to return federal grant funding as a result of not fulfilling the specifications of a grant, shall, as soon as practicable but no later than November 1st, report to the Chairmen of the Senate Finance and House Appropriations Committees of such forfeiting of federal grant funding.*

§ 4-8.03 LOCAL GOVERNMENTS

*a.1. The Auditor of Public Accounts shall establish a workgroup to develop criteria for a preliminary determination that a local government may be in fiscal distress. Such criteria shall be based upon information regularly collected by the Commonwealth or otherwise regularly made public by the local government. This information includes expenditure reports submitted to the Auditor, budget information posted on local government websites, and reports prepared by the Commission on Local Government on revenue fiscal stress. Information provided by the Virginia Retirement System, the Virginia Resources Authority, the Virginia Public Building Authority, and other state and regional authorities concerning late or missed debt service payments shall be shared with the Auditor. Fiscal distress as used in this context shall mean a situation whereby the*

provision and sustainability of public services is threatened by various administrative and financial shortcomings including but not limited to cash flow issues; inability to pay expenses; revenue shortfalls; deficit spending; structurally imbalanced budgets; billing and revenue collection inadequacies and discrepancies; debt overload; failure to meet obligations to authorities, school divisions, or political subdivisions of the Commonwealth; and/or lack of trained and qualified staff to process administrative and financial transactions. Fiscal distress may be caused by factors internal to the unit of government or external to the unit of government and in various degrees such conditions may or may not be controllable by management, or the local governing body, or its constitutional officers.

2. Based upon the criteria established by the workgroup and using information identified above, the Auditor of Public Accounts shall establish a prioritized early warning system. Under the prioritized early warning system, the Auditor of Public Accounts shall establish a regular process whereby it reviews data on at least an annual basis to make a preliminary determination that a local government is in fiscal distress.

3. For local governments where the Auditor of Public Accounts has made a preliminary determination of fiscal distress based upon the early warning system criteria, the Auditor of Public Accounts shall notify the local governing body of its preliminary determination that it may meet the criteria for fiscal distress. Based upon the request of the local governing body or chief executive officer, the Auditor of Public Accounts may conduct a review and request documents and data from the local government. Such review shall consider factors including, but not limited to, budget processes, debt, borrowing, expenses and payables, revenues and receivables, and other areas including staffing, and the identification of external variables contributing to a locality's financial position, and if so, the scope of the issues involved. Any local governing body that receives requests for information from the Auditor of Public Accounts pursuant to such preliminary determination based on the above described threshold levels shall acknowledge receipt of such a request and shall ensure that a response is provided within the time frames specified by the Auditor of Public Accounts. After such review, if the Auditor of Public Accounts is of the opinion that state assistance, oversight, or targeted intervention is needed, either to further assess, help stabilize, or remediate the situation, the Auditor shall notify the Governor and the Chairmen of the House Appropriations and Senate Finance Committees, and the governing body of the local government in writing outlining specific issues or actions that need to be addressed by state intervention.

4. The notification issued by the Auditor of Public Accounts pursuant to paragraph 3 above shall satisfy the notification requirement necessary to effectuate the provisions of this act in paragraph b.3 below.

b.1. The Director of the Department of Planning and Budget shall identify any amounts remaining unexpended from general fund appropriations in this Act as of June 30, 2017, which constitute state aid to local governments. The Director shall provide a listing of such amounts designated by item number and by program on or before August 15, 2017, to the Governor and the Chairmen of the House Appropriations Committee and the Senate Finance Committee.

2. From such unexpended balances identified by the Director of the Department of Planning and Budget, the Governor may reappropriate up to \$500,000 from amounts which would otherwise revert to the balance of the general fund and transfer such amounts as necessary to establish a component of fund balance which may be used for the purpose of providing technical assistance and intervention actions for local governments deemed to be fiscally distressed and in need of intervention to address such distress. Any such reappropriation approved by the Governor, shall be separately identified in the commitments specified on the balance sheet and financial statements of the State Comptroller for the close of fiscal year 2017 and thereafter, to the extent that such reserve is not used or added to by future appropriation actions.

3. Prior to any expenditure of the reappropriated reserve, the Governor and the Chairmen of the House Appropriations Committee and the Senate Finance Committee must receive a notification from the Auditor of Public Accounts that a specific locality is in need of intervention because of a worsening financial situation. The Auditor of Public Accounts may issue such a notification upon receipt of audited financial statement or other information that indicates the existence of fiscal distress. But, no such notification shall be made until appropriate follow up and correspondence ascertains that, in the opinion of the Auditor of Public Accounts, such fiscal distress indeed exists. Such notification may also be issued by the Auditor of Public Accounts if written concerns raised about fiscal distress are not adequately addressed by the locality in question.

4. Once the Governor has received a notification from the Auditor of Public Accounts indicating fiscal distress in a specific local government, the Governor shall consult with the Chairmen of the House Appropriations Committee and the Senate Finance Committee about a plan for state intervention prior to any expenditure of funds from the cash reserve. Any plan approved by the Governor for intervention should, at a minimum, specify the purpose of such intervention, the estimated duration of the intervention, and the anticipated resources (dollars and personnel) directed toward such effort. The staffing necessary to carry out the intervention plan may be assembled from either public agencies or private entities or both and, notwithstanding any other provisions of law, the Governor may use an expedited method of procurement to secure such staffing when, in his judgment, the need for intervention is of an emergency nature such that action must be taken in a timely manner to avoid or address unacceptable financial risks to the Commonwealth.

5. The governing body and the elected constitutional officers of a locality subject to an intervention plan approved by the Governor shall assist all state appointed staff conducting the intervention regardless of whether such staff are from public agencies or private entities. Intervention staff shall provide periodic reports in writing to the Governor and the Chairmen of the House Appropriations Committee and the Senate Finance Committee outlining the scope of issues discovered and any recommendations made to remediate

*such issues, and the progress that is made on such recommendations or other remediation efforts. These periodic reports shall specifically address the degree of cooperation the intervention team is receiving from locally elected officials, including constitutional officers, city, county, or town managers and other local personnel in regards to their intervention work.*

*6. The Department of General Services is hereby encouraged to develop a master contract of qualified private sector turnaround specialists with expertise in local government intervention that the Governor can use to procure intervention services in an expeditious manner when he determines that state intervention is warranted in situations of local fiscal distress.*

#### **§ 4-9.00 HIGHER EDUCATION RESTRUCTURING**

##### § 4-9.01 ASSESSMENT OF INSTITUTIONAL PERFORMANCE

Consistent with ~~§ 23-9.6:1-01~~ § 23.1-206, Code of Virginia, the following education-related and financial and administrative management measures shall be the basis on which the State Council of Higher Education shall annually assess and certify institutional performance. Such certification shall be completed and forwarded in writing to the Governor and the General Assembly no later than October 1 of each even-numbered year. Institutional performance on measures set forth in paragraph D of this section shall be evaluated year-to-date by the Secretaries of Finance, Administration, and Technology as appropriate, and communicated to the State Council of Higher Education before October 1 of each even-numbered year. Financial benefits provided to each institution in accordance with § 2.2-5005 will be evaluated in light of that institution's performance.

In general, institutions are expected to achieve all performance measures in order to be certified by SCHEV, but it is understood that there can be circumstances beyond an institution's control that may prevent achieving one or more performance measures. The Council shall consider, in consultation with each institution, such factors in its review: (1) institutions meeting all performance measures will be certified by the Council and recommended to receive the financial benefits, (2) institutions that do not meet all performance measures will be evaluated by the Council and the Council may take one or more of the following actions: (a) request the institution provide a remediation plan and recommend that the Governor withhold release of financial benefits until Council review of the remediation plan or (b) recommend that the Governor withhold all or part of financial benefits.

Further, the State Council shall have broad authority to certify institutions as having met the standards on education-related measures. The State Council shall likewise have the authority to exempt institutions from certification on education-related measures that the State Council deems unrelated to an institution's mission or unnecessary given the institution's level of performance.

The State Council may develop, adopt, and publish standards for granting exemptions and ongoing modifications to the certification process.

##### a. BIENNIAL ASSESSMENTS

1. Institution meets at least 95 percent of its State Council-approved biennial projections for in-state undergraduate headcount enrollment.
2. Institution meets at least 95 percent of its State Council-approved biennial projections for the number of in-state associate and bachelor degree awards.
3. Institution meets at least 95 percent of its State Council-approved biennial projections for the number of in-state STEM-H (Science, Technology, Engineering, Mathematics, and Health professions) associate and bachelor degree awards.
4. Institution meets at least 95 percent of its State Council-approved biennial projections for the number of in-state, upper level - sophomore level for two-year institutions and junior and senior level for four-year institutions - program-placed, full-time equivalent students.
5. Maintain or increase the number of in-state associate and bachelor degrees awarded to students from under-represented populations.
6. Maintain or increase the number of in-state two-year transfers to four-year institutions.

##### b. Elementary and Secondary Education

1. The Virginia Department of Education shall share data on teachers, including identifying information, with the State Council of Higher Education for Virginia in order to evaluate the efficacy of approved programs of teacher education, the production and retention of teachers, and the exiting of teachers from the teaching profession.
2. a) The Virginia Department of Education and the State Council of Higher Education for Virginia shall share personally identifiable information from education records in order to evaluate and study student preparation for and enrollment and performance at state institutions of higher education in order to improve educational policy and instruction in the Commonwealth. However, such study shall be conducted in such a manner as to not permit the personal identification of students by persons other than representatives of the Department of Education or the State Council for Higher Education for

Virginia, and such shared information shall be destroyed when no longer needed for purposes of the study.

b) Notwithstanding § 2.2-3800 of the Code of Virginia, the Virginia Department of Education, State Council of Higher Education for Virginia, Virginia Community College System, and the Virginia Employment Commission may collect, use, share, and maintain de-identified student data to improve student and program performance including those for career readiness.

3. Institutions of higher education shall disclose information from a pupil's scholastic record to the Superintendent of Public Instruction or his designee for the purpose of studying student preparation as it relates to the content and rigor of the Standards of Learning. Furthermore, the superintendent of each school division shall disclose information from a pupil's scholastic record to the Superintendent of Public Instruction or his designee for the same purpose. All information provided to the Superintendent or his designee for this purpose shall be used solely for the purpose of evaluating the Standards of Learning and shall not be redisclosed, except as provided under federal law. All information shall be destroyed when no longer needed for the purposes of studying the content and rigor of the Standards of Learning.

c. SIX-YEAR PLAN

Institution prepares six-year financial plan consistent with § ~~23-9.2:3.02~~ § 23.1-907.

d. FINANCIAL AND ADMINISTRATIVE STANDARDS

The financial and administrative standards apply to all institutions except those governed under Chapters 933 and 943 of the 2006 Acts of Assembly, Chapters 594 and 616 of the 2008 Acts of Assembly, and Chapters 675 and 685 of the 2009 Acts of Assembly.

1. As specified in § 2.2-5004, Code of Virginia, institution takes all appropriate actions to meet the following financial and administrative standards:

- a) An unqualified opinion from the Auditor of Public Accounts upon the audit of the public institution's financial statements;
- b) No significant audit deficiencies attested to by the Auditor of Public Accounts;
- c) Substantial compliance with all financial reporting standards approved by the State Comptroller;
- d) Substantial attainment of accounts receivable standards approved by the State Comptroller, including but not limited to, any standards for outstanding receivables and bad debts; and
- e) Substantial attainment of accounts payable standards approved by the State Comptroller including, but not limited to, any standards for accounts payable past due.

2. Institution complies with a debt management policy approved by its governing board that defines the maximum percent of institutional resources that can be used to pay debt service in a fiscal year, and the maximum amount of debt that can be prudently issued within a specified period.

3. The institution will achieve the classified staff turnover rate goal established by the institution; however, a variance of 15 percent from the established goal will be acceptable.

4. The institution will substantially comply with its annual approved Small, Women and Minority (SWAM) plan as submitted to the Department of Small Business and Supplier Diversity; however, a variance of 15 percent from its SWAM purchase goal, as stated in the plan, will be acceptable.

The institution will make no less than 75 percent of dollar purchases through the Commonwealth's enterprise-wide internet procurement system (eVA) from vendor locations registered in eVA.

5. The institution will complete capital projects (with an individual cost of over \$1,000,000) within the budget originally approved by the institution's governing board for projects initiated under delegated authority, or the budget set out in the Appropriation Act or other Acts of Assembly. If the institution exceeds the budget for any such project, the Secretaries of Administration and Finance shall review the circumstances causing the cost overrun and the manner in which the institution responded and determine whether the institution shall be considered in compliance with the measure despite the cost overrun.

6. The institution will complete major information technology projects (with an individual cost of over \$1,000,000) within the budgets and schedules originally approved by the institution's governing board. If the institution exceeds the budget and/or time schedule for any such project, the Secretary of Technology shall review the circumstances causing the cost overrun and/or delay and the manner in which the institution responded and determine whether the institution appropriately adhered to Project Management Institute's best management practices and, therefore, shall be considered in compliance with the measure despite the cost overrun and/or delay.

e. FINANCIAL AND ADMINISTRATIVE STANDARDS

The financial and administrative standards apply to institutions governed under Chapters 933 and 943 of the 2006 Acts of Assembly,

Chapters 594 and 616 of the 2008 Acts of Assembly, and Chapters 675 and 685 of the 2009 Acts of Assembly. They shall be measured by the administrative standards outlined in the Management Agreements and § 4-9.02.d.4. of this act. However, the Governor may supplement or replace those administrative performance measures with the administrative performance measures listed in this paragraph. Effective July 1, 2009, the following administrative and financial measures shall be used for the assessment of institutional performance for institutions governed under Chapters 933 and 943 of the 2006 Acts of Assembly and those governed under Chapters 594 and 616 of the 2008 Acts of Assembly, and Chapters 675 and 685 of the 2009 Acts of Assembly.

#### 1. Financial

- a) An unqualified opinion from the Auditor of Public Accounts upon the audit of the public institution's financial statements;
- b) No significant audit deficiencies attested to by the Auditor of Public Accounts;
- c) Substantial compliance with all financial reporting standards approved by the State Comptroller;
- d) Substantial attainment of accounts receivable standards approved by the State Comptroller, including but not limited to, any standards for outstanding receivables and bad debts; and
- e) Substantial attainment of accounts payable standards approved by the State Comptroller including, but not limited to, any standards for accounts payable past due.

#### 2. Debt Management

- a) The institution shall maintain a bond rating of AA- or better;
- b) The institution achieves a three-year average rate of return at least equal to the imoney.net money market index fund; and
- c) The institution maintains a debt burden ratio equal to or less than the level approved by the Board of Visitors in its debt management policy.

#### 3. Human Resources

- a) The institution's voluntary turnover rate for classified plus university/college employees will meet the voluntary turnover rate for state classified employees within a variance of 15 percent; and
- b) The institution achieves a rate of internal progression within a range of 40 to 60 percent of the total salaried staff hires for the fiscal year.

#### 4. Procurement

- a) The institution will substantially comply with its annual approved Small, Women and Minority (SWAM) procurement plan as submitted to the Department of Small Business and Supplier Diversity; however, a variance of 15 percent from its SWAM purchase goal, as stated in the plan, will be acceptable; and
- b) The institution will make no less than 80 percent of purchase transactions through the Commonwealth's enterprise-wide internet procurement system (eVA) with no less than 75 percent of dollars to vendor locations in eVA.

#### 5. Capital Outlay

- a) The institution will complete capital projects (with an individual cost of over \$1,000,000) within the budget originally approved by the institution's governing board at the preliminary design state for projects initiated under delegated authority, or the budget set out in the Appropriation Act or other Acts of Assembly which provides construction funding for the project at the preliminary design state. If the institution exceeds the budget for any such project, the Secretaries of Administration and Finance shall review the circumstances causing the cost overrun and the manner in which the institution responded and determine whether the institution shall be considered in compliance with the measure despite the cost overrun;
- b) The institution shall complete capital projects with the dollar amount of owner requested change orders not more than 2 percent of the guaranteed maximum price (GMP) or construction price; and
- c) The institution shall pay competitive rates for leased office space – the average cost per square foot for office space leased by the institution is within 5 percent of the average commercial business district lease rate for similar quality space within reasonable proximity to the institution's campus.

#### 6. Information Technology

- a) The institution will complete major information technology projects (with an individual cost of over \$1,000,000) on time and on budget against their managed project baseline. If the institution exceeds the budget and/or time schedule for any such project, the Secretary of Technology shall review the circumstances causing the cost overrun and/or delay and the manner in

which the institution responded and determine whether the institution appropriately adhered to Project Management Institute's best management practices and, therefore, shall be considered in compliance with the measure despite the cost overrun and/or delay; and

b) The institution will maintain compliance with institutional security standards as evaluated in internal and external audits. The institution will have no significant audit deficiencies unresolved beyond one year.

f. REPORTING

The Director, Department of Planning and Budget, with cooperation from the Comptroller and institutions of higher education governed under Management Agreements, shall develop uniform reporting requirements and formats for revenue and expenditure data.

g. EXEMPTION

The requirements of this section shall not be in effect if they conflict with ~~§ 23-9.6-1.01~~ § 23.1-206.D. of Chapters 828 and 869 of the Acts of Assembly of 2011.

§ 4-9.02 LEVEL II AUTHORITY

a. Notwithstanding the provisions of § 5 of Chapter 824 and 829 of the 2008 Acts of Assembly, institutions of higher education that have met the eligibility criteria for additional operational and administrative authority set forth in Chapters 824 and 829 of the 2008 Acts of Assembly shall be allowed to enter into separate negotiations for additional operational authority for a third and separate functional area listed in Chapter 824 and 829 of the 2008 Acts of Assembly, provided they have:

1. successfully completed at least three years of effectiveness and efficiencies operating under such additional authority granted by an original memorandum of understanding;
2. successfully renewed an additional memoranda of understanding for a five year term for each of the original two areas.

The institutions shall meet all criteria and follow policies for negotiating and establishing a memorandum of understanding with the Commonwealth of Virginia as provided in § 2.0 (Information Technology), § 3.0 (Procurement), and § 4.0 (Capital Outlay) of Chapter 824 and 829 of the 2008 Acts of Assembly.

b. As part of the memorandum of understanding, each institution shall be required to adopt at least one new education-related measure for the new area of operational authority. Each education-related measure and its respective target shall be developed in consultation with the Secretary of Finance, Secretary of Education, the appropriate Cabinet Secretary, and the State Council of Higher Education for Virginia. Each education-related measure and its respective target must be approved by the State Council of Higher Education for Virginia and shall become part of the certification required by ~~§ 23-9.6-1.01~~ § 23.1-206.

c. 1. As part of a five-year pilot program, George Mason University and James Madison University are authorized, for a period of five years, to exercise additional financial and administrative authority as set out in each of the three functional areas of information technology, procurement and capital projects as set forth and subject to all the conditions in §§ 2.0, 3.0 and 4.0 of the second enactment of Chapter 824 and 829 of the Acts of Assembly of 2008 except that (i) any effective dates contained in Chapter 824 and 829 of the Acts of Assembly of 2008 are superseded by the provisions of this item, and (ii) the institution is not required to have a signed memorandum of understanding with the Secretary of Administration regarding participation in the nongeneral fund decentralization program as provided in subsection C of § 2.2-1132 in order to be eligible for the additional capital project authority.

2. In addition, each institution shall exercise additional financial and administrative authority over financial operations as follows:

a). BOARD OF VISITORS ACCOUNTABILITY AND DELEGATION OF AUTHORITY.

The Board of Visitors of the University shall at all times be fully and ultimately accountable for the proper fulfillment of the duties and responsibilities set forth in, and for the appropriate implementation of, this Policy. Consistent with this full and ultimate accountability, however, the Board may, pursuant to its legally permissible procedures, specifically delegate either herein or by separate Board resolution the duties and responsibilities set forth in this Policy to a person or persons within the University, who, while continuing to be fully accountable for such duties and responsibilities, may further delegate the implementation of those duties and responsibilities pursuant to the University's usual delegation policies and procedures.

b) FINANCIAL MANAGEMENT AND REPORTING SYSTEM.

The President, acting through the Executive Vice President, Chief Operating Officer, or Chief Financial Officer, shall continue to be authorized by the Board to maintain existing and implement new policies governing the management of University financial resources. These policies shall continue to (i) ensure compliance with Generally Accepted Accounting Principles, (ii) ensure consistency with the current accounting principles employed by the Commonwealth, including the use of fund accounting principles, with regard to the establishment of the underlying accounting records of the University and the allocation and utilization of resources within the accounting system, including the relevant guidance provided by the State Council of Higher Education for Virginia chart of accounts with regard to the allocation and proper use of funds from specific types of fund sources, (iii) provide adequate risk management and internal controls to protect and safeguard all financial resources, including moneys transferred to the University

pursuant to a general fund appropriation, and ensure compliance with the requirements of the Appropriation Act.

The financial management system shall continue to include a financial reporting system to satisfy both the requirements for inclusion into the Commonwealth's Comprehensive Annual Financial Report, as specified in the related State Comptroller's Directives, and the University's separately audited financial statements. To ensure observance of limitations and restrictions placed on the use of the resources available to the University, the accounting and bookkeeping system of the University shall continue to be maintained in accordance with the principles prescribed for governmental organizations by the Governmental Accounting Standards Board.

In addition, the financial management system shall continue to provide financial reporting for the President, acting through the Executive Vice President, Chief Operating Officer, or Chief Financial Officer, and the Board of Visitors to enable them to provide adequate oversight of the financial operations of the University.

c) FINANCIAL MANAGEMENT POLICIES.

The President, acting through the Executive Vice President, Chief Operating Officer, or Chief Financial Officer, shall create and implement any and all financial management policies necessary to establish a financial management system with adequate risk management and internal control processes and procedures for the effective protection and management of all University financial resources. Such policies will not address the underlying accounting principles and policies employed by the Commonwealth and the University, but rather will focus on the internal operations of the University's financial management. These policies shall include, but need not be limited to, the development of a tailored set of finance and accounting practices that seek to support the University's specific business and administrative operating environment in order to improve the efficiency and effectiveness of its business and administrative functions. In general, the system of independent financial management policies shall be guided by the general principles contained in the Commonwealth's Accounting Policies and Procedures such as establishing strong risk management and internal accounting controls to ensure University financial resources are properly safeguarded and that appropriate stewardship of public funds is obtained through management's oversight of the effective and efficient use of such funds in the performance of University programs.

The University shall continue to follow the Commonwealth's accounting policies until such time as specific alternate policies can be developed, approved and implemented. Such alternate policies shall include applicable accountability measures and shall be submitted to the State Comptroller for review and comment before they are implemented by the University.

d) FINANCIAL RESOURCE RETENTION AND MANAGEMENT.

The Board of Visitors shall retain the authority to establish tuition, fee, room, board, and other charges, with appropriate commitment provided to need-based grant aid for middle- and lower-income undergraduate Virginians. Except as provided otherwise in the Appropriation Act, it is the intent of the Commonwealth and the University that the University shall be exempt from the revenue restrictions in the general provisions of the Appropriation Act related to non-general funds. In addition, unless prohibited by the Appropriation Act, it is the intent of the Commonwealth and the University that the University shall be entitled to retain non-general fund savings generated from changes in Commonwealth rates and charges, including but not limited to health, life, and disability insurance rates, retirement contribution rates, telecommunications charges, and utility rates, rather than reverting such savings back to the Commonwealth. This financial resource policy assists the University by providing the framework for retaining and managing non-general funds, for the receipt of general funds, and for the use and stewardship of all these funds.

The President, acting through the Executive Vice President, Chief Operating Officer, or Chief Financial Officer, shall continue to provide oversight of the University's cash management system which is the framework for the retention of non-general funds. The Internal Audit Department of the University shall periodically audit the University's cash management system in accordance with appropriate risk assessment models and make reports to the Audit and Compliance Committee of the Board of Visitors. Additional oversight shall continue to be provided through the annual audit and assessment of internal controls performed by the Auditor of Public Accounts. For the receipt of general and non-general funds, the University shall conform to the Security for Public Deposits Act, Chapter 44 (§ 2.2-4400 et seq.) of Title 2.2 of the Code of Virginia as it currently exists and from time to time may be amended.

e) ACCOUNTS RECEIVABLE MANAGEMENT AND COLLECTION.

The President, through the Executive Vice President, Chief Operating Officer, or Chief Financial Officer, shall continue to be authorized to create and implement any and all Accounts Receivable Management and Collection policies as part of a system for the management of University financial resources. The policies shall be guided by the requirements of the Virginia Debt Collection Act, Chapter 48 (§ 2.2-4800 et seq.) of the Code of Virginia, such that the University shall take all appropriate and cost effective actions to aggressively collect accounts receivable in a timely manner.

These shall include, but not be limited to, establishing the criteria for granting credit to University customers; establishing the nature and timing of collection procedures within the above general principles; and the independent authority to select and contract with collection agencies and, after consultation with the Office of the Attorney General, private attorneys as needed to perform any and all collection activities for all University accounts receivable such as reporting delinquent accounts to credit

bureaus, obtaining judgments, garnishments, and liens against such debtors, and other actions. In accordance with sound collection activities, the University shall continue to utilize the Commonwealth's Debt Set-Off Collection Programs, shall develop procedures acceptable to the Tax Commissioner and the State Comptroller to implement such Programs, and shall provide a quarterly summary report of receivables to the Department of Accounts in accordance with the reporting procedures established pursuant to the Virginia Debt Collection Act.

f) DISBURSEMENT MANAGEMENT.

The President, acting through the Executive Vice President, Chief Operating Officer, or Chief Financial Officer, shall continue to be authorized to create and implement any and all disbursement policies as part of a system for the management of University financial resources. The disbursement management policies shall continue to define the appropriate and reasonable uses of all funds, from whatever source derived, in the execution of the University's operations. These policies also shall continue to address the timing of appropriate and reasonable disbursements consistent with the Prompt Payment Act, and the appropriateness of certain goods or services relative to the University's mission, including travel-related disbursements. Further, the University's disbursement policy shall continue to provide for the mechanisms by which payments are made including the use of charge cards, warrants, and electronic payments.

These disbursement policies shall authorize the President, acting through the Executive Vice President, Chief Operating Officer, or Chief Financial Officer, to independently select, engage, and contract for such consultants, accountants, and financial experts, and other such providers of expert advice and consultation, and, after consultation with the Office of the Attorney General, private attorneys, as may be necessary or desirable in his or her discretion. The policies also shall continue to include the ability to locally manage and administer the Commonwealth's credit card and cost recovery programs related to disbursements, subject to any restrictions contained in the Commonwealth's contracts governing those programs, provided that the University shall submit the credit card and cost recovery aspects of its financial and operations policies to the State Comptroller for review and comment prior to implementing those aspects of those policies. The disbursement policies shall ensure that adequate risk management and internal control procedures shall be maintained over previously decentralized processes for public records, payroll, and non-payroll disbursements. The University shall continue to provide summary quarterly prompt payment reports to the Department of Accounts in accordance with the reporting procedures established pursuant to the Prompt Payment Act.

The University's disbursement policies shall be guided by the principles of the Commonwealth's policies as included in the Commonwealth's Accounting Policy and Procedures Manual. The University shall continue to follow the Commonwealth's disbursement policies until such time as specific alternative policies can be developed, approved and implemented. Such alternate policies shall be submitted to the State Comptroller for review and comment prior to their implementation by the University.

3. The Auditor of Public Accounts or his legally authorized representatives shall audit annually the accounts of each institution and shall distribute copies of each annual audit to the Governor and to the Chairmen of the House Committee on Appropriations and the Senate Committee on Finance. Pursuant to § 30-133, the Auditor of Public Accounts and his legally authorized representatives shall examine annually the accounts and books of each such institution, but the institution shall not be deemed to be a state or governmental agency, advisory agency, public body, or agency or instrumentality for purposes of Chapter 14 (§ 30-130 et seq.) of Title 30 except for those provisions in such chapter that relate to requirements for financial recordkeeping and bookkeeping. Each such institution shall be subject to periodic external review by the Joint Legislative and Audit Review Commission and such other reviews and audits as shall be required by law.

*d. Subject to review of its Shared Services Center by the Department of General Services, and approval to proceed with decentralized procurement of authority by the Department of General Services, the Virginia Community College System (VCCS) is authorized, for a period of five years, to exercise additional financial and administrative authority as set out in each of the three functional areas of information technology, procurement and capital projects as set forth and subject to all the conditions in §§ 2.0, 3.0 and 4.0 of the second enactment of Chapter 824 and 829 of the Acts of Assembly of 2008 except that (i) any effective dates contained in Chapter 824 and 829 of the Acts of Assembly of 2008 are superseded by the provisions of this item. The State Board for Community Colleges may request any subsequent delegation of procurement authority after consultation with and positive recommendation by the Department of General Services.*

§ 4-9.03 LEVEL III AUTHORITY

The Management Agreements negotiated by the institutions contained in Chapters 675 and 685 of the 2009 Acts of Assembly shall continue in effect unless the Governor, the General Assembly, or the institutions determine that the Management Agreements need to be renegotiated or revised.

§ 4-9.04 IMPLEMENT JLARC RECOMMENDATIONS

a. The Boards of Visitors at each Virginia public four-year higher education institution, to the extent practicable, shall:

1. require their institutions to clearly list the amount of the athletic fee on their website's tuition and fees information page. The page should include a link to the State Council of Higher Education for Virginia's tuition and fee information. The boards should consider requiring institutions to list the major components of all mandatory fees, including the portion attributable to athletics, on a separate page attached to student invoices;

2. assess the feasibility and impact of raising additional revenue through campus recreation and fitness enterprises to reduce reliance on mandatory student fees. The assessments should address the feasibility and impact of raising additional revenue through charging for specialized programs and services, expanding membership, and/or charging all users of recreation facilities;
  3. direct staff to perform a comprehensive review of the institution's organizational structure, including an analysis of spans of control and a review of staff activities and workload, and identify opportunities to streamline the organizational structure. Boards should further direct staff to implement the recommendations of the review to streamline their organizational structures where possible;
  4. require periodic reports on average and median spans of control and the number of supervisors with six or fewer direct reports;
  5. direct staff to revise human resource policies to eliminate unnecessary supervisory positions by developing standards that establish and promote broader spans of control. The new policies and standards should (i) set an overall target span of control for the institution, (ii) set a minimum number of direct reports per supervisor, with guidelines for exceptions, (iii) define the circumstances that necessitate the use of a supervisory position, (iv) prohibit the establishment of supervisory positions for the purpose of recruiting or retaining employees, and (v) establish a periodic review of departments where spans of control are unusually narrow; and,
  6. direct institution staff to set and enforce policies to maximize standardization of purchases of commonly procured goods, including use of institution-wide contracts;
  7. consider directing institution staff to provide an annual report on all institutional purchases, including small purchases, that are exceptions to the institutional policies for standardizing purchases;
  8. participate in national faculty teaching load assessments by discipline and faculty type.
- b. The State Council on Higher Education for Virginia, to the extent practicable, shall:
1. convene a working group of institution financial officers, with input from the Department of Accounts, the Department of Planning and Budget, and the Auditor of Public Accounts, to create a standard way of calculating and publishing mandatory non-E&G fees, including for intercollegiate athletics;
  2. update the state's Chart of Accounts for higher education in order to improve comparability and transparency of mandatory non-E&G fees, with input from the Department of Accounts, the Department of Planning and Budget, the Auditor of Public Accounts, and institutional staff. This process should be coordinated with the standardization of tuition and fee reporting;
  3. convene a working group of institutional staff to develop instructional and research space guidelines that adequately measure current use of space and plans for future use of space at Virginia's public higher education institutions;
  4. coordinate a committee of institutional representatives, such as the previously authorized Learning Technology Advisory Committee. In addition to the objectives set out in the Appropriation Act for the Learning Technology Advisory Committee, the committee should identify instructional technology initiatives and best practices for directly or indirectly lowering institutions' instructional expenditures per student while maintaining or enhancing student learning;
  5. include factors such as discipline, faculty rank, cost of living, and regional comparisons in developing faculty salary goals;
  6. identify instructional technology best practices that directly or indirectly lower student cost while maintaining or enhancing learning.
- c. Notwithstanding the provisions of ~~§ 23-9.14.1~~ § 23.1-1304, the State Council of Higher Education for Virginia shall annually train boards of visitors members on the types of information members should request from institutions to inform decision making, such as performance measures, benchmarking data, the impact of financial decisions on student costs, and past and projected cost trends. Boards of Visitors members serving on finance and facilities subcommittees should, at a minimum, participate in the training within their first year of membership on the subcommittee. SCHEV should obtain assistance in developing or delivering the training from relevant agencies such as the Department of General Services and past or present finance officers at Virginia's public four-year institutions, as appropriate.
- d. The Department of Planning and Budget shall revise the formula used to make allocation recommendations for the state's maintenance reserve funding to account for higher maintenance needs resulting from poor facility condition, aging of facilities, and differences in facility use. Beginning with fiscal year 2016, the Department of Planning and Budget shall submit these recommendations to the Governor and General Assembly no later than November 1 of each year.
- e. The Six-Year Capital Outlay Plan Advisory Committee, the Department of Planning and Budget, and others as appropriate shall use the results of the prioritization process established by the State Council of Higher Education for Virginia in determining which capital projects should receive funding.

f. Beginning with fiscal year 2016, the Auditor of Public Accounts shall include in its audit plan for each public institution of higher education a review of progress in implementing the JLARC recommendations contained in paragraph § 4-9.04 a.

#### § 4-11.00 STATEMENT OF FINANCIAL CONDITION

Each agency head handling any state funds shall, at least once each year, upon request of the Auditor of Public Accounts, make a detailed statement, under oath, of the financial condition of his office as of the date of such call, to the Auditor of Public Accounts, and upon such forms as shall be prescribed by the Auditor of Public Accounts.

#### § 4-12.00 SEVERABILITY

If any part, section, subsection, paragraph, sentence, clause, phrase, or item of this act or the application thereof to any person or circumstance is for any reason declared unconstitutional, such decisions shall not affect the validity of the remaining portions of this act which shall remain in force as if such act had been passed with the unconstitutional part, section, subsection, paragraph, sentence, clause, phrase, item or such application thereof eliminated; and the General Assembly hereby declares that it would have passed this act if such unconstitutional part, section, subsection, paragraph, sentence, clause, phrase, or item had not been included herein, or if such application had not been made.

#### § 4-13.00 CONFLICT WITH OTHER LAWS

Notwithstanding any other provision of law, and until June 30, 2018, the provisions of this act shall prevail over any conflicting provision of any other law, without regard to whether such other law is enacted before or after this act; however, a conflicting provision of another law enacted after this act shall prevail over a conflicting provision of this act if the General Assembly has clearly evidenced its intent that the conflicting provision of such other law shall prevail, which intent shall be evident only if such other law (i) identifies the specific provision(s) of this act over which the conflicting provision of such other law is intended to prevail and (ii) specifically states that the terms of this section are not applicable with respect to the conflict between the provision(s) of this act and the provision of such other law.

#### § 4-14.00 EFFECTIVE DATE

This act is effective ~~July 1, 2016~~ on its passage as provided in § 1-214, Code of Virginia.

#### ADDITIONAL ENACTMENTS

**23. That § 33.2-309 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Chapter 1 of Title 33.2 a section numbered 33.2-118, as follows:**

##### § 33.2-118. Limitation on tolling.

A. For purposes of this section, "auxiliary lane" means the portion of the roadway adjoining the traveled way as a shoulder or for speed change, turning, weaving, or the maneuvering of entering and leaving traffic.

B. Notwithstanding any other provision of this title, no toll may be imposed or collected on un-tolled lanes or components of a highway, bridge, or tunnel without approval from the General Assembly. However, such prohibition shall not apply to (i) reconstruction with additional lanes of a highway, bridge, or tunnel provided that the number of un-tolled non-high-occupancy vehicle lanes, excluding auxiliary lanes, after the reconstruction is not less than the number of un-tolled, non-high-occupancy vehicle lanes, excluding auxiliary lanes, prior to such reconstruction; (ii) new construction that is opened to the public as a tolled facility; (iii) new construction that is opened to the public as high-occupancy vehicle lanes; (iv) existing high-occupancy vehicle lanes; or (v) an existing lane on a segment of a highway whose length does not exceed 10 miles and is between an interchange and an interchange or an interchange and a bridge, provided that the number of un-tolled non-high-occupancy vehicle lanes on such segment is equal to the number of un-tolled non-high-occupancy vehicle lanes on the portion of the highway preceding such segment.

C. Notwithstanding the provisions of subsection B, prior approval of the General Assembly shall be required prior to the imposition and collection of any toll for use of all or any portion of (i) a non-limited access highway except for a bridge, tunnel, or the approaches to a bridge or tunnel or (ii) Interstate 81.

##### § 33.2-309. Tolls for use of Interstate System components.

A. Subject to the limitations provided in § 33.2-118 and in accordance with all applicable federal and state statutes and requirements, the Board may impose and collect tolls from all classes of vehicles in amounts established by the Board for the use of any component of the Interstate System within the Commonwealth.

B. The toll facilities authorized by this section shall be subject to the provisions of federal law for the purpose of tolling motor vehicles to finance interstate construction and reconstruction, promote efficiency in the use of highways, reduce traffic congestion, and improve air quality and for such other purposes as may be permitted by federal law.

C. In order to mitigate traffic congestion in the vicinity of the toll facilities, no toll facility shall be operated without high-speed automated toll collection technology designed to allow motorists to travel through the toll facilities without stopping to make payments.

Nothing in this subsection shall be construed to prohibit a toll facility from retaining means of nonautomated toll collection in some lanes of the facility. The Board shall also consider traffic congestion and mitigation thereof and the impact on local traffic movement as factors in determining the location of the toll facilities authorized pursuant to this section.

D. The revenues collected from each toll facility established pursuant to this section shall be deposited into segregated subaccounts in the Transportation Trust Fund and may be allocated by the Board as the Board deems appropriate to:

1. Pay or finance all or part of the costs of programs or projects, including the costs of planning, operation, maintenance, and improvements incurred in connection with the toll facility, provided that such allocations shall be limited to programs and projects that are reasonably related to or benefit the users of the toll facility. The priorities of metropolitan planning organizations, planning district commissions, local governments, and transportation corridors shall be considered by the Board in making project allocations from such revenues deposited into the Transportation Trust Fund.

2. Repay funds from the Toll Facilities Revolving Account or the Transportation Partnership Opportunity Fund.

3. Pay the Board's reasonable costs and expenses incurred in the administration and management of the toll facility.

**24. That the provisions of this act adding § 33.2-118 to the Code of Virginia, as created by this act, and § 33.2-309 of the Code of Virginia, as amended by this act, shall become effective upon the return of the Commonwealth's spot in the Interstate System Reconstruction and Rehabilitation Pilot Program.**

**5. Enactments 4 and 5 of Chapters 778 and 779 of the 2016 Acts of Assembly are hereby repealed. The General Assembly finds that the creation of the Virginia Growth and Opportunity Foundation to support the Board satisfies the intent of Enactment 4 of Chapters 778 and 779 of the 2016 Acts of Assembly.**

**6. Enactment 2 of Chapters 776 and 777 of the 2016 Acts of Assembly are hereby repealed.**

*7. A. Notwithstanding the provisions of § 2.2-1514, Code of Virginia, or any other provision of law, any general fund revenues collected and deposited for fiscal year 2017 that are in excess of the official forecast contained in this act, shall be reflected by the Comptroller as committed on the June 30, 2017, preliminary balance sheet pursuant to the provisions of this enactment for the purposes of establishing a cash reserve to mitigate any potential revenue shortfalls that may arise during the remainder of the biennium.*

*B. To determine the amounts that are to be committed, the Comptroller shall first determine the revenues that were collected in excess of the revenues forecast in this act. He shall then reduce those revenues for the following adjustments:*

*1. Any amounts that must be restricted such as mandatory deposits to the Revenue Stabilization Fund.*

*2. Any amounts that normally would be committed or assigned pursuant to GASB standards.*

*3. Any amounts that must be committed for deposit to the Water Quality Improvement Fund from excess general fund revenue collections pursuant to § 10.1-2128 A., Code of Virginia.*

*4. Any other amounts that are required to be committed or assigned pursuant to any other items or provisions of this act, which would include mandatory carryforwards, unexpended balances in capital projects, and balances required to be carried forward for fiscal year 2018.*

*C. The amount that remains after deduction of the amounts listed above from the surplus revenues on June 30, 2017, shall be further reduced by fifty percent.*

*D. The Comptroller shall then reflect the remaining fifty percent as a commitment on the preliminary balance sheet entitled Revenue Cash Reserve to be held solely for the purposes of mitigating any loss of general fund revenues in fiscal year 2018 from the official forecast contained in this act.*

*E. The Comptroller may draw against the balances of the Revenue Cash Reserve for an amount equal to any shortfall in general fund revenue collections from the official forecast contained in this act for fiscal year 2018.*

**38. That the provisions of the first enactment, ~~and second enactment~~, and seventh enactment of this act shall expire at midnight on June 30, 2018. The provisions of the ~~second enactment~~ third, fourth, fifth, and sixth enactments of this act shall have no expiration date.**

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## CERTIFICATION OF THE ACTS OF ASSEMBLY

## 2017 REGULAR SESSION

I, G. Paul Nardo, Clerk of the House of Delegates and Keeper of the Rolls of the Commonwealth, do hereby certify that the 2017 Regular Session of the General Assembly of the Commonwealth of Virginia, at which the Acts of Assembly herein printed were enacted, convened on Wednesday, January 11, 2017, and adjourned sine die on Saturday, February 25, 2017, and the Reconvened Session, pursuant to Section 6 of Article IV of the Constitution of Virginia, convened on Wednesday, April 5, 2017, and adjourned sine die on Wednesday, April 5, 2017.

G. PAUL NARDO  
*Clerk of the House of Delegates  
and  
Keeper of the Rolls of the Commonwealth*

Note: Except as otherwise provided therein, all Acts of the 2017 Regular Session of the General Assembly, including the Reconvened Session, became effective at the first moment of July 1, 2017.

The Acts contained in Chapters 769-773 became chapters of the Acts of Assembly on March 27, 2017, pursuant to Section 1 of Article XII of the Constitution of Virginia and §§ 30-13, 30-14, and 30-19 of the Code of Virginia. The chapters, agreed to by the General Assembly as House Joint Resolutions and Senate Joint Resolutions, are not subject to presentation, review, and action by the Governor pursuant to Section 6 of Article V of the Constitution of Virginia.

The Acts contained in Chapters 774-824 became law without the signature of the Governor on April 5, 2017, pursuant to Section 6 (c) (iii) of Article V of the Constitution of Virginia.

The Acts contained in Chapters 825-835 were signed by the Governor on April 26, 2017, all having been returned to the Governor by the Reconvened Session, pursuant to Section 6 (c) (iii) of Article V of the Constitution of Virginia.

The Act contained in Chapter 836 was signed by the Governor on April 28, 2017, having been returned to the Governor by the Reconvened Session, pursuant to Section 6 (c) (iii) of Article V of the Constitution of Virginia. Pursuant to Section 6 (d) Item 306.JJJ.4 and Item 436 of Chapter 835 were line item vetoes by the Governor on April 28, 2017. However, the Clerk of the House of Delegates, in his capacity as Keeper of the Rolls of the Commonwealth determined that vetoed Item 306.JJJ.4 and Item 436 did not comport with the requirements of Section 6 (d) of Article V of the Constitution of Virginia, and therefore these purported vetoes are not contained in Chapter 836.

[Please reference the 2017 Journal of the House of Delegates for the Clerk's explanation letter to the Governor.]

**ACTS  
OF THE  
GENERAL ASSEMBLY**

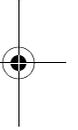
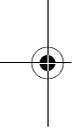


**2017 REGULAR SESSION**

**VOLUME I**

**VOLUME II**

**VOLUME III**



**ACTS**

**OF THE**

**GENERAL ASSEMBLY**

**OF THE**

**COMMONWEALTH OF VIRGINIA**

**2017 REGULAR SESSION**

**which met at the State Capitol, Richmond**

**Convened Wednesday, January 11, 2017**

**Adjourned sine die Saturday, February 25, 2017**

**Reconvened Wednesday, April 5, 2017**

**Adjourned sine die Wednesday, April 5, 2017**

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**COMMONWEALTH OF VIRGINIA**  
**RICHMOND**  
**2017**

**Compiled by the Clerk's Office**

**The House of Delegates**

**G. Paul Nardo**  
**Clerk of the House of Delegates**  
**and**  
**Keeper of the Rolls of the Commonwealth**

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**Deputy Clerk, Legislative Operations**

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**Robert M. Villoch**  
**Mary Elizabeth Weil**

**in cooperation with the**

**Senate of Virginia,**  
**Division of Legislative Services,**  
**and**  
**Division of Legislative Automated Systems**

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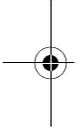
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**RESOLUTIONS OF THE GENERAL ASSEMBLY  
2017 REGULAR SESSION**

**HOUSE JOINT RESOLUTION NO. 539**

*Celebrating the life of Eleanor Tart Harrison.*

Agreed to by the House of Delegates, January 13, 2017

Agreed to by the Senate, January 19, 2017

WHEREAS, Eleanor Tart Harrison, a dedicated and longtime public health employee of the City of Richmond, departed this life on March 30, 2016; and

WHEREAS, Eleanor Harrison was a graduate of Armstrong High School and studied at Virginia Union University; she completed extensive training through the United States Department of Health and Human Services, the Centers for Disease Control and Prevention, the Virginia HIV/AIDS Center, and the Virginia Department of Health, Division of HIV-AIDS, STD, and Pharmacy Services; and

WHEREAS, in 1968, Eleanor Harrison, affectionately known as "Miss Ann" to her colleagues and clients, was employed by the Richmond City Department of Public Health as an outreach worker with the Family Planning and Maternal Child Health Care Program, where she worked purposefully and diligently to help reduce the transmission of HIV/AIDS infection among minorities and to ensure that culturally sensitive prevention and education programs, appropriate medical care, support services, housing, food, and other programs were provided in minority communities; and

WHEREAS, Eleanor Harrison was promoted in 1974 to the Division of Sexually Transmitted Diseases and, after working nearly 20 years with the Richmond City Department of Public Health, Eleanor Harrison accepted the position of Coordinator of Minority Program Activities with the Fan Free Clinic, where for seven years she implemented programs in shelters for men and women, correctional institutions, churches, public schools, halfway houses, mental health treatment centers, and other specialized facilities; and

WHEREAS, Eleanor Harrison returned to the Richmond City Department of Public Health in 1984 as the Human Services Administrator, where she continued her dedicated service in public health; and

WHEREAS, throughout her dedicated career as a public health servant and advocate, Eleanor Harrison received many awards and certificates for her significant contributions to public health, including the Outstanding Professional AIDS Service Award from the Community Foundation, the Mayor's Outstanding Award for Community Service, and the Richmond Public School Service Award for Outstanding Services with Youth; in 1995, she was selected as the City of Richmond's Legend in the Fight Against AIDS and was inducted into the National Women's Hall of Fame in Seneca Falls, New York; and

WHEREAS, Eleanor Harrison's dedicated service to the people of Richmond will be remembered forever, and her memory will be cherished by all who loved her; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Eleanor Tart Harrison; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Eleanor Tart Harrison as an expression of the General Assembly's appreciation for her public health service and respect for her memory.

**HOUSE JOINT RESOLUTION NO. 548**

*Designating the week of September 10, in 2017 and in each succeeding year, as National Suicide Prevention Week in Virginia.*

Agreed to by the House of Delegates, January 24, 2017

Agreed to by the Senate, February 14, 2017

WHEREAS, suicide is the 10th leading cause of death in the United States and the second leading cause of death among individuals between the ages of 10 and 34; suicide is the only leading cause of death in the United States that has increased every year for the past decade; and

WHEREAS, according to the Centers for Disease Control and Prevention (CDC), one person dies by suicide every 12.3 minutes in the United States, resulting in nearly 43,000 suicides each year, and it is estimated that there are more than 1.1 million suicide attempts each year; and

2300

## ACTS OF ASSEMBLY

[VA.,

WHEREAS, in 2014, Virginia experienced 1,122 deaths by suicide, making suicide the 11th leading cause of death in the Commonwealth; and

WHEREAS, more than 90 percent of the people who die by suicide have a diagnosable and treatable mental health condition, which often goes unrecognized or untreated; and

WHEREAS, according to the CDC, suicide results in an estimated \$44.6 billion in combined medical and work loss costs nationally and results in an estimated \$1.12 billion in combined lifetime medical and work loss costs in Virginia; and

WHEREAS, the stigma associated with mental health conditions and suicidality works against suicide prevention by discouraging persons at risk for suicide from seeking life-saving help and further traumatizes survivors of suicide loss and people with lived experience of suicide; and

WHEREAS, organizations such as the American Foundation for Suicide Prevention envision a world without suicide and are dedicated to saving lives and bringing hope to those affected by suicide through research, education, advocacy, and resources for those who have lost loved ones or struggle with mental health conditions; and

WHEREAS, suicide most often occurs when stressors exceed current coping abilities of someone suffering from a mental health condition, but there is no single cause for suicide, and no single suicide prevention program or effort will be appropriate for all populations or communities; and

WHEREAS, suicide is a preventable national and state public health problem, and suicide prevention is a high priority in the Commonwealth; the World Health Organization recognizes September 10 as World Suicide Prevention Day, and National Suicide Prevention Week is recognized in the United States as the Monday through Sunday surrounding September 10; and

WHEREAS, during National Suicide Prevention Week and throughout the year, organizations and individuals in the Commonwealth are encouraged to consider initiatives based on the goals contained in the National Strategy for Suicide Prevention and develop and implement strategies to increase access to quality mental health, substance abuse, and suicide prevention services; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly designate the week of September 10, in 2017 and in each succeeding year, as National Suicide Prevention Week in Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates transmit a copy of this resolution to the American Foundation for Suicide Prevention so that members of the organization may be apprised of the sense of the General Assembly of Virginia in this matter; and, be it

RESOLVED FINALLY, That the Clerk of the House of Delegates post the designation of this week on the General Assembly's website.

**HOUSE JOINT RESOLUTION NO. 550**

*Commending Morning Star Missionary Baptist Church.*

Agreed to by the House of Delegates, January 13, 2017

Agreed to by the Senate, January 19, 2017

WHEREAS, for 119 years, Morning Star Missionary Baptist Church has provided spiritual guidance, generous outreach, and opportunities for joyful worship in the Baptist tradition to the members of the Jarratt community; and

WHEREAS, established in 1898, Morning Star Missionary Baptist Church was built on land donated by George Oliver Parham, a prominent local farmer, and although the church has grown and expanded much over the years, it remains at the same location; and

WHEREAS, the founding pastor of Morning Star Missionary Baptist Church, the Reverend Theodore Smith, preceded many able leaders, including the Reverend Luther Daughtry, the Reverend Alexander Truell, the Reverend Frank Winston, the Reverend Chester Frazier, the Reverend Otis Pigford, the Reverend Dennis Hampton, the Reverend Mack Parham, and the Reverend Linda Skipper; and

WHEREAS, Morning Star Missionary Baptist Church has also benefited from the devoted service of many deacons over the years, including female deacons who provide valuable spiritual counseling to women of the congregation; and

WHEREAS, to ensure that the congregation continues to grow, Morning Star Missionary Baptist Church cultivates a strong relationship with local young people by hosting a Youth Day on the first Sunday of each month and a Youth Revival Week each year; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Morning Star Missionary Baptist Church on the occasion of its 119th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Reverend Dr. Dorth P. Edwards, pastor of Morning Star Missionary Baptist Church, as an expression of the General Assembly's admiration for the church's contributions to the Richmond community.

**HOUSE JOINT RESOLUTION NO. 553***Celebrating the life of Eloise Bernadett Coyne.*

Agreed to by the House of Delegates, January 13, 2017

Agreed to by the Senate, January 19, 2017

WHEREAS, Eloise Bernadett Coyne of Hollywood, South Carolina, a valued team member and friend of VCU Health and VCU Massey Cancer Center, died June 22, 2016; and

WHEREAS, Eloise "Ellie" Bernadett Coyne was born in Canada to the late Leo and Marie Cyr; she graduated from Madawaska High School in Madawaska, Maine; Mount Ida College in Boston, Massachusetts; and Wellesley College in Wellesley, Massachusetts; and

WHEREAS, Ellie Coyne was passionate about palliative care and worked for 10 years as a volunteer coordinator and public relations specialist at VCU Health, where she was a fixture in the Thomas Palliative Care Unit at VCU Massey Cancer Center, and at the time of her death she was a volunteer coordinator at the Medical University of South Carolina; and

WHEREAS, in May 2013, *Our Health Richmond* magazine recognized Ellie Coyne as a "Hometown Healthcare Hero" for her work lifting the spirits of patients who suffer from chronic illness and for being a champion of dignity and quality of life; and

WHEREAS, Ellie Coyne enjoyed traveling, laughing, and helping others; she never met a stranger, loved animals, and treasured spending time with her friends and family, especially her grandchildren; and

WHEREAS, Ellie Coyne will be fondly remembered and greatly missed by her husband, Patrick; daughter, Erin, and her family; and numerous other relatives and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Eloise Bernadett Coyne, a valued team member and friend of VCU Health and VCU Massey Cancer Center; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Eloise Bernadett Coyne as an expression of the General Assembly's respect for her memory.

**HOUSE JOINT RESOLUTION NO. 554***Celebrating the life of Jean Alexandria Glontz.*

Agreed to by the House of Delegates, January 13, 2017

Agreed to by the Senate, January 19, 2017

WHEREAS, Jean Alexandria Glontz, an esteemed community volunteer and United Way of the Roanoke Valley board member, died on August 21, 2016; and

WHEREAS, Jean Glontz grew up in Ambridge, Pennsylvania, where she graduated from Ambridge High School; she earned degrees at Mount Mercy College, now Carlow University, and St. Margaret Memorial School of Nursing, both located in Pittsburgh, Pennsylvania; and

WHEREAS, Jean Glontz began her career as a nurse but left the field and devoted all of her time and energy to being a public servant and volunteer, becoming an invaluable asset to many organizations in the Roanoke Valley over the years; and

WHEREAS, Jean Glontz served as Cave Spring High School PTA president, was elected to the Roanoke County School Board, and served on the boards of the Mental Health Association of Roanoke Valley, Virginia Western Community College, and the Roanoke Symphony; and

WHEREAS, two of the organizations Jean Glontz was most passionate about serving were the Child Health Investment Partnership (CHIP) of Roanoke Valley and the United Way of Roanoke Valley; and

WHEREAS, Jean Glontz served on the CHIP board from 1994 to 2000, was instrumental in building a successful fundraising program, and chaired a \$500,000 capital campaign; and

WHEREAS, Jean Glontz was a highly regarded fundraiser, advocate, leader, and long standing board member for the United Way of Roanoke Valley, serving as the first woman president of the board and being honored with the F. Wiley Hubbell Award; and

WHEREAS, during her service to the United Way of Roanoke Valley, Jean Glontz developed engaging programs to teach elementary and middle school children about helping others, and co-founded the Student United Way of Roanoke Valley, a two-year program designed to develop high school students into strong leaders and citizens; and

WHEREAS, Jean Glontz was full of energy, passion, and determination, and is remembered as a devoted, caring, and special friend; and

WHEREAS, each summer from 2004 to 2014, Jean Glontz hosted "Camp Gram" for all of her grandchildren at her Smith Mountain Lake house, where they did crafts, relay races, tubing, water skiing, and made precious memories; and

WHEREAS, Jean Glontz will be fondly remembered and greatly missed by her husband of 55 years, Gary; children, Cheryl, Shelly, David, and Michael, and their families; and many other relatives and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Jean Alexandria Glontz, an esteemed community volunteer and United Way of Roanoke Valley board member; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Jean Alexandria Glontz as an expression of the General Assembly's respect for her memory.

### HOUSE JOINT RESOLUTION NO. 555

*Providing for a Joint Assembly and establishing a schedule for the conduct of business coming before the 2017 Regular Session of the General Assembly of Virginia.*

Agreed to by the House of Delegates, January 11, 2017

Agreed to by the Senate, January 11, 2017

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly shall meet in joint session in the Hall of the House of Delegates on Wednesday, January 11, 2017, at such time as specified by the Speaker of the House of Delegates, to receive the Governor of Virginia, and such address as he may desire to make, and that the rules for the government of the House of Delegates and the Senate, when convened in joint session for such purpose, shall be as follows:

Rule I. At the hour fixed for the meeting of the Joint Assembly, the Senators, accompanied by the President and the Clerk of the Senate, shall proceed to the Hall of the House of Delegates and shall be received by the Delegates standing. Appropriate seats shall be assigned to the Senators by the Sergeant at Arms of the House. The Speaker of the House of Delegates shall assign an appropriate seat for the President of the Senate.

Rule II. The Speaker of the House of Delegates shall be President of the Joint Assembly. In case it shall be necessary for the Speaker to vacate the Chair, the President of the Senate shall serve as the presiding officer.

Rule III. The Clerk of the House of Delegates shall be Clerk of the Joint Assembly and shall be assisted by the Clerk of the Senate. The Clerk of the Joint Assembly shall enter the proceedings of the Joint Assembly in the Journal of the House and shall certify a copy of the same to the Clerk of the Senate, who shall enter the same in the Journal of the Senate.

Rule IV. The Sergeant at Arms and Doorkeepers of the House shall act as such for the Joint Assembly.

Rule V. The Rules of the House of Delegates, as far as applicable, shall be the rules of the Joint Assembly.

Rule VI. In calling the roll of the Joint Assembly, the names of the Senators shall be called in alphabetical order, then the names of the Delegates in like order, except that the name of the Speaker of the House shall be called last.

Rule VII. If, when the Joint Assembly meets, it shall be ascertained that a majority of each house is not present, the Joint Assembly may take measures to secure the attendance of absentees, or adjourn to a succeeding day, as a majority of those present may determine.

Rule VIII. When the Joint Assembly adjourns, the Senators, accompanied by the President and the Clerk of the Senate, shall return to their chamber, and the business of the House shall be continued in the same order as at the time of the entrance of the Senators; and, be it

RESOLVED FURTHER, That notwithstanding any other provision of this resolution and in accordance with the practices of each house, with the exception of commending and memorial joint resolutions, a request to be added as a co-patron shall be received prior to the first vote on the passage of a bill or agreement to a joint resolution or, if the bill or joint resolution is not reported from committee, then prior to the last action on such legislation. A request to be removed as a co-patron shall be received no later than 3:00 p.m., Friday, February 17, 2017; and, be it

RESOLVED FURTHER, That any joint resolution creating or continuing a study shall require a vote of two-thirds of the members voting in each house and any resolution creating or continuing a study shall require a vote of two-thirds of the members voting in the respective house; and, be it

RESOLVED FURTHER, That any member offering for introduction a bill or joint resolution not submitted to the Division of Legislative Services for drafting is encouraged to submit an electronic version no later than 5:00 p.m. on the day the legislation is introduced; and, be it

RESOLVED FURTHER, That for purposes of the procedural deadlines established herein for the 2017 Regular Session of the General Assembly:

"Budget Bill" means the general appropriation bill introduced in each house that authorizes the biennial expenditure of public revenues for the period from July 1, 2016, through June 30, 2018.

"Debt bill" means any bill that authorizes the issuance of debt.

"Legislative day" means the period of time that begins with the call to order by the presiding officer and ends when declared adjourned by the presiding officer. Unless another time is specified, any deadline established in this resolution shall expire at the end of the legislative day.

"Prefiled legislation" means any bill or joint resolution requested from the Division of Legislative Services no later than 5:00 p.m., Monday, December 5, 2016, and prefiled no later than 10:00 a.m., Wednesday, January 11, 2017, or any bill or joint resolution not requested from the Division of Legislative Services and prefiled no later than 10:00 a.m., Wednesday, January 11, 2017.

"Revenue bill" means any bill, except the Budget Bill and debt bills, that increases or decreases the total revenues available for appropriation.

"Unanimous consent" means the affirmation of all the members present in the house of origin. Any legislation intended to be offered for introduction with unanimous consent or with the written request of the Governor shall not require the consent of the house in order for the member to request the Division of Legislative Services to draft such legislation. The Division of Legislative Services shall return such legislation after the original introduction deadline.

"Virginia Retirement System bill" means any bill that amends, adds, repeals, or modifies any provision of any retirement system established in Title 51.1 of the Code of Virginia; and, be it

RESOLVED FINALLY, That the 2017 Regular Session of the General Assembly shall be governed by the following procedural rules, which establish introduction limits and time limitations for elections and for all legislation prefiled and introduced for or continued to the 2017 Regular Session except:

- (i) House and Senate resolutions, except for the time limitations established in Rules 20 and 22;
- (ii) Bills and joint resolutions affecting the rules of procedure or the schedule of business of the General Assembly, either of its houses, or any of its committees;
- (iii) Bills and joint resolutions introduced with unanimous consent either to exceed the introduction limits established in Rule 1 or to exceed the time limitations established in Rules 3, 4, 7, and 17;
- (iv) Joint resolutions confirming appointments subject to the confirmation of the General Assembly;
- (v) Joint commending and memorial resolutions, except for the time limitations established in Rules 15 and 17;
- (vi) Bills and joint resolutions regarding elections held by the General Assembly during the 2017 Regular Session; or
- (vii) Bills and joint resolutions requested in writing by the Governor.

Rule 1. After the deadline for filing prefiled legislation established by House Joint Resolution No. 38 (2016), no member of the House of Delegates shall introduce more than a combined total of five bills and joint resolutions and no member of the Senate shall introduce more than a combined total of eight bills and joint resolutions. Notwithstanding the provisions of this rule and in accordance with House Rule 37, no member of the House of Delegates may introduce more than 15 bills during the 2017 Regular Session.

Rule 2. Neither house of the General Assembly shall receive from any committee any bill or joint resolution that was continued on the agenda of such committee and acted upon later than midnight, Thursday, December 1, 2016. For purposes of this rule, a motion to refer a measure to another committee shall be treated as an action by a committee.

Rule 3. No bill or joint resolution creating or continuing a study shall be offered in either house after the adjournment of that house on Wednesday, January 11, 2017.

Rule 4. No Virginia Retirement System bill shall be offered in either house after adjournment of that house on Wednesday, January 11, 2017.

Rule 5. Except for bills and joint resolutions required to be requested earlier, requests for the drafting, redrafting, or correction of any bill or joint resolution shall be submitted to and received by the Division of Legislative Services no later than 5:00 p.m., Friday, January 13, 2017.

Rule 6. No later than Monday, January 16, 2017, each house shall begin its consideration of any election to fill any judicial seat in the courts of the Commonwealth, or to fill a seat on any commission or office elected by the General Assembly. In the event that the houses cannot agree on such election before Tuesday, January 17, 2017, such election shall become the subject of a special and continuing joint order in each house, and such special and continuing joint order shall have precedence over all other business of either house, until such time as both houses reach agreement on such election or agree to hold it at another specific time. The Rules of each house, as far as applicable, shall be the rules governing such election.

Rule 7. Except for bills required to be filed earlier, no bill or joint resolution shall be offered in either house after 3:00 p.m., Friday, January 20, 2017.

Rule 8. No later than Friday, January 20, 2017, the Board of Trustees of the Virginia Retirement System shall submit, in accordance with § 30-19.1:7, impact statements for all Virginia Retirement System bills filed by the first day of session. For any Virginia Retirement System bill filed later than the first day of session, the Board of Trustees shall use due diligence in preparing the impact statement in time for review by the standing committees.

Rule 9. The committees responsible for the consideration of revenue bills in the houses of introduction shall complete their work on such bills no later than midnight, Thursday, February 2, 2017.

Rule 10. The committees responsible for the consideration of the Budget Bill in the houses of introduction shall complete their work on such bill no later than midnight, Sunday, February 5, 2017, and any amendments proposed by such committees shall be made available to their respective houses no later than noon, Tuesday, February 7, 2017.

Rule 11. Except for the Budget Bill, beginning Wednesday, February 8, 2017, the House of Delegates shall consider only Senate bills, Senate joint resolutions, House bills with Senate amendments, and House joint resolutions with Senate amendments; the Senate shall consider only House bills, House joint resolutions, Senate bills with House amendments, and Senate joint resolutions with House amendments; and each house may consider conference reports and other privileged matters relating thereto to the end that the work of each house may be disposed of by the other.

Rule 12. The houses of introduction shall complete their consideration of the Budget Bill, except for conference reports and other privileged matters relating thereto, no later than Thursday, February 9, 2017.

Rule 13. The committees responsible for the consideration of revenue bills of the other house shall complete their consideration of such bills no later than midnight, Tuesday, February 14, 2017.

Rule 14. No later than midnight, Wednesday, February 15, 2017, each house shall complete its consideration of the Budget Bill and all revenue bills of the other house, except for conference reports and other privileged matters relating thereto, and the appointing authority shall appoint the conferees to such bills.

Rule 15. Requests for the drafting, redrafting, or correction of any joint commending or memorial resolution shall be submitted to and received by the Division of Legislative Services no later than 5:00 p.m., Thursday, February 16, 2017.

Rule 16. Any conference committee on any revenue bills shall complete its deliberations and make the report of such conference available to the General Assembly as soon as practicable.

Rule 17. No later than Friday, February 17, 2017, each house shall begin its consideration of any election to fill any judicial seat in the courts of the Commonwealth, or to fill a seat on any commission or office elected by the General Assembly. In the event that the houses cannot agree on such election before Monday, February 20, 2017, such election shall become the subject of a special and continuing joint order in each house, and such special and continuing joint order shall have precedence over all other business of either house, until such time as both houses reach agreement on such election, or either house votes to suspend or discharge the order. The Rules of each house, as far as applicable, shall be the rules governing such election.

Rule 18. No joint commending or memorial resolution shall be offered in either house after 5:00 p.m., Monday, February 20, 2017.

Rule 19. Beginning Tuesday, February 21, 2017, neither house shall receive from any committee any bill or joint resolution acted on by any committee later than midnight, Monday, February 20, 2017.

Rule 20. Requests for the drafting, redrafting, or correction of any single-house commending or memorial resolution shall be submitted to and received by the Division of Legislative Services no later than 5:00 p.m., Tuesday, February 21, 2017.

Rule 21. Any conference committee on the Budget Bill shall complete its deliberations and make the report of such conference available to the General Assembly as soon as practicable. Neither house shall consider such conference report earlier than 48 hours after receipt, unless both houses respectively determine to proceed earlier by a vote of two-thirds of the members voting in each house. No engrossment of the Budget Bill shall be required in either house, and any conference on the Budget Bill shall consider, as the basis of its deliberations, the Budget Bill as recommended by the Governor and introduced in the House and the amendments thereto proposed by each house. A report shall be issued concurrently with the report of the conference committee that identifies the following by item number, narrative description, and dollar amount: (i) any nonstate agency appropriation, (ii) any item in the conference report that was not included in a general appropriation bill as passed by either the House or the Senate, and (iii) any item that represents legislation that failed in either house during the regular or a special session.

Rule 22. No single-house commending or memorial resolution shall be offered in either house after 5:00 p.m., Thursday, February 23, 2017.

Rule 23. Except for joint resolutions affecting the rules of procedure or the schedule of business of the General Assembly, beginning Friday, February 24, 2017, the House of Delegates shall consider only Senate joint resolutions and House joint resolutions with Senate amendments; the Senate shall consider only House joint resolutions and Senate joint resolutions with House amendments; and each house may consider conference reports or joint resolutions and other privileged matters relating thereto, to the end that the work of each house may be disposed of by the other.

Rule 24. This session of the General Assembly shall be extended beyond the 30-day period provided in Section 6 of Article IV of the Constitution of Virginia and shall adjourn sine die no later than Saturday, February 25, 2017.

Rule 25. Pursuant to Section 6 of Article IV of the Constitution of Virginia, the General Assembly shall reconvene Wednesday, April 5, 2017, for the purpose of considering bills and items of appropriation bills that may have been returned by the Governor with recommendations for their amendment, and bills and items of appropriation bills, including the general appropriation act, that may have been returned by the Governor with his objections.

Rule 26. The conduct of the business of any subcommittee of any House committee, any joint subcommittee of House and Senate committees, and any interim study commission created pursuant to a House measure shall be governed by the Rules of the House of Delegates; the conduct of the business of any subcommittee of any Senate committee, any joint subcommittee of Senate and House committees, and any interim study commission created pursuant to a Senate measure shall be governed by the Rules of the Senate. If a House measure and a Senate measure create the same study, the conduct of the business of the study shall be governed by the rules of the house of the chairman of the study, or in the case of co-chairmen, the rules of the house as agreed upon by the co-chairmen.

Rule 27. Interim meetings of any standing committee, joint committee, joint subcommittee, legislative commission, or any other interim study subcommittee or study commission shall be held on Monday, Tuesday, or Wednesday during the first and third full weeks of the month, unless otherwise authorized by the Speaker of the House of Delegates or the Chairman of the Senate Committee on Rules, as may be appropriate for the house in which the chairman serves.

Rule 28. Any staff member assigned to work for, and support the efforts of, any committee of the House or Senate, any subcommittee of any such committee, any joint subcommittee of House and Senate committees, or any interim study commission shall work under the direction of the chairman of such committee, subcommittee, joint subcommittee, or interim study commission.

**HOUSE JOINT RESOLUTION NO. 556**

*Establishing a schedule for the conduct of business for the prefiling period of the 2018 Regular Session of the General Assembly of Virginia.*

Agreed to by the House of Delegates, January 11, 2017

Agreed to by the Senate, January 11, 2017

RESOLVED by the House of Delegates, the Senate concurring, That the prefiling period of the 2018 Regular Session of the General Assembly shall be governed by the following rules:

Rule 1. Requests for drafts of any bill or joint resolution to be prefiled shall be submitted to and received by the Division of Legislative Services no later than 5:00 p.m., Monday, December 4, 2017. The Division shall make such drafts available for review no later than midnight, Friday, December 29, 2017.

Rule 2. Requests for the drafting, redrafting, or correction of any bill or joint resolution creating or continuing a study shall be submitted to and received by the Division of Legislative Services no later than 5:00 p.m., Friday, January 5, 2018, in order to be filed on the first day of the 2018 Regular Session.

Rule 3. Requests for redrafts and corrections of any draft prepared for prefiling shall be submitted to and received by the Division of Legislative Services no later than 5:00 p.m., Friday, January 5, 2018. The Division shall make such drafts available no later than noon, Tuesday, January 9, 2018.

Rule 4. Bills and joint resolutions offered for prefiling shall be prefiled in either house no later than 10:00 a.m., Wednesday, January 10, 2018. Any member offering for prefiling a bill or joint resolution not submitted to the Division of Legislative Services for drafting is encouraged to submit an electronic version no later than 5:00 p.m. on the day the legislation is prefiled.

**HOUSE JOINT RESOLUTION NO. 557**

*Commending the Virginia Weekday Religious Education Association.*

Agreed to by the House of Delegates, January 13, 2017

Agreed to by the Senate, January 19, 2017

WHEREAS, the Virginia Weekday Religious Education Association, a nonprofit Christian organization, provides opportunities for daytime religious instruction to students attending public schools; and

WHEREAS, established in Indiana in 1914, Weekday Religious Education allows students in certain grade levels to be released from public schools to attend religious lessons at offsite facilities; courses are administered by independent, self-governing local councils made up of parents, pastors, and laity; and

WHEREAS, the Virginia Council of Churches initiated Weekday Religious Education in the mid-1920s and the first classes were held in 1929; Virginia Weekday Religious Education classes are nondenominational and open to all students; and

WHEREAS, Virginia Weekday Religious Education lesson plans, which include Bible study, songs, scripture memorization, map study, and games, are consistently updated to demonstrate the relevancy of the Bible's teachings to everyday life; and

WHEREAS, the Virginia Weekday Religious Education Association was founded in 2009 and comprises representatives from every independent local council in the Commonwealth, a board of directors, and a state coordinator; and

WHEREAS, the Virginia Weekday Religious Education Association receives no taxpayer funds or public money, relying entirely on generous donations and the hard work of dedicated volunteers; parents and community members may volunteer in a variety of ways, including as teachers, drivers, or maintenance workers for classrooms; and

WHEREAS, the Virginia Weekday Religious Education Association oversees religious education opportunities in the Counties of Alleghany, Augusta, Botetourt, Frederick, Giles, Highland, Nottoway, Pulaski, Rockbridge, Rockingham, and Smyth and the City of Waynesboro; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Virginia Weekday Religious Education Association for its work to enrich students' lives with religious education; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Vernon Reynolds, president of the Virginia Weekday Religious Education Association, as an expression of the General Assembly's admiration for the association's longstanding mission.

**HOUSE JOINT RESOLUTION NO. 558**

*Commending the Chantilly High School baseball team.*

Agreed to by the House of Delegates, February 13, 2017

Agreed to by the Senate, February 16, 2017

WHEREAS, the Chantilly High School baseball team earned its first state title in June 2016 by winning the Virginia High School League Group 6A state championship; and

WHEREAS, the Chantilly High School Chargers overcame a two-run deficit and scored three runs in the seventh inning to defeat the Battlefield High School Bobcats 3-2 in the state final, which was held at Robinson High School; and

WHEREAS, the Chantilly Chargers finished the season with an outstanding 25-2 record, including wins in the Conference 5 and Group 6A North regional tournaments; and

WHEREAS, the Chargers' victory is a testament to the determination and skill of all of the student-athletes, the leadership of the coaches and staff, and the passionate support of the entire Chantilly High School community; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Chantilly High School baseball team on winning the Virginia High School League Group 6A state championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Kevin Ford, head coach of the Chantilly High School baseball team, as an expression of the General Assembly's admiration for the team's success.

**HOUSE JOINT RESOLUTION NO. 559**

*Commending the Chantilly High School boys' tennis team.*

Agreed to by the House of Delegates, February 13, 2017

Agreed to by the Senate, February 16, 2017

WHEREAS, the Chantilly High School boys' tennis team became the most successful tennis team in school history, winning its first tennis state title at the Virginia High School League Group 6A state championship in June 2016; and

WHEREAS, after finishing 7-3 in the regular season, the Chantilly High School Chargers advanced to the playoffs as the No. 3 seed in the Group 6A North regional tournament; and

WHEREAS, in the state championship match at George Mason University, the Chantilly Chargers defeated the Cosby High School Titans 5-3, capped by a win in the No. 2 doubles match by freshmen Manu Balasubramanian and Shaun Ganju, both of whom also won singles matches earlier in the day; and

WHEREAS, singles wins from senior Abiral Pandey and junior Josh Melnyk, as well as leadership from senior Sean Moran, helped the Chantilly Chargers enter the doubles competition with a 4-2 lead; and

WHEREAS, the Chantilly Chargers' victory is a testament to the dedication and hard work of the student-athletes, the leadership of the coaches and staff, and the energetic support of the entire Chantilly High School community; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Chantilly High School boys' tennis team on winning the Virginia High School League Group 6A state championship in 2016; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Michael Comini, head coach of the Chantilly High School boys' tennis team, as an expression of the General Assembly's admiration for the team's accomplishments.

**HOUSE JOINT RESOLUTION NO. 560**

*Commending Hickory High School.*

Agreed to by the House of Delegates, January 13, 2017

Agreed to by the Senate, January 19, 2017

WHEREAS, in 2016, Hickory High School in Chesapeake celebrated 20 years of providing young people the tools to achieve success in higher education and careers and to become good citizens of the Commonwealth; and

WHEREAS, Hickory High School was formed in 1996 with students from Deep Creek High School and Great Bridge High School; the school was named in honor of the original Hickory High School, which served areas of what was then Norfolk County from the 1920s to the 1940s; and

WHEREAS, the inaugural senior class of Hickory High School graduated in 1997 with 130 students, all of whom had previously attended other schools, but were proud to graduate wearing the Hickory High School colors of teal, gray, black, and white; and

WHEREAS, with the leadership and guidance of dedicated faculty and staff, many of whom have worked at the school for its entire 20-year history, the students of Hickory High School have excelled in academics, athletics, and other activities; and

WHEREAS, in 2016, the Hickory High School Hawks won the Wells Fargo Cup for overall athletic excellence in the Virginia High School League Group 5A for the third consecutive year, and the school received the Excellence Award from the Board of Education; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Hickory High School on the occasion of its 20th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Amber N. Dortch, principal of Hickory High School, as an expression of the General Assembly's admiration for the school's commitment to providing a high-quality education for the youth of Chesapeake.

**HOUSE JOINT RESOLUTION NO. 561**

*Celebrating the life of Cary Lee Jarvis.*

Agreed to by the House of Delegates, January 13, 2017

Agreed to by the Senate, January 19, 2017

WHEREAS, Cary Lee Jarvis, a courageous veteran who joined many of the other young men of his generation in service to the nation during World War II and a respected member of the Virginia Beach community, died on April 28, 2016; and

WHEREAS, a native of Norfolk, Cary Jarvis volunteered for the Virginia National Guard in 1939 and was inducted into the United States Army at the beginning of World War II; he served as a forward observer for the 111th Field Artillery Battalion, bravely scouting beyond the front lines to spot enemy targets; and

WHEREAS, on June 6, 1944, Cary Jarvis, then a staff sergeant, landed on Omaha Beach as part of the first wave of the D-Day invasion of Normandy; within moments of landing, all of the officers in his unit were either killed or wounded, and he received a battlefield commission as a second lieutenant; and

WHEREAS, Cary Jarvis fought in the ensuing campaigns across Northern France, the Rhineland, and Central Europe, earning a Bronze Star and a promotion to first lieutenant for his actions during the Battle of the Bulge; and

WHEREAS, after the war, Cary Jarvis returned home and served the community as a milk delivery driver for more than 20 years; in 2015 he was awarded the French Legion of Honor, the highest military award bestowed by the French government; and

WHEREAS, Cary Jarvis enjoyed fellowship and worship with the community as a member of Great Neck Baptist Church and remained active with veterans' groups throughout his life; and

WHEREAS, Cary Jarvis will be fondly remembered and greatly missed by his loving wife of 32 years, Mary; children, Cary, Thelma, Walter, Catherine, and Johanna, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Cary Lee Jarvis, a patriotic veteran and an esteemed member of the Virginia Beach community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Cary Lee Jarvis as an expression of the General Assembly's respect for his memory.

**HOUSE JOINT RESOLUTION NO. 563**

*Commending Stefanie Fee.*

Agreed to by the House of Delegates, January 13, 2017

Agreed to by the Senate, January 19, 2017

WHEREAS, Stefanie Fee of Virginia Beach proudly represented the United States and the Commonwealth at the Games of the XXXI Olympiad in Rio de Janeiro in 2016 as a member of the women's field hockey team; and

WHEREAS, a native of Virginia Beach, Stefanie Fee began playing field hockey in 2002 and was a three sport athlete at Frank W. Cox High School; in 2007, she was Tidewater Field Hockey Player of the Year and in 2008, Tidewater Female Athlete of the Year; and

WHEREAS, Stefanie Fee played for Beach Premier Field Hockey Club in Virginia Beach; while at Duke University, she earned All ACC, All American and National Academic All American honors, was Female Athlete of the Year, and had an award named after her, the Stefanie Fee Duke True Award; and

WHEREAS, Stefanie Fee has previously earned international gold medals at the 2015 Pan American Games in Toronto, the 2014 Champions Challenge in Glasgow, and the 2013 World League Round 2 in Rio de Janeiro; and

WHEREAS, during the 2016 Olympic Games, Stefanie Fee's stalwart performance on defense helped the women's field hockey team advance to the quarterfinals and finish in fifth place overall; and

WHEREAS, throughout her field hockey career, and during the Olympic Games in particular, Stefanie Fee has enjoyed the support of her family, friends, coaches, and the members of the Virginia Beach community; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Stefanie Fee for representing the United States and the Commonwealth on the women's field hockey team at the Games of the XXXI Olympiad; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Stefanie Fee as an expression of the General Assembly's admiration for her outstanding achievements as a member of Team USA.

**HOUSE JOINT RESOLUTION NO. 564**

*Commending Maurice Cullen.*

Agreed to by the House of Delegates, January 13, 2017

Agreed to by the Senate, January 19, 2017

WHEREAS, Maurice Cullen, a seventh grade life sciences teacher at Virginia Beach Middle School, was one of eight winners of the 2016 Virginia Lottery Super Teacher Award; and

WHEREAS, Maurice Cullen was selected for the distinction from a pool of roughly 800 nominations, and he received a \$2,000 cash prize from the Virginia Lottery, as well as \$2,000 from The Supply Room Companies to spend on classroom materials; and

WHEREAS, the Virginia Lottery selects one teacher from each region of the state to receive the Super Teacher Award, which is in its ninth year of existence; Maurice Cullen is the first employee of Virginia Beach City Public Schools in three years to earn the honor; and

WHEREAS, Maurice Cullen, an avid environmentalist, nature lover, and "critter expert," was nominated because he makes science come alive for his students by using diverse nature encounters in the classroom; and

WHEREAS, Maurice Cullen strives to make learning fun and loves to see his students get excited; he maintains personal insect collections and professional butterfly collections for the Butterfly Society of Virginia and uses the collaborations as hands-on adventures for his students; and

WHEREAS, the students, faculty, and staff at Virginia Beach Middle School are proud that Maurice Cullen received well-deserved recognition for his efforts in the classroom, which is a reflection of the school's overall drive for excellence in academics; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Virginia Beach Middle School science teacher Maurice Cullen on his selection as a 2016 Virginia Lottery Super Teacher Award winner; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Maurice Cullen as an expression of the General Assembly's admiration for his well-deserved honor.

**HOUSE JOINT RESOLUTION NO. 565**

*Commending Ledbetter Christian Church.*

Agreed to by the House of Delegates, January 13, 2017

Agreed to by the Senate, January 19, 2017

WHEREAS, in 2016, Ledbetter Christian Church in Meherrin celebrated 100 years of joyful worship, spiritual guidance, and community service to the residents of Lunenburg County and Prince Edward County; and

WHEREAS, Ledbetter Christian Church was founded by 12 charter members in 1916; the congregation held services in the Ledbetter School until a modest building containing a sanctuary and two rooms was completed on donated land in October 1916; and

WHEREAS, the first pastor of Ledbetter Christian Church was the Reverend Daniel Myles Austin, who served from 1917 to 1931, when his son, the Reverend Myles McPhail Austin, was called to serve; and

WHEREAS, over of the course of the church's long and storied history, 21 pastors have provided leadership to the community and the congregation, including Ezra L. Dunnivant, a member of Ledbetter Christian Church who was ordained as a minister in 1950; and

WHEREAS, in 1957, Ledbetter Christian Church completed an addition to better serve its congregation, adding Sunday school classrooms, restrooms, a fellowship hall, and a kitchen; the church continued to grow through the generous gifts of members, expanding the church cemetery, enlarging the fellowship hall, and adding a parking lot, a front porch, and a steeple; and

WHEREAS, throughout its 100-year history, the dedicated ministers, teachers, and leaders of Ledbetter Christian Church have been active members of the communities of Lunenburg County and Prince Edward County; and

WHEREAS, in addition to providing opportunities for worship and Sunday school classes each week, Ledbetter Christian Church has served the community by supporting local charitable organizations, foreign missions, and the Christian Church (Disciples of Christ); now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Ledbetter Christian Church on the occasion of its 100th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Reverend Kenny Hall, pastor of Ledbetter Christian Church, as an expression of the General Assembly's admiration for the church's long legacy of spiritual leadership and service to the community.

### HOUSE JOINT RESOLUTION NO. 566

*Celebrating the life of Harry Gilly Penley.*

Agreed to by the House of Delegates, January 13, 2017

Agreed to by the Senate, January 19, 2017

WHEREAS, Harry Gilly Penley, a respected businessman, public servant, and lifelong resident of Scott County who helped community members connect with their roots as a genealogist, died on August 17, 2016; and

WHEREAS, Harry Penley graduated from Shoemaker High School and attended Lincoln Memorial University in Tennessee; at the outset of World War II, he enrolled in the Ryan School of Aeronautics and later served the nation by building Lockheed P-38 Lightning fighters; and

WHEREAS, after the war, Harry Penley returned home and began working in the family business; he and his father owned and operated the Home Supply Company for many years, and he became the owner and operator of Stock Creek Coal Company in Mabe; and

WHEREAS, Harry Penley first began serving the residents of Scott County as postmaster in 1953, then he was elected as clerk of the Scott County Circuit Court in 1967; he served the county in that capacity for 32 years, becoming the only person in the history of Scott County to have been elected as clerk for four terms; and

WHEREAS, during his long career, Harry Penley became well-known in the community for his work to help local families research their genealogical history, and one of his proudest accomplishments was the publication of his own family tree; and

WHEREAS, Harry Penley was an active member of the National Society, Sons of the American Revolution, and helped organize chapters of the Virginia Society, Sons of the American Revolution, and the Sons of Confederate Veterans; and

WHEREAS, Harry Penley enjoyed fellowship and worship with the community as a devout 70-year member of Gate City United Methodist Church, where he served as longtime treasurer and held many other leadership positions; and

WHEREAS, predeceased by his wife of 60 years, June, Harry Penley will be fondly remembered and greatly missed by numerous family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Harry Gilly Penley, an admired businessman and public servant in Scott County; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Harry Gilly Penley as an expression of the General Assembly's respect for his memory.

### HOUSE JOINT RESOLUTION NO. 567

*Commending Kelly A. Pace.*

Agreed to by the House of Delegates, January 13, 2017

Agreed to by the Senate, January 19, 2017

WHEREAS, Kelly A. Pace, an English teacher at Atlee High School in Mechanicsville, was honored as the 2016 Hanover County Public Schools Teacher of the Year; and

WHEREAS, Kelly Pace holds a bachelor's degree from the University of Richmond and a master's degree from Virginia Commonwealth University and has been a teacher since 1997; and

WHEREAS, Kelly Pace began working for Hanover County Public Schools in 2011 and currently teaches eleventh grade International Baccalaureate English at Atlee High School; and

WHEREAS, the Hanover County Public Schools Teacher of the Year honor is bestowed upon an individual who is exceptionally skilled and dedicated; respected and admired by students, parents, and colleagues; and is actively and meaningfully involved in their school and community; and

WHEREAS, Kelly Pace inspires her students in the classroom, embraces collaborative learning, and is striving for excellence and professional development by working toward national certification by the National Board for Professional Teaching Standards, a rigorous year-long process; and

WHEREAS, admired by her peers as an outstanding educator, Kelly Pace was one of only three Hanover County Public Schools teachers who received the prestigious R.E.B. Award for Teaching Excellence in 2016; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Kelly A. Pace on her selection as 2016 Hanover County Public Schools Teacher of the Year; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Kelly A. Pace as an expression of the General Assembly's admiration for her dedication to inspiring students and preparing the next generation of writers, readers, and thinkers.

**HOUSE JOINT RESOLUTION NO. 573**

*Designating January 14, in 2018 and in each succeeding year, as Pongal Day in Virginia.*

Agreed to by the House of Delegates, January 24, 2017  
 Agreed to by the Senate, February 14, 2017

WHEREAS, Pongal, also known as Thai Pongal, is one of the main festivals celebrating the importance of the harvest in the state of Tamil Nadu in southern India; and

WHEREAS, similar to Thanksgiving Day in the United States, Pongal is a festival of thanksgiving to mother nature, the earth, farm animals, and the sun in the form of Lord Suryan for the resources necessary for a bountiful yield of crops; and

WHEREAS, Pongal is a four-day festival that typically begins on January 14 and ends on January 17; the festival is exemplified by the phrase in the Tamil language Thai Pirandhaal Vazhi Pirakkum, meaning the beginning of the Thai month will open avenues for a better life; and

WHEREAS, on the first day of Pongal, called Bhogi festival in honor of Lord Indra, people welcome prosperity by cleaning and throwing away old and unwanted items to make way for new things; the first day is often celebrated with a bonfire; and

WHEREAS, the second day of Pongal focuses on the worship of Lord Suryan (Sun) and is celebrated with puja rituals, colorful kolam/rangoli decorations, offerings of sugarcane, and cooking the Ponga, a sweet made of rice; and

WHEREAS, the third day of Pongal, known as Mattu Pongal, celebrates the importance of farm animals to the harvest, especially cows; animals are decorated and worshipped and the day is replete with rituals; and

WHEREAS, the final day of Pongal, known as Kanum Pongal, is spent relaxing and visiting family members and friends; many families take leisure trips on this day, and elders often treat younger members of the family with gifts to show their love; and

WHEREAS, the Indian American community makes many important contributions to economic growth in the Commonwealth, with highly educated professionals and entrepreneurs who work in a variety of fields, open new businesses, and create jobs, all the while continuing to observe and celebrate their rich cultural heritage; and

WHEREAS, Pongal Day brings together members of the Indian American community as they celebrate with gatherings, decorations, and special foods; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly designate January 14, in 2018 and in each succeeding year, as Pongal Day in Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates post the designation of this day on the General Assembly's website.

**HOUSE JOINT RESOLUTION NO. 574**

*Commending First Baptist Church of Franklin.*

Agreed to by the House of Delegates, January 13, 2017  
 Agreed to by the Senate, January 19, 2017

WHEREAS, First Baptist Church of Franklin, a faith community established by freedmen with a trust in God and a vision, and the oldest organization of continuous existence in Franklin, celebrated its 150th anniversary in 2016; and

WHEREAS, First Baptist Church was founded by freed slaves Joseph Gregory and Israel Cross as Cool Spring Baptist Church in 1866, just after the end of slavery; and

WHEREAS, the original structure stood near the banks of the Black Water River, near present day Bowers Road; it was a brush shelter with a dirt floor, where logs were used for pews and the pulpit was a large block of wood; and

WHEREAS, in 1908, under the leadership of then-pastor Dr. Walter Raleigh Ashburn, the congregation bought two parcels of land between Hall and Pearl Streets and began building a new church; and

WHEREAS, the first worship service in the present-day church was held in the basement in December 1908; the name was changed to First Baptist Church roughly 20 years later, during the tenure of then-pastor Dr. M. C. Allen; and

WHEREAS, over its 150-year history First Baptist Church has demonstrated a commitment to education, expansion of ministries, and community outreach, gaining local and statewide recognition for its efforts; and

WHEREAS, since 2006, First Baptist Church has been led by senior pastor Reverend Dwight Shawrod Riddick and his wife, Reverend Jennell Whitfield Riddick, director of ministries, who have a vision for building on the church's legacy of transforming lives and making a lasting difference in the Franklin community; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend First Baptist Church of Franklin on celebrating 150 years of history as the oldest organization of continuous existence in Franklin; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Reverend Dwight Shawrod Riddick, senior pastor of First Baptist Church of Franklin, as an expression of the General Assembly's admiration for the church's proud history and continuing legacy.

**HOUSE JOINT RESOLUTION NO. 582***Commending Rebecca C. W. Adams.*

Agreed to by the House of Delegates, January 13, 2017

Agreed to by the Senate, January 19, 2017

WHEREAS, Rebecca C. W. Adams was named the 2016 First Citizen of Chesapeake by the Chesapeake Rotary Club for her commitment to education and generous support of countless charitable causes and community service projects; and

WHEREAS, the First Citizen of Chesapeake award is presented annually to a distinguished member of the Chesapeake community who embodies the Rotary motto of Service above Self; and

WHEREAS, a native of Danville, Rebecca Adams is a passionate lifelong learner who followed in her mother's footsteps as a teacher; she holds degrees from Longwood College, Duke Divinity School, Jackson State University, and The College of William & Mary; and

WHEREAS, Rebecca Adams worked as an educator in Chesapeake Public Schools for 36 years and served as an assistant principal at Park Elementary School and principal at Camelot Elementary School and Great Bridge Intermediate School; and

WHEREAS, Rebecca Adams is known as a hands-on administrator who cultivated strong relationships with students and their families; she shared her love of learning with her students through creative reading challenges; and

WHEREAS, Rebecca Adams strengthens the community as an active member of numerous civic and service organizations, including as chair of the Chesapeake March of Dimes; she has held leadership positions in Habitat for Humanity, Chesapeake Care Clinic, Chesapeake Regional Health Foundation, Chesapeake Boys and Girls Club, Paint Your Heart Out, Hampton Roads Salvation Army, and Chesapeake NAACP; and

WHEREAS, Rebecca Adams supported her sons and other young men in the community as a leader in the Boy Scouts of America at local and regional levels, and she enjoys fellowship and worship with the community as a member of Oak Grove United Methodist Church, where she teaches Sunday school; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Rebecca C. W. Adams on being named the 2016 First Citizen of Chesapeake by the Chesapeake Rotary Club; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Rebecca C. W. Adams as an expression of the General Assembly's admiration for her service to the residents of Chesapeake and the Commonwealth.

**HOUSE JOINT RESOLUTION NO. 583***Commending Peter Bastone.*

Agreed to by the House of Delegates, January 13, 2017

Agreed to by the Senate, January 19, 2017

WHEREAS, Peter Bastone, an experienced leader in the health care field, retired as president and chief executive officer of Chesapeake Regional Medical Center on March 31, 2016; and

WHEREAS, Peter Bastone was named president and chief executive officer of Chesapeake Regional Medical Center in 2013, bringing more than 30 years of leadership experience to one of the Commonwealth's only independent hospitals; and

WHEREAS, with Peter Bastone's guidance, Chesapeake Regional Medical Center preserved its independence, strengthened its commitment to patient satisfaction and care, and laid the foundation for continued growth and stability; and

WHEREAS, during his tenure, Peter Bastone oversaw the rebranding of Chesapeake Regional Medical Center and orchestrated a significant increase in operating income; he also helped the hospital pay all public debt and maintain a AA bond rating; and

WHEREAS, Peter Bastone helped enhance Chesapeake Regional Medical Center's clinical and technological capabilities by establishing one of the leading surgical robotics programs in the Commonwealth and a clinically integrated accountable care organization with Bayview Medical Group; and

WHEREAS, Peter Bastone also worked with the Chesapeake Care Free Clinic, restructuring its operations, obtaining bridge grants, and optimizing its scope of service to ensure stability and viability in the future; and

WHEREAS, Peter Bastone was a respected advocate for hospitals and patients in the Commonwealth, providing crucial data and insight on health care policies to government officials; and

WHEREAS, prior to joining Chesapeake Regional Medical Center, Peter Bastone worked as chief administrative officer of CHA Health Systems in Los Angeles and served as president and chief executive officer of two hospitals in California; he holds degrees from Princeton University; the University of California, Berkeley; and the St. Louis University Aquinas Institute of Theology; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Peter Bastone on the occasion of his retirement as president and chief executive officer of Chesapeake Regional Medical Center; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Peter Bastone as an expression of the General Assembly's admiration for his outstanding service to the residents of Chesapeake and best wishes on future endeavors.

**HOUSE JOINT RESOLUTION NO. 584**

*Commending the Roanoke Catholic School football team.*

Agreed to by the House of Delegates, January 13, 2017  
 Agreed to by the Senate, January 19, 2017

WHEREAS, the Roanoke Catholic School football team claimed their second Virginia Independent Schools Athletic Association Division III state championship in three years on November 18, 2016; and

WHEREAS, the Roanoke Catholic School Celtics defeated the unbeaten Quantico High School Warriors 38-21 in a title game where the Celtics dominated on offense with 387 rushing yards; and

WHEREAS, the Roanoke Celtics built a 22-7 halftime lead thanks to an opening pair of running touchdowns by fullback Mykah English and a 25-yard touchdown run by standout running back Jemel Tyree; and

WHEREAS, the Roanoke Celtics effectively put away the game in the third quarter when receiver/defensive back Chris Pyle scored from 27-yards out and Mykah English scored another touchdown, and the Roanoke Celtics made two-point conversions after both scores; and

WHEREAS, after the Warriors scored two touchdowns late in the third quarter, the Roanoke Celtics' defense rose to the occasion in the fourth quarter, keeping the Warriors off of the scoreboard the rest of the game; and

WHEREAS, Mykah English led the Roanoke Celtics with 187 yards on 31 attempts with three rushing touchdowns, despite sustaining an injury in the first half; running back Jemel Tyree, who was also injured, had 10 carries for 83 yards and a touchdown; and

WHEREAS, all members of the Roanoke Catholic School football team contributed to the championship victory; throughout the season they displayed an enviable level of desire, preparation, and laser-like focus on winning another state championship after winning in 2014 but coming up short of defending their title in 2015; and

WHEREAS, Roanoke Celtics coach Bob Price, the VISAA Division III Coach of the Year, pushed the team to improve and to overcome a lot of adversity during the season; with several players injured other team members had to step up, and the team showed a lot of maturity in playing through their obstacles; and

WHEREAS, Roanoke Celtics players Ethan Wright, Jemel Tyree, Jacob Elliott, and Ian McInnis won VISAA Division III 1st Team All-State honors, and Jemel Tyree was named Co-Player of the Year; and

WHEREAS, the Roanoke Celtics could not have achieved the championship victory without the love and support of the entire Roanoke Catholic School community, the players' parents and families, and the Roanoke Valley community at large; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Roanoke Catholic School football team for winning the Virginia Independent Schools Athletic Association Division III state championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Bob Price, Roanoke Catholic School football coach, as an expression of the General Assembly's admiration for the team's amazing resolve in achieving their goal of winning another state championship.

**HOUSE JOINT RESOLUTION NO. 591**

*Commending the Highland Springs High School football team.*

Agreed to by the House of Delegates, January 13, 2017  
 Agreed to by the Senate, January 19, 2017

WHEREAS, the Highland Springs High School football team of Henrico County won an emotional victory in the Virginia State High School League Group 5A state championship on December 10, 2016; and

WHEREAS, the Highland Springs High School Springers defeated the Stone Bridge High School Bulldogs of Ashburn in a 35-29 nail-biter to win their second consecutive state title; and

WHEREAS, during the postseason playoffs team members wore purple ANGIESTRONG T-shirts under their jerseys and stickers on their helmets to honor Angela Johnson, the beloved president of the Highland Springs Springers' Booster Club, who died of cancer on November 12, 2016; and

WHEREAS, senior wide receiver and defensive back Chris Thaxton, Angela Johnson's son, scored the game-winning touchdown with 26.6 seconds left in the game, providing a storybook ending to the Highland Springs Springers' 14-1 season and a poignant moment for the entire Highland Springs community; and

WHEREAS, the Highland Springs Springers faced one of the toughest rushing attacks all season from the Bulldogs, but their strike offense came alive in the fourth quarter when they completed three touchdown drives that lasted less than a minute each; and

WHEREAS, the Highland Springs Springers were led by senior quarterback Juwan Carter, who finished the game 14 of 26 for 196 passing yards and three touchdowns; he rushed for a fourth touchdown; and

WHEREAS, every member of the Highland Springs Springers team contributed to the championship victory, boosted by the unwavering support of the Highland Springs High School student body, teachers, and staff, many of whom donned purple T-shirts in solidarity with the team; and

WHEREAS, Highland Springs Springers' head coach Loren Johnson and his staff pushed the players throughout the season to reach their full potential and motivated the team to continue their pursuit of another state championship despite facing family tragedy and the loss of their "team mom"; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Highland Springs High School football team on winning back-to-back Virginia High School League Group 5A state championships; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Loren Johnson, head coach of the Highland Springs High School football team, as an expression of the General Assembly's admiration for the team's exceptional season and extraordinary effort in the face of adversity.

**HOUSE JOINT RESOLUTION NO. 592**

*Commending Jonathan C. Kinney.*

Agreed to by the House of Delegates, January 13, 2017

Agreed to by the Senate, January 19, 2017

WHEREAS, Jonathan C. Kinney, a respected attorney in Arlington, received the 2016 William T. Newman Jr. Spirit of Community Award for his exceptional civic leadership and philanthropy; and

WHEREAS, the William T. Newman Jr. Spirit of Community Award is presented annually by the Arlington Community Foundation to a community leader who has demonstrated a tireless commitment to improving the quality of life of all Arlington residents; and

WHEREAS, Jonathan Kinney practices law in the areas of land use, zoning, real estate, estate planning, and wealth management with Bean, Kinney & Korman; he ably represents regional and national developers, property owners, and business owners in all aspects of zoning and land use for commercial, residential, and mixed-use projects; and

WHEREAS, a lifelong resident of Arlington, Jonathan Kinney has strengthened the economic vitality of the community through his work in development, and he supports those in need through his work with nonprofit organizations to complete affordable housing projects; and

WHEREAS, possessed of a wealth of knowledge about Arlington County and its history, Jonathan Kinney offers a unique perspective on how to help the county grow responsibly; he has earned the nickname Mr. Arlington for his close working relationships with local and regional organizations and officials; and

WHEREAS, among many awards and accolades throughout his career, Jonathan Kinney was inducted into the Arlington Business Hall of Fame in 2014, and he has been named as Top Lawyer in Real Estate by *Washingtonian* magazine four times, most recently in 2013; and

WHEREAS, Jonathan Kinney was presented with the William T. Newman Jr. Spirit of Community Award at a special luncheon held at the Renaissance Arlington Capitol View Hotel on November 10, 2016; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Jonathan C. Kinney on receiving the 2016 William T. Newman Jr. Spirit of Community Award; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Jonathan C. Kinney as an expression of the General Assembly's admiration for his legacy of service to Arlington County.

**HOUSE JOINT RESOLUTION NO. 593**

*Commending the Woman's Club of Arlington.*

Agreed to by the House of Delegates, January 13, 2017

Agreed to by the Senate, January 19, 2017

WHEREAS, the General Federation of Women's Clubs was organized on April 24, 1890, and duly chartered by President William McKinley and the United States Congress on March 3, 1901; and

WHEREAS, the Woman's Club of Arlington was organized on October 22, 1931 by a group of 30 civic-minded women of the community with the objectives of providing charitable, educational, scientific, and literary support; and

WHEREAS, the Woman's Club of Arlington joined the Virginia Federation of Women's Clubs and the General Federation of Women's Clubs in 1932; and

WHEREAS, the Woman's Club of Arlington obtained a mortgage with a goal to purchase their own clubhouse, and in an effort to pay for their clubhouse, sold notes, held benefit card parties, sold pansies and hats, and held bazaars, luncheons, fall festivals, and theatrical productions; and

WHEREAS, the Woman's Club of Arlington clubhouse stands today as a symbol of dedication to community improvement through volunteer service, always portraying the General Federation of Women's Clubs motto "Unity in Diversity"; and

WHEREAS, the Woman's Club of Arlington has contributed to the General Federation of Women's Clubs programs in the areas of conservation, education, home life, international affairs, public affairs, and the arts in Arlington County, the United States, and throughout the world; and

WHEREAS, the Woman's Club of Arlington continues to serve the Arlington community with financial and in-kind contributions to programs such as Arlington Food Assistance Center, Sullivan House, Doorways, Meals on Wheels, Randolph Elementary School Essay Contest, Stop Child Abuse Now, Wakefield High School Scholarship, Wounded Warriors, Gulf Branch Nature Center, and the local USO; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Woman's Club of Arlington on the occasion of its 85th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Woman's Club of Arlington as an expression of the General Assembly's admiration for the club's longstanding mission to strengthen and enhance the Arlington community.

**HOUSE JOINT RESOLUTION NO. 594**

*Commending the Lee Highway Alliance.*

Agreed to by the House of Delegates, January 13, 2017

Agreed to by the Senate, January 19, 2017

WHEREAS, the Lee Highway Alliance, a grassroots civic organization in Arlington County, was named the 2016 Advocate of the Year by the Virginia Statewide Neighborhood Conference for its efforts to enhance the quality of life in the Lee Highway corridor; and

WHEREAS, the Virginia Statewide Neighborhood Conference presents annual awards to individuals and other organizations for projects and advocacy that promote and strengthen the Commonwealth's neighborhoods; and

WHEREAS, founded by Ginger Brown and Sandi Chesrown, the Lee Highway Alliance comprises 18 civic associations that have developed strategies to transform Lee Highway into a walkable, economically vibrant urban Main Street from Rosslyn to East Falls Church, featuring neighborhood activity centers, public spaces, and new transportation options; and

WHEREAS, the Lee Highway Alliance recognized that Lee Highway was the only corridor in Arlington County without a focused planning effort and that the General Land Use Plan had not been updated in nearly 60 years; and

WHEREAS, the Lee Highway Alliance built trust with local individuals and businesses, researched land use and other relevant topics, identified specific goals, and worked with Arlington County to plan the corridor through the Lee Highway Visioning Study in 2016; and

WHEREAS, thanks to the efforts of the Lee Highway Alliance, Arlington County will form the Lee Highway Task Force in 2017 and gather input from businesses, residents, community groups, and stakeholders to build consensus on a joint vision for the project; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Lee Highway Alliance on being named the 2016 Advocate of the Year by the Virginia Statewide Neighborhood Conference for its work to enhance Lee Highway; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Lee Highway Alliance as an expression of the General Assembly's admiration for the organization's dedicated leadership and service to the residents of Arlington County.

**HOUSE JOINT RESOLUTION NO. 595**

*Commending Lawrence H. Hoover, Jr.*

Agreed to by the House of Delegates, January 13, 2017

Agreed to by the Senate, January 19, 2017

WHEREAS, Lawrence H. Hoover, Jr., a prominent Harrisonburg attorney known as the "father of mediation in Virginia," was honored for his distinguished service to the community in April 2016; and

WHEREAS, Harrisonburg Mayor Chris Jones proclaimed April 23, 2016, as Larry Hoover Day and Lawrence "Larry" H. Hoover, Jr., was presented the first Lawrence H. Hoover Jr., Award for Excellence in Peaceable Service to the Community; and

WHEREAS, Larry Hoover graduated magna cum laude from Hampden-Sydney College and earned his juris doctor degree from the University of Virginia School of Law; and

WHEREAS, Larry Hoover served as a legal officer for the United States Department of State and was posted in Manila, Philippines, and Geneva, Switzerland, before returning to Harrisonburg in 1971, partnering with his father to form the law firm now known as Hoover Penrod PLC; and

WHEREAS, in 1982, Larry Hoover was a cofounder of the Community Mediation Center, now the Fairfield Center, in Harrisonburg because he saw the shortcomings of the legal system and wanted to do something to fix it; and

WHEREAS, over his long and successful career, Larry Hoover received numerous awards, including the 2005 Tradition of Excellence Award from the General Practice Section of the Virginia State Bar, and was recognized for his alternative dispute resolution efforts by the legal community; and

WHEREAS, Larry Hoover, who announced his retirement from practicing law in 2014, has made significant contributions to his community through his service in many civic organizations in Harrisonburg and Rockingham County; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Lawrence H. Hoover, Jr., a distinguished Harrisonburg attorney and pioneer in finding alternative avenues for people struggling through the legal system; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Lawrence H. Hoover, Jr., as an expression of the General Assembly's admiration for his life's work in promoting ways to mediate rather than litigate disputes.

**HOUSE JOINT RESOLUTION NO. 596**

*Commending First Baptist Church Chesterbrook.*

Agreed to by the House of Delegates, January 13, 2017

Agreed to by the Senate, January 19, 2017

WHEREAS, First Baptist Church Chesterbrook of McLean, Fairfax County's oldest African American church, celebrated the 150th anniversary of its founding in 2016; and

WHEREAS, First Baptist Church was organized on August 15, 1866, in Lincolntown, a farming community established by freed slaves shortly after the Civil War; and

WHEREAS, Lincolntown was later renamed Chesterbrook and the church became known as First Baptist Church Chesterbrook; and

WHEREAS, First Baptist Church Chesterbrook was built on land purchased by Reverend Cyrus Franklin Carter, the founder and first pastor of the church, who organized four Baptist congregations for freed men in the area; and

WHEREAS, the growth of the congregation in the 20th century created the need for more room and an addition to the original structure was built in 1949, housing a pastors' study, choir loft, choir room, and baptismal pool; and

WHEREAS, today First Baptist Church Chesterbrook is visionary, proactive, and progressive in its approach to sharing the Gospel and has a vibrant and expansive ministry, as well as a devout and energetic congregation; and

WHEREAS, First Baptist Church Chesterbrook places great emphasis on the belief that members of the congregation should go beyond a mere surface faith and make sure that their lives are in line with the will of God; and

WHEREAS, many pastors have served First Baptist Church Chesterbrook over the years and promoted the church's mission of exalting Jesus, equipping the saved, evangelizing the lost, and encouraging every soul in Christ Jesus our Lord; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend First Baptist Church Chesterbrook of McLean on the 150th anniversary of its founding; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to First Baptist Church Chesterbrook as an expression of the General Assembly's admiration for the church's remarkable 150-year history as the oldest African American church in Fairfax County.

**HOUSE JOINT RESOLUTION NO. 598**

*Commending the Arlington Community Foundation.*

Agreed to by the House of Delegates, January 13, 2017

Agreed to by the Senate, January 19, 2017

WHEREAS, the Arlington Community Foundation, which creates new opportunities for local students and strives to enhance the lives of community members, celebrated its 25th anniversary in 2016; and

WHEREAS, the Arlington Community Foundation was founded in 1991 by Arlington resident the Honorable William T. Newman, Jr., who was inspired by the work of The San Francisco Community Foundation in the wake of that city's 1989 earthquake; and

WHEREAS, the Arlington Community Foundation provides grants to nonprofit groups and awards scholarships to local students in an effort to improve and strengthen the community in and around Arlington; and

WHEREAS, over its 25-year history the Arlington Community Foundation has given almost \$10.6 million in grants to nonprofit organizations, and it awarded \$473,500 worth of scholarships to 78 students in 2016; and

WHEREAS, the Arlington Community Foundation received gifts of more than \$3.1 million from generous donors in 2015, funds that were used to support homelessness prevention, education, arts, youth, and families in need; and

WHEREAS, the Arlington Community Foundation is a philanthropic focal point in the Arlington community; the organization celebrated its 25th anniversary milestone at the annual spring gala fundraiser held at The Ritz-Carlton Pentagon City in May 2016; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Arlington Community Foundation on its 25 years of service to the Arlington community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Honorable William T. Newman, Jr., Arlington Community Foundation founder and president emeritus, and Wanda Pierce, executive director, as an expression of the General Assembly's admiration for the foundation's work to improve the quality of life in and around Arlington.

**HOUSE JOINT RESOLUTION NO. 599**

*Commending William G. Bouie.*

Agreed to by the House of Delegates, January 13, 2017

Agreed to by the Senate, January 19, 2017

WHEREAS, William G. Bouie, of Reston, a telecommunications executive and the current chair of the Fairfax County Park Authority Board, was honored with Leadership Fairfax's Katherine K. Hanley Public Service Award in April 2016; and

WHEREAS, the Katherine K. Hanley Public Service Award is given annually by Leadership Fairfax to a member of the community who exemplifies service above self and has had a positive impact on Fairfax County; and

WHEREAS, under William "Bill" G. Bouie's leadership, the Fairfax County park system received national recognition for excellence, and the county's parks are ranked among the best in the nation; and

WHEREAS, Bill Bouie is a highly regarded and visible citizen of the Reston and Fairfax County communities, serving organizations such as the Reston Little League, Wolf Trap National Park for the Performing Arts, Reston Community Center, and Reston Hospital Center; and

WHEREAS, Bill Bouie was presented the Katherine K. Hanley Public Service Award at the annual Fairfax County Board of Supervisors' State of the County breakfast and the award's namesake, a former Fairfax supervisor, was on hand for the presentation; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend William G. Bouie of Reston on receiving Leadership Fairfax's Katherine K. Hanley Public Service Award in 2016; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to William G. Bouie as an expression of the General Assembly's admiration for his honorable service to the people of Reston and Fairfax County.

**HOUSE JOINT RESOLUTION NO. 600**

*Celebrating the life of Patricia Ann Logan-Reilly.*

Agreed to by the House of Delegates, January 13, 2017

Agreed to by the Senate, January 19, 2017

WHEREAS, Patricia Ann Logan-Reilly of Chesterfield, a longtime science teacher in the Richmond Public Schools, died on May 12, 2016; and

WHEREAS, Patricia "Tricia" Ann Logan-Reilly was born in Richmond to the late Norman and Iris Logan; and

WHEREAS, Tricia Logan-Reilly graduated from Manchester High School and earned a degree from Virginia Commonwealth University; and

WHEREAS, Tricia Logan-Reilly taught science in Richmond Public Schools for 41 years, touching the lives of countless students and colleagues at Thomas C. Boushall Middle School in southwestern Richmond; and

WHEREAS, Tricia Logan-Reilly was a devoted wife, loving mother, and caring friend; she loved a good book, a good movie, and felt at home at the beach; and

WHEREAS, Tricia Logan-Reilly lived her life in selfless service to others, abiding by the mantra "spread love wherever you go," teaching her family to value kindness and gratitude above all else, and that there is no such thing as caring too much; and

WHEREAS, Tricia Logan-Reilly will be fondly remembered and greatly missed by her husband, Charlie; children, Patrick and Megan; and many other beloved family and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Patricia Ann Logan-Reilly, a longtime science teacher in Richmond Public Schools; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Patricia Ann Logan-Reilly as an expression of the General Assembly's respect for her memory.

### HOUSE JOINT RESOLUTION NO. 601

*Celebrating the life of Herman J. Obermayer.*

Agreed to by the House of Delegates, February 9, 2017

Agreed to by the Senate, February 16, 2017

WHEREAS, Herman J. Obermayer of Arlington, a well-known author and journalist who was the longtime owner, editor, and publisher of the *Northern Virginia Sun*, died on May 11, 2016; and

WHEREAS, a native of Philadelphia, Pennsylvania, Herman Obermayer joined many of the other young men of his generation in service to his country during World War II as a member of the United States Army; and

WHEREAS, after he returned home, Herman Obermayer graduated from Dartmouth College in 1948 and began his career in journalism as a reporter for the *Long Island Daily Press*; he gained experience in advertising and sales before purchasing the *Long Branch Daily Record* in Long Branch, New Jersey, in 1957; and

WHEREAS, in 1963, Herman Obermayer purchased the *Northern Virginia Sun*, an Arlington-based newspaper with a circulation of 20,000 customers; he commuted between Arlington and Long Branch each week until 1971 when he sold the *Long Branch Daily Record*; and

WHEREAS, having witnessed the horrors of the Holocaust, Herman Obermayer ensured that the *Northern Virginia Sun* comprehensively covered the Arlington-based American Nazi Party until it was dissolved in 1967; and

WHEREAS, in 1988, Herman Obermayer sold the *Northern Virginia Sun* and its commercial printing subsidiary, which printed more than 100 foreign language newspapers; he then served the United States Department of State as a consultant to growing newspapers in former Soviet states from 1990 to 2001; and

WHEREAS, after his well-earned retirement, Herman Obermayer authored a World War II memoir and a biography of former Chief Justice of the Supreme Court William H. Rehnquist; he was a member of Washington Golf and Country Club and enjoyed fellowship and worship with the community at Temple Rodef Shalom; and

WHEREAS, predeceased by his wife of 58 years, Betty, Herman Obermayer will be fondly remembered and greatly missed by his four daughters, Helen, Adele, Elizabeth, and Roni, and their families, and numerous other family members, friends, and colleagues; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Herman J. Obermayer, a well-known journalist and author in Arlington; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Herman J. Obermayer as an expression of the General Assembly's respect for his memory.

### HOUSE JOINT RESOLUTION NO. 602

*Celebrating the life of Thomas Michael Bello.*

Agreed to by the House of Delegates, January 13, 2017

Agreed to by the Senate, January 19, 2017

WHEREAS, Thomas Michael Bello of McLean, who made service to others the spine of his life as an educator of immigrants and a revered deacon in the Arlington Diocese of the Catholic Church, died on March 29, 2016; and

WHEREAS, Thomas "Tom" Michael Bello grew up in Raleigh, North Carolina, and graduated from Broughton High School; he received a Morehead Scholarship to attend the University of North Carolina at Chapel Hill, where he was elected student body president and studied history and English; and

WHEREAS, upon receiving a Rhodes Scholarship, Tom Bello studied history at Oxford University in England, then attended Yale Law School before deciding to dedicate his life to helping underserved communities; and

WHEREAS, Tom Bello moved to Northern Virginia in 1975 and for more than three decades taught English as a second language to adult refugees and immigrants in the Arlington community, where he began his studies and training to become a deacon in the Catholic Church; and

WHEREAS, after his diaconate ordination in 1987, Tom Bello was assigned to the Arlington Diocese, serving primarily at St. James Catholic Church in Falls Church, where he proclaimed the Gospel, offered homilies, baptized children, led Scripture study groups, and presided at funerals and marriages; and

WHEREAS, in 1983 Tom Bello felt called to join the National Fraternity of the Secular Franciscan Order to pursue peace, prayer, and active service to others, and he was elected the group's national minister in 2009, a position he held until his death; and

WHEREAS, Tom Bello had an infectious laugh and a positive influence on all of those who crossed his path; he will be especially remembered for the compassion he showed, whether it be through distributing food to the needy or ministering to those confined to hospitals, nursing homes, and prisons; and

WHEREAS, Tom Bellow will be fondly remembered and greatly missed by his wife, Judy; children, Yeats, Pierce, and Jackie, and their families; as well as countless relatives and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Thomas Michael Bello, a revered deacon in the Arlington Diocese of the Catholic Church and educator in the Northern Virginia immigrant community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Thomas Michael Bello as an expression of the General Assembly's respect for his memory.

**HOUSE JOINT RESOLUTION NO. 603**

*Commending Alan Schuman.*

Agreed to by the House of Delegates, January 13, 2017

Agreed to by the Senate, January 19, 2017

WHEREAS, in 2016, Alan Schuman received the Volunteer Fairfax Lifetime Achievement Award for his work with young people through Fairfax County Court Appointed Special Advocates and the Great Falls Youth Basketball League; and

WHEREAS, after beginning his career as a juvenile probations officer, Alan Schuman became director of social services for Washington, D.C., superior courts and founded his own organizational consulting business; and

WHEREAS, in 2000, Alan Schuman began generously volunteering his time as a youth basketball coach in Great Falls, where he mentored countless young people and helped provide an outlet for healthy activity; and

WHEREAS, in 2002, Alan Schuman was sworn in as a volunteer for Court Appointed Special Advocates (CASA), an organization that serves and supports children referred to the organization by the Fairfax County Juvenile and Domestic Relations District Court; and

WHEREAS, Alan Schuman served six children in three families, and he made a profound difference in the children's lives by vigorously advocating for their welfare and best interests; and

WHEREAS, later serving as president of the CASA board, Alan Schuman strengthened the organization's financial standing, overhauled recruitment practices, and encouraged other community leaders to support or volunteer with CASA; and

WHEREAS, Alan Schuman has also touched the lives of those in need around the world, such as when he volunteered to work for three months as a teacher's aide in Phnom Penh, Cambodia; and

WHEREAS, Alan Schuman was presented the award at the 24th Annual Fairfax County Volunteer Service Awards ceremony in Springfield on April 8, 2016; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Alan Schuman on receiving the Volunteer Fairfax Lifetime Achievement Award for his work to serve and support young people in Fairfax County; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Alan Schuman as an expression of the General Assembly's admiration for his legacy of service.

**HOUSE JOINT RESOLUTION NO. 604**

*Commending Kenneth L. Hyden.*

Agreed to by the House of Delegates, January 13, 2017

Agreed to by the Senate, January 19, 2017

WHEREAS, Kenneth L. Hyden retired in December 2016 as a sergeant in the Virginia State Police, after a stellar 42-year career in law enforcement, almost the entirety of which was spent serving the citizens of Augusta County; and

WHEREAS, Kenneth "Kenny" L. Hyden is a native of Waynesboro and graduated from Blue Ridge Community College in Weyers Cave with a degree in police science; and

WHEREAS, because he was too young to become a state trooper, Kenny Hyden began working as a state police dispatcher in Culpeper in the mid-1970s; and

WHEREAS, after Kenny Hyden turned 21 he applied to become a state trooper and his first assignment was road patrol in Loudoun County; and

WHEREAS, Kenny Hyden spent 32 of his 34 years with the state police based out of Area 17 State Police Headquarters in Staunton, where he worked as a patrolman, spent five years with the D.A.R.E. program, and did a brief stint as a special agent; and

WHEREAS, a consummate professional, Kenny Hyden built a reputation for being dedicated to highway safety and public safety, issuing thousands of traffic tickets in Augusta County over his long career; and

WHEREAS, a relentless investigator, Kenny Hyden worked with two other troopers in May 2003 to catch an escaped murder suspect from Maryland on Interstate 81 in Augusta County, work that was recognized with an award from the Prince George's County Police Department in Maryland; and

WHEREAS, while Kenny Hyden's wisdom and expertise will be greatly missed by his fellow troopers based in Staunton and the citizens of Augusta County, his retirement will allow him to enjoy spending more time with his wife and two children, who have supported him throughout his long career; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Kenneth L. Hyden on his retirement in December 2016 as a sergeant in the Virginia State Police; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Kenneth L. Hyden as an expression of the General Assembly's admiration for his lengthy, distinguished career serving the people of Augusta County.

**HOUSE JOINT RESOLUTION NO. 605**

*Commending the Town of Tazewell.*

Agreed to by the House of Delegates, January 13, 2017

Agreed to by the Senate, January 19, 2017

WHEREAS, the exploration of the area known today as Tazewell dates to the early 1700s when groups of hunters from eastern Virginia first explored the areas that are now Southwest Virginia; and

WHEREAS, in 1773, William Peery and Samuel Ferguson settled the area that would become the Town of Tazewell; and

WHEREAS, in 1800, the General Assembly established the seat of a new Virginia county, Tazewell County, on land provided by William Peery; and

WHEREAS, the county seat was named in honor of the country's third President Thomas Jefferson, who that year had received every vote cast by the citizens in the area that would become known as Jeffersonville; the Town of Jeffersonville was incorporated in 1866; and

WHEREAS, on February 29, 1892, the Town of Jeffersonville was renamed the Town of Tazewell by the General Assembly because the locality was commonly referred to as "Tazewell Court House," causing considerable confusion; and

WHEREAS, the Town of Tazewell currently has an energetic and proud community that is conscious of their rich history and captivating natural surroundings; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Town of Tazewell on the occasion of the 125th anniversary of the naming of the town; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Mayor of the Town of Tazewell as an expression of the General Assembly's admiration for the Town of Tazewell's storied history and contributions to the Commonwealth.

**HOUSE JOINT RESOLUTION NO. 606**

*Commending the Graham High School competition cheer team.*

Agreed to by the House of Delegates, January 13, 2017

Agreed to by the Senate, January 19, 2017

WHEREAS, the Graham High School competition cheer team made history by claiming the program's first state title, winning the Virginia High School League Group 2A state championship on November 5, 2016, at the Siegel Center in Richmond; and

WHEREAS, the Graham High School competition cheer team was undefeated during the season, winning three invitational matches, the Conference 39 championship, and the Group 2A West regional championship; and

WHEREAS, the Graham High School competition cheer team was one of eight teams competing in the state final, and became the first school west of the Roanoke area to win a state title since competitive cheering was introduced in Group 2A in 1998; and

WHEREAS, the Virginia High School League named Debra Brewster, the head coach of the Graham High School competition cheer team, as Coach of the Year, and team captain Carson Cooper was named Group 2A Cheerleader of the Year; and

WHEREAS, the Graham High School competition cheer team's successful season is a testament to the hard work and dedication of the student-athletes, the leadership of the coaches and staff, and the enthusiastic support of the entire Graham High School community; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Graham High School competition cheer team on winning the Virginia High School League Group 2A state championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Debra Brewster, head coach of the Graham High School competition cheer team, as an expression of the General Assembly's admiration for the team's exceptional athletic performance and best wishes for the future.

**HOUSE JOINT RESOLUTION NO. 608**

*Commending the Patrick Henry High School boys' volleyball team.*

Agreed to by the House of Delegates, January 13, 2017  
 Agreed to by the Senate, January 19, 2017

WHEREAS, the Patrick Henry High School boys' volleyball team of Ashland won the Virginia High School League Group 5A state championship in November 2016; and

WHEREAS, the Patrick Henry High School Patriots defeated the Princess Anne High School Cavaliers, the three-time defending state champions from Virginia Beach, in a dominating three-set sweep, and hoisted the school's first state team championship trophy in any sport since 1994; and

WHEREAS, Patrick Henry Patriots setter Adam Lane led a relentless attack at the net with 29 assists and setter Ryan Farmer added 21 assists; and

WHEREAS, Jarrett Carrano led the team with nine kills, Jaxon Delgado led the team with six blocks, libero Luis Sagal led the team with 13 digs, and libero Connor Logan added 11 digs; and

WHEREAS, the Patrick Henry Patriots owned the momentum for most of the state title match, which was a rematch of the sectional finals game played a week earlier that the Princess Anne Cavaliers won in five sets; and

WHEREAS, the Patrick Henry Patriots' performance was so dominant in their 25-13 second set win it could be used as a "how-to" instructional video for high school volleyball; and

WHEREAS, all members of the Patrick Henry Patriots boys' volleyball team contributed to the state championship victory, and it took the effort of everyone on the court and on the bench for the team to reach the first boys' volleyball state championship game since 2001; and

WHEREAS, the Patrick Henry Patriots boys' volleyball team's state championship victory could not have been possible without the support of the school's administration and staff and a terrific student section that is a sea of white T-shirts known as the patriot, which plays an important role in energizing the team; and

WHEREAS, the Patrick Henry Patriots boys' volleyball team, under the leadership of head coach Michael Townsend, withstood adversity during their 21-4 season, were determined to improve and bounce back after losses, and kept their focus squarely trained on the goal of bringing home a state title; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Patrick Henry High School boys' volleyball team on winning the Virginia High School League Group 5A state championship in 2016; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Michael Townsend, coach of the Patrick Henry High School boys' volleyball team, as an expression of the General Assembly's admiration and respect for the team's outstanding season and championship-caliber performance.

**HOUSE JOINT RESOLUTION NO. 610**

*Designating the third week in August, in 2017 and in each succeeding year, as Virginia Aviation Week.*

Agreed to by the House of Delegates, January 24, 2017  
 Agreed to by the Senate, February 14, 2017

WHEREAS, aviation plays a critical role in the lives of all Virginians, with general aviation and airports providing thousands of jobs, supporting businesses and public safety, and facilitating leisure travel and tourism; and

WHEREAS, the Commonwealth is home to nine commercial airports, including five international airports, and 11 military air installations and 57 public-use airports, with more than 6,000 aircraft taking off and landing in Virginia each day; and

WHEREAS, in 2011, Virginia airports accounted for \$28.8 billion in economic activity and created or sustained 259,000 jobs, with each job at a Virginia airport supporting an additional seven jobs elsewhere in the Commonwealth; and

WHEREAS, in 2015, the Commonwealth recorded 25.7 million enplanements, with aviation contributing to everyday life in numerous ways, including recreational flying, air freight shipping, tourism, agriculture, weather science, and law-enforcement, military, and emergency medical flights; and

WHEREAS, in a dynamic world, general aviation is an important tool for businesses to better serve their customers efficiently and effectively, and air connectivity helps overcome the challenges of distance and geography to ensure the continued growth and economic vitality of both cities and rural communities throughout the Commonwealth; and

WHEREAS, the Commonwealth is also a leader in the aerospace industry as the home of the National Aeronautics and Space Administration Wallops Flight Facility, a rocket launch site supporting scientific and space exploration missions by federal agencies and the commercial spaceflight industry; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly designate the third week in August, in 2017 and in each succeeding year, as Virginia Aviation Week; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates transmit a copy of this resolution to the Virginia Department of Aviation so that employees of the Department may be apprised of the sense of the General Assembly of Virginia in this matter; and, be it

RESOLVED FINALLY, That the Clerk of the House of Delegates post the designation of this week on the General Assembly's website.

**HOUSE JOINT RESOLUTION NO. 612**

*Designating April 29, in 2017 and in each succeeding year, as Missing Persons Day in Virginia.*

Agreed to by the House of Delegates, January 24, 2017

Agreed to by the Senate, February 14, 2017

WHEREAS, according to the Federal Bureau of Investigation's National Crime Information Center, in 2015, there were 84,961 active missing persons cases, 42,032 of which were related to juveniles under the age of 21; and

WHEREAS, the total number of missing persons reports increased by 0.1 percent in 2015, and at the end of 2015, there were 753 missing persons reported during the year who had not been found or had not returned home; and

WHEREAS, in the Commonwealth, there are currently 630 open missing persons cases, many of which date back to the 1960s, and 283 sets of unidentified human remains; these numbers increase dramatically when nearby cases in surrounding states are factored in; and

WHEREAS, in response to these alarming trends, nonprofit organizations such as Help Save the Next Girl were founded to educate members of the public in an effort to prevent future abductions and disappearances and to provide comfort and support to the families of the missing; and

WHEREAS, Help Save the Next Girl was established in honor of Morgan Dana Harrington, a 20-year-old student at Virginia Polytechnic Institute and State University who was abducted and murdered in 2009; and

WHEREAS, like many nonprofit organizations, Help Save the Next Girl cultivates strong relationships with members of the community, public safety officers, and the media to raise awareness of abductions and predatory violence, helps disseminate urgent information about missing persons, and provides support to families of missing persons; and

WHEREAS, all missing persons deserve to be searched for, regardless of age, gender, race, or status, and the Commonwealth is committed to ensuring the safety and well-being of all of its citizens; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly designate April 29, in 2017 and in each succeeding year, as Missing Persons Day in Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates transmit a copy of this resolution to Help Save the Next Girl so that members of the organization may be apprised of the sense of the General Assembly of Virginia in this matter; and, be it

RESOLVED FINALLY, That the Clerk of the House of Delegates post the designation of this day on the General Assembly's website.

**HOUSE JOINT RESOLUTION NO. 613**

*Celebrating the life of James Hunter Talbott, Sr.*

Agreed to by the House of Delegates, January 13, 2017

Agreed to by the Senate, January 19, 2017

WHEREAS, James Hunter Talbott, Sr., of Mt. Sidney, a beloved longtime physical education teacher in Staunton known to generations of students as "Coach T," died on November 13, 2016; and

WHEREAS, a son of Raleigh and Audrey Talbott, Hunter Talbott was born in Pittsylvania County and reared in Dillwyn, and when he became of age he proudly served in the United States Air Force; and

WHEREAS, after leaving the Air Force in 1953, Hunter Talbott became a department store manager in Dillwyn and then landed a job at Leggett department store, now Belk, in Staunton; and

WHEREAS, when he was not working during summers in the 1950s, Hunter "Tiger" Talbott pitched for the Staunton Braves baseball team, and many people enjoyed watching his wicked windup; and

WHEREAS, Hunter Talbott enrolled at Richmond Professional Institute, now Virginia Commonwealth University, and after graduating with a degree in education he got his first teaching job in Augusta County; later he earned a master's degree from the University of Virginia; and

WHEREAS, in the late 1960s, Hunter Talbott went to work at Shelburne Middle School in Staunton, where he would teach physical education for 30 years before retiring in 1999; and

WHEREAS, Hunter Talbott, or "Coach T" as he was affectionately called by his students, was best known for coaching baseball and gymnastics, and teaching kids how to march and square dance in physical education classes; and

WHEREAS, even after "retiring," Hunter Talbott spent 11 years as a substitute teacher at Riverheads High School and Robert E. Lee High School, where the school track is named after him, and taught gymnastics for the YMCA and at Fort Defiance High School; and

WHEREAS, Hunter Talbott's first love was teaching children, but when he was not in the gym or the classroom he was growing some of Augusta County's best tomatoes, sharing fresh eggs with neighbors, and enjoying playing with his dogs, cats, and chickens; and

WHEREAS, throughout his life there was hardly a person who met Hunter Talbott who did not come to love him; he influenced the lives of hundreds of students in Staunton and Augusta County, who treasure their memories of "Coach T" today; and

WHEREAS, preceded in death by his son, Kerry, Hunter Talbott will be fondly remembered and greatly missed by his wife of 57 years, Sara; their children, Sherry and Kip, and their families; and many other relatives and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of James Hunter Talbott, Sr., a beloved former physical education teacher and coach in Staunton and Augusta County; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of James Hunter Talbott, Sr., as an expression of the General Assembly's respect for his memory.

#### HOUSE JOINT RESOLUTION NO. 617

*Requesting the Governor to review the Washington Metropolitan Area Transit Authority Compact of 1966 and engage in discussions with his counterparts in the other jurisdictions that are signatories to the Compact regarding improvements to provisions of the Compact related to the governance, financing, and operation of the Washington Metropolitan Area Transit Authority.*

Agreed to by the House of Delegates, February 2, 2017

Agreed to by the Senate, February 14, 2017

WHEREAS, the Washington Metropolitan Area Transit Authority (WMATA), created effective February 20, 1967, is an interstate compact agency and, by the terms of its enabling legislation, an agency and instrumentality of the signatories: the District of Columbia, State of Maryland, and Commonwealth of Virginia; and

WHEREAS, WMATA was created by the signatories to plan, develop, finance, and cause to be operated a comprehensive mass transit system for the Washington metropolitan area, including in Virginia the Counties of Arlington, Fairfax, and Loudoun and the Cities of Alexandria, Falls Church, and Fairfax; and

WHEREAS, WMATA is the largest provider of public transit service in the Washington, D.C., metropolitan area; and

WHEREAS, WMATA routinely faces challenges related to its budget, financing, governance, operations, maintenance, and safety; and

WHEREAS, the District of Columbia-based organization of business and civic leaders known as the Federal City Council, headed by former Mayor Anthony Williams, has proposed that the Washington Metropolitan Area Transit Authority Compact of 1966 (the Compact) be revised related to governance, financing, and labor union relations, among other recommendations; and

WHEREAS, according to the most recent information published by the Federal Transit Administration, three metrics used to calculate the cost of operating the WMATA rail system—expense per vehicle revenue mile, expense per vehicle revenue hour, and operating expense per passenger mile—are 24, 43, and 51 percent higher, respectively, than the average of the same three metrics calculated for the four closest comparable transit systems in the United States, which serve the cities of Boston, Chicago, Philadelphia, and San Francisco; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Governor be requested to review the Washington Metropolitan Area Transit Authority Compact of 1966 and engage in discussions with his counterparts in the other jurisdictions that are signatories to the Compact for the purpose of developing specific improvements to provisions of the Compact related to the governance, financing, and operation of the Washington Metropolitan Area Transit Authority.

In evaluating the Compact, the Governor shall engage in discussions with his counterparts in the District of Columbia, the State of Maryland, and appropriate federal officials regarding (i) the legal and organizational structure of WMATA; (ii) the composition and qualifications of the WMATA Board of Directors and the length of terms of its members, including the adoption of provisions that directors need not be required to hold public office and shall be appointed by each signatory on the basis of expertise and experience gained outside of government service in the operation of large transportation enterprises; (iii) the elimination of the mandatory binding-arbitration provision associated with union contract negotiations and the adoption of a provision that no employee of WMATA or employee of any WMATA contractor be required to have

membership in a labor union as a condition of employment; (iv) the transition of the employee pension plans to defined contribution plans; (v) resolution of WMATA's \$2.5 billion unfunded pension liability; (vi) implementation of the provisions of the Compact by the WMATA Board of Directors, management, and employees; (vii) modifications to the Compact that may be necessary to better ensure the safety of riders and employees, including safety in the event of a homeland security emergency in the national capital area; (viii) changes necessary to ensure the near-term and long-term financial viability of WMATA, including changes necessary to ensure that the cost structure of WMATA operates at least as efficiently as its closest comparable transit systems in the United States in terms of expense per passenger mile, vehicle revenue mile, and vehicle revenue hour; and (ix) other possible changes to the Compact that the Governor may consider appropriate after consultation with the Chairmen of the House and Senate Committees on Transportation.

### HOUSE JOINT RESOLUTION NO. 620

*Commending the 82nd Airborne Division.*

Agreed to by the House of Delegates, January 13, 2017

Agreed to by the Senate, January 19, 2017

WHEREAS, the 82nd Airborne Division, constituted and organized in August 1917, has been one of the United States' most valuable fighting units and remains one of the most highly trained and experienced light infantry divisions in the world; and

WHEREAS, originally known as the 82nd Division, the 82nd Airborne Division drew members from all 48 states and earned the nickname All-American, which was the basis for its distinctive shoulder insignia; and

WHEREAS, the 82nd Division served with distinction on the Western Front of World War I, reinforcing the Allies' lines and making notable contributions to the St. Mihiel offensive and the Meuse-Argonne offensive, the final major engagement of the war; and

WHEREAS, after World War I, the 82nd Division was deactivated, then reconstituted as a reserve unit in 1921; the unit was redesignated as the 82nd Airborne Division at the outset of World War II and conducted parachute drops into Sicily and Salerno in 1943; the jump into Sicily was the first regimental-sized parachute operation conducted by the United States; and

WHEREAS, the 82nd Airborne Division continued to fight in the Mediterranean Theater until Operation Neptune in support of the D-Day invasion of Normandy on June 6, 1944; the division saw 33 days of combat with no relief or replacements, completing every one of its missions and holding all captured ground; and

WHEREAS, in September 1944, the 82nd Airborne Division landed in the Netherlands as part of Operation Market Garden and captured its objectives between Grave and Nijmegen, then carried out a harrowing river assault to capture the Nijmegen road bridge; and

WHEREAS, the 82nd Airborne Division then participated in the famed Battle of the Bulge, holding the north end of a critical salient in the Ardennes Forest after a German counterattack in December 1944; after being forced to withdraw for the first time in its combat history in the face of more than four-to-one odds, the 82nd Airborne Division counterattacked and overran the Germans, capturing thousands of prisoners; and

WHEREAS, the 82nd Airborne Division finished World War II beyond the Elbe River, accepting the surrender of more than 150,000 German troops, then was deployed to Berlin for occupation duty; and

WHEREAS, after World War II, the 82nd Airborne Division was designated as a regular Army division and found a home at Fort Bragg in North Carolina; the unit was held in strategic reserve during the Korean War and was prepared to respond to Soviet aggression anywhere in the world; and

WHEREAS, in April 1965, elements of the 82nd Airborne Division deployed to the Dominican Republic as part of Operation Power Pack, and beginning in 1966, the division was deployed to Vietnam and saw intense fighting in the Mekong Delta and along the border with Cambodia; and

WHEREAS, following the Vietnam War, the 82nd Airborne Division became the nucleus of the Rapid Deployment Force, a mobile strike force at a permanent state of high readiness; in 1983, the division secured the Point Salinas Airport in Grenada during Operation Urgent Fury, which resulted in several refinements to doctrine, equipment, and interservice communication; and

WHEREAS, in 1989, the 82nd Airborne Division conducted its first combat drop since World War II to seize Torrijos International Airport in Panama during Operation Just Cause and conducted follow-on operations in Panama City and the areas surrounding the Panama Canal locks; and

WHEREAS, in 1990 and 1991, the 82nd Airborne Division participated in Operation Desert Shield and Operation Desert Storm after the Iraqi invasion of Kuwait; during the 100-hour ground war, the division pushed deep into Iraq, securing thousands of prisoners and tons of equipment, weapons, and ammunition; and

WHEREAS, in August 1992, the 82nd Airborne Division deployed to Florida to provide humanitarian relief following Hurricane Andrew; the division provided food, shelter, medical attention, and security to residents; and

WHEREAS, the 82nd Airborne Division was prepared to intervene in Haiti to depose the military dictatorship of Raoul Cédras in 1994 until the dictator stepped down and restored the democratically elected government, prompting some to comment that the 82nd Airborne Division's reputation alone was enough to avert conflict; and

WHEREAS, throughout the 1990s, the 82nd Airborne Division played integral roles in Operation Safe Haven and Operation Safe Passage in Panama and peacekeeping efforts in Bosnia and Herzegovina and Kosovo, including Operation Rapid Guardian, a 500-foot altitude jump near Pristina, Kosovo; and

WHEREAS, following the terrorist attacks on September 11, 2001, elements of the 82nd Airborne Division deployed to Afghanistan as early as October 2001 in support of Operation Enduring Freedom; other elements of the division participated in the early stages of Operation Iraqi Freedom in 2003 and helped secure the first free, national elections in Iraq in 2004; and

WHEREAS, over the next several years, the 82nd Airborne continued to carry out rapid deployment operations in Afghanistan and Iraq and provided additional disaster relief and humanitarian assistance to the victims of Hurricane Katrina in New Orleans in 2005 and the earthquake in Haiti in 2010; and

WHEREAS, in November 2016, the 82nd Airborne Division deployed to Iraq to advise Iraqi Security Forces as they attempted to retake the city of Mosul from the Islamic State as part of Operation Inherent Resolve; and

WHEREAS, veterans of the 82nd Airborne Division have gone on to become leaders, mentors, and innovators in a variety of fields and their communities, carrying with them the ethos of the All-American Division as they strive for excellence in all they do; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the 82nd Airborne Division for its exceptional service in defense of the nation on the occasion of the 100th anniversary of its organization; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Major General Erik Kurilla, commanding officer of the 82nd Airborne Division, as an expression of the General Assembly's admiration for the division's storied history and legacy of service.

### HOUSE JOINT RESOLUTION NO. 621

*Commending Matthew A. Gump.*

Agreed to by the House of Delegates, January 13, 2017

Agreed to by the Senate, January 19, 2017

WHEREAS, Matthew A. Gump, a senior at Landstown High School in Virginia Beach, won first place in the Association for Career and Technical Education's national Student Trophy Design Contest in 2016; and

WHEREAS, the first-place award recognized Matthew Gump's mastery of skill and the creativity he demonstrated with his trophy design in the first Association for Career and Technical Education (ACTE) national Student Trophy Design Contest; and

WHEREAS, Matthew Gump's entry was selected the winner out of 75 submitted to the contest from around the country and he received a \$1,000 scholarship for winning the contest; and

WHEREAS, the trophy that Matthew Gump designed will be awarded to the national ACTE Teachers of the Year, which honors teachers and administrators in the field of career and technical education; and

WHEREAS, Matthew Gump used 3D modeling and computer-aided design to create his entry, and those tools have given him new interests and goals in the fields of architecture and rendering; and

WHEREAS, Matthew Gump's winning trophy design showcased the knowledge and skills he learned from his outstanding instructors at Landstown High School, a Governor's STEM Academy and Technology Academy; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Matthew A. Gump, a senior at Landstown High School in Virginia Beach, for winning first place in the Association for Career and Technical Education's national Student Trophy Design Contest in 2016; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Matthew A. Gump of Virginia Beach as an expression of the General Assembly's admiration for his winning trophy design and outstanding skills in 3D modeling and computer-aided design.

### HOUSE JOINT RESOLUTION NO. 623

*Commending Dr. Katherine G. Johnson.*

Agreed to by the House of Delegates, January 13, 2017

Agreed to by the Senate, January 19, 2017

WHEREAS, Dr. Katherine G. Johnson of Hampton, a distinguished mathematician with the National Aeronautics and Space Administration who has been an integral member of the nation's space program for more than 30 years, received the Presidential Medal of Freedom in 2015; and

WHEREAS, the Presidential Medal of Freedom, the nation's highest civilian honor, recognizes individuals who have made meritorious contributions to the security or national interests of the United States; Dr. Katherine Johnson, now 98, was selected for her exceptional leadership in the space program from Project Mercury to the modern shuttle program; and

WHEREAS, a native of White Sulphur Springs, West Virginia, Dr. Katherine Johnson was a first-generation college student whose parents rented a house near West Virginia State University so she could complete her degree; exceptionally skilled in mathematics, she graduated from college at the age of 18; and

WHEREAS, after relocating to Newport News in 1952, Dr. Katherine Johnson found employment at the National Aeronautics and Space Administration (NASA) Langley Research Center at a time when African American women were typically assigned to all-black computer pools; and

WHEREAS, within weeks of her arrival, Dr. Katherine Johnson was asked to assist in the Spacecraft Dynamics Branch of the Flight Dynamics and Control Division, and her expertise would become crucial to every major American space program in the 20th century; and

WHEREAS, Dr. Katherine Johnson calculated the trajectory for the first manned spaceflight by an American in 1961; verified the first flight calculation made by a computer for the first orbit of the earth by an American; and worked on Apollo 11's trajectory to the moon in 1969; she later worked on additional shuttle and satellite programs; and

WHEREAS, an inspirational leader, Dr. Katherine Johnson has encouraged young men and women throughout the United States to pursue careers in science, technology, and mathematics; she has earned numerous other awards and accolades for her service to the Commonwealth, the nation, and the field of space exploration; and

WHEREAS, throughout the course of her career, Dr. Katherine Johnson has received the NASA Lunar Orbiter Achievement Award, the NASA Apollo Team Group Achievement Award, three NASA Special Achievement Awards, an honorary Doctorate of Laws from the State University of New York, and honorary Doctor of Science degrees from Capitol College and Old Dominion University, and she was honored by the National Technical Association as Mathematician of the Year in 1997; and

WHEREAS, Dr. Katherine Johnson's trailblazing contributions to science and mathematics were immortalized in the drama film *Hidden Figures*, which was released on December 25, 2016, and she received two additional honorary Doctor of Science degrees from West Virginia University and West Virginia State University in 2016; and

WHEREAS, Dr. Katherine Johnson was presented the Presidential Medal of Freedom by President Barack H. Obama at a special ceremony at the White House on November 24, 2015; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Dr. Katherine G. Johnson on receiving the Presidential Medal of Freedom for her contributions to the American space program; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Dr. Katherine G. Johnson as an expression of the General Assembly's admiration for her achievements in service to the nation.

#### HOUSE JOINT RESOLUTION NO. 624

*Commending the Elks National Home.*

Agreed to by the House of Delegates, January 13, 2017

Agreed to by the Senate, January 19, 2017

WHEREAS, the Elks National Home, now known as English Meadows Elks Home, a Bedford landmark that attracts thousands of visitors with its dazzling display of Christmas lights each year, celebrated the 100th anniversary of its construction in 2016; and

WHEREAS, for much of the past century the Elks National Home was considered the "Crown Jewel of Elkdom" as the only retirement community dedicated solely to the brothers and sisters of the Benevolent and Protective Order of Elks in the United States; and

WHEREAS, the Elks National Home was first opened in the old Hotel Bedford in 1903, and, because of the need for more space, the cornerstone for the present building was laid in September 1915 and the facility was dedicated on July 8, 1916; and

WHEREAS, in the 100 years since, the Elks National Home earned a reputation as a superb place to live, offering a beautiful campus, exceptional medical care, and excellent staff who are beloved by residents; and

WHEREAS, for the past 63 years the home has continued the tradition of erecting a massive display of 75,000 strands of Christmas lights and unique decorations that draw an average of 100,000 people and nearly 30,000 cars each holiday season; and

WHEREAS, the Elks sold the facility in 2013, and it became part of English Meadows Senior Living Community; the current owners of the renamed English Meadows Elks Home have planned a \$120 million renovation and expansion of the facilities on the 200-acre campus; and

WHEREAS, the Elks National Home holds special memories for generations of Bedford residents and Elks, and the community is hopeful about the new vision for the facility and the economic development it could bring; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Elks National Home on celebrating a century of service to the Elks and Bedford community in 2016; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Nancy Higgs, campus administrator of English Meadows Elks Home, as an expression of the General Assembly's admiration for the home's 100-year history of contributing positively to the community.

### HOUSE JOINT RESOLUTION NO. 625

*Commending Old Dominion.*

Agreed to by the House of Delegates, January 13, 2017

Agreed to by the Senate, January 19, 2017

WHEREAS, Old Dominion is one of the hottest new bands to break onto the country music scene, winning praise for their clever lyrics, innovative instrumentation, genre-busting arrangements, and finger-snapping melodies; and

WHEREAS, Old Dominion formed authentically, through a shared love of music and songwriting, and band members chose the band's name in 2007 as a nod to their Virginia roots; and

WHEREAS, Old Dominion is made up of lead singer Matthew Ramsey, drummer Whit Sellers, lead guitarist Brad Tursi, bassist Geoff Sprung, and multi-instrumentalist Trevor Rosen; and

WHEREAS, Matthew Ramsey and Whit Sellers are natives of Botetourt County and played on the drumlines of their respective high schools in the Roanoke region, James River High School and Lord Botetourt High School; and

WHEREAS, Geoff Sprung, a native of Falls Church, Brad Tursi, and Whit Sellers met while attending James Madison University in Harrisonburg and later moved to Nashville, Tennessee, where Old Dominion was formed; and

WHEREAS, Old Dominion first gained a national audience in 2013, when they attracted the attention of John Marks, SiriusXM head of country music programming, who began playing the band's music on the subscription radio service; and

WHEREAS, Old Dominion signed with RCA Records Nashville in early 2015, then released their debut studio album, "Meat and Candy," in November 2015; the band played almost every note on the album themselves instead of employing session players; and

WHEREAS, "Meat and Candy" features three hit singles, the Platinum-selling, two-week No. 1 "Break Up With Him," Top 5 chart hit "Snapback," and "Song For Another Time," which hit No. 1 on Billboard's Country Airplay in December 2016; and

WHEREAS, the members of Old Dominion have collectively written seven No. 1 songs recorded by other artists, and their songwriting appears on hits by country music stars Kenny Chesney, Blake Shelton, Dierks Bentley, Luke Bryan, and Keith Urban, among others; and

WHEREAS, in 2016, Old Dominion was named New Vocal Duo or Group of the Year at the Academy of Country Music Awards and won Breakthrough Group/Duo of the Year at the American Country Countdown Awards; and

WHEREAS, Old Dominion strives for authenticity over perfection, and the band members' friendship, chemistry, and history is a unique combination that stands out among today's popular country music artists; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the members of the band Old Dominion for their success breaking into the country music industry, fueled by their strong songwriting ability and musicianship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the members of the band Old Dominion as an expression of the General Assembly's admiration for the chart-topping success that was cultivated during their years in the Commonwealth.

### HOUSE JOINT RESOLUTION NO. 626

*Commending Richard W. Harris, Sr.*

Agreed to by the House of Delegates, January 20, 2017

Agreed to by the Senate, January 26, 2017

WHEREAS, Richard W. Harris, Sr., a dedicated volunteer firefighter and the former Mayor of Kenbridge, is the longest-serving fire chief in the Commonwealth; and

WHEREAS, Richard "Dicky" W. Harris, Sr., joined the Kenbridge Fire Department, an all-volunteer department in Lunenburg County, on September 22, 1964; and

WHEREAS, serving as chief from 1969 to 1999 and 2001 to the present, Dicky Harris ably led the members of the department as they responded to countless calls for service and safeguarded the lives and property of local residents; and

WHEREAS, as a two-term president of the Virginia State Firefighters Association and a member of the association's finance and legislative committees, Dicky Harris worked to ensure that needs of volunteer fire departments throughout the Commonwealth were understood and met; and

WHEREAS, Dicky Harris also served as the longtime secretary of the Southside Virginia Volunteer Firefighters Association and chair of the Virginia Fire Services Board, and he has been instrumental in training and mentoring a new generation of firefighters and first responders; and

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WHEREAS, desirous to be of further service to his fellow residents, Dicky Harris ran for and was elected to the Kenbridge Town Council and served from 1980 to 1990 as a councilman and from 1990 to 2014 as mayor; and

WHEREAS, Dicky Harris has earned numerous awards and accolades for his professionalism and leadership, including the Award for Excellence in Virginia's Fire Management in 2012, and he is an exemplar of the courage and dedication demonstrated by public safety officers throughout the Commonwealth; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Richard W. Harris, Sr., the longest-serving fire chief in the Commonwealth for his exceptional service to the residents of Kenbridge; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Richard W. Harris, Sr., as an expression of the General Assembly's admiration for his achievements and service.

**HOUSE JOINT RESOLUTION NO. 631**

*Commending Peter Allen Lewis.*

Agreed to by the House of Delegates, January 13, 2017

Agreed to by the Senate, January 26, 2017

WHEREAS, Peter Allen Lewis, an educator and founder of Apple Ridge Farm in Floyd County, transformed the lives of thousands of Roanoke's underserved children and families by providing unparalleled educational, cultural, and outdoor experiences for almost 40 years; and

WHEREAS, through Peter Lewis' leadership as president and executive director of Apple Ridge Farm, over 80,000 children have had the opportunity to participate in workshops, retreats, and academic programs in a rural camp setting; and

WHEREAS, Peter Lewis worked as an educator for 34 years before retiring from Roanoke City Public Schools in 2000; he has been a teacher, coach, assistant principal, and principal of an alternative education program for troubled students; and

WHEREAS, the beginnings of Apple Ridge Farm can be traced to 1975, when Peter Lewis purchased a farm in Copper Hill with the goal of establishing a mountain camp to give inner-city students from Roanoke an educational experience at a rural retreat; and

WHEREAS, soon the nonprofit Apple Ridge Farm was organized and Peter Lewis and his family donated a barn and eight and a half acres to build the summer camp; from those humble beginnings Apple Ridge Farm grew and expanded to its current size of 26.5 acres, and in 2015, about 400 children came to the camp over four two-week sessions; and

WHEREAS, the wooded areas and country spaces of Apple Ridge Farm have been magical places for urban youth to develop self-esteem and learn positive values from role models such as judges, police officers, and engineers, who come to speak at the camp; and

WHEREAS, in 2016, Peter Lewis announced he was stepping down from his day-to-day role at Apple Ridge Farm, passing the torch to his son, John Lewis, who now oversees operations; and

WHEREAS, Peter Lewis was honored for his long service to the children of Roanoke with the Cabell Brand Hope Award from Total Action for Progress, an anti-poverty agency, in October 2016; and

WHEREAS, over the past three decades, Peter Lewis poured his blood, sweat, and tears into guiding the personal and academic growth of scores of young campers and making Apple Ridge Farm the success story it is today; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Peter Allen Lewis on his dedication to inspiring the underserved children of Roanoke to greatness through educational, cultural, and outdoor experiences at Apple Ridge Farm; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Peter Allen Lewis as an expression of the General Assembly's admiration for his life's work.

**HOUSE JOINT RESOLUTION NO. 632**

*Commending Naval Station Norfolk.*

Agreed to by the House of Delegates, January 13, 2017

Agreed to by the Senate, January 19, 2017

WHEREAS, forged in the crucible of the nation's founding, the City of Norfolk is fiercely proud of its long and historic affiliation with the United States Navy and of its leading role in national defense through Norfolk Naval Station, which has served the local community and the military for 100 years; and

WHEREAS, Norfolk has been home to such early naval heroes as Captain Stephen Decatur and David Farragut, the Navy's first admiral; and famous ships have sailed and steamed on the Elizabeth River, including USS *Chesapeake*, one of the original six wooden frigates commissioned by Congress in 1794 that formed the core of the first United States Navy; the USS *Monitor* and CSS *Virginia*, the revolutionary ironclad vessels of the Civil War; the ships of the Great White Fleet that circumnavigated the globe in 1907; and the ships that carried Eugene Ely and his Hudson aircraft that made Norfolk the birthplace of naval aviation in 1910; and

WHEREAS, in recognition of its large, ice-free harbor and strategic geographic location, President Woodrow Wilson signed a bill in 1917 that established a United States Naval Base on 474 acres of land at Sewells Point that had been the location for the 1907 Jamestown Exposition held in celebration of the 300th anniversary of the Virginia colony's founding; originally known as Naval Operating Base Hampton Roads, the name of the installation was changed to Naval Station Norfolk in 1953; and

WHEREAS, over the years the base has grown in both size and importance, and now encompasses 4,300 acres with 64 ships and 18 aircraft squadrons, more than 100,000 active duty and civilian personnel, and the headquarters of United States Joint Forces Command, United States Fleet Forces Command, United States Marine Corps Forces Command, United States Air Force Air Combat Command, and United States Army Training and Doctrine Command, as well as the location of the North American headquarters for the North Atlantic Treaty Organization; and

WHEREAS, active duty and retired Naval personnel and their families live throughout the region and make essential contributions to the local quality of life through their engagement in community service work across an extensive array of organizations; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Naval Station Norfolk, an essential part of the Norfolk community and the United States Navy; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare copies of this resolution for presentation to the City of Norfolk and the United States Navy as an expression of the General Assembly's gratitude and appreciation for the numerous and important contributions Naval Station Norfolk has made and continues to make in the region and in defense of the nation.

**HOUSE JOINT RESOLUTION NO. 640**

*Designating the last Saturday in September, in 2017 and in each succeeding year, as Public Lands Day in Virginia.*

Agreed to by the House of Delegates, January 24, 2017

Agreed to by the Senate, February 14, 2017

WHEREAS, public lands in Virginia, including state, local, and national parks, forests, wilderness and wildlife management areas, waterways, wetlands, gardens, historical sites, and other types of land, provide residents and visitors with opportunities to enjoy nature, protect and preserve diverse natural resources, and contribute to the economic vitality of the Commonwealth; and

WHEREAS, the Commonwealth is home to 37 Virginia State Parks and 22 National Parks, offering thousands of campsites, hundreds of cabins, more than 500 miles of trails, and convenient access to the Commonwealth's waterways; and

WHEREAS, Virginia State Parks showcase a wide variety of flora, fauna, and geological formations, all of which are a part of the Commonwealth's unique heritage, and conservation efforts on public lands help ensure that future generations can enjoy these irreplaceable natural resources; and

WHEREAS, public lands help families in the Commonwealth lead healthy, active lifestyles, and many children first discover the natural world at public lands while camping and exploring with outdoor organizations like the Boy Scouts of America, Girl Scouts of America, or on school trips; and

WHEREAS, the Department of Game and Inland Fisheries maintains 41 wildlife management areas, comprising 200,000 acres of land open to the public for wildlife-related recreational opportunities, including hunting, fishing, and trapping; and

WHEREAS, in addition, the Public Access Lands for Sportsmen program has opened more than 30,000 acres of private land in Dickenson County and Wise County and 260 acres in James City County for public use; and

WHEREAS, outdoor recreation activities in the Commonwealth generate \$13.6 billion in consumer spending, support 138,000 direct jobs, and account for \$3.9 billion in wages and salaries and \$923 million in state and local tax revenue; and

WHEREAS, public lands promote good stewardship and recognition of public ownership and enrich the lives of all Americans through collaboration among residents, land managers, and community leaders; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly designate the last Saturday in September, in 2017 and in each succeeding year, as Public Lands Day in Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates transmit copies of this resolution to the Department of Conservation and Recreation and the Department of Game and Inland Fisheries so that members of the agencies may be apprised of the sense of the General Assembly of Virginia in this matter; and, be it

RESOLVED FINALLY, That the Clerk of the House of Delegates post the designation of this day on the General Assembly's website.

**HOUSE JOINT RESOLUTION NO. 643**

*Commending David Willis.*

Agreed to by the House of Delegates, January 13, 2017  
 Agreed to by the Senate, January 19, 2017

WHEREAS, for 18 years, David Willis has generously volunteered his time and talents to help individuals and families in crisis as a member of God's Pit Crew, a nonprofit disaster relief organization based in Danville; and

WHEREAS, established in response to the 1999 Oklahoma tornado outbreak, God's Pit Crew has since responded to 89 major disasters in 25 states and nine countries, distributing more than 200 million pounds of relief supplies; and

WHEREAS, David Willis was an original member of God's Pit Crew and helped collect supplies until the devastation of Hurricane Katrina in 2005 inspired him to commit more time to the organization; and

WHEREAS, now retired, David Willis works more than 50 hours each week as a volunteer warehouse manager for God's Pit Crew, managing incoming and outgoing loads of relief supplies, which are donated to more than 170 nonprofit organizations in the region; and

WHEREAS, God's Pit Crew has also renovated dozens of children's homes and churches and built and furnished more than 30 homes and donated them to families in need; as an electrician, David Willis' expertise has been essential in building or repair projects; and

WHEREAS, since 2009, David Willis has committed more than 21,873 hours to God's Pit Crew, demonstrating incredible devotion to the community and compassion for people in need throughout the world; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend David Willis for his work to bring hope, healing, and restoration to people in need as a longtime member of God's Pit Crew; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to David Willis as an expression of the General Assembly's admiration for his generous volunteer service.

**HOUSE JOINT RESOLUTION NO. 644**

*Commending James Hodge.*

Agreed to by the House of Delegates, January 13, 2017  
 Agreed to by the Senate, January 19, 2017

WHEREAS, for 14 years, James Hodge has generously volunteered his time and talents to help individuals and families in crisis as a member of God's Pit Crew, a nonprofit disaster relief organization based in Danville; and

WHEREAS, established in response to the 1999 Oklahoma tornado outbreak, God's Pit Crew has since responded to 89 major disasters in 25 states and nine countries, distributing more than 200 million pounds of relief supplies; and

WHEREAS, after retiring in 2001, James Hodge participated in a tornado disaster response mission with God's Pit Crew and officially joined the organization in 2003; and

WHEREAS, as an assistant volunteer warehouse manager for God's Pit Crew, James Hodge works daily to ensure that valuable relief supplies are distributed to more than 170 nonprofit organizations in the region; he serves as a board member for the organization and is often named as team leader for missions; and

WHEREAS, God's Pit Crew has also renovated dozens of children's homes and churches and built and furnished more than 30 homes and donated them to families in need, with James Hodge taking part in every building project since 2003; and

WHEREAS, since 2009, James Hodge has committed more than 17,761 hours to God's Pit Crew, demonstrating incredible devotion to the community and compassion for people in need throughout the world; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend James Hodge for his work to bring hope, healing, and restoration to people in need as a longtime member of God's Pit Crew; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to James Hodge as an expression of the General Assembly's admiration for his generous volunteer service.

**HOUSE JOINT RESOLUTION NO. 645**

*Commending Ricky Hyler.*

Agreed to by the House of Delegates, January 13, 2017  
 Agreed to by the Senate, January 19, 2017

WHEREAS, for 12 years, Ricky Hyler has generously volunteered his time and talents to help individuals and families in crisis as a member of God's Pit Crew, a nonprofit disaster relief organization based in Danville; and

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WHEREAS, established in response to the 1999 Oklahoma tornado outbreak, God's Pit Crew has since responded to 89 major disasters in 25 states and nine countries, distributing more than 200 million pounds of relief supplies; and

WHEREAS, a former truck driver and heavy equipment operator, Ricky Hyler joined God's Pit Crew in 2005 after witnessing the devastation of Hurricane Katrina; and

WHEREAS, as lead volunteer truck driver, Ricky Hyler oversees equipment maintenance, operates heavy equipment at disaster sites, and drives loads of relief supplies to and from donor partners in the region; since 2011, he has driven more than 94,270 miles for God's Pit Crew; and

WHEREAS, Ricky Hyler has overseen the growth of God's Pit Crew's fleet of response vehicles, which now includes a wide array of trucks, trailers, and heavy equipment, ensuring that the organization can respond effectively to any situation; and

WHEREAS, since 2009, Ricky Hyler has committed more than 14,618 hours to God's Pit Crew, demonstrating incredible devotion to the community and compassion for people in need throughout the world; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Ricky Hyler for his work to bring hope, healing, and restoration to people in need as a longtime member of God's Pit Crew; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Ricky Hyler as an expression of the General Assembly's admiration for his generous volunteer service.

**HOUSE JOINT RESOLUTION NO. 647**

*Celebrating the life of Charles B. Whitehurst, Sr.*

Agreed to by the House of Delegates, January 13, 2017

Agreed to by the Senate, January 19, 2017

WHEREAS, Charles B. Whitehurst, Sr., a distinguished veteran and a respected public servant in the City of Portsmouth, died on June 4, 2016; and

WHEREAS, a native of Portsmouth, Charles Whitehurst was educated in Portsmouth Public Schools, graduating from I.C. Norcom High School in 1956 having joined the United States Marine Corps while in high school; and

WHEREAS, after his high school graduation, Charles Whitehurst was assigned to extended active duty at the rank of private first class; he rose through the enlisted ranks to that of sergeant (E-5), and he was thereafter appointed as a warrant officer (W-1) by the President of the United States; and

WHEREAS, Charles Whitehurst accepted additional promotions to second lieutenant, first lieutenant, captain, and major; he held a permanent rank of chief warrant officer grades I, II, III, and IV and subsequently converted to major as permanent rank; and

WHEREAS, Charles Whitehurst received several military honors, including the Navy Commendation Medal with Combat V, Navy Achievement Medal, Republic of Viet Nam Staff Service Medal, two Good Conduct Medals, Republic of Viet Nam Campaign Medal, Viet Nam Service Medal, and Marine Corps Reserve Medal; and

WHEREAS, in 1978, Charles Whitehurst received a bachelor's degree from Norfolk State University with an emphasis in banking; in 1982, he earned a graduate degree in bank marketing from the University of Colorado at Boulder; and

WHEREAS, in November 1985, Charles Whitehurst was elected as treasurer of the City of Portsmouth; he was named Treasurer of the Year in 1992 by the Treasurers' Association of Virginia for his exceptional service, and he retired from that position on December 31, 1993; and

WHEREAS, on May 5, 1998, Charles Whitehurst was elected to the Portsmouth City Council; he was reelected to a second term on May 7, 2002, and served on the Portsmouth City Council until 2012; and

WHEREAS, while on the Portsmouth City Council, Charles Whitehurst was a member of numerous community organizations, civic leagues, and committees; he received numerous honors and awards and was recognized as one of the hardest-working men in public office for his efforts to serve and strengthen the community; and

WHEREAS, Charles Whitehurst will be fondly remembered and greatly missed by his wife, Dollise; children, Lisa and Charles, Jr., and their families; stepchildren, Deneita, Lisa, Mimi, and D'Angel, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Charles B. Whitehurst, Sr., a respected veteran and a dedicated public servant; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Charles B. Whitehurst, Sr., as an expression of the General Assembly's respect for his memory.

**HOUSE JOINT RESOLUTION NO. 649**

*Designating the last Saturday in July, in 2017 and in each succeeding year, as Mary Draper Ingles Remembrance Day in Virginia.*

Agreed to by the House of Delegates, January 24, 2017

Agreed to by the Senate, February 14, 2017

WHEREAS, in the 1750s, Mary Draper Ingles followed the Great Wagon Road into the sparsely settled frontier of Southwest Virginia and passed into the annals of American legend as a courageous frontierswoman whose experiences were emblematic of the diligence and tenacity of the nation's early settlers; and

WHEREAS, Mary Draper Ingles and her husband, William, settled in Draper's Meadow, near present-day Blacksburg; when the community was attacked in July 1755, Mary Draper Ingles and several other family members were captured by the Shawnee tribe and taken hundreds of miles from their home; and

WHEREAS, summoning tremendous mental and physical strength, Mary Draper Ingles escaped from her captors and navigated through Kentucky, West Virginia, and Virginia, following the major rivers and living off the land, to return to Draper's Meadow and reunite with her husband, who had survived the massacre; and

WHEREAS, Mary Draper Ingles and her family relocated to the Radford area and established a homestead and a ferry operation; a replica of the cabin where she lived until her death in 1815 stands on the original site and is listed on the Virginia Landmarks Register and the National Register of Historic Places; and

WHEREAS, the inspirational story of Mary Draper Ingles' life has been told and retold through books, articles, movies, documentaries, songs, and living history reenactments, such as *The Long Way Home*, an outdoor drama that delighted audiences in Radford for 30 years; and

WHEREAS, Mary Draper Ingles has been recognized on the Library of Virginia's list of influential women and on the Women of Virginia Historic Trail; in 2016, an eight-foot tall bronze statue of her was erected in the Mary Draper Ingles Cultural Heritage Park located adjacent to Glencoe Museum & Gallery, and she will be honored with a future monument in Capitol Square in Richmond; and

WHEREAS, Mary Draper Ingles played a unique role in the history of the Commonwealth and the United States, and her story of courage and determination in the face of overwhelming hardship continues to inspire people throughout the world; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly designate the last Saturday in July, in 2017 and in each succeeding year, as Mary Draper Ingles Remembrance Day in Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates transmit copies of this resolution to the Radford City Tourism Advisory Commission and the Radford Heritage Foundation so that members of the organizations may be apprised of the sense of the General Assembly of Virginia in this matter; and, be it

RESOLVED FINALLY, That the Clerk of the House of Delegates post the designation of this day on the General Assembly's website.

**HOUSE JOINT RESOLUTION NO. 653**

*Commending Trauma-Informed Community Networks.*

Agreed to by the House of Delegates, January 13, 2017

Agreed to by the Senate, January 19, 2017

WHEREAS, research over the last two decades in the evolving fields of neuroscience, molecular biology, public health, genomics, and epigenetics reveals that experiences in the first few years of life build changes into the biology of the human body that, in turn, influence the person's physical and mental health over the course of a lifetime; and

WHEREAS, this evidence suggests that early intervention and prevention of prolonged, toxic stress, adverse childhood experiences, and trauma can buffer the impacts on long-term health and well-being; and

WHEREAS, this research has spurred action at the local and regional level across Virginia to form cross-discipline, public-private networks of providers, practitioners, advocates, and policy makers who share best practices and promote awareness about trauma-informed care; and

WHEREAS, these regional Trauma-Informed Community Networks are focused on bridging local agency silos and public and private partnerships to focus on systems-level solutions for more resilient and trauma-informed communities; and

WHEREAS, Trauma-Informed Community Networks have emerged in communities such as Charlottesville, Fairfax, Greater Richmond, Greater Piedmont, Harrisonburg, Hampton Roads, Petersburg, and others; and

WHEREAS, these Trauma-Informed Community Networks partnered to create Trauma System Response tools for use in local social services agencies; and

WHEREAS, members of Trauma-Informed Community Networks have developed and implemented trauma-informed training for public school teachers; and

WHEREAS, network members include juvenile and domestic relations district court judges who apply trauma-informed approaches in the courtroom and local law-enforcement officials who apply and practice trauma-informed approaches in their police work; and

WHEREAS, each community has defined criteria for a Trauma-Informed Spaces organizational assessment of public and private facilities; and

WHEREAS, any citizen can participate in discussion and adoption of trauma-informed practices through Trauma-Informed Community Networks by participating in conversations about community-based resilience; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Trauma-Informed Community Networks for their work to promote best practices, to address childhood trauma and toxic stress, and to become trauma-informed, resilient communities; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Greater Richmond Trauma-Informed Community Network as an expression of the General Assembly's admiration for the organization's work to increase health and wellness throughout the Commonwealth.

### HOUSE JOINT RESOLUTION NO. 654

*Celebrating the life of William Thomas Horner.*

Agreed to by the House of Delegates, January 13, 2017

Agreed to by the Senate, January 19, 2017

WHEREAS, William Thomas Horner of Richmond, who devoted his life to advocating on behalf of disabled children and adults and was a beloved resident of The Hermitage, died on October 30, 2016; and

WHEREAS, William "Bill" Thomas Horner was a graduate of North Carolina Wesleyan University and did graduate work at Old Dominion University; and

WHEREAS, for 50 years, Bill Horner was an advocate for the care of and equal education opportunities for intellectually disabled children and adults; and

WHEREAS, Bill Horner was a board member of Heart Havens, a Richmond-based nonprofit organization that provides residential support for disabled adults and empowers those with a developmental disability to live full and vibrant lives with as much independence as possible; and

WHEREAS, Bill Horner was an esteemed member of St. Paul's Episcopal Church in Richmond, where he served in various leadership capacities, taught classes, and organized activities; and

WHEREAS, after a 2010 accident left him without the use of his limbs, Bill Horner became a resident of The Hermitage, a continuing care retirement community in Richmond, where he was a master gardener and dispenser of art, poetry, and lively conversation; and

WHEREAS, Bill Horner was well read and enjoyed making conversation with most everyone he met; he loved reading and distributing the poetry of Mary Oliver, Wendell Berry, Billy Collins, and other poets to the staff and residents at The Hermitage, where he was a very devoted resident; and

WHEREAS, Bill Horner was a lover of nature and the outdoors; he loved hiking mountain trails, sitting by a cabin fire, and telling and listening to people's stories; and

WHEREAS, Bill Horner's energy and smiling presence were contagious; his love for his fellow man was evident in his devotion to his friends, his attentive listening, and his joyful joke making; and

WHEREAS, Bill Horner will be fondly remembered and greatly missed by his sons, Scott and Mark; his special friend, Linda Holt Armstrong; and many loving family members and friends, especially from his church and The Hermitage community; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of William Thomas Horner, an advocate for disabled children and adults and a beloved resident of The Hermitage; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of William Thomas Horner as an expression of the General Assembly's respect for his memory.

### HOUSE JOINT RESOLUTION NO. 655

*Commending the Halifax County Cancer Association.*

Agreed to by the House of Delegates, January 13, 2017

Agreed to by the Senate, January 19, 2017

WHEREAS, in April 2017, the Halifax County Cancer Association is celebrating 60 years of providing financial, educational, and emotional support to local cancer patients; and

WHEREAS, the mission of the Halifax County Cancer Association is to help fight cancer in the community through education, direct services, and financial support to those affected by cancer; and

WHEREAS, the Halifax County Cancer Association is funded entirely by donations raised in the local community; services such as gas vouchers, medication assistance, nutritional supplements, wigs, bras, and prosthetics are provided for free to anyone who lives in Halifax County; and

WHEREAS, in the last six years the Halifax County Cancer Association has provided services to 650 patients, totaling over \$500,000, a monumental feat considering the association operates with just one full-time employee; and

WHEREAS, in 2015, thanks to funds bequeathed by an anonymous patient, the Halifax County Cancer Association purchased a storefront building in downtown Halifax to serve as its permanent headquarters; and

WHEREAS, the growth and success of the Halifax County Cancer Association over the past 60 years could not have been possible without the kindness and generosity of the residents, government leaders, and civic organizations of Halifax County; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Halifax County Cancer Association on the 60th anniversary of its founding and the tremendous support it has provided to thousands of cancer patients over the past six decades; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Calvin Williams and Sharon Blosser, board president and director of patient services, respectively, of the Halifax County Cancer Association, as an expression of the General Assembly's admiration for the organization's deep commitment to assisting those facing the life-altering diagnosis of cancer.

**HOUSE JOINT RESOLUTION NO. 656**

*Designating the second Sunday in August, in 2017 and in each succeeding year, as Spirit of '45 Day in Virginia.*

Agreed to by the House of Delegates, January 24, 2017

Agreed to by the Senate, February 14, 2017

WHEREAS, on August 14, 1945, the citizens of the United States received word of the end of World War II and joined with people around the world in celebration of the Allied powers' victory; and

WHEREAS, the victory marked the culmination of a noble national effort to defeat the forces of Nazi aggression, bring freedom to subjugated nations, and end the horrors of the Holocaust; and

WHEREAS, victory was achieved through the service and sacrifices of countless Americans at home and abroad, including the more than 400,000 Americans who made the ultimate sacrifice in defense of their nation and the cause of freedom; and

WHEREAS, the end of World War II also marked the beginning of a new era of American growth, in which the United States worked to build and strengthen a peaceful, prosperous global community; and

WHEREAS, the men and women who lived and served during World War II would become known as the Greatest Generation for their commitment to civic engagement, volunteerism, and community leadership; and

WHEREAS, the courage, dedication, and compassion of the Greatest Generation continues to inspire Americans to work toward bettering the lives of others throughout the United States and the world; and

WHEREAS, in 2010, the United States Congress voted to honor the legacies of the men and women who served during World War II by establishing the national Spirit of '45 Day; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly designate the second Sunday in August, in 2017 and in each succeeding year, as Spirit of '45 Day in Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates transmit a copy of this resolution to Keep the Spirit of '45 Alive! so that members of the coalition may be apprised of the sense of the General Assembly of Virginia in this matter; and, be it

RESOLVED FINALLY, That the Clerk of the House of Delegates post the designation of this day on the General Assembly's website.

**HOUSE JOINT RESOLUTION NO. 657**

*Commending the Oak Hill Academy boys' basketball team.*

Agreed to by the House of Delegates, January 13, 2017

Agreed to by the Senate, January 19, 2017

WHEREAS, the Oak Hill Academy boys' basketball team of Grayson County demonstrated skill and determination to win the DICK'S Sporting Goods High School National Tournament in April 2016; and

WHEREAS, the Oak Hill Academy Warriors overcame injuries early in the season to finish with an outstanding 45-1 record and reach the DICK'S Sporting Goods High School National Tournament, which was held at Madison Square Garden in New York City; and

WHEREAS, in the tournament final, the Oak Hill Academy Warriors took an early lead, but saw the game tied at 52-52 at the end of regulation; a last-second tip-in by Oak Hill Academy senior Khadim Sy gave the team a 62-60 win in overtime; and

WHEREAS, the Oak Hill Academy Warriors received several individual awards at the tournament, including the Academic Award for Brendan Cruz, Most Outstanding Player Award for Braxton Key, and Coach's Award for Matt Coleman, who also recorded the most assists; and

WHEREAS, in addition, Ty-Shon Alexander recorded the highest free throw percentage and highest three-point field goal percentage, and Khadim Sy recorded the highest rebound average; and

WHEREAS, the Oak Hill Academy Warriors' victory is a testament to the skill and hard work of the student-athletes, the leadership of the coaches and staff, and the energetic support of the entire Oak Hill Academy community; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Oak Hill Academy boys' basketball team on winning the DICK'S Sporting Goods High School National Tournament in 2016; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Steve Smith, head coach of the Oak Hill Academy boys' basketball team, as an expression of the General Assembly's admiration for the team's achievements.

**HOUSE JOINT RESOLUTION NO. 658**

*Commending Intermont Equestrian at Emory & Henry College.*

Agreed to by the House of Delegates, January 13, 2017

Agreed to by the Senate, January 19, 2017

WHEREAS, Intermont Equestrian at Emory & Henry College claimed the Beukma National Team Championship Trophy and a third consecutive national title at the Intercollegiate Dressage Association National Championship in April 2016; and

WHEREAS, with a score of 39, Intermont Equestrian at Emory & Henry College bested several other talented teams at the Intercollegiate Dressage Association (IDA) National Championship, which was held at the Centenary College Equestrian Center in New Jersey; and

WHEREAS, the national victory was the sixth title for Intermont Equestrian at Emory & Henry College and the team's 19th title overall; the team now holds the most IDA titles in the country; and

WHEREAS, of the Emory & Henry Wasps, junior Nick Martino took third place in the First Level, senior Karissa Donohue placed seventh in the Upper Training Level, and sophomore Eli Worth-Jones finished third in the Lower Training Level and was named an individual champion, along with Sierra Davenport; and

WHEREAS, the victory is a tribute to the skill and discipline of the riders, the leadership of the coaches and staff, and the passionate support of the entire Emory & Henry College community; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Intermont Equestrian at Emory & Henry College on winning the Intercollegiate Dressage Association National Championship in 2016; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Lisa Moosmueller-Terry, head coach of Intermont Equestrian at Emory & Henry College, as an expression of the General Assembly's admiration for the team's exceptional, record-setting achievements.

**HOUSE JOINT RESOLUTION NO. 659**

*Commending the Grayson County Old-Time and Bluegrass Fiddlers' Convention.*

Agreed to by the House of Delegates, January 13, 2017

Agreed to by the Senate, January 19, 2017

WHEREAS, the Grayson County Old-Time and Bluegrass Fiddlers' Convention in Elk Creek, a musical destination along The Crooked Road, is celebrating 50 years of filling the Blue Ridge highlands and Elk Creek Valley with toe-tapping, old-time dance music every June; and

WHEREAS, the Grayson County Fiddlers' Convention was started in 1967 as a joint fundraising effort between Grayson VFW Post 7726 and New River Wildlife and Conservation Club Inc., with each organization using moneys raised from the event to fund the facilities where both groups are housed today; and

WHEREAS, as the Grayson County Fiddlers' Convention grew in size it was moved from an athletic field in Independence to the Elk Creek School Ballpark in Elk Creek, and the Elk Creek Valley Volunteer Fire Department and Ladies Auxiliary became cosponsors of the event with Grayson VFW Post 7726; and

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WHEREAS, in the early 1990s, the Elk Creek Volunteer Fire Department became the sole sponsor of the Grayson County Fiddlers' Convention, which is now designated an "Official Crooked Road Event" along Virginia's Heritage Music Trail; and

WHEREAS, the Grayson County Fiddlers' Convention showcases the variety of instruments and performers involved in traditional bluegrass and features venues that offer the experience of "old time" music in intimate settings; the traditional music competition is held on Friday and Saturday, but many campers arrive days before to enjoy the peace and quiet of the Elk Creek Valley and the gorgeous mountain sunsets; and

WHEREAS, the Grayson County Fiddlers' Convention, held annually on the last full weekend in June, draws hundreds of bluegrass lovers from around the Commonwealth and neighboring areas and the support of the greater Grayson County community has been instrumental in making the event such a popular music destination; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Grayson County Old-Time and Bluegrass Fiddlers' Convention in Elk Creek on celebrating 50 years as a musical destination along The Crooked Road; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Grayson County Old-Time and Bluegrass Fiddlers' Convention as an expression of the General Assembly's admiration for keeping a musical tradition alive.

**HOUSE JOINT RESOLUTION NO. 660**

*Commending Hollins University.*

Agreed to by the House of Delegates, January 13, 2017

Agreed to by the Senate, January 19, 2017

WHEREAS, during the 2016-2017 academic year, Hollins University, the first chartered women's institution of higher education in the Commonwealth, celebrates 175 years of providing an exceptional liberal arts education; and

WHEREAS, founded in 1842 as Valley Union Seminary, Hollins University has evolved into a full university, offering a comprehensive undergraduate liberal arts education to women and eight graduate-level programs to both men and women; and

WHEREAS, as one of the oldest women's colleges in the United States, Hollins University, which is located on the border of Botetourt County and Roanoke County, is listed on both the National Register of Historic Places and the Virginia Landmarks Register; and

WHEREAS, Hollins University is well-known for its undergraduate and graduate writing programs and counts among its many prominent alumnae several Pulitzer Prize-winning authors and a former United States Poet Laureate; and

WHEREAS, offering a rigorous curriculum, study abroad programs, career and internship support, and a wide variety of competitive athletic teams and engaging co-curricular activities, Hollins University prepares students for lives of active learning, fulfilling work, personal growth, achievement, and service to society; and

WHEREAS, throughout the course of its 175-year history, Hollins University has endured and thrived in a changing world by nurturing civility, integrity, and concern for others among its students and placing a high value on diversity, social justice, and community leadership; and

WHEREAS, true to the Hollins University motto of *Levavi Oculos*, graduates demonstrate problem solving and critical thinking skills, creativity and effective self-expression, and respect for independent inquiry and the free exchange of ideas as they work to serve their communities in the Commonwealth and throughout the United States; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Hollins University on the occasion of its 175th anniversary during the 2016-2017 academic year; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Nancy Oliver Gray, president of Hollins University, as an expression of the General Assembly's admiration for the institution's legacy of academic excellence and service to the Roanoke region.

**HOUSE JOINT RESOLUTION NO. 661**

*Commending the Bobcat Sports League.*

Agreed to by the House of Delegates, January 13, 2017

Agreed to by the Senate, January 19, 2017

WHEREAS, for 10 years, the Bobcat Sports League in Richmond has provided local youth with the opportunity to enjoy the game of soccer and learn about the importance of teamwork, sportsmanship, and physical fitness; and

WHEREAS, the Bobcat Sports League was founded in 2007 by Robyn Parsons and Dr. William Fleming to provide young people in Southside Richmond with an outlet for positive recreational activities; and

WHEREAS, since its inception, the Bobcat Sports League has served more than 2,000 young people; in addition to learning the fundamentals of soccer, participants receive antigang and antiviolenace information and instruction on proper nutrition and the hazards of smoking and drug use; and

WHEREAS, the Bobcat Sports League involves the parents and friends of local youth as they come to support and cheer on their loved ones, creating a sense of community cohesiveness; and

WHEREAS, the Bobcat Sports League also offers swimming as part of its program in addition to nutrition counseling to both parents and children in an effort to combat the national epidemic of childhood obesity; and

WHEREAS, volunteers with the Bobcat Sports League operate a thrift and consignment shop, the proceeds of which go toward equipment and educational materials for area youth; and

WHEREAS, the Bobcat Sports League has taken a proactive approach to dealing with neighborhood concerns, creating a positive environment, and helping empower young people; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Bobcat Sports League on the occasion of its 10th anniversary in 2017; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Robyn Parsons and Dr. William Fleming, the founders of the Bobcat Sports League, as an expression of the General Assembly's admiration for the League's contributions to the community.

**HOUSE JOINT RESOLUTION NO. 662**

*Commending Robert S. Argabright II.*

Agreed to by the House of Delegates, January 20, 2017

Agreed to by the Senate, January 26, 2017

WHEREAS, for more than a decade, Robert S. Argabright II has served as a trusted mentor to the students of Oak Grove-Bellemeade Elementary School through his dedicated volunteer work with the Micah Initiative; and

WHEREAS, desirous to be of service to their fellow Richmond residents, Robert "Bob" S. Argabright II, a retired executive with the Chesapeake Corporation, and other members of Trinity United Methodist Church began volunteering through the Micah Initiative; and

WHEREAS, the Micah Initiative connects church congregations and public schools in Richmond, creating opportunities for members of the community to enrich the lives of students through tutoring, mentoring, or other volunteer work; and

WHEREAS, Bob Argabright began his work with the Micah Initiative by reading to elementary school students, and he now volunteers at Oak Grove-Bellemeade Elementary School for 30 to 40 hours each week; and

WHEREAS, Bob Argabright coordinates with the principal and faculty of Oak Grove-Bellemeade Elementary School to ensure that the school's needs are met, and he has inspired other members of the community to volunteer their time in similar ways; and

WHEREAS, in addition to organizing athletic events and field trips, Bob Argabright helped create and maintains a butterfly garden at Oak Grove-Bellemeade Elementary School, giving students a peaceful place to enjoy and appreciate nature; and

WHEREAS, Bob Argabright has also worked to ensure that students arrive at school safely each day, holding a bicycle drive that provided bicycles to 200 students and advocating for a safe corridor for children who walk to school; and

WHEREAS, in 2016, Bob Argabright supported the creation of the Oak Grove-Bellemeade Elementary School Green Team; the team worked with Virginia Commonwealth University students and Groundwork RVA, a youth leadership organization, to learn multiple aspects of filmmaking and to produce a short film on successful members of the community; and

WHEREAS, the Oak Grove-Bellemeade Elementary School Green Team has also worked on board games addressing issues like food deserts, stereotyping, and the environment, and it plans to establish a recycling program and a community garden or urban farm to help make the community greener and cleaner; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Robert S. Argabright II for his dedicated service to the students of Oak Grove-Bellemeade Elementary School; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Robert S. Argabright II as an expression of the General Assembly's admiration for his devotion to supporting students in Richmond.

**HOUSE JOINT RESOLUTION NO. 663**

*Commending the Afro-American Historical Association of Fauquier County.*

Agreed to by the House of Delegates, January 20, 2017

Agreed to by the Senate, January 26, 2017

WHEREAS, in 2017, the Afro-American Historical Association of Fauquier County celebrates 25 years of diligent work to preserve the historical and genealogical heritage of African Americans, Native Americans, and other ethnic groups and cultures in Fauquier County; and

WHEREAS, established in 1992 by Karen King Lavore and Karen Hughes White, who were then researching their own family histories in Morgantown, the Afro-American Historical Association of Fauquier County originally operated out of the founders' homes; and

WHEREAS, the Afro-American Historical Association of Fauquier County collected photographs and oral accounts of life in Fauquier County in the antebellum period and during Reconstruction and the era of Jim Crow laws; the association presented its findings at Mt. Nebo Baptist Church in Morgantown and generated interest throughout the community; and

WHEREAS, the Afro-American Historical Association of Fauquier County expanded its collection of photographs and primary source documents and completed a history of Ebenezer Baptist Church in Midland; and

WHEREAS, in 1997, the Afro-American Historical Association of Fauquier County relocated to its current home on Loudoun Avenue in The Plains; the new space, which is open to the public, allowed the association to better fulfill its mission to educate visitors on the history of Fauquier County by holding events and seminars; and

WHEREAS, the Afro-American Historical Association of Fauquier County makes use of technology to restore and preserve photographs and books and document genealogical research and oral accounts to ensure that future generations have access to these priceless cultural artifacts; and

WHEREAS, working closely with other regional, state, and national historical groups and libraries, the Afro-American Historical Association of Fauquier County has cultivated a network of amateur and professional historians throughout the Commonwealth and the United States who share an interest in the unique history of Fauquier County; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Afro-American Historical Association of Fauquier County on the occasion of its 25th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Karen King Lavore and Karen Hughes White, founders of the Afro-American Historical Association of Fauquier County, as an expression of the General Assembly's admiration for the association's contributions to cultural understanding in the Commonwealth.

#### HOUSE JOINT RESOLUTION NO. 664

*Commending the Fresta Valley Christian School Robotics Club.*

Agreed to by the House of Delegates, January 20, 2017

Agreed to by the Senate, January 26, 2017

WHEREAS, the Fresta Valley Christian School Robotics Club of Marshall was a division finalist in the annual For Inspiration and Recognition of Science and Technology Championship held in St. Louis, Missouri, in April 2016; and

WHEREAS, the Fresta Valley Christian School Robotics Club was among the 900 teams from 42 countries that qualified for the event; the team partnered with local companies such as TE Connectivity, Leidos, and Updike Industries to make the For Inspiration and Recognition of Science and Technology (FIRST) Championship experience possible, and all of the team members worked cooperatively and learned the valuable lesson of teamwork; and

WHEREAS, the Fresta Valley Christian School Robotics Club met the challenge of building a complete robot in six weeks, then ranked 16th after the qualification matches in its division at the FIRST Championship, and was then picked as an alliance partner by the No. 1 ranked team in its division, ultimately placing second in the division; and

WHEREAS, reaching the division finals at the FIRST Championship was one of several accolades the Fresta Valley Christian School Robotics Club earned in the 2016 season, including the Industrial Design Award sponsored by General Motors and district event finalist at the Chesapeake District Northern Virginia event, and the Innovation in Control Award sponsored by Rockwell Automation at the Chesapeake District Southwest Virginia event; and

WHEREAS, the Fresta Valley Christian School Robotics Club was founded by Brent Leppke, who lends his expertise and the use of his farm during building season to the team, which has a visible presence in the local community in order to promote interest in robotics and the FIRST program; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Fresta Valley Christian School Robotics Club for being a division finalist at the annual For Inspiration and Recognition of Science and Technology Championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Fresta Valley Christian School Robotics Club team as an expression of the General Assembly's admiration for its awards and honors in the 2016 season.

**HOUSE JOINT RESOLUTION NO. 665**

*Commending John W. McCarthy III.*

Agreed to by the House of Delegates, January 20, 2017

Agreed to by the Senate, January 26, 2017

WHEREAS, Rappahannock County Administrator John W. McCarthy III marked the end of an extraordinary 30-year career in county government when he retired in 2016; and

WHEREAS, John McCarthy holds a bachelor's degree from Mary Washington College, now the University of Mary Washington, where he served as an adjunct professor for 25 years, and a master's degree in planning from the University of Virginia; and

WHEREAS, John McCarthy became Rappahannock County's first county administrator in 1988, after serving for two years as zoning administrator and administrative assistant to the board of supervisors; and

WHEREAS, over his 30-year career, John McCarthy was a staunch champion of Rappahannock County's comprehensive plan, promoting conservation and the preservation of the county's scenic beauty and agriculturally-based economy; and

WHEREAS, among John McCarthy's accomplishments as county administrator were his work building the county's first landfill, purchasing and selling the former Aileen Factory property, keeping biosolids out of the county, and thwarting residential subdivisions and commercial developments; and

WHEREAS, John McCarthy was well-known for his wry sense of humor and his love of the Chicago Cubs, who won the World Series the same year of his retirement; he served as county administrator for an unusually long period of time, which is a testament to the respect he earned from community leaders; and

WHEREAS, John McCarthy has served his community through numerous civic leadership positions, including past stints as chair of the Virginia Municipal Liability Insurance Programs, the Northern Piedmont Community Foundation, and the Rappahannock-Rapidan Regional Commission; and

WHEREAS, John McCarthy currently serves as chair of the PATH Foundation and as a member of the Fauquier Hospital and Fauquier Health System Board of Directors; and

WHEREAS, a resident of Fauquier County, John McCarthy's career and service to Rappahannock County could not have been possible without the love and support of his wife, Susan, and their four daughters; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend John W. McCarthy III on his three decades of extraordinary service as Rappahannock County Administrator; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to John W. McCarthy III as an expression of the General Assembly's admiration for his long career in public service.

**HOUSE JOINT RESOLUTION NO. 666**

*Commending Ursula Beverley Baxley.*

Agreed to by the House of Delegates, January 20, 2017

Agreed to by the Senate, January 26, 2017

WHEREAS, in October 2016, Ursula Beverley Baxley retired as the community volunteer coordinator for American Red Cross blood drives in Marshall; and

WHEREAS, Ursula Baxley first started donating blood in the 1980s as a way to give back to the community and help those in need; the American Red Cross estimates that less than 10 percent of eligible donors give blood each year; and

WHEREAS, as community volunteer coordinator for 25 years, Ursula Baxley worked to encourage more people to donate lifesaving blood by sending out postcard reminders, managing volunteers, and preparing refreshments, often baking cakes or other treats when she knew members of the community were celebrating special occasions; and

WHEREAS, Ursula Baxley helped turn the Marshall blood drive, which has operated since World War II, into a cherished community event, with about 45 residents donating blood at each drive; and

WHEREAS, having already donated 124 pints of blood to the American Red Cross over the years, Ursula Baxley will continue to support the Marshall blood drives after her well-earned retirement; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Ursula Beverley Baxley on the occasion of her retirement as community volunteer coordinator for blood drives in Marshall; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Ursula Beverley Baxley as an expression of the General Assembly's admiration for her commitment to saving lives and making a difference in the community by donating blood.

**HOUSE JOINT RESOLUTION NO. 667**

*Celebrating the life of Eleanor Talbert Williams.*

Agreed to by the House of Delegates, January 13, 2017  
 Agreed to by the Senate, January 19, 2017

WHEREAS, Eleanor Talbert Williams of Glade Spring, a longtime high school English teacher, died on September 28, 2016; and

WHEREAS, Eleanor Williams was born near Meadowview, in Washington County, to the late Marcus and Mary Talbert; and

WHEREAS, Eleanor Williams graduated from Meadowview High School, then earned a bachelor's degree from Emory & Henry College and master's degrees from The Southern Baptist Theological Seminary in Louisville, Kentucky, and Virginia Tech; and

WHEREAS, before she retired, Eleanor Williams taught for many years in Washington County Public Schools, Roanoke City Schools, and at Virginia Highlands Community College in Abingdon; she served as chair of the English department at Patrick Henry High School in Glade Spring for several years; and

WHEREAS, Eleanor Williams was a member of Old Glade Presbyterian Church in Glade Spring; she leaves behind cherished memories for her grandchildren and great-grandchildren, as well as all of the students whose lives she touched over the years; and

WHEREAS, preceded in death by her husband of 40 years, Joseph, Eleanor Williams will be fondly remembered and greatly missed by her children, Stanley, David, and Jo Ellen, and their families, and many other relatives and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Eleanor Talbert Williams, a longtime high school English teacher from Glade Spring; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Eleanor Talbert Williams as an expression of the General Assembly's respect for her memory.

**HOUSE JOINT RESOLUTION NO. 668**

*Celebrating the life of Jennifer Ophelia Brewer Rooney.*

Agreed to by the House of Delegates, January 13, 2017  
 Agreed to by the Senate, January 19, 2017

WHEREAS, Jennifer Ophelia Brewer Rooney of Bristol, a loving daughter, wife, and mother, who was admired by the members of the community for her generosity and zest for life, died on July 7, 2016; and

WHEREAS, Jennifer Rooney graduated from John S. Battle High School in 1990 and started a family with her beloved husband, David, in 1994; she took an active role in her children's lives, supporting them in all of their endeavors; and

WHEREAS, Jennifer Rooney enjoyed a 24-year career with Bristol Compressors International, LLC, and she helped her fellow Bristol residents start the day with the morning news as a newspaper carrier for the *Bristol Herald Courier*; and

WHEREAS, known for her bright smile and infectious laugh, Jennifer Rooney never met a stranger and went out of her way to help others and enhance the community; and

WHEREAS, Jennifer Rooney will be fondly remembered and greatly missed by her husband, David; children, Chauncey and Grace; her mother, Helen; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Jennifer Ophelia Brewer Rooney, a vibrant member of the Bristol community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Jennifer Ophelia Brewer Rooney as an expression of the General Assembly's respect for her memory.

**HOUSE JOINT RESOLUTION NO. 669**

*Celebrating the life of Phyllis Anderson Blevins.*

Agreed to by the House of Delegates, January 13, 2017  
 Agreed to by the Senate, January 19, 2017

WHEREAS, Phyllis Anderson Blevins, a compassionate caregiver, a woman of deep and abiding faith, and a beloved member of the Chillhowie community, died on November 9, 2016; and

WHEREAS, Phyllis Blevins served for many years as a registered nurse at Johnston Memorial Hospital, soothing patients with her gentle nature and positivity; and

WHEREAS, Phyllis Blevins then worked at Smyth County Family Physicians and as Director of Student Health Services at Emory & Henry College until her well-earned retirement; she touched countless lives through her grace and generosity; and

WHEREAS, a woman who lived her faith through her actions, Phyllis Blevins was a loyal member of Macedonia Baptist Church, where she brought joy to the congregation as a pianist and children's choir leader; and

WHEREAS, the cornerstone of her family, Phyllis Blevins will be fondly remembered and greatly missed by her husband of 47 years, Dwight; her children, Leanna, Becky, and Andy, and their families; her parents, Carson and Anna; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Phyllis Anderson Blevins, a caregiver and a devout and highly admired member of the Chilhowie community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Phyllis Anderson Blevins as an expression of the General Assembly's respect for her memory.

**HOUSE JOINT RESOLUTION NO. 670**

*Celebrating the life of Don Flanery May.*

Agreed to by the House of Delegates, January 13, 2017

Agreed to by the Senate, January 19, 2017

WHEREAS, Don Flanery May of Meadowview, the retired owner of a Kentucky lumber company, died on December 13, 2016; and

WHEREAS, Don May was born in Pike County, Kentucky, to Edwin and Geraldine May, and he graduated from Patrick Henry High School in Glade Spring in 1968; and

WHEREAS, Don May went to work with his father and brother at May Log Company in Meta, Kentucky, and after his father retired in 1980, the business was passed to Don May and his brother, who formed May Brothers Lumber Company Inc., which still operates a sawmill in Kimper, Kentucky; and

WHEREAS, in 2003, Don May retired from May Brothers Lumber Company Inc., which allowed him to spend many happy days with his wife, children, and grandchildren; and

WHEREAS, Don May was humble and kind, accepting and forgiving, and a good Christian who loved his family and never failed to show love for his fellow man; and

WHEREAS, Don May enjoyed Bible study fellowship, University of Kentucky basketball, playing rook, smoking a great barbeque, being a good neighbor, and being a loving husband, father, and grandfather; and

WHEREAS, Don May will be fondly remembered and greatly missed by his wife of 48 years, Pamela; children, Jeffrey, Justin, Jarrod, and Whitney, and their families; and numerous other family members and devoted friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Don Flanery May of Meadowview, a retired Kentucky lumber company owner; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Don Flanery May as an expression of the General Assembly's respect for his memory.

**HOUSE JOINT RESOLUTION NO. 671**

*Celebrating the life of Lelia Baum Hopper.*

Agreed to by the House of Delegates, January 13, 2017

Agreed to by the Senate, January 19, 2017

WHEREAS, Lelia Baum Hopper, a native daughter and longtime advocate for juvenile justice and family law, passed away on April 28, 2016; and

WHEREAS, Lelia Hopper earned a bachelor's degree in English and political science from the Westhampton College of the University of Richmond and graduated from the Marshall-Wythe School of Law at The College of William & Mary; and

WHEREAS, Lelia Hopper spent her career serving the citizens of Virginia, first as Senior Attorney for the House Committee on Health, Welfare and Institutions, and the Senate Committee on Rehabilitation and Social Services for the General Assembly's Division of Legislative Services; upon leaving the legislative branch of state government, she served in Governor Charles S. Robb's administration as Deputy Secretary of Health and Human Resources, and she later served as a consultant to various state agencies and as an adjunct faculty member at The College of William & Mary; and

WHEREAS, in 1987, Lelia Hopper began working in the Office of the Executive Secretary of the Supreme Court of Virginia, where as Executive Director of the Court Improvement Program she focused on improving the ability of the court system to manage and resolve cases of child abuse, child neglect, and foster care from February 1995 until her death; and

WHEREAS, during her long and illustrious legal career, Lelia Hopper served as staff to the Commission on the Future of Virginia's Judiciary from 1987 to 1989 and as director of the Family Court Project from 1989 to 1996; and

WHEREAS, Lelia Hopper was a longtime advocate of effective policies and programs for Virginia's children and families; she worked tirelessly and extensively with the General Assembly on child-related legislation and administered the Supreme Court's training and certification of guardians ad litem for children and incapacitated adults; she also provided support and education for members of the judiciary, clerks of court, attorneys, and other child welfare professionals throughout the Commonwealth on matters pertaining to dependency law, juvenile justice, family law, and best practices in the adjudication and administration of these types of cases in the court system; and

WHEREAS, in 2011, in recognition of her outstanding contributions to family law, Lelia Hopper received the Family Law Service Award from the Virginia State Bar's Family Law Section and was inducted as a Fellow of the Virginia Law Foundation; in 2015, the Virginia Council of Juvenile and Domestic Relations District Court Judges established the "Lelia Baum Hopper Award" in her honor to recognize members of the judiciary who exemplify the qualities and passion for child welfare that were the cornerstones of her career; Lelia Hopper was presented with the inaugural award bearing her name in March 2016; and

WHEREAS, Lelia Hopper was a founding member and past chairman of the Board of Volunteer Emergency Families for Children and a former trustee of The Virginia Home in Richmond; and

WHEREAS, Lelia Hopper was devoted to her faith and family, and her greatest joy in life was working in the area of juvenile justice and family law; she was a tremendous and invaluable resource to the legal profession, and in her last days she remained steadfast in her commitment to the judiciary and her work on behalf of Virginia's most vulnerable families and children; and

WHEREAS, Lelia Hopper's legacy of care and commitment to Virginia's most vulnerable families and their children will be cherished and remembered by her family, friends, and colleagues; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Lelia Baum Hopper; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Lelia Baum Hopper as an expression of the General Assembly's gratitude for her service to the Commonwealth and respect for her memory.

#### HOUSE JOINT RESOLUTION NO. 681

*Commending the Rappahannock County High School volleyball team.*

Agreed to by the House of Delegates, January 20, 2017

Agreed to by the Senate, January 26, 2017

WHEREAS, the Rappahannock County High School volleyball team, of Washington, won the Virginia High School League Group 1A state championship on November 19, 2016; and

WHEREAS, the Rappahannock County High School Panthers defeated the Mathews County High School Blue Devils in four sets, capping a 27-0 season and bringing home the school's first volleyball state championship; and

WHEREAS, the Rappahannock Panthers dominated the first set thanks to the powerful outside hitting of Julia Estes, the Virginia High School League (VHSL) Group 1A state player of the year, who had 29 kills, 19 digs, and two aces in the title game, and Sarah East, who had nine kills, 23 digs, and two aces; and

WHEREAS, the Rappahannock County High School team prevailed in the second set, dropped the third set, then rallied to win the decisive fourth set by playing with grit, heart, and determination, proving that their mental game is as impressive as their physical game; and

WHEREAS, the Rappahannock Panthers have not lost a regular season game in two years and all members of the team contributed to the championship victory, aided by the love of their families, the support of the Rappahannock County High School community, and the leadership of head coach Courtney Atkins, the VHSL Group 1A state coach of the year; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Rappahannock County High School volleyball team on winning the Virginia High School League Group 1A state championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Courtney Atkins, Rappahannock County High School head volleyball coach, as an expression of the General Assembly's admiration for the team's stellar season and first championship title.

#### HOUSE JOINT RESOLUTION NO. 683

*Commending John P. Molière.*

Agreed to by the House of Delegates, January 20, 2017

Agreed to by the Senate, January 26, 2017

WHEREAS, John P. Molière of Hume, the founder and chief executive officer of Standard Communications, Inc., received the 2016 John K. Lopez Lifetime Achievement Award for his work with and on behalf of veterans; and

WHEREAS, the 2016 John K. Lopez Lifetime Achievement Award is presented by the National Veteran-Owned Business Association and *Vetpreneur* magazine, in partnership with Armed Forces Insurance; and

WHEREAS, a veteran of the United States Navy and an innovator in telecommunications, John Molière founded Standard Communications, Inc., in 1995 to assist the General Services Administration with the Federal Telecommunications Services and reincorporated the company as a service disabled veteran-owned small business in Virginia in 2001; and

WHEREAS, John Molière and Standard Communications provide the federal government with a variety of telecommunications enhancement and integration services, particularly serving the United States Department of Veterans Affairs and its vast communications network between medical centers; and

WHEREAS, John Molière has made valuable recommendations on how to upgrade and maintain the communications network and allow the Department of Veterans Affairs to provide better and more timely service to the nation's veterans; and

WHEREAS, John Molière also supports veterans through contributions to the American Legion, the Association for Service Disabled Veterans, the USO, and many other organizations, and Standard Communications has donated phones to the Fisher House Foundation, a nonprofit organization that supports the families of veterans receiving medical treatment; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend John P. Molière on receiving the 2016 John K. Lopez Lifetime Achievement Award; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to John P. Molière as an expression of the General Assembly's admiration for his service to veterans in the Commonwealth and throughout the United States.

#### HOUSE JOINT RESOLUTION NO. 684

*Commending Robert C. Vaughan III.*

Agreed to by the House of Delegates, January 11, 2017

Agreed to by the Senate, January 12, 2017

WHEREAS, Robert C. Vaughan III, who has helped countless Virginians explore and understand the human experience as the founding president of the Virginia Foundation for the Humanities, retires in 2017 after 43 years of dedicated leadership and advocacy; and

WHEREAS, Robert Vaughan helped establish the Virginia Foundation for the Humanities in 1974 after studying English as a graduate student at the University of Virginia; he traveled throughout the Commonwealth with former University of Virginia President Edgar F. Shannon seeking diverse perspectives on what the fledgling organization could achieve; and

WHEREAS, what was originally intended as a five-month project grew into a legacy of innovative scholarship, and under Robert Vaughan's leadership, the Virginia Foundation for the Humanities has become the largest and one of the most influential state humanities councils in the United States; and

WHEREAS, during Robert Vaughan's tenure as president, the Virginia Foundation for the Humanities has produced more than 40,000 programs, including festivals, conferences, public radio programs, and digital resources, and it has contributed to more than 3,500 grant projects and 350 residential fellowships; and

WHEREAS, committed to diversity and inclusiveness in preserving the history of the Commonwealth, Robert Vaughan established programs focused on the contributions of women, African Americans, and immigrants in Virginia, and in 1987, the Virginia Foundation for the Humanities supported the first meeting of all state-recognized Native American tribes in Virginia since the 1600s; and

WHEREAS, as president of the Virginia Foundation for the Humanities, Robert Vaughan supported the creation of the Virginia Festival of the Book, the largest community book event in the Mid-Atlantic region, and the launch of *Encyclopedia Virginia*, an authoritative online resource on Virginia history and culture; and

WHEREAS, Robert Vaughan also oversaw the creation of the Virginia Folklife Program, the first and only program of its kind developed by a state humanities council, and the VFH Content Academies, programs to help teachers understand challenges faced by minority populations; and

WHEREAS, making use of technology, the Virginia Foundation for the Humanities is the only state humanities council to produce its own radio programs and podcasts, which reach listeners across the country and internationally, and it has partnered directly with Google to create virtual tours of historic sites using Google Street View; and

WHEREAS, in addition to making the Virginia Foundation for the Humanities a model for other state humanities councils, Robert Vaughan has also inspired students as a professor at the University of Virginia for 35 years, and he will continue to serve the community after his well-earned retirement from the foundation; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Robert C. Vaughan III on the occasion of his retirement as president of the Virginia Foundation for the Humanities; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Robert C. Vaughan III as an expression of the General Assembly's admiration for his contributions to cultural understanding and tireless work to strengthen the humanities in the Commonwealth and the United States.

### HOUSE JOINT RESOLUTION NO. 687

*Commending the Rappahannock Emergency Medical Services Council.*

Agreed to by the House of Delegates, January 13, 2017

Agreed to by the Senate, January 19, 2017

WHEREAS, for 40 years, the Rappahannock Emergency Medical Services Council, a nonprofit organization based in Fredericksburg, has been an integral part of the Commonwealth's comprehensive emergency medical services system; and

WHEREAS, established in 1976, the Rappahannock Emergency Medical Services (EMS) Council facilitates the development and continued operation of a high-quality, dedicated, and coordinated emergency response and preparedness system for Planning Districts 9 and 16; and

WHEREAS, the Rappahannock EMS Council held its first cardiac technician course in conjunction with Mary Washington Hospital in 1977 and sponsored its first advanced cardiovascular life support system course, the longest-running medical education program in the region, in 1978; and

WHEREAS, today, the Rappahannock EMS Council serves the Counties of Caroline, Culpeper, Fauquier, King George, Orange, Rappahannock, Spotsylvania, and Stafford, the City of Fredericksburg, and the Town of Colonial Beach by providing regional training, testing, and informational services; and

WHEREAS, over the years, the Rappahannock EMS Council has developed a wide variety of advanced life support and other emergency services training programs; the council coordinates all of the region's emergency medical services test sites, serving more than 3,000 providers; and

WHEREAS, the Rappahannock EMS Council provides an EMS lending library for agencies, instructors, and hospitals free of charge in order to promote professional development and ongoing education, and it coordinates the development of regional pre-hospital patient care protocols, patient transfer plans, and a regional performance improvement program; and

WHEREAS, the Rappahannock EMS Council has succeeded in its mission thanks to the hard work and dedication of its talented staff and exemplary leadership from the members of its Board of Directors; and

WHEREAS, during its 40-year history, the Rappahannock EMS Council has greatly enhanced the level of EMS training and services in the region and touched the lives of countless community members; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Rappahannock EMS Council on the occasion of its 40th anniversary in 2016; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Kevin Dillard, president of the Rappahannock EMS Council, as an expression of the General Assembly's admiration for its decades of valuable contributions to the Commonwealth.

### HOUSE JOINT RESOLUTION NO. 713

*Commending the Hampton Roads Association for Commercial Real Estate.*

Agreed to by the House of Delegates, January 13, 2017

Agreed to by the Senate, January 19, 2017

WHEREAS, founded in 1992, the Hampton Roads Association for Commercial Real Estate has served and supported commercial real estate professionals in the Virginia Peninsula and Southside Hampton Roads area for 25 years; and

WHEREAS, the Hampton Roads Association for Commercial Real Estate (HRACRE) membership comprises more than 550 industry professionals, including developers, brokers, bankers, contractors, attorneys, accountants, architects, and engineers; and

WHEREAS, HRACRE creates opportunities and an environment in which members can build relationships with each other and with local, regional, and statewide elected officials and decision makers; and

WHEREAS, HRACRE provides mentoring to the next generation of real estate professionals; it works with members and other stakeholders to promote economic development throughout the Commonwealth and is a member of the Virginia Association for Commercial Real Estate; and

WHEREAS, HRACRE provides a unified voice for the commercial real estate industry in Hampton Roads and before the General Assembly, advocating for local, regional, and statewide legislative initiatives; and

WHEREAS, HRACRE educates its members, the public, local governing bodies, and the General Assembly on relevant issues affecting commercial real estate through educational programs and events, general outreach and communications, and the work of its committees; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Hampton Roads Association for Commercial Real Estate on the occasion of its 25th anniversary of providing education, advocacy, and professional growth to its members and the broader commercial real estate industry; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Robert Orlando, president of the Hampton Roads Association for Commercial Real Estate, as an expression of the General Assembly's best wishes for the next 25 years of continuous service to the commercial real estate community of Hampton Roads.

**HOUSE JOINT RESOLUTION NO. 714**

*Commending the McLean High School band.*

Agreed to by the House of Delegates, January 13, 2017  
 Agreed to by the Senate, January 19, 2017

WHEREAS, the McLean High School band had a banner 2016 year, winning top honors in local, regional, and national competitions; and

WHEREAS, the McLean High School band percussion ensemble won Performance and Featured Finalist at the Ohio State Percussion Festival in February 2016 and Superior Rating and Class Champion at the Worldstrides Heritage Festival in Chicago in April 2016; and

WHEREAS, the McLean High School band symphonic band was awarded a Superior Rating at the Virginia State Assessment in March 2016, a Superior Rating and Grand Champion at the Worldstrides Heritage Festival in New York City in April 2016, and performed at the Virginia Music Educator Association's State Conference in November 2016; and

WHEREAS, at the Worldstrides Heritage Festival in Chicago, Illinois, in April 2016, the McLean High School band wind ensemble was awarded a Superior Rating and Class Champion, the concert band was awarded an Excellent Rating and Class Champion, and the jazz ensemble was awarded a Superior Rating and Class Champion; and

WHEREAS, the McLean High School Highlander marching band won the following awards in 2016: 2nd Place in Class at USBands Herndon Regional; Grand Champion at the Oakton Classic; USBands Virginia State Champions for Class VI Open and Grand Champions; Performance and Award from the Fairfax County Public Schools School Board; and Performance and Award from the Fairfax County Board of Supervisors; and

WHEREAS, the McLean High School Highlander marching band and color guard also took home 1st place in the Class VI Open at the USBands Westminster Regional Championship and the USBands Music in Motion Regional Championship, as well as honors for best visual performance, best music, best general effect, and highest score overall—grand champions for their "Story of My Life" performance; and

WHEREAS, the McLean Highlander marching band and color guard showcased the many kinds of love felt throughout a lifetime in a touching performance that included musical selections by The Piano Guys, Frank Ticheli, The Cinematic Orchestra, John Adams, Ludwig van Beethoven, and music from the movie *Love Actually*; and

WHEREAS, throughout the year, the 160-person McLean High School marching band and color guard displayed amazing choreography that included dancing, jumping, and being hoisted into the air before falling into the formation of a perfect heart at the end; and

WHEREAS, all members of the McLean Highlander marching band and color guard, led by Band Director Chris Weise and Associate Director of Bands Deidra Denson, and under the field direction of Drum Majors Will Glembocki, Alonso Flores-Saez, and Nour Khachemoune, contributed to the marching band's championship performances; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the McLean High School band for winning top honors in local, regional, and national competitions in 2016; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Chris Weise, band director of McLean High School, as an expression of the General Assembly's admiration for the band's inspiring award-winning performances.

**HOUSE JOINT RESOLUTION NO. 715**

*Commending Pamela Irvine.*

Agreed to by the House of Delegates, January 13, 2017  
 Agreed to by the Senate, January 19, 2017

WHEREAS, for 35 years, Pamela Irvine, president and chief executive officer of Feeding America Southwest Virginia, has worked to fight hunger and ensure that families in Southwest Virginia have access to nutritious food; and

WHEREAS, Feeding America is the nation's leading hunger-relief organization, with member food banks supplying food to more than 37 million Americans each year, including 14 million children and three million seniors; and

WHEREAS, as president and chief executive officer of Feeding America Southwest Virginia since 1981, Pamela Irvine has overseen the annual distribution of more than 20 million pounds of food to a network of nearly 400 food pantries, meal sites, and afterschool programs in a 26-county service area; and

WHEREAS, in addition to offering her leadership and expertise to numerous Feeding America committees, Pamela Irvine has also served as chair of the Federation of Virginia Food Banks, which is made up of seven Virginia and Washington, D.C., food banks in 10 strategic locations; and

WHEREAS, Pamela Irvine received the 2014 Dick Goebel Public Service Award for her diligent work as an advocate for hunger relief, and she was named a member of the Commonwealth Council on Bridging the Nutritional Divide, which seeks to eliminate childhood hunger, promote access to healthy food by supporting agriculture, and facilitate community initiatives related to nutrition; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Pamela Irvine for her 35 years of service with Feeding America Southwest Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Pamela Irvine as an expression of the General Assembly's admiration for her passion and tenacity in the fight against hunger in the Commonwealth and the United States.

**HOUSE JOINT RESOLUTION NO. 716**

*Commending the Patrick Henry College international moot court team.*

Agreed to by the House of Delegates, January 13, 2017

Agreed to by the Senate, January 19, 2017

WHEREAS, Patrick Henry College, located in Purcellville, won the Nelson Mandela World Human Rights Moot Court Competition in Geneva, Switzerland, on July 20, 2016; and

WHEREAS, the Patrick Henry College team of William Bock of Indianapolis, Indiana, and Helaina Hirsch of Lafayette, California, competed against 24 schools from around the globe and defeated a team of law students from Moi University in Eldoret, Kenya, in the competition finals; and

WHEREAS, William Bock was awarded first place oralist and Helaina Hirsch was named second place oralist in the tournament, where all of the other teams were composed of law students; the two juniors won a scholarship to return to Switzerland in 2017 to attend a global human rights academy to study international human rights law; and

WHEREAS, Patrick Henry College has a strong tradition of success in moot court national competitions and won the 2016 American Collegiate Moot Court Association national championship; and

WHEREAS, the 2016 Nelson Mandela World Human Rights Moot Court Competition marked the first appearance of Patrick Henry College in international moot court competition in more than a decade, and the school was one of only two American universities to qualify for the tournament; and

WHEREAS, the moot court team excelled thanks to the tutelage of Patrick Henry College Chancellor Michael Farris, who coached the team, and the enthusiastic support of the entire Patrick Henry College community; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Patrick Henry College international moot court team for winning the 2016 Nelson Mandela World Human Rights Moot Court Competition; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Patrick Henry College Chancellor Michael Farris as an expression of the General Assembly's admiration for the team's commanding performance and individual accolades on the international moot court stage.

**HOUSE JOINT RESOLUTION NO. 717**

*Notifying the Governor of organization.*

Agreed to by the House of Delegates, January 11, 2017

Agreed to by the Senate, January 11, 2017

RESOLVED by the House of Delegates, the Senate concurring, That a committee be appointed, composed of six on the part of the House of Delegates and five on the part of the Senate, to notify the Governor that the General Assembly is duly organized and is ready to receive any communication he may desire to make.

**HOUSE JOINT RESOLUTION NO. 718**

*Celebrating the life of the Honorable Otho Beverley Roller.*

Agreed to by the House of Delegates, January 20, 2017

Agreed to by the Senate, January 26, 2017

WHEREAS, the Honorable Otho Beverley Roller, a lifelong resident of Weyers Cave, who served the community as a farmer, educator, and public servant who ably represented the residents of the 10th District in the Virginia House of Delegates, died on March 30, 2016; and

WHEREAS, Otho Beverley "Bev" Roller earned a bachelor's degree from Virginia Polytechnic Institute and State University, where he was a member of the Corps of Cadets, and he served his country as a member of the United States Merchant Marine during World War II; and

WHEREAS, Bev Roller inspired students as a teacher in Augusta County Public Schools, and as a lifelong farmer and a prominent member and former state president of the Future Farmers of America for 48 years, he coached and mentored countless young people; and

WHEREAS, desirous to be of further service to the Commonwealth, Bev Roller ran for and was elected to the Virginia House of Delegates, where he represented the residents of the Counties of Augusta and Highland and the Cities of Staunton and Waynesboro in the 10th District from 1965 to 1972; and

WHEREAS, while serving as a member of the Virginia House of Delegates, Bev Roller introduced and supported numerous important pieces of legislation and was appointed as a director of Virginians for Integrity in Government; and

WHEREAS, throughout his life, Bev Roller served the Augusta County community and the Commonwealth with integrity and distinction; in 1972, he became a supervisor in agricultural education for the Virginia Department of Education, and he also served on the board of directors for Rockingham Mutual Insurance Company and was an active member of Ruritan National for 66 years; and

WHEREAS, Bev Roller enjoyed fellowship and worship as a charter member of Bethany United Methodist Church, where he taught Sunday school for nearly 70 years and held many other leadership positions; and

WHEREAS, a loving family man, Bev Roller will be fondly remembered and greatly missed by his beloved wife, Dorothy; children, Randy, Becky, and Jackie, and their families; and numerous other family members, friends, and colleagues on both sides of the aisle; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of the Honorable Otho Beverley Roller, a farmer, educator, and former member of the Virginia House of Delegates; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of the Honorable Otho Beverley Roller as an expression of the General Assembly's respect for his memory.

#### HOUSE JOINT RESOLUTION NO. 721

*Commending the Fort Defiance High School Envirothon team.*

Agreed to by the House of Delegates, January 20, 2017

Agreed to by the Senate, January 26, 2017

WHEREAS, in May 2016, the student conservationists of the Fort Defiance High School Envirothon team won the Virginia Envirothon state championship, held at Eastern Mennonite University; and

WHEREAS, Envirothon is a team-based academic competition that gives students an opportunity to learn from natural resource professionals; students are tested in a variety of categories and must present a solution to a real-world environmental challenge; and

WHEREAS, the Fort Defiance High School Envirothon team placed third in forestry, first in soils, first in wildlife, second in aquatics, fifth in current issue, and fifth in presentation to claim first place overall; and

WHEREAS, Fort Defiance High School began participating in Envirothon competitions in 2001, and the team has won nine state titles and one North American title; with the 2016 state win, the Fort Defiance High School team advanced to the North American competition in Ontario, Canada; and

WHEREAS, the victory is a testament to the hard work of each member of the Fort Defiance High School Envirothon team—Jacob Wright, Jake Good, Jacob Lewis, Jacob Lam, and Elias Nafziger—the leadership of the coaches and advisors, and the enthusiastic support of the entire Fort Defiance High School community; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Fort Defiance High School Envirothon team on winning the 2016 Virginia Envirothon state championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Fort Defiance High School Envirothon team as an expression of the General Assembly's admiration for the team's outstanding achievements and dedication to the study of environmental science and conservation.

#### HOUSE JOINT RESOLUTION NO. 722

*Commending Lucy Weidner.*

Agreed to by the House of Delegates, January 20, 2017

Agreed to by the Senate, January 26, 2017

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## ACTS OF ASSEMBLY

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WHEREAS, Lucy Weidner of Wilson Memorial High School in Fishersville was named the Virginia High School League Group 1A/2A/3A student congress state debate champion in 2016; and

WHEREAS, the student congress debate is one of four subcategories in the state debate championship, which also includes Lincoln Douglas, policy, and public forum events; and

WHEREAS, the student congress subcategory was added as a new debate event in 2003 to establish a real-world experience that emulates debate in a state or national legislature; and

WHEREAS, Lucy Weidner's first-place performance in the student congress debate subcategory helped elevate the Wilson Memorial High School team to a tie for second place overall; and

WHEREAS, Lucy Weidner and the entire Wilson Memorial High School debate team demonstrated a strong work ethic throughout the season and succeeded with the leadership and guidance of their coaches and advisors and the support of the entire Wilson Memorial High School community; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Lucy Weidner on being named the Virginia High School League Group 1A/2A/3A student congress state debate champion in 2016; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Lucy Weidner as an expression of the General Assembly's admiration for her achievements and best wishes for the future.

**HOUSE JOINT RESOLUTION NO. 723**

*Commending Paula Slagle.*

Agreed to by the House of Delegates, January 16, 2017

Agreed to by the Senate, January 19, 2017

WHEREAS, Paula Slagle of Chesapeake was honored as the 2016 Woman of the Year by the Women's Division of the Hampton Roads Chamber of Commerce Chesapeake; and

WHEREAS, Paula Slagle has contributed her time and talents to numerous organizations in the Hampton Roads area and has been a dedicated member of the Women's Division of the Hampton Roads Chamber of Commerce Chesapeake (WDHRCCC); and

WHEREAS, Paula Slagle is retired from Chesapeake Public Schools and has spent much of her life working with numbers and figures, whether for accounting purposes, engineering purposes, calculating piecework salaries, or making cash payments; and

WHEREAS, Paula Slagle graduated from Western High School in Baltimore, Maryland, and received an associate's degree from Tidewater Community College, but the most important lessons she learned in life were from her parents, her husband, her children, her friends, and her volunteer experiences; and

WHEREAS, Paula Slagle is currently serving as chaplain of the WDHRCCC, a position she has held twice, and previously she served the organization as education chair and treasurer, and she spearheads the 50/50 raffle; and

WHEREAS, Paula Slagle belongs to the Luncheon Pilot Club of Chesapeake, where she has served as corresponding secretary, chaplain, two-year executive board member, and greeter; and

WHEREAS, Paula Slagle has engaged in fundraising for organizations that support people with mental illness and heart disease, among others, and currently devotes her fundraising prowess to supporting the Crisis Pregnancy Center in Chesapeake; and

WHEREAS, Paula Slagle is a yoga instructor and an active member of her community, spending many hours over the years volunteering with Girl Scouts, Boy Scouts, and Meals on Wheels, and serving on the boards of local parent teacher associations; and

WHEREAS, Paula Slagle will be honored at the WDHRCCC's annual Woman of the Year banquet on February 7, 2017, at the Chesapeake Conference Center; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Paula Slagle for being named the 2016 Woman of the Year by the Women's Division of the Hampton Roads Chamber of Commerce Chesapeake; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Paula Slagle as an expression of the General Assembly's congratulations and admiration for her many accomplishments and efforts to make Chesapeake one of the Commonwealth's outstanding communities.

**HOUSE JOINT RESOLUTION NO. 724**

*Celebrating the life of Leslie Gilliam.*

Agreed to by the House of Delegates, January 20, 2017

Agreed to by the Senate, January 26, 2017

WHEREAS, Leslie Gilliam of Keswick, a devoted community activist and a beloved wife, mother, and friend to many, died on December 9, 2016; and

WHEREAS, a native of Jonesville, Leslie Gilliam learned the value of hard work and responsibility while working on her family's dairy farm and caring for her younger siblings; and

WHEREAS, Leslie Gilliam was a passionate lifelong learner who attended the University of Virginia and earned a bachelor's degree from James Madison University and a master's degree from East Tennessee State University; and

WHEREAS, in 1988, Leslie Gilliam and her husband, Richard, settled in Abingdon to raise their family; she was a vibrant member of the community and was active with the Barter Theatre, the William King Museum of Art, and the American Cancer Society, for which she helped organize the first Relay For Life in Abingdon; and

WHEREAS, Leslie Gilliam relocated to Charlottesville in 2001 and engaged with the community there through the United Methodist Church, the Paramount Theater, the Covenant School, the University of Virginia Cancer Center, and Sentara Martha Jefferson Hospital; and

WHEREAS, Leslie Gilliam lived her faith through her actions and worked to instill in her children and others the importance of humility, philanthropy, and compassion for those in need; and

WHEREAS, Leslie Gilliam will be fondly remembered and greatly missed by her husband, Richard; her children, Baxter, Julia, and Anna; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Leslie Gilliam; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Leslie Gilliam as an expression of the General Assembly's respect for her memory.

**HOUSE JOINT RESOLUTION NO. 725**

*Commending Justin Scott Grimm.*

Agreed to by the House of Delegates, January 20, 2017

Agreed to by the Senate, January 24, 2017

WHEREAS, Justin Scott Grimm, an alumnus of Virginia High School in Bristol, helped lead the Chicago Cubs to their historic 2016 Major League Baseball World Series victory and break the longest championship drought in American sports history; and

WHEREAS, Justin Grimm played baseball for the Virginia High School Bearcats and the University of Georgia Bulldogs before he was drafted by the Texas Rangers in the fifth round of the 2010 Major League Baseball draft; and

WHEREAS, Justin Grimm joined the Chicago Cubs in 2013 when the team was in the midst of a rebuilding process after it had finished in last place in the National League Central division in 2011; he thrived with the team, becoming the 68th pitcher in league history to strike out four batters in a single inning; and

WHEREAS, the Chicago Cubs had famously not won a World Series since 1908 thanks to the so-called Curse of the Billy Goat, which began when William Sianis, the owner of the Billy Goat Tavern, and the restaurant's billy goat mascot were ejected from Wrigley Field for disturbing other spectators during the 1945 World Series, which the Cubs lost; and

WHEREAS, during the 2016 postseason, Justin Grimm made six appearances for the Chicago Cubs, including in games one, three, and four of the World Series; and

WHEREAS, in the decisive game seven of the World Series, Justin Grimm came on as a relief pitcher and closed out the 8-7 victory over the Cleveland Indians; the game stretched to 10 innings after a rain delay, a suitably dramatic end to the 108-year championship drought; and

WHEREAS, Justin Grimm and the Chicago Cubs' victory united Chicago fans young and old, many of whom had waited their entire lives to see their team earn a World Series pennant; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Justin Scott Grimm on winning the 2016 Major League Baseball World Series with the Chicago Cubs; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Justin Scott Grimm as an expression of the General Assembly's admiration for his historic achievement.

**HOUSE JOINT RESOLUTION NO. 726**

*Commending J. Hamilton Lambert.*

Agreed to by the House of Delegates, January 20, 2017

Agreed to by the Senate, January 26, 2017

WHEREAS, J. Hamilton Lambert, a visionary community leader in Fairfax County, has dedicated his life to the service of others through his generous philanthropic work; and

WHEREAS, J. Hamilton Lambert joined the Fairfax County government as a map draftsman and worked his way up to become the director of general services in 1973, acting county executive in the mid-1970s, and the county executive in 1980; and

WHEREAS, during his career in local government, J. Hamilton Lambert advised the Fairfax County Board of Supervisors on important issues and helped develop the Citizens' Commission to explore ways to better serve the community, which led to the creation of the Government Center; and

WHEREAS, upon his retirement from local government, J. Hamilton Lambert founded J. Hamilton Lambert and Associates, a management and consulting firm that provides valuable services to government organizations, businesses, and individuals; and

WHEREAS, J. Hamilton Lambert also serves as executive director of the Claude Moore Charitable Foundation, which works with more than 30 charitable organizations to provide underprivileged children with better educational opportunities through scholarships and educational development; and

WHEREAS, in recognition of J. Hamilton Lambert's lifetime service to Fairfax County, the J. Hamilton Lambert Conference Center was named in his honor and he received the 2013 Community Leadership Award from the Community Foundation for Northern Virginia; and

WHEREAS, among his many other awards and accolades, J. Hamilton Lambert was named the 1980 Washingtonian of the Year by *Washingtonian* magazine; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend J. Hamilton Lambert for his legacy of service and leadership to the Fairfax County community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to J. Hamilton Lambert as an expression of the General Assembly's admiration for his commitment to enhancing the lives of his fellow Virginia residents.

#### HOUSE JOINT RESOLUTION NO. 727

*Commending Dr. Toney Lee McNair, Jr.*

Agreed to by the House of Delegates, January 13, 2017

Agreed to by the Senate, January 16, 2017

WHEREAS, Dr. Toney Lee McNair, Jr., a choral music teacher with Chesapeake Public Schools who has inspired and mentored countless students over the course of his 17-year career in education, was named the 2017 Virginia Teacher of the Year; and

WHEREAS, Dr. McNair holds a bachelor's degree from Norfolk State University and Master of Divinity and Doctor of Ministry degrees from Virginia Union University; he currently teaches sixth-grade through eighth-grade choral music classes at Indian River Middle School; and

WHEREAS, Dr. McNair works to build trust and strong relationships based on honesty and respect with all of his students, and he is respected by his peers for his professionalism and dynamic energy in and out of the classroom; and

WHEREAS, among his many achievements, Dr. McNair helped secure a \$10,000 grant to obtain a baby grand piano for Indian River Middle School and a \$1,250 grant to support Young Dreamers, a mentoring group he cosponsors; and

WHEREAS, Dr. McNair also serves as president of the Chesapeake Education Association and was named the Region 2 Teacher of the Year to advance as a finalist for Virginia Teacher of the Year; and

WHEREAS, Dr. McNair received the Virginia Teacher of the Year award at a special ceremony in Richmond on October 17, 2016, and he will represent the Commonwealth as a nominee for the 2017 National Teacher of the Year award; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Dr. Toney Lee McNair, Jr., on being named the 2017 Virginia Teacher of the Year; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Dr. Toney Lee McNair, Jr., as an expression of the General Assembly's admiration for his commitment to serving and inspiring the youth of Chesapeake and the Commonwealth.

#### HOUSE JOINT RESOLUTION NO. 728

*Commending Preston C. Caruthers.*

Agreed to by the House of Delegates, January 13, 2017

Agreed to by the Senate, January 16, 2017

WHEREAS, Preston C. Caruthers, a patriotic veteran and a successful entrepreneur, has supported and strengthened the Arlington community through his generosity and visionary leadership; and

WHEREAS, a native of Oklahoma, Preston Caruthers learned the value of hard work and responsibility at a young age as a child of the Great Depression, supporting his family through part-time summer jobs and by working on his uncle's farm; and

WHEREAS, Preston Caruthers attended Will Rogers High School before he joined many of the other young men of his generation in service to the nation during World War II; as a member of the United States Navy, he served in the Pacific theater of the war; and

WHEREAS, after his honorable military service, Preston Caruthers returned to the United States, continued his education at George Washington University, and founded a construction business, which thrived thanks to his charisma, business acumen, and industrious nature; and

WHEREAS, Preston Caruthers' company completed residential homes and communities, apartments, and commercial parks and office buildings; his proudest accomplishment was the creation of Belmont Bay, a unique waterfront community at the confluence of the Occoquan River and Potomac River; and

WHEREAS, after settling in Arlington, Preston Caruthers became a pillar of the community, holding leadership positions on the boards of the First Bank of Virginia, The Nature Conservancy, the Virginia Museum of Fine Arts, and the Arlington Hospital Foundation and supporting the National Museum of the United States Army, the Virginia Hospital Center Foundation, and Marymount University; and

WHEREAS, Preston Caruthers was deeply committed to lifelong learning and worked to instill that passion in the youth of the community as a member of the Arlington County School Board and through leadership positions at George Mason University, the Virginia State Board of Education, and the Virginia Foundation for Independent Colleges; and

WHEREAS, in 2007, Preston Caruthers received the Arlington Community Foundation Spirit of Community Award, and he earned the nickname "Mr. Arlington" for his tireless work to enhance the quality of life of his fellow residents; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Preston C. Caruthers for his work as a developer, philanthropist, and community advocate; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Preston C. Caruthers for his decades of exceptional service to the residents of Arlington and the Commonwealth.

**HOUSE JOINT RESOLUTION NO. 729**

*Commending New Hope Housing.*

Agreed to by the House of Delegates, January 20, 2017

Agreed to by the Senate, January 26, 2017

WHEREAS, in 2016, New Hope Housing celebrated the 30th anniversary of the opening of the Eleanor U. Kennedy Shelter, one of its six emergency shelters, which has provided safe, welcoming housing to hundreds of community members over the years; and

WHEREAS, New Hope Housing's Eleanor U. Kennedy Shelter traces its deepest roots to the early 1980s, when the Reverend Vin Harwell of Mt. Vernon Presbyterian Church initiated a meeting to discuss the need for winter housing for the homeless; and

WHEREAS, Mt. Vernon Presbyterian Church and other local churches used cots and blankets generously provided by the United States Army to house members of the community in the winter of 1983; and

WHEREAS, seeking a more permanent housing solution, Fairfax County worked with the United States Army to refurbish the water treatment building at Fort Belvoir, which opened as the South County Community Shelter on December 14, 1986; and

WHEREAS, in September 1989, the 50-bed facility was renamed in honor of Eleanor U. Kennedy, a founder of New Hope Housing and a longtime member of the Board of Directors; and

WHEREAS, New Hope Housing has helped former residents of the Eleanor U. Kennedy Shelter, including numerous veterans of the United States Armed Forces, to find permanent or supportive housing, move in with family or friends, or seek additional care; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend New Hope Housing on the occasion of the 30th anniversary of the opening of the Eleanor U. Kennedy Shelter; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to New Hope Housing as an expression of the General Assembly's admiration for its commitment to ending the cycle of homelessness.

**HOUSE JOINT RESOLUTION NO. 730**

*Commending The Salvation Army Women's Auxiliary of Fredericksburg.*

Agreed to by the House of Delegates, January 20, 2017

Agreed to by the Senate, January 26, 2017

WHEREAS, in 2016, The Salvation Army Women's Auxiliary of Fredericksburg celebrated 30 years of loyal service to members of the community in need; and

WHEREAS, The Salvation Army Women's Auxiliary of Fredericksburg was established in September 1986 by Anne Crowe Essig, Valerie Rivera, Mary Wilson, Barbara Muir, and Cessie Howell to promote and support The Salvation Army of Fredericksburg; and

WHEREAS, The Salvation Army Women's Auxiliary of Fredericksburg serves residents in the Counties of Caroline, King George, Spotsylvania, Stafford, and Westmoreland and the City of Fredericksburg through volunteer efforts and generous outreach programs; and

WHEREAS, The Salvation Army Women's Auxiliary of Fredericksburg operates The Salvation Army Shoe Fund, which has raised more than \$1.3 million and provided tens of thousands of pairs of shoes to local children; and

WHEREAS, a dedicated supporter of the arts and education in the region, The Salvation Army Women's Auxiliary of Fredericksburg hosts the Book Buddies program, which has increased literacy by providing hundreds of thousands of books to children, and it raises funds for The Salvation Army School of Performing Arts; and

WHEREAS, The Salvation Army Women's Auxiliary of Fredericksburg hosts the annual Music by Moonlight concert, with all proceeds helping to send disadvantaged youth to Camp Happyland near Richardsville in the summer; and

WHEREAS, The Salvation Army Women's Auxiliary of Fredericksburg also distributes turkeys and bags of food at Thanksgiving; the organization has worked with local schools, grocery stores, and other groups to distribute more than 1,000 bags of food to families in need each year; and

WHEREAS, through its Angel Tree program, The Salvation Army Women's Auxiliary of Fredericksburg has collected gifts of toys, clothing, and other items, brightening the holidays for more than 1,500 local youth and hundreds of seniors; and

WHEREAS, The Salvation Army Women's Auxiliary of Fredericksburg commemorated its 30th anniversary with a special breakfast, a birthday cake, and devotionals; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend The Salvation Army Women's Auxiliary of Fredericksburg on the occasion of its 30th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to The Salvation Army Women's Auxiliary of Fredericksburg as an expression of the General Assembly's admiration for the organization's contributions to the community.

**HOUSE JOINT RESOLUTION NO. 731**

*Celebrating the life of Anthony Randolph Cooke.*

Agreed to by the House of Delegates, January 20, 2017

Agreed to by the Senate, January 26, 2017

WHEREAS, Anthony Randolph Cooke, a dedicated public safety officer who broke down barriers as the first black firefighter in Virginia Beach, died on December 27, 2016; and

WHEREAS, Anthony "Tony" Randolph Cooke honorably served his country as a member of the United States Army during the Vietnam War; desirous to be of further service to the community, he joined the Seatack Fire Department, an independent all-black volunteer fire station; and

WHEREAS, when Tony Cooke transferred to the Virginia Beach Fire Department in 1976, he became the city's first full-time African American firefighter; he bravely and professionally confronted discrimination, never wavering in his desire to safeguard the lives and property of his fellow residents; and

WHEREAS, in 1987, Tony Cooke received the Virginia Beach Fire Department's Medal of Honor after he rescued four children from a house fire, carrying two of them under his arms, while leading the other two to safety as they held on to his jacket; and

WHEREAS, after his well-earned retirement in 2001, Tony Cooke met and married his wife, Rosita, and settled in Virginia Beach, where he touched countless lives over the course of his 25-year career; and

WHEREAS, Tony Cooke's courage and leadership inspired other young African American men in the area to serve and safeguard the members of the community as firefighters; he leaves behind a legacy of excellence for the entire Virginia Beach Fire Department; and

WHEREAS, Tony Cooke will be fondly remembered and greatly missed by his wife, Rosita, and numerous other family members, friends, and fellow firefighters; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Anthony Randolph Cooke; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Anthony Randolph Cooke as an expression of the General Assembly's respect for his memory.

**HOUSE JOINT RESOLUTION NO. 732**

*Commending the Sterling Volunteer Fire Company.*

Agreed to by the House of Delegates, January 20, 2017  
 Agreed to by the Senate, January 26, 2017

WHEREAS, the Sterling Volunteer Fire Company celebrated 50 years of providing emergency services to the residents of Loudoun County in 2016; and

WHEREAS, the Sterling Volunteer Fire Company, formerly known as the Sterling Park Volunteer Fire Company, was chartered on August 16, 1966; and

WHEREAS, as part of the Loudoun County Combined Fire-Rescue System, the Sterling Volunteer Fire Company has a call area of approximately 25 square miles and provides fire suppression services to over 90,000 residents, including those in Sterling, Great Falls Forest, Broad Run Farms, Countryside, Sugarland Run, and Cascades; and

WHEREAS, the Sterling Volunteer Fire Company is based out of three fire stations and responds to more than 4,200 calls annually, making it one of the busiest volunteer fire companies in the Commonwealth; and

WHEREAS, the well-trained members of the Sterling Volunteer Fire Company respond to a vast variety of situations using four fire engines, three ladder trucks, two special emergency response vehicles, and two command units; and

WHEREAS, the Sterling Volunteer Fire Company routinely assists surrounding counties with fire suppression support, and has provided assistance during national emergencies, such as the September 11, 2001, terrorist attacks on the Pentagon and New York City, and in the aftermath of Hurricane Katrina; and

WHEREAS, members of the Sterling Volunteer Fire Company are constantly honing their skills, spending countless hours training to maintain certifications in firefighting, emergency medical services, and technical rescue; and

WHEREAS, the Sterling Volunteer Fire Company Honor Guard positively represents the company and Loudoun County at events across the Commonwealth and the country; and

WHEREAS, the members of the Sterling Volunteer Fire Company embody the selflessness, bravery, integrity, and commitment to safety displayed by firefighters and first responders throughout the Commonwealth; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Sterling Volunteer Fire Company on 50 years of protecting the lives and property of those who live in and visit Loudoun County; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to David Short, Chief of the Sterling Volunteer Fire Company, as an expression of the General Assembly's admiration for the company's outstanding service to the community, the Commonwealth, and the country.

**HOUSE JOINT RESOLUTION NO. 733**

*Commending iFly Loudoun.*

Agreed to by the House of Delegates, January 20, 2017  
 Agreed to by the Senate, January 26, 2017

WHEREAS, iFly Loudoun, an indoor skydiving facility in Ashburn, sponsored a special All Abilities Night in October 2016 that was geared toward helping injured military veterans, individuals with spinal cord injuries, and people with intellectual and developmental disabilities; and

WHEREAS, opened in March 2016, iFly Loudoun is one of iFly's 37 locations worldwide that offer an opportunity to skydive without jumping out of an airplane; instead, clients are lifted inside a 14-foot-wide cylinder air tube that simulates free fall conditions; and

WHEREAS, skydiving helps wounded military veterans get outside of their comfort zone and offers an unparalleled sense of freedom of flight, helping to shatter the pain and limitations that gravity puts on their bodies; and

WHEREAS, skydiving offers endless mental, physical, and emotional rehabilitative solutions, and iFly Loudoun cares about supporting flyers of all abilities and giving those with special needs the opportunity to have such a unique and potentially life-changing experience; and

WHEREAS, among the groups that participated in iFly Loudoun's All Abilities Night were Operation Enduring Warrior, a nonprofit organization that helps motivate wounded veterans through communal activities, Determined2Heal and SPINALpedia, two support organizations for people with spinal cord injuries, and the United Spinal Association of Virginia; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend iFly Loudoun for sponsoring All Abilities Night in October 2016 to give wounded military veterans and those with spinal cord injuries and other disabilities a unique opportunity to experience skydiving; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to iFly Loudoun as an expression of the General Assembly's admiration for the company's dedication to helping wounded military veterans and others with life-changing physical and mental injuries.

**HOUSE JOINT RESOLUTION NO. 734***Commending Sihan Sandhu.*

Agreed to by the House of Delegates, January 20, 2017

Agreed to by the Senate, January 26, 2017

WHEREAS, Sihan Sandhu, of Ashburn, won the U.S. Kids Golf 2016 World Championship at Legacy Golf Links in Pinehurst, North Carolina, shooting a record-breaking 23 under par; and

WHEREAS, Sihan Sandhu bested his closest competitor by an unbelievable 17 shots in the boys 10-year-old category, setting world records for lowest three-round total and margin of victory at a world championship; and

WHEREAS, Sihan Sandhu has won golf competitions on the local, national, and international level, including twice winning the U.S. Kids European Championship in Scotland, winning 13 regional and national invitational events in U.S. Kids Golf, and winning the Middle Atlantic Section of The PGA of America events against golfers three years older than he; and

WHEREAS, playing competitive golf since age six, Sihan Sandhu is known as the hardest-working golfer at 1757 Golf Club in Dulles, where he practices every day; his talent is developed by coaches Adam Harrell and Nick Guyton, and his father, Ruby Sandhu, who serves as his caddie; and

WHEREAS, dedicated, passionate, and hungry for knowledge, Sihan Sandhu's work ethic, intelligence, love of the game, and support from his family are what set him apart as one of the best golfers his age in the world; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Sihan Sandhu on winning the U.S. Kids Golf 2016 World Championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Sihan Sandhu as an expression of the General Assembly's admiration for his phenomenal record-setting performance.

**HOUSE JOINT RESOLUTION NO. 735***Commending the Freedom High School gymnastics team.*

Agreed to by the House of Delegates, January 20, 2017

Agreed to by the Senate, January 26, 2017

WHEREAS, the Freedom High School gymnastics team of South Riding captured its first Virginia High School League Group 5A state championship in 2016; and

WHEREAS, the Freedom High School Eagles turned in a dominant performance by winning all but one of four rotations at the championship meet in Virginia Beach; and

WHEREAS, seniors Sydney Stotka and Anna Broussard, junior Cara Fragala, sophomores Sydney Wrighte, Cassie Parks, and Lexie Vicchio, and freshman Katie MacDonald competed for Freedom High School in the team competition; and

WHEREAS, Sydney Wrighte, a Freedom High School standout in the team competition, also won the all-around title at the Virginia High School League Individual Open Championships; and

WHEREAS, all members of the Freedom High School gymnastics team showed dedication and contributed to the championship, and their hard work was generously supported by the Freedom Eagles Athletic Boosters, the athletics department staff, school administrators, and the student body; and

WHEREAS, Freedom High School gymnastics coach Laura Wrighte led the team in pursuit of their championship rings, working throughout the season to develop the individual skills of the team members; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Freedom High School gymnastics team of South Riding for winning the Virginia High School League Group 5A state championship in 2016; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Laura Wrighte, coach of the Freedom High School gymnastics team, as an expression of the General Assembly's admiration for the team's impressive accomplishments.

**HOUSE JOINT RESOLUTION NO. 736***Commending Mihika Dusad.*

Agreed to by the House of Delegates, January 20, 2017

Agreed to by the Senate, January 26, 2017

WHEREAS, Ashburn's Mihika Dusad had her original artwork selected as "Best in Show" in *Cooperative Living* magazine's 2016 Youth Art Contest; and

WHEREAS, Mihika Dusad's artwork was chosen for the top honor out of the more than 500 entries submitted by elementary school students from electric cooperative member families in Virginia and a portion of Tennessee, who were asked to illustrate "My Favorite Hobby"; and

WHEREAS, Mihika Dusad used colored pencils to create a portrait of herself performing the classical Indian dance Kuchipudi, which she began dancing when she was four years old; and

WHEREAS, now a fifth grader at Creighton's Corner Elementary School in Ashburn, Mihika Dusad's winning artwork showed great imagination and talent, and she worked on her art project for several weeks before deciding to submit it; and

WHEREAS, Mihika Dusad, the daughter of Meenal and Amit Dusad, earned a \$100 prize for her winning artwork and was featured on the cover of the July 2016 issue of *Cooperative Living* wearing her Indian dance costume and makeup; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Mihika Dusad on winning "Best in Show" in *Cooperative Living* magazine's 2016 Youth Art Contest; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Mihika Dusad as an expression of the General Assembly's admiration for her artistic creativity and "Best in Show" honor.

**HOUSE JOINT RESOLUTION NO. 737**

*Commending the Atlee High School softball team.*

Agreed to by the House of Delegates, January 20, 2017

Agreed to by the Senate, January 26, 2017

WHEREAS, the Atlee High School softball team from Mechanicsville capped another amazing season in 2016 by successfully defending their Virginia High School League Group 5A state championship title; and

WHEREAS, in a rematch of the 2015 state title game, the Atlee High School Raiders defeated the Hickory High School Hawks by a score of 5-0 to hoist their second consecutive state championship trophy and finish the season with a 23-2 record; and

WHEREAS, the Atlee Raiders advanced to the state championship game after defeating the Lee-Davis High School Confederates, their crosstown archrivals, in the 5A state semifinal game, powered by a three-run home run by senior catcher Raine Wilson and junior shortstop Casey Barrett; and

WHEREAS, in the championship game, the Atlee Raiders took a 1-0 lead over the Hickory Hawks in the second inning thanks to a solo home run by shortstop Casey Barrett, and the Raiders scored two more runs in the fourth inning due to Hickory High School's errors; and

WHEREAS, Atlee Raiders shortstop Casey Barrett drove in a run with a single in the fifth inning to make it 4-0, and in the seventh inning Mallorie Fodill's RBI double drove in the fifth and final run of the game; and

WHEREAS, Atlee Raiders starting pitcher Peyton St. George allowed three hits and struck out eight batters for her second consecutive state title win and shutout; and

WHEREAS, Peyton St. George, Casey Barrett, and junior outfielder Kelly Warren were recognized for their achievements during the 2016 season when they won Virginia High School League (VHSL) Group 5A First Team All-State honors; and

WHEREAS, all members of the Atlee High School softball team contributed to the championship victory through the incredible teamwork, determination, and skills that all of the players displayed throughout the 2016 season; and

WHEREAS, the Atlee High School softball team could not have won their second consecutive VHSL Group 5A state championship without the support of their awesome fans and the broader Atlee community, or without the leadership and guidance of their coach, Tom McIntyre, who set the bar high by securing a state title in his first year as head coach; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Atlee High School softball team of Mechanicsville on winning their second consecutive Virginia High School League Group 5A state championship title in 2016; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Tom McIntyre, coach of the Atlee High School softball team, as an expression of the General Assembly's admiration for the team's outstanding championship-winning season.

**HOUSE JOINT RESOLUTION NO. 738**

*Commending Captain Thomas W. Turner.*

Agreed to by the House of Delegates, January 20, 2017

Agreed to by the Senate, January 26, 2017

WHEREAS, Captain Thomas W. Turner began his law-enforcement career in 1966 with the Virginia State Police as a dispatcher for the Richmond Division; and

WHEREAS, one day after his 21st birthday, on September 1, 1967, Thomas Turner joined the Virginia State Police 46th Basic Session and graduated from the Academy on February 18, 1968; and

WHEREAS, during his tenure as trooper, Thomas Turner served in Orange, Manassas, and Williamsburg; on July 1, 1974, he was promoted to the position of investigator and assigned to the Division of Investigations in Waverly; and

WHEREAS, on July 16, 1976, Thomas Turner was promoted to sergeant and assigned to the Richmond Division Headquarters and later the Area 5 Office in Fredericksburg, where he was promoted to first sergeant on July 1, 1982; and

WHEREAS, on April 16, 1985, as a first sergeant, Thomas Turner transferred to the Records and Statistics Division at the State Police Administrative Headquarters in Richmond; and

WHEREAS, Thomas Turner was promoted to the rank of lieutenant in the Criminal Justice Information Services (CJIS) Division at the State Police Administrative Headquarters on July 1, 1996, and then division commander on January 10, 2007, of CJIS, which provides critical support and services for the Department of State Police and other criminal justice agencies, government entities, and the people of the Commonwealth and beyond; and

WHEREAS, while serving as the CJIS division commander, Thomas Turner commanded the largest division within the Department of State Police with 252 employees and oversaw all aspects of the Central Criminal Records Exchange, the Virginia Criminal Information Network, the Sex Offender Registry, the Firearms Transaction Center, the Automated Fingerprint Identification System (AFIS), and numerous other critical information systems and services for criminal justice purposes; and

WHEREAS, Thomas Turner provided extraordinary leadership in the development of one of the nation's leading sex offender registries, which serves as a ready resource for law enforcement agencies and the community; and

WHEREAS, Thomas Turner's exceptional leadership enabled the establishment of the Virginia Firearms Transaction Center, which is a model, nationally-recognized program that promotes the speedy transfer of firearms to eligible persons while maintaining an impressive record of preventing prohibited individuals from purchasing or possessing a firearm; and

WHEREAS, Thomas Turner chaired the Federal Bureau of Investigation's (FBI) Advisory Policy Board, which makes recommendations to the director regarding policy, technical, and operational issues for the FBI's Criminal Justice Information Services Division programs, including the FBI's Uniform Crime Report; and

WHEREAS, Thomas Turner has served as chairman and vice-chairman of the Board of Directors for the National Consortium for Justice Information and Statistics, chair of the Board of Directors for AFIS and the National Law Enforcement Telecommunications System, and vice-chair of the FBI/National Crime Prevention and Privacy Compact Council's Subcommittee on Policy and Procedures; and

WHEREAS, through his dedicated persistence, coupled with his latent print database knowledge, Thomas Turner helped the Norfolk Police Department make inquiries into newly-accessible, non-criminal fingerprint files, which matched a member of the United States Navy and solved a series of rape cases from 2008-2010 occurring in Virginia and Kuwait; he earned special recognition by the FBI for his work on the case, which was called the "2015 Biometric Hit of the Year"; and

WHEREAS, Thomas Turner received the Virginia Association of Chiefs of Police esteemed 2016 President's Award in recognition of and appreciation for his expansive subject matter expertise of and contributions to the advancement of criminal justice information and data management; and

WHEREAS, Thomas Turner retired from the Virginia State Police October 1, 2016, with 50 years of superior service to the Commonwealth, leaving a tremendous void in the agency and across Virginia due to his impressive, historical knowledge of criminal justice and his overwhelming desire to serve the Commonwealth; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Captain Thomas W. Turner on the occasion of his retirement from the Virginia State Police; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Captain Thomas W. Turner as an expression of the General Assembly's admiration for his contributions to the criminal justice community, as well as his enduring commitment and extraordinary service to the Commonwealth, and best wishes on a well-earned retirement.

### HOUSE JOINT RESOLUTION NO. 739

*Celebrating the life of James Early Wood.*

Agreed to by the House of Delegates, January 20, 2017

Agreed to by the Senate, January 26, 2017

WHEREAS, James Early Wood of Hanover County, a decorated veteran of World War II and a respected entrepreneur, died on November 25, 2016; and

WHEREAS, as a child of the Great Depression, J. Early Wood learned the value of hard work and responsibility at a young age; as a young man, he baked bread for the Continental Baking Company and became a route sales manager; and

WHEREAS, J. Early Wood joined many of the other young men of his generation in service to the nation during World War II as a member of the United States Army; he parachuted into France with the 101st Airborne Division during the D-Day invasion and helped hold the Allies' lines during the Battle of the Bulge; and

WHEREAS, wounded on D-Day and again near the end of the war, J. Early Wood received two Purple Hearts and earned a Bronze Star for his valorous actions; after his honorable military service, he returned to the Commonwealth to become a contributing member of the community; and

WHEREAS, J. Early Wood worked in the insurance business for Prudential for more than 20 years, and then served his fellow community members as an independent agent; later in life, he turned a hobby into a 40-year career when he opened J. Early Wood Golf Carts, an Ashland institution that he operated until 2015; and

WHEREAS, J. Early Wood will be fondly remembered and greatly missed by his wife, Virginia; children, James and Lil, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of James Early Wood, a respected veteran and entrepreneur in Hanover County; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of James Early Wood as an expression of the General Assembly's respect for his memory.

**HOUSE JOINT RESOLUTION NO. 740**

*Celebrating the life of Colonel Damon Igou, USA, Ret.*

Agreed to by the House of Delegates, January 20, 2017

Agreed to by the Senate, January 26, 2017

WHEREAS, Colonel Damon Igou, USA, Ret., a respected veteran of the United States Army, United States Army Reserve, and National Guard and a man of deep and abiding faith who offered leadership and guidance to the Mt. Olivet Baptist Church congregation as a deacon, died on November 29, 2016; and

WHEREAS, a native of Jacksonville, Florida, Damon Igou fulfilled his lifelong dream to serve his country as a member of the military, receiving his commission as a second lieutenant after graduating from the United States Military Academy in 1986; and

WHEREAS, over the course of his 30-year career, Damon Igou held command, staff, and educational assignments in Korea, Texas, Pennsylvania, and Virginia, including command of the 2nd Battalion, 111th Field Artillery in Petersburg; and

WHEREAS, Damon Igou was deployed with the 29th Infantry Division to Bosnia in 2001 in support of Task Force Eagle and provided disaster relief and security to the victims of Hurricane Katrina in 2005; he again supported the 29th Infantry Division in Kosovo in 2006; and

WHEREAS, in 2010, Damon Igou was deployed to Djibouti as part of the Combined Joint Task Force-Horn of Africa, and he finished his career as a faculty member of the United States Army War College in Pennsylvania; and

WHEREAS, over the course of his exceptional military career, Damon Igou earned the Legion of Merit, Defense Meritorious Service Medal, Army Meritorious Service Medal, Army Commendation Medal, and Army Achievement Medal; and

WHEREAS, Damon Igou joined Mt. Olivet Baptist Church in 2000 and was ordained as a deacon in 2002; he was admired for his biblical knowledge and ability to share his wisdom with others, and he held numerous other leadership positions in the church community; and

WHEREAS, Damon Igou will be fondly remembered and greatly missed by his wife, Janice; children, David and Rhey; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Colonel Damon Igou, USA, Ret., a patriotic veteran and an admired spiritual leader in the Montpelier community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Colonel Damon Igou, USA, Ret., as an expression of the General Assembly's respect for his memory.

**HOUSE JOINT RESOLUTION NO. 741**

*Celebrating the life of the Honorable Johnny S. Joannou.*

Agreed to by the House of Delegates, January 20, 2017

Agreed to by the Senate, January 26, 2017

WHEREAS, the Honorable Johnny S. Joannou, a respected member of the Portsmouth community and a consummate public servant who represented the residents of Hampton Roads in both chambers of the General Assembly over the course of three decades, died on May 6, 2016; and

WHEREAS, born in Brooklyn, New York, to a family of immigrants, Johnny Joannou grew up in Portsmouth, forming a bond with the city that would last his entire life; he learned the value of hard work and responsibility from his father, who taught himself English while working as a cook and eventually purchased his own restaurant; and

WHEREAS, after graduating from Woodrow Wilson High School, Johnny Joannou earned a bachelor's degree from Virginia Polytechnic Institute and State University and a law degree from the University of Richmond; and

WHEREAS, Johnny Joannou served the Portsmouth community as an attorney with his private practice, Joannou and Associates, and worked to enhance the lives of his fellow residents as a leader in local civic and service organizations; and

WHEREAS, desirous to be of further service to the Commonwealth, Johnny Joannou ran for and was elected to the Virginia House of Delegates in 1975, representing the residents of Portsmouth in the 41st District and later in the 39th District; and

WHEREAS, Johnny Joannou served in the Virginia House of Delegates until 1983, when he was elected to the Senate of Virginia, representing the residents of parts of Portsmouth and Suffolk in the 13th District; he returned to the Virginia House of Delegates in 1998 and represented the residents of parts of Chesapeake, Norfolk, Portsmouth, and Suffolk in the 79th District until 2016; and

WHEREAS, as a member of the General Assembly, Johnny Joannou introduced and supported numerous important pieces of legislation to benefit all Virginians; he was a champion for blue-collar workers and supported initiatives to keep taxes low; and

WHEREAS, over the course of his 30-year career in public service, Johnny Joannou offered his wisdom and expertise to several committees and commissions, including the House Committee on Appropriations, which is responsible for writing the biennial budget; and

WHEREAS, a man of strong character and integrity, Johnny Joannou served the Hampton Roads community and the Commonwealth with dedication and distinction; and

WHEREAS, Johnny Joannou will be fondly remembered and greatly missed by his wife of 49 years, Chris; daughter, Stephanie, and her family; and numerous other family members, friends, and colleagues on both sides of the aisle; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of the Honorable Johnny S. Joannou; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of the Honorable Johnny S. Joannou as an expression of the General Assembly's respect for his memory.

#### HOUSE JOINT RESOLUTION NO. 742

*Commending Scott R. Park.*

Agreed to by the House of Delegates, January 20, 2017

Agreed to by the Senate, January 26, 2017

WHEREAS, in 2015, Scott R. Park of Virginia Beach retired from the Department of the Navy after more than three decades of service to the Commonwealth and the United States, and he continues to inspire others through his strong character and unwavering faith; and

WHEREAS, a loyal civil servant, Scott Park worked for the Department of the Navy for 36 years, supporting the development and execution of the Environmental Restoration Program for Naval Facilities Engineering Command Mid-Atlantic, a program to identify, investigate, and clean up waste disposal sites on military property; and

WHEREAS, through his work with the Navy, Scott Park helped reduce health risks to military personnel and damage to the environment; in addition to his government work, he also served the community as a Sunday school teacher in Norfolk; and

WHEREAS, in 2007, after receiving open-heart surgery, Scott Park was diagnosed with an extremely rare blood disorder called catastrophic antiphospholipid syndrome (CAPS), which required two years of dialysis and a kidney transplant; and

WHEREAS, Scott Park endured multiple strokes, which caused traumatic brain injury, and was comatose for a period in 2015; demonstrating incredible perseverance and inspiring positivity, he taught himself to speak, walk, and use his arms again, never letting his illness break his spirit; and

WHEREAS, an avid fan of North Carolina State University basketball, Scott Park and his wife, Ellen, and their family have used the words of former North Carolina State University basketball coach Jimmy Valvano, "Don't give up. Don't ever give up," as a rallying cry; and

WHEREAS, on March 13, 2015, Scott Park was chosen to attempt a half-court shot for a prize of \$1 million at the 2015 Atlantic Coast Conference tournament semifinal game; undaunted by his condition, he traveled to the game in Greensboro, North Carolina, and took the once-in-a-lifetime opportunity; and

WHEREAS, Scott Park's shot made it only to the free throw line, but the video of his attempt, which has been viewed millions of times, ultimately brought national attention to CAPS, of which there have been only approximately 400 recorded cases in history, and inspired other individuals with illnesses to keep fighting and never give up; and

WHEREAS, Scott Park's incredible story of courage was profiled nationally on the ESPN Network, detailing the love of his family, his indomitable strength, and his quiet nobility in combating this life-threatening disease and providing inspiration to countless Virginians and Americans; and

WHEREAS, Scott Park and his entire family's faith and spirit while facing this illness are proof that love conquers all; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Scott R. Park on the occasion of his retirement from the Department of the Navy in 2015; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Scott R. Park as an expression of the General Assembly's admiration for his service to the Commonwealth and the United States.

**HOUSE JOINT RESOLUTION NO. 743**

*Commending Arthur Dean Strickland.*

Agreed to by the House of Delegates, January 20, 2017  
 Agreed to by the Senate, January 26, 2017

WHEREAS, Arthur Dean Strickland, an outstanding educator, has inspired students at the Wilson Workforce and Rehabilitation Center for 50 years; and

WHEREAS, Arthur Dean "A. D." Strickland's basic introduction to drafting was obtained at the Wilson Workforce and Rehabilitation Center (WWRC) after an industrial accident resulted in the amputation of his right hand as a young man; and

WHEREAS, A. D. Strickland pursued his commitment to lifelong learning with a bachelor's degree from James Madison University and a master's degree from Virginia Polytechnic Institute and State University, which continues to count him as a "resident" of the Hokie Nation; and

WHEREAS, after working for General Electric in Waynesboro, A. D. Strickland joined WWRC on November 7, 1966, as a drafting instructor; thousands of students with a wide array of disabling conditions were inspired by his example, made job ready by his teaching, and counseled toward professional career paths; and

WHEREAS, throughout a long and active life, A. D. Strickland and his wife of 52 years, Joyce Strickland, have generously given their time to foster more than 100 children from their local area; and

WHEREAS, for more than 30 years, A. D. Strickland has ensured that students in Waynesboro Public Schools share a holiday experience with WWRC students that improves their understanding of each other; and

WHEREAS, A. D. Strickland has inspired his colleagues with enthusiasm for his duties that are never too small to not receive his best work or too large to exceed his exceptional skills; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Arthur Dean Strickland for his 50 years of service to the Wilson Workforce and Rehabilitation Center and the Fishersville community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Arthur Dean Strickland as an expression of the General Assembly's gratitude for his notable contributions to the citizens of the Commonwealth.

**HOUSE JOINT RESOLUTION NO. 744**

*Designating April 16, in 2018 and in each succeeding year, as World Voice Day in Virginia.*

Agreed to by the House of Delegates, January 24, 2017  
 Agreed to by the Senate, February 14, 2017

WHEREAS, it is estimated that nearly seven million Americans suffer from some form of voice disorder; and

WHEREAS, voice disorders can impact the everyday lives of those affected by inhibiting their ability to effectively express themselves; and

WHEREAS, there are many ways in which people can conserve their voice and prevent the development of voice disorders, including keeping hydrated, minimizing activities causing vocal strain such as yelling, warming up before heavy vocal use, using appropriate breath support, using amplification, and paying attention to vocal cues; and

WHEREAS, it is important to draw state, national, and international awareness to the existence of voice disorders and the availability of services provided by otolaryngologist-head and neck surgeons—the only medical doctor specifically trained to treat the ear, nose, throat, head, and neck—as well as other specialized providers for the amelioration of these disorders; and

WHEREAS, every year on April 16, otolaryngologist-head and neck surgeons and other voice health professionals worldwide join together to recognize World Voice Day, an international celebration of the human voice established to help raise public and professional awareness about voice disorders; and

WHEREAS, World Voice Day is sponsored in the United States by the American Academy of Otolaryngology-Head and Neck Surgery and encourages men and women, young and old, to assess their vocal health and take action to improve or maintain good voice habits; and

WHEREAS, Virginians are encouraged to practice techniques that may help prevent the onset of a voice disorder or to visit an otolaryngologist-head and neck surgeon if they are suffering from a voice disorder; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly designate April 16, in 2018 and in each succeeding year, as World Voice Day in Virginia; and, be it

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## ACTS OF ASSEMBLY

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RESOLVED FURTHER, That the Clerk of the House of Delegates transmit a copy of this resolution to the Virginia Society of Otolaryngology so that members of the organization may be apprised of the sense of the General Assembly of Virginia in this matter; and, be it

RESOLVED FINALLY, That the Clerk of the House of Delegates post the designation of this day on the General Assembly's website.

**HOUSE JOINT RESOLUTION NO. 745**

*Designating the first week of July, in 2017 and in each succeeding year, as Substance-Exposed Infant Awareness Week in Virginia.*

Agreed to by the House of Delegates, January 24, 2017

Agreed to by the Senate, February 14, 2017

WHEREAS, abuse of and dependence on prescription painkillers, heroin, and other opioids have led to an opioid epidemic across the Commonwealth and throughout the nation; and

WHEREAS, prenatal exposure to opioids may cause infants to be born with an opioid dependency condition called Neonatal Abstinence Syndrome (NAS); and

WHEREAS, babies born with NAS may experience irritability, low birth weight, respiratory conditions, tremors, seizures, feeding difficulties, and other health-related challenges; and

WHEREAS, the rate of opioid abuse and dependence among pregnant women at time of delivery rose by 910 percent between 2004 and 2014, resulting in five infants per day being born drug dependent; and

WHEREAS, the Virginia Department of Health recorded 493 cases of NAS in 2013, an increase of nearly 100 cases over the previous year and an increase of more than 400 cases over 1999; and

WHEREAS, prevention, education, public awareness, and knowledge of available treatment resources are crucial to reducing the physical, social, and economic impact of NAS; and

WHEREAS, the Commonwealth is committed to fighting substance abuse and dependence and promoting safe environments and the compassionate care necessary to give every newborn the best possible start in life; in November 2016, the Virginia Department of Health declared that the opioid addiction crisis is a public health emergency in Virginia; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly designate the first week of July, in 2017 and in each succeeding year, as Substance-Exposed Infant Awareness Week in Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates transmit a copy of this resolution to the Virginia Department of Health so that members of the department may be apprised of the sense of the General Assembly of Virginia in this matter; and, be it

RESOLVED FINALLY, That the Clerk of the House of Delegates post the designation of this week on the General Assembly's website.

**HOUSE JOINT RESOLUTION NO. 746**

*Celebrating the life of Roger L. Williams.*

Agreed to by the House of Delegates, January 20, 2017

Agreed to by the Senate, January 26, 2017

WHEREAS, Roger L. Williams, a man of faith and a devoted husband and father who made many significant contributions to the Commonwealth and performed a major role as commissioner of the Virginia Workers' Compensation Commission, died on October 11, 2016; and

WHEREAS, Roger Williams was born in Anniston, Alabama, and was raised in Richmond; in 1975, he graduated from Washington and Lee University, and in 1980, he earned a law degree from the University of Richmond, where he was a member of the Law Review and the McNeill Law Society, whose membership comprised those students in the top 10 percent of their class; and

WHEREAS, following graduation, Roger Williams worked for Sands, Anderson, Marks & Miller PC, a firm noted for the handling of workers' compensation cases and from 1988 until 2008 was a principal in his own firm, last called Williams & Lynch; and

WHEREAS, in 2008, Roger Williams was appointed by the Virginia General Assembly to the position of commissioner of the Virginia Workers' Compensation Commission, where he served as chair from 2012 to 2015, and where he continued to work until his death; and

WHEREAS, Roger Williams was recognized as a national leader in the field of workers' compensation and was a member of the Southern Association of Workers' Compensation Administrators, where he served as president from 2014 to 2015; and

WHEREAS, Roger Williams was also a prominent member of the National Association of Workers' Compensation Judiciary and a fellow of the College of Workers' Compensation Lawyers; and

WHEREAS, Roger Williams immersed himself in whatever endeavor he undertook, exhibited a passion for golf, and a love of sleight-of-hand coin, rope, and card tricks, which he performed as a magician at shelters for the homeless and other charitable venues; and

WHEREAS, Roger Williams was a pillar of the community, volunteering countless hours to benevolent organizations such as Kids' Chance, which serves the children of workers killed on the job; and

WHEREAS, Roger Williams will be greatly missed and forever loved by his wife, Annie, and children, Lauren and Matt; and

WHEREAS, Roger Williams' leadership at the Virginia Workers' Compensation Commission positively impacted its employees and its operations and enhanced its services to injured workers, employers, and insurers; and

WHEREAS, the legacy of Roger Williams will be his continued positive impact on the Virginia Workers' Compensation Commission, the Commonwealth, and workers' compensation systems nationwide; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Roger L. Williams, who made many valuable contributions to the Commonwealth's workers' compensation system and who was a leader, a man of faith, and a devoted husband and father; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Roger L. Williams as an expression of the General Assembly's respect for his memory and appreciation for his service to the Commonwealth and its citizens.

#### HOUSE JOINT RESOLUTION NO. 747

*Commending Earl Heath Miller, Jr.*

Agreed to by the House of Delegates, January 20, 2017

Agreed to by the Senate, January 26, 2017

WHEREAS, Earl Heath Miller, Jr., a University of Virginia alumnus and the most accomplished tight end in the history of the Pittsburgh Steelers, who helped lead the team to two Super Bowl victories during his 11-year career in the National Football League, retired as a professional football player in 2016; and

WHEREAS, a native of Richlands, Heath Miller attended Honaker High School, where he played quarterback on the football team and led the Honaker Tigers to their first state championship in his senior year, setting several school records along the way; and

WHEREAS, Heath Miller played tight end for the University of Virginia Cavaliers, and in his first college game in 2002 he recorded four receptions and a touchdown; he ended his college career by setting Atlantic Coast Conference records for most career receptions, yards, and touchdowns by a tight end and shares the university record for most 100-yard games by a tight end; and

WHEREAS, in 2005, after his junior year at the University of Virginia, Heath Miller became the university's fifth player to enter the National Football League (NFL) Draft early and was selected by the Pittsburgh Steelers in the first round of the draft; and

WHEREAS, Heath Miller spent his entire professional career with the Pittsburgh Steelers, contributing to Super Bowl wins in 2006 and 2009, and was an essential member of the team's high-powered offense with his efficient route running, situational awareness, and sure hands; when lined up as a blocker, he demonstrated the physicality and toughness emblematic of the Steelers since the 1970s; and

WHEREAS, during more than 160 games as a starter, Heath Miller became one of only 12 tight ends in NFL history to reach 6,000 career receiving yards and hauled in the sixth-most receptions by a tight end with 592; he also holds franchise records in Pittsburgh for receptions and receiving yards by a tight end and the record for receiving touchdowns by a tight end with 45; and

WHEREAS, Heath Miller was selected to the NFL Pro Bowl three times in his career, and he enjoyed his best season in 2012 when he was voted team Most Valuable Player (MVP) by his fellow Pittsburgh Steelers; he had 71 receptions and a career high 816 receiving yards and eight touchdowns during that season; and

WHEREAS, a trusted mentor to younger players who was deeply respected by all of his teammates and the coaches and staff of the Pittsburgh Steelers, Heath Miller was also a fan favorite, whose receptions were met with a rolling chorus of "HEATH" by Pittsburgh fans, which was heard in stadiums from coast to coast during his streak of 104 games with a reception; and

WHEREAS, during his well-earned retirement, Heath Miller plans to continue serving others through his involvement with many charitable organizations and spend more time with his wife, Katie, and their four children; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Earl Heath Miller, Jr., on the occasion of his retirement as a professional football player with the Pittsburgh Steelers; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Earl Heath Miller, Jr., as an expression of the General Assembly's admiration for his skill, humility, and character and best wishes for the future.

### HOUSE JOINT RESOLUTION NO. 748

*Celebrating the life of John Joseph Quinn, Jr.*

Agreed to by the House of Delegates, January 27, 2017

Agreed to by the Senate, February 2, 2017

WHEREAS, John Joseph Quinn, Jr., a native of Culpeper who made many valuable contributions to the community as an aviator and a flying instructor, died on May 24, 2016; and

WHEREAS, John Joseph "J. J." Quinn, Jr., began flying at the age of 15 and served his country as a pilot in the United States Navy; he then pursued a long career with United Airlines, where he flew more than 10 different aircraft over the course of his 34 years as a commercial pilot; and

WHEREAS, after his well-earned retirement, J. J. Quinn set out to strengthen the aviation community in the region and personally funded the construction of Culpeper Regional Airport's first 90-unit T-hangar in the 1980s; and

WHEREAS, in addition to serving as a flight instructor for local residents of all ages, J. J. Quinn generously volunteered his time and experience as a pilot for Angel Flight Mid-Atlantic, a nonprofit organization that provides free air transportation to people in need of medical treatment; and

WHEREAS, J. J. Quinn logged more than 400 hours each year with Angel Flight Mid-Atlantic, often traveling as far as Philadelphia, Boston, or New York City, and touched countless lives along the way; and

WHEREAS, in 2014, the National Aeronautic Association named J. J. Quinn as the Distinguished Volunteer Pilot of the Year for his work with Angel Flight Mid-Atlantic and other charitable organizations, and in 2013, he was listed on the Federal Aviation Administration's prestigious Airmen Certification Database in recognition of his tremendous skill and experience as an aviator; and

WHEREAS, a man who lived his faith through his actions, J. J. Quinn enjoyed fellowship and worship with the community at Precious Blood Catholic Church and was a member of the Knights of Columbus; and

WHEREAS, predeceased by his wife, Barbara, J. J. Quinn will be fondly remembered and greatly missed by his children, Kelly, Shannon, and Johnny, and their families, and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of John Joseph Quinn, Jr., an admired leader in the aviation community and a respected resident of Culpeper; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of John Joseph Quinn, Jr., as an expression of the General Assembly's respect for his memory.

### HOUSE JOINT RESOLUTION NO. 750

*Designating August 17, in 2017 and in each succeeding year, as Coats Disease Awareness Day in Virginia.*

Agreed to by the House of Delegates, January 24, 2017

Agreed to by the Senate, February 14, 2017

WHEREAS, among the debilitating eye diseases that affect Virginians and others throughout the world, Coats disease is a rare eye condition that primarily afflicts young children and teenagers, but can also affect adults as well; and

WHEREAS, Coats disease can cause blood vessels in one or both eyes to develop abnormally, causing leakage of exudate (cholesterol) in the back of the eye which produces a noticeable yellow glow in pictures and, without early detection, treatment, or surgery, may result in trauma, damage, partial or total blindness, or even removal of the eye; and

WHEREAS, Coats disease is still not widely known and can be misdiagnosed by some in the medical community, even among retinal specialists; and

WHEREAS, Coats disease is classified as an orphan disease, yet it impacts thousands in the Commonwealth and the nation; and

WHEREAS, the Commonwealth is committed to finding cures and treatments for many rare diseases or afflictions through scientific, academic, and commercial endeavors, and the Commonwealth can be a leader in promoting awareness, research, study, and cures for Coats disease; and

WHEREAS, Coats Disease Awareness Day is an important tool for raising awareness among government officials, medical professionals, academic institutions, commercial ventures, and the public about this rare disease to enable early detection, advance scientific research and treatment capabilities, and eventually find a cure; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly designate August 17, in 2017 and in each succeeding year, as Coats Disease Awareness Day in Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates transmit copies of this resolution to the Virginia Board of Optometry, the Virginia Board of Medicine, the Virginia Optometric Association, the American Optometric Association, the Virginia Society of Eye Physicians and Surgeons, and the Virginia Pediatric Society so that members of these organizations may be apprised of the sense of the General Assembly of Virginia in this matter; and, be it

RESOLVED FINALLY, That the Clerk of the House of Delegates post the designation of this day on the General Assembly's website.

**HOUSE JOINT RESOLUTION NO. 751**

*Commending Richard A. Cordle.*

Agreed to by the House of Delegates, January 20, 2017  
 Agreed to by the Senate, February 16, 2017

WHEREAS, Richard A. Cordle, a diligent public servant, respected for his integrity and commitment to fairness and efficiency, retired as treasurer of Chesterfield County on January 1, 2017; and

WHEREAS, Richard Cordle joined the Chesterfield County Treasurer's Office in 1988 as chief deputy treasurer; after the retirement of his predecessor, he served as interim treasurer until he was elected to the position in 1991; and

WHEREAS, during his 28-year tenure as treasurer, Richard Cordle strengthened Chesterfield County's financial standing, maintained a consistently high tax collection rate, and oversaw the county's \$400 million investment portfolio; and

WHEREAS, Richard Cordle enjoyed taking the opportunity to connect with Chesterfield County residents on a personal level; he cultivated trust among members of the public through his efficient management and forward-thinking policies and worked hard to hire and retain exceptional personnel in his office; and

WHEREAS, among his many accomplishments as treasurer, Richard Cordle eliminated vehicle decals, implemented a cash receipts program, and oversaw the automation of delinquent collection actions, real estate tax billing, and payment of mortgage companies and tax services; and

WHEREAS, in addition, Richard Cordle established and maintained strong internal controls, kept exceptional records, and helped design a new, integrated taxation system to ensure that the Chesterfield County Treasurer's Office maintains a high level of service in the future; and

WHEREAS, a passionate educator, Richard Cordle worked with the Treasurer's Association of Virginia to develop treasurer and deputy treasurer certification programs and served as the dean of the School of Applied Business and Technology at Chesterfield University, where he launched a technology certificate program; and

WHEREAS, Richard Cordle is an exemplar of the tireless commitment and work ethic demonstrated by local public servants throughout the Commonwealth and a champion for all the residents of Chesterfield County; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Richard A. Cordle on the occasion of his retirement as treasurer of Chesterfield County; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Richard A. Cordle as an expression of the General Assembly's admiration for his dedicated service to the residents of Chesterfield County and best wishes for a happy retirement.

**HOUSE JOINT RESOLUTION NO. 752**

*Commending Joseph A. Horbal.*

Agreed to by the House of Delegates, January 20, 2017  
 Agreed to by the Senate, February 16, 2017

WHEREAS, Joseph A. Horbal, a dedicated public servant respected for his integrity and commitment to excellence, retired as commissioner of the revenue of Chesterfield County on January 1, 2017; and

WHEREAS, Joseph Horbal joined Chesterfield County government as a field auditor for the commissioner of the revenue in 1980; an exceptional employee, he generated more than \$1 million in audit revenue in his first year; and

WHEREAS, in 1981, Joseph Horbal was promoted to chief deputy commissioner of the revenue; in 2003, he became commissioner of the revenue after the retirement of his predecessor, and he was elected to the position later that year; and

WHEREAS, throughout his 36-year career, Joseph Horbal was proud to serve the residents of Chesterfield County and worked to ensure that the office was executed with consistency and fairness, pursuing the letter of the law when making assessments and other determinations; and

WHEREAS, Joseph Horbal made customer service a hallmark of his office, implementing processes to ensure that taxpayers were able to reach a live person on the phone or receive a personal response by mail when contacting the office for support; and

WHEREAS, Joseph Horbal strengthened the office by providing career development programs and creating a culture of professionalism among his employees; he oversaw the development of a comprehensive new tax management system to ensure that the office is poised to continue operating at a high level in the future; and

WHEREAS, Joseph Horbal was recognized by the University of Virginia Center for Public Service for his outstanding professional achievements as a constitutional officer of Chesterfield County and served as president of the Central District in the Commissioners of the Revenue Association of Virginia; and

WHEREAS, Joseph Horbal is an exemplar of the tireless commitment and work ethic demonstrated by local public servants throughout the Commonwealth and was a devoted champion for all the residents of Chesterfield County; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Joseph A. Horbal on the occasion of his retirement as commissioner of the revenue of Chesterfield County; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Joseph A. Horbal as an expression of the General Assembly's admiration for his tireless service to the residents of Chesterfield County and best wishes on a happy retirement.

**HOUSE JOINT RESOLUTION NO. 753**

*Commending Women Giving Back.*

Agreed to by the House of Delegates, January 20, 2017  
 Agreed to by the Senate, January 26, 2017

WHEREAS, for 10 years, Women Giving Back has helped transitionally homeless women and children build the confidence they need to achieve success in school and in the workplace by providing high-quality clothing and accessories; and

WHEREAS, founded in 2007 by a group of sales and marketing professionals in the Sterling area, Women Giving Back supplements the work of HomeAid Northern Virginia and partners with dozens of community care providers; and

WHEREAS, Women Giving Back collects high-quality, used clothing and accessories for women, teens, children, and infants and operates a store on the second Saturday of each month, where women from more than 100 shelters and programs are able to shop for themselves and their families free of charge; and

WHEREAS, many women and families arrive at shelters with only the clothes on their backs, and Women Giving Back has helped women in a wide variety of career fields find the professional clothing they need to begin rebuilding their lives and boost their self-esteem; and

WHEREAS, Women Giving Back has distributed more than 300,000 items of clothing to more than 23,000 women and 15,300 children; it has succeeded in its mission with the help and hard work of volunteers and countless generous donations of clothing; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Women Giving Back on the occasion of its 10th anniversary of helping women and children in need; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Women Giving Back as an expression of the General Assembly's admiration for the organization's generous contributions to the members of the Sterling community.

**HOUSE JOINT RESOLUTION NO. 754**

*Commending the Loudoun County Sheriff's Office.*

Agreed to by the House of Delegates, January 20, 2017  
 Agreed to by the Senate, February 2, 2017

WHEREAS, as of 2016, nearly all dispatchers and emergency call-takers and more than half of all deputies in the Loudoun County Sheriff's Office have received crisis intervention training to better serve and safeguard individuals experiencing mental health or behavioral issues; and

WHEREAS, Sheriff Mike Chapman facilitated the creation of the Loudoun County Sheriff's Office Crisis Intervention Team in 2012 after recognizing the increase in mental health cases throughout the county; and

WHEREAS, the Loudoun County Sheriff's Office Crisis Intervention Team trains officers and dispatchers to calmly and effectively deal with members of the community; the team's trainers hold international certifications and have been recognized at local and state levels for their important work; and

WHEREAS, the Loudoun County Sheriff's Office Crisis Intervention Team's comprehensive training program includes classroom instruction, roleplay exercises, and site visits to mental health facilities and homeless shelters; and

WHEREAS, the Loudoun County Sheriff's Office has trained 60 percent of its patrol, operational support, and courts and corrections officers and 95 percent of dispatchers and Emergency Communications Center call-takers in crisis intervention; and

WHEREAS, the Loudoun County Sheriff's Office has worked with other community organizations to ensure that the training program remains effective and that all public safety officers have the tools to help individuals with mental illness receive the care they need; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Loudoun County Sheriff's Office for its work to ensure the safety and dignity of individuals with mental health issues through its crisis intervention training program; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Mike Chapman, the Loudoun County Sheriff, as an expression of the General Assembly's admiration for the work of the Loudoun County Sheriff's Office to promote positive interaction between law-enforcement officers and members of the community.

**HOUSE JOINT RESOLUTION NO. 755**

*Commending the Rock Ridge High School drama team.*

Agreed to by the House of Delegates, January 20, 2017

Agreed to by the Senate, January 26, 2017

WHEREAS, the Rock Ridge High School drama team received a second-place award at the 2016 Virginia High School League Theatre Festival; and

WHEREAS, the Rock Ridge High School drama team performed "The Very Grey Matter of Edward Blank," an engaging piece that explores the nature of mental illness; and

WHEREAS, the Rock Ridge High School drama team also received the overall Technical Effect award and special recognition for Integration of Various Art Forms; and

WHEREAS, Rock Ridge High School junior Luke Harris received a Best Male Actor award for his portrayal of Edward Blank, and senior Megan Emanuel received a theatre scholarship for stage management; and

WHEREAS, as a runner-up at the Virginia High School League Theatre Festival, the Rock Ridge High School drama team will represent the Commonwealth at the Southeastern Theatre Conference in March 2017 in Lexington, Kentucky; and

WHEREAS, the achievement is a tribute to the talent and hard work of the student actors and crew, the guidance of coaches and faculty, and the passionate support of the entire Rock Ridge High School community; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Rock Ridge High School drama team on placing second at the 2016 Virginia High School League Theatre Festival; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Anthony Cimino-Johnson, theatre director of Rock Ridge High School, as an expression of the General Assembly's admiration for the drama team's accomplishments.

**HOUSE JOINT RESOLUTION NO. 756**

*Commending the Freedom High School drama team.*

Agreed to by the House of Delegates, January 20, 2017

Agreed to by the Senate, January 26, 2017

WHEREAS, the Freedom High School drama team received an honorable mention at the 2016 Virginia High School League Theatre Festival; and

WHEREAS, the Freedom High School drama team performed "AP Theatre" by Ed Monk, a comedy combining the challenges of adolescence with three classic styles of theatre, framed as an advanced placement course exam; and

WHEREAS, the Freedom High School drama team also received special recognition for Excellence in Ensemble; and

WHEREAS, at the Virginia High School League Theatre Festival, the members of the Freedom High School drama team had opportunities to meet with colleges, learned from keynote speakers, and attended valuable workshops; and

WHEREAS, the Freedom High School drama team's achievement is a tribute to the talent and hard work of the student actors and crew, the guidance of coaches and faculty, and the passionate support of the entire Freedom High School community; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Freedom High School drama team on receiving an honorable mention at the 2016 Virginia High School League Theatre Festival; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Mark Rogers, theatre director of Freedom High School, as an expression of the General Assembly's admiration for the drama team's accomplishments.

**HOUSE JOINT RESOLUTION NO. 757**

*Commending the Park View High School boys' soccer team.*

Agreed to by the House of Delegates, January 20, 2017  
Agreed to by the Senate, January 26, 2017

WHEREAS, the Park View High School boys' soccer team of Sterling won the Virginia High School League Group 4A state championship on June 11, 2016; and

WHEREAS, the Park View High School Patriots defeated the Chancellor High School Chargers by a score of 1-0 in the tense contest, which was held at Liberty University; and

WHEREAS, the Chancellor Chargers dominated play in the first half, but the Park View Patriots' stalwart defense kept them in the game, allowing sophomore Hector Hernandez to score the game-winner off of a rebound in the 69th minute; and

WHEREAS, the Park View Patriots finished the season with an impressive 19-3-1 record and claimed the school's first state championship in soccer since 1992; and

WHEREAS, the Park View Patriots' successful season is a tribute to the hard work and dedication of all of the student-athletes, the able leadership of the coaches and staff, and the passionate support of the entire Park View High School community; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Park View High School boys' soccer team on winning the Virginia High School League Group 4A state championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Arturo Jimenez, head coach of the Park View High School boys' soccer team, as an expression of the General Assembly's admiration for the team's athletic achievements and best wishes for the future.

**HOUSE JOINT RESOLUTION NO. 758**

*Commending the Battlefield High School girls' soccer team.*

Agreed to by the House of Delegates, January 20, 2017  
Agreed to by the Senate, January 26, 2017

WHEREAS, the Battlefield High School girls' soccer team of Haymarket made history in 2016, winning its third consecutive Virginia High School League Group 6A state title; and

WHEREAS, the Battlefield High School Bobcats defeated the Frank W. Cox High School Falcons by a score of 4-0 in the state final at Robinson Secondary School; and

WHEREAS, the Battlefield High School Bobcats dominated play, with Emma Lee scoring the first of her two goals early in the game; the team never looked back, forcing an own goal by the Frank W. Cox Falcons and adding another by Emilene Parham; and

WHEREAS, finishing the season with a 21-2-1 record, the Battlefield High School Bobcats became the fourth girls' soccer team in Virginia High School League history to win three or more consecutive state titles; and

WHEREAS, the historic state championship win is a tribute to the hard work and skill of all of the student-athletes, the able leadership of the coaches and staff, and the enthusiastic support of the entire Battlefield High School community; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Battlefield High School girls' soccer team on winning the Virginia High School League Group 6A state championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Kevin Hilton, head coach of the Battlefield High School girls' soccer team, as an expression of the General Assembly's admiration for the team's exceptional athletic achievements and best wishes for the future.

**HOUSE JOINT RESOLUTION NO. 759**

*Commending Jimmy Davidson.*

Agreed to by the House of Delegates, January 20, 2017  
Agreed to by the Senate, January 26, 2017

WHEREAS, Jimmy Davidson, Chief of the Saltville Volunteer Fire Department, received the Medal of Valor from the Town of Saltville for his heroic actions to save the life of an infant in 2016; and

WHEREAS, on March 29, 2016, Jimmy Davidson and other firefighters and emergency personnel were responding to a report of a dog kennel on fire; when crews arrived, the fire had begun to spread to a nearby house; and

WHEREAS, Jimmy Davidson was alerted that a 1-month-old child was unaccounted for and, disregarding his own safety, rushed into the house to search for the child without his protective equipment, which had not yet arrived at the scene; and

WHEREAS, Jimmy Davidson entered the home and discovered the child in a swing in the front room; struggling through thick smoke, he rescued the child, who was responsive and not critically injured; and

WHEREAS, Jimmy Davidson is an exemplar of the professionalism, selflessness, and dedication demonstrated by all firefighters in the Commonwealth as they strive to safeguard the lives and property of their fellow citizens; and

WHEREAS, Jimmy Davidson received the Medal of Valor at a special presentation during a Town Council meeting on May 17, 2016; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Jimmy Davidson on receiving the Medal of Valor for his heroic, life-saving actions; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Jimmy Davidson as an expression of the General Assembly's admiration for his service to the residents of Saltville and the Commonwealth.

**HOUSE JOINT RESOLUTION NO. 760**

*Commending Michael Robinson.*

Agreed to by the House of Delegates, January 20, 2017

Agreed to by the Senate, January 26, 2017

WHEREAS, Michael Robinson, who served for nine and one-half years as superintendent of Smyth County Schools, was named 2017 Region VII Superintendent of the Year by the Virginia Association of School Superintendents; and

WHEREAS, in 2016, Michael Robinson assumed the position of director of the A. Linwood Holton Governor's School in Abingdon, the Commonwealth's first virtual Governor's School; and

WHEREAS, Michael Robinson received a bachelor's degree in mathematics education and a master's degree in counselor education, both from Louisiana Tech University in Ruston, Louisiana, and he earned a Ph.D. in educational leadership from the University of Virginia; and

WHEREAS, before moving to Southwest Virginia to become assistant superintendent of Smyth County Schools, Michael Robinson held other administrative and teaching positions in Orange County and Charlottesville, and began his academic career working in college admissions and orientation at Louisiana Tech University; and

WHEREAS, over the past decade, Michael Robinson has been a great asset to Smyth County Schools, throwing his heart and soul into his job as superintendent and leaving the school system in good shape for the future; and

WHEREAS, one of the hallmarks of Michael Robinson's tenure was coordination and cooperation with other school systems in Southwest Virginia, including the Comprehensive Instructional Program unique to the region, and partnerships with community organizations for expanded grants and funding opportunities; and

WHEREAS, the Virginia Association of School Superintendents (VASS) Regional Superintendent of the Year honor was bestowed upon Michael Robinson by his peers in Region VII, which covers 19 school systems from Radford to Lee County, and he received the award at the 2016 VASS Spring Conference in Roanoke; and

WHEREAS, throughout his career Michael Robinson has counted on the support and love of his wife, Laura, and their three children, Kyle, David, and Hope, who he is happy to be spending more time with because of his new position; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Michael Robinson, former superintendent of Smyth County Schools, on being named the 2017 Region VII Superintendent of the Year by the Virginia Association of School Superintendents; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Michael Robinson as an expression of the General Assembly's admiration for his dedication to Smyth County Schools and the students of Southwest Virginia.

**HOUSE JOINT RESOLUTION NO. 761**

*Commending the Carroll County High School varsity softball team.*

Agreed to by the House of Delegates, January 20, 2017

Agreed to by the Senate, January 26, 2017

WHEREAS, the Carroll County High School varsity softball team of Hillsville had an outstanding 2016 season, finishing with a 22-1 record and making their coaches and loyal fans proud; and

WHEREAS, the Carroll County Cavaliers varsity softball team played their hearts out during each game of the season and reached the Virginia High School League Region 4A West semifinal game; and

WHEREAS, building on a stellar 2015 season, when the team won the VHSL Group 4A state title, the school's first team state championship in any sport, the members of the Carroll County Cavaliers varsity softball team were dedicated and focused, working hard on and off the field to improve their skills; and

WHEREAS, Carroll County Cavaliers right-handed pitching ace Sydney Nester was named 2016 Gatorade State Softball Player of the Year, an honor recognizing Virginia's best softball player, and also won Virginia High School League Group 4A All-State softball team honors; and

WHEREAS, the Carroll County High School varsity softball team is led by coach Rick Nester, who, after years of coaching baseball, has dedicated himself to the softball program, working tirelessly to improve the facilities, the team, and the school; and

WHEREAS, the Carroll County Cavaliers varsity softball team had tremendous support from the Carroll County High School community throughout the season, especially in the final three games when the stands at Cavalier Park swelled with devoted fans; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Carroll County High School varsity softball team on an outstanding 2016 season; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Rick Nester, coach of the Carroll County High School varsity softball team, as an expression of the General Assembly's admiration for the team's hard work and commitment to excellence on and off the field.

**HOUSE JOINT RESOLUTION NO. 762**

*Designating the first weekend in August, in 2017 and in each succeeding year, as the Weekend of Prayer over Students in Virginia.*

Agreed to by the House of Delegates, January 24, 2017

Agreed to by the Senate, February 14, 2017

WHEREAS, students throughout the Commonwealth and the United States face extreme challenges, such as peer pressure to abuse drugs and alcohol, negative influences in the media, school violence and gang activities, and low self-esteem; and

WHEREAS, the students of Virginia are indeed the Commonwealth's single greatest resource, and in the coming years will assume leadership positions in this Commonwealth and responsibility for the advancement of society; and

WHEREAS, Virginians are encouraged to pray for protection, guidance, and peace, and for opportunities and blessings on the students of Virginia; and

WHEREAS, it is appropriate that prayer be offered for schools, teachers, and administrators that they be granted wisdom and knowledge as they impart to the students of Virginia the great lessons of life and morality and the education that each student deserves; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly designate the first weekend in August, in 2017 and in each succeeding year, as the Weekend of Prayer over Students in Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates post the designation of this weekend on the General Assembly's website.

**HOUSE JOINT RESOLUTION NO. 765**

*Confirming appointment by the Speaker of the House of Delegates.*

Agreed to by the House of Delegates, January 24, 2017

Agreed to by the Senate, February 14, 2017

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly confirm the following appointment made by the Speaker of the House of Delegates:

An appointment to the Board of Directors of the Virginia Commonwealth University Health System Authority pursuant to § 23.1-2402 of the Code of Virginia:

**The Honorable M. Kirkland Cox**, Post Office Box 1205, **Colonial Heights**, Virginia 23834, Member, for a term of three years beginning July 1, 2016, and ending June 30, 2019, to succeed himself.

**HOUSE JOINT RESOLUTION NO. 766**

*Confirming various appointments by the Joint Committee on Rules.*

Agreed to by the House of Delegates, January 24, 2017

Agreed to by the Senate, February 14, 2017

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly confirm the following appointments made by the Joint Committee on Rules:

1. Appointment to the Virginia Council for the Interstate Compact for Juveniles pursuant to § 16.1-323.1 of the Code of Virginia:

**The Honorable George Barker**, Post Office Box 10527, **Alexandria**, Virginia 22310, Member, for a term coincident with his term in the Senate of Virginia, to succeed himself.

2. Appointment to the Commonwealth Health Research Board pursuant to § 32.1-162.23 of the Code of Virginia:

**Cynda A. Johnson, M.D.**, 111 Campbell Avenue SW, Apartment 4B, **Roanoke**, Virginia, Member, for a term of five years beginning April 1, 2016, and ending March 31, 2021, to succeed herself.

3. Appointment to the Board of Trustees of the Virginia Retirement System pursuant to § 51.1-124.20 of the Code of Virginia:

**Wallace G. Harris, Ph.D.**, 14024 Shawhan Court, **Midlothian**, Virginia 23114, Member, for a term of five years beginning March 1, 2016, and ending February 28, 2021, to succeed himself.

4. Appointment to the Virginia State Council for Interstate Adult Offender Supervision pursuant to § 53.1-176.3 of the Code of Virginia:

**Mark J. Vucci**, 9075 Little Joselyn Drive, **Mechanicsville**, Virginia 23116, Member, to serve an unexpired term ending June 30, 2016, to succeed Robert Tavenner.

**Mark J. Vucci**, 9075 Little Joselyn Drive, **Mechanicsville**, Virginia 23116, Member, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed himself.

### HOUSE JOINT RESOLUTION NO. 767

*Confirming the appointment of Mark J. Vucci as Director of the Division of Legislative Services.*

Agreed to by the House of Delegates, January 24, 2017

Agreed to by the Senate, February 14, 2017

WHEREAS, Mark J. Vucci, 9075 Little Joselyn Drive, Mechanicsville, Virginia 23116, was appointed Director of the Division of Legislative Services, in conformance with § 30-28.12 of the Code of Virginia, by the Committees on Rules of the House of Delegates and the Senate on December 16, 2016, subject to confirmation by the General Assembly; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly, each house thereof voting separately, confirm the appointment of Mark J. Vucci to be the Director of the Division of Legislative Services and serve at the pleasure of the Committees on Rules of the House of Delegates and the Senate.

### HOUSE JOINT RESOLUTION NO. 768

*Commending Green Hedges School.*

Agreed to by the House of Delegates, January 20, 2017

Agreed to by the Senate, January 26, 2017

WHEREAS, Green Hedges School, an exceptional private school in Fairfax County, celebrates 75 years of inspiring students to develop clear values and a passion for lifelong learning and become conscientious citizens of both the Commonwealth and the world; and

WHEREAS, Green Hedges School opened with 10 students in 1942 and was founded by Frances and Kenton Kilmer, who operated the school out of their home; the Kilmers worked to create a positive learning environment and an enriched curriculum that focused on literature, music, art, and world culture; and

WHEREAS, by 1955, Green Hedges School had grown to serve 60 students and relocated to its current five-acre campus in the historic Windover Heights neighborhood in Vienna; in 2016, the school enrolled 175 students in Montessori preschool, kindergarten, and grades one through eight; and

WHEREAS, Green Hedges School has flourished under six heads of school—Charles A. Wright, Kathleen Battaglia, George Schumacher, Scott Votey, Frederick W. Williams, and Robert E. Gregg III—and members of the community and parents serve on the school's Board of Trustees; and

WHEREAS, Green Hedges School offers a rigorous and diverse curriculum that teaches students to ask questions, take risks, explore new opportunities, respect others and themselves, and develop strong character; and

WHEREAS, graduates of Green Hedges School are known to be confident, accomplished, intellectually curious, and kind and leave the school well-prepared for success in high school, college, and beyond; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Green Hedges School, a unique private school in Fairfax County, on the occasion of its 75th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Robert E. Gregg III, the head of Green Hedges School, as an expression of the General Assembly's admiration for the school's mission to create a safe place for children to grow intellectually, emotionally, physically, and spiritually.

### HOUSE JOINT RESOLUTION NO. 769

*Commending Kaitlyn Hyun.*

Agreed to by the House of Delegates, January 20, 2017

Agreed to by the Senate, January 26, 2017

WHEREAS, Kaitlyn Hyun, a multi-talented member of the Oakton community who has enriched the lives of others by sharing her passions for music and tennis, was named Miss Teen of Virginia 2016; and

WHEREAS, the scholastically based Miss Teen of Virginia and Miss Teen of America pageants help young women between the ages of 13 and 18 reach their full potential by rewarding their outstanding personal achievements, leadership abilities, and artistic, creative, or athletic talents; and

WHEREAS, a senior at Oakton High School, Kaitlyn Hyun has helped lead the tennis team to a state championship and serves as a tennis coach; she held a tennis racket fundraiser for military families that received more than 30 donated tennis rackets; and

WHEREAS, Kaitlyn Hyun, who plays flute and piano, is the founder and manager of the Oakton Musical Ensemble, which performs at local nursing homes and other events; she is also a member of the Capitol Symphonic Youth Orchestras, a pre-professional youth orchestra organization; and

WHEREAS, as Miss Teen of Virginia, Kaitlyn Hyun appeared at a Bible study event at a homeless shelter and volunteered at a pet adoption event; and

WHEREAS, for winning the Miss Teen of Virginia Pageant, Kaitlyn Hyun received a cash scholarship and represented the Commonwealth at the 2016 Miss Teen of America Pageant, where she was named second runner-up; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Kaitlyn Hyun on being named Miss Teen of Virginia 2016; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Kaitlyn Hyun as an expression of the General Assembly's admiration for her incredible achievements and service to the Fairfax County community.

### HOUSE JOINT RESOLUTION NO. 770

*Commending Karin's Florist.*

Agreed to by the House of Delegates, January 20, 2017

Agreed to by the Senate, January 26, 2017

WHEREAS, Karin's Florist, a locally-owned family business in Vienna, celebrated 60 years of providing gorgeous, unique flower arrangements and top-notch service to customers in Fairfax County in 2016; and

WHEREAS, Karin's Florist was established on October 26, 1956, by Bill Dukas and his father-in-law, George Raptis, and was named for Bill Dukas' first born child; and

WHEREAS, Karin's Florist, which started with four employees, was one of the original stores located in Seven Corners Shopping Center, the first major shopping center to open in suburban Washington, D.C.; and

WHEREAS, in 1995, Karin's Florist moved to its present location in Vienna, which is more than double the space of the previous location, and in 1998, Maris Angolia, daughter of Bill Dukas, took over leadership of the company as president and CEO; and

WHEREAS, Karin's Florist now employees more than 30 people and is well known for its signature touch on all floral bouquets and wraps, and made-to-order gift baskets for all occasions; and

WHEREAS, Karin's Florist could not have been successful for 60 years without amazing loyal customers, some of whom are second and third generation patrons, as well as a terrific staff of top quality designers; and

WHEREAS, Maris Angolia, president and CEO of Karin's Florist, is very involved in the Fairfax community and is the founder of Karin's Gives Back, a program that supports and promotes the good work of Northern Virginia, Washington, D.C., and Maryland charities; and

WHEREAS, Karin's Florist has received numerous awards over the years, including the 2012 Fairfax Chamber of Commerce Outstanding Corporate Citizenship Award for small business, the 2013 Best of Fairfax award, and in 2013 was named the "Best Florist in America" by daytime TV show host Steve Harvey; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Karin's Florist on 60 years of providing outstanding service to loyal customers in Fairfax County; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Maris Angolia, president and CEO of Karin's Florist, as an expression of the General Assembly's admiration for the company's six decades of success and deep roots in Fairfax County.

### HOUSE JOINT RESOLUTION NO. 771

*Commending Gary A. Ambrose.*

Agreed to by the House of Delegates, January 20, 2017

Agreed to by the Senate, January 26, 2017

WHEREAS, Gary A. Ambrose of Vienna, chair of the board of directors of the Fairfax-Falls Church Community Services Board, was honored by the Virginia Association of Community Services Boards with the prestigious 2016 Gartlan Award; and

WHEREAS, the Gartlan Award, named for the late Virginia State Senator Joseph V. Gartlan, Jr., recognizes one individual in the Commonwealth who has demonstrated distinguished leadership and advocacy for citizens with mental illness, intellectual disability, and/or substance-use disorders; and

WHEREAS, Gary Ambrose is an inspiring and effective citizen leader who fights for Virginians who depend on the public system of services and who often have no political voice; he has positively influenced improvements in the public system, especially through his advocacy for a more robust jail diversion program in Fairfax County; and

WHEREAS, Gary Ambrose was first appointed to the Fairfax-Falls Church Community Services Board (CSB) in 2013, after retiring from illustrious careers as a B52 pilot and brigadier general in the United States Air Force and as IBM's vice president for the Department of Defense; and

WHEREAS, Gary Ambrose and his wife, Marcia Ambrose, became active in the National Alliance for Mental Illness of Northern Virginia and Concerned Fairfax, an affiliated advocacy group, out of necessity because their son, Brad Ambrose, lived with paranoid schizophrenia for 17 years; and

WHEREAS, after Brad Ambrose's illness took him in 2014, Gary Ambrose continued to lead efforts to improve treatment and conditions for mentally ill persons and, in 2015, was elected Fairfax-Falls Church CSB board chairman; and

WHEREAS, from his position on the Fairfax County Ad Hoc Police Practices Review Commission, Gary Ambrose championed the launch of Diversion First, an ambitious multiagency effort that seeks alternatives to incarceration for people facing low-level offenses who have mental illness, co-occurring substance-use disorders, or developmental disabilities; and

WHEREAS, Diversion First has diverted hundreds of people who faced potential arrest to mental health treatment instead, which is just one of the tangible results Gary Ambrose has had a hand in producing in his Northern Virginia community; and

WHEREAS, Gary Ambrose received the 2016 Gartlan Award at the Virginia Association of Community Services Boards statewide conference, where he gave a deeply touching speech about his son, the struggles of living with someone with mental illness, and why he believes he can still make a difference; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Gary A. Ambrose of Vienna, chair of the board of directors of the Fairfax-Falls Church Community Services Board, for receiving the prestigious 2016 Gartlan Award from the Virginia Association of Community Services Boards; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Gary A. Ambrose as an expression of the General Assembly's admiration for his deeply personal commitment to advocating for better services on behalf of those who struggle with mental health illness, co-occurring substance-use disorders, and other developmental disabilities.

### HOUSE JOINT RESOLUTION NO. 772

*Commending the Vienna Host Lions Club.*

Agreed to by the House of Delegates, January 20, 2017

Agreed to by the Senate, January 26, 2017

WHEREAS, the Vienna Host Lions Club, a service organization that empowers volunteers to meet humanitarian needs and promote peace and understanding, celebrates its 75th anniversary in 2017, the same year as the 100th anniversary of Lions Clubs International; and

WHEREAS, Lions Clubs International was founded in 1917 with a mission to make the world a better place by encouraging people to put their time and talents to use through community service; the organization has expanded to more than 46,000 clubs in 207 countries, including the Vienna Host Lions Club, which received its charter in May 1942; and

WHEREAS, the Vienna Host Lions Club began with 18 charter members and has grown over the years to now count 42 men and women as its members; the club sponsored or co-sponsored eight other clubs throughout its history to earn its designation as a host club; and

WHEREAS, the Vienna Host Lions Club is an active member of District 24-A in Northern Virginia, a community of more than 1,900 Lions, and the club is home to three past district governors; and

WHEREAS, like all Lions Clubs, the Vienna Host Lions Club works tirelessly to support the blind and visually impaired; the club collects, washes, and refurbishes used eyeglasses and hearing aids and distributes them to local residents in need; and

WHEREAS, the Vienna Host Lions Club supports the youth of the Fairfax County community by organizing the annual James A. Bland Music Scholarship Competition, which is open to students in kindergarten through 12th grade; and

WHEREAS, each year, the Vienna Host Lions Club sells Christmas trees and holds other events and fundraising drives to support charitable organizations related to vision and hearing, youth athletics and summer camps, local public safety departments, and veterans; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Vienna Host Lions Club on the occasion of its 75th anniversary in 2017; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Vienna Host Lions Club as an expression of the General Assembly's admiration for the club's leadership in community and humanitarian service.

**HOUSE JOINT RESOLUTION NO. 773**

*Commending The Rotary Foundation.*

Agreed to by the House of Delegates, January 20, 2017

Agreed to by the Senate, January 26, 2017

WHEREAS, The Rotary Foundation, the charitable arm of Rotary International, is marking 100 years of doing good in the world during its centennial celebration in 2017; and

WHEREAS, The Rotary Foundation taps a global network of Rotarians who invest their time, money, and expertise in priorities such as eradicating polio and promoting peace, and tackling the worldwide challenges of poverty, illiteracy, and malnutrition; and

WHEREAS, what would become The Rotary Foundation was started as an endowment fund in 1917 by Rotary International President Arch C. Klumph, who proposed a fund for the purpose of "doing good in the world"; it officially became The Rotary Foundation in 1928; and

WHEREAS, over the past 100 years, The Rotary Foundation has supported thousands of projects that provide clean water, fight disease, promote peace, provide basic education, and grow local economies; and

WHEREAS, eradicating polio worldwide is a top priority for The Rotary Foundation and since 1988, Rotary International and its partners in the Global Polio Eradication Initiative have immunized over 2.5 billion children, reducing the incidence of polio by 99 percent and eradicating it from all but three countries; and

WHEREAS, The Rotary Foundation turns generous donations into grants that fund the work of Rotarians from 34,000 clubs around the globe as they develop and carry out sustainable humanitarian projects and provide scholarships and professional training opportunities that support advancing world understanding, goodwill, and peace; and

WHEREAS, based in Evanston, Illinois, The Rotary Foundation began with an initial contribution of \$26.50 in 1918 and in 2015 the organization's total revenue was more than \$318 million; The Rotary Foundation also boasts a stellar charity rating, strong financial oversight, and a unique funding model; and

WHEREAS, The Rotary Foundation is celebrating its centennial with a year of festivities that began in Korea at the 2016 Rotary Convention and culminates at the 2017 Rotary Convention in Atlanta, Georgia, in June; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend The Rotary Foundation on a century of doing good in the world by changing lives and improving communities all over the globe; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Kalyan Banerjee, trustee chair of The Rotary Foundation, as an expression of the General Assembly's admiration for the organization's commitment to funding charitable work that creates positive, lasting change in local communities and worldwide.

**HOUSE JOINT RESOLUTION NO. 774**

*Celebrating the life of Connie Henry.*

Agreed to by the House of Delegates, January 20, 2017

Agreed to by the Senate, January 26, 2017

WHEREAS, Connie Henry, a vibrant member of the Fairfax County community who touched countless lives as a nurse and an advocate for health and wellness, died on July 11, 2016; and

WHEREAS, Connie Henry dedicated her life to the service of others as an obstetrician and gynecologist nurse practitioner; and

WHEREAS, at Arlington Hospital, Connie Henry helped new mothers welcome their babies into the world for many years, and she continued her good work in private practice at Greenbriar OBGYN in Fairfax; and

WHEREAS, as a member of the Virginia Council of Nurse Practitioners Legislative Committee, Connie Henry provided her expert advice to state officials on nursing, nurse and patient rights, and fair employment practices; and

WHEREAS, a woman who lived her faith through her generous actions, Connie Henry was a devout member of St. Mark Catholic Church, where she enjoyed fellowship and worship with her fellow members of the Vienna community; and

WHEREAS, Connie Henry will be fondly remembered and greatly missed by her husband of 49 years, Ed; son, Dylan, and his family; and numerous other family members, friends, and former patients; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Connie Henry, a compassionate caregiver and a beloved member of the Fairfax County community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Connie Henry as an expression of the General Assembly's respect for her memory.

#### HOUSE JOINT RESOLUTION NO. 775

*Celebrating the life of Eric John Franklin.*

Agreed to by the House of Delegates, January 20, 2017

Agreed to by the Senate, January 26, 2017

WHEREAS, Eric John Franklin, a respected attorney and a member of the Vienna community, died on October 27, 2016; and

WHEREAS, Eric Franklin earned a bachelor's degree from the University of California, Davis, graduating with the Class of 1987; and

WHEREAS, Eric Franklin pursued a career with Venable LLP, a nationally ranked law firm in Washington, D.C., where he specialized in intellectual property law; and

WHEREAS, Eric Franklin will be fondly remembered and greatly missed by his wife of 24 years, Barbara; his children, John and Sarah; his mother, Karen; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Eric John Franklin; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Eric John Franklin as an expression of the General Assembly's respect for his memory.

#### HOUSE JOINT RESOLUTION NO. 776

*Celebrating the life of Kenneth A. Lawrence.*

Agreed to by the House of Delegates, January 20, 2017

Agreed to by the Senate, January 26, 2017

WHEREAS, Kenneth A. Lawrence of Fairfax, a respected member of the Fairfax County Planning Commission, died on December 17, 2016; and

WHEREAS, a native of Niagara Falls, New York, Kenneth "Ken" A. Lawrence graduated from Cornell University in 1954, and served as a Captain in the Army Corps of Engineers at Ft. Belvoir; and

WHEREAS, during his private sector career, Ken Lawrence was a research scientist and project manager for companies such as Raytheon and Logos; and

WHEREAS, Ken Lawrence also had a career in government service, working for the United States Department of Agriculture, the United States Department of Veterans Affairs, and the Internal Revenue Service; and

WHEREAS, for nearly 13 years, Ken Lawrence served the Providence District on the Fairfax County Planning Commission, where he played a significant role in shaping the development of Tysons Corner and the Mosaic District in Merrifield; and

WHEREAS, known for being very detail-oriented and thorough, Ken Lawrence cared deeply about his work on the Fairfax County Planning Commission, and he worked tirelessly for a balance between development growth and infrastructure in Tysons Corner, and was a staunch advocate for the need for green space and outdoor recreation; and

WHEREAS, Ken Lawrence was very civic-minded; he was a longtime member of Northern Virginia Family Services' Training Futures Association of Virginia, which provides low-income vocational training, and a volunteer for the American Lung Association; and

WHEREAS, Ken Lawrence was an avid Morris Garage car enthusiast and fan of Grand Prix racing; he was a world traveler, but most of all he enjoyed being a loving father, grandfather, and husband; and

WHEREAS, Ken Lawrence will be fondly remembered and greatly missed by his wife of 58 years, Joyce; children, Lesley, Alan, and Richard, and their families; and a host of other relatives and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Kenneth A. Lawrence of Fairfax, a respected member of the Fairfax County Planning Commission; and, be it RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Kenneth A. Lawrence as an expression of the General Assembly's respect for his memory.

**HOUSE JOINT RESOLUTION NO. 777**

*Celebrating the life of Alfred C. Anderson.*

Agreed to by the House of Delegates, January 20, 2017  
 Agreed to by the Senate, January 26, 2017

WHEREAS, Alfred C. Anderson, a lifelong resident of Vinton and the longtime treasurer of Roanoke County who touched countless lives as an educator, mentor, and friend, died on September 27, 2016; and

WHEREAS, Alfred "Fred" C. Anderson graduated from William Byrd High School and East Tennessee State University; he began his career as an educator at Northside High School and Cave Spring High School, where he encouraged young people to become active leaders in the community; and

WHEREAS, in 1972, Fred Anderson became treasurer of Roanoke County and oversaw numerous enhancements to the office over the course of his 30-year career; deeply respected by his peers, he served as president of both the Treasurers' Association of Virginia and the National Association of County Treasurers and Finance Officers; and

WHEREAS, Fred Anderson also served on the State Central Committee of the Republican Party of Virginia and volunteered his time and expertise to several election campaigns in the region; and

WHEREAS, Fred Anderson worked to further enhance the quality of life of his fellow Roanoke County residents as a 50-year member and three-term president of the Vinton Host Lions Club and a 40-year member of Vinton Masonic Lodge No. 204; and

WHEREAS, a man who lived his faith through his actions, Fred Anderson enjoyed fellowship and worship with the community as a member of Thrasher Memorial United Methodist Church, where he taught Sunday school and celebrated his Scottish-American heritage by playing bagpipes at an annual family tartan blessing; and

WHEREAS, Fred Anderson will be fondly remembered and greatly missed by his wife of 45 years, Ann; children, Charles and Claudine, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Alfred C. Anderson, a dedicated public servant and a respected member of the Roanoke County community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Alfred C. Anderson as an expression of the General Assembly's respect for his memory.

**HOUSE JOINT RESOLUTION NO. 778**

*Commending Ramoth Baptist Church.*

Agreed to by the House of Delegates, January 20, 2017  
 Agreed to by the Senate, January 26, 2017

WHEREAS, Ramoth Baptist Church of Stafford is a premier Southern Baptist congregation that, in 2016, celebrated 150 years of loving God, loving people, and changing the world; and

WHEREAS, Ramoth Baptist Church was founded on October 9, 1866, in the midst of very desperate times after the Civil War, by people who had seen the hardships of war and sought to minister to those who had lost so much in Virginia; and

WHEREAS, Ramoth Baptist Church was organized by Walter R. D. Moncure, a chaplain in the 30th Virginia Infantry Regiment and pastor of nearby Berea Baptist Church, and members of his family and the community; and

WHEREAS, the first meetings took place at the old Salem Schoolhouse on Mountain View Road and by 1869, Ramoth Baptist Church's membership had grown to 44 and Sunday school enrollment was 135; and

WHEREAS, the original church building was constructed with oak timbers that were hand-hewn by James and Stanton Embrey and Thomas Wine trimmed out the cornerstones, all pieces that continue to support Ramoth Baptist Church's chapel today; and

WHEREAS, as the membership of Ramoth Baptist Church continued to grow in the 20th century, more additions to the original structure were added in 1957, 1975, and in the mid-1990s, which was the largest addition to date; and

WHEREAS, known as "The Church with a Heart in the Heart of Stafford County," Ramoth Baptist Church has served as a place of refuge for 150 years, and today a new generation of Jesus followers continues to worship and minister right where they have been planted; and

WHEREAS, many different pastors have served Ramoth Baptist Church over the past century and a half and the church is currently led by Senior Pastor D. Howell Scott II and Executive Pastor Dr. Richard Harrell, who assumed their leadership roles in 2016; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Ramoth Baptist Church on the occasion of the 150th anniversary of its founding in 2016; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to D. Howell Scott II, senior pastor, and Dr. Richard Harrell, executive pastor, as an expression of the General Assembly's admiration for Ramoth Baptist Church's long history of ministry and worship in Stafford County.

**HOUSE JOINT RESOLUTION NO. 780**

*Designating February, in 2018 and in each succeeding year, as Self-Care Month in Virginia.*

Agreed to by the House of Delegates, January 31, 2017  
 Agreed to by the Senate, February 14, 2017

WHEREAS, self-care is a lifelong daily habit of healthy lifestyle choices, good hygiene practices, prevention of infection and illness, avoiding unhealthy choices, monitoring for signs and symptoms of changes in health, knowing when to consult a health care practitioner, and knowing when it is appropriate to self-treat conditions; and

WHEREAS, the U.S. Food and Drug Administration deems over-the-counter medicines safe and effective for the self-care treatment of minor acute and chronic health conditions and symptoms such as pain, the common cold, allergies, and other conditions that impact large segments of the population; and

WHEREAS, over-the-counter medicines are either developed as new nonprescription medicines or switched from existing prescription medicines to provide greater empowerment to consumers; and

WHEREAS, over-the-counter, nonprescription medicines are self-care products that consumers purchase in pharmacies, supermarkets, retail stores, and online; and

WHEREAS, every dollar spent on over-the-counter medicines saves the United States health care system between six and seven dollars, totaling \$102 billion in annual savings; and

WHEREAS, nonprescription medicines help to ease the burden on health care practitioners, eliminating unnecessary medical examinations that could be avoided with appropriate self-care; and

WHEREAS, Virginia benefits when its citizens practice appropriate self-care, do not unnecessarily visit health care practitioners, and are empowered by higher self-esteem, improved health, and reduced use of health care services; and

WHEREAS, all Virginians are encouraged to take advantage of self-care's potential to improve personal and public health, help save personal and public funds, and strengthen the sustainability of Virginia's health care system; and

WHEREAS, achieving the full potential of self-care is a shared opportunity for consumers, health care practitioners, policy makers, and regulators; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly designate February, in 2018 and in each succeeding year, as Self-Care Month in Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates transmit a copy of this resolution to the Virginia Board of Medicine so that members of the board may be apprised of the sense of the General Assembly of Virginia in this matter; and, be it

RESOLVED FINALLY, That the Clerk of the House of Delegates post the designation of this month on the General Assembly's website.

**HOUSE JOINT RESOLUTION NO. 782**

*Election of a Court of Appeals of Virginia Judge, Circuit Court Judges, General District Court Judges, Juvenile and Domestic Relations District Court Judges, members of the Judicial Inquiry and Review Commission, a member of the Virginia Workers' Compensation Commission, and the Auditor of Public Accounts.*

Agreed to by the House of Delegates, January 18, 2017  
 Agreed to by the Senate, January 18, 2017

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly shall proceed this day To the election of a Court of Appeals of Virginia judge for a term of eight years commencing March 1, 2017.

To the election of Circuit Court judges for terms of eight years commencing as follows:

- One judge for the Second Judicial Circuit, term commencing March 1, 2017.
- One judge for the Second Judicial Circuit, term commencing February 1, 2017.
- One judge for the Second Judicial Circuit, term commencing February 1, 2017.
- One judge for the Fourth Judicial Circuit, term commencing February 1, 2017.
- One judge for the Fourth Judicial Circuit, term commencing March 1, 2017.
- One judge for the Fourth Judicial Circuit, term commencing February 1, 2017.
- One judge for the Eighth Judicial Circuit, term commencing March 1, 2017.
- One judge for the Twelfth Judicial Circuit, term commencing February 1, 2017.
- One judge for the Fifteenth Judicial Circuit, term commencing February 1, 2017.

One judge for the Seventeenth Judicial Circuit, term commencing March 1, 2017.  
 One judge for the Nineteenth Judicial Circuit, term commencing February 1, 2017.  
 One judge for the Nineteenth Judicial Circuit, term commencing February 1, 2017.  
 One judge for the Twentieth Judicial Circuit, term commencing May 1, 2017.  
 One judge for the Twenty-second Judicial Circuit, term commencing February 1, 2017.  
 One judge for the Twenty-third Judicial Circuit, term commencing April 1, 2017.  
 One judge for the Twenty-fifth Judicial Circuit, term commencing February 1, 2017.  
 One judge for the Twenty-eighth Judicial Circuit, term commencing February 1, 2017.  
 One judge for the Thirty-first Judicial Circuit, term commencing March 1, 2017.  
 To the election of General District Court judges for terms of six years commencing as follows:  
 One judge for the Fifth Judicial District, term commencing July 1, 2017.  
 One judge for the Sixth Judicial District, term commencing February 1, 2017.  
 One judge for the Seventh Judicial District, term commencing February 1, 2017.  
 One judge for the Eleventh Judicial District, term commencing February 1, 2017.  
 One judge for the Twelfth Judicial District, term commencing July 1, 2017.  
 One judge for the Thirteenth Judicial District, term commencing July 1, 2017.  
 One judge for the Fourteenth Judicial District, term commencing February 1, 2017.  
 One judge for the Nineteenth Judicial District, term commencing February 1, 2017.  
 One judge for the Nineteenth Judicial District, term commencing February 1, 2017.  
 One judge for the Twentieth Judicial District, term commencing July 1, 2017.  
 One judge for the Twenty-third Judicial District, term commencing February 1, 2017.  
 One judge for the Twenty-fifth Judicial District, term commencing February 1, 2017.  
 To the election of Juvenile and Domestic Relations District Court judges for terms of six years commencing as follows:  
 One judge for the First Judicial District, term commencing July 1, 2017.  
 One judge for the First Judicial District, term commencing May 1, 2017.  
 One judge for the Fourth Judicial District, term commencing January 1, 2018.  
 One judge for the Seventh Judicial District, term commencing February 1, 2017.  
 One judge for the Twelfth Judicial District, term commencing March 1, 2017.  
 One judge for the Fourteenth Judicial District, term commencing February 1, 2017.  
 One judge for the Fifteenth Judicial District, term commencing July 1, 2017.  
 One judge for the Fifteenth Judicial District, term commencing April 1, 2017.  
 One judge for the Eighteenth Judicial District, term commencing April 1, 2017.  
 One judge for the Twentieth Judicial District, term commencing July 1, 2017.  
 One judge for the Twenty-fifth Judicial District, term commencing July 1, 2017.  
 To the election of members of the Judicial Inquiry and Review Commission for terms of four years commencing as follows:  
 One member, term commencing July 1, 2017.  
 One member, term commencing July 1, 2017.  
 To the election of a member of the Virginia Workers' Compensation Commission for an unexpired term commencing February 1, 2017, and ending January 31, 2020.  
 To the election of the Auditor of Public Accounts for a term of four years commencing February 1, 2017.  
 And that in the execution of the joint order nominations shall be made in the order herein named, and that each house shall be notified of said nominations, and when the rolls shall be called for the whole number, the presiding officers of each house shall appoint a committee of three, which together shall constitute the joint committee to count the vote of each house in each case and report the results to their respective houses. The joint order may be suspended by the presiding officer of either house at any time but for no longer than twenty-four hours to receive the report of the joint committee.

**HOUSE JOINT RESOLUTION NO. 783**

*Designating March 3, in 2018 and in each succeeding year, as National Speech and Debate Education Day in Virginia.*

Agreed to by the House of Delegates, January 31, 2017

Agreed to by the Senate, February 14, 2017

WHEREAS, established by the National Speech & Debate Association, in conjunction with national and local partners, National Speech and Debate Education Day serves to promote better instruction in speech and debate across all grade levels and to highlight the pivotal roles these abilities play in personal advocacy, social movements, and public policy making; and

WHEREAS, speech and debate education helps students develop important skills in communication, critical thinking, creativity, and collaboration through the practice of public speaking; participants learn not only to analyze and express complex ideas effectively but also to listen, concur, question, or dissent with reason and compassion; and

WHEREAS, across the country, countless educators devote in-school, after-school, and weekend time to supporting their students in speech and debate practices and competitions, and the example of hard work and dedication they set has a lasting, positive impact on their pupils; and

WHEREAS, the skills learned through speech and debate serve students well throughout their lives, and this occasion presents a welcome opportunity to recognize such instruction as an essential component of a well-rounded curriculum; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly designate March 3, in 2018 and in each succeeding year, as National Speech and Debate Education Day; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates transmit a copy of this resolution to the National Speech & Debate Association so that members of the organization may be apprised of the sense of the General Assembly of Virginia in this matter; and, be it

RESOLVED FINALLY, That the Clerk of the House of Delegates post the designation of this day on the General Assembly's website.

**HOUSE JOINT RESOLUTION NO. 784**

*Designating February 13, in 2018 and in each succeeding year, as Virginia Village Day in Virginia.*

Agreed to by the House of Delegates, January 31, 2017

Agreed to by the Senate, February 14, 2017

WHEREAS, after the establishment of the Beacon Hill Village in Massachusetts in 2001, a worldwide movement to help older adults age in the place of their choosing and remain connected to their communities in Villages began to take hold throughout the United States; and

WHEREAS, as of 2017, there are more than 200 open Villages and 150 in development across 45 states, including 18 Villages in the Commonwealth, which give older adults the tools and support they need to maintain a high quality of life; and

WHEREAS, Villages empower older adults through enhanced opportunities for social engagement to minimize isolation, practical support and tools for successful aging, and direct volunteer help when needed; and

WHEREAS, as grassroots organizations, Villages encourage neighbors to help neighbors and rely solely on the generosity of volunteers, giving individuals an outlet to use their time and talents to give back to their communities; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly designate February 13, in 2018 and in each succeeding year, as Virginia Village Day in Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates transmit a copy of this resolution to Reston for a Lifetime, a Village in Reston, so that members of the organization may be apprised of the sense of the General Assembly of Virginia in this matter; and, be it

RESOLVED FINALLY, That the Clerk of the House of Delegates post the designation of this day on the General Assembly's website.

**HOUSE JOINT RESOLUTION NO. 785**

*Celebrating the life of Anshul Chimaladinne.*

Agreed to by the House of Delegates, January 20, 2017

Agreed to by the Senate, January 26, 2017

WHEREAS, Anshul Chimaladinne, a member of the South Riding community who was admired for his intelligence and cheerful personality, died on August 13, 2016; and

WHEREAS, a student at Freedom High School in South Riding, Anshul Chimaladinne was passionate about computer programming and cybersecurity and hoped to earn a degree in computer engineering; and

WHEREAS, in 2016, Anshul Chimaladinne was selected to attend the prestigious Virginia Governor's School residential summer program for mathematics, science, and technology; and

WHEREAS, Anshul Chimaladinne was also a First Degree Black Belt in Tae Kwan Do and taught Tae Kwan Do to junior students; and

WHEREAS, possessed of an entrepreneurial spirit, Anshul Chimaladinne and his friends started their own computer repair business, AP Custom Computers; and

WHEREAS, Anshul Chimaladinne was also an active member of the Chinmaya Mission and the Junior Chinmaya Yuva Kendra organization; and

WHEREAS, Anshul Chimaladinne will be fondly remembered and greatly missed by his parents, Anjan and Shridevi; brother, Sudhish; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Anshul Chimaladinne; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Anshul Chimaladinne as an expression of the General Assembly's respect for his memory.

### HOUSE JOINT RESOLUTION NO. 786

*Commending Colonial Heights American Legion Auxiliary Unit 284.*

Agreed to by the House of Delegates, January 27, 2017

Agreed to by the Senate, February 2, 2017

WHEREAS, Colonial Heights American Legion Auxiliary Unit 284 has worked with Colonial Heights American Legion Post 284 to support and honor local veterans, provide for the welfare of children, encourage American patriotic values, and provide dedicated volunteer service to the entire Colonial Heights and Tri-Cities communities for 70 years; and

WHEREAS, American Legion Auxiliary Unit 284 was officially chartered on January 2, 1947, holding its first meetings at what was then Colonial Heights City Hall; subsequent meetings were held in several local buildings, including the historic mansion, Violet Bank, before American Legion Post 284 purchased its current location on Springdale Avenue in 1958; and

WHEREAS, American Legion Auxiliary Unit 284 has had 44 presidents, many of whom served multiple terms, with Hilda Hubbard as its first president and Susan Oertel serving as the current president in the unit's 70th year of service; and

WHEREAS, American Legion Auxiliary Unit 284 has grown to include a record 387 members, becoming the largest unit in Virginia's American Legion District 11 and the largest unit in the Commonwealth; and

WHEREAS, American Legion Auxiliary Unit 284 has made significant contributions to Colonial Heights and the Tri-Cities throughout its history, having raised funds for many local causes and projects, including assisting American Legion Post 284 in fundraising for the construction of Shepherd Stadium, which hosts numerous civic activities, and it helped create and co-sponsor the City of Colonial Heights Back to School Festival and Halloween in the Park; and

WHEREAS, American Legion Auxiliary Unit 284 empowers the youth of the community through Teachers Appreciation Week, donations to area schools, several generous scholarship opportunities, and a Christmas shopping spree for disadvantaged children, as well as by sending 20 girls to Girls State in 2016 and assisting another veterans honor society in the administration of their Flags for First Graders' program; and

WHEREAS, American Legion Auxiliary Unit 284 actively supports veteran Stand Downs, clothing drives, bingo, religious services, and other programs at the Hunter Holmes McGuire VA Medical Center to honor the service and sacrifices of all veterans; and

WHEREAS, American Legion Auxiliary Unit 284, works closely with the Legionnaires of Post 284, Sons of the American Legion Squadron 284, and the Post 284 American Legion Riders to make unique contributions to local charitable causes supporting youth, active duty and convalescent veterans and their families, teachers, and first responders; and

WHEREAS, Colonial Heights American Legion Post 284 leads by example and has inspired countless other members of the community to take an active role in bettering the quality of life of their fellow Colonial Heights residents; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Colonial Heights American Legion Auxiliary Unit 284 for its service to veterans and the residents of Colonial Heights on the occasion of its 70th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Colonial Heights American Legion Auxiliary Unit 284 as an expression of the General Assembly's admiration for the organization's contributions to the community.

### HOUSE JOINT RESOLUTION NO. 788

*Commending the Virginia Health Care Foundation.*

Agreed to by the House of Delegates, January 27, 2017

Agreed to by the Senate, February 2, 2017

WHEREAS, the General Assembly of Virginia initiated the creation of the Virginia Health Care Foundation in 1992 as a public/private partnership with the mission of increasing access to primary health care for uninsured and medically underserved Virginians through innovative service delivery models; and

WHEREAS, the Virginia Health Care Foundation has consistently and creatively engaged in venture philanthropy to achieve its mission by requiring each grant applicant to have viable business and operations plans prior to receiving funding; this foresight has resulted in an impressive 89 percent sustainability rate for all local initiatives supported by the Virginia Health Care Foundation for up to three years after graduating from foundation funding; and

WHEREAS, this disciplined approach has resulted in a substantial increase in the number of health safety net sites operated by free and charitable clinics, community health centers, and other similar organizations from 33 sites when the Virginia Health Care Foundation was established to 214 sites that provided needed health care to more than 200,000 uninsured Virginians in 2016; and

WHEREAS, the Virginia Health Care Foundation has also invested in expanding the scope of services within Virginia's health safety net organizations with \$12.7 million to establish or expand 46 of Virginia's 86 dental safety net clinics and with \$4.7 million since 2010 to initiate the delivery of behavioral health services; and

WHEREAS, since its inception, the Virginia Health Care Foundation has been on the frontlines of providing healthcare for uninsured Virginians by funding 216 physicians, nurse practitioners, dentists, behavioral health professionals, and other health providers in Virginia's healthcare safety net, who have treated tens of thousands of uninsured Virginians via 3.1 million patient visits; and

WHEREAS, the Virginia Health Care Foundation has employed a multifaceted approach to increase access to health care, including development of its Project Connect and SignUpNow initiatives to maximize the number of eligible children who have health insurance through Virginia's Family Access to Medical Insurance Security (FAMIS) programs and foundation-funded outreach workers have helped more than 91,500 children enroll in the past 17 years; and

WHEREAS, the Virginia Health Care Foundation's entrepreneurial culture and drive to leverage its state appropriation have led the foundation to regularly create new and innovative initiatives to fulfill its mission, including development of The Pharmacy Connection, a web-based software program that expedites access to free prescription medicines for chronic diseases from the brand name pharmaceutical companies' Patient Assistance Programs and several discount generic programs, which has enabled 306,000 sick, uninsured Virginians to obtain \$4.6 billion in free medicine over the past 20 years; and

WHEREAS, the Virginia Health Care Foundation's constant quest for new opportunities has led it to incubate and spin off several successful freestanding initiatives, including the RxPartnership, the Virginia Oral Health Coalition, and SeniorNavigator, which has evolved into the VirginiaNavigator family of websites and now includes DisabilityNavigator and VeteransNavigator, all of which house an extensive database of public and private services that are the cornerstone of the Commonwealth's No Wrong Door initiative; and

WHEREAS, the Virginia Health Care Foundation's collaborative approach with Virginia's health-related agencies and many private sector partners has enabled it to provide a tremendous return on the Commonwealth's investment, leveraging an average of more than \$11 for each \$1 expended since inception, including \$12.2 million in challenge grants and matching funds; and

WHEREAS, the Virginia Health Care Foundation's many accomplishments have been achieved with low administrative costs, which represented only 7.7 percent of total expenditures in FY16; and

WHEREAS, many of the Commonwealth's finest corporations, organizations, and individuals have contributed generously to the Virginia Health Care Foundation over the years, and their support of this effective and dynamic organization has increased access to primary health care for Virginia's uninsured and medically underserved citizens; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Virginia Health Care Foundation for its outstanding service to the Commonwealth and its many successful efforts to increase access to primary health care for Virginia's uninsured citizens on the occasion of its 25th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Virginia Health Care Foundation as an expression of the General Assembly's admiration for its dedication to ensuring quality health care for all Virginians.

### HOUSE JOINT RESOLUTION NO. 789

*Celebrating the life of the Honorable Jackie Thomas Stump.*

Agreed to by the House of Delegates, January 27, 2017

Agreed to by the Senate, February 2, 2017

WHEREAS, the Honorable Jackie Thomas Stump of Abingdon, a former member of the Virginia House of Delegates and a staunch advocate for the hardworking residents of Southwest Virginia, died on June 2, 2016; and

WHEREAS, a native of Russell County, Jackie Stump resided in Buchanan County for most of his life and was proud of his Southwest Virginia roots; he served his country as a member of the United States Air Force during the Vietnam War from 1967 to 1971; and

WHEREAS, after his honorable military service, Jackie Stump pursued a career as a coal miner; he was elected as secretary-treasurer of the United Mine Workers of America District 28 in 1979 and as president in 1986, providing leadership to local miners during the strike against the Pittston Coal Company; and

WHEREAS, desirous to be of further service to the region and the Commonwealth, Jackie Stump ran for the Virginia House of Delegates in 1989 as an independent, write-in candidate and won a historic landslide victory; and

WHEREAS, Jackie Stump represented the residents of Buchanan County and parts of Russell and Tazewell Counties and worked to bring jobs and new opportunities to Southwest Virginia; he introduced and supported many important pieces of legislation, including the Coal Mine Safety Act in 1999; and

WHEREAS, a man of humility and integrity, Jackie Stump provided his fellow delegates with new perspectives, and he served the Southwest Virginia community and the entire Commonwealth with the utmost dedication and distinction; and

WHEREAS, Jackie Stump also worked to enhance the community as a member of several boards and commissions, including the Virginia Parole Board and the Virginia Department of Housing and Community Development; and

WHEREAS, Jackie Stump will be fondly remembered and greatly missed by his wife of 25 years, Linda; his daughter, Ahbra; his mother, Margaret; and numerous other family members, friends, and colleagues on both sides of the aisle; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of the Honorable Jackie Thomas Stump, a public servant and an advocate for workers' rights; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Jackie Thomas Stump as an expression of the General Assembly's respect for his memory.

### HOUSE JOINT RESOLUTION NO. 790

*Commending David Anthony Sam.*

Agreed to by the House of Delegates, January 27, 2017

Agreed to by the Senate, February 2, 2017

WHEREAS, Germanna Community College President David Anthony Sam is retiring in June 2017, after spearheading a highly successful decade of expansion, enhancement, and modernization of the college's facilities and curriculum; and

WHEREAS, a first-generation college student, David Sam earned bachelor's and master's degrees from Eastern Michigan University, and a Ph.D. degree from Michigan State University; and

WHEREAS, David Sam's diverse background includes working as a retail store owner/manager, published poet, college English professor, and college administrator in Michigan and Florida; and

WHEREAS, David Sam became Germanna Community College's (GCC) fifth president in 2007, and, over the past decade, total enrollment increased 61 percent (to more than 12,000 students), and the school saw a 183 percent increase in degrees awarded; and

WHEREAS, under David Sam's leadership, GCC has raised \$26.5 million in donations, grants, and local funds; he launched the college's first capital campaign, which raised \$12 million and exceeded the original goal by \$2 million; and

WHEREAS, GCC's increased revenue during David Sam's tenure has helped in opening a new Caroline County Center, building a new Science and Engineering Building and Information Commons at the Fredericksburg Area Campus, and will lead to an expansion of the Stafford Center; and

WHEREAS, under David Sam's guidance, GCC started two new programs, the Germanna Scholars and the Gladys P. Todd Academy, which allow local students to earn an associate degree at little to no cost while still in high school; and

WHEREAS, David Sam is credited with transforming GCC's Workforce program to meet the needs of the area; noncredit Workforce enrollment has increased 1,028 percent, and the number of Workforce classes has risen 1,676 percent during his decade at the school; and

WHEREAS, David Sam displayed outstanding leadership and resolve in the days after the 2011 earthquake, which closed GCC for 10 days, resulted in the loss of one-third of the facilities, and forced the redesign of the college's operating procedures; and

WHEREAS, after guiding GCC during a time of ongoing state budget cuts, David Sam leaves behind a legacy that includes modern new facilities, new programs, and master plans for long-term growth that put GCC on sound footing as it heads into the next decade; and

WHEREAS, David Sam's professional success has been made possible through the love and support of his wife, Linda, and their children, Michelle and Ryan; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend David Anthony Sam on his retirement as president of Germanna Community College in June 2017, after a highly successful decade of modernizing the college's facilities and curriculum; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to David Anthony Sam as an expression of the General Assembly's admiration for his exceptional career guiding Germanna Community College to new heights.

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ACTS OF ASSEMBLY

[VA.,

**HOUSE JOINT RESOLUTION NO. 792**

*Commending Lake Anne Elementary School.*

Agreed to by the House of Delegates, January 27, 2017  
 Agreed to by the Senate, February 2, 2017

WHEREAS, Lake Anne Elementary School, the first public school to open in Reston, celebrated its 50th anniversary on January 17, 2017; and

WHEREAS, Lake Anne Elementary School has provided a strong education to thousands of students and today, the leadership, sense of achievement, and commitment instilled by Reston's early residents continue to thrive at the school; and

WHEREAS, Lake Anne Elementary School started with and maintains a rich, diverse enrollment; the school currently represents a population from more than 70 countries, speaking 38 different languages; and

WHEREAS, Lake Anne Elementary School has been one of the highest-performing elementary schools in the Commonwealth and has enriched students through its two-way Spanish Immersion, ESOL, Special Ed, Advanced Academics, and Head Start services, along with Young Scholars, Artist in Residence, Eco School, Grace Art, Mentor Works, and Partners in Print programs; and

WHEREAS, the faculty, parents, and community of Lake Anne Elementary School are committed to increasing the emotional well-being and the academic achievement of all students, while viewing its diversity as a unique opportunity and strength that enriches and broadens the educational experiences of all students and prepares them to be lifelong learners in the 21st century; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Lake Anne Elementary School on the occasion of its 50th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Lake Anne Elementary School as an expression of the General Assembly's admiration for the school's commitment to excellence and many contributions to the Reston community.

**HOUSE JOINT RESOLUTION NO. 793**

*Designating September 4, in 2017 and in each succeeding year, as Taekwondo Day in Virginia.*

Agreed to by the House of Delegates, January 31, 2017  
 Agreed to by the Senate, February 14, 2017

WHEREAS, Taekwondo is a nonaggressive system of self-defense and self-discipline that has become one of the world's most popular and successful martial arts while preserving the culture and traditions of the Korean people; and

WHEREAS, officially developed as a unified style of martial arts in the 1950s, the roots of Taekwondo stretch back nearly 5,000 years, incorporating elements of many traditional Korean martial arts; and

WHEREAS, as a martial arts style, Taekwondo is characterized by head-height kicks, jumping and spinning kicks, fast kicks, and other techniques; students swear an oath to respect coaches and superiors, to stand up for freedom and justice, to cooperate in the creation of a more peaceful world, and to never misuse Taekwondo; and

WHEREAS, Taekwondo cultivates mental strength as well as physical fitness and teaches students to use knowledge as well as internal power; students learn the Taekwondo tenets of courtesy, integrity, perseverance, self-control, and indomitable spirit; and

WHEREAS, Taekwondo was featured as a demonstration event at the Games of the XXIV Olympiad in Seoul in 1988, and since 2000, Taekwondo has been one of only two Asian martial arts included as a medal event in the Olympic Games; and

WHEREAS, men and women of all ages, races, and creeds throughout the Commonwealth build strong character and pursue self-fulfillment through good discipline by practicing Taekwondo; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly designate September 4, in 2017 and in each succeeding year, as Taekwondo Day in Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates transmit a copy of this resolution to Byung-Kon Cho so that members of the Taekwondo community in the Commonwealth may be apprised of the sense of the General Assembly of Virginia in this matter; and, be it

RESOLVED FINALLY, That the Clerk of the House of Delegates post the designation of this day on the General Assembly's website.

**HOUSE JOINT RESOLUTION NO. 794**

*Celebrating the life of Peter Wilcox Brown, M.D.*

Agreed to by the House of Delegates, January 27, 2017  
 Agreed to by the Senate, February 2, 2017

WHEREAS, Peter Wilcox Brown, M.D., of Richmond, an esteemed physician and surgeon who touched countless lives throughout his long and fulfilling career in medicine, died on September 13, 2016; and

WHEREAS, a native of Norfolk, Peter Brown earned undergraduate and medical degrees from Emory University, then served his country as a member of the United States Navy as a medical officer during the Vietnam War, rising to the rank of lieutenant commander; and

WHEREAS, after his honorable military service, Dr. Brown completed his residency with an American Cancer Society Surgical Oncology Fellowship and became an assistant professor in surgery at the Medical College of Virginia; and

WHEREAS, Dr. Brown practiced surgery with Virginia Surgical Associates for more than 35 years and made many valuable contributions to the medical field, earning countless awards and accolades for his professionalism and commitment to health and wellness; and

WHEREAS, deeply respected by his peers, Dr. Brown was a member of the American College of Surgeons, the Society of Surgical Oncology, the Humera Surgical Society, the Richmond Academy of Medicine, the Richmond Surgical Society, and the Virginia Surgical Society; and

WHEREAS, Dr. Brown also served the community as a director of Dominion Resources, Bassett Furniture, America's Utility Fund, and the Capitol Medical Center, and he enjoyed fellowship and worship as a member of St. Stephen's Episcopal Church; and

WHEREAS, Peter Wilcox will be fondly remembered and greatly missed by his loving wife of 49 years, Judy; daughters, Charlotte, Francine, and Elizabeth, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Peter Wilcox Brown, M.D., a respected physician and surgeon and an active member of the Richmond community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Peter Wilcox Brown, M.D., as an expression of the General Assembly's respect for his memory.

**HOUSE JOINT RESOLUTION NO. 795**

*Commending Valluvan Tamil Academy.*

Agreed to by the House of Delegates, January 27, 2017

Agreed to by the Senate, February 2, 2017

WHEREAS, Valluvan Tamil Academy is a charitable, nonprofit, secular organization established in Virginia to teach the Tamil language to children; and

WHEREAS, Tamil is a South Indian language that has been spoken for more than 2,000 years, and it is one of the languages widely spoken by Virginians of Indian origin; and

WHEREAS, Valluvan Tamil Academy was founded six years ago with fewer than 20 students and has grown to currently teach Tamil culture, literature, and language to more than 500 students; and

WHEREAS, Valluvan Tamil Academy is now one of the largest organizations teaching the Tamil language in Virginia; and

WHEREAS, Valluvan Tamil Academy organizes many social and educational events, such as Annual Day, when students demonstrate their talents in dance, theater, and art; and

WHEREAS, Valluvan Tamil Academy teaches students Thirukkural, a classical Tamil poetic form used to encapsulate moral and ethical lessons; and

WHEREAS, Valluvan Tamil Academy provides students the opportunity to learn about the Tamil language and culture and build leadership and team-building skills; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Valluvan Tamil Academy for its work to preserve an ancient, classical language; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Valluvan Tamil Academy as an expression of the General Assembly's admiration for the academy's dedication to its students and the Tamil language and culture.

**HOUSE JOINT RESOLUTION NO. 796**

*Commending Mr. Peanut.*

Agreed to by the House of Delegates, January 27, 2017

Agreed to by the Senate, February 2, 2017

WHEREAS, Mr. Peanut, designed by Antonio Gentile as the mascot for Planters, was created in 1916 and remains a cherished facet of Americana with unique roots in the Commonwealth; and

WHEREAS, in 1913, Planters opened a facility in Suffolk to be closer to the peanut farmers in the area, and in 1916, the company's founder, Amedeo Obici, hosted a contest for schoolchildren to submit drawings for a company mascot; and

WHEREAS, Antonio Gentile, a child of Italian immigrants, submitted 11 drawings of a peanut with arms, legs, and a face doing various activities, such as serving peanuts, singing, riding a horse, and walking with a cane; and

WHEREAS, Antonio Gentile's winning submission was modified by an artist who added other iconic details, such as Mr. Peanut's top hat and monocle, and the design was an instant hit in nationwide advertising campaigns; and

WHEREAS, Mr. Peanut has remained the instantly recognizable mascot of Planters for 100 years, and the original drawings reside in the Smithsonian National Museum of American History; and

WHEREAS, in 2016, Mr. Peanut still calls Suffolk home, and Planters is an important part of the Suffolk community, contributing to the economic vitality of the city and its status in the peanut industry; and

WHEREAS, to commemorate the 100th anniversary of the creation of Mr. Peanut in 2016, the Suffolk Public Library and the Suffolk-Nansemond Historical Society hosted a series of talks on the subject, and a historical marker was placed near the site of Antonio Gentile's home in Hall Place Park; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Mr. Peanut, a well-known symbol of the importance of the peanut industry to the Commonwealth and the United States for 100 years; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare copies of this resolution for presentation to the family of Antonio Gentile and Planters as an expression of the General Assembly's admiration for the importance of this cultural icon.

**HOUSE JOINT RESOLUTION NO. 797**

*Commending Lakeland High School.*

Agreed to by the House of Delegates, January 27, 2017

Agreed to by the Senate, February 2, 2017

WHEREAS, in 2016, Lakeland High School in Suffolk earned the Claudia Dodson VHSL Sportsmanship, Ethics and Integrity Award for the first time in school history; and

WHEREAS, the Virginia High School League presents the award to schools that prioritize sportsmanship on and off the field; only 39 of 315 member schools received the 2015-2016 award, and Lakeland High School was the only school from Suffolk to be honored; and

WHEREAS, to be considered for the award, Lakeland High School completed a 50-question form about school conduct during the season and submitted to peer evaluations from other schools in Conference 27; and

WHEREAS, Lakeland High School recently instituted a new program to facilitate a culture of good sportsmanship, wherein students wrote reports about sportsmanship and ethics and shared them with their parents; and

WHEREAS, the student-athletes, coaches, administrators, fans, and parents all played an integral role in securing this honor for Lakeland High School; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Lakeland High School on receiving the 2015-2016 Claudia Dodson VHSL Sportsmanship, Ethics and Integrity Award; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Gregory Rountree, activities director of Lakeland High School, as an expression of the General Assembly's admiration for the school's achievements and best wishes for the future.

**HOUSE JOINT RESOLUTION NO. 798**

*Commending Mahan Street First Baptist Church.*

Agreed to by the House of Delegates, January 27, 2017

Agreed to by the Senate, February 2, 2017

WHEREAS, in 2016, Mahan Street First Baptist Church in Suffolk celebrated 150 years of spiritual leadership, generous community outreach, and joyful worship in the Baptist tradition; and

WHEREAS, Mahan Street First Baptist Church was established in 1866 and held its first services in a house in Cedar Hill Cemetery before moving to a two-room brick building on what is now the corner of North Main Street and Mahan Street; and

WHEREAS, the Reverend Jordan Thompson served as the first official pastor of Mahan Street First Baptist Church, and, in 1870, he and members of the congregation erected a sanctuary on land donated by Alfred Adkins; and

WHEREAS, throughout its history, Mahan Street First Baptist Church has worked to meet both the spiritual and earthly needs of all Suffolk residents and helped establish many other church communities in the area; and

WHEREAS, over the years, Mahan Street First Baptist Church has thrived, and it now counts nearly 300 people as active members of the congregation; the church is affectionately known as "112" for its street address; and

WHEREAS, a strong work ethic is a hallmark of the Mahan Street First Baptist Church community, and congregants have come from all walks of life in Suffolk, including public servants, educators, doctors, and attorneys; and

WHEREAS, Mahan Street First Baptist Church commemorated its 150th anniversary with a banquet at the Edmonds Center in Portsmouth in November 2016, and the church plans to construct a new sanctuary to better serve its growing congregation; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Mahan Street First Baptist Church on the occasion of its 150th anniversary in 2016; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Reverend Dr. Steven G. Blunt, pastor of Mahan Street First Baptist Church, as an expression of the General Assembly's admiration for the church's long legacy of service to the Suffolk community.

**HOUSE JOINT RESOLUTION NO. 799**

*Commending the Suffolk-Nansemond Historical Society.*

Agreed to by the House of Delegates, January 27, 2017

Agreed to by the Senate, February 2, 2017

WHEREAS, the Suffolk-Nansemond Historical Society, headquartered in the Phillips-Dawson House on Bank Street in downtown Suffolk, celebrated the 50th anniversary of its founding in 2016; and

WHEREAS, the Suffolk-Nansemond Historical Society was started in 1966 by a small group of people in Suffolk and what was previously known as Nansemond County who were interested in learning about the history of the area and preserving old buildings and artifacts from the past; and

WHEREAS, the mission of the Suffolk-Nansemond Historical Society is to collect, preserve, interpret, and promote awareness of the history and culture of Suffolk and Nansemond County for the education and enjoyment of present and future generations; and

WHEREAS, the Suffolk-Nansemond Historical Society has over 300 members who work to bring the attention of the community to people and places that are in danger of being forgotten or lost; and

WHEREAS, the Suffolk-Nansemond Historical Society's property company, Preservation of Historic Suffolk, Inc., buys and sells homes and also owns the Suffolk Seaboard Station Railroad, which operates as a museum; and

WHEREAS, the highlight of the Suffolk-Nansemond Historical Society's 50th anniversary open house celebration on May 1, 2016, was the dedication of the Marion Joyner Watson Research Room and the Susan Felton Woodward Exhibit Room; and

WHEREAS, Marion Joyner Watson, the namesake of the new research room, was a charter member of the Suffolk-Nansemond Historical Society and passed away in 1996; and

WHEREAS, Susan Felton Woodward, for whom the new exhibit room is named, was a driving force of historical awareness in Suffolk for decades and retired from the Suffolk-Nansemond Historical Society's board in 2015, after 40 years of service; and

WHEREAS, the Suffolk-Nansemond Historical Society is funded through membership dues, donations, grants, publication sales, and a variety of fundraising events, including the annual Candlelight Tour during the Christmas season; and

WHEREAS, for 50 years the Suffolk-Nansemond Historical Society has played an invaluable role in the Suffolk community by increasing awareness and interest in local history and through their tireless efforts to preserve old homes and buildings; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Suffolk-Nansemond Historical Society on the 50th anniversary of its founding; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Ashley Nicole Lorenzen, executive director of the Suffolk-Nansemond Historical Society, as an expression of the General Assembly's admiration for the society's efforts to preserve and promote history for present and future generations.

**HOUSE JOINT RESOLUTION NO. 800**

*Commending Ebenezer United Methodist Church.*

Agreed to by the House of Delegates, January 27, 2017

Agreed to by the Senate, February 2, 2017

WHEREAS, Ebenezer United Methodist Church of Suffolk, in 2016, celebrated 150 years of serving Christ and its faithful neighbors in the close-knit, historic watermen communities of Crittenden, Eclipse, and Hobson; and

WHEREAS, Ebenezer United Methodist Church traces its roots to the evangelistic services held in Nansemond County in 1866, just after the Civil War, at the end of a peninsula bounded by the Nansemond River, Chuckatuck Creek, and the James River; and

WHEREAS, the first structure for what would become Ebenezer United Methodist Church was constructed near what is now the community of Hobson and used as a schoolhouse during the week and for worship on Sundays; and

WHEREAS, after the original church building burned, the congregation worshiped in a brush arbor tent, where evangelistic services that were led by the Reverend Charles V. Bingley drew people from all over the Counties of Nansemond and Isle of Wight; it was after this series of revivals that the church was named Ebenezer; and

WHEREAS, a new church structure was built, and it served the Ebenezer United Methodist Church congregation until 1888; the cornerstone of a new church was laid in the community of Crittenden on Chuckatuck Creek; and

WHEREAS, located in an area so close to a shipbuilding and munitions hub, the ringing of the bell in the Ebenezer United Methodist Church tower was the signal of the beginning and end of blackouts in the community during World War II; and

WHEREAS, by the 1950s, the growth of the community resulted in the need for a larger and more modern church building and construction of Ebenezer United Methodist Church's current brick structure began around May 1963 on land across the street from the old wood frame church; and

WHEREAS, Ebenezer United Methodist Church has grown over the years in terms of its ministry, offering the congregation and the community enrichment programs in music, arts, and sports through the Ebenezer Arts and Sports League; and

WHEREAS, Ebenezer United Methodist Church's Family Life Center, opened in 2005, is the location of a weekly contemporary praise service and has profoundly changed the church's ministry in numerous ways; and

WHEREAS, throughout its history, Ebenezer United Methodist Church has been blessed with having talented musicians and people have traveled from miles away to hear the musical programs presented by the Ebenezer choir; and

WHEREAS, Sunday worship services at Ebenezer United Methodist Church today draw about 300 members and at least 20 families can trace membership in the church back to its earliest days; and

WHEREAS, Pastor Carl J. LeMon, who had served Ebenezer United Methodist Church for 21 years, retired in 2016, and the church is now led by Pastor Won Lee as it reflects on its first 150 years and turns the page to the next chapter of its history; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Ebenezer United Methodist Church on the 150th anniversary of its founding and its important ministry to the communities of Crittenden, Eclipse, and Hobson; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Won Lee, pastor of Ebenezer United Methodist Church, as an expression of the General Assembly's admiration of the church's glorious past and even brighter future.

#### HOUSE JOINT RESOLUTION NO. 801

*Commending the Nansemond River High School baseball team.*

Agreed to by the House of Delegates, January 27, 2017

Agreed to by the Senate, February 2, 2017

WHEREAS, the Nansemond River High School baseball team secured its first state title, winning the Virginia High School League Group 5A state championship on June 11, 2016, at Robinson Secondary School; and

WHEREAS, the Nansemond River High School Warriors ended the season on a 13-game winning streak to finish with a 21-7 record and defeated the Mountain View High School Wildcats 5-3 in the team's first state final appearance since 1996; and

WHEREAS, throughout the season, the Nansemond River Warriors relied on solid pitching and a group effort at the plate, and the state championship was no exception; nine players finished with hits and pitchers Gage Williams and Matt Holt retired several batters; and

WHEREAS, the Nansemond River Warriors broke a 3-3 tie in the sixth inning and never looked back, with the winning run by Nick Lees coming off an RBI double by Chris Henderson, who later stole third base and raced to home plate for another run; and

WHEREAS, the Nansemond River Warriors' successful season is a tribute to the skill and determination of all of the student-athletes, the leadership and guidance of the coaches and staff, and the energetic support of the entire Nansemond River High School community; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Nansemond River High School baseball team on winning the Virginia High School League Group 5A state championship in 2016; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Mark Stffel, head coach of the Nansemond River High School baseball team, as an expression of the General Assembly's admiration for the team's athletic achievements and best wishes for the future.

**HOUSE JOINT RESOLUTION NO. 802***Commending the Hanover High School baseball team.*

Agreed to by the House of Delegates, January 27, 2017

Agreed to by the Senate, February 2, 2017

WHEREAS, the Hanover High School baseball team claimed the Virginia High School League Group 4A state championship in 2016, winning their third title in four years and capping an amazing 23-1 season during which they never lost a game in the Commonwealth; and

WHEREAS, the Hanover High School Hawks defeated the Liberty Christian Academy Bulldogs 13-12 in a thrilling game that lasted four hours and 24 minutes and featured 14 runs scored in the sixth inning; and

WHEREAS, the Hanover Hawks took a 7-1 lead after five innings but then gave up eight runs in the top of the sixth inning, allowing the Liberty Christian Bulldogs to take a 9-7 lead; and

WHEREAS, in the bottom of the sixth inning, the Hanover High School Hawks went on an electrifying six-run rally to retake the lead at 13-9; and

WHEREAS, the Liberty Christian Bulldogs scored three runs in the seventh inning and had a tying run on base, but Hanover High School pitcher Tyler Morgan bore down and got the final strikeout to seal the championship victory; and

WHEREAS, senior pitcher Tyler Morgan was the fourth Hanover High School hurler to get the call in the game and he had pitched only a handful of innings in the 2016 season after missing his junior season due to undergoing arm surgery; and

WHEREAS, the Hanover Hawks never lost their composure and showed no signs of getting demoralized as the game got closer, demonstrating that their mental preparation was just as strong as their physical preparation in the 2016 season; and

WHEREAS, several members of the Hanover High School baseball team were awarded Virginia High School League (VHSL) Group 4A First Team All-State honors in 2016: pitcher Hayden Moore, first baseman John Gregory, shortstop Cayman Richardson, and designated hitter Grey Lyttle, who was also named Group 4A Player of the Year; and

WHEREAS, all members of the Hanover High School baseball team worked hard and contributed to the championship victory and tremendous 2016 season and the team was further energized by the love and support of their fans and the entire Hanover High School community; and

WHEREAS, Hanover High School baseball team coach Charlie Dragum, the 2016 VHSL Group 4A Coach of the Year, showed leadership throughout the season in developing the team and instilling in them the value of hard work and good sportsmanship, both on the field and off; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Hanover High School baseball team on an outstanding 23-1 season and winning their third Virginia High School League Group 4A state championship in four years; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Charlie Dragum, coach of the Hanover High School baseball team, as an expression of the General Assembly's admiration for the team's thrilling state championship victory and phenomenal 2016 season.

**HOUSE JOINT RESOLUTION NO. 803***Celebrating the life of Anna Mae Jett Johnson.*

Agreed to by the House of Delegates, January 27, 2017

Agreed to by the Senate, February 2, 2017

WHEREAS, Anna Mae Jett Johnson, a loving mother and grandmother who came to Suffolk in the early 1950s to train to be a nurse but ended up becoming a florist and the backbone of a family garden business, died on September 9, 2016; and

WHEREAS, Anna Johnson was born in Fredericksburg and raised in Stafford County, where her family made do with very little; she graduated from Falmouth High School then the Louise Obici School of Nursing in Suffolk, where she was a member of the first graduating class; and

WHEREAS, in the 1950s, Anna Johnson and her husband, Raymond, established a roadside market on Holland Road in Suffolk that sold produce, peanuts, hams, and pumpkins; by 1961, they expanded to include fresh flowers and Johnson's Gardens, Inc., was born; and

WHEREAS, Anna Johnson left her nursing career to help her husband run the family business, becoming a florist and, for decades, the matriarch of Johnson's Gardens, Inc., where she worked until she was in her 70s, leaving a business that still thrives today; and

WHEREAS, Anna Johnson was revered for her work ethic, her ability to deal with problems quickly and efficiently, her kindness, and her matter-of-fact, no-nonsense manner; and

WHEREAS, Anna Johnson lived by example and taught her entire family the value of hard work and of being a person of quality; like any good florist she was always pruning, whether it was shaping a floral arrangement or offering guidance to her family members; and

WHEREAS, a longtime member of Bethlehem Christian Church in Suffolk, Anna Johnson was incredibly devoted to her family, especially her 10 grandchildren and five great-grandchildren, and was a lifetime caregiver to anyone who needed help; and

WHEREAS, predeceased by her husband of 54 years, Raymond O. Johnson, Sr., Anna Johnson will be fondly remembered and greatly missed by her children, Ray, Tim, Mike, Allen, and Susan, and their families, as well as a host of other relatives, friends, and loyal customers; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Anna Mae Jett Johnson, a loving mother and grandmother, and the matriarch of a family garden business in Suffolk; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Anna Mae Jett Johnson as an expression of the General Assembly's respect for her memory.

**HOUSE JOINT RESOLUTION NO. 804**

*Celebrating the life of Joan Joyce Harrison Nelms.*

Agreed to by the House of Delegates, January 27, 2017

Agreed to by the Senate, February 2, 2017

WHEREAS, Joan Joyce Harrison Nelms, a successful entrepreneur, devoted community leader, and beloved member of the Suffolk community, died on April 19, 2016; and

WHEREAS, a native of Honaker, Joan "Jo" Joyce Harrison Nelms graduated from Lebanon High School and Emory & Henry College, where she was a forward on the women's basketball team; and

WHEREAS, possessed of an entrepreneurial spirit, Jo Nelms founded or co-founded Driver Contractors, Inc., Teach's Lair Marina, and Joan Corp.; she was also a founder of Nansemond-Suffolk Academy and Xenith Bank and was an owner of Western Branch Metals; and

WHEREAS, Jo Nelms strengthened the community by supporting Little League sports, the Boy Scouts of America, the Girl Scouts of the USA, Suffolk Project Lifesaver, and many other civic and service organizations; and

WHEREAS, a woman who lived her faith through her actions, Jo Nelms enjoyed fellowship and worship with the community as a member of Berea Christian Church, where she held numerous leadership positions, including president of the Berea Women's Fellowship, and helped found the church library; and

WHEREAS, predeceased by her husband, Frank, Jo Nelms will be fondly remembered and greatly missed by her children, Lois, Frank, and Robert, and their families, and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Joan Joyce Harrison Nelms, a respected small business owner and a pillar of the Suffolk community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Joan Joyce Harrison Nelms as an expression of the General Assembly's respect for her memory.

**HOUSE JOINT RESOLUTION NO. 805**

*Commending Stratford University.*

Agreed to by the House of Delegates, January 27, 2017

Agreed to by the Senate, February 2, 2017

WHEREAS, for 40 years, Stratford University, a private higher educational institution specializing in adult education, has helped students achieve undergraduate and graduate degrees in a variety of disciplines; and

WHEREAS, founded in 1976, Stratford University is headquartered in Fairfax, with its main campus in Falls Church; the university has additional campuses in Alexandria, Glen Allen, Newport News, Virginia Beach, and Woodbridge, as well as locations in Baltimore, Maryland, and New Delhi, India; and

WHEREAS, with convenient classroom, online, and blended learning options, Stratford University offers degree programs in a number of fields, including business administration, computer information systems, health sciences, nursing, culinary arts, and hotel management, with accelerated programs for individuals hoping to start a career more quickly; and

WHEREAS, Stratford University also offers noncredit continuing education programs for event management, culinary workshops, and other certification courses as part of its broad community outreach efforts; and

WHEREAS, in addition to providing general scholarship opportunities for high school seniors and accepting private scholarship programs, Stratford University offers tuition assistance for members of the military and is recognized by the Veterans Administration as a military-friendly institution; and

WHEREAS, the diverse international enrollment of Stratford University is made up of students from more than 30 countries, and the university partners with the Global Land Coalition to provide distance education services in

developing countries; it also provides more Optional Practical Training Extensions for STEM students than any other school in the United States; and

WHEREAS, Stratford University is accredited by the Accrediting Council for Independent Colleges and Schools and is a member of the Northern Virginia Technology Council, the International Association of Culinary Professionals, and the United States-India Educational Foundation; and

WHEREAS, Stratford University has earned many awards and accolades, including the 2015 One Billion Acts of Peace Hero Award from the PeaceJam Foundation and the 2016 President's "E" Award for Exports from the United States Secretary of Commerce; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Stratford University on the occasion of its 40th anniversary in 2016; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Richard R. Shurtz II, president of Stratford University, as an expression of the General Assembly's admiration for Stratford University's commitment to educational excellence and contributions to the Commonwealth.

### HOUSE JOINT RESOLUTION NO. 806

*Commending the American Legion Virginia Boys State.*

Agreed to by the House of Delegates, January 27, 2017

Agreed to by the Senate, February 2, 2017

WHEREAS, the American Legion Virginia Boys State is celebrating its 75th year of developing high school boys across the Commonwealth into civic leaders, teaching them about how government works and the importance of good citizenship; and

WHEREAS, the first Boys State was held in June 1935 in Illinois, and the youth movement that became Boys State was developed and sponsored by the American Legion to counteract efforts by the Nazi Freedom Foundation to promote a fascist form of government; and

WHEREAS, Virginia Boys State was organized in 1939 as the Old Dominion Boys State, sponsored by the American Legion Department of Virginia in cooperation with Virginia Polytechnic Institute, and the program will hold its 75th session in June 2017, on the campus of Radford University; and

WHEREAS, Virginia Boys State is a nonpartisan program that seeks to develop civic leadership and pride in American citizenship and to instill in the attendees a sense of individual obligation to the community, state, and nation; and

WHEREAS, high school juniors are selected as delegates to attend Virginia Boys State by local American Legion Posts and, in most cases, the attendees' expenses for the week-long program are paid by a sponsoring American Legion Post, local business, or community-based organization; and

WHEREAS, Virginia Boys State is a learning experience in practical democracy, developed on the assumption that youth learn best by doing, and attendees are provided a firsthand education in the law and court system, parliamentary procedure, and Virginia political history; and

WHEREAS, at Virginia Boys State, the citizens of a mythical 51st state are organized into two political parties (Federalist and Nationalist), for which the students adopt party platforms, and then delegates are elected to serve in offices at each level of government: local, county, and state; and

WHEREAS, speakers from all levels of government provide valuable lessons for the delegates who attend Virginia Boys State, and the attendees are fortunate to receive guidance and leadership from a highly qualified and dedicated staff who work hard to provide a special and unique learning experience each summer; and

WHEREAS, Virginia Boys State is a leadership action program, designed to give attendees a working knowledge of government and to impress upon them the importance of being a good citizen; by the end of the week many participants realize how great it is to be an American; and

WHEREAS, while much has changed in the world political climate from the time the program was founded, the American Legion continues to sponsor Virginia Boys State in the belief that young citizens who are familiar with the operation of our government will be better prepared to uphold its ideals; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the American Legion Virginia Boys State on 75 years of developing high school boys into civic leaders and teaching them about the importance of government and democracy; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Gerald Rhoads, director of the American Legion Virginia Boys State, as an expression of the General Assembly's admiration for the program's storied 75-year history of educating generations of good citizens and future leaders across the Commonwealth.

**HOUSE JOINT RESOLUTION NO. 807**

*Commending Liberty Elementary School.*

Agreed to by the House of Delegates, January 27, 2017  
 Agreed to by the Senate, February 2, 2017

WHEREAS, Liberty Elementary School in Chantilly dedicated the SMART Lab, an innovative new technology teaching tool, in November 2016; and

WHEREAS, Liberty Elementary School's SMART Lab is a collaborative space where students and teachers learn 21st century technologies, techniques, and skills to compete in the workplaces of the future; and

WHEREAS, Liberty Elementary School's SMART Lab introduces students to a multitude of technologies, allows them to feel empowered in their learning, and challenges them to push their boundaries; and

WHEREAS, students in kindergarten through fifth grade learn how to code, 3D print, compose music, make green screen videos, edit videos, make stop motion films, create video games, and engage in augmented reality applications in Liberty Elementary School's SMART Lab; and

WHEREAS, Liberty Elementary School's SMART Lab is equipped with desks that have white board tops, 3D printers, green screens, video editing stations, Sphero Golf, Ozobots, and MaKey pianos, among other collaborative tools; and

WHEREAS, Liberty Elementary School's SMART Lab is a tool of professional development for teachers and allows for unlimited teacher growth throughout the year; and

WHEREAS, in Liberty Elementary School's SMART Lab, technology resource teachers join with classroom instructors to co-teach technologies, allowing classroom teachers to learn and become comfortable with new technologies before integrating them into their everyday lessons; and

WHEREAS, Liberty Elementary School's innovative SMART Lab ensures that students and teachers are getting a common learning experience and administrators at Loudoun County Public Schools view this dedicated space as a valuable tool for empowering students and preparing them for jobs in the 21st century global workforce; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Liberty Elementary School on creating the SMART Lab, an innovative new technology teaching tool; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Paul Pack, principal of Liberty Elementary School, as an expression of the General Assembly's admiration for the school's creative approach to teaching new technology to the students and teachers of Loudoun County.

**HOUSE JOINT RESOLUTION NO. 808**

*Commending Raleigh H. Isaacs, Sr.*

Agreed to by the House of Delegates, January 27, 2017  
 Agreed to by the Senate, February 2, 2017

WHEREAS, Raleigh H. Isaacs, Sr., an experienced leader in the law-enforcement community, retired on January 1, 2017, as Sheriff of Suffolk after more than two decades of service; and

WHEREAS, a native of Suffolk, Raleigh Isaacs began his law-enforcement career in 1961 with the Norfolk Police Department, where he served as a patrolman and as a narcotics detective; and

WHEREAS, in 1970 Raleigh Isaacs joined the Nansemond County Police Department, which merged with the Suffolk Police Department in 1974, and rose through the ranks from sergeant to captain; and

WHEREAS, desirous to be of further service to the community, Raleigh Isaacs ran for and was elected Sheriff of Suffolk in 1993 and ably served the residents of Suffolk for 23 years; and

WHEREAS, under Raleigh Isaacs' leadership, the Suffolk Sheriff's Office maintained an experienced and highly professional team of deputies and staff, who were well-prepared to protect and serve the residents of Suffolk; and

WHEREAS, Raleigh Isaacs holds degrees from Norfolk Business College, Paul D. Camp Community College, and Christopher Newport College; to keep current with best practices in public safety, he has attended more than 40 law-enforcement schools and seminars; and

WHEREAS, Raleigh Isaacs also worked to enhance the community as a member of numerous boards and organizations, including the Virginia Sheriffs' Association Board of Directors and the board of Western Tidewater Regional Jail; and

WHEREAS, after his well-earned retirement from the Suffolk Sheriff's Office, Raleigh Isaacs plans to spend more time with his wife, Phyllis and their children and grandchildren and seek new opportunities to serve the community; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Raleigh H. Isaacs, Sr., on the occasion of his retirement as Sheriff of Suffolk; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Raleigh H. Isaacs, Sr., as an expression of the General Assembly's admiration for his legacy of service to the members of the Suffolk community and the Commonwealth.

**HOUSE JOINT RESOLUTION NO. 809***Commending the American Legion Auxiliary Virginia Girls State.*

Agreed to by the House of Delegates, January 27, 2017

Agreed to by the Senate, February 2, 2017

WHEREAS, the American Legion Auxiliary Virginia Girls State celebrated 70 years of developing high school girls across the Commonwealth into civic leaders, teaching them how government works, and the importance of good citizenship in 2016; and

WHEREAS, Girls State was organized as a national Americanism activity in 1937 at The American Legion Auxiliary national convention, and the program was designed to teach young women responsible citizenship and love for God and country; and

WHEREAS, Virginia Girls State was organized in 1946 and is sponsored by the American Legion Auxiliary Department of Virginia, and in June 2016 the 70th session of Virginia Girls State was held at Longwood University, marking the 42nd year the school has hosted the week-long program; and

WHEREAS, Virginia Girls State is a nonpartisan program that seeks to develop civic leadership and pride in American citizenship and to instill in the attendees a sense of individual obligation to the community, state, and nation; and

WHEREAS, rising high school seniors are selected and then sponsored as delegates to attend Virginia Girls State by local American Legion Auxiliary Posts and 600-625 girls from across the Commonwealth attend the program each June; and

WHEREAS, Virginia Girls State is a learning experience in practical democracy and delegates are afforded the opportunity to actualize government by living and working with other leaders from across the Commonwealth while learning about the law and court system, parliamentary procedure, and Virginia political history; and

WHEREAS, Virginia Girls State delegates become citizens of one of 14 fictional cities named after a famous citizen of Virginia, organize into two political parties (Federalist and Nationalist), and then are elected to serve in offices at the city, county, and state levels of government; and

WHEREAS, speakers from all levels of government provide valuable lessons for the delegates who attend Virginia Girls State, and the attendees are fortunate to receive guidance and leadership from a highly qualified and dedicated staff who work tirelessly to provide a special and unique learning experience each summer; and

WHEREAS, Virginia Girls State is a leadership action program, designed to give attendees functional citizenship training and to impress upon them the importance of the civic responsibilities they must assume when they become adults; and

WHEREAS, while much has changed in the world political climate from the time the program was founded, the American Legion Auxiliary continues to sponsor Virginia Girls State in the belief that young citizens who are familiar with the operation of our government will be better prepared to uphold its ideals; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the American Legion Auxiliary Virginia Girls State on celebrating 70 years of developing high school girls into civic leaders and promoting real-life citizenship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Susan Lee, director of Virginia Girls State, and Anne Starke, chair of the American Legion Auxiliary Department of Virginia Girls State Committee, as an expression of the General Assembly's admiration for the program's storied 70-year history of educating generations of good citizens and future leaders across the Commonwealth.

**HOUSE JOINT RESOLUTION NO. 811***Commending E. Wade Whitehead, Jr.*

Agreed to by the House of Delegates, January 27, 2017

Agreed to by the Senate, February 2, 2017

WHEREAS, E. Wade Whitehead, Jr., a fifth grade teacher at Crystal Spring Elementary School in Roanoke, accepted the high honor of being inducted into the National Teachers Hall of Fame in 2016; and

WHEREAS, a native of Bristol and a graduate of John S. Battle High School, Wade Whitehead received undergraduate degrees from The College of William & Mary and a master's degree from the University of Virginia; and

WHEREAS, Wade Whitehead, a fourth-generation public school teacher currently in his 23rd year of teaching, has been a National Board Certified Teacher since 1999, is certified by the Commonwealth in gifted education and grades pre-kindergarten through eighth, and is endorsed as a school administrator; and

WHEREAS, Wade Whitehead was one of only five educators, and the only current school teacher, to be inducted into the 2016 class of the National Teachers Hall of Fame; and

WHEREAS, Wade Whitehead was recognized for his well-earned achievement by President Barack Obama during a White House ceremony in May 2016, and he was formally inducted into the National Teacher Hall of Fame in Kansas in June 2016; and

WHEREAS, Wade Whitehead was previously honored with the Milken Family Foundation National Educator Award, Virginia Lottery Super Teacher Award, Roanoke City Public Schools Teacher of the Year Award, and *USA Today* All-USA Teacher Team Award, among others; and

WHEREAS, Wade Whitehead has made significant contributions to the field of education through the Teachers of Promise Foundation, a nonprofit he founded that seeks to identify, elevate, educate, and inspire the best prospective teacher training in colleges and universities across the Commonwealth; and

WHEREAS, Wade Whitehead's classroom is different from those of many other teachers; his students look forward to his class every day; he makes learning fun through games and other hands-on methods of instruction; and

WHEREAS, Wade Whitehead's teaching philosophy is based on his belief that no significant learning is possible without a teacher first establishing a good relationship with his students and their families; and

WHEREAS, admired by his fellow teachers and the administrators at Crystal Spring Elementary School, Wade Whitehead's instruction methods and national achievement embody the excellence that is displayed every day in classrooms throughout Roanoke City Public Schools; and

WHEREAS, Wade Whitehead's successes in the classroom are made possible through the love and support of his wife, Robbie, and their children, Jack and Grace; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Crystal Spring Elementary School fifth grade teacher E. Wade Whitehead, Jr., on his induction into the National Teachers Hall of Fame in 2016; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to E. Wade Whitehead, Jr., as an expression of the General Assembly's admiration for his noteworthy national recognition and continued dedication to educating the students of Roanoke City Public Schools and the Commonwealth.

### HOUSE JOINT RESOLUTION NO. 812

*Celebrating the life of Elizabeth Florence Kennedy LaGrua.*

Agreed to by the House of Delegates, January 27, 2017

Agreed to by the Senate, February 2, 2017

WHEREAS, Elizabeth Florence Kennedy LaGrua, a tireless advocate for social justice in the Staunton community, died on October 25, 2016; and

WHEREAS, Elizabeth LaGrua graduated from Immaculata High School in Chicago, Illinois, where she was a member of the Civil Air Patrol, and, in 1956, she received the Illinois Female Cadet Award from the United States Air Force; and

WHEREAS, Elizabeth LaGrua attended Lewis College in Lockport, Illinois, on a four-year scholarship, and she was the first woman to graduate from the Industrial Arts and Aviation Program in 1959; and

WHEREAS, after earning a master's degree in counseling psychology from Boston College, Elizabeth LaGrua moved to an Indian reservation in Concho, Oklahoma, where she taught high school science and was responsible for planting, harvesting, and canning food for the tribal school; and

WHEREAS, Elizabeth LaGrua next settled in Chester, New Jersey, where she founded Westmont Montessori School, served as the guidance counselor at Black River Middle School, and went on to become a curriculum coordinator for the New Jersey Department of Education; and

WHEREAS, Elizabeth LaGrua was the head coach of the New Jersey Special Olympics Gymnastics Team and coordinated the gymnastics program for the Garden State Games; she also handled publicity for the gymnastics team from Feigley's School Of Gymnastics in South Plainfield, New Jersey, where she reported on her children's accomplishments; and

WHEREAS, at age 40, Elizabeth LaGrua went back to school to learn computer programming, and she went to work as a senior computer systems analyst for Bobst Group in Roseland, New Jersey; and

WHEREAS, after retiring from the Bobst Group, Elizabeth LaGrua settled in Staunton, where she took up social advocacy as her primary profession and became known as a tireless crusader for peace and justice, anti-discrimination policies, and quality health care for all individuals; and

WHEREAS, Elizabeth LaGrua served passionately as a leader in the Augusta Coalition for Peace and Justice, Virginia Organizing Committee, Augusta County Democratic Committee, and on the Social Action Committee of the Waynesboro Unitarian Fellowship; and

WHEREAS, Elizabeth LaGrua was a model of courage and dedication to all who knew her, especially to the younger generation of social activists whom she encouraged; and

WHEREAS, preceded in death by her husband, Michael, and a son, Paul, Elizabeth LaGrua will be fondly remembered and greatly missed by her children, Trish, James, Thomas, Daniel, and Maureen, and their families, and many other relatives and good friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Elizabeth Florence Kennedy LaGrua, a tireless advocate for social justice in the Staunton community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Elizabeth Florence Kennedy LaGrua as an expression of the General Assembly's respect for her memory.

### HOUSE JOINT RESOLUTION NO. 813

*Commending the Chesapeake Bay Foundation.*

Agreed to by the House of Delegates, January 24, 2017

Agreed to by the Senate, January 26, 2017

WHEREAS, the Chesapeake Bay Foundation, a private, nonprofit, multistate organization, opened its first office in Annapolis, Maryland, in 1967 and its Richmond-based office in 1980, with an inspiring, ambitious mission statement to Save the Bay; and

WHEREAS, the Chesapeake Bay Foundation's presence has since grown to include offices in Hampton Roads, Harrisburg, Pennsylvania, and Washington, D.C., and 15 education centers in the three primary Chesapeake Bay states and Washington, D.C.; and

WHEREAS, the Chesapeake Bay Foundation has from its beginning offered private citizens opportunities to support and participate directly in protection and restoration of its namesake estuary; the foundation's total membership recently surpassed 236,000, including 70,118 members in Virginia; and

WHEREAS, with the support of both private and public funding, the Chesapeake Bay Foundation's environmental education program today reaches more than 35,000 students, teachers, administrators, and decision makers each year, providing meaningful on-the-water field trip experiences, teacher training, curriculum materials, restoration programs, and information on real-world issues that have inspired generations of citizens to become lifelong stewards of the Chesapeake Bay; and

WHEREAS, the Chesapeake Bay Foundation's unswerving 50-year dedication to science-based public policy that will truly Save the Bay has supported the development of the Chesapeake Clean Water Blueprint; and

WHEREAS, the Chesapeake Bay Foundation's members and staff have advocated effectively for Clean Water Blueprint laws, regulations, and programs at every level of government that have materially reversed the Chesapeake Bay's decline and begun a recovery process; and

WHEREAS, as part of that recovery process, the Chesapeake Bay Foundation's members and staff have advocated effectively in Virginia, Maryland, and Pennsylvania to support Enhanced Nutrient Removal at wastewater treatment plants, resulting in major water quality gains as those plants have upgraded their processes; and

WHEREAS, the Chesapeake Bay Foundation has partnered with both state and federal agricultural and environmental agencies to help farmers implement conservation measures to protect water quality in rivers and streams and enhance the health and productivity of family farms; and

WHEREAS, the Chesapeake Bay Foundation has worked with local and state government officials, businesses, developers, and citizens to develop effective and innovative programs to address the complex issue of stormwater runoff pollution; and

WHEREAS, the Chesapeake Bay Foundation's fisheries program has contributed materially to conservation and sustainable management of striped bass, blue crabs, oysters, menhaden, and shad, not only in the Bay but also along the Atlantic coast; and

WHEREAS, the Chesapeake Bay Foundation has been a leader in oyster restoration in Virginia and Maryland, operating Oyster Restoration Centers in both states that educate and involve citizen volunteers in restoring the native oyster population in the Chesapeake Bay by growing millions of live oysters and transplanting them onto state oyster reefs; and

WHEREAS, Chesapeake Bay Foundation staff, school students, partner organizations, families, and individual volunteers have successfully completed hundreds of conservation projects in Virginia, Pennsylvania, Maryland, West Virginia, Delaware, and Washington, D.C., including restoring wetlands, forested buffers, streams, and underwater grasses; and

WHEREAS, the Chesapeake Bay Foundation has won two of the nation's highest environmental honors, the President's Environmental and Conservation Challenge Award in 1992 and the National Geographic Society's Chairman Award in 1993, received Virginia's highest conservation honor, the Governor's Environmental Excellence Award for Special Lifetime Achievement, in 1991, and received the 2015 Governor's Environmental Excellence Award; and

WHEREAS, the Chesapeake Bay Foundation has led the efforts to Save the Bay for 50 years and has dedicated itself to the restoration and protection of the Chesapeake Bay, a national treasure and the mid-Atlantic region's greatest natural resource; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Chesapeake Bay Foundation for its outstanding service to the Chesapeake Bay and the region around it on the occasion of its 50th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to William C. Baker, president of the Chesapeake Bay Foundation, as an expression of the General Assembly's gratitude for the foundation's fine work on behalf of the residents of Virginia and the entire Chesapeake Bay watershed.

**HOUSE JOINT RESOLUTION NO. 814**

*Celebrating the life of Joseph Byron Yount III.*

Agreed to by the House of Delegates, January 27, 2017

Agreed to by the Senate, February 2, 2017

WHEREAS, Joseph Byron Yount III, the former city attorney and mayor of the City of Waynesboro who enriched the lives of others as an author, historian, and community activist, died on October 2, 2016; and

WHEREAS, a native of Charlottesville, Joseph Byron "J. B." Yount III graduated from Fishburne Military School and earned undergraduate and law degrees from the University of Virginia; he proudly served the nation as a member of the United States Army before settling in Waynesboro to practice law; and

WHEREAS, desirous to be of further service to his fellow community members, J. B. Yount ran for and was elected to the Waynesboro City Council, serving from 1967 to 1972, including a term as the city's second-youngest mayor from 1970 to 1972; and

WHEREAS, in addition to working as a corporate and estate planning attorney with Edmunds, Willetts, Yount & Hicks and later representing the Crompton Company, J. B. Yount served as city attorney of Waynesboro from 1980 to 2006, including 12 years as city planner; and

WHEREAS, a past president of the Augusta County Historical Society, J. B. Yount produced several widely read historical books and biographies and produced a series on the history of the Presbyterian Church in Waynesboro; he possessed an extensive art collection and regularly attended meetings of the International Byron Society; and

WHEREAS, J. B. Yount was a devoted alumnus of Fishburne Military School throughout his life, serving as a longtime board member and 20-year president of the Fishburne-Hudgins Educational Foundation, which oversees the school; and

WHEREAS, J. B. Yount also worked to strengthen and enhance the community as a member of many civic and service organizations, including the Waynesboro NAACP, and he was named a Paul Harris Fellow for his distinguished service to Rotary International; and

WHEREAS, a man who lived his faith through his actions, J. B. Yount enjoyed fellowship and worship with the community as a devout member of First Presbyterian Church, where he served as an elder; and

WHEREAS, J. B. Yount will be fondly remembered and greatly missed by numerous family members, friends, and colleagues; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Joseph Byron Yount III, a public servant and community leader in the City of Waynesboro; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the staff and cadets of Fishburne Military School as an expression of the General Assembly's respect for the memory of Joseph Byron Yount III.

**HOUSE JOINT RESOLUTION NO. 815**

*Commending the Virginia Tech German Club.*

Agreed to by the House of Delegates, February 3, 2017

Agreed to by the Senate, February 9, 2017

WHEREAS, in 2017, the Virginia Tech German Club is celebrating 125 years as a respected purveyor of service leadership and social fellowship for university students; and

WHEREAS, the Virginia Tech German Club was founded in 1892 to provide a social outlet for the student body, and the name was derived from the German Waltz, which was popular at the time; and

WHEREAS, the motto of the Virginia Tech German Club, the oldest non-Greek fraternal organization on campus, is "Leadership for Service through Fellowship" and its primary goal is service to the university and local communities; and

WHEREAS, each year members of the Virginia Tech German Club devote thousands of hours to service projects such as holiday parties for underprivileged children, the Special Olympics, and campus and community clean-ups; and the club continues to promote fellowship through socials with sororities, club parties, and the traditional Midwinter's Dance; and

WHEREAS, each fall, the Virginia Tech German Club hosts a competition for sororities called Gold Rush, where the winning team receives money toward their chosen charity; over the past 10 years, the Midwinter's Dance and Gold Rush have raised over \$25,000 for philanthropic causes; and

WHEREAS, leadership development is an important tenet of the Virginia Tech German Club, and members are active in leadership positions in academic societies, the Corps of Cadets, student government, and residence halls; and

WHEREAS, eight winners of the prestigious William H. Ruffner Medal have been Virginia Tech German Club alumni and 21 members of the university's board of visitors have been past members of the Virginia Tech German Club, including four rectors; and

WHEREAS, the Virginia Tech German Club offers its house, the German Club Manor, as a service to the university and community; the Manor has hosted more than 500 functions in the past decade and is used for events, meetings, dances, and as a place for alumni to stay; and

WHEREAS, the Virginia Tech German Club has adapted to the changes of the past 125 years but remains unified by the "pillars of strength," which are Gentleman, Earnestness, Reputation and Responsibility, Manhood, Aim, and Name; and

WHEREAS, there are 1,800 living alumni of the German Club who support the organization through the German Club Alumni Foundation Inc. (GCAF), which promotes fellowship and camaraderie among alumni and supports current club members; and

WHEREAS, the GCAF partners with area nonprofit organizations to present the annual Leading Lights: Neighbors Honoring Neighbors awards, which recognize volunteers in the New River Valley community, and over \$38,000 has been given to recipients to promote volunteerism; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Virginia Tech German Club on the 125th anniversary of its founding; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Alfred Fusco, president of the Virginia Tech German Club, as an expression of the General Assembly's admiration for the club's lasting history as the oldest non-Greek fraternal organization on campus.

### HOUSE JOINT RESOLUTION NO. 816

*Commending the Student Government Association of Virginia Polytechnic Institute and State University.*

Agreed to by the House of Delegates, February 3, 2017

Agreed to by the Senate, February 9, 2017

WHEREAS, the Student Government Association of Virginia Polytechnic Institute and State University was established in 1966 in order to provide an effective organization for the administration of student activities and promote academic freedom and academic responsibility; and

WHEREAS, the Student Government Association of Virginia Polytechnic Institute and State University (Virginia Tech) seeks to establish and protect student rights and provide a liaison between its student body, faculty, and administration; and

WHEREAS, the Student Government Association of Virginia Tech is committed to fostering awareness of the students' positions in the campus, local, state, and national communities; and

WHEREAS, the Student Government Association of Virginia Tech celebrated its 50th anniversary in April 2016, and continues to effectively support the Virginia Tech student body, faculty, and administration for a representative and enhanced lifestyle; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Student Government Association of Virginia Polytechnic Institute and State University on the occasion of its 50th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Student Government Association of Virginia Polytechnic Institute and State University as an expression of the General Assembly's admiration for its efforts to support the university and its students.

### HOUSE JOINT RESOLUTION NO. 817

*Commending the Virginia Polytechnic Institute and State University football team.*

Agreed to by the House of Delegates, February 3, 2017

Agreed to by the Senate, February 9, 2017

WHEREAS, the Virginia Polytechnic Institute and State University football team completed an outstanding season by defeating the University of Arkansas 35-24 at the Belk Bowl in Charlotte, North Carolina, on December 29, 2016; and

WHEREAS, during the Belk Bowl, the Virginia Polytechnic Institute and State University (Virginia Tech) Hokies came back from a 24-point halftime deficit, completing their largest comeback since at least the start of the 1987 season; and

WHEREAS, the Virginia Tech Hokies finished the season with an impressive 10-4 record and were named the 2016 Atlantic Coast Conference (ACC) Coastal Division champions for the first time since 2011; and

WHEREAS, the 2016 Belk Bowl marked the Virginia Tech Hokies' 24th consecutive bowl game appearance; and

WHEREAS, Justin Fuente, the first-year head coach of the Virginia Tech football team, was named the ACC Coach of the Year for his exceptional leadership; and

WHEREAS, the student-athletes of the Virginia Tech football team were able to succeed on the field and maintain an overall National Collegiate Athletic Association Graduation Success Rate of 89 percent, 15 points higher than the national rate and the fourth best in the ACC; and

WHEREAS, Virginia Tech Athletic Director Whit Babcock and Justin Fuente orchestrated a respectful and successful coaching and staff transition while maintaining the integrity and winning tradition of the Hokie Nation both on and off the field; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Virginia Polytechnic Institute and State University football team on winning the Belk Bowl in 2016; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Justin Fuente, head coach of the Virginia Polytechnic Institute and State University football team, as an expression of the General Assembly's admiration for the team's achievements and contributions to Hokie Nation.

### HOUSE JOINT RESOLUTION NO. 818

*Celebrating the life of the Honorable Alan E. Mayer.*

Agreed to by the House of Delegates, January 27, 2017

Agreed to by the Senate, February 2, 2017

WHEREAS, the Honorable Alan E. Mayer, a patriotic veteran, a distinguished former member of the Central Intelligence Agency, and a longtime public servant in the Virginia House of Delegates, died on December 4, 2016; and

WHEREAS, a native of Annapolis, Maryland, Alan Mayer earned degrees from the University of Maryland and the University of Virginia, and he joined many of the other young men of his generation in service to the nation during World War II as a member of the United States Navy; and

WHEREAS, in addition to serving in the United States Navy Reserve for many years, Alan Mayer worked to safeguard the nation as a member of the Central Intelligence Agency, earning the Intelligence Medal of Merit; and

WHEREAS, desirous to be of further service to the Commonwealth, Alan Mayer ran for and was elected to the Virginia House of Delegates, representing the residents of Fairfax County in the 39th District from 1986 to 1996; and

WHEREAS, throughout his career in the Virginia House of Delegates, Alan Mayer introduced and supported many important pieces of legislation for the benefit of all Virginians, taking a special interest in legislation to enhance the quality of life for individuals with brain injuries; and

WHEREAS, demonstrating great integrity, Alan Mayer served the Fairfax County community, the Commonwealth, and the United States with the utmost dedication and distinction; and

WHEREAS, a devoted family man, Alan Mayer will be fondly remembered and greatly missed by his wife, Grace; children, Christopher, Margery, and Geoff, and their families; and numerous other relatives, friends, and colleagues on both sides of the aisle; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of the Honorable Alan E. Mayer, a respected veteran and public servant; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of the Honorable Alan E. Mayer as an expression of the General Assembly's respect for his memory.

### HOUSE JOINT RESOLUTION NO. 819

*Commending the Upsilon Nu Chapter of Omega Psi Phi Fraternity, Inc.*

Agreed to by the House of Delegates, January 27, 2017

Agreed to by the Senate, February 2, 2017

WHEREAS, the Upsilon Nu Chapter of Omega Psi Phi Fraternity, Inc., has engaged in tireless volunteer and community action efforts in the greater Richmond area for the past 46 years; and

WHEREAS, the Upsilon Nu Chapter was chartered in October 1971, and since that time its members have been actively engaged in the Richmond community, participating in activities such as the national Martin Luther King, Jr. Day of Service, voter registration efforts, and the Million Man March, among others; and

WHEREAS, in April 2016, the Upsilon Nu Chapter received the Social Action Chapter of the Year award, a recognition of the members' outstanding volunteer efforts among 39 other Omega Psi Phi Fraternity Chapters in Virginia and Washington, D.C.; and

WHEREAS, in July 2016, Richmond Mayor Dwight Clinton Jones issued a proclamation recognizing the Upsilon Nu Chapter's many years of community service in the greater Richmond area; and

WHEREAS, the Upsilon Nu Chapter's honorable social action efforts have been spearheaded by its leadership team, many of whom have been awarded Omega Man of the Year for their unwavering dedication to the community; and

WHEREAS, since 1976, the Upsilon Nu Scholarship and Social Action Foundation has awarded more than \$280,000 in scholarships to college-bound high school seniors in the greater Richmond area; and

WHEREAS, members of the Upsilon Nu Chapter have exemplified the Omega Psi Phi Fraternity's principles of manhood, scholarship, perseverance, and uplift; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Upsilon Nu Chapter of Omega Psi Phi Fraternity, Inc., for its tireless volunteer and community action efforts in the greater Richmond area for the past 46 years; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Upsilon Nu Chapter of Omega Psi Phi Fraternity, Inc., as an expression of the General Assembly's admiration for the organization's outstanding commitment to improving the lives of the citizens of greater Richmond.

### HOUSE JOINT RESOLUTION NO. 820

*Commending LeRoy John Essig, M.D.*

Agreed to by the House of Delegates, January 27, 2017  
Agreed to by the Senate, February 2, 2017

WHEREAS, LeRoy John Essig, M.D., who touched the lives of countless cancer patients as the Fredericksburg area's first oncologist, retired in September 2016 after more than four decades of providing expert care; and

WHEREAS, a graduate of The Ohio State University, Dr. Essig was hired by Pratt Medical Center as an oncologist in 1975; early in his career, he also practiced hematology and family medicine; and

WHEREAS, Dr. Essig served generations of family members through what was often the most stressful period of their lives; he witnessed numerous changes and advances to the treatment of cancer during his 40-year career, and in 1985, he established his own oncology practice to better serve patients; and

WHEREAS, having supported his late wife, Ann, through her own cancer treatment and recovery, Dr. Essig put people at ease with his honesty, sincerity, and natural empathy, and he worked hard to build strong, personal relationships with each of his patients and their families; and

WHEREAS, staffed by an expert team of compassionate nurses, Dr. Essig's office was specially designed, based on his wife's personal experiences as a cancer patient; he offered unique treatment plans for each patient based on their needs and preferences; and

WHEREAS, a devout man, Dr. Essig lived his faith through his tireless service and care for members of the community; after his well-earned retirement, he plans to spend more time with his four grown children and 11 grandchildren; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend LeRoy John Essig, M.D., on the occasion of his retirement as a physician in 2016; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to LeRoy John Essig, M.D., as an expression the General Assembly's admiration for his contributions to the Fredericksburg community.

### HOUSE JOINT RESOLUTION NO. 821

*Commending Arva Priola.*

Agreed to by the House of Delegates, January 27, 2017  
Agreed to by the Senate, February 2, 2017

WHEREAS, Arva Priola, a passionate advocate for the deaf and hard of hearing, who dedicated her life to strengthening the community by improving communication access, retired from the disAbility Resource Center in Fredericksburg in 2016 after more than 21 years of service; and

WHEREAS, a resident of Spotsylvania County, Arva Priola lost her hearing in 1989 and resolved to use her personal experiences to help others by working to eliminate stigmas on hearing loss and help members of the deaf and hard-of-hearing communities lead fuller lives; and

WHEREAS, Arva Priola took a special interest in improving public safety by enhancing communication between the members of the deaf and hard-of-hearing communities and law-enforcement officers and first responders; and

WHEREAS, in 2002, Arva Priola created the Visor Alert program, which distributed high-visibility placards printed with the universal symbol for hearing loss, a broken ear, that individuals could place on their vehicles; and

WHEREAS, Arva Priola's Visor Alert program, which also included wallet-sized identification cards, was endorsed by the Virginia Department of Motor Vehicles, the Virginia Association of Chiefs of Police, and the Virginia Department for the Deaf and Hard of Hearing; and

WHEREAS, in 2015, Arva Priola helped establish national guidelines for hospital workers, and the broken ear symbol is now used on hospital charts, allowing caregivers to quickly identify and better serve hearing-impaired patients; and

WHEREAS, Arva Priola also worked with community and business partners to provide information and education on the tools available to members of the deaf and hard-of-hearing communities, such as vibrating alarm clocks, video relay systems for sign language, and phones that display text; and

WHEREAS, throughout her career, Arva Priola was honored at the state and national levels for her good work; after her well-earned retirement, she plans to spend more time with her three children and their families; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Arva Priola, a devoted advocate for the deaf and hard of hearing, on the occasion of her retirement from the disAbility Resource Center in 2016; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Arva Priola as an expression of the General Assembly's admiration for her legacy of service to people with disabilities throughout the United States.

**HOUSE JOINT RESOLUTION NO. 822**

*Commending the Arcola Elementary School Chorus.*

Agreed to by the House of Delegates, January 27, 2017

Agreed to by the Senate, February 2, 2017

WHEREAS, the Arcola Elementary School Chorus of Loudoun County sang the national anthem at a National Basketball Association game in Washington, D.C., in 2017; and

WHEREAS, the Arcola Elementary School Chorus is a group of hardworking fourth-grade and fifth-grade students, who volunteer to enrich the community through choral music concerts; and

WHEREAS, the Arcola Elementary School Chorus singers practice once a week and create beautiful two-part and three-part choral harmonies, incorporating various genres and styles; and

WHEREAS, the Arcola Elementary School Chorus was invited to sing the national anthem at a Washington Wizards home game on January 16, 2017, at the Verizon Center, which was televised on Comcast SportsNet; and

WHEREAS, the Arcola Elementary School Chorus has previously performed at the National Christmas Tree Lighting and the National Cherry Blossom Festival in Washington, D.C., as well as other sporting events and community gatherings throughout Loudoun County; and

WHEREAS, the Arcola Elementary School Chorus has brought positive national attention to the exceptional students of the Arcola Elementary School; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Arcola Elementary School Chorus for their performance singing the national anthem at a National Basketball Association game in 2017; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Arcola Elementary School Chorus as an expression of the General Assembly's admiration for the singers' talents and dedication and best wishes for the future.

**HOUSE JOINT RESOLUTION NO. 823**

*Designating September, in 2017 and in each succeeding year, as Polycystic Ovarian Syndrome Awareness Month in Virginia.*

Agreed to by the House of Delegates, February 6, 2017

Agreed to by the Senate, February 14, 2017

WHEREAS, polycystic ovarian syndrome is a genetic, metabolic, reproductive, and hormonal endocrine disorder that affects as many as five million women in the United States and is characterized by the presence of cysts on the ovaries, combined with the absence of ovulation; and

WHEREAS, as one of the leading causes of infertility, polycystic ovarian syndrome affects an estimated one in 10 women of childbearing age, and while the cause of polycystic ovarian syndrome (PCOS) is unknown, most experts believe that several factors, including genetics, could play a role; and

WHEREAS, PCOS can begin in the teenage years with symptoms such as irregular or no menstrual periods, acne, obesity, weight gain, inability to lose weight, breathing problems while sleeping, depression, oily skin, infertility, skin discolorations, high cholesterol levels, elevated blood pressure, excess or abnormal hair growth and distribution, pain in the lower abdomen and pelvis, multiple ovarian cysts, or skin tags; and

WHEREAS, women with PCOS have greater chances of developing several serious, life-threatening health conditions; women with PCOS are three times more likely to develop endometrial cancer and comprise the largest population of women at risk for cardiovascular disease and type 2 diabetes; and

WHEREAS, PCOS is one of the most misunderstood and underserved health conditions, and less than 50 percent of cases are accurately diagnosed, leaving millions of women at risk; and

WHEREAS, there is no known cure for PCOS, but by making lifestyle changes and small changes to diet and exercise, women afflicted with the disease can not only feel better but improve their chances of conception by up to 10 percent; and

WHEREAS, women with PCOS demonstrate great fortitude and resilience in dealing with the symptoms and related disorders; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly designate September, in 2017 and in each succeeding year, as Polycystic Ovarian Syndrome Awareness Month in Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates transmit a copy of this resolution to the Virginia Department of Health so that members of the agency may be apprised of the sense of the General Assembly of Virginia in this matter; and, be it

RESOLVED FINALLY, That the Clerk of the House of Delegates post the designation of this month on the General Assembly's website.

#### HOUSE JOINT RESOLUTION NO. 824

*Commending Colonel Edward D. Shames, USA, Ret.*

Agreed to by the House of Delegates, January 27, 2017

Agreed to by the Senate, February 2, 2017

WHEREAS, Colonel Edward D. Shames, USA, Ret., the last surviving officer of the famed Easy Company, 2nd Battalion, 506th Parachute Infantry Regiment, 101st Airborne Division, served the United States with distinction during World War II; and

WHEREAS, a native of Virginia Beach, Edward "Ed" D. Shames read about and applied to join one of the United States Army's new paratrooper units and was assigned to Item Company, 3rd Battalion, 506th Parachute Infantry Regiment as a private in 1942; and

WHEREAS, Ed Shames was promoted to operations sergeant after he demonstrated an aptitude for building tactical sand tables, which were crucial to the planning for Operation Overlord, the invasion of Normandy; and

WHEREAS, Ed Shames made his first combat jump into France as part of Operation Overlord in June 1944 and received a battlefield commission as a second lieutenant in recognition of his leadership ability; and

WHEREAS, Ed Shames was transferred to Easy Company and took command of the company's third platoon during Operation Market Garden in Holland and volunteered for the Operation Pegasus rescue operation; and

WHEREAS, during the Battle of the Bulge in the Ardennes Forest, when elements of the 101st Airborne were surrounded and severely outnumbered by Nazi forces, Ed Shames cemented his reputation as a tough but formidable leader; and

WHEREAS, Ed Shames' valiant actions have been immortalized in books and other media, such as *Airborne: The Combat Story of Ed Shames of Easy Company*, *Tonight We Die As Men: The untold story of Third Battalion 506 Parachute Infantry Regiment from Tocchoa to D-Day*, and the HBO miniseries *Band of Brothers*; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Colonel Edward D. Shames, USA, Ret., the last surviving officer of Easy Company, 2nd Battalion, 506th Parachute Infantry Regiment, 101st Airborne Division; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Colonel Edward D. Shames, USA, Ret., as an expression of the General Assembly's admiration for his exceptional service in defense of the nation during World War II.

#### HOUSE JOINT RESOLUTION NO. 825

*Commending the Westfield High School boys' basketball team.*

Agreed to by the House of Delegates, February 17, 2017

Agreed to by the Senate, February 22, 2017

WHEREAS, the Westfield High School boys' basketball team from Chantilly secured its first state title, winning the Virginia High School League Group 6A state championship in March 2016; and

WHEREAS, after taking an early double-digit lead, the Westfield High School Bulldogs defeated the Oscar Smith High School Tigers 74-56 in the state final, which was held at the Siegel Center in Richmond; and

WHEREAS, senior Blake Francis led the Westfield Bulldogs with 23 points; overall, the team shot nearly 43 percent from behind the arc and recorded 34 rebounds in their dominant performance; and

WHEREAS, Westfield High School became the first Fairfax County school to win a state basketball championship since 1981 and the first school in Virginia to win state titles in both basketball and football in the Commonwealth's highest classification in the same academic year since 1988; and

WHEREAS, the Westfield Bulldogs' victory is a testament to the skill and determination of all of the student-athletes, the leadership of the coaches and staff, and the enthusiastic support of the entire Westfield High School community; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Westfield High School boys' basketball team on winning the Virginia High School League Group 6A state championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Doug Ewell, head coach of the Westfield High School boys' basketball team, as an expression of the General Assembly's admiration for the team's achievements.

**HOUSE JOINT RESOLUTION NO. 826**

*Commending the Westfield High School football team.*

Agreed to by the House of Delegates, February 17, 2017

Agreed to by the Senate, February 22, 2017

WHEREAS, the Westfield High School football team defended its 2015 state title and won the Virginia High School League Group 6A state championship on December 10, 2016; and

WHEREAS, the Westfield High School Bulldogs defeated the Oscar Smith High School Tigers by a score of 34-28 in a double overtime thriller, which was also a rematch of the 2015 state championship; and

WHEREAS, early in the season, the Westfield Bulldogs, who finished with a 13-2 record, relied on their staunch defense to close out games, until the offense hit its stride and began averaging 38 points per game; and

WHEREAS, in the state championship, quarterback Rehman Johnson went 14 of 26 for 221 yards and four touchdowns, spreading the ball out to five different receivers; the team weathered a surge by the Oscar Smith Tigers and again relied on its defense, which made a crucial goal-line stand on the last play of the game; and

WHEREAS, the victory is a tribute to the skill and determination of all of the student-athletes, the leadership and guidance of the coaches and staff, and the passionate support of the entire Westfield High School community; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Westfield High School football team on winning the Virginia High School League Group 6A state championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Kyle Simmons, head coach of the Westfield High School football team, as an expression of the General Assembly's admiration for the team's athletic achievements.

**HOUSE JOINT RESOLUTION NO. 827**

*Commending the Northwood High School girls' basketball team.*

Agreed to by the House of Delegates, January 27, 2017

Agreed to by the Senate, February 2, 2017

WHEREAS, the undefeated Northwood High School girls' basketball team of Saltville won the program's first ever state championship, claiming the Virginia High School League Group 1A title in March 2016; and

WHEREAS, the Northwood Panthers capped off a perfect 29-0 season with a 57-52 victory over the Appomattox Regional Governor's School Dragons at the state final in Richmond; and

WHEREAS, the Northwood High School girls' basketball team included five senior starters—Alex Doane, Kelsey Puckett, A. J. Spence, and Peyton Williams, as well as Tayler Broyles, who led the team with 18 points; and

WHEREAS, the Northwood Panthers were ably led by head coach Tammy Gillespie, who was named Coach of the Year by the Virginia High School Coaches Association; she retired as coach at the end of the season after 13 years and more than 200 career wins; and

WHEREAS, the Northwood Panthers' exceptional season is a testament to the skill and hard work of all the student-athletes, the leadership of the coaches and staff, and the passionate support of the entire Northwood High School community; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Northwood High School girls' basketball team on winning the Virginia High School League Group 1A state championship in 2016; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Northwood High School girls' basketball team as an expression of the General Assembly's admiration for the team's outstanding achievements.

**HOUSE JOINT RESOLUTION NO. 828**

*Commending the Marion High School girls' volleyball team.*

Agreed to by the House of Delegates, January 27, 2017

Agreed to by the Senate, February 2, 2017

WHEREAS, the Marion High School girls' volleyball team was victorious in the Virginia High School League Group 2A state championship on November 19, 2016; and

WHEREAS, the Marion High School Scarlet Hurricanes defeated Staunton's Robert E. Lee High School Fighting Leemen in straight sets at the Stuart C. Siegel Center in Richmond; and

WHEREAS, the Marion Scarlet Hurricanes were led by senior Callee Cox, the Virginia High School League Group 2A volleyball state player of the year, who had 11 kills in the championship game, and Gracie Billings and Stella Sturgill, who had 18 assists and 13 assists, respectively; and

WHEREAS, all members of the Marion High School volleyball team worked hard and were dedicated to their goal of returning to the Group 2A state championship game for the second year in a row and finishing the business of winning the title; and

WHEREAS, Marion Scarlet Hurricanes head coach Amanda Hanshew was recognized as Group 2A volleyball state coach of the year by the Virginia High School League for her impressive leadership and motivation of the team; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Marion High School girls' volleyball team for their victory in the Virginia High School League Group 2A state championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Amanda Hanshew, Marion High School girls' volleyball head coach, as an expression of the General Assembly's admiration for the team's outstanding 2016 championship season.

**HOUSE JOINT RESOLUTION NO. 829**

*Commending the James Madison University football team.*

Agreed to by the House of Delegates, January 27, 2017

Agreed to by the Senate, February 1, 2017

WHEREAS, the James Madison University football team earned its second national title on January 7, 2017, winning the National Collegiate Athletic Association Division I FCS Championship; and

WHEREAS, the James Madison University Dukes defeated the Youngstown State University Penguins by a score of 28-14 before a roaring crowd of more than 14,000 people at Toyota Stadium in Frisco, Texas; and

WHEREAS, in the nationally televised championship game, the James Madison Dukes took an early lead thanks to crucial special teams plays; a blocked punt led to a touchdown pass from quarterback Bryan Schor to tight end Jonathan Kloosterman and, after a shanked punt by Youngstown State University, the Dukes regained the ball at midfield, leading to a touchdown pass from Bryan Schor to wide receiver Rashard Davis in the first five minutes of the game; and

WHEREAS, the James Madison Dukes held the Youngstown State University's potent offense to only 21 rushing yards as James Madison's Khalid Abdullah rushed for an additional two touchdowns, including the game winner, in the second and third quarters; and

WHEREAS, senior Khalid Abdullah earned the Most Outstanding Player award for his 101-yard, two-score performance and broke the James Madison University football team's single-season record for rushing yards; he was also named the American Sports Network FCS Player of the Year; and

WHEREAS, the James Madison Dukes finished the season with a 14-1 record and were undefeated in the Colonial Athletic Association (CAA); with 12 consecutive wins, the team holds the longest active win streak in Division I and was the first CAA team to win multiple national championships; and

WHEREAS, the James Madison Dukes led the nation in winning percentage and scoring margin, and ranked second in points scored; Mike Houston, head coach of the James Madison Dukes, was named the American Football Coaches Association National Coach of the Year and the CAA Coach of the Year for his exceptional leadership; and

WHEREAS, seven James Madison Dukes were named All-Americans and 14 players were All-CAA honorees; the team will return 12 of 22 starters in the 2017-2018 season, including Bryan Schor, who was named CAA Offensive Player of the Year and received the Bill Dudley Award as Virginia's top Division I football player; and

WHEREAS, the James Madison Dukes' national championship victory is a tribute to the skill and determination of the student-athletes, the leadership and guidance of the coaches and staff, and the energetic support of the entire James Madison University community; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the James Madison University football team for winning the National Collegiate Athletic Association Division I FCS championship in 2017; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Mike Houston, head coach of the James Madison University football team, and Jonathan R. Alger, president of James Madison University, as an expression of the General Assembly's admiration for the team's hard work and athletic achievements.

**HOUSE JOINT RESOLUTION NO. 830**

*Commending Sam Rogers.*

Agreed to by the House of Delegates, February 3, 2017

Agreed to by the Senate, February 9, 2017

WHEREAS, Sam Rogers, a versatile fullback with the Virginia Polytechnic Institute and State University football team capped off his senior season with a win in the Belk Bowl on December 29, 2016; and

WHEREAS, a native of Mechanicsville, Sam Rogers played football with the Hanover High School Hawks, starting at quarterback in his freshman and sophomore years, transitioning to linebacker and tight end after an injury in his junior year, and playing multiple positions, including quarterback, in his senior year; he was recognized as the *Richmond Times-Dispatch* All-Metro Offensive Player of the Year in 2012; and

WHEREAS, Sam Rogers joined the Virginia Polytechnic Institute and State University (Virginia Tech) football team as a walk-on in 2013; he earned a starting spot at fullback in his freshman year and went on to play in 53 straight games in his college career, finishing with a 32-21 record and 11 career touchdowns; and

WHEREAS, during the 2016 season, Sam Rogers led the Virginia Tech Hokies as team captain; he scored six touchdowns and amassed 283 yards on 67 rushing attempts, averaging 4.2 yards per carry, and 301 yards on 24 receptions, averaging 12.5 yards; and

WHEREAS, on November 26, 2016, Sam Rogers helped lead the Virginia Tech Hokies to a 52-10 victory over the University of Virginia Cavaliers in the Atlantic Coast Conference Coastal Division championship; wearing the number 25 jersey of Virginia Tech legend Frank Beamer, Sam Rogers recorded 105 yards in 15 carries for two touchdowns; and

WHEREAS, during the 2016 Belk Bowl, a dramatic 35-24 win over the University of Arkansas, Sam Rogers caught two receptions for 14 yards and one touchdown; and

WHEREAS, a dynamic player who was admired throughout his career for his toughness, work ethic, and intelligence, Sam Rogers demonstrated leadership on and off the field; an excellent student, he graduated in three and a half years with a 3.2 GPA and a bachelor's degree in human nutrition, foods, and exercise, a restricted major requiring students to maintain high grades; and

WHEREAS, as a devoted member of the Fellowship of Christian Athletes, Sam Rogers led group meetings and shared his faith with fellow members of the football team as a junior chaplain; he was also a member of the Student Hokie Club, which provides scholarships to Virginia Tech's student-athletes; and

WHEREAS, in 2016, Sam Rogers was named the Outstanding Senior and Outstanding Offensive Back by his teammates, and he was recognized nationally as a Second Team All-American by *Pro Football Focus*; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Sam Rogers for his exceptional college football career with Virginia Polytechnic Institute and State University; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Sam Rogers as an expression of the General Assembly's admiration for his incredible athletic achievements and best wishes for the future.

**HOUSE JOINT RESOLUTION NO. 831**

*Commending Andrew Gurowitz.*

Agreed to by the House of Delegates, February 3, 2017

Agreed to by the Senate, February 9, 2017

WHEREAS, Andrew Gurowitz, the owner of Fairfax Motors in Fairfax was named the Virginia Independent Automobile Dealer Association's Quality Dealer of the Year for 2015; and

WHEREAS, the Virginia Independent Automobile Dealers Association (VIADA) Quality Dealer of the Year award recognizes independent automobile dealers for their contributions to the industry, community and professional service, and adherence to a code of ethics; and

WHEREAS, Andrew Gurowitz began his interest in the car industry while working for his family's car rental business as a teenager, and he has been the owner of Fairfax Motors since 1993; and

WHEREAS, Andrew Gurowitz and Fairfax Motors grew from one desk and 12 parking spots in 1993 to its own facility with 100 cars today; and

WHEREAS, Andrew Gurowitz was named Top 100 Dealer from Manheim's Auto Auction group; and

WHEREAS, Andrew Gurowitz has made many contributions to VIADA throughout his career, serving as vice-president from 1999-2001 and 2003-2015; and

WHEREAS, Andrew Gurowitz and Fairfax Motors support the community by providing discounts to all military members and their families, as well as all teachers, firefighters, police, EMT and others in the service professions, and by donating cars and vans to the Jewish Community Center in Fairfax; and

WHEREAS, Andrew Gurowitz is an active member of the Fairfax community, serving on the board of the Home Owners' Association; sponsoring the City of Fairfax George Mason University Diversity Scholarship and the Sleep In at Fairfax High School for graduation; and supporting the Fairfax Family Foster Care graduations, local sports leagues, and activities at the synagogue and community center; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Andrew Gurowitz on his selection as the Virginia Independent Automobile Dealers Association Quality Dealer of the Year for 2015; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Andrew Gurowitz as an expression of the General Assembly's admiration for his achievement and best wishes in his future endeavors.

**HOUSE JOINT RESOLUTION NO. 832**

*Commending Sister To Sister.*

Agreed to by the House of Delegates, February 3, 2017

Agreed to by the Senate, February 9, 2017

WHEREAS, Sister To Sister is a community service organization affiliated with Hampton University that for 25 years has fulfilled a mission of empowering school-aged African American girls to reach their potential academically, behaviorally, and socially; and

WHEREAS, Sister To Sister was founded in 1992 by Hakima Abdul Samad Muhammad and Dr. Pamela D. Hall, as a way to offer positive solutions to the daily issues inner city families face; and

WHEREAS, inspired by the community support group Black Women in Focus, Sister To Sister was created as a campus organization for women students at Hampton University, giving them a way to serve as mentors and role models to at-risk youth in the Peninsula area; and

WHEREAS, for the past 25 years, Sister To Sister mentors have inspired millions of young women through the "Each One Teach One" motto, striving to instill the values of respect, self-worth, self-love, and self-betterment in girls ages six to 17; and

WHEREAS, one of Sister To Sister's best vehicles for outreach is the S.U.P.E.R. (Supreme, Unity, Perpetuating, Eternal, and Revolution) Saturday enrichment program, designed to address life skills, leadership, community service, civic involvement, and other social values; and

WHEREAS, the mayors of Hampton and Newport News proclaimed March 30, 2013, as Sister To Sister Day to recognize the positive influence that the organization has had on the development of the area's young women; and

WHEREAS, Sister To Sister is an excellent example of how college students can partner with local civic groups to have a profound effect on the lives of those most vulnerable and needy in the community; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Sister To Sister on 25 years of empowering and uplifting school-aged African American girls in Hampton and Newport News; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Hampton University Sister To Sister as an expression of the General Assembly's admiration for the organization's dedication to improving the life outlook of the girls and young women of the Peninsula.

**HOUSE JOINT RESOLUTION NO. 833**

*Commending Marvin Garber.*

Agreed to by the House of Delegates, February 3, 2017

Agreed to by the Senate, February 9, 2017

WHEREAS, Marvin Garber, an admired community leader in Augusta County who has dedicated his life to the service of others, celebrated 70 years as a Ruritan in 2015; and

WHEREAS, since 1928, Ruritan Clubs have dedicated themselves to improving communities and building a better America through fellowship, goodwill, and community service; and

WHEREAS, impressed by the work the New Hope Ruritan Club was doing, Marvin Garber joined the club in 1945, at which time the club had only 20 members, all of whom were farmers; and

WHEREAS, Marvin Garber joined the Bridgewater Virginia Ruritan Club in 1991; in addition to maintaining 67 years of perfect attendance at monthly Ruritan meetings, he has also served as a club president three times; and

WHEREAS, as a member of both clubs, Marvin Garber cleaned up litter on the highway, held fundraising dinners to support charitable causes, and organized an initiative to encourage the local government to install street lamps; and

WHEREAS, in the 1960s, Marvin Garber helped secure land and build a house to encourage a new doctor to join the community after the previous doctor had retired; the combination home and doctor's office was in use for 20 years; and

WHEREAS, Marvin Garber strives to inspire young people to a life of service and is a trusted mentor and friend to many in the Augusta County community; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Marvin Garber for his 70 years of service as a Ruritan; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Marvin Garber as an expression of the General Assembly's admiration for his loyal service to the residents of Augusta County.

**HOUSE JOINT RESOLUTION NO. 834**

*Commending Blue Ridge Community College.*

Agreed to by the House of Delegates, February 3, 2017

Agreed to by the Senate, February 9, 2017

WHEREAS, for 50 years, Blue Ridge Community College in Augusta County has provided students with exceptional educational opportunities and made numerous important contributions to the region; and

WHEREAS, Cletus and Charlotte Houff acquired land in Weyers Cave and subsequently provided that land for the establishment of a community college; and

WHEREAS, a small group of community leaders broke ground on that land in August of 1966 to establish Blue Ridge Community College; and

WHEREAS, the first students began classes at Blue Ridge Community College on October 2, 1967, at 8:00 a.m.; and

WHEREAS, Blue Ridge Community College has offered college transfer, career and technical, workforce training, and personal enrichment courses to more than 130,000 students since 1967; and

WHEREAS, Blue Ridge Community College has graduated more than 17,681 students, who have earned degrees, diplomas, and certificates; and

WHEREAS, Blue Ridge Community College has served the education and workforce needs of more than 2,500 local business and industry partners in fulfillment of its mission for more than half a century; and

WHEREAS, Blue Ridge Community College has served a key role in regional economic development, in partnership with local governments, economic developers, other education providers, and community leaders; and

WHEREAS, Blue Ridge Community College faculty, staff, administrators, and students have brought honor and positive recognition to Weyers Cave and the Commonwealth; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Blue Ridge Community College on the occasion of its 50th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to John A. Downey, president of Blue Ridge Community College, as an expression of the General Assembly's admiration for the college's legacy of academic excellence and service to the community.

**HOUSE JOINT RESOLUTION NO. 835**

*Commending Fredericksburg Academy.*

Agreed to by the House of Delegates, February 3, 2017

Agreed to by the Senate, February 9, 2017

WHEREAS, Fredericksburg Academy, located in Spotsylvania County, celebrated 25 years of independent educational excellence during the 2016-2017 school year; and

WHEREAS, Fredericksburg Academy was established to provide local families the opportunity to send their children to an independent school, an option that did not exist in the Fredericksburg region at the time; and

WHEREAS, Fredericksburg Academy was founded as a coeducational, nonsectarian school and opened on September 8, 1992, with 60 students aged pre-kindergarten through eighth grade; and

WHEREAS, after Fredericksburg Academy's enrollment doubled, the academy moved to its current location in Spotsylvania County in 1993; that same year, the academy opened its Upper School division with ninth grade, and added one grade level in each subsequent year; and

WHEREAS, the Class of 1997 became Fredericksburg Academy's first graduating class; and

WHEREAS, Fredericksburg Academy dedicated the John and Virginia Hazel Sports Center in 1998; and

WHEREAS, on November 3, 2000, the Constance Suzanne O'Connell Memorial Library and Computer Center was dedicated in memory of Fredericksburg Academy student Connie O'Connell; and

WHEREAS, Fredericksburg Academy established a permanent home for its Upper School and dedicated the Hazel Family Arts and Sciences building in 2004; and

WHEREAS, in recognition of the significant role of the Quarles family and The Gladys T. Quarles Charitable Trust in the founding of Fredericksburg Academy, the Board of Trustees dedicated the Middle School facility as the Gladys T. Quarles Building on December 19, 2007; and

WHEREAS, the Class of 2016 became Fredericksburg Academy's 20th graduating class; and

WHEREAS, in its 25-year history, 100 percent of Fredericksburg Academy graduates have been admitted to four-year colleges and universities; and

WHEREAS, Fredericksburg Academy remains the region's only truly independent school; and

WHEREAS, Karen Moschetto, the fourth head of school of Fredericksburg Academy, who has served since 2010, and the Board of Trustees, Fredericksburg Academy's governing body, will ably guide the academy into the next 25 years of fulfilling its mission to inspire and empower students to discover, to engage, and to imagine the limitless nature of themselves and the world; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Fredericksburg Academy on the occasion of its 25th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Karen Moschetto, head of school of Fredericksburg Academy, as an expression of the General Assembly's admiration for the school's contributions to Spotsylvania County.

#### HOUSE JOINT RESOLUTION NO. 836

*Commending Hampton Roads Community Action Program.*

Agreed to by the House of Delegates, February 3, 2017

Agreed to by the Senate, February 9, 2017

WHEREAS, for more than 50 years, Hampton Roads Community Action Program has engaged in relentless efforts to mobilize and coordinate community resources in order to help poor and disenfranchised citizens improve their economic circumstances; and

WHEREAS, the mission of Hampton Roads Community Action Program (HRCAP) is promoting self-sufficiency and prosperity for all residents in southeastern Virginia, waging an incessant battle in the war on poverty by helping low-income and working-poor families overcome economic setbacks; and

WHEREAS, founded as the Newport News Office of Economic Opportunity, later known as the Office of Human Affairs, and changed in 2015 to HRCAP, the organization first opened its doors in February 1966; and

WHEREAS, Norvleate Downing Gross served as the organization's first executive director, and as a result of her leadership, diligence, and tenacity, HRCAP became a beacon of social service in the community; and

WHEREAS, HRCAP serves the Cities of Chesapeake, Hampton, Newport News, Norfolk, and Portsmouth, administering programs in housing, employment, veteran support, youth development education (including Head Start), homeless and hunger prevention, and re-entry services; and

WHEREAS, Edith G. White, the longtime President/CEO of the Urban League of Hampton Roads, was hired as the new executive director of HRCAP in 2016, to begin building the organization's legacy for the next 50 years; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Hampton Roads Community Action Program on 50 years of service helping improve communities and allowing people to prosper; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Edith G. White, executive director of Hampton Roads Community Action Program, as an expression of the General Assembly's admiration for the organization's tireless efforts to battle poverty and promote economic prosperity for all residents in southeastern Virginia.

#### HOUSE JOINT RESOLUTION NO. 837

*Commending St. Augustine's Episcopal Church.*

Agreed to by the House of Delegates, February 3, 2017

Agreed to by the Senate, February 9, 2017

WHEREAS, for 120 years, St. Augustine's Episcopal Church in Newport News has stood as a symbol of God's faithfulness and as a church committed to service; and

WHEREAS, in 1897, St. Paul's Church (then called Warwick Parish) in downtown Newport News established St. Paul's Mission for 17 African American communicants led by the Reverend Joseph F. Mitchell, Vicar; and

WHEREAS, in 1924, under the leadership of the Reverend Adolphus A. Birch, Vicar, St. Paul's Mission was renamed St. Augustine's Episcopal Church in honor of the great African saint, St. Augustine, Bishop of Hippo (354-430 A.D.); and

WHEREAS, in 1952, the Reverend Lloyd M. Alexander, Vicar, spearheaded growth in membership and renovation of the edifice, and on September 11, 1960, a cornerstone was laid for the construction of a new sanctuary; and

WHEREAS, on December 2, 1962, the new St. Augustine's Episcopal Church of contemporary design became a hallmark in the landscape of the east end of Newport News; and

WHEREAS, in 1965, under the guidance of the Reverend Robert C. S. Powell, Vicar, a long concerted effort began for the church to become a self-sufficient parish, and in February 1974 under the leadership of the Reverend Ralph E. Haines III, Rector, St. Augustine's Episcopal Church attained full parish status; and

WHEREAS, St. Augustine's Episcopal Church continues to be involved in community ministries such as the Outreach Commission that has ministered to the needy by providing meals and clothing since 1990; by providing meeting facilities for one of the Narcotics Anonymous programs in Newport News; by sponsoring annual diaper and back-to-school drives; and by hosting an annual Fall Festival for the surrounding community; and

WHEREAS, now led by the Reverend Terry D. Edwards, St. Augustine's Episcopal Church is ever committed to magnifying the Lord through its mission to reach up to God in prayer and worship, reach over in peace to be reconciled with each other, and reach out in love to bring help and hope to those in need; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend St. Augustine's Episcopal Church on the occasion of its 120th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to St. Augustine's Episcopal Church as an expression of the General Assembly's admiration for the church's legacy of spiritual leadership to the Newport News community.

### HOUSE JOINT RESOLUTION NO. 838

*Celebrating the life of Steven Charles Buschor.*

Agreed to by the House of Delegates, February 3, 2017

Agreed to by the Senate, February 9, 2017

WHEREAS, Steven Charles Buschor of Roanoke, the director of Parks and Recreation for the City of Roanoke, died on June 6, 2016; and

WHEREAS, Steven "Steve" Charles Buschor, a native of Delphos, Ohio, was a graduate of Delphos St. John's High School and The Ohio State University, where he received a bachelor's degree in community recreation administration; and

WHEREAS, before settling in Roanoke, Steve Buschor had been director of Parks and Recreation in Gladstone, Missouri, and Van Wert, Ohio; and

WHEREAS, Steve Buschor served the people of Roanoke as director of Parks and Recreation for nearly a decade and a half, during which time he advocated expanding the Roanoke Valley Greenway system and local trail networks, as well as playing an important role in luring Deschutes Brewery to Roanoke; and

WHEREAS, Steve Buschor's professional pride and joy, however, was the transformation of Elmwood Park into a premier outdoor event facility in the Roanoke region following a \$7 million renovation complete with a 5,000-seat amphitheater; and

WHEREAS, a passionate public servant dedicated to making his community more livable, Steve Buschor loved his city, his coworkers, and his projects; his vision for Roanoke was to build a city with a fun atmosphere where young professionals and their families could put down roots and thrive; and

WHEREAS, Steve Buschor was a member of the National Recreation and Park Association and previously served on the board of the Virginia Recreation and Park Society, among other professional memberships he held; and

WHEREAS, Steve Buschor served on the Roanoke Valley Campus Advisory Board for National College (now American National University), the Roanoke Valley Greenway Commission, and as a judge for the 2015 Miss Virginia Pageant; and

WHEREAS, Steve Buschor was a dynamic and innovative leader known for his enthusiasm and pleasant demeanor; outside of the office he enjoyed spending time with his family, riding his motorcycle, reading, cooking, woodworking, and being a handyman; and

WHEREAS, Steve Buschor loved watching his Ohio State University Buckeyes play football, and he proudly wore the 1975 Rose Bowl ring that he earned while part of the university's athletic training staff; and

WHEREAS, Steve Buschor will be fondly remembered and greatly missed by his wife of 33 years, Marilyn; daughters, Lindsay and Megan; grandchildren, Crewe and Beckett; and a host of other family members and good friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of City of Roanoke Parks and Recreation Director Steven Charles Buschor, a passionate public servant dedicated to making his community more livable; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Steven Charles Buschor as an expression of the General Assembly's respect for his memory.

### HOUSE JOINT RESOLUTION NO. 839

*Celebrating the life of Gus George Pappas.*

Agreed to by the House of Delegates, February 3, 2017

Agreed to by the Senate, February 9, 2017

WHEREAS, Gus George Pappas, Roanoke's "Hot Dog King" and the patriarch of the Roanoke Weiner Stand restaurants, died on August 26, 2016; and

WHEREAS, Gus Pappas was born Konstantinos Georgios Papakostantinou in Greece, where he worked at his parents' cafe and apprenticed as an electrician; he was also a professional soccer player in Greece, before a knee injury ended his career; and

WHEREAS, Gus Pappas arrived at Ellis Island, New York, in 1955, and went to work for his uncle at the Roanoke Weiner Stand, a business the family opened in 1916; and

WHEREAS, when Gus Pappas arrived in Roanoke to work the assembly line at the Roanoke Weiner Stand, an order of "one with," which is a standard hot dog with mustard, chili, and onions, cost 15 cents; and

WHEREAS, Gus Pappas took over the Roanoke Weiner Stand in the 1970s and in 1984 the business was so successful that he opened a second location; and

WHEREAS, the Roanoke Weiner Stand and Gus Pappas became fixtures in downtown Roanoke and, according to legend, Gus Pappas could prepare 25 orders of "one with" in one minute; and

WHEREAS, Gus Pappas worked from before the sun rose to after it went down, and when the restaurant was open, he was almost always behind the grill; and

WHEREAS, Gus Pappas worked at the restaurant six days a week and on Sundays, his day off, he and his family went to Olive Garden, where he always ordered spaghetti and meatballs; and

WHEREAS, even after Gus Pappas retired in the 1990s, he still spent most of his time at his restaurants, visiting with generations of loyal customers and mentoring store managers; and

WHEREAS, the Roanoke Weiner Stand, the oldest eating establishment in the city and an icon of the Roanoke Valley, turned 100 years old in 2016; the restaurant's chili is made from a family recipe that Gus Pappas guarded tightly; and

WHEREAS, a lifelong bachelor, Gus Pappas was a great and proud uncle and his family meant as much to him as his Greek culture; he will be remembered for his youthful and generous spirit by all who knew him; and

WHEREAS, Gus Pappas will be fondly remembered and greatly missed by his nephews and niece, Gus, Arthur, Anna, Arthur, and Georgios, and their families; a host of relatives in Greece; and good friends in and around Roanoke; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Gus George Pappas, Roanoke's "Hot Dog King" and the patriarch of the Roanoke Weiner Stand restaurants; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Gus George Pappas as an expression of the General Assembly's respect for his memory.

### HOUSE JOINT RESOLUTION NO. 840

*Commending Colonel John Jack William Hilgers, USMC, Ret.*

Agreed to by the House of Delegates, February 3, 2017

Agreed to by the Senate, February 9, 2017

WHEREAS, Colonel John Jack William Hilgers, USMC, Ret., served with distinction in the United States Marine Corps for 31 years, demonstrating extraordinary leadership, professional skill, and unwavering courage and commitment to the defense of the United States; and

WHEREAS, Jack Hilgers, as a captain in the Marine Corps during the Vietnam War, was awarded the Navy Cross for extraordinary heroism as battalion operations officer of the Second Battalion, Fourth Marines, Third Marine Division (Reinforced), Fleet Marine Force, in connection with operations against the enemy in the Republic of Vietnam on August 23-24, 1966; and

WHEREAS, as a colonel in the Marine Corps, Jack Hilgers was noted for cost effectiveness and comprehensive resources management by the United States General Accounting Office and the House of Representatives Appropriations Committee in 1987; and

WHEREAS, after retiring from the Marine Corps, Jack Hilgers continued a lifetime of public service by earning a Ph.D. in public administration and research with a minor in international relations from Old Dominion University (ODU) where

he served for 10 years, established the ODU Maritime, Ports, and Logistics Management program, which is one of the few such initiatives in the world and is thriving after 25 years, and he later served on the ODU Board of Visitors; and

WHEREAS, from 1999 to 2007, Jack Hilgers served as legislative assistant to the Honorable Leo C. Wardrup, Jr., before joining the Department of Veterans Services (DVS); he played a key role in the 2002 study and 2003 legislation that established DVS and the Veteran Services Foundation (VSF) as separate agencies, as well as the Board of Veterans Services (BVS) and the Joint Leadership Council of Veterans Service Organizations (JLC); and

WHEREAS, Jack Hilgers prompted the initiation of the bipartisan and highly popular Military and Veterans Caucus in the Virginia General Assembly and assisted with organizing and conducting its fully attended weekly meetings; and

WHEREAS, Jack Hilgers has been a legislative and organizational development advisor, involved every step of the way, as DVS, VSF, BVS, and JLC have evolved and grown, and he has contributed significantly to the success of the two agencies, the board, and the council; he continued to serve the Commonwealth's veterans with Leo Wardrup, who served as a VSF trustee after his retirement from public office; and

WHEREAS, Jack Hilgers demonstrated proven effectiveness in influencing public policy as a highly respected member of a team that successfully advocated for more than five dozen pieces of veterans and military-related legislation that was introduced, amended, and passed from 2006 until his retirement; and

WHEREAS, Jack Hilgers worked diligently to expand the services that DVS and VSF provide to Virginia's veterans and developed extensive joint policies and procedures that are still used by the department and the foundation today; and

WHEREAS, Jack Hilgers personally educated all the members of the VSF Board of Trustees in the unique aspects of the foundation's philanthropic duties, even traveling from his home in Hampton Roads to the Marine Corps Heritage Center in Quantico and points in western Virginia to orient new members; and

WHEREAS, Jack Hilgers worked tirelessly to coordinate fundraising activities throughout the Commonwealth and helped VSF secure more than \$3 million in donations to assist veterans and their families; and

WHEREAS, as executive director of VSF, Jack Hilgers served with distinction as an "extraordinary contributor" to both VSF and DVS, ensuring the integrity of the Commonwealth's trust and donors' wishes since 2007; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Colonel John Jack William Hilgers, USMC, Ret., for his lifetime of service to the Commonwealth and Virginia's veterans on the occasion of his retirement; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Colonel John Jack William Hilgers, USMC, Ret., as an expression of the General Assembly's admiration for his 31 years of service with the United States Marine Corps and 28 years of service to the Commonwealth, demonstrating extraordinary leadership, professional skill, and an unwavering commitment to the men and women of every branch of the United States Armed Forces and Virginia.

### HOUSE JOINT RESOLUTION NO. 841

*Commending Carl Wheatley Haywood.*

Agreed to by the House of Delegates, February 3, 2017

Agreed to by the Senate, February 9, 2017

WHEREAS, Carl Wheatley Haywood is retiring in 2017, after a lengthy and successful career as a master musician, conductor, arranger, and educator at Norfolk State University; and

WHEREAS, a native of Portsmouth, Carl Haywood graduated cum laude from Norfolk State University, earned Master of Sacred Music (organ) and Master of Music (choral conducting) degrees from Southern Methodist University, and a Doctor of Musical Arts degree from the University of Southern California; and

WHEREAS, Carl Haywood wears many hats within the Division of Music at Norfolk State University (NSU); he is chair of Visual and Performing Arts, director of the Division of Music, and director of Choral Activities, conducting the NSU Concert Choir and the Spartan Chorale; and

WHEREAS, the NSU choral department has a national reputation for mastery in choral music and Carl Haywood is recognized as a superb choral conductor and organist with superior musical acumen; and

WHEREAS, Carl Haywood conducted an inspiring and exciting joint performance of the NSU Concert Choir and the Virginia Symphony in 2014, when the choir and orchestra presented music that represented the lives of six individuals ranging from world figures to local leaders; and

WHEREAS, Carl Haywood is a devoted educator respected for his thorough and vigorous teaching style; he is a friend to young musicians and strives to inspire all students under his direction to reach their fullest potential; and

WHEREAS, in addition to his professional career at NSU, Carl Haywood serves as a clinician, adjudicator, guest conductor, and lecturer for schools, colleges, universities, and churches around the country; and

WHEREAS, Carl Haywood is a leading church musician and, for 26 years, he served as organist and choir director at Grace Episcopal Church in Norfolk; he is also highly decorated in the music and teaching fields, collecting numerous accolades throughout his career; and

WHEREAS, Carl Haywood holds memberships in the American Choral Directors Association, American Guild of Organists, Association of Anglican Musicians, National Association of Negro Musicians, Music Educators National Conference, Kappa Kappa Psi Band Fraternity, Pi Kappa Lambda, and Omega Psi Phi Fraternity, Inc.; and

WHEREAS, under Carl Haywood's guidance and leadership the NSU choral department reached a pinnacle and he will be greatly missed by the university's students, faculty, and administrators he inspired through his music and his friendship over the years; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Carl Wheatley Haywood on his retirement in 2017, after a distinguished career as a master musician, conductor, arranger, and educator at Norfolk State University; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Carl Wheatley Haywood as an expression of the General Assembly's admiration for his dedication to the art of music and cultural contributions to the citizens of the Commonwealth.

### HOUSE JOINT RESOLUTION NO. 842

*Commending Temple Baptist Church.*

Agreed to by the House of Delegates, February 3, 2017

Agreed to by the Senate, February 9, 2017

WHEREAS, in April 2017, Temple Baptist Church will celebrate 75 years of ministering to the spiritual needs of its members and the surrounding Newport News community; and

WHEREAS, Temple Baptist Church was established in 1942 by 34 charter members at a time when the country was at war and gasoline rationing imposed difficulties on those traveling to downtown churches to worship; and

WHEREAS, in July 1942, Temple Baptist Church held groundbreaking services for its first church building, and one year after the attack on Pearl Harbor, the first services were held in the new building on Harpersville Road; and

WHEREAS, Temple Baptist Church partners nationally with thousands of other churches in the Southern Baptist Convention and locally with the Peninsula Baptist Association, to spread the Word of God; and

WHEREAS, over the years Temple Baptist Church has benefited from the leadership of these pastors: Scott Hutton, Walter Martin, Robert Gray, David Goodroe, Thurman Hayes, David Simmons, Lynn Hardaway, and the current pastor, Weston Taylor; and

WHEREAS, the members of Temple Baptist Church recognize the importance of living in accordance with the Word of God by volunteering their time and talents in service to the Peninsula community in ministering to the homeless, members of the military, seniors, youth, and people of other ethnic groups; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Temple Baptist Church on the occasion of its 75th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Weston Taylor, senior pastor of Temple Baptist Church, as an expression of the General Assembly's admiration for the church's long legacy of service to the community.

### HOUSE JOINT RESOLUTION NO. 843

*Celebrating the life of Roberta Lee Tyner Naranjo.*

Agreed to by the House of Delegates, February 3, 2017

Agreed to by the Senate, February 9, 2017

WHEREAS, Roberta Lee Tyner Naranjo, a longtime member of the Southampton County School Board and vocal advocate for the arts and public schools, died on December 31, 2016; and

WHEREAS, Roberta "Bobbie" Lee Tyner Naranjo was born in Kansas City, Missouri, to the late John and Olive Mary Tyner; and

WHEREAS, in 1964, Bobbie Naranjo moved to Boykins, where she managed her husband's family medical practice for the next 40 years; and

WHEREAS, Bobbie Naranjo was elected to represent Boykins on the Southampton County School Board and, for more than 40 years, she served in various capacities, including vice chair, and was instrumental in getting three new schools built; and

WHEREAS, Bobbie Naranjo was an advocate of postsecondary education and of Paul D. Camp Community College; she contributed to the development of a nursing partnership between Southampton Memorial Hospital and Southampton County Public Schools; and

WHEREAS, during her service on the Southampton County School Board, Bobbie Naranjo was devoted to expanding the cultural horizons of students, teachers, and area residents, working with partners such as the Virginia Symphony Orchestra and the Virginia Museum of Fine Arts; and

WHEREAS, Bobbie Naranjo was a tireless proponent of the arts, especially the Walter Cecil Rawls Library and Rawls Museum Arts, and she received many awards over the years honoring her dedication to cultural education; and

WHEREAS, Bobbie Naranjo was a respected role model for young people who want to make a difference in their community; she was outspoken, dedicated, and relentless in standing up for what she believed in, and she made a lasting difference in the lives of many Southampton citizens; and

WHEREAS, Bobbie Naranjo loved reading and was passionate about music, art, literature, and culture; she enjoyed attending dramatic theater, ballet, and live musical performances, and she played the accordion, concertina, and piano; and

WHEREAS, Bobbie Naranjo was a devoted member of St. Jude's Catholic Church in Franklin, where she served in various capacities, including lay minister, catechism instructor, and parish council member; and

WHEREAS, sustained by her faith, Bobbie Naranjo believed in selflessly serving her community and was committed to social justice and equality in education and medical services; and

WHEREAS, Bobbie Naranjo will be fondly remembered and greatly missed by her husband of 61 years, Jorge; her children, Leslie, Valery, Celia, and Gregory, and their families; and many other relatives and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Roberta Lee Tyner Naranjo, a longtime member of the Southampton County School Board and vocal advocate for the arts and public schools; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Roberta Lee Tyner Naranjo as an expression of the General Assembly's respect for her memory.

**HOUSE JOINT RESOLUTION NO. 844**

*Commending Marci Bartley.*

Agreed to by the House of Delegates, February 3, 2017

Agreed to by the Senate, February 9, 2017

WHEREAS, in December 2016, Marci Bartley retired as executive director of Fredericksburg Counseling Services, Inc., after 16 exemplary years of service; and

WHEREAS, Marci Bartley has dedicated her life's work to serving others; she began her career as a nurse in the operating room and then went into private practice before switching her focus to working with HIV and AIDS patients in the early years of the epidemic; and

WHEREAS, before joining Fredericksburg Counseling Services in 2001, Marci Bartley served as behavioral health director and then medical director at Sussex I State Prison, where she supervised staff and worked directly with death row inmates, a job she found fast-paced but very rewarding; and

WHEREAS, as executive director of Fredericksburg Counseling Services, Marci Bartley oversaw an operation that provides mental health and counseling services to low-income and uninsured individuals in Fredericksburg as well as the Counties of Caroline, King George, Orange, Prince William, Spotsylvania, Stafford, and Westmoreland; and

WHEREAS, under Marci Bartley's leadership, Fredericksburg Counseling Services became an important training site that teaches graduate and post-graduate students the skills to become mental health providers, and about the importance of giving back to the community; and

WHEREAS, Marci Bartley is able to retire with the satisfaction of knowing she played an important role in training the future mental health workforce and providing critical services to those who could not otherwise afford it in the greater Fredericksburg area; and

WHEREAS, Marci Bartley is grateful to the wonderful staff she has been able to work with for 16 years at Fredericksburg Counseling Services; without their support, her success would not have been possible; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Marci Bartley on her retirement as executive director of Fredericksburg Counseling Services, Inc., after 16 exemplary years of service; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Marci Bartley as an expression of the General Assembly's admiration for her work at Fredericksburg Counseling Services, Inc., and her dedication to providing medical and mental health services to those in the Commonwealth who are often stigmatized.

**HOUSE JOINT RESOLUTION NO. 845**

*Celebrating the life of David A. Kaechele.*

Agreed to by the House of Delegates, February 3, 2017

Agreed to by the Senate, February 9, 2017

WHEREAS, David A. Kaechele, a tireless public servant who made many lasting contributions to the residents of Henrico County as a member of the Board of Supervisors for more than 35 years, died on January 20, 2017; and

WHEREAS, a native of Allegan, Michigan, David Kaechele graduated from Michigan State University and honorably served his country as a member of the United States Army during the Korean War; he settled in Henrico County in the 1960s and pursued a 30-year career with the Reynolds Metals Company; and

WHEREAS, desirous to be of further service to the community, David Kaechele ran for and was elected to the Henrico County Board of Supervisors and took office as the representative for the Three Chopt District in 1980; and

WHEREAS, respected for his even-tempered leadership and ability to foster cooperation, David Kaechele was elected chair nine times, and he ably represented the county before other local, regional, and state boards and commissions, including the Virginia Association of Counties and the National Association of Counties; and

WHEREAS, David Kaechele was the only member of the Henrico County Board of Supervisors to have won election to nine consecutive terms, and in 2015, he retired as the longest-serving member of the board on record; and

WHEREAS, during David Kaechele's long tenure on the Henrico County Board of Supervisors, the population of Henrico County nearly doubled, and he deftly balanced the needs of all county residents, ensuring a high quality of life through responsible growth and development; and

WHEREAS, David Kaechele oversaw significant commercial and residential development in Henrico County, including the creation of Wyndham, Innsbrook, West Broad Village, and Short Pump; the county is now home to nationally recognized schools, thriving businesses, state-of-the-art libraries, beautiful parks, and top-rated restaurants, in addition to being a wonderful place to live and raise a family; and

WHEREAS, David Kaechele's background as an engineer helped him advise his fellow members of county government on the infrastructure necessary to help Henrico County thrive and prosper; he also worked to keep tax rates low while maintaining high levels of service and helped Henrico County earn a AAA bond rating from all three national bond-rating agencies; and

WHEREAS, a man who lived his faith through his actions, David Kaechele enjoyed fellowship and worship with Tuckahoe Presbyterian Church, where he served as an elder, deacon, and treasurer; and

WHEREAS, Dave Kaechele earned numerous awards and accolades for his leadership and service; he was inducted into the *Richmond Times-Dispatch* Hall of Fame with the hall's inaugural class in 2015; and

WHEREAS, predeceased by his wife, Marilyn, David Kaechele will be fondly remembered and greatly missed by his daughters, Karen and Kathy, and their families; his longtime companion, Erna van den Nieuwenhuizen; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of David A. Kaechele, a respected public servant and a pillar of the Henrico community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of David A. Kaechele as an expression of the General Assembly's respect for his memory.

#### HOUSE JOINT RESOLUTION NO. 846

*Commending the Sentara Nightingale Regional Air Ambulance program.*

Agreed to by the House of Delegates, February 3, 2017

Agreed to by the Senate, February 9, 2017

WHEREAS, in February 1982, the Norfolk-based Sentara Healthcare organization voluntarily launched the Nightingale Regional Air Ambulance program; and

WHEREAS, the Sentara Nightingale Regional Air Ambulance program (Nightingale) operates within a 125-mile radius of its base at Sentara Norfolk General Hospital, eastern Virginia's only Level I Trauma and tertiary referral center, and saves precious time for critically ill and injured patients; and

WHEREAS, Nightingale has flown more than 20,000 accident-free missions from trauma scenes and community hospitals since its inception and works closely with emergency medical services, fire departments, and other first responders; and

WHEREAS, Sentara Healthcare operates Nightingale as part of its not-for-profit mission, and Nightingale transports all trauma and medical patients regardless of their ability to pay; and

WHEREAS, Nightingale continues to invest in new technologies, such as instrument landing systems at area hospitals and airports to facilitate safe operations during bad weather; and

WHEREAS, generous donors in the Hampton Roads community helped Nightingale purchase a new, state-of-the-art aircraft in 2011 to ensure continued safe operations for years to come; and

WHEREAS, Nightingale is a life-saving community asset that improves the quality of life for all residents of Hampton Roads; and

WHEREAS, many residents of southeastern Virginia and northeastern North Carolina are alive today thanks in part to the rapid transport and advanced medical care provided by Nightingale's dedicated and highly trained pilots and medical personnel; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Sentara Nightingale Regional Air Ambulance program on the occasion of its 35th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Sentara Nightingale Regional Air Ambulance program as an expression of the General Assembly's admiration for the life-saving services provided by the Sentara Nightingale Regional Air Ambulance program.

#### HOUSE JOINT RESOLUTION NO. 847

*Celebrating the life of Madison Montgomery Shinaberry.*

Agreed to by the House of Delegates, February 3, 2017

Agreed to by the Senate, February 9, 2017

WHEREAS, Madison Montgomery Shinaberry of Rockingham, a gifted ballerina, passionate advocate for organ donation awareness, and aspiring public servant, died on December 16, 2016; and

WHEREAS, Madison "Maddie" Montgomery Shinaberry, daughter of Curtis and Ellen Shinaberry, was born in Harrisonburg on February 28, 1995; and

WHEREAS, when she was in the seventh grade, Maddie Shinaberry was diagnosed with primary pulmonary hypertension, a rare disease, and, in October 2008, was told she needed a double-lung transplant to live; and

WHEREAS, in January 2009, when she was a high school freshman, Maddie Shinaberry received a double-lung transplant at Children's Hospital of Pittsburgh and spent a month there recovering, and, when she had regained her strength, she returned to dancing, which is what she loved most; and

WHEREAS, from an early age, Maddie Shinaberry was a gifted ballerina and a member of the Rockingham Ballet Theatre in Bridgewater; she was invited to train with the American Ballet Theatre (ABT) Young Dancer's program in New York City at age 11, and, after undergoing the double-lung transplant, was one of 20 dancers selected to attend ABT's summer intensive program in Bermuda; and

WHEREAS, Maddie Shinaberry attended Massanutten Regional Governor's School and graduated with honors from Turner Ashby High School in 2012; she attended Washington and Lee University in Lexington, where she was a member of the Alpha Delta Pi sorority and Phi Eta Sigma National Honor Society; and

WHEREAS, Maddie Shinaberry studied politics in college and spent a semester studying abroad at the International Institute of Business in Copenhagen, Denmark, and was an intern on Capitol Hill for Congressman John A. Boehner of Ohio, who was Speaker of the United States House of Representatives at the time; and

WHEREAS, Maddie Shinaberry became a passionate lobbyist for organ donation awareness, and she successfully led a charge to make the Virginia Board of Education include organ donation education in the ninth grade physical education curriculum; and

WHEREAS, Maddie Shinaberry continued to promote organ donation awareness from her platform as Miss Southwestern Virginia, a crown she won in 2014, although health challenges prevented her from participating in the Miss Virginia contest; and

WHEREAS, Maddie Shinaberry had aspirations of going to law school and becoming the first woman Governor of the Commonwealth; in her 21 years, she touched the lives of many organ donation advocates and legislators, who are carrying on her legacy and torch today; and

WHEREAS, Maddie Shinaberry will be fondly remembered and greatly missed by her parents, Curtis and Ellen; a sister, Elizabeth; and a host of other family members and treasured friends whom she inspired in so many ways; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Madison Montgomery Shinaberry, a gifted ballerina, passionate advocate for organ donation, and aspiring public servant; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Madison Montgomery Shinaberry as an expression of the General Assembly's respect for her memory.

#### HOUSE JOINT RESOLUTION NO. 848

*Commending the Virginia Institute of Pastoral Care.*

Agreed to by the House of Delegates, February 3, 2017

Agreed to by the Senate, February 9, 2017

WHEREAS, for 50 years, the Virginia Institute of Pastoral Care, an interfaith, not-for-profit counseling and educational institute, has provided pastoral counseling, support for clergy, and training on pastoral counseling in the Richmond area; and

WHEREAS, established by 12 concerned citizens in Richmond in 1967, the Virginia Institute of Pastoral Care (VIPCare) is one of the oldest pastoral counseling centers in the United States and an integral part of the Richmond community; and

WHEREAS, VIPCare has served more than 900 children, teenagers, families, couples, and individuals per year from its locations in Ashland, Charlottesville, Chester, Williamsburg, Roanoke, and two offices in Richmond; and

WHEREAS, VIPCare is served by ministers of various denominations certified by the American Association of Pastoral Counselors, most of whom are also licensed as professional counselors and marriage and family therapists and all of whom have a unique sensitivity to the dynamics of behavior and faith; and

WHEREAS, VIPCare believes that a caring relationship is essential to the healing process, and no person is ever turned away based on their inability to pay; the organization also believes that the healing process involves questions of meaning and value as well as symptom relief and focuses on the inherent human need for personal and relational wholeness; and

WHEREAS, VIPCare counselors have made many contributions to the field of pastoral counseling through their research and writing and by serving in significant positions in the American Association of Pastoral Counselors; and

WHEREAS, VIPCare is accredited by the American Association of Pastoral Counselors as a counseling and training center and has received the Distinguished Program Leadership Award as well as many other awards and accolades for its benevolent work; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Virginia Institute of Pastoral Care on the occasion of its 50th anniversary in 2017; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Virginia Institute of Pastoral Care as an expression of the General Assembly's admiration for the organization's many contributions to physical, mental, and spiritual wellness in the Commonwealth.

**HOUSE JOINT RESOLUTION NO. 849**

*Commending J. Plunky Branch.*

Agreed to by the House of Delegates, February 3, 2017  
 Agreed to by the Senate, February 9, 2017

WHEREAS, J. Plunky Branch of Richmond, a saxophonist, songwriter, and music and film producer has made numerous contributions to cultural life in Virginia and the United States and is a positive force for social harmony throughout the world; and

WHEREAS, Plunky Branch discovered his passion for intercultural music while he was a student at Columbia University in New York and made it his life's mission to empower people through music; and

WHEREAS, equally talented at funk, jazz, rhythm and blues, African, reggae, gospel, and rap, Plunky Branch has released 25 albums through his independent record label, N.A.M.E. Brand Records in Richmond; and

WHEREAS, Plunky Branch has toured the world, building a broad and loyal fan base in the United States, France, Germany, Austria, Switzerland, and England, where his song "Every Way But Loose" was a Top 10 hit in the 1980s; and

WHEREAS, in addition to touring Ghana as a cultural specialist for the United States Information Agency, Plunky Branch has explored musical opportunities in Japan and Brazil and researched and produced a documentary film on Afro-Cuban music; and

WHEREAS, Plunky Branch has opened shows for such musical icons as Patti LaBelle, Ray Charles, and Earth, Wind & Fire and delighted audiences at the New Orleans World's Fair, the National Black Arts Festival, and the Hampton Jazz Festival; and

WHEREAS, one of the founders of the Richmond Jazz Society, Plunky Branch has inspired students as a lecturer and educator, serving as the director of the Jazz Ensemble at Virginia Union University and an instructor of music history at Virginia Commonwealth University; and

WHEREAS, Plunky Branch has served as a panelist for the Virginia Commission for the Arts, the Mid-Atlantic Arts Foundation, and the National Endowment for the Arts, and he was appointed to the Governor's Task Force on Promotion of the Arts; and

WHEREAS, Plunky Branch was featured in the Library of Virginia's Strong Men & Women in Virginia History series in 2015, and he released his autobiography, *PLUNKY: JuJu Jazz Funk & Oneness*, at a special event at the Library of Virginia in June 2016; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend J. Plunky Branch for his work to unite people through a shared love of music; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to J. Plunky Branch as an expression of the General Assembly's admiration for his exceptional musical legacy.

**HOUSE JOINT RESOLUTION NO. 850**

*Commending the Virginia Councils of the Boy Scouts of America.*

Agreed to by the House of Delegates, February 3, 2017  
 Agreed to by the Senate, February 16, 2017

WHEREAS, the international youth movement of Boy Scouts, today known as the World Organization of the Scout Movement, was established in England in 1907 by Lord Robert Baden-Powell and currently serves 28 million Scouts and their leaders in 155 countries around the globe; and

WHEREAS, the Boy Scouts of America was founded by a group of prominent Americans led by William D. Boyce on February 8, 1910, in Washington, D.C., and was chartered by the United States Congress on June 15, 1918; and

WHEREAS, the Boy Scouts of America prepares young people to make ethical choices throughout their lifetime by instilling in them the values of the Scout Oath and Scout Law, including a commitment to do their best to do their duty to God and their country and to keep themselves physically strong, mentally awake, and morally straight; and

WHEREAS, in 1911, Scouting began a century of service to the youth of the Commonwealth, when Richmond Troop #1 was chartered by Tabernacle Church; and

WHEREAS, in 1913, the Richmond Virginia Council, Inc., was chartered by John Stewart Bryan, D. W. Durrett, and 60 civic-minded community leaders, with headquarters in the old *Richmond News Leader* building; the council served 495 boys in 28 troops in its first year, was later renamed the Robert E. Lee Council, and now, as the Heart of Virginia Council, will celebrate its 104th birthday on July 12, 2017; and

WHEREAS, the 10 Boy Scout councils serving all or part of the Commonwealth, including the Blue Ridge Mountains Council, Colonial Virginia Council, Del-Mar-Va Council, Heart of Virginia Council, National Capital Area Council, Sequoyah Council, Shenandoah Area Council, Stonewall Jackson Area Council, Buckskin Council, and Tidewater Council, serve over 70,000 young Virginians between the ages of seven and 20; and

WHEREAS, Virginia's Boy Scout councils deliver America's premier youth development program by emphasizing character and service and affording young people unique and increasing opportunities to exercise leadership and responsibility and through the direct examples and mentoring provided by more than 32,170 volunteer adult leaders; and

WHEREAS, in 2016, Virginia Boy Scouts contributed more than 400,000 hours of community service through projects such as Scouting for Food, Good Turn for America, Habitat for Humanity, and other unit and individual service projects; and

WHEREAS, for the past 106 years, the Boy Scouts of America has been committed to producing exceptional young men by building character and values in youth; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Virginia Councils of the Boy Scouts of America for more than 100 years of service to the youth of the Commonwealth and the nation; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Council Scout Executives in Virginia as an expression of the General Assembly's gratitude for the organization's commitment to building character and values in Virginia's youth.

### HOUSE JOINT RESOLUTION NO. 851

*Celebrating the life of Elie Wiesel.*

Agreed to by the House of Delegates, February 8, 2017

Agreed to by the Senate, February 16, 2017

WHEREAS, Elie Wiesel, a Nobel laureate, prolific author, passionate educator, and devoted advocate for oppressed and vulnerable people throughout the world, died on July 2, 2016; and

WHEREAS, born in Sighet, Transylvania, Elie Wiesel was deported by the Nazis because he was a Jew to the Auschwitz concentration camp during the Holocaust; he was later transported to Buchenwald concentration camp, where he was liberated by American troops in April 1945; and

WHEREAS, Elie Wiesel graduated from the University of Paris and pursued a career as a journalist; his memoir about his experiences during the Holocaust, *Night*, gained international recognition and has been translated into more than 30 languages; and

WHEREAS, Elie Wiesel went on to author more than 60 acclaimed books of fiction and non-fiction, including *A Beggar in Jerusalem*, *The Testament*, *The Fifth Son*, *All Rivers Run to the Sea*, and *And the Sea is Never Full*, and the *Sonderberg Case*; and

WHEREAS, in 1978, Elie Wiesel was appointed chair of the President's Commission on the Holocaust by President Jimmy Carter; he also served as founding chair of the United States Holocaust Memorial Council and president of the Elie Wiesel Foundation for Humanity, an organization he created to fight indifference, injustice, and intolerance around the globe; and

WHEREAS, Elie Wiesel was a devoted supporter of Israel and defended vulnerable groups in the Soviet Union, Nicaragua, Argentina, Cambodia, the former Yugoslavia, and Africa, as well as Kurdish groups; he was a champion for Ethiopian-born Israelis through the Beit Tzipora Centers for Study and Enrichment; and

WHEREAS, Elie Wiesel held more than 100 honorary degrees from higher education institutions, and education had always been central to his pursuit of justice; he served as the Henry Luce Visiting Scholar in Humanities and Social Thought at Yale University, Distinguished Professor of Judaic Studies at the City University of New York, and the Andrew W. Mellon Professor in the Humanities at Boston University; and

WHEREAS, among his many awards and accolades for his benevolent work, Elie Wiesel received the Presidential Medal of Freedom, the Congressional Gold Medal, the National Humanities Medal, the Medal of Liberty, and France's Legion of Honor; and

WHEREAS, Elie Wiesel will be fondly remembered and greatly missed by numerous family members, friends, and colleagues; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Elie Wiesel, a Nobel prize-winning author and educator who was a stalwart champion for people in need throughout the world; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Elie Wiesel as an expression of the General Assembly's respect for his memory.

### HOUSE JOINT RESOLUTION NO. 852

*Celebrating the life of Crosby Carroll Forrest.*

Agreed to by the House of Delegates, February 3, 2017

Agreed to by the Senate, February 9, 2017

WHEREAS, Crosby Carroll Forrest, a lifelong resident of Poquoson and an entrepreneur who served the community as the owner of Dixie RV Superstore, died on January 5, 2017; and

WHEREAS, Crosby Forrest graduated from Poquoson High School and attended Hampton Roads Business College; possessed of an entrepreneurial spirit, he founded Dixie Trailer Sales in 1966; and

WHEREAS, now known as Dixie RV Superstore, the business served countless local residents throughout the years, and Crosby Forrest proudly worked with his family in all aspects of the dealership until the time of his passing; and

WHEREAS, Crosby Forrest credited the success of his business to his loyal and hardworking employees; a respected leader in the industry, he was a founding member of the Recreation Vehicle Dealers Association, where he had served as chair, vice president, treasurer, and a board member; and

WHEREAS, Crosby Forrest earned many awards and accolades throughout his career, including the James B. Summers Award, the Monaco Coach Top Dealer Award, Better Business Bureau Top Business Award, and he was inducted in the RV/MH Hall of Fame; and

WHEREAS, Crosby Forrest enjoyed fellowship and worship with the congregation of Emmaus Baptist Church, where he helped establish the Christian Outreach Center; and

WHEREAS, Crosby Forrest will be fondly remembered and greatly missed by his loving wife of 55 years, Mary; children, Virginia and Crosby, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Crosby Carroll Forrest, a respected business owner and a true Southern gentleman in Poquoson; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Crosby Carroll Forrest as an expression of the General Assembly's respect for his memory.

### HOUSE JOINT RESOLUTION NO. 853

*Commending the Virginia Holocaust Museum.*

Agreed to by the House of Delegates, February 3, 2017

Agreed to by the Senate, February 16, 2017

WHEREAS, for 20 years, the Virginia Holocaust Museum in Richmond has educated thousands of visitors about the tragedy of the Holocaust and worked to preserve the memory of those who lost their lives during this horrific period of history; and

WHEREAS, the Virginia Holocaust Museum was founded in 1997 by Mark Fetter, Jay Ipson, and Al Rosenbaum; the museum was a popular site for field trips and quickly outgrew its original location in the education building of a local synagogue; and

WHEREAS, the Virginia Holocaust Museum moved to the former American Tobacco Company Warehouse in the Shockoe Bottom area of Richmond, which had been restored and reconfigured; the museum opened at its new location on Yom HaShoah, the Holocaust Day of Remembrance, in 2003; and

WHEREAS, the Virginia Holocaust Museum contains several exhibits; one of which is the Nuremberg Courtroom, a reproduction of Room 600 of the Palace of Justice, where Nazi war criminals were tried before international military tribunals in 1945 and 1946; and

WHEREAS, the Virginia Holocaust Museum also allows visitors to enter an authentic German "goods wagon," a freight car similar to those used to transport people to concentration camps, to better understand the horrors of the Holocaust; and

WHEREAS, each year, the Virginia Holocaust Museum welcomes nearly 50,000 visitors to experience these and other exhibits and remains an important location for school field trips, with students from more than 100 middle and high schools regularly visiting the museum; and

WHEREAS, the Virginia Holocaust Museum also conducts a variety of outreach programs, including a robust speaker series, and provides sets of books focusing on the history of the Holocaust to teachers throughout the Commonwealth at no cost; and

WHEREAS, in 2015, the Virginia Holocaust Museum began to update the collection with newly discovered facts and figures, as well as to update the core exhibition spaces to better serve students and members of the public; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Virginia Holocaust Museum on the occasion of its 20th anniversary for its educational contributions to the City of Richmond and the Commonwealth; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Marcus Weinstein, chair of the Board of Trustees of the Virginia Holocaust Museum, as an expression of the General Assembly's admiration for the museum's work to preserve the memory and legacies of those lost during the Holocaust.

#### HOUSE JOINT RESOLUTION NO. 854

*Commending Hamlar-Curtis Funeral Home.*

Agreed to by the House of Delegates, February 3, 2017

Agreed to by the Senate, February 9, 2017

WHEREAS, Hamlar-Curtis Funeral Home is celebrating 65 years of providing top-quality funeral services in the Roanoke Valley region in 2017; and

WHEREAS, Hamlar-Curtis Funerals Home was founded as a partnership between Lawrence H. Hamlar and Harry C. Curtis, Jr., on February 3, 1952, and Marilyn Curtis was made a formal partner when the company incorporated; and

WHEREAS, after a fire almost destroyed Hamlar-Curtis Funeral Home in 1959, the company rebuilt and expanded, and continued to grow steadily during the 1960s; and

WHEREAS, Hamlar-Curtis Funeral Home expanded again in 1972, and L. Douglas Wilder, a friend of both families and a future Governor of the Commonwealth, gave the keynote address at the dedication ceremony; and

WHEREAS, Hamlar-Curtis Funeral Home serves Roanoke, Salem, Bedford, Lexington, Franklin County, Montgomery County, and surrounding communities, and the company is now under the ownership of the second and third generations of the Curtis and Hamlar families; and

WHEREAS, members of the Hamlar and Curtis families are very civic minded and they have served on various boards and organizations that have made a positive difference in the lives of many residents of the Roanoke Valley; and

WHEREAS, the Hamlar-Curtis Funeral Home staff of licensed funeral directors are members of the Western District Funeral Directors Association, Virginia Morticians Association, Virginia Funeral Directors Association, and National Funeral Directors & Embalmers Association; and

WHEREAS, Hamlar-Curtis Funeral Home has not only survived but thrived for six decades because of its faithful and dedicated employees, who consistently ensure the company maintains its reputation of quality, professional service; and

WHEREAS, two members of the Hamlar-Curtis Funeral Home staff have served the company for more than 40 years: Funeral Service Licensee Fred Galloway and Funeral Attendant Richard Broady; and

WHEREAS, Hamlar-Curtis Funeral Home consistently provides the best possible service, treating all families with dignity, respect, and compassion; for six decades the company has adhered to the motto "Your interest is the heart of our business"; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Hamlar-Curtis Funeral Home on celebrating the 65th anniversary of its founding; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to H. Clarke Curtis and Michael Lawrence Hamlar, owners of Hamlar-Curtis Funeral Home, as an expression of the General Assembly's admiration for the company's longevity and success in providing quality funeral services to the Roanoke Valley region.

#### HOUSE JOINT RESOLUTION NO. 855

*Celebrating the life of James A. Lewis, Jr.*

Agreed to by the House of Delegates, February 3, 2017

Agreed to by the Senate, February 9, 2017

WHEREAS, James A. Lewis, Jr., a noted Roanoke-area musician and a retired employee of Verizon Communications, Inc., died on April 2, 2016; and

WHEREAS, James "Jimmy" A. Lewis, Jr., was born in Roanoke to the late James and Virginia Lewis, and he graduated from Lucy Addison High School in Roanoke, where he was inspired musically by band director Joe Finley; and

WHEREAS, for 35 years, Jimmy Lewis was a faithful employee of Verizon Communications, Inc., formerly Bell Atlantic and C&P Telephone; and

WHEREAS, Jimmy Lewis was best known as a star drummer in Roanoke and his passion for playing the drums made him a legend and mentor to many aspiring musicians in the Roanoke area; and

WHEREAS, Jimmy Lewis was one of the founders of The Chevys and The Premiers, bands that performed up and down the East Coast in the 1960s; he had the opportunity to perform with artists such as Marvin Gaye, Smokey Robinson, Otis Redding, Al Green, Curtis Mayfield, and other R&B groups at the time; and

WHEREAS, Jimmy Lewis later helped found the Communicators Band of Roanoke, which was active from the mid-1970s until 1990; and

WHEREAS, Jimmy Lewis was baptized at First Baptist Church of Vinton and he realized his true calling in life when he joined the New Directions Gospel Group; and

WHEREAS, Jimmy Lewis carried out his gospel musical ministry at Jerusalem Baptist Church, where he also served as a trustee, and then at Greater Mount Zion Baptist Church, where he played drums with the gospel choirs and was a faithful member until his death; and

WHEREAS, Jimmy Lewis will be fondly remembered and greatly missed by his wife, Lucille; children, James, Thomas, Lynette, Shelton, and Steven, and their families; and many other relatives and good friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of James A. Lewis, Jr., a noted Roanoke-area musician and retired Verizon Communications, Inc., employee; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of James A. Lewis, Jr., as an expression of the General Assembly's respect for his memory.

#### HOUSE JOINT RESOLUTION NO. 856

*Celebrating the life of the Honorable Robert Mark Yacobi.*

Agreed to by the House of Delegates, February 3, 2017

Agreed to by the Senate, February 9, 2017

WHEREAS, the Honorable Robert Mark Yacobi of Williamsburg, a former judge of the Newport News Juvenile and Domestic Relations District Court of the 7th Judicial District of Virginia, died on January 17, 2017; and

WHEREAS, Robert "Bucky" Mark Yacobi spent most of his life in Newport News; he attended St. Vincent de Paul High School and Belmont Abbey College in Belmont, North Carolina, and then served his country as a member of the United States Army in Japan during the Korean War; and

WHEREAS, after his honorable discharge from the United States Army, Bucky Yacobi attended the T.C. Williams School of Law at the University of Richmond, then practiced law in Newport News for many years before he was appointed to the bench; he and his wife, Peggy, were involved in numerous local, state, and national civic and religious organizations, giving generously of their time, talents, and abilities; and

WHEREAS, after the death of his daughter, Kelly, Bucky Yacobi pledged to do all he could to eradicate leukemia and raise awareness of the disease; he immersed himself in the Leukemia & Lymphoma Society, serving as national president for three years and on the board for more than 20 years; and

WHEREAS, Bucky Yacobi was a 4th degree Sir Knight of Columbus, (PGK, PDD), served on the board of Peninsula Catholic High School, and was a member of the Virginia Bar Association, the American Bar Association, ATLA, and the National Council of Juvenile and Family Court Judges; he was also a lifetime member of the Fraternal Order of Police (Honorary) W. E. Nesbitt Lodge #25, president/board member of the Virginia Marine Institute, and a member of Our Lady of Mount Carmel Church and St. Bede Catholic Church in Williamsburg; and

WHEREAS, Bucky Yacobi earned many awards and accolades for his lifetime of service, including the Spiral of Life Award from the Leukemia & Lymphoma Society and the National Brotherhood Award from the National Conference of Christians and Jews; and

WHEREAS, Bucky Yacobi's zest for life and learning led him to a second career in real estate, where he enjoyed marketing the lovely Tidewater Region; an avid hunter, fisherman, lifelong sportsman, teller of tall tales and long jokes, he was a force of nature to the end, never met a stranger, and endeavored to do the most good for mankind every single day of his life; and

WHEREAS, Bucky Yacobi was preceded in death by his daughter, Kelly Anne Yacobi; his parents, X. F. Yacobi and Laura Margaret Piedmont Yacobi; brothers, Frank Yacobi and Jamie Yacobi; and sisters, Laura Yacobi Bateman and Jeanne Yacobi Turley; and a loving and wise mother-in-law, Mabel Mumma; and

WHEREAS, Bucky Yacobi will be greatly missed by his loving and devoted wife, Peggy; his daughter, Karen Yacobi Warren and son-in-law, Jim; his son, Mark and his wife, Michelle; his son, Sean, and his wife, Nora; his four grandchildren,

Josh, Matt, Sophie, and Liam; a bevy of nieces and nephews; and many other great and loving family members and friends from near and far; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of the Honorable Robert Mark Yacobi, a former judge of the 7th Judicial District of Virginia and a respected member of the Newport News community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of the Honorable Robert Mark Yacobi as an expression of the General Assembly's respect for his memory.

#### HOUSE JOINT RESOLUTION NO. 857

*Commending the Chesterfield County Sheriff's Office.*

Agreed to by the House of Delegates, February 10, 2017

Agreed to by the Senate, February 16, 2017

WHEREAS, in 2016, the Chesterfield County Sheriff's Office, led by Sheriff Karl Leonard, launched the Heroin Addiction Recovery Program at the Chesterfield County Jail, an innovative, voluntary program to help inmates fight addiction and rebuild their lives; and

WHEREAS, the opioid epidemic has exacted a heavy price in Chesterfield County, where there were more than 150 overdoses in 2016, more than 30 of which were fatal, and addiction often leads to an increase in related crimes, such as larcenies, which further strain the resources of the criminal justice system; and

WHEREAS, in collaboration with local community partners, Karl Leonard and the Chesterfield County Sheriff's Office launched the Heroin Addiction Recovery Program (HARP) in March 2016; and

WHEREAS, originally funded entirely by the Chesterfield County Sheriff's Office and the McShin Foundation, the Chesterfield County HARP program began with nine participants and has helped dozens of inmates since its inception; and

WHEREAS, the Chesterfield County HARP program is a six-month intensive treatment curriculum, utilizing peer-to-peer and professional recovery support, group discussions, and guest speakers; participants in the program are considered "trustees" and live separately from other inmates; and

WHEREAS, many heroin addicts relapse within the first year of recovery, and graduates of the Chesterfield County HARP program are encouraged to continue attending counseling meetings even after they have completed their sentence; and

WHEREAS, four graduates of the program served as panelists at the Heroin in Our Family community forum hosted by the Chesterfield County Sheriff's Office in October 2016, sharing their stories in an effort to help other individuals and families battling addiction; and

WHEREAS, in late 2016, the Chesterfield County HARP program expanded to include female inmates, prompting dozens of women to request transfers to the Chesterfield County Jail to receive treatment; and

WHEREAS, the Chesterfield County HARP program received national attention when it was covered by Ryan Hampton, a passionate advocate for people struggling with addiction, for the *Huffington Post* politics blog; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Chesterfield County Sheriff's Office for establishing the Heroin Addiction Recovery Program; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Karl Leonard, the Chesterfield County Sheriff, as an expression of the General Assembly's admiration for the work of the Chesterfield County Sheriff's Office to fight opioid addiction and reduce recidivism.

#### HOUSE JOINT RESOLUTION NO. 858

*Celebrating the life of Joel Willis Richert.*

Agreed to by the House of Delegates, February 3, 2017

Agreed to by the Senate, February 9, 2017

WHEREAS, Joel Willis Richert, a passionate activist and preservationist who compiled a comprehensive directory of the historic homes in Old Southwest Roanoke, died on July 21, 2016; and

WHEREAS, born Donna Kay Balster, Joel Richert moved to the Old Southwest neighborhood of Roanoke to raise her family in 1971; she worked with other local homeowners to enhance the quality of life in the neighborhood and support its designation as a historic district; and

WHEREAS, Joel Richert helped to ensure that all renovations to neighborhood homes were done in a historically sensitive manner and that all work had been approved by the Architectural Review Board; and

WHEREAS, a regular attendee of Architectural Review Board and zoning meetings, Joel Richert helped protect the residential quality of Old Southwest Roanoke by opposing efforts to widen Franklin Road and advocating for restrictions on commercial through traffic; and

WHEREAS, gaining an encyclopedic knowledge of the 800 homes in Old Southwest Roanoke, Joel Richert compiled the information into a file, which is available in the Virginia Room of the Roanoke Public Library; and

WHEREAS, Joel Richert is fondly remembered and greatly missed by her husband, Bob; children, Curt and Tam, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Joel Willis Richert; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Joel Willis Richert as an expression of the General Assembly's respect for her memory.

**HOUSE JOINT RESOLUTION NO. 859**

*Commending William A. L. Brown II.*

Agreed to by the House of Delegates, February 3, 2017  
 Agreed to by the Senate, February 9, 2017

WHEREAS, Master Deputy Fire Marshal William A. L. Brown II of the Chesapeake Fire Department displayed great bravery and heroic actions in responding to a house fire in January 2016; and

WHEREAS, William "Billy" A. L. Brown II joined the Chesapeake Fire Department as a firefighter on December 5, 1978, and he was assigned to the city's Fire Prevention Bureau as a fire inspector in March 1997; and

WHEREAS, in July 2001, Billy Brown became a Deputy Fire Marshal, and he was promoted to Master Deputy Fire Marshal in November 2016; and

WHEREAS, Billy Brown's distinguished career in public service spans four decades, and he is the definition of a servant leader, one who has genuine character, heart for service, and deep commitment to his fellow man; and

WHEREAS, in late January 2016, Billy Brown was the first to arrive on the scene at a structure fire in South Norfolk, and, without any gear on and at great personal risk, he forced his way through the front door and attempted to locate a victim; and

WHEREAS, once inside the house, Billy Brown experienced heavy smoke conditions and a fire out of control, yet he quickly found the unconscious victim and dragged her down a hall to the front door, where she was removed from the burning structure; and

WHEREAS, Billy Brown's heroic actions and willingness to put his life at risk in January 2016 are a shining example of what the Chesapeake Fire Department represents, and he was awarded the Medal of Honor for bravery and dedication from the City of Chesapeake; and

WHEREAS, Billy Brown received the Firefighter of the Year Award from the South Norfolk Ruritan Club in 2016, one of many awards and honors he has accumulated during his lengthy career; and

WHEREAS, Billy Brown's true passion is music, and he has provided hundreds of hours of entertainment for the City of Chesapeake functions over the years, including fire recruit class graduations, promotional ceremonies, and state of the city addresses; and

WHEREAS, Billy Brown is also known for his civic and community endeavors, and he has been an active member of New Hope Congregation Christian Church for over 33 years, serving as minister of music and chair of the joint board; and

WHEREAS, Billy Brown's professional success and career achievements would not be possible without the love and support of his wife and their two children; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Master Deputy Fire Marshal William A. L. Brown II of the Chesapeake Fire Department on the great bravery and heroic actions he displayed in responding to a house fire in January 2016; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to William A. L. Brown II as an expression of the General Assembly's admiration for his valor and willingness to risk his life in service to the residents of Chesapeake.

**HOUSE JOINT RESOLUTION NO. 860**

*Commending Suzanne Gill.*

Agreed to by the House of Delegates, February 10, 2017  
 Agreed to by the Senate, February 16, 2017

WHEREAS, Suzanne Gill, a highly-regarded English and journalism teacher at Stafford High School in Falmouth, was celebrated for 50 years of devotion to her profession in 2016; and

WHEREAS, a native of Front Royal, Suzanne "Sue" Gill has been a teacher since 1965 and has taught English and journalism at Stafford High School for 44 years, including serving for 26 years as chair of the English department; and

WHEREAS, Sue Gill previously taught English and social studies at Colonial Beach High School, and she began her career teaching social studies at Madison County High School; and

WHEREAS, Sue Gill became a teacher in 1965, after receiving a bachelor's degree from James Madison University, and she earned a master's degree from the University of Virginia in 1968; and

WHEREAS, Sue Gill is the advisor for the parent newsletter, yearbook, and award-winning student newspaper at Stafford High School; and

WHEREAS, Sue Gill strongly believes in the value of critical thinking for students and society and her teaching methods encourage her students to think for themselves and make their own, well-informed decisions; and

WHEREAS, Sue Gill teaches her students the importance of separating fact from opinion and to look for facts—the who, what, when, where, why, and how—in whatever they are reading or watching; and

WHEREAS, Sue Gill has received many accolades during her accomplished career, including the Mentoring Excellence Award in *The Washington Post's* Young Journalists Development Program competition and the *Virginia Gazette* Award from the Virginia Journalism Teachers Association; and

WHEREAS, Sue Gill is admired for her dedication and passion by her fellow teachers and the administrators at Stafford High School, and she is also beloved by the students she mentors; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Suzanne Gill, a highly-regarded English and journalism teacher at Stafford High School, on reaching the milestone of 50 years of teaching in 2016; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Suzanne Gill as an expression of the General Assembly's admiration for her dedication to teaching generations of the Commonwealth's citizens.

### HOUSE JOINT RESOLUTION NO. 861

*Commending James Andrews.*

Agreed to by the House of Delegates, February 10, 2017

Agreed to by the Senate, February 16, 2017

WHEREAS, James Andrews, a highly-regarded English and creative writing teacher at Stafford High School in Falmouth, marked 50 years of devotion to the profession of educating young people in 2016; and

WHEREAS, James "Jim" Andrews has been a teacher since 1966 and he has spent all 50 years of his career teaching English at Stafford High School; and

WHEREAS, a native of Fredericksburg, Jim Andrews graduated from James Monroe High School and received both a bachelor's degree and a master's degree from the University of Richmond; and

WHEREAS, in addition to teaching at Stafford High School, Jim Andrews has also served as an adjunct faculty member at Germanna Community College; and

WHEREAS, Jim Andrews is known for challenging his students, especially through his 30-source research assignment, and in return he is respected by legions of Stafford High School alumni; and

WHEREAS, Jim Andrews loves teaching and his students, but he does not try to assuage or appeal to everyone; instead, he prefers to have students elect to take his classes and are therefore determined to learn in his classroom; and

WHEREAS, Jim Andrews is admired for his dedication and passion by his fellow teachers and the administrators at Stafford High School, and he is beloved by the students he teaches; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend James Andrews, a highly regarded English and creative writing teacher at Stafford High School, on reaching the milestone of 50 years of teaching in 2016; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to James Andrews as an expression of the General Assembly's admiration for his dedication to teaching generations of the Commonwealth's citizens.

### HOUSE JOINT RESOLUTION NO. 862

*Commending AHC Inc.*

Agreed to by the House of Delegates, February 10, 2017

Agreed to by the Senate, February 16, 2017

WHEREAS, in 2016, AHC Inc., celebrated four decades of providing comprehensive affordable housing for families with low and moderate incomes in Northern Virginia and the greater Washington, D.C., region; and

WHEREAS, AHC Inc., formerly Arlington Housing Corporation, was founded in December 1975, by community leaders who saw the need to preserve affordable housing in rapidly growing Arlington County, where rents were increasing and availability was decreasing; and

WHEREAS, United States Representative Joseph L. Fisher, Arlington County Board members James B. Hunter III and Ellen M. Bozman, and community activists Jennie Davis and Charles Rinker were instrumental in the founding of AHC Inc.; and

WHEREAS, in the beginning, AHC Inc. (AHC), operated as a nonprofit grassroots entity, providing home improvement loans for homeowners with limited incomes through a small two-person office in Arlington; and

WHEREAS, AHC evolved into a regional powerhouse that provides and maintains diverse types of affordable housing, developing 51 rental communities with nearly 7,000 homes, and offering high-quality property management and top-notch resident services; and

WHEREAS, AHC provides homes for more than 18,000 people and offers educational programs and social activities to 2,000 children, working adults, and senior citizens through its award-winning Resident Services program; and

WHEREAS, while AHC has expanded to serve communities in Alexandria, Fairfax County, and Washington, D.C., as well as Montgomery County, Maryland, and Baltimore, Maryland, the organization remains the oldest and largest developer of affordable housing in Arlington; and

WHEREAS, throughout its 40-year history, AHC received strong support from local, state, and federal elected leaders, and the organization could not have continued to expand without its dedicated and enthusiastic supporters, donors, and volunteers, as well as allied community groups, businesses, and government partners; and

WHEREAS, AHC celebrated its 40th anniversary with an event at The Westin Arlington Gateway in September 2016, which was an opportunity to thank all who have contributed to AHC's efforts to provide suitable homes for so many families; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend AHC Inc., on the 40th anniversary of its founding and four decades of providing affordable housing for families with low and moderate incomes in Northern Virginia and the greater Washington, D.C., region; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Walter D. Webdale, president and CEO of AHC Inc., as an expression of the General Assembly's admiration for the organization's accomplishments in preserving quality affordable housing so that residents of the Commonwealth with limited economic means can live and prosper.

### HOUSE JOINT RESOLUTION NO. 863

*Commending Colin Brown.*

Agreed to by the House of Delegates, February 10, 2017

Agreed to by the Senate, February 16, 2017

WHEREAS, Colin Brown, the principal at McKinley Elementary School, was named the 2016 Arlington Public Schools Principal of the Year; and

WHEREAS, born in Jamaica, Colin Brown received a bachelor's degree from Virginia Tech, a master's degree from George Mason University, and he earned an education specialist degree at the University of Virginia, where he also completed all course requirements in the educational leadership doctoral program; and

WHEREAS, a dedicated educator and team builder, Colin Brown is in his 24th year working in Arlington Public Schools and he began his career as a teacher at Thomas Jefferson Middle School; and

WHEREAS, Colin Brown served as assistant principal at Washington-Lee High School from 1999-2006 and assistant principal at Tuckahoe Elementary School from 2006-2010, when he became principal at McKinley Elementary School; and

WHEREAS, during his tenure at McKinley Elementary School, Colin Brown has fostered positive relationships inside and outside of the school, and he considers increased collaboration between the school and the surrounding community as his biggest accomplishment; and

WHEREAS, Colin Brown encourages creativity and innovation among his staff and is an effective manager; he is admired for his intelligence, thoughtful problem solving, and open-door policy; and

WHEREAS, Colin Brown is known for his easy-going manner, sense of humor and approachability, and he has built an excellent rapport with both parents and students; and

WHEREAS, Colin Brown received the Milken Family Foundation National Educator Award in 2001 and the Virginia Lottery Award for Teaching Excellence in 2002; in 2016, he was one of 17 finalists for *The Washington Post* Principal of the Year Award; and

WHEREAS, Colin Brown's success as an educator and administrator in Arlington Public Schools has been made possible by an excellent staff, supportive community, and outstanding students; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Colin Brown, principal at McKinley Elementary School, on being named Arlington Public Schools Principal of the Year in 2016; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Colin Brown as an expression of the General Assembly's admiration for his dedication and hard work to maintain the tradition of excellence at McKinley Elementary School.

**HOUSE JOINT RESOLUTION NO. 864**

*Celebrating the life of Ann Creighton Collar Broder.*

Agreed to by the House of Delegates, February 10, 2017  
 Agreed to by the Senate, February 16, 2017

WHEREAS, Ann Creighton Collar Broder of Arlington, a prominent community activist and former Arlington County School Board member, died on September 30, 2016; and

WHEREAS, Ann Broder was born in Indianapolis, Indiana, and grew up on a farm in Crawfordsville, Indiana; she received bachelor's and master's degrees from the University of Chicago; and

WHEREAS, after settling in Arlington in 1955, Ann Broder became a community activist seeking good governance and better schools, a noble calling that would span six decades; and

WHEREAS, Ann Broder was a leader in Arlingtonians for a Better County (ABC), a nonpartisan group that advocated socially progressive practices in local government; and

WHEREAS, in the 1970s, Ann Broder served two four-year terms on the Arlington County School Board, and was chair in 1975, 1976, 1979, and 1980; and

WHEREAS, Ann Broder was a supporter of the Arlington Street People's Assistance Network and the Arlington Arts Center; she remained politically active into her 80s, serving as a precinct captain at the Ballston apartment building where she lived; and

WHEREAS, Ann Broder was a world traveler, philanthropist, artist, and patron of the arts; she loved spending almost every summer of her life at the rustic wood cottage her grandfather built on Beaver Island, Michigan; and

WHEREAS, predeceased by her husband, David, a veteran *Washington Post* journalist, Ann Broder will be fondly remembered and greatly missed by her sons, George, Josh, Matthew, and Michael, and their families, and a wide circle of friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Ann Creighton Collar Broder, a prominent community activist and former Arlington County School Board member; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Ann Creighton Collar Broder as an expression of the General Assembly's respect for her memory.

**HOUSE JOINT RESOLUTION NO. 865**

*Commending the Reverend Dr. John William Kinney.*

Agreed to by the House of Delegates, February 9, 2017  
 Agreed to by the Senate, February 10, 2017

WHEREAS, the Reverend Dr. John William Kinney, a native of Wheeling, West Virginia, and resident of Virginia, earned his undergraduate degree from Marshall University in Huntington, West Virginia, the master of divinity degree from Virginia Union University's School of Theology in Richmond, and the master of philosophy and doctorate of theology and history degrees from Columbia University/Union Theological Seminary in New York; and

WHEREAS, Dr. Kinney has devoted himself to the pursuit of excellence in theological training and preparation of seminarians and has distinguished himself as an exemplary systematic theologian, outstanding academician, creative administrator, and dynamic communicator for more than 35 years, and as dean of the Virginia Union University Samuel DeWitt Proctor School of Theology, he has blessed many students and colleagues with his organizational acumen, command of the Scripture, compassionate pastoral skills, and unique leadership abilities; and

WHEREAS, a nationally known prolific scholar and "powerful vessel with a prophetic voice," Dr. Kinney has served as assistant professor of theology at Chicago Theology Seminary in Chicago, Illinois, and as adjunct faculty at Randolph-Macon College in Ashland, Union Theological Seminary in Richmond, and The College of William & Mary in Williamsburg; he is actively involved in several research activities and his many thought-provoking sermons and writings have been published online and in theological books and periodicals; and

WHEREAS, Dr. Kinney's devotion to academia to prepare pastors, theologians, teachers, apologists, evangelists, and other persons for the Gospel ministry is exceeded only by his love of the local church and commitment to serve the needs of people, as apparent by his many activities, membership in professional societies and organizations, and involvement with other community services; and

WHEREAS, Dr. Kinney has served as a consultant to the American Baptist Convention, the Progressive National Baptist Convention, the Baptist General Convention of Virginia, the United States Navy Chaplain Corps, and the United States Army Chaplain Corps; he has been a member of the American Society of Church History, the American Academy of Religion, and the Society for the Study of Black Religion; and

WHEREAS, nationally and internationally, Dr. Kinney has led the community of theological educators through multiple leadership roles in the Association of Theological Schools in the United States and Canada, including serving as chairman

of the Association's Committee on Race and Ethnicity from 1998 to 2000; as a member of the Commission on Accrediting for the Association of Theological Schools in the United States and Canada from 2000 to 2006, which he chaired from 2004 to 2006; as vice president of the Association of Theological Schools from 2006 to 2008; as president of the Association, which accredits all theological schools in North America, from 2008 to 2010; and after completing his tenure as president, Dr. Kinney served as chair of the Association's Personnel Committee from 2010 to 2012; and

WHEREAS, under Dr. Kinney's visionary leadership as dean of Virginia Union University's Samuel DeWitt Proctor School of Theology, the Master of Divinity degree program has experienced unparalleled growth, the Doctor of Ministry and Master of Arts in Christian Education programs were established, and the continuing education program has been expanded to include activities that serve more than 5,000 lay and professional church leaders annually; and

WHEREAS, among his many fellowships and awards are the Rockefeller Doctoral Fellowship, and Fellow of the Graduate School and President's Fellow at Columbia University; in 2013, he was named senior vice president of Virginia Union University in recognition of his distinguished service to the university; and

WHEREAS, Dr. Kinney, known in theological circles as the "Dean of Preachers," is the beloved and esteemed pastor of Ebenezer Baptist Church in Beaverdam, where he has faithfully served the congregation since 1977; and

WHEREAS, Dr. Kinney's contributions to Virginia Union University, the Gospel ministry, the local church, and the preparation of ministers is unmatched in the Commonwealth; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Reverend Dr. John William Kinney; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Reverend Dr. John William Kinney, as an expression of the General Assembly's admiration for his stellar contributions to academia, the community, and the Gospel ministry.

#### HOUSE JOINT RESOLUTION NO. 866

*Commending G. William Beale.*

Agreed to by the House of Delegates, February 10, 2017

Agreed to by the Senate, February 16, 2017

WHEREAS, G. William Beale is retiring in 2017, following a long and illustrious banking career; and

WHEREAS, G. William "Billy" Beale, a native of South Carolina, graduated from The Citadel and pursued a career as a banking professional in Texas and then in Virginia for more than 25 years; and

WHEREAS, Billy Beale led Union Bankshares Corporation and Union Bank & Trust as its president and chief executive officer for 25 years, during which time the company's assets grew from \$180 million to more than \$8.3 billion; and

WHEREAS, under Billy Beale's leadership, Union has grown to become the largest community banking company headquartered in Virginia, with locations throughout the Commonwealth; and

WHEREAS, Billy Beale has also been an industry leader, chairing the Virginia Bankers Association and overseeing a CEO succession plan during that time and serving as treasurer of the American Bankers Association and serving on its CEO search committee, having a direct hand in ensuring consistent industry leadership in both cases; and

WHEREAS, Billy Beale has served the Commonwealth as a board member of the Virginia Economic Development Partnership, Mary Washington Healthcare, and Germanna Community College Educational Foundation; and

WHEREAS, Billy Beale has been an active civic and community leader, serving on the boards of the Virginia Chamber of Commerce, the Greater Richmond Partnership, the Fredericksburg Regional Chamber of Commerce, the Rappahannock United Way, the Community Foundation of the Rappahannock River Region, the Historic Richmond Foundation, the State Fair of Virginia, the Caroline Chamber of Commerce, the Caroline Industrial Development Authority, the Caroline Little League, and the Caroline County School Board; and

WHEREAS, Billy Beale currently is president of The Society of the Cincinnati in the State of Virginia and as a trustee of the Virginia Foundation for Independent Colleges; and

WHEREAS, Billy Beale is highly regarded by his colleagues, peers, clients, and community partners as an outstanding leader, a person of integrity, and a role model; and

WHEREAS, Billy Beale has the good fortune to be married to Linda Cyr Beale and enjoys the love of their children and grandchildren immensely; and

WHEREAS, without a doubt, Billy Beale will continue to make a positive impact on his community and on the Commonwealth; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend G. William Beale for his exceptional professional achievements on the occasion of his retirement; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to G. William Beale as an expression of the General Assembly's admiration for his leadership and service and best wishes for his well-earned retirement.

**HOUSE JOINT RESOLUTION NO. 867**

*Celebrating the life of the Honorable Charles J. Colgan.*

Agreed to by the House of Delegates, February 10, 2017  
 Agreed to by the Senate, February 22, 2017

WHEREAS, the Honorable Charles J. Colgan, a champion for higher education and a consummate public servant who represented the residents of the 29th Senate District for four decades and retired as the longest-serving senator in Virginia history, died on January 3, 2017; and

WHEREAS, Charles "Chuck" J. Colgan learned the value of hard work and responsibility at a young age, growing up on his grandparents' farm in Maryland; after completing high school, he enlisted in the United States Army Air Corps Reserve and was called into active service along with many of the other young men of his generation during World War II; and

WHEREAS, after two years in the Army Air Corps and three years in the Air Force Reserve, Chuck Colgan pursued his passion for aviation as a commercial pilot and a licensed airframe and power plant mechanic; and

WHEREAS, after relocating to Prince William County, Chuck Colgan formed Colgan Airways, Inc., which operated one of the largest flight schools in the country, and Colgan Air, Inc., a regional airline that served 53 cities in 16 states; and

WHEREAS, Chuck Colgan began his career in public service in 1972 as the Gainesville District representative on the Prince William County Board of Supervisors, and he served as chair of the board for one year; and

WHEREAS, desirous to be of further service to the Commonwealth, Chuck Colgan ran for and was elected to the Senate of Virginia in 1975; he was reelected for nine additional consecutive terms, ably representing the residents of Prince William County and the Cities of Manassas and Manassas Park until his well-earned retirement in 2016; and

WHEREAS, throughout his 40-year career as a senator, Chuck Colgan introduced 560 bills and 120 joint resolutions; taking a special interest in higher education, he helped Virginia enhance its world-class public universities, thereby strengthening the future of the Commonwealth; and

WHEREAS, Chuck Colgan proudly served as President Pro Tempore of the Senate in 2014, and as chair of the Senate Committee on Finance, he helped secure funding for the State Route 234 bypass, the Prince William Campus of George Mason University, and enhancements to the Woodbridge and Manassas campuses of Northern Virginia Community College; and

WHEREAS, Chuck Colgan earned many awards and accolades for his good work, including the Vision Award from Leadership Prince William and the Virginia Senator of the Year award from the Virginia Transit Association; he was also inducted into the Virginia Aviation Hall of Fame, and a high school in Prince William County and a building on the George Mason University Science and Technology campus are named in his honor; and

WHEREAS, a man of great integrity, Chuck Colgan fostered bipartisan respect and cooperation for the benefit of all Virginians, and he served the Prince William County and Manassas communities and the Commonwealth with the utmost dedication and distinction; and

WHEREAS, Chuck Colgan enjoyed fellowship and worship with the Manassas community as a parishioner of All Saints Catholic Church, where he served as an usher for more than 50 years; and

WHEREAS, predeceased by his wife of 52 years, Agnes, Chuck Colgan will be fondly remembered and greatly missed by his children, Charles, Ruth, Michael, Raymond, Mary, Dot, Patrick, and Tim; his 24 grandchildren and 22 great-grandchildren, with two more on the way; and numerous other family members, friends, and colleagues on both sides of the aisle; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Charles J. Colgan, a true statesman who dedicated a lifetime of service to the Commonwealth; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Charles J. Colgan as an expression of the General Assembly's respect for his memory.

**HOUSE JOINT RESOLUTION NO. 868**

*Commending the James Madison Museum of Orange County Heritage.*

Agreed to by the House of Delegates, February 10, 2017  
 Agreed to by the Senate, February 16, 2017

WHEREAS, the James Madison Museum of Orange County Heritage has been honoring the contributions of America's fourth president and illuminating the rich history of Orange County for 40 years; and

WHEREAS, the James Madison Museum was founded by Jaquelin and Helen Marie Taylor in 1976, as an exhibition to celebrate America's Bicentennial; and

WHEREAS, located in a converted 1930s automobile dealership, the James Madison Museum is a true gem and its 13,000 square feet of exhibit space house a wonderful collection of documents, costumes, farm equipment, and Madison family artifacts; and

WHEREAS, the James Madison Museum is the first museum in the United States to honor President James Madison, the father of the United States Constitution, and it also celebrates the contributions of First Lady Dolley Madison and President Zachary Taylor, who was born in Orange County; and

WHEREAS, the James Madison Museum's Madison Room displays numerous possessions of the Madisons and Zachary Taylor, as well as some from other Virginia-born presidents; among the museum's most prized artifacts is the fourth president's favorite chair, known as the Campeche Chair, which was a gift from Thomas Jefferson; and

WHEREAS, located in historic downtown Orange, near Montpelier, the James Madison Museum's mission is to highlight the agricultural and economic history of Orange County and early Virginia; and

WHEREAS, the James Madison Museum's largest exhibit room is the Hall of Agriculture and Transportation, which features a large collection of antique farming tools and equipment, horse-drawn conveyances, a 1732 cube house, and a 1923 Ford Model T; and

WHEREAS, the Black History Room at the James Madison Museum showcases the history of African Americans in Orange County and Virginia from the American Revolution through Emancipation, and the museum also features a Temporary Exhibit Room for rotating displays; and

WHEREAS, the James Madison Museum offers something for everyone to enjoy and is a wonderful place for students, families, and history enthusiasts, especially presidential, Virginia, and Civil War buffs; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the James Madison Museum of Orange County Heritage on 40 years of promoting America's fourth president and the rich history of Orange County; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Ponch K. McPhee, president of the James Madison Museum of Orange County Heritage Board of Directors, as an expression of the General Assembly's admiration for the museum's efforts to preserve and present the contributions of President James Madison and the remarkable heritage of Orange County and Virginia.

#### HOUSE JOINT RESOLUTION NO. 869

*Celebrating the life of Anthony Pearly Tucker, Jr.*

Agreed to by the House of Delegates, February 10, 2017

Agreed to by the Senate, February 16, 2017

WHEREAS, Anthony Pearly Tucker, Jr., born on June 14, 1932, in Brookneal, went into eternal life with the Lord on November 28, 2016; and

WHEREAS, Anthony P. Tucker, Jr., was the fourth of five children and reared by parents who instilled in him a spirit of service, respect for self and others, and a foundation of virtues upon which his character was formed; and

WHEREAS, Anthony P. Tucker, Jr., served his country in the United States Navy from 1951 to 1955; and

WHEREAS, Anthony P. Tucker, Jr., began an enviable law-enforcement record starting with the Lynchburg Police Department from 1955 to 1959; and

WHEREAS, Anthony P. Tucker, Jr., from 1959 to 1963 served as a trooper with the Virginia State Police; and

WHEREAS, Anthony P. Tucker, Jr., was a patrolman with the Chesterfield Police Department from 1964 to 1966; and

WHEREAS, Anthony P. Tucker, Jr., joined the Division of Capitol Police in 1970 as a Major, retiring with the rank of Colonel in 1991; and

WHEREAS, Anthony P. Tucker, Jr., in addition to his duties with the Division, served the Virginia Association of Chiefs of Police and the National Legislative Services and Security Association, including hosting its conference in Richmond in 1990; and

WHEREAS, Anthony P. Tucker, Jr., served six Governors of Virginia: the Honorable Mills E. Godwin, Jr.; the Honorable Linwood Holton, Jr.; the Honorable John N. Dalton; the Honorable Charles S. Robb; the Honorable Gerald L. Baliles; and the Honorable L. Douglas Wilder; and

WHEREAS, Anthony P. Tucker, Jr., provided the Division of Capitol Police with firm, professional, and compassionate leadership for more than two decades; and

WHEREAS, Anthony P. Tucker, Jr., was known as the most generous and caring neighbor and friend to all who knew him and to strangers as well; and

WHEREAS, Anthony P. Tucker, Jr., led a life of personal integrity, unblemished service, civic leadership, and professional excellence and had an unabashed commitment to his faith and family; and

WHEREAS, Anthony P. Tucker, Jr., personified the scripture of Micah 6:8, "Seek justice, love mercy, and walk humbly with your God"; and

WHEREAS, bereft family, friends, colleagues, neighbors, and many others who loved and knew him are flooded with sweet memories and sorrow, and although the community has been diminished by his departure, Anthony P. Tucker, Jr., leaves a legacy worthy of emulation; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Anthony Pearly Tucker, Jr.; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Anthony Pearly Tucker, Jr., as an expression of the General Assembly's abiding respect and esteem for his memory and his enduring contributions to Richmond and the Commonwealth.

### HOUSE JOINT RESOLUTION NO. 870

*Commending Juanita Velasco.*

Agreed to by the House of Delegates, February 10, 2017

Agreed to by the Senate, February 16, 2017

WHEREAS, Juanita Velasco of Aldie, an interpreter and an expert on traditional Mayan arts and cooking, was appointed as an international ambassador for Mayan culture and tourism by the government of Guatemala in 2016; and

WHEREAS, born in Nebaj, Guatemala, Juanita "Sheba" Velasco learned Mayan back strap weaving techniques and recipes from her grandmother; her native tongue is Ixil, one of 21 different Mayan languages in Guatemala, variants of which are spoken by between 70,000 and 80,000 people; and

WHEREAS, as an ambassador for Mayan culture, Sheba Velasco immigrated to the United States and became a United States citizen; she enjoyed a distinguished career as an Ixil to English interpreter, serving in courtroom proceedings, caseworker interviews, medical patient consultations, and at the United Nations; and

WHEREAS, Sheba Velasco has also shared her Mayan heritage at museums, culture centers, and schools throughout North America, Central America, and Europe; she worked for 13 years at the Smithsonian's National Museum of the American Indian in Washington, D.C., and New York City; and

WHEREAS, as an ambassador for Mayan culture, Sheba Velasco continues to travel throughout the United States and the world, giving presentations on a variety of topics related to the Mayans and Guatemala; and

WHEREAS, using hands-on activities tailored to different age groups and audiences, Sheba Velasco demonstrates traditional Mayan weaving, dancing, storytelling, farming, and cooking; she also travels to Guatemala to serve as guide for the country's cities, rural villages, historical sites, and natural wonders; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Juanita Velasco on her appointment as an international ambassador for Mayan culture and tourism; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Juanita Velasco as an expression of the General Assembly's admiration for her work to preserve and share the ancient culture of the Maya.

### HOUSE JOINT RESOLUTION NO. 871

*Celebrating the life of W. Alvin Hudson, Jr.*

Agreed to by the House of Delegates, February 10, 2017

Agreed to by the Senate, February 16, 2017

WHEREAS, W. Alvin Hudson, Jr., a longtime law-enforcement officer and public servant who dedicated his life to the service of his fellow Roanoke residents, died on January 19, 2017; and

WHEREAS, a native of Roanoke, Alvin Hudson began his career in public service with the Roanoke City Police Department in 1950 and rose through the ranks from patrol officer to lieutenant; and

WHEREAS, during his 27-year career with the Roanoke City Police Department, Alvin Hudson was named Officer of the Year for his work to investigate a burglary ring, and he served as personal protection officer for important visitors to the city, including four United States presidents and Elvis Presley; and

WHEREAS, in 1977, Alvin Hudson was appointed sheriff to fill an unexpired term and easily won reelection multiple times over the next 20 years, facing opposition only once; he overhauled the training and promotion procedures at the Roanoke City Sheriff's Office and helped increase efficiency by implementing a new computer system; and

WHEREAS, among his proudest accomplishments as sheriff, Alvin Hudson helped transform the Roanoke City Jail into a nationally accredited facility that can house up to 800 inmates; the facility met the rigorous criteria of the American Correctional Association and was the first jail in Virginia to achieve 100 percent compliance on the standards set by the Virginia Department of Corrections; and

WHEREAS, desirous to be of further service to the community after his well-earned retirement as sheriff in 1997, Alvin Hudson successfully ran for election to the Roanoke City Council; he served on many boards, committees, and commissions, working to enhance the quality of life for all Roanoke residents, and worked with other local leaders to create innovative solutions to regional issues; and

WHEREAS, Alvin Hudson also served the Commonwealth as a member of the Virginia Army National Guard and the Virginia Board of Corrections; he was active in several service organizations, including the Boy Scouts of America, the Freemasons, the Shriners, and youth athletics leagues, and he enjoyed fellowship and worship with the congregation of First Baptist Church of Roanoke; and

WHEREAS, Alvin Hudson will be fondly remembered and greatly missed by his wife, Jackie; daughters, Kathy and Bonnie, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of W. Alvin Hudson, Jr., a respected law-enforcement officer and public servant and a pillar of the Roanoke community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of W. Alvin Hudson, Jr., as an expression of the General Assembly's respect for his memory.

**HOUSE JOINT RESOLUTION NO. 872**

*Commending American Legion Dyer-Gunnell Post 180.*

Agreed to by the House of Delegates, February 10, 2017

Agreed to by the Senate, February 16, 2017

WHEREAS, for 80 years, American Legion Dyer-Gunnell Post 180 has supported the veteran community in Vienna and honored the service and sacrifices of all men and women in uniform at home and abroad; and

WHEREAS, the American Legion is the largest veterans organization in the world, with more than three million members in the United States and 28 other countries; American Legion Dyer-Gunnell Post 180 was founded in 1936 by a group of World War I veterans who saw the need for a post in Vienna; and

WHEREAS, American Legion Dyer-Gunnell Post 180 bears the names of two local service members killed during World War I; the post is located on land that was granted to John Jenkins in 1745, was later sold to William Fairfax, and was deeded to the post in 1956; and

WHEREAS, like all American Legion posts, American Legion Dyer-Gunnell Post 180 is committed to serving active and retired service members and providing care and support for wounded service members and widows and orphans; and

WHEREAS, throughout its history, American Legion Dyer-Gunnell Post 180 has participated in numerous community events in Vienna and maintains partnerships with the United States Department of Veterans Affairs, local Boy Scouts of America troops, the Vienna Volunteer Fire Department, Hospice of Northern Virginia, Patrick Henry Boys and Girls Plantation, and the Town of Vienna Parks and Recreation; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend American Legion Dyer-Gunnell Post 180 on the occasion of its 80th anniversary in 2016; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to American Legion Dyer-Gunnell Post 180 as an expression of the General Assembly's admiration for the organization's legacy of service to veterans and the Vienna community.

**HOUSE JOINT RESOLUTION NO. 873**

*Celebrating the life of Mary Jones Baldwin.*

Agreed to by the House of Delegates, February 10, 2017

Agreed to by the Senate, February 16, 2017

WHEREAS, Mary Jones Baldwin, a vibrant member of the Centreville community and a loving wife, mother, and grandmother, died on November 26, 2016; and

WHEREAS, a native of Paris, Kentucky, Mary Baldwin grew up on Collinwood Farm in Bourbon County; and

WHEREAS, after graduating with the Class of 1946 from the University of Kentucky, where she was a proud member of Delta Delta Delta sorority, Mary Baldwin married her husband, Lawrence, in 1950; and

WHEREAS, after his retirement from the United States Navy, Mary and Lawrence Baldwin relocated to Fallston, Maryland, then settled in Centreville; and

WHEREAS, well known for her kindness and optimism, Mary Baldwin was a member of the Rocky Run Garden Club and enjoyed fellowship and worship with the congregation of St. John's Episcopal Church; and

WHEREAS, Mary Baldwin will be fondly remembered and greatly missed by her beloved husband, Lawrence; children, Marilyn, Robert, and Steven, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Mary Jones Baldwin; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Mary Jones Baldwin as an expression of the General Assembly's respect for her memory.

**HOUSE JOINT RESOLUTION NO. 874***Commending the City of Fairfax Band Association.*

Agreed to by the House of Delegates, February 10, 2017

Agreed to by the Senate, February 16, 2017

WHEREAS, the City of Fairfax Band Association is a nonprofit organization of 170 adult volunteer musicians and 130 student musicians who enjoy providing high-quality musical performances in the Northern Virginia community; and

WHEREAS, the City of Fairfax Band is now in its 47th concert season and brings Northern Virginia the best in symphonic band music through a nine-concert subscription series, Independence Day celebrations, and the Fairfax Spotlight on the Arts Festival, as well as Concerts in the Park and Spotlight by Starlight; and

WHEREAS, the City of Fairfax Band is nationally recognized as one of the most outstanding community concert bands in the United States, having received the John Philip Sousa Foundation's Sudler Silver Scroll Award, the most prestigious honor a community band may receive; and

WHEREAS, in 2012, the City of Fairfax Band was voted into *Virginia Living's* Best of Virginia rankings, and in 2014, the band was honored with an invitation to perform at the national convention of the Association of Concert Bands; and

WHEREAS, the City of Fairfax Band was selected to represent the United States at the annual D-Day memorial ceremony at the Normandy American Cemetery at the site of Omaha Beach in Normandy, France; and

WHEREAS, as part of the commemorative ceremony, the City of Fairfax Band will also be showcased in the D-Day Memorial Parade in St. Mère Église and will perform in a concert in Paris; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the City of Fairfax Band Association for its representation of the Commonwealth and the City of Fairfax at the D-Day ceremonies in Normandy, France; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the City of Fairfax Band Association at a band concert as an expression of the General Assembly's admiration for the band's musical leadership and contributions to cultural life in the Commonwealth.

**HOUSE JOINT RESOLUTION NO. 875***Celebrating the life of the Honorable John C. Miller.*

Agreed to by the House of Delegates, February 10, 2017

Agreed to by the Senate, February 16, 2017

WHEREAS, the Honorable John C. Miller, a respected journalist, tireless advocate for education, and longtime public servant who ably represented the residents of the 1st District in the Senate of Virginia for three terms, died on April 4, 2016; and

WHEREAS, a native of Bryn Mawr, Pennsylvania, John Miller earned a bachelor's degree from Northern Illinois University, then relocated to Hampton Roads and began an 18-year career in journalism with WVEC-13, where he worked as a reporter, anchor, and news director and earned national accolades for his weekly documentary program; and

WHEREAS, after serving as a top aide to a United States Senator in the 1980s, John Miller returned to journalism as an anchor of *Good Morning Hampton Roads* on WVEC-13 and held administrative positions with public broadcasting station WHRO and Christopher Newport University; and

WHEREAS, desirous to be of further service to the Commonwealth, John Miller ran for and was elected to the Senate of Virginia in 2007; he represented the residents of part of Newport News, Hampton, Suffolk, York County, and James City County and all of Williamsburg in the 1st District; and

WHEREAS, John Miller introduced and supported many important pieces of legislation related to nonpartisan redistricting, voting rights for older Virginians, support for veterans, and protection of the valuable natural resources of the Chesapeake Bay; and

WHEREAS, John Miller was passionate about improving public education in the Commonwealth and worked to ensure that each child in Virginia received the best possible education; he helped decrease the number of Standards of Learning tests in public elementary schools and redesigned high school education to better prepare students for higher education and careers; and

WHEREAS, John Miller offered his wisdom and expertise as a member of the Committees on Agriculture, Conservation and Natural Resources, Local Government, and Privileges and Elections; he also worked to build bipartisan consensus on key issues as a founder of the Commonwealth Caucus, which included two Democrats and two Republicans; and

WHEREAS, John Miller held leadership positions in Smart Beginnings of the Virginia Peninsula, People to People, Peninsula READS, the Food Bank of Virginia Peninsula, and many other civic and service organizations; he earned numerous awards and accolades for his devoted work to enhance the lives of his fellow community members; and

WHEREAS, respected for his kindness and compassion, John Miller was a man of great integrity who served the residents of Hampton Roads and the Commonwealth with the utmost dedication and distinction; and

WHEREAS, John Miller will be fondly remembered and greatly missed by his wife, Sharron; children, Jenny and John; grandson, Isaac; and their families; and numerous other family members, friends, and colleagues on both sides of the aisle; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of the Honorable John C. Miller, a respected journalist and public servant who dedicated his life to bettering the lives of all Virginians; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of the Honorable John C. Miller as an expression of the General Assembly's respect for his memory.

#### HOUSE JOINT RESOLUTION NO. 876

*Commending Diane Kelly.*

Agreed to by the House of Delegates, February 10, 2017

Agreed to by the Senate, February 16, 2017

WHEREAS, after 29 years as an indefatigable crusader for mental health issues, Diane Kelly retired as executive director of Mental Health America of Roanoke Valley in 2016; and

WHEREAS, a native of Botetourt County, Diane Kelly graduated from Lord Botetourt High School and Hollins College (now Hollins University), where she majored in politics; and

WHEREAS, founded in 1947 by local citizens, Mental Health America of Roanoke Valley (MHARV) is the oldest organization in the Roanoke community dedicated to providing education about mental health and resources for treatment; and

WHEREAS, Diane Kelly was working in the financial aid office at Hollins College in the 1980s when she was asked to join the board of MHARV, and later, when she was president-elect of the MHARV board, she stepped into the role of executive director when there was a vacancy; and

WHEREAS, Diane Kelly was diagnosed with bipolar disorder at the age of 35, and she became determined to teach others that with the right treatment and support, individuals with mental illness can live full, productive, and enjoyable lives, and be of service to those around them; and

WHEREAS, through her leadership at MHARV, Diane Kelly worked to bring mental health insurance equity to Virginia, mental health courts to the Roanoke Valley, and increase the number of inpatient beds for children and adolescents; and

WHEREAS, during Diane Kelly's tenure, MHARV opened a free clinic to treat uninsured adults, and today it treats almost 200 individuals annually, giving hope for a rewarding life to many local residents and their families; and

WHEREAS, Diane Kelly helped write Virginia's Comprehensive Services Act and then delivered the votes needed to get it passed; as MHARV executive director she was constantly looking for ways to remind lawmakers that mental health is critical to all health; and

WHEREAS, through MHARV's Mental Health First Aid classes, Diane Kelly taught more than a thousand people, including human resources professionals, health care workers, clergy, probation officers, judges, and social workers, what to do when encountering someone who is in crisis; and

WHEREAS, Diane Kelly is one of the most effective mental health advocates in the Commonwealth, and, in 2016, she was honored with the DePaul Community Resources' Women of Achievement Lifetime Award for her energetic and persistent advocacy on behalf of the mentally ill; and

WHEREAS, in retirement, Diane Kelly hopes to find more time for her love of music and piano, and she will no doubt remain active in her community; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Diane Kelly on her retirement after 29 years as executive director of Mental Health America of Roanoke Valley; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Diane Kelly as an expression of the General Assembly's admiration for her life's work in pursuit of better treatment and care for people living with mental health issues.

#### HOUSE JOINT RESOLUTION NO. 877

*Commending Carol Bauer.*

Agreed to by the House of Delegates, February 10, 2017

Agreed to by the Senate, February 16, 2017

WHEREAS, Carol Bauer, a fourth-grade teacher at Grafton Bethel Elementary School near Yorktown, is a recipient of the 2017 Horace Mann Award for Teaching Excellence; and

WHEREAS, Carol Bauer is one of five teachers to receive the 2017 Horace Mann Award for Teaching Excellence, which is bestowed by the National Education Association (NEA) Foundation at a February 2017 awards gala in Washington, D.C.; and

WHEREAS, Carol Bauer received the 2016 Virginia Education Association (VEA) Award for Teaching Excellence after she was named Grafton Bethel Elementary School Teacher of the Year in 2016; and

WHEREAS, Carol Bauer has been a teacher in the York County School Division since 1996, and she has taught almost every grade at Grafton Bethel Elementary School; and

WHEREAS, the Horace Mann Award, which comes with a \$10,000 prize, honors educators who go above and beyond to exemplify teaching excellence and who are dedicated to their students, colleagues, community, and profession; and

WHEREAS, Carol Bauer was recognized for her diligence, exemplary instruction, professional advocacy, leadership, and for her "Genius Hour" classroom innovation, which is a dedicated time for students to research and present topics that are of interest to them; and

WHEREAS, "Genius Hour" allows students to develop and use research, collaboration, and presentation skills, and also opens the door to interesting and educational discussions about topics such as the Underground Railroad, fashion, biographies, and space exploration; and

WHEREAS, Carol Bauer is also sponsor for the Battle of the Books reading incentive program, coach of the Great Grizzlies LEGO Team, and a mentor to fellow teachers going through the National Board Certification process; and

WHEREAS, Carol Bauer has served as president of the York Education Association and on the VEA Board of Directors; she currently represents Virginia on the NEA Board of Directors; and

WHEREAS, Carol Bauer's exemplary efforts in the classroom would not be possible without the support of her fellow teachers and terrific school administrators; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Carol Bauer, a fourth-grade teacher at Grafton Bethel Elementary School near Yorktown, on being selected for the 2017 Horace Mann Award for Teaching Excellence; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Carol Bauer as an expression of the General Assembly's admiration for her national achievement and unwavering dedication to the students of the Commonwealth.

#### HOUSE JOINT RESOLUTION NO. 878

*Commending Shari Milne Vandygriff.*

Agreed to by the House of Delegates, February 10, 2017

Agreed to by the Senate, February 16, 2017

WHEREAS, Shari Milne Vandygriff, an eighth-grade English teacher at Berkeley Middle School in Williamsburg, was named the Williamsburg-James City County Public Schools Teacher of the Year in 2016; and

WHEREAS, Shari Vandygriff was first selected as Middle School Teacher of the Year in the Williamsburg-James City County Public Schools (WJCC) division, making her one of three finalists for the Teacher of the Year award; and

WHEREAS, Shari Vandygriff has been a teacher in WJCC Public Schools since 2009, and is currently the English curriculum leader at Berkeley Middle School, where she also serves as a mentor and Parent Teacher Association teacher representative; and

WHEREAS, Shari Vandygriff has also led the Write Talk program at Berkeley Middle School, where community members teach students about the importance of writing; and

WHEREAS, Shari Vandygriff views teaching as a calling, not just a career; the learning environment she creates in her classroom is student-centered and designed to promote active student engagement; and

WHEREAS, Shari Vandygriff sets high expectations and makes every student feel as if they belong; her teaching philosophy emphasizes building trusting relationships, providing a nurturing learning environment, and encouraging collaboration; and

WHEREAS, Shari Vandygriff's students describe her as humorous, prepared, positive, and approachable; she really connects with her students and inspires them to reach high levels in her classroom; and

WHEREAS, Shari Vandygriff's success in the classroom is made possible with the love and support of her family members, mentors, and colleagues; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Shari Milne Vandygriff on being named the Williamsburg-James City County Public Schools Teacher of the Year in 2016; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Shari Milne Vandygriff as an expression of the General Assembly's admiration for her achievement and deep commitment to excellence in her classroom.

**HOUSE JOINT RESOLUTION NO. 879**

*Commending Timothy Renwick.*

Agreed to by the House of Delegates, February 10, 2017

Agreed to by the Senate, February 16, 2017

WHEREAS, Senior Police Officer Timothy Renwick was honored by the James City County Police Department as 2016 Officer of the Year; and

WHEREAS, Timothy "Tim" Renwick decided to become a police officer when he finished his military career because he enjoys talking to people and helping others, and now he could not imagine having any other job; and

WHEREAS, Tim Renwick was chosen as 2016 Officer of the Year by the James City County Police Department because he is a leader among his peers and is a model example of what a police officer should be; and

WHEREAS, Tim Renwick routinely ranks highest among his fellow officers in the areas of traffic enforcement, felony and misdemeanor criminal arrests, and service of warrants, among others; and

WHEREAS, Tim Renwick is a very active member of the James City County Police Department's Hostage Negotiations Team; he has successfully negotiated the safe outcome of numerous high-stress situations and he takes pride in helping people who are in crisis; and

WHEREAS, a member of the Colonial Area Crisis Intervention Team (CIT), Tim Renwick regularly provides In-House and Roll Call training and he has instructed in CIT classes; and

WHEREAS, in addition to his uniform, Tim Renwick always wears a smile; he is known for his professionalism, sincerity, and empathy by the citizens of James City County; and

WHEREAS, in his time off from work, Tim Renwick volunteered to help build a new playground at the Grove Community Center, a safe area where neighborhood children can enjoy time outside; and

WHEREAS, Tim Renwick was named the James City County Police Department's "Top Cop" in 2016 by the Greater Hampton Roads Regional Crime Lines, an honor that was based on nominations from his fellow officers; and

WHEREAS, Tim Renwick is extremely well-liked and respected by his peers, he is always willing to assist other officers, and he embodies the James City County Police Department's values of integrity, collaboration, stewardship, and excellence; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Senior Police Officer Timothy Renwick of the James City County Police Department on being honored as 2016 Officer of the Year; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Timothy Renwick, a senior police officer in the James City County Police Department, as an expression of the General Assembly's admiration for his dedication to his work and to ensuring the safety of the citizens of James City County.

**HOUSE JOINT RESOLUTION NO. 880**

*Commending Mount Pleasant Baptist Church.*

Agreed to by the House of Delegates, February 10, 2017

Agreed to by the Senate, February 16, 2017

WHEREAS, in 2017, Mount Pleasant Baptist Church celebrates 150 years of ministry, spiritual education, and joyful worship in the Baptist tradition; and

WHEREAS, Mount Pleasant Baptist Church traces its deepest roots to the end of the Civil War, when freedmen migrated to the Alexandria area and formed the Mount Pleasant community on land donated by Charles H. Brown; and

WHEREAS, in 1867, Andrew Jackson, Fenton Somers, William Nutt, and John Curry accepted the deed to the land on which Mount Pleasant Baptist Church would be built to serve and minister to the residents of Mount Pleasant; and

WHEREAS, Mount Pleasant Baptist Church held its first services in a one-room log building, which was used for worship services on Sundays and as a schoolhouse during the week; the original building was replaced by a frame church in 1881 to better accommodate the growing community; and

WHEREAS, in 1931, Mount Pleasant Baptist Church expanded again, building what is now known as the Pinkett and Sheppard Memorial Chapel, and broadened its mission to provide community outreach and education, as well as opportunities for worship; and

WHEREAS, Mount Pleasant Baptist Church broke ground for its current sanctuary on July 17, 1976; the building has been renovated and modified over the years to include a nursery and other useful areas; and

WHEREAS, Mount Pleasant Baptist Church offers active ministries for children, young adults, men, women, singles, seniors, the grieving, and the deaf and hard-of-hearing; the church also helped establish a credit union to provide new opportunities for members of the congregation; and

WHEREAS, inspired by their faith, members of Mount Pleasant Baptist Church have gone on to become leaders in a variety of career fields and respected members of the community, always carrying with them the church's divine teachings; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Mount Pleasant Baptist Church on the occasion of its 150th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Reverend Dr. Carl Johnson, pastor of Mount Pleasant Baptist Church, as an expression of the General Assembly's admiration for the church's unique place in the history of Alexandria.

#### HOUSE JOINT RESOLUTION NO. 881

*Celebrating the life of Paul Bankit.*

Agreed to by the House of Delegates, February 10, 2017

Agreed to by the Senate, February 16, 2017

WHEREAS, Paul Bankit of Williamsburg, a decorated Vietnam War pilot, inventor, college professor, and entrepreneur, died on June 22, 2016; and

WHEREAS, Paul Bankit earned a bachelor's degree from the University of Wisconsin, a master's degree from the University of Nebraska, and a doctoral degree from Michigan State University; and

WHEREAS, Paul Bankit joined the United States Army in 1953 and completed basic training at what was then Gary Air Force Base in San Marcos, Texas; and

WHEREAS, Paul Bankit served three tours of duty in Vietnam and he received the Legion of Merit and the Bronze Star Medal, among many other military accolades during his time in service; and

WHEREAS, a pioneer in United States Army aviation, Paul Bankit was one of the first recipients of the Master Aviator Badge; he also served as a chief test pilot of the Joint Services and commanded the Transportation Engineering Agency in Newport News before retiring as a colonel in 1978; and

WHEREAS, following his military career, Paul Bankit became a teacher and worked as a professor at three major universities, including Embry-Riddle Aeronautical University in Daytona Beach, Florida, where he served as provost; and

WHEREAS, one of Paul Bankit's greatest accomplishments in life was founding a company that sold the first patented product to orally dose champion pull and race horses with selenium; and

WHEREAS, in recent years, Paul Bankit remained active with the James City County Registrar, Jamestown Christian Fellowship, and his company, Real Selenium, Inc.; and

WHEREAS, Paul Bankit loved life, fast cars, planes, and watching football, basketball, and golf on TV; he was a fan of the Green Bay Packers and the Michigan State Spartans and regularly attended the Indianapolis 500 IndyCar Series race; and

WHEREAS, preceded in death by his wife, Judy, Paul Bankit will be fondly remembered and greatly missed by his children, Eric, Paula, and Wade, and their families, and many other relatives and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Paul Bankit of Williamsburg, a decorated Vietnam War veteran, inventor, college professor, and entrepreneur; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Paul Bankit as an expression of the General Assembly's respect for his memory.

#### HOUSE JOINT RESOLUTION NO. 883

*Commending the Wrenn family Fourth of July celebration.*

Agreed to by the House of Delegates, February 10, 2017

Agreed to by the Senate, February 16, 2017

WHEREAS, the Wrenn family Fourth of July celebration has been an institution in the Emporia community for 50 years; and

WHEREAS, on July 4, 1968, Robert C. Wrenn and Ann W. Wrenn, along with their children, Randi and Bob, hosted their first neighborhood Fourth of July celebration at their home on 304 Church Street to promote patriotism and an appreciation for American history; and

WHEREAS, the Wrenn family Fourth of July celebration starts with a ride on a city fire truck for anyone who wants to participate and features group sing-alongs of patriotic songs; Steven Walker, the Mayor of Charlotte Courthouse, provides a history of the Declaration of Independence while dressed in authentic Colonial garb, and every child in attendance receives an American flag; and

WHEREAS, at the Wrenn family Fourth of July celebration, everyone joins in saying the Pledge of Allegiance to a flag that has flown over the Betsy Ross House, Christ Church of Emporia, Independence Hall in Philadelphia, Monticello, the Capitol of Colonial Williamsburg, the Virginia State Capitol, and the National Archives Building in Washington, D.C.; and

WHEREAS, after 50 years, the Wrenn family Fourth of July celebration is still going strong, with Randi Kei and Bob Wrenn now joined by their spouses, Kevin Kei and Jeannette Arnold Wrenn, in organizing this beloved local tradition; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Wrenn family Fourth of July celebration on the occasion of its 50th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Wrenn family as an expression of the General Assembly's admiration for its contributions to the Emporia community.

**HOUSE JOINT RESOLUTION NO. 884**

*Commending Transitions Family Violence Services.*

Agreed to by the House of Delegates, February 10, 2017

Agreed to by the Senate, February 16, 2017

WHEREAS, for 40 years, Transitions Family Violence Services, a nonprofit organization based in Hampton, has worked to build safe and healthy families in the Virginia Peninsula by providing shelter, counseling, advocacy, and education to adults and children; and

WHEREAS, founded in 1977, Transitions Family Violence Services is the sole provider of domestic violence services in Hampton, Newport News, and Poquoson and a co-provider in York County; and

WHEREAS, Transitions Family Violence Services treats domestic violence survivors with honesty, dignity, compassion, and cultural sensitivity and works to provide a safe place for survivors to set goals and determine what is best for themselves and their families; and

WHEREAS, Transitions Family Violence Services empowers domestic violence survivors through counseling, legal advocacy, and case management, as well as short-term and transitional housing support and self-sufficiency education to help survivors make their own healthy life choices; and

WHEREAS, building strong relationships with other local organizations and individuals, Transitions Family Violence Services offers seminars and training courses for members of the community on recognizing the warning signs of domestic violence at home and school and in the workplace and methods of prevention; and

WHEREAS, Transitions Family Violence Services takes a special interest in young people, recognizing that children who witness or experience domestic violence may experience anxiety, trauma, or other harmful effects later in life, and offers after-school programs and youth camps; and

WHEREAS, Transitions Family Violence Services has helped countless families in the Virginia Peninsula with the support of many generous donations and the dedication and hard work of local volunteers; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Transitions Family Violence Services on the occasion of its 40th anniversary in 2017; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Transitions Family Violence Services as an expression of the General Assembly's admiration for the organization's mission to support healthy family life in the Commonwealth.

**HOUSE JOINT RESOLUTION NO. 885**

*Commending Boys & Girls Clubs of the Virginia Peninsula.*

Agreed to by the House of Delegates, February 10, 2017

Agreed to by the Senate, February 16, 2017

WHEREAS, for 70 years, Boys & Girls Clubs of the Virginia Peninsula has provided boys and girls in the Counties of Gloucester, Mathews, and York and the Cities of Newport News, Hampton, and Williamsburg with safe places to learn and grow; and

WHEREAS, Boys & Girls Clubs of the Virginia Peninsula traces its roots to 1946 when the Boys Club of Newport News was established to give local youth an outlet for positive activities and provide much-needed mentorship and guidance; and

WHEREAS, the Boys Club of Newport News changed its name to the Boys Club of the Virginia Peninsula after it opened a new facility in 1958, and the organization first began serving girls in 1991; and

WHEREAS, in 2016, Boys & Girls Clubs of the Virginia Peninsula has 13 locations, ensuring that youth in many different communities have easy access to the organization's valuable programs; and

WHEREAS, Boys & Girls Clubs of the Virginia Peninsula serves nearly 6,000 boys and girls annually through programs led by adult mentors that are organized into five core categories—education and career, character and leadership, the arts, healthy lifestyles, and sports, recreation, and fitness; and

WHEREAS, Boys & Girls Clubs of the Virginia Peninsula programs provide boys and girls time to complete school work and opportunities to work with tutors, workforce development training for teens, opportunities for community service

and mentorship, advice on healthy nutrition and positive recreational activities, and arts, crafts, music, and dance workshops; and

WHEREAS, Boys & Girls Clubs of the Virginia Peninsula has succeeded in its mission to inspire young people to be good citizens and leaders in their communities with the help of many generous donations and the hard work of countless dedicated volunteers; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Boys & Girls Clubs of the Virginia Peninsula on the occasion of its 70th anniversary in 2016; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Boys & Girls Clubs of the Virginia Peninsula as an expression of the General Assembly's admiration for the organization's noble mission to help young people throughout the Virginia Peninsula reach their fullest potential.

### HOUSE JOINT RESOLUTION NO. 886

*Commending Muslim Lakhani.*

Agreed to by the House of Delegates, February 10, 2017

Agreed to by the Senate, February 16, 2017

WHEREAS, Muslim Lakhani of McLean, a Pakistani-American entrepreneur and philanthropist, was honored at the InterFaith Conference of Metropolitan Washington, where he was presented the 2016 InterFaith Bridge Builders Award for his impressive leadership, charitable efforts, dedication to justice and basic human rights, and for inspiring others to build even stronger bridges of compassion and tolerance in today's world; and

WHEREAS, Muslim Lakhani is the Founder, Chairman, and Chief Executive Officer of ML Resources, LLC, ML Private Investments, LLC, and ML Social Vision, Inc., a nonprofit organization that, aside from philanthropic initiatives, has worked for more than 20 years to increase understanding and tolerance between the West and the Muslim world; and

WHEREAS, for the past eight years, ML Social Vision has been supporting The Salvation Army's feeding program in Washington, D.C., which feeds almost 200 people, 365 days a year and helps to integrate them back into society; and

WHEREAS, through ML Social Vision, Muslim Lakhani helped financially jump-start a free health clinic in Chantilly that is open to people of all faiths; and

WHEREAS, through his longstanding commitment to philanthropy, Muslim Lakhani has promoted tolerance and dialogue among different faiths, ethnic groups, and social classes, and helped build institutions for political, social, and economic reform; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Muslim Lakhani for his service to the community and the country; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Muslim Lakhani as an expression of the General Assembly's admiration for his tireless efforts to forge interfaith understanding and commitment to building a more pluralistic society.

### HOUSE JOINT RESOLUTION NO. 887

*Commending Daniel W. Duncan.*

Agreed to by the House of Delegates, February 10, 2017

Agreed to by the Senate, February 16, 2017

WHEREAS, Daniel W. Duncan, a respected advocate for workers' rights and social and economic justice, has served as the president of the Northern Virginia Labor Federation for more than 10 years; and

WHEREAS, comprising more than 60 local labor unions and constituency organizations, the Northern Virginia Labor Federation is the Commonwealth's largest labor council and is a member of the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO); and

WHEREAS, Daniel "Dan" W. Duncan has a long history of support for labor organizations, including the Retail Clerks International Union, the Communications Workers of America (CWA), and the Northeast Florida Central Labor Council; he was hired by the Seafarers International Union in 1987 and has served the organization in various capacities for many years; and

WHEREAS, after settling in Virginia in 1990, Dan Duncan quickly became involved with the Northern Virginia Labor Federation and was elected president in 2006; under his leadership, the organization has succeeded in its mission to enhance the lives of working families in the Commonwealth and encourage economic and social justice in the workplace; and

WHEREAS, as president of the Northern Virginia Labor Federation, Dan Duncan has helped workers form and strengthen unions, supported workers as they bargained with employers to improve workplace safety and conditions, and served as a voice for working families at the local, regional, and state levels; and

WHEREAS, Dan Duncan has also served the AFL-CIO as the executive secretary-treasurer of the Maritime Trades Department since 2011; he remains a proud member of Seafarers International Union and the CWA Newspaper Guild Local 35; and

WHEREAS, Dan Duncan is a 37-year member of Lions Clubs International and is presently active in the Alexandria Lincolnia Lions Club, where he serves as its mascot, Leon the Lion; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Daniel W. Duncan for his 10 years of service as president of the Northern Virginia Labor Federation; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Daniel W. Duncan as an expression of the General Assembly's admiration for his commitment to advocating for the working members of the Northern Virginia community.

### HOUSE JOINT RESOLUTION NO. 888

*Commending Rob Buswell.*

Agreed to by the House of Delegates, February 10, 2017

Agreed to by the Senate, February 16, 2017

WHEREAS, Rob Buswell, a courageous member of the Prince William County community, has dedicated his life to advocacy for the victims of child abuse; and

WHEREAS, in 2007, Rob Buswell came forward to identify his childhood molester and learned that, while the man had been previously convicted of abuse, he was not listed on the Virginia Sex Offender and Crimes Against Minors Registry because his crimes predated the creation of the Registry in 1994; and

WHEREAS, Rob Buswell worked diligently to ensure that the Virginia Sex Offender and Crimes Against Minors Registry was expanded to include crimes committed prior to 1994 with what became known as Robby's Rule; and

WHEREAS, the Virginia State Police Supplement to the Sex Offender and Crimes Against Minors Registry now includes information on more than 5,600 individuals who were convicted of certain sexual offenses between 1980 and 1994 and who had not previously been listed on the Registry; and

WHEREAS, Rob Buswell continued his work to protect children by advocating for legislation to prevent the Department of Motor Vehicles from issuing the special "Kids First" license plate to registered sex offenders, noting that his abuser had such a license plate on his vehicle at the time of his arrest; and

WHEREAS, Rob Buswell's willingness to discuss his own traumatic abuse has made countless Virginia families safer, and his courage has encouraged other adult survivors of abuse to step forward and help others; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Rob Buswell for his devoted advocacy for victims of child abuse; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Rob Buswell as an expression of the General Assembly's admiration for his work to safeguard children throughout the Commonwealth.

### HOUSE JOINT RESOLUTION NO. 889

*Commending Mario O'Neal Haskett, Jr.*

Agreed to by the House of Delegates, February 10, 2017

Agreed to by the Senate, February 16, 2017

WHEREAS, Mario O'Neal Haskett, Jr., a senior basketball standout at L.C. Bird High School in Chesterfield, committed to play for the Harvard University Crimson after he graduates in 2017; and

WHEREAS, Mario Haskett was the first high school student from Chesterfield and the surrounding areas to be recruited to play basketball at Harvard University, and he has over 20 college scholarship offers; and

WHEREAS, a 6-foot-3 guard, as a junior Mario Haskett averaged over 11 points per game and received second team All-Metro honors; and

WHEREAS, a son of Mario and Yolanda Haskett, Mario Haskett is a well-liked and respected natural leader on and off the court, and he enjoys giving back to his community; and

WHEREAS, Mario Haskett is an excellent student who has an interest in engineering; he was previously nominated for the National Academy of Future Physicians & Medical Scientists Award of Excellence; and

WHEREAS, Mario Haskett is an excellent example of what hard work and dedication look like, and he represents the best of the best within Chesterfield County Public Schools; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Mario O'Neal Haskett, Jr., an L.C. Bird High School senior, on committing to play basketball for Harvard University after he graduates in 2017; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Mario O'Neal Haskett, Jr., as an expression of the General Assembly's admiration for his hard work and dedication to excellence both on and off the basketball court.

**HOUSE JOINT RESOLUTION NO. 890**

*Commending Jaiden Alexis Morris.*

Agreed to by the House of Delegates, February 10, 2017  
 Agreed to by the Senate, February 16, 2017

WHEREAS, Jaiden Alexis Morris, a senior basketball standout at Monacan High School in Chesterfield, committed to play for Rider University in New Jersey after she graduates in 2017; and

WHEREAS, a 5-foot-8 guard, Jaiden Morris scored her 1,000th career point in 2016, and has over 10 full scholarship offers to play basketball at Division I colleges and universities; and

WHEREAS, Jaiden Morris won First-Team All-State, First-Team All-Regional, Second-Team All-Regional, Second-Team All-Conference, and Second-Team All-Metro honors during her stellar basketball career; and

WHEREAS, Jaiden Morris set a Virginia High School League record for most points in a half (33) in a state title game in the 2016 Virginia High School League Group 4A state championship, which Monacan High School won; and

WHEREAS, a student in the Honors Health and Physical Therapy Program, Jaiden Morris' career goal is to become a sports medicine physical therapist; and

WHEREAS, off the court, Jaiden Morris commits her time to volunteer service to help make her community better, and she is a determined and hardworking student in the classroom; and

WHEREAS, Jaiden Morris is an excellent example of what hard work and dedication look like, and she represents the best of the best within Chesterfield County Public Schools; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Jaiden Alexis Morris, a Monacan High School senior, on committing to play basketball for Rider University after she graduates in 2017; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Jaiden Alexis Morris as an expression of the General Assembly's admiration for her hard work and dedication to excellence both on and off the basketball court.

**HOUSE JOINT RESOLUTION NO. 891**

*Commending Megan Walker.*

Agreed to by the House of Delegates, February 10, 2017  
 Agreed to by the Senate, February 16, 2017

WHEREAS, Megan Walker, a senior basketball star at Monacan High School in Chesterfield, committed to play for the University of Connecticut Huskies after she graduates in 2017; and

WHEREAS, a 6-foot-1 shooting guard, Megan Walker is considered the best high school basketball player in the country and the top-rated recruit in the Class of 2017; and

WHEREAS, Megan Walker is one of 24 players nationwide selected to play in the 2017 McDonald's All-American Game on March 29, which features the best young talents in basketball; and

WHEREAS, in 2016, Megan Walker was a member of the USA Women's U18 National Team, and named Virginia Gatorade Player of the Year, *USA Today* Virginia Player of the Year, and *Richmond Times-Dispatch* All-Metro Player of the Year; and

WHEREAS, off the basketball court, Megan Walker dedicates her time to community service, is an academic Honor Roll student, and has been named Monacan High School student of the year; and

WHEREAS, the daughter of Keith and Johnetta Walker, Megan Walker is an excellent example of what hard work and dedication look like, and represents the best of the best within Chesterfield County Public Schools; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Megan Walker, a Monacan High School senior, on committing to play basketball for the University of Connecticut after she graduates in 2017; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Megan Walker as an expression of the General Assembly's admiration for her hard work and dedication to excellence both on and off the basketball court.

**HOUSE JOINT RESOLUTION NO. 892***Celebrating the life of Homer Constantine Eliades.*

Agreed to by the House of Delegates, February 10, 2017

Agreed to by the Senate, February 22, 2017

WHEREAS, Homer Constantine Eliades, a respected attorney who made many lasting contributions to the Hopewell community and the entire Commonwealth, died on July 28, 2016; and

WHEREAS, a native of Hopewell, Homer Eliades graduated from Hopewell High School and earned a bachelor's degree and a law degree from the University of Virginia; and

WHEREAS, after serving his country as a member of the United States Army Counter Intelligence Corps for two years, Homer Eliades returned home to the Commonwealth and established the law firm Eliades and Eliades, P.C., with his brother, Plato; and

WHEREAS, respected in the legal field, Homer Eliades was a member of the Virginia State Bar for 62 years and served as president of its Senior Lawyers Conference; he was also a member of the Virginia Trial Lawyers Association, the Virginia Bar Association, and the Hopewell Bar Association; and

WHEREAS, Homer Eliades also worked to enhance the community as a past president of the Hopewell Kiwanis Club, chair of the Hopewell Electoral Board, state director for the Hopewell Jaycees, and an active member of several other boards and committees; and

WHEREAS, in 1967, Homer Eliades became a founding member of the John Tyler Community College Board of Directors, where he served for 15 years, including two years as chair; he was also a founding member and past president of the John Tyler Community College Foundation, receiving many awards and accolades for his service to the college and generations of its students; and

WHEREAS, in recognition of his exceptional career, the Homer C. Eliades Law Library in Hopewell, Eliades Hall on the Midlothian campus of John Tyler Community College, and the Homer C. Eliades Commonwealth Legacy Scholarship are all named in his honor; and

WHEREAS, Homer Eliades will be fondly remembered and greatly missed by his wife, Ruthan; children, George, Peter, Elliot, Sherri, Christy, and Whitney, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Homer Constantine Eliades, a distinguished attorney and a leader in the Hopewell community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Homer Constantine Eliades as an expression of the General Assembly's respect for his memory.

**HOUSE JOINT RESOLUTION NO. 893***Celebrating the life of Carroll Ray Hawkes.*

Agreed to by the House of Delegates, February 10, 2017

Agreed to by the Senate, February 16, 2017

WHEREAS, Carroll Ray Hawkes, a longtime resident of Colonial Heights who served and safeguarded the community as an emergency medical services provider, died on July 23, 2016; and

WHEREAS, Carroll Hawkes was raised in Nottoway County and graduated from Blackstone High School in 1951; and

WHEREAS, Carroll Hawkes was employed by the E. Alvin Small Funeral Home and was an electrician for E. I. DuPont and the Petersburg Wastewater for Treatment Plant/South Central Waste Water Authority, where he worked for 23 years; and

WHEREAS, Carroll Hawkes volunteered as an active member of the Southside Virginia Emergency Crew in Petersburg for more than 55 years, serving in numerous capacities and receiving life membership in the crew in October 1982; and

WHEREAS, Carroll Hawkes became active in the Virginia Association of Volunteer Rescue Squads (VAVRS), serving as the Board of Governor's representative and alternate for his crew from 1973 until the time of his passing; and

WHEREAS, Carroll Hawkes held multiple offices in the VAVRS, including District III vice president and state secretary, vice president, and president; he also served on numerous committees, including the establishment of the "To The Rescue Museum" in Roanoke City and the Hall of Fame; and

WHEREAS, Carroll Hawkes served as a member of the Colonial Heights Transportation Safety Commission, and in 1984 he was appointed by Governor Charles S. Robb to the Governor's EMS Advisory Board representing the Old Dominion EMS Regional Council for five years, serving as vice chair for two years; and

WHEREAS, Carroll Hawkes was elected to life membership of the VAVRS in 1983 and to the Virginia Life Saving and Rescue Hall of Fame in 2005; and

WHEREAS, for his long-standing service to his community and his leadership in the EMS community, Carroll Hawkes set high standards for those following him setting an example for his family, friends, fellow citizens, and EMS peers to follow; and

WHEREAS, Carroll Hawkes will be fondly remembered and greatly missed by his wife of 57 years, Elsie; his daughter, Barbara; three grandchildren, Victoria, William, Thomas; great-grandson, Grayson; and numerous other family members, friends, and colleagues; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Carroll Ray Hawkes, a consummate volunteer who dedicated a lifetime of service to the citizens of Central Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Carroll Ray Hawkes as an expression of the General Assembly's respect for his memory.

**HOUSE JOINT RESOLUTION NO. 894**

*Commending Jerry A. Chenault.*

Agreed to by the House of Delegates, February 10, 2017

Agreed to by the Senate, February 16, 2017

WHEREAS, Jerry A. Chenault, a member of American Legion Post 284 in Colonial Heights, won the high honor of being selected as the 2016 state Legionnaire of the Year out of 45,000 American Legion members in the Commonwealth; and

WHEREAS, Jerry Chenault won the top statewide award after first being selected as Post 284, District 11, and Virginia Eastern Region Legionnaire of the Year; and

WHEREAS, Jerry Chenault is a tireless American Legion volunteer who heads the Children and Youth programs for Post 284, which, under his leadership, has been recognized at the state and national levels for having the best Children and Youth programs; and

WHEREAS, in the past year, American Legion Post 284 held 395 children and youth activities and thanks to Jerry Chenault's leadership more than \$90,000 was given to benefit children and more than 18,000 kids were given aid in the form of cash and goods; and

WHEREAS, a retired United States Army Officer, Jerry Chenault has been an American Legion member for 39 years and has served in various leadership roles within Post 284, including as a past 1st and 2nd Vice Commander and as an executive committee member; and

WHEREAS, in addition to serving American Legion Post 284, Jerry Chenault is also active in the Association of Quartermaster, Military Officers Association of America, and La Societe des Quarante Hommes et Huit Chevaux, a society of wartime veterans better known as 40&8; and

WHEREAS, Jerry Chenault received an associate degree from Manatee Junior College in 1971, graduated from the University of Florida with high honors in 1973, and he did advanced degree work at Florida Institute of Technology; his military schooling includes graduating from the United States Army Command and General Staff College at Fort Leavenworth, Kansas; and

WHEREAS, Jerry Chenault earned an array of awards and decorations during his military career and the 2016 state Legionnaire of the Year honor is well-deserved for his great work on behalf of children and our communities; and

WHEREAS, a true patriot devoted to his community, country, and fellow veterans, Jerry Chenault exemplifies the loyalty and determination displayed by members of the military as they faithfully serve at home and abroad; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Jerry A. Chenault, a member of American Legion Post 284 in Colonial Heights, on being selected as the 2016 state Legionnaire of the Year; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Jerry A. Chenault as an expression of the General Assembly's admiration for his patriotism and dedication to improving the Colonial Heights community and the lives of children.

**HOUSE JOINT RESOLUTION NO. 895**

*Commending Summit Christian Academy.*

Agreed to by the House of Delegates, February 10, 2017

Agreed to by the Senate, February 16, 2017

WHEREAS, the 2016-2017 academic year marks the 20th anniversary of the founding of Summit Christian Academy on the Virginia Peninsula; and

WHEREAS, Summit Christian Academy was founded by members of Peninsula Community Chapel who wanted to create a Christian school that placed special emphasis on critical thinking skills; and

WHEREAS, in the fall of 1996, Summit Christian Academy opened its doors to students in kindergarten through sixth grade, and awarded diplomas to its first graduating class in 2003; and

WHEREAS, Summit Christian Academy currently has 207 students representing over 60 different churches and its Christ-centered curriculum is rigorous and rich; and

WHEREAS, Summit Christian Academy's Grammar School (kindergarten-sixth grade) is housed at Immanuel Baptist Church in Newport News and the Upper School (seventh-twelfth grade) is housed at Peninsula Community Chapel in Yorktown; and

WHEREAS, what sets Summit Christian Academy apart from other private schools on the Peninsula is its mission of providing students with a classical education based on the trivium of teaching grammar, logic, and rhetoric; and

WHEREAS, Summit Christian Academy approaches education in three stages: the grammar stage (kindergarten-sixth grade), dialectic stage (seventh-ninth grade), and rhetoric stage (tenth-twelfth grade); and

WHEREAS, the motto of Summit Christian Academy is "Discern, Articulate, Serve," and the school strives to develop lifelong learners who are well-equipped to meet the educational, professional, moral, and spiritual challenges of adulthood; and

WHEREAS, Summit Christian Academy is accredited by the Southern Association of Colleges and Schools and has memberships and affiliations with the Association of Classical Christian Schools, Association of Christian Schools International, Society for Classical Learning, and the College Board; and

WHEREAS, Summit Christian Academy was awarded Overall Bronze-Best Child Development Center and Overall Silver-Private School in *Coastal Living Magazine's* Best of 2016 Readers' Choice Awards; and

WHEREAS, Summit Christian Academy's continued growth and success over the past two decades is a tribute to its dedicated staff of teachers and administrators, as well as the loyal parents who volunteer and donate their time and resources to improving the school community; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Summit Christian Academy on the 20th anniversary of its founding on the Virginia Peninsula; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Tim Grimes, headmaster at Summit Christian Academy, as an expression of the General Assembly's admiration for the school's unique mission and dedication to educating the Commonwealth's next generation of leaders and thinkers.

#### HOUSE JOINT RESOLUTION NO. 896

*Commending Ray A. Conner.*

Agreed to by the House of Delegates, February 10, 2017

Agreed to by the Senate, February 16, 2017

WHEREAS, Ray A. Conner is retiring in March 2017, after 42 years of exemplary public service to the City of Chesapeake and its citizens; and

WHEREAS, Ray Conner has been Chesapeake Commissioner of the Revenue since August 1, 1983, and he currently holds the distinction of being the third-longest serving Commissioner of the Revenue in the Commonwealth; and

WHEREAS, a native of Winston-Salem, North Carolina, Ray Conner is an honor graduate of Great Bridge High School and received a bachelor's degree from Old Dominion University; and

WHEREAS, Ray Conner earned his certification as a Master Commissioner of the Revenue in 2005, through the University of Virginia's Weldon Cooper Center for Public Service; and

WHEREAS, Ray Conner began his career in public service as a magistrate and then chief magistrate for the City of Chesapeake, prior to being elected Commissioner of the Revenue; and

WHEREAS, during his more than three decades as Commissioner of the Revenue, Ray Conner did a superior job of managing an efficient workplace, providing courteous and knowledgeable service to all citizens, and creating an environment in which taxes are administered fairly and uniformly; and

WHEREAS, as Commissioner of the Revenue, Ray Conner oversees 38 full-time staff members in four office locations and directly administers taxes that generate more than \$160 million in annual revenue, which is critical to the operation of local government and schools; and

WHEREAS, among Ray Conner's achievements as Chesapeake Commissioner of the Revenue was the introduction of DMV Select service, which is heavily used by the city's residents; and

WHEREAS, Ray Conner is a past president of the Virginia Association of Locally Elected Constitutional Officers and of the Virginia Commissioners of the Revenue Association, positions through which he shared his experience and expertise with others; and

WHEREAS, in 2010, Ray Conner was honored with the First Citizen Award from the Chesapeake Rotary Club, recognizing his significant citizenship and leadership efforts to enhance the quality of life in Chesapeake; and

WHEREAS, Ray Conner's long record of civic involvement includes leadership roles in the Chesapeake Crime Line, South Norfolk Ruritan Club, Chesapeake Rotary Club, and Chesapeake Regional Health Foundation; and

WHEREAS, it has been a great privilege and honor for Ray Conner to serve the people of Chesapeake; his long tenure would not have been possible without the loving support of his wife, Gretchen, with whom he looks forward to traveling and enjoying retirement; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Ray A. Conner on his retirement after 42 years of distinguished public service to the citizens of Chesapeake; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Ray A. Conner as an expression of the General Assembly's admiration for his profound commitment to serving his community and to making Chesapeake a better place to live.

### HOUSE JOINT RESOLUTION NO. 897

*Celebrating the life of Eugene H. Farley, Jr.*

Agreed to by the House of Delegates, February 10, 2017

Agreed to by the Senate, February 16, 2017

WHEREAS, Eugene H. Farley, Jr., a native of Blackstone and a resident of Lynchburg, who was an icon of the credit union movement at the state, national, and international levels, died on December 9, 2016, at the age of 82, after a long and constructive career of service to not-for-profit credit unions, his church, and his community; and

WHEREAS, Eugene "Gene" H. Farley, Jr., served the Commonwealth's credit unions from 1959 until his retirement in 1999, including 33 years as president of the Virginia Credit Union League; through his vision and diligence, he provided the foundation upon which the Commonwealth's credit unions have reached unprecedented heights, with a combined 10.8 million member-owners and \$130 billion in assets; and

WHEREAS, as a leader and innovator, Gene Farley left his imprint on the credit union movement, having helped organize 35 credit unions, tirelessly advocated for credit unions in both the legislative and regulatory arenas, and led many initiatives that provided credit unions with the tools and opportunities to successfully compete in the financial services marketplace; and

WHEREAS, Gene Farley served in numerous leadership roles nationally and internationally through the Credit Union National Association (CUNA), the World Council of Credit Unions, CUNA Mutual Group, the United States Central Credit Union, the American Association of Credit Union Leagues, the National Credit Union Foundation, the Filene Research Institute, the Virginia League Corporate Federal Credit Union, and the Beacon Credit Union; and

WHEREAS, state and national awards that annually honor exceptional achievement and exemplary leadership within the credit union community are named in honor of Gene Farley, reflecting his leadership, integrity, and expertise in the field; and

WHEREAS, Gene Farley was admired for his devotion to his community, having been an active volunteer for the Boy Scouts of America, a member of the Freemasons, and a driving force behind the construction of a Heart Havens facility in Lynchburg, a nonprofit organization that provides residential support to adults with developmental disabilities; and

WHEREAS, Gene Farley was devoted to his church family as a faithful member of Timberlake United Methodist Church for 53 years where he served as board chair, trustee, and worship leader for many years; he also led the committees on finance, building, and pastor-parish relations, in addition to being a Sunday school teacher, choir member, and representative at the annual Virginia United Methodist Conference; and

WHEREAS, in all his endeavors, Gene Farley exemplified the credit union philosophy of "People Helping People" and strove to always extend to others friendship and warmth in a manner befitting a true gentleman; he will be fondly remembered and greatly missed by numerous family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Eugene H. Farley, Jr., a respected leader in the credit union movement who made countless contributions to the Lynchburg community, the Commonwealth, and the world; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Eugene H. Farley, Jr., as an expression of the General Assembly's respect for his memory.

### HOUSE JOINT RESOLUTION NO. 898

*Celebrating the life of Patricia Ann Thomas-Semonian.*

Agreed to by the House of Delegates, February 10, 2017

Agreed to by the Senate, February 16, 2017

WHEREAS, Patricia Ann Thomas-Semonian, an artist and entrepreneur in Alexandria, died on December 16, 2016; and WHEREAS, a native of Bozeman, Montana, Patricia Thomas-Semonian relocated to Washington, D.C., where she worked as a hairdresser while attending Marymount University; and

WHEREAS, in 1967, Patricia Thomas-Semonian opened her own business, Easel of Id, which later moved to Old Town Alexandria, where it operated until 2003; she was an active member of the Art League at the Torpedo Factory Art Center; and

WHEREAS, Patricia Thomas-Semonian volunteered her time and talents with many local civic and service organizations, including the American Cancer Society, with which she provided assistance to men and women with hair loss as a result of chemotherapy or radiation treatment; and

WHEREAS, an avid gardener, Patricia Thomas-Semonian cultivated orchids on her porch at home, and tended to a garden at Jones Point; and

WHEREAS, Patricia Thomas-Semonian enjoyed fellowship and worship with the congregation of First Baptist Church of Alexandria, where she participated in senior programs and Wednesday night dinners, as well as other activities; and

WHEREAS, predeceased by one daughter, Rhonda, Patricia Thomas-Semonian will be fondly remembered and greatly missed by her husband, Ed; her children, Pamela and Brett, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Patricia Ann Thomas-Semonian; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Patricia Ann Thomas-Semonian as an expression of the General Assembly's respect for her memory.

**HOUSE JOINT RESOLUTION NO. 899**

*Celebrating the life of Lucien E. Conein.*

Agreed to by the House of Delegates, February 10, 2017

Agreed to by the Senate, February 16, 2017

WHEREAS, Lucien E. Conein, who died on June 3, 1998, was one of the nation's most decorated and accomplished intelligence operatives, serving with the Office of Strategic Services and the Central Intelligence Agency; and

WHEREAS, born in Paris, France, Lucien Conein grew up in Kansas; he enlisted in the French Army at the outset of World War II but returned to the United States after the fall of France in 1940; and

WHEREAS, Lucien Conein enlisted in the United States Army and joined the Office of Strategic Services (OSS), the precursor to the Central Intelligence Agency and modern Special Operations Forces, which was formed in 1942; he courageously parachuted into Vichy France to liaise with members of the French Resistance struggling against Nazi occupation; and

WHEREAS, after World War II, Lucien Conein deployed to southern China and later operated in Vietnam; after the creation of the Central Intelligence Agency in 1947, he cultivated and trained valuable assets in Eastern Europe and Iran; and

WHEREAS, Lucien Conein returned to Vietnam in 1954, and by 1962, with the rank of lieutenant colonel, he was assigned as a liaison between the United States ambassador to Vietnam and South Vietnam's top generals; and

WHEREAS, Lucien Conein retired from the Central Intelligence Agency in 1968 and carried out clandestine operations for the Drug Enforcement Agency from 1973 to 1984; he received many awards and accolades from the United States, the United Kingdom, France, and South Vietnam for his valorous actions throughout his decades-long career in intelligence work; and

WHEREAS, 2017 marks the 75th anniversary of the establishment of the OSS, and the members of the unit will be awarded the Congressional Gold Medal for their daring contributions to the Allied victory in World War II; the Commonwealth is home to many OSS veterans, whose service and sacrifices kept the world free from tyranny and helped create the modern intelligence community; and

WHEREAS, Lucien Conein was buried with full military honors at Arlington National Cemetery; he is fondly remembered and greatly missed by his wife, Elyette; his seven children and their families; and numerous other family members, friends, and colleagues; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Lucien E. Conein, a legend in the intelligence field who served the United States with distinction; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Elyette B. Conein as an expression of the General Assembly's respect for the memory and service of Lucien E. Conein.

**HOUSE JOINT RESOLUTION NO. 900**

*Commending Danville-Pittsylvania County Habitat for Humanity.*

Agreed to by the House of Delegates, February 10, 2017

Agreed to by the Senate, February 16, 2017

WHEREAS, for 25 years, Danville-Pittsylvania County Habitat for Humanity has provided an opportunity for people from varied backgrounds to build community while building homes for families in need; and

WHEREAS, Habitat for Humanity International was founded in 1976 by Millard and Linda Fuller and awareness of the program was boosted in the 1980s by the involvement of President Jimmy Carter and his wife, Rosalynn; and

WHEREAS, an affiliate of Habitat for Humanity International, Danville-Pittsylvania County Habitat for Humanity was established in 1991, joining the effort to help eliminate substandard housing and build a world where everyone has a decent place to live; and

WHEREAS, Danville-Pittsylvania County Habitat for Humanity organizes community resources to build simple, decent, adequate, and affordable houses for low-income families; and

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## ACTS OF ASSEMBLY

[VA.,

WHEREAS, over the past quarter century, Danville-Pittsylvania County Habitat for Humanity has built 38 new homes, restored five homes, and provided the opportunity for decent shelter for nearly 200 people in the Danville area; and

WHEREAS, Danville-Pittsylvania County Habitat for Humanity is supported by hundreds of dedicated volunteers, including core volunteers who combine to give thousands of hours of service each year, and volunteer groups from local businesses, churches, civic organizations, and colleges; and

WHEREAS, Danville-Pittsylvania County Habitat for Humanity provides unique opportunities for people from all walks of life to come together under a common purpose and work to make the Dan River region a better place for all; and

WHEREAS, at Danville-Pittsylvania County Habitat for Humanity project sites, doctors, lawyers, engineers, fast-food workers, personal care aides, and telemarketers, among others, work side by side to provide a hand to a neighbor in need; and

WHEREAS, Danville-Pittsylvania County Habitat for Humanity uses funds generated by its ReStore shop for its general operation, allowing the organization to focus its fundraising efforts on the construction of Habitat homes; and

WHEREAS, with continued generous donations of labor, funds, and materials from individuals, churches, synagogues, businesses, foundations, and corporations, Danville-Pittsylvania County Habitat for Humanity will be building houses and communities of hope for many years to come; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Danville-Pittsylvania County Habitat for Humanity on the occasion of the 25th anniversary of its founding; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Danville-Pittsylvania County Habitat for Humanity as an expression of the General Assembly's admiration for the organization's commendable work in bringing different people together to build homes, communities, and hope.

**HOUSE JOINT RESOLUTION NO. 901**

*Commending Elizabeth Roberts.*

Agreed to by the House of Delegates, January 24, 2017

Agreed to by the Senate, February 14, 2017

WHEREAS, Elizabeth Roberts, a vibrant member of the Petersburg community, celebrated her 105th birthday on November 8, 2016; and

WHEREAS, a native of Crewe, Elizabeth Roberts was born in 1911; she was married to her husband, Cecil, for 43 years and has lived in Petersburg for 16 years; and

WHEREAS, a beautician by trade, Elizabeth Roberts is a past member of the National Beauticians Association; a dedicated community leader since the age of 18, she has been active with the NAACP since the 1930s and made many contributions to local residents as a Worthy Matron of the Order of the Eastern Star; and

WHEREAS, a woman of deep and abiding faith, Elizabeth Roberts enjoys fellowship and worship with the community at Olive Branch Baptist Church, where she helps organize church projects and fundraisers to support community outreach; and

WHEREAS, born before women in the United States achieved the right to vote with the passage of the 19th Amendment to the United States Constitution, Elizabeth Roberts first exercised her civic duty in 1942; and

WHEREAS, Elizabeth Roberts proudly celebrated her 105th birthday at her polling place, casting her vote in the historic 2016 presidential election, with Hillary Rodham Clinton on the ballot as the first female presidential nominee of a major political party in the United States; and

WHEREAS, throughout her life, Elizabeth Roberts has been a witness to history, experiencing firsthand the many ways the world was reshaped in the 20th century, and she will continue to impart her wisdom to her beloved family and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Elizabeth Roberts on the occasion of her 105th birthday in 2016; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Elizabeth Roberts as an expression of the General Assembly's admiration for her contributions to the Petersburg community and the Commonwealth.

**HOUSE JOINT RESOLUTION NO. 902**

*Celebrating the life of Wayne F. Geisert.*

Agreed to by the House of Delegates, February 10, 2017

Agreed to by the Senate, February 16, 2017

WHEREAS, Wayne F. Geisert of Rockingham County, an educator who inspired countless students and provided exceptional leadership to Bridgewater College as president emeritus, died on January 4, 2017; and

WHEREAS, a native of Kansas, Wayne Geisert grew up on a farm and learned the value of hard work and responsibility at a young age; he graduated from McPherson College and Northwestern University, then served his country as an officer in the United States Navy Reserve from 1944 to 1946; and

WHEREAS, after his honorable military service, Wayne Geisert worked as an educator at Hamilton High School in Kansas, Kendall College in Illinois, and Manchester College in Indiana, where he became the head of the Department of Economics and Business; and

WHEREAS, in 1957, Wayne Geisert became the dean of his alma mater, McPherson College, and served in that capacity until 1964, when he was selected as president of Bridgewater College; he ably led Bridgewater College for 30 years and was named president emeritus after his retirement in 1994; and

WHEREAS, as president of Bridgewater College, Wayne Geisert increased efficiency and built close relationships with faculty, staff, and students; he was also a trusted mentor to administrators of other institutions of higher education; and

WHEREAS, Wayne Geisert also offered his leadership and expertise to the Virginia Foundation for Independent Colleges, the Council of Independent Colleges in Virginia, and the Harrisonburg-Rockingham Chamber of Commerce; and

WHEREAS, as a longtime member of the Church of the Brethren, Wayne Geisert held several leadership positions, including moderator, and served on the Committee on Higher Education of the Church of the Brethren for 30 years; in 1985, he traveled to China and established an exchange program between Brethren Colleges Abroad and the Dalian University of Foreign Languages; and

WHEREAS, Wayne Geisert earned many awards and accolades for his good work and received honorary doctorates from Manchester College, James Madison University, Bridgewater College, and McPherson College; and

WHEREAS, predeceased by his wife, Ellen, Wayne Geisert will be fondly remembered and greatly missed by his sons, Gregory, Bradley, and Todd, and their families, and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Wayne F. Geisert, a highly respected educator and college administrator in Rockingham County; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Wayne F. Geisert as an expression of the General Assembly's respect for his memory.

### HOUSE JOINT RESOLUTION NO. 903

*Commending Patrick Joseph Morgan.*

Agreed to by the House of Delegates, February 10, 2017

Agreed to by the Senate, February 16, 2017

WHEREAS, Patrick Joseph Morgan, a longstanding civil servant and a respected member of the Augusta County community, retired as the county attorney for Augusta County in 2016; and

WHEREAS, a native of Hampton Roads, Patrick "Pat" Joseph Morgan holds a bachelor's degree from Old Dominion University, a master's degree from the University of Notre Dame, and a law degree from the John Marshall School of Law; and

WHEREAS, Pat Morgan honorably served his country as a member of the United States Marine Corps Judge Advocate Division; he served on active duty for three years and in the reserves for 17 years, until his retirement with the rank of major; and

WHEREAS, Pat Morgan began his career in local government with New Kent County in 1986, then served the Louisa County government from 1998 to 2008, making many valuable contributions to those communities; and

WHEREAS, Pat Morgan was named the county attorney for Augusta County in March 2008 and ably served the Augusta County Board of Supervisors by providing legal advice and guidance for eight years; and

WHEREAS, Pat Morgan plans to spend his well-earned retirement with his wife, Cinda, and looks forward to conversing with people around the world through his hobby as an amateur radio operator; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Patrick Joseph Morgan on the occasion of his retirement as county attorney of Augusta County; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Patrick Joseph Morgan as an expression of the General Assembly's admiration for his long career in service to the people of the Commonwealth and best wishes for a happy retirement.

### HOUSE JOINT RESOLUTION NO. 904

*Commending Baldino's Lock & Key.*

Agreed to by the House of Delegates, February 10, 2017

Agreed to by the Senate, February 16, 2017

WHEREAS, Baldino's Lock & Key, a Northern Virginia institution for more than 55 years, has provided quality service to the Vienna community for 15 years; and

WHEREAS, Baldino's Lock & Key was founded by Albert M. Baldino, an airline mechanic for United Airlines, who fulfilled his lifelong dream to open his own business in 1961; and

WHEREAS, for the first two years of operation, Albert Baldino worked night shifts for United Airlines and operated the family business during the day with his wife, Doris, and their sons, Mark and Gary, from a shed in their backyard; and

WHEREAS, Baldino's Lock & Key opened its first commercial location in Springfield, then expanded to the Tysons Corner Center, becoming the first locksmith in the nation to open a shop in an enclosed shopping mall; and

WHEREAS, today, under the leadership of Mark and Gary Baldino, Baldino's Lock & Key continues to build upon its legacy of outstanding customer service, with more than 100 highly trained employees at 15 locations, a locksmith wholesale supply distributorship, and an electronic division; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Baldino's Lock & Key on the occasion of the 15th anniversary of its Vienna location; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Baldino's Lock & Key as an expression of the General Assembly's admiration for its long history of excellent service to the residents of Vienna and communities throughout Northern Virginia, Washington, D.C., and Maryland.

**HOUSE JOINT RESOLUTION NO. 905**

*Celebrating the life of the Reverend Won Sang Lee.*

Agreed to by the House of Delegates, February 10, 2017

Agreed to by the Senate, February 22, 2017

WHEREAS, the Reverend Won Sang Lee of Vienna, the senior pastor emeritus of Korean Central Presbyterian Church who touched countless lives in the Commonwealth and around the world through his wise, spiritual leadership, died on December 5, 2016; and

WHEREAS, a native of the Republic of Korea, Won Sang Lee earned a bachelor's degree from Keimyung University and a master's degree from Kyungpook National University, then relocated to the United States and continued his studies at Dallas Theological Seminary and the University of Pennsylvania; and

WHEREAS, in 1977, Won Sang Lee began serving as a pastor of Korean Central Presbyterian Church, one of the largest Korean megachurches in the United States, which was founded in Vienna and is now located in Centreville; he provided exceptional spiritual guidance and inspirational leadership to the congregation for 26 years; and

WHEREAS, Won Sang Lee also served as the international director of SEED International, which supports Christian missionaries throughout the world, and was a cochair of the Korean World Mission Council for Christ; and

WHEREAS, Won Sang Lee earned many awards and accolades for his good work, including the 2001 Governor's Award for Outstanding Religious Institution for his work with the Korean Central Senior Center; he led an opening prayer for the Virginia House of Delegates, and in 2002, he became the first Korean to lead an opening prayer for the United States House of Representatives; and

WHEREAS, after his well-earned retirement from Korean Central Presbyterian Church, Won Sang Lee earned a doctorate from the University of Wales at the age of 72 and founded Prassion, a prayer mission organization; and

WHEREAS, Won Sang Lee will be fondly remembered and greatly missed by numerous family members, friends, and congregants; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of the Reverend Won Sang Lee, a highly admired spiritual leader in Northern Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of the Reverend Won Sang Lee as an expression of the General Assembly's respect for his memory.

**HOUSE JOINT RESOLUTION NO. 906**

*Commending the recipients of the 2017 Virginia Outstanding Faculty Awards.*

Agreed to by the House of Delegates, February 10, 2017

Agreed to by the Senate, February 16, 2017

WHEREAS, the Commonwealth offers one of the most respected and acclaimed systems of higher education in the United States due to the quality of its public and private colleges and universities; and

WHEREAS, Virginia colleges and universities educate more than 550,000 students annually, representing all demographics, all regions of the Commonwealth, and all corners of the United States and the world; and

WHEREAS, Virginia higher education institutions advance learning, research, and public service to enhance the civic and financial health of the Commonwealth and the well-being of all its people, transforming the lives of Virginians, their communities, and the Commonwealth; and

WHEREAS, the success of Virginia's higher education institutions would not be possible without the dedicated, hardworking faculty at each of the Commonwealth's superb colleges and universities; and

WHEREAS, faculty at Virginia's colleges and universities make innumerable contributions to the intellectual and personal growth and development of their students, who, in turn, contribute greatly to the educational, economic, cultural, and civic vitality of the Commonwealth; and

WHEREAS, the Virginia Outstanding Faculty Awards program—now in its 31st year—is presented by the State Council of Higher Education for Virginia and Dominion Resources and continues to recognize the finest among the Commonwealth's higher education faculty for their superior abilities and accomplishments in teaching, research, service, and knowledge integration; and

WHEREAS, the 2017 Virginia Outstanding Faculty Award recipients—Kelly June Bremner, John Gregory Brown, Theresa B. Clarke, Stephen J. Farnsworth, Michael Kevin Hamed, Margaret Leary, Caroline Lubert, Daniel Menascé, Xiang-Jin Meng, Jennifer Grimsley Michaeli, Anatoly Radyushkin, and Walter Smith—are remarkable educators, productive scholars, and tremendous ambassadors for their academic disciplines, campuses, communities, and the entire Commonwealth; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the recipients of the 2017 Virginia Outstanding Faculty Awards for their professorial excellence and unparalleled achievements; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare copies of this resolution for presentation to the recipients of the 2017 Virginia Outstanding Faculty Awards as an expression of the General Assembly's respect for the recipients' commitment to their profession and their outstanding contributions to the lives of Virginians and the Commonwealth as a whole.

**HOUSE JOINT RESOLUTION NO. 907**

*Commending Money & King Funeral Home.*

Agreed to by the House of Delegates, February 17, 2017

Agreed to by the Senate, February 22, 2017

WHEREAS, for 135 years, Money & King Funeral Home has provided compassionate service to families in their times of greatest need; and

WHEREAS, founded in 1881 by Howard A. Money, a former cabinetmaker, Money & King Funeral Home is one of the oldest businesses in Vienna; and

WHEREAS, after Howard Money's death in 1931, his wife, Ella A. Money, operated the business until 1946, when she passed ownership to their grandson, Howard A. King; and

WHEREAS, Howard King relocated Money & King Funeral Home from Church Street to its present location at Maple Avenue and Lawyers Road in Vienna; it was the first two-story commercial building in Vienna and one of the first purpose-built funeral homes; and

WHEREAS, Money & King Funeral Home hit another milestone, when it was owned by two women, Howard King's wife, Edith A. King, and his aunt, Gertrude V. Money, who continued the funeral home's proud tradition of family ownership; and

WHEREAS, in 1986, Edith King's sister, Letha M. Crickenberger, became owner and president of Money & King Funeral Home; she served in that capacity until 2001, when her nephew, Pete V. Treibley, became owner and president; and

WHEREAS, Money & King Funeral Home provides a wide range of services, including preneed planning, traditional funerals, cremation, memorial services, gatherings, graveside services, and military services, tailored to a family's wishes and financial needs; and

WHEREAS, throughout its history, Money & King Funeral Home has provided unparalleled service; with its deep roots in the community, families know that they can expect the highest levels of professionalism and care from the funeral home's devoted and trustworthy staff; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Money & King Funeral Home on the occasion of its 135th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Pete V. Treibley, president of Money & King Funeral Home, as an expression of the General Assembly's admiration for the funeral home's important contributions to the residents of Virginia.

**HOUSE JOINT RESOLUTION NO. 908**

*Commending the Little Library of Vienna.*

Agreed to by the House of Delegates, February 17, 2017

Agreed to by the Senate, February 22, 2017

WHEREAS, the Little Library of Vienna, a unique historical site, was established by a citizen of Vienna in 1897 on land donated by area residents; and

WHEREAS, the Little Library was the Town of Vienna's first library and served the community for many years with its impressive collection of books, most of which were privately donated; the library closed in the 1960s after the Fairfax County Public Library system opened a Vienna branch; and

WHEREAS, the Little Library building has moved twice in its history and came to its current location near the historic Freeman Store on Mill Street in 1969; and

WHEREAS, the Little Library is preserved and maintained by Historic Vienna, Inc., a nonprofit organization founded in 1976 to promote the history and heritage of Vienna by educating the public, enhancing community spirit, and interpreting historic places, events, persons, and artifacts; and

WHEREAS, Historic Vienna, Inc., hosts open houses at the Little Library on the first Sunday of every month from March through December and during special events, allowing residents and visitors to experience local history; and

WHEREAS, Historic Vienna, Inc., has also enlisted the expert assistance of Dr. Robert Amsler in a project to catalog the collection at the Little Library, determining how many books there are, which is the oldest, which were most widely read, and other important facts; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Little Library of Vienna on the occasion of its 120th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Historic Vienna, Inc., as an expression of the General Assembly's admiration for the Little Library of Vienna's unique place in local history.

**HOUSE JOINT RESOLUTION NO. 909**

*Commending First Baptist Church of Vienna.*

Agreed to by the House of Delegates, February 17, 2017

Agreed to by the Senate, February 22, 2017

WHEREAS, First Baptist Church of Vienna, a predominantly African American church established by former slaves, is marking the 150th anniversary of its founding; and

WHEREAS, First Baptist Church of Vienna (FBCV) is the first and oldest church in Vienna, founded in 1867 by African Americans working on a farm owned by Major O. E. Hine, who served in the Union Army in the Civil War; and

WHEREAS, on September 1, 1867, Major Hine presented a deed for a small plot of land to George McBrown, Daniel West, and Edmund Harris, the first FBCV trustees; and

WHEREAS, the original FBCV building was erected at 315 Lawyers Road in 1867, and it served as a school, as well as a place for religious and civic gatherings; the Reverend Cyrus Carter was the first pastor of the church; and

WHEREAS, in December 1957, FBCV moved to its current location at 450 Orchard Street NW, and the edifice was expanded in 1996; and

WHEREAS, today, FBCV has a growing membership of more than 1,000, with active ministries that provide service, support, fellowship, and outreach that extend far beyond the congregation to the international community; and

WHEREAS, FBCV is a diverse congregation rooted in the African American worship tradition; the congregation's mission is to celebrate Christ, expand the Kingdom, and influence society through preaching, teaching, and advocacy; and

WHEREAS, FBCV is a Missionary Baptist church and is a model for how a church can positively influence local and international communities; and

WHEREAS, working with other area churches, FBCV raised over \$28,000 for tsunami relief in Asia and Africa, contributed over \$53,000 to the Community Coalition for Haiti for Haiti earthquake relief, and contributed \$5,000 to build a college in Zimbabwe, Africa; and

WHEREAS, FBCV empowers believers, evangelizes the lost, and disciples the saved; when the praises go up at FBCV, the blessings have continued to come down over its many decades; and

WHEREAS, during its illustrious history, FBCV has been served by nine pastors, and the congregation has been led faithfully by the Reverend Vernon C. Walton since 2014; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend First Baptist Church of Vienna on celebrating 150 years of service, worship, and fellowship in the community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Reverend Vernon C. Walton, pastor of First Baptist Church of Vienna, as an expression of the General Assembly's admiration for the church's honorable history as the first and oldest church in Vienna.

**HOUSE JOINT RESOLUTION NO. 910**

*Celebrating the life of the Honorable Frank Medico.*

Agreed to by the House of Delegates, February 10, 2017

Agreed to by the Senate, February 16, 2017

WHEREAS, the Honorable Frank Medico of Mount Vernon, a public servant who ably represented the residents of Fairfax County in the Virginia House of Delegates for eight years, died on December 30, 2016; and

WHEREAS, a native of Braintree, Massachusetts, Frank Medico earned a bachelor's degree from Benjamin Franklin University and a master's degree from Columbus University, and he continued his studies at the Harvard Business School; and

WHEREAS, a certified public accountant by trade, Frank Medico served the country as an auditor and assistant director of the United States General Accounting Office for 20 years; and

WHEREAS, desirous to be of further service, Frank Medico ran for and was elected to the Virginia House of Delegates, representing the residents of part of Fairfax County in the 44th District from 1982 to 1990; and

WHEREAS, Frank Medico introduced and supported many important pieces of legislation for the benefit of all Virginians, including legislation to increase tax relief for elderly and disabled individuals, expedite the deportation of illegal aliens convicted of serious crimes, and increase the number of slots available at public colleges and universities for in-state students; and

WHEREAS, Frank Medico will be fondly remembered and greatly missed by his children, Jane, Patricia, and Fred, and their families, and numerous other family members, friends, and colleagues on both sides of the aisle; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of the Honorable Frank Medico, a public servant who dedicated his life to the residents of the Commonwealth and the United States; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of the Honorable Frank Medico as an expression of the General Assembly's respect for his memory.

### HOUSE JOINT RESOLUTION NO. 913

*Celebrating the life of Ruth Friedenthal Kanter.*

Agreed to by the House of Delegates, February 17, 2017

Agreed to by the Senate, February 22, 2017

WHEREAS, Ruth Friedenthal Kanter, a tireless activist and a compassionate community leader who devoted decades of service to the residents of Arlington as a volunteer and a civil servant, died on May 11, 2016; and

WHEREAS, born in Manhattan, Ruth Kanter attended The Dalton School; she graduated from Swarthmore College in Pennsylvania, where she developed an interest in workers' rights and racial justice, and was a Radcliffe student in the Harvard Graduate Department of Social Relations, where she received a master's degree in psychology; and

WHEREAS, in 1964, Ruth Kanter relocated to Arlington with her family and began 40 years of involvement with the Arlington County Democratic Committee after supporting Lyndon B. Johnson's campaign for the presidency; passionately supporting progressive candidates, she played an important role in nearly every local Democratic campaign until 2002; and

WHEREAS, Ruth Kanter worked hard to enhance the quality of life for all Arlington residents and eliminate poverty as a longtime member and treasurer of the Arlington Community Action Program; she also volunteered with a store that supported a local women's shelter and was a regular participant on many committees and commissions; and

WHEREAS, Ruth Kanter also helped establish an independent ombudsman's office to handle citizen concerns with the Arlington County government and later served as a Deputy Commissioner of Revenue for 14 years; and

WHEREAS, Ruth Kanter will be fondly remembered and greatly missed by her husband, Herschel; sons, Mathew Lonberg and Nils Lonberg, and their families; her caregiver of 13 years, Delphine Roberts; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Ruth Friedenthal Kanter, a devoted activist and volunteer who made countless contributions to the Arlington community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Ruth Friedenthal Kanter as an expression of the General Assembly's respect for her memory.

### HOUSE JOINT RESOLUTION NO. 914

*Commending Dr. Lawrence Spoot.*

Agreed to by the House of Delegates, February 17, 2017

Agreed to by the Senate, February 22, 2017

WHEREAS, Dr. Lawrence Spoot, a geriatric psychiatrist, retired in 2017 after a distinguished 60-year career practicing psychiatry in the public and private sectors; and

WHEREAS, Dr. Lawrence "Larry" Spoot graduated from Northwestern University's Feinberg School of Medicine and completed a residency in psychiatry at the Philadelphia Psychiatric Center; and

WHEREAS, Dr. Larry Spoot completed additional training in psychoanalytic techniques and family therapy; and

WHEREAS, Dr. Larry Spoot is a member of the Washington Psychiatric Society and a Fellow of the American Psychiatric Association; and

WHEREAS, for more than a decade, Dr. Larry Spoot served as chair of Franklin Square Hospital Center's Department of Psychiatry in Baltimore, Maryland; his other job titles during his illustrious career include medical director and chief of mental hygiene; and

WHEREAS, Dr. Larry Spoot is a well-known and revered figure among Arlington's older adult community through his work with the Arlington County Department of Human Services, Aging, and Disability Services Division (ADSD); and

WHEREAS, Dr. Larry Spoot is noted for making house calls to serve his clients where they feel most comfortable; and WHEREAS, Dr. Larry Spoot played a key role in establishing the Regional Older Adult Facilities Mental Health Support Team (RAFT) program, which is managed by ADSD and regional partners; and

WHEREAS, in 2008, Dr. Larry Spoot was honored with the Exemplary Psychiatrist Award from the National Alliance on Mental Illness; and

WHEREAS, the Arlington County Community Services Board recognized Dr. Larry Spoot in 2012 with the Dr. Dimitri Georgopoulos Award for his meritorious service and outstanding contribution to the community; and

WHEREAS, Dr. Larry Spoot is respected and admired throughout the Commonwealth for his compassion for older adults and his passion for improving the lives of people living with mental illness; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Dr. Lawrence Spoot, a geriatric psychiatrist, on his retirement in 2017 after a distinguished 60-year career; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Dr. Lawrence Spoot as an expression of the General Assembly's admiration for his dedication to serving the older residents of Arlington County.

**HOUSE JOINT RESOLUTION NO. 915**

*Celebrating the life of Roger Dirk Vanderhye.*

Agreed to by the House of Delegates, February 17, 2017

Agreed to by the Senate, February 22, 2017

WHEREAS, Roger Dirk Vanderhye, the principal of Walt Whitman Middle School in Alexandria and an experienced administrator who had served school communities throughout the world, died on January 12, 2017; and

WHEREAS, a native of Flossmoor, Illinois, Roger Vanderhye graduated from Homewood Flossmoor High School and earned a bachelor's degree from the University of Idaho and a master's degree from the University of Virginia; and

WHEREAS, Roger Vanderhye began his distinguished career in education as a middle school science teacher in Charlottesville; he taught in Tanzania before returning to the United States to work as a teacher and elementary school principal in Colorado; and

WHEREAS, a true citizen of the world, Roger Vanderhye offered his leadership to schools in Chile, Belgium, Greece, and Saudi Arabia before joining Spring Hill Elementary School in McLean in 2003; and

WHEREAS, as principal of Spring Hill Elementary School, Roger Vanderhye strengthened the character education program and implemented block scheduling; he also facilitated the school's partnership with Yabe Elementary School in Japan, creating new and exciting opportunities for students of both schools; and

WHEREAS, since 2015, Roger Vanderhye had served as principal of Walt Whitman Middle School, where he inspired students to achieve success in academics and helped the school achieve full accreditation; and

WHEREAS, Roger Vanderhye will be fondly remembered by his wife of 29 years, Cecilia; sons, Nicolas and Alexander; and numerous other family members, friends, and former students throughout the world; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Roger Dirk Vanderhye, a highly respected school administrator; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Roger Dirk Vanderhye as an expression of the General Assembly's respect for his memory.

**HOUSE JOINT RESOLUTION NO. 916**

*Commending Stephen A. Salmon.*

Agreed to by the House of Delegates, February 17, 2017

Agreed to by the Senate, February 22, 2017

WHEREAS, Stephen A. Salmon has faithfully and dutifully served the Danville Sheriff's Office for 40 years; and

WHEREAS, Stephen "Steve" A. Salmon was hired as a deputy sheriff by the Danville Sheriff's Office on February 15, 1977, and he was promoted through the ranks to sergeant, lieutenant, and captain, before becoming chief deputy and lieutenant colonel in 2010; and

WHEREAS, during his four decades with the department, Steve Salmon has worked under all four of Danville's sheriffs: Charlie Smith, Dudley Bowling, Jim Dooley, and Mike Mondul; and

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WHEREAS, Steve Salmon is a 1973 graduate of George Washington High School; prior to joining the Danville Sheriff's Office, he worked at the Tuscarora Country Club in Danville, Beckley Lawn Service in West Virginia, Zamius Construction in Beckley, West Virginia, and Moab Custom Builders in Daniels, West Virginia; and

WHEREAS, Steve Salmon has been a consistent and steady presence at the Danville Sheriff's Office for 40 years, and his professional approach to his job is rivaled only by his dedication to the community he serves; and

WHEREAS, Steve Salmon is highly respected by his subordinates and among his peers, who have a special appreciation for his wit, trademark one-liners, better known as "Salmonisms," and his ace golf game; and

WHEREAS, Steve Salmon has dedicated his career to serving the residents of Danville and his stellar work would not be possible without the loving support of his wife, Cathy, with whom he is a proud parent and grandparent; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Stephen A. Salmon, chief deputy and lieutenant colonel at the Danville Sheriff's Office, on celebrating the milestone of 40 years of service to the department; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Stephen A. Salmon as an expression of the General Assembly's admiration for his devotion to his duties to uphold the law and to protect the residents of Danville and the Commonwealth.

**HOUSE JOINT RESOLUTION NO. 917**

*Commending Marion Thomas White, Jr.*

Agreed to by the House of Delegates, February 17, 2017

Agreed to by the Senate, February 22, 2017

WHEREAS, Marion Thomas White, Jr., retired as a lieutenant with the Danville Police Department in January 2017 after an honorable and distinguished 48-year career in law enforcement; and

WHEREAS, Marion Thomas "Tom" White, Jr., is a graduate of Northside High School in Gretna; he attended North Carolina College at Durham (now North Carolina Central University) before enlisting in the United States Air Force in 1965; and

WHEREAS, Tom White served a tour of duty in Vietnam attached to an Army infantry unit during the Vietnam War; his military career ended in 1968; and

WHEREAS, Tom White began his career with the Danville Police Department as a patrol officer in 1969, and since that time he has served as a patrolman, field training officer, sergeant, and lieutenant, a rank he achieved in 2008; and

WHEREAS, while working hard to serve the citizens of Danville during the day, Tom White found time to attend Danville Community College at night to complete an associate degree in police science in 1976; and

WHEREAS, during his 48 years of service, Tom White earned numerous commendations and awards for his exemplary work solving homicides, robberies, burglaries, and larcenies, and participating in a hostage rescue; and

WHEREAS, Tom White received 19 letters of commendation from citizens for his outstanding service in times of need and crisis, and the compassion he showed for his fellow man was one of the defining hallmarks of his illustrious career; and

WHEREAS, Tom White is a founding member of the Danville Police Department Honor Guard, served on the department's SWAT team, and was Danville's first School Resource Officer; and

WHEREAS, throughout his career, Tom White was an exemplar of the hard work, professionalism, and dedication to duty displayed by law-enforcement officers and first responders throughout the Commonwealth; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Lieutenant Marion Thomas White, Jr., on his retirement from the Danville Police Department in January 2017, after 48 years of esteemed service; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Lieutenant Marion Thomas White, Jr., as an expression of the General Assembly's admiration for his almost five decades of faithful duty protecting the citizens of Danville.

**HOUSE JOINT RESOLUTION NO. 918**

*Commending the Reverend Bruce Edward Wilson.*

Agreed to by the House of Delegates, February 17, 2017

Agreed to by the Senate, February 22, 2017

WHEREAS, the Reverend Bruce Edward Wilson, longtime pastor of West Main Baptist Church and a nonprofit advocate, was named the 84th Danville Kiwanis Club Citizen of the Year in 2016; and

WHEREAS, Bruce Wilson received a bachelor's degree from Samford University in Birmingham, Alabama, and a master of divinity degree from the Southern Baptist Theological Seminary; and

WHEREAS, Bruce Wilson lived throughout the United States while growing up because his father was an army officer, and his father instilled in him the importance of participating in society, serving others, and caring about all people regardless of rank or class; and

WHEREAS, Bruce Wilson has been pastor of West Main Baptist Church since 1991, and over the past three decades he has displayed a driving passion for serving not only his church but the greater Danville community; and

WHEREAS, Bruce Wilson is a man of faith, a man of passion, and a man of wise counsel, who takes a hands-on approach to charity and exemplifies what it means to be a Danville citizen; and

WHEREAS, Bruce Wilson is a member of the City of Danville Planning Commission and has been actively involved with the Riverview Rotary Club, as well as area nonprofit organizations such as Habitat for Humanity and God's Storehouse; and

WHEREAS, Bruce Wilson is grateful to the City of Danville for providing so many opportunities for civic engagement and influence, and he appreciates the support and understanding of his wife, Cathy, and their children, Evan and Hannah, without whom his role as a community servant would not be possible; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Reverend Bruce Edward Wilson on being honored as the 84th Danville Kiwanis Club Citizen of the Year in 2016; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Reverend Bruce Edward Wilson, longtime pastor of West Main Baptist Church, as an expression of the General Assembly's admiration for his exemplary citizenship and community service.

**HOUSE JOINT RESOLUTION NO. 919**

*Commending West Main Baptist Church.*

Agreed to by the House of Delegates, February 17, 2017

Agreed to by the Senate, February 22, 2017

WHEREAS, West Main Baptist Church in the Old West End District of Danville celebrated its 75th anniversary in 2016; and

WHEREAS, West Main Baptist Church was founded with 137 charter members in October 1941, and its first structure was a white frame house at the corner of West Main and Lockett Streets; and

WHEREAS, a new brick Gothic-style sanctuary was dedicated in 1949, and two educational wings were later added to accommodate the expanding membership of West Main Baptist Church; the church now owns the entire 400 block of West Main Street, including three parking lots; and

WHEREAS, due to its proximity to Averett University, West Main Baptist Church has enjoyed a close and harmonious relationship with the college's administration, staff, and students over the years; and

WHEREAS, with a congregation of roughly 525 members, West Main Baptist Church is a family of faith that has established a remarkable ministry of serving others through unique worship and mission outreach; and

WHEREAS, children and youth play a vital role in the ministries of West Main Baptist Church, which has employed a kindergarten/preschool training program for over 50 years; youth are also encouraged to serve in church leadership roles and participate in missions; and

WHEREAS, West Main Baptist Church provides mission opportunities for all ages at the local, state, national, and international levels, including endeavors such as Friends of Barnabas, Good News Jail Ministry, Habitat for Humanity, God's Storehouse, Belarus Ministry, and building churches in Hungary and Costa Rica; and

WHEREAS, West Main Baptist Church celebrates the rich diversity of all members, practices the grace and wisdom of Jesus Christ, and seeks to fulfill the mission of joyfully ministering to the spiritual, emotional, and physical needs of people in the community; and

WHEREAS, six pastors have led West Main Baptist Church during its history, and the Reverend Bruce Edward Wilson has faithfully served as pastor since 1991; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend West Main Baptist Church on the occasion of the 75th anniversary of its founding; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Reverend Bruce Edward Wilson, pastor of West Main Baptist Church, as an expression of the General Assembly's admiration for the church's important history and vibrant ministry in the Danville community.

**HOUSE JOINT RESOLUTION NO. 920**

*Commending Jason Robert Ince.*

Agreed to by the House of Delegates, February 17, 2017

Agreed to by the Senate, February 22, 2017

WHEREAS, Jason Robert Ince, an agriculture teacher at Chatham High School, was selected as the 2016 Region VI Teacher of the Year by the Virginia Department of Education; and

WHEREAS, Jason Ince received a bachelor's degree in agricultural education from Virginia Tech and earned a master's degree in educational leadership from Arkansas State University; and

WHEREAS, since 2002, Jason Ince has taught introductory and advanced agriculture courses at Chatham High School, where he has helped to prepare dozens of Pittsylvania County students for higher education and future careers; and

WHEREAS, the Virginia Department of Education annually gives out eight regional Teacher of the Year awards, which recognize educators who exhibit integrity in their profession and inspire their students to high achievement; and

WHEREAS, in 2016, Jason Ince was named Chatham High School Educator of the Year and was a winner of the Danville-Pittsylvania County Chamber of Commerce Excellence in Education Award; and

WHEREAS, Jason Ince is a leader in the field of secondary education, setting an exemplary example of high standards among his peers and in his classroom; and

WHEREAS, Jason Ince is the advisor for the Chatham High School FFA Chapter, and he has helped coach three winning State Tractor Operators, two runners-up in Public Speaking, and one State Star in Agricultural Placement, as well as 32 State Degree and 20 American Degree winners; and

WHEREAS, Jason Ince always strives to give his students ways to include personality or creativity in projects, and he incorporates workplace readiness skills into all of the courses he teaches; and

WHEREAS, Jason Ince believes that education serves a central role in society and that being a teacher means building community and modeling activism for students, which is one reason he helps lead FFA service activities; and

WHEREAS, Jason Ince could not be successful in the classroom without the support of his fellow teachers and administrators at Chatham High School, as well as the love and understanding of his wife, Emily; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Jason Robert Ince, an agriculture teacher at Chatham High School, on being named the 2016 Region VI Teacher of the Year by the Virginia Department of Education; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Jason Robert Ince as an expression of the General Assembly's admiration for his laudable efforts to teach, prepare, and better the next generation of the Commonwealth's citizens.

**HOUSE JOINT RESOLUTION NO. 921**

*Commending First Baptist Church East End.*

Agreed to by the House of Delegates, February 17, 2017

Agreed to by the Senate, February 22, 2017

WHEREAS, for more than 120 years, First Baptist Church East End in Newport News has worked to provide opportunities for joyful worship in the Baptist tradition and minister to the physical and spiritual needs of the congregation and the community; and

WHEREAS, First Baptist Church East End was established by a group of faithful Christians under the leadership of the Reverend Anthony Johnson of New Kent County in 1896; and

WHEREAS, First Baptist Church East End held its first services outdoors, then moved to a house on Oak Avenue and 29th Street until a small wooden sanctuary was completed in 1898; and

WHEREAS, to better serve its growing congregation, First Baptist Church East End erected a brick building in 1921; the church was tragically destroyed by fire in 1961, but relocated to a new edifice at 649 30th Street; and

WHEREAS, First Baptist Church East End completed its current building on May 6, 2007, and plans to further expand the building to provide more space for ministries and educational programs; and

WHEREAS, over the years, First Baptist Church East End has benefited from the able leadership of the Reverend J. B. Allen, the Reverend W. H. Harris, the Reverend J. H. Smith, the Reverend W. T. Young, the Reverend Y. B. Williams, Sr., the Reverend Dr. I. H. Ruffin, the Reverend Woodrow M. Brown, Sr., the Reverend Woodrow M. Brown, Jr., and the Reverend Dr. William J. Marshall; and

WHEREAS, driven by their faith, members of the First Baptist Church East End congregation have achieved success in a wide variety of career fields and become leaders throughout the community and the Commonwealth; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend First Baptist Church East End on the occasion of its 120th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Reverend Dr. Gregory M. Howard, pastor of First Baptist Church East End, as an expression of the General Assembly's admiration for the church's spiritual leadership and contributions to the Newport News community.

**HOUSE JOINT RESOLUTION NO. 922**

*Commending Maria Elena Calle.*

Agreed to by the House of Delegates, February 17, 2017  
 Agreed to by the Senate, February 22, 2017

WHEREAS, Maria Elena Calle of Richmond, an alumna of Virginia Commonwealth University, participated in the women's marathon at the Games of the XXXI Olympiad in Rio de Janeiro in 2016; and  
 WHEREAS, a native of Ecuador, Maria Elena Calle came to Richmond in 1996 to attend Virginia Commonwealth University (VCU) and has lived and worked in the Richmond area since then; and  
 WHEREAS, as a member of the VCU track and field and cross country teams, Maria Elena Calle represented her university and adopted hometown with dignity at the highest levels of the sport; and  
 WHEREAS, despite being hit by a car and seriously injured in September 1997, Maria Elena Calle finished eighth nationally in the 1998 National Collegiate Athletic Association (NCAA) Cross Country Championships, and the following year placed third in the 3,000-meter run in the NCAA Track and Field Championships; and  
 WHEREAS, Maria Elena Calle earned All-American status six times at VCU in cross country and track and field, was named the 1999 Colonial Athletic Association Cross Country Athlete of the Year and 2000 CAA Track Athlete of the Year, and still holds seven VCU track and cross country records; and  
 WHEREAS, Maria Elena Calle was inducted into the VCU Athletics Hall of Fame in 2005 and, as a member of the Richmond Road Runners Club, has continued to inspire others by maintaining a high level of athletic performance; and  
 WHEREAS, running for her native Ecuador at the age of 41 in the women's marathon at the 2016 Olympic Games, Maria Elena Calle placed 99th among 157 of the world's top female marathoners with a time of 2:48:39; now, therefore, be it  
 RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Maria Elena Calle for her performance at the Games of the XXXI Olympiad in 2016; and, be it  
 RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Maria Elena Calle as an expression of the General Assembly's admiration for her exceptional athletic achievements.

**HOUSE JOINT RESOLUTION NO. 923**

*Commending Central Virginia Community College.*

Agreed to by the House of Delegates, February 17, 2017  
 Agreed to by the Senate, February 22, 2017

WHEREAS, Central Virginia Community College in Lynchburg is commemorating the 50th anniversary of its founding and five decades as a vital education partner for the localities of Central Virginia; and  
 WHEREAS, in 1966, the General Assembly enacted legislation to establish a statewide system of comprehensive community colleges to serve the various regions of the Commonwealth; and  
 WHEREAS, the State Board for Community Colleges selected Central Virginia as a community college location to serve the Cities of Lynchburg and Bedford and the Counties of Amherst, Appomattox, Bedford, and Campbell; and  
 WHEREAS, at the first meeting of the local advisory board in March 1967, the name Central Virginia Community College (CVCC) was selected; and  
 WHEREAS, CVCC operated in temporary quarters during the 1967-1968 academic year, and the present-day main campus on Wards Road was dedicated by Governor Mills E. Godwin, Jr., in November 1968; and  
 WHEREAS, when classes commenced in the fall of 1967, 216 students were enrolled at CVCC, and, in May 1969, the first graduating class had 14 members; and  
 WHEREAS, since then, CVCC has presented over 20,000 degrees, specialized skill career certificates, and awards to over 18,000 student graduates; CVCC also partners with five local school systems to offer dual-enrollment programs; and  
 WHEREAS, CVCC was accredited by the Southern Association of Colleges and Schools in 1969, then reaffirmed in 1973, 1984, 1994, 2004, and 2015; and  
 WHEREAS, since its beginnings, CVCC has expanded tremendously in terms of programs of study, course offerings, and state-of-the-art facilities in order to meet the needs of an ever-changing workforce; and  
 WHEREAS, CVCC and its students have earned numerous awards and honors throughout the years, and the success of the college is measured in the accomplishments of its students and the increased quality of life for those who have walked through its doors; and  
 WHEREAS, for 50 years, CVCC has been a partner in regional vitality, a catalyst for economic development, a leader in workforce training, and the first choice for many who aspire to improve their lives through the power of education; and  
 WHEREAS, in its next half century, CVCC will continue to offer affordable, high-quality education options and will adapt, improve, and advance to meet the changing needs of the communities it serves; now, therefore, be it  
 RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Central Virginia Community College in Lynchburg on the occasion of the 50th anniversary of its founding; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Dr. John S. Capps, the seventh president of Central Virginia Community College, as an expression of the General Assembly's admiration for the college's rich history of education and public service.

### HOUSE JOINT RESOLUTION NO. 924

*Commending Michael Wardian.*

Agreed to by the House of Delegates, February 17, 2017

Agreed to by the Senate, February 22, 2017

WHEREAS, Michael Wardian of Arlington, an American marathoner and ultramarathoner, set a new world record when he ran and won seven back-to-back marathons in the 2017 World Marathon Challenge; and

WHEREAS, Michael "Mike" Wardian was one of 32 men and women to finish the World Marathon Challenge in January 2017, a whirlwind trip around the globe for seven marathons on seven continents in seven days; and

WHEREAS, Mike Wardian not only won all seven marathons but he also broke the three-hour mark in each of the races in Union Glacier, Antarctica; Punta Arenas, Chile; Miami, Florida; Madrid, Spain; Marrakech, Morocco; Dubai, United Arab Emirates; and Sydney, Australia; and

WHEREAS, Mike Wardian shattered the previous World Marathon Challenge record by more than 45 minutes with an average time of 2:45:57 for all of the 26.2-mile races; his slowest time was in Antarctica, where wind chill temperatures were 22 degrees below zero (Fahrenheit); and

WHEREAS, following his performance in the 2017 World Marathon Challenge, Mike Wardian was named USA Track & Field's Athlete of the Week; he was previously honored by USA Track & Field as the Men's Master Ultra Trail Runner of the Year in 2014 for both roads and trails; and

WHEREAS, Mike Wardian is a graduate of Oakton High School in Vienna and Michigan State University, where he played Division 1 lacrosse; he began to run competitively only after graduating from college; and

WHEREAS, Mike Wardian's most recent record-setting performance, and his marathon and ultramarathon career, would not be possible without the love and support of his wife, Jennifer, and their two sons, Pierce and Grant; and

WHEREAS, while at times the 2017 World Marathon Challenge pushed Mike Wardian to his limits, it was a once-in-a-lifetime experience that he will always cherish; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Michael Wardian on winning and setting a new record in the 2017 World Marathon Challenge; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Michael Wardian as an expression of the General Assembly's admiration for his awe-inspiring determination, endurance, and stamina in the field of competitive long-distance running.

### HOUSE JOINT RESOLUTION NO. 925

*Commending the ENDependence Center of Northern Virginia.*

Agreed to by the House of Delegates, February 17, 2017

Agreed to by the Senate, February 22, 2017

WHEREAS, individuals with disabilities, a group comprising 20 percent of the nation's population, make many valuable contributions to the Commonwealth and the United States; the Virginians with Disabilities Act enacted in 1985 was one of the earliest disability rights laws in the nation, preceding the Americans with Disabilities Act (ADA) by five years, and led to programs, services, and initiatives that promote the full integration of Virginians with disabilities into all aspects of society; and

WHEREAS, April 2017 marks the 35th anniversary of the founding of the ENDependence Center of Northern Virginia (ECNV) in 1982, the second Center for Independent Living (CIL) established in the Commonwealth, which owes its start to the vision and initiative of a small group of Northern Virginians with disabilities who volunteered their time and efforts to create a disability resource center run by and for people with disabilities modeled after the first CIL in the United States, the Center for Independent Living founded in Berkeley, California, in 1972, and who were inspired and aided by a group of Virginians with disabilities who opened Endependence Center, Inc., (ECI) in Norfolk a year earlier; and

WHEREAS, for the past 35 years, ECNV has provided a unique combination of peer-based, self-help services, including peer counseling, independent living skills training, information on community resources and services, and individual advocacy to thousands of Northern Virginians with disabilities living and working in the Counties of Arlington, Fairfax, and Loudoun and the Cities of Alexandria, Fairfax, and Falls Church, with more than 600 individuals served during fiscal year 2016 alone; and

WHEREAS, ECNV has provided countless hours of community education on disability issues, technical assistance on the ADA and other disability rights statutes, as well as accessibility standards to public and private entities in its service area; ECNV also provides systems advocacy aimed at eliminating physical, attitudinal, and policy barriers and promoting

equal access and independent living options that assure community integration and full participation by individuals with disabilities; and

WHEREAS, ECVN is recognized nationally for its advocacy and pivotal role in advancing the growth of the Independent Living and Disability Rights Movements, leading to the development of a network of more than 500 CILs nationwide and enactment of federal laws protecting the rights of people with disabilities, including the ADA; and

WHEREAS, ECVN, ECI, and Virginians with disabilities in communities across the Commonwealth, with the support and encouragement of state and local officials, have worked together to expand the network of Virginia CILs, which is ably coordinated by the Virginia Association of Centers for Independent Living, and now includes 17 CILs serving Virginians from Richmond to Roanoke and from Pennington Gap to Winchester; and

WHEREAS, Virginia's CILs demonstrate daily that peer-run, consumer-directed services are an effective and less costly means of empowering people with disabilities to take charge of their own lives and destinies and participate more fully in their communities; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the ENDependence Center of Northern Virginia for its years of service to Virginians with disabilities and their families on the occasion of its 35th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the ENDependence Center of Northern Virginia as an expression of the General Assembly's admiration for its achievements at local, state, and federal levels in advancing and furthering the independent living and disability rights movements.

### HOUSE JOINT RESOLUTION NO. 926

*Commending Boy Scouts of America Troop 301 of Coeburn.*

Agreed to by the House of Delegates, February 17, 2017

Agreed to by the Senate, February 22, 2017

WHEREAS, Boy Scouts of America Troop 301 of Coeburn, including member and Eagle Scout candidate Daniel Rose, are working with the International Dark-Sky Association to create a dark sky park at Bark Camp Lake in the Clinch Ranger District of the Jefferson National Forest; and

WHEREAS, the International Dark-Sky Association is a United States-based nonprofit organization incorporated in 1988 by professional and amateur astronomers to preserve and protect the nighttime environment and the world's heritage of dark skies through quality outdoor lighting; and

WHEREAS, community-based support for the Bark Camp Lake Dark Sky Park designation has poured forth from the local academic, business, civic, government, spiritual, and youth communities by way of letters and resolutions; and

WHEREAS, the proposed Bark Camp Lake Dark Sky Park designation in 2017 may be launched by a Thomas Jefferson Dark Sky Festival to bring together amateur astronomers and youth to explore more about the spectacular starry night sky, the miracles and wonders of nature that abound in dark skies, and the human-made objects that are sometimes visible with unaided eyes; and

WHEREAS, local volunteers are working with the region's youth to expand knowledge and understanding of earth and space science, remote sensing, meteorology, amateur astronomy observations, model rocketry, remotely operated unmanned aerial systems, student space station experiments, student and NanoSats, as well as how to establish the Bark Camp Lake Dark Sky Park; and

WHEREAS, coordinating with Boy Scouts of America Troop 301 of Coeburn, local volunteers have donated light meters and a Celestron telescope, conducted surveys of the lighting fixtures for retrofitting and repairs, and donated software to make videos to promote Bark Camp Lake as a dark sky location; and

WHEREAS, the publicly owned Bark Camp Lake is an excellent site for astronomical observations, with few impediments to accessing the sky and many surrounding natural treasures encircling the lake along the Thomas Jefferson Scenic Byway Loop, designated by the 2016 Session of the Virginia General Assembly; and

WHEREAS, the proposed Bark Camp Lake location ranks well on the Bortle scale, and it is typical for a rural area enclosed by national forest with light suitable for the indigenous wildlife of the central Appalachian Mountains of Virginia; and

WHEREAS, the splendors of a starry dark sky have been filling humans with wonder since the dawn of civilization and it is important in modernity to recognize the tremendous value of a clear, dark sky to observe the Milky Way and other celestial bodies across the night sky; and

WHEREAS, many of the Commonwealth's finest citizens have volunteered to boost the educational, cultural, scenic, and natural resources that the International Dark-Sky Association seeks to share and preserve at Bark Camp Lake; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Boy Scouts of America Troop 301 of Coeburn, including Eagle Scout candidate Daniel Rose, for its work to advance the Bark Camp Lake Dark Sky Park project; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Boy Scouts of America Troop 301 of Coeburn, the International Dark-Sky Association, and the United States Forest Service

Clinch District Ranger as an expression of the General Assembly's admiration for their dedication to saving the dark sky for observation of the greatest wonders and mysteries through the epochs of time.

**HOUSE JOINT RESOLUTION NO. 927**

*Commending the Richmond Ambulance Authority.*

Agreed to by the House of Delegates, February 17, 2017

Agreed to by the Senate, February 22, 2017

WHEREAS, the annual Governor's EMS Awards Program began in 1986 and is administered by the Virginia Department of Health's Office of EMS, in cooperation with the 11 Regional EMS Councils in the Commonwealth; and

WHEREAS, the program annually recognizes the outstanding contributions of individuals, agencies, community organizations, and businesses that provide or help support emergency medical care in Virginia; and

WHEREAS, in 1991, the Richmond City Council and the City Manager implemented an Emergency Medical Services (EMS) system that created the Richmond Ambulance Authority, which has placed the patient first and guaranteed its performance to all city residents; and

WHEREAS, today, the Richmond Ambulance Authority responds to approximately 200 calls per day and transports, on average, 140 patients per day; and

WHEREAS, the Richmond Ambulance Authority's emergency response times are among the fastest in the nation, with ambulances on the scene of life-threatening emergencies in less than eight minutes and 59 seconds in more than 90 percent of all responses; and

WHEREAS, the Richmond Ambulance Authority is one of only 24 EMS agencies in North America accredited by both the Commission on the Accreditation of Ambulance Services and the National Academies of Emergency Dispatch; the Richmond Ambulance Authority is also an Accredited Dispatch Center in Virginia; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Richmond Ambulance Authority on receiving the 2016 Governor's Award for Outstanding EMS Agency; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Richmond Ambulance Authority as an expression of the General Assembly's admiration for its exemplary services to citizens of the Commonwealth.

**HOUSE JOINT RESOLUTION NO. 928**

*Commending Susan C. Gasperini.*

Agreed to by the House of Delegates, February 17, 2017

Agreed to by the Senate, February 22, 2017

WHEREAS, Susan C. Gasperini of Stuart is retiring as clerk of the Circuit Court of Patrick County on April 1, 2017; and  
 WHEREAS, Susan Gasperini was hired as deputy clerk of the Circuit Court of Patrick County in 1982, shortly after graduating from Ferrum College with a bachelor's degree in geriatric social work; and

WHEREAS, Susan Gasperini was first elected clerk of the Circuit Court of Patrick County in 1990, and she subsequently won reelection four times; and

WHEREAS, among Susan Gasperini's biggest accomplishments and challenges during her tenure as clerk of the Circuit Court of Patrick County, is the computerization of the office; and

WHEREAS, always delightful to work with, Susan Gasperini is admired by the judges, attorneys, and colleagues she serves with for her intelligence, efficiency, preparedness, organization, and professionalism; and

WHEREAS, it has been an honor for Susan Gasperini to serve the people of Patrick County for 35 years and she will miss her daily interactions with citizens through her duties as clerk; and

WHEREAS, Susan Gasperini is thankful for the committed and dedicated staff in the clerk's office that she was fortunate to serve with over the years, without whom her successful tenure would not have been possible; and

WHEREAS, in retirement, Susan Gasperini plans to remain active in the community, and she looks forward to spending more time with her husband, Tracy, and enjoying life; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Susan C. Gasperini on her retirement after almost three decades of exemplary service as clerk of the Circuit Court of Patrick County; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Susan C. Gasperini as an expression of the General Assembly's admiration for her dedication and commitment to serving the citizens of Patrick County.

**HOUSE JOINT RESOLUTION NO. 929***Commending Autry O. V. DeBusk.*

Agreed to by the House of Delegates, February 17, 2017

Agreed to by the Senate, February 22, 2017

WHEREAS, Autry O. V. DeBusk, the owner and chairman of DeRoyal Industries, Inc., headquartered in Powell, Tennessee, is a highly successful entrepreneur and a distinguished native of Lee County; and

WHEREAS, Autry "Pete" O. V. DeBusk was raised on a farm in Rose Hill, where he learned the values of hard work and perseverance; and

WHEREAS, after graduating from Thomas Walker High School in Rose Hill, Pete DeBusk received a bachelor's degree from Lincoln Memorial University in Harrogate, Tennessee, and attended graduate school at the University of Georgia; and

WHEREAS, Pete DeBusk became a pharmaceutical salesman in the mid-1960s, and founded his own company, Pete DeBusk and Associates, in 1970; and

WHEREAS, Pete DeBusk developed the idea of an orthopedic cast boot and patented his first orthopedic product in 1973, the same year he founded STAT Medical, which became DeRoyal Industries; and

WHEREAS, DeRoyal Industries was incorporated in 1976, and, by 1978, the company had established a patient care division, a surgical division, and a patient protection products division; and

WHEREAS, under Pete DeBusk's leadership, DeRoyal Industries grew to become the undisputed leader in medical device innovation, and it is one of the most recognized manufacturers in the international health care market today; and

WHEREAS, DeRoyal Industries has about 2,000 employees and is the leading supplier of orthopedic soft goods to hospitals in the United States; the company markets more than 25,000 medical and surgical products and holds more than 70 U.S. patents; and

WHEREAS, Pete DeBusk serves as chairman of the Lincoln Memorial University Board of Trustees, and he is a cofounder of the college's DeBusk College of Osteopathic Medicine and the John J. Duncan, Jr. School of Law; and

WHEREAS, Pete DeBusk's entrepreneurial spirit and business success has contributed greatly to the economy of Southwest Virginia, and specifically Lee County; and

WHEREAS, DeRoyal Industries has a manufacturing facility in Rose Hill and the Lincoln Memorial University College of Veterinary Medicine DeBusk Veterinary Teaching Center, located in Ewing, offers state-of-the-art training facilities; and

WHEREAS, while Pete DeBusk now calls Tennessee home, he has never forgotten his roots in the Commonwealth and he has demonstrated a lifelong commitment to giving back to his hometown community; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Autry O. V. DeBusk, a distinguished native of Lee County, on his entrepreneurial success as owner and chairman of DeRoyal Industries, Inc.; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Autry O. V. DeBusk as an expression of the General Assembly's admiration for his professional success and efforts to boost the economies of the Appalachian region.

**HOUSE JOINT RESOLUTION NO. 930***Commending the Henrico Police Athletic League.*

Agreed to by the House of Delegates, February 17, 2017

Agreed to by the Senate, February 22, 2017

WHEREAS, for 10 years, the nonprofit Henrico Police Athletic League has strengthened the Henrico County community by providing safe, high-quality educational, athletic, and social programs to at-risk youth; and

WHEREAS, founded in 2007, the Henrico Police Athletic League is a chapter of the National Police Athletic League and gives local youth positive alternatives to gangs, drugs, and violence while building strong relationships between law-enforcement officers and members of the community; and

WHEREAS, since its inception, more than 18,000 children in kindergarten through 12th grade have participated in the Henrico Police Athletic League; the league hosts basketball and football games, chess matches, arts and dance programs, and a wide variety of other athletic and intellectual offerings; and

WHEREAS, the Henrico Police Athletic League enrolls more than 300 participants in its after-school programs, and more than 300 young people attend its eight-week summer camp each year; and

WHEREAS, since 2007, the Henrico Police Athletic League has provided more than 1,500 frozen turkeys and boxes of food to families in need during its Annual Thanksgiving Turkey Giveaway; and

WHEREAS, in 2012, the Henrico Police Athletic League earned national recognition when the National Police Athletic League Male Youth of the Year and Male Volunteer of the Year award winners were from Henrico County; and

WHEREAS, the Henrico Police Athletic League also hosts a Coat Drive to supply Henrico County students with warm coats and gloves in the winter months; in 2014 alone, the drive collected 3,000 coats and other items; and

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WHEREAS, in December 2016, the Henrico Police Athletic League provided brand-new bicycles to 200 local youth as holiday gifts; and

WHEREAS, the Henrico Police Athletic League has helped participants become better, more productive members of their communities, and more than 90 percent of its Youth Leadership Council Members have gone on to college; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Henrico Police Athletic League for its service to young people on the occasion of its 10th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Henrico Police Athletic League as an expression of the General Assembly's admiration for the league's efforts to give young people positive outlets for participation in the community.

**HOUSE JOINT RESOLUTION NO. 931**

*Commending the MathScience Innovation Center.*

Agreed to by the House of Delegates, February 17, 2017

Agreed to by the Senate, February 22, 2017

WHEREAS, in 2016, the MathScience Innovation Center celebrated its 50th year in operation as a nonprofit educational consortium serving the students and teachers of Central Virginia; and

WHEREAS, originally called the Mathematics and Science Center, the MathScience Innovation Center (MSiC) was founded in 1966, by the superintendents of six Richmond-area school divisions using funds provided under Title III of the Elementary and Secondary Education Act of 1965; and

WHEREAS, when the Title III grant expired in 1969, the superintendents from the Counties of Chesterfield, Hanover, Henrico, Goochland, and Powhatan, and the City of Richmond pooled their resources to continue operating the MSiC when they saw the void the Center filled in their divisions; and

WHEREAS, today, the MSiC is the oldest Title III project funded by the Elementary and Secondary Education Act of 1965 still in full operation in Virginia and the only one in the country continually funded locally after 1969; and

WHEREAS, the MSiC provides innovative student and teacher programs to ignite interest and deepen learning in science, technology, engineering, and mathematics (STEM); and

WHEREAS, annually, the MSiC serves more than 130,000 students and 2,000 teachers from the 12 school divisions that now make up the MSiC consortium; and

WHEREAS, through its weekday, Saturday, summer, and virtual programs, the MSiC students work collaboratively and use inquiry-based approaches to solve problems, explain and defend ideas, and develop new questions to explore; and

WHEREAS, the MSiC provides important professional development opportunities for kindergarten through 12th-grade teachers, including workshops, conferences, and college-credit courses; and

WHEREAS, the MSiC's mission of developing the leaders of tomorrow is as critical as it has ever been given the predicted workforce demands in the STEM fields; and

WHEREAS, the MSiC could not have continued to thrive and grow over the past five decades without the support and leadership of its Board of Directors and the many administrators and educators from consortium school divisions who have contributed to its success; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the MathScience Innovation Center on celebrating its 50th year in operation as a nonprofit educational consortium in Central Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Dr. Hollee R. Freeman, Director of the MathScience Innovation Center, as an expression of the General Assembly's admiration for the Center's efforts to inspire innovation and develop the science, technology, engineering, and mathematics leaders of tomorrow.

**HOUSE JOINT RESOLUTION NO. 932**

*Celebrating the life of Richard W. Glover.*

Agreed to by the House of Delegates, February 17, 2017

Agreed to by the Senate, February 22, 2017

WHEREAS, Richard W. Glover of Glen Allen, a consummate public servant who was the longest-serving active member of the Henrico County Board of Supervisors, died on February 2, 2017; and

WHEREAS, Richard "Dick" W. Glover learned the value of hard work and responsibility at a young age, growing up on a farm in Victoria; he attended Victoria High School, where he was a standout athlete, then served his country as a member of the United States Navy; and

WHEREAS, after his honorable military service, Dick Glover finished high school at Halifax County High School and continued his education at J. Sargeant Reynolds Community College and Richmond Professional Institute; and

WHEREAS, Dick Glover held sales and sales management positions for several companies, then founded Toppings Personal Letter Service and RoDon Press, providing high-quality printing and direct mail services to clients throughout the country; and

WHEREAS, in 1984, Dick Glover was appointed to the Henrico County Planning Commission, where he began to cultivate his visionary eye for planning and development; he went on to provide his expertise to the Richmond Regional Planning District Commission and the Richmond Area Metropolitan Planning Organization; and

WHEREAS, desirous to be of further service to his fellow Henrico County residents, Dick Glover ran for and was elected to the Henrico County Board of Supervisors in 1987; he ably represented the Brookland District for more than 33 years, serving as chair six times and vice-chair four times; and

WHEREAS, encouraging responsible growth, Dick Glover played a pivotal role in preserving the historic Mountain Road corridor and worked hard to ensure the safety and quality of new residential and commercial developments in the Brookland District; and

WHEREAS, among his proudest achievements, Dick Glover oversaw the creation of the Cultural Arts Center at Glen Allen, Glen Allen Stadium at RF&P Park, Greenwood Park, the Shops at Willow Lawn, and the Glen Allen and Libbie Mill public libraries; and

WHEREAS, a thoughtful, responsive, and highly professional leader, Dick Glover served the Brookland District with the utmost dedication and distinction and helped make Henrico County a wonderful place to live, work, and raise a family; and

WHEREAS, Dick Glover embodied the stability of Henrico County's leadership, and he represented the county before regional, state, and national organizations, such as the Virginia Association of Counties and the National Association of Counties; and

WHEREAS, a devoted advocate for youth athletics in Henrico County, Dick Glover was a life member and a hall of fame inductee of the Glen Allen Youth Athletic Association; he was also a life member of the Hermitage High School Band and Auxiliary Boosters; and

WHEREAS, guided by his faith, Dick Glover enjoyed fellowship and worship with the congregation of Grove Avenue Baptist Church, where he supported the television ministry with his natural charisma and boundless enthusiasm for the community; and

WHEREAS, Dick Glover will be fondly remembered and greatly missed by his beloved wife of 59 years, Joan; children, Jerry, Donna, Karen, and Joe, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Richard W. Glover, a respected public servant and community leader in Henrico County; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Richard W. Glover as an expression of the General Assembly's respect for his memory.

**HOUSE JOINT RESOLUTION NO. 933**

*Celebrating the life of Nicole K. Mittendorff.*

Agreed to by the House of Delegates, February 17, 2017

Agreed to by the Senate, February 22, 2017

WHEREAS, Nicole K. Mittendorff of Woodbridge, a public safety officer in Fairfax County and a vibrant member of the community who brought joy to everyone she met, died on April 21, 2016; and

WHEREAS, a native of Marquette, Michigan, Nicole Mittendorff graduated from Holland High School in Michigan and earned a bachelor's degree from George Mason University; she pursued a career in information technology before answering the call to serve her community as a firefighter; and

WHEREAS, Nicole Mittendorff joined the Fairfax County Fire and Rescue Department on May 20, 2013, as a member of Fire Station 08 in Annandale; she later excelled in medic school and became an acting fire and emergency medical services technician in 2015; and

WHEREAS, beginning on June 27, 2015, Nicole Mittendorff joined Fire Station 32 in Fairview; she served in the fire and rescue profession for two years and 11 months; and

WHEREAS, in addition to her courageous service as a firefighter and an emergency medical technician, Nicole Mittendorff generously volunteered her time to raise thousands of dollars for charitable organizations through her participation in triathlons, half marathons, and CrossFit events; and

WHEREAS, Nicole Mittendorff's selflessness and generosity extended to animals, and she helped several dogs and cats find a loving home; and

WHEREAS, Nicole Mittendorff is fondly remembered and greatly missed by her husband, Steven; her father, Robert; her mother, Marde; and numerous other family members, friends, and fellow public safety officers; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Nicole K. Mittendorff, a dedicated public safety officer and a respected member of the Fairfax County community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Nicole K. Mittendorff as an expression of the General Assembly's respect for her memory.

#### HOUSE JOINT RESOLUTION NO. 934

*Commending Marcus T. Meachum, Jr.*

Agreed to by the House of Delegates, February 17, 2017

Agreed to by the Senate, February 22, 2017

WHEREAS, Marcus T. Meachum, Jr., will retire as president and chief executive officer of the Greater Bluefield Chamber of Commerce on March 31, 2017, after 20 years of service and leadership; and

WHEREAS, a native of Bluefield, West Virginia, Marcus Meachum graduated from Wake Forest University and followed in his father's footsteps as a businessman, operating the family chain of shoe stores from the late 1970s to the early 1990s; and

WHEREAS, Marcus Meachum worked in sales for a small cellular phone company that became a part of AT&T from 1995 to April 1, 1997, when he began working at the Greater Bluefield Chamber of Commerce; and

WHEREAS, as president and chief executive officer of the Greater Bluefield Chamber of Commerce, Marcus Meachum ably met the unique challenges of serving communities in both Virginia and West Virginia and developed strong partnerships with local, state, and national organizations to better serve the residents and businesses of Bluefield; and

WHEREAS, founded in 1904, the Greater Bluefield Chamber of Commerce is one of the oldest businesses in the area, and Marcus Meachum has achieved one of the longest tenures as its president and chief executive officer; and

WHEREAS, Marcus Meachum credits his success to the hard work and dedication of the staff and volunteers of the Greater Bluefield Chamber of Commerce and the love and support of his wife of 44 years, Patricia, and their children, Kelly and Scott; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Marcus T. Meachum, Jr., on the occasion of his retirement as president and chief executive officer of the Greater Bluefield Chamber of Commerce; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Marcus T. Meachum, Jr., as an expression of the General Assembly's admiration for his two decades of service to the residents of Bluefield and surrounding communities.

#### HOUSE JOINT RESOLUTION NO. 935

*Commending the Nottoway County Literacy Program.*

Agreed to by the House of Delegates, February 17, 2017

Agreed to by the Senate, February 22, 2017

WHEREAS, the Nottoway County Literacy Program has provided free, one-on-one tutoring to help low-literacy adults and non-English speakers succeed in academics and their careers and become more productive members of the community; and

WHEREAS, the Nottoway County Literacy Program was established in the fall of 1987 as a result of a statewide literacy initiative by then First Lady Jeannie P. Baliles and Mark Emblidge of the Virginia Literacy Foundation; and

WHEREAS, with the help of Martha Hall of Longwood College, now Longwood University, and Anne Paige Hurt, the Nottoway County librarian, the Nottoway County Literacy Board was formed, with Ruth Walker as its first director; and

WHEREAS, the Nottoway County Literacy Program provides free, confidential tutoring on pre-GED preparation, English as a Second Language classes, citizenship classes, computer literacy, driver's license and commercial driver's license preparation, or literacy related to everyday tasks, such as writing a check or reading prescription medications; and

WHEREAS, throughout its 30-year history, the Nottoway County Literacy Program has been ably led by Mary Crank, John Witt, the Reverend James Pittman, Joe Duarte, Robin Sapp, and Sally Crager; the program also maintains a proud tradition of cooperation with local partners to provide efficient and effective services; and

WHEREAS, since 1987, the Nottoway County Literacy Program has trained more than 140 volunteer tutors, who have strengthened the community by donating more than 13,600 hours of service to help 170 adult learners; and

WHEREAS, the Nottoway County Literacy Program will commemorate its 30th anniversary on September 28, 2017, during National Literacy Month; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Nottoway County Literacy Program on the occasion of its 30th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Sally Crager, director of the Nottoway County Literacy Program, as an expression of the General Assembly's admiration for the program's work to promote and foster adult literacy in Nottoway County.

**HOUSE JOINT RESOLUTION NO. 936**

*Commending Judy A. Brannock.*

Agreed to by the House of Delegates, February 17, 2017

Agreed to by the Senate, February 22, 2017

WHEREAS, Judy A. Brannock retired as executive director of the Twin County Regional Chamber of Commerce in 2016, after 15 exemplary years of service to the Southwest Virginia business community; and

WHEREAS, the Twin County Regional Chamber of Commerce is a regional organization dedicated to improving the economic climate of the localities it represents: Carroll County, Grayson County, the City of Galax, and the Townships of Hillsville, Independence, and Fries; and

WHEREAS, through the dedication and diligent work of Judy Brannock, the Twin County Regional Chamber of Commerce created a stronger business community in the region by supporting industry, agriculture, tourism, and education in and around Carroll and Grayson Counties; and

WHEREAS, Judy Brannock's activities as executive director were as varied as helping entrepreneurs write business plans, recruiting members, keeping the organization financially sound, and overseeing the annual Smoke on the Mountain state barbecue championship sponsored by the Twin County Regional Chamber of Commerce; and

WHEREAS, because of Judy Brannock's guidance and leadership over the past 15 years, the Twin County Regional Chamber of Commerce has not only survived but thrived, even as many similar organizations in Southwest Virginia have closed their doors or consolidated due to economic hardship; and

WHEREAS, while Judy Brannock will miss her colleagues and all of the people she has worked with through the Twin County Regional Chamber of Commerce, in retirement she will enjoy spending more time with her family, especially her grandsons; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Judy A. Brannock on her retirement as executive director of the Twin County Regional Chamber of Commerce, after 15 exemplary years of service; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Judy A. Brannock as an expression of the General Assembly's admiration for her dedication to promoting economic growth and expanding tourism in Southwest Virginia.

**HOUSE JOINT RESOLUTION NO. 937**

*Commending Sarah Grim Scyphers.*

Agreed to by the House of Delegates, February 17, 2017

Agreed to by the Senate, February 22, 2017

WHEREAS, Sarah Grim Scyphers of Meadowview won the prestigious 2017 American Farm Bureau Federation Young Farmers & Ranchers Excellence in Agriculture Award; and

WHEREAS, a native of Floyd County, Sarah Scyphers received bachelor's and master's degrees from Virginia Tech, and she and her husband and two children run a commercial sheep and cattle farm in Washington County; and

WHEREAS, Sarah Scyphers is an agriculture teacher and FFA adviser at Holston High School in Damascus, where she has worked for almost nine years; and

WHEREAS, the American Farm Bureau Federation (AFBF) Young Farmers & Ranchers Excellence in Agriculture Award recognizes individuals under the age of 35 for involvement in agriculture, leadership ability, and involvement and participation in Farm Bureau and other organizations; and

WHEREAS, Sarah Scyphers won the 2016 Virginia Farm Bureau Federation Young Farmers & Ranchers Excellence in Agriculture Award, and she competed for the national excellence award against men and women from 28 states; and

WHEREAS, Sarah Scyphers won the AFBF Young Farmers & Ranchers Excellence in Agriculture Award based on her zealous leadership efforts to promote agriculture education and agricultural careers in Southwest Virginia; and

WHEREAS, Sarah Scyphers has advocated for updating the Commonwealth's aging agriculture curriculum, helped students prepare for and look to agriculture careers, and been a facilitator for Agriculture in the Classroom, which teaches children about the importance of agriculture; and

WHEREAS, Sarah Scyphers won a Models of Innovation grant from the Virginia Department of Agriculture and Consumer Services and Virginia Tech, and she used the funding to develop an outdoor learning lab classroom at her school; she also set up a program for high school students to educate third graders about agriculture; and

WHEREAS, Sarah Scyphers was announced as the Young Farmers & Ranchers Excellence in Agriculture Award winner at the AFBF annual convention in Phoenix, Arizona, and the award comes with a new 2017 pickup truck; now, therefore, be it RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Sarah Grim Scyphers on winning the prestigious 2017 American Farm Bureau Federation Young Farmers & Ranchers Excellence in Agriculture Award; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Sarah Grim Scyphers as an expression of the General Assembly's admiration for her dedication and leadership in the field of agriculture education.

**HOUSE JOINT RESOLUTION NO. 938**

*Celebrating the life of Ralph McKinley Dillow, Jr.*

Agreed to by the House of Delegates, February 17, 2017

Agreed to by the Senate, February 22, 2017

WHEREAS, Ralph McKinley Dillow, Jr., a Purple Heart recipient, highly respected attorney, and beloved member of the Bristol community, died on October 15, 2016; and

WHEREAS, a son of Ralph and Mary Virginia Dillow, Ralph Dillow grew up in Bristol and graduated from Virginia High School, where he was a cheerleader and "Mr. Virginia High"; and

WHEREAS, upon graduation from high school, Ralph Dillow enlisted in the United States Army and served in the 25th Infantry Division as a demolitions expert during the Korean War; he was awarded a Purple Heart for injuries he sustained when a Jeep he was riding in drove over a land mine; and

WHEREAS, Ralph Dillow finished his service in the United States Army teaching English while stationed in Japan, then he returned to the United States and attended King College in Bristol, Tennessee, on the GI Bill, graduating in 1956 with a degree in history; and

WHEREAS, after Ralph Dillow graduated from the University of Richmond School of Law in 1958, he returned to Bristol, where he practiced law until February 2016; since 1983, he practiced at the firm Dillow & Esposito, where his daughter, Faith Esposito, was his law partner; and

WHEREAS, Ralph Dillow served as a substitute judge in the early years of his law career; he was highly respected in the legal community, known for his fierce courtroom demeanor and equally respectful demeanor to everyone he met; and

WHEREAS, Ralph Dillow was honored by the Virginia State Bar for 50 years of practice in 2009, and he served the Virginia State Bar in various positions over the years and was a past president of the Bristol Bar Association; and

WHEREAS, Ralph Dillow loved being active in his community, whether it was as a member of the Bristol School Board from 1977 to 1983 or serving on the boards of directors of the Boys & Girls Club of Bristol and the Bristol Ballet Company; and

WHEREAS, Ralph Dillow was the definition of a true southern gentleman, known for his kindness, keen wit, raucous sense of humor, and love of Alabama Crimson Tide football; and

WHEREAS, known as "Rim" to his friends and "Pops" to his 14 grandchildren, Ralph Dillow had an adventurous spirit and loved to travel, especially to his favorite fishing hole at Elephant Lake, Ontario, Canada, and his favorite beach at Pawleys Island, South Carolina; and

WHEREAS, Ralph Dillow valued education and lifelong learning, and lived every day as an example to his children and grandchildren, to whom he passed down his compassion for the human condition and happy outlook on life; and

WHEREAS, Ralph Dillow will be fondly remembered and greatly missed by his wife of 60 years, Betty; his children, Faith, Sumer, Beth, Julie, Noel, and Ralph, and their families; and a vast number of relatives and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Ralph McKinley Dillow, Jr., a Purple Heart recipient, highly respected attorney, and beloved member of the Bristol community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Ralph McKinley Dillow, Jr., as an expression of the General Assembly's respect for his memory.

**HOUSE JOINT RESOLUTION NO. 939**

*Celebrating the life of William Henry Anderson, Jr.*

Agreed to by the House of Delegates, February 17, 2017

Agreed to by the Senate, February 22, 2017

WHEREAS, William Henry Anderson, Jr., a descendant of freed slaves and resident of Charlottesville, was born on March 23, 1948, in Varina and departed this life on August 29, 2016; and

WHEREAS, William Anderson, a serious child, who loved to read and treasured two single-space spiral notebooks listing every book he had read since age six, attended a segregated Rosenwald school four months after the United States

Supreme Court's ruling in Brown v. Board of Education, 347 U.S. 483 (1954), which desegregated the nation's public schools; and while attending the all-African American Gravel Hill and Henrico Central Elementary schools, he began to read and love Shakespearean works; and

WHEREAS, he attended the all-African American Virginia Randolph School in western Henrico County for two years before transferring to Varina High School in the tenth grade and becoming two of the school's first 11 African American students to enroll; and

WHEREAS, although a person who demonstrated immense resilience in the face of considerable challenges, William Anderson was excluded from the student body and expressed loneliness as the only African American student in many of his classes while attending Varina High School; he was one of the first African Americans to graduate from Varina High School, where he was in the National Thespian Society and the Quill and Scroll and the Beta Club honorary societies; and

WHEREAS, William Anderson earned a bachelor's degree in psychology from Virginia Polytechnic Institute and State University in 1970 and considered his professional career a sacred vocation that would give him an opportunity to share his religious beliefs and influence many young people and their families; and

WHEREAS, in 1974, on a four-year fellowship to The State University of New York at Stony Brook, William Anderson earned a doctorate in clinical psychology and completed postdoctoral studies in pediatric psychology at the University of North Carolina at Chapel Hill, where he served as an associate professor of psychology for seven years; and

WHEREAS, in 1981, he became an assistant professor at the University of Virginia's Institute of Clinical Psychology; from 1985 to 1996, he was associate professor and director of training at the University of Virginia Counseling Center, when the center merged with Student Mental Health to become Student Health Counseling and Psychological Services, where he served for 33 years until his retirement in 2014; as a licensed staff psychologist, William Anderson practiced individual and group therapy, supervised clinicians-in-training, and provided community outreach; and as the university grew more diverse, William Anderson's clinical work focused on multicultural issues, sexuality concerns, and the integration of spirituality and psychotherapy; and

WHEREAS, according to Groundwork RVA, a local affiliate of a national organization established to link communities in the pursuit of equity and sustainability, William Anderson boldly delivered a message of peace wherever he traveled and taught the organization's Green Team concerning the origin of Gravel Hill, a community of freed African American families that built schools, operated farms, and practiced free enterprise in Varina County before the onset of the American Civil War; and

WHEREAS, William Anderson loved singing and performed his first solo at age five at Gravel Hill Baptist Church in Henrico; as an adult, he sang professionally, using his rich tenor voice to sing with groups around the world, such as the Peace Commission, the MLK Community Choir, The Virginia Consort, and Zephyrus, a Charlottesville choral group, and other Charlottesville choral ensembles; he was also fluent in French and Spanish and toured 15 countries on peace missions, where he studied and traveled as a guest of Archbishop Desmond Tutu to deliver school supplies and a message of peace; and

WHEREAS, an adamant supporter of peace, he became a conscientious objector, and after presenting his case against the Vietnam War to draft officials, William Anderson was not drafted; and

WHEREAS, his membership at Trinity Episcopal Church in Charlottesville naturally led to his service as a member of the National Executive Committee of the Episcopal Peace Fellowship, the Peace Commission for the Episcopal Church, and the National Council of the Fellowship of Reconciliation; William Anderson served as president of the Richmond Chapter of The Union of Black Episcopalians, and was an active member of the American Association for Advancement of Behavior Therapy, the Association of Black Psychologists, the American Psychological Association, a lifetime member of the National Association for the Advancement of Colored People (NAACP), other professional and community organizations, and many national and international peace and justice organizations, including founder of the Charlottesville Center for Peace and Justice, which he chaired until his death; and

WHEREAS, a man with a passion for living, William Anderson loved teaching and working with people, befriended persons of all racial, cultural, ethnic, and religious backgrounds, and mentored, counseled, and assisted thousands of students throughout his professional career and during his tenure at the University of Virginia; and

WHEREAS, in 1997, William Anderson received the NAACP's Martin Luther King, Jr. Award and in 2014, he was given the University of Virginia's Serpentine Society's Outstanding Service Award for positive contributions to LGBTQ causes on campus; and

WHEREAS, lasting memories of William Anderson's unselfish service, commitment to students, and unmatched geniality will be cherished by his family, friends, churchmen, students, and colleagues; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of William Henry Anderson, Jr.; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of William Henry Anderson, Jr., as an expression of the General Assembly's respect for his memory.

**HOUSE JOINT RESOLUTION NO. 940**

*Celebrating the life of Margaret Marie Temple-Butler.*

Agreed to by the House of Delegates, February 17, 2017

Agreed to by the Senate, February 22, 2017

WHEREAS, Margaret Marie Temple-Butler was born on September 10, 1935, and departed this life on September 21, 2016, in Richmond; and

WHEREAS, Margaret Temple-Butler was a dedicated employee of Virginia Commonwealth University's Medical College of Virginia Hospitals, from which she retired after many years of service; and

WHEREAS, Margaret Temple-Butler, a generous woman of great faith with a loving and gracious spirit, dedicated her life to serving God and others; and

WHEREAS, friendly, affable, and energetic, Margaret Temple-Butler loved worshipping God with all her might, and her praise was contagious; and

WHEREAS, as a longtime member of Mount Olivet Baptist Church in Richmond, Margaret Temple-Butler was a faithful member of the Deacon Ministry and was actively involved in the Lott Cary Convention, Crossover Ministry, East End 79 Eastern Star, Voter's Association, the Church Hill Committee, and the church's Missionary Ministry; and

WHEREAS, family, friends, and her church family will cherish her memory and fondly recall her zeal for living and authentic worship; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Margaret Marie Temple-Butler; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Margaret Marie Temple-Butler, as an expression of the General Assembly's respect for her memory.

**HOUSE JOINT RESOLUTION NO. 941**

*Celebrating the life of Willis Jackson Dunn.*

Agreed to by the House of Delegates, February 17, 2017

Agreed to by the Senate, February 22, 2017

WHEREAS, Willis Jackson Dunn, a lifelong resident of Goochland County who served the community for many years as a volunteer firefighter, died on January 25, 2017; and

WHEREAS, for more than 30 years, Willis Dunn was a loyal employee of the American Tobacco Company, where he worked as an accountant; and

WHEREAS, Willis Dunn also served and safeguarded his fellow Goochland County residents as a member of Goochland County Fire and Rescue Company 5; and

WHEREAS, a man of deep and abiding faith, Willis Dunn enjoyed fellowship and worship with the congregation of Gum Spring United Methodist Church; and

WHEREAS, Willis Dunn found his greatest joy in spending time with his four grandchildren, who affectionately called him Pop Pop; and

WHEREAS, Willis Dunn will be fondly remembered by his beloved wife of 50 years, Brenda; children, Kendra and Ryan, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Willis Jackson Dunn; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Willis Jackson Dunn as an expression of the General Assembly's respect for his memory.

**HOUSE JOINT RESOLUTION NO. 942**

*Celebrating the life of Senior Chief Special Warfare Operator William Ryan Owens.*

Agreed to by the House of Delegates, February 17, 2017

Agreed to by the Senate, February 23, 2017

WHEREAS, Senior Chief Special Warfare Operator William Ryan Owens, a decorated member of the elite United States Navy SEAL Team 6, was killed in action while serving his country in Yemen on January 29, 2017; and

WHEREAS, a native of Peoria, Illinois, Ryan Owens attended Illinois Valley Central High School, where he played catcher on the baseball team and was a member of the football team; and

WHEREAS, Ryan Owens fulfilled his lifelong dream to serve his country as a member of the United States Navy when he enlisted in August 1998; he graduated from Basic Underwater Demolition/SEAL training in 2002 and had been stationed in Virginia Beach as a SEAL since 2007; and

WHEREAS, in 12 deployments, Ryan Owens had earned the Navy/Marine Corps Medal, three Bronze Stars, a Joint Service Commendation Medal, and a Navy/Marine Corps Commendation Medal, among many other decorations; and

WHEREAS, Ryan Owens' courageous service and sacrifice is a reminder of the dangers faced by American men and women in uniform around the world, who voluntarily go into harm's way in the defense of freedom and liberty; and

WHEREAS, Ryan Owens will be fondly remembered and greatly missed by his loving wife, Carryn; their children, Brooke, Luke, and Taryn; his father, William; his grandmother, Evelyn; and numerous other family members, friends, and fellow SEALs; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Senior Chief Special Warfare Operator William Ryan Owens, a United States Navy SEAL who made the ultimate sacrifice in the line of duty; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Senior Chief Special Warfare Operator William Ryan Owens as an expression of the General Assembly's respect for his memory.

### HOUSE JOINT RESOLUTION NO. 943

*Celebrating the life of Ashleigh Nicole Langbein.*

Agreed to by the House of Delegates, February 17, 2017

Agreed to by the Senate, February 22, 2017

WHEREAS, Ashleigh Nicole Langbein, a vibrant member of the Emory & Henry College community, died on January 9, 2017; and

WHEREAS, a native of Texas, Ashleigh Langbein enrolled in Emory & Henry College in 2012, where she earned a bachelor's degree in psychology with a minor in theatre and remained in the area after her graduation in 2015; and

WHEREAS, an active presence on campus, Ashleigh Langbein was a member of Pi Sigma Kappa sorority and Alpha Psi Omega National Theatre Honor Society, participating in school plays, forums, and student life events; and

WHEREAS, a gifted artist and musician, Ashleigh Langbein played the violin and enjoyed writing both prose and poetry; she brought joy to others by making gifts of her personal artwork; and

WHEREAS, a compassionate friend and a bold champion for justice who worked to enhance the lives of others, Ashleigh Langbein never hesitated to stand up for what she believed was right; and

WHEREAS, Ashleigh Langbein will be fondly remembered and greatly missed by numerous family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Ashleigh Nicole Langbein, a beloved member of the Emory & Henry College community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Ashleigh Nicole Langbein as an expression of the General Assembly's respect for her memory.

### HOUSE JOINT RESOLUTION NO. 944

*Commemorating the life and legacy of Desmond T. Doss.*

Agreed to by the House of Delegates, February 17, 2017

Agreed to by the Senate, February 22, 2017

WHEREAS, Virginians of every generation have responded to the summons to defend their homes and hearths with armed force if need be; and

WHEREAS, Virginians have in every conflict since the Colonial era distinguished themselves honorably and even heroically on the battlefields of several continents; and

WHEREAS, to forgo the protection of arms, and yet still assist one's fellow soldiers amidst combat with enemy forces, and to do so without regard for one's own safety, but with full regard primarily for the obligations one holds toward Almighty God, is a summons reserved for those who conscientiously object to possessing arms while in the service of the country or Commonwealth; and

WHEREAS, Virginia, in the heroic person of Desmond T. Doss, produced the first conscientious objector ever to be awarded the Congressional Medal of Honor for action not only above but *far above* the call of duty during combat with enemy forces; and

WHEREAS, Desmond T. Doss was born in Lynchburg on February 7, 1919, and was raised as a Seventh-Day Adventist to observe Saturday as the Sabbath and to eschew violence of any kind; and

WHEREAS, although offered a deferment owing to his employment by the Naval Shipyard at Newport News, Desmond T. Doss volunteered for military service during the Second World War on April 1, 1942; and

WHEREAS, having declared himself a conscientious objector, Desmond T. Doss was assigned to 2nd Platoon, B Company, 1st Battalion, 307th Infantry, in the 77th Infantry Division; and

WHEREAS, while serving on the island of Guam in 1944, Desmond T. Doss was awarded the Bronze Star Medal for heroism for aiding wounded soldiers during heavy enemy fire; and

WHEREAS, during the Battle of Okinawa, near Urasoe-Mura, Ryukyu Islands, from April 29 to May 21, 1945, Desmond T. Doss engaged in "conspicuous gallantry and intrepidity in action"; and

WHEREAS, as the official citation declares, "Private First Class Desmond Doss was a company aid man when the 1st Battalion assaulted a jagged escarpment 400 feet high. As our troops gained the summit, a heavy concentration of artillery, mortar, and machine gun fire crashed into them, inflicting approximately 75 casualties and driving the others back. Pfc. Doss refused to seek cover and remained in the fire-swept area with the many stricken, carrying all 75 casualties one-by-one to the edge of the escarpment and there lowering them on a pole-supported litter down the face of the cliff to friendly hands"; and

WHEREAS, Desmond T. Doss twice more over the coming days risked his life to rescue fallen comrades, despite having been severely wounded himself; and

WHEREAS, the official citation further declares, "Through his outstanding bravery and unflinching determination in the face of desperately dangerous conditions, Pfc. Doss saved the lives of many soldiers [and] his name became a symbol throughout the 77th Infantry Division for outstanding gallantry far above and beyond the call of duty"; and

WHEREAS, Desmond T. Doss, after several years of hospital care to heal his many wounds, made his home in rural Georgia with his wife, Dorothy Schutte Doss, and there the couple raised their son, Desmond T. (Tommy) Doss, Jr.; and

WHEREAS, Desmond T. Doss passed away on March 23, 2006, at his then-home in Alabama and was laid to rest in the National Cemetery at Chattanooga, Tennessee; and

WHEREAS, the film *Hacksaw Ridge*, directed by Mel Gibson and nominated for six Academy Awards for 2017, has brought renewed nationwide attention to the inspiring faith and heroic sacrifices of Desmond T. Doss of Virginia; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commemorate the life and legacy of Desmond T. Doss, a heroic veteran of World War II; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare copies of this resolution for presentation to Desmond T. Doss, Jr., American Legion Post 16 of Lynchburg, and the Desmond T. Doss Christian Academy of Lynchburg as an expression of the General Assembly's admiration for his depth of belief, his bravery, and the simple integrity of a life informed wholly of religious faith.

### HOUSE JOINT RESOLUTION NO. 945

*Celebrating the life of Suzanne Granoski.*

Agreed to by the House of Delegates, February 17, 2017

Agreed to by the Senate, February 22, 2017

WHEREAS, Suzanne Granoski, a respected member of the Northern Virginia community and an influential leader in real estate, died on August 4, 2016; and

WHEREAS, Suzanne Granoski attended Trinity College in Washington, D.C., from 1985 to 1989 and studied at Oxford University in England during her sophomore year; and

WHEREAS, Suzanne Granoski became a realtor in 2005 and was well-known for her colorful personality and natural leadership abilities; she always put clients first and worked to ensure that the industry was always moving forward; and

WHEREAS, Suzanne Granoski helped strengthen the real estate field as an active member of both the Northern Virginia Association of Realtors (NVAR) and the Virginia Association of Realtors; and

WHEREAS, Suzanne Granoski was the NVAR chair-elect at the time of her passing; and

WHEREAS, Suzanne Granoski will be fondly remembered and greatly missed by numerous family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Suzanne Granoski; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Suzanne Granoski as an expression of the General Assembly's respect for her memory.

**HOUSE JOINT RESOLUTION NO. 946**

*Commending Christine M. Todd.*

Agreed to by the House of Delegates, February 17, 2017  
Agreed to by the Senate, February 22, 2017

WHEREAS, Christine M. Todd, a respected real estate industry leader and an active member of the Northern Virginia community, retired in 2015 after 26 years of service; and

WHEREAS, Christine Todd was hired by the Northern Virginia Association of Realtors in 1989 as its first female chief executive officer and help lead the organization into the age of technology; and

WHEREAS, the Northern Virginia Association of Realtors thrived under Christine Todd, who converted the outdated multiple listing system to a new program that could handle the size and demands of growing membership; and

WHEREAS, Christine Todd upgraded the Northern Virginia Association of Realtors' mechanical lockbox system and restructured and streamlined its operating staff; and

WHEREAS, highly respected in the field, Christine Todd held numerous leadership positions at the National Association of Realtors and on the boards of SentiLock and Metropolitan Regional Information Systems; and

WHEREAS, as a consultant, Christine Todd also offered her leadership and expertise to fellow real estate professionals in Eastern Europe and Peru; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Christine M. Todd; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Christine M. Todd as an expression of the General Assembly's admiration for her contributions to the real estate industry in the Commonwealth.

**HOUSE JOINT RESOLUTION NO. 947**

*Commending the Falls Church Chamber of Commerce.*

Agreed to by the House of Delegates, February 17, 2017  
Agreed to by the Senate, February 22, 2017

WHEREAS, for 70 years, the Falls Church Chamber of Commerce has been on the forefront of supporting local businesses, community growth, and economic development; and

WHEREAS, founded in 1947, the mission of the Falls Church Chamber of Commerce is to promote local business interests in order to foster economic prosperity and civic well-being in the greater Falls Church community; and

WHEREAS, Falls Church is in the heart of the Washington, D.C., metropolitan area, and it is the job of the Falls Church Chamber of Commerce to encourage and support businesses in this ideal location; and

WHEREAS, the Falls Church community is home to many unique shopping experiences, regionally known restaurants, quality professional services, numerous nonprofit organizations, and some of the best schools in the nation; and

WHEREAS, the Falls Church Chamber of Commerce is a 300-member business organization, led by a 21-member board and two part-time staff, that believes in "Better Business for a Better Falls Church"; and

WHEREAS, the Falls Church Chamber of Commerce provides members with a vast array of benefits, including educational, marketing, and networking opportunities; and

WHEREAS, the Falls Church Chamber of Commerce also encourages quality business ethics and community respect, and advocates Chamber positions on critical business issues that promote economic prosperity; and

WHEREAS, for seven decades, the Falls Church Chamber of Commerce has been a strong force for progress in developing Falls Church from a sleepy town to a thriving, dynamic community, while protecting the small-town atmosphere that makes Falls Church so special; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Falls Church Chamber of Commerce on the occasion of its 70th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Lisa D'Ambrosio-Irons, chair of the Falls Church Chamber of Commerce, as an expression of the General Assembly's admiration for the organization's history and best wishes for the next 70 years of continuous service to the community of Falls Church.

**HOUSE JOINT RESOLUTION NO. 948**

*Commending Phillip C. Stone.*

Agreed to by the House of Delegates, February 17, 2017  
Agreed to by the Senate, February 22, 2017

WHEREAS, Phillip C. Stone, the admired and respected president of Sweet Briar College, will retire in May 2017; and  
 WHEREAS, a native of Bassett, Phillip Stone received a bachelor's degree from Bridgewater College, attended the University of Chicago Graduate School of Economics, and received a law degree from the University of Virginia; and

WHEREAS, Phillip Stone practiced law for 24 years with the Harrisonburg law firm of Wharton, Aldhizer, and Weaver, and served as president of the Virginia Bar Association in 1997; and

WHEREAS, prior to serving as president of Sweet Briar College, Phillip Stone served as the seventh president of Bridgewater College for 16 years, nearly doubling enrollment and overseeing an expansion of programs during his presidency; and

WHEREAS, Phillip Stone was enjoying semi-retirement and working with his children in the family practice, the Stone Law Group in Harrisonburg, when he agreed to lead Sweet Briar College when it nearly closed in July 2015; and

WHEREAS, after being named president of Sweet Briar College, Phillip Stone worked tirelessly to hire faculty and staff, reinstate key programs, and fill critical administrative roles to ensure the college could successfully open and recruit additional students; and

WHEREAS, under Phillip Stone's leadership, Sweet Briar College was able to open during the 2015-2016 academic year on time with all of its programs intact and a 39 percent increase in enrollment in 2016; and

WHEREAS, an admired leader, Phillip Stone served as chair of the Commission on Colleges of the Southern Association of Colleges and Schools, the NCAA Division III Presidents Council, and the Council of Independent Colleges in Virginia; and

WHEREAS, Phillip Stone brought great enthusiasm and passion to the presidency of Sweet Briar College and worked with great distinction; he looks forward to spending time with family, traveling, and maintaining his affiliation with local historical groups; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Phillip C. Stone on his 18 years of outstanding leadership as the president of Bridgewater College and Sweet Briar College; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Phillip C. Stone as an expression of the General Assembly's admiration for his many achievements and best wishes in all of his future endeavors.

**HOUSE JOINT RESOLUTION NO. 949**

*Commending the Great Falls Volunteer Fire Department.*

Agreed to by the House of Delegates, February 17, 2017

Agreed to by the Senate, February 22, 2017

WHEREAS, in 2017, the Great Falls Volunteer Fire Department is celebrating 75 years of service to the residents of Fairfax County by aiding in the preservation of life and property; and

WHEREAS, the Great Falls Volunteer Fire Department, also known as Fairfax County Fire and Rescue Department Station 12, has a rich history in the community and is staffed by dedicated, highly trained volunteers and career professionals who are housed in a new environmentally-friendly, world-class station; and

WHEREAS, the Great Falls Volunteer Fire Department was incorporated on May 5, 1942, as the Forestville Volunteer Fire Department, to serve Forestville and Fairfax County as an auxiliary to the McLean Volunteer Fire Department; and

WHEREAS, founded with 29 dues-paying members, the Great Falls Volunteer Fire Department's first piece of equipment was a 1942 Chevrolet truck with a 500-gallon tank and front-mounted 500-gallon-per-minute pump; and

WHEREAS, land for the first fire house was donated on August 1, 1942, and the name was changed to the Great Falls Volunteer Fire Department in November 1955; and

WHEREAS, in 1961, a new fire station was completed and five years later sleeping and living quarters were added to the building to accommodate the new full-time paid staff assigned to 24-hour coverage to supplement the volunteers; and

WHEREAS, the Great Falls Volunteer Fire Department's brand new Station 12 opened in November 2011; it is certified as a Leadership in Energy and Environmental Design (LEED) Gold building because of the green technologies used in its construction, the first Fairfax County government building to meet this standard; and

WHEREAS, the dedicated men and women of Northern Virginia who make up the Great Falls Volunteer Fire Department donate their time to serve as firefighters, paramedics, emergency medical technicians, and administrative support staff; and

WHEREAS, there are 22 career firefighters on duty at the Great Falls Volunteer Fire Department today, in addition to the 40 volunteer members who serve in operational and administrative positions; and

WHEREAS, the Great Falls Volunteer Fire Department owns five of the emergency vehicles housed at the station and was the first department in Fairfax County to have four-wheel drive ambulances; and

WHEREAS, the Great Falls Volunteer Fire Department works closely with the Fairfax County Fire and Rescue Department by pooling resources and providing support at community events throughout Fairfax County, keeping the public safety of the citizens of Great Falls foremost in mind; and

WHEREAS, the Great Falls Volunteer Fire Department is thankful for the generous and continuing support of the Great Falls community and its leaders, without whom construction of the new state-of-the-art fire station would not have been possible; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Great Falls Volunteer Fire Department on the 75th anniversary of its founding; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Douglas Wessel, Chief of the Great Falls Volunteer Fire Department, as an expression of the General Assembly's admiration for the department's honorable service preserving the life and property of the residents of Great Falls and Fairfax County.

**HOUSE JOINT RESOLUTION NO. 950**

*Commending Mary's Shelter.*

Agreed to by the House of Delegates, February 17, 2017  
 Agreed to by the Senate, February 22, 2017

WHEREAS, for 10 years, Mary's Shelter in Fredericksburg has helped women and their children achieve stable, independent living by providing transitional housing, career and life-skills training, and mentorship; and

WHEREAS, founded in 2006 by Kathleen Wilson, Theresa Rousseau, Mark Rousseau, and Chris Taraschke, Mary's Shelter began as a two-room apartment where women could find a safe place to call home while working to further their education or secure a career; and

WHEREAS, Mary's Shelter has grown into a community of group homes in downtown Fredericksburg that have served more than 200 women and hundreds of children; women can live in a Mary's Shelter home for up to three years and receive in-house parenting and life-skills classes, as well as one-on-one mentorship; and

WHEREAS, Mary's Shelter provides employment, financial, and mental health resources, as well as clothing and other everyday items, to allow residents to focus on building a stronger future for themselves and their families; and

WHEREAS, Mary's Shelter works to break the generational cycle of domestic violence and strives to provide a supportive environment for women with substance abuse issues to overcome their addictions; and

WHEREAS, Mary's Shelter has succeeded in its benevolent mission thanks to the hard work of its many volunteers and countless generous donations from churches and community partners; and

WHEREAS, Mary's Shelter commemorated its 10th anniversary with a special celebration at the Fredericksburg Expo Center on August 13, 2016; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Mary's Shelter for its compassionate service to women and children in Fredericksburg on the occasion of its 10th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Mary's Shelter as an expression of the General Assembly's admiration for the organization's work to provide safety and stability for members of the community in need.

**HOUSE JOINT RESOLUTION NO. 951**

*Commending Craigs Baptist Church.*

Agreed to by the House of Delegates, February 17, 2017  
 Agreed to by the Senate, February 22, 2017

WHEREAS, Craigs Baptist Church in Spotsylvania is marking the 250th anniversary of its founding; and

WHEREAS, Craigs Baptist Church was established on November 20, 1767, in the upper part of Spotsylvania, near Tinder, with 25 members; and

WHEREAS, originally known as Upper Spotsylvania Church, Craigs Baptist Church was the first Baptist church between the James and the Rappahannock Rivers; and

WHEREAS, Craigs Baptist Church came to be known by its present name in honor of its first pastor, Lewis Craig, who assumed office in 1770; and

WHEREAS, in the earliest days of Craigs Baptist Church's existence it was illegal to preach the Gospel without a license from the Anglican Church; and

WHEREAS, Lewis Craig was once pulled from the pulpit by the county sheriff for preaching with no license and tried before magistrates on the church yard; at various times he was jailed in Culpeper, Fredericksburg, Bowling Green, and Tappahannock; and

WHEREAS, after an exodus of church members and the pastor to Kentucky in 1781, Craigs Baptist Church was reconstituted in 1783; and

WHEREAS, the original location of Craigs Baptist Church was on a road that was impassible by automobiles and the church moved to its present location in 1912, a few years after the advent of the Ford Model T; and

WHEREAS, the current Craigs Baptist Church building was dedicated on September 29, 1912, and Dr. Aubrey Williams preached the dedicatory sermon in front of an audience of some 800 to 1,000 people from a large number of churches in Spotsylvania and Orange Counties; and

WHEREAS, following Dr. Aubrey Williams' sermon, an offering was collected and an amount was quickly raised that allowed the church to be dedicated debt free; and

WHEREAS, at the 1912 dedication it was noted that while Craigs Baptist Church is small in numbers and wealth, it is rich in spirit of sacrifice and devotion to the Master's cause, and that still holds true today; and

WHEREAS, Craigs Baptist Church is a caring congregation that gladly welcomes all, and offers preaching and teaching that is centered on the Word of God and ministries to meet the spiritual needs of every age; and

WHEREAS, the devoted congregation of Craigs Baptist Church seeks to intimately know Christ, continually grow in Christ, and to passionately go as Christ in their community; and

WHEREAS, Craigs Baptist Church adheres to the Baptist Faith and Message of the Southern Baptist Convention; weekly services are held in the sanctuary of Craigs Baptist Church and at its nearby Community Life Center; and

WHEREAS, Craigs Baptist Church has been served faithfully by many ministers during its illustrious history, and the church has been led by Pastor John Swain since 1992; and

WHEREAS, the congregation of Craigs Baptist Church is proud of its powerful history and of the men who stood unafraid and spoke their message with courage like that of John the Baptist; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Craigs Baptist Church on the occasion of the 250th anniversary of its founding; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to John Swain, pastor of Craigs Baptist Church, as an expression of the General Assembly's admiration for the church's magnificent heritage and best wishes for a future worthy of its past.

### HOUSE JOINT RESOLUTION NO. 952

*Commending the City of Buena Vista.*

Agreed to by the House of Delegates, February 15, 2017

Agreed to by the Senate, February 22, 2017

WHEREAS, the City of Buena Vista, nestled between the majestic Blue Ridge Mountains and the Maury River, commemorates the 125th anniversary of its charter in 2017; and

WHEREAS, Buena Vista traces its beginnings to the late 1800s, when Benjamin Cline Moomaw founded a town then-called Green Forest and opened a simple tannery, laying the groundwork for what would become an industrial and cultural hub at the western foot of the Blue Ridge Mountains; and

WHEREAS, in the late 1880s, as hotels, churches, businesses, railroads, and homes were built, the town was renamed Buena Vista and granted a town charter in January of 1890; two years later, the state granted Buena Vista a city charter on February 15, 1892; and

WHEREAS, the industry and economics of Buena Vista evolved over the next century, and the city flourished as a business, tourist, and educational destination in Southwest Virginia; and

WHEREAS, the city has been home to numerous landmarks, including the Buena Vista Opera House, Blue Ridge Tannery, Alleghany Ore and Iron Company Furnace, Buena Vista Glass Company Works, Hotel Buena Vista, which is now part of Southern Virginia University, and Glen Maury Park; and

WHEREAS, seven old homes and buildings in Buena Vista are currently listed on the National Register of Historic Places, including the original brick courthouse built in 1890 that still stands in the historic downtown and has housed the A. B. Modine Memorial Library since 1971; and

WHEREAS, the City of Buena Vista values education and higher learning and is home to Southern Virginia University, formerly Southern Seminary, which was founded as a school for women and served young ladies from all over the country for years; and

WHEREAS, Buena Vista has completed several projects in recent years that will ensure the vitality of the city for the future and has undertaken efforts to promote revitalization and economic growth, especially in the historic downtown district; and

WHEREAS, the \$34 million Jim Olin Floodwall, which features a beautiful walking trail, was dedicated in 1999; Buena Vista was designated a Virginia Main Street Start Up Community in 2001, and an 18-hole premier golf course was completed in 2004; and

WHEREAS, Buena Vista offers spectacular views and its proximity to Interstate 81 and the Blue Ridge Parkway have made it a tourist destination where people come to enjoy hunting, fishing, hiking, canoeing, or just taking in the scenery; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the City of Buena Vista on the occasion of the 125th anniversary of its city charter; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Larry Tolley, Mayor of the City of Buena Vista, as an expression of the General Assembly's admiration for the city's long and illustrious history as an industrial, educational, and cultural hub at the western foot of the Blue Ridge Mountains.

**HOUSE JOINT RESOLUTION NO. 953**

*Commending Penny Halpern.*

Agreed to by the House of Delegates, February 17, 2017  
Agreed to by the Senate, February 22, 2017

WHEREAS, Penny Halpern has served the Girl Scouts of the USA for more than 45 years, making a difference in the lives of countless girls and young women; and

WHEREAS, after serving as a Girl Scout for several years, Penny Halpern became an adult volunteer with the Girl Scout Council of the Nation's Capital in 1980; and

WHEREAS, Penny Halpern has served as a troop leader, including 18 years as a senior Scout advisor; she has also served as an adult trainer, a service unit manager, and chair of the council's Gold Award panel; and

WHEREAS, Penny Halpern also worked as the council's SHARE chair, service unit SHARE leader, and service unit money manager; and

WHEREAS, Penny Halpern has dedicated much of her life to promoting the Girl Scout mission and helping girls build courage, self-confidence, and character and become leaders who are driven to make the world a better place; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Penny Halpern for her more than 45 years of service to the Girl Scouts of the USA; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Penny Halpern as an expression of the General Assembly's admiration for her service to countless girls and young women in the Commonwealth, West Virginia, Maryland, and Washington, D.C.

**HOUSE JOINT RESOLUTION NO. 954**

*Commending Kurt O'Connor.*

Agreed to by the House of Delegates, February 17, 2017  
Agreed to by the Senate, February 22, 2017

WHEREAS, Kurt O'Connor, a teacher at Park View High School in Sterling, used innovative 3-D printing technology to help create a prosthetic hand for the six-year-old brother of one of his students; and

WHEREAS, Lucas Filippini was born with an underdeveloped left hand, making it difficult for him to master everyday tasks, such as tying his shoelaces, zipping up a jacket, and holding items with both hands; and

WHEREAS, with his younger brother on a waitlist for a prosthesis, Gabriel Filippini, a student at Park View High School, approached Kurt O'Connor about using the school's newly acquired 3-D printer to create a prosthetic hand; and

WHEREAS, Kurt O'Connor and Gabriel Filippini collaborated with Enabling the Future, which provides open-source designs for 3-D printed prosthetic limbs, and Makersmiths, a nonprofit organization in Leesburg that provided knuckle joints, to develop the prosthetic hand; and

WHEREAS, Kurt O'Connor and Gabriel Filippini provided Lucas Filippini with his new prosthetic hand on his birthday on June 17, 2016; since receiving the hand, Lucas has achieved motor skills that many other children take for granted and continues to overcome challenges; and

WHEREAS, Lucas Filippini's achievements are an inspiration to the members of the Loudoun County community, and Kurt O'Connor and Gabriel Filippini have begun to create larger hands to ensure that Lucas maintains his mobility as he grows; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Kurt O'Connor for his work to provide a prosthetic hand for a local child in need; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Kurt O'Connor as an expression of the General Assembly's admiration for his life-changing use of technology.

**HOUSE JOINT RESOLUTION NO. 955**

*Commending Blake G. Rose.*

Agreed to by the House of Delegates, February 17, 2017  
Agreed to by the Senate, February 22, 2017

WHEREAS, Blake G. Rose, president of the board of Herndon Community Television, is being honored as Herndon Rotary Person of the Year in 2017; and

WHEREAS, Blake Rose is a graduate of The College of William & Mary, where he received a bachelor's degree in business management; and

WHEREAS, Blake Rose joined Herndon Community Television (HCTV) as a volunteer in 1990, and quickly mastered the many aspects of producing public-access programming; and

WHEREAS, in 2016, Blake Rose volunteered close to 500 hours with HCTV and he is well-liked and well-respected among his fellow volunteers; and

WHEREAS, because of the work of volunteers like Blake Rose, HCTV provides an important opportunity for citizens to host television programs, and gives local residents access to community government affairs programming, community cultural events, and educational programming; and

WHEREAS, Blake Rose's tireless dedication and skill has made it possible for HCTV to televise many local events and programs for 27 years, making HCTV a great and growing success; and

WHEREAS, Blake Rose joined the HCTV Board of Directors in 1996, and he currently serves as board president; and

WHEREAS, under Blake Rose's leadership, HCTV has continued to improve the broadcasting capabilities that are "keeping the community connected"; and

WHEREAS, when he is not producing HCTV programs, Blake Rose is a federal government employee and works for the United States Consumer Product Safety Commission in the Office of Compliance & Field Operations; and

WHEREAS, Blake Rose's involvement with HCTV is a family affair, and he volunteers along with his wife, Nancy, and their son, Brian; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Blake G. Rose on being honored as Herndon Rotary Person of the Year in 2017; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Blake G. Rose, president of the board of Herndon Community Television, as an expression of the General Assembly's admiration for his commitment to keeping the citizens of the Commonwealth connected through quality public access programming.

#### HOUSE JOINT RESOLUTION NO. 956

*Commending Brandon Eric Guyer.*

Agreed to by the House of Delegates, February 17, 2017

Agreed to by the Senate, February 22, 2017

WHEREAS, Brandon Eric Guyer, a Major League Baseball outfielder for the Cleveland Indians who got his start playing on the sports fields of Herndon, is a member of the team that won the 2016 American League Championship; and

WHEREAS, in his youth, Brandon Guyer played on the Reston American Little League baseball team that was two games shy of making it to the Little League World Series; and

WHEREAS, Brandon Guyer is a 2004 graduate of Herndon High School, where he was a standout player on the baseball and football teams; and

WHEREAS, Brandon Guyer was a star running back for the Herndon High School Hornets football team; he rushed for over 1,000 yards his junior and senior years, and he holds the school's record for the most touchdowns (seven) in a single game; and

WHEREAS, as a high school senior, Brandon Guyer had a .483 batting average on the baseball team; he holds the Herndon High School record for career home runs (13) and single-season home runs (eight); and

WHEREAS, Brandon Guyer's leadership on the baseball and football teams at Herndon High School propelled the school to district and regional titles during his time there; and

WHEREAS, Brandon Guyer played baseball for the University of Virginia and was drafted in 2007 by the Chicago Cubs; he worked his way through the minor leagues before earning a spot on a major league roster; and

WHEREAS, Brandon Guyer spent the majority of his professional career with the Tampa Bay Rays; he was traded to the Cleveland Indians in August 2016, and in January 2017 he signed a two-year, \$5 million contract with the team; and

WHEREAS, as a left fielder for the Cleveland Indians, Brandon Guyer had a batting average of .333 and a slugging percentage of .469; he had several memorable plays in the outfield that helped the team win the Central Division championship and American League pennant; and

WHEREAS, Brandon Guyer is known for playing hard all the time, and, in 2015, he led the American League in being hit by the most pitches, earning him the nickname 'La Piñata'; and

WHEREAS, Brandon Guyer is proud of his Virginia roots and as a major league player he has continued to give back to the Northern Virginia community by working at local baseball camps; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Brandon Eric Guyer, an outfielder for the Cleveland Indians, on being a member of the 2016 American League Championship team; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Brandon Eric Guyer as an expression of the General Assembly's admiration for his illustrious Major League Baseball career and for making the Commonwealth's citizens proud.

**HOUSE JOINT RESOLUTION NO. 957**

*Commending Herndon High School.*

Agreed to by the House of Delegates, February 17, 2017  
Agreed to by the Senate, February 22, 2017

WHEREAS, on the morning of October 6, 2016, Ethan Empfield, a junior at Herndon High School, collapsed on the football field during gym class and stopped breathing; and

WHEREAS, Philip Stone, the school resource officer at Herndon High School, heard calls for help and rushed to the football field where he began to perform chest compressions on the 16-year-old student; and

WHEREAS, Amanda Hudson, the assistant principal of Herndon High School, alerted nursing aide Robin Weinstein to retrieve the school's automated external defibrillator (AED); and

WHEREAS, while Amanda Hudson performed mouth-to-mouth resuscitation, Robin Weinstein prepped the AED; Philip Stone, Amanda Hudson, and Robin Weinstein relied on their training to provide the proper care until first responders arrived; and

WHEREAS, Joe Griffin, Jack Brown, Al Parker, Fatima Mejia, Dan Coghlan, Brenda Brinckmeyer, Jonathan Frohm, and Irma Munguia also played a role in helping Ethan Empfield; and

WHEREAS, thanks to the quick efforts of the students, faculty, and staff of Herndon High School, Ethan Empfield was transported to a local hospital where he made a full recovery; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the students, faculty, and staff members of Herndon High School who helped save the life of a student in distress in October 2016; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Herndon High School as an expression of the General Assembly's admiration for the heroic, life-saving actions of its students, faculty, and staff.

**HOUSE JOINT RESOLUTION NO. 958**

*Commending Gabriel Filippini.*

Agreed to by the House of Delegates, February 17, 2017  
Agreed to by the Senate, February 22, 2017

WHEREAS, Gabriel Filippini, a student at Park View High School in Sterling, used innovative 3-D printing technology to help create a prosthetic hand for his six-year-old brother; and

WHEREAS, Lucas Filippini was born with an underdeveloped left hand, making it difficult for him to master everyday tasks, such as tying his shoelaces, zipping up a jacket, and holding items with both hands; and

WHEREAS, with his younger brother on a waitlist for a prosthesis, Gabriel Filippini approached Kurt O'Connor, one of his teachers at Park View High School, about using the school's newly acquired 3-D printer to create a prosthetic hand; and

WHEREAS, Gabriel Filippini and Kurt O'Connor collaborated with Enabling the Future, which provides open-source designs for 3-D printed prosthetic limbs, and Makersmiths, a nonprofit organization in Leesburg that provided knuckle joints, to develop the prosthetic hand; and

WHEREAS, Gabriel Filippini and Kurt O'Connor provided Lucas Filippini with his new prosthetic hand on his birthday on June 17, 2016; since receiving the hand, Lucas has achieved motor skills that many other children take for granted and continues to overcome challenges; and

WHEREAS, Lucas Filippini's achievements are an inspiration to the members of the Loudoun County community, and Gabriel Filippini and Kurt O'Connor have begun to create larger hands to ensure that Lucas maintains his mobility as he grows; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Gabriel Filippini for his work to provide a prosthetic hand for his brother; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Gabriel Filippini as an expression of the General Assembly's admiration for his life-changing use of technology.

**HOUSE JOINT RESOLUTION NO. 959**

*Commending Steven L. Mitchell.*

Agreed to by the House of Delegates, February 17, 2017  
Agreed to by the Senate, February 22, 2017

WHEREAS, Steven L. Mitchell provided able leadership to the residents of Herndon as a member of the Herndon Town Council from 2014 to 2016; and

WHEREAS, a lifelong resident of Herndon, Steven Mitchell gave his time, knowledge, and expertise to serve the town and its citizens, and he represented the town as a member of the Inter-Jurisdictional Committee; and

WHEREAS, Steven Mitchell's fluency in the Spanish language, which he gained through education, teaching, and experience, was a great asset to the Herndon Town Council, helping to ensure that all residents had a voice in local government; and

WHEREAS, during his time on the Herndon Town Council, Steven Mitchell was instrumental in numerous town projects and improvements, including the Herndon Metrorail Station Area planning projects and the town's purchase of privately owned land to facilitate the Downtown Redevelopment Project; and

WHEREAS, Steven Mitchell also oversaw numerous road and intersection projects, such as those on Station Street, Park Avenue/Monroe Street, and Herndon Parkway/Van Buren Street, as well as development at Junction Square and the Historic Downtown Streetscape; and

WHEREAS, during Steven Mitchell's tenure, the Herndon Town Council implemented lighting on the Washington and Old Dominion Trail, historic marker and gateway signs, automated water meter reading, the elimination of the physical town vehicle decal, and the designation of Veterans Day as a town holiday; and

WHEREAS, Steven Mitchell will seek new opportunities to serve the community after completing his loyal and dedicated service to his fellow residents as a member of the Herndon Town Council; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Steven L. Mitchell for his service as a member of the Herndon Town Council; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Steven L. Mitchell as an expression of the General Assembly's admiration for his dedicated service and many contributions to the Herndon community.

#### HOUSE JOINT RESOLUTION NO. 960

*Commending Arthur Anselene.*

Agreed to by the House of Delegates, February 17, 2017

Agreed to by the Senate, February 22, 2017

WHEREAS, Arthur Anselene, an exceptional public servant, has served the Town of Herndon in local government for more than 40 years; and

WHEREAS, Arthur Anselene was hired as the director of the Herndon Parks and Recreation Department in 1976; over the course of his 30-year career, he led the department to four national Gold Medal awards for Excellence in Parks and Recreation Management, the highest award presented in the field; and

WHEREAS, as director of the Parks and Recreation Department, Arthur Anselene developed an array of community recreation programs and events, including the Labor Day Festival, Fourth of July Celebration, Holiday Arts and Crafts Show, Turkey Trot 5K race, summer concert series, the Towne Square Singers musical group, and the award-winning Herndon Festival, of which he served as chair for 27 years; and

WHEREAS, Arthur Anselene contributed to many projects to enhance the quality of life of all Herndon residents, including the flagship Herndon Community Center and its expansions, indoor tennis center at Bready Park, the stage element for the Herndon Municipal Center, the acquisition and development of seven town parks, and collaboration with Fairfax County on four others; and

WHEREAS, Arthur Anselene also oversaw development at the Herndon Centennial Golf Course and Chestnut Grove Cemetery, the Downtown Master Plan, the Herndon Metrorail Station Area Plan, the town's purchase of privately owned land to facilitate the Downtown Redevelopment Project, and various road and intersection improvement projects; and

WHEREAS, under Arthur Anselene's leadership, the Herndon Police Department and the Herndon Parks and Recreation Department achieved national accreditation and received numerous awards from state associations, and the town received the Achievement Award and two Green Government Certifications from the Virginia Municipal League; and

WHEREAS, Arthur Anselene has supported fiscally responsible solutions to complex challenges, such as the automation of the water meter reading system, modernization of refuse collection services, adoption of significant technological upgrades to the town's website, the development of a town app, and enterprise resource planning software; and

WHEREAS, consistently committed to excellence, Arthur Anselene sustained financial stability for the town by maintaining a AAA bond rating and preparing 10 award-winning balanced budgets, each of which received the Government Finance Officers Association's Distinguished Budget Presentation Award for Excellence; and

WHEREAS, respected throughout the Commonwealth for his commitment to the highest standards in local government, Arthur Anselene was a member of several professional organizations, including the American Academy for Park and Recreation Administration, the National Recreation and Parks Association Commission for Accreditation of Park and Recreation Agencies, the International City/County Management Association, and the Virginia Local Government Management Association Board of Directors; and

WHEREAS, Arthur Anselene has volunteered his time and leadership with numerous local civic and service organizations; he is an integral part of the Herndon Rotary Club, the Herndon Jaycees, and the Herndon Optimist Club, and he served on the Herndon Foundation for the Cultural Arts Board of Directors; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Arthur Anselene for his more than 40 years of service to the Town of Herndon as a member of the Parks and Recreation Department and town manager; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Arthur Anselene as an expression of the General Assembly's admiration for his decades of leadership and loyal service to the Town of Herndon.

**HOUSE JOINT RESOLUTION NO. 961**

*Commending Holly DeVore.*

Agreed to by the House of Delegates, February 17, 2017

Agreed to by the Senate, February 22, 2017

WHEREAS, Holly DeVore, an exceptional educator and school administrator who currently serves as principal of Oak Hill Elementary School in Herndon, was named the 2016 Outstanding School-based Leader by Fairfax County Public Schools; and

WHEREAS, the Outstanding School-based Leader award recognizes an educator or administrator who has demonstrated leadership in and out of the classroom and commitment to advancing the field of education; Holly DeVore received the award while serving as assistant principal of Oak Hill Elementary School; and

WHEREAS, Holly DeVore holds degrees from Pennsylvania State University and George Mason University; she previously taught third-grade through fifth-grade students at Clifton Elementary School and Silverbrook Elementary School and was assistant principal at Fairfax Villa Elementary School; and

WHEREAS, respected for her organizational skills, Holly DeVore was instrumental in bringing a Responsive Instruction program to Oak Hill Elementary School, painstakingly researching everything that was necessary for proper implementation; and

WHEREAS, Holly DeVore is a trusted mentor to her peers, works to create a safe and supportive environment for learning by building strong personal relationships with students, and puts parents at ease through her professionalism and warm personality; and

WHEREAS, Holly DeVore has succeeded in her mission to inspire young people to become lifelong learners with the love and support of her husband, John, and their son; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Holly DeVore for receiving the 2016 Outstanding School-based Leader award from Fairfax County Public Schools; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Holly DeVore as an expression of the General Assembly's admiration for her contributions to the youth of Fairfax County and her leadership in academics.

**HOUSE JOINT RESOLUTION NO. 962**

*Commending David A. Kirby.*

Agreed to by the House of Delegates, February 17, 2017

Agreed to by the Senate, February 22, 2017

WHEREAS, David A. Kirby ably served the residents of Herndon as a member of the Herndon Town Council from 2006 to 2010 and from 2012 to 2016; and

WHEREAS, after living all over the world, David Kirby and his wife, Mary, settled in Herndon in 1986 and raised their two sons, Daniel and Matthew; and

WHEREAS, David Kirby gave his time, knowledge, and expertise to the town and its citizens, serving as a member of the town's Interview Subcommittee, the Committee for Dulles and its Board of Directors, the Northern Virginia Transportation Authority's Planning Coordination and Advisory Committee and as an alternate on the Inter-Jurisdictional Committee; he was also a member of the Virginia Municipal League's Finance Policy, Transportation Policy, and Community and Economic Development committees; and

WHEREAS, during his most recent terms on the Herndon Town Council, David Kirby was instrumental in supporting numerous town projects and improvements, including amendments to the Downtown Master Plan, the Herndon Metrorail Station Area planning projects, and the town's purchase of privately owned land to facilitate the Downtown Redevelopment Project; and

WHEREAS, David Kirby also oversaw numerous road and intersection projects, such as those on Station Street, Park Avenue/Monroe Street, Herndon Parkway/Sterling Road, and Herndon Parkway/Van Buren Street, as well as development at the Vinehaven Subdivision, Monroe Hill, Junction Square, and Historic Downtown Streetscape; and

WHEREAS, during David Kirby's tenure, the Herndon Town Council implemented lighting on the Washington and Old Dominion Trail, historic marker and gateway signs, automated water meter reading, the elimination of the physical town vehicle decal, and the designation of Veterans Day as a town holiday; and

WHEREAS, a dedicated community volunteer, David Kirby is the longtime commander of American Legion Post 184, serves on the Board of Directors of the Herndon Hospitality Association, was a patron member of the Council for the Arts of Herndon, is a member of Herndon's Loyal Order of the Moose and St. Joseph Catholic Church, and he is a recipient of the Committee for Dulles Dave Edwards Community Service Award; and

WHEREAS, always seeking to enhance his knowledge of local government, David Kirby completed requirements for the Virginia Elected Officials Leadership Academy Advanced Certified Local Government Official designation, is a 2002 graduate of the Herndon Citizen's Police Academy, and completed the Virginia Certified Planning Commissioners Program in 2006; and

WHEREAS, David Kirby will seek new opportunities to serve the community after completing his loyal and dedicated service to his fellow residents as a member of the Herndon Town Council; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend David A. Kirby for his service as a member of the Herndon Town Council; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to David A. Kirby as an expression of the General Assembly's admiration for his many contributions to the Herndon community.

### HOUSE JOINT RESOLUTION NO. 963

*Commending Aglow International.*

Agreed to by the House of Delegates, February 17, 2017

Agreed to by the Senate, February 22, 2017

WHEREAS, Aglow International has helped people throughout the world build close, personal relationships with the Lord through 50 years of fellowship, outreach, and leadership; and

WHEREAS, founded by four women seeking to establish an interdenominational Christian fellowship organization, Aglow International held its first general meeting in 1967 in Seattle, Washington, where nearly 100 attendees heard the organization's message and began to form similar groups throughout the nation; and

WHEREAS, by 1972, more than 60 local groups held meetings around the United States, and within another two years, Aglow International had expanded to Canada, New Zealand, and the Netherlands; the group first welcomed men in 2007; and

WHEREAS, today, Aglow International inspires men and women of many different cultures and backgrounds, with 4,600 groups meeting worldwide and more than 20,000 Aglow International ministers serving an estimated 17 million people in nearly 200 nations; and

WHEREAS, Aglow International meetings range from small prayer groups or Bible studies to larger groups of up to 700 members, with meetings tailored to meet the needs of different communities; groups conduct outreach at nursing homes, orphanages, schools, and charitable organizations and have formed a wide variety of special ministries; and

WHEREAS, Aglow International Transformation teams have traveled to countries throughout the world to hold medical clinics and build faith communities, as well as help underprivileged women learn a trade to better support themselves and their families; and

WHEREAS, Aglow International has brought hope and faith to incarcerated women and teenagers for more than 40 years through its prison ministries; the group has also established a men's prison ministry in California and has ministered at a women's prison in Ukraine for 13 years; and

WHEREAS, Aglow International holds regional, national, and global conferences to help members share ideas and become better leaders in their communities; the Global Conference draws thousands of members and features a flag parade where leaders from different nations joyously celebrate their faith and culture; and

WHEREAS, Aglow International will commemorate its 50th year of service with special events at the organization's Global Conference beginning on September 28, 2017, in Richmond; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Aglow International on the occasion of its 50th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Jane Hansen Hoyt, president and chief executive officer of Aglow International, as an expression of the General Assembly's admiration for the organization's benevolent mission and service to communities throughout the world.

**HOUSE JOINT RESOLUTION NO. 964**

*Commending Tunstall High School.*

Agreed to by the House of Delegates, February 17, 2017  
 Agreed to by the Senate, February 22, 2017

WHEREAS, Tunstall High School, an outstanding public school in Pittsylvania County, was the only public high school in Virginia to be named a 2016 National Blue Ribbon School by the United States Department of Education; and

WHEREAS, Tunstall High School was one of 329 public and private schools, and one of only 54 high schools, selected to receive the prestigious honor; only seven schools in the Commonwealth were nominated for the award; and

WHEREAS, named for the Honorable Whitmell P. Tunstall, an attorney and public servant in the state legislature, Tunstall High School provides a safe, supportive environment for students to prepare for success in higher education and careers and learn to become good citizens of the Commonwealth and the United States; and

WHEREAS, as an award recipient in the High Performing Schools category, Tunstall High School ranks among the Commonwealth's best-performing schools as measured by state and national assessments; and

WHEREAS, Tunstall High School places an emphasis on individualized instruction, and students may choose from nearly 170 course offerings, including 34 courses that offer dual enrollment credits and 23 Advanced Placement courses; and

WHEREAS, Tunstall High School students have demonstrated a mastery of challenging academic concepts, and its educators are committed to professional development and leadership in and out of the classroom; and

WHEREAS, Tunstall High School achieved the National Blue Ribbon School award through the hard work of its students, faculty, administrators, and staff and all the members of the school community; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Tunstall High School for being named a National Blue Ribbon School in 2016; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Tunstall High School as an expression of the General Assembly's admiration for the school's commitment to lifelong learning and academic excellence.

**HOUSE JOINT RESOLUTION NO. 965**

*Commending Pittsylvania County.*

Agreed to by the House of Delegates, February 20, 2017  
 Agreed to by the Senate, February 22, 2017

WHEREAS, Pittsylvania County in Southside Virginia, a rural county at the edge of the Appalachian Mountains, which is home to the Towns of Chatham, Gretna, and Hurt and is adjacent to the independent City of Danville, celebrates 250 years of history and heritage in 2017; and

WHEREAS, by the discovery of remains of certain campsites and villages, it was revealed that the Pittsylvania County area was previously inhabited by the Saponi, Tutelo, Occaneechi, and Catawba Indian tribes; early European explorers, including English, German, Swiss, and Scots-Irish pioneers, settled the land in the 18th century, following the 1728 expedition led by Colonel William Byrd II, a surveyor and explorer of the Virginia-North Carolina border, who described the area as being as lush and fertile as the biblical Garden of Eden and named the Dan River after one of the sources of the Jordan River; and

WHEREAS, officially formed from part of Halifax County in 1767, Pittsylvania County originally included parts of what are now the Counties of Henry and Patrick and parts of Franklin County, and it remains the largest county in the Commonwealth, with nearly 1,000 square miles of territory, making it larger than some small countries, and 1,600 miles of rivers and streams, enough to stretch from the Atlantic Ocean to Colorado; and

WHEREAS, Pittsylvania County was named for William Pitt, 1st Earl of Chatham, a Prime Minister of Great Britain who opposed harsh colonial policies such as the Stamp Tax; residents of Pittsylvania County played pivotal roles in the American Revolution, with county soldiers participating in the Crossing of the Dan, the Battle of Guilford Courthouse and the Battle of Yorktown, and the first gunpowder factory in Virginia was located near Hurt; and

WHEREAS, residents of Pittsylvania County answered the call to defend the fledgling United States during the War of 1812 and made many contributions to the nation in its early years; by 1840, Pittsylvania County farmers produced more tobacco than any other county in Virginia, and tobacco and cattle farming remain important aspects of the Pittsylvania County economy to this day; and

WHEREAS, the Pittsylvania County flag, one of the earliest county flags in the United States, was designed in the early 1820s as a banner for the 2nd Battalion, 42nd Regiment of the local militia and features 23 stars, one for each state in the United States at the time; the meticulously restored original flag is on display at the Pittsylvania County Courthouse in Chatham; and

WHEREAS, during the Civil War, soldiers from Pittsylvania County participated in several battles and were some of the first troops to reach the Union lines during Pickett's Charge at the Battle of Gettysburg; after the fall of Richmond,

Confederate President Jefferson Davis traveled on the Richmond and Danville Railroad, the county's first railroad line, and thereafter Danville became known as the last capital of the Confederacy; and

WHEREAS, throughout the 19th and 20th centuries, Pittsylvania County continued to prosper in a changing world, with textile mills becoming a leading industry and local mines becoming a source of iron and important minerals; the county maintains a long history of educational excellence in public and private schools, with Chatham Hall and Hargrave Military Academy still preparing students to be responsible citizens and leaders in their communities; and

WHEREAS, Pittsylvania County is home to many local congregations which seek to provide joyful fellowship and opportunities for worship; St. John's Episcopal Church, founded in the 1700s, is the oldest active congregation in the county, and the Pittsylvania Baptist Association, founded in 1788, the same year Virginia approved the United States Constitution, continues to this day with many member churches throughout the county; and

WHEREAS, soldiers from Pittsylvania County have served the nation in all of America's wars, earning many decorations for their valor, and other members of the Pittsylvania County community have gone on to achieve great success and international renown as public servants, volunteers, attorneys, doctors, educators, historians, entrepreneurs, artists, authors, poets, television personalities, musicians, and athletes; and

WHEREAS, many Colonial-era homes and buildings have been preserved in Pittsylvania County, and multiple significant sites are listed on the National Register of Historic Places, including the earliest and most recent courthouses; and

WHEREAS, Pittsylvania County will commemorate its 250th anniversary with a yearlong celebration and special events throughout 2017; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Pittsylvania County on the occasion of its 250th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Pittsylvania County Board of Supervisors as an expression of the General Assembly's admiration for the county's rich history and contributions to the Commonwealth.

#### HOUSE JOINT RESOLUTION NO. 966

*Celebrating the life of Stephen Michael Logan.*

Agreed to by the House of Delegates, February 17, 2017

Agreed to by the Senate, February 22, 2017

WHEREAS, Stephen Michael Logan, a loving husband and father and an active member of the Fairfax community, died on June 15, 2016; and

WHEREAS, a native of Brooklyn, New York, Stephen "Steve" Michael Logan spent his childhood in New York, New Jersey, Switzerland, and Finland before graduating from Bergen Catholic High School in New Jersey; and

WHEREAS, after earning a bachelor's degree in electrical engineering from the University of Dayton, Steve Logan pursued a long and successful career in telecommunications; and

WHEREAS, Steve Logan worked for New Jersey Bell Telephone Company for many years, then relocated to the Commonwealth, where he retired from Verizon in 2010 as executive director of real estate operations; and

WHEREAS, after his well-earned retirement, Steve Logan dedicated his time and talents to the Fairfax community and supported several local Catholic parishes; and

WHEREAS, Steve Logan's proudest role was as a father to his beloved daughter, Meghan; he never missed a dance recital and relished opportunities to spend time watching the New York Giants or play Monopoly with her; and

WHEREAS, Steve Logan will be fondly remembered and greatly missed by his wife, Janet; daughter, Meghan; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Stephen Michael Logan; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Stephen Michael Logan as an expression of the General Assembly's respect for his memory.

#### HOUSE JOINT RESOLUTION NO. 969

*Commending FAITH Social Services.*

Agreed to by the House of Delegates, February 17, 2017

Agreed to by the Senate, February 22, 2017

WHEREAS, FAITH Social Services has been lifting people out of poverty and domestic abuse situations and putting them on a path toward self-sufficiency for almost 20 years; and

WHEREAS, started by an informal group of volunteers at the All Dulles Area Muslim Society (ADAMS) Center, FAITH Social Services was formally established in October 1999; and

WHEREAS, the mission of FAITH Social Services is to empower people to be self-sufficient, to build strong and stable families, and to be a force of good in the community; and

WHEREAS, FAITH Social Services assists low-income individuals and families with emergency and temporary assistance following a traumatic event or time in their life; and

WHEREAS, FAITH Social Services offers many forms of assistance, including in the areas of housing, transportation, food, utilities, education, and child care; and

WHEREAS, FAITH Social Services believes in equal opportunity for all and serves all low-income people and victims of domestic abuse regardless of faith, ethnicity, or gender; and

WHEREAS, FAITH Social Services is led by a committed group of community activists and humanitarians seeking to make a major difference in the quality of life for many families; and

WHEREAS, the experienced, dedicated, and diverse staff of professionals at FAITH Social Services work to empower clients, as well as implement services that benefit the entire community; and

WHEREAS, the community service work of FAITH Social Services over the past two decades is a shining example of the spirit and compassion of members of the greater Herndon community; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend FAITH Social Services on its noble efforts to lift people out of poverty and domestic abuse situations and put them on a path toward self-sufficiency; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Dr. Tanveer Mirza, president and founding member of FAITH Social Services, and Ambreen Ahmed, executive director of FAITH Social Services, as an expression of the General Assembly's admiration for the organization's laudable contributions to a healthy and hopeful community.

**HOUSE JOINT RESOLUTION NO. 970**

*Celebrating the life of William G. O'Brien.*

Agreed to by the House of Delegates, February 17, 2017

Agreed to by the Senate, February 22, 2017

WHEREAS, William G. O'Brien of Port Republic, a respected public servant who provided able leadership to Rockingham County as county administrator and strengthened communities throughout the Commonwealth as a member of the Virginia Resources Authority, died on February 7, 2017; and

WHEREAS, a native of Canonsburg, Pennsylvania, William "Bill" G. O'Brien served his country during the Vietnam War as a member of the United States Marine Corps; after his honorable military service, he earned a bachelor's degree from Mansfield University of Pennsylvania and a master's degree from Southeastern University; and

WHEREAS, Bill O'Brien began his career in local government as county administrator for Warren County, then became county administrator of Rockingham County in 1977; throughout his career, he earned respect and admiration for his ability to hear and understand the many different viewpoints of county residents and officials; and

WHEREAS, Bill O'Brien oversaw Rockingham County's growth from a rural to a suburban community, and he made significant enhancements to education, public utilities and facilities, and economic development, ensuring a strong future for the county and its residents; and

WHEREAS, Bill O'Brien worked with other local and regional leaders to develop innovative joint programs related to social services, emergency communications, and public health; after his well-earned retirement from Rockingham County, he served as an interim county administrator or town manager for the Counties of Bath and Lunenburg and the Towns of Dayton, Front Royal, and Timberville; and

WHEREAS, beginning in 1987, Bill O'Brien further served the Commonwealth as a member of the Virginia Resources Authority (VRA) Board of Directors and was appointed as chair by four Virginia governors; as chair of the VRA, he provided efficient and effective leadership and strengthened the Commonwealth's infrastructure by overseeing more than \$7.5 billion in investments to more than 1,500 local government projects; and

WHEREAS, Bill O'Brien earned numerous awards and accolades for his good work, including the prestigious Jefferson Cup Award from the Virginia Association of Counties, and he was named as a lifetime member of the Virginia Local Government Management Association; and

WHEREAS, Bill O'Brien will be fondly remembered and greatly missed by his beloved wife, Jeanie; children, Kara, Kyle, and Shannon, and their families; and numerous family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of William G. O'Brien, the longtime county administrator of Rockingham County who made lasting contributions to communities around the Commonwealth; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of William G. O'Brien as an expression of the General Assembly's respect for his memory.

**HOUSE JOINT RESOLUTION NO. 971***Commending Shedrick McCall III.*

Agreed to by the House of Delegates, February 17, 2017

Agreed to by the Senate, February 22, 2017

WHEREAS, Shedrick McCall III, a senior football standout at L.C. Bird High School in Chesterfield, committed to play for Norfolk State University after he graduates in 2017; and

WHEREAS, a 6-foot-1 running back, Shedrick McCall rushed for an impressive 2,300 yards and 38 touchdowns in the 2016 season; and

WHEREAS, Shedrick McCall has been named WRIC Player of the Week, *The Progress-Index* Football Athlete of the Week, and *Richmond Times-Dispatch* player of the week; and

WHEREAS, Shedrick McCall has been named to the All-Metro, All-Conference, All-Region, and All-State teams, among other honors he has collected during his phenomenal football career; and

WHEREAS, Shedrick McCall is an excellent student and has a 3.0 grade-point average, and he received more than a dozen college scholarship offers; and

WHEREAS, Shedrick McCall wants to experience student life at historically black colleges and universities (HBCUs) and that is why he chose Norfolk State University, which offered him a full football scholarship; and

WHEREAS, Shedrick McCall is an excellent example of what hard work and dedication look like and he represents the best of the best within Chesterfield County Public Schools; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Shedrick McCall III, an L.C. Bird High School senior, on committing to play football for Norfolk State University after he graduates in 2017; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Shedrick McCall III as an expression of the General Assembly's admiration for his hard work and dedication to excellence both on and off the football field.

**HOUSE JOINT RESOLUTION NO. 972***Commending Bethlehem Congregational Church.*

Agreed to by the House of Delegates, February 17, 2017

Agreed to by the Senate, February 22, 2017

WHEREAS, for more than 120 years, Bethlehem Congregational Church in Disputanta has helped members of the community build a stronger connection to Jesus Christ through spiritual leadership and opportunities for worship; and

WHEREAS, Bethlehem Congregational Church shares its heritage with the many Czech, Slovak, and Polish churches formed by immigrants throughout the United States; the church community was organized on September 3, 1896, by 35 individuals who had come from Pennsylvania, Minnesota, and other states to work as farmers in Prince George County; and

WHEREAS, in its early days, Bethlehem Congregational Church was pastored by the Reverend John Jelinek, who traveled from Pennsylvania to preach and administer the sacraments; in 1898, the church dedicated a new sanctuary at the intersection of what is now Pole Run Road and Hollywood Drive, with the Reverend Vincent Totusek as the first permanent pastor; and

WHEREAS, in 1914, Bethlehem Congregational Church added a second building, which was later added to the original sanctuary and is now the fellowship hall and kitchen, and in 1925, a Sunday school classroom was added; and

WHEREAS, from the 1960s to the 1990s, Bethlehem Congregational Church carried out many renovations and enhancements to better serve the growing congregation, including heating and air conditioning, indoor lavatories, sidewalks, stained glass windows, and upholstered pews; the church more recently added additional classrooms and an outdoor pavilion and stage; and

WHEREAS, in 1985, ministers and laymen from Virginia and North Carolina met at Bethlehem Congregational Church and formed a regional fellowship, which voted to join the Conservative Congregational Christian Conference; and

WHEREAS, Bethlehem Congregational Church also works with the Christian Endeavor movement, which unites children and adults of 83 denominations in 76 nations in a shared love of Jesus Christ; and

WHEREAS, Bethlehem Congregational Church will commemorate its 121st anniversary on September 17, 2017; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Bethlehem Congregational Church for more than 120 years of service and spiritual leadership to the Prince George County community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Bethlehem Congregational Church as an expression of the General Assembly's admiration for the church's unique history and contributions to the residents of Prince George County.

**HOUSE JOINT RESOLUTION NO. 973**

*Commending Jennifer Burgin.*

Agreed to by the House of Delegates, February 17, 2017  
 Agreed to by the Senate, February 22, 2017

WHEREAS, Jennifer Burgin, a second-grade teacher at Oakridge Elementary School, was named 2016 Arlington Public Schools Teacher of the Year; and

WHEREAS, a lifelong learner, Jennifer Burgin graduated with honors from Texas A&M University with a bachelor's degree in interdisciplinary studies; and

WHEREAS, Jennifer Burgin has been a teacher at Oakridge Elementary School since 2009 and previously she taught second grade at Horne Elementary School in Houston, Texas; and

WHEREAS, Jennifer Burgin has been a National Board Certified teacher since 2013, and earning that designation was the biggest accomplishment and challenge of her professional career; and

WHEREAS, during her tenure at Oakridge Elementary School, Jennifer Burgin has served as third-grade team leader, authored the third-grade social studies project assessment, served as a new teacher hiring screener, and been a member of the Counseling Advisory Committee; and

WHEREAS, outside of the classroom, Jennifer Burgin has participated in the George Mason University English Language Arts Cohort, was chosen as a Global Village Summit Select Educator, and participated in the Library of Congress Primary Resources Institute; and

WHEREAS, Jennifer Burgin is admired by colleagues, parents, and students because she genuinely cares for and nurtures her students; she has an innate ability to connect with all children in a way that makes them feel safe, loved, and understood; and

WHEREAS, Jennifer Burgin has a strong belief that all students can and will succeed and she is extremely committed to helping children develop in all areas: academically, socially, and emotionally; Jennifer Burgin's colleagues appreciate her unique capacity to identify and appreciate the talents of each student; and

WHEREAS, Jennifer Burgin's love of education and learning are contagious and her success in the classroom has been made possible by the outstanding support of her fellow teachers and the administrators in Arlington Public Schools; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Jennifer Burgin, a second-grade teacher at Oakridge Elementary School, on being named Arlington Public Schools Teacher of the Year in 2016; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Jennifer Burgin as an expression of the General Assembly's admiration for her dedication to excellence in educating the children of Arlington Public Schools.

**HOUSE JOINT RESOLUTION NO. 974**

*Celebrating the life of Senior Chief Petty Officer Scott C. Dayton.*

Agreed to by the House of Delegates, February 17, 2017  
 Agreed to by the Senate, February 23, 2017

WHEREAS, United States Navy Senior Chief Petty Officer Scott C. Dayton of Woodbridge, who served 23 years on active duty, died November 24, 2016, while serving with the Combined Joint Task Force-Operation Inherent Resolve; and

WHEREAS, Senior Chief Dayton was assigned to Explosive Ordnance Disposal Mobile Unit Two, which is based in Virginia Beach; and

WHEREAS, Senior Chief Dayton joined the Navy in 1993; he attended boot camp in Orlando, Florida, then did back-to-back decommissioning crew tours of two ammunition ships; and

WHEREAS, Senior Chief Dayton was a pre-commission crewmember of the guided-missile destroyer USS *Cole*; and

WHEREAS, Senior Chief Dayton's qualifications included Enlisted Explosive Ordnance Disposal Warfare Specialist and Enlisted Surface Warfare Specialist; and

WHEREAS, Senior Chief Dayton entered the Explosive Ordnance Disposal (EOD) Program in 2002; and

WHEREAS, Senior Chief Dayton served with EOD Mobile Unit 12, EOD Training and Evaluation Unit 2 at Fort Story in Virginia Beach, then EOD Mobile Unit Two; and

WHEREAS, Senior Chief Dayton made the ultimate sacrifice while serving in northern Syria, after sustaining wounds in a blast from an improvised explosive device; and

WHEREAS, during his service, Senior Chief Dayton received 21 awards including two Bronze Stars (one with the V Device), the Purple Heart, Joint Service Commendation Medal, Navy/Marine Corps Commendation Medal, Navy/Marine Corps Achievement Medal, Good Conduct Medal, National Defense Service Medal, Armed Forces Expeditionary Medal, two Iraq Campaign Medals, and the Combat Action Ribbon; and

WHEREAS, Senior Chief Dayton will be fondly remembered and greatly missed by his wife, Kristin; children, Hailey and Cole; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of a courageous and patriotic Virginian, Senior Chief Petty Officer Scott C. Dayton; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Senior Chief Petty Officer Scott C. Dayton as an expression of the General Assembly's respect for his memory and his supreme sacrifice made in service to his country.

#### HOUSE JOINT RESOLUTION NO. 975

*Commending Fort Lee.*

Agreed to by the House of Delegates, February 17, 2017

Agreed to by the Senate, February 22, 2017

WHEREAS, for 100 years, Fort Lee has played an integral role as a training center for the members of the United States Armed Forces and has made many contributions to the Prince George County community; and

WHEREAS, after the United States joined World War I in 1917, the United States Department of War leased 9,000 acres in Prince George County for the construction of Camp Lee, one of 32 new camps to assist with mobilization of the military; and

WHEREAS, Camp Lee originally housed the 80th Infantry Division, which was made up of soldiers from Virginia, West Virginia, and Pennsylvania; the division trained at Camp Lee before deploying to France in 1918, and replacement troops continued to train there until the end of the war; and

WHEREAS, after World War I, Camp Lee served as a demobilization station, and in 1921, the camp was dismantled and the land was returned to the Commonwealth as a forest and game preserve; and

WHEREAS, Camp Lee was rebuilt in the lead-up to World War II and began its long association with the United States Army Quartermaster Corps; thousands of troops received basic and advanced training in the areas of logistics and supply at Camp Lee, which also served as a prisoner of war camp during the war; and

WHEREAS, in the late 1940s and 1950s, Camp Lee was the site of the Women's Army Corps Training Center and provided vital training in aerial delivery and petroleum and water delivery; the camp was designated as a permanent United States Army facility in 1950, becoming Fort Lee; and

WHEREAS, due to base realignments and closures, Fort Lee began a new chapter in its history as one of the United States Army's premier training centers, when the Ordnance Mechanical Maintenance School, the Ordnance Munitions and Electronics Maintenance School, the United States Army Ordnance School, and the United States Army Transportation School were relocated to Fort Lee; and

WHEREAS, Fort Lee also became the headquarters of the Combined Arms Support Command (CASCOM), a subordinate unit of the Training and Doctrine Command, making Fort Lee the third largest training center in the United States Army, with thousands of students at any given time, contributing to a daily on-base population of more than 27,000 soldiers and civilians; and

WHEREAS, service members from all branches of the United States Armed Forces train at Fort Lee, which is also the headquarters for the Defense Contract Management Agency and the Defense Commissary Agency; and

WHEREAS, Fort Lee provides hundreds of jobs to the local community, and with thousands of military family members and tens of thousands of military retirees living in the area, the base accounts for an economic impact of more than \$2.4 billion; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Fort Lee on the occasion of its 100th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Fort Lee as an expression of the General Assembly's admiration for Fort Lee's storied history and unique role in the defense of the nation.

#### HOUSE JOINT RESOLUTION NO. 976

*Commending St. Mark Lutheran Church.*

Agreed to by the House of Delegates, February 17, 2017

Agreed to by the Senate, February 22, 2017

WHEREAS, on May 19, 2018, St. Mark Lutheran Church will celebrate 50 years of ministering to the spiritual needs of its members and the surrounding communities in York County, Hampton, Newport News, Poquoson, and Williamsburg; and

WHEREAS, St. Mark Lutheran Church was established in 1968 under the leadership of the Reverend Robert Anderson with 102 members as a part of the Virginia Synod of the Evangelical Lutheran Church in America; and

WHEREAS, St. Mark Lutheran Church held groundbreaking services on June 15, 1975; and

WHEREAS, St. Mark Lutheran Church has been an active member body of the Virginia Synod of the Evangelical Lutheran Church in America (ELCA) since the founding of the ELCA on January 1, 1988; and

WHEREAS, St. Mark Lutheran Church has benefited from the spiritual leadership of seven pastors in its history, the Reverend Robert Anderson, the Reverend Gordon Hite, the Reverend Dave Delaney, the Reverend Wayne Shelor, the Reverend Gary Erdos, the Reverend Larry Laine, and the Reverend Joel Neubauer; and

WHEREAS, St. Mark Lutheran Church has supported Lutheran seminarians by providing training, education, and spiritual guidance for vicars C. J. Bailey, Margaret Ashby, D. J. Dent, Jennifer Henefeld, Michael Hughes, Chelsea Spencer, Ben Kifer, Ben Sloss, and Suzanne Stierwalt; and

WHEREAS, the members of St. Mark Lutheran Church recognize the importance of living the Word of God by giving time and resources in support of the local community with projects such as Quilts of Honor, Mended Hearts, the Food Bank, and the Sine Nomine Concert Series; and

WHEREAS, St. Mark Lutheran Church has also been active in the world community by assisting the Refugio de los Suenos in Quito, Ecuador, an orphanage in China, and Lutheran World Relief; and

WHEREAS in October 2017, St. Mark Lutheran Church will celebrate the 500th anniversary of the publication of Martin 2485

Luther's *95 Theses* in Wittenberg, Germany, and the founding of the Lutheran Church; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend St. Mark Lutheran Church for its many contributions to the residents of Hampton Roads on the occasion of its 50th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Reverend Joel Neubauer, pastor of St. Mark Lutheran Church, as an expression of the General Assembly's admiration for the congregation's legacy of service to the community and the Commonwealth.

### HOUSE JOINT RESOLUTION NO. 977

*Commending Elizabeth Daggit Haynes.*

Agreed to by the House of Delegates, February 20, 2017

Agreed to by the Senate, February 22, 2017

WHEREAS, Elizabeth Daggit Haynes, a distinguished veteran of the United States Air Force and an active resident of Springfield, received the Congressional Gold Medal for her service as a cadet in the Civil Air Patrol in World War II; and

WHEREAS, Elizabeth "Libby" Daggit Haynes graduated from George Washington High School in Alexandria, then trained as a nurse in Richmond and helped protect the skies over the United States during World War II as a member of the Civil Air Patrol, which is now the civilian auxiliary of the United States Air Force; and

WHEREAS, after the war, Libby Haynes graduated from George Washington University and enlisted in the United States Air Force; she attended Officer Candidate School and was assigned to the weather station at Kelly Air Force Base; and

WHEREAS, Libby Haynes was assigned to the Air Weather Service at Andrews Air Force Base, studied meteorology at the Massachusetts Institute of Technology, and became a flight forecaster at Pepperrell Air Force Base; and

WHEREAS, Libby Haynes retired from active service to raise her family, then returned to the work force in 1975 as an oceanographer with the National Marine Fisheries Service, where she studied the effects of climate conditions on commercial species of fish and worked on regulations governing fisheries; and

WHEREAS, a life member of the American Legion, Libby Haynes was a founding member of American Legion Greenspring Post 123, and she has volunteered her time with numerous other civic and service organizations; and

WHEREAS, Libby Haynes received the Congressional Gold Medal at a special ceremony at Greenspring Retirement Community in Springfield on October 8, 2016; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Elizabeth Daggit Haynes on receiving the Congressional Gold Medal for her service during World War II; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Elizabeth Daggit Haynes as an expression of the General Assembly's admiration for her service to the Commonwealth and the nation.

**HOUSE JOINT RESOLUTION NO. 978***Celebrating the life of Robert Alan Phillips.*

Agreed to by the House of Delegates, February 20, 2017

Agreed to by the Senate, February 22, 2017

WHEREAS, Robert Alan Phillips of Springfield, a respected economist and a veteran who touched the lives of countless fellow service members as an addiction counselor, died on August 8, 2016; and

WHEREAS, the son of a member of the United States Navy, Robert "Robin" Alan Phillips was born in Cairo, Egypt, and grew up in Taiwan, where he developed an affinity for Asian languages and culture; and

WHEREAS, Robin Phillips served his country as a member of the United States Army as a linguist, then attended Harvard University, Stanford University, and the London School of Economics and Political Science; and

WHEREAS, Robin Phillips pursued a career as an economist with the United States Agency for International Development (USAID); he promoted economic development and provided humanitarian assistance in Barbados, Kenya, and Uganda and served as a mission director in Armenia and Afghanistan; and

WHEREAS, after his retirement from USAID, Robin Phillips dedicated his time and leadership to helping people struggling with alcohol addiction and volunteered with recovery programs for the Fairfax-Falls Church Community Services Board; and

WHEREAS, Robin Phillips was instrumental in forming the Fairfax County Veterans Treatment Docket, a court-sponsored, comprehensive treatment program to help the men and women who have served and sacrificed in defense of the nation overcome addiction; and

WHEREAS, Robin Phillips will be fondly remembered and greatly missed by numerous family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Robert Alan Phillips, a respected economist, loyal veteran, and compassionate addiction counselor; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Robert Alan Phillips as an expression of the General Assembly's respect for his memory.

**HOUSE JOINT RESOLUTION NO. 979***Celebrating the life of O. Lynwood Byerly.*

Agreed to by the House of Delegates, February 20, 2017

Agreed to by the Senate, February 22, 2017

WHEREAS, O. Lynwood Byerly of Bridgewater, a public servant and a man of deep and abiding faith who made many contributions to the community, died on February 2, 2017; and

WHEREAS, Lynwood Byerly graduated from Linville-Edom High School, then served his country as a member of the United States Navy for four years; and

WHEREAS, after his honorable military service, Lynwood Byerly pursued a 50-year career as an insurance salesman, earning many professional designations and national awards and accolades; and

WHEREAS, desirous to be of further service to the community, Lynwood Byerly ran for and was elected to the Rockingham County Board of Supervisors, where he served for eight years; he also offered his wise leadership to the Bridgewater Retirement Community as a board member; and

WHEREAS, guided by his faith, Lynwood Byerly was a past member of Muhlenberg Lutheran Church, Otterbein United Methodist Church, and Fishersville United Methodist Church; and

WHEREAS, Lynwood Byerly had most recently enjoyed fellowship and worship with the congregation of Bridgewater United Methodist Church, and he was active with the Industrial and Commercial Ministries and served as a volunteer chaplain at a local poultry plant; and

WHEREAS, Lynwood Byerly will be fondly remembered and greatly missed by his wife, Georgia, and his children, David, Mary, Mark, Daniel, and Timothy, and their families; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of O. Lynwood Byerly, a public servant and community leader in Bridgewater; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of O. Lynwood Byerly as an expression of the General Assembly's respect for his memory.

**HOUSE JOINT RESOLUTION NO. 980***Commending John E. Burchell, Jr.*

Agreed to by the House of Delegates, February 20, 2017

Agreed to by the Senate, February 22, 2017

WHEREAS, John E. Burchell, Jr., of Heritage Chevrolet in Chester, is the 2017 *Time* magazine Quality Dealer of the Year nominee for Virginia; and

WHEREAS, John "Jay" E. Burchell, Jr., whose career in the auto industry has spanned more than 40 years, got his start in the auto industry during high school and college with part-time jobs; he began his professional career with Jim Price Chevrolet in Charlottesville, where he learned the business from the ground up; and

WHEREAS, Jay Burchell became an owner in the Carter Myers Automotive Group, where he still serves today as president and executive manager of Heritage Chevrolet in Chester; and

WHEREAS, an active and dedicated member of his community, Jay Burchell has supported a wide array of industry and community causes for many years; and

WHEREAS, Jay Burchell has been a leader in his community, offering his support for the Chesterfield Center for the Arts Foundation, the Chesterfield Education Association, the Thomas Dale High School Key Club, the Knights of Columbus, and CARITAS; he has served on the leadership boards of various organizations, including the Metro Richmond YMCA, Virginia's Gateway Region, and Bon Secours St. Francis Medical Center; and

WHEREAS, Jay Burchell has been recognized for his leadership in his business community as a recipient of the Chester Business Council Business of the Year award; and

WHEREAS, an active and dedicated member of his industry, Jay Burchell has served his customers and his community with a generous spirit and has been an example to dealers in his community and around the Commonwealth; and

WHEREAS, Jay Burchell has been a member of numerous Chevrolet regional dealer councils and marketing groups, and Heritage Chevrolet has been awarded the Chevrolet Mark of Excellence Dealer Award by General Motors for many years; and

WHEREAS, Jay Burchell has served his industry as an active member of the Virginia Automobile Dealers Association and the Greater Richmond New Car Dealers Association, including as a member of the Board of Directors for both organizations; and

WHEREAS, Jay Burchell was chair of the Virginia Automobile Dealers Association in 2015, leading all his fellow franchise dealers as their top elected officer; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend John E. Burchell, Jr., on his selection as the 2017 *Time* magazine Quality Dealer of the Year nominee for Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to John E. Burchell, Jr., as an expression of the General Assembly's congratulations and best wishes.

**HOUSE JOINT RESOLUTION NO. 982***Commending Ana Hernandez.*

Agreed to by the House of Delegates, February 20, 2017

Agreed to by the Senate, February 22, 2017

WHEREAS, Ana Hernandez, a skilled and dedicated school crossing guard in Arlington County, was named one of Virginia's Most Outstanding Crossing Guards in February 2017; and

WHEREAS, Virginia's Most Outstanding Crossing Guards awards are presented by the Virginia Department of Transportation's Safe Routes to School program; Ana Hernandez was one of only six statewide winners out of 71 nominees; and

WHEREAS, Ana Hernandez has helped ensure that children have a safe route to walk and bike to school since August 2014, when she joined the crossing guard unit of Ashlawn Elementary School; she also serves as a crossing guard at Barrett Elementary School; and

WHEREAS, on the job rain, snow, or shine, Ana Hernandez demonstrates practiced control over the buses, cars, construction vehicles, cyclists, and pedestrians crossing through her intersection; and

WHEREAS, known for her cheerful disposition and sunny smile, Ana Hernandez goes above and beyond in her duties as crossing guard, taking time to teach students about the importance of pedestrian safety; and

WHEREAS, Ana Hernandez was honored by the Arlington County Police Department and members of the Ashlawn community for her achievement at a ceremony for Crossing Guard Appreciation Day on February 8, 2017; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Ana Hernandez on being named one of Virginia's Most Outstanding Crossing Guards; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Ana Hernandez as an expression of the General Assembly's admiration for her work to serve and safeguard the youth of Arlington County.

**HOUSE JOINT RESOLUTION NO. 983**

*Commending Beulah Baptist Church.*

Agreed to by the House of Delegates, February 20, 2017

Agreed to by the Senate, February 22, 2017

WHEREAS, Beulah Baptist Church, the first African American church founded in Alexandria after the Union occupation during the Civil War, has a crucial place in Alexandria's history; and

WHEREAS, after the Reverend Clem Robinson left Virginia to be educated in Pennsylvania, he learned that Virginia prohibited African Americans who were educated in other states from returning home; and

WHEREAS, in 1861, with Alexandria under Union control, Reverend Robinson was finally able to return to Virginia and establish schools for escaped slaves; he served more than 700 students in his very first year at the First Select Colored School (1862) and at the associated Beulah Normal and Theological Institute; and

WHEREAS, in 1863, Reverend Robinson founded Beulah Baptist Church, a church that has made education central to its mission for more than 153 years; after the Civil War, Beulah Baptist Church offered assistance to newly freed African Americans to help them find work, clothing, and shelter; and

WHEREAS, Beulah Baptist Church has endured through 153 years of history—including slavery, Jim Crow, segregation, and systemic racism—and under the leadership of its present pastor, the Reverend Dr. Columbus Watson, for more than 55 years, it has remained a symbol of faith and community, a model for Alexandria and for Virginia, and a vibrant congregation to this day; and

WHEREAS, Beulah Baptist Church serves as a testament to the strength of its members, a shining example of how hardworking people who band together to support each other can overcome almost anything; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Beulah Baptist Church for receiving a historical marker from the Department of Historic Resources; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Beulah Baptist Church as an expression of the General Assembly's admiration for its storied history and its contributions to Alexandria's African American community over the past 153 years.

**HOUSE JOINT RESOLUTION NO. 984**

*Commending Ebenezer Baptist Church.*

Agreed to by the House of Delegates, February 20, 2017

Agreed to by the Senate, February 22, 2017

WHEREAS, Ebenezer Baptist Church in Charlottesville is celebrating 125 years of serving the community in Christ's name; and

WHEREAS, Ebenezer Baptist Church was founded on March 25, 1892, by the Reverend Alexander Truatt; and

WHEREAS, the original church building was destroyed by fire in 1907, but a new Ebenezer Baptist Church edifice was rebuilt on the same location just 11 months later, and that brick structure still stands today in Charlottesville's historic Starr Hill neighborhood; and

WHEREAS, in the early part of the 20th century, Ebenezer Baptist Church purchased a parsonage and Deacon Adolphus Paige, Sr., rebuilt the structure, which is now located at 402 8th Street NW; and

WHEREAS, Ebenezer Baptist Church undertook an ambitious three-year \$250,000 maintenance, renovation, and restoration effort in the first decade of the 21st century that included the comprehensive refinishing of the church sanctuary, which features a Roosevelt Pipe Organ; and

WHEREAS, included in the upgrades made by Ebenezer Baptist Church were the purchase of a fully equipped media center and the installation of an elevator lift, a project that was recognized by the City of Charlottesville with the 2008 Herman Key Access to the Disabled Award; and

WHEREAS, over the past decade, Ebenezer Baptist Church's visionary ministry outreach has grown to meet community needs at the local, national, and international levels; and

WHEREAS, Ebenezer Baptist Church leads an annual mission trip to the Federation of St. Kitts and Nevis, where its donations of medical supplies and equipment have totaled over \$3 million; and

WHEREAS, the University of Virginia recognized Ebenezer Baptist Church's mission efforts by creating an academic course "Disaster Preparedness in St. Kitts and Nevis," an annual overseas research study practicum for approximately 30 undergraduate students; and

WHEREAS, after an earthquake devastated Haiti in 2010, Ebenezer Baptist Church was the first congregation in the United States to host Haitian Ambassador to the United States Raymond A. Joseph and his wife, Lola, due to the church's unique response to the tragedy; and

WHEREAS, Ebenezer Baptist Church reaches out to help the underserved in the Charlottesville community through participation in projects and partnerships with other congregations and interfaith fellowship organizations; and

WHEREAS, during its 125-year history as an agent of change, Ebenezer Baptist Church has been served by 17 pastors and, since 2006, the Reverend Dr. Lehman D. Bates II has led the church's congregation; and

WHEREAS, Ebenezer Baptist Church marks its 125th anniversary in 2017 during a weekend of celebratory events March 17-19 that culminates with a 125th anniversary worship service on Sunday, followed by dinner; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Ebenezer Baptist Church in Charlottesville on the occasion of the 125th anniversary of its founding; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Reverend Dr. Lehman D. Bates II, pastor of Ebenezer Baptist Church, as an expression of the General Assembly's admiration and best wishes for a joyful celebration and future success in the church's ministry.

**HOUSE JOINT RESOLUTION NO. 985**

*Commending S. Stephen Bittle.*

Agreed to by the House of Delegates, February 20, 2017

Agreed to by the Senate, February 22, 2017

WHEREAS, S. Stephen Bittle has dedicated more than 50 years to serving and protecting the residents of the City of Falls Church; and

WHEREAS, S. Stephen "Steve" Bittle began his career with the city as a law-enforcement officer in 1966; and

WHEREAS, Steve Bittle was appointed interim sheriff in 1992 and was elected as sheriff in 1993 and has been proud to serve the residents of the city as a constitutional law-enforcement officer; and

WHEREAS, under Steve Bittle's leadership, the Falls Church Sheriff's Office has upheld the highest levels of professionalism and promoted a safe and secure environment for all residents; and

WHEREAS, Steve Bittle implemented a community-oriented policing strategy and strives to build mutual respect between his deputies and members of the public as they work together to enhance the quality of life in Falls Church; and

WHEREAS, Steve Bittle has been a loyal and exceptional employee and public servant to the City of Falls Church throughout his career; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend S. Stephen Bittle for his 50 years of service to the City of Falls Church; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to S. Stephen Bittle as an expression of the General Assembly's admiration for his commitment to serving the members of the Falls Church community.

**HOUSE JOINT RESOLUTION NO. 986**

*Commending Audrey Luthman.*

Agreed to by the House of Delegates, February 20, 2017

Agreed to by the Senate, February 22, 2017

WHEREAS, Audrey Luthman has dedicated more than 45 years to serving the residents of the City of Falls Church; and

WHEREAS, Audrey Luthman began working for the city in August 1971 and helps ensure that children have a safe route to and from school as a crossing guard; and

WHEREAS, well-liked by her students for her sunny personality, Audrey Luthman arrives early and stays late to ensure that her post is well maintained, and she assists the Falls Church Police Department with other projects; and

WHEREAS, Audrey Luthman has demonstrated firm control over the many types of traffic and pedestrians passing through her intersection each day; and

WHEREAS, Audrey Luthman was recognized by AAA for her courteous and efficient performance as a school crossing guard, and she served as co-grand marshal for the 2013 Falls Church Memorial Day Parade; and

WHEREAS, Audrey Luthman has been a loyal and exceptional employee of the City of Falls Church throughout her career; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Audrey Luthman for her 45 years of service to the City of Falls Church; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Audrey Luthman as an expression of the General Assembly's admiration for her commitment to serving the members of the Falls Church community.

**HOUSE JOINT RESOLUTION NO. 987**

*Commending Joe Dowling.*

Agreed to by the House of Delegates, February 20, 2017  
 Agreed to by the Senate, February 22, 2017

WHEREAS, Joe Dowling has dedicated more than 35 years to serving the residents of the City of Falls Church; and  
 WHEREAS, Joe Dowling began working for Falls Church Department of Public Works in April 1981 as a maintenance worker and was soon promoted to equipment operator; he was responsible for the replacement and repair of sidewalks, curbs, gutters, retaining walls, catch basin tops, and asphalt on city property; and  
 WHEREAS, Joe Dowling was promoted to senior equipment operator and was placed in charge of excavation for repairs to water mains, sanitary sewers, and storm sewers, using his skill and expertise to navigate around many utilities during excavations; and  
 WHEREAS, Joe Dowling serves as a crew leader of a four-man team that is responsible for road maintenance, sign replacement, leaf collection, snow removal, and storm damage clean-up; and  
 WHEREAS, in 2000, Joe Dowling went above and beyond to help a family in Falls Church that had been blocked in their driveway by a fallen tree after a severe storm; and  
 WHEREAS, Joe Dowling has been a loyal and exceptional employee of the City of Falls Church throughout his career, and was twice nominated for Employee of the Year for his leadership and hard work; now, therefore, be it  
 RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Joe Dowling for his 35 years of service to the City of Falls Church; and, be it  
 RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Joe Dowling as an expression of the General Assembly's admiration for his commitment to serving the members of the Falls Church community.

**HOUSE JOINT RESOLUTION NO. 988**

*Commending Robert Goff.*

Agreed to by the House of Delegates, February 20, 2017  
 Agreed to by the Senate, February 22, 2017

WHEREAS, Robert Goff has dedicated more than 35 years to serving the residents of the City of Falls Church; and  
 WHEREAS, a native of Falls Church, Robert Goff graduated from George Mason High School and followed in his father's footsteps as a city worker at the age of 17; and  
 WHEREAS, beginning in May 1981, Robert Goff helped maintain the city's sewer and water systems for eight years, until he was promoted to utility inspector and placed in charge of inspecting all new water and sewer installations; and  
 WHEREAS, in 1998, Robert Goff was promoted to operations supervisor, managing 28 water and sewer employees, and in 2000, he became superintendent of operations, managing 48 public works and public utilities staff members; and  
 WHEREAS, as superintendent of operations, Robert Goff oversees street maintenance, snow removal, leaf collection, the automotive shop, storm sewers, sanitary sewers, urban forestry, and facilities management; and  
 WHEREAS, Robert Goff has been a loyal and exceptional employee of the City of Falls Church throughout his career, and he was named Employee of the Year in 1997 in honor of his leadership and hard work; now, therefore, be it  
 RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Robert Goff for his 35 years of service to the City of Falls Church; and, be it  
 RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Robert Goff as an expression of the General Assembly's admiration for his commitment to serving the members of the Falls Church community.

**HOUSE JOINT RESOLUTION NO. 989**

*Commending Shirley Tildon.*

Agreed to by the House of Delegates, February 20, 2017  
 Agreed to by the Senate, February 22, 2017

WHEREAS, Shirley Tildon has dedicated more than 25 years to serving the residents of the City of Falls Church; and  
 WHEREAS, Shirley Tildon began working for Falls Church in 1991 and serves as a librarian at Mary Riley Styles Public Library; and  
 WHEREAS, during her long tenure as a public librarian, Shirley Tildon has helped preserve the written word, promoted literacy, and overseen the addition of new forms of media to the library's collection as technology has changed; and

WHEREAS, Shirley Tildon strives to instill her passion for reading in all library members and visitors; she was recognized with a Performance Award for her role in organizing a Summer Reading Program that saw a record number of participants; and

WHEREAS, Shirley Tildon has been a loyal and exceptional employee of the City of Falls Church throughout her career, and she was nominated as Employee of the Year in 2001; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Shirley Tildon for her 25 years of service to the City of Falls Church; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Shirley Tildon as an expression of the General Assembly's admiration for her commitment to serving the members of the Falls Church community.

### HOUSE JOINT RESOLUTION NO. 990

*Celebrating the life of Holly Marie Kerr Edwards.*

Agreed to by the House of Delegates, February 20, 2017

Agreed to by the Senate, February 22, 2017

WHEREAS, Holly Marie Kerr Edwards, a community activist who served the Charlottesville community as a nurse and a former vice mayor, died on January 7, 2017; and

WHEREAS, a native of Washington, D.C., Holly Edwards earned bachelor's degrees in psychology and nursing from Hampton Institute, a master's degree in education from Howard University, and a Ph.D. from the University of Virginia School of Nursing; and

WHEREAS, Holly Edwards was a parish nurse at Westhaven Nursing Clinic and the Crescent Halls Clinic in Charlottesville, and she worked as a program coordinator for the Charlottesville Public Housing Association of Residents; and

WHEREAS, desirous to be of further service to her fellow residents, Holly Edwards ran for and was elected to Charlottesville City Council in 2007; she was a tireless advocate for low-income and minority members of the community, giving a clear voice to the people who needed it the most; and

WHEREAS, Holly Edwards declined a nomination to serve as mayor in 2010 and was then elected by her fellow City Council members as vice mayor for 2010-2011; during those two years, she orchestrated the city's Dialogue on Race, a community-wide effort that led to the creation of Charlottesville's Human Rights Commission and Office of Human Rights; and

WHEREAS, Holly Edwards also worked to reduce recidivism and addressed the high infant mortality rate in Charlottesville during her term on City Council; although she decided not to seek reelection, she was an inspirational mentor to countless other leaders in the city and worked with former mayors and city officials to build a stronger future for the community; and

WHEREAS, Holly Edwards chartered the Charlottesville chapter of the National Black Nurses Association; was a life member of the NAACP, serving as health coordinator and second vice president of the Albemarle-Charlottesville chapter; and served on the Board of Directors of the Jefferson School African American Heritage Center; and

WHEREAS, Holly Edwards received many accolades for her leadership and service, including the University of Virginia (UVA) Health System's Community Service Award in 2005, the John E. Baker Community Education Award in 2015, the UVA Graduate Student Diversity Award for Excellence in 2016, and the Drewary J. Brown Community Bridge Builder Award in October 2016, when her name was added to Charlottesville's West Main Street bridge; and

WHEREAS, Holly Edwards will be fondly remembered and greatly missed by her husband, Kendrick; her four daughters; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Holly Marie Kerr Edwards, a respected community leader and former vice mayor of Charlottesville who greatly enhanced the quality of life of all city residents; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Holly Marie Kerr Edwards as an expression of the General Assembly's respect for her memory.

### HOUSE JOINT RESOLUTION NO. 991

*Celebrating the life of William Harold Lucy.*

Agreed to by the House of Delegates, February 20, 2017

Agreed to by the Senate, February 22, 2017

WHEREAS, William Harold Lucy, an educator and community activist who was highly admired for his forward-thinking ideas and commitment to serving his fellow Charlottesville residents, died on April 7, 2016; and

WHEREAS, a native of Illinois, William "Bill" Harold Lucy earned a bachelor's degree from Knox College, a master's degree from the University of Chicago, and a doctorate from Syracuse University; and

WHEREAS, Bill Lucy worked in journalism in New York and cultivated a strong interest in local government; he was director of policy planning for the City of Syracuse, then pursued a career in academia; and

WHEREAS, Bill Lucy joined the faculty of the University of Virginia School of Architecture as an urban planning teacher; he held several leadership positions at the University of Virginia, including associate dean and two-time chair of the Urban Planning Department, and he was named the Lawrence Lewis Jr. Professor of Architecture; and

WHEREAS, Bill Lucy authored a host of articles and books focused on addressing the challenges facing cities and suburbs throughout his career, including the acclaimed book *Foreclosing the Dream: How America's Housing Crisis is Reshaping Our Cities and Suburbs*; and

WHEREAS, after his well-earned retirement as a professor in 2014, Bill Lucy continued to serve the City of Charlottesville as a representative on the Thomas Jefferson Soil and Water Conservation District Commission; and

WHEREAS, Bill Lucy was passionate about revitalizing downtown Charlottesville, where he lived for nearly 40 years; he was chair of the Social Development Commission, the Planning Commission, and Alliance for Community Choice in Transportation and vice chair of the Urban Design Task Force; and

WHEREAS, Bill Lucy inspired his children, Michael, Cybele, Zach, and Rachel, to follow in his footsteps as leaders in their communities; he will be fondly remembered and greatly missed by numerous family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of William Harold Lucy, a respected educator and community activist in Charlottesville; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of William Harold Lucy as an expression of the General Assembly's respect for his memory.

### HOUSE JOINT RESOLUTION NO. 992

*Celebrating the life of Rouhollah K. Ramazani.*

Agreed to by the House of Delegates, February 20, 2017

Agreed to by the Senate, February 22, 2017

WHEREAS, Rouhollah K. Ramazani, a former professor at the University of Virginia and a respected expert on international relations, the Middle East, and Iran who advised American presidents and other leaders, died on October 5, 2016; and

WHEREAS, Rouhollah "Ruhi" K. Ramazani was born in Tehran, Iran, and emigrated to the United States with his wife, Nesta, in 1952; seeking to finish his education, he settled in the Commonwealth and attended the University of Virginia; and

WHEREAS, while pursuing a doctorate in international relations and international law, Ruhi Ramazani taught the University of Virginia's first course on the politics of the Middle East; he was hired by the university in 1954 and inspired more than 8,000 students over the course of his 45-year career as an educator; and

WHEREAS, while at the University of Virginia, Ruhi Ramazani served two terms as chair of what is now the Woodrow Wilson Department of Politics and became the university's premier expert on Middle Eastern issues, authoring more than 100 articles and 10 books; and

WHEREAS, holding a deep respect for the writings and teachings of University of Virginia founder Thomas Jefferson, Ruhi Ramazani was proud to take the oath of United States citizenship; and

WHEREAS, throughout Ruhi Ramazani's life and career, he worked to build mutual respect and understanding between countries and cultures, especially the United States and Iran; he was an advisor to many prominent officials, including President Jimmy Carter during the Iranian Revolution and American hostage crisis in 1979; and

WHEREAS, after his well-earned retirement from the University of Virginia in 1998, Ruhi Ramazani continued to share his wisdom through publications and lectures; he received countless awards and accolades for his insights, and the Rouhollah K. Ramazani Professorship in Arabian Peninsula and Gulf Studies is named in his honor; and

WHEREAS, Ruhi Ramazani will be fondly remembered and greatly missed by his wife, Nesta; his four children, and their families; and numerous other family members, friends, and colleagues; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Rouhollah K. Ramazani, a distinguished educator and a respected expert on international relations; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Rouhollah K. Ramazani as an expression of the General Assembly's respect for his memory.

### HOUSE JOINT RESOLUTION NO. 993

*Celebrating the life of Pierre Paul Saunier, Jr.*

Agreed to by the House of Delegates, February 20, 2017

Agreed to by the Senate, February 22, 2017

WHEREAS, Pierre Paul Saunier, Jr., of Albemarle County, a champion for diversity at the University of Virginia who made many contributions to the Charlottesville community, died on February 8, 2017; and

WHEREAS, a native of Petersburg, Pierre Paul Saunier, Jr., attended public and private schools in Henrico County and graduated from the University of Richmond; he joined many of the other young men of his generation in service to the nation during World War II, rising to the rank of lieutenant in the United States Navy; and

WHEREAS, after his honorable military service, Paul Saunier worked as a journalist for the *Richmond Times-Dispatch*, as a public relations consultant, and as an assistant to a United States Congressman; and

WHEREAS, from 1960 to 1967, Paul Saunier served as an assistant to the president of the University of Virginia, and he held several other positions at the university, including administrator for equal opportunity programs; and

WHEREAS, most notably, Paul Saunier led efforts to increase diversity at the University of Virginia; traveling to high schools throughout the Commonwealth, he led a recruitment drive that helped increase applications among African American students from 12 in 1967 to more than 100 in 1970; and

WHEREAS, Paul Saunier built strong relationships with all students, and he personally helped African American students thrive at the University of Virginia; he worked alongside members of the community to desegregate local businesses to ensure that African American students could eat and shop on the Corner with their peers; and

WHEREAS, Paul Saunier also played a pivotal role in welcoming the University of Virginia's first coeducational classes, after the College of Arts and Sciences began admitting female students in 1969; and

WHEREAS, Paul Saunier offered his expert leadership to the Charlottesville Albemarle Economic Development Commission, the Charlottesville Albemarle Airport Commission, and the Charlottesville Parks and Recreation Advisory Board; and

WHEREAS, Paul Saunier was the founding president of the Ivy Creek Foundation, which worked with local, regional, and state partners to establish the Ivy Creek Natural Area in Albemarle County; and

WHEREAS, predeceased by his wife, Jane, Paul Saunier will be fondly remembered and greatly missed by his children, Julia, Edward, Hayden, David, and Paul, and their families, and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Pierre Paul Saunier, Jr., a civil rights activist who made lasting contributions to the University of Virginia and the Charlottesville community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Pierre Paul Saunier, Jr., as an expression of the General Assembly's respect for his memory.

#### HOUSE JOINT RESOLUTION NO. 994

*Celebrating the life of James Gordon Simmonds.*

Agreed to by the House of Delegates, February 20, 2017

Agreed to by the Senate, February 22, 2017

WHEREAS, James Gordon Simmonds of Charlottesville, a highly respected educator at the University of Virginia who inspired countless students to achieve their fullest potential, died on April 12, 2015; and

WHEREAS, after earning a doctoral degree from the Massachusetts Institute of Technology and completing post-doctorate work at Harvard University, James "Jim" Gordon Simmonds joined the faculty of the University of Virginia as a member of the School of Engineering and Applied Science Department of Applied Mathematics and Computer Science in 1966; and

WHEREAS, Jim Simmonds made outstanding contributions to the field of higher education, authoring more than 120 papers and three books and completing a translation of an advanced text from French to English; and

WHEREAS, Jim Simmonds received several professional awards and honors throughout his career, including the Warner T. Koiter Medal from the American Society of Mechanical Engineers, and he was elected as a Fellow of the American Academy of Mechanics; and

WHEREAS, Jim Simmonds served the University of Virginia's Jefferson Scholars Foundation as a member of its National Selection Committee from 1981 to 2015, creating a new mathematics and logic examination for each year's finalists for more than 30 years; and

WHEREAS, Jim Simmonds was recognized with the Mac Wade Award from the School of Engineering in 1980, the University of Virginia Alumni Association's Distinguished Professor Award in 1983, and professor emeritus status by the University of Virginia Board of Visitors upon his retirement in 1998; and

WHEREAS, Jim Simmonds also worked to strengthen and enhance the community through his involvement with many charitable organizations, and in 2001, he was recognized for his generous volunteer work by the Nature Conservancy of Virginia; and

WHEREAS, a devoted family man, Jim Simmonds will be fondly remembered and greatly missed by his beloved wife, Monique; children, Robin and Kathy, and their families; stepchildren, Gretchen, Marc, Patricia, and Kathy, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of James Gordon Simmonds; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of James Gordon Simmonds as an expression of the General Assembly's respect for his memory.

### HOUSE JOINT RESOLUTION NO. 995

*Commending the Girl Scouts of the USA.*

Agreed to by the House of Delegates, February 20, 2017

Agreed to by the Senate, February 22, 2017

WHEREAS, in 2017, the Girl Scouts of the USA celebrate the 100th anniversary of the Girl Scout Cookie Program, a fundraiser that has evolved into the largest entrepreneurial training program for girls in the world; and

WHEREAS, the first known sale of cookies by Girl Scouts occurred in 1917, when the Mistletoe Troop in Muskogee, Oklahoma, baked cookies and sold them in its high school cafeteria as a service project; and

WHEREAS, from humble beginnings as a way for Girl Scout troops to finance activities, the Girl Scout Cookie Program has evolved into the most powerful and successful financial literacy tool in the world for girls; and

WHEREAS, the Girl Scout Cookie Program teaches five essential skills—goal setting, decision making, money management, people skills, and business ethics; and

WHEREAS, in keeping with the fast pace of the modern world, and the Girl Scout Mission to provide girls with learning opportunities for the future, the Girl Scouts launched the Digital Cookie, adding a digital layer to the iconic Girl Scout Cookie Program, that teaches vital 21st century business skills, including e-marketing, digital money management, online dashboard usage, and e-commerce; and

WHEREAS, during the last century of selling these iconic cookies, Girl Scouts have demonstrated their exemplary leadership and philanthropic spirit by using their earnings from cookie sales to do remarkable things within their communities that reflect the organization's important mission; and

WHEREAS, Girl Scouts consistently drive positive change in their communities thanks in part to the cookie sale, doing what they can to make the world a better place; and

WHEREAS, today, more than 59 million American women are Girl Scout alumnae and 2.7 million girls and adult volunteers are active members; and

WHEREAS, Girl Scouts in Virginia are served by the Council of the Southern Appalachians, the Black Diamond Council, the Virginia Skyline Council, the Council of the Nation's Capital, the Commonwealth of Virginia Council, the Chesapeake Bay Council, and the Colonial Coast Council; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Girl Scouts of the USA on the occasion of the 100th anniversary of the Girl Scout Cookie Program; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare copies of this resolution for presentation to the seven councils of the Girl Scouts of the USA in Virginia as an expression of the General Assembly's admiration for the organization's contributions to the lives of girls and young women throughout the Commonwealth and the United States.

### HOUSE JOINT RESOLUTION NO. 996

*Commending Boy Scouts of America Troop 24 of Norfolk.*

Agreed to by the House of Delegates, February 20, 2017

Agreed to by the Senate, February 22, 2017

WHEREAS, Boy Scouts of America Troop 24 of Norfolk has worked to instill the timeless values of patriotism and service in boys and young men in the Larchmont-Edgewater neighborhood of Norfolk for 100 years; and

WHEREAS, the Boy Scouts of America was founded in 1909 as a values-based program with a mission to teach young people to serve others by adhering to the five core values of Scouting: leadership, character, community service, achievement, and a respect for nature and the outdoors; and

WHEREAS, Boy Scouts of America Troop 24 was chartered on April 22, 1917, at Larchmont United Methodist Church as part of the Tidewater Council; the troop was organized by Fred J. Peterson with 16 original Scouts; and

WHEREAS, Boy Scouts of America Troop 24 has helped countless Scouts become conscientious, responsible, and productive members of society by providing support, friendship, mentorship, and positive outlets for activity; the troop has grown to include 50 Boy Scouts and adult members; and

WHEREAS, 150 members of Boy Scouts of America Troop 24 have completed the stringent requirements to achieve the coveted rank of Eagle Scout; and

WHEREAS, throughout its entire 100-year history, Boy Scouts of America Troop 24 has been continuously chartered by Larchmont United Methodist Church, making it the longest continuously chartered troop in Hampton Roads and one of the longest continuously chartered troops in the country; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Boy Scouts of America Troop 24 of Norfolk on the occasion of its 100th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Boy Scouts of America Troop 24 of Norfolk as an expression of the General Assembly's admiration for the troop's history and many contributions to the community.

**HOUSE JOINT RESOLUTION NO. 997**

*Commending The Koinonia Foundation, Inc.*

Agreed to by the House of Delegates, February 20, 2017

Agreed to by the Senate, February 22, 2017

WHEREAS, for 50 years, The Koinonia Foundation, Inc., has consistently provided emergency relief services to families in need in the Franconia/Kingstowne area of Fairfax County; and

WHEREAS, The Koinonia Foundation is an ecumenical organization that allows local churches to combine their resources to more effectively provide emergency services and compassionate care to people in the local community; and

WHEREAS, The Koinonia Foundation traces its beginnings to the efforts of Mrs. Jack Miles, who gathered members of her Springfield church to collect food for Christmas food baskets in the early 1960s; and

WHEREAS, founded by Christian churches in the generous spirit of sharing, The Koinonia Foundation was incorporated in 1966, and, since the early 1970s, the organization has been housed at Franconia United Methodist Church; and

WHEREAS, The Koinonia Foundation helps families meet the challenges of daily living by providing food, clothing, educational tools, and emergency financial assistance to qualified clients, regardless of their religious beliefs; and

WHEREAS, The Koinonia Foundation meets with hundreds of clients each month who are referred from one of 30 neighborhood churches or supporting organizations, such as the Fairfax County Department of Family Services; and

WHEREAS, in 2014, The Koinonia Foundation distributed \$41,000 in clothes, 77,547 pounds of food, over 500 school supply kits, and more than \$48,000 in emergency assistance, among other efforts; and

WHEREAS, The Koinonia Foundation is the sole nonprofit organization recognized by Fairfax County to provide both short-term emergency assistance and self-sufficiency services to citizens who live in areas of the Lee District; and

WHEREAS, The Koinonia Foundation's success would not be possible without the dedicated volunteers who put in countless time, energy, and resources to keep the organization thriving, and without the donors who channel their generosity to give hope and spread joy to people who need it most; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend The Koinonia Foundation, Inc., on celebrating 50 years of serving families in need of emergency assistance in the Lee District of Fairfax County; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Robert Petitti, executive director of The Koinonia Foundation, Inc., as an expression of the General Assembly's admiration for the organization's commendable humanitarian efforts.

**HOUSE JOINT RESOLUTION NO. 998**

*Commending David Wayne Holland.*

Agreed to by the House of Delegates, February 20, 2017

Agreed to by the Senate, February 22, 2017

WHEREAS, David Wayne Holland was born and raised in Nansemond County and graduated from Whaleyville High School; and

WHEREAS, after serving two years in the United States Army, David Holland joined the Virginia State Police on April 1, 1968, and upon graduating as president of the 46th Basic Session, he was assigned to the City of Portsmouth in the Chesapeake Division; and

WHEREAS, during his tenure with the Virginia State Police, David Holland was a trooper in Portsmouth, Norfolk, and Windsor; on July 16, 1976, he was promoted to the rank of sergeant and assigned to Warrenton; and

WHEREAS, on September 1, 1978, David Holland was promoted to first sergeant and assigned to oversee State Police operations as the Area 6 Commander in the City of Colonial Heights and the Counties of Amelia, Chesterfield, and Powhatan; and

WHEREAS, after 38 years, First Sergeant Holland became the longest-serving Area Commander in Virginia State Police history; while serving as the Area 6 Commander, more than 100 troopers were promoted under First Sergeant Holland's leadership; and

WHEREAS, First Sergeant Holland was instrumental in the establishment of the Virginia State Police Funeral Coordinator Program in 1993 and the advancement of the program through his exceptional leadership and mentoring; and

WHEREAS, in his role as a Virginia State Police Funeral Coordinator, First Sergeant Holland provided superior service to the Virginia State Police and countless families through his attention to detail, persistence for perfection, and genuine compassion during times of great loss and sorrow; and

WHEREAS, First Sergeant Holland is a man of great character and integrity, who demonstrated a tremendous commitment to serving and protecting the Commonwealth in his capacity as one of Virginia's Finest; and

WHEREAS, First Sergeant Holland, a respected leader in the field of law enforcement and a dedicated public servant, retired on October 1, 2016, after faithfully serving the Commonwealth for 48 years; and

WHEREAS, as a highly respected, honored, and now retired resident of Powhatan County, he will enjoy more time with his wife, Elaine; children, David and Robby; grandchildren, Grace, Leah, Ella, and Jackson; and countless friends, State Police colleagues, and neighbors; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend David Wayne Holland on the occasion of his retirement as a first sergeant in the Virginia State Police; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to David Wayne Holland as an expression of the General Assembly's admiration for his contributions to the City of Colonial Heights and the Counties of Amelia, Chesterfield, and Powhatan, as well as his commitment to the Commonwealth of Virginia, and best wishes on a well-earned retirement.

**HOUSE JOINT RESOLUTION NO. 999**

*Commending the Summer Training and Enrichment Program.*

Agreed to by the House of Delegates, February 20, 2017

Agreed to by the Senate, February 22, 2017

WHEREAS, the Summer Training and Enrichment Program is a successful job training and work-readiness program for at-risk young people that is part of the City of Newport News' overall effort to reduce gang activity and violence; and

WHEREAS, the Summer Training and Enrichment Program (S.T.E.P.) was created under the Newport News Youth & Young Adult Gang Violence Initiative, which is part of the city's strategic plan to address public safety; and

WHEREAS, S.T.E.P. began in 2014, when Newport News budgeted \$1.1 million for youth and gang violence prevention for the first time and the city hired a coordinator to oversee those efforts; and

WHEREAS, S.T.E.P. introduces at-risk young people ages 16-24 who live in Newport News to various careers and trades while enhancing their professional readiness skills; and

WHEREAS, the 10-week S.T.E.P. program places young people in jobs at city departments, nonprofit organizations, and for-profit businesses, where they work 25-30 hours per week and earn a stipend; and

WHEREAS, in addition to the paid work experiences, S.T.E.P. offers other enrichment activities such as field trips, workshops, financial literacy training, guest speakers, and GED preparation classes; and

WHEREAS, S.T.E.P. was so successful in exposing young people to the world of work through hands-on job training that participation in the program more than doubled in its second year of existence; and

WHEREAS, S.T.E.P. helps at-risk young people start preparing for their future and is designed to redirect and support positive behavior, preventing further gang involvement and other risky behaviors; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Summer Training and Enrichment Program, a successful job training and work-readiness program for at-risk young people in the City of Newport News; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to MaRhonda Echols, youth gang and violence prevention coordinator for the City of Newport News, as an expression of the General Assembly's admiration for the Summer Training and Enrichment Program's efforts to reduce gang participation and provide exposure to different career options for young people in Newport News.

**HOUSE JOINT RESOLUTION NO. 1000**

*Commending the Thomas Jefferson High School for Science and Technology STEM All-Stars.*

Agreed to by the House of Delegates, February 20, 2017

Agreed to by the Senate, February 22, 2017

WHEREAS, the Thomas Jefferson High School for Science and Technology STEM All-Stars received a Best-in-State award in the Verizon Innovative Learning App Challenge in 2016; and

WHEREAS, the Verizon Innovative Learning App Challenge promotes student interest and proficiency in science, technology, engineering, and mathematics through project-based learning opportunities; and

WHEREAS, the Verizon Innovative Learning App Challenge inspires students to build a stronger future for their communities by addressing societal issues through technology; the STEM All-Stars winning app idea was selected from more than 1,800 submissions; and

WHEREAS, the STEM All-Stars created the Spotted app, which would allow a user to take a picture of an endangered animal and save its location; the app would include information about conservation, animals' habitats and status, and ways to protect endangered species; and

WHEREAS, the members of the STEM All-Stars team will receive the award, along with a \$5,000 prize and a tablet for each member of the team, during a special ceremony at Thomas Jefferson High School; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Thomas Jefferson High School for Science and Technology STEM All-Stars on winning a Best-in-State award in the Verizon Innovative Learning App Challenge; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Thomas Jefferson High School for Science and Technology STEM All-Stars as an expression of the General Assembly's admiration for the team's achievements and best wishes for the future.

**HOUSE JOINT RESOLUTION NO. 1001**

*Celebrating the life of Young Suk Lowe.*

Agreed to by the House of Delegates, February 20, 2017

Agreed to by the Senate, February 22, 2017

WHEREAS, Young Suk Lowe of Centreville, a dedicated patriot, educator, and respected businessman who strengthened and supported Korean American communities in Massachusetts and Virginia, died on December 24, 2016; and

WHEREAS, born in 1929 in Pyongyang, North Korea, Young Suk Lowe earned a bachelor's degree from Yonsei University and a master's degree from Kyung Hee University, both in Seoul, South Korea; and

WHEREAS, Young Suk Lowe prepared students for success in careers and higher education as a high school English teacher in Korea for more than 20 years, then immigrated to the United States in 1973; and

WHEREAS, settling in Massachusetts, Young Suk Lowe worked as the director of the overseas department of New England Nuclear Corporation for eight years, then became the first Korean American employed by Metropolitan Life Insurance Company; and

WHEREAS, in 1986, Young Suk Lowe established his own business and served the community until 2004, when he retired and relocated to Centreville; and

WHEREAS, Young Suk Lowe dedicated his time and talents to helping Korean immigrants thrive in America, serving as president of the Korean Sports Association of New England, president and chair of the Korean Association of New England and the Committee for the Five Northern Korean Provinces New England Chapter, chair of the Korean American Association of Northern Virginia's Senior Welfare Center, and a senior advisor to the National Korean American Association and the National Unification Advisory Council; and

WHEREAS, later in life, Young Suk Lowe served as a volunteer translator and English teacher at the Korean Community Service Center of Greater Washington, the Korean Senior Citizen Association of the Greater Washington Area, and the Fairfax County Korean Senior Citizen Information Line, earning the Aging Innovation Award from the National Association of Area Agencies on Aging; and

WHEREAS, Young Suk Lowe earned many other awards and accolades, including a Medal of Honor from the President of the Republic of Korea for his service to the Korean American community, letters of recognition from Harvard Law School and Pope Paul II, and induction into the Korean American History Museum; and

WHEREAS, Young Suk Lowe will be fondly remembered and greatly missed by numerous family members, friends, and colleagues; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Young Suk Lowe; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Young Suk Lowe as an expression of the General Assembly's respect for his memory.

**HOUSE JOINT RESOLUTION NO. 1002**

*Commending Ken Heath.*

Agreed to by the House of Delegates, February 20, 2017

Agreed to by the Senate, February 23, 2017

WHEREAS, Ken Heath, a respected leader and a generous volunteer in Smyth County, received the 2016 President's Lifetime Achievement Award, the top tier of the President's Volunteer Service Award program; and

WHEREAS, the President's Volunteer Service Award is an award bestowed by the President of the United States and granted by Points of Light to volunteers throughout the country; only four percent of the more than 132,000 recipients in 2016 received the Lifetime Achievement Award, which requires more than 4,000 hours of cumulative service; and

WHEREAS, Ken Heath ably serves the residents of the Town of Marion as the director of community and economic development and has made lasting contributions to the community through more than 4,270 hours of volunteer service; and

WHEREAS, Ken Heath has spearheaded many service projects and fundraisers to help residents in need, ranging from community-wide events to more personal efforts, such as when he helped recreate the wedding day of a woman suffering from amnesia or when he raised money to help a wheelchair-bound police officer dance with his wife; and

WHEREAS, most recently, Ken Heath organized Operation: Rudolph in December 2016 to collect donations of toys and gifts for families who were affected by devastating wildfires in Gatlinburg, Tennessee; and

WHEREAS, Ken Heath is currently developing plans for a dog park in Marion, featuring a training area and a memorial wall, where people can purchase bricks for their pets; and

WHEREAS, Ken Heath was nominated for the Lifetime Achievement Award by a fellow community leader and received it at a surprise ceremony on January 16, 2017; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Ken Heath on winning the 2016 President's Lifetime Achievement Award; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Ken Heath as an expression of the General Assembly's admiration for his incredible legacy of service to the Smyth County community.

**HOUSE JOINT RESOLUTION NO. 1003**

*Commending Judy A. Brannock.*

Agreed to by the House of Delegates, February 20, 2017

Agreed to by the Senate, February 23, 2017

WHEREAS, Judy A. Brannock retired as executive director of the Twin County Regional Chamber of Commerce in 2016, after 15 exemplary years of service to the Southwest Virginia business community; and

WHEREAS, the Twin County Regional Chamber of Commerce is a regional organization dedicated to improving the economic climate of the localities it represents: Carroll County, Grayson County, the City of Galax, and the Townships of Hillsville, Independence, and Fries; and

WHEREAS, through the dedication and diligent work of Judy Brannock, the Twin County Regional Chamber of Commerce created a stronger business community in the region by supporting industry, agriculture, tourism, and education in and around Carroll and Grayson Counties; and

WHEREAS, Judy Brannock's activities as executive director were as varied as helping entrepreneurs write business plans, recruiting members, keeping the organization financially sound, and overseeing the annual Smoke on the Mountain state barbecue championship sponsored by the Twin County Regional Chamber of Commerce; and

WHEREAS, because of Judy Brannock's guidance and leadership over the past 15 years, the Twin County Regional Chamber of Commerce has not only survived but thrived, even as many similar organizations in Southwest Virginia have closed their doors or consolidated due to economic hardship; and

WHEREAS, while Judy Brannock will miss her colleagues and all of the people she has worked with through the Twin County Regional Chamber of Commerce, in retirement she will enjoy spending more time with her family, especially her grandsons; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Judy A. Brannock on her retirement as executive director of the Twin County Regional Chamber of Commerce, after 15 exemplary years of service; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Judy A. Brannock as an expression of the General Assembly's admiration for her dedication to promoting economic growth and expanding tourism in Southwest Virginia.

**HOUSE JOINT RESOLUTION NO. 1004**

*Celebrating the life of Andrew Fred Singleton.*

Agreed to by the House of Delegates, February 20, 2017

Agreed to by the Senate, February 22, 2017

WHEREAS, Andrew Fred Singleton, a respected businessman and a devoted leader in the Saltville community, died on May 27, 2016; and

WHEREAS, a native of Dickenson County, Fred Singleton served his country as a member of the United States Army and was stationed in Germany; and

WHEREAS, Fred Singleton served the community as the owner of Fred's Trading Center and was affectionately known to Saltville residents, whom he considered his extended family, as "Uncle Fred"; and

WHEREAS, Fred Singleton became one of Saltville's biggest supporters and promoters, personally funding the town's Labor Day Celebration, a beloved local tradition, for many years; and

WHEREAS, as a longtime member of the Freemasons, Fred Singleton volunteered his time and leadership with lodges in Saltville, Marion, and Rich Valley; and

WHEREAS, Fred Singleton will be fondly remembered and greatly missed by many family members and friends and the entire Saltville community; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Andrew Fred Singleton, a successful businessman and tireless community leader; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Andrew Fred Singleton as an expression of the General Assembly's respect for his memory.

### HOUSE JOINT RESOLUTION NO. 1005

*Celebrating the life of Joseph Tate Hart.*

Agreed to by the House of Delegates, February 20, 2017

Agreed to by the Senate, February 22, 2017

WHEREAS, Joseph Tate Hart, a former president of Ferrum College who led the institution at a pivotal time in its history, died on December 9, 2016; and

WHEREAS, a native of South Pittsburg, Tennessee, Joseph "Joe" Tate Hart was the son of the late Reverend Herbert and Ilva Hart; and

WHEREAS, Joe Hart graduated from Emory & Henry College in 1951, earned a master's degree from Duke University in 1953, and received a Ph.D. from American University in 1967; and

WHEREAS, Joe Hart served in the intelligence corps of the United States Army and with the National Security Agency, worked for Research Analysis Corporation in McLean, and he later founded his own company, International Planning Associates, Inc., of which he was president; and

WHEREAS, from 1971 to 1986, Joe Hart served as the eighth president of Ferrum College, where he led its transition from a junior college to a highly respected four-year liberal arts institution; and

WHEREAS, as president of the college, Joe Hart spearheaded the establishment of the Ferrum College Blue Ridge Institute & Museum, hired outstanding faculty, created innovative new programs of study, such as the college's environmental science program, and secured significant resources to ensure the college's prosperity; and

WHEREAS, in addition to his success in building an institution that would survive and thrive in the 21st century, Joe Hart's most admired legacy at Ferrum College was his personal interest in and caring for individual students; and

WHEREAS, beloved as the "students' president," Joe Hart was actively involved in all aspects of student life on campus; and

WHEREAS, Joe Hart was a community-minded college president, and he supported programs in social work, recreation, and environmental science that encouraged students to get out into the community and interact with the people of Franklin County; and

WHEREAS, Joe Hart continued his career in higher education after leaving Ferrum College, serving as president of the Virginia College Fund for 11 years; and

WHEREAS, Joe Hart was a member of St. James United Methodist Church in Ferrum, a past board member of First Virginia Bank, and active in real estate in Canaan Valley, West Virginia; and

WHEREAS, Joe Hart cherished time spent with family and friends at Lake Junaluska, North Carolina, and at Pawleys Island, South Carolina; and enjoyed working outside at "Deerwood," his home near campus, where he peacefully spent his last days; and

WHEREAS, Joe Hart was especially proud of his children, his 16 grandchildren, and one great-granddaughter, and he instilled in them his love of family and the value that all people are created equal and therefore everyone ought to be treated with respect; and

WHEREAS, Joe Hart will be fondly remembered and greatly missed by his loving wife of 63 years, Carolyn; their children, Dave, Cathe, Sally, Nancy, Brian, and Evan, and their families; and many relatives and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Joseph Tate Hart, the eighth president of Ferrum College; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Joseph Tate Hart as an expression of the General Assembly's respect for his memory.

**HOUSE JOINT RESOLUTION NO. 1006***Celebrating the life of Richard Gaither Dick.*

Agreed to by the House of Delegates, February 20, 2017

Agreed to by the Senate, February 22, 2017

WHEREAS, Richard Gaither Dick, a respected public servant who made many contributions to the Winchester and Frederick County communities as the longtime general manager of Carper's Valley Golf Club, died on April 22, 2016; and

WHEREAS, born in Cumberland, Maryland, Richard "Dickie" Gaither Dick was a lifelong resident of Frederick County; he graduated from James Wood High School in Winchester, where he was inducted into the James Wood Athletic Association Hall of Fame; and

WHEREAS, Dickie Dick served as general manager of the Winchester Country Club, then became the general manager of the Carper's Valley Golf Club; he was a strong proponent of the idea that sports, especially golf and baseball, could bring people together, and he helped the club grow to become known for its contributions to the community as well as for golf tournaments, such as the Ken Thomas Golf Classic; and

WHEREAS, under Dickie Dick's leadership as partner and general manager, Carper's Valley Golf Club hosted wedding receptions, private parties, and other civic functions, including the Turkeys for Sharing event, which collected thousands of Thanksgiving turkeys for families in need; and

WHEREAS, desirous to be of further service to his fellow residents, Dickie Dick ran for and was elected chair of the Frederick County Board of Supervisors; he also served as chair of the Winchester-Frederick County Economic Development Commission and the Lord Fairfax Community College Foundation and was vice chair of the Frederick County Industrial Development Authority; and

WHEREAS, Dickie Dick volunteered his wise leadership with many other civic organizations, and his integrity, kindness, and commitment to service was an inspiration to other community leaders throughout the region and the Commonwealth; and

WHEREAS, a man of deep faith, Dickie Dick enjoyed fellowship and worship with the congregation of First Presbyterian Church of Winchester; and

WHEREAS, Dickie Dick will be fondly remembered and greatly missed by his wife of 62 years, Donna; sons, Michael, Thomas, and Timothy, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Richard Gaither Dick, a public servant and highly admired member of the Frederick County community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Richard Gaither Dick as an expression of the General Assembly's respect for his memory.

**HOUSE JOINT RESOLUTION NO. 1007***Celebrating the life of Henry Clay Bibbs, II.*

Agreed to by the House of Delegates, February 20, 2017

Agreed to by the Senate, February 22, 2017

WHEREAS, Henry Clay Bibbs, II, was born in Richmond and departed this life on January 3, 2017; and

WHEREAS, the youngest of seven children, Henry Clay Bibbs, II was educated in the Richmond Public School system, graduated from the former Maggie L. Walker High School, and attended J. Sargeant Reynolds Community College; and

WHEREAS, Henry Bibbs was a faithful employee of Continental Baking Company, from which he retired after working more than 30 years as a machine operator at Wonder Bread; and

WHEREAS, Henry Bibbs accepted Christ at an early age; however, he rededicated his life to the Lord on Sunday, February 29, 1976, at Sixth Baptist Church in Richmond; with a heart for people and a passion for reaching those who were lost, isolated, or overlooked, he submitted to the call to labor in the outreach and evangelism ministry; and

WHEREAS, Henry Bibbs was a cheerful man who loved telling jokes, distributing Gospel tracts, witnessing, and leading people to Christ; after returning to the church community, he became a tireless and incredibly consistent worker in the church, going door-to-door with the church's outreach ministry from 1976 until his death; and

WHEREAS, Henry Bibbs created the church's Youth for Christ Ministry to reach children in the neighborhood around Sixth Baptist Church; established weekly and monthly Bible study classes and worship services in prisons, senior homes, assisted living facilities, rehabilitation centers, group homes and other places throughout the Richmond metropolitan area; founded the Men of God Ministry to unite Christian men across Richmond to facilitate fellowship, help others, and spread the Gospel; and he helped in the church's feed-the-community ministry; and

WHEREAS, Henry Bibbs was a dedicated churchman, serving as a church school teacher and Church School Superintendent, as a member of the security ministry, and as a Sunday morning greeter; and

WHEREAS, Henry Bibbs, fondly known as Clay, left an indelible mark on the teachers, students, and parents of Richmond Preparatory School, who looked forward to his trademark smile, contagious sense of humor, inspiration, and wisdom; for many students and teachers, seeing him in the morning was the preferred way to start their day; and

WHEREAS, a gifted and multitalented man, Henry Bibbs was an accomplished singer, who sang with his family in an cappella Gospel quartet, "The Gospel Truth," for many years; he was a voracious reader and loved historical, political, and theological books; he was a creative and prolific writer, who enjoyed writing poems, prose, and short stories and was in the process of publishing his second collection of writings at the time of his death; and

WHEREAS, Henry Bibbs was an avid sports fan and loved watching football games, frequenting baseball games, and supporting the Boston Celtics, which he particularly enjoyed; he traveled to witness the game on his last birthday and had the opportunity to see many great members of the Boston Celtics' 1966, 1976, and 1986 championship teams; and

WHEREAS, the memory and legacy of Henry Bibbs will be cherished by his family, friends, church family, and everyone whose life he touched during his lifetime; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Henry Clay Bibbs, II; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Henry Clay Bibbs, II, as an expression of the General Assembly's respect for his memory.

### HOUSE JOINT RESOLUTION NO. 1008

*Celebrating the life of LaVerne Charmayne Byrd Smith.*

Agreed to by the House of Delegates, February 20, 2017

Agreed to by the Senate, February 22, 2017

WHEREAS, LaVerne Charmayne Byrd Smith, a native of Richmond, was born on December 14, 1927, and passed away on January 27, 2017; and

WHEREAS, LaVerne Smith attended Paul Laurence Dunbar Elementary and Middle School, currently Blackwell Elementary School in Richmond; she graduated from Armstrong High School in 1944, and earned the bachelor of arts degree in history and education, a double major, from Virginia Union University in 1948, to prepare herself for the study of law; she received the master of science in educational psychology and reading from Virginia State University, formerly Virginia State College, in 1964, and the doctorate in education, curriculum and instruction from the University of Maryland in 1985; she also pursued graduate studies at The College of William and Mary, Virginia Commonwealth University, the University of Virginia, and Harvard University; and

WHEREAS, due to an encounter with racial discrimination as a child, LaVerne Smith was determined to use her considerable intellect and talents after graduating from Virginia Union University to change the world by working to obliterate segregation; however, her plans to become an attorney were revised, when in 1948, she married the love of her life, Lewis "Jackrabbit" Smith, a former track star and coach, who was inducted into the sports halls of fame at Virginia Union University and Prairie View A&M University; and

WHEREAS, LaVerne Smith followed both her sisters into the profession of education and taught at several Richmond elementary schools, Virginia Union University, and Virginia State University; and

WHEREAS, according to the *Richmond Free Press*, LaVerne Smith possessed a passion for "education and writing and became a dedicated educator, civil rights activist, and writer; she began her education career in 1944 as a certified elementary and secondary education teacher at Booker T. Washington Elementary School before leaving to teach at Navy Hill Elementary School; in 1951, she transferred to West End Elementary School, where she became instrumental in the creation of a major school recital production entitled, 'Panorama of Science,' for Richmond Public Schools, which involved the participation and performance of 300 students on the subject of science"; and

WHEREAS, after teaching for more than 20 years in the public elementary schools and as a college professor training new teachers for 10 years, in 1974, LaVerne Smith became the state's first supervisor of reading and language development for state programs with the Virginia Department of Education, where she served faithfully for 16 years, working for the administrations of Governors A. Linwood Holton, Jr., John N. Dalton, Charles S. Robb, and Gerald L. Baliles; she developed the first statewide conference on reading in Virginia, which continued for 11 years; and

WHEREAS, LaVerne Smith touched the lives of thousands of students and educators as a schoolteacher, university professor, and reading specialist for the Virginia Department of Education in a career that spanned 47 years prior to her retirement in 1991 from the Department of Education; and

WHEREAS, LaVerne Smith collaborated with her sister, Elizabeth, to become a published writer at age 12 on a column called the "Younger Set" for the *Richmond Afro-American* and the *Richmond Planet* newspapers; beginning in 1939, for six years, the sisters wrote about the birthdays, parties, and activities of the city's African American youth; after her retirement, she resumed writing columns for the newspapers from 1993 to 1996, deriving great joy from penning poetry and booklets, including "The Blessed Gentle Beast," "Poetry for Growing: Kindergarten through Kollege," "Poems of Indignation: Revisiting 20th Century Civil Rights and Black Awareness Movements," "Pokey the Playful Whale," "Virginia: This is Your Life 1907-1970," and "School Desegregation Crisis in Virginia"; and

WHEREAS, LaVerne Smith was an active and dedicated member of First Baptist Church of South Richmond, one of the city's oldest African American churches, where she served with devotion as the church's historian from 1991 to 2001; she authored several volumes of church history and led a committee in writing and publishing, "Traveling On," a chronicle of the church's founding in Manchester in 1821, before the area's annexation by Richmond from Chesterfield County; as a dedicated churchwoman, she was a member of the church chorus and played the trombone in the Sunday School Orchestra; and

WHEREAS, LaVerne Smith contributed her time and talents to many organizations and received numerous accolades, national and international awards, and recognition for her extraordinary works; among her honors was the 1995 YWCA Woman of the Year award, which her two late sisters had also received; a family member stated that "she prided herself on being a teacher of teachers"; and

WHEREAS, LaVerne Smith was actively involved in civic affairs and her community, including serving as a member of the boards of J. Sargeant Reynolds Community College, the Urban League of Greater Richmond, and the Richmond Branch NAACP; she was a past president and longtime member of the Upsilon Omega Chapter of Alpha Kappa Alpha Sorority, and was an officer in Phi Delta Kappa, an international association for professional educators, and the Virginia Council on Human Relations; and

WHEREAS, LaVerne Smith pursued her interests diligently as a member of the Richmond Area Reading Council, the Virginia Museum of Fine Arts, the Greater Richmond Chapter of the Afro-American Historical and Genealogical Society, the Black History Museum and Cultural Center of Virginia, the New York Public Library's Schomburg Center for Research in Black Culture, and the Richmond Chapter of the Continentals Society; in addition, she loved to travel to increase her knowledge concerning Europe, Africa, the Caribbean, and other parts of the United States; and

WHEREAS, LaVerne Smith was an avid, tireless, enthusiastic, and committed champion of civil rights throughout Virginia; as a social activist, she was considered spirited, courageous, and outspoken, a "sledgehammer with a velvet glove"; according to Dr. Raymond P. Hylton, history professor at Virginia Union University, she was an unsung hero in the "1960 Richmond sit-in when thirty-four Virginia Union University students, later called the 'Richmond 34,' were arrested at Thalhimers Department Store on Broad Street on February 22, 1960, for sitting in the 'whites only' seats at the restaurant and lunch counter; as the president of Alpha Kappa Alpha sorority, she asked her sorority sisters to cancel their annual ball and use the money allocated to it to help bail the students out of jail; she posted their bail; the sit-in participants, whose arrests were overturned by the United States Supreme Court by the end of 1960, organized the Campaign for Human Dignity, which eventually desegregated many Richmond facilities"; and

WHEREAS, Dr. Hylton stated further that "when the Virginia Teachers Association invited the Reverend Dr. Martin Luther King Jr., to Richmond to address the group, he was in prison in Birmingham, Alabama; however, he was released in time to speak and LaVerne Smith was assigned to interview him; with another person driving her car, she interviewed Dr. King in the back seat as they were being driven to the campus of Virginia Union University"; and

WHEREAS, LaVerne Smith, as former president of the Richmond Council on Human Rights and a former vice president of the Virginia Council on Human Rights, chaired a conference of the Richmond council that held sessions on the topics of law and justice, civil matters, and housing and urban development planning; buoyed by the conference and under her leadership, council members worked fearlessly and deliberately to crush any obstacle that might hinder the success of desegregation during the early 1970s, including promoting open dialogue between the races, facilitating the revocation of licenses of local television and radio stations that did not employ or broadcast African Americans on air, and fostering the development of agencies such as Housing Opportunities Made Equal and Offender Aid and Restoration; and

WHEREAS, LaVerne Smith, educator, social activist, historian, and author dedicated her life to improving the lives of others; she will be remembered for her determination to ensure literacy and reading skills for all students and will be sorely missed by all who loved her; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of LaVerne Charmayne Byrd Smith; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of LaVerne Charmayne Byrd Smith, as an expression of the General Assembly's respect for her memory.

### HOUSE JOINT RESOLUTION NO. 1009

*Commemorating the life and legacy of Captain Humbert Roque Versace.*

Agreed to by the House of Delegates, February 20, 2017

Agreed to by the Senate, February 22, 2017

WHEREAS, Captain Humbert Roque Versace, who grew up in Alexandria, served heroically in battle during the Vietnam War; and

WHEREAS, while on operations in Vietnam in 1963, Captain Humbert "Rocky" Roque Versace sustained serious injuries but fought on valiantly despite his wounds; and

WHEREAS, Captain Versace was captured and held as a prisoner of war for two years; and

WHEREAS, Captain Versace refused to give his interrogators any information and resisted efforts to indoctrinate his fellow prisoners, enduring regular beatings and torture for his defiance; and

WHEREAS, demonstrating exceptional courage and perseverance, Captain Versace repeatedly attempted to escape from captivity and worked to give his fellow prisoners hope and encouragement; and

WHEREAS, his indomitable spirit unbroken, Captain Versace was executed by his captors in 1965; and

WHEREAS, in 2002, Captain Versace was posthumously awarded the Medal of Honor for his heroism; he was the first member of the United States Army to be awarded the nation's highest honor for valorous actions while in captivity in Southeast Asia; and

WHEREAS, the plaza in front of the Mount Vernon Recreation Center was dedicated in 2002 as the Captain Rocky Versace Plaza, thanks to the hard work of the Friends of Rocky Versace; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commemorate the life and legacy of Captain Humbert Roque Versace; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Friends of Rocky Versace as an expression of the General Assembly's admiration for the service and sacrifices of Captain Humbert Roque Versace and respect for his memory.

**HOUSE JOINT RESOLUTION NO. 1010**

*Celebrating the life of James A. Rich, Jr.*

Agreed to by the House of Delegates, February 20, 2017

Agreed to by the Senate, February 22, 2017

WHEREAS, James A. Rich, Jr., a decorated veteran, respected public safety officer, and a hardworking businessman who made many contributions to the Danville and Pittsylvania County communities, died on January 9, 2017; and

WHEREAS, James Rich graduated from Schoolfield High School, then joined many of the other young men of his generation in service to the nation during World War II as a member of the United States Army Air Corps; and

WHEREAS, James Rich continued his military service with the Army National Guard, rising to the rank of first lieutenant, and in 2016, he received the Legion of Honor, France's highest military distinction, for his role in liberating the country from Nazi occupation during World War II; and

WHEREAS, James Rich enjoyed a long career in business as the president and chief executive officer of Rich Industrial Supply, J. A. Welding Supply Co., Inc., and Home Oxygen and Medical Equipment of VA, Inc.; and

WHEREAS, James Rich worked to serve and safeguard the members of the community as the first fire marshal for Pittsylvania County and training director of the Danville Life Saving Crew; and

WHEREAS, James Rich also volunteered his time and leadership with the Faith Home for Children and the Hatcher Center and as a past president and regional governor of the Sertoma Club; and

WHEREAS, James Rich enjoyed fellowship and worship with the community as a 29-year member of Woodlawn Baptist Church, where he served as a deacon, chair of deacons, Sunday school teacher, and Bible study leader; and

WHEREAS, James Rich also brought joy to the congregations of other local Baptist churches through his love of song as a choir director of Forest Lawn Baptist Church, Calvary Baptist Church, Shermont Baptist Church, Vandola Baptist Church, and Kentuck Baptist Church; and

WHEREAS, predeceased by his wife, Dollie, James Rich will be fondly remembered and greatly missed by his children, James III, Debbie, Wade, and Laurie, and their families, and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of James A. Rich, Jr., a patriotic veteran and a pillar of the Danville community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of James A. Rich, Jr., as an expression of the General Assembly's respect for his memory.

**HOUSE JOINT RESOLUTION NO. 1011**

*Commending Ed Turner.*

Agreed to by the House of Delegates, February 20, 2017

Agreed to by the Senate, February 22, 2017

WHEREAS, Ed Turner has served the Commonwealth for more than 40 years as an expert on disability rights and a passionate advocate for individuals living with disabilities and their families, touching countless lives and helping Virginians with disabilities become active members of their communities; and

WHEREAS, a native of Accomack County, Ed Turner was born with cerebral palsy and grew up during a time when an education, community living, and career opportunities were not available or easily accessible for individuals with disabilities; and

WHEREAS, overcoming myriad challenges with the love and steadfast encouragement of his mother, Lucille Turner, Ed Turner graduated from high school, secured his first of many employment opportunities, and moved into his own apartment; and

WHEREAS, determined to further inspire others, Ed Turner moved to Richmond and became an assistant administrator at the Virginia Developmental Disabilities Planning Council, and later a training associate on disability and employment rights for many years at the Virginia Commonwealth University Rehabilitation Research and Training Center; and

WHEREAS, Ed Turner has been constant in his interest in the political process, has served on his party's State Central Committee for seven years, and was elected chair of the Third District Committee in 2005; and

WHEREAS, Ed Turner was appointed by Governor Timothy M. Kaine to serve as the Special Advisor on Disability Rights in the Workplace, and he has authored numerous publications on employment, self-advocacy, and workplace accommodations for individuals with disabilities; and

WHEREAS, Ed Turner is most passionate about sharing his lifetime of experience and life lessons to empower Virginia's youth with disabilities by being a dedicated and valued instructor at the Virginia Board for People with Disabilities' Youth Leadership Summit; and

WHEREAS, Ed Turner now runs his own consulting business, works as a bipartisan advocate on behalf of Virginians with disabilities, and has earned the respect of members of the General Assembly on both sides of the aisle; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Ed Turner for his leadership and advocacy for individuals with disabilities across the Commonwealth; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Ed Turner as an expression of the General Assembly's admiration for his perseverance and stalwart efforts to better the lives of all Virginians with disabilities.

### HOUSE JOINT RESOLUTION NO. 1012

*Commending the Nokesville-Bristow Ruritan Club.*

Agreed to by the House of Delegates, February 20, 2017

Agreed to by the Senate, February 22, 2017

WHEREAS, the Nokesville-Bristow Ruritan Club in Prince William County celebrated 75 years of service, fellowship, and goodwill to the community in 2016; and

WHEREAS, the Nokesville Ruritan Club was chartered on December 13, 1941, and, in an effort to expand its reach to a wider area, the club changed its name to the Nokesville-Bristow Ruritan Club in 2012; and

WHEREAS, the Nokesville-Bristow Ruritan Club has a very active membership of 35 men and women who represent a cross-section of the community, and the club meets monthly on the second Thursday at Windy Knoll Farm in Nokesville; and

WHEREAS, the Nokesville-Bristow Ruritan Club, like all Ruritan Clubs, strives to make their community a better place to live and work through volunteerism, community service, fellowship, and scholarship; and

WHEREAS, in recent years, the Nokesville-Bristow Ruritan Club founded and sponsored youth clubs at Cedar Point Elementary School, T. Clay Wood Elementary School, E.H. Marsteller Middle School, and Patriot High School; the clubs teach students about being stewards of the community and have been a huge success; and

WHEREAS, the Nokesville-Bristow Ruritan Club's biggest annual fundraisers are the Nokesville Day festival in May and Brunswick Stew and Fall Festival in October, when club members cook 350 gallons of stew over open fires in kettles ranging in size from 30 gallons to 90 gallons; and

WHEREAS, the Nokesville-Bristow Ruritan Club's financial support to the community includes four scholarships to college for local high school students and tuition for students to attend service and leadership programs sponsored by the Freedoms Foundation at Valley Forge; and

WHEREAS, the Nokesville-Bristow Ruritan Club's service projects include preparing Thanksgiving and Christmas baskets for needy families, donations of Rudy Bears to emergency personnel for children during crisis situations, Adopt-A-Highway and Adopt-A-Stream clean-up, and food pickup and distribution for a local food pantry; and

WHEREAS, 65 people attended the Nokesville-Bristow Ruritan Club's celebration of their 75th anniversary in October 2016, including Ruritan National President Calvin Shelton and many past club presidents and current members; and

WHEREAS, the Nokesville-Bristow Ruritan Club has a proud history of assisting the Nokesville and Bristow communities at many different levels and the club's longevity is a testament to the hands-on approach club members have taken to service over the past 75 years; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Nokesville-Bristow Ruritan Club on marking 75 years of service, fellowship, and goodwill to the community in 2016; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Nokesville-Bristow Ruritan Club, as an expression of the General Assembly's admiration for the organization's proud history of community service to the Nokesville area and Prince William County.

**HOUSE JOINT RESOLUTION NO. 1013**

*Commending Donna Tartt.*

Agreed to by the House of Delegates, February 20, 2017  
Agreed to by the Senate, February 22, 2017

WHEREAS, Donna Tartt of Pamplin is a Pulitzer Prize-winning American fiction writer who is internationally renowned for her unique style of prose; and

WHEREAS, a native of Mississippi, Donna Tartt is a graduate of Bennington College in Vermont; and

WHEREAS, Donna Tartt is the author of the novels *The Secret History* published in 1992, *The Little Friend* published in 2002, and *The Goldfinch* published in 2013; and

WHEREAS, Donna Tartt won the Pulitzer Prize for Fiction for *The Goldfinch* a bestselling story about loss, loneliness, and self-identity, and the novel is being adapted into a film directed by John Crowley; and

WHEREAS, Donna Tartt's writing style is uncommon in contemporary American literary fiction, and she primarily writes in neo-romanticism-inflected prose that borrows heavily from the style of 19th century literature; and

WHEREAS, Donna Tartt was named one of *Time* magazine's "100 Most Influential People" in 2014, the same year she was awarded the Pulitzer Prize for Fiction and the Andrew Carnegie Medal for Excellence in Fiction; and

WHEREAS, Donna Tartt splits her time between New York and the Commonwealth, where she writes her novels at her 19th century tobacco plantation in Pamplin; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Donna Tartt, a highly acclaimed American fiction writer; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Donna Tartt as an expression of the General Assembly's admiration for her success and best wishes for the future.

**HOUSE JOINT RESOLUTION NO. 1014**

*Commending the Herndon Children's Center.*

Agreed to by the House of Delegates, February 20, 2017  
Agreed to by the Senate, February 22, 2017

WHEREAS, the Herndon Children's Center recently celebrated its 25th anniversary serving the greater Herndon community; and

WHEREAS, the Herndon Children's Center is a nonprofit organization that provides children with a positive, nurturing environment in which to learn, play, and grow; and

WHEREAS, previously operated as The Federal Children's Center and sponsored by the federal government for its first 23 years, the Herndon Children's Center was privatized in 2013; and

WHEREAS, the Herndon Children's Center offers year-round care for children ages three months to pre-kindergarten, and most of the children enrolled at the center attend five days a week; and

WHEREAS, the Herndon Children's Center is committed to a developmental, child-centered approach that values individuality, social interaction, and experiential learning; and

WHEREAS, the Herndon Children's Center is accredited by the National Association for the Education of Young Children and endorsed as an Eco-Healthy Early Childhood Program; and

WHEREAS, the Herndon Children's Center employs a highly trained and caring staff that includes longtime employees Roselle Escobar, Debbie Spath, Rob Shafer, and Sarai Luis Sosa; and

WHEREAS, the Herndon Children's Center is governed by a board of directors led by parents and community members that prioritizes excellence in care; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Herndon Children's Center on the occasion of its 25th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Ruby L. Hildreth, director of the Herndon Children's Center, as an expression of the General Assembly's admiration for the center's commitment to child development and care in Fairfax County.

**HOUSE JOINT RESOLUTION NO. 1015**

*Commending Everette A. Hicks, Sr.*

Agreed to by the House of Delegates, February 20, 2017  
Agreed to by the Senate, February 22, 2017

WHEREAS, Everette A. Hicks, Sr., retired from the Newport News School Board in 2016, after 16 years of distinguished service; and

WHEREAS, Everette "Teddy" A. Hicks, Sr., was first elected to the Newport News School Board in 2000, and in 2016 he chose not to seek reelection to his South District seat; and

WHEREAS, Teddy Hicks is a career educator and lifelong resident of Newport News who has been a strong role model in the city's Southeast Community; and

WHEREAS, Teddy Hicks graduated from George Washington Carver High School in Newport News, and continued his education at Norfolk State University and Hampton University, where he earned bachelor's and master's degrees, respectively; and

WHEREAS, before being elected to the Newport News School Board, Teddy Hicks spent 32 years as a teacher, coach, and assistant principal in Newport News Public Schools; and

WHEREAS, Teddy Hicks witnessed great progress within the schools during his 16 years of service on the Newport News School Board, including improvements in the dropout and graduation rates, and improvement in standardized test scores; and

WHEREAS, Teddy Hicks served as chairman of the Newport News School Board from 2008-2010 and vice chairman from 2006-2008, and throughout his tenure on the school board he was a voice of experience and fount of institutional knowledge; and

WHEREAS, during Teddy Hicks' tenure as school board chairman during the 2009-2010 school year all 40 Newport News public schools earned full accreditation by the Virginia Department of Education for the first time; and

WHEREAS, Teddy Hicks is a member of the Superintendent's Roundtable, a lifetime member of the Newport News NAACP, and a former board member of the C. Waldo Scott Center for Hope and the Boys and Girls Club of Greater Hampton Roads; and

WHEREAS, Teddy Hicks is chairman of the Deacon Board at Ivy Baptist Church in Newport News, as well as a member of the Trustee Board and the Cancer Ministry; and

WHEREAS, for 41 years, Teddy Hicks was the loving husband of the late Lucille Hicks, an educator, Deaconess at Ivy Baptist Church, and an active member of Lambda Omega Chapter of Alpha Kappa Alpha Sorority; and

WHEREAS, Teddy Hicks is the proud father of one son, Everette A. Hicks, Jr., and he has four grandchildren and eight great-grandchildren; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Everette A. Hicks, Sr., on his retirement from the Newport News School Board; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Everette A. Hicks, Sr., as an expression of the General Assembly's admiration for his commitment and dedication to the students of Newport News and his distinguished career in education that spanned four decades.

**HOUSE JOINT RESOLUTION NO. 1016**

*Commending Saint Paul African Methodist Episcopal Church.*

Agreed to by the House of Delegates, February 20, 2017

Agreed to by the Senate, February 22, 2017

WHEREAS, Saint Paul African Methodist Episcopal Church in Newport News is celebrating the 130th anniversary of its founding in 1887; and

WHEREAS, the roots of Saint Paul African Methodist Episcopal (A.M.E.) Church can be traced to 1887, when the Reverend Isaac L. Butts saw a need to organize a Sunday school at Freeman Crossing, out of which the present church grew from the first place of worship on 18th Street known as "The Acre" in the "Hell's Kitchen" neighborhood of Newport News; and

WHEREAS, in 1900, the cornerstone of the new brick structure was laid, and among the first members were George Freeman, W. J. Gordon, Jerry Haywood, and others who mortgaged their properties to raise money to complete construction of the brick building; and

WHEREAS, Jerry Haywood, the lay leader of the movement to build the new church, who played a vital role in securing financing for the building, was given the honor of naming the church and he chose "Saint Paul" after his home church in North Carolina; and

WHEREAS, over the next 50 years, Saint Paul A.M.E. Church grew and was improved spiritually and physically by the many notable pastors who served the congregation, including the Reverend George C. Taylor, the Reverend A. J. Nottingham, who was also Presiding Elder of the Richmond District, the Reverend J. Wayman Henry, and the Reverend S. W. Williams, Sr., who was also a Presiding Elder in the Baltimore Conference; and

WHEREAS, in August 1967, members of Saint Paul A.M.E. Church voted to purchase what had been Chestnut Avenue United Methodist Church, led by Brothers Carrol E. Pope and Smith Beckett, and the church moved to what is its present location at 2500 Chestnut Avenue in March 1970; and

WHEREAS, for the next three decades the church continued to prosper with an icon in African Methodism, the Reverend Sidney Wesley Williams, Jr., at the helm; new ministries were added to the church, such as the Wednesday Bread Program, and annual events such as the Citizen of the Year dinner, the Fellowship Dinner, the Church Homecoming celebration, and the formal Church Anniversary; and

WHEREAS, with the elevation of the Reverend Sidney W. Williams to Presiding Elder of the Portsmouth-Richmond-Roanoke District of the Virginia Conference, the church was blessed with the leadership of the Reverend Godfrey R. Patterson, the Reverend Franklin J. West, and the Reverend Donald F. White; the Reverend Dr. Oretta P. Cross, a spirit-filled, dynamic leader, was appointed as the first female pastor in the church's history in May 2016; and

WHEREAS, Saint Paul A.M.E. Church has a unique legacy as the only black A.M.E. church in the City of Newport News, and it will be served well in the future by the fact that the church's mission has not wavered over its 130-year history; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Saint Paul African Methodist Episcopal Church in Newport News on celebrating the 130th anniversary of its founding in 2017; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Reverend Dr. Oretta P. Cross, pastor of Saint Paul African Methodist Episcopal Church, as an expression of the General Assembly's admiration for its enduring history and bright future serving the Newport News community.

### HOUSE JOINT RESOLUTION NO. 1017

*Commending Tess W. Short.*

Agreed to by the House of Delegates, February 20, 2017

Agreed to by the Senate, February 22, 2017

WHEREAS, Tess W. Short was honored as the 2015 Secondary School Counselor of the Year by the Virginia School Counselor Association, for her work as School Counseling Director at John Rolfe Middle School in Henrico County; and

WHEREAS, an honor graduate of Prince Edward County High School, Tess Short received a bachelor's degree and two master's degrees from Virginia State University; and

WHEREAS, prior to coming to work for Henrico County Public Schools in 2011, Tess Short was a school counselor in Prince George County Public Schools, Cumberland County Public Schools, and Charles City Public Schools; and

WHEREAS, Tess Short is a member of Delta Sigma Theta Sorority, Inc., as well as the Virginia School Counselor Association (VSCA) and the American School Counselor Association (ASCA); and

WHEREAS, the VSCA School Counselor of the Year award recognizes outstanding professionals who have made a positive impact in their school with students, teachers, and parents; and

WHEREAS, Tess Short displays a deep passion for what she does, and her hard work and dedication to helping students is widely admired by her colleagues; for example, she is known for wearing creative and outlandish outfits to motivate her students to do well during Standards of Learning testing; and

WHEREAS, because of her VSCA honor, Tess Short represented the Commonwealth at the 2016 ASCA Counselor of the Year program in Washington, D.C.; and

WHEREAS, Tess Short was recognized for her VSCA Secondary School Counselor of the Year achievement in January 2016, at a White House ceremony hosted by First Lady Michelle Obama that students at John Rolfe Middle School watched via a live stream; and

WHEREAS, Tess Short has devoted her career to being an advocate for students, helping them to achieve success in school and in life; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Tess W. Short on being named the 2015 Secondary School Counselor of the Year by the Virginia School Counselor Association; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Tess W. Short as an expression of the General Assembly's admiration for her dedication to achieving excellence and impacting the lives of students as a secondary school counselor.

### HOUSE JOINT RESOLUTION NO. 1018

*Commending Ivy Baptist Church.*

Agreed to by the House of Delegates, February 20, 2017

Agreed to by the Senate, February 22, 2017

WHEREAS, for 110 years, Ivy Baptist Church has served and supported the Newport News community through spiritual leadership, generous outreach, and joyful worship in the Baptist tradition; and

WHEREAS, founded in 1906 by a group of Christians seeking a place to worship in the Dawson City community of Warwick County, Ivy Baptist Church was originally known as First Baptist Church of Dawson City, with the Reverend James Carr as its first pastor; and

WHEREAS, the Ivy Baptist Church School also traces its history back to 1906, when classes were held before Sunday services; the school continues to support the church by providing Christian education; and

WHEREAS, First Baptist Church of Dawson City held its first services in a Bush Harbor between H Street and I Street, then was renamed as First Baptist Church 18th Street after it relocated to the 500 block of 18th Street, where the congregation experienced many years of growth and prosperity; and

WHEREAS, in 1952, First Baptist Church relocated to a new building on Ivy Avenue and became Ivy Avenue Baptist Church; the church was renamed Ivy Baptist Church and held its first services at its current location on Maple Avenue in 1972; and

WHEREAS, over the years, the church benefited from the able leadership of the Reverend Samuel Brown, the Reverend James M. Bray, and the Reverend U. L. Charity; and

WHEREAS, the W. Henry Maxwell Family Life Center, named for the fifth pastor of Ivy Baptist Church, was dedicated in 1999 to provide new opportunities for the congregation; soon thereafter, the church established the Ivy Achievers program, the Clothing Ministry, and the Food and Share Ministry to serve the community; and

WHEREAS, the Reverend Dr. Kevin G. Swann was elected pastor of Ivy Baptist Church in 2006; he has overseen numerous renovations and enhancements to the church grounds, the creation of the Community Outreach celebration, and a technology ministry that offers on-demand Bible study and opportunities to view services on the Internet; and

WHEREAS, Ivy Baptist Church maintains a long legacy of community outreach; in 2016 alone, hundreds of families received assistance through the church's food and clothing distribution ministries, and more than 2,000 people received a Thanksgiving dinner at three locations through the Feed the Hungry program; and

WHEREAS, in 2016, Ivy Baptist Church had more than 2,269 members, including 110 new members, and 52 active ministries, ensuring that the congregation will continue to be a beacon of hope and faith in the community; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Ivy Baptist Church on the occasion of its 110th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Reverend Dr. Kevin G. Swann, pastor of Ivy Baptist Church, as an expression of the General Assembly's admiration for the church's storied history and many contributions to the community.

### HOUSE JOINT RESOLUTION NO. 1019

*Commending Fairfax County.*

Agreed to by the House of Delegates, February 20, 2017

Agreed to by the Senate, February 22, 2017

WHEREAS, Fairfax County is celebrating the 275th anniversary of its founding in 1712, and, for three centuries, its proud and diverse residents have had a front row seat to the historic events that have shaped the Commonwealth and the United States; and

WHEREAS, Fairfax County is the second richest and most populous locality in the Commonwealth and the Washington, D.C., region, and its roots reach back to the earliest days of the nation; the first people to inhabit or set foot in Fairfax County were Ice Age hunter-gatherers, at least 12,000 years before Captain John Smith arrived in 1608 to explore the lands bordering the Potomac River; and

WHEREAS, the Algonquian-speaking Dogue was the major tribe of local Native Americans in the area and they lived along the streams and rivers, especially the Occoquan and the Potomac, in the territory that is today Fairfax County; and

WHEREAS, when Europeans explored and settled the region, they practiced the new agricultural, hunting, and fishing skills taught to them by the Native Americans, whose heritage remains an important part of Fairfax County's history; and

WHEREAS, in 1649, King Charles II of England granted land in the Virginia colony between the Rappahannock and Potomac Rivers to seven of his loyal supporters; by 1690, this land was in the possession of the Fairfax family, and it eventually came under the ownership of Thomas, the sixth Lord Fairfax of Cameron, after whom the county is named; and

WHEREAS, Fairfax County was formed in 1742 from the northern portion of Prince William County, and at the time it included all of present-day Loudoun and Arlington Counties and the Cities of Alexandria, Falls Church, and Fairfax; and

WHEREAS, the first Fairfax County Courthouse was located near what is now Tysons Corner; the courthouse was relocated to Alexandria from 1752 to 1800 and then was moved to its current location in what is now the City of Fairfax; and

WHEREAS, major changes in Fairfax County's lifestyle and character occurred in the 18th century, when roads and mills were built, and tobacco was the primary source of wealth and commerce in the county's agricultural economy; and

WHEREAS, two bold and visionary men who played important roles in the American Revolution made their homes in Fairfax County in the 18th century: George Washington of Mount Vernon, and George Mason of Gunston Hall, led the patriots in the cause of freedom; and

WHEREAS, by the 1790s, the population of Fairfax County had grown to more than 12,000, 42 percent of whom were slaves, and, in 1791, the General Assembly ceded a portion of Fairfax County to the federal government in order to create the District of Columbia; and

WHEREAS, by the early 1800s, Fairfax County's soil was unfertile from overplanting, and many farmers left for better land; in the 1840s, new farmers from the North, many from New York, moved to Fairfax County and began to buy up the old farms, plant new crops, and employ new agricultural methods on the abandoned fields; and

WHEREAS, prior to the Civil War, an agricultural revival was underway, and new railroads and roads were constructed to increase access in and around Fairfax County; however, the economic recovery would soon be curtailed by war; and

WHEREAS, due to its proximity to Washington, D.C., Fairfax County was on the front lines of military activity during the Civil War; the county was home to several of the Union Army's forts defending the capital city, and thousands of troops were stationed within or passed through its borders, including Col. John S. Mosby, the Confederate "Gray Ghost"; and

WHEREAS, Clara Barton, who later founded the American Red Cross, cared for wounded men from the battles of Second Manassas and Ox Hill at St. Mary of Sorrows Catholic Church at Fairfax Station, and the Confederate spy Laura Ratcliffe also operated in Fairfax County during the war; and

WHEREAS, after the conclusion of the Civil War, Union soldiers and freed slaves were among those who settled in Fairfax County and continued the agricultural tradition; local farmers engaged in dairy farming, stock and poultry farming, flour milling, and growing fruits and vegetables to supply the needs of Washington, D.C.; and

WHEREAS, in 1870, local control of government in Fairfax County shifted to the board of supervisors system, and the county established its public school system; the population remained around 12,000, but that would change dramatically over the coming decades; and

WHEREAS, the dawn of the 20th century began a period of great prosperity for Fairfax County, much of it brought by new railroad and electric trolley lines that carried people from Fairfax County into Washington, D.C., to work in government jobs or attend school; and

WHEREAS, following the Great Depression, through World War II, and up to the present day, Fairfax County's population growth was fueled by the expansion of the federal government and aided by improvements in transportation, especially the completion of the Capital Beltway in 1964; and

WHEREAS, Fairfax County has been called one of the great economic success stories of modern times; it is home to Fortune 500 companies and two commercial areas, Tysons Corner and Reston, that are among the largest central business districts in the United States today; and

WHEREAS, home to more than 1.1 million residents in 2015, Fairfax County is the Commonwealth's most populous jurisdiction; the median household income of its affluent and well-educated population ranks among the highest median household incomes in the nation; and

WHEREAS, over the past 275 years, Fairfax County has transformed from a rural community with an agrarian economy to a predominantly residential Washington, D.C., suburb to the complex and populous commercial and residential hub it is today; and

WHEREAS, the citizens of Fairfax County can be proud of their long history, their diverse heritage, and their role as a highly sophisticated modern community with national and international importance; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Fairfax County on the occasion of the 275th anniversary of its founding; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Sharon Bulova, chair of the Fairfax County Board of Supervisors, as an expression of the General Assembly's admiration for the county's illustrious history and significant contributions to the Commonwealth.

### HOUSE JOINT RESOLUTION NO. 1020

*Commending Glen Forest Elementary School.*

Agreed to by the House of Delegates, February 20, 2017

Agreed to by the Senate, February 22, 2017

WHEREAS, Glen Forest Elementary School in Falls Church is celebrating 60 years of excellence in 2017; and

WHEREAS, when it opened in 1957, Glen Forest Elementary School served first through seventh grades in what was then a vastly less developed area of Fairfax County; and

WHEREAS, today, Glen Forest Elementary School has more than 1,000 students in Head Start through fifth grade, and employs more than 150 staff members, including 56 classroom teachers; and

WHEREAS, Glen Forest Elementary School has a culturally diverse student population from 55 different countries and 89 percent of students come from homes where a language other than English is spoken; and

WHEREAS, in recent years, Glen Forest Elementary School has done a tremendous job of improving accreditation rates and has seen a dramatic rise in student achievement; and

WHEREAS, Glen Forest Elementary School hosts a wide variety of activities and programs that engage families, build community spirit, and celebrate cultural diversity; and

WHEREAS, Glen Forest Elementary School provides students with an advanced academic curriculum and opportunity to participate in a Science, Technology, Engineering, and Mathematics (STEM) lab; and

WHEREAS, a Title I school, Glen Forest Elementary School puts a high priority on building technology skills for the future; and

WHEREAS, Glen Forest Elementary School is served by an engaged and accomplished multicultural staff whose members hail from all parts of the world and speak 25 different languages; and

WHEREAS, Glen Forest Elementary School embraces an inclusive philosophy and views its diversity as a rich resource in its mission to foster lifelong learners; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Glen Forest Elementary School on celebrating 60 years of excellence in 2017; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Cynthia F. Choate, principal of Glen Forest Elementary School, as an expression of the General Assembly's admiration for the school's essential role in a dynamic, multicultural community.

**HOUSE JOINT RESOLUTION NO. 1021**

*Commending Randolph Elementary School.*

Agreed to by the House of Delegates, February 20, 2017

Agreed to by the Senate, February 22, 2017

WHEREAS, Randolph Elementary School in Arlington has exceptionally served the children of the Douglas Park neighborhood for 70 years; and

WHEREAS, named for Peyton Randolph, an important figure in Virginia history who served as acting Governor at one point, Randolph Elementary School opened its doors in 1947; and

WHEREAS, Randolph Elementary School has a truly diverse and inclusive student body, representing 29 countries and 19 different languages; and

WHEREAS, for over a decade, Randolph Elementary School has offered an International Baccalaureate Primary Years Programme, which focuses on the development of the whole child; and

WHEREAS, Randolph Elementary School teaches students a global perspective that emphasizes respect for others and the importance of taking action; and

WHEREAS, Randolph Elementary School students participate in Spanish language classes as well as art, physical education, and music; each grade level stages an annual musical production in which all students participate; and

WHEREAS, at Randolph Elementary School there is a focus on learning, results, and a collaborative culture, thus promoting continuous improvement for all staff and students; and

WHEREAS, Randolph Elementary School offers a robust After School Enrichment program that gives students unique opportunities to try something new, such as zumba, chess, origami, yoga, and cooking; and

WHEREAS, Randolph Elementary School encourages students to develop a love of learning and an adventurous spirit, with the goal of developing balanced learners and global citizens; and

WHEREAS, the talented and dedicated staff of Randolph Elementary School strive to instill the values of kindness, responsibility, respect, integrity, curiosity, and courage in all students; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Randolph Elementary School on 70 years of providing the children of the Douglas Park neighborhood in Arlington with an outstanding education; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Dr. Donna Snyder, principal of Randolph Elementary School, as an expression of the General Assembly's admiration for the school's rich diversity and commitment to excellence.

**HOUSE JOINT RESOLUTION NO. 1022**

*Commending Goodwin House.*

Agreed to by the House of Delegates, February 20, 2017

Agreed to by the Senate, February 22, 2017

WHEREAS, Goodwin House, a mission-driven nonprofit organization in Northern Virginia, has enriched the lives of older adults and their families by providing a full continuum of care and support, from independent living through nursing care, for 50 years; and

WHEREAS, Goodwin House traces its deepest roots to the 1950s, when the Episcopal Diocese of Virginia acquired a home for older adults in Richmond, and Allen Adams, a member of the home's managing committee, was inspired to create a similar home in Northern Virginia; and

WHEREAS, built on land donated by Benjamin M. Smith, Goodwin House Alexandria opened its doors in 1967 and was one of the first purpose-built continuing care homes in the United States; and

WHEREAS, to better serve the community Goodwin House opened a second location in 1987, which has become known as Goodwin House Bailey's Crossroads; today, the two state-of-the-art facilities provide independence, community, and security to more than 1,000 residents; and

WHEREAS, the Goodwin House at Home program also offers adults the option to age in place by providing the support and benefits of a continuing care community in the comfort and familiarity of their own homes; and

WHEREAS, Goodwin House, in its continuing commitment to being a strong community partner, contributes on average over 16,000 volunteer hours and donates an in-kind value of more than \$1 million per year to other local organizations; and

WHEREAS, Goodwin House earned national accreditation through the Commission on Accreditation of Rehabilitation Facilities and the Continuing Care Accreditation Commission in 1992, and it is one of only 300 facilities nationwide to choose to maintain this rigorous voluntary accreditation; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Goodwin House on the occasion of its 50th anniversary and the 30th anniversary of its Bailey's Crossroads location; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Goodwin House as an expression of the General Assembly's admiration for the organization's commitment to excellence and care for the community.

**HOUSE JOINT RESOLUTION NO. 1023**

*Commending the Virginia Alliance of Boys & Girls Clubs.*

Agreed to by the House of Delegates, February 20, 2017

Agreed to by the Senate, February 22, 2017

WHEREAS, the Virginia Alliance of Boys & Girls Clubs has made many contributions to the young people of the Commonwealth by supporting its more than 111 local Boys & Girls Clubs; and

WHEREAS, Boys & Girls Clubs provide valuable services to more than 75,000 school-aged children in 50 cities and towns in Virginia; their goal is to enable all young people, especially those who need them most, to realize their full potential as productive, responsible, and caring citizens; and

WHEREAS, the Virginia Alliance of Boys & Girls Clubs strives to enhance the work of Boys & Girls Clubs, promote positive youth development across the Commonwealth, and partner with other youth-serving agencies to form innovative joint programs; and

WHEREAS, utilizing proven youth development methods, leaders in Boys & Girls Clubs stress the importance of strong character and leadership, education and career advancement, and health and life skills; they encourage an appreciation for the arts and provide programs in sports, fitness, and recreation; and

WHEREAS, Boys & Girls Clubs programs promote a positive self-image and improved education, social, emotional, and cultural awareness while encouraging community involvement, strong moral values, and enhanced life management skills; and

WHEREAS, over the years, Boys & Girls Clubs in Virginia have encouraged young people to aspire to the highest levels of personal development and to become good citizens who are deeply involved in their communities; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Virginia Alliance of Boys & Girls Clubs for the outstanding services it provides to children and their families; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Virginia Alliance of Boys & Girls Clubs as an expression of the General Assembly's admiration for the important work of all Boys & Girls Clubs in the Commonwealth.

**HOUSE JOINT RESOLUTION NO. 1024**

*Commending the Summer Program for Arts, Recreation and Knowledge.*

Agreed to by the House of Delegates, February 20, 2017

Agreed to by the Senate, February 22, 2017

WHEREAS, Newport News Public Schools' Summer Program for Arts, Recreation and Knowledge is a successful award-winning summer enrichment program that is making a positive difference in the community; and

WHEREAS, the Summer Program for Arts, Recreation and Knowledge (SPARK) started as a pilot program in 2015, and it served 2,000 students from a portion of the city of Newport News that has a large population of at-risk youth; and

WHEREAS, in 2016, SPARK was expanded with assistance from a \$1.2 million grant from the Commonwealth of Virginia; the program was opened to a larger pool of students enrolled in Newport News Public Schools and 6,000 students participated; and

WHEREAS, SPARK is offered four days a week and is open to students in kindergarten through 12th grade, meals and transportation are included at no cost, and there is no tuition; and

WHEREAS, students who are enrolled in SPARK participate in hands-on activities, learn new skills, and explore their interests outside of the traditional classroom; and

WHEREAS, SPARK provides an engaging menu of enrichment activities that boost early learning, reading, and math skills; college readiness; and job training; the program also includes museum field trips, athletics and recreation, and art experiences; and

WHEREAS, summer learning programs such as SPARK reduce juvenile delinquency and help close the achievement gap; and

WHEREAS, the National School Boards Association honored the Newport News Public Schools with the Magna Award in 2016, recognizing SPARK as an exemplary and innovative example of learning that makes a difference in students' lives; and

WHEREAS, SPARK is a valuable summer learning opportunity for the children of Newport News who are at particular risk of losing the academic, social, and emotional gains they have accrued during the school year; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Newport News Public Schools Summer Program for Arts, Recreation and Knowledge, a successful award-winning summer enrichment program; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Dr. Ashby Kilgore, superintendent of Newport News Public Schools, as an expression of the General Assembly's admiration for the Summer Program for Arts, Recreation and Knowledge's efforts to expand learning opportunities for students and make a positive difference in the community.

#### HOUSE JOINT RESOLUTION NO. 1025

*Commending the Virginia Society for Human Life.*

Agreed to by the House of Delegates, February 20, 2017

Agreed to by the Senate, February 22, 2017

WHEREAS, until the mid-1960s, Virginia and other states, with few exceptions, prohibited abortion unless the mother's life was in danger; and

WHEREAS, in 1966, an official at the Virginia Department of Health urged the legalization of abortion in a major speech on family planning, calling it a "logical and necessary extension of the thriving program of population control"; and

WHEREAS, at the time, Virginia's abortion law, which was enacted in 1847, permitted abortion only for the intention of saving the life of the mother; the purpose of the statute was determined by the Virginia Supreme Court in Miller v. Bennett in 1949 to be "for the protection of the unborn child and through it society"; and

WHEREAS, a committee was formed in 1967, which included the Honorable Joseph V. Gartlan, Jr., and Alex and Geline Williams, establishing the Virginia Society for Human Life to defend the Commonwealth's then current law from reversal; and

WHEREAS, the Virginia Society for Human Life was organized on February 26, 1967, and was the first state right to life organization in the United States; and

WHEREAS, in 1970, Virginia's abortion law was amended to include exceptions for rape, incest, the mother's physical and mental health, and fetal anomaly; and

WHEREAS, on January 22, 1973, the Supreme Court of the United States in the Roe v. Wade and Doe v. Bolton decisions legalized what is tantamount to abortion-on-demand for the full nine months of pregnancy, invalidating prior laws on abortions in all states, including Virginia; and

WHEREAS, in 1973, the Virginia Society for Human Life joined other state organizations to form the National Right to Life Committee, the oldest and largest pro-life organization in the country; and

WHEREAS, since 1967, the Virginia Society for Human Life has worked successfully on the following pro-life laws on behalf of all Virginians: consent and parental notification for abortions, a ban on partial-birth abortions, a woman's right to know, prohibition of physician assisted suicide, healthcare decisions act, bans on human cloning and stem cell research, protection of infants (safe haven), feticide—unborn victims of violence, the "Choose Life" license plate, budget amendments to prevent abortion funding and limit abortion funding in the health care exchange, and abortion clinic regulations; and

WHEREAS, through its presidents, Alex Williams, Marilyn Fanning, Mary Anne Pierce, Allan Zagrodnik, Brenda D. Fastabend, Karen N. Toomy, Robert H. Follett, the Reverend Lester Messerschmidt, George J. Siedel, Catherine V. Driscoll, Constance Law, Eleanor M. Bell, Larry L. Stine, Louise D. Hartz, and Olivia Gans Turner, the Virginia Society for Human Life has represented the unborn and the vulnerable and worked to protect human life; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Virginia Society for Human Life on the occasion of its 50th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Virginia Society for Human Life as an expression of the General Assembly's admiration for the organization's unwavering commitment to the protection of innocent human life.

**HOUSE JOINT RESOLUTION NO. 1026**

*Commending The Health Advantage Yoga Center.*

Agreed to by the House of Delegates, February 20, 2017  
 Agreed to by the Senate, February 22, 2017

WHEREAS, The Health Advantage Yoga Center is celebrating its 25th year serving thousands of clients in the Herndon community; and

WHEREAS, founded in 1991, The Health Advantage Yoga Center is one of the oldest yoga studios in Northern Virginia and the Commonwealth; and

WHEREAS, The Health Advantage Yoga Center offers yoga classes for people of all experience levels and ages, from prenatal yoga for expecting moms to yoga for kids, teens, adults, and older adults; and

WHEREAS, The Health Advantage Yoga Center seeks to assist students in the development of physical, mental, and spiritual well-being, which is a truly priceless health advantage; and

WHEREAS, The Health Advantage Yoga Center promotes relaxation, stress management, and improved fitness for its clients through the peacefulness of body and mind that yoga provides; and

WHEREAS, The Health Advantage Yoga Center helps clients manage and alleviate chronic conditions such as depression, pain, anxiety, and insomnia, and reduce risk factors for heart disease and high blood pressure; and

WHEREAS, Susan Van Nuys, director of The Health Advantage Yoga Center, has been a yoga practitioner since 1989 and began teaching yoga in 1997, and she has studied with many world-class teachers, focusing on alignment-based styles; and

WHEREAS, The Health Advantage Yoga Center is staffed by highly trained and caring instructors, most of whom have taught yoga for over a decade, who prioritize meeting the individual needs of their clients; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend The Health Advantage Yoga Center on celebrating 25 years of serving clients in the Herndon community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Susan Van Nuys, director of The Health Advantage Yoga Center, as an expression of the General Assembly's admiration for the center's work to promote the overall health and well-being of the citizens of Northern Virginia.

**HOUSE JOINT RESOLUTION NO. 1027**

*Celebrating the life of John Harvey Givens, Jr.*

Agreed to by the House of Delegates, February 20, 2017  
 Agreed to by the Senate, February 22, 2017

WHEREAS, John Harvey Givens, Jr., the former Mayor of the Town of Pearisburg, a respected community leader, and a compassionate funeral director, died on January 10, 2017; and

WHEREAS, John Givens served as Mayor of the Town of Pearisburg from 1994 to 2002 and was instrumental in the revitalization of the town and the strengthening of its infrastructure; and

WHEREAS, a 1955 graduate of the Cincinnati College of Embalming, John Givens returned to Pearisburg to operate the family business, Givens Funeral Home, for more than 60 years; he went above and beyond in the practice of his profession, serving the residents of Pearisburg with dignity, grace, compassion, and the utmost professionalism; and

WHEREAS, John Givens served the citizens of the Commonwealth as a member and then president of the Virginia Board of Funeral Directors and Embalmers from 1986 until 1992; and

WHEREAS, John Givens was a member of the board of directors of the Carilion Giles Community Hospital and the National Bank of Blacksburg for more than 20 years; and

WHEREAS, in his later years, John Givens loved to sit on his front porch and wave to all who passed by, offer a kind word to all who stopped in, provide care and support to all who called upon him in their time of need; and

WHEREAS, John Givens was an active, respected, admired, and beloved member of his community, and he will be fondly remembered and greatly missed by numerous family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with sadness the loss of a fine funeral director and an exceptional citizen of Pearisburg, John Harvey Givens, Jr.; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of John Harvey Givens, Jr., as an expression of the General Assembly's respect for his memory.

**HOUSE JOINT RESOLUTION NO. 1028**

*Celebrating the life of the Honorable Thomas Graham Baker, Jr.*

Agreed to by the House of Delegates, February 20, 2017  
 Agreed to by the Senate, February 22, 2017

WHEREAS, the Honorable Thomas Graham Baker, Jr., who served the Dublin community as town attorney and represented the residents of Southwest Virginia in the Virginia House of Delegates for 10 years, died on April 15, 2016; and

WHEREAS, born in Radford and raised in Draper, the Honorable Thomas "Tommy" Graham Baker, Jr., earned a bachelor's degree from Radford College and law degree from Washington and Lee University; and

WHEREAS, Tommy Baker served as the town attorney of Dublin for almost 20 years, then ran for and was elected to the Virginia House of Delegates; he ably represented the residents of Pulaski County, part of Giles County, and the City of Radford in the 7th District from 1990 to 1999; and

WHEREAS, as a member of the Virginia House of Delegates, Tommy Baker introduced and supported many important pieces of legislation to benefit all Virginians and worked to build consensus on significant issues; he offered his expertise to several committees and commissions and finished his career as chair of the House Committee for Courts of Justice; and

WHEREAS, Tommy Baker was deeply dedicated to serving the best interests of the people of Southwest Virginia, and he supported many regional projects and helped create Virginia's First Regional Industrial Facility Authority, which established the New River Valley Commerce Park in Dublin; and

WHEREAS, in addition to his public service, Tommy Baker practiced law with a private firm for many years and inspired students as an educator with the paralegal program at New River Community College; and

WHEREAS, throughout his career, Tommy Baker served the Southwest Virginia community and the entire Commonwealth with the utmost dedication and distinction; and

WHEREAS, Tommy Baker enjoyed fellowship and worship with the congregation of Draper United Methodist Church; and

WHEREAS, Tommy Baker will be fondly remembered and greatly missed by his parents, Betty and Thomas; his son, Jefferson; and numerous other family members, friends, and colleagues on both sides of the aisle; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of the Honorable Thomas Graham Baker, Jr., a public servant in Southwest Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of the Honorable Thomas Graham Baker, Jr., as an expression of the General Assembly's respect for his memory.

#### HOUSE JOINT RESOLUTION NO. 1029

*Commending Deputy First Class Brandon Boyle.*

Agreed to by the House of Delegates, February 20, 2017

Agreed to by the Senate, February 22, 2017

WHEREAS, Deputy First Class Brandon Boyle, an exceptional law-enforcement officer with the Stafford County Sheriff's Office, returned to serving the community after being wounded in the line of duty in 2016; and

WHEREAS, after earning a bachelor's degree from Saginaw Valley State University, Brandon Boyle joined the Stafford County Sheriff's Office in June 2014; he graduated from Rappahannock Regional Criminal Justice Academy in 2015 and was assigned as a patrol officer on a midnight shift; and

WHEREAS, during his first year on patrol, Brandon Boyle issued 155 traffic summonses, made seven DUI arrests and dozens of criminal arrests, and handled hundreds of criminal and service complaints; he is also a member of the SWAT team and the bike team; and

WHEREAS, Brandon Boyle distinguished himself by his work to help members of the community with disabled vehicles or other issues, and he received a commendation from the Commonwealth's Attorney for his comprehensive court preparation; and

WHEREAS, on June 7, 2016, Brandon Boyle and three other deputies responded to a breaking and entering call and encountered a man acting strangely; the man opened fire on the officers, striking Brandon Boyle four times in the hip, thigh, chest, and arm; and

WHEREAS, demonstrating resilience, positivity, and the ability to adapt, Brandon Boyle completed a lengthy recovery and returned to light duty; he served as a guest speaker at Rappahannock Regional Criminal Justice Academy, where he passed along his experience to young law-enforcement officers as an instructor for a tactical medic course; and

WHEREAS, Brandon Boyle is an exemplar of the professionalism, selflessness, and care for the community demonstrated by law-enforcement officers throughout the Commonwealth; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Deputy First Class Brandon Boyle for his courageous service with the Stafford County Sheriff's Office; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Deputy First Class Brandon Boyle as an expression of the General Assembly's admiration for his commitment to serving and protecting the members of the Stafford community.

**HOUSE JOINT RESOLUTION NO. 1030**

*Commending Ronald W. Branscome.*

Agreed to by the House of Delegates, February 20, 2017  
 Agreed to by the Senate, February 22, 2017

WHEREAS, Ronald W. Branscome, who has served and advocated for the disability community in Fredericksburg for more than 40 years, will retire as executive director of the Rappahannock Area Community Services Board in June 2017; and

WHEREAS, Ronald Branscome holds degrees from what is now Towson University and Virginia Commonwealth University; he first came to Fredericksburg in 1974 to coordinate a Developmental Disabilities Grant for the Association of Retarded Citizens-Rappahannock, which established a community-based care system in Planning District 16; and

WHEREAS, Ronald Branscome joined the Rappahannock Area Community Services Board in 1976 as the director of what is now the Developmental Services Division; he implemented a case management program to enhance care for individuals, an infant-development program to provide therapy and training for infants and toddlers with development delays, and an adult day support program; and

WHEREAS, under Ronald Branscome's leadership the Rappahannock Area Community Services Board also opened two innovative programs, the Crisis Stabilization Program at The Sunshine Lady House for Mental Health Wellness & Recovery and the Myers Drive Respite Group Home; and

WHEREAS, Ronald Branscome is also a past chair of the Rappahannock United Way, where he helped raise more than \$2.8 million to support 35 nonprofit organizations; he also serves on the Mary Washington Healthcare Board of Trustees and is a member of the Rotary Club of Rappahannock-Fredericksburg; and

WHEREAS, Ronald Branscome has earned numerous awards and accolades for his good work, including the 1982 Employee of the Year award from the Department of Behavioral Health and Developmental Services, the Advocate Award from the Association of Retarded Citizens-Rappahannock, the David A. Langford Volunteer of the Year Award from the United Way, and the Community Service Award from Mount Olive Baptist Church; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Ronald W. Branscome for his decades of work as an advocate for disability rights on the occasion of his retirement as executive director of the Rappahannock Area Community Services Board; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Ronald W. Branscome as an expression of the General Assembly's admiration for his legacy of service to the Fredericksburg community and the Commonwealth.

**HOUSE JOINT RESOLUTION NO. 1031**

*Commending J.F. Bell Funeral Home, Inc.*

Agreed to by the House of Delegates, February 21, 2017  
 Agreed to by the Senate, February 23, 2017

WHEREAS, J.F. Bell Funeral Home, Inc., Charlottesville's oldest existing business owned by people of color, is celebrating its 100th anniversary year in 2017; and

WHEREAS, J.F. Bell Funeral Home was established in 1917, by John Ferris Bell, Sr., a native of Petersburg, who was trained as a funeral director and mortician in Chicago, Illinois; and

WHEREAS, when a cousin, who was a well-known local dentist, suggested Charlottesville had a need for a mortician, John Bell moved from Chicago to establish the J.F. Bell Funeral Home, which today is the oldest family-run funeral business in central Virginia; and

WHEREAS, J.F. Bell Funeral Home's first location was on Vinegar Hill at 275 West Main Street, and, in 1925, the funeral home moved to a new building at its present location in the historic Starr Hill District; and

WHEREAS, John Bell and his wife, Maude, ran the funeral home as their family expanded, and it flourished for many years in the community where they were very socially and civically active; and

WHEREAS, known for his meticulous recordkeeping and excellent penmanship, John Bell would stay up late at night painstakingly recording all of the information needed for death records; and

WHEREAS, John Bell was a pillar of the Charlottesville community, from whom people sought advice on business, political, social, and personal issues; and

WHEREAS, John Bell's three sons, John, Jr., Henry, and Raymond, studied in Boston, apprenticed under their father, and ended up back in the family funeral home business; and

WHEREAS, John Bell, Sr., served in World War I; all of the Bell brothers served their country in the military, and made important contributions to the business, civic, and social growth of the Charlottesville community; and

WHEREAS, Raymond Bell was a visible figure in the local NAACP during the years of Massive Resistance, and he became the first African American to serve on the Charlottesville School Board; and

WHEREAS, Henry Bell was awarded the Golden Licensee Award from the Virginia Funeral Directors' Association in 2001, recognizing his 50 years of continuous service to the funeral industry; he was also a well-established entrepreneur and investor; and

WHEREAS, John Bell, Jr., was also trained as an accountant, and he reached out to and was respected by all members of the business community, transcending color barriers; and

WHEREAS, J.F. Bell Funeral Home is now proudly operated by the third generation of the Bell family, Deborah Bell Burks, and her husband, Martin, who are carrying on the family tradition of civic service and doing their part to make significant contributions to the Charlottesville community; and

WHEREAS, Martin Burks has continued the tradition of leadership in business by being awarded the 2011 Paul Goodloe McIntire Citizenship Award from the Charlottesville Regional Chamber of Commerce; he has served as president of the Jefferson School Partners, the Jefferson School Foundation, is a board member of the Charlottesville Regional Chamber of Commerce, and gives of his time to various other organizations; and

WHEREAS, Deborah Bell Burks has been active in the community and a member of various boards to include the Jefferson School Foundation, a founding member of the Jefferson School African American Heritage Center, and co-chair of the University of Virginia Families, and she contributes her time to various other civic organizations; and

WHEREAS, the Chamber Diversity Business Council of the Charlottesville Regional Chamber of Commerce established the John F. Bell, Sr. Annual Vanguard Award to recognize others in the business community who are emulating the business tenacity combined with the sense of civic duty which was the legacy that began with John F. Bell, Sr.; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend J.F. Bell Funeral Home, Inc., Charlottesville's oldest existing business owned by people of color, on the occasion of the 100th anniversary of its founding; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Deborah Bell Burks of J.F. Bell Funeral Home, Inc., as an expression of the General Assembly's admiration for the business's important history of community involvement and century of service to the citizens of Charlottesville.

#### HOUSE JOINT RESOLUTION NO. 1032

*Commending the Danville Symphony Orchestra.*

Agreed to by the House of Delegates, February 21, 2017

Agreed to by the Senate, February 23, 2017

WHEREAS, the Danville Symphony Orchestra is celebrating its 25th season of providing quality live musical performances and improving the quality of life of the citizens of the Dan River region; and

WHEREAS, formed in 1991, the Danville Symphony Orchestra was developed from an idea by Winston Stephens, then the choral director at George Washington High School, who became the orchestra's first conductor; and

WHEREAS, the Danville Symphony Orchestra provides an outlet for dedicated musicians from Danville and the Dan River region to express and hone their musical talents; and

WHEREAS, comprising volunteer musicians representing a wide range of ages, the Danville Symphony Orchestra offers a unique opportunity for experienced symphony players to mentor the younger players in the orchestra; and

WHEREAS, the Danville Symphony Orchestra is wholly supported by donations, which allow the orchestra to produce a full Danville Concert Season of four to five programs annually at no cost to patrons; and

WHEREAS, the Danville Symphony Orchestra values giving back to the community, and it annually collects non-perishable food and cash contributions during its concert series performances to donate to God's Storehouse, a local food pantry; and

WHEREAS, in 2000, Charles Ellis became the first instrumentally trained, seasoned conductor in the Danville Symphony Orchestra's history; he retired in 2010 and continues to serve as conductor emeritus and president of the orchestra's board; and

WHEREAS, for six seasons the Danville Symphony Orchestra has been led by Maestro Peter Perret, retired conductor of the Winston-Salem Symphony, and the orchestra is honored to have the guidance of such a seasoned leader; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Danville Symphony Orchestra on celebrating its 25th anniversary in the 2016-2017 season; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Maestro Peter Perret, conductor of the Danville Symphony Orchestra, as an expression of the General Assembly's admiration for the orchestra's commitment to giving the residents of the Dan River region a free and wonderful opportunity to experience culture and the arts.

**HOUSE JOINT RESOLUTION NO. 1033**

*Commending Carol Smith Fenn.*

Agreed to by the House of Delegates, February 21, 2017  
 Agreed to by the Senate, February 23, 2017

WHEREAS, Carol Smith Fenn, an accomplished educator and administrator, will retire as superintendent of Rockingham County Public Schools on June 30, 2017; and

WHEREAS, prior to becoming the first female superintendent of Rockingham County Public Schools, Carol Fenn served as a teacher, an elementary and middle school principal, director of kindergarten through 12th grade education, and assistant superintendent of personnel; and

WHEREAS, during her 10-year career as superintendent, Carol Fenn ably led 25 schools with 11,300 students and 2,500 employees and became one of the longest-serving superintendents in the region; and

WHEREAS, in addition to managing the district budget of more than \$131 million, Carol Fenn oversaw a county-wide school redistricting plan and the construction of three new schools and implemented a comprehensive plan to provide digital resources in county schools; and

WHEREAS, Carol Fenn implemented science, technology, engineering, and mathematics curricula throughout the district, including at the elementary school level, and introduced courses in agricultural science, equine science, and biotechnology; and

WHEREAS, Carol Fenn hosted annual meetings with area school boards to ensure that needs were met and cultivated close ties with businesses and the community to create new opportunities for students and teachers; and

WHEREAS, Carol Fenn encouraged participation in several regional academic programs and increased enrollment in the Massanutten Technical Center, which grants students industry certifications and college credits; and

WHEREAS, working to build a safe learning environment, Carol Fenn helped make Rockingham County Public Schools a leader in the Positive Behavior Interventions and Supports program; and

WHEREAS, under Carol Fenn's leadership, Rockingham County Public Schools earned numerous awards and accolades, including recognition through the College Board's AP District Honor Roll, the Governor's Virginia Index of Performance, and the *U.S. News & World Report* ranking of top Virginia high schools; and

WHEREAS, after her well-earned retirement, Carol Fenn plans to seek new ways to serve and enhance the Rockingham County community; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Carol Smith Fenn on the occasion of her retirement as superintendent of Rockingham County Public Schools in 2017; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Carol Smith Fenn as an expression of the General Assembly's admiration for her exceptional contributions to the students of Rockingham County.

**HOUSE JOINT RESOLUTION NO. 1034**

*Commending Arthur Jerry Benson.*

Agreed to by the House of Delegates, February 21, 2017  
 Agreed to by the Senate, February 23, 2017

WHEREAS, Arthur Jerry Benson of Harrisonburg, who has served the James Madison University community for 37 years, retires as provost and senior vice president for academic affairs in 2017; and

WHEREAS, Jerry Benson holds a bachelor's degree from Concord College and master's and doctoral degrees from George Peabody College for Teachers; he began his career as an educator in West Virginia, then joined James Madison University in 1980; and

WHEREAS, Jerry Benson served as an assistant professor of psychology and director of the Human Development Center and Shenandoah Valley Child Development Clinic; he later was dean of the College of Education and Psychology and dean of the College of Integrated Science and Technology, where he helped establish an innovative intelligence analysis program; and

WHEREAS, Jerry Benson became the vice provost for science, technology, engineering, mathematics, and health and human services in 2007 and was asked to serve as interim provost in the summer of 2010; and

WHEREAS, Jerry Benson was officially named provost and senior vice president for academic affairs in September 2012; he has ably worked with the deans and other leaders of James Madison University to better serve students and faculty; and

WHEREAS, among his many accomplishments, Jerry Benson collaborated with students and faculty to enhance academic standards at James Madison University and oversaw a major revision of the Academic Program Review guidelines and processes; and

WHEREAS, Jerry Benson also developed the Academic Affairs Division Environmental Action Plan and worked with other universities to develop and implement the 4VA program to promote collaborative research, course sharing, and other programs to benefit students and the universities; and

WHEREAS, highly respected in his field, Jerry Benson is a licensed clinical psychologist, and he has volunteered his time and leadership with peer, professional, and community organizations at local, state, and national levels; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Arthur Jerry Benson for his many contributions to James Madison University on the occasion of his retirement as provost and senior vice president; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Arthur Jerry Benson as an expression of the General Assembly's admiration for his service to countless students and the entire James Madison University community.

### HOUSE JOINT RESOLUTION NO. 1035

*Celebrating the life of Charles Henry Gleason, M.D.*

Agreed to by the House of Delegates, February 21, 2017

Agreed to by the Senate, February 23, 2017

WHEREAS, Charles Henry Gleason, M.D., a prominent Charlottesville pediatric physician and World War II veteran, died on February 7, 2017; and

WHEREAS, a son of the late Hope and Laura Gleason, Charles "Charlie" Henry Gleason, M.D., lived all but one year of his life in Charlottesville; and

WHEREAS, Charlie Gleason enlisted in the United States Marine Corps as soon as he turned 18, and he served as a gunner in a two-person dive bomber aircraft in the Pacific in World War II; and

WHEREAS, upon returning from the war, Charlie Gleason married his high school sweetheart, Betz, and they settled down on Hopewood Farm to begin their family; and

WHEREAS, Charlie Gleason received a bachelor's degree and doctor of medicine degree from the University of Virginia, where he chose to specialize in pediatrics; and

WHEREAS, Charlie Gleason joined the medical staff of Martha Jefferson Hospital in 1960, and went on to serve as president of the medical staff, chief of the pediatrics section, and a member of the hospital's board of directors; and

WHEREAS, Charlie Gleason became a founding partner of Pediatric Associates in 1971, and for 28 years he practiced medicine and cared for several generations of children in Charlottesville and the surrounding area; and

WHEREAS, Charlie Gleason believed deeply in community service, and he worked to build a stronger and better Charlottesville throughout his life; and

WHEREAS, Charlie Gleason did a tremendous amount of work to help children outside of his medical practice, including founding and serving on the board of Children, Youth, and Family Services, now known as ReadyKids; and

WHEREAS, Charlie Gleason was among the community leaders who founded a camp for underprivileged children in Charlottesville and Albemarle County, and he provided free health care screenings to those who attended Camp Faith; and

WHEREAS, Charlie Gleason served on the vestries of Christ Church and St. Paul's Memorial Church, where he also served as senior warden; and

WHEREAS, later in life Charlie Gleason especially enjoyed playing the tenor saxophone in the Senior Center Second Wind Band and its jazz ensemble, The Flashbacks; and

WHEREAS, Charlie Gleason will be fondly remembered and greatly missed by his wife of almost 71 years, Betz; their children, Michie, Laurie, Jeffrey, Barrie, and Kelly, and their families; and a host of other relatives and good friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Charles Henry Gleason, M.D., a prominent Charlottesville pediatric physician and World War II veteran; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Charles Henry Gleason, M.D., as an expression of the General Assembly's respect for his memory.

### HOUSE JOINT RESOLUTION NO. 1036

*Commemorating the lives and legacies of the Jewish victims of the Holocaust.*

Agreed to by the House of Delegates, February 21, 2017

Agreed to by the Senate, February 23, 2017

WHEREAS, between 1939 and 1945, six million European Jews were systematically murdered in what became known as the Holocaust, the deadliest genocide in human history; and

WHEREAS, Adolf Hitler and the Nazi Party rose to power in Germany on a campaign of antisemitism and nationalism; and the Nazis vilified the Jewish people, fomented acts of violence against Jews, and insisted on boycotts of Jewish-owned stores; and

WHEREAS, Nazi Germany implemented the discriminatory Nuremberg Laws, forcing Jews to register and wear a yellow star; and Jews throughout Europe were rounded up and forced into ghettos and concentration camps, where they were starved and kept in miserable conditions; and

WHEREAS, Jewish men, women, and children were tortured and humiliated by their Nazi captors and were the unwilling victims of gruesome and cruel experiments that served no medical purpose; and

WHEREAS, more than a million Jewish men, women, and children were shot dead by the Einsatzgruppen death squads, who shot them dead en masse; and

WHEREAS, millions of Jewish men, women, and children were murdered in gas chambers by the Nazi regime; and

WHEREAS, more than six million Jews, including at least 1.5 million children, were murdered in the Holocaust by the Nazi regime and its European allies; and

WHEREAS, the number of Jews murdered in the Holocaust constituted more than one-third of the world Jewish population at the time; and

WHEREAS, the extermination of the Jews was the primary purpose of the Holocaust, and the Holocaust must be remembered and continue to be taught in Virginia's schools; and

WHEREAS, recently deceased Holocaust survivor Elie Wiesel urged the world to oppose all genocide with the phrase "Never Again!"; and

WHEREAS, the Virginia Holocaust Museum in Richmond, the U.S. Holocaust Memorial Museum in Washington, D.C., and Yad Vashem in Jerusalem have gathered and displayed abundant and irrefutable evidence of the Holocaust; and

WHEREAS, many survivors of the Holocaust settled in the Commonwealth, bringing with them personal stories of the hardships, subhuman living conditions, and other atrocities during the Holocaust, which they have courageously revisited to educate future generations on the supreme importance of opposing the persecution, hatred, bigotry, and genocide of any group of people; and

WHEREAS, Holocaust survivors, such as Liviu Librescu, a professor who willingly gave his own life to save numerous lives during the Virginia Tech massacre, became inspirational leaders throughout the Commonwealth, making many lasting contributions to their communities and creating legacies which live on in their children and grandchildren; and

WHEREAS, anyone or any institution that rejects the Jewish component of the Holocaust or refuses to acknowledge that Jews were the primary target of the Holocaust is participating in Holocaust denial and must be condemned; and

WHEREAS, communities throughout the Commonwealth, the United States, Israel, and the world commemorated International Holocaust Remembrance Day on January 27, the anniversary of the liberation of Auschwitz-Birkenau, the largest extermination camp; and will commemorate Yom HaShoah or Holocaust Remembrance Day on April 23-April 24, 2017, to remember the lives lost during the Holocaust and honor the survivors of the Holocaust; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commemorate the memory of the six million Jews murdered in the Holocaust and the lives and legacies of Holocaust survivors; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Virginia Holocaust Museum as an expression of the General Assembly's respect for the lives lost during the Holocaust and admiration for the courage and perseverance of the survivors of the Holocaust.

### HOUSE JOINT RESOLUTION NO. 1037

*Celebrating the life of the Honorable Charles Weldon Wampler, Jr.*

Agreed to by the House of Delegates, February 21, 2017

Agreed to by the Senate, February 23, 2017

WHEREAS, the Honorable Charles Weldon Wampler, Jr., of Dayton, a poultry industry icon, former state legislator, and highly regarded Harrisonburg area philanthropist, died on January 15, 2017, at the age of 101; and

WHEREAS, one of nine children of the late Charles and Sadie Wampler, Charles "Charlie" Weldon Wampler, Jr., was born on Thanksgiving Day in 1915, at Sunny Slope Farm in Dayton, where his father gave birth to the modern turkey industry; and

WHEREAS, Charlie Wampler graduated from Dayton High School and attended Bridgewater College and Rutgers University in New Jersey; and

WHEREAS, introduced to the poultry industry early, Charlie Wampler helped prepare turkey feed for the family business at age seven and began working full-time at Wampler Feed and Seed Company as a field man in 1937; and

WHEREAS, Charlie Wampler eventually became the company's general manager and president, overseeing its successful expansion and evolution into WLR Foods Inc., from which he retired as chairman emeritus in 1998; and

WHEREAS, a friend of the farmer and highly respected by his colleagues in agribusiness, Charlie Wampler played a pivotal role in establishing Rockingham County as the "Turkey Capital of the World," and putting the Shenandoah Valley on the map as the Commonwealth's leading poultry producer; and

WHEREAS, a lifelong Democrat, Charlie Wampler was elected to represent Harrisonburg and Rockingham County in the Virginia House of Delegates from 1954 to 1966, where he served on the Agriculture, Finance, and Labor Committees; and

WHEREAS, throughout his lifetime, Charlie Wampler's name was synonymous with the community and civic life of the Shenandoah Valley, where he championed many charitable organizations and institutions; and

WHEREAS, Charlie Wampler was president and general manager of the Rockingham County Fair Association for 25 years, and he and his wife, Dorothy, were cofounders of the United Way of Harrisonburg and Rockingham County, and he worked on its fundraising campaigns for many years; and

WHEREAS, Charlie Wampler served as president and chairman of the board for Rockingham Memorial Hospital (now Sentara RMH Medical Center), was a Rector of the Board at James Madison University, served on the Board of Visitors at Virginia Tech, and was chairman of the Virginia State Board of Agriculture and Commerce; and

WHEREAS, the civic contribution of which Charlie Wampler was most proud was the 171 pints of blood he donated to the RMH Blood Bank and Virginia Blood Services over the years, benefiting over 500 people; and

WHEREAS, Charlie Wampler loved tennis and played until he was 96, and he enjoyed mowing his lawn and tending his flowers, which he did until he turned 100; and

WHEREAS, up until two weeks before his death, Charlie Wampler would "go to work" volunteering as a greeter in the dining room at Sentara RMH Medical Center, where he could be found clearing trays and visiting with many friends; and

WHEREAS, a longtime member of the Church of the Brethren in Harrisonburg, Charlie Wampler treated people with respect and affection; he was known as a kind, cheerful, loving, and generous spirit and for his quick and wry sense of humor; and

WHEREAS, preceded in death by his beloved wife of 75 years, Dorothy, Charlie Wampler will be fondly remembered and greatly missed by his daughters, Libby, Barbara, and Margaret, and their families, and a host of other devoted family members, good friends, and colleagues on both sides of the aisle; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of the Honorable Charles Weldon Wampler, Jr., of Dayton, a poultry industry icon, former state legislator, and esteemed philanthropist; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of the Honorable Charles Weldon Wampler, Jr., as an expression of the General Assembly's respect for his memory.

### HOUSE JOINT RESOLUTION NO. 1038

*Commending Marine Corps Base Quantico.*

Agreed to by the House of Delegates, February 21, 2017

Agreed to by the Senate, February 23, 2017

WHEREAS, for 100 years, Marine Corps Base Quantico, strategically located in the Counties of Stafford, Prince William, and Fauquier, has been an integral base for the nation's military and an essential part of the local community; and

WHEREAS, in May 1917, the United States Marine Corps took title to the land owned by the Quantico Company and established a temporary cantonment named Marine Barracks, Quantico at the present-day location of the main side of the base, which the United States Marine Corps used for tactical and leadership training to prepare Marines for the Western Front of Europe during World War I; and

WHEREAS, the outbreak of World War I necessitated the expansion of Marine Barracks, Quantico and upon the conclusion of the war the permanent establishment of Quantico as a base of Marine Corps operations; and

WHEREAS, during World War II, Marine Corps Base Quantico's training mission required the purchase of 51,000 acres of land west of U.S. Highway 1, the Guadalcanal Area, and has developed this into a premier live-fire training environment that is still widely used today; and

WHEREAS, following World War II, Marine Corps Base Quantico's mission slowly evolved from only the training of new Marines and officers to research, development, and education, as exemplified by the Marine Corps Combat Development Command, Marine Corps University, Command & Staff College, Expeditionary Warfare School, War College, and Warfighting Lab; and

WHEREAS, Marine Corps Base Quantico has been home to and has worked in support of HMX-1, the helicopter squadron responsible for serving the President of the United States as directed; and

WHEREAS, Marine Corps Base Quantico strives to preserve the valuable natural resources of the Commonwealth and supports programs to protect endangered species, including the Northern Long-Eared Bat, Dwarf Wedgemussel, Small Whorled Pogonia, and Harperella; and

WHEREAS, Marine Corps Base Quantico has continued to play a valuable role in the nation's defense efforts, transforming into an essential administrative, intelligence, logistics, and operations support role for its mission partners, including seven Marine Corps major command headquarters, nine different agencies of the United States Department of the Navy, two elements of the United States Marine Corps Reserve, and 46 United States Department of Defense (DOD), Department of Justice, and other federal agencies; and

WHEREAS, Marine Corps Base Quantico is home to 6,200 active duty military personnel and many of their families, 11,000 civilian employees, and 4,000 contract employees; in 2015, Marine Corps Base Quantico supported 47,500 direct and indirect jobs and accounted for \$4.9 billion in economic impact; and

WHEREAS, from a training school for infantry to a testing ground for military projects to helping support the United States Marine Corps and DOD commands, Marine Corps Base Quantico has continued to evolve over the past century to meet America's military needs and today serves as a major support installation for the nation's senior civilian and military leadership; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Marine Corps Base Quantico on the occasion of its 100th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Colonel Joseph M. Murray, Commander, Marine Corps Base Quantico, as an expression of the General Assembly's congratulations on Marine Corps Base Quantico's 100th anniversary and admiration and respect for its many contributions to the Commonwealth and pivotal role in the nation's defense strategy.

### HOUSE JOINT RESOLUTION NO. 1039

*Commending Hawkins-Reeve VFW Post 7916.*

Agreed to by the House of Delegates, February 21, 2017

Agreed to by the Senate, February 23, 2017

WHEREAS, Hawkins-Reeve VFW Post 7916, located in the heart of historic Occoquan, recently celebrated its 70th anniversary and seven decades of service to veterans, military families, and the greater Northern Virginia community; and

WHEREAS, Hawkins-Reeve VFW Post 7916 is a nonprofit patriotic, social, fraternal, and educational association of VFW members, "warriors still serving," whose mission is to honor the dead by helping the living; and

WHEREAS, Hawkins-Reeve VFW Post 7916 was founded by a group of World War II veterans in the Woodbridge, Occoquan, and Lorton areas; it was officially mustered on June 26, 1946, and was led by Mac McGuire as the first commander; and

WHEREAS, Hawkins-Reeve VFW Post 7916 was named in honor of Lieutenant Junior Grade Claggett Hartwood Hawkins, a United States Naval Reserve pilot from Woodbridge, and Second Lieutenant Charles Douglas Reeve, a United States Army Air Corps pilot from Lorton, who lost their lives in the service of their country in 1944; and

WHEREAS, the Virginia VFW has a rich tradition of serving veterans, military families, and their local communities, and Hawkins-Reeve VFW Post 7916 is well-known for its work in the local community; and

WHEREAS, Hawkins-Reeve VFW Post 7916 participates in veterans' memorials, works with the Occoquan Craft Fair during Occoquan Days, and assists in leading several Boy Scout troops in the area; and

WHEREAS, Hawkins-Reeve VFW Post 7916 is proud to support the Virginia Department of Veterans Services Wounded Warrior Program, which has a mission of improving and expanding services to veterans and their families, by serving as an office location for a program representative; and

WHEREAS, Hawkins-Reeve VFW Post 7916 has been a high-profile, committed community partner serving veterans, active duty military and their families, and the local citizens for over 70 years; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Hawkins-Reeve VFW Post 7916 on the occasion of its 70th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Chuck Wilson, commander of Hawkins-Reeve VFW Post 7916, as an expression of the General Assembly's admiration for the organization's efforts to carry on the proud tradition of serving veterans, military families, and the local community.

### HOUSE JOINT RESOLUTION NO. 1040

*Commending Daniel A. Menascé.*

Agreed to by the House of Delegates, February 21, 2017

Agreed to by the Senate, February 23, 2017

WHEREAS, Daniel A. Menascé, a dedicated professor of computer science at George Mason University, received a 2017 Outstanding Faculty Award; and

WHEREAS, the Virginia Outstanding Faculty Awards program, presented by the State Council of Higher Education for Virginia and Dominion Resources, recognizes the finest among the Commonwealth's higher education faculty for their superior abilities and accomplishments in teaching, research, service, and knowledge integration; and

WHEREAS, Daniel Menascé was one of 12 distinguished educators from throughout the Commonwealth to receive the award; he has worked at George Mason University for 12 years, preparing countless students to achieve success in their career fields and become responsible citizens of the Commonwealth; and

WHEREAS, Daniel Menascé has conducted valuable research in the areas of self-managed computer systems, performance modeling analysis of computer systems, software performance engineering, distributed systems, and e-commerce technologies; and

WHEREAS, Daniel Menascé has earned numerous other awards and accolades for his work to advance the field of computer science education in the Commonwealth and the United States; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Daniel A. Menascé on receiving a 2017 Outstanding Faculty Award; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Daniel A. Menascé for his service to the students of George Mason University and contributions to academia.

#### HOUSE JOINT RESOLUTION NO. 1041

*Commending Margaret Leary.*

Agreed to by the House of Delegates, February 21, 2017

Agreed to by the Senate, February 23, 2017

WHEREAS, Margaret Leary, a dedicated professor of information technology and cybersecurity at Northern Virginia Community College, received a 2017 Outstanding Faculty Award; and

WHEREAS, the Virginia Outstanding Faculty Awards program, presented by the State Council of Higher Education for Virginia and Dominion Resources, recognizes the finest among the Commonwealth's higher education faculty for their superior abilities and accomplishments in teaching, research, service, and knowledge integration; and

WHEREAS, Margaret Leary was one of 12 distinguished educators from throughout the Commonwealth to receive the award; she has worked at Northern Virginia Community College for 19 years, preparing countless students to achieve success in their career fields and become responsible citizens of the Commonwealth; and

WHEREAS, Margaret Leary is the first recipient of the Edward H. and Marilyn D. Bersoff Endowed Chair for Computer and Information Sciences at Northern Virginia Community College, and she also serves as the curriculum director of the National CyberWatch Center; and

WHEREAS, Margaret Leary has also made contributions to community colleges throughout the United States, developing a critical infrastructure security course that has been made available nationwide; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Margaret Leary on receiving a 2017 Outstanding Faculty Award; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Margaret Leary as an expression of the General Assembly's admiration for her service to the students of Northern Virginia Community College and contributions to academia.

#### HOUSE JOINT RESOLUTION NO. 1042

*Commending Burke Centre Conservancy.*

Agreed to by the House of Delegates, February 21, 2017

Agreed to by the Senate, February 23, 2017

WHEREAS, for more than 40 years, Burke Centre Conservancy has fostered a strong sense of community in the Burke Centre neighborhood of Fairfax County; and

WHEREAS, the Burke Centre community traces its roots to the 1700s, when Lord Fairfax granted land to Henry Ward and Francis Coffey, whose great-great-granddaughter married Silas Burke, a prominent local landowner; the area became known as Burke's Station in the 1850s for Silas Burke's contributions to the railroad passing through the area; and

WHEREAS, in the 1970s and 1980s, Burke Centre was developed as a planned residential community managed by the Burke Centre Conservancy, with the first residents arriving in the spring of 1977; today, Burke Centre is home to more than 18,000 people in more than 5,800 residences; and

WHEREAS, Burke Centre Conservancy oversees the beautifully maintained 1,700-acre community, which features miles of walking and hiking trails, community centers, pools, tennis courts, volleyball and basketball courts, and other amenities; and

WHEREAS, Burke Centre has become one of the premier communities in Northern Virginia through the generous volunteer efforts of its residents; Burke Centre Conservancy is governed by an elected volunteer Board of Trustees, which directs a hardworking professional staff of nearly 20 employees; and

WHEREAS, Burke Centre Conservancy will commemorate the 40th anniversary of Burke Centre with special events throughout 2017, including interactive contests, historical exhibits, and other opportunities for residents; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Burke Centre Conservancy for its service to the residents of Burke Centre on the occasion of its 40th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Board of Trustees of Burke Centre Conservancy as an expression of the General Assembly's admiration for the community's contributions to Fairfax County.

### HOUSE JOINT RESOLUTION NO. 1043

*Commending the Tinner Hill Heritage Foundation.*

Agreed to by the House of Delegates, February 21, 2017

Agreed to by the Senate, February 23, 2017

WHEREAS, for 20 years, the Tinner Hill Heritage Foundation, a nonprofit organization in Falls Church, has worked to preserve the legacy of the community's contributions to the Civil Rights movement in Northern Virginia; and

WHEREAS, the rise of land at the south-central border of Falls Church and Fairfax County has been known as Tinner Hill since the late 1800s, when Joseph and Mary Tinner settled in the area; the Tinner family mined pink granite from a nearby quarry and became well-known as craftsmen and stonemasons; and

WHEREAS, founded in 1997, the Tinner Hill Heritage Foundation works to preserve the rich cultural heritage of a community, led by two prominent African American leaders who lived in the area, Joseph Tinner and Edwin Bancroft (E. B.) Henderson, who fought racial injustice and established the first rural branch of the NAACP; and

WHEREAS, the Tinner Hill Heritage Foundation led the effort to preserve the Tinner Hill Historic Site, where once stood the home of Joseph Tinner at 106-108 Tinner Hill Road; Joseph Tinner was a celebrated master stonemason in the area, and was also known for his oratory and speaking ability on civic matters; and

WHEREAS, E. B. Henderson, a teacher in the Washington, D.C., "Colored" schools, was guided by his faith to fight racial injustice; when in 1915 the Falls Church Town Council voted to segregate the town and restrict the land ownership rights of African Americans, he called a meeting at the home of Joseph Tinner to discuss the matter with seven other leaders from the African American community; and

WHEREAS, these men, "The Council of Nine," established the Colored Citizen's Protective League (CCPL) and immediately began to write letters to all the town councilmen, businesses, and churches to see where they stood on the issue of creating four segregated districts and separating the races in Falls Church; E. B. Henderson wrote another letter to W. E. B. Du Bois, requesting to start a branch of the NAACP, but upon learning that there were no rural branches, asked for permission to designate the CCPL as a standing committee of the NAACP; and

WHEREAS, on June 1915, the issue was put to a referendum vote, which passed, and was quickly followed by a suit in Fairfax County Circuit Court, but the judge never ruled on the issue, because it was decided by the Supreme Court of the United States in the decision of Buchanan v. Warley that creating segregated districts within municipalities was unconstitutional; and

WHEREAS, while the CCPL was not successful in having the law rescinded, it was unenforceable because of the higher court's ruling on the matter; the CCPL became the first rural branch of the NAACP in 1918, with Joseph Tinner as its first president and E. B. Henderson as secretary; and

WHEREAS, the Historic Henderson House at 307 South Maple Avenue was where the second meeting of the CCPL took place in 1915, and then it became a regular meeting place for civil rights activity in the area; a Sears kit home built by E. B. Henderson and his wife, Mary Ellen Henderson, in 1913, it is currently occupied by their grandson, and Tinner Hill Heritage Foundation founder, Edwin B. Henderson II and his wife, Nikki Graves Henderson; and

WHEREAS, in addition to his work with the CCPL and the NAACP, E. B. Henderson was a pioneer in the field of physical education and athletics; he became the first African American male to be certified to teach physical education after graduating from Harvard University, where he learned the game of basketball, which he brought to Washington, D.C., where he introduced the sport for the first time, on a wide-scale organized basis, to African Americans, organizing the first African American athletic league and an organization for officials to referee competitions, and he was inducted into the Naismith Memorial Basketball Hall of Fame in 2013; and

WHEREAS, Mary Ellen Henderson was also a respected leader in the Civil Rights movement; serving as principal of the Falls Church Colored School from 1919 to 1950, she began advocating for a new, modern school to ensure that African American students had a safe and equitable environment in which to learn, resulting in the construction of James Lee Elementary School in 1948, the first modern school for African Americans with indoor bathrooms, running water, and a classroom for each grade taught; and

WHEREAS, in 1999, the Tinner Hill Heritage Foundation erected the Tinner Hill Monument, a pink granite gothic arch honoring the courageous work of the members of the CCPL, which stands at the corner of South Washington Street and Tinner Hill Road; the gothic arch was Joseph Tinner's signature architectural detail, which pays homage to his skill as a stonemason; and

WHEREAS, in 2006, Tinner Hill received a Virginia State Historic Marker, becoming one of only two sites with such markers in the City of Falls Church, the other being the Virginia State Historic Marker at the Falls Church Episcopal Church, for which the town is named; and

WHEREAS, in 2015, the Tinner Hill Historic Site, a collaboration between the Tinner Hill Heritage Foundation, City of Falls Church, Fairfax County, and the Northern Virginia Regional Park Authority, dedicated this site to exist in perpetuity as a sacred place of remembrance of those who came together on January 8, 1915, to establish the first rural branch of the NAACP, as well as the civil rights legacy of the Falls Church community; and

WHEREAS, the Tinner Hill Heritage Foundation has also worked to preserve the history and heritage of other individuals and families in the area, including Frederick Foote, Jr., a merchant, constable, and town council member; James Lee, who donated his land to build a school; Viola Hudson, who worked to ensure that the United States Postal Service delivered mail to the Southgate neighborhood; Harriet Brice, who helped secure land for the construction of Galloway Methodist Church; John Jackson, a Piedmont blues musician and a longtime NAACP member; and many others; and

WHEREAS, in addition to maintaining archival resources pertaining to the civil rights history of the Falls Church community and its African American residents, the Tinner Hill Heritage Foundation strives to enrich the community by promoting understanding and respect for all races, creeds, and cultures; hosting educational activities, exhibitions, workshops, and seminars; and organizing the annual Tinner Hill Blues Festival to celebrate the ways in which dedicated individuals can change the world for the better; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Tinner Hill Heritage Foundation on the occasion of its 20th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Tinner Hill Heritage Foundation as an expression of the General Assembly's admiration for the foundation's work to preserve the history and heritage of Falls Church and the Commonwealth.

#### HOUSE JOINT RESOLUTION NO. 1044

*Commending Falls Church City Public Schools.*

Agreed to by the House of Delegates, February 21, 2017

Agreed to by the Senate, February 23, 2017

WHEREAS, Falls Church City Public Schools became the first public school system in the Commonwealth to offer a comprehensive International Baccalaureate program for students in kindergarten through 12th grade; and

WHEREAS, International Baccalaureate (IB) programs provide students and teachers with a balanced framework to become inquisitive, respectful world citizens that are knowledgeable, principled, and open-minded leaders that are willing to step outside of their comfort zone to experience new ideas; and

WHEREAS, in 1981, George Mason High School in Falls Church became the first high school in Virginia to adopt the IB Diploma Programme, granting thousands of students the opportunity to receive a world-class education with internationally recognized syllabi and rigorous external assessments; and

WHEREAS, the IB program at George Mason High School requires study in six core competencies, the completion of an extended essay, completion of a Theory of Knowledge course, and participation in community service, and it helps students develop physically, intellectually, emotionally, and ethically; and

WHEREAS, in 2012, Falls Church City Public Schools implemented the IB Primary Years Programme (PYP) at Mount Daniel Elementary School and Thomas Jefferson Elementary School, to give students between the ages of three and 12 a stronger foundation to become active, caring, lifelong learners; the programs include a collaborative PYP Exhibition, where students carry out in-depth studies of real-world issues; and

WHEREAS, Falls Church City Public Schools became the first school system in Virginia to offer the IB curriculum to all students with the addition of a Middle Years Programme (MYP) at Mary Ellen Henderson Middle School and George Mason High School in 2016; and

WHEREAS, the MYP fosters creative, reflective, and critical thinking skills and teaches students between the ages of 11 and 16 to develop the communication skills and intercultural understanding necessary to become global leaders; students complete an MYP Personal Project to assess their self-management, research abilities, and other skills; and

WHEREAS, the MYP completes the full IB program, building on the knowledge skills and attitudes developed in the PYP and preparing students to meet the academic challenges of the IB Diploma Programme; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Falls Church City Public Schools on becoming the first public school system in the Commonwealth to offer an International Baccalaureate program for students in all grade levels; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Falls Church School Board as an expression of the General Assembly's admiration for the school system's work to provide new opportunities for its students.

**HOUSE JOINT RESOLUTION NO. 1045**

*Commending Mary K. Tuohy.*

Agreed to by the House of Delegates, February 21, 2017  
Agreed to by the Senate, February 23, 2017

WHEREAS, Mary K. Tuohy retired as the director of finance for the Town of Herndon on December 31, 2016, after more than 34 years of public service; and

WHEREAS, Mary Tuohy holds a bachelor's degree in accounting from Virginia Polytechnic Institute and State University, a master's degree in public administration from George Mason University, and a license as a Certified Public Accountant; she began her career in local government with the Town of Blacksburg; and

WHEREAS, on March 14, 1994, Mary Tuohy was appointed by the town manager to serve as the director of finance for the Town of Herndon, where she provided exceptional leadership and service to the members of the Herndon community for 22 years; and

WHEREAS, Mary Tuohy managed the town's finances; helped collect delinquent taxes, fees, and claims for the town; and helped the town achieve and maintain a AAA bond rating and excellent financial reserves, a tribute to her sound financial leadership; and

WHEREAS, committed to financial excellence, Mary Tuohy worked tirelessly to ensure that the town consistently met the Government Finance Officers Association's (GFOA) high standards for accounting and budgeting; and

WHEREAS, Mary Tuohy's diligence and attention to detail nearly guaranteed that the town received the Distinguished Budget Award and the Certificate of Achievement for Excellence in Financial Reporting for the town's Comprehensive Annual Financial Report from the GFOA each year she was with the town; and

WHEREAS, Mary Tuohy's commitment to the town and her application of the highest standards were apparent through her active involvement in several professional organizations, including the Virginia Government Finance Officers' Association, where she served as president from 1996 to 1997; the Virginia Local Government Finance Corporation Board of Directors, where she served as vice president in 2016; and her active participation in the GFOA; and

WHEREAS, exhibiting a collaborative attitude, Mary Tuohy was always willing to support the financial needs of every town department by maintaining a positive outlook, seeking solutions rather than barriers, welcoming a challenge, having a strong sense of humor, willingly teaching others what she knew, and demonstrating her passion and enthusiasm for her job and the town every day; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Mary K. Tuohy on the occasion of her retirement as director of finance for the Town of Herndon in 2016; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Mary K. Tuohy as an expression of the General Assembly's admiration for her loyal and dedicated service to the residents of the Town of Herndon and best wishes on her well-earned retirement.

**HOUSE JOINT RESOLUTION NO. 1046**

*Commending the Virginia Commission for the Arts.*

Agreed to by the House of Delegates, February 21, 2017  
Agreed to by the Senate, February 23, 2017

WHEREAS, in 1968, the Virginia Commission for the Arts was established for the purpose of recognizing excellence in and encouraging growth of the arts in the Commonwealth; and

WHEREAS, the mission of the Virginia Commission for the Arts (VCA) is to increase availability of and accessibility to the arts, demonstrate a commitment to lifelong arts learning and education, build a healthy and productive arts infrastructure, recognize the arts as a vital component of the Commonwealth's economy, and provide an environment that is open and conducive to artistic expression; and

WHEREAS, for almost 50 years, the VCA has been committed to funding works based on artistic quality, increasing access to the arts for all, promoting the diverse cultures of the Commonwealth, assisting artists to grow in their careers, developing innovative arts organizations, and providing an exemplary arts education to all the people of the Commonwealth; and

WHEREAS, in 2017, the VCA held the 2017 Art Works for Virginia conference, the themes of which were creative place making through land use and urban design projects; opportunities for arts and cultural instruction through education reforms, including the Every Student Succeeds Act; workforce policies that use the arts to encourage more critical and original thinking for 21st-century industries; and analytical tools to help arts organizations measure their success and extend their social and economic influence on their communities and beyond; and

WHEREAS, the focus of the VCA has always been to share and promote the richness that artists from the Commonwealth bring to the arts and provide an environment in which young artists can develop their talents and find success in a career in the arts; and

WHEREAS, the VCA will commemorate its 50th anniversary with a full year of programming, leading up to the anniversary celebration during the 2018 Session of the Virginia General Assembly; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Virginia Commission for the Arts for its mission to bring beautiful works of art to the public, provide opportunities for emerging and established artists, offer arts education programs, and promote advancement in the fine arts; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Margaret Vanderhye, executive director of the Virginia Commission for the Arts, as an expression of the General Assembly's admiration for the commission's work to cultivate enthusiasm for the fine arts in the Commonwealth.

#### HOUSE JOINT RESOLUTION NO. 1047

*Commending Cherry Run Elementary School.*

Agreed to by the House of Delegates, February 22, 2017

Agreed to by the Senate, February 23, 2017

WHEREAS, Cherry Run Elementary School in Burke was named a National PTA School of Excellence for 2016-2018; and WHEREAS, opened in 1983, Cherry Run Elementary School provides all students a rigorous academic program across all curriculum areas to help students reach their full potential; and

WHEREAS, Cherry Run Elementary School in Fairfax County was one of 14 schools in the Commonwealth to earn a 2016-2018 National PTA School of Excellence designation for its leadership and accomplishments in building strong, effective family-school partnerships; and

WHEREAS, the National PTA School of Excellence program goal is to encourage families to feel welcomed and empowered to support student success, and the PTA is a key partner for continuous school improvement; and

WHEREAS, the National PTA School of Excellence designation is achieved when families' perceptions of the school demonstrate that the PTA and school have implemented a high level of family engagement, or when the PTA and school have made a substantive, positive improvement in families' perceptions since the beginning of the school year; and

WHEREAS, through the National PTA School of Excellence program, PTAs and school partners gain customized recommendations, training, and hands-on coaching as they work to achieve the PTA National Standards for Family-School Partnerships; and

WHEREAS, the administrators, faculty, and staff at Cherry Run Elementary School have forged an excellent partnership with the Cherry Run Elementary PTA, led by former president Elizabeth Cassady (2014-2016) and current president Joanna Sampson, and are true examples of what can be accomplished when schools and families work together; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Cherry Run Elementary School on being named a National PTA School of Excellence for 2016-2018; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Mark Bibbee, principal of Cherry Run Elementary School, and Joanna Sampson, Cherry Run Elementary PTA president, as an expression of the General Assembly's admiration for the school's dedication to high standards and excellence in all areas.

#### HOUSE JOINT RESOLUTION NO. 1048

*Commending Paralyzed Veterans of America.*

Agreed to by the House of Delegates, February 21, 2017

Agreed to by the Senate, February 23, 2017

WHEREAS, for more than 70 years, Paralyzed Veterans of America has been on a mission to change lives and build brighter futures for the nation's seriously injured heroes; and

WHEREAS, headquartered in Washington, D.C., Paralyzed Veterans of America was founded in 1946 by a group of World War II veterans who returned from service with spinal cord injuries; and

WHEREAS, today, Paralyzed Veterans of America is an organization dedicated to fighting for quality health care and decent benefits for all veterans, funding medical research, and achieving civil rights for people with disabilities; and

WHEREAS, Paralyzed Veterans of America seeks to empower the brave men and women who served this country to achieve the things they fought for, freedom and independence, and to help them get a fair shot at the American Dream; and

WHEREAS, Paralyzed Veterans of America supports research, educational programs, and many other initiatives that seek to improve daily life for the more than 750,000 people in the United States, including veterans, who live with spinal cord injury or a spinal cord disease; and

WHEREAS, NASCAR legend Richard Petty is an honorary spokesperson for Paralyzed Veterans of America and in recent years he has teamed with grocery store chain Food City to raise hundreds of thousands of dollars for Paralyzed Veterans of America's Mission: ABLE campaign; and

WHEREAS, Paralyzed Veterans of America has 34 chapters that represent thousands of veterans in all 50 states, Washington, D.C., and Puerto Rico; and

WHEREAS, since its founding, Paralyzed Veterans of America has been led by generation after generation of distinguished leaders whose expertise, energy, dedication, and passion have enabled the organization to sustain and expand the programs essential to achieving its mission; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Paralyzed Veterans of America for its significant work to improve the quality of life for veterans and all people living with spinal cord injury and disease; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Al Kovach, Jr., Paralyzed Veterans of America national president, as an expression of the General Assembly's admiration for the organization's honorable efforts to create a barrier-free America for all people with disabilities, especially veterans.

**HOUSE JOINT RESOLUTION NO. 1049**

*Commending the Morrison School.*

Agreed to by the House of Delegates, February 21, 2017

Agreed to by the Senate, February 23, 2017

WHEREAS, the Morrison School in Bristol is celebrating 40 years of providing an alternative to traditional learning environments for children who learn differently; and

WHEREAS, the Morrison School was founded in 1977, by Dr. Sharon Morrison, Ed.D., and her late husband, Arthur, who made the private day school for students with learning disabilities their life's work; and

WHEREAS, the Morrison School's mission is to prevent learning differences from becoming an impediment to a child's educational, personal, and professional success; and

WHEREAS, Morrison School inspires students to take on responsibility, equips them with lifelong learning strategies, and teaches them key social skills to overcome their personal difficulties; and

WHEREAS, the Morrison School puts strong emphasis on student responsibility and a positive reinforcement system in an environment where the student-to-teacher ratio is six to one; and

WHEREAS, the Morrison School is licensed by the Commonwealth and is accredited by the Virginia Association of Independent Specialized Education Facilities; and

WHEREAS, in 2015, the Morrison School opened a new \$2.2 million 20,000-square-foot state-of-the-art facility that can accommodate 84 students in grades one through 12, and 24 preschool students, and the new building will allow the school's enrollment to effectively double; and

WHEREAS, the Morrison School excels at empowering students who learn differently to achieve their maximum potential, setting them on a path to personal happiness, job success, and good citizenship; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Morrison School in Bristol on the occasion of its 40th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Dr. Sharon Morrison, Ed.D., the chief administrative director, curriculum and instructional supervisor, and school psychologist at Morrison School, as an expression of the General Assembly's admiration for the school's dedication to teaching differently and "the Morrison Way."

**HOUSE JOINT RESOLUTION NO. 1050**

*Commending William King Museum of Art.*

Agreed to by the House of Delegates, February 21, 2017

Agreed to by the Senate, February 23, 2017

WHEREAS, the William King Museum of Art in Abingdon is celebrating its 25th anniversary as the premier visual arts facility in the Abingdon, Bristol, and Tri-Cities region; and

WHEREAS, opened in 1992 and housed in a former high school built in 1913, the William King Museum of Art is an integral part of the cultural fabric of Southwest Virginia and a cherished destination for residents and visitors; and

WHEREAS, known as the "Jewel on the Hill," the William King Museum of Art offers outstanding fine world art, contemporary regional art, and cultural heritage exhibits; and

WHEREAS, the William King Museum of Art is named for an 18th-century entrepreneur and businessman from Ireland, who settled in Washington County and bequeathed his estate to benefit higher education and community life; and

WHEREAS, the William King Museum of Art was founded on the belief that a vibrant art scene is central to the vitality of a community, and today one of its important roles is enriching young lives through its extensive arts education programs; and

WHEREAS, the William King Museum of Art's VanGogh Outreach program gives children in second and third grades in 13 area school districts access to in-depth art classes; the highly acclaimed program reached more than 3,400 students in the past year, and there are plans to expand it into Tennessee and Kentucky; and

WHEREAS, the William King Museum of Art also provides outstanding educational opportunities for adults, such as artist talks, lectures, workshops, art classes, guided and group tours, opening receptions, and other special events; and

WHEREAS, the William King Museum of Art has received numerous awards, including the Governor's Award and a Pinnacle Award from the Northeast Tennessee Tourism Association; and

WHEREAS, the William King Museum of Art was accredited by the American Alliance of Museums in 2004, and it is the Commonwealth's only nationally accredited museum west of Roanoke; and

WHEREAS, in addition to its five galleries, the William King Museum of Art features artist studios, a reference library, research archives, and an outdoor sculpture garden; and

WHEREAS, an average of 4,000 visitors a year have walked through the doors of the William King Museum of Art recently, but the museum reaches closer to 25,000 individuals annually through its programs and outreach efforts; and

WHEREAS, the William King Museum of Art relies heavily on philanthropy, and its staff does an exceptional job of utilizing innovative programming to engage, educate, and enrich the quality of life of local residents of all ages; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the William King Museum of Art on the occasion of its 25th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Betsy K. White, director of the William King Museum of Art, as an expression of the General Assembly's admiration for the museum's dedication to leadership, excellence, and collaboration in promoting a vibrant art scene in Southwest Virginia.

### HOUSE JOINT RESOLUTION NO. 1051

*Celebrating the life of Marie Gwendolyn McNair Moore.*

Agreed to by the House of Delegates, February 21, 2017

Agreed to by the Senate, February 23, 2017

WHEREAS, Marie Gwendolyn McNair Moore was born on December 5, 1944, in Lumberton, North Carolina, and died on January 28, 2017, in Richmond; and

WHEREAS, Marie Moore graduated from J. H. Hayswood High School in Lumberton, North Carolina, in 1962; she earned a bachelor of science degree in elementary education in 1966, from Winston-Salem Teachers University, formerly Winston-Salem Teachers College, where she recently returned with former classmates to celebrate their 50th class reunion; and in 1996, she received the master of business administration degree from Averett University; and

WHEREAS, after graduation from Winston-Salem Teachers University, Marie Moore settled in Richmond with her husband and family and began her professional career in education, where she taught in the Richmond Public Schools until her retirement in 2001; and

WHEREAS, reared and nurtured in a loving Christian home, Marie Moore adhered to the teachings of Scripture her entire life, first making her church home at Hilly Branch Baptist Church, where she was baptized before her family moved its membership to Sandy Grove Baptist Church in Lumberton; and since 2004, she was a devoted member of First Baptist Church South Richmond, where she faithfully taught Vacation Bible School and worked with the Joshua Army and Women's Ministry, until her death; and

WHEREAS, after her retirement, Marie Moore remained active in community organizations, including the Richmond Alumnae Chapter of Delta Sigma Theta Sorority, Incorporated; the Commonwealth Chapter of the Links, Incorporated, in which during her tenure as president, she led the group in many community and youth activities focusing on young males; the Carousels; the Moles; the D'JEMS; the Top Lady Clubbers; the Lakeside Women's Golf Association; and the Belmont Ladies Golf League; and she was a member of Leadership Metro Richmond Class of 2002; and

WHEREAS, Marie Moore, an avid golfer, cofounded the first lady's African American golf club, 'The Top Lady Clubbers,' in Richmond in December 1997, which held its organizational meeting in April 1998; and

WHEREAS, Marie Moore was a God-fearing woman who delighted in serving Him and others; she was loving, selfless, amicable, and gregarious; her infectious smile and caring demeanor endeared her to family, friends, and even strangers, while she 'took control'; and

WHEREAS, Marie Moore was accepting of others and gave them freedom to be themselves; she touched the lives of many people through education, community organizations, and her church family during her earthly sojourn; and

WHEREAS, Marie Moore will be missed by her family and friends, and her legacy will endure through their loving memories of her life, 'truly a life well-lived'; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Marie Gwendolyn McNair Moore; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Marie Gwendolyn McNair Moore as an expression of the General Assembly's respect for her memory.

**HOUSE JOINT RESOLUTION NO. 1052**

*Celebrating the life of Thelma Montalee Mullins.*

Agreed to by the House of Delegates, February 21, 2017  
Agreed to by the Senate, February 23, 2017

WHEREAS, Thelma Montalee Mullins of Bristol, a retired employee of First Virginia Bank, died on January 27, 2017; and  
WHEREAS, a daughter of the late Earl and Thelma Mullins, Thelma "Mona" Montalee Mullins was born in Clintwood; and

WHEREAS, Mona Mullins was retired from First Virginia Bank, where she worked as a mortgage banker; and

WHEREAS, Mona Mullins was a faithful wife, loving mother, and devoted friend to many, and she attended Celebration Church in Blountville, Tennessee; and

WHEREAS, Mona Mullins always believed that family was everything and she was the glue that held her family together; and

WHEREAS, Mona Mullins will be fondly remembered and greatly missed by her loving husband of 57 years, James; sons, Douglas and Vince, and their families; a host of other relatives and friends; and her beloved cat, Patches; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Thelma Montalee Mullins of Bristol, a retired employee of First Virginia Bank; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Thelma Montalee Mullins as an expression of the General Assembly's respect for her memory.

**HOUSE JOINT RESOLUTION NO. 1053**

*Commending the Mantua Citizens' Association.*

Agreed to by the House of Delegates, February 22, 2017  
Agreed to by the Senate, February 23, 2017

WHEREAS, for almost 60 years the Mantua Citizens' Association has ably represented the interests of residents in the Providence and Mason districts in Fairfax County; and

WHEREAS, formed generally in 1957, the Mantua Citizens' Association serves the residents of Mantua, a suburban neighborhood of more than 1,500 houses located in 19 subdivisions in central Fairfax County; and

WHEREAS, the Mantua Citizens' Association is a neighborhood civic organization that works hard to help maintain a sense of suburban tranquility in Mantua's wooded, park-like setting, which attracts many nature lovers; and

WHEREAS, the Mantua Citizens' Association is a nonprofit that seeks to give its members a spirit of mutual cooperation, a sense of civic responsibility, and a means to act together on matters of shared interest; and

WHEREAS, the Mantua Citizens' Association provides members with representation at public meetings, an active Neighborhood Watch, membership meetings, and annual social events such as a community parade; and

WHEREAS, the Mantua Citizens' Association's Mantua Neighbor Network is an all-ages volunteer effort started in 2016 to support older adults; and

WHEREAS, the Mantua Citizens' Association is governed by a dedicated board of volunteers who expertly guide the organization and help it adapt to meet the neighborhood's changing needs; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Mantua Citizens' Association on representing the interests of the citizens in the Mantua neighborhood; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Sue Kovach Shuman, president of the Mantua Citizens' Association, as an expression of the General Assembly's admiration for the organization's praiseworthy efforts to promote and maintain quality civic life in Fairfax County.

**HOUSE JOINT RESOLUTION NO. 1054**

*Commending the Food City 300 NASCAR Xfinity Series race at Bristol Motor Speedway.*

Agreed to by the House of Delegates, February 21, 2017  
Agreed to by the Senate, February 23, 2017

WHEREAS, 2017 marks the 35th anniversary of the Food City 300 NASCAR Xfinity Series race at Bristol Motor Speedway; and

WHEREAS, the Food City 300 NASCAR Xfinity Series race takes place each August under the lights at Bristol Motor Speedway, and it is considered the toughest Friday night fight on the NASCAR Xfinity Series race schedule; and

WHEREAS, then known as the Pet Dairy 150, the first NASCAR Xfinity Series race at Bristol Motor Speedway was held in 1982; and

WHEREAS, the NASCAR Xfinity Series race at Bristol Motor Speedway has increased in length several times over its 35-year history, first to 200 laps, then to 250 laps, and, since 2014, it has been 300 laps; and

WHEREAS, since 1992, the NASCAR Xfinity Series race at Bristol Motor Speedway has been sponsored by Food City, a chain of supermarkets in Virginia, Kentucky, Tennessee, and Georgia operated by K-VA-T Food Stores, Inc.; and

WHEREAS, the Food City name has become synonymous with NASCAR racing in the region due to its sponsorship of two of the sport's most popular races, the Food City 500 and Food City 300 at Bristol Motor Speedway; and

WHEREAS, for 25 years, Food City and Bristol Motor Speedway have been effective partners that have prided themselves on bringing the best possible experience to race fans in the region; and

WHEREAS, the Food City 300 NASCAR Xfinity Series race has showcased the talents of many of NASCAR's future stars over its history, and given fans a thrilling, up-close view of some of the best short track racing in the sport; and

WHEREAS, the 2017 Food City 300 NASCAR Xfinity Series race will take place on August 18; the race is always held the night before the Monster Energy NASCAR Cup Series Bass Pro Shops NRA Night Race at Bristol Motor Speedway; and

WHEREAS, Food City and Bristol Motor Speedway are respected pillars of the community and the Food City 300 NASCAR Xfinity Series race weekend is a hometown gathering and a highly anticipated highlight for the region each August; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Food City 300 NASCAR Xfinity Series race on celebrating its 35th anniversary at Bristol Motor Speedway; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Jerry Caldwell, executive vice president and general manager for Bristol Motor Speedway, and Steven C. Smith, president and CEO of Food City, as an expression of the General Assembly's admiration for their efforts to make the Bristol area a leading destination for NASCAR fans.

#### HOUSE JOINT RESOLUTION NO. 1055

*Commending the Food City 500 Monster Energy NASCAR Cup Series race at Bristol Motor Speedway.*

Agreed to by the House of Delegates, February 21, 2017

Agreed to by the Senate, February 23, 2017

WHEREAS, 2017 marks the 25th anniversary of Food City's corporate sponsorship of the Food City 500 Monster Energy NASCAR Cup Series race at Bristol Motor Speedway; and

WHEREAS, Food City, a division of K-VA-T Food Stores, Inc., operates a chain of supermarkets in Virginia, Kentucky, Tennessee, and Georgia; and

WHEREAS, the Food City name has become synonymous with NASCAR racing in the region due to its sponsorship of two of the sport's most popular races: the Food City 500 and Food City 300 at Bristol Motor Speedway; and

WHEREAS, the 500-lap, 266.5-mile Food City 500 is considered one of the sport's best races and is annually one of the most popular events on the Monster Energy NASCAR Cup Series schedule; and

WHEREAS, since 1992, Food City and Bristol Motor Speedway have been successful partners that have prided themselves on bringing the best possible experience to race fans in the region; and

WHEREAS, Food City and Bristol Motor Speedway are strong pillars of the community, and the Food City 500 race weekend is very much a hometown gathering and a highly anticipated highlight for the region; and

WHEREAS, the 2017 Food City 500 Monster Energy NASCAR Cup Series race will take place on Sunday, April 23, and to honor the 25th anniversary of Food City sponsorship, Bristol Motor Speedway issued a special edition race logo and branding for the race; and

WHEREAS, Food City is the second-longest running race sponsor in NASCAR, and the company has contributed over a half-million dollars to local organizations through its annual Family Race Night events; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Food City 500 on celebrating 25 years of sponsorship of the Monster Energy NASCAR Cup Series race at Bristol Motor Speedway; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Steven C. Smith, president and CEO of Food City, and Jerry Caldwell, executive vice president and general manager for Bristol Motor Speedway, as an expression of the General Assembly's admiration for their exceptional partnership and dedication to making the Bristol area a top destination for NASCAR fans.

**HOUSE JOINT RESOLUTION NO. 1056***Commemorating the 90th anniversary of the 1927 Bristol Sessions.*

Agreed to by the House of Delegates, February 21, 2017  
 Agreed to by the Senate, February 23, 2017

WHEREAS, the 1927 Bristol Sessions, a series of recording sessions that yielded dozens of songs by artists from the Commonwealth and throughout the American South, brought the mountain music of southern Appalachia to a national audience, revolutionized the music industry, and laid the foundation for modern country music; and

WHEREAS, seeking true profitable southern music, Ralph Peer, a producer for the Victor Talking Machine Company, toured the American South and held auditions in Bristol in a portable recording studio in the Taylor-Christian Hat Company building in 1927; and

WHEREAS, the 1927 Bristol Sessions yielded 76 songs by 19 different artists, including songs by Ernest V. Stoneman of Galax and the commercial debuts of the Carter Family of Scott County, the "First Family of Country Music," and Jimmie Rodgers, the "Father of Country Music"; and

WHEREAS, the 1927 Bristol Sessions met with commercial success, and both the artists' work and Ralph Peer's innovative recording techniques influenced the music industry for years to come; in 2002, the Library of Congress ranked the 1927 Bristol Sessions as one of the most significant sound recording events of all time; and

WHEREAS, the history and heritage of the 1927 Bristol Sessions are preserved and promoted by the Birthplace of Country Music, a nonprofit organization that organizes the Bristol Rhythm & Roots Reunion, operates the Birthplace of Country Music Museum, and broadcasts the music of Appalachia on Radio Bristol; and

WHEREAS, the Bristol Rhythm & Roots Reunion is an annual three-day festival that celebrates Bristol's significant role in reshaping the American cultural landscape; the event draws more than 50,000 music enthusiasts and showcases the very best in Americana, folk-rock, bluegrass, old-time, and Piedmont blues; and

WHEREAS, the Birthplace of Country Music Museum, an affiliate of the Smithsonian Institution, opened in 2014, featuring multiple interactive exhibits, educational programs, music performances, and community events to explore the legacy of the 1927 Bristol Sessions year-round; Radio Bristol broadcasts on the air and online from inside the museum; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commemorate the 90th anniversary of the 1927 Bristol Sessions; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Birthplace of Country Music, as an expression of the General Assembly's admiration for the significance of the 1927 Bristol Sessions to country music and cultural life in the Commonwealth and the United States.

**HOUSE JOINT RESOLUTION NO. 1057***Commending So Jung Lim.*

Agreed to by the House of Delegates, February 21, 2017  
 Agreed to by the Senate, February 23, 2017

WHEREAS, So Jung Lim completed her tenure as 38th president of the Korean American Association of the Washington Metropolitan Area; and

WHEREAS, during her term as president, So Jung Lim supported the annual Korean American Grassroots Conference and the annual Korean US Festival, which was held at Tysons Corner for the first time in 2015 and delighted nearly 20,000 attendees with traditional Korean music, dancing, and culture; and

WHEREAS, So Jung Lim helped organize the first National Liberation Day of Korea celebration in Virginia in 2015; she also created an essay contest for students to explore the historical importance of the liberation of Korea on August 15, 1945; and

WHEREAS, at George Mason University, So Jung Lim organized a Korean Independence Day celebration and established Asian Pacific American Heritage Month; and

WHEREAS, So Jung Lim organized visits to the Fairfax County Criminal Justice Academy to promote cultural understanding and created an awards ceremony to honor law-enforcement officers, firefighters, and teachers in the community; and

WHEREAS, So Jung Lim worked with the Korean Embassy to provide absentee ballots to Korean expatriates living in the United States and held citizenship and voter registration drives to help Korean Americans participate fully in American society; and

WHEREAS, So Jung Lim supported the creation of the Korean Community Center and organized a lecture series for members of the Korean community and second-generation Korean immigrants; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend So Jung Lim for her work to promote Korean history and heritage as president of the Korean American Association of the Washington Metropolitan Area; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to So Jung Lim as an expression of the General Assembly's admiration for her contributions to the Korean American community in the Commonwealth.

### HOUSE JOINT RESOLUTION NO. 1058

*Commending the Sartomer Americas Chatham plant.*

Agreed to by the House of Delegates, February 21, 2017

Agreed to by the Senate, February 23, 2017

WHEREAS, the Sartomer Americas Chatham plant is celebrating its 20th year in business and being a strong partner of the Chatham community; and

WHEREAS, Sartomer, a division of Arkema Inc., produces specialty acrylate and methacrylate monomers and oligomers at its Chatham production plant; and

WHEREAS, Sartomer has evolved from a small chemical plant to manufacturing nearly 450 different products that are the building blocks for polymers used in commercial and consumer applications, including adhesives, sealants, graphic arts, and cell phones; and

WHEREAS, Sartomer's Chatham plant employs more than 40 people and is proud to be part of the local community; the company donated \$11,000 to the region in 2015; and

WHEREAS, Sartomer is an active member of the Danville-Pittsylvania County Chamber of Commerce, and the company annually sponsors a 5K race that benefits community emergency response agencies; and

WHEREAS, Sartomer's Chatham facility is a proud sponsor of the local FIRST® Robotics Competition Team 5950 from Tunstall High School in Pittsylvania County; and

WHEREAS, safety is a top priority for Sartomer employees, and the company takes great pride in its remarkable safety record, recently celebrating 10 years, or more than one million work hours, without a lost-time incident; and

WHEREAS, Sartomer seeks to provide new sustainable solutions for many social and environmental issues, helping to lay the groundwork for more fuel-efficient vehicles and growth in renewable energy and sustainable housing; and

WHEREAS, Sartomer attracts top talent to the Chatham area and its parent company is recognized as one of the world's top innovators and is listed among the best companies for which to work; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Sartomer Americas Chatham plant on 20 years of business growth and civic involvement in the Chatham community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to René Neron, Sartomer Americas Chatham plant manager, as an expression of the General Assembly's admiration for the company's outstanding work and safety record and best wishes for the future.

### HOUSE JOINT RESOLUTION NO. 1059

*Commending the Town of Hurt.*

Agreed to by the House of Delegates, February 21, 2017

Agreed to by the Senate, February 23, 2017

WHEREAS, the Town of Hurt, a small town in Pittsylvania County with a rich history and a strong sense of community, celebrates the 50th anniversary of its founding in 2017; and

WHEREAS, what is now the Town of Hurt was originally part of a 1741 land grant from George II of England to Benjamin Clement; the Clement family lived on Clement Hill and excelled at gunpowder production, operating the first gunpowder mill in the region; and

WHEREAS, John L. Hurt, who supervised gunpowder production during the Civil War, married into the Clement family, became the owner of the Clement Hill plantation, and left the estate to his nephew, John L. Hurt, Jr.; and

WHEREAS, a visionary philanthropist, John L. Hurt, Jr., foresaw the area, which had by then become known as Hurt, as a thriving, planned community; to make his dream a reality, he developed a map of future streets, sold 100-foot lots, and financed homes; and

WHEREAS, John L. Hurt, Jr., helped the community grow responsibly, preserving natural springs for drinking water while selling 600 acres of his land for the development of a textile manufacturing company, which became one of Pittsylvania County's largest employers for many years; and

WHEREAS, John L. Hurt, Jr., also supported the local school by supplementing the principal's salary and funding a full position for a school librarian to ensure that students received the best possible education; and

WHEREAS, upon his death in 1964, John L. Hurt, Jr., bequeathed his estate lands west of U.S. Route 29 and any unsold lots to the Hurt community, provided that it incorporated as a town within three years; and

WHEREAS, the Hurt Town Council held its first meeting on January 3, 1967, and has worked to honor the hard work and enterprising spirit of John L. Hurt, Jr., by helping the community grow and thrive; and

WHEREAS, the Town of Hurt continues to look to the future, with plans for a new industrial park and senior living center, as well as renovations and upgrades to Town Hall, where the original map of the town, drawn by John L. Hurt, Jr., is on display; and

WHEREAS, the Town of Hurt will commemorate its 50th anniversary with a yearlong celebration featuring special events throughout 2017; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Town of Hurt on the occasion of its 50th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Town of Hurt as an expression of the General Assembly's admiration for the town's unique history and many contributions to the Commonwealth.

**HOUSE JOINT RESOLUTION NO. 1060**

*Commending the Martinsville High School boys' basketball team.*

Agreed to by the House of Delegates, February 21, 2017

Agreed to by the Senate, February 23, 2017

WHEREAS, the Martinsville High School boys' basketball team claimed the program's 15th state title, winning its second consecutive Virginia High School League Group 2A state championship on March 12, 2016, at the Siegel Center in Richmond; and

WHEREAS, in the state championship, the Martinsville High School Bulldogs relied on their staunch defense to defeat the Greensville County High School Eagles by a score of 69-37; and

WHEREAS, the Martinsville Bulldogs finished the season with an impressive 26-3 record, and the state final marked the fourth time that the team had held an opponent to fewer than 40 points in the postseason; and

WHEREAS, senior Devonnte Holland, one of the Martinsville Bulldogs' eight seniors, and junior Aaron Martin both recorded double-doubles in the state final; and

WHEREAS, the successful season is a credit to the dedication and hard work of all the student-athletes, the leadership and guidance of the coaches and staff, and the passionate support of the entire Martinsville High School community; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Martinsville High School boys' basketball team on winning the Virginia High School League Group 2A state championship in 2016; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Jeff Adkins, head coach of the Martinsville High School boys' basketball team, as an expression of the General Assembly's admiration for the team's exceptional athletic achievements.

**HOUSE JOINT RESOLUTION NO. 1061**

*Commending Oakland Heights Farm.*

Agreed to by the House of Delegates, February 21, 2017

Agreed to by the Senate, February 23, 2017

WHEREAS, Oakland Heights Farm in Gordonsville is dedicated to the preservation of the art and sport of horseback riding, and its owners are working to ensure a bright future for Virginia's horses and horse people; and

WHEREAS, started by David and Sally Lamb in 1979, Oakland Heights Farm has prospered for almost four decades and become one of the Commonwealth's most recognized horse farms; and

WHEREAS, David Lamb has been in the horse business since 1963, is internationally known for his horsemanship, and has represented Virginia and its horses from England to China; and

WHEREAS, Sally Lamb began foxhunting when she was just seven, and she has provided countless opportunities for others to experience horses and the equine lifestyle; and

WHEREAS, a diversified family business that now includes the Lambs' son, Matt, Oakland Heights Farm is involved at every level of equine activity, including horse shows, riding lessons, training, boarding, breeding, trail rides, sales, hay production, rodeos, and foxhunts; and

WHEREAS, Oakland Heights Farm hosts many charity events, supporting causes such as the Wounded Warrior Project, St. Jude Children's Research Hospital, and juvenile diabetes research, among other worthwhile fundraising endeavors; and

WHEREAS, David and Sally Lamb love to share their passion for horses and make the equine experience accessible to young and old; dozens of children have been educated in horse riding, safety, and care at Oakland Heights Farm and in the process learned the values of responsibility and teamwork; and

WHEREAS, Oakland Heights Farm hosts professional bull riding on the second Saturday of the month from May through September, and the events, sponsored by Matt Lamb's BLM Bull & Rodeo Company, provide fun for the whole family; and

WHEREAS, Oakland Heights Farm's scenic trail rides through the foothills of the Blue Ridge Mountains and surrounding woodlands and farmlands offer visitors an opportunity to learn about the region's history and are an important part of the Commonwealth's agritourism economy; and

WHEREAS, in 2015, David and Sally Lamb received the Virginia Horse Council Horseman/Horsewoman of the Year Award for their contributions at the local, state, and national levels of the equine industry; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Oakland Heights Farm for its dedication to the preservation of the art and sport of horseback riding and for working to ensure a bright future for the horses and horse people of the Commonwealth; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Oakland Heights Farm as an expression of the General Assembly's admiration for the farm's charitable work and efforts to promote agritourism.

**HOUSE JOINT RESOLUTION NO. 1062**

*Commending Belmont Farms Distillery.*

Agreed to by the House of Delegates, February 21, 2017

Agreed to by the Senate, February 23, 2017

WHEREAS, Belmont Farms Distillery, a family-owned agribusiness in Culpeper County, has preserved the proud whiskey-making traditions of the Virginia Piedmont for 30 years; and

WHEREAS, Belmont Farm was established in 1836 and was occupied by Union troops during the Battle of Cedar Mountain in the Civil War; a small tenant house erected on the farm during the Great Depression stood until 1975, when the current brick Colonial home was built; and

WHEREAS, in the 1980s, Chuck and Jeanette Miller established Belmont Farms Distillery and began to revive the centuries-old tradition of whiskey making, which came to Appalachia with Scots-Irish settlers and persisted for generations as moonshine, a uniquely American white whiskey made famous during the Prohibition era; and

WHEREAS, in 1988, Chuck Miller became the first legal moonshiner in the United States and inspired dozens of other artisan distillers and entrepreneurs throughout the Commonwealth and the United States; and

WHEREAS, Belmont Farms Distillery grows and harvests its own corn, wheat, and barley on 195 acres of land, ensuring that only the highest-quality ingredients go into its products; and

WHEREAS, the hardworking staff of Belmont Farms Distillery follow a unique family recipe to cook the corn mash, which is fermented and sent to a genuine solid copper pot still that was constructed in 1933; and

WHEREAS, Belmont Farms Distillery maintains one of only a handful of copper pot stills in use today throughout the world, making its whiskey a true taste of history; and

WHEREAS, an essential part of the Culpeper County business community, Belmont Farms Distillery sells more than 10,000 cases, or 120,000 bottles, of its award-winning offerings each year and promotes tourism in the region by hosting tastings and other special events; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Belmont Farms Distillery, an outstanding family business in Culpeper County, for 30 years of providing quality products; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Belmont Farms Distillery as an expression of the General Assembly's admiration for the distillery's work to preserve the history and heritage of the Commonwealth.

**HOUSE JOINT RESOLUTION NO. 1063**

*Commemorating the life and legacy of Ella Jane Fitzgerald.*

Agreed to by the House of Delegates, February 21, 2017

Agreed to by the Senate, February 23, 2017

WHEREAS, Ella Jane Fitzgerald, a native of Newport News and the first female vocalist to win a Grammy Award, changed the cultural landscape of the United States through her enchanting vocals and beloved renditions of American standards and jazz classics; and

WHEREAS, born on April 25, 1917, Ella Fitzgerald lived in Newport News until the 1920s, when she moved to New York City with her mother; with dreams of becoming an entertainer, she entered an amateur singing contest at the Apollo Theater on November 21, 1934, and claimed first prize; and

WHEREAS, soon thereafter, Ella Fitzgerald joined the Chick Webb Band and regularly sang at the Savoy; she co-wrote and released her first No. 1 hit, "A-Tisket, A-Tasket" in 1938, and she became the leader of the Chick Webb Band, which she renamed Ella Fitzgerald and Her Famous Orchestra, in 1939; and

WHEREAS, in the 1940s, Ella Fitzgerald signed a deal with Decca Records and began working with the future founder of Verve Records; she also toured with Dizzy Gillespie, with whom she honed her unique vocal style and began to incorporate the scat singing techniques that became a hallmark of her music; and

WHEREAS, Ella Fitzgerald earned the nickname "The First Lady of Song" during the height of her career in the 1950s and 1960s; her incredible vocal range and astonishing ability to mimic instrumental sounds helped propel her to awards for best female vocal performance and best individual jazz performance at the inaugural Grammy Awards in 1958; and

WHEREAS, Ella Fitzgerald went on to earn more than a dozen Grammy Awards, the NAACP Image Award for Lifetime Achievement, the George Peabody Medal, and the Presidential Medal of Freedom over the course of her illustrious career; she recorded more than 200 albums and more than 2,000 songs, working with such luminaries as Count Basie, Louis Armstrong, Duke Ellington, and Frank Sinatra; and

WHEREAS, Ella Fitzgerald recorded her last song in 1989 and gave her last public performance at Carnegie Hall in New York City in 1991; she died at her home in California on June 15, 1996, leaving behind an indelible influence on generations of singers across a wide swathe of musical genres; and

WHEREAS, the City of Newport News has celebrated Ella Fitzgerald's life and legacy every April since 1998 with the Ella Fitzgerald Music Festival, and in 2017, events throughout the United States and the world will commemorate her 100th birthday; and

WHEREAS, the City of Newport News began its yearlong celebration of Ella Fitzgerald's life on January 15, 2017, with the opening night of Ella's Place, an impromptu jazz club in the City Center at Oyster Point organized by the city and the Downing-Gross Cultural Arts Center and featuring music by the Virginia Symphony Orchestra's Jazz Ensemble; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commemorate the life and legacy of Ella Jane Fitzgerald on the occasion of her 100th birthday; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Ella Jane Fitzgerald as an expression of the General Assembly's admiration for her contributions to music and culture in the United States.

#### HOUSE JOINT RESOLUTION NO. 1064

*Celebrating the life of Josh Hardy.*

Agreed to by the House of Delegates, February 22, 2017

Agreed to by the Senate, February 23, 2017

WHEREAS, Josh Hardy, a 10-year-old member of the Fredericksburg community who inspired others through his deep faith and personal courage during a long battle with a rare form of cancer, died on September 22, 2016; and

WHEREAS, born as the third of four sons to Aimee and Todd Hardy, Josh Hardy was diagnosed with cancer at the age of nine months; he spent much of his life undergoing treatment for his illness, including a bone marrow transplant in kindergarten; and

WHEREAS, a playful and inquisitive child who liked games and sports, Josh Hardy brought joy to others with his smile and sense of humor and relished opportunities to make new friends wherever he went; and

WHEREAS, from a young age, Josh Hardy believed in helping others, and he worked with his kindergarten class to raise money for other children receiving treatment at St. Jude Children's Research Hospital; and

WHEREAS, Josh Hardy's family led a social media campaign to help him obtain access to a clinical trial for a potentially life-saving drug, garnering national media attention with the hashtag SaveJosh; and

WHEREAS, in 2015, to better serve children and adults like Josh Hardy, the Commonwealth expanded access to experimental drugs and other treatments with the "Right to Try" bill becoming the 11th state to pass such legislation; and

WHEREAS, a room named for Josh Hardy at the Ronald McDonald House of Memphis will help provide families with comfort, joy, and happiness in their time away from home; and

WHEREAS, throughout his life, Josh Hardy was sustained by his deep and abiding faith; he attended preschool at Fredericksburg Baptist Church and enjoyed fellowship and worship with the community at Fairview Baptist Church; and

WHEREAS, on October 21, 2016, Josh Hardy's family hosted Josh's Super Hero Costume Celebration at the Fredericksburg Expo and Conference Center; the gathering was open to all children and adults in the community, with the only requirement being that all attendees dress in some form of superhero costume to honor Josh Hardy's memory and his heroic journey; and

WHEREAS, Josh Hardy will be fondly remembered and greatly missed by his parents, Aimee and Todd; his three brothers; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Josh Hardy; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Josh Hardy as an expression of the General Assembly's respect for his memory.

**HOUSE JOINT RESOLUTION NO. 1065**

*Commending George Joseph Hillow III.*

Agreed to by the House of Delegates, February 21, 2017  
 Agreed to by the Senate, February 23, 2017

WHEREAS, for more than two decades, George Joseph Hillow III has been an integral and committed member of the Christopher Newport University community, where he built a distinguished career as a theater professor; and

WHEREAS, a native of Newport News, George Hillow graduated from Duke University with a degree in psychology, and with no plans for a lengthy career in the theater arts; and

WHEREAS, George Hillow has ably served as an educator, scholar, and artist, and been a well-known presence in the Hampton Roads theater scene since he came to work at the Virginia Stage Company in 1987; and

WHEREAS, George Hillow took a job at Christopher Newport University in 1991, after his wife, Judi, saw a newspaper advertisement for a theater teaching position at the university; and

WHEREAS, George Hillow has contributed to the artistic success of TheaterCNU productions, serving as scenic designer for 75 productions, lighting designer for 37 productions, technical director for 37 productions, and director for 14 productions; and

WHEREAS, as associate professor and director of design at Christopher Newport University, George Hillow taught theater and scene design and was a beloved mentor and friend to his students, who lovingly call him "Prof"; and

WHEREAS, George Hillow has embodied the very best in university service, serving on numerous departmental and university committees, and as chair of the Academic Status and Faculty Grievance Committees; and

WHEREAS, George Hillow designed and helped raise funds in excess of \$35,000 to build the beloved Arts Garden in the center of Christopher Newport University's Ferguson Center for the Arts, which he also helped design, and the beautiful and serene garden is one of the proudest achievements of his career; and

WHEREAS, George Hillow became a member of United Scenic Artists Local 829 in New York by undergoing a rigorous portfolio review process by a committee of professional scene designers; and

WHEREAS, George Hillow has been prolific as a professional scene designer, designing sets for over 40 productions at professional venues throughout the Hampton Roads area and the Commonwealth, and his work has been seen at the John F. Kennedy Center for the Performing Arts; and

WHEREAS, the CNU Theater Guild created a scholarship named for George Hillow, and the annual honor is awarded to a freshman or sophomore planning to major in theater and pursue a sub-discipline in design, management, directing, history, or technology; and

WHEREAS, George Hillow's important legacy in the theater arts community at Christopher Newport University and in Hampton Roads will be felt for many years to come; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend George Joseph Hillow III on his long and distinguished career as a theater professor at Christopher Newport University; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to George Joseph Hillow III as an expression of the General Assembly's admiration for his unwavering dedication to education and the theater arts.

**HOUSE JOINT RESOLUTION NO. 1066**

*Commending Robinson Secondary School wrestling team.*

Agreed to by the House of Delegates, February 22, 2017  
 Agreed to by the Senate, February 23, 2017

WHEREAS, the Robinson Secondary School wrestling team won the Virginia High School League Group 6A North Region championship in February 2017; and

WHEREAS, the Robinson Secondary School Rams got points from 12 wrestlers, produced four individual champions, and won the Virginia High School League (VHSL) Group 6A North Region title meet with a total of 188.5 points, denying the runner-up team, Battlefield High School from Haymarket, a third consecutive regional championship; and

WHEREAS, the Robinson Rams wrestlers put in hard work and showed remarkable improvement over the course of the 2016-2017 season, and they were not going down without a fight in the VHSL Group 6A North Region championship; and

WHEREAS, the grapplers from Robinson Secondary School turned in gritty performances and passionately scraped for every point in the blood round; and

WHEREAS, Robinson Rams senior Will Merritt was impressive on the mat and used superior cardio to outlast three opponents in triple overtime, earning him a sixth-place finish in the 182-pound weight class; and

WHEREAS, Robinson Rams junior Andre Turets also battled through three triple-overtime matches in the consolation rounds, winning two of them and securing a sixth-place finish in the 195-pound weight class; and

WHEREAS, Robinson Rams junior Finn O'Dell, 132-pound weight class, finished fifth; and

WHEREAS, Robinson Rams senior Tyler Hazard, 145-pound weight class, finished second; and

WHEREAS, Robinson Rams senior Donnie Warter girded through several tight finishes to take a fifth-place finish in the 170-pound weight class; and

WHEREAS, Robinson Rams junior Nik Gerard won a 7-5 decision in the 120-pound weight class final, senior Sam Book got a second-period pin in the 126-pound weight class, and sophomore Thomas Mukai executed a late reversal to pin his opponent in the 220-pound weight class; and

WHEREAS, after winning the regional title, the talented Robinson Rams advanced 10 wrestlers to the VHSL Group 6A state championship, where they took second place overall, with junior Aaron Howell winning the individual state title in the 106-pound weight class and sophomore Thomas Mukai winning the 220-pound weight class title in dramatic fashion; and

WHEREAS, Robinson Rams wrestling team members Nik Gerard and Tyler Hazard brought home runner-up finishes at the state tournament in the 120-pound weight class and 145-pound weight class, respectively; and

WHEREAS, each member of the Robinson Rams wrestling team showed great discipline and character and contributed to the VHSL Group 6A North Region victory and outstanding performance in the state championship tournament; and

WHEREAS, the Robinson Rams wrestling team's success is due to the dedication of the coaching staff, led by head coach Bryan Hazard, and the enthusiastic support of the students, administration, and fans of Robinson Secondary School; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Robinson Secondary School wrestling team on winning the Virginia High School League Group 6A North Region championship meet; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Bryan Hazard, head coach of the Robinson Secondary School wrestling team, as an expression of the General Assembly's admiration for the team's grit and determination in their championship performance.

### HOUSE JOINT RESOLUTION NO. 1067

*Commending the Patrick Henry College intercollegiate moot court team.*

Agreed to by the House of Delegates, February 21, 2017

Agreed to by the Senate, February 23, 2017

WHEREAS, the Patrick Henry College intercollegiate moot court team from Loudoun County claimed its unprecedented 10th American Moot Court Association national championship in January 2017; and

WHEREAS, Patrick Henry College has a proud tradition of outstanding moot court performance, and the 2017 national championship victory marks the 10th in 13 years for the Purcellville-based college; and

WHEREAS, Patrick Henry College intercollegiate moot court team members Meridian Paulton and Thomas Siu defeated a team from the United States Air Force Academy in the national tournament finals in Gulfport, Florida; and

WHEREAS, in addition to the first-place finish, moot court team members from Patrick Henry College also earned third-place and fourth-place finishes in the tournament; and

WHEREAS, Meridian Paulton and Thomas Siu are the second team in the history of the American Moot Court Association, and second moot court team from Patrick Henry College to win both the brief writing and oral argument national championships; and

WHEREAS, the 2016-2017 intercollegiate moot court season featured approximately 400 teams competing in 11 national qualifying tournaments to earn a spot in the American Moot Court Association national championship; and

WHEREAS, Patrick Henry College's moot court team program, founded in 2001, is one of the most respected in the nation, and the college always qualifies more teams to the national tournament than it is allowed to send; and

WHEREAS, the moot court team at Patrick Henry College excels under the leadership and coaching of Dr. Michael Farris, the college's chancellor, and Dr. Frank Guliuzza, and because of the enthusiastic support of the entire Patrick Henry College community; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Patrick Henry College intercollegiate moot court team on winning the college's 10th national championship in 2017; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Chancellor Michael Farris and Dr. Frank Guliuzza, coaches of the Patrick Henry College intercollegiate moot court team, as an expression of the General Assembly's admiration for the team's continuing legacy of excellence in intercollegiate moot court competition.

**HOUSE JOINT RESOLUTION NO. 1068***Commemorating the teaching of the historical 1606 First Virginia Charter.*

Agreed to by the House of Delegates, February 21, 2017

Agreed to by the Senate, February 23, 2017

WHEREAS, 2016 marked the 410th anniversary of the issuance of the 1606 First Virginia Charter, sometimes called "the birth certificate of America," which created the Virginia Company and authorized the colonization of Virginia; and

WHEREAS, the upcoming 400th anniversary of the historic 1619 First Virginia General Assembly will focus a world spotlight on the dawn of American civilization in the early 17th century, including the 1606 First Virginia Charter and its subsequent enlargements in 1609 and 1612 which, in 1616 produced America's first private property owners legally designated as "Ancient Planters of Virginia"; and

WHEREAS, the seminal year of 1619 featured the meeting of America's first representative legislative assembly, the creation of its first educational system, the arrival of African indentured servants, the arrival of women recruited by the Virginia Company as marriageable wives for the original settlers, the arrival of orphaned children to contribute to the permanent settlement, and the first Thanksgiving celebration at the Berkeley Plantation, any of which could easily merit individual attention; and

WHEREAS, the historic 1765 Virginia Tax Stamp Resolves passed in response to Parliament's Stamp Act of 1765 cited the 1606 and 1609 Virginia Charters to demonstrate that the American colonies always had the authority to determine their own taxation policies; and

WHEREAS, in 1957, *The Jamestown 350th anniversary historical booklets*, a boxed set of 23 booklets edited by The College of William and Mary's Dr. Earl Gregg Swem, was published to provide a history of the Commonwealth, with booklet four titled *The Three Charters of the Virginia Company of London, with Seven Related Documents*; and

WHEREAS, in 1959, the Virginia State Bar dedicated a marble plaque in the Jamestown Brick Church, that states "since Magna Carta the Common Law has been the cornerstone of individual liberties, even as against the Crown," highlighting the signal importance of the 1606 First Virginia Charter as the historical link with the 1789 United States Bill of Rights; and

WHEREAS, since 1995, all Virginia public schools have been required to ensure that the 1606, 1609, and 1612 Virginia Charters are included in curricula and on testing materials to ensure that students become aware of "the citizenship responsibilities inherent in the rights included in these documents" and better understand the heritage of the freedoms they now enjoy; and

WHEREAS, in 2006, the Virginia General Assembly commended the 400th anniversary celebration of the 1606 First Virginia Charter, which was commemorated with events on the James River's Dutch Gap bluff at the Henricus Historical Park coordinated by Henricus Colledge (1619)<sup>®</sup>; and

WHEREAS, in 2007, South Carolina congratulated Virginia on the occasion of the 400th anniversary of the 1606 First Virginia Charter and, in 2015, commemorated the 800th anniversary of the Magna Carta, citing the importance of the separation of powers, checks and balances, and due process of law; and

WHEREAS, all Virginia educational organizations, public, private, parochial, and home education, including teacher training programs, are encouraged to include in their teaching activities the letter and spirit of the 1606 First Virginia Charter, its companions from 1609 and 1612 and the other great documents of early American history; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commemorate the teaching of the 1606 First Virginia Charter; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Steven C. Smith, chancellor of Henricus Colledge (1619)<sup>®</sup> as an expression of the General Assembly's admiration for the historical importance of the 1606 First Virginia Charter.

**HOUSE JOINT RESOLUTION NO. 1069***Commending Breaux Vineyards.*

Agreed to by the House of Delegates, February 21, 2017

Agreed to by the Senate, February 23, 2017

WHEREAS, Breaux Vineyards in Purcellville, producer of some of the finest grapes in all of the Commonwealth, was awarded two gold medals and one silver medal in the 2017 Virginia Governor's Cup wine competition; and

WHEREAS, the Virginia Governor's Cup wine competition, hosted annually by the Virginia Wineries Association, showcases the best of the best in Virginia wine and is one of the most stringent competitions in the United States; and

WHEREAS, in the 2017 Virginia Governor's Cup wine competition, Breaux Vineyards was awarded gold medals for its 2012 and 2014 Meritage and a silver medal for its 2013 Meritage; and

WHEREAS, since opening its doors to the public in 1997, Breaux Vineyards has relied on its own land to produce its internationally acclaimed wines, using fruit grown on its over 400-acre estate that is then harvested by hand and produced and bottled on site; and

WHEREAS, one of the fastest-growing wineries in Virginia, Breaux Vineyards is the largest grape producer in Loudoun County and one of the largest in the Commonwealth with contiguous acreage; and

WHEREAS, with 105 acres planted in 17 different grape varieties, Breaux Vineyards provides grapes to other wineries in Loudoun County and around the state, and several Virginia Governor's Cup competition gold medal winners in previous years have featured Breaux Vineyards grapes; and

WHEREAS, Virginia's vibrant wine industry is one of the fastest-growing agricultural sectors in the state and Breaux Vineyards works closely with Virginia Tech and Virginia Cooperative Extension to make grape farming more accessible, reliable, and consistent; and

WHEREAS, Breaux Vineyards offers guests scenic, panoramic vistas of the Blue Ridge Mountains and Short Hill Mountain from its grounds and tasting room, part of the winery's 40,000 square feet of indoor space; and

WHEREAS, Breaux Vineyards seeks to encourage agritourism and is one of the most highly visited wineries in Loudoun County; the Breaux Vineyards philosophy is that providing hospitality to guests is just as important as delivering a quality bottle of wine; and

WHEREAS, Breaux Vineyards' experienced and innovative leaders include Jennifer Breaux, Christopher Blosser, and E. Paul Breaux, Jr., the founder and owner whose dedication and vision have made the winery what it is today; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Breaux Vineyards on winning two gold medals and one silver medal in the 2017 Virginia Governor's Cup wine competition; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to E. Paul Breaux, Jr., president and CEO of Breaux Vineyards, as an expression of the General Assembly's admiration for the company's entrepreneurial spirit and for efforts to make Loudoun County a world-class wine producer and destination.

**HOUSE JOINT RESOLUTION NO. 1070**

*Commending Sunset Hills Vineyard.*

Agreed to by the House of Delegates, February 21, 2017  
 Agreed to by the Senate, February 23, 2017

WHEREAS, Sunset Hills Vineyard, a renowned farm winery in Loudoun County, received a gold medal in the 2017 Virginia Governor's Cup wine competition for its 2012 Mosaic; and

WHEREAS, the Virginia Governor's Cup wine competition, hosted annually by the Virginia Wineries Association, showcases the best of the best in Virginia wine and is one of the most stringent competitions in the United States; and

WHEREAS, Sunset Hills Vineyard was originally established as Wenner Farm in 1870; Diane and Mike Canney purchased the farm in 1997 and spent years renovating the historic property and planting a 23-acre vineyard; and

WHEREAS, Diane and Mike Canney now operate five farms throughout Loudoun County and Shenandoah County, producing some of the finest wine grapes in the Commonwealth on their more than 250 acres of land, including grapes for Sunset Hills Vineyard's own wines and 40-70 tons of grapes annually for other Virginia wineries; and

WHEREAS, Sunset Hills Vineyard places a strong emphasis on sustainable agriculture by working to eliminate the use of herbicides and to reduce the use of pesticides; it has also worked with the Loudoun Wildlife Conservancy to create monarch butterfly gardens, bluebird trails, and other wildlife-friendly initiatives; and

WHEREAS, Sunset Hills Vineyard has contributed to the community as one of the largest solar-powered businesses in the Commonwealth, with a 245-panel system generating clean, renewable energy for the farm and its neighbors; and

WHEREAS, in addition to creating hundreds of local jobs, Sunset Hills Vineyard is committed to philanthropy and has donated time and funds to charitable organizations supporting wildlife preservation efforts, the arts, education, and health; and

WHEREAS, Sunset Hills Vineyard has received more than 100 local, state, national, and international awards, and with tens of thousands of annual visitors to the farm and its tasting rooms in Purcellville and Middleburg, Sunset Hills Vineyard is an integral part of the Commonwealth's fast-growing wine industry; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Sunset Hills Vineyard on receiving a 2017 Virginia Governor's Cup gold medal for its 2012 Mosaic; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Diane and Mike Canney as an expression of the General Assembly's admiration for Sunset Hills Vineyard's contributions to the Commonwealth's world-class wine industry.

**HOUSE JOINT RESOLUTION NO. 1071**

*Commending the Loudoun Valley High School STEM Club.*

Agreed to by the House of Delegates, February 21, 2017  
 Agreed to by the Senate, February 23, 2017

WHEREAS, the Loudoun Valley High School STEM Club was named a grand prize winner in the Samsung Solve for Tomorrow contest in 2016; and

WHEREAS, the Loudoun Valley High School STEM (Science, Technology, Engineering, and Math) Club team won one of five grand prize awards for its design of an inexpensive, solar-powered and weatherproof safety alert system that can be used to notify police if someone encounters danger on the Washington & Old Dominion Trail, or any other trail; and

WHEREAS, the Loudoun Valley High School STEM Club project, which uses radio frequencies, was selected out of over 4,100 contest entries from across the country, and the students earned \$120,000 in Samsung technology and \$9,700 in Adobe software for their efforts; and

WHEREAS, Samsung's national Solve for Tomorrow contest challenges students in grades six through 12 to use their science, technology, engineering, and math skills to innovate a solution to a problem affecting their community; and

WHEREAS, members of the Loudoun Valley High School STEM Club include Gwen Eging, Morgan Freiberg, Summer Harvey, Riley Herr, Carter Hunt, Jackson Kennedy, Sean Lohr, Blake Messegee, Malcolm Miller, Ethan Rodriguez, Riley Schnee, and Graeson Smith; and

WHEREAS, jobs in the STEM field are essential to the future of the Commonwealth and the nation, and the young leaders of the Loudoun Valley High School STEM Club will one day play a vital role in expanding the global economy; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Loudoun Valley High School STEM Club on being named a grand prize winner in the Samsung Solve for Tomorrow contest; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to José Rodriguez and Erin Wissler, sponsors of the Loudoun Valley High School STEM Club, as an expression of the General Assembly's admiration for the team's outstanding achievement and efforts to keep their community safe.

**HOUSE JOINT RESOLUTION NO. 1072**

*Commending the Lovettsville Volunteer Fire and Rescue Company.*

Agreed to by the House of Delegates, February 21, 2017

Agreed to by the Senate, February 23, 2017

WHEREAS, the Lovettsville Volunteer Fire and Rescue Company has safeguarded the lives and property of Loudoun County residents for more than 50 years; and

WHEREAS, the Lovettsville Volunteer Fire and Rescue Company traces its roots to the mid-1960s, when 12 local residents met to discuss forming a rescue squad; at the time, the Lovettsville community relied on the county or other nearby departments to provide fire and rescue service; and

WHEREAS, the Lovettsville Rescue Squad was officially formed in August 1966, and it became a combined fire and rescue company, Lovettsville District Fire and Rescue Company, Inc., in 1967; and

WHEREAS, in its early days, the Lovettsville Volunteer Fire and Rescue Company used a borrowed 1955 Ford van as an ambulance; the company has grown to operate a full fleet of fire and rescue vehicles to best serve the Lovettsville community; and

WHEREAS, the members of the Lovettsville Volunteer Fire and Rescue Company pursue the highest quality training and use cutting-edge equipment to ensure that the company is well-prepared to respond to fires, vehicle accidents, natural disasters, and other incidents; and

WHEREAS, the Lovettsville Volunteer Fire and Rescue Company is active in the community, hosting many fundraising events, such as bingo nights and the annual Mud Run, that have become beloved local traditions; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Lovettsville Volunteer Fire and Rescue Company for its legacy of service to the residents of Loudoun County on the occasion of its 50th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Lovettsville Volunteer Fire and Rescue Company as an expression of the General Assembly's admiration for its unique history and contributions to Loudoun County.

**HOUSE JOINT RESOLUTION NO. 1073**

*Commending Michele Coates.*

Agreed to by the House of Delegates, February 21, 2017

Agreed to by the Senate, February 23, 2017

WHEREAS, Michele Coates, a school bus driver with Loudoun County Public Schools, put her own life at risk to ensure the safety of the 32 students on her bus in September 2016; and

WHEREAS, while driving on her usual route to Harmony Middle School in Hamilton, Michele Coates smelled smoke and immediately pulled over, believing that the bus may have been on fire; and

WHEREAS, having trained for such an emergency, Michele Coates calmly helped all of the students evacuate the bus and called emergency services to report a vehicle fire; first responders later determined that the bus was leaking fuel and smoke but had not yet caught fire; and

WHEREAS, after accounting for all of the children, Michele Coates reported that she was suffering from sinus pain and was transported by ambulance to Inova Loudoun Hospital; and

WHEREAS, again disregarding her own well-being, Michele Coates continued to ask for updates on the health of her students, even while receiving treatment for smoke inhalation; and

WHEREAS, thanks to Michele Coates' quick thinking and selfless actions, none of the students on the bus suffered serious injuries; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Michele Coates for her heroic actions to help save the lives of 32 children in September 2016; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Michele Coates as an expression of the General Assembly's admiration for her commitment to the safety and well-being of the children in her care.

#### HOUSE JOINT RESOLUTION NO. 1074

*Commending Sergeant John Kelly.*

Agreed to by the House of Delegates, February 21, 2017

Agreed to by the Senate, February 23, 2017

WHEREAS, Sergeant John Kelly retired from the Purcellville Police Department in October 2016, after a stellar 38-year career as a sworn police officer; and

WHEREAS, John Kelly began his career in law enforcement in 1977, while serving as a United States Army military policeman; and

WHEREAS, upon being honorably discharged from the United States Army, in 1980, John Kelly joined the Purcellville Police Department, which is the department where his heart remained despite his service in other local police departments over his career; and

WHEREAS, John Kelly went to work for the Loudoun County Sheriff's Office from 1983 to 1986; he returned to the Purcellville Police Department for two years, then served with the Middleburg Police Department for nearly 10 years; and

WHEREAS, in 1998, John Kelly returned to the Purcellville Police Department for good, and he served the members of the Purcellville community for the next 18 years; and

WHEREAS, John Kelly has demonstrated a spirit of community service and dedication to public safety that is core to the mission and integrity of the Purcellville Police Department; and

WHEREAS, all members of the Purcellville Police Department are thankful for John Kelly's professionalism, loyalty, and service over the past four decades, and his colleagues across law enforcement will miss him greatly; and

WHEREAS, in retirement, John Kelly will remain active in the western Loudoun community in which he lives, and he looks forward to spending more time with his wife, Patty, without whose support his long career would not have been possible; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend Sergeant John Kelly on his retirement from the Purcellville Police Department after a stellar 38-year career in law enforcement; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Sergeant John Kelly as an expression of the General Assembly's admiration for his commitment to protecting the citizens of Loudoun County and outstanding service as a sworn police officer.

#### HOUSE JOINT RESOLUTION NO. 1075

*Commending the Douglass School.*

Agreed to by the House of Delegates, February 21, 2017

Agreed to by the Senate, February 23, 2017

WHEREAS, in 2016, the Douglass School in Leesburg celebrated its 75th anniversary and its unique and important role in Loudoun County history; and

WHEREAS, opened in 1941, during the Jim Crow era and when school segregation was prevalent, the Douglass School served as the first accredited high school for African American students in Loudoun County; and

WHEREAS, in the early 1940s, members of the African American community in Loudoun County organized the County-Wide League, with the primary goal of establishing a high school for black students; and

WHEREAS, the group raised \$4,000 to buy eight acres and then sold the land to the Loudoun County School Board for one dollar, in exchange for their agreement to build what became Douglass High School; and

WHEREAS, Douglass High School opened in September 1941, after the County-Wide League raised money to purchase furnishings and books for the school, and was named for famed abolitionist Frederick Douglass, to symbolize the perseverance of the group that fought tirelessly for the school; and

WHEREAS, the teachers of Douglass High School were devoted to supporting their students' success and made it their mission to see that graduates were prepared for whatever the world had to offer; and

WHEREAS, Douglass High School served African American students until 1968, when schools were desegregated, and, since 1976, what became known as the Douglass School has been an alternative education center for Loudoun County Public Schools and is also home to the Douglass Community Center; and

WHEREAS, the nonprofit Loudoun Douglass School Alumni Association was formed in 1985 to preserve the history of Douglass High School and to recognize the contributions of the black community who made it a reality; and

WHEREAS, the alumni of the Douglass School continue to play an important role in the Loudoun community, and they understand that the Douglass School was a special place where lives were changed, and those lives changed lives; and

WHEREAS, the Douglass School has been listed on both national and Virginia registers of historic places since the early 1990s, and the school is a focal point for Martin Luther King, Jr. Day festivities and other black history events; and

WHEREAS, for 75 years, the Douglass School has been a tangible symbol of the tenacity and strength of African Americans in Loudoun County, who persevered through nearly insurmountable obstacles to fight for equality; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Douglass School on celebrating its 75th anniversary in 2016; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Douglass School as an expression of the General Assembly's admiration for its special history and its continued service to the Loudoun community.

**HOUSE JOINT RESOLUTION NO. 1076**

*Commending the Loudoun County High School girls' soccer team.*

Agreed to by the House of Delegates, February 21, 2017

Agreed to by the Senate, February 23, 2017

WHEREAS, the Loudoun County High School girls' soccer team claimed its second consecutive state championship, defending the Virginia High School League Group 4A state title in June 2016; and

WHEREAS, in the close-fought state final, the Loudoun County High School Raiders defeated the Salem High School Spartans by a score of 1-0 to finish the season with an impressive 20-3-1 record; and

WHEREAS, in the 28th minute, Loudoun County's Allyson Brown headed in the game-winner off of a free kick from Liz Lazzaro that had rebounded off the cross bar; and

WHEREAS, the Loudoun County Raiders stuck to their possession-oriented style of play and controlled the flow of the game, holding the Salem Spartans to only seven shots and only three shots on goal; and

WHEREAS, the Loudoun County Raiders' victory is a tribute to the skill and hard work of all of the student-athletes, the leadership of the coaches and staff, and the passionate support of the entire Loudoun County High School community; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Loudoun County High School girls' soccer team on winning the Virginia High School League Group 4A state championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Kirk Smith, head coach of the Loudoun County High School girls' soccer team, as an expression of the General Assembly's admiration for the team's achievements and best wishes for the future.

**HOUSE JOINT RESOLUTION NO. 1077**

*Commending the Woodgrove High School girls' lacrosse team.*

Agreed to by the House of Delegates, February 21, 2017

Agreed to by the Senate, February 23, 2017

WHEREAS, the Woodgrove High School girls' lacrosse team won the Virginia High School League Group 4A state championship in June 2016; and

WHEREAS, the Woodgrove High School Wolverines defeated their Conference 21 rival, the George Mason High School Mustangs, by a lopsided score of 18-6, as the powerhouse program from Purcellville marched to their third consecutive state lacrosse title; and

WHEREAS, the Woodgrove Wolverines held a 7-5 advantage at halftime, then blew the game open in the second half on a run of multiple unanswered goals in a 22-minute span; and

WHEREAS, the Woodgrove Wolverines were led by senior Nora Bowen, who flung home seven goals, and senior Sarah Pantaleo, who scored four; and

WHEREAS, Woodgrove Wolverines junior goalkeeper Sanaea Gowadia came up with eight saves, six of which she registered in the second half; and

WHEREAS, after winning the championship, Nora Bowen, Alli Reeve, and Hope French took home Virginia High School League Group 4A First-Team All-State honors, and Nora Bowen was named Group 4A Player of the Year; and

WHEREAS, all members of the Woodgrove High School girls' lacrosse team contributed to the championship season and the team's overall 18-3 record; they set an early goal of winning their third straight state championship and didn't take their focus off achieving it all season; and

WHEREAS, Woodgrove High School's three consecutive girls' lacrosse state championships are a testament to the outstanding leadership of the team's seniors, four of whom are headed to play at the college level, and the talent of the team's underclassmen; and

WHEREAS, the Woodgrove High School girls' lacrosse team continues to perform at the highest possible level thanks to the mentoring of a dedicated coaching staff, led by Bob Fuller, and the support of parents, faculty, students, and devoted Wolverine fans; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Woodgrove High School girls' lacrosse team on winning their third straight Virginia High School League Group 4A state championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Bob Fuller, head coach of the Woodgrove High School girls' lacrosse team, as an expression of the General Assembly's admiration for the team's achievement and continued record of excellence.

#### HOUSE JOINT RESOLUTION NO. 1078

*Commending Briar Woods High School boys' lacrosse team.*

Agreed to by the House of Delegates, February 21, 2017

Agreed to by the Senate, February 23, 2017

WHEREAS, the Briar Woods High School boys' lacrosse team of Ashburn won the Virginia High School League Group 5A state championship in June 2016; and

WHEREAS, the Briar Woods High School Falcons defeated the Atlee High School Raiders 9-8 in a thrilling overtime game; senior Kyle Duffie scored the winning goal to bring home the program's first state title; and

WHEREAS, Briar Woods Falcons players Peyton Canada, Cole Pearsall, Brian Grant, Matthew Harris, Sam Krueger, and Danny McMinn each found the back of the net to give their team a 6-5 lead at halftime; and

WHEREAS, junior goalie Will Juneau and the Briar Woods Falcons defense, led by All-Conference performers Dominic DeSanctis and Adrian Land, kept the Atlee Raiders scoreless for almost 19 minutes in the second half; and

WHEREAS, Kyle Duffie and Chase Miller each scored to give the Briar Woods Falcons an 8-6 lead with less than three minutes to play, but the Atlee Raiders notched two goals in the final couple of minutes of regulation play to force sudden-death overtime; and

WHEREAS, goalie Will Juneau denied an Atlee score from point-blank range early in overtime, then Kyle Duffie intercepted a pass near midfield, raced towards the opposing goal, and produced a wrist shot to the back of the net that set off a wild celebration for Briar Woods Falcons players and fans; and

WHEREAS, Briar Woods Falcons seniors Kyle Duffie and Brian Grant took home the Virginia High School League Group 5A First-Team All-State lacrosse honors in 2016; and

WHEREAS, despite a roller coaster season, the Briar Woods Falcons boys' lacrosse team displayed the fortitude to prevail when it counted most and exhibited amazing teamwork and cohesiveness; and

WHEREAS, the boys' lacrosse team victory is a testament to the skill and dedication of all the players, the leadership and hard work of the coaches and staff, and the enthusiastic support of the entire Briar Woods High School community; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Briar Woods High School boys' lacrosse team on winning the 2016 Virginia High School League Group 5A state championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Bruce Lipson, head coach of the Briar Woods High School boys' lacrosse team, as an expression of the General Assembly's admiration for the team's hard work and achievement.

**HOUSE JOINT RESOLUTION NO. 1079**

*Commending the Honorable Burke F. McCahill.*

Agreed to by the House of Delegates, February 21, 2017

Agreed to by the Senate, February 23, 2017

WHEREAS, the Honorable Burke F. McCahill retired as a judge of the Loudoun Circuit Court of the 20th Judicial Circuit of Virginia on January 1, 2017; and

WHEREAS, Burke McCahill holds a bachelor's degree from The College of William and Mary and a law degree from the University of Virginia; he was admitted to the Virginia State Bar in 1976 and worked as an attorney in private practice in Leesburg for many years; and

WHEREAS, Burke McCahill was appointed as a judge of the Loudoun Circuit Court of the 20th Judicial Circuit of Virginia in 1998; and

WHEREAS, Burke McCahill presided over the court with great fairness and wisdom for nearly two decades, becoming the most senior Circuit Court judge in Loudoun County; and

WHEREAS, a man of great integrity, Burke McCahill served Loudoun County and the Commonwealth with the utmost dedication and distinction; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the Honorable Burke F. McCahill on the occasion of his retirement as a judge of the Loudoun Circuit Court of the 20th Judicial Circuit of Virginia in 2017; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Honorable Burke F. McCahill as an expression of the General Assembly's admiration for his service to Loudoun County and the Commonwealth.

**HOUSE JOINT RESOLUTION NO. 1080**

*Celebrating the life of Grady Craven Frank, Jr.*

Agreed to by the House of Delegates, February 21, 2017

Agreed to by the Senate, February 23, 2017

WHEREAS, Grady Craven Frank, Jr., a respected civil litigation attorney and lifelong resident of Alexandria, died on July 9, 2016; and

WHEREAS, Grady Frank excelled at football, basketball, and baseball at Groveton High School and then continued his education at Duke University, where he graduated in 1969; and

WHEREAS, Grady Frank served in the United States Army and was stationed at the Pentagon; following his military service he received a law degree from Washington and Lee University School of Law; and

WHEREAS, for 41 years Grady Frank was an esteemed civil litigator in Northern Virginia, first practicing with Boothe Prichard & Dudley in Fairfax, and, at the time of his death, he was a name partner with Richmond-based firm Kaplan Voekler Cunningham & Frank in its Alexandria office; and

WHEREAS, Grady Frank tried hundreds of cases to verdict in state and federal courts throughout the Commonwealth and the Washington, D.C., metropolitan area, and argued dozens of cases before the Virginia Supreme Court and the Fourth Circuit Court of Appeals; and

WHEREAS, Grady Frank's personable manner and strong advocacy was admired and respected by clients, adversaries, and judges alike; and

WHEREAS, a trumpet player in high school, Grady Frank loved music, and he sang vocals and played guitar in the Raggedy Grass Bluegrass band with three fellow attorneys; and

WHEREAS, Grady Frank's true passion was golf, and he was a longtime member of Belle Haven Country Club in Alexandria, where he served on the board of directors; and

WHEREAS, Grady Frank was a past president of the Alexandria Bar Association and the Alexandria Symphony; and

WHEREAS, Grady Frank loved people, had a great sense of humor, and a visible joy for life; he showed a genuine interest in others and was easy to love and to be around; and

WHEREAS, a loving husband and proud father, Grady Frank will be fondly remembered and greatly missed by his wife of 28 years, Beth; son, Grady, and his family; stepchildren, Lisa and Bryan, and their families; and a host of other relatives and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Grady Craven Frank, Jr., a respected attorney and lifelong resident of Alexandria; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Grady Craven Frank, Jr., as an expression of the General Assembly's respect for his memory.

**HOUSE JOINT RESOLUTION NO. 1081**

*Celebrating the life of William Livingston Berry.*

Agreed to by the House of Delegates, February 21, 2017  
 Agreed to by the Senate, February 23, 2017

WHEREAS, William Livingston Berry, a distinguished leader in the home development industry and a compassionate humanitarian, died on December 14, 2016; and

WHEREAS, a native of Oklahoma, William "Bill" Livingston Berry graduated from the University of Oklahoma and served his country as a member of the United States Air Force; and

WHEREAS, after his honorable military service, Bill Berry followed in his family's footsteps by pursuing a career in the oil industry in Texas; he later moved to Silver Spring, Maryland, and transitioned to a career in homebuilding; and

WHEREAS, in 1973, Bill Berry founded William L. Berry & Co Inc., which became well-known for its commitment to excellence and achievements as an award-winning regional homebuilder; the company was a reflection of Bill Berry's leadership, integrity, and emphasis on customer service; and

WHEREAS, highly respected in his field, Bill Berry was a longtime member and past president of the Northern Virginia Building Industry Association, which recognized him as the Builder/Developer of the Year in 1985 and 1991 and presented him with the first Emil Keen Award for his outstanding service; and

WHEREAS, Bill Berry also served as a past president of HomeAid, which builds houses for the homeless and victims of domestic violence, and was a proponent for the development of affordable housing as the founder of Affordable Housing Opportunity Means Everyone; and

WHEREAS, Bill Berry volunteered his time and leadership with several other civic and service organizations, including Loudoun Citizens for Social Justice, and he earned many awards and accolades for his good work; and

WHEREAS, guided by his faith, Bill Berry enjoyed fellowship and worship at Temple Emanuel in Kensington, Maryland, where in 1975 he served as chair of the committee responsible for adding a new sanctuary and several new classrooms to the temple; and

WHEREAS, Bill Berry will be fondly remembered and greatly missed by his partner, Patricia; his children, Kim and Mark, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of William Livingston Berry; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of William Livingston Berry as an expression of the General Assembly's respect for his memory.

**HOUSE JOINT RESOLUTION NO. 1082**

*Celebrating the life of Carolyn Su Allen Saunders Webb.*

Agreed to by the House of Delegates, February 21, 2017  
 Agreed to by the Senate, February 23, 2017

WHEREAS, Carolyn Su Allen Saunders Webb, a community leader in Loudoun County and a passionate advocate for conservation and urban green spaces, died on October 15, 2016; and

WHEREAS, Su Webb was born to a military family and lived in Japan, Germany, and throughout the United States before settling in Fairfax County; she began her lifetime of community service in Reston, where she coached softball, was a Girl Scouts of the USA troop leader, and volunteered with other organizations; and

WHEREAS, Su Webb began building her legacy of service to Loudoun County in 1989 when she volunteered for the Loudoun County Department of Parks, Recreation, and Community Services; and

WHEREAS, Su Webb went on to become the chair of the Loudoun County Parks, Recreation, and Open Space Board, where she served for more than two decades and oversaw the purchase of Claude Moore Park, Franklin Park, and Philip A. Bolen Memorial Park; and

WHEREAS, in 2003, Su Webb was appointed to serve on the Northern Virginia Regional Park Authority and helped advance land acquisition efforts for parks throughout Northern Virginia, becoming chair of the authority in 2008; and

WHEREAS, Su Webb also served as chair of the Heritage Farm Museum Board of Advisors, where she led efforts to support community garden plots, an initiative that allowed Loudoun County residents to grow their own fruits and vegetables; and

WHEREAS, Su Webb volunteered her time and wise leadership with several other civic and service organizations in Loudoun County and Northern Virginia, winning many accolades for her work, including the 2012 Heritage Hero award from the Mosby Heritage Area Association and the 2013 Loudoun Laurels Medal; and

WHEREAS, Su Webb will be fondly remembered and greatly missed by her daughter, Anne, and her family, and numerous other family members, friends, and fellow community advocates; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Carolyn Su Allen Saunders Webb, an admired community leader in Loudoun County; and, be it RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Carolyn Su Allen Saunders Webb as an expression of the General Assembly's respect for her memory.

### HOUSE JOINT RESOLUTION NO. 1083

*Celebrating the life of Nancy Rogerson Brown Reuter.*

Agreed to by the House of Delegates, February 21, 2017  
Agreed to by the Senate, February 23, 2017

WHEREAS, Nancy Rogerson Brown Reuter, the founder of a real estate company based in Middleburg and Washington, D.C., and prominent resident of Virginia's hunt country, died on November 23, 2016; and

WHEREAS, Nancy Reuter was the daughter of the late John and Gladys Brown of Boston, Massachusetts, and for the first 12 years of her life she lived in her grandfather's historic house, The Crehore House, in Milton, Massachusetts; and

WHEREAS, Nancy Reuter attended the progressive Brush Hill School in Milton, Massachusetts, and, after her family moved to Laconia, New Hampshire, she graduated from Laconia High School in 1941; she studied at Skidmore College in Saratoga Springs, New York, where she majored in drama; and

WHEREAS, during World War II, Nancy Reuter served as a sergeant in the Civil Air Patrol, and, in 1944, she enlisted in the United States Marine Corps and was stationed at Camp Lejeune, North Carolina, where she was assigned to the Division of Motor Transport; and

WHEREAS, Nancy Reuter began her long business career as a teenager, helping her mother develop, promote, and manage "Antiques Expositions," a new concept in America at the time; throughout the 1940s, the mother-daughter team promoted their unique antiques show concept at some of the most fashionable settings on the East Coast; and

WHEREAS, Nancy Reuter married Frederick Turner "Tony" Reuter on February 14, 1968, and the couple designed and built homes for their family in the Palisades and Spring Valley neighborhoods of Washington, D.C.; and

WHEREAS, in 1961, Nancy Reuter established Reuter's Inc., a residential real estate firm with offices in Washington, D.C., and later in Middleburg, and she began the restoration of properties in both locations; and

WHEREAS, Nancy Reuter's most meaningful and interesting project was the 1976 restoration and refurbishment of the Red Fox Inn, the oldest building in Middleburg, which is still managed by members of her family today; and

WHEREAS, Nancy Reuter collaborated with her mother in the 1970s to establish The Middleburg Antiques Center, which operated until 1993; and

WHEREAS, also in the 1970s, Tony and Nancy Reuter worked to establish the gardens at Glenstone, their farm in Aldie, and she could regularly be found tending to her borders and picking flowers for the arrangements that always graced her front hall and dining room; and

WHEREAS, Nancy Reuter was a renowned gardener and artist, and a member of Emmanuel Church in Middleburg, the Society of Woman Geographers, The Colonial Dames of America Chapter XXIII, Evergreen Garden Club, Fauquier and Loudoun Garden Club, and the Cosmos Club; and

WHEREAS, Nancy Reuter wrote and published five books on her family history, and her sixth book, *Well Turned Out; A Memoir* is due to be published in the spring of 2017; and

WHEREAS, preceded in death by her husband of 67 years, Tony, Nancy Reuter will be fondly remembered and greatly missed by her children, Turner, Diana, and John, and their families, and a host of other relatives and good friends; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of Nancy Rogerson Brown Reuter, a real estate company owner and prominent resident of Virginia's hunt country; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Nancy Rogerson Brown Reuter as an expression of the General Assembly's respect for her memory.

### HOUSE JOINT RESOLUTION NO. 1084

*Commending the first responders to the Northern Neck and Middle Peninsula tornado.*

Agreed to by the House of Delegates, February 22, 2017  
Agreed to by the Senate, February 23, 2017

WHEREAS, on February 24, 2016, after a series of strong storms that spawned several tornadoes in the Commonwealth, an EF-3 tornado touched down in Essex County and traveled nearly 28 miles before crossing the Rappahannock River and entering Richmond County and Westmoreland County; and

WHEREAS, the tornado caused severe damage to homes, neighborhoods, businesses, churches, and personal property, and access on major roadways and streets was limited due to downed trees and other debris; and

WHEREAS, first responders to the communities affected by the Northern Neck and Middle Peninsula tornado quickly assessed damage, located and cared for the injured, and liaised with local hospitals to ensure timely care; without this collaborative assistance, the disaster recovery efforts would have been impossible; and

WHEREAS, numerous fire and emergency services departments responded to the incident, including Tappahannock-Essex Volunteer Fire Department, Essex EMS, Port Royal Volunteer Fire Department, Sparta Volunteer Fire Department, Upper King & Queen Volunteer Fire Department, Upper King & Queen Volunteer Rescue Squad, Walkerton Community Fire Association, Mattaponi Volunteer Rescue Squad, King William Volunteer Fire Department, Mangohick Volunteer Fire Department, West Point Fire & Rescue, White Stone Volunteer Fire Department, Richmond County Volunteer Fire Department, Richmond County EMS, Callao Volunteer Fire Department, Callao Volunteer Rescue Squad, Cople District Volunteer Fire Department, Central Middlesex Volunteer Rescue Squad, Urbanna Volunteer Fire Department, Hartfield Volunteer Fire Department, Waterview Volunteer Fire Department, Mathews Volunteer Fire Department, Caroline County Department of Fire, Rescue, and Emergency Management, A. P. Hill Military Reservation, Hanover County Fire-EMS, Henrico Division of Fire, Chesterfield Fire and EMS, Newport News Fire Department, LifeCare Ambulance Service, and AMR Ambulance Service; and

WHEREAS, the Essex County Sheriff's Office, Town of Tappahannock Police Department, Caroline County Sheriff's Office, Middlesex County Sheriff's Office, King & Queen County Sheriff's Office, King William County Sheriff's Office, Northumberland County Sheriff's Office, and Westmoreland County Sheriff's Office responded in support of other local law-enforcement departments; and

WHEREAS, the actions of the first responders to the Northern Neck and Middle Peninsula tornado are a testament to the professionalism, dedication, selflessness, and loyalty to the community demonstrated by public safety officers throughout the Commonwealth and the United States; and

WHEREAS, the WRAR and WNNT radio stations extraordinarily began simulcasting to give tornado safety tips and the projected path of the storm to listeners despite the loss of power and television services resulting in numerous lives saved and continued to broadcast information from local law enforcement and emergency services throughout the evening and into the following days, weeks, and months as rescue and recovery took place; and

WHEREAS, the Riverside Tappahannock Hospital treated numerous injuries ranging from minor to serious and served as a coordinating center for families to connect with their loved ones who had been taken to other hospitals; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend the first responders to the Northern Neck and Middle Peninsula tornado; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare copies of this resolution for presentation to the first responders to the Northern Neck and Middle Peninsula tornado as an expression of the General Assembly's admiration for the actions of all units involved in the response to this incident.

### HOUSE JOINT RESOLUTION NO. 1085

*Confirming appointments by the Speaker of the House of Delegates and the Joint Rules Committee.*

Agreed to by the House of Delegates, February 22, 2017

Agreed to by the Senate, February 24, 2017

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly confirm the following appointments made by the Speaker of the House of Delegates:

1. Appointments to the Virginia Conflict of Interest and Ethics Advisory Council pursuant to § 30-355 of the Code of Virginia:

**The Honorable Matthew James**, Post Office Box 7487, **Portsmouth**, Virginia 23707, Member, for a term coincident with the term for which he has been elected to the House of Delegates, to succeed the Honorable Jennifer McClellan.

**The Honorable Patricia L. West**, 2109 Heron Ridge Lane, **Virginia Beach**, Virginia 23456, Member, for a term of four years beginning July 1, 2017, and ending June 30, 2021, to succeed herself.

RESOLVED FURTHER, That the General Assembly confirm the following appointments made by the Joint Rules Committee:

1. Appointments to the Commonwealth Health Research Board pursuant to § 32.1-162.23 of the Code of Virginia:

**Thomas W. Eppes, Jr., MD**, 2056 Fox Hill Road, **Lynchburg**, Virginia 24503, Member, for a term of five years beginning April 1, 2017, and ending March 31, 2022, to succeed George E. Broman, MD.

**L. Matthew Frank, MD**, 9573 28th Bay Street, **Norfolk**, Virginia 23518, Member, for a term of five years beginning April 1, 2017, and ending March 31, 2022, to succeed himself.

2. Appointments to the Board of Trustees of the Virginia Retirement System pursuant to § 51.1-124.20 of the Code of Virginia:

**Troilen Gainey Seward**, Post Office Box 266, **Claremont**, Virginia 23899, Member, for a term of five years beginning March 1, 2017, and ending February 28, 2022, to succeed himself.

**HOUSE JOINT RESOLUTION NO. 1086**

*Celebrating the life of the Honorable Michèle B. McQuigg.*

Agreed to by the House of Delegates, February 22, 2017

Agreed to by the Senate, February 23, 2017

WHEREAS, the Honorable Michèle B. McQuigg of Prince William County, a lifelong public servant who represented the 51st District in the Virginia House of Delegates and ably served as clerk of the Prince William Circuit Court, died on February 15, 2017; and

WHEREAS, a native of Bay Shore, New York, Michèle McQuigg earned a bachelor's degree from the University of Mary Washington and a master's degree from Virginia Polytechnic Institute and State University; and

WHEREAS, Michèle McQuigg worked as an elementary school teacher, an adult education teacher, and a real estate broker; she was active in civic life as a member of the local parent-teacher association, the Lake Ridge-Occoquan-Coles Civic Association, and the Prince William Republican Women's Club; and

WHEREAS, in 1991, Michèle McQuigg was elected to represent the residents of the Occoquan District on the Prince William County Board of Supervisors; she built strong relationships with the members of the community, taking time to visit all the citizens of the Occoquan District each year she was in office from 1992 to 1998; and

WHEREAS, desirous to be of further service to the Commonwealth, Michèle McQuigg ran for and was elected to the Virginia House of Delegates, where she ably represented the residents of part of Prince William County in the 51st District from 1998 to 2007; and

WHEREAS, during her time as a state legislator, Michèle McQuigg introduced and supported many important pieces of legislation to benefit all Virginians and provided her leadership and expertise to several committees and commissions, including as vice chair of the House Committee on General Laws and chair of the Disability Commission; and

WHEREAS, Michèle McQuigg added to her legacy of public service when she was elected clerk of the Prince William Circuit Court of the 31st Judicial Circuit of Virginia in 2008 and reelected in 2015; and

WHEREAS, as clerk, Michèle McQuigg enhanced the functions of the court, scanning more than 1.3 million pages of case pleadings and posting them in an online archive to better serve the members of the public, and she increased efficiency by creating a system to allow attorneys to file paperwork electronically; and

WHEREAS, Michèle McQuigg also worked to preserve historical court documents, some dating back to the formation of Prince William County in 1731, and ensured that they were easily available to members of the public; and

WHEREAS, a woman of great integrity, Michèle McQuigg served Prince William County and the Commonwealth with the utmost dedication and distinction, strengthening schools and education, public safety, and the overall quality of life in her community; and

WHEREAS, Michèle McQuigg was a loving mother who cared deeply for her family; she will be fondly remembered and greatly missed by her husband, Clancy; daughters, Heather and Katie, and their families; and numerous other family members, friends, and colleagues on both sides of the aisle; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby note with great sadness the loss of the Honorable Michèle B. McQuigg, a distinguished public servant who made lasting contributions to Prince William County and the Commonwealth; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of the Honorable Michèle B. McQuigg as an expression of the General Assembly's respect for her memory.

**HOUSE JOINT RESOLUTION NO. 1087**

*Commending The Barns at Hamilton Station Vineyards.*

Agreed to by the House of Delegates, February 23, 2017

Agreed to by the Senate, February 24, 2017

WHEREAS, The Barns at Hamilton Station Vineyards, a family-owned winery near the historic Town of Hamilton, won two gold medal awards in the 2017 Virginia Governor's Cup wine competition for its 2014 Meritage and 2014 Cabernet Sauvignon, which also received the Governor's Cup trophy; and

WHEREAS, the Virginia Governor's Cup wine competition, hosted annually by the Virginia Wineries Association, showcases the best of the best in Virginia wine and is one of the most stringent competitions in the United States; and

WHEREAS, since its first harvest in 2011, The Barns at Hamilton Station Vineyards has worked with world-renowned winemaker Michael Shaps to use carefully selected Virginia grapes to create wines in the French Bordeaux style; and

WHEREAS, Michael Shaps studied oenology and viticulture in France and has worked and consulted with more than a dozen wineries in Virginia; he produces his own small lots of red and white Burgundies through Maison Shaps in Mersault, France; and

WHEREAS, under Michael Shaps' direction, The Barns at Hamilton Station Vineyards produces white wines that retain their natural acidity and varietal intensity and red wines that are highly extracted and crafted to be worthy of aging; and

WHEREAS, The Barns at Hamilton Station Vineyards features a tasting room in a restored 106-year-old stone and wood bank barn and draws visitors from throughout Virginia, the United States, and the world, and adds to the Commonwealth's stature as a world-class destination for wine lovers; and

WHEREAS, The Barns at Hamilton Station Vineyards has earned more than 100 local and national awards, including five gold medals in the 2016 Virginia Governor's Cup wine competition, the most gold medals awarded to a single winery that year; and

WHEREAS, on February 21, 2017, Governor Terence R. McAuliffe announced that The Barns at Hamilton Station Vineyards' 2014 Cabernet Sauvignon was the overall top-scoring wine of the competition and the winner of the prestigious Governor's Cup; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly hereby commend The Barns at Hamilton Station Vineyards on receiving two gold medals and the Governor's Cup trophy in the 2017 Virginia Governor's Cup wine competition; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare copies of this resolution for presentation to Andrew Fialdini, owner of The Barns at Hamilton Station Vineyards, and Michael Shaps, winemaker, as an expression of the General Assembly's admiration for the winery's contributions to the Commonwealth's exceptional wine industry.

**HOUSE JOINT RESOLUTION NO. 1088**

*Election of Circuit Court Judges, a General District Court Judge, Juvenile and Domestic Relations District Court Judges, and members of the Judicial Inquiry and Review Commission.*

Agreed to by the House of Delegates, February 23, 2017

Agreed to by the Senate, February 23, 2017

RESOLVED by the House of Delegates, the Senate concurring, That the General Assembly shall proceed this day

To the election of Circuit Court judges for terms of eight years commencing as follows:

One judge for the Third Judicial Circuit, term commencing July 1, 2017.

One judge for the Sixth Judicial Circuit, term commencing July 1, 2017.

One judge for the Seventh Judicial Circuit, term commencing July 1, 2017.

One judge for the Nineteenth Judicial Circuit, term commencing July 1, 2017.

One judge for the Nineteenth Judicial Circuit, term commencing January 1, 2018.

To the election of a General District Court judge of the Eighth Judicial District for a term of six years commencing July 1, 2017.

To the election of Juvenile and Domestic Relations District Court judges for terms of six years commencing as follows:

One judge for the Second Judicial District, term commencing July 1, 2017.

One judge for the Third Judicial District, term commencing July 1, 2017.

One judge for the Fifth Judicial District, term commencing July 1, 2017.

One judge for the Twentieth Judicial District, term commencing July 1, 2017.

To the election of members of the Judicial Inquiry and Review Commission for terms commencing as follows:

One member for an unexpired term ending June 30, 2019.

One member for a term of four years commencing July 1, 2017.

And that in the execution of the joint order nominations shall be made in the order herein named, and that each house shall be notified of said nominations, and when the rolls shall be called for the whole number, the presiding officers of each house shall appoint a committee of three, which together shall constitute the joint committee to count the vote of each house in each case and report the results to their respective houses. The joint order may be suspended by the presiding officer of either house at any time but for no longer than twenty-four hours to receive the report of the joint committee.

**HOUSE RESOLUTION NO. 266**

*Commending James Bowman.*

Agreed to by the House of Delegates, January 13, 2017

WHEREAS, it is from Homer and the ancient culture and legacy of Greece that there descends to the peoples of the West a distinctive experience, understanding, and code of honor, both individual and communal; and

WHEREAS, a half-millennium after Homer in *The Iliad* and *The Odyssey* explored the epic quest of fame, glory, and honor, still Plato could affirm that "What is honored in the country is cultivated there"; and

WHEREAS, James Bowman, in *Honor: A History*, demonstrates that ". . . in essence both fame and the expectation that men would desire it . . . remained unchanged from the days of Achilles to those of General Eisenhower"; and

WHEREAS, fame in its classic sense, Mr. Bowman explains, has to do with honor as "the good opinion of the people who matter to us"; and

WHEREAS, the understanding of honor that characterized Graeco-Roman culture and therefore informed the customs of the European peoples for nearly three millennia holds that "honor is out of individual control, subordinates the individual to his society, requires us to judge and has no regard for the feelings of those it crushes but also . . . is contextual, not absolute, and varies from society to society," and therefore the tradition of honor is at times at odds both with the regnant individualism of the modern era and certain tenets of Christendom; and

WHEREAS, James Bowman asserts that "the summit of Western civilization's achievement [in attaining a *modus vivendi* between the demands of honor and those of religion] . . . was the Anglo-Saxon ideal of the gentleman"; and

WHEREAS, James Bowman further affirms that "For 300 years, from the 16th to the 19th centuries, the dynamic interaction of the different strands of Western culture went to produce as its highest human type not the brave and mighty warriors of antiquity . . . but someone who was blessed with certain civilized virtues. The Renaissance made him a scholar and a linguist, as well as a warrior; the 18th century made him (like the American Founding Fathers) a patriot and a philosopher as well. The 19th century added sportsmanship and a kind of rugged piety . . ."; and

WHEREAS, "All this progress towards a distinctively Western idea of honor came to an end with the First World War . . . in the trenches" in a mechanized warfare that was widely believed to have shown that "individual acts of bravery and heroism on which honor depends had been rendered meaningless"; and

WHEREAS, a century after the First World War, "hardly anyone even knows what honor means, or what it once meant"; and

WHEREAS, Mr. Bowman suggests, "into the moral vacuum created by the disappearance of the idea of honor from our public life has rushed a horrible mutant substitute that goes under the name of . . . 'celebrity'"; and

WHEREAS, the loss of the individual sense and the cultural codes of honor imperils both domestic society and a country's ability to sustain the military morale without which the very safety of a nation is at risk; Mr. Bowman warns that "it may take a war with a primitive honor culture to bring our own sense of honor back"; and

WHEREAS, James Bowman concludes his monumental study with the observation that "[A]mong nations honor remains as indispensable as ever. It is our failure to understand this which has created so many of the foreign policy disasters of the last half-century and more"; and

WHEREAS, true to their heritage despite the vicissitudes of change, Virginians of every kind in every generation have upheld the demands of personal, social, and political honor; now, therefore, be it

RESOLVED by the House of Delegates, That James Bowman hereby be commended for the scholarly achievements manifest in his timely work *Honor: A History*; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to James Bowman at a forum on his magnum opus, *Honor: A History*, to be convened in Richmond.

#### HOUSE RESOLUTION NO. 267

*Commending St. Paul's Church of God in Christ.*

Agreed to by the House of Delegates, January 13, 2017

WHEREAS, for 100 years, St. Paul's Church of God in Christ has served as a center of spiritual, educational, and community life in Emporia; and

WHEREAS, St. Paul's Church of God in Christ traces its beginnings to the Sunday school held in an outside kitchen at the home of R.T. Person; the community gathering quickly became so popular there were not enough benches, so wooden shingles were used for additional seating; and

WHEREAS, the expanding congregation of St. Paul's Church of God in Christ created the need to build a church and R.T. Person donated land on Low Ground Road for a modest structure with four windows on each side and the church members worked to clear the land, which was nothing but rocks and trees; eventually more room was needed and an addition was built on the back of the original structure; and

WHEREAS, St. Paul's Church of God in Christ was a place where all were welcomed and many ministers, black and white, came to preach and spread the word of the Gospel, with Children's Day, Easter, and Christmas the most exciting times when the best recitations of any around could be heard; and

WHEREAS, in 1931 the R.R. Moton School was started in St. Paul's Church of God in Christ so that young children would not have to walk across the river to the South Emporia Training School, later known as the Greenville County Training School, which educated African American students; and

WHEREAS, many ministers have served St. Paul's Church of God in Christ over its long, illustrious history and it is now led by Pastor Brandon C. Allen, who seeks to promote the mission of serving God, loving people, and impacting the community; now, therefore, be it

RESOLVED by the House of Delegates, That St. Paul's Church of God in Christ hereby be commended on the occasion of its 100th anniversary and providing a century of joyful praise, worship, and fellowship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Brandon C. Allen, pastor of St. Paul's Church of God in Christ, as an expression of the House of Delegates' admiration for the church's long history and service to the Emporia community.

**HOUSE RESOLUTION NO. 268**

*Recognizing January 22 as the Day of Tears in Virginia.*

Agreed to by the House of Delegates, January 18, 2017

WHEREAS, on January 22, 1973, the majority of the members of the Supreme Court ruled that abortion was a right secured by the Constitution; and

WHEREAS, since that fateful day, over 58 million unborn children have perished; now, therefore, be it

RESOLVED by the House of Delegates, That January 22 hereby be recognized as the Day of Tears in Virginia and that the citizens of the Commonwealth of Virginia be encouraged to lower their flags to half-staff to mourn the innocents who have lost their lives to abortion.

**HOUSE RESOLUTION NO. 269**

*Commending Annie Belle Daniels.*

Agreed to by the House of Delegates, January 20, 2017

WHEREAS, Annie Belle Daniels is a respected businesswoman, civil rights advocate, and highly regarded leader in the Newport News community; and

WHEREAS, Annie Belle Daniels is the operator of a beauty salon and cosmetology school that has been a fixture in southeastern Newport News for nearly 60 years; and

WHEREAS, Annie Daniels was reared on a farm in Grove Hill, Alabama, where she was one of 11 children, and from an early age was inspired to become a hairdresser by her great aunt, Lady Bell Pugh; and

WHEREAS, Annie Daniels was formally trained at the Barnett Institute in Grove Hill, Alabama; Freeman Beauty College in Savannah, Georgia; and Spratley Beauty College in Newport News; and

WHEREAS, in 1958, Annie Daniels established the Madam Daniels Salon on Chestnut Avenue and one year later opened the Madam Daniels School of Beauty Culture, which started with four students and one basic course of study; and

WHEREAS, the Madam Daniels School of Beauty Culture has grown exponentially in enrollment and curriculum over the years, training thousands of students who otherwise would not have had the opportunity to become skilled professionals; and

WHEREAS, Annie Daniels is an advocate for civil rights and social justice in the Commonwealth as a leader in the Newport News chapter of the NAACP; she has a strong belief in civic duty, working to support numerous candidates for election and to increase voter registration; and

WHEREAS, in 2010, the City of Newport News dedicated a historical marker to honor Annie Daniels for her untiring humanitarian service and contribution to the general welfare of the city; and

WHEREAS, Annie Daniels received many awards and accolades for her civic and charity work over the years, including a Distinguished Citizen Award from the City of Newport News, Hampton University's President's Citizenship Award, and the Newport News NAACP's Lifetime Achievement Award; and

WHEREAS, Annie Daniels, a woman of strong courage and faith, has advocated for young people and been an inspiration to other local business owners, especially aspiring young entrepreneurs; now, therefore, be it

RESOLVED by the House of Delegates, That Annie Belle Daniels hereby be commended for her nearly 60 years of service as a respected businesswoman, civil rights advocate, and highly regarded leader in Newport News; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Annie Belle Daniels as an expression of the House of Delegates' admiration for her many achievements and tireless commitment to the citizens of Newport News and Hampton Roads.

**HOUSE RESOLUTION NO. 270**

*Celebrating the life of Captain Arthur C. Derrick, USN, Ret.*

Agreed to by the House of Delegates, January 13, 2017

WHEREAS, Captain Arthur C. Derrick, USN, Ret., a distinguished United States Navy aviator and a respected member of the Virginia Beach community, died on August 30, 2016; and

WHEREAS, born in California, Arthur Derrick grew up in New Jersey and graduated from Bloomfield High School, where he was a member of the state championship football team and lettered in track and field; and

WHEREAS, after joining the United States Navy, Arthur Derrick earned bachelor's degrees from the Massachusetts Institute of Technology and the Naval Postgraduate School and a master's degree from Stevens Institute of Technology; and

WHEREAS, Arthur Derrick first began flying for the Navy as a member of Fighter Squadron 111, with whom he flew during the Korean War, earning a Purple Heart; he later joined Strike Fighter Squadron 113 and was selected to attend the Fleet Air Gunnery Unit, a precursor to the Top Gun program; and

WHEREAS, Arthur Derrick was also a member of Attack Squadron 174, where he trained pilots on the F8U Crusader jet and Fighter Squadron 62 and commanding officer of Strike Fighter Squadron 11 during the Vietnam War; and

WHEREAS, Arthur Derrick completed his Navy career in 1975 as the commanding officer of Naval Air Warfare Center Warminster in Pennsylvania and eventually settled in Virginia Beach; and

WHEREAS, Arthur Derrick will be fondly remembered and greatly missed by his children, Diane, Kathy, Carolyn, Kim, and Jon, and their families, and numerous other family members, friends, and fellow aviators; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Captain Arthur C. Derrick, USN, Ret., a distinguished veteran in Virginia Beach; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Captain Arthur C. Derrick, USN, Ret., as an expression of the House of Delegates' respect for his memory.

### HOUSE RESOLUTION NO. 271

*Celebrating the life of Samuel L. Green, Jr.*

Agreed to by the House of Delegates, January 13, 2017

WHEREAS, Samuel L. Green, Jr., of Hampton, a spiritual leader who touched countless lives throughout Hampton Roads, the Commonwealth, and throughout the United States, died on June 26, 2016; and

WHEREAS, a native of Norfolk, Samuel Green graduated from Booker T. Washington High School and attended Norfolk State University and Old Dominion University; he held bachelor's and master's degrees from Norfolk Theological Seminary and College; and

WHEREAS, Samuel Green answered the call to ministry in 1960 when he became pastor of St. John's Church of God in Christ in Newport News, where he provided wise spiritual leadership to the congregation for 52 years; and

WHEREAS, in 1971, Samuel Green was appointed as the Jurisdictional Prelate for the Second Jurisdiction, State of Virginia of the Church of God in Christ, and in 1984, he was elected as a member of the General Board of Presidium, Church of God in Christ; and

WHEREAS, Samuel Green served and strengthened the community as the founder of Faith for Living Richer Life Ministries and the owner of an assisted living facility; he also helped raise more than \$1 million in scholarships for students at Regent University, where the Samuel L. Green Doctoral Ministry chair was named in his honor; and

WHEREAS, a former president of National Black Religious Broadcasters, Samuel Green earned accolades as the chair of the first African-American-owned religious television station, WJCB-TV 49; and

WHEREAS, Samuel Green will be fondly remembered and greatly missed by his wife, LueJinnie; children, Jacquelin, Norvice, Dwight, Samuel, Nathalie, Naomi, Deborah, Phillip, Michael, and Rosanna, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Samuel L. Green, Jr., a highly respected spiritual leader; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Samuel L. Green, Jr., as an expression of the House of Delegates' respect for his memory.

### HOUSE RESOLUTION NO. 272

*Commending Miles Williams.*

Agreed to by the House of Delegates, January 13, 2017

WHEREAS, Miles Williams, a sophomore at Princess Anne High School in Virginia Beach, received the Virginia Beach Lifesaver Award on September 1, 2016, for his heroic actions to single-handedly rescue two men in distress near the Chesapeake Bay Bridge-Tunnel; and

WHEREAS, the Virginia Beach Lifesaver Award was created in 1967 to honor individuals who had gone above and beyond to ensure the safety and well-being of their fellow citizens; and

WHEREAS, in July 2016, Miles Williams was skimboarding at Chic's Beach when he saw two men struggling in the water near the Chesapeake Bay Bridge-Tunnel; the men had been caught in a rip current and were in severe distress; and

WHEREAS, Miles Williams, who swims competitively with Tide Swimming in Virginia Beach, reacted without hesitation and rushed to assist the two men, pulling them one by one back to shore; both men were unharmed thanks to Miles Williams' quick and courageous actions; and

WHEREAS, Miles Williams also serves the community as a volunteer with a Special Olympics paddle boarding group, and he hopes to put his swimming skills to use as a lifeguard in the future; and

WHEREAS, Miles Williams received the Virginia Beach Lifesaver Award at a special ceremony at Princess Anne High School, prior to the football team's home opener; now, therefore, be it

RESOLVED by the House of Delegates, That Miles Williams hereby be commended on receiving the Virginia Beach Lifesaver Award for rescuing two men in the Chesapeake Bay; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Miles Williams as an expression of the House of Delegates' admiration for his selfless, life-saving actions.

**HOUSE RESOLUTION NO. 273**

*Celebrating the life of William Harrison Bledsoe.*

Agreed to by the House of Delegates, January 13, 2017

WHEREAS, William Harrison Bledsoe of Norton, a dedicated advocate for the coal industry who served the Commonwealth as a member of the Virginia Department of Mines, Minerals and Energy, died on April 5, 2016; and

WHEREAS, a native of Wise County, William "Bill" Harrison Bledsoe honorably served his country during the Vietnam War as a member of the United States Army; upon returning home to the Commonwealth, he began a long, fulfilling career with the Department of Mines, Minerals and Energy (DMME); and

WHEREAS, after his well-earned retirement from DMME, Bill Bledsoe continued to work with state government, the mining industry, and the citizens of the Commonwealth to balance the need for reliable energy and economic stability with environmental concerns as executive director of the Virginia Mining Association; and

WHEREAS, known for his honesty, integrity, and loyalty, Bill Bledsoe was proud to represent the hardworking coal miners in the Commonwealth and served as a trusted mentor to countless men and women throughout the industry; and

WHEREAS, predeceased by a son, Jake, Bill Bledsoe will be fondly remembered and greatly missed by his loving wife of 48 years, Loretta; his children, Karen and Greg, and their families; his mother, Evelyn; and numerous other family members, friends, and colleagues; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of William Harrison Bledsoe, a highly respected advocate for coal miners and the mining industry in the Commonwealth; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of William Harrison Bledsoe as an expression of the House of Delegates' respect for his memory.

**HOUSE RESOLUTION NO. 274**

*Commending the Brandon Heights Fourth of July Parade.*

Agreed to by the House of Delegates, January 13, 2017

WHEREAS, the Brandon Heights Fourth of July Parade, a beloved community tradition in Newport News, has given local residents the opportunity to celebrate the nation's heritage and show their patriotism for 50 years; and

WHEREAS, in 1967, a group of Brandon Heights neighbors talked about decorating baby carriages and marching up Milford Road on the Fourth of July, and several fathers and children announced the event by walking around the neighborhood and beating drums on the previous night; and

WHEREAS, with Dave Wible as the first parade chairman, the inaugural Brandon Heights Fourth of July Parade started on Stratford Road in the morning and proceeded up Ferguson Avenue to Milford Road; and

WHEREAS, the first Brandon Heights Fourth of July Parade was made up of a kazoo and drum band, an antique fire engine, and an assortment of costumed pets and children; a ceremony at the end featured patriotic songs and awards for the best costumes; and

WHEREAS, in the 1970s, the parade was moved to the afternoon to accommodate plans for an evening block party; costumes remained a proud tradition, with Uncle Sam often leading the way; and the parade evolved to include wheeled entries from local children of all ages, from carriages and strollers to wagons, tricycles, bikes, and skateboards; and

WHEREAS, for many years, the block party after the Brandon Heights Fourth of July Parade was one of the area's premier local events, with live music, great food, patriotic speeches, and a popular egg toss, among other games; and

WHEREAS, the Brandon Heights Fourth of July Parade has encountered inclement weather over the years, but organizers, participants, and a host of dedicated volunteers have persevered to carry on the tradition consistently; and

WHEREAS, the Brandon Heights Fourth of July Parade has changed and grown throughout its 50-year history; many of the babies who were pushed in carriages for the first parade have watched their own children and grandchildren participate in the event, which still provides an excellent opportunity to meet fellow community members and renew friendships; now, therefore, be it

RESOLVED by the House of Delegates, That the Brandon Heights Fourth of July Parade hereby be commended on the occasion of its 50th parade in 2017 for strengthening community spirit in Newport News; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Sara Leone, Liz Rous, Jan Salley, and Marnet Ware, the organizing committee of the Brandon Heights Fourth of July Parade, as an expression of the House of Delegates' admiration for this unique local tradition.

**HOUSE RESOLUTION NO. 275**

*Celebrating the life of Willis E. Lowery.*

Agreed to by the House of Delegates, January 13, 2017

WHEREAS, Willis E. Lowery, an upstanding resident of Newport News who became a computer engineer after a distinguished career in the United States Navy, died on July 13, 2016; and

WHEREAS, Willis "Bill" E. Lowery, born in Rochester, New York, to the late Willis and Louise Lowery, graduated from Aquinas High School in Rochester and the University of Rochester; and

WHEREAS, after college, Bill Lowery embarked on a 25-year career in the United States Navy that took him to assignments in: Newport, Rhode Island; Key West, Florida; Idaho Falls, Idaho; Charleston, South Carolina; Monterey, California; Bremerton, Washington; Mechanicsburg, Pennsylvania; Norfolk; and Newport News; and

WHEREAS, when Bill Lowery retired from the Navy in 1979 as a commander, he and his family decided to settle in Newport News, where he pursued a second career as a computer technician and systems engineer for companies such as Tektronix, Inc.; Hewlett-Packard; and Silicon Graphics, Inc.; and

WHEREAS, Bill Lowery was an upstanding member of the Newport News community; he loved his family, tinkering with his home computer, working on cars, sharing his knowledge with his many grandchildren, and giving everyone he met a hard time; and

WHEREAS, Bill Lowery will be fondly remembered and greatly missed by his wife of 58 years, Julia; their children, James, Matthew, Mary, Katherine, and Margaret, and their families; and a host of extended family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Willis E. Lowery, a distinguished United States Navy veteran and upstanding resident of Newport News; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Willis E. Lowery as an expression of the House of Delegates' respect for his memory.

**HOUSE RESOLUTION NO. 276**

*Commending Saints Constantine and Helen Greek Orthodox Church.*

Agreed to by the House of Delegates, January 13, 2017

WHEREAS, for 100 years, Saints Constantine and Helen Greek Orthodox Church has provided countless Richmond residents with a welcoming spiritual home and provided leadership and outreach throughout the area; and

WHEREAS, the first Greek Orthodox immigrants arrived in the Richmond area in 1896, and from this community of hard-working immigrants Saints Constantine and Helen Greek Orthodox Church was founded in 1917, its first service held in a rented building on West Broad Street; the church purchased its first permanent house of worship in 1930; and

WHEREAS, beginning in 1937, Saints Constantine and Helen Greek Orthodox Church was ably led by Father Theodore L. Sideris, who was elevated to the Episcopate after 17 years of service; he was succeeded by Father Constantine N. Dombalis, who ministered for 41 years; and

WHEREAS, under Father Dombalis, the congregation of Saints Constantine and Helen Greek Orthodox Church grew and made many meaningful contributions to the Richmond community; the church also took on an international character through Father Dombalis' work with the United Nations; and

WHEREAS, after Saints Constantine and Helen Greek Orthodox Church was destroyed by fire in 1957, the congregation held worship services with the help of other local churches and completed a new house of worship at the current location on Malvern Avenue in 1961; and

WHEREAS, in 1976, Saints Constantine and Helen Greek Orthodox Church held its first Greek Festival, a beloved Richmond tradition offering delicious homemade food, crafts, music, and folk dancing; and

WHEREAS, after Nicholas G. Bacalis became pastor in 1996, Saints Constantine and Helen Greek Orthodox Church continued to grow, and a new support building with offices, classrooms, a gymnasium, and social areas was completed in 2008; and

WHEREAS, over the years, the diverse congregation of Saints Constantine and Helen Greek Orthodox Church has served the Richmond community from a wide range of vocations, and the members of the church have generously donated their time and talents to help charitable and philanthropic causes throughout the city; and

WHEREAS, Saints Constantine and Helen Greek Orthodox Church plans to celebrate its 100th anniversary with special services and events throughout the year, as well as presentations on the history of the church and Greek culture; now, therefore, be it

RESOLVED by the House of Delegates, That Saints Constantine and Helen Greek Orthodox Church hereby be commended for its legacy of service on the occasion of its 100th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Saints Constantine and Helen Greek Orthodox Church as an expression of the House of Delegates' admiration for the church's storied history and many contributions to the Richmond community.

**HOUSE RESOLUTION NO. 277**

*Celebrating the life of Theodore Eugene Thieman, Sr.*

Agreed to by the House of Delegates, January 13, 2017

WHEREAS, Theodore Eugene Thieman, Sr., a commercial pilot, ordained pastor, and resident of the Back Bay community of Virginia Beach, died on November 20, 2016; and

WHEREAS, Theodore Eugene "Gene" Thieman, Sr., was born in Lockwood, Missouri, to the late Theodore and Nola Thieman; and

WHEREAS, Gene Thieman's first true love was flying and he purchased his first airplane when he was just 17 years old; and

WHEREAS, Gene Thieman proudly served in the United States Navy and had a career as a commercial pilot for Eastern Airlines, logging an incredible 24,000 hours of flight time in his more than 26 years with the company; and

WHEREAS, the only thing that Gene Thieman loved more than flying was the Lord and in 1978 he was ordained as a Southern Baptist Convention minister; he served churches in Maryland, Virginia, and North Carolina; and

WHEREAS, Gene Thieman was a respected member of the Back Bay community and served as a chaplain for the Virginia Beach Police Department and as a local game warden for the Virginia Department of Game and Inland Fisheries; and

WHEREAS, a man of many talents and careers, Gene Thieman loved spreading the word of the Lord and spending time with his large family, including his 15 grandchildren and 10 great grandchildren; and

WHEREAS, predeceased by his beloved wife, Frances, and his oldest son, Warren, Gene Thieman will be fondly remembered and greatly missed by his children, Linda, Ted, Debbie, David, and Cheryl, and their families, and a large number of extended family and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Theodore Eugene Thieman, Sr., a commercial pilot, ordained pastor, and upstanding resident of the Back Bay community in Virginia Beach; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Theodore Eugene Thieman, Sr., as an expression of the House of Delegates' respect for his memory.

**HOUSE RESOLUTION NO. 278**

*Commending Lynn Wiggins.*

Agreed to by the House of Delegates, January 13, 2017

WHEREAS, Lynn Wiggins, a generous philanthropist and an admired community advocate who offered her leadership to several charitable organizations over the course of 45 years, was named First Citizen of Portsmouth in 2015; and

WHEREAS, the First Citizen of Portsmouth award is presented by the Portsmouth Service League to one resident who embodies the spirit of citizenship through community service; nominees are evaluated by a committee of former First Citizens; and

WHEREAS, Lynn Wiggins, a proud native of the Eastern Shore, graduated from the University of Richmond and moved with her husband, Ben, to Portsmouth in 1964; she taught history at Harry Hunt Junior High School and worked in her husband's growing dental practice before answering the call to serve members of the community in need; and

WHEREAS, Lynn Wiggins joined the Portsmouth Service League, a volunteer organization of women who strive for the betterment of the community, and ably led the organization as president in 1973; and

WHEREAS, Lynn Wiggins also served as a member of the Portsmouth Red Cross Board of Directors and became the first woman to serve as chair of the administrative board of Monumental United Methodist Church; and

WHEREAS, Lynn Wiggins was the first woman to serve as president of the Portsmouth YMCA, where she used her organizational skills and open-minded leadership to steward the organization through a move to a new facility in Churchland, as well as oversee many successful fundraisers; and

WHEREAS, in 1999, Lynn Wiggins joined the Portsmouth Community Foundation, now known as the Southeastern Virginia Community Foundation, which works with other charitable organizations to strengthen the region; she served as president from 2005 to 2007 and was a member of the board until 2009; and

WHEREAS, Lynn Wiggins was officially named First Citizen of Portsmouth at a banquet held in her honor at the Renaissance Portsmouth Hotel on April 28, 2016, with proceeds of the banquet benefiting the Southeastern Virginia Community Foundation and the Portsmouth Service League's efforts to restore the Woman's Club of Portsmouth; now, therefore, be it

RESOLVED by the House of Delegates, That Lynn Wiggins hereby be commended for being named the 2015 First Citizen of Portsmouth for her legacy of leadership and service to the community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Lynn Wiggins as an expression of the House of Delegates' admiration for her mission to enhance the lives of all of her fellow Portsmouth residents.

### HOUSE RESOLUTION NO. 279

*Celebrating the life of Darlene Bardon McKenzie.*

Agreed to by the House of Delegates, January 13, 2017

WHEREAS, Darlene Bardon McKenzie, a vibrant, hard-working member of the Virginia Beach community, died on June 5, 2016; and

WHEREAS, a native of Quantico, Darlene McKenzie graduated from Potomac Senior High School in Dumfries; and

WHEREAS, Darlene McKenzie attended Old Dominion University, where she studied criminal justice, and earned an associate degree from Tidewater Community College, where she specialized in litigation; and

WHEREAS, Darlene McKenzie worked for Eastern Plumbing Services, Inc., and GE Ricks Co., Inc.; for 10 years, she was also a dedicated member of the Stephen E. Heretick, P.C., law firm, where she served as a legal assistant; and

WHEREAS, an avid sports fan, Darlene McKenzie enjoyed watching football and basketball; and

WHEREAS, Darlene McKenzie will be fondly remembered and greatly missed by her husband, David; her children, David, Jesse, Lauren, and Heather, and their families; her mother, Margie; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Darlene Bardon McKenzie, a beloved member of the Virginia Beach community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Darlene Bardon McKenzie as an expression of the House of Delegates' respect for her memory.

### HOUSE RESOLUTION NO. 280

*Celebrating the life of Ralph McKinley Dillow, Jr.*

Agreed to by the House of Delegates, January 13, 2017

WHEREAS, Ralph McKinley Dillow, Jr., a Purple Heart recipient, highly respected attorney, and beloved member of the Bristol community, died on October 15, 2016; and

WHEREAS, a son of Ralph and Mary Virginia Dillow, Ralph Dillow grew up in Bristol and graduated from Virginia High School, where he was a cheerleader and "Mr. Virginia High"; and

WHEREAS, upon graduation from high school, Ralph Dillow enlisted in the United States Army and served in the 25th Infantry Division as a demolitions expert during the Korean War; he was awarded a Purple Heart for injuries he sustained when a Jeep he was riding in drove over a land mine; and

WHEREAS, Ralph Dillow finished his service in the United States Army teaching English while stationed in Japan, then he returned to the United States and attended King College in Bristol, Tennessee, on the GI Bill, graduating in 1956 with a degree in history; and

WHEREAS, after Ralph Dillow graduated from the University of Richmond School of Law in 1958, he returned to Bristol, where he practiced law until February 2016; since 1983, he practiced at the firm Dillow & Esposito, where his daughter, Faith Esposito, was his law partner; and

WHEREAS, Ralph Dillow served as a substitute judge in the early years of his law career; he was highly respected in the legal community, known for his fierce courtroom demeanor and equally respectful demeanor to everyone he met; and

WHEREAS, Ralph Dillow was honored by the Virginia State Bar for 50 years of practice in 2009; he served the Virginia State Bar in various positions over the years and was a past president of the Bristol Bar Association; and

WHEREAS, Ralph Dillow loved being active in his community, whether it was as a member of the Bristol School Board from 1977 to 1983 or serving on the boards of directors of the Boys and Girls Club of Bristol and Bristol Ballet Company; and

WHEREAS, Ralph Dillow was the definition of a true southern gentleman, known for his kindness, keen wit, raucous sense of humor, and love of Alabama Crimson Tide football; and

WHEREAS, known as "Rim" to his friends and "Pops" to his 14 grandchildren, Ralph Dillow had an adventurous spirit and loved to travel, especially to his favorite fishing hole at Elephant Lake, Ontario, Canada, and his favorite beach at Pawleys Island, South Carolina; and

WHEREAS, Ralph Dillow valued education and lifelong learning, and lived every day as an example to his children and grandchildren, to whom he passed down his compassion for the human condition and happy outlook on life; and

WHEREAS, Ralph Dillow will be fondly remembered and greatly missed by his wife of 60 years, Betty; his children, Faith, Sumer, Beth, Julie, Noel, and Ralph, and their families; and a vast number of relatives and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Ralph McKinley Dillow, Jr., a Purple Heart recipient, highly respected attorney, and beloved member of the Bristol community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Ralph McKinley Dillow, Jr., as an expression of the House of Delegates' respect for his memory.

**HOUSE RESOLUTION NO. 281**

*Commending the New Kent Middle School football team.*

Agreed to by the House of Delegates, January 13, 2017

WHEREAS, the New Kent Middle School football team won the Bay Rivers District championship on October 29, 2016, at Bailey Field in Yorktown; and

WHEREAS, the New Kent Middle School Lions' 20-8 victory over the undefeated Berkeley Middle School Bulldogs capped a memorable 7-1 season during which the Lions outscored their opponents 269-88; and

WHEREAS, the New Kent Lions brought home the district championship trophy for the first time in school history in 2016 and avenged the team's only loss by defeating the Berkeley Bulldogs in the championship game; and

WHEREAS, head coach Doug Smith and his coaching staff worked tirelessly to develop the skills of the players, teaching the members of the New Kent Middle School football team to be fierce competitors and to have humble hearts; and

WHEREAS, throughout the season, the New Kent Lions demonstrated determination and achieved their goals through teamwork and the team succeeded with the support of the entire New Kent Middle School community; now, therefore, be it

RESOLVED by the House of Delegates, That the New Kent Middle School football team hereby be commended for winning the Bay Rivers District championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Doug Smith, head coach of the New Kent Middle School football team, as an expression of the House of Delegates' admiration for the team's impressive championship season.

**HOUSE RESOLUTION NO. 282**

*Celebrating the life of Alvin W. Blaha.*

Agreed to by the House of Delegates, January 13, 2017

WHEREAS, Alvin W. Blaha, a lifelong resident of Dinwiddie County who was a passionate advocate and trusted ambassador for the farming community throughout the Commonwealth, died on June 8, 2016; and

WHEREAS, Alvin Blaha learned the value of hard work and responsibility at a young age, clearing brush and trimming weeds on his family farm, and his sense of duty led him to serve his country as a member of the United States Army; and

WHEREAS, after a 34-year career with Hercules, Inc., in Hopewell, Alvin Blaha became a full-time farmer and offered his leadership and expertise to the agriculture community as a member of numerous agricultural organizations, boards, and advisory committees at local, state, and national levels; and

WHEREAS, Alvin Blaha served as president or chair of the boards of the Virginia Soybean Association, Southern States Southside Cooperative, Virginia Cotton Growers Association, and as a member of the Virginia Farm Bureau Board of Trustees; and

WHEREAS, as a member of the Dinwiddie County Planning Commission, Dinwiddie County Farm Bureau, and Dinwiddie County Soil & Water Board, Alvin Blaha worked to ensure a strong future for the county and for all of his fellow residents; and

WHEREAS, well-known for hosting events at his farm, Alvin Blaha welcomed about 900 second-graders to his farm to learn about agriculture each October; he earned the respect of his colleagues for his unflinching dedication, wealth of knowledge, and passion for service; and

WHEREAS, Alvin Blaha enjoyed fellowship and worship with the community as a member and past president of St. John's Catholic Church, where he served on the finance committee; and

WHEREAS, a beloved husband, father, and grandfather, Alvin Blaha will be fondly remembered and greatly missed by his wife of 56 years, Nina; children, Cindy and Eric, and their families; and numerous other family members, colleagues, and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Alvin W. Blaha, a farmer who worked tirelessly to strengthen the agriculture community in Dinwiddie County and the Commonwealth; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Alvin W. Blaha as an expression of the House of Delegates' respect for his memory.

**HOUSE RESOLUTION NO. 283***Celebrating the life of Jack W. Gravely.*

Agreed to by the House of Delegates, January 13, 2017

WHEREAS, Jack W. Gravely, a Richmond radio talk show host, state and national civil rights advocate, and community leader, died on August 15, 2016; and

WHEREAS, Jack Gravely was a native of Pocahontas and the seventh of 12 children born to the late Clarence and Causby Gravely; and

WHEREAS, Jack Gravely earned a degree in history and government from Fayetteville State University in Fayetteville, North Carolina, and received a law degree from the University of Virginia School of Law; he served in a combat support unit in Vietnam in between earning the two degrees; and

WHEREAS, in September 1995, Jack Gravely was appointed the first director of diversity at the Federal Communications Commission; and

WHEREAS, Jack Gravely worked at the state and national level of the NAACP for 16 years, serving two stints as the head of the Virginia State Conference NAACP and as a special assistant to then-national NAACP Executive Director Benjamin L. Hooks; and

WHEREAS, Jack Gravely gained recognition across the Commonwealth as a frequent guest on local public affairs shows and as the host of a talk show on WRVA-AM in Richmond from 1996 to 2002; at the time of his death he was the host of "The Jack Gravely Show" on Richmond's Rejoice 990 WREJ-AM (formerly WLEE-AM); and

WHEREAS, Jack Gravely graced national television airwaves, his commentary appeared regularly in local and national newspapers, and he was a sought-after speaker, delivering over 600 speeches across the country and in Canada; and

WHEREAS, guided by faith and grounded in family devotion, Jack Gravely was baptized at an early age and was a member of the Good Shepherd Baptist Church of Petersburg, where he served faithfully on the Deacon Board, Male Usher Ministry, and Nehemiah Group Ministry; and

WHEREAS, Jack Gravely's example of faithfulness, demonstration of dignity, and grace will forever inspire the lives of all of those who he touched, especially his children and grandchildren; and

WHEREAS, Jack Gravely will be fondly remembered and greatly missed by his devoted wife, Barbara; children, Chekesha, Kimya, Kia, Tony, Tonya, and Randy, and their families; and numerous relatives and friends; now, therefore, be it  
RESOLVED, That the House of Delegates hereby note with great sadness the loss of Jack W. Gravely, radio talk show host, civil rights advocate, and community leader; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Jack W. Gravely as an expression of the House of Delegates' respect for his memory.

**HOUSE RESOLUTION NO. 284***Celebrating the life of Charles Winston Britt, Sr.*

Agreed to by the House of Delegates, January 13, 2017

WHEREAS, Charles Winston Britt, Sr., a United States Air Force veteran, former Wakefield mayor, and respected civic leader in his community, died on March 11, 2016; and

WHEREAS, born in Southampton County to the late Charles and Edith Britt, Winston Britt served in the Air Force for 26 years; and

WHEREAS, for over 36 years, Winston Britt operated Britt's Service Center on Route 460 in Wakefield, a gas station, auto repair shop, and popular lunch spot known for its famous "Britt Dog" hot dog; and

WHEREAS, Winston Britt served on the Wakefield Town Council and was elected Mayor of Wakefield in 1990, a position he held for 20 years; and

WHEREAS, Winston Britt was active in Virginia aviation and loved the Wakefield community; he was a member of the Wakefield Ruritans, Wakefield Rotary, Wakefield Volunteer Fire Department, Waverly Volunteer Rescue Squad, and Wakefield United Methodist Church; and

WHEREAS, Winston Britt was a member of the University of North Carolina at Chapel Hill Rams Club and was known as the biggest Tar Heels fan in all of Wakefield, proudly displaying Carolina blue decals on the storefront of his service station; and

WHEREAS, Winston Britt will be fondly remembered and greatly missed by his wife of 48 years, Judy; his children, Chuck, Cathie, Charmin, and Carmin, and their families; and numerous other relatives and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Charles Winston Britt, Sr., a United States Air Force veteran, former Wakefield mayor, and respected civic leader; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Charles Winston Britt, Sr., as an expression of the House of Delegates' respect for his memory.

**HOUSE RESOLUTION NO. 285**

*Commending the Rotary Club of Petersburg (Breakfast).*

Agreed to by the House of Delegates, January 13, 2017

WHEREAS, the Rotary Club of Petersburg (Breakfast) celebrates 30 years of placing "Service above Self" in 2017; and  
 WHEREAS, the Rotary Club of Petersburg (Breakfast) was chartered on May 28, 1987, with 31 members, including five founding members, Burrell D. Angell, H. Reed Boyd III, Dennis K. Myers, S. Bryant Palmore, and Phillip C. Spencer; and

WHEREAS, the Rotary Club of Petersburg (Breakfast) was organized and established on the principles of Rotary International to make the world a better place by supporting humanitarian efforts and promoting peace and goodwill; and

WHEREAS, for the past 30 years, the Rotary Club of Petersburg (Breakfast) has served the Tri-Cities area, the Commonwealth, and the world through community service, club events, vocational service, and international philanthropy; and

WHEREAS, the Rotary Club of Petersburg (Breakfast) has given to the Rotary Foundation, Polio Plus, and other Rotary initiatives, both financially and through hands-on projects; and

WHEREAS, the Rotary Club of Petersburg (Breakfast) commemorates its 30th anniversary in the same year as the 100th anniversary of the Rotary Club of Petersburg, VA; now, therefore, be it

RESOLVED by the House of Delegates, That the Rotary Club of Petersburg (Breakfast) hereby be commended on the occasion of its 30th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Rotary Club of Petersburg (Breakfast) as an expression of the House of Delegates' admiration for the club's service to the Tri-Cities community and the Commonwealth.

**HOUSE RESOLUTION NO. 286**

*Commending the Eastside High School one-act play team.*

Agreed to by the House of Delegates, January 13, 2017

WHEREAS, the Eastside High School one-act play team of Coeburn won its third consecutive state title at the Virginia High School League Group 1A State Theatre Festival in 2016; and

WHEREAS, the Eastside High School one-act play team performed *The Amish Project* by Jessica Dickey, a powerful and thought-provoking piece about the attack on an Amish schoolhouse in Lancaster County, Pennsylvania, in 2006; and

WHEREAS, Eastside High School sophomore Emma Fleming and freshman Jillian Hall received Group 1A Outstanding Actor Awards for their engaging performances; and

WHEREAS, each member of the Eastside High School one-act play team—Louvina Ball, Gabriella Brooks, Sarah Burke, Gracie Cantrell, Cheyenne Collins, Christie Farmer, Emma Fleming, Ashley Ferguson, Amber Freeman, Elizabeth Hall, Jillian Hall, Michaela Hall, Nic Harris, Jeffrey Hunsaker, Kayley Johnson, Kailey Kyle, Dalton Lawson, Gianna Lucero, Kaitlyn Maine, Elizabeth Mann, Anna McKnight, Austin Mullins, Dominic Sluss, Cameron Stanley, Kaleigh Still, Hailey Tankersley, Joseph Tankersley, and Trinity Thompson—and coaches Shane Burke and Heather Merchant contributed in a variety of ways throughout the season; and

WHEREAS, the victory is a testament to the skill of the student actors and crew, the leadership of the coaches and faculty, and the passionate support of the entire Eastside High School community; now, therefore, be it

RESOLVED by the House of Delegates, That the Eastside High School one-act play team hereby be commended on winning the Virginia High School League Group 1A state championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Eastside High School one-act play team as an expression of the House of Delegates' admiration for the team's incredible accomplishments and best wishes for continued success.

**HOUSE RESOLUTION NO. 287**

*Salaries, contingent and incidental expenses.*

Agreed to by the House of Delegates, January 11, 2017

RESOLVED by the House of Delegates, That the Comptroller is directed to issue his warrants on the Treasurer, payable from the contingent fund of the House to accomplish the work of the House of Delegates during the 2017 Regular Session of the General Assembly. Necessary payments to cover salaries of temporary employees, as well as contingent and incidental expenses, will be certified by the Clerk or his designee.

**HOUSE RESOLUTION NO. 288***Commending Piney Grove Baptist Church.*

Agreed to by the House of Delegates, January 20, 2017

WHEREAS, for 121 years, Piney Grove Baptist Church has provided opportunities for joyful worship in the Baptist tradition, wise spiritual guidance, and generous outreach and leadership to the members of the Franklin community; and

WHEREAS, Piney Grove Baptist Church was formed after a revival meeting led by the Reverend Thomas Bailey in Camptown; the church was officially organized by the Reverend Guy Powell, who was then pastor of Cool Spring Church; and

WHEREAS, from 1906 to 1933, Piney Grove Baptist Church was ably led by the Reverend James W. Blackwell, who oversaw the construction and furnishing of the first sanctuary; he was succeeded by the Reverend Edgar Darnell Harrell, who presided over great spiritual and financial growth in the church community from 1935 to 1944; and

WHEREAS, the Reverend George Wiley Johnson, Jr., led Piney Grove Baptist Church from 1945 to 1986, during which time, the church completed numerous modern renovations and expanded youth outreach programs to help the congregation grow; and

WHEREAS, from 1988 to 1995, the Reverend Clarence L. Myrick expanded the Deacon Board at Piney Grove Baptist Church and strengthened youth programs, and from 1997 to 2003, the Reverend William Freeman expanded health and music ministries, adopted the Church Constitution, and established a community radio broadcast; and

WHEREAS, the Reverend Dr. Melvin Boone served as interim pastor before the current pastor, the Reverend Alfred D. Brown, Sr., joined Piney Grove Baptist Church in 2004, bringing with him a vision of Love, Unity, and Excellence; and

WHEREAS, Pastor Brown helped redesign Piney Grove Baptist Church to better serve and accommodate the growing congregation and commissioned a new, inspirational church logo, that was painted on the wall behind the baptismal pool; and

WHEREAS, Pastor Brown also created new opportunities for young people through a Vacation Bible School Summer Camp, strengthened the ties between members of the congregation and the community, and greatly increased the efficiency of church operations, earning him the nickname "the Historic Pastor"; and

WHEREAS, Piney Grove Baptist Church has succeeded in its mission thanks to the devotion of its congregation, the hard work of its many deacons, clerks, secretaries, and musicians, and the support of the entire Franklin community; now, therefore, be it

RESOLVED by the House of Delegates, That Piney Grove Baptist Church hereby be commended on the occasion of its 121st anniversary in 2016; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Reverend Alfred D. Brown, pastor of Piney Grove Baptist Church, as an expression of the House of Delegates' admiration for the church's long legacy of service to the Franklin community.

**HOUSE RESOLUTION NO. 289***Commending the Appomattox County High School football team.*

Agreed to by the House of Delegates, January 20, 2017

WHEREAS, the Appomattox County High School football team won the Virginia High School League Group 2A state championship in December 2016, extending its record for the longest current win streak in the league to 30-0; and

WHEREAS, after locking up their second consecutive undefeated season, the Appomattox County High School Raiders dominated the state final, defeating the Richlands High School Blue Tornadoes; and

WHEREAS, the Appomattox County Raiders took an early lead in the state final, with quarterback Javon Scruggs connecting with De'von Graves on a 41-yard touchdown; the defense forced a turnover, allowing Javon Scruggs to rush for the team's second touchdown before the end of the first quarter; and

WHEREAS, the Richlands Blue Tornadoes responded with a touchdown of their own early in the second quarter, but the Appomattox County Raiders regained the momentum and never looked back, winning by a score of 42-7; and

WHEREAS, the Appomattox County High School football team's accomplishments are a tribute to the skill and hard work of the student athletes, the leadership and guidance of the coaches and staff, and the enthusiastic support of the entire Appomattox County High School community; now, therefore, be it

RESOLVED by the House of Delegates, That the Appomattox County High School football team hereby be commended for its historic win in the Virginia High School League Group 2A state championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Doug Smith, head coach of the Appomattox County High School football team, as an expression of the House of Delegates' admiration for the team's incredible athletic achievements and best wishes for its continued success.

**HOUSE RESOLUTION NO. 290**

*Commending the Rustburg Dixie Youth Baseball O-Zone All-Star team.*

Agreed to by the House of Delegates, January 20, 2017

WHEREAS, the Rustburg Dixie Youth Baseball O-Zone All-Star team, a talented group of 11-year-old and 12-year-old athletes, won the Dixie Youth Baseball state championship in July 2016; and

WHEREAS, the Rustburg Dixie Youth Baseball O-Zone All-Star team advanced to the state tournament after dominating the 2016 District VI tournament, where the team outscored its opponents 85-20 and finished with a 5-1 record; and

WHEREAS, in the state tournament, the Rustburg Dixie Youth Baseball O-Zone All-Star team bested teams from South Hill, Floyd, and Christiansburg before defeating the team from Appomattox by a score of 8-6 in the state final; and

WHEREAS, after winning the state tournament, the Rustburg Dixie Youth Baseball O-Zone All-Star team represented Virginia in the 2016 Dixie Youth World Series in Laurel, Mississippi, and won one game against a talented team from Arkansas; and

WHEREAS, the Rustburg Dixie Youth Baseball O-Zone All-Star team's successful season is a tribute to the skill and hard work of all of the athletes, the leadership of the coaches and staff, and the support of the entire Rustburg community; now, therefore, be it

RESOLVED by the House of Delegates, That the Rustburg Dixie Youth Baseball O-Zone All-Star team hereby be commended on winning the 2016 Dixie Youth Baseball state championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to James Elder, Chris Holt, David Cooper, and Greg Ware, the coaches of the Rustburg Dixie Youth Baseball O-Zone All-Star team, as an expression of the House of Delegates' admiration for the team's outstanding athletic achievements.

**HOUSE RESOLUTION NO. 291**

*Celebrating the life of James Pinckney Townsend.*

Agreed to by the House of Delegates, January 20, 2017

WHEREAS, James Pinckney Townsend of Manquin, a proud veteran, dedicated farmer, and respected public servant, died on March 21, 2016; and

WHEREAS, James Townsend earned a bachelor's degree from Virginia Polytechnic Institute and State University, where he was a member of the Corps of Cadets; he served his country during the Vietnam War as a first lieutenant in the United States Army; and

WHEREAS, after his honorable discharge, James Townsend returned to his beloved family dairy, Queenfield Farm, which he owned and operated for much of his life; he also shared his expertise as a member of dairy boards at local, state, and national levels; and

WHEREAS, James Townsend served and strengthened the community as a member of the King William County Board of Supervisors for 16 years, and he volunteered his time and leadership as a member of the King William Ruritan Club; and

WHEREAS, a man who lived his faith through his kind actions, James Townsend was a lifelong member of McKendree United Methodist Church, where he served as treasurer for many years; and

WHEREAS, predeceased by a son, James, James Townsend will be fondly remembered and greatly missed by his wife of 48 years, Rebecca; five children, Betsy, Langdon, Sara, Caroline, and Amanda, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of James Pinckney Townsend; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of James Pinckney Townsend as an expression of the House of Delegates' respect for his memory.

**HOUSE RESOLUTION NO. 292**

*Celebrating the life of John Bucker Beirne, Sr.*

Agreed to by the House of Delegates, January 20, 2017

WHEREAS, John Bucker Beirne, Sr., of Richmond, a respected real estate professional and entrepreneur and a man of deep and abiding faith, died on July 23, 2016; and

WHEREAS, John "Jack" Bucker Beirne, Sr., graduated from Benedictine College Preparatory School in 1946 and continued his education at Georgetown University and Richmond Professional Institute; and

WHEREAS, Jack Beirne honorably served his country as a member of the Virginia National Guard and enjoyed a 60-year career in real estate; he worked for 35 years as a real estate agent and broker and more than 25 years as a real estate property agent for Henrico County, retiring in 2011; and

WHEREAS, a man who lived his faith through his actions, Jack Beirne held leadership positions in the West of the Boulevard Civic Association, West End Catholic Men's Association, St. Mary's Beneficial and Social Union, the Knights of Columbus, and St. Benedict Catholic Church Parish Council; and

WHEREAS, Jack Beirne was also the longtime owner and operator of the Beirne Corporation, which supplies sacramental wine to churches throughout the Commonwealth; and

WHEREAS, predeceased by one daughter, Julia, Jack Beirne will be fondly remembered and greatly missed by his children, John, Milton, Christy, Ruppert, Ida, and Matt, and their families, and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of John Bucker Beirne, Sr., a respected member of the Richmond community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of John Bucker Beirne, Sr., as an expression of the House of Delegates' respect for his memory.

### HOUSE RESOLUTION NO. 293

*Commending the Riverside High School golf team.*

Agreed to by the House of Delegates, January 20, 2017

WHEREAS, in 2016, the Riverside High School golf team of Lansdowne placed third in the Virginia High School League Group 3A state championship at The Tradition Golf Club at Stonehouse in Toano; and

WHEREAS, with six top players returning, the Riverside High School Rams started the 2016 season with depth and experience and went on to win the Conference 28 championship; the team advanced to the state final after placing second in the Group 3A region tournament; and

WHEREAS, in the state tournament, the Riverside Rams shot a four-player, two-day total of 321, finishing only 10 strokes behind the winning team; senior Chad Musa shot a career-low 72 on the second day of the state tournament; and

WHEREAS, with the leadership of the coaches and staff and enthusiastic support of the entire Riverside High School community, each member of the state championship team—Jack Gessaman, Chad Musa, Kellen Pluntke, Shreya Ganta, Louie Stathis, and Mason Ambuhl—contributed to the successful tournament; now, therefore, be it

RESOLVED by the House of Delegates, That the Riverside High School golf team hereby be commended on placing third in the Virginia High School League Group 3A state championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to David Ingalls, head coach of the Riverside High School golf team, as an expression of the House of Delegates' admiration for the team's achievements and best wishes for the future.

### HOUSE RESOLUTION NO. 294

*Commending the Riverside High School competitive cheer team.*

Agreed to by the House of Delegates, January 20, 2017

WHEREAS, the Riverside High School competitive cheer team of Lansdowne claimed the school's first state title in any sport, winning the Virginia High School League Group 3A state championship on November 5, 2016, at the Siegel Center in Richmond; and

WHEREAS, after winning the Group 3A East regional competition, the Riverside High School Rams dominated the first round of the state championship with a score of 255.5 to advance to the finals; and

WHEREAS, in the state finals, the Riverside Rams earned a score of 272.5, almost 15 points more than the runner-up Cave Spring High School Knights, to make history as Riverside High School's first state champions; and

WHEREAS, the Riverside Rams upheld Loudoun County Public Schools' legacy of excellence in competitive cheer as one of five Loudoun County schools to reach the state championship level in 2016; and

WHEREAS, the Riverside Rams' victory is a testament to the skill and dedication of the student athletes, the leadership and guidance of the coaches and staff, and the enthusiastic support of the entire Riverside High School community; now, therefore, be it

RESOLVED by the House of Delegates, That the Riverside High School competitive cheer team hereby be commended on winning the 2016 Virginia High School League Group 3A state championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Danielle Oravetz, head coach of the Riverside High School competitive cheer team, as an expression of the House of Delegates' admiration for the team's exceptional achievements and best wishes for the future.

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ACTS OF ASSEMBLY

[VA.,

**HOUSE RESOLUTION NO. 295**

*Commending the Broad Run High School competitive cheer team.*

Agreed to by the House of Delegates, January 20, 2017

WHEREAS, the Broad Run High School competitive cheer team of Loudoun County won the Virginia High School League Group 5A state championship on November 5, 2016, at the Siegel Center in Richmond; and

WHEREAS, the Broad Run High School Spartans were victorious in the Group 5A regional competition and placed third in the first round of the state championship to advance to the finals; and

WHEREAS, in the finals of the state championship, the Broad Run Spartans nailed their routine and scored 233 points, besting the runner-up Mountain View High School Wildcats and several other talented teams; and

WHEREAS, the Broad Run Spartans upheld Loudoun County Public Schools' legacy of excellence in competitive cheer as one of five Loudoun County schools to reach the state championship level in 2016; and

WHEREAS, the Broad Run Spartans' victory is a testament to the skill and hard work of all of the student athletes, the leadership and guidance of the coaches and staff, and the passionate support of the entire Broad Run High School community; now, therefore, be it

RESOLVED by the House of Delegates, That the Broad Run High School competitive cheer team hereby be commended on winning the 2016 Virginia High School League Group 5A state championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Amy Sergi, head coach of the Broad Run competitive cheer team, as an expression of the House of Delegates' admiration for the team's outstanding achievements and best wishes for the future.

**HOUSE RESOLUTION NO. 296**

*Commending the Broad Run High School iGEM team.*

Agreed to by the House of Delegates, January 20, 2017

WHEREAS, the Broad Run High School iGEM team of Ashburn, was the only high school team from the United States to earn gold medal status at the iGEM Giant Jamboree in Boston, Massachusetts, in October 2016; and

WHEREAS, the iGEM (International Genetically Engineered Machine) Giant Jamboree is an annual gathering of student synthetic biologists that showcases work from the iGEM competition, which featured 5,600 participants from 42 countries in 2016; and

WHEREAS, the Broad Run High School iGEM team's project was to genetically modify yeast, and give it the ability to break down starch molecules in order to treat wastewater created by manufacturing ceiling tile; and

WHEREAS, for the second consecutive year, the Broad Run High School iGEM team was sponsored by Armstrong Ceiling Solutions, headquartered in Lancaster, Pennsylvania; their project specifically focused on treating Armstrong's wastewater by genetically modifying yeast; and

WHEREAS, the Broad Run High School iGEM team was also awarded the Best Integrated Human Practices Award among high school iGEM competitors for their community outreach efforts, including educational events for kids and public forums the team held at Broad Run High School; and

WHEREAS, the Broad Run High School iGEM team consisted of Marissa Sumathipala (captain), Noor Hadi, Brinda Sinha, and Adriel Sumathipala, with Regina Kieninger and Dr. Nina Arendtsz instructing the team, and Dr. Janet Cascio serving as mentor for lab work; and

WHEREAS, the exceptional performance of the Broad Run High School iGEM team was made possible by the support and encouragement of the entire Broad Run High School faculty, staff, and student body; now, therefore, be it

RESOLVED by the House of Delegates, That the Broad Run High School iGEM team hereby be commended on winning a gold medal and other honors in the 2016 international iGEM competition; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Regina Kieninger and Dr. Nina Arendtsz, instructors for the Broad Run High School iGEM team, as an expression of the House of Delegates' admiration for the team's stellar performance in synthetic biology competition.

**HOUSE RESOLUTION NO. 297**

*Recognizing the influence of Christian heritage in Virginia.*

Agreed to by the House of Delegates, January 24, 2017

WHEREAS, on April 26, 1607, a chartered expedition, subsidized by the Virginia Company to establish colonies on the coast of North America, disembarked upon the banks of Cape Henry, now Virginia Beach; and

WHEREAS, the Reverend Robert Hunt, the expedition's official cleric, and the members of the expedition erected a wooden cross in symbolic reference to the Christian faith, invoked a public prayer of dedication, and pledged that the Gospel message would be spread throughout the region and, from that region, abroad; and

WHEREAS, the ensuing Jamestown settlement was the site of the first public communion ceremony in Virginia, in the tradition of the Lord's Supper of the New Testament; and

WHEREAS, the Jamestown settlement was the first permanent English colony in North America and included a recognized church wherein Christian worship, teachings, and baptisms were conducted in accordance with the Gospel message, as exemplified by the baptism of Pocahontas, a member of the Powhatan tribe of Native Americans in the region; and

WHEREAS, the Judeo-Christian principles, as established in the Law of Moses and set forth from the earliest days of recorded history, of equality, human dignity, and equal protection under the law have provided an incalculable influence on law and thought throughout history, and in particular to our shared English common law tradition and Western civilization; and

WHEREAS, these same principles of equality, human dignity, and equal protection rooted in Mosaic law influenced America's foremost Civil Rights leaders, including the esteemed Virginia Civil Rights attorney and leader Oliver White Hill, Sr., whose own paternal grandfather founded Mount Carmel Baptist Church in Richmond, which the Hill family attended and where Oliver Hill attended Sunday school; he worked diligently, influenced by his Christian faith, to end racial discrimination and help end the doctrine of separate but equal; and

WHEREAS, according to the Pew Research Center, millions of Virginians, representing various denominations, identify as Christians, carrying on the faith traditions brought to North America by its first settlers; and

WHEREAS, thousands of churches in the Commonwealth continue to provide spiritual leadership and education; care for the poor, indigent, and homeless as commanded by the Gospel message; and conduct generous outreach in their communities; now, therefore, be it

RESOLVED by the House of Delegates, That the enormous influence of Christian heritage and faith throughout the Commonwealth's 400-year history be recognized; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates transmit copies of this resolution to Rodney Walker and First-Landing Festivals, requesting that they further disseminate copies of this resolution to their respective constituents so that they may be apprised of the sense of the Virginia House of Delegates in this matter.

### HOUSE RESOLUTION NO. 298

*Commending the Southern Christian Leadership Conference.*

Agreed to by the House of Delegates, January 20, 2017

WHEREAS, the Southern Christian Leadership Conference was established on February 14, 1957, shortly following the Montgomery Bus Boycott by Dr. Martin Luther King, Jr., Reverend Ralph D. Abernathy, Reverend Fred Shuttlesworth, Dr. Joseph E. Lowery, and others; and

WHEREAS, the Southern Christian Leadership Conference (SCLC), with its national headquarters based in Atlanta, Georgia, is a nationwide organization made up of chapters and affiliates, with programs that affect the lives of all Americans, transcending racial, economic, and class lines in the United States and beyond its borders; and

WHEREAS, the SCLC, a nonprofit, nonsectarian, interfaith advocacy movement organization, was instrumental in the passage of the Civil Rights Act of 1964, which ended legal segregation and which has been amended by the United States Congress to extend the protections of the law to disabled Americans, the elderly, and women in collegiate athletics programs; and

WHEREAS, on January 15, 2017, the Virginia State Unit of the SCLC hosted the Dr. Martin Luther King, Jr. Parade and March and celebrations honoring the legacy of Dr. Martin Luther King, Jr., will continue through March 2017; events in past years have included conferences, banquets, and the Andrew Shannon Gospel Music Celebration, which featured special guest speakers, including family members of Dr. Martin Luther King, Jr., all on the historic campus of Hampton University; and

WHEREAS, the SCLC continues the legacy of Dr. Martin Luther King, Jr., and has made it a priority to demonstrate a commitment to strive for transparency and to ensure that all citizens are treated with the utmost fairness and equality; and

WHEREAS, the SCLC is committed to nonviolent action to achieve social, economic, and political justice, believing in the oneness of the human family and the efficacy of love in human relations; now, therefore, be it

RESOLVED by the House of Delegates, That the Southern Christian Leadership Conference hereby be commended for its work to achieve tolerance and social justice on the occasion of its 60th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare copies of this resolution for presentation to the Reverend William A. Keen and Andrew Shannon, the president and vice president of the Southern Christian Leadership Conference Virginia State Unit, as an expression of the House of Delegates' admiration for the Southern Christian Leadership Conference's noble mission.

**HOUSE RESOLUTION NO. 299**

*Commending the Green Beret Foundation.*

Agreed to by the House, January 27, 2017

WHEREAS, the Green Beret Foundation, a nonprofit organization, provides immediate support and continuity of care to wounded members of the United States Army Special Forces and their families, ensuring that these elite soldiers can continue serving the nation in military and civilian life; and

WHEREAS, as experts in unconventional warfare, counterterrorism, foreign internal defense, reconnaissance, direct action, hostage rescue, and other strategic missions, the United States Army Special Forces, commonly known as Green Berets, are deployed in more than 52 countries and are crucial to securing the United States' national interests throughout the world; and

WHEREAS, due to the high-risk nature of their covert missions and wide range of deployments, often with little direct support, Green Berets have sustained the highest casualty rate in the Special Operations community; the Green Beret Foundation has served more than 800 Green Berets and more than 1,000 families; and

WHEREAS, founded in 2009, the Green Beret Foundation serves members of the Green Berets who have sustained wounds as a result of combat, illness, or injury by providing immediate casualty support, extended support, family support, and transition support; and

WHEREAS, when a Green Beret is wounded or hospitalized, the Green Beret Foundation provides monetary support and a durable backpack loaded with essential supplies for a hospital stay, as well as advice and fellowship for Green Berets and their families; and

WHEREAS, the Green Beret Foundation recognizes that the healing process may take time and works to achieve long-term health for the Green Beret's mind, body, and spirit by supplementing Veterans Health Administration care; the foundation has funded therapy for post-traumatic stress disorder and recovery equipment for Green Berets in need; and

WHEREAS, the Green Beret Foundation strives to create a welcoming, inclusive community for families, hosting special events to foster close bonds, providing support for families of deployed Green Berets and those who have made the ultimate sacrifice, and awarding scholarships to young people; and

WHEREAS, most recently, the Green Beret Foundation developed the Next Ridgeline program to provide current and former Green Berets with the tools and training to successfully transition back into civilian life, ensuring that the nation's elite soldiers can become leaders in their communities; now, therefore, be it

RESOLVED by the House of Delegates, That the Green Beret Foundation hereby be commended for its work to serve and support members of the United States Army Special Forces; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Green Beret Foundation as an expression of the House of Delegates' admiration for the foundation's mission to support those who have sacrificed so much in defense of the United States.

**HOUSE RESOLUTION NO. 300**

*Commending Rose Yvonne Lewis.*

Agreed to by the House of Delegates, January 20, 2017

WHEREAS, Rose Yvonne Lewis of Gloucester retired in 2016, after a distinguished 21-year career as secretary with the Middle Peninsula Planning District Commission; and

WHEREAS, Rose Lewis began her career as secretary for the Middle Peninsula Planning District Commission (MPPDC) on July 5, 1995; and

WHEREAS, Rose Lewis helped to keep the MPPDC running smoothly and provided exemplary support to dozens of commission staffers and hundreds of commissioners during her 21 years of service; and

WHEREAS, during her career, Rose Lewis was responsible for coordinating the administrative affairs for over 200 monthly commission meetings and the transition of 21 new commission boards; and

WHEREAS, Rose Lewis demonstrated unwavering dedication and loyalty to the MPPDC throughout her outstanding career, and she worked to make information accessible to the citizens of the middle peninsula, greeted thousands of constituents, and answered thousands of phone calls; and

WHEREAS, Rose Lewis treated constituents with dignity and respect, and always greeted people with Southern charm, grace, and decorum in her daily interactions; and

WHEREAS, upon her retirement, Rose Lewis was honored by the MPPDC with a day named in her honor and November 30, 2016, was proclaimed "Rose Lewis Day"; now, therefore, be it

RESOLVED by the House of Delegates, That Rose Yvonne Lewis hereby be commended on her retirement after a distinguished 21-year career as secretary with the Middle Peninsula Planning District Commission; and, be it

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## ACTS OF ASSEMBLY

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RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Rose Yvonne Lewis as an expression of the House of Delegates' admiration for her dedication, loyalty, and service to the citizens of the middle peninsula and the Commonwealth.

**HOUSE RESOLUTION NO. 301**

*Commending the Mathews Ruritan Club.*

Agreed to by the House of Delegates, January 20, 2017

WHEREAS, the Mathews Ruritan Club celebrated its 85th anniversary in 2016 and has demonstrated through its actions and good work over the past eight decades that it is a vital asset to the Mathews County community; and

WHEREAS, the Mathews Ruritan Club has a rich history and it is currently the eighth-oldest Ruritan Club among over 1,000 clubs in the nation; and

WHEREAS, the Mathews Ruritan Club was chartered on September 1, 1931, in Cobbs Creek, and the initial charter, signed by 19 men, was presented to the club by Mills E. Godwin, Jr., who later became Ruritan National president and twice Governor of Virginia; and

WHEREAS, the Mathews Ruritan Club prospered throughout the years and eventually grew large enough to create the new Piankatank Ruritan Club in Mathews County; and

WHEREAS, the 22 men and women who are members of the Mathews Ruritan Club share camaraderie and an overwhelming desire to give back to their community through volunteer work; and

WHEREAS, members of the Mathews Ruritan Club work tirelessly within five "Avenues of Community Service": Business and Professions, Citizenship and Patriotism, Environment, Public Service, and Social Development; and the club has received Ruritan District gold awards in each area for the past four years; and

WHEREAS, the Mathews Ruritan Club uses fundraising activities throughout the year to fund donations to various local charities and public agencies, such as schools and volunteer organizations; and

WHEREAS, the Mathews Ruritan Club meets on the first Tuesday of each month in various churches in Mathews County to conduct its business; and

WHEREAS, for 85 years the Mathews Ruritan Club has promoted the Ruritan mission of making our community a better place to live and work through fellowship, goodwill, and community service; now, therefore, be it

RESOLVED by the House of Delegates, That the Mathews Ruritan Club hereby be commended on celebrating the 85th anniversary of its founding in 2016; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Bill Joyce, president of the Mathews Ruritan Club, as an expression of the House of Delegates' admiration for the actions and good work that make the club a significant asset to the Mathews County community.

**HOUSE RESOLUTION NO. 302**

*Confirming nominations by the Speaker of the House of Delegates to the House Ethics Advisory Panel.*

Agreed to by the House of Delegates, January 25, 2017

RESOLVED by the House of Delegates, That the House confirm the following nominations made by the Speaker of the House of Delegates to the House Ethics Advisory Panel pursuant to § 30-112 of the Code of Virginia:

**W. Sheppard Miller III**, 5310 Edgewater Drive, **Norfolk**, Virginia 23508, Member, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed himself.

**The Honorable Thomas Davis Rust**, 1020 Monroe Street, **Herndon**, Virginia 20170, Member, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Bernard Cohen.

**HOUSE RESOLUTION NO. 304**

*Celebrating the life of Ralph Edmond Stanley.*

Agreed to by the House of Delegates, January 20, 2017

WHEREAS, Ralph Edmond Stanley of Sandy Ridge, a Grammy-winning musician and one of the founding fathers of American bluegrass music, whose distinctive old-time mountain voice and banjo ballads inspired the next generation of bluegrass and country singers, died on June 23, 2016; and

WHEREAS, a lifelong resident of Dickenson County, Ralph Stanley grew up listening to the Carter Family; his unvarnished mountain music style was firmly rooted in the Appalachian terrain where he was raised and the ardent, unaccompanied style of the Primitive Baptist Church; and

WHEREAS, Ralph Stanley came to love music at an early age; his mother, Lucy, taught him to play the banjo, and his father, Lee, was a talented singer who sang old-time songs at home and at church; and

WHEREAS, Ralph Stanley first sang in public at the age of eight, when at church one Sunday he was called to lead the congregation in a Primitive Baptist hymn; he graduated from Ervinton High School in 1945 and served in the United States Army during World War II; and

WHEREAS, with the Grand Ole Opry stars they listened to on the radio as role models, Ralph Stanley and his older brother, Carter Stanley, began making music together, with Carter Stanley playing guitar and singing lead, and Ralph Stanley playing banjo and singing tenor harmony; and

WHEREAS, in 1946, the brothers formed their first band, the Stanley Brothers and the Clinch Mountain Boys, and joined WCYB's live radio program "Farm and Fun Time" in Bristol, Tennessee, and, in 1947, they made their recording debut; and

WHEREAS, for the next 20 years, the Stanley Brothers and their band became renowned for their otherworldly vocal harmonies and soulful instrumental style, performing a mix of blues, ballads, hymns, and breakdowns, and producing mesmerizing pieces that would become bluegrass standards, such as "Mountain Dew," "Little Maggie," and "Angel Band"; and

WHEREAS, the Stanley Brothers and their band played college campuses, outdoor concerts, and festivals during the folk music revival of the 1950s and 1960s; their only popular chart hit "How Far to Little Rock" was released in 1960, making it to the Top 20 of the Billboard country singles chart; and

WHEREAS, after Carter Stanley's death in 1966, Ralph Stanley continued to lead the Clinch Mountain Boys, taking the group in a more traditional direction, touring continually, recording several albums a year, and maintaining their standing as one of bluegrass's pioneering bands; and

WHEREAS, in 1970, Ralph Stanley began hosting an annual music festival at Smith Ridge and each year he would close the Hills of Home Bluegrass Festival by singing "The Hills of Home" and reciting a tribute to his late brother; and

WHEREAS, in 1976, Ralph Stanley was awarded an honorary doctorate in music by Lincoln Memorial University in Harrogate, Tennessee, and he enjoyed being addressed as "Dr. Ralph" thereafter by his legion of fans; and

WHEREAS, Ralph Stanley garnered more mainstream attention than he ever had before in the 1990s and early 2000s, thanks to collaborative albums with well-known bluegrass and folk musicians and his cameo in the 2000 movie *O Brother, Where Art Thou?*; and

WHEREAS, a pioneering claw hammer banjoist and riveting singer, Ralph Stanley won a Grammy Award in 2002 for his ghostly rendition of "O Death" that was used in the movie *O Brother, Where Art Thou?*, which popularized an arrangement of his famous song "Man of Constant Sorrow"; and

WHEREAS, Ralph Stanley was inducted into the International Bluegrass Hall of Honor in 1992 and became a member of the Grand Ole Opry in 2000; he received the Living Legend Award from the Library of Congress, a National Medal of Arts, and was the first artist to be given the Traditional American Music Award by the National Endowment for the Humanities; and

WHEREAS, Ralph Stanley was a pivotal figure in the revival of interest in bluegrass music in recent years, and he inspired the careers of the next generation of bluegrass musicians who had the privilege of playing with him in the Clinch Mountain Boys band, including country artists Ricky Skaggs and Keith Whitley; and

WHEREAS, as a musician, Ralph Stanley always remained true to his roots, and he was one of the last and most pure of the traditional country artists; he preferred to call his music old-time mountain style rather than bluegrass, even though he is considered a pioneer of the genre; and

WHEREAS, Ralph Stanley will be fondly remembered and greatly missed by his wife, Jimmi; children, Lisa, Tonya, Tim, and Ralph, and their families; and a host of other relatives, neighbors, friends, and former Clinch Mountain Boys; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Ralph Edmond Stanley, a founding father of American bluegrass music renowned for his distinctive old-time mountain voice and banjo picking style; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Ralph Edmond Stanley as an expression of the House of Delegates' respect for his memory.

### HOUSE RESOLUTION NO. 305

*Commending Tom Harding.*

Agreed to by the House of Delegates, January 20, 2017

WHEREAS, Tom Harding, the former Honaker High School baseball coach, was inducted into the Virginia High School League Hall of Fame in October 2016, capping a season during which he became the league's all-time winningest baseball coach; and

WHEREAS, the Virginia High School League (VHSL) Hall of Fame is dedicated to preserving the rich heritage of outstanding achievements by students and adults in sports and activities within Virginia's public high schools; and

WHEREAS, Tom Harding's induction into the VHSL Hall of Fame was the culmination of a 46-year career that included a record-setting 633 wins and the 2011 VHSL Group A state championship; and

WHEREAS, Tom Harding broke the VHSL's record for most wins as a baseball coach in May 2016, when he recorded his 632nd win with a 3-1 victory over Northwood High School; and

WHEREAS, Tom Harding was inducted into the VHSL Hall of Fame in the same class as one of his former players, Pittsburgh Steeler Heath Miller, a Super Bowl champion tight end and graduate of the University of Virginia and Honaker High School; and

WHEREAS, Tom Harding retired as a teacher in the Russell County School System years ago but remained dedicated to coaching baseball at Honaker High School, whose baseball field is named in his honor; and

WHEREAS, even as Tom Harding battled some recent health issues, his passion for coaching never waned, and his genuine belief in his players' ability to succeed gave hundreds of young men confidence on and off the baseball diamond; and

WHEREAS, Tom Harding is beloved by the Honaker High School community and respected as a great coach, a great person, and a great man; now, therefore, be it

RESOLVED by the House of Delegates, That Tom Harding hereby be commended on his induction into the Virginia High School League Hall of Fame in 2016; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Tom Harding, a longtime fixture at Honaker High School and the winningest baseball coach of all-time in the Virginia High School League, as an expression of the House of Delegates' admiration for his record-setting career and his unwavering dedication to four decades of Honaker High School baseball teams.

**HOUSE RESOLUTION NO. 306**

*Celebrating the life of Deitra Sheckler Copeland.*

Agreed to by the House of Delegates, January 20, 2017

WHEREAS, Deitra Sheckler Copeland of Newport News, a respected member of the community who was well-known as a longtime owner of a Hampton auto dealership, died on May 30, 2016; and

WHEREAS, Deitra "Dee Dee" Sheckler Copeland was born in Charlotte, North Carolina, to the late Lieutenant Colonel Charles and Vivian Sheckler; and

WHEREAS, as a proud army brat, Dee Copeland traveled all over the world, growing up mostly in Germany before settling in Hampton, where she graduated from Hampton High School in 1964 then attended East Carolina University; and

WHEREAS, Dee Copeland and her husband, Dick, ran Copeland Toyota Volvo in the Hampton area from 1965 until 2001, when they sold the dealership and retired; and

WHEREAS, Dee Dee Copeland's compassion for others was widely respected, and she enjoyed an abundance of friends, old and new, whom she celebrated and loved by cooking them meals, pouring them drinks, or giving them her time in other ways; and

WHEREAS, Dee Dee Copeland treasured spending time with her children and grandchildren, teaching them to always put family first and appreciate the little things in life, as well as traveling, cooking, and her dogs; and

WHEREAS, Dee Dee Copeland will be fondly remembered and greatly missed by her husband of almost 50 years, Dick; children, Shannan, Brad, Richard, and Kimberly, and their families; and countless other relatives and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Deitra Sheckler Copeland, an esteemed member of the Hampton and Newport News communities; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Deitra Sheckler Copeland as an expression of the House of Delegates' respect for her memory.

**HOUSE RESOLUTION NO. 307**

*Nominating a person to be elected to the Court of Appeals of Virginia.*

Agreed to by the House of Delegates, January 18, 2017

RESOLVED by the House of Delegates, That the following person is hereby nominated to be elected to the Court of Appeals of Virginia as follows:

The Honorable Rossie D. Alston, Jr., of Manassas, as a judge of the Court of Appeals for a term of eight years commencing March 1, 2017.

**HOUSE RESOLUTION NO. 308**

*Nominating persons to be elected to circuit court judgeships.*

Agreed to by the House of Delegates, January 18, 2017

RESOLVED by the House of Delegates, That the following persons are hereby nominated to be elected to the respective circuit court judgeships as follows:

The Honorable Leslie L. Lilley, of Virginia Beach, as a judge of the Second Judicial Circuit for a term of eight years commencing March 1, 2017.

The Honorable William R. O'Brien, of Virginia Beach, as a judge of the Second Judicial Circuit for a term of eight years commencing February 1, 2017.

The Honorable H. Thomas Padrick, Jr., of Virginia Beach, as a judge of the Second Judicial Circuit for a term of eight years commencing February 1, 2017.

The Honorable John R. Doyle, III, of Norfolk, as a judge of the Fourth Judicial Circuit for a term of eight years commencing February 1, 2017.

The Honorable Mary Jane Hall, of Norfolk, as a judge of the Fourth Judicial Circuit for a term of eight years commencing March 1, 2017.

The Honorable Jerrauld C. Jones, of Norfolk, as a judge of the Fourth Judicial Circuit for a term of eight years commencing February 1, 2017.

The Honorable Bonnie L. Jones, of Hampton, as a judge of the Eighth Judicial Circuit for a term of eight years commencing March 1, 2017.

The Honorable Timothy J. Hauler, of Chesterfield, as a judge of the Twelfth Judicial Circuit for a term of eight years commencing February 1, 2017.

The Honorable Charles S. Sharp, of Fredericksburg, as a judge of the Fifteenth Judicial Circuit for a term of eight years commencing February 1, 2017.

The Honorable William T. Newman, Jr., of Arlington, as a judge of the Seventeenth Judicial Circuit for a term of eight years commencing March 1, 2017.

The Honorable Jan L. Brodie, of Fairfax, as a judge of the Nineteenth Judicial Circuit for a term of eight years commencing February 1, 2017.

The Honorable Richard E. Gardiner, of Fairfax, as a judge of the Nineteenth Judicial Circuit for a term of eight years commencing February 1, 2017.

The Honorable Jeffrey W. Parker, of Fauquier, as a judge of the Twentieth Judicial Circuit for a term of eight years commencing May 1, 2017.

The Honorable Joseph W. Milam, Jr., of Danville, as a judge of the Twenty-second Judicial Circuit for a term of eight years commencing February 1, 2017.

The Honorable James R. Swanson, of Roanoke County, as a judge of the Twenty-third Judicial Circuit for a term of eight years commencing April 1, 2017.

The Honorable William C. Goodwin, of Staunton, as a judge of the Twenty-fifth Judicial Circuit for a term of eight years commencing February 1, 2017.

The Honorable C. Randall Lowe, of Washington, as a judge of the Twenty-eighth Judicial Circuit for a term of eight years commencing February 1, 2017.

The Honorable Craig D. Johnston, of Prince William, as a judge of the Thirty-first Judicial Circuit for a term of eight years commencing March 1, 2017.

**HOUSE RESOLUTION NO. 309**

*Nominating persons to be elected to general district court judgeships.*

Agreed to by the House of Delegates, January 18, 2017

RESOLVED by the House of Delegates, That the following persons are hereby nominated to be elected to the respective general district court judgeships as follows:

The Honorable Alfred W. Bates, III, of Suffolk, as a judge of the Fifth Judicial District for a term of six years commencing July 1, 2017.

The Honorable Stephen D. Bloom, of Emporia, as a judge of the Sixth Judicial District for a term of six years commencing February 1, 2017.

The Honorable Matthew W. Hoffman, of Newport News, as a judge of the Seventh Judicial District for a term of six years commencing February 1, 2017.

The Honorable Mayo K. Gravatt, of Nottoway, as a judge of the Eleventh Judicial District for a term of six years commencing February 1, 2017.

The Honorable James J. O'Connell, III, of Chesterfield, as a judge of the Twelfth Judicial District for a term of six years commencing July 1, 2017.

Claire G. Cardwell, Esquire, of Richmond, as a judge of the Thirteenth Judicial District for a term of six years commencing July 1, 2017.

The Honorable Thomas O. Bondurant, Jr., of Henrico, as a judge of the Fourteenth Judicial District for a term of six years commencing February 1, 2017.

The Honorable Michael J. Cassidy, of Fairfax County, as a judge of the Nineteenth Judicial District for a term of six years commencing February 1, 2017.

The Honorable Susan J. Stoney, of Fairfax County, as a judge of the Nineteenth Judicial District for a term of six years commencing February 1, 2017.

The Honorable J. Gregory Ashwell, of Loudoun, as a judge of the Twentieth Judicial District for a term of six years commencing July 1, 2017.

The Honorable Scott R. Geddes, of Roanoke County, as a judge of the Twenty-third Judicial District for a term of six years commencing February 1, 2017.

Rupen R. Shah, Esquire, of Staunton, as a judge of the Twenty-fifth Judicial District for a term of six years commencing February 1, 2017.

### HOUSE RESOLUTION NO. 310

*Nominating persons to be elected to juvenile and domestic relations district court judgeships.*

Agreed to by the House of Delegates, January 18, 2017

RESOLVED by the House of Delegates, That the following persons are hereby nominated to be elected to the respective juvenile and domestic relations district court judgeships as follows:

The Honorable Rufus A. Banks, Jr., of Chesapeake, as a judge of the First Judicial District for a term of six years commencing July 1, 2017.

The Honorable Larry D. Willis, Sr., of Chesapeake, as a judge of the First Judicial District for a term of six years commencing May 1, 2017.

The Honorable M. Randolph Carlson, II, of Norfolk, as a judge of the Fourth Judicial District for a term of six years commencing January 1, 2018.

The Honorable Thomas W. Carpenter, of Newport News, as a judge of the Seventh Judicial District for a term of six years commencing February 1, 2017.

M. Duncan Minton, Jr., Esquire, of Henrico, as a judge of the Twelfth Judicial District for a term of six years commencing March 1, 2017.

The Honorable Denis F. Soden, of Henrico, as a judge of the Fourteenth Judicial District for a term of six years commencing February 1, 2017.

The Honorable Shannon O. Hoehl, of Hanover, as a judge of the Fifteenth Judicial District for a term of six years commencing July 1, 2017.

The Honorable Julian W. Johnson, of Spotsylvania, as a judge of the Fifteenth Judicial District for a term of six years commencing April 1, 2017.

The Honorable Constance H. Frogale, of Alexandria, as a judge of the Eighteenth Judicial District for a term of six years commencing April 1, 2017.

The Honorable Pamela L. Brooks, of Loudoun, as a judge of the Twentieth Judicial District for a term of six years commencing July 1, 2017.

The Honorable Paul A. Tucker, of Botetourt, as a judge of the Twenty-fifth Judicial District for a term of six years commencing July 1, 2017.

### HOUSE RESOLUTION NO. 311

*Nominating persons to be elected as members of the Judicial Inquiry and Review Commission.*

Agreed to by the House of Delegates, January 18, 2017

RESOLVED by the House of Delegates, That the following persons are hereby nominated to be elected as members of the Judicial Inquiry and Review Commission as follows:

H. Gayland Lyles, of Fairfax County, as a member of the Judicial Inquiry and Review Commission for a term of four years commencing July 1, 2017.

Robert H. Simpson, of Williamsburg, as a member of the Judicial Inquiry and Review Commission for a term of four years commencing July 1, 2017.

**HOUSE RESOLUTION NO. 312**

*Nominating a person to be elected to the Virginia Workers' Compensation Commission.*

Agreed to by the House of Delegates, January 18, 2017

RESOLVED by the House of Delegates, That the following person is hereby nominated to be elected to the Virginia Workers' Compensation Commission as follows:

Robert Alan Rapaport, of the City of Virginia Beach, to succeed Roger Williams as a member of the Virginia Workers' Compensation Commission for an unexpired term commencing February 1, 2017, and ending January 31, 2020.

**HOUSE RESOLUTION NO. 313**

*Nominating a person to be elected as the Auditor of Public Accounts.*

Agreed to by the House of Delegates, January 18, 2017

RESOLVED by the House of Delegates, That the following person is hereby nominated to be elected as the Auditor of Public Accounts as follows:

Martha Sedwick Mavredes, of Chesterfield, as the Auditor of Public Accounts for a term of four years commencing February 1, 2017.

**HOUSE RESOLUTION NO. 314**

*Celebrating the life of Mary Elizabeth Haas.*

Agreed to by the House of Delegates, January 27, 2017

WHEREAS, Mary Elizabeth Haas, an inquisitive student at Mary Munford Elementary School and a joyful member of the Richmond community, died on July 2, 2016; and

WHEREAS, born with hydrocephalus and Tetralogy of Fallot, Mary Elizabeth "Betsy" Haas lived her life to the fullest and inspired others through her positivity, optimism, and deep faith; and

WHEREAS, a rising fourth-grader at Mary Munford Elementary School, Betsy Haas was a dedicated student and had been the classroom spelling champion since first grade; and

WHEREAS, Betsy Haas cared for her fellow students as the class "medic", who would walk other children to the nurse's office, and she helped create a fun atmosphere in the classroom with her sense of style and sparkling personality; and

WHEREAS, despite her young age, Betsy Haas was an active, generous member of the community, and she was always ready for an adventure with her dog, Baxter; and

WHEREAS, Betsy Haas will be fondly remembered and greatly missed by her parents, Cathy and Jay; her maternal grandfather, Don; her paternal grandparents, Judy and Carl; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Mary Elizabeth Haas, a beloved member of the Richmond community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Mary Elizabeth Haas as an expression of the House of Delegates' respect for her memory.

**HOUSE RESOLUTION NO. 315**

*Celebrating the life of Fred Walker Callis, Sr.*

Agreed to by the House of Delegates, January 27, 2017

WHEREAS, Fred Walker Callis, Sr., a decorated Vietnam veteran, volunteer fireman, and respected and beloved member of the Suffolk community, died on July 5, 2016; and

WHEREAS, born in Portsmouth to the late Sam and Jessie Callis, Fred Callis served in the United States Army during the Vietnam War, during which he lost a leg in combat and received two Purple Hearts for his service; and

WHEREAS, when Fred Callis returned home he decided to attend a local community college to pursue a degree in architecture; and

WHEREAS, Fred Callis was a lifetime member and former assistant chief of the Driver Volunteer Fire Department and he was honored to be chosen to design the company firehouse on Bennetts Pasture Road in Suffolk; and

WHEREAS, Fred Callis was active in his community and especially enjoyed outdoor recreation through his memberships in the Gates County Hunt Club, Norfolk County Anglers Club, and Woodmen of the World; and

WHEREAS, Fred Callis loved fishing, hunting, watching races at Langley Speedway, and working on his many creative projects, which he always seemed to have; and

WHEREAS, a beloved husband and devoted father, Fred Callis worked hard at everything he did and didn't sugarcoat anything; his reputation for being rough around the edges belied a soft heart; and

WHEREAS, Fred Callis is survived by his wife of more than 50 years, Eva; sons, Stephan and Fred; and numerous other relatives and good friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Fred Walker Callis, Sr., a decorated Vietnam veteran, volunteer fireman, and respected member of the Suffolk community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Fred Walker Callis, Sr., as an expression of the House of Delegates' respect for his memory.

**HOUSE RESOLUTION NO. 316**

*Commending the Dinwiddie Angels softball team.*

Agreed to by the House of Delegates, January 27, 2017

WHEREAS, the Dinwiddie Angels softball team won the Dixie Softball state championship in July 2016; and

WHEREAS, earlier in the season, the Dinwiddie Angels went undefeated at the district level tournament in Crewe, defeating teams from Clarksville, Brunswick County, Lunenburg County, and South Hill; and

WHEREAS, the Dinwiddie Angels were also undefeated in the state tournament, where they faced off against several strong competitors to claim the state title; and

WHEREAS, as the state champions, the Dinwiddie Angels advanced to the 2016 Dixie Softball World Series in South Carolina; they eliminated talented teams from South Carolina, Tennessee, and Louisiana and finished in fourth place overall; and

WHEREAS, each member of the team—Haleigh Bayles, Candice Brown, Rylee Cousins, Gracie Dickenson, Nicole Frye, Sadie Hudson, Kassidy Marker, Lauren Parham, Makayla Reiter, Nevaeh Robey, Brianna Tucker, and Kaitlyn Williams—contributed to the state championship victory; and

WHEREAS, the Dinwiddie Angels achieved their state championship victory and outstanding world series performance through the skill and hard work of the athletes, the leadership of coaches William Dickenson and Gary Marker and manager Todd Williams, and the enthusiastic support of the Dinwiddie community; now, therefore, be it

RESOLVED by the House of Delegates, That the Dinwiddie Angels softball team hereby be commended on winning the Dixie Softball state championship in 2016; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Dinwiddie Angels softball team as an expression of the House of Delegates' admiration for the team's achievements.

**HOUSE RESOLUTION NO. 317**

*Commending the Dinwiddie Darlings softball team.*

Agreed to by the House of Delegates, January 27, 2017

WHEREAS, the Dinwiddie Darlings softball team won the Dixie League state championship on July 13, 2016; and

WHEREAS, the Dinwiddie Darlings advanced to the state level after they went undefeated in the district tournament, allowing only 11 runs over the course of five games; and

WHEREAS, in the state tournament final, the Dinwiddie Darlings won by a score of 13-4 against a talented team from Amelia; and

WHEREAS, as the state champions, the Dinwiddie Darlings represented Virginia in the 2016 Dixie Softball World Series in Petal, Mississippi; and

WHEREAS, each of the players—Nala Bain, Kailee Bookman, MaKenna Church, Emmie Lou Eddins, Rylie Hite, Lexi Howerton, Emery Kelly, Kyndal Sawyer, Kailee Townsend, Emma Traylor, McKenna Wallace, Addison Williams, and Jayden Baker—contributed to the state championship victory; and

WHEREAS, the state championship victory is a testament to the skill and hard work of the athletes, the leadership and guidance of coaches David Eddins, Chris Traylor, and Cindy Townsend and manager Kyle Howerton, and the enthusiastic support of the Dinwiddie community; now, therefore, be it

RESOLVED by the House of Delegates, That the Dinwiddie Darlings softball team hereby be commended on winning the Dixie Softball state tournament; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Dinwiddie Darlings softball team as an expression of the House of Delegates' admiration for their achievements.

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## HOUSE RESOLUTION NO. 318

*Commending the Lebanon High School softball team.*

Agreed to by the House of Delegates, January 27, 2017

WHEREAS, the Lebanon High School softball team won the Virginia High School League Group 2A state championship in June 2016, capping a storybook season and bringing home the first state softball trophy in school history; and

WHEREAS, the Lebanon High School Pioneers defeated the Central High School Falcons of Woodstock by a margin of 2-1 in a 16-inning marathon game that will be written about in history books; and

WHEREAS, the Lebanon High School softball team reached the state championship game after a shocking 3-1 upset over two-time defending state champion Page County High School in the Virginia High School League (VHSL) Group 2A state semifinals; and

WHEREAS, the Central Falcons took a 1-0 lead in the fourth inning of the championship game after back-to-back doubles; the Lebanon Pioneers answered back in the sixth inning when Taylor Woodlief hit a double to the wall to score Monica Parrott; and

WHEREAS, pitching and defense took over from there as Lebanon Pioneers pitcher Morgan Hamm settled into a groove, supported by the unshakable defense of center fielder Monica Parrott, shortstop Haley Justus, and left fielder Madison Varney; and

WHEREAS, after more than three hours of intense heat and pressure, Lebanon Pioneers batter Taylor Woodlief smacked the game-winning home run over the center field wall in the 16th inning, ending the longest state tournament game in VHSL softball history; and

WHEREAS, Taylor Woodlief's walk-off home run prompted a mob of jubilant Lebanon High School players and fans to rush onto the field in a moment of pure joy that will not soon be forgotten by all of those who participated in and watched the record-breaking game; and

WHEREAS, Lebanon Pioneers pitcher Morgan Hamm finished the game with 12 strikeouts and only two walks, and Taylor Woodlief led the offense with five hits, including two doubles and a walk-off home run; and

WHEREAS, all members of the Lebanon High School softball team, which had just three seniors, demonstrated determination and perseverance and contributed to the state championship victory by working hard throughout the season to build solid skills; and

WHEREAS, Shelia Adams, the veteran coach of the Lebanon High School softball team and a pioneer in Southwest Virginia softball, instilled confidence in her players and implored the team to keep digging deep as the grueling championship game tested the Pioneers' endurance; and

WHEREAS, Lebanon High School softball coach Shelia Adams began coaching the Pioneers in 1994, and, in 2016, she announced she would retire and go out on top with her second career state championship; and

WHEREAS, the Lebanon Pioneers' 19-8 season was one for the ages: the team finished third in the Clinch Mountain Conference regular-season standings, was runner-up in the conference tournament, and took second place in the regional tournament, but still ended up winning the state title; and

WHEREAS, Lebanon High School's improbable state softball championship run was made possible by the tremendous unwavering support of the team's dedicated fans and the sacrifices of their loving families; now, therefore, be it

RESOLVED by the House of Delegates, That the Lebanon High School softball team hereby be commended on their sensational victory in the Virginia High School League Group 2A state championship in June 2016; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Shelia Adams, head coach of the Lebanon High School softball team, as an expression of the House of Delegates' admiration for the team's amazing 2016 season and first state softball title in school history.

## HOUSE RESOLUTION NO. 319

*Commending the Dinwiddie Nationals Coach Pitch All-Stars baseball team.*

Agreed to by the House of Delegates, January 27, 2017

WHEREAS, the Dinwiddie Nationals Coach Pitch All-Stars baseball team won the Dixie Youth Baseball state championship in July 2016; and

WHEREAS, the Dinwiddie Nationals were undefeated in the state tournament, playing against Amelia in the state final, a tense contest that finished in extra innings, with Joseph Davis scoring the winning run off of a great hit by Sam Marable; and

WHEREAS, Wesley Townsend of the Dinwiddie Nationals achieved the highest batting average of the tournament at .714; and

WHEREAS, as state champions, the Dinwiddie Nationals represented Virginia in the Dixie Youth Baseball AA Coach Pitch World Series in Laurel, Mississippi; and

WHEREAS, each member of the team—Lucas Gordon, Samuel Marable, Caden Rainey, Tristan Booe, Joseph Davis, Tyler Wilson, Hunter Cunningham, Hunter Lee, Gerald Christopher, Corey Kester, Wesley Townsend, and Matthew Moody—contributed to the state championship victory; and

WHEREAS, the Dinwiddie Nationals' victory is a tribute to the skill and dedication of the athletes, the leadership and guidance of coaches George Marable III, Billy Rainey, Josh Booe, and manager Hampton Gordon, and the enthusiastic support of the Dinwiddie community; now, therefore, be it

RESOLVED by the House of Delegates, That the Dinwiddie Nationals Coach Pitch All-Stars baseball team hereby be commended for winning the Dixie Youth Baseball state championship in 2016; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Dinwiddie Nationals Coach Pitch All-Stars baseball team as an expression of the House of Delegates' admiration for the team's achievements.

**HOUSE RESOLUTION NO. 320**

*Celebrating the life of Robert Worthington Nunnally Smith, Sr.*

Agreed to by the House of Delegates, January 27, 2017

WHEREAS, Robert Worthington Nunnally Smith, Sr., an advertising and printing company executive and highly esteemed member of the Petersburg community, died on November 3, 2016; and

WHEREAS, Robert Worthington Nunnally "Wert" Smith, Sr., was a native of Petersburg and a son of the late William Roy and Virginia Lee Smith; and

WHEREAS, Wert Smith graduated in 1963 from Petersburg High School, then studied at Randolph-Macon College in Ashland, and graduated from Virginia Commonwealth University in Richmond; and

WHEREAS, for many years Wert Smith led the Smith Advertising Company in Petersburg and later was publisher of The Dietz Press, part of Owen Printing Company; and

WHEREAS, Wert Smith loved his community, church, friends, family, and University of Virginia basketball, and he was a devoted member of St. Paul's Episcopal Church in Petersburg; and

WHEREAS, Wert Smith cherished the friendships he made over the years; he especially enjoyed swapping stories and sharing meals with his Dixie Restaurant lunch buddies, fellow Kiwanians, Petersburg Old Geezers Organization friends, and Indian Swamp Fishing Club compadres; and

WHEREAS, Wert Smith was a respected civic leader in Petersburg, active in the Jaycees, United Way of Southside Virginia, Tri-Cities Forum, and local Chamber of Commerce; he also helped found the Petersburg Sports Hall of Fame; and

WHEREAS, Wert Smith will be fondly remembered and greatly missed by his wife, Patricia; their children, Susan, Robert, and Anne, and their families; and many other relatives and friends who will cherish his memory and the stories he left behind; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Robert Worthington Nunnally Smith, Sr., an advertising and publishing company executive and highly esteemed member of the Petersburg community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Robert Worthington Nunnally Smith, Sr., as an expression of the House of Delegates' respect for his memory.

**HOUSE RESOLUTION NO. 321**

*Celebrating the life of Henry D. Medlin.*

Agreed to by the House of Delegates, January 27, 2017

WHEREAS, Henry D. Medlin, an admired classic car enthusiast and an entrepreneur who served the residents of Newport News for over 50 years as the owner of Pete's Custom Auto Service, died on May 24, 2016; and

WHEREAS, a lifelong car enthusiast, Henry D. "Pete" Medlin was featured in *Hot Rod* magazine in the 1960s, racing in his 1932 Ford roadster; and

WHEREAS, in 2013, Pete Medlin received the Order of Towman award for exemplary service, honoring tow truck drivers who risk their lives to save others; he was a member of the International Towing & Recovery Hall of Fame; and

WHEREAS, Pete Medlin was known for his skill as a mechanic and many local residents entrusted him to work on their classic cars; with his dedicated leadership, Pete's Custom Auto Service earned a reputation for fair prices and excellent service; and

WHEREAS, working to strengthen and enhance the community in a variety of ways, Pete Medlin was a devoted supporter of the Newport News Fire Department, and many firefighters received invaluable vehicle extrication training thanks to his generosity; and

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WHEREAS, Pete Medlin was a strong supporter of community organizations, including the Boys & Girls Clubs of the Virginia Peninsula, the Virginia School for the Deaf and the Blind, Habitat for Humanity Peninsula and Greater Williamsburg, the Jamestown-Yorktown Foundation, and many other nonprofit organizations; and

WHEREAS, Pete Medlin was honest, hardworking, and professional, and he served as a mentor and role model to countless young people in Newport News; and

WHEREAS, Pete Medlin will be fondly remembered and greatly missed by his wife, Joan; children, Donna, Lorrie, Donnie, and Gordon, and their families; and numerous other family members, friends, and customers; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Henry D. Medlin, an entrepreneur, car enthusiast, and admired member of the Newport News community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Henry D. Medlin as an expression of the House of Delegates' respect for his memory.

**HOUSE RESOLUTION NO. 322**

*Commending the Appomattox Dixie Youth Baseball boys' all-star team.*

Agreed to by the House of Delegates, January 27, 2017

WHEREAS, the Appomattox Dixie Youth Baseball boys' all-star team won the Virginia state tournament in July 2016; and  
 WHEREAS, after winning the district championship, the Appomattox Dixie Youth Baseball boys' all-star team went undefeated in the state tournament, defeating talented teams from Timberlake, Giles County, Franklin County, and Madison Heights, outscoring opponents by a record 78-23; and

WHEREAS, the Appomattox Dixie Youth Baseball boys' all-star team faced the Madison Heights team in the state final, winning by a score of 17-2 in three innings; and

WHEREAS, as state champions, the Appomattox Dixie Youth Baseball boys' all-star team represented the Commonwealth at the Dixie Youth Baseball World Series in Pineville, Louisiana, in August 2016; and

WHEREAS, at the World Series, the Appomattox Dixie Youth Baseball boys' all-star team won one game against the team from Mississippi and set a record for runs in a single game with a score of 20-5; and

WHEREAS, the Appomattox Dixie Youth Baseball boys' all-star team's victorious season is a tribute to the skill and hard work of the athletes, the leadership of the coaches and staff, and the passionate support of the entire Appomattox community; now, therefore, be it

RESOLVED by the House of Delegates, That the Appomattox Dixie Youth Baseball boys' all-star team hereby be commended on winning the 2016 Virginia state tournament; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Lee Scruggs, John Martin, and Frank Smith, the coaches of the Appomattox Dixie Youth Baseball boys' all-star team, as an expression of the House of Delegates' admiration for the team's achievements.

**HOUSE RESOLUTION NO. 323**

*Commending the Rustburg High School baseball team.*

Agreed to by the House of Delegates, January 27, 2017

WHEREAS, the Rustburg High School baseball team claimed victory in the Virginia High School League Group 3A state championship game in June 2016, bringing home the first state baseball title in school history; and

WHEREAS, the Rustburg High School Red Devils won a thrilling 3-2 victory over the William Monroe High School Dragons to finish the season with a 20-5 overall record and earned their first state championship after making the title game four times; and

WHEREAS, Rustburg High School took a 3-0 lead that was bolstered by triples from Daegan Phillips and Drew Calohan, who later earned the top state honor of Virginia High School League (VHSL) Group 3A Player of the Year; and

WHEREAS, the William Monroe Dragons threatened in the fifth inning, when they scored two runs, but the Rustburg Red Devils stepped up their game and made good defensive plays to hold off their opponents and accomplish what they had been working for all year; and

WHEREAS, Rustburg Red Devils pitcher Hunter Campbell delivered a stellar performance on the mound in the championship game, finishing with seven strikeouts and giving up two runs, both unearned, on five hits in seven innings; and

WHEREAS, all members of the Rustburg High School baseball team contributed to the championship victory by showing up every day and putting in the work required to improve their skills, mental game, and physical strength; and

WHEREAS, the Rustburg Red Devils received excellent leadership and mentoring from coach Christopher Carr, who brought home the state title in only his second year as head coach of the baseball team and was named 2016 VHSL Group 3A Coach of the Year; and

WHEREAS, the Rustburg Red Devils could not have won the state championship without the support of their loyal fans in the Campbell County community, the enthusiasm of the students, teachers, and administrators at Rustburg High School, and the love and encouragement of their families; now, therefore, be it

RESOLVED by the House of Delegates, That the Rustburg High School baseball team hereby be commended on winning the Virginia High School League Group 3A state championship in 2016; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Christopher Carr, coach of the Rustburg High School baseball team, as an expression of the House of Delegates' admiration for the team's dedication to accomplishing their goal and their championship-caliber performance.

#### HOUSE RESOLUTION NO. 324

*Celebrating the life of Donald Fitzgerald Reilly.*

Agreed to by the House of Delegates, January 27, 2017

WHEREAS, Donald Fitzgerald Reilly of Midlothian, a business leader who made countless contributions to economic development in the Commonwealth, died on January 6, 2017; and

WHEREAS, a native of Philadelphia, Pennsylvania, Donald "Don" Fitzgerald Reilly grew up in Harrisonburg and followed in his father's footsteps as a student of Virginia Polytechnic Institute and State University (Virginia Tech), where he was a standout athlete in boxing and track and field; and

WHEREAS, Don Reilly was a member of the Reserve Officers' Training Corps at Virginia Tech and served for two years as a member of the United States Merchant Marine during World War II; and

WHEREAS, after graduation, Don Reilly pursued a career in human resources with General Electric; he worked in Massachusetts, Maryland, and New York then returned to the Commonwealth, earning a reputation as a loyal, team-oriented leader; and

WHEREAS, in the 1960s, Don Reilly was recruited by the Virginia Community College System to design and implement a workforce development program to support economic development in the Commonwealth by ensuring that students received the tools and training they needed to contribute to their chosen career fields; and

WHEREAS, a pioneer and an innovator in the field of workforce development, Don Reilly worked with thousands of businesses in every region of Virginia over the course of his 30-year career, establishing partnerships with local, domestic, and international businesses; he earned many awards and accolades for his work, and he was named a Cardinal by the Virginia Economic Developers Association; and

WHEREAS, predeceased by his first wife, Nancy, and two children, Sharon and Michael, Don Reilly will be fondly remembered and greatly missed by his wife of 48 years, Joy; children, James, Margaret, Brad, Patrick, Jacqueline, and Donald, and their families; daughter-in-law, Kim; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Donald Fitzgerald Reilly, a respected leader in business and workforce development; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Donald Fitzgerald Reilly as an expression of the House of Delegates' respect for his memory.

#### HOUSE RESOLUTION NO. 325

*Celebrating the life of Calvin H. Thigpen, Sr., M.D.*

Agreed to by the House of Delegates, January 27, 2017

WHEREAS, Calvin H. Thigpen, Sr., M.D., a distinguished member of the South Chesterfield community who served the residents of Central Virginia as both an attorney and a physician, died on January 7, 2017; and

WHEREAS, a native of Greenville, North Carolina, Calvin Thigpen graduated from Henderson Institute High School at the age of 15 and enrolled in a plumber's apprentice program at Norfolk Naval Shipyard; and

WHEREAS, Calvin Thigpen joined many of the other young men of his generation in service to the nation as a member of the United States Army during World War II; he was selected for Officer Candidate School and received an honorable discharge as a first lieutenant; and

WHEREAS, after completing his military service, Calvin Thigpen earned a bachelor's degree from what is now Virginia State University and went on to inspire students as an educator for Hopewell City Public Schools; and

WHEREAS, Calvin Thigpen continued his education at the University of Virginia, where he earned a medical degree in 1962; after completing his residency at the Medical College of Virginia, he opened a private practice and cared for the residents of Petersburg for more than 30 years; and

WHEREAS, in 1974, Calvin Thigpen also earned a law degree from the University of Virginia, and for over a decade he served local residents as both an attorney and a medical doctor from the same office; and

WHEREAS, Calvin Thigpen earned many awards and accolades for his good work, including the rare honor of being named as both a fellow and a diplomate of the American College of Legal Medicine; he served on the Board of Visitors of

Virginia State University, as president of the Petersburg Bar Association, and as a two-term chief of staff at Petersburg General Hospital; and

WHEREAS, predeceased by his wife, Vera, Calvin Thigpen will be fondly remembered and greatly missed by his children, Calvin, Jr., and Vera, and their families, and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Calvin H. Thigpen, Sr., M.D., a respected attorney and physician who made many contributions to the residents of Central Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Calvin H. Thigpen, Sr., M.D., as an expression of the House of Delegates' respect for his memory.

### HOUSE RESOLUTION NO. 326

#### *Commending Phillips Programs.*

Agreed to by the House of Delegates, January 27, 2017

WHEREAS, Annandale-based Phillips Programs is a private, nonprofit organization that, in 2017, is celebrating 50 years of serving special needs children in the Washington, D.C., metropolitan area; and

WHEREAS, Phillips Programs is dedicated to addressing the needs of individuals with emotional and behavioral problems, and their families, through education, family support services, community education, and advocacy; and

WHEREAS, Phillips Programs was founded in 1967 as the School for Contemporary Education by psychologist E. Larkin Phillips; five years later the program expanded to serve 150 students and became a founding member of the Virginia Association of Independent Specialized Education Facilities; and

WHEREAS, Phillips School now operates three special education day schools, with locations in Annandale, Fairfax, and Laurel, Maryland, that serve over 500 special needs students annually from elementary through high school grades; and

WHEREAS, Phillips Programs also operates Phillips Family Partners, which provides home and community-based counseling, behavior consultation, family support, and advocacy services, and Phillips Building Futures, an onsite building trades youth training program in Fairfax and Loudoun Counties; and

WHEREAS, for 50 years, Phillips Programs has provided a place where children left behind in traditional classroom settings can get the support and education they need to become successful, responsible adults; and

WHEREAS, the staff of educators and administrators at Phillips Programs is dedicated to helping children overcome adversity, develop critical life skills, and become independent, productive young adults by providing a tailored approach to address each unique situation; and

WHEREAS, Phillips Programs has received local and national recognition for distinguished educational leadership, excellence in nonprofit management, and outstanding corporate citizenship, among other awards; now, therefore, be it

RESOLVED by the House of Delegates, That Phillips Programs hereby be commended on 50 years of serving children with emotional and behavioral problems in the metropolitan Washington, D.C., area; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Piper Phillips Caswell, president and CEO of Phillips Programs, as an expression of the House of Delegates' admiration for the organization's steadfast dedication to improving the lives of special needs children often left behind in traditional classroom settings.

### HOUSE RESOLUTION NO. 327

#### *Commending Daniel W. Duncan.*

Agreed to by the House of Delegates, February 3, 2017

WHEREAS, Daniel W. Duncan, a respected advocate for workers' rights and social and economic justice, has served as the president of the Northern Virginia Labor Federation for more than 10 years; and

WHEREAS, comprising more than 60 local labor unions and constituency organizations, the Northern Virginia Labor Federation is the Commonwealth's largest labor council and is a member of the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO); and

WHEREAS, Daniel "Dan" W. Duncan has a long history of support for labor organizations, including the Retail Clerks International Union, the Communications Workers of America (CWA), and the Northeast Florida Central Labor Council; he was hired by the Seafarers International Union in 1987 and has served the organization in various capacities for many years; and

WHEREAS, after settling in Virginia in 1990, Dan Duncan quickly became involved with the Northern Virginia Labor Federation and was elected president in 2006; under his leadership, the organization has succeeded in its mission to enhance the lives of working families in the Commonwealth and encourage economic and social justice in the workplace; and

WHEREAS, as president of the Northern Virginia Labor Federation, Dan Duncan has helped workers form and strengthen unions, supported workers as they bargained with employers to improve workplace safety and conditions, and served as a voice for working families at the local, regional, and state levels; and

WHEREAS, Dan Duncan has also served the AFL-CIO as the executive secretary-treasurer of the Maritime Trades Department since 2011; he remains a proud member of Seafarers International Union and the CWA Newspaper Guild Local 35; and

WHEREAS, Dan Duncan is a 37-year member of Lions Clubs International and is presently active in the Alexandria Lincolnia Lions Club, where he serves as its mascot, Leon the Lion; now, therefore, be it

RESOLVED by the House of Delegates, That Daniel W. Duncan hereby be commended for his 10 years of service as president of the Northern Virginia Labor Federation; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Daniel W. Duncan as an expression of the House of Delegates' admiration for his commitment to advocating for the working members of the Northern Virginia community.

### HOUSE RESOLUTION NO. 328

*Celebrating the life of Caitlin Piper Gorove-Funk.*

Agreed to by the House of Delegates, February 3, 2017

WHEREAS, Caitlin Piper Gorove-Funk, a beloved member of the Fairfax County community, died on April 24, 2016, from anorexia nervosa, an eating disorder, at the age of 21 years old; and

WHEREAS, a native of Fairfax County, Caitlin Gorove-Funk attended J.E.B. Stuart High School in Falls Church; she was an athlete, who played soccer and basketball and enjoyed running and swimming; and

WHEREAS, Caitlin Gorove-Funk volunteered for an animal rescue organization and, early in life, hoped to care for animals as a veterinarian; she later decided to become a doctor and enrolled at Virginia Commonwealth University; and

WHEREAS, as a volunteer at Inova Fairfax Hospital, Caitlin Gorove-Funk cared for newborns in the nursery and brought joy to children in the Ronald McDonald Playroom; and

WHEREAS, Caitlin Gorove-Funk's own experiences with illness further motivated her to help others, and her courage and determination were an inspiration to everyone she met; and

WHEREAS, Caitlin Gorove-Funk, while struggling with anorexia, advocated for the development of state legislation directing school systems to provide education on eating disorders to all parents of students in grades five through 12, which passed unanimously in 2013; and

WHEREAS, Caitlin Gorove-Funk is fondly remembered and greatly missed by her parents, Bob and Lisa; brothers, Aaron and Jacob; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Caitlin Piper Gorove-Funk, a vibrant member of the Fairfax County community who enhanced the lives of others as a compassionate volunteer; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Caitlin Piper Gorove-Funk as an expression of the House of Delegates' respect for her memory.

### HOUSE RESOLUTION NO. 329

*Commending Karen S. Whetzel.*

Agreed to by the House of Delegates, January 27, 2017

WHEREAS, Shenandoah County School Board chair Karen S. Whetzel of New Market was honored as the 2016 Valley Region School Board Member of the Year by the Virginia School Boards Association; and

WHEREAS, Karen Whetzel had a distinguished 38-year career as a teacher and administrator in Shenandoah County Public Schools and she has been a member of the Shenandoah County School Board since January 2010; and

WHEREAS, the Virginia School Boards Association (VSBA) Regional School Board Member of the Year awards recognize four school board members from across the Commonwealth who have outstanding qualities and are actively involved in promoting student achievement; and

WHEREAS, Karen Whetzel's fellow members of the Shenandoah County School Board nominated her for the VSBA honor and she credits her colleagues with helping her win the statewide recognition because they work well as a team; and

WHEREAS, Karen Whetzel is a courageous leader and during her tenure as chair the Shenandoah County School Board has made tough decisions, including recently approving a plan to change school boundary lines and a 25-year master plan for the renovation of school facilities; and

WHEREAS, Karen Whetzel believes there is no greater calling than to dedicate oneself to the well-being, safety, growth, and development of children so that they can become successful, productive, global citizens; and

WHEREAS, Karen Whetzel always has the best interests of students in mind and she has demonstrated a lifetime commitment to providing the best education possible to Shenandoah County students and to improving their schools; now, therefore, be it

RESOLVED by the House of Delegates, That Karen S. Whetzel, chair of the Shenandoah County School Board, hereby be commended on winning the 2016 Valley Region Teacher of the Year award from the Virginia School Boards Association; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Karen S. Whetzel as an expression of the House of Delegates' admiration for her dedication to public education and outstanding work on behalf of the students of Shenandoah County.

### HOUSE RESOLUTION NO. 330

*Commending Sherry Heishman.*

Agreed to by the House of Delegates, January 27, 2017

WHEREAS, the Virginia Association of Agriculture Educators recognized Sherry Heishman, agriculture education teacher and FFA advisor at Central High School in Woodstock, as the 2016 Outstanding Agricultural Education Teacher; and

WHEREAS, since 1985, Sherry Heishman has taught agriculture and advised the FFA chapter at Central High School, where she is beloved as a role model, gifted educator, and innovator by her students and fellow educators; and

WHEREAS, the Virginia Association of Agriculture Educators (VAAE) Outstanding Agricultural Education Teacher award recognizes educators who are at the pinnacle of their profession and are conducting the highest quality agricultural education programs; and

WHEREAS, the 2016 VAAE award is only the latest accolade in Sherry Heishman's highly-decorated teaching career as she has been previously recognized at the state and national level for her achievements in teaching agriculture and science; and

WHEREAS, Sherry Heishman was honored by the VAAE in 2014 as the state's Agriscience Teacher of the Year and the same year she was named a National Agriscience Teacher of the Year by the National Association of Agricultural Educators; and

WHEREAS, Sherry Heishman is an innovator who values letting students' curiosity drive their learning, her curriculum is science-based, her classroom is a model for hands-on instruction, and she is always looking to extend learning outside of the classroom through real-life teaching opportunities; and

WHEREAS, Sherry Heishman sets high expectations for her students and the FFA members she mentors, and she is rewarded by watching them achieve their greatest potential inside the classroom, in FFA competitions, and in their professional lives after graduation; and

WHEREAS, Sherry Heishman's numerous awards and achievements in her role as FFA advisor at Central High School include coaching 61 state-winning teams and at least 56 State Proficiency Award winners; during her tenure the Central High School FFA chapter has produced 16 state officers, including five state presidents; and

WHEREAS, Sherry Heishman represents the epitome of what is expected of instructors at Central High School, and her passion and love for agriculture is admired by students, teachers, and administrators alike; now, therefore, be it

RESOLVED by the House of Delegates, That Sherry Heishman, agriculture education teacher and FFA advisor at Central High School in Woodstock, hereby be commended on being honored as the 2016 Outstanding Agricultural Education Teacher by the Virginia Association of Agriculture Educators; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Sherry Heishman as an expression of the House of Delegates' admiration for her tremendous dedication and passion for agricultural education in the Commonwealth.

### HOUSE RESOLUTION NO. 331

*Commending Melissa D. Hensley.*

Agreed to by the House of Delegates, January 27, 2017

WHEREAS, Melissa D. Hensley, principal of Central High School in Woodstock, was honored as the 2016 Outstanding High School Principal of the Year by the Virginia Association of Secondary School Principals; and

WHEREAS, Melissa Hensley received further recognition when she was selected as one of three national finalists for the Principal of the Year award from the National Association of Secondary School Principals; and

WHEREAS, Melissa Hensley received a bachelor's degree from Eastern Mennonite University and master's degrees from James Madison University; and

WHEREAS, since Melissa Hensley began her tenure as principal at Central High School in July 2012, the school has earned significant state and national recognition; and

WHEREAS, in November 2015, Central High School was designated a National Blue Ribbon School for Exemplary Academic Performance, the highest level of recognition from the United States Department of Education; and

WHEREAS, Central High School's music programs, athletic teams, clubs, and co-curricular teams have excelled and earned local, regional, state, and national awards under the leadership of Melissa Hensley; and

WHEREAS, since Melissa Hensley became principal, Central High School has increased the number of dual enrollment class offerings, expanded the use of technology, and added a wide range of new programs to meet students' needs; and

WHEREAS, Melissa Hensley has demonstrated an exceptional ability to work with students, parents, faculty, staff, and the greater Woodstock community; she understands the importance of relationships, high expectations, and the development of a collaborative work environment; and

WHEREAS, Melissa Hensley has empowered her teachers to lead the "One School, One Goal" school-improvement initiative that includes faculty-led priorities and professional development; and

WHEREAS, Melissa Hensley is a regular presence in the hallways and classrooms of Central High School, where she knows most students by name, and she has an open-door policy for parents and students to share their concerns; and

WHEREAS, Melissa Hensley is the epitome of a passion-driven leader; she exudes enthusiasm and dedication and is admired for being unafraid to take risks and make innovative changes to increase learning opportunities; and

WHEREAS, Melissa Hensley's recognition as an outstanding principal at the state and national levels gave her a unique platform to speak on behalf of her colleagues and advocate for the needs of schools throughout the Commonwealth and the nation; and

WHEREAS, Melissa Hensley has achieved success at Central High School because of the hard work and support of the school's faculty and staff, as well as her colleagues and administrators in the Shenandoah County Public Schools system; now, therefore, be it

RESOLVED by the House of Delegates, That Melissa D. Hensley, principal of Central High School in Woodstock, hereby be commended on being named the 2016 Outstanding High School Principal of the Year by the Virginia Association of Secondary School Principals; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Melissa D. Hensley as an expression of the House of Delegates' admiration for her leadership and dedication to providing the best possible education for the students of Shenandoah County and the Commonwealth.

#### HOUSE RESOLUTION NO. 332

*Celebrating the life of Robert Parks Good.*

Agreed to by the House of Delegates, January 27, 2017

WHEREAS, Robert Parks Good, a former Mayor of Shenandoah, respected Page County leader, and proud World War II veteran, died on July 15, 2016; and

WHEREAS, Robert Good was born in Hagerstown, Maryland, to the late Lester and Louise Good, and he received degrees from Shenandoah College, when it was located in Dayton, Virginia, and Marshall University in Huntington, West Virginia; and

WHEREAS, Robert Good proudly served his country in the United States Marine Corps during World War II, when he was stationed in the Pacific theater as a plane mechanic; and

WHEREAS, Robert Good served as Mayor of Shenandoah from 1956 to 1959, and was a member of the town council for many years; he also served on the Page County School Board from 1956 to 1976, and the Page County Board of Supervisors from 1988 to 2002; and

WHEREAS, Robert Good was an employee of Merck & Co., Inc., for 37 years before retiring in 1987, and he ran a part-time accounting business for several years; and

WHEREAS, during his many years in public service, Robert Good played an important role in the completion of major roadwork on Route 340, which runs from Luray to Front Royal, and was instrumental in seeing that there were two high schools in Page County; and

WHEREAS, widely respected for his integrity, Robert Good was admired for his energy, determination, and huge heart; his contributions to the Page County and Shenandoah communities will be felt for many generations; and

WHEREAS, Robert Good was a member of Christ United Methodist Church and previously attended Elkton Evangelical Presbyterian Church, where he was active in Sunday school; and

WHEREAS, Robert Good loved to bowl, play tennis, and golf in his free time, but what he enjoyed most was spending precious time with his family, especially his seven grandchildren and seven great-grandchildren; and

WHEREAS, preceded in death by his wife of 63 years, Ann, Robert Good will be fondly remembered and greatly missed by his daughters, Robbie and Jane, and their families, and a host of other relatives and good friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Robert Parks Good, a former Mayor of Shenandoah, respected Page County leader, and proud World War II veteran; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Robert Parks Good as an expression of the House of Delegates' respect for his memory.

**HOUSE RESOLUTION NO. 333**

*Celebrating the life of Albert T. Mitchell.*

Agreed to by the House of Delegates, January 27, 2017

WHEREAS, Albert T. Mitchell, a longtime Woodstock town attorney and former Commonwealth's Attorney for Shenandoah County, died on November 20, 2016; and

WHEREAS, Albert "Al" T. Mitchell was born in Alexandria to the late Robert and Evelyn Mitchell, and he graduated from Francis C. Hammond High School in Alexandria; and

WHEREAS, Al Mitchell attended the University of Richmond on a football scholarship, and, after graduating in 1964, he attended Washington and Lee University School of Law and received his law degree in 1967; and

WHEREAS, Al Mitchell began his lengthy legal career in the law offices of Marsh & Sarver in Strasburg, and he later formed his own firm, Mitchell & Arthur, in partnership with the late Douglas C. Arthur; and

WHEREAS, in September 1968, Al Mitchell became the attorney for the Town of Woodstock, a position he held until his death; he served eight different mayors and provided steady and consistent advice to the Woodstock Town Council and its town manager for 48 years; and

WHEREAS, Al Mitchell served as Commonwealth's Attorney and Assistant Commonwealth's Attorney for Shenandoah County for over 20 years during his career, and most recently he held the position of Commonwealth's Attorney from 1999 through 2011; and

WHEREAS, a respected public servant and fixture in the Woodstock community, where he was a founding member of the Woodstock Museum, Al Mitchell was known for his sense of humor, his calm and smooth demeanor, and his well-articulated oration in the courtroom; and

WHEREAS, Al Mitchell was humble, thoughtful, and the true embodiment of the word "gentleman"; he treated everyone with respect and was generous with his time, knowledge, and kindness; and

WHEREAS, Al Mitchell will be fondly remembered and greatly missed by his wife of 52 years, Toni; children, Christine, Jennifer, and Trav, and their families; and a host of other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Albert T. Mitchell, the longtime Woodstock town attorney and a former Shenandoah County Commonwealth's Attorney; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Albert T. Mitchell as an expression of the House of Delegates' respect for his memory.

**HOUSE RESOLUTION NO. 334**

*Celebrating the life of Sue Ella Boatright-Wells.*

Agreed to by the House of Delegates, January 27, 2017

WHEREAS, Sue Ella Boatright-Wells of Hiltons, a respected member of the Scott County community who enriched the lives of countless students through her work at Mountain Empire Community College, died on August 1, 2016; and

WHEREAS, Sue Ella Boatright-Wells grew up in the Fort Blackmore area of Scott County and graduated from Dungannon High School; she earned an associate's degree from Mountain Empire Community College (MECC) and a bachelor's degree from East Tennessee State University; and

WHEREAS, Sue Ella Boatright-Wells served as the dean of workforce development and continuing education at MECC, ensuring that students had the tools and training to meet employers' needs and succeed in their chosen careers; and

WHEREAS, in addition to organizing Home Craft Days at MECC for more than 35 years, Sue Ella Boatright-Wells helped preserve the culture and heritage of Southwest Virginia by establishing the MECC Mountain Music School; and

WHEREAS, the Mountain Music School has given students of all ages from the United States, Canada, and Scotland the opportunity to study fiddle, banjo, guitar, mandolin, shape note singing, and songwriting; Sue Ella Boatright-Wells was most proud of her work to preserve Old Time Mountain Music and also helped create the Junior Appalachian Musicians programs; and

WHEREAS, Sue Ella Boatright-Wells worked to enhance the community as a member of the Rotary Club of Scott County, the Scott County Chamber of Commerce, the Virginia Coalfield Economic Development Authority, and many other civic and service organizations; and

WHEREAS, predeceased by a son, David, Sue Ella Boatright-Wells will be fondly remembered and greatly missed by her husband of 17 years, Beech; sons, Samuel and James, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Sue Ella Boatright-Wells, an admired member of the community who worked hard to create new opportunities for students at Mountain Empire Community College; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Sue Ella Boatright-Wells as an expression of the House of Delegates' respect for her memory.

**HOUSE RESOLUTION NO. 335***Celebrating the life of Ronald Lee Slempp.*

Agreed to by the House of Delegates, January 27, 2017

WHEREAS, Ronald Lee Slempp of Wise County, a farmer known for his work with horses and a hardworking coal miner who was committed to the safety of his fellow miners, died on November 9, 2016; and

WHEREAS, a graduate of Pound High School, Ronald Slempp pursued a career in the coal industry and was an employee of Paramount Coal Company for 40 years, including 35 years as a lead foreman on a surface mine; and

WHEREAS, deeply committed to safety, Ronald Slempp always placed the welfare of his miners first and implemented several devices of his own design to make operations safer; he was highly admired for his effective leadership and meticulous planning of operations, and he served as a trusted mentor to many young miners; and

WHEREAS, Ronald Slempp also worked as a cattle farmer and was an avid supporter of the VA-KY District Fair, serving as the horse show chair since 2003; he put his attention to detail and planning ability to use to make sure that the horse show was the best it could be for both the riders and attendees; and

WHEREAS, Ronald Slempp will be fondly remembered and greatly missed by his loving wife of 42 years, Ginger; children, Michelle, Shannon, and Pete, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Ronald Lee Slempp, a hardworking farmer and coal miner in Wise County; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Ronald Lee Slempp as an expression of the House of Delegates' respect for his memory.

**HOUSE RESOLUTION NO. 336***Celebrating the life of Arlie Collier, Jr.*

Agreed to by the House of Delegates, January 27, 2017

WHEREAS, Arlie Collier, Jr., a hardworking coal miner in Pound and a devoted husband, father, and grandfather, died on October 13, 2016; and

WHEREAS, Arlie Collier was a loyal employee of Alpha Natural Resources and worked in the coal industry for 43 years, including 30 years as lead foreman at a Paramount Coal Company surface mine; and

WHEREAS, a dedicated leader, Arlie Collier earned the respect and admiration of his miners, and he was a trusted mentor to many young miners; and

WHEREAS, in addition to spending time with his beloved family, Arlie Collier enjoyed riding his motorcycle and golfing; and

WHEREAS, Arlie Collier will be fondly remembered and greatly missed by his loving wife of 44 years, Vivian; daughters, Holly and Heather, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Arlie Collier, Jr., a hardworking coal miner and a devoted family man in Pound; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Arlie Collier, Jr., as an expression of the House of Delegates' respect for his memory.

**HOUSE RESOLUTION NO. 337***Commending James T. Rogers.*

Agreed to by the House of Delegates, January 27, 2017

WHEREAS, James T. Rogers of North Chesterfield, who admirably and honorably served the Commonwealth and the country as a member of the United States Navy and Navy Reserve for 34 years, retired from military service on December 1, 2016; and

WHEREAS, a native of New York City, James Rogers attended Samuel Gompers High School and enlisted in the United States Navy on December 29, 1976; and

WHEREAS, over the course of his career in the United States Navy, James Rogers served for 20 years as an aviation electronics technician and for 15 years as an anti-terrorism specialist, gaining a wealth of knowledge on security training and procedures; and

WHEREAS, for 10 years, James Rogers also conducted force protection exercises, including training crews, evaluating and grading results, and certifying ships for deployment, earning the nickname "Noah" from his fellow sailors; and

WHEREAS, James Rogers earned many awards and accolades throughout his military service, including the Joint Meritorious Unit Award, the Navy Reserve Meritorious Service Medal, and seven Navy Letters of Commendation; and

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WHEREAS, highly respected among his peers, James Rogers has been a trusted mentor to countless individuals; he shared his expertise and passion for security work with other members of the law-enforcement, physical security, and anti-terrorism communities; now, therefore, be it

RESOLVED by the House of Delegates, That James T. Rogers hereby be commended for his more than three decades of honorable service as a member of the United States Navy and Navy Reserve; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to James T. Rogers as an expression of the House of Delegates' admiration for his patriotism and dedication to duty.

**HOUSE RESOLUTION NO. 338**

*Commending Alice Lynch.*

Agreed to by the House of Delegates, February 3, 2017

WHEREAS, Alice Lynch ably served the Commonwealth as the executive director of the Virginia Capitol Foundation for more than 12 years; and

WHEREAS, Alice Lynch holds degrees from the University of Richmond and Virginia Commonwealth University and previously served as executive director of alumni affairs for the University of Richmond; and

WHEREAS, with her strong background in nonprofit organization management, Alice Lynch was hired in 2004 to establish the Virginia Capitol Foundation to support the Virginia Capitol as it underwent a historic restoration and expansion; and

WHEREAS, as executive director of the Virginia Capitol Foundation, Alice Lynch worked with a diverse board of trustees, members of the historic preservation community, curators, and other state officials to protect and interpret the Virginia Capitol, Capitol Square, and the Governor's Mansion; and

WHEREAS, Alice Lynch organized fundraising efforts and developed educational programs for the Virginia Capitol Foundation, and her leadership and advocacy ensured that the Commonwealth's valuable historic resources were properly preserved for future generations; and

WHEREAS, in 2016, Alice Lynch returned to academia, becoming the executive director of alumni relations at Randolph-Macon College in Ashland; now, therefore, be it

RESOLVED by the House of Delegates, That Alice Lynch hereby be commended for her service to the Commonwealth as executive director of the Virginia Capitol Foundation; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Alice Lynch as an expression of the House of Delegates' admiration for her work to preserve and enhance the historic Virginia Capitol.

**HOUSE RESOLUTION NO. 339**

*Commending Doug Smith.*

Agreed to by the House of Delegates, February 3, 2017

WHEREAS, Doug Smith, head coach of the state champion Appomattox County High School football team, was named a Most Valuable Coach by U.S. Cellular in 2016; and

WHEREAS, during the 2016 season, Doug Smith led the Appomattox County High School Raiders to their second consecutive undefeated season and a win in the Virginia High School League Group 2A state championship; and

WHEREAS, under Doug Smith, the Appomattox County Raiders extended their win streak to 30-0, the longest active undefeated streak in the Virginia High School League; and

WHEREAS, Doug Smith was one of 1,500 coaches considered for the prestigious award and was named one of the top 15 high school coaches in the United States after a round of nationwide voting; and

WHEREAS, after a second round of voting, Doug Smith was one of two finalists to receive the Most Valuable Coach award in November 2016; and

WHEREAS, as the Most Valuable Coach, Doug Smith received a \$5,000 prize for Appomattox County High School, in addition to a \$1,000 prize he received for reaching the top 15, and was recognized at the Under Armor All-America Game in Florida on January 1, 2017; and

WHEREAS, Doug Smith provides strong mentorship to his players and teaches them to be leaders both on and off the field; now, therefore, be it

RESOLVED by the House of Delegates, That Doug Smith hereby be commended for being named a Most Valuable Coach by U.S. Cellular in 2016; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Doug Smith as an expression of the House of Delegates' admiration for his exceptional service to the students of Appomattox County High School.

**HOUSE RESOLUTION NO. 340***Commending Connor's Heroes Foundation.*

Agreed to by the House of Delegates, February 3, 2017

WHEREAS, for 10 years, Connor's Heroes Foundation, a nonprofit organization in Richmond, has provided hope, guidance, and assistance to children with cancer and their families through individualized programs and direct support for the Virginia Commonwealth University Massey Cancer Center; and

WHEREAS, founded by Lisa and Steven Goodwin in 2006, after their son, Connor, successfully completed more than two years of treatment for leukemia, Connor's Heroes provides a compassionate, comprehensive support system for children and families facing pediatric cancer; and

WHEREAS, Connor's Heroes has served more than 1,000 families in the Richmond area through its Heroes Bags and Backpacks, Helping Heroes, Superheroes and Sidekicks, and Bone Marrow Transplant Unit Support programs; and

WHEREAS, Connor's Heroes works to ease the burdens of extended hospital stays for cancer treatment through its Heroes Bags and Backpacks program, which provides bags filled with toys, games, and practical necessities such as gas cards or gift certificates for housecleaning; and

WHEREAS, the Connor's Heroes Helping Heroes program also helps provide normalcy when an extended hospital stay disrupts everyday life; using a personalized care calendar, a team of trained volunteers delivers meals, shops for groceries, and assists with household chores and other errands; and

WHEREAS, the Connor's Heroes Superheroes and Sidekicks helps counter a sense of isolation and low self-esteem by taking children on fun activities or spending quality time with them in clinics, at the hospital, or at home; and

WHEREAS, the Connor's Heroes Bone Marrow Transplant Support Unit helps children feel comfortable during the transplant process by decorating their rooms with their favorite colors, characters, or sports team; Connor's Heroes also created the Room of Possibilities, where families can spend time nearby; and

WHEREAS, recognizing that not every fight with pediatric cancer can be won, Connor's Heroes offers bereavement counseling and provides financial support to families through its Heroes Angel Fund; and

WHEREAS, in 2007, Connor's Heroes created a Pediatric Cancer Research Endowment Fund with an initial gift of \$10,000; the fund has received more than \$1 million and directly supports the work of Dr. Seth Corey, Richmond's first endowed chair of pediatric cancer research; now, therefore, be it

RESOLVED by the House of Delegates, That Connor's Heroes Foundation hereby be commended for its compassionate service to children and families in Richmond on the occasion of its 10th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Connor's Heroes Foundation as an expression of the House of Delegates' admiration for the foundation's work to ensure that no child has to face the fight against cancer alone.

**HOUSE RESOLUTION NO. 341***Commending the South Norfolk Ruritan Club.*

Agreed to by the House of Delegates, February 3, 2017

WHEREAS, the South Norfolk Ruritan Club, one of the largest and most active clubs in the country, has worked for 38 years to build a stronger community through fellowship, goodwill, and volunteer service; and

WHEREAS, the first Ruritan Club was established in Virginia in 1928, and the organization has grown to serve more than 1,100 local communities; the South Norfolk Ruritan Club was chartered in 1979 to serve the historic South Norfolk neighborhood in Chesapeake; and

WHEREAS, in its long history, the South Norfolk Ruritan Club has participated in a wide variety of community service projects, supporting local schools and veterans, and addressing other social and environmental issues; and

WHEREAS, the South Norfolk Ruritan Club helped refurbish Cascade Park, a popular youth baseball field, and helped build a veterans memorial trail at Lakeside Park, which is also the site of an annual Fourth of July parade; and

WHEREAS, in addition to supporting and honoring local veterans, the South Norfolk Ruritan Club has cooked meals for on-duty law-enforcement officers and first responders and presents awards to outstanding public safety officers each year; and

WHEREAS, the South Norfolk Ruritan Club maintains a long relationship with Oscar Smith High School, supporting the orchestra, the football team, and class reunions, as well as providing scholarships to Oscar Smith High School seniors; and

WHEREAS, the South Norfolk Ruritan Club also serves local families through its Paint Your Heart Out program to rehabilitate homes and schools by supporting three food pantries and by donating Christmas gifts to children; and

WHEREAS, the members of the South Norfolk Ruritan Club are leaders in a variety of career fields, and five members of the club have previously been honored as First Citizens of Chesapeake; now, therefore, be it

RESOLVED by the House of Delegates, That the South Norfolk Ruritan Club hereby be commended for its 38 years of service to the South Norfolk community; and, be it

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RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the South Norfolk Ruritan Club as an expression of the House of Delegates' admiration for the club's commitment to enhancing the quality of life of all Chesapeake residents.

**HOUSE RESOLUTION NO. 342**

*Commending Bill Dee.*

Agreed to by the House of Delegates, February 3, 2017

WHEREAS, Bill Dee has served and mentored the youth of Hampton Roads for more than 30 years as a football coach and has been a respected leader on and off the field; and

WHEREAS, Bill Dee became the head coach of the Phoebus High School football team in 1985 and helped build the team into a powerhouse that amassed a 215-64 record in 24 seasons; and

WHEREAS, an inspirational leader, Bill Dee led the Phoebus High School Phantoms to nine district titles, seven regional titles, and four state championships between 2001 and 2008; the team was 98-9 in his final eight seasons as head coach; and

WHEREAS, beginning in 2009, Bill Dee served as an assistant football coach at the college level, offering his leadership to the Christopher Newport University football team for two seasons before joining the coaching staff of Old Dominion University; and

WHEREAS, Bill Dee returned to high school coaching in 2016 and helped the Oscar Smith High School Tigers continue their streak of 91 straight regular season wins in their district and led the team to its second consecutive Virginia High School League Group 6A state championship appearance; and

WHEREAS, retiring as head coach of the Oscar Smith Tigers, Bill Dee's exceptional career statistics stand at 256 wins in 29 seasons; now, therefore, be it

RESOLVED by the House of Delegates, That Bill Dee hereby be commended for his amazing achievements as a high school and college football coach; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Bill Dee as an expression of the House of Delegates' admiration for his dedicated mentorship of countless young athletes in Hampton Roads.

**HOUSE RESOLUTION NO. 343**

*Celebrating the life of Bruce Rose.*

Agreed to by the House of Delegates, February 3, 2017

WHEREAS, Bruce Rose, a retired law-enforcement officer and a dedicated community leader and compassionate volunteer in Norton, died on November 24, 2016; and

WHEREAS, Bruce Rose served and protected the members of the community as a decorated law-enforcement officer, holding several command positions over the course of his 35-year career, culminating in his election as Sheriff of Norton; and

WHEREAS, Bruce Rose worked to enhance the community through many civic and service organizations, taking a special interest in supporting local schools and colleges to ensure that young people had the tools to become good citizens of the Commonwealth; and

WHEREAS, as part of his five decades of volunteer service, Bruce Rose also helped increase access to medical care for his fellow Norton residents; and

WHEREAS, after his well-earned retirement from law enforcement, Bruce Rose continued to serve the community, and was known as a mentor and father figure to many people; and

WHEREAS, Bruce Rose will be fondly remembered and greatly missed by his beloved wife of 50 years, Loretta; son, Bill, and his family; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Bruce Rose, a dedicated public safety officer and a respected member of the Norton community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Bruce Rose as an expression of the House of Delegates' respect for his memory.

**HOUSE RESOLUTION NO. 344**

*Celebrating the life of John Snyder Baker.*

Agreed to by the House of Delegates, February 3, 2017

WHEREAS, John Snyder Baker of Buchanan, a revered longtime football coach in Botetourt County and a minister in the Church of the Brethren, died on December 21, 2016; and

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WHEREAS, a native of Bedford County, Pennsylvania, John Baker was a son of the late G. L. and Honor Baker, and he served in the United States Army from 1957 to 1959; and

WHEREAS, John Baker received a bachelor's degree from Bridgewater College, where he was captain of the football team, and earned a master's degree in education from Radford University; and

WHEREAS, during his distinguished career teaching and coaching multiple sports, John Baker held positions at Brunswick County High School, Drewry Mason High School, Bath County High School, and James River High School; and

WHEREAS, John Baker's passion was football and his longest tenure was at James River High School in Buchanan, where he served as head football coach, assistant principal, and athletic director; he was inducted into the James River Knights of Distinction and the James River Sports Hall of Fame; and

WHEREAS, after retiring from teaching and coaching high school sports, John Baker spent seven years as an assistant football coach at his alma mater, Bridgewater College, where he was part of the team that competed in the 2001 Stagg Bowl, the NCAA Division III national championship game; and

WHEREAS, John Baker concluded his football coaching career at Alleghany High School, where for five years he was an assistant football coach working under his son, Jack; and

WHEREAS, John Baker was a licensed minister in the Church of the Brethren, serving the Mount Bethel and Selma congregations as a part-time pastor, and for many years he was a deacon of the Cloverdale Church of the Brethren; and

WHEREAS, outside of coaching football and church, John Baker loved building furniture and completing construction projects that ranged from home additions to sidewalks and garages; and

WHEREAS, John Baker was a man of great faith, many talents, and a wide variety of interests; he was a devoted husband, father, and grandfather, and a reliable source of guidance for his family and for the many players who had the fortune of calling him "Coach" over his long career; and

WHEREAS, predeceased by an infant son, Craig, John Baker will be fondly remembered and greatly missed by his wife of 47 years, Dianne; children, Jack, Michael, and Melissa, and their families; and a host of other relatives, friends, and former players; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of John Snyder Baker, a revered longtime football coach in Botetourt County and a minister in the Church of the Brethren; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of John Snyder Baker as an expression of the House of Delegates' respect for his memory.

**HOUSE RESOLUTION NO. 345**

*Celebrating the life of Robert O. Alphin.*

Agreed to by the House of Delegates, February 3, 2017

WHEREAS, Robert O. Alphin, an admired farmer in the Zuni community and a loving husband, father, and grandfather, died on January 9, 2017; and

WHEREAS, a native of Whaleyville, Robert "Bob" O. Alphin settled in Isle of Wight County, where he proudly raised his family and made his living as a farmer; and

WHEREAS, for many years, Bob Alphin contributed to the region's economy by cultivating peanuts and tending to livestock; and

WHEREAS, Bob Alphin enriched the lives of young people from around the world by hosting exchange students at his farm, teaching them the value of hard work and responsibility and helping them make lifelong memories in Virginia's beautiful countryside; and

WHEREAS, Bob Alphin built strong relationships with his neighbors and was an active member of several clubs and organizations; he was well-known for both his sense of humor and sage wisdom; and

WHEREAS, Bob Alphin will be fondly remembered and greatly missed by his wife of 62 years, Juanita; children, Ruffin, Rex, Trena, Paul, and Peaches, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Robert O. Alphin, a hardworking farmer and a member of the Zuni community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Robert O. Alphin as an expression of the House of Delegates' respect for his memory.

**HOUSE RESOLUTION NO. 346**

*Celebrating the life of Robert Williams Herzog.*

Agreed to by the House of Delegates, February 3, 2017

WHEREAS, Robert Williams Herzog of Beaverdam, a member of the greatest generation and a longtime coach, teacher, and administrator at St. Christopher's School in Richmond, died on January 11, 2017; and

WHEREAS, a son of the late Albert and Ruby Herzog, Robert "Bob" Williams Herzog enlisted in the United States Navy immediately after graduating from high school and after the attack on Pearl Harbor; and

WHEREAS, after World War II was over, Bob Herzog was honorably discharged and he attended Randolph-Macon College, where he played basketball and football; and

WHEREAS, Bob Herzog had a lengthy and distinguished career as an educator, working at Beaverdam School, Norfolk Academy, and Hampton Roads Academy before arriving at St. Christopher's School; and

WHEREAS, Bob Herzog spent 29 years at St. Christopher's School, where he served as athletic director, head football coach, assistant headmaster, business manager, and teacher; and

WHEREAS, Bob Herzog was founder and executive director of the Virginia Prep League and over the course of his career he helped many students and players grow into men of character and integrity; and

WHEREAS, Bob Herzog was an upstanding and respected citizen in the Beaverdam community, where he was involved in the American Legion and Veterans of Foreign Wars, Kiwanis Club, Junior Chamber of Commerce, Rotary Club, Ruritan Club, and Rouzie's Chapel United Methodist Church, and he was a Master Mason; and

WHEREAS, Bob Herzog loved his God, his country, and his farm; he enjoyed spending time with his family and his former students and players, because he remembered them all; and

WHEREAS, predeceased by a granddaughter, Ashley, Bob Herzog will be fondly remembered and greatly missed by his wife of 63 years, Beryl; children, Gwendolyn and Andrew, and their families; and a host of other relatives and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Robert Williams Herzog of Beaverdam, a World War II veteran and a longtime coach, teacher, and administrator at St. Christopher's School in Richmond; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Robert Williams Herzog as an expression of the House of Delegates' respect for his memory.

#### HOUSE RESOLUTION NO. 347

*Celebrating the life of Jose Monge Montano, Jr.*

Agreed to by the House of Delegates, February 3, 2017

WHEREAS, Jose Monge Montano, Jr., an activist and a hardworking member of the Falls Church community, died the weekend of July 25, 2016; and

WHEREAS, Jose Montano graduated from Norfolk Catholic High School and George Washington University, where he worked in the Division of Student Affairs; as a young man, he attended a youth symposium sponsored by the Filipino American National History Society, which inspired him to dedicate his life to the service of others; and

WHEREAS, Jose Montano worked diligently to enhance the quality of life of his fellow Filipino Americans; he helped organize a voter registration project through Filipino Civil Rights Advocates and served as one of the youngest executive directors of the National Federation of Filipino American Associations; and

WHEREAS, from 2009 to 2013, Jose Montano was appointed to the Virginia Asian Advisory Board and later served as a regional director of constituent services for Senator Timothy M. Kaine; and

WHEREAS, in all his endeavors, Jose Montano championed social justice and equality, supporting access to health care, voter education, and immigrant rights, and he worked to instill his love of democracy in everyone he met; and

WHEREAS, Jose Montano will be fondly remembered and greatly missed by his parents, Jose and Loreto; siblings, Amy and Ben, and their families; and numerous other family members, friends, and colleagues; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Jose Monge Montano, Jr., an activist who supported and strengthened the Filipino American community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Jose Monge Montano, Jr., as an expression of the House of Delegates' respect for his memory.

#### HOUSE RESOLUTION NO. 348

*Celebrating the life of Manuel Abuan Hipol, M.D.*

Agreed to by the House of Delegates, February 3, 2017

WHEREAS, Manuel Abuan Hipol, M.D., a patriotic veteran and a respected physician who supported and strengthened the Filipino American community in Virginia Beach, died on December 9, 2016; and

WHEREAS, a native of Manila, Philippines, Manuel Hipol proudly served as a member of the United States Army and the United States Navy for more than 30 years; and

WHEREAS, in 1980, Manuel Hipol opened the Hipol Clinic, where he practiced radiology until his well-earned retirement in 2014; affectionately known as "Dr. M," he provided expert treatment to countless patients and was a trusted mentor to other local medical professionals; and

WHEREAS, Manuel Hipol proudly helped Filipino immigrants integrate into society while preserving their culture and heritage; he served as founder and chair of the Council of United Filipino Organizations of Tidewater, where he oversaw the construction of the Philippine Cultural Center of Virginia, the largest such cultural center in the United States and the first to be paid for entirely by its community; and

WHEREAS, Manuel Hipol served as a past president of Association of Philippine Physicians in America and Filipino American Veterans of Hampton Roads; he also offered his time and leadership to the Virginia Marine Science Museum, Art and Humanities Commission in Virginia Beach, and the Contemporary Arts Center in Virginia Beach and was a devout Catholic; and

WHEREAS, Manuel Hipol will be fondly remembered and greatly missed by his wife of 44 years, Rose; children, Vivianne and Charrise, and their families; and numerous other family members, friends, and colleagues; now, therefore, be it  
RESOLVED, That the House of Delegates hereby note with great sadness the loss of Manuel Abuan Hipol, M.D., a veteran, a caregiver, and an active member of the Virginia Beach community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Manuel Abuan Hipol, M.D., as an expression of the House of Delegates' respect for his memory.

#### HOUSE RESOLUTION NO. 349

*Celebrating the life of Francis H. Payne, Jr.*

Agreed to by the House of Delegates, February 3, 2017

WHEREAS, Francis H. Payne, Jr., a veteran and a highly admired member of the Marshall community, died on December 12, 2016; and

WHEREAS, a native of Warrenton, Francis "Frank" H. Payne, Jr., graduated from Fauquier High School and served his country as a member of the United States Navy; and

WHEREAS, during his 21-year military career, Frank Payne was stationed aboard the USS *Eisenhower* in London, England, and in Norfolk; and

WHEREAS, after his honorable military service, Frank Payne returned home to Fauquier County and pursued a bachelor's degree in business administration; he was well-known for his optimism and kind, supportive nature, and he shared his wisdom as a trusted mentor to many in the community; and

WHEREAS, Frank Payne enjoyed fellowship and worship with the community as a member of Marshall Baptist Church, where he joyfully inspired the congregation as a member of the church choir; and

WHEREAS, Frank Payne will be fondly remembered and greatly missed by his childhood sweetheart and wife of 48 years, Joan; children, Trish and Bret, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Francis H. Payne, Jr., a true Virginia gentleman, who made many contributions to the Marshall community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Francis H. Payne, Jr., as an expression of the House of Delegates' respect for his memory.

#### HOUSE RESOLUTION NO. 350

*Celebrating the life of Thomas Edward Graves, Jr.*

Agreed to by the House of Delegates, February 3, 2017

WHEREAS, Thomas Edward Graves, Jr., a passionate advocate for civil rights and a respected entrepreneur who served countless families in Norfolk with dignity and grace as the owner of Graves Funeral Home, died on January 13, 2017; and

WHEREAS, a native of Roper, North Carolina, Thomas "Tom" Edward Graves, Jr., graduated with honors from J. J. Clemmons High School and joined many of the other young men of his generation in service to the nation as a member of the United States Army during World War II; and

WHEREAS, after his honorable military service, Tom Graves returned to the United States and continued his education at the Echols College of Mortuary Science in Philadelphia, Pennsylvania, completing a two-year program in one year with honors; and

WHEREAS, possessed of an entrepreneurial spirit, Tom Graves opened Graves Funeral Home on June 15, 1953; it was the first establishment of its kind designed specifically to serve the African American community in the area; and

WHEREAS, now in its third generation of family ownership, Graves Funeral Home has provided compassionate care to countless grieving families, and Tom Graves served as a trusted mentor to many other aspiring funeral directors in Norfolk; and

WHEREAS, an active supporter of the Civil Rights movement, Tom Graves used his exceptional skills as a leader and organizer to make many lasting contributions to the residents of Norfolk and helped elect the first African American to the Norfolk City Council; and

WHEREAS, Tom Graves will be fondly remembered and greatly missed by his wife of 67 years, Mildred; children, Tommy and Lorraine, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Thomas Edward Graves, Jr., a well-known Norfolk business owner and an admired community leader who touched countless lives in the region; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Thomas Edward Graves, Jr., as an expression of the House of Delegates' respect for his memory.

### HOUSE RESOLUTION NO. 351

*Commending Virginia Thrasher.*

Agreed to by the House of Delegates, February 10, 2017

WHEREAS, Virginia Thrasher of Springfield proudly represented the United States and the Commonwealth and received the first gold medal of the Games of the XXXI Olympiad in Rio de Janeiro in 2016 after winning the women's 10-meter air rifle event; and

WHEREAS, an alumna of West Springfield High School, Virginia "Ginny" Thrasher cultivated a love of shooting sports while hunting with her grandfather and joined the rifle team in high school and at West Virginia University; and

WHEREAS, earlier in 2016, Ginny Thrasher claimed the individual titles in both air rifle and small bore rifle at the National Collegiate Athletic Association Rifle Championships, leading the West Virginia University Mountaineers to their fourth consecutive national title; and

WHEREAS, at the 2016 Olympic Games, Ginny Thrasher was one of eight competitors to qualify for the finals of the women's 10-meter air rifle event; she scored a perfect 10.9 on her first shot in the finals and ultimately out-shot a two-time Olympic gold medalist by one point to top the podium in the first medal ceremony of the Rio Olympics; and

WHEREAS, Team USA earned the most medals of the 2016 Olympic Games with 121 overall, including 46 gold medals; Ginny Thrasher also competed in the women's 50-meter three-position rifle event; and

WHEREAS, throughout her career in competitive shooting, and during the Olympic Games in particular, Ginny Thrasher has enjoyed the passionate support of her family, friends, coaches, and the members of the Springfield community; now, therefore, be it

RESOLVED by the House of Delegates, That Virginia Thrasher hereby be commended on winning a gold medal in the women's 10-meter air rifle event at the Games of the XXXI Olympiad; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Virginia Thrasher as an expression of the House of Delegates' admiration for her exceptional achievements as a member of Team USA.

### HOUSE RESOLUTION NO. 352

*Commending the Reverend Nigel W. D. Mumford.*

Agreed to by the House of Delegates, February 7, 2017

WHEREAS, the Reverend Nigel W. D. Mumford of Virginia Beach, an international author, speaker, and spiritual leader, has touched countless lives in Virginia and throughout the world as the founder of By His Wounds, Inc., and the Welcome Home Initiative; and

WHEREAS, a native of England, Nigel Mumford served with the Corps of the Royal Marines for more than six years, including two years as a drill instructor, then relocated to the United States in 1980; and

WHEREAS, in 1989, Nigel Mumford witnessed the power of prayer when his sister recovered from a severe neurological condition; he was inspired to dedicate his life to healing and founded healing ministry centers in Connecticut and New York; and

WHEREAS, having experienced firsthand the horrors of combat and post-traumatic stress disorder, Nigel Mumford and a group of fellow veterans founded the Welcome Home Initiative in 2008 to provide targeted ministry and support to service members and their families; and

WHEREAS, through the Welcome Home Initiative, Nigel Mumford helped hundreds of veterans and their families by hosting more than 20 retreats at no cost to the participants, and he worked directly with members of the United States Army and the British Army to better support the men and women who have served and sacrificed for their countries; and

WHEREAS, Nigel Mumford relocated to Virginia Beach partially to focus on ministering to the large number of combat veterans and their families in the Hampton Roads area, and he has been an invaluable resource in helping so many heal from the visible and invisible scars of war; and

WHEREAS, in October 2009, when Nigel Mumford was hospitalized with the H1N1 swine flu virus and related complications, he was himself the object of a massive, worldwide prayer effort that led to his recovery; and

WHEREAS, Nigel Mumford serves the local community as a priest associate and the director of the Healing Prayer Ministry at Galilee Church in Virginia Beach, where he lives with his wife, Lynn; among many awards and accolades for his good work, he has been named a Paul Harris Fellow by Rotary International; now, therefore, be it

RESOLVED by the House of Delegates, That the Reverend Nigel W. D. Mumford hereby be commended for his work to provide mental, emotional, and spiritual healing to veterans and people throughout the world as the founder of By His Wounds, Inc., and the Welcome Home Initiative; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Reverend Nigel W. D. Mumford as an expression of the House of Delegates' admiration for his devotion to serving, supporting, and healing those in need.

### HOUSE RESOLUTION NO. 353

#### *Commending Goodson-Kinderhook Volunteer Fire Department.*

Agreed to by the House of Delegates, February 10, 2017

WHEREAS, in 2017, Goodson-Kinderhook Volunteer Fire Department in Bristol is celebrating proudly serving 110 square miles of Washington County for 50 years; and

WHEREAS, Goodson-Kinderhook Volunteer Fire Department was organized in 1967, and property for the main station of what was then called Washington County Volunteer Fire Department No. 2 was deeded on March 27, 1967; and

WHEREAS, Goodson-Kinderhook Volunteer Fire Department was incorporated on May 29, 1967, and the company's name reflected the two Washington County magisterial districts it served: Goodson and Kinderhook; and

WHEREAS, the magisterial districts of Washington County were later renamed, and Goodson-Kinderhook Volunteer Fire Department is the last remaining entity in the county that retains the former names of the magisterial districts; and

WHEREAS, Goodson-Kinderhook Volunteer Fire Department's main station, a two-bay block building, was completed in the fall of 1967, and the company's first fire engine was a used 1948 Ford that was purchased for \$2,950; and

WHEREAS, in 1970, Goodson-Kinderhook Volunteer Fire Department implemented required duty shifts, requiring volunteers to spend one night a month at the fire station and the required duty shifts were increased to two per month in 2003; and

WHEREAS, Goodson-Kinderhook Volunteer Fire Department purchased brand new Oren fire engines in 1970 and 1977, a brand new Ford tanker truck in 1989, a brand new Spartan Quality fire engine in 1995, and a brand new Spartan Crimson fire engine in 2004; and a used International tanker truck was purchased in 2012, replacing the company's older tanker; and

WHEREAS, in 1971 and 1972, the Goodson-Kinderhook Volunteer Fire Department main station was expanded with major additions that included upstairs meeting rooms and a third bay; and

WHEREAS, Goodson-Kinderhook Volunteer Fire Department became certified as an Emergency Medical Services (EMS) First Response Agency in 1994, and EMS transport began in 1997 as a joint venture with the Bristol Life Saving Crew; and

WHEREAS, Goodson-Kinderhook Volunteer Fire Department began independent EMS transport services in 1998, and the company now has two ambulances; and

WHEREAS, Goodson-Kinderhook Volunteer Fire Department hired its first paid firefighter/Emergency Medical Technician (EMT) in 2001, and, with the addition of a third and fourth paid staffer in 2005, the department is able to have a paid firefighter/EMT on duty around the clock seven days a week; and

WHEREAS, Goodson-Kinderhook Volunteer Fire Department undertook a fourth expansion of its facilities in 2001, effectively doubling the size of the main station; and

WHEREAS, in 2003, Goodson-Kinderhook Volunteer Fire Department became the first emergency services agency in Washington County to be awarded the Federal Assistance to Firefighters Grant through the Federal Emergency Management Agency; and

WHEREAS, Goodson-Kinderhook Volunteer Fire Department filled two Advanced Life Support (ALS) positions that were funded in 2015, and began running a 24-hour ALS shift that provides advanced care to the community without delay; and

WHEREAS, during its 865 total calls in 2016, Goodson-Kinderhook Volunteer Fire Department displayed exemplary service to the Washington County community in saving lives and protecting the property of its citizens, while minimizing environmental impact; and

WHEREAS, Goodson-Kinderhook Volunteer Fire Department and Washington County Volunteer Fire Department No. 1 have worked closely together over the past five decades and that relationship continues to this day; now, therefore, be it

RESOLVED by the House of Delegates, That Goodson-Kinderhook Volunteer Fire Department hereby be commended on 50 years of superior service to the citizens of Washington County; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Don Venable, chief of Goodson-Kinderhook Volunteer Fire Department, as an expression of the House of Delegates' admiration for the department's proud and honorable history.

**HOUSE RESOLUTION NO. 354**

*Celebrating the life of Sander George Dukas.*

Agreed to by the House of Delegates, February 10, 2017

WHEREAS, Sander George Dukas, a businessman and an active member of the Virginia Beach community, died on December 21, 2016; and

WHEREAS, after graduating from what is now Carnegie Mellon University, Sander "Sande" George Dukas began a career in the steel industry and briefly worked in the watch industry; and

WHEREAS, in 1987, Sande Dukas founded CONCOA (Controls Corporation of America), which has become a world leader in the manufacture of pressure and flow control devices for gasses; and

WHEREAS, Sande Dukas worked to enhance the quality of life for all residents of Hampton Roads, offering his time and leadership to many civic and service organizations and taking a special interest in economic development and education; and

WHEREAS, an avid pilot who was trained on multiple types of aircraft, Sande Dukas enjoyed the freedom of the skies and maintained a commercial pilot's license for much of his adult life; and

WHEREAS, Sande Dukas will be fondly remembered and greatly missed by his wife, Mary Anne; children, Kara and Gordie, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Sander George Dukas, a respected businessman and a community leader in Hampton Roads; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Sander George Dukas as an expression of the House of Delegates' respect for his memory.

**HOUSE RESOLUTION NO. 355**

*Celebrating the life of Colonel George P. Shamer II, USAF, Ret.*

Agreed to by the House of Delegates, February 10, 2017

WHEREAS, Colonel George P. Shamer II, USAF, Ret., a decorated veteran who made many contributions to the Prince William County community, died on January 18, 2017; and

WHEREAS, a native of Bellflower, California, George Shamer earned a bachelor's degree from The Citadel and a master's degree from the University of Northern Colorado; and

WHEREAS, George Shamer enjoyed a long and distinguished career with the United States Air Force; he was stationed throughout the country as a nuclear and missile operations officer and finished his career at the Pentagon, having earned the Legion of Merit, the Meritorious Service Medal, and the Air Force Commendation Medal; and

WHEREAS, after his honorable military service, George Shamer worked as a senior analyst at Technology Research Corporation and as a real estate agent for Long & Foster; and

WHEREAS, working to strengthen and enhance the Prince William County community, George Shamer also offered his time and leadership to the Prince William County Industrial Development Authority, Prince William County Housing Advisory Board, Prince William Chamber of Commerce, Flory Small Business Center, and Lake Ridge Rotary Club; and

WHEREAS, George Shamer enjoyed fellowship and worship with the congregation of All Saints' Church in Woodbridge; and

WHEREAS, George Shamer will be fondly remembered and greatly missed by his wife, Sheryl; her children, Daniel, Ruth, Joshua, and Matthew, and their families; his son, John, and his family; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Colonel George P. Shamer II, USAF, Ret., a patriotic veteran and a respected community leader in Prince William County; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Colonel George P. Shamer II, USAF, Ret., as an expression of the House of Delegates' respect for his memory.

**HOUSE RESOLUTION NO. 356**

*Celebrating the life of Carolyn K. Castleberry.*

Agreed to by the House of Delegates, February 10, 2017

WHEREAS, Carolyn K. Castleberry, a devout member of the Newport News community who brought joy to others through her sense of humor and zest for life, died on December 25, 2016; and

WHEREAS, a native of Goldsboro, North Carolina, Carolyn Castleberry was born to the late Fred and Azalea Kleinert; she never met a stranger and throughout her life, she inspired others with her positivity and grace; and

WHEREAS, Carolyn Castleberry pursued a career in secretarial work in both the public and private sectors, including work as an executive secretary for a general at the Pentagon; and

WHEREAS, Carolyn Castleberry enjoyed fellowship and worship with the community as a member of the World Outreach Worship Center; she was also a proud member of the First Baptist Church Swinging Singers and always had a song in her heart; and

WHEREAS, a woman who lived her faith through her kind actions, Carolyn Castleberry touched countless lives as a longtime chaplain for prison and hospital ministries; and

WHEREAS, predeceased by her beloved husband, Jack, and one daughter, Sherry, Carolyn Castleberry will be fondly remembered and greatly missed by her children, Rhonda, Russell, Sibyl, and Joe, and their families, and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Carolyn K. Castleberry, a vibrant member of the Newport News community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Carolyn K. Castleberry as an expression of the House of Delegates' respect for her memory.

**HOUSE RESOLUTION NO. 357**

*Commending Chantel Ray.*

Agreed to by the House of Delegates, February 10, 2017

WHEREAS, Chantel Ray of Virginia Beach built a multimillion-dollar real estate company in Hampton Roads, and her inspiring success story represents entrepreneurship at its best in the Commonwealth; and

WHEREAS, Chantel Ray earned a bachelor's degree in mathematics from Virginia Wesleyan College and then taught at Frank W. Cox High School in Virginia Beach for several years, in addition to serving as a youth pastor; and

WHEREAS, Chantel Ray decided to become a real estate professional after her first experience buying a home because she was dissatisfied with the level of customer service she received; and

WHEREAS, Chantel Ray went from making nine dollars an hour and being in debt to owning a multimillion-dollar real estate company, Chantel Ray Real Estate, which launched in 2011 and now employs 125 real estate agents and 24 salaried employees across five locations; and

WHEREAS, in 2016, Chantel Ray announced plans to relocate her company's headquarters within Virginia Beach and expand to become a national franchise, which will create new jobs and foster economic development in the region; and

WHEREAS, effective marketing and strong negotiating skills are the hallmarks of Chantel Ray Real Estate, which spends thousands of dollars a month to market homes and guarantees the most powerful marketing for homeowners of any real estate company in the region; and

WHEREAS, Chantel Ray Real Estate provides superior customer service by adhering to a company mission statement that requires putting clients' interests first, and providing the highest level of honesty and expertise before, during, and after each transaction; and

WHEREAS, Chantel Ray's success in real estate has been made possible by the love and support of her husband, Rhyan, and children, Shayla and Kyle; now, therefore, be it

RESOLVED by the House of Delegates, That Chantel Ray of Virginia Beach hereby be commended on building a successful multimillion-dollar real estate company; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Chantel Ray as an expression of the House of Delegates' admiration for her prosperity in entrepreneurship and for promoting economic development in Hampton Roads.

**HOUSE RESOLUTION NO. 358**

*Commending Mark DiLuigi.*

Agreed to by the House of Delegates, February 10, 2017

WHEREAS, Mark DiLuigi, a master officer with the Virginia Department of Game and Inland Fisheries, was named the 2015 Conservation Police Officer of the Year; and

WHEREAS, a 21-year veteran of law enforcement, Mark DiLuigi has watched the population and demographics of Northern Virginia change dramatically throughout his career and has adjusted his policing techniques accordingly; and

WHEREAS, working near Washington, D.C., Mark DiLuigi interacts with urban, suburban, and rural communities and has built trust between the department and members of the public, routinely striving for excellence in all aspects of policing; and

WHEREAS, in 2015, Mark DiLuigi helped solve the largest turkey poaching case in the history of the Commonwealth and has brought other cases to successful conclusions with his investigative skills and dedication; and

WHEREAS, Mark DiLuigi has worked to expand opportunities for hunting, fishing, and boating on both public and private lands, and he worked with local officials and the community to develop a beginner's deer hunt for local youth on a nature preserve in Loudoun County; and

WHEREAS, Mark DiLuigi adheres to the Virginia Department of Game and Inland Fisheries' mission to provide opportunities for all to enjoy wildlife and has earned many other awards and accolades for his professionalism and commitment to service; now, therefore, be it

RESOLVED by the House of Delegates, That Mark DiLuigi hereby be commended on receiving the 2015 Conservation Police Officer of the Year award from the Virginia Department of Game and Inland Fisheries; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Mark DiLuigi as an expression of the House of Delegates' admiration for his mission to protect and serve the residents of and visitors to the Commonwealth as they enjoy the great outdoors.

### HOUSE RESOLUTION NO. 359

#### *Commending Loudoun Hunger Relief.*

Agreed to by the House of Delegates, February 10, 2017

WHEREAS, Loudoun Hunger Relief of Leesburg has served as Loudoun County's primary food pantry for 25 years, providing assistance to the hungry and food insecure; and

WHEREAS, Loudoun Hunger Relief was founded in 1991 as Loudoun Interfaith Relief, a nonprofit organization, to coordinate and centralize food distribution services being offered by Loudoun area churches and to assist local social services agencies; and

WHEREAS, what began as a meager storefront operation with limited hours now is housed in two warehouses where perishable and nonperishable food is distributed to 50 to 80 families a day, six days a week; in the past fiscal year Loudoun Hunger Relief directly served more than 11,000 individuals and distributed over 1.2 million pounds of food; and

WHEREAS, Loudoun Hunger Relief has made a difference in thousands of lives through the generous support of volunteers, donors, and staff, all of whom are committed to helping feed the working poor, the unemployed, seniors, the disabled, and the homeless in a county where the population has quadrupled over the past quarter century; and

WHEREAS, in September 2016 Loudoun Hunger Relief celebrated its 25th anniversary by announcing a rebranding and expansion of services, including plans to bring food supplies directly to low-income neighborhoods and offer classes on nutrition and finance management; now, therefore, be it

RESOLVED by the House of Delegates, That Loudoun Hunger Relief hereby be commended for 25 years of service providing food assistance to the hungry and food insecure in the Loudoun community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Carol Barbe and Jennifer Montgomery, Loudoun Hunger Relief's board president and executive director, respectively, as an expression of the House of Delegates' admiration for the food pantry's tireless efforts to address hunger in a rapidly growing community.

### HOUSE RESOLUTION NO. 360

#### *Commending the Medical Surgical Unit at Inova Loudoun Hospital.*

Agreed to by the House of Delegates, February 10, 2017

WHEREAS, the Medical Surgical Unit at Inova Loudoun Hospital received the prestigious Academy of Medical-Surgical Nurses PRISM Award in 2016; and

WHEREAS, the PRISM (Premier Recognition In the Specialty of Med-Surg) Award celebrates medical-surgical units that exhibit effective leadership, recruit and retain excellent staff, achieve positive patient outcomes, promote a healthy work environment, and foster lifelong learning; and

WHEREAS, there are more than 600,000 medical-surgical nurses practicing in the United States, making them the largest group of specialty nurses working in hospital settings; Inova Loudoun Hospital was one of only 16 hospitals in the country to receive the relatively new PRISM Award; and

WHEREAS, the staff of the Medical Surgical Unit at Inova Loudoun Hospital exhibits exceptional nursing practices, demonstrates outstanding leadership, and attains excellent patient outcomes in acute care/medical-surgical nursing; and

WHEREAS, the Medical Surgical Unit at Inova Loudoun Hospital was presented with a PRISM Award plaque by officials from the Academy of Medical-Surgical Nurses and the Medical-Surgical Nursing Certification Board during a ceremony on September 23, 2016; and

WHEREAS, all members of the staff of the Medical Surgical Unit at Inova Loudoun Hospital contributed to the outstanding nursing care recognized by the PRISM Award; now, therefore, be it

RESOLVED by the House of Delegates, That the Medical Surgical Unit at Inova Loudoun Hospital hereby be commended for receiving the prestigious Academy of Medical-Surgical Nurses PRISM Award in 2016; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Alison Smolsky, patient care director of the Medical Surgical and Oncology Units at Inova Loudoun Hospital, as an expression of the House of Delegates' admiration for the hospital's excellence in nursing care.

### HOUSE RESOLUTION NO. 361

*Commending Loudoun County Animal Services.*

Agreed to by the House of Delegates, February 10, 2017

WHEREAS, Loudoun County Animal Services, which operates an animal shelter that offers pets for adoption, celebrated a banner year in 2016, helping to save more animals than in any other year in the agency's history; and

WHEREAS, Loudoun County Animal Services saved more than 2,100 animals in 2016 and more than 1,500 pets were adopted, an increase of 525 from the previous year; and

WHEREAS, policy and programmatic changes implemented at Loudoun County Animal Services resulted in the dramatic increase in adoptions and improved health and welfare of shelter pets; and

WHEREAS, other significant achievements for Loudoun County Animal Services in 2016 include dropping the euthanasia rate by 50 percent, increasing the live release rate from 72 percent to 89 percent, and returning 438 lost pets to their owners; and

WHEREAS, in 2016, Loudoun County Animal Services volunteers donated service hours valued at more than \$91,000, and volunteer foster homes cared for more than 300 pets and donated 9,537 hours of in-home care; and

WHEREAS, the devoted volunteers and dedicated staff at Loudoun County Animal Services, under the leadership of director Nina Stively, work each day to ensure a compassionate, humane environment for animals and people; and

WHEREAS, Loudoun County Animal Services knows that saving animal lives takes a village, and they could not have achieved their 2016 successes without the support of a compassionate community of residents who volunteer, foster, donate, and adopt to support their mission; now, therefore, be it

RESOLVED by the House of Delegates, That Loudoun County Animal Services hereby be commended on a banner year of service in 2016 and helping to save more animals than any other year in the agency's history; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Nina Stively, director of Loudoun County Animal Services, as an expression of the House of Delegates' admiration for the agency's compassion and dedication to improving the health and welfare of shelter animals.

### HOUSE RESOLUTION NO. 362

*Commending the Fairfax County Department of Public Works and Environmental Services.*

Agreed to by the House of Delegates, February 10, 2017

WHEREAS, in 2016, the Fairfax County Department of Public Works and Environmental Services achieved the high honor of being accredited by the American Public Works Association; and

WHEREAS, the American Public Works Association (APWA) accreditation is a recognition that the Fairfax County Department of Public Works and Environmental Services (DPWES) is a well-run agency that exceeds the public works industry's established best management practices; and

WHEREAS, DPWES is only the 114th department among the 3,000 public works agencies in the country to receive the prestigious designation; and

WHEREAS, DPWES was granted accreditation after a rigorous two-year process and after a site visit in July 2016 determined that the department had achieved all 593 accreditation practices; and

WHEREAS, DPWES received special commendation in four areas: the career management plan, permitting website, permitting flowchart, and the county's recycling program, and each will be used as a model for public works departments throughout the country; and

WHEREAS, DPWES is responsible for all capital facilities, solid waste management, stormwater and wastewater management, and regulating land development in Fairfax County; the department also designs and builds infrastructure such as administrative buildings, police and fire stations, and libraries; and

WHEREAS, increased safety, reduced liability, lower insurance premiums, and better personnel recruitment are just some of the benefits that DPWES is likely to realize due to the APWA accreditation; and

WHEREAS, the APWA accreditation is a tribute to the hardworking and dedicated DPWES staff, whose mission is to provide public works services and programs that contribute to making Fairfax County a first-class community; now, therefore, be it

RESOLVED by the House of Delegates, That the Fairfax County Department of Public Works and Environmental Services hereby be commended on achieving the high honor of being accredited by the American Public Works Association; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to James W. Patteson, director of the Fairfax County Department of Public Works and Environmental Services, as an expression of the House of Delegates' admiration for the department's commitment to excellence in serving the citizens of Fairfax County.

**HOUSE RESOLUTION NO. 363**

*Commending the Fairfax County Department of Vehicle Services.*

Agreed to by the House of Delegates, February 10, 2017

WHEREAS, the Fairfax County Department of Vehicle Services earned the Blue Seal of Excellence award from the National Institute for Automotive Service Excellence for two of its maintenance facilities in 2016; and

WHEREAS, the Alban and West Ox maintenance facilities were recognized with the Blue Seal of Excellence award, which is a tribute to the dedication and experience of the Fairfax County Department of Vehicle Services employees who staff those facilities; and

WHEREAS, the National Institute for Automotive Service Excellence (ASE) is an organization dedicated to improving the quality of automotive service and repair through the voluntary testing and certification of automotive technicians; and

WHEREAS, to qualify for the Blue Seal of Excellence award, a company or organization must have 75 percent of its automotive professionals ASE certified and there must be a certified technician in each area of service; and

WHEREAS, the Fairfax County Department of Vehicle Services maintains and manages almost 6,000 units, including school buses, making it the largest municipal fleet in the Commonwealth; and

WHEREAS, the 22 employees at the Alban facility and 79 employees at the West Ox facility provide timely, responsive, and efficient vehicle repairs and services for a broad range of equipment, from small engines to large and complex fire apparatus; and

WHEREAS, the ASE Blue Seal of Excellence award underscores the high quality of work performed daily by the Fairfax County Department of Vehicle Services in providing safe, reliable, economical, and environmentally sound transportation and vehicle fleet management services; and

WHEREAS, the Fairfax County Department of Vehicle Services was named 36th out of 100 best fleet operations in North America by the NAFA Fleet Management Association in 2016; and

WHEREAS, the Fairfax County Department of Vehicle Services is honored to have received national recognition and the department remains committed to preserving the value of Fairfax County's vehicle and equipment investment; now, therefore, be it

RESOLVED by the House of Delegates, That the Fairfax County Department of Vehicle Services hereby be commended for earning the Blue Seal of Excellence from the National Institute for Automotive Service Excellence for two of its maintenance facilities in 2016; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Mark Moffatt, director of the Fairfax County Department of Vehicle Services, as an expression of the House of Delegates' admiration for the department's commitment to excellence in serving the citizens of Fairfax County.

**HOUSE RESOLUTION NO. 364**

*Commending the Interstate Commission on the Potomac River Basin.*

Agreed to by the House of Delegates, February 10, 2017

WHEREAS, the Interstate Commission on the Potomac River Basin, a nonregulatory interstate compact agency, works to protect and improve the Potomac River and enhance the quality of life of the watershed area's more than 6.1 million residents; and

WHEREAS, formed by the United States Congress in 1940 in response to severe levels of pollution in the Potomac River, the Interstate Commission on the Potomac River Basin is made up of commissioners from the federal government, Maryland, Pennsylvania, Virginia, and Washington, D.C.; and

WHEREAS, the Potomac River flows from Fairfax Stone, West Virginia, on its North Branch and Highland County, Virginia, on its South Branch to the Chesapeake Bay at Point Lookout, Maryland, covering a drainage area of more than 14,600 square miles; and

WHEREAS, the Potomac River is essential to the region, with approximately 600 million gallons of water per day used for public and domestic water supply, including 500 million gallons per day in the Washington, D.C., area alone, and 1.6 billion gallons per day used for power plant cooling and industrial use; and

WHEREAS, while the quality of the Potomac River has drastically improved since 1940, new challenges, such as population growth, land-use changes, nutrient and sediment enrichment, and the growth of impervious chemical contaminants have required ongoing regional cooperation through the Interstate Commission on the Potomac River Basin; and

WHEREAS, the Interstate Commission on the Potomac River Basin collaborates with government agencies, the private sector, and members of the academic community to ensure that challenges are met efficiently and effectively; and

WHEREAS, the staff of the Interstate Commission on the Potomac River Basin includes environmental engineers, aquatic ecologists, biologists, and communications professionals, all of whom work to provide sound science and guidance for local, state, and national officials; and

WHEREAS, the Potomac River watershed comprises about 20 percent of the Chesapeake Bay watershed and is a major factor in the bay's restoration, and the Interstate Commission on the Potomac River Basin works closely with the Chesapeake Bay Program; and

WHEREAS, in addition to safeguarding water sources and improving water quality, the Interstate Commission on the Potomac River Basin also conducts studies on plant and animal life in the Potomac River Basin and conducts valuable education and outreach programs to inform residents and other stakeholders on the importance of good stewardship of natural resources; now, therefore, be it

RESOLVED by the House of Delegates, That the Interstate Commission on the Potomac River Basin hereby be commended for its work to protect and enhance the waters and related natural resources of the Potomac River; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Interstate Commission on the Potomac River Basin as an expression of the House of Delegates' admiration for the commission's important work and contributions to the Commonwealth.

### HOUSE RESOLUTION NO. 365

*Commending the Cave Spring High School tennis team.*

Agreed to by the House of Delegates, February 10, 2017

WHEREAS, the Cave Spring High School tennis team of Roanoke won the Virginia High School League Group 3A state tennis championship on June 11, 2016; and

WHEREAS, the Cave Spring High School Knights defeated the Blacksburg High School Bruins 5-1 to defend their 2015 state championship title; and

WHEREAS, the team victory capped a stellar state tournament performance for the Cave Spring Knights, as Fallon Delp won the Group 3A individual singles championship and, playing with her sister, Reagan Delp, the pair claimed the Group 3A state doubles championship; and

WHEREAS, singles victories by Fallon Delp, Caitlin Carter, and Reagan Delp, the top three seeds, set the tone early for the Cave Spring team, and the state title was sealed by freshman Grace Holderman's hard-fought win in the No. 6 seed game; and

WHEREAS, the entire Cave Spring tennis team, under the leadership of coach Susan Delp, contributed to the state championship victory, and the players showed exceptional strength and stamina on one of the hottest days of the year; now, therefore, be it

RESOLVED by the House of Delegates, That the Cave Spring High School tennis team hereby be commended on winning back-to-back Virginia High School League Group 3A state tennis championships; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Susan Delp, coach of the Cave Spring High School tennis team, as an expression of the House of Delegates' admiration for the team's hard work and championship-caliber performances.

### HOUSE RESOLUTION NO. 366

*Commending Cave Spring High School.*

Agreed to by the House of Delegates, February 10, 2017

WHEREAS, Cave Spring High School in Roanoke won the Virginia High School League 2015-2016 Group 3A Wells Fargo Cup for academics; and

WHEREAS, the Wells Fargo Cup represents 25 years of excellence and Cave Spring High School was one of three first-time winners in the race for yearlong success; and

WHEREAS, winners of the Wells Fargo Cup are determined by a point system based on performance in VHSL state competitions; schools earn academic activity points for outstanding participation in scholastic bowl, creative writing, theatre, forensics, debate, newspaper, yearbook, and magazine; and

WHEREAS, Cave Spring High School's Wells Fargo Cup victory was based on first-place finishes in scholastic bowl and debate team competitions, and a trophy class ranking for its yearbook publication; and

WHEREAS, all members of the faculty and student body of Cave Spring High School contributed throughout the school year to the academic success that earned the Wells Fargo Cup statewide distinction; now, therefore, be it

RESOLVED by the House of Delegates, That Cave Spring High School hereby be commended for winning the Virginia High School League 2015-2016 Group 3A Wells Fargo Cup for academics; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Steven Spangler, principal of Cave Spring High School, as an expression of the House of Delegates' admiration for the school's extraordinary academic performance and first-time Wells Fargo Cup victory.

**HOUSE RESOLUTION NO. 367**

*Commending the Hidden Valley High School boys' tennis team.*

Agreed to by the House of Delegates, February 10, 2017

WHEREAS, the Hidden Valley High School boys' tennis team of Cave Spring won the Virginia High School League Group 3A state championship on June 11, 2016; and

WHEREAS, the Hidden Valley High School Titans prevailed 5-1 over their River Ridge District rival, the Blacksburg High School Bruins, to finish the season unbeaten for the first time and capture their third state title; and

WHEREAS, Hidden Valley Titans team members James Baron, Colin Foutz, Paul Baron, and Sam Burton posted singles wins in the No. 1-4 seed games and freshman Greg Hearp clinched the championship with his victory in the No. 5 seed match; and

WHEREAS, the team championship was the final piece of the Hidden Valley Titans' 2016 triple crown, as James Baron was crowned the Group 3A individual singles state champion, and he and Paul Baron won the Group 3A state doubles championship; and

WHEREAS, all of the Hidden Valley Titans boys' tennis team members contributed to the state championship by working hard to hone their skills during the season, preparing both mentally and physically, and playing with great poise under pressure in temperatures above 90 degrees; and

WHEREAS, the Hidden Valley Titans boys' tennis state championship was made possible by the support of the entire Hidden Valley High School faculty and staff, especially veteran head coach Ryan Teague, as well as the encouragement of the Cave Spring community and all of the players' families; now, therefore, be it

RESOLVED by the House of Delegates, That the Hidden Valley High School boys' tennis team hereby be commended for their victory in the Virginia High School League Group 3A state championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Ryan Teague, head coach of the Hidden Valley High School boys' tennis team, as an expression of the House of Delegates' admiration for their undefeated championship season.

**HOUSE RESOLUTION NO. 368**

*Commending the Hidden Valley High School volleyball team.*

Agreed to by the House of Delegates, February 10, 2017

WHEREAS, the Hidden Valley High School volleyball team of Cave Spring was victorious in the Virginia High School League Group 3A state championship on November 19, 2016; and

WHEREAS, the Hidden Valley High School Titans defeated the Blacksburg High School Bruins 3-1 in the title game, the fifth time the two district rivals faced one another during the season; and

WHEREAS, the Hidden Valley Titans were led by Lexi Alexander with 14 kills; Annie Clark with 12 kills and three aces; Drew Freeland with eight kills, 37 assists, and 11 digs; and libero Marley Willard had 27 digs; and

WHEREAS, the game ended with an ace served by Hidden Valley High School's Sawyer Freeland, who came off the bench late in the fourth game and provided a critical boost of energy that fueled the team's victory; and

WHEREAS, all of the members of the Hidden Valley High School volleyball team were an integral part of the championship season; their teamwork, closeness, and friendships are evident both on and off the court; and

WHEREAS, the Hidden Valley High volleyball team's state title was made possible through the encouragement, love, and support of the school's students, faculty, and staff, as well as all of the players' families; and

WHEREAS, Drew Freeland and Annie Clark were honored as members of the VHSL Group 3A First Team All-State Volleyball Team and Hidden Valley High School coach Carla Ponn was named Group 3A Coach of the Year; now, therefore, be it

RESOLVED by the House of Delegates, That the Hidden Valley High School volleyball team hereby be commended on winning the Virginia High School League Group 3A state championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Carla Ponn, coach of the Hidden Valley High School volleyball team, as an expression of the House of Delegates' admiration for the team's stellar effort and championship honors this season.

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## HOUSE RESOLUTION NO. 369

*Commending the Salem High School forensics team.*

Agreed to by the House of Delegates, February 10, 2017

WHEREAS, the Salem High School forensics team extended its decade of dominance in statewide speaking competition by winning the Virginia High School League Group 4A state championship for the 11th year in a row in 2016; and

WHEREAS, the Salem High School forensics team won first place in five individual competitions to defend its state title over John Handley High School, which placed second in the Group 4A division; and

WHEREAS, Salem High School placed first in the categories of extemporaneous speaking, impromptu, poetry interpretation, humorous dramatic interpretation, and serious duo interpretation; and

WHEREAS, members of the Salem High School forensics team who won first or second in their individual categories at the 2016 state championship were: Jack Beedle, Ben Lewis, Emma Studtmann, Caleb Turner, AnnElese Galleo, Ben Kennedy, Sami Hoyer, Adalyn Eller, Sydney Pettit, Alayna Johnson, Phoebe Stevens, and Ashby Garst; and

WHEREAS, senior Ben Lewis set a personal record by winning the impromptu speaking category, adding to his previous first-place awards in storytelling, humorous interpretation, and poetry interpretation; only one other student has won first place in four separate events since the state tournament began over 100 years ago; and

WHEREAS, Salem High School has had 62 individual state champions in forensics categories since 2004, and if the team repeats as state champions in 2017, the school will be that much closer to beating the current record of winning 15 state titles in a row; and

WHEREAS, the victory is a testament to the hard work and dedication of all of the Salem High School forensics team members and the dogged leadership of coach Mark Ingerson, who inspires his speakers to strive for excellence year after year; now, therefore, be it

RESOLVED by the House of Delegates, That the Salem High School forensics team hereby be commended for winning its 11th consecutive Virginia High School League Group 4A state championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Mark Ingerson, Salem High School forensics team coach, as an expression of the House of Delegates' admiration for the team's continued excellence in state forensics competition.

## HOUSE RESOLUTION NO. 370

*Commending James Baron.*

Agreed to by the House of Delegates, February 10, 2017

WHEREAS, James Baron, a junior at Hidden Valley High School in Roanoke County, made history in 2016 as the school's first individual state champion in boys' tennis; and

WHEREAS, James Baron defeated Blacksburg High School's Matty Ducker at the Virginia High School League Group 3A state singles final at Liberty University; it was the seventh time the pair of rivals had met in 2016; and

WHEREAS, James Baron took an early 5-2 lead in the first set and weathered a comeback by Matty Ducker to win 7-5; and

WHEREAS, James Baron engineered his own comeback in the tense second set to overcome a two-point deficit and triumph 6-4; and

WHEREAS, demonstrating his discipline and skill, James Baron used groundstrokes and big hits early in the match to keep his opponent off balance, and he effectively changed strategies to slow the pace of play later in the match; and

WHEREAS, James Baron later helped lead the Hidden Valley High School Titans to a state tennis championship at the Virginia High School League Group 3A team finals; now, therefore, be it

RESOLVED by the House of Delegates, That James Baron hereby be commended on winning the Virginia High School League Group 3A state title in singles tennis; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to James Baron as an expression of the House of Delegates' admiration for his outstanding athletic achievements and best wishes for the future.

## HOUSE RESOLUTION NO. 371

*Commending Shawn McNeill.*

Agreed to by the House of Delegates, February 10, 2017

WHEREAS, Shawn McNeill, a student at Salem High School, won a first place award in the SkillsUSA Championships Auto Maintenance state competition on April 16, 2016; and

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WHEREAS, the SkillsUSA Championships are a series of competitions that showcase the best and brightest career and technical education students throughout the nation and allow industry professionals to evaluate and reward student excellence; and

WHEREAS, Shawn McNeill was one of seven Salem High School students to win first place at the district SkillsUSA Championships and advance to the state tournament in Fredericksburg; and

WHEREAS, at the district and state levels, Shawn McNeill competed against numerous talented students from throughout the Commonwealth; and

WHEREAS, a student in the automotive technology class at Salem High School, Shawn McNeill was well prepared to tackle the hands-on challenges of the auto maintenance competition; and

WHEREAS, Shawn McNeill's state championship victory demonstrated the exceptional abilities and commitment to lifelong learning of all Salem High School students; now, therefore, be it

RESOLVED by the House of Delegates, That Shawn McNeill hereby be commended on winning a first place award in the 2016 SkillsUSA Championships Auto Maintenance state competition; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Shawn McNeill as an expression of the House of Delegates' admiration for his exceptional achievements and best wishes for the future.

**HOUSE RESOLUTION NO. 372**

*Commending Ben Kennedy.*

Agreed to by the House of Delegates, February 10, 2017

WHEREAS, Ben Kennedy, a student at Salem High School, won a first place award in the SkillsUSA Championships Extemporaneous Speaking state competition on April 16, 2016; and

WHEREAS, the SkillsUSA Championships are a series of competitions that showcase the best and brightest career and technical education students throughout the nation and allow industry professionals to evaluate and reward student excellence; and

WHEREAS, Ben Kennedy was one of seven Salem High School students to win first place at the district SkillsUSA Championships and advance to the state tournament in Fredericksburg; and

WHEREAS, at the district and state levels, Ben Kennedy competed against numerous talented students from throughout the Commonwealth; and

WHEREAS, Ben Kennedy's state championship victory demonstrated the exceptional abilities and commitment to lifelong learning of all Salem High School students; and

WHEREAS, as a state champion, Ben Kennedy traveled to the SkillsUSA national tournament in Louisville, Kentucky; now, therefore, be it

RESOLVED by the House of Delegates, That Ben Kennedy hereby be commended on winning a first place award in the 2016 SkillsUSA Championships Extemporaneous Speaking state competition; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Ben Kennedy as an expression of the House of Delegates' admiration for his exceptional achievements and best wishes for the future.

**HOUSE RESOLUTION NO. 373**

*Commending Page Moir.*

Agreed to by the House of Delegates, February 10, 2017

WHEREAS, after 27 seasons of exceptional leadership and a record-setting 428 wins, Page Moir retired as the coach of the Roanoke College men's basketball team in 2016; and

WHEREAS, Page Moir followed in his father's footsteps as a basketball coach, serving as an assistant coach under Roanoke College Hall of Famer Ed Green before accepting the head coaching position in July 1989; and

WHEREAS, over the course of his 27-year tenure, Page Moir had five seasons with 20 or more wins, was named Coach of the Year in 1994 and 2016, and led the Roanoke College Maroons to three Old Dominion Athletic Conference championships and six National Collegiate Athletic Association tournaments; and

WHEREAS, only the second Roanoke College men's basketball coach to achieve 300 or more wins, Page Moir surpassed Ed Green in 2003 to become the winningest coach in program history and finished tops among current coaches in the Old Dominion Athletic Conference; and

WHEREAS, a respected leader in the sport, Page Moir was appointed to the National Association of Basketball Coaches Board of Directors in 2002, one of only two Division III coaches on the board at the time, and served as president of the organization from 2014 to 2015; and

WHEREAS, Page Moir oversaw a 100 percent graduation rate for the members of the Roanoke College men's basketball team, with numerous student-athletes going on to earn master's degrees, law degrees, and medical degrees and others achieving success in their careers and communities thanks to Page Moir's guidance and mentorship; and

WHEREAS, the Roanoke College basketball team under Page Moir has been an active member of the Roanoke community, volunteering with the Virginia Special Olympics, Roanoke City Public Schools, and various charitable organizations; and

WHEREAS, an incredible ambassador for Roanoke College, the Old Dominion Athletic Conference, and the game of basketball, Page Moir credits his success to the hard work and dedication of his student-athletes and assistant coaches; he plans to seek new opportunities to serve the community after his well-earned retirement from Roanoke College; now, therefore, be it

RESOLVED by the House of Delegates, That Page Moir hereby be commended for his many contributions to the Roanoke community on the occasion of his retirement as head coach of the Roanoke College men's basketball team; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Page Moir as an expression of the House of Delegates' admiration for his record-setting achievements and dedicated mentorship to the young men of Roanoke College.

**HOUSE RESOLUTION NO. 374**

*Commending David T. Goodman.*

Agreed to by the House of Delegates, February 10, 2017

WHEREAS, on August 16, 2016, David T. Goodman, an officer with the Salem Police Department, administered life-saving first aid to a wounded man in the City of Roanoke; and

WHEREAS, while traveling on Greenland Avenue in Roanoke, David Goodman, who was off duty at the time, noticed several individuals near an unresponsive man on the ground; he quickly assessed the situation and determined he could provide assistance; and

WHEREAS, after exiting his vehicle, David Goodman learned that the man had been shot and began providing first aid; after attempting to stop the victim's bleeding, he administered cardiopulmonary resuscitation until first responders arrived; and

WHEREAS, David Goodman's situational awareness and quick actions helped stabilize the victim, who was able to receive treatment; and

WHEREAS, David Goodman is an exemplar of the professionalism, dedication, and care for the community demonstrated by all of the officers of the Salem Police Department; now, therefore, be it

RESOLVED by the House of Delegates, That David T. Goodman hereby be commended for his life-saving actions while off duty in August 2016; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to David T. Goodman as an expression of the House of Delegates' admiration for his heroic actions in service to a member of the Roanoke community.

**HOUSE RESOLUTION NO. 375**

*Commending Spencer R. St. Cyr.*

Agreed to by the House of Delegates, February 10, 2017

WHEREAS, Spencer R. St. Cyr, an officer with the Salem Police Department, administered life-saving first aid to two individuals while he was off duty on August 20, 2016; and

WHEREAS, while at his residence, Spencer St. Cyr observed two individuals with severe wounds and determined that he could provide assistance; and

WHEREAS, after retrieving a trauma kit from his vehicle, Spencer St. Cyr applied pressure to the wounds and used tourniquets to attempt to stop the bleeding, stabilizing the victims until first responders arrived; and

WHEREAS, remaining calm and focused throughout the situation, Spencer St. Cyr provided crucial information to first responders regarding the victims' injuries; and

WHEREAS, in addition to administering first aid, Spencer St. Cyr identified potential evidence and worked to maintain the integrity of the crime scene; he also noted the description and license plate number of a potential suspect; and

WHEREAS, Spencer St. Cyr is an exemplar of the professionalism, dedication, and care for the community demonstrated by all of the officers of the Salem Police Department; now, therefore, be it

RESOLVED by the House of Delegates, That Spencer R. St. Cyr hereby be commended for providing life-saving first aid while off duty in 2016; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Spencer R. St. Cyr as an expression of the House of Delegates' admiration for his quick thinking and service to the Salem community.

### HOUSE RESOLUTION NO. 376

*Commending the Salem High School football team.*

Agreed to by the House of Delegates, February 10, 2017

WHEREAS, the Salem High School football team continued to dominate the Group 4A gridiron in 2016, by winning their second consecutive and eighth overall Virginia High School League state championship trophy; and

WHEREAS, the Salem High School Spartans defeated the previously unbeaten Dinwiddie High School Generals 31-27 in a thrilling four-quarter battle on December 10, 2016, in Williamsburg; and

WHEREAS, Salem Spartans senior fullback Riley Fox scored the game-winning touchdown on a fourth-and-1 call with 50 seconds left in the game, capping an amazing 80-yard drive that featured 16 plays and lasted eight and a half minutes; and

WHEREAS, Salem Spartans senior quarterback Noah Beckley kept the winning drive alive with a fourth-down, scrambling, tackle-breaking, pinballing 1-yard gain that will go down in Salem High School football history as one of the greatest clutch plays ever; and

WHEREAS, senior quarterback Noah Beckley completed 20 of 24 passes for 254 total yards and two touchdowns and helped the team convert 11 of 15 third downs in the game; and

WHEREAS, junior receiver Viante Tucker caught eight passes for 141 yards and the Salem Spartans' offense ended the game with 477 total yards; and

WHEREAS, Noah Beckley, Josie Staples, Viante Tucker, Nate Craft, and Riley Fox were named to the VHSL Group 4A All-State football team, and Noah Beckley and Riley Fox won Offensive Player of the Year and Defensive Player of the Year honors, respectively; and

WHEREAS, all members of the Salem Spartans team contributed to the championship victory and outstanding season through their hard work and dedication to excellence both on the field and off; and

WHEREAS, the Salem Spartans' ended the 2016 season with a 13-1 record, and the championship victory marked the 41st win in the last three years for the team, making the Spartans an astounding 64-6 over the last five seasons; and

WHEREAS, the Salem Spartans football team dominate their opponents on the field under the leadership of coach Stephen Magenbauer, the VHSL Coach of the Year in 2015 and 2016, who produces a team of great players year after year and has now won four state championships during his 13-year tenure at Salem High School; and

WHEREAS, Salem High School has won state football championships in 1996, 1998-2000, 2004, 2005, 2015, and 2016; the Salem Spartans could not have won their most recent back-to-back titles without the unconditional support of the school's committed student body, faculty and staff, and the intensity and passion of their fans in the greater Salem community; now, therefore, be it

RESOLVED by the House of Delegates, That the Salem High School football team hereby be commended on winning their second consecutive and eighth overall Virginia High School League Group 4A state championship in 2016; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Stephen Magenbauer, coach of the Salem High School football team, as an expression of the House of Delegates' admiration for the team's significant accomplishments as a top football powerhouse in the Commonwealth.

### HOUSE RESOLUTION NO. 377

*Commending Brandon Alterio.*

Agreed to by the House of Delegates, February 10, 2017

WHEREAS, Brandon Alterio, an officer with the Salem Police Department, saved the lives of two individuals trapped by a fire on December 30, 2016; and

WHEREAS, while on duty, Brandon Alterio responded to the scene of a structure fire at the Mount Regis Center, an addiction treatment facility in Salem, and helped staff and residents exit the building safely; and

WHEREAS, after determining that not all residents were accounted for, the Mount Regis Center staff provided Brandon Alterio with a room number for the missing resident; Brandon Alterio entered the building through a side entrance, located the resident, and escorted him out of the building; and

WHEREAS, during that time, Mount Regis Center staff determined that a second resident was also missing; at great personal risk, Brandon Alterio reentered the building, the front of which was now fully engulfed in flames, and conducted a room-to-room search; and

WHEREAS, Brandon Alterio discovered the resident still asleep and unaware of the fire and led him to safety; thanks to Brandon Alterio's actions, no one at the Mount Regis Center was injured, despite heavy damage to the building; and

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WHEREAS, Brandon Alterio is an exemplar of the professionalism, dedication, and care for the community demonstrated by all of the members of the Salem Police Department; now, therefore, be it

RESOLVED by the House of Delegates, That Brandon Alterio hereby be commended for his courageous, life-saving actions in December 2016; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Brandon Alterio for going above and beyond in service to the residents of Salem.

**HOUSE RESOLUTION NO. 378**

*Commending the Honorable Mamye E. BaCote.*

Agreed to by the House of Delegates, February 10, 2017

WHEREAS, the Honorable Mamye E. BaCote, a respected educator and devoted public servant who ably represented the residents of the 95th House District, retired from public office in 2016; and

WHEREAS, a native of Halifax, Mamye BaCote earned a bachelor's degree from Virginia Union University and a master's degree from Hampton Institute; she pursued postgraduate studies at Dartmouth College and Exeter University in England; and

WHEREAS, Mamye BaCote helped prepare students for higher education, careers, and responsible citizenship as an educator for Newport News Public Schools and inspired young men and women as an adjunct professor at Hampton University; she offered her wise leadership to the community as a member of the Newport News City Council from 1996 to 2003; and

WHEREAS, desirous to be of further service to the Commonwealth, Mamye BaCote was elected to the Virginia House of Delegates in 2003; she served the residents of parts of Hampton and Newport News in the 95th House District from 2004 to 2016; and

WHEREAS, during her career in state government, Mamye BaCote introduced and supported numerous important pieces of legislation for the benefit of all Virginians; she was a passionate advocate for racial equality, gun control, and women's rights; and

WHEREAS, Mamye BaCote offered her leadership and expertise as a member of the Committees on Appropriations; Transportation; and Health, Welfare and Institutions; she also served on the Virginia Youth Commission and the Board of Veterans Services; and

WHEREAS, an active leader in the local community, Mamye BaCote volunteers her time and leadership with Project Discovery Virginia, the National Council for Negro Women, the Newport News Public Art Foundation, and the Virginia Center for Inclusive Communities; she is a life member of the National Association for the Advancement of Colored People (NAACP) and Alpha Kappa Alpha Sorority, Inc., and enjoys fellowship and worship with the community at Saint Vincent de Paul Roman Catholic Church; and

WHEREAS, Mamye BaCote earned numerous awards and accolades for her exceptional public service and philanthropy, including the 2005 NAACP Local Living Legends Award, the 2008 Greater Peninsula Women's Bar Association Recognition Award, the 2014 Hampton Roads Chamber of Commerce Pro-Business Award, the Project Discovery award for support of Virginia's children and first-generation college students, and many others; and

WHEREAS, a woman of great integrity, Mamye BaCote served the Commonwealth with the utmost dedication and distinction and will continue to seek new opportunities to serve the community; now, therefore, be it

RESOLVED by the House of Delegates, That the Honorable Mamye E. BaCote hereby be commended on the occasion of her retirement as a member of the Virginia House of Delegates; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Honorable Mamye E. BaCote as an expression of the House of Delegates' admiration for her legacy of service to the residents of Hampton Roads.

**HOUSE RESOLUTION NO. 379**

*Celebrating the life of Sidea Lashae Griffin.*

Agreed to by the House of Delegates, February 10, 2017

WHEREAS, Sidea Lashae Griffin of Virginia Beach, a senior at Kempsville High School, died on January 14, 2017; and  
WHEREAS, an honor student, Sidea Griffin hoped to dedicate her life to the service of others by pursuing a career as a nurse or serving her country as a member of the military; and

WHEREAS, Sidea Griffin was highly motivated, hardworking, and a quick learner; she joined the Kempsville High School girls' soccer team with little experience of the game and earned a starting position before the end of her first season, becoming a respected leader among her teammates; and

WHEREAS, a caring and compassionate friend, Sidea Griffin brought joy to everyone she met through her bright smile and warm personality; and

WHEREAS, Sidea Griffin will be fondly remembered and greatly missed by numerous family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Sidea Lashae Griffin, a beloved member of the Virginia Beach community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Sidea Lashae Griffin as an expression of the House of Delegates' respect for her memory.

### HOUSE RESOLUTION NO. 380

*Celebrating the life of Arthur Duane Fender, Jr.*

Agreed to by the House of Delegates, February 10, 2017

WHEREAS, Arthur Duane Fender, Jr., who inspired countless students throughout the course of his 33-year career at Fork Union Military Academy, died on December 6, 2016; and

WHEREAS, a native of Summerville, South Carolina, Duane Fender graduated from Summerville High School in 1978 and attended Fork Union Military Academy for one year before he was accepted to The Citadel; and

WHEREAS, after graduating from The Citadel, Duane Fender returned to Fork Union Military Academy as an officer in the Commandant's Department; over the next 33 years, he served the academy in a variety of capacities; and

WHEREAS, from 1983 to 1999, Duane Fender served as an assistant coach of the football team, deputy commandant, assistant director of admissions, manager of the Sabre Shop, activities director, and transportation officer; and

WHEREAS, Duane Fender served as assistant athletic director for building and grounds until 2010, when he returned to the Commandant's Department; he was officially named commandant of cadets in the summer of 2016; and

WHEREAS, Duane Fender will be fondly remembered and greatly missed by his wife, Lynn; daughters, Lauren and Lindsay, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Arthur Duane Fender, Jr., the highly respected commandant of cadets at Fork Union Military Academy; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Arthur Duane Fender, Jr., as an expression of the House of Delegates' respect for his memory.

### HOUSE RESOLUTION NO. 381

*Celebrating the life of Sumpter Turner Priddy, Jr.*

Agreed to by the House of Delegates, February 10, 2017

WHEREAS, Sumpter Turner Priddy, Jr., of Ashland, the longtime head of the Virginia Retail Merchants Association, died on January 12, 2017; and

WHEREAS, a native of Ashland, Sumpter Priddy was the only child of the late Sumpter and Cornelia Priddy, and he delivered newspapers and showed horses in his youth; and

WHEREAS, Sumpter Priddy served in the United States Army with the 133rd combat engineers, and he attended Randolph-Macon College and Hampden-Sydney College; and

WHEREAS, Sumpter Priddy began his career working in the men's department at Thalhimers department store, and after a brief period working for the National Automobile Dealers Association in Washington, D.C., he returned home to Virginia; and

WHEREAS, from 1957 to 1991, Sumpter Priddy served as managing director and then president of the Virginia Retail Merchants Association (VRMA), during which time he effectively advocated for the interests of retailers and other businesses; and

WHEREAS, the VRMA expanded exponentially under Sumpter Priddy's stewardship, and he is credited with helping to pass legislation that created a more inviting and business-friendly environment for retailers in the Commonwealth in the 1970s and 1980s; and

WHEREAS, a fixture at the General Assembly for 45 years, Sumpter Priddy also represented the Virginia Veterinary Medical Association, the Virginia Society of Certified Public Accountants, the Virginia Retail Jewelers Association, and the Southern Home Furnishings Association; and

WHEREAS, Sumpter Priddy served for eight years on the State Board for Community Colleges, and he coordinated numerous national and regional legislative conferences at the request of Governors Mills E. Godwin, A. Linwood Holton, Jr., and John Dalton; and

WHEREAS, during his career, Sumpter Priddy received innumerable awards recognizing his leadership and record of accomplishment, including Executive of the Year from the Virginia Society for Association Executives, the Silver Plaque Award from the National Retail Federation, and the Unsung Award for his contributions to the retail industry and his support of free enterprise; and

WHEREAS, Sumpter Priddy was well-known for his civic leadership in Ashland and throughout the Commonwealth; he was a member of the Ashland Jaycees, a former president of the Virginia Jaycees, and a former vice president of the National Jaycees, which inducted him into the United States Jaycees Hall of Leadership; and

WHEREAS, Sumpter Priddy was a member and elder of King's Chapel Presbyterian Church in Doswell, a member of The Commonwealth Club, a member of Montpelier Ruritan Club, and a lifelong member of the Ashland Volunteer Rescue Squad; and

WHEREAS, a history buff with an incredible ability to recall the past, Sumpter Priddy led a group that raised money to produce a comprehensive history of Hanover County, which was published in 2009; and

WHEREAS, ever an optimist and always kind in his dealings with other people, Sumpter Priddy stayed positive even in the face of health adversities, and he was always grateful for the wonderful life with which he was blessed; and

WHEREAS, Sumpter Priddy will be fondly remembered and greatly missed by his wife of 38 years, Robin; children, Rives, Sumpter, Bruce, John, and Tim, and their families; and many other relatives and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Sumpter Turner Priddy, Jr., of Ashland, the longtime head of the Virginia Retail Merchants Association; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Sumpter Turner Priddy, Jr., as an expression of the House of Delegates' respect for his memory.

### HOUSE RESOLUTION NO. 382

*Commending the Appomattox Dixie Youth Machine Pitch All-Stars baseball team.*

Agreed to by the House of Delegates, February 10, 2017

WHEREAS, the Appomattox Dixie Youth Machine Pitch All-Stars baseball team won the Dixie Youth Baseball state championship in July 2016; and

WHEREAS, the Appomattox Dixie Youth Machine Pitch All-Stars were undefeated in the state tournament, facing talented teams from Lunenburg County, South Hill, Halifax, and Farmville to finish with a 5-0 record; and

WHEREAS, in the state tournament, the Appomattox Dixie Youth Machine Pitch All-Stars outscored their opponents 78-21, with all 12 players on the team batting .500 or better; and

WHEREAS, the Appomattox Dixie Youth Machine Pitch All-Stars advanced to the Dixie Youth Baseball World Series in Laurel, Mississippi, and won against teams from Arkansas, Georgia, and Tennessee to finish fourth out of 12 teams; and

WHEREAS, the successful season is a tribute to the hard work and dedication of the athletes, the leadership and guidance of the coaches, managers, and staff, and the support of the Appomattox County community; now, therefore, be it

RESOLVED by the House of Delegates, That the Appomattox Dixie Youth Machine Pitch All-Stars baseball team hereby be commended on winning the 2016 Dixie Youth Baseball state championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Appomattox Dixie Youth Machine Pitch All-Stars baseball team as an expression of the House of Delegates' admiration for the team's achievements.

### HOUSE RESOLUTION NO. 383

*Commending Barbara Haymes.*

Agreed to by the House of Delegates, February 10, 2017

WHEREAS, Barbara Haymes of Halifax, a caregiver for Commonwealth Home Health, acted selflessly and heroically in helping a client safely out of a burning home in December 2016; and

WHEREAS, Jewel Lee is a spunky, 92-year-old resident of South Boston who walks with a cane, and Barbara Haymes was assigned as her home caregiver in December 2016; and

WHEREAS, December 13, 2016, began as a normal day for Barbara Haymes, who arrived at Jewel Lee's home around 8 a.m., and began her regular tasks; and

WHEREAS, Barbara Haymes acted quickly when she realized there were flames inside the home, and she ushered Jewel Lee outside to safety and immediately called 911; and

WHEREAS, while the South Boston Fire Department got the fire under control, Barbara Haymes helped Jewel Lee to stay calm by offering comfort and reassurance during what was a very scary situation; and

WHEREAS, Barbara Haymes had never experienced a fire when caring for a client before, but her training at various health care facilities over the years prepared her for how to respond in an emergency; and

WHEREAS, Barbara Haymes has been employed as a caregiver with Commonwealth Home Health since 2005, and previously she worked at Sentara Woodview, Seasons at Sentara Woodview, Boston Commons, Team Nurse, and Person County Group Home in North Carolina; and

WHEREAS, Commonwealth Home Health recognized Barbara Haymes for her quick thinking and action by presenting her with a certificate of appreciation and gifts; and

WHEREAS, Barbara Haymes is an inspiration to the community, both for her actions in helping Jewel Lee and for her dedication to the field of home health care and assisted living; now, therefore, be it

RESOLVED by the House of Delegates, That Barbara Haymes, a caregiver for Commonwealth Home Health, hereby be commended for acting selflessly and heroically in helping a client safely out of a burning home in December 2016; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Barbara Haymes of Halifax as an expression of the House of Delegates' admiration for her outstanding performance and professionalism.

**HOUSE RESOLUTION NO. 384**

*Commending Tri-County Community Action Agency.*

Agreed to by the House of Delegates, February 10, 2017

WHEREAS, in 2016, Tri-County Community Action Agency celebrated 50 years of admirable service to the low-income and economically challenged citizens of Halifax, Charlotte, and Mecklenburg Counties; and

WHEREAS, Tri-County Community Action Agency is a community-based, multipurpose organization that provides quality, comprehensive social and advocacy services to individuals and families in need while promoting their self-sufficiency; and

WHEREAS, Tri-County Community Action Agency was created as a result of the Economic Opportunity Act of 1964, which authorized the formation of local community action agencies to help fight the War on Poverty; and

WHEREAS, founded as Halifax County Community Action Agency in October 1966, Tri-County Community Action Agency started with a mandate of helping low-income individuals in the county become self-sufficient, and the Reverend Kayle Kelly was hired as the first employee; and

WHEREAS, in 2014, Tri-County Community Action Agency expanded to cover the Counties of Charlotte and Mecklenburg, and the agency took its current name to reflect its broader scope; and

WHEREAS, Tri-County Community Action Agency had a staff of about 12 and a budget of approximately \$110,000 in 1971, today the agency has 65 employees and an operating budget of over \$12.5 million; and

WHEREAS, Tri-County Community Action Agency's largest program is Head Start, followed by domestic violence and housing programs; the agency assists an average of 2,000 people annually through 15 programs; and

WHEREAS, Tri-County Community Action Agency's other programs include Virginia Homeless Solutions, Emergency Food and Shelter, EnergyShare, and Indoor Plumbing Rehabilitation, and a Healthy Family program is under development; and

WHEREAS, Tri-County Community Action Agency partners with the Southern Virginia Higher Education Center and Southern Virginia Community College to provide GED classes and job skills education; and

WHEREAS, Tri-County Community Action Agency undertakes a community needs assessment annually to make sure it understands and is meeting the most pertinent needs of the citizens it serves; and

WHEREAS, Tri-County Community Action Agency's success is made possible with the support of public and private entities such as Dollar General, Sentara Halifax Regional Hospital, the Community Services Board, Workforce Development Center, Halifax County Public Schools, Department of Social Services, Wells Fargo, BB&T, and the Halifax County Community Federal Credit Union; and

WHEREAS, over the past five decades, the outstanding staff members of Tri-County Community Action Agency have been dedicated soldiers on the front lines of the War on Poverty, offering hope to thousands of distressed individuals through their work; and

WHEREAS, Tri-County Community Action Agency's leaders, supporters, volunteers, and future volunteers celebrated the agency's tremendous growth and success at a 50th Anniversary Masquerade Ball gala in October 2016; now, therefore, be it

RESOLVED by the House of Delegates, That Tri-County Community Action Agency hereby be commended on celebrating 50 years of admirable service to the low-income citizens of Halifax, Charlotte, and Mecklenburg; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to William J. Coleman, president of Tri-County Community Action Agency, as an expression of the House of Delegates' sincere appreciation for the organization's tireless efforts to battle poverty and promote self-sufficiency for economically disadvantaged citizens.

**HOUSE RESOLUTION NO. 385**

*Celebrating the life of Kathy Graham Sullivan.*

Agreed to by the House of Delegates, February 10, 2017

WHEREAS, Kathy Graham Sullivan of Buchanan, a longtime Botetourt County School Board member and an ardent advocate for youth substance abuse prevention, died on November 13, 2016; and

WHEREAS, Kathy Sullivan graduated with honors from Hollins College (now Hollins University), with a bachelor's degree in sociology and economics; and

WHEREAS, Kathy Sullivan's lifelong passion was helping youth and for 19 years she served on the Botetourt County School Board, where she was vice chair at the time of her death; and

WHEREAS, for the past nine years, Kathy Sullivan served as director of the Roanoke Area Youth Substance Abuse Coalition (RAYSAC), where she was a tenacious proponent of reducing underage drinking and drug use; and

WHEREAS, a passionate crusader, Kathy Sullivan would speak about youth drug and alcohol addiction at Parent-Teacher Association meetings and school booster clubs, and she regularly wrote letters about the topic in the *Roanoke Times*; and

WHEREAS, Kathy Sullivan served on the Governor's Task Force on Prescription Drug and Heroin Use and helped initiate a partnership program called the Roanoke Valley Prescription Drug Task Force that educated the public about the proper disposal of prescription drugs; and

WHEREAS, because of Kathy Sullivan's dedication and work, RAYSAC secured two Drug-Free Communities Support Program grants from the Office of National Drug Control Policy; and

WHEREAS, Kathy Sullivan was admired for her great sense of humor, elegance and poise as a speaker, and the fact that she dedicated her life to children and their betterment; and

WHEREAS, Kathy Sullivan loved spending time at her home in Buchanan, whether surrounded by her family or her three Labrador retrievers, and she found peace watching the sun set over her view of the Blue Ridge Mountains; and

WHEREAS, predeceased by her mother, Helen, Kathy Sullivan will be fondly remembered and greatly missed by her husband of 28 years, Bill; her children, Graham and Kathleen; her granddaughter, Nova; her father, Earl; and many other relatives and good friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Kathy Graham Sullivan, a longtime Botetourt County School Board member and an ardent advocate for reducing youth substance abuse; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Kathy Graham Sullivan as an expression of the House of Delegates' respect for her memory.

**HOUSE RESOLUTION NO. 386**

*Commending Eddie Garretson.*

Agreed to by the House of Delegates, February 15, 2017

WHEREAS, for 20 years, Eddie Garretson served and supported young people with disabilities in West Springfield as the head of Eddie's Club, a nonprofit organization that helped children and young adults participate in athletic and recreational activities; and

WHEREAS, in 1992, Eddie Garretson observed a Challenger Division youth baseball game for children with physical and intellectual disabilities and decided to create a similar program in West Springfield; and

WHEREAS, with Eddie Garretson's help, the West Springfield Little League Challenger Division opened in 1993 with nine players; the division has since expanded to more than 250 players, earning recognition as the largest such division in the world; and

WHEREAS, in addition to supporting the West Springfield Little League Challenger Division, Eddie Garretson worked to create other recreational opportunities for children with special needs, forming Eddie's Club, which earned nonprofit status in 1997; and

WHEREAS, the highly trained volunteers of Eddie's Club hosted sensory-friendly movie nights, teen nights, Halloween and Valentine's Day dances, bowling nights, Easter brunches, and trips to the circus and George Mason University basketball games; and

WHEREAS, Eddie Garretson also coordinated more than 300 peer-buddy relationships to provide one-on-one mentorship and friendship to children with special needs; Eddie's Club helped all of its participants learn cooperative behaviors, problem-solving skills, and the importance of teamwork; and

WHEREAS, Eddie's Club succeeded thanks to the visionary leadership of Eddie Garretson, the hard work and dedication of its volunteer staff, and the generous support of the Woman's Club of Springfield, George Mason University, the Boy Scouts of America, local churches, and other community partners; now, therefore, be it

RESOLVED by the House of Delegates, That Eddie Garretson hereby be commended for his 20 years of work to create new opportunities for young athletes with disabilities through Eddie's Club; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Eddie Garretson as an expression of the House of Delegates' admiration for his contributions to young people with disabilities in West Springfield.

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## ACTS OF ASSEMBLY

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## HOUSE RESOLUTION NO. 388

*Commending Harry Maxwell Healy.*

Agreed to by the House of Delegates, February 17, 2017

WHEREAS, Harry Maxwell Healy retired after 60 consecutive years as an election official in Gloucester County, where he presided over his last election in 2016; and

WHEREAS, a lifelong resident of Gloucester County, Harry Maxwell "Max" Healy attended Botetourt School and graduated from Botetourt High School; and

WHEREAS, Max Healy has contributed significantly to the greater Gloucester community during his lifetime, not only as a valued election official, but also as a businessman and civic leader; and

WHEREAS, Max Healy began his esteemed career as an election official, serving as a clerk in 1956, then as an election judge, and finally he served as Botetourt precinct chief; and

WHEREAS, Max Healy worked many long days at the polls over the past 60 years, sometimes as long as 5 a.m. to 1:30 a.m. the next morning, when paper ballots had to be counted by hand, before the advent of electronic voting machines; and

WHEREAS, Max Healy went to work at Bailey Amusement Company in the 1950s and rose through the ranks to become owner and president of the company, which he sold in 2004; under his leadership the business expanded to provide services to counties and cities on the Middle Peninsula, the Northern Neck, and the Virginia Peninsula; and

WHEREAS, Max Healy was a founding member and served on the board of directors of Peninsula Trust Bank, served on the advisory board of BB&T Bank, and has volunteered for Habitat for Humanity and Meals on Wheels; and

WHEREAS, Max Healy was instrumental in founding Gloucester Youth Baseball in 1963; he is a lifelong member of First Presbyterian Church in Gloucester, where he has held many positions, including elder; and

WHEREAS, Max Healy is an outstanding public servant who played a vital role in the democratic process for 60 years, ensuring that all votes were counted on each and every Election Day; now, therefore, be it

RESOLVED by the House of Delegates, That Harry Maxwell Healy hereby be commended on his retirement after 60 consecutive years as an election official in Gloucester County; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Harry Maxwell Healy as an expression of the House of Delegates' admiration for his admirable dedication to civic duty and democracy.

## HOUSE RESOLUTION NO. 389

*Celebrating the life of Henry Clay Meador, Jr.*

Agreed to by the House of Delegates, February 17, 2017

WHEREAS, Henry Clay Meador, Jr., a volunteer caregiver who made many valuable contributions to the Arlington community, died on November 15, 2014; and

WHEREAS, Henry Meador honorably served his country as a member of the United States Army for four years; and

WHEREAS, from 1982 to 2012, Henry Meador devoted more than 40,000 hours caring for members of the community in need at Arlington Hospital; he was the first male volunteer at Arlington Hospital and one of the first male hospital volunteers statewide; and

WHEREAS, a staunch supporter of youth athletics, Henry Meador coached, umpired, and refereed in Arlington County for more than 40 years; and

WHEREAS, guided by his deep faith, Henry Meador enjoyed fellowship and worship with the congregation of Capital Baptist Church; and

WHEREAS, predeceased by his wife, Iris, and one daughter, Betty, Henry Meador is fondly remembered and greatly missed by his children, Paul, Clay, Jimmy, Bobby, Mookie, Jackie, Billie Jean, Patty, Cheryl, and Corkie, and their families, and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Henry Clay Meador, Jr., a generous volunteer who touched countless lives in Arlington; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Henry Clay Meador, Jr., as an expression of the House of Delegates' respect for his memory.

**HOUSE RESOLUTION NO. 390***Commending The PGA of America.*

Agreed to by the House of Delegates, February 17, 2017

WHEREAS, The PGA of America will host the KitchenAid Senior PGA Championship in Potomac Falls in May 2017, marking the first time the prestigious golf tournament has been held in the Commonwealth; and

WHEREAS, established in 1916, The PGA (Professional Golfers' Association) of America works to promote and enhance the game of golf and has grown to become the world's largest sports organization, with a dedicated staff of approximately 28,000 men and women, PGA members, and apprentices; and

WHEREAS, the KitchenAid Senior PGA Championship was first played at the Augusta National Golf Club in Georgia in 1937, making it the oldest major championship in senior golf; the prestigious tournament has been held in Oklahoma, Kentucky, Pennsylvania, Missouri, Michigan, and Indiana; and

WHEREAS, the 156-player field at the KitchenAid Senior PGA Championship is made up of golfers over the age of 50, and the tournament has drawn some of the biggest names in the game, including legends like Arnold Palmer and Jack Nicklaus; and

WHEREAS, the KitchenAid Senior PGA Championship will be held at Trump National Golf Club, Washington, D.C., in Potomac Falls from May 23-28, 2017; the par-72 course is built entirely along the Potomac River, offering beautiful vistas as well as unique challenges; and

WHEREAS, the KitchenAid Senior PGA Championship will bring an estimated 50,000 visitors to Northern Virginia over the course of the six-day, four-round event, for an anticipated economic impact of between \$25 million and \$35 million; the event will also grant more than 2,000 volunteers the opportunity to gain unprecedented access to the game of golf and make lifelong memories; and

WHEREAS, the KitchenAid Senior PGA Championship will bring national and international attention to the Northern Virginia community, with more than 12 hours of live television coverage to be broadcast to more than 100 countries on NBC and the Golf Channel; and

WHEREAS, in the long term, the KitchenAid Senior PGA Championship will help establish the National Capital area as a world-class destination for amateur and professional golfers and other events; now, therefore, be it

RESOLVED by the House of Delegates, That The PGA of America hereby be commended on the occasion of the 2017 KitchenAid Senior PGA Championship in May 2017; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to The PGA of America as an expression of the House of Delegates' admiration for the organization's contributions to the game of golf.

**HOUSE RESOLUTION NO. 391***Celebrating the life of Brian M. Clukey.*

Agreed to by the House of Delegates, February 17, 2017

WHEREAS, Brian M. Clukey, an inspirational advocate for people with disabilities and an active member of the Falls Church community, died on January 7, 2017; and

WHEREAS, a native of Syracuse, New York, Brian Clukey became the first child with Down syndrome accepted into the ARC Preschool in Syracuse, then enrolled in a special education elementary school program and participated in work-study training; and

WHEREAS, Brian Clukey was the first student with Down syndrome to graduate from the North Syracuse Central School District, receiving a standing ovation from his classmates; and

WHEREAS, after graduation, Brian Clukey worked at a Marriott Hotel, then moved to Northern Virginia with his family in 1987; he held jobs at a passport office, a law firm, and the National Association of Social Workers, and he worked part-time at Mary Riley Styles Public Library and the Falls Church Giant; and

WHEREAS, Brian Clukey was a staunch advocate for people with developmental disabilities and their families at the local, state, and national levels, serving as president of People First and as a board member of The Arc Northern Virginia; he was appointed to two terms on the Virginia Board for People with Disabilities, where he served on the executive committee, and was appointed to President William Jefferson Clinton's Council for People with Disabilities; and

WHEREAS, an inspiration for other people living with developmental disabilities, Brian Clukey moved into an apartment with roommates in 1990, then purchased a condominium in Falls Church in 1998, residing there with drop-in support until 2015; he was also a member of the Fairfax Adult Social Club and Meet and Mingle and was an accomplished world traveler; and

WHEREAS, Brian Clukey is fondly remembered and will be greatly missed by his parents, John and Marcia; siblings, Denise and John; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Brian M. Clukey, a member of the Falls Church community who touched countless lives as an advocate for disability rights; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Brian M. Clukey as an expression of the House of Delegates' respect for his memory.

**HOUSE RESOLUTION NO. 392**

*Celebrating the life of Eli Mitri Habib.*

Agreed to by the House of Delegates, February 17, 2017

WHEREAS, Eli Mitri Habib, beloved owner of a century-old family bakery and deli that is a Norfolk institution, died on January 10, 2017; and

WHEREAS, Eli Habib graduated from Norfolk Catholic High School and attended Ferrum College; and

WHEREAS, Eli Habib grew up working at the French Bakery and Delicatessen on Granby Street in Norfolk, the family business founded by his great-grandfather, a Lebanese immigrant, after he came to the United States near the turn of the 20th century; and

WHEREAS, Eli Habib worked alongside his parents, brother, uncle, and grandmother as a co-baker and sandwich maker at the bakery and deli, and for three years he opened and operated a branch of the business in Portsmouth; and

WHEREAS, a Mason and member of the Corinthian Masonic Lodge No. 266, Eli Habib also worked as a building engineer for 10 years and as a construction manager, but his ultimate love was the family business; and

WHEREAS, Eli Habib was loved and cherished by the regular customers of the French Bakery and Delicatessen, where he could be found behind the counter building one of the bakery's iconic pastrami sandwiches or in the back kneading a batch of French bread or making baba au rhum or eclairs, his favorite pastry; and

WHEREAS, Eli Habib loved boating and fishing; with his infectious smile and warm personality, he touched the lives of many citizens of Norfolk both professionally and personally; and

WHEREAS, Eli Habib will be fondly remembered and greatly missed by his wife, Lory; mother, Haifa; siblings, George, Pierre, Selma, and Sylvia, and their families; and many other relatives, good friends, and loyal customers; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Eli Mitri Habib, beloved owner of a century-old family bakery and deli that is a Norfolk institution; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Eli Mitri Habib as an expression of the House of Delegates' respect for his memory.

**HOUSE RESOLUTION NO. 393**

*Celebrating the life of Thomas Walter Caldrony, M.D.*

Agreed to by the House of Delegates, February 17, 2017

WHEREAS, Thomas Walter Caldrony, M.D., of Newport News, a pediatrics pioneer and longtime pediatrician, died on January 30, 2017; and

WHEREAS, a native of Ridgefield Park, New Jersey, Thomas Caldrony graduated from high school during the Great Depression and received a scholarship to attend Middlebury College in Vermont; and

WHEREAS, Thomas Caldrony graduated from Middlebury College at age 19, after World War II accelerated his college schedule, and he was then admitted to Cornell University's medical school, where he finished another accelerated program when he was just 22; and

WHEREAS, Thomas Caldrony completed a pediatrics residency at Syracuse University and at St. Luke's Hospital, and shortly thereafter he was drafted into the United States Army during the Korean War; he was assigned to Fort Eustis, where he served as the sole pediatrician on post; and

WHEREAS, Thomas Caldrony joined the Children's Clinic in Newport News, the largest pediatrics practice in the area, in its infancy, and he practiced pediatrics for nearly five decades before retiring in the 1990s; and

WHEREAS, Thomas Caldrony served for many years on the staff at Riverside Hospital, developed and opened a cerebral palsy clinic for the Peninsula area, and was one of only a few private practice physicians offered a position as Assistant Clinical Professor of Pediatrics at what was then the Medical College of Virginia; and

WHEREAS, Thomas Caldrony was a longtime member of the American Medical Association and the American Academy of Pediatrics, and he enjoyed traveling and sports, especially golf; and

WHEREAS, Thomas Caldrony provided his family with a stable and happy home, and his service to his community made "Papa Tom" an important role model for his children, grandchildren, and great-grandchildren; and

WHEREAS, predeceased by his wife of 55 years, Phyllis, Thomas Caldrony will be fondly remembered and greatly missed by his children, Tom, Ralph, Cindy, and Philip, and their families, and a host of other family members and special friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Thomas Walter Caldrony, M.D., of Newport News, a pediatrics pioneer and longtime pediatrician; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Thomas Walter Caldrony, M.D., as an expression of the House of Delegates' respect for his memory.

### HOUSE RESOLUTION NO. 394

*Celebrating the life of Robert C. Williams, Sr.*

Agreed to by the House of Delegates, February 10, 2017

WHEREAS, Robert C. Williams, Sr., a decorated veteran and a man of deep and abiding faith who made many contributions to the Emporia community, died on February 4, 2017; and

WHEREAS, Robert Williams attended schools in Greensville County and graduated from the Hampton Institute; he joined many of the other young men of his generation in service to the nation as a member of the United States Army during World War II; and

WHEREAS, Robert Williams was a member of one of the few African American troops to participate in the D-Day invasion of Normandy, France, on June 6, 1944, and later in life he was awarded France's prestigious Legion of Honor for his unique role in liberating the country from Nazi occupation; and

WHEREAS, after his honorable military service, Robert Williams joined Salem Baptist Church, where he served as chair of the Deacon Board for more than 50 years and taught Sunday school, among many other activities and ministries; and

WHEREAS, in 1998, Salem Baptist Church recognized Robert Williams for his 25 years of service to the Senior Choir, and the congregation celebrates the fourth Sunday of each January as Robert C. Williams, Sr., Day in honor of his many contributions to the church and the community; and

WHEREAS, Robert Williams served his fellow residents as a loyal employee of the United States Postal Service for many years, and he also worked at Sears Roebuck and Belco Restaurant; and

WHEREAS, Robert Williams volunteered his time and wise leadership to the community as a member of the local Ruritan Club, American Legion Post 151, and as a lifetime member of the NAACP; and

WHEREAS, predeceased by his beloved wife, Dora, and one son, James, Robert Williams will be fondly remembered and greatly missed by his children, Ethel, Jeannette, Doretha, Robert, Jr., Daniel, and Glendale, and their families, and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Robert C. Williams, Sr., a patriotic veteran and a devout member of the Emporia community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Robert C. Williams, Sr., as an expression of the House of Delegates' respect for his memory.

### HOUSE RESOLUTION NO. 395

*Commending Broad Run High School DECA.*

Agreed to by the House of Delegates, February 17, 2017

WHEREAS, Broad Run High School DECA, an association of high school marketing students in Ashburn, helped raise more than \$10,000 in donations for Fisher House Foundation, which supports convalescent veterans and their families; and

WHEREAS, Broad Run DECA worked with their crosstown rivals at Stone Bridge High School to launch the Two Schools-One Cause project, which coincided with spirit week and the lead-up to the annual Battle of the Burn football game between the Broad Run High School Spartans and the Stone Bridge High School Bulldogs; and

WHEREAS, in the spirit of friendly competition, the Two Schools-One Cause program pitted Broad Run DECA against Stone Bridge DECA to see who could raise the most money for Fisher House Foundation, which provides free temporary housing to families of soldiers who are receiving medical treatment for wounds or illness; and

WHEREAS, Broad Run High School DECA raised \$3,861.39 through spirit link and T-shirt sales, and both schools collected joint donations through a website to raise an overall total of more than \$10,375.00; and

WHEREAS, Broad Run DECA also adopted a Fisher House location in Bethesda, Maryland, and cooked and delivered meals to residents; and

WHEREAS, Broad Run DECA was ably led by project managers Mikaela Zurick and Sammy Polk and advisers Casey Sorenson, Christine Swartz, and Michelle Veney; now, therefore, be it

RESOLVED by the House of Delegates, That Broad Run High School DECA hereby be commended for its work to support the men and women in uniform who have served and sacrificed in defense of the nation; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Broad Run High School DECA as an expression of the House of Delegates' admiration for the group's hard work and generosity.

**HOUSE RESOLUTION NO. 396**

*Commending Stone Bridge High School DECA.*

Agreed to by the House of Delegates, February 17, 2017

WHEREAS, Stone Bridge High School DECA, an association of high school marketing students in Ashburn, helped raise more than \$10,000 in donations for Fisher House Foundation, which supports convalescent veterans and their families; and

WHEREAS, Stone Bridge DECA worked with their crosstown rivals at Broad Run High School to launch the Two Schools-One Cause project, which coincided with spirit week and the lead-up to the annual Battle of the Burn football game between the Stone Bridge High School Bulldogs and the Broad Run High School Spartans; and

WHEREAS, in the spirit of friendly competition, the Two Schools-One Cause program pitted Stone Bridge DECA against Broad Run DECA to see who could raise the most money for Fisher House Foundation, which provides free temporary housing to families of soldiers who are receiving medical treatment for wounds or illness; and

WHEREAS, Stone Bridge High School DECA raised \$5,938.97 through spirit link and T-shirt sales, and both schools collected joint donations through a website to raise an overall total of more than \$10,375.00; and

WHEREAS, Stone Bridge DECA also adopted a Fisher House location at Fort Belvoir and held a week of giving that resulted in an additional \$500 in donations to that location; and

WHEREAS, Stone Bridge DECA was ably led by project managers Maggie McGarrity, Malley McFarlane, and Sean O'Day and advisers Monika Guerrero, Wes Anderson, and Meg Ball; now, therefore, be it

RESOLVED by the House of Delegates, That Stone Bridge High School DECA hereby be commended for its work to support the men and women in uniform who have served and sacrificed in defense of the nation; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Stone Bridge High School DECA as an expression of the House of Delegates' admiration for the group's hard work and generosity.

**HOUSE RESOLUTION NO. 397**

*Commending The Virginia Opry.*

Agreed to by the House of Delegates, February 17, 2017

WHEREAS, The Virginia Opry in Clifton Forge is celebrating 25 years as the longest running country music show in the Alleghany Highlands; and

WHEREAS, The Virginia Opry, a country music troupe patterned after the Grand Ole Opry, was established in 1991, as an outreach program for the Appalfolks of America Association (AAA); and

WHEREAS, AAA recruited local musicians, vocalists, and a comedian to form The Virginia Opry, which debuted at the Clifton Forge Fall Foliage Festival in October 1992; and

WHEREAS, H. Ray Tucker served as the first director of The Virginia Opry, and he also sang as a vocalist and played rhythm guitar with the troupe in addition to his role as director; and

WHEREAS, over the past 25 years The Virginia Opry has held many successful events, including productions with guest performers and special guests like Dan Seals, Lonesome River Band, and the Farm Hands; and

WHEREAS, The Virginia Opry is housed at the Historic Masonic Theatre in Clifton Forge, previously known as the Stonewall Theatre, which underwent a \$6.5 million restoration that was completed in July 2016; and

WHEREAS, hundreds of country music aficionados from West Virginia, the Roanoke area, and the Shenandoah Valley, as well as locals from the Alleghany Highlands, have come to hear The Virginia Opry perform over the past quarter century; and

WHEREAS, the owner of a tour bus company in Fort Payne, Alabama, booked 35 seats for one show and The Virginia Opry brought all 35 patrons to their feet when they performed "Sweet Home Alabama"; and

WHEREAS, The Virginia Opry opened its 26th performance season at the Historic Masonic Theatre on February 11, 2017, when the band and vocalists shared the stage with bluegrass band Freight Train and acoustic performer Charlotte Ivy from Dallas, Texas; now, therefore, be it

RESOLVED by the House of Delegates, That The Virginia Opry hereby be commended on providing 25 years of outstanding musical performances in the Alleghany Highlands; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to M. Ray Allen, president and founder of Appalfolks of America Association and director of The Virginia Opry, as an expression of the House of Delegates' admiration for the troupe's important cultural contributions to the Town of Clifton Forge.

**HOUSE RESOLUTION NO. 398**

*Commending Marty L. Miller.*

Agreed to by the House of Delegates, February 17, 2017

WHEREAS, Marty L. Miller, Norfolk State University athletics director, is being inducted into the Virginia Interscholastic Association Heritage Association Hall of Fame in 2017; and

WHEREAS, the Virginia Interscholastic Association Heritage Association (VIAHA) Hall of Fame is dedicated to preserving the legacy of African American students and adults who participated in the Virginia Interscholastic Association from 1954 to 1970, prior to public school integration; and

WHEREAS, a native of Danville, Marty Miller is one of 11 individuals being inducted into the VIAHA Hall of Fame for their noteworthy contributions to high school athletics and activities; and

WHEREAS, Marty Miller is a 1964 graduate of John M. Langston High School in Danville, where he competed in basketball and was a standout in baseball, compiling a .684 batting average his senior year and a career average of .513; and

WHEREAS, Marty Miller was awarded a scholarship to attend Norfolk State University (NSU), where he was an All-Central Intercollegiate Athletic Association (CIAA) player in 1967 and 1968, the same year he led the nation in doubles, and was the college's first National Collegiate Athletic Association (NCAA) College Division All-American in baseball; and

WHEREAS, Marty Miller joined the United States Army after college, and while on active duty he was signed by the Minnesota Twins; after leaving the Army, he returned to Norfolk State University and became head baseball coach in 1973; and

WHEREAS, Marty Miller became the winningest baseball coach in CIAA history, and over 32 years he compiled a record of 718-543-3, won 17 conference championships, and was named CIAA Coach of the Year 15 times; and

WHEREAS, Marty Miller became NSU athletics director in 2005, and he is a past president of the Norfolk Sports Club and serves on the executive committee for the Virginia Sports Hall of Fame & Museum; and

WHEREAS, Marty Miller has served his alma mater in various capacities for more than 40 years, including working in the areas of financial aid, career services, student affairs, and athletics, where he has made his greatest mark; in 1997, NSU honored Marty Miller by dedicating the Marty L. Miller Baseball Field; and

WHEREAS, the VIAHA recognition is the sixth hall of fame induction for Marty Miller, who is already a member of the NSU, CIAA, Hampton Roads Sports, Virginia Sports, and Hampton Roads African American Sports halls of fame; now, therefore, be it

RESOLVED by the House of Delegates, That Marty L. Miller hereby be commended on his induction into the Virginia Interscholastic Association Heritage Association Hall of Fame; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Marty L. Miller as an expression of the House of Delegates' admiration for his high achievement and congratulations on this well-deserved recognition.

**HOUSE RESOLUTION NO. 399**

*Commending Vincent Edward Scully.*

Agreed to by the House of Delegates, February 17, 2017

WHEREAS, Vincent Edward Scully, a world-renowned sports broadcaster who held the longest tenure as an announcer for a single professional team, retired in 2016 after a distinguished 67-season career with the Los Angeles Dodgers baseball team; and

WHEREAS, a native of New York City, Vincent "Vin" Edward Scully discovered his passion for the game of baseball at a young age and decided to become a sports broadcaster after hearing football broadcasts on the radio in the 1930s; and

WHEREAS, Vin Scully served his country in the United States Navy, then began his career in sports media as a student broadcaster and journalist at Fordham University, where he played center field for the baseball team and called baseball, football, and basketball games; and

WHEREAS, after graduation, Vin Scully covered college football for the CBS Radio Network, then joined the Brooklyn Dodgers of Major League Baseball in 1950; in 1953, at the age of 25, he became the youngest person to broadcast a World Series game and later became the team's main announcer; and

WHEREAS, Vin Scully stayed with the Dodgers when the team moved to Los Angeles in 1957, and his dulcet tones could be heard throughout Los Angeles Memorial Coliseum and later Dodger Stadium, with fans bringing their own radios to enjoy his broadcasts; and

WHEREAS, Vin Scully became well-known for his signature opening salutation, his poetic wit, and his encyclopedic knowledge of the game, and he was unafraid to let dramatic events speak for themselves, such as Kirk Gibson's game-winning home run in Game 1 of the 1988 World Series; and

WHEREAS, though best known for his baseball broadcasting career, Vin Scully also worked for CBS Sports and NBC, calling National Football League games, PGA Tour golf, and nationally broadcast baseball games and making appearances in or lending his recognizable narration to television shows, movies, and video games; and

WHEREAS, when Vin Scully called his final game on October 2, 2016, his name had long become synonymous with the Los Angeles Dodgers organization and the game of baseball, and he is widely considered to be the finest sports broadcaster of all time; and

WHEREAS, Vin Scully earned many awards and accolades throughout his career, and he has been inducted into the National Baseball Hall of Fame, the National Sportscasters and Sportswriters Association Hall of Fame, and the NAB Broadcasting Hall of Fame; in 2016, the Los Angeles City Council renamed Elysian Park Avenue, the location of Dodger Stadium, as Vin Scully Avenue; now, therefore, be it

RESOLVED by the House of Delegates, That Vincent Edward Scully hereby be commended on the occasion of his retirement as the announcer for the Los Angeles Dodgers; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Vincent Edward Scully as an expression of the House of Delegates' admiration for his contributions to media and the game of baseball.

**HOUSE RESOLUTION NO. 400**

*Celebrating the life of Jean Felton Sharpe.*

Agreed to by the House of Delegates, February 17, 2017

WHEREAS, Jean Felton Sharpe of Portsmouth, a retired nurse and a woman of deep and abiding faith, died on September 26, 2016; and

WHEREAS, a native of Portsmouth, Jean Sharpe graduated from Woodrow Wilson High School and Children's Hospital of The King's Daughters School of Nursing; and

WHEREAS, Jean Sharpe spent most of her professional career as a nurse at Portsmouth General Hospital, providing comfort and care to countless members of the community; and

WHEREAS, Jean Sharpe was a member and former director of Women On Mission and a former president of the Women's Missionary Union, as well as a longtime member of the Woman's Club of Portsmouth; and

WHEREAS, guided by her faith, Jean Sharpe was a member of Fourth Street Baptist Church and helped establish River Shore Baptist Church, where she enjoyed fellowship and worship with the community and served as a trustee; and

WHEREAS, predeceased by her husband, Leo, Jean Sharpe will be fondly remembered and greatly missed by her children, Beverly, Leo, and Ruth, and their families, and by numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Jean Felton Sharpe, a beloved member of the Portsmouth community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Jean Felton Sharpe as an expression of the House of Delegates' respect for her memory.

**HOUSE RESOLUTION NO. 401**

*Celebrating the life of Frank Thaddeus Vaughan, Sr.*

Agreed to by the House of Delegates, February 17, 2017

WHEREAS, Frank Thaddeus Vaughan, Sr., of Lawrenceville, a patriotic veteran and a retired educator who made lasting contributions to the community, died on July 28, 2016; and

WHEREAS, Frank Thaddeus "Thad" Vaughan, Sr., grew up in Lawrenceville and attended Virginia State College for eight months before joining many of the other young men of his generation in service to the nation during World War II as a member of the United States Army Air Corps; and

WHEREAS, after his honorable military service, Thad Vaughan completed his bachelor's degree at Virginia State College and began an eight-year career as an agriculture teacher in Smithfield; and

WHEREAS, in 1958, Thad Vaughan returned to Lawrenceville to raise a family with his wife, Anna, and he continued his teaching career in Brunswick County; over the course of 38 years, he taught science, biology, chemistry, and physics and encouraged countless students to become lifelong learners; and

WHEREAS, Thad Vaughan was a true gentleman and a beloved role model for his children and grandchildren, and after his retirement in 1988, he relished the opportunity to spend more time with his family; and

WHEREAS, Thad Vaughan enjoyed fellowship and worship with the congregation of Poplar Mount Baptist Church; and

WHEREAS, predeceased by a son, William, Thad Vaughan will be fondly remembered and greatly missed by his devoted wife of more than 60 years, Anna; children, Sheryl, Frank, Charles, Michael, and Jeffrey, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Frank Thaddeus Vaughan, Sr., a respected member of the Lawrenceville community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Frank Thaddeus Vaughan, Sr., as an expression of the House of Delegates' respect for his memory.

**HOUSE RESOLUTION NO. 402**

*Commending Noah T. South.*

Agreed to by the House of Delegates, February 16, 2017

WHEREAS, Noah T. South, a longtime member of the Boy Scouts of America will earn the prestigious rank of Eagle Scout in 2017; and

WHEREAS, Noah South began his journey in Scouting as a Tiger Cub with Cub Scout Pack 37 in September 2008, and he joined Boy Scout Troop 37 in March 2013; and

WHEREAS, in addition to earning 62 merit badges, Noah South has been an active leader in Troop 37, serving as scribe, bugler, patrol leader, assistant senior patrol leader, and senior patrol leader; he has also mentored young Scouts in Wolf Cub Scout and Tiger Cub Scout troops; and

WHEREAS, in addition to participating in hikes and campouts throughout the Commonwealth, Noah South has volunteered his time and talents with numerous community service efforts through his Scout troop, including trash clean-up projects, and fundraisers for good causes; and

WHEREAS, Noah South is a member of the Order of the Arrow, the honor society of the Boy Scouts of America, where he serves as first vice-chief and represented Boy Scout Troop 37 at the 2015 National Order of the Arrow Conference; and

WHEREAS, an exceptional student, Noah South is a member of the National Junior Honor Society and the National Junior Beta Club and participates in Odyssey of the Mind; he is also a standout cross country runner and plans to join the track and field team at Southampton High School; and

WHEREAS, Noah South's Eagle Scout Court of Honor ceremony will be held on February 18, 2017; now, therefore, be it

RESOLVED by the House of Delegates, That Noah T. South hereby be commended on reaching the distinguished rank of Eagle Scout in the Boy Scouts of America; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Noah T. South as an expression of the House of Delegates' admiration for his achievements and best wishes for the future.

**HOUSE RESOLUTION NO. 403**

*Celebrating the life of Edward Gaines.*

Agreed to by the House of Delegates, February 15, 2017

WHEREAS, Edward Gaines, a contractor and an avid golfer in South Hampton Roads, died on December 10, 2016; and

WHEREAS, a native of the Titustown neighborhood in Norfolk, Edward Gaines made his career as a master brick mason; and

WHEREAS, Edward Gaines was a talented amateur golfer, who could compete with some of the biggest names in the game, including Lee Elder, Lee Trevino, and Chi Chi Rodriguez; he enjoyed a friendly rivalry with professional golfer Charlie Sifford; and

WHEREAS, a man of deep faith, Edward Gaines enjoyed fellowship and worship with the congregations of New Light Baptist Church and First Baptist Church Logan Park, where he served as a trustee and a member of the choir; and

WHEREAS, Edward Gaines' greatest joy was his family, and he worked hard to ensure that his children could achieve their dreams; and

WHEREAS, Edward Gaines will be fondly remembered and greatly missed by numerous family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Edward Gaines, a respected member of the Chesapeake community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Edward Gaines as an expression of the House of Delegates' respect for his memory.

**HOUSE RESOLUTION NO. 404**

*Commending Master Chief Petty Officer William Goines, USN, Ret.*

Agreed to by the House of Delegates, February 15, 2017

WHEREAS, Master Chief Petty Officer William Goines, USN, Ret., the first African American member of the elite United States Navy SEALs, was honored for his military service at the National Museum of African American History and Culture at its opening day ceremony in 2016; and

WHEREAS, a native of Lockland, Ohio, William Goines was inspired to serve his country after watching a movie about underwater demolition teams during World War II; and

WHEREAS, since the only public swimming pool in his hometown was segregated at the time, William Goines taught himself to swim in a local creek and enlisted in the United States Navy in 1955 after graduating from high school; and

WHEREAS, William Goines was stationed in Malta for 11 months, then began training for selection to one of the first two Navy SEAL teams, which were established by President John F. Kennedy in 1962; and

WHEREAS, after a rigorous interview process, William Goines was the only African American of the 40 men selected to join the original two Navy SEAL teams; the original training program incorporated the best training courses from all branches of the United States Armed Forces; and

WHEREAS, William Goines attended 43 different training schools, learning hand-to-hand combat and escape and evasion techniques from the United States Air Force; jungle warfare, skydiving, demolition, and weapons training from the United States Army; reconnaissance and prisoner handling from the United States Marine Corps; and escape from plane and helicopter crashes over water from the United States Coast Guard; and

WHEREAS, discovering his love of parachuting during training, William Goines was selected to join the Chuting Stars, a United States Navy parachute demonstration team in 1976 and made more than 640 jumps during his five years on the team; and

WHEREAS, William Goines completed several tours of duty during the Vietnam War and carried out sensitive, classified missions in many dangerous locales; he retired from the United States Navy in 1987 after 32 years of service; after his honorable military service, he worked in Portsmouth Public Schools and served as a recruiter for the Navy SEALs; and

WHEREAS, William Goines broke down barriers and was an inspiration to countless other African American men and women in uniform, particularly members of the Navy SEALs; two weeks after his 80th birthday, on September 24, 2016, he was honored at the opening ceremony of the National Museum of African American History and Culture in Washington, D.C.; now, therefore, be it

RESOLVED by the House of Delegates, That Master Chief Petty Officer William Goines, USN, Ret., hereby be commended for his many years of service as a member of the United States Navy SEALs; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Master Chief Petty Officer William Goines, USN, Ret., as an expression of the House of Delegates' admiration for his unique place in the history of the United States Navy SEALs.

**HOUSE RESOLUTION NO. 405**

*Celebrating the life of Margaret Elizabeth Bailey Rackley.*

Agreed to by the House of Delegates, February 15, 2017

WHEREAS, Margaret Elizabeth Bailey Rackley of Gladys, a retired educator who inspired countless students over the course of her 30-year career, died on February 7, 2017; and

WHEREAS, Margaret Elizabeth "Betty" Rackley graduated from Oneida Baptist Institute and earned degrees from Bluefield College, Carson-Newman College, and the Southern Baptist Theological Seminary; and

WHEREAS, Betty Rackley served as the dean of women at Bluefield College, offered care and support to members of the community in need as a social worker, and inspired young people to become lifelong learners as a public school teacher; and

WHEREAS, Betty Rackley was active in many faith communities, along with her husband, Joel, who served as a pastor in Virginia and Kentucky; she often served as a pianist or choir director, bringing joy to each congregation through her love of music; and

WHEREAS, guided by her faith, Betty Rackley conducted mission work in Virginia, Kentucky, Africa, and Panama; she developed a deep affection for rural Panama and returned to the country every year for more than 15 years; and

WHEREAS, predeceased by her husband, Joel, Betty Rackley will be fondly remembered and greatly missed by her children, Joel, Dwight, Nora, and their families; her brothers, David and Robert, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Margaret Elizabeth Bailey Rackley; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Margaret Elizabeth Bailey Rackley as an expression of the House of Delegates' respect for her memory.

**HOUSE RESOLUTION NO. 406**

*Commending Sullins Academy.*

Agreed to by the House of Delegates, February 17, 2017

WHEREAS, for 50 years, Sullins Academy, an independent school in Bristol, has provided a nurturing environment for students to develop character, leadership ability, and a commitment to service; and

WHEREAS, founded in 1966 by the Reverend Charles Bledsoe, Sullins Academy was originally known as the Episcopal Day School; and

WHEREAS, in 1977, Sullins Academy relocated to Martin Hall of the former Sullins College to better serve its growing enrollment and changed its name to reflect its new location and its nondenominational nature; and

WHEREAS, in 1999, Sullins Academy moved to its current 40,500-square-foot facility on a 32-acre campus; it is fully accredited by the Virginia Association of Independent Schools and the National Association of Independent Schools; and

WHEREAS, the educators and administrators of Sullins Academy use cutting-edge research to develop a comprehensive, innovative curriculum, and the school emphasizes professional development for teachers; and

WHEREAS, Sullins Academy treats each student as an individual with the potential to become a leader and fosters maturity, self-confidence, independence, and responsibility, as well as listening skills, teamwork, and respect for others; and

WHEREAS, graduates of Sullins Academy appreciate their roles in a global society, and their intellectual curiosity and commitment to excellence serve them well in higher education and later life; and

WHEREAS, Sullins Academy has succeeded in its mission through the hard work of its students, the dedication and professionalism of its faculty, administration, and staff, and the heartfelt support of the entire school community; now, therefore, be it

RESOLVED by the House of Delegates, That Sullins Academy hereby be commended for its service to students in Bristol on the occasion of its 50th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Sullins Academy as an expression of the House of Delegates' admiration for its legacy of academic excellence.

**HOUSE RESOLUTION NO. 407**

*Commending Ashley Herndon.*

Agreed to by the House of Delegates, February 17, 2017

WHEREAS, Ashley Herndon, a senior on the James Madison University women's soccer team, was named the 2016 Colonial Athletic Association Player of the Year; and

WHEREAS, an alumna of Stone Bridge High School, Ashley Herndon had previously been named the Colonial Athletic Association Rookie of the Year during her freshman season in 2013; and

WHEREAS, in her senior year, Ashley Herndon capped her exceptional collegiate career by leading the James Madison University Dukes' offense with 11 goals, 6 assists, and 28 points; and

WHEREAS, Ashley Herndon was an instrumental member of the James Madison University women's soccer team during the 2016 season, scoring at least once in five of the team's six final regular season games; and

WHEREAS, playing in one of the strongest women's soccer conferences in the country, Ashley Herndon was also named to the All-CAA First Team and the All-CAA Second Team, along with several of her teammates; and

WHEREAS, in her 84 career games for James Madison University, Ashley Herndon recorded 37 goals, including 17 game-winning goals, and 27 assists for a total of 101 points; she is the fourth-highest scoring player in school history and was only the fourth player to earn 100 or more career points; now, therefore, be it

RESOLVED by the House of Delegates, That Ashley Herndon hereby be commended on being named the 2016 Colonial Athletic Association Player of the Year for her exceptional achievements as a member of the James Madison University women's soccer team; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Ashley Herndon as an expression of the House of Delegates' admiration for her talent and outstanding athletic accomplishments.

**HOUSE RESOLUTION NO. 408**

*Commending first responders to the Appomattox County tornado.*

Agreed to by the House of Delegates, February 17, 2017

WHEREAS, on February 24, 2016, at approximately 3:30 p.m., an EF-3 tornado formed near the border of Appomattox County and Campbell County and was on the ground for 17.1 miles, cutting a 400-yard-wide path of destruction and damaging more than 200 homes, businesses, nonprofits, and structures; and

WHEREAS, assessment of the catastrophic conditions from the EF-3 tornado prompted Appomattox County to declare a local emergency and Governor Terence R. McAuliffe to declare a state of emergency; local government staff quickly established an Emergency Operations and Dispatching Center; and

WHEREAS, the local and surrounding area volunteer fire departments, emergency medical personnel, rescue squads, sheriff's departments, police departments, state police officers, local government staff, community-based service organizations, private individuals, and the Virginia Department of Emergency Management staff and Incident Management Team immediately responded to assist with the massive destruction created by the storm; and

WHEREAS, first responders to the Evergreen, Central Baptist Church, and other surrounding communities quickly assessed damage, located and cared for the injured, and liaised with local hospitals to ensure timely care; without this collaborative assistance, the disaster recovery efforts would have been impossible; and

WHEREAS, all of the dedicated, concerned individuals who assisted in the aftermath of the Evergreen tornado demonstrated courage, selflessness, and perseverance during a time of warranted need to the citizens of Appomattox County; now, therefore, be it

RESOLVED by the House of Delegates, That first responders to the Appomattox County tornado hereby be commended for their efficient, effective, and well-coordinated response to an emergency situation; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Appomattox County Board of Supervisors as an expression of the House of Delegates' admiration for the heroic actions of all first responders to the Appomattox County tornado.

**HOUSE RESOLUTION NO. 409**

*Commending the Vietnam War Monument in Newport News.*

Agreed to by the House of Delegates, February 17, 2017

WHEREAS, the Vietnam War Monument in Newport News, located near the Virginia War Museum in Huntington Park, has honored the service and sacrifices of the nation's veterans for 25 years; and

WHEREAS, the Vietnam War Monument was dedicated on August 1, 1992, and was created to honor the living, missing, and dead of the Vietnam War; thousands of Virginians served during the Vietnam War, and more than 1,300 made the ultimate sacrifice; and

WHEREAS, in addition to honoring those who served and sacrificed during the Vietnam War, the Vietnam War Monument in Newport News has helped heal the nation's wounds from that war; and

WHEREAS, the Vietnam War Monument is located on a circular plaza and consists of a four-sided stone pillar bearing the emblems of the United States Army, United States Navy, United States Marine Corps, and United States Air Force, as well as a POW/MIA emblem; and

WHEREAS, the second component of the Vietnam War Monument is a cement pillar topped by an eternal flame, which symbolizes the hope for the return of the missing and a wish for peace to those who died; and

WHEREAS, the 25th anniversary of the dedication of the Virginia War Monument plaza will be commemorated September 14-17, 2017, and will be a time to honor, remember, and give thanks to all the men and women who honorably served during the Vietnam War, those who perished during and as a result of the war, Americans still missing from the Vietnam War, and all of their families; now, therefore, be it

RESOLVED by the House of Delegates, That the Vietnam War Monument in Newport News hereby be commended on the occasion of the 25th anniversary of its dedication in 1992; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Vietnam War Monument Foundation, Inc., as an expression of the House of Delegates' admiration for the significance of the Vietnam War Monument in Newport News.

**HOUSE RESOLUTION NO. 410***Commending Bethel Baptist Church.*

Agreed to by the House of Delegates, February 20, 2017

WHEREAS, in 2017, Bethel Baptist Church in Gloucester County celebrates 150 years of spiritual leadership, generous community outreach, and joyful worship in the Baptist tradition; and

WHEREAS, organized by 16 founding members in July 1867 in the Sassafras Stage area, Bethel Baptist Church was originally known as Sassafras Stage Church and is the second-oldest African American congregation in Gloucester County; and

WHEREAS, Sassafras Stage Church was renamed Bethel Baptist Church shortly after the renovation of the original sanctuary, which stood near the church's present location; the cornerstone for the current building was laid on June 12, 1889; and

WHEREAS, in its early days, Bethel Baptist Church brought together faith communities from throughout the area, and it is affectionately known as Mother Bethel for helping establish four other churches in Gloucester County and one in Williamsburg; and

WHEREAS, throughout its history, Bethel Baptist Church has served the congregation through several organizations, auxiliaries, and ministries and strengthened the Gloucester County community in various ways; and

WHEREAS, members of Bethel Baptist Church helped establish the Weaver Orphan Home in Hampton, the Gloucester Training School, and the nationally known Gloucester Agricultural and Industrial High School, the first secondary school for African Americans in Gloucester County; and

WHEREAS, Bethel Baptist Church partners with other churches and organizations to provide food, shelter, and clothing for the homeless and less fortunate, supports the Gloucester County Boys and Girls Club and an after-school program for the nearby Bethel Elementary School, and has been a polling place for elections; and

WHEREAS, on January 1, 2017, Bethel Baptist Church began the yearlong celebration of its anniversary with the lighting of 150 candles and by ringing the church bell 150 times; now, therefore, be it

RESOLVED by the House of Delegates, That Bethel Baptist Church hereby be commended for its legacy of service to the community on the occasion of its 150th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Reverend Michael W. Jackson, pastor of Bethel Baptist Church, as an expression of the House of Delegates' admiration for the church's many contributions to the residents of Gloucester County.

**HOUSE RESOLUTION NO. 411***Commending First Presbyterian Preschool.*

Agreed to by the House of Delegates, February 20, 2017

WHEREAS, First Presbyterian Preschool, an exceptional church-affiliated preschool, is celebrating 60 years of providing a strong, solid start to early childhood education in the Richmond community; and

WHEREAS, First Presbyterian Preschool was established in 1956 under the name of First Presbyterian Kindergarten Day School, with four teachers serving 40 children between three and five years of age; and

WHEREAS, First Presbyterian Preschool has grown to serve 165 students ranging in age from eight months to five years old and now employs 28 people; and

WHEREAS, First Presbyterian Preschool has flourished under four directors—Betty Grinnan, Cynthia Hutchison, Keith Mitchell, and Rebecca A. Mauck—and members of the community and parents serve on the school's Weekday Ministry Board; and

WHEREAS, First Presbyterian Preschool is accredited by the National Accreditation Commission for Early Care and Educational Programs; and

WHEREAS, First Presbyterian Preschool believes that the unique qualities found in each child bring an excitement to the program, which inspires teachers and keeps students engaged; children bring their own experiences and abilities to the school, which results in varying rates of development and gives teachers the opportunity to implement a developmentally appropriate curriculum; and

WHEREAS, the current 28 teachers and staff at First Presbyterian Preschool have an amazing combined total of more than 260 years of dedicated service to the school, including the longest-serving teacher in the history of the school, Janet Mauck, with 37 years of devoted service; and

WHEREAS, the engaged parents of First Presbyterian Preschool published a cookbook entitled *The Sun and the Rain and the Applesseed*, which won first place in a national cookbook competition; the \$15,000 proceeds from the sale of the cookbook and the \$5,000 award were contributed to the school's scholarship fund to provide families in need access to early childhood educational opportunities; and

WHEREAS, First Presbyterian Preschool has served multiple generations of Richmond families, and graduates have continued their education and returned to serve the Richmond community as doctors, lawyers, teachers, and business leaders, among other professions; now, therefore, be it

RESOLVED by the House of Delegates, That First Presbyterian Preschool hereby be commended on the occasion of its 60th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Rebecca A. Mauck, director of First Presbyterian Preschool, as an expression of the House of Delegates' admiration for the school's mission to provide an environment where children have the confidence and security to explore, learn, and grow.

**HOUSE RESOLUTION NO. 412**

*Celebrating the life of Susan Laurie Mickens.*

Agreed to by the House of Delegates, February 20, 2017

WHEREAS, Susan Laurie Mickens, a dedicated employee of King William County and member of the West Point community who inspired others through her grace and kindness, died on September 27, 2016; and

WHEREAS, Susan Mickens began her career with King William County as a switchboard operator on June 1, 1989; and

WHEREAS, Susan Mickens was appointed chief deputy registrar in 2005 and became the general registrar for King William County on January 1, 2007; and

WHEREAS, as registrar, Susan Mickens dutifully assisted the residents of King William County and helped aspiring public servants with all aspects of the registration process; and

WHEREAS, Susan Mickens' expertise and knowledge of King William County was essential in the redistricting of the 2nd District in 2011; and

WHEREAS, Susan Mickens will be fondly remembered and greatly missed by her husband, Roy, and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Susan Laurie Mickens, a beloved member of the West Point community and a loyal employee of King William County; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Susan Laurie Mickens as an expression of the House of Delegates' respect for her memory.

**HOUSE RESOLUTION NO. 413**

*Commending the Russell County Community Work Program.*

Agreed to by the House of Delegates, February 20, 2017

WHEREAS, the Russell County Community Work Program has saved thousands of dollars by allowing nonviolent offenders to serve the community through trash clean-ups and other maintenance projects; and

WHEREAS, in an effort to address rising jail costs and increased populations in regional jails, Russell County implemented the Community Work Program to allow nonviolent offenders with no other pending charges and a sentence of less than 12 months to conduct monitored community service projects; and

WHEREAS, since the program began in August of 2016, the 41 participants of the Russell County Community Work Program have saved the county more than \$100,000 by providing labor at no expense to taxpayers; and

WHEREAS, members of the Russell County Community Work Program have collected more than 8,000 bags of trash and removed more than 400 tires from the Clinch River, cleaning sections of the river that have not received attention in many years; and

WHEREAS, other members of the Russell County Community Work Program have carried out landscaping at the Russell County Public Library; and

WHEREAS, the Russell County Community Work Program aims to reduce recidivism by giving nonviolent inmates a shared stake in the community; now, therefore, be it

RESOLVED by the House of Delegates, That the Russell County Community Work Program hereby be commended for saving Russell County taxpayers thousands of dollars while providing much needed services; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Missy Carter, program coordinator of the Russell County Community Work Program, as an expression of the House of Delegates' admiration for Russell County's efforts to give nonviolent offenders a chance to serve and enhance the community.

**HOUSE RESOLUTION NO. 414***Celebrating the life of Sarah Jacqueline Mullins Gilliam.*

Agreed to by the House of Delegates, February 20, 2017

WHEREAS, Sarah Jacqueline Mullins Gilliam, a former Mayor of Pound, Virginia, and longtime educator, died on December 12, 2016; and

WHEREAS, a native of Wise County, Sarah Jacqueline "Jackie" Mullins Gilliam was the daughter of the late William and Mabel Mullins, and stepdaughter of the late Leonard Thomas Palmer; and

WHEREAS, Jackie Gilliam graduated from Christopher Gist High School in 1948, and the State Teachers College at Radford (now Radford University) in 1950; and

WHEREAS, Jackie Gilliam began her teaching career in Dickenson County, and later, while teaching at Harrowgate Elementary School in Chesterfield County, she returned to college and earned her bachelor's degree from Virginia Commonwealth University; and

WHEREAS, Jackie Gilliam retired from Wise County Public Schools in 1995, after 37 and a half years of teaching and enriching the lives of thousands of students; and

WHEREAS, Jackie Gilliam's next career was as a public servant, serving on the Pound Town Council from 1994 to 2000, and as Mayor of Pound from 2002 to 2012; and

WHEREAS, during her tenure as mayor, Jackie Gilliam oversaw the development and construction of a children's park, and played an instrumental role in revitalizing the town; in 2005, she was honored as Wise County Citizen of the Year; and

WHEREAS, Jackie Gilliam worked tirelessly as coordinator of the Pound Food Bank, was an active member of the Red Hatters "Red Ramblers," and was a major fundraiser for Relay For Life; and

WHEREAS, Jackie Gilliam served on the Board of Directors of the Mountain Empire Older Citizens, often participating in their annual Walkathon; and

WHEREAS, Jackie Gilliam was the director of Pickin' in the Pound, a bluegrass music venue that is an affiliated partner of The Crooked Road: Virginia's Heritage Music Trail, of which she served on the Board of Directors; and

WHEREAS, an active member of Pound United Methodist Church, Jackie Gilliam loved her family dearly and enjoyed spending as much time as she could with them, especially her 11 grandchildren and four great-grandchildren; and

WHEREAS, preceded in death by her husband of 45 years, John, sister, Phyllis, and a daughter, Martha, Jackie Gilliam will be fondly remembered and greatly missed by her children, Robbie, Mary, Bill, and Tommy, and their families, and many other relatives and good friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Sarah Jacqueline Mullins Gilliam, a former Mayor of Pound and longtime Virginia educator; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Sarah Jacqueline Mullins Gilliam as an expression of the House of Delegates' respect for her memory.

**HOUSE RESOLUTION NO. 415***Commending the Loudoun County Chapter of the American Red Cross.*

Agreed to by the House of Delegates, February 20, 2017

WHEREAS, the Loudoun County Chapter of the American Red Cross has been providing vital community services to county residents since March 9, 1917; and

WHEREAS, the American Red Cross prevents and alleviates human suffering in the face of emergencies by mobilizing the power of volunteers and the generosity of donors; and

WHEREAS, while the American Red Cross is known nationally for responding to large-scale disasters, the organization's Loudoun County Chapter is responsible for providing critical assistance to families in need at the local level; and

WHEREAS, the Loudoun County Chapter of the American Red Cross aspires to turn compassion into action, serving the Loudoun community through disaster response, blood collection, and providing lifesaving safety training; and

WHEREAS, the Loudoun County Chapter of the American Red Cross gives assistance to families affected by disaster or displaced from their homes by providing them with immediate food, lodging, clothing, and other necessities; and

WHEREAS, Loudoun County Chapter of the American Red Cross volunteers lend a helping hand and support to members of the military and their families in multiple ways, including spending time with patients at Walter Reed National Military Medical Center; and

WHEREAS, the Loudoun County Chapter of the American Red Cross provides training in lifesaving techniques such as CPR and first aid, and provides transportation for Loudoun County seniors in order to get them to necessary medical appointments; and

WHEREAS, the Loudoun County Chapter of the American Red Cross hosts community blood drives and is a leading provider of access to safe, lifesaving blood and blood products; and

WHEREAS, the Loudoun County Chapter of the American Red Cross has partnered with Loudoun County Fire and Rescue for a county-wide fire prevention initiative to reduce home fire deaths and injuries significantly over the next five years; and

WHEREAS, the mission of the Loudoun County Chapter of the American Red Cross is to make sure the community is prepared for disasters and, when disaster strikes, to provide all people affected with care, shelter, and hope; now, therefore, be it

RESOLVED by the House of Delegates, That the Loudoun County Chapter of the American Red Cross hereby be commended on the occasion of its 100th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Erwin Stierle, executive director of the American Red Cross in Loudoun and Prince William Counties, as an expression of the House of Delegates' admiration for the organization's indispensable service to the community and dedication to always being there in times of need.

**HOUSE RESOLUTION NO. 416**

*Commending Jonathan Paul.*

Agreed to by the House of Delegates, February 20, 2017

WHEREAS, Jonathan Paul, a student at Brunswick Academy in Lawrenceville, earned the prestigious rank of Eagle Scout in the Boy Scouts of America; and

WHEREAS, Jonathan Paul began his Scouting journey with Cub Scout Pack 209 in Emporia, then joined Boy Scout Troop 232 in Purdy, where he held various leadership roles within the troop and was voted into the Order of the Arrow, the honor society of the Boy Scouts of America; and

WHEREAS, Jonathan Paul has been a productive member of Boy Scout Troop 232, logging numerous service hours in the community and participating in more than 70 camping trips and hikes throughout the Commonwealth and the United States; and

WHEREAS, to attain the rank of Eagle Scout, Jonathan Paul earned 42 merit badges, demonstrated Scout Spirit, upheld the Scout Oath and Scout Law, and planned and completed a service project; and

WHEREAS, for his Eagle Scout Service Project, Jonathan Paul worked with his fellow Scouts and adult volunteers to plan and organize the installation of a 30-foot flagpole at Greensville Manor Nursing Home in Emporia; he held a spaghetti dinner to raise funds for the project, cooking and serving more than 250 dinners with the help of a team of volunteers; and

WHEREAS, outside of Scouting, Jonathan Paul is a diligent student at Brunswick Academy, where he is a multisport athlete and is regularly named to the honor roll for his academic achievements; he is also an active member of Main Street United Methodist Church; now, therefore, be it

RESOLVED by the House of Delegates, That Jonathan Paul hereby be commended on achieving the rank of Eagle Scout in the Boy Scouts of America; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Jonathan Paul as an expression of the House of Delegates' admiration for his dedication and contributions to the community.

**HOUSE RESOLUTION NO. 417**

*Celebrating the life of Raleigh Thomas Warren.*

Agreed to by the House of Delegates, February 20, 2017

WHEREAS, Raleigh Thomas Warren of Danville, a veteran and a man of deep and abiding faith, died on October 9, 2015; and

WHEREAS, Raleigh Thomas "Tom" Warren was the son of the late Raleigh T. Warren, Sr., and Ruby M. Warren; he honorably served his country as a member of the United States Navy, enlisting in 1954; and

WHEREAS, after completing his military service, Tom Warren pursued higher education at Marshall University in Huntington, West Virginia; he retired from a career with the Goodyear Tire and Rubber Company; and

WHEREAS, Tom Warren was a man of character and a firm believer in doing the right thing who inspired others with his quiet, commonsense leadership style; and

WHEREAS, Tom Warren carefully analyzed local, state, and national issues, and he made his voice heard through countless detailed and thought-provoking letters to the editor; and

WHEREAS, Tom Warren was a loyal member of First Baptist Church in Danville, finding joy and fellowship among the members of the congregation; and

WHEREAS, predeceased by one son, Andy, Tom Warren will be fondly remembered and greatly missed by his wife, Sandra; sons, Tommy, Todd, and Greg, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Raleigh Thomas Warren, a respected member of the Danville community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Raleigh Thomas Warren as an expression of the House of Delegates' respect for his memory.

**HOUSE RESOLUTION NO. 418**

*Commending Tenants and Workers United.*

Agreed to by the House of Delegates, February 20, 2017

WHEREAS, for more than 30 years, Tenants and Workers United, a grassroots community organization in Alexandria, has successfully advocated for living wages, affordable housing, health care access, and public education; and

WHEREAS, Tenants and Workers United was established in the 1980s to protect the rights of low-income renters in the Arlandria neighborhood of Alexandria; the group won a class-action lawsuit and stopped the mass eviction of thousands of community members; and

WHEREAS, Tenants and Workers United continued to strengthen the community by working to create limited equity cooperative housing in Alexandria, resulting in the 282-unit Arlandria-Chirilagua Housing Cooperative, which is owned and democratically operated by its predominantly low-income residents; and

WHEREAS, Tenants and Workers United continued to grow and now addresses citywide issues, such as access to health care and education and support for day laborers and immigrant families in Fairfax County; the organization cofounded the Right to the City Alliance, a coalition of more than 40 organizations fighting for urban rights throughout the United States; and

WHEREAS, in addition to organizing annual health fairs, Tenants and Workers United helped secure discounts for uninsured patients in the Inova Health System, helped expand access to subsidized child care for low-income families, and eliminated more than \$1 million in medical debt for low-income Alexandria residents; and

WHEREAS, Tenants and Workers United also supported efforts to raise the minimum wage for municipal workers and the creation of a living wage law that resulted in a total wage increase of \$450,000 for the lowest-paid workers in Alexandria; and

WHEREAS, Tenants and Workers United increased access to a good education by convincing Alexandria City Public Schools to hire bilingual liaisons to help parents, teachers, and students communicate; and

WHEREAS, over the course of more than three decades, Tenants and Workers United has provided a voice and a shared stake in the community to countless low-income residents of Alexandria; now, therefore, be it

RESOLVED by the House of Delegates, That Tenants and Workers United hereby be commended for work to support low-income residents of Alexandria by advocating for living wages, affordable housing, health care access, and public education; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Tenants and Workers United as an expression of the House of Delegates' admiration for the organization's legacy of service to the members of the Alexandria community.

**HOUSE RESOLUTION NO. 419**

*Commending Lenna Jo Davis.*

Agreed to by the House of Delegates, February 20, 2017

WHEREAS, Lenna Jo Davis served the Portsmouth community and the Commonwealth for more than four decades as a clerk of the Portsmouth General District Court; and

WHEREAS, Lenna Jo "Jody" Davis joined the staff of the Portsmouth General District Court in 1974, where she helped bring uniformity to the Traffic Division and the Criminal Division and served as a Deputy Clerk; and

WHEREAS, Jody Davis served as supervisor of the Criminal Division, then was appointed as Clerk on August 31, 2007; among her many accomplishments, she oversaw the design of a new courthouse and completed the move to the Portsmouth Judicial Center in 2012; and

WHEREAS, placing a high emphasis on professional development, Jody Davis has attended nearly every conference sponsored by the Office of the Executive Secretary since 1974; and

WHEREAS, Jody Davis was a longtime member of numerous professional and peer organizations, including the Association of Clerks of the District Courts of Virginia, where she held many leadership positions; now, therefore, be it

RESOLVED by the House of Delegates, That Lenna Jo Davis hereby be commended on the occasion of her retirement as a clerk of the Portsmouth General District Court; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Lenna Jo Davis as an expression of the House of Delegates' admiration for her many years of service.

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ACTS OF ASSEMBLY

[VA.,

**HOUSE RESOLUTION NO. 420**

*Commending James B. Oliver, Jr.*

Agreed to by the House of Delegates, February 20, 2017

WHEREAS, James B. Oliver, Jr., a respected public servant who offered his able leadership to the City of Norfolk and communities throughout Hampton Roads for many years, was named Norfolk's 2016 First Citizen; and

WHEREAS, the annual Norfolk's First Citizen award has been presented by the Cosmopolitan Club of Norfolk for nearly 90 years to recognize the distinguished service of an individual or couple in Norfolk; and

WHEREAS, James "Jim" B. Oliver, Jr., holds degrees from the University of Notre Dame, Columbia University, and Old Dominion University; he began his career as a journalist, then became the public information officer for the City of Norfolk in 1969; and

WHEREAS, during his long career in the public sector, Jim Oliver served as assistant city manager of Norfolk from 1970 to 1976, county administrator of James City County from 1976 to 1986, city manager of Norfolk from 1987 to 1999, city manager of Portsmouth from 2004 to 2007, and interim city manager of Hampton in 2009; and

WHEREAS, deeply respected in the field of local government, Jim Oliver served as a mediator on the Virginia Commission on Local Government and was a consultant for the National Academy of Public Administration; and

WHEREAS, Jim Oliver has also volunteered his time and expert leadership with numerous civic, service, and charitable organizations, earning numerous other awards and accolades for his good work; and

WHEREAS, Jim Oliver will receive the 2016 Norfolk's First Citizen award at a banquet on April 8, 2017, at the Norfolk Yacht & Country Club; now, therefore, be it

RESOLVED by the House of Delegates, That James B. Oliver, Jr., hereby be commended on his selection as Norfolk's First Citizen; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to James B. Oliver, Jr., as an expression of the House of Delegates' admiration for his exceptional leadership and decades of service to the Norfolk community.

**HOUSE RESOLUTION NO. 421**

*Commending the Reverend Curtis Eugene Edmonds, Sr.*

Agreed to by the House of Delegates, February 17, 2017

WHEREAS, the Reverend Curtis Eugene Edmonds, Sr., a respected spiritual leader and public servant who has made many contributions to the Portsmouth community, retired from the Portsmouth City Council in 2016; and

WHEREAS, a native of Portsmouth, Curtis Edmonds graduated from I. C. Norcom High School and served his country as a member of the United States Air Force in Vietnam; and

WHEREAS, after his honorable military service, Curtis Edmonds returned home and worked for the Norfolk Naval Shipyard, where he retired as an industrial engineering technician in 1993; and

WHEREAS, Curtis Edmonds holds a bachelor's degree from Norfolk State University, a master's degree from Virginia Union University School of Theology, and a doctor of ministry degree from United Theological Seminary in Dayton, Ohio; and

WHEREAS, for 20 years, Curtis Edmonds has served as a pastor, teacher, spiritual leader, and friend to the congregation of St. Mark Missionary Baptist Church, where he was appointed as bishop in 2007; he has also served as spiritual advisor to the Portsmouth Branch of the NAACP; and

WHEREAS, desirous to be of further service to the community, Curtis Edmonds ran for and was elected to the Portsmouth City Council and ably represented his fellow residents on the council from 2010 to 2016; now, therefore, be it

RESOLVED by the House of Delegates, That the Reverend Curtis Eugene Edmonds, Sr., hereby be commended on the occasion of his retirement from the Portsmouth City Council in 2016; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Reverend Curtis Eugene Edmonds, Sr., as an expression of the House of Delegates' admiration for his service to the residents of Portsmouth.

**HOUSE RESOLUTION NO. 422**

*Celebrating the life of Richard Edward Cornwell.*

Agreed to by the House of Delegates, February 20, 2017

WHEREAS, Richard Edward Cornwell, a dedicated law-enforcement officer who worked to serve and protect the residents of Portsmouth for more than 25 years, died on January 30, 2017; and

WHEREAS, a native of Portsmouth, Richard Cornwell joined many of the other young men of his generation in service to the nation during World War II as a member of the United States Merchant Marine; and

WHEREAS, Richard Cornwell played semi-professional baseball, then joined the Portsmouth Police Department in 1951; during his distinguished career, he earned several awards and accolades, including the Policeman of the Year award in 1976 for his work as head of the Youth Bureau; and

WHEREAS, after his well-earned retirement from law enforcement as a lieutenant in 1977, Richard Cornwell continued his service to the community through his longtime affiliation with the Freemasons; and

WHEREAS, Richard Cornwell was a member of Portsmouth Lodge No. 100, had served as inspector general honorary of the 33rd degree of the Scottish Rite, and was an honorary member of the Supreme Council; he was also a past president of the Portsmouth Shrine Club and a past venerable master of the Lodge of Perfection; and

WHEREAS, guided by his deep faith, Richard Cornwell was a founding member of West Side Christian Church, where he cooked and served meals to the homeless; and

WHEREAS, Richard Cornwell will be fondly remembered and greatly missed by his loving wife of 70 years, Mary; children, Mary, Marla, and Richard, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Richard Edward Cornwell, a law-enforcement officer and a respected member of the Portsmouth community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Richard Edward Cornwell as an expression of the House of Delegates' respect for his memory.

**HOUSE RESOLUTION NO. 423**

*Celebrating the life of Milton R. Liverman.*

Agreed to by the House of Delegates, February 20, 2017

WHEREAS, Milton R. Liverman, a respected educator and school administrator and a man of deep and abiding faith who dedicated his life to the service of others, died on February 2, 2017; and

WHEREAS, Milton Liverman graduated from Elizabeth City State University, Old Dominion University, and Virginia Polytechnic Institute and State University; he pursued a 37-year career in education, beginning as a math teacher with Suffolk Public Schools; and

WHEREAS, for the last 10 years of his career, Milton Liverman served as superintendent of Suffolk Public Schools; he oversaw the creation of four new schools, and under his leadership, the school district adopted several technological innovations; and

WHEREAS, Milton Liverman was respected for his honesty, fairness, and unwavering commitment to the students, faculty, and staff of Suffolk Public Schools; and

WHEREAS, guided by his deep faith, Milton Liverman enjoyed fellowship and worship with the congregation of East End Baptist Church, where he served as a licensed minister, an ordained pastor, and a Sunday school teacher; and

WHEREAS, Milton Liverman will be fondly remembered and greatly missed by his loving wife of 24 years, Shirley; his son, Brian; his mother, Louise; 10 siblings; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Milton R. Liverman, a dedicated educator and the highly respected former superintendent of Suffolk Public Schools; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Milton R. Liverman as an expression of the House of Delegates' respect for his memory.

**HOUSE RESOLUTION NO. 424**

*Celebrating the life of Juan Dip.*

Agreed to by the House of Delegates, February 20, 2017

WHEREAS, Juan Dip, a respected resident of Henrico County who made lasting contributions to the Richmond community, died on August 27, 2016; and

WHEREAS, a native of Zacatecas, Mexico, Juan Dip came to the United States in 1958 to better provide for his young family and worked as a mechanic in Richmond; and

WHEREAS, Juan Dip's family joined him in Richmond in 1960, and they made their home in the city for many years until relocating to Henrico County in 1987; and

WHEREAS, Juan Dip shared his love of cooking with the community as a restaurateur in downtown Richmond in the 1980s; later in life, he worked for Moore Cadillac Richmond, but continued to share his passion for good food as a cook at the annual Lebanese Food Festival; and

WHEREAS, a man of deep and abiding faith, Juan Dip enjoyed fellowship and worship with the congregation of St. Anthony's Maronite Catholic Church; and

WHEREAS, predeceased by three sons, John, George, and Michael, Juan Dip will be fondly remembered and greatly missed by his devoted wife of 61 years, Margarita; children, Ricardo, David, Manuel, Linda, and Susana, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Juan Dip, a patriotic member of the Henrico community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Juan Dip as an expression of the House of Delegates' respect for his memory.

### HOUSE RESOLUTION NO. 425

*Celebrating the life of William C. Boinest.*

Agreed to by the House of Delegates, February 20, 2017

WHEREAS, William C. Boinest, a patriotic veteran of the United States Coast Guard, respected businessman, and dedicated philanthropist who touched countless lives in Richmond, died on June 23, 2016; and

WHEREAS, a native of Richmond, William Boinest attended Richmond Public Schools and graduated from Hampden-Sydney College; he served his country as a member of the United States Coast Guard, stationed on the remote Aleutian Islands in Alaska, and retired as a lieutenant commander in the United States Coast Guard Reserve in 1973; and

WHEREAS, after his active-duty military service, William Boinest joined F. W. Craigie & Co., a small municipal investment firm as a trainee in 1958; he helped the company grow and rose to become president in 1972 and chair and chief executive officer in 1979; and

WHEREAS, highly respected in his field, William Boinest was a member of the Philadelphia Stock Exchange and the Pacific Stock Exchange and he was a former chair of the District Business Conduct Committee of the National Association of Securities Dealers; and

WHEREAS, a compassionate and generous philanthropist, William Boinest provided his leadership and support to the United Way and Bon Secours Richmond Health System, and after his well-earned retirement from F. W. Craigie & Co., in 1997, he dedicated himself fully to volunteering and community service; and

WHEREAS, William Boinest worked hard to enhance the quality of life of all Richmond residents through his membership in a wide array of civic and service organizations; he was named the 2001 Philanthropist of the Year by the Central Virginia Chapter of the Association of Fundraising Professionals, which also presented him with its lifetime achievement award in 2010; and

WHEREAS, William Boinest lived his faith through his actions and enjoyed fellowship and worship with the community as a lifetime member of First English Evangelical Lutheran Church, where he was a former member of the church council and had educated young people for more than 25 years; and

WHEREAS, William Boinest will be fondly remembered and greatly missed by his beloved wife of 60 years, Jane; children, Pemberton, Page, and William, Jr., and their families; and numerous other family members, friends, and colleagues; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of William C. Boinest, a veteran, businessman, philanthropist, and an admired member of the Richmond community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of William C. Boinest as an expression of the House of Delegates' respect for his memory.

### HOUSE RESOLUTION NO. 426

*Celebrating the life of Anne Ferrell Bordelon.*

Agreed to by the House of Delegates, February 20, 2017

WHEREAS, Anne Ferrell Bordelon, a loyal state employee who made many lasting contributions to the residents of Richmond, died on November 25, 2016; and

WHEREAS, born in Petersburg, Anne Bordelon grew up in Norfolk and in Mecklenburg County, where she graduated from LaCrosse High School as salutatorian; she continued her education at the University of Virginia, John Tyler Community College, and Smithdeal Massey Business College; and

WHEREAS, Anne Bordelon worked for the Federal Bureau of Investigation and served the Commonwealth for more than 40 years with the Division of Purchases and Supply of the Department of General Services, including as a certified professional public buyer for the Virginia Museum of Fine Arts; and

WHEREAS, Anne Bordelon also worked to enhance the community as a volunteer at the Science Museum of Virginia and the Barksdale Theatre; she was a past president of the Warrenton Woman's Club and a member of the James River Republican Women's Club, S.A.L.T., and the Virginia Governmental Employees Association; and

WHEREAS, Anne Bordelon enjoyed fellowship and worship with the congregation of Good Shepherd United Methodist Church, where she taught Sunday school classes and was active in a seniors ministry; and

WHEREAS, Anne Bordelon cared deeply for her family, and she worked hard to organize reunions and always remembered birthdays and special occasions; she will be fondly remembered and greatly missed by her daughter, Marsha, and her family, and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Anne Ferrell Bordelon, a hardworking state employee and a vibrant member of the Richmond community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Anne Ferrell Bordelon as an expression of the House of Delegates' respect for her memory.

#### HOUSE RESOLUTION NO. 427

*Celebrating the life of Anne Davis Kellum.*

Agreed to by the House of Delegates, February 21, 2017

WHEREAS, Anne Davis Kellum, a healthcare professional who made many lasting contributions to the Richmond community, died on November 14, 2016; and

WHEREAS, a native of Newport News, Anne Kellum graduated from York High School and Virginia Commonwealth University; she began her career in medicine as a part-time emergency medical technician in college; and

WHEREAS, Anne Kellum continued to care for others in the medical field throughout her life, serving in the Department of Rheumatology, Allergy and Immunology at what was then the Medical College of Virginia; and

WHEREAS, Anne Kellum later joined the Office of the Attorney General as a Medicaid fraud investigator and served in a similar capacity with Magellan Health; and

WHEREAS, Anne Kellum was an active member of The Woman's Club of Richmond and the Daughters of the American Revolution, and she served as the first female stew master of the award-winning Proclamation Brunswick Stew Crew; and

WHEREAS, Anne Kellum will be fondly remembered and greatly missed by her children, Andrew, Randy, and Josephine; her sister, Kelsie; her mother, Jody; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Anne Davis Kellum, a respected healthcare professional in Richmond; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Anne Davis Kellum as an expression of the House of Delegates' respect for her memory.

#### HOUSE RESOLUTION NO. 428

*Commending the Mills E. Godwin High School girls' soccer team.*

Agreed to by the House of Delegates, February 20, 2017

WHEREAS, the Mills E. Godwin High School girls' soccer team of Richmond won the 2016 Virginia High School League Group 5A state soccer championship on June 11, 2016; and

WHEREAS, the Mills Godwin High School Eagles defeated the Tuscarora High School Huskies of Leesburg by a score of 5-4 in an emotion-filled, double overtime game to bring home the first girls' soccer state championship in school history; and

WHEREAS, the Mills Godwin Eagles' offensive effort was led by sophomore Paige Franks, who recorded a hat trick, with the first two goals coming on penalty kicks and the third goal being the game-winning shot past the goalie; and

WHEREAS, the Mills Godwin Eagles squad played with tenacity all season and were determined to improve upon their semifinal appearance in the 2015 state tournament; and

WHEREAS, the Mills Godwin Eagles fought hard and supported one another throughout the season; the championship victory capped an emotional year for the team as head coach Ali Toole's father, Stuart, died before the beginning of the season; and

WHEREAS, Mills Godwin High School senior forward Taylor Guy and head coach Ali Toole were named Virginia High School League (VHSL) Group 5A Player of the Year and Coach of the Year, respectively, after leading the Eagles to the state title; and

WHEREAS, Mills Godwin High School players Taylor Guy, Paige Franks, Claire Franks, and Lyndsey Gutzmer earned VHSL Group 5A All-State Girls Soccer Team First Team honors; and

WHEREAS, the triumphant performance of the 2016 Mills Godwin Eagles girls' soccer team is a tribute to the talent, commitment, and perseverance of the players, the leadership of the coaches, and the support of the parents, students, and faculty of Mills Godwin High School; now, therefore, be it

RESOLVED by the House of Delegates, That the Mills E. Godwin High School girls' soccer team hereby be commended on winning the Virginia High School League Group 5A state soccer championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Ali Toole, head coach of the Mills E. Godwin High School girls' soccer team, as an expression of the House of Delegates' admiration for the team's outstanding 2016 season and championship performance.

**HOUSE RESOLUTION NO. 429**

*Commending the Third District of the Omega Psi Phi Fraternity, Inc.*

Agreed to by the House of Delegates, February 20, 2017

WHEREAS, the Third District of the Omega Psi Phi Fraternity, Inc., is composed of approximately 2,000 members in 42 chapters throughout Washington, D.C., and the Commonwealth; and

WHEREAS, Omega Psi Phi Fraternity, founded at Howard University in Washington, D.C., in 1911, has over 750 chapters throughout the world and its honorable members serve as leaders in a wide variety of fields; and

WHEREAS, the Third District of the Omega Psi Phi Fraternity has a rich history, as it is home to the fraternity's birth chapter, Alpha Chapter at Howard University, as well as Lambda Omega Chapter in Norfolk, one of the oldest graduate chapters in the fraternity; and

WHEREAS, members of the Third District of the Omega Psi Phi Fraternity include high-ranking military personnel, government officials, community leaders, judges, attorneys, influential pastors, successful entrepreneurs, and accomplished athletes; and

WHEREAS, the chapters of the Third District of the Omega Psi Phi Fraternity strive to achieve the greatest possible positive impact in their communities, including through awarding tens of thousands of dollars in scholarships annually; and

WHEREAS, Third District of the Omega Psi Phi Fraternity chapters seek to provide mentoring and guidance to young men through programs such as the Youth Academy and Fatherhood Initiative; and

WHEREAS, the Third District of the Omega Psi Phi Fraternity helps to aggressively combat societal ills through the Stop the Violence initiative and mentoring programs that serve homeless men; and

WHEREAS, the distinguished members of the Third District of the Omega Psi Phi Fraternity put service above self and are committed to providing inspiration and guidance to youth, exceptional community assistance, and professional leadership to the Commonwealth; now, therefore, be it

RESOLVED by the House of Delegates, That the Third District of the Omega Psi Phi Fraternity, Inc., hereby be commended on striving to achieve the greatest possible positive impact in the communities where its chapters reside; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Ezekiel Dennison, Jr., district representative for the Third District of the Omega Psi Phi Fraternity, Inc., as an expression of the House of Delegates' admiration for the organization's service, brotherhood, and proud tradition of serving the community.

**HOUSE RESOLUTION NO. 430**

*Commending The New Chesapeake Men for Progress Educational Foundation, Inc.*

Agreed to by the House of Delegates, February 20, 2017

WHEREAS, The New Chesapeake Men for Progress Educational Foundation, Inc., is a charity that provides scholarships, school supplies, and mentoring to minority youth in the City of Chesapeake; and

WHEREAS, The New Chesapeake Men for Progress Educational Foundation was founded in 2010 as the philanthropy arm of The New Chesapeake Men for Progress; and

WHEREAS, The New Chesapeake Men for Progress Educational Foundation's vision is to improve the social, educational, and economic prospects of youth and adults in Hampton Roads, especially those in the African American community; and

WHEREAS, The New Chesapeake Men for Progress Educational Foundation has awarded more than \$30,000 in scholarships and grants since its inception, helping many deserving and qualified minority students defray the costs of higher education; and

WHEREAS, The New Chesapeake Men for Progress Educational Foundation sponsors the Black Male Achievement and Scholarship Awards Breakfast and the Sponsors Recognition Reception, two annual programs that help to fund the nonprofit; and

WHEREAS, The New Chesapeake Men for Progress Educational Foundation is a caring, empathetic, and respectful organization that takes pride in embracing the values of leadership, integrity, excellence, and impact; and

WHEREAS, The New Chesapeake Men for Progress Educational Foundation is governed by a 10-member board of directors, which approves all scholarships and grants, and oversees the overall distribution of funds; and

WHEREAS, The New Chesapeake Men for Progress Educational Foundation strongly believes that youth are an important foundation of any society and that improving the lives of children ultimately enhances the community, the Commonwealth, and the nation; now, therefore, be it

RESOLVED by the House of Delegates, That The New Chesapeake Men for Progress Educational Foundation, Inc., hereby be commended on their laudable efforts to provide scholarships, school supplies, and mentoring to minority youth in the City of Chesapeake; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Dr. William E. Ward, president of The New Chesapeake Men for Progress Educational Foundation, Inc., as an expression of the House of Delegates' admiration for the organization's dedication to bettering the lives of the Commonwealth's youth and building better citizens of tomorrow.

### HOUSE RESOLUTION NO. 431

*Encouraging public institutions of higher education in the Commonwealth to protect free speech.*

Agreed to by the House of Delegates, February 22, 2017

WHEREAS, Article I, Section 12 of the Constitution of Virginia states that "the freedoms of speech and of the press are among the great bulwarks of liberty, and can never be restrained except by despotic governments . . . [and] any citizen may freely speak, write, and publish his sentiments on all subjects, being responsible for the abuse of that right . . ."; and

WHEREAS, public institutions of higher education in the Commonwealth have historically embraced a commitment to freedom of speech in institutional policy and should be citadels of free speech and inquiry; and

WHEREAS, public institutions of higher education in the Commonwealth are subject to the provisions of the Constitution of Virginia and the First Amendment to the United States Constitution and the authority of the General Assembly; and

WHEREAS, the House of Delegates views freedom of speech as being of such paramount importance that each public institution of higher education in the Commonwealth should ensure free, robust, and uninhibited debate and deliberation by enrolled students, whether on or off campus; and

WHEREAS, the House of Delegates has determined that it is a matter of statewide concern that each public institution of higher education officially recognize freedom of speech as a fundamental right; now, therefore, be it

RESOLVED by the House of Delegates, That the public institutions of higher education in the Commonwealth be encouraged to protect free speech; and, be it

RESOLVED FURTHER, That the House of Delegates hereby communicate the urgent need for the governing board of each public institution of higher education in the Commonwealth to develop and adopt a policy on free speech that specifies, at a minimum, that:

1. The primary function of a public institution of higher education is the discovery, improvement, transmission, and dissemination of knowledge by means of research, teaching, discussion, and debate; and

2. It is not proper for a public institution of higher education to shield individuals from speech that is protected by the First Amendment, including ideas and opinions that such individuals find unwelcome, disagreeable, or deeply offensive; and, be it

RESOLVED FINALLY, That the Clerk of the House of Delegates transmit a copy of this resolution to the chief executive officer of each public institution of higher education in the Commonwealth, requesting that each such chief executive officer further disseminate copies of this resolution to the governing boards of their respective institutions so that they may be apprised of the sense of the Virginia House of Delegates in this matter.

### HOUSE RESOLUTION NO. 432

*Celebrating the life of Virginia Drew Randolph.*

Agreed to by the House of Delegates, February 21, 2017

WHEREAS, Virginia Drew Randolph, who broke barriers to serve and protect her fellow community members as the first African American law-enforcement officer in Norfolk, died on August 10, 2016, at the age of 103; and

WHEREAS, a native of Ivor, Virginia Randolph was one of 40 women who applied for two openings for female African American officers at the Norfolk Police Department in 1953; the applicants were some of the most highly educated women in Norfolk at the time, and only 18 were interviewed for the position; and

WHEREAS, Virginia Randolph and Margaret Barfield were selected for the position; as the first to be sworn in, Virginia Randolph has the distinction of being the first African American policewoman in Norfolk; and

WHEREAS, assigned to the Norfolk Police Department's Youth Bureau, Virginia Randolph walked the beat along Church Street in the city's black business district; she treated everyone she met with courtesy and respect, and she strove to be a role model for the young people she encountered in the course of her duties; and

WHEREAS, in the early 1950s, a notorious criminal, who had just assaulted her husband and two male police officers, surrendered peacefully to Virginia Randolph, saying she was proud that an African American woman could become a law-enforcement officer; and

WHEREAS, Virginia Randolph later worked as a switchboard operator for Norfolk Community Hospital and in the receiving department of Norfolk State College, but she maintained close ties with the Norfolk Police Department throughout her life and remained an inspiration to other aspiring law-enforcement officers, including her son, who became an officer in 1968; and

WHEREAS, guided by her faith, Virginia Randolph enjoyed fellowship and worship with the community as a 97-year member of Second Calvary Baptist Church, where she served as a deaconess and church clerk; and

WHEREAS, predeceased by her husband, James, Virginia Randolph will be fondly remembered and greatly missed by her children, Adam and Gerlean, and their families, and numerous other family members, friends, and fellow law-enforcement officers; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Virginia Drew Randolph, a pioneer for women in law enforcement who made countless contributions to the Norfolk community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Virginia Drew Randolph as an expression of the House of Delegates' respect for her memory.

**HOUSE RESOLUTION NO. 433**

*Celebrating the life of Charles Milton McKinney III.*

Agreed to by the House of Delegates, February 21, 2017

WHEREAS, Charles Milton McKinney III, a dedicated veteran and civil servant and a respected member of the Herndon community, died on September 6, 2016; and

WHEREAS, a native of Texas, Charles McKinney attended Texas A&M University and Tarleton State University before enlisting in the United States Marine Corps in 1961; and

WHEREAS, Charles McKinney helped prepare Marines for combat as a guerrilla warfare tactics instructor, then was chosen to attend Marine Corps Embassy Security Group school in Arlington in 1964; and

WHEREAS, after safeguarding American diplomats at embassies in Ankara and Algiers for two years, Charles McKinney returned home and completed his bachelor's and master's degrees in archaeology at American University; and

WHEREAS, Charles McKinney continued his service to the United States as an employee of the Smithsonian Institution, the United States National Park Service, and the Bureau of Land Management, where he helped preserve the history, heritage, and natural resources of the nation until his retirement from civil service in 1996; and

WHEREAS, working to enhance the community in many other ways, Charles McKinney was a member of the American Red Cross, Loudoun Water Board of Directors, and American Legion Post 2001 in Ashburn, where he supported his fellow veterans; and

WHEREAS, Charles McKinney will be fondly remembered and greatly missed by his wife of 50 years, Eileen; daughters, Rachel and Allison, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Charles Milton McKinney III, a veteran and civil servant; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Charles Milton McKinney III as an expression of the House of Delegates' respect for his memory.

**HOUSE RESOLUTION NO. 434**

*Commending Eva Elizabeth Coates Guthrie.*

Agreed to by the House of Delegates, February 21, 2017

WHEREAS, Eva Elizabeth Coates Guthrie, a beloved member of the Shackelfords community, celebrates her 100th birthday in 2017; and

WHEREAS, born on March 6, 1917, Eva Coates was one of eight children born to Lum and Ruth Coates; she learned the value of hard work and responsibility at a young age by working on her family's farm; and

WHEREAS, Eva Coates married James Guthrie on December 13, 1938, and together they had four children and raised three; and

WHEREAS, Eva Coates Guthrie brings joy to her family, friends, and neighbors through her delicious cooking, especially her sought-after coconut cakes, and her handmade quilts and afghans; and

WHEREAS, an avid outdoorswoman, Eva Coates Guthrie still enjoys hunting and riding her four-wheeler, or simply relaxing and enjoying the beauty of the natural world; and

WHEREAS, Eva Coates Guthrie has been a witness to the seminal events of the 20th and 21st centuries, including the Great Depression, two world wars, and the rise of modern conveniences and technology; now, therefore, be it

RESOLVED by the House of Delegates, That Eva Elizabeth Coates Guthrie hereby be commended on the occasion of her 100th birthday in 2017; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Eva Elizabeth Coates Guthrie as an expression of the House of Delegates' admiration for her contributions to the community and best wishes.

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## ACTS OF ASSEMBLY

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## HOUSE RESOLUTION NO. 435

*Commending Marshall Price.*

Agreed to by the House of Delegates, February 22, 2017

WHEREAS, Marshall Price, who oversaw a major expansion of the student body and curriculum offerings of Massanutten Technical Center during his 16-year tenure as director, retired from the school in 2016; and

WHEREAS, Marshall Price received his bachelor's and master's degrees from James Madison University in Harrisonburg; and

WHEREAS, since Marshall Price joined Massanutten Technical Center, the school's enrollment quadrupled from 250 to 1,000, and the number of programs offered increased from 15 to 20, with 17 offering college credit for high school students; and

WHEREAS, Massanutten Technical Center serves students from Harrisonburg City and Rockingham County Public Schools, as well as adult students, offering courses for aspiring practical nurses, architects, dental assistants, carpenters, masons, and electricians, among other careers; and

WHEREAS, because of Marshall Price's leadership, vocational students can now earn industrial certification and college credits through dual-enrollment partnerships with area colleges and universities; and

WHEREAS, Marshall Price challenged old ideas in creating an unparalleled learning experience at Massanutten Technical Center, and he has worked to change the perception of vocational education, which is supplying a critical pipeline in the Shenandoah Valley economy; and

WHEREAS, Marshall Price's dedication to vocational education, coupled with his desire to see the students of Harrisonburg and Rockingham County succeed, has greatly improved the job prospects for hundreds of tradesmen and tradeswomen who have graduated from Massanutten Technical Center during his tenure; now, therefore, be it

RESOLVED by the House of Delegates, That Marshall Price hereby be commended on 16 years of exceptional service and dedication to Massanutten Technical Center; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Marshall Price as an expression of the House of Delegates' admiration for his work to expand and improve vocational education in the Shenandoah Valley.

## HOUSE RESOLUTION NO. 436

*Celebrating the life of Abram H. Clymer.*

Agreed to by the House of Delegates, February 22, 2017

WHEREAS, Abram H. Clymer, a respected entrepreneur who owned numerous businesses in the Harrisonburg area and who inspired others through his deep and abiding faith, died on September 1, 2016; and

WHEREAS, a native of Lancaster County, Pennsylvania, Abram "Abe" H. Clymer earned a bachelor's degree from Virginia Commonwealth University and lived in Maryland, Pennsylvania, Illinois, and California, before returning to Virginia to settle in Harrisonburg; and

WHEREAS, Abe Clymer opened the Harrisonburg Centerpoint Bookstore, which specialized in Christian literature, and expanded the business to six locations, four of which were purchased by Family Christian Stores in 1999; and

WHEREAS, throughout his long career in business, Abe Clymer also owned or co-owned Preston Cleaners, Chasen's Deli and Bakery, and a DQ Grill & Chill; he was well-known for handing out business cards that featured a coupon for a free Dairy Queen Blizzard on the back; and

WHEREAS, at the age of 63, Abe Clymer became the development director of Wingfield Ministries, an evangelical organization that stages festivals in Ohio, Pennsylvania, Florida, Tennessee, and Virginia; and

WHEREAS, as a longtime member of the Rotary Club of Harrisonburg, Abe Clymer completed mission trips to China, Russia, Romania, South Africa, Colombia, Pakistan, and India; he also served as district governor for Rotary International District 7570, which covers western Virginia and northeastern Tennessee; and

WHEREAS, Abe Clymer will be fondly remembered and greatly missed by his wife, Shirley; children, Angela and Eric, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Abram H. Clymer, an admired entrepreneur, a man of deep faith, and a pillar of the Harrisonburg community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Abram H. Clymer as an expression of the House of Delegates' respect for his memory.

**HOUSE RESOLUTION NO. 437**

*Commending Leadership Prince William.*

Agreed to by the House of Delegates, February 22, 2017

WHEREAS, Leadership Prince William is celebrating its 10th anniversary inspiring and engaging adult and youth leaders who want to make a difference in Prince William County and the surrounding area; and

WHEREAS, a nonprofit organization, Leadership Prince William has as its mission to encourage and energize individuals, organizations, and alumni to improve their community through collaborative leadership; and

WHEREAS, through its signature 10-month program, Leadership Prince William participants enhance their personal and professional leadership skills, learn about local issues and opportunities, and connect with other community leaders; and

WHEREAS, Leadership Prince William provides information, hands-on learning, and networking activities for participants, and each class undertakes a yearlong project to enrich the local community; and

WHEREAS, the Leadership Prince William Class of 2014 developed the organization's youth leadership programs, and the Class of 2015 developed an initiative to increase philanthropy and volunteerism in the Greater Prince William area; and

WHEREAS, graduates of Leadership Prince William have gone on to excel in leadership roles in business, government, the nonprofit sector, and community affairs, serving Prince William County, the City of Manassas, and the City of Manassas Park; and

WHEREAS, Leadership Prince William's youth leadership programs, provided through partnerships with community organizations, are designed to nurture the next generation of leaders by providing mentoring, skill development, education, and engagement; and

WHEREAS, there are more than 290 Leadership Prince William alumni who are key decision makers representing all areas of the Prince William community, and participants continue to reap the benefits of the program long after their term is complete; now, therefore, be it

RESOLVED by the House of Delegates, That Leadership Prince William hereby be commended on the occasion of its 10th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Leadership Prince William as an expression of the House of Delegates' admiration for the organization's efforts to inspire and develop the Commonwealth's current leaders and to shape the next generation of its citizens.

**HOUSE RESOLUTION NO. 438**

*Commending the George Mason University Science and Technology Campus.*

Agreed to by the House of Delegates, February 22, 2017

WHEREAS, the George Mason University Science and Technology Campus in Manassas is celebrating its 20th anniversary in 2017; and

WHEREAS, established in 1997 as the George Mason University (GMU) Prince William Campus, the campus was rebranded in 2015 as the GMU Science and Technology Campus to emphasize its cutting-edge work in science, math, and technology; and

WHEREAS, the GMU Science and Technology Campus is located at the heart of Innovation Park, a 16,000-acre, public-private cooperative effort to attract research firms, bio-manufacturing businesses, data centers, and other corporate offices to the center; and

WHEREAS, the 134-acre GMU Science and Technology Campus, often referred to as SciTech, serves more than 4,000 students and features innovative facilities specially designed for classrooms, libraries, laboratories, recreation, and the arts; and

WHEREAS, the GMU Science and Technology Campus is home to the 110,000-square-foot Freedom Aquatic and Fitness Center and the Hylton Performing Arts Center, and houses the substantial personal collection of sculptures and artwork by local artists Harold Vogel and Hilde Vogel-Michalik; and

WHEREAS, among the research and academic programs offered at the GMU Science and Technology Campus are information technology, health and fitness, nursing, teacher education, recreation, sports management, tourism and events management, and athletic training; and

WHEREAS, the GMU Science and Technology Campus prizes innovation and features a state-of-the-art Biomedical Research Laboratory and the Institute for Advanced Biomedical Research, a multidisciplinary facility that seeks to address some of the toughest medical questions facing society; and

WHEREAS, the GMU Science and Technology Campus hosts the Governor's School @ Innovation Park, a collaborative Science, Technology, Engineering, and Math initiative of the public school systems of City of Manassas, City of Manassas Park, and Prince William County, in partnership with GMU; and

WHEREAS, in 2016, one of the main halls at the GMU Science and Technology Campus was renamed in honor of the late state Senator Charles J. Colgan, who died in 2017 and who was instrumental in securing initial funding for the campus, and the university also erected a bronze statue of the Commonwealth's longest-serving state senator on campus; and

WHEREAS, for two decades the GMU Science and Technology Campus has provided innovative and convenient access to career and technical education for the citizens of Prince William, Fauquier, and western Fairfax Counties and the Cities of Manassas and Manassas Park; now, therefore, be it

RESOLVED by the House of Delegates, That the George Mason University Science and Technology Campus hereby be commended on the occasion of its 20th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Dr. Ángel Cabrera, president of George Mason University, as an expression of the House of Delegates' admiration for the commitment to excellence and innovation in higher education at the George Mason University Science and Technology Campus.

#### HOUSE RESOLUTION NO. 439

*Celebrating the life of Robert W. Lawrence.*

Agreed to by the House of Delegates, February 22, 2017

WHEREAS, Robert W. Lawrence, a prominent criminal defense attorney and substitute judge who was well-known by police officers, court clerks, bailiffs, judges, and fellow members of the local bar in Newport News, died on August 23, 2016; and

WHEREAS, Robert "Bob" W. Lawrence was a lifelong peninsula resident; he grew up in Hampton and worked in the Newport News City Attorney's Office before entering private practice; and

WHEREAS, Bob Lawrence founded The Law Firm of Robert W. Lawrence, Esq., in Newport News, which he operated without a law partner or legal assistant, and over the years he was involved in some of the region's biggest trials, including several death penalty cases; and

WHEREAS, known for being thorough and tenacious in the courtroom, Bob Lawrence was skilled in delivering powerful closing arguments that convinced jurors of his personal belief in his client's innocence; and

WHEREAS, Bob Lawrence worked with the Newport News Police Benevolent Association and represented police officers in grievances and criminal cases, often working to get their jobs back after they had been pushed out or demoted; and

WHEREAS, Bob Lawrence was appointed a substitute judge in Newport News General District Court in 2006 and served as president of the Newport News Bar Association between 2010 and 2012; and

WHEREAS, outside of the courtroom, Bob Lawrence was a licensed pilot and enjoyed flying a Cessna 172 Skyhawk on weekend excursions to Jamestown and the Outer Banks of North Carolina; and

WHEREAS, predeceased by his wife, Sigrid, and a son, Justin, Bob Lawrence will be fondly remembered and greatly missed by his children, Jaclyn and Jason, and many other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Robert W. Lawrence, a prominent criminal defense attorney and substitute judge in Newport News; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Robert W. Lawrence as an expression of the House of Delegates' respect for his memory.

#### HOUSE RESOLUTION NO. 440

*Commending Everett Frank Dunton.*

Agreed to by the House of Delegates, February 22, 2017

WHEREAS, Everett Frank Dunton is celebrating 40 years of service to the Virginia Farm Bureau in May 2017, and he has made considerable contributions to the Commonwealth in the field of fire scene investigation over the past four decades; and

WHEREAS, Frank Dunton is a graduate of Chowan University, and he studied leadership management at the University of Richmond's Robins School of Business; and

WHEREAS, Frank Dunton began his illustrious career with the Virginia Farm Bureau in 1977, as a claims adjuster/investigator, and he became the company's first fire specialist/investigator in 1980; and

WHEREAS, in May 1994, Frank Dunton was promoted to supervisor of the Investigations Unit, and, in May 2005, he became manager of the Special Investigations Unit, where he was responsible for investigations for all 16 corporations within the Virginia Farm Bureau; and

WHEREAS, Frank Dunton was promoted to director of what is now known as the Investigations Department at the Virginia Farm Bureau in January 2006, and four years later he was named to his current position of vice president of the Investigations Department; and

WHEREAS, Frank Dunton is certified in fire, forensic, and fraud investigations, and he is an instructor for the Virginia Forensic Science Academy, Naval Criminal Investigative Service, Virginia State Police, and local law enforcement and fire departments; and

WHEREAS, Frank Dunton serves on the Virginia State Police Insurance Fraud Advisory Board, Chesterfield County Fire and Building Code Appeals board, and he was a charter member of Chesterfield County/Colonial Heights Crime Solvers; and

WHEREAS, in 1992, Frank Dunton was involved in the founding of the Virginia Chapter of the International Association of Special Investigation Units, of which he is a past president, and, in 2012, he was recognized for his longtime service and outstanding contributions with a lifetime membership in the organization; and

WHEREAS, Frank Dunton's efforts throughout his outstanding career have greatly increased the competency of fire scene investigation in the Commonwealth, which benefits public safety; now, therefore, be it

RESOLVED by the House of Delegates, That Everett Frank Dunton be commended on his distinguished 40-year career at the Virginia Farm Bureau; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Everett Frank Dunton as an expression of the House of Delegates' admiration for his life's work and efforts to improve fire scene investigation in the Commonwealth.

### HOUSE RESOLUTION NO. 441

*Commending Ridgeview High School girls' basketball team.*

Agreed to by the House of Delegates, February 22, 2017

WHEREAS, the Ridgeview High School girls' basketball team of Clintwood capped an outstanding inaugural season by winning the Virginia High School League Group 2A state basketball championship in March 2016; and

WHEREAS, the Ridgeview High School Wolfpack defeated the Union High School Bears of Big Stone Gap 51-48 in a nail biter of a game that was the sixth meeting of the two teams for the season; and

WHEREAS, the Union Bears took a 26-22 lead into halftime, but Ridgeview Wolfpack freshman Bailey Frazier gave her team life in the third quarter, when she scored eight of her 13 points for the game; and

WHEREAS, sophomore Nyla Gulley's free throw with 40 seconds left in the game gave the Ridgeview Wolfpack the lead for good, and senior Kayla Mullins hit four free throws in the final 30 seconds to secure the victory; and

WHEREAS, Kayla Mullins led the Ridgeview Wolfpack offense, scoring 19 points and recording the 2,000th point of her career on the last free throw of the game; and

WHEREAS, senior point guard Ivvy Gulley contributed nine points, four assists, and two steals in the championship game, helping to lead the Ridgeview Wolfpack to the state title in its first year in existence; and

WHEREAS, at the end of the 2014-2015 school year Clintwood High School merged with neighboring Haysi High School to form Ridgeview High School, and the newly combined girls' basketball team carried the momentum from Clintwood's 2015 Virginia High School League (VHSL) Group 1A state basketball championship into the 2016 season; and

WHEREAS, the Ridgeview Wolfpack won the Clinch Mountain Conference regular-season title in 2016, and bested the Union Bears in all six of their matchups; and

WHEREAS, all members of the Ridgeview Wolfpack girls' basketball team worked hard throughout the season, showed leadership on and off the court, and contributed to the championship victory, and the players were ably coached by Donnie Frazier and his staff; and

WHEREAS, after leading Ridgeview High School to the championship title, Kayla Mullins, the all-time scoring leader in Dickenson County, was named VHSL Group 2A Player of the Year and Donnie Frazier was named VHSL Group 2A Coach of the Year; and

WHEREAS, the Ridgeview High School girls' basketball team was greatly supported by their families, friends, fellow students, and the entire school community, especially the devoted fans who packed the 2,350-seat capacity gym for big games; now, therefore, be it

RESOLVED by the House of Delegates, That the Ridgeview High School girls' basketball team hereby be commended on winning the 2016 Virginia High School League Group 2A state basketball championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Donnie Frazier, head coach of the Ridgeview High School girls' basketball team, as an expression of the House of Delegates' admiration for the team's outstanding performance and superb accomplishments.

**HOUSE RESOLUTION NO. 442***Commending Edward McCann, Sr.*

Agreed to by the House of Delegates, February 22, 2017

WHEREAS, Edward McCann, Sr., a dedicated educator at Nelson County High School who led several Nelson County Future Farmers of America teams to success in state and national competitions, retired on January 1, 2017, after nearly four decades of service; and

WHEREAS, Edward "Ed" McCann, Sr., holds bachelor's degrees in animal science and agricultural education and a master's degree in vocational education from Virginia Polytechnic Institute and State University; he joined the faculty of Nelson County High School as an agriculture teacher in 1979; and

WHEREAS, Ed McCann played an integral role in writing curricula for forestry education courses and worked with local and state officials to involve students in reforestation projects; he also sponsored a forest firefighting team at Nelson County High School for 20 years; and

WHEREAS, Ed McCann also served as the advisor for the Nelson County Future Farmers of America (FFA) chapter, and his FFA teams achieved success at local, state, and national levels in career development events and competitions; and

WHEREAS, under Ed McCann's leadership, Nelson County FFA forestry, farm business management, meat evaluation and technology, small engines troubleshooting, parliamentary procedure, avian quiz bowl, creed speaking, agronomy, job interview, computers in agriculture, prepared public speaking, and tractor operating teams recorded many individual and team triumphs; and

WHEREAS, Ed McCann helped prepare students for success beyond Nelson County High School by initiating a dual-enrollment program; he built strong, personal relationships with his students, and he inspired many students to themselves become leaders in the FFA or educators; and

WHEREAS, fostering a sense of community spirit among his students, Ed McCann and the local FFA chapter have participated in home repair and enhancement projects and held annual food drives to support the local food pantry; and

WHEREAS, over the course of his career, Ed McCann went above and beyond to provide unique opportunities for his students; he put in extra hours to tend to animals raised by students or help make apple butter for the FFA team's fundraisers; and

WHEREAS, in 2009, Ed McCann earned national recognition for his leadership in and out of the classroom when he received the prestigious Honorary American FFA Degree; now, therefore, be it

RESOLVED by the House of Delegates, That Edward McCann, Sr., hereby be commended on the occasion of his retirement from Nelson County High School; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Edward McCann, Sr., as an expression of the House of Delegates' admiration for his immeasurable contributions to the youth of Nelson County and best wishes on a well-earned retirement.

**HOUSE RESOLUTION NO. 443***Commending Burns Brothers Cleaners.*

Agreed to by the House of Delegates, February 22, 2017

WHEREAS, Burns Brother Cleaners provided quality dry cleaning and laundering services to the residents of McLean and the surrounding area for more than 67 years; and

WHEREAS, cofounded by Don and Bob Burns in 1949, Burns Brothers Cleaners was the first dry cleaner in McLean, at a time when Fairfax County was still mostly rural; and

WHEREAS, opening their business on Old Dominion Drive proved to be a visionary decision for the Burns brothers, who watched Fairfax County become one of the fastest-growing counties in the Commonwealth and McLean become a home to diplomats, businessmen, and high-ranking government officials; and

WHEREAS, Burns Brothers Cleaners quickly became known for their attentive care to high-end items and prominent customers from both ends of the political spectrum; in the 1980s, to ensure the same level of exceptional service for its ever-growing clientele, Burns Brothers Cleaners implemented a waiting list, which at one time included more than 3,000 names; and

WHEREAS, Burns Brothers Cleaners was a true family business, with each of Don Burns' six children spending time working in the shop; the Burns family witnessed and adapted to countless changes to fashion and provided the remedies to a host of unique stains and spills over the course of their long history in the cleaning business; and

WHEREAS, a representative of many of the Commonwealth's fine small businesses, Burns Brothers Cleaners remained committed to outstanding personal service up until its closing day on December 31, 2016; now, therefore, be it

RESOLVED by the House of Delegates, That Burns Brothers Cleaners hereby be commended for being a fixture of the McLean community for 67 years; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Burns family as an expression of the General Assembly's admiration for Burns Brothers Cleaners decades of quality service to its customers.

**HOUSE RESOLUTION NO. 444**

*Commending the Riverside High School girls' swim team.*

Agreed to by the House of Delegates, February 23, 2017

WHEREAS, after an undefeated season, the Riverside High School girls' swim team claimed the school's first swim and dive state title, winning the Virginia High School League Group 3A state championship on February 18, 2017; and

WHEREAS, the Riverside High School Rams won the Virginia High School League (VHSL) Group 3A East Regional meet to advance to the state championship in Richmond, where they won with an overall score of 270 points, a 78-point margin over the second-place team; and

WHEREAS, eleven of the 14 swimmers on the Riverside High School swim team advanced to the finals of their events, and the Riverside High School Rams claimed first place in five events; and

WHEREAS, Ashley Bae, Hannah Ye, Claire Nguyen, and Allison Kopac took first in the 200-yard medley relay and the 400-yard freestyle relay; and

WHEREAS, Allison Kopac won the 500-yard freestyle race and set a VHSL Group 3A state meet record in the 100-yard freestyle race; and

WHEREAS, Claire Nguyen won the 200-yard freestyle race and set a VHSL Group 3A state meet record and achieved an Automatic All-America qualifying time; and

WHEREAS, the Riverside Rams' successful season is a tribute to the hard work and skill of all of the student-athletes, the leadership of coaches and staff, and the passionate support of the entire Riverside High School community; now, therefore, be it

RESOLVED by the House of Delegates, That the Riverside High School girls' swim team hereby be commended on winning the Virginia High School League Group 3A state championship in 2017; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Riverside High School girls' swim team as an expression of the House of Delegates' admiration for the team's achievements and best wishes for the future.

**HOUSE RESOLUTION NO. 445**

*Celebrating the life of John Whitman Lawson.*

Agreed to by the House of Delegates, February 23, 2017

WHEREAS, John Whitman Lawson of Newport News, a respected business owner and certified land surveyor in Hampton Roads, died on December 24, 2016; and

WHEREAS, the oldest son of the late Benjamin and Bertha Lawson, John "Jack" Whitman Lawson was born in Newport News and graduated from Newport News High School in 1946; and

WHEREAS, Jack Lawson attended Virginia Polytechnic Institute and State University as a member of the Virginia Tech Corps of Cadets; he met his soul mate and future wife, Helen, while working as a lifeguard at the Newport News City Pool in the summer of 1950; and

WHEREAS, Jack Lawson became a respected business owner in Newport News and for 65 years he was a certified land surveyor in the Hampton Roads area; and

WHEREAS, as a surveyor, Jack Lawson played an instrumental role in laying out the framework for many subdivisions around Newport News during the height of the city's growth; and

WHEREAS, Jack Lawson was a past member of the Oyster Point Cove's Architectural Committee and the Peninsula Chapter of the Virginia Association of Surveyors; and

WHEREAS, Jack Lawson had a vibrant and passionate spirit and a happy and friendly personality; his family, including his three grandchildren and two granddogs, will especially miss his love, compassion, and devotion; and

WHEREAS, preceded in death by his beloved wife of 64 years, Helen, Jack Lawson will be fondly remembered and deeply missed by his children, Cheryl and John, Jr., and their families, and a host of other relatives and good friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of John Whitman Lawson, a respected business owner and certified land surveyor in Hampton Roads; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of John Whitman Lawson as an expression of the House of Delegates' respect for his memory.

**HOUSE RESOLUTION NO. 446**

*Commending Donna L. Snellings.*

Agreed to by the House of Delegates, February 23, 2017

WHEREAS, Donna L. Snellings, formerly of Lake Ridge, has been a distinguished employee of Northern Virginia Electric Cooperative for 28 years, 20 of which she has spent representing the company in public relations; and

WHEREAS, Donna Snellings is public and government relations liaison for Northern Virginia Electric Cooperative (NOVEC), and she has been a positive force in the communities it serves throughout her career; and

WHEREAS, Donna Snellings is responsible for administering NOVEC's Scholarship Program, Youth Tour, which gives students an up-close experience with state and federal government, and Operation Round Up®, a program to provide heating assistance to those who need it; and

WHEREAS, Donna Snellings developed the charter for NOVEC HELPS (Hands Engaged in Local Public Service), a company-supported effort to gather organizational resources and engage employees in projects that target community needs, and she serves as executive director of the nonprofit; and

WHEREAS, under Donna Snellings' leadership, NOVEC HELPS raises money to support worthwhile causes and, in 2016, the organization donated \$39,000 to charities and civic endeavors in the communities served by NOVEC; and

WHEREAS, Donna Snellings is an active leader in civic and community organizations and has served as chair of the Prince William Regional Chamber of Commerce, Prince William Chapter of the American Red Cross, and Prince William Education Foundation; and

WHEREAS, based on her exemplary work in the community, Donna Snellings was honored as a nominee for the 2017 Charles J. Colgan Visionary Award from the Prince William Chamber of Commerce; and

WHEREAS, Donna Snellings is held in high esteem and admired by her colleagues for her work ethic, passion for helping others, determination, and ability to deliver excellent results; now, therefore, be it

RESOLVED by the House of Delegates, That Donna L. Snellings hereby be commended on 28 distinguished years of service to Northern Virginia Electric Cooperative; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Donna L. Snellings, public and government relations liaison for Northern Virginia Electric Cooperative, as an expression of the House of Delegates' admiration for her career and dedication to serving the communities of Northern Virginia.

**HOUSE RESOLUTION NO. 447**

*Commending the Osbourn High School Student Council Association.*

Agreed to by the House of Delegates, February 23, 2017

WHEREAS, the Osbourn High School Student Council Association in Manassas received a National Gold Council of Excellence Award from the National Association of Student Councils in 2016; and

WHEREAS, the Osbourn High School Student Council Association (SCA) received the national recognition based on its exemplary record of leadership and community service activities that serve to improve the school and community; and

WHEREAS, Osbourn High School was one of 14 high schools in Virginia to receive the National Gold Council of Excellence Award from the National Association of Student Councils (NASC) in 2016; and

WHEREAS, to achieve NASC Gold Level standing, student councils must meet all required standards, as well as a minimum number of additional standards, such as leadership training for council members, teacher/staff appreciation activities, student recognition programs, school community service projects, spirit activities, and goal setting; and

WHEREAS, the Osbourn High School SCA also received the Virginia Student Councils Association (VSCA) 90th Achievement Award in 2016, and the school has achieved that honor the past three years; and

WHEREAS, the members of the Osbourn High School SCA worked hard to prepare and complete all of the programming required for the state and national awards and they received excellent guidance from their sponsors, Robin Albrecht and Sarah Weaver; now, therefore, be it

RESOLVED by the House of Delegates, That the Osbourn High School Student Council Association in Manassas hereby be commended on winning a 2016 National Gold Council of Excellence Award from the National Association of Student Councils; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Robin Albrecht and Sarah Weaver, co-advisors of the Osbourn High School Student Council Association, as an expression of the House of Delegates' admiration for the leadership and dedication to excellence demonstrated by the student council.

**HOUSE RESOLUTION NO. 448**

*Commending Robin R. Perkins.*

Agreed to by the House of Delegates, February 23, 2017

WHEREAS, Robin R. Perkins retired as treasurer of the City of Manassas in 2016, after a stellar 35-year career working in the office and serving the citizens of Manassas; and

WHEREAS, a lifelong resident of Manassas, Robin Perkins graduated from Osbourn High School in 1974, and she began her tenure in the Manassas City Treasurer's Office as a volunteer a few days a week; and

WHEREAS, Robin Perkins was hired to a full-time position in the Manassas City Treasurer's Office in the early 1980s, was promoted to deputy treasurer in 1990, and was elected treasurer in 1997; and

WHEREAS, when Robin Perkins began her career in the Manassas City Treasurer's Office, tax records were kept on a binary card system; and

WHEREAS, Robin Perkins was the first Manassas City Treasurer to create the original tax database for city residents, and since that time she has overseen three system upgrades and overhauls; and

WHEREAS, Robin Perkins dedicated her career to good stewardship in collecting taxes, paying invoices, and handling Manassas City's investment portfolio; now, therefore, be it

RESOLVED by the House of Delegates, That Robin R. Perkins hereby be commended on her retirement as Treasurer of the City of Manassas in 2016; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Robin R. Perkins as an expression of the House of Delegates' admiration for her admirable 35-year tenure in the City of Manassas Treasurer's Office and dedication to excellence in serving the citizens of the Commonwealth.

**HOUSE RESOLUTION NO. 449**

*Commending Robin M. Albrecht.*

Agreed to by the House of Delegates, February 23, 2017

WHEREAS, Robin M. Albrecht, a business teacher at Osbourn High School in Manassas, was honored as Secondary Teacher of the Year for 2016 by the National Business Education Association; and

WHEREAS, Robin Albrecht earned bachelor's and master's degrees from Virginia Tech and has been a public school teacher for 37 years, 36 of which she has been employed by Manassas City Public Schools; and

WHEREAS, Robin Albrecht was recognized as the National Business Education Association (NBEA) Secondary Teacher of the Year in 2016 for her outstanding contributions to business education and excellence in creating innovative, project-based learning strategies; and

WHEREAS, Robin Albrecht goes above and beyond for coworkers, students, and the profession of teaching, and her dedication and hard work inspired at least one of her former students to pursue a career as a business educator; and

WHEREAS, Robin Albrecht helped establish the award-winning, student-run Apple Federal Credit Union branch at Osbourn High School, she sits on a statewide Science, Technology, Engineering, and Mathematics (STEM) advisory board, and she works to support the Career and Technical Education programs at Manassas City Public Schools; and

WHEREAS, Robin Albrecht is the lead advisor for the Osbourn High School chapter of the Future Business Leaders Association (FBLA), which has been recognized as Virginia's Outstanding FBLA Chapter for three straight years, and she is a cosponsor of the Student Council Association; and

WHEREAS, under Robin Albrecht's leadership, Osbourn High School's FBLA chapter has undertaken important volunteer opportunities and built partnerships with business leaders in the community, and its members have been honored with state, regional, and national awards; and

WHEREAS, Robin Albrecht teaches with respect, integrity, and love, and her desire to impart knowledge and inspire her students to achieve their goals is admired by her colleagues throughout Manassas City Public Schools; now, therefore, be it

RESOLVED by the House of Delegates, That Robin M. Albrecht hereby be commended on being honored as Secondary Teacher of the Year for 2016 by the National Business Education Association; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Robin M. Albrecht as an expression of the House of Delegates' admiration for her dedication to the profession of teaching and her tremendous success in educating the business leaders of tomorrow.

**HOUSE RESOLUTION NO. 450***Celebrating the life of the Reverend Douglas Gray Burgoyne.*

Agreed to by the House of Delegates, February 23, 2017

WHEREAS, the Reverend Douglas Gray Burgoyne of Richmond, who served in the Episcopal church teaching the Gospel, died at his home on February 5, 2017; and

WHEREAS, born on July 24, 1930, in Orange, New Jersey, Reverend Burgoyne grew up in New York City in a sixth-floor apartment near Columbia University; at his family's Long Island home in Sagaponack, he developed his love of sailing and raced competitively; and

WHEREAS, Reverend Burgoyne entered seminary at the Episcopal Theological School in Cambridge, Massachusetts, in 1955, was ordained an Episcopal Deacon in May 1958, and accepted his first call to serve as Rector of St. Matthew's Episcopal Church in Ontario, Oregon, where he was ordained as an Episcopal Priest on December 1, 1958; and

WHEREAS, after six years in Oregon, Reverend Burgoyne accepted calls to serve the Episcopal churches of St. John's in Williamstown, Massachusetts, for 12 years, St. Andrew's in Newport News for 16 years, and All Saints in Richmond for eight years; and

WHEREAS, Reverend Burgoyne "retired," but accepted requests to serve as Interim Rector at St. Martin's in Richmond, then St. James the Less in Ashland, and finally as an Associate Priest at St. James's in Richmond, fully retiring on August 31, 2014; and

WHEREAS, Reverend Burgoyne was elected to serve as a Deputy to the General Convention four times, nominated for Bishop in dioceses in the eastern United States, and served on numerous boards, including one that envisioned, developed, and built Westminster-Canterbury on Chesapeake Bay in Virginia Beach; and

WHEREAS, Reverend Burgoyne spent a term at Oxford University in England to study biblical theology, and led a 21-person mission trip to the Diocese of Central Tanganyika in East Africa; and

WHEREAS, Reverend Burgoyne will be fondly remembered and greatly missed by his wife of 64 years, Joannie; sons, Douglas, Robert, and William; 10 grandchildren and six great-grandchildren; and numerous other family members, friends, and associates; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of the Reverend Douglas Gray Burgoyne, whose ministry was real, and his teaching and preaching authentic; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of the Reverend Douglas Gray Burgoyne as an expression of the House of Delegates' respect for his memory.

**HOUSE RESOLUTION NO. 451***Commending Virginia Department of Forestry tree seedling nurseries.*

Agreed to by the House of Delegates, February 24, 2017

WHEREAS, in 1607, the first permanent English settlement in North America was established in Jamestown, and those colonists harvested timber as the New World's first commercial export product; and

WHEREAS, Virginia's forests provided the lumber to build America's homes, barns, fences, and ships; and

WHEREAS, timber harvesting was conducted in an unsustainable manner for more than 300 years; and

WHEREAS, in 1914, the Commonwealth created the Office of the State Forester to "...ascertain the best methods of reforestation cut-over and denuded lands, foresting waste land, preventing the destruction of forests by fire, the administering of forests on forestry principles, the instruction and encouragement of private owners in preserving and growing timber for commercial and manufacturing purposes, and the general conservation of forest tracts around the headwaters on the watersheds of all water courses of the state"; and

WHEREAS, the Virginia Department of Forestry established its first tree seedling nursery in Charlottesville in December 1916; and

WHEREAS, the employees of the Virginia Department of Forestry tree seedling nurseries have planted, grown, harvested, and sold two billion tree seedlings since planting the first crop of seeds in the spring of 1917; and

WHEREAS, the trees grown at the Virginia Department of Forestry tree seedling nurseries and planted all across the state have provided the citizens of the Commonwealth with clean air, clean water, recreational opportunities, habitats for wildlife, and aesthetic beauty; and

WHEREAS, the tree seedling nurseries have enabled the Virginia Department of Forestry to be an effective steward of Virginia's 16 million acres of forestland through its protection and development of healthy, sustainable forest resources; and

WHEREAS, Virginia's forest resources generate an economic impact of more than \$17 billion each year and employ more than 103,000 people in the Commonwealth; now, therefore, be it

RESOLVED by the House of Delegates, That Virginia Department of Forestry tree seedling nurseries hereby be commended for their excellence in tree seedling production and reforestation; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the State Forester as an expression of the House of Delegates' admiration for the Virginia Department of Forestry tree seedling nurseries' effective and efficient leadership in sustainable forest management and stewardship.

**HOUSE RESOLUTION NO. 452**

*Celebrating the life of Curtis Montgomery.*

Agreed to by the House of Delegates, February 24, 2017

WHEREAS, Curtis Montgomery, a decorated World War II veteran and lifelong resident of Glade Spring, died on February 14, 2017, at the age of 101; and

WHEREAS, the son of the late Frank and Laura Montgomery, Curtis "Duck" Montgomery lived in Glade Spring for all of his life, except for the four years he served in the United States Army in World War II; and

WHEREAS, Duck Montgomery served in the Asiatic-Pacific Theater in World War II and he received two Bronze Service Stars, Philippine Liberation Service Star, Good Conduct Medal, and Victory Medal for his service; and

WHEREAS, an upstanding and active member of his community, Duck Montgomery retired from FMC Corporation in 1981; and

WHEREAS, Duck Montgomery was instrumental in organizing the Senior Citizens Center in Glade Spring and was a faithful deacon at First Baptist Plum Creek Church, where he was a member of the choir; and

WHEREAS, preceded in death by his wife, Mary V. Montgomery, and daughter, Mary E. Shazier, Duck Montgomery will be fondly remembered and greatly missed by his children, Paul, Delores, and Ronnie; his 11 grandchildren, 15 great-grandchildren, and 12 great-great-grandchildren; and a host of other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Curtis Montgomery, a decorated World War II veteran and lifelong resident of Glade Spring; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Curtis Montgomery as an expression of the House of Delegates' respect for his memory.

**HOUSE RESOLUTION NO. 453**

*Nominating persons to be elected to circuit court judgeships.*

Agreed to by the House of Delegates, February 23, 2017

RESOLVED by the House of Delegates, That the following persons are hereby nominated to be elected to the respective circuit court judgeships as follows:

The Honorable Joel P. Crowe, of Portsmouth, as a judge of the Third Judicial Circuit for a term of eight years commencing July 1, 2017.

W. Edward Tomko, III, Esquire, of Sussex, as a judge of the Sixth Judicial Circuit for a term of eight years commencing July 1, 2017.

The Honorable Christopher R. Papile, of Newport News, as a judge of the Seventh Judicial Circuit for a term of eight years commencing July 1, 2017.

David Bernhard, Esquire, of Fairfax County, as a judge of the Nineteenth Judicial Circuit for a term of eight years commencing July 1, 2017.

David A. Oblon, Esquire, of Arlington County, as a judge of the Nineteenth Judicial Circuit for a term of eight years commencing January 1, 2018.

**HOUSE RESOLUTION NO. 454**

*Nominating a person to be elected to general district court judgeship.*

Agreed to by the House of Delegates, February 23, 2017

RESOLVED by the House of Delegates, That the following person is hereby nominated to be elected to the general district court judgeship as follows:

Corry N. Smith, Esquire, of Hampton, as a judge of the Eighth Judicial District for a term of six years commencing July 1, 2017.

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## ACTS OF ASSEMBLY

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**HOUSE RESOLUTION NO. 455***Nominating persons to be elected to juvenile and domestic relations district court judgeships.*

Agreed to by the House of Delegates, February 23, 2017

RESOLVED by the House of Delegates, That the following persons are hereby nominated to be elected to the respective juvenile and domestic relations district court judgeships as follows:

Kevin M. Duffan, Esquire, of Virginia Beach, as a judge of the Second Judicial District for a term of six years commencing July 1, 2017.

Bryan K. Meals, Esquire, of Portsmouth, as a judge of the Third Judicial District for a term of six years commencing July 1, 2017.

Stan Del Clark, Esquire, of Isle of Wight, as a judge of the Fifth Judicial District for a term of six years commencing July 1, 2017.

Melissa N. Cupp, Esquire, of Rappahannock, as a judge of the Twentieth Judicial District for a term of six years commencing July 1, 2017.

**HOUSE RESOLUTION NO. 456***Nominating persons to be elected as members of the Judicial Inquiry and Review Commission.*

Agreed to by the House of Delegates, February 23, 2017

RESOLVED by the House of Delegates, That the following persons are hereby nominated to be elected as members of the Judicial Inquiry and Review Commission as follows:

The Honorable Stephanie E. Merritt, of New Kent, as a member of the Judicial Inquiry and Review Commission for an unexpired term ending June 30, 2019.

The Honorable Ronald L. Napier, of Warren, as a member of the Judicial Inquiry and Review Commission for a term of four years commencing July 1, 2017.

**HOUSE RESOLUTION NO. 457***Commending Deep Sran.*

Agreed to by the House of Delegates, February 24, 2017

WHEREAS, Deep Sran is the founder and academic lead at Loudoun School for the Gifted, a private school for grades six through 12 in Ashburn, and he is spearheading the restoration of a significant piece of Loudoun County history; and

WHEREAS, for two decades, Deep Sran has been on a mission to improve formal education and find new ideas and solutions to make education beautiful for students everywhere; and

WHEREAS, Deep Sran is a teacher, curriculum designer, school founder, academic researcher, and educational technology inventor who has taught in secondary school, college, and graduate school; and

WHEREAS, Deep Sran is coordinator of the Loudoun School for the Gifted's project to restore the Ashburn Colored School, a dilapidated, one-room building where African American children were educated from 1892 to 1959, and the oldest school in Ashburn; and

WHEREAS, few people knew the history of or paid attention to the decaying schoolhouse, now located in the heart of modern Ashburn, until Loudoun School for the Gifted made it its mission to restore the site it purchased in 2014; and

WHEREAS, the Loudoun School for the Gifted's plan to reopen the schoolhouse as a "living museum" was accelerated by a surge of funding and support in the wake of vandalism at the school in the fall of 2016; and

WHEREAS, more than \$100,000 has been raised for the Loudoun School for the Gifted's schoolhouse project, and the goal is to open the restored Ashburn Colored School to the public by late spring 2017; and

WHEREAS, Deep Sran is seeking to balance past and present in the restoration of the schoolhouse, leaving as much of the original material as possible in an effort to make it look and feel the way it did when students went to school there; and

WHEREAS, Deep Sran's ultimate vision is to create a center for learning on the 3.1-acre property, with the schoolhouse on one end and a state-of-the-art 14,000-square-foot school building, housing Loudoun School for the Gifted, on the other; and

WHEREAS, the schoolhouse restoration project began as a way for a small group of students to engage with their community while simultaneously learning more about it, but it has since taken on a much larger meaning; and

WHEREAS, Deep Sran hopes to one day tell the human story of what it was like to be a student at the Ashburn Colored School; his final goal is to create not just a typical museum, but a tool that can be used for education in the future; and

WHEREAS, Deep Sran's passion for improving education, and his efforts to restore a site of great historical significance, not only benefits the students of Loudoun School for the Gifted but the Ashburn community as a whole; now, therefore, be it

RESOLVED by the House of Delegates, That Deep Sran hereby be commended on the Loudoun School for the Gifted's efforts to restore a significant piece of Loudoun County history; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Deep Sran as an expression of the House of Delegates' admiration for his innovative vision and important life's work.

**HOUSE RESOLUTION NO. 458**

*Commending Christopher P. Morrill.*

Agreed to by the House of Delegates, February 24, 2017

WHEREAS, Christopher P. Morrill has provided outstanding leadership as Roanoke city manager for the past seven years, overseeing a period of major economic development and innumerable positive changes; and

WHEREAS, Christopher "Chris" P. Morrill is leaving his post as Roanoke city manager in April 2017, to become director of the Government Finance Officers Association, a job that is based in Chicago, Illinois; and

WHEREAS, Chris Morrill has a bachelor's degree from the College of the Holy Cross in Worcester, Massachusetts, and a master of public administration degree from the University of North Carolina at Chapel Hill; and

WHEREAS, Chris Morrill attended the Institute for Georgia Environmental Leadership at the University of Georgia J.W. Fanning Institute for Leadership Development, the Gallup Leadership Institute, and earned certificates in county administration and in budgeting and financial planning from the North Carolina Institute of Government; and

WHEREAS, among the positions Chris Morrill has held during his distinguished career are senior municipal finance advisor for the Research Triangle Institute, fellow of the Kellogg National Leadership Program, research and budget director for the City of Savannah, and United States Peace Corps volunteer in Lviv, Ukraine; and

WHEREAS, Chris Morrill was appointed Roanoke city manager in March 2010, after previously serving as assistant city manager in Savannah, Georgia, for almost 10 years; and

WHEREAS, during Chris Morrill's tenure as city manager, Roanoke has realized a positive swing in its economic fortunes, including the much-heralded decision by Oregon-based Deschutes Brewery to locate its East Coast plant in Roanoke by 2021; and

WHEREAS, Chris Morrill's approach to city management is rooted in his belief that a locality cannot cut its way to prosperity, and his strongest skills are budgeting and finance; and

WHEREAS, while trimming the city budget, Chris Morrill simultaneously pushed Roanoke leaders to move forward with projects such as the City Market Building renovation and the seven-million-dollar overhaul of Elmwood Park, which included constructing an amphitheater; and

WHEREAS, as city manager, Chris Morrill helped Roanokers feel good about their community and to project that positive image; under his administration, Roanoke became more calm, business-like, and upbeat, and the city is now gaining young adult residents, instead of losing them; and

WHEREAS, Chris Morrill's efforts have been aided by the support of an excellent staff, smooth-running city council, and good community relations between local government and citizens; and

WHEREAS, with his keen understanding of how the modern economy works, Chris Morrill has led the transformation of Roanoke from a train city to a brain city, and he is leaving after planting many seeds for the city's continued success; now, therefore, be it

RESOLVED by the House of Delegates, That Christopher P. Morrill hereby be commended on his many accomplishments and exceptional tenure as Roanoke city manager; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Christopher P. Morrill as an expression of the House of Delegates' admiration for his service to the City of Roanoke and the citizens of the Commonwealth.

**HOUSE RESOLUTION NO. 459**

*Commending the Woodstock Volunteer Rescue Squad.*

Agreed to by the House of Delegates, February 24, 2017

WHEREAS, the Woodstock Volunteer Rescue Squad was first organized in 1966 by 17 concerned and dedicated citizens, and opened to receive calls for assistance and answered its first call on Sunday, January 1, 1967; and

WHEREAS, after a number of fundraising efforts, the Woodstock Volunteer Rescue Squad was able to purchase its first vehicle, an International Unit D, with an enclosed area added to transport patients; and

WHEREAS, on February 4, 1969, the Woodstock Volunteer Rescue Squad signed a 20-year note to purchase property, then built a permanent crew hall for the cost of \$51,735, and paid the note in full on October 1, 1973; and

WHEREAS, the Woodstock Volunteer Rescue Squad, the first ambulance company in the Town of Woodstock and surrounding area in Shenandoah County, today has 24 volunteer members who operate four ambulances; and

WHEREAS, the members of the Woodstock Volunteer Rescue Squad come from all walks of life in Woodstock—teachers, nurses, health professionals, managers, law-enforcement personnel, computer experts, truck drivers, electricians, sales associates, retirees, and career firefighters and emergency medical technicians; and

WHEREAS, the volunteer members of the Woodstock Volunteer Rescue Squad serve a 12-hour shift once a week, take classes, and attend training sessions to maintain and improve their skills, and participate in fundraising activities on behalf of the squad; and

WHEREAS, to assure service to the citizens of the Town of Woodstock and the surrounding areas of Shenandoah County, the career staff of the Woodstock Volunteer Rescue Squad, along with volunteers, staff an ambulance 24 hours a day, 7 days a week, 365 days a year; and

WHEREAS, the Woodstock Volunteer Rescue Squad traveled millions of miles in the past 50 years, responding to over 69,177 calls for assistance; and

WHEREAS, the dedication of the volunteer members of the Woodstock Volunteer Rescue Squad ensures continuous protection for the citizens of Woodstock and saves the taxpayers of Shenandoah County the substantial expense of funding round-the-clock coverage for the service area; now, therefore, be it

RESOLVED by the House of Delegates, That the Woodstock Volunteer Rescue Squad hereby be commended on 50 years of rendering skilled, selfless, dedicated, and invaluable service to the citizens of Woodstock; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the volunteers of the Woodstock Volunteer Rescue Squad as an expression of the House of Delegates' admiration and gratitude for their half-century of exceptional service.

#### HOUSE RESOLUTION NO. 460

*Commending Douglas Lynn Purdham.*

Agreed to by the House of Delegates, February 24, 2017

WHEREAS, Douglas Lynn Purdham, Mayor of the Town of Stanley, retired in 2016, concluding a distinguished career in public service that spanned more than 30 years; and

WHEREAS, Douglas "Doug" Lynn Purdham became Mayor of the Town of Stanley in 1992 after having served on the local planning commission and as a member of the Stanley Town Council; and

WHEREAS, Doug Purdham is proud of the growth of the community during his service as mayor, and he views improving the quality of life for Stanley's residents as one of his biggest accomplishments; and

WHEREAS, during Doug Purdham's tenure, the Town of Stanley expanded the Hawksbill Recreation Park and dedicated the William "Bill" Kibler Memorial Library, among other notable successes; and

WHEREAS, as mayor, Doug Purdham took pride in making decisions that were in the best interest of Stanley, and he took care of the town's needs while earning the respect of its citizens; and

WHEREAS, Doug Purdham is grateful to the high school teacher who sparked his interest in community service many years ago and to the residents of Stanley and town employees for the tremendous support and love shown to him over his career; and

WHEREAS, in retirement, Doug Purdham will remain active in the town's civic endeavors, but he will get to enjoy spending much more precious time with his family, especially his grandchildren; now, therefore, be it

RESOLVED by the House of Delegates, That Douglas Lynn Purdham hereby be commended on his retirement as Mayor of the Town of Stanley; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Douglas Lynn Purdham as an expression of the House of Delegates' admiration for his dedication to public service and his honorable career serving the citizens of Stanley.

#### HOUSE RESOLUTION NO. 461

*Commending Virginia's technology sector.*

Agreed to by the House of Delegates, February 24, 2017

WHEREAS, Virginia's technology sector provides important information technology services to residents of the Commonwealth; and

WHEREAS, state agencies and private industry partners in Virginia have varying sources of information technology services and equipment available to them; and

WHEREAS, many of these legacy systems cost state agencies and private businesses significant sums for maintenance and updates and are becoming increasingly obsolete; and

WHEREAS, information technology services for state agencies, boards and commissions, nonprofit organizations, and businesses can avoid capital outlay and maintenance charges, as well as increase cybersecurity, by using cloud computing, along with updated software services and systems; and

WHEREAS, many Virginia businesses and state agencies have pursued existing opportunities to use commercial cloud computing services and commercial cloud-based applications and acquired technology resources, such as computer power, database services, storage, and other products services on an as-needed, pay-as-you-go basis through a secure environment; and

WHEREAS, efforts to expand the use of the cloud and cloud-based systems and applications could help mitigate against federal budget cuts and to facilitate the creation of technology-based jobs and economic activity in the Commonwealth; and

WHEREAS, many local and federal agencies, educational institutions, major companies, and nonprofit organizations throughout Virginia and the rest of the United States are already pursuing a "cloud first" policy by using commercial cloud computing services and commercial cloud-based applications to maximize every budget dollar allocated to such services, and to address growing cybersecurity concerns; now, therefore, be it

RESOLVED by the House of Delegates, That Virginia's technology sector hereby be commended for its efforts to advance the use of cloud technology and associated applications where appropriate to both extend funds budgeted for technology and to improve the Commonwealth's cybersecurity position in an increasingly threatening cyber environment; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Virginia Information Technologies Agency as an expression of the House of Delegates' admiration for the Virginia technology sector's work to modernize and protect the Commonwealth's information technology systems by leveraging commercial cloud computing services that comply with rigorous security requirements while driving cost savings and achieving new efficiencies.

### HOUSE RESOLUTION NO. 462

*Commending the Shenandoah County Fair.*

Agreed to by the House of Delegates, February 24, 2017

WHEREAS, the Shenandoah County Fair in Woodstock, the oldest and largest fair in the Shenandoah Valley, is celebrating its 100th anniversary in 2017; and

WHEREAS, the roots of today's Shenandoah County Fair can be traced to 1886, when the Shenandoah County Agricultural Society organized an event for the purposes of showcasing area agricultural, horticultural, and commercial products; and

WHEREAS, the first fair in Shenandoah County was held in October 1887, and the main grandstand entertainment featured horse racing of every description; and

WHEREAS, due to lack of interest, the fair fizzled sometime in the early 20th century, but, in 1916, a group of local farmers and businessmen sought to organize an event to promote area farming, and it was decided that 420 shares of stock would be sold to raise funds for the venture; and

WHEREAS, the Shenandoah County Fair Association acquired 25 acres that was originally owned by the Shenandoah County Agricultural Society, and the first Shenandoah County Fair was held October 16-19, 1917; single admission to the first fair was 50 cents and a one-week pass cost \$1; and

WHEREAS, the Shenandoah County Fair has presented a wide array of performers during its 100-year history, and some of the earliest forms of entertainment were high-wire acts, lion taming, and bicycle racing; and

WHEREAS, today's Shenandoah County Fair features fun for the entire family, including children's activities, world-class grandstand entertainment, music, rides, livestock competitions, agricultural exhibits, a truck and tractor pull, harness racing, and a scholarship pageant, plus a wide variety of food vendors and commercial attractions; and

WHEREAS, the Shenandoah County Fairgrounds in Woodstock has expanded over the years to include 68 acres filled with food stands, the original grandstands, a horse track, exhibit buildings, and livestock barns; and

WHEREAS, local community and civic groups such as churches, Lions Club, and Ruritan Club raise a significant portion of their annual revenue at the Shenandoah County Fair; youth programs such as FFA and 4-H, as well as the Shenandoah County office of Virginia Cooperative Extension, are closely involved as well; and

WHEREAS, the Shenandoah County Fair is now owned by 365 shareholders and the Shenandoah County Fair Association is governed by a volunteer board of directors, who donate countless hours of their time throughout the year to prepare for each fair; and

WHEREAS, the Shenandoah County Fair will mark its 100th anniversary during a special 2017 fair, scheduled for August 25-September 2, which will feature a star-studded lineup of entertainers headlined by Grammy-nominated country music superstar Martina McBride; and

WHEREAS, the Shenandoah County Fair has adapted to fit the needs of the community over the last century, but its primary goal has remained unchanged—to provide quality family entertainment while supplying a venue for area farmers and businessmen to showcase their products; now, therefore, be it

RESOLVED by the House of Delegates, That the Shenandoah County Fair hereby be commended on the occasion of its 100th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Tom Eshelman, general manager of the Shenandoah County Fair, as an expression of the House of Delegates' admiration for its esteemed history and the important role it continues to play in the Shenandoah County community.

### HOUSE RESOLUTION NO. 463

*Celebrating the life of Nola Ann DeStephen.*

Agreed to by the House of Delegates, February 24, 2017

WHEREAS, Nola Ann DeStephen, a beloved mother and a unique member of the Richmond community, who throughout her life worked as an educator, a private investigator, a real estate agent, and a model, died on February 7, 2017; and

WHEREAS, a native of Wynne, Arkansas, Nola DeStephen learned the value of hard work and responsibility at a young age and helped support her family by picking cotton; and

WHEREAS, at the age of 17, Nola DeStephen was the runner-up in the Miss Cross County beauty pageant, then worked at the First National Bank of Wynne, before moving to Mountain Home, Arkansas, on the day she turned 18; and

WHEREAS, Nola DeStephen attended Arkansas State University and managed a dress boutique in Mountain Home's main square; she later became one of the first women in Arkansas to receive a private investigator's license; and

WHEREAS, from 1973 to 1979, Nola DeStephen was one of only two female agents working for three high-risk security and investigative agencies in Arkansas, Missouri, and Tennessee; she was one of the top agents for all three companies, working as a bodyguard, a plainclothes guard for high-end hotels, and an undercover investigator; and

WHEREAS, while raising her family, Nola DeStephen became a real estate agent to help provide better opportunities for her children; she also worked as a substitute teacher, and at the age of 57, she began a modeling career; and

WHEREAS, one of Nola DeStephen's photos was purchased by Walmart for display in its pharmacy sections, including the Walmart in her hometown of Wynne, a point of pride for her family; and

WHEREAS, in 1984, Nola DeStephen moved to Ashland, then settled in Richmond's West End; throughout her life, she was guided by her deep faith, and she enjoyed fellowship and worship with the community at Hatcher Memorial Baptist Church; and

WHEREAS, Nola DeStephen will be fondly remembered and greatly missed by her husband, Raymond; children, Hannah and Hunter, their families, and their father, Craig Huber; her stepchildren, Daniel, Dena, and Derek, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of Nola Ann DeStephen, a vibrant member of the Richmond community and a beloved mother; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of Nola Ann DeStephen as an expression of the House of Delegates' respect for her memory.

### HOUSE RESOLUTION NO. 464

*Celebrating the life of the Honorable H. Dudley Payne, Jr.*

Agreed to by the House of Delegates, February 24, 2017

WHEREAS, the Honorable H. Dudley Payne, Jr., of Warrenton, a respected attorney and a retired judge of the Fauquier Juvenile and Domestic Relations District Court of the 20th Judicial District of Virginia, died on February 20, 2017; and

WHEREAS, a native of Rocky Mount, North Carolina, H. Dudley Payne grew up in Arlington and earned a bachelor's degree from Wake Forest University; he served his country as a member of the United States Marine Corps during the Vietnam War, earning a Purple Heart and rising to the rank of first lieutenant; and

WHEREAS, after his honorable military service, H. Dudley Payne earned a law degree from The Catholic University of America, where he served as managing editor of the *Catholic University Law Review*; and

WHEREAS, H. Dudley Payne served as an assistant Commonwealth's attorney from 1974 to 1977, then practiced law in Marshall; in 1982, he joined a law firm in Warrenton and practiced criminal and civil law; and

WHEREAS, in 1995, H. Dudley Payne was appointed judge of the Fauquier Juvenile and Domestic Relations District Court of the 20th Judicial District of Virginia, where he presided with great fairness and wisdom until 2007; and

WHEREAS, after his retirement as a judge, H. Dudley Payne continued to serve the community as a mediator and enjoyed spending more time with his family; a man of great integrity, he served the Fauquier County community and the Commonwealth with the utmost dedication and distinction; and

WHEREAS, H. Dudley Payne will be fondly remembered and greatly missed by his wife, Ann Strickland Payne; sons, Edward Dudley Payne, John Strickland Payne, and H. Dudley Payne III, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the House of Delegates hereby note with great sadness the loss of the Honorable H. Dudley Payne, Jr., a retired judge of the 20th Judicial District of Virginia and a respected member of the Warrenton community; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the family of the Honorable H. Dudley Payne, Jr., as an expression of the House of Delegates' respect for his memory.

**HOUSE RESOLUTION NO. 465**

*Commending the Bank of Botetourt.*

Agreed to by the House of Delegates, February 24, 2017

WHEREAS, for 118 years, the Bank of Botetourt has provided top-notch customer and community service in an effort to improve the quality of life for the residents of its service area; and

WHEREAS, the Bank of Buchanan was chartered in 1899 by the General Assembly and located on Main Street in downtown Buchanan; the bank changed its name to the Bank of Botetourt in 1995; and

WHEREAS, today, the Bank of Botetourt is a mid-size community bank that employs about 100 people and has more than 10 locations stretching from Moneta to Lexington; the bank's main office and operations center remain in Buchanan; and

WHEREAS, the Bank of Botetourt prioritizes taking care of the communities it serves and seeks to find ways to further the overall economic development of the Roanoke region; and

WHEREAS, as a community partner, the Bank of Botetourt makes charitable contributions to support education, culture and the arts, social service agencies, community and economic development, and other programs that serve the needs of area residents; and

WHEREAS, the Bank of Botetourt encourages its employees to be active participants in their communities by mentoring, volunteering, donating, and finding other avenues for civic service; and

WHEREAS, the Bank of Botetourt offers \$1,000 scholarships for local high school seniors who plan to pursue a degree in the arts at Virginia Western Community College or Dabney S. Lancaster Community College; and

WHEREAS, the Bank of Botetourt annually participates in the Virginia Bankers Association Bank Day, which allows high school seniors to spend a day shadowing a banker to learn about banking, financial services, and the vital role banks play in their communities; now, therefore, be it

RESOLVED by the House of Delegates, That the Bank of Botetourt hereby be commended on 118 years of outstanding, efficient, and courteous service to the citizens of Buchanan and the Roanoke region; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to G. Lyn Hayth III, president and CEO of the Bank of Botetourt, as an expression of the House of Delegates' admiration for the bank's distinguished history and best wishes for the future.

**HOUSE RESOLUTION NO. 466**

*Commending the Bank of Fincastle.*

Agreed to by the House of Delegates, February 24, 2017

WHEREAS, for 142 years, the Bank of Fincastle has been an important community partner for the residents of Fincastle and has demonstrated that personal commitment is a value that never goes out of style; and

WHEREAS, the Bank of Fincastle was founded on September 22, 1875, after a group of local residents petitioned the District Court to approve a new bank and it was chartered by the General Assembly; and

WHEREAS, the Bank of Fincastle is the second-oldest business in the area, and is a reincarnation of the Farmer's Bank of Fincastle, which was forced to discontinue operations following the Civil War; and

WHEREAS, the Bank of Fincastle began operating from a small building on the corner of Main and Roanoke Streets, and remained at that location until May 8, 1908, when it moved to its current location; and

WHEREAS, the Bank of Fincastle has continued unceasing operations through two world wars and numerous economic recessions, including the Great Depression of the 1930s; and

WHEREAS, the Bank of Fincastle opened its first branch bank in Daleville in 1969, and since that time its branch network has grown to include five locations around the Roanoke Valley, including a location at The Glebe retirement community in Daleville; and

WHEREAS, today, the Bank of Fincastle has over 70 dedicated employees and offers all of the benefits of a full-service bank, yet it is the special relationship between bank employees and customers that continues to set it apart; and

WHEREAS, the Bank of Fincastle sponsors an annual 5K and 10K run, the proceeds of which support local schools and scholarship opportunities; and

WHEREAS, through its StudentSave Program, the Bank of Fincastle helps teach students how to open savings accounts, deposit money, and calculate the interest earned; and

WHEREAS, the Bank of Fincastle hands out free ice cream during a summer concert series it helps sponsor, and the bank recently launched a Healthy Living Initiative that focuses on contributing to charities that promote feeding those in need, healthy eating, exercise, or education; and

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WHEREAS, for over 140 years, a strong local identity and continuity of leadership have made the Bank of Fincastle an integral part of family and business life in the Fincastle community; now, therefore, be it

RESOLVED by the House of Delegates, That the Bank of Fincastle hereby be commended on its 142 years of outstanding, efficient, and courteous service to the citizens of Fincastle and the Roanoke Valley; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to C. Scott Steele, president and CEO of the Bank of Fincastle, as an expression of the House of Delegates' admiration for the bank's illustrious history and best wishes for the future.

**HOUSE RESOLUTION NO. 467**

*Commending the Christiansburg High School wrestling team.*

Agreed to by the House of Delegates, February 24, 2017

WHEREAS, the Christiansburg High School wrestling team earned its 16th consecutive state title, winning the Virginia High School League Group 3A state championship on February 18, 2017; and

WHEREAS, with several wrestlers performing well in consolation rounds, the Christiansburg High School Blue Demons accumulated 204 points to win the state championship by an impressive 65-point margin; and

WHEREAS, Hunter Bolen, who finished the season with a 37-1 record, took home the Christiansburg Blue Demons' only individual state title in the 160-pound final; and

WHEREAS, Hunter Bolen took an early lead in his final match and never looked back, winning with a 17-2 technical fall victory to claim his third consecutive individual state title; and

WHEREAS, the Christiansburg Blue Demons' successful season is a tribute to the hard work and determination of all the student-athletes, the leadership and guidance of the coaches and staff, and the enthusiastic support of the entire Christiansburg High School community; now, therefore, be it

RESOLVED by the House of Delegates, That the Christiansburg High School wrestling team hereby be commended on winning the Virginia High School League Group 3A state championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Christiansburg High School wrestling team as an expression of the House of Delegates' admiration for the team's achievements and best wishes for the future.

**HOUSE RESOLUTION NO. 468**

*Commending the Hidden Valley High School boys' swim team.*

Agreed to by the House of Delegates, February 24, 2017

WHEREAS, the Hidden Valley High School boys' swim team of Roanoke claimed its fourth state title in five years, winning the Virginia High School League Group 3A state championship on February 18, 2017; and

WHEREAS, the Hidden Valley Titans had previously won three state championships between 2013 and 2015 and finished as the state runners-up in 2016; and

WHEREAS, the Hidden Valley Titans took first place in seven events to win the 2017 state championship with 399 points, a 52-point margin of victory over the second-place team; and

WHEREAS, senior Greg Reed won the 200-yard and the 500-yard freestyle races and junior Keith Myburgh won the 200-yard individual medley and the 100-yard breaststroke race; and

WHEREAS, the Hidden Valley Titans also won the 200-yard medley relay, the 200-yard freestyle relay, and the 400-yard freestyle relay; and

WHEREAS, the Hidden Valley Titans' successful season is a testament to the skill and hard work of the student-athletes, the leadership of the coaches and staff, and the passionate support of the entire Hidden Valley High School community; now, therefore, be it

RESOLVED by the House of Delegates, That the Hidden Valley High School boys' swim team hereby be commended on winning the Virginia High School League Group 3A state championship in 2017; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Hidden Valley High School boys' swim team as an expression of the House of Delegates' admiration for the team's achievements and best wishes for the future.

**HOUSE RESOLUTION NO. 469**

*Commending Cassie Wheeler.*

Agreed to by the House of Delegates, February 24, 2017

WHEREAS, Cassie Wheeler of Glenvar High School in Salem won the 100-yard breaststroke state title at the Virginia High School League Group 2A state championship swim meet in February 2017; and

WHEREAS, Cassie Wheeler came from behind to claim victory in the 100-yard breaststroke race with a time of 1:11.14 and a winning margin of 0.43 seconds over the second-place finisher; and

WHEREAS, Cassie Wheeler achieved her goal of improving on her performance at the 2016 Group 2A state championship swim meet, when she finished second in the 100-yard breaststroke; and

WHEREAS, Cassie Wheeler, a senior, and her younger sister, Madilyn Wheeler, were also part of the Glenvar High School Highlanders 200-yard medley relay team that claimed a runner-up finish at the 2017 state championship swim meet at Christiansburg Aquatic Center; and

WHEREAS, Cassie Wheeler's outstanding performance in the Virginia High School League Group 2A state championship swim meet is a testament to the superb mentorship and leadership of her coaches, and the steadfast and vocal support of her teammates, especially her younger sister, as well as the entire Glenvar High School community; now, therefore, be it

RESOLVED by the House of Delegates, That Cassie Wheeler hereby be commended on winning the 100-yard breaststroke state title at the Virginia High School League Group 2A state championship swim meet; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Cassie Wheeler as an expression of the House of Delegates' admiration for her achievement and best wishes for the future.

**HOUSE RESOLUTION NO. 470**

*Commending Madilyn Wheeler.*

Agreed to by the House of Delegates, February 24, 2017

WHEREAS, Madilyn Wheeler of Glenvar High School in Salem won the 200-yard individual medley state title at the Virginia High School League Group 2A state championship swim meet in February 2017; and

WHEREAS, Madilyn Wheeler took an early lead in the first 50 yards of the 200-yard individual medley race and cruised to a two-second win over the second-place competitor, finishing with a time of 2:14.63; and

WHEREAS, Madilyn Wheeler, a junior, and her older sister, Cassie Wheeler, were also part of the Glenvar High School Highlanders' 200-yard medley relay team that claimed a runner-up finish at the state championship swim meet at Christiansburg Aquatic Center; and

WHEREAS, Madilyn Wheeler's outstanding performance in the Virginia High School League Group 2A state championship swim meet is a testament to the superb mentorship and leadership of her coaches, and the steadfast and vocal support of her teammates, especially her older sister, as well as the entire Glenvar High School community; now, therefore, be it

RESOLVED by the House of Delegates, That Madilyn Wheeler hereby be commended on winning the 200-yard individual medley state title at the Virginia High School League Group 2A state championship swim meet; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Madilyn Wheeler as an expression of the House of Delegates' admiration for her achievement and best wishes for the future.

**HOUSE RESOLUTION NO. 471**

*Commending the Rustburg Dixie Youth AAA All-Stars baseball team.*

Agreed to by the House of Delegates, February 24, 2017

WHEREAS, the Rustburg Dixie Youth AAA All-Stars baseball team won the Dixie Youth Baseball state tournament in July 2016; and

WHEREAS, the Rustburg Dixie Youth AAA All-Stars were undefeated in the District 6 Tournament, finishing with a 5-0 record against talented teams from Madison Heights, Timberlake, Appomattox, and Nelson; and

WHEREAS, advancing to the state tournament in Dillwyn, the Rustburg Dixie Youth AAA All-Stars faced teams from Buckingham County, Dinwiddie County, Patrick County, and Amelia County to claim the state title with a 4-1 record; and

WHEREAS, as state champions, the Rustburg Dixie Youth AAA All-Stars represented the Commonwealth at the Dixie Youth World Series in Laurel, Mississippi, in August 2016; finishing with a 1-2 record and a win over the team from Georgia; and

WHEREAS, the Rustburg Dixie Youth AAA All-Stars finished their championship season with a 10-3 overall record, having outscored their opponents 122-60; and

WHEREAS, the successful season is a tribute to the skill and hard work of the athletes, the leadership and guidance of the coaches, managers, and staff, and the support of the entire Rustburg community; now, therefore, be it

RESOLVED by the House of Delegates, That the Rustburg Dixie Youth AAA All-Stars baseball team hereby be commended on winning the 2016 Dixie Youth Baseball state championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Rustburg Dixie Youth AAA All-Stars baseball team as an expression of the House of Delegates' admiration for the team's accomplishments and best wishes for the future.

#### HOUSE RESOLUTION NO. 472

*Commending the Appomattox Dixie Youth Angels softball team.*

Agreed to by the House of Delegates, February 24, 2017

WHEREAS, the Appomattox Dixie Youth Angels softball team won the Dixie Youth Baseball state championship in July 2016; and

WHEREAS, the Appomattox Dixie Youth Angels advanced to the state championship after winning the district tournament, where the team received the Sportsmanship Award; and

WHEREAS, at the state tournament, the Appomattox Dixie Youth Angels finished with a 4-1 record and were victorious against teams from Charlotte County, Blacksburg, and Powhatan; and

WHEREAS, the Appomattox Dixie Youth Angels' only loss came against the team from Amelia, which they later defeated 9-4 in a rematch for the state title; and

WHEREAS, as state champions, the Appomattox Dixie Youth Angels represented the Commonwealth in the Dixie Youth World Series in Alexandria, Louisiana, where they faced opponents from Mississippi and North Carolina; and

WHEREAS, the successful championship season is a tribute to the skill and dedication of the athletes, the leadership and guidance of the coaches, managers, and staff, and the support of the entire Appomattox community; now, therefore, be it

RESOLVED by the House of Delegates, That the Appomattox Dixie Youth Angels hereby be commended on winning the 2016 Dixie Youth Baseball state championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Appomattox Dixie Youth Angels softball team as an expression of the House of Delegates' admiration for the team's accomplishments and best wishes for the future.

#### HOUSE RESOLUTION NO. 473

*Commending the McLean High School gymnastics team.*

Agreed to by the House of Delegates, February 24, 2017

WHEREAS, the McLean High School gymnastics team won the Virginia High School League Group 6A state gymnastics championship in February 2017; and

WHEREAS, the McLean High School Highlanders finished in first place at the state championship with 146.575 points, besting the team from Colonial Forge High School, which had 145.6 points; and

WHEREAS, junior Samantha Simon led the McLean Highlanders' charge by posting the top individual scores in three events: uneven bars (9.525), balance beam (9.85), and floor exercise (9.7), and she added a score of 9.35 on vault; and

WHEREAS, the McLean Highlanders were also boosted by junior Carolyn Brown-Kaiser, who posted a 9.55 on vault as well as strong marks on uneven bars (8.625), balance beam (9.425), and floor exercise (9.425); and

WHEREAS, 2017 marked the second state gymnastics title in three years for the McLean Highlanders team, which won the state championship in 2015 but missed the state title meet in 2016, a factor that motivated team members to seek redemption and success; and

WHEREAS, the entire McLean Highlanders gymnastics team showed dedication and contributed to the state championship title, as well as the team's sweep of the Liberty Conference 6 and Group 6A North Region meets; and

WHEREAS, the hard work of the McLean High School gymnastics team was enthusiastically cheered by the school's athletics department staff, administrators, and student body, and made possible by the sacrifices and support of the team members' parents and family members; and

WHEREAS, McLean High School gymnastics coach Courtney Lesson ably led the team in pursuit of the state championship, working throughout the season to develop the individual skills of the team members; now, therefore, be it

RESOLVED by the House of Delegates, That the McLean High School gymnastics team hereby be commended on winning the Virginia High School League Group 6A state gymnastics championship; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Courtney Lesson, coach of the McLean High School gymnastics team, as an expression of the House of Delegates' admiration for the team's championship performance and best wishes for the future.

**HOUSE RESOLUTION NO. 474**

*Commending the Virginia Museum of Natural History.*

Agreed to by the House of Delegates, February 24, 2017

WHEREAS, the Virginia Museum of Natural History, an agency of the Secretary of Natural Resources, that will celebrate the 10th anniversary of its current facility in Martinsville on March 31, 2017, is commemorating 2017 as "The Year of Discovery"; and

WHEREAS, the Virginia Museum of Natural History will celebrate "The Year of Discovery" with a series of anniversaries, commemorations and unveilings throughout 2017; and

WHEREAS, the Virginia Museum of Natural History will partner with fellow Natural Resource agencies, visitor centers, historic sites and other visitor destinations throughout the year to promote the theme of discovery across the Commonwealth; and

WHEREAS, the Virginia Museum of Natural History will host the 30th annual Thomas Jefferson Awards on March 16, 2017; and

WHEREAS, the Virginia Museum of Natural History will hold its 10th anniversary gala on April 29, 2017; and

WHEREAS, the Virginia Museum of Natural History will host its 10th anniversary Dino Day Festival, July 21-22, 2017; and

WHEREAS, the Virginia Museum of Natural History will celebrate the 100th anniversary of the display of a Stegosaurus recently donated to Virginia by the Smithsonian; now, therefore, be it

RESOLVED by the House of Delegates, That the Virginia Museum of Natural History hereby be commended for its "Year of Discovery" celebration in 2017; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to the Virginia Museum of Natural History for prominent display at its facility at 21 Starling Avenue in Martinsville.

**HOUSE RESOLUTION NO. 475**

*Commending Virginia DeMolay.*

Agreed to by the House of Delegates, February 25, 2017

WHEREAS, for 95 years, Virginia DeMolay and its members have served communities throughout the Commonwealth and the United States and made valuable contributions to the welfare of all people; and

WHEREAS, DeMolay International was founded by Frank S. Land in March 1919 in Kansas City, Missouri, and the Virginia chapter was established in 1922; and

WHEREAS, DeMolay is a character-building organization composed of young men between the ages of 12 and 21 who are dedicated to becoming better citizens and leaders by developing traits and strengths that will prepare them for active roles in their communities and throughout the nation; and

WHEREAS, Virginia DeMolay has produced tens of thousands of outstanding citizens in its history, including Governor Charles S. Robb, Attorney General J. Marshall Coleman, United States Secretary of the Treasury Henry H. Fowler, and astronaut Guy Spence Gardner; and

WHEREAS, Virginia DeMolay has succeeded in its mission by providing a well-rounded program of social and athletic activities, as well as volunteering many hundreds of hours each year for charitable and community service; and

WHEREAS, DeMolay Month is held annually to commemorate the anniversary of the death of the organization's namesake, Jacques de Molay, and to celebrate the founding of DeMolay in the United States and Virginia; now, therefore, be it

RESOLVED by the House of Delegates, That Virginia DeMolay hereby be commended on the occasion of its 95th anniversary of service to young men in the Commonwealth; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates prepare a copy of this resolution for presentation to Virginia DeMolay as an expression of the House of Delegates' admiration for its work to help the youth of the Commonwealth become men of good character.

**SENATE JOINT RESOLUTION NO. 218**

*Commending the I.C. Norcom High School boys' basketball team.*

Agreed to by the Senate, January 12, 2017

Agreed to by the House of Delegates, January 20, 2017

WHEREAS, the I.C. Norcom High School boys' basketball team became the 11th team in Virginia High School League history to win three consecutive state titles by winning the Group 3A state final in March 2016; and

WHEREAS, in a rematch of the Group 3A East regional game, the I.C. Norcom Greyhounds defeated the Hopewell Blue Devils by a score of 67–65 to secure the state championship; and

WHEREAS, the state final was a tense contest, with the teams trading the lead throughout regulation time; I.C. Norcom High School guard Travis Fields scored a game-high 30 points, including the game-winner in overtime; and

WHEREAS, in addition to being the I.C. Norcom Greyhounds' third consecutive state title, the 2016 championship was the team's fifth state title in seven seasons; and

WHEREAS, the victory is a testament to the skill and hard work of all of the student-athletes, the leadership of the coaches and staff, and the energetic support of the entire I.C. Norcom High School community; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the I.C. Norcom High School boys' basketball team on winning the Virginia High School League Group 3A state championship in 2016; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Leon Goolsby, head coach of the I.C. Norcom High School boys' basketball team, as an expression of the General Assembly's admiration for the team's exceptional achievements and best wishes for continued success.

### SENATE JOINT RESOLUTION NO. 219

*Celebrating the life of Charles B. Whitehurst, Sr.*

Agreed to by the Senate, January 12, 2017

Agreed to by the House of Delegates, January 20, 2017

WHEREAS, Charles B. Whitehurst, Sr., a distinguished veteran and a respected public servant in the City of Portsmouth, died on June 4, 2016; and

WHEREAS, a native of Portsmouth, Charles Whitehurst was educated in Portsmouth Public Schools, graduating from I.C. Norcom High School in 1956 having joined the United States Marine Corps while in high school; and

WHEREAS, after his high school graduation, Charles Whitehurst was assigned to extended active duty at the rank of private first class; he rose through the enlisted ranks to that of sergeant (E-5) and was thereafter appointed as a warrant officer (W-1) by the President of the United States; and

WHEREAS, Charles Whitehurst accepted additional promotions to second lieutenant, first lieutenant, captain, and major; he held a permanent rank of chief warrant officer grades I, II, III, and IV and subsequently converted to major as permanent rank; and

WHEREAS, Charles Whitehurst received several military honors, including the Navy Commendation Medal with Combat V, two Good Conduct Medals, Navy Achievement Medal, Republic of Viet Nam Staff Service Medal, Republic of Viet Nam Campaign Medal, Viet Nam Service Medal, and Marine Corps Reserve Medal; and

WHEREAS, in 1978, Charles Whitehurst received a bachelor's degree from Norfolk State University with an emphasis in banking; in 1982, he earned a graduate degree in bank marketing from the University of Colorado at Boulder; and

WHEREAS, in November 1985, Charles Whitehurst was elected as treasurer of the City of Portsmouth; he was named Treasurer of the Year in 1992 by the Treasurers' Association of Virginia for his exceptional service and retired from that position on December 31, 1993; and

WHEREAS, on May 5, 1998, Charles Whitehurst was elected to the Portsmouth City Council; he was reelected to a second term on May 7, 2002, and served on the Portsmouth City Council until 2012; and

WHEREAS, while on the Portsmouth City Council, Charles Whitehurst was a member of numerous community organizations, civic leagues, and committees; he received numerous honors and awards and was recognized as one of the hardest-working men in public office for his efforts to serve and strengthen the community; and

WHEREAS, Charles Whitehurst will be fondly remembered and greatly missed by his wife, Dollise; children, Lisa and Charles, Jr., and their families; stepchildren, Deneita, Lisa, Mimi, and D'Angel, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Charles B. Whitehurst, Sr., a respected veteran and a dedicated public servant; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Charles B. Whitehurst, Sr., as an expression of the General Assembly's respect for his memory.

### SENATE JOINT RESOLUTION NO. 228

*Commending Townley Haas.*

Agreed to by the Senate, January 12, 2017

Agreed to by the House of Delegates, January 20, 2017

WHEREAS, Townley Haas of Henrico County proudly represented the United States and the Commonwealth at the 2016 Olympic Games in Rio de Janeiro, winning a gold medal as a member of the men's 4x200-meter freestyle relay team; and

WHEREAS, after beginning his swimming career at a young age with a neighborhood league, Townley Haas joined NOVA of Virginia Aquatics and set numerous local, state, and national records; and

WHEREAS, a graduate of Henrico County Public Schools and Benedictine College Preparatory School, Townley Haas was recruited to swim for the University of Texas, one of the most prestigious and successful swimming programs in the country; and

WHEREAS, at the 2016 National Collegiate Athletic Association (NCAA) swimming championship, Townley Haas finished first in the 200-yard freestyle, setting NCAA and American records; and

WHEREAS, in June 2016, at the Olympic Trials, Townley Haas placed first in the 200-meter freestyle and third in the 400-meter freestyle to earn a spot on Team USA, and at the Olympic Games, he reached the final of the men's individual 200-meter freestyle, where he placed fifth; and

WHEREAS, on August 9, 2016, Townley Haas helped the men's 4x200-meter freestyle relay team win an Olympic gold medal with a time of 7:00.66; he completed his 200-meter split in 1:44.14, the fastest split of any swimmer in the relay, and extended the team's lead to 2.07 seconds; and

WHEREAS, throughout his swimming career, and during the Olympic Games in particular, Townley Haas enjoyed the unwavering support of his family, friends, and members of the Henrico County community; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Townley Haas on winning a gold medal in the men's 4x200-meter freestyle relay event at the 2016 Olympic Games; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Townley Haas as an expression of the General Assembly's admiration for his outstanding achievements as a member of Team USA.

### SENATE JOINT RESOLUTION NO. 235

*Celebrating the life of Lelia Baum Hopper.*

Agreed to by the Senate, January 12, 2017

Agreed to by the House of Delegates, January 20, 2017

WHEREAS, Lelia Baum Hopper, a native daughter and longtime advocate for juvenile justice and family law, passed away on April 28, 2016; and

WHEREAS, Lelia Hopper earned a bachelor's degree in English and political science from the Westhampton College of the University of Richmond and graduated from the Marshall-Wythe School of Law at The College of William and Mary; and

WHEREAS, Lelia Hopper spent her career serving the citizens of Virginia, first as Senior Attorney for the House Committee on Health, Welfare and Institutions and the Senate Committee on Rehabilitation and Social Services for the General Assembly's Division of Legislative Services; upon leaving the legislative branch of state government, she served in Governor Charles S. Robb's administration as Deputy Secretary of Health and Human Resources, and she later served as a consultant to various state agencies and as an adjunct faculty member at The College of William and Mary; and

WHEREAS, in 1987, Lelia Hopper began working in the Office of the Executive Secretary of the Supreme Court of Virginia, where as Executive Director of the Court Improvement Program she focused on improving the ability of the court system to manage and resolve cases of child abuse, child neglect, and foster care from February 1995 until her death; and

WHEREAS, during her long and illustrious legal career, Lelia Hopper served as staff to the Commission on the Future of Virginia's Judiciary from 1987 to 1989 and as director of the Family Court Project from 1989 to 1996; and

WHEREAS, Lelia Hopper was a longtime advocate of effective policies and programs for Virginia's children and families; she worked tirelessly and extensively with the General Assembly on child-related legislation and administered the Supreme Court's training and certification of guardians ad litem for children and incapacitated adults; she provided support and education for members of the judiciary, clerks of court, attorneys, and other child-welfare professionals throughout the Commonwealth on matters pertaining to dependency law, juvenile justice, family law, and best practices in the adjudication and administration of these types of cases in the court system; and

WHEREAS, in 2011, in recognition of her outstanding contributions to family law, Lelia Hopper received the Family Law Service Award from the Virginia State Bar's Family Law Section and was inducted as a Fellow of the Virginia Law Foundation; in 2015, the Virginia Council of Juvenile and Domestic Relations District Court Judges established the "Lelia Baum Hopper Award" in her honor to recognize members of the judiciary who exemplify the qualities and passion for child welfare that were the cornerstones of her career; Lelia Hopper was presented with the inaugural award bearing her name in March 2016; and

WHEREAS, Lelia Hopper was a founding member and past chairman of the Board of Volunteer Emergency Families for Children and a former trustee of The Virginia Home in Richmond; and

WHEREAS, Lelia Hopper was devoted to her faith and family, and her greatest joy in life was working in the area of juvenile justice and family law; she was a tremendous and invaluable resource to the legal profession, and in her last days she remained steadfast in her commitment to the judiciary and her work on behalf of Virginia's most vulnerable families and children; and

WHEREAS, Lelia Hopper's legacy of care and commitment to Virginia's most vulnerable families and their children will be cherished and remembered by her family, friends, and colleagues; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Lelia Baum Hopper; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Lelia Baum Hopper as an expression of the General Assembly's gratitude for her service to the Commonwealth and respect for her memory.

### SENATE JOINT RESOLUTION NO. 236

*Celebrating the life of Brian David McCarty.*

Agreed to by the Senate, January 12, 2017  
Agreed to by the House of Delegates, January 20, 2017

WHEREAS, Brian David McCarty of Henrico, a beloved businessman admired for his kindness, gentle nature, and warm spirit, died June 5, 2016; and

WHEREAS, Brian McCarty graduated from Stafford High School and then earned a bachelor's degree from High Point University in 1994; and

WHEREAS, after college Brian McCarty joined White Oak Equipment, a Stafford County-based company founded by his father 47 years ago, where he became a partner and Glen Allen branch manager; and

WHEREAS, Brian McCarty was an avid tennis player and known never to turn down a match; his athletic ability was rivaled only by his sincere love and commitment to his friends and family; and

WHEREAS, a devoted husband and father, Brian McCarty shared in and encouraged his children's passions, whether it meant hitting tennis balls in the driveway with his sons or videotaping his daughter's gymnastics meets; and

WHEREAS, Brian McCarty will be fondly remembered and missed by his wife, Carolyn; his children, Cameron, Miller, and Grayson; his parents, Frank and Rubinette; and many other family members, White Oak Equipment colleagues, and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of businessman Brian David McCarty; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Brian David McCarty as an expression of the General Assembly's respect for his memory.

### SENATE JOINT RESOLUTION NO. 237

*Celebrating the life of Richard Ernest Hendrix.*

Agreed to by the Senate, January 12, 2017  
Agreed to by the House of Delegates, January 20, 2017

WHEREAS, Richard Ernest Hendrix of Bristow, a marketing professional and founding partner of ClearWord Communications Group, died on June 13, 2016; and

WHEREAS, Rick Hendrix was born in Kingsport, Tennessee, and reared in Maryville, Tennessee, where he graduated from Maryville High School in 1975; and

WHEREAS, Rick Hendrix displayed a passion for government from an early age, taking time off during election years while studying at the University of Tennessee, where he graduated in 1980 with a degree in political science; and

WHEREAS, Rick Hendrix held various jobs in Washington, D.C., including working with mentors Morton Blackwell and Bruce Eberle, working on Capitol Hill for Tennessee Congressman John Duncan, running election campaigns, and forming his own direct mail company, Hendrix Direct; and

WHEREAS, in 2005, Rick Hendrix and partner Dave Bufkin cofounded ClearWord Communications Group, a direct mail marketing firm that focuses on high-dollar donations; and

WHEREAS, Rick Hendrix was active in local and state politics, serving on the Republican Party of Virginia state central committee, as parliamentarian of the Prince William County Republican Party, and on the Prince William County Electoral Board; and

WHEREAS, Rick Hendrix was a past president of the Colonel William Grayson Chapter of the Sons of the American Revolution and was devoted to his church, The Church of Jesus Christ of Latter-Day Saints, which he joined in 1981; and

WHEREAS, Rick Hendrix will be fondly remembered and greatly missed by his wife, Taania; his daughters, Emily, Laura, and Megan; his father and stepmother, Tom and Valerie; and many other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of marketing professional and ClearWord Communications Group founder Richard Ernest Hendrix; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Richard Ernest Hendrix as an expression of the General Assembly's respect for his memory.

**SENATE JOINT RESOLUTION NO. 238**

*Celebrating the life of Janet Lile Fray.*

Agreed to by the Senate, January 12, 2017  
 Agreed to by the House of Delegates, January 20, 2017

WHEREAS, Janet Lile Fray, a singer, educator, and upstanding member of the Fredericksburg community, died on June 18, 2016; and

WHEREAS, Janet Fray was born in Salem to Wilson and Ruby Lile; she began her singing career on a Roanoke radio show at age 12 and three years later she joined The Stylists, a band that had their own TV show in Roanoke and performed at venues around Southwest Virginia; and

WHEREAS, Janet Fray attended Roanoke College and graduated from Radford University and Texas Tech University, where she earned a master's degree in guidance and counseling; and

WHEREAS, after moving to Fredericksburg in 1975, Janet Fray went to work on base for the Quantico Community Schools from which she retired, and she was active in numerous civic activities in the community; and

WHEREAS, Janet Fray was known for dressing in her own unique style, including her trademark fun earrings; she loved to travel, to play cards with her treasured bridge group, to work with Town and Country Garden Club, and to sing in the jazz ensemble choir at St. George's Episcopal Church, where she was a member; and

WHEREAS, Janet Fray will be fondly remembered and greatly missed by her husband of over 50 years, Mike; children, Scott and Joanna, and their families; and many other friends and relatives; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of singer, educator, and upstanding member of the Fredericksburg community, Janet Lile Fray; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Janet Lile Fray as an expression of the General Assembly's respect for her memory.

**SENATE JOINT RESOLUTION NO. 239**

*Celebrating the life of the Honorable Otho Beverley Roller.*

Agreed to by the Senate, January 19, 2017  
 Agreed to by the House of Delegates, January 27, 2017

WHEREAS, the Honorable Otho Beverley Roller, a lifelong resident of Weyers Cave who served the community as a farmer, educator, and public servant who ably represented the residents of the 10th District in the House of Delegates, died on March 30, 2016; and

WHEREAS, Beverley "Bev" Roller earned a bachelor's degree from Virginia Polytechnic Institute and State University, where he was a member of the Corps of Cadets, and he served his country as a member of the United States Merchant Marine during World War II; and

WHEREAS, Bev Roller inspired students as a teacher in Augusta County Public Schools, and as a lifelong farmer and a prominent member and former state president of the Future Farmers of America for 48 years, he coached and mentored countless young people; and

WHEREAS, desirous to be of further service to the Commonwealth, Bev Roller ran for and was elected to the House of Delegates, where he represented the residents of the Counties of Augusta and Highland and the Cities of Staunton and Waynesboro in the 10th District from 1965 to 1972; and

WHEREAS, while serving as a member of the House of Delegates, Bev Roller introduced and supported numerous important pieces of legislation and was appointed as a director of Virginians for Integrity in Government; and

WHEREAS, throughout his life, Bev Roller served the Augusta County community and the Commonwealth with integrity and distinction; in 1972, he became a supervisor in agricultural education for the Virginia Department of Education, and he served on the board of directors for Rockingham Mutual Insurance Company and was an active member of Ruritan National for 66 years; and

WHEREAS, Bev Roller enjoyed fellowship and worship as a charter member of Bethany United Methodist Church, where he taught Sunday School for nearly 70 years and held many other leadership positions; and

WHEREAS, a loving family man, Bev Roller will be fondly remembered and greatly missed by his beloved wife, Dorothy; children, Randy, Becky, and Jackie, and their families; and numerous other family members, friends, and colleagues on both sides of the aisle; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of the Honorable Otho Beverley Roller, a farmer, educator, and former member of the House of Delegates; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of the Honorable Otho Beverley Roller as an expression of the General Assembly's respect for his memory.

**SENATE JOINT RESOLUTION NO. 241**

*Confirming the appointment by the Chief Justice of the Supreme Court of Virginia of the Chairman of the Virginia Criminal Sentencing Commission.*

Agreed to by the Senate, January 24, 2017  
Agreed to by the House of Delegates, February 13, 2017

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly confirm the following appointment made by Chief Justice Donald W. Lemons of the Supreme Court of Virginia pursuant to § 17.1-802 of the Code of Virginia:

**The Honorable Edward L. Hogshire**, Judge (retired), Circuit Court of the City of Charlottesville, 605 Northwood Avenue, **Charlottesville**, Virginia 22902, Chairman of the Virginia Criminal Sentencing Commission, effective January 1, 2017, for a term of four years ending December 31, 2020, to succeed himself.

**SENATE JOINT RESOLUTION NO. 244**

*Commending the Sterling Volunteer Fire Company.*

Agreed to by the Senate, January 12, 2017  
Agreed to by the House of Delegates, January 20, 2017

WHEREAS, the Sterling Volunteer Fire Company celebrated 50 years of providing emergency services to the residents of Loudoun County in 2016; and

WHEREAS, the Sterling Volunteer Fire Company, formerly known as the Sterling Park Volunteer Fire Company, was chartered on August 16, 1966; and

WHEREAS, as part of the Loudoun County Combined Fire-Rescue System, the Sterling Volunteer Fire Company has a call area of approximately 25 square miles and provides fire suppression services to over 90,000 residents, including those in Sterling, Great Falls Forest, Broad Run Farms, Countryside, Sugarland Run, and Cascades; and

WHEREAS, the Sterling Volunteer Fire Company is based out of three fire stations and responds to more than 4,200 calls annually, making it one of the busiest volunteer fire companies in the Commonwealth; and

WHEREAS, the well-trained members of the Sterling Volunteer Fire Company respond to a vast variety of situations using four fire engines, three ladder trucks, two special emergency response vehicles, and two command units; and

WHEREAS, the Sterling Volunteer Fire Company routinely assists surrounding counties with fire suppression support and has provided assistance during national emergencies, such as the September 11, 2001, terrorist attacks on the Pentagon and New York City, and in the aftermath of Hurricane Katrina; and

WHEREAS, members of the Sterling Volunteer Fire Company are constantly honing their skills, spending countless hours training to maintain certifications in firefighting, emergency medical services, and technical rescue; and

WHEREAS, the Sterling Volunteer Fire Company Honor Guard represents positively the company and Loudoun County at events across the Commonwealth and the country; and

WHEREAS, the members of the Sterling Volunteer Fire Company embody the selflessness, bravery, integrity, and commitment to safety displayed by fire fighters and first responders throughout the Commonwealth; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the Sterling Volunteer Fire Company on 50 years of protecting the lives and property of those who not only live in but also visit Loudoun County; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to David Short, Chief of the Sterling Volunteer Fire Company, as an expression of the General Assembly's admiration for the company's outstanding service to the community, the Commonwealth, and the country.

**SENATE JOINT RESOLUTION NO. 245**

*Commending the Washington-Lee High School boys' soccer team.*

Agreed to by the Senate, January 12, 2017  
Agreed to by the House of Delegates, January 20, 2017

WHEREAS, the Washington-Lee High School boys' soccer team of Arlington achieved its first state title in the 52-year history of the program, winning the Virginia High School League Group 6A state championship; and

WHEREAS, defeating the First Colonial High School Patriots of Virginia Beach by a score of 3–1, the Washington-Lee Generals finished the season with an 18–1–2 record; and

WHEREAS, the Washington-Lee Generals struck early with two goals by three-time *Washington Post* All-Met forward Maycol Nunez, who overcame four defenders and a fall to the turf to strike the ball past the goalkeeper into the far side of the net for the first goal; and

WHEREAS, Gatorade National Boys Soccer Player of the Year and *Washington Post* All-Met Boys' Soccer Player of the Year forward Lucas Mendes crossed a rabona kick past a defender to forward Andrew Kamian in the box, contributing to a goal by midfielder Benhur Gebretensaie to bring the score to 3–1 in the 74th minute; and

WHEREAS, Lucas Mendes' rabona cross assist was featured as the number nine highlight of the Top Ten Plays on ESPN's *Sports Center*; and

WHEREAS, the Washington-Lee Generals won the 6A North regional title, defeating Arlington rival Yorktown by a score of 3–0 to secure the program's third regional title and the first since 1972; and

WHEREAS, a goal by midfielder Thomas Odlum in the 23rd minute brought the score to 1–0 and set the tone for the regional game, which the Washington-Lee Generals controlled on both offense and defense; and

WHEREAS, the Washington-Lee Generals earned the number one seed in the Conference 6 tournament for the third straight year and were undefeated in the Liberty District, their third consecutive regular season without a loss; and

WHEREAS, the Washington-Lee Generals captured the Arlington Cup, defeating neighborhood rivals Wakefield and Yorktown High Schools during regular season play; and

WHEREAS, under the able leadership of the Virginia High School League Group 6A Boys Coach of the Year, Jimmy Carrasquillo, in his 17th year as boys' soccer head coach, the Washington-Lee Generals worked through the challenge of meeting high expectations after two previous years marked by injuries and unmet goals, then adversity following a semifinal conference tournament loss to archrival Yorktown, to eventually claim the regional and state titles; and

WHEREAS, the Washington-Lee boys' soccer team, ranked number one by the *Washington Post* and number two nationally, reestablished itself as one of the state's premier programs, continuing a winning tradition begun under legendary coach Del Norwood in 1964; and

WHEREAS, the victory is a testament to the athletic skill and hard work of teammates Nick Conklu, Chris Palacios, Isaac Gamboa, Alex Bobeczko, Colin McEwen, Alejandro Maldonado, Jacob Muskovitz, Lucas Mendes, Harrison Ramos, Abdullah Al-Rubaiy, Geronimo Kurzbach, Maycol Nunez, Andrew Kamian, Noah Goodkind, Marty Hockey, Thomas Odlum, Tyler Smuthkochurn, Jose Argueta, Tucker Kelsch, Oliver Loayza, Benhur Gebretensaie, Aidan Pond, and Julian Esquer-Perez; the guidance of the coaches and staff; and the passionate support of the entire Washington-Lee community; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the Washington-Lee High School boys' soccer team on winning the Virginia High School League Group 6A state tournament; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Jimmy Carrasquillo, head coach of the Washington-Lee High School boys' soccer team, as an expression of the General Assembly's admiration for the team's accomplishments.

### SENATE JOINT RESOLUTION NO. 249

*Celebrating the life of the Honorable John C. Miller.*

Agreed to by the Senate, January 19, 2017

Agreed to by the House of Delegates, January 27, 2017

WHEREAS, the Honorable John C. Miller, a respected journalist, tireless advocate for education, and longtime public servant who ably represented the residents of the 1st District in the Senate of Virginia for three terms, died on April 4, 2016; and

WHEREAS, a native of Bryn Mawr, Pennsylvania, John Miller earned a bachelor's degree from Northern Illinois University, then relocated to Hampton Roads and began an 18-year career in journalism with WVEC-13, where he worked as a reporter, anchor, and news director and earned national accolades for his weekly documentary program; and

WHEREAS, after serving as a top aide to a United States Senator in the 1980s, John Miller returned to journalism as an anchor of *Good Morning Hampton Roads* on WVEC-13 and held administrative positions with public broadcasting station WHRO and Christopher Newport University; and

WHEREAS, desirous to be of further service to the Commonwealth, John Miller ran for and was elected to the Senate of Virginia in 2007; he represented the residents of part of Newport News, Hampton, Suffolk, York County, and James City County and all of Williamsburg in the 1st District; and

WHEREAS, John Miller introduced and supported many important pieces of legislation related to nonpartisan redistricting, voting rights for older Virginians, support for veterans, and protection of the valuable natural resources of the Chesapeake Bay; and

WHEREAS, John Miller was passionate about improving public education in the Commonwealth and worked to ensure that each child in Virginia received the best possible education; he helped decrease the number of Standards of Learning

tests in public elementary schools and redesigned high school education to better prepare students for higher education and careers; and

WHEREAS, John Miller offered his wisdom and expertise as a member of the Committees on Agriculture, Conservation and Natural Resources, Local Government, and Privileges and Elections; he worked to build bipartisan consensus on key issues as a founder of the Commonwealth Caucus, which included two Democrats and two Republicans; and

WHEREAS, John Miller held leadership positions in Smart Beginnings of the Virginia Peninsula, People to People, Peninsula READS, the Food Bank of Virginia Peninsula and many other civic and service organizations; he earned numerous awards and accolades for his devoted work to enhance the lives of his fellow community members; and

WHEREAS, respected for his kindness and compassion, John Miller was a man of great integrity who served the residents of Hampton Roads and the Commonwealth with the utmost dedication and distinction; and

WHEREAS, John Miller will be fondly remembered and greatly missed by his wife, Sharron; children, Jenny and John, and grandson, Isaac, and their families; and numerous other family members, friends, and colleagues on both sides of the aisle; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of the Honorable John C. Miller, a respected journalist and public servant who dedicated his life to bettering the lives of all Virginians; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of the Honorable John C. Miller as an expression of the General Assembly's respect for his memory.

### SENATE JOINT RESOLUTION NO. 250

*Celebrating the life of the Honorable Johnny S. Joannou.*

Agreed to by the Senate, January 26, 2017

Agreed to by the House of Delegates, February 3, 2017

WHEREAS, the Honorable Johnny S. Joannou, a respected member of the Portsmouth community and a consummate public servant who represented the residents of Hampton Roads in both chambers of the General Assembly over the course of three decades, died on May 6, 2016; and

WHEREAS, born in Brooklyn, New York, to a family of immigrants, Johnny Joannou grew up in Portsmouth, forming a bond with the city that would last his entire life; he learned the value of hard work and responsibility from his father, who taught himself English while working as a cook and eventually purchased his own restaurant; and

WHEREAS, after graduating from Woodrow Wilson High School, Johnny Joannou earned a bachelor's degree from Virginia Polytechnic Institute and State University and a law degree from the University of Richmond; and

WHEREAS, Johnny Joannou served the Portsmouth community as an attorney with his private practice, Joannou and Associates, and worked to enhance the lives of his fellow residents as a leader in local civic and service organizations; and

WHEREAS, desirous to be of further service to the Commonwealth, Johnny Joannou ran for and was elected to the House of Delegates in 1975, representing the residents of Portsmouth in the 41st District and later in the 39th District; and

WHEREAS, Johnny Joannou served in the House of Delegates until 1983, when he was elected to the Senate of Virginia, representing the residents of parts of Portsmouth and Suffolk in the 13th District; he returned to the House of Delegates in 1998 and represented the residents of parts of Chesapeake, Norfolk, Portsmouth, and Suffolk in the 79th District until 2016; and

WHEREAS, as a member of the General Assembly, Johnny Joannou introduced and supported numerous important pieces of legislation to benefit all Virginians; he was a champion for blue collar workers and supported initiatives to keep taxes low; and

WHEREAS, Johnny Joannou was a strong proponent of property rights and fought to secure a constitutional amendment guaranteeing just compensation for property taken by eminent domain; and

WHEREAS, over the course of his 34-year career in public service, Johnny Joannou offered his wisdom and expertise to several committees and commissions, including the House Committee on Appropriations, which is responsible for writing the biennial budget; and

WHEREAS, a man of strong character and integrity, Johnny Joannou served the Hampton Roads community and the Commonwealth with dedication and distinction; and

WHEREAS, Johnny Joannou will be fondly remembered and greatly missed by his wife of 49 years, Chris; daughter, Stephanie, and her family; and numerous other family members, friends, and colleagues on both sides of the aisle; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of the Honorable Johnny S. Joannou; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of the Honorable Johnny S. Joannou as an expression of the General Assembly's respect for his memory.

**SENATE JOINT RESOLUTION NO. 251**

*Designating the week of September 10, in 2017 and in each succeeding year, as National Suicide Prevention Week in Virginia.*

Agreed to by the Senate, February 7, 2017

Agreed to by the House of Delegates, February 22, 2017

WHEREAS, suicide is the 10th leading cause of death in the United States and the second leading cause of death among individuals between the ages of 10 and 34; suicide is the only leading cause of death in the United States that has increased every year for the past decade; and

WHEREAS, according to the Centers for Disease Control and Prevention (CDC), one person dies by suicide every 12.3 minutes in the United States, resulting in nearly 43,000 suicides each year, and it is estimated that there are more than 1.1 million suicide attempts each year; and

WHEREAS, in 2014, Virginia experienced 1,122 deaths by suicide, making suicide the 11th leading cause of death in the Commonwealth; and

WHEREAS, more than 90 percent of the people who die by suicide have a diagnosable and treatable mental health condition, which often goes unrecognized or untreated; and

WHEREAS, according to the CDC, suicide results in an estimated \$44.6 billion in combined medical and work loss costs nationally and results in an estimated \$1.12 billion in combined lifetime medical and work loss costs in Virginia; and

WHEREAS, the stigma associated with mental health conditions and suicidality works against suicide prevention by discouraging persons at risk for suicide from seeking life-saving help and further traumatizes survivors of suicide loss and people with lived experience of suicide; and

WHEREAS, organizations such as the American Foundation for Suicide Prevention envision a world without suicide and are dedicated to saving lives and bringing hope to those affected by suicide through research, education, advocacy, and resources for those who have lost loved ones or struggle with mental health conditions; and

WHEREAS, suicide most often occurs when stressors exceed current coping abilities of someone suffering from a mental health condition, but there is no single cause for suicide, and no single suicide prevention program or effort will be appropriate for all populations or communities; and

WHEREAS, suicide is a preventable national and state public health problem, and suicide prevention is a high priority in the Commonwealth; the World Health Organization recognizes September 10 as World Suicide Prevention Day, and National Suicide Prevention Week is recognized in the United States as the Monday through Sunday surrounding September 10; and

WHEREAS, during National Suicide Prevention Week and throughout the year, organizations and individuals in the Commonwealth are encouraged to consider initiatives based on the goals contained in the National Strategy for Suicide Prevention and develop and implement strategies to increase access to quality mental health, substance abuse, and suicide prevention services; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly designate the week of September 10, in 2017 and in each succeeding year, as National Suicide Prevention Week in Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the Senate transmit a copy of this resolution to the American Foundation for Suicide Prevention so that members of the organization may be apprised of the sense of the General Assembly of Virginia in this matter; and, be it

RESOLVED FINALLY, That the Clerk of the Senate post the designation of this week on the General Assembly's website.

**SENATE JOINT RESOLUTION NO. 252**

*Commending First Baptist Church of Franklin.*

Agreed to by the Senate, January 12, 2017

Agreed to by the House of Delegates, January 20, 2017

WHEREAS, First Baptist Church of Franklin, a faith community established by freedmen with a trust in God and a vision, and the oldest organization of continuous existence in Franklin, celebrated its 150th anniversary in 2016; and

WHEREAS, First Baptist Church was founded by freed slaves Joseph Gregory and Israel Cross as Cool Spring Baptist Church in 1866, just after the end of slavery; and

WHEREAS, the original structure stood near the banks of the Blackwater River, near present day Bowers Road; it was a brush shelter with a dirt floor, where logs were used for pews and the pulpit was a large block of wood; and

WHEREAS, in 1908, under the leadership of then-pastor Dr. Walter Raleigh Ashburn, the congregation bought two parcels of land between Hall and Pearl streets and began building a new church; and

WHEREAS, the first worship service in the present-day church was held in the basement in December 1908; the name was changed to First Baptist Church roughly 20 years later, during the tenure of then-pastor Dr. M.C. Allen; and

WHEREAS, over its 150-year history, First Baptist Church has demonstrated a commitment to education, expansion of ministries, and community outreach, gaining local and statewide recognition for its efforts; and

WHEREAS, since 2006, First Baptist Church has been led by senior pastor Reverend Dwight Shawrod Riddick and his wife, Reverend Jennell Whitfield Riddick, director of ministries, who have a vision for building on the church's legacy of transforming lives and making a lasting difference in the Franklin community; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend First Baptist Church of Franklin on celebrating 150 years of history as the oldest organization of continuous existence in Franklin; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Reverend Dwight Shawrod Riddick, senior pastor of First Baptist Church of Franklin, as an expression of the General Assembly's admiration for the church's proud history and continuing legacy.

### SENATE JOINT RESOLUTION NO. 256

*Commending the NASA Langley Research Center.*

Agreed to by the Senate, January 12, 2017

Agreed to by the House of Delegates, January 20, 2017

WHEREAS, in 2017, NASA Langley Research Center celebrates 100 years of leadership in aerospace and a long history of innovative science programs, including the conception and management of the nation's first manned space program, improvements to the performance and safety of aerospace vehicles in all flight regimes, the implementation of vital Earth and space science missions, the successful exploration of Mars, and opening the frontiers of commercial space travel; and

WHEREAS, originally known as the Langley Memorial Aeronautical Laboratory (LMAL), NASA (National Aeronautics and Space Administration) Langley Research Center was established by the National Advisory Committee for Aeronautics (NACA) in Hampton on July 17, 1917, as the nation's first civilian aeronautical research laboratory to scientifically "study the problems of flight with a view to their practical solution"; and

WHEREAS, the research contributions of the LMAL improved the performance of nearly every American aircraft used during World War II; the laboratory was recognized with five prestigious Collier Trophies for engine cowlings to reduce drag, efficient wing deicing, research on the X-1 aircraft that broke the sound barrier, slotted-throat wind tunnel design for high-speed research, and the Whitcomb Area Rule for transonic aircraft design; and

WHEREAS, the LMAL became the NASA Langley Research Center on October 1, 1958, when the NACA was dissolved, and the laboratory was charged with adding the scientific study of spaceflight to its aeronautical portfolio, thereby forming the Space Task Group at NASA Langley Research Center, which managed the United States' spaceflight programs; and

WHEREAS, NASA Langley Research Center helped give birth to the space age by conceiving of and managing Project Mercury, training the original seven astronauts, providing feasibility studies on the lunar orbiter rendezvous, developing the lunar excursion model concept and research facilities for simulating landing on Earth's moon, and successfully sending the first Viking landers and orbiters to Mars; and

WHEREAS, throughout its history, NASA Langley Research Center has been instrumental in the foundation of additional aerospace research centers that are now known as NASA Wallops Flight Facility on the Eastern Shore, Ames Research Center and Armstrong Flight Research Center in California, Glenn Research Center in Ohio, and Johnson Spaceflight Center in Texas; and

WHEREAS, NASA Langley Research Center contributed to the development and operation of the space shuttle and continues its spaceflight research with contributions to the International Space Station and the nation's next generation of space transportation systems, including the Orion Spacecraft, the Space Launch System, and other commercial spaceflight initiatives; and

WHEREAS, NASA Langley Research Center was recognized with two additional Collier Trophies for improvements to aviation safety and is working to make supersonic commercial travel possible, to safely integrate unmanned aerial systems into the national airspace, to solve the challenges that exist in the nation's air transportation system, and to develop technologies for on-demand air transportation, where people and goods can be delivered anytime, anywhere; and

WHEREAS, NASA Langley Research Center has made vital advancements through satellite-based observation in the measurement of Earth's atmosphere, establishing the Atmospheric Science Data Center, now known as a Distributed Active Archive Center, for the use of scientists, educators, and students; the laboratory developed remote sensing systems that continue to pave the way for new atmospheric discoveries that help protect Earth and its people by providing policy makers with better and more timely information; and

WHEREAS, NASA Langley Research Center's innovative research into how Earth's systems interact will continue to provide critical data, contributing to the development of adaptive measures for threats such as climate change, rising sea levels, and land subsidence, all of which could have a significant impact on the Commonwealth; and

WHEREAS, NASA Langley Research Center has undertaken an ambitious revitalization plan to construct new, state-of-the-art facilities, implement comprehensive digital transformation, and create strategic workforce and research paths to ensure that the laboratory continues its important scientific research and technological contributions well into its second century of operation; and

WHEREAS, NASA Langley Research Center's rich history of developing innovative materials for space vehicles and structures, game-changing technological innovations, and unparalleled expertise in entry, descent, and landing of spacecraft on planetary bodies will help the nation achieve the goal of establishing a human presence on Mars by the 2030s; and

WHEREAS, NASA Langley Research Center has served the nation for 100 years by advancing knowledge in aeronautics, spaceflight, atmospheric science, and manufacturing, while inspiring countless individuals and providing technology spinoffs and economic opportunities for both the Commonwealth and the United States; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend NASA Langley Research Center for 100 years of scientific and technological excellence which will continue to facilitate the United States' leadership in space exploration for years to come; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the National Aeronautics and Space Administration as an expression of the General Assembly's admiration for NASA Langley Research Center's important mission and best wishes for continued success in the exploration and development of space, aeronautics, and earth sciences.

**SENATE JOINT RESOLUTION NO. 258**

*Commending Northstar Academy.*

Agreed to by the Senate, January 12, 2017

Agreed to by the House of Delegates, January 20, 2017

WHEREAS, Northstar Academy, a nonprofit private school in Richmond, has promoted educational excellence and career opportunities for students with disabilities and academic, physical, or social challenges for 20 years; and

WHEREAS, founded in 1996, Northstar Academy embraces a strong spirit of community to help students develop active, creative minds and encourage compassion and respect for individual differences and for one another; and

WHEREAS, Northstar Academy provides learners with a challenging educational environment, inspiring confident students who are willing to take intellectual risks, meet academic challenges with enthusiasm, and solve problems and make thoughtful decisions; and

WHEREAS, Northstar Academy cultivates an atmosphere that addresses the unique needs of its students in a changing society and enables students to become active citizens and responsible stewards of the world; and

WHEREAS, Northstar Academy offers an educational experience that is both traditional and unconventional, recognizing the unique needs of each student by using innovative methods to unlock students' talents and recognize students' desires to participate in activities that will enrich their personal learning process; and

WHEREAS, Northstar Academy provides state-of-the-art technology in its classrooms in order to give students every opportunity to access the curriculum and express themselves; and

WHEREAS, Northstar Academy provides vocational and educational support as upper school students plan for their future and supports students in their life pursuits by giving them a place to call their educational home; and

WHEREAS, the passionate and experienced faculty and staff of Northstar Academy are experts in meeting the needs of a range of disabilities, and the academy welcomes children whom other schools may have struggled to serve; and

WHEREAS, Northstar Academy provides students with an inclusive environment where they can build a fulfilling social life and where academics are customized to fit their specific needs and abilities; and

WHEREAS, Northstar Academy focuses on preparing students for life after graduation by centering on both educational and personal development; the academy has inspired countless students to achieve more than anyone thought possible; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Northstar Academy on the occasion of its 20th school year for delivering a unique and highly successful educational and vocational program that discovers and develops the abilities of young Virginians; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Patricia A. West, head of school of Northstar Academy, as an expression of the General Assembly's admiration for the school's many contributions to the Richmond community and the Commonwealth.

**SENATE JOINT RESOLUTION NO. 259**

*Commending John Tyler Community College.*

Agreed to by the Senate, January 12, 2017

Agreed to by the House of Delegates, January 20, 2017

WHEREAS, in 2017, John Tyler Community College celebrates 50 years of providing an exceptional education and giving young men and women the tools to achieve success in their careers and become leaders in their communities; and

WHEREAS, in 1966, the General Assembly of Virginia established a statewide system of comprehensive community colleges to address the Commonwealth's unmet needs in higher education and workforce training; and

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WHEREAS, John Tyler Community College, one of the first community colleges, officially opened for students on October 2, 1967, and is named in honor of John Tyler, the tenth president of the United States; and

WHEREAS, John Tyler Community College is now a two-campus institution and the fifth largest institution in the Virginia Community College System; and

WHEREAS, John Tyler Community College serves the geographic district comprising the Counties of Amelia, Charles City, Chesterfield, Dinwiddie, Prince George, Surry, and Sussex and the Cities of Colonial Heights, Hopewell, and Petersburg; and

WHEREAS, John Tyler Community College has served more than 193,000 students in certificate and degree programs since opening and provides students with pathways to continuing educational opportunities, industry certifications, and immediate employment; and

WHEREAS, John Tyler Community College graduates become leaders, advocates, innovators, skilled professionals, and service providers in a variety of fields and make valuable contributions to their local communities; and

WHEREAS, John Tyler Community College supports economic development throughout its service area by providing workforce training to the private and public sectors through the Community College Workforce Alliance; and

WHEREAS, John Tyler Community College remains committed to providing "quality educational opportunities that inspire student success and community vitality"; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend John Tyler Community College on the occasion of its 50th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Edward E. Raspiller, president of John Tyler Community College, as an expression of the General Assembly's congratulations on this historic milestone.

**SENATE JOINT RESOLUTION NO. 261**

*Commending J. Hamilton Lambert.*

Agreed to by the Senate, January 12, 2017

Agreed to by the House of Delegates, January 20, 2017

WHEREAS, J. Hamilton Lambert, a visionary community leader in Fairfax County, has dedicated his life to the service of others through his generous philanthropic work; and

WHEREAS, J. Hamilton Lambert joined the Fairfax County government as a map draftsman and worked his way up to become the director of general services in 1973, acting county executive in the mid-1970s, and the county executive in 1980; and

WHEREAS, during his career in local government, J. Hamilton Lambert advised the Fairfax County Board of Supervisors on important issues and helped develop the Citizen's Commission to explore ways to better serve the community, which led to the creation of the Government Center; and

WHEREAS, upon his retirement from local government, J. Hamilton Lambert founded J. Hamilton Lambert and Associates, a management and consulting firm that provides valuable services to government organizations, businesses, and individuals; and

WHEREAS, J. Hamilton Lambert serves as executive director of the Claude Moore Charitable Foundation, which works with more than 30 charitable organizations to provide underprivileged children with better educational opportunities through scholarships and educational development; and

WHEREAS, in recognition of J. Hamilton Lambert's lifetime service to Fairfax County, the J. Hamilton Lambert Conference Center was named in his honor, and he received the 2013 Community Leadership Award from the Community Foundation for Northern Virginia; and

WHEREAS, among many other awards and accolades, J. Hamilton Lambert was named the 1980 Washingtonian of the Year by *Washingtonian* magazine; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend J. Hamilton Lambert for his legacy of service and leadership to the Fairfax County community; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to J. Hamilton Lambert as an expression of the General Assembly's admiration for his commitment to enhancing the lives of his fellow Virginia residents.

**SENATE JOINT RESOLUTION NO. 262**

*Commending Arlington Outdoor Lab.*

Agreed to by the Senate, January 12, 2017

Agreed to by the House of Delegates, January 20, 2017

WHEREAS, Arlington Outdoor Lab, a 225-acre outdoor science facility in the Bull Run Mountains, has provided educational and recreational opportunities to students in Arlington Public Schools for 50 years; and

WHEREAS, Arlington Outdoor Lab was created by Phoebe Hall Knipling, a visionary science educator whose drive and determination were critical to the success of the lab, and with generous financial support from Preston Caruthers, a local philanthropist and civic leader; and

WHEREAS, located in Fauquier County, Arlington Outdoor Lab was established in 1967 as a partnership between Arlington Public Schools and the Arlington Outdoor Education Association, a nonprofit volunteer organization created to support the lab; and

WHEREAS, Arlington Outdoor Lab comprises a variety of beautiful natural features, including a stream valley, a pond, trails, and a large forested landscape teeming with flora and fauna, most of which is protected by a voluntary conservation easement held by the Virginia Outdoors Foundation; and

WHEREAS, as part of the Broad Run-Little Georgetown Rural Historic District, which is listed on the National Register of Historic Places, Arlington Outdoor Lab includes Glasscock Gap, which was used by the Confederate States Army as passage through the Bull Run Mountains during the Civil War; and

WHEREAS, each year, Arlington Outdoor Lab provides hands-on science and environmental education to more than 9,000 Arlington Public Schools students through various activities, presentations, and events focusing on the natural world; and

WHEREAS, in 2016, Arlington Outdoor Lab was named as a Virginia Treasure by Governor Terence R. McAuliffe, highlighting the lab's unique ecological, cultural, scenic, and recreational assets, and a year-long celebration of Arlington Outdoor Lab's 50th anniversary began on June 4, 2016; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Arlington Outdoor Lab for offering unique educational opportunities to young Virginians on the occasion of its 50th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Arlington Outdoor Education Association Board of Directors as an expression of the General Assembly's admiration for Arlington Outdoor Lab's contributions to science and education in Arlington County.

#### SENATE JOINT RESOLUTION NO. 264

*Commending Nancy Garrett Witt, M.D.*

Agreed to by the Senate, January 12, 2017

Agreed to by the House of Delegates, January 20, 2017

WHEREAS, Nancy Garrett Witt, M.D., of Stuarts Draft, dedicated her life to the psychiatric treatment of adults and children as the director of a state run mental health facility in Staunton; and

WHEREAS, a native of Vinton, Nancy Witt graduated from William Byrd High School and earned a degree from Roanoke College; and

WHEREAS, Dr. Witt graduated 13th in her class at the Medical College of Virginia, now VCU Medical Center, in 1955, when few women were admitted to medical schools in Virginia; and

WHEREAS, in 1956, Dr. Witt was the first and only woman physician in the Rockfish Valley of rural Nelson County to operate a medical office and make residential house calls; and

WHEREAS, in 1958, Dr. Witt became a staff psychiatric physician at DeJarnette State Sanatorium in Staunton and, 10 years later, was promoted to the facility's director, making her the first woman director of a state operated mental health facility in Virginia; and

WHEREAS, under Dr. Witt's management, DeJarnette State Sanatorium became the only self-supporting state mental health facility in the country, contributing positively to the General Fund of the Commonwealth; and

WHEREAS, Dr. Witt gained a reputation for embracing new treatments and unique approaches to psychiatric issues, such as mega-dose vitamin therapy in conjunction with tranquilizers to treat schizophrenia; and

WHEREAS, in the 1970s, Dr. Witt oversaw DeJarnette State Sanatorium's transition to the DeJarnette Center for Human Development, known today as the Commonwealth Center for Children and Adolescents, a nationally known program for treating children with severe behavior disorders; and

WHEREAS, during her tenure as director, Dr. Witt focused heavily on education and community outreach, developing teacher training programs through affiliations with Mary Baldwin College, the University of Virginia, James Madison University, Bridgewater College, and working with local school teachers to address behavior problems in public schools; and

WHEREAS, Dr. Witt's work, especially the comprehensive behavior modification programs she developed, has been admired and duplicated by psychologists around the country; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Nancy Garrett Witt, M.D., on her years of service as director of a state run mental health facility in Staunton; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Nancy Garrett Witt, M.D., as an expression of the General Assembly's admiration for her life's work.

**SENATE JOINT RESOLUTION NO. 265**

*Commending Montero Medical Missions.*

Agreed to by the Senate, January 12, 2017

Agreed to by the House of Delegates, January 20, 2017

WHEREAS, Montero Medical Missions, a unique, international humanitarian organization headquartered in Chesapeake, celebrated its fifth anniversary during July 2016; and

WHEREAS, an all-volunteer organization, Montero Medical Missions provides medical missions and creates sustainable projects for physicians and allied health professionals with international roots; and

WHEREAS, Montero Medical Missions has a unique and innovative domestic project called Health Fair For Veterans that facilitates private sector health care access for veterans; the program was founded in 2012 and has been held quarterly ever since, providing assistance to hundreds of Virginia veterans at no cost to them; and

WHEREAS, veterans from all branches of the United States military are eligible for Montero Medical Missions Health Fair for Veterans and can attend the quarterly events without appointments; volunteer physicians, allied professionals, local universities, businesses, and other service organizations participate in the events; and

WHEREAS, Montero Medical Missions has been honored and recognized by the American College of Surgeons for the innovative Health Fair For Veterans program; and

WHEREAS, Montero Medical Missions has provided remarkable health care screening and referrals to our veterans domestically, as well as health care to those in need around the world; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly commend Montero Medical Missions on the occasion of its fifth anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Montero Medical Missions as an expression of the General Assembly's admiration for the organization's service to the Commonwealth and the citizens of Tidewater.

**SENATE JOINT RESOLUTION NO. 267**

*Commending Alan Schuman.*

Agreed to by the Senate, January 12, 2017

Agreed to by the House of Delegates, January 20, 2017

WHEREAS, in 2016, Alan Schuman received the Volunteer Fairfax Lifetime Achievement Award for his work with young people through Fairfax County Court Appointed Special Advocates and the Great Falls Youth Basketball League; and

WHEREAS, after beginning his career as a juvenile probations officer, Alan Schuman became director of social services for Washington, D.C., superior courts and founded his own organizational consulting business; and

WHEREAS, in 2000, Alan Schuman began generously volunteering his time as a youth basketball coach in Great Falls, where he mentored countless young people and helped to provide an outlet for healthy activity; and

WHEREAS, in 2002, Alan Schuman was sworn in as a volunteer for Court Appointed Special Advocates (CASA), an organization that serves and supports children referred to the organization by the Fairfax County Juvenile and Domestic Relations District Court; and

WHEREAS, Alan Schuman assisted six children in three families, and he made a profound difference in the children's lives by vigorously advocating for their welfare and best interests; and

WHEREAS, later serving as president of the CASA board, Alan Schuman strengthened the organization's financial standing, overhauled recruitment practices, and encouraged other community leaders to support or volunteer with CASA; and

WHEREAS, Alan Schuman has touched the lives of those in need around the world, including as a volunteer teacher's aide in Phnom Penh, Cambodia, for three months; and

WHEREAS, Alan Schuman was presented with the award at the 24th Annual Fairfax County Volunteer Service Awards ceremony in Springfield on April 8, 2016; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Alan Schuman on receiving the Volunteer Fairfax Lifetime Achievement Award for his work to serve and support young people in Fairfax County; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Alan Schuman as an expression of the General Assembly's admiration for his legacy of service.

**SENATE JOINT RESOLUTION NO. 268**

*Designating September 23, 2017, as National Hunting and Fishing Day in Virginia.*

Agreed to by the Senate, February 7, 2017

Agreed to by the House of Delegates, February 21, 2017

WHEREAS, Virginia has a rich and storied tradition of hunting and angling that dates back further than the official formation of the Commonwealth and continues to this day; and

WHEREAS, the Commonwealth's sportsmen and sportswomen were among the first conservationists to support the establishment of the Virginia Department of Game and Inland Fisheries (DGIF) to protect fish and wildlife and their habitats and, through their license fees, helped fund state efforts to provide for healthy and sustainable natural resources; and

WHEREAS, upon realizing that license fees alone were insufficient to restore and sustain healthy fish and wildlife populations, sportsmen and sportswomen supported excise taxes on firearms and ammunition, as well as hunting, fishing, archery, and boating equipment, to raise additional conservation funds; and

WHEREAS, the Virginia Department of Game and Inland Fisheries is still funded primarily by sportsmen and sportswomen through the American System of Conservation Funding, in which the user pays and the public benefits; the approach is widely recognized as the most successful system of fish and wildlife management in the world; and

WHEREAS, in 2015 alone, Virginia's sportsmen and sportswomen generated more than \$75 million through this system to support the conservation efforts of DGIF; and

WHEREAS, Virginia's 1,068,000 hunters and anglers support the Commonwealth's economy by spending more than \$2.38 billion to engage in their pursuits; this spending supports more than 39,000 jobs in Virginia and generates \$242 million in state and local taxes; and

WHEREAS, National Hunting and Fishing Day was established in 1972 to celebrate and recognize hunters and anglers for their immense contributions to fish and wildlife conservation and to American society; and

WHEREAS, the time-honored traditions of hunting and angling provide many social, cultural, economic, and ecological benefits to the citizens of the Commonwealth, and hunters, anglers, recreational shooters, and trappers make many contributions to the conservation of Virginia's natural resources; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly designate September 23, 2017, as National Hunting and Fishing Day in Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the Senate transmit a copy of this resolution to the Virginia Department of Game and Inland Fisheries so that members of DGIF may be apprised of the sense of the General Assembly of Virginia in this matter; and, be it

RESOLVED FINALLY, That the Clerk of the Senate post the designation of this day on the General Assembly's website.

**SENATE JOINT RESOLUTION NO. 271**

*Commending the Blacksburg High School football team.*

Agreed to by the Senate, January 12, 2017

Agreed to by the House of Delegates, January 20, 2017

WHEREAS, the Blacksburg High School football team overcame a 2–4 start to the season to win the 2016 Virginia State High School League Group 3A state championship, giving the school its first state title since 1989; and

WHEREAS, the Blacksburg High School Bruins defeated the Staunton River High School Golden Eagles of Moneta by a score of 28–20 in the state title game played December 10, 2016, at The College of William and Mary's Zable Stadium in Williamsburg; and

WHEREAS, in the first half, the Blacksburg Bruins' offense sputtered against the hard-hitting and opportunistic Staunton River Golden Eagles' defense, and Staunton River High School led 14–7 at halftime; and

WHEREAS, an electrifying pitch and catch from Blacksburg Bruins' quarterback Grant Johnston to sophomore wide receiver Tiquest Terry in the third quarter resulted in a 58-yard touchdown that tied the score at 14, changing the course of the game; and

WHEREAS, in the fourth quarter, the Blacksburg Bruins built a two-touchdown lead on a pair of rushing touchdowns by Cole Beck and the team's defense held up late in the fourth quarter to seal the championship win; and

WHEREAS, Tiquest Terry led the Blacksburg Bruins with four catches for 116 yards and quarterback Grant Johnston went seven for 15 for 166 yards and two scores; and

WHEREAS, the Blacksburg Bruins, considered one of the most improved teams in the state, started the season 2–4 but finished with a record of 10–5; and

WHEREAS, the title game was the fifth straight postseason victory for the 10th-seeded Blacksburg Bruins, who opened the playoffs with a record of 5–5 and won all five of their postseason games away from home; and

WHEREAS, all members of the Blacksburg High School football team contributed to the amazing undefeated post-season run and state championship victory by staying extremely focused and working hard to improve their reads and skills; and

WHEREAS, the Blacksburg Bruins' great coaching staff is led by Head Coach Thad Wells, who took the team to the playoffs in his first two seasons and won the state title in just his second season as head coach by implementing a new scheme that focused on speed and power; and

WHEREAS, the Blacksburg Bruins' state football championship was made possible by the support of the entire Blacksburg community and the dedicated fans who traveled near and far to cheer on the underdog team during the playoffs; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the Blacksburg High School football team on their outstanding 2016 playoff run and Virginia High School League Group 3A state championship; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Thad Wells, coach of the Blacksburg High School football team, as an expression of the General Assembly's admiration for the team's dedication, hard work, and belief they could win what seemed like an improbable victory.

### SENATE JOINT RESOLUTION NO. 273

*Commending Centra Rivermont Schools.*

Agreed to by the Senate, January 12, 2017

Agreed to by the House of Delegates, January 20, 2017

WHEREAS, Centra Rivermont Schools, Virginia's largest private, nonprofit system of schools serving school-age children with disabilities, marked the 30th anniversary of its founding in 2016; and

WHEREAS, Centra Rivermont Schools, which is affiliated with Lynchburg-based hospital corporation Centra Health Inc., first opened on the grounds of Virginia Baptist Hospital in 1986, serving four children who were patients in the Child and Adolescent Psychiatric Unit; and

WHEREAS, Centra Rivermont Schools was one of the first specialized education programs in Virginia to merge therapeutic behavioral health practices with special education; and

WHEREAS, Centra Rivermont Schools serves children with severe emotional, behavioral, learning, and developmental disabilities, including autism, by offering a special education program for students ages 5–22, who have difficulty learning in a traditional school setting; and

WHEREAS, Centra Rivermont Schools has 12 campuses throughout the Commonwealth, serving 630 children with disabilities who have been referred by over 60 public school divisions; each school is licensed by the Virginia Department of Education and accredited by the Virginia Association of Independent Specialized Education Facilities; and

WHEREAS, Centra Rivermont Schools strives to help children overcome previous school failures by cultivating each individual's inner strength, intelligence, and talents so that students learn to manage their behaviors and can return to their home schools, graduate, and become productive members of society; and

WHEREAS, Centra Rivermont Schools has achieved continued growth over its 30-year history and gained a reputation around the state for honesty, integrity, hard work, a spirit of collaboration, and a commitment to its students and families; and

WHEREAS, because of the dedication and work of the staff and administrators at Centra Rivermont Schools, hundreds of once struggling special needs children have prospered in a traditional school setting; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Centra Rivermont Schools on 30 years of service as Virginia's largest private, nonprofit system of schools serving school-age children with disabilities; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Dr. Lloyd G. Tannenbaum, director of Centra Rivermont Schools, as an expression of the General Assembly's admiration for the organization's dedication to putting children with special needs on a path to leading productive lives.

### SENATE JOINT RESOLUTION NO. 275

*Commending Virginia Thrasher.*

Agreed to by the Senate, January 12, 2017

Agreed to by the House of Delegates, January 20, 2017

WHEREAS, Virginia Thrasher of Springfield proudly represented the United States and the Commonwealth and received the first gold medal of the Games of the XXXI Olympiad in Rio de Janeiro in 2016 after winning the women's 10-meter air rifle event; and

WHEREAS, an alumna of West Springfield High School, Virginia "Ginny" Thrasher cultivated a love of shooting sports while hunting with her grandfather and joined the rifle team in high school and at West Virginia University; and

WHEREAS, earlier in 2016, Ginny Thrasher claimed the individual titles in both air rifle and small bore rifle at the National Collegiate Athletic Association rifle championship, leading the West Virginia University Mountaineers to their fourth consecutive national title; and

WHEREAS, at the 2016 Olympic Games, Ginny Thrasher was one of eight competitors to qualify for the finals of the women's 10-meter air rifle event; she scored a perfect 10.9 on her first shot in the finals and ultimately out-shot a two-time Olympic gold medalist by one point to top the podium in the first medal ceremony of the Rio Olympics; and

WHEREAS, as a member of Team USA, which earned the most medals of the 2016 Olympic Games with 121 overall, including 46 gold medals, Ginny Thrasher also competed in the women's 50-meter three-position rifle event; and

WHEREAS, throughout her career in competitive shooting and during the Olympic Games in particular, Ginny Thrasher has enjoyed the passionate support of her family, friends, coaches, and the members of the Springfield community; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Virginia Thrasher on winning a gold medal in the women's 10-meter air rifle event at the Games of the XXXI Olympiad; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Virginia Thrasher as an expression of the General Assembly's admiration for her exceptional achievements as a member of Team USA.

### SENATE JOINT RESOLUTION NO. 276

*Commending Matt Miller.*

Agreed to by the Senate, January 12, 2017

Agreed to by the House of Delegates, January 20, 2017

WHEREAS, Matt Miller of Springfield proudly represented the United States and the Commonwealth at the Games of the XXXI Olympiad in Rio de Janeiro in 2016, participating in the men's coxless four rowing event; and

WHEREAS, Matt Miller began rowing when he was a student at West Springfield High School; he graduated from the University of Virginia and continued to row at the USRowing Training Center in Princeton, New Jersey; and

WHEREAS, on the way to the 2016 Olympic Games, Matt Miller won the World Rowing Cup II men's eight event in 2014 and World Rowing Cup I men's four event in 2016; and

WHEREAS, Matt Miller and his teammates finished seventh in the men's coxless four event at the 2016 Olympic Games; and

WHEREAS, throughout his rowing career and during the Olympic Games in particular, Matt Miller has enjoyed the enthusiastic support of his family, friends, coaches, and the members of the Springfield community; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Matt Miller for representing the United States and the Commonwealth in the men's coxless four rowing event at the Games of the XXXI Olympiad; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Matt Miller as an expression of the General Assembly's admiration for his outstanding achievements as a member of Team USA.

### SENATE JOINT RESOLUTION NO. 277

*Commending Lucas Kozeniesky.*

Agreed to by the Senate, January 12, 2017

Agreed to by the House of Delegates, January 20, 2017

WHEREAS, Lucas Kozeniesky of Fairfax proudly represented the United States and the Commonwealth at the Games of the XXXI Olympiad in Rio de Janeiro in 2016, participating in the men's 10-meter air rifle event; and

WHEREAS, Lucas Kozeniesky is a former co-captain of the JW Robinson Junior Rifle Club at Robinson Secondary School in Fairfax and a standout member of the North Carolina State University rifle team, where he is currently a senior; and

WHEREAS, Lucas Kozeniesky has made multiple championship appearances for both air rifle and small bore rifle, and at the 2016 National Collegiate Athletic Association (NCAA) rifle championship, he finished among the top 10, shooting the highest score in the preliminary round to match an NCAA record of 596; and

WHEREAS, at the 2016 Olympic Games, Lucas Kozeniesky averaged a score of 10.37 on a scale that tops out at 10.9 to place 21st overall in the qualifying round of the men's 10-meter air rifle event; and

WHEREAS, throughout his career in competitive shooting and during the Olympic Games in particular, Lucas Kozeniesky has enjoyed the support of his family, friends, coaches, and the members of the Fairfax community; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Lucas Kozeniesky for representing the United States and the Commonwealth in the men's 10-meter air rifle event at the Games of the XXXI Olympiad; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Lucas Kozeniesky as an expression of the General Assembly's admiration for his outstanding achievements as a member of Team USA.

**SENATE JOINT RESOLUTION NO. 282**

*Designating the first week of July, in 2017 and in each succeeding year, as Substance-Exposed Infant Awareness Week in Virginia.*

Agreed to by the Senate, February 7, 2017  
 Agreed to by the House of Delegates, February 21, 2017

WHEREAS, abuse of and dependence on prescription painkillers, heroin, and other opioids have led to an opioid epidemic across the Commonwealth and throughout the nation; and

WHEREAS, prenatal exposure to opioids may cause infants to be born with an opioid dependency condition called Neonatal Abstinence Syndrome (NAS); and

WHEREAS, babies born with NAS may experience irritability, low birth weight, respiratory conditions, tremors, seizures, feeding difficulties, and other health-related challenges; and

WHEREAS, the rate of opioid abuse and dependence among pregnant women at time of delivery rose by 910 percent between 2004 and 2014, resulting in five infants per day being born drug dependent; and

WHEREAS, the Virginia Department of Health recorded 493 cases of NAS in 2013, an increase of nearly 100 cases over the previous year and an increase of more than 400 cases over 1999; and

WHEREAS, prevention, education, public awareness, and knowledge of available treatment resources are crucial to reducing the physical, social, and economic impact of NAS; and

WHEREAS, the Commonwealth is committed to fighting substance abuse and dependence and promoting safe environments and the compassionate care necessary to give every newborn the best possible start in life; in November 2016, the Virginia Department of Health declared that the opioid addiction crisis is a public health emergency in Virginia; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly designate the first week of July, in 2017 and in each succeeding year, as Substance-Exposed Infant Awareness Week in Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the Senate transmit a copy of this resolution to the Virginia Department of Health so that members of the department may be apprised of the sense of the General Assembly of Virginia in this matter; and, be it

RESOLVED FINALLY, That the Clerk of the Senate post the designation of this week on the General Assembly's website.

**SENATE JOINT RESOLUTION NO. 283**

*Celebrating the life of Stuart H. McElroy.*

Agreed to by the Senate, January 19, 2017  
 Agreed to by the House of Delegates, January 27, 2017

WHEREAS, Stuart H. McElroy, a patriotic veteran and a respected member of the Colonial Beach community, died on November 17, 2016; and

WHEREAS, Stuart McElroy joined many of the other young men of his generation in service to the nation during World War II as a member of the United States Army Air Corps; and

WHEREAS, after the war, Stuart McElroy graduated from Loyola University and continued his military career as a physicist at Naval Surface Warfare Center Dahlgren; and

WHEREAS, Stuart McElroy served as the head of missile safety at Naval Surface Warfare Center Dahlgren and was president of the Weapon System Explosives Safety Review Board; and

WHEREAS, Stuart McElroy enjoyed square dancing and boating and was an avid open water swimmer; and

WHEREAS, predeceased by his wife of 66 years, Undine, Stuart McElroy will be fondly remembered and greatly missed by daughter, Sandy, and her family and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Stuart H. McElroy, a proud veteran in Colonial Beach; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Stuart H. McElroy as an expression of the General Assembly's respect for his memory.

**SENATE JOINT RESOLUTION NO. 286**

*Commending Lake of the Woods Association, Inc.*

Agreed to by the Senate, January 19, 2017  
 Agreed to by the House of Delegates, January 27, 2017

WHEREAS, Lake of the Woods Association, Inc., a large property owners' association in Orange County named the 2015 Community Association of the Year, has served the members of the Lake of the Woods community for 50 years, having been established on April 21, 1967; and

WHEREAS, Lake of the Woods Association, which currently serves more than 3,800 homes and 8,000 full-time residents, received the award from the Central Virginia Chapter of the Community Association Institute; and

WHEREAS, the members of Lake of the Woods Association are dedicated to preserving the natural environment of the area and have made significant contributions toward maintaining and improving the area's lakes, foliage, and green spaces; and

WHEREAS, the members of Lake of the Woods Association are dedicated to preserving local historical resources and have conducted extensive research and marked the location of the Civil War Battle of the Wilderness, which took place in the area on May 5–7, 1864; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Lake of the Woods Association, Inc., for fifty years as a community association; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Lake of the Woods Association, Inc., as an expression of the General Assembly's admiration for the association's long history of commitment and concern for the community and the environment.

**SENATE JOINT RESOLUTION NO. 287**

*Commending the National Bank of Fredericksburg.*

Agreed to by the Senate, January 19, 2017  
 Agreed to by the House of Delegates, January 27, 2017

WHEREAS, the National Bank of Fredericksburg, a historic building in downtown Fredericksburg that has played an integral role in city life for nearly 200 years, underwent a historically sensitive renovation in 2016; and

WHEREAS, located at 900 Princess Anne Street, the National Bank of Fredericksburg, a Flemish bond brick building in the Federal style designed by Robert and George Ellis, was completed in 1820; and

WHEREAS, originally known as the Farmers Bank of Fredericksburg, the two-and-a-half story building was designed as both a bank and a home for the bank's cashiers and their families and remained an important financial hub for nearly 160 years; and

WHEREAS, the National Bank of Fredericksburg, the boyhood home of William Lewis Herndon who was commissioned to explore the Amazon River for the United States in the 1850s, was the headquarters of the Union command during the occupation of Fredericksburg in the Civil War; and

WHEREAS, the National Bank of Fredericksburg was the site of speeches by both Confederate President Jefferson Davis and United States President Abraham Lincoln, making it possibly the only confirmed site where both men made official visits; and

WHEREAS, the extensive renovation of the National Bank of Fredericksburg entailed the removal of the George Street steps for preservation, the repairs to the Princess Anne Street steps, the repairs to brickwork, stairs, and pediment windows, the painting, and the extensive detailed millwork; and

WHEREAS, the National Bank of Fredericksburg is now home to a popular local farm-to-table restaurant, Foode, featuring seating inside the former bank vault, and office space for Jon Properties real estate development firm on the second floor; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the National Bank of Fredericksburg on the occasion of its renovation in 2016; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the mayor of the City of Fredericksburg as an expression of the General Assembly's admiration for the historical significance of the National Bank of Fredericksburg.

**SENATE JOINT RESOLUTION NO. 288**

*Commending Ernestine Reid.*

Agreed to by the Senate, January 19, 2017  
 Agreed to by the House of Delegates, January 27, 2017

WHEREAS, Ernestine Reid has served and strengthened the Orange County community as a devoted educator and an inspirational civic leader; and

WHEREAS, a graduate of Wyatt High School in Emporia and St. Paul's College in Lawrenceville, Ernestine Reid developed her passion for education at a young age and worked hard to achieve her goals; and

WHEREAS, throughout her 38-year career as a teacher, Ernestine Reid strove to cultivate a safe, nurturing classroom environment to allow students to learn, grow, and achieve their fullest potential; and

WHEREAS, an influential leader in education, Ernestine Reid was a trusted mentor to both her students and her fellow teachers at Orange Elementary School; in addition, she developed curricula for Orange County Public Schools; and

WHEREAS, Ernestine Reid was named Teacher of the Year, and was twice nominated for the Student Teacher Academic Excellence Award, which honors teachers who have had a positive impact on their students' academic careers; and

WHEREAS, after her well-earned retirement as a teacher, Ernestine Reid continued to serve Orange County Public Schools on the Minority Task Force and Minority Advisory Committee; and

WHEREAS, Ernestine Reid is a longtime member of the NAACP and she helped the local chapter create a college and youth division; she has built support for the Academic Scholar Institute, which nurtures African American students as they pursue excellence in education; and

WHEREAS, a woman who lives her faith through her actions, Ernestine Reid is the first lady of Little Zion Baptist Church, where she works to instill her passion for lifelong learning in all of her fellow members of the congregation; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Ernestine Reid for her service as an educator and a community leader; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Ernestine Reid as an expression of the General Assembly's admiration for her devotion to bettering the lives of her fellow Orange County residents.

**SENATE JOINT RESOLUTION NO. 293**

*Celebrating the life of the Honorable Warren E. Barry.*

Agreed to by the Senate, January 19, 2017

Agreed to by the House of Delegates, January 27, 2017

WHEREAS, the Honorable Warren E. Barry, a businessman and public servant who ably represented the residents of Northern Virginia in both chambers of the General Assembly, died on March 31, 2016; and

WHEREAS, a native of Boston, Massachusetts, Warren Barry graduated from the University of Massachusetts and honorably served his country as a member of the United States Marine Corps; and

WHEREAS, after settling in Springfield, Warren Barry served as a shop teacher and guidance counselor at Fairfax County Public Schools until 1967, when he joined Lynch Brothers Commercial Real Estate Management, which he later purchased and renamed Barry Associates; and

WHEREAS, desirous to be of further service to the Commonwealth, Warren Barry ran for and was elected to the House of Delegates in 1968; he was reelected seven times and served until 1983 when he became the Fairfax County Clerk of Court; and

WHEREAS, Warren Barry returned to Richmond in 1991 as a member of the Senate of Virginia, serving until 2002 when he was appointed commissioner of the Virginia ABC Board, where he served until his well-earned retirement in 2006; and

WHEREAS, during his 20 years in the General Assembly, Warren Barry introduced and supported many important pieces of legislation and often sought bipartisan consensus on issues; he offered his leadership to the Senate as chair of the Committee on Transportation; and

WHEREAS, Warren Barry was known for his straightforward personality and strong convictions; he served Fairfax County and the Commonwealth with dedication and integrity; and

WHEREAS, predeceased by his wife of 29 years, Cheryl, Warren Barry will be fondly remembered and greatly missed by his sons, Stan, Jim, and Scott, and their families, and numerous other family members, friends, and colleagues on both sides of the aisle; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of the Honorable Warren E. Barry, a respected businessman and public servant; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of the Honorable Warren E. Barry as an expression of the General Assembly's respect for his memory.

**SENATE JOINT RESOLUTION NO. 294***Commending Naval Station Norfolk.*

Agreed to by the Senate, January 19, 2017  
 Agreed to by the House of Delegates, January 27, 2017

WHEREAS, forged in the crucible of the nation's founding, the City of Norfolk is fiercely proud of its long and historic affiliation with the United States Navy and of its leading role in national defense through Norfolk Naval Station, which has served the local community and the military for 100 years; and

WHEREAS, Norfolk has been home to such early naval heroes as Captain Stephen Decatur and David Farragut, the Navy's first admiral; famous ships have sailed and steamed on the Elizabeth River, including USS *Chesapeake*, one of the original six wooden frigates commissioned by Congress in 1794 that formed the core of the first United States Navy; the USS *Monitor* and CSS *Virginia*, the revolutionary ironclad vessels of the Civil War; the ships of the Great White Fleet that circumnavigated the globe in 1907; and the ships that carried Eugene Ely and his Hudson aircraft that made Norfolk the birthplace of naval aviation in 1910; and

WHEREAS, in recognition of its large, ice-free harbor and strategic geographic location, President Woodrow Wilson signed a bill in 1917 that established a United States Naval Base on 474 acres of land at Sewells Point that had been the location for the 1907 Jamestown Exposition held in celebration of the 300th anniversary of the Virginia colony's founding; originally known as Naval Operating Base Hampton Roads, the name of the installation was changed to Naval Station Norfolk in 1953; and

WHEREAS, over the years the base has grown in both size and importance, and now encompasses 4,300 acres with 64 ships and 18 aircraft squadrons, more than 100,000 active duty and civilian personnel, and the headquarters of United States Joint Forces Command, United States Fleet Forces Command, United States Marine Corps Forces Command, United States Air Force Air Combat Command, and United States Army Training and Doctrine Command, as well as the location of the North American headquarters for the North Atlantic Treaty Organization; and

WHEREAS, active duty and retired Naval personnel and their families live throughout the region and make essential contributions to the local quality of life through their engagement in community service work across an extensive array of organizations; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Naval Station Norfolk, an essential part of the Norfolk community and the United States Navy; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare copies of this resolution for presentation to the City of Norfolk and the United States Navy as an expression of the General Assembly's gratitude and appreciation for the numerous and important contributions Naval Station Norfolk has made and continues to make in the region and in defense of the nation.

**SENATE JOINT RESOLUTION NO. 298***Designating September 12, in 2017 and in each succeeding year, as the Saragarhi Day of Sikh Pride in Virginia.*

Agreed to by the Senate, February 7, 2017  
 Agreed to by the House of Delegates, February 21, 2017

WHEREAS, on September 12, 1897, the 21 soldiers of the 36th Sikh Regiment of the British Indian Army defending the Saragarhi communication post in the North Western Frontier Province of what is now Pakistan, were attacked by a force of between 10,000 and 14,000 Pashtun tribesmen; and

WHEREAS, outnumbered 500 to 1, but recognizing the importance of the outpost's mission to act as a heliographic signal relay between Fort Lockhart and Fort Gulistan, the Saragarhi defenders, under detachment commander Havildar Ishar Singh, unanimously decided to hold their position; and

WHEREAS, cut off from reinforcements by the approaching enemy, the Saragarhi defenders relied on their knowledge of the terrain and superior training and equipment to hold the outpost, which consisted of a small block building with ramparts and a signal tower; and

WHEREAS, between 9:00 a.m. and 2:00 p.m., the Saragarhi defenders repulsed several charges by the enemy forces, including coordinated assaults from different angles, but sustained heavy casualties and ran perilously low on ammunition; and

WHEREAS, after another attempt to provide relief to the Saragarhi defenders failed, the tribesmen advanced under the cover of smoke from burning shrubs and grass, and the remaining defenders were forced to retreat behind the inner walls of the outpost; and

WHEREAS, Havildar Ishar Singh, who had been gravely wounded earlier in the battle, and two of his men charged the tribesmen to allow the other Saragarhi defenders to set up a new defensive position; their sacrifice inspired the remaining defenders, who engaged the enemy in hand-to-hand combat inside the fort; and

WHEREAS, at 3:30 p.m., the last Saragarhi defender, Sepoy Gurmukh Singh, requested permission from Fort Lockhart to abandon his post in the signal tower and join the battle; his request was granted; and

WHEREAS, the Saragarhi defenders held their post to the last man, and their inspirational bravery and dedication to duty in the face of overwhelming odds is celebrated by Sikhs and fellow soldiers throughout the world; and

WHEREAS, the Saragarhi defenders—Havildar Ishar Singh, Naik Lal Singh, Naik Chanda Singh, Lance Naik Sundar Singh, Lance Naik Ram Singh, Lance Naik Uttar Singh, Lance Naik Sahib Singh, Sepoy Hira Singh, Sepoy Daya Singh, Sepoy Jivan Singh, Sepoy Bhola Singh, Sepoy Narayan Singh, Sepoy Gurmukh Singh, Sepoy Jivan Singh, Sepoy Gurmukh Singh, Sepoy Ram Singh, Sepoy Bhagwan Singh, Sepoy Bhagwan Singh, Sepoy Buta Singh, Sepoy Jivan Singh, Sepoy Nand Singh—earned an indelible place in history by their valor, loyalty, and courageous sacrifice; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly designate September 12, in 2017 and in each succeeding year, as the Saragarhi Day of Sikh Pride in Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the Senate transmit a copy of this resolution to Puneet Ahluwalia so that members of the Sikh community may be apprised of the sense of the General Assembly of Virginia in this matter; and, be it

RESOLVED FINALLY, That the Clerk of the Senate post the designation of this day on the General Assembly's website.

### SENATE JOINT RESOLUTION NO. 300

*Confirming various appointments by the Senate Committee on Rules.*

Agreed to by the Senate, February 7, 2017

Agreed to by the House of Delegates, February 21, 2017

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly confirm the following appointments made by the Senate Committee on Rules:

1. Appointment to the Tobacco Region Revitalization Commission pursuant to § 3.2-3101 of the Code of Virginia:

**The Honorable Charles W. Carrico, Sr.**, Post Office Box 1100, **Galax**, Virginia 24333, Member, for a term coincident with the term for which he has been elected to the Senate of Virginia, to succeed himself.

**The Honorable A. Benton Chafin, Jr.**, Post Office Box 1210, **Lebanon**, Virginia 24266, Member, for a term coincident with the term for which he has been elected to the Senate of Virginia, to succeed the Honorable Ralph K. Smith.

**The Honorable Frank M. Ruff, Jr.**, Post Office Box 332, **Clarksville**, Virginia 23927, Member, for a term coincident with the term for which he has been elected to the Senate of Virginia, to succeed himself.

**The Honorable William M. Stanley, Jr.**, 13508 Booker T. Washington Highway, **Moneta**, Virginia 24121, Member, for a term coincident with the term for which he has been elected to the Senate of Virginia, to succeed himself.

2. Appointment to the Virginia Commonwealth University Health System Authority Board of Directors pursuant to § 23.1-2402 of the Code of Virginia:

**The Honorable Lisa M. Hicks-Thomas**, 3421 Logan Hill Place, **Richmond**, Virginia 23223, Member, for a term of three years beginning July 1, 2016, and ending June 30, 2019, to succeed Robert M. Blue.

**Dr. Bruce E. Mathern**, 417 North 11th Street, **Richmond**, Virginia 23298, Member, for a term of three years beginning July 1, 2016, and ending June 30, 2019, to succeed himself.

**The Honorable Ryan T. McDougle**, Post Office Box 187, **Mechanicsville**, Virginia 23111, Member, for a term of three years beginning July 1, 2016, and ending June 30, 2019, to succeed himself.

### SENATE JOINT RESOLUTION NO. 301

*Celebrating the life of Frank R. Spadea.*

Agreed to by the Senate, January 19, 2017

Agreed to by the House of Delegates, January 27, 2017

WHEREAS, Virginia Beach businessman Frank R. Spadea, founder and chair of Franciscus Homes, died on March 29, 2016; and

WHEREAS, born in Jamaica, New York, to Nicholas and Mary Spadea, Frank Spadea attended college at St. John's University in New York; and

WHEREAS, Frank Spadea moved to the Hampton Roads area over 50 years ago and founded Franciscus Homes in 1976, a company that today is one of the region's largest builders in the attached and workforce housing segment; and

WHEREAS, Franciscus Homes developed 3,500 condos and 500 single-family houses over the past 40 years, building across an area that spans from Moyock, North Carolina, to James City County; and

WHEREAS, Frank Spadea gained national recognition for his innovations in land planning and building design; his passion for building and design concepts was evident in his trademark doodles in the sketch pad he always carried; and

WHEREAS, Frank Spadea was a true gentleman remembered for his honesty and straightforwardness in his business dealings, his generosity and kindness toward others, and his devotion to his faith and his family, especially his five grandchildren, who filled his heart with joy and pride; and

WHEREAS, Frank Spadea will be fondly remembered and greatly missed by his wife, Kathy; children, Lori and Russell, and their families; and the many relatives and friends whose lives he touched; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Virginia Beach businessman and Franciscus Homes founder Frank R. Spadea; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Frank R. Spadea as an expression of the General Assembly's respect for his memory.

### SENATE JOINT RESOLUTION NO. 302

*Celebrating the life of James B. Ricketts.*

Agreed to by the Senate, January 19, 2017

Agreed to by the House of Delegates, January 27, 2017

WHEREAS, James B. Ricketts, a United States Navy veteran and a pioneer in promoting tourism and travel in Virginia Beach as well as statewide and nationally, died on March 23, 2016; and

WHEREAS, James "Jim" Ricketts was born in Honolulu, Hawaii, to Admiral Claude V. Ricketts and Marjorie C. Ricketts; and

WHEREAS, Jim Ricketts graduated from Luther College in Decorah, Iowa, in 1963 and the Naval Officer Candidate School and Naval Supply Corps School in 1964; and

WHEREAS, Jim Ricketts was an accomplished commissioned Navy officer, serving four years overseas at United States Naval Air Facility Atsugi, Japan, where he was responsible for financial management; and

WHEREAS, in 1972, Jim Ricketts transitioned into a career in the travel industry, first working for the Cruise Service Bureau for the Norfolk Port and Industrial Authority; and

WHEREAS, Jim Ricketts spent 42 years with the Virginia Beach Convention and Visitors Bureau, where he was an award-winning innovator, developer, and leader of the city's tourism renaissance, credited with transforming a sleepy summer beach town to a year-round resort and tourist destination; and

WHEREAS, Jim Ricketts dedicated his life to promoting tourism and economic development in Virginia Beach through his numerous local, state, and national leadership positions in trade associations, including service as a board member of the United States Travel Association and Virginia Tourism Corporation; and

WHEREAS, Jim Ricketts enjoyed traveling with family, working in the yard, caring for his vintage cars, and walking his dog, Buffy, and is remembered for his compassion, kindness, humility, and humor; and

WHEREAS, a caring and loving family man, Jim Ricketts was preceded in death by a son, Sean, and he will be fondly remembered and missed by his wife of 30 years, Jean; children, Todd, Cari, and Pamela, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of James B. Ricketts, a proud United States Navy veteran and tireless promoter of Virginia Beach tourism; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of James B. Ricketts as an expression of the General Assembly's respect for his memory.

### SENATE JOINT RESOLUTION NO. 303

*Commending Junior Law.*

Agreed to by the Senate, January 19, 2017

Agreed to by the House of Delegates, January 27, 2017

WHEREAS, Junior Law, a dedicated first responder who served the members of the Franklin County community for more than 40 years, retired as a second lieutenant with the Snow Creek Rescue Squad in 2016; and

WHEREAS, as a founding member of the Snow Creek Rescue Squad, Junior Law had served and safeguarded the members of the community since April 1973; the squad responded to its first call, an automobile crash at the intersection of Route 619 and Route 632, in July 1973; and

WHEREAS, in the Snow Creek Rescue Squad's early days, the on-duty squad member took the ambulance home each day and contacted other squad members for assistance as necessary; as the Snow Creek Rescue Squad grew to better serve the community, Junior Law was essential in keeping the ambulances well-maintained, even until his retirement; and

WHEREAS, at the Snow Creek Rescue Squad's 40th anniversary celebration in 2013, Junior Law was the only original member of the squad still active, and he was recognized by his colleagues for his exceptional contributions to the squad and for his service to the residents of Franklin County; and

WHEREAS, the Law family has a combined 116 years of service with the Snow Creek Rescue Squad; Junior Law's wife served for 30 years, his son has served for 37 years, and his grandson has served for nine years; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Junior Law on the occasion of his retirement as a member of the Snow Creek Rescue Squad; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Junior Law as an expression of the General Assembly's admiration for his legacy of service as a first responder and best wishes for a happy retirement.

**SENATE JOINT RESOLUTION NO. 304**

*Celebrating the life of Raleigh Thomas Warren.*

Agreed to by the Senate, January 19, 2017

Agreed to by the House of Delegates, January 27, 2017

WHEREAS, Raleigh Thomas Warren of Danville, a veteran and a man of deep and abiding faith, died on October 9, 2015; and

WHEREAS, Raleigh Thomas "Tom" Warren was the son of the late Raleigh T. Warren, Sr., and Ruby M. Warren; he honorably served his country as a member of the United States Navy, enlisting in 1954; and

WHEREAS, after completing his military service, Tom Warren pursued higher education at Marshall University in Huntington, West Virginia; he retired from a career with the Goodyear Tire and Rubber Company; and

WHEREAS, Tom Warren was a man of character and a firm believer in doing the right thing who inspired others with his quiet, commonsense leadership style; and

WHEREAS, Tom Warren carefully analyzed local, state, and national issues, and he made his voice heard through countless detailed and thought-provoking letters to the editor; and

WHEREAS, Tom Warren was a loyal member of First Baptist Church of Danville, finding joy and fellowship among the members of the congregation; and

WHEREAS, predeceased by one son, Andy, Tom Warren will be fondly remembered and greatly missed by his wife, Sandra; sons, Tommy, Todd, and Greg, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Raleigh Thomas Warren, a respected member of the Danville community; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Raleigh Thomas Warren as an expression of the General Assembly's respect for his memory.

**SENATE JOINT RESOLUTION NO. 306**

*Commending Gretna American Legion Post 232.*

Agreed to by the Senate, January 19, 2017

Agreed to by the House of Delegates, January 27, 2017

WHEREAS, on August 7, 2016, Gretna American Legion Post 232 unveiled its Purple Heart Monument to honor the service and sacrifices of the members of the United States Armed Forces who have been wounded or killed while defending the causes of justice, freedom, and democracy throughout the world; and

WHEREAS, as part of the nation's largest veterans' organization, Gretna American Legion Post 232 works to support active duty service members and veterans and conducts valuable outreach to the members of the Gretna and Pittsylvania County communities; and

WHEREAS, Gretna American Legion Post 232 worked with the Military Order of the Purple Heart, a veterans organization made up exclusively of the men and women who have received the Purple Heart, to erect the inspirational monument, which honors members of all branches of service; and

WHEREAS, Gretna American Legion Post 232 recognized nine living Purple Heart recipients from the Gretna area; numerous local residents attended the ceremony, demonstrating their patriotism and pride in the community; and

WHEREAS, the dedication ceremony for Gretna American Legion Post 232's Purple Heart Monument took place on Purple Heart Day, a national day of remembrance to celebrate the nation's more than 1.7 million Purple Heart recipients; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Gretna American Legion Post 232 on the dedication of its Purple Heart Monument; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Gretna American Legion Post 232 as an expression of the General Assembly's admiration for the post's mission to honor the service and sacrifices of all men and women in uniform.

**SENATE JOINT RESOLUTION NO. 307**

*Confirming appointments by the Governor of certain persons communicated April 21, 2016, and June 1, 2016.*

Agreed to by the Senate, January 30, 2017  
Agreed to by the House of Delegates, February 8, 2017

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly confirm the following appointments of certain persons made by Governor Terry McAuliffe and communicated to the General Assembly April 21, 2016, and June 1, 2016.

**SECRETARIAT**

**Kelly Thomasson**, 1111 East Broad Street, **Richmond**, Virginia 23219, Secretary of the Commonwealth, to serve an unexpired term beginning April 16, 2016, and ending January 21, 2018, to succeed Levar M. Stoney.

**ADMINISTRATION****Citizens' Advisory Council on Furnishing and Interpreting the Executive Mansion**

**Gretchen M. Bulova**, 10905 Spurlock Court, **Fairfax**, Virginia 22032, Member, appointed April 8, 2016, to serve an unexpired term beginning September 19, 2015, and ending March 31, 2018, to succeed Ashley H. Peace.

**Tasha Chambers**, 713 Huntsman Road, **Sandston**, Virginia 23150, Member, appointed April 8, 2016, for a term of five years beginning April 1, 2016, and ending March 31, 2021, to succeed D. Anderson Williams.

**Christy S. Coleman**, 6211 Arbor Banks Terrace, **Chester**, Virginia 23831, Member, appointed April 8, 2016, for a term of five years beginning April 1, 2016, and ending March 31, 2021, to succeed Ann Gottwald.

**Bryan Clark Green**, 420 South Pine Street, **Richmond**, Virginia 23220, Member, appointed April 8, 2016, for a term of five years beginning April 1, 2016, and ending March 31, 2021, to succeed himself.

**Eileen Lee**, 3608 North Albemarle Street, **Arlington**, Virginia 22207, Member, appointed April 8, 2016, for a term of five years beginning April 1, 2016, and ending March 31, 2021, to succeed Maureen Massey.

**Justin G. Reid**, 2371 Cumberland Road, **Farmville**, Virginia 23901, Member, appointed April 8, 2016, for a term of five years beginning April 1, 2016, and ending March 31, 2021, to succeed Cynthia Kerr Fralin.

**AGRICULTURE AND FORESTRY****Marine Products Board**

**C. Meade Amory**, 15 Wilson Drive, **Poquoson**, Virginia 23662, Member, appointed March 14, 2016, for a term of three years beginning July 1, 2015, and ending June 30, 2018, to succeed himself.

**Glen Wayne France**, 398 Bowen Lane, **Warsaw**, Virginia 22572, Member, appointed March 23, 2016, to serve an unexpired term beginning March 23, 2016, and ending June 30, 2016, to succeed Clarke J. Morton.

**Ann Arseniu Gallivan**, 5456 Bayford Road, **Franktown**, Virginia 23354, Member, appointed March 23, 2016, to serve an unexpired term beginning March 23, 2016, and ending June 30, 2017, to succeed A.J. Erskine.

**Kimberly Huskey**, 105 Woodhaven Drive, **Yorktown**, Virginia 23692, Member, appointed March 23, 2016, for a term of three years beginning July 1, 2015, and ending June 30, 2018, to succeed Cameron Chalmers.

**Hannah E. Kellum**, 812 Maon Road, **Farnham**, Virginia 22460, Member, appointed March 23, 2016, to serve an unexpired term beginning March 23, 2016, and ending June 30, 2016, to succeed J. David Gray.

**Kelly L. Minor**, 401 Rock Town Road, **Reedville**, Virginia 22539, Member, appointed March 24, 2016, for a term of three years beginning July 1, 2014, and ending June 30, 2017, to succeed herself.

**Peter D. Nixon**, 664 Ingleside Road, **Norfolk**, Virginia 23502, Member, appointed March 10, 2016, for a term of three years beginning July 1, 2015, and ending June 30, 2018, to succeed himself.

**Peanut Board**

**Stephanie E. Pope**, 13009 Cedar View Road, **Drewryville**, Virginia 23844, Member, appointed March 10, 2016, for a term of three years beginning July 1, 2015, and ending June 30, 2018, to succeed herself.

**Robert C. Rogers**, 20367 Courthouse Road, **Yale**, Virginia 23897, Member, appointed March 10, 2016, for a term of three years beginning July 1, 2015, and ending June 30, 2018, to succeed himself.

**COMMERCE AND TRADE****Board for Hearing Aid Specialists and Opticians**

**Melissa Gill**, 801 McCausland Street, **Lynchburg**, Virginia 24501, Member, appointed May 12, 2016, for a term of four years beginning July 1, 2015, and ending June 30, 2019, to succeed Robert E. Flippin.

**Board for Waterworks and Wastewater Works Operators and Onsite Sewage System Professionals**

**W. Jordan Evans**, 823 East Main Street, Apartment 1404, **Richmond**, Virginia 23219, Member, appointed March 9, 2016, for a term of four years beginning July 1, 2015, and ending June 30, 2019, to succeed Michelle Ann Magrino.

**Richard C. Wadkins**, 110 Half Penny Court, **Stephens City**, Virginia 22655, Member, appointed March 9, 2016, for a term of four years beginning January 1, 2016, and ending December 31, 2019, to succeed Barry Dunkley.

**Commission on Local Government**

**Kimble Reynolds, Jr.**, 202 Oaklawn Avenue Northeast, **Roanoke**, Virginia 24012, Member, appointed April 5, 2016, for a term of five years beginning January 1, 2016, and ending December 31, 2020, to succeed John G. Kines, Jr.

**Latino Advisory Board**

**Juan P. Espinoza**, 601 Devon Lane, **Blacksburg**, Virginia 24060, Member, appointed March 22, 2016, to serve an unexpired term beginning February 27, 2016, and ending October 14, 2016, to succeed Theresa Alvillar-Speake.

**Real Estate Appraiser Board**

**Edythe Frankel Kelleher**, 210 Cedar Lane, Southeast 32, **Vienna**, Virginia 22180, Member, appointed April 12, 2016, to serve an unexpired term beginning February 10, 2016, and ending April 2, 2018, to succeed Laura L. Sánchez del Solar.

**Virginia Board of Workforce Development**

**Ann Hucke Mallek**, Currituck Farm, **Earlsville**, Virginia 22936, Member, appointed April 22, 2016, to serve an unexpired term beginning March 4, 2016, and ending June 30, 2019, to succeed Mary Hughes Hynes.

**Virginia Economic Development Partnership Authority Board of Directors**

**H. Michael Ligon**, 805 Colony Bluff Place, **Richmond**, Virginia 23238, Member, appointed March 10, 2016, for a term of six years beginning January 1, 2016, and ending December 31, 2021, to succeed James E. Ukrop.

**Virginia-Israel Advisory Board**

**Steven A. Valdez**, 2300 East Cary Street, Apartment 215, **Richmond**, Virginia 23223, Member, appointed February 26, 2016, to serve an unexpired term beginning December 17, 2015, and ending June 30, 2017, to succeed Joyce Slavin Scher.

**Virginia Manufactured Housing Board**

**Ben Flores**, 419 Lilliput Lane, **Wake Forest, North Carolina** 27587, Member, appointed April 27, 2016, for a term of four years beginning April 1, 2016, and ending March 31, 2020, to succeed himself.

**Keith Winslow Hicks**, 224 Ashbury Hills Drive, **Richmond**, Virginia 23227, Member, appointed April 27, 2016, for a term of four years beginning April 1, 2016, and ending March 31, 2020, to succeed Allen W. Dudley.

**Cindy Ferreira Tomlin**, 9365 New Horizon Court, **McGaheysville**, Virginia 22840, Member, appointed April 28, 2016, for a term of four years beginning April 1, 2016, and ending March 31, 2020, to succeed herself.

**COMPACT****Metropolitan Washington Airports Authority**

**Bill Sudow**, 1123 Crest Lane, **McLean**, Virginia 22101, Member, appointed May 13, 2016, to serve an unexpired term beginning March 17, 2016, and ending June 30, 2018, to succeed Lynn Chapman.

**J. Walter Tejada**, 859 North Larrimore Street, **Arlington**, Virginia 22205, Member, appointed May 13, 2016, to serve an unexpired term beginning March 17, 2016, and ending November 23, 2018, to succeed Frank Conner.

**DESIGNATED****Vint Hill Economic Development Authority**

**James W. Mills**, 4068 Von Neuman Circle, **Warrenton**, Virginia 20187, Member, appointed April 29, 2016, to serve an unexpired term beginning January 1, 2016, and ending March 18, 2020, to succeed Mary Leigh McDaniel.

**EDUCATION****Board of Trustees of the Virginia Museum of Fine Arts**

**Cynthia Harman Conner**, 412 Prince Street, **Alexandria**, Virginia 22314, Member, appointed February 26, 2016, for a term of five years beginning July 1, 2015, and ending June 30, 2020, to succeed Margaret Irby Clement.

**Board of Visitors for Gunston Hall**

**David S. Mercer**, 818 Marshall Lane, **Alexandria**, Virginia 22302, Member, appointed March 18, 2016, for a term of one year beginning October 1, 2015, and ending September 30, 2016, to succeed himself.

**Eileen Cassidy Rivera**, 205 Clifford Avenue, **Alexandria**, Virginia 22305, Member, appointed March 18, 2016, for a term of one year beginning October 1, 2015, and ending September 30, 2016, to succeed Penelope Payne.

**Timothy J. Sargeant**, 8803 Cross Chase Circle, **Fairfax Station**, Virginia 22039, Member, appointed March 18, 2016, for a term of one year beginning October 1, 2015, and ending September 30, 2016, to succeed himself.

**State Historical Records Advisory Board**

**Audrey Davis**, 3001 Veazey Terrace Northwest, Van Ness North Apartment 416, **Washington, District of Columbia** 20008, Member, appointed March 4, 2016, for a term of three years beginning November 1, 2015, and ending October 31, 2018, to succeed Brooks Barnes.

**RPW Havers**, 41 Fox Meadow Lane, **Lexington**, Virginia 24450, Member, appointed March 4, 2016, for a term of three years beginning November 1, 2015, and ending October 31, 2018, to succeed Nashid Madyun.

**Garrett McGuire**, 900 Army Navy Drive, Apartment 1522, **Arlington**, Virginia 22202, Member, appointed March 4, 2016, to serve an unexpired term beginning November 4, 2015, and ending October 31, 2016, to succeed Sara Baron.

**Aaron D. Purcell**, 826 Toms Creek Road, **Blacksburg**, Virginia 24060, Member, appointed March 4, 2016, for a term of three years beginning November 1, 2015, and ending October 31, 2018, to succeed himself.

**HEALTH AND HUMAN RESOURCES****Advisory Board on Massage Therapy**

**Kristina E. Page**, 5434 Scandia Road, **Sandston**, Virginia 23150, Member, appointed February 26, 2016, to serve an unexpired term beginning April 23, 2015, and ending June 30, 2016, to succeed Michele Schutt.

**Advisory Board for the Virginia Department for the Deaf and Hard-of-Hearing**

**Traci D. Branch**, 14031 Mountshire Lane, **Chester**, Virginia 23836, Member, appointed March 4, 2016, to serve an unexpired term beginning December 9, 2015, and ending June 30, 2019, to succeed Dinah L. Scharfenberg.

**Board of Audiology and Speech-Language Pathology**

**Lillian Beasley Beahm**, 7816 Sanderson Drive, **Roanoke**, Virginia 24019, Member, appointed April 1, 2016, to serve an unexpired term beginning January 17, 2016, and ending June 30, 2018, to succeed Martin Lenhardt.

**Board of Medical Assistance Services**

**Cara L. Coleman**, 40376 Stonebrook Hamlet Place, **Waterford**, Virginia 20197, Member, appointed April 15, 2016, for a term of four years beginning March 8, 2016, and ending March 7, 2020, to succeed Erica Wynn.

**Rebecca E. Gwilt**, 8519 Sunningdale Terrace, **Chesterfield**, Virginia 23832, Member, appointed April 15, 2016, for a term of four years beginning March 8, 2016, and ending March 7, 2020, to succeed Brian H. Ewald.

**Karen S. Rheuban**, 910 Broomley Road, **Charlottesville**, Virginia 22901, Member, appointed April 15, 2016, for a term of four years beginning March 8, 2016, and ending March 7, 2020, to succeed herself.

**State Rehabilitation Council for the Blind and Vision Impaired**

**Bonita J. Hinrichs**, 10230 Misty Oaks Lane, **Amelia Court House**, Virginia 23002, Member, appointed April 22, 2016, to serve an unexpired term beginning March 17, 2016, and ending September 30, 2016, to succeed Claudie Grant.

**Karen B. Walker**, 17175 Tulip Poplar Road, **Beaverdam**, Virginia 23015, Member, appointed May 20, 2016, to serve an unexpired term beginning January 12, 2016, and ending September 30, 2018, to succeed Bernard Werwie.

**Statewide Independent Living Council**

**Karen B. Walker**, 17175 Tulip Poplar Road, **Beaverdam**, Virginia 23015, Member, appointed May 20, 2016, to serve an unexpired term beginning January 12, 2016, and ending September 30, 2017, to succeed Bernard Werwie.

**Substance Abuse Services Council**

**Mary Gresham McMasters**, 1482 Mount Torrey Road, **Lyndhurst**, Virginia 22952, Member, appointed May 20, 2016, to serve an unexpired term beginning July 1, 2014, and ending June 30, 2017, to succeed Nassima Ait-Daoud Tiouririne.

**INDEPENDENT****Virginia Birth-Related Neurological Injury Compensation Program Board of Directors**

**Rhonda L. Russell**, 2 Fulcher Court, **Hampton**, Virginia 23666, Member, appointed March 25, 2016, to serve an unexpired term beginning July 1, 2014, and ending June 30, 2017, to succeed Arthur Lee Talley.

**Virginia Lottery Board**

**Scott A. Price**, 1100 Quaker Hill Drive, Unit 407, **Alexandria**, Virginia 22314, Member, appointed March 18, 2016, for a term of five years beginning January 15, 2016, and ending January 14, 2021, to succeed Albert Poole.

**Virginia Retirement System Board of Trustees**

**J. Brandon Bell II**, 5268 Golden Eagle Lane, **Roanoke**, Virginia 24018, Member, appointed April 15, 2016, for a term of five years beginning March 1, 2016, and ending February 28, 2021, to succeed A. Marshall Acuff, Jr.

**JUDICIAL****Virginia Criminal Sentencing Commission**

**Kyanna Perkins**, 400 North 9th Street, Suite 213, **Richmond**, Virginia 23219, Member, appointed March 11, 2016, to serve an unexpired term beginning March 2, 2016, and ending December 31, 2017, to succeed Emily Renda.

**NATURAL RESOURCES****Mount Vernon Board of Visitors**

**Conover Hunt**, 8A Pilot Avenue, **Hampton**, Virginia 23664, Member, appointed May 12, 2016, for a term of four years beginning May 1, 2016, and ending April 30, 2020, to succeed Julie Dime.

**Andrew M. Smith**, 4202 Maple Tree Court, **Alexandria**, Virginia 22304, Member, appointed May 12, 2016, for a term of four years beginning May 1, 2016, and ending April 30, 2020, to succeed Aaron Leibowitz.

**PUBLIC SAFETY AND HOMELAND SECURITY****Criminal Justice Services Board**

**Anthony W. Roper**, 100 North Church Street, **Berryville**, Virginia 22611, Member, appointed March 18, 2016, to serve an unexpired term beginning January 1, 2016, and ending June 30, 2017, to succeed Charles Jett.

**VETERANS AND DEFENSE AFFAIRS****Board of Veterans Services**

**Michael E. Dick**, Post Office Box 86, **Earlsville**, Virginia 22936, Member, appointed March 30, 2016, to serve an unexpired term beginning October 2, 2015, and ending June 30, 2016, to succeed Don Lecky.

**Joint Leadership Council of Veterans Service Organizations**

**John R. Clickener**, 161 Youhill Drive, Post Office Box 475, **Tappahannock**, Virginia 22560, Member, appointed April 12, 2016, to serve an unexpired term beginning February 7, 2016, and ending June 30, 2018, to succeed John J. Prendergast.

**SENATE JOINT RESOLUTION NO. 308**

*Confirming appointments by the Governor of certain persons communicated August 1, 2016.*

Agreed to by the Senate, February 10, 2017  
Agreed to by the House of Delegates, February 8, 2017

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly confirm the following appointments of certain persons made by Governor Terry McAuliffe and communicated to the General Assembly August 1, 2016.

**SECRETARIATS**

**Basil I. Gooden**, 1111 East Broad Street, **Richmond**, Virginia 23219, Secretary of Agriculture and Forestry, effective September 6, 2016, to serve at the pleasure of the Governor, to succeed Todd P. Haymore.

**Todd Patterson Haymore**, 1111 East Broad Street, **Richmond**, Virginia 23219, Secretary of Commerce and Trade, effective September 6, 2016, to serve at the pleasure of the Governor, to succeed Maurice A. Jones.

**Dietra Y. Trent**, 1111 East Broad Street, **Richmond**, Virginia 23219, Secretary of Education, effective July 26, 2016, to serve at the pleasure of the Governor, to succeed Anne Holton.

**ADMINISTRATION****Council on Women**

**Hala S. Ayala**, 2896 Burgundy Place, **Woodbridge**, Virginia 22192, Member, appointed July 22, 2016, for a term of three years beginning July 1, 2016, and ending June 30, 2019, to succeed herself.

**Erin Evans-Bedois**, 917 Scarlet Oak Court, **Chesapeake**, Virginia 23320, Member, appointed July 22, 2016, for a term of three years beginning July 1, 2016, and ending June 30, 2019, to succeed Julie Coggsdale.

**Ikeita M. Cantú Hinojosa**, 1443 Woodacre Drive, **McLean**, Virginia 22101, Member, appointed July 22, 2016, for a term of three years beginning July 1, 2016, and ending June 30, 2019, to succeed Mais Abousy.

**Katy Sawyer**, 2807 Westgate Drive, **Richmond**, Virginia 23235, Member, appointed July 22, 2016, for a term of three years beginning July 1, 2016, and ending June 30, 2019, to succeed Olivia Gans Turner.

**Lisa Speller-Davis**, 10716 Correnty Drive, **Glen Allen**, Virginia 23059, Member, appointed July 22, 2016, for a term of three years beginning July 1, 2016, and ending June 30, 2019, to succeed Ruth Zajur.

**Michelle Strucke**, 8181 Carnegie Hall Court, Apartment 204, **Vienna**, Virginia 22180, Member, appointed July 22, 2016, for a term of three years beginning July 1, 2016, and ending June 30, 2019, to succeed Tracy Key.

**AGRICULTURE AND FORESTRY****Board of Agriculture and Consumer Services**

**Neil A. Houff**, 6806 Cross Keys Road, **Mount Crawford**, Virginia 22841, Member, appointed June 30, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Elizabeth L. White.

**Kevin J. Kordek**, 3824 Prince Andrew Lane, **Virginia Beach**, Virginia 23452, Member, appointed June 30, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed himself.

**Richard S. Sellers**, 9501 Mellett Court, **Burke**, Virginia 22015, Member, appointed June 1, 2016, to serve an unexpired term beginning May 27, 2016, and ending February 28, 2017, to succeed Luther Kirk Wiles III.

**Board of Forestry**

**Anne M. Beals**, 801 Hanover Street, Apartment 1, **Fredericksburg**, Virginia 22401, Member, appointed June 14, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed herself.

**Donald C. Bright**, 91 Highpoint Boulevard, **Clarksville**, Virginia 23927, Member, appointed June 13, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed himself.

**Joel L. Cathey**, 428 Pine Crest Road, **Keysville**, Virginia 23947, Member, appointed June 13, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed himself.

**Milk Commission**

**Patrick H. Crawford**, 1817 Roves Lane, **Virginia Beach**, Virginia 23464, Member, appointed July 25, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed himself.

**Small Grains Board**

**Raymond G. Keating**, 339 Dorwin Drive, **Norfolk**, Virginia 23502, Member, appointed June 28, 2016, to serve an unexpired term beginning September 1, 2014, and ending August 31, 2017, to succeed Gerald L. Underwood.

**AUTHORITIES****Fort Monroe Authority Board of Trustees**

**Colin G. Campbell**, 120 East Francis Street, **Williamsburg**, Virginia 23185, Member, appointed June 17, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed himself.

**James P. Moran**, 914 Springhill Road, **McLean**, Virginia 22102, Member, appointed June 17, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed himself.

**Hampton Roads Sanitation District Commission**

**Steve Rodriguez**, 624 Madera Road, **Chesapeake**, Virginia 23322, Member, appointed June 7, 2016, for a term of four years beginning June 8, 2016, and ending June 7, 2020, to succeed himself.

**Susan M. Rotkis**, 4612 Victoria Boulevard, **Hampton**, Virginia 23669, Member, appointed June 7, 2016, for a term of four years beginning June 8, 2016, and ending June 7, 2020, to succeed herself.

**Northern Virginia Transportation Authority**

**Mary Hughes Hynes**, 1503 North Highland Street, **Arlington**, Virginia 22201, Member, appointed June 30, 2016, for a term coincident with her term on the Commonwealth Transportation Board beginning July 1, 2016, and ending June 30, 2020, to succeed F. Garczynski.

**James Kolb**, 5247 Canard Street, **Alexandria**, Virginia 22312, Member, appointed July 12, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Sandra Bushue.

**Southeastern Public Service Authority Board of Directors**

**John M. Keifer**, 1923 Paddock Road, **Norfolk**, Virginia 23518, Member, appointed June 1, 2016, to serve an unexpired term beginning June 1, 2016, and ending December 31, 2017, to succeed Donald Lee Williams, Sr.

**Virginia Biotechnology Research Partnership Authority Board of Directors**

**Carrie Hileman Chenery**, 508 West Beverley Street, **Staunton**, Virginia 24401, Member, appointed July 15, 2016, for a term of three years beginning July 1, 2016, and ending June 30, 2019, to succeed herself.

**J. Robert Mooney**, 9311 Cardiff Loop Road, **Richmond**, Virginia 23236, Member, appointed July 15, 2016, for a term of three years beginning July 1, 2016, and ending June 30, 2019, to succeed Douglas Harvey.

**Virginia Port Authority Board of Commissioners**

**Jennifer D. Aument**, 6517 Jay Miller Drive, **Falls Church**, Virginia 22041, Member, appointed June 22, 2016, for a term of five years beginning July 1, 2016, and ending June 30, 2021, to succeed herself.

**Faith B. Power**, 1005 Heth Place, **Winchester**, Virginia 22601, Member, appointed June 22, 2016, for a term of five years beginning July 1, 2016, and ending June 30, 2021, to succeed herself.

**Kim Scheeler**, 3318 Handley Road, **Midlothian**, Virginia 23113, Member, appointed June 22, 2016, for a term of five years beginning July 1, 2016, and ending June 30, 2021, to succeed himself.

**F. Blair Wimbush**, 1330 Baffly Loop, **Chesapeake**, Virginia 23320, Member, appointed June 22, 2016, for a term of five years beginning July 1, 2016, and ending June 30, 2021, to succeed himself.

**COMMERCE AND TRADE**

**Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects**

**Caroline Alexander**, 3020 Cunningham Drive, **Alexandria**, Virginia 22309, Member, appointed July 27, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Sheila Wilson.

**Robert A. Boynton**, 4227 Croatian Road, **Richmond**, Virginia 23235, Member, appointed July 26, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed himself.

**Carolyn B. Langelotti**, 2300 Wooded Oak Place, **Midlothian**, Virginia 23113, Member, appointed July 26, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed herself.

**Board for Hearing Aid Specialists and Opticians**

**Judith M. Canty**, 1005 Little Lake Drive, **Virginia Beach**, Virginia 23454, Member, appointed July 19, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed herself.

**Pamela S. Chavis**, Post Office Box 220, 1253 The Forest, **Crozier**, Virginia 23039, Member, appointed July 19, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed herself.

**Edward L. De Gennaro**, 4921 Terrace Arbor Circle, **Midlothian**, Virginia 23112, Member, appointed July 19, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed himself.

**Mark Grohler**, 1216 Chattingham Drive, **Virginia Beach**, Virginia 23464, Member, appointed July 19, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed himself.

**Teresa D. Leeper**, 217 Wyndhurst Drive, **Lynchburg**, Virginia 24502, Member, appointed July 19, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Deborah Bauer-Robertson.

**Debra Ogilvie**, 11208 Hixson Place, **North Chesterfield**, Virginia 23236, Member, appointed June 9, 2016, to serve an unexpired term beginning July 1, 2014, and ending June 30, 2018, to succeed Pamela Pugh.

**June Rogers**, 1701 Inez Lane, **Chesapeake**, Virginia 23321, Member, appointed July 19, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Jon Bright.

**Bruce R. Wagner**, 7071 Jarmans Gap Road, **Crozet**, Virginia 22932, Member, appointed July 19, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed himself.

**Board for Professional and Occupational Regulation**

**Laurence A. Benenson**, 919 North Kemper Street, **Alexandria**, Virginia 22304, Member, appointed June 14, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed himself.

**Waylin Ross**, 13637 Old Dairy Road, **Herndon**, Virginia 20171, Member, appointed June 14, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Patricia O. Kline.

**Board of Accountancy**

**Matthew P. Boshier**, 4308 Sulgrave Road, **Richmond**, Virginia 23221, Member, appointed June 22, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed himself.

**Stephanie Saunders**, 4992 Ravenswood Road, **Virginia Beach**, Virginia 23462, Member, appointed June 22, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed herself.

**Laurie A. Warwick**, 22665 Philomont Ridge Court, **Ashburn**, Virginia 20148, Member, appointed June 22, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Marc B. Moyers.

**Coal Surface Mining Reclamation Fund Advisory Board**

**John Paul Jones**, 24430 Ashley Circle, **Bristol**, Virginia 24202, Member, appointed June 9, 2016, to serve an unexpired term beginning July 1, 2014, and ending June 30, 2019, to succeed John Kelly Gilmer Jr.

**Christopher J. Stanley**, Post Office Box 1536, **Clintwood**, Virginia 24228, Member, appointed June 10, 2016, to serve an unexpired term beginning July 1, 2013, and ending June 30, 2018, to succeed Phillip C. Mullins.

**Donna G. Stanley**, 8544 Doctor Ralph Stanley Highway, **Coeburn**, Virginia 24230, Member, appointed June 9, 2016, for a term of five years beginning July 1, 2016, and ending June 30, 2021, to succeed Scotty R. Rose.

**Real Estate Board**

**Libby Clawson Gatewood**, 721 Koyoto Court, **Chester**, Virginia 23836, Member, appointed June 30, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Catherine M. Noonan.

**Lynn G. Grimsley**, 103 Barncord Way, **Yorktown**, Virginia 23690, Member, appointed June 30, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed herself.

**Steve Hoover**, 2430 Rosalind Avenue, **Roanoke**, Virginia 24014, Member, appointed June 30, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed himself.

**Virginia Board of Workforce Development**

**Carrie Roth**, 3906 Caddington Drive, **Midlothian**, Virginia 23113, Member, appointed July 29, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed herself.

**Virginia Economic Development Partnership Authority Board of Directors**

**Valerie K. Brown**, 2444 Ballahack Road, **Chesapeake**, Virginia 23322, Member, appointed June 29, 2016, for a term of six years beginning January 1, 2016, and ending December 31, 2021, to succeed Donald W. Seale.

**William D. Euille**, 620 North Fayette Street, Apartment 101, **Alexandria**, Virginia 22314, Member, appointed June 9, 2016, to serve an unexpired term beginning March 21, 2015, and ending December 31, 2017, to succeed Michael E. Bennett.

**Virginia-Israel Advisory Board**

**Jerome I. Chapman**, 3968 Fort Worth Avenue, **Alexandria**, Virginia 22304, Member, appointed July 8, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Timothy F. Powers.

**Michael Gillette**, 2236 Surrey Place, **Lynchburg**, Virginia 24503, Member, appointed July 8, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Paul Grossman.

**Sophie Hoffman**, 10306 Dominion Valley Drive, **Fairfax Station**, Virginia 22039, Member, appointed July 8, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed herself.

**Aaron Roberts**, 257 Richardson Road, **Cedar Bluff**, Virginia 24609, Member, appointed July 8, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed himself.

**Virginia Small Business Financing Authority Board of Directors**

**Linh D. Hoang**, 3056 Southern Elm Court, **Fairfax**, Virginia 22031, Member, appointed July 20, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed himself.

**Monique S. Johnson**, 5926 Fairlee Road, **Richmond**, Virginia 23225, Member, appointed July 20, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Monica Rao.

**William J. Smith**, 800 Whippoorwill Road, **Wytheville**, Virginia 24382, Member, appointed July 20, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Prescott Sherrod.

**COMPACTS**

**Breaks Interstate Park Commission**

**Larry D. Yates**, Post Office Box 396, 142 Lazarus Branch Road, **Haysi**, Virginia 24256, Member, appointed June 1, 2016, for a term of four years beginning February 24, 2016, and ending February 23, 2020, to succeed Mark S. Vanover.

**Local Government Advisory Committee to the Chesapeake Bay Executive Council**

**Andria P. McClellan**, 531 Warren Crescent, **Norfolk**, Virginia 23507, Member, appointed July 26, 2016, to serve at the pleasure of the Governor beginning July 26, 2016, to succeed Janine F. Burns.

**DESIGNATED**

**Poet Laureate of Virginia**

**Timothy Seibles**, 742 Graydon Avenue, Apartment 3, **Norfolk**, Virginia 23507, Poet Laureate, appointed July 11, 2016, for a term of two years beginning July 1, 2016, and ending June 30, 2018, to succeed James Ronald Smith.

**EDUCATION**

**Board of Trustees of the A.L. Philpott Manufacturing Extension Partnership  
(dba GENEDGE)**

**Makola M. Abdullah**, 1600 Sycamore Street, **Petersburg**, Virginia 23805, Member, appointed July 22, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Keith Miller.

**Marc M. Foglia**, 10289 Johns Hollow Road, **Vienna**, Virginia 22183, Member, appointed July 22, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed himself.

**Aviv Goldsmith**, 6147 Hickory Ridge Road, **Spotsylvania**, Virginia 22551, Member, appointed July 22, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Michael Dudding.

**Kevin N. Mumpower**, 262 Cherokee Road, **Bristol**, Virginia 24201, Member, appointed July 22, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Shani Tyler Jones.

**Bruce R. Scism**, 505 Knottingham Way, **Danville**, Virginia 24550, Member, appointed July 22, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed himself.

**Anna H. Yarashus**, 1501 Taylor Point Drive, **Chesapeake**, Virginia 23321, Member, appointed July 22, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed herself.

#### **Christopher Newport University Board of Visitors**

**Lindsey A. Carney**, 209 Hilton Terrace, **Newport News**, Virginia 23601, Member, appointed June 13, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Ronald Tillet.

**Terri M. McKnight**, 10708 Henderson Road, **Fairfax Station**, Virginia 22039, Member, appointed June 13, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed William Downey.

**Kellye L. Walker**, 10 Popeley Court, **Williamsburg**, Virginia 23188, Member, appointed June 13, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Mark Rodgers.

#### **The College of William and Mary Board of Visitors**

**Warren W. Buck III**, 4328 Elizabeth Davis Boulevard, **Williamsburg**, Virginia 23188, Member, appointed June 13, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Robert Scott.

**S. Doug Bunch**, 640 Q Street Northwest, **Washington, District of Columbia** 20001, Member, appointed June 13, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Ann Baise.

**Ted Dintersmith**, 2720 Earlysville Road, **Earlysville**, Virginia 22936, Member, appointed June 13, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed John E. Littel.

**Anne Leigh Kerr**, 1917 Hanover Avenue, **Richmond**, Virginia 23220, Member, appointed June 13, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Keith Fimian.

**Brian Woolfolk**, 616 Swan Creek Road, **Fort Washington, Maryland** 20744, Member, appointed June 13, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Kendrick F. Ashton.

#### **Eastern Virginia Medical School Board of Visitors**

**Paul D. Fraim**, 5917 Studeley Avenue, **Norfolk**, Virginia 23508, Member, appointed July 1, 2016, for a term of three years beginning July 1, 2016, and ending June 30, 2019, to succeed Paul Ward Robinett.

#### **George Mason University Board of Visitors**

**James W. Hazel**, 995 Windsor Road, **Charlottesville**, Virginia 22901, Member, appointed June 13, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Robert Frank Pence.

**J. Wendy Marquez**, 8360 Greensboro Drive, Apartment 201, **McLean**, Virginia 22102, Member, appointed June 13, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Kimberly Dennis.

**Bob Witeck**, 1914 North Johnson Street, **Arlington**, Virginia 22207, Member, appointed June 13, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed M. Siddique Sheikh.

**Lisa Zuccari**, 7712 Carlton Place, **McLean**, Virginia 22102, Member, appointed June 13, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Stuart Mendelsohn.

#### **James Madison University Board of Visitors**

**Michael B. Battle**, 5525 Adams Ridge Road, **Clarksville, Maryland** 21029, Member, appointed June 13, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed himself.

**Maribeth Daley Herod**, 1109 Arboroak Place, **Herndon**, Virginia 20170, Member, appointed June 13, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Dave Rexrode.

**Lara Major**, 38253 North Fork Road, **Purcellville**, Virginia 20132, Member, appointed June 13, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Joseph Funkhouser.

**John C. Rothenberger**, 532 Springvale Road, **Great Falls**, Virginia 22066, Member, appointed June 13, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed himself.

**Michael M. Thomas**, 10737 Midsummer Drive, **Reston**, Virginia 20191, Member, appointed June 13, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed himself.

#### **Longwood University Board of Visitors**

**Katharine Bond**, 10325 Sonny Meadows Lane, **Mechanicsville**, Virginia 23116, Member, appointed June 13, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Lacy Ward.

**Steven Gould**, 168 College Avenue, **Danville**, Virginia 24541, Member, appointed June 13, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Brad Schwartz.

**Nettie L. Simon-Owens**, Post Office Box 946, **South Boston**, Virginia 24592, Member, appointed June 13, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Shelby Walker.

#### **Norfolk State University Board of Visitors**

**B. K. Fulton**, 301 Virginia Street, Unit 613, **Richmond**, Virginia 23219, Member, appointed June 13, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Michael D. Rochelle.

**Devon M. Henry**, 11854 Thomas Mill Drive, **Glen Allen**, Virginia 23059, Member, appointed June 13, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, effective September 1, 2016, to succeed Lula Holland.

**Old Dominion University Board of Visitors**

**R. Bruce Bradley**, 3333 Kline Drive, **Virginia Beach**, Virginia 23452, Member, appointed June 13, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Ronald Ripley.

**Larry Hill**, Post Office Box 4190, **Virginia Beach**, Virginia 23454, Member, appointed June 13, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Judith Swystun.

**Toykea Jones**, 10204 Blue Heron Way, **Princeton Junction, New Jersey** 08550, Member, appointed June 13, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed David Bernd.

**Kay A. Kemper**, 6119 Studeley Avenue, **Norfolk**, Virginia 23508, Member, appointed June 13, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed John Biagas.

**Radford University Board of Visitors**

**Robert A. Archer**, 401 High Street, **Salem**, Virginia 24153, Member, appointed June 13, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Anthony Bedell.

**Jay A. Brown**, 11000 Mountain Spring Drive, **Glen Allen**, Virginia 23060, Member, appointed June 13, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Mary Campbell.

**Rachel Fowlkes**, 127 East Main Street, **Abingdon**, Virginia 24210, Member, appointed June 13, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Kevin R. Dye.

**Deb McMahon**, 314 Kent Road, **Charlottesville**, Virginia 22903, Member, appointed June 13, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Georgia Snyder-Falkinham.

**Ann Segaloff**, 7431 Boykin Lane, **Smithfield**, Virginia 23430, Member, appointed June 13, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Ruby Rogers.

**State Board for Community Colleges**

**Nathaniel L. Bishop**, 840 Hillcrest Drive, **Christiansburg**, Virginia 24073, Member, appointed June 13, 2016, to serve an unexpired term beginning May 4, 2016, and ending June 30, 2018, to succeed Mike Schewel.

**David Broder**, 9770 Oleander Avenue, **Vienna**, Virginia 22181, Member, appointed June 13, 2016, to serve an unexpired term beginning May 18, 2016, and ending June 30, 2019, to succeed Catherine Reynolds.

**Susan Gooden**, 3705 Blue Lake Drive, **Richmond**, Virginia 23233, Member, appointed June 13, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed LaVonne Ellis.

**Joe F. Smiddy**, 143 Lyons Road, **Church Hill, Tennessee** 37642, Member, appointed June 13, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed David Nutter.

**Walter Stosch**, 12101 Country Hills Way, **Glen Allen**, Virginia 23060, Member, appointed June 13, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Michel Zajur.

**Robin Sullenberger**, 8854 Mill Gap Road, **Monterey**, Virginia 24465, Member, appointed June 13, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed herself.

**State Council of Higher Education for Virginia**

**Ken Ampy**, 14307 Clemons Drive, **Midlothian**, Virginia 23114, Member, appointed June 13, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Gilbert Bland.

**H. Eugene Lockhart**, 4125 Louisa Road, **Keswick**, Virginia 22947, Member, appointed June 13, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed himself.

**Tom Slater**, 96 Old Bridge Lane, **Richmond**, Virginia 23229, Member, appointed June 13, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Gary G. Nakamoto.

**University of Mary Washington Board of Visitors**

**Sharon Bulova**, 11301 Bulova Lane, **Fairfax**, Virginia 22035, Member, appointed June 13, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Tara Corrigan.

**Edward B. Hontz**, 620 Lendall Lane, **Fredericksburg**, Virginia 22405, Member, appointed June 13, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Theresa Crawley.

**Deirdre Powell White**, 7600 Ashley Farms Drive, **Fredericksburg**, Virginia 22407, Member, appointed June 13, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Mark Ingrao.

**University of Virginia and Affiliated Schools Board of Visitors**

**Mark T. Bowles**, 2626 Turner Road, **Goochland**, Virginia 23063, Member, appointed June 13, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed himself.

**Elizabeth M. Cranwell**, 1911 Mountain View Road, **Vinton**, Virginia 24179, Member, appointed June 13, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Frank Atkinson.

**Tom A. DePasquale**, 7615 Southdown Road, **Alexandria**, Virginia 22308, Member, appointed June 13, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Helen Dragas.

**Babur Bari Lateef**, 13001 Chaddsford Terrace, **Manassas**, Virginia 20112, Member, appointed June 13, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Victoria Harker.

**James B. Murray, Jr.**, Post Office Box 7, **Keene**, Virginia 22946, Member, appointed June 13, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Bobbie Kilberg.

**Virginia Commonwealth University Board of Visitors**

**H. Benson Dendy III**, 1142 West Avenue, **Richmond**, Virginia 23220, Member, appointed June 13, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Michael Fraizer.

**Robert D. Holsworth**, 10260 Sioux Road, **Richmond**, Virginia 23235, Member, appointed June 13, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed himself.

**John Luke, Jr.**, 330 Flag Station Road, **Richmond**, Virginia 23238, Member, appointed June 13, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed himself.

**Keith T. Parker**, 8585 Sentinae Chase Drive, **Roswell, Georgia** 30076, Member, appointed June 13, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Teresa Carlson.

**Shantaram Talegaonkar**, 9120 Broadstone Road, **North Chesterfield**, Virginia 23236, Member, appointed June 13, 2016, to serve an unexpired term beginning April 16, 2016, and ending June 30, 2019, to succeed Sudhakar Shenoy.

#### **Virginia Military Institute Board of Visitors**

**George J. Collins**, 7243 Fisher Island Drive, **Miami Beach, Florida** 33109, Member, appointed June 13, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed himself.

**Charles E. Dominy**, 3300 Fox Mill Road, **Oakton**, Virginia 22124, Member, appointed June 13, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Janice Igou.

**Scot W. Marsh**, 160 Canterbury Lane, **Winchester**, Virginia 22603, Member, appointed June 13, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Henry White.

**Carl Stroock**, 3274 Occupacia Road, **Hustle**, Virginia 22476, Member, appointed June 13, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed George Ramsey.

#### **Virginia Polytechnic Institute and State University Board of Visitors**

**Greta J. Harris**, 3605 Noble Avenue, **Richmond**, Virginia 23222, Member, appointed June 13, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Nancy Dye.

**Chris Petersen**, 7012 Arbor Lane, **McLean**, Virginia 22101, Member, appointed June 13, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed B. Fulton.

**Dennis H. Treacy**, 8123 Liberty Oaks Lane, **Hanover**, Virginia 23069, Member, appointed June 13, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed himself.

**Jeff E. Veatch**, 8317 East Boulevard Drive, **Alexandria**, Virginia 22308, Member, appointed June 13, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed William Fairchild.

#### **Virginia State University Board of Visitors**

**Pam Currey**, 6360 Pocahontas Station Road, **Quinton**, Virginia 23141, Member, appointed June 13, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Willie Randall.

**Daryl Cumber Dance**, 1701 Littleton Boulevard, **Richmond**, Virginia 23228, Member, appointed June 13, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed herself.

**Jennifer L. Hunter**, 8213 Sterling Cove Terrace, **Chesterfield**, Virginia 23838, Member, appointed June 13, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed herself.

**Paul D. Koonce**, 4112 Oxford Road, **Richmond**, Virginia 23221, Member, appointed June 13, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Robert Denton.

**James J.L. Stegmaier**, 5502 Manitoba Road, **Chesterfield**, Virginia 23832, Member, appointed June 13, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Daphne Reid.

### **FINANCE**

#### **Virginia College Building Authority**

**John G. Dane**, 13651 Stonegate Road, **Midlothian**, Virginia 23113, Member, appointed July 25, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed himself.

**C. Evans Poston, Jr.**, 7814 North Shore Road, **Norfolk**, Virginia 23505, Member, appointed July 25, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Sylvia Le Torrente.

#### **Council on Virginia's Future**

**William H. Leighty**, 2004 Millington Drive, **Henrico**, Virginia 23238, Member, appointed July 12, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed himself.

**Michael Signer**, 206 5th Street Southwest, Unit E, **Charlottesville**, Virginia 22903, Member, appointed July 12, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Heather Cox.

#### **Virginia Public Building Authority**

**John A. Mahone**, 9533 Heather Spring Drive, **Richmond**, Virginia 23238, Member, appointed July 8, 2016, for a term of five years beginning July 1, 2016, and ending June 30, 2021, to succeed himself.

### **HEALTH AND HUMAN RESOURCES**

#### **Advisory Board on Behavior Analysis**

**Amanda Kusterer**, 3813 Hill Monument Parkway, **Richmond**, Virginia 23227, Member, appointed June 10, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed herself.

**Asha Patton Smith**, 3 South Montague Street, **Arlington**, Virginia 22204, Member, appointed June 10, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed herself.

#### **Advisory Board on Genetic Counseling**

**Heather A. Creswick**, 1112 Grove Avenue, **Richmond**, Virginia 23220, Member, appointed July 1, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed herself.

**John M. Quillin**, 10112 Ashley Manor Lane, **Mechanicsville**, Virginia 23116, Member, appointed July 1, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed himself.

**Matthew J. Thomas**, 101 Baylor Place, **Charlottesville**, Virginia 22902, Member, appointed July 1, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed himself.

#### **Alzheimer's Disease and Related Disorders Commission**

**Sharon Davis**, 817 North Irving Street, **Arlington**, Virginia 22201, Member, appointed July 1, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed herself.

**Karen H. Garner**, 312 Ferguson Avenue, **Newport News**, Virginia 23601, Member, appointed July 1, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Patricia Slattum.

**Valerie Hopson-Bell**, 2408 Pittson Road, **Fredericksburg**, Virginia 22408, Member, appointed July 1, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed herself.

**G. Richard Jackson**, 209 Yorkshire Drive, **Williamsburg**, Virginia 23185, Member, appointed July 1, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Laura Adkins.

**Katherine H. Kennedy**, 658 Abbey Village Circle, **Midlothian**, Virginia 23114, Member, appointed July 1, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Lynn Kytle Seward.

#### **Behavioral Health and Developmental Services Board**

**John R. Bruggeman**, 1429 Filene Court, **Vienna**, Virginia 22182, Member, appointed July 1, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Sandra Adrienne Hermann.

**Elizabeth Hilscher**, 6200 Patterson Avenue, **Richmond**, Virginia 23226, Member, appointed July 1, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Thomas J. Kirkup.

**Paula N. Mitchell**, 2320 Mount Vernon Road, **Roanoke**, Virginia 24015, Member, appointed July 1, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed herself.

**Jennifer Spangler**, 5422 Pleasant Grove Lane, **Midlothian**, Virginia 23112, Member, appointed July 1, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Anthony Soltys.

#### **Board of Counseling**

**Bev-Freda L. Jackson**, 2727 South Quincy Street, Apartment 907, **Arlington**, Virginia 22206, Member, appointed July 29, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Leah Mills.

**Terry R. Tinsley**, 11835 Hazel Circle Drive, **Bristow**, Virginia 20136, Member, appointed July 29, 2016, to serve an unexpired term beginning July 1, 2016, and ending June 30, 2018, to succeed Scott Johnson.

#### **Board of Dentistry**

**Patricia B. Bonwell**, 14040 Kreutler Road, **Montpelier**, Virginia 23192, Member, appointed July 22, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Tammy Swecker.

**Nathaniel C. Bryant**, 1525 Plantation Lakes Circle, **Chesapeake**, Virginia 23320, Member, appointed July 22, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Charles Gaskins.

**Augustus A. Petticolas, Jr.**, 108 Winterberry Drive, **Forest**, Virginia 24551, Member, appointed July 22, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Evelyn Rolon.

**Tammy C. Ridout**, 8414 Copperpenny Terrace, **Chesterfield**, Virginia 23832, Member, appointed July 22, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Melanie Swain.

**James D. Watkins**, 1635 Big Bethel Road, **Hampton**, Virginia 23666, Member, appointed July 22, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Melanie Swain.

#### **Board of Funeral Directors and Embalmers**

**Mia F. Mimms**, 5040 Brookbury Boulevard, **Richmond**, Virginia 23234, Member, appointed July 29, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed John Paul Welch.

**Connie B. Steele**, 7907 Carriage Park Drive Northwest, **Roanoke**, Virginia 24019, Member, appointed July 29, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed herself.

#### **Board of Pharmacy**

**Rebecca Justice Thornbury**, 1010 Holland Street, **Grundy**, Virginia 24614, Member, appointed June 10, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed herself.

**Cynthia L.W. Warriner**, 5700 Elfinwood Road, **Chester**, Virginia 23831, Member, appointed June 10, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed herself.

#### **Board of Social Services**

**MaryAnn Boyd**, 3247 Mountain Road, **Haymarket**, Virginia 20169, Member, appointed July 8, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Joanne Webster.

**Joan K. Brennan**, 12216 Browning Place, **Richmond**, Virginia 23233, Member, appointed July 8, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Jack Knapp.

**John G. Kines, Jr.**, 12350 Pole Run Road, **Disputanta**, Virginia 23842, Member, appointed July 8, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Sheila Coppage.

**Veronica O. Washington**, 905 Brentwood Avenue, **Lynchburg**, Virginia 24502, Member, appointed July 8, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed herself.

**Commonwealth Neurotrauma Initiative Advisory Board**

**Raihne C. Delaney**, 2507 Davis Avenue, **Alexandria**, Virginia 22302, Member, appointed July 29, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Rosemary Rawlins.

**Family and Children's Trust Fund Board of Trustees**

**Frank Blechman**, 7900 Wolf Run Hills Road, **Fairfax Station**, Virginia 22039, Member, appointed July 1, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed himself.

**L. Robert Bolling**, 214 Fulham Circle, **Richmond**, Virginia 23227, Member, appointed July 1, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed himself.

**Linda H. Gilliam**, 3445 Custis Road, **Richmond**, Virginia 23225, Member, appointed July 1, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Kevin Keane.

**Liliana Hernandez**, 1830 Columbia Pike, Apartment 202, **Arlington**, Virginia 22204, Member, appointed July 1, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Anne J. Atkinson.

**Yasmine Taeb**, 1530 Key Boulevard, Apartment 517, **Arlington**, Virginia 22209, Member, appointed July 1, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed herself.

**State Board of Health**

**Holly S. Puritz**, 7940 North Shore Road, **Norfolk**, Virginia 23505, Member, appointed June 10, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed John Seeds.

**Stacey Swartz**, 417 Mount Vernon Avenue, **Alexandria**, Virginia 22301, Member, appointed June 10, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Amy Vest.

**Mary Margaret Whipple**, 3556 North Valley Street, **Arlington**, Virginia 22207, Member, appointed for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed herself.

**State Emergency Medical Services Advisory Board**

**Lori L. Knowles**, 710 Leeland Road, **Fredericksburg**, Virginia 22405, Member, appointed June 10, 2016, to serve an unexpired term beginning November 5, 2015, and ending June 30, 2018, to succeed Kelly Southard.

**State Executive Council for Children's Services**

**Sophia Booker**, 5610 Seminary Avenue, **Richmond**, Virginia 23227, Member, appointed July 1, 2016, for a term of three years beginning July 1, 2016, and ending June 30, 2019, to fill a new seat.

**Sheila Olem**, 500 Bowers Lane, **Herndon**, Virginia 20170, Member, appointed June 24, 2016, to serve an unexpired term beginning July 1, 2016, and ending June 30, 2018, to succeed Robert S. Coleman.

**R. Morgan Quicke**, 583 Indianfield Road, **Warsaw**, Virginia 22572, Member, appointed June 24, 2016, to serve an unexpired term beginning January 1, 2016, and ending June 30, 2018, to succeed Melissa Peacor.

**Jeanette Troyer**, 23227 Lilliston Avenue, **Accomac**, Virginia 23301, Member, appointed June 24, 2016, for a term of three years beginning July 1, 2016, and ending June 30, 2019, to succeed herself.

**Eddie Worth**, 2145 Christiansburg Pike Road Northeast, **Floyd**, Virginia 24091, Member, appointed June 24, 2016, for a term of three years beginning July 1, 2016, and ending June 30, 2019, to succeed himself.

**Virginia Board for People with Disabilities**

**Phil Caldwell**, 6906 Hamilton Court, **Lorton**, Virginia 22079, Member, appointed July 8, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Ronald L. King.

**Ethel P. Gainer**, 2132 Elkridge Lane, **Richmond**, Virginia 23223, Member, appointed July 8, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed herself.

**John B. Kelly, Jr.**, 11532 Hill Meade Lane, **Woodbridge**, Virginia 22192, Member, appointed July 8, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed himself.

**Mary R. McAdam**, 74 Augies Alley, **Palmyra**, Virginia 29963, Member, appointed July 8, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed herself.

**Caroline J. Raker**, 116 Buccaneer Court, **Stephenson**, Virginia 22656, Member, appointed July 8, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Jessica G. Philips.

**Cynthia C. Rudy**, 105 Oak Ridge Court, **Williamsburg**, Virginia 23188, Member, appointed July 8, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed herself.

**Summer Sage**, 973 Rives Street, **Charlottesville**, Virginia 22902, Member, appointed July 8, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed herself.

**Jamie Staples Snead**, 8006 Whittler Court, **Roanoke**, Virginia 24019, Member, appointed July 8, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed herself.

**INDEPENDENT****Chesapeake Bay Bridge and Tunnel Commission**

**Reeves W. Mahoney**, 1105 North Shore Road, **Norfolk**, Virginia 23505, Member, appointed June 3, 2016, for a term of four years beginning May 15, 2016, and ending May 14, 2020, to succeed Burwell Coleman.

**Chris Snead**, 6 Cooks Circle, **Hampton**, Virginia 23669, Member, appointed June 3, 2016, for a term of four years beginning May 15, 2016, and ending May 14, 2020, to succeed herself.

**Virginia Birth-Related Neurological Injury Compensation Program Board of Directors**

**W. Massie Meredith, Jr.**, 4628 Stuart Avenue, **Richmond**, Virginia 23226, Member, appointed July 22, 2016, for a term of three years beginning July 1, 2016, and ending June 30, 2019, to succeed David Barrett.

**Virginia Commonwealth University Health System Authority Board of Directors**

**May Fox**, 15 Towana Road, **Richmond**, Virginia 23226, Member, appointed July 1, 2016, for a term of three years beginning July 1, 2016, and ending June 30, 2019, to succeed Lakshmi Challa.

**Michelle Whitehurst-Cook**, 5 Beauregard Avenue, **Highland Springs**, Virginia 23075, Member, appointed July 1, 2016, for a term of three years beginning July 1, 2016, and ending June 30, 2019, to succeed Anton Kuzel.

**Virginia Foundation for the Humanities and Public Policy Board of Directors**

**William Mark Habeeb**, 5623 26th Street North, **Arlington**, Virginia 22207, Member, appointed July 22, 2016, for a term of three years beginning July 1, 2016, and ending June 30, 2019, to succeed Binh Nguyen.

**Lenneal Henderson, Jr.**, 71 Eagle Bluff Drive, Post Office Box 280, **Claremont**, Virginia 23899, Member, appointed July 22, 2016, for a term of three years beginning July 1, 2016, and ending June 30, 2019, to succeed Michelle Olson.

**Edward A. Mullen**, 2011 Stuart Avenue, **Richmond**, Virginia 23220, Member, appointed July 29, 2016, for a term of three years beginning July 1, 2016, and ending June 30, 2019, to succeed himself.

**Daphne Maxwell Reid**, 226 High Street, **Petersburg**, Virginia 23803, Member, appointed July 22, 2016, for a term of three years beginning July 1, 2016, and ending June 30, 2019, to succeed herself.

**LEGISLATIVE****Virginia Conflict of Interest and Ethics Advisory Council**

**Walter C. Erwin**, 101 Paddington Court, **Lynchburg**, Virginia 24503, Member, appointed June 10, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed himself.

**NATURAL RESOURCES****Board of Conservation and Recreation**

**Danielle Heisler**, 6314 West Franklin Street, **Richmond**, Virginia 23226, Member, appointed July 7, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed William E. Small.

**Vivek R. Shinde Patil**, 1536 North Scott Street, Unit 1021, **Arlington**, Virginia 22209, Member, appointed July 6, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Alexander I. Vanegas.

**W. Bruce Wingo**, 8300 Corbin Braxton Lane, **Old Church**, Virginia 23111, Member, appointed July 6, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed himself.

**Board of Historic Resources**

**Colita Nichols Fairfax**, 16 Castle Haven Road, **Hampton**, Virginia 23666, Member, appointed June 28, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Horace Edward Mann.

**Frederick S. Fisher**, 6801 Westover Road, **Charles City**, Virginia 23030, Member, appointed July 19, 2016, to serve an unexpired term beginning July 16, 2016, and ending June 30, 2019, to succeed Eleanor Weston Brown.

**Nosuk Pak Kim**, 55 Ferguson Cove, **Newport News**, Virginia 23606, Member, appointed June 28, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Terri Lynn Hauser.

**Litter Control & Recycling Fund Advisory Board**

**Bo Wilson**, 144 Bel Grene Drive, **Fishersville**, Virginia 22939, Member, appointed July 21, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed himself.

**State Air Pollution Control Board**

**William H. Ferguson**, 23 Indigo Dam Road, **Newport News**, Virginia 23606, Member, appointed June 23, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Manning Gasch, Jr.

**Ignacia S. Moreno**, 1203 Perry William Drive, **McLean**, Virginia 22101, Member, appointed June 22, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Michael D. Overstreet.

**Virginia Marine Resources Commission**

**Lynn Haynie Kellum**, Post Office Box 311, **Reedville**, Virginia 22539, Member, appointed June 23, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed herself.

**James E. Minor III**, 900 North 35th Street, **Richmond**, Virginia 23223, Member, appointed June 23, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed himself.

**Virginia Outdoors Foundation Board of Trustees**

**Viola O. Baskerville**, 413 Stuart Circle, 5A, **Richmond**, Virginia 23220, Member, appointed July 21, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Childs F. Burden.

**Eleanor Weston Brown**, 8 Cedar Point Drive, **Hampton**, Virginia 23669, Member, appointed July 21, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Peter C. Bance.

**Virginia Waste Management Board**

**EJ Scott**, 10127 South Grant Avenue, **Manassas**, Virginia 20110, Member, appointed June 22, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed herself.

**Steven J. Yob**, 10418 Attems Way, **Glen Allen**, Virginia 23060, Member, appointed June 22, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Paul R. Schmidt.

**PUBLIC SAFETY AND HOMELAND SECURITY****Board of Juvenile Justice**

**Michael N. Herring**, 400 North Ninth Street, **Richmond**, Virginia 23219, Member, appointed July 8, 2016, to serve an unexpired term beginning May 16, 2016, and ending June 30, 2019, to succeed Mary Langer.

**Forensic Science Board**

**Colette Wallace McEachin**, 304 North Wilkinson Road, **Richmond**, Virginia 23227, Member, appointed June 24, 2016, to serve an unexpired term beginning May 13, 2016, and ending June 30, 2017, to succeed Claiborne H. Stokes.

**Secure Commonwealth Panel**

**Sean Cushing**, 2329 Vaughan Road, **Virginia Beach**, Virginia 23457, Member, appointed June 24, 2016, to serve an unexpired term beginning July 1, 2015, and ending June 30, 2019, to succeed David Wright.

**Elizabeth Leffel**, 2682 Wickliffe Road, **Berryville**, Virginia 22611, Member, appointed June 24, 2016, to serve an unexpired term beginning July 1, 2015, and ending June 30, 2019, to succeed Mike Melo.

**TECHNOLOGY****9-1-1 Services Board**

**Richard C. Clark, Jr.**, 155 North Main Street, Post Office Box 184, **Hillsville**, Virginia 24343, Member, appointed June 1, 2016, to serve an unexpired term beginning February 18, 2016, and ending June 30, 2020, to succeed Stephan M. Hudson.

**Terry Ellis**, 4613 Independence Drive, **Sutherland**, Virginia 23885, Member, appointed July 28, 2016, for a term of five years beginning July 1, 2016, and ending June 30, 2021, to fill a new seat.

**Danny W. Garrison**, 10406 Chesdin Ridge Drive, **South Chesterfield**, Virginia 23803, Member, appointed July 28, 2016, for a term of five years beginning July 1, 2016, and ending June 30, 2021, to succeed himself.

**Lehew W. Miller III**, 8311 Silkwood Court, **Mechanicsville**, Virginia 23116, Member, appointed June 1, 2016, to serve an unexpired term beginning January 1, 2016, and ending June 30, 2018, to succeed Robert G. Kemmler.

**Innovation and Entrepreneurship Investment Authority Board of Directors**

**Timothy D. Sands**, 225 Grove Lane, **Blacksburg**, Virginia 24061, Member, appointed July 14, 2016, for a term of two years beginning July 1, 2016, and ending June 30, 2018, to succeed himself.

**Michael R. Steed**, 4100 Rosemary Street, **Chevy Chase, Maryland** 20815, Member, appointed July 14, 2016, for a term of two years beginning July 1, 2016, and ending June 30, 2018, to succeed himself.

**Teresa A. Sullivan**, Post Office Box 400224, **Charlottesville**, Virginia 22904, Member, appointed July 14, 2016, for a term of two years beginning July 1, 2016, and ending June 30, 2018, to succeed herself.

**TRANSPORTATION****Aerospace Advisory Council**

**Peter Bale**, 6327 Cleveland Street, **Chincoteague**, Virginia 23336, Member, appointed July 1, 2016, for a term of two years beginning July 1, 2016, and ending June 30, 2018, to succeed himself.

**Matt Bannon**, 206 44th Street, **Virginia Beach**, Virginia 23451, Member, appointed July 1, 2016, for a term of two years beginning July 1, 2016, and ending June 30, 2018, to succeed himself.

**Oktaý Baysal**, 4545 Commerce Street, **Virginia Beach**, Virginia 23462, Member, appointed July 1, 2016, for a term of two years beginning July 1, 2016, and ending June 30, 2018, to succeed himself.

**Dave Bowles**, 134 Torrington Circle, **Suffolk**, Virginia 23436, Member, appointed July 1, 2016, for a term of two years beginning July 1, 2016, and ending June 30, 2018, to succeed Stephen G. Jurczyk.

**Fernando Martinez**, 704 Bellview Court Northeast, **Leesburg**, Virginia 20176, Member, appointed July 1, 2016, for a term of two years beginning July 1, 2016, and ending June 30, 2018, to succeed himself.

**James C. McDaniel, Jr.**, 9520 Donegal Farm, **Scottsville**, Virginia 24590, Member, appointed July 1, 2016, for a term of two years beginning July 1, 2016, and ending June 30, 2018, to succeed himself.

**Rose Mooney**, 4801 Butler Road, **Glyndon, Maryland** 21071, Member, appointed July 1, 2016, for a term of two years beginning July 1, 2016, and ending June 30, 2018, to succeed herself.

**Dale K. Nash**, 2648 Willow Lawn Way, **Virginia Beach**, Virginia 23456, Member, appointed July 1, 2016, for a term of two years beginning July 1, 2016, and ending June 30, 2018, to succeed himself.

**Daniel Tani**, 10109 Nedra Drive, **Great Falls**, Virginia 22066, Member, appointed July 1, 2016, for a term of two years beginning July 1, 2016, and ending June 30, 2018, to succeed himself.

**William A. Wrobel**, 13088 Arbuckle Neck Road, **Assawoman**, Virginia 23303, Member, appointed July 1, 2016, for a term of two years beginning July 1, 2016, and ending June 30, 2018, to succeed himself.

**Todd McGregor Yeatts**, 831 23rd Street South, **Arlington**, Virginia 22202, Member, appointed July 1, 2016, for a term of two years beginning July 1, 2016, and ending June 30, 2018, to succeed himself.

**Commonwealth Transportation Board**

**F. Gary Garczynski**, 200 South Fairfax Street, Apartment 16, **Alexandria**, Virginia 22314, Member, appointed July 1, 2016, to serve an unexpired term beginning July 1, 2016, and ending June 30, 2018, to succeed James Webster Dyke.

**Mary Hughes Hynes**, 1503 North Highland Street, **Arlington**, Virginia 22201, Member, appointed July 1, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed F. Gary Garczynski.

**Jerry L. Stinson II**, 176 Flatwoods Drive, **Lebanon**, Virginia 24266, Member, appointed July 1, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed John K. Matney.

**F. Dixon Whitworth, Jr.**, 728 Mahone Drive, **Winchester**, Virginia 22601, Member, appointed July 1, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed himself.

**Greg Yates**, 13166 Deer Ridge Road, **Culpeper**, Virginia 22701, Member, appointed July 1, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed himself.

**Transportation District Commission of Hampton Roads**

**Robert Coleman**, 316 Wendwood Drive, **Newport News**, Virginia 23602, Member, appointed July 12, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Allen C. Tanner.

**Carol Angela Davis**, 1934 Demetro Drive, **Hampton**, Virginia 23663, Member, appointed July 12, 2016, for a term of two years beginning July 1, 2016, and ending June 30, 2018, to succeed Robert Harper.

**Douglas W. Fuller**, 400 Justin Quay, **Chesapeake**, Virginia 23322, Member, appointed July 12, 2016, for a term of two years beginning July 1, 2016, and ending June 30, 2018, to succeed himself.

**C. Bradford Hunter**, 511 Mount Vernon Avenue, **Portsmouth**, Virginia 23707, Member, appointed July 12, 2016, for a term of two years beginning July 1, 2016, and ending June 30, 2018, to succeed himself.

**Keith Parnell**, 614 Georgia Avenue, **Norfolk**, Virginia 23508, Member, appointed July 12, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed James Toscano.

**Amelia Ross-Hammond**, 1008 Spindle Crossing, **Virginia Beach**, Virginia 23455, Member, appointed July 12, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Linwood Branch.

**Virginia Aviation Board**

**Alan C. Abbott**, 702 Duncan Street, **Ashland**, Virginia 23005, Member, appointed July 12, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed John Mazza.

**Victoria Cox**, 3403 Putnam Street, **Falls Church**, Virginia 22042, Member, appointed July 12, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Robert H. Hahn.

**John V. Mazza, Jr.**, 20501 Little Road, **South Chesterfield**, Virginia 23803, Member, appointed July 12, 2016, to serve an unexpired term beginning March 2, 2016, and ending June 30, 2018, to succeed Daniel "Bud" Oakey.

**Virginia Commercial Space Flight Authority Board of Directors**

**Jeff M. Bingham**, 34664 Bloomfield Road, **Round Hill**, Virginia 20141, Member, appointed July 12, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed William F. Readdy.

**Linda Thomas-Glover**, 21415 Mount Vernon Lane, **Onley**, Virginia 23418, Member, appointed July 12, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Thomas Young.

**Kathryn Thornton**, 100 Bedford Place, **Charlottesville**, Virginia 22903, Member, appointed July 14, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Kay N. Sears.

**VETERANS AND DEFENSE AFFAIRS****Board of Veterans Services**

**Chris Chon**, 6565 River Tweed Lane, **Alexandria**, Virginia 22312, Member, appointed July 19, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed William E. Nicholas.

**Michael E. Dick**, Post Office Box 86, **Earlsville**, Virginia 22936, Member, appointed July 20, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed himself.

**Belinda Pinckney**, 3509 Schuerman House Drive, **Fairfax**, Virginia 22031, Member, appointed July 19, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed herself.

**Joint Leadership Council of Veterans Service Organizations**

**Lauren M.L. Augustine**, 5311 Yellow Turtle Place, **Woodbridge**, Virginia 22193, Member, appointed June 29, 2016, for a term of three years beginning July 1, 2016, and ending June 30, 2019, to fill a new seat.

**William Barrett, Jr.**, 1036 Alcorn Terrace, **Midlothian**, Virginia 23114, Member, appointed June 29, 2016, for a term of three years beginning July 1, 2016, and ending June 30, 2019, to succeed himself.

**Robert W. Huffman**, 103 Friar Lane, **Colonial Heights**, Virginia 23834, Member, appointed June 29, 2016, for a term of three years beginning July 1, 2016, and ending June 30, 2019, to succeed himself.

**Kenneth B. Shelton, Sr.**, Post Office Box 25413, **Richmond**, Virginia 23260, Member, appointed June 29, 2016, for a term of three years beginning July 1, 2016, and ending June 30, 2019, to fill a new seat.

**Veterans Services Foundation Board of Trustees**

**S. Bradford Antle**, 15270 Riding Club Drive, **Haymarket**, Virginia 20169, Member, appointed July 18, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed himself.

**Francis A. Finelli**, 1012 Founders Ridge Lane, **McLean**, Virginia 22102, Member, appointed July 15, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed himself.

**Kathleen Levingston**, 1208 Althea Court, **Chesapeake**, Virginia 23322, Member, appointed July 19, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed herself.

**SENATE JOINT RESOLUTION NO. 309**

*Confirming appointments by the Governor of certain persons communicated October 1, 2016.*

Agreed to by the Senate, February 10, 2017  
Agreed to by the House of Delegates, February 8, 2017

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly confirm the following appointments of certain persons made by Governor Terry McAuliffe and communicated to the General Assembly October 1, 2016.

#### AUTHORITY

##### Board of the Virginia Coalfield Economic Development Authority

**Esther Wells Bolling**, Post Office Box 1201, **Wise**, Virginia 24293, Member, appointed September 2, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Donald Baker.

**Mark T. Leonard**, Post Office Box 847, **Norton**, Virginia 24273, Member, appointed September 23, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Ronald McCall.

**Larry R. Mosley**, 749 Colony Drive, **Jonesville**, Virginia 24263, Member, appointed September 2, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed himself.

#### COMMERCE AND TRADE

##### Board of Housing and Community Development

**Helen Hardiman**, 5621 New Kent Road, **Richmond**, Virginia 23225, Member, appointed September 7, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Robert Brian Mullins.

**C. Richard Napier**, 704 Founders Crest Court, **Midlothian**, Virginia 23113, Member, appointed August 1, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Anthony M. Clatterbuck.

**Earl B. Reynolds, Jr.**, 427 Patton Street, **Danville**, Virginia 24543, Member, appointed September 2, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed James G. Petrino.

**Jeffrey Sadler**, 1102 Buckingham Avenue, **Norfolk**, Virginia 23508, Member, appointed September 9, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Robert R. Kaplan, Jr.

**Steven M. Semones**, 325 Windsor Drive, **Christiansburg**, Virginia 24073, Member, appointed September 7, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed himself.

##### Common Interest Community Board

**Lori J. Overholt**, 942 Virginia Avenue, **Virginia Beach**, Virginia 23451, Member, appointed August 10, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed herself.

##### Latino Advisory Board

**Juan Santacoloma**, 4122 Alms Lane, **North Chesterfield**, Virginia 23237, Member, appointed September 21, 2016, to serve an unexpired term beginning August 23, 2016, and ending October 14, 2019, to succeed Lucero Soto Wiley.

**Mercedes Santos-Bell**, 806 Knollwood Court, **Chesapeake**, Virginia 23320, Member, appointed September 21, 2016, to serve an unexpired term beginning August 17, 2016, and ending June 30, 2018, to succeed John Villamil-Casanova.

##### State Building Code Technical Review Board

**E.G. Middleton III**, 1449 Five Hill Trail, **Virginia Beach**, Virginia 23452, Member, appointed September 21, 2016, to serve at the pleasure of the Governor beginning September 21, 2016, to succeed John A. Knepper, Jr.

##### Virginia Growth and Opportunity Board

**Nancy Howell Agee**, 802 Cherrywood Road, **Salem**, Virginia 24153, Member, appointed August 4, 2016, for a term of three years beginning July 1, 2016, and ending June 30, 2019, to fill a new seat.

**James W. Dyke, Jr.**, 2125 Cabots Point Lane, **Reston**, Virginia 20191, Member, appointed August 4, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to fill a new seat.

**Thomas F. Farrell II**, 120 Tredegar Street, **Richmond**, Virginia 23219, Member, appointed August 4, 2016, for a term of two years beginning July 1, 2016, and ending June 30, 2018, to fill a new seat.

**Charles W. Moorman**, 779 Rocky Hollow Road, **Charlottesville**, Virginia 22911, Member, appointed August 9, 2016, for a term of three years beginning July 1, 2016, and ending June 30, 2019, to fill a new seat.

**Matthew J. Mulherin**, 144 Ensign John Utie, **Williamsburg**, Virginia 23185, Member, appointed August 4, 2016, for a term of two years beginning July 1, 2016, and ending June 30, 2018, to fill a new seat.

**Bruce Smith**, 1640 Spring House Trail, **Virginia Beach**, Virginia 23455, Member, appointed August 10, 2016, for a term of one year beginning July 1, 2016, and ending June 30, 2017, to fill a new seat.

**Todd A. Stottlemeyer**, 3200 Sarah Joan Court, **Oakton**, Virginia 22124, Member, appointed August 5, 2016, for a term of one year beginning July 1, 2016, and ending June 30, 2017, to fill a new seat.

**Lucia Anna "Pia" Trigiani**, 710 South Union Street, **Alexandria**, Virginia 22314, Member, appointed August 5, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to fill a new seat.

**Marilyn H. West**, 1401 Wentbridge Road, **Richmond**, Virginia 23227, Member, appointed August 9, 2016, for a term of three years beginning July 1, 2016, and ending June 30, 2019, to fill a new seat.

**John O. "Dubby" Wynne**, 1085 South Bay Shore Drive, **Virginia Beach**, Virginia 23451, Member, appointed August 9, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to fill a new seat.

##### Virginia Housing Development Authority Commissioners

**Clarissa McAdoo Cannon**, 126 Cove Point Drive, **Suffolk**, Virginia 23434, Member, appointed September 7, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed H.R. Ashe.

**Thomas A. Gibson IV**, 725 South Ode Street, Apartment 112, **Arlington**, Virginia 22204, Member, appointed September 8, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Marjorie N. Leon.

**David E. Ramos**, 12003 Golf Ridge Court, Apartment 201, **Fairfax**, Virginia 22033, Member, appointed September 7, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Douglas R. Fahl.

**Virginia Resources Authority Board of Directors**

**Mary B. Bunting**, 614 Burton Street, **Hampton**, Virginia 23666, Member, appointed September 20, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Dena Frith Moore.

**Reginald E. Gordon**, 112 Overbrook Road, **Richmond**, Virginia 23222, Member, appointed September 20, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed James Spencer III.

**Cecil R. Harris, Jr.**, 12139 Newton Hills Court, **Rockville**, Virginia 23146, Member, appointed September 19, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed John H. Rust, Jr.

**William G. O'Brien**, 1886 Mapleton Lane, **Port Republic**, Virginia 24471, Member, appointed September 20, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed himself.

**COMPACTS**

**Southern Regional Education Board**

**Leanna Blevins**, 1014 Sheraton Court, **Martinsville**, Virginia 24112, Member, appointed August 5, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Chris Saxman.

**Virginia Council on the Interstate Compact on Educational Opportunity for Military Children**

**John C. Harvey, Jr.**, 1743 Lockerbie Lane, **Vienna**, Virginia 22182, Member, appointed August 5, 2016, to serve at the pleasure of the Governor beginning July 14, 2016, to succeed Frank E. Hughlett.

**EDUCATION**

**Board of Trustees of the Frontier Culture Museum of Virginia**

**Erik D. Curren**, 14 South Washington Street, **Staunton**, Virginia 24401, Member, appointed August 26, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Reo Hatfield.

**Paul P. Vames**, 832 East Beverley Street, **Staunton**, Virginia 24401, Member, appointed August 26, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed himself.

**The College of William and Mary Board of Visitors**

**John E. Littel**, 4200 Hermitage Road, **Virginia Beach**, Virginia 23455, Member, appointed September 15, 2016, to serve an unexpired term beginning August 17, 2016, and ending June 30, 2020, to succeed Ted Dintersmith.

**Commission for the Arts**

**Matthew Conrad**, 2002 Princess Anne Avenue, **Richmond**, Virginia 23223, Member, appointed August 5, 2016, for a term of five years beginning July 1, 2016, and ending June 30, 2021, to succeed Sharron Miller.

**Abigail Gomez**, 118 Fairway Drive, **Winchester**, Virginia 22602, Member, appointed August 5, 2016, for a term of five years beginning July 1, 2016, and ending June 30, 2021, to succeed Ronald Fabin.

**Kathleen O'Hare**, 309 South Main Street, **Chatham**, Virginia 24531, Member, appointed August 5, 2016, for a term of five years beginning July 1, 2016, and ending June 30, 2021, to succeed Charles Ellis.

**Institute for Advanced Learning and Research**

**Petrina A. Carter**, 639 Rosemary Lane, **Danville**, Virginia 24541, Member, appointed August 19, 2016, for a term of three years beginning July 1, 2016, and ending June 30, 2019, to succeed Frank Grogan.

**Jamestown-Yorktown Foundation Board of Trustees**

**Aneadra W. Bourne**, 4215 Seminary Avenue, **Richmond**, Virginia 23227, Member, appointed September 16, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Burson Taylor Snyder.

**H. Benson Dendy III**, 1142 West Avenue, **Richmond**, Virginia 23220, Member, appointed September 16, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed himself.

**Judy F. Wason**, 4616 Castleside Circle, **Williamsburg**, Virginia 23188, Member, appointed September 16, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed herself.

**The Library Board**

**L. Preston Bryant, Jr.**, 2901 West Grace Street, **Richmond**, Virginia 23221, Member, appointed September 23, 2016, for a term of five years beginning July 1, 2016, and ending June 30, 2021, to succeed Carole Weinstein.

**Mohammed Esslami**, 2916 Cantania Place, **Woodbridge**, Virginia 22192, Member, appointed September 23, 2016, for a term of five years beginning July 1, 2016, and ending June 30, 2021, to succeed himself.

**New College Institute Board of Directors**

**Robert B. Burger, Jr.**, 756 Long Island Drive, **Moneta**, Virginia 24121, Member, appointed September 30, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Mark D. Heath.

**Tanya Smith Foreman**, 1312 White Street, **Kingsport**, Tennessee 37664, Member, appointed September 30, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Marshall W. Stowe.

**W. Weldon Hill**, 12112 Player Court, **Chester**, Virginia 23836, Member, appointed September 30, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed himself.

**Janice Fain Wilkins**, 124 Massey Road, **Stuart**, Virginia 24171, Member, appointed September 30, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed herself.

**Radford University Board of Visitors**

**Georgia Anne Snyder-Falkinham**, 2220 Woodland Hills Drive, **Blacksburg**, Virginia 24060, Member, appointed September 15, 2016, to serve an unexpired term beginning August 26, 2016, and ending June 30, 2020, to succeed Ann Segaloff.

**Southern Virginia Higher Education Center Board of Trustees**

**J. Charles Lee**, 107 Oak View Drive, **Clarksville**, Virginia 23927, Member, appointed August 5, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed John R. Cannon.

**Virginia Research Investment Committee**

**James W. Dyke, Jr.**, 2125 Cabots Point Lane, **Reston**, Virginia 20191, Member, appointed August 11, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to fill a new seat.

**Charles W. Moorman**, 779 Rocky Hollow Road, **Charlottesville**, Virginia 22911, Member, appointed August 11, 2016, for a term of three years beginning July 1, 2016, and ending June 30, 2019, to fill a new seat.

**Virginia School for the Deaf and Blind Board of Visitors**

**Ann Latham-Anderson**, 1280 Amber Ridge Road, **Charlottesville**, Virginia 22901, Member, appointed August 12, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed herself.

**John C. Pleasants**, 2663 Portugee Road, **Sandston**, Virginia 23150, Member, appointed August 12, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed himself.

**FINANCE****Advisory Council on Revenue Estimates**

**Karen I. Campbell**, 230 North Sixth Street, Apartment 709, **Richmond**, Virginia 23219, Member, appointed August 11, 2016, to serve at the pleasure of the Governor beginning August 8, 2016, to succeed B. Keith Fulton.

**HEALTH AND HUMAN RESOURCES****Advisory Board on Service and Volunteerism**

**Jessica M. Bowser**, 6177 Windham Hill Run, **Alexandria**, Virginia 22315, Member, appointed September 9, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed herself.

**John Taylor Chapman**, 112 West Taylor Run Parkway, **Alexandria**, Virginia 22314, Member, appointed September 9, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed himself.

**Terry C. Frye**, 130 Shadow Hill Lane, **Bristol**, Virginia 24201, Member, appointed September 9, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed himself.

**Zachary Leonsis**, 3329 Prospect Street, Northwest, Unit 5, **Washington, District of Columbia** 20007, Member, appointed September 9, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Lettie Bien.

**Amy Nisenson**, 1603 Centreville Parke Lane, **Manakin-Sabot**, Virginia 23103, Member, appointed September 9, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed herself.

**Julie M. Strandlie**, 4566 Shetland Green Road, **Alexandria**, Virginia 22312, Member, appointed September 9, 2016, to serve an unexpired term beginning July 1, 2016, and ending June 30, 2018, to succeed Laurie Turner.

**Steven A. Valdez**, 2200 Twelfth Court North, Apartment 401, **Arlington**, Virginia 22201, Member, appointed September 9, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed himself.

**Assistive Technology Loan Fund Authority Board of Directors**

**Dean J. Bonney**, 2121 North Westmoreland Street, Apartment 224, **Arlington**, Virginia 22213, Member, appointed August 5, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed himself.

**Brian Taylor**, 12801 Fox Meadow Drive, **Richmond**, Virginia 23233, Member, appointed August 5, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed himself.

**Board of Long-Term Care Administrators**

**Basil Acey**, 2151 Cedarfield Lane, **Henrico**, Virginia 23233, Member, appointed August 19, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Warren Koontz.

**Board of Medicine**

**Syed Salman Ali**, 2766 Cody Road, **Vienna**, Virginia 22181, Member, appointed August 26, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed himself.

**Barbara Allison-Bryan**, Post Office Box 658, **North**, Virginia 23128, Member, appointed August 26, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed herself.

**David F. Archer**, 1516 Commonwealth Avenue, **Norfolk**, Virginia 23505, Member, appointed August 26, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Stuart Mackler.

**David C. Giammittorio**, 5805 River Drive, **Lorton**, Virginia 22079, Member, appointed August 26, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed himself.

**Isaac "Ike" Koziol**, 729 Woodson Place, **Manakin-Sabot**, Virginia 23103, Member, appointed June 10, 2016, to serve an unexpired term beginning November 23, 2015, and ending June 30, 2016, to succeed Siobhan Stolle Dunnivant.

**Isaac "Ike" Koziol**, 729 Woodson Place, **Manakin-Sabot**, Virginia 23103, Member, appointed August 26, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed himself.

**Kevin P. O'Connor**, 40545 Hurlley Lane, **Paeonian Springs**, Virginia 20129, Member, appointed August 26, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed himself.

**Kenneth J. Walker**, Post Office Box 668, **Pearisburg**, Virginia 24134, Member, appointed August 26, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed himself.

#### **Board of Nursing**

**Joyce A. Hahn**, 2601 Meadow Hall Drive, **Oak Hill**, Virginia 20171, Member, appointed August 5, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed herself.

**Dustin S. Ross**, 1819 Sunsprite Loop, **Chesapeake**, Virginia 23323, Member, appointed August 5, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to fill a new seat.

#### **Board of Psychology**

**J.D. Ball**, 1137 Kingsway Drive, **Virginia Beach**, Virginia 23455, Member, appointed August 19, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Giordana de Altin Popiolek.

**Jennifer M. "Jen" Little**, Post Office Box 13, **Cobbs Creek**, Virginia 23035, Member, appointed August 19, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Barbara Lotspeich Peery.

**Peter L. Sheras**, 340 Cedar Bluff Road, **Charlottesville**, Virginia 22901, Member, appointed August 19, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed William Hathaway.

**Rebecca A. Vauter**, 824 West 44th Street, **Richmond**, Virginia 23225, Member, appointed August 19, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Thomas. V. Ryan.

#### **Board of Social Work**

**Canek Aguirre**, 3061 Mount Vernon Avenue, Unit N107, **Alexandria**, Virginia 22305, Member, appointed August 19, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Kristi Wooten.

**Gloria Manns**, 1727 Staunton Avenue Northwest, **Roanoke**, Virginia 24107, Member, appointed August 12, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Bernadette Winters.

**Joseph Walsh**, 1616 Lancashire Drive, **Richmond**, Virginia 23235, Member, appointed August 12, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed himself.

#### **Board of Veterinary Medicine**

**Tregel Cockburn**, 140 North Cottage Road, **Sterling**, Virginia 20164, Member, appointed August 5, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Joseph May.

**Steven B. Karras**, 5819 Knowles Drive, **Roanoke**, Virginia 24018, Member, appointed August 5, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Kelly Gottschalk.

#### **Commonwealth Council on Aging**

**Diana M. Paguaga**, 12269 Aztec Place, **Woodbridge**, Virginia 22192, Member, appointed August 19, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Brenda Kelley Nelum.

**Erica F. Wood**, 2318 North Trenton Street, **Arlington**, Virginia 22207, Member, appointed August 19, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Robert Blancato.

#### **Commonwealth Neurotrauma Initiative Advisory Board**

**David X. Cifu**, 3333 Kensington Avenue, **Richmond**, Virginia 23221, Member, appointed September 23, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Laurie B. Lindblom.

**David B. Reid**, 349 Quarry Road, **Charlottesville**, Virginia 22902, Member, appointed September 23, 2016, to serve an unexpired term beginning September 17, 2016, and ending June 30, 2017, to succeed David X. Cifu.

#### **Public Guardian and Conservator Advisory Board**

**Lisa C. Linthicum**, 299 Acorn Drive, **Rustburg**, Virginia 24588, Member, appointed September 2, 2016, for a term of three years beginning July 1, 2016, and ending June 30, 2019, to succeed herself.

**Alisa "Lisa" Moore**, 2501 West Lee Highway, **Wytheville**, Virginia 24382, Member, appointed September 2, 2016, for a term of three years beginning July 1, 2016, and ending June 30, 2019, to succeed herself.

**Robert C.T. Reed**, 501 Welwyn Road, **Henrico**, Virginia 23229, Member, appointed September 2, 2016, for a term of three years beginning July 1, 2016, and ending June 30, 2019, to succeed Mira Signer.

**Latroyal Smith Roxburgh**, 610 Bancroft Avenue, **Richmond**, Virginia 23222, Member, appointed September 2, 2016, for a term of three years beginning July 1, 2016, and ending June 30, 2019, to succeed Naila Alam.

**Cathy Lynn Thompson**, 1910 Sheffield Road, Southwest, **Roanoke**, Virginia 24015, Member, appointed September 2, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to fill a new seat.

**Elizabeth L. Wildhack**, 415 North Oxford Street, **Arlington**, Virginia 22203, Member, appointed September 2, 2016, for a term of three years beginning July 1, 2016, and ending June 30, 2019, to fill a new seat.

#### **State Executive Council for Children's Services**

**Frank Somerville**, Post Office Box 26, **Orange**, Virginia 22960, Member, appointed August 26, 2016, to serve an unexpired term beginning July 1, 2016, and ending June 30, 2017, to succeed Anita Filson.

#### **Virginia Interagency Coordinating Council**

**Kristine PJ Torres Caalim**, 1709 Ruby Circle, **Virginia Beach**, Virginia 23456, Member, appointed September 9, 2016, for a term of three years beginning October 1, 2016, and ending September 30, 2019, to succeed herself.

**Bonnie Grifa**, 458 Supplejack Court, **Chesapeake**, Virginia 23320, Member, appointed September 9, 2016, for a term of three years beginning October 1, 2016, and ending September 30, 2019, to succeed herself.

**Daun Sessoms Hester**, 946 Marietta Avenue, **Norfolk**, Virginia 23513, Member, appointed September 9, 2016, for a term of three years beginning October 1, 2016, and ending September 30, 2019, to succeed herself.

**Zipporah Levi-Shackleford**, 9014 Silverbush Drive, **Henrico**, Virginia 23228, Member, appointed September 23, 2016, for a term of three years beginning October 1, 2016, and ending September 30, 2019, to succeed Catherine Rey.

**Kathleen M. McCauley**, 2305 Floyd Avenue, **Richmond**, Virginia 23220, Member, appointed September 9, 2016, for a term of three years beginning October 1, 2016, and ending September 30, 2019, to succeed herself.

#### JUDICIAL

##### Virginia Indigent Defense Commission

**Henry L. Chambers, Jr.**, 1721 Windingridge Drive, **Henrico**, Virginia 23238, Member, appointed September 16, 2016, for a term of three years beginning July 1, 2016, and ending June 30, 2019, to succeed Thomas R. Chaffe.

**James Hingeley**, 719A Graves Street, **Charlottesville**, Virginia 22902, Member, appointed September 16, 2016, for a term of three years beginning July 1, 2016, and ending June 30, 2019, to succeed Kristi Wooten.

#### LEGISLATIVE

##### Commission on Youth

**Karrie Delaney**, 13415 Sand Rock Court, **Chantilly**, Virginia 20151, Member, appointed September 9, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Frank Royal.

**Chris Rehak**, 505 Eighth Street, **Radford**, Virginia 24141, Member, appointed September 9, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Charles Slemp.

##### Small Business Commission

**E. Dana Dickens III**, 9212 Wigneil Street, **Suffolk**, Virginia 23433, Member, appointed September 8, 2016, for a term of two years beginning July 1, 2016, and ending June 30, 2018, to succeed himself.

**Betty Jolly**, 700 East Franklin Street, Suite 1105, **Richmond**, Virginia 23219, Member, appointed September 8, 2016, for a term of two years beginning July 1, 2016, and ending June 30, 2018, to succeed Paul A. Miller.

**Vickie R. Williams-Cullins**, 1325 Vanasse Court, **Hampton**, Virginia 23666, Member, appointed September 8, 2016, for a term of two years beginning July 1, 2016, and ending June 30, 2018, to succeed Atif M. Qarni.

##### Virginia State Crime Commission

**Kristine R. Hall**, 1040 Hayrake Lane, **Charlottesville**, Virginia 22903, Member, appointed August 12, 2016, for a term of two years beginning July 1, 2016, and ending June 30, 2018, to succeed Lori Hanky Haas.

**Arthur Townsend, Jr.**, Post Office Box 122, **Victoria**, Virginia 23974, Member, appointed August 12, 2016, for a term of two years beginning July 1, 2016, and ending June 30, 2018, to succeed Brian Keith Roberts.

**John A. Venuti, Jr.**, 9624 Rainbrook Drive, **Richmond**, Virginia 23238, Member, appointed August 12, 2016, for a term of two years beginning July 1, 2016, and ending June 30, 2018, to succeed Michael R. Doucette.

#### NATURAL RESOURCES

##### Board of Game and Inland Fisheries

**Leon Boyd**, 3574 Little Fox Drive, **Vansant**, Virginia 24656, Member, appointed August 30, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed himself.

**Douglas M. Dear**, 530 Springvale Road, **Great Falls**, Virginia 22066, Member, appointed August 29, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Mark A. Winkler.

##### Cave Board

**Robert K. Denton, Jr.**, 424 South Loudoun Street, **Winchester**, Virginia 22601, Member, appointed August 4, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed himself.

**David A. Ek**, 2140 Courthouse Road, **Catlett**, Virginia 20119, Member, appointed August 4, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed himself.

**Richard A. Lambert**, 572 Spruce Street, **Monterey**, Virginia 24465, Member, appointed August 5, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed himself.

##### Virginia Land Conservation Foundation Board of Trustees

**Robert W. Lazaro, Jr.**, 725 Sunflower Court, **Purcellville**, Virginia 20132, Member, appointed August 4, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed himself.

**Russell Vern Presley II**, Post Office Box 463, **Keen Mountain**, Virginia 24614, Member, appointed August 4, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Ollie W. Kitchen.

**John Paul Woodley, Jr.**, 9617 Staysail Court, **Burke**, Virginia 22015, Member, appointed August 4, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed himself.

##### Virginia Soil and Water Conservation Board

**Arthur Gray Coyner**, Post Office Box 7, 9152 John S. Mosby Highway, **Upperville**, Virginia 20185, Member, appointed September 14, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Gary W. Hornbaker.

**Cindy Smith**, 9482 Golansville Road, **Ruther Glen**, Virginia 22546, Member, appointed September 14, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Raymond L. Simms.

#### PUBLIC SAFETY AND HOMELAND SECURITY

##### Virginia Fire Services Board

**James Alan Calvert**, 1311 Equestrian Ridge Circle, **Forest**, Virginia 24551, Member, appointed August 12, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Mark Osborn.

**Joseph F. Hale**, Post Office Box 605, **Max Meadows**, Virginia 24360, Member, appointed August 12, 2016, to serve an unexpired term beginning February 3, 2016, and ending June 30, 2017, to succeed William Kyger.

**David C. Hankley**, 111 East Grayson Street, **Galax**, Virginia 24333, Member, appointed August 12, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Randy Wheeler.

**Dennis D. Linaburg**, 162 Rossum Lane, **Winchester**, Virginia 22602, Member, appointed August 12, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Robert W. Miner.

**James D. Poindexter, Jr.**, 1828 Pembroke Drive, **Vinton**, Virginia 24179, Member, appointed August 12, 2016, to serve an unexpired term beginning July 1, 2016, and ending June 30, 2018, to succeed Peter Svoboda.

#### TRANSPORTATION

##### Transportation District Commission of Hampton Roads

**Gaylene Kanoyton**, 10 Buckroe Avenue, **Hampton**, Virginia 23664, Member, appointed September 23, 2016, to serve an unexpired term beginning September 8, 2016, and ending June 30, 2018, to succeed Carol A. Davis.

#### VETERANS AND DEFENSE AFFAIRS

##### Virginia War Memorial Board

**Robert C. Hannon**, 378 South Church Street, **Smithfield**, Virginia 23430, Member, appointed August 30, 2016, for a term of three years beginning July 1, 2016, and ending June 30, 2019, to succeed Dale Chapman.

**Joshua L. King, Sr.**, 2607 Glenriver Way, **Woodbridge**, Virginia 22191, Member, appointed August 31, 2016, to serve an unexpired term beginning July 1, 2015, and ending June 30, 2018, to succeed Wilma L. Vaught.

**Frances Caroline Lane**, 6805 Melrose Drive, **McLean**, Virginia 22101, Member, appointed September 8, 2016, for a term of three years beginning July 1, 2016, and ending June 30, 2019, to succeed herself.

**Kathleen Purdy Owens**, 2567 Landview Circle, **Virginia Beach**, Virginia 23454, Member, appointed September 7, 2016, for a term of three years beginning July 1, 2016, and ending June 30, 2019, to succeed herself.

**Naveed Shah**, 7705 Saratoga Ridge Court, **Springfield**, Virginia 22153, Member, appointed September 7, 2016, to serve an unexpired term beginning July 1, 2015, and ending June 30, 2018, to succeed Todd B. Hammond.

**James A. Zollar**, 9407 Indianfield Drive, **Mechanicsville**, Virginia 23116, Member, appointed September 22, 2016, to serve an unexpired term beginning July 1, 2015, and ending June 30, 2018, to succeed Frank D. Hargrove, Sr.

#### SENATE JOINT RESOLUTION NO. 310

*Confirming appointments by the Governor of certain persons communicated December 1, 2016.*

Agreed to by the Senate, January 30, 2017

Agreed to by the House of Delegates, February 8, 2017

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly confirm the following appointments of certain persons made by Governor Terry McAuliffe and communicated to the General Assembly December 1, 2016:

#### AGRICULTURE AND FORESTRY

##### Soybean Board

**Raymond G. Keating**, 339 Dorwin Drive, **Norfolk**, Virginia 23502, Member, appointed November 16, 2016, for a term of three years beginning October 1, 2016, and ending September 30, 2019, to succeed N. Wayne Hudson.

**Linda V. Smith**, 3750 Blue Heron Lane, **West Point**, Virginia 23181, Member, appointed November 16, 2016, for a term of three years beginning October 1, 2016, and ending September 30, 2019, to succeed herself.

**Tom Taliaferro**, 607 North Broad Street, **Suffolk**, Virginia 23434, Member, appointed November 17, 2016, for a term of three years beginning October 1, 2016, and ending September 30, 2019, to succeed himself.

##### AUTHORITY

##### Virginia Recreational Facilities Authority Board of Directors

**Olivia E. Branch**, Post Office Box 136, **Keswick**, Virginia 22947, Member, appointed October 4, 2016, to serve an unexpired term beginning July 1, 2015, and ending June 30, 2020, to succeed Jane Sullivan Horne.

**Michelle L. Dykstra**, 1209 Campbell Avenue Southwest, **Roanoke**, Virginia 24016, Member, appointed October 6, 2016, for a term of five years beginning July 1, 2016, and ending June 30, 2021, to succeed Benjamin Summers.

**W. Tucker Lemon**, 2511 Cornwallis Avenue Southeast, **Roanoke**, Virginia 24014, Member, appointed October 4, 2016, for a term of five years beginning July 1, 2016, and ending June 30, 2021, to succeed himself.

**Taylor V. Ricotta**, 668 Webster Heights Road, **Roanoke**, Virginia 24012, Member, appointed October 1, 2016, to serve an unexpired term beginning July 1, 2015, and ending June 30, 2020, to succeed Dennis R. Cronk.

**Samuel A. Simon**, 1472 Pathfinder Lane, **McLean**, Virginia 22101, Member, appointed October 1, 2016, to serve an unexpired term beginning July 1, 2015, and ending June 30, 2020, to succeed Trixie L. Averill.

**Barry W. Thompson**, 2513 Sassafras Circle, **Vinton**, Virginia 24179, Member, appointed October 1, 2016, to serve an unexpired term beginning July 1, 2015, and ending June 30, 2020, to succeed Alfred C. Anderson.

**COMMERCE AND TRADE****Auctioneers Board**

**Betty A. Bennett**, 91 Fairfield Drive, **Staunton**, Virginia 24401, Member, appointed November 2, 2016, to serve an unexpired term beginning August 13, 2016, and ending June 30, 2018, to succeed William McGuire Farmer.

**Andrew W. Smith**, 18566 Hewlett Road, **Beaverdam**, Virginia 23015, Member, appointed November 2, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Travis B. Lee.

**Virginia Offshore Wind Development Authority**

**Varun K. Nikore**, 1100 North Quantico Street, **Arlington**, Virginia 22205, Member, appointed October 5, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed himself.

**Brian Redmond**, 9709 Old Club Trace, **Richmond**, Virginia 23238, Member, appointed October 5, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed himself.

**Ronald Rosenberg**, 3 The Palisades, **Williamsburg**, Virginia 23185, Member, appointed October 5, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed himself.

**EDUCATION****State Historical Records Advisory Board**

**Garrett McGuire**, 601 Holland Lane, Apartment 1004, **Alexandria**, Virginia 22314, Member, appointed November 4, 2016, for a term of three years beginning November 1, 2016, and ending October 31, 2019, to succeed himself.

**HEALTH AND HUMAN RESOURCES****Advisory Board for the Virginia Department for the Deaf and Hard-of-Hearing**

**Kathi A. Mestayer**, 105 Gilley Drive, **Williamsburg**, Virginia 23188, Member, appointed October 28, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed herself.

**Timothy R. Patterson**, 6700 Fieldtan Trail, **Moseley**, Virginia 23120, Member, appointed October 28, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Ann Latham-Anderson.

**Susanne Behrens Wilbur**, 1716 Essex Road, **Charlottesville**, Virginia 22901, Member, appointed November 18, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Patricia Trice.

**Jason M. Zuccari**, 2997 Eskridge Road, **Fairfax**, Virginia 22031, Member, appointed October 28, 2016, to serve an unexpired term beginning October 15, 2016, and ending June 30, 2019, to succeed Karen Sheffer.

**Assistive Technology Loan Fund Authority Board of Directors**

**Marques D. Jones**, 2002 Stone Quarter Road, **Henrico**, Virginia 23238, Member, appointed October 7, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Sandra Cook.

**Board of Audiology and Speech-Language Pathology**

**Bradley W. Kesser**, 4348 Ragged View Court, **Charlottesville**, Virginia 22903, Member, appointed October 7, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed George Hashisaki.

**Board of Health Professions**

**Marvin B. Figueroa**, 2516 South Arlington Mill Drive, Apartment B, **Arlington**, Virginia 22206, Member, appointed November 18, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Robert H. Logan III.

**Allen R. Jones, Jr.**, 550 Kerry Lake Drive, **Newport News**, Virginia 23602, Member, appointed November 18, 2016, for a term of two years beginning July 1, 2016, and ending June 30, 2018, to succeed himself.

**Derrick Kelly Kendall**, 8019 Hampton Station Court, **Chesterfield**, Virginia 23832, Member, appointed November 18, 2016, for a term of one year beginning July 1, 2016, and ending June 30, 2017, to succeed Amanda L. Gannon.

**Herbert L. Stewart**, 2958 Mechum Banks Drive, **Charlottesville**, Virginia 22901, Member, appointed November 18, 2016, for a term of one year beginning July 1, 2016, and ending June 30, 2017, to succeed Virginia Van de Water.

**James D. Watkins**, 1636 Big Bethel Road, Post Office Box 7501, **Hampton**, Virginia 23666, Member, appointed November 18, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed himself.

**Junius H. Williams**, 21 Shamrock Drive, **Portsmouth**, Virginia 23701, Member, appointed November 18, 2016, for a term of two years beginning July 1, 2016, and ending June 30, 2018, to succeed J. Paul Welch II.

**Board of Optometry**

**Fred Goldberg**, 6924 Butternut Court, **McLean**, Virginia 22101, Member, appointed October 7, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Douglas Weberling.

**Clifford A. Roffis**, 2842 Oak Pointe Lane, **Henrico**, Virginia 23233, Member, appointed October 7, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Joseph Droter.

**State Emergency Medical Services Advisory Board**

**Dreama D. Chandler**, Post Office Box 728, **Rural Retreat**, Virginia 24368, Member, appointed October 21, 2016, to serve an unexpired term beginning September 28, 2016, and ending June 30, 2017, to succeed Denene Hannon.

**State Rehabilitation Council**

**Shaquwanda Baker**, 7846 Wilcoxon Farm Place, **Manassas**, Virginia 20111, Member, appointed October 14, 2016, for a term of three years beginning October 1, 2016, and ending September 30, 2019, to succeed Richard Keene.

**Nichole C. Drummond**, 7707 Durer Court, **Springfield**, Virginia 22153, Member, appointed October 14, 2016, for a term of three years beginning October 1, 2016, and ending September 30, 2019, to succeed Suzanne Bowers.

**David K. Head**, 6249 Liltling Moon Drive, **Moseley**, Virginia 23120, Member, appointed October 14, 2016, for a term of three years beginning October 1, 2016, and ending September 30, 2019, to succeed Ellen McIlhenny.

**Petrina Thomas**, 20048 Cedar Grove Road, **Culpeper**, Virginia 22701, Member, appointed October 14, 2016, to serve an unexpired term beginning October 1, 2016, and ending September 30, 2018, to succeed Lauren Snyder-Roche.

**Julie Triplett**, 1512 Willow Lane Drive, Number 100, **Richmond**, Virginia 23230, Member, appointed October 14, 2016, for a term of three years beginning October 1, 2016, and ending September 30, 2019, to succeed herself.

#### **Statewide Independent Living Council**

**Raymond L. Kenney, Jr.**, 3207 Gaulding Lane, **Richmond**, Virginia 23223, Member, appointed November 18, 2016, for a term of three years beginning October 1, 2016, and ending September 30, 2019, to succeed Kenneth Wayne Jessup.

**Alexis N. Nichols**, 12620 Ivey Mill Road, **Chesterfield**, Virginia 23838, Member, appointed November 18, 2016, for a term of three years beginning October 1, 2016, and ending September 30, 2019, to succeed Lauren Snyder Roche.

**Robert G. Targos**, 2720 Stableside Court, Apartment 105-11, **Midlothian**, Virginia 23113, Member, appointed November 18, 2016, for a term of three years beginning October 1, 2016, and ending September 30, 2019, to succeed Patricia Harvey Stevenson.

**Shawn M. Utt**, 13 Sixth Street, Northeast, **Pulaski**, Virginia 24301, Member, appointed November 18, 2016, for a term of three years beginning October 1, 2016, and ending September 30, 2019, to succeed himself.

#### **Virginia Board for People with Disabilities**

**Travis D. Webb**, 4914 East Princess Anne Road, Apartment B1, **Norfolk**, Virginia 23502, Member, appointed November 4, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed himself.

#### **Virginia Health Workforce Development Authority Board of Directors**

**Deborah J. Johnston**, 5225 Monument Avenue, **Richmond**, Virginia 23220, Member, appointed October 28, 2016, for a term of two years beginning July 1, 2016, and ending June 30, 2018, to succeed herself.

**Elayne K. Phillips**, 1105 Saint Charles Court, **Charlottesville**, Virginia 22901, Member, appointed October 21, 2016, for a term of two years beginning July 1, 2016, and ending June 30, 2018, to succeed Nancy Dunlap.

**Sunil Sinha**, 12301 Haybrook Lane, **Glen Allen**, Virginia 23059, Member, appointed October 21, 2016, for a term of two years beginning July 1, 2016, and ending June 30, 2018, to succeed Eleanor Sue Cantrell.

**John Thompson "Jay" White**, 8209 Ammonett Drive, **Richmond**, Virginia 23235, Member, appointed October 21, 2016, for a term of two years beginning July 1, 2016, and ending June 30, 2018, to succeed Shirley Gibson.

#### **INDEPENDENT**

##### **Virginia Birth-Related Neurological Injury Compensation Program Board of Directors**

**Joseph H. Stepp**, 10721 Shadyford Lane, **Glen Allen**, Virginia 23060, Member, appointed October 7, 2016, to serve an unexpired term beginning July 1, 2015, and ending June 30, 2018, to succeed Hope Cupit.

##### **Volunteer Firefighters' and Rescue Squad Workers' Service Award Pension Fund Board**

**Kenneth J. Brown**, 3354 Griffith Lane, **Goochland**, Virginia 23063, Member, appointed October 28, 2016, to serve an unexpired term beginning July 1, 2014, and ending June 30, 2020, to succeed Norman Rice.

**John H. Craig III**, 27 Mill Creek Lane, **Staunton**, Virginia 24401, Member, appointed October 28, 2016, for a term of six years beginning July 1, 2016, and ending June 30, 2022, to succeed Jack Morgan.

**Mark L. Crnarich**, 12449 Booths Spur, **King George**, Virginia 22485, Member, appointed October 28, 2016, for a term of six years beginning July 1, 2016, and ending June 30, 2022, to succeed Jeff Flipppo.

**Bruce W. Edwards**, 2441 Windward Shore Drive, **Virginia Beach**, Virginia 23451, Member, appointed October 28, 2016, to serve an unexpired term beginning July 1, 2014, and ending June 30, 2020, to succeed Warren Winner.

**Richard W. Harris**, 501 Fourth Avenue, Post Office Box 404, **Kenbridge**, Virginia 23944, Member, appointed October 28, 2016, to serve an unexpired term beginning July 1, 2012, and ending June 30, 2018, to succeed Charles Singleton.

**John V. Hilliard, Jr.**, 14519 Parracombe Lane, **Midlothian**, Virginia 23112, Member, appointed October 28, 2016, to serve an unexpired term beginning July 1, 2012, and ending June 30, 2018, to succeed Kevin Dillard.

#### **LEGISLATIVE**

##### **Capitol Square Preservation Council**

**Robert M. McGinnis**, 511 North First Street, Apartment 511, **Charlottesville**, Virginia 22902, Member, appointed November 4, 2016, for a term of three years beginning July 1, 2016, and ending June 30, 2019, to succeed Terry Clements.

**Andrew H. Talkov**, 312 Dundee Avenue, **Richmond**, Virginia 23225, Member, appointed November 4, 2016, for a term of three years beginning July 1, 2016, and ending June 30, 2019, to succeed William M. S. Rasmussen.

#### **NATURAL RESOURCES**

##### **Virginia Museum of Natural History Board of Trustees**

**Faye Crawford Cooper**, 395 Sherwood Avenue, **Staunton**, Virginia 24401, Member, appointed October 12, 2016, for a term of five years beginning July 1, 2016, and ending June 30, 2021, to succeed Sammy Redd.

**Arthur V. Evans**, 1600 Nottoway Avenue, **Richmond**, Virginia 23227, Member, appointed October 12, 2016, for a term of five years beginning July 1, 2016, and ending June 30, 2021, to succeed himself.

**Lisa Carter Moerner**, 5401 Cary Street Road, **Richmond**, Virginia 23226, Member, appointed October 12, 2016, for a term of five years beginning July 1, 2016, and ending June 30, 2021, to succeed Lisa Lyle Wu.

**PUBLIC SAFETY AND HOMELAND SECURITY**

**Scientific Advisory Committee**

**Barry S. Levine**, 10655 Green Mountain Circle, **Columbia, Maryland** 21044, Member, appointed November 18, 2016, to serve an unexpired term beginning September 7, 2016, and ending June 30, 2018, to succeed Alphonse Poklis.

**VETERANS AND DEFENSE AFFAIRS**

**Joint Leadership Council of Veterans Service Organizations**

**Frank G. Wickersham III**, 8294 Stable Gate Road, **Warrenton**, Virginia 20186, Member, appointed November 15, 2016, to serve an unexpired term beginning November 15, 2016, and ending June 30, 2018, to succeed Stuart H. Williams.

**SENATE JOINT RESOLUTION NO. 313**

*Commending the Honorable Bonnie C. Davis.*

Agreed to by the Senate, January 19, 2017

Agreed to by the House of Delegates, January 27, 2017

WHEREAS, the Honorable Bonnie C. Davis retired as a judge of the Chesterfield Juvenile and Domestic Relations District Court of the 12th Judicial District of Virginia on September 20, 2016; and

WHEREAS, a native of Ettrick, Bonnie Davis holds a bachelor's degree from Longwood University and a law degree from the University of Richmond; she inspired students as an educator at Salem Church Middle School for six years before changing careers to practice law; and

WHEREAS, from 1983 to 1993, Bonnie Davis served as an Assistant Commonwealth's Attorney and was a passionate advocate for children and families who had suffered from domestic abuse; and

WHEREAS, Bonnie Davis was appointed as a judge of the Chesterfield Juvenile and Domestic Relations District Court of the 12th Judicial District of Virginia in 1993, becoming the first female judge in Chesterfield County; and

WHEREAS, during her 23-year tenure as a judge, Bonnie Davis presided over the court with great fairness and wisdom, and she oversaw the construction of the current Chesterfield Juvenile and Domestic Relations District Court building, which is considered a model for other courthouses in the Commonwealth; and

WHEREAS, Bonnie Davis has offered her leadership and expertise to numerous task forces, professional organizations, and committees at local, state, and federal levels, including the Virginia State Bar and the Association of District Court Judges of Virginia; and

WHEREAS, after her well-earned retirement, Bonnie Davis plans to seek new opportunities to enhance the Chesterfield County community; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the Honorable Bonnie C. Davis on the occasion of her retirement as a judge of the Chesterfield Juvenile and Domestic Relations District Court; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Bonnie C. Davis as an expression of the General Assembly's admiration for her service to children and families in Chesterfield County.

**SENATE JOINT RESOLUTION NO. 314**

*Commending Michael Lester Lipford.*

Agreed to by the Senate, January 19, 2017

Agreed to by the House of Delegates, January 27, 2017

WHEREAS, Michael Lester Lipford began his career more than 30 years ago as the first director of the Virginia Natural Heritage Program, a division of the Department of Conservation and Recreation; and

WHEREAS, Michael Lipford went on to become the executive director of the Virginia Chapter of The Nature Conservancy (TNC) and served in that capacity for more than 25 years; and

WHEREAS, through his work at TNC, Michael Lipford has helped protect more than 350,000 acres of land and some of Virginia's special and unique places for future generations; and

WHEREAS, Michael Lipford's love of Virginia helped him inspire others to take on incredible challenges, such as bringing back rare freshwater mussels or Virginia's rarest bird, the red-cockaded woodpecker; restoring the seagrass, oysters, and scallops of the coastal bays protected by Virginia's barrier islands; and assuming ownership and management of the Virginia Coast Reserve, the longest coastal wilderness on the East Coast of the United States; and

WHEREAS, Michael Lipford grew the Virginia Chapter of TNC from a small staff of six to a staff of more than 60 in offices in Abingdon, Hot Springs, Charlottesville, Richmond, Arlington, Nassawadox, and Wakefield; and

WHEREAS, Michael Lipford's work can be seen in every corner of the Commonwealth from Warm Springs Mountain down to the Clinch Valley, from the Southern Pine Forests up to Dragon Run, and from Virginia's Eastern Shore out into the Mid-Atlantic; and

WHEREAS, Michael Lipford has accepted a new challenge and position as the division director of the Douthern United States for TNC, but he will continue to call Virginia home; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Michael Lester Lipford for his 30 years of service to the Commonwealth as a conservationist; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Michael Lester Lipford as an expression of the General Assembly's admiration for his work on behalf of his beloved Virginia.

### SENATE JOINT RESOLUTION NO. 315

*Commending the Center for Alexandria's Children.*

Agreed to by the Senate, February 2, 2017

Agreed to by the House of Delegates, February 10, 2017

WHEREAS, in 2007, the Center for Alexandria's Children opened its doors as the first Child Advocacy Center serving the City of Alexandria, to provide coordinated and collaborative services to abused children; and

WHEREAS, in the decade since, the Center for Alexandria's Children has grown into a full-service nonprofit organization that provides prevention, response, and education programs to ensure that all children in Alexandria enjoy a safe and happy childhood, free from abuse; and

WHEREAS, recognizing the equal importance of child abuse prevention, the Center for Alexandria's Children offers a one-of-a-kind Learn & Play Group program that has served 2,979 children and their families; and

WHEREAS, the Center for Alexandria's Children has provided child sexual abuse prevention trainings to 957 individuals, helping to protect approximately 24,000 of Alexandria's children from sexual abuse; and

WHEREAS, the Center for Alexandria's Children embodies the value of strategic public-private partnerships and community empowerment to prioritize the health and well-being of children and families; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the Center for Alexandria's Children on the occasion of its 10th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Center for Alexandria's Children as an expression of the General Assembly's admiration for its service to Alexandria's children.

### SENATE JOINT RESOLUTION NO. 316

*Commending LeShawn Merritt.*

Agreed to by the Senate, January 19, 2017

Agreed to by the House of Delegates, January 27, 2017

WHEREAS, LeShawn Merritt of Portsmouth proudly represented the United States and the Commonwealth at the Games of the XXXI Olympiad in Rio de Janeiro in 2016, winning a gold medal in the men's 4x400-meter relay and a bronze medal in the men's 400-meter race; and

WHEREAS, a lifelong resident of Portsmouth, LeShawn Merritt graduated from Woodrow Wilson High School, where he recorded what was then the second-fastest 400-meter indoor race time; he attended East Carolina University before becoming a professional sprinter at the age of 18; and

WHEREAS, in 2007, LeShawn Merritt became only the ninth man in history to break the 44-second barrier in the men's indoor 400-meter race; he has won 11 world championship medals, including the gold medal in the 4x400-meter relay event at the 2015 IAAF World Championships in Beijing; and

WHEREAS, during the 2016 Olympic Games, LeShawn Merritt finished the 400-meter race with a time of 43.85 seconds to claim the bronze medal; after recovering from an injury, he ran in the final of the men's 4x400-meter relay and helped the team win the gold medal by an impressive .86-second margin; and

WHEREAS, a three-time Olympian, LeShawn Merritt also participated in the 2012 Olympic Games in London and the 2008 Olympic Games in Beijing, where he earned two gold medals in the 4x400-meter relay and the 400-meter race, which he won by the largest margin in that event since 1896; and

WHEREAS, throughout his track and field career and during the Olympic Games, LeShawn Merritt has enjoyed the enthusiastic support of his family, friends, coaches, and the members of the Portsmouth community; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend LeShawn Merritt on winning a gold medal in the men's 4x400-meter relay and a bronze medal in the men's 400-meter race at the Games of the XXXI Olympiad; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to LeShawn Merritt as an expression of the General Assembly's admiration for his outstanding achievements as a member of Team USA.

**SENATE JOINT RESOLUTION NO. 317***Celebrating the life of Clarence L. Townes, Jr.*

Agreed to by the Senate, January 18, 2017

Agreed to by the House of Delegates, January 19, 2017

WHEREAS, Clarence L. Townes, Jr., a deeply admired leader and mentor in the Richmond community and one of the founders of what is now Venture Richmond, died on January 11, 2017; and

WHEREAS, a lifelong resident of Richmond, Clarence Townes graduated from Armstrong High School and earned a bachelor's degree from Virginia Union University; he served his country in the United States Army during the Korean War, then returned home to pursue a career in insurance; and

WHEREAS, Clarence Townes ran unsuccessfully for the House of Delegates but made history as the Republican Party's first African American candidate in modern times; from 1966 to 1970, he served as assistant to the chair of the Republican National Committee; and

WHEREAS, Clarence Townes later founded the Joint Center for Political Studies, which was associated with Howard University and provided valuable mentorship to young African American leaders throughout the southern United States; and

WHEREAS, in 1982, Clarence Townes served as the founding deputy director of Richmond Renaissance, now Venture Richmond, a partnership between city government and businesses to promote economic development; and

WHEREAS, as executive director of Richmond Renaissance from 1991 until his well-earned retirement in 1998, Clarence Townes built trust between city officials and the business community and made many lasting contributions to downtown Richmond; and

WHEREAS, a staunch advocate for the importance of a good education, Clarence Townes provided leadership to the board of Virginia Commonwealth University and the Richmond School Board; and

WHEREAS, Clarence Townes worked to enhance the community as commissioner of the Richmond Redevelopment and Housing Authority, as board chair of the Metropolitan Richmond Convention and Visitors Bureau, and as a board member of Consolidated Bank and Trust Co.; and

WHEREAS, predeceased by one son, Clarence III, Clarence Townes will be fondly remembered and greatly missed by his wife, Grace; children, Michael, Lisa, and June, and their families; and numerous other family members, friends, and colleagues; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Clarence L. Townes, Jr., a pillar of the Richmond community; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Clarence L. Townes, Jr., as an expression of the General Assembly's respect for his memory.

**SENATE JOINT RESOLUTION NO. 318***Commending Byron Robinson.*

Agreed to by the Senate, January 26, 2017

Agreed to by the House of Delegates, February 3, 2017

WHEREAS, Byron Robinson of Chesapeake proudly represented the United States and the Commonwealth at the Games of the XXXI Olympiad in Rio de Janeiro in 2016, participating in the 400-meter hurdles event; and

WHEREAS, a native of Richmond, Byron Robinson relocated to Chesapeake and graduated from Western Branch High School; he is a current student at the University of Texas at Austin, where he is studying government; and

WHEREAS, Byron Robinson earned a bronze medal in the 400-meter hurdles at the 2014 Penn Relays, the oldest and largest track and field competition in the country, and placed fourth in the 4x100-meter relay at the 2016 National Collegiate Athletic Association indoor track and field championship; and

WHEREAS, during the 2016 United States Olympic Trials, Byron Robinson was the only collegiate athlete to reach the finals of the men's 400-meter hurdles event and finished in second place to earn a spot on Team USA; and

WHEREAS, at the 2016 Olympic Games, Byron Robinson placed eighth in the 400-meter hurdles event; and

WHEREAS, throughout his track and field career and during the Olympic Games in particular, Byron Robinson has enjoyed the energetic support of his family, friends, coaches, and the members of the Chesapeake community; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Byron Robinson for representing the United States and the Commonwealth in the 400-meter hurdles event at the Games of the XXXI Olympiad; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Byron Robinson as an expression of the General Assembly's admiration for his outstanding achievements as a member of Team USA.

**SENATE JOINT RESOLUTION NO. 320***Commending the 10 River Basin Grand Winners of the Clean Water Farm Award.*

Agreed to by the Senate, January 26, 2017

Agreed to by the House of Delegates, February 3, 2017

WHEREAS, the Department of Conservation and Recreation and the Soil and Water Conservation Districts provide farmers throughout the Commonwealth with education, technical assistance, and incentive programs to encourage nutrient reduction and water quality improvement; and

WHEREAS, the General Assembly passed legislation in 1998 to establish the Clean Water Farm Award Program, which is administered by the Department of Conservation and Recreation; and

WHEREAS, the Clean Water Farm Award Program furthers the Commonwealth's water quality goals by recognizing farmers actively engaged in implementing important conservation practices that control nutrients, sediment, and other agricultural nonpoint source pollutants; and

WHEREAS, the Soil and Water Conservation Districts selected local farms across the Commonwealth for recognition in 2016 as winners of the Clean Water Farm Award; and

WHEREAS, 10 of those farms were selected and announced at the December 2016 meeting of the Virginia Association of Soil and Water Conservation Districts by the Department of Conservation and Recreation to represent the Commonwealth's 10 major river basins and to recognize the exemplary efforts of such farms in implementing best management practices; and

WHEREAS, those 10 winners are:

Tommy and Stephanie Shrader, Shrader Farms LLC, Russell County, for the Big Sandy-Upper Tennessee River Basin;

Charles H. Parrish, Jr., Parrish Farms, Inc., Lunenburg County, for the Chowan River Basin;

Lipman Family Farms, Accomack and Northampton Counties, for the Coastal Basin;

Mark Campbell, Deer Creek Farm, Nelson County, for the James River Basin;

Sam Cassell and Mike Cassell, Cassell Family Farms, Wytthe County, for the New River Basin;

David and Catherine Rochester, Cool Spring Farm, Loudoun County, for the Potomac River Basin;

Beauregard Farms, Culpeper County, for the Rappahannock River Basin;

Mary Paige Via and Liz Via-Kolinski, Greenview Farm, Patrick County, for the Roanoke River Basin;

Linden and Julia Heatwole, Cherry Grove Farm LLC, Rockingham County, for the Shenandoah River Basin;

George E. Fisher and Sons, Burnley Farm, Inc., Louisa County, for the York River Basin; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend and congratulate the 10 River Basin Grand Winners of the Clean Water Farm Award; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare copies of this resolution for presentation to the 10 River Basin Grand Winners of the Clean Water Farm Award as an expression of the General Assembly's admiration for their commitment to conserving the Commonwealth's natural resources and their outstanding conservation achievements.

**SENATE JOINT RESOLUTION NO. 322***Commending Dux.*

Agreed to by the Senate, January 26, 2017

Agreed to by the House of Delegates, February 3, 2017

WHEREAS, Dux, a two-year-old German Shepherd with the Spotsylvania County Sheriff's Office, made a full recovery and returned to duty after he was wounded while defending his handler and fellow officers in October 2016; and

WHEREAS, the Spotsylvania County Sheriff's Office fields a highly-trained canine unit within the patrol division, with a variety of breeds cross-trained in explosives and narcotics detection, a full-time narcotics detection unit, and a search and rescue team; and

WHEREAS, Dux and his handler, Deputy Kory Kelley, arrived on the scene of what appeared to be a routine traffic stop on October 2, 2016; shortly after their arrival, the driver, a convicted felon who was wanted in connection with crimes in Fredericksburg, attempted to flee and began firing at the officers; and

WHEREAS, Dux attempted to subdue the man and prevented him from injuring any of the other officers at the scene, but he was shot twice and sustained severe injuries; and

WHEREAS, through the combined efforts of multiple law-enforcement agencies, the man was quickly apprehended, while Dux was transported to the CARE Emergency Animal Clinic in Central Park and received treatment for his wounds; and

WHEREAS, after a long rehabilitation, and with the care and support of the entire Spotsylvania County Sheriff's Office, Dux was declared fit for duty and returned to serving and safeguarding the residents of Spotsylvania County; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Dux for his heroic actions to protect his fellow officers and the residents of Spotsylvania County in October 2016; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Deputy Kory Kelley, Dux's handler, as an expression of the General Assembly's admiration for service and sacrifices of all members of the law-enforcement community.

### SENATE JOINT RESOLUTION NO. 323

*Commending Pierce's Pitt Bar-B-Que.*

Agreed to by the Senate, February 2, 2017

Agreed to by the House of Delegates, February 10, 2017

WHEREAS, Pierce's Pitt Bar-B-Que near Williamsburg is a nationally known Virginia institution that, in 2016, celebrated 45 years of serving award-winning, pit-smoked barbecue to loyal patrons; and

WHEREAS, Pierce's Pitt Bar-B-Que grew from small and humble beginnings as a walk-up structure in a horse pasture to become a thriving enterprise beloved by local residents, employees, and barbecue aficionados, who flock to the bright yellow and orange landmark from miles away; and

WHEREAS, Julius Conditt "Doc" Pierce, Sr., his wife, Verdie, and their son, Julius Conditt "Jay" Pierce, Jr., opened Pierce's Pitt Bar-B-Que on October 15, 1971, after borrowing \$2,500 from a local bank to fund their restaurant venture; and

WHEREAS, Doc Pierce served as the first pit master and would smoke Boston butts for eight hours or more on a small barbecue pit he constructed beside his house before slathering on the restaurant's legendary sauce, his mother's secret family recipe; and

WHEREAS, Pierce's Pitt Bar-B-Que now cooks over 400,000 pounds of meat a year, sells its famous sauce commercially, and routinely wins highly sought-after recognition as one of the best barbecue restaurants in the nation; and

WHEREAS, Pierce's Pitt Bar-B-Que has been successful by offering consistent quality and reasonable prices, by using fresh ingredients to make menu items from scratch and by employing a loyal staff, including multiple generations of the same family; and

WHEREAS, Pierce's Pitt Bar-B-Que's success could not have been possible without the unwavering support of the Williamsburg community over the past 45 years, making it one of the busiest barbecue restaurants in all of Virginia, if not the Eastern Seaboard; and

WHEREAS, Doc Pierce died in 1991, Verdie Pierce died in 2004, and Jay Pierce carries on his family's tradition today, making Pierce's Pitt Bar-B-Que a testament to the power of a strong family-owned business; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Pierce's Pitt Bar-B-Que on celebrating 45 years of business serving loyal patrons from all over the Commonwealth and the country; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Julius Conditt Pierce, Jr., for carrying on his family's pit-smoked barbecue tradition and for making Virginia a better place to visit.

### SENATE JOINT RESOLUTION NO. 324

*Commending the Virginia Health Care Foundation.*

Agreed to by the Senate, January 26, 2017

Agreed to by the House of Delegates, February 3, 2017

WHEREAS, the General Assembly of Virginia initiated the creation of the Virginia Health Care Foundation in 1992 as a public/private partnership with the mission of increasing access to primary health care for uninsured and medically underserved Virginians through innovative service delivery models; and

WHEREAS, the Virginia Health Care Foundation has consistently and creatively engaged in venture philanthropy to achieve its mission by requiring each grant applicant to have viable business and operations plans prior to receiving funding; this foresight has resulted in an impressive 89 percent sustainability rate for all local initiatives supported by the Virginia Health Care Foundation for up to three years after graduating from foundation funding; and

WHEREAS, this disciplined approach has resulted in a substantial increase in the number of health safety net sites operated by free and charitable clinics, community health centers, and other similar organizations from 33 sites when the Virginia Health Care Foundation was established to 214 sites that provided needed health care to more than 200,000 uninsured Virginians in 2016; and

WHEREAS, the Virginia Health Care Foundation has invested in expanding the scope of services within Virginia's health safety net organizations with \$12.7 million to establish or expand 46 of Virginia's 86 dental safety net clinics and with \$4.7 million since 2010 to initiate the delivery of behavioral health services; and

WHEREAS, since its inception, the Virginia Health Care Foundation has been on the frontlines of providing health care for uninsured Virginians by funding 216 physicians, nurse practitioners, dentists, behavioral health professionals and other health providers in Virginia's health care safety net, who have treated tens of thousands of uninsured Virginians via 3.1 million patient visits; and

WHEREAS, the Virginia Health Care Foundation has employed a multifaceted approach to increase access to health care, including development of its Project Connect and SignUpNow initiatives to maximize the number of eligible children who have health insurance through Virginia's FAMIS (Family Access to Medical Insurance Security) programs and foundation-funded outreach workers have helped more than 91,500 children enroll in the past 17 years; and

WHEREAS, the Virginia Health Care Foundation's entrepreneurial culture and drive to leverage its state appropriation have led the foundation to regularly create new and innovative initiatives to fulfill its mission, including development of The Pharmacy Connection, a web-based software program that expedites access to free prescription medicines for chronic diseases from the brand name pharmaceutical companies' Patient Assistance Programs and several discount generic programs, which has enabled 306,000 sick, uninsured Virginians to obtain \$4.6 billion in free medicine over the past 20 years; and

WHEREAS, the Virginia Health Care Foundation's constant quest for new opportunities has led it to incubate and spin off several successful freestanding initiatives, including the RxPartnership, the Virginia Oral Health Coalition, and SeniorNavigator, which has evolved into the VirginiaNavigator family of websites and now includes DisabilityNavigator and VeteransNavigator, all of which house an extensive database of public and private services that are the cornerstone of the Commonwealth's No Wrong Door initiative; and

WHEREAS, the Virginia Health Care Foundation's collaborative approach with Virginia's health-related agencies and many private sector partners, has enabled it to provide a tremendous return on the Commonwealth's investment, leveraging an average of more than \$11 for each \$1 expended since inception, including \$12.2 million in challenge grants and matching funds; and

WHEREAS, the Virginia Health Care Foundation's many accomplishments have been achieved with low administrative costs, which represented only 7.7 percent of total expenditures in FY16; and

WHEREAS, many of the Commonwealth's finest corporations, organizations, and individuals have contributed generously to the Virginia Health Care Foundation over the years, and their support of this effective and dynamic organization has increased access to primary health care for Virginia's uninsured and medically underserved citizens; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the Virginia Health Care Foundation for its outstanding service to the Commonwealth and its many successful efforts to increase access to primary health care for Virginia's uninsured citizens on the occasion of its 25th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Virginia Health Care Foundation as an expression of the General Assembly's admiration for its dedication to ensuring quality health care for all Virginians.

### SENATE JOINT RESOLUTION NO. 325

*Commending the Virginia Polytechnic Institute and State University football team.*

Agreed to by the Senate, January 26, 2017

Agreed to by the House of Delegates, January 31, 2017

WHEREAS, the Virginia Polytechnic Institute and State University football team completed an outstanding season by defeating the University of Arkansas 35–24 at the Belk Bowl in Charlotte, North Carolina, on December 29, 2016; and

WHEREAS, during the Belk Bowl, the Virginia Polytechnic Institute and State University (Virginia Tech) Hokies came back from a 24-point halftime deficit, completing their largest comeback since at least the start of the 1987 season; and

WHEREAS, the Virginia Tech Hokies finished the season with an impressive 10–4 record and were named the 2016 Atlantic Coast Conference (ACC) Coastal Division champions for the first time since 2011; and

WHEREAS, the 2016 Belk Bowl marked the Virginia Tech Hokies' 24th consecutive bowl game appearance; and

WHEREAS, Justin Fuente, the first-year head coach of the Virginia Tech football team, was named the ACC Coach of the Year for his exceptional leadership; and

WHEREAS, the student-athletes of the Virginia Tech football team were able to succeed on the field and maintain an overall National Collegiate Athletic Association Graduation Success Rate of 89 percent, 15 points higher than the national rate and the fourth best in the ACC; and

WHEREAS, Virginia Tech athletic director Whit Babcock and Justin Fuente orchestrated a respectful and successful coaching and staff transition while maintaining the integrity and winning tradition of the Hokie Nation both on and off the field; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the Virginia Polytechnic Institute and State University football team on winning the Belk Bowl in 2016; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Justin Fuente, head coach of the Virginia Polytechnic Institute and State University football team, as an expression of the General Assembly's admiration for the team's achievements and contributions to Hokie Nation.

**SENATE JOINT RESOLUTION NO. 326***Commending Francena McCorory.*

Agreed to by the Senate, January 26, 2017

Agreed to by the House of Delegates, February 3, 2017

WHEREAS, Francena McCorory of Hampton proudly represented the United States and the Commonwealth at the Games of the XXXI Olympiad in Rio de Janeiro in 2016, winning a gold medal as a member of the women's 4x400-meter relay team; and

WHEREAS, born in California, Francena McCorory grew up in Hampton, where she graduated from Bethel High School and Hampton University; she won National Collegiate Athletic Association titles for the indoor 400-meter race in 2009 and the indoor and outdoor 400-meter races in 2010; and

WHEREAS, Francena McCorory holds the American record for the women's indoor 400-meter race with a time of 50.54 seconds and has earned six medals in world championship races; and

WHEREAS, at the 2016 Olympic Games, Francena McCorory helped to lead the women's 4x400-meter relay team to a winning time of 3:19.06; she previously earned a gold medal in the same event at the 2012 Olympic Games; and

WHEREAS, throughout her track and field career and during the Olympic Games in particular, Francena McCorory has enjoyed the ardent support of her family, friends, coaches, and members of the Hampton community; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Francena McCorory on winning a gold medal in the women's 4x400-meter relay at the Games of the XXXI Olympiad; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Francena McCorory as an expression of the General Assembly's admiration for her outstanding achievements as a member of Team USA.

**SENATE JOINT RESOLUTION NO. 327***Celebrating the life of Dr. Debra Saunders-White.*

Agreed to by the Senate, January 26, 2017

Agreed to by the House of Delegates, February 3, 2017

WHEREAS, Dr. Debra Saunders-White, a community leader and consummate educator who inspired countless young men and women and made history as the first female chancellor of North Carolina Central University, died on November 26, 2016; and

WHEREAS, a native of Iowa, Debra Saunders-White grew up in Hampton and graduated from Kecoughtan High School, where she was a standout member of the track and field team; a passionate lifelong learner, she earned a bachelor's degree from the University of Virginia, a master's degree from The College of William and Mary, and a doctorate from The George Washington University; and

WHEREAS, Debra Saunders-White pursued a distinguished 15-year career with IBM, taught mathematics at St. George's School in Rhode Island, held leadership positions at Hampton University and the University of North Carolina at Wilmington, and served as assistant secretary in the Office of Postsecondary Education for the United States Department of Education; and

WHEREAS, as a first-generation college graduate, Debra Saunders-White understood how a good education can enhance the lives of young people and lay the seeds for a bright future for the entire nation; she fulfilled her lifelong dream to become a college president in 2013, when she became the first female chancellor of North Carolina Central University, a public, historically black university in Durham, North Carolina; and

WHEREAS, Debra Saunders-White treated students and colleagues alike with respect and dignity and took the time to build unique, personal connections with students; under her leadership, North Carolina Central University achieved high national rankings and was named the 2016 HBCU of the Year by *HBCU Digest*; and

WHEREAS, Debra Saunders-White worked to enhance the community as a member of The Links, Incorporated, and she was a lifelong member of Alpha Kappa Alpha Sorority, beginning with the Theta Kappa chapter at the University of Virginia; and

WHEREAS, Debra Saunders-White will be fondly remembered and greatly missed by her children, Elizabeth and Cecil; her mother, Irene; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Dr. Debra Saunders-White, a respected community leader, educator, and college administrator; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Dr. Debra Saunders-White as an expression of the General Assembly's respect for her memory.

**SENATE JOINT RESOLUTION NO. 328***Commending the Rotary Club of Petersburg (Breakfast).*

Agreed to by the Senate, January 26, 2017  
 Agreed to by the House of Delegates, February 3, 2017

WHEREAS, the Rotary Club of Petersburg (Breakfast) celebrates 30 years of placing "Service above Self" in 2017; and  
 WHEREAS, the Rotary Club of Petersburg (Breakfast) was chartered on May 28, 1987, with 31 members, including five founding members, Burrell D. Angell, H. Reed Boyd III, Dennis K. Myers, S. Bryant Palmore, and Phillip C. Spencer; and  
 WHEREAS, the Rotary Club of Petersburg (Breakfast) was organized and established on the principles of Rotary International to make the world a better place by supporting humanitarian efforts and promoting peace and goodwill; and

WHEREAS, for the past 30 years, the Rotary Club of Petersburg (Breakfast) has served the Tri-Cities area, the Commonwealth, and the world through community service, club events, vocational service, and international philanthropy; and

WHEREAS, the Rotary Club of Petersburg (Breakfast) has given to the Rotary Foundation, Polio Plus, and other Rotary initiatives, both financially and through hands-on projects; and

WHEREAS, the Rotary Club of Petersburg (Breakfast) commemorates its 30th anniversary in the same year as the 100th anniversary of the Rotary Club of Petersburg, VA; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the Rotary Club of Petersburg (Breakfast) on the occasion of its 30th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Rotary Club of Petersburg (Breakfast) as an expression of the General Assembly's admiration for the club's service to the Tri-Cities community and the Commonwealth.

**SENATE JOINT RESOLUTION NO. 329***Commending Stephen Koleszar.*

Agreed to by the Senate, January 26, 2017  
 Agreed to by the House of Delegates, February 3, 2017

WHEREAS, Albemarle County School Board member Stephen Koleszar received the 2016 Advocate for Education Award from the Virginia School Boards Association because of his tireless commitment to public education and to improving Albemarle County Schools; and

WHEREAS, Stephen "Steve" Koleszar, a retired accountant and resident of Charlottesville, has served on the Albemarle County School Board since January 1996, representing the Scottsville District; and

WHEREAS, the Virginia School Boards Association (VSBA) Advocate for Education Award recognizes school board members who have shown significant and outstanding leadership, commitment, and contribution to public education and who have been involved in advocacy at the local, state, and federal levels; and

WHEREAS, Steve Koleszar is known for his "kids first" approach, and his love and passion for public education is evident to anyone whom he encounters; he is a relentless fighter for more funding for K-12 education and a strong advocate for raising expectations for student performance; and

WHEREAS, Steve Koleszar frequently attends VSBA meetings and conferences, as well as the National School Boards Association conference, and his efforts to lobby on behalf of students at the Virginia General Assembly and the United States Congress have had real and lasting impacts on the students of Albemarle County; and

WHEREAS, Steve Koleszar is a dedicated school board member and advocate for public education and the entire Albemarle community is proud of his accomplishment and this recognition of the time he has committed to supporting students, teachers, and families; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Stephen Koleszar, a member of the Albemarle County School Board, on being presented with the 2016 Advocate for Education Award from the Virginia School Boards Association; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Stephen Koleszar as an expression of the General Assembly's admiration for his significant achievement and his continued dedication to the students, teachers, and families of Albemarle County.

**SENATE JOINT RESOLUTION NO. 330***Commending David Anthony Sam.*

Agreed to by the Senate, January 26, 2017  
 Agreed to by the House of Delegates, February 3, 2017

WHEREAS, Germanna Community College President David Anthony Sam is retiring in June 2017, after spearheading a highly successful decade of expansion, enhancement, and modernization of the college's facilities and curriculum; and

WHEREAS, a first-generation college student, David Sam earned bachelor's and master's degrees from Eastern Michigan University, and a Ph.D. degree from Michigan State University; and

WHEREAS, David Sam's diverse background includes working as a retail store owner/manager, published poet, college English professor, and college administrator in Michigan and Florida; and

WHEREAS, David Sam became Germanna Community College's (GCC) fifth president in 2007, and, over the past decade, total enrollment increased 61 percent (to more than 12,000 students), and the school saw a 183 percent increase in degrees awarded; and

WHEREAS, under David Sam's leadership, GCC has raised \$26.5 million in donations, grants, and local funds; he launched the college's first-ever capital campaign, which raised \$12 million and exceeded the original goal by \$2 million; and

WHEREAS, GCC's increased revenue during David Sam's tenure has helped in opening a new Caroline County Center, building a new Science and Engineering Building and Information Commons at the Fredericksburg Area Campus, and will lead to an expansion of the Stafford Center; and

WHEREAS, under David Sam's guidance, GCC started two new programs, the Germanna Scholars and the Gladys P. Todd Academy, which allow local students to earn an associate degree at little to no cost while still in high school; and

WHEREAS, David Sam is credited with transforming GCC's Workforce program to meet the needs of the area; noncredit Workforce enrollment has increased 1,028 percent, and the number of Workforce classes has risen 1,676 percent during his decade at the school; and

WHEREAS, David Sam displayed outstanding leadership and resolve in the days after the 2011 earthquake, which closed GCC for 10 days, resulted in the loss of one-third of the facilities, and forced the redesign of the college's operating procedures; and

WHEREAS, after guiding GCC during a time of ongoing state budget cuts, David Sam leaves behind a legacy that includes modern new facilities, new programs, and master plans for long-term growth that put GCC on sound footing as it heads into the next decade; and

WHEREAS, David Sam's professional success has been made possible through the love and support of his wife, Linda, and their children, Michelle and Ryan; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend David Anthony Sam on his retirement as president of Germanna Community College in June 2017, after a highly successful decade of modernizing the college's facilities and curriculum; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to David Anthony Sam as an expression of the General Assembly's admiration for his exceptional career guiding Germanna Community College to new heights.

### SENATE JOINT RESOLUTION NO. 332

*Commending David Verburg.*

Agreed to by the Senate, January 26, 2017

Agreed to by the House of Delegates, February 3, 2017

WHEREAS, David Verburg of Lynchburg proudly represented the United States and the Commonwealth at the Games of the XXXI Olympiad in Rio de Janeiro in 2016, winning a gold medal as a member of the men's 4x400-meter relay team; and

WHEREAS, a native of Gainesville, Florida, David Verburg relocated to Lynchburg and graduated from E. C. Glass High School; he earned a bachelor's degree from George Mason University, where he was an 11-time National Collegiate Athletic Association All-American in track and field; and

WHEREAS, prior to the 2016 Olympic Games, David Verburg had won three gold medals in international competitions, including the gold medal in the 4x400-meter relay at the 2015 International Association of Athletics Federations World Championship in Beijing; and

WHEREAS, at the 2016 Olympic Games, David Verburg competed in the men's 400-meter race and ran the anchor leg for the men's 4x400-meter relay team in the preliminaries but was sidelined by an injury during the relay final; and

WHEREAS, David Verburg proudly cheered on his fellow members of the men's 4x400-meter relay team as they dominated the opposition, topping the second-place team from Jamaica by .86 seconds; and

WHEREAS, throughout his track and field career and during the Olympic Games in particular, David Verburg has enjoyed the support of his family, friends, coaches, and the members of the Lynchburg community; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend David Verburg on winning a gold medal in the men's 4x400-meter relay event at the Games of the XXXI Olympiad; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to David Verburg as an expression of the General Assembly's admiration for his outstanding achievements as a member of Team USA.

**SENATE JOINT RESOLUTION NO. 333**

*Commending Denis Kudla.*

Agreed to by the Senate, January 26, 2017  
 Agreed to by the House of Delegates, February 3, 2017

WHEREAS, Denis Kudla of Arlington proudly represented the United States and the Commonwealth at the Games of the XXXI Olympiad in Rio de Janeiro in 2016, participating in the men's singles tennis tournament; and

WHEREAS, a native of Ukraine, Denis Kudla became a citizen of the United States at a young age and began playing tennis at the age of seven; he trained at the Junior Tennis Champions Center in Maryland and became a professional tennis player in 2008; and

WHEREAS, Denis Kudla, who plays right-handed with a two-handed backhand, has won seven singles titles at tournaments in the United States and the United Kingdom and four doubles titles in the United States; and

WHEREAS, in May 2016, Denis Kudla achieved his highest career ranking of No. 53 by the Association of Tennis Professionals; at the 2016 Olympic Games, he participated in the men's singles tennis tournament; and

WHEREAS, throughout his tennis career and particularly during the Olympic Games, Denis Kudla has enjoyed the support of his family, friends, coaches, and the members of the Arlington community; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Denis Kudla for representing the United States in men's singles tennis at the Games of the XXXI Olympiad; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Denis Kudla as an expression of the General Assembly's admiration for his outstanding achievements as a member of Team USA.

**SENATE JOINT RESOLUTION NO. 334**

*Commending Hollins University.*

Agreed to by the Senate, January 26, 2017  
 Agreed to by the House of Delegates, February 3, 2017

WHEREAS, during the 2016–2017 academic year, Hollins University, the first chartered women's institution of higher education in the Commonwealth, celebrates 175 years of providing an exceptional liberal arts education; and

WHEREAS, founded in 1842 as Valley Union Seminary, Hollins University has evolved into a full university, offering a comprehensive undergraduate liberal arts education to women and eight graduate-level programs to both men and women; and

WHEREAS, as one of the oldest women's colleges in the United States, Hollins University, which is located on the border of Botetourt County and Roanoke County, is listed on both the National Register of Historic Places and the Virginia Landmarks Register; and

WHEREAS, Hollins University is well-known for its undergraduate and graduate writing programs and counts among its many prominent alumnae several Pulitzer Prize-winning authors and a former United States Poet Laureate; and

WHEREAS, offering a rigorous curriculum, study abroad programs, career and internship support, and a wide variety of competitive athletic teams and engaging co-curricular activities, Hollins University prepares students for lives of active learning, fulfilling work, personal growth, achievement, and service to society; and

WHEREAS, throughout the course of its 175-year history, Hollins University has endured and thrived in a changing world by nurturing civility, integrity, and concern for others among its students and placing a high value on diversity, social justice, and community leadership; and

WHEREAS, true to the Hollins University motto of "Levavi Oculos," graduates demonstrate problem solving and critical thinking skills, creativity and effective self-expression, and respect for independent inquiry and the free exchange of ideas as they work to serve their communities in the Commonwealth and throughout the United States; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Hollins University on the occasion of its 175th anniversary during the 2016–2017 academic year; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Nancy Oliver Gray, president of Hollins University, as an expression of the General Assembly's admiration for the institution's legacy of academic excellence and service to the Roanoke region.

**SENATE JOINT RESOLUTION NO. 335**

*Commending the Student Government Association of Virginia Polytechnic Institute and State University.*

Agreed to by the Senate, January 26, 2017  
 Agreed to by the House of Delegates, January 31, 2017

WHEREAS, the Student Government Association of Virginia Polytechnic Institute and State University was established in 1966 in order to provide an effective organization for the administration of student activities and to promote academic freedom and academic responsibility; and

WHEREAS, the Student Government Association of Virginia Polytechnic Institute and State University (Virginia Tech) seeks to establish and protect student rights and to provide a liaison between its student body, faculty, and administration; and

WHEREAS, the Student Government Association of Virginia Tech is committed to fostering awareness of the students' positions on campus and in local, state, and national communities; and

WHEREAS, the Student Government Association of Virginia Tech celebrated its 50th anniversary in April 2016, and continues to support effectively the Virginia Tech student body, faculty, and administration for a representative and enhanced lifestyle; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the Student Government Association of Virginia Polytechnic Institute and State University on the occasion of its 50th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Student Government Association of Virginia Polytechnic Institute and State University as an expression of the General Assembly's admiration for its efforts to support the university and its students.

### SENATE JOINT RESOLUTION NO. 336

*Commending the Chesapeake Bay Foundation.*

Agreed to by the Senate, January 26, 2017

Agreed to by the House of Delegates, February 3, 2017

WHEREAS, the Chesapeake Bay Foundation, a private, nonprofit, multistate organization, opened its first office in Annapolis, Maryland, in 1967 and its Richmond-based office in 1980, with an inspiring, ambitious mission statement to Save the Bay; and

WHEREAS, the Chesapeake Bay Foundation's presence has since grown to include offices in Hampton Roads, Harrisburg, Pennsylvania, and Washington, D.C., and 15 education centers in the three primary Chesapeake Bay states and Washington, D.C.; and

WHEREAS, the Chesapeake Bay Foundation has from its beginning offered private citizens opportunities to support and participate directly in protection and restoration of its namesake estuary; the foundation's total membership recently surpassed 236,000, including 70,118 members in Virginia; and

WHEREAS, with the support of both private and public funding, the Chesapeake Bay Foundation's environmental education program today reaches more than 35,000 students, teachers, administrators, and decision makers each year, providing meaningful on-the-water field trip experiences, teacher training, curriculum materials, restoration programs, and information on real-world issues that have inspired generations of citizens to become lifelong stewards of the Chesapeake Bay; and

WHEREAS, the Chesapeake Bay Foundation's unswerving 50-year dedication to science-based public policy that will truly Save the Bay has supported the development of the Chesapeake Clean Water Blueprint; and

WHEREAS, the Chesapeake Bay Foundation's members and staff have advocated effectively for Clean Water Blueprint laws, regulations, and programs at every level of government that have materially reversed the Chesapeake Bay's decline and begun a recovery process; and

WHEREAS, as part of that recovery process, the Chesapeake Bay Foundation's members and staff have advocated effectively in Virginia, Maryland, and Pennsylvania to support Enhanced Nutrient Removal at wastewater treatment plants, resulting in major water quality gains as those plants have upgraded their processes; and

WHEREAS, the Chesapeake Bay Foundation has partnered with both state and federal agricultural and environmental agencies to help farmers implement conservation measures to protect water quality in rivers and streams and enhance the health and productivity of family farms; and

WHEREAS, the Chesapeake Bay Foundation has worked with local and state government officials, businesses, developers, and citizens to develop effective and innovative programs to address the complex issue of stormwater runoff pollution; and

WHEREAS, the Chesapeake Bay Foundation's fisheries program has contributed materially to conservation and sustainable management of striped bass, blue crabs, oysters, menhaden, and shad, not only in the Bay but also along the Atlantic coast; and

WHEREAS, the Chesapeake Bay Foundation has been a leader in oyster restoration in Virginia and Maryland, operating Oyster Restoration Centers in both states that educate and involve citizen volunteers in restoring the native oyster population in the Chesapeake Bay by growing millions of live oysters and transplanting them onto state oyster reefs; and

WHEREAS, Chesapeake Bay Foundation staff, school students, partner organizations, families, and individual volunteers have successfully completed hundreds of conservation projects in Virginia, Pennsylvania, Maryland, West Virginia, Delaware, and Washington, D.C., including restoring wetlands, forested buffers, streams, and underwater grasses; and

WHEREAS, the Chesapeake Bay Foundation has won two of the nation's highest environmental honors, the President's Environmental and Conservation Challenge Award in 1992 and the National Geographic Society's Chairman Award in 1993, received Virginia's highest conservation honor, the Governor's Environmental Excellence Award for Special Lifetime Achievement, in 1991, and received the 2015 Governor's Environmental Excellence Award; and

WHEREAS, the Chesapeake Bay Foundation has led the efforts to Save the Bay for 50 years and has dedicated itself to the restoration and protection of the Chesapeake Bay, a national treasure and the mid-Atlantic region's greatest natural resource; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the Chesapeake Bay Foundation for its outstanding service to the Chesapeake Bay and the region around it on the occasion of its 50th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to William C. Baker, president of the Chesapeake Bay Foundation, as an expression of the General Assembly's gratitude for the foundation's fine work on behalf of the residents of Virginia and the entire Chesapeake Bay watershed.

**SENATE JOINT RESOLUTION NO. 337**

*Celebrating the life of Colonel John Betts, USAF, Ret.*

Agreed to by the Senate, January 26, 2017

Agreed to by the House of Delegates, January 30, 2017

WHEREAS, Colonel John Betts, USAF, Ret., of Springfield, a patriotic veteran and a distinguished attorney, died on September 7, 2016; and

WHEREAS, a native of Brooklyn, New York, John Betts graduated from Syosset High School, where he ran track; he remained a skilled athlete throughout his life, running 11 marathons, including one in Athens, Greece; and

WHEREAS, John Betts earned a bachelor's degree from Georgetown University in 1969, then joined the United States Air Force; he served his country for more than 30 years on active duty and in the reserves, completing tours in East Asia and Europe and attending the Industrial College of the Armed Forces; and

WHEREAS, John Betts continued his education at the University of Baltimore and The George Washington University, earning a law degree and a master's degree; he worked as an attorney in both private practice and for the federal government as a member of the Reagan administration; and

WHEREAS, John Betts was an active member of the Fairfax County community, offering his leadership and expertise to the Fairfax County Redevelopment and Housing Authority and the South Run Forest Homeowners Association; a student of history, he helped to teach a class on American presidents at George Mason University; and

WHEREAS, John Betts will be fondly remembered and greatly missed by his beloved wife of 45 years, Barbara; children, Allison and Jonathan; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Colonel John Betts, USAF, Ret., a veteran and an attorney who made many lasting contributions to the Commonwealth and the United States; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Colonel John Betts, USAF, Ret., as an expression of the General Assembly's respect for his memory.

**SENATE JOINT RESOLUTION NO. 338**

*Celebrating the life of the Honorable Charles J. Colgan.*

Agreed to by the Senate, February 2, 2017

Agreed to by the House of Delegates, February 10, 2017

WHEREAS, the Honorable Charles J. Colgan, a champion for higher education and a consummate public servant who represented the residents of the 29th District for four decades and retired as the longest-serving senator in Virginia history, died on January 3, 2017; and

WHEREAS, Charles "Chuck" Colgan learned the value of hard work and responsibility at a young age, growing up on his grandparents' farm in Maryland; after completing high school, he enlisted in the United States Army Air Corps Reserve and was called into active service along with many of the other young men of his generation during World War II; and

WHEREAS, after two years in the Army Air Corps and three years in the Air Force Reserve, Chuck Colgan pursued his passion for aviation as a commercial pilot and a licensed airframe and power plant mechanic; and

WHEREAS, after relocating to Prince William County, Chuck Colgan formed Colgan Airways, Inc., which operated one of the largest flight schools in the country, and Colgan Air, Inc., a regional airline that served 53 cities in 16 states; and

WHEREAS, Chuck Colgan began his career in public service in 1972 as the Gainesville District representative on the Prince William County Board of Supervisors, and he served as chair of the board for one year; and

WHEREAS, desirous to be of further service to the Commonwealth, Chuck Colgan ran for and was elected to the Senate of Virginia in 1975; he was reelected for nine additional consecutive terms, ably representing the residents of Prince William County and the cities of Manassas and Manassas Park until his well-earned retirement in 2016; and

WHEREAS, throughout his 40-year career as a Senator, Chuck Colgan introduced 560 bills and 120 joint resolutions; taking a special interest in higher education, he helped Virginia enhance its world-class public universities, thereby strengthening the future of the Commonwealth; and

WHEREAS, Chuck Colgan proudly served as President Pro Tempore of the Senate in 2014, and as chair of the Senate Committee on Finance, he helped to secure funding for the State Route 234 bypass, the Prince William Campus of George Mason University, and enhancements to the Woodbridge and Manassas campuses of Northern Virginia Community College; and

WHEREAS, Chuck Colgan earned many awards and accolades for his good work, including the Vision Award from Leadership Prince William and the Virginia Senator of the Year award from the Virginia Transit Association; he was inducted into the Virginia Aviation Hall of Fame, and a high school in Prince William County and a building on the George Mason University Science and Technology campus are named in his honor; and

WHEREAS, a man of great integrity, Chuck Colgan fostered bipartisan respect and cooperation for the benefit of all Virginians, and he served the Prince William County and Manassas communities and the Commonwealth with the utmost dedication and distinction; and

WHEREAS, Chuck Colgan enjoyed fellowship and worship with the Manassas community as a parishioner of All Saints Catholic Church, where he served as an usher for more than 50 years; and

WHEREAS, predeceased by his wife of 52 years, Agnes, Chuck Colgan will be fondly remembered and greatly missed by his children, Charles, Ruth, Michael, Raymond, Mary, Dot, Patrick, and Tim; his 24 grandchildren and 22 great-grandchildren, with two more on the way; and numerous other family members, friends, and colleagues on both sides of the aisle; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Charles J. Colgan, a true statesman who dedicated a lifetime of service to the Commonwealth; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Charles J. Colgan as an expression of the General Assembly's respect for his memory.

### SENATE JOINT RESOLUTION NO. 339

*Commending Brett R. Bowman.*

Agreed to by the Senate, January 26, 2017

Agreed to by the House of Delegates, February 3, 2017

WHEREAS, Brett R. Bowman retired from being Manassas City Fire Department Chief in 2016, capping a distinguished 42-year career in the fire service; and

WHEREAS, a native of Manassas, Brett Bowman began his career as a Manassas volunteer firefighter in 1974, while a student at Osbourn High School, and he continued to volunteer for the Harrisonburg Fire Department while attending James Madison University; and

WHEREAS, after college, Brett Bowman returned home and joined the Prince William County Fire Department and then was hired by the City of Manassas as a firefighter/EMT; and

WHEREAS, even though Brett Bowman joined the private sector and worked in a safety field in the 1980s, he remained dedicated to serving his community as a member of the Stonewall Jackson Volunteer Fire Department; and

WHEREAS, in 1990, Brett Bowman went to work as a lieutenant for the Prince William County Department of Fire and Rescue, where he served in various positions for two decades, ultimately becoming assistant chief; and

WHEREAS, Brett Bowman was hired as Manassas City Fire Department Chief in 2011, and one of the accomplishments of his five-year tenure was bringing all members of the unified department under one Emergency Medical Services license; and

WHEREAS, Brett Bowman is respected and admired by his peers for his professionalism and his leadership, and for four decades he has demonstrated exemplary dedication to the goal of ensuring that citizens of his community get the best possible emergency services; and

WHEREAS, while Brett Bowman will miss the coffee, conversation, and camaraderie with his fellow fire and rescue officers, in retirement he will get to enjoy spending more time with his wife, Linda, and his children, Blake and Brittany, whose support was unwavering during his long career; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Brett R. Bowman on his retirement as Manassas City Fire Department Chief and his distinguished 42-year career in the fire service; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Brett R. Bowman as an expression of the General Assembly's admiration for his steadfast dedication to serving and protecting the citizens of Manassas and Prince William County.

**SENATE JOINT RESOLUTION NO. 340**

*Designating April 23, in 2018 and in each succeeding year, as Barbara Johns Day in Virginia.*

Agreed to by the Senate, February 7, 2017

Agreed to by the House of Delegates, February 21, 2017

WHEREAS, Barbara Johns played a unique role in the early years of the Civil Rights movement by leading the only student protest associated with the *Brown v. Board of Education* ruling; and

WHEREAS, Barbara Johns was educated in segregated public schools in Prince Edward County and attended R. R. Moton High School in Farmville, which was designed to house 180 students but enrolled close to double that number; and

WHEREAS, Barbara Johns and other students at R. R. Moton High School struggled with leaky ceilings and freezing cold in the winters; parents of black students appealed to the all-white school board, which constructed tar paper shacks to handle the overflow of students; and

WHEREAS, frustrated by the school board's lack of action regarding the unequal facilities, Barbara Johns, then a 16-year-old junior at R. R. Moton High School, met with several classmates and planned a student strike to protest the difficult conditions; and

WHEREAS, on April 23, 1951, Barbara Johns delivered a memorandum to teachers announcing a special assembly, and when teachers and students arrived at the assembly, they were surprised to find Barbara Johns preparing to reveal her plan for the strike; and

WHEREAS, the students of R. R. Moton High School agreed to participate in the protest, and Barbara Johns and her fellow strike leaders met with the school superintendent to inform him of the protest and demand a new school; and

WHEREAS, Barbara Johns also sought legal counsel from the NAACP, which agreed to provide assistance as long as a lawsuit would challenge the segregated school system; the ensuing case of *Davis v. County School Board of Prince Edward County* reached the Supreme Court of the United States along with four other similar cases and formed the basis of the landmark *Brown v. Board of Education* ruling; and

WHEREAS, *Davis v. County School Board of Prince Edward County* was the only school integration case initiated by a student strike, making Barbara Johns a pioneer in the peaceful protests that were a hallmark of the Civil Rights movement; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly designate April 23, in 2018 and in each succeeding year, as Barbara Johns Day in Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the Senate transmit a copy of this resolution to the family of Barbara Johns so that they may be apprised of the sense of the General Assembly of Virginia in this matter; and, be it

RESOLVED FINALLY, That the Clerk of the Senate post the designation of this day on the General Assembly's website.

**SENATE JOINT RESOLUTION NO. 341**

*Commending Max Brown.*

Agreed to by the Senate, January 26, 2017

Agreed to by the House of Delegates, February 3, 2017

WHEREAS, Max Brown, a courageous five-year-old member of the Galax community, is battling cancer with the help of the team at Brenner Children's Hospital at Wake Forest Baptist Medical Center; and

WHEREAS, in January 2016, Max Brown was diagnosed with acute lymphoblastic leukemia, a cancer characterized by overproduction and accumulation of immature white blood cells called lymphocytes; and

WHEREAS, Max Brown, who was then four years old, was transported to Brenner Children's Hospital at Wake Forest Baptist Medical Center in Winston-Salem, North Carolina, where an expert team of doctors and specialists began radiation and chemotherapy treatments; and

WHEREAS, known as "Mighty Max," Max Brown received an outpouring of support from members of the Galax community, who have held vigils, made donations, and begun selling crafts to raise money for his family; and

WHEREAS, in March 2016, the Carroll Wellness Center in Hillsville hosted a superhero-themed fundraiser in support of Max Brown, who is a fan of Marvel's Incredible Hulk, and in June 2016, the Galax Volunteer Fire Department hosted a superhero-themed event for the community, honoring Max Brown's heroic, ongoing journey; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Max Brown for his courageous and inspirational struggle against cancer; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Max Brown as an expression of the General Assembly's admiration for his bravery and best wishes.

## SENATE JOINT RESOLUTION NO. 342

*Confirming appointments by the Governor of certain persons communicated January 7, 2017.*

Agreed to by the Senate, February 2, 2017  
Agreed to by the House of Delegates, February 8, 2017

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly confirm the following appointments of certain persons made by Governor Terry McAuliffe after December 1, 2016, and communicated to the General Assembly January 7, 2017.

## AUTHORITY

**Virginia Public School Authority Board of Commissioners**

**Bonnie France**, 9507 Carterwood Road, **Henrico**, Virginia 23229, Chair, appointed December 9, 2016, for a term of six years beginning July 1, 2016, and ending June 30, 2022, to succeed Brenda Skidmore.

**Vik G. Murthy**, 4313 Monument Avenue, **Richmond**, Virginia 23230, Member, appointed December 9, 2016, for a term of six years beginning July 1, 2016, and ending June 30, 2022, to succeed Ben Loyola.

**Cardell C. Patillo, Jr.**, 1040 Christiana Circle, **Portsmouth**, Virginia 23703, Member, appointed December 9, 2016, to serve an unexpired term beginning August 21, 2016, and ending June 30, 2020, to succeed Walter John Mika.

## COMMERCE AND TRADE

**Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects**

**James L. Kelly**, 106 Old Cart Road, **Williamsburg**, Virginia 23188, Member, appointed January 3, 2017, to serve an unexpired term beginning January 3, 2017, and ending June 30, 2017, to succeed Wiley V. Johnson III.

**Center for Rural Virginia Board of Trustees**

**Hope F. Cupit**, 1119 AP Hill Place, **Forest**, Virginia 24551, Member, appointed December 7, 2016, to serve an unexpired term beginning October 26, 2016, and ending June 30, 2018, to succeed Andrew D. Whitley.

**Greg White**, 504 Daingerfield Road, **Tappahannock**, Virginia 22560, Member, appointed December 8, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed himself.

**Latino Advisory Board**

**Eugene Chigna**, 415 East Grace Street, Apartment 505, **Richmond**, Virginia 23219, Member, appointed December 1, 2016, for a term of four years beginning October 15, 2016, and ending October 14, 2020, to succeed Alex Rodriguez.

**Juan P. Espinoza**, 601 Devon Lane, **Blacksburg**, Virginia 24060, Member, appointed December 1, 2016, for a term of four years beginning October 15, 2016, and ending October 14, 2020, to succeed himself.

**J. Michael Martinez de Andino**, 9606 Sloman Place, **Henrico**, Virginia 23238, Member, appointed December 1, 2016, for a term of four years beginning October 15, 2016, and ending October 14, 2020, to succeed Elin Doval.

**Estuardo V. Rodriguez, Jr.**, 10610 Oak Place, **Fairfax**, Virginia 22030, Member, appointed December 1, 2016, for a term of four years beginning October 15, 2016, and ending October 14, 2020, to succeed himself.

**Vivian Sanchez-Jones**, 2610 Belle Avenue Northeast, **Roanoke**, Virginia 24012, Member, appointed December 1, 2016, for a term of four years beginning October 15, 2016, and ending October 14, 2020, to succeed herself.

**Diana C. Vall-Ilobera**, 2401 Arlington Boulevard, Apartment 46, **Charlottesville**, Virginia 22903, Member, appointed December 1, 2016, for a term of four years beginning October 15, 2016, and ending October 14, 2020, to succeed herself.

**Jorge Yinat**, 3835 Philip Ludwell, **Williamsburg**, Virginia 23188, Member, appointed December 1, 2016, for a term of four years beginning October 15, 2016, and ending October 14, 2020, to succeed Gresilda A. Tilley-Lubbs.

**State Building Code Technical Review Board**

**Aaron L. Zdinak**, 10606 North Dover Pointe Road, **Henrico**, Virginia 23238, Member, appointed December 14, 2016, to serve at the pleasure of the Governor beginning January 1, 2017, to succeed John H. Epperson.

## COMPACT

**Metropolitan Washington Airports Authority**

**Robert W. Lazaro, Jr.**, 725 Sunflower Court, **Purcellville**, Virginia 20132, Member, appointed December 13, 2016, for a term of six years beginning November 24, 2016, and ending November 23, 2022, to succeed Bruce Gates.

**David G. Speck**, 601 North Fairfax Street, Number 603, **Alexandria**, Virginia 22314, Member, appointed December 13, 2016, to serve an unexpired term beginning October 1, 2016, and ending November 23, 2020, to succeed Chuck Caputo.

## EDUCATION

**Board of Trustees of the Frontier Culture Museum of Virginia**

**David W. Bushman**, 417 East College Street, **Bridgewater**, Virginia 22812, Member, appointed December 2, 2016, to serve an unexpired term beginning September 8, 2016, and ending June 30, 2018, to succeed Patricia Ellen Swecker.

**Board of Trustees of the Science Museum of Virginia**

**David B. Botkins**, 9502 Heather Spring Drive, **Henrico**, Virginia 23238, Member, appointed December 9, 2016, for a term of five years beginning July 1, 2016, and ending June 30, 2021, to succeed himself.

**Elsa Q. Falls**, 2180 Cedarfield Lane, **Richmond**, Virginia 23233, Member, appointed December 9, 2016, for a term of five years beginning July 1, 2016, and ending June 30, 2021, to succeed James O'Brien.

**Patricia Nicoson**, 11302 Fairway Drive, **Reston**, Virginia 20190, Member, appointed December 9, 2016, for a term of five years beginning July 1, 2016, and ending June 30, 2021, to succeed John Whitlock.

**Pamela Thomas Northam**, 9569 25th Bay Street, **Norfolk**, Virginia 23518, Member, appointed December 9, 2016, for a term of five years beginning July 1, 2016, and ending June 30, 2021, to succeed Andrew J. Butler.

#### FINANCE

##### Treasury Board

**James P. Carney**, 2530 Swanhurst Drive, **Midlothian**, Virginia 23113, Member, appointed December 14, 2016, to serve at the pleasure of the Governor beginning December 14, 2016, to succeed William W. Harrison, Jr.

#### HEALTH AND HUMAN RESOURCES

##### Advisory Board on Massage Therapy

**Dawn M. Hogue**, 2324 Burton Drive, **Virginia Beach**, Virginia 23454, Member, appointed December 2, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Stephanie Quinby.

**Kristina E. Page**, 5434 Scandia Road, **Sandston**, Virginia 23150, Member, appointed December 2, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed herself.

**Stephanie A. Quinby**, 5107 Bryce Lane, **Richmond**, Virginia 23224, Member, appointed December 2, 2016, to serve an unexpired term beginning November 30, 2016, and ending June 30, 2019, to succeed Dawn M. Hogue.

##### Advisory Board on Midwifery

**Natasha L. Jones**, 2501 H Lakefield Mews Court, **Henrico**, Virginia 23231, Member, appointed December 2, 2016, to serve an unexpired term beginning July 1, 2015, and ending June 30, 2019, to succeed Deb McPherson.

**Mayanne Y. Zielinski**, 2816 Lee Oaks Place, #201, **Falls Church**, Virginia 22046, Member, appointed December 2, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed herself.

##### Virginia Board for People with Disabilities

**Traci E. LaGanke**, 12141 Grey Oaks Park Road, **Glen Allen**, Virginia 23059, Member, appointed December 16, 2016, to serve an unexpired term beginning September 15, 2016, and ending June 30, 2019, to succeed Sari Leinonen-Farrell.

#### LEGISLATIVE

##### Virginia Freedom of Information Advisory Council

**Cullen D. Seltzer**, 220 Queen Charlotte Road, **Richmond**, Virginia 23221, Member, appointed January 6, 2017, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Christopher B. Ashby.

#### NATURAL RESOURCES

##### State Water Control Board

**Robert H. Wayland**, 22 Shoreline Drive, **White Stone**, Virginia 22578, Member, appointed December 14, 2016, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Joseph H. Nash.

#### PUBLIC SAFETY AND HOMELAND SECURITY

##### Virginia Parole Board

**Jean Wooden Cunningham**, 6205 Glendale Woods Drive, **Richmond**, Virginia 23231, Member, appointed January 4, 2017, to serve at the pleasure of the Governor beginning January 9, 2017, to succeed Karen Brown.

#### TRANSPORTATION

##### Medical Advisory Board for the Department of Motor Vehicles

**Hetzal Hartley**, 5989 Scotford Court, **Roanoke**, Virginia 24018, Member, appointed January 6, 2017, for a term of four years beginning October 1, 2016, and ending September 30, 2020, to succeed himself.

**Ahmed Nasrullah**, 19415 Deerfield Avenue, Suite 106, **Lansdowne**, Virginia 20176, Member, appointed January 6, 2017, for a term of four years beginning October 1, 2016, and ending September 30, 2020, to succeed Juan Astruc.

**Adam Rosenblatt**, 10411 Morning Dew Lane, **Mechanicsville**, Virginia 23116, Member, appointed January 6, 2017, for a term of four years beginning October 1, 2016, and ending September 30, 2020, to succeed John Sheppard.

**Saji V. Slavin**, 1802 Greenville Avenue, **Richmond**, Virginia 23220, Member, appointed January 6, 2017, for a term of four years beginning October 1, 2016, and ending September 30, 2020, to succeed herself.

**Trevor D. Talbert**, 43146 Meadow Grove Drive, **Ashburn**, Virginia 20147, Member, appointed January 6, 2017, for a term of four years beginning October 1, 2016, and ending September 30, 2020, to succeed John J. Wittman.

##### Motor Vehicle Dealer Board

**Daniel Banister**, 1326 Club House Drive, **Chesapeake**, Virginia 23322, Member, appointed December 16, 2016, to serve an unexpired term beginning July 1, 2015, and ending June 30, 2019, to succeed George Pelton.

#### SENATE JOINT RESOLUTION NO. 343

*Commending the Dale City Volunteer Fire Department.*

Agreed to by the Senate, February 2, 2017

Agreed to by the House of Delegates, February 10, 2017

WHEREAS, in 2017, the Dale City Volunteer Fire Department is celebrating the 50th anniversary of its founding as well as five decades of providing outstanding emergency services to a growing suburban community; and

WHEREAS, the Dale City Volunteer Fire Department was incorporated in the Commonwealth on October 4, 1967, and the first general membership meeting was held in January 1968; and

WHEREAS, residents of the Ashdale, Birchdale, Darbydale, and Forestdale neighborhoods generously donated approximately \$30,000 to establish the Dale City Volunteer Fire Department; and

WHEREAS, the Dale City Volunteer Fire Department began answering calls for service in 1969, and the company's first station, Station 10 on Birchdale Avenue, was opened in June 1969; and

WHEREAS, as Dale City expanded and grew westward, so did the Dale City Volunteer Fire Department, which opened Station 13 in 1974, Station 18 in 1992, Station 20 in 2002, and a new Station 10 in 2009, which replaced the original station on Birchdale Avenue; and

WHEREAS, the membership of the Dale City Volunteer Fire Department is composed of approximately 250 dedicated volunteers who are an extremely diverse group of individuals who value giving back to their community; and

WHEREAS, members of the Dale City Volunteer Fire Department are information technology specialists, nurses, lawyers, financial managers, police officers, and other professionals committed to providing an unmatched level of emergency service and who are "Second to None"; and

WHEREAS, the Dale City Volunteer Fire Department is one of the most active volunteer emergency services departments in the country with an average call volume of 20,000 runs per year serving the communities of eastern Prince William County; and

WHEREAS, members of the Dale City Volunteer Fire Department serve at least one night shift a week and a 45-hour shift every fifth weekend, and members must maintain annual certification requirements and attend career advancement courses; and

WHEREAS, Dale City Volunteer Fire Department members carry out their demanding duties with honor, respect, and integrity, and while each battalion is on duty for an average of 108 hours a month, many members go above and beyond what is required; and

WHEREAS, members of the Dale City Volunteer Fire Department are able to do their jobs only because of the love and support of their families, who make numerous sacrifices to support the operations of the department; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the Dale City Volunteer Fire Department on its 50th anniversary and the five decades of outstanding emergency services it has provided to the residents of eastern Prince William County; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Christopher Hool, chief of the Dale City Volunteer Fire Department, as an expression of the General Assembly's admiration for the department's 50-year commitment to giving back to the Dale City community.

#### SENATE JOINT RESOLUTION NO. 344

*Commending Bruce Bernard Smith.*

Agreed to by the Senate, February 2, 2017

Agreed to by the House of Delegates, February 10, 2017

WHEREAS, Bruce Bernard Smith, a native of Norfolk and a former professional football player, was honored by the Buffalo Bills of the National Football League in 2016 when the team retired his jersey number, 78; and

WHEREAS, Bruce Smith played football at Booker T. Washington High School and Virginia Polytechnic Institute and State University, where he earned an Outland Trophy as one of the nation's best interior linemen; he was drafted by the Buffalo Bills in 1985 with the first overall pick of the National Football League (NFL) draft; and

WHEREAS, Bruce Smith played for the Buffalo Bills for 15 seasons, including four Super Bowl appearances in the 1990s; he was a two-time NFL Defensive Player of the Year and a four-time American Football Conference Defensive Player of the Year, and he was selected for the Pro Bowl 11 times; and

WHEREAS, finishing his career with four seasons with the Washington Redskins, Bruce Smith recorded 46 forced fumbles, 15 fumble recoveries, two interceptions, and one touchdown in his 279 games; he holds the NFL record for all-time sacks with 200 and the record for most seasons with double-digit sacks; and

WHEREAS, Bruce Smith was inducted into the Pro Football Hall of Fame in 2009, his first time on the ballot; only a small number of NFL players are selected to the Pro Football Hall of Fame, and he is the only Hall of Famer from Norfolk; and

WHEREAS, after his football career, Bruce Smith returned home to Norfolk to give back to the community that had given him so much; he has supported Booker T. Washington High School athletics teams, funded scholarships at Queen Street Baptist Church, offered his time and guidance to students as a motivational speaker, and owns Bruce Smith Enterprises, a real estate and development business; and

WHEREAS, Bruce Smith's jersey was retired during halftime of the Buffalo Bills' 2016 home opener on September 15, 2016, with more than 100 prominent Virginians in attendance; it was only the second time that the team had retired a jersey number in its 56-year history; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Bruce Bernard Smith, an exceptional professional football player and community leader in Norfolk, on having his jersey number retired by the Buffalo Bills; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Bruce Bernard Smith as an expression of the General Assembly's admiration for his exceptional career as a professional athlete and for his numerous contributions to the Norfolk community.

**SENATE JOINT RESOLUTION NO. 345**

*Commending ECPI University.*

Agreed to by the Senate, February 2, 2017  
 Agreed to by the House of Delegates, February 10, 2017

WHEREAS, for 50 years, ECPI University, based in Virginia Beach, has provided students with a practical education tailored to the needs of employers in a wide variety of industries; and

WHEREAS, ECPI University was founded by Alfred Dreyfus, a French immigrant, who arrived in the United States after World War II and brought with him the concept of accelerated hands-on education that was popular in Europe at the time; and

WHEREAS, Alfred Dreyfus, an electrical technician, recognized the importance of the growing computer industry and foresaw the demand for trained professionals who could quickly enter the workforce; he founded ECPI University in 1966 as the Electronic Computer Programming Institute; and

WHEREAS, ECPI University's first campus was located in Norfolk and consisted of two classrooms and a lab with an IBM card sorter and an IBM accounting machine; the inaugural course taught six students the programming languages of the computers used in banks at the time; and

WHEREAS, ECPI University pioneered the practice of consulting with employers on their needs for entry-level employees; the practice has expanded and evolved over the past 50 years and is now represented by academic advisory boards for each program that meet twice yearly to ensure that curricula match real-world needs; and

WHEREAS, ECPI University's strategic ties with some of the nation's leading employers create unique opportunities for students; the university has provided employment services to nearly 10,000 different companies, including AT&T, BMW Manufacturing Co., Lockheed Martin, Rolls-Royce, Hewlett-Packard, Sentara Healthcare, Boeing, Verizon, STIHL, and Northrop Grumman; and

WHEREAS, the original ECPI University campus relocated to Virginia Beach, and additional campuses opened in Newport News, Richmond, Roanoke, and Northern Virginia and in North Carolina, South Carolina, and Florida; in addition, ECPI University provides flexible and convenient degree programs through its online courses; and

WHEREAS, ECPI University is accredited through the Southern Association of Colleges and Schools Commission on Colleges, and it has earned numerous awards and accolades, including the Best for Vets award by the *Military Times* and other national rankings; and

WHEREAS, today, ECPI stands for East Coast Polytechnic Institute, reflecting its origins and ongoing commitment to technological advancement and student achievement in all fields of study; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend ECPI University on the occasion of its 50th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Mark Dreyfus, president of ECPI University, as an expression of the General Assembly's admiration for the institution's commitment to preparing students for careers in a dynamic world.

**SENATE JOINT RESOLUTION NO. 346**

*Commending the Fairfax County Health Department.*

Agreed to by the Senate, February 2, 2017  
 Agreed to by the House of Delegates, February 10, 2017

WHEREAS, the first campaign for public health was inaugurated in Fairfax County in April 1917, in the same week the United States entered World War I; and

WHEREAS, Dr. E. L. Flanagan was selected in 1919 to serve as the first Director of Health, along with one full-time sanitation officer, one full-time nurse, and one part-time clerk; and

WHEREAS, in the decades to follow, the rapid growth of Fairfax County led to expanded public health services with funding provided by the Virginia State Health Department, the Fairfax County Board of Supervisors, the local chapter of the American Red Cross, the National Tuberculosis Association, and donations from private citizens; and

WHEREAS, through 100 years of service, the Fairfax County Health Department has distinguished itself as a model public health department working to protect, promote, and improve the quality of life for all residents; and

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WHEREAS, in 2016, the Fairfax County Health Department achieved national accreditation through the Public Health Accreditation Board, demonstrating its commitment to continuous quality improvement; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the Fairfax County Health Department on the occasion of its 100th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Fairfax County Health Department as an expression of the General Assembly's admiration for its mission to ensure the health and wellness of all of the members of the Fairfax County community.

**SENATE JOINT RESOLUTION NO. 347**

*Celebrating the life of Oliver Rodney Hunt Singleton.*

Agreed to by the Senate, February 9, 2017

Agreed to by the House of Delegates, February 17, 2017

WHEREAS, Oliver Rodney Hunt Singleton, who was a champion for minority-owned small businesses in Richmond as the longtime president and chief executive officer of the Metropolitan Business League, died on April 13, 2016; and

WHEREAS, a native of Norfolk, Oliver Singleton graduated from the University of Virginia, where he became the first African American member of the esteemed Z Society; and

WHEREAS, Oliver Singleton relocated to Richmond in the 1970s and worked for the Medical College of Virginia before embarking on a career in finance; he was the first African American stockbroker at Merrill Lynch in Richmond and worked for several other firms; and

WHEREAS, later in life, Oliver Singleton worked diligently to strengthen and enhance the Richmond community and the Commonwealth; he served as deputy director of the Virginia Department of Minority Business Enterprise, as chair of the Richmond Redevelopment and Housing Authority, and as an interim member of the Richmond City Council; and

WHEREAS, in 2003, Oliver Singleton became president and chief executive officer of the Metropolitan Business League, a longstanding nonprofit organization dedicated to minority business development; and

WHEREAS, during his tenure with the Metropolitan Business League, Oliver Singleton oversaw 150 businesses annually; he routinely created benefit packages for the employees of member businesses, drafted business plans, held seminars, and served as a trusted mentor to countless Richmond entrepreneurs; and

WHEREAS, Oliver Singleton earned many awards and accolades for his good work, including the Virginia Minority Business Champion of 2010 award from the United States Small Business Association and the 2011 Economic Empowerment Award from the Richmond NAACP; and

WHEREAS, Oliver Singleton enjoyed fellowship and worship with the community as a devout member of St. John's African Methodist Episcopal Church in Norfolk in his youth and lived his faith through his actions throughout his life; and

WHEREAS, a devoted family man, Oliver Singleton will be fondly remembered and greatly missed by his wife, Rose; children, Rachel, Hunt, and Christine, and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Oliver Rodney Hunt Singleton, a businessman who helped energize the Richmond community and created new opportunities for minority entrepreneurs; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Oliver Rodney Hunt Singleton as an expression of the General Assembly's respect for his memory.

**SENATE JOINT RESOLUTION NO. 348**

*Celebrating the life of Robert Lee Kemp.*

Agreed to by the Senate, February 2, 2017

Agreed to by the House of Delegates, February 10, 2017

WHEREAS, Robert Lee Kemp of Fairfield, a farmer and longtime Commissioner of the Revenue for Rockbridge County, died on June 4, 2016; and

WHEREAS, Robert "Bob" Kemp, a son of the late Roy and Beulah Kemp, was a veteran of the United States Army; and

WHEREAS, a dedicated and highly admired public servant, Bob Kemp dutifully and faithfully served the people of Rockbridge County as Commissioner of the Revenue for 17 years; and

WHEREAS, Bob Kemp farmed for many years and his greatest loves, outside of his family, were working outdoors on his farm and gardening; and

WHEREAS, Bob Kemp was an upstanding, civic-minded member of his community, he was a member of the Fairfield Ruritan Club, Rockbridge Camp of Gideons International, and a member and elder of Timber Ridge Old Stone Presbyterian Church; and

WHEREAS, Bob Kemp dearly loved his family and his church, and his grandchildren especially will cherish the memories of their time with "Grandpop" on the farm; and

WHEREAS, predeceased by his wife, Elaine, and stepsons, Steve and Bruce, Bob Kemp will be fondly remembered and greatly missed by his five grandchildren, and their families, and numerous other relatives and good friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Robert Lee Kemp of Fairfield, a farmer and longtime Commissioner of the Revenue for Rockbridge County; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Robert Lee Kemp as an expression of the General Assembly's respect for his memory.

#### SENATE JOINT RESOLUTION NO. 349

*Celebrating the life of Rebecca T. Dickson.*

Agreed to by the Senate, February 2, 2017

Agreed to by the House of Delegates, February 10, 2017

WHEREAS, Rebecca T. Dickson of North Chesterfield, a longtime public servant and respected county administrator, died on January 18, 2017; and

WHEREAS, Rebecca "Becky" Dickson received a bachelor's degree in business administration and management from Virginia Commonwealth University in 1983; and

WHEREAS, Becky Dickson began her career in Chesterfield County in August 1990 as capital finance administrator; she was promoted to the position of assistant director of budget and management in 1996, to the position of director of budget and management in 1997, and to the position of deputy county administrator for human services in 2006; and

WHEREAS, during her long career, Becky Dickson attended both the Senior Executive Institute at the University of Virginia and Leadership Metro Richmond; she was certified in the Malcolm Baldrige quality criteria for business and government and was a credentialed manager candidate through the International City/County Management Association; and

WHEREAS, in 2009, Becky Dickson was hired as county administrator for Goochland County and admirably served the residents of the county through six years of diligent leadership; demonstrating exceptional fiscal management, she was instrumental in helping Goochland County earn a AAA bond rating from Standard & Poor's in 2015; and

WHEREAS, Becky Dickson contributed incalculably to further successes of Goochland County governance by hiring capable and skilled staff, by overseeing strategic planning and legislative priorities, by informing and involving the community in decisions about public matters, and by being involved in virtually every facet of county government; and

WHEREAS, Becky Dickson was an active participant in the Virginia Local Government Management Association, including as a past president; and

WHEREAS, Becky Dickson concluded a long and distinguished career in public service with her retirement as county administrator of Goochland County on April 1, 2016; and

WHEREAS, Becky Dickson will be remembered for her generous and devoted service, achievements, and contributions; all who knew her are richer for her memory, and the Goochland community and the Commonwealth have lost a strong, forward-thinking leader, mentor, and friend; and

WHEREAS, Becky Dickson will be fondly remembered and greatly missed by her loving husband, Dennis S. Proffitt; daughter, Sarah T. Dickson; and many other beloved family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Rebecca T. Dickson, a longtime public servant and a respected county administrator; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Rebecca T. Dickson as an expression of the General Assembly's respect for her memory.

#### SENATE JOINT RESOLUTION NO. 350

*Commending William G. O'Brien.*

Agreed to by the Senate, February 2, 2017

Agreed to by the House of Delegates, February 10, 2017

WHEREAS, William G. O'Brien, the longtime county administrator of Rockingham County and a distinguished member of the Virginia Resources Authority, has diligently served the Commonwealth for more than four decades; and

WHEREAS, William "Bill" O'Brien served his country as a member of the United States Marine Corps during the Vietnam War; after he returned home, he earned degrees from Mansfield University of Pennsylvania and Southeastern University, then began his career in local government as county administrator of Warren County; and

WHEREAS, in 1977, Bill O'Brien became county administrator of Rockingham County, ably leading the county as it grew from a rural to a suburban community; his notable achievements in the areas of education, public utilities and facilities, and economic development helped to enhance the quality of life of all county residents, and he worked with other local governments to develop innovative joint programs in social services, emergency communications, and public health; and

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WHEREAS, even after his well-earned retirement from Rockingham County in 2003, Bill O'Brien continued to offer his leadership to communities throughout the Commonwealth as an interim county administrator or town manager for the counties of Bath and Lunenburg and the towns of Dayton, Front Royal, and Timberville; and

WHEREAS, since 1987, Bill O'Brien has further served the Commonwealth as a member of the Virginia Resources Authority (VRA) Board of Directors and has been appointed as chair by the past four Virginia governors; as chair of the VRA, he has provided efficient and effective leadership and strengthened the Commonwealth's infrastructure by overseeing more than \$7.5 billion in investments to more than 1,500 local government projects; and

WHEREAS, Bill O'Brien has earned numerous awards and accolades for his good work, including the prestigious Jefferson Cup Award from the Virginia Association of Counties, and he was named as a lifetime member of the Virginia Local Government Management Association; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend William G. O'Brien for his years of dedicated service to the Commonwealth; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to William G. O'Brien as an expression of the General Assembly's admiration for his legacy of leadership in local government.

**SENATE JOINT RESOLUTION NO. 351**

*Commending the recipients of the 2017 Virginia Outstanding Faculty Awards.*

Agreed to by the Senate, February 2, 2017

Agreed to by the House of Delegates, February 10, 2017

WHEREAS, the Commonwealth offers one of the most respected and acclaimed systems of higher education in the United States due to the quality of its public and private colleges and universities; and

WHEREAS, Virginia colleges and universities educate more than 550,000 students annually, representing all demographics, all regions of the Commonwealth, and all corners of the United States and the world; and

WHEREAS, Virginia higher education institutions advance learning, research, and public service to enhance the civic and financial health of the Commonwealth and the well-being of all its people, which transforms the lives of Virginians, their communities, and the Commonwealth; and

WHEREAS, the success of Virginia's higher education institutions would not be possible without the dedicated, hardworking faculty at each of the Commonwealth's superb colleges and universities; and

WHEREAS, faculty at Virginia's colleges and universities make innumerable contributions to the intellectual and personal growth and development of their students, who in turn contribute greatly to the educational, economic, cultural, and civic vitality of the Commonwealth; and

WHEREAS, the Virginia Outstanding Faculty Awards program—now in its 31st year—is presented by the State Council of Higher Education for Virginia and Dominion Resources and continues to recognize the finest among the Commonwealth's higher education faculty for their superior abilities and accomplishments in teaching, research, service, and knowledge integration; and

WHEREAS, the 2017 Virginia Outstanding Faculty Award recipients—Kelly June Bremner, John Gregory Brown, Theresa B. Clarke, Stephen J. Farnsworth, Michael Kevin Hamed, Margaret Leary, Caroline Lubert, Daniel Menascé, Xiang-Jin Meng, Jennifer Grimsley Michaeli, Anatoly Radyushkin, and Walter Smith—are remarkable educators, productive scholars, and tremendous ambassadors for their academic disciplines, campuses, communities, and the entire Commonwealth; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the recipients of the 2017 Virginia Outstanding Faculty Awards for their professorial excellence and unparalleled achievements; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare copies of this resolution for presentation to the recipients of the 2017 Virginia Outstanding Faculty Awards as an expression of the General Assembly's respect for the recipients' commitment to their profession and their outstanding contributions to the lives of Virginians and the Commonwealth as a whole.

**SENATE JOINT RESOLUTION NO. 352**

*Commending Family Lifeline.*

Agreed to by the Senate, February 2, 2017

Agreed to by the House of Delegates, February 10, 2017

WHEREAS, for 140 years, Family Lifeline, a nonprofit organization in Richmond, has worked to enhance the quality of life of local residents by providing food, shelter, clothing, hope, and support to vulnerable members of the community; and

WHEREAS, Family Lifeline was established by a group of women as City Mission in 1877 to aid in Reconstruction from the devastation of the Civil War; by 1906, the organization recognized its common goals with the Baptists of Richmond and the Citizens Relief Association and merged to form the Associated Charities; and

WHEREAS, in the 1920s, the Associated Charities expanded its mission to address the causes of poverty and homelessness in addition to providing immediate relief for people and families in need; the organization's professional social workers provided counseling to families of all ethnicities, denominations, and financial backgrounds and changed its name to Family Service Society in 1928; and

WHEREAS, Family Service Society merged with the Richmond Children's Aid Society in 1962, becoming the Family and Children's Services; it was renamed as Family Lifeline in 2001 to reflect better the organization's growing array of programs and outreach, which give families the tools and knowledge needed to create a better future for themselves and the entire community; and

WHEREAS, in 2016, Family Lifeline continued to provide intensive, in-home early childhood support to 796 families in the counties of Chesterfield, Dinwiddie, and Henrico and the cities of Richmond and Petersburg; 99 percent of those families remained free from child abuse and neglect and several of those families succeeded in breaking generational cycles of domestic violence; and

WHEREAS, 98 percent of children enrolled in Family Lifeline's early childhood programs received doctor-recommended immunizations, and 98 percent of those children now have a medical home to ensure consistent, ongoing care; and

WHEREAS, also in 2016, Family Lifeline's team of home care professionals provided more than 32,600 hours of care to homebound adults and people with disabilities, saving the community an estimated \$676,000 in Medicaid expenses by helping those individuals remain safe and comfortable in their own homes; and

WHEREAS, Family Lifeline provided 1,874 hours of additional service to seniors, including friendly visits to 66 home-bound seniors, 92 percent of whom said they felt less lonely thanks to the companionship of Family Lifeline's volunteers; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Family Lifeline for its compassionate service to families and children in Richmond on the occasion of its 140th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Family Lifeline as an expression of the General Assembly's admiration for the organization's legacy of care for the community and of its work to build a brighter future for the City of Richmond.

**SENATE JOINT RESOLUTION NO. 353**

*Celebrating the life of Elnora S. Branch.*

Agreed to by the Senate, February 2, 2017  
 Agreed to by the House of Delegates, February 10, 2017

WHEREAS, Elnora S. Branch of Norfolk, an admired member of the Norfolk community, died on October 25, 2016; and WHEREAS, a native of Nansemond County, Elnora Branch attended Nansemond County Training School, graduating as salutatorian; and

WHEREAS, Elnora Branch pursued a career as a caregiver, working as a licensed practical nurse until her well-earned retirement in 2001; and

WHEREAS, an advocate for social justice, Elnora Branch was a devoted member of the Norfolk NAACP, where she served as a member of the Executive Committee and maintained an excellent attendance record; and

WHEREAS, Elnora Branch lived her faith through her actions and enjoyed fellowship and worship with the congregation of Friendship Baptist Church; and

WHEREAS, predeceased by her husband, Frank, and one son, Bernard, Elnora Branch will be fondly remembered and greatly missed by her children, Marva, Frank, Jr., and Randolph, and their families, and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Elnora S. Branch; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Elnora S. Branch as an expression of the General Assembly's respect for her memory.

**SENATE JOINT RESOLUTION NO. 354**

*Celebrating the life of Warner Ray Hargis, Jr.*

Agreed to by the Senate, February 2, 2017  
 Agreed to by the House of Delegates, February 10, 2017

WHEREAS, Warner Ray Hargis, Jr., a retired Tasley postmaster, Accomack County business owner, and lifelong volunteer fireman, died on May 12, 2016; and

WHEREAS, Warner Ray Hargis, the son of Warner and Lucille Hargis, served his country as a master sergeant in the Virginia Army National Guard; and

WHEREAS, for nearly 30 years Warner Ray Hargis served as postmaster of Tasley, retiring in 1990; he was a locksmith and owner of Jan-Ray Lock Service in Tasley; and

WHEREAS, a friend to many, Warner Ray Hargis was known to be civic-minded and an upstanding member of the Tasley community; and

WHEREAS, Warner Ray Hargis joined the Tasley Volunteer Fire Department at age 20 and over his 69 years of service to the company he held every elected office, including president, fire chief, and treasurer, and for over 30 years he served as chaplain; and

WHEREAS, Warner Ray Hargis was a member and elder of Drummondtown Baptist Church in Accomac, a member of local Elks Lodge No. 1766, and a member of the Delmarva Volunteer Fireman's Association Hall of Fame; and

WHEREAS, predeceased by his wife, Janet, Warner Ray Hargis will be fondly remembered and greatly missed by his children, David and Rae, and their families; and many other relatives and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Warner Ray Hargis, Jr., a retired Tasley postmaster, Accomack County business owner, and lifelong volunteer fireman; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Warner Ray Hargis, Jr., as an expression of the General Assembly's respect for his memory and his service to the people of the Eastern Shore and the country.

#### SENATE JOINT RESOLUTION NO. 355

*Celebrating the life of Giles Crowder Upshur, Jr.*

Agreed to by the Senate, February 2, 2017

Agreed to by the House of Delegates, February 10, 2017

WHEREAS, Giles Crowder Upshur, Jr., a United States Naval Intelligence officer and respected community leader on the Eastern Shore, died on July 26, 2016; and

WHEREAS, a son of Giles and Jewel Upshur, Giles Upshur spent all of his early life in Eastville and graduated from what was then Eastville High School (now Northampton High School); and

WHEREAS, Giles Upshur enrolled at Virginia Military Institute; in August 1943, he was drafted to serve in World War II, and he served on the USS *Wyoming* and the battleship USS *Missouri*; and

WHEREAS, fluent in Russian and Arabic, Giles Upshur's naval career spanned World War II, the Korean War, the Vietnam War, and assignments in the Middle East and London during the Cold War; and

WHEREAS, Giles Upshur was the first Intelligence officer to attend the National War College; he served in Vietnam as Chief of Naval Intelligence during the Tet Offensive and later as Assistant Chief of Staff for Intelligence in Europe when he was stationed in London and worked with British Secret Service; and

WHEREAS, Giles Upshur retired as a Navy captain in 1971, returned to the United States, and became president of a Washington, D.C.-based consulting firm; in 1973, he went back home to become executive director of the Eastern Shore Community Services Board, a position he held for 13 years; and

WHEREAS, Giles Upshur was devoted to enabling the Eastern Shore's mentally disabled citizens to live at home instead of being relocated to mental institutions across the Chesapeake Bay; he helped to found the Association for Retarded Citizens and Eastern Shore Rural Health System; and

WHEREAS, Giles Upshur served on the Northampton County Planning Commission, volunteered at Eastern Shore Memorial Hospital, and served on the boards of the Historical Society of the Eastern Shore of Virginia and Hospice of Eastern Shore; and

WHEREAS, a longtime vestry member at Christ Church in Eastville, Giles Upshur was a prominent and respected citizen of the Eastern Shore; he leaves behind a legacy of devotion to improving its communities; and

WHEREAS, predeceased by his first wife, Jane, and his second wife, Claudia, Giles Upshur will be fondly remembered and greatly missed by his children, Cary, Susan, Giles, Arthur, and Mary Margaret, and their families; and a host of good friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Giles Crowder Upshur, Jr., a United States Naval Intelligence officer and respected Eastern Shore community leader; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Giles Crowder Upshur, Jr., as an expression of the General Assembly's respect for his memory.

2017]

## ACTS OF ASSEMBLY

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**SENATE JOINT RESOLUTION NO. 356***Commending the Parry McCluer High School softball team.*

Agreed to by the Senate, February 2, 2017  
 Agreed to by the House of Delegates, February 10, 2017

WHEREAS, the Parry McCluer High School softball team of Buena Vista capped an outstanding 2016 season by winning the Virginia High School League Group 1A state championship for the second year in a row; and

WHEREAS, the Parry McCluer High School Fighting Blues defeated the Mathews High School Blue Devils 8–0 at Radford University on June 11, 2016, earning their 20th consecutive victory and a 22–4 season record; and

WHEREAS, the Fighting Blues reached the championship game by defeating Essex High School 3–0 in the 1A West regional tournament, after first winning the Conference 45 title; and

WHEREAS, pitcher Kelsi Martin pitched a complete game three-hitter in the championship, striking out three and allowing no walks, and hit a three-run over-the-fence home run in the fifth inning; and

WHEREAS, Kelsi Martin's pitching effort was aided on the field by the strong offense and defense of her Fighting Blues teammates and off the field by the support and cheers of Parry McCluer's dedicated fans; and

WHEREAS, Fighting Blues Head Coach Troy Clark led a tremendous team effort and was named Virginia High School League Group 1A Coach of the Year after winning back-to-back state titles in his first two years as head coach; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the Parry McCluer High School softball team on winning the Virginia High School League Group 1A state championship in 2016; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Troy Clark, head coach of the Parry McCluer High School softball team, as an expression of the General Assembly's admiration for the team's achievement, hard work, and dedication.

**SENATE JOINT RESOLUTION NO. 357***Commending Michaela Gabriella Sigmon.*

Agreed to by the Senate, February 2, 2017  
 Agreed to by the House of Delegates, February 3, 2017

WHEREAS, Michaela Gabriella Sigmon, a native of Chesapeake who has made many valuable contributions to the community and the Commonwealth, was crowned Miss Virginia in July 2016; and

WHEREAS, a dedicated student, Michaela Sigmon is currently pursuing a bachelor's degree in journalism with a minor in dance and performing arts from Old Dominion University, where she maintains a 4.0 GPA; and

WHEREAS, Michaela Sigmon has been a dancer since the age of four, and she is most comfortable on stage bringing joy to others through music and dance; she was honored to accept an invitation from a professional dance company, Master Works Touring Company, at the age of 16; and

WHEREAS, having won local, state, and national titles in dance, Michaela Sigmon has performed at events in Israel, New York City, and throughout the Commonwealth; prior to earning the title of Miss Virginia, she was named Miss Greater Richmond; and

WHEREAS, believing that "the greatest blessing is to be a blessing," Michaela Sigmon is a generous volunteer, and she created her platform, Making it Matter, to raise awareness of how choosing to lead a life of service can make a positive difference in the world; and

WHEREAS, as the 2016 Miss Virginia, Michaela Sigmon advanced to the 2017 Miss America pageant on September 11, 2016, in Atlantic City, New Jersey; and

WHEREAS, with her extraordinary combination of beauty, intelligence, talent, compassion, and dedication to service, Michaela Sigmon has ably served the Commonwealth during her reign as Miss Virginia; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Michaela Gabriella Sigmon on being named Miss Virginia 2016; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Michaela Gabriella Sigmon as an expression of the General Assembly's congratulations and admiration for her achievements.

**SENATE JOINT RESOLUTION NO. 358***Commending the Amherst Fire Department.*

Agreed to by the Senate, February 2, 2017  
 Agreed to by the House of Delegates, February 17, 2017

2714

## ACTS OF ASSEMBLY

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WHEREAS, the Amherst Fire Department is celebrating a century of outstanding volunteer service to the Amherst community in 2017; and

WHEREAS, volunteer fire service began in Amherst County in 1917, after a devastating fire swept through the Amherst livery stable, Meeks Building, and the Hill Hardware Lumberyard; and

WHEREAS, today, the Amherst Fire Department has 29 volunteer members and operates one station that houses two fire engines, an engine/tanker, a brush truck, a utility vehicle, and Amherst County's aerial ladder truck; and

WHEREAS, with a response area of 175 square miles, the mission of the Amherst Fire Department is to provide fire prevention and protection services to the residents of Amherst County in a safe and professional manner; and

WHEREAS, in 2016, the Amherst Fire Department responded to 318 incidents, totaling more than 2,500 personnel hours, and members logged more than 1,200 training hours; members of the department aided in battling national forest wildfires in the fall of 2016; and

WHEREAS, the Amherst Fire Department, the oldest of three departments serving Amherst County and the Town of Amherst, will mark the department's centennial at a celebration in August 2017; and

WHEREAS, the Amherst Fire Department would not continue to exist today without the dedicated men and women who give their time to protect their community, and their supportive families who are understanding of the missed dinners, housework, and family time; and

WHEREAS, the men and women volunteers who make up the Amherst Fire Department consider themselves to be ambassadors of goodwill; they are willing to drop everything to answer a call, and they act without fear and without hesitation; and

WHEREAS, the current members of the Amherst Fire Department are forever grateful for all of the men and women who went before them and worked diligently to create, develop, and establish the department's current standards of excellence; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the Amherst Volunteer Fire Department on celebrating 100 years of outstanding volunteer service to the Amherst community in 2017; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Tom Martin, chief of the Amherst Volunteer Fire Department, as an expression of the General Assembly's admiration for the department's proud history and for the volunteer members' commitment and dedication to the safety of their fellow citizens.

**SENATE JOINT RESOLUTION NO. 359**

*Commending the Christiansburg Rescue Squad.*

Agreed to by the Senate, February 9, 2017

Agreed to by the House of Delegates, February 20, 2017

WHEREAS, the Christiansburg Rescue Squad, founded as the Christiansburg Life Saving and First Aid Crew, will celebrate 70 years of outstanding service to the citizens of the Town of Christiansburg and Montgomery County in 2017; and

WHEREAS, on April 3, 1947, at a meeting at Harrison-Hancock Hardware, Lions Club member Evans L. King suggested to the club's board of directors that they should cosponsor a first aid crew with the Christiansburg Fire Department; and

WHEREAS, the formal name of the crew became the Christiansburg Life Saving and First Aid Crew and the new organization was served by two medical advisors: Dr. Lee Cole and Dr. R. H. Grubbs; S. C. Richardson was elected president to assist in organizational matters; and

WHEREAS, at the Christiansburg Life Saving and First Aid Crew's first organizational meeting, J. Cullen Murray was elected captain, and the other officers chosen were Hugh Edwards as secretary, Frank Robinson as first lieutenant, Clyde King as second lieutenant, Edwin Chrisman as sergeant, and Frank Lawrence as treasurer; and

WHEREAS, in June 1947, the Christiansburg Life Saving and First Aid Crew joined the Virginia Association of Volunteer Rescue Squads, and the Christiansburg Fire Department loaned the crew an ambulance and lighting equipment, which began the close working relationship that still endures between the rescue squad and the fire department; and

WHEREAS, in 1950, the Ladies Auxiliary of the Christiansburg Life Saving and First Aid Crew was established, providing much needed support to the crew as well as assistance in many projects; and

WHEREAS, in the early years, emergency calls were handled by Richardson's Funeral Home; with the support of the community, the Christiansburg Life Saving and First Aid Crew was able to purchase a Packard ambulance, a one-ton panel truck, two boats for water rescues, and a crash truck to respond to the scenes of automobile accidents; and

WHEREAS, the Christiansburg Life Saving and First Aid Crew operated out of the old fire department quarters on Pepper Street until 1963, when the crew purchased a lot on Stone Street and built a new facility with meeting, office, and sleeping quarters; and

WHEREAS, over the years, the Christiansburg Life Saving and First Aid Crew, now operating as the Christiansburg Rescue Squad, has become a vital partner with the community, teaching first aid classes, assisting with blood donations, and working every day to ensure the safety and security of the Town of Christiansburg; and

WHEREAS, the Christiansburg Rescue Squad moved into its current home on Depot Street on May 1, 1997; and

WHEREAS, today, the Christiansburg Rescue Squad has many hardworking and well-trained volunteer members and paid employees led by Chief Joe Coyle; the crew continues its long tradition of exemplary public service and commitment to saving lives and promoting health and safety; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the Christiansburg Rescue Squad on the occasion of its historic 70th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Joe Coyle, chief of the Christiansburg Rescue Squad, as an expression of the General Assembly's admiration for the squad's commitment to the citizens of the Town of Christiansburg and Montgomery County.

**SENATE JOINT RESOLUTION NO. 360**

*Celebrating the life of the Honorable Robert Mark Yacobi.*

Agreed to by the Senate, February 9, 2017

Agreed to by the House of Delegates, February 17, 2017

WHEREAS, the Honorable Robert Mark Yacobi of Williamsburg, a former judge of the Newport News Juvenile and Domestic Relations District Court of the 7th Judicial District of Virginia, died on January 17, 2017; and

WHEREAS, Robert "Bucky" Yacobi spent most of his life in Newport News; he attended St. Vincent de Paul High School and Belmont Abbey College in Belmont, North Carolina, and then served his country as a member of the United States Army in Japan during the Korean War; and

WHEREAS, after his honorable discharge from the United States Army, Bucky Yacobi attended the T.C. Williams School of Law at the University of Richmond, then practiced law in Newport News for many years before he was appointed to the bench; he and his wife, Peggy, were involved in numerous local, state, and national civic and religious organizations, giving generously of their time, talents, and abilities; and

WHEREAS, after the death of his daughter, Kelly, Bucky Yacobi pledged to do all he could to eradicate leukemia and raise awareness of the disease; he immersed himself in the Leukemia and Lymphoma Society of America, serving as national president for three years and on the board for more than 20 years; and

WHEREAS, Bucky Yacobi was a 4th degree Sir Knight of Columbus, (PGK, PDD); he served on the board of Peninsula Catholic High School and was a member of the Virginia Bar Association, American Bar Association, ATLA, the National Council of Juvenile and Family Court Judges; he was a lifetime member of the Fraternal Order of Police (Honorary) W.E. Nesbitt Lodge No. 25, president/board member of the Virginia Institute of Marine Science, and a member of Our Lady of Mount Carmel Church and St. Bede Catholic Church in Williamsburg; and

WHEREAS, Bucky Yacobi earned many awards and accolades for his lifetime of service, including the Spiral of Life Award from the Leukemia and Lymphoma Society of America and the National Brotherhood Award from the National Conference of Christians and Jews; and

WHEREAS, Bucky Yacobi's zest for life and learning led him to a second career in real estate, where he enjoyed marketing the lovely Virginia Tidewater; he was an avid hunter, fisherman, lifelong sportsman, teller of tall tales and long jokes; he was a force of nature to the end, never met a stranger, and endeavored to do the most good for mankind every single day of his life; and

WHEREAS, Bucky Yacobi was preceded in death by his daughter, Kelly Anne Yacobi; his parents, X. F. Yacobi and Laura Margaret Piedmont Yacobi; brothers, Frank Yacobi and Jamie Yacobi; and sisters, Laura Yacobi Bateman, and Jeanne Yacobi Turley; as well as a loving and wise mother-in-law, Mabel Mumma; and

WHEREAS, Bucky Yacobi will be greatly missed by his loving and devoted wife, Peggy; as well as his daughter, Karen Yacobi Warren and son-in-law, Jim; his son, Mark and his wife, Michelle; his son Sean, and his wife, Nora; his four grandchildren, Josh, Matt, Sophie, and Liam; a bevy of nieces and nephews; and many other great and loving family members and friends from near and far; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of the Honorable Robert Mark Yacobi, a former judge of the 7th Judicial District of Virginia and a respected member of the Newport News community; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of the Honorable Robert Mark Yacobi as an expression of the General Assembly's respect for his memory.

**SENATE JOINT RESOLUTION NO. 361**

*Commending Shorter's Chapel African Methodist Episcopal Church.*

Agreed to by the Senate, February 9, 2017

Agreed to by the House of Delegates, February 17, 2017

WHEREAS, in 2016, Shorter's Chapel African Methodist Episcopal Church in Bridgetown celebrated the 150th anniversary of its founding; and

WHEREAS, Bridgetown, located at the head of Hungars Creek near the town of Machipongo in Northampton County, is one of the oldest inhabited settlements in America; and

WHEREAS, founded as Bridgetown Church, Shorter's Chapel African Methodist Episcopal (A.M.E.) Church was started by the Reverend John Offer in 1866, just after the end of the Civil War; and

WHEREAS, Shorter's Chapel A.M.E. Church is still located where it was originally founded and has the distinction of being one of the first churches on the Eastern Shore established by and for African Americans; and

WHEREAS, over the past century and a half, the congregation of Shorter's Chapel A.M.E. Church has been able gradually to enlarge the original structure, which had served as a school; and

WHEREAS, one of the most recent renovations at Shorter's Chapel A.M.E. Church was the replacement of a decaying floor, which is now a gleaming source of pride for the rural congregation; and

WHEREAS, Shorter's Chapel A.M.E. Church is an important landmark for residents of the Bridgetown community, who want to see the historic church, its cemetery, and surrounding area preserved; and

WHEREAS, many pastors have served Shorter's Chapel A.M.E. Church during its history, and the congregation is now led by the Reverend Alfred Vann II, who commutes from Richmond each week to conduct services; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Shorter's Chapel African Methodist Episcopal Church on celebrating the 150th anniversary of its founding; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Reverend Alfred Vann II, pastor of Shorter's Chapel African Methodist Episcopal Church in Bridgetown, as an expression of the General Assembly's admiration for the church's important history and legacy.

### SENATE JOINT RESOLUTION NO. 362

*Commending the Virginia School for the Deaf and Blind goalball team.*

Agreed to by the Senate, February 9, 2017

Agreed to by the House of Delegates, February 17, 2017

WHEREAS, the Virginia School for the Deaf and Blind goalball team from Staunton had an amazing 2016 season that culminated in winning the United States Association of Blind Athletes High School National Championship; and

WHEREAS, goalball is a sport developed in 1946 to help rehabilitate visually impaired World War II soldiers, and it requires athletes to use a sense of hearing instead of sight; and

WHEREAS, the Virginia School for the Deaf and Blind (VSDB) goalball team finished the 2016 regular season with a record of 10–0, including five wins in the Eastern Athletic Association for the Blind (EAAB) Tournament; and

WHEREAS, in March 2016, VSDB defeated Florida School for the Blind by a score of 7–3 to secure the EAAB title, which was the school's first goalball championship since the program began in 2002; and

WHEREAS, the members of the VSDB team winning the EAAB championship were Zion Walker, Tyrone Brotherton, Sean Walker, Hunter Johnson, Malik Sims, and Daniyal Salman; and

WHEREAS, in early September 2016, four members of the VSDB goalball team decided they wanted to participate in the United States Association of Blind Athletes High School National Championship tournament in St. Augustine, Florida; and

WHEREAS, Zion Walker, Christian King, Tyrone Brotherton, and Sean Walker had only five weeks to practice and prepare for the tournament, where they would face teams that were just finishing their goalball seasons; the VSDB season lasts from January to March; and

WHEREAS, VSDB lost in the national tournament's first round to the Texas School for the Blind and Visually Impaired, but the team regrouped and won five straight games, including defeating the same Texas team in the championship final; and

WHEREAS, at the conclusion of the tournament, the VSDB team was recognized with the Team Sportsmanship Award, Tyrone Brotherton and Sean Walker were named to the All-American team, and Sean Walker was honored as the tournament's Most Valuable Player; and

WHEREAS, 2016 brought VSDB's first-ever National High School Goalball Championship and the first national title of any kind for the school's visually impaired sports program; and

WHEREAS, throughout their undefeated 2016 regular season and national championship run, the VSDB goalball team received terrific mentoring and coaching from Rory Swientek, Jim Kiser, and Kristy McClain; and

WHEREAS, the 2016 national championship was a special experience and proud accomplishment that the VSDB community and all members of the goalball team will never forget; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the Virginia School for the Deaf and Blind goalball team on its 2016 season and winning the United States National High School Goalball Championship; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Rory Swientek, head coach of the Virginia School for the Deaf and Blind goalball team, as an expression of the General Assembly's admiration for the team's determination and outstanding championship-winning 2016 season.

**SENATE JOINT RESOLUTION NO. 363**

*Commending Rebecca L. Covey.*

Agreed to by the Senate, February 9, 2017  
Agreed to by the House of Delegates, February 17, 2017

WHEREAS, Rebecca L. Covey, legislative fiscal analyst for the Senate Finance Committee, retired on July 1, 2016, after 40 years of exemplary service to the people of the Commonwealth and the Senate of Virginia; and

WHEREAS, in 1976, Rebecca "Becky" Covey began her career with the Commonwealth as the assistant budget director for The College of William and Mary; and

WHEREAS, Becky Covey then joined Virginia Polytechnic Institute and State University as an accountant and rose to the position of assistant chief accountant; and

WHEREAS, upon her move to Richmond in 1980, Becky Covey joined the staff of the House Appropriations Committee, where she served in a variety of roles as an analyst for health and human services, natural resources, economic development, public education, and higher education; and

WHEREAS, in 1990, Becky Covey's talents and leadership skills were acknowledged as she was named the director of the House Appropriations Committee staff, a role she held for 10 years and one in which she earned the deep admiration and respect of the members and each chair of the House Appropriations Committee; and

WHEREAS, in 2000, Becky Covey accepted an offer to move from the ninth to the tenth floor of the General Assembly Building to join the staff of the Finance Committee of the upper chamber; and

WHEREAS, in her role as tax policy and revenue analyst for the Senate Finance Committee, Becky Covey demonstrated her financial acumen and knowledge of Virginia's tax policies and revenues, producing an annual general fund revenue forecast that rivaled the "official" forecast for accuracy; and

WHEREAS, Becky Covey quietly yet firmly worked to advance policies that preserved the Commonwealth's resources, encouraged fairness and equity among taxpayers, and supported a fiscally sound budget, and in so doing earned the respect of House and Senate members, administration and agency staff, and lobbyists; and

WHEREAS, Becky Covey's high professional standards and personal attention to detail were reflected in every project she undertook, including the comprehensive tax reform efforts of 2004 and numerous transportation funding initiatives; and

WHEREAS, Becky Covey's contributions as a fiscal analyst were acknowledged by the National Conference of State Legislatures when she received the 2007 Legislative Staff Achievement Award; and

WHEREAS, in her roles as chief visionary, mentor, and editor extraordinaire, Becky Covey encouraged numerous fiscal analysts to aspire to her high standards of professionalism and the exercise of good judgment; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Rebecca L. Covey for her outstanding service to the Commonwealth and her contribution to the principles of sound fiscal policy; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Rebecca L. Covey as an expression of the General Assembly's appreciation for her dedication, respect for her integrity and professionalism, and sincere best wishes for a well-deserved and enjoyable retirement.

**SENATE JOINT RESOLUTION NO. 364**

*Commending Marine Corps Base Quantico.*

Agreed to by the Senate, February 9, 2017  
Agreed to by the House of Delegates, February 17, 2017

WHEREAS, for 100 years, Marine Corps Base Quantico, strategically located in the counties of Stafford, Prince William, and Fauquier, has been an integral base for the nation's military and an essential part of the local community; and

WHEREAS, in May 1917, the United States Marine Corps took title to the land owned by the Quantico Company and established a temporary cantonment named Marine Barracks, Quantico at the present-day location of the main side of the base, which the United States Marine Corps used for tactical and leadership training to prepare Marines for the Western Front of Europe during World War I; and

WHEREAS, the outbreak of World War I necessitated the expansion of Marine Barracks, Quantico and, upon the conclusion of the war, the permanent establishment of Quantico as a base of Marine Corps operations; and

WHEREAS, during World War II, Marine Corps Base Quantico's training mission required the purchase of 51,000 acres of land west of U.S. Highway 1, the Guadalcanal Area, and has developed this into a premier live-fire training environment that is still widely used today; and

WHEREAS, following World War II, Marine Corps Base Quantico's mission slowly evolved from only the training of new Marines and officers to research, development, and education, as exemplified by the Marine Corps Combat Development Command, Marine Corps University, Command & Staff College, Expeditionary Warfare School, War College, and Warfighting Lab; and

WHEREAS, Marine Corps Base Quantico has been home to and has worked in support of HMX-1, the helicopter squadron responsible for serving the President of the United States as directed; and

WHEREAS, Marine Corps Base Quantico strives to preserve the valuable natural resources of the Commonwealth and supports programs to protect endangered species, including the Northern Long-Eared Bat, Dwarf Wedgemussel, Small Whorled Pogonia, and Harperella; and

WHEREAS, Marine Corps Base Quantico has continued to play a valuable role in the nation's defense efforts, transforming into an essential administrative, intelligence, logistics, and operations support role for its mission partners, including seven Marine Corps major command headquarters, nine different agencies of the United States Department of the Navy, two elements of the United States Marine Corps Reserve, and 46 United States Department of Defense (DOD), Department of Justice, and other federal agencies; and

WHEREAS, Marine Corps Base Quantico is home to 6,200 active duty military personnel and many of their families, 11,000 civilian employees, and 4,000 contract employees; in 2015, Marine Corps Base Quantico supported 47,500 direct and indirect jobs and accounted for \$4.9 billion in economic impact; and

WHEREAS, from a training school for infantry to a testing ground for military projects to helping support the United States Marine Corps and DOD commands, Marine Corps Base Quantico has continued to evolve over the past century to meet America's military needs and today serves as a major support installation for the nation's senior civilian and military leadership; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Marine Corps Base Quantico on the occasion of its 100th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Colonel Joseph M. Murray, Commander, Marine Corps Base Quantico, as an expression of the General Assembly's congratulations on Marine Corps Base Quantico's 100th anniversary and admiration and respect for its many contributions to the Commonwealth and for its pivotal role in the nation's defense strategy.

#### SENATE JOINT RESOLUTION NO. 365

*Commending the Honorable David S. Schell.*

Agreed to by the Senate, February 9, 2017

Agreed to by the House of Delegates, February 17, 2017

WHEREAS, the Honorable David S. Schell retired as a judge of the Fairfax County Circuit Court of the 19th Judicial Circuit of Virginia in December 2016 after 25 years on the bench; and

WHEREAS, after graduating from the University of Southern Mississippi, serving his country as a member of the United States Army, and earning a law degree from American University, David Schell practiced family, juvenile, criminal, and mental health law in Fairfax County from 1979 to 1991; and

WHEREAS, in 1991, David Schell was appointed as judge of the Fairfax County Juvenile and Domestic Relations District Court of the 19th Judicial District of Virginia, and he served as chief judge of the court from 1998 to 2002; and

WHEREAS, David Schell offered his expertise to the court on a number of committees, including as chair of the Advisory Committee to the Supreme Court of Virginia for the Court Improvement Program-Foster Care and Adoption and as a member of the Judicial Liaison Committee and the Judicial Education Committee; and

WHEREAS, in 2008, David Schell was appointed as a judge of the Fairfax County Circuit Court of the 19th Judicial Circuit of Virginia, where he presided with great fairness and wisdom until his retirement; and

WHEREAS, respected among his peers, David Schell was an active member of the Fairfax Bar Association and was a frequent lecturer on a variety of topics; a man of great integrity, he served the Commonwealth with dedication and distinction; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the Honorable David S. Schell, a respected member of the Fairfax County community, on the occasion of his retirement as a judge; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Honorable David S. Schell as an expression of the General Assembly's admiration for his service to the residents of Fairfax County and the Commonwealth.

#### SENATE JOINT RESOLUTION NO. 366

*Celebrating the life of Fannie Wilkinson Fitzgerald.*

Agreed to by the Senate, February 9, 2017

Agreed to by the House of Delegates, February 17, 2017

WHEREAS, Fannie Wilkinson Fitzgerald, a passionate educator who bravely led efforts to integrate public schools in Prince William County in the 1960s, died on April 7, 2016; and

WHEREAS, a native of Amelia County, Fannie Fitzgerald graduated from Russell Grove High School and earned a bachelor's degree from Virginia Union University; she received a full scholarship to attend Columbia University, where she earned a master's degree in special education; and

WHEREAS, Fannie Fitzgerald fulfilled her lifelong dream to become a teacher in 1952 when she accepted a position at a two-room schoolhouse in Amelia County; she later taught at schools for African American children in Prince William County and Manassas; and

WHEREAS, in 1964, Fannie Fitzgerald and four other teachers were selected to begin the integration of Prince William County Public Schools; she transferred to the previously all-white Fred Lynn Elementary and Middle School, where her courage and perseverance helped to ensure the successful integration of all local public schools by 1965; and

WHEREAS, Fannie Fitzgerald continued to work in Prince William County Public Schools, including as a fourth-grade teacher and learning disabilities specialist at Dale City Elementary School from 1971 to 1988, when she retired after 35 years of service; and

WHEREAS, in recognition of her inspirational contributions to the youth of Prince William County, Fannie W. Fitzgerald Elementary School in Woodbridge was named in her honor; and

WHEREAS, predeceased by her husband of 54 years, Rodger, Fannie Fitzgerald will be fondly remembered and greatly missed by her daughters, Benita and Kim, and their families and by numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Fannie Wilkinson Fitzgerald, a highly admired pioneer in public education; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Fannie Wilkinson Fitzgerald as an expression of the General Assembly's respect for her memory.

#### SENATE JOINT RESOLUTION NO. 367

*Commending the Legal Aid Society of the Roanoke Valley.*

Agreed to by the Senate, February 9, 2017

Agreed to by the House of Delegates, February 20, 2017

WHEREAS, for more than 50 years, the Legal Aid Society of the Roanoke Valley has provided legal representation and advice to low-income individuals and families at no cost; and

WHEREAS, the Legal Aid Society of the Roanoke Valley was established in December 1966 by attorneys Charles Carrington and William Weinberg; the organization was the first nonprofit of its kind in the state and opened with 90 initial clients; and

WHEREAS, as the Legal Aid Society of the Roanoke Valley grew, it relocated from the Total Action for Progress building to a larger office on Church Avenue to better serve its clients; by 1976, the staff had grown to more than 12 attorneys; and

WHEREAS, the Legal Aid Society of Virginia has handled more than 100,000 cases since its inception, including more than 1,000 cases in 2016; nearly 80 percent of the organization's work is related to legal consultations, many of which are handled over the phone; and

WHEREAS, the Legal Aid Society of the Roanoke Valley serves clients in the counties of Alleghany, Bath, Bedford, Botetourt, Craig, Franklin, Roanoke, and Rockbridge and the cities of Covington, Lexington, Roanoke, and Salem; and

WHEREAS, the Legal Aid Society of the Roanoke Valley has provided expert advice on a wide range of non-criminal issues, including hospital bills, utility programs, credit garnishment, bankruptcy, job discrimination, welfare, Medicaid, food stamps, and unemployment insurance; and

WHEREAS, the Legal Aid Society of the Roanoke Valley has equipped clients with the proper information to address housing concerns, such as landlord abuses, bad housing conditions, public housing deposits, evictions, and problems with mobile home parks; and

WHEREAS, demonstrating professionalism and discretion, the Legal Aid Society of the Roanoke Valley is well-equipped to address family violence and abuse, custody disputes, divorces, and non-support; and

WHEREAS, the Legal Aid Society of the Roanoke Valley provides advice on remedies to conflicts with businesses, government agencies, and individuals, and it partners with Blue Ridge Legal Services, Inc., to provide a full range of civil services; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the Legal Aid Society of the Roanoke Valley on the occasion of its 50th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Legal Aid Society of the Roanoke Valley as an expression of the General Assembly's admiration for its mission to provide access to justice for thousands of Roanoke Valley residents.

**SENATE JOINT RESOLUTION NO. 368**

*Commending Roanoke College.*

Agreed to by the Senate, February 9, 2017  
 Agreed to by the House of Delegates, February 20, 2017

WHEREAS, in 2017, Roanoke College in Salem, the second-oldest Lutheran college in the United States, marks 175 years of providing an innovative liberal arts education to students from throughout the Commonwealth and the world; and

WHEREAS, founded by Lutheran pastors, David F. Bittle and Christopher C. Baughman, in 1842 in Mt. Tabor, Roanoke College began as a small preparatory school for boys that was affiliated with Gettysburg College; the school was officially incorporated as Virginia Collegiate Institute in 1845; and

WHEREAS, the Virginia Collegiate Institute soon relocated to Salem, and, in 1853, it was granted its collegiate charter as Roanoke College with David F. Bittle as its first president; throughout its history, the college has remained true to its Lutheran roots and partners with the Evangelical Lutheran Church and other faith communities to nurture dialogue between faith and reason; and

WHEREAS, Roanoke College maintains a unique approach to education, giving students opportunities—to explore the world from intellectual, physical, social, and moral perspectives, to apply knowledge to current events, and to develop practical skills; and

WHEREAS, Roanoke College offers its students a wide array of cocurricular activities and athletics programs with the Roanoke College Maroons competing in the Old Dominion Athletic Conference; and

WHEREAS, several buildings on the Roanoke College campus are listed on the National Register of Historic Places and the Virginia Landmarks Registry, five of which date back to the 1800s; and

WHEREAS, Roanoke College has earned many awards and accolades for its challenging curriculum and service to its students, including national recognition from *U.S. News & World Report* as one of the top liberal arts colleges in the United States; and

WHEREAS, Roanoke College celebrates its 175th anniversary in the same year as the 500th anniversary of Martin Luther's *Ninety-Five Theses*, which sparked the beginning of the Protestant Reformation, and the college will hold special events commemorating both throughout the year; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Roanoke College on the occasion of its 175th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Michael C. Maxey, president of Roanoke College, as an expression of the General Assembly's admiration for the college's longstanding commitment to academic excellence.

**SENATE JOINT RESOLUTION NO. 369**

*Celebrating the life of Trooper Chad Phillip Dermyer.*

Agreed to by the Senate, February 9, 2017  
 Agreed to by the House of Delegates, February 10, 2017

WHEREAS, Trooper Chad Phillip Dermyer, a dedicated and highly respected law-enforcement officer with the Virginia State Police, was killed in the line of duty on March 31, 2016; and

WHEREAS, a native of Jackson, Michigan, Trooper Dermyer proudly served the nation as a decorated member of the United States Marine Corps for four years, then began his law-enforcement career with the Jackson Police Department; and

WHEREAS, Trooper Dermyer relocated to the Commonwealth and joined the Newport News Police Department, then graduated from the Virginia State Police Academy as a member of the 122nd Basic Session on November 21, 2014; upon graduating, he was assigned to Area 46 in the Chesapeake Division to patrol the cities of Hampton and Newport News; and

WHEREAS, in 2016, Trooper Dermyer was selected for the Counter-Terrorism and Criminal Interdiction (CCI) Unit's Area 71 Team; and

WHEREAS, while taking part in a training exercise at the Richmond bus terminal with his fellow CCI officers, Trooper Dermyer approached a suspicious male subject, who subsequently shot and killed Trooper Dermyer; and

WHEREAS, Trooper Dermyer was a man of great character and integrity, who demonstrated tremendous commitment to serving and protecting the residents of and visitors to the Commonwealth in his capacity as one of Virginia's Finest; and

WHEREAS, a resident of Gloucester County, Trooper Dermyer was known by many within the community for his valiant, selfless actions and his determination to make a difference in the lives of others both on and off duty; and

WHEREAS, Trooper Dermyer will be fondly remembered and forever missed by his wife, Michelle; his children, Page and Phillip; his mother, Anne Barnett, and her husband, Scott; his father, John, and his wife, Chris; and by his siblings, grandparents, numerous other family members, friends, and fellow public safety officers nationwide; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Trooper Chad Phillip Dermyer, a revered public safety professional; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Trooper Chad Phillip Dermeyer as an expression of the General Assembly's respect for his memory and years of service to the Commonwealth.

**SENATE JOINT RESOLUTION NO. 370**

*Commending Bernard S. Cohen and Philip J. Hirschkop.*

Agreed to by the Senate, February 9, 2017  
 Agreed to by the House of Delegates, February 17, 2017

WHEREAS, Bernard S. Cohen and Philip J. Hirschkop, the attorneys for the plaintiffs in the landmark *Loving v. Virginia* case, which invalidated state laws against interracial marriage, touched the lives of countless Americans through their defense of civil rights and contributions to constitutional law; and

WHEREAS, Richard Perry Loving and Mildred Delores Jeter Loving of Caroline County married in Washington, D.C., in June of 1958; upon their return to Virginia, they were arrested under the Commonwealth's longstanding statutes prohibiting interracial marriage, particularly the 1924 Act to Preserve Racial Integrity; and

WHEREAS, the Lovings were briefly jailed, then given a one-year suspended sentence provided that they left Virginia and did not return together for a period of 25 years; after the passage of the Civil Rights Act in 1964, Mildred Loving wrote to Attorney General Robert F. Kennedy asking if the new law would permit the Lovings to live together in Virginia; and

WHEREAS, Mildred Loving's letter was forwarded to the ACLU of the National Capital Area, which assigned Bernard Cohen and Philip Hirschkop to represent the Lovings in the appeals process; the attorneys filed a motion to vacate the Lovings' conviction on the grounds that Virginia law violated the Equal Protection Clause of the Fourteenth Amendment; and

WHEREAS, after the Supreme Court of Virginia upheld the Lovings' conviction, Bernard Cohen and Philip Hirschkop prepared to argue the case before the Supreme Court of the United States, which had, prior to the Civil Rights Act, upheld antimiscegenation laws with decisions in 1883 and 1888; and

WHEREAS, during the oral arguments before the Supreme Court of the United States, Philip Hirschkop maintained that Virginia law violated the Lovings' right to equal protection; Bernard Cohen argued that the law violated the Lovings' right to due process and dramatically relayed a message from Richard Loving: "Mr. Cohen, tell the Court I love my wife and it is just unfair that I can't live with her in Virginia."; and

WHEREAS, in 1967, the Supreme Court of the United States ruled unanimously in favor of the Lovings, striking down Virginia's interracial marriage laws as a violation of the Fourteenth Amendment, with Chief Justice Earl Warren calling marriage "one of the basic civil rights of man, fundamental to our very existence"; the ruling paved the way for other couples to marry, free from persecution under the law; and

WHEREAS, the achievements of Bernard Cohen and Philip Hirschkop have been the subject of countless books and examinations of the *Loving v. Virginia* ruling, and they were portrayed in the 1996 television movie, *Mr. & Mrs. Loving*, and the 2016 film *Loving*; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Bernard S. Cohen and Philip J. Hirschkop for their historic contributions to the Civil Rights movement and the understanding of constitutional law; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare copies of this resolution for presentation to Bernard S. Cohen and Philip J. Hirschkop as an expression of the General Assembly's admiration for their commitment to equality for all Americans.

**SENATE JOINT RESOLUTION NO. 371**

*Commending Martinsville Speedway.*

Agreed to by the Senate, February 9, 2017  
 Agreed to by the House of Delegates, February 17, 2017

WHEREAS, Martinsville Speedway, a historic automobile racing track in Henry County and the oldest track still in use by the National Association for Stock Car Auto Racing, has served the motorsports community for 70 years; and

WHEREAS, Martinsville Speedway traces its roots to 1946, when H. Clay Earles, a highly respected local businessman, began construction on an oval-shaped dirt track that could seat 750 spectators; nearly 9,000 people attended the first race in 1947; and

WHEREAS, Martinsville Speedway was part of the inaugural season of the National Association for Stock Car Auto Racing (NASCAR) in 1948; and

WHEREAS, H. Clay Earles was well-known for saying that Martinsville Speedway was always under construction, and he oversaw continuous improvements to ensure that drivers and fans had the best possible experience; in 1955, Martinsville Speedway led the way for other racing tracks as one of the first to convert from a dirt surface to a paved track; and

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WHEREAS, in the 1960s, Martinsville Speedway became the first track with a fully enclosed, air-conditioned press box and instituted its most unique feature, the presentation of coveted, locally made grandfather clocks to race winners; and

WHEREAS, in the 1970s, Martinsville Speedway earned additional national attention when it was featured in the climactic scene of *The Last American Hero*, a feature film about NASCAR driver Junior Johnson; and

WHEREAS, Martinsville Speedway was purchased by the International Speedway Corporation in 2004, bringing unprecedented resources to the track and allowing it to continue its commitment to innovation; in 2017, Martinsville Speedway completed work on a new LED light system, the first such system on a NASCAR premier series track; and

WHEREAS, in 2017, H. Clay Earles, who served as chair of the Martinsville Speedway Board of Directors until his death in 1999, posthumously received the NASCAR Hall of Fame Landmark Award for his legacy of leadership in motorsports and unparalleled service to NASCAR and its fans; and

WHEREAS, Martinsville Speedway opens its 70th anniversary season on the weekend of March 31, 2017, with the Virginia Lottery Pole Day on Friday, the Alpha Energy Solutions 250 Camping World Truck Series on Saturday, and the STP 500 Monster Energy NASCAR Cup Series on Sunday; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Martinsville Speedway for its exceptional service to the Martinsville community and racing fans from around the world on the occasion of its 70th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Martinsville Speedway as an expression of the General Assembly's admiration for its contributions to motorsports in the Commonwealth.

**SENATE JOINT RESOLUTION NO. 372**

*Commending Thomas L. McKeon.*

Agreed to by the Senate, February 9, 2017

Agreed to by the House of Delegates, February 17, 2017

WHEREAS, in December 2016, Thomas L. McKeon retired as executive director of the Roanoke Higher Education Center, after 17 years of extraordinary and exemplary service; and

WHEREAS, as the first executive director, Thomas "Tom" McKeon oversaw the renovation, preservation, and repurposing of the old Norfolk and Western Railway headquarters building to house the Roanoke Higher Education Center and recruited partner institutions of higher education and workforce training to create a model for delivering education and training in the twenty-first century; and

WHEREAS, Tom McKeon received a bachelor's degree in English literature from St. Bonaventure University and received a master's degree and a doctoral degree in higher education administration from the University of Virginia; and

WHEREAS, Tom McKeon served as an active duty officer in the United States Army and began his career in higher education at the University of Virginia in the School of Continuing and Professional Studies; and

WHEREAS, prior to becoming executive director at the Roanoke Higher Education Center, Tom McKeon served as director of the William and Ida Friday Center for Continuing Education at the University of North Carolina at Chapel Hill; and

WHEREAS, through Tom McKeon's leadership, the Roanoke Higher Education Center, which opened in 2000, became known as a "national model for the new millennium"; and

WHEREAS, as a result of his leadership, the Roanoke Higher Education Center now offers more than 300 programs of study, ranging from GED to Ph.D., through 14 partner institutions; more than 9,000 people have completed degree, certificate, and workforce training programs at the Center since it opened; and

WHEREAS, Tom McKeon oversaw establishment of the Claude Moore Education Complex by renovating and preserving the historic Henry Street shops and Lincoln Theater in order to house Virginia Western Community College's popular culinary arts institute; and

WHEREAS, Tom McKeon has been a leader in the civic life of Roanoke in numerous ways, including service on the boards of the Roanoke Regional Chamber of Commerce, Roanoke Arts Commission, United Way of Roanoke Valley, and Roanoke Valley Convention and Visitors Bureau, among others; and

WHEREAS, Tom McKeon recruited a dedicated, loyal, and talented staff which supported his extraordinary leadership as executive director of the Roanoke Higher Education Center; and

WHEREAS, Tom McKeon has said he will miss his colleagues and service in higher education, but he looks forward to his retirement and spending more time with his lovely wife, Judith, and their children and grandchildren, as well as boating on the North Carolina coast; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Thomas L. McKeon on his retirement as executive director of the Roanoke Higher Education Center; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Thomas L. McKeon as an expression of the General Assembly's admiration for his contributions and dedication to expanding access to higher education in the Roanoke region.

**SENATE JOINT RESOLUTION NO. 373***Commending John W. McCarthy III.*

Agreed to by the Senate, February 9, 2017  
 Agreed to by the House of Delegates, February 17, 2017

WHEREAS, Rappahannock County Administrator John W. McCarthy III marked the end of an extraordinary 30-year career in county government when he retired in 2016; and

WHEREAS, John McCarthy holds a bachelor's degree from Mary Washington College, now the University of Mary Washington, where he served as an adjunct professor for 25 years, and a master's degree in planning from the University of Virginia; and

WHEREAS, John McCarthy became Rappahannock County's first county administrator in 1988, after serving for two years as zoning administrator and administrative assistant to the board of supervisors; and

WHEREAS, over his 30-year career, John McCarthy was a staunch champion of Rappahannock County's comprehensive plan, promoting conservation and the preservation of the county's scenic beauty and agriculturally based economy; and

WHEREAS, among John McCarthy's accomplishments as county administrator were his work building the county's first landfill, purchasing and selling the former Aileen Factory property, keeping biosolids out of the county, and thwarting residential subdivisions and commercial developments; and

WHEREAS, John McCarthy was well-known for his wry sense of humor and his love of the Chicago Cubs, who won the World Series the same year as his retirement; he served as county administrator for an unusually long period of time, which is a testament to the respect he earned from community leaders; and

WHEREAS, John McCarthy has served his community through numerous civic leadership positions, including past stints as chair of the Virginia Municipal Liability Insurance Programs, the Northern Piedmont Community Foundation, and the Rappahannock-Rapidan Regional Commission; and

WHEREAS, John McCarthy currently serves as chair of the PATH Foundation and as a member of the Fauquier Hospital and the Fauquier Health System Board of Directors; and

WHEREAS, a resident of Fauquier County, John McCarthy's career and service to Rappahannock County could not have been possible without the love and support of his wife, Susan, and their four daughters; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend John W. McCarthy III on his three decades of extraordinary service as Rappahannock County Administrator; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to John W. McCarthy III as an expression of the General Assembly's admiration for his long career in public service.

**SENATE JOINT RESOLUTION NO. 374***Commending Alexandra Blaire Krieger.*

Agreed to by the Senate, February 9, 2017  
 Agreed to by the House of Delegates, February 17, 2017

WHEREAS, Alexandra Blaire Krieger, a native of Alexandria, proudly represented the United States and the Commonwealth at the Games of the XXXI Olympiad in Rio de Janeiro in 2016 as a member of the women's soccer team; and

WHEREAS, Alexandra "Ali" Krieger grew up in Dumfries, Virginia, and graduated from Forest Park High School in Prince William County, where she led the girls' soccer team to its first undefeated season and was named *Washington Post* Player of the Year as a senior; and

WHEREAS, Ali Krieger attended Pennsylvania State University, where she was named Big Ten Freshman of the Year, helped to lead the team to National Collegiate Athletic Association tournament appearances each year, received All-Big Ten First Team Honors three of four years, received All-NSCAA First Team Honors, and was named Team Captain her senior year; she was the only Nittany Lion to win All-Big-Ten Honors at two different positions; and

WHEREAS, since 2004, Ali Krieger has played professional soccer in the United States and Germany with FFC Frankfurt, the Washington Freedom, the Washington Spirit, and Tyresö FF and currently plays for the Orlando Pride in the National Women's Soccer League; and

WHEREAS, Ali Krieger was named as an alternate for the women's national team during the 2008 Olympic Games, played all 600 minutes on the 2011 FIFA World Cup runner-up women's team and played all but 10 minutes on the 2015 FIFA World Cup champion women's team, where she led a defense that allowed only three goals the entire tournament; and

WHEREAS, during the 2016 Olympic Games, Ali Krieger and the United States women's national team advanced to the quarterfinals of the soccer tournament; and

WHEREAS, known by her teammates by her nickname, "Warrior Princess," Ali Krieger is a model athlete and community leader; she has supported MiracleFeet, which provides shoes and treatment to children with clubfoot in developing countries around the world; Garth Brooks Teammates for Kids Foundation, where she mentored children in

various programs; and the nonprofit organization Athlete Ally, which works to create an accepting environment in sports for all athletes; and

WHEREAS, Ali Krieger is an inspiration to girls, women, and soccer players throughout the Commonwealth, the United States, and the world, and in recognition of her exceptional achievements, a new sports park containing the first soccer fields in the Potomac District of Prince William County has been chosen to be named the Ali Krieger Sports Complex in her honor; and

WHEREAS, throughout the course of her soccer career and during the Olympic Games in particular, Ali Krieger has enjoyed the passionate support of her family, friends, coaches, and the members of the Northern Virginia community; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Alexandra Blaire Krieger on representing the United States and the Commonwealth as a member of the women's soccer team at the Games of the XXXI Olympiad; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Alexandra Blaire Krieger as an expression of the General Assembly's admiration for her outstanding achievements as a member of Team USA.

### SENATE JOINT RESOLUTION NO. 375

*Commending the Honorable Jane Marum Roush.*

Agreed to by the Senate, February 9, 2017

Agreed to by the House of Delegates, February 17, 2017

WHEREAS, the Honorable Jane Marum Roush of Arlington, a former judge of the Fairfax Circuit Court and justice of the Supreme Court of Virginia, has served the Commonwealth with dedication and distinction for more than 35 years; and

WHEREAS, Jane Roush was raised in Fairfax County as the fourth of five children of an elementary school principal and a United States Department of Justice lawyer; she attended the St. Leo the Great School for elementary and middle grades and Oakton High School; and

WHEREAS, after earning a bachelor's degree from Wellesley College and a law degree from the University of Virginia, Jane Roush began her legal career in 1981 with Boothe, Prichard & Dudley, specializing in bankruptcy litigation and general business law; and

WHEREAS, beginning in 1985, Jane Roush practiced commercial litigation in state and federal courts, as well as general commercial law, lending, and real estate transactions cases for Hogan & Hartson, LLP; and

WHEREAS, in 1993, Jane Roush was appointed as a judge of the Fairfax Circuit Court of the 19th Judicial Circuit of Virginia, where she presided with great fairness and wisdom until 2015; and

WHEREAS, Jane Roush wrote 160 opinions that have been widely cited across the Commonwealth and ably and capably presided over numerous difficult and contentious trials, including the trial of the "D.C. Sniper," Lee Boyd Malvo, the triple murder case of Charles Severance, and the *Colgate v. The Disthene Group, Inc.* trial, which set new Virginia standards for the dissolution of closely held corporations; and

WHEREAS, in July 2015, Jane Roush was appointed as an interim justice of the Supreme Court of Virginia and ably served the Commonwealth in that capacity until February 2016; she currently serves as a mediator at the McCammon Group in Richmond; and

WHEREAS, Jane Roush has been an active member of the Fairfax Bar Association, Virginia Bar Association, and Virginia State Bar since 1981 and a member of the Virginia Women Attorneys Association since 1995; in 2017, she was named as a fellow of the Virginia Law Foundation; and

WHEREAS, Jane Roush has inspired and educated her fellow attorneys and judges as a faculty member of the National Judicial College, American Academy of Judicial Education, and Virginia College of Trial Advocacy, as a lecturer for the Virginia State Bar and Supreme Court of Virginia, and as a longtime co-editor of the Virginia Civil and Criminal Benchbook; and

WHEREAS, Jane Roush has served the Commonwealth as a member of the Judicial Council of Virginia, the Virginia Code Commission, the Judicial Conference of Virginia, and numerous other committees, commissions, and task forces; and

WHEREAS, Jane Roush is an exemplar of the integrity, professionalism, and unerring commitment to service demonstrated by attorneys and judges throughout the Commonwealth; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the Honorable Jane Marum Roush for her service to the Commonwealth as a judge of the Fairfax Circuit Court of the 19th Judicial Circuit of Virginia and a justice of the Supreme Court of Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Honorable Jane Marum Roush as an expression of the General Assembly's admiration for her distinguished legal career.

**SENATE JOINT RESOLUTION NO. 376**

*Celebrating the life of Michael Moore Skinner.*

Agreed to by the Senate, February 9, 2017  
 Agreed to by the House of Delegates, February 17, 2017

WHEREAS, Michael Moore Skinner of Fairfax County, a beloved teacher, coach, administrator, and the "Golden Voice of the Majors" for decades at Mount Vernon High School in Alexandria, died on October 17, 2016; and

WHEREAS, Michael "Mike" Skinner served in the United States Navy in World War II aboard the USS *Washington*, manning one of the ship's 16-inch 45 caliber Mark 6 guns; and

WHEREAS, Mike Skinner graduated from Shepherd College in Shepherdstown, West Virginia, where he was a basketball standout, and received a master's degree in education from The George Washington University; and

WHEREAS, Mike Skinner began his long and illustrious career at Mount Vernon High School in 1955 and, over the course of the next 28 years, he taught social studies, physical education, and driver education, served as an administrator, and coached varsity basketball, junior varsity basketball, golf, and 8th grade football; and

WHEREAS, upon Mike Skinner's retirement in 1983, the Fairfax County School Board named the field house at Mount Vernon High School in his honor, citing the significant role he played in the growth and development of the school over almost three decades; and

WHEREAS, then-Governor Charles S. Robb, an alumnus of Mount Vernon High School, congratulated Mike Skinner on his retirement, thanking him for his dedication to enriching the lives of the students fortunate enough to cross his path; and

WHEREAS, even after his retirement from teaching full time, Mike Skinner was still a regular presence at Mount Vernon High School, announcing basketball games, wrestling tournaments, football games, and band competitions; and

WHEREAS, Mike Skinner's decades of service as the public address announcer for sporting events and other activities at Mount Vernon High School earned him the title "Golden Voice of the Majors," and he was known for the spirited and exciting delivery with which he delivered his commentary; and

WHEREAS, Mike Skinner attended Mount Vernon High School graduations for almost 60 years, was inducted into the Mount Vernon High School Hall of Fame, and was instrumental in raising money for turf fields and in getting lights for the school's football stadium; and

WHEREAS, a longtime resident of the Mount Vernon District of Fairfax County, Mike Skinner was a community institution in the area where he lived and worked; he belonged to Washington Farm United Methodist Church and Mount Vernon Country Club; and

WHEREAS, Mike Skinner will be fondly remembered and greatly missed by his wife of 47 years, Lucy; children, Michelle, Michael, and Beverly, and their families; and many other relatives and friends from the Mount Vernon community and beyond; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Michael Moore Skinner, a beloved teacher, coach, administrator, the "Golden Voice of the Majors," and an institution for decades at Mount Vernon High School; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Michael Moore Skinner as an expression of the General Assembly's respect for his memory.

**SENATE JOINT RESOLUTION NO. 377**

*Commending Occoquan Elementary School.*

Agreed to by the Senate, February 9, 2017  
 Agreed to by the House of Delegates, February 17, 2017

WHEREAS, Occoquan Elementary School is celebrating the 90th anniversary of its founding in 2017; and

WHEREAS, Occoquan first established a town school between 1867 and 1899, and the original two-room schoolhouse still stands on Commerce Street downtown; and

WHEREAS, the cornerstone for the current school building was laid on May 18, 1927, making Occoquan Elementary School the oldest public school still in use in Prince William County; and

WHEREAS, Occoquan became an elementary school in the 1960s, and the original school building on Commerce Street has been expanded four times over the course of its history; and

WHEREAS, today, Occoquan Elementary School has an enrollment of 610 students and employs 70 staff members; it is designated as a Title I School based on the percentage of children from economically disadvantaged families; and

WHEREAS, Occoquan Elementary School was recognized as a National Title I Distinguished School for the 2016–2017 school year, and it is the first school in Prince William County to earn this respected distinction; and

WHEREAS, Occoquan Elementary School was selected for the National Title I Distinguished School honor based on its superior service to special student populations, such as English language learners and students with disabilities; and

WHEREAS, Occoquan Elementary School is highly regarded for its exceptional instructional programming, the opportunities it provides for student success, and the partnerships it has forged with the families in the community it serves; and

WHEREAS, Occoquan Elementary School's Standards of Learning (SOL) pass rates ranged from 82 percent to 96 percent for the 2015–2016 school year, and the school is fully accredited under the Commonwealth's education accountability program; and

WHEREAS, Occoquan Elementary School uses team approaches to teaching and learning, offers focused professional development opportunities for staff, and develops individualized programs for student success; and

WHEREAS, Occoquan Elementary School has been named a Prince William County School of Excellence for 11 years; for the past two years, it has received Teacher Incentive Performance Awards; and

WHEREAS, Occoquan Elementary School has been served by 13 principals over the past nine decades, and the school's sustained record of excellence is a credit to the teamwork and dedication displayed by an outstanding staff; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Occoquan Elementary School on the occasion of the 90th anniversary of its founding; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Hamish Brewer, principal of Occoquan Elementary School, as an expression of the General Assembly's admiration for the school's important history and best wishes for its bright future.

### SENATE JOINT RESOLUTION NO. 378

*Commending the Old Dominion University football team.*

Agreed to by the Senate, February 9, 2017

Agreed to by the House of Delegates, February 17, 2017

WHEREAS, the Old Dominion University football team earned its first-ever bowl victory in December of 2016 with a 24–20 decision over Eastern Michigan University in the Popeyes Bahamas Bowl; and

WHEREAS, the Old Dominion University (ODU) Monarchs were able to accomplish this feat in their first-ever bowl appearance; and

WHEREAS, the ODU Monarchs completed the 2016 season with a 10–3 record, one of just 26 teams in the country at the FBS level to accomplish that feat; and

WHEREAS, running back Ray Lawry was named the Popeyes Bahamas Bowl MVP, rushing for 133 yards, while TJ Ricks was named Defensive MVP with nine tackles and a tackle for loss; and

WHEREAS, the Popeyes Bahamas Bowl victory capped off a 2016 season that saw the ODU Monarch football program complete its first FBS undefeated home season and extend its home sellout streak to 54 consecutive games; and

WHEREAS, the Popeyes Bahamas Bowl reached an estimated three million people nationally on ESPN; ODU had 1.8 million impressions on social media, and the game was the fifth most watched event on cable television that day; and

WHEREAS, the ODU Monarchs' best FBS season to date is a testament to the drive, skill, and character of the student-athletes, the expertise and leadership of the coaching and support staff, and the support of the University administration; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the Old Dominion University football team on winning its first-ever bowl game; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to John Broderick, president of Old Dominion University, and Bobby Wilder, head coach of the Old Dominion University football team, as an expression of the General Assembly's admiration for the team's success.

### SENATE JOINT RESOLUTION NO. 379

*Commending Third Baptist Church.*

Agreed to by the Senate, February 9, 2017

Agreed to by the House of Delegates, February 17, 2017

WHEREAS, in 2017, Third Baptist Church in Petersburg is celebrating the 175th anniversary of its founding and its rich history as one of the oldest black independent churches in the Commonwealth; and

WHEREAS, in 1842, several members of Gillfield Baptist Church formed Third Colored Church, which would later become Third Baptist Church; and

WHEREAS, the Third Baptist Church congregation was made up almost entirely of free blacks, although black churches were required to retain white leadership at the time; and

WHEREAS, the congregation first gathered at the Old Market Street Church, then, after the Civil War, Third Baptist Church purchased an old schoolhouse at Lavender Lane and Rock Street to use as a church; and

WHEREAS, among the earliest preachers at Third Baptist Church was the Reverend John Jasper, one of the most famous black ministers of the nineteenth century; and

WHEREAS, in 1961, Third Baptist Church purchased the former Wesley Methodist Church and moved to its location at 630 Halifax Street; and

WHEREAS, the Reverend Leroy A. Cherry became pastor of Third Baptist Church in 1996, when the church was in a transitional stage and facing declining membership and a deteriorating building; and

WHEREAS, over the following years, Third Baptist Church undertook substantial renovations and upgrades; however, Pastor Cherry's ultimate vision was for the congregation to return closer to its original home; and

WHEREAS, Third Baptist Church moved to a new church at its present location at 550 Farmer Street in 2006, and plans for a building expansion are currently underway; and

WHEREAS, under the faithful leadership of Pastor Cherry, the membership of Third Baptist Church has grown tremendously, the ministries have expanded considerably, and the church has grown stronger in love and truth; and

WHEREAS, Pastor Cherry built a strong deacon board and during his leadership the church ordained its first female minister, the Reverend Linda Drummond, in 2012; and

WHEREAS, Third Baptist Church is thriving today; each week the congregants gather for joyful worship in the Baptist tradition, for generous fellowship and community outreach, and to give thanks for the many blessings that continue to flow; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Third Baptist Church in Petersburg on celebrating its 175th anniversary in 2017; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Third Baptist Church as an expression of the General Assembly's admiration for its significant history and contributions to the Commonwealth.

#### SENATE JOINT RESOLUTION NO. 381

*Commending Gabrielle Christina Victoria Douglas.*

Agreed to by the Senate, February 9, 2017  
Agreed to by the House of Delegates, February 17, 2017

WHEREAS, Gabrielle Christina Victoria Douglas of Virginia Beach proudly represented the United States and the Commonwealth at the Games of the XXXI Olympiad in Rio de Janeiro in 2016, winning a gold medal in the women's gymnastics team all-around event; and

WHEREAS, Gabrielle "Gabby" Douglas discovered her passion for gymnastics early in life and won her first state championship when she was only eight years old; with her family's blessing, she left home to train under a world-renowned gymnastics coach in Iowa; and

WHEREAS, a two-time Olympian, Gabby Douglas previously earned two gold medals at the 2012 Olympic Games, when she became the first American to win gold in both the individual and team all-around events and the first African American to win a gold medal in the women's individual all-around event; and

WHEREAS, at the 2016 Olympic Games, Gabby Douglas helped to lead the women's gymnastics team to its second consecutive gold medal finish with a commanding performance; as members of the last United States Olympic women's gymnastics team that will include five gymnasts, Gabby Douglas and her teammates christened themselves the Final Five; and

WHEREAS, throughout her gymnastics career and during the Olympic Games in particular, Gabby Douglas enjoyed the enthusiastic support of her family, friends, coaches, and the members of the Virginia Beach community; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Gabrielle Christina Victoria Douglas on winning a gold medal in the women's gymnastics team all-around event at the Games of the XXXI Olympiad; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Gabrielle Christina Victoria Douglas as an expression of the General Assembly's admiration for her outstanding achievements as a member of Team USA.

#### SENATE JOINT RESOLUTION NO. 382

*Celebrating the life of Stephen Winston Bricker.*

Agreed to by the Senate, February 16, 2017  
Agreed to by the House of Delegates, February 20, 2017

WHEREAS, Stephen Winston Bricker of Richmond, a distinguished attorney and a passionate advocate for social justice, who dedicated his life to the service of others, died on October 11, 2016; and

WHEREAS, a native of Richmond, Stephen Bricker grew up in Arlington and graduated from the American School in Japan after his family moved to Tokyo; and

WHEREAS, Stephen Bricker earned degrees from Ohio Wesleyan University and the University of Virginia, where he worked with the American Civil Liberties Union (ACLU) to establish a post-conviction assistance program for inmates who did not have the money to support their own legal defense; and

WHEREAS, Stephen Bricker's post-conviction assistance program became a model for other law schools, and he fought for inmates' rights in several high-profile cases; and

WHEREAS, in 1974, Stephen Bricker was hired by the ACLU to lead the Children's Rights Project of Virginia, a unique program that helped more than 8,000 children in state foster care to be put up for adoption; and

WHEREAS, from 1975 to 1976, as a member of the Virginia Advisory Legislative Council, Stephen Bricker participated in the revision of the Code of Virginia related to juvenile justice, drafting sections on child neglect, foster care review, and the termination of parental rights; and

WHEREAS, Stephen Bricker co-led an ACLU voting rights program that was responsible for 18 cases filed in Virginia after the amendments to the Voting Rights Act in 1982; and

WHEREAS, a partner in the Richmond firm Bricker Anderson, PC, Stephen Bricker served as a former president of the Virginia Trial Lawyers Association and on the boards of the Central Virginia Legal Aid Society and the Commonwealth Community Trust; in addition, he offered his leadership to the Richmond Behavioral Health Authority and the Neighborhood Legal Aid Society; and

WHEREAS, Stephen Bricker will be fondly remembered and greatly missed by his wife, Janet; children, Louis and Melina, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Stephen Winston Bricker, a respected attorney and a tireless advocate for social justice; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Stephen Winston Bricker as an expression of the General Assembly's respect for his memory.

### SENATE JOINT RESOLUTION NO. 383

*Commending Alpha Phi Alpha Fraternity, Inc.*

Agreed to by the Senate, February 16, 2017

Agreed to by the House of Delegates, February 20, 2017

WHEREAS, in 2016, Alpha Phi Alpha Fraternity, Inc., celebrated the 110th anniversary of its founding as the first intercollegiate Greek letter fraternity established for African American men; and

WHEREAS, Alpha Phi Alpha was founded on December 4, 1906, at Cornell University in Ithaca, New York, by seven college men, known as the "Jewels" of the fraternity, who recognized the need for a strong bond of brotherhood among African descendants; and

WHEREAS, Alpha Phi Alpha chapters were soon established at other colleges and universities, many of them historically black institutions; and

WHEREAS, the Commonwealth is home to 37 Alpha Phi Alpha chapters, including the Gamma Chapter at Virginia Union University, which was founded in 1907 and is the fraternity's third-oldest chapter; and

WHEREAS, the mission of Alpha Phi Alpha is to develop leaders and promote brotherhood and academic excellence, while providing service to and advocacy for their surrounding communities; and

WHEREAS, Alpha Phi Alpha initially served as a study and support group for minority students who faced racial prejudice at Cornell University and, throughout its history, members of the fraternity have recognized the need to help correct the educational, economic, political, and social injustices faced by African Americans; and

WHEREAS, members of Alpha Phi Alpha have stood at the forefront of the Civil Rights movement and have supplied voice and vision to the struggle of African Americans and people of color around the world; and

WHEREAS, Alpha Phi Alpha has accepted men of all races since 1945 and the fraternity's motto is: "First of All, Servants of All, We Shall Transcend All"; and

WHEREAS, Alpha Phi Alpha programs and charitable activities include the "Go-to-High-School, Go-to-College" campaign, Project Alpha, and the Martin Luther King, Jr. National Memorial project; and

WHEREAS, the origins of the Virginia Association of Chapters of Alpha Phi Alpha Fraternity (VACAPAF) can be traced to 1943, when the president of what was then Virginia State College (now Virginia State University) invited two college chapters and six alumni chapters to meet at the college; and

WHEREAS, the first statewide convention of Alpha Phi Alpha chapters in Virginia was held on February 14, 1959, in Richmond, and it led to the formal organization of the Virginia Conference of Alpha Phi Alpha Chapters, which is now known as the VACAPAF; and

WHEREAS, six men from the Commonwealth have previously served as Alpha Phi Alpha Eastern Region vice presidents; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Alpha Phi Alpha Fraternity, Inc., on celebrating 110 years of scholarship, fellowship, good character, and the uplifting of humanity in 2016; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Alpha Phi Alpha Fraternity, Inc., as an expression of the General Assembly's admiration for the fraternity's proud history of service and manly deeds.

### SENATE JOINT RESOLUTION NO. 384

*Celebrating the life of Thomas Paul Dean.*

Agreed to by the Senate, February 16, 2017  
Agreed to by the House of Delegates, February 20, 2017

WHEREAS, lifelong Clifton Forge resident Thomas Paul Dean, the owner of a local insurance and real estate agency and a highly respected civic leader, died on July 20, 2016; and

WHEREAS, Thomas "Tom" Dean, a son of Aubrey and Jean Dean, graduated from Clifton Forge High School in 1967; and

WHEREAS, Tom Dean was a member of the Clifton Forge High School Mountaineers basketball team that captured the Group II state championship title and finished the season with a perfect 23–0 record in 1966; and

WHEREAS, Tom Dean returned to Clifton Forge after graduating from The Catholic University of America in 1971, and became a licensed real estate broker and insurance agent, joining his father at the firm Racey & Dean, Inc., of which he became president in 1997; and

WHEREAS, Tom Dean dearly loved the Clifton Forge community and sought out ways to give back to its citizens as often as he possibly could; and

WHEREAS, at the time of his death, Tom Dean served on the advisory board of First Citizens Bank in Clifton Forge, was chair of the Clifton Forge Industrial Development Authority, and was a member of St. Joseph Catholic Church in Clifton Forge; and

WHEREAS, Tom Dean was a past president of the Clifton Forge Chamber of Commerce, the Clifton Forge Merchants and Professional Associates, and the Clifton Forge Kiwanis Club; and

WHEREAS, Tom Dean had been a member of the board of directors of the Alleghany Highlands Economic Development Authority, a position he was appointed to by Governors L. Douglas Wilder, George Allen, and Jim Gilmore; and

WHEREAS, Tom Dean served on the Alleghany Highlands School Board from 1986 to 1994, and he was a board member and later advisor to the Jackson River Technical Center; and

WHEREAS, from 1976 to 1983, Tom Dean was the voice of the Clifton Forge High School Mountaineers, announcing the school's football and basketball games on behalf of a local radio station; and

WHEREAS, Tom Dean will be fondly remembered and greatly missed by his wife, Mary Anne; daughters, Catherine and Kelly; grandsons, Brian and Gabriel; and a host of other relatives and good friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Thomas Paul Dean, a highly respected civic leader and local insurance and real estate agency owner in Clifton Forge; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Thomas Paul Dean as an expression of the General Assembly's respect for his memory.

### SENATE JOINT RESOLUTION NO. 385

*Commending Peggy Whitehead.*

Agreed to by the Senate, February 16, 2017  
Agreed to by the House of Delegates, February 20, 2017

WHEREAS, Peggy Whitehead is retiring in 2017, after a successful 25-year career at Blue Ridge Medical Center in Nelson County; and

WHEREAS, Peggy Whitehead earned a degree in sociology from The College of William and Mary; she previously worked in Lynchburg with the Virginia Employment Commission and then in the prevention department of the Central Virginia Community Services Board; and

WHEREAS, Peggy Whitehead came to work at Blue Ridge Medical Center in 1991, as a community organizer on the Rural Health Outreach team, and in that position she went door-to-door talking with residents about the importance of preventive health care; and

WHEREAS, Peggy Whitehead became interim administrator of Blue Ridge Medical Center in 2004, and a year later she was named administrator; over the past decade, the title of administrator was changed to executive director and then to chief executive officer; and

WHEREAS, under Peggy Whitehead's leadership, Blue Ridge Medical Center has grown and expanded to become a first-class medical center and employer of 93 individuals; and

WHEREAS, during Peggy Whitehead's tenure as CEO, Blue Ridge Medical Center moved to a new state-of-the-art facility in 2011, added pediatric and dental programs in 2012, expanded its behavioral health program in 2015, and established a patient education center in the Arrington facility in 2016; and

WHEREAS, Peggy Whitehead's duties as CEO include ensuring Blue Ridge Medical Center runs smoothly on a daily basis, working on content management systems, maintaining communication with staff, improving patient experiences, and grant writing and reporting; she has done an outstanding job in all areas; and

WHEREAS, Peggy Whitehead is tireless and utterly committed to providing and maintaining a viable and caring medical facility, and her compassion, dedication, and hard work are unwavering; and

WHEREAS, Peggy Whitehead has always been a social worker at heart, and she loves helping people in order to make their lives better; and

WHEREAS, Peggy Whitehead is grateful to her co-workers, fellow leaders, and the Blue Ridge Medical Center board of directors for all of their support over the course of her career; and

WHEREAS, when she retires in October 2017, Peggy Whitehead looks forward to spending more time with her family, including her three grandchildren, as well as traveling, reading, knitting, and taking in the scenery driving the back roads of Nelson County; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Peggy Whitehead, the chief executive officer of Blue Ridge Medical Center, on her retirement after a successful 25-year career; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Peggy Whitehead as an expression of the General Assembly's admiration for her dedication and life's work in providing affordable and quality health care to the citizens of Nelson County.

### SENATE JOINT RESOLUTION NO. 386

*Commending Dr. Kenneth S. Kendler.*

Agreed to by the Senate, February 16, 2017

Agreed to by the House of Delegates, February 20, 2017

WHEREAS, in 1996, the Virginia Institute for Psychiatric and Behavioral Genetics at Virginia Commonwealth University was created for the purpose of promoting excellence in psychiatric genetics research through the creation of closely interrelated research groups within the Commonwealth; and

WHEREAS, the mission of the Virginia Institute for Psychiatric and Behavioral Genetics (VIPBG) is to study the etiology of major biopsychosocial disorders affecting people throughout the Commonwealth and the world; and

WHEREAS, the VIPBG's investigators aim to understand the interplay of genetics with environmental and other factors in mental health, to educate the next generation of researchers, and to share findings with the scientific community via publications and conference presentations; and

WHEREAS, for 21 years, the VIPBG has evolved into an exciting, highly collaborative research environment with a strong record of funding, research, and training, including more than 140 predoctoral and postdoctoral students over the past decade; and

WHEREAS, the VIPBG has an internationally known Ph.D. program in psychiatric, behavioral, and statistical genetics with eight current students, and the VIPBG holds two training grants from the National Institute of Mental Health and the National Institute on Drug Abuse, supporting six predoctoral and six postdoctoral researchers; and

WHEREAS, the VIPBG is a world-renowned center for training in statistical methods for the analysis of genetic data, and its graduates now occupy positions at prestigious institutions; and

WHEREAS, in 2016, the *Journal of the American Medical Association* recognized the director of VIPBG, Dr. Kenneth S. Kendler, as the number one high value author in the world in psychiatry and psychology from 2011 to 2016; and

WHEREAS, in 2015, Dr. Kendler was awarded The Rhonda and Bernard Sarnat Internal Prize in Mental Health for his "pioneering research at the intersection of genetic factors and mental disorders," and he has accordingly "dedicated his career to unraveling the genetic pathways that make certain people vulnerable to devastating psychiatric and drug abuse disorders," working with an international research team to discover two genetic locations that may be linked to major depression; and

WHEREAS, Dr. Kendler is the author of more than 900 peer-reviewed journal articles, the editor of the international journal, *Psychological Medicine*, and has been a major contributor to multiple editions of the *Diagnostic and Statistical Manual of the American Psychiatric Association*; his honors include a Lifetime Achievement Award from the International Society of Psychiatric Genetics and the Jean Delay Prize from the World Psychiatric Association; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Dr. Kenneth S. Kendler for his work at Virginia Commonwealth University on the occasion of the 21st anniversary of the Virginia Institute for Psychiatric and Behavioral Genetics; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare copies of this resolution for presentation to Dr. Kenneth S. Kendler, to Michael Rao, president of Virginia Commonwealth University, and to Marsha Rappley, vice president of

health sciences and chief executive officer of the Virginia Commonwealth University Health System, as an expression of the General Assembly's congratulations and admiration for cultivating an enthusiasm for medical training and research throughout the Commonwealth, the United States, and the world.

**SENATE JOINT RESOLUTION NO. 387**

*Commending Elizabeth Minor.*

Agreed to by the Senate, February 16, 2017  
 Agreed to by the House of Delegates, February 20, 2017

WHEREAS, Elizabeth Minor, a respected and hardworking public servant, retired as mayor of Winchester in 2016 after 36 years of exceptional leadership in local government; and

WHEREAS, Elizabeth Minor joined the Winchester City Council in 1980 and served as vice mayor from 1994 to 2004, when she was elected mayor; and

WHEREAS, during Elizabeth Minor's tenure, Winchester has grown into one of the Commonwealth's premier communities, known as an excellent place to live, work, and raise a family; and

WHEREAS, Elizabeth Minor oversaw enhancements to Winchester Public Schools, Jim Barnett Park, Old Town Winchester, and the Loudoun Street Walking Mall and the beautification of the city's gateways; and

WHEREAS, fiscal responsibility was a hallmark of Elizabeth Minor's 12 years as mayor, and the city received the Distinguished Budget Presentation Award from the Government Finance Officers Association of the United States and Canada for four consecutive years; and

WHEREAS, Elizabeth Minor built deep, personal connections with the residents of Winchester, speaking at countless gatherings and local events and using her leadership abilities to inspire and unify people of all ages, races, and backgrounds; and

WHEREAS, Elizabeth Minor is an exemplar of the professionalism and care for the members of the community demonstrated by public servants and local government officials throughout the Commonwealth; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Elizabeth Minor on the occasion of her retirement as mayor of Winchester; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Elizabeth Minor as an expression of the General Assembly's admiration for her service to the Winchester community and the Commonwealth.

**SENATE JOINT RESOLUTION NO. 389**

*Commending the Nelson County Future Farmers of America Forestry Judging team.*

Agreed to by the Senate, February 16, 2017  
 Agreed to by the House of Delegates, February 20, 2017

WHEREAS, the Nelson County Future Farmers of America Forestry Judging team earned a second-place award at the 89th National FFA Convention and Expo in October 2016; and

WHEREAS, the Nelson County Future Farmers of America (FFA) Forestry Judging team won its first local event in 2015 and was well-prepared for the state competition in Clarksville in May 2016; and

WHEREAS, after winning the state title, the Nelson County FFA Forestry Judging team continued to demonstrate exceptional dedication, spending many late nights practicing for the national convention in Indianapolis, Indiana; and

WHEREAS, the members of the Nelson County FFA Forestry Judging team ably represented the Nelson County community and the Commonwealth at the national convention, with Ruth Fitzgerald earning the top individual score in the nation; and

WHEREAS, each member of the Nelson County FFA Forestry Judging team contributed to the second-place finish; Jacob Phillips placed second, Kelsy Fitzgerald placed 14th, and Steven Tyree placed 29th; and

WHEREAS, the Nelson County FFA Forestry Judging team succeeded with the help and guidance of private and commercial foresters, particularly Billy Newman from EnviroFor, LLC, and Lori Chamberlin, Charles Becker, and Martha Warring from the Department of Forestry, as well as the leadership of Ed McCann, Sr., who retired on January 1, 2017, after 38 years of service to the students of Nelson County; and

WHEREAS, the members of the Nelson County FFA Forestry Judging team have gained valuable experience and skills that will help them better serve the Commonwealth as farmers, preservationists, and citizens; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the Nelson County Future Farmers of America Forestry Judging team on winning a second-place award at the 89th National FFA Convention and Expo; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Ed McCann, Sr., head coach of the Nelson County Future Farmers of America Forestry Judging team, as an expression of the General Assembly's admiration for the team's achievements.

### SENATE JOINT RESOLUTION NO. 390

*Confirming appointments by the Governor of certain persons communicated February 7, 2017.*

Agreed to by the Senate, February 16, 2017

Agreed to by the House of Delegates, February 21, 2017

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly confirm the following appointments of certain persons made by Governor Terry McAuliffe after January 7, 2017, and communicated to the General Assembly February 7, 2017.

#### AGRICULTURE AND FORESTRY

##### Charitable Gaming Board

**Amy L. Solares**, 4336 Cattingham Lane, **Virginia Beach**, Virginia 23456, Member, appointed January 25, 2017, to serve an unexpired term beginning September 14, 2016, and ending June 30, 2018, to succeed Elizabeth A. Sword.

##### Peanut Board

**James Andrew Darden**, 6407 Joyner's Bridge Road, **Carrsville**, Virginia 23315, Member, appointed January 26, 2017, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Robert O. Alphin.

#### AUTHORITIES

##### Hampton Roads Sanitation District Commission

**Ann W. Templeman**, 61 Linden Avenue, **Hampton**, Virginia 23669, Member, appointed January 25, 2017, to serve an unexpired term beginning January 6, 2017, and ending June 7, 2020, to succeed Susan M. Rotkis.

#### COMMERCE AND TRADE

##### Board for Hearing Aid Specialists and Opticians

**Laura L. Kleiner**, 101 Stafford Street, **Staunton**, Virginia 24401, Member, appointed January 25, 2017, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Faye Prichard.

##### Cemetery Board

**Donald L. Hart, Jr.**, 18389 North Street, **Keller**, Virginia 23401, Member, appointed January 19, 2017, to serve an unexpired term beginning September 25, 2016, and ending June 30, 2017, to succeed Kyle McDaniel.

**James A. Meadows, Jr.**, 508 Harold's Drive, **Manakin-Sabot**, Virginia 23103, Member, appointed January 12, 2017, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed David L. Gilliam.

**Randolph T. Minter**, 7253 Windsor Court, **Warrenton**, Virginia 20186, Member, appointed January 12, 2017, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed himself.

##### Commission on Local Government

**R. Michael Amyx**, 11850 Aberdeen Landing Terrace, **Midlothian**, Virginia 23113, Member, appointed February 1, 2017, for a term of five years beginning January 1, 2017, and ending December 31, 2021, to succeed John T. Stirrup.

##### Real Estate Appraiser Board

**Janel E. Hofler**, 5603 Darby Close, **Portsmouth**, Virginia 23703, Member, appointed January 26, 2017, for a term of four years beginning April 3, 2016, and ending April 2, 2020, to succeed H. René Fonseca.

**Chris King**, 3313 Wyndham Circle #2219, **Alexandria**, Virginia 22302, Member, appointed January 26, 2017, for a term of four years beginning April 3, 2016, and ending April 2, 2020, to succeed Christopher S. Call.

**Rex E. McCarty**, 236 Homeplace Drive, **Gate City**, Virginia 24251, Member, appointed January 26, 2017, for a term of four years beginning April 3, 2016, and ending April 2, 2020, to succeed H. Glenn James.

**Richard D. Stuchell**, 10012 Shadowridge Court, **Fredericksburg**, Virginia 22407, Member, appointed January 26, 2017, for a term of four years beginning April 3, 2016, and ending April 2, 2020, to succeed Scott Mayausky.

##### Real Estate Board

**Margaret D. Davis**, 1404 12th Street North, Apartment 22, **Arlington**, Virginia 22209, Member, appointed January 25, 2017, for a term of four years beginning July 1, 2016, and ending June 30, 2020, to succeed Jennifer Barton Boysko.

**Ibrahim A. Moiz**, 20747 Bridalveil Falls Terrace, **Sterling**, Virginia 20165, Member, appointed January 25, 2017, to serve an unexpired term beginning June 16, 2016, and ending June 30, 2018, to succeed Antonio M. Elias.

##### Virginia Apprenticeship Council

**Edwin Leigh Armistead**, 1624 Wakefield Drive, **Virginia Beach**, Virginia 23455, Member, appointed January 12, 2017, for a term of three years beginning June 21, 2016, and ending June 20, 2019, to succeed Steven Foster.

**Robert B. Benson**, 18 Ivy Spring Lane, **Fredericksburg**, Virginia 22406, Member, appointed January 19, 2017, for a term of three years beginning June 21, 2016, and ending June 20, 2019, to succeed himself.

**R. Dudley Harris**, 129 James River Drive, **Newport News**, Virginia 23601, Member, appointed January 19, 2017, for a term of three years beginning June 21, 2015, and ending June 20, 2018, to succeed himself.

**Terry Richard Kelly**, 1909 Marcia Court, **Virginia Beach**, Virginia 23464, Member, appointed January 19, 2017, for a term of three years beginning June 21, 2016, and ending June 20, 2019, to succeed himself.

**Rebecca R. Leinen**, 658 Merry Oaks Lane, **Palmyra**, Virginia 22963, Member, appointed January 19, 2017, for a term of three years beginning June 21, 2016, and ending June 20, 2019, to succeed John F. Biagas.

**Michael L. Mays**, 1846 Lovers Lane, **Vinton**, Virginia 24179, Member, appointed January 19, 2017, for a term of three years beginning June 21, 2016, and ending June 20, 2019, to succeed himself.

#### COMPACTS

##### Education Commission of the States

**Kristen J. Amundson**, 3803 Shannons Green Way, **Alexandria**, Virginia 22309, Member, appointed January 27, 2017, to serve at the pleasure of the Governor, to succeed Antoine Green.

**Peter A. Blake**, 8847 Riverside Drive, **Richmond**, Virginia 23235, Member, appointed January 27, 2017, to serve at the pleasure of the Governor, to succeed Artur Davis.

**Steven R. Staples**, Post Office Box 2120, **Richmond**, Virginia 23218, Member, appointed January 27, 2017, to serve at the pleasure of the Governor, to succeed Patricia Wright.

**Joan E. Wodiska**, 166 Rees Place, **Falls Church**, Virginia 22046, Member, appointed January 27, 2017, to serve at the pleasure of the Governor, to succeed Patricia Harvey.

##### State Council for Interstate Adult Offender Supervision

**Victoria Cochran**, 2175 Maple Lane, **Blacksburg**, Virginia 24060, Member, appointed February 3, 2017, to serve at the pleasure of the Governor, to succeed Shelly Shuman-Johnson.

#### HEALTH AND HUMAN RESOURCES

##### Advisory Board on Service and Volunteerism

**Tashiara Scott**, 10013 Pilgrim Court, **Richmond**, Virginia 23227, Member, appointed January 27, 2017, for a term of three years beginning July 1, 2016, and ending June 30, 2019, to succeed Elsa D. Vasquez-Flores.

##### Assistive Technology Loan Fund Authority Board of Directors

**Elise Nelson**, 10693 Anna Marie Drive, **Glen Allen**, Virginia 23060, Member, appointed January 20, 2017, to serve an unexpired term beginning May 1, 2016, and ending June 30, 2018, to succeed Robert Warren.

##### State Child Fatality Review Team

**Lisa M. Beitz**, 14002 Southshore Road, **Midlothian**, Virginia 23112, Member, appointed January 20, 2017, for a term of three years beginning July 1, 2016, and ending June 30, 2019, to succeed herself.

**Michael Z. Blumberg**, 149 West Square Court, **Richmond**, Virginia 23238, Member, appointed January 20, 2017, for a term of three years beginning July 1, 2016, and ending June 30, 2019, to succeed himself.

**Steven F. Dempsey**, 10445 Government Center Boulevard, **King George**, Virginia 22485, Member, appointed January 20, 2017, for a term of three years beginning July 1, 2016, and ending June 30, 2019, to succeed Humberto I. Cardounel.

**Robin Foster**, 308 Cheswick Lane, **Henrico**, Virginia 23229, Member, appointed January 20, 2017, for a term of three years beginning July 1, 2016, and ending June 30, 2019, to succeed herself.

**Regina M. Milteer**, 8602 Eagle Glen Terrace, **Fairfax Station**, Virginia 22039, Member, appointed January 20, 2017, for a term of three years beginning July 1, 2016, and ending June 30, 2019, to succeed herself.

**Stephanie N. Morales**, 1345 Court Street, Suite 105, **Portsmouth**, Virginia 23705, Member, appointed January 20, 2017, for a term of three years beginning July 1, 2016, and ending June 30, 2019, to succeed Nancy G. Parr.

**Elizabeth Ryan-Rodzinka**, 1707 3rd Street, **Staunton**, Virginia 24401, Member, appointed January 20, 2017, for a term of three years beginning July 1, 2016, and ending June 30, 2019, to succeed Francis L. Romero.

**Kimberly Sobey**, Post Office Box 126, **Rural Retreat**, Virginia 24368, Member, appointed January 20, 2017, for a term of three years beginning July 1, 2016, and ending June 30, 2019, to succeed herself.

**Scott F. Wilkes**, 260 Cedar Green Road, **Staunton**, Virginia 24401, Member, appointed January 20, 2017, for a term of three years beginning July 1, 2016, and ending June 30, 2019, to succeed Jessica Taryn Pickett.

##### State Executive Council for Children's Services

**Elizabeth M. O'Shea**, 6605 Brawner Street, **McLean**, Virginia 22101, Member, appointed January 27, 2017, to serve an unexpired term beginning January 6, 2017, and ending June 30, 2019, to succeed Eddie Worth.

##### State Rehabilitation Council

**Brian Evans**, 6009 Chamberlayne Road, **Richmond**, Virginia 23227, Member, appointed January 13, 2017, for a term of three years beginning October 1, 2016, and ending September 30, 2019, to fill a new seat.

##### State Rehabilitation Council for the Blind and Vision Impaired

**Christine L. Appert**, 2400 Arlington Boulevard, Apartment A, **Charlottesville**, Virginia 22903, Member, appointed February 3, 2017, for a term of three years beginning October 1, 2016, and ending September 30, 2019, to succeed herself.

**Irene M. Conlin**, 4468 Smokey Lake Drive, **Virginia Beach**, Virginia 23462, Member, appointed February 3, 2017, for a term of three years beginning October 1, 2016, and ending September 30, 2019, to succeed Michael Davis.

**W. Chris Martin**, 403 South James Street, **Ashland**, Virginia 23005, Member, appointed February 3, 2017, for a term of three years beginning October 1, 2016, and ending September 30, 2019, to succeed Valerie Augburn Walker.

**Mark W. Roane**, 3230 Grove Avenue, **Richmond**, Virginia 23221, Member, appointed February 3, 2017, for a term of three years beginning October 1, 2016, and ending September 30, 2019, to succeed Bonita Hinrichs.

**Virginia Board for People with Disabilities**

**Allison Coles-Johnson**, 3108 River Bluffs Court, **Richmond**, Virginia 23223, Member, appointed January 27, 2017, to serve an unexpired term beginning July 1, 2015, and ending June 30, 2019, to succeed Sharon Drescher.

**Virginia Interagency Coordinating Council**

**Kendall Lee**, Post Office Box 382, **Kenbridge**, Virginia 23944, Member, appointed January 13, 2017, to serve an unexpired term beginning November 1, 2016, and ending September 30, 2018, to succeed Allan Phillips.

**INDEPENDENT****Virginia Lottery Board**

**Ferhan Hamid**, 8879 Olive Mae Circle, **Fairfax**, Virginia 22031, Member, appointed January 20, 2017, for a term of five years beginning January 15, 2017, and ending January 14, 2022, to succeed himself.

**VETERANS AND DEFENSE AFFAIRS****Board of Veterans Services**

**Paige D. Cherry**, 4036 Estates Lane, **Portsmouth**, Virginia 23703, Member, appointed January 31, 2017, to serve an unexpired term beginning December 2, 2016, and ending June 30, 2018, to succeed Donald B. Kaiserman.

**SENATE JOINT RESOLUTION NO. 391**

*Celebrating the life of Adelaide Marie Payne Griffin.*

Agreed to by the Senate, February 16, 2017

Agreed to by the House of Delegates, February 20, 2017

WHEREAS, Adelaide Marie Payne Griffin, the elder of twin girls, was born on March 30, 1922, in Atlantic City, New Jersey, and passed into eternal rest on April 16, 2016, having lived her entire adult life in Farmville, Virginia; and

WHEREAS, Adelaide Griffin graduated from Atlantic City High School in 1939; after high school, she and her twin sister, Grace, worked two years to earn funds to supplement their parents' college savings for them, and they took jobs together during the early years of World War II; Adelaide Griffin earned a bachelor's degree from Shaw University in Raleigh, North Carolina, in 1946; the bond between the sisters was unique and unbreakable; together they attended Shaw University and pledged Alpha Phi Alpha Sorority, the oldest African American sorority in the nation; and

WHEREAS, while still in high school, Adelaide Griffin met the pioneering African American educator Dr. Rachel Weddington, whose style, intelligence, and presence inspired her to become a teacher; Adelaide Griffin was noted as saying to family and friends, "I knew from the moment I met Dr. Weddington, I would be a teacher"; after graduation from college, she taught briefly in Pinehurst, North Carolina; and

WHEREAS, Adelaide Griffin was a dynamic person who cherished reading and loved art, music, sewing, cooking, and sharing everything with her beloved sister, Grace; the twins delighted in playing pranks on people, eventually including their own children, by each pretending to be the other; and

WHEREAS, in November 1946, Adelaide Griffin married the Reverend Leslie Francis Griffin, pastor of the historic First Baptist Church, Farmville, and the esteemed spiritual leader who led the civil rights movement in Prince Edward County during Massive Resistance, whom she met while both were students at Shaw University; from their 34-year union were born six children, whom they were blessed to see grow into adulthood; she instilled in them an appreciation for reading and learning, a love of the arts, and an understanding of the benefits of hard work; and

WHEREAS, Adelaide Griffin loved her children unconditionally and did not have preconceived molds for them; a mentor and confidant to her children, she recognized their individuality and unique gifts and guided each child in finding his special niche; and

WHEREAS, Adelaide Griffin returned to teaching in 1963 with the Prince Edward County Free Schools and was employed by the Prince Edward County Public Schools from 1971 until her retirement in 1988; she applied the same approach to teaching as she took in rearing her children, fervently believing that every person was given a gift by God meant to be used during his lifetime; she loved teaching and nurturing her students and often said, "I was called to teach, just as my husband was called to preach"; and

WHEREAS, Adelaide Griffin was a devout Christian woman, a loving and devoted wife, the consummate mother, a talented artist, and an extraordinary teacher; she relished collecting cookbooks, McCall's sewing patterns, Singer sewing machines, classical music, children's books, and albums by Paul Robeson, Mahalia Jackson, and Marian Anderson; and

WHEREAS, as First Lady of First Baptist Church, Farmville, she devoted her time, talent, and resources to the church, especially the missionary circles, supporting the civil rights work of her husband and helping others who were the beneficiaries of her generosity and kind and loving spirit; and

WHEREAS, Adelaide Griffin was a beautiful, elegant, and loving lady who exemplified the virtuous woman in Proverbs 31:10-31 and was always willing to help others; her faith in God was unwavering and steadfast; she was fond of saying that "when faced with any difficulty in life, I let my fingers do the walking through the pages of the Bible until I find a passage that will guide my actions"; therefore, she shared her faith with her children and taught them and others to take difficult decisions to "the Lord in prayer"; and

WHEREAS, the memory and legacy of Adelaide Griffin will be cherished by her family, loved ones, and friends, and "may she rest from her labors, and her works do follow her"; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Adelaide Marie Payne Griffin, widow of the Reverend Leslie Francis Griffin; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Adelaide Marie Payne Griffin as an expression of the General Assembly's respect for her memory.

**SENATE JOINT RESOLUTION NO. 393**

*Commending Sixth Mount Zion Baptist Church.*

Agreed to by the Senate, February 13, 2017  
 Agreed to by the House of Delegates, February 14, 2017

WHEREAS, Sixth Mount Zion Baptist Church, a prominent landmark in Richmond's historic Jackson Ward District, is celebrating its Sesquicentennial in 2017; and

WHEREAS, throughout its 150-year history, Sixth Mount Zion Baptist Church has served as a center of spiritual and community life, and the church has a proud history of addressing the social concerns of Richmonders; and

WHEREAS, Sixth Mount Zion Baptist Church was organized in an abandoned Confederate horse stable on Brown's Island by the Reverend John Jasper in 1867, during a period of desperate times for many African Americans in Richmond following the Civil War; and

WHEREAS, Sixth Mount Zion Baptist Church moved to its current location in 1869 and is credited with being the first church in post-war Richmond organized by an African American; and

WHEREAS, the Reverend John Jasper was known for his charismatic ministry and celebrated preaching, and he first delivered his famous "De Sun Do Move" sermon in 1878 from the pulpit of Sixth Mount Zion Baptist Church; and

WHEREAS, the congregation of Sixth Mount Zion Baptist Church grew rapidly as white and black residents came to hear the Reverend John Jasper preach and, by 1887, a larger structure was needed to accommodate the church's 2,500 members; and

WHEREAS, Sixth Mount Zion Baptist Church is a superb example of Gothic Revival "high style" architecture; the sanctuary, designed and built by George W. Boyd in 1887 and expanded by African American architect Charles T. Russell in 1925, features a series of original stained-glass windows; and

WHEREAS, regarded as a pioneer in the field of historic preservation, Sixth Mount Zion Baptist Church opened the John Jasper Memorial Room and Museum in 1926, which houses a collection of Bibles, books, paintings, clothing, and ceremonial artifacts, including a golden bust of John Jasper made in 1904; and

WHEREAS, Sixth Mount Zion Baptist Church was saved from destruction when Interstate 95 was built in 1957, and it is listed on the National Register of Historic Places and the Virginia Landmarks Register; in 2004, the church was designated a local "historic church" by the Richmond City Council, the only black church to receive that distinction; and

WHEREAS, two historical highway markers in the Commonwealth pay tribute to Sixth Mount Zion Baptist Church, one at the church's location on Duval Street in Richmond and another in Fluvanna County near the birthplace of John Jasper; and

WHEREAS, Sixth Mount Zion Baptist Church organized a charity with a staff of social workers to administer to the needy in Richmond, one of the first black churches to do so; this tradition continues today as members of the church are called to feed the hungry, clothe the naked, care for the sick, shelter the homeless, and visit the imprisoned; and

WHEREAS, the core values of Sixth Mount Zion Baptist Church are hospitality, relationship building, Biblically-based learning, and community impact; the church strives to have every ministry, worship experience, and event exemplify these values; and

WHEREAS, seven pastors have led Sixth Mount Zion Baptist Church over its long history, and the church is currently served by the Reverend Tyrone Nelson; under his leadership, the church has increased in number, diversity, and spirit as it continues to adapt to the needs of the twenty-first century; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Sixth Mount Zion Baptist Church, a prominent landmark in Richmond's historic Jackson Ward District, on celebrating the 150th anniversary of its founding in 2017; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Reverend Tyrone Nelson, pastor of Sixth Mount Zion Baptist Church, as an expression of the General Assembly's admiration for the church's heritage of dynamic fellowship and extraordinary leadership in Richmond.

**SENATE JOINT RESOLUTION NO. 394**

*Commending the Virginia Commonwealth University School of Social Work.*

Agreed to by the Senate, February 16, 2017  
 Agreed to by the House of Delegates, February 20, 2017

WHEREAS, the Virginia Commonwealth University School of Social Work, which offers one of the most comprehensive social work programs in the country, has promoted social and economic justice in a multicultural society and helped to prepare students for a life of service to others for 100 years; and

WHEREAS, founded as the Richmond School of Social Economy by Henry H. Hibbs, Jr., in 1917, the Virginia Commonwealth University (VCU) School of Social Work was the first school of its kind in the Southern United States; and

WHEREAS, in 1919, the Richmond School of Social Economy was placed under the Extension Division of The College of William and Mary, with students completing two years of course work in Richmond and two years in Williamsburg; it became one of the charter members of the American Association of Schools of Social Work; and

WHEREAS, in 1939, the Richmond School of Social Economy became part of the Richmond Professional Institute of The College of William and Mary, which merged with the Medical College of Virginia to become VCU in 1968; and

WHEREAS, the VCU School of Social Work diversified its curriculum to include courses on research, human growth and development, social welfare policies, and practice methods, and in 1970, it offered its first of many interdisciplinary and dual-degree programs; and

WHEREAS, in 1978, the VCU School of Social Work became the first school in the nation to offer bachelor's, master's, and doctoral degrees in the discipline of social work, and it remains one of only two such schools in the Commonwealth and one of only 39 nationwide; and

WHEREAS, the VCU School of Social Work is a world leader in social work scholarship, offering the Samuel S. Wurtzel Endowed Chair in Social Work to a distinguished faculty member, in honor of Samuel S. Wurtzel, a respected community leader and humanitarian; and

WHEREAS, the world-class faculty and staff at the VCU School of Social Work have generated critical research to advance the knowledge and practice of social work, and they have prepared countless young men and women to serve their communities as social workers, practitioners, scholars, and leaders; and

WHEREAS, throughout its history, the VCU School of Social Work has maintained close partnerships with civic and social service organizations throughout Richmond and the Commonwealth, ensuring that students can make a difference while engaging in valuable field work; and

WHEREAS, by granting students the tools and vision to empower vulnerable individuals in society, the VCU School of Social Work has been a force for positive change at the local, state, national, and international levels; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the Virginia Commonwealth University School of Social Work on the occasion of its 100th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Virginia Commonwealth University School of Social Work as an expression of the General Assembly's admiration for its legacy of service and contributions to academia.

### SENATE JOINT RESOLUTION NO. 395

*Commending the Richmond Free Press.*

Agreed to by the Senate, February 16, 2017

Agreed to by the House of Delegates, February 20, 2017

WHEREAS, the *Richmond Free Press*, an independent weekly newspaper, has provided a voice for the African American community in Richmond for 25 years; and

WHEREAS, the *Richmond Free Press* was founded on February 16, 1992, by Raymond H. Boone, who served as editor and publisher until the time of his death in 2014, along with friends and colleagues who shared in his vision to create an engaging, mission-driven newspaper; and

WHEREAS, the *Richmond Free Press* was a labor of love in its early days, with the small staff adapting to meet tight deadlines on long workdays; four members of the original staff still help the newspaper bring relevant, thought-provoking information to readers each week; and

WHEREAS, committed to free expression and robust debate, the *Richmond Free Press* works to facilitate openness and accountability in local and state government and provides unique perspectives on a wide variety of complex issues; and

WHEREAS, frank and honest discussion has been a signature of the *Richmond Free Press*, which has addressed poverty, racism, economic inequality, criminal justice reform, and quality of life issues in the Richmond area, such as the conditions of roads and public schools; and

WHEREAS, though primarily serving Richmond's African American residents, the *Richmond Free Press* strives to unite people of all races, creeds, and backgrounds in a common mission to strengthen the Richmond community and the Commonwealth; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the *Richmond Free Press* on the occasion of its 25th anniversary of serving and informing the residents of Richmond; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Jean P. Boone, publisher of the *Richmond Free Press*, as an expression of the General Assembly's admiration for the newspaper's many contributions to journalism and the Richmond community.

**SENATE JOINT RESOLUTION NO. 396**

*Celebrating the life of John Robert Rilling.*

Agreed to by the Senate, February 16, 2017  
 Agreed to by the House of Delegates, February 20, 2017

WHEREAS, John Robert Rilling, a respected historian and a passionate educator who inspired countless young men and women at the University of Richmond, died on January 1, 2017; and

WHEREAS, a native of Wausau, Wisconsin, John Rilling earned a bachelor's degree from the University of Minnesota, graduating summa cum laude, and earned master's and doctoral degrees from Harvard University, where he was named a Woodrow Wilson Fellow; and

WHEREAS, John Rilling relocated to Richmond in 1959 and began a 40-year career at the University of Richmond, where he specialized in Tudor and Stuart England, as well as the Reformation; and

WHEREAS, John Rilling built strong, personal relationships with his students and was a leader in and out of the classroom, earning the Distinguished Educator Award five times; in addition, he volunteered his time and leadership as a board member of Agecroft Hall and The Shepherd's Center; and

WHEREAS, a passionate lifelong learner, John Rilling read five newspapers every morning and several books each week, always seeking to enhance his knowledge of the world; and

WHEREAS, John Rilling will be fondly remembered and greatly missed by his wife, Joanne; children, Andy and Geoff, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of John Robert Rilling, an admired historian and educator who made many contributions to the Richmond community; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of John Robert Rilling as an expression of the General Assembly's respect for his memory.

**SENATE JOINT RESOLUTION NO. 397**

*Commemorating the 50th anniversary of African American students in residence at The College of William and Mary.*

Agreed to by the Senate, February 16, 2017  
 Agreed to by the House of Delegates, February 20, 2017

WHEREAS, the fall semester of 2017 is the 50th anniversary of the first African American students in residence at The College of William and Mary, marking its official and long-awaited desegregation in 1967; and

WHEREAS, Hulon Willis and Edward Augustus Travis (1951), Miriam Johnson Carter (1955), Oscar Houser Blayton (1963), Bernard Bailey (1964), and Carolyn Davis (1965) attended The College of William and Mary before 1967 but were not allowed to live in campus residences; and

WHEREAS, in the fall of 1967, three female African American students—Lynn Briley, Janet Brown, and Karen Ely—were admitted to the freshman class and, having been assigned housing together in Jefferson Hall, were able to take full advantage of campus facilities and offerings; and

WHEREAS, these students were the first African American students in residence and the first African American women to graduate from The College of William and Mary, paving the way for thousands of other black students since 1967; and

WHEREAS, The College of William and Mary has since made a commitment to diversity and inclusiveness, explored the university's past, and planned a year marking the important contributions of its African American students, faculty, staff, and alumni; and

WHEREAS, The College of William and Mary wishes to honor those early, courageous African American students who helped the university to move closer to achieving equality and inclusion; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commemorate the 50th anniversary of African American students in residence at The College of William and Mary; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to The College of William and Mary as an expression of the General Assembly's admiration for this important milestone.

**SENATE JOINT RESOLUTION NO. 398**

*Commending Cliff Gauthier.*

Agreed to by the Senate, February 16, 2017  
 Agreed to by the House of Delegates, February 20, 2017

WHEREAS, Cliff Gauthier, the legendary head coach of The College of William and Mary men's gymnastics program for 43 years, retired on January 1, 2017; and

WHEREAS, a native of Denver, Colorado, Cliff Gauthier earned a bachelor's degree from the University of Denver, where he was a top eight NCAA Division I finalist in various gymnastics events and was selected as the university's outstanding scholar-athlete his senior year; and

WHEREAS, Cliff Gauthier earned a master's degree in kinesiology from the University of Colorado, taught mathematics in the Denver area, and coached at the University of Denver before deciding to move East; and

WHEREAS, Cliff Gauthier arrived at The College of William and Mary in 1973, thinking he would stay for one or two years, and four and a half decades later, he retired as the longest-serving coach in the institution's history; and

WHEREAS, Cliff Gauthier's stellar and extraordinary record as William & Mary men's gymnastics head coach included 856 victories, 13 USA Gymnastics Collegiate National Team Championships, four Eastern College Athletic Conference titles, and 15 College Gymnastics Association Coach of the Year awards; and

WHEREAS, over the course of his career, Cliff Gauthier has coached two NCAA champions, two runners-up, and 10 All-Americans, and William & Mary has won a record eight College Gymnastics Association National Academic team championships; and

WHEREAS, during Cliff Gauthier's tenure, William & Mary gymnasts won 216 USA Gymnastics Collegiate All-America awards, more than any other college or university since the awards began in 1990; the college leads the nation with more individual College Gymnastics Association All-America Scholar-Athlete honors than any other program; and

WHEREAS, Cliff Gauthier received some of The College of William and Mary's most prestigious distinctions, including the Thomas Ashley Graves, Jr. Award for Sustained Excellence in Teaching in 2004, and in 2014 he was designated an honorary alumnus; and

WHEREAS, Cliff Gauthier believes in using gymnastics to make people's lives better; he taught his gymnasts the importance of community service and volunteering, instilling in them a culture of giving back that remains with them long after graduation; and

WHEREAS, Cliff Gauthier has been described aptly as the patriarch of the William & Mary men's gymnastics program and the David of David versus Goliath in the sport of college gymnastics; over four decades, he built the program into a beacon of what intercollegiate athletics should be; and

WHEREAS, Cliff Gauthier's greatest legacy is the tremendous impact he had on the lives of generations of William & Mary gymnasts, and his mentorship resulted in unprecedented dedication from alumni in maintaining a lifelong connection to the gymnastics program; and

WHEREAS, Cliff Gauthier is not leaving the William & Mary gymnastics program behind entirely, as he will continue to serve on staff as an assistant coach; and he will forever be in debt to the college for providing such a fertile ground to develop his philosophy of sport, coaching, and education; and

WHEREAS, in his "semi-retirement," Cliff Gauthier looks forward to spending more time with his wife, Linda, without whose support his awe-inspiring career would not have been possible; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Cliff Gauthier on his retirement as head coach of The College of William and Mary men's gymnastics team; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Cliff Gauthier as an expression of the General Assembly's admiration for his extraordinary 43-year career and unprecedented record of excellence in collegiate men's gymnastics.

### SENATE JOINT RESOLUTION NO. 399

*Commending David C. Sloggie.*

Agreed to by the Senate, February 16, 2017

Agreed to by the House of Delegates, February 20, 2017

WHEREAS, David C. Sloggie retired as chief of the Williamsburg Police Department on January 1, 2017, after a stellar 40-year career in law enforcement; and

WHEREAS, David "Dave" Sloggie spent his entire career with the Williamsburg Police Department, earning a reputation for integrity and for setting a high standard of excellence; and

WHEREAS, Dave Sloggie holds a bachelor's degree in criminology from Saint Leo College, a master's degree in justice administration from Golden Gate University, and a graduate certificate in local government management from Virginia Polytechnic Institute and State University; and

WHEREAS, Dave Sloggie is a graduate of the Federal Bureau of Investigation National Academy, the United States Secret Service Dignitary Protection School, and the Police Executive Leadership School at the University of Richmond; and

WHEREAS, Dave Sloggie joined the Williamsburg Police Department on August 1, 1976, and he was sworn in as an officer one month later, on his 21st birthday; and

WHEREAS, during his 40 years in the Williamsburg Police Department, Dave Sloggie spent 14 years as uniform bureau major, 13 years as deputy chief, and the past six years as chief of the department; and

WHEREAS, Dave Sloggie was instrumental in the early phases of the Williamsburg Police Department becoming nationally accredited through the Commission on Accreditation for Law Enforcement Agencies, which was first achieved in 1987; and

WHEREAS, Williamsburg currently has the most professional, dedicated, and ethical law-enforcement officers serving the community, and that is largely a testament to Dave Sloggie's professionalism and leadership; and

WHEREAS, the citizens of Williamsburg put their trust in Dave Sloggie for four decades; he is proud to have worked beside some of the best law-enforcement officers in the Commonwealth, to whom he attributes his success; and

WHEREAS, Dave Sloggie cherished the opportunity to work in a small community that has an enormous national importance, and among his proudest accomplishments were the many diplomatic and political visits he oversaw and staffed over his career; and

WHEREAS, Dave Sloggie was elected to serve on the Executive Board of the Virginia Association of Chiefs of Police, and he served as president of the Executive Board for the 2015–2016 term; and

WHEREAS, in retirement, Dave Sloggie is looking forward to spending more time with his children and grandchildren, and his wife, Maureen, whose love and support made his long career in law enforcement possible; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend David C. Sloggie on his retirement as chief of the Williamsburg Police Department after a stellar 40-year career in law enforcement; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to David C. Sloggie as an expression of the General Assembly's admiration for his life's work in protecting and serving the citizens of Williamsburg.

#### SENATE JOINT RESOLUTION NO. 400

*Commending the Westfield High School boys' basketball team.*

Agreed to by the Senate, February 16, 2017

Agreed to by the House of Delegates, February 20, 2017

WHEREAS, the Westfield High School boys' basketball team from Chantilly secured its first state title, winning the Virginia High School League Group 6A state championship in March 2016; and

WHEREAS, after taking an early double-digit lead, the Westfield High School Bulldogs defeated the Oscar Smith High School Tigers 74–56 in the state final, which was held at the Siegel Center in Richmond; and

WHEREAS, senior Blake Francis led the Westfield Bulldogs with 23 points; overall, the team shot nearly 43 percent from behind the arc and recorded 34 rebounds in their dominant performance; and

WHEREAS, Westfield High School became the first Fairfax County school to win a state basketball championship since 1981 and the first school in Virginia to win state titles in both basketball and football in the Commonwealth's highest classification in the same academic year since 1988; and

WHEREAS, the Westfield Bulldogs' victory is a testament to the skill and determination of all of the student-athletes, the leadership of the coaches and staff, and the enthusiastic support of the entire Westfield High School community; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Westfield High School boys' basketball team on winning the Virginia High School League Group 6A state championship; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Doug Ewell, head coach of the Westfield High School boys' basketball team, as an expression of the General Assembly's admiration for the team's achievements.

#### SENATE JOINT RESOLUTION NO. 401

*Celebrating the life of George Steven Bilidas.*

Agreed to by the Senate, February 16, 2017

Agreed to by the House of Delegates, February 20, 2017

WHEREAS, George Steven Bilidas of Oakton, a successful Northern Virginia entrepreneur and cofounder of the Amphora restaurant chain, died on November 12, 2016; and

WHEREAS, George Bilidas was a Greek immigrant who came to the United States from the small village of Magoula, outside of Sparta, Greece, when he was 21 years old; and

WHEREAS, George Bilidas arrived in Vienna in 1962, where he first operated Rolling Road Restaurant and then the Lake Anne Inn in Reston; and

WHEREAS, in the late 1970s, George Bilidas and his brother-in-law, Louis Cholakis, opened Amphora Restaurant, a New York-style diner that was one of Vienna's earliest eateries and the only 24-hour restaurant of its time; and

WHEREAS, Amphora Restaurant became a favorite among Virginia State Police troopers and local police officers, whom George Bilidas often treated to free or discounted meals to show his appreciation for their service; and

WHEREAS, George Bilidas' philosophy was "work hard and be nice to everyone"; he loved being around people, and his constant presence at his restaurant made patrons feel like part of the family; and

WHEREAS, for four decades, Amphora Restaurant has been a Vienna landmark that serves up delicious made-from-scratch specialties, and today the Amphora Group includes Amphora's Diner Deluxe in Herndon, Amphora Bakery, and Amphora Catering; and

WHEREAS, a charismatic, personable, and kindhearted gentleman, George Bilidas retired from Amphora in 1993, but he continued to frequent the restaurant to drink coffee and visit with longtime customers; and

WHEREAS, George Bilidas never lost touch with his roots in Greece and his Greek Orthodox faith, and he returned often to his native country to connect with family and friends; and

WHEREAS, George Bilidas financially supported St. Katherine's Greek Orthodox Church in Falls Church, which he helped to found, and a special-needs center in his home village of Magoula, among other charitable efforts; and

WHEREAS, George Bilidas enjoyed spending time with his large extended family, in the company of friends, in traveling the globe, and in staying fit by walking at Tysons Corner Center; and

WHEREAS, George Bilidas will be fondly remembered and greatly missed by his wife of 60 years, Bess; son, Steve, and his family; and a host of other relatives, friends, loyal customers, and dedicated employees; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of George Steven Bilidas, a successful Northern Virginia entrepreneur and cofounder of the Amphora restaurant chain; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of George Steven Bilidas as an expression of the General Assembly's respect for his memory.

**SENATE JOINT RESOLUTION NO. 402**

*Commending Linda L. Leightley.*

Agreed to by the Senate, February 16, 2017  
 Agreed to by the House of Delegates, February 20, 2017

WHEREAS, 72-year-old Linda L. Leightley of Fairfax is a record-setting powerlifting competitor and shining example of how it is possible to achieve and maintain physical fitness at any age; and

WHEREAS, Linda Leightley competed in her first 100% Raw Powerlifting Competition at the 2014 Potomac Challenge, where she set state and national records; and

WHEREAS, from June 2014 to September 2016, Linda Leightley set six world records at the 100% Raw Powerlifting Federation Competitions for her age and weight categories; and

WHEREAS, Linda Leightley's world records in the Age 65–69/132 pound weight class are 473.9 pounds in the powerlift trio (squat, bench press, deadlift) and 248 pounds in deadlift; and

WHEREAS, Linda Leightley's world records in the Age 70–74/132 pound weight class are 525.7 pounds in the powerlift trio (squat, bench press, deadlift), 271 pounds in deadlift, 99.2 pounds in bench press, and 59.5 pounds in strict curls; and

WHEREAS, a native of Newport, Rhode Island, Linda Leightley works full time as deputy commissioner of the revenue for the City of Fairfax; and

WHEREAS, Linda Leightley joined a local gym and hired a trainer when she was in her early 60s, in an effort to increase her physical fitness and lose weight; and

WHEREAS, Linda Leightley dropped 35 pounds and four dress sizes in one year, thanks to her regular workout routine and eating five small meals a day; and

WHEREAS, when Linda Leightley turned 65, her trainer encouraged her to take up powerlifting, and since that time she has continued to train and powerlift four hours a week; and

WHEREAS, Linda Leightley plans to continue participating in powerlifting competitions, and she advises others that it is never too late to begin a physical fitness regimen and to get in shape; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Linda L. Leightley of Fairfax on her spectacular record in competitive powerlifting; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Linda L. Leightley as an expression of the General Assembly's admiration for her amazing commitment and exemplary performance of achieving physical fitness at any age.

**SENATE JOINT RESOLUTION NO. 403**

*Commending the Westfield High School football team.*

Agreed to by the Senate, February 16, 2017  
 Agreed to by the House of Delegates, February 20, 2017

WHEREAS, the Westfield High School football team defended its 2015 state title and won the Virginia High School League Group 6A state championship on December 10, 2016; and

WHEREAS, the Westfield High School Bulldogs defeated the Oscar Smith High School Tigers by a score of 34–28 in a double overtime thriller, which was also a rematch of the 2015 state championship; and

WHEREAS, early in the season, the Westfield Bulldogs, who finished with a 13–2 record, relied on their staunch defense to close out games until the offense hit its stride and began averaging 38 points per game; and

WHEREAS, in the state championship, quarterback Rehman Johnson went 14 of 26 for 221 yards and four touchdowns, spreading the ball out to five different receivers; the team weathered a surge by the Oscar Smith Tigers and again relied on its defense, which made a crucial goal-line stand on the last play of the game; and

WHEREAS, the victory is a tribute to the skill and determination of all of the student-athletes, the leadership and guidance of the coaches and staff, and the passionate support of the entire Westfield High School community; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the Westfield High School football team on winning the Virginia High School League Group 6A state championship; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Kyle Simmons, head coach of the Westfield High School football team, as an expression of the General Assembly's admiration for the team's athletic achievements.

#### SENATE JOINT RESOLUTION NO. 404

*Celebrating the life of the Reverend Won Sang Lee.*

Agreed to by the Senate, February 22, 2017  
Agreed to by the House of Delegates, February 23, 2017

WHEREAS, the Reverend Won Sang Lee of Vienna, the senior pastor emeritus of Korean Central Presbyterian Church, who touched countless lives in the Commonwealth and around the world through his wise spiritual leadership, died on December 5, 2016; and

WHEREAS, a native of the Republic of Korea, Won Sang Lee earned a bachelor's degree from Keimyung University and a master's degree from Kyungpook National University; then he relocated to the United States and continued his studies at Dallas Theological Seminary and the University of Pennsylvania; and

WHEREAS, in 1977, Won Sang Lee began serving as a pastor of Korean Central Presbyterian Church, one of the largest Korean mega-churches in the United States, which was founded in Vienna and is now located in Centreville; he provided exceptional spiritual guidance and inspirational leadership to the congregation for 26 years; and

WHEREAS, Won Sang Lee served as the international director of SEED International, which supports Christian missionaries throughout the world, and was a cochair of the Korean World Mission Council for Christ; and

WHEREAS, Won Sang Lee earned many awards and accolades for his good work, including the 2001 Governor's Award for Outstanding Religious Institution for his work with the Korean Central Senior Center; he led an opening prayer for the Virginia House of Delegates, and in 2002, he became the first Korean to lead an opening prayer for the United States House of Representatives; and

WHEREAS, after his well-earned retirement from Korean Central Presbyterian Church, Won Sang Lee earned a doctorate from the University of Wales at the age of 72 and founded Prassion, a prayer mission organization; and

WHEREAS, Won Sang Lee will be fondly remembered and greatly missed by numerous family members, friends, and congregants; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of the Reverend Won Sang Lee, a highly admired spiritual leader in Northern Virginia; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of the Reverend Won Sang Lee as an expression of the General Assembly's respect for his memory.

#### SENATE JOINT RESOLUTION NO. 405

*Commending Blacksburg High School.*

Agreed to by the Senate, February 16, 2017  
Agreed to by the House of Delegates, February 20, 2017

WHEREAS, Blacksburg High School fall athletics programs excelled throughout the 2016 season, winning four Virginia High School League Group 3A state championships; and

WHEREAS, the Blacksburg High School football team claimed the Virginia High School League (VHSL) Group 3A state title with a 28–20 win over Staunton River High School; and

WHEREAS, the Blacksburg High School golf team finished the VHSL Group 3A state championship with a two-day total of 611 strokes for the win; and

WHEREAS, the Blacksburg High School girls' and boys' cross country teams both achieved VHSL Group 3A state titles; and

WHEREAS, the Blacksburg High School volleyball team advanced to a VHSL Group 3A state final; and

WHEREAS, as 2015–2016 winners of the Wells Fargo Cup, the student-athletes at Blacksburg High School have demonstrated their ability to succeed both on the field and in the classroom; and

WHEREAS, the Blacksburg High School athletics program excelled throughout the year thanks to the hard work of the student-athletes, the leadership and guidance of coaches and staff, and the passionate support of the Blacksburg High School community; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Blacksburg High School for winning four Virginia High School League Group 3A state championships; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Brian Kitts, principal of Blacksburg High School, as an expression of the General Assembly's admiration for the school's exceptional performance in student athletics in 2016.

**SENATE JOINT RESOLUTION NO. 406**

*Commending the Virginia Alliance of Boys & Girls Clubs.*

Agreed to by the Senate, February 16, 2017  
 Agreed to by the House of Delegates, February 20, 2017

WHEREAS, the Virginia Alliance of Boys & Girls Clubs has made many contributions to the young people of the Commonwealth by supporting its more than 111 local Boys & Girls Clubs; and

WHEREAS, Boys & Girls Clubs provide valuable services to more than 75,000 school-aged children in 50 cities in Virginia; their goal is to enable all young people, especially those who need them most, to realize their full potential as productive, responsible, and caring citizens; and

WHEREAS, the Virginia Alliance of Boys & Girls Clubs strives to enhance the work of Boys & Girls Clubs, to promote positive youth development across the Commonwealth, and to partner with other youth-serving agencies to form innovative joint programs; and

WHEREAS, utilizing proven youth development methods, leaders in Boys & Girls Clubs stress the importance of strong character and leadership, education and career advancement, and health and life skills; they encourage an appreciation for the arts and provide programs in sports, fitness, and recreation; and

WHEREAS, Boys & Girls Club programs promote a positive self-image and improved education, social, emotional, and cultural awareness while encouraging community involvement, strong moral values, and enhanced life management skills; and

WHEREAS, over the years, Boys & Girls Clubs in Virginia have encouraged young people to aspire to the highest levels of personal development and to become good citizens who are deeply involved in their communities; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the Virginia Alliance of Boys & Girls Clubs for the outstanding services it provides to children and their families; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Virginia Alliance of Boys & Girls Clubs as an expression of the General Assembly's admiration for the important work of all Boys & Girls Clubs in the Commonwealth.

**SENATE JOINT RESOLUTION NO. 407**

*Commending the Virginia Legal Aid Society, Inc.*

Agreed to by the Senate, February 16, 2017  
 Agreed to by the House of Delegates, February 20, 2017

WHEREAS, the Virginia Legal Aid Society, Inc., was founded in 1977 to provide legal assistance at no charge to low-income families and individuals in Central, Southside, and Western Tidewater Virginia, and is one of nine legal aid programs in the Commonwealth; and

WHEREAS, the mission of Virginia Legal Aid Society (VLAS) is to resolve serious legal problems of low-income people, to promote economic and family stability, to reduce poverty through effective legal assistance, and to champion equal justice; and

WHEREAS, VLAS uses legal skills to solve problems in the basics of life, including housing, access to health care, income and public benefits, family issues, consumer lending and assets, and education; and

WHEREAS, VLAS receives 18,000 contacts by telephone for assistance every year, and provides advice, representation, and other direct services or referrals to outside resources for two-thirds of applicants; the VLAS website is viewed by more than 45,000 unique visitors every year, and legal education materials on it are downloaded more than 10,000 times per year; and

WHEREAS, a 2011 economic impact report for Legal Services Corporation of Virginia revealed that legal aid work returns to Virginia communities at least \$5.27 for every dollar of support, an amount that does not capture hard-to-quantify benefits, such as savings to banks and investors from foreclosures averted, improved efficiencies in the courts, and payment to service providers like hospitals; and

WHEREAS, VLAS provides these services through offices in Lynchburg, Danville, Farmville, and Suffolk, with 15 full-time attorneys, eight paralegals, and 11 administrative and support staff, all supported by 170 volunteer attorneys and ably led by a board of directors of attorneys, low-income consumers, and community leaders; and

WHEREAS, VLAS does not charge its clients any fee and is able to provide these services and to meet its budget of \$2.8 million annually through state funding, the Legal Services Corporation, and more than 40 local funding sources, including foundations, United Way organizations, Area Agencies on Aging, local governments, and individual donors; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the Virginia Legal Aid Society, Inc., for its service to the Commonwealth on the occasion of its 40th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Virginia Legal Aid Society, Inc., as an expression of the General Assembly's admiration for the organization's work to provide meaningful access to justice for thousands of low-income Virginians every year.

### SENATE JOINT RESOLUTION NO. 408

*Commending Alpha Phi Zeta Chapter of Zeta Phi Beta Sorority, Inc.*

Agreed to by the Senate, February 16, 2017  
Agreed to by the House of Delegates, February 20, 2017

WHEREAS, in 2017, the Alpha Phi Zeta Chapter of Zeta Phi Beta Sorority, Inc., is marking the 75th anniversary of its charter; and

WHEREAS, Alpha Phi Zeta was chartered with 14 members on February 27, 1942, by Esther Peyton, Middle Eastern Regional Director for Zeta Phi Beta Sorority, at the Richmond YWCA; and

WHEREAS, Alpha Phi Zeta is a diverse coalition of women ranging in age from 22 to over 80 years old united to promote scholarship, service, sisterhood, and finer womanhood; and

WHEREAS, Alpha Phi Zeta is a graduate chapter that sponsors two undergraduate chapters of Zeta Phi Beta Sorority: Nu at Virginia Union University and Eta Theta at Virginia Commonwealth University; the chapter previously sponsored Theta Nu at James Madison University from 2009 until 2014, and Tau Theta at the University of Virginia from 1978 until 2015; and

WHEREAS, Alpha Phi Zeta provided leadership in the coordination of the only joint Zeta-Sigma Eastern Regional Conference with Phi Beta Sigma Fraternity, Inc., held in May 1973, at the John Marshall Hotel in Richmond; and

WHEREAS, throughout its rich history, Alpha Phi Zeta members have distinguished themselves on the local, state, and national stages; and

WHEREAS, chapter member Audrey Bradford Robinson wrote the current tune of Zeta Phi Beta Sorority's national hymn, which was adopted at the 1952 National Convention; and

WHEREAS, Sarah Holmes served on the Ration Board of the Office of Price Administration, Antoinette Bowler participated in the Richmond teachers' fight for equal salaries and served on the Board of Trustees of Virginia Union University, and Lillian McDaniel was instrumental in the chapter introducing the Ebony Fashion Fair to the Richmond community in 1957; and

WHEREAS, there are many Zeta Phi Beta Sorority programs and projects that Alpha Phi Zeta members take part in annually, including the Blue and White Cotillion, Z-HOPE program, Adopt-A-School, and Elder Care Initiative; and

WHEREAS, Zeta Phi Beta Sorority has partnered with the March of Dimes Foundation with the goal of increasing the number of women receiving early and regular prenatal care through the Stork's Nest program; Alpha Phi Zeta's Stork Nest was opened in August 1975, and initially was located on North 21st and Venable Streets; and

WHEREAS, Alpha Phi Zeta began a scholarship program during its first year; since the 1950s, the chapter has used the majority of proceeds from the Richmond Ebony Fashion Fair to provide scholarships and financial aid to students attending colleges throughout the country; and

WHEREAS, Alpha Phi Zeta donated \$10,000 to create an endowed scholarship for eligible junior and senior education majors at Virginia Union University, the first scholarship from a Pan-Hellenic organization to be established at the college; and

WHEREAS, in 2002, Alpha Phi Zeta celebrated its 60th anniversary by hosting Education and Women's health forums, donating 60 books through the Adopt-A-School program, and giving 60 dimes from each soror to the local chapter of the March of Dimes; and

WHEREAS, Alpha Phi Zeta hosted the First Annual Prematurity Awareness Day and received a certificate of recognition from Governor Mark Warner, which declared November 18, 2003, as Prematurity Awareness Day in the Commonwealth; and

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## ACTS OF ASSEMBLY

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WHEREAS, Alpha Phi Zeta was recognized by national headquarters in 1955 as one of the "top 10" or largest chapters in the sorority, and the chapter has been honored with many awards over the past 75 years; and

WHEREAS, more recently, Alpha Phi Zeta received the Most Outstanding Graduate Chapter award at the 2013 and 2015 Zeta Phi Beta Sorority Virginia Leadership conferences and was awarded Most Outstanding Graduate Chapter in the Eastern Region for the past three years (2014, 2015, 2016); and

WHEREAS, Alpha Phi Zeta sponsors three Zeta Youth Auxiliary Groups, the Pearlettes (ages 4–8), Amicettes (ages 9–13), and the Archonettes (ages 14–17), which assist the chapter in community service endeavors; and

WHEREAS, Alpha Phi Zeta has had 29 chapter presidents and most of them remain active members of the sorority today; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the Alpha Phi Zeta Chapter of Zeta Phi Beta Sorority, Inc., on celebrating the 75th anniversary of its charter in 2017; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Alpha Phi Zeta Chapter of Zeta Phi Beta Sorority, Inc., as an expression of the General Assembly's admiration for its commitment to promoting scholarship, service, sisterhood, and finer womanhood in the Richmond community.

**SENATE JOINT RESOLUTION NO. 409**

*Commending Macy Causey.*

Agreed to by the Senate, February 16, 2017

Agreed to by the House of Delegates, February 20, 2017

WHEREAS, Macy Causey of Yorktown was selected as a member of the 2017 NASCAR Drive for Diversity class and will compete for Rev Racing in the NASCAR Whelen All-American Series; and

WHEREAS, a 16-year-old third-generation race car driver, Macy Causey is one of only six drivers, and the only Virginian, selected for the 2017 Drive for Diversity, NASCAR's top development program geared toward multicultural and female drivers; and

WHEREAS, Macy Causey became the youngest-ever Drive for Diversity participant at age 14, and, in 2016, she competed against 16 other drivers for a spot on the Rev Racing team; and

WHEREAS, racing is a family tradition for Macy Causey; she is following in the footsteps of her grandmother, Diane Teel, the first woman to win a NASCAR-sanctioned racing event, and her father, Rette Causey, an accomplished amateur driver in the INEX Legends Racing Division; and

WHEREAS, Macy Causey began racing competitively when she was eight years old and rose to national stardom after she was the subject of a 2009 *New York Times* feature story; and

WHEREAS, in 2015, Macy Causey was NASCAR Virginia state rookie of the year and rookie of the year at Langley Speedway in Hampton; and

WHEREAS, Macy Causey was honored with NASCAR's Young Racer Award in 2016, and she became the youngest female to ever make the field for a late model race at Martinsville, qualifying 11th of 72 for the ValleyStar Credit Union 300; and

WHEREAS, Macy Causey is the youngest female ever to race at Langley Speedway, the same track where her grandmother made NASCAR history by winning a 30-lap Limited Sportsman Series race in 1978; and

WHEREAS, Macy Causey's racing career success thus far is a credit to her hard work, drive, and determination, but none of her achievements would be possible without the support of her family, friends, and crew members; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Macy Causey on her selection as a member of the 2017 NASCAR Drive for Diversity class and on her joining Rev Racing in the NASCAR Whelen All-American Series; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Macy Causey as an expression of the General Assembly's admiration for her history-making achievements and up-and-coming late model racing career.

**SENATE JOINT RESOLUTION NO. 410**

*Celebrating the life of Earl Hamner, Jr.*

Agreed to by the Senate, February 16, 2017

Agreed to by the House of Delegates, February 20, 2017

WHEREAS, Earl Hamner, Jr., a Virginia native who brought the idyllic mountain lifestyle of the Blue Ridge into countless American homes as the writer and narrator of *The Waltons*, died on March 24, 2016; and

WHEREAS, born in Schuyler, a small mining community in Nelson County, Earl Hamner was the eldest of eight children and learned the value of hard work and responsibility at a young age during the Great Depression; and

WHEREAS, Earl Hamner learned to read by the age of four and developed a passion for the written word; his first work, a poem titled "My Dog," was published on the children's page of the *Richmond Times-Dispatch*; and

WHEREAS, Earl Hamner attended the University of Richmond on a scholarship, then joined many of the other young men of his generation in service to the nation during World War II as a member of the United States Army; and

WHEREAS, after his honorable military service, Earl Hamner completed his education at the University of Cincinnati, where he interned at a local radio station, then went to work as a staff writer for NBC in New York City; and

WHEREAS, Earl Hamner published his first book, *Fifty Roads to Town*, in 1953 and wrote scripts for *The Twilight Zone* in the 1960s; his semi-autobiographical novel *Spencer's Mountain* was adapted into a feature film in 1963 and was the precursor to his hit television show, *The Waltons*; and

WHEREAS, *The Waltons* followed a large rural Virginia family during the Great Depression and World War II, with Earl Hamner as the wise, reassuring narrator, providing an introduction and postscript to each episode; the long-running show was well-known for its sentimentality and sense of togetherness; and

WHEREAS, possessing a wide range as a writer, Earl Hamner wrote and produced *Falcon Crest*, a show about a scheming group of winery owners that could not have been further from the timeless warmth of the Walton family; and

WHEREAS, never losing his affection for folkways, old stories, and a sense of community and tradition, Earl Hamner produced adaptations of *Heidi* and *Charlotte's Web*, in addition to several other movies and television series after *The Waltons* and *Falcon Crest*; and

WHEREAS, Earl Hamner earned many awards and accolades for his work, including five Christopher Awards, the 1972 George Foster Peabody Award, and a Primetime Emmy Award for *The Waltons*; and

WHEREAS, throughout his life, Earl Hamner held true to his personal vision for media as an affirmation of the innate goodness of the human spirit, the importance of learning from the past, and the power of childhood imagination and hopefulness; and

WHEREAS, Earl Hamner will be fondly remembered and greatly missed by his wife of 61 years, Jane; children, Scott and Caroline, and their families; and numerous other family members, friends, and fans of his work; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Earl Hamner, Jr., a well-known writer and television and film producer who was deeply inspired by his Virginia roots; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Earl Hamner, Jr., as an expression of the General Assembly's respect for his memory.

#### SENATE JOINT RESOLUTION NO. 411

*Celebrating the life of Carroll Schumann Savage.*

Agreed to by the Senate, February 16, 2017  
Agreed to by the House of Delegates, February 20, 2017

WHEREAS, Carroll Schumann Savage of Midlothian, a retired school librarian who shared the joy of reading with countless students, died on February 3, 2017; and

WHEREAS, Carroll Savage graduated from Huguenot High School and Radford College, where she was a member of Alpha Sigma Alpha sorority; and

WHEREAS, Carroll Savage inspired young readers as a school librarian for 31 years, beginning her career at Jacob Adams Elementary School in Henrico County; and

WHEREAS, after taking a hiatus to raise her family, Carroll Savage joined Swift Creek Elementary School, where she established a monthly book club; and

WHEREAS, Carroll Savage was happiest while reading stories to students, hosting book fairs, or otherwise working to instill her passion for literacy in others; and

WHEREAS, Carroll Savage will be fondly remembered and greatly missed by her husband of 45 years, James; daughter, Lindsey, and her family; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Carroll Schumann Savage, a retired educator in Midlothian, who was passionate about literacy; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Carroll Schumann Savage as an expression of the General Assembly's respect for her memory.

#### SENATE JOINT RESOLUTION NO. 412

*Commending Kendall Williams.*

Agreed to by the Senate, February 16, 2017  
Agreed to by the House of Delegates, February 20, 2017

WHEREAS, Kendall Williams, a native of Arlington, represented the United States and the Commonwealth at the Games of the XXXI Olympiad in Rio de Janeiro in 2016, participating in the women's heptathlon event; and

WHEREAS, Kendall Williams lives in Marietta, Georgia, where she graduated from Kell High School, and is a current student at the University of Georgia, where she earned National Collegiate Athletic Association accolades as the 2014 outdoor heptathlon champion and the three-time indoor pentathlon champion from 2014 to 2016; and

WHEREAS, in 2016, Kendall Williams was named the U.S. Track & Field and Cross Country Coaches Association National Women's Field Athlete of the Year and qualified for her first Olympic Games; and

WHEREAS, Kendall Williams placed 17th in heptathlon at the 2016 Olympic Games, showing incredible versatility as an athlete and earning a combined 6,221 points in seven events: 100-meter hurdles, high jump, shot put, 200-meter race, long jump, javelin throw, and 800-meter race; and

WHEREAS, throughout her track and field career and during the Olympic Games, Kendall Williams has enjoyed the passionate support of her family, friends, coaches, and the members of the Arlington community; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Kendall Williams for representing the United States and the Commonwealth in the women's heptathlon at the Games of the XXXI Olympiad; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Kendall Williams as an expression of the General Assembly's admiration for her outstanding achievements as a member of Team USA.

**SENATE JOINT RESOLUTION NO. 413**

*Commending Ralph Mastantuono.*

Agreed to by the Senate, February 22, 2017

Agreed to by the House of Delegates, February 23, 2017

WHEREAS, Ralph Mastantuono of Mercedes Benz of Arlington is the 2017 *Time* magazine Quality Automobile Dealer of the Year Nominee for the Washington Area; and

WHEREAS, Ralph Mastantuono, whose career in the auto industry has spanned more than 30 years, got his start in the auto industry at Capitol Cadillac; and

WHEREAS, Ralph Mastantuono has led Mercedes Benz dealerships in Arlington and Alexandria for the past 13 years; and

WHEREAS, an active and dedicated member of his community, Ralph Mastantuono has supported a wide array of industry and community causes for many years; and

WHEREAS, Ralph Mastantuono has been a leader in his community including in his support for the Little Sisters of the Poor in Washington, D.C., for the JDRF (formerly known as the Juvenile Diabetes Research Foundation), for the Leukemia & Lymphoma Society, for the Jewish Community Center of Northern Virginia (Fairfax), for the American Heart Association, and for Charles E. Smith Life Communities in Rockville, Maryland; and

WHEREAS, an active and dedicated member of his industry, Ralph Mastantuono has served his customers and his community with a generous spirit and has been an example to dealers in his community and around the Commonwealth; and

WHEREAS, Ralph Mastantuono is a recipient of the 2016 Northwood University Dealer Education Award, which recognizes his commitment to education in the dealer industry, including the development of an auto dealer intern program, in conjunction with the Arlington Chamber of Commerce and the Arlington County Public Schools, designed for high school students aspiring to careers in the automobile business that teaches them the basic elements of vehicle sales and fixed operations, as well as the development of a unique training program for dealership general managers from across the United States that emphasizes the special skill set required for retail and service of high-end vehicles; and

WHEREAS, Ralph Mastantuono has served his industry as an active member of the Virginia Automobile Dealers Association, where he currently serves on the Supervisory Board for the VADA Group Self Insurance Association for Workers Compensation; and

WHEREAS, Ralph Mastantuono is an active member of the Washington Area New Automobile Dealers Association, where he currently serves as a member of the Board of Directors and as chair of the employee benefits committee; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly commend Ralph Mastantuono on his selection as the 2017 *Time* magazine Quality Automobile Dealer of the Year Nominee for the Washington Area; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Ralph Mastantuono as an expression of the General Assembly's congratulations and best wishes.

**SENATE JOINT RESOLUTION NO. 414***Commending William King Museum of Art.*

Agreed to by the Senate, February 22, 2017  
 Agreed to by the House of Delegates, February 23, 2017

WHEREAS, the William King Museum of Art in Abingdon is celebrating its 25th anniversary as the premier visual arts facility in the Abingdon, Bristol, and Tri-Cities region; and

WHEREAS, opened in 1992 and housed in a former high school built in 1913, the William King Museum of Art is an integral part of the cultural fabric of Southwest Virginia and a cherished destination for residents and visitors; and

WHEREAS, known as the "Jewel on the Hill," the William King Museum of Art offers outstanding fine world art, contemporary regional art, and cultural heritage exhibits; and

WHEREAS, the William King Museum of Art is named for an eighteenth century entrepreneur and businessman from Ireland, who settled in Washington County and bequeathed his estate to benefit higher education and community life; and

WHEREAS, the William King Museum of Art was founded on the belief that a vibrant art scene is central to the vitality of a community, and today one of its important roles is enriching young lives through its extensive arts education programs; and

WHEREAS, the William King Museum of Art's VanGogh Outreach program gives children in second and third grades in 13 area school districts access to in-depth art classes; the highly acclaimed program reached more than 3,400 students in the past year, and there are plans to expand it into Tennessee and Kentucky; and

WHEREAS, the William King Museum of Art provides outstanding educational opportunities for adults, such as artist talks, lectures, workshops, art classes, guided and group tours, opening receptions, and other special events; and

WHEREAS, the William King Museum of Art has received numerous awards, including the Governor's Award and a Pinnacle Award from the Northeast Tennessee Tourism Association; and

WHEREAS, the William King Museum of Art was accredited by the American Alliance of Museums in 2004, and it is the Commonwealth's only nationally accredited museum west of Roanoke; and

WHEREAS, in addition to its five galleries, the William King Museum of Art features artist studios, a reference library, research archives, and an outdoor sculpture garden; and

WHEREAS, an average of 4,000 visitors a year have walked through the doors of the William King Museum of Art recently, but the museum reaches closer to 25,000 individuals annually through its programs and outreach efforts; and

WHEREAS, the William King Museum of Art relies heavily on philanthropy, and its staff does an exceptional job of utilizing innovative programming to engage, educate, and enrich the quality of life of local residents of all ages; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the William King Museum of Art on the occasion of its 25th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Betsy K. White, director of the William King Museum of Art, as an expression of the General Assembly's admiration for the museum's dedication to leadership, excellence, and collaboration in promoting a vibrant art scene in Southwest Virginia.

**SENATE JOINT RESOLUTION NO. 415***Celebrating the life of Marshall Lee Garst.*

Agreed to by the Senate, February 22, 2017  
 Agreed to by the House of Delegates, February 23, 2017

WHEREAS, Marshall Lee Garst of Bridgewater, a proud and decorated Marine and organic chemist, who developed plastic products that improved many people's lives, died on December 9, 2016; and

WHEREAS, the son of Paul and Gladys Garst, Marshall Garst was born in Mount Crawford; and

WHEREAS, after graduating from high school, Marshall Garst joined the United States Marines and was a sergeant and a tank commander in the First Marine Division during the Korean War; and

WHEREAS, wounded by enemy fire during a heated battle, Marshall Garst earned a Purple Heart and was awarded the Silver Star by the President of the United States; he received the prestigious Order of the Military Merit 4th Class Wharang 3rd Grade from the South Korean government; and

WHEREAS, upon returning to Virginia from military duty, Marshall Garst enrolled at Bridgewater College, where, despite his war injuries, he became an outstanding pitcher for the college baseball team and earned the nickname "Fireball Garst" from his teammates; and

WHEREAS, Marshall Garst worked three night jobs to pay his way through Bridgewater College, where he earned a bachelor's degree in chemistry; and

WHEREAS, Marshall Garst was employed as an organic chemist by Reynolds Metals in Grottoes for 39 years, during which time he helped to develop the oven cooking bag and other useful plastic products; and

WHEREAS, Marshall Garst was fluent in Mandarin Chinese and German, and, after retirement, he traveled to China and the Netherlands to help open plastics plants, and taught at Blue Ridge Community College and James Madison University; and

WHEREAS, Marshall Garst was a lifelong member of Bridgewater Church of the Brethren, and he enjoyed spending quality time with his large family, especially his 13 grandchildren and seven great-grandchildren; and

WHEREAS, Marshall Garst will be fondly remembered and greatly missed by his beloved wife of 62 years, Freda; children, Fred, Gary, Theresa, and Marsha, and their families; and a host of other relatives and good friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Marshall Garst, a proud and decorated Marine and retired Reynolds Metals chemist; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Marshall Garst as an expression of the General Assembly's respect for his memory.

**SENATE JOINT RESOLUTION NO. 416**

*Commending First Mount Zion Baptist Church.*

Agreed to by the Senate, February 22, 2017  
 Agreed to by the House of Delegates, February 23, 2017

WHEREAS, 2017 marks the 150th anniversary of the founding of First Mount Zion Baptist Church of Dumfries; and  
 WHEREAS, First Mount Zion Baptist Church was established with 30 members as Mount Zion Baptist Church in 1867, in the Rock Hill District of Stafford County; and

WHEREAS, a new church was constructed after the first structure burned around 1873, and the Reverend Jacob Byrd became the first pastor of what was then designated First Mount Zion Baptist Church; and

WHEREAS, church services were held once a month prior to the 1940s, when services were changed to twice a month; since 1965, services have been held every Sunday; and

WHEREAS, in 1944, the United States government purchased the original location of First Mount Zion Baptist Church, which is now part of Marine Corps Base Quantico; and

WHEREAS, First Mount Zion Baptist Church was re-established in 1947, and a new church was constructed on State Route 234; and

WHEREAS, in 1996, First Mount Zion Baptist Church broke ground for the current 108,000-square-foot church facility at 16622 Dumfries Road, a multi-million dollar project completed in two phases, in 2001 and 2004; and

WHEREAS, over the past 20 years, the congregation of First Mount Zion Baptist Church has grown dramatically from 650 members to over 4,000 members, and the church offers more than 60 different ministries; and

WHEREAS, First Mount Zion Baptist Church has transitioned from a family church to a community church that is actively involved in community outreach projects around Prince William County and beyond the borders of the Commonwealth and the country; and

WHEREAS, many pastors have served First Mount Zion Baptist Church faithfully during its distinguished history, and each has contributed to the church's spiritual and physical growth; and

WHEREAS, First Mount Zion Baptist Church has been led since 1995 by the Reverend Dr. Luke E. Torian, its first full-time pastor, who has been locally and nationally recognized for his ministry, leadership, and service; and

WHEREAS, the congregation of First Mount Zion Baptist Church is proud of its 150-year history; it looks forward to its future and continuing to fulfill joyfully its mission of connecting people who have a desire to become fully devoted followers of Jesus Christ; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend First Mount Zion Baptist Church in Dumfries on the occasion of the 150th anniversary of its founding; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to First Mount Zion Baptist Church as an expression of the General Assembly's admiration for the church's honorable history and the congregation's faithful devotion.

**SENATE JOINT RESOLUTION NO. 417**

*Celebrating the life of Louis Edward McKinney.*

Agreed to by the Senate, February 22, 2017  
 Agreed to by the House of Delegates, February 23, 2017

WHEREAS, Louis Edward McKinney, a respected member of the Virginia Beach community, who created many new opportunities for local young people through his work in youth baseball, died on January 9, 2017; and

WHEREAS, a native of Clover, Louis McKinney served his country as a member of the United States Army during the 1950s; after his honorable discharge, he returned home to the Commonwealth and pursued a career in sales; and

WHEREAS, as a longtime supporter of Kempsville PONY Baseball, Louis McKinney offered his leadership as manager, president, board member, and city liaison; he earned the Joe E. Brown Award for his tireless efforts to promote and expand youth baseball in Virginia Beach; and

WHEREAS, Louis McKinney played a pivotal role in supporting games at Providence Park, oversaw the construction of new concession stands and batting cages at Kemps Landing, and was in charge of inviting and hosting VIPs at opening day ceremonies; and

WHEREAS, Louis McKinney was the president of the Kempsville High School Booster Club and an active volunteer for the local Republican Party, and he helped to care for animals as a member of the local Humane Society; and

WHEREAS, Louis McKinney will be fondly remembered and greatly missed by his wife of 47 years, Mary; children, Louis, Jr., Mark, Jonathan, and Yvonne, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Louis Edward McKinney, a highly admired member of the Virginia Beach community; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Louis Edward McKinney as an expression of the General Assembly's respect for his memory.

**SENATE JOINT RESOLUTION NO. 418**

*Celebrating the life of Lewis G. Saunders.*

Agreed to by the Senate, February 21, 2017  
 Agreed to by the House of Delegates, February 22, 2017

WHEREAS, Lewis G. Saunders of Mechanicsville, a longtime employee of the Virginia House of Delegates, died on July 20, 2016; and

WHEREAS, Lewis "Bud" Saunders was a loyal employee of Sunoco Products Company for 41 years; throughout his life, he was admired for his work ethic and willingness to help anyone in need; and

WHEREAS, after his well-earned retirement from Sunoco, Bud Saunders pursued a 15-year career in the mail room of the Virginia House of Delegates, relishing the opportunity to serve the Commonwealth and to interact with the many visitors to the General Assembly Building; and

WHEREAS, Bud Saunders enjoyed fellowship and worship with the congregation of Cool Spring Baptist Church, where he served as a deacon and brought joy to others through his love of gospel music; and

WHEREAS, Bud Saunders was well-known for his sense of humor and ability as a storyteller; his greatest joy was his family, and he loved spending time with his wife, children, and grandchildren; and

WHEREAS, Bud Saunders will be fondly remembered and greatly missed by his wife of more than 54 years, Lois; children, Teresa, Donna, and Lewis, Jr., and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Lewis G. Saunders; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Lewis G. Saunders as an expression of the General Assembly's respect for his memory.

**SENATE JOINT RESOLUTION NO. 419**

*Celebrating the life of Richard Lee Munden.*

Agreed to by the Senate, February 22, 2017  
 Agreed to by the House of Delegates, February 23, 2017

WHEREAS, Richard Lee Munden, a veteran and an entrepreneur who made many contributions to the residents of Hampton Roads, died on March 15, 2016; and

WHEREAS, Richard Munden attended Floyd E. Kellam High School and served his country as a member of the United States Army during the Vietnam War; and

WHEREAS, Richard Munden earned a GED during his honorable military service and returned to the Commonwealth to pursue a career as a sewing machine mechanic; and

WHEREAS, Richard Munden become the owner and operator of Sewing Machine Sales & Service in Norfolk and helped the business to thrive with multiple locations throughout Norfolk and Virginia Beach; and

WHEREAS, Richard Munden was known for his honesty and generosity, and he was a trusted mentor to countless young employees and mechanics; and

WHEREAS, Richard Munden's family roots ran deep in the area, and he regaled his customers and friends with tales from the former Princess Anne County and the City of Pungo, which had been passed down through generations, including how his family had received a land grant from Her Majesty, Queen Elizabeth I of England; and

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## ACTS OF ASSEMBLY

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WHEREAS, Richard Munden will be fondly remembered and greatly missed by his wife of more than 35 years, Empsy, and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Richard Lee Munden; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Richard Lee Munden as an expression of the General Assembly's respect for his memory.

**SENATE JOINT RESOLUTION NO. 420**

*Celebrating the life of Robert James Costen.*

Agreed to by the Senate, February 22, 2017

Agreed to by the House of Delegates, February 23, 2017

WHEREAS, Robert James Costen, a distinguished veteran, respected educator, and devoted spiritual leader in Chesapeake, died on June 6, 2016; and

WHEREAS, Robert "Bob" Costen joined many of the other young men of his generation in service to the nation during World War II as a member of the United States Army; he served during the post-war occupation of Germany on the staff of General Dwight D. Eisenhower and was a military policeman during the Nuremberg trials; and

WHEREAS, after his honorable military service, Bob Costen graduated from Bob Jones University in South Carolina and later received a master's degree from the Richmond Professional Institute; and

WHEREAS, as a teacher at Great Bridge High School and Maury High School for nearly 20 years, Bob Costen prepared students for success in higher education and careers and in becoming responsible citizens of the Commonwealth; and

WHEREAS, a man of deep and abiding faith, Bob Costen answered the call to ministry in 1969; he and his family traveled to the Bahamas, England, Scotland, France, Germany, and Switzerland as well as throughout the United States and Canada, in order to spread the word of the Lord and to help believers forge deep, personal connections with Jesus Christ; and

WHEREAS, Robert Costen will be fondly remembered and greatly missed by his beloved wife of 62 years, Margaret; children, James, Robert, Timothy, and Ann, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Robert James Costen, a highly admired member of the Chesapeake community, who touched countless lives throughout the world as an educator and a missionary; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Robert James Costen as an expression of the General Assembly's respect for his memory.

**SENATE JOINT RESOLUTION NO. 421**

*Celebrating the lives of Ross A. Alameddine, Christopher James Bishop, Brian Roy Bluhm, Ryan Christopher Clark, Austin Michelle Cloyd, Jocelyne Couture-Nowak, Kevin P. Granata, Matthew Gregory Gwaltney, Caitlin Millar Hammaren, Jeremy Michael Herbstritt, Rachael Elizabeth Hill, Emily Jane Hilscher, Jarrett Lee Lane, Matthew Joseph La Porte, Henry J. Lee, Liviu Librescu, G.V. Loganathan, Partahi Mamora Halomoan Lumbantoruan, Lauren Ashley McCain, Daniel Patrick O'Neil, Juan Ramon Ortiz-Ortiz, Minal Hiralal Panchal, Daniel Alejandro Perez, Erin Nicole Peterson, Michael Steven Pohle, Jr., Julia Kathleen Pryde, Mary Karen Read, Reema Joseph Samaha, Waleed Mohamed Shaalan, Leslie Geraldine Sherman, Maxine Shelly Turner, and Nicole Regina White.*

Agreed to by the Senate, February 22, 2017

Agreed to by the House of Delegates, February 23, 2017

WHEREAS, a decade ago, on April 16, 2007, 32 men and women tragically died and 24 were injured at the Virginia Polytechnic Institute and State University campus as a result of the worst mass casualty attack to that point by a single shooter in American history; and

WHEREAS, they ranged in age from 18 to 76 and represented a variety of academic areas, faiths, and ethnic groups; and

WHEREAS, they were respected and cherished by their families, their friends, and their fellow students and professors for whom they were as individuals, for whom they would uniquely become, and for what they were aspiring to accomplish in their lives; and

WHEREAS, bereavement for these extraordinary men and women and the senseless loss of their lives is felt most profoundly by their loved ones, but during the days, weeks, months, and years that have followed the tragedy, heartfelt condolences, prayers, and messages of hope, inspiration, and encouragement poured out by every means imaginable in an effort to comfort the victims' families and to bolster the Virginia Tech community in its grief and recovery; and

WHEREAS, since the tragedy, the citizens of Virginia have come to know the dreams and pursuits of these intelligent, caring, and talented men and women; to mourn their deaths; and to ponder with sadness what significant and amazing

achievements they might have realized and what differences, big and small, they could have made in the world to make it a better place in which to live; and

WHEREAS, the citizens of the Commonwealth, the nation, and the world will surely remember each of the 32 exemplary men and women we have lost through the countless memorials and tributes created in their names, the lasting monuments erected in their honor, and especially through the good works and enduring accomplishments that will be achieved in their stead; and

WHEREAS, among those good works were the creation of individual family foundations by a number of the families of the victims as well as one overarching foundation, VTV Family Outreach Foundation, formed by the families of the victims and survivors of the Virginia Tech tragedy, that is working to advance the cause of campus safety; and

WHEREAS, since this tragedy, the continued loss of life in the tens of thousands in our nation due to violence and, in particular, the life-taking and life-threatening events that have occurred on school and college campuses, highlights the need to speak out against violence of all types, do all we can to empower students and families, and to offer schools and colleges proven methods to reduce the likelihood of such tragedies in the future; and

WHEREAS, the students, educators, and employees of Virginia Tech and all Virginians continue to mourn the deaths of the 32 respected and beloved persons who died at the Virginia Tech campus on April 16, 2007, and in all of their memories; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sorrow the loss of Ross A. Alameddine, Christopher James Bishop, Brian Roy Bluhm, Ryan Christopher Clark, Austin Michelle Cloyd, Jocelyne Couture-Nowak, Kevin P. Granata, Matthew Gregory Gwaltney, Caitlin Millar Hammaren, Jeremy Michael Herbstritt, Rachael Elizabeth Hill, Emily Jane Hilscher, Jarrett Lee Lane, Matthew Joseph La Porte, Henry J. Lee, Liviu Librescu, G.V. Loganathan, Partahi Mamora Halomoan Lumbanturuan, Lauren Ashley McCain, Daniel Patrick O'Neil, Juan Ramon Ortiz-Ortiz, Minal Hiralal Panchal, Daniel Alejandro Perez, Erin Nicole Peterson, Michael Steven Pohle, Jr., Julia Kathleen Pryde, Mary Karen Read, Reema Joseph Samaha, Waleed Mohamed Shaalan, Leslie Geraldine Sherman, Maxine Shelly Turner, and Nicole Regina White; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the families of each of the 32 respected and beloved persons whose lives were tragically lost on April 16, 2007, as an expression of the General Assembly's deepest sympathy on behalf of all of the citizens of the Commonwealth.

#### SENATE JOINT RESOLUTION NO. 422

*Celebrating the life of W. Alvin Hudson, Jr.*

Agreed to by the Senate, February 22, 2017

Agreed to by the House of Delegates, February 23, 2017

WHEREAS, W. Alvin Hudson, Jr., a longtime law-enforcement officer and public servant who dedicated his life to the service of his fellow Roanoke residents, died on January 19, 2017; and

WHEREAS, a native of Roanoke, Alvin Hudson began his career in public service with the Roanoke City Police Department in 1950 and rose through the ranks from patrol officer to lieutenant; and

WHEREAS, during his 27-year career with the Roanoke City Police Department, Alvin Hudson was named Officer of the Year for his work to investigate a burglary ring, and he served as personal protection officer for important visitors to the city, including four United States presidents and Elvis Presley; and

WHEREAS, in 1977, Alvin Hudson was appointed as sheriff to fill an unexpired term and easily won reelection multiple times over the next 20 years, facing opposition only once; he overhauled the training and promotion procedures at the Roanoke City Sheriff's Office and helped to increase efficiency by implementing a new computer system; and

WHEREAS, among his proudest accomplishments as sheriff, Alvin Hudson helped to transform the Roanoke City Jail into a nationally accredited facility that can house up to 800 inmates; the facility met the rigorous criteria of the American Correctional Association and was the first jail in Virginia to achieve 100 percent compliance on the standards set by the Department of Corrections; and

WHEREAS, desirous to be of further service to the community after his well-earned retirement as sheriff in 1997, Alvin Hudson successfully ran for election to the Roanoke City Council; he served on many boards, committees, and commissions, working to enhance the quality of life for all Roanoke residents and worked with other local leaders to create innovative solutions to regional issues; and

WHEREAS, Alvin Hudson served the Commonwealth as a member of the Virginia Army National Guard and the Board of Corrections; he was active in several service organizations including the Boy Scouts of America, the Freemasons, the Shriners, and youth athletics leagues, and he enjoyed fellowship and worship with the congregation of First Baptist Church of Roanoke; and

WHEREAS, Alvin Hudson will be fondly remembered and greatly missed by his wife, Jackie; daughters, Kathy and Bonnie, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of W. Alvin Hudson, Jr., a respected law-enforcement officer and public servant and a pillar of the Roanoke community; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of W. Alvin Hudson, Jr., as an expression of the General Assembly's respect for his memory.

**SENATE JOINT RESOLUTION NO. 423**

*Commending the E. C. Glass High School golf team.*

Agreed to by the Senate, February 22, 2017  
 Agreed to by the House of Delegates, February 23, 2017

WHEREAS, the E. C. Glass High School golf team of Lynchburg won the 2016 Virginia High School League Group 4A state championship; and

WHEREAS, the E. C. Glass High School Hilltoppers defeated the Heritage High School Pride of Leesburg by eight strokes, 600 to 608, in the championship tournament held in October 2016, at Traditions Golf Club in Toano; and

WHEREAS, 2016 marked the fourth state golf title for E. C. Glass High School and the school's first since 1988; and

WHEREAS, the members of the state championship-winning golf team from E. C. Glass High School are Ben Ailsworth, Connor Burgess, Kane Campbell, Jimmie Massie, Keller Royer, and Alex Terrell; and

WHEREAS, the E. C. Glass High School golf team was led by Connor Burgess, the Virginia State Golf Association Junior Boys' Golfer of the Year in 2016, who shot a two-day total of 141 and finished third overall in the tournament; and

WHEREAS, the E. C. Glass Hilltoppers' Jimmie Massie shot a two-day total of 145 and tied for fourth overall in the tournament, and he and Connor Burgess earned First-Team All-State honors; and

WHEREAS, in 2016, the E. C. Glass High School golf team won the Conference 23 regular season and tournament titles, and the team was runner-up in the Group 4A West Region tournament; and

WHEREAS, all members of the E. C. Glass golf team contributed to the success of the 2016 season, buoyed by the leadership of their coaches, the love of their families, and the enthusiastic support of the entire E. C. Glass High School community; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the E. C. Glass High School golf team on winning the 2016 Virginia High School League Group 4A state championship; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Michael Anthony, coach of the E. C. Glass High School golf team, as an expression of the General Assembly's admiration for the team's championship performance and best wishes for the future.

**SENATE JOINT RESOLUTION NO. 424**

*Commending the E. C. Glass High School cross country team.*

Agreed to by the Senate, February 22, 2017  
 Agreed to by the House of Delegates, February 23, 2017

WHEREAS, the E. C. Glass High School cross country team of Lynchburg capped an outstanding 2016 season by winning the Virginia High School League Group 4A state championship; and

WHEREAS, four E. C. Glass runners set personal records and five posted top-20 finishes to lead the Hilltoppers to the first-ever cross country state championship in school history; and

WHEREAS, the E. C. Glass team finished the Virginia High School League (VHSL) Group 4A cross country state championship at Great Meadow race course in The Plains with 36 points, blowing past the second-place team, which had 88 points; and

WHEREAS, the E. C. Glass cross country team captured the VHSL Group 4A regional championship in 2016; and

WHEREAS, the 2016 E. C. Glass cross country team was comprised of Libby Davidson, Brooke Manion, Jette Davidson, Maddie Rennyson, Logan Hartsell, Leah Seilhah, Emma Kate Russell, and Regan Kinder; and

WHEREAS, E. C. Glass team members Brooke Manion, Jette Davidson, Maddie Rennyson, and Logan Hartsell set personal records in their third-place, eighth-place, fifteenth-place, and sixteenth-place finishes, respectively; and

WHEREAS, E. C. Glass senior Libby Davidson, a two-time VHSL Group 4A cross country state champion, ran the entire championship race in excruciating pain due to tendinitis in her hips, but she gutted it out for a fourth-place finish, a testament to her superior athleticism; and

WHEREAS, the E. C. Glass High School cross country team performed their best when the spotlight was the brightest in 2016, and all members of the team contributed to the championship caliber season; and

WHEREAS, the 2016 E. C. Glass cross country team received excellent mentorship and leadership from their coaches, Van Porter and Cotrena Liggon, and their championship season would not have been possible without the support of the E. C. Glass High School community; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the E. C. Glass High School cross country team on winning the Virginia High School League Group 4A state championship; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Van Porter, head coach of the E. C. Glass High School cross country team, and Cotrena Ligon, assistant coach of the E. C. Glass High School cross country team, as an expression of the General Assembly's sincere congratulations and admiration for the team's phenomenal performance.

**SENATE JOINT RESOLUTION NO. 425**

*Commending Eli Johnson.*

Agreed to by the Senate, February 22, 2017  
 Agreed to by the House of Delegates, February 23, 2017

WHEREAS, Eli Johnson, an honor roll student and football player at Huguenot High School, sustained severe injuries while courageously saving the life of Carmelita Brown on February 1, 2017; and

WHEREAS, Eli Johnson, who lives in the home next door to Carmelita Brown, awoke to the sound of his neighbor's home being broken into and the ensuing yelling and commotion; he entered Carmelita Brown's bedroom and found two men holding her at gunpoint; and

WHEREAS, reacting instinctively and without concern for his own safety, Eli Johnson rushed one of the men and knocked him over, but was shot seven times in the stomach, chest, arm, and leg; his quick actions helped ensure that Carmelita Brown was unharmed; and

WHEREAS, after hours of surgery and a week of recovery at VCU Medical Center, Eli Johnson was released from the hospital, and he is now recovering at home with his sister, Keyeria Grant, by his side and the support of the entire community; and

WHEREAS, Eli Johnson, who is 17 years old, will require physical therapy to fully recover from his wounds, but his spirit is undaunted; he attributes his strength and determination to his mother, Faye, and his father, Harry, a veteran; and

WHEREAS, after graduating from high school, Eli Johnson hopes to serve his country as a member of the United States Army; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Eli Johnson for his heroic actions on February 1, 2017; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Eli Johnson as an expression of the General Assembly's admiration for his bravery, selflessness, and positivity in the face of adversity.

**SENATE JOINT RESOLUTION NO. 426**

*Celebrating the life of Ivor Noël Hume.*

Agreed to by the Senate, February 23, 2017  
 Agreed to by the House of Delegates, February 23, 2017

WHEREAS, Ivor Noël Hume of Williamsburg, a world-renowned archaeologist who served the Commonwealth as chief archaeologist of Colonial Williamsburg for more than three decades, died on February 4, 2017; and

WHEREAS, a native of London, England, Noël Hume studied at Framlingham College and St. Lawrence College and served his country during World War II; after the war, he began his career in archaeology with the Guildhall Museum; and

WHEREAS, Noël Hume undertook excavations in areas of London that had been destroyed during the war, developing expertise in artifacts ranging from the Roman era to the seventeenth and eighteenth centuries, becoming an authority in highly specialized areas, such as the history of English pottery and wine bottles; and

WHEREAS, in the 1950s, after learning that the United States National Park Service was seeking an expert in seventeenth-century glass, Noël Hume was asked to consult on artifacts found at Colonial Williamsburg; and

WHEREAS, in 1957, Noël Hume became the director of Colonial Williamsburg's expanding archaeology department; his work at Carter's Grove Plantation garnered national and international attention after he uncovered the remains of a previously lost Virginia settlement, Wolstenholme Towne; and

WHEREAS, after his well-earned retirement from Colonial Williamsburg in 1988, Noël Hume investigated the lost colony of Roanoke Island in North Carolina, the site of the first attempted English settlement in America; and

WHEREAS, Noël Hume wrote dozens of books and articles throughout his career; his writing style was both informative for professional archaeologists and accessible for students and hobbyists, and his 1969 work *A Guide to the Artifacts of Colonial America* is still widely respected as a valuable resource in the archaeological community; and

WHEREAS, Noël Hume developed innovative field and laboratory techniques to advance the study and practice of archaeology, and he was a trusted mentor to numerous young archaeologists; and

WHEREAS, predeceased by his first wife, Audrey, Noël Hume will be fondly remembered and greatly missed by his wife, Carol; his children and their families; his brother, David, and numerous other family members, friends, and colleagues; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Ivor Noël Hume, a brilliant archaeologist who made many contributions to Colonial Williamsburg and the United States; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Ivor Noël Hume as an expression of the General Assembly's respect for his memory.

### SENATE JOINT RESOLUTION NO. 427

*Commemorating the 150th anniversary of Virginia's Underwood Convention of 1867.*

Agreed to by the Senate, February 22, 2017

Agreed to by the House of Delegates, February 23, 2017

WHEREAS, with the signing of the Emancipation Proclamation Act by President Abraham Lincoln on January 1, 1863, which signaled the end of the American Civil War, tens of thousands of enslaved African men, women, and children were freed from the degradation of human slavery; and

WHEREAS, during Reconstruction between 1865 and 1877, Congress overrode a presidential veto of a law enacted to divide the South into military districts under the command of an army officer at the rank of brigadier general or above; states that had seceded from the Union, including Virginia, were required to create reconstructed governments, hold state conventions, establish new constitutions, and ratify the Fourteenth Amendment to the United States Constitution as a condition of readmission into the Union; and

WHEREAS, according to the Gilder Lehrman Institute of American History, the Congress passed an act extending the franchise to African American men in the South three years before the ratification of the Fifteenth Amendment to the United States Constitution; and

WHEREAS, U.S. General John Schofield, the administrator of Virginia, Military District One, called for a new state constitutional convention, which met in Richmond at the State Capitol from December 3, 1867, to April 17, 1868, and Judge John Curtiss Underwood, a federal judge and native New Yorker, served as the Convention's president; and

WHEREAS, African American men were given the right to vote for and to be elected delegates to the Convention, and 25 African American men were elected to the 1867–1868 Virginia Constitutional Convention, which created the Virginia Constitution of 1869, the fifth of Virginia's seven state constitutions, known as the Underwood Constitution, named for Judge Underwood; and

WHEREAS, according to Virginia Memory, a historical database of the Library of Virginia, "105,832 freedmen registered to vote in Virginia and 93,145 voted in the election that began on October 22, 1867"; and

WHEREAS, the Underwood Constitution, ratified by popular vote on July 6, 1869, provided for universal suffrage, with the exception of women, established Virginia's first statewide system of public schools, and organized the division of counties into magisterial districts; these new provisions of state government remained in effect until 1902; and

WHEREAS, the Virginia Memory database reveals that, during Reconstruction, "across the South about two thousand African Americans served in local and state government offices, including state legislatures and as members of Congress; nearly 100 African American men served in the General Assembly of Virginia between 1869 and 1890, and hundreds more served in city and county government offices or as postal workers and in other federal jobs"; and

WHEREAS, across the South, legislation known as Black Codes was enacted to circumvent and thwart the newfound freedoms of former slaves; the reaction of Congress to these laws was the enactment of the Reconstruction Amendments to the United States Constitution, specifically the Thirteenth Amendment, which abolished slavery; the Fourteenth Amendment, which protects the rights of citizenship of freed men and women; and the Fifteenth Amendment, which prohibits states from denying citizens the right to vote due to race, color, or previous condition of servitude; and

WHEREAS, after emancipation, these constitutional amendments laid the foundation by which many former enslaved Africans and their descendants were afforded equal rights as citizens under the United States Constitution, including the right to vote and run for elected public office; and

WHEREAS, the Compromise of 1877 officially ended Reconstruction, and Southern state governments enacted a system of laws known as "Jim Crow," which established a rigidly segregated and legally sanctioned social system that separated the races and disenfranchised African Americans, again relegating them to second-class citizenship from 1877 until the mid-1960s; and

WHEREAS, from 1890 to 1968, African Americans were not represented in the Virginia General Assembly, the oldest continuous legislative body in the Western Hemisphere; in 1967, William Ferguson Reid, a Richmond doctor and community leader, became the first African American in the twentieth century elected to the Virginia House of Delegates; and

WHEREAS, although nearly a century would pass before the descendants of formerly enslaved persons would inherit and embrace the reality of the rights embodied in the Thirteenth, Fourteenth, and Fifteenth Amendments, the Reconstruction Amendments helped to transform the United States, according to President Abraham Lincoln, from a country that was "half

slave and half free" to one in which the constitutionally guaranteed "blessings of liberty" would be extended to all the nation's citizens; and

WHEREAS, with the ratification of Virginia's Constitution of 1869, 29 African American delegates and senators were elected in the subsequent elections; the Fourteenth Amendment and the Fifteenth Amendment were ratified by the General Assembly and on January 26, 1870, President Ulysses S. Grant signed the legislation readmitting Virginia's delegation to Congress; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the 150th anniversary of Virginia's Underwood Convention of 1867 be commemorated; and, be it

RESOLVED FURTHER, That the Clerk of the Senate transmit a copy of this resolution to the Virginia Congressional Delegation, requesting that they further disseminate copies of this resolution to their respective constituents so that they may be apprised of the sense of the General Assembly of Virginia in this matter.

#### SENATE JOINT RESOLUTION NO. 428

*Commending the Honorable John William Warner.*

Agreed to by the Senate, February 22, 2017

Agreed to by the House of Delegates, February 23, 2017

WHEREAS, the Honorable John William Warner has dedicated his life to the service of the Commonwealth and the United States as a veteran, a member of the United States Department of Defense, and a United States Senator; and

WHEREAS, a native of Washington, D.C., John Warner graduated from Woodrow Wilson High School and joined many of the other young men of his generation in service to the nation during World War II, enlisting in the United States Navy in 1945; and

WHEREAS, after returning home, John Warner graduated from Washington and Lee University and attended the University of Virginia School of Law; he again answered the call to service at the outset of the Korean War in 1950, joining the United States Marine Corps; and

WHEREAS, John Warner continued to serve with the United States Marine Corps Reserve, rising to the rank of captain, and completed his law degree at The George Washington University in 1953; he began his legal career as a law clerk for a chief judge of the United States Court of Appeals and became an assistant United States Attorney, before entering private practice with Hogan & Hartson; and

WHEREAS, in 1969, John Warner was appointed as Undersecretary of the Navy for President Richard M. Nixon, and in 1972, he became Secretary of the Navy; he was appointed by President Gerald R. Ford, Jr., to participate in the creation of the United Nations Convention on the Law of the Sea and negotiated the Incidents at Sea agreement between the United States and the Soviet Union; and

WHEREAS, desirous to be of further service to the nation, John Warner ran for and was elected to the United States Senate and represented the residents of the Commonwealth from 1979 to 2009; he worked to build consensus on gun control, women's rights, and energy reform, earning respect from colleagues on both sides of the aisle; and

WHEREAS, John Warner offered his expertise and leadership to the Senate Committee on Environment and Public Works, the Senate Committee on Health, Education, Labor and Pensions, and the Senate Select Committee on Intelligence; as chair of the Senate Armed Services Committee, he supported and expanded the Commonwealth's numerous military installations; and

WHEREAS, John Warner retired from public office in 2009 after five terms in the United States Senate; at the time of his retirement, he was one of only five World War II veterans in the United States Senate; and

WHEREAS, John Warner received numerous awards and accolades for his lifetime of service, including the first ever National Intelligence Distinguished Public Service Medal from the Director of National Intelligence and the title of Knight Commander from Elizabeth II of England for his work to strengthen relations between the United States and Great Britain; and

WHEREAS, the USS *John Warner*, the first Virginia-class submarine to be named for a person instead of a state, and the Senator John W. Warner Center for Advanced Military Studies at Marine Corps University in Quantico were both named in his honor; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the Honorable John William Warner, a consummate public servant and a true statesman, on the occasion of his 90th birthday on February 18, 2017; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Honorable John William Warner as an expression of the General Assembly's admiration for his exceptional service to the Commonwealth and the United States.

**SENATE JOINT RESOLUTION NO. 429**

*Commending Rho Rho Chapter of Delta Sigma Theta Sorority, Inc.*

Agreed to by the Senate, February 22, 2017  
Agreed to by the House of Delegates, February 23, 2017

WHEREAS, in 2017, the Rho Rho Chapter of Delta Sigma Theta Sorority, Inc., is marking the 25th anniversary of its founding; and

WHEREAS, the Rho Rho Chapter of Delta Sigma Theta Sorority is the first black Greek sorority to be chartered on the campus of the University of Richmond; and

WHEREAS, Delta Sigma Theta Sorority was founded in 1913, by 22 African American undergraduate women at Howard University, based on the principles of sisterhood, scholarship, and service; and

WHEREAS, the Rho Rho Chapter of Delta Sigma Theta Sorority was chartered on April 26, 1992, by eight women seeking to build an organization committed to public service at the University of Richmond; and

WHEREAS, the charter members of Rho Rho Chapter of Delta Sigma Theta Sorority who set a standard of excellence were Phyllis Hollimon, Tanya Tyree, Camisha Jones, Kimberly Greene Brown, Rhonda Gaines, Jennifer McClellan, Nikki Anderson, and Robin Washington Nesmith; and

WHEREAS, the women of the Rho Rho Chapter of Delta Sigma Theta Sorority are dedicated to empowering the community, while also maintaining high academic and moral standards through the bonds of unbreakable sisterhood; and

WHEREAS, each year, the Rho Rho Chapter of Delta Sigma Theta Sorority seeks to enrich the University of Richmond campus and African American community through programs such as Church with the Deltas, Lupus Walk, Voter Registration Drive, Fitness Workshops, Domestic Violence Awareness Drive, and Mr. Rho Rho Pageant; and

WHEREAS, throughout its proud history, members of the Rho Rho Chapter of Delta Sigma Theta Sorority have made many significant contributions to the University of Richmond campus, the greater Richmond community, and the Commonwealth; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the Rho Rho Chapter of Delta Sigma Theta Sorority, Inc., on celebrating its 25th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Rho Rho Chapter of Delta Sigma Theta Sorority, Inc., as an expression of the General Assembly's congratulations and admiration for the chapter's commitment to serving the community and setting a positive example of leadership and excellence.

**SENATE JOINT RESOLUTION NO. 430**

*Celebrating the life of Melvin Glenn Anglin.*

Agreed to by the Senate, February 22, 2017  
Agreed to by the House of Delegates, February 23, 2017

WHEREAS, Melvin Glenn Anglin, an active member of the Covington community, died on February 12, 2017; and

WHEREAS, a native of Beckley, West Virginia, Glenn Anglin served his country as a member of the United States Army during the Korean War; later in life, he served his fellow veterans as a member of the Curtis A. Smith Post 1033 of the Veterans of Foreign Wars; and

WHEREAS, after his honorable military service, Glenn Anglin worked for MeadWestvaco Corporation, and he represented his fellow workers as a past president of Local 8675 of the United Steel Workers; and

WHEREAS, Glenn Anglin enjoyed fellowship and worship with the Covington community as a member of Solid Rock Ministries Church; and

WHEREAS, Glenn Anglin will be fondly remembered and greatly missed by his wife of 32 years, Paula; daughters, Tammie and Angela, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Melvin Glenn Anglin; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Melvin Glenn Anglin as an expression of the General Assembly's respect for his memory.

**SENATE JOINT RESOLUTION NO. 431**

*Commending Mildred B. West.*

Agreed to by the Senate, February 22, 2017  
Agreed to by the House of Delegates, February 23, 2017

WHEREAS, in 2017, Mildred B. West earned an honorary degree from The College of William and Mary for her more than five decades of service to the university and for her passionate advocacy for women's athletics; and

WHEREAS, after earning a bachelor's degree from Georgia State College for Women and a master's degree from the University of Maryland, Mildred "Millie" West began her long and fulfilling career at The College of William and Mary in 1959; and

WHEREAS, Millie West has served The College of William and Mary for more than 50 years as an instructor, coach, administrator, and fundraiser, working diligently to expand opportunities for female student-athletes; and

WHEREAS, during her 17-year tenure as women's athletics director, Millie West helped the program's budget grow from \$19,000 to more than \$1 million; she helped organize the Wightman Cup tennis tournament and the Plumeri Pro-Am golf tournament, led annual fundraisers to raise money for women's athletics, and oversaw implementation of Title IX programs; and

WHEREAS, Millie West established and served as coach of the swimming program at The College of William and Mary, and she recorded more than 200 wins as head coach of the women's tennis team; deeply committed to the men's and women's tennis teams, she helped to coordinate the creation of the state-of-the-art McCormack-Nagelson Tennis Center; and

WHEREAS, in recognition of her exceptional achievements in service to The College of William and Mary, Millie West was inducted into the William and Mary Athletics Hall of Fame, was named as an honorary alumna in 1991, and served as the grand marshal for Homecoming 2013; additionally, the college's outdoor tennis facility was renamed the Millie West Tennis Facility in 2010; and

WHEREAS, Millie West received an honorary degree at The College of William and Mary Charter Day ceremony on February 10, 2017; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Mildred B. West on receiving an honorary degree from The College of William and Mary; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Mildred B. West as an expression of the General Assembly's admiration for her many contributions to college athletics at The College of William and Mary.

#### SENATE JOINT RESOLUTION NO. 432

*Commending the Virginia Department of Forestry for its wildfire suppression efforts.*

Agreed to by the Senate, February 22, 2017

Agreed to by the House of Delegates, February 23, 2017

WHEREAS, the Virginia Department of Forestry was created in 1914 and has been actively preventing and suppressing wildfires for more than 100 years; and

WHEREAS, the Virginia Department of Forestry (VDOF) continues its core mission of preventing the destruction of forests by fire; and

WHEREAS, firefighters from the VDOF are responsible for protecting more than 16 million acres of forestland and the people who own that land; and

WHEREAS, the VDOF firefighters protect forest resources that generate an economic impact of more than \$17 billion each year and employ more than 103,000 people in Virginia; and

WHEREAS, the VDOF special forest wardens battle more than 875 wildfires that burn a total of 12,260 acres of woodlands in the Commonwealth each year on average; and

WHEREAS, during calendar year 2016, the VDOF protected 2,510 homes and other structures, worth more than \$144 million, from the 656 wildfires that burned more than 24,000 acres of forestland; and

WHEREAS, during the most recent fall wildfire season, the VDOF wildland firefighters responded to 190 wildfires that burned 16,836 acres of woodlands—mostly in Southwest Virginia—and protected 856 homes and other structures valued at \$45 million; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the Virginia Department of Forestry for its excellence in wildfire prevention and suppression; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the State Forester as an expression of the General Assembly's appreciation for the Virginia Department of Forestry's effective and efficient wildfire protection efforts.

#### SENATE JOINT RESOLUTION NO. 433

*Commending Nancy Oliver Gray.*

Agreed to by the Senate, February 22, 2017

Agreed to by the House of Delegates, February 23, 2017

WHEREAS, Nancy Oliver Gray, who set high standards for student achievement and helped Hollins University earn national accolades, retires in 2017 after more than a decade of service; and

WHEREAS, Nancy Gray joined the Hollins University community in 2005 as the university's eleventh president; she brought to the university a strong belief in the ideals of a liberal arts education, and the need for women's colleges in higher education; and

WHEREAS, Nancy Gray guided the university through two strategic plans during her tenure; the current plan, *Connecting Liberal Arts Education and Experience to Achieve Results*, focused the university's efforts through 2018; and

WHEREAS, under Nancy Gray's leadership, Hollins University has operated without debt and with a balanced operating budget for the past decade; she led Hollins University during the largest comprehensive fundraising campaign in school history and the largest ever undertaken by a women's college in the Southern United States, the Campaign for Women Who Are Going Places; and

WHEREAS, Nancy Gray has spearheaded the creation of a number of new academic programs, including majors in environmental studies and environmental science, a certificate program in leadership studies, an extensive seminar program designed for first-year students, a Master of Fine Arts degree in children's book writing and illustrating, and a faculty-designed honors program; and

WHEREAS, Nancy Gray has been a driving force in deepening the university's commitment to environmental sustainability; in 2007, she reaffirmed Hollins University's pledge to protecting the environment by being a charter signatory of the American College and University Presidents' Climate Agreement; and

WHEREAS, in addition to her duties as president of Hollins University, Nancy Gray has served the Roanoke community and the entire Commonwealth as a member of numerous boards and commissions, including the board of directors of The Southern Association of Colleges and Schools Commission on Colleges, Princeton Theological Seminary, the American College and University Presidents Climate Commitment, Mill Mountain Theatre, and the Roanoke Symphony Orchestra; and

WHEREAS, Nancy Gray holds degrees from Vanderbilt University and North Texas State University and an honorary doctor of humane letters degree from Presbyterian College; prior to joining Hollins University, she was president of Converse College; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Nancy Oliver Gray, the visionary and highly admired president of Hollins University, on the occasion of her retirement in 2017; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Nancy Oliver Gray as an expression of the General Assembly's admiration for her commitment to the students of Hollins University and for her leadership in the field of higher education.

#### SENATE JOINT RESOLUTION NO. 434

*Celebrating the life of Charlotte Ann Nurge.*

Agreed to by the Senate, February 22, 2017

Agreed to by the House of Delegates, February 23, 2017

WHEREAS, Charlotte Ann Nurge of Ashburn, a longtime Loudoun County volunteer and a vocal advocate for seniors, died on June 29, 2016; and

WHEREAS, Charlotte Nurge moved to Virginia from New Jersey in the 1940s, and she was known as an amazing, inspiring, wise, kind, and caring woman; and

WHEREAS, Charlotte Nurge was an employee of Fairfax County Public Schools, and she retired from Langley High School, where she worked in the administrative office; and

WHEREAS, Charlotte Nurge was widely recognized and respected for her commitment to improving services for seniors and for her wisdom, energy, and integrity; and

WHEREAS, Charlotte Nurge served as the chair of the Loudoun County Commission on Aging, and she was an active volunteer for the Loudoun County Area Agency on Aging from the 1990s until shortly before her death; and

WHEREAS, Charlotte Nurge gave an estimated 3,300 volunteer hours to Loudoun County government through her service on various commissions and committees; and

WHEREAS, the Loudoun County Board of Supervisors honored Charlotte Nurge by naming the central recreation room at the Dulles South Senior Center in her honor; and

WHEREAS, Charlotte Nurge was a prominent leader in the earliest days of the South Riding community, where she lived before moving into the Ashby Ponds retirement community in 2008; and

WHEREAS, Charlotte Nurge's life philosophy was to keep involved and keep learning; she believed that if she was helping others, then she was helping herself; and

WHEREAS, known as the "Mayor of Ashby Ponds," Charlotte Nurge loved to play bridge and to play golf; and

WHEREAS, preceded in death by her husband, John, Charlotte Nurge will be fondly remembered and greatly missed by her daughters, Barbara and Catherine, and their families; and many other relatives and good friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Charlotte Ann Nurge, a longtime Loudoun County volunteer and a vocal advocate for seniors; and, be it RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Charlotte Ann Nurge as an expression of the General Assembly's respect for her memory.

**SENATE JOINT RESOLUTION NO. 435**

*Celebrating the life of Alfred C. Anderson.*

Agreed to by the Senate, February 23, 2017  
 Agreed to by the House of Delegates, February 23, 2017

WHEREAS, Alfred C. Anderson, a lifelong resident of Vinton and the longtime treasurer of Roanoke County, who touched countless lives as an educator, mentor, and friend, died on September 27, 2016; and

WHEREAS, Alfred "Fred" Anderson graduated from William Byrd High School and East Tennessee State University; he began his career as an educator at Northside High School and Cave Spring High School, where he encouraged young people to become active leaders in the community; and

WHEREAS, in 1972, Fred Anderson became treasurer of Roanoke County and oversaw numerous enhancements to the office over the course of his 30-year career; deeply respected by his peers, he served as president of both the Treasurers' Association of Virginia and the National Association of County Treasurers and Financial Officers; and

WHEREAS, Fred Anderson served on the State Central Committee of the Republican Party of Virginia and volunteered his time and expertise to several election campaigns in the region; and

WHEREAS, Fred Anderson worked to enhance the quality of life of his fellow Roanoke County residents as a 50-year member and three-term president of the Vinton Host Lions Club and as a 40-year member of Vinton Masonic Lodge No. 204; and

WHEREAS, a man who lived his faith through his actions, Fred Anderson enjoyed fellowship and worship with the community as a member of Thrasher Memorial United Methodist Church, where he taught Sunday School and celebrated his Scottish-American heritage by playing bagpipes at an annual family tartan blessing; and

WHEREAS, Fred Anderson will be fondly remembered and greatly missed by his wife of 45 years, Ann; children, Charles and Claudine, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Alfred C. Anderson, a dedicated public servant and a respected member of the Roanoke County community; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Alfred C. Anderson as an expression of the General Assembly's respect for his memory.

**SENATE JOINT RESOLUTION NO. 436**

*Celebrating the life of James David Seneff.*

Agreed to by the Senate, February 22, 2017  
 Agreed to by the House of Delegates, February 23, 2017

WHEREAS, James David Seneff, a respected member of the Roanoke community, died on July 26, 2016; and

WHEREAS, a patriotic veteran of the United States Navy, James "J. D." Seneff served his country during the Korean War; and

WHEREAS, after his honorable military service, J. D. Seneff began a long career with the Chesapeake and Potomac Telephone Company, retiring after 40 years of service; and

WHEREAS, J. D. Seneff was active in the civic life of the Roanoke Valley as a leader in the Roanoke Valley Friends of the National Rifle Association and as a member of the Roanoke County Republican Committee; and

WHEREAS, J. D. Seneff was a past Grand Master of Williamson Road Masonic Lodge No. 163 and helped to strengthen the community by funding several Habitat for Humanity houses through Thrivent Financial for Lutherans; and

WHEREAS, guided by his faith, J. D. Seneff enjoyed fellowship and worship with the congregation of Trinity Lutheran Church, where he served as a trustee and was a past president of the church council; and

WHEREAS, J. D. Seneff will be fondly remembered and greatly missed by his wife of 59 years, Franke; children, Lorie and Russell, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of James David Seneff; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of James David Seneff as an expression of the General Assembly's respect for his memory.

**SENATE JOINT RESOLUTION NO. 437***Commending the Salem High School football team.*

Agreed to by the Senate, February 22, 2017

Agreed to by the House of Delegates, February 23, 2017

WHEREAS, the Salem High School football team continued to dominate the Group 4A gridiron in 2016, by winning their second consecutive and eighth overall Virginia High School League state championship trophy; and

WHEREAS, the Salem High School Spartans defeated the previously unbeaten Dinwiddie High School Generals 31–27 in a thrilling four-quarter battle on December 10, 2016, in Williamsburg; and

WHEREAS, Salem Spartans senior fullback Riley Fox scored the game-winning touchdown on a fourth-and-1 call with 50 seconds left in the game, capping an amazing 80-yard drive that featured 16 plays and lasted eight and a half minutes; and

WHEREAS, Salem Spartans senior quarterback Noah Beckley kept the winning drive alive with a fourth-down, scrambling, tackle-breaking, pinballing 1-yard gain that will go down in Salem High School football history as one of the greatest clutch plays ever; and

WHEREAS, senior quarterback Noah Beckley completed 20 of 24 passes for 254 total yards and two touchdowns and helped the team convert 11 of 15 third downs in the game; and

WHEREAS, junior receiver Viante Tucker caught eight passes for 141 yards and the Salem Spartans' offense ended the game with 477 total yards; and

WHEREAS, Noah Beckley, Josie Staples, Viante Tucker, Nate Craft, and Riley Fox were named to the VHSL Group 4A All-State football team, and Noah Beckley and Riley Fox won Offensive Player of the Year and Defensive Player of the Year honors, respectively; and

WHEREAS, all members of the Salem Spartans team contributed to the championship victory and outstanding season through their hard work and dedication to excellence both on the field and off; and

WHEREAS, the Salem Spartans ended the 2016 season with a 13–1 record, and the championship victory marked the 41st win in the last three years for the team, making the Spartans an astounding 64–6 over the last five seasons; and

WHEREAS, the Salem Spartans football team dominate their opponents on the field under the leadership of Coach Stephen Magenbauer, the VHSL Coach of the Year in 2015 and 2016, who produces a team of great players year after year and has now won four state championships during his 13-year tenure at Salem High School; and

WHEREAS, Salem High School has won state football championships in 1996, 1998, 1999, 2000, 2004, 2005, 2015, and 2016; the Salem Spartans could not have won their most recent back-to-back titles without the unconditional support of the school's committed student body, faculty and staff, and the intensity and passion of their fans in the greater Salem community; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the Salem High School football team on winning their second consecutive and eighth overall Virginia High School League Group 4A state championship in 2016; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Stephen Magenbauer, coach of the Salem High School football team, as an expression of the General Assembly's admiration for the team's significant accomplishments as a top football powerhouse in the Commonwealth.

**SENATE JOINT RESOLUTION NO. 438***Commending the Carroll County High School varsity softball team.*

Agreed to by the Senate, February 22, 2017

Agreed to by the House of Delegates, February 23, 2017

WHEREAS, the Carroll County High School varsity softball team of Hillsville had an outstanding 2016 season, finishing with a 22–1 record and making their coaches and loyal fans proud; and

WHEREAS, the Carroll County Cavaliers varsity softball team played their hearts out during each game of the season and reached the Virginia High School League Region 4A West semifinal game; and

WHEREAS, building on a stellar 2015 season, when the team won the VHSL Group 4A state title, the school's first team state championship in any sport, the members of the Carroll County Cavaliers varsity softball team were dedicated and focused, working hard on and off the field to improve their skills; and

WHEREAS, Carroll County Cavaliers right-handed pitching ace, Sydney Nester, was named 2016 Gatorade State Softball Player of the Year, an honor recognizing Virginia's best softball player, and she won Virginia High School League Group 4A All-State softball team honors; and

WHEREAS, the Carroll County High School varsity softball team is led by Coach Rick Nester, who, after years of coaching baseball, has dedicated himself to the softball program, working tirelessly to improve the facilities, the team, and the school; and

WHEREAS, the Carroll County Cavaliers varsity softball team had tremendous support from the Carroll County High School community throughout the season, especially in the final three games when the stands at Cavalier Park swelled with devoted fans; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the Carroll County High School varsity softball team on an outstanding 2016 season; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Rick Nester, coach of the Carroll County High School varsity softball team, as an expression of the General Assembly's admiration for the team's hard work and commitment to excellence on and off the field.

**SENATE JOINT RESOLUTION NO. 439**

*Commending the Hidden Valley High School volleyball team.*

Agreed to by the Senate, February 22, 2017  
 Agreed to by the House of Delegates, February 23, 2017

WHEREAS, the Hidden Valley High School volleyball team of Cave Spring was victorious in the Virginia High School League Group 3A state championship on November 19, 2016; and

WHEREAS, the Hidden Valley High School Titans defeated the Blacksburg High School Bruins 3–1 in the title game, the fifth time the two district rivals faced one another during the season; and

WHEREAS, the Hidden Valley Titans were led by Lexi Alexander with 14 kills; Annie Clark with 12 kills and three aces; and Drew Freeland with eight kills, 37 assists, and 11 digs; libero Marley Willard had 27 digs; and

WHEREAS, the game ended with an ace served by Hidden Valley High School's Sawyer Freeland, who came off the bench late in the fourth game and provided a critical boost of energy that fueled the team's victory; and

WHEREAS, all of the members of the Hidden Valley High School volleyball team were an integral part of the championship season; their team work, closeness, and friendships are evident both on and off the court; and

WHEREAS, the Hidden Valley High School volleyball team's state title was made possible through the encouragement, love, and support of the school's students, faculty, and staff, as well as all of the players' families; and

WHEREAS, Drew Freeland and Annie Clark were honored as members of the VHSL Group 3A First Team All-State Volleyball Team and Hidden Valley High School Coach Carla Ponn was named Group 3A Coach of the Year; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the Hidden Valley High School volleyball team on winning the Virginia High School League Group 3A state championship; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Carla Ponn, coach of the Hidden Valley High School volleyball team, as an expression of the General Assembly's admiration for the team's stellar effort this season and for championship honors.

**SENATE JOINT RESOLUTION NO. 440**

*Commending the Hidden Valley High School boys' tennis team.*

Agreed to by the Senate, February 22, 2017  
 Agreed to by the House of Delegates, February 23, 2017

WHEREAS, the Hidden Valley High School boys' tennis team of Cave Spring won the Virginia High School League Group 3A state championship on June 11, 2016; and

WHEREAS, the Hidden Valley High School Titans prevailed 5–1 over their River Ridge District rivals, the Blacksburg High School Bruins, to finish the season unbeaten for the first time and capture their third state title; and

WHEREAS, Hidden Valley Titans team members James Baron, Colin Foutz, Paul Baron, and Sam Burton posted singles wins in the Nos. 1–4 seed games and freshman Greg Hearp clinched the championship with his victory in the No. 5 seed match; and

WHEREAS, the team championship was the final piece of the Hidden Valley Titans' 2016 triple crown, as James Baron was crowned the Group 3A individual singles state champion, and he and Paul Baron won the Group 3A state doubles championship; and

WHEREAS, all of the Hidden Valley Titans boys' tennis team members contributed to the state championship by working hard to hone their skills during the season, preparing both mentally and physically, and playing with great poise under pressure in temperatures above 90 degrees; and

WHEREAS, the Hidden Valley Titans boys' tennis state championship was made possible by the support of the entire Hidden Valley High School faculty and staff, especially veteran Head Coach Ryan Teague, as well as the encouragement of the Cave Spring community and all of the players' families; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend the Hidden Valley High School boys' tennis team for their victory in the Virginia High School League Group 3A state championship; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Ryan Teague, coach of the Hidden Valley High School boys' tennis team, as an expression of the General Assembly's admiration for their undefeated championship season.

**SENATE JOINT RESOLUTION NO. 441**

*Commending Cave Spring High School.*

Agreed to by the Senate, February 22, 2017  
 Agreed to by the House of Delegates, February 23, 2017

WHEREAS, Cave Spring High School in Roanoke won the Virginia High School League 2015–2016 Group 3A Wells Fargo Cup for academics; and

WHEREAS, the Wells Fargo Cup represents 25 years of excellence and Cave Spring High School was one of three first-time winners in the race for yearlong success; and

WHEREAS, winners of the Wells Fargo Cup are determined by a point system based on performance in VHSL state competitions; schools earn academic activity points for outstanding participation in scholastic bowl, creative writing, theatre, forensics, debate, newspaper, yearbook, and magazine; and

WHEREAS, Cave Spring High School's Wells Fargo Cup victory was based on first place finishes in scholastic bowl and debate team competitions, and a trophy class ranking for its yearbook publication; and

WHEREAS, all members of the faculty and student body of Cave Spring High School contributed throughout the school year to the academic success that earned the Wells Fargo Cup statewide distinction; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Cave Spring High School for winning the Virginia High School League 2015–2016 Group 3A Wells Fargo Cup for academics; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Steven Spangler, principal of Cave Spring High School, as an expression of the General Assembly's admiration for the school's extraordinary academic performance and first-time Wells Fargo Cup victory.

**SENATE JOINT RESOLUTION NO. 442**

*Commending Tauxemont Cooperative Preschool.*

Agreed to by the Senate, February 22, 2017  
 Agreed to by the House of Delegates, February 23, 2017

WHEREAS, for 75 years, Tauxemont Cooperative Preschool, located in the historic Tauxemont neighborhood of Alexandria, has helped numerous children grow emotionally, developmentally, physically, and socially, all while experiencing the joy of learning; and

WHEREAS, founded in 1942 by members of the Tauxemont Community Association to provide childcare to working families in what was then the rural countryside of Fairfax County, Tauxemont Cooperative Preschool originally hosted playground sessions and held meetings in local homes on rainy days; and

WHEREAS, Tauxemont Cooperative Preschool purchased its own building in 1946, then held classes on the second floor of the Mount Vernon Fire Department after the original school was destroyed by fire in 1948; the school relocated to the newly built Tauxemont Community House in 1949; and

WHEREAS, Tauxemont Cooperative Preschool has grown to serve annually 64 students over multiple age groups and is accredited by the National Association for the Education of Young Children through a rigorous, voluntary accreditation process that promotes excellence in early education; and

WHEREAS, having served the community for 75 years, Tauxemont Cooperative Preschool has now served over 5,000 alumni in the greater Mount Vernon area; and

WHEREAS, Tauxemont Cooperative Preschool provides activities geared toward the proper age, developmental stage, and skill level of each child to ensure that all students discover learning is both fun and rewarding and develop the skills to achieve success in later schooling; and

WHEREAS, family involvement is essential to the Tauxemont Cooperative Preschool philosophy, and parents are encouraged to take an active role in their children's education as volunteers in and out of the classroom; and

WHEREAS, the Tauxemont Cooperative Preschool hosts the Tauxemont Nature Camp during summers, consisting of nature hikes, camp songs, and natural activities, which has thousands of alumni; and

WHEREAS, throughout its history, Tauxemont has benefited from the leadership of dedicated and qualified teachers; the school is currently staffed by three teachers, Barbara Bradley, Dawn Matthews, and Cindy Peverall, and three assistant teachers, Melissa Wilson, Kim Sharp, and Susan Schaefer; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Tauxemont Cooperative Preschool for its service to the youth of Alexandria and Fairfax County on the occasion of its 75th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Tauxemont Cooperative Preschool as an expression of the General Assembly's admiration for the school's commitment to giving children a strong foundation for lifelong learning.

**SENATE JOINT RESOLUTION NO. 443**

*Commending Belmont Elementary School.*

Agreed to by the Senate, February 22, 2017

Agreed to by the House of Delegates, February 23, 2017

WHEREAS, Belmont Elementary School, a public school in Prince William County, has promoted academic excellence, a positive and safe school climate, and supportive relationships among its students, staff, and the community for 50 years; and

WHEREAS, Belmont Elementary School opened in 1967 on a 15-acre site at a cost of \$626,750, and was the seventh elementary school to be constructed in the then-Occoquan District during the 1960s, at a time when Prince William County was hard-pressed to keep up with the rapidly growing demands for education in the Woodbridge area; and

WHEREAS, Belmont Elementary School, located on Norwood Lane, was named for the Belmont Bay on the Potomac River, which forms the northern boundary of the school property, and became part of the newly created Woodbridge District in 1976; and

WHEREAS, the school opened with 471 students its first year, and in 2016–2017, more than 80 faculty and staff members serve 460 students in preschool through fifth grade, of whom 58 percent speak Spanish, 32 percent speak English, and others speak Dari, Arabic, Urdu, Twi, Vietnamese, and Farsi; and

WHEREAS, Belmont Elementary School embraces professional development for its faculty and implements best practices for English language learners, cultural competency, and integration of technology in the classroom; and

WHEREAS, to maintain the Belmont Elementary School facility and to provide the best environment possible, air conditioning was added in 1977, an elevator was added in 1996, networked computers with Internet access and interactive white boards were installed in each classroom in 2002–2003, and a two-story, four-classroom addition was constructed in 2005; and

WHEREAS, Belmont Elementary School implemented a specialty program in mathematics and science in 1999–2000 to offer rigorous curricula to students who are especially interested in these subjects and to benefit from a science center adjacent to the school, which continues to provide engaging, hands-on science experiences to all fourth-graders and fifth-graders; and

WHEREAS, Belmont Elementary School is a past recipient of the School of Excellence award, the highest distinction awarded by the Prince William County School Board, and in 2011, it was named a Title I Distinguished School; and

WHEREAS, Belmont Elementary School has a history of community support through business partnerships and a proud tradition of parent involvement through its Parent-Teacher Association, Career Days, Multicultural Nights, English language acquisition and Parents as Educational Partners classes, Jump Rope for Heart and the American Heart Association, and Pennies for Patients for the Leukemia & Lymphoma Society; and

WHEREAS, Belmont Elementary School uses the Positive Behavior Intervention Support and Responsive Classroom model, a nationally recognized approach to foster a strong sense of community and to create a safe environment in which students learn and grow, and sets high expectations for teacher and student behavior; and

WHEREAS, Belmont Elementary School offers student leadership and extracurricular opportunities, including robotics, safety patrols, strings, chorus, and after-school enrichment, as well as a SOAR motivational program to promote academic and behavioral success; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Belmont Elementary School on the occasion of its 50th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Belmont Elementary School as an expression of the General Assembly's admiration for the school's contributions to the community and dedication to giving students a strong foundation for lifelong learning.

**SENATE JOINT RESOLUTION NO. 444**

*Commending Spring For Alexandria.*

Agreed to by the Senate, February 22, 2017  
Agreed to by the House of Delegates, February 23, 2017

WHEREAS, Spring For Alexandria is a collaboration between Volunteer Alexandria and the City of Alexandria that was established in 2007 to help the community and those most in need; and

WHEREAS, Spring For Alexandria has brought together residents, local nonprofits, businesses, schools, faith-based organizations, and local government to demonstrate that Alexandrians give where they work and live; and

WHEREAS, people and families giving of their time and talents is an integral part of the community's traditions and essential to the unique spirit of Alexandria; and

WHEREAS, volunteering is a powerful force for the solution of human problems and creative use of human resources, which is necessary for a healthy, productive, and humane society; and

WHEREAS, Spring For Alexandria has engaged thousands of volunteers and raised hundreds of thousands of dollars for Alexandria-based charitable organizations; and

WHEREAS, Spring For Alexandria's Community Service Day is central to the community's culture, and a fine example of businesses, nonprofits, neighbors, youth, and government working together for the common good; and

WHEREAS, on Community Service Day, volunteers raise funds to assist agencies in need or work to deliver meals, repair homes for veterans, read to children, foster animals, prepare meals for the homeless, and much more; and

WHEREAS, in 2017, Spring For Alexandria is working towards ending hunger in Alexandria, while collaborating with the faith-based, nonprofit, and business communities and volunteers to make a difference; and

WHEREAS, in 2017, Spring For Alexandria celebrates the 10th anniversary of its Community Service Day, where hundreds of employees and residents come together to volunteer their time and talents; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Spring For Alexandria on the occasion of its 10th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Spring For Alexandria as an expression of the General Assembly's admiration for its many contributions to the Alexandria community.

**SENATE JOINT RESOLUTION NO. 445**

*Commending Trillium Drop-In Center, Inc.*

Agreed to by the Senate, February 22, 2017  
Agreed to by the House of Delegates, February 23, 2017

WHEREAS, Trillium Drop-In Center, Inc., in Woodbridge is celebrating its 10th anniversary of providing quality services to people with mental illness and putting them on a path to brighter and better days; and

WHEREAS, Trillium Drop-In Center cofounders Ann Gurtler, Cynthia Dudley, and Traci Jones realized their vision for a free, peer-led drop-in center dedicated to building better lives for adults affected by mental illness, when they secured a state funding grant a decade ago; and

WHEREAS, opened in September 2007, Trillium Drop-In Center promotes, encourages, and facilitates recovery from serious mental illness through supportive, recreational, educational, and social activities; and

WHEREAS, Trillium Drop-In Center's mission is to provide a stress-free, stigma-free atmosphere for adults in which to change their lives and move from the dark moments of mental illness to independence and mental health recovery; and

WHEREAS, approximately 40 individuals visit Trillium Drop-In Center each day, and since its inception, the center has had well over 50,000 visits and has helped to put several thousand people on the road to recovery; and

WHEREAS, the dedicated, caring, and highly trained staff of Trillium Drop-In Center mentors and coaches individuals and strives to empower them to live a meaningful life, while managing the challenges of their mental illness; and

WHEREAS, Trillium Drop-In Center promotes broader community recovery efforts through participation in programs such as the Prince William County Police Department's Crisis Intervention Team training and the special DIVERT docket in Prince William County General District Court; and

WHEREAS, while Trillium Drop-In Center was initially opened with grant money, the nonprofit organization is now funded and operated through community support and involvement; and

WHEREAS, Trillium Drop-In Center was the first drop-in center for the mentally ill in the region, and today it serves as a cutting-edge and unique model for other organizations that give aid to those who suffer from serious mental illness; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby commend Trillium Drop-In Center, Inc., on celebrating its 10th anniversary of providing quality services to members of the Prince William County community; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Cynthia Dudley, executive director of Trillium Drop-In Center, Inc., as an expression of the General Assembly's admiration for the center's exceptional work and best wishes for the future.

**SENATE JOINT RESOLUTION NO. 446**

*Celebrating the life of Senior Chief Special Warfare Operator William Ryan Owens.*

Agreed to by the Senate, February 22, 2017  
 Agreed to by the House of Delegates, February 23, 2017

WHEREAS, Senior Chief Special Warfare Operator William Ryan Owens, a decorated member of the elite United States Navy SEAL Team 6, was killed in action while serving his country in Yemen on January 29, 2017; and

WHEREAS, a native of Peoria, Illinois, Ryan Owens attended Illinois Valley Central High School, where he played catcher on the baseball team and was a member of the football team; and

WHEREAS, Ryan Owens fulfilled his lifelong dream to serve his country as a member of the United States Navy when he enlisted in August 1998; he graduated from Basic Underwater Demolition/SEAL training in 2002 and had been stationed in Virginia Beach as a SEAL since 2007; and

WHEREAS, in 12 deployments, Ryan Owens had earned the Navy and Marine Corps Medal, three Bronze Star Medals, a Joint Service Commendation Medal, and a Navy and Marine Corps Commendation Medal, among many other decorations; and

WHEREAS, Ryan Owens' courageous service and sacrifice is a reminder of the dangers faced by American men and women in uniform around the world, who voluntarily go into harm's way in the defense of freedom and liberty; and

WHEREAS, Ryan Owens will be fondly remembered and greatly missed by his loving wife, Carryn; their children, Brooke, Luke, and Taryn; his father, William; his grandmother, Evelyn; and numerous other family members, friends, and fellow SEALs; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the General Assembly hereby note with great sadness the loss of Senior Chief Special Warfare Operator William Ryan Owens, a United States Navy SEAL, who made the ultimate sacrifice in the line of duty; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Senior Chief Special Warfare Operator William Ryan Owens as an expression of the General Assembly's respect for his memory.

**SENATE JOINT RESOLUTION NO. 447**

*Commemorating the 50th anniversary of Loving v. Virginia, 388 U.S. 1 (1967).*

Agreed to by the Senate, February 22, 2017  
 Agreed to by the House of Delegates, February 23, 2017

WHEREAS, on June 12, 1967, the United States Supreme Court, in the landmark decision *Loving v. Virginia*, 388 U.S. 1 (1967), ruled unanimously that Virginia's Racial Integrity Act of 1924, which prohibited interracial marriage, was unconstitutional; and

WHEREAS, miscegenation laws dating from the Colonial era had been enacted throughout the nation; however, historically, greater emphasis was placed on enforcing interracial marriage bans in the slave-holding states of the South; and

WHEREAS, after the American Civil War, legislation known as Black Codes was enacted across the South to circumvent and thwart the newfound freedoms of former slaves, and after Reconstruction, Southern state governments passed a system of laws known as Jim Crow laws, which established a rigidly segregated and legally sanctioned social system that repressed and disenfranchised African Americans, again relegating them to second-class citizenship from 1877 until the mid-1960s; and

WHEREAS, Virginia's Racial Integrity Act of 1924, which institutionalized the "one drop rule," categorized individuals according to their race, required a racial description of every person to be recorded at birth, and made interracial marriages between whites and persons of African American ancestry illegal, was rigorously enforced by Dr. Walter Plecker, the first registrar for the newly created Virginia Bureau of Vital Statistics, who served in this office from 1912 to 1946; and

WHEREAS, in June 1958, Mildred Jeter, a woman of African American and Native American ancestry, and Richard Loving, a white man, both residents of Caroline County, were married in Washington, D.C., because their union was forbidden in Virginia; the couple returned to Virginia and set up their marital abode in Caroline County, where, during the October 1958 term of the Circuit Court of Caroline County, a grand jury issued an indictment charging them with violating Virginia's Racial Integrity Act; and

WHEREAS, Mildred and Richard Loving pleaded guilty to the charges on January 6, 1959, and were sentenced to one year in jail; however, according to "*Loving v. Commonwealth of Virginia*, 388 U.S. 1 (1967)," by Vernellia R. Randall at the University of Dayton School of Law, "the trial judge suspended the sentence for a period of 25 years on the condition that the Lovings leave the State and not return to Virginia together for 25 years. He reiterated Johann Friedrich Blumenbach's

eighteenth century interpretation of race in his opinion that: "Almighty God created the races white, black, yellow, malay and red, and he placed them on separate continents. And but for the interference with his arrangement there would be no cause for such marriages. The fact that he separated the races shows that he did not intend for the races to mix"; and

WHEREAS, the Lovings moved to Washington, D.C., and on November 6, 1963, they filed a motion in Virginia trial court to vacate the judgment and set aside the sentence because the Racial Integrity Act of 1924 violated the Fourteenth Amendment to the United States Constitution; in the aforementioned article written by Vernellia R. Randall, it was noted that since the "motion was not decided by October 28, 1964, the Lovings filed a class action suit in the United States District Court for the Eastern District of Virginia, requesting that a three-judge panel of the court be convened to determine whether Virginia's miscegenation statutes were unconstitutional and to enjoin state officials from enforcing their convictions"; and

WHEREAS, the Virginia trial court judge denied the motion to vacate the sentences on January 22, 1965, and the Lovings appealed to the Supreme Court of Appeals of Virginia, which upheld the constitutionality of the Racial Integrity Act of 1924, modified the sentence, and affirmed the convictions; and

WHEREAS, with the support of the American Civil Liberties Union of Virginia, the Lovings appealed the decision of the Supreme Court of Appeals of Virginia to the United States Supreme Court, which held unanimously on June 12, 1967, that "Virginia's statutory scheme to prevent marriages between persons solely on the basis of racial classifications violated the Equal Protection and Due Process Clauses of the Fourteenth Amendment"; and

WHEREAS, the Court's opinion noted that "the freedom to marry has long been recognized as one of the vital personal rights essential to the orderly pursuit of happiness by free men and is fundamental to our very existence and survival," and Virginia's ban on interracial marriage was repealed in 1967; and

WHEREAS, the 2016 historical drama, *Loving*, garnered critical praise and numerous awards, including a nomination for the Academy Award for Actress in a Leading Role by the Academy of Motion Picture Arts and Sciences, and the film brings visibility and honor to the Commonwealth; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the 50th anniversary of *Loving v. Virginia*, 388 U.S. 1 (1967), be commemorated; and, be it

RESOLVED FURTHER, That the Clerk of the Senate transmit a copy of this resolution to the family of Richard and Mildred Loving and to the Executive Director of the American Civil Liberties Union of Virginia, requesting that they further disseminate copies of this resolution to their relatives and the organization's constituents, respectively, so that they may be apprised of the sense of the General Assembly of Virginia in this matter.

### SENATE RESOLUTION NO. 98

*Celebrating the life of Alvin W. Blaha.*

Agreed to by the Senate, January 12, 2017

WHEREAS, Alvin W. Blaha, a lifelong resident of Dinwiddie County who was a passionate advocate and trusted ambassador for the farming community throughout the Commonwealth, died on June 8, 2016; and

WHEREAS, Alvin Blaha learned the value of hard work and responsibility at a young age, clearing brush and trimming weeds on his family farm, and his sense of duty led him to serve his country as a member of the United States Army; and

WHEREAS, after a 34-year career with Hercules, Inc., in Hopewell, Alvin Blaha became a full-time farmer and offered his leadership and expertise to the agriculture community as a member of numerous agricultural organizations, boards, and advisory committees at local, state, and national levels; and

WHEREAS, Alvin Blaha served as president or chair of the boards of the Virginia Soybean Association, Southern States Southside Cooperative, Virginia Cotton Growers Association, and as a member of the Virginia Farm Bureau Board of Trustees; and

WHEREAS, as a member of the Dinwiddie County Planning Commission, Dinwiddie County Farm Bureau, and Dinwiddie County Soil & Water Board, Alvin Blaha worked to ensure a strong future for the county and for all of his fellow residents; and

WHEREAS, well-known for hosting events at his farm, Alvin Blaha welcomed about 900 second-graders to his farm to learn about agriculture each October; he earned the respect of his colleagues for his unfailing dedication, wealth of knowledge, and passion for service; and

WHEREAS, Alvin Blaha enjoyed fellowship and worship with the community as a member and past president of St. John's Catholic Church, where he served on the finance committee; and

WHEREAS, a beloved husband, father, and grandfather, Alvin Blaha will be fondly remembered and greatly missed by his wife of 56 years, Nina; children, Cindy and Eric, and their families; and numerous other family members, colleagues, and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Alvin W. Blaha, a farmer who worked tirelessly to strengthen the agriculture community in Dinwiddie County and the Commonwealth; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Alvin W. Blaha as an expression of the Senate of Virginia's respect for his memory.

**SENATE RESOLUTION NO. 99**

*Celebrating the life of Thomas Wayne Evans.*

Agreed to by the Senate, January 12, 2017

WHEREAS, Thomas Wayne Evans, a former public safety officer and entrepreneur who dedicated his life to protecting and preserving the Commonwealth's valuable natural resources, died on June 21, 2016; and

WHEREAS, Thomas Evans developed a passion for conservation and protecting the environment at a young age, when he noticed the effects of pollution on the Dan River, where he spent much of his childhood fishing and swimming; and

WHEREAS, Thomas Evans attended the University of Virginia and Virginia Commonwealth University and pursued a career in law enforcement, both as a police officer in Danville and Richmond and as a private investigator; and

WHEREAS, Thomas Evans worked for the Veterans Administration and owned the Oasis Restaurant in Richmond, which was known for its delectable barbeque, before he answered his calling to become an advocate for the environment; and

WHEREAS, working with local and state officials, Thomas Evans focused on water quality issues, wildlife protection, and sportsmen's rights, developing a strong working relationship with members of the Department of Game and Inland Fisheries; and

WHEREAS, Thomas Evans helped to classify the Staunton River as a Scenic River, led a coalition to stop the construction of a coal slurry pipeline, and supported firearms safety education initiatives; he safeguarded all Virginians by helping to establish anti-stalker laws in the Commonwealth; and

WHEREAS, Thomas Evans worked to preserve the history and heritage of the Commonwealth by researching and writing a book on the migration of Native American tribes, gaining a wealth of knowledge on all of the tribes of the Americas; and

WHEREAS, a confident leader and a charismatic mentor to many, Thomas Evans will be fondly remembered and greatly missed by numerous family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Thomas Wayne Evans, a tireless champion for the conservation of the Commonwealth's valuable natural resources; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Thomas Wayne Evans as an expression of the Senate of Virginia's respect for his memory.

**SENATE RESOLUTION NO. 100**

*Celebrating the life of Jack W. Gravely.*

Agreed to by the Senate, January 12, 2017

WHEREAS, Jack W. Gravely, a Richmond radio talk show host, state and national civil rights advocate, and community leader, died on August 15, 2016; and

WHEREAS, Jack Gravely was a native of Pocahontas and the seventh of 12 children born to Clarence and Causby Gravely; and

WHEREAS, Jack Gravely earned a degree in history and government from Fayetteville State University in Fayetteville, North Carolina, and received a law degree from the University of Virginia School of Law; he served in a combat support unit in Vietnam in between earning the two degrees; and

WHEREAS, in September 1995, Jack Gravely was appointed the first director of diversity at the Federal Communications Commission; and

WHEREAS, Jack Gravely worked at the state and national levels of the NAACP for 16 years, serving two stints as the head of the Virginia State Conference NAACP and as a special assistant to then-national NAACP Executive Director Benjamin L. Hooks; and

WHEREAS, Jack Gravely gained notoriety across the Commonwealth as a frequent guest on local public affairs shows and as the host of a talk show on WRVA-AM in Richmond from 1996 to 2002; at the time of his death he was the host of "The Jack Gravely Show" on Richmond's Rejoice 990 WREJ-AM (formerly WLEE-AM); and

WHEREAS, Jack Gravely graced national television airwaves, his commentary appeared regularly in local and national newspapers, and he was a sought-after speaker, delivering over 600 speeches across the country and in Canada; and

WHEREAS, guided by faith and grounded in family devotion, Jack Gravely was baptized at an early age and was a member of the Good Shepherd Baptist Church of Petersburg, where he served faithfully on the Deacon Board, Male Usher Ministry, and Nehemiah Group Ministry; and

WHEREAS, Jack Gravely's example of faithfulness, demonstration of dignity, and grace will forever inspire the lives of all of those whom he touched, especially his children and grandchildren; and

WHEREAS, Jack Gravely will be fondly remembered and greatly missed by his devoted wife, Barbara; children, Chekesha, Kimya, Kia, Tony, Tonya, and Randy, and their families; and numerous relatives and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Jack W. Gravely, radio talk show host, civil rights advocate, and community leader; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Jack W. Gravely as an expression of the Senate of Virginia's respect for his memory.

**SENATE RESOLUTION NO. 101**

*Commending Trauma-Informed Community Networks.*

Agreed to by the Senate, January 12, 2017

WHEREAS, research over the last two decades in the evolving fields of neuroscience, molecular biology, public health, genomics, and epigenetics reveals that experiences in the first few years of life build changes into the biology of the human body that, in turn, influence the person's physical and mental health over the course of a lifetime; and

WHEREAS, this evidence suggests that early intervention and prevention of prolonged, toxic stress, adverse childhood experiences, and trauma can buffer the impacts on long-term health and well-being; and

WHEREAS, this research has spurred action at the local and regional levels across Virginia to form cross-discipline, public-private networks of providers, practitioners, advocates, and policy makers who share best practices and promote awareness about trauma-informed care; and

WHEREAS, these regional Trauma-Informed Community Networks are focused on bridging local agency silos and public and private partnerships to focus on systems-level solutions for more resilient and trauma-informed communities; and

WHEREAS, Trauma-Informed Community Networks have emerged in communities such as Charlottesville, Fairfax, Greater Richmond, Greater Piedmont, Harrisonburg, Hampton Roads, Petersburg, and others; and

WHEREAS, these Trauma-Informed Community Networks partnered to create Trauma System Response tools for use in local social services agencies; and

WHEREAS, members of Trauma-Informed Community Networks have developed and implemented trauma-informed training for public school teachers; and

WHEREAS, network members include juvenile and domestic relations court judges who apply trauma-informed approaches in the courtroom and local law-enforcement officials who apply and practice trauma-informed approaches in their police work; and

WHEREAS, each community has defined criteria for a Trauma-Informed Spaces organizational assessment of public and private facilities; and

WHEREAS, any citizen can participate in discussion and adoption of trauma-informed practices through Trauma-Informed Community Networks by participating in conversations about community-based resilience; now, therefore, be it

RESOLVED by the Senate of Virginia, That Trauma-Informed Community Networks hereby be commended for their work to promote best practices, to address childhood trauma and toxic stress, and to become trauma-informed, resilient communities; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Greater Richmond Trauma-Informed Community Network as an expression of the Senate of Virginia's admiration for the organization's work to increase health and wellness throughout the Commonwealth.

**SENATE RESOLUTION NO. 102**

*2017 Operating Resolution.*

Agreed to by the Senate, January 11, 2017

RESOLVED by the Senate of Virginia, That the Comptroller is directed to issue his warrants on the Treasurer, payable from the contingent fund of the Senate to accomplish the work of the Senate of Virginia as reported by the Clerk of the Senate to the Senate Committee on Rules during the 2017 Session. Necessary payments to cover salaries of temporary employees and the Pages, per diem for legislative assistants who establish a temporary residence, per diem for Pages and certain employees designated by the Clerk and reported to the Chair of the Senate Committee on Rules, as well as other contingent and incidental expenses, will be certified by the Clerk of the Senate or her designee. Per diem for orientation will be paid as approved by the Clerk.

**SENATE RESOLUTION NO. 103***Commending Frederick J. Napolitano.*

Agreed to by the Senate, January 19, 2017

WHEREAS, Frederick J. Napolitano, a respected businessman, generous philanthropist, and a pillar of the Virginia Beach community, received the 2015 Virginia Beach First Citizen Award; and

WHEREAS, the Virginia Beach First Citizen Award is presented by the Virginia Beach Jaycees to individuals who have strengthened Virginia Beach through volunteer service or philanthropic contributions and influence and participation in public initiatives; and

WHEREAS, as chair of the boards of Pembroke Enterprises and Napolitano Enterprises, Frederick "Fred" Napolitano has been an active leader in home development and real estate in Virginia Beach for more than 60 years; and

WHEREAS, deeply respected in the development field, Fred Napolitano served as president of the National Association of Home Builders in 1982 and as a board member of the Federal National Mortgage Association; he served as chair of the Hampton Roads Chamber of Commerce and Forward Hampton Roads and on the steering committee of Plan 2007; and

WHEREAS, Fred Napolitano has enriched cultural life in Virginia Beach as the creator of the Virginia Beach Neptune Festival, a beloved local tradition celebrating the end of summer since 1974; he was selected as King Neptune in 1977 and presided over festivities; and

WHEREAS, Fred Napolitano helped to ensure the health and wellness of his fellow residents as a 13-year board member of Sentara Healthcare, overseeing a merger with Tidewater Healthcare to better serve patients; and

WHEREAS, as an original board member of First Tee, a youth development program, and a former board member and director emeritus of St. Mary's Home for Disabled Children, Fred Napolitano has inspired countless young people in Hampton Roads; in addition, he served on the board of the Catholic Charities Foundation and is a member of the Knights of Columbus; and

WHEREAS, Fred Napolitano has received many other awards and accolades, including his election to the National Association of Home Builders Hall of Fame and the 1989 American Vocation Success Award; now, therefore, be it

RESOLVED by the Senate of Virginia, That Frederick J. Napolitano hereby be commended on receiving the 2015 Virginia Beach First Citizen Award for his lifetime of service to the residents of Virginia Beach and Hampton Roads; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Frederick J. Napolitano as an expression of the Senate of Virginia's admiration for his many accomplishments in service to his fellow members of the Virginia Beach community.

**SENATE RESOLUTION NO. 104***Celebrating the lives of the victims of the Imperial Airlines Flight 201/8 crash.*

Agreed to by the Senate, January 19, 2017

WHEREAS, on November 8, 1961, three crew members and 74 United States Army recruits en route to United States Army Training Center Fort Jackson, South Carolina, died as a result of the Imperial Airlines Flight 201/8 crash; and

WHEREAS, after experiencing fuel flow disruptions in both right-side engines, the crew of Imperial Airlines Flight 201/8, which had been chartered as a supplemental carrier for military personnel, attempted a landing at what is now Richmond International Airport; and

WHEREAS, ensuing malfunctions in landing gear and one of the remaining engines resulted in a crash and a fire; accident investigations later determined that the aircraft had not been properly serviced and maintained; and

WHEREAS, the Imperial Airlines Flight 201/8 crash resulted in additional oversight of supplemental carriers practices and required that all supplemental carriers re-apply for certification from the Civil Aeronautics Board, begin carrying liability insurance, and maintain a healthy financial status; and

WHEREAS, the victims of the Imperial Airlines Flight 201/8 crash included 12 individuals from Washington, D.C., Virginia, and Maryland—Bernie Abraham Collins, Michael Crissey Dash, Maurice H. Davis, Charles L. Decoteau, Donald Leon Essex, Peter Steve Georgopoulos, James Leon Harris, Michael Edward McAllister, Samuel McGhee, Robert Vernon Poole, Joseph Eugene Rosenberger, and Reginald Gilbert Shelton; and

WHEREAS, 2016 marked the 55th anniversary of the Imperial Airlines Flight 201/8 crash; it is a reminder of the service and sacrifices made by men and women in uniform throughout the United States and the world; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of the victims of the Imperial Airlines Flight 201/8 crash; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the families of the victims of the Imperial Airlines Flight 201/8 crash as an expression of the Senate of Virginia's respect for their memory.

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ACTS OF ASSEMBLY

[VA.,

SENATE RESOLUTION NO. 105

*Confirming a nomination to the Senate Ethics Advisory Panel.*

Agreed to by the Senate, February 7, 2017

RESOLVED by the Senate of Virginia, That the Senate confirm the following nomination by the Senate Committee on Rules to the Senate Ethics Advisory Panel made in accordance with § 30-112 of the Code of Virginia:

**The Honorable Frederick M. Quayle**, 621 Butler Avenue, **Suffolk**, Virginia 23434, for a term of four years beginning July 1, 2017, and ending June 30, 2021, to succeed himself.

SENATE RESOLUTION NO. 106

*Commending the Graham High School competition cheer team.*

Agreed to by the Senate, January 26, 2017

WHEREAS, the Graham High School competition cheer team made history by claiming the program's first state title, winning the Virginia High School League Group 2A state championship on November 5, 2016, at the Siegel Center in Richmond; and

WHEREAS, the Graham High School competition cheer team was undefeated during the season, winning three invitational matches, the Conference 39 championship, and the Group 2A West regional championship; and

WHEREAS, the Graham High School competition cheer team was one of eight teams competing in the state final, becoming the first school west of the Roanoke area to win a state title since competitive cheering was introduced in Group 2A in 1998; and

WHEREAS, the Virginia High School League named Debra Brewster, the head coach of the Graham High School competition cheer team, as Coach of the Year, and team captain Carson Cooper was named Group 2A Cheerleader of the Year; and

WHEREAS, the Graham High School competition cheer team's successful season is a testament to the hard work and dedication of the student-athletes, the leadership of the coaches and staff, and the enthusiastic support of the entire Graham High School community; now, therefore, be it

RESOLVED by the Senate of Virginia, That the Graham High School competition cheer team hereby be commended on winning the Virginia High School League Group 2A state championship; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Debra Brewster, head coach of the Graham High School competition cheer team, as an expression of the Senate of Virginia's admiration for the team's exceptional athletic performance and best wishes for the future.

SENATE RESOLUTION NO. 107

*Commending Tom Harding.*

Agreed to by the Senate, January 26, 2017

WHEREAS, Tom Harding, the former Honaker High School baseball coach, was inducted into the Virginia High School League Hall of Fame in October 2016, capping a season during which he became the league's all-time winningest baseball coach; and

WHEREAS, the Virginia High School League (VHSL) Hall of Fame is dedicated to preserving the rich heritage of outstanding achievements by students and adults in sports and activities within Virginia's public high schools; and

WHEREAS, Tom Harding's induction into the VHSL Hall of Fame was the culmination of a 46-year-career that included a record-setting 633 wins and the 2011 VHSL Group A state championship; and

WHEREAS, Tom Harding broke the VHSL's record for most wins as a baseball coach in May 2016, when he recorded his 632nd win with a 3–1 victory over Northwood High School; and

WHEREAS, Tom Harding was inducted into the VHSL Hall of Fame in the same class as one of his former players, Pittsburgh Steeler Heath Miller, a Super Bowl champion tight end and graduate of the University of Virginia and Honaker High School; and

WHEREAS, Tom Harding retired as a teacher in the Russell County school system years ago but remained dedicated to coaching baseball at Honaker High School, whose baseball field is named in his honor; and

WHEREAS, even as Tom Harding battled some recent health issues, his passion for coaching never waned, and his genuine belief in his players' ability to succeed gave hundreds of young men confidence on and off the baseball diamond; and

WHEREAS, Tom Harding is beloved by the Honaker High School community and respected as a great coach, a great person, and a great man; now, therefore, be it

RESOLVED by the Senate of Virginia, That Tom Harding hereby be commended on his induction into the Virginia High School League Hall of Fame in 2016; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Tom Harding, a longtime fixture at Honaker High School and the winningest baseball coach of all-time in the Virginia High School League, as an expression of the Senate of Virginia's admiration for his record-setting career and his unwavering dedication to four decades of Honaker High School baseball teams.

### SENATE RESOLUTION NO. 108

*Celebrating the life of Ralph Edmond Stanley.*

Agreed to by the Senate, January 26, 2017

WHEREAS, Ralph Edmond Stanley of Sandy Ridge, a Grammy-winning musician and one of the founding fathers of American bluegrass music, whose distinctive old-time mountain voice and banjo ballads inspired the next generation of bluegrass and country singers, died on June 23, 2016; and

WHEREAS, a lifelong resident of Dickenson County, Ralph Stanley grew up listening to the Carter Family; his unvarnished mountain music style was firmly rooted in the Appalachian terrain where he was raised and the ardent and unaccompanied style of Primitive Baptist Church; and

WHEREAS, Ralph Stanley came to love music at an early age; his mother, Lucy, taught him to play the banjo, and his father, Lee, was a talented singer who sang old-time songs at home and at church; and

WHEREAS, Ralph Stanley first sang in public at the age of eight, when at church one Sunday he was called to lead the congregation in a Primitive Baptist hymn; he graduated from Ervinton High School in 1945 and served in the United States Army during World War II; and

WHEREAS, with the Grand Ole Opry stars they listened to on the radio as role models, Ralph Stanley and his older brother, Carter, began making music together; Carter Stanley played guitar and sang lead and Ralph Stanley played banjo and sang tenor harmony; and

WHEREAS, in 1946, the brothers formed their first band, the Stanley Brothers and the Clinch Mountain Boys, and joined WCYB's live radio program *Farm and Fun Time* in Bristol, Tennessee, and, in 1947, they made their recording debut; and

WHEREAS, for the next 20 years, the Stanley Brothers and their band became renowned for their otherworldly vocal harmonies and soulful instrumental style, performing a mix of blues, ballads, hymns, and breakdowns, and producing mesmerizing pieces that would become bluegrass standards, such as "Mountain Dew," "Little Maggie," and "Angel Band"; and

WHEREAS, the Stanley Brothers and their band played college campuses, outdoor concerts, and festivals during the folk music revival of the 1950s and 1960s, and their only popular chart hit "How Far to Little Rock" was released in 1960, making it to the Top 20 of the Billboard country singles chart; and

WHEREAS, after Carter Stanley's death in 1966, Ralph Stanley continued to lead the Clinch Mountain Boys, taking the group in a more traditional direction, touring continually, recording several albums a year, and maintaining their standing as one of bluegrass's pioneering bands; and

WHEREAS, in 1970, Ralph Stanley began hosting an annual music festival at Smith Ridge; each year, he would close the Hills of Home Bluegrass Festival by singing "The Hills of Home" and reciting a tribute to his late brother; and

WHEREAS, in 1976, Ralph Stanley was awarded an honorary doctorate in music by Lincoln Memorial University in Harrogate, Tennessee, and he enjoyed being addressed as "Dr. Ralph" thereafter by his legion of fans; and

WHEREAS, Ralph Stanley garnered more mainstream attention than he ever had before in the 1990s and early 2000s, thanks to collaborative albums with well-known bluegrass and folk musicians and his cameo in the 2000 movie *O Brother, Where Art Thou?*; and

WHEREAS, a pioneering claw hammer banjoist and riveting singer, Ralph Stanley won a Grammy Award in 2002 for his ghostly rendition of "O Death" that was used in the movie *O Brother, Where Art Thou?*; the movie popularized an arrangement of his famous song, "Man of Constant Sorrow"; and

WHEREAS, Ralph Stanley was inducted into the International Bluegrass Hall of Honor in 1992 and became a member of the Grand Ole Opry in 2000; he received the Living Legend Award from the Library of Congress, a National Medal of Arts, and he was the first artist to be given the Traditional American Music Award by the National Endowment for the Humanities; and

WHEREAS, Ralph Stanley was a pivotal figure in the revival of interest in bluegrass music in recent years, and he inspired the careers of the next generation of bluegrass musicians who had the privilege of playing with him in the Clinch Mountain Boys band including country artists, Ricky Skaggs and Keith Whitley; and

WHEREAS, as a musician, Ralph Stanley always remained true to his roots, and he was one of the last and the purist of the traditional country artists; he preferred to call his music old-time mountain style rather than bluegrass, even though he is considered a pioneer of the genre; and

WHEREAS, Ralph Stanley will be fondly remembered and greatly missed by his wife, Jimmi; children, Lisa, Tonya, Tim, and Ralph, and their families; and a host of other relatives, neighbors, friends, and former Clinch Mountain Boys; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Ralph Edmond Stanley, a founding father of American bluegrass music renowned for his distinctive old-time mountain voice and banjo picking style; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Ralph Edmond Stanley as an expression of the Senate of Virginia's respect for his memory.

**SENATE RESOLUTION NO. 109**

*Nominating a person to be elected to the Court of Appeals of Virginia.*

Agreed to by the Senate, January 18, 2017

RESOLVED by the Senate, That the following person is hereby nominated to be elected to the Court of Appeals of Virginia as follows:

The Honorable Rossie D. Alston, Jr., of Manassas, as a judge of the Court of Appeals for a term of eight years commencing March 1, 2017.

**SENATE RESOLUTION NO. 110**

*Nominating persons to be elected to circuit court judgeships.*

Agreed to by the Senate, January 18, 2017

RESOLVED by the Senate, That the following persons are hereby nominated to be elected to the respective circuit court judgeships as follows:

The Honorable Leslie L. Lilley, of Virginia Beach, as a judge of the Second Judicial Circuit for a term of eight years commencing March 1, 2017.

The Honorable William R. O'Brien, of Virginia Beach, as a judge of the Second Judicial Circuit for a term of eight years commencing February 1, 2017.

The Honorable H. Thomas Padrick, Jr., of Virginia Beach, as a judge of the Second Judicial Circuit for a term of eight years commencing February 1, 2017.

The Honorable John R. Doyle, III, of Norfolk, as a judge of the Fourth Judicial Circuit for a term of eight years commencing February 1, 2017.

The Honorable Mary Jane Hall, of Norfolk, as a judge of the Fourth Judicial Circuit for a term of eight years commencing March 1, 2017.

The Honorable Jerrauld C. Jones, of Norfolk, as a judge of the Fourth Judicial Circuit for a term of eight years commencing February 1, 2017.

The Honorable Bonnie L. Jones, of Hampton, as a judge of the Eighth Judicial Circuit for a term of eight years commencing March 1, 2017.

The Honorable Timothy J. Hauler, of Chesterfield, as a judge of the Twelfth Judicial Circuit for a term of eight years commencing February 1, 2017.

The Honorable Charles S. Sharp, of Fredericksburg, as a judge of the Fifteenth Judicial Circuit for a term of eight years commencing February 1, 2017.

The Honorable William T. Newman, Jr., of Arlington, as a judge of the Seventeenth Judicial Circuit for a term of eight years commencing March 1, 2017.

The Honorable Jan L. Brodie, of Fairfax, as a judge of the Nineteenth Judicial Circuit for a term of eight years commencing February 1, 2017.

The Honorable Richard E. Gardiner, of Fairfax, as a judge of the Nineteenth Judicial Circuit for a term of eight years commencing February 1, 2017.

The Honorable Jeffrey W. Parker, of Fauquier, as a judge of the Twentieth Judicial Circuit for a term of eight years commencing May 1, 2017.

The Honorable Joseph W. Milam, Jr., of Danville, as a judge of the Twenty-second Judicial Circuit for a term of eight years commencing February 1, 2017.

The Honorable James R. Swanson, of Roanoke County, as a judge of the Twenty-third Judicial Circuit for a term of eight years commencing April 1, 2017.

The Honorable William C. Goodwin, of Staunton, as a judge of the Twenty-fifth Judicial Circuit for a term of eight years commencing February 1, 2017.

The Honorable C. Randall Lowe, of Washington, as a judge of the Twenty-eighth Judicial Circuit for a term of eight years commencing February 1, 2017.

The Honorable Craig D. Johnston, of Prince William, as a judge of the Thirty-first Judicial Circuit for a term of eight years commencing March 1, 2017.

### SENATE RESOLUTION NO. 111

*Nominating persons to be elected to general district court judgeships.*

Agreed to by the Senate, January 18, 2017

RESOLVED by the Senate, That the following persons are hereby nominated to be elected to the respective general district court judgeships as follows:

The Honorable Alfred W. Bates, III, of Suffolk, as a judge of the Fifth Judicial District for a term of six years commencing July 1, 2017.

The Honorable Stephen D. Bloom, of Emporia, as a judge of the Sixth Judicial District for a term of six years commencing February 1, 2017.

The Honorable Matthew W. Hoffman, of Newport News, as a judge of the Seventh Judicial District for a term of six years commencing February 1, 2017.

The Honorable Mayo K. Gravatt, of Nottoway, as a judge of the Eleventh Judicial District for a term of six years commencing February 1, 2017.

The Honorable James J. O'Connell, III, of Chesterfield, as a judge of the Twelfth Judicial District for a term of six years commencing July 1, 2017.

Claire G. Cardwell, Esquire, of Richmond, as a judge of the Thirteenth Judicial District for a term of six years commencing July 1, 2017.

The Honorable Thomas O. Bondurant, Jr., of Henrico, as a judge of the Fourteenth Judicial District for a term of six years commencing February 1, 2017.

The Honorable Michael J. Cassidy, of Fairfax County, as a judge of the Nineteenth Judicial District for a term of six years commencing February 1, 2017.

The Honorable Susan J. Stoney, of Fairfax County, as a judge of the Nineteenth Judicial District for a term of six years commencing February 1, 2017.

The Honorable J. Gregory Ashwell, of Loudoun, as a judge of the Twentieth Judicial District for a term of six years commencing July 1, 2017.

The Honorable Scott R. Geddes, of Roanoke County, as a judge of the Twenty-third Judicial District for a term of six years commencing February 1, 2017.

Rupen R. Shah, Esquire, of Staunton, as a judge of the Twenty-fifth Judicial District for a term of six years commencing February 1, 2017.

### SENATE RESOLUTION NO. 112

*Nominating persons to be elected to juvenile and domestic relations district court judgeships.*

Agreed to by the Senate, January 18, 2017

RESOLVED by the Senate, That the following persons are hereby nominated to be elected to the respective juvenile and domestic relations district court judgeships as follows:

The Honorable Rufus A. Banks, Jr., of Chesapeake, as a judge of the First Judicial District for a term of six years commencing July 1, 2017.

The Honorable Larry D. Willis, Sr., of Chesapeake, as a judge of the First Judicial District for a term of six years commencing May 1, 2017.

The Honorable M. Randolph Carlson, II, of Norfolk, as a judge of the Fourth Judicial District for a term of six years commencing January 1, 2018.

The Honorable Thomas W. Carpenter, of Newport News, as a judge of the Seventh Judicial District for a term of six years commencing February 1, 2017.

M. Duncan Minton, Jr., Esquire, of Henrico, as a judge of the Twelfth Judicial District for a term of six years commencing March 1, 2017.

The Honorable Denis F. Soden, of Henrico, as a judge of the Fourteenth Judicial District for a term of six years commencing February 1, 2017.

The Honorable Shannon O. Hoehl, of Hanover, as a judge of the Fifteenth Judicial District for a term of six years commencing July 1, 2017.

The Honorable Julian W. Johnson, of Spotsylvania, as a judge of the Fifteenth Judicial District for a term of six years commencing April 1, 2017.

The Honorable Constance H. Frogale, of Alexandria, as a judge of the Eighteenth Judicial District for a term of six years commencing April 1, 2017.

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The Honorable Pamela L. Brooks, of Loudoun, as a judge of the Twentieth Judicial District for a term of six years commencing July 1, 2017.

The Honorable Paul A. Tucker, of Botetourt, as a judge of the Twenty-fifth Judicial District for a term of six years commencing July 1, 2017.

**SENATE RESOLUTION NO. 113**

*Nominating persons to be elected as members of the Judicial Inquiry and Review Commission.*

Agreed to by the Senate, January 18, 2017

RESOLVED by the Senate, That the following persons are hereby nominated to be elected as members of the Judicial Inquiry and Review Commission as follows:

H. Gayland Lyles, of Fairfax County, as a member of the Judicial Inquiry and Review Commission for a term of four years commencing July 1, 2017.

Robert H. Simpson, of Williamsburg, as a member of the Judicial Inquiry and Review Commission for a term of four years commencing July 1, 2017.

**SENATE RESOLUTION NO. 114**

*Nominating a person to be elected to the Virginia Workers' Compensation Commission.*

Agreed to by the Senate, January 18, 2017

RESOLVED by the Senate, That the following person is hereby nominated to be elected to the Virginia Workers' Compensation Commission as follows:

Robert Alan Rapaport, of the City of Virginia Beach, to succeed Roger Williams as a member of the Virginia Workers' Compensation Commission for an unexpired term commencing February 1, 2017, and ending January 31, 2020.

**SENATE RESOLUTION NO. 115**

*Nominating a person to be elected as the Auditor of Public Accounts.*

Agreed to by the Senate, January 18, 2017

RESOLVED by the Senate, That the following person is hereby nominated to be elected as the Auditor of Public Accounts as follows:

Martha Sedwick Mavredes, of Chesterfield, as the Auditor of Public Accounts for a term of four years commencing February 1, 2017.

**SENATE RESOLUTION NO. 116**

*Commending Muslim Lakhani.*

Agreed to by the Senate, January 26, 2017

WHEREAS, Muslim Lakhani of McLean, a Pakistani-American entrepreneur and philanthropist, was honored at the InterFaith Conference of Metropolitan Washington, where he was presented with the 2016 InterFaith Bridge Builders Award for his impressive leadership, charitable efforts, dedication to justice and basic human rights, and for inspiring others to build even stronger bridges of compassion and tolerance in today's world; and

WHEREAS, Muslim Lakhani is the Founder, Chairman, and Chief Executive Officer of ML Resources, LLC, ML Private Investments, LLC, and ML Social Vision, Inc., a non-profit organization that, aside from philanthropic initiatives, has worked for more than 20 years to increase understanding and tolerance between the West and the Muslim world; and

WHEREAS, for the past eight years, ML Social Vision has been supporting the Salvation Army's feeding program in Washington, D.C., which feeds almost 200 people 365 days a year and helps to integrate them back into society; and

WHEREAS, through ML Social Vision, Muslim Lakhani helped financially to jump start a free health clinic in Chantilly that is open to people of all faiths; and

WHEREAS, through his longstanding commitment to philanthropy, Muslim Lakhani has promoted tolerance and dialogue among different faiths, ethnic groups, and social classes, and helped to build institutions for political, social, and economic reform; now, therefore, be it

RESOLVED by the Senate of Virginia, That Muslim Lakhani hereby be commended for his service to the community and the country; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Muslim Lakhani as an expression of the Senate of Virginia's admiration for his tireless efforts to forge interfaith understanding and commitment to building a more pluralistic society.

### SENATE RESOLUTION NO. 117

*Commending Marshall Price.*

Agreed to by the Senate, January 26, 2017

WHEREAS, Marshall Price, who oversaw a major expansion of the student body and curriculum offerings of Massanutten Technical Center during his 16-year tenure as director, retired from the school in 2016; and

WHEREAS, Marshall Price received his bachelor's and master's degrees from James Madison University in Harrisonburg; and

WHEREAS, since Marshall Price joined Massanutten Technical Center, the school's enrollment quadrupled from 250 to 1,000, and the number of programs offered increased from 15 to 20, with 17 offering college credit for high school students; and

WHEREAS, Massanutten Technical Center serves students from Harrisonburg City and Rockingham County public schools, as well as adult students, offering courses for aspiring practical nurses, architects, dental assistants, carpenters, masons, and electricians, among other careers; and

WHEREAS, because of Marshall Price's leadership, vocational students can now earn industrial certification and college credits through dual enrollment partnerships with area colleges and universities; and

WHEREAS, Marshall Price challenged old ideas in creating an unparalleled learning experience at Massanutten Technical Center, and he has worked to change the perception of vocational education, which is supplying a critical pipeline in the Shenandoah Valley economy; and

WHEREAS, Marshall Price's dedication to vocational education, coupled with his desire to see the students of Harrisonburg and Rockingham County succeed, has greatly improved the job prospects for hundreds of tradesmen and tradeswomen who have graduated from Massanutten Technical Center during his tenure; now, therefore, be it

RESOLVED by the Senate of Virginia, That Marshall Price hereby be commended for 16 years of exceptional service and dedication to Massanutten Technical Center; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Marshall Price as an expression of the Senate of Virginia's admiration for his work to expand and improve vocational education in the Shenandoah Valley.

### SENATE RESOLUTION NO. 118

*Celebrating the life of Abram H. Clymer.*

Agreed to by the Senate, January 26, 2017

WHEREAS, Abram H. Clymer, a respected entrepreneur who owned numerous businesses in the Harrisonburg area and who inspired others through his deep and abiding faith, died on September 1, 2016; and

WHEREAS, a native of Lancaster County, Pennsylvania, Abram "Abe" Clymer earned a bachelor's degree from Virginia Commonwealth University and lived in Maryland, Pennsylvania, Illinois, and California, before returning to Virginia to settle in Harrisonburg; and

WHEREAS, Abe Clymer opened the Harrisonburg Centerpoint Bookstore, which specialized in Christian literature, and expanded the business to six locations, four of which were purchased by Family Christian Stores in 1999; and

WHEREAS, throughout his long career in business, Abe Clymer owned or co-owned Preston Cleaners, Chasen's Deli and Bakery, and a DQ Grill & Chill; he was well-known for handing out business cards that featured a coupon for a free Dairy Queen Blizzard on the back; and

WHEREAS, at the age of 63, Abe Clymer became the development director of Wingfield Ministries, an evangelical organization that stages festivals in Ohio, Pennsylvania, Florida, Tennessee, and Virginia; and

WHEREAS, as a longtime member of the Rotary Club of Harrisonburg, Abe Clymer completed mission trips to China, Russia, Romania, South Africa, Colombia, Pakistan, and India; he served as district governor for Rotary International District 7570, which covers western Virginia and northeastern Tennessee; and

WHEREAS, Abe Clymer will be fondly remembered and greatly missed by his wife, Shirley; children, Angela and Eric, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Abram H. Clymer, an admired entrepreneur, a man of deep faith, and a pillar of the Harrisonburg community; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Abram H. Clymer as an expression of the Senate of Virginia's respect for his memory.

**SENATE RESOLUTION NO. 119***Commending the Lebanon High School softball team.*

Agreed to by the Senate, January 26, 2017

WHEREAS, the Lebanon High School softball team won the Virginia High School League Group 2A state championship in June 2016, capping a storybook season and bringing home the first state softball trophy in school history; and

WHEREAS, the Lebanon High School Pioneers defeated the Central High School Falcons of Woodstock by a margin of 2–1 in a 16-inning marathon game that will be written about in history books; and

WHEREAS, the Lebanon High School softball team reached the state championship game after a 3–1 shocking upset of two-time defending state champion Page County High School in the Virginia High School League (VHSL) Group 2A state semifinals; and

WHEREAS, the Central Falcons took a 1–0 lead in the fourth inning of the championship game after back-to-back doubles; the Lebanon Pioneers answered back in the sixth inning when Taylor Woodlief hit a double to the wall to score Monica Parrott; and

WHEREAS, pitching and defense took over from there as Lebanon Pioneers pitcher Morgan Hamm settled into a groove, supported by the unshakable defense of center fielder Monica Parrott, shortstop Haley Justus, and left fielder Madison Varney; and

WHEREAS, after more than three hours of intense heat and pressure, Lebanon Pioneers batter Taylor Woodlief smacked the game-winning home run over the center field wall in the 16th inning, ending the longest state tournament game in VHSL softball history; and

WHEREAS, Taylor Woodlief's walk-off home run prompted a mob of jubilant Lebanon High School players and fans to rush the field in a moment of pure joy that will not soon be forgotten by all of those who participated in and watched the record-breaking game; and

WHEREAS, Lebanon Pioneers pitcher Morgan Hamm finished the game with 12 strikeouts and only two walks, and Taylor Woodlief led the offense with five hits, including two doubles and a walk-off home run; and

WHEREAS, all members of the Lebanon High School softball team, which had just three seniors, demonstrated determination and perseverance and contributed to the state championship victory by working hard throughout the season to build solid skills; and

WHEREAS, Shelia Adams, the veteran coach of the Lebanon High School softball team and a pioneer in Southwest Virginia softball, instilled confidence in her players and implored the team to keep digging deep as the grueling championship game tested the Pioneers' endurance; and

WHEREAS, Lebanon High School softball Coach Shelia Adams began coaching the Pioneers in 1994, and, in 2016, she announced she would retire and go out on top with her second career state championship; and

WHEREAS, the Lebanon Pioneers' 19–8 season was one for the ages: the team finished third in the Clinch Mountain Conference regular-season standings, was runner-up in the conference tournament, took second place in the regional tournament, but still ended up winning the state title; and

WHEREAS, Lebanon High School's improbable state softball championship run was made possible by the tremendous unwavering support of the team's dedicated fans and the sacrifices of their loving families; now, therefore, be it

RESOLVED by the Senate of Virginia, That the Lebanon High School softball team hereby be commended on their sensational victory in the Virginia High School League Group 2A state championship in June 2016; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Shelia Adams, head coach of the Lebanon High School softball team, as an expression of the Senate of Virginia's admiration for the team's amazing 2016 season and first state softball title in school history.

**SENATE RESOLUTION NO. 120***Commending Harold Lee Jerrell.*

Agreed to by the Senate, January 26, 2017

WHEREAS, Harold Lee Jerrell of Rose Hill in Lee County, a former state employee and a talented photographer who has been featured in national publications, preserves the natural beauty of the Commonwealth through his evocative artwork; and

WHEREAS, Harold Jerrell holds degrees from Hiwassee College, the University of Tennessee, and Lincoln Memorial University; he served the Commonwealth as the chief forest warden of Lee County for the Virginia Department of Forestry for 10 years and as an agriculture extension agent and unit coordinator with Virginia Cooperative Extension; and

WHEREAS, Harold Jerrell discovered his passion for photography while he was working at the Department of Forestry, and after his retirement from Virginia Cooperative Extension in 2010, he participated in a photography workshop in Great Smoky Mountains National Park; and

WHEREAS, since then, Harold Jerrell's photographs of nature scenes and wildlife have appeared in magazines, books, pamphlets, brochures, and on local, state, and national websites; in 2016 alone, his photographs appeared on the cover of

*Nature Photographer Magazine*, in the book *Cumberland Gap: Pathway to a Land of Mist and Mystery*, and in the magazine *Arizona Highways*; and

WHEREAS, Harrold Jerrell strives to capture the essence of a scene, transporting the viewer to each photograph's special moment through vivid colors and unique perspectives; and

WHEREAS, Harold Jerrell has taught photography classes at Pine Mountain State Resort Park, Wilderness Road State Park, Roan Mountain Naturalist Club, and Cumberland Gap National Historical Park; now, therefore, be it

RESOLVED by the Senate of Virginia, That Harold Lee Jerrell, a talented photographer in Lee County, hereby be commended for his contributions to art and culture in the Commonwealth; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Harold Lee Jerrell as an expression of the Senate of Virginia's admiration for his work to share the region's natural beauty with the world.

### SENATE RESOLUTION NO. 121

*Celebrating the life of Charles C. Allen.*

Agreed to by the Senate, January 26, 2017

WHEREAS, Charles C. Allen, the former vice mayor of the City of Newport News who touched countless lives and strengthened communities throughout the United States as a respected expert in urban planning, died on January 20, 2017; and

WHEREAS, Charles Allen graduated from Huntington High School in 1953, earned a bachelor's degree in architecture from Hampton Institute (now Hampton University) in 1958, and then served in the United States Army at Fort Hood, Texas, leaving the service as a captain; he went on to earn a master's degree in urban planning from Columbia University School of Architecture in 1963; and

WHEREAS, Charles Allen's experience in local government began in 1968, when he became the director of the Department of Planning and Development in Gary, Indiana; the first African American to hold such a position in a major American city, he consolidated the city's planning efforts and strengthened the planning process, while garnering community support for planning by increasing the roles of citizen participation groups, and he worked to develop the prototype for what is now the Community Development Block Grant; and

WHEREAS, Charles Allen was appointed deputy director for planning in the Newport News Department of Planning and Development in 1988 and worked to incorporate citizen input into the city's comprehensive land use plan, known as the *Framework for the Future*, which was adopted in 1993 and led to the completion of a new citywide zoning ordinance and comprehensive rezoning of the city in 1997; and

WHEREAS, *Framework for the Future* received the Virginia Citizens Planning Association Award for Citizen Participation and the subsequent *Framework for the Future Update* received the 2001 Cultural Diversity Award for cities with populations between 100,000 and 400,000 from the National League of Cities, National Black Caucus of Elected Officials; and

WHEREAS, Charles Allen was elected to the Newport News City Council in 1992 and became vice mayor in 1996, serving in that capacity until his retirement from office on June 30, 2008; as an elected official with a professional background in city planning, he led many initiatives that improved the quality of life of residents citywide; and

WHEREAS, Charles Allen led the process of rethinking public housing and fostered programs that empowered citizens; he nurtured local institutions and developments, such as the Downing-Gross Cultural Arts Center, An Achievable Dream Academy, the Newsome House Foundation, the Office of Human Affairs, the Peninsula Community Development Corporation, the Virginia Advanced Shipbuilding and Carrier Integration Center, City Center at Oyster Point, and Port Warwick, while also playing a role in the growth of Christopher Newport University into a first-class institution of higher learning and the creation of the Ferguson Center for the Arts; and

WHEREAS, on April 24, 2004, Charles Allen, a charter member of the American Planning Association, was inducted into the American Institute of Certified Planners College of Fellows during the National Planning Conference of the American Planning Association in Washington, D.C.; and

WHEREAS, Charles Allen devoted his time and wise leadership to many other professional and service organizations, including the National League of Cities, Virginia Municipal League, Hampton Roads Planning District Commission, Hampton Roads Transportation District Commission, Community Development Block Grant Committee, Advisory Commission for Intergovernmental Relations, Visual Quality Committee, Transportation Accountability Committee, Newport News Public Art Foundation, Kappa Alpha Psi Fraternity, Inc., Urban League of Hampton Roads, Hampton Roads Committee of 200+ Men, St. Augustine's Episcopal Church, Newport News-Isle of Wight Regional Advisory Board, and Old Point Financial Corporation; and

WHEREAS, Charles Allen received numerous honors, awards, and commendations throughout his professional and civic careers, a testament to his strong principles, pragmatic leadership, and indefatigable efforts to improve the lives of others; and

WHEREAS, Charles Allen is fondly remembered and greatly missed by his wife of 58 years, Dr. Sallie M. Tucker-Allen; three children, Charles Claybourne Allen II, John Christopher Allen IV, and Sallie Monique Allen Symons; three

grandchildren, Lindsey Margaret Allen, Cecilia Louise Allen, and Nathaniel Claybourne Tucker Allen; and three siblings, John Christopher Allen III, Beverly Ann Allen Henderson, and Lynne Colvert Allen; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Charles C. Allen, a former vice mayor of Newport News and a distinguished expert in urban planning; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Charles C. Allen as an expression of the Senate of Virginia's respect for his memory.

**SENATE RESOLUTION NO. 122**

*Commending Raleigh H. Isaacs, Sr.*

Agreed to by the Senate, February 2, 2017

WHEREAS, Raleigh H. Isaacs, Sr., an experienced leader in the law-enforcement community, retired on January 1, 2017, as sheriff of Suffolk after more than two decades of service; and

WHEREAS, a native of Suffolk, Raleigh Isaacs began his law-enforcement career in 1961 with the Norfolk Police Department, where he served as a patrolman and as a narcotics detective; and

WHEREAS, in 1970, Raleigh Isaacs joined the Nansemond County Police Department, which merged with the Suffolk Police Department in 1974, and rose through the ranks from sergeant to captain; and

WHEREAS, desirous to be of further service to the community, Raleigh Isaacs ran for and was elected as sheriff of Suffolk in 1993 and ably served the residents of Suffolk for 23 years; and

WHEREAS, under Raleigh Isaacs' leadership, the Suffolk Sheriff's Office maintained an experienced and highly professional team of deputies and staff, who were well-prepared to protect and serve the residents of Suffolk; and

WHEREAS, Raleigh Isaacs holds degrees from Norfolk Business College, Paul D. Camp Community College, and Christopher Newport College; to keep current with best practices in public safety, he has attended more than 40 law-enforcement schools and seminars; and

WHEREAS, Raleigh Isaacs worked to enhance the community as a member of numerous boards and organizations, including the Virginia Sheriffs' Association Board of Directors and the board of Western Tidewater Regional Jail; and

WHEREAS, after his well-earned retirement from the Suffolk Sheriff's Office, Raleigh Isaacs plans to spend more time with his wife, Phyllis, and their children and grandchildren and seek new opportunities to serve the community; now, therefore, be it

RESOLVED by the Senate of Virginia, That Raleigh H. Isaacs, Sr., hereby be commended on the occasion of his retirement as sheriff of Suffolk; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Raleigh H. Isaacs, Sr., as an expression of the Senate of Virginia's admiration for his legacy of service to the members of the Suffolk community and the Commonwealth.

**SENATE RESOLUTION NO. 123**

*Celebrating the life of Thomas Edward Graves, Jr.*

Agreed to by the Senate, February 2, 2017

WHEREAS, Thomas Edward Graves, Jr., a passionate advocate for civil rights and a respected entrepreneur who served countless families in Norfolk with dignity and grace as the owner of Graves Funeral Home, died on January 13, 2017; and

WHEREAS, a native of Roper, North Carolina, Thomas "Tom" Graves graduated with honors from J. J. Clemmons High School and joined many of the other young men of his generation in service to the nation as a member of the United States Army during World War II; and

WHEREAS, after his honorable military service, Tom Graves returned to the United States and continued his education at Echols College of Mortuary Science in Philadelphia, Pennsylvania, completing a two-year program in one year with honors; and

WHEREAS, possessed of an entrepreneurial spirit, Tom Graves opened Graves Funeral Home on June 15, 1953; it was the first establishment of its kind designed specifically to serve the African American community in the area; and

WHEREAS, now in its third generation of family ownership, Graves Funeral Home has provided compassionate care to countless grieving families, and Tom Graves served as a trusted mentor to many other aspiring funeral directors in Norfolk; and

WHEREAS, an active supporter of the Civil Rights movement, Tom Graves used his exceptional skills as a leader and organizer to make many lasting contributions to the residents of Norfolk and helped to elect the first African American to the Norfolk City Council; and

WHEREAS, Tom Graves will be fondly remembered and greatly missed by his wife of 67 years, Mildred; children, Tommy and Lorraine, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Thomas Edward Graves, Jr., a well-known Norfolk business owner and an admired community leader who touched countless lives in the region; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Thomas Edward Graves, Jr., as an expression of the Senate of Virginia's respect for his memory.

### SENATE RESOLUTION NO. 124

*Celebrating the life of David A. Kaechele.*

Agreed to by the Senate, February 9, 2017

WHEREAS, David A. Kaechele, a tireless public servant who made many lasting contributions to the residents of Henrico County as a member of the Board of Supervisors for more than 35 years, died on January 20, 2017; and

WHEREAS, a native of Allegan, Michigan, David Kaechele graduated from Michigan State University and honorably served his country as a member of the United States Army during the Korean War; he settled in Henrico County in the 1960s and pursued a 30-year career with the Reynolds Metals Company; and

WHEREAS, desirous to be of further service to the community, David Kaechele ran for and was elected to the Henrico County Board of Supervisors and took office as the representative for the Three Chopt District in 1980; and

WHEREAS, respected for his even-tempered leadership and ability to foster cooperation, David Kaechele was elected chair nine times, and he ably represented the county before other local, regional, and state boards and commissions, including the Virginia Association of Counties and the National Association of Counties; and

WHEREAS, David Kaechele was the only member of the Henrico County Board of Supervisors to have won election to nine consecutive terms, and in 2015, he retired as the longest-serving member of the board on record; and

WHEREAS, during David Kaechele's long tenure on the Henrico County Board of Supervisors, the population of Henrico County nearly doubled, and he deftly balanced the needs of all county residents, ensuring a high quality of life through responsible growth and development; and

WHEREAS, David Kaechele oversaw significant commercial and residential development in Henrico County, including the creation of Wyndham, Innsbrook, West Broad Village, and Short Pump; the county is now home to nationally recognized schools, thriving businesses, state-of-the-art libraries, beautiful parks, and top-rated restaurants, in addition to being a wonderful place to live and raise a family; and

WHEREAS, David Kaechele's background as an engineer helped him to advise his fellow members of county government on the infrastructure necessary to help Henrico County thrive and prosper; he worked to keep tax rates low while maintaining high levels of service and helped Henrico County earn a AAA bond rating from all three national bond-rating agencies; and

WHEREAS, a man who lived his faith through his actions, David Kaechele enjoyed fellowship and worship with Tuckahoe Presbyterian Church, where he served as an elder, deacon, and treasurer; and

WHEREAS, David Kaechele earned numerous awards and accolades for his leadership and service; he was inducted into the *Richmond Times-Dispatch* Hall of Fame with the Hall's inaugural class in 2015; and

WHEREAS, predeceased by his wife, Marilyn, David Kaechele will be fondly remembered and greatly missed by his daughters, Karen and Kathy, and their families; his longtime companion, Erna van den Nieuwenhuizen; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of David A. Kaechele, a respected public servant and a pillar of the Henrico community; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of David A. Kaechele as an expression of the Senate of Virginia's respect for his memory.

### SENATE RESOLUTION NO. 125

*Commending the James Madison University football team.*

Agreed to by the Senate, February 2, 2017

WHEREAS, the James Madison University football team earned its second national title on January 7, 2017, winning the National Collegiate Athletic Association Division I FCS Championship; and

WHEREAS, the James Madison University Dukes defeated the Youngstown State University Penguins by a score of 28–14 before a roaring crowd of more than 14,000 people at Toyota Stadium in Frisco, Texas; and

WHEREAS, in the nationally televised championship game, the James Madison Dukes took an early lead thanks to crucial special teams plays; a blocked punt led to a touchdown pass from quarterback Bryan Schor to tight end Jonathan Kloosterman and, after a shanked punt by Youngstown State University, the Dukes regained the ball at midfield, leading to a touchdown pass from Bryan Schor to wide receiver Rashard Davis in the first five minutes of the game; and

WHEREAS, the James Madison Dukes held the Youngstown State University's potent offense to only 21 rushing yards as James Madison's Khalid Abdullah rushed in an additional two touchdowns, including the game winner, in the second and third quarters; and

WHEREAS, senior Khalid Abdullah earned the Most Outstanding Player award for his 101-yard, two-score performance and broke the James Madison University football team's single-season record for rushing yards; he was named as the American Sports Network FCS Player of the Year; and

WHEREAS, the James Madison Dukes finished the season with a 14–1 record and were undefeated in the Colonial Athletic Association (CAA); with 12 consecutive wins, the team holds the longest active win streak in Division I and was the first CAA team to win multiple national championships; and

WHEREAS, the James Madison Dukes led the nation in winning percentage and scoring margin, and ranked second in points scored; Mike Houston, head coach of the James Madison Dukes, was named the American Football Coaches Association National Coach of the Year and the CAA Coach of the Year for his exceptional leadership; and

WHEREAS, seven James Madison Dukes were named as All-Americans and 14 players were All-CAA honorees; the team will return 12 of 22 starters in the 2017–2018 season, including Bryan Schor, who was named CAA Offensive Player of the Year and received the Bill Dudley Award as Virginia's top Division I football player; and

WHEREAS, the James Madison Dukes' national championship victory is a tribute to the skill and determination of the student-athletes, the leadership and guidance of the coaches and staff, and the energetic support of the entire James Madison University community; now, therefore, be it

RESOLVED by the Senate of Virginia, That the James Madison University football team hereby be commended for winning the National Collegiate Athletic Association Division I FCS Championship in 2017; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Mike Houston, head coach of the James Madison University football team, and Jonathan R. Alger, president of James Madison University, as an expression of the Senate of Virginia's admiration for the team's hard work and athletic achievements.

#### SENATE RESOLUTION NO. 126

*Celebrating the life of Roderick V. Manifold.*

Agreed to by the Senate, January 27, 2017

WHEREAS, Roderick V. Manifold, who helped to ensure the health and wellness of countless Virginians as executive director of Central Virginia Health Services, died on January 23, 2017; and

WHEREAS, Central Virginia Health Services is a nonprofit community health center with affiliated practices throughout the Commonwealth, including the location in Buckingham County where Roderick "Rod" Manifold began his career as an accountant in 1985; and

WHEREAS, Rod Manifold rose through the ranks to become chief financial officer, then executive director in 1992; under his leadership, the Central Virginia Health Services grew from three locations to 16 locations, all providing critical care to members of the community in need; and

WHEREAS, during Rod Manifold's 25-year tenure as executive director, he earned respect and admiration as a trusted mentor, a hardworking leader, and a devoted friend, and he leaves behind a legacy of excellence in health care advocacy to the dedicated professionals of Central Virginia Health Services; and

WHEREAS, Rod Manifold will be fondly remembered and greatly missed by numerous family members, friends, and colleagues; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Roderick V. Manifold, a distinguished leader in community health care, who made many lasting contributions to Buckingham County and the Commonwealth; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Roderick V. Manifold as an expression of the Senate of Virginia's respect for his memory.

#### SENATE RESOLUTION NO. 127

*Commending Linda Ciola Wettstone.*

Agreed to by the Senate, February 2, 2017

WHEREAS, Linda Ciola Wettstone, Senior Systems Analyst of the Virginia Senate, serves as Chair of the National Association of Legislative Information Technology in 2016–2017; and

WHEREAS, the National Association of Legislative Information Technology (NALIT) is one of 10 legislative professional staff sections under the umbrella of the National Conference of State Legislatures (NCSL) and is the only national organization created for and governed by legislative information technology professionals; and

WHEREAS, a graduate of Old Dominion University with a degree in management information systems, Linda Ciola Wettstone started her career with the Senate Clerk's Office in 1996, serving as the Assistant Computer Services (later Information Systems) Director until 1999 when she decided to take a few years off to raise a family; and

WHEREAS, returning to the Senate Clerk's Office in 2003 as a Systems Analyst, Linda Ciola Wettstone currently provides computer support and training for members and staff, performs operational analysis, and specializes in website development by enhancing and maintaining the Senate's portal and other Senate-hosted websites; and

WHEREAS, recognized for her knowledge of information systems and talent in website content development, Linda Ciola Wettstone has been a frequent participant and moderator of educational seminars hosted by NALIT to improve information systems services; and

WHEREAS, Linda Ciola Wettstone joined the NALIT Executive Committee in 2014, serving as a Secretary from 2014 to 2015 and Vice-Chair from 2015 to 2016 before rising to Chair in 2016; and

WHEREAS, at the helm of NALIT, Linda Ciola Wettstone is committed to bringing together state legislative information technology professionals who are interested in advancing the effectiveness and efficiency of state legislatures through technology; now, therefore, be it

RESOLVED by the Senate of Virginia, That Linda Ciola Wettstone hereby be commended for her service as Chair of the National Association of Legislative Information Technology in 2016–2017; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Linda Ciola Wettstone as an expression of the Senate of Virginia's admiration and appreciation for her public service to the Senate, the Commonwealth, and NCSL.

### SENATE RESOLUTION NO. 129

*Celebrating the life of Eugene H. Farley, Jr.*

Agreed to by the Senate, February 2, 2017

WHEREAS, Eugene H. Farley, Jr., a native of Blackstone and a resident of Lynchburg, who was an icon of the credit union movement at the state, national, and international levels, died on December 9, 2016, at the age of 82, after a long and constructive career of service to not-for-profit credit unions, his church, and his community; and

WHEREAS, Eugene "Gene" Farley served the Commonwealth's credit unions from 1959 until his retirement in 1999, including 33 years as president of the Virginia Credit Union League; through his vision and diligence, he provided the foundation upon which the Commonwealth's credit unions have reached unprecedented heights with a combined 10.8 million member-owners and \$130 billion in assets; and

WHEREAS, as a leader and innovator, Gene Farley left his imprint on the credit union movement, having helped to organize 35 credit unions, tirelessly advocated for credit unions in both the legislative and regulatory arenas, and led many initiatives that provided credit unions with the tools and opportunities to successfully compete in the financial services marketplace; and

WHEREAS, Gene Farley served in numerous leadership roles nationally and internationally through the Credit Union National Association (CUNA), the World Council of Credit Unions, CUNA Mutual Group, U.S. Central Credit Union, the American Association of Credit Union Leagues, the National Credit Union Foundation, the Filene Research Institute, Virginia League Corporate Federal Credit Union, and Beacon Credit Union; and

WHEREAS, state and national awards that annually honor exceptional achievement and exemplary leadership within the credit union community are named in honor of Gene Farley, reflecting his leadership, integrity, and expertise in the field; and

WHEREAS, Gene Farley was admired for his devotion to his community, having been an active volunteer for the Boy Scouts of America, a member of the Freemasons, and a driving force behind the construction of a Heart Havens facility in Lynchburg, a nonprofit organization that provides residential support to adults with developmental disabilities; and

WHEREAS, Gene Farley was devoted to his church family as a faithful member of Timberlake United Methodist Church for 53 years where he served as board chair, trustee, and worship leader for many years; he led the committees on finance, building, and pastor-parish relations, in addition to being a Sunday School teacher, choir member, and representative at the annual Virginia United Methodist Conference; and

WHEREAS, in all his endeavors, Gene Farley exemplified the credit union philosophy of "People Helping People" and always strove to extend to others friendship and warmth in a manner befitting a true gentleman; he will be fondly remembered and greatly missed by numerous family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Eugene H. Farley, Jr., a respected leader in the credit union movement who made countless contributions to the Lynchburg community, the Commonwealth, and the world; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Eugene H. Farley, Jr., as an expression of the Senate of Virginia's respect for his memory.

**SENATE RESOLUTION NO. 130**

*Commending the Honorable Lon E. Farris.*

Agreed to by the Senate, February 9, 2017

WHEREAS, the Honorable Lon E. Farris, a former chief judge of the Prince William General District Court, will retire as a judge of the Prince William Circuit Court of the 31st Judicial Circuit of Virginia in 2017; and

WHEREAS, after graduating from Olivet Nazarene University in Illinois, Lon Farris earned a law degree from Capital University in Ohio, where he was a member of the Law Review and graduated in the top 14 percent of his class; and

WHEREAS, Lon Farris practiced law in Ohio from 1979 to 1981 and in Virginia from 1982 to 1991, when he was appointed as a judge of the Prince William General District Court of the 31st Judicial District of Virginia; he served the court for two terms, including two years as chief judge; and

WHEREAS, in 2004, Lon Farris was appointed as a judge of the Prince William Circuit Court of the 31st Judicial Circuit of Virginia, and he has presided over the court with great fairness and wisdom; and

WHEREAS, a man of deep and abiding faith, Lon Farris is a member of First Church of the Nazarene and a former member of the District Church of the Nazarene advisory board and the Board of Trustees of Eastern Nazarene College; and

WHEREAS, after his well-earned retirement from the bench, Lon Farris plans to seek new opportunities to continue enhancing the Prince William County community; now, therefore, be it

RESOLVED by the Senate of Virginia, That the Honorable Lon E. Farris hereby be commended on the occasion of his retirement as a judge of the Prince William Circuit Court of the 31st Judicial Circuit of Virginia in 2017; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Honorable Lon E. Farris as an expression of the Senate of Virginia's admiration for his dedicated service to the residents of Prince William County.

**SENATE RESOLUTION NO. 132**

*Commending Floyd D. Gottwald, Jr.*

Agreed to by the Senate, February 6, 2017

WHEREAS, Floyd D. Gottwald, Jr., a Richmond native who has made many contributions to the Commonwealth as a businessman and a community leader, was named as a 2017 Outstanding Virginian; and

WHEREAS, Floyd Gottwald graduated from Virginia Military Institute (VMI) and the University of Richmond and joined many of the other men of his generation in service to the nation as a member of the United States Army during World War II; and

WHEREAS, Floyd Gottwald joined the Albemarle Paper Manufacturing Company as a chemist in 1943 and rose through the ranks to become the chair of Ethyl Corporation after its merger with Albemarle Paper in 1968, then served as chief executive officer from 1970 to 1992; and

WHEREAS, Floyd Gottwald is a former director of Tredegar Corporation, the American Petroleum Institute, CSX Corporation, and the Federal Reserve Bank, as well as a former president of the Virginia Museum of Fine Arts and the VMI Foundation; and

WHEREAS, Floyd Gottwald is a trustee emeritus of the International Game Fish Association, as well as a former trustee of the University of Richmond and member of the Board of Visitors of The College of William and Mary; he is a former trustee and a current advisory council member of the George C. Marshall Foundation; and

WHEREAS, Floyd Gottwald was elected to the Greater Richmond Business Hall of Fame, and he has earned many other awards and accolades, including the Medallion Award from The College of William and Mary, the Distinguished Service Award from the VMI Foundation, and the Outstanding Industrialist Award from the Science Museum of Virginia; now, therefore, be it

RESOLVED by the Senate of Virginia, That Floyd D. Gottwald, Jr., hereby be commended on being named as a 2017 Outstanding Virginian; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Floyd D. Gottwald, Jr., as an expression of the Senate of Virginia's admiration for his legacy of service to the Richmond community and the Commonwealth.

**SENATE RESOLUTION NO. 133**

*Commending Bruce C. Gottwald.*

Agreed to by the Senate, February 6, 2017

WHEREAS, Bruce C. Gottwald, a Richmond native who has made many contributions to the Commonwealth as a businessman and a community leader, was named as a 2017 Outstanding Virginian; and

WHEREAS, Bruce Gottwald graduated from Virginia Military Institute (VMI) and conducted graduate studies at the University of Virginia, the Institute of Paper Chemistry, and the University of Richmond; and

WHEREAS, Bruce Gottwald joined Albemarle Paper Manufacturing Company as a chemist and became chief executive officer then chair of Ethyl Corporation, which merged with Albemarle Paper in 1968; he later became chief executive officer and chairman emeritus of New Market Corporation; and

WHEREAS, Bruce Gottwald has served as a director of CSX Corporation, Albemarle Corporation, Tredegar Industries, First Colony Corporation, Dominion Resources, Inc., the Chemical Manufacturers' Association, and the National Association of Manufacturers; and

WHEREAS, Bruce Gottwald was a founding member of the Jackson-Hope Fund Board of Overseers and has served as president of the VMI Board of Visitors, president of the VMI Keydet Club, trustee of the VMI Foundation, and president of the Virginia Museum of Fine Arts; he currently serves as director of the American Civil War Museum in Richmond and the Civil War Trust; and

WHEREAS, among his many awards and accolades, Bruce Gottwald was named to the Greater Richmond Business Hall of Fame and earned the VMI Foundation Distinguished Service Award, the VMI New Market Medal, the VMI Keydet Club Spirit Award, and the Outstanding Industrialist Award from the Science Museum of Virginia; now, therefore, be it

RESOLVED by the Senate of Virginia, That Bruce C. Gottwald hereby be commended on being named as a 2017 Outstanding Virginian; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Bruce C. Gottwald as an expression of the Senate of Virginia's admiration for his legacy of service to the Richmond community and the Commonwealth.

**SENATE RESOLUTION NO. 134**

*Celebrating the life of Madison Montgomery Shinaberry.*

Agreed to by the Senate, February 9, 2017

WHEREAS, Madison Montgomery Shinaberry of Rockingham, a gifted ballerina, passionate advocate for organ donation awareness, and aspiring public servant, died on December 16, 2016; and

WHEREAS, Madison "Maddie" Shinaberry, a daughter of Curtis and Ellen Shinaberry, was born in Harrisonburg on February 28, 1995; and

WHEREAS, when she was in the seventh grade, Maddie Shinaberry was diagnosed with primary pulmonary hypertension, a rare disease, and, in October 2008, was told she needed a double-lung transplant to live; and

WHEREAS, in January 2009, when she was a high school freshman, Maddie Shinaberry received a double-lung transplant at Children's Hospital of Pittsburgh and spent a month there recovering, and, when she had regained her strength, she returned to dancing, which is what she loved most; and

WHEREAS, from an early age, Maddie Shinaberry was a gifted ballerina and a member of the Rockingham Ballet Theatre in Bridgewater; she was invited to train with the American Ballet Theatre (ABT) Young Dancer's program in New York City at age 11, and, after undergoing the double-lung transplant, was one of 20 dancers selected to attend ABT's summer intensive program in Bermuda; and

WHEREAS, Maddie Shinaberry attended Massanutten Regional Governor's School and graduated with honors from Turner Ashby High School in 2012; she attended Washington and Lee University in Lexington, where she was a member of the Alpha Delta Pi sorority and Phi Eta Sigma National Honor Society; and

WHEREAS, Maddie Shinaberry studied politics in college and spent a semester studying abroad at the International Institute of Business in Copenhagen, Denmark, and was an intern on Capitol Hill for Congressman John A. Boehner of Ohio, the Speaker of the United States House of Representatives; and

WHEREAS, Maddie Shinaberry became a passionate lobbyist for organ donation awareness, and she successfully led a charge to make the Virginia Board of Education include organ donation education in the ninth grade physical education curriculum; and

WHEREAS, Maddie Shinaberry continued to promote organ donation awareness from her platform as Miss Southwestern Virginia, a crown she won in 2014, although health challenges prevented her from participating in the Miss Virginia contest; and

WHEREAS, Maddie Shinaberry had aspirations of going to law school and becoming the first woman governor of the Commonwealth; in her 21 years, she touched the lives of many organ donation advocates and legislators who are carrying on her legacy and torch today; and

WHEREAS, Maddie Shinaberry will be fondly remembered and greatly missed by her parents, Curtis and Ellen; a sister, Elizabeth; and a host of other family members and treasured friends whom she inspired in so many ways; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Madison Montgomery Shinaberry, a gifted ballerina, passionate advocate for organ donation, and aspiring public servant; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Madison Montgomery Shinaberry as an expression of the Senate of Virginia's respect for her memory.

### SENATE RESOLUTION NO. 135

*Commending Wanda Willis.*

Agreed to by the Senate, February 9, 2017

WHEREAS, Wanda Willis retired as a lieutenant with the Harrisonburg Fire Department on December 31, 2016, after more than 30 years of working to serve and safeguard the members of the community as a dispatcher and fire prevention officer; and

WHEREAS, Wanda Willis began her career as a dispatcher for Augusta County in 1982, then joined the Harrisonburg Fire Department as a dispatcher in 1983; and

WHEREAS, after a devastating house fire, Wanda Willis was inspired to serve the community as a part-time fire prevention specialist beginning in 1990; she oversaw the creation of several fire prevention and safety programs and became a full-time fire prevention specialist in 2001; and

WHEREAS, throughout her career, Wanda Willis presented fire prevention and safety programs to students in third grade, sixth grade, and ninth grade and designed programs for freshmen at Eastern Mennonite University and James Madison University; and

WHEREAS, Wanda Willis helped members of the community to understand the importance of fire prevention by incorporating real-world events into her lessons; she increased awareness of family escape plans and techniques families can use to prevent childhood injuries; and

WHEREAS, Wanda Willis established the Free Pizza/Free Smoke Alarm Event, where families received a free pizza for allowing firefighters to test their smoke alarms, and she supported child car seat checks, which corrected thousands of improperly installed car seats in the area; and

WHEREAS, respected for her expertise, Wanda Willis founded Safe Kids Central Shenandoah Valley and was selected to serve the Commonwealth on the State Child Fatality Review Team from 2004 to 2010, which reviews every child fatality incident in Virginia; now, therefore, be it

RESOLVED by the Senate of Virginia, That Wanda Willis hereby be commended for her three decades of service to the community on the occasion of her retirement as a lieutenant with the Harrisonburg Fire Department in 2016; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Wanda Willis as an expression of the Senate of Virginia's admiration for her commitment to protecting the lives and property of all Harrisonburg residents by promoting fire safety.

### SENATE RESOLUTION NO. 136

*Celebrating the life of Wayne F. Geisert.*

Agreed to by the Senate, February 9, 2017

WHEREAS, Wayne F. Geisert of Rockingham County, an educator who inspired countless students and provided exceptional leadership to Bridgewater College as president emeritus, died on January 4, 2017; and

WHEREAS, a native of Kansas, Wayne Geisert grew up on a farm and learned the value of hard work and responsibility at a young age; he graduated from McPherson College and Northwestern University, then served his country as an officer in the United States Navy Reserve from 1944 to 1946; and

WHEREAS, after his honorable military service, Wayne Geisert worked as an educator at Hamilton High School in Kansas, Kendall College in Illinois, and Manchester College in Indiana, where he became the head of the Department of Economics and Business; and

WHEREAS, in 1957, Wayne Geisert became the dean of his alma mater, McPherson College, and served in that capacity until 1964, when he was selected as president of Bridgewater College; he ably led Bridgewater College for 30 years and was named president emeritus after his retirement in 1994; and

WHEREAS, as president of Bridgewater College, Wayne Geisert increased efficiency and built close relationships with faculty, staff, and students; he was a trusted mentor to administrators of other institutions of higher education; and

WHEREAS, Wayne Geisert offered his leadership and expertise to the Virginia Foundation for Independent Colleges, the Council of Independent Colleges in Virginia, and the Harrisonburg-Rockingham Chamber of Commerce; and

WHEREAS, as a longtime member of the Church of the Brethren, Wayne Geisert held several leadership positions, including moderator, and served on the Committee on Higher Education of the Church of the Brethren for 30 years; in 1985, he traveled to China and established an exchange program between Brethren Colleges Abroad and the Dalian University of Foreign Languages; and

WHEREAS, Wayne Geisert earned many awards and accolades for his good work and received honorary doctorates from Manchester College, James Madison University, Bridgewater College, and McPherson College; and

WHEREAS, predeceased by his wife, Ellen, Wayne Geisert will be fondly remembered and greatly missed by his sons, Gregory, Bradley, and Todd, and their families, and numerous other family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Wayne F. Geisert, a highly respected educator and college administrator in Rockingham County; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Wayne F. Geisert as an expression of the Senate of Virginia's respect for his memory.

#### SENATE RESOLUTION NO. 137

*Celebrating the life of Caramalita Vicars.*

Agreed to by the Senate, February 9, 2017

WHEREAS, Caramalita Vicars, a beloved member of the Big Stone Gap community who volunteered her time and talents in the service of others, died on October 6, 2016; and

WHEREAS, Caramalita Vicars cared for the young people of Big Stone Gap as a school homeroom mother and as a youth athletics coach, and she was an active supporter of clothing and toy drives for the less fortunate; and

WHEREAS, Caramalita Vicars was always quick to care for a friend in need; she brought joy to everyone she met with her infectious smile and zest for life; and

WHEREAS, Caramalita Vicars lived her deep faith through her generous actions and enjoyed fellowship and worship with the congregation of Cedar Ridge Freewill Baptist Church; and

WHEREAS, Caramalita Vicars will be fondly remembered and greatly missed by her beloved husband, Tim; children, Adam, Ashley, Timothy, Danielle, Trevor, and Kaleb, and their families; her mother, Judy; her father, Jack; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Caramalita Vicars, a vibrant resident of Big Stone Gap who made many contributions to the community; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Caramalita Vicars as an expression of the Senate of Virginia's respect for her memory.

#### SENATE RESOLUTION NO. 138

*Commending Jack Larry Harris.*

Agreed to by the Senate, February 9, 2017

WHEREAS, Jack Larry Harris, who served as executive director of the Virginia Trial Lawyers Association for 27 years, executive director of Legal Services Corporation of Virginia, and the first executive director of the Virginia Poverty Law Center, retired in April 2016 after making innumerable contributions to the delivery of legal services in Virginia; and

WHEREAS, Jack Harris began his service to the Commonwealth in 1979 as the executive director of Legal Services Corporation of Virginia (LSCV), an organization in which he remains an integral part today; and

WHEREAS, in 1981, Jack Harris worked with bar leaders to create and implement an Interest on Lawyers' Trust Account program that has become a major source of funding for legal aid programs to this day; and

WHEREAS, Jack Harris led an effort to secure state funding for legal aid first in 1982 and has worked to preserve and increase such funding for decades as the need for such services continues to grow; and

WHEREAS, under his leadership at LSCV and as the first executive director of the Virginia Poverty Law Center, legal aid expanded throughout the Commonwealth, training for attorneys in all legal aid programs was developed, and indigent legal services to the elderly were expanded statewide; and

WHEREAS, Jack Harris has been recognized for his vision to gather all legal aid programs into a cohesive statewide legal aid delivery system, which, for the first time, provided Virginia's poverty lawyers with the sense that they share a common purpose and helped to make them stronger advocates on behalf of Virginia's poor by executing that purpose together; and

WHEREAS, the talents of Jack Harris were brought to the Virginia Trial Lawyers Association in 1989, where he expanded the breadth of membership and the depth of knowledge among and about its members; and

WHEREAS, Jack Harris was seen for many years in the General Assembly, advocating for the preservation of and improvements to the civil and criminal justice systems, for adequate funding for the judicial system, and for fairness in the laws and justice for all; and

WHEREAS, the word "justice" for Jack Harris has never been a noun; it has always been an action verb, requiring vigilance, perseverance, and strength; and

WHEREAS, Jack Harris has never been alone in his work for justice as he has stood with thousands of attorneys, colleagues, friends, and his wife of more than 50 years, JoAnne; now, therefore, be it

RESOLVED by the Senate of Virginia, That Jack Larry Harris hereby be commended on the occasion of his retirement; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Jack Larry Harris as an expression of the Senate of Virginia's admiration for his many contributions to the legal field and the Commonwealth.

**SENATE RESOLUTION NO. 140**

*Commending the National Education Association Read Across America program.*

Agreed to by the Senate, February 16, 2017

WHEREAS, for 20 years, the National Education Association Read Across America program has helped to make the United States a nation of readers by inspiring and supporting youth throughout the country; and

WHEREAS, the members of the National Education Association and the Virginia Education Association are committed to promoting reading as a catalyst for students' future academic achievement, success in careers, and ability to engage with communities throughout the world; and

WHEREAS, the National Education Association offers resources to help schools and organizations plan Read Across America programs and events, and the association conducts multi-city tours to build excitement for reading in different communities; and

WHEREAS, as part of the National Education Association Read Across America program, the organization will commemorate the 113th birthday of Dr. Seuss through National Read Across America Day on March 2, 2017; the event promotes adult involvement in reading education and is supported by the Virginia Education Association, as well as other associations nationwide; and

WHEREAS, an essential element of the Read Across America program is to ensure that all children have a safe place to read and learn with a caring adult on National Read Across America Day; now, therefore, be it

RESOLVED by the Senate of Virginia, That the National Education Association Read Across America program hereby be commended for its efforts to motivate children and teens to read; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the National Education Association as an expression of the Senate of Virginia's admiration for the organization's work to make children and teens in the Commonwealth and the United States the best readers in the world.

**SENATE RESOLUTION NO. 141**

*Commending the Glen Allen 10-Year-Old All-Stars baseball team.*

Agreed to by the Senate, February 16, 2017

WHEREAS, the Glen Allen 10-Year-Old All-Stars baseball team won the Cal Ripken World Series in August 2016 after a perfect 21–0 season; and

WHEREAS, in June 2016, the Glen Allen 10-Year-Old All-Stars won the District III title and moved on to the state championship in Herndon; and

WHEREAS, the Glen Allen 10-Year-Old All-Stars continued their winning streak at the state level, defeating the Arlington Storm to claim the state title; and

WHEREAS, at the Southeast regional tournament, the Glen Allen 10-Year-Old All-Stars faced talented teams from Georgia, North Carolina, Florida, and Tennessee, and scored 66 runs while giving up only 16 runs; and

WHEREAS, advancing to the Cal Ripken World Series in Palm Beach Gardens, Florida, the Glen Allen 10-Year-Old All-Stars defeated teams from Florida, Hawaii, Oregon, and Indiana, and beat a team from Norwalk, Connecticut, in the tense championship game with a thrilling 4–3 final score; and

WHEREAS, the undefeated season of the Glen Allen 10-Year-Old All-Stars is a tribute to the hard work and dedication of the athletes; the leadership of the coaches, managers, and staff; and the passionate support of the entire Glen Allen community; now, therefore, be it

RESOLVED by the Senate of Virginia, That the Glen Allen 10-Year-Old All-Stars baseball team hereby be commended on winning the 2016 Cal Ripken World Series; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Glen Allen 10-Year-Old All-Stars baseball team as an expression of the Senate of Virginia's admiration for the team's achievements and best wishes for the future.

**SENATE RESOLUTION NO. 142**

*Celebrating the life of Sue Ella Boatright-Wells.*

Agreed to by the Senate, February 16, 2017

WHEREAS, Sue Ella Boatright-Wells of Hiltons, a respected member of the Scott County community who enriched the lives of countless students through her work at Mountain Empire Community College, died on August 1, 2016; and

WHEREAS, Sue Ella Boatright-Wells grew up in the Fort Blackmore area of Scott County and graduated from Dungannon High School; she earned an associate's degree from Mountain Empire Community College (MECC) and a bachelor's degree from East Tennessee State University; and

WHEREAS, Sue Ella Boatright-Wells served as the dean of workforce development and continuing education at MECC, ensuring that students had the tools and training to meet employers' needs and to succeed in their chosen careers; and

WHEREAS, in addition to organizing Home Craft Days at MECC for more than 35 years, Sue Ella Boatright-Wells helped to preserve the culture and heritage of Southwest Virginia by establishing the MECC Mountain Music School; and

WHEREAS, the Mountain Music School has given students of all ages from the United States, Canada, and Scotland the opportunity to study fiddle, banjo, guitar, mandolin, shape note singing, and songwriting; Sue Ella Boatright-Wells was proudest of her work to preserve Old Time Mountain Music; in addition, she helped to create the Junior Appalachian Musicians programs; and

WHEREAS, Sue Ella Boatright-Wells worked to enhance the community as a member of the Rotary Club of Scott County, the Scott County Chamber of Commerce, the Virginia Coalfield Economic Development Authority, and many other civic and service organizations; and

WHEREAS, predeceased by a son, David, Sue Ella Boatright-Wells will be fondly remembered and greatly missed by her husband of 17 years, Beech; sons, Samuel and James, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Sue Ella Boatright-Wells, an admired member of the community, who worked hard to create new opportunities for students at Mountain Empire Community College; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Sue Ella Boatright-Wells as an expression of the Senate of Virginia's respect for her memory.

**SENATE RESOLUTION NO. 143**

*Celebrating the life of Richard W. Glover.*

Agreed to by the Senate, February 22, 2017

WHEREAS, Richard W. Glover of Glen Allen, a consummate public servant who was the longest-serving active member of the Henrico County Board of Supervisors, died on February 2, 2017; and

WHEREAS, Richard "Dick" Glover learned the value of hard work and responsibility at a young age, growing up on a farm in Victoria; he attended Victoria High School, where he was a standout athlete, then served his country as a member of the United States Navy; and

WHEREAS, after his honorable military service, Dick Glover finished high school at Halifax County High School and continued his education at J. Sargeant Reynolds Community College and Richmond Professional Institute; and

WHEREAS, Dick Glover held sales and sales management positions for several companies, then founded Toppings Personal Letter Service and RoDon Press, providing high-quality printing and direct mail services to clients throughout the country; and

WHEREAS, in 1984, Dick Glover was appointed to the Henrico County Planning Commission, where he began to cultivate his visionary eye for planning and development; he went on to provide his expertise to the Richmond Regional Planning District Commission and the Richmond Area Metropolitan Planning Organization; and

WHEREAS, desirous to be of further service to his fellow Henrico County residents, Dick Glover ran for and was elected to the Henrico County Board of Supervisors in 1987; he ably represented the Brookland District for more than 32 years, serving as chair six times and vice chair four times; and

WHEREAS, encouraging responsible growth, Dick Glover played a pivotal role in preserving the historic Mountain Road corridor and worked hard to ensure the safety and quality of new residential and commercial developments in the Brookland District; and

WHEREAS, among his proudest achievements, Dick Glover oversaw the creation of the Cultural Arts Center at Glen Allen, Glen Allen Stadium at RF&P Park, Greenwood Park, and the Glen Allen and Libbie Mill public libraries and oversaw the development of the Shops at Willow Lawn; and

WHEREAS, a thoughtful, responsive, and highly professional leader, Dick Glover served the Brookland District with the utmost dedication and distinction and helped to make Henrico County a wonderful place to live, work, and raise a family; and

WHEREAS, Dick Glover embodied the stability of Henrico County's leadership, and he represented the county before regional, state, and national organizations, such as the Virginia Association of Counties and the National Association of Counties; and

WHEREAS, a devoted advocate for youth athletics in Henrico County, Dick Glover was a life member and a hall of fame inductee of the Glen Allen Youth Athletic Association; in addition, he was a life member of the Hermitage High School Band and Auxiliary Boosters; and

WHEREAS, guided by his faith, Dick Glover enjoyed fellowship and worship with the congregation of Grove Avenue Baptist Church, where he supported the television ministry with his natural charisma and boundless enthusiasm for the community; and

WHEREAS, Dick Glover will be fondly remembered and greatly missed by his beloved wife of 59 years, Joan; children, Jerry, Donna, Karen, and Joe, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Richard W. Glover, a respected public servant and community leader in Henrico County; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Richard W. Glover as an expression of the Senate of Virginia's respect for his memory.

**SENATE RESOLUTION NO. 144**

*Celebrating the life of Richard Edward Cornwell.*

Agreed to by the Senate, February 16, 2017

WHEREAS, Richard Edward Cornwell, a dedicated law-enforcement officer who worked to serve and protect the residents of Portsmouth for more than 25 years, died on January 30, 2017; and

WHEREAS, a native of Portsmouth, Richard Cornwell joined many of the other young men of his generation in service to the nation during World War II as a member of the United States Merchant Marine; and

WHEREAS, Richard Cornwell played semi-professional baseball, then joined the Portsmouth Police Department in 1951; during his distinguished career, he earned several awards and accolades, including the Policeman of the Year award in 1976 for his work as head of the Youth Bureau; and

WHEREAS, after his well-earned retirement from law enforcement as a lieutenant in 1977, Richard Cornwell continued his service to the community through his longtime affiliation with the Freemasons; and

WHEREAS, Richard Cornwell was a member of Portsmouth Lodge No. 100, had served as inspector general honorary of the 33rd degree of the Scottish Rite, and was an honorary member of the Supreme Council; he was a past president of the Portsmouth Shrine Club and a past venerable master of the Lodge of Perfection; and

WHEREAS, guided by his deep faith, Richard Cornwell was a founding member of West Side Christian Church, where he cooked and served meals to the homeless; and

WHEREAS, Richard Cornwell will be fondly remembered and greatly missed by his loving wife of 70 years, Mary; children, Mary, Marla, and Richard, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Richard Edward Cornwell, a law-enforcement officer and a respected member of the Portsmouth community; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Richard Edward Cornwell as an expression of the Senate of Virginia's respect for his memory.

**SENATE RESOLUTION NO. 145**

*Commending Ivy L. Mitchell.*

Agreed to by the Senate, February 16, 2017

WHEREAS, Ivy L. Mitchell of Hampton is a dedicated and passionate advocate of early childhood development in the Virginia Peninsula region; and

WHEREAS, for over 12 years, Ivy Mitchell has been a member of the board of Smart Beginnings Virginia Peninsula, a nonprofit coalition that champions high quality care, education, and health services so that children start school healthy and prepared; and

WHEREAS, Ivy Mitchell served on the 2005 Virginia Early Learning Council, which launched the Virginia Early Childhood Foundation and the statewide Smart Beginnings initiative; and

WHEREAS, Ivy Mitchell helped to establish Preschool Partners of the Virginia Peninsula, and, in 2012, she was a leader of the successful effort to merge that group with Smart Beginnings Virginia Peninsula to create one integrated nonprofit focusing on early childhood development in Hampton and Newport News; and

WHEREAS, Ivy Mitchell has spearheaded fundraising and awareness campaigns to gain support for early childhood initiatives from local businesses, government agencies, and individuals; and

WHEREAS, Ivy Mitchell reached out to child development experts in the Peninsula to ensure the region was included in the development and implementation of the Virginia Quality Initiative for child care providers and preschools; and

WHEREAS, Ivy Mitchell has been a vocal advocate at the local and state levels for improved focus on social and emotional development as it pertains to kindergarten readiness; and

WHEREAS, Ivy Mitchell was instrumental in promoting the use of social and emotional screening in private preschool and child care settings as well as in programs such as the Virginia Preschool Initiative, Head Start, Early Head Start, and within the child care subsidy program; and

WHEREAS, in partnership with Christopher Newport University, Ivy Mitchell founded the local Directors' Academy, an annual event that provides leaders of child care centers and preschools with professional development; and

WHEREAS, Ivy Mitchell has received statewide recognition for her dedication to building a local community of support for families and caregivers of young children; now, therefore, be it

RESOLVED by the Senate of Virginia, That Ivy L. Mitchell hereby be commended for her steadfast advocacy of early childhood development in the Virginia Peninsula region; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Ivy L. Mitchell as an expression of the Senate of Virginia's admiration for her life's work on behalf of the children of the Peninsula.

#### SENATE RESOLUTION NO. 146

*Celebrating the life of Juan Dip.*

Agreed to by the Senate, February 16, 2017

WHEREAS, Juan Dip, a respected resident of Henrico County who made lasting contributions to the Richmond community, died on August 27, 2016; and

WHEREAS, a native of Zacatecas, Mexico, Juan Dip came to the United States in 1958 to provide better for his young family and worked as a mechanic in Richmond; and

WHEREAS, Juan Dip's family joined him in Richmond in 1960, and they made their home in the city for many years until relocating to Henrico County in 1987; and

WHEREAS, Juan Dip shared his love of cooking with the community as a restaurateur in downtown Richmond in the 1980s; later in life, he worked for Moore Cadillac Richmond, but he continued to share his passion for good food as a cook at the annual Lebanese Food Festival; and

WHEREAS, a man of deep and abiding faith, Juan Dip enjoyed fellowship and worship with the congregation of St. Anthony Maronite Catholic Church; and

WHEREAS, predeceased by three sons, John, George, and Michael, Juan Dip will be fondly remembered and greatly missed by his devoted wife of 61 years, Margarita; children, Ricardo, David, Manuel, Linda, and Susana, and their families; and numerous other family members and friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Juan Dip, a patriotic member of the Henrico community; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Juan Dip as an expression of the Senate of Virginia's respect for his memory.

#### SENATE RESOLUTION NO. 147

*Commending Meredith Polk.*

Agreed to by the Senate, February 16, 2017

WHEREAS, Meredith Polk, an esteemed resident of Richmond, was named as a distinguished finalist in the 2017 Prudential Spirit of Community Awards program for her generous work to support people with multiple sclerosis; and

WHEREAS, the Spirit of Community Awards, presented by Prudential Financial in partnership with the National Association of Secondary School Principals, honors young volunteers across the country who have demonstrated an extraordinary commitment to the service of others; as a distinguished finalist, Meredith Polk earned an engraved bronze medallion; and

WHEREAS, Meredith Polk, a senior at Maggie L. Walker Governor's School, earned the prestigious national award as the founder and president of Miles of Scarves, which has raised more than \$40,000 for the National Multiple Sclerosis Society by knitting and selling scarves; and

WHEREAS, under Meredith Polk's leadership, Miles of Scarves has sponsored a rest stop at the Richmond Bike MS event, provided scholarships and holiday gifts to families affected by multiple sclerosis, and donated to research projects; and

WHEREAS, the success of the Commonwealth and the vitality of American society depend largely on the dedication of young people like Meredith Polk, who use their considerable talents and resources to serve others; now, therefore, be it

RESOLVED by the Senate of Virginia, That Meredith Polk hereby be commended on being named as a distinguished finalist in the 2017 Prudential Spirit of Community Awards program; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Meredith Polk as an expression of the Senate of Virginia's admiration for her volunteer service, peer leadership, and community spirit and best wishes for her future endeavors.

**SENATE RESOLUTION NO. 148**

*Commending Ebenezer Baptist Church.*

Agreed to by the Senate, February 24, 2017

WHEREAS, for 150 years, Ebenezer Baptist Church has provided spiritual leadership, generous outreach, and opportunities for joyful worship to the members of the Warsaw community; and

WHEREAS, Ebenezer Baptist Church was established by freedmen in 1867, led by Jeff Veney, who was formerly a member of the white Jerusalem Baptist Church in Emmerton; and

WHEREAS, the Ebenezer Baptist Church congregation held its first services outdoors under a brush arbor; though it is unknown when the first permanent sanctuary was constructed, the congregation has been fortunate to remain in that same building on Sharps Road in Warsaw; and

WHEREAS, Ebenezer Baptist Church has benefited from the able leadership of eight pastors over the years, and the church building has undergone many enhancements and renovations to accommodate better the growing congregation; and

WHEREAS, members of the Ebenezer Baptist Church have gone on to achieve success in a variety of career fields, have served their country as members of the military, and have become leaders in the community; and

WHEREAS, throughout its history, Ebenezer Baptist Church has provided consistent support for valuable community outreach efforts, missions, and education; and

WHEREAS, Ebenezer Baptist Church was an original member of the Northern Neck Baptist Association and has historically been very active with the Baptist General Convention of Virginia; and

WHEREAS, Ebenezer Baptist Church will commemorate its 150th anniversary with a special service on July 9, 2017; now, therefore, be it

RESOLVED by the Senate of Virginia, That Ebenezer Baptist Church hereby be commended on the occasion of its 150th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Reverend Samuel Hackett, pastor of Ebenezer Baptist Church, as an expression of the Senate of Virginia's admiration for its legacy of service to the Warsaw community.

**SENATE RESOLUTION NO. 149**

*Commending the Virginia Commission for the Arts.*

Agreed to by the Senate, February 22, 2017

WHEREAS, in 1968, the Virginia Commission for the Arts was established for the purpose of recognizing excellence in and encouraging growth of the arts in the Commonwealth; and

WHEREAS, the mission of the Virginia Commission for the Arts (VCA) is to increase availability of and accessibility to the arts, to demonstrate a commitment to lifelong arts learning and education, to build a healthy and productive arts infrastructure, to recognize the arts as a vital component of the Commonwealth's economy, and to provide an environment that is open and conducive to artistic expression; and

WHEREAS, for almost 50 years, the VCA has been committed to funding works based on artistic quality, increasing access to the arts for all, promoting the diverse cultures of the Commonwealth, assisting artists to grow in their careers, developing innovative arts organizations, and providing an exemplary arts education to all the people of the Commonwealth; and

WHEREAS, in 2017, the VCA held the 2017 Art Works for Virginia conference; the themes were creative place making through land use and urban design projects, opportunities for arts and cultural instruction through education reforms including the Every Student Succeeds Act, workforce policies that use the arts to encourage more critical and original thinking for twenty-first century industries, and analytical tools to help arts organizations measure their success and extend their social and economic influence on their communities and beyond; and

WHEREAS, the focus of the VCA has always been to share and promote the richness that artists from the Commonwealth bring to the arts and to provide an environment in which young artists can develop their talents and find success in a career in the arts; and

WHEREAS, the VCA will commemorate its 50th anniversary with a full year of programming, leading up to the anniversary celebration during the 2018 Session of the Virginia General Assembly; now, therefore, be it

RESOLVED by the Senate of Virginia, That the Virginia Commission for the Arts hereby be commended for its mission to bring beautiful works of art to the public, to provide opportunities for emerging and established artists, to offer arts education programs, and to promote advancement in the fine arts; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Margaret Vanderhye, executive director of the Virginia Commission for the Arts, as an expression of the Senate of Virginia's admiration for the commission's work to cultivate enthusiasm for the fine arts in the Commonwealth.

#### SENATE RESOLUTION NO. 150

*Commending Hilda Spicely Bower.*

Agreed to by the Senate, February 22, 2017

WHEREAS, Hilda Spicely Bower, a vibrant member of the Dinwiddie County community, celebrates her 100th birthday in 2017; and

WHEREAS, born on March 29, 1917, in Wilsons, Hilda Bower was the second-eldest of 10 siblings and lovingly took on the role of "guardian angel" for her brothers and sisters; and

WHEREAS, after marrying Linwood Bower, Hilda Bower raised two children, Ernestine and Linwood, Jr., and worked in domestic jobs throughout Dinwiddie County to help support her family; a voracious reader, she instilled a passion for lifelong learning in her children; and

WHEREAS, Hilda Bower was active in the community as a member of the 4-H Home Demonstration Club, Homemakers of America, Dinwiddie County Concerned Voters, and the NAACP; and

WHEREAS, Hilda Bower is well-known for her culinary skills, and her biscuits, cobblers, cakes, and pies are sought out by friends, neighbors, and members of the community; and

WHEREAS, a woman of deep and abiding faith, Hilda Bower enjoys fellowship and worship with the community as a longtime member of Mount Poole Baptist Church, where she has served as a member of the hospitality committee, missionary circle, and Helping Hands Ministry; now, therefore, be it

RESOLVED by the Senate of Virginia, That Hilda Spicely Bower hereby be commended on the occasion of her 100th birthday; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Hilda Spicely Bower as an expression of the Senate of Virginia's admiration for her service to others and best wishes.

#### SENATE RESOLUTION NO. 151

*Celebrating the life of H. Stewart Dunn.*

Agreed to by the Senate, February 22, 2017

WHEREAS, Stewart Dunn was a devoted husband to Loti Kennedy Dunn, the proud father of five children, Chris, Tim, Tony (deceased), Eliza, and Rhett, and the loving grandfather of six grandchildren; and

WHEREAS, born and raised in Pittsburgh, Pennsylvania, Stewart "Stew" Dunn graduated from Yale University in 1951 and from Harvard Law School in 1954, where he served as an editor of the Harvard Law Review; and

WHEREAS, Stew Dunn worked with the law firm of Ivins, Phillips & Barker since 1957, where his practice covered most areas of tax law; in recent years, his practice concentrated on trusts and estates, an area in which he became a nationally recognized expert; and

WHEREAS, from 1970 to 1973, Stew Dunn served as vice chair of the American Bar Association's Section on Taxation; and

WHEREAS, Stew Dunn was a member of the American Bar Foundation, the American Law Institute, the American College of Tax Counsel, and the American College of Trust and Estate Counsel, and he served as a member of the United States Committee on the Selection of Federal Judicial Officers and as its chair from 1979 to 1981; and

WHEREAS, despite his busy professional and personal life, Stew Dunn devoted himself to civil liberties throughout his career; when nominated for an Alexandria Living Legend award, it was said of him: "Of all the activities in which Stew participates, the one to which he is the most dedicated and which he regards as the most important is his service as a board member and policy maker for the area American Civil Liberties Union"; and

WHEREAS, Stew Dunn held leadership positions for the ACLU Virginia affiliate in 1991, including service as vice president from 2005 to 2015 and as national board representative from 1996 to 2005; he was a member of the Board of Directors of the ACLU of the National Capital Area for more than 30 years and served as its president from 1986 to 1988; and

WHEREAS, Stew Dunn was not only active in the work of the ACLU but also deeply invested in matters concerning the City of Alexandria, where he served in various leadership roles in the Old Town Civic Association, the Alexandria Human Rights Commission, the Board of Zoning Appeals, and the Planning Commission; and

WHEREAS, Stew Dunn was the model of a good, active listener and always allowed for the opportunity to change his mind; he solicited viewpoints, listened respectfully, responded, synthesized, and reflected back, and he had an extraordinary sense of when to speak to a subject to win over the most support; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of H. Stewart Dunn, a respected attorney and civil rights activist in Alexandria; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of H. Stewart Dunn as an expression of the Senate of Virginia's respect for his memory.

### SENATE RESOLUTION NO. 152

*Commending Dale City Elementary School.*

Agreed to by the Senate, February 22, 2017

WHEREAS, Dale City Elementary School in Woodbridge is celebrating 50 years of educating and nurturing children in Prince William County; and

WHEREAS, opened in April 1967, Dale City Elementary School was the first school in Dale City, and it serves the communities of Ashdale and Birchdale; and

WHEREAS, when Dale City Elementary School opened, it contained 20 classrooms and two rooms for students with disabilities; the opening enrollment was 351 students and, by March of 1968, enrollment had more than doubled and there were 842 students; and

WHEREAS, Dale City Elementary School offers an inclusive setting, where students are challenged to grow emotionally, socially, and intellectually, while respecting each other's individuality and uniqueness; and

WHEREAS, roughly 450 students attend Dale City Elementary School; they are inspired and challenged daily by the talented and dedicated staff of 38 classroom teachers and 15 teacher assistants who work at the school; and

WHEREAS, a major renovation of Dale City Elementary School was completed in 2006, which included updating the classrooms, library, computer lab, and cafeteria; and

WHEREAS, Dale City Elementary School has a team of highly qualified resource teachers who specialize in English for Speakers of Other Languages, learning disabilities, and Title I reading and math; and

WHEREAS, Dale City Elementary School has a center-based program for students with severe disabilities and offers the Strategies for Teaching and Reaching for Talent (START) and Students Involved in Gifted Needs in Education Today (SIGNET) gifted education programs; and

WHEREAS, Dale City Elementary School is extremely proud of its chorus program, which is just one of many school activities in which students enjoy participating; and

WHEREAS, Dale City Elementary School is a diverse family of lifelong learners committed to excellence, and the administration, faculty, and staff work together to constantly improve all aspects of the students' educational experiences; now, therefore, be it

RESOLVED by the Senate of Virginia, That Dale City Elementary School hereby be commended on the occasion of its 50th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Cindy Crowe-Miller, principal of Dale City Elementary School, as an expression of the Senate of Virginia's admiration for the school's commitment to all-around excellence and best wishes for a bright future.

### SENATE RESOLUTION NO. 153

*Commemorating the life and legacy of Private First Class Gary W. Martini, USMC.*

Agreed to by the Senate, February 22, 2017

WHEREAS, on April 21, 1967, Private First Class Gary W. Martini, USMC, made the ultimate sacrifice in the Binh Son district of Vietnam, posthumously earning the Medal of Honor for his heroism and courageous efforts to save the lives of wounded fellow Marines; and

WHEREAS, a native of Lexington, Gary Martini was possessed of a desire to serve his country and joined the United States Marine Corps on March 3, 1966; he deployed to Vietnam in December 1966 and joined Company F, 2nd Battalion, 1st Marines, 1st Marine Division; and

WHEREAS, while on patrol in support of Operation Union in the Binh Son district, Private First Class Martini's unit encountered an entrenched enemy position and came under heavy fire while crossing an open rice paddy; and

WHEREAS, the ambush killed 14 Marines and wounded 18 others, forcing the rest of the unit into cover behind a low dike; Private First Class Martini left the safety of the dike, crawled to within 15 meters of the enemy positions, and hurled hand grenades to suppress the enemy; and

WHEREAS, with full knowledge that one Marine had already been killed attempting to rescue the wounded men laying in the paddy, Private First Class Martini then raced through the open and dragged one Marine back to safety; and

WHEREAS, without hesitation and, in spite of a serious wound he had received, Private First Class Martini attempted to rescue a second Marine in an exposed position only 20 meters from the enemy; and

WHEREAS, while rescuing the second man, Private First Class Martini received a mortal wound, but instructed the rest of the platoon to remain in cover and summoned the strength to continue dragging the man to safety, before succumbing to his wounds; and

WHEREAS, Private First Class Martini's conspicuous gallantry under enemy fire helped to ensure the safety of the remaining platoon members and saved the lives of two fellow Marines; and

WHEREAS, Martini Hall at the Marine Corps Recruit Depot, San Diego, and Martini Hall at Marine Corps Base Camp Pendleton are both named in honor of Private First Class Martini, ensuring that future generations of Marines learn from his courage, fighting spirit, and selfless dedication to duty; and

WHEREAS, Gary Martini is fondly remembered and greatly missed by numerous family members, friends, and fellow Marines; now, therefore, be it

RESOLVED by the Senate of Virginia, That the life and legacy of Private First Class Gary W. Martini, USMC, hereby be commemorated on the 50th anniversary of his death; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Private First Class Gary W. Martini, USMC, as an expression of the Senate of Virginia's admiration for his service and respect for his memory.

#### SENATE RESOLUTION NO. 154

*Commending Stefanie Fee.*

Agreed to by the Senate, February 22, 2017

WHEREAS, Stefanie Fee of Virginia Beach proudly represented the United States and the Commonwealth at the Games of the XXXI Olympiad in Rio de Janeiro in 2016 as a member of the women's field hockey team; and

WHEREAS, a native of Virginia Beach, Stefanie Fee began playing field hockey in 2002 and was a standout, three-sport athlete at Frank W. Cox High School, where she was named the 2007 All-Tidewater Player of the Year and the 2008 *Virginian-Pilot* Female Athlete of the Year; and

WHEREAS, Stefanie Fee attended Duke University, where she started in every game for all four seasons of her college career, earning All-Atlantic Coast Conference, All-American, and National Academic All-American Honors and the Female Athlete of the Year award; the university's Stefanie Fee Duke True Award was named in her honor; and

WHEREAS, Stefanie Fee currently plays for Beach Premier Field Hockey in Virginia Beach and joined the United States national field hockey team in 2012; and

WHEREAS, Stefanie Fee has previously earned international gold medals at the 2015 Pan American Games in Toronto, the 2014 Champions Challenge in Glasgow, and the 2013 World League Round 2 in Rio de Janeiro; and

WHEREAS, during the 2016 Olympic Games, Stefanie Fee's stalwart performance on defense helped the women's field hockey team advance to the quarterfinals and finish in fifth place overall; and

WHEREAS, throughout her field hockey career and during the Olympic Games in particular, Stefanie Fee has enjoyed the support of her family, friends, coaches, and the members of the Virginia Beach community; now, therefore, be it

RESOLVED by the Senate of Virginia, That Stefanie Fee hereby be commended for representing the United States and the Commonwealth on the women's field hockey team at the Games of the XXXI Olympiad; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Stefanie Fee as an expression of the Senate of Virginia's admiration for her outstanding achievements as a member of Team USA.

#### SENATE RESOLUTION NO. 155

*Commending Lieutenant Commander Richard C. Vale, USN, Ret.*

Agreed to by the Senate, February 22, 2017

WHEREAS, Lieutenant Commander Richard C. Vale, USN, Ret., retired from the United States Navy Reserve in September 2015, after nearly three decades of honorable service to the Commonwealth and the nation; and

WHEREAS, a native of Baltimore, Maryland, Richard Vale graduated from Howard County High School and joined the United States Navy in 1987; he graduated from the Nuclear Power School in 1989 and the Naval Academy Preparatory School in 1990; and

WHEREAS, Richard Vale was selected to attend the United States Naval Academy, graduating with the Class of 1994, and continued his studies at the Nuclear Power School as an officer; and

WHEREAS, after completing the Submarine Officer Basic Course, Richard Vale was stationed aboard the USS *William H. Bates* submarine from 1996 to 1999; he then joined the Operational Test and Evaluation Force in Norfolk, which provides independent evaluation of the nation's naval warfare capabilities; and

WHEREAS, Richard Vale offered his expertise to the Office of Naval Research Science and Technology Departments from 2003 to 2008, then deployed to Afghanistan in support of International Security Assistance Force Afghanistan in 2009; and

WHEREAS, from 2009 to 2015, Richard Vale was assigned to Undersea Warfare Operations Detachment T, and he supported the development of the Global Thunder exercise before his well-earned retirement as a member of the United States Navy Reserve in 2015; and

WHEREAS, throughout his distinguished military career, Richard Vale earned numerous awards and decorations, including the Defense Meritorious Service Medal, the Navy Commendation Medal, the Navy Achievement Medal, and the Meritorious Unit Commendation; now, therefore, be it

RESOLVED by the Senate of Virginia, That Lieutenant Commander Richard C. Vale, USN, Ret., hereby be commended on his retirement from military service in 2015; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Lieutenant Commander Richard C. Vale, USN, Ret., as an expression of the Senate of Virginia's admiration for his dedicated service to the Commonwealth and the United States.

#### SENATE RESOLUTION NO. 156

*Commending Living Legends of Alexandria.*

Agreed to by the Senate, February 23, 2017

WHEREAS, the quality of life in a city can be enhanced by the vision and determination of individual citizens; and  
WHEREAS, the City of Alexandria is blessed with citizens dedicated to excellence in education, law, medicine, the arts and arts advocacy, the clergy, community service, and business; and

WHEREAS, the residents of Alexandria, through their imagination, creativity, and dedication create programs and activities to improve the lives of their neighbors; and

WHEREAS, Living Legends of Alexandria began in the fall of 2006 with the mission of identifying, honoring, and creating a lasting, artistic history of these local citizens; and

WHEREAS, in the 10 years since the conception of Living Legends of Alexandria, 124 Legends have been identified, honored, and chronicled in photographs and feature articles that are archived in the Alexandria Library, the Library of Virginia in Richmond, and the Library of Congress; now, therefore, be it

RESOLVED by the Senate of Virginia, That Living Legends of Alexandria hereby be commended for the successful ongoing efforts to honor the Legends whose achievements make Alexandria the unique, vibrant community that it is; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Board of Directors of Living Legends of Alexandria as an expression of the Senate of Virginia's admiration of all the individuals who have been nominated as Legends for their efforts and their contributions to the betterment of the City of Alexandria and the Commonwealth.

#### SENATE RESOLUTION NO. 157

*Commending Holy & Whole Life Changing Ministries International.*

Agreed to by the Senate, February 23, 2017

WHEREAS, Pastor Michelle C. Thomas established Holy & Whole Life Changing Ministries International in Lansdowne in 2006; and

WHEREAS, Holy & Whole was the first church in Loudoun County established by an African American woman; the church set out to become a beacon of hope, faith, and community involvement, charging its members to have a positive impact on the community through service and faith; and

WHEREAS, in May 2012, Pastor Thomas founded "Faith Has a Voice," an advocacy initiative committed to educating, empowering, and engaging the Greater Loudoun County Community of Faith; and

WHEREAS, in April 2013, Holy & Whole founded and opened Loudoun County's first Christian STEM (science, technology, engineering, and mathematics) preschool and STEM summer camp, which are dedicated to building interest in STEM, increasing opportunities for students, and inspiring the next generation of STEM leaders; and

WHEREAS, Pastor Thomas, the Holy & Whole leadership team, and several other Loudoun County faith leaders founded the Loudoun Freedom Center, an educational nonprofit organization dedicated to the preservation and education of African American cultural sites, resources, and communities in Loudoun County; and

WHEREAS, in February 2015, Pastor Thomas rediscovered The Belmont Slave Cemetery on the grounds of the former Belmont Plantation, and on October 11, 2015, Pastor Thomas and the Loudoun Freedom Center were granted stewardship of the cemetery, the site where the slaves of the Belmont Plantation were buried; and

WHEREAS, in August 2016, Holy & Whole, under the leadership of Pastor Thomas, organized and held the One Loudoun Revival at Ida Lee Park in Leesburg, an inter-denominational, multi-faith, multi-racial, community worship experience, uniting all churches in Loudoun County under the banner of One Lord, One Faith, One Baptism, One Loudoun; and

WHEREAS, in January 2016, Pastor Thomas became the first African American woman to be appointed to serve as a member of the Loudoun County Heritage Commission; now, therefore, be it

RESOLVED by the Senate of Virginia, That Holy & Whole Life Changing Ministries International hereby be commended on the occasion of its 10th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Pastor Michelle C. Thomas, founder and senior pastor of Holy & Whole Life Changing Ministries International, as an expression of the Senate of Virginia's admiration for its significant contributions to Loudoun County.

**SENATE RESOLUTION NO. 158**

*Nominating persons to be elected to circuit court judgeships.*

Agreed to by the Senate, February 23, 2017

RESOLVED by the Senate, That the following persons are hereby nominated to be elected to the respective circuit court judgeships as follows:

The Honorable Joel P. Crowe, of Portsmouth, as a judge of the Third Judicial Circuit for a term of eight years commencing July 1, 2017.

W. Edward Tomko, III, Esquire, of Sussex, as a judge of the Sixth Judicial Circuit for a term of eight years commencing July 1, 2017.

The Honorable Christopher R. Papile, of Newport News, as a judge of the Seventh Judicial Circuit for a term of eight years commencing July 1, 2017.

David Bernhard, Esquire, of Fairfax County, as a judge of the Nineteenth Judicial Circuit for a term of eight years commencing July 1, 2017.

David A. Oblon, Esquire, of Arlington County, as a judge of the Nineteenth Judicial Circuit for a term of eight years commencing January 1, 2018.

**SENATE RESOLUTION NO. 159**

*Nominating a person to be elected to a general district court judgeship.*

Agreed to by the Senate, February 23, 2017

RESOLVED by the Senate, That the following person is hereby nominated to be elected to the general district court judgeship as follows:

Corry N. Smith, Esquire, of Hampton, as a judge of the Eighth Judicial District for a term of six years commencing July 1, 2017.

**SENATE RESOLUTION NO. 160**

*Nominating persons to be elected to juvenile and domestic relations district court judgeships.*

Agreed to by the Senate, February 23, 2017

RESOLVED by the Senate, That the following persons are hereby nominated to be elected to the respective juvenile and domestic relations district court judgeships as follows:

Kevin M. Duffan, Esquire, of Virginia Beach, as a judge of the Second Judicial District for a term of six years commencing July 1, 2017.

Bryan K. Meals, Esquire, of Portsmouth, as a judge of the Third Judicial District for a term of six years commencing July 1, 2017.

Stan Del Clark, Esquire, of Isle of Wight, as a judge of the Fifth Judicial District for a term of six years commencing July 1, 2017.

Melissa N. Cupp, Esquire, of Rappahannock, as a judge of the Twentieth Judicial District for a term of six years commencing July 1, 2017.

**SENATE RESOLUTION NO. 161**

*Nominating persons to be elected as members of the Judicial Inquiry and Review Commission.*

Agreed to by the Senate, February 23, 2017

RESOLVED by the Senate, That the following persons are hereby nominated to be elected as members of the Judicial Inquiry and Review Commission as follows:

The Honorable Stephanie E. Merritt, of New Kent, as a member of the Judicial Inquiry and Review Commission for an unexpired term ending June 30, 2019.

The Honorable Ronald L. Napier, of Warren, as a member of the Judicial Inquiry and Review Commission for a term of four years commencing July 1, 2017.

**SENATE RESOLUTION NO. 162**

*Commending the Virginia Military Institute Corps of Cadets.*

Agreed to by the Senate, February 24, 2017

WHEREAS, the Virginia Military Institute Corps of Cadets was selected to perform at the inauguration of President Donald J. Trump on January 20, 2017, continuing a long and proud tradition of participation in presidential inauguration ceremonies; and

WHEREAS, located in Lexington, Virginia Military Institute (VMI) enrolls more than 1,700 men and women each year; the majority of cadets are from Virginia, with other cadets representing nearly every state in the United States and countries around the world; and

WHEREAS, Virginia Military Institute strives to develop well-educated, honorable leaders, who are prepared for the work in a variety of career fields, committed to the ideals of public service, democracy, and free enterprise, and ready to defend the nation as citizen-soldiers if called upon to do so; and

WHEREAS, the VMI Corps of Cadets has participated in presidential inauguration parades since March 1909, when it took part in the inauguration of President William Howard Taft, and it participated in the inaugurations of 10 other presidents from 1913 to 2013; and

WHEREAS, the VMI Corps of Cadets was invited to march at its 15th presidential inauguration when Donald J. Trump became the 45th President of the United States in 2017; and

WHEREAS, the VMI Corps of Cadets trained extensively for the event, drilling on a parade ground and performing uniform inspections on the 15-cadet-wide battalion-sized formations planned for the inauguration day parade; and

WHEREAS, as the last and largest of the parade units, the VMI Corps of Cadets provided a distinguished finale to the historic parade, which marched from the United States Capitol down Pennsylvania Avenue and finished at the White House; now, therefore, be it

RESOLVED by the Senate of Virginia, That the Virginia Military Institute Corps of Cadets hereby be commended for its outstanding performance at the inauguration of President Donald J. Trump in 2017; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the Virginia Military Institute Corps of Cadets as an expression of the Senate of Virginia's admiration of its legacy of service to United States presidents.

**SENATE RESOLUTION NO. 163**

*Celebrating the life of Clyde Eugene Arnette, Jr.*

Agreed to by the Senate, February 24, 2017

WHEREAS, Clyde Eugene Arnette, Jr., of Charlottesville, a standout quarterback at Lane High School and the University of Virginia in the 1960s, died on February 9, 2017; and

WHEREAS, the son of Clyde and Virginia Arnette, Eugene "Gene" Arnette was born and raised in Charlottesville and genuinely loved his hometown; and

WHEREAS, Gene Arnette was a legendary quarterback at Lane High School in Charlottesville, where he led the Black Knights to the 1963 state football championship during the school's record 53-game winning streak; and

WHEREAS, after considering numerous college scholarship offers, Gene Arnette chose to stay in his hometown and attend the University of Virginia (UVA), where he lettered in football and baseball and won awards for being an outstanding student leader and athlete; and

WHEREAS, as a two-year starter, Gene Arnette led the Virginia Cavaliers to an overall record of 5–5 in 1967 and 7–3 in 1968, the program's first winning football season since 1952; and

WHEREAS, a dual threat quarterback known for changing the plays called from the sideline, Gene Arnette accounted for more than 3,000 total yards of offense and 28 touchdowns in his two years as a starter for UVA, passing for 2,447 yards and 20 touchdowns; and

WHEREAS, a fierce competitor, great leader, and fun-loving person, Gene Arnette was a member of Zeta Psi Fraternity, the Mystic Order of Eli Banana, and the IMP Society at UVA; and

WHEREAS, after receiving a master's degree from UVA, Gene Arnette served in the United States Navy and succeeded Roger Staubach as quarterback of the Pensacola Naval Station Goshawks football team; and

WHEREAS, Gene Arnette was a successful businessman in the Charlottesville area working in the fuel business, and at one time served as vice president of Tiger Fuel; and

WHEREAS, Gene Arnette had a generous heart and gave his time and support to many local charities and organizations, including the Miller School of Albemarle, Virginia Student Aid Foundation, Crime Stoppers, and youth athletic teams; and

WHEREAS, Gene Arnette was a great storyteller and served as a sideline analyst for UVA football radio broadcasts in recent years; he loved spending time on the golf course with his friends and time at home with his children and grandchildren; and

WHEREAS, Gene Arnette will be fondly remembered and greatly missed by his son, Scott; daughter, Cali, and her family; and a host of relatives and good friends; now, therefore, be it

RESOLVED, That the Senate of Virginia hereby note with great sadness the loss of Clyde Eugene Arnette, Jr., a star quarterback for the Lane High School and University of Virginia football teams; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to the family of Clyde Eugene Arnette, Jr., as an expression of the Senate of Virginia's respect for his memory.

#### SENATE RESOLUTION NO. 164

*Commending the Shenandoah County Fair.*

Agreed to by the Senate, February 24, 2017

WHEREAS, the Shenandoah County Fair in Woodstock, the oldest and largest fair in the Shenandoah Valley, is celebrating its 100th anniversary in 2017; and

WHEREAS, the roots of today's Shenandoah County Fair can be traced to 1886, when the Shenandoah County Agricultural Society organized an event for the purposes of showcasing area agricultural, horticultural, and commercial products; and

WHEREAS, the first fair in Shenandoah County was held in October 1887, and the main grandstand entertainment featured horse racing of every description; and

WHEREAS, due to lack of interest, the fair fizzled sometime in the early twentieth century, but, in 1916, a group of local farmers and businessmen sought to organize an event to promote area farming, and it was decided that 420 shares of stock would be sold to raise funds for the venture; and

WHEREAS, the Shenandoah County Fair Association acquired 25 acres that were originally owned by the Shenandoah County Agricultural Society, and the first Shenandoah County Fair was held October 16–19, 1917; single admission to the first fair was \$.50 and a one-week pass cost \$1.00; and

WHEREAS, the Shenandoah County Fair has presented a wide array of performers during its 100-year history, and some of the earliest forms of entertainment were high-wire acts, lion taming, and bicycle racing; and

WHEREAS, today's Shenandoah County Fair features fun for the entire family, including children's activities, world-class grandstand entertainment, music, rides, livestock competitions, agricultural exhibits, a truck and tractor pull, harness racing, and a scholarship pageant, plus a wide variety of food vendors and commercial attractions; and

WHEREAS, the Shenandoah County Fairgrounds in Woodstock has expanded over the years to include 68 acres filled with food stands, the original grandstands, a horse track, exhibit buildings, and livestock barns; and

WHEREAS, local community and civic groups such as churches, the Lions Club, and the Ruritan Club raise a significant portion of their annual revenue at the Shenandoah County Fair; youth programs such as FFA and 4-H, as well as the Shenandoah County office of Virginia Cooperative Extension, are also closely involved; and

WHEREAS, the Shenandoah County Fair is now owned by 365 shareholders and the Shenandoah County Fair Association is governed by a volunteer board of directors, who donate countless hours of their time throughout the year to prepare for each fair; and

WHEREAS, the Shenandoah County Fair will mark its 100th anniversary during a special 2017 fair, scheduled for August 25–September 2, which will feature a star-studded lineup of entertainers headlined by Grammy-nominated country music superstar Martina McBride; and

WHEREAS, the Shenandoah County Fair has adapted to fit the needs of the community as they have evolved over the last century, but its primary goal has remained unchanged—to provide quality family entertainment while supplying a venue for area farmers and businessmen to showcase their products; now, therefore, be it

RESOLVED by the Senate of Virginia, That the Shenandoah County Fair hereby be commended on the occasion of its 100th anniversary; and, be it

RESOLVED FURTHER, That the Clerk of the Senate prepare a copy of this resolution for presentation to Tom Eshelman, general manager of the Shenandoah County Fair, as an expression of the Senate of Virginia's admiration for its esteemed history and the important role it continues to play in the Shenandoah County community.

SUMMARY OF 2017 REGULAR SESSION LEGISLATION

TOTAL INTRODUCED LEGISLATION .....	2959
House Bills .....	1086
Senate Bills .....	813
House Joint Resolutions .....	551
Senate Joint Resolutions .....	232
House Resolutions .....	210
Senate Resolutions .....	67
TOTAL LEGISLATION PASSED AND/OR AGREED TO .....	1773
House Bills .....	515
Senate Bills .....	365
House Joint Resolutions .....	443
Senate Joint Resolutions .....	178
House Resolutions .....	208
Senate Resolutions .....	64
TOTAL BILLS ENACTED INTO LAW .....	831
House Bills .....	485
Senate Bills .....	346
House Joint Resolutions .....	3
Senate Joint Resolutions .....	2
TOTAL CHAPTERS .....	836
BILLS VETOED BY GOVERNOR .....	49
House Bills .....	30
Senate Bills .....	19

**HOUSE BILLS APPROVED SHOWING CHAPTERS AND PAGE NUMBERS**

HOUSE			HOUSE			HOUSE			HOUSE		
HB	Chapter	Page									
1392	311	481	1516	32 E	39	1610	414	640	1732	123	186
1396	659	1118	1517	338	536	1615	170	288	1734	620	1047
1401	506	847	1518	104	137	1617	43	54	1736	173	292
1402	764	1398	1519	693	1166	1618	34	45	1737	480	804
1404	98	126	1520	526	866	1619	9	10	1738	714	1256
1405	148	207	1521	1 E	1	1622	286	455	1740	14	20
1408	312	485	1524	494	830	1623	63	79	1741	124	186
1411	774	1406	1525	776	1410	1625	281	452	1743	152	211
1414	313	486	1529	26	35	1626	28	36	1744	153	224
1415	23	32	1532	777	1410	1628	495	833	1746	294	460
1422	11	15	1537	293	459	1629	85	109	1747	747	1360
1426	94	122	1538	314	486	1630	35	46	1748	415	646
1431	336	535	1539	778	1412	1641	44	54	1750	174	293
1433	147 E	205	1540	616	1033	1642	107 E	149	1751	109	153
1437	765	1399	1541	105	143	1646	36	47	1754	754	1376
1440	204	356	1542	727	1282	1647	45	55	1760	246	402
1450	615	1032	1543	412	639	1650	617	1045	1761	528 E	867
1451	187	312	1544	768	1401	1651	205	356	1763	272	442
1453	168 E	282	1545	77	98	1652	37	49	1766	728	1290
1454	149	207	1546	753	1375	1654	638	1094	1767	110 E	155
1455	24	33	1547	270	440	1656	287 E	456	1768	639	1094
1456	46	56	1548	456	755	1659	288	457	1770	247	411
1457	337	536	1549	683	1152	1661	713	1249	1774	345	541
1461	256	425	1551	188	313	1662	316	505	1775	458	767
1463	409	636	1552	100	127	1663	779	1449	1777	175	296
1466	99	126	1554	374	570	1664	376	572	1780	230	384
1467	280	451	1555	527	866	1665	108	152	1781	5	7
1471	477	795	1556	258	426	1668	48	58	1784	192	329
1472	150	208	1559	122	184	1671	780	1449	1785	244	401
1474	410	637	1560	84	109	1675	746	1360	1786	176	298
1475	257	426	1562	245	401	1686	377	575	1787	64	80
1476	25	34	1565	27	35	1687	342	539	1793	6	8
1477	559	921	1567	106	144	1688	171	289	1795	193	329
1478	103	134	1568	189	314	1689	457	756	1796	529	868
1479	40	51	1569	229	384	1691	781	1449	1797	379	577
1483	136	195	1570	560	923	1693	343	540	1798	282	452
1484	411	638	1571	478 E	800	1694	151	209	1799	416	646
1485	507	848	1572	339	537	1697	660	1118	1801	154	230
1486	373	569	1573	630	1080	1699	131	190	1810	49	60
1490	508	849	1574	340	538	1705	144	202	1811	481	806
1491	775	1407	1579	479	804	1709	684	1153	1814	177	301
1492	95	123	1580	96	124	1712	259	427	1815	562	925
1493	41	52	1585	561	924	1713	78	99	1816	755	1376
1494	120	183	1586	509	850	1716	191	328	1820	435	704
1497	169	288	1587	510	852	1718	145	203	1825	261	429
1500	836	1658	1590	315	504	1719	260	428	1829	783	1450
1504	121	184	1591	13	20	1720	344	541	1832	640	1095
1505	12	18	1592	130	190	1721	782	1450	1835	482	807
1508	455	754	1597	375	570	1727	146	205	1837	748	1362
1509	4	5	1600	341	538	1728	172	292	1838	317	505
1512	292	459	1604	190	320	1729	378	576	1840	178	304
1514	712	1242	1608	33	40	1730	271	442	1842	155	235
1515	42	53	1609	413	640	1731	678	1146	1845	758	1380

Note: E signifies emergency status

HOUSE BILLS APPROVED SHOWING CHAPTERS AND PAGE NUMBERS

HOUSE			HOUSE			HOUSE			HOUSE		
HB	Chapter	Page									
1846	784	1452	1970	384	584	2105	792	1479	2229	697	1179
1848	318	506	1971	587	983	2106	265	434	2230	646	1106
1849	47	58	1973	531 E	873	2107	485	809	2231	499	838
1851	785	1453	1977	385	585	2108	389	595	2237	590	991
1854	829 E	1614	1979	132	191	2111	486	810	2239	538	880
1855	786	1454	1981	760	1385	2113	419	656	2240	500	842
1858	380	577	1982	685	1154	2119	390	596	2241	273	442
1869	262	430	1987	157	239	2127	535	875	2243	439 E	708
1874	641	1096	1992	610	1019	2136	696 E	1173	2244	539	881
1876	642	1097	1993	532	873	2137	351	548	2245	796	1483
1878	156 E	238	1994	661	1119	2138	536	878	2246	53	63
1882	86	111	1996	461	777	2139	537	879	2247	742	1353
1883	263	430	1998	512	853	2140	234	388	2248	715	1259
1884	248	413	2003	484	809	2141	235	388	2249	420 E	658
1885	249	414	2006	729	1291	2143	290	458	2250	611 E	1023
1888	295	466	2009	349	544	2144	644	1105	2254	8	9
1889	111	157	2014	787	1457	2146	645	1105	2255	353	549
1890	436	705	2015	533	874	2148	622	1049	2257	299	468
1903	223	379	2016	788	1457	2149	793	1480	2258	464	782
1909	437	706	2017	789	1464	2151	30	38	2262	686	1156
1910	417	649	2019	694 E	1167	2152	391	598	2267	716	1261
1911	296	466	2022	350	547	2153	179	304	2269	322	516
1912	631	1080	2023	534	874	2154	392	598	2274	393	600
1913	112	161	2024	563	925	2156	196	338	2276	284	453
1919	283	452	2026	790	1465	2161	180 E	305	2277	117	176
1921	29	37	2029	125	187	2162	197 E	339	2278	267	439
1922	459	775	2032	126	189	2163	794	1482	2279	142	199
1924	231	385	2033	730	1293	2164	181 E	306	2281	394	605
1926	585	974	2034	386	586	2165	115	167	2282	514	855
1927	15	26	2035	289	457	2167	291 E	458	2285	395	607
1929	511	852	2037	588	990	2168	834	1651	2287	207	358
1931	70	87	2040	298	467	2169	52	62	2289	797	1497
1932	141	198	2045	387	590	2171	320	511	2290	300	468
1933	346	542	2046	114	167	2172	236	389	2291	564	926
1936	381	578	2050	38	50	2174	321	514	2296	647	1108
1938	530	868	2051	695	1171	2177	266	437	2297	798	1501
1939	347	542	2053	830	1631	2178	662	1120	2300	465	782
1940	87	114	2055	388	594	2179	352	549	2301	182	306
1941	586	982	2058	51	60	2183	198	339	2302	501	843
1942	194	332	2064	621	1048	2184	463	780	2303	565	934
1943	483 E	808	2066	319	506	2185	589	990	2304	749	1365
1944	599	1006	2067	496	835	2193	116	172	2306	323	517
1945	195	333	2072	462	778	2200	7	8	2308	101	131
1946	460	776	2074	762	1386	2201	795	1482	2311	540	885
1950	113	166	2075	232	385	2203	731 E	1326	2313	487	811
1951	206	357	2076	10	12	2206	497	835	2317	183	309
1952	348	543	2078	158	252	2209	600	1007	2318	756	1377
1958	382	579	2084	233	386	2214	127	189	2319	274	445
1960	825	1610	2090	763	1396	2215	199	340	2324	799	1502
1961	50	60	2095	418	650	2216	200	342	2325	237	390
1965	297	467	2096	625	1070	2217	498	836	2327	623 E	1050
1968	383	583	2101	791	1475	2218	513	855	2328	227	382
1969	264	432	2102	643	1101	2219	438	707	2329	208	359

Note: E signifies emergency status

**HOUSE BILLS APPROVED SHOWING CHAPTERS AND PAGE NUMBERS**

HOUSE			HOUSE		
HB	Chapter	Page	HB	Chapter	Page
2331	601	1010	2463	542	889
2332	301	469	2464	733	1327
2336	800	1502	2467	700	1200
2338	757	1378	2469	398	612
2341	687	1159	2470	612	1025
2347	663	1124	2471	804 E	1508
2348	618	1046	2474	543	889
2350	502	843	2477	602	1011
2352	688	1159			
2354	515	856	<b>HJR</b>	<b>Chapter</b>	<b>Page</b>
2355	302	469	545	769	1403
2356	732	1326	562	770	1404
2358	619	1047	693	771	1404
2359	698	1181			
2360	664	1127			
2362	503	844			
2364	354 E	550			
2366	699	1189			
2367	801	1502			
2369	238	392			
2374	566	937			
2377	54	63			
2379	324	518			
2381	396	608			
2383	826	1612			
2386	802	1504			
2390	803	1507			
2391	421 E	660			
2395	626	1072			
2396	397	610			
2397	355	550			
2404	466	784			
2410	624	1069			
2415	356	551			
2417	750	1367			
2418	159	254			
2422	648	1109			
2423	357	552			
2424	689	1161			
2425	358	553			
2427	325	519			
2428	359	553			
2429	516	856			
2431	239	393			
2432	240	394			
2433	160	259			
2436	679	1147			
2449	541	886			
2453	326	520			
2455	440	712			
2457	467	785			
2460	717	1262			
2462	468	786			

Note: E signifies emergency status

SENATE BILLS APPROVED SHOWING CHAPTERS AND PAGE NUMBERS

SENATE			SENATE			SENATE			SENATE		
SB	Chapter	Page									
786	133	192	935	605	1012	1037	569	942	1169	490	814
793	718	1263	936	632	1082	1040	140	197	1172	548	898
800	831	1632	941	137	195	1041	73	88	1173	404	624
804	441	712	944	304	471	1042	31	39	1175	81	107
806	544	890	946	651	1111	1043	608	1016	1176	139	196
812	805	1519	947	652	1112	1044	92	120	1177	82 E	108
815	591	992	948	66	82	1045	722	1274	1178	812	1557
817	701	1202	949	305	477	1046	59	75	1179	62 E	79
829	303	470	950	362	555	1048	285	454	1180	682 E	1151
839	16	27	951	518	858	1050	60	76	1182	89	118
840	327	521	953	161	269	1054	519	860	1189	736	1330
848	55 E	64	960	275	445	1060	667	1129	1191	138	195
852	399	614	961	276	446	1061	702 E	1205	1192	573	947
853	79	101	962	808 E	1523	1062	61	77	1193	135	194
854	806	1519	963	424	667	1063	759	1383	1195	574	947
855	71	87	964	213	368	1069	277	446	1196	549	899
856	567	940	965	546	892	1073	810	1550	1201	491	815
864	807	1522	966	67	84	1074	653	1112	1202	633	1083
866	360	554	967	162	271	1075	505	846	1203	216	370
867	603	1011	968	363	557	1083	570	943	1205	447	736
868	604	1012	969	489	814	1084	571	943	1207	251	415
869	469	788	973	56	71	1085	547	893	1210	656	1115
870	90	119	974	471	790	1086	428	679	1211	119	180
873	517	858	975	606	1014	1091	703	1206	1216	744	1355
874	91	119	976	19	30	1098	328	522	1217	83	108
875	442	713	977	2 E	1	1100	329	525	1221	97	125
880	422	664	981	57	72	1101	74	89	1224	366	559
886	443	716	982	425	670	1102	828	1613	1225	217	372
889	241	396	988	20	30	1104	364	557	1226	737	1336
891	65	80	989	224	380	1108	675	1144	1228	575	950
894	470	789	990	568	941	1113	572	944	1229	279	451
896	209	361	991	402	616	1116	811	1554	1230	429	683
897	751	1367	992	214	369	1117	520	861	1231	405	625
898	827	1612	994	39	51	1118	627	1074	1232	252	422
899	545	892	999	21	31	1122	472	790	1234	521	862
903	80	102	1001	215	369	1123	734	1330	1237	68	86
904	761	1386	1003	22	31	1127	163	271	1242	752	1373
906	361	555	1005	607	1015	1129	704	1207	1245	522	863
907	766	1399	1006	719	1264	1134	134	192	1248	448	740
909	72	88	1008	809	1524	1136	654	1114	1250	332	532
910	17	29	1009	58 E	73	1140	93	121	1251	705 E	1218
911	18	29	1018	446	736	1143	365	558	1254	367	560
912	444	717	1019	403	617	1144	250	415	1255	406	629
913	592	992	1020	426	672	1148	278	450	1257	669	1131
916	488	812	1021	504	845	1150	743	1354	1258	813	1557
919	400	615	1024	720	1265	1153	735	1330	1260	242	396
920	118	176	1025	680	1149	1154	668	1131	1261	576	952
922	423	664	1026	102	133	1158	655	1114	1265	706	1225
926	649	1110	1027	613 E	1027	1159	330	526	1270	128	190
927	593	1001	1031	3 E	2	1160	331	530	1272	164	274
928	650	1111	1032	306	478	1164	88	116	1273	225	380
932	401	615	1033	427	677	1165	723	1276	1274	430	688
934	445	735	1034	721	1273	1168	724	1277	1276	670	1134

Note: E signifies emergency status

**SENATE BILLS APPROVED SHOWING CHAPTERS AND PAGE NUMBERS**

SENATE			SENATE			SENATE		
SB	Chapter	Page	SB	Chapter	Page	SB	Chapter	Page
1279	333	532	1393	580	956	1532	372	568
1282	835	1653	1394	581	960	1533	767	1400
1284	814	1559	1395	368	560	1534	309	480
1286	725	1280	1398	817	1586	1535	269	440
1287	707	1226	1403	432	695	1538	407	635
1288	210	362	1412	634	1085	1539	740	1344
1289	253	423	1413	597	1005	1542	221	374
1293	431 E	691	1414	334	534	1546	434	698
1296	833	1650	1415	818	1587	1548	636	1093
1304	165	278	1416	819	1588	1552	167	281
1305	226	381	1417	709	1239	1553	557	918
1307	681	1149	1418	820	1589	1555	310	480
1308	449	740	1421	710	1240	1558	598	1005
1309	594	1001	1425	268	439	1559	665	1128
1310	228	382	1429	582	963	1561	475	793
1311	218	373	1429	582	963	1561	475	793
1311	218	373	1429	582	963	1561	475	793
1312	832 E	1633	1430	691	1165	1564	673	1143
1313	211	363	1430	691	1165	1564	673	1143
1316	550	899	1431	493 E	829	1573	666	1129
1318	219	373	1434	201	353	1574	824 E	1598
1319	220	373	1437	202	355	1576	454	752
1320	450	741	1438	433	697	1577	476	795
1321	184	310	1447	307	479	1578	741	1345
1322	551	900	1448	75	89	1580	222	376
1323	185	311	1448	75	89	1580	222	376
1325	595	1003	1459	677	1146	1583	255	424
1328	451	742	1461	203	355	1586	408	636
1330	609	1016	1462	473	790	1587	745	1357
1331	166	278	1463	254	423	1588	637 E	1094
1332	577	953	1465	243	398	1591	558 E	921
1333	143	201	1467	711	1241	1594	674	1143
1334	578	954	1469	76	92			
1341	738	1340	1473	583	963	<b>SJR</b>	<b>Chapter</b>	<b>Page</b>
1342	657	1115	1475	692	1165	295	772	1405
1343	676	1145	1479	658	1116	331	773	1405
1350	552	904	1483	69	86			
1352	212	365	1484	186	311			
1359	628	1077	1486	821	1597			
1360	690	1163	1487	369 E	562			
1363	553	906	1492	822	1597			
1364	815	1562	1493	823	1598			
1366	708 E	1235	1494	635	1086			
1367	129	190	1497	370	562			
1369	452 E	744	1498	671	1141			
1370	614 E	1030	1501	672	1142			
1371	816	1572	1506	524	865			
1374	579	956	1507	525	866			
1376	523	864	1508	555	917			
1382	596	1004	1509	584	972			
1384	554	907	1511	474	791			
1387	726	1281	1512	739	1341			
1390	453	747	1514	556	918			
1391	492	816	1516	629	1077			
			1523	308	479			
			1527	335	535			
			1530	371	568			

Note: E signifies emergency status

**ACTS OF ASSEMBLY**  
**BILLS VETOED BY THE GOVERNOR**

(Communications from the Governor, relating to the bills that were vetoed, may be found in the Journals of the House of Delegates and the Senate for the 2017 Regular Session.)

The following vetoed bills were returned unsigned by Governor Terence R. McAuliffe:

**HOUSE BILLS**

- HB 1394 Franchisees; clarifies status thereof and its employees as employees of the franchisor, application of title.  
Chief Patron: Head
- HB 1400 Virginia Virtual School Board; established, report. Chief Patron: Bell, Richard P.
- HB 1428 Absentee voting; photo identification required with application. Chief Patron: Fowler
- HB 1432 Switchblade knife; authorizes any person to carry concealed when such knife is carried for purpose of engaging in a lawful profession or lawful recreational activity. Chief Patron: Ware
- HB 1468 Incarcerated persons, certain; prohibits Director of Department of Corrections, sheriff, or other official in charge of a facility from releasing an alien for whom a lawful detainer order has been received from U.S. Immigration and Customs Enforcement, etc. Chief Patron: Marshall, R.G.
- HB 1578 Students who receive home instruction; participation in interscholastic programs (Tebow Bill).  
Chief Patron: Bell, Robert B.
- HB 1582 Concealed handgun permits; age requirement for persons on active military duty or honorably discharged from United States Armed Forces or Virginia National Guard who has completed basic training.  
Chief Patron: Campbell
- HB 1596 Virginia Public Procurement Act; public works contracts, prevailing wage provisions. Chief Patron: Webert
- HB 1605 Virginia Parental Choice Education Savings Accounts; established, qualified students, report, effective clause.  
Chief Patron: LaRock
- HB 1708 Standards of Accreditation; Board of Education shall consider for inclusion in student outcome measures the number of industry certification credentials obtained by high school students, report. Chief Patron: Filler-Corn
- HB 1753 Local government; prohibits certain practices that would require contractors to provide certain compensation or benefits. Chief Patron: Davis
- HB 1790 Administrative Process Act; development and periodic review of regulations, report. Chief Patron: Lingamfelter
- HB 1791 Conspiracy, incitement, etc., to riot; penalty when against public safety personnel. Chief Patron: Lingamfelter
- HB 1836 Spotsylvania Parkway; VDOT shall take over normal right of way maintenance of a certain segment beginning in 2020. Chief Patron: Orrock
- HB 1852 Concealed handguns; any person 21 years of age or older who is not prohibited from purchasing a firearm and is protected by an unexpired protective order authorized to carry for 45 days after order was issued.  
Chief Patron: Gilbert

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**ACTS OF ASSEMBLY**

**2805**

- HB 1853 Virginia Firearms Safety and Training for Sexual and Domestic Violence Victims Fund; created, funds to offer firearms safety or training course or class to victims of domestic violence, etc., expenditures and disbursements from Fund to be made by State Treasurer on warrants issued by Comptroller, etc. Chief Patron: Gilbert
- HB 1856 Restitution; any offense that occurs on or after July 1, 2017, if restitution is ordered at the time of sentencing, court shall place defendant on an indefinite term of supervised probation. Chief Patron: Bell, Robert B.
- HB 2000 Sanctuary policies; no locality shall adopt any ordinance, procedure, or policy that restricts enforcement of federal immigration laws. Chief Patron: Poindexter
- HB 2002 Refugee and immigrant resettlements; nonprofit resettlement agencies and their local affiliates to annually report to Department of Social Services nonidentifying information. Chief Patron: Poindexter
- HB 2025 Religious freedom; definitions, marriage solemnization, participation, and beliefs. Chief Patron: Freitas
- HB 2077 Emergency Services and Disaster Law of 2000; removes certain authority of a governmental entity referring to firearms in place or facility used as an emergency shelter. Chief Patron: Wilt
- HB 2092 Medical assistance and other public assistance; entities processing applications to conduct a review of death records and records relating to incarceration status, etc., to determine eligibility, review of records of Virginia Lottery, report. Chief Patron: LaRock
- HB 2191 School boards; procedures for handling sexually explicit instructional materials or related academic activities, notification to parents, clarification of "sexually explicit content." Chief Patron: Landes
- HB 2198 Coal tax credits; ability of persons with an economic interest in coal to redeem with Tax Commissioner credits received pursuant to an allocation on or after January 1, 2017, shall expire for credits earned on or after July 1, 2022, etc. Chief Patron: Kilgore
- HB 2207 Food stamp program; Department of Social Services to monitor all requests for replacement of electronic benefit transfer card. Chief Patron: Robinson
- HB 2264 Health, Department of; restrictions on expenditure of funds related to abortions and family planning services. Chief Patron: Cline
- HB 2342 Public schools; Board of Education shall only establish regional charter school divisions in regions in which each underlying division has an enrollment of more than 3,000 students, etc. Chief Patron: Landes
- HB 2343 Voter registration list maintenance; voters identified as having duplicate registrations. Chief Patron: Bell, Robert B.
- HB 2411 Health insurance; reinstating pre-Affordable Care Act provisions, repeals provisions that were added, and restores provisions that were amended or repealed in efforts to bring laws in conformity with requirements of federal Patient Protection and Affordable Care Act. Chief Patron: Byron
- HB 2442 Collection fees, local; an ordinance for collection of overdue accounts may also provide for imposition of collection and administrative fees. Chief Patron: Ingram

**SENATE BILLS**

- SB 865 Minors; exempts transfer of certain weapons between family members or for purpose of engaging in sporting event or activity from current prohibition. Chief Patron: Stuart
- SB 872 Absentee voting; photo identification required with application. Chief Patron: Chase

**2806****ACTS OF ASSEMBLY****[VA.,**

- SB 1023 Concealed handgun permits; sharing of information in Virginia Criminal Information Network. Chief Patron: Stuart
- SB 1105 Registered voters and persons voting; Department of Elections shall utilize data regarding registration and list of persons voting through list comparisons and data-matching exchanges with other states, etc., reports when exceeding age eligible population and number of registered voters. Chief Patron: Obenshain
- SB 1239 Child day programs; exemptions from licensure, certification of preschool or nursery school programs, reports of serious injuries shall be submitted annually, records check by unlicensed child day center, report, etc. Chief Patron: Hanger
- SB 1240 Virginia Virtual School Board; established, report. Chief Patron: Dunnivant
- SB 1253 Voter identification; photograph of registered voter contained in electronic pollbook. Chief Patron: Obenshain
- SB 1283 Public schools; Board of Education shall only establish regional charter school divisions in regions in which each underlying division has an enrollment of more than 3,000 students, etc. Chief Patron: Obenshain
- SB 1285 Restitution; any offense that occurs on or after July 1, 2017, if restitution is ordered at the time of sentencing, court shall place defendant on an indefinite term of supervised probation. Chief Patron: Obenshain
- SB 1299 Concealed handguns; any person 21 years of age or older who is not prohibited from purchasing a firearm and is protected by an unexpired protective order authorized to carry for 45 days after order was issued. Chief Patron: Vogel
- SB 1300 Virginia Firearms Safety and Training for Sexual and Domestic Violence Victims Fund; created, funds to offer firearms safety or training course or class to victims of domestic violence, etc., expenditures and disbursements from Fund to be made by State Treasurer on warrants issued by Comptroller, etc. Chief Patron: Vogel
- SB 1303 Voter registration; deadline for registration by electronic means. Chief Patron: Vogel
- SB 1315 Foster care; requires possession of firearms in home to comply with federal and state laws and be locked in a closet or cabinet, etc. Chief Patron: Carrico
- SB 1324 Religious freedom; definitions, marriage solemnization, participation, and beliefs. Chief Patron: Carrico
- SB 1347 Switchblade knife; authorizes any person to carry concealed when such knife is carried for purpose of engaging in a lawful profession or lawful recreational activity. Chief Patron: Reeves
- SB 1362 Concealed weapons; nonduty status active military personnel may carry provided person is carrying his valid military identification card. Chief Patron: Black
- SB 1455 Voter registration; any person who gives, offers, etc., any monetary payment to another in exchange for that person registering to vote is guilty of a Class 1 misdemeanor. Chief Patron: Black
- SB 1470 Coal tax credits; ability of persons with an economic interest in coal to redeem with Tax Commissioner credits received pursuant to an allocation on or after January 1, 2017, shall expire for credits earned on or after July 1, 2022, etc. Chief Patron: Chafin
- SB 1581 Voter registration; verification of social security numbers. Chief Patron: Peake

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## ACTS OF ASSEMBLY

2807

**THE SENATE  
2017 REGULAR SESSION**

District Number	Name	County and/or City Represented
39	Barker, George L. (D)	Counties of Fairfax (part) and Prince William (part); City of Alexandria (part)
13	Black, Richard H. (R)	Counties of Loudoun (part) and Prince William (part)
40	Carrico, Charles W., Sr. (R)	Counties of Grayson, Lee, Scott, Smyth (part), Washington, Wise (part), and Wythe (part); City of Bristol
38	Chafin, A. Benton, Jr. (R)	Counties of Bland, Buchanan, Dickenson, Montgomery (part), Pulaski, Russell, Smyth (part), Tazewell, and Wise (part); Cities of Norton and Radford
11	Chase, Amanda F. (R)	Counties of Amelia and Chesterfield (part); City of Colonial Heights
14	Cosgrove, John A., Jr. (R)	Counties of Isle of Wight (part) and Southampton (part); Cities of Chesapeake (part), Franklin (part), Portsmouth (part), Suffolk (part), and Virginia Beach (part)
16	Dance, Rosalyn R. (D)	Counties of Chesterfield (part), Dinwiddie (part), and Prince George (part); Cities of Hopewell, Petersburg, and Richmond (part)
25	Deeds, R. Creigh (D)	Counties of Albemarle (part), Alleghany, Bath, Highland, Nelson, and Rockbridge; Cities of Buena Vista, Charlottesville, Covington, and Lexington
8	DeSteph, William R., Jr. (R)	City of Virginia Beach (part)
12	Dunnivant, Siobhan S. (R)	Counties of Hanover (part) and Henrico (part)
30	Ebbin, Adam P. (D)	Counties of Arlington (part) and Fairfax (part); City of Alexandria (part)
21	Edwards, John S. (D)	Counties of Giles, Montgomery (part), and Roanoke (part); City of Roanoke
31	Favola, Barbara A. (D)	Counties of Arlington (part), Fairfax (part), and Loudoun (part)
24	Hanger, Emmett W., Jr. (R)	Counties of Augusta, Culpeper (part), Greene, Madison, and Rockingham (part); Cities of Staunton and Waynesboro
32	Howell, Janet D. (D)	Counties of Arlington (part) and Fairfax (part)
6	Lewis, Lynwood W., Jr. (D)	Counties of Accomack, Mathews, and Northampton; Cities of Norfolk (part) and Virginia Beach (part)
2	Locke, Mamie E. (D)	County of York (part); Cities of Hampton (part), Newport News (part), and Portsmouth (part)
18	Lucas, L. Louise (D)	Counties of Brunswick (part), Greenville, Isle of Wight (part), Southampton (part), Surry (part), and Sussex; Cities of Chesapeake (part), Emporia, Franklin (part), Portsmouth (part), and Suffolk (part)

THE SENATE  
2017 REGULAR SESSION

District Number	Name	County and/or City Represented
37	Marsden, David W. (D)	County of Fairfax (part)
1	Mason, T. Montgomery (D)	Counties of James City (part) and York (part); Cities of Hampton (part), Newport News (part), Suffolk (part), and Williamsburg
9	McClellan, Jennifer L. (D)‡	Counties of Charles City, Hanover (part), and Henrico (part); City of Richmond (part)
4	McDougle, Ryan T. (R)	Counties of Caroline, Essex, Hanover (part), King George (part), Lancaster, Middlesex, Northumberland, Richmond, Spotsylvania (part), and Westmoreland (part)
29	McPike, Jeremy S. (D)	County of Prince William (part); Cities of Manassas and Manassas Park
23	Newman, Stephen D. (R)	Counties of Bedford (part), Botetourt, Campbell (part), Craig, and Roanoke (part); City of Lynchburg (part)
3	Norment, Thomas K., Jr. (R)	Counties of Gloucester, Isle of Wight (part), James City (part), King and Queen, King William, New Kent, Surry (part), and York (part); Cities of Hampton (part), Poquoson, and Suffolk (part)
26	Obenshain, Mark D. (R)	Counties of Page, Rappahannock, Rockingham (part), Shenandoah, and Warren; City of Harrisonburg
22	Peake, Mark J. (R)	Counties of Amherst, Appomattox, Buckingham, Cumberland, Fluvanna, Goochland, Louisa (part), and Prince Edward; City of Lynchburg (part)
34	Petersen, J. Chapman (D)	County of Fairfax (part); City of Fairfax
17	Reeves, Bryce E. (R)	Counties of Albemarle (part), Culpeper (part), Louisa (part), Orange, and Spotsylvania (part); City of Fredericksburg
15	Ruff, Frank M., Jr. (R)	Counties of Brunswick (part), Campbell (part), Charlotte, Dinwiddie (part), Halifax (part), Lunenburg, Mecklenburg, Nottoway, Pittsylvania (part), and Prince George (part); City of Danville (part)
35	Saslaw, Richard L. (D)	County of Fairfax (part); Cities of Alexandria (part) and Falls Church
5	Spruill, Lionell, Sr. (D)	Cities of Chesapeake (part) and Norfolk (part)
20	Stanley, William M., Jr. (R)	Counties of Carroll (part), Franklin (part), Halifax (part), Henry, Patrick, and Pittsylvania (part); Cities of Danville (part), Galax, and Martinsville
28	Stuart, Richard H. (R)	Counties of King George (part), Prince William (part), Spotsylvania (part), Stafford (part), and Westmoreland (part)
10	Sturtevant, Glen H., Jr. (R)	Counties of Chesterfield (part) and Powhatan; City of Richmond (part)

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ACTS OF ASSEMBLY

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THE SENATE  
2017 REGULAR SESSION

District Number	Name	County and/or City Represented
19	Suetterlein, David R. (R)	Counties of Bedford (part), Carroll (part), Floyd, Franklin (part), Montgomery (part), Roanoke (part), and Wythe (part); City of Salem
36	Surovell, Scott A. (D)	Counties of Fairfax (part), Prince William (part), and Stafford (part)
27	Vogel, Jill Holtzman (R)	Counties of Clarke, Culpeper (part), Fauquier, Frederick, Loudoun (part), and Stafford (part); City of Winchester
7	Wagner, Frank W. (R)	Cities of Norfolk (part) and Virginia Beach (part)
33	Wexton, Jennifer T. (D)	Counties of Fairfax (part) and Loudoun (part)

‡Elected January 10, 2017 to fill vacancy of A. Donald McEachin. Sworn in January 13, 2017

**THE HOUSE OF DELEGATES  
2017 REGULAR SESSION**

District Number	Name	County and/or City Represented
16	Adams, Leslie R. (R)	Counties of Henry (part) and Pittsylvania (part); City of Martinsville
63	Aird, Lashrecse D. (D)	Counties of Chesterfield (part), Dinwiddie (part), and Prince George (part); Cities of Hopewell (part) and Petersburg
42	Albo, David B. (R)	County of Fairfax (part)
51	Anderson, Richard L. (R)	County of Prince William (part)
19	Austin, Terry L. (R)	Counties of Alleghany, Bedford (part), and Botetourt (part); City of Covington
74	Bagby, Lamont (D)	Counties of Charles City and Henrico (part); City of Richmond (part)
87	Bell, John J. (D)	Counties of Loudoun (part) and Prince William (part)
20	Bell, Richard P. (R)	Counties of Augusta (part), Highland, and Nelson (part); Cities of Staunton and Waynesboro
58	Bell, Robert B. (R)	Counties of Albemarle (part), Fluvanna (part), Greene, and Rockingham (part)
100	Bloxom, Robert S., Jr. (R)	Counties of Accomack and Northampton; Cities of Norfolk (part) and Virginia Beach (part)
71	Bourne, Jeffrey M. (D)‡	County of Henrico (part); City of Richmond (part)
86	Boysko, Jennifer B. (D)	Counties of Fairfax (part) and Loudoun (part)
37	Bulova, David L. (D)	County of Fairfax (part); City of Fairfax
22	Byron, Kathy J. (R)	Counties of Bedford (part), Campbell (part), and Franklin (part); City of Lynchburg (part)
6	Campbell, Jeffrey L. (R)	Counties of Carroll, Smyth (part), and Wythe
69	Carr, Betsy B. (D)	County of Chesterfield (part); City of Richmond (part)
24	Cline, Benjamin L. (R)	Counties of Amherst (part), Augusta (part), Bath, and Rockbridge; Cities of Buena Vista and Lexington
88	Cole, Mark L. (R)	Counties of Fauquier (part), Spotsylvania (part), and Stafford (part); City of Fredericksburg (part)
29	Collins, Christopher E. (R)	Counties of Frederick (part) and Warren (part); City of Winchester
66	Cox, M. Kirkland (R)	County of Chesterfield (part); City of Colonial Heights
84	Davis, Glenn R., Jr. (R)	City of Virginia Beach (part)
2	Dudenhefer, L. Mark (R)	Counties of Prince William (part) and Stafford (part)

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## ACTS OF ASSEMBLY

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**THE HOUSE OF DELEGATES  
2017 REGULAR SESSION**

District Number	Name	County and/or City Represented
60	Edmunds, James E., II (R)	Counties of Campbell (part), Charlotte, Halifax, and Prince Edward
59	Fariss, C. Matthew (R)	Counties of Albemarle (part), Appomattox, Buckingham, Campbell (part), and Nelson (part)
56	Farrell, Peter F. (R)	Counties of Goochland (part), Henrico (part), Louisa, and Spotsylvania (part)
41	Filler-Corn, Eileen (D)	County of Fairfax (part)
55	Fowler, Hyland F., Jr. (R)	Counties of Caroline (part), Hanover (part), and Spotsylvania (part)
30	Freitas, Nicholas J. (R)	Counties of Culpeper (part), Madison, and Orange
23	Garrett, T. Scott (R)	Counties of Amherst (part) and Bedford (part); City of Lynchburg (part)
15	Gilbert, C. Todd (R)	Counties of Page, Rockingham (part), Shenandoah, and Warren (part)
32	Greason, Thomas A. (R)	County of Loudoun (part)
8	Habeeb, Gregory D. (R)	Counties of Craig, Montgomery (part), and Roanoke (part); City of Salem
77	Hayes, C.E. Cliff, Jr. (D)	Cities of Chesapeake (part) and Suffolk (part)
17	Head, Christopher T. (R)	Counties of Botetourt (part) and Roanoke (part); City of Roanoke (part)
91	Helsel, Gordon C., Jr. (R)	County of York (part); Cities of Hampton (part) and Poquoson
79	Heretick, Stephen E. (D)	Cities of Norfolk (part) and Portsmouth (part)
46	Herring, Charniele L. (D)	City of Alexandria (part)
89	Hester, Daun Sessoms (D)	City of Norfolk (part)
98	Hodges, M. Keith (R)	Counties of Essex, Gloucester, King and Queen, King William (part), Mathews, and Middlesex
85	Holcomb, N.D., III (R)	City of Virginia Beach (part)
47	Hope, Patrick A. (D)	County of Arlington (part)
28	Howell, William J. (R)	County of Stafford (part); City of Fredericksburg (part)
40	Hugo, Timothy D. (R)	Counties of Fairfax (part) and Prince William (part)
62	Ingram, Riley E. (R)	Counties of Chesterfield (part), Henrico (part), and Prince George (part); City of Hopewell (part)
80	James, Matthew (D)	Cities of Chesapeake (part), Norfolk (part), Portsmouth (part), and Suffolk (part)
76	Jones, S. Chris (R)	Cities of Chesapeake (part) and Suffolk (part)

**THE HOUSE OF DELEGATES  
2017 REGULAR SESSION**

District Number	Name	County and/or City Represented
35	Keam, Mark L. (D)	County of Fairfax (part)
1	Kilgore, Terry G. (R)	Counties of Lee, Scott, and Wise (part); City of Norton
81	Knight, Barry D. (R)	Cities of Chesapeake (part) and Virginia Beach (part)
38	Kory, Kaye (D)	County of Fairfax (part)
44	Krizek, Paul E. (D)	County of Fairfax (part)
25	Landes, R. Steven (R)	Counties of Albemarle (part), Augusta (part), and Rockingham (part)
33	LaRock, David A. (R)	Counties of Clarke (part), Frederick (part), and Loudoun (part)
78	Leftwich, James A., Jr. (R)	City of Chesapeake (part)
67	LeMunyon, James M. (R)	Counties of Fairfax (part) and Loudoun (part)
45	Levine, Mark H. (D)	Counties of Arlington (part) and Fairfax (part); City of Alexandria (part)
90	Lindsey, Joseph C. (D)	Cities of Norfolk (part) and Virginia Beach (part)
31	Lingamfelter, L. Scott (R)	Counties of Fauquier (part) and Prince William (part)
49	Lopez, Alfonso H. (D)	Counties of Arlington (part) and Fairfax (part)
68	Loupassi, G. M. (R)	Counties of Chesterfield (part) and Henrico (part); City of Richmond (part)
14	Marshall, Daniel W., III (R)	Counties of Henry (part) and Pittsylvania (part); City of Danville
13	Marshall, Robert G. (R)	County of Prince William (part); City of Manassas Park
72	Massie, James P., III (R)	County of Henrico (part)
71	McClellan, Jennifer L. (D)†	County of Henrico (part); City of Richmond (part)
70	McQuinn, Delores L. (D)	Counties of Chesterfield (part) and Henrico (part); City of Richmond (part)
50	Miller, Jackson H. (R)	County of Prince William (part); City of Manassas
10	Minchew, J. Randall (R)	Counties of Clarke (part), Frederick (part), and Loudoun (part)
82	Miyares, Jason S. (R)	City of Virginia Beach (part)
3	Morefield, James W. (R)	Counties of Bland, Buchanan, Russell (part), and Tazewell
64	Morris, Richard L. (R)	Counties of Isle of Wight (part), Prince George (part), Southampton (part), Surry (part), and Sussex (part); Cities of Franklin (part) and Suffolk (part)

**THE HOUSE OF DELEGATES  
2017 REGULAR SESSION**

District Number	Name	County and/or City Represented
93	Mullin, Michael P. (D)	Counties of James City (part) and York (part); Cities of Newport News (part) and Williamsburg
34	Murphy, Kathleen J. (D)	Counties of Fairfax (part) and Loudoun (part)
73	O'Bannon, John M., III (R)	County of Henrico (part)
5	O'Quinn, Israel D. (R)	Counties of Grayson, Smyth (part), and Washington (part); Cities of Bristol and Galax
54	Orrock, Robert D., Sr. (R)	Counties of Caroline (part) and Spotsylvania (part)
97	Peace, Christopher K. (R)	Counties of Hanover (part), King William (part), and New Kent
4	Pillion, Todd E. (R)	Counties of Dickenson, Russell (part), Washington (part), and Wise (part)
36	Plum, Kenneth R. (D)	County of Fairfax (part)
96	Pogge, Brenda L. (R)	Counties of James City (part) and York (part)
9	Poindexter, Charles D. (R)	Counties of Franklin (part), Henry (part), and Patrick
95	Price, Marcia S. (D)	Cities of Hampton (part) and Newport News (part)
99	Ransone, Margaret B. (R)	Counties of Caroline (part), King George, Lancaster, Northumberland, Richmond, and Westmoreland
11	Rasoul, Sam (D)	City of Roanoke (part)
27	Robinson, Roxann L. (R)	County of Chesterfield (part)
7	Rush, L. Nick (R)	Counties of Floyd, Montgomery (part), and Pulaski (part)
43	Sickles, Mark D. (D)	County of Fairfax (part)
53	Simon, Marcus B. (D)	County of Fairfax (part); City of Falls Church
83	Stolle, Christopher P. (R)	Cities of Norfolk (part) and Virginia Beach (part)
48	Sullivan, Richard C., Jr. (D)	Counties of Arlington (part) and Fairfax (part)
52	Torian, Luke E. (D)	County of Prince William (part)
57	Toscano, David J. (D)	County of Albemarle (part); City of Charlottesville
75	Tyler, Roslyn C. (D)	Counties of Brunswick, Dinwiddie (part), Greensville, Isle of Wight (part), Lunenburg (part), Southampton (part), Surry (part), and Sussex (part); Cities of Emporia and Franklin (part)
21	Villanueva, Ronald A. (R)	Cities of Chesapeake (part) and Virginia Beach (part)
92	Ward, Jeion A. (D)	City of Hampton (part)
65	Ware, R. Lee, Jr. (R)	Counties of Chesterfield (part), Fluvanna (part), Goochland (part), and Powhatan

**THE HOUSE OF DELEGATES  
2017 REGULAR SESSION**

District Number	Name	County and/or City Represented
39	Watts, Vivian E. (D)	County of Fairfax (part)
18	Webert, Michael J. (R)	Counties of Culpeper (part), Fauquier (part), Rappahannock, and Warren (part)
26	Wilt, Tony O. (R)	County of Rockingham (part); City of Harrisonburg
61	Wright, Thomas C., Jr. (R)	Counties of Amelia, Cumberland, Lunenburg (part), Mecklenburg, and Nottoway
94	Yancey, David E. (R)	City of Newport News (part)
12	Yost, Joseph R. (R)	Counties of Giles, Montgomery (part), and Pulaski (part); City of Radford

†Resigned January 13, 2017

‡Elected February 7, 2017 to fill vacancy of Jennifer L. McClellan. Sworn in February 8, 2017

**SENATORS AND DELEGATES BY COUNTIES  
2017 REGULAR SESSION**

COUNTIES	SENATORS	DELEGATES
Accomack.....	Lynwood W. Lewis, Jr. (D) .....	Robert S. Bloxom, Jr. (R)
Albemarle.....	R. Creigh Deeds (D)..... Bryce E. Reeves (R)	Robert B. Bell (R) C. Matthew Fariss (R) R. Steven Landes (R) David J. Toscano (D)
Alleghany.....	R. Creigh Deeds (D).....	Terry L. Austin (R)
Amelia.....	Amanda F. Chase (R) .....	Thomas C. Wright, Jr. (R)
Amherst.....	Mark J. Peake (R).....	Benjamin L. Cline (R) T. Scott Garrett (R)
Appomattox.....	Mark J. Peake (R).....	C. Matthew Fariss (R)
Arlington.....	Adam P. Ebbin (D)..... Barbara A. Favola (D) Janet D. Howell (D)	Patrick A. Hope (D) Mark H. Levine (D) Alfonso H. Lopez (D) Richard C. Sullivan, Jr. (D)
Augusta.....	Emmett W. Hanger, Jr. (R) .....	Richard P. Bell (R) Benjamin L. Cline (R) R. Steven Landes (R)
Bath.....	R. Creigh Deeds (D).....	Benjamin L. Cline (R)
Bedford.....	Stephen D. Newman (R) .....	Terry L. Austin (R)
	David R. Suetterlein (R)	Kathy J. Byron (R) T. Scott Garrett (R)
Bland.....	A. Benton Chafin, Jr. (R) .....	James W. Morefield (R)
Botetourt.....	Stephen D. Newman (R) .....	Terry L. Austin (R) Christopher T. Head (R)
Brunswick.....	L. Louise Lucas (D) .....	Roslyn C. Tyler (D)
	Frank M. Ruff, Jr. (R)	
Buchanan.....	A. Benton Chafin, Jr. (R) .....	James W. Morefield (R)
Buckingham.....	Mark J. Peake (R).....	C. Matthew Fariss (R)
Campbell.....	Stephen D. Newman (R) .....	Kathy J. Byron (R)
	Frank M. Ruff, Jr. (R)	James E. Edmunds, II (R) C. Matthew Fariss (R)
Caroline.....	Ryan T. McDougale (R).....	Hyland F. Fowler, Jr. (R) Robert D. Orrock, Sr. (R) Margaret B. Ransone (R)
Carroll.....	William M. Stanley, Jr. (R).....	Jeffrey L. Campbell (R)
	David R. Suetterlein (R)	
Charles City.....	Jennifer L. McClellan (D)‡ .....	Lamont Bagby (D)
Charlotte.....	Frank M. Ruff, Jr. (R).....	James E. Edmunds, II (R)
Chesterfield.....	Amanda F. Chase (R) .....	Lashrecse D. Aird (D)
	Rosalyn R. Dance (D)	Betsy B. Carr (D)
	Glen H. Sturtevant, Jr. (R)	M. Kirkland Cox (R) Riley E. Ingram (R) G. M. Loupassi (R) Delores L. McQuinn (D) Roxann L. Robinson (R) R. Lee Ware, Jr. (R)
Clarke.....	Jill Holtzman Vogel (R).....	David A. LaRock (R) J. Randall Minchew (R)
Craig.....	Stephen D. Newman (R) .....	Gregory D. Habeeb (R)
Culpeper.....	Emmett W. Hanger, Jr. (R) .....	Nicholas J. Freitas (R)
	Bryce E. Reeves (R)	Michael J. Webert (R)
	Jill Holtzman Vogel (R)	
Cumberland.....	Mark J. Peake (R).....	Thomas C. Wright, Jr. (R)
Dickenson.....	A. Benton Chafin, Jr. (R) .....	Todd E. Pillion (R)

**SENATORS AND DELEGATES BY COUNTIES  
2017 REGULAR SESSION**

COUNTIES	SENATORS	DELEGATES
Dinwiddie .....	Rosalyn R. Dance (D) .....	Lashrecse D. Aird (D)
	Frank M. Ruff, Jr. (R)	Roslyn C. Tyler (D)
Essex .....	Ryan T. McDougale (R).....	M. Keith Hodges (R)
Fairfax.....	George L. Barker (D).....	David B. Albo (R)
	Adam P. Ebbin (D)	Jennifer B. Boysko (D)
	Barbara A. Favola (D)	David L. Bulova (D)
	Janet D. Howell (D)	Eileen Filler-Corn (D)
	David W. Marsden (D)	Timothy D. Hugo (R)
	J. Chapman Petersen (D)	Mark L. Keam (D)
	Richard L. Saslaw (D)	Kaye Kory (D)
	Scott A. Surovell (D)	Paul E. Krizek (D)
	Jennifer T. Wexton (D)	James M. LeMunyon (R)
		Mark H. Levine (D)
		Alfonso H. Lopez (D)
		Kathleen J. Murphy (D)
		Kenneth R. Plum (D)
		Mark D. Sickles (D)
		Marcus B. Simon (D)
		Richard C. Sullivan (D)
		Vivian E. Watts (D)
Fauquier .....	Jill Holtzman Vogel (R) .....	Mark L. Cole (R)
		L. Scott Lingamfelter (R)
		Michael J. Webert (R)
Floyd.....	David R. Suetterlein (R) .....	L. Nick Rush (R)
Fluvanna .....	Mark J. Peake (R) .....	Robert B. Bell (R)
		R. Lee Ware, Jr. (R)
Franklin.....	William M. Stanley, Jr. (R) .....	Kathy J. Byron (R)
	David R. Suetterlein (R)	Charles D. Poindexter (R)
Frederick .....	Jill Holtzman Vogel (R) .....	Christopher E. Collins (R)
		David A. LaRock (R)
		J. Randall Minchew (R)
Giles.....	John S. Edwards (D) .....	Joseph R. Yost (R)
Gloucester .....	Thomas K. Norment, Jr. (R) .....	M. Keith Hodges (R)
Goochland.....	Mark J. Peake (R) .....	Peter F. Farrell (R)
		R. Lee Ware, Jr. (R)
Grayson.....	Charles W. Carrico, Sr. (R) .....	Israel D. O'Quinn (R)
Greene.....	Emmett W. Hanger, Jr. (R).....	Robert B. Bell (R)
Greensville.....	L. Louise Lucas (D).....	Roslyn C. Tyler (D)
Halifax .....	Frank M. Ruff, Jr. (R) .....	James E. Edmunds, II (R)
	William M. Stanley, Jr. (R)	
Hanover.....	Siobhan S. Dunnavant (R) .....	Hyland F. Fowler, Jr. (R)
	Jennifer L. McClellan (D)‡	Christopher K. Peace (R)
	Ryan T. McDougale (R)	
Henrico .....	Siobhan S. Dunnavant (R) .....	Lamont Bagby (D)
	Jennifer L. McClellan (D)‡	Jeffrey M. Bourne (D)‡‡
		Peter F. Farrell (R)
		Riley E. Ingram (R)
		G. M. Loupassi (R)
		James P. Massie, III (R)
		Jennifer L. McClellan (D)†
		Delores L. McQuinn (D)
		John M. O'Bannon, III (R)
Henry .....	William M. Stanley, Jr. (R) .....	Leslie R. Adams (R)
		Daniel W. Marshall, III (R)
		Charles D. Poindexter (R)

**SENATORS AND DELEGATES BY COUNTIES  
2017 REGULAR SESSION**

COUNTIES	SENATORS	DELEGATES
Highland.....	R. Creigh Deeds (D).....	Richard P. Bell (R)
Isle of Wight.....	John A. Cosgrove, Jr. (R) .....	Richard L. Morris (R)
	L. Louise Lucas (D)	Roslyn C. Tyler (D)
	Thomas K. Norment, Jr. (R)	
James City .....	T. Montgomery Mason (D) .....	Michael P. Mullin (D)
	Thomas K. Norment, Jr. (R)	Brenda L. Pogge (R)
King and Queen .....	Thomas K. Norment, Jr. (R).....	M. Keith Hodges (R)
King George.....	Ryan T. McDougle (R).....	Margaret B. Ransone (R)
	Richard H. Stuart (R)	
King William.....	Thomas K. Norment, Jr. (R).....	M. Keith Hodges (R)
		Christopher K. Peace (R)
Lancaster .....	Ryan T. McDougle (R).....	Margaret B. Ransone (R)
Lee.....	Charles W. Carrico, Sr. (R).....	Terry G. Kilgore (R)
Loudoun .....	Richard H. Black (R).....	John J. Bell (R)
	Barbara A. Favola (D)	Jennifer B. Boysko (D)
	Jill Holtzman Vogel (R)	Thomas A. Greason (R)
	Jennifer T. Wexton (D)	David A. LaRock (R)
		James M. LeMunyon (R)
		J. Randall Minchew (R)
		Kathleen J. Murphy (D)
Louisa.....	Mark J. Peake (R).....	Peter F. Farrell (R)
	Bryce E. Reeves (R)	
Lunenburg .....	Frank M. Ruff, Jr. (R).....	Roslyn C. Tyler (D)
		Thomas C. Wright, Jr. (R)
Madison.....	Emmett W. Hanger, Jr. (R) .....	Nicholas J. Freitas (R)
Mathews .....	Lynwood W. Lewis, Jr. (D) .....	M. Keith Hodges (R)
Mecklenburg .....	Frank M. Ruff, Jr. (R).....	Thomas C. Wright, Jr. (R)
Middlesex.....	Ryan T. McDougle (R).....	M. Keith Hodges (R)
Montgomery.....	A. Benton Chafin, Jr. (R) .....	Gregory D. Habeeb (R)
	John S. Edwards (D)	L. Nick Rush (R)
	David R. Suetterlein (R)	Joseph R. Yost (R)
Nelson .....	R. Creigh Deeds (D).....	Richard P. Bell (R)
		C. Matthew Fariss (R)
New Kent .....	Thomas K. Norment, Jr. (R).....	Christopher K. Peace (R)
Northampton .....	Lynwood W. Lewis, Jr. (D) .....	Robert S. Bloxom, Jr. (R)
Northumberland .....	Ryan T. McDougle (R).....	Margaret B. Ransone (R)
Nottoway.....	Frank M. Ruff, Jr. (R).....	Thomas C. Wright, Jr. (R)
Orange.....	Bryce E. Reeves (R).....	Nicholas J. Freitas (R)
Page.....	Mark D. Obenshain (R).....	C. Todd Gilbert (R)
Patrick .....	William M. Stanley, Jr. (R).....	Charles D. Poindexter (R)
Pittsylvania.....	Frank M. Ruff, Jr. (R).....	Leslie R. Adams (R)
	William M. Stanley, Jr. (R)	Daniel W. Marshall, III (R)
Powhatan.....	Glen H. Sturtevant, Jr. (R).....	R. Lee Ware, Jr. (R)
Prince Edward.....	Mark J. Peake (R).....	James E. Edmunds, II (R)
Prince George.....	Rosalyn R. Dance (D) .....	Lashrecse D. Aird (D)
	Frank M. Ruff, Jr. (R)	Riley E. Ingram (R)
		Richard L. Morris (R)
Prince William.....	George L. Barker (D) .....	Richard L. Anderson (R)
	Richard H. Black (R)	John J. Bell (D)
	Jeremy S. McPike (D)	L. Mark Dudenhefer (R)
	Richard H. Stuart (R)	Timothy D. Hugo (R)
	Scott A. Surovell (D)	L. Scott Lingamfelter (R)
		Robert G. Marshall (R)

**SENATORS AND DELEGATES BY COUNTIES  
2017 REGULAR SESSION**

COUNTIES	SENATORS	DELEGATES
Pulaski.....	A. Benton Chafin, Jr. (R) .....	Jackson H. Miller (R) Luke E. Torian (D) L. Nick Rush (R) Joseph R. Yost (R)
Rappahannock.....	Mark D. Obenshain (R).....	Michael J. Webert (R)
Richmond.....	Ryan T. McDougle (R).....	Margaret B. Ransone (R)
Roanoke .....	John S. Edwards (D) .....	Gregory D. Habeeb (R)
	Stephen D. Newman (R)	Christopher T. Head (R)
	David R. Suetterlein (R)	
Rockbridge.....	R. Creigh Deeds (D).....	Benjamin L. Cline (R)
Rockingham.....	Emmett W. Hanger, Jr. (R).....	Robert B. Bell (R)
	Mark D. Obenshain (R)	C. Todd Gilbert (R) R. Steven Landes (R) Tony O. Wilt (R)
Russell.....	A. Benton Chafin, Jr. (R) .....	Todd E. Pillion (R) James W. Morefield (R)
Scott .....	Charles W. Carrico, Sr. (R) .....	Terry G. Kilgore (R)
Shenandoah.....	Mark D. Obenshain (R).....	C. Todd Gilbert (R)
Smyth .....	Charles W. Carrico, Sr. (R) .....	Jeffrey L. Campbell (R)
	A. Benton Chafin, Jr. (R)	Israel D. O'Quinn (R)
Southampton .....	John A. Cosgrove, Jr. (R).....	Richard L. Morris (R)
	L. Louise Lucas (D)	Roslyn C. Tyler (D)
Spotsylvania.....	Ryan T. McDougle (R).....	Mark L. Cole (R)
	Bryce E. Reeves (R)	Peter F. Farrell (R)
	Richard H. Stuart (R)	Hyland F. Fowler, Jr. (R) Robert D. Orrock, Sr. (R)
Stafford.....	Richard H. Stuart (R) .....	Mark L. Cole (R)
	Scott A. Surovell (D)	L. Mark Dudenhefer (R)
	Jill Holtzman Vogel (R)	William J. Howell (R)
Surry.....	L. Louise Lucas (D) .....	Richard L. Morris (R)
	Thomas K. Norment, Jr. (R)	Roslyn C. Tyler (D)
Sussex .....	L. Louise Lucas (D) .....	Richard L. Morris (R)
		Roslyn C. Tyler (D)
Tazewell.....	A. Benton Chafin, Jr. (R) .....	James W. Morefield (R)
Warren.....	Mark D. Obenshain (R).....	Christopher E. Collins (R) C. Todd Gilbert (R) Michael J. Webert (R)
Washington.....	Charles W. Carrico, Sr. (R) .....	Todd E. Pillion (R) Israel D. O'Quinn (R)
Westmoreland.....	Ryan T. McDougle (R).....	Margaret B. Ransone (R)
	Richard H. Stuart (R)	
Wise.....	Charles W. Carrico, Sr. (R) .....	Terry G. Kilgore (R)
	A. Benton Chafin, Jr. (R)	Todd E. Pillion (R)
Wythe .....	Charles W. Carrico, Sr. (R) .....	Jeffrey L. Campbell (R)
	David R. Suetterlein (R)	
York.....	Mamie E. Locke (D) .....	Gordon C. Helsel, Jr. (R)
	T. Montgomery Mason (D)	Michael P. Mullin (D)
	Thomas K. Norment, Jr. (R)	Brenda L. Pogge (R)

†Resigned January 13, 2017

‡Elected January 10, 2017 to fill vacancy of A. Donald McEachin. Sworn in January 13, 2017

‡‡Elected February 7, 2017 to fill vacancy of Jennifer L. McClellan. Sworn in February 8, 2017

**SENATORS AND DELEGATES BY CITIES  
2017 REGULAR SESSION**

CITIES	SENATORS	DELEGATES
Alexandria .....	George L. Barker (D) .....	Charniele L. Herring (D)
	Adam P. Ebbin (D)	Mark H. Levine (D)
	Richard L. Saslaw (D)	
Bristol .....	Charles W. Carrico, Sr. (R).....	Israel D. O'Quinn (R)
Buena Vista .....	R. Creigh Deeds (D).....	Benjamin L. Cline (R)
Charlottesville .....	R. Creigh Deeds (D).....	David J. Toscano (D)
Chesapeake.....	John A. Cosgrove, Jr. (R) .....	C.E. Cliff Hayes, Jr. (D)
	L. Louise Lucas (D)	Matthew James (D)
	Lionell Spruill, Sr. (D)	S. Chris Jones (R)
		Barry D. Knight (R)
		James A. Leftwich, Jr. (R)
		Ronald A. Villanueva (R)
Colonial Heights .....	Amanda F. Chase (R) .....	M. Kirkland Cox (R)
Covington.....	R. Creigh Deeds (D).....	Terry L. Austin (R)
Danville.....	Frank M. Ruff, Jr. (R).....	Daniel W. Marshall, III (R)
	William M. Stanley, Jr. (R)	
Emporia .....	L. Louise Lucas (D) .....	Roslyn C. Tyler (D)
Fairfax .....	J. Chapman Petersen (D).....	David L. Bulova (D)
Falls Church .....	Richard L. Saslaw (D).....	Marcus D. Simon (D)
Franklin .....	John A. Cosgrove, Jr. (R) .....	Richard L. Morris (R)
	L. Louise Lucas (D)	Roslyn C. Tyler (D)
Fredericksburg.....	Bryce E. Reeves (R).....	Mark L. Cole (R)
		William J. Howell (R)
Galax .....	William M. Stanley, Jr. (R).....	Israel D. O'Quinn (R)
Hampton .....	Mamie E. Locke (D) .....	Gordon C. Helsel, Jr. (R)
	T. Montgomery Mason (D)	Marcia S. Price (D)
	Thomas K. Norment, Jr. (R)	Jeion A. Ward (D)
Harrisonburg .....	Mark D. Obenshain (R).....	Tony O. Wilt (R)
Hopewell .....	Rosalyn R. Dance (D) .....	Lashrecse D. Aird (D)
		Riley E. Ingram (R)
Lexington .....	R. Creigh Deeds (D).....	Benjamin L. Cline (R)
Lynchburg .....	Stephen D. Newman (R) .....	Kathy J. Byron (R)
	Mark J. Peake (R)	T. Scott Garrett (R)
Manassas .....	Jeremy S. McPike (D) .....	Jackson H. Miller (R)
Manassas Park.....	Jeremy S. McPike (D).....	Robert G. Marshall (R)
Martinsville .....	William M. Stanley, Jr. (R).....	Leslie R. Adams (R)
Newport News.....	Mamie E. Locke (D) .....	Michael P. Mullin (D)
	T. Montgomery Mason (D)	Marcia S. Price (D)
		David E. Yancey (R)
Norfolk .....	Lynwood W. Lewis, Jr. (D) .....	Robert S. Bloxom, Jr. (R)
	Lionell Spruill, Sr. (D)	Stephen E. Heretick (D)
	Frank W. Wagner (R)	Dawn Sessoms Hester (D)
		Matthew James (D)
		Joseph C. Lindsey (D)
		Christopher P. Stolle (R)
Norton .....	A. Benton Chafin, Jr. (R) .....	Terry G. Kilgore (R)
Petersburg.....	Rosalyn R. Dance (D) .....	Lashrecse D. Aird (D)
Poquoson.....	Thomas K. Norment, Jr. (R).....	Gordon C. Helsel, Jr. (R)
Portsmouth .....	John A. Cosgrove, Jr. (R) .....	Stephen E. Heretick (D)
	Mamie E. Locke (D)	Matthew James (D)
	L. Louise Lucas (D)	
Radford.....	A. Benton Chafin, Jr. (R) .....	Joseph R. Yost (R)

**SENATORS AND DELEGATES BY CITIES  
2017 REGULAR SESSION**

CITIES	SENATORS	DELEGATES
Richmond.....	Rosalyn R. Dance (D) ..... Jennifer L. McClellan (D)‡ Glen H. Sturtevant, Jr. (R)	Lamont Bagby (D) Jeffrey M. Bourne (D)‡‡ Betsy B. Carr (D) G. M. Loupassi (R) Jennifer L. McClellan (D)† Delores L. McQuinn (D)
Roanoke .....	John S. Edwards (D) .....	Christopher T. Head (R) Sam Rasoul (D)
Salem.....	David R. Suetterlein (R).....	Gregory D. Habeeb (R)
Staunton .....	Emmett W. Hanger, Jr. (R).....	Richard P. Bell (R)
Suffolk.....	John A. Cosgrove, Jr. (R)..... L. Louise Lucas (D) T. Montgomery Mason (D) Thomas K. Norment, Jr. (R)	C.E. Cliff Hayes, Jr. (D) Matthew James (D) S. Chris Jones (R) Richard L. Morris (R)
Virginia Beach.....	John A. Cosgrove, Jr. (R)..... William R. DeSteph (R) Lynwood W. Lewis, Jr. (D) Frank W. Wagner (R)	Robert S. Bloxom, Jr. (R) Glenn R. Davis, Jr. (R) N. D. Holcomb, III (R) Barry D. Knight (R) Joseph C. Lindsey (D) Jason S. Miyares (R) Christopher P. Stolle (R) Ronald A. Villanueva (R)
Waynesboro.....	Emmett W. Hanger, Jr. (R).....	Richard P. Bell (R)
Williamsburg.....	T. Montgomery Mason (D).....	Michael P. Mullin (D)
Winchester.....	Jill Holtzman Vogel (R) .....	Christopher E. Collins (R)

†Resigned January 13, 2017

‡Elected January 10, 2017 to fill vacancy of A. Donald McEachin. Sworn in January 13, 2017

‡‡Elected February 7, 2017 to fill vacancy of Jennifer L. McClellan. Sworn in February 8, 2017

COUNTIES AND CITIES--LAND AREA AND POPULATION

United States Census of 2010 (December 21, 2010)

COUNTIES	Land Area in Square Miles	Population	COUNTIES	Land Area in Square Miles	Population
Accomack.....	449	33,164	Pittsylvania	969	63,506
Albemarle.....	721	98,970	Powhatan	260	28,046
Alleghany.....	445	16,250	Prince Edward	350	23,368
Amelia.....	355	12,690	Prince George	265	35,725
Amherst.....	474	32,353	Prince William	336	402,002
Appomattox.....	334	14,973	Pulaski	320	34,872
Arlington.....	26	207,627	Rappahannock	266	7,371
Augusta.....	967	73,750	Richmond	191	9,254
Bath.....	529	4,731	Roanoke	251	92,376
Bedford.....	753	68,676	Rockbridge	598	22,307
Bland.....	358	6,824	Rockingham	849	76,314
Botetourt.....	541	33,148	Russell	474	28,897
Brunswick.....	566	17,434	Scott	536	23,177
Buchanan.....	503	24,098	Shenandoah	509	41,993
Buckingham.....	580	17,146	Smyth	451	32,208
Campbell.....	504	54,842	Southampton	599	18,570
Caroline.....	528	28,545	Spotsylvania	401	122,397
Carroll.....	475	30,042	Stafford	269	128,961
Charles City.....	183	7,256	Surry	279	7,058
Charlotte.....	475	12,586	Sussex	490	12,087
Chesterfield.....	423	316,236	Tazewell	519	45,078
Clarke.....	176	14,034	Warren	213	37,575
Craig.....	330	5,190	Washington	561	54,876
Culpeper.....	379	46,689	Westmoreland	229	17,454
Cumberland.....	297	10,052	Wise	403	41,452
Dickenson.....	331	15,903	Wythe	462	29,235
Dinwiddie.....	504	28,001	York	105	65,464
Essex.....	257	11,151			
Fairfax.....	391	1,081,726	<b>CITIES</b>		
Fauquier.....	647	65,203	Alexandria	15	139,966
Floyd.....	380	15,279	Bedford*	7	6,222
Fluvanna.....	286	25,691	Bristol	13	17,835
Franklin.....	690	56,159	Buena Vista	7	6,650
Frederick.....	414	78,305	Charlottesville	10	43,475
Giles.....	356	17,286	Chesapeake	341	222,209
Gloucester.....	218	36,858	Colonial Heights	8	17,411
Goochland.....	282	21,717	Covington	5	5,161
Grayson.....	442	15,533	Danville	43	43,055
Greene.....	156	18,403	Emporia	7	5,927
Greensville.....	295	12,243	Fairfax	6	22,565
Halifax.....	818	36,241	Falls Church	2	12,332
Hanover.....	469	99,863	Franklin	8	8,582
Henrico.....	234	306,935	Fredericksburg	10	24,281
Henry.....	382	54,151	Galax	8	7,042
Highland.....	415	2,321	Hampton	51	137,436
Isle of Wight.....	316	35,270	Harrisonburg	17	48,914
James City.....	142	67,009	Hopewell	10	22,591
King and Queen.....	315	6,945	Lexington	2	7,042
King George.....	180	23,584	Lynchburg	49	75,568
King William.....	274	15,935	Manassas	10	37,821
Lancaster.....	133	11,391	Manassas Park	3	14,273
Lee.....	436	25,587	Martinsville	11	13,821
Loudoun.....	516	312,311	Newport News	69	180,719
Louisa.....	496	33,153	Norfolk	54	242,803
Lunenburg.....	432	12,914	Norton	7	3,958
Madison.....	321	13,308	Petersburg	23	32,420
Mathews.....	86	8,978	Poquoson	15	12,150
Mecklenburg.....	625	32,727	Portsmouth	34	95,535
Middlesex.....	130	10,959	Radford	10	16,408
Montgomery.....	387	94,392	Richmond	60	204,214
Nelson.....	471	15,020	Roanoke	43	97,032
New Kent.....	210	18,429	Salem	14	24,802
Northampton.....	212	12,389	Staunton	20	23,746
Northumberland.....	191	12,330	Suffolk	400	84,585
Nottoway.....	314	15,853	Virginia Beach	249	437,994
Orange.....	341	33,481	Waynesboro	15	21,006
Page.....	311	24,042	Williamsburg	9	14,068
Patrick.....	483	18,490	Winchester	9	26,203

Population of Virginia, 2010 Census, 8,001,024.

\*The City of Bedford became part of the Town of Bedford pursuant to Chapters 565 and 628 of the 2013 Acts of Assembly.

**COUNTIES AND CITIES--RANKED BY POPULATION**  
 United States Census of 2010 (December 21, 2010)

<u>Population</u>	<u>County</u>	<u>Population</u>	<u>County</u>	<u>Population</u>	<u>County</u>
2,321	Highland	17,286	Giles	36,241	Halifax
4,731	Bath	17,434	Brunswick	36,858	Gloucester
5,190	Craig	17,454	Westmoreland	37,575	Warren
6,824	Bland	18,403	Greene	41,452	Wise
6,945	King and Queen	18,429	New Kent	41,993	Shenandoah
7,058	Surry	18,490	Patrick	45,078	Tazewell
7,256	Charles City	18,570	Southampton	46,689	Culpeper
7,373	Rappahannock	21,717	Goochland	54,151	Henry
8,978	Mathews	22,307	Rockbridge	54,842	Campbell
9,254	Richmond	23,177	Scott	54,876	Washington
10,052	Cumberland	23,368	Prince Edward	56,159	Franklin
10,959	Middlesex	23,584	King George	63,506	Pittsylvania
11,151	Essex	24,042	Page	65,203	Fauquier
11,391	Lancaster	24,098	Buchanan	65,464	York
12,087	Sussex	25,587	Lee	67,009	James City
12,243	Greensville	25,691	Fluvanna	68,676	Bedford
12,330	Northumberland	28,001	Dinwiddie	73,750	Augusta
12,389	Northampton	28,046	Powhatan	76,314	Rockingham
12,586	Charlotte	28,545	Caroline	78,305	Frederick
12,690	Amelia	28,897	Russell	92,376	Roanoke
12,914	Lunenburg	29,235	Wythe	94,392	Montgomery
13,308	Madison	30,042	Carroll	98,970	Albemarle
14,034	Clarke	32,208	Smyth	99,863	Hanover
14,973	Appomattox	32,353	Amherst	122,397	Spotsylvania
15,020	Nelson	32,727	Mecklenburg	128,961	Stafford
15,279	Floyd	33,148	Botetourt	207,627	Arlington
15,533	Grayson	33,153	Louisa	306,935	Henrico
15,853	Nottoway	33,164	Accomack	312,311	Loudoun
15,903	Dickenson	33,481	Orange	316,236	Chesterfield
15,935	King William	34,872	Pulaski	402,002	Prince William
16,250	Alleghany	35,270	Isle of Wight	1,081,726	Fairfax
17,146	Buckingham	35,725	Prince George		

<u>Population</u>	<u>Cities</u>	<u>Population</u>	<u>Cities</u>	<u>Population</u>	<u>Cities</u>
3,958	Norton	16,408	Radford	43,475	Charlottesville
5,927	Emporia	17,411	Colonial Heights	48,914	Harrisonburg
5,961	Covington	17,835	Bristol	75,568	Lynchburg
6,222	Bedford*	21,006	Waynesboro	84,585	Suffolk
6,650	Buena Vista	22,565	Fairfax	95,535	Portsmouth
7,042	Galax	22,591	Hopewell	97,032	Roanoke
7,042	Lexington	23,746	Staunton	137,436	Hampton
8,582	Franklin	24,286	Fredericksburg	139,966	Alexandria
12,150	Poquoson	24,802	Salem	180,719	Newport News
12,332	Falls Church	26,203	Winchester	204,214	Richmond
13,821	Martinsville	32,420	Petersburg	222,209	Chesapeake
14,068	Williamsburg	37,821	Manassas	242,803	Norfolk
14,273	Manassas Park	43,055	Danville	437,994	Virginia Beach

\*The City of Bedford became part of the Town of Bedford pursuant to Chapters 565 and 628 of the 2013 Acts of Assembly.

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<b>Military Affairs, Department of;</b> certain employees authorized to prepare, etc., and have served certain civil documents without intervention of an attorney. (Patron—Reeves) . . . . .	SB	1360	690	1163	
<b>Naloxone or other opioid antagonist;</b> employees of Department of Forensic Science, Office of Chief Medical Examiner, and Department of General Services Division of Consolidated Laboratory Services added to groups of individuals who may possess and administer. Patron—Hope . . . . .	HB	1642	107	149	
Patron—Marsden . . . . .	SB	1031	3	2	
<b>National Flood Insurance Program;</b> participation by affected localities in Community Rating System of Program, report. (Patron—Miyares) . . . . .	HB	2319	274	445	
<b>Nutrient Offset Fund;</b> Director of Department of Environmental Quality to use certain funds to purchase nutrient credits or allocations from point or nonpoint sources, etc., distribution of moneys from Fund, Director shall consider recommendations of Secretary of Commerce and Trade. (Patron—Cox) . . . . .	HB	2311	540	885	
<b>Online Virginia Network Authority;</b> established, membership, report. (Patron—Cox)	HB	2262	686	1156	
<b>Opiate prescriptions;</b> prescription for any controlled substance containing an opiate to be issued as an electronic prescription and prohibits a pharmacist from dispensing unless issued electronically, Secretary of Health and Human Resources shall convene a work group to review actions necessary to implement certain provisions, report. Patron—Pillion . . . . .	HB	2165	115	167	
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<b>Proposed acquisitions of real property;</b> review by Department of General Services, acquisitions shall be subject to review of Office of Attorney General and approval of Governor. (Patron—Peace) . . . . .	HB 1952	348	543
<b>School board members;</b> appointment of acting school board members when called to war service or to active duty in the Armed Forces of the United States, submission of list of names by member of suitable persons to perform duties, notification by school board in writing to member if board's decision is not to appoint an acting member from list. (Patron—Marshall, R.G.) . . . . .	HB 1490	508	849
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<b>Small Business Investment Grant Fund;</b> changes to Fund to make it easier for investor applicants to qualify for grants and provide more benefits for investor applicants. (Patron—Landes) . . . . .	HB 1968	383	583
<b>Small Business Jobs Grant Fund Program;</b> reduces minimum percentage of revenues that a small business must derive from out-of-state sources in order to be eligible for grants, redefines small businesses. (Patron—Landes) . . . . .	HB 1969	264	432
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Patron—Cosgrove ..... SB 1509 584 972

**Administrative Rules, Joint Commission on;** periodic review of exemptions from Administrative Process Act. (Patron—Ransone) ..... HB 1731 678 1146

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**Historical African American cemeteries and graves;** disbursement of funds appropriated for preservation of two cemeteries. (Patron—McQuinn) . . . . . HB 1547 270 440

**William and Mary, The College of;** commemorating 50th anniversary of African American students in residence. (Patron—Mason) . . . . . SJR 397 2737

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**Dangerous dogs;** removes requirement that a law-enforcement officer or animal control officer apply for a summons requiring an owner to appear before a general district court, no dog shall be found dangerous if court determines, based on totality of evidence, that dog is not a threat to the community. (Patron—Fariss) . . . . . HB 2381 396 608

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**Farm use vehicles, certain;** registration exemption, highway distance limitations, law-enforcement officer may require operator of vehicle, etc., the address of lands or farm owned or leased. (Patron—Fariss) . . . . . HB 2239 538 880

**Farmers' markets;** farm and forest land conversion, removes requirement that Commissioner summarize reports of operators of state-owned farmers' markets and annually report to General Assembly, repeals provision requiring certain agencies to prepare plans for implementation of policy. (Patron—Plum) . . . . . HB 1781 5 7

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**Pet shops;** procurement of dogs from unlicensed dealers, from persons who have not obtained a citation for a direct or critical violation or citations for three or more indirect or noncritical violations, etc. (Patron—Stanley) . . . . . SB 852 399 614

**Produce safety;** Commissioner of Agriculture and Consumer Services shall have access to certain farms only at reasonable hours, authority to seize, condemn, or destroy covered produce, civil penalty. (Patron—Stuart) . . . . . SB 1195 574 947

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Patron—Knight . . . . . HB 1520 526 866  
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**Albrecht, Robin M.;** commending. (Patron—Miller) . . . . . HR 449 2632

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**Alcoholic beverage control;** ABC Board to promulgate regulations that establish and make available to all licensees and permittees for which on-premises consumption of alcoholic beverages is allowed, etc., bar bystander training. (Patron—Favola) . . . . .

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**Alcoholic beverage control;** applicants for retail licenses for establishments that serve food or are otherwise required to obtain a food establishment permit from Department of Health or an inspection by Department of Agriculture and Consumer Services shall provide a copy of such permit, proof of a pending application, etc. (Patron—Ebbin) . . . . .

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**Alcoholic beverage control;** availability of food until at least 30 minutes prior to an establishment's closing in all areas of premises in which spirits are sold or served. (Patron—DeSteph) . . . . .

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**Alcoholic beverage control;** banquet licenses for wineries and breweries, state and local licenses tax. (Patron—Robinson) . . . . .

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**Alcoholic beverage control;** cider shall be treated as wine for all purposes of ABC law. (Patron—Bulova) . . . . .

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**Alcoholic beverage control;** creates a new retail on-premises wine and beer license for nonprofit historic cinema houses, state and local licenses tax. (Patron—Rush) . . . . .

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**Alcoholic beverage control;** creates new permit for walking tour companies to collect a fee for food and beverages served as part of tour, fee also for culinary walking tour service. (Patron—Sturtevant) . . . . .

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**Alcoholic beverage control;** definition of municipal golf course, exemption from food sales requirements for mixed beverage restaurant licensees located on premises of and operated by municipal golf courses in Smyth County, Board shall recognize seasonal nature of business and waive any applicable monthly food sales requirements for those months when weather conditions may reduce patronage, etc. (Patron—Campbell) . . . . .

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**Alcoholic beverage control;** granting of mixed beverage licenses to Meadows Golf and Swim Club, Old Prices Fork School, and Lonesome Pine Country Club. (Patron—Yost) . . . . .

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**Alcoholic beverage control;** increases footage distance from Interstate 81 within which ABC Board may grant mixed beverage licenses to establishments located on

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Patron—Farrell . . . . .	HB 1551	188	313	
Patron—Hanger . . . . .	SB 1006	719	1264	
<b>Community services boards;</b> in the case of incarcerated inmates, board that serves a county or city that is a participant in the regional jail shall review any existing Memorandum of Understanding, etc.				
Patron—Heretick . . . . .	HB 2331	601	1010	
Patron—Lucas . . . . .	SB 975	606	1014	
<b>Community services boards and behavioral health authorities;</b> services to be provided include emergency services, same-day mental health screening, outpatient primary care and monitoring services for physical health indicators and health risks, etc., report.				
Patron—Farrell . . . . .	HB 1549	683	1152	
Patron—Hanger . . . . .	SB 1005	607	1015	
<b>Critical incident reports;</b> Commissioner of Behavioral Health and Developmental Services to provide a written report setting forth known facts of incidents or deaths of individuals receiving services in facilities and serious injuries, as term is defined in regulations adopted by Board, or deaths of individuals receiving services in programs operated or licensed by Department.				
Patron—Hope . . . . .	HB 1508	455	754	
Patron—Favola . . . . .	SB 894	470	789	
<b>Emergency custody or involuntary admission process;</b> Commissioner of Behavioral Health and Developmental Services and Director of Criminal Justice Services, et al., to develop a comprehensive model for use of alternative transportation providers to provide safe and efficient transportation of individuals, report.				
Patron—Garrett . . . . .	HB 1426	94	122	
Patron—Barker . . . . .	SB 1221	97	125	
<b>Firearms;</b> purchase, possession, or transportation by persons acquitted by reason of insanity, adjudicated legally incompetent, etc., petition to restore rights. (Patron—O’Quinn) . . . . .	HB 2429	516	856	
<b>Forensic discharge planning services;</b> Commissioner of Behavioral Health and Developmental Services, et al., shall develop a comprehensive plan for provision of services at local and regional correctional facilities, etc.				
Patron—Bell, Robert B. . . . .	HB 1784	192	329	
Patron—Cosgrove . . . . .	SB 941	137	195	
<b>Higher educational institutions, baccalaureate public;</b> board of visitors shall develop and implement policies that ensure that after a student suicide, affected students have access to reasonable medical and behavioral health services, including postvention services. (Patron—Reeves) . . . . .	SB 1430	691	1165	
<b>Higher educational institutions, public;</b> resident assistant in a student housing facility shall participate in Mental Health First Aid training or similar program prior to his duties. (Patron—Yost) . . . . .	HB 1911	296	466	
<b>Hospitals;</b> Board of Health to promulgate regulations that require each hospital that provides inpatient psychiatric services to establish a certain protocol. (Patron—Stolle) . . . . .	HB 1777	175	296	
<b>Incompetent defendants;</b> psychiatric treatment, defendant shall be transferred to and accepted by hospital designated by Commissioner, etc. (Patron—Hope) . . . . .	HB 1996	461	777	
<b>Inmates;</b> inpatient psychiatric hospital admission, if person having custody over an inmate files a petition, such person shall ensure that appropriate community services board or behavioral health authority is advised of need for a preadmission screening. (Patron—Yost) . . . . .	HB 2184	463	780	

**BEHAVIORAL HEALTH AND DEVELOPMENTAL SERVICES - Continued**

**Inpatient psychiatric hospital admission;** removes prohibition on admission for defendants who have already been ordered to receive treatment to restore their competency to stand trial.

Patron—Bell, Robert B. . . . .	HB 2462	468	786
Patron—Lucas . . . . .	SB 935	605	1012

**Mental health service provider;** adds physician assistant to definition.

Patron—Yost . . . . .	HB 1910	417	649
Patron—Deeds . . . . .	SB 1062	61	77

**Peer recovery specialists and qualified mental health professionals;** authorizes registration by Board of Counseling, reporting of disciplinary actions of health professionals, etc.

Patron—Price . . . . .	HB 2095	418	650
Patron—Barker . . . . .	SB 1020	426	672

**Persons with developmental disabilities;** corrects terminology throughout numerous sections of Code. (Patron—Hodges) . . . . .

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**School counselors;** person seeking initial licensure or renewal shall complete training in recognition of mental health disorder and behavioral distress, etc. (Patron—McPike) . . . . .

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**Suicide;** Department of Behavioral Health and Developmental Services shall report on its activities related to prevention. (Patron—Filler-Corn) . . . . .

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**BEIRNE, JOHN BUCKER, SR.**

**Beirne, John Bucker, Sr.;** recording sorrow upon death. (Patron—Lingamfelter) . . . . . HR 292 2556

**BELLO, THOMAS MICHAEL**

**Bello, Thomas Michael;** recording sorrow upon death. (Patron—Sullivan) . . . . . HJR 602 2317

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**Belmont Elementary School;** commemorating its 50th anniversary. (Patron—Barker) . . . . . SJR 443 2763

**BELMONT FARMS DISTILLERY**

**Belmont Farms Distillery;** commending. (Patron—Freitas) . . . . . HJR 1062 2529

**BENSON, ARTHUR JERRY**

**Benson, Arthur Jerry;** commending. (Patron—Wilt) . . . . . HJR 1034 2512

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**Berry, William Livingston;** recording sorrow upon death. (Patron—Minchew) . . . . . HJR 1081 2540

**BETHEL BAPTIST CHURCH**

**Bethel Baptist Church;** commemorating its 150th anniversary. (Patron—Hodges) . . . . . HR 410 2613

**BETHLEHEM CONGREGATIONAL CHURCH**

**Bethlehem Congregational Church;** commending. (Patron—Ingram) . . . . . HJR 972 2477

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**Betts, John;** recording sorrow upon death. (Patron—Marsden) . . . . . SJR 337 2701

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**Beulah Baptist Church;** commending. (Patron—Levine) . . . . . HJR 983 2483

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**Bibbs, Henry Clay, II;** recording sorrow upon death. (Patron—McQuinn) . . . . . HJR 1007 2495

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**Highway maintenance payments;** cities and towns that receive payments based on moving-lane-miles of highway will not have payments reduced if moving-lane-miles are converted to bicycle-only lanes, city or town certifies that conversion design has been assessed by a professional engineer, repeals provision that allowed City of Richmond to convert 20 moving-lane-miles to bicycle-only lanes. (Patron—Villanueva) . . . . .

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**Bilidas, George Steven;** recording sorrow upon death. (Patron—Petersen) . . . . . SJR 401 2739

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**Death certificate;** for amendments other than correction of information, surviving spouse or immediate family may file a petition with circuit court of county or city in which decedent resided as of date of his death, clerk shall transmit a certified copy of court's order to the State Registrar.

Patron—Wilt . . . . .	HB 2276	284	453
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Bittle, S. Stephen; commending. (Patron—Simon) .....	HJR 985		2484
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<b>Chantilly High School baseball team;</b> commending. (Patron—LeMunyon) . . . . .	HJR	558		2305
<b>Chantilly High School boys' tennis team;</b> commending. (Patron—LeMunyon) . . . . .	HJR	559		2306

**CHARITABLE, CIVIC AND VOLUNTEER INSTITUTIONS, AND ORGANIZATIONS**

<b>Alcoholic beverage control;</b> nonprofit banquet licensees, authorized to sell wine, as part of any fundraising activity, in closed containers for off-premises consumption. (Patron—Marshall, D.W.) . . . . .	HB	1694	151	209
<b>Charitable solicitations;</b> registration statement to include percentage of contributions. (Patron—Kory) . . . . .	HB	2090	763	1396

**CHARITABLE GAMING**

<b>Administrative Process Act;</b> exemption for Charitable Gaming Board. Patron—Hodges . . . . .	HB	2177	266	437
Patron—Cosgrove . . . . .	SB	1509	584	972
<b>Charitable gaming;</b> no more than one raffle by a tax-exempt organization shall be conducted in any one geographical region. (Patron—Knight) . . . . .	HB	2374	566	937

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<b>Charitable gaming;</b> prior to commencement of any charitable game, an organization shall obtain a permit, Charitable Gaming Board authorized to grant special permits to qualified organizations to replace an approved game that falls on a legal holiday, volunteers of a qualified organization may be reimbursed for their reasonable and necessary travel expenses. (Patron—Surovell) . . . . .	SB	1512	739	1341
<b>Virginia Freedom of Information Act;</b> proprietary records and trade secrets, charitable gaming supplies. (Patron—Hodges) . . . . .	HB	2178	662	1120

**CHARLOTTEVILLE, CITY OF**

<b>Ebenezer Baptist Church;</b> commemorating its 125th anniversary. (Patron—Toscano) .	HJR	984		2483
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**CHARTER SCHOOLS**

<b>Public charter school applications and charter agreements;</b> review by the Board of Education. (Patron—Miyares) . . . . .	HB	2218	513	855
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**CHARTERS**

<b>Bridgewater, Town of;</b> amending charter, sets out various powers typically exercised by towns, increases term of mayor. (Patron—Obenshain) . . . . .	SB	1073	810	1550
<b>Chesterfield County;</b> amending charter, corrects or repeals numerous outdated provisions, technical amendments. (Patron—Ingram) . . . . .	HB	1958	382	579
<b>Groottes, Town of;</b> amending charter, town council to appoint a member to office of vice-mayor, vice-mayor to serve in event of mayor's absence, etc. Patron—Landes . . . . .	HB	1396	659	1118
Patron—Hanger . . . . .	SB	786	133	192
<b>Herndon, Town of;</b> amending charter, adjusts town's boundary description. (Patron—Wexton) . . . . .	SB	1083	570	943
<b>Herndon, Town of;</b> amending charter, shifts municipal elections from May to November. (Patron—Wexton) . . . . .	SB	1084	571	943
<b>Hopewell, City of;</b> amending charter, changes membership of Hopewell Water Renewal Commission. Patron—Aird . . . . .	HB	2152	391	598
Patron—Dance . . . . .	SB	992	214	369
<b>Onley, Town of;</b> amending charter, shifts municipal elections from May to November. (Patron—Lewis) . . . . .	SB	1429	582	963
<b>Petersburg, City of;</b> amending charter, repeals or updates obsolete provisions, technical amendments. Patron—Aird . . . . .	HB	2464	733	1327
Patron—Dance . . . . .	SB	1580	222	376
<b>Port Royal, Town of;</b> amending charter, terms for council and mayor shall begin in January so as to reflect change to November municipal elections. (Patron—Ransone)	HB	1729	378	576
<b>Quantico, Town of;</b> amending charter, removes town treasurer, town clerk, and town sergeant as officers of the town elected by town council. (Patron—Dudenhefer) . . . .	HB	1461	256	425
<b>Troutdale, Town of;</b> amending charter, specifies terms of mayor and recorder as four years. (Patron—Carrico) . . . . .	SB	1318	219	373
<b>Williamsburg, City of;</b> amending charter, expands membership on redevelopment and housing authority. Patron—Mullin . . . . .	HB	1977	385	585
Patron—Mason . . . . .	SB	1134	134	192
<b>Wytheville, Town of;</b> amending charter, removes provisions that would require special election to fill certain vacancies in office of mayor or on town council. (Patron—Carrico) . . . . .	SB	1319	220	373

**CHENAULT, JERRY A.**

<b>Chenault, Jerry A.;</b> commending. (Patron—Cox) . . . . .	HJR	894		2436
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**CHERRY RUN ELEMENTARY SCHOOL**

<b>Cherry Run Elementary School;</b> commending. (Patron—Filler-Corn) . . . . .	HJR	1047		2521
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**CHESAPEAKE BAY**

<b>Coal combustion residuals unit;</b> units located within Chesapeake Bay watershed, evaluation of clean closure, assessments required. (Patron—Surovell) . . . . .	SB	1398	817	1586
<b>Combined sewer overflow outfalls;</b> Department of Environmental Quality shall identify owner or operator of any outfall that discharges into Chesapeake Bay Watershed, owner shall, by July 1, 2023, initiate construction activities necessary to				

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bring outfall into compliance and shall, by July 1, 2025, bring CSO outfall into compliance with Virginia law, etc., report.			
Patron—Lingamfelter .....	HB 2383	826	1612
Patron—Stuart .....	SB 898	827	1612
<b>CHESAPEAKE BAY FOUNDATION</b>			
<b>Chesapeake Bay Foundation; commending.</b>			
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Patron—Hanger .....	SJR 336		2700
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<b>Chesapeake, City of; term limits of members of certain Authorities, members shall serve at pleasure of city council, no member of Chesapeake Hospital Authority shall serve more than two consecutive terms.</b>			
Patron—Knight .....	HB 2449	541	886
Patron—Cosgrove .....	SB 1553	557	918
<b>Chesapeake Port Authority; City Council of Chesapeake may by ordinance transfer any right, power, or privilege granted to Authority to Chesapeake Economic Development Authority, etc. (Patron—Cosgrove) .....</b>			
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<b>CHESTERFIELD COUNTY</b>			
<b>Chesterfield County; amending charter, corrects or repeals numerous outdated provisions, technical amendments. (Patron—Ingram) .....</b>			
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<b>Chesterfield County Sheriff's Office; commending. (Patron—Robinson) .....</b>			
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<b>CHILD ABUSE OR NEGLECT</b>			
<b>Child abuse or neglect; State Board of Social Services shall promulgate regulations that require local departments to respond to valid reports and complaints when child is under age two. (Patron—Favola) .....</b>			
	SB 868	604	1012
<b>Virginia Freedom of Information Act; record and meeting exclusions for multidisciplinary child abuse teams. (Patron—Massie) .....</b>			
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<b>CHILD CARE</b>			
<b>Child care providers; applicant criminal history background checks, penalty, sunset date, provision of federal Child Care and Development Block Grant Act of 2014 establishing requirements for national fingerprint-based criminal history background checks.</b>			
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<b>CHILD CUSTODY</b>			
<b>Court-ordered custody and visitation arrangements; transmission of order to child's school within three business days of receipt of custody or visitation order, if court determines that a party is unable to deliver order to school, party shall provide the court with name of principal and address of school, order to be mailed first class mail to such school principal. (Patron—Campbell) .....</b>			
	HB 1586	509	850
<b>Custody and visitation orders; in any case or proceeding involving a child, as to a parent, court may use the phrase "parenting time" to be synonymous with term "visitation." (Patron—Albo) .....</b>			
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<b>CHILD SUPPORT</b>			
<b>Child support arrearages; priority of debts to be paid from decedent's assets. (Patron—Surovell) .....</b>			
	SB 815	591	992
<b>Child support orders; upon request of either party, the court may also order that payments be made to a special needs trust or an ABLE savings trust account. (Patron—Hope) .....</b>			
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<b>CHILDREN</b>			
<b>Adoption assistance; moves requirement that a child be a citizen or legal resident of the United States from definition of "child with special needs" to eligibility criteria for the adoptive parents. (Patron—Toscano) .....</b>			
	HB 2215	199	340
<b>Child abuse or neglect; State Board of Social Services shall promulgate regulations that require local departments to respond to valid reports and complaints when child is under age two. (Patron—Favola) .....</b>			
	SB 868	604	1012
<b>Children, trafficking of; Board of Education shall develop guidelines for training school counselors, etc., on prevention. (Patron—Leftwich) .....</b>			
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determines that a party is unable to deliver order to school, party shall provide the court with name of principal and address of school, order to be mailed first class mail to such school principal. (Patron—Campbell) . . . . .	HB 1586	509	850	
<b>Custody and visitation orders;</b> in any case or proceeding involving a child, as to a parent, court may use the phrase "parenting time" to be synonymous with term "visitation." (Patron—Albo) . . . . .	HB 1456	46	56	
<b>Foster care;</b> definitions, reasonable efforts to prevent removal of child. (Patron—Bell, Richard P.) . . . . .	HB 1604	190	320	
<b>Private preschool programs;</b> licensure exemptions, school will report to Commissioner all incidents involving serious injury or death to children attending school. (Patron—Orrock) . . . . .	HB 1837	748	1362	
<b>Sexual offenses;</b> offense prohibiting proximity to children includes any similar offense under laws of any foreign country or any political subdivision thereof, or the United States or any political subdivision thereof. (Patron—Bell, Richard P.) . . . . .	HB 1485	507	848	
<b>Social Services, Department of, et al.;</b> Department shall develop a process and standardized survey to gather feedback from children aging out of foster care. (Patron—Farrell) . . . . .	HB 1451	187	312	
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<b>Chimaladinne, Anshul;</b> recording sorrow upon death. (Patron—Bell, John J.) . . . . .	HJR 785		2376	
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<b>Cigarettes;</b> purchase for resale, issuance of a cigarette exemption certificate, penalties. Patron—Anderson . . . . .	HB 1913	112	161	
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<b>CIRCUIT COURTS</b>				
<b>Circuit court clerks;</b> clerk who has established an electronic filing system for land records may charge a fee not to exceed \$5 per instrument. Patron—Miller . . . . .	HB 2035	289	457	
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<b>Circuit court clerks;</b> report of money kept by clerk, availability of annual report to Auditor of Public Accounts. (Patron—Habeeb) . . . . .	HB 1630	35	46	
<b>Death certificate;</b> for amendments other than correction of information, surviving spouse or immediate family may file a petition with circuit court of county or city in which decedent resided as of date of his death, clerk shall transmit a certified copy of court's order to the State Registrar. Patron—Wilt . . . . .	HB 2276	284	453	
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<b>Derelict and blighted buildings;</b> locality authorized to petition circuit court to appoint a land bank entity to act as a receiver in certain limited circumstances to repair. (Patron—Carr) . . . . .	HB 1936	381	578	
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<b>Circuit court clerks;</b> report of money kept by clerk, availability of annual report to Auditor of Public Accounts. (Patron—Habeeb) . . . . .	HB 1630	35	46
<b>Civilian employees and foreign service officers;</b> personal jurisdiction over a person, domicile and residential requirements for suits for annulment, etc. (Patron—Collins) . . . . .	HB 1737	480	804
<b>Dangerous dogs;</b> removes requirement that a law-enforcement officer or animal control officer apply for a summons requiring an owner to appear before a general district court, no dog shall be found dangerous if court determines, based on totality of evidence, that dog is not a threat to the community. (Patron—Fariss) . . . . .	HB 2381	396	608
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<b>Fostering Futures program;</b> individual participating in program to undergo a background check. (Patron—Peace) . . . . .	HB 1942	194	332
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<b>Virginia Polytechnic Institute and State University;</b> celebrating the lives of the 32 men and women who tragically died April 16, 2007. (Patron—Ebbin) . . . . .	SJR	421		2750
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<b>Women's right to vote;</b> Virginia Historical Society shall plan and lead the Commonwealth in commemorating centennial anniversary, task force created to assist Society, sunset provision. (Patron—Byron) . . . . .	HB	2348	618	1046
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**CLERK OF THE VIRGINIA HOUSE OF DELEGATES**

<b>Women's right to vote;</b> Virginia Historical Society shall plan and lead the Commonwealth in commemorating centennial anniversary, task force created to assist Society, sunset provision. (Patron—Byron) . . . . .	HB	2348	618	1046
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**CLERKS OF COURTS**

<b>Circuit court clerks;</b> clerk who has established an electronic filing system for land records may charge a fee not to exceed \$5 per instrument.				
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<b>Coal Surface Mining Reclamation Fund;</b> repeals July 1, 2017, expiration date that raised the target balance of Fund. (Patron—O’Quinn) . . . . .	HB 2200	7	8
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<b>Coats Disease Awareness Day;</b> designating as August 17, 2017, and each succeeding year thereafter. (Patron—Cox) . . . . .	HJR 750		2361
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<b>Gasperini, Susan C.;</b> commending. (Patron—Poindexter) . . . . .	HJR 928	2453
<b>Gauthier, Cliff;</b> commending. (Patron—Mason) . . . . .	SJR 398	2737
<b>George Mason University Science and Technology Campus;</b> commemorating its 20th anniversary. (Patron—Anderson) . . . . .	HR 438	2626
<b>Gill, Suzanne;</b> commending. (Patron—Howell) . . . . .	HJR 860	2417
<b>Girl Scouts of the USA;</b> commemorating its 100th anniversary. (Patron—Hester) . . . . .	HJR 995	2489
<b>Glen Allen 10-Year-Old All-Stars baseball team;</b> commending. (Patron—Dunnivant) . . . . .	SR 141	2786
<b>Glen Forest Elementary School;</b> commending. (Patron—Lopez) . . . . .	HJR 1020	2504
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<b>Goodson-Kinderhook Volunteer Fire Department;</b> commending. (Patron—Pillion) . . . . .	HR 353	2585
<b>Goodwin House;</b> commemorating its 50th anniversary and the 30th anniversary of its Bailey's Crossroads location. (Patron—Lopez) . . . . .	HJR 1022	2505
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<b>Green Beret Foundation;</b> commending. (Patron—Freitas) . . . . .	HR 299	2560
<b>Green Hedges School;</b> commemorating its 75th anniversary. (Patron—Keam) . . . . .	HJR 768	2368
<b>Gretna American Legion Post 232;</b> commending. (Patron—Stanley) . . . . .	SJR 306	2667
<b>Grimm, Justin Scott;</b> commending. (Patron—O'Quinn) . . . . .	HJR 725	2348
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<b>Gurowitz, Andrew;</b> commending. (Patron—Hugo) . . . . .	HJR 831	2400
<b>Guyer, Brandon Eric;</b> commending. (Patron—Boysko) . . . . .	HJR 956	2469
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<b>Tobacco Board;</b> composition, increases excise tax on bright flue-cured and type 21 dark-fired tobaccos, repeals provisions referring to Tobacco Board membership and compensation. Patron—Edmunds . . . . .	HB 2254	8	9
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<b>Unused dispensed drugs;</b> Board of Pharmacy shall develop guidelines for provision of counseling and information regarding proper disposal. (Patron—Murphy) . . . . .	HB 2046	114	167
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**COMMONWEALTH PUBLIC SAFETY**

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**Criminal Justice Services Board and its Committee on Training;** citizen membership, report. (Patron—Peace) . . . . . HB 1951 206 357

**Line of Duty Act;** Act includes firefighter trainees. (Patron—McPike) . . . . . SB 1118 627 1074

**Line of Duty Act;** clarifies provisions of Act. (Patron—Jones) . . . . . HB 2243 439 708

**Model addiction recovery program;** Department of Criminal Justice Services, et al., to develop, program shall be based on any existing programs that are being administered by any local or regional jails. (Patron—Cox) . . . . . HB 1845 758 1380

**Private security;** removes requirement that a compliance agent for a services business has either five years of experience or three years of managerial or supervisory experience, provisions shall not become effective unless reenacted by 2018 Session of General Assembly. (Patron—Fowler) . . . . . HB 1628 495 833

**School security officers;** carrying a firearm in performance of duties, additional training and certification requirements of Department of Criminal Justice Services, officer was an active law-enforcement officer within 10 years prior to being hired by school board, retired from his position in good standing, etc. (Patron—Lingamfelter) . . . . . HB 1392 311 481

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**Conservators of the peace;** investigator employed by an attorney for the Commonwealth. (Patron—Vogel) . . . . . SB 1594 674 1143

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**Defendants;** upon request of, and receipt of all necessary information from, attorney for the Commonwealth or counsel, court shall issue transportation orders for transport of person to be brought to court from a correctional facility, if court authorizes, clerk or deputy clerk may issue these orders. (Patron—Campbell) . . . . . HB 1579 479 804

**Jurors;** confidentiality of name and home address, information only released to counsel for defendant, a pro se defendant, and attorney for the Commonwealth. (Patron—Collins) . . . . . HB 1546 753 1375

**COMMUNITY COLLEGES**

**Commercial driver's license;** comprehensive community colleges in Virginia Community College System allowed to administer in-vehicle component of driver instruction to students. (Patron—Wilt) . . . . . HB 2075 232 385

**Community Colleges, State Board for;** reduced rate tuition and mandatory fee charges, certain students who are active duty members in the Armed Forces of the United States stationed outside the Commonwealth. (Patron—Anderson) . . . . . HB 1721 782 1450

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**Comprehensive community colleges;** State Board of Community Colleges shall require each college to develop policies and procedures for awarding academic credit for apprenticeship credentials to certain enrolled students.

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**Comprehensive community colleges;** tuition grants and fees for certain individuals.

Patron—Hester . . . . . HB 1848 318 506  
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**Higher educational institutions, public;** Virginia Military Institute's president or any one of vice presidents of board of visitors, chairman or vice-chairman of State Board of Community College System, and rector or vice-rector of governing board of higher educational institutions shall be a resident of the Commonwealth.

Patron—Landes . . . . . HB 1402 764 1398  
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**Northern Virginia Community College, et al.;** College shall contract with a partner organization to develop, market, etc., computer science training and professional development activities for public school teachers.

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**Washington Metrorail Safety Commission Interstate Compact;** definitions, members of Board of Directors of Commission for the Commonwealth shall be appointed by Governor, etc., report.

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Patron—Barker . . . . . SB 1251 705 1218

**COMPUTER SERVICES AND USES**

**Address changes;** Secretary of Transportation or his designee shall convene a task force to study feasibility of establishing a statewide one-stop online portal, sunset provision. (Patron—Obenshain) . . . . .

SB 1363 553 906

**Auditor of Public Accounts;** Commonwealth Data Point website administered by Auditor to include information for major categories of spending for each state agency and institution, etc.

Patron—Davis . . . . . HB 2436 679 1147  
Patron—Vogel . . . . . SB 1307 681 1149

**Boating safety course;** Department of Game and Inland Fisheries shall establish and maintain a database listing name and date of birth of every person who has passed an approved course. (Patron—Stuart) . . . . .

SB 866 360 554

**Business advertising material;** expands definition as it relates to private security services businesses to include any electronic medium, including the Internet, etc. (Patron—Fowler) . . . . .

HB 1629 85 109

**Circuit court clerks;** clerk who has established an electronic filing system for land records may charge a fee not to exceed \$5 per instrument.

Patron—Miller . . . . . HB 2035 289 457  
Patron—Stuart . . . . . SB 870 90 119

**Circuit court clerks;** electronic transfer of certain real property information to certain public officials. (Patron—Leftwich) . . . . .

HB 1515 42 53

**Commitment hearings for involuntary admissions;** electronic data sharing, includes individually identifiable information.

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**Computer trespass;** violations for purposes of affecting computers used by or for the Commonwealth or any local government, etc., and computers used for public utilities, penalty. (Patron—Yancey) . . . . .

HB 1815 562 925

**Concealed handgun permits;** application shall request but not require that applicant provide an email or other electronic address where notice of permit expiration can be sent, notification of expiration at least 90 days prior to date. (Patron—Fowler) . . . . .

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**Electronic credentials;** creates standards for DMV in issuing, reviewing, etc., report. (Patron—Villanueva) . . . . .

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<b>Government records;</b> definitions, agencies may make digitally certified copies of electronic records available, agency may charge a fee, visible assurance of digital signature shall be authenticated by custodian of the record. (Patron—Surovell) . . . . .	SB	1341	738	1340
<b>Hunting license for bear, deer, or turkey;</b> license allowed to be carried electronically. (Patron—Chafin) . . . . .	SB	968	363	557
<b>Northern Virginia Transportation Authority;</b> Authority shall annually publish on its website any land use or transportation elements of a locality's comprehensive plan, effective clause. (Patron—LeMunyon) . . . . .	HB	2137	351	548
<b>Opiate prescriptions;</b> prescription for any controlled substance containing an opiate to be issued as an electronic prescription and prohibits a pharmacist from dispensing unless issued electronically, Secretary of Health and Human Resources shall convene a work group to review actions necessary to implement certain provisions, report.				
Patron—Pillion . . . . .	HB	2165	115	167
Patron—Dunnavant . . . . .	SB	1230	429	683
<b>Oyster planting grounds;</b> Marine Resources Commission to post notice of application for lease on its website, Commission shall provide by registered or certified mail written notice of its receipt of application, provision of notice to governing board of an association for a common interest community.				
Patron—Miyares . . . . .	HB	2297	798	1501
Patron—DeSteph . . . . .	SB	1144	250	415
<b>Palliative care information and resources;</b> Department of Health shall make information available to public, health care providers, and health care facilities on its website.				
Patron—Bulova . . . . .	HB	1675	746	1360
Patron—Lucas . . . . .	SB	974	471	790
<b>Retail Sales and Use Tax;</b> Department of Taxation shall provide online access by registered dealers to the names and certificate of registration numbers of dealers who are currently registered for tax. (Patron—Knight) . . . . .	HB	1810	49	60
<b>School service providers;</b> provider to provide, either directly to student or his parent or through the school, access to an electronic copy of student's information in a manner consistent with functionality of school service. (Patron—Ruff) . . . . .	SB	951	518	858
<b>State Corporation Commission;</b> Commission may absorb some or all of convenience fees paid by users of a Commission online filing system. (Patron—Keam) . . . . .	HB	2111	486	810
<b>Ticket Resale Rights Act;</b> limitations on reselling tickets on an Internet ticketing platform, civil penalty.				
Patron—Albo . . . . .	HB	1825	261	429
Patron—Stanley . . . . .	SB	1425	268	439
<b>Virginia Freedom of Information Advisory Council;</b> online public comment form. (Patron—LeMunyon) . . . . .	HB	2146	645	1105
<b>Worker retraining and telework expenses;</b> tax credits extended to taxable years prior to January 1, 2022, Virginia Economic Development Partnership Authority shall report annually on status and implementation of credit.				
Patron—Ware . . . . .	HB	1814	177	301
Patron—Hanger . . . . .	SB	1576	454	752

**CONCEALED WEAPONS**

<b>Concealed handgun;</b> adds retired conservation officers from Department of Conservation and Recreation to list of retired law-enforcement officers who are exempt from prohibition on carrying without a permit.				
Patron—Wright . . . . .	HB	2308	101	131
Patron—Carrico . . . . .	SB	1465	243	398
<b>Concealed handgun permit;</b> application for permit requires one valid form of photo identification issued by governmental agency of the Commonwealth or by U.S. Department of Defense or U.S. State Department (passport). (Patron—Fariss) . . . . .	HB	2325	237	390
<b>Concealed handgun permit;</b> permit shall be of a size comparable to a Virginia driver's license and may be laminated or use a similar process to protect the permit. (Patron—Gilbert) . . . . .	HB	1849	47	58
<b>Concealed handgun permit;</b> written notice of change of address on a form provided by Department of State Police. (Patron—Pogge) . . . . .	HB	2369	238	392
<b>Concealed handgun permit fees;</b> exempts certain retired probation and parole officers. (Patron—Chafin) . . . . .	SB	889	241	396

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<b>Concealed handgun permits;</b> application shall request but not require that applicant provide an email or other electronic address where notice of permit expiration can be sent, notification of expiration at least 90 days prior to date. (Patron–Fowler) . . . . .	HB 1466	99	126
<b>Concealed weapons;</b> carrying of firearms by former attorneys for the Commonwealth and assistant attorneys for the Commonwealth. (Patron–Miller) . . . . .	HB 2424	689	1161
<b>Virginia Workers' Compensation Commission;</b> permits commissioners and deputy commissioners to carry a concealed weapon into any courthouse while in conduct of official duties. (Patron–Obenshain) . . . . .	SB 904	761	1386
<b>CONDEMNATION</b>			
<b>Condemnation powers and proceedings;</b> notice to owner or tenant between 30 and 45 days prior to date on which any certificate will be filed or recorded, etc. (Patron–Freitas) . . . . .	HB 2024	563	925
<b>Condemnation proceeding;</b> interest on the amount of award, interest shall accrue on excess amount at not less than judgment rate of interest. (Patron–Mason) . . . . .	SB 1421	710	1240
<b>Eminent domain;</b> timing for initiation of "quick-take" condemnation procedure and petition for determination of just compensation. (Patron–Petersen) . . . . .	SB 927	593	1001
<b>Inverse condemnation proceeding;</b> reimbursement of owner's costs, judgment proceedings filed prior to July 1, 2017. (Patron–Obenshain) . . . . .	SB 1153	735	1330
<b>CONDOMINIUMS</b>			
<b>Condominium Act;</b> Common Interest Community Board may receive a complaint directly from any person aggrieved by an association's failure to deliver a resale certificate or disclosure packet within required time period, resale by purchaser, designation of authorized representative.			
Patron–Marshall, D.W. . . . .	HB 2274	393	600
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<b>Conein, Lucien E.;</b> recording sorrow upon death. (Patron–Murphy) . . . . .	HJR 899		2439
<b>CONFLICT OF INTERESTS</b>			
<b>Conflict of Interests Act, State and Local Government;</b> additional provisions applicable to school board employees in Planning District for New River Valley. (Patron–Rush) . . . . .	HB 2354	515	856
<b>Conflict of Interests Act, State and Local Government;</b> prohibited contracts, provisions shall apply to contracts entered into on and after July 1, 2017, contracts entered into by an officer or employee or an immediate family member of such officer or employee with a soil and water conservation district to participate in a cost-share program, etc., prior to effective date of this act.			
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<b>Local gas road improvement and Virginia Coalfield Economic Development Authority tax;</b> use of revenues for the repair or enhancement of existing water or sewer systems and lines, extends sunset date to January 1, 2020. Patron—Pillion . . . . .	HB	2169	52	62
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<b>Local government revenues and expenditures;</b> submittal of comparative report by a locality to the Auditor of Public Accounts. (Patron—Poindexter) . . . . .	HB	2003	484	809
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<b>Municipal elections;</b> local option for timing of elections, effective date. (Patron—Vogel) . . . . .	SB	1304	165	278
<b>Noise ordinances;</b> locality may authorize chief law-enforcement officer to enforce a uniform schedule of civil penalties for violation. (Patron—Petersen) . . . . .	SB	926	649	1110
<b>Northern Virginia Transportation Authority;</b> Authority shall annually publish on its website any land use or transportation elements of a locality's comprehensive plan, effective clause. (Patron—LeMunyon) . . . . .	HB	2137	351	548
<b>Ordinance violations, certain;</b> decreases minimum city population required to enforce. (Patron—Deeds) . . . . .	SB	1169	490	814
<b>Parking of certain vehicles;</b> Town of Leesburg permitted to regulate or prohibit on any public highway. (Patron—Wexton) . . . . .	SB	1514	556	918

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<b>Part-time deputy sheriffs;</b> like rank and experience included as a factor in setting maximum allowable compensation paid to those performing like duties of full-time deputy sheriffs. (Patron—Cole) . . . . .	HB 1457	337	536
<b>Personal property tax;</b> localities required to permit taxpayers to provide an aggregate estimate of total cost of all personal property used in a business that has an original cost of less than \$500. (Patron—Rush) . . . . .	HB 2193	116	172
<b>Planning district commissions;</b> permits Indian tribes recognized by federal government to join as members and to negotiate terms of such membership. (Patron—Hodges) . . . . .	HB 1686	377	575
<b>Proffers;</b> when any landowner subject to certain proffers applies to the governing body for amendments to such proffered conditions, written notice of such application shall be given. (Patron—Stolle) . . . . .	HB 1797	379	577
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<b>Regional jails;</b> on or after July 1, 2017, the Commonwealth shall reimburse a locality a maximum of one-fourth of capital costs for any construction, etc. (Patron—McDougle) . . . . .	SB 1313	211	363
<b>Removal of blight;</b> if locality, through its own agents or employees, removes, repairs, or secures any building, etc., after complying with certain notice provisions, or as otherwise permitted under Virginia Uniform Statewide Building Code in an event of an emergency, cost or expenses thereof shall be chargeable to and paid by owners of such property. (Patron—Edwards) . . . . .	SB 919	400	615
<b>Running bamboo;</b> locality may, by ordinance, provide for control, civil penalty.			
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<b>Short-term rental of property;</b> locality authorized to adopt an ordinance requiring registration of persons offering property for rental, if locality adopts a registry ordinance, such ordinance may include a penalty not to exceed \$500 per violation. (Patron—Norment) . . . . .	SB 1578	741	1345
<b>Slingbow hunting;</b> authorizes use to hunt small and big game when a hunter is licensed to hunt with a bow and arrow, except when hunting bear or elk. (Patron—Edmunds) .	HB 1938	530	868
<b>Stormwater management utility, local;</b> full or partial waiver of charges when stormwater runoff produced by property is retained and treated on site. (Patron—Webert) . . . . .	HB 1597	375	570
<b>Taxicabs;</b> regulation by localities, repeals requirement that all taxicabs display roof signs and specific markings, etc. (Patron—Anderson) . . . . .	HB 1761	528	867
<b>Transient occupancy tax;</b> Goochland, Powhatan, and Warren Counties authorized to impose tax at a rate not to exceed five percent, provided that any excess over two percent is designated and spent solely for tourism purposes. (Patron—Ware) . . . . .	HB 1415	23	32
<b>Transportation planning, state and local;</b> adoption of any comprehensive plan in Northern Virginia, Department of Transportation shall specify by name and location any transportation facility within scope of review having a functional classification of minor arterial or higher for which an increase in traffic volume is expected, etc. (Patron—LeMunyon) . . . . .	HB 2138	536	878
<b>Trooper Chad Phillip Dermyer Memorial Bridge;</b> designating as the State Route 143 bridge in the City of Newport News at exit 255 over Interstate 64.			
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**Utility easements;** exempts from public hearing requirement prior to disposal of real property by locality conveyance of easements related to transportation projects. (Patron—Favola) . . . . . SB 932 401 615

**Vehicle license fees and taxes, local;** counties and adjoining towns allowed to enter into reciprocal agreements to collect each other's fees and taxes. (Patron—Wexton) . SB 1211 119 180

**Vested property rights;** structure that requires no permit and complies with the zoning ordinance, etc., in any proceeding when the authorized government official is deceased or is otherwise unavailable to testify, uncorroborated testimony of oral statement of such official shall not be sufficient evidence. (Patron—Obenshain) . . . . SB 1173 404 624

**Vietnam Veterans Memorial Bridge;** designating as Virginia Route 114 bridge between Montgomery and Pulaski Counties. (Patron—Rush) . . . . . HB 1741 124 186

**Virginia Coal Train Heritage Authority;** established, annual audit by Auditor of Public Accounts, any authority shall post notice of immunity from liability at time of ticketing and at all train entrances. (Patron—Pillion) . . . . . HB 2168 834 1651

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**Virginia Freedom of Information Act;** proprietary records and trade secrets, solar services agreements, nondisclosure of proprietary information. (Patron—Edwards) . . SB 1226 737 1336

**Virginia Freedom of Information Act;** public access to meetings of public bodies, revises various open meeting exemptions. (Patron—LeMunyon) . . . . . HB 1540 616 1033

**Virginia Public Procurement Act;** bid, performance, and payment bonds, waiver by localities, a locality shall not enter into more than 10 nontransportation-related construction projects per year in which contract amount is in excess of \$100,000 but less than \$300,000. (Patron—Villanueva) . . . . . HB 2017 789 1464

**Virginia Residential Property Disclosure Act;** required disclosures, property located in local historic districts. (Patron—Locke) . . . . . SB 1037 569 942

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**Water and sewer services;** no lien can be placed on property of an owner when lessee or tenant has delinquent fees until locality has made reasonable collection efforts, etc. (Patron—Edwards) . . . . . SB 1189 736 1330

**Widewater Beach Subdivision Citizens Association, Inc.;** Department of Conservation and Recreation to convey certain real property in Stafford County. (Patron—Dudenhefer) . . . . . HB 1691 781 1449

**Wireless communications infrastructure;** zoning for small cell facilities, locality shall not adopt a moratorium on considering zoning applications, access to public rights-of-way by wireless services providers, etc. (Patron—McDougle) . . . . . SB 1282 835 1653

**Working waterfront development areas;** localities authorized, by ordinance, to establish and grant certain incentives and regulatory flexibility to private entities. (Patron—Lewis) . . . . . SB 1203 216 370

**Zoning;** delinquent charges. (Patron—Jones) . . . . . HB 2469 398 612

**Zoning appeals, board of;** appeal period shall not commence until zoning administrator's written order is sent by registered mail to, or posted at, last known address, etc., of property owner or its registered agent. (Patron—Petersen) . . . . . SB 1559 665 1128

**Zoning appeals, board of;** clarifies provisions referring to appeal costs, includes governing body. (Patron—Habeeb) . . . . . HB 1994 661 1119

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<b>Court-ordered custody and visitation arrangements;</b> transmission of order to child's school within three business days of receipt of custody or visitation order, if court determines that a party is unable to deliver order to school, party shall provide the court with name of principal and address of school, order to be mailed first class mail to such school principal. (Patron—Campbell) .....	HB	1586	509	850	
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**Circuit court clerks;** electronic transfer of certain real property information to certain public officials. (Patron—Leftwich) . . . . . HB 1515 42 53

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**Judges;** election in Court of Appeals, Circuit Court, General District Court, Juvenile and Domestic Relations District Court, members of Judicial Inquiry and Review Commission, member of Virginia Workers' Compensation Commission, and Auditor of Public Accounts. (Patron—Loupassi) . . . . . HJR 782 2374

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<b>Driver's license, restricted;</b> adds travel to and from a job interview, for which he maintains on his person written proof from prospective employer of interview, to list of purposes for issuance of a license. (Patron—Surovell) . . . . .	SB	817	701	1202
<b>Driving under influence of alcohol;</b> application for search warrant to perform blood test on person suspected of committing a DUI-related offense shall be given priority over any pending matters not involving an imminent risk to another's health or safety. (Patron—Norment) . . . . .	SB	1564	673	1143
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<b>Female genital mutilation;</b> criminal penalty and civil action, parent, guardian, etc., who is legally responsible for or charged with care or custody of minor and who knowingly commits a certain offense is guilty of a Class 1 misdemeanor, limitation of prosecutions. (Patron—Black) . . . . .	SB	1060	667	1129
<b>Fire alarms;</b> removes condition that a building must be for public use in order for Class 1 misdemeanor for maliciously activating to apply, increases reimbursement of expenses incurred in responding to an incident. Patron—Cole . . . . .	HB	1404	98	126
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<b>Juvenile Justice, Department of;</b> confidentiality of records, information may be disclosed, at discretion of Department, to community gang task forces, provided that membership includes a law-enforcement officer who is present at time of disclosure of information, etc. Patron—Collins . . . . .	HB	2287	207	358
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<b>Marijuana offenses;</b> revises existing provision that a person loses his driver's license for six months when convicted for drug offense, etc., if court does not suspend or revoke accused's license, court shall require accused to comply with plan of 50 hours of community service. Patron—Adams . . . . .	HB	2051	695	1171
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<b>Payroll information;</b> employers or payroll service provider shall notify Office of Attorney General without unreasonable delay after discovery of a security breach, only applies to information of employer's employees, upon receipt of notice, Department of Taxation shall be notified. Patron—Keam . . . . .	HB	2113	419	656
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<b>Public officers;</b> automatic suspension upon conviction of felony.			
Patron-Heretick . . . . .	HB 2364	354	550
Patron-Lewis . . . . .	SB 1487	369	562
<b>Public safety personnel;</b> definition of police officer includes a state correctional officer of Department of Corrections, expands category of flags required to be flown at half staff or mast, includes any political subdivision building. (Patron-Anderson) . . . . .	HB 1720	344	541
<b>Sales draft;</b> definition, credit card offenses, penalty. (Patron-Hope) . . . . .	HB 1493	41	52
<b>School security officers;</b> carrying a firearm in performance of duties, additional training and certification requirements of Department of Criminal Justice Services, officer was an active law-enforcement officer within 10 years prior to being hired by school board, retired from his position in good standing, etc. (Patron-Lingamfelter) . . . . .	HB 1392	311	481
<b>Sexual offenses;</b> offense prohibiting proximity to children includes any similar offense under laws of any foreign country or any political subdivision thereof, or the United States or any political subdivision thereof. (Patron-Bell, Richard P.) . . . . .	HB 1485	507	848
<b>Snakehead fish;</b> prohibits introduction from any location into state waters. (Patron-Surovell) . . . . .	SB 906	361	555
<b>Terrorist organization, designated;</b> providing material support, penalty.			
Patron-Gilbert . . . . .	HB 2410	624	1069
Patron-Reeves . . . . .	SB 1154	668	1131
<b>Victims of sexual assault;</b> rights of victims, physical evidence recovery kits, victim's right to notification of scientific analysis information. (Patron-Levine) . . . . .	HB 2127	535	875
<b>Virginia Freedom of Information Act;</b> record and meeting exclusions for multidisciplinary child abuse teams. (Patron-Massie) . . . . .	HB 1971	587	983
<b>Virginia Workers' Compensation Commission;</b> permits commissioners and deputy commissioners to carry a concealed weapon into any courthouse while in conduct of official duties. (Patron-Obenshain) . . . . .	SB 904	761	1386
<b>CRIMINAL HISTORY INFORMATION</b>			
<b>Assisted living facilities and adult day care centers;</b> background checks. (Patron-Wexton) . . . . .	SB 1434	201	353
<b>Background checks;</b> exceptions, sponsored living and shared residential service providers, a community services board may also approve a person as a provider. (Patron-Hope) . . . . .	HB 1491	775	1407
<b>Barrier crimes;</b> clarifies individual crimes, criminal history records checks, an applicant for licensure as an assisted living facility shall provide an original criminal record clearance, etc. (Patron-Hanger) . . . . .	SB 1008	809	1524
<b>Child care providers;</b> applicant criminal history background checks, sunset date, provision of federal Child Care and Development Block Grant Act of 2014 establishing requirements for national fingerprint-based criminal history background checks.			
Patron-Orrrock . . . . .	HB 1568	189	314
Patron-Wexton . . . . .	SB 897	751	1367
<b>Fostering Futures program;</b> individual participating in program to undergo a background check. (Patron-Peace) . . . . .	HB 1942	194	332
<b>National Crime Prevention and Privacy Compact of 1998;</b> Compact allows member states to exchange criminal history records. (Patron-Mullin) . . . . .	HB 2066	319	506
<b>State agencies;</b> criminal background checks for certain positions, agency shall continue to record positions in Personnel Management Information System (PMIS) to ensure Department of Human Resources Management has a list of all sensitive positions. (Patron-McDougle) . . . . .	SB 1293	431	691
<b>CRIMINAL JUSTICE SERVICES</b>			
<b>Criminal Justice Services Board and its Committee on Training;</b> citizen membership, report. (Patron-Peace) . . . . .	HB 1951	206	357
<b>Emergency custody or involuntary admission process;</b> Commissioner of Behavioral Health and Developmental Services and Director of Criminal Justice Services, et al.,			

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to develop a comprehensive model for use of alternative transportation providers to provide safe and efficient transportation of individuals, report.			
Patron—Garrett .....	HB 1426	94	122
Patron—Barker .....	SB 1221	97	125
<b>Law-enforcement officers;</b> persons obligated to notify Criminal Justice Services Board when an officer has committed an act or been convicted of a crime that requires decertification, any conviction of a misdemeanor that has been appealed to a court of record shall not be considered a conviction unless a final order is entered. (Patron—Mullin) .....	HB 2067	496	835
<b>Model addiction recovery program;</b> Department of Criminal Justice Services, et al., to develop, program shall be based on any existing programs that are being administered by any local or regional jails. (Patron—Cox) .....	HB 1845	758	1380
<b>School security officers;</b> carrying a firearm in performance of duties, additional training and certification requirements of Department of Criminal Justice Services, officer was an active law-enforcement officer within 10 years prior to being hired by school board, retired from his position in good standing, etc. (Patron—Lingamfelter) .....	HB 1392	311	481
<b>Tow truck drivers;</b> issuance of temporary registration by Department of Criminal Justice Services. (Patron—Pogge) .....	HB 2362	503	844
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<b>Absentee voting;</b> eligibility of persons granted protective order. (Patron—Yost) .....	HB 1912	631	1080
<b>Address confidentiality program;</b> expands types of crimes victims of which are eligible to apply for program to include sexual or domestic violence or stalking, program may also include specialized services for victims of human trafficking. (Patron—Toscano) .....	HB 2217	498	836
<b>Aliens;</b> an alienage determination made by a probation or parole officer to be submitted to Central Criminal Records Exchange of Department of State Police in a format approved by the Exchange. (Patron—Krizek) .....	HB 1560	84	109
<b>Barrier crimes;</b> clarifies individual crimes, criminal history records checks, an applicant for licensure as an assisted living facility shall provide an original criminal record clearance, etc. (Patron—Hanger) .....	SB 1008	809	1524
<b>Capital cases;</b> replacing certain terminology.			
Patron—Hope .....	HB 1882	86	111
Patron—Howell .....	SB 1352	212	365
<b>Capitol Police, Division of;</b> members added to list of officers authorized to arrest without a warrant in certain situations. (Patron—Morefield) .....	HB 2329	208	359
<b>Child care providers;</b> applicant criminal history background checks, penalty, sunset date, provision of federal Child Care and Development Block Grant Act of 2014 establishing requirements for national fingerprint-based criminal history background checks.			
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Patron—Wexton .....	SB 897	751	1367
<b>Conservators of the peace;</b> investigator employed by an attorney for the Commonwealth. (Patron—Vogel) .....	SB 1594	674	1143
<b>Conservators of the peace, special;</b> liability insurance required shall be personal injury, property damage, and miscellaneous casualty insurance, which includes professional liability insurance that provides coverage for any activity within scope of duties. (Patron—Lingamfelter) .....	HB 1524	494	830
<b>Court-ordered restitution;</b> form order, enforcement, clerks to report unsatisfied fines, etc., to attorney for the Commonwealth.			
Patron—Bell, Robert B. ....	HB 1855	786	1454
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<b>Criminal cases;</b> delayed appeals, dismissed in part because at least one assignments of error contained in petition for appeal did not adhere to proper form or procedures.			
Patron—Collins .....	HB 1545	77	98
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<b>Criminal Justice Services Board and its Committee on Training;</b> citizen membership, report. (Patron—Peace) .....	HB 1951	206	357
<b>Critical incident stress management team;</b> clarifies definition of "critical incident," peer support team privileged communications. (Patron—Carrico) .....	SB 1330	609	1016
<b>Defendants;</b> upon request of, and receipt of all necessary information from, attorney for the Commonwealth or counsel, court shall issue transportation orders for			

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transport of person to be brought to court from a correctional facility, if court authorizes, clerk or deputy clerk may issue these orders. (Patron—Campbell) . . . . .	HB 1579	479	804
<b>Driving under influence of alcohol;</b> application for search warrant to perform blood test on person suspected of committing a DUI-related offense shall be given priority over any pending matters not involving an imminent risk to another's health or safety. (Patron—Norment) . . . . .	SB 1564	673	1143
<b>Incompetent defendants;</b> psychiatric treatment, defendant shall be transferred to and accepted by hospital designated by Commissioner, etc. (Patron—Hope) . . . . .	HB 1996	461	777
<b>Inmates;</b> inpatient psychiatric hospital admission, if person having custody over an inmate files a petition, such person shall ensure that appropriate community services board or behavioral health authority is advised of need for a preadmission screening. (Patron—Yost) . . . . .	HB 2184	463	780
<b>Inpatient psychiatric hospital admission;</b> removes prohibition on admission for defendants who have already been ordered to receive treatment to restore their competency to stand trial. Patron—Bell, Robert B. . . . .	HB 2462	468	786
Patron—Lucas . . . . .	SB 935	605	1012
<b>Intoxicated drivers;</b> punitive damages for persons injured, certificate of analysis for blood test performed by Department of Forensic Science on whole blood drawn pursuant to a search warrant. (Patron—Surovell) . . . . .	SB 1498	671	1141
<b>Jurors;</b> confidentiality of name and home address, information only released to counsel for defendant, a pro se defendant, and attorney for the Commonwealth. (Patron—Collins) . . . . .	HB 1546	753	1375
<b>Law-enforcement officers;</b> persons obligated to notify Criminal Justice Services Board when an officer has committed an act or been convicted of a crime that requires decertification, any conviction of a misdemeanor that has been appealed to a court of record shall not be considered a conviction unless a final order is entered. (Patron—Mullin) . . . . .	HB 2067	496	835
<b>Model addiction recovery program;</b> Department of Criminal Justice Services, et al., to develop, program shall be based on any existing programs that are being administered by any local or regional jails. (Patron—Cox) . . . . .	HB 1845	758	1380
<b>National Crime Prevention and Privacy Compact of 1998;</b> Compact allows member states to exchange criminal history records. (Patron—Mullin) . . . . .	HB 2066	319	506
<b>Nonconfidential court records;</b> online access to subscribers of certain criminal case information to confirm complete date of birth of a defendant. Patron—Minchew . . . . .	HB 1713	78	99
Patron—Obenshain . . . . .	SB 1044	92	120
<b>Nurse practitioner;</b> authorized to testify as an expert witness within the scope of his activities. (Patron—Leftwich) . . . . .	HB 1609	413	640
<b>Personnel Management Information System;</b> each state agency to record positions that it designates as sensitive to ensure that Department of Human Resources Management has a list of all such positions. (Patron—Holcomb) . . . . .	HB 2391	421	660
<b>Persons allowed services without fees or costs;</b> inability to pay on account of poverty, guidelines. Patron—Collins . . . . .	HB 2328	227	382
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<b>Physical evidence recovery kit;</b> victim, parent, guardian of a minor, or next of kin of a deceased victim shall be notified by law-enforcement agency of completion of scientific analysis information and receive information. (Patron—Favola) . . . . .	SB 1501	672	1142
<b>Presentence report;</b> expands from guilty to guilty or nolo contendere the pleas for which a court is required to direct a probation officer to create a report upon conviction of certain felonies, defendant may waive the report. (Patron—Loupassi) . . . . .	HB 1647	45	55
<b>Privately retained counsel;</b> counsel may, pursuant to terms of a written agreement between attorney and client, withdraw from representation of a client without leave of court after certification of a charge by a district court, report. (Patron—Albo) . . . . .	HB 1411	774	1406
<b>Restitution payments;</b> any sums collected shall be used first to satisfy such restitution order and any collection costs associated with restitution. (Patron—Bell, Robert B.) . . . . .	HB 2338	757	1378
<b>School security officers;</b> carrying a firearm in performance of duties, additional training and certification requirements of Department of Criminal Justice Services, officer was an active law-enforcement officer within 10 years prior to being hired by school board, retired from his position in good standing, etc. (Patron—Lingamfelter) . . . . .	HB 1392	311	481

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**Search warrants;** customer records from financial institutions, warrant will be considered executed in jurisdiction where entity on which warrant is served is located.  
 Patron—Pogge . . . . . HB 1874 641 1096  
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**Search warrants;** issuance for any person to be arrested for whom warrant or process for arrest has been issued.  
 Patron—Herring . . . . . HB 2084 233 386  
 Patron—Black . . . . . SB 1260 242 396

**State agencies;** criminal background checks for certain positions, agency shall continue to record positions in Personnel Management Information System (PMIS) to ensure Department of Human Resources Management has a list of all sensitive positions. (Patron—McDougle) . . . . . SB 1293 431 691

**Supreme Court of Virginia;** time frame within which petitions for appeal shall be filed, method of taking and prosecuting appeals, petitions for writs of supersedeas. (Patron—Obenshain) . . . . . SB 946 651 1111

**Tow truck drivers;** issuance of temporary registration by Department of Criminal Justice Services. (Patron—Pogge) . . . . . HB 2362 503 844

**Two-way video testimony;** forensic analysis and examination. (Patron—Chafin) . . . . . SB 1257 669 1131

**Unlawful detainer;** initial hearings on a summons, amendments of amount requested on summons, immediate issuance of writs of possession in certain case judgments, etc. (Patron—Loupassi) . . . . . HB 1811 481 806

**Unpaid court fines, etc.;** court shall offer any defendant who is unable to pay in full the fines and costs within 30 days of sentencing the opportunity to enter into a deferred payment agreement, modification of agreement in writing on form provided by the Executive Secretary of the Supreme Court of Virginia, etc.  
 Patron—Loupassi . . . . . HB 2386 802 1504  
 Patron—Stanley . . . . . SB 854 806 1519

**Victims of crime;** without written consent of victim of any crime involving sexual assault, etc., or victim's next of kin if the victim is a minor and victim's death results from any crime, a law-enforcement agency may not disclose certain information to the public. (Patron—Miller) . . . . . HB 2240 500 842

**Victims of sexual assault;** rights of victims, physical evidence recovery kits, victim's right to notification of scientific analysis information. (Patron—Levine) . . . . . HB 2127 535 875

**CULLEN, MAURICE**  
**Cullen, Maurice;** commending. (Patron—Miyares) . . . . . HJR 564 2308

**DALE CITY ELEMENTARY SCHOOL**  
**Dale City Elementary School;** commemorating its 50th anniversary. (Patron—McPike) . . . . . SR 152 2792

**DALE CITY VOLUNTEER FIRE DEPARTMENT**  
**Dale City Volunteer Fire Department;** commemorating its 50th anniversary. (Patron—McPike) . . . . . SJR 343 2705

**DAMS**  
**Dam Safety, Flood Prevention and Protection Assistance Fund;** Director of Department of Conservation and Recreation may make grants or loans to a local government that owns a dam, to a local government for a dam located within locality, or to a private entity that owns a dam. (Patron—Cole) . . . . . HB 1562 245 401

**DANIELS, ANNIE BELLE**  
**Daniels, Annie Belle;** commending. (Patron—Ward) . . . . . HR 269 2546

**DANVILLE, CITY OF**  
**Danville, City of;** establishment of pilot project regarding recordation of deeds subject to liens for unpaid taxes, pilot project may only be established by ordinance adopted by city council after public hearing, sunset date. (Patron—Marshall, D.W.) . . . . . HB 1699 131 190

**DANVILLE-PITTSYLVANIA COUNTY HABITAT FOR HUMANITY**  
**Danville-Pittsylvania County Habitat for Humanity;** commemorating its 25th anniversary. (Patron—Marshall, D.W.) . . . . . HJR 900 2439

**DANVILLE SYMPHONY ORCHESTRA**  
**Danville Symphony Orchestra;** commemorating its 25th anniversary. (Patron—Marshall, D.W.) . . . . . HJR 1032 2511

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<b>Address changes;</b> Secretary of Transportation or his designee shall convene a task force to study feasibility of establishing a statewide one-stop online portal, sunset provision. (Patron—Obenshain) . . . . .	SB	1363	553	906
<b>Boating safety course;</b> Department of Game and Inland Fisheries shall establish and maintain a database listing name and date of birth of every person who has passed an approved course. (Patron—Stuart) . . . . .	SB	866	360	554
<b>Palliative care information and resources;</b> Department of Health shall make information available to public, health care providers, and health care facilities on its website. Patron—Bulova . . . . .	HB	1675	746	1360
Patron—Lucas . . . . .	SB	974	471	790

**DAVIDSON, JIMMY**

<b>Davis, Jimmy;</b> commending. (Patron—Campbell) . . . . .	HJR	759		2365
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**DAVIS, BONNIE C.**

<b>Davis, Bonnie C.;</b> commending. (Patron—Sturtevant) . . . . .	SJR	313		2690
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**DAVIS, LENNA JO**

<b>Davis, Lenna Jo;</b> commending. (Patron—Heretick) . . . . .	HR	419		2617
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**DAY OF TEARS**

<b>Day of Tears;</b> recognizing as January 22. (Patron—Cline) . . . . .	HR	268		2546
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**DAYTON, SCOTT C.**

<b>Dayton, Scott C.;</b> recording sorrow upon death. (Patron—Stolle) . . . . .	HJR	974		2478
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**DEAN, THOMAS PAUL**

<b>Dean, Thomas Paul;</b> recording sorrow upon death. (Patron—Deeds) . . . . .	SJR	384		2729
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<b>Allen, Charles C.;</b> recording sorrow upon death. (Patron—Mason) . . . . .	SR	121		2777
<b>Alphin, Robert O.;</b> recording sorrow upon death. (Patron—Morris) . . . . .	HR	345		2581
<b>Anderson, Alfred C.;</b> recording sorrow upon death. Patron—Head . . . . .	HJR	777		2373
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<b>Anderson, William Henry, Jr.;</b> recording sorrow upon death. (Patron—McQuinn) . . . . .	HJR	939		2459
<b>Anglin, Melvin Glenn;</b> recording sorrow upon death. (Patron—Deeds) . . . . .	SJR	430		2756
<b>Arnette, Clyde Eugene, Jr.;</b> recording sorrow upon death. (Patron—Deeds) . . . . .	SR	163		2796
<b>Baker, John Snyder;</b> recording sorrow upon death. (Patron—Austin) . . . . .	HR	344		2580
<b>Baker, Thomas Graham, Jr.;</b> recording sorrow upon death. (Patron—Yost) . . . . .	HJR	1028		2508
<b>Baldwin, Mary Jones;</b> recording sorrow upon death. (Patron—Bulova) . . . . .	HJR	873		2425
<b>Bankit, Paul;</b> recording sorrow upon death. (Patron—Pogge) . . . . .	HJR	881		2430
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<b>Bello, Thomas Michael;</b> recording sorrow upon death. (Patron—Sullivan) . . . . .	HJR	602		2317
<b>Berry, William Livingston;</b> recording sorrow upon death. (Patron—Minchew) . . . . .	HJR	1081		2540
<b>Betts, John;</b> recording sorrow upon death. (Patron—Marsden) . . . . .	SJR	337		2701
<b>Bibbs, Henry Clay, II;</b> recording sorrow upon death. (Patron—McQuinn) . . . . .	HJR	1007		2495
<b>Bilidas, George Steven;</b> recording sorrow upon death. (Patron—Petersen) . . . . .	SJR	401		2739
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<b>Boatright-Wells, Sue Ella;</b> recording sorrow upon death. Patron—Kilgore . . . . .	HR	334		2576
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<b>Bordelon, Anne Ferrell;</b> recording sorrow upon death. (Patron—Massie) . . . . .	HR	426		2620
<b>Branch, Elnora S.;</b> recording sorrow upon death. (Patron—Lewis) . . . . .	SJR	353		2711
<b>Bricker, Stephen Winston;</b> recording sorrow upon death. (Patron—Sturtevant) . . . . .	SJR	382		2727
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<b>Callis, Fred Walker, Sr.;</b> recording sorrow upon death. (Patron—Jones) . . . . .	HR 315	2566
<b>Castleberry, Carolyn K.;</b> recording sorrow upon death. (Patron—Yancey) . . . . .	HR 356	2586
<b>Chimaladinne, Anshul;</b> recording sorrow upon death. (Patron—Bell, John J.) . . . . .	HJR 785	2376
<b>Clukey, Brian M.;</b> recording sorrow upon death. (Patron—Simon) . . . . .	HR 391	2603
<b>Clymer, Abram H.;</b> recording sorrow upon death.		
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<b>Colgan, Charles J.;</b> recording sorrow upon death.		
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<b>Edwards, Holly Marie Kerr;</b> recording sorrow upon death. (Patron—Toscano) . . . . .	HJR 990	2486
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 Patron—Orrock ..... HB 1477 559 921  
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**Dangerous dogs;** removes requirement that a law-enforcement officer or animal control officer apply for a summons requiring an owner to appear before a general district court, no dog shall be found dangerous if court determines, based on totality of evidence, that dog is not a threat to the community. (Patron—Fariss) ..... HB 2381 396 608

**Pet shops;** procurement of dogs from unlicensed dealers, from persons who have not obtained a citation for a direct or critical violation or citations for three or more indirect or noncritical violations, etc. (Patron—Stanley) ..... SB 852 399 614

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**Address confidentiality program;** expands types of crimes victims of which are eligible to apply for program to include sexual or domestic violence or stalking, program may also include specialized services for victims of human trafficking. (Patron—Toscano) ..... HB 2217 498 836

**Assault and battery against a family or household member;** deferred disposition, waiver of right to appeal a finding of facts sufficient to justify a finding of guilt, person may file a motion to withdraw his consent to deferral and waiver of his right to appeal within 10 days of entry of order, etc. (Patron—Gilbert) ..... HB 1851 785 1453

**Assault and battery against a family or household member;** eligibility for first offender status. (Patron—Mullin) ..... HB 2064 621 1048

**Child support arrearages;** priority of debts to be paid from decedent's assets. (Patron—Surovell) ..... SB 815 591 992

**Child support orders;** upon request of either party, the court may also order that payments be made to a special needs trust or an ABLE savings trust account. (Patron—Hope) ..... HB 1492 95 123

**Civilian employees and foreign service officers;** personal jurisdiction over a person, domicile and residential requirements for suits for annulment, etc. (Patron—Collins) HB 1737 480 804

**Court-ordered custody and visitation arrangements;** transmission of order to child's school within three business days of receipt of custody or visitation order, if court determines that a party is unable to deliver order to school, party shall provide the court with name of principal and address of school, order to be mailed first class mail to such school principal. (Patron—Campbell) ..... HB 1586 509 850

**Custody and visitation orders;** in any case or proceeding involving a child, as to a parent, court may use the phrase "parenting time" to be synonymous with term "visitation." (Patron—Albo) ..... HB 1456 46 56

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**DRAINAGE, SOIL CONSERVATION, SANITATION, AND PUBLIC FACILITIES DISTRICTS**

**Conflict of Interests Act, State and Local Government;** prohibited contracts, provisions shall apply to contracts entered into on and after July 1, 2017, contracts entered into by an officer or employee or an immediate family member of such officer or employee with a soil and water conservation district to participate in a cost-share program, etc., prior to effective date of this act.  
 Patron—Lingamfelter ..... HB 1472 150 208  
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**Hampton Roads Sanitation District;** adds County of Surry, excluding Town of Clarendon, to territory. (Patron—Norment) ..... SB 1311 218 373

**Sanitary districts;** transfer of authority to create or enlarge districts to governing body of county or city, power of board of supervisors. (Patron—Minchew) ..... HB 1740 14 20

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**Driver education programs;** instruction concerning traffic stops, Board of Education shall collaborate with Department of State Police to implement provisions. (Patron—Ward) . . . . . HB 2290 300 468

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**Driver's license;** Medical Advisory Board shall provide guidance and recommendations to DMV regarding any case of person believed to be incompetent. (Patron—Knight) . . . . . HB 1494 120 183

**Driver's license or learner's permit;** issuance, minimum standards for vision tests, increases field of degrees of horizontal vision.  
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**Driver's licenses;** license suspension or revocation by Commissioner of DMV, offenses under laws of other jurisdictions, reinstatement of a person's driver's license that was administratively revoked or suspended prior to July 1, 2017, provisions shall not apply to any disqualification of eligibility to operate a commercial motor vehicle imposed by Commissioner. (Patron—Albo) . . . . . HB 1525 776 1410

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**Driving on a suspended or revoked license;** period of suspension. (Patron—Bell, Robert B.) . . . . . HB 2467 700 1200

**Marijuana offenses;** revises existing provision that a person loses his driver's license for six months when convicted for drug offense, etc., if court does not suspend or revoke accused's license, court shall require accused to comply with plan of 50 hours of community service.  
Patron—Adams . . . . . HB 2051 695 1171  
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**Suspension of license;** person legally adjudged incompetent, applicant who has been adjudged restored to capacity by judicial decree or has a court order restoring or retaining privilege to drive, duty of clerk of court, repeals provision referring to mental capacity. (Patron—Pogge) . . . . . HB 1878 156 238

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**Student vision screenings;** principal of each public elementary, middle, and high school shall cause vision of certain students to be screened by a qualified nonprofit vision health organization, notification to parent or guardian of student who doesn't receive passing result, school boards may enter into contracts with qualified organizations for purpose of conducting screenings. (Patron—Ware) .....

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**ELIADES, HOMER CONSTANTINE**

**Eliades, Homer Constantine;** recording sorrow upon death. (Patron—Ingram) .....

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**ELKS NATIONAL HOME**

**Elks National Home;** commending. (Patron—Austin) .....

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**EMERGENCY LEGISLATION**

**Administrative Process Act;** economic impact analysis of proposed regulations, opportunity for comment by affected businesses or other entities, Department of

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Planning and Budget shall revise and reissue its economic impact analysis within time limits.			
Patron—Peace .....	HB 1943	483	808
Patron—Reeves .....	SB 1431	493	829
<b>Cannabidiol oil and THC-A oil</b> ; permitting of pharmaceutical processors to manufacture and provide, Board of Pharmacy shall promulgate regulations to implement provisions of first enactment by December 15, 2017. (Patron—Marsden) .	SB 1027	613	1027
<b>Commonwealth of Virginia Institutions of Higher Education Bond Act of 2017</b> ; created.			
Patron—Jones .....	HB 2250	611	1023
Patron—Norment .....	SB 1369	452	744
<b>Commonwealth's tax system</b> ; advances conformity with federal tax code as law existed on December 31, 2016.			
Patron—Ware .....	HB 1521	1	1
Patron—Hanger .....	SB 977	2	1
<b>Driving under influence of alcohol</b> ; implied consent, refusal of blood or breath tests. (Patron—Collins) .....	HB 2327	623	1050
<b>Economic Development Access Program</b> ; no locality that has been allocated funds for a bonded project by the Commonwealth Transportation Board shall repay such funds within a 48-month period, provided all of other conditions of Board's economic development access policy are met.			
Patron—O'Quinn .....	HB 1973	531	873
Patron—Carrico .....	SB 1591	558	921
<b>Gabapentin</b> ; adds any material, compound, etc., containing any quantity, including any of its salts, to list of drugs of concern. (Patron—Pillion) .....	HB 2164	181	306
<b>General Assembly Building replacement project</b> ; Department of General Services, et al., shall conduct public sales or auctions of surplus property, no restriction on purchase by any person of such property. (Patron—McDougle) .....	SB 1588	637	1094
<b>Government Data Collection and Dissemination Practices Act</b> ; exemption for sheriff's departments. (Patron—Black) .....	SB 1061	702	1205
<b>Health insurance</b> ; proton radiation therapy coverage decisions. (Patron—Yancey) . . .	HB 1656	287	456
<b>Line of Duty Act</b> ; clarifies provisions of Act. (Patron—Jones) .....	HB 2243	439	708
<b>Lobbyist reporting, State and Local Government and General Assembly Conflicts of Interests Acts</b> ; filing of required disclosures, registration of lobbyists, etc., clarifies definition of "gift."			
Patron—Gilbert .....	HB 1854	829	1614
Patron—Norment .....	SB 1312	832	1633
<b>Naloxone</b> ; dispensing for use in opioid overdose reversal, etc., Board of Pharmacy shall promulgate regulations to implement provisions.			
Patron—LaRock .....	HB 1453	168	282
Patron—Wexton .....	SB 848	55	64
<b>Naloxone or other opioid antagonist</b> ; employees of Department of Forensic Science, Office of Chief Medical Examiner, and Department of General Services Division of Consolidated Laboratory Services added to groups of individuals who may possess and administer.			
Patron—Hope .....	HB 1642	107	149
Patron—Marsden .....	SB 1031	3	2
<b>Neighborhood Assistance Act Tax Credit</b> ; allocation to organizations that did not receive any credit in the preceding year. (Patron—Farrell) .....	HB 1433	147	205
<b>Opioids</b> ; Secretary of Health and Human Resources to convene workgroup to develop educational standards and curricula for training health care providers in the safe prescribing and appropriate use.			
Patron—Pillion .....	HB 2161	180	305
Patron—Chafin .....	SB 1179	62	79
<b>Opioids and buprenorphine</b> ; Boards of Dentistry and Medicine to adopt regulations for prescribing, report. (Patron—Pillion) .....	HB 2167	291	458
<b>Opioids and buprenorphine</b> ; Boards of Dentistry and Medicine to adopt regulations for prescribing, report to Joint Commission on Health Care, etc. (Patron—Chafin) . .	SB 1180	682	1151
<b>Personnel Management Information System</b> ; each state agency to record positions that it designates as sensitive to ensure that Department of Human Resources Management has a list of all such positions. (Patron—Holcomb) .....	HB 2391	421	660

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Patron—Heretick .....	HB 2364	354	550		
Patron—Lewis .....	SB 1487	369	562		
<b>State agencies; criminal background checks for certain positions, agency shall continue to record positions in Personnel Management Information System (PMIS) to ensure Department of Human Resources Management has a list of all sensitive positions. (Patron—McDougle) .....</b>					
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<b>Substance-exposed infants; Secretary of Health and Human Resources shall convene a work group to study barriers to treatment in the Commonwealth. (Patron—Pillion) ..</b>					
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<b>Suspension of license; person legally adjudged incompetent, applicant who has been adjudged restored to capacity by judicial decree or has a court order restoring or retaining privilege to drive, duty of clerk of court, repeals provision referring to mental capacity. (Patron—Pogge) .....</b>					
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<b>Taxicabs; regulation by localities, repeals requirement that all taxicabs display roof signs and specific markings, etc. (Patron—Anderson) .....</b>					
	HB 1761	528	867		
<b>Telemedicine, practice of; health care practitioner may prescribe certain controlled substances, pharmacist may dispense controlled substance pursuant to a prescription of an out-of-state practitioner of optometry, nurse practitioner, or physician assistant.</b>					
Patron—Garrett .....	HB 1767	110	155		
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Patron—Villanueva .....	HB 2019	694	1167		
Patron—Newman .....	SB 1366	708	1235		
<b>Uniform Statewide Building Code; Department of Housing and Community Development shall consider including in current revision of Code a provision designed to ensure that localities provide appropriate notice to residents of manufactured home parks of any Code violations, report. (Patron—Torian) .....</b>					
	HB 2203	731	1326		
<b>Virginia Economic Development Partnership Authority; membership, powers and duties, terms of persons serving as members, advisory committees, executive summaries of strategic, marketing, and operational plans, closed meetings authorized for certain limited purposes, repeals provision referring to board of directors governing Authority.</b>					
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Patron—Ruff .....	SB 1574	824	1598		
<b>Virginia State University; revenue-producing capital project.</b>					
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Patron—Norment .....	SB 1370	614	1030		
<b>Washington Metrorail Safety Commission Interstate Compact; definitions, members of Board of Directors of Commission for the Commonwealth shall be appointed by Governor, etc., report.</b>					
Patron—LeMunyon .....	HB 2136	696	1173		
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<b>Workers' compensation; pecuniary liability of an employer for a medical service provided for treatment of a traumatic injury or serious burn, etc., definition of "new type of technology." (Patron—Farrell) .....</b>					
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<b>Air transportation services providers; Department of Health, et al., to review rules, regulations, and protocols governing dispatch and use in emergency medical situations, report. (Patron—Ransone) .....</b>					
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<b>Volunteer Firefighters' and Rescue Squad Workers' Service Award Fund Board; Board shall meet at least annually. (Patron—Ruff) .....</b>					
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**EMINENT DOMAIN**

**Condemnation powers and proceedings;** notice to owner or tenant between 30 and 45 days prior to date on which any certificate will be filed or recorded, etc. (Patron—Freitas) . . . . . HB 2024 563 925

**Condemnation proceeding;** interest on the amount of award, interest shall accrue on excess amount at not less than judgment rate of interest. (Patron—Mason) . . . . . SB 1421 710 1240

**Eminent domain;** timing for initiation of "quick-take" condemnation procedure and petition for determination of just compensation. (Patron—Petersen) . . . . . SB 927 593 1001

**Inverse condemnation proceeding;** reimbursement of owner's costs, judgment proceedings filed prior to July 1, 2017. (Patron—Obenshain) . . . . . SB 1153 735 1330

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**Intermont Equestrian at Emory & Henry College;** commending. (Patron—O'Quinn) HJR 658 2334

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**Virginia Employment Commission;** eliminates requirement that Commission prepare population projections for the Commonwealth for use by the General Assembly and certain state agencies. (Patron—Dance) . . . . . SB 988 20 30

**DEPENDENCE CENTER OF NORTHERN VIRGINIA**

**ENDependence Center of Northern Virginia;** commemorating its 35th anniversary. (Patron—Hope) . . . . . HJR 925 2451

**ENERGY CONSERVATION AND RESOURCES**

**Electric utilities;** Dominion Virginia Power and Appalachian Power required to conduct a community solar development pilot program for retail customers, report, definitions of "participating third party and solar development entity," State Corporation Commission to review applications. (Patron—Wagner) . . . . . SB 1393 580 956

**Energy performance-based contract;** public body authorized to purchase energy conservation or operational efficiency measures, measures shall not include roof replacement projects. (Patron—Minchew) . . . . . HB 1712 259 427

**Renewable energy power purchase agreements;** expands pilot program, Appalachian Power to conduct program, sunset provision. (Patron—Kilgore) . . . . . HB 2390 803 1507

**Small agricultural generators;** establishes parameters of a program under which generators may sell electricity generated from a small facility to its utility, on or after July 1, 2019, interconnection of eligible agricultural customer-generators shall cease for electric cooperatives only.  
Patron—Minchew . . . . . HB 2303 565 934  
Patron—Wagner . . . . . SB 1394 581 960

**Small renewable energy projects;** eligibility for permits by rule, jurisdiction of State Corporation Commission regarding a utility that is not eligible for a permit. (Patron—Wagner) . . . . . SB 1395 368 560

**Virginia Freedom of Information Act;** proprietary records and trade secrets, solar services agreements, nondisclosure of proprietary information. (Patron—Edwards) . . SB 1226 737 1336

**Virginia Solar Energy Development and Energy Storage Authority;** change of name, etc., increases membership. (Patron—Ebbin) . . . . . SB 1258 813 1557

**ENGINEERS, PROFESSIONAL**

**Contractors, Board for;** adds a professional engineer to membership. (Patron—DeSteph) . . . . . SB 1374 579 956

**Highway maintenance payments;** cities and towns that receive payments based on moving-lane-miles of highway will not have payments reduced if moving-lane-miles are converted to bicycle-only lanes, city or town certifies that conversion design has been assessed by a professional engineer, repeals provision that allowed City of Richmond to convert 20 moving-lane-miles to bicycle-only lanes. (Patron—Villanueva) . . . . . HB 2023 534 874

**Virginia Public Procurement Act;** architectural and professional engineering term contracts, includes certain school divisions. (Patron—Cosgrove) . . . . . SB 1508 555 917

**Virginia Public Procurement Act;** contracts for architectural and engineering services relating to multiple construction projects, maximum fee for any single project is \$150,000. (Patron—Collins) . . . . . HB 1693 343 540

**ENTERPRISE ZONES**

**Enterprise zone grants and tax credits;** qualified real property improvement expenditures. (Patron—Carrico) . . . . . SB 1328 451 742

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**ENVIRONMENT**

**Local tax and regulatory incentives;** authorizes localities to create green development zones that provide flexibility for up to 10 years to a business operating in an energy-efficient building, etc. (Patron—Webert) . . . . . HB 1565 27 35

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**Higher educational institutions, public or private;** possession and administration of epinephrine, insulin, and glucagon by certain employees.  
Patron—Rush . . . . . HB 1746 294 460  
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**Essig, LeRoy John;** commending. (Patron—Orrock) . . . . . HJR 820 2395

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**Legal malpractice;** statute of limitation related to estate planning.  
Patron—Habeeb . . . . . HB 1617 43 54  
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**African Americans, formerly enslaved;** Virginia Foundation for the Humanities shall identify history in Virginia and determine ways to preserve for educational and cultural purposes, compensation of legislative members and nonlegislative citizen members. (Patron—McQuinn) . . . . . HB 2296 647 1108  
**Historical African American cemeteries and graves;** disbursement of funds appropriated for preservation of two cemeteries. (Patron—McQuinn) . . . . . HB 1547 270 440  
**William and Mary, The College of;** commemorating 50th anniversary of African American students in residence. (Patron—Mason) . . . . . SJR 397 2737

**EVANS, THOMAS WAYNE**

**Evans, Thomas Wayne;** recording sorrow upon death. (Patron—Ruff) . . . . . SR 99 2767

**EVIDENCE**

**Physical evidence recovery kit;** victim, parent, guardian of a minor, or next of kin of a deceased victim shall be notified by law-enforcement agency of completion of scientific analysis information and receive information. (Patron—Favola) . . . . . SB 1501 672 1142  
**Victims of sexual assault;** rights of victims, physical evidence recovery kits, victim's right to notification of scientific analysis information. (Patron—Levine) . . . . . HB 2127 535 875

**EXCISE TAX**

**Tobacco Board;** composition, increases excise tax on bright flue-cured and type 21 dark-fired tobaccos, repeals provisions referring to Tobacco Board membership and compensation.  
Patron—Edmunds . . . . . HB 2254 8 9  
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**F. W. "WAKIE" HOWARD, JR., BRIDGE**

**F. W. "Wakie" Howard, Jr., Bridge;** designating as State Route 155 bridge in New Kent County. (Patron—Norment) . . . . . SB 1367 129 190

**FAIR HOUSING LAW**

**Virginia Fair Housing Law;** rights and responsibilities with respect to use of an assistance animal in a dwelling, reasonable accommodations, interactive process.  
Patron—Carr . . . . . HB 2006 729 1291  
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**City of Fairfax Band Association;** commending. (Patron—Bulova) . . . . . HJR 874 2426

**FAIRFAX COUNTY**

**Fairfax County;** commemorating its 275th anniversary. (Patron—Murphy) . . . . . HJR 1019 2503  
**Fairfax County Department of Public Works and Environmental Services;** commending. (Patron—Kory) . . . . . HR 362 2589  
**Fairfax County Department of Vehicle Services;** commending. (Patron—Kory) . . . . . HR 363 2590  
**Fairfax County Health Department;** commemorating its 100th anniversary. (Patron—Barker) . . . . . SJR 346 2707

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**FAITH Social Services;** commending. (Patron—Boysko) . . . . . HJR 969 2475

**FALLS CHURCH CHAMBER OF COMMERCE**

**Falls Church Chamber of Commerce;** commemorating its 70th anniversary.  
(Patron—Simon) . . . . . HJR 947 2464

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**Falls Church City Public Schools;** commending. (Patron—Simon) . . . . . HJR 1044 2519

**FAMILY LIFE EDUCATION**

**Family life education;** changes to curriculum guidelines and curricula.  
(Patron—McClellan) . . . . . SB 1475 692 1165

**High school family life education curricula;** age-appropriate elements of effective  
and evidence-based programs on law and meaning of consent. (Patron—Filler-Corn) HB 2257 299 468

**FAMILY LIFELINE**

**Family Lifeline;** commemorating its 140th anniversary. (Patron—Sturtevant) . . . . . SJR 352 2710

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**Farley, Eugene H., Jr.;** recording sorrow upon death.  
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**FARMERS, FARM PRODUCE, AND EQUIPMENT**

**Farm use vehicles;** imposes a \$250 fine for willfully and intentionally violating  
limitations while operating an unregistered vehicle, etc. (Patron—Bell, Richard P.) . . HB 1440 204 356

**Farm use vehicles, certain;** registration exemption, highway distance limitations,  
law-enforcement officer may require operator of vehicle, etc., the address of lands or  
farm owned or leased. (Patron—Fariss) . . . . . HB 2239 538 880

**Farmers' markets;** farm and forest land conversion, removes requirement that  
Commissioner summarize reports of operators of state-owned farmers' markets and  
annually report to General Assembly, repeals provision requiring certain agencies to  
prepare plans for implementation of policy. (Patron—Plum) . . . . . HB 1781 5 7

**Overweight permits;** hauling Virginia-grown farm produce from point of origin to first  
place of delivery, validity of permits throughout the Commonwealth.  
(Patron—Knight) . . . . . HB 1519 693 1166

**Produce safety;** Commissioner of Agriculture and Consumer Services shall have  
access to certain farms only at reasonable hours, authority to seize, condemn, or  
destroy covered produce, civil penalty. (Patron—Stuart) . . . . . SB 1195 574 947

**Reformulated gasoline;** Department of Environmental Quality to seek an exemption  
from federal program for on-farm sale and delivery of conventional, ethanol-free  
gasoline sold for use in farm motor vehicles.  
Patron—Knight . . . . . HB 1520 526 866  
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**Farris, Lon E.;** commending. (Patron—Surovell) . . . . . SR 130 2782

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**Antique firearms;** possession by nonviolent felons. (Patron—Obenshain) . . . . . SB 1533 767 1400

**Presentence report;** expands from guilty to guilty or nolo contendere the pleas for  
which a court is required to direct a probation officer to create a report upon  
conviction of certain felonies, defendant may waive the report. (Patron—Loupassi) . HB 1647 45 55

**Public officers;** automatic suspension upon conviction of felony.  
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**FENDER, ARTHUR DUANE, JR.**

**Fender, Arthur Duane, Jr.;** recording sorrow upon death. (Patron—Head) . . . . . HR 380 2598

**FENN, CAROL SMITH**

**Fenn, Carol Smith;** commending. (Patron—Wilt) . . . . . HJR 1033 2512

**FILIPPINI, GABRIEL**

**Filippini, Gabriel;** commending. (Patron—Boysko) . . . . . HJR 958 2470

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**Virginia Resources Authority;** transfers responsibility for Authority from Secretary of Commerce and Trade to Secretary of Finance.

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**FINANCIAL INSTITUTIONS AND SERVICES**

**Money order sellers and money transmitters;** required investments. (Patron—Mason) SB 1136 654 1114

**Recordation tax;** exempts deed of trust or mortgage given by utility consumer services cooperatives.

Patron—Orrock .....	HB 1478	103	134
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**Sales draft;** definition, credit card offenses, penalty. (Patron—Hope) HB 1493 41 52

**Search warrants;** customer records from financial institutions, warrant will be considered executed in jurisdiction where entity on which warrant is served is located.

Patron—Pogge .....	HB 1874	641	1096
Patron—Norment .....	SB 1310	228	382

**FINGERPRINTING**

**Child care providers;** applicant criminal history background checks, penalty, sunset date, provision of federal Child Care and Development Block Grant Act of 2014 establishing requirements for national fingerprint-based criminal history background checks.

Patron—Orrock .....	HB 1568	189	314
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**FIRE PROTECTION**

**Fire Programs Fund;** increases rate of assessment for Fund and share of certain moneys to be allocated to localities for improvement of volunteer and career fire services. (Patron—Wright) HB 1532 777 1410

**Unmanned aircraft systems;** authority of fire chief over aircraft at a fire, explosion, or other hazardous situation. (Patron—Marsden) SB 873 517 858

**FIREARMS**

**Antique firearms;** possession by nonviolent felons. (Patron—Obenshain) SB 1533 767 1400

**Concealed weapons;** carrying of firearms by former attorneys for the Commonwealth and assistant attorneys for the Commonwealth. (Patron—Miller) HB 2424 689 1161

**Firearms;** purchase, possession, or transportation by persons acquitted by reason of insanity, adjudicated legally incompetent, etc., petition to restore rights. (Patron—O'Quinn) HB 2429 516 856

**Hunting apparel;** hunters allowed to wear blaze pink instead of blaze orange when required during firearms deer hunting season or special season for hunting with a muzzle-loading rifle. (Patron—Edmunds) HB 1939 347 542

**Muzzleloader firearms;** incorporates Virginia criminal law definition into the current statutory definitions of muzzleloading pistol, muzzleloading rifle, etc. (Patron—Ruff) SB 953 161 269

**School security officers;** carrying a firearm in performance of duties, additional training and certification requirements of Department of Criminal Justice Services, officer was an active law-enforcement officer within 10 years prior to being hired by school board, retired from his position in good standing, etc. (Patron—Lingamfelter) HB 1392 311 481

**FIREFIGHTERS AND FIRE MARSHALS**

**Law-enforcement officers and firefighters;** common-law doctrine known as the fireman's rule shall not be a defense to certain claims. (Patron—Campbell) HB 1590 315 504

**Line of Duty Act;** Act includes firefighter trainees. (Patron—McPike) SB 1118 627 1074

**Volunteer Firefighters' and Rescue Squad Workers' Service Award Fund Board;** Board shall meet at least annually. (Patron—Ruff) SB 896 209 361

**FIRST BAPTIST CHURCH CHESTERBROOK**

**First Baptist Church Chesterbrook;** commemorating its 150th anniversary. (Patron—Sullivan) HJR 596 2315

**FIRST BAPTIST CHURCH EAST END**

**First Baptist Church East End;** commemorating its 120th anniversary. HJR 921 2449

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<b>First Mount Zion Baptist Church; commemorating its 150th anniversary.</b>			
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<b>Commercial fisherman; Marine Resources Commission shall grant a preference for an</b>			
exemption from two-year delay in effective date of a registration. (Patron—Helsel) .	HB 1572	339	537
<b>Commercial fishing vessels; classifies vessels as a separate class of property for</b>			
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<b>Oyster grounds; municipal dredging projects located in Lynnhaven River or its creeks</b>			
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Patron—Stolle .....	HB 1796	529	868
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<b>Oyster planting grounds; Marine Resources Commission to post notice of application</b>			
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written notice of its receipt of application, provision of notice to governing board of			
an association for a common interest community.			
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<b>Fitzgerald, Ella Jane; commemorating the life and legacy on the occasion of her 100th</b>			
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<b>Public safety personnel; definition of police officer includes a state correctional officer</b>			
of Department of Corrections, expands category of flags required to be flown at half			
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<b>FLOODS AND FLOOD CONTROL</b>			
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**Reformulated gasoline;** Department of Environmental Quality to seek an exemption from federal program for on-farm sale and delivery of conventional, ethanol-free gasoline sold for use in farm motor vehicles.

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**MOTOR VEHICLES**

**Amateur radio operators;** permits vehicles used or operated by federally licensed operators to be equipped with flashing amber lights, provided that amber lights are not lit while vehicle is in motion, while participating in emergency communications drills, etc. (Patron—Holcomb) .....

**Commercial driver's license;** comprehensive community colleges in Virginia Community College System allowed to administer in-vehicle component of driver instruction to students. (Patron—Wilt) .....

**Commercial vehicles;** harmonizes penalties for driving under the influence (DUI) and commercial DUI, additional fine if transporting a person 17 years of age or younger. (Patron—Collins) .....

**Doctor of medicine, etc.;** reporting disabilities of drivers to DMV, not subject to civil liability, repeals provision referring to physicians reporting disabilities of drivers. Patron—Fowler .....

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**Driver education courses;** certain providers shall be authorized to provide 90-minute parent/student driver education component currently required in Northern Virginia. (Patron—Greason) .....

**Driver's license;** Medical Advisory Board shall provide guidance and recommendations to DMV regarding any case of person believed to be incompetent. (Patron—Knight) .....

**Driver's license or learner's permit;** issuance, minimum standards for vision tests, increases field of degrees of horizontal vision. Patron—Fowler .....

Patron—Dunnavant .....

**Driver's license, restricted;** adds travel to and from a job interview, for which he maintains on his person written proof from prospective employer of interview, to list of purposes for issuance of a license. (Patron—Surovell) .....

**Driver's licenses;** license suspension or revocation by Commissioner of DMV, offenses under laws of other jurisdictions, reinstatement of a person's driver's license that was administratively revoked or suspended prior to July 1, 2017, provisions shall not apply to any disqualification of eligibility to operate a commercial motor vehicle imposed by Commissioner. (Patron—Albo) .....

**Drivers' licenses, etc.;** expiration and renewal of driver credentials. (Patron—Wexton) .....

**Driving on a suspended or revoked license;** period of suspension. (Patron—Bell, Robert B.) .....

**Driving under influence of alcohol;** implied consent, refusal of blood or breath tests. (Patron—Collins) .....

**Electric personal delivery devices;** operation of devices on sidewalks and shared-use paths or across roadways on crosswalks in the Commonwealth, etc., devices shall include a plate or marker that is in a position and size to be clearly visible. Patron—Villanueva .....

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**Electronic credentials;** creates standards for DMV in issuing, reviewing, etc., report. (Patron—Villanueva) .....

**Emergency vehicles, privately owned volunteer;** warning light units on vehicles used for emergency calls. (Patron—Bell, Robert B.) .....

**Failure to drive on right side of highways or observe traffic lanes;** increases penalties to a fine of \$100. (Patron—O'Quinn) .....

**Failure to obey highway sign where driver sleeping or resting;** prepayable offense, provisions shall not apply if such vehicle is parked or stopped in such manner as to impede or render dangerous the shoulder or other portion of the highway. (Patron—Barker) .....

**Farm use vehicles;** imposes a \$250 fine for willfully and intentionally violating limitations while operating an unregistered vehicle, etc. (Patron—Bell, Richard P.) ..

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<b>Farm use vehicles, certain;</b> registration exemption, highway distance limitations, law-enforcement officer may require operator of vehicle, etc., the address of lands or farm owned or leased. (Patron—Fariss) . . . . .	HB 2239	538	880
<b>Flashing amber lights;</b> allows vehicles used to collect and deliver packages weighing less than 150 pounds to be equipped with lights. (Patron—McDougle) . . . . .	SB 1279	333	532
<b>Golf carts;</b> use on public highways in Town of Jarratt if governing body of town reviews and approves. (Patron—Tyler) . . . . .	HB 2423	357	552
<b>Highway maintenance payments;</b> cities and towns that receive payments based on moving-lane-miles of highway will not have payments reduced if moving-lane-miles are converted to bicycle-only lanes, city or town certifies that conversion design has been assessed by a professional engineer, repeals provision that allowed City of Richmond to convert 20 moving-lane-miles to bicycle-only lanes. (Patron—Villanueva) . . . . .	HB 2023	534	874
<b>Ignition interlock system;</b> prohibits operation of motor vehicle not equipped with system, period of time shall be tolled upon expiration of restricted license issued by court, etc. (Patron—Miller) . . . . .	HB 2231	499	838
<b>Law-enforcement officer;</b> report of officer involved in accident.			
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<b>License plates, special;</b> issuance for supporters of Virginia Nurses Foundation. (Patron—Yancey) . . . . .	HB 1732	123	186
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<b>Nonrepairable and rebuilt vehicles;</b> eliminates requirement that vehicles have incurred damage that exceeds 90 percent of their cash value prior to such damage to meet the definition of such vehicles, sunset provision shall expire on July 1, 2021, report.			
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Patron—Ruff . . . . .	SB 950	362	555
<b>Nonresident Violator Compact of 1977;</b> codification, repeals definitions referring to "jurisdiction," "home jurisdiction," etc. (Patron—McDougle) . . . . .	SB 1272	164	274
<b>Ordinance violations, certain;</b> decreases minimum city population required to enforce. (Patron—Deeds) . . . . .	SB 1169	490	814
<b>Overweight permits;</b> hauling Virginia-grown farm produce from point of origin to first place of delivery, validity of permits throughout the Commonwealth. (Patron—Knight) . . . . .	HB 1519	693	1166
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**Electric utilities;** costs of modifications to nuclear generation facilities, prior to January 1, 2020, no utility shall file a petition with State Corporation Commission seeking a rate adjustment clause for recovery of costs, etc. (Patron–Kilgore) . . . . . HB 2291 564 926

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Stock corporations; shareholders' meetings. (Patron—Cline) .....	HB 2230	646	1106
<b>STONE BRIDGE HIGH SCHOOL</b>			
Stone Bridge High School DECA; commending. (Patron—Greason) .....	HR 396		2606
<b>STONE, PHILLIP C.</b>			
Stone, Phillip C.; commending. (Patron—Cline) .....	HJR 948		2464
<b>STORMWATER MANAGEMENT</b>			
State Water Control Board; stormwater management programs, regulations, professional license.			
Patron—Wilt .....	HB 2076	10	12
Patron—Obenshain .....	SB 1127	163	271
Stormwater and erosion control; Commonwealth Center for Recurrent Flooding Resiliency shall convene a work group to examine opportunities to improve stormwater management in rural localities located in Tidewater Virginia. (Patron—Hodges) .....	HB 1774	345	541
Stormwater and erosion management; administration of program by certified third party. (Patron—Hodges) .....	HB 2009	349	544
Stormwater management utility, local; full or partial waiver of charges when stormwater runoff produced by property is retained and treated on site. (Patron—Webert) .....	HB 1597	375	570
<b>STRATFORD UNIVERSITY</b>			
Stratford University; commemorating its 40th anniversary. (Patron—Anderson) .....	HJR 805		2386
<b>STRICKLAND, ARTHUR DEAN</b>			
Strickland, Arthur Dean; commending. (Patron—Bell, Richard P.) .....	HJR 743		2358
<b>STUDENTS</b>			
Career and technical education; local school board to implement a plan to notify students and their parents of availability of programs, opportunity for students to obtain a nationally recognized career readiness certificate at a local public high school, etc. (Patron—Bulova) .....	HB 1552	100	127
Commercial driver's license; comprehensive community colleges in Virginia Community College System allowed to administer in-vehicle component of driver instruction to students. (Patron—Wilt) .....	HB 2075	232	385
Comprehensive community colleges; State Board of Community Colleges shall require each college to develop policies and procedures for awarding academic credit for apprenticeship credentials to certain enrolled students.			
Patron—James .....	HB 1592	130	190
Patron—Ruff .....	SB 999	21	31
Driver education courses; certain providers shall be authorized to provide 90-minute parent/student driver education component currently required in Northern Virginia. (Patron—Greason) .....	HB 1705	144	202
Dyslexia advisor; requires one reading specialist employed by each local school board to have training in identification of and appropriate interventions, etc., for students with dyslexia or a related disorder, specialist shall have knowledge of techniques to help student on continuum of skills, etc.			
Patron—Cline .....	HB 2395	626	1072
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Higher educational institutions, baccalaureate public; board of visitors shall develop and implement policies that ensure that after a student suicide, affected students have			

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access to reasonable medical and behavioral health services, including postvention services. (Patron-Reeves) . . . . .	SB	1430	691	1165	
<b>Higher educational institutions, public;</b> prohibits institutions from abridging constitutional freedom of any individual, including enrolled students, etc., to speak on campus, exception. (Patron-Landes) . . . . .	HB	1401	506	847	
<b>Postsecondary schools;</b> enrollment agreement with each student. (Patron-Murphy) . .	HB	2040	298	467	
<b>Public school employees, certain;</b> assistance with student insulin pumps by registered nurse, certified nurse aide, etc. (Patron-McPike) . . . . .	SB	1116	811	1554	
<b>Public school students;</b> sight and hearing testing, exceptions. (Patron-Head) . . . . .	HB	1437	765	1399	
<b>School boards;</b> policies and procedures prohibiting bullying, parental notification of any student involved in an alleged incident of status of investigation within five school days of allegation. (Patron-Filler-Corn) . . . . .	HB	1709	684	1153	
<b>School service providers;</b> provider to provide, either directly to student or his parent or through the school, access to an electronic copy of student's information in a manner consistent with functionality of school service. (Patron-Ruff) . . . . .	SB	951	518	858	
<b>Standards of Learning;</b> Department of Education to review multipart assessment questions and determine feasibility of awarding students partial credit for correct answers on one or more parts of such questions, report, Department shall not take action regarding awarding of partial credit prior to 2018 Session of General Assembly. (Patron-Austin) . . . . .	HB	1414	313	486	
<b>Student vision screenings;</b> principal of each public elementary, middle, and high school shall cause vision of certain students to be screened by a qualified nonprofit vision health organization, notification to parent or guardian of student who doesn't receive passing result, school boards may enter into contracts with qualified organizations for purpose of conducting screenings. (Patron-Ware) . . . . .	HB	1408	312	485	
<b>Students receiving home instruction;</b> participation in Advanced Placement and Preliminary SAT/National Merit Scholarship Qualifying Test and PreACT examinations. Patron-Pogge . . . . .	HB	2355	302	469	
Patron-Newman . . . . .	SB	1414	334	534	
<b>STUDY COMMISSIONS, COMMITTEES, AND REPORTS</b>					
<b>Address changes;</b> Secretary of Transportation or his designee shall convene a task force to study feasibility of establishing a statewide one-stop online portal, sunset provision. (Patron-Obenshain) . . . . .	SB	1363	553	906	
<b>Administration, Secretary of;</b> policy of the Commonwealth regarding state employment of individuals with disabilities, report. Patron-Anderson . . . . .	HB	2425	358	553	
Patron-Vogel . . . . .	SB	1530	371	568	
<b>Administrative Rules, Joint Commission on;</b> periodic review of exemptions from Administrative Process Act. (Patron-Ransone) . . . . .	HB	1731	678	1146	
<b>Adoption;</b> new classification of paid leave for state employee who adopts an infant on or after July 1, 2018, Department of Human Resource Management shall implement, report. (Patron-Suetterlein) . . . . .	SB	1412	634	1085	
<b>Agency directors;</b> Department of Human Resource Management shall develop and administer human resource training and agency succession planning. (Patron-Ware) .	HB	1555	527	866	
<b>Air transportation services providers;</b> Department of Health, et al., to review rules, regulations, and protocols governing dispatch and use in emergency medical situations, report. (Patron-Ransone) . . . . .	HB	1728	172	292	
<b>Cannabidiol oil and THC-A oil;</b> permitting of pharmaceutical processors to manufacture and provide, Board of Pharmacy shall promulgate regulations to implement provisions of first enactment by December 15, 2017. (Patron-Marsden) .	SB	1027	613	1027	
<b>Combined sewer overflow outfalls;</b> Department of Environmental Quality shall identify owner or operator of any outfall that discharges into Chesapeake Bay Watershed, owner shall, by July 1, 2023, initiate construction activities necessary to bring outfall into compliance and shall, by July 1, 2025, bring CSO outfall into compliance with Virginia law, etc., report. Patron-Lingamfelter . . . . .	HB	2383	826	1612	
Patron-Stuart . . . . .	SB	898	827	1612	
<b>Commercial air service plan;</b> Virginia Aviation Board shall develop and review every five years, transparency and accountability in use of the Commonwealth Airport Fund revenues, report, allocation of state moneys by Board. (Patron-Newman) . . . .	SB	1417	709	1239	

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**STUDY COMMISSIONS, COMMITTEES, AND REPORTS - Continued**

**Community services boards and behavioral health authorities;** services to be provided include emergency services, same-day mental health screening, outpatient primary care and monitoring services for physical health indicators and health risks, etc., report.  
 Patron—Farrell . . . . . HB 1549 683 1152  
 Patron—Hanger . . . . . SB 1005 607 1015

**Comprehensive harm reduction program;** Commissioner of Health may establish and operate local or regional programs, report, sunset provision. (Patron—O'Bannon) HB 2317 183 309

**Corrections, State Board of;** membership, powers and duties, review of deaths of inmates in local correctional facilities, report. (Patron—Deeds) . . . . . SB 1063 759 1383

**Criminal Justice Services Board and its Committee on Training;** citizen membership, report. (Patron—Peace) . . . . . HB 1951 206 357

**Critical incident reports;** Commissioner of Behavioral Health and Developmental Services to provide a written report setting forth known facts of incidents or deaths of individuals receiving services in facilities and serious injuries, as term is defined in regulations adopted by Board, or deaths of individuals receiving services in programs operated or licensed by Department.  
 Patron—Hope . . . . . HB 1508 455 754  
 Patron—Favola . . . . . SB 894 470 789

**Electric energy;** consumption reduction goal, annual progress reports by Department of Mines, Minerals and Energy. (Patron—Dance) . . . . . SB 990 568 941

**Electric utilities;** Dominion Virginia Power and Appalachian Power required to conduct a community solar development pilot program for retail customers, report, definitions of "participating third party and solar development entity," State Corporation Commission to review applications. (Patron—Wagner) . . . . . SB 1393 580 956

**Electronic credentials;** creates standards for DMV in issuing, reviewing, etc., report. (Patron—Villanueva) . . . . . HB 2229 697 1179

**Emergency custody or involuntary admission process;** Commissioner of Behavioral Health and Developmental Services and Director of Criminal Justice Services, et al., to develop a comprehensive model for use of alternative transportation providers to provide safe and efficient transportation of individuals, report.  
 Patron—Garrett . . . . . HB 1426 94 122  
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**Forensic discharge planning services;** Commissioner of Behavioral Health and Developmental Services, et al., shall develop a comprehensive plan for provision of services at local and regional correctional facilities, etc.  
 Patron—Bell, Robert B. . . . . HB 1784 192 329  
 Patron—Cosgrove . . . . . SB 941 137 195

**General Services, Department of;** maintenance of property records, notification when lease or other agreement to terminate, report, Department shall review land use plans, records, and inventory of property not used. (Patron—Chafin) . . . . . SB 1265 706 1225

**Guardian ad litem;** reimbursement for cost of services to the Commonwealth, "other party with a legitimate interest" shall not include child welfare agencies or local departments of social services, Executive Secretary of the Supreme Court shall administer program, report. (Patron—Surovell) . . . . . SB 1343 676 1145

**Health and Human Resources Secretariat;** agencies of Secretariat shall share data, records, and information about applicants for and recipients of services, etc., report. (Patron—Garrett) . . . . . HB 2457 467 785

**Health care providers;** data collection, defines "charity care" and "bad debt" as used in the context of certificate of public need, nursing home shall report data on utilization and other data in accordance with regulations of Board, report, effective clause. (Patron—Byron) . . . . . HB 2101 791 1475

**Higher educational institutions, public;** general education course credit, dual enrollment courses.  
 Patron—Greason . . . . . HB 1662 316 505  
 Patron—Sturtevant . . . . . SB 1534 309 480

**Higher educational institutions, public;** governing board of each institution to report value of investments, use of cash earnings, etc., exceptions. (Patron—Massie) . . . . . HB 2171 320 511

**Higher educational institutions, public;** State Council of Higher Education for Virginia and each institution shall develop a passport credit program, including any

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necessary guidelines for such program, and establish competencies and standards for each passport credit course, report, etc. (Patron—Dunnavant) . . . . .	SB 1234	521	862
<b>Income tax, state and corporate;</b> subtraction for Virginia venture capital account investment, to qualify for subtraction, investment shall be made on or after January 1, 2018, but before December 31, 2023, report. (Patron—Rush) . . . . .	HB 2074	762	1386
<b>Joint Legislative Audit and Review Commission;</b> operational and programmatic efficiency and effectiveness reviews, report on results of any review and assessment. (Patron—Sturtevant) . . . . .	SB 1387	726	1281
<b>Landfills;</b> Department of Environmental Quality and Region 2000 Services Authority shall continue to work together to reduce odor issues at landfill operated by Authority in Campbell County, report. (Patron—Fariss) . . . . .	HB 1600	341	538
<b>Long-term care;</b> requirements of Department of Medical Assistance Services. (Patron—Orrock) . . . . .	HB 2304	749	1365
<b>Medicaid and Family Access to Medical Insurance Security (FAMIS) Plan for incarcerated individuals;</b> Department of Medical Assistance Services shall convene a work group to identify and develop processes for streamlining application and enrollment process. (Patron—Yost) . . . . .	HB 2183	198	339
<b>National Flood Insurance Program;</b> participation by affected localities in Community Rating System of Program, report. (Patron—Miyares) . . . . .	HB 2319	274	445
<b>Neighborhood Assistance Act tax credits;</b> neighborhood organization submitting a proposal to Superintendent of Public Instruction shall include a list of all localities in which organization provided services during program year beginning July 1, 2016, report. (Patron—Orrock) . . . . .	HB 1838	317	505
<b>New Economy Workforce Credential Grant Program;</b> State Council of Higher Education for Virginia to include in its annual report on Program information on wages, including average wage, etc., of certain students. (Patron—Newman) . . . . .	SB 1100	329	525
<b>Nonreparable and rebuilt vehicles;</b> eliminates requirement that vehicles have incurred damage that exceeds 90 percent of their cash value prior to such damage to meet the definition of such vehicles, sunset provision shall expire on July 1, 2021, report. Patron—Austin . . . . .	HB 1687	342	539
Patron—Ruff . . . . .	SB 950	362	555
<b>Online Virginia Network Authority;</b> established, membership, report. (Patron—Cox) . . . . .	HB 2262	686	1156
<b>Onsite sewage systems and private wells;</b> Department of Health to take steps to begin eliminating site evaluation and design services, report. (Patron—Orrock) . . . . .	HB 2477	602	1011
<b>Opiate prescriptions;</b> prescription for any controlled substance containing an opiate to be issued as an electronic prescription and prohibits a pharmacist from dispensing unless issued electronically, Secretary of Health and Human Resources shall convene a work group to review actions necessary to implement certain provisions, report. Patron—Pillion . . . . .	HB 2165	115	167
Patron—Dunnavant . . . . .	SB 1230	429	683
<b>Opioids;</b> Secretary of Health and Human Resources to convene workgroup to develop educational standards and curricula for training health care providers in the safe prescribing and appropriate use. Patron—Pillion . . . . .	HB 2161	180	305
Patron—Chafin . . . . .	SB 1179	62	79
<b>Opioids and buprenorphine;</b> Boards of Dentistry and Medicine to adopt regulations for prescribing, report. (Patron—Pillion) . . . . .	HB 2167	291	458
<b>Opioids and buprenorphine;</b> Boards of Dentistry and Medicine to adopt regulations for prescribing, report to Joint Commission on Health Care, etc. (Patron—Chafin) . . . . .	SB 1180	682	1151
<b>Pediatric Autoimmune Neuropsychiatric Disorders Associated with Streptococcal Infections and Pediatric Acute-onset Neuropsychiatric Syndrome, Advisory Council on;</b> created, report, sunset provision. (Patron—Filler-Corn) . . . . .	HB 2404	466	784
<b>Privately retained counsel;</b> counsel may, pursuant to terms of a written agreement between attorney and client, withdraw from representation of a client without leave of court after certification of a charge by a district court, report. (Patron—Albo) . . . . .	HB 1411	774	1406
<b>Secure and Resilient Commonwealth Panel;</b> revises membership and duties, report, joint emergency planning committee, removes Virginia Emergency Response Council. (Patron—Lingamfelter) . . . . .	HB 1998	512	853

**STUDY COMMISSIONS, COMMITTEES, AND REPORTS - Continued**

<b>Small alternative onsite sewage systems;</b> Department of Health shall evaluate need for 180-day biochemical oxygen demand sampling of systems that serve no more than three attached or detached single-family residences, etc., report. (Patron—Peake)	SB 1577	476	795
<b>Standards of Learning;</b> Department of Education to review multipart assessment questions and determine feasibility of awarding students partial credit for correct answers on one or more parts of such questions, report, Department shall not take action regarding awarding of partial credit prior to 2018 Session of General Assembly. (Patron—Austin)	HB 1414	313	486
<b>Stormwater and erosion control;</b> Commonwealth Center for Recurrent Flooding Resiliency shall convene a work group to examine opportunities to improve stormwater management in rural localities located in Tidewater Virginia. (Patron—Hodges)	HB 1774	345	541
<b>Substance-exposed infants;</b> Secretary of Health and Human Resources shall convene a work group to study barriers to treatment in the Commonwealth. (Patron—Pillion)	HB 2162	197	339
<b>Suicide;</b> Department of Behavioral Health and Developmental Services shall report on its activities related to prevention. (Patron—Filler-Corn)	HB 2258	464	782
<b>Teacher licensure by reciprocity;</b> professional teacher's assessments, report. (Patron—Freitas)	HB 2352	688	1159
<b>Teachers;</b> Department of Education shall develop and oversee a pilot program to administer to diverse school divisions model exit questionnaire developed by Superintendent of Public Instruction, report.			
Patron—LeMunyon	HB 2140	234	388
Patron—Mason	SB 1523	308	479
<b>Uniform Statewide Building Code;</b> Department of Housing and Community Development shall consider including in current revision of Code a provision designed to ensure that localities provide appropriate notice to residents of manufactured home parks of any Code violations, report. (Patron—Torian)	HB 2203	731	1326
<b>Veterans Services Foundation;</b> powers and duties, appointment of an Executive Director, Board shall exercise personnel authority over an Executive Director and other employees of Board, report. (Patron—Ruff)	SB 1075	505	846
<b>Veterans Services Foundation;</b> powers and duties, appointment of an Executive Director, report. (Patron—Knight)	HB 2148	622	1049
<b>Virginia Alcoholic Beverage Control Authority;</b> changes effective date for creation of Authority to January 15, 2018, Authority shall submit an annual report on or before December 15 of each year, repeals provision referring to initial appointments of members of Board of Directors. (Patron—Albo)	HB 2359	698	1181
<b>Virginia Alcoholic Beverage Control Authority;</b> changes effective date for creation of Authority to January 15, 2018, report, Board may suspend or revoke on-premises privileges of brewery, repeals provision referring to initial appointments of members of Board of Directors. (Patron—McDougle)	SB 1287	707	1226
<b>Virginia Coalfields Expressway Authority;</b> established, report. (Patron—Pillion)	HB 2474	543	889
<b>Virginia Economic Development Partnership Authority;</b> membership, powers and duties, terms of persons serving as members, advisory committees, executive summaries of strategic, marketing, and operational plans, closed meetings authorized for certain limited purposes, repeals provision referring to board of directors governing Authority.			
Patron—Jones	HB 2471	804	1508
Patron—Ruff	SB 1574	824	1598
<b>Virginia Public Procurement Act;</b> requirements for use of construction management and design-build contracts, certain contracts may be utilized for projects where estimated cost is expected to be more than \$10 million, etc., report, repealing provisions concerning certain contracts.			
Patron—Albo	HB 2366	699	1189
Patron—Ruff	SB 1129	704	1207
<b>Virginia Veteran and Family Support program;</b> established, report. (Patron—Cox)	HB 2206	497	835
<b>Voting machines;</b> Department of Elections shall coordinate a post-election risk-limiting audit annually of ballot scanner machines, report, effective clause. (Patron—Obenshain)	SB 1254	367	560

**STUDY COMMISSIONS, COMMITTEES, AND REPORTS - Continued**

**Washington Metrorail Safety Commission Interstate Compact;** definitions, members of Board of Directors of Commission for the Commonwealth shall be appointed by Governor, etc., report.

Patron—LeMunyon .....	HB 2136	696	1173
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**Worker retraining and telework expenses;** tax credits extended to taxable years prior to January 1, 2022, Virginia Economic Development Partnership Authority shall report annually on status and implementation of credit.

Patron—Ware .....	HB 1814	177	301
Patron—Hanger .....	SB 1576	454	752

**STUMP, JACKIE THOMAS**

**Stump, Jackie Thomas;** recording sorrow upon death. (Patron—Morefield) . . . . . HJR 789 2378

**SUBSTANCE-EXPOSED INFANT AWARENESS WEEK**

**Substance-Exposed Infant Awareness Week;** designating as first week of July 2017, and each succeeding year thereafter.

Patron—Stolle .....	HJR 745	2359
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**SUFFOLK-NANSEMOND HISTORICAL SOCIETY**

**Suffolk-Nansemond Historical Society;** commemorating its 50th anniversary. (Patron—Jones) . . . . . HJR 799 2383

**SUICIDE**

**Higher educational institutions, baccalaureate public;** board of visitors shall develop and implement policies that ensure that after a student suicide, affected students have access to reasonable medical and behavioral health services, including postvention services. (Patron—Reeves) . . . . . SB 1430 691 1165

**Suicide;** Department of Behavioral Health and Developmental Services shall report on its activities related to prevention. (Patron—Filler-Corn) . . . . . HB 2258 464 782

**SULLINS ACADEMY**

**Sullins Academy;** commemorating its 50th anniversary. (Patron—Pillion) . . . . . HR 406 2611

**SULLIVAN, KATHY GRAHAM**

**Sullivan, Kathy Graham;** recording sorrow upon death. (Patron—Austin) . . . . . HR 385 2600

**SUMMER PROGRAM FOR ARTS, RECREATION AND KNOWLEDGE**

**Summer Program for Arts, Recreation and Knowledge;** commending. (Patron—Mullin) . . . . . HJR 1024 2506

**SUMMER TRAINING AND ENRICHMENT PROGRAM**

**Summer Training and Enrichment Program;** commending. (Patron—Mullin) . . . . . HJR 999 2491

**SUMMIT CHRISTIAN ACADEMY**

**Summit Christian Academy;** commemorating its 20th anniversary. (Patron—Pogge) . . . . . HJR 895 2436

**SUMMONS AND PROCESS**

**Dangerous dogs;** removes requirement that a law-enforcement officer or animal control officer apply for a summons requiring an owner to appear before a general district court, no dog shall be found dangerous if court determines, based on totality of evidence, that dog is not a threat to the community. (Patron—Fariss) . . . . . HB 2381 396 608

**Garnishment;** form of summons, maximum portion of disposable earnings subject to garnishment.

Patron—Loupassi .....	HB 1646	36	47
Patron—McDougle .....	SB 1333	143	201

**Unlawful detainer;** initial hearings on a summons, amendments of amount requested on summons, immediate issuance of writs of possession in certain case judgments, etc. (Patron—Loupassi) . . . . . HB 1811 481 806

**SUNSET HILLS VINEYARD**

**Sunset Hills Vineyard;** commending. (Patron—LaRock) . . . . . HJR 1070 2534

**SUPERVISORS, BOARD OF**

**Food and beverage tax;** no referendum initiated by a resolution of board of supervisors shall be authorized by the county in three calendar years subsequent to electoral defeat of any referendum in such county. (Patron—Vogel) . . . . . SB 1296 833 1650

**Sanitary districts;** transfer of authority to create or enlarge districts to governing body of county or city, power of board of supervisors. (Patron—Minchew) . . . . . HB 1740 14 20

**SUPREME COURT OF VIRGINIA**

**Attorneys;** conforms statutory procedures for disciplining to the Rules of Supreme Court of Virginia.  
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**Guardian ad litem;** reimbursement for cost of services to the Commonwealth, "other party with a legitimate interest" shall not include child welfare agencies or local departments of social services, Executive Secretary of the Supreme Court shall administer program, report. (Patron–Surovell) ..... SB 1343 676 1145

**Supreme Court of Virginia;** authorized to grant a 30-day extension of deadline within which petition must be presented. (Patron–Obenshain) ..... SB 947 652 1112

**Supreme Court of Virginia;** time frame within which petitions for appeal shall be filed, method of taking and prosecuting appeals, petitions for writs of supersedeas. (Patron–Obenshain) ..... SB 946 651 1111

**Unpaid court fines, etc.;** court shall offer any defendant who is unable to pay in full the fines and costs within 30 days of sentencing the opportunity to enter into a deferred payment agreement, modification of agreement in writing on form provided by the Executive Secretary of the Supreme Court of Virginia, etc.  
 Patron–Loupassi ..... HB 2386 802 1504  
 Patron–Stanley ..... SB 854 806 1519

**Virginia Criminal Sentencing Commission;** confirming appointment of Chairman by Chief Justice of Supreme Court of Virginia. (Patron–Obenshain) ..... SJR 241 2649

**SURRY COUNTY**

**Hampton Roads Sanitation District;** adds County of Surry, excluding Town of Claremont, to territory. (Patron–Norment) ..... SB 1311 218 373

**TAEKWONDO DAY**

**Taekwondo Day;** designating as September 4, 2017, and each succeeding year thereafter. (Patron–Hugo) ..... HJR 793 2380

**TALBOTT, JAMES HUNTER, SR.**

**Talbott, James Hunter, Sr.;** recording sorrow upon death. (Patron–Bell, Richard P.) . HJR 613 2321

**TARTT, DONNA**

**Tartt, Donna;** commending. (Patron–Boysko) ..... HJR 1013 2500

**TAUXEMONT COOPERATIVE PRESCHOOL**

**Tauxemont Cooperative Preschool;** commemorating its 75th anniversary. (Patron–Surovell) ..... SJR 442 2762

**TAX EXEMPT ORGANIZATIONS**

**Charitable gaming;** no more than one raffle by a tax-exempt organization shall be conducted in any one geographical region. (Patron–Knight) ..... HB 2374 566 937

**TAXATION**

**Admissions tax;** authorizes Washington County to impose on admissions to multi-sports complex and entertainment venue, an entertainment venue shall not include a movie theater. (Patron–Carrico) ..... SB 1320 450 741

**Alcoholic beverage control;** banquet licenses for wineries and breweries, state and local licenses tax. (Patron–Robinson) ..... HB 2418 159 254

**Alcoholic beverage control;** creates a new retail on-premises wine and beer license for nonprofit historic cinema houses, state and local licenses tax. (Patron–Rush) ..... HB 1743 152 211

**Cats and dogs;** annual license tax for certain kennels, local government may by ordinance provide for lifetime licenses.  
 Patron–Orrock ..... HB 1477 559 921  
 Patron–Hanger ..... SB 856 567 940

**Cigarette tax, local;** localities that impose a tax and require stamps as evidence of payment to provide a refund for any stamps that are returned to the locality. (Patron–Peace) ..... HB 1950 113 166

**Cigarettes;** purchase for resale, issuance of a cigarette exemption certificate, penalties.  
 Patron–Anderson ..... HB 1913 112 161  
 Patron–Howell ..... SB 1390 453 747

**Circuit court clerks;** electronic transfer of certain real property information to certain public officials. (Patron–Leftwich) ..... HB 1515 42 53

**Commercial fishing vessels;** classifies vessels as a separate class of property for purpose of local personal property tax. (Patron–Lewis) ..... SB 1205 447 736

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<b>Commonwealth's tax system;</b> advances conformity with federal tax code as law existed on December 31, 2016.				
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Patron—Hanger .....	SB 977	2	1	
<b>Constitutional amendment;</b> General Assembly may authorize a county, city, or town to partially exempt any real estate subject to recurrent flooding upon which flooding abatement, mitigation, etc., have been undertaken (first reference). (Patron—Lewis) .				
	SJR 331	773	1405	
<b>Danville, City of;</b> establishment of pilot project regarding recordation of deeds subject to liens for unpaid taxes, pilot project may only be established by ordinance adopted by city council after public hearing, sunset date. (Patron—Marshall, D.W.) . . . . .				
	HB 1699	131	190	
<b>Delinquent taxes;</b> publication of list by governing body or treasurer. (Patron—Sullivan)				
	HB 1463	409	636	
<b>Discharge of treasurer;</b> attorney for a locality may prepare and file any pleadings necessary in a proceeding. Compensation Board shall not be obligated to reimburse locality for fees incurred. (Patron—Edwards) . . . . .				
	SB 1459	677	1146	
<b>Enterprise zone grants and tax credits;</b> qualified real property improvement expenditures. (Patron—Carrico) . . . . .				
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<b>Food and beverage tax;</b> no referendum initiated by a resolution of board of supervisors shall be authorized by the county in three calendar years subsequent to electoral defeat of any referendum in such county. (Patron—Vogel) . . . . .				
	SB 1296	833	1650	
<b>Historic rehabilitation;</b> for taxable years beginning on and after January 1, 2017, but before January 1, 2019, amount of tax credits that may be claimed by each taxpayer shall not exceed \$5 million in any taxable year.				
Patron—Bloxom .....	HB 2460	717	1262	
Patron—Howell .....	SB 1034	721	1273	
<b>Income tax, state;</b> reorganizes provisions of the Code of Virginia related to calculation of Virginia taxable income of residents. (Patron—Edwards) . . . . .				
	SB 912	444	717	
<b>Income tax, state and corporate;</b> subtraction for Virginia venture capital account investment, to qualify for subtraction, investment shall be made on or after January 1, 2018, but before December 31, 2023, report. (Patron—Rush) . . . . .				
	HB 2074	762	1386	
<b>Land preservation;</b> extends to taxable year 2017 limit on amount that a taxpayer may claim per year under tax credit. (Patron—Hanger) . . . . .				
	SB 963	424	667	
<b>Land preservation tax credits;</b> withholding tax of nonresident owners. (Patron—Obenshain) . . . . .				
	SB 1286	725	1280	
<b>License tax, local;</b> methodology for deducting certain gross receipts attributable to business conducted in another state or a foreign country. (Patron—Hugo) . . . . .				
	HB 1961	50	60	
<b>License tax on peddlers and itinerant merchants;</b> any locality requiring an itinerant merchant to display its license at its temporary place of business shall provide an adhesive label that satisfies such requirement. (Patron—Robinson) . . . . .				
	HB 1626	28	36	
<b>License taxes, local;</b> exemption for certain defense production businesses.				
Patron—Hugo .....	HB 1889	111	157	
Patron—McDougle .....	SB 1274	430	688	
<b>Lien priority;</b> inserts "real estate" in several places related to priority of tax liens.				
Patron—Habeeb .....	HB 1992	610	1019	
Patron—Edwards .....	SB 920	118	176	
<b>Local gas road improvement and Virginia Coalfield Economic Development Authority tax;</b> use of revenues for the repair or enhancement of existing water or sewer systems and lines, extends sunset date to January 1, 2020.				
Patron—Pillion .....	HB 2169	52	62	
Patron—Chafin .....	SB 886	443	716	
<b>Local tax and regulatory incentives;</b> authorizes localities to create green development zones that provide flexibility for up to 10 years to a business operating in an energy-efficient building, etc. (Patron—Webert) . . . . .				
	HB 1565	27	35	
<b>Motion picture production;</b> extends sunset date of tax credit.				
Patron—Robinson .....	HB 1665	108	152	
Patron—Stanley .....	SB 982	425	670	
<b>Motor vehicle sales and use tax;</b> exemption from tax if transferred from purchaser of vehicle back to seller, etc., refunds generally. (Patron—Deeds) . . . . .				
	SB 1350	552	904	
<b>Neighborhood Assistance Act;</b> reorganizes provisions of tax credit program, expiration date for issuance of certain tax credits. (Patron—DeSteph) . . . . .				
	SB 1168	724	1277	
<b>Neighborhood Assistance Act Tax Credit;</b> allocation to organizations that did not receive any credit in the preceding year. (Patron—Farrell) . . . . .				
	HB 1433	147	205	

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<b>Neighborhood Assistance Act tax credits;</b> Commissioner of Social Services and Superintendent of Public Instruction to consider past performance of organizations requesting credits. (Patron—DeSteph) . . . . .	SB	1165	723	1276	
<b>Neighborhood Assistance Act tax credits;</b> neighborhood organization submitting a proposal to Superintendent of Public Instruction shall include a list of all localities in which organization provided services during program year beginning July 1, 2016, report. (Patron—Orrock) . . . . .	HB	1838	317	505	
<b>Payroll information;</b> employers or payroll service provider shall notify Office of Attorney General without unreasonable delay after discovery of a security breach, only applies to information of employer's employees, upon receipt of notice, Department of Taxation shall be notified. Patron—Keam . . . . .	HB	2113	419	656	
Patron—Howell . . . . .	SB	1033	427	677	
<b>Personal property tax;</b> localities required to permit taxpayers to provide an aggregate estimate of total cost of all personal property used in a business that has an original cost of less than \$500. (Patron—Rush) . . . . .	HB	2193	116	172	
<b>Personal property tax, tangible;</b> expands uncollected taxes on vehicles for which treasurer is required to compile a list to include tax on trailers, etc. (Patron—Hodges)	HB	2455	440	712	
<b>Public service corporations, certain;</b> repeals provisions requiring that certain corporations make payments of estimated state licenses taxes to State Corporation Commission. (Patron—Dunnavant) . . . . .	SB	1025	680	1149	
<b>Real property tax;</b> localities authorized to exempt the primary residence of surviving spouse of a law-enforcement officer, etc., who is killed in the line of duty. (Patron—Hugo) . . . . .	HB	1884	248	413	
<b>Real property tax;</b> nonjudicial sale of tax delinquent property. (Patron—Yost) . . . . .	HB	1909	437	706	
<b>Real property tax;</b> partial exemption for certain commercial and industrial structures located in a technology zone. (Patron—Ware) . . . . .	HB	1455	24	33	
<b>Real property tax;</b> special assessment for land preservation. (Patron—Orrock) . . . . .	HB	1476	25	34	
<b>Real property tax;</b> Stafford County may adopt, by ordinance, a program to permit taxpayers to defer payment of portion of certain real property taxes. Patron—Dudenhefer . . . . .	HB	2219	438	707	
Patron—Stuart . . . . .	SB	1248	448	740	
<b>Recordation tax;</b> exempts deed of trust or mortgage given by utility consumer services cooperatives. Patron—Orrock . . . . .	HB	1478	103	134	
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<b>Retail Sales and Use Tax;</b> Department of Taxation shall provide online access by registered dealers to the names and certificate of registration numbers of dealers who are currently registered for tax. (Patron—Knight) . . . . .	HB	1810	49	60	
<b>Retail Sales and Use Tax;</b> exemption created for aviation parts, engines, and supplies. (Patron—Anderson) . . . . .	HB	1738	714	1256	
<b>Retail Sales and Use Tax;</b> exempts legal tender coins whose total transaction sales price exceeds \$1,000 from tax, provisions of this act shall become effective on January 1, 2018. Patron—Stolle . . . . .	HB	1668	48	58	
Patron—Wagner . . . . .	SB	934	445	735	
<b>Retail Sales and Use Tax;</b> extends sunset date from July 1, 2019, to July 1, 2022, for exemption on transfer of certain audio or visual productions and equipment. (Patron—Robinson) . . . . .	HB	1543	412	639	
<b>Retail Sales and Use Tax;</b> extends sunset date to July 1, 2022, for exemption of certain textbooks and other educational materials. (Patron—Freitas) . . . . .	HB	2377	54	63	
<b>Retail Sales and Use Tax;</b> extends tax exemption to July 1, 2022, for printing purchased by an advertising business from a printer in the Commonwealth. (Patron—Hanger) . . . . .	SB	804	441	712	
<b>Retail Sales and Use Tax;</b> tax to be collected on separately stated charges of supplies used during repair of automobiles, whether or not title or possession of supplies passes to the customer. (Patron—Knight) . . . . .	HB	1518	104	137	
<b>Retail Sales and Use Tax;</b> temporary exemption periods for qualifying items, extends sunset dates. Patron—Ward . . . . .	HB	1529	26	35	
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<b>Sales and use tax;</b> storage of inventory in the Commonwealth is sufficient nexus to require out-of-state businesses to collect tax on sales to customers in the Commonwealth, provisions shall become effective on June 1, 2017. (Patron—Hanger) .....			
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**Public-Private Transportation Act;** comprehensive agreement originally entered into on or after July 1, 2017, shall include, in consultation with Virginia State Police, a provision requiring funding for adequate staffing, clarification of "adequate staffing." (Patron–Bagby) . . . . . HB 1929 511 852

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**Transportation planning, state and local;** adoption of any comprehensive plan in Northern Virginia, Department of Transportation shall specify by name and location any transportation facility within scope of review having a functional classification of minor arterial or higher for which an increase in traffic volume is expected, etc. (Patron–LeMunyon) . . . . . HB 2138 536 878

**Utility easements;** exempts from public hearing requirement prior to disposal of real property by locality conveyance of easements related to transportation projects. (Patron–Favola) . . . . . SB 932 401 615

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<b>VIRGINIA PUBLIC PROCUREMENT ACT</b>				
<b>Virginia Industries for the Blind;</b> exempted from requirements of Public Procurement Act when procuring components, etc. (Patron—Price) . . . . .				
		HB 2096	625	1070
<b>Virginia Public Procurement Act;</b> architectural and professional engineering term contracts, includes certain school divisions. (Patron—Cosgrove) . . . . .				
		SB 1508	555	917
<b>Virginia Public Procurement Act;</b> bid, performance, and payment bonds, waiver by localities, a locality shall not enter into more than 10 nontransportation-related construction projects per year in which contract amount is in excess of \$100,000 but less than \$300,000. (Patron—Villanueva) . . . . .				
		HB 2017	789	1464
<b>Virginia Public Procurement Act;</b> contracts and subcontracts awarded to employment services organizations shall be credited toward small business, women-owned, and minority-owned business contracting and subcontracting goals of state agencies and contractors.				
Patron—Hope . . . . .		HB 2396	397	610
Patron—Hanger . . . . .		SB 1538	407	635
<b>Virginia Public Procurement Act;</b> contracts for architectural and engineering services relating to multiple construction projects, maximum fee for any single project is \$150,000. (Patron—Collins) . . . . .				
		HB 1693	343	540

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<b>VIRGINIA PUBLIC PROCUREMENT ACT - Continued</b>			
<b>Virginia Public Procurement Act</b> ; exempts from Act selection of pre-release and post-commitment services by Department of Juvenile Justice. (Patron—Carr) . . . . .	HB 1940	87	114
<b>Virginia Public Procurement Act</b> ; public body may purchase from contract of Virginia Sheriffs' Association. (Patron—Reeves) . . . . .	SB 1548	636	1093
<b>Virginia Public Procurement Act</b> ; requirements for use of construction management and design-build contracts, certain contracts may be utilized for projects where estimated cost is expected to be more than \$10 million, etc., report, repealing provisions concerning certain contracts.			
Patron—Albo . . . . .	HB 2366	699	1189
Patron—Ruff . . . . .	SB 1129	704	1207
<b>Virginia Public Procurement Act</b> ; small business enhancement program, limitations. (Patron—Ruff) . . . . .	SB 1334	578	954
<b>VIRGINIA RESIDENTIAL PROPERTY DISCLOSURE ACT</b>			
<b>Virginia Residential Property Disclosure Act</b> ; adds two new disclosures required to be made by a seller of residential real property to a purchaser. (Patron—Miller) . . . . .	HB 2034	386	586
<b>Virginia Residential Property Disclosure Act</b> ; required disclosures, property located in local historic districts. (Patron—Locke) . . . . .	SB 1037	569	942
<b>VIRGINIA'S TECHNOLOGY SECTOR</b>			
<b>Virginia's technology sector</b> ; commending. (Patron—Anderson) . . . . .	HR 461		2637
<b>VIRGINIA'S UNDERWOOD CONVENTION OF 1867</b>			
<b>Virginia's Underwood Convention of 1867</b> ; commemorating its 150th anniversary. (Patron—McClellan) . . . . .	SJR 427		2754
<b>VIRGINIA SCHOOL FOR THE DEAF AND BLIND</b>			
<b>Virginia School for the Deaf and Blind goalball team</b> ; commending. (Patron—Hanger) . . . . .	SJR 362		2716
<b>VIRGINIA SOCIETY FOR HUMAN LIFE</b>			
<b>Virginia Society for Human Life</b> ; commemorating its 50th anniversary. (Patron—Massie) . . . . .	HJR 1025		2507
<b>VIRGINIA STATE UNIVERSITY</b>			
<b>Virginia Polytechnic Institute and State University and Virginia State University</b> ; expressing intent of General Assembly that the Universities shall maintain strong programs of instruction, research, and extension of knowledge in agriculture, etc., and such other fields as are necessary to fulfill their respective land-grant missions. (Patron—Orrock) . . . . .	HB 1569	229	384
<b>Virginia State University</b> ; revenue-producing capital project.			
Patron—Jones . . . . .	HB 2249	420	658
Patron—Norment . . . . .	SB 1370	614	1030
<b>VIRGINIA VILLAGE DAY</b>			
<b>Virginia Village Day</b> ; designating as February 13, 2018, and each succeeding year thereafter. (Patron—Plum) . . . . .	HJR 784		2376
<b>VIRGINIA WEEKDAY RELIGIOUS EDUCATION ASSOCIATION</b>			
<b>Virginia Weekday Religious Education Association</b> ; commending. (Patron—Bell, Richard P.) . . . . .	HJR 557		2305
<b>VISUALLY HANDICAPPED PERSONS</b>			
<b>Virginia Industries for the Blind</b> ; exempted from requirements of Public Procurement Act when procuring components, etc. (Patron—Price) . . . . .	HB 2096	625	1070
<b>VOTER REGISTRATION</b>			
<b>Voter registration drives</b> ; no individual or group shall compensate its volunteers or employees on basis of number of applications he collects. (Patron—Cole) . . . . .	HB 1431	336	535
<b>VOTERS AND VOTING</b>			
<b>Absentee voting</b> ; eligibility of persons granted protective order. (Patron—Yost) . . . . .	HB 1912	631	1080
<b>Absentee voting</b> ; processing of rejected absentee ballots. (Patron—Spruill) . . . . .	SB 961	276	446
<b>Ballots</b> ; general registrar to consider number of active registered voters and historical election data, including voter turnout, to determine number to be printed.			
Patron—Garrett . . . . .	HB 2415	356	551
Patron—Newman . . . . .	SB 1552	167	281
<b>Candidate withdrawal</b> ; notice of withdrawal, information to voters, Department of Elections shall include in its candidate guidance documents requirements and process for withdrawal. (Patron—Carr) . . . . .	HB 1933	346	542

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**VOTERS AND VOTING - Continued**

**Central absentee voter precincts;** officers of election may begin tallying absentee ballots by hand at any time after 3 p.m. on day of election, any person present in voter precinct shall sign a statement under oath that he will not transmit any counts prior to closing of polls, penalty. (Patron—Marsden) . . . . . SB 1467 711 1241

**WALKER, MEGAN**

**Walker, Megan;** commending. (Patron—Ingram) . . . . . HJR 891 2434

**WAMPLER, CHARLES WELDON, JR.**

**Wampler, Charles Weldon, Jr.;** recording sorrow upon death. (Patron—Wilt) . . . . . HJR 1037 2514

**WARDIAN, MICHAEL**

**Wardian, Michael;** commending. (Patron—Hope) . . . . . HJR 924 2451

**WARNER, JOHN WILLIAM**

**Warner, John William;** commending. (Patron—Saslaw) . . . . . SJR 428 2755

**WARRANTS**

**Capitol Police, Division of;** members added to list of officers authorized to arrest without a warrant in certain situations. (Patron—Morefield) . . . . . HB 2329 208 359

**Search warrants;** issuance for any person to be arrested for whom warrant or process for arrest has been issued.  
Patron—Herring . . . . . HB 2084 233 386  
Patron—Black . . . . . SB 1260 242 396

**WARREN COUNTY**

**Transient occupancy tax;** Goochland, Powhatan, and Warren Counties authorized to impose tax at a rate not to exceed five percent, provided that any excess over two percent is designated and spent solely for tourism purposes. (Patron—Ware) . . . . . HB 1415 23 32

**WARREN, RALEIGH THOMAS**

**Warren, Raleigh Thomas;** recording sorrow upon death.  
Patron—Marshall, D.W. . . . . HR 417 2616  
Patron—Stanley . . . . . SJR 304 2667

**WASHINGTON COUNTY**

**Admissions tax;** authorizes Washington County to impose on admissions to multi-sports complex and entertainment venue, an entertainment venue shall not include a movie theater. (Patron—Carrico) . . . . . SB 1320 450 741

**WASHINGTON, D.C. METROPOLITAN AREA**

**Washington Metropolitan Area Transit Authority Compact of 1966;** gubernatorial review. (Patron—LeMunyon) . . . . . HJR 617 2322

**Washington Metrorail Safety Commission Interstate Compact;** definitions, members of Board of Directors of Commission for the Commonwealth shall be appointed by Governor, etc., report.  
Patron—LeMunyon . . . . . HB 2136 696 1173  
Patron—Barker . . . . . SB 1251 705 1218

**WASHINGTON-LEE HIGH SCHOOL**

**Washington-Lee High School boys' soccer team;** commending. (Patron—Favola) . . . . . SJR 245 2649

**WASTE DISPOSAL**

**Landfills;** Department of Environmental Quality and Region 2000 Services Authority shall continue to work together to reduce odor issues at landfill operated by Authority in Campbell County, report. (Patron—Fariss) . . . . . HB 1600 341 538

**WATER AND SEWER SYSTEMS**

**Local gas road improvement and Virginia Coalfield Economic Development Authority tax;** use of revenues for the repair or enhancement of existing water or sewer systems and lines, extends sunset date to January 1, 2020.  
Patron—Pillion . . . . . HB 2169 52 62  
Patron—Chafin . . . . . SB 886 443 716

**Onsite sewage systems and private wells;** Department of Health to take steps to begin eliminating site evaluation and design services, report. (Patron—Orrock) . . . . . HB 2477 602 1011

**Water and sewer services;** no lien can be placed on property of an owner when lessee or tenant has delinquent fees until locality has made reasonable collection efforts, etc. (Patron—Edwards) . . . . . SB 1189 736 1330

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**WATER CONTROL**

**State Water Control Board;** stormwater management programs, regulations, professional license.  
 Patron—Wilt . . . . . HB 2076 10 12  
 Patron—Obenshain . . . . . SB 1127 163 271

**Stormwater and erosion control;** Commonwealth Center for Recurrent Flooding Resiliency shall convene a work group to examine opportunities to improve stormwater management in rural localities located in Tidewater Virginia. (Patron—Hodges) . . . . . HB 1774 345 541

**Watershed general permit;** discharge of nutrients, review of allocations by State Water Control Board. (Patron—Bulova) . . . . . HB 1619 9 10

**WATER POLLUTION**

**Combined sewer overflow outfalls;** Department of Environmental Quality shall identify owner or operator of any outfall that discharges into Chesapeake Bay Watershed, owner shall, by July 1, 2023, initiate construction activities necessary to bring outfall into compliance and shall, by July 1, 2025, bring CSO outfall into compliance with Virginia law, etc., report.  
 Patron—Lingamfelter . . . . . HB 2383 826 1612  
 Patron—Stuart . . . . . SB 898 827 1612

**WATERS OF THE STATE, PORTS, AND HARBORS**

**Chesapeake Port Authority;** City Council of Chesapeake may by ordinance transfer any right, power, or privilege granted to Authority to Chesapeake Economic Development Authority, etc. (Patron—Cosgrove) . . . . . SB 967 162 271

**Combined sewer overflow outfalls;** Department of Environmental Quality shall identify owner or operator of any outfall that discharges into Chesapeake Bay Watershed, owner shall, by July 1, 2023, initiate construction activities necessary to bring outfall into compliance and shall, by July 1, 2025, bring CSO outfall into compliance with Virginia law, etc., report.  
 Patron—Lingamfelter . . . . . HB 2383 826 1612  
 Patron—Stuart . . . . . SB 898 827 1612

**Dam Safety, Flood Prevention and Protection Assistance Fund;** Director of Department of Conservation and Recreation may make grants or loans to a local government that owns a dam, to a local government for a dam located within locality, or to a private entity that owns a dam. (Patron—Cole) . . . . . HB 1562 245 401

**James River;** designating portion in Botetourt and Rockbridge Counties, including Towns of Buchanan and Glasgow, from its origination at confluence of Jackson and Cowpasture Rivers to Rockbridge-Amherst-Bedford County line a component of Virginia Scenic Rivers System.  
 Patron—Austin . . . . . HB 1454 149 207  
 Patron—Deeds . . . . . SB 1196 549 899

**Nutrient Offset Fund;** Director of Department of Environmental Quality to use certain funds to purchase nutrient credits or allocations from point or nonpoint sources, etc., distribution of moneys from Fund, Director shall consider recommendations of Secretary of Commerce and Trade. (Patron—Cox) . . . . . HB 2311 540 885

**Ohio River Basin Commission;** repeals sections relating to participation by the Commonwealth in Commission. (Patron—McDougle) . . . . . SB 1270 128 190

**Oyster grounds;** municipal dredging projects located in Lynnhaven River or its creeks and tributaries, including projects to restore existing navigation channels in areas approved by Marine Resources Commission, sunset provision.  
 Patron—Stolle . . . . . HB 1796 529 868  
 Patron—DeSteph . . . . . SB 1143 365 558

**Sand management;** Virginia Beach Wetlands Board may develop and adopt a General Permit for Sand Management and Placement Profiles for properties in the Sandbridge Beach Subdivision of Virginia Beach, Norfolk Wetlands Board may develop and adopt a General Permit for Sand Management and Placement Profiles for properties in City of Norfolk. (Patron—Knight) . . . . . HB 1517 338 536

**Snakehead fish;** prohibits introduction from any location into state waters. (Patron—Surovell) . . . . . SB 906 361 555

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<b>State Water Control Board;</b> stormwater management programs, regulations, professional license.			
Patron—Wilt .....	HB 2076	10	12
Patron—Obenshain .....	SB 1127	163	271
<b>Stormwater and erosion control;</b> Commonwealth Center for Recurrent Flooding Resiliency shall convene a work group to examine opportunities to improve stormwater management in rural localities located in Tidewater Virginia. (Patron—Hodges) .....	HB 1774	345	541
<b>Stormwater and erosion management;</b> administration of program by certified third party. (Patron—Hodges) .....	HB 2009	349	544
<b>Virginia Port Authority;</b> removal of members on Board of Commissioners.			
Patron—Lindsey .....	HB 2367	801	1502
Patron—Spruill .....	SB 1415	818	1587
<b>Watershed general permit;</b> discharge of nutrients, review of allocations by State Water Control Board. (Patron—Bulova) .....	HB 1619	9	10

**WEAPONS**

<b>Antique firearms;</b> possession by nonviolent felons. (Patron—Obenshain) .....	SB 1533	767	1400
<b>Concealed handgun;</b> adds retired conservation officers from Department of Conservation and Recreation to list of retired law-enforcement officers who are exempt from prohibition on carrying without a permit.			
Patron—Wright .....	HB 2308	101	131
Patron—Carrico .....	SB 1465	243	398
<b>Concealed handgun permit;</b> application for permit requires one valid form of photo identification issued by governmental agency of the Commonwealth or by U.S. Department of Defense or U.S. State Department (passport). (Patron—Fariss) .....	HB 2325	237	390
<b>Concealed handgun permit;</b> permit shall be of a size comparable to a Virginia driver's license and may be laminated or use a similar process to protect the permit. (Patron—Gilbert) .....	HB 1849	47	58
<b>Concealed handgun permit;</b> written notice of change of address on a form provided by Department of State Police. (Patron—Pogge) .....	HB 2369	238	392
<b>Concealed handgun permit fees;</b> exempts certain retired probation and parole officers. (Patron—Chafin) .....	SB 889	241	396
<b>Concealed handgun permits;</b> application shall request but not require that applicant provide an email or other electronic address where notice of permit expiration can be sent, notification of expiration at least 90 days prior to date. (Patron—Fowler) .....	HB 1466	99	126
<b>Concealed weapons;</b> carrying of firearms by former attorneys for the Commonwealth and assistant attorneys for the Commonwealth. (Patron—Miller) .....	HB 2424	689	1161
<b>Firearms;</b> purchase, possession, or transportation by persons acquitted by reason of insanity, adjudicated legally incompetent, etc., petition to restore rights. (Patron—O'Quinn) .....	HB 2429	516	856
<b>Hunting apparel;</b> hunters allowed to wear blaze pink instead of blaze orange when required during firearms deer hunting season or special season for hunting with a muzzle-loading rifle. (Patron—Edmunds) .....	HB 1939	347	542
<b>Muzzleloader firearms;</b> incorporates Virginia criminal law definition into the current statutory definitions of muzzleloading pistol, muzzleloading rifle, etc. (Patron—Ruff) .....	SB 953	161	269
<b>School security officers;</b> carrying a firearm in performance of duties, additional training and certification requirements of Department of Criminal Justice Services, officer was an active law-enforcement officer within 10 years prior to being hired by school board, retired from his position in good standing, etc. (Patron—Lingamfelter) .....	HB 1392	311	481
<b>Virginia Workers' Compensation Commission;</b> permits commissioners and deputy commissioners to carry a concealed weapon into any courthouse while in conduct of official duties. (Patron—Obenshain) .....	SB 904	761	1386

**WEATHER**

<b>Constitutional amendment;</b> General Assembly may authorize a county, city, or town to partially exempt any real estate subject to recurrent flooding upon which flooding abatement, mitigation, etc., have been undertaken (first reference). (Patron—Lewis) .....	SJR 331	773	1405
<b>National Flood Insurance Program;</b> participation by affected localities in Community Rating System of Program, report. (Patron—Miyares) .....	HB 2319	274	445

**WEBB, CAROLYN SU ALLEN SAUNDERS**

<b>Webb, Carolyn Su Allen Saunders;</b> recording sorrow upon death. (Patron—Minchew) .....	HJR 1082		2540
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<b>WEEKEND OF PRAYER OVER STUDENTS</b>			
<b>Weekend of Prayer over Students;</b> designating as first weekend in August 2017, and each succeeding year thereafter. (Patron—Campbell) . . . . .	HJR 762		2367
<b>WEIDNER, LUCY</b>			
<b>Weidner, Lucy;</b> commending. (Patron—Landes) . . . . .	HJR 722		2346
<b>WELFARE (SOCIAL SERVICES)</b>			
<b>Adoption assistance;</b> moves requirement that a child be a citizen or legal resident of the United States from definition of "child with special needs" to eligibility criteria for the adoptive parents. (Patron—Toscano) . . . . .	HB 2215	199	340
<b>Adoptive and foster care placements;</b> home studies conducted by local boards of social services required to determine appropriateness of placement with Mutual Family Assessment home study template. (Patron—Bell, Richard P.) . . . . .	HB 1795	193	329
<b>Adult exploitation;</b> broadens definition for purposes of social services laws. (Patron—Peace) . . . . .	HB 1945	195	333
<b>Applicants for public assistance;</b> local departments of social services to collect from every applicant alternative contact information. (Patron—McPike) . . . . .	SB 1122	472	790
<b>Assisted living facilities;</b> increases aggregate amount of civil penalties that Commissioner of Department of Social Services may assess for noncompliance with the terms of its license.			
Patron—Robinson . . . . .	HB 1919	283	452
Patron—Sturtevant . . . . .	SB 1191	138	195
<b>Assisted living facilities and adult day care centers;</b> background checks. (Patron—Wexton) . . . . .	SB 1434	201	353
<b>Barrier crimes;</b> clarifies individual crimes, criminal history records checks, an applicant for licensure as an assisted living facility shall provide an original criminal record clearance, etc. (Patron—Hanger) . . . . .	SB 1008	809	1524
<b>Child abuse or neglect;</b> State Board of Social Services shall promulgate regulations that require local departments to respond to valid reports and complaints when child is under age two. (Patron—Favola) . . . . .	SB 868	604	1012
<b>Child care providers;</b> applicant criminal history background checks, penalty, sunset date, provision of federal Child Care and Development Block Grant Act of 2014 establishing requirements for national fingerprint-based criminal history background checks.			
Patron—Orrock . . . . .	HB 1568	189	314
Patron—Wexton . . . . .	SB 897	751	1367
<b>Child pornography;</b> lawful possession by employees of Department of Social Services or a local department of social services. (Patron—Campbell) . . . . .	HB 1580	96	124
<b>Child-protective services;</b> complaints involving members of the United States Armed Forces.			
Patron—Hester . . . . .	HB 2279	142	199
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<b>Child welfare agencies;</b> licensure for agencies operated by the Commonwealth. (Patron—Rasoul) . . . . .	HB 2156	196	338
<b>Financial exploitation of adults;</b> local law-enforcement agencies shall provide local departments and adult protective services hotline with a preferred point of contact for referrals.			
Patron—Bell, Robert B. . . . .	HB 1922	459	775
Patron—McPike . . . . .	SB 1462	473	790
<b>Foster care;</b> definitions, reasonable efforts to prevent removal of child. (Patron—Bell, Richard P.) . . . . .	HB 1604	190	320
<b>Foster care;</b> local departments shall ensure that any individual on his eighteenth birthday is enrolled in the Commonwealth's program of medical assistance. (Patron—McPike) . . . . .	SB 1461	203	355
<b>Fostering Futures program;</b> individual participating in program to undergo a background check. (Patron—Peace) . . . . .	HB 1942	194	332
<b>Guardian ad litem;</b> reimbursement for cost of services to the Commonwealth, "other party with a legitimate interest" shall not include child welfare agencies or local departments of social services, Executive Secretary of the Supreme Court shall administer program, report. (Patron—Surovell) . . . . .	SB 1343	676	1145
<b>In utero exposure to a controlled substance;</b> local departments of social services to collect information during a family assessment to determine whether the mother of a			

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child sought substance abuse counseling or treatment prior to child's birth, State Board of Social Services shall promulgate regulations to implement provisions.			
Patron—Stolle .....	HB 1786	176	298
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<b>Medicaid applications;</b> information about advance directives. (Patron—Orrock) .....	HB 1567	106	144
<b>Neighborhood Assistance Act;</b> reorganizes provisions of tax credit program, expiration date for issuance of certain tax credits. (Patron—DeSteph) .....	SB 1168	724	1277
<b>Neighborhood Assistance Act Tax Credit;</b> allocation to organizations that did not receive any credit in the preceding year. (Patron—Farrell) .....	HB 1433	147	205
<b>Neighborhood Assistance Act tax credits;</b> Commissioner of Social Services and Superintendent of Public Instruction to consider past performance of organizations requesting credits. (Patron—DeSteph) .....	SB 1165	723	1276
<b>Neighborhood Assistance Act tax credits;</b> neighborhood organization submitting a proposal to Superintendent of Public Instruction shall include a list of all localities in which organization provided services during program year beginning July 1, 2016, report. (Patron—Orrock) .....	HB 1838	317	505
<b>Private preschool programs;</b> licensure exemptions, school will report to Commissioner all incidents involving serious injury or death to children attending school. (Patron—Orrock) .....	HB 1837	748	1362
<b>Putative Father Registry;</b> changes name to Virginia Birth Father Registry and modifies certain registration and notice provisions. (Patron—Toscano) .....	HB 2216	200	342
<b>State Inspector General, Office of the;</b> "state agency" also includes any local department of social services. (Patron—Cline) .....	HB 2237	590	991

**WELLS**

<b>Onsite sewage systems and private wells;</b> Department of Health to take steps to begin eliminating site evaluation and design services, report. (Patron—Orrock) .....	HB 2477	602	1011
<b>Virginia Oil and Gas Act;</b> sampling and replacing contaminated wells. (Patron—Stuart) .....	SB 910	17	29

**WEST MAIN BAPTIST CHURCH**

<b>West Main Baptist Church;</b> commemorating its 75th anniversary. (Patron—Marshall, D.W.) .....	HJR 919		2448
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**WEST, MILDRED B.**

<b>West, Mildred B.;</b> commending. (Patron—Mason) .....	SJR 431		2756
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**WESTFIELD HIGH SCHOOL**

<b>Westfield High School boys' basketball team;</b> commending.			
Patron—LeMunyon .....	HJR 825		2397
Patron—Petersen .....	SJR 400		2739
<b>Westfield High School football team;</b> commending.			
Patron—LeMunyon .....	HJR 826		2398
Patron—Petersen .....	SJR 403		2740

**WETLANDS**

<b>Sand management;</b> Virginia Beach Wetlands Board may develop and adopt a General Permit for Sand Management and Placement Profiles for properties in the Sandbridge Beach Subdivision of Virginia Beach, Norfolk Wetlands Board may develop and adopt a General Permit for Sand Management and Placement Profiles for properties in City of Norfolk. (Patron—Knight) .....	HB 1517	338	536
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**WETTSTONE, LINDA CIOLA**

<b>Wettstone, Linda Ciola;</b> commending. (Patron—McDougle) .....	SR 127		2780
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**WHEELER, CASSIE**

<b>Wheeler, Cassie;</b> commending. (Patron—Habeeb) .....	HR 469		2642
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**WHEELER, MADILYN**

<b>Wheeler, Madilyn;</b> commending. (Patron—Habeeb) .....	HR 470		2642
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**WHITE, MARION THOMAS, JR.**

<b>White, Marion Thomas, Jr.;</b> commending. (Patron—Marshall, D.W.) .....	HJR 917		2447
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**WHITE, NICOLE REGINA**

<b>Virginia Polytechnic Institute and State University;</b> celebrating the lives of the 32 men and women who tragically died April 16, 2007. (Patron—Ebbin) .....	SJR 421		2750
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**WHITEHEAD, E. WADE, JR.**

<b>Whitehead, E. Wade, Jr.;</b> commending. (Patron—Rasoul) .....	HJR 811		2389
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<b>Whitehead, Peggy</b> ; commending. (Patron—Deeds) . . . . .	SJR	385	2729
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<b>Whitehurst, Charles B., Sr.</b> ; recording sorrow upon death.			
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<b>Wiesel, Elie</b> ; recording sorrow upon death. (Patron—Filler-Corn) . . . . .	HJR	851	2412
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<b>Wiggins, Lynn</b> ; commending. (Patron—Heretick) . . . . .	HR	278	2550
<b>WILLIAM AND MARY, THE COLLEGE OF</b>			
<b>William and Mary, The College of</b> ; commemorating 50th anniversary of African American students in residence. (Patron—Mason) . . . . .	SJR	397	2737
<b>WILLIAM KING MUSEUM OF ART</b>			
<b>William King Museum of Art</b> ; commemorating its 25th anniversary.			
Patron—O'Quinn . . . . .	HJR	1050	2522
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<b>Williams, Kendall</b> ; commending. (Patron—Ebbin) . . . . .	SJR	412	2745
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